

Al-Kafi
Volume 7 of 8
(Fru‘ al-Kafi)



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In the name of Allah, the Beneficent, the Merciful

Part One: The Book of Wills

Chapter 1 - The Will and What it Must Consist of

H 12749, Ch. 1, h 1

Narrated to us Ali ibn Ibrahim from Ali ibn Ishaq from al-Hassan ibn Hazim al-Kalbiy son of the sister of Hisham ibn Salim from Sulayman ibn Ja'far who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah has said, ‘A person who does not make a proper will at the time of his death suffers from lack of kindness and proper understanding.’ It was then asked, ‘O messenger of Allah, what kind of will should a dying person make?’ The Messenger of Allah replied, ‘When one is about to die and people gather around him he should say:

“O Allah, the Inventor of the heavens and earth, who has the knowledge of the unseen and the present matters, the Beneficent, the Merciful. O Allah, I entrust You, in this world, with my testimony, ‘I testify that no one beside You (O Allah), who is One and has no partners, deserve to be worshipped. I also testify that Muhammad is your servant and Messenger. I testify that Paradise is true, Hellfire is true, Resurrection is true, that Accountability of everyone, on the Day of Judgment, is true, and Measurement and Balance are true. I testify that Religion is as You have described, that Islam is as You have established and the Word is as You have spoken, that the Quran is as You have sent down and that You are Allah, the manifest truth. I pray to Allah to compensate Muhammad, *‘Alayhi al-Salam*, with the best of compensations and welcome Muhammad and his family with the (promised) peace. O Allah, You are my means and resource at the time of my living in distress, and You are my companion at the time of my suffering hardships. You are the Benefactor of bounties I have enjoyed. You are my Lord and the Lord of my ancestors. Do not ever leave me to myself; not even for a blinking of an eye, for if You leave me to myself for a blinking of an eye, I become closer to wickedness and move away from goodness. Comfort me in the grave against my fear and make this an open covenant in my favor on the day when I will come into Your presence.’” Thereafter he should make his will about the matters that he may need. Such a will is based on the words of Allah, most Majestic, most Glorious, in the Chapter of the Holy Quran where Mary is mentioned. “No one will possess any intercession (Shafa‘ah) except those who have entrusted the Beneficent to bear witness to their testimony.””

“It is a right upon every Muslim to memorize this will and testimony and teach it. Amir al-Mu‘minin, *‘Alayhi al-Salam*, has said, ‘The Messenger of Allah taught me this will.’ The Messenger of Allah has said, ‘Jibril taught me this will.’”

H 12750, Ch. 1, h 2

Al-Husayn ibn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali from al-Walid ibn Sabih who has narrated the following:

“Once a *Mawla*’ of abu ‘Abd Allah, *‘Alayhi al-Salam*, accompanied me (on a journey) and complained of illness for several days. Then it seemed as if he had no illness but very shortly, he died. I took his luggage to abu ‘Abd Allah, *‘Alayhi al-Salam*, and informed him (the Imam) that he complained for several days, then he seemed as if he had no illness at all, but shortly thereafter he died. He (the Imam) said, ‘That was the comfort of death. No one dies before, Allah, most Majestic, most Glorious, returns his ears, eyes and reason for making a will, regardless of whether he makes use of that opportunity or not.’”

H 12751, Ch. 1, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad ibn 'Uthaman who has narrated the following:
“Once, a man said to abu 'Abd Allah, *'Alayhi al-Salam*, ‘I once travelled to Makkah and my travel mate, who was a friend, on the way became ill very seriously and I looked after him. He began to feel very well and I thought he is fine. On the day that he died, he became extremely well but on the same day, he died.’ Abu 'Abd Allah, *'Alayhi al-Salam*, said, ‘To anyone who is about to die, Allah, most Majestic, most Glorious, returns his hearing, seeing and reasoning abilities so that he can make a will, regardless of whether he makes a will or not. It is the comfort that is called the comfort of death and that is the right of every Muslim.’”

H 12752, Ch. 1, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isma'il from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the will. He (the Imam) said, ‘It is a right on every Muslim.’”

H 12753, Ch. 1, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad, from ibn Mahbub from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘Making a will is a right that requires compliance. The Messenger of Allah, *'Alayhi al-Salam*, made a will, thus it is proper for a Muslim to make a will.’”

Chapter 2 - The Witness for the Will

H 12754, Ch. 2, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn `Isma'il from al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the meaning of the words of Allah, most Blessed, most High, ‘O believing people there must be two just (Muslim) witnesses when anyone of you is about to die or from other people.’ (5:106) I asked, ‘What is the meaning of ‘(there must be) two from other people?’ He (the Imam) said, ‘It means two non-Muslims.’ I then asked about ‘two just ones from among yourselves’, he (the Imam) said, ‘it means two Muslims.’”

H 12755, Ch. 2, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad from al-Halabiy from Muhammad ibn Muslim who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, if it is permissible for a person of the religion to appoint a witness who is not of the people of his religion. He (the Imam) said, ‘Yes, it is permissible when witness from the people of his own religion is no available; destroying anyone’s right is not suitable.’”

H 12756, Ch. 2, h 3

Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan and Ali ibn Ibrahim has narrated from his father from all from ibn abu ‘Umayr from Hisham ibn al-Hakam who has narrated the following:

“About the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . and two people from others who are not of your people’ abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘This applies when he is in a place where Muslims are not available, then asking a non-Muslim to bear witness to a will is permissible.’”

H 12757, Ch. 2, h 4

Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan, from ibn abu ‘Umayr from Rib‘iy who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, if a woman’s bearing witness to the will of a man when no man is available is accepted. He (the Imam) said, ‘It is effective for one-fourth of what is willed according to her testimony.’”

H 12758, Ch. 2, h 5

Muhammad ibn Yahya has narrated from ‘Abd Allah ibn Muhammad from Ali ibn al-Hakam from Aban who has narrated the following:

“In the case of a will for which there is no witness except a woman, abu ‘Abd Allah, *‘Alayhi al-Salam*, accepted it (such witness) for one-fourth of the will according to her testimony.’”

H 12759, Ch. 2, h 6

Muhammad ibn Ahmad has narrated from ibn al-Salt from Yunus ibn ‘Abd al-Rahman from Yahya ibn Muhammad who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the meaning of the words of Allah, most Majestic, most Glorious, ‘O believing people there must be two just (Muslim) witnesses when anyone of you is about to die or from other people.’ (5:106) Abu ‘Abd Allah, *‘Alayhi al-Salam*, said that in this verse, “‘The two from you”, means two Muslims and “the two from others”, means the people of the book. If two people from the followers of the bible are not found then two Zoroastrians can bear witness. The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, established a *Sunnah* about Zoroastrians like that for the people of the

book in paying *al-Jizyah* (taxes). Thus, if one dies in loneliness in a strange land and cannot find two Muslims, he can appoint two men from the people of the book who are then kept in custody after *Salat* (prayer). They will take an oath on Allah, most Majestic, most Glorious, saying that they do not sell their oath in exchange for a small price, even in favor of their relatives, that they do not hide the testimony for the sake of Allah; in so doing they will be committing sins.’ He (the Imam) said, ‘This applies only when the heirs of the deceased doubt their testimony and it is found out that they have testified falsely. The heir cannot invalidate their testimony without presenting two witnesses who stand in place of the first two witnesses and take the oath on Allah that their testimony is more accurate than the testimony of the first two witnesses; if we transgress, we will be unjust. If this happens then the testimony of the first two becomes invalid and the testimony of the two later witnesses is admitted as valid. Allah, most Majestic, most Glorious, has said, “This will help preserve a proper testimony. The witnesses will be afraid of the rejection of their own testimony by a second pair of witnesses. Have fear of Allah and listen (properly). Allah does not guide the evil doing people.” (5:108)’”

H 12760, Ch. 2, h 7

Ali ibn Ibrahim has narrated from his people in a *marfu'* manner has said the following:

“Tamim al-Dariy, ibn Baydiy and ibn Mariya once left for a journey. Tamim al-Dariy was a Muslim but ibn Baydiy and ibn Mariya were Christians and they were with Tamim al-Dariy who had certain assets and utensils, which were decorated with gold, and a necklace that he took for the Arab markets for sale. Tamim al-Dariy became ill severely and the time of his death came. He gave whatever he had to ibn Baydiy and ibn Mariya and asked them to deliver it to his heirs. The two came to al-Madinah, delivered the other things but they had taken the utensils and the necklace. The heirs found the utensils missing; so the family of Tamim asked the two men, ‘Did he (Tamim) remain ill for a long time and incurred a large amount of expenses?’ The two replied, ‘He remained ill only for few days.’ They then asked, ‘Was anything stolen from him during his journey?’ The two replied, ‘No, nothing was stolen from him during his journey.’ They then asked, ‘Did he make any business deals that caused him losses?’ The two replied, ‘No, he did not make any such deals.’ They then said, ‘The most expensive things are missing like the utensils decorated with gold and gems and a necklace.’ The two said, ‘Whatever he gave to us we have given to you.’ They then took the two before the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and he (the Messenger of Allah) judged that the two must take an oath. The two took an oath and they were released but the utensils and necklace were seen with them. The heirs of Tamim went to the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, saying, ‘O Messenger of Allah, our assets have been seen in the possession of ibn Baydiy and ibn Mariya.’ The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, waited to hear from Allah, most Majestic, most Glorious, a judgment in the case. Allah, most Blessed, most High, then revealed, ‘Believers, when death approaches any one of you, allow two just men from your own people (Muslims) or any two other men (people of the book), if incident of death befalls you on a journey, bear witness to the bequest. [Allah, most Majestic, most Glorious, applied the testimony of the people of the book about the will when it is on a journey and Muslims are not found] If you have any doubts about their (others’) honesty, detain them and allow them take an oath after the prayer, each one of them saying, “I swear by Allah that my testimony is true. I am not selling the Truth for a paltry price even though the beneficiary would be one of my relatives. I do not hide the testimony which is the right of Allah,

for then I will be one of the sinners.” (5:106)’ This is the testimony, which is sanctioned by the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*. ‘If their honesty is challenged, [they took false oath], two others from the relatives of the deceased should swear in the same way and testify to the bequest saying, “We swear by Allah that our testimony is the more accurate one. We do not transgress in the matter lest we become unjust ones.” (5:107)’ The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, commanded the heirs of Tamim al-Dariy to take an oath according to His command. They took an oath and the Messenger of Allah took the utensils and the necklace from ibn Baydiy and ibn Mariya and returned them to the heirs of Tamim al-Dariy. This is the least in presenting the testimony as it is for fear of another oath’s rejection of their oath thereafter.”

Chapter 3 - A Man Makes a Will and Appoints an Executor but he Refuses to Accept it

H 12761, Ch. 3, h 1

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa from Rib'iy from Muhammad ibn Muslim who has narrated the following:

“If one makes a will and appoints a certain person as the executor of the will who is not present in town he cannot refuse to accept the appointment, but if he is town he has the choice to accept or refuse it.”

H 12762, Ch. 3, h 2

Muhammad ibn 'Isma'il has narrated it from al-Fadl ibn Shadhan, from ibn abu 'Umayr, from Rib'iy, from Fudayl who has narrated the following:

“It is about the case of a man who is appointed in a will as the executor a will. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If the appointment is sent to him from another town he cannot refuse to accept the appointment, but if it is from the same town then it is up to him to accept or reject it.’”

H 12763, Ch. 3, h 3

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Ali ibn al-Hakam from Sayf ibn 'Amirah from Mansur ibn Hazim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If a man makes a will in which he appoints his brother as the executor when he is absent, he cannot refuse the appointment for if he was present and refused, another person could have been appointed as the executor.’”

H 12764, Ch. 3, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from al-Qasim ibn al-Fudayl from Rib'iy from al-Fudayl who has narrated the following:

“About the case of a man who is appointed as the executor of the will abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If the appointment is sent from one town to another town he cannot refuse to accept the appointment.’”

H 12765, Ch. 3, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“About the case of a man who is appointed as the executor in a will but he dislikes it, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘He must not betray him in such condition.’”

H 12766, Ch. 3, h 6

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn al-Rayyan who has narrated the following:

“I once wrote to abu al-Hassan, *'Alayhi al-Salam*, about the case of a man who asks his father to accept his appointment as the executor of his will; if he can refuse to accept the appointment. He (the Imam) signed the answer that said, ‘He cannot refuse.’”

Chapter 4 - The Owner is more Rightful to his Property as Long as he is Living

H 12767, Ch. 4, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from al-Hassan ibn Ali from Tha'labah ibn Maymun from abu al-Hassan al-Sabatii from 'Ammar ibn Musa who has narrated the following:

"I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, 'The owner of the asset has a greater degree of rights in his assets as long as there is some spirit in him. He can do about it whatever he wants.'"

H 12768, Ch. 4, h 2

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan from Ali ibn Asbat from Tha'labah from abu al-Hassan 'Umar ibn Shaddad al-Azdiy and al-Sariy all from 'Ammar ibn Musa who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'A man is more rightful to his assets as long as there is the spirit in him and if he makes a will about all of it, it is permissible.'"

H 12769, Ch. 4, h 3

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan from Ibrahim ibn abu Bakr al-Samal al-Asadiy from those who narrated to him who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'One who is about to die is more rightful to his assets as long as he is alive.'"

H 12770, Ch. 4, h 4

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan from his brother, Ahmad ibn al-Hassan from 'Amr ibn Sa'id who has narrated the following:

"The brother of Romiy ibn 'Umar made a will that said, 'All of his assets must be given to abu Ja'far, *'Alayhi al-Salam*.' 'Amr has said that Romi narrated to me saying, 'I placed the assets before abu Ja'far, *'Alayhi al-Salam*, and said, "This is what my brother has given to you in his will" and I began to read it for him.' He (the Imam) said, 'Wait; take this, I have given it to you as a gift and deliver that.' I continued until the end of the will and found that he (the Imam) had taken only one-third. I then asked, 'Have you commanded me to deliver to you one-third and keep two-thirds?' He (the Imam) said, 'Yes, that it is correct.' I then asked, 'Can I sell them and bring them to you?' He (the Imam) said, 'No, whenever possible for you do not sell anything.'"

H 12771, Ch. 4, h 5

Muhammad ibn Yahya and others has narrated from Muhammad ibn Ahmad from Ya'qub ibn Yazid from Yahya ibn al-Mubarak from 'Abd Allah ibn Jabalah from Sama'ah who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who has children; if he can assign his assets to his relatives. He (the Imam) said, 'They are his assets, he can place it wherever he wants until death comes upon him.'"

H 12772, Ch. 4, h 6

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from and Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar all from Safwan from Murazim from certain persons of our people who has narrated the following:

"About the case of a man who gives a certain amount of his property during his illness, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'If he keeps such assets aside, it then is permissible, but if he has only said so in his will then it is from one-third of his legacy.'"

H 12773, Ch. 4, h 7

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from ibn abu 'Umayr from Murazim from 'Ammar al-Sabatii who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who is about to die; if he is

more rightful to his assets as long as there is spirit in him. He (the Imam) said, ‘Yes, that is right but if he makes a will and it is more (than the one-third) it applies to one-third of his legacy only.’”

H 12774, Ch. 4, h 8

Muhammad ibn Yahya has narrated from Muhammad ibn al-Hassan from ‘Abd Allah ibn al-Mubarak from ‘Abd Allah ibn Jabalah from Sama‘ah from abu Basir who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has a son; if he can give his assets to his relatives. He (the Imam) said, ‘They are his assets, he can do to it whatever he wants until death comes upon him.’”

H 12775, Ch. 4, h 9

Ali ibn Ibrahim has narrated from his father from ‘Uthman ibn Sa‘id from abu al-Mahamil who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A man is more rightful to his assets as long as there is spirit in his body.’”

H 12776, Ch. 4, h 10

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from ‘Abd Allah ibn al-Mubarak from ‘Abd Allah ibn Jabalah from Sama‘ah from abu Basir who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has a son; if he can give his assets to his relatives. He (the Imam) said, ‘They are his assets, he can do to them whatever he wants until death comes upon him; the owner can do whatever he wants as long as he is alive. He can give it as a gift or charity, or he can leave it until his death comes. If he makes a will it only applies to one-third of his legacy. It is more excellent for him not to neglect those who are his dependent and he must not harm the heirs. It is narrated that the Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, once criticized a man of al-Ansar who set free his slaves and no one was left for him, saying, ‘He has left behind small children to beg from people.’”

Chapter 5 - Making a Will for the Heir

H 12777, Ch. 5, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from abu al-Mighra' from abu Basir who has narrated the following:

"I once asked abu 'Abd Allah, '*Alayhi al-Salam*, if one can make a will for the heir. He (the Imam) said, 'It is permissible.'"

H 12778, Ch. 5, h 2

A number of our people have narrated from Sahl ibn Ziyad and Ahmad ibn Muhammad from all from ibn Mahbub from abu Wallad al-Hannat who has narrated the following:

"I once asked abu 'Abd Allah, '*Alayhi al-Salam*, if one can make a will about something for the heirs. He (the Imam) said, 'Yes,' or he said that 'it is permissible.'"

H 12779, Ch. 5, h 3

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from Safwan ibn Yahya from al-'Ala' from Muhammad ibn Muslim who has narrated the following:

"Abu Ja'far, '*Alayhi al-Salam*, has said, 'Making a will for the heir is not harmful.'"

Al-Fadl ibn Shadhan from Yunus 'Abd Allah ibn Bukayr from Muhammad ibn Muslim from abu Ja'far, '*Alayhi al-Salam*, has narrated a similar *Hadith*.

H 12780, Ch. 5, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Ali from 'Abd Allah ibn Bukayr from Muhammad ibn Muslim who has narrated the following:

"I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about making a will for the heir. He (the Imam) said, 'It is permissible.'"

H 12781, Ch. 5, h 5

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from ibn Bukayr from Muhammad ibn Muslim who has narrated the following:

"I once asked abu Ja'far, '*Alayhi al-Salam*, about making a will for the heir. He (the Imam) said, 'It is permissible.' He (the Imam) then recited this verse. 'If he leaves good things the will is for parents and relatives.'"

H 12782, Ch. 5, h 6

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar fn al-Hajjal from Th'alabah from Muhammad ibn Qays who has narrated the following:

"I once asked abu Ja'far, '*Alayhi al-Salam*, about the case of a man who gives preference to certain ones of his children. He (the Imam) said, 'Yes, he can do so, and his women.'"

Chapter 6 - The Matters for which one can Make a Will and what is Preferable in the Issue

H 12783, Ch. 6, h 1

Ali ibn Ibrahim has narrated from his father from and Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from all ibn abu 'Umayr from Mu'awiyah ibn 'Ammar who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that al-Bara' ibn Ma'rur al-Ansariy lived in al-Madinah. The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, lived in Makkah, and with his companions performed *Salat* (prayer) facing the direction of Bayt al-Maqdis. Al-Bara' made a will that said, 'His face in grave must be kept toward the direction to which the Holy Prophet performs *Salat* (prayer) and about one-third of his legacy and thus the *Sunnah* was established.’”

H 12784, Ch. 6, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad has said that Ahmad ibn Ishaq wrote to abu al-Hassan, *'Alayhi al-Salam* saying:

“Durrāh, daughter of Muqatil has died. She has left assets and pieces of land in several places. She had made a will for her master of the pieces of land, which was more than one-third of her legacy. We are the executors of her will and like to ask our master if he commands to approve that will as it is, so we can also approve; and if he commands other things we follow his command in all that he commands by the will of Allah. He (the narrator) has said that he (the Imam), *'Alayhi al-Salam*, wrote in his own handwriting that said, 'More than one-third is not obligatory on her legacy. If you have preferences and you are of the heirs it then is permissible for you by the will of Allah.’”

H 12785, Ch. 6, h 3

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from Hammad ibn 'Isa from Shu'ayb from Ya'qub who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies and about what is for him from his legacy. He (the Imam) said, 'One third of his legacy is for him and this applies to a woman also.’”

H 12786, Ch. 6, h 4

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father all from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, in this statement refers to the words of 'Amir al-Mu'minin. He (the Imam) said, 'If I make a will about one-fifth of my legacy it is better than making a will about one-fourth of my legacy, and if I make a will about one-fourth of my legacy it is better than a will about one-third of my legacy. One who makes a will about one-third of his legacy and leaves nothing, he has exaggerated.’

“He (the Imam), *'Alayhi al-Salam*, has said that 'Amir al-Mu'minin issued a judgment in the case of a man who had made a will about all of his legacy or most of it. He (the Imam) said, 'The will is turned from unacceptable status into what is acceptable. If one does injustice to himself and comes up with an unacceptable will and an unjust one, it then is turned to an acceptable one to leave the legacy for the heirs.' 'Amir al-Mu'minin has said, 'If one makes a will about one-third of his legacy which does not leave anything for the heirs, he has reached the ultimate condition.' He (the Imam) then said, 'If one makes a will about one-fifth of his legacy it is more likable to me than a will about one-fourth.’”

H 12787, Ch. 6, h 5

Al-Husayn ibn Muhammad has narrated from Mu‘alla’ ibn Muhammad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from al-Washsha’ from Hammad ibn ‘Uthaman who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one makes a will about one-third of his legacy he has harmed the heirs. Making a will about one-fifth or one-fourth of the legacy is better than making a will about one-third. If one makes a will about one-third he has not left anything (for the heirs).’”

H 12788, Ch. 6, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hisham ibn Salim and Hafs ibn al-Bakhtariy and Hammad ibn ‘Uthaman who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one makes a will about one-third has not left any legacy.’”

H 12789, Ch. 6, h 7

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that ‘Amir al-Mu’minin has said, ‘If one makes a will about one-third of his legacy, then is killed by mistake, one-third of the wergild for him becomes part of that which he has willed.’”

Chapter 7 - Another Chapter

H 12790, Ch. 7, h 1

Ali ibn Ibrahim has narrated from his father from Hammad, from Hariz, from Muhammad ibn Muslim who has narrated the following:

“About the case of a man who makes a will in the presence of his heirs who give permission but when he dies they disregard it if they can take back what they had agreed, abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘They cannot do so. The will about which the heirs agree in the lifetime of the deceased becomes permissible.’”

Abu Ali al-Ash‘ariy has narrated from Muhammad ibn ‘Abd al-Jabbar has narrated from Safwan ibn Yahya from Mansur ibn Hazim from abu ‘Abd Allah, *‘Alayhi al-Salam*, a similar *Hadith*.’”

Chapter 8 - A Man Makes a Will, then Cancels it

H 12791, Ch. 8, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn Bukayr from 'Ubayd ibn Zurarah who has narrated the following:

“I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, ‘One who makes a will has the right to cancel or leave it, regardless of his being in good health or in illness.’”

H 12792, Ch. 8, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from ibn Faddal from Ali ibn 'Uqbah from Burayd al-'Ijliy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘The testator has the right to cancel or change his will in his life time.’”

H 12793, Ch. 8, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from ibn Muskan who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that 'Amir al-Mu'minin issued a judgment about *al-Mudabbar* (slave to be set free with the death of the owner) as being part of one-third of the legacy and that a testator has the right to reduce or increase in his will as long as he is alive.’”

H 12794, Ch. 8, h 4

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from certain persons of his people who has narrated the following:

“Ali ibn al-Husayn, *'Alayhim al-Salam*, has said, ‘A testator has the right to change his will, thus he can set free those whom he had willed to remain slaves or keep the slaves those that were freed in his will; give those who were deprived and deprive those whom he had given as long as he is alive.’”

Chapter 9 - If the Beneficiary of a Will dies before the Death of the Testator or before Taking Possession

H 12795, Ch. 8, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu‘minin* once issued a judgment, about the case of a man who made a will and the beneficiary who was absent, died before the testator, that the benefit belongs to the heir of the beneficiary.’ He (the Imam) said, ‘If one makes a will, regardless of his absence or presence, if the beneficiary dies before the testator, the benefit belongs to the heir of the beneficiary unless the testator changes his will before his death.’”

H 12796, Ch. 8, h 2

Muhammad ibn Yahya has narrated from 'Imran ibn Musa from Musa ibn Ja‘far from 'Amr ibn Sa‘id al-Mad‘iniy from Muhammad ibn 'Umar al-Sabatiy who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about the case of a man who made a will that said I must give something to his uncle every year, but the uncle has died. He (the Imam), *‘Alayhi al-Salam*, wrote, ‘You must give it to his heirs.’”

H 12797, Ch. 8, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ayyub ibn Nuh from al-‘Abbas ibn *‘Amir* who has narrated the following:

“I once asked him (the Imam), *‘Alayhi al-Salam*, about the case of man in whose favor a will is made but he dies before taking possession and has not left any heirs. He (the Imam) said, ‘You must search for his heirs or master then give it to him.’ I then asked, ‘What happens if I cannot find any guardian for him?’ He (the Imam) said, ‘Try to find out his guardian and if you cannot find, and Allah, most Majestic, most Glorious, knows your effort, then give it in charity on his behalf.’”

Chapter 10 - Executing the Will as it Requires

H 12798, Ch. 10, h 1

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa from Hariz from Muhammad ibn Muslim who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has made a will to spend his assets in the way of Allah. He (the Imam) said, ‘You must give it to the designated beneficiary even if he is a Christian or a Jew; Allah, most Blessed, most High, says, “Whoever intentionally changes the will of a deceased person, he has committed a sin. Allah is All-hearing and All-knowing.” (2:181)’”

H 12799, Ch. 10, h 2

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Ali ibn al-Hakam from m al-‘Ala’ ibn Razin from Muhammad ibn Muslim who has narrated the following:

“This is about the case of a man who has made a will to spend his asset in the way of Allah. One of the two Imam, (abu Ja‘far or abu ‘Abd Allah), *‘Alayhim al-Salam*, has said, ‘You must give it to the designated beneficiary even if he is a Christian or a Jew; Allah, most Blessed, most High, says, “Whoever intentionally changes the will of a deceased person, he has committed a sin. Allah is All-hearing and All-knowing.” (2:181)’”

H 12800, Ch. 10, h 3

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn Mahziyar from who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, wrote to Ja‘far and Musa, this instruction. ‘In the matter of my commanding you to appoint witnesses to so and so issues; it is because it is for your safety and protection in the next world in matters of executing the will, as it requires, that your parents have made to you and your being kind to your parents. You must remain prudent. You must not change their will and alter it from its original condition because they are no more. May Allah be happy with them. It, however, has remained on your shoulder. Allah, most Blessed, most High, has said in His book, “Whoever intentionally changes the will of a deceased person, he has committed a sin. Allah is All-hearing and All-knowing.” (2:181)’”

H 12801, Ch. 10, h 4

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Walid from Yunus ibn Ya‘qub who has narrated the following:

“A man of Hamadan has said that his father died but he did not know this fact (the Divine Authority of *‘A‘immah*). He made a will when he was about to die to give something in the way of Allah. He (the man from Hamadan) asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about it and that he did not know this fact (the Divine Authority of *‘A‘immah*). He (the Imam) said, ‘If the man had appointed me to execute his will to give to a Jews or Christians, I would have given it to them because Allah, most Majestic, most Glorious, says, “Whoever intentionally changes the will of a deceased person, he has committed a sin. Allah is All-hearing and All-knowing.” (2:181) You must see who serves as guards and defenders of the borders; and give it to them.’”

H 12802, Ch. 10, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn ‘Isa from Muhammad ibn Sulayman from al-Husayn ibn ‘Umar who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has made a will to spend in the way of Allah. He (the Imam) said to me to spend it for al-Hajj. I said that he has said to spend it

in the way of Allah. He (the Imam) said, ‘Spend for al-Hajj because I do not see anything in His way better than al-Hajj.’”

Chapter 11 - Another Chapter

H 12803, Ch. 11, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from Ali ibn al-Hakam from al-Hajjaj ibn al-Khashshab who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a woman who made a will to spend in the way of Allah. She was asked if it could be spent for al-Hajj. She said, ‘Spend it in the way of Allah.’ They asked, ‘Can we give to the family of Muhammad, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause?*’ She said, ‘Spend it in the way of Allah.’ Abu ‘Abd Allah, *‘Alayhi al-Salam*, then said, ‘Spend in the way of Allah as you are required.’ I then said, ‘Command me how to spend it.’ He (the Imam) said, ‘Spend it as she has commanded you. Allah, most Blessed, most High, has said, “Whoever intentionally changes the will of a deceased person, he has committed a sin. Allah is All-hearing and All-knowing.” (2:181) You must consider if she had asked you to give it to a Jew, would you give it to a Christian?’ He (the narrator) has said. ‘I waited thereafter for three years; then I visited him (the Imam) and asked as I had asked him before. He (the Imam) remained quiet for a while, then said, ‘Send it.’ I then asked, ‘To who must I send it?’ He (the Imam) said, ‘Give it to ‘Isa Shalqan.’”

H 12804, Ch. 11, h 2

Muhammad ibn Ja‘far al-Raziy has narrated from Muhammad ibn ‘Isa and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa ibn ‘Ubayd from al-Hassan ibn Rashid who has narrated the following:

“I once asked al-‘Askariy, *‘Alayhi al-Salam*, in al-Madinah about the case of a man who has made a will to spend in the way of Allah. He (the Imam) said, ‘In the way of Allah is our Shi’ah (followers).’”

Chapter 12 - Another Chapter

H 12805, Ch. 12, h 1

Ali ibn Ibrahim has narrated from his father from abu Talib 'Abd Allah ibn al-Salt who has narrated the following:

“Once, Khalil ibn Hashim wrote to Dhi al-Riyasatayn who was the governor of Nisabur and asked that a Zoroastrian man has died and has made a will about a certain amount from his assets for the poor. The judge of Nisabur took the amount and gave it to the poor Muslims. Dhu al-Riyasatayn asked Ma'mun about it. Ma'mun who did not have any answer for it asked abu al-Hassan, *'Alayhi al-Salam*, about it and abu al-Hassan, *'Alayhi al-Salam*, said, ‘A Zoroastrian man does not make a will for the poor Muslims. It is proper to take that amount from the treasury of charity and return it to the poor Zoroastrians.’”

H 12806, Ch. 12, h 2

Ali ibn Ibrahim has narrated from his father from al-Rayyan ibn Shabib who has narrated the following:

“Maridah made a will for the Christians who worked as maintenance people. Our people said to spend it on the poor believers of your people. I then asked al-Rida', *'Alayhi al-Salam*, that my sister has made a will for Christian persons and I wanted to spend it for our Muslim people. He (the Imam) said, ‘You must execute the will as you are required. Allah, most Blessed, most High, has said, “Whoever intentionally changes the will of a deceased person, he has committed a sin. Allah is All-hearing and All-knowing.” (2:181)’”

Chapter 13 - A Will for Setting free Slaves, Charity or al-Hajj

H 12807, Ch. 13, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Ali ibn al-Nu'man from Muhammad ibn Muslim who has narrated the following:

“About the case of a man who makes a will about more than one-third of his legacy, or setting free a slave during his illness, abu Ja'far, *'Alayhi al-Salam*, has said, 'If it is more than one-third it is returned to one-third and setting free of slave is permissible.’”

H 12808, Ch. 13, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from al-Qasim ibn Muhammad from Ali ibn abu Hamzah from abu Basir who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'If a man when about to die sets free a servant, then makes another will, the will is dropped and the servant is set free from the one-third of his legacy except if the will exceeds one-third of the legacy.’”

H 12809, Ch. 13, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from 'Isma'il ibn Hammam who has narrated the following:

“This about the case of a man who makes a will when about to die, for relatives and setting free of a slave but the total exceeds one-third of the legacy and about how to deal with it. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'First it is executed about setting free of the slave then about the rest.’”

H 12810, Ch. 13, h 4

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Hakam from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“About the case of a man who when about to die sets free his slave and makes a will but the total is more than one-third of his legacy, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'It is executed about the setting free of the slave and the deficit falls on the rest of the will.’”

H 12811, Ch. 13, h 5

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Muhammad ibn 'Isma'il from Ali al-Nu'man from Suwayd al-Qala' from abu Ayyub ibn al-Jumhur from abu Bakr al-Hadramiy who has narrated the following:

“I once said to abu 'Abd Allah, *'Alayhi al-Salam*, 'Alqamah ibn Muhammad has made a will that I must set free a slave for him, and I set free for him a woman: if this is sufficient or must I set free for him from my own property.' He (the Imam) said, 'It is sufficient.' He (the Imam) then said to me, 'Fatimah, mother of my son, made a will that I set free for her a slave and I set free for her a woman.’”

H 12812, Ch. 13, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad ibn 'Uthaman from al-Halabiy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'A man once asked me about a woman who died without performing al-Hajj but made a will about an amount which is sufficient for al-Hajj. He asked if it is better to spend it on the needy people from the descendents of Fatimah, *'Alayha al-Salam*, it will be done so; if performing al-Hajj is better al-Hajj would be performed for her. I said to him that if al-Hajj was obligatory on her, spending it for al-Hajj is more beloved to me than distributing on other things.’”

H 12813, Ch. 13, h 7

Ali ibn Ibrahim has narrated from his father and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all ibn abu

‘Umayr from Mu‘awiyah ibn ‘Ammar who has narrated the following:

“This is about the case of a man who dies but makes a will to perform al-Hajj for him. He (the Imam), *‘Alayhi al-Salam*, has said, ‘If it is his first al-Hajj then al-Hajj is performed from the center of the legacy, but if it is not his first al-Hajj then it is paid for from the one-third of his legacy.’”

H 12814, Ch. 13, h 8

It is narrated from the narrator of the previous *Hadith* from Mu‘awiyah ibn ‘Ammar who has narrated the following:

“About the case of a woman who makes a will to set free a slave, pay charity and al-Hajj but there is not enough, he (the Imam), *‘Alayhi al-Salam*, said that first is al-Hajj because it is obligatory and if anything remains extra then spend something on charity and something for setting free a slave.’”

H 12815, Ch. 13, h 9

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Ali ibn abu Hamzah who has narrated the following:

“I once asked abu al-Hassan, *‘Alayhi al-Salam*, about the case of a man who has made a will about thirty dinars to set free a man from our people but it cannot be done with that much. (The Imam) said, ‘A slave then must be bought from other people for this purpose.’”

H 12816, Ch. 13, h 10

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from al-Husayn ibn Sa‘id from al-Qasim ibn Muhammad from Ali ibn abu Hamzah who has narrated the following:

“I once asked the virtuous servant of Allah, *‘Alayhi al-Salam*, about the case of a man who has made a will about thirty dinar to set free a Muslim slave but it cannot be done with that amount. He (the Imam) said, ‘They must then buy from the rest of the people as long as he is not hostile to *‘A’immah*, *‘Alayhi al-Salam*.’”

H 12817, Ch. 13, h 11

Al-Husayn ibn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali al-Washsha’ from Aban from Muhammad ibn Marwan who has narrated the following:

“The Shaykh, *‘Alayhi al-Salam*, has said that abu Ja‘far, *‘Alayhi al-Salam*, died and left sixty slaves of whom he set free one-third and I determined such slaves by raffle and took the one-third away.’”

H 12818, Ch. 13, h 12

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa‘id from al-Qasim ibn Muhammad and Ali ibn abu Hamzah from abu Basir who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about a slave-girl who was set free by my brother who served with slave-girls and was in his dependents. He made a will to spend for her from the center of the legacy. He (the Imam) said, ‘If she was with the slave-girls and managed them, then you must spend for her and execute the will.’”

H 12819, Ch. 13, h 13

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from abu Ayyub from Sama‘ah who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who made a will to set free a slave for five hundred dirham from the one-third of his legacy. A slave was bought for less than five hundred dirham and something remained extra. What do you say about it? He (the Imam) said, ‘Give the extra to the slave before setting him free, then set him free for the deceased.’”

H 12820, Ch. 13, h 14

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Mu‘awiyah ibn ‘Ammar who has narrated the following:

“A woman of our family made a will about one-third of her legacy and asked to set free a slave,

perform al-Hajj and give charity; but the one-third was not sufficient. I asked abu Hanifah about it and he said, 'Make it in three equal parts and spend one part for each cause.' I then visited abu 'Abd Allah, 'Alayhi al-Salam, and said that a woman from our family has died and made a will about one-third of her legacy and has asked to set free a slave, perform al-Hajj and pay charity. I checked it but it is not sufficient. He (the Imam) said, 'You must begin with al-Hajj because it is obligatory of the obligation to Allah, most Majestic, most Glorious, and make the remaining into two parts: one for setting free a slave and one for charity.' I then informed abu Hanifah about the words of abu 'Abd Allah, 'Alayhi al-Salam. He changed his fatwa and accepted the words of abu 'Abd Allah, 'Alayhi al-Salam."

H 12821, Ch. 13, h 15

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from abu Jamilah from Humran who has narrated the following:

"About the case of a man who at the time of his death makes a will to set free a slave so and so and so and so. I looked into the one-third of his legacy and found that it is not even equal to one-eighth of the five slaves whom he had mentioned, he (the Imam), 'Alayhi al-Salam, said, 'You must evaluate the slaves and begin setting free one, two, three, four and five. The slave (or slaves) whom he mentioned last cannot be freed if the one-third is not sufficient for his (or their) cost.'"

H 12822, Ch. 13, h 16

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from Dawud ibn abu Yazid who has narrated the following:

"Once abu 'Abd Allah, 'Alayhi al-Salam, was asked about the case of a man who on a journey was with a slave-girl and two slaves. He said to them, 'You are free for the sake of Allah and bear witness that the child in the womb of the slave-girl is from me. She gave birth to a son. When they came back, the heir refused the will and kept them as slaves. The two slaves were later set free and they testified that their previous master had asked them to bear witness that the child in the womb of the slave-girl was his child. He (the Imam) said, 'Their testimony is acceptable and the child about whom they testified cannot make them slaves because they proved his genealogical relation.'"

H 12823, Ch. 13, h 17

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from Ahmad ibn Muhammad from ibn abu Nasr from Ahmad ibn Ziyad who has narrated the following:

"I once asked abu al-Hassan, 'Alayhi al-Salam, about the case of a man who is about to die and sets free all of his slaves. He owns certain slaves and certain others with a partner and about the condition of the ones that he owns with a partner. He (the Imam) said, 'His slaves of the partnership must be evaluated; if his share covers them, they are all free.'"

H 12824, Ch. 13, h 18

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from al-Nadr ibn Shu'ayb al-Mharibiy who has narrated the following:

"This is about the case of a man who dies and leaves as his legacy a slave-girl whose one-third he sets free and the executor of the will marries her before the distribution of the legacy. Abu 'Abd Allah, 'Alayhi al-Salam, has said, 'She is appraised, then with her husband both are made to work to pay for the remaining of her cost after being appraised. Thereafter, whatever of her becomes free or remains in slavery applies to her child also.'"

Chapter 14 - The Executor of the Will must Correct the Possible Violation of the Law in the Will

H 12825, Ch. 14, h 1

Ali ibn Ibrahim has narrated from his father from his people who have said the following:

“He (the Imam), *‘Alayhi al-Salam*, has said that Allah, most Majestic, most Glorious, has given permission to the executor of the will to change a will into an acceptable form if any violation of the law exists in it. It is because of the meaning of the words of Allah, most Majestic, most Glorious. ‘One who is afraid of the testator's deviations and sin and settles the matter among the parties involved, he has not committed a sin. Allah is All-forgiving and All-merciful.’” (2:182)

H 12826, Ch. 14, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad al-Hassan ibn Mahbub from abu Ayyub from Muhammad ibn Sawqah who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about the meaning of the words of Allah, most Majestic, most Glorious, ‘Whoever intentionally changes the will of a deceased person, has committed a sin. Allah is All-hearing and All-knowing.’ (2:181) He (the Imam) said, ‘The following verse is a (modified) copy of this verse: ‘One who is afraid of the testator's deviations and sin and settles the matter among the parties involved, he has not committed a sin. Allah is All-forgiving and All-merciful.’ (2:182) If the executor fears for the testator’s deviation from the law in his will, then it is not a sin for the executor to bring it in conformity with the truth according to the happiness of Allah and following the path of virtue.’”

Chapter 15 - An Executor of the Will is held Responsible for Changing a Lawful Will

H 12827, Ch. 15, h 1

Ali ibn Ibrahim has narrated from his father and Humayd ibn Ziyad has narrated from bud Allah ibn Ahmad all from ibn abu 'Umayr from Zayd al-Narsiy from Ali ibn Farqad Sahib al-Sabiriy who has narrated the following:

“A man made a will and asked me to pay for al-Hajj from his legacy, but when I examined his legacy it was not sufficient. I then asked abu Hanifah and the jurists of al-Kufah. They said that I must give as charity on his behalf. When I performed al-Hajj, I met 'Abd Allah ibn al-Hassan during tawaf. I asked him, saying, 'A man of your followers of the people of al-Kufah has died and has made a will in which he has asked me to perform al-Hajj for him from his legacy, but when I examined his legacy, it is not sufficient for al-Hajj and I asked the jurist in our area. They said that I must pay charity for him and I did so. What do you say about it?' He said, 'This is Ja'far ibn Muhammad in al-Hijr. Go and ask him.' I went in al-Hijr and found abu 'Abd Allah, '*Alayhi al-Salam*, under *al-Mizab* facing the house and praying. He (the Imam) turned to me, saw me and asked, 'What do you need?' I then said, 'I pray to Allah to keep my soul in service for your cause, I am a man from al-Kufah of your friends.' He (the Imam) said, 'Leave it. What do you need?' I then said, 'A man has died and has made a will that al-Hajj must be performed from his legacy. I examined it and it is not sufficient for al-Hajj. I then asked the jurists about it in our area. They said that I must pay charity on his behalf.' He (the Imam) said, 'What did you do with it?' I replied, 'I gave it in charity.' He (the Imam) said, 'You are responsible, unless it was not sufficient even for performing al-Hajj from Makkah, but if it was sufficient for performing al-Hajj from Makkah, then you are responsible.'”

H 12828, Ch. 15, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Sinan from ibn Muskan from abu Sa'id who has narrated the following:

“Once abu 'Abd Allah, '*Alayhi al-Salam*, was asked about the case of a man who made a will for al-Hajj but the executor of his will spent it to set free an enslaved soul. He (the Imam) said, 'The executor of the will is responsible to pay for his al-Hajj as the will required. Allah, most Blessed, most High, has said, 'Whoever intentionally changes the will of a deceased person, he has committed a sin. Allah is All-hearing and All-knowing.' (2:181)”

H 12829, Ch. 15, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Muhammad ibn Marid who has narrated the following:

“I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about the case of a man who made a will to set free a slave for six hundred dirham but the executor of his will gave six hundred dirham to perform al-Hajj for the deceased. He (the Imam) said, 'As I see the executor of the will must pay six hundred dirham from his own assets to set free a slave for the deceased.'”

Chapter 16 - Al-Mudabbar (the Slave for whose Freedom Death of the Master is a Condition) is from One Third of the Legacy

H 12830, Ch. 16, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil from Zurarah who has narrated the following:

“One of the two Imam, (abu Ja'far or abu 'Abd Allah), '*Alayhim al-Salam*, has said, '*Al-Mudabbar* is from one-third of the legacy.’”

H 12831, Ch. 16, h 2

It is narrated from the narrator of the previous *Hadith* from his father Ahmad ibn Muhammad from Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from ibn abu 'Umayr from Hisham ibn al-Hakam who has narrated the following:

“I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about the case of a man who makes his slave a *Mudabbar*; if he can change such decision. He (the Imam) said, 'Yes, he can do so because it is like the will.’”

H 12832, Ch. 61, h 3

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Ali ibn al-Hakam from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“Abu 'Abd Allah, '*Alayhi al-Salam*, has said that *al-Mudabbar* is from one-third of the legacy.' He (the Imam) said, 'One can change his will about one-third of his legacy regardless of whether one is ill or in good health.’”

H 12833, Ch. 16, h 4

Ali ibn Ibrahim has narrated from his father and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from ibn abu 'Umayr from Mu'awiyah ibn 'Ammar who has narrated the following:

“I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about *al-Mudabbar*. He (the Imam) said, 'It is like will which one can change in whatever way one likes.’”

Chapter 17 - First the Shroud, then Debts, then Will is paid for from the Legacy

H 12834, Ch. 17, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ‘Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The shroud is paid for from the whole of the legacy.’”

H 12835, Ch. 17, h 2

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ‘Abd Allah from ibn Mahbub from Ali ibn Ri’ab from Mu’ash from Zurarah who has narrated the following:

“I once asked him (the Imam), *‘Alayhi al-Salam*, about the case of a man who dies owing a debt which is equal to the cost of his shroud. He (the Imam) said, ‘His legacy must be spent to pay for his shroud unless people may come forward to use his legacy in business and pay for his shroud and debts.’”

H 12836, Ch. 17, h 3

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The first thing to pay for from the legacy is shroud, then debts, then will, then the shares of heirs.’”

Chapter 18 - The Will and Debts

H 12837, Ch. 18, h 1

Ali ibn Ibrahim has narrated from his father and A number of our people have narrated from Sahl ibn Ziyad all from ibn abu Najran 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu‘minin* has said, ‘A debt must be paid before the will, then the will is paid for. Thereafter are the shares of the heirs after the will, because the first judge in the case is the book of Allah, most Majestic, most Glorious.’”

H 12838, Ch. 18, h 2

Al-Husayn ibn Muhammad has narrated from Mu‘alla’ ibn Muhammad from certain persons of his people from Aban ibn ‘Uthman from a man who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who makes a will and he is indebted. He (the Imam) said, ‘He (executor of the will) pays the debts first, then distributes the legacy among the heirs.’ I then asked, ‘What happens if what is assigned to pay debts is stolen and about who pays for the debt if it is deducted from the shares of the heirs?’ He (the Imam) said, ‘The heirs are not responsible for it but the executor of the will is responsible.’”

H 12839, Ch. 18, h 3

Ali ibn Ibrahim has narrated from his father and Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from all from ibn abu ‘Umayr from Jamil ibn Darraj from Zakariya ibn Yahya *al-Shu‘ayriy* from al-Hakam ibn ‘Utaybah who has narrated the following:

“Once we were with abu Ja‘far, *‘Alayhi al-Salam*. We were in a group waiting for him (the Imam) to come out. A woman came and asked, ‘Which one of you is abu Ja‘far?’ The people asked, ‘What for are you asking for him?’ She replied, ‘I want to ask him about an issue.’ They said, ‘This is the jurist of the people of Iraq. You can ask him your question.’ She said, ‘My husband has died and has left one thousand dirham as legacy. He owed me five hundred dirham as my *mahr* (dower) and my share of inheritance which I took from the legacy; but then a man came and said my husband owed him one thousand dirham and I testified in his favor.’ Al-Hakam has said, ‘I was counting it that abu Ja‘far, *‘Alayhi al-Salam*, came out and said, “Why is it that I see you move your fingers, O Hakam?” I replied, “This woman has mentioned that her husband has died. He has left one thousand dirham as legacy. He owed to her five hundred dirham as her dower. She took her dower and the share of her inheritance, but then a man came and said that her husband owed him one thousand dirham and she testified in his favor.”’ Hakam has said, ‘By Allah I had not completed my words that he (the Imam) said, “She has confessed to give back one-third of what she has in her hand and she does not have anything as her share of inheritance.”’ Hakam has said, ‘I had never seen, by Allah, anyone more intelligent than abu Ja‘far, *‘Alayhi al-Salam*.’”

H 12840, Ch. 18, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Jamil from certain persons of our people who has narrated the following:

“This is about the case of a man who sells something to a man and the buyer takes possession of the goods but does not pay for it. Then the buyer dies and the goods exist as they were. Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If the goods exist as they were, they must be returned to its owner and other creditors do not have any right to dispute him.’”

H 12841, Ch. 18, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Mahbub from ‘Abd Allah ibn Sinan who has narrated the following:

“About the case of a man who dies with debts on him and a guarantor takes responsibility to pay the

creditors, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'If the creditors agree, the deceased becomes free from responsibility.'

H 12842, Ch. 18, h 6

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from Yahya al-Azraq who has narrated the following:

"About the case of a man who is killed and who owed debts, but has not left any legacy but his heirs received blood money (wergild) from his killer; if they must pay his debts, abu al-Hassan, *'Alayhi al-Salam*, has said, 'Yes, they must pay his debts.' I then said, 'He has not left any legacy.' He (the Imam) said, 'It is because they have received blood money, thus, they must pay his debts.'"

H 12843, Ch. 18, h 7

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from al-Hassan ibn al-Jahm who has narrated the following:

"I once asked abu al-Hassan, *'Alayhi al-Salam*, about the case of a man who dies and I owe him a certain amount of money. He has left behind children, male, female, and smaller children. One of them once came to me and said, 'You are free of the responsibility of what you owed to my father as much as my share is concerned and you are also free about the shares of my brothers and sister. I take the responsibility to obtain their agreement in your favor. He (the Imam) said, 'You are relieved and you are free of responsibility.' I then asked, 'What happens if he did not give them?' He (the Imam) said, 'It is his responsibility.' I then asked, 'What happens if the heirs come to me and ask for payment of their rights?' He (the Imam) said, 'According to the way the case appears they can do so but between you and Allah, most Majestic, most Glorious, you are free from all responsibility toward them, when the man who has taken upon himself to obtain their agreement to what he has done, and he carries the responsibility for you.' I then asked if a mother can take such responsibility for her child.' He (the Imam) said, 'Yes, it can happen if she has something with which she can make him agree.' I then asked, 'What happens if she does not have anything?' He (the Imam) said, 'It then is negative.' I then said, 'I have heard you saying that her waving is permissible.' He (the Imam) said, 'What I meant thereby is that if she has assets.' I then asked, 'Can a father take such responsibility for his son?' He (the Imam) said to him, 'We had no difficulty with abu al-Hassan, *'Alayhi al-Salam*. He (the Imam) would do whatever he wanted.' I then said, 'The man has taken the responsibility for me about the right of the child and about his share. Am I free from responsibility if the man dies before the child becomes mature and he does not owe anything?' He (the Imam) said, 'It is permissible according to the condition he has undertaken for you.'"

Chapter 19 - One Who Sets Free a Slave and He is Indebted

H 12844, Ch. 19, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from and Abu Ali al-Ash'ariy has narrated from Muhammad ibn `Abd al-Jabbar from Safwan and ibn abu `Umayr from `Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, once asked me, ‘Is there a difference between ibn abu Layla’ and ibn Shubramah?’ I replied, ‘It has come to my knowledge that a *Mawla* of `Isa ibn Musa died with a great deal of debts on him. He possessed a number of slaves whom he set free at the time of his death. Had the slaves been sold, such a sale could pay all of his debts. `Isa ibn Musa asked them (ibn abu Layla’ and ibn Shubramah) about this case. Ibn Shubramah said, “In my opinion they must be made to work to pay their own price because they were freed at the time of his death.” Ibn abu Layla’ said, “In my opinion I sell them to pay the creditors because he did not have the right to free them at the time of his death with debts on him; the value of slaves could have covered his debts. These are people of al-Hijaz today. A man indebted greatly is not allowed to free his slaves at the time of his death.” Ibn Shubramah then raised his hands to the sky and said, “Allah is free of all defects, O ibn abu Layla’ when did you ever say so? You only say so in my opposition.” Abu `Abd Allah, *‘Alayhi al-Salam*, then asked, ‘Whose opinion was taken as the rule?’ He (the narrator) has said that I said, ‘It has come to my knowledge that it was the opinion of ibn abu Layla’. He liked it. He sold them and paid his debts.’ He (the Imam) asked, ‘With which one’s opinion do you side?’ I said, ‘It is with ibn Shubramah and ibn abu Layla’ later changed and accepted that of ibn Shubramah.’ He (the Imam) said, ‘By Allah, truth is with what ibn abu Layla’ said, even though he changed it later.’ I (the narrator) then said, ‘This becomes invalid according to their al-Qiyas (analogy).’ He (the Imam) said, ‘Allow us to examine their analogy. Give us an example.’ I then said, ‘I debate you according to analogy.’ He (the Imam) said, ‘You must present the strongest example of analogy.’ I then said, ‘There is a man who dies and leaves a slave and no other assets. The value of the slave is six hundred dirham and his debt is five hundred dirham. He sets him free at the time of his death. How is the case settled?’ He (the Imam) said, ‘The slave must be sold. The creditors take five hundred and the heirs take the one hundred dirham.’ I said, ‘Is it not the case that one hundred is left extra over the debts?’ He (the Imam) said, ‘Yes, that is the case.’ ‘Is it not the case that one-third of it belongs to the deceased with which he can do whatever he wants?’ He (the Imam) said, ‘Yes, that is the case.’ I then said, ‘Is it not the case that at least one-third of the remaining one hundred belongs to the slave when he set him free?’ He (the Imam) said, ‘There is no will for the slave. The slave’s assets belong to his guardians (heirs).’ I then said, ‘What happens if the value of the slave is six hundred and the debt is four hundred dirham?’ He (the Imam) said, ‘The slave is sold. The creditors take four hundred and the heirs take the two hundred and there is nothing for the slave.’ I then said, ‘The price of the slave is six hundred and the debt is three hundred.’ He (the Imam) smiled and said, ‘This is where your companions are proved incorrect. They have made all things as one thing without the knowledge of the *Sunnah*. When the debt and legacy are equal or the legacy is more than debts, the testator is not accused about his will and it is accepted as it is. Now it stops. One-half is for creditors, one-third for heirs and one-sixth is for him (the deceased).”

H 12845, Ch. 19, h 2

Ali ibn Ibrahim has narrated from his father [from ibn abu `Umayr] from Jamil ibn Darraj from Zurarah who has narrated the following:

“About the case of a man who frees his slave at the time of his death with debt on him, one of the two Imam, (abu Ja’far or abu `Abd Allah), *‘Alayhim al-Salam*, has said, ‘If the value of the debt and slave

are equal, freeing is permissible, otherwise, it is not permissible.’”

H 12846, Ch. 19, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from ibn Faddal from al-Husayn Aban al-Jahm who has narrated the following:

“This is about the case of a man who frees his slave at the time of his death in front of witnesses. The price of the slave is six hundred dirham, his debt is three hundred dirham and he has no other legacy. I once heard abu al-Hassan, *‘Alayhi al-Salam*, say, ‘One-sixth of him is free because he owns from him three hundred and the other three hundred is for the debt. Thus out of three hundred one-third is his which is one-sixth of the total.’”

Chapter 20 - The Will about a Contracted Slave

H 12847, Ch. 20, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“This is about the case of a contracted slave who is married to a free woman who in her will assigns something for him and the heirs disagree with her will, saying that he is not free but is only contracted and he cannot inherit. Abu Ja‘far, *'Alayhi al-Salam*, issued a judgment that he inherits proportionate to the degree of his freedom according to the contract. He (the Imam), *'Alayhi al-Salam*, judged in the case of a contracted slave for whom a will was made and the slave had paid one-half according to the contract. The judgment granted him one-half of the will. He (the Imam), *'Alayhi al-Salam*, judged one-fourth of the amount of will in favor of the slave who had paid one-fourth of the amount required according to the contract. About the case of a free man who had made a will for a contracted slave-girl who had paid one-sixth of what was required according to the contract, He (the Imam), *'Alayhi al-Salam*, judged in her favor proportionate to what was made free from her.

Chapter 21 – The Will of Immature Boys and Girls, the Lawful and Unlawful Matters in it

H 12848, Ch. 21, h 1

A number of our people have narrated from Sahl ibn Ziyad and Ahmad ibn Muhammad ibn ‘Isa from Safwan ibn Yahya from Musa ibn Bakr from Zurarah who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘When a boy becomes ten years old it then is permissible for him to use his assets, like freeing, charity and making a will within the limits of law.’”

H 12849, Ch. 21, h 2

Ahmad ibn Muhammad has narrated from Ali ibn al-Hakam from Ali ibn al-Nu‘man from abu Ayyub from Muhammad ibn Muslim who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘When a boy is about to die his will is permissible in favor of the relatives but not in favor of the strangers.’”

H 12850, Ch. 21, h 3

Al-Husayn ibn Muhammad has narrated from Mu‘alla’ ibn Muhammad from certain persons of his people from Aban ibn ‘Uthman from ‘Abd al-Rahman ibn abu ‘Abd Allah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘When a boy becomes ten years old his will is permissible.’”

H 12851, Ch. 21, h 4

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama‘ah from ‘Abd Allah ibn Jabalah from abu al-Mighra’ from abu Basir who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘When a boy becomes ten years old and makes a will about one-third of his assets for a right cause, his will is permissible; but when he is seven years old his will about only a small amount of assets is permissible.’”

Chapter 22 - Will in Favor of Mothers of Children

H 12852, Ch. 22, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from Ahmad ibn Muhammad from ibn abu Nasr who has narrated the following:

“I once copied the following from a book with the handwriting of abu al-Hassan, *'Alayhi al-Salam*. It said, ‘So and so, your *Mawla*’ (friend), has died leaving behind a son of his brother, a mother of his child who does not have a child but he has assigned in his will one thousand for her; if such will is lawful and if freedom applies to her and her condition. It is a request for your opinion, I pray to Allah to keep my soul in service for your cause.’ He (the Imam), *'Alayhi al-Salam*, had written on it, ‘She is free in one-third and the will belongs to her.’”

H 12853, Ch. 22, h 2

Ahmad ibn Muhammad has narrated from ibn abu 'Umayr from Husayn ibn Khalid who has narrated the following:

“I once wrote to abu al-Hassan, before this abu al-Hassan, *'Alayhi al-Salam*, about the case of a man who died and left behind a mother of child for whom he willed something in his lifetime, then died. He (the Imam) wrote, ‘She can have what her master had given her in his lifetime in an acceptable manner. The testimony of both man and woman is acceptable in it as well as the testimony of a servant who is not accused of wrong doing.’”

H 12854, Ch. 22, h 3

Muhammad ibn Yahya has narrated from those whom he has mentioned who have narrated the following:

“About the case of the mother of a child, when her master dies who has made a will for her, abu al-Hassan, al-Rida’, *'Alayhi al-Salam*, has said, ‘She becomes free in one-third and the will belongs to her.’”

H 12855, Ch. 22, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father from all from ibn Mahbub from Jamil ibn Salih from abu 'Ubaydah who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who had a mother of a child from whom he had a boy; and at the time of his death, willed for her two thousand or more; if the heirs can keep her as a slave-girl. He (the Imam) said, ‘No, they cannot keep her as a slave. She becomes free in one-third of the legacy of the deceased and receives what is willed for her.’

“In the book of al-'Abbas it is said that she is freed from the share of her son and what is willed for her is given from the one-third of his legacy.”

Chapter 23 - The Matters Permissible in Endowment, Charity, Gift, Present, Providing Conditional Housing and Matters Permissible or otherwise for a Child and others

H 12856, Ch. 23, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad ibn 'Uthaman who has narrated the following:
"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'Giving charity or setting free a slave is not valid unless it is for the sake of Allah, most Majestic, most Glorious.'"

H 12857, Ch. 23, h 2

It is narrated from the narrator of the previous *Hadith* from his father from ibn abu 'Umayr from Hisham and Hammad and ibn 'Udhaynah and ibn Bukayr and others all of whom have said the following:
"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'Giving charity or setting free a slave is not valid unless it is for the sake of Allah, most Majestic, most Glorious.'"

H 12858, Ch. 23, h 3

A number of our people have narrated from Sahl ibn Ziyad and Ahmad ibn Muhammad from al-Hassan ibn Mahbub from Ali ibn Ri'ab from Zurarah who has narrated the following:
"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'Charity has emerged newly. In the time of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, people would give gifts and presents. It is not proper for one who has given something to Allah, most Majestic, most Glorious, to take it back.' He (the Imam) has said, 'A gift or present, which is not given for the sake of Allah can be taken back, regardless of whether the recipient has taken possession or not. If a man gives a gift to his wife, he must not take it back; also if a wife gives something to her husband, regardless of whether he has taken possession or not. Allah, most Blessed, most High, has said, "Do not take anything that you have given to them (your wives)." (2:229) Allah has said, "If they give you out of their pleasure then you can use it in good health." (4:4) This applies to *mahr* (dower) and gifts.'"

H 12859, Ch. 23, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal Ahmad ibn al-Hassan ibn Bukayr Ahmad ibn al-Hassan 'Ubayd ibn Zurarah who has narrated the following:
"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who gives charity; if he can take it back. He (the Imam) said, 'Charity is new. There were gifts and grants. One who provides a gift or a grant is able to take back the grant or gift, regardless of whether the recipient has taken it in his possession or not; but it is not proper to take back what one gives to Allah.'"

H 12860, Ch. 23, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil who has narrated the following:
"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who gives charity (which is not obligatory) to his small children; if he can take it back. He (the Imam) said, 'No, because charity is for Allah, most Majestic, most Glorious.'"

H 12861, Ch. 23, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from abu al-Mighra' from abu Basir who has narrated the following:
"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about charity which is not distributed or possessed by the recipient. He (the Imam) said, 'It is permissible (for the donor to use it); people had the intention to gift it but they made a mistake (in calling it a charity).'"

H 12862, Ch. 23, h 7

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“This is about the case of a man who gives charity to his grown up (mature) children. They do not take possession until he dies. Abu Ja'far, *'Alayhi al-Salam*, has said, 'It remains as part of the legacy; but if he gives it as charity to his small children, then it (giving such charity) is permissible; their father is the one who is their guardian (in matters of taking possession for them).' He (the Imam) said, 'The charity given for the sake of Allah, most Majestic, most Glorious, cannot be taken back.' He (the Imam) said, 'Gifts and grants can be taken back if one wants to do so, regardless, possession by the recipient has taken place or not, unless the recipient is a relative, in which case it cannot be taken back.'”

H 12863, Ch. 23, h 8

Ali ibn Ibrahim has narrated from his father from 'Abd Allah ibn al-Mughirah from Mansur ibn Hazim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'If you give charity, then do not take it back or buy it back unless it comes back to you in the form of an inherited legacy.'”

H 12864, Ch. 23, h 9

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from ibn abu 'Umayr from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“About the case of a man who gives something to his small children then he decides to make his other children share it with them, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'It is not harmful.'”

H 12865, Ch. 23, h 10

Through the same chain of narrators as that of the previous *Hadith* the following is narrated from ibn abu 'Umayr from 'Abd al-Rahman who has narrated the following:

“This is about the case of a man who gives a slave-girl as charity to his small children. He then begins to like the slave-girl but the children are small as his dependents, if he can touch the slave-girl, or appraise her for a fair price, then make witnesses to bear testimony to his owing such price to his children, or he must stay away altogether. Abu al-Hassan, *'Alayhi al-Salam*, has said, 'He can appraise her for a fair price and count it up on himself; then he can touch the slave-girl.'”

H 12866, Ch. 23, h 11

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil from abu 'Abd Allah, *'Alayhi al-Salam*, and Hammad ibn 'Uthaman from al-Halabiy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'If the gift still exists as it was given, it can be taken back, otherwise, one cannot do so.'”

H 12867, Ch. 23, h 12

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Safwan from al-'Ala' from Muhammad ibn Muslim who has narrated the following:

“This is about the case of a man who has a slave-girl and his wife gives him trouble about her. Thus, he says, 'She is charity for you.' One of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said, 'If he has done so for the sake of Allah, most Majestic, most Glorious, he must comply with what he has said, but if he did not say it for the sake of Allah, he can reverse his decision.'”

H 12868, Ch. 23, h 13

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from ibn abu 'Umayr from Mu'awiyah ibn 'Ammar who has narrated

the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man to whom another man owes a certain amount of dirham and he gives it as a gift to him (the indebted); if he can change his mind and take it back. He (the Imam) said, ‘No, he cannot do so.’”

H 12869, Ch. 23, h 14

A number of our people have narrated from Ahmad ibn abu ‘Abd Allah from ‘Uthman ibn ‘Isa from Sama‘ah who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who gives a certain amount of charity to his friend; if he can change his mind and take it back from him. He (the Imam) said, ‘No, he cannot do so but if he needs he can take from other assets of his friend which is other than what he had given as charity to him.’”

H 12870, Ch. 23, h 15

Al-Husayn ibn Muhammad has narrated from Mu‘alla’ ibn Muhammad from certain persons of our people from Aban ibn ‘Uthman from Muhammad ibn Muslim who has narrated the following:

“About the case of a man who gives something in charity if he can inherit it, one of the two Imam, (abu Ja‘far or abu ‘Abd Allah), *‘Alayhim al-Salam*, has said, ‘Yes, he can do so.’”

H 12871, Ch. 23, h 16

A number of our people have narrated from Ahmad ibn abu as from ‘Uthman ibn ‘Isa from Sama‘ah who has narrated the following:

“I once asked him (the Imam), *‘Alayhi al-Salam*, about the case of a man who gives a gift to his mother and she dies. She had taken the gift away from him in her possession. He (the Imam) said, ‘He and the other heirs are the same in dealing with that item.’”

H 12872, Ch. 23, h 17

Abu Ali al-Ash‘ariy has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan ibn Yahya from Muhammad ibn Muslim from Mas‘ud (a certain musical instrument) al-Ta‘iy who has narrated the following:

“I once said to abu al-Hassan, *‘Alayhi al-Salam*, that my mother gave me the house that belonged to her - or he said her share in a house - and told me to register it in my name. I then wrote that I have bought it from her. She has sold it to me and has received the payment. When she died, the heirs asked me to take an oath that I have bought it and made the payment. If I take an oath, I can take it but if I do not take an oath, they will not give it to me. He (the Imam) said, ‘You can take an oath and take what you have assigned to yourself.’”

H 12873, Ch. 23, h 18

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Ali ibn Faddal from ibn Bukayr from al-Hakam ibn abu ‘Aqilah who has narrated the following:

“My father gave a house as charity to me and I took possession thereof but thereafter other children were born to him and he wanted to take the house back from me to give it to them. I explained the story to abu ‘Abd Allah, *‘Alayhi al-Salam*, who said, ‘Do not give it to him.’ I then said, ‘He will dispute it with me.’ He (the Imam) said, ‘You can become a defendant but do not raise your voice over his voice.’”

H 12874, Ch. 23, h 19

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from ‘Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If a gift-giver receives something in exchange, he then cannot take back what he has given as gift.’”

H 12875, Ch. 23, h 20

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah, from more than one person from Aban from abu Maryam who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘If one gives a charity it is permissible, regardless of whether the recipient takes possession or not, knows about it or does not know about it.’”

H 12876, Ch. 23, h 21

Aban has narrated from 'Abd al-Rahman ibn abu 'Abd Allah from Humran who has narrated the following:

“I once asked him (the Imam), *'Alayhi al-Salam*, about *al-Sukna*’ and *al-'Umra*’ (permission to use a house for a certain period of time). He (the Imam) said, ‘People must stand by their conditions. If his condition is permission to use the house for his life time, it then is for his life time. If it is for the life time of those whom he leaves behind, then it is for their life time after which they must return it to the owner of the house.’”

H 12877, Ch. 23, h 22

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isma'il from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“Once abu 'Abd Allah, *'Alayhi al-Salam*, was asked about *al-Sukna*’ and *al-'Umra*’ (permission to use a house for a certain period of time). He (the Imam) said, ‘If permission to use the house is given for his lifetime, then it must remain as the condition requires, if it is for his and the lifetime of those whom he leaves behind until they die, then they cannot sell it or inherit it, but they must return the house to its first owner.’”

H 12878, Ch. 23, h 23

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Safwan from Ya'qub ibn Shu'ayb who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who has a servant who serves him and he says, ‘She will serve so and so as long as he lives, and when he dies she will be free. The servant runs away five or six years before he dies; then his heirs find her; if they can make her to serve them for the remaining time. He (the Imam) said, ‘When the man dies she becomes free.’”

H 12879, Ch. 23, h 24

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from Ahmad ibn 'Umar al-Halabiy from his father who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about a house which is not yet distributed and a certain one of the people of the house gives his share as charity. He (the Imam) said, ‘It is permissible.’ I then asked, ‘What happens if it is a grant?’ He (the Imam) said, ‘It is permissible.’ I then asked him (the Imam) about a man who allows another man to use his house for his lifetime. He (the Imam) said, ‘It is permissible but he cannot evict him.’ I then asked, ‘Can it be for him and those whom he leaves behind?’ He (the Imam) said, ‘It is permissible.’ I then asked about the case in which one gives permission to another person to use a house without the mention of time duration. He (the Imam) said, ‘He can ask him to leave if he wants him to vacate the house.’”

H 12880, Ch. 23, h 25

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who allows another man to use a house and those whom he will leave behind. He (the Imam) said, ‘It is permissible but they cannot sell or inherit it.’ I asked if a man could allow another man to use a house for his lifetime. He (the Imam) said, ‘It is permissible.’ I then asked what happens if a man allows another man to use a house without the mention of time. He (the Imam) said, ‘It is permissible but he can ask him to vacate

if he wants.’”

H 12881, Ch. 23, h 26

Ahmad ibn Muhammad has narrated from al-‘Asemiy from Ali ibn al-Hassan from Ali ibn Asbat from Muhammad ibn Humran from Zurarah who has narrated the following:

“About the case of a man who gives in charity what is owned in partnership, abu Ja‘far, ‘*Alayhi al-Salam*, has said, ‘It is permissible.’”

H 12882, Ch. 23, h 27

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from ‘Umar ibn ‘Udhaynah who has narrated the following:

“I was witness that ibn abu Layla’ judged in the case of a man who had designated the income of a house for his relative without the mention of time limit. The man died and his heirs came to ibn abu Layla’ and his relative for whom the house was designated. Ibn abu Layla’ said, ‘I see that it must be left as its owner has left.’ Muhammad ibn Muslim al-Thaqafiy then said, ‘Ali ibn Abu Talib, ‘*Alayhim al-Salam*, judged in the same Masjid opposite to what you have judged.’ He asked, ‘How do you know that?’ He replied, ‘I once heard abu Ja‘far, ‘*Alayhi al-Salam*, saying, “‘Amir al-Mu‘minin judged to return what is kept on hold and to execute the rules of inheritance.’” Ibn abu Layla’ then asked, ‘Is this written in a book with you?’ He replied, ‘Yes, it is in a book.’ He said, ‘Send to bring it.’ Muhammad ibn Muslim said, ‘I will do so upon the condition that you will not read anything else in the book besides this *Hadith*.’ He said, ‘That is up to you.’ He (the narrator) has said that he showed him the *Hadith* from abu Ja‘far, ‘*Alayhi al-Salam*, in the book and he took his judgment back.’”

H 12883, Ch. 23, h 28

A number of our people have narrated from Ahmad ibn abu ‘Abd Allah from his father from ‘Abd Allah ibn al-Mughirah from ‘Abd al-Rahman al-Khath‘amiy who has narrated the following:

“About an issue of a legacy for distribution I once faced differences with ibn abu Layla’. In that legacy, there was an item on hold and he opposed me. When it prolonged I complained before abu ‘Abd Allah, ‘*Alayhi al-Salam*, and he said, ‘Did he not know that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, commanded to return items on hold and execute the rules of inheritance?’ I went to him and he did as before. I said, ‘I have complained before Ja‘far ibn Muhammad, ‘*Alayhim al-Salam*, and he said so and so on the issue.’ Ibn abu Layla’ asked me to take oath that he (the Imam) has said so. I took the oath; then he judged accordingly.’”

H 12884, Ch. 23, h 29

A number of our people have narrated from Sahl ibn Ziyad and Ahmad ibn Muhammad from and Ali ibn Ibrahim has narrated from his father all from al-Hassan ibn Mahbub from Ali ibn Ri‘ab from Ja‘far ibn Hayyan who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who endowed an asset that belonged to him for his relatives from his father’s side as well as for those from his mother’s side. He assigned from the same asset three hundred dirham every year in his will for a man and his heirs with whom he had no relationship and that the rest must be distributed between the two relatives from the side of each of his parents. He (the Imam) said, ‘It is permissible for the ones in whose favor the will is made.’ I then asked, ‘What happens if the income is not more than five hundred?’ He (the Imam) said, ‘Is it not the case that three hundred must be given and the remaining is distributed between the two relatives?’ I replied, ‘Yes, that is the case.’ He (the Imam) said, ‘The relatives cannot take anything from the income until the three hundred is paid and thereafter they can distribute between themselves whatever is left.’ I then asked, ‘What happens if the one in whose favor the will is for three hundred dies?’ He (the Imam) said, ‘If he dies the three hundred goes to his heirs if there are any

heirs left, otherwise, the three hundred goes to the relatives of the deceased which will be taken from the endowment and will be distributed among them as they exist as well as the income.’ I then asked, ‘Can the relatives of the deceased sell the land when they need it if the income thereof is not enough?’ He (the Imam) said, ‘Yes, they can do so if they all agree and the sale is in their benefit.’”

H 12885, Ch. 23, h 30

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa and A number of our people have narrated from Sahl ibn Ziyad all from Ali ibn Mahziyar from who has narrated the following:

“I once wrote to abu Ja‘far *‘Alayhi al-Salam*, that so and so has bought a certain asset. He has made it an endowment of which one-fifth is designated for you. He seeks your opinion about selling your share of the land, or appraising and counting its price on himself for which he has bought or keep it as an endowment. He (the Imam), *‘Alayhi al-Salam*, wrote the answer that said, ‘Inform so and so that I command him to sell my share and send the proceeds to me, which is my opinion, by the will of Allah; or appraise it on his own account, if that is more suitable for him.’ I wrote to him (the Imam) that so and so has mentioned that among other beneficiaries of this endowment there are serious difference which may even increase further afterwards; if he (the Imam) considers it proper to sell the endowment and give everyone of the beneficiaries his share if he (the Imam) so commands. He (the Imam) then wrote in his own handwriting to me, ‘Inform him about my opinion that if he thinks the selling of the endowment is better because of the differences of the beneficiaries he can do so; differences can sometimes lead to destruction of properties and lives.’”

H 12886, Ch. 23, h 31

Ali ibn Mahziyar has said, “I asked him (the Imam), *‘Alayhi al-Salam*, that certain ones of your Mawali (friends or slaves) have narrated from your ancestors the following. ‘All endowments for a known period of time are binding upon the heirs, and all endowments for an unknown period of time are unknown, confusing and invalid that must be returned to the heirs. You know best the words of your ancestors.’ He (the Imam), *‘Alayhi al-Salam*, wrote the answer that said, ‘It, with me, is as such.’” (Apparently he (the Imam) left it unexplained.)

H 12887, Ch. 23, h 32

‘Abd al-Rahman ibn Muhammad al-Hamadaniy wrote to him (the Imam), *‘Alayhi al-Salam*, the following:

“A deceased person has made a will which says that to so and so man an amount must be given continuously of what is left of the one-third of his legacy but has not said to complete the one-third. Is it necessary for the executor of the will to make the one-third an endowment to continue executing the will?’ He (the Imam), *‘Alayhi al-Salam*, wrote, ‘The one-third must be spent and it must not be made an endowment.’”

H 12888, Ch. 23, h 33

Muhammad ibn Ja‘far al-Raziyy has narrated from Muhammad ibn ‘Isa from Ali ibn Sulayman who has narrated the following:

“I once wrote to him (the Imam), abu al-Hassan, *‘Alayhi al-Salam*, saying, ‘I pray to Allah to keep my soul in service for your cause, I do not have any children and I have assets that I inherited from my father and myself earned a certain amount, but I do not feel safe from something happening. If something happens to me and I have no children, what do you think I must do, I pray to Allah to keep my soul in service for your cause? Can I make a certain amount of it an endowment for the needy, of the oppressed brothers (in belief) or sell it and spend upon them in my lifetime? I fear that endowment may not be managed properly after I die and if I make an endowment for my own survival will I be able to eat thereof?’ He (the Imam), *‘Alayhi al-Salam*, wrote, ‘I understood your letter in the matter of

your assets. You cannot eat from charity (endowment), if so the law of endowment is not followed just as if you had heirs. You can sell and give as charity a certain amount of the proceeds in your lifetime. If you give as charity you can keep for yourself for your sustenance just as 'Amir al-Mu'minin had done.'”

H 12889, Ch. 23, h 34

Muhammad ibn Yahya has narrated the following:

“Certain persons of our people had written to abu Muhammad, *'Alayhi al-Salam*, about endowment and what is narrated about it. He (the Imam), *'Alayhi al-Salam*, signed the answer that said, ‘An endowment is according to what people making the endowment do (condition they set), by the will of Allah.’”

H 12890, Ch. 23, h 35

Muhammad ibn Ja'far al-Raziy has narrated from Muhammad ibn 'Isa from abu Ali ibn Rashid who has narrated the following:

“I once asked abu al-Hassan, *'Alayhi al-Salam*, saying, ‘I pray to Allah to keep my soul in service for your cause, I have bought a land near by my assets for two thousand dirham. When I made payment, I was informed that the land is an endowment.’ He (the Imam) said, ‘Buying an endowment is not permissible. You must not include its income in your assets. Give it back to its beneficiaries.’ I then said, ‘I do not know the beneficiaries.’ He (the Imam) said, ‘Give its income in charity.’”

H 12891, Ch. 23, h 36

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar all from Safwan ibn Yahya who has narrated the following:

“I once asked abu al-Hassan, *'Alayhi al-Salam*, about the case of a man who makes a piece of his property an endowment, then decides to change it. He (the Imam) said, ‘If he has made it an endowment for his children and others and then appoints a supervisor for it, he cannot change it. If they are small and he has set a condition that the supervision will rest with them until they mature and so he has taken possession for them in this case also he cannot change it. If they are mature but he has not given it to them and they do not dispute with him until they take possession from him, then he can change it because they have not taken possession from him while they are mature.’”

H 12892, Ch. 23, h 37

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Musa ibn Ja'far from Ali ibn Muhammad ibn Sulayman al-Nawfaliy who has narrated the following:

“I once wrote to abu Ja'far, al-Thaniy, *'Alayhi al-Salam*, and asked about a land that my grandfather had made an endowment for the needy children of so and so who are of a large number in different places. He (the Imam), *'Alayhi al-Salam*, said, ‘You have mentioned the land that your grandfather had made an endowment for the needy children of so and so. It is for those of them who are in the area (town) in which the endowment exists and you do not have to search for everyone who is absent.’”

H 12893, Ch. 23, h 38

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from al-Husayn ibn al-Nu'aym who has narrated the following:

“I once asked abu al-Hassan, Musa, *'Alayhi al-Salam*, about the case of a man who has given a house to a man to live in for his lifetime, or it is for him and those whom he leaves behind, as the condition may be. I then said, ‘If needed can he then sell it?’ He (the Imam) said, ‘Yes, he can do so.’ I then asked, ‘Does such a sale cancel its being given to the man for his living a lifetime?’ He (the Imam) said, ‘The sale does not cancel its being given to one for living therein a lifetime. That is how I heard my father, *'Alayhi al-Salam*, say that abu Ja'far, *'Alayhi al-Salam*, has said, “Selling does not cancel

tenancy and rentals or being given to live a lifetime therein according to the condition and rent.” I then asked, ‘What happens if the tenant asks for his expenses, building and maintenance for what he has rented?’ He (the Imam) said, ‘If it is with mutual agreements then it is not harmful.’”

H 12894, Ch. 23, h 39

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Khalid ibn Rafi’ al-Bajaliy who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has given a house to a man to live for the lifetime of the occupant of the house. When the owner dies, the heirs ask the occupant to leave the house; if they can do so. He (the Imam) said, ‘I see that the house must be appraised for a fair price as well as the one-third of the legacy of the deceased. If the one-third covers the price of the house, the heirs cannot ask the occupant to leave the house; but if the one-third of the legacy did not cover the price of the house, then they can ask him to leave.’ It then was asked from him (the Imam), ‘What happens if the man who had permission to live in the house for his lifetime dies after the death of the owner of the house; if those whom he has left behind can live in that house. He (the Imam) said, ‘No, they cannot live in that house.’”

H 12895, Ch. 23, h 40

Al-Husayn ibn Muhammad has narrated from Mu‘alla’ ibn Muhammad from certain persons of his people from Aban from ‘Ajalan abu Salih who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, dictated to me the following:

“(I begin) in the name of Allah, the Beneficent, the Merciful. For the sake of Allah as charity this is what so and so son of so and so, who is in good health says: It is his house located among the houses of banu so and so with its limits, which will not be sold, given as a gift, or inherited until it is inherited by the One who inherits the skies and the earth. That he has allowed so and so and those whom he will leave behind to live therein as charity and when they are no more it is for the needy Muslims.”

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama‘ah from Ahmad ibn ‘Udays from Aban from ‘Abd al-Rahman from abu ‘Abd Allah, *‘Alayhi al-Salam*, a similar *Hadith*.

H 12896, Ch. 23, h 41

Aban has narrated from abu al-Jarud who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘A man cannot buy what he has given as charity. If he gives as charity a house to a relative then if he likes he can live with them. If he gives in charity a servant to a relative he can serve him by the will of Allah.’”

Chapter 24 - The Will for a Part of One's Assets

H 12897, Ch. 24, h 1

Ali ibn Ibrahim has narrated from his father from and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from 'Abd Allah ibn Sinan from 'Abd al-Rahman ibn Sayabah who has narrated the following:

“A woman made a will to me that said, ‘With one-third of my legacy my debts must be paid and part of it will be for so and so female.’ I then asked ibn abu Layla’ about it and he said, ‘There is nothing for her because I do not know how much is *al-Juz*’ (a part).’ I then asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about it afterwards and informed him (the Imam) how she had said it and what ibn abu Layla’ had said. He (the Imam) said, ‘Ibn abu Layla’ has spoken falsely. She can have one-tenth of the one-third because Allah, most Majestic, most Glorious, said to Ibrahim ‘*Alayhi al-Salam*, “Place Juza’ (a part) of it on every mountain” (2:260) the mountains at that time were ten, thus *al-Juz*’ is one-tenth of something.’”

H 12898, Ch. 24, h 2

Ali ibn Ibrahim has narrated from his father from and A number of our people have narrated from Ahmad ibn Muhammad all from ibn Faddal from Th'alabah' ibn Maymun from Mu'awiyah ibn 'Ammar who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who made a will about a part of his legacy. He (the Imam) said, ‘A part is one-tenth because Allah, most Majestic, most Glorious, has said, ‘Place a part on every mountain’ the mountains were ten.’”

H 12899, Ch. 24, h 3

Ali ibn Ibrahim has narrated from his father from Hammad from Aban ibn Th'alabah who has narrated the following:

“Abu Ja'far, ‘*Alayhi al-Salam*, has said, ‘A part is one-tenth because the mountains were ten and the birds were four.’”

Chapter 25 - The Will about Something of One's Legacy

H 12900, Ch. 25, h 1

A number of our people have narrated from Ahmad ibn abu 'Abd Allah from Muhammad ibn 'Amr from Jamil from Aban who has narrated the following:

“Ali ibn al-Husayn, *'Alayhim al-Salam*, was asked about the case of a man who made a will about something of his legacy. He (the Imam) said, ‘According to the book of Ali, *'Alayhi al-Salam*, it is one-sixth.’”

H 12901, Ch. 25, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from ibn Faddal or others from Jamil from Aban who has narrated the following:

“Ali ibn al-Husayn, *'Alayhim al-Salam*, was asked about the case of a man who made a will about something of his legacy. He (the Imam) said, ‘According to the book of Ali, *'Alayhi al-Salam*, it is one-sixth.’”

Chapter 26 - The Will about a Share of One's Legacy

H 12902, Ch. 26, h 1

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Once abu ‘Abd Allah, *‘Alayhi al-Salam*, was asked about the case of a man who makes a will about a share of his legacy. He (the Imam) said, ‘A share is one-eighth because of the meaning of the words of Allah, most Majestic, most Glorious, “Charity is only for the poor, destitute, Zakat collectors, people inclined to the religion, slaves, debtors, in the way of Allah and for those who deplete their supplies on journey.”’” (9:60)

H 12903, Ch. 26, h 2

Ali ibn Ibrahim has narrated from his father from Safwan from abu al-Hassan, al-Rida’, *‘Alayhi al-Salam*, and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from Safwan and Ahmad ibn Muhammad from ibn abu Nasr who have said the following:

“We once asked abu al-Hassan, al-Rida’, *‘Alayhi al-Salam*, about the case of a man who has made a will about a share of his legacy and it is not known how much a share is. He (the Imam) asked, ‘Have you not received anything about it from Ja‘far, or abu Ja‘far, *‘Alayhim al-Salam*?’ We replied, ‘We pray to Allah to keep our souls in service for your cause, we have not heard our people mention anything about it from your ancestors.’ He (the Imam) said, ‘A share is one of eight.’ We said, ‘We pray to Allah to keep our souls in service for your cause, how it has become one of eight?’ He (the Imam) said, ‘Have you not read the book of Allah, most Majestic, most Glorious?’ I said, ‘I pray to Allah to keep my soul in service for your cause, I read but do not know in which passage it is.’ He (the Imam) said, ‘It is in the words of Allah, most Majestic, most Glorious, “Charity is only for the poor, destitute, Zakat collectors, people inclined to the religion, slaves, debtors, in the way of Allah and for those who deplete their supplies on a journey.” (9:60)’ He (the Imam) then formed eight with his hand and said, ‘This is how the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, distributed in eight shares, thus, a share is one out of eight.’”

Chapter 27 - One in His Illness Confesses His Indebtedness to One of his Heirs

H 12904, Ch. 27, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:
“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who confirms his owing a certain amount of debt to one of his heirs. He (the Imam) said, ‘It is permissible if immediate payment is not required.’”

H 12905, Ch. 27, h 2

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from Mansur ibn Hazim who has narrated the following:
“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who confirms his owing a certain amount of debts to one of his heirs. He (the Imam) said, ‘If the deceased is one with whom people are happy, then you must pay to the one in whose favor the will is made.’”

H 12906, Ch. 27, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from Ali ibn al-Nu'man from ibn Muskan from al-'Ala' Bayya' al-Sabiriy who has narrated the following:
“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a woman who leaves a certain amount of assets in trust with a man; and at the time of her death she says to him that the asset in his trust belongs to so and so female, and she dies. Her heirs then come to the man saying that their woman had certain amount of assets but they do not find them except with him, therefore he must take an oath that her assets are not with him; if he can take an oath as they ask him to do. He (the Imam) said, ‘He can take the oath if she was trustworthy in his view; but if she was accused then he must not take the oath. He must deal with the issues as they are wherein one-third of the legacy belongs to her.’”

H 12907, Ch. 27, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Hisham ibn Salim from 'Isma'il ibn Jabir who has narrated the following:
“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who confirms in his illness his owing a certain amount of debts to one of his heirs. He (the Imam) said, ‘It is permissible if the amount is less than one-third of the legacy.’”

H 12908, Ch. 27, h 5

Ibn Mahbub has narrated from abu Wallad who has narrated the following:
“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who in his illness at the time of his death confirms his owing a certain amount of debts to one of his heirs. He (the Imam) said, ‘It is permissible.’ I asked about his confirming his owing ‘something’ to one of his heirs. He (the Imam) said, ‘It is permissible.’”

Chapter 28 - When certain ones of the Heirs Confirm Freeing of a Slave or Debts

H 12909, Ch. 28, h 1

Ali ibn Ibrahim has narrated from his father from `Isma'il ibn Marrar from Yunus from Mansur ibn Hazim who has narrated the following:

“About the case of a man who dies and leaves behind a slave and certain ones of his children testify that their father had freed the slave. He (the Imam) said, ‘His testimony is permissible, he is not required to compensate and the slave is not required to work to pay for his freedom from the other heirs.’”

H 12910, Ch. 28, h 2

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from certain persons of his people from Aban ibn 'Uthman from Mansur ibn Hazim who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies and leaves behind an owned slave, but certain ones of the heirs testify that he is free. He (the Imam) said, ‘If the testifying person is an acceptable person his testimony is permissible on his share of the legacy and the slave is made to work to buy his freedom from the rest of the heirs.’”

H 12911, Ch. 28, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Muhammad ibn abu Hamzah and Husayn ibn 'Uthman from Ishaq ibn 'Ammar who has narrated the following:

“About the case of a man who dies and a certain one of his heir confirms his owing a certain amount. He (the Imam) said, ‘It become binding and applicable to his share in the legacy.’”

Chapter 29 - The Case of One Who Leaves very Little Legacy with a Larger Amount of Debt and Dependents

H 12912, Ch. 29, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn abu Nasr Through the same chain of narrators as that of the previous *Hadith* the following is narrated:

“He once asked him (the Imam); ‘*Alayhi al-Salam*, about the case of a man who dies leaving behind dependents and debts; if anything can be spent from the legacy for the dependents. He (the Imam) said, ‘If it is certain that his legacy covers the debt, then nothing can be spent for his dependents but if it is certain that the legacy cannot cover the debts, then it is permissible to spend thereof for the dependents.’”

H 12913, Ch. 29, h 2

Humayd ibn Ziyad has narrated from Sama‘ah from al-Husayn ibn Hashim and Muhammad ibn Ziyad all from ‘Abd al-Rahman ibn al-Hajjaj who has narrated a similar *Hadith* except that he has said this. ‘If it is certain that his legacy covers all of his debts then it is not spent on them but if it is not certain then from the center of the legacy their expenses are paid..’”

H 12914, Ch. 29, h 3

Humayd ibn Ziyad has narrated from Sama‘ah, from Sulayman ibn Dawud or certain persons of our people from [him] from Ali ibn abu Hamzah who has narrated the following:

“I once asked abu al-Hassan, ‘*Alayhi al-Salam*, about the case of a man who has died and left behind small children and something but owes debts. The creditors do not know it (his leaving something). If debts are paid, nothing is left for his children who do not have anything. He (the Imam) said, ‘Spend it for his children.’”

Chapter 30 - Another Chapter

H 12915, Ch. 30, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ahmad ibn Muhammad from ibn abu Nasr from abu Jamilah who has narrated the following:

“I once asked al-Rida’, *‘Alayhi al-Salam*, about the case of a man who has made a will for a man about a sword which is in a cover (sword sheathing) with decorations on it. The heirs said that only the sword is for him and not the asset (the valuable decorations). He (the Imam) said, ‘The sword and that in which it is belongs to him.’ I then asked about the case of a man who makes a will about a box for a man. The heirs say that only the box without its contents belongs to him. ‘Not only the box but its contents also belong to him’, said abu al-Hassan, *‘Alayhi al-Salam.*”

H 12916, Ch. 30, h 2

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Muhammad ibn ‘Abd Allah ibn Hilal from ‘Uqbah ibn Khalid who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has said that this ship belongs to so and so but has not identified its contents. There is food in it; if the ship with its content must be given to him. He (the Imam) said, ‘It belongs to him except; if its owner is accused (of wrong-doing) and the heirs do not have anything.’”

H 12917, Ch. 30, h 3

It is narrated from the narrator of the previous *Hadith* from Muhammad ibn al-Husayn from Ahmad ibn Muhammad from ibn abu Nasr from abu Jamilah al-Mufaddal ibn Salih who has narrated the following:

“I once wrote to abu al-Hassan, *‘Alayhi al-Salam*, about the case of a man who has made a will about a sword for a man and the heirs say that only the iron belongs to him but not the decoration. He (the Imam) wrote the answer that said, ‘The sword and decoration belong to him.’”

H 12918, Ch. 30, h 4

It is narrated from the narrator of the previous *Hadith* from Ali ibn ‘Uqbah from his father who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who makes a will about a box with assets in it for a man. The heirs say that only the box belongs to him and not its contents. He (the Imam) said, ‘The box and its contents belong to him.’”

Chapter 31 - The Adults whose Will is not Acceptable

H 12919, Ch. 31, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from abu Wallad who has narrated the following: "I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, 'One who kills himself intentionally is in the fire of hell forever.' It was asked, 'What happens if one makes a will, then kills himself in the same hour, if his will is acceptable.' He (the Imam) said, 'If his will takes place before his causing any injury or anything that perhaps may kill him, his will is permissible in one-third of his legacy; but if his will takes place after causing injuries or anything that may cause him to die, his will is not acceptable.'"

Chapter 32 - Distribution of What is Bequeathed To Relatives

H 12920, Ch. 32, h 1

A number of our people have narrated from Sahl ibn Ziyad who has narrated the following:

“I once wrote to abu Muhammad, *‘Alayhi al-Salam*, and asked about the case of a man who has two sons. One of them dies, leaving behind male and female children, and the grandfather bequests for them the share of their father, if male and female in this share are equal or if the male has twice the share of the female. He (the Imam), *‘Alayhi al-Salam*, signed the answer that said, ‘The will of their grandfather must be executed by the will of Allah.’ He (the narrator) has said that a man wrote to him (the Imam) about the case of a man who has male and female children and he confirms that a piece of property belongs to his children without mentioning if it is according to the share Allah, most Majestic, most Glorious, has determined or male and female share it equally.’ He (the Imam) signed the answer that said, ‘They must execute the will of their father according to what he has mentioned. However, if he has not mentioned anything they must refer to the book of Allah, most Majestic, most Glorious, and the *Sunnah* of the Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, by the will of Allah.’”

H 12921, Ch. 32, h 2

Muhammad ibn Yahya has narrated the following:

“Once Muhammad ibn al-Hassan wrote to abu Muhammad, *‘Alayhi al-Salam*, about the case of a man who has bequeathed one-third of his legacy to his male and female slaves; if they share it equally or the share of the male is twice the share of female. He (the Imam) signed the answer that said, ‘It is binding and permissible for the deceased what he has bequeathed in the manner he has bequeathed, by the will of Allah.’”

H 12922, Ch. 32, h 3

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from ibn Ri’ab from Zurarah who has narrated the following:

“This is about the case of a man who bequests one-third of his legacy to his paternal and maternal uncles. Abu Ja’far, *‘Alayhi al-Salam*, has said, ‘The paternal uncle receive two-thirds and the maternal uncle receives one-third.’”

Chapter 33 - The Case of one who Makes a Bequest for an Adult with whom a Child must Share

H 12923, Ch. 33, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa ibn ‘Ubayd from his brother, Ja‘far ibn ‘Isa from Ali ibn Yaqtin who has narrated the following:

“I once asked abu al-Hassan, *‘Alayhi al-Salam*, about the case of a man who makes a bequest for a woman to share it with a child. He (the Imam) said, ‘It is permissible. The woman can execute the will and she does not have to wait until the child becomes mature. The child upon maturity cannot disagree unless the will is changed or altered, in which case the child can turn it back to comply with the will.’”

H 12924, Ch. 33, h 2

Muhammad has said the following:

“Once Muhammad ibn al-Hassan wrote to abu Muhammad, *‘Alayhi al-Salam*, about the case of a man who made a bequest for his children consisting of adults and minor ones, if it is lawful for the adults to execute the will, pay off his debts to the rightful creditors according to just witnesses before the minors become adults. He (the Imam) signed the answer that said, ‘The adult children must pay the debts of their father and they must not allow him to remain imprisoned thereby (the debts).’”

Chapter 34 - The Case of One's Appointing Two Executors for the Will, Each of whom Deals with a Certain Portion of the Legacy

H 12925, Ch. 34, h 1

Muhammad ibn Yahya has narrated the following:

“Muhammad ibn al-Hassan once wrote to abu Muhammad, *‘Alayhi al-Salam*, about the case of a man who dies and appoints two people as executors of his will, if it is permissible for one of them to deal with one-half of the legacy and the other with the other half of the legacy. He (the Imam) signed the answer that said, ‘It is not suitable for them to oppose the deceased. They must work as they are instructed, by the will of Allah.’”

H 12926, Ch. 34, h 2

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan from his two brothers, Muhammad and Ahmad from their father from Dawud ibn abu Yazid from Burayd ibn Mu‘awiyah who has narrated the following:

“A man died and appointed me and another man or two men as executors for his will. One of them said, ‘I will deal with one-half of the legacy but the other one opposed, and they asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about it. He (the Imam) said, ‘It is for him (to disagree).’”

Chapter 35 - Charities of the Holy Prophet, O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause, Fatimah and ‘A’immah, ‘Alayhim al-Salam

H 12927, Ch. 35, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad who has narrated the following:

“I once asked abu al-Hassan, al-Thani, ‘*Alayhi al-Salam*, about the seven walls (gardens) which were of the legacy of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, for Fatimah, ‘*Alayha al-Salam*. He (the Imam) said, ‘No, they were endowments. The Messenger of Allah would take thereof for his guests and maintenance as needed. When he (the Messenger of Allah) passed away, al-‘Abbas came to dispute Fatimah, ‘*Alayha al-Salam*, about it. So she presented Ali, ‘*Alayhi al-Salam*, and others who testified that they were endowments and she, ‘*Alayhi al-Salam*, was the beneficiary thereof. The gardens are called al-Dalal, al-‘Awaf, al-Husna’, al-Safiyah, Ma li ‘Umm Ibrahim, al-Maythab and al-Burqah.’”

H 12928, Ch. 35, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad ibn ‘Uthaman from ‘Ubayd Allah al-Halabiy and Muhammad ibn Muslim who has narrated the following:

“We once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the charities of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and the charities of Fatimah, ‘*Alayha al-Salam*. He (the Imam) said, ‘Their charities are for banu Hashim and banu al-Muttalib.’”

H 12929, Ch. 35, h 3

It is narrated from the narrator of the previous *Hadith* from his father from ibn abu Najran from ‘Asem ibn Humayd from Ibrahim ibn abu Yahya al-Madiniy who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has propounded the following. ‘Al-Maythab is that garden upon which Salman contracted for his freedom; then Allah, most Majestic, most Glorious, granted it to His messenger, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, as properties captured from the enemies; and it is in her charity.’” (The Messenger of Allah planted the garden. *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, Amir al-Mu‘minin, and Salam for the Jewish slave master which miraculously grew immediately as payment for the freedom of Salman)

H 12930, Ch. 35, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from Ahmad ibn ‘Umar from his father from abu Maryam who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the charities of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and the charities of Ali, ‘*Alayhi al-Salam*. He (the Imam) said, ‘It is lawful for us.’ He (the Imam) said, ‘Fatimah, ‘*Alayha al-Salam*, left her charities for banu Hashim and banu al-Muttalib.’”

H 12931, Ch. 35, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from ‘Asem ibn Humayd from abu Basir who has narrated the following:

“Once abu Ja‘far, ‘*Alayhi al-Salam*, decided to inform us about an important fact. He (the Imam) said, ‘Do you like if I read the will of Fatimah, ‘*Alayha al-Salam*, for you?’ I replied, ‘Yes, I like to hear.’ He (the Imam) then took out a box or a basket from which he took out a book (a letter) and read, ‘In

the name of Allah, the Beneficent, the Merciful. This is the will of Fatimah, daughter of Muhammad, the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.* She; bequests all of her seven walls (gardens enclosed by walls), al-‘Awaf, al-Dalal, al-Burqah, al-Maythab, al-Husna’, al-Safiyah and Ma li ‘Umm Ibrahim to Ali ibn abu Talib, *‘Alayhi al-Salam.* When Ali passes away it then is for al-Hassan, when al-Hassan passes away then it is for al-Husayn and when al-Husayn passes away then it is for the eldest of my children. Allah is witness thereof, al-Miqdad ibn Aswad, al-Zubayr ibn al-‘Awam and Ali ibn abu Talib are the scribes.’”

From the narrator of the previous *Hadith* from his father from ibn abu ‘Umayr from ‘Asem ibn Humayd a similar *Hadith* is narrated in which he has not mentioned box or basket and has said . . . ‘to the eldest of my children other than [not] your children.’

H 12932, Ch. 35, h 6

It is narrated from the narrator of the previous *Hadith* from his father from ibn abu ‘Umayr from Hammad ibn ‘Uthaman from abu Basir who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam,* once said, ‘Do you like if I read the will of Fatimah, *‘Alayha al-Salam ?*’ I replied, ‘Yes, I like it.’ He (the Imam) took out a document. It said, “This is what Fatimah, daughter of Muhammad, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause,* has willed about her assets to Ali ibn abu Talib, *‘Alayhi al-Salam.* If he dies then it is for al-Hassan, if he dies then it is for al-Husayn and if al-Husayn dies then it is for the eldest of my children not your children. These walls (gardens enclosed by walls), are al-‘Awaf, al-Dalal, al-Burqah, al-Maythab, al-Husna’, al-Safiyah and Ma li ‘Umm Ibrahim. Allah is witness thereof, al-Miqdad ibn Aswad and al-Zubayr ibn al-‘Awam.’”

H 12933, Ch. 35, h 7

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar and Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from Safwan ibn Yahya from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Abu al-Hassan, *‘Alayhi al-Salam,* sent to me the will of *‘Amir al-Mu‘minin,* *‘Alayhi al-Salam,* which reads as follows:

‘(I begin) in the name of Allah, the Beneficent, the Merciful.

‘This is the will and decision of the servant of Allah about his assets seeking thereby the pleasure of Allah so that He will admit him in the garden (paradise), keep away from him the fire and keep him away from the fire on the day when certain faces will be white and others will be black. The assets that belong to me in Yanba’ which are known to be my assets with its surroundings are endowed as charities as well as the slaves except Rabah, abu Nayzar and Jubayr who are set free and no one has any authority over them. They are my Mawali who will work for five years with the properties from which will be their sustenance, expenses and the expenses of their families. Besides these my properties in Wadi al-Qura’, all of it is of the assets of the children of Fatimah, *‘Alayha al-Salam,* and the slaves are charities. My assets in Daymah and its people are charities except Zurayq. For him is what I write for his companions. My assets in ‘Udhaynah and its people are charities and al-Fuqayrayn as you know are charities in the way of Allah. My assets that I have mentioned are charities in an obligatory sense, whether I will be living or dead. They will be used in the ways that will please Allah, for the cause of Allah, and for the sake of Allah, and for my relatives from banu Hashim, banu al-Muttalib, the nearer ones and the farther ones. Al-Hassan will supervise these properties. He will use

them for his lawful needs and will spend in the sight of Allah, most Majestic, most Glorious, in lawful ways. It is not unlawful for him to do so. If he deems necessary to sell from these assets to pay off debts, he can do so if he will so like. It is not unlawful for him. If he will like he can make them very attractive assets. The children of Ali, their Mawali and assets are under the authority of al-Hassan ibn Ali. If the house of al-Hassan ibn Ali will not be the house of charity and if he will so decide to sell it he can do so. It is not unlawful for him. If he will sell it, he will divide its price in three parts: one-third in the way of Allah, one-third for banu Hashim and banu al-Muttalib, and keep one-third in the assets of Ale abu Talib. He will manage it in the sight of Allah as he deems it lawful. If something will happen to al-Hassan and al-Husayn will be living, then al-Husayn ibn Ali will be the person in charge of his task. Al-Husayn will deal with these assets just as al-Hassan had been dealing. He will have for himself what I have written for al-Hassan. On him will also be what was on al-Hassan. For the children of (the two sons of) Fatimah, *'Alayha al-Salam*, of the charities are whatever is for the children of Ali. I have prepared what I have prepared for the two sons of Fatimah, *'Alayhi al-Salam*. It is for the sake of Allah, most Majestic, most Glorious, in the honor of the Messenger of Allah, O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause, and for their greatness, in service of their nobility and pleasure. If something will happen to al-Hassan and al-Husayn, the last one of them will look among the children of Ali. If he will find among them one about whose guidance he is happy as well as his Islam and trustworthiness, he will designate him for the task if he will so wish. If he will not find among them anyone who can make him happy, he will designate someone from Ale abu Talib with whom he will be happy. If he will find all of Ale abu Talib, their elders and people of understanding have passed away, he then will designate a man from banu Hashim. He will place a condition on one to whom he will leave the assets that they must be left on their original basis, only their fruits will be spent as I have commanded, such as, in the way of Allah and for His sake, for the relatives of banu Hashim and banu al-Muttalib, those nearer and those farther. They must not be sold, gifted or inherited. The assets of Muhammad ibn Ali are on his side. It is for the two sons of Fatimah, *'Alayha al-Salam*, to decide about it. My slaves whom I have listed in a small document are free.

'This is what Ali ibn abu Talib has decided about his assets this morning of the day that he has arrived in Maskin (a place near al-Kufah on the bank of Euphrates) for the sake of Allah, seeking His pleasure, and for the dwelling in the next life. Allah is the support in all conditions. It is not lawful for a Muslim, who believes in Allah and the day to come, to say something about what I have decided about my assets or oppose me in my affairs of the people near or far.

'Thereafter the mothers of my children with whom I maintain connections, seventeen of whom are mothers of children who are with their children, those of them who are pregnant and those who do not have children. My decision about them, if something happens to me is as follows: Those of them who do not have children and are not pregnant they are free for the sake of Allah, most Majestic, most Glorious. No one will have any authority over them. Those of them who have children or are pregnant must keep their children as their share. If her child will die and she is living she then is free and no one will have any authority on them. This is the decision that Ali has made about his assets this morning when he has arrived in Maskin. It is witnessed by abu Samar ibn Abrahah, Sa'sa'h ibn Suhan, Yazid ibn Qays and Hayyaj ibn abu Hayyaj and it is written by Ali ibn abu Talib with his own hand on tenth of Jamadi al-'Ula', in the year thirty-seven.'"

There was another will (with the first one):

“In the name of Allah, the Beneficent, the Merciful

“This is the will of Ali ibn abu Talib, *‘Alayhi al-Salam*. I (Ali ibn abu Talib) testify that no one deserves worship except Allah alone, who has no partners, and Muhammad is His servant and Messenger. He sent him with guidance, true religion to make it dominant over all other religions even though the pagans dislike. *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*. My *Salat* (prayer), good deeds, life and death are for Allah, Lord of the worlds who has no partners. I am commanded for this and I am the first Muslim.

“I make this will for you O al-Hassan and all members of my family, my children and those to whom my writing reaches, to be pious before Allah, your Lord, and do not die unless you are a Muslim. Hold firmly to the rope of Allah, all of you, and do not become scattered because of differences. I heard the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, saying, ‘Establishing reconciliation and peace between two disputing people is better than all *Salat* (prayer) and fasting. That denouncing (each other) is destructive to religion and the good relationship between two people. There is no power without Allah, most High, most Great. You must look after your relatives and maintain good relations with them; Allah will make your accounting very easy.’

“(I remind you of) Allah, (I remind you of) Allah, about the orphans. You must not remain ignorant of the condition of what they eat and you must not allow yourselves to see that they are lost and destroyed in your presence. I heard the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, saying, ‘If one supports an orphan until he is independent Allah, most Majestic, most Glorious, makes the garden (paradises) obligatory for him just as He makes the fire obligatory for those who consume the assets of the orphans.’

“(I remind you of) Allah, (I remind you of) Allah, about al-Quran, you must not give others the chance to excel you in acting according to it. (I remind you of) Allah, (I remind you of) Allah, about your neighbors; the Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has urged to take care of them and he (the Messenger of Allah) continued urging about them until we thought that he will command to inherit each other. (I remind you of) Allah, (I remind you of) Allah, about the house of your Lord. You must not leave it without your presence as long as you are here. If it is left alone, you will not be given a chance to visit the house. The least that one, who intends to visit the house, brings back is forgiveness of the past sins. (I remind you of) Allah, (I remind you of) Allah, about *Salat* (prayer); it is the best of deeds. It is the pillar of your religion. (I remind you of) Allah, (I remind you of) Allah, of Zakat because it extinguishes the anger of your Lord. (I remind you of) Allah, (I remind you of) Allah, about the month of Ramdan. Fasting in this month is the shield against the fire. (I remind you of) Allah, (I remind you of) Allah, about the poor and the destitute. You must share your financial resources with them. (I remind you of) Allah, (I remind you of) Allah, about Jihad by means of your wealth, your souls and your tongue. Two kinds of men complete the duty of Jihad, the Imam of guidance or one obedient to him who follows his guidance. (I remind you of) Allah, (I remind you of) Allah, about the descendents of your prophet. You must not allow their being subjected to injustice in your presence and before your eyes when you are able to defend them. (I remind you of) Allah, (I remind you of) Allah, about the companions of your Prophet, the companions who did not invent heresy or give protection to heretics. The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your*

cause, has urged to be good to them, has condemned the heretics among them and others who protect heretics.

“(I remind you of) Allah, (I remind you of) Allah, about women and slaves. The last word your Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, spoke was, ‘I urge you to take care of the two weak kinds of people: the women and slaves.’ *Salat* (prayer), *Salat* (prayer), *Salat* (prayer). Do not fear the blame of blaming people; Allah is sufficient for you against their harming you and their rebelliousness against you. Speak to people about what is good as Allah, most Majestic, most Glorious, has commanded you. If you disregard urging people to do what is good and prohibit evil; Allah will make people of evil deeds to dominate you then you pray but it will not be answered in your favor. My sons, you must continue to maintain good relations, generosity and acting virtuously. You must not cut off good relations and turn away from each other because of differences. Cooperate with each other with virtuous deeds and piety and do not work together toward sin and animosity. Be pious before Allah because Allah’s punishment is intense and severe. I pray to Allah to protect you against harms, all of you, people of the house as He protected among you your Prophet. I leave you in the trust of Allah and offer you the greeting of peace, the kindness of Allah and His blessings.”

“He (the Imam) then continued saying Tahlil, (no one deserves worship except Allah), until he passed away. O Allah, grant compensation to him (the Imam) and blessings, in the third night of the last ten days in the end of the twenty-third night of the month of Ramadan, on Friday night in the year forty after the migration of the Holy Prophet, from Makkah to al-Madinah. He was injured in the nineteenth night of the month of Ramadan.”

H 12934, Ch. 35, h 8

Abu Ali *al-Ash‘ari* has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan and Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from Safwan and Ali ibn Ibrahim has narrated from his father from Safwan and Muhammad ibn Yahya from Muhammad ibn al-Husayn from Safwan ibn Yahya from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Abu al-Hassan, Musa, *‘Alayhi al-Salam*, sent to him the will of his father with his charity through abu ‘Isma‘il Musadif.

“In the name of Allah, the Beneficent, the Merciful

“This is the will of Ja‘far ibn Muhammad who testifies that no one deserves worship except Allah alone, who has no partners. To Him belongs the kingdom, to Him belongs all praise; He is living and does not die. In His hand is the good and He has power over all things, that Muhammad is His servant and Messenger, that the Hour is coming without any doubt and that Allah will raise all people from the graves. Upon this (belief) we live and upon this we die and before Him we all will be raised to live by the will of Allah. He has made this will to his sons that they must not die unless they are Muslims, they must remain pious before Allah, establish peaceful relations among themselves as much as they can; they will continue living in good conditions as long as they do so. It is an obligation for which they will be recompensed.

“He has made this will that if something happens to him if it is not changed, although he has the right to change as long as Allah keeps him living, that for so and so is such and such and for so and so and so and so is such and such that so and so is free. That he has made his will to so and so.”

“In the name of Allah, the Beneficent, the Merciful
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“This is what Musa ibn Ja‘far has verified and certified to be in so and so land, with so and so limits (boundaries). All of its palm trees, its land, its waters, surroundings, its rights, watering paths, its threshing field, its hills, its courtyards, branches, dividing marks, drainage passages, the inhibited and uninhibited parts are all given as charity. Along with all of its rights for his own children of his own seed, male and female, which will be divided among them whatever Allah, most Majestic, most Glorious, will produce as its income after deducting the expenses of its maintenance, buildings, accessories. Thereafter thirty clusters must be kept to be divided among the destitute of the people of the town, who live with the children of Musa, for every male twice as much as the share of a female. If a female of the children of Musa marries, she will not have any right in this charity unless she comes back without her husband. If she did so, she will have the same share that she had before her marriage as being one of the daughters of Musa. Whoever of the children of Musa dies and leaves children, they will have the share of their father, each male will receive twice as much as the share of a female as Musa ibn Ja‘far has set as a condition in his children from his seeds. If any of the children of Musa dies and does not leave any children behind, his share will be given to the people of charity. The children of my daughters will not have any share in this much of my charity unless their father is of my children. No one else will have any share in my charity with my children or the children of my children and their descendents as long as anyone of them exists. If they are no more, then my charity will be for the children of my father from my mother as long as they exist, with the condition that I have set for my children and my descendents. If the children of my father from my mother all die, then my charity is for the children of my father and their descendents as long as any of them exist, with the condition that I have set upon my children and my descendents. When the children of my father are no more, then my charity is for the first and then the first in priority until Allah makes it inherit whom He will make to inherit; He is the best heir.

“Musa has given this charity when he is in good health, an irrevocable charity in a complete sense without doubt or return, perpetually for the sake of Allah, most Majestic, most Glorious, and the dwelling in the hereafter. It is not lawful for any believing one who believes in Allah and the last day to sell it or any part thereof, give it as gift, or grant, change anything thereof as I have set forth until Allah will inherit the earth and all that is on it.

“He has made this charity under the supervision of Ali and Ibrahim. When one of them is no more, al-Qasim joins the other. If then one of them is no more `Isma‘il will join the other one. If one of them is no more al-‘Abbas will join the other one, if one of them is no more, then the eldest of my children will join the other, if no one of my children will exist except one then he will deal with the task.” Abu al-Hassan has thought that his father made `Isma‘il before al-‘Abbas in the matters of charity who was younger than him.

H 12935, Ch. 35, h 9

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa‘id from al-Nadr ibn Suwayd from Yahya ibn ‘Imran al-Halabiy from Ayyub ibn ‘Atiyyah al-Hadhdha’ who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, distributed the assets captured from the enemy among the Muslims. The share of Ali, *‘Alayhi al-Salam*, was a piece of land. He dug a well and water gushed toward the sky like the neck of a camel. He called it Yanbu‘a. A bearer of good news came to him with good news and Ali, *‘Alayhi al-Salam*, said, “You must give the good news to the heirs. It is an irrevocable charity and complete for those who perform al-Hajj of

the house of Allah and the by-passers. It will not be sold, gifted or inherited. Those who buy or gift it, will be subjected to the condemnation of Allah, the angels and all people; and Allah will not divert it from him or accept ransom.”””

H 12936, Ch. 35, h 10

A number of our people have narrated from Ahmad ibn Muhammad from ibn Mahbub from Jamil ibn Salih from Hisham ibn Ahmar, Ali ibn Ibrahim has narrated from his father, and Muhammad ibn `Isma`il has narrated from al-Fadl ibn Shadhan, from ibn abu `Umayr, from `Abd al-Rahman ibn `Abd al-Hamid all from Salimah *Mawlat* abu `Abd Allah, *‘Alayhi al-Salam*, who has narrated the following:

“I was with abu `Abd Allah, *‘Alayhi al-Salam*, when he was about to leave this world. He fainted and then regained consciousness. He (the Imam) said, ‘You must give to al-Hassan ibn Ali ibn al-Husayn, who is al-Aftas, seventy dinar, give so and so such and such amount, and to so and so such and such amount.’ I then asked, ‘Do you want to give to the one who attacked you with the blade?’ He (the Imam) said, ‘Woe on you, have you not read the Quran?’ I replied, ‘Yes, I read it.’ He (the Imam) said, ‘Have you not heard the words of Allah, most Majestic, most Glorious, “. . . those who keep the relation that Allah has commanded to maintain and fear their Lord and fear the bad accounting.” (13:21)” (Fainting and then regaining consciousness in the case of an Imam is a debatable issue.)

Ibn Mahbub has said in his *Hadith*, ‘. . . attacked you with the blade to kill you.’ He (the Imam) said, ‘Do you want me not to be of those about whom Allah, most Blessed, most High, has said, “. . . those who maintain the good relations that Allah has commanded them to maintain, fear their Lord and fear the bad accounting?” Yes, O Salimah, Allah has created the garden (paradises) and has made it good as well as its fragrance which can be sensed from a distance of two thousand years and those who suspend and cut off relations with relatives cannot sense it.’”

H 12937, Ch. 35, h 11

Abu Ali *al-Ash`ariy* has narrated from Muhammad ibn `Abd al-Jabbar Ahmad ibn Muhammad from Muhammad ibn `Isma`il has narrated from al-Fadl ibn Shadhan all from Safwan from `Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“I once asked abu al-Hassan, *‘Alayhi al-Salam*, about what people say concerning the will about one-third or one-fourth at the time of one’s death: if it is lawful and a good thing to do and how his father had done. He (the Imam) said, ‘The one-third is what my father, may Allah grant him kindness, had made the subject of his will.’”

H 12938, Ch. 35, h 12

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama`ah, from Ja`far ibn Sama`ah and from more than one person from Aban from Muhammad ibn Marwan who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said that abu Ja`far, *‘Alayhi al-Salam*, died and left sixty slaves, of whom he set free one-third. I picked up the ones to be free by means of casting a raffle.”

H 12939, Ch. 35, h 13

It is narrated from the narrator of the previous *Hadith* from `Abd Allah ibn Jabalah and others from Ishaq ibn `Ammar from abu Basir who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said that abu Ja`far, at the time of his passing away freed the mischievous ones among his slaves and kept the good ones. I asked, ‘Father, do you free these and keep these?’ He (the Imam) said, ‘These were subjected to my disciplining, thus, this is for that.’”

H 12940, Ch. 35, h 14

Al-Husayn ibn Muhammad has narrated from Mu`alla` ibn Muhammad from al-Hassan ibn Ali al-Washsha` from `Abd Allah ibn Sinan from `Umar ibn Yazid who has narrated the following:

“Ali ibn al-Husayn, *‘Alayhim al-Salam*, became ill three times, each time he made a will and when he

recovered from his illness he approved his will.’”

Chapter 36 - Things that Reach a Deceased after his Death

H 12941, Ch. 36, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from Muhammad ibn 'Isa from Mansur from Hisham ibn Salim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Nothing of the rewards follow a deceased after his death except three qualities: A charity that he established in his lifetime, it continues after his death; a *Sunnah* of guidance that he established upon which people act after his death; or a virtuous child who prays for him.’”

H 12942, Ch. 36, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Nothing follows a deceased after his death except three things: a charity that Allah has made to function in his lifetime which continues after his death, a *Sunnah* of guidance that one establishes which is acted upon after his death and virtuous children who pray for him.’”

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from Safwan from ibn Muskan from Muhammad al-Halabiy from abu 'Abd Allah, a similar *Hadith* except that he (the Imam) said, ‘or a child who asks forgiveness for him.’”

H 12943, Ch. 36, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Ishaq ibn 'Ammar who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Nothing follows a deceased after his death except three things: a charity that Allah has made to function in his life time which continues after his death, a *Sunnah* of guidance that one establishes which is acted upon after his death and virtuous children who pray for him.’”

H 12944, Ch. 36, h 4

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from Safwan ibn Yahya from Mu'awiyah ibn 'Ammar who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about things that follow a deceased after his death. He (the Imam) said, ‘Of the things that follow a deceased after his death is his establishing a *Sunnah* of guidance which is acted upon after his death. He receives a reward just like the reward received by the one who has acted accordingly without any reduction in the reward of any one of them. Another issue is a perpetual charity that functions after his death, and a virtuous child who prays for his parents after their death, performs al-Hajj, gives charity on their behalf after their death, sets free slaves, fasts and performs *Salat* (prayer) on their behalf.’ I then asked if I can share my al-Hajj with them. He (the Imam) said, ‘Yes, you can do so.’”

H 12945, Ch. 36, h 5

A number of our people have narrated from Ahmad ibn abu 'Abd Allah from Ya'qub ibn Yazid from Muhammad ibn Shu'ayb from abu Kahmas who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Six things follow a believing deceased after his death: a child that asks forgiveness for him, a book that he leaves behind, a plantation that he plants, a well that he digs, a charity that he establishes and a *Sunnah* which is acted upon after his death.’”

Chapter 37 - The Rare Ahadith

H 12946, Ch. 37, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from Ali ibn ‘Uqbah from Burayd ibn Mu‘awiyah who has narrated the following:

“I once said to abu ‘Abd Allah, *‘Alayhi al-Salam*, that a man made a will in which he appointed me as executor of the will. I asked him to appoint one more person of his relatives with me and he did. The testator told me that with the other executor of the will he has a bowl of silver, which is worth one hundred fifty dirham as a security item. When he dies the other executor of the will said that the testator owes him several Kur (a certain unit of measurement) of wheat. He (the Imam) said, ‘If he presents testimony he can have it, but not without testimony.’ I then asked, ‘Can he compensate from what is in his hand?’ He (the Imam) said, ‘It is not lawful for him.’ I then said, ‘If one due to animosity takes away one’s assets, then it becomes possible for him to compensate his loss from his assets: if he can do so.’ He (the Imam) said, ‘This is not like that.’”

H 12947, Ch. 37, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad ibn ‘Uthaman who has narrated the following:

“A man made a will about thirty dinars for the children of Fatimah, *‘Alayha al-Salam*. Another man brought it to abu ‘Abd Allah, *‘Alayhi al-Salam*, who told him to give it to so and so old man of the descendents of Fatimah, *‘Alayha al-Salam*, who has a family to feed and is poor. The man said, ‘The man has a will for the children of Fatimah.’ Abu ‘Abd Allah, *‘Alayhi al-Salam*, said, ‘It will not be appropriate by giving to the children of Fatimah, *‘Alayha al-Salam*. It will be appropriate to give it to this man who has a family to feed.’”

H 12948, Ch. 37, h 3

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from Ali ibn Mahziyar from Ahmad ibn Hamzah who has narrated the following:

“I once said to him (the Imam), *‘Alayhi al-Salam*, ‘In our land people may make a will for Ale Muhammad, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*. They ask me to deliver it to you and I dislike carrying it to you before asking for your instructions.’ He (the Imam) said, ‘Do not carry them to me and do not bother about it.’”

H 12949, Ch. 37, h 4

Muhammad ibn Yahya has narrated in a *marfu‘* the following:

“*‘A‘immah*, *‘Alayhim al-Salam*, have said, ‘If one makes a will about one-third of his legacy it is counted as his Zakat.’”

H 12950, Ch. 37, h 5

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that about the case of a man who at the time of his death states that either one of so and so and so and so has one thousand dirham with me then he dies in such condition, *‘Amir al-Mu‘minin*, has issued the following decree. ‘Whoever presents testimony can receive the asset but if no one of them can present testimony they divide it half and half.’”

H 12951, Ch. 37, h 6

Ali ibn Ibrahim has narrated from his father from Harun ibn Muslim from Mas‘adah ibn Sadaqah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘One who maintains justice in his will is like one who has given in charity in his lifetime and one who is unjust in his will he, on the Day of Judgment, will come before Allah, most Majestic, most Glorious, who will shun him.’”

H 12952, Ch. 37, h 7

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Rayyan who has narrated the following:

“I once wrote to abu al-Hassan, *‘Alayhi al-Salam*, and asked him about a man who makes a will but the executor of the will executes only one item of it. What must he do about the other items? He (the Imam) signed the answer that said, ‘He can spend the other chapters (items) in good causes.’”

H 12953, Ch. 37, h 8

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn Mahziyar from certain persons of our people who have said the following:

“I once wrote to abu al-Hassan, *‘Alayhi al-Salam*, saying, ‘I have made a piece of land an endowment for my children, for al-Hajj and for the ways and aspects of virtuous matters. There is your right after me and for the one after you and I have moved it from that course.’ He (the Imam) said, ‘It is lawful for you and you have the permission to do so.’” (It perhaps refers to the case before handing it over to endowment.)

H 12954, Ch. 37, h 9

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn ‘Isa ibn ‘Ubayd m Ja‘far ibn ‘Isa who has narrated the following:

“I once wrote to abu al-Hassan, *‘Alayhi al-Salam*, about the case of a man who made a will about a part of the one-third of his legacy after his death from the income of a certain asset that belonged to him. He instructed the executor of his will to spend half of it for the causes he mentioned every year and with the rest of the one-third he can do whatever he wanted. The executor of the will executed what the deceased wanted about the known causes. About the remaining he said that he has given it to so and so and so and so every year, for al-Hajj such and such amount, and for charity such and such amount every year. He then decided to change all of such causes. He said that he has decided to spend for causes other than those he wanted before; if he can do such changes and alterations of such nature reducing and including other causes if he wanted. He (the Imam) wrote the answer that said, ‘He can do whatever he wants except if he has written upon himself for doing certain things.’”

H 12955, Ch. 37, h 10

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan [ibn Ibrahim] ibn Muhammad al-Hamadaniy who has narrated the following:

“Once, Muhammad ibn Yahya wrote (to the Imam), ‘Is it lawful for an executor of the will to buy something from the assets of the deceased as the highest bidder? He (the Imam) said, ‘It is permissible if he buys it in an undamaged condition.’”

H 12956, Ch. 37, h 11

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn ‘Isa from abu Ali ibn Rashid who has narrated the following:

“I once said to Sahib al-‘Askar, *‘Alayhi al-Salam*, ‘I pray to Allah to keep my soul in service for your cause, something is brought to us and it is said “This is what was for abu Ja‘far, *‘Alayhi al-Salam*.” How must we deal with it?’ He (the Imam) said, ‘Whatever was for abu Ja‘far because of *Imamat* (leadership with divine authority), it belongs to me, and whatever is because of other reasons, it then is legacy according to the book of Allah and the *Sunnah* of His Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.*’”

H 12957, Ch. 37, h 12

It is narrated from the narrator of the previous *Hadith* from Muhammad ibn Ahmad from al-Husayn ibn Malik who has narrated the

following:

“I once wrote to him (the Imam), ‘*Alayhi al-Salam*, ‘A man has died who in his lifetime had made everything that he had for you and he did not have any children, thereafter a child was born to him and his assets are three thousand dirham. He has sent to you one thousand dirham. I like to know your decision in the matter so I can follow.’ He (the Imam), ‘*Alayhi al-Salam*, wrote the answer that said, ‘I leave it for them.’”

H 12958, Ch. 37, h 13

Muhammad ibn Yahya has narrated from ‘Abd Allah ibn Ja‘far from al-Husayn ibn Malik who has narrated the following:

“I once wrote to abu al-Hassan, ‘*Alayhi al-Salam*, saying, ‘My master, I inform you that the son of my brother has died and has made a will about a certain piece of property for you. He in his will has said that everything in his house must be given, even the pegs must be sold and the price sent to my master. He has made a will for al-Hajj. He has made a will for the poor of his family, for his aunt, for his sister to receive a certain amount of property and I have considered it to be more than one-third, perhaps about one-half of his legacy, and he has left behind a son who is three years old. He has left debts to pay. I want to know your opinion, my master, in the matter.’ He (the Imam) signed the answer that said, ‘His will must be limited within one-third of his legacy and it will be divided among the beneficiaries proportionate to each one’s share.’”

H 12959, Ch. 37, h 14

A number of our people have narrated from Ahmad ibn Muhammad ibn ‘Isa from Sa‘d ibn ‘Isma‘il from his father who has narrated the following:

“I once asked al-Rida’, ‘*Alayhi al-Salam*, about the case of a man who at the time of his death made a will to his son and two brothers. The son was present at the time of his making the will but not the brothers. After several days they refused to accept acting as executors of the will for fear from the son and that, they may not be able to work, as they should. A son of an uncle guaranteed their safety when working with the son and with such condition they began the work but the son did not cooperate and they said that they are not responsible for the will. They want to leave it alone and must not be held obligated for anything. Is it permissible for them to leave whatever is in their hand and move out of the task? He (the Imam) said, ‘It is necessary for you to be kind in whatever way you can because you will receive the reward. Perhaps that is to arrive on his son.’”

H 12960, Ch. 37, h 15

Al-Husayn ibn Muhammad *al-Ash‘ariy* from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali al-Washsha’ Ahmad Muhammad ibn Yahya from Wasiy of Ali ibn al-Sariy who has narrated the following:

“I once said to abu al-Hassan, ‘*Alayhi al-Salam*, that Ali ibn al-Sariy has died and has made a will to me. He (the Imam) said, ‘May Allah grant him mercy.’ I then said that his son, Ja‘far ibn Ali, has fallen on a mother of his child. He has instructed me not to allow him receive anything from the legacy. He (the narrator) has said that he (the Imam) said, ‘Do not give him anything from the legacy. If what you say is true, he will soon be affected by confusion.’ He (the narrator) has said, ‘I returned and he took me before abu Yusuf, the judge and said to him, “May Allah keep you well, I am Ja‘far son of Ali ibn al-Sariy and this is the executor of the will of my father. Please command him to give to me legacy of my father.” Abu Yusuf, the judge said to me, “What do you say?” I said to him, “Yes, this is Ja‘far ibn Ali al-Sariy and I am the executor of the will of Ali ibn al-Sariy.” He said, “Give him his inheritance.” I said, “I like to speak to you.” He said, “Come close.” I went close to him so that no one could hear my words and said to him, “This has fallen on the mother of the child of his father. His father made a will not to give him anything from the legacy. I asked Musa ibn abu Ja‘far, ‘*Alayhi al-*

Salam, in al-Madinah, informed him about it and asked him. He (the Imam) instructed me not to allow him to receive any inheritance.” He said, “Allah, abu al-Hassan, has commanded you?” He (the narrator) has said that I said, “Yes, he (the Imam) has commanded me to do so.” He (the judge) made me to swear three times then he said, “Execute what abu al-Hassan, ‘*Alayhi al-Salam*, has commanded to do because the word is his words.”” The executor of the will has said, ‘He became confused thereafter.’ Abu Muhammad al-Hassan ibn Ali al-Washsha’ has said, ‘I saw him afterward and he had become confused.’”

H 12961, Ch. 37, h 16

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from ‘Abd al-Rahman ibn al-Hajjaj from Khalid ibn Bukayr al-Tawil who has narrated the following:

“My father called me at the time of his death and said, ‘Son, take the assets of your small brothers and use them in business. Take half of the profit and give them the other half and you will not be held responsible.’ A mother of the child of my father took me, after the death of my father, before ibn abu Layla’ and said to him, ‘This person eats the property of my children.’ He (the narrator) has said, ‘I then told my story that my father had commanded me to do.’ Ibn abu Layla’ said, ‘If your father commanded you to do what is unlawful, I cannot allow it.’ Ibn abu Layla’ appointed a witness (to bear testimony) that if I moved it I will be held responsible. I then visited abu ‘Abd Allah, ‘*Alayhi al-Salam*, later and told my story, then asked about his opinion. He (the Imam) said, ‘I cannot reject the words of ibn abu Layla’, however, between you and Allah, most Majestic, most Glorious, you are not responsible.’”

H 12962, Ch. 37, h 17

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from ‘Ammar ibn Marwan who has narrated the following:

“I once said to abu ‘Abd Allah, ‘*Alayhi al-Salam*, ‘My father was about to die and he was told to make a will.’ He said, ‘This is my son, meaning, ‘Umar. Whatever he does is permissible.’ Abu ‘Abd Allah, ‘*Alayhi al-Salam*, said to him, ‘Your father has made a will and has made it concise.’ I said, ‘He has designated for you such and such amount.’ He (the Imam) said, ‘You can execute it.’ I then said that he made a will to free a believing well-informed slave but when we freed it was found out that the slave was born out of wedlock.’ He (the Imam) said, ‘It is sufficient. It is like one who buys an animal for sacrificial offering thinking that it is healthy, but finds it out to be skinnier but it is sufficient to meet the legal requirement.’”

H 12963, Ch. 37, h 18

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that ‘*Amir al-Mu’minin* has said, ‘If one makes a will without being unjust and harming anyone it is like giving it as charity in his lifetime.’”

H 12964, Ch. 37, h 19

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan from al-Hassan ibn Ali ibn Yusuf from Muthanna’ ibn al-Walid from Muhammad ibn Muslim who has narrated the following:

“Once abu ‘Abd Allah, ‘*Alayhi al-Salam*, was asked about the case of a man who made a will about certain assets for his son and gave him permission at the time of his death to use the assets in business and share the profit. He (the Imam) said, ‘It is not harmful because his father gave permission when he was living.’”

H 12965, Ch. 37, h 20

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Salih ibn Razin from ibn ‘Ushaym who has

narrated the following:

“This is about the case of a people’s slave who has permission for doing business. A man gives him one thousand dirham to buy a slave and set him free on his behalf, perform al-Hajj on his behalf with the remainder of the asset. The owner of one thousand dirham dies and the slave buys his father, sets him free on behalf of the deceased, and gives the remaining asset to him to perform al-Hajj for the deceased, which he performs for him. However, then the masters of his father, his own masters and the heirs of the deceased learn about it who all dispute about the one thousand dirham, for which the masters of slave say, ‘You have bought your father with our funds.’ The masters of his father says, ‘You have bought your father with our funds.’ The heirs of the deceased say, ‘You have bought your father with our funds.’ Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Al-Hajj is completed and it does not return, but the freed slave goes back to slavery of the masters of his father and whichever of the two group presents testimony that the slave has bought his father with their funds, he becomes their slave.’”

H 12966, Ch. 37, h 21

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn abu Najran and others from “Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“I once said to abu Ja‘far, *‘Alayhi al-Salam*, that a man made a will to another man about his assets, one-third or one-fourth of his legacy, and then the testator is killed mistakenly. He (the Imam) said, ‘Funds must be kept aside for this will from his legacy and the wergild.’”

H 12967, Ch. 37, h 22

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from Muhammad ibn Yahya who has said that narrated to him Mu‘awiyah ibn ‘Ammar the following:

“Mufaddal ibn Ghiyath’s sister died and she had made a will that said, ‘One-third must be given in the way of Allah, one-third to the destitute and one-third for al-Hajj.’ It was not enough for what she had asked. He and I went to ibn abu Layla’ and told him the story. He said, ‘Give one-third to this, one-third to this and one-third to this.’ Then we went to ibn Shubramah. He also said what ibn abu Layla’ had said. We then went to abu Hanifah who also said what the other two had said. We then left for Makkah and he asked me to ask abu ‘Abd Allah, *‘Alayhi al-Salam*, about it - she had not performed al-Hajj. I asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about it and he (the Imam) said, ‘Begin with al-Hajj because it is obligatory from Allah on her, and of the remaining, give something to this and something to that.’ He (the narrator) has said, ‘I moved toward the Masjid and I came face to face with abu Hanifah. I said to him, ‘I asked Ja‘far ibn Muhammad about the issue that I had asked you before and he said, “Begin with al-Hajj because it is obligatory on her from Allah and of the remaining give something to this and something to that.”’ He, by Allah, did not say anything to me good or bad. I then went to his circle where this issue was being discussed, and they said, ‘Abu Hanifah says that in such case you must begin with al-Hajj because it is obligatory on her from Allah.’ I then said to them, ‘By Allah this issue was so and so.’ They said, ‘He has told us this.’”

H 12968, Ch. 37, h 23

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from Sa‘d ibn ‘Isma‘il ibn al-Ahwas from his father who has narrated the following:

“I once asked abu al-Hassan, *‘Alayhi al-Salam*, about the case of a man whose death approaches him on a journey. He gives his assets to a man of the merchants saying, ‘This asset belongs to so and so son of so and so. Nothing of it, little or more, belongs to me. You must give it to him, he will place it as he wants’; and he dies, but his friend to whom he has sent the asset does not know anything, there is no instruction and the friend does not know why he has done so. How must he deal with it?’ He (the

Imam) said, ‘He can spend it as he likes when he has not received any instructions.’”

H 12969, Ch. 37, h 24

It is narrated from the narrator of the previous *Hadith* who has narrated the following:

“A man made a will to another man to give his relatives from his asset (land) such and such *Jarib* (a certain unit of measurement) of food. Many years passed but there was no extra in his asset; instead he needed to borrow and arrange for *al-‘Aynah* on the beneficiary of the will. Is it necessary to arrange a loan and *al-‘Aynah* for the beneficiary so that when in future there is a gain it is compensated for what he borrowed for them during the past years? He (the Imam) said, ‘I do not mind if he gives them or takes then pays off.’” (*al-‘Aynah*: merchandise sold on credit is purchased back for cash at a lower price called (*‘Aynah*), see details in Volume Five, Chapter 88)

H 12970, Ch. 37, h 25

It is narrated from the narrator of the previous *Hadith* who has narrated the following:

“A man has made a will which requires giving a certain amount to his relative. The heir becomes mature and tells the executor of the will to separate from the land an area that can meet the required amount by the will and that portion must not be included in what the heirs distribute among themselves. How must the executor of the will do?’ He (the Imam) said, ‘Yes, that (suggestion of the heirs) is proper.’”

H 12971, Ch. 37, h 26

Ahmad ibn Muhammad has narrated from ‘Abd al-‘Aziz ibn al-Muhtadiy [from his grandfather] from Muhammad ibn al-Hassan from Sa‘d ibn Sa‘d who has narrated the following:

“I once asked him [abu al-Hassan, al-Rida’, ‘*Alayhi al-Salam*] about the case of a man who has a son, whom he called his son then denied and removed him from the list of his heirs, and I am the executor of the will. What must I do? He, al-Rida’ ‘*Alayhi al-Salam*, said, ‘He is considered his son because of his confession in public. The executor of the will cannot remove him from anything that he knows.’”

H 12972, Ch. 37, h 27

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from ‘Abd Allah ibn Jabalah from Ishaq ibn ‘Ammar who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who has a certain amount of dinars with me and he is ill. He said to me that if something happens to him I must then give twenty dinar to so and so and the remaining to his brother. He died and I was not present at the time of his death. A truthful Muslim came to me saying that he is commanded to tell me to keep the dinars that were to be given to his brother, instead gives ten dinars out of it in charity to the Muslims, but his brother did not know that he has left something with me. He (the Imam) said, ‘I see that you must give ten dinars in charity as you are commanded to do.’”

H 12973, Ch. 37, h 28

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr and Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from ibn abu ‘Umayr from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“I once asked abu al-Hassan, ‘*Alayhi al-Salam*, about the case of a man who was indebted and he died. Certain ones of his sons took charge of what he did (business) and they suffered losses. They bought his house, which was of the legacy shared by other heirs, male and female who did not approve the sale and had not asked them to do the work, if they owe anything of the loss. He (the Imam) said, ‘If the house was because of his work and they suffered loss because of that work it is then upon all of the heirs.’”

H 12974, Ch. 37, h 29

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ibrahim ibn Mehzam from ‘Anbasah al-‘Abid who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, to give me an advice. He (the Imam) said, ‘Prepare your supplies, send them ahead of you, be the executor of your own will and do not say to others to send for you what is good for your well-being.’”

H 12975, Ch. 37, h 30

A number of our people have narrated from Sahl ibn Ziyad Ahmad ibn Muhammad from Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from Ali ibn Mahziyar from who has narrated the following:

“I wrote to abu Ja‘far, *‘Alayhi al-Salam*, to inform him (the Imam) that Ishaq ibn Ibrahim has endowed his asset for al-Hajj, the mother of his children and the extra for the needy; that Muhammad ibn Ibrahim appointed me as a witness upon himself for a certain amount of funds to be distributed among our brothers (in belief) and in banu Hashim who know the truth and say what we say who are needy. Will you consider it proper if I spend it on them when it is of the same nature as charity because endowment of Ishaq is charity? He (the Imam), *‘Alayhi al-Salam*, wrote as follows. ‘I understood what you, may Allah grant you blessings, have mentioned about the will of Ishaq. May Allah be pleased with him, and that Muhammad ibn Ibrahim, may Allah be pleased with him, has appointed you as witness for you. You have asked for instruction about sending certain amount of funds to those who incline with interest for banu Hashim who deserve and are needy. You can send to them. May Allah grant you blessings, because if they turn to this direction they are more deserving than others because of the reason that if I explain, you will understand it by the will of Allah.’”

H 12976, Ch. 37, h 31

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan ibn Yahya from Sa‘id ibn Yasar who has narrated the following:

“About the case of a man who has given a certain amount of assets to another man saying, ‘I give it to you to save it for my two daughters so and so and so and so.’ The old man later after giving the funds decided to take one hundred twenty-five dinar back to buy a slave-girl for his grandson. The old man then died; and dispute emerged between the two girls or one of them with the boy. They said, ‘If you go to bed with the slave-girl, it is unlawful because our father had bought with our funds that were kept with so and so; if you go to bed with her it is unlawful.’ The boy stayed away from the slave-girl. What is your opinion about this issue?’ He (the Imam) said, ‘Is it not the case that the person who gave the asset is the father of the two girls and the boy’s grandfather who bought the slave-girl?’ I replied, ‘Yes, that is the case.’ He (the Imam) said, ‘Say to the boy to go to his slave-girl if his grandfather is the one who has given and he is the one who has received.’”

Chapter 38 - The Case of One who Dies without a Will, Leaves behind Small Heirs and it is Sold upon Him

H 12977, Ch. 38, h 1

Muhammad ibn Yahya and others have narrated from Ahmad ibn Muhammad ibn 'Isa from 'Isma'il ibn Sa'd al-Ash'ariy who has narrated the following:

“I once asked al-Rida', *'Alayhi al-Salam*, about the case of a man who dies without a will and leaves behind heirs of male and female, small boys and slave-girls and slaves if it is proper to sell the slave-girls. He (the Imam) said, 'Yes, it is so.'

“I asked him (the Imam) about a man who accompanies a man on a journey, then the incident of death over takes him and he does not get a chance to make a will and how to deal with his assets. He has small and adult children, if it is permissible to give his assets and stumper to his grown-up children or to a judge. If he is in a place where there is no judge what must he do. If he gives his assets to his adult children but did not inform them and when he went, he could not return it what must he do? He (the Imam) said, 'When the small children grow up and cannot get their assets back in any way but by the command of Sultan (they can do so).'

“I asked him (the Imam) about the case of a man who dies without a will and leaves behind heirs who are small ones as well as adults if it is lawful to buy his servants and goods without the supervision of the judge. The judge supervises with the consent of the parties involved, but without the instruction from the Khalifah, if buying is good or not. He (the Imam) said, 'If the adults of his children are with him (judge) during the sale, then it is not harmful if the heirs agree to the sale and justice is maintained in it.'”

H 12978, Ch. 38, h 2

A number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub from ibn Ri'ab who has narrated the following:

“I once asked abu al-Hassan, *'Alayhi al-Salam*, about the case of a man with whom I have a relation of kinship, he dies leaving behind small children, slaves and slave-girls but has not made any will. 'What do you say about buying a slave-girl for a mother of one's child and what do you say about selling them?' He (the Imam) said, 'If they have a guardian who supervises for them the sale and looks after them, he will receive good rewards.' I asked, 'What do you say about one's buying from them a slave-girl for a mother of one's child?' He (the Imam) said, 'It is not harmful if it is executed by their guardian who looks after their interests and well-being; and they cannot change their mind about what the guardian has done for them who looks after their well-being.'”

H 12979, Ch. 38, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Zur'ah from Sama'ah, who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who without a will dies leaving behind male and female children. He has servants, slaves and assets. How the heirs must deal with the legacy? He (the Imam) said, 'If a trustworthy man stands up to distribute it among them, it is not harmful.'”

Chapter 39 - The Executor of the Will Hands over the Assets of Children who were Small, now Adults, but they Refuse to Take Charge, the Children who Become Adults but are not Found to be of Proper Understanding, the Limit of Adulthood

H 12980, Ch. 39, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from Sa'd ibn 'Isma'il from his father who has narrated the following:

“I once asked al-Rida’, *‘Alayhi al-Salam*, about the executor of the will under whose supervision the orphans become adults and the executor of the will hands over their assets to them but they refuse to accept. What must he do? He (the Imam) said, ‘They are made to accept their assets.’”

H 12981, Ch. 39, h 2

Ahmad ibn Muhammad ibn 'Isa has narrated from [Muhammad ibn 'Isa] from Mansur from Hisham who has narrated the following:

“Abu 'Abd Allah, *‘Alayhi al-Salam*, has said, ‘The orphan-hood of an orphan is over when he experiences wet-dream, and that is the time when he reaches manhood but if he experiences wet-dream and does not have proper understanding because of dimwittedness or weakness, then his guardian must keep his assets for him.’”

H 12982, Ch. 39, h 3

Humayd ibn Ziyad has narrated from al-Hassan ibn Sama'ah from certain persons of his people from Muthanna' ibn Rashid from abu Basir who has narrated the following:

“I once asked abu 'Abd Allah, *‘Alayhi al-Salam*, about the case of an orphan who has read the Quran, his understanding is proper and his assets are in the hands of a man who wants to work using those assets in business in the manner of profit sharing (*al-Mudarabah*) to which the boy has agreed. He (the Imam) said, ‘It is not proper to use it in business until he experiences wet-dream, then hands over his assets to him. If he experiences wet-dream and does not have proper understanding, nothing must be given to him forever.’”

Humayd has narrated from al-Hassan ibn Ja'far ibn Sama'ah from Dawud ibn Sarhan from abu 'Abd Allah, *‘Alayhi al-Salam*, a similar *Hadith*.

H 12983, Ch. 39, h 4

It is narrated from the narrator of the previous *Hadith* from al-Hassan ibn Muhammad ibn Sama'ah from Ali ibn Ribat and al-Husayn ibn Hashim and from Safwan ibn Yahya from 'Is ibn al-Qasim who has narrated the following:

“I once asked abu 'Abd Allah, *‘Alayhi al-Salam*, about the case of a female orphan; when her assets must be given to her. He (the Imam) said, ‘When you learn that she does not destroy it or lose it, then you can give it to her.’ I then asked, ‘What happens if she has married?’ He (the Imam) said, ‘When she marries then possession (authority) of executor of the will ends.’”

H 12984, Ch. 39, h 5

It is narrated from the narrator of the previous *Hadith* from al-Hassan from Safwan from Musa ibn Bakr from Zurarah who has narrated the following:

“Abu Ja'far, *‘Alayhi al-Salam*, has said, ‘Do not go to bed with a (underage) girl before she becomes nine or ten years old.’”

H 12985, Ch. 39, h 6

It is narrated from the narrator of the previous *Hadith* from al-Hassan from Ja'far ibn Sama'ah from Adam, Bayya' al-Lu'lu from 'Abd Allah ibn Sinan who has narrated the following:

“Abu 'Abd Allah, *‘Alayhi al-Salam*, has said, ‘When a boy become thirteen years old his doing good

deeds are written for him as well as bad deeds for which he will be punished. When a girl becomes nine years old it also is the same because she experiences *Hayd* (menses) when she is nine years old.’”

H 12986, Ch. 39, h 7

A number of our people have narrated from Ahmad ibn Muhammad ibn ‘Isa from al-Washsha’ from ‘Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘When a boy becomes strong when he is thirteen years old and has entered in his fourteenth, it becomes obligatory on him what is obligatory on those who experience wet-dream, regardless, he experiences wet-dream or not. Good deeds are written for him and all (lawful) things are permissible for him unless he is weak or dimwitted.’”

H 12987, Ch. 39, h 8

A number of our people have narrated from Ahmad ibn Muhammad from abu Muhammad al-Mad’iniy from Ali ibn Habib, Bayya’ al-Harawiy who has said that ‘Isa ibn Zayd narrated to me the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin* has said, ‘A child teethes at the seventh year; he must be instructed to perform *Salat* (prayer) at the ninth; their bed must be separated at the tenth; experiences wet-dream at the fourteenth; his growth stops at twenty-one and growth of his reasoning ability stops at twenty-nine except experience.’”

H 12988, Ch. 39, h 9

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Muhammad ibn ‘Isa from those who narrated to him who has narrated the following:

“This is about the case of a man who dies, with a will to a man, leaving behind a small son who becomes mature. He goes to the executor of the will asking him to handover to him his assets so he can marry. However, the executor of the will refuses and he goes to fornicate. Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Two-thirds of the sins of fornication is upon the executor of the will because of his refusal to handover to him his assets so he can marry.’”

End of the Book of Wills, all praise belongs to Allah, Cherisher of the worlds, O Allah, grant compensation to the best of Your creatures, Muhammad and his purified family worthy of their services to Your cause, followed, if Allah wills, by the Book of Inheritance.

Part Two: The Book of Inheritance

Chapter 1 - The Ordained Shares

Allah, most Blessed, most High, has ordained the shares of heirs in four categories that can be distributed from six common denominators

Chapter 1 Introduction - The reasons which make one a heir or heirs are two: 1. Blood relations 2. Other relations

The first kind of relatives is of three categories: (a) There are two groups in (a): It consists of (1) the parents but not the grandparents (2) children male and female and their children as far downwards as they may go. (b) Consists of two groups: (1) the grandparents both male and female as far as upwards as they may be; (2) the brothers and sisters and their children downwards as far as they may go. (c) There is only one group in this category, namely, they are uncles and aunts even as far upwards as they may go and their children as far downwards as they may go from both parents' sides, provided, they could according to common sense be called relatives of the deceased.

The second reason which makes one an heir is of two kinds: The marital and guardianship relationships, and the latter one is of three kinds: (a) the guardianship of a slave-master (b) The guardianship of a guarantor (c) The guardianship of Imam, '*Alayhi al-Salam*, the highest spiritual leader

The Second Introduction

The heirs from another point of view are of five kinds:

(a) Those who receive a specified share of legacy all the time and nothing else, such as a wife who receives $\frac{1}{4}$ if the deceased has no surviving children and $\frac{1}{8}$ if there are surviving children and she does not receive anything besides the specified share. (b) There are those who always receive a special share and may also receive additional sums of the legacy. One example is the mother who receives $\frac{1}{6}$ with the existence of surviving children of the deceased and $\frac{1}{3}$ when there is no surviving child for the deceased and no other reasons prevent her from receiving $\frac{1}{3}$ of the legacy; she may also receive additional sums like when the specified shares are more than the payable shares. The husband receives $\frac{1}{4}$ with the children of the deceased wife and $\frac{1}{2}$ without her children and he receives additional sums when there are no other heirs besides the Imam, '*Alayhi al-Salam*, the highest spiritual leader. (c) Those who inherit a specified sum on one hand and additional sums as the relatives of the deceased like the father who receives a specified share when the deceased leaves surviving children and without the children as a relative. A daughter(s) with a son(s) receives her share as a blood relative and without a son, she receives a specified share. A sister or sisters from one or both parents with brothers receive their share as blood relatives and without them a specified share. Brothers from the mother's side only receive a specified share when there is no grandfather from the mother's side and as a blood relative with him. (d) Those who only receive a share as blood relatives like the sons of brothers from both parent's sides and only from the father's side and like grandfather and paternal and maternal uncles (e) Those who receive their share not as relatives but as guardians like the slave-master, the guarantor or the Imam, '*Alayhi al-Salam*.

(b) The specified sum is a share, which is specifically mentioned, in the Holy Quran, it is of six kinds, $\frac{1}{2}$, $\frac{1}{4}$, $\frac{1}{8}$, $\frac{2}{3}$, $\frac{1}{3}$, and $\frac{1}{6}$, and the recipients of such shares fall in thirteen groups of people. One-half ($\frac{1}{2}$) is for one surviving daughter, the sister from both parents and the father's side only when there is no brother(s), and the husband when the wife leaves no surviving children even downwards distantly. $\frac{1}{4}$ for a husband when the wife leaves surviving children even though many steps away downwards, and to a wife when the husband does not leave any surviving children in the same way as in the case of the husband, if there is more than one wife, they divide the $\frac{1}{4}$ in equal shares.

(c) One eighth, ($1/8$) is for a wife and or wives when the deceased husband leaves surviving children. Two-thirds ($2/3$) is for two or more daughters when there is no son of the same category as the daughters, and for one or two sisters or more from one or both parents when there is no brother surviving. One-third ($1/3$) is for a mother when the deceased leaves no surviving child downwards and no brothers or sister from the mother's side only when they are numerous. $1/6$ is for each parent when the deceased leaves surviving children downwards, and to the mother when there are brothers from both parents or the father's side only, and to one brother from the mother's side or one sister from her side only.

(d) When the heirs are numerous, they may all be inheriting specified shares or none has such share or a mix of both groups. The first case wherein all have fixed shares, such shares may be:

(a) Equal, (b) More, (c) Less than the legacy

In the case where heirs are parents each with one-sixth ($1/6$) and two daughters with $2/3$ equal a whole one unit $2/6$ plus $2/3$ is equal to. In the case wherein the heirs are a husband, the parents and two daughters where the specified shares are $1/4$, $2/6$ and $2/3$ total one and one-fourth which one-fourth more than a whole unit. This is a case, which is referred to as the case of facing deficit. According to non-Imamiah the amount of deficit is divided upon the specified shares involved proportionate to each share's ratio. However, according to Imamiah the deficit is compensated from certain specified shares, not all such shares. (a) When the heirs consist of the first category of heirs, the deficit is taken from the share of daughter or daughters. In the case of the second category heirs like (b) when they are a husband, a sister from both parents and two sisters from the mother's side only. In this case the husband's share is $1/2$, that of the sister's from both parents is $1/2$ and that of the sister's from the mother's side only is one-third. The total is more than one whole unit. In this case the deficit is compensated from the share of those who are nearest relatives to father. In the above case is the sister from both parents but not the husband or the sisters from the mother's only.

(c) If of the heirs there is only one daughter whose share is One-half the half of the legacy is extra. According to the non-Imamiyah the extra half is given to the males directly related to the deceased or through other male relatives. Sometimes females are also included according to certain details in the rules about them, but according to the Imamiyah laws, the extra is given to the heirs who have a specified share. In the above case one-half is given to the daughter as her specified share, the extra half is also given to her as an additional share. When no one of the heirs is a recipient of fixed shares, the legacy is divided according to certain details. When some heirs have fixed shares and others do not have any such shares, the legacy is divided among them after deducting the fixed shares according to certain details.

The Ordained Shares According to the Book of Allah

This is a commandment from your Lord: After the payment of debts or anything bequeathed, allow the male inherit twice as much as the female.

If there are more than two girls, they will have two-thirds of the legacy. If there is only one girl, she will inherit half of the legacy. Parents of the deceased will each inherit one-sixth of the legacy, if the deceased has a surviving child, however, if no children survive the deceased, and the heirs are the parents, the mother will receive one-third of the legacy. The mother will receive one-sixth of the legacy if the deceased has more than one surviving brother.

These are the decreed shares according to the laws of Allah. Regardless of how you feel about your parents or children, you do not know which of them is more beneficial to you. Allah is All-knowing and all-wise. (4:11)

If your wives die without any surviving children, you will inherit half of their legacy. If they have children, you will inherit one-fourth of their legacy after the debts and things bequeathed have been excluded from the legacy.

After the payment of debts and things bequeathed has been excluded from the legacy, your wives will inherit one-fourth of your legacy if you have no surviving children. If you leave a child, they will inherit one-eighth of your legacy.

If the deceased, either male or female, has no surviving heirs, such as parents or children, but has a brother or a sister, the brother or sister will each inherit one-sixth of the legacy.

If there is more than just a brother or a sister, they will share one-third of the legacy. This is after the payment of any debts and things bequeathed have been excluded from the legacy, so that no one will be made to suffer any loss. It is a guide from God, the All-knowing and Forbearing. (4:12)

It is in the book of abu Nu'aym al-Tahhan who has narrated from Sharik from `Isma'il ibn abu Khalid from Hakim ibn Jabir from Zayd ibn Thabit who has said that it is of judgment of the time of ignorance that men inherit but not the women.

H 12989, Ch. 1, h 1

Ali ibn Ibrahim has narrated from Salih al-Sindi from Ja'far ibn Bashir from 'Abd Allah ibn Bukayr from Husayn al-Razi who has narrated the following:

"I instructed a person to ask abu 'Abd Allah, *'Alayhi al-Salam*, if the legacy is for the nearest relative or for *al-'Asabah* (the relatives from the father's side only). He (the Imam) said, 'The legacy is for the nearest relatives and for the mouth of relatives from the father's side only is dirt (soil).'"

H 12990, Ch. 1, h 2

A number of our people have narrated from Ahmad ibn Muhammad from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from Muhammad ibn Yahya from Ahmad ibn Muhammad all from ibn Mahbub from Hisham ibn Salim from Yazid al-Kunasiy who has narrated the following:

"Abu Ja'far, *'Alayhi al-Salam*, has said, 'Your son is more deserving of you than your grandson, and your grandson is more deserving of you than your brother.' He (the Imam) said, 'Your brother from your both parents is more deserving of you than your brother from your father only. Your brother from your father is more deserving of you than your brother from your mother only.' He (the Imam) said, 'The son of your brother from your father is more deserving of you than your uncle.' He (the Imam) said, 'Your uncle from your father's father and mother is more deserving of you than your uncle from your grandfather only.' He (the Imam) said, 'Your uncle who is a brother of your father from his

father only is more deserving of you than your uncle who is a brother of your father from his mother only.’ He (the Imam) said, ‘The son of your uncle who is a brother of your father from his both parents is more deserving of you than the son of your uncle who is a brother of your father from his mother only.’ He (the Imam) said, ‘The son of your uncle who is a brother of your father from his father only is more deserving of you than the son of your uncle who is a brother of your father from his mother only.’”

H 12991, Ch. 1, h 3

A number of our people have narrated from Ahmad ibn Muhammad from ibn Mahbub who has said that ibn Bukayr informed me from Zurarah who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying about the words of Allah, ‘. . .for everyone We have made Mawali (guardians, heirs) in what the parents and relatives leave behind,’ what is meant thereby are relatives in inheritance, not the benefactors who provide benefits. Thus the more deserving of a deceased is one who is nearest to him as a relative and womb, and the relationship which brings him toward it.’”

Chapter 2 -The Legacy Comes from the Share of the One Nearest in Relationship to Him and that the Owner of Ordained Share is more Deserving than those who do not have any Ordained Share

H 12992, Ch. 2, h 1

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah and a number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from abu Ayyub al-Khazzaz who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that it is in the book of Ali, *‘Alayhi al-Salam*, that every relative is like the kinship and womb that has established such relation unless there is one who is closer to the deceased than him who then becomes a barrier.’”

H 12993, Ch. 2, h 2

Ibn Mahbub from Hammad abu Yusuf al-Khazzaz from Sulayman ibn Khalid who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin* would say, ‘An heir who has an ordained share is more deserving of the legacy.’”

H 12994, Ch. 2, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from a man who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘When relations overlay each other then the earliest is more deserving of legacy of his relative, and if they are equal then each one takes the place of one who is close to him.’”

Chapter 3 - Obligations are not Fulfilled without the Sword

H 12995, Ch. 3, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father from all from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘People do not behave properly in matters of obligations and divorce without the sword (enforcing authority).’”

H 12996, Ch. 3, h 2

Humayd ibn Ziyad from al-Hassan ibn Muhammad from certain persons of his people from Ibrahim ibn Muhammad ibn 'Isma'il from Durust ibn abu Mansur from Mu'ammam ibn Yahya who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘Obligations and divorce are not dealt with properly without the sword.’”

H 12997, Ch. 3, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from Yahya al-Halabiy from Shu'ayb al-Haddad from Yazid al-Sa'igh who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about women; if they inherit from the house. He (the Imam) said, ‘No, but they inherit from the value of the building.’ I (the narrator) then said, ‘People do not agree with it.’ He (the Imam) said, ‘When we will be in authority if people disagree we will use the sword and whip and if they will not behave properly we will strike them with the sword.’”

Chapter 4 - The Rare Ahadith

H 12998, Ch. 4, h 1

Abu Ali *al-Ash'ariy* and al-Husayn from Muhammad have narrated from Ahmad ibn Ishaq from Sa'd an ibn Muslim from more than one person of our people who has narrated the following:

“A man in Basrah brought a Sahifah (a booklet) and said, ‘O *'Amir al-Mu'minin*, look at this booklet; there is advice in it.’ He (the Imam) looked at it, then he looked at the face of the man and said, ‘If you are truthful we compensate you; if you are not truthful we will penalize you, if you want us to release you we will release you.’ He said, ‘Release me O *'Amir al-Mu'minin*.’ When the man left *'Amir al-Mu'minin* said, ‘You are the confused nation after your Prophet. Had you given priority to what Allah has given priority, kept back what Allah has kept back, placed people who possess divine authority and who inherit divine authority as Allah has placed, people who possess divine authority would not become needy. Obligations ordained by Allah would not remain neglected, two people would not quarrel [about a command of Allah and a nation would not fight over a command of Allah] but that the knowledge thereof is with us in the book of Allah. So taste the evil consequences of what your hands have sent ahead of you. Allah is not unjust to the servants. Very soon the unjust will find to what kind of returning place they have returned.’”

H 12999, Ch. 4, h 2

Ahmad ibn Muhammad has narrated from Ali ibn al-Husayn al-Taymiy from Muhammad ibn al-Walid from Yunus ibn Ya'qub who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin* has said, ‘All praise belongs to Allah. What Allah places last no one is able to place it first, and no one is able to place last what He has placed first.’ He (the Imam) then tapped his one hand with the other hand. He said, ‘O confused nation after her Prophet, had you placed first what Allah had done so and had you placed last what Allah had placed last, had you placed people who possess divine authority and who inherit divine authority as Allah had done, people who possess divine authority would not become needy. Deficiency did not occur in the ordained obligations toward Allah. No two people ever disagree on an issue of the laws of Allah or a nation fight over a thing of the commandments of Allah. However, the answer to it and knowledge thereof is with us in the book of Allah. Thus, taste the evil consequences of your affairs and the excess that you committed by your hand's sending ahead of you. Allah is not unjust to the servants and very soon the unjust will find to what terrible returning place they have returned.’”

Chapter 5 - Invalidity of Deficiency (in the Ordained Shares)

H 13000, Ch. 5, h 1

Al-Husayn from Muhammad has narrated from Mu‘alla’ ibn Muhammad from certain persons of our people from Aban ibn ‘Uthman from abu Maryam al-Ansariy who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘The one who knows the number of the grains of sand of a sand valley definitely knows that no deficiency takes place in the ordained shares which are not more than six.’”

H 13001, Ch. 5, h 2

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus ibn ‘Abd al-Rahman from Sama‘ah from abu Basir who has narrated the following:

“I once said to abu Ja‘far, *‘Alayhi al-Salam*, ‘The ordained shares may turn into one hundred or less or more.’ He (the Imam) said, ‘The ordained sharers do not exceed six.’ He (the Imam) said that *‘Amir al-Mu‘minin* would say, ‘The one who has enumerated the number of the grains of sand of a sand valley knows that the ordained shares do not exceed six: if you consider its aspects, it does not exceed six.’”

H 13002, Ch. 5, h 3

Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from Muhammad ibn Yahya from Ali ibn ‘Abd Allah from Ya‘qub ibn Ibrahim ibn Sa‘d who has said that narrated to me my father from Muhammad ibn Ishaq who has said that narrated to me al-Zuhriy from ‘Ubayd Allah ibn ‘Utbah who has narrated the following:

“I sat with ibn al-‘Abbas that a mention of ordained shares of inheritance was made and ibn al-‘Abbas said, ‘Allah is free of all defects, the most great. Do you think that one who enumerates the number of the grains of sand in a sand valley has designated half and half and one-third? The two halves take away the legacy then where is the room for the one-third?’ Zufar ibn ‘Aws al-Basriy said, ‘O ibn al-‘Abbas, who was the first one who caused excess or deficiency in the ordained shares? He said, ‘It was ‘Umar ibn al-Khattab when several ordained shares were before him which he gave certain amount to certain people and he said, “I do not know which one of you is first and which one is last according to Allah and I do not find anything bigger to distribute this asset among you in shares.” So he deducted from each of those with ordained shares to offset for the deficiency. I swear by Allah had he placed first whom Allah had placed first and placed last whom Allah had placed last, then no deficiency would take place in the ordained shares.’ Zufar ibn ‘Aws then said to him, ‘What has He placed first and what has He placed last?’ He said, ‘Every ordained share that Allah, most Majestic, most Glorious, has not brought down from its being an ordained share except to another ordained share is what Allah has placed first. What Allah has placed last are such shares that when being moved from its status has no replacement except whatever is left, thus it is what Allah has placed last. The ordained shares that He has placed first are one-half, which is the share of a husband. When something is added to it then it is reduced to one-fourth and thereafter it is not removed to some other position. The share of a wife is one-fourth but when it is removed, it becomes one-eighth and then it remains without change. The share of a mother is one-third and when it is reduced, it becomes one-sixth and it then remains unchanged and these are the ordained shares that Allah, most Majestic, most Glorious, has placed first. Of the shares, that Allah has placed last is the share of two daughters and sisters, which are one-half and two-thirds. However, when they are removed from these positions they are not placed in another position with the remaining of the legacy. Thus, they are that which Allah has placed last. When the ones that are placed first and those, who are placed last come together, the ones that are placed first are given priority. A complete right is given to the beneficiary; then if anything left is

given to those whose shares Allah has placed last. If nothing remains then there is nothing for him.’ Zufar ibn ‘Aws then said to him (ibn Abbas), ‘What stopped you from giving this advice to ‘Umar?’ He (ibn Abbas) said, ‘It is his fearsomeness.’ Al-Zuhriy has said, ‘By Allah, had he (ibn Abbas) presented it before a just Imam, who based his command on justice and piety, who would approve it, (the idea of ibn Abbas) then it would pass (in practical form among people) because no two people have disputed over the knowledge of ibn al-‘Abbas.’”

Chapter 6 - Another Chapter on Invalidity of al-‘Awl (deficiency or excess) and the Ordained Shares are not more than Six

H 13003, Ch. 6, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma‘il has narrated from al-Fadl ibn Shadhan all from ibn abu ‘Umayr from ‘Umar ibn `Udhaynah from Muhammad ibn Muslim and al-Fudayl ibn Yasar and Burayd al-‘Ijli and Zurarah ibn ‘A‘yan who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘The ordained shares do not face deficiency and they are not more than six.’”

It is narrated from the narrator of the previous *Hadith* from Muhammad ibn ‘Isa ibn ‘Ubayd from Yunus ibn ‘Abd al-Rahman from ‘Umar ibn `Udhaynah a similar *Hadith*.

H 13004, Ch. 6, h 2

It is narrated from the narrator of the previous *Hadith* from Muhammad ibn ‘Isa from Yunus from Musa ibn Bakr from Ali ibn Sa‘id who has narrated the following:

“I once said to Zurarah that Bukayr ibn ‘A‘yan has narrated to me from abu Ja‘far, *‘Alayhi al-Salam*, that the shares do not face deficiency and they are not more than six. He said, ‘This is of things in which there are no differences among our people from abu ‘Abd Allah, and abu Ja‘far, *‘Alayhim al-Salam*.’”

H 13005, Ch. 6, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from al-‘Ala’ ibn Razin from Muhammad ibn Muslim who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘The ordained shares do not face deficiency.’”

H 13006, Ch. 6, h 4

It is narrated from the narrator of the previous *Hadith* from Ahmad ibn Muhammad from Ali ibn Hadid from Jamil ibn Darraj from Zurarah who has narrated the following:

“Abu Ja‘far, commanded abu ‘Abd Allah, *‘Alayhim al-Salam*, to make me read the booklet on ordained shares and I saw most of them were up to four shares.’”

H 13007, Ch. 6, h 5

A number of our people have narrated from Sahl ibn Ziyad from al-Hassan ibn Mahbub from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘The ordained shares are not more than six.’”

H 13008, Ch. 6, h 6

Al-Husayn from Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali al-Washsha’ from Aban ibn ‘Uthman from abu Basir who has narrated the following:

“I read before abu ‘Abd Allah, *‘Alayhi al-Salam*, the ordained shares (from the book of) according to Ali, *‘Alayhi al-Salam*. Many of them were from one-fifth or one-fourth and most of them were from one-sixth.’”

H 13009, Ch. 6, h 7

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan ibn Yahya from Khudhaymah ibn Yaqtin from ‘Abd al-Rahman ibn al-Hajjaj from Bukayr who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The roots of ordained shares are six. They do not increase or face deficiency and thereafter the legacy is for those whose shares are mentioned in the book (of Allah).’”

Chapter 7 - Knowing to Avoid Deficiency

H 13010, Ch. 7, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn 'Udhaynah who has said that Zurarah has said, the following:

“If you wish to deal with deficiency it is compensated from the share of those who have more, like children and brothers from the father. The husband and brothers from the mother do not compensate the deficiency from their ordained shares which Allah has mentioned.”

H 13011, Ch. 7, h 2

Humayd ibn Ziyad from al-Hassan ibn Muhammad ibn Sama'ah, from 'Abd Allah ibn Jabalah from abu al-Mighra' from Ibrahim ibn Maymun from Salim al-Ashal who has narrated the following:

“He had heard abu Ja'far, *'Alayhi al-Salam*, saying, 'Allah, most Majestic, most Glorious, has placed the parents with all other heirs and [nothing] from their one-sixth is reduced. He has placed husband and wife with heirs and [nothing] is reduced from one-fourth and one-eighth.’”

H 13012, Ch. 7, h 3

Ali ibn Ibrahim has narrated from his father from 'Abd Allah ibn al-Mughirah from Ishaq ibn 'Ammar from abu Basir who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'Nothing is reduced from the ordained shares of four people: the parents and the husband and the wife.’”

H 13013, Ch. 7, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Durust ibn abu Mansur from abu al-Mighra' from a man who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, 'Allah, most Majestic, most Glorious, has placed parents with all other heirs who have ordained shares and nothing is reduced from their one-sixth for each parent and He has placed a husband and wife with all other heirs but nothing is reduced from one-fourth and one-eighth.’”

Chapter 8 - With the Existence of a Child and Parents no one Else Inherits Except a Husband and Wife

H 13014, Ch. 8, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa and a number of our people have narrated from Sahl ibn Ziyad all from ibn Mahbub from abu Ayyub al-Khazzaz and others from Muhammad ibn Muslim who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘With the existence of a mother or father or son or daughter no one else inherits except the husband and wife. The one-half share of the husband is not reduced if there are no children; and from one-fourth of a wife nothing is reduced if there are no children; but if there is a child with them then one-fourth is the share of a husband and one-eighth is the share of a wife.’”

H 13015, Ch. 8, h 2

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa and Ali ibn Ibrahim has narrated from his father all from Ahmad ibn Muhammad from ibn abu Nasr from Jamil ibn Darraj from Zurarah who has narrated the following:

“If a deceased leaves behind his mother, or father, or his son or his daughter with one of these four then what Allah, most Majestic, most Glorious, has spoken about, ‘Allah gives you a fatwa about *al-Kalalah*’ (4:176) does not apply. With the existence of the mother, father, son or daughter no one of the creatures of Allah, most Majestic, most Glorious, inherits except the husband and wife.’”

Chapter 9 - The Reason Why Ordained Shares are not more than Six

(**Translator's Note:** This passage is of the words of Yunus, not a Hadith from 'A'immah *'Alayhim al-Salam*, thus, it is not translated.)

Chapter 10 - The Reason Why a Male's Share is Twice the Share of a Female

H 13016, Ch. 10, h 1

Ali ibn Ibrahim has narrated from his father from `Isma'il ibn Marrar from Yunus ibn `Abd al-Rahman who has narrated the following:

“I once asked al-Rida’, *‘Alayhi al-Salam*, ‘I pray to Allah to keep my soul in service for your cause, why is it that when a man dies his sons’ shares of the legacy are twice as much as the share of his daughters even though females are less capable and weaker?’ He (the Imam) said, ‘It is because Allah, most Majestic, most Glorious, has preferred men over women and because women become dependents of men.’”

H 13017, Ch. 10, h 2

Ali ibn Muhammad has narrated from Muhammad ibn abu `Abd Allah from Ishaq ibn Muhammad al-Nakha’iy who has narrated the following:

“Once, al-Fahfakiy asked abu Muhammad, *‘Alayhi al-Salam*, ‘Why is it that the destitute and weak woman’s share of the legacy is half as much as the share of man?’ Abu Muhammad, *‘Alayhi al-Salam*, said, ‘It is because there is no Jihad on women; maintenance expenses and wergild to be paid by the relatives of the murderer, it is on men.’ I then said to myself that I was told about ibn abu al-‘Awja’s question to abu `Abd Allah, *‘Alayhi al-Salam*, about this issue and he had answered with this answer. Abu Muhammad, *‘Alayhi al-Salam*, turned to me and said, ‘Yes, this is the question of ibn abu al-‘Awja’ and the answer from us is one if the meaning of the question is the same. What applies to the last of us applies to the first of us. Our first and last in knowledge are the same, however, the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and *‘Amir al-Mu’minin* have their excellence.’”

H 13018, Ch. 10, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu `Umayr from Hammad from Hisham from al-Ahwal who has narrated the following:

“Once ibn abu al-‘Awaja’ asked me, ‘Why is it that the destitute and weak woman’s share of the legacy is half as much as the share of man?’ He (the narrator) has said that certain persons of our people mentioned to abu `Abd Allah, *‘Alayhi al-Salam*, who said, ‘It is because there is no Jihad on women and maintenance expenses and wergild to be paid by the relatives of the murderer; which is on men.’”

Chapter 11 - The Legacy is Just for the Eldest Son

H 13019, Ch. 11, h 1

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa from Hariz who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘When a man dies and leaves behind sons, the eldest son receives the sword, coat of arms, the ring and his (holy) book. If something happens to him then such items belong to the eldest son.’”

H 13020, Ch. 11, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn 'Udhaynah from certain persons of his people who has narrated the following:

“One of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said, ‘If a man leaves behind a sword and arms and sons, such items belong to the eldest son.’”

H 13021, Ch. 11, h 3

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from ibn abu 'Umayr from 'Rib'iy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘When a man dies, his sword, holy book, his ring and coat of arms belong to his eldest son.’”

H 13022, Ch. 11, h 4

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from his father from Hammad ibn 'Isa from 'Rib'iy ibn 'Abd Allah who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘When a man dies, his sword, ring, holy book, his books, his personal belongings, his stumper and clothes belong to his eldest son and if the eldest among his children is a girl then such items belong to the next eldest son.’”

Chapter 12 - The Share of Children from the Legacy

H 13023, Ch. 12, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj from Zurarah who has narrated the following: "Abu Ja'far, *'Alayhi al-Salam*, has said, 'Ali, *'Alayhi al-Salam*, inherited the knowledge of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and Fatimah, *'Alayha al-Salam*, inherited his legacy.'"

H 13024, Ch. 12, h 2

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan from Ali ibn Asbat from al-Hassan ibn Ali ibn 'Abd al-Malik, *Hayder* from Hamzah ibn Humran who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, 'Who inherited the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause?*' He (the Imam) said, 'Fatimah, *'Alayha al-Salam*, inherited his household assets and all that belonged to him (the Messenger of Allah).'"

H 13025, Ch. 12, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Ahmad ibn Muhammad from Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn abu 'Umayr from Jamil ibn Darraj from Salmah ibn Muhriz who has narrated the following:

"I once said to abu 'Abd Allah, *'Alayhi al-Salam*, that an Armani man has died and has made a will to me. He (the Imam) asked, 'What is Armaniy?' I replied, 'He is a Nabatiy from Nabatiy people of mountains who has died. He has made a will to me about his legacy and has left behind his daughter.' He (the Imam) said to me, 'Give her one-half.' I then informed Zurarah about it and he said, 'He (the Imam) has been protective (*taqiyah*) of you, otherwise, all the legacy belongs to the daughter.' He (the narrator) has said that I then visited him (the Imam) afterwards and said, 'I pray to Allah to keep you well, our people think that you have been protective with me.' He (the Imam) said, 'No, by Allah I have not been protective of you, but I have been protective against you to be held responsible; has anyone had any knowledge of it?' I replied, 'No, no one knows.' He (the Imam) said, 'Give her the rest of her legacy.'"

H 13026, Ch. 12, h 4

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from 'Abd Allah ibn Khidash al-Minqariy who has narrated the following:

"I once asked abu al-Hassan, *'Alayhi al-Salam*, about the case of a man who dies and leaves behind his daughter and his brother. He (the Imam) said, 'The legacy belongs to his daughter.'"

H 13027, Ch. 12, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and a number of our people have narrated from Sahl ibn Ziyad all from ibn Mahbub from ibn Ri'ab from Zurarah who has narrated the following:

"About the case of a man who dies and leaves behind his daughter and his sister from his father and mother, he (the Imam) said, 'The legacy belongs to his daughter and there is nothing for the sister from his father and mother.'"

H 13028, Ch. 12, h 6

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from al-Qasim ibn Muhammad ibn 'Urwah from Burayd al-'Ijliy who has narrated the following:

"I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a man who dies and leaves behind his daughter and uncle. He (the Imam) said, 'The legacy belongs to his daughter and there is nothing for the uncle, aunt', or that he (the Imam) said, 'There is nothing for the uncle with the existence of the

daughter.’”

H 13029, Ch. 12, h 7

Humayd ibn Ziyad has narrated from al-Husayn ibn Muhammad ibn Sama‘ah from ‘Abd Allah ibn Jabalah from ‘Abd Allah ibn Bukayr from Hamzah ibn Humran from ‘Abd al-Hamid al-Ta’iy from ‘Abd Allah ibn Muhriz Bayya‘ al-Qalanisiy who has narrated the following:

“A man made a will about five hundred dirhams or six hundred dirhams, leaving behind his daughter, and told me that his paternal relatives are in Sham. I asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about it and he (the Imam) said, ‘Give one-half to his daughter and the other half to his paternal relatives.’ When I returned to al-Kufah, I told our people about it and they said that he (the Imam) has said so because of *taqiyah* (fear). I then gave the other half to his daughter; then I went for al-Hajj and visited abu ‘Abd Allah, ‘*Alayhi al-Salam*. I informed him (the Imam) about what our people had said and that I have given the other half also to his daughter. He (the Imam) said, ‘You have done good. I gave the fatwa that I did because of fear for you from the paternal relatives.’”

H 13030, Ch. 12, h 8

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from ‘Umar ibn ‘Udhaynah from ‘Abd Allah ibn Muhriz who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who dies and leaves behind his daughter and his sister from his mother and father. He (the Imam) said, ‘The legacy belongs to his daughter and there is nothing for his sister from his mother and father.’”

H 13031, Ch. 12, h 9

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad al-Kindiy from Ahmad ibn al-Hassan al-Mithamiy from Aban ibn ‘Uthman from ‘Abd Allah ibn Muhriz who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who made a will to me and died, leaving behind his daughter. He (the Imam) said, ‘Give one-half to his daughter and leave the other half for al-Mawali (friends, guardians or masters).’ I then returned to our people and they said, ‘No, by Allah, there is nothing for al-Mawali.’ I went back to him (the Imam) and informed him that our people say, ‘There is nothing for al-Mawali. He (the Imam) has said so because of fear (*taqiyah*).’ He (the Imam) said, ‘No, by Allah, I did not do so because of fear (*taqiyah*) but I was afraid for you that you will be asked about one-half. If you are not afraid; give the other half also to his daughter and Allah will relieve you of the burden.’”

Chapter 13 - The Share of Grandchildren in the legacy

H 13032, Ch. 13, h 1

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from Sa'd ibn abu Khalaf who has narrated the following:

“Abu al-Hassan, al-Awwal, *'Alayhi al-Salam*, has said, ‘Granddaughters replace their mother if the deceased does not leave behind any daughters and there is no other heir. Daughters of one’s son replace one’s son if the deceased does not leave behind any daughters of children and there are no other heirs besides them.’”

H 13033, Ch. 13, h 2

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from Muhammad ibn Sukayn from Ishaq ibn 'Ammar who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Grandchildren take the place of their father.’”

H 13034, Ch. 13, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Granddaughters from the daughter’s side take the place of their mother if other daughters of the deceased do not exist.’”

H 13035, Ch. 13, h 4

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan Safwan from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Granddaughters from the daughter’s side keep the place of their mother if the deceased does not leave behind other daughters and there is no other heir besides them. Daughters of one’s son take the place of their father if the deceased does not leave behind a son and no one else inherits with them.’

“Al-Fadl has said, ‘Grandsons always keep the place of a deceased’s son; if a son from his seed does not exist [and] with them no one inherits except the parents of the deceased and husband and wife.’ If a deceased leaves behind a grandson and granddaughter from his son the legacy is given to them with the male receiving twice as much as the share of a female.

‘If a deceased leaves behind a grandson from the side of his son and a granddaughter from the side of his daughter the grandson from the side of the son receives two-thirds and the granddaughter from the side of the daughter receives one-third.

‘If a deceased leaves behind a granddaughter from his son and a granddaughter from his daughter, the granddaughter from his son receives two-thirds of the legacy and the granddaughter from his daughter receives one-third of the legacy. The rule in such case is like the rule for sons and daughters from one’s seed, for the children of one’s son is two-thirds and for the children of daughters is one-third. If a deceased leaves behind three sons or daughters of whom certain ones are of the next generation; the legacy in such case belongs to the generation before it. The next generation does not inherit anything because of the closest generation. The same is the case when all of them are daughters and in the next generation there is a boy, then the entire legacy belongs to the generation before, not for the next generation; the generation closer to the deceased is more deserving of the legacy. An example of this is when a deceased leaves behind a grandson from his daughter and a great grandson from the daughter of his son. The legacy in this case belongs to the grandson from his daughter because he is

the closest to the deceased. So also is the case if a deceased leaves behind daughter of his daughter and son of the daughter of his son. In this case, the legacy belongs to the daughter of his daughter because she is closest to the deceased. The same is the case when a deceased leaves behind a daughter of his daughter and his great grandson, in which case the entire legacy belongs to the granddaughter; she is of closest generation. The same is the case also if a deceased leaves behind a grandson from his daughter and granddaughter from his daughter, a woman and other relatives. The woman's share is one-eighth and the remaining is distributed between the granddaughter and grandson from his daughter; for each male twice as much as the share of a female. Thus, the legacy is made into twenty-four shares, one-eighth for the woman, which is three shares, for the granddaughter seven shares and for the grandson from the daughter fourteen shares.

'If a deceased leaves behind a husband, a granddaughter from his daughter and a grandson from his daughter, the share of the husband is one-fourth and the rest of the legacy belongs to the granddaughter and grandson; each male's share twice the share of the female which can be taken from four shares. The husband receives one share, the grandson from his daughter receives two shares and the granddaughter from his daughter receives one share.

'If a deceased leaves behind a son of her daughter, the son of her son and her husband, the husband receives one-fourth and the rest belongs to the son of her daughter and the son of her son. The share of the son of her daughter is the share of his mother, which is one-third. The share of the son of her son is the share of her son, which is two-thirds, and this also can be distributed from four shares.

'If a deceased leaves behind a husband and a daughter of her daughter the share of the husband is one-fourth and the rest of the legacy belongs to the daughter of her daughter.

'If a deceased leaves behind a daughter of a daughter and both parents, then the share of parents are two-sixths. The share of a daughter of a daughter is one-half. The one remaining share is given to them as the remaining returned proportionate to their shares. Thus, the remaining is made into five parts of which the parents receive two shares and the daughter of the daughter receives three shares. If a deceased leaves behind a son of a daughter and both parents whose shares are two-sixths and the share of the son of the daughter is one-half which also can be distributed from five shares of which two shares are for the parents and three shares are for the son of the daughter.

'If a deceased leaves behind a daughter of a son and both parents whose share is two-sixths and the remaining belongs to the daughter of the son, and this can be divided from six shares, of which two shares are for the parents and four shares for the daughter of the son.'

'Al-Fadl has said that one proof of the mistake that people make is in matters of inheritance of the children of daughters. They consider the children of daughters like the children of man from his seed in all rules except in inheritance. In this case they in consensus all say that wife of the son of the daughter is not lawful for a man or the wife of the son of son of a daughter. It is because of the words of Allah, most Majestic, most Glorious ' . . . women lawful for your sons who are from your seed.' (4:23) If in this case the son of the daughter is the son of a man from his seed; why does it not apply in inheritance to the son of the daughter? So also they have said, 'If a man divorces his wife before going to bed with her; that women is not lawful for the son of his daughter because of the words of Allah, most Majestic, most Glorious, ' . . .do not marry whom your fathers (ancestors) have married of women.' (4:22) How then has man here become the father of the son of his daughter and he does not

become his father in matters of inheritance? So also, they have said, 'It is unlawful to marry a woman who was married to the son of one's daughter.' In the same way, they have said that if one testifies for the father of one's mother or for the son of a daughter, his testimony and similar testimony is not acceptable in many of their judgments. When they come to the issue of inheritance they say that the son of a daughter is not considered as one's son and he is not considered his father, because of their following their ancestors who wanted to invalidate al-Hassan and al-Husayn, '*Alayhi al-Salam*, because of their mother but Allah is the supporter. This is what Allah has stated in His book in His words, 'To everyone We gave guidance and We guided Nuh before and of the offspring of Dawud and Sulayman and Ayyub . . . and Jesus and 'Ilyas qhow were all pious people.' (6:84-85) He has called Jesus from the descendents of Adam and Nuh when he is the son of a daughter because Jesus had no father; then why is it that the children of a daughter of a man are not considered as one's children? Yes, it is true if they want fairness and the truth, only Allah grants good opportunity."

Chapter 14 - Inheritance of Parents

H 13036, Ch. 14, h 1

A number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub, a number of our people have narrated from Ahmad ibn Muhammad, and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from Ali ibn Ri'ab and abu Ayyub al-Khazzaz from Zurarah who has narrated the following:

“About the case of a man who dies and leaves behind his parents, abu Ja'far, *'Alayhi al-Salam*, has said, ‘The father receives two shares and the mother receives one share.’”

H 13037, Ch. 14, h 2

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali from Hammad ibn 'Isa who has narrated the following:

“I once asked abu al-Hassan, *'Alayhi al-Salam*, about the case of a man who leaves behind his mother and brother. He (the Imam) said, ‘O Shaykh, do you want the answer according to the book?’ He (the narrator) has said that I said, ‘Yes, I want it according to the book.’ He (the Imam) said, ‘Ali, *'Alayhi al-Salam*, would give the legacy to the nearest relative.’ I then asked, ‘So, the brother does not inherit?’ He (the Imam) said, ‘I just informed you that Ali, *'Alayhi al-Salam*, would give the legacy to the nearest relative.’”

H 13038, Ch. 14, h 3

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad from Ali ibn al-Hassan ibn Hammad from ibn Miskin from Mushma'il ibn Sa'd from abu Basir who has narrated the following:

“About the case of a man who dies and leaves behind his parents, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘It is from three shares, one share for the mother and two for the father.’”

Chapter 15 - Inheritance of Parents with Brothers and Sisters from the Father and Brothers and Sisters from the Mother

H 13039, Ch. 15, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr and Muhammad ibn 'Isa from Yunus all from 'Umar ibn 'Udhaynah who has narrated the following:

“I once said to Zurarah, ‘Certain people have narrated to me from him (abu ‘Abd Allah, ‘*Alayhi al-Salam*) and from his father, ‘*Alayhi al-Salam*, about certain things regarding the ordained shares. I like to show them to you so you can tell me which is false and which is right and do not narrate this (what is false) and remain quiet.’ I said, ‘A man narrated from one of the two Imam, (abu Ja‘far or abu ‘Abd Allah), ‘*Alayhim al-Salam*, about both parents and brothers from the side of mother that they are barred and do not inherit.’ He said, ‘This by Allah is false. I will inform you, do not narrate as such. What I say by Allah is the truth. If a deceased leaves behind his parents, the share of the mother is one-third and the father receives two-thirds according to the book of Allah, most Majestic, most Glorious. If he leaves behind brothers, that is, the deceased has brothers from both parents or brothers from the father’s side, the share of his mother is one-sixth and the share of the father is five-sixths. It is made available to the father because of his dependents. Brothers from the side of the mother, who are not from the father, do not bar the mother from her one-third and they do not inherit. If a man dies and leaves behind his mother and brothers and sisters from both parents and brothers and sisters from the mother’s side and the father is not alive, they do not inherit and do not bar her because *Kalalah* does not inherit.’”

H 13040, Ch. 15, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Sa‘d ibn abu Khalaf from abu al-‘Abbas who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘If a deceased leaves behind two brothers, they are considered more than two brothers of the deceased and they bar the mother from one-third. If there is one brother he does not bar the mother.’ He (the Imam) said, ‘If there are four sisters they bar the mother from one-third because they are like two brothers but if there are three sisters they do not bar the mother’s share.’”

H 13041, Ch. 15, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhassin ibn Ahmad from Aban ibn 'Uthman from Fadl abu al-‘Abbas al-Baqbaq who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of both parents and two sisters from both parents; if they bar the mother from one-third of the legacy. He (the Imam) said, ‘No, they do not do so.’ I then asked, ‘What happens if they are three?’ He (the Imam) said, ‘No, they do not do so.’ I then asked, ‘What happens if they are four?’ He (the Imam) said, ‘Yes, they bar her from one-third.’”

H 13042, Ch. 15, h 4

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan ibn Yahya from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘A mother is not barred from receiving one-third if there is no son except because of two brothers or four sisters.’”

H 13043, Ch. 15, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ‘Abd Allah ibn Bukayr from Fadl abu al-‘Abbas al-Baqbaq who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘A mother is not barred from receiving one-third except

because of two brothers or four sisters from both parents.’”

H 13044, Ch. 15, h 6

Through the same chain of narrators as that of the previous *Hadith* the following is narrated from ibn Faddal from ibn Bukayr from ‘Ubayd ibn Zurarah who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘Brothers from the mothers’ side do not bar the mother from one-third of the legacy.’”

H 13045, Ch. 15, h 7

A number of our people have narrated from Ahmad ibn Muhammad ibn ‘Isa from al-Husayn ibn Sa‘id from ‘Abd Allah ibn Bahr from Hariz from Zurarah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, once said to me, ‘O Zurarah, what do you say about the case of a man who leaves behind his both parents and brothers from his mother’s side?’ He (the narrator) has said that he said, ‘One-sixth is for the mother and the rest is for the father.’ He (the Imam) asked, ‘On what basis do you say so?’ I replied, ‘I have heard Allah, most Majestic, most Glorious, saying in His book, ‘. . . if there are brothers then one-sixth is for his mother.’ (4:11) He (the Imam) said, ‘Fie on you O Zurarah, they are brothers from the father’s side. If brothers are from the mother’s side, they do not bar the mother from receiving the one-third.’”

Chapter 16 - The Inheritance of a Son with both Parents

H 13046, Ch. 16, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr and Muhammad ibn 'Isa ibn 'Ubayd from Yunus ibn 'Abd al-Rahman all from Safwan or he said from 'Umar ibn 'Udhaynah from Muhammad ibn Muslim who has narrated the following:

“Once abu Ja‘far, *'Alayhi al-Salam*, made me read the page of the book of ordained shares. It was according to the dictation of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and with the handwriting of Ali, *'Alayhi al-Salam*. I found in it this, ‘If a deceased leaves behind his daughter and mother, the share of the daughter is one-half or three shares and for the mother one-sixth. The legacy is made in four parts, of which three are for the daughter and one is for the mother.’”

“He (the narrator) has said, ‘I read in it that, “If a deceased leaves behind his daughter and his father, the share of the daughter is one-half: three shares and the share of the father is one-sixth share. The legacy is made in four parts of which three are for the daughter and one is for the father.’”

“Muhammad has said, ‘I found in it that if a deceased leaves behind both parents and his daughter; the share of the daughter is one-half, three shares and the shares of parents are one-sixth for each. Such legacy can be made of five portions of which three are for the daughter and two for the parents.’”

H 13047, Ch. 16, h 2

A number of our people have narrated from Sahl ibn Ziyad from al-Hassan ibn Mahbub from Ali ibn Ri'ab from Zurarah who has narrated the following:

“I found in the book of ordained shares that if a deceased leaves behind his daughter and both parents, the share of the daughter are three shares and the parents each receives one share. The legacy is made in five parts of which three are for the daughter and two for the parents, one share each.’”

H 13048, Ch. 16, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr and Muhammad ibn 'Isa ibn 'Ubayd from Yunus all from 'Umar ibn 'Udhaynah from Zurarah who has narrated the following:

“I once asked abu Ja‘far, *'Alayhi al-Salam*, about the grandfather. He (the Imam) said, ‘I do not find anyone who has spoken about it but that they have spoken out of their opinion except *'Amir al-Mu'minin*, *'Alayhi al-Salam*. I then asked, ‘I pray to Allah to keep you well, what has *'Amir al-Mu'minin* said about it?’ He (the Imam) said, ‘Tomorrow meet me so I can make you read it in a book.’ I then said, ‘I pray to Allah to keep you well, speak to me about it; I like your speaking more than making me read in a book.’ He (the Imam) said again, ‘Listen to what I say. Tomorrow meet me, so I will make you read in a book.’ The next day I went to see him (the Imam) after al-Zuhr (noontime) and it was the hour that I would meet him between al-Zuhr and al-'Asr (afternoon time) and I did not like to ask him in the presence of people for fear of his answering in *taqiyah* (caution because of fear). When I met him (the Imam) his son Ja‘far, *'Alayhi al-Salam*, came to me and he (the Imam) said to him, ‘Make Zurarah to read the book of ordained shares.’ He (the Imam) left for his siesta. Ja‘far, *'Alayhi al-Salam*, and I were left in the house. He stood up and brought for me a book (which looked) like the thigh of a camel. He (Ja‘far, *'Alayhi al-Salam*) said, ‘I will not allow you to read it until you promise before Allah that you will never tell anyone about what you will read in it until I will give permission’, and he did not say, ‘until my father gives you permission.’ I then said, ‘I pray to Allah to keep you well, why do you restrict me when your father has not commanded you to do so?’ He said, ‘You must not look in it on what is other than what I will tell you to read.’ I said, ‘That is up to you.’ I was a knowledgeable man in ordained shares of inheritance and wills and well aware of

them and in calculating them. I waited for quite a long time to find something about ordained shares and wills that I did not know and can deal with. When he placed a side of the book before me, it was a thick book and one can notice that it was of the books of earlier generations. I looked in it and I found it to be different from what is commonly accepted among people, such as matters of compensation and urging others to do good things, in which there is not any difference. I found the majority of it like that until the end of it, with a filthy soul, very little memorization and defective opinion; and I said, 'Do I (need) to read this?' It is false. I reached its end. I closed it and returned it to him (Ja'far, *'Alayhi al-Salam*). The next day I met abu Ja'far, *'Alayhi al-Salam*, and he asked me, 'Did you read the book of ordained shares?' I replied, 'Yes, I read it.' He (the Imam) then asked, 'How did you find what you read?' He (the narrator) has said that he said, 'It is false and it does not have any valid effect. It is against what people say and do.' He (the Imam) said, 'What you saw O Zurarah, by Allah, is the truth. What you saw is the dictation of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, in the handwriting of Ali, *'Alayhi al-Salam*.' Satan came to me with temptation in my chest and said, 'He does not know if it is the dictation of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and the handwriting of Ali, *'Alayhi al-Salam*. He (the Imam) said to me before I spoke, 'O Zurarah, do not doubt. Satan loved to make you doubt. How it is possible that I remain ignorant of its not being the dictation of the Messenger of Allah and the handwriting of Ali, *'Alayhi al-Salam*, when my father narrated to me from my grandfather *'Amir al-Mu'minin*, *'Alayhi al-Salam*, who narrated to him about it.' He (the narrator) has said that I said, 'No, I pray to Allah to keep my soul in service for your cause. I regretted for not reading what I did not read of the book. Had I read it and I had known it I would hope not to miss anything thereof; not even a single letter.'

“Umar ibn `Udhaynah has said, 'I said to Zurarah that people have spoken to me from him (the Imam) and from his father, *'Alayhim al-Salam*, about certain things on ordained shares. Can I present them before you so you can tell me what is false and what is true and do not narrate so I remain quiet? I narrated to him what Muhammad ibn Muslim had narrated from abu Ja'far, *'Alayhi al-Salam*, about the daughter and father and about a daughter and both parents. He said that it is true.

“Al-Fadl ibn Shadhan about a daughter and father has said, that the daughter receives one-half and the father receives one-sixth and the remaining is returned to them proportionate to their shares.

“So also is the case if a deceased leaves behind a daughter and mother. One-half belongs to the daughter, the mother receives one-sixth, and the remaining is returned to them proportionate to their shares. Certain people have said that the remaining belongs to the daughter because she is closer than both parents are. It is a mistake totally; the parents are close by themselves as the children are, but children are not closer than parents are. The correct thing is to return the remaining to all of them proportionate to their shares. They have received their shares and as nearest relatives the remaining asset belongs to them as relatives, thus it is divided among them according to the distribution of Allah, most Majestic, most Glorious, among them. Allah does not cause difference in His rule and His division does not change.'

“If a deceased leaves behind one daughter and both parents then one-half belongs to the daughter and the parents receive one-sixth. The remaining is returned to them proportionate to their shares because Allah, most Majestic, most Glorious, has not returned to one and not to the other one. He has made a share for women just as He has made a share for men. It is equal in this obligation between mother

and father. If a deceased leaves behind two daughters and both parents, the share of daughters is two-thirds and parents receive two-sixths. If a deceased leaves behind three daughters or more then the share of parents is two-sixths and the daughters receive two-thirds. If a deceased leaves behind parents and one son and one daughter, the parents receive two-sixths and the remaining is distributed among the son and daughter where the son receives twice as much as the share of the daughter.’”

Chapter 17 - Inheritance of the Son, with Husband and Woman and Both Parents

H 13049, Ch. 17, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from and Muhammad ibn 'Isa from Yunus ibn 'Abd al-Rahman all from 'Umar ibn 'Udhaynah who has narrated the following:

"I once said to Zurarah that I have heard Muhammad ibn Muslim and Bukayr narrating from abu Ja'far, *'Alayhi al-Salam*, about the husband, both parents and a daughter. The share of the husband is one-fourth, three shares out of twelve shares, the parents receive two-sixth, four shares out of twelve shares and the remaining five shares belong to the daughter because if she were a male she would not have more than five out of twelve shares. If they were two daughters, they would have five out of twelve shares because if they were two males they would not have anything other than the five remaining from twelve shares. Zurarah then said, 'This is right. If you face deficiency, you must not place deficiency on ordained shares. Deficiency is placed on those who have extra, like children and sisters from the side of the father and mother. Husband and brothers from the side of mother do not pay the deficiency from the ordained shares that Allah has made for them.'"

H 13050, Ch. 17, h 2

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from Ali ibn Ri'ab al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

"This is about the case of a woman who leaves behind her husband, both parents and a daughter. Abu Ja'far, *'Alayhi al-Salam*, has said, 'The husband receives one-fourth. It is three shares out of twelve. The parents each receives one-sixth, two shares out of twelve. The remaining five shares belong to the daughter because if she was a male she would not receive more than five shares out of twelve shares: the parents do not face deficiency. They each receive one-sixth and the husband does not face deficiency with his one-fourth share.'

H 13051, Ch. 17, h 3

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad from Sama'ah who has said that Safwan gave to him the book of Musa ibn Bakr which he read it before him and found Musa ibn Bakr narrating it from Sa'id from Zurarah who has said that there are no differences among our people about the following case. Abu 'Abd Allah, and abu Ja'far, *'Alayhim al-Salam*, were asked about a case in which a deceased woman left behind her husband, her mother and two daughters. He (the Imam) said, 'The husband receives one-fourth of the legacy, the mother receives one-sixth and the rest belongs to the two daughters. It is because if they were two men, they would not receive more than what remained after deducting the shares of the mother and husband, and the share of female is never more than the share of males.'

If a deceased leaves behind the mother, father and a daughter, the distribution is possible from twenty-four shares of which the shares of the woman is one-eighth, three out of twenty-four, each parent receives one-sixth, four shares out of twenty-four shares and the daughter receives one-half, twelve shares. The remaining are five shares which are returned to the daughter and one of the parents, proportionate to their shares and nothing is returned to the woman. If a deceased leaves behind both parents, a woman and daughter, this also can be distribution from twenty-four shares of which two-sixth, eight shares, is for the parents four for each, the woman receives one-eighth, three shares out of twenty-four and the daughter receives one-half, twelve shares. The remaining one share is returned to the daughter and both parents, proportionate to the ratio of their shares and nothing is returned to the woman. If a deceased leaves behind the father, husband and a daughter, the father receives two shares

out of twelve, which is one-sixth. The husband receives one-fourth, three shares out of twelve and the daughter receives one-half which are six shares out of twelve and one remaining share is returned to the daughter and father, proportionate to the ratio of their shares and nothing is returned to the husband. No one of the creatures of Allah inherits with a child except parents, husband and wife. If there are no children but the children of children, male or female, they keep the place of their parents. Children of sons are like the sons and inherit like sons and children of daughters keep the place of daughter, they inherit like daughter and bar parents, husband and wife from their shares of a larger amount, even if they are lower generations like one, two, three or more generations. They inherit what children from one's seed inherit and bar what the children from one's seed bar.'”

Chapter 18 - Inheritance of Parents with Husband and Wife

H 13052, Ch. 18, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhassin ibn Ahmad from Aban ibn 'Uthman from 'Isma'il al-Ju'fiy who has narrated the following:

“About the case of a woman who leaves behind her husband and parents, abu Ja'far, *'Alayhi al-Salam*, has said, 'The share of the husband is one-half, the share of mother is one-third and the remaining belongs to the father.' About the case of a man who leaves behind a wife and both parents, he (the Imam) said, 'The share of the wife is one-fourth, the share of the mother is one-third and the remaining belongs to the father.'”

H 13053, Ch. 18, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj from 'Isma'il ibn 'Abd al-Rahman al-Ju'fiy who has narrated the following:

“About the case of a woman who leaves behind her husband and both parents, abu Ja'far, *'Alayhi al-Salam*, has said, 'The share of the husband is one-half, the share of mother is one-third and the remaining belongs to the father.'”

H 13054, Ch. 18, h 3

It is narrated from the narrator of the previous *Hadith* from his father from ibn abu 'Umayr and Muhammad ibn 'Isa from Yunus all from 'Umar ibn 'Udhaynah from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, once made me (Muhammad ibn Muslim) to read the book of ordained shares which was dictated by the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, to Ali, *'Alayhi al-Salam*, who wrote it with his own hand. I read in it about the case of a woman who leaves behind her husband and her both parents. In such case for the husband is one-half; three shares, for the mother is two shares, one complete third and one-sixth belongs to the father.”

H 13055, Ch. 18, h 4

It is narrated from the narrator of the previous *Hadith* from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah who has narrated the following:

“I once said to Zurarah that certain people narrated to me from abu Ja'far and abu 'Abd Allah, *'Alayhim al-Salam*, about certain things of ordained shares. I like to show them to you so you can tell me what is right and what is false; and about what is right, say that it is right but do not narrate and remain quiet, and I narrated to him what Muhammad ibn Muslim had narrated to me about husband and both parents. He said, 'By Allah it is the truth.'”

H 13056, Ch. 18, h 5

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from Ali ibn al-Hassan ibn Ribat from 'Abd Allah ibn Waddah from abu Basir who has narrated the following:

“About the case of a woman who leaves behind her husband, her mother and father, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'It is distributed from six shares, one-half, three shares for the husband, one-third, two shares for the mother and one-sixth is for the father.’

“Al-Fadl ibn Shadhan in this issue has said, 'Of the proof that one-third of the legacy is for the mother is that all who oppose us have not said in this case that the mother receives one-sixth. They have said that mother receives one-third of what remains of the legacy. The remaining of the legacy is one-sixth but they do not allow opposing the words of the book, so they have kept the meaning of the words of the book, but they have opposed its law and it is against Allah and His book. The same is the case with

the inheritance of a woman with parents. In this case, the share of the woman is one-fourth, the share of mother is one-third complete and the remaining is for the father. Allah, glorious is whose remembrance, has mentioned this ordained share and in the case before it the share of the woman is one-fourth, the share of husband is one-half, the share of mother is one-third and nothing is mentioned for the father. He has only said, 'His parents inherit him and for the mother is one-third.' (4:11) The remaining belongs to the father, that is, the remaining of the legacy.'”

Chapter 19 - *Al-Kalalah* (Burdened one's in Inheritance)

H 13057, Ch. 19, h 1

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from abu Ayyub and 'Abd Allah ibn Bukayr from Muhammad ibn Muslim who has narrated the following:

“Abu Ja‘far, ‘*Alayhi al-Salam*, has said, ‘If a deceased leaves behind his father and mother or his son or his daughter, if one of these four people is left behind, they are not of those about whom Allah, most Majestic, most Glorious, has said, “Say, Allah gives you a fatwa about *Kalalah* (burdened people).””

H 13058, Ch. 19, h 2

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama‘ah, from Ali ibn Ribat from Hamzah ibn Humran who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about *Kalalah*. He (the Imam) said, ‘One who is not a son or a father.’”

H 13059, Ch. 19, h 3

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma‘il has narrated from al-Fadl ibn Shadhan all from ibn abu ‘Umayr from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘*Kalalah* (burdened people) is one who is not a son or a father.’”

Chapter 20 - Inheritance of Brothers and Sisters with Children

H 13060, Ch. 20, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from Muhammad ibn al-Hassan *al-Ash'ariy* who has narrated the following:

“A dispute took place between two men of the sons of my uncle on a legacy. I pointed out for them to write to him (the Imam), *'Alayhi al-Salam*, about it to find out his opinion in the matter. They wrote, ‘We pray to Allah to keep our souls in service for your cause, what do you say about the case of a woman who leaves behind her husband and her daughter from her father and mother?’ I said, ‘I pray to Allah to keep my soul in service for your cause, if you consider it proper answer us with the bitter truth.’ A letter came to them that said, “*In the name of Allah, the Beneficent, the Merciful. May Allah grant you and us good health and the best form. I understood your letter in which you have mentioned that a woman has left behind her husband, her daughter and a sister from her both parents. The ordained share of the husband is one-fourth and the rest belongs to the daughter.*”

H 13061, Ch. 20, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah from 'Abd Allah ibn Muhriz who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies and leaves behind his daughter and his sister from his father and mother. He (the Imam) said, ‘The entire legacy belongs to the daughter and there is nothing for the sister from his father and mother.’ I then said, ‘We need it. The deceased is from those people and his sister is a believing person, well-aware.’ He (the Imam) said, ‘Take one-half from them as they take from you according to their *Sunnah* and judgments.’ Ibn 'Udhaynah has said, ‘I mentioned it to Zurarah and he said, “What ibn Muhriz has brought is certainly light.”’

H 13062, Ch. 20, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah from Zurarah who has narrated the following:

“Zurarah has said that al-'Ammah (non-Shi'ah) in their rules, decisions and ordained shares say something on consensus which is authoritative and binding upon them. In the case of a deceased who leaves behind his daughter or two daughters and his brother from his father and mother or his sister from his father and mother or his sister from father or his brother from his father, they give one-half to the daughter, two-thirds to the two daughters and the rest of legacy to his brother from his father and mother or his sister from his father or his sister from his father and mother, and not to the relatives from sons of his uncle or children of his brother. They do not give anything to the brothers from the mother. He (the narrator) has said that I said to them this is binding upon you. Allah has mentioned for brothers from the mother that *Kalalah* (burdensome people) inherit. Why do you not give them with a daughter anything when you give the sister from father, mother, and sister from father the rest of legacy instead of uncle and relatives? Allah, most Majestic, most Glorious, has mentioned them as *Kalalah* just as He has called brothers from mother as *Kalalah*. Allah, most Majestic, most Glorious, has said, ‘They ask your fatwa. Say Allah gives you a fatwa about *Kalalah*.’ Why you have separated them from each other? They say that it is because of *Sunnah* and consensus of the group. We ask, ‘Is it the *Sunnah* of Allah and the *Sunnah* of His messenger or the *Sunnah* of Satan and his friends?’ They say, ‘It is the *Sunnah* of so and so.’ We say, ‘You have followed us in two issues and opposed us in two issues. We say, ‘If a deceased leaves behind one of the four then *Kalalah* of the deceased does not inherit. If he leaves a father or a son, you say, ‘You are right.’ We

say, 'If he leaves behind mother or a daughter.' You deny it. You have followed us about the daughter. You do not give to brothers from mother anything and you have opposed us about mother. Why do you give one-third to brothers from the mother with the mother when she is living and they inherit because of her right and relation? Brothers and sisters from the father and mother and brothers and sisters from the mother do not inherit with the father (existing); they inherit because of the father, so also brothers and sisters from the mother do not inherit with the mother (existing). More strange is that you say, 'Brothers from the mother do not inherit one-third, they bar the mother from one-third and she only receives one-sixth.' It is due to ignorance and it is untrue. Consensus is falsely made about it. I then said to Zurarah, 'Do you say it from your own opinion?' He said, 'If I say this from my opinion I will be a sinful person. I testify that it is the truth from Allah and the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to your cause.*'"

H 13063, Ch. 20, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr and Muhammad ibn 'Isa from Yunus all from 'Umar ibn 'Udhaynah from Bukayr ibn 'A'yan who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a woman who has left behind her husband, brothers from her mother and brothers and sisters from her father. He (the Imam) said, 'The share of husband is one-half, three shares, the share of brothers from her mother is one-third, male and female receive equal shares. The one remaining share belongs to brothers and sisters from the father. Each male receives twice as much as a female; ordained shares do not face deficiency. The share of husband does not reduce from one-half and the share of brothers from her mother, which is one-third, does not reduce. Allah, most Majestic, most Glorious, has said, '. . . if they are more than this they share the one-third, if there is one he receives one-sixth.' (4:12) What Allah, most Blessed, most High, has meant by His words, '. . . if it is a man inherited by *Kalalah* (burdensome people) or a woman and has a brother or sister then everyone gets one-sixth and if they are more than this they share the one-third.' By this Allah has meant brothers and sisters from mother only. Allah in the end of chapter four has said, '. . . they ask for a fatwa from you about *Kalalah*. If a man dies and has no children but has a sister [meaning sister from both parents and sister from the father] she receives one-half of the legacy and he inherits her, if she does not leave children. If they are brothers and sisters, the share of the male is twice as much as the share of female.' They are the ones whose shares increase and decrease. So also are their children whose shares increase and decrease. If a woman dies and leaves behind her husband and brothers from her mother and two sisters from her father, the share of husband is one-half, three shares, brothers from the mother receive two shares and one remaining share is for the two sisters from her father. If she is one, it is for her like two sisters from her father; if they were brothers from the father, no increase would take place in the remaining. If she was one or in the place of one female, there was a brother no increase would take place in the remaining. There is no increase for sisters or for a child if he was a male.'"

H 13064, Ch. 20, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr and Muhammad ibn 'Isa from Yunus from 'Umar ibn 'Udhaynah from Bukayr who has narrated the following:

"Once a man came to abu Ja'far, *'Alayhi al-Salam*, and asked about a woman who has died and left behind her husband, brothers from her mother and her sister from her father. He (the Imam) said, 'The share of the husband is one-half, three shares, brothers from her mother receive one-third, two shares and the sister from her father receives one-sixth which is one share.' The man said to him (the Imam), 'The laws of ordained shares of Zayd, the laws of ordained shares of 'Ammah and judges are different, O abu Ja'far. They say that the share of the sister from the father is three shares that are reduced from

six to eight.’ Abu Ja‘far, *‘Alayhi al-Salam*, asked, ‘Why do they say so?’ He replied, ‘It is because of the words of Allah, most Majestic, most Glorious, ‘. . . and for him is a sister then her share is one-half of the legacy.’ Abu Ja‘far, then asked, ‘What is the rule if he was one brother instead of one sister?’ He replied, ‘He would have only one-sixth.’ Abu Ja‘far, *‘Alayhi al-Salam*, said to him, ‘Why do you reduce the share of the brother if you argue to provide one-half for the sister, because Allah has mentioned one-half for her you must also take notice that Allah has mentioned *Kalalah* (burdensome people) of brothers more than one-half. Allah has said, ‘. . . her share is one-half.’ He has also said for the brother who inherits her, that is, all of her legacy if she does not have any children. So you do not give anything to the one for whom Allah has given all the legacy in certain laws of your ordained shares but you give complete to one whom Allah has given one-half.’ The man said, ‘I pray to Allah to keep you well, how do we give one-half to the sister and we do not give the male heir if she was a male?’ He (the Imam) said, ‘About a mother, husband, a brother from the mother and a sister from her father they give one-half to the husband. They give one-sixth to the mother, to the brothers from her mother one-third and to the sister from her father One-half of three. You can make nine and it is from six but is raised to nine. He (the Imam) said this is how you say it.’ He (man) said, ‘If she was a male and a brother from her father.’ He (the Imam) said, ‘There is nothing for him.’ The man then asked abu Ja‘far, *‘Alayhi al-Salam*, saying ‘I pray to Allah to keep my soul in service for your cause, what do you say?’ He (the Imam) said, ‘There is nothing for brothers from her father and mother, brothers from her mother or brothers from her father with the existence of the mother.’ ‘Umar ibn `Udhaynah has said, ‘I heard Muhammad ibn Muslim narrate a similar *Hadith* like that of Bukayr with the same meaning, but I did not memorize its wordings in details, but I memorized its meaning. He has said, ‘I mentioned it to Zurarah who said, “It is true by Allah. They both have spoken the truth.”’”

H 13065, Ch. 20, h 6

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from al-‘Ala’ ibn Razin and abu Ayyub and ‘Abd Allah ibn Bukayr from Muhammad ibn Muslim who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about the case of a woman who has left behind her husband, brothers from her mother and brothers and sisters from her father. He (the Imam) said, ‘The share of the husband is one-half, three shares, the share of brothers from her mother is one-third which is two shares; male and female receive equal shares. The one remaining share belongs to brothers and sisters from the father. Each male receives twice as much as a female; ordained shares do not face deficiency. The share of the husband does not reduce from one-half and the share of brothers from her mother, which is one-third, does not reduce. Allah, most Majestic, most Glorious, has said, ‘. . . if they are more than this they share the one-third, if there is one he receives one-sixth.’ (4:12) What Allah, most Blessed, most High, has meant by His words, ‘. . . if it is a man inherited by *Kalalah* or a woman, and has a brother or sister then for everyone is one-sixth.’ By this Allah has meant brothers and sisters from the mother only. Allah in the end of chapter four has said, ‘. . . they ask for a fatwa from you about *Kalalah*. If a man dies and has no children but has a sister [meaning sister from mother and father] she receives one-half of the legacy and he inherits her if she does not leave children. If they are brothers, male and female the share of the male is twice as much as the share of the female.’ They are the ones whose shares increase and decrease. So also are their children whose shares increase and decrease. If a woman dies and leaves behind her husband and two sisters from her and two sisters from her father, the share of the husband is one-half, which is three shares, sisters from her mother one-third or two shares and for the sisters from her father one-sixth, one share. If she is one it is for her; two sisters from her father do not receive any increase from the remaining and if he was a brother

from father he would not receive any increase from the remaining.’”

H 13066, Ch. 20, h 7

Muhammad ibn `Isma`il has narrated from al-Fadl ibn Shadhan from ibn abu `Umayr from Jamil ibn Darraj from Bukayr who has narrated the following:

“A man once asked abu Ja`far, *‘Alayhi al-Salam*, about two sisters and a husband. He (the Imam) said, ‘It is half and half.’ The man then said, ‘I pray to Allah to keep you well, Allah has mentioned their share to be more than that. Their share is two-thirds.’ He then asked, ‘What do you say about a brother and husband?’ He (the Imam) said, ‘It is half and half.’ He asked, ‘Has Allah not given the entire legacy, saying, “. . . and he inherits her if she has no children.”?’”

H 13067, Ch. 20, h 8

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa`id from Fadalāh ibn Ayyub from Musa ibn Bakr from Ali ibn Sa`id who has narrated the following:

“Zurarah once asked me, ‘What do you say about a man who leaves behind his parents and brothers from his mother?’ I replied, ‘The share of mother is one-sixth and the rest belongs to the father. ‘If there are brothers the share of the mother is one-sixth.’ He said, ‘These brothers are from the father. Brothers from father and mother receive the largest amount. Brothers from mother receive one-third and she receives one-sixth. It is one-sixth because brothers from father and brothers from father and mother bar her. The father spends on them so his share is expanded and the share of the mother is reduced for that reason. Brothers from the mother are not in it. They do not bar their mother from receiving one-third.’ I then asked, ‘Do brothers inherit from the mother anything?’ He said, ‘There is no doubt in it, it is just as I say to you.’”

H 13068, Ch. 20, h 9

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Ali from `Abd Allah ibn al-Mughirah from Musa ibn Bakr who has narrated the following:

“I once said to Zurarah that ibn Bukayr has narrated to me from abu Ja`far, *‘Alayhi al-Salam*, that the shares of brothers from the father and sisters from father and mother increase and decrease. It is because their shares are not greater than the share of brothers and sisters from father and mother if they were in their place. Allah, most Majestic, most Glorious, says, ‘. . . if a man dies who does not leave behind a child and he has a sister, she receives one-half of the legacy and he receives the entire legacy if she does not leave behind any children.’ He says that he receives the entire legacy, which she leaves behind if she does not leave behind a child. Despite this, they give complete to one whose share Allah has mentioned as One-half and they give less than One-half to one whom Allah has given the entire legacy. The share of woman is never more than the share of man if he was in her place. He (the narrator) has said that Zurarah then said, ‘This is applied by our people without any difference.’”

H 13069, Ch. 20, h 10

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Jamil from `Abd Allah ibn Muhammad who has narrated the following:

“I once asked abu `Abd Allah, *‘Alayhi al-Salam*, about the case of a man who dies and leaves behind his daughter, his sister from his both parents. He (the Imam) said, ‘The entire legacy belongs to his daughter.’”

Al-Fadl has said, ‘Allah, most Majestic, most Glorious, has made a share for the sister if she does not leave behind a child saying, ‘. . . if a man dies and does not leave behind a child and has a sister her share is one-half of the legacy.’ If he leaves behind a child then there is nothing for her. If anyone

gives to her, it is opposing Allah and His messenger. The same is the case with the children of children male or female regardless how far below they may be. Brothers and sisters do not inherit with a child and so also is the case with the existence of one or both parents.

[Note: The words of al-Fadl continues for the next several pages of the Arabic text and are not translated.]

Chapter 21 - Inheritance of the Grandfather

H 13070, Ch. 21, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr and Muhammad ibn 'Isa from Yunus all from 'Umar ibn 'Udhaynah from Zurarah who has narrated the following:

"I once asked abu Ja'far, *'Alayhi al-Salam*, about the ordained share of grandfather. He (the Imam) said, 'I do not know anyone who has spoken about it but that it is his own opinion except Ali, *'Alayhi al-Salam*, who has spoken about it with the words of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.*'"

Al-Husayn ibn Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali al-Washsha' from Aban ibn 'Uthman from Zurarah from abu Ja'far, *'Alayhi al-Salam*, a similar *Hadith*.

H 13071, Ch. 21, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah from Zurarah and Bukayr and al-Fudayl and Muhammad and Burayd who has narrated the following:

"One of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said, 'The grandfather with brothers from the father's side become like one of the brothers regardless of how many they are.' He (the narrator) has said that I asked, 'A man has left his brother from his mother and father and his grandfather', or I asked, 'He has left his grandfather, his brother from his father and mother.' He (the Imam) said, 'The legacy is given to them, regardless, one or one hundred thousand he (grandfather) receives the share of one brother.' I then asked, 'A man has left behind his grandfather and his sister.' He (the Imam) said, 'The male receives like the share of two females. If they are two sisters then one-half is for grandfather and the other one-half for the two sisters. However, if they are more, it then is like the above calculation, if he leaves brothers and sisters from father and mother and grandfather then the grandfather is like one of the brothers and the legacy among them is distributed, each male receiving twice the share of a female.'" Zurarah has said, 'This is what I cannot be questioned for because I heard it from his father and from him (the Imam) before and we have no doubt about it or differences.'"

H 13072, Ch. 21, h 3

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali from Hammad ibn 'Uthman from 'Isma'il al-Ju'fiy who has narrated the following:

"I once heard abu Ja'far, *'Alayhi al-Salam*, saying, 'The grandfather distributes the legacy with brothers, regardless of how many they are; even if they are one hundred thousand.'"

H 13073, Ch. 21, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ibn Ri'ab from abu 'Ubaydah who has narrated the following:

"About the case of a man who dies and leaves behind his wife, sister and grandfather, abu Ja'far, *'Alayhi al-Salam*, has said, 'This is distributed from four parts, one-fourth for the woman, one share for the sister and two shares for the grandfather.'"

H 13074, Ch. 21, h 5

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah, from 'Abd Allah ibn Jabalah from Ishaq ibn 'Ammar from abu Basir who has narrated the following:

"I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying about six brothers and a grandfather, 'The grandfather is the seventh.'"

H 13075, Ch. 21, h 6

It is narrated from the narrator of the previous *Hadith* from ‘Ubays ibn Hisham from Mushma‘il ibn Sa‘d from abu Basir who has narrated the following:

“About the case of a man who leaves behind five brothers and a grandfather, abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘It is distributed from six; one part for each’”

H 13076, Ch. 21, h 7

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from al-‘Ala’ ibn Razin from ‘Abd Allah ibn Bukayr from Muhammad ibn Muslim who has narrated the following:

“Abu Ja‘far, ‘*Alayhi al-Salam*, has said, ‘The grandfather, that is, the father of the father distributes the legacy with brothers from both parents and brothers from the father. The grandfather is like one of them, of the male ones.’”

H 13077, Ch. 21, h 8

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya from Ahmad ibn Muhammad all from ibn Mahbub from Ali ibn Ri‘ab from Zurarah who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who leaves behind his brother from his father and mother and his grandfather. He (the Imam) said, ‘The legacy between them is half and half. If they are two brothers or a hundred, the grandfather is with them like one of them. The grandfather with them receives a share like the share of one of the brothers.’ He (the Imam) said, ‘If he leaves behind a sister, then the shares of the grandfather are two shares and the sister receives one share, if the sisters were two, then one-half is for grandfather and one-half for the sisters.’ He (the Imam) said, ‘If he leaves behind brothers and sisters from his mother and father, the grandfather is like one of the brothers and each male receives twice as much as the share of a female.’”

H 13078, Ch. 21, h 9

Ibn Mahbub has narrated from ibn Ri‘ab from abu ‘Ubaydah who has narrated the following:

“About the case of a man who dies and leaves behind his wife, sister and his grandfather, abu Ja‘far, ‘*Alayhi al-Salam*, has said, ‘It is distributed from four parts. The woman receives one-fourth, the sister receives one share and the grandfather receives two shares.’”

H 13079, Ch. 21, h 10

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad ibn ‘Uthman and Jamil ibn Darraj from ‘Isma‘il ibn ‘Abd al-Rahman al-Ju‘fiy who has narrated the following:

“I once heard abu Ja‘far, ‘*Alayhi al-Salam*, saying, ‘The grandfather distributes the legacy with brothers in equal shares, no matter whatever the number of brothers is.’”

H 13080, Ch. 21, h 11

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ‘Abd Allah ibn Sinan who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about a brother from a father and grandfather. He (the Imam) said, ‘The legacy between them is distributed in equal shares.’”

Chapter 22 - Brothers from a Mother with the Grandfather

H 13081, Ch. 22, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ibn Sinan who has narrated the following: "I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who leaves behind his brother from his mother. He (the Imam) said, 'If he has not left other heirs besides him the legacy belongs to him.' I then asked about a brother from a mother with a grandfather. He (the Imam) said, 'One-sixth must be given to the brother from his mother and the rest is given to the grandfather.' I then asked about a brother from the father and a grandfather. He (the Imam) said, 'The legacy between them is in equal shares.'"

H 13082, Ch. 22, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn `Isma'il and Ali ibn Ibrahim has narrated from Muhammad ibn `Isa from Yunus all from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of brothers from one's mother, with a grandfather. He (the Imam) said, 'The share of brothers from one's mother with a grandfather is one-third.'"

H 13083, Ch. 22, h 3

It is narrated from the narrator of the previous *Hadith* from Ahmad ibn Muhammad from and Ali ibn Ibrahim has narrated from his father from ibn Mahbub from Husayn ibn 'Umarah from Misma' abu Sayyar who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies and leaves behind brothers and sisters from his mother and a grandfather. He (the Imam) said, 'The grandfather is like a brother from the father. He receives two-thirds and brothers and sisters from one's mother receive one-third who distribute it among themselves in equal shares.'"

H 13084, Ch. 22, h 4

Al-Husayn ibn Muhammad *al-Ash'ariy* has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali al-Washsha' from Aban ibn 'Uthman from abu Basir who has narrated the following:

"Abu Ja'far, *'Alayhi al-Salam*, has said, 'Two shares belong to the sisters from one's mother if a grandfather is with them.'"

H 13085, Ch. 22, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Ali ibn Ri'ab from ibn Muskan from al-Halabiy who has narrated the following:

"About the case of brothers from one's mother with a grandfather, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'The share of brothers from one's mother is one-third if a grandfather is with them.'"

H 13086, Ch. 22, h 6

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from Ja'far ibn Sama'ah and Salih ibn Khalid from abu Jamilah from Zayd who has narrated the following:

"About the case of a man who leaves behind brothers from his mother with a grandfather, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'The ordained shares of brothers from one's mother is one-third if a grandfather is with them.'"

H 13087, Ch. 22, h 7

Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from Safwan from ibn Muskan from al-Halabiy who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of brothers from one's mother with a

grandfather. He (the Imam) said, ‘The ordained share of brothers from one’s mother is one-third if a grandfather is with them.’”

Chapter 23 - Son of a Brother with a Grandfather

H 13088, Ch. 23, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from abu Ayyub from Muhammad ibn Muslim who has narrated the following:

“Once, abu 'Abd Allah, *'Alayhi al-Salam*, made a book available to the public. I found in it that the son of a brother and a grandfather share a legacy in equal shares. I said, ‘I pray to Allah to keep my soul in service for your cause, the judges do not judge for the son of brothers with a grandfather anything.’ He (the Imam) said, ‘This book is in handwriting of Ali, *'Alayhi al-Salam*, as dictated to him by the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.*’”

H 13089, Ch. 23, h 2

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from al-Qasim ibn Muhammad ibn Sulayman who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that Ali, *'Alayhi al-Salam*, would make the son of a brother to inherit the share of his father with a grandfather.’”

H 13090, Ch. 23, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said that Jabir narrated to me from the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and he [Jabir] did not lie, that the son of a brother distributes the legacy with a grandfather.’”

H 13091, Ch. 23, h 4

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah who has said that abu Shu'ayb has narrated from Rifa'ah, from Aban ibn Taghlib who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a son of a brother and a grandfather. He (the Imam) said, ‘The legacy between them is half and half.’”

H 13092, Ch. 23, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has narrated the following:

“I once looked in a book in which abu Ja'far, *'Alayhi al-Salam*, was looking and I read therein that a son of a brother and grandfather share the legacy in equal ratios. I then said to abu Ja'far, *'Alayhi al-Salam*, ‘People around us do not judge with such judgment and they do not give to a son of a brother anything with a grandfather.’ Abu Ja'far, *'Alayhi al-Salam*, said, ‘This is the dictation of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, in the handwriting of Ali, *'Alayhi al-Salam*, from the mouth of the Messenger of Allah with his (Ali's) hand.’”

H 13093, Ch. 23, h 6

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from 'Abd Allah ibn Jabalah from abu al-Mighra' from Sama'ah from abu Basir who has narrated the following:

“I once heard a man asking abu Ja'far or abu 'Abd Allah, *'Alayhim al-Salam*, when I was with him (the Imam), about the son of a brother and a grandfather. He (the Imam) said, ‘The legacy is made half and half between the two of them.’”

H 13094, Ch. 23, h 7

Al-Fadl has narrated from ibn Mahbub from Sa'd ibn abu Khalaf from certain persons of abu 'Abd Allah, *'Alayhi al-Salam*, who has narrated the following:

"About the case of daughters of a sister and a grandfather, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'The daughter of a sister receives one-third and the rest is for the grandfather; the daughters of the sister take the place of the sister and have made the grandfather like a brother.'"

H 13095, Ch. 23, h 8

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and a number of our people have narrated from Sahl ibn Ziyad all from ibn Mahbub from al-Hassan ibn Salih who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a woman who is married, but before going to bed with her husband, has died leaving behind her mother, two brothers from her father and mother and her grandfather, who is the father of her mother, and her husband. He (the Imam) said, 'The husband receives one-half and the rest belongs to her mother. The grandfather does not receive anything; his daughter bars him from inheritance and brothers do not receive anything.'"

H 13096, Ch. 23, h 9

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Ali ibn abu Hamzah from abu Basir who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies and leaves behind his father, his uncle and grandfather. He (the Imam) said, 'The father bars the grandfather. The legacy belongs to the father and there is nothing for the uncle and grandfather.'"

H 13097, Ch. 23, h 10

It is narrated from the narrator of the previous *Hadith* and Ali ibn 'Abd Allah all from Ibrahim from 'Abd Allah ibn Ja'far who has narrated the following:

"I once wrote to abu Muhammad, *'Alayhi al-Salam*, and asked that a woman has died leaving behind her husband, her parents or her grandfather or her grandmother; how is the legacy distributed? He (the Imam), *'Alayhi al-Salam*, signed the answer that said, 'The share of the husband is one-half and the rest belongs to the parents. It is also narrated that the Messenger of Allah, provided for the grandfather and grandmother one-sixth.'"

H 13098, Ch. 23, h 11

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, provided for the grandmother with one-sixth.'"

H 13099, Ch. 23, h 12

It is narrated from the narrator of the previous *Hadith* from Jamil ibn Darraj who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, provided for the grandmother, mother of the father, one-sixth when his son was alive and provided for the grandmother, mother of the mother, one-sixth when her daughter was alive.'"

H 13100, Ch. 23, h 13

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, provided for the grandmother one-sixth but did not sanction anything for her.'"

H 13101, Ch. 23, h 14

Ahmad ibn Muhammad has narrated from ibn Faddal from ‘Abd Allah ibn al-Mughirah from Musa ibn Bakr from Zurarah who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘The Holy Prophet, *O Allah*, grant compensation to Muhammad and his family worthy of their services to Your cause, provided for the grandmother one-sixth as food.’”

H 13102, Ch. 23, h 15

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Sa’d ibn abu Khalaf from ‘Abd al-Rahman ibn abu ‘Abd Allah who has narrated the following:

“I once visited abu ‘Abd Allah, *‘Alayhi al-Salam*, when Aban ibn Taghlib was with him (the Imam) and I said, ‘I pray to Allah to keep you well, my daughter has died and my mother is alive.’ Aban said, ‘There is nothing for your mother.’ Abu ‘Abd Allah, *‘Alayhi al-Salam*, said, ‘Allah is free of all defects, give her one-sixth.’”

H 13103, Ch. 23, h 16

A number of our people have narrated from Ahmad ibn Muhammad from Ali ibn Asbat from ‘Isma‘il ibn Mansur from certain persons of his people who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘When four grandmothers come together, two from the side of the mother and two from the side of the father, one by means of raffle is reduced from the side of the mother, then one-sixth will be distributed among the three. Also if four grandfathers come together, one by means of raffle is reduced from the side of the mother, and the one-sixth is distributed among the three.’”

[Note: The next several pages of the Arabic text are the words of our scholars and are not translated.]

Chapter 24 - Inheritance of Relatives

H 13104, Ch. 24, h 1

A number of our people have narrated from Sahl ibn Ziyad and Ahmad ibn Muhammad from Muhammad ibn Yahya from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father and Humayd ibn Ziyad from al-Hassan ibn Muhammad all of them from ibn Mahbub from Ali ibn Ri'ab from abu Basir who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about certain issues of ordained shares of inheritance. He (the Imam) said, ‘Do you like if I show you the book of Ali, *‘Alayhi al-Salam*?’ I said, ‘But the book of Ali, *‘Alayhi al-Salam*, is no longer studied.’ He (the Imam) said, ‘O abu Muhammad, how can you say that the book of Ali, *‘Alayhi al-Salam*, is no longer studied?’ He (the Imam) brought it out and it was a magnificent book. I saw in it this case, ‘A man dies and leaves behind his paternal and maternal uncles.’ It said, ‘The paternal uncle receives two-thirds and the maternal uncle receives one-third.’”

H 13105, Ch. 24, h 2

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from abu Basir who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘The maternal uncle and maternal aunt inherit if there are no other heirs. Allah, most Majestic, most Glorious, has said, ‘. . . relatives have priorities over other relatives according to the book of Allah.’(33:6)”

H 13106, Ch. 24, h 3

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama‘ah, from Wuhayb from abu Basir who has narrated the following:

“I once heard abu Ja‘far, *‘Alayhi al-Salam*, saying, ‘Maternal uncle and maternal aunt inherit if there are no other heirs with them. Allah, most Majestic, most Glorious, has said, ‘. . . relatives have priorities over other relatives according to the book of Allah.’ (33:6)”

H 13107, Ch. 24, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhsin ibn Ahmad from Aban from abu Maryam who has narrated the following:

“About the case of the paternal aunt and maternal aunt, abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘It is one-third and two-thirds; two-thirds for the paternal aunt and one-third for the maternal aunt.’”

Humayd ibn Ziyad, from al-Hassan ibn Muhammad, from al-Muthanna’, from Aban, from abu Maryam, from abu Ja‘far, *‘Alayhi al-Salam*, has narrated a similar *Hadith*.

H 13108, Ch. 24, h 5

Humayd ibn Ziyad has narrated from al-Hassan from Wuhayb from abu Basir who has narrated the following:

“About the case of a man who has left behind his paternal aunt and maternal aunt, abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The paternal aunt receives two-thirds and the maternal aunt receives one-third.’”

H 13109, Ch. 24, h 6

Ali ibn Ibrahim has narrated from his father from Hammad from Hariz from Muhammad ibn Muslim who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who dies and leaves behind a maternal uncle, maternal aunt, paternal uncle, paternal aunt, his son, his daughter, his brother and sister. He (the Imam) said, ‘All of them inherit and protect. When there are the paternal aunt and maternal uncle, then the paternal aunt receives two-thirds and the maternal uncle receives one-third of the legacy.’”

H 13110, Ch. 24, h 7

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Sahl ibn Ziyad from al-Husayn ibn al-Hakam who has narrated the following:

“About the case of a man who dies leaving behind his two maternal aunts and relatives, abu Ja‘far, ‘*Alayhi al-Salam*, has said, ‘Relatives have priorities over each other. The legacy belongs to the two maternal aunts.’”

H 13111, Ch. 24, h 8

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Durust ibn abu Mansur from abu al-Mighra’ from a man who has narrated the following:

“Abu Ja‘far, ‘*Alayhi al-Salam*, has said, ‘If a man dies and leaves behind a paternal aunt and maternal aunt, the paternal aunt receives two-thirds and the maternal aunt receives one-third of the legacy.’”

Al-Fadl has said that if a deceased leaves behind two paternal uncles, one from both parents and the other from the father, the legacy belongs to the one who is from both parents. If a deceased leaves behind many uncles and aunts, the legacy among them is distributed by giving each male twice the share of a female. If a deceased leaves behind maternal uncles and aunts, the legacy is distributed between both male and female in equal shares. If he leaves behind a maternal uncle from both parents and one from mother’s side only, the legacy belongs to the uncle from both parents, and so is the case about paternal aunt and maternal aunt in this issue. The legacy belongs to the ones who are from both parents and not to the one who is just from the father’s side.

H 13112, Ch. 24, h 9

The Holy Prophet, O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause, has said, ‘A maternal uncle inherits one who has no other heirs.’”

[Note: The next several pages of the Arabic text are the words of al-Fadl and are not translated.]

Chapter 25 - A Woman Leaves Behind Just her Husband

H 13113, Ch. 25, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu Najran and Muhammad ibn 'Isa from Yunus all from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“About the case of a woman who dies leaving behind her husband and no other known heirs, abu Ja'far, *'Alayhi al-Salam*, has said, ‘The entire legacy belongs to the husband.’”

H 13114, Ch. 25, h 2

It is narrated from the narrator of the previous *Hadith* from Muhammad ibn 'Isa from Yunus from Yahya al-Halabiy from Ayyub ibn al-Hurr from abu Basir who has narrated the following:

“I once was with abu 'Abd Allah, *'Alayhi al-Salam*, and he (the Imam) asked for al-Jami'ah (the renown book of Ali, *'Alayhi al-Salam*). We looked in it and found this case: ‘If a woman dies leaving behind just her husband and no other heirs, the entire legacy belongs to him (the husband).’”

H 13115, Ch. 25, h 3

Humayd ibn Ziyad al-Hassan ibn Muhammad ibn Sama'ah, from Wuhayb from abu Basir who has narrated the following:

“About the case of a woman who dies leaving behind just her husband, abu Ja'far, *'Alayhi al-Salam*, has said, ‘The entire legacy belongs to him (the husband) if no other heirs exist.’”

It is narrated from the narrator of the previous *Hadith* from 'Abd Allah ibn Jabalah from Ali ibn abu Hamzah from abu Basir a similar *Hadith*.

H 13116, Ch. 25, h 4

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from certain persons of his people from Aban from 'Isma'il ibn 'Abd al-Rahman al-Ju'fiy who has narrated the following:

“About the case of a woman who dies leaving behind just her husband, abu Ja'far, *'Alayhi al-Salam*, has said, ‘The entire legacy belongs to him (the husband) if no other heirs exist.’”

H 13117, Ch. 25, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn Muskan from abu Basir who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a woman who dies and leaves behind just her husband. He (the Imam) said, ‘The legacy belongs to him.’ He said, ‘It means that there are no other heirs besides the husband.’”

H 13118, Ch. 25, h 6

Ali has narrated from Muhammad ibn 'Isa from Yunus from abu Basir who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a woman who dies and does not leave behind any heirs except her husband. He (the Imam) said, ‘The legacy entirely belongs to him (the husband).’”

H 13119, Ch. 25, h 7

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn Asbat 'Abd Allah ibn al-Mughirah from 'Uyaynah Bayya' al-Qasb from abu Basir who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a woman who dies leaving behind her husband. He (the Imam) said, ‘All of her asset belongs to her husband.’”

Chapter 26 - A Deceased Leaves behind Just his Wife

H 13120, Ch. 26, h 1

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from Muhammad ibn al-Hassan ibn Ziyad al-'Attar from Muhammad ibn al-Nu'aym al-Sahhaf who has narrated the following:

“Muhammad ibn abu 'Umayr Bayya' al-Sabiriy died and he made a will to me. He left behind his wife and no other heirs. I wrote to the virtuous servant (of Allah) about it and he (the Imam) wrote to me the answer that said, ‘Give one-fourth to the woman (his wife) and deliver the rest to us.’”

H 13121, Ch. 26, h 2

It is narrated from the narrator of the previous *Hadith* from al-Hassan ibn Muhammad from Muhammad ibn Sukayn and Ali ibn abu Hamzah from Mushma'il and ibn Ribat from Mushma'il all of them from abu Basir who has narrated the following:

“Abu Ja'far, '*Alayhi al-Salam*, once read for me (from the book) on the issue of ordained shares of inheritance the following: ‘A woman dies and leaves behind her husband,’ he (the Imam) said, ‘The entire legacy belongs to him. If a man dies and leaves behind his wife, he (the Imam) said that one-fourth belongs to her and the rest belongs to the Imam.’”

H 13122, Ch. 26, h 3

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad from Wuhayb ibn Hafs from abu Basir who has narrated the following:

“About the case of a woman who dies and leaves behind her husband, abu Ja'far, '*Alayhi al-Salam*, has said, ‘One-fourth belongs to the woman and the rest belongs to the Imam.’”

H 13123, Ch. 26, h 4

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from Ali ibn Mahziyar who has narrated the following:

“Once Muhammad ibn Hamzah al-'Alawiy wrote to abu Ja'far, al-Thaniy, '*Alayhi al-Salam*, and asked, ‘One of your *Mawla* made a will to me about a hundred dirham and I heard him say, ‘Everything that belongs to me is for my *Mawla*.’ He died and left it but did not instruct to give anything from it. He has two women of whom one is in Baghdad whose address I do not know at this time and the other is in Qum; so what do you command me about the one hundred dirham?’ He (the Imam) wrote to him saying, ‘Find out how you can give from these dirham to the two wives of the man. Their rights in it is one-eighth if he has left any children but if he has not left any children, then it is one-fourth; and give the rest as charity to whomever you know is needy and deserving of charity, by the will of Allah.’”

H 13124, Ch. 26, h 5

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn Asbat from Khalaf ibn Hammad from Musa ibn Bakr from Muhammad ibn Muslim who has narrated the following:

“About the case of a man who dies and leaves behind his wife, abu Ja'far, '*Alayhi al-Salam*, has said, ‘One-fourth belongs to her and the rest must be given to us.’”

Chapter 27 - Women do not Inherit Anything from Real Property

H 13125, Ch. 27, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from Muhammad ibn Humran from Zurarah from Muhammad ibn Muslim who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Women do not inherit from land and real property anything.’”

H 13126, Ch. 27, h 2

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Humayd ibn Ziyad from ibn Sama‘ah, all from ibn Mahbub from Ali ibn Ri‘ab from Zurarah who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘A woman does not inherit anything of the towns, houses, arms and stumper that her husband leaves behind; but she inherits from assets, furnishings, clothes, household items which he has left and the broken homes, doors, branches and reeds must be appraised to pay her right thereof.’”

H 13127, Ch. 27, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from ibn ‘Udhaynah from Zurarah, Bukayr, Fudayl, Burayd and Muhammad ibn Muslim from abu Ja‘far and abu ‘Abd Allah, *‘Alayhim al-Salam*, and certain ones of them has narrated from abu ‘Abd Allah, and others have narrated who has narrated the following:

“One of the two Imam, (abu Ja‘far or abu ‘Abd Allah), *‘Alayhim al-Salam*, has said, ‘A woman does not inherit from the legacy of her husband in the form of land of his house or land. However, she can inherit from bricks and wood which must be appraised from the value of which one-fourth must be given to her or one-eighth, if she has children, of the value of bricks, branches and wood.’”

H 13128, Ch. 27, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Jamil from Zurarah and Muhammad ibn Muslim who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Women do not inherit from the real property or land anything.’”

H 13129, Ch. 27, h 5

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn al-Hakam from al-‘Ala’ from Muhammad ibn Muslim who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A woman inherits from bricks but does not inherit from residence anything.’ I then asked, ‘How is it that she inherits from branches but not from the roots?’ He (the Imam) said to me, ‘She does not have lineage because of which she can inherit. She is an addition to them thus she inherits from branches and not from the roots and no addition is made to them because of her.’”

H 13130, Ch. 27, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad ibn ‘Uthman from Zurarah [or] and Muhammad ibn Muslim who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Women do not inherit from real property or houses anything but the building and bricks must be appraised to give one-eighth or one-fourth thereof to her.’ He (the Imam) said, ‘This is because women may get married and thus spoil the legacy for the heirs.’”

H 13131, Ch. 27, h 7

Al-Husayn from Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali from Hammad ibn ‘Uthman who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The women’s share of legacy is sanctioned to be from the value of wood and brick of the house only, so that she after getting married will not spoil the legacy of the heirs.’”

H 13132, Ch. 27, h 8

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from Yahya al-Halabiy from Shu‘ayb from Yazid al-Sa’igh who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of women if they inherit from land. He (the Imam) said, ‘No, but they inherit from the value of the building.’ I then said, ‘People do not agree with it.’ He (the Imam) said, ‘When we become in authority, if they did not agree, we will whip them and if they did not become straight we will use sword against them.’”

H 13133, Ch. 27, h 9

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama‘ah from his uncle Ja‘far ibn Sama‘ah from Muthanna’ from ‘Abd al-Malik ibn ‘A‘yan who has narrated the following:

“One of the two Imam, (abu Ja‘far or abu ‘Abd Allah), *‘Alayhim al-Salam*, has said, ‘Women do not receive anything from houses and real property.’”

H 13134, Ch. 27, h 10

Muhammad ibn abu ‘Abd Allah has narrated from Mu‘awiyah ibn al-Hakim from Ali ibn al-Hassan ibn Ribat from Muthanna’ from Yazid al-Sa’igh who has narrated the following:

“I once heard abu Ja‘far, *‘Alayhi al-Salam*, saying, ‘Women do not inherit from the land or the house anything, however, they can have their share from the value of bricks and wood.’ He (the narrator) has said that I said to him (the Imam), ‘People do not follow it.’ He (the Imam) said, ‘When we become in authority, we will whip them, and if they will not desist we will use sword against them.’”

H 13135, Ch. 27, h 11

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn al-Hakam from Aban al-Ahmar who has said that I do not know it except from Muyassir Bayya’ al-Zuttiy who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of women and their share of inheritance. He (the Imam) said, ‘They can have their share from the value of bricks, building, wood and reeds, but they cannot inherit land and real property.’ I asked about clothes. He (the Imam) said, ‘They can inherit from clothes.’ I then asked, ‘How is it that for this is the value and for this is the defined land?’ He (the Imam) said, ‘It is because women do not have their lineage whereby they can inherit. She is an addition on them. It is also because when she gets married and brings her husband or children from another people, it can cause trouble for the heirs.’”

Chapter 28 - Dispute of Man and Woman over Household Items

H 13136, Ch. 28, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from all from ibn abu 'Umayr from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, once asked me, ‘Does ibn abu Layla’ reverse his judgments?’ I replied, ‘I have come to know that he issued a judgment about the assets of man and woman when one of them died and the living heirs claim it as well as the heirs of the dead, or when she is divorced then the men claim it as well as women. It is about four cases. He (the Imam) asked, ‘What are they?’ I replied, ‘The first is that he issued judgment by the words of Ibrahim al-Nakha‘iy. He (Ibrahim) would give the items that were especially for women to women and those for men to men and whatever was for both men and women, divide between them half-and-half. Then I came to know that he said, “Men are the owner of the house and women are additions on them. She is the plaintiff. All items belong to men except those especially for women which are for women.” He then issued a judgment that if I had not experienced it I would not mention. A woman from us died and left behind her husband and assets. I took the case before him. He then asked us to list the goods. When he read it, he then said to the husband, “This is for both man and woman so we give it to the woman, except the balance because it is of the assets of man and it is for you.”’ He (the Imam) asked, ‘What is his judgment now?’ I replied, ‘He has reversed and now he says according to the words of Ibrahim al-Nakha‘iy that the house is for man.’ I then asked him (the Imam) what he (the Imam) said in the case. He (the Imam) said, ‘It is the case that you experienced and that he then reversed.’ I then asked, ‘Do the items belong to the woman?’ He (the Imam) said, ‘Consider, if she were to present proof; how much proof would she need?’ I replied, ‘She needed two witnesses.’ He (the Imam) said, ‘Were you to ask from between the two mountains - we were in Makkah in those days - they tell you that the items and assets that are given as gifts publicly from the house of the woman to the house of her husband is what she has brought (belongs to her). He is the plaintiff and if he thinks that he has increased anything to it he must present testimony.’”

Chapter 29 - The Rare Ahadith

H 13137, Ch. 29, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from ibn Ri'ab from abu Basir who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a man who has married four women in one marriage contract or that he said in one session with different amounts of *mahr* (dower) for each one. He (the Imam) said, 'It is permissible for them.' I then asked, 'What happens if he travels to a different town and divorces one of the four in the presence of witnesses from the people of that town who do not know the woman. He then marries a woman from that town after completion of *'Iddah* (waiting period) of the woman he has divorced. Then he dies after going to bed with the woman whom he has married last; how his legacy is distributed? He (the Imam) said, 'If he has children the share of the woman whom he has married last is one-fourth of one-eighth. If the woman divorced is identified in person and lineage, she will not receive any share and she must complete *'Iddah* (waiting period).' He (the Imam) said, 'The other three women must distribute the remaining three-fourths of one-eighth and they must complete their *'Iddah* (waiting period). If the divorced woman cannot be identified, the four women distribute the three-fourths of one-eighth among themselves and they all must complete their *'Iddah* (waiting period).’”

Chapter 30 - Inheritance of a Boy and a Girl who are not yet Mature

H 13138, Ch. 30, h 1

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all al-Hassan ibn Mahbub from Ali ibn Ri'ab from abu 'Ubaydah who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a boy and a girl who are not mature and whose guardians arrange their marriage. He (the Imam) said, ‘Their marriage is permissible and whoever of the two becomes mature has the right to choose the marriage or not. If they die before maturity there is no inheritance between them and no *mahr* (dower) unless they become mature and approve the marriage.’ I then asked, ‘What happens if one of them becomes mature before the other?’ He (the Imam) said, ‘It is permissible for him if he approves.’ I then asked, ‘What happens if the man becomes mature before the girl and approves the marriage, then dies before she becomes mature; if she inherits. He (the Imam) said, ‘Yes, her share must be kept aside until she becomes mature and swears by Allah that the reason for her claiming inheritance is because of her approving the marriage, then it is given to her with one-half of *mahr* (dower).’ I then asked, ‘What happens if the girl dies before her maturity; if she inherits the husband who is mature.’ He (the Imam) said, ‘No, because she has the choice upon her maturity.’ I then asked, ‘What happens if her father is the reason for her marriage before her maturity?’ He (the Imam) said, ‘Such a marriage is permissible for her and for the boy but *mahr* (dower) is due on the father for the girl.’”

H 13139, Ch. 30, h 2

A number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from ibn Mahbub from Nu'aym ibn Ibrahim from 'Abbad ibn Kathir who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who arranges marriage for his mature son with an orphan girl in his custody. He (the Imam) said, ‘She will inherit him if he dies because she has the choice to approve or disapprove the marriage after she becomes mature and there is no choice against her.’”

H 13140, Ch. 30, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from al-Qasim ibn Muhammad ibn 'Urwah from ibn Bukayr from 'Ubayd ibn Zurarah who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a child who marries a female child; if they inherit each other. He (the Imam) said, ‘If their fathers are the ones who have arranged their marriage then they inherit.’ I then asked, ‘Is their divorce by father permissible?’ He (the Imam) said, ‘No, it is not permissible.’”

Chapter 31 - The Inheritance of a Married and Mature Female before going to Bed

H 13141, Ch. 31, h 1

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from Safwan from 'Abd al-Rahman ibn al-Hajjaj from a man who has narrated the following:

“About the case of a woman whose husband has died before going to bed with her, Ali ibn al-Husayn, *'Alayhi al-Salam*, has said that she receives one-half of *mahr* (dower) and her share of inheritance and she must complete *'Iddah* (waiting period).”

H 13142, Ch. 31, h 2

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali from Aban 'Uthman from ibn abu Ya'fur who has narrated the following:

“This is about the case of a man who dies before going to bed with his wife. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If *mahr* (dower) was assigned for her, she receives one-half as well as her share of inheritance but if *mahr* (dower) was not assigned she does not have any *mahr* (dower) but inherits from the legacy.’”

H 13143a, Ch. 31, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from al-'Ala' from Muhammad ibn Muslim who has narrated the following:

“About the case of a man who dies and has a wife with whom he has not gone to bed, one of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said, ‘She must receive one-half of her *mahr* (dower) and complete inheritance.’”

H 13143b, Ch. 31, h 4

Al-Husayn Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali and Muhammad ibn Yahya from 'Abd Allah ibn Muhammad from Ali ibn al-Hakam from all from Aban ibn 'Uthman from 'Abd al-Rahman ibn abu 'Abd Allah who has narrated the following:

“I asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies and has a wife with whom he has not gone to bed. He (the Imam) said, ‘She does not receive any *mahr* (dower) but she receives complete inheritance and he can inherit her legacy.’”

Chapter 32 - Inheritance of Women Divorced during Illness or without Illness

H 13144, Ch. 32, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja‘far, *'Alayhi al-Salam*, has said, ‘If a woman is divorced and the husband dies during her *'Iddah* (waiting period), she is no stranger to him and she inherits as long as she has not experienced her second cycle of *Hayd* (menses) after the first two time divorces. When she is divorced for the third time, then she does not receive any legacy from her husband and he does not inherit anything from her.’”

H 13145, Ch. 32, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah who has narrated the following:

“I once asked abu Ja‘far, *'Alayhi al-Salam*, about the case of a man who divorces his wife. He (the Imam) said, ‘She inherits him and he inherits her as long as he has the right to go back to her.’”

H 13146, Ch. 32, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘When a man in good health divorces his wife as such wherein he does not have the right to go back to her, she then does not inherit him and he does not inherit her legacy.’ He (the Imam) said, ‘If he in a divorce has the right to go back to her then she inherits him and he inherits her until she experiences the third cycle of her *Hayd* (menses).’”

H 13147, Ch. 32, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Aban from a man who has narrated the following:

“About the case of a man who in good health divorces his wife twice, then divorces for the third time when he is ill, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘She inherits him as long as he is ill even if his illness lasts for one year.’”

H 13148, Ch. 32, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj from abu al-'Abbas who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If a man during his illness divorces his wife she inherits him during that illness even if her *'Iddah* (waiting period) is complete unless he recovers from that illness.’ I then asked, ‘What happens if the illness prolongs?’ He (the Imam) said, ‘It is from that time (divorce) up to one year.’”

H 13149, Ch. 32, h 6

Al-Husayn from Muhammad has narrated from Mu‘alla' ibn Muhammad from certain persons of our people from Aban ibn 'Uthman from al-Halabiy and abu Basir and abu al-'Abbas all from abu 'Abd Allah, *'Alayhi al-Salam*, who have said the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘She inherits him but he does not inherit her (if divorce takes place in his illness) when *'Iddah* (waiting period) is complete.’”

H 13150, Ch. 32, h 7

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from Safwan ibn Yahya from 'Abd al-Rahman ibn al-Hajjaj from those who narrated to him who has narrated the following:

“About the case of a man who is ill and divorces his wife, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If he dies from that illness and she stays for him unmarried, she inherits him, but if she has married

then she has accepted what he has done, thus, there is no inheritance for her.’”

Chapter 33 - Inheritance of Relatives with Mawali

H 13151, Ch. 33, h 1

Ali ibn Ibrahim has narrated from his Muhammad ibn 'Isa ibn 'Ubayd from Yunus ibn 'Abd al-Rahman from Zur'ah from Sama'ah who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that Ali, *'Alayhi al-Salam*, did not take the legacy of any of his Mawali upon their death; instead if he had a relative he (the Imam) would give it to them.”

H 13152, Ch. 33, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, issued a judgment in the case of a maternal aunt who disputed against a *Mawla'* (master) of a man who had died. He read this verse, ‘. . . the relatives have priority over each other according to the book of Allah.’ (33:6) He (the Imam) gave the legacy to the maternal aunt instead of the *Mawla'* (Master).”

H 13153, Ch. 33, h 3

Muhammad ibn Yahya and others have narrated from Ahmad ibn Muhammad from al-Hassan ibn al-Jahm from Hanan who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about what is for a *Mawla'* (Master). He (the Imam) said, ‘There is nothing for them (*Mawla'* (Masters)) except what Allah, most Majestic, most Glorious, has said, ‘. . . except if you do well-liked favor to your guardians.’ (33:6)”

H 13154, Ch. 33, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn abu al-Hamra' who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about what *Mawla'* (Master) receives of inheritance. He (the Imam) said, ‘They receive nothing except soil, that is, dirt.’”

H 13155, Ch. 33, h 5

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from 'Abd Allah ibn Sinan who has narrated the following:

“I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying that Ali, *'Alayhi al-Salam*, upon the death of his slaves did not take anything from their legacy if they left any relatives, and he would say, ‘. . . relatives have priority to each other.’”

H 13156, Ch. 33, h 6

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan al-Tamimiy from Muhammad ibn Tasnim al-Katib from 'Abd al-Rahman ibn 'Amr al-Arzaq who has narrated the following:

“A man asked him (the Imam) about the case of a man who dies leaving behind the daughter of his sister and slaves. He has left one thousand dirham with him about which no one knows anything. The daughter of his sister came and left a holy book with him as a security deposit. He gave her thirty dirham. I heard abu 'Abd Allah, *'Alayhi al-Salam*, ask, ‘Does anyone know about?’ I replied, ‘No, no one knows anything about it.’ He (the Imam) said, ‘Give it to her piece by piece and do not inform anyone about it.’”

H 13157, Ch. 33, h 7

Humayd ibn Ziyad has narrated from al-Hassan ibn m h ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that Ali, *'Alayhi al-Salam*, did not take anything from

legacy of his slaves if they had relatives; and if the relatives were not of those who have the ordained shares, he would distribute the legacy among them (relatives).”

H 13158, Ch. 33, h 8

A number of our people have narrated from Ahmad ibn Muhammad ibn ‘Isa from abu Thabit from Hanan from ibn abu ibn abu Ya’fur from Ishaq ibn ‘Ammar who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that a slave of Ali ibn al-Husayn, *‘Alayhim al-Salam*, died. He asked to ascertain if he has left any relatives. It was said that he has two daughters in Yamamah who are owned. He (the Imam) bought them from the legacy of his slave who had died, then gave them the rest of the legacy.’”

H 13159, Ch. 33, h 9

Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from abu Thabit from Hanan ibn Sadir from ibn abu Ya’fur from Ishaq who has narrated the following:

“A slave of Ali ibn al-Husayn, *‘Alayhim al-Salam*, died. He said, ‘You must look if you can find his heirs.’ It was said that he has two daughters in Yamamah who are owned. He (the Imam) bought them from the assets of the deceased and gave the rest of legacy to them.’”

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from abu Thabit a similar *Hadith*.

Chapter 34 - Inheritance of People Drowned and because of the Collapse of a Structure on them

H 13160, Ch. 34, h 1

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a people who drown with a ship or a house falls on them and they die; and it is not known who has died first. He (the Imam) said, ‘They inherit each other and that is how it is in the book of Ali, *‘Alayhi al-Salam*.’”

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from ‘Abd al-Rahman ibn al-Hajjaj a similar *Hadith* except that he has said, ‘This is how we found in the book of Ali, *‘Alayhi al-Salam*.’

H 13161, Ch. 34, h 2

Ali ibn Ibrahim has narrated from his father from and Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from all ibn abu ‘Umayr from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about a people on whom a house falls and they all die. It is not known who has died first. He (the Imam) said, ‘They all inherit each other.’ I then said, ‘Abu Hanifah has introduced something in it.’ He (the Imam) asked, ‘What has he introduced?’ I said, ‘Two men who were brothers, one of them was my *Mawla*’ (slave) and the other was a *Mawla*’ of another man. One of them had one hundred thousand dirham and the other did not have anything. They embarked on a ship but they drowned and it is not known which one died first, the legacy belongs to the heirs of the one who had nothing and the heirs of the one who had the asset does not receive anything.’ Abu ‘Abd Allah, *‘Alayhi al-Salam*, said, ‘He (abu Hanifah) has heard it (the answer) and that is the way it is.’”

H 13162, Ch. 34, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from ‘Abd al-Rahman ibn al-Hajjaj and Humayd ibn Ziyad from ibn Sama‘ah from Muhammad ibn abu from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man and a woman on whom a wall falls and they die. He (the Imam) said, ‘The man inherits from the woman and the woman inherits from the man.’ I then said that abu Hanifah has introduced something in it.’ He (the Imam) asked, ‘What has he introduced in it?’ I said that in the case of two non-Arab men who were brothers and had no heirs except their *Mawla*’ (Master) of whom one had one hundred thousand dirham, which was well known, and the other did not have anything. They embarked on a ship and they were drowned. The one hundred thousand dirham was taken out for distribution. He said that it all must be given to the *Mawali* of the one who had nothing. He (the Imam) said, ‘I do not deny what he has introduced; it is true and that is how it is.’ He (the Imam) then said, ‘The asset must be given to the *Mawali* of the one who did not anything . The other brother did not have anything so that the *Mawali* of the other could inherit anything.’”

H 13163, Ch. 34, h 4

Ali ibn Ibrahim has narrated from his father from Hammad ibn ‘Isa from Hariz who has narrated the following:

“One of the two Imam, (abu Ja‘far or abu ‘Abd Allah), *‘Alayhim al-Salam*, has said that *‘Amir al-Mu‘minin* issued a judgment in Yemen about a people on whom a house had collapsed and only two children were left, of whom one was owned and the other was free. He (the Imam) by means of raffle gave the assets to the one whose name came out and set the other one free.’”

H 13164, Ch. 34, h 5

Ali has narrated from Muhammad ibn 'Isa from Yunus from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“About the case of a man and a woman on whom a house falls, abu Ja'far, *'Alayhi al-Salam*, has said, 'The woman inherits from the man and the man inherits from the woman, which means that they inherit from the original of each other's assets and not from what they inherit from each other.'”

H 13165, Ch. 34, h 6

A number of our people have narrated from Ahmad ibn abu 'Abd Allah in a *marfu'* manner from *'Amir al-Mu'minin* who has narrated the following:

“About the case of a man and a woman who die together because of plague on one bed and the hand and leg of the man are found on the woman, *'Amir al-Mu'minin* issued a judgment that gave the assets to the man because of his death after the woman.”

H 13166, Ch. 34, h 7

A number of our people have narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isma'il from Hammad ibn 'Isa from al-Husayn ibn al-Mukhtar who has narrated the following:

“Once abu 'Abd Allah, *'Alayhi al-Salam*, said to abu Hanifah, 'O abu Hanifah, what do you say about the case of a people who all die because of the fall of a house? Only two children remain, of whom one is free and the other is a slave of his companion but it is not known which is which' Abu Hanifah said, 'One-half of this and one-half of this is set free and the asset must be divided between the two.' Abu 'Abd Allah, *'Alayhi al-Salam*, said, 'It is not as that. By means of raffle whoever's name comes out is free and this one is set free to become the *Mawla*' (master) for him.”

Chapter 35 - Inheritance of People Killed, those who Inherit and those who do not Inherit from the Wergild

H 13167, Ch. 35, h 1

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from Hammad ibn 'Isa from Sawwar from al-Hassan who has narrated the following:

“When Ali, *'Alayhi al-Salam*, defeated Talhah and al-Zubayr, people came defeated and passed by a pregnant woman on the road who was frightened and miscarried her child who was alive but then died. She, because of shock died after the child. Ali, *'Alayhi al-Salam*, and his people passed by where she with her child was left on the road. He (the Imam) asked them about her case and they said that she was pregnant. Because of shock on seeing the dead and defeated she has died. He (the Imam) then asked, ‘Who died first?’ They said, ‘The child died before her.’ He (the Imam) called her husband and made him to inherit his son for two-thirds of the wergild and the mother to inherit one-third of the wergild. He (the Imam) made the man to inherit from his dead wife one-half of the one-third, which she had inherited of the wergild of her son. The relatives of the dead woman inherited the remaining. He (the Imam) then made the husband to inherit also from the wergild of the dead woman, one-half which is two thousand and five hundred dirham. He (the Imam) allowed the relatives of the dead woman to inherit the other one-half, which was two thousand and five hundred dirham. This is because she did not have any children other than that whom she miscarried because of shock. He (the narrator) has said that he (the Imam) paid all of it from the public treasury of Basrah.”

H 13168, Ch. 35, h 2

Ibn Mahbub has narrated from abu Ayyub from Sulayman ibn Khalid who has narrated the following:

“*'Amir al-Mu'minin*, *'Alayhi al-Salam*, issued a judgment about the wergild of one slain that the heirs inherit from it according to the book of Allah their shares if there is no debt on the deceased except the brothers and sisters from the mother's side who do not inherit from the wergild anything.”

H 13169, Ch. 35, h 3

Ibn Mahbub has narrated from 'Abd Allah ibn Sinan who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin* issued a judgment that said, ‘All heirs inherit from the wergild except brothers and sisters from the mother's side.’”

H 13170, Ch. 35, h 4

It is narrated from the narrator of the previous *Hadith* who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin* issued a judgment that said, ‘All heirs inherit from the wergild except brothers and sisters from the mother's side who do not inherit anything from the wergild.’”

H 13171, Ch. 35, h 5

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from 'Asem ibn Hakim from Muhammad ibn Qays who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘From the wergild the heirs receive according to their ordained shares except brothers and sisters from the mother's side who do not inherit anything thereof.’”

H 13172, Ch. 35, h 6

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah and Ali ibn Ribat from 'Abd Allah ibn Bukayr from 'Ubayd ibn Zurarah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that brothers from mother’s side do not receive any share from the wergild.’”

H 13173, Ch. 35, h 7

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Nu‘man from Yahya al-Arzaq who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who is killed, leaving behind a debt and has left no assets but his heirs receive the wergild; if they must pay his debt. He (the Imam) said, ‘Yes, they must do so.’ I then asked, ‘Even if he does not leave anything they must pay his debts?’ He (the Imam) said, ‘Yes, because they have received the wergild, thus, they must pay his debt.’”

H 13174, Ch. 35, h 8

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Dawud ibn al-Haseen from abu al-‘Abbas who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, if brothers from mother’s side can receive any inheritance from the wergild. He (the Imam) said, ‘No, they cannot do so.’”

Chapter 36 - The Inheritance of a Killer

H 13175, Ch. 36, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from al-Husayn ibn Sa'id from al-Qasim ibn Muhammad ibn Muhammad from Ali ibn abu Hamzah from abu Basir who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Two people of whom one has killed the other cannot inherit each other.’”

H 13176, Ch. 36, h 2

Al-Husayn ibn Sa'id has narrated from al-Nadr ibn Suwayd from al-Qasim ibn Muhammad ibn Sulayman who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who has killed his mother; if he can inherit her. He (the Imam) said, ‘I heard my father, *'Alayhi al-Salam*, saying, “Whoever of the relatives kills one of his relatives he cannot inherit from that relative.”’”

H 13177, Ch. 36, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn Hadid all from Jamil ibn Darraj who has narrated the following:

“One of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said, ‘A man who kills his son or father cannot inherit from him, but the legacy is for the heirs of the killer.’”

H 13178, Ch. 36, h 4

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from ibn Ri'ab fn abu 'Ubaydah who has narrated the following:

“About the case of a man who kills his mother, abu Ja'far, *'Alayhi al-Salam*, has said, ‘He cannot inherit from her. Instead he is executed against his wishes and I do not think that his execution can remedy his sin.’”

H 13179, Ch. 36, h 5

Muhammad ibn Yahya has narrated from Ahmad and 'Abd Allah sons of Muhammad from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said that a murderer cannot receive inheritance.’”

H 13180, Ch. 36, h 6

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from al-Hassan ibn Mahbub from ibn Ri'ab from 'Ubaydah who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a woman who takes medicine when pregnant without informing her husband, and miscarries her child. He (the narrator) has said that he (the Imam) said, ‘If the child had grown bones and flesh then the wergild is due on her which she must pay to the father; but if the miscarriage takes place when the fetus has just formed or is an embryo she owes forty dinars or a slave to the father.’ I then asked, ‘Is it the case that she cannot inherit with the father?’ He (the Imam) said, ‘She cannot inherit because she has killed the child, so she cannot inherit.’”

H 13181, Ch. 36, h 7

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from certain persons of his people from Hammad ibn 'Uthaman from Fudayl ibn Yasar who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘A man is not executed because of killing his son but a

son is executed because of killing his father; and a man cannot inherit from his father after killing him even if it is by mistake.’”

H 13182, Ch. 36, h 8

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from ‘Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘A woman inherits from the wergild of her husband and her husband inherits from the wergild of his wife as long as one of them does not kill the other partner.’”

H 13183, Ch. 36, h 9

Al-Husayn from Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali from Aban ibn ‘Uthman from ‘Abd Allah ibn abu Ya‘fur who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, if a woman can receive anything from the wergild of her husband or a man can receive anything from the wergild of his wife anything. He (the Imam) said, ‘Yes, they can do so as long as one of them does not kill the other partner.’”

H 13184, Ch. 36, h 10

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad from al-Halabiy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one kills his father, he is executed for him; but if his father kills him the father is not executed for his son’s murder, however he cannot inherit from him.’”

[Note: The next few passages of the Arabic text are the words of Fadl ibn Shadhan and are not translated.]

Chapter 37 - Inheritance of People of other Religions

H 13185, Ch. 37, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil from Hisham who has narrated the following:

“This is about what is narrated from the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*. He (the Messenger of Allah) has said that people of two religions do not inherit from each other. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘We inherit from them but they cannot inherit from us because al-Islam has not increased anything in his favor except sternness.’”

H 13186, Ch. 37, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“I once heard abu Ja'far, *'Alayhi al-Salam*, saying, ‘Jews and Christians cannot inherit from the Muslims but a Muslim can inherit from Jews and Christians.’”

H 13187, Ch. 37, h 3

Ali ibn Ibrahim has narrated from his father and Muhammad ibn 'Isa from Yunus from Zur'ah from Sama'ah who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, if a Muslim can inherit from a pagan. He (the Imam) said, ‘Yes, but a pagan cannot inherit from the Muslim.’”

H 13188, Ch. 37, h 4

It is narrated from the narrator of the previous *Hadith* from Musa ibn Bakr from 'Abd Allah ibn 'A'yan who has narrated the following:

“I once said to abu Ja'far, *'Alayhi al-Salam*, ‘I pray to Allah to keep my soul in service for your cause, if a Christian man dies and has a Muslim son, can he inherit from him?’ He (the Imam) said, ‘Yes, because Allah, most Majestic, most Glorious, through al-Islam has increased his honor, so we inherit from them but they cannot inherit from us.’”

H 13189, Ch. 37, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from al-Hassan ibn Salih who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘The Muslim bars a *kafir* (non-Muslim) and inherits from him, but a *kafir* cannot bar the believer and cannot inherit from him (believing person).’”

H 13190, Ch. 37, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn Mahbub from abu Wallad who has narrated the following:

“I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, ‘The Muslim inherits from his *Dhimmiy* (taxpayer) wife and she cannot inherit from him.’”

Chapter 38 - Another Chapter on Inheritance of People of other Religions

H 13191, Ch. 38, h 7

Ali ibn Ibrahim has narrated from his father Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and a number of our people have narrated from Sahl ibn Ziyad all from al-Hassan ibn Mahbub from Hisham ibn Salim from Malik ibn `A`yan, who has narrated the following:

“I once asked abu `Abd Allah, *‘Alayhi al-Salam*, about the case of a Christian man who has died. The son of his brother is a Muslim and a son of his sister is a Muslim. The Christian man has children and a Christian wife. He (the Imam) said, ‘Two-thirds of his legacy must be given to the son of his brother. One-third must be given to the son of his sister if he does not have any children who are small. However, if he has small children, then the heirs must pay for the maintenance of the small children from the legacy their father has left behind until they become mature.’ It then was asked from him (the Imam), ‘How must the two spend?’ He (the Imam) said, ‘The one who has received two-thirds must pay two-thirds of the maintenance and the one who has received one-third must pay one-third of maintenance until they become mature at which time they can discontinue payment for them.’ It then was asked, ‘What happens if the children become Muslims when they are small?’ He (the Imam) said, ‘Whatever their father has left behind must be given to the Imam until they become mature. If they remain Muslims the Imam gives their legacy to them. However, if they did not remain Muslims when they become mature, the Imam gives the legacy to the son of his brother and the son of his sister who are Muslims. Two-thirds of what is left is given to the son of his brother and one-third of what is left to the son of his sister.’”

H 13192, Ch. 38, h 2

Ibn Mahbub has narrated from ibn Ri`ab from abu Basir who has narrated the following:

“I once asked abu Ja`far, *‘Alayhi al-Salam*, about the case of a Muslim man who has died and his mother is a Christian. He has a wife and Muslim children. He (the Imam) said, ‘If his mother becomes a Muslim before the legacy is distributed, she receives one-sixth.’ I then asked, ‘What happens if he does not have a wife and children or an heir with ordained shares in the book and his mother is a Christian and has other Christian relatives of those who have ordained shares in the book had they been Muslims. Who receives his legacy?’ He (the Imam) said, ‘If his mother becomes a Muslim, all of his legacy belongs to her; but if she did not become a Muslim instead certain others from his relatives become Muslims of those who have ordained shares according to the book, his legacy belongs to him. If no one from his relatives becomes a Muslim then his legacy belongs to the Imam.’”

H 13193, Ch. 38, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu `Umayr from `Abd Allah ibn Muskan who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one becomes a Muslim before the legacy is distributed, he receives his share but if one becomes a Muslim after the legacy is distributed then there is nothing for him.’”

H 13194, Ch. 38, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu `Umayr from Aban al-Ahmar from Muhammad ibn Muslim who has narrated the following:

“One of the two Imam, (abu Ja`far or abu `Abd Allah), *‘Alayhim al-Salam*, has said, ‘If one becomes a Muslim before the legacy is distributed the legacy belongs to him. If one becomes a Muslim after the legacy is distributed there is no legacy for him. If one is set free before the legacy is distributed it belongs to him but if one is set free after the legacy is distributed then there is no legacy for him.’ About the case of a woman he (the Imam) said, ‘If she becomes a Muslim before the legacy is

distributed she receives her share of the legacy.’”

Chapter 39 - The Inheritance of the People of Religion among them according to the Book of Allah and the Sunnah of His Holy Prophet

H 13195, Ch. 39, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad, a number of our people have narrated from Sahl ibn Ziyad, and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from ibn Ri'ab from abu Hamzah who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that Ali, *‘Alayhi al-Salam*, once issued a judgment. It was in the case of those who became Muslims and the legacy of pagans, which was not distributed before his becoming a Muslim. It gave men and women their shares according to the book of Allah, most Majestic, most Glorious, and the *Sunnah* of His Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.*”

H 13196, Ch. 39, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from ‘Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that Ali, *‘Alayhi al-Salam*, issued judgment. It was in the case of those who became Muslims and the pagans of the legacy of pagans, which was not distributed before his becoming a Muslim. It gave such men and women their shares according to the book of Allah, most Majestic, most Glorious, and the *Sunnah* of His Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.*” (According to the two above those who become Muslims before the distribution of the legacy, they receive their shares according to the book and *Sunnah*).

[Note: The next several passages of the Arabic text are the words of Yunus and al-Fadl and are not translated.]

Chapter 40 - If a Deceased Leaves Behind Muslim and non-Muslim Heirs

H 13197, Ch. 40, h 1

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan al-Tamimiy from his brother Ahmad ibn al-Hassan from his father from Ja'far ibn Muhammad from ibn Ribat in a *marfu'* manner has said, the following:

“`Amir al-Mu'minin, 'Alayhi al-Salam, has said, 'If a *Dhimmiy* (taxpayer) becomes a Muslim when his father is living who has children besides him, then the father dies, the Muslim inherits all of his legacy and his other children and wife do not inherit anything with a Muslim.’”

H 13198, Ch. 40, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from more than one person who has narrated the following:

“About the case of a Jew and a Christian who dies and has Muslim children and non-Muslim children, he (the Imam) said, 'The laws of inheritance apply to them.’” (Only Muslims inherit).

Chapter 41 - Inheritance of Slaves

H 13199, Ch. 41, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from all from ibn abu 'Umayr from Hisham ibn Salim from Sulayman ibn Khalid who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, about the case of a free man who dies leaving behind his mother who is owned by someone, has said that she is bought with money from the legacy of her son, then is set free and then she is made to inherit him.”

H 13200, Ch. 41, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn abu Najran from 'Abd Allah ibn Sinan who has narrated the following:

“About the case of a man who dies leaving behind a certain amount of assets and a mother who is owned by someone, I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, ‘His mother is bought, then the rest of the legacy is given to her.’”

H 13201, Ch. 41, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Ali from ibn Bukayr from certain persons of our people who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘When a man dies leaving behind his father who is owned by someone or his mother who is owned by someone and the deceased is free, with his legacy, his father or relative is bought who then is made to inherit the remaining of the legacy.’”

H 13202, Ch. 41, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies and leaves behind a son who is owned by someone. He (the Imam) said, ‘His son is bought, set free and the rest of the legacy is given to him.’”

H 13203, Ch. 41, h 5

Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from Safwan from ibn Muskan from Sulayman ibn Khalid who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that about the case of a free man who dies and leaves behind his mother who is owned by someone, *'Amir al-Mu'minin* would say, ‘She is bought with the legacy of her son, then is set free and made to inherit her son.’”

H 13204, Ch. 41, h 6

Ali ibn Ibrahim has narrated from his father from Muhammad ibn Ja'far from 'Abd Allah ibn Talhah who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies leaving behind a large amount of assets, a mother and a sister who are owned by someone. He (the Imam) said, ‘They are bought with the assets of the deceased, set free and made to inherit him.’ I then asked, ‘What happens if the people of the slave-girl refuse?’ He (the Imam) said, ‘They cannot do so. They are appraised fairly, then their fairly appraised value is paid.’ I then asked, ‘What happens if they are bought, set free then made to inherit the deceased; if they die who will inherit them?’ He (the Imam) said, ‘The Mawali (relatives) of her son will inherit them because they were bought with the legacy of the son.’”

H 13205, Ch. 41, h 7

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from 'Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has stated this about the judgment of ‘*Amir al-Mu’minin*. It is about the case of a man who dies leaving behind a mother, who is owned by someone and a certain amount of assets. He (the Imam) has said, ‘His mother must be bought with his legacy and the rest of the legacy must be given to her, if there are no other relatives who have ordained shares according to the book.’”

H 13206, Ch. 41, h 8

Muhammad ibn ‘Isma‘il has narrated from al-Fadl ibn Shadhan from abu Thabit from Hanan ibn Sadir from ibn abu Ya‘fur from Ishaq ibn ‘Ammar who has narrated the following:

“Once, a *Mawla* (slave) of Ali, ‘*Alayhi al-Salam*, died. He said, ‘You must find out if there is anyone who inherits him.’ It was said that he has two daughters who are owned in Yamamah. He (the Imam) bought them from the assets of the deceased and gave to them the rest of the legacy.’”

[Note: The next several passages of the Arabic text are the words of Fadl ibn Shadhan and are not translated.]

Chapter 42 – The Free and Slaves do not Inherit each other

H 13207, Ch. 42, h 1

Al-Husayn from Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali al-Washsha’ from Jamil ibn Darraj and Muhammad ibn Humran who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The free and slaves do not inherit each other.’”

H 13208, Ch. 42, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn abu Najran from Muhammad ibn Humran who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The free and slaves do not inherit each other.’”

H 13209, Ch. 42, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from al-‘Ala’ ibn Razin from Muhammad ibn Muslim who has narrated the following:

“One of the two Imam, (abu Ja‘far or abu ‘Abd Allah), *‘Alayhim al-Salam*, has said, ‘The free and slaves do not inherit each other.’”

H 13210, Ch. 42, h 4

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama‘ah, from Ja‘far ibn Sama‘ah from al-Hassan ibn Hudhayfah from Jamil from al-Fudayl ibn Yasar who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A slave does not inherit and a free person does not inherit from a slave.’” (It is because a slave does not own anything.)

Chapter 43 - Deceased leaves Behind One Free and One Owned Heir

H 13211, Ch. 43, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Mahbub from abu Ayyub from Mehzam who has narrated the following:

“About the case of a slave who is a Muslim and has a Christian mother and a free son, it was asked what happens if the mother of the slave dies leaving a certain amount of assets, abu ‘Abd Allah, *‘Alayhi al-Salam*, said, ‘Her free grandson inherits it.’”

Chapter 44 - Another Chapter

H 13212, Ch. 44, h 1

A number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa and Ali ibn Ibrahim has narrated from his father from all ibn Mahbub from al-'Ala' ibn Razin from Muhammad ibn Muslim Muhammad who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a man who had a mother who was owned by someone. When it was the time of his death a certain person of our people went and bought his mother. He set the condition that he buys her and sets her free; if after the death of her son so and so, son of so and so, when she will inherit his legacy, she must pay him one-half of what she will inherit. She must promise before Allah and the Messenger of Allah to fulfil this agreement. She agreed and promised before Allah and the Messenger of Allah to act according to the agreement. The man bought and freed her according to the condition and her son died thereafter. She inherited him because there was no other heir except her. Abu Ja'far, *'Alayhi al-Salam*, has said, 'He has done a favor to her and has his rewards for it. He is a scholar of *fiqh* (Islamic laws) and Muslims stand by their conditions. She must complete the agreement about which she has promised before Allah and His messenger.’”

H 13213, Ch. 44, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from certain persons of his people who has narrated the following:

“About the case of a man who made a contract with his slave and a condition that his legacy will be for him, which then was brought before *'Amir al-Mu'minin*, *'Alayhi al-Salam*, who annulled his condition saying that the condition of Allah is before your (the master's) condition.’”

Chapter 45- The Inheritance Due to Special Contract

H 13214, Ch. 45, h 1

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from Mansur ibn Hazim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘A contracting slave inherits proportionate to the amount he has paid.’”

(The above form of contracting is a contract between a slave and his master, which is an agreement that requires the slave to pay a certain amount to become free. Such contract can entail conditions and restrictions or is without restrictions).

[Note: Other *Ahadith* of this chapter are not translated because of not being applicable in our time.]

Chapter 46 - Inheritance of an Apostate

H 13215, Ch. 46, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Aban ibn 'Uthman from those whom he has mentioned who has narrated the following:

“About the case of a man who dies as an apostate and has children, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘His legacy belongs to his Muslim children.’”

H 13216, Ch. 46, h 2

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from al-Hassan ibn Mahbub from abu Wallad al-Hannat who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who has turned away from Islam and about who inherits him. He (the Imam) said, ‘His legacy is distributed according to the book of Allah, most Majestic, most Glorious.’”

H 13217, Ch. 46, h 3

Ibn Mahbub has narrated from Sayf ibn 'Amirah from abu Bakr al-Hadramiy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘When a man becomes an apostate (turns away from Islam), his wife becomes a stranger to him, like an irrevocably divorced woman. If he is killed or dies, before completion of *'Iddah* (waiting period), she inherits during her *'Iddah*. He does not inherit her if she dies when he turns away from Islam.’”

H 13218, Ch. 46, h 4

Ibn Mahbub has narrated from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about an apostate (one who turns away from Islam). He (the Imam) said, ‘If one turns away from Islam and rejects what Allah has revealed to Muhammad, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, after his being a Muslim, his repentance has no effect. (After judicial due process) executing him is obligatory, his wife becomes stranger to him like an irrevocably divorced woman and his assets are distributed among his children.’”

Chapter 47 - Inheritance of One who is Lost

H 13219, Ch. 47, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa ibn 'Ubayd from [Yunus] from Hisham ibn Salim who has narrated the following:

“Khattab al-A‘war asked abu Ibrahim, *'Alayhi al-Salam*, when I was sitting, ‘A man worked on hire with my father and we lost him. A certain amount from his wages was left with us and we did not know any of his heirs. He (the Imam) said, ‘You must search for him.’ He said, ‘We searched but did not find him.’ He (the Imam) said, ‘Destitute people’, making a hand gesture with his both hands. The man repeated his question. He (the Imam) said, ‘Search and try hard if you can find him, otherwise, it is like your other assets until someone comes asking for it; and if something happens to you, make a will about it to give it to the one who may come asking for it (remaining wages).’”

H 13220, Ch. 47, h 2

Yunus ibn Thabit and ibn 'Awn has narrated from Mu‘awiyah ibn Wahab who has narrated the following:

“This is about the case of a man who has a right on another man. However, he was lost and he did not know where to look for him, not knowing if he is dead or living. He does not know of anyone as his heir, or a town or lineage relation. He (the Imam) said, ‘He must search but if it becomes very long then he must give it in charity.’ He (the Imam) said, ‘You must search for him.’”

H 13221, Ch. 47, h 3

Yunus has narrated from Nasr ibn Habib Sahib al-Khan who has narrated the following:

“I once wrote to the virtuous servant (of Allah) about two hundred and four dirham which remained with me. I own a hotel. The owner of dirham has died and I do not know any heirs for him. I need your opinion on this matter and what must I do about it; I am depressed thereby. He (the Imam) wrote and said, ‘You can work with it and give it as charity little by little until it is complete.’”

H 13222, Ch. 47, h 4

Yunus has narrated from al-Haytham abu Ruh Sahib al-Khan who has narrated the following:

“I once wrote to the virtuous servant (of Allah) that I manage hotels. A man who stays in the hotel may die suddenly and I do not know his town and his heirs; and his assets remain with me. What must I do about it? He (the Imam) wrote back, ‘You must leave it in its condition.’”

H 13223, Ch. 47, h 5

Yunus has narrated from Ishaq ibn 'Ammar who has narrated the following:

“Abu al-Hassan, *'Alayhi al-Salam*, said to me, ‘The assets of a lost person must be kept for four years; then they are distributed.’”

H 13224, Ch. 47, h 6

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn Mahziyar from who has narrated the following:

“I once asked abu Ja‘far, *'Alayhi al-Salam*, about the case of a house that belongs to a woman who had a son and a daughter. Her son disappeared in the ocean, the woman died and the daughter claimed that her mother had given the house to her and she sold certain parts of it. One portion was left next to the house of a man of our people, he did not like to buy it because of the disappearance of the son, and for fear that, it may not be lawful for him to buy it with no news from the son. He (the Imam) asked me, ‘For how long has he disappeared?’ I replied, ‘It is many years.’ He (the Imam) said, ‘One must wait for ten years, then buy it.’ I then asked, ‘Is it lawful to buy it after ten years?’ He (the Imam) said, ‘Yes, it is lawful.’”

H 13225, Ch. 47, h 7

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from Ishaq ibn 'Ammar who has narrated the following:

“I once asked him (the Imam), *'Alayhi al-Salam*, about the case of a man who had several sons, of whom one disappeared and he did not know where he was. The man died. What must be done with the share of the legacy for the son who has disappeared? He (the Imam) said, ‘It must be kept aside until he comes.’ I then said, ‘The man is lost (the father died) he did not come.’ He (the Imam) said, ‘If the heirs are trusted for his asset, they can distribute among themselves; and when he comes then give it to him.’”

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad ibn abu Nasr from Hammad from Ishaq ibn 'Ammar from abu Ibrahim *'Alayhi al-Salam*, a similar *Hadith*.

H 13226, Ch. 47, h 8

Humayd ibn Ziyad from al-Hassan ibn Muhammad ibn Sama'ah, from ibn Ribat and 'Abd Allah ibn Jabalah from Ishaq ibn 'Ammar who has narrated the following:

“I once asked abu al-Hassan, al-Awwal, *'Alayhi al-Salam*, about the case of a man who has several sons, of whom one disappeared and he did not know where he was. The man died. What must be done with his share of legacy from his father? He (the Imam) said, ‘It must be kept aside until he comes.’ I then asked if there is Zakat on his assets. He (the Imam) said, ‘No, there is no Zakat until he comes.’ I then asked if he must pay Zakat when he comes. He (the Imam) said, ‘No, until one year passes with the asset in his possession.’ I then said, ‘The man is lost and he has not come back.’ He (the Imam) said, ‘If the heirs of the man can be trusted about his assets, they can distribute it among themselves and when he comes give it to him.’”

H 13227, Ch. 47, h 9

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from 'Uthman ibn 'Isa from Sama'ah, who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘The heirs must keep the assets of one who is lost for the duration of four years’ searching. If he is not found, his assets are distributed among the heirs. If he has children, the assets must be withheld and the expenses of his children must be provided during the four years.’”

Chapter 48 - Inheritance of the Crying Newborn Child

H 13228, Ch. 48, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan all from ibn abu 'Umayr from Rib'iy ibn 'Abd Allah who has narrated the following:

"I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying about newborn, 'If he moves, he inherits; perhaps he is speechless.'"

H 13229, Ch. 48, h 2

Ali has narrated from his father from Hammad ibn 'Isa from Rib'iy who has narrated the following:

"I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, 'If a miscarried child falls off the womb of his mother and moves with clear movement, he inherits and is inherited; perhaps he is speechless so that he did not cry.'"

H 13230, Ch. 48, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and A number of our people have narrated from Sahl ibn Ziyad all from ibn Mahbub from 'Umar ibn Yazid who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who dies leaving behind a woman who is pregnant. She gives birth after his death and the boy dies after falling on the ground. The female nurse saw and heard him crying when falling on the ground but then died. He (the Imam) said, 'It is up to the Imam to apply her testimony for the one-fourth of the legacy of the boy.'" (The testimony of the nurse is one out of four needed)

H 13231, Ch. 48, h 4

Ibn Mahbub has narrated from 'Abd Allah ibn Sinan who has narrated the following:

"I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, 'The testimony of a female nurse about the crying of a newborn at the time of birth is effective for one-fourth of the legacy proportionate to the testimony of one woman.' I then asked, 'What happens if they are two women?' He (the Imam) said, 'It is effective for one-half of the legacy.'"

H 13232, Ch. 48, h 5

Humayd ibn Ziyad from al-Hassan ibn Muhammad ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has narrated the following:

"About the case of inheritance of a newborn from a wergild, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'He cannot inherit from a wergild anything unless he cries at birth and his crying is heard.'"

H 13233, Ch. 48, h 6

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from ibn 'Awn from certain persons of them who has narrated the following:

"I once heard him (the Imam), *'Alayhi al-Salam*, saying, 'A newborn does not inherit from a wergild anything unless he cries at the time of birth and his voice is heard.'"

Chapter 49 - Inheritance of Hermaphrodite

H 13234, Ch. 49, h 1

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan all from Safwan from ibn Muskan from Dawud ibn Farqad who has narrated the following:

“Once abu 'Abd Allah, *'Alayhi al-Salam*, was asked about the case of a newborn who has the reproductive organs of both male and female and about his inheritance. He (the Imam) said, ‘If urine comes from the male organ its inheritance is that which is for a male, and if urine comes from the female organ then her share is like the share of a female.’”

H 13235, Ch. 49, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Yahya from Talhah ibn Zayd who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin* determined the share of a Hermaphrodite of inheritance by the manner the person urinated.’”

(If urine comes from the male organ his inheritance is that which is for a male and if urine comes from the female organ then her share is like the share of a female).’”

H 13236, Ch. 49, h 3

Ali ibn Ibrahim has narrated from his father and Muhammad ibn Yahya has narrated from 'Abd Allah ibn Muhammad all from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a newborn who has the reproductive organs of both male and female. He (the Imam) said, ‘Such person inherits according to the reproductive organ from which urine comes first. If it comes from both at the same time then it is according to whichever sends with more pressure and if this is also equal then such person inherits the share of both male and female.’”

H 13237, Ch. 49, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from certain persons of our people who have narrated the following:

“About the case of a newborn who has the reproductive organs of both male and female, one of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said, ‘Such person inherits according to the case of the organ from which the urine comes. If he urinates from the male organ he inherits the share of a male person; if she urinates from the female organ she inherits the share of a female.’ This is about a newborn who does not have an organ like male or female. However, has only a hole. One of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said that such person inherits like a male; if it (urine) comes with a dart but if it does not reach far away then that person inherits like a female.’”

H 13238, Ch. 49, h 5

This is in another *Hadith* from abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a person who has the reproductive organs of both male and female and urinates from both of them at the same time. ‘He (the Imam) said that it is according to that from which urine comes first and if it is equal in this respect he (the Imam) said that it then is according to that which stops last and if this also is equal than it is according to that which sends farther.’”

Chapter 50 - Another Chapter

H 13239, Ch. 50, h 1

Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan and abu Ali *al-Ash'ariy* has narrated from Muhammad ibn `Abd al-Jabbar all from Safwan ibn Yahya from `Abd Allah ibn Muskan from Ishaq al-Fazariy who has narrated the following:

“Once abu `Abd Allah, *Alayhi al-Salam*, was asked, when I was with him, about the case of a newborn who is not a male or female but there is only the anus and how to deal with the inheritance of such person. He (the Imam) said, ‘The Imam and people come in a gathering, pray to Allah then arrange a raffle to see the name of which sex comes and deal with the case according to the result of the raffle. No other means is as fair as raffle; Allah, most Majestic, most Glorious, has said, ‘They cast raffle and he lost in the raffle.’” (37:141)

H 13240, Ch. 50, h 2

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad, all from ibn Mahbub from Ali ibn Ri'ab from Fudayl ibn Yasar who has narrated the following:

“I once asked abu `Abd Allah, *Alayhi al-Salam*, about the case of a newborn who does not have the male or female organ. He (the Imam) said, ‘The Imam or one who casts raffle settles it by means of casting a raffle. On one token, he writes ‘male servant of Allah’, on the other he writes ‘female servant of Allah’. Then the Imam or the one who is casting the raffle says, ‘O Lord, You are Allah, no one deserves worship except You. You have the knowledge of the apparent and the unseen. You decide among Your servants in matters where they have differences, so please guide us in the matter of this newborn about inheritance and about Your ordained shares for this newborn in the book.’ The two tokens then are mixed with other similar tokens, then one is picked up randomly until one of the two tokens comes out and accordingly the matter of inheritance is decided.’”

H 13241, Ch. 50, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal and al-Hajjal from Tha'labah ibn Maymun from certain persons of our people who has narrated the following:

“Once abu `Abd Allah, *Alayhi al-Salam*, was asked about the case of a newborn who is not a male or female except that the child has an anus and about the inheritance of such child. He (the Imam) said, ‘The Imam with Muslim people sits in a gathering and prays to Allah, most Majestic, most Glorious, then mixes the arrows (tokens) to find out thereby if the child must receive from the legacy as a male or a female person. Whichever's token or arrow comes out it then is taken as means of settlement. He (the Imam) then said, ‘No other means is as fair as raffle; Allah, most Majestic, most Glorious, has said, ‘They cast raffle and he was of those who failed in the raffle.’ (37:141)” He (the Imam) said, ‘For every matter about which two people dispute, there is a principle for it in the book of Allah but the power of reason of people cannot reach it.’”

Chapter 51- Another Chapter

H 13242, Ch. 51, h 1

Ali ibn Muhammad has narrated from Muhammad ibn Sa'id al-Azarbayijaniy and Muhammad ibn Yahya from 'Abd Allah ibn Ja'far from al-Hassan ibn Ali ibn Kaysan all from Musa ibn Muhammad son of brother of abu al-Hassan, al-Thalith, '*Alayhi al-Salam*, who has narrated the following:

“Yahya ibn Aktham asked him (the Imam) questions; among the questions that he asked one was about hermaphrodite and the words of '*Amir al-Mu'minin* that a hermaphrodite inherits according to the manner of urinating and that who must look at the child (the person) when urinating and that the testimony of one who is unfair to himself is not accepted. That perhaps such person is a female and a man looks at her or that the person is a female and a man has looked at her, which is not lawful. Abu al-Hassan, al-Thalith, '*Alayhi al-Salam*, answered him saying, 'The words of '*Amir al-Mu'minin* that a hermaphrodite inherits according to the manner of urinating, are as they are. People of justice must look at hermaphrodite, each one takes a mirror, and the hermaphrodite stands behind them. They see a form and judge accordingly.’”

Chapter 52 - Another Chapter

H 13243, Ch. 52, h 1

A number of our people have narrated from Sahl ibn Ziyad and Ahmad ibn Muhammad from Ali ibn Ahmad ibn `Ashyam from al-Qasim ibn Muhammad ibn Muhammad al-Jawhariy from Hariz ibn `Abd Allah who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said that in the time of *‘Amir al-Mu`minin* a child was born with two heads and two chests on one groin. *‘Amir al-Mu`minin* was asked about it; if the child receives inheritance for one or for two. He (the Imam) said, ‘The child must be allowed to sleep then called to wake up. If both wake up at the same time the share of inheritance is one share but if one wakes up and the other remains sleeping it then is two shares of inheritance.’”

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from his father from al-Qasim ibn Muhammad ibn Muhammad al-Jawhariy from Hariz ibn `Abd Allah a similar *Hadith*.

H 13244, Ch. 52, h 2

It is narrated from the narrator of the previous *Hadith* from Ahmad ibn Muhammad from ibn abu Nasr from abu Jamilah who has narrated the following:

“In Fars I saw a woman who had two heads and two chests on one groin. She was married and one expressed jealousy toward the other. Other people have narrated to us that he saw a man as such.”

Chapter 53 - Inheritance of the Child of Parents who Condemn Each other (al-Mula‘*anah* (condemnation))

H 13245, Ch. 53, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from Sayf ibn ‘Amirah from Mansur who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that ‘*Amir al-Mu‘minin* has said, ‘If a child whose parents have condemned each other dies, leaving behind brothers, his legacy is distributed among them according to the shares that Allah has ordained.’”

H 13246, Ch. 53, h 2

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan from Musa ibn Bakr from Zurarah who has narrated the following:

“Abu Ja‘far, ‘*Alayhi al-Salam*, has said the legacy of a child from parents who condemn each other belongs to his mother if she is living and if she is not living then it belongs to the people nearest to her, like maternal uncle.’”

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Musa ibn Bakr from Ja‘far, ‘*Alayhi al-Salam*, a similar *Hadith*,’”

H 13247, Ch. 53, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad from al-Halabiy who has narrated the following:

“This is about the case of a man who decides to proceed with condemnation. He then calls himself as lying before the process of condemnation. Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘His woman is returned to him, he is made to suffer the applicable penalty; but if he refuses and proceeds with condemnation process she will never become lawful for him. If a man accuses his woman, he must suffer the penalty. If his son dies, his maternal uncle inherits him. If his father claims him, he is joined with him. If he dies his son inherits him but his father cannot inherit him (the son).’”

H 13248, Ch. 53, h 4

Al-Husayn from Muhammad has narrated from Mu‘alla’ ibn Muhammad from certain persons of his people from Aban ibn ‘Uthman from ‘Abd al-Rahman ibn abu ‘Abd Allah who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a child of *Mula‘anah* and about who inherits such a child. He (the Imam) said, ‘The mother inherits the legacy of such child.’ I then asked, ‘Who inherits such child if the mother dies?’ He (the Imam) said, ‘The maternal uncle inherits the legacy of such child.’”

H 13249, Ch. 53, h 5

A number of our people have narrated from Sahl ibn Ziyad from ‘Abd al-Rahman ibn abu Najran from Muthanna’ al-Hannat from Muhammad ibn Muslim who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who forms *Mula‘anah* against his wife and rejects her child; then calls himself lying after forming *Mula‘anah* and thinks that her child is his child if she is returned to him. He (the Imam) said, ‘No, and it is not honorable. She is not returned to him and it is not lawful for him until the Day of Judgment.’ I then asked about who inherits the child. He (the Imam) said, ‘The mother inherits the child.’ I then said, ‘Suppose if the mother dies and the child inherits her then the child dies. Who inherits him?’ He (the Imam) said, ‘His maternal uncles inherit him.’ I then asked, ‘If the father confirms him as his child will he then inherit him?’ He (the Imam) said, ‘Yes, he will inherit him but the father cannot inherit from the legacy of the child.’”

H 13250, Ch. 53, h 6

Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from ibn abu `Umayr from Sayf ibn `Amirah from Mansur who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu`minin* would say if the child of *Mula‘anah* dies and has brothers the legacy is distributed among them according to the shares ordained by Allah, most Majestic, most Glorious.”

H 13251, Ch. 53, h 7

A number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub from Ali ibn Ri'ab from al-Halabiy who has narrated the following:

“I once asked abu `Abd Allah, *‘Alayhi al-Salam*, about the case of a man who forms *Mula‘anah* against his wife when she is pregnant. When the child is born, he claims her child with confession and thinks that the child is his child. He (the Imam) said, ‘The child is returned to him but cannot inherit his legacy and he is not whipped because *Mula‘anah* has already taken place.’”

H 13252, Ch. 53, h 8

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad from Ja'far ibn Sama'ah and Ali ibn Khalid al-`A'quliy from Karram from ibn Muskan from abu Basir who has narrated the following:

“About the case of a man who forms *Mula‘anah* against his wife and denies her child, then calls himself a liar after forming *Mula‘anah* and thinks that the child is his child; if the child can be returned to him, abu `Abd Allah, *‘Alayhi al-Salam*, has said, ‘The child is returned to him. The child is not called his child, he does not leave any legacy for him (father) and the woman is not lawful for him forever.’ I then asked him (the Imam) about who inherits the child. He (the Imam) said, ‘His maternal uncles inherit him.’ I then asked, ‘What happens if the child’s mother dies and the child inherits her, then the child dies: who then inherits him?’ He (the Imam) said, ‘The relatives of his mother inherit him.’ I then asked, ‘Can he inherit his maternal uncles?’ He (the Imam) said, ‘Yes, he can do so.’”

H 13253, Ch. 53, h 9

It is narrated from the narrator of the previous *Hadith* and Wuhayb ibn Hafs from abu Basir who has narrated the following:

“I once asked abu `Abd Allah, *‘Alayhi al-Salam*, about the case of a man who forms *Mula‘anah* against his wife. He (the Imam) said, ‘The child is joined with his mother and his maternal uncle inherits his legacy but he cannot inherit them. I then asked, ‘What happens if he calls himself a liar?’ He (the Imam) said, ‘The child is joined with him.’”

H 13254, Ch. 53, h 10

Abu Ali *al-Ash'ariy* has narrated from al-Hassan ibn Ali al-Kufiy from `Ubays ibn Hisham from Thabit from abu Basir who has narrated the following:

“I once asked abu `Abd Allah, *‘Alayhi al-Salam*, about the case of a man who forms *Mula‘anah* against his wife, then they separate from each other. The husband thereafter says that the child is his child and he calls himself a liar. He (the Imam) said, ‘The woman cannot return to him but the child must be joined with him; he cannot skip the child. There is no inheritance for him and if his father does not claim him, then his maternal uncles inherit him but he does not inherit them (maternal uncles). If anyone calls him a son of fornication, such a person must be subjected to whipping as a penalty.’”

[Note: The next several passages of the Arabic text are words of al-Fadl and are not translated.]

Chapter 54 - Another Chapter about the Child of Mula‘anah (condemnation)

H 13255, Ch. 54, h 1

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from ibn Ri‘ab from abu ‘Ubaydah who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘The child involved in *Mula‘anah* (condemnation) of parents is inherited by his mother with a share of one-third and the rest of the legacy belongs to the Imam of the Muslims; the liability for his crime becomes a burden on the Imam.’”

Chapter 55 - Another Chapter

H 13256, Ch. 55, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus ibn 'Abd al-Rahman who has narrated the following:

“Ishaq ibn 'Ammar narrated to me that he once asked abu Ibrahim, *'Alayhi al-Salam*, about the case of a man against whom a woman without a man had laid a claim when their men were no more. When he became a man, the women married him and allowed him to enter their homes. A man had a house in his possession. The relatives of men and women who were no more asked him on oath not to give their right to those who do not have any right. The man who had the house in his possession knew the story of the man that he is being claimed as I mentioned but he is confused and does not know to whom he must give it; must he give it to the man or to the relatives of the women or to the relatives of men? He (the Imam) said, ‘He must give it to the one whom he knows is rightful to the best of his knowledge, that is, the relatives of the women because he does not know of any right for inheritance in favor of the man just because the women have claimed him.’”

Chapter 56 - Inheritance of a Child from Fornication

H 13257, Ch. 56, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following: "This is a pronouncement from abu 'Abd Allah, *'Alayhi al-Salam*. He (the Imam) has said, 'If a man falls upon a slave-girl of a people unlawfully, then buys her and claims her child, he cannot inherit from such a child anything. It is because the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, "A child belongs to the bed (owner thereof) and for the fornicator is the stone (penalty by stoning to death with due judicial process)." A child born out of wedlock cannot be made to inherit except in the case of a man who claims the child of his newly purchased (already pregnant) slave-girl. Anyone who claims a child to be his child then rejects him, such child is not his and it is not honorable, his child is joined with him if the child is from his wife or (newly purchased) slave-girl."

H 13258, Ch. 56, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn Sayf from Muhammad ibn al-Hassan *al-Ash'ariy* who has narrated the following: "Once certain persons of our people with me wrote to abu Ja'far, al-Thaniy, *'Alayhi al-Salam*, asking about a man who commits the indecent act with a woman, then marries her after she becomes pregnant and gives birth to a child who of all creatures is similar to him. He (the Imam) wrote back in his handwriting the answer that said, 'A child born out of wedlock cannot be made to inherit.'"

H 13259, Ch. 56, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from Ali ibn Salim from Yahya who has narrated the following: "This is a pronouncement of abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who falls upon the slave-girl of a people in an unlawful manner. He then buys her and claims her child. He (the Imam) has said, 'He cannot inherit from such child because the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, "A child belongs to the bed (owner thereof) and the fornicator deserve stones (to be stoned to death as penalty with due judicial process)." A child born out of wedlock cannot be inherited or made to inherit except in the case of a man who claims the child of his slave-girl."

H 13260, Ch. 56, h 4

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn Mahziyar from Muhammad ibn al-Hassan *al-Ash'ariy* who has narrated the following: "Once certain persons of our people with me wrote to abu Ja'far, al-Thaniy, *'Alayhi al-Salam*, asking about a man who commits the indecent act with a woman; then marries her after she becomes pregnant and gives birth to a child who of all creatures is similar to him. He (the Imam) wrote back in his handwriting the answer that said, 'A child from the indecent act is not inherited.'"

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus who has narrated the following:

"Inheritance of a child born out of wedlock belongs to the relatives of his mother like inheritance of a child of *Mula'annah* (condemnation). (This is not a *Hadith*. It is the fatwa of Yunus and none of the many *Ahadith* that we have read has discussed it.)

Chapter 57 - Another Chapter

H 13261, Ch. 57, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from ibn Ri'ab from Hanna ibn Sadir who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who commits the indecent act with a Christian woman; and she gives birth to a boy and he claims him to be his child; then he dies leaving behind no other heirs except that boy; if he can inherit him. He (the Imam) said, ‘Yes, he can inherit him.’”

H 13262, Ch. 57, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from Muhammad ibn 'Isma'il ibn Bazi' and al-Hassan ibn Mahbub from Hanan ibn Sadir who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a Muslim man who commits the indecent act with a Jewish woman who gives birth; then he dies leaving behind no other heirs. He (the Imam) said, ‘The legacy must be kept safe from the Jewish woman for the child.’ I then asked about a Christian man who commits the indecent act with a Muslim woman and she gives birth to a boy; then the Christian man dies, leaving behind an asset and about who inherits him? He (the Imam) said, ‘His legacy belongs to his child from the Muslim woman.’”

Chapter 58 - Another Chapter

H 13263, Ch. 58, h 1

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from al-Qasim ibn Muhammad ibn Muhammad from Salim *Mawla* Tirbal from Hariz who has narrated the following:

“This is about the case of a man who goes to bed with his slave-girl and sends her to do certain works for him. She becomes pregnant; he [accuses] her and receives news of her misbehaving. He (the Imam) said, ‘When she gives birth he must keep the child and must not sell him but assign for him a share from his house [and assets].’ It was then asked about a man who goes to bed with his slave-girl, does not send her to work for him but he accuses her of misbehaving and she becomes pregnant. He (the Imam) said, ‘When she gives birth he must keep the child and must not sell but assign a share for the child from his house and assets. This is not like that.’”

H 13264, Ch. 58, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from ‘Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that once a man from al-Ansar (people of al-Madinah) came to my father and said, ‘I am facing a huge problem. I have a slave-girl and I would go to bed with her. One day I went to bed with her, then went out for a certain work after taking Ghusl (bath); but I had forgotten something so I returned back home and found my slave on her belly. I counted nine months from that day and she gave birth to a girl. My father said to him, ‘It is not proper for you to go close to her. Do not sell her. Spend for her from your assets as long as you live, and make a will to spend for her after your death from your assets until Allah makes a way out thereof.’”

Chapter 59 - The Case of a Child Carried away from his Birthplace (*al-Hamil*)

H 13265, Ch. 59, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan from ibn abu 'Umayr and Safwan ibn Yahya all from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of (*al-Hamil*) a child who is carried along. He (the Imam) asked, 'What is *al-Hamil* (carried along)?' I replied, 'A woman is taken captive. With her, there is a small child. She says that he is her child. A man is taken as a captive. He meets his brother and says that this is my brother but there is no testimony except their words.' He (the Imam) asked, 'What do people with you say about it?' I replied, 'They do not give them any share of inheritance; they have no proof about their birth and it is birth in paganism. He (the Imam) said, 'Allah is free of all defects, when she comes with her son or daughter, continues confirming their relationship and when he recognizes his brother, both of them are in good health and they continue confirming it; they must inherit from each other.'"

H 13266, Ch. 59, h 2

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Muhammad ibn `Isma'il from Ali ibn al-Nu'man from Sa'id al-A'raj who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of *Hamilayn* (two men) who are brought from the land of pagans, and one says to the other, 'You are my brother.' They then recognize each other, then they are released and they continue confirming their relationship as brothers, then one of them dies. He (the Imam) said, 'The legacy belongs to the brother and they must be considered truthful.'"

H 13267, Ch. 59, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and a number of our people have narrated from Sahl ibn Ziyad from al-Hassan ibn Mahbub from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who is *al-Hamil* (brought from other land). He (the Imam) asked, 'What is *al-Hamil*?'"

I then replied, 'A woman is taken captive from her land. With her is a small child and she says that he is her son. A man is taken as a captive, who meets his brother and says that he is his brother. They recognize each other but they do not have any proof and testimony except their words. He (the Imam) then asked, 'What do people with you say about it?' I replied, 'They do not give them any share of inheritance; they have no proof about their birth and it is birth in paganism.' He (the Imam) said, 'Allah is free of all defects, when she comes with her son or daughter, continues confirming their relationship and when he recognizes his brother, both of them are in good health and they continue confirming it; they must inherit from each other.'"

[Note: The next several passages of the Arabic text are words of al-Fadl and are not translated.]

Chapter 60 - Confirming of Certain Heir a Debt

H 13268, Ch. 60, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma'il has narrated from al-Fadl ibn Shadhan all from ibn abu 'Umayr from Jamil ibn Darraj from Zakariya ibn Yahya from al-Shu'ayriy from al-Hakam ibn 'Utaybah who has narrated the following:

“Once we were with abu Ja‘far, *‘Alayhi al-Salam*. We were in a group waiting for him (the Imam) to come out. A woman came and asked, ‘Which one of you is abu Ja‘far?’ The people asked, ‘What for are you asking for him?’ She replied, ‘I want to ask him about an issue.’ They said, ‘This is the jurist of the people of Iraq. You can ask him your question.’ She said, ‘My husband has died and has left one thousand dirham as legacy. He owed me five hundred dirham as my *mahr* (dower) and my share of inheritance which I took from the legacy but then a man came and said my husband owed him one thousand dirham and I testified in his favor.’ Al-Hakam has said, ‘I was calculating it that abu Ja‘far, *‘Alayhi al-Salam*, came out and said, ‘Why is it that I see you move your fingers, O Hakam?’ I replied, ‘This woman has mentioned that her husband has died. He has left one thousand dirham as legacy. He owed to her five hundred dirham as her *mahr* (dower). She took her dower and the share of her inheritance but then a man came and said that her husband owed him one thousand dirham and she testified in his favor.’ Hakam has said, ‘By Allah I had not completed my words that he (the Imam) said, ‘She has confessed to give back one-third of what she has in her hand and she does not have anything as her share of inheritance.’ Hakam has said, ‘I had never seen, by Allah, anyone more intelligent than abu Ja‘far, *‘Alayhi al-Salam*.’”

[Note: The next several passages of the Arabic text are words of al-Fadl and are not translated.]

H 13269, Ch. 60, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Muhammad ibn Hamzah and Husayn ibn 'Uthman from Ishaq ibn 'Ammar who has narrated the following:

“About the case of a man who dies and certain ones of his heirs confirm his indebtedness to a man, abu 'Abd Allah, *‘Alayhi al-Salam*, has said, ‘It becomes binding upon them on their shares.’”

Chapter 61 - Another Chapter

H 13270, Ch. 61, h 1

A number of our people have narrated from Sahl ibn Ziyad from Marwak ibn 'Ubayd who has narrated the following:

“I once visited abu al-Hassan al-Rida’, *‘Alayhi al-Salam*. I offered greeting of peace and asked saying, ‘I pray to Allah to keep my soul in service for your cause. What do you say about the case of a man who dies and has no other heirs except a brother who is due to breastfeeding; can he inherit him? He (the Imam) said, ‘Yes, my father narrated to me from my grandfather, the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, who has said, ‘One who drinks from our milk or gives milk to one of our children, we then are his fathers.’” (This is perhaps to protect one from tyrants).

Chapter 62 - One who Dies without Leaving Behind any Heirs

H 13271, Ch. 62, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad ibn 'Uthaman from al-Halabiy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If one dies with indebtedness, on us is his debt and up to us are his dependents. If one dies leaving behind assets, it is for his heirs and if one dies leaving behind no guardians, his asset is part of public welfare fund.’”

H 13272, Ch. 62, h 2

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from al-'Ala' from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘If one dies without leaving behind any heirs from his relatives or freeing master who has taken responsibility for his crimes, his legacy becomes part of the public welfare funds (state treasury).’”

H 13273, Ch. 62, h 3

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa from certain persons of our people who has narrated the following:

“Abu al-Hassan, al-Awwal, *'Alayhi al-Salam*, has said, ‘Al-Imam is the heir of one who does not have any heirs.’”

H 13274, Ch. 62, h 4

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar Ahmad ibn Muhammad from Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from Safwan ibn Yahya from ibn Muskan from Muhammad al-Halabiy who has narrated the following:

“About the words of Allah, most Blessed, most High, ‘. . . they ask you about al-Anfal (assets captured from the enemy),’ (8:1) abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If one dies without leaving behind any heirs his assets become part of al-Anfal.’”

Chapter 63 - Another Chapter

H 13275, Ch. 63, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from Dawud from those whom he has mentioned who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that in the time of *‘Amir al-Mu’minin* a man died and had no heirs. *‘Amir al-Mu’minin* gave his legacy to his *Hamshahrijah* (his fellow countryman).”

H 13276, Ch. 63, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Khallad al-Sindiyy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin* would say, ‘If a man dies without leaving behind any heirs then give his legacy to *Hamshahrijah* (his fellow countryman)

Chapter 64 - The Guardianship of One who Sets One Free

H 13277, Ch. 64, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy and Muhammad ibn Muslim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘Guardianship rests in favor of one who sets one free.’”

H 13278, Ch. 64, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, about *Hadith* of Burayrah has said, ‘The Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, said to 'A'ishah, ‘Set a slave free because guardianship rests with the one who buys one's freedom.’”

H 13279, Ch. 64, h 3

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from 'Is ibn al-Qasim ibn Muhammad who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that 'A'ishah once said to the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, ‘People of Burayrah have set her guardianship a condition.’ The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has issued this decree. ‘Guardianship rests with the one who buys one's freedom.’”

H 13280, Ch. 64, h 4

Safwan has narrated from al-'Is ibn al-Qasim ibn Muhammad who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who buys a slave who has children from a free woman who has set him free. He (the Imam) said, ‘The guardianship of his children rests with one who has bought his freedom.’”

H 13281, Ch. 64, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“About the case of a woman who freed a man and about with whom rests his guardianship and to who belongs his legacy, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Such things rest with the one who has bought his freedom, unless he has other heirs besides her.’”

H 13282, Ch. 64, h 6

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad from Safwan from 'Abd al-Rahman ibn al-Hajjaj from those who narrated to him who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘When a *mawla* of Hamzah ibn 'Abd al-Muttalib died, the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, gave his legacy to the daughter of Hamzah.’”

Al-Hassan has said that this proves that the *mawla* did not have any daughter as *al-'A'ammah* narrate, and that women also inherit guardianship contrary to what *al-'A'ammah* narrate.

Chapter 65 - Guardianship of *Sa'ibah* (Unconditionally Freed Slave)

H 13283a, Ch. 65, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Mahbub from 'Umar ibn Yazid who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who wants to free his slave. His master takes a certain amount of tax from him every year about which both the master and slave had happily agreed. The slave in business earns a certain amount of assets besides what he gives to his master as tax. He (the Imam) said, 'If he pays to his master what was obligatory, thereafter what he earns belongs to the slave.' He (the Imam) then said, 'Is it not the case that Allah has made certain things obligatory on His servants and when they fulfill such obligations, He then does not ask for more?' I then asked, 'Can the slave give charity out of what he earns and set free after paying his dues to his master? He (the Imam) said, 'Yes, he can do so and the reward for it belongs to him.' I then asked, 'If he frees a slave with his earning which is other than his dues, with whom then rests guardianship because of setting him free? He (the Imam) said, 'He can go and find guardians that he likes. Whoever bails out his crimes and wergild such person becomes his guardian and heir.' I then asked, 'Is not it the case that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, "Guardianship rests with the one who buys one's freedom?"' He (the Imam) said, 'This is *Sa'ibah* (unconditionally freed slave). Guardianship over him will not rest with another slave like him.' I then asked, 'If the slave that he has freed guarantees and bails out his crime and liabilities, does it become binding and because of this becomes his guardian and inherits him? He (the Imam) said, 'That is not permissible because a slave cannot inherit one who is free.'"

H 13283b, Ch. 65, h 2

Ibn Mahbub has narrated from ibn Ri'ab from 'Ammar ibn abu al-Ahwas who has narrated the following:

"I once asked abu Ja'far, *'Alayhi al-Salam*, about *Sa'ibah* (unconditionally freed slave). He (the Imam) said, 'You must consider what is in the Quran, "setting free a slave" O 'Ammar, he is *Sa'ibah* (unconditionally freed slave) over whom there is no guardianship of anyone except Allah. Guardianship over whoever rests with Allah, such guardianship rests with His Messenger; and guardianship over whoever rests with the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, such guardianship rests with the Imam. His liabilities due to his crimes are on the Imam and his legacy is for the Imam.'"

H 13284, Ch. 65, h 3

Ali ibn Ibrahim has narrated from his father and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'When a man is under the guardianship of a man for him is his legacy and on him is the liability for wergild.'"

H 13285, Ch. 65, h 4

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from Hammad ibn 'Isa from Shu'ayb al-'Aqarqufiy from abu Basir who has narrated the following:

"Once abu 'Abd Allah, *'Alayhi al-Salam*, was asked about the slave who is freed as *Sa'ibah* (unconditionally freed slave). He (the Imam) said, 'He is free to find a guardian of his choosing and on whoever he chooses as his guardian are his liabilities for his crimes and for him is his legacy.' We then asked, 'What happens if he remains quiet until he dies and does not take anyone as his guardian?' He (the Imam) said, 'His legacy is placed in the treasury of the Muslims.'"

H 13286, Ch. 65, h 5

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from ‘Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one frees a slave by manner of *Sa’ibah* (unconditionally freed slave) he is not liable for his crimes and there is nothing for him from his legacy and he must arrange witnesses for it.’”

H 13287, Ch. 65, h 6

Ibn Mahbub has narrated from Khalid ibn Jarir from abu al-Rabi’ who has narrated the following:

“Once abu ‘Abd Allah, *‘Alayhi al-Salam*, was asked about *Sa’ibah* (unconditionally freed slave). He (the Imam) said, ‘He is a man who frees his slave, then says to him, “Go wherever you like. There is nothing for me from your legacy and I am not liable of anything because of your crimes.” He arranges witness to bear testimony thereof.’”

H 13288, Ch. 65, h 7

Ibn Mahbub has narrated from abu Ayyub from Burayd ibn Mu‘awiyah al-‘Ijliy who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about the case of a man who owed the freeing of a slave but he died before freeing a slave. His son then went to buy a man from his earnings and set him free on behalf of his father; the freed man earned an asset and then died; and about to whom belongs his legacy? He (the Imam) said, ‘If his father owed it because of *Zihar*, thanksgiving or it was obligatory on him then the freed is *Sa’ibah* (unconditionally freed slave) and no one has anything on him. If he found a guardian for himself from the Muslims before his death, who took upon himself his liabilities for his crimes, he is his guardian and heir; if no relatives of the freed man exists. If he did not find anyone of the Muslims as his guardian until he died, then his legacy is for the Imam of the Muslims if his relatives who can inherit him do not exist.’ He (the Imam) said, ‘If his father owed the freeing of a slave for optional reasons and his father had commanded him to free for him a soul, then the guardianship of freed man belongs to all heirs of the deceased of the male ones.’ He (the Imam) said, ‘The one who buys and frees him because of the command of his father is like one of the heirs; if the freed does not have any relative among the Muslims who are free to inherit him.’ He (the Imam) said, ‘If his son buys the slave and frees for his father from his asset after his father, optionally on his behalf without any command from his father, then guardianship and legacy belongs to the one who bought the slave from his asset to be freed who freed him for his father. This applies only when the freed one has not left behind any relatives.’”

H 13289, Ch. 65, h 8

Ali ibn Ibrahim has narrated from [his father] from Muhammad ibn ‘Isa ibn ‘Ubayd from Yunus from Hisham ibn Salim from Sulayman ibn Khalid who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the slave who is freed in the manner of *Sa’ibah* (unconditionally freed slave). He (the Imam) said, ‘He is free to choose a guardian whoever he likes to bail out his liabilities due to crime and then inherit his legacy.’ I then asked, ‘What happens if he remains quiet until he dies?’ He (the Imam) said, ‘His legacy is placed in the treasury of the Muslims.’”

H 13290, Ch. 65, h 9

Muhammad ibn Yahya and others have narrated from Ahmad ibn Muhammad from Muhammad ibn ‘Abd al-Hamid from Hisham ibn Salim from abu Basir who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin* once issued a judgment. It was in the case of a slave whose master had caused him serious physical damage, that he (the slave) is free in the

manner of *Sa'ibah* (unconditionally freed slave) so that he can choose whomever he likes as his guardian to bail out his liabilities for his crimes and then inherit his legacy.’”

Chapter 66 - Another Chapter

H 13291, Ch. 66, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ahmad ibn al-Hassan ibn Ali from ‘Amr ibn Sa‘id from Musaddiq ibn Sadaqah from ‘Ammar al-Sabatiy who has narrated the following:

“About the case of a *Mukatabah* between two partners, of whom one frees his share and about what the servant must do, he (the Imam) said, ‘The servant serves one day the one who has not freed his share and one day works for himself.’ I then asked, ‘What happens if he dies and leaves assets?’ He (the Imam) said, ‘The asset is half and half between the one who freed his share and the one who has not freed his share.’”

H 13292, Ch. 66, h 2

It is narrated from the narrator of the previous *Hadith* from al-Hassan ibn Musa al-Khashshab from Ghiyath ibn Kallub from Ishaq ibn ‘Ammar who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that once a slave who had contracted his freedom came to ‘*Amir al-Mu‘minin*, ‘*Alayhi al-Salam*, and said, ‘My master made a contract with me with the condition of several installment payments every year. I brought him all installments to pay at once and asked him to accept it and allow my freedom but he refused. ‘*Amir al-Mu‘minin* summoned him and he said, ‘He has spoken the truth.’ He (the Imam) asked, ‘Why do you not accept the assets and approve his freedom?’ He replied, ‘I accept only in installments as the condition requires and I avoid his legacy.’ ‘*Amir al-Mu‘minin* then said, ‘You have the right to stay with your condition.’”

End of the Book of Inheritance, all praise belongs to Allah Cherisher of the worlds, followed by the Book of Legal Penalties.

Part Three: The Book of Legal Penalties

[The Book of Legal Penalties and the Book of Compensations are not published due to the complicated nature of the issues dealt with that cannot be practiced in the absence of the Imam of the time.]

End of the Book of Penalties of al-Kafi followed by the Book of Compensations by the will of Allah.

الكافي

AL-KAFI

ج 7

Volume 7

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة
الإسلام الكليني المتوفى سنة 329 هجرية

Of the majestic narrator and the scholar, the jurist, the Sheykh
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كتاب الحدود

THE BOOK OF LEGAL PENALTIES (1)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّم تَسْلِيمًا.

In the Name of Allah^{azwj} the Beneficent, the Merciful. The Praise is for Allah^{azwj} Lord^{azwj} of the Worlds, and Blessing be upon our Chief Muhammad^{saww} and his^{saww} Purified Progeny^{asws}, and greetings with abundant greetings.

باب التَّحْدِيدِ

Chapter 1 – The identification of the Penalties

مُحَمَّدُ بْنُ يَعْقُوبَ قَالَ حَدَّثَنِي مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيْسَى عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ حَنَانَ بْنِ سَدِيرٍ عَنْ أَبِيهِ قَالَ قَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) حَدُّ يُقَامُ فِي الْأَرْضِ أَزْكَى فِيهَا مِنْ مَطَرٍ أَرْبَعِينَ لَيْلَةً وَ أَيْامَهَا .

Muhammad Bin Yaqoub, from Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Isnail Bin Bazie, from Hanan Bin Sudeyr, from his father who said,

Abu Ja'far^{asws} said: 'A Limit (*Hadd*) which is established in the earth is more purifying therein than the rain of forty nights and days'.¹

أَحْمَدُ بْنُ مَهْرَانَ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ مُوسَى بْنِ سَعْدَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي إِبْرَاهِيمَ (عَلَيْهِ السَّلَامُ) فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ يُحْيِ الْأَرْضَ بَعْدَ مَوْتِهَا قَالَ لَيْسَ يُحْيِيهَا بِالْقَطْرِ وَ لَكِنْ يَبْعَثُ اللَّهُ رِجَالًا فَيُحْيِيُونَ الْعَدْلَ فَتُحْيَى الْأَرْضُ لِإِحْيَاءِ الْعَدْلِ وَ لِإِقَامَةِ الْحَدِّ لِلَّهِ أَنْفَعُ فِي الْأَرْضِ مِنَ الْقَطْرِ أَرْبَعِينَ صَبَاحًا .

Ahmad Bin Mahran, from Muhammad Bin Ali, from Musa Bin Sa'dan, from Abdul Rahman Bin Al Hajjaj,

(It has been narrated) from Abu Ibrahim^{asws} (7th Imam^{asws}) regarding the Words of Allah^{azwj} Mighty and Majestic [57:17] (**Know that Allah**) **Revives the earth after its death**. He^{asws} said: 'He^{azwj} does not Revive it with the drops (of rain), but Allah^{azwj} Sends men, so they are reviving the justice. Thus the earth gets revived with the revival of the justice, and the establishment of the Limits of Allah^{azwj} is more beneficial in the earth than the drops (of rain) of forty days'.²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِقَامَةُ حَدِّ خَيْرٌ مِنْ مَطَرٍ أَرْبَعِينَ صَبَاحًا .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said; 'Establishment of the Limit (*Hadd*) is better than the rain of forty mornings'.³

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عَمْرٍو بْنِ عُثْمَانَ عَنْ عَلِيِّ بْنِ [الْحَسَنِ بْنِ عَلِيٍّ بْنِ] رَبِاطٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَيْسَ يُحْيِيهَا بِالْقَطْرِ وَ لَكِنْ يَبْعَثُ اللَّهُ رِجَالًا فَيُحْيِيُونَ الْعَدْلَ فَتُحْيَى الْأَرْضُ لِإِحْيَاءِ الْعَدْلِ وَ لِإِقَامَةِ الْحَدِّ لِلَّهِ أَنْفَعُ فِي الْأَرْضِ مِنَ الْقَطْرِ أَرْبَعِينَ صَبَاحًا .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Amro Bin Usman, from Ali Bin Al Hassan Bin Ali Bin Rabat,

¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 1

² Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 2

³ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 3

Abu Abdullah^{asws} has said: 'The Prophet^{saww} said to Sa'ad Bin Ubada that Allah^{azwj} Made a Penalty (*Hadd*) for everything, and Made a Penalty (*Hadd*) to be upon everyone who transgresses a Limit (*Hadd*) from the Limits of Allah^{azwj} Mighty and Majestic, and Made what was less than the four witnesses as a veil upon the Muslims'.⁴

عَنْهُ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ فِي نِصْفِ الْجَلْدَةِ وَ ثُلُثِ الْجَلْدَةِ يُؤْخَذُ
بِنِصْفِ السَّوْطِ وَ ثُلُثِي السَّوْطِ .

From him, from Ali Bin Al Hakam, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having said regarding half the Lashing, and a third of the lashing: 'He (the whipper) would grab by half (length of) the whip, and a third (length of) of the whip'.⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيْسَى عَنْ عُثْمَانَ بْنِ عِيْسَى عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِنَّ
لِكُلِّ شَيْءٍ حَدًّا وَ مَنْ تَعَدَّى ذَلِكَ الْحَدَّ كَانَ لَهُ حَدٌّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Usman Bin Isa, form Sama'at,

Abu Abdullah^{asws} having said: 'For everything there is a Limit (*Hadd*), and the one who exceeds that Limit (*Hadd*), there would be a Penalty (*punishment*) upon him'.⁶

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ حَسَّانَ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ أَبِي جَمِيلَةَ عَنِ ابْنِ دُبَيْسِ الْكُوفِيِّ عَنْ عَمْرِو بْنِ قَيْسِ قَالَ
قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَا عَمْرُو بْنُ قَيْسٍ أَشَعْرْتَ أَنَّ اللَّهَ عَزَّ وَ جَلَّ أَرْسَلَ رَسُولًا وَ أَنْزَلَ عَلَيْهِ كِتَابًا وَ أَنْزَلَ فِي
الْكِتَابِ كُلِّ مَا يُحْتَاجُ إِلَيْهِ وَ جَعَلَ لَهُ دَلِيلًا يُدَلُّ عَلَيْهِ وَ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا وَ لِمَنْ جَاوَزَ الْحَدَّ حَدًّا قَالَ قُلْتُ أَرْسَلَ رَسُولًا وَ
أَنْزَلَ عَلَيْهِ كِتَابًا وَ أَنْزَلَ فِي الْكِتَابِ كُلِّ مَا يُحْتَاجُ إِلَيْهِ وَ جَعَلَ عَلَيْهِ دَلِيلًا وَ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا قَالَ نَعَمْ

Abu Ali Al Ashary, from Muhammad Bin Hassan, from Muhammad Bin Ali, from Abu Jameela, from Ibn Dubays Al Kufy, from Amro Bin Qays who said,

'Abu Abdullah^{asws} said: 'O Amro Bin Qays! Are you aware that Allah^{azwj} Mighty and Majestic Sent a Rasool^{saww} and Revealed unto him^{saww} a Book, and Revealed in the Book everything what is needed to it, and Made for it an evidence pointing towards it, and Made a Limit (*Hadd*) for everything, and for the one who exceeds the Limit (*Hadd*), (there is) a Penalty (*Hadd*)?' I said, 'He^{azwj} Sent a Rasool^{saww} and Revealed unto him^{saww} a Book, and Revealed in the Book everything what is needed to it, and Made for it an evidence pointing towards it, and Made a Limit (*Hadd*) for everything, and for the one who exceeds the Limit (*Hadd*), (there is) a Penalty (*Hadd*)?' He^{asws} said: 'Yes'.

قُلْتُ وَ كَيْفَ جَعَلَ لِمَنْ جَاوَزَ الْحَدَّ حَدًّا قَالَ قَالَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ حَدَّ فِي الْأَمْوَالِ أَنْ لَا تُؤْخَذَ إِلَّا مِنْ جِلْهَا فَمَنْ أَخَذَهَا مِنْ
غَيْرِ جِلْهَا فَطَعَتْ يَدَهُ حَدًّا لِمُجَاوَزَةِ الْحَدِّ وَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ حَدَّ أَنْ لَا يُنْكَحَ النُّكَاحُ إِلَّا مِنْ جِلِّهِ وَ مَنْ فَعَلَ غَيْرَ ذَلِكَ إِنْ كَانَ
عَرَبًا حَدٌّ وَ إِنْ كَانَ مُحْصَنًا رُجِمَ لِمُجَاوَزَتِهِ الْحَدَّ .

I said, 'And how did He^{azwj} Make a Penalty (*Hadd*) to be upon the one who exceeds the Limit (*Hadd*)?' He^{asws} said: 'Allah^{azwj} Mighty and Majestic has a Limit (*Hadd*) in

⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 4

⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 5

⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 6

the wealth and that you cannot take it except from its Permissible means. So the one who takes if from others than its Permissible means, his hands are cut, being a Penalty (*Hadd*) for exceeding the Limit (*Hadd*). And that Allah^{azwj} Mighty and Majestic has a Penalty (*Hadd*) that you should not copulate with the copulation except by its Permissible means, and the one who does other than that, if he is a celibate, is a Penalty (*Hadd*), and if he was married, stoning, for having exceeded the Penalty (*Hadd*).⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ حَفْصِ بْنِ عَوْنٍ رَفَعَهُ قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) سَاعَةٌ مِنْ إِمَامٍ عَدْلٍ أَفْضَلُ مِنْ عِبَادَةِ سَبْعِينَ سَنَةً وَ حَدْ يُقَامُ لِلَّهِ فِي الْأَرْضِ أَفْضَلُ مِنْ مَطَرٍ أَرْبَعِينَ صَبَاحاً .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Hafs Bin Awn, raising it, said,

‘Rasool-Allah^{saww} said: ‘A moment from a just Imam^{asws} is superior to worship of seventy years, and a Penalty (*Hadd*) established for the Sake of Allah^{azwj} in the earth is superior that the rain of forty mornings’.⁸

الْحُسَيْنُ بْنُ مُحَمَّدٍ الْأَشْعَرِيُّ عَنْ مُعَلَّى بْنِ مُعَمَّرٍ عَنْ أَبِي بَانَ بْنِ عُثْمَانَ عَنْ سُلَيْمَانَ بْنِ أَحْيَى حَسَانَ الْعَجَلِيِّ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ مَا خَلَقَ اللَّهُ حَلَالاً وَ لَا حَرَاماً إِلَّا وَ لَهُ حُدُودٌ كَحُدُودِ دَارِي هَذِهِ مَا كَانَ مِنَ الطَّرِيقِ فَهُوَ مِنَ الطَّرِيقِ وَ مَا كَانَ مِنَ الدَّارِ فَهُوَ مِنَ الدَّارِ حَتَّى أَرْضُ الْخَدَشِ فَمَا سِوَاهُ وَ الْجَلْدَةُ وَ نِصْفُ الْجَلْدَةِ .

Al Husayn Bin Muhammad Al Ashary, from Moala Bin Muhammad, from Aban Bin Usman, from Suleyman cousin of Hassan Al Ajaly who said,

‘I heard Abu Abdullah^{asws} saying: ‘Allah^{azwj} did not Create a Permissible nor a Prohibition except for it is a Limit like the limits (boundaries) of this house of mine^{asws}. Whatever was from the road, so it is from the road, and whatever was from the house, so it is from the house, to the extent of the compensation of the scratch, and whatever is besides it, and the lashing and half of the lashing’.⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ الرَّجْمُ حَدُّ اللَّهِ الْأَكْبَرُ وَ الْجَلْدُ حَدُّ اللَّهِ الْأَصْغَرَ .

Ali Bin Ibrahim, from his father, from one of his companions, from Aasim Bin Humeyd,

Abu Abdullah^{asws} having said: ‘The stoning is the bigger Penalty (*Hadd*) of Allah^{azwj}, and the lashing is the smaller Penalty (*Hadd*) of Allah^{azwj}.¹⁰

عَلِيُّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ حُسَيْنِ بْنِ الْمُنْذِرِ عَنْ عَمْرِو بْنِ قَيْسِ الْمَاصِرِ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى لَمْ يَدَعْ شَيْئاً تَحْتَاجُ إِلَيْهِ الْأُمَّةُ إِلَى يَوْمِ الْقِيَامَةِ إِلَّا أَنْزَلَهُ فِي كِتَابِهِ وَ بَيَّنَّهُ لِرَسُولِهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ جَعَلَ لِكُلِّ شَيْءٍ حَدّاً وَ جَعَلَ عَلَيْهِ دَلِيلاً يَدُلُّ عَلَيْهِ وَ جَعَلَ عَلَى مَنْ تَعَدَّى الْحَدَّ حَدّاً .

Ali Bin Muhammad Bin Isa, from Yunus, from Husayn Bin Al Munzar, from Amro Bin Qays Al Masir,

Abu Ja'far^{asws} having said: ‘Allah^{azwj} Blessed and High did not leave anything out which the community would be needy for it up to the Day of Judgement, except that He^{azwj} has Revealed in in His^{azwj} Book, and Clarified it for His^{azwj} Rasool^{saww}, and

⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 7

⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 8

⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 9

¹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 10

Made a Penalty (*Hadd*) for everything, and Made an evidence over it pointing towards it, and Made a Penalty (*Hadd*) to be upon everyone who exceeds the Penalty (*Hadd*).¹¹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ بْنِ أَيُّوبَ عَنْ دَاوُدَ بْنِ فَرْقَدٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِنَّ أَصْحَابَ النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قَالُوا لِسَعْدِ بْنِ عَبَادَةَ أَرَأَيْتَ لَوْ وَجَدْتَ عَلَى بَطْنِ امْرَأَتِكَ رَجُلًا مَا كُنْتَ صَانِعًا بِهِ قَالَ كُنْتُ أَضْرِبُهُ بِالسَّيْفِ

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Dawood Bin Farqad who said,

‘I heard Abu Abdullah^{asws} saying that the companions of the Prophet^{saww} said to Sa’ad Bin Ubada, ‘What is your view, if you were to find a man upon the belly of your wife, how would you deal with it?’ He said, ‘I would strike him with the sword’.

قَالَ فَخَرَجَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ مَاذَا يَا سَعْدُ قَالَ سَعْدُ قَالُوا لَوْ وَجَدْتَ عَلَى بَطْنِ امْرَأَتِكَ رَجُلًا مَا كُنْتَ تَصْنَعُ بِهِ فَقُلْتُ أَضْرِبُهُ بِالسَّيْفِ فَقَالَ يَا سَعْدُ وَكَيْفَ بِالْأَرْبَعَةِ الشُّهُودِ فَقَالَ يَا رَسُولَ اللَّهِ بَعْدَ رَأْيِ عَيْنِي وَ عَلِمَ اللَّهُ أَنَّهُ قَدْ فَعَلَ قَالَ إِي وَ اللَّهُ بَعْدَ رَأْيِ عَيْنِكَ وَ عَلِمَ اللَّهُ أَنَّهُ قَدْ فَعَلَ لِأَنَّ اللَّهَ عَزَّ وَ جَلَّ قَدْ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا وَ جَعَلَ لِمَنْ تَعَدَى ذَلِكَ الْحَدَّ حَدًّا .

He (the narrator) said, ‘Rasool-Allah^{saww} came out, so he^{saww} said: ‘What is (the matter), O Sa’ad?’ He said, ‘They are saying, if you were to find a man upon the belly of your woman, what would you have done with him?’ So I said, ‘I would strike him with the sword’. So he^{saww} said: ‘O Sa’ad! And how (will you get) the four witnesses?’ So he said, ‘O Rasool-Allah^{saww}! After having seen with my own eyes, and Allah^{azwj} Knows that he has done it?’ He^{saww} said: ‘Yes, by Allah^{azwj}! (Even) after having seen with your eyes and Allah^{azwj} Knowing that he has done it, because Allah^{azwj} Mighty and Majestic has Made a Penalty (*Hadd*) for everything, and Made upon the one who exceeds the Penalty (*Hadd*), a Penalty (*Hadd*).’¹²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ فِي كِتَابِ عَلِيٍّ (عَلَيْهِ السَّلَامُ) أَنَّهُ كَانَ يَضْرِبُ بِالسَّوْطِ وَ بِنِصْفِ السَّوْطِ وَ بِبَعْضِهِ فِي الْحُدُودِ وَ كَانَ إِذَا أَتَى بِغُلَامٍ وَ جَارِيَةٍ لَمْ يُدْرِكَا لَا يُبْطَلُ حَدًّا مِنْ حُدُودِ اللَّهِ عَزَّ وَ جَلَّ قِيلَ لَهُ وَ كَيْفَ كَانَ يَضْرِبُ قَالَ كَانَ يَأْخُذُ السَّوْطَ بِيَدِهِ مِنْ وَسْطِهِ أَوْ مِنْ ثَلَاثِهِ ثُمَّ يَضْرِبُ بِهِ عَلَى قَدْرِ أَسْنَانِهِمْ وَ لَا يُبْطَلُ حَدًّا مِنْ حُدُودِ اللَّهِ عَزَّ وَ جَلَّ .

A number of our companions, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Al Halby,

Abu Abdullah^{asws} having said: ‘In the Book of Ali^{asws}, he^{asws} used to strike with the whip, and by half the whip, and part of it regarding the Penalties. And when they came with a boy and girl who had yet to mature, he^{asws} would not invalidate a single Penalty (*Hadd*) from the Penalties of Allah^{azwj} Mighty and Majestic’. It was said to him^{asws}: ‘And how did he^{asws} used to whip?’ He^{asws} said: ‘He^{asws} used to take the whip with his^{asws} hands, from its middle or from its third, then strike with it upon the measurement of their respective ages, and he^{asws} would not invalidate a single Penalty (*Hadd*) from the Penalties of Allah^{azwj} Mighty and Majestic’.¹³

¹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 11

¹² Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 12

¹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 1 H 13

بَاب الرَّجْمِ وَالْجُلْدِ وَمَنْ يَجِبُ عَلَيْهِ ذَلِكَ

Chapter 2 – The stoning and the whipping, and the ones upon whom that is Obligated

حَدَّثَنِي مُحَمَّدُ بْنُ يَحْيَى وَ عَيْرُهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ الرَّجْمُ حَدُّ اللَّهِ الْأَكْبَرُ وَالْجُلْدُ حَدُّ اللَّهِ الْأَصْغَرُ فَإِذَا زَنَى الرَّجُلُ الْمُحْصَنُ يُرْجَمُ وَ لَمْ يُجْلَدْ .

Muhammad Bin Yahya narrated to me, and someone else, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Aasim Bin Humeyd, from Abu Baseer,

Abu Abdullah^{asws} has said: 'The stoning is a bigger Penalty (*Hadd*) of Allah^{azwj} and the whipping is the smaller Penalty (*Hadd*) of Allah^{azwj}. So when the married man commits adultery, he would be stoned and not whipped'.¹⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ الْحُرُّ وَالْحُرَّةُ إِذَا زَنِيَا جُلِدَ كُلُّ وَاحِدٍ مِنْهُمَا مِائَةً جَلْدَةً فَأَمَّا الْمُحْصَنُ وَالْمُحْصَنَةُ فَعَلَيْهِمَا الرَّجْمُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Ubeyd, from Yunus, from Sama'at,

Abu Abdullah^{asws} has said: 'The free man and the free woman, when they commit adultery, every one of the two would be whipped with one hundred lashes. So, as for the married man and the married woman, upon the both of them is the stoning'.¹⁵

وَ بِإِسْنَادِهِ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عليه السلام) الرَّجْمُ فِي الْقُرْآنِ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ إِذَا زَنَى السَّيِّخُ وَالسَّيِّخَةُ فَارْجُمُوهُمَا التَّبَتُّةَ فَإِنَّهُمَا قَضِيَا الشَّهْوَةَ .

And by his chain, form Yunus, from Abdullah Bin Sinan who said,

'Abu Abdullah^{asws} said; 'The stoning is in the Quran, the Words of Allah^{azwj} Mighty and Majestic. When the old man and the old woman commit adultery, so stone both of them regardless, (because) for these two the lustful desire has expired'.¹⁶

وَ بِإِسْنَادِهِ عَنْ يُونُسَ عَمَّنْ رَوَاهُ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ الْمُحْصَنُ يُرْجَمُ وَ الَّذِي قَدْ أَمْلَكَ وَ لَمْ يَدْخُلْ بِهَا فَجُلْدُ مِائَةٍ وَ نَفْيُ سَنَةٍ .

And by his chain, from Yunus, from the one who reported it, from Zurara,

Abu Ja'far^{asws} has said: 'The married man would be stoned, and the one who had a slave girl and did not copulate with her, so whip him one hundred lashes and exile him for a year'.¹⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنِ يُونُسَ عَنِ أَبَانَ عَنِ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ رَجَمَ رَسُولُ اللَّهِ (صلى الله عليه وآله) وَ لَمْ يُجْلَدْ وَ ذَكَرُوا أَنَّ عَلِيًّا (عليه السلام) رَجَمَ بِالْكَوْفَةِ وَ جَلَدَ فَأَنْكَرَ ذَلِكَ أَبُو عَبْدِ اللَّهِ (عليه السلام) وَ قَالَ مَا نَعْرِفُ هَذَا أَيُّ لَمْ يَحْدُ رَجُلًا حَدِيثِينَ رَجَمَ وَ ضَرَبَ فِي ذَنْبٍ وَاحِدٍ .

¹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 1

¹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 2

¹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 3

¹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 4

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Aban, from Abu Al Abbas,

Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} stoned and did not whip'. And they (people) mentioned that Ali^{asws} stoned and Al-Kufa and whipped. So Abu Abdullah^{asws} denied that and said: 'We^{asws} do not know this, i.e., why would he^{asws} impose upon a man with two Penalties, stoning and whipping with regards to one sin?'¹⁸

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الَّذِي لَمْ يُحْصَنَ يُجْلَدُ مِائَةً جَلْدَةً وَ لَا يُنْفَى وَ الَّذِي قَدْ أُمِّلِكَ وَ لَمْ يَدْخُلْ بِهَا يُجْلَدُ مِائَةً وَ يُنْفَى .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Fazalat, from Musa Bin Bakr, from Zurara,

Abu Ja'far^{asws} has said: '(For adultery), the one who is not married, he should be whipped one hundred lashes, and he would not be exiled, and the one who has a slave girl and did not copulate with her, he would be whipped one hundred lashes and exiled'.¹⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الشَّيْخِ وَ الشَّيْخَةِ أَنْ يُجْلَدَا مِائَةً وَ قَضَى لِلْمُحْصَنِ الرَّجْمَ وَ قَضَى فِي الْبِكْرِ وَ الْبِكْرَةِ إِذَا زَنَى جَلْدَ مِائَةٍ وَ نَفَى سَنَةً فِي غَيْرِ مِصْرِهِمَا وَ هُمَا اللَّذَانِ قَدْ أُمِّلَا وَ لَمْ يَدْخُلَا بِهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays,

Abu Ja'far^{asws} has said: 'Amir Al-Momineen^{asws} judged with regards to an old man and an old woman that they should both be whipped one hundred lashes, and judged with regards to the married man for the stoning, and judged with regards to the virgin man and the virgin woman when they commit adultery, to be whipped one hundred lashes and exiled for a year in other than their own cities, and these are the ones who had slaves and did not copulate with her'.²⁰

بَاب مَا يُحْصَنُ وَ مَا لَا يُحْصَنُ وَ مَا [لَا] يُوجِبُ الرَّجْمَ عَلَى الْمُحْصَنِ

Chapter 3 – What constitutes being married and what constitutes not being married, and what does not Obligate the stoning upon the married man

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ إِذَا هُوَ زَنَى وَ عِنْدَهُ السَّرِيَّةُ وَ الْأَمَةُ يَطُوقُهَا تُحْصِنُهُ الْأَمَةُ وَ تَكُونُ عِنْدَهُ فَقَالَ نَعَمْ إِنَّمَا ذَلِكَ لِأَنَّ عِنْدَهُ مَا يُغْنِيهِ عَنِ الزَّانِي قُلْتُ فَإِنْ كَانَتْ عِنْدَهُ أَمَةٌ زَعَمَ أَنَّهُ لَا يَطُوقُهَا فَقَالَ لَا يَصَدَّقُ قُلْتُ فَإِنْ كَانَتْ عِنْدَهُ امْرَأَةٌ مُتَعَةٌ أَوْ تُحْصِنُهُ قَالَ لَا إِنَّمَا هُوَ عَلَى الشَّيْءِ الدَّائِمِ عِنْدَهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Is'haq Bin Ammar who said,

¹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 5

¹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 6

²⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 7

'I asked Abu Ibrahim^{asws} about a man when he commits adultery and with him is the paramour and the slave girl whom he goes to. The slave girl, he copulates with her and she is with him. So he^{asws} said: 'Yes, but rather because with him is what makes him needless of the adultery'. I said, 'So if there was with him a slave girl, alleging that he cannot go to her?' So he^{asws} said: 'He would not be ratified'. I said, 'So if there was a woman in temporary marriage, would he be (classified as) being married?' He^{asws} said: 'No. But rather, it (being married) is upon the thing which is always with him'.²¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامٍ وَحَفْصِ بْنِ الْبَخْتَرِيِّ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الرَّجُلِ يَتَزَوَّجُ الْمُتَعَةَ أَوْ تُحْصِنُهُ قَالَ لَا إِنَّمَا ذَلِكَ عَلَى الشَّيْءِ الدَّائِمِ عِنْدَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham and Hafs Bin Al Bakhtary, from the one who mentioned,

(It has been narrated) from Abu Abdullah^{asws} regarding the man who married the temporary marriage, would he be (classified as) married?' He^{asws} said: 'No. But rather that (being married) is upon the thing which is always with him'.²²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ رَبِيعِ الْأَصَمِّ عَنِ الْحَارِثِ بْنِ الْمُغْبِرَةِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ لَهُ امْرَأَةٌ بِالْعِرَاقِ فَأَصَابَ فُجُوراً وَهُوَ بِالْحِجَازِ فَقَالَ يُضْرَبُ حَدَّ الزَّانِي مِائَةَ جَلْدَةٍ وَ لَا يُرْجَمُ قُلْتُ فَإِنْ كَانَ مَعَهَا فِي بَلَدَةٍ وَاحِدَةٍ وَهُوَ مَحْبُوسٌ فِي سِجْنٍ لَا يَقْدِرُ أَنْ يَخْرُجَ إِلَيْهَا وَ لَا تَدْخُلَ هِيَ عَلَيْهِ أَرَأَيْتَ إِنْ رَزَى فِي السِّجْنِ قَالَ هُوَ بِمَنْزِلَةِ الْعَائِبِ عَنْ أَهْلِهِ يُجْلَدُ مِائَةَ جَلْدَةٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Rabie Al Asam, from Al Haris Bin Al Mugheira who said,

'I asked Abu Abdullah^{asws} about a man, for him is a woman at Al-Iraq, so he committed immorality and he was at Al-Hijaz. So he^{asws} said: 'He would be struck with the Penalty (*Hadd*) of the adultery, one hundred lashes, and he would not be stoned'. I said, 'So if she was with him in one city, and he is imprisoned in the prison, not being able to go out to her, nor for her to come over to him. What is your^{asws} view, if he were to commit adultery in the prison?' He^{asws} said, 'He is at the status of the absentee from his wife. He would be whipped one hundred lashes'.²³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ حَرِيْزِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الْمُحْصَنِ قَالَ فَقَالَ الَّذِي يَزْنِي وَ عِنْدَهُ مَا يُغْنِيهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Hareyz who said,

'I asked Abu Abdullah^{asws} about the married man, so he^{asws} said: 'The one who commits adultery and with him is what makes him to be needless of it'.²⁴

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ الْمُغْيِبُ وَ الْمُغْيِبَةُ لَيْسَ عَلَيْهِمَا رَجْمٌ إِلَّا أَنْ يَكُونَ الرَّجُلُ مَعَ الْمَرْأَةِ وَ الْمَرْأَةُ مَعَ الرَّجُلِ .

²¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 1

²² Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 2

²³ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 3

²⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 4

Ali, from his father, from Ibn Abu Umeyr, from Abu Ayoub Al Khazaz, from Muhammad Bin Muslim who said,

'I heard Abu Abdullah^{asws} saying: 'The absent man and the absent woman, there is no stoning upon them both, except if the man happens to be with the woman, and the woman with the man'.²⁵

عَلِيٌّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي إِبْرَاهِيمَ (عَلَيْهِ السَّلَامُ) الرَّجُلُ تَكُونُ لَهُ الْجَارِيَةُ أَوْ تُحْصِنُهُ قَالَ فَقَالَ نَعَمْ إِنَّمَا هُوَ عَلَى وَجْهِ الْإِسْتِغْنَاءِ قَالَ قُلْتُ وَ الْمَرْأَةُ الْمُتَعَةَ قَالَ فَقَالَ لَا إِنَّمَا ذَلِكَ عَلَى الشَّيْءِ الدَّائِمِ قَالَ قُلْتُ فَإِنْ زَعَمَ أَنَّهُ لَمْ يَكُنْ يَطُؤُهَا قَالَ فَقَالَ لَا يُصَدَّقُ وَ إِنَّمَا يُوجِبُ ذَلِكَ عَلَيْهِ لِأَنَّهُ يَمْلِكُهَا .

Ali, from Muhammad Bin Isa, from Yunus, from Is'haq Bin Ammar who said,

'I said to Abu Ibrahim^{asws} (7th Imam^{asws}), 'The man, there happens to be a slave girl for him, would that make him as married?' So he^{asws} said: 'Yes. But rather, he is upon an aspect of the needlessness'. I said, 'And the woman of temporary marriage?' So he^{asws} said: 'But rather, that (being married) is upon the thing permanent'.²⁶

عَنْهُ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ أَبِي بَصِيرٍ قَالَ لَا يَكُونُ مُحْصَنًا حَتَّى تَكُونَ عِنْدَهُ امْرَأَةٌ يُغْلِقُ عَلَيْهَا بَابَهُ .

From him, from Abu Ayoub Al Khazaz, from Abu Baseer,

He^{asws} said: 'Being married does not happen until there happens to be a woman he can lock his door upon'.²⁷

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ بْنِ أَيُّوبَ عَنْ رِفَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ يَزْنِي قَبْلَ أَنْ يَدْخُلَ بِأَهْلِهِ أَوْ يُرْجَمَ قَالَ لَا .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Rifa'at who said,

'I asked Abu Abdullah^{asws} about a man who committed adultery before he copulated with his wife, would he be stoned?' He^{asws} said: 'No'.²⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَابٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الْعَبْدِ يَنْزَوِجُ الْحُرَّةَ ثُمَّ يُعْتَقُ فَيُصِيبُ فَاحِشَةً قَالَ فَقَالَ لَا رَجْمَ عَلَيْهِ حَتَّى يُوَاقِعَ الْحُرَّةَ بَعْدَ مَا يُعْتَقُ قُلْتُ فَلِلْحُرَّةِ عَلَيْهِ خِيَارٌ إِذَا أُعْتِقَ قَالَ لَا [قَدْ] رَضِيَتْ بِهِ وَ هُوَ مَمْلُوكٌ فَهُوَ عَلَى نِكَاحِهِ الْأَوَّلِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Ibn Raib, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the slave who is married to the free woman, then is freed, so he commits immorality. So he^{asws} said: 'There is no stoning upon him until he falls upon the free woman after having been liberated (emancipated)'. I said, 'So for the free woman, does she have a choice

²⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 5

²⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 6

²⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 7

²⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 8

when he is emancipated?’ He^{asws} said: ‘No. She was pleased with him when he was a slave, so he would be upon the first marriage’.²⁹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ ابْنِ سِنَانَ عَنْ إِسْمَاعِيلَ بْنِ جَابِرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ مَا الْمُحْصَنُ رَحِمَكَ اللَّهُ قَالَ مَنْ كَانَ لَهُ فَرْجٌ يَغْدُو عَلَيْهِ وَ يَرُوحُ فَهُوَ مُحْصَنٌ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Ibn Sinan, from Ismail Bin Jabir,

(It has been narrated) from Abu Ja'far^{asws}, said, ‘I said, ‘What is the married man? may Allah^{azwj} have Mercy on you^{asws}.’ He^{asws} said: ‘The one who has a relief (woman) for him he can go to day and night, so he is (classified as) married’.³⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ رَفَعَهُ قَالَ أَلْحَدُ فِي السَّفَرِ الَّذِي إِذَا زَنَى لَمْ يُرْجَمَ إِنْ كَانَ مُحْصَنًا قَالَ إِذَا قَصَرَ وَ أَفْطَرَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn,

(It has been narrated) that he^{asws} said, ‘The Penalty (Hadd) during the travel for the one who commits adultery, he would not be stoned even if he was married, (a journey where he has to) shorten (the Prayer) and break the Fast’.³¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ الَّذِي لَهُ امْرَأَةٌ بِالْبَصْرَةِ فَفَجَرَ بِالْكُوفَةِ أَنْ يُدْرَأَ عَنْهُ الرَّجْمُ وَ يُضْرَبَ حَدَّ الزَّانِي

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far^{asws} having said: ‘Amir Al-Momineen^{asws} had judged with regards to the man who had a woman for him at Al-Basra, so he committed immorality at Al-Kufa, that the stoning be staved off (eliminated) from him, and he be struck with a Penalty (Hadd) of the adultery’.

قَالَ وَ قَضَى (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ مَحْبُوسٍ فِي السَّجْنِ وَ لَهُ امْرَأَةٌ حُرَّةٌ فِي بَيْتِهِ فِي الْمِصْرِ وَ هُوَ لَا يَصِلُ إِلَيْهَا فَزَنَى فِي السَّجْنِ قَالَ عَلَيْهِ الْجُلْدُ وَ يُدْرَأَ عَنْهُ الرَّجْمُ .

He^{asws} said: ‘And he^{asws} judged with regards to a man who was held in the prison, and for him was a free woman in his house in the city, and he could not go to her, so he committed adultery in the prison. He^{asws} said: ‘Upon him is the lashing, and the stoning is staved off from him’.³²

عَلِيُّ عَنْ أَبِيهِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ حَمَّادٍ عَنْ عُمَرَ بْنِ يَزِيدَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَخْبِرْنِي عَنِ الْغَائِبِ عَنْ أَهْلِهِ بَرْنِي هَلْ يُرْجَمُ إِذَا كَانَتْ لَهُ زَوْجَةٌ وَ هُوَ غَائِبٌ عَنْهَا قَالَ لَا يُرْجَمُ الْغَائِبُ عَنْ أَهْلِهِ وَ لَا الْمَمْلُوكُ الَّذِي لَمْ يَبْنِ بِأَهْلِهِ وَ لَا صَاحِبُ الْمُتْعَةِ قُلْتُ فَبِي أَيِّ حَدِّ سَفَرِهِ لَا يَكُونُ مُحْصَنًا قَالَ إِذَا قَصَرَ وَ أَفْطَرَ فَلَيْسَ بِمُحْصَنٍ .

Ali, from his father, form Abdul Rahman Bin Hammad, from Umar Bin Yazeed who said,

²⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 9

³⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 10

³¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 11

³² Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 12

'I said to Abu Abdullah^{asws}, 'Inform me about the absentee from his wife, he commits adultery, would he be stoned when there was a wife for him and he was absent from her?' He^{asws} said: 'The absentee from his wife is not stoned, nor the slave who has yet to sleep with his wife, nor one with a temporary marriage'. I said, 'So in which journey a Penalty (*Hadd*) would he not happen to be (classified as) a married man?' He^{asws} said: 'When he shortens (the Prayer) and breaks (the Fast), so he is not with the marriage'.³³

باب الصَّبِيِّ يَزْنِي بِالْمَرْأَةِ الْمُدْرَكَةِ وَ الرَّجُلِ يَزْنِي بِالصَّبِيَّةِ غَيْرِ الْمُدْرَكَةِ

Chapter 4 – The young child commits adultery with the mature woman, and the man commits adultery with the young girl not having matured yet

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي غُلَامٍ صَغِيرٍ لَمْ يَدْرِكْ ابْنَ عَشْرٍ سِنِينَ زَنَى بِامْرَأَةٍ قَالَ يُجْلَدُ الْغُلَامُ دُونَ الْحَدِّ وَ تُجْلَدُ الْمَرْأَةُ الْحَدَّ كَامِلاً قِيلَ لَهُ فَإِنْ كَانَتْ مُحْصَنَةً قَالَ لَا تُرْجَمُ لِأَنَّ الَّذِي نَكَحَهَا لَيْسَ بِمُدْرِكٍ وَ لَوْ كَانَ مُدْرِكاً رُجِمَتْ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Suleyman Bin Khalid, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding a young boy who had not matured yet, a boy ten years of age, committed adultery with a woman. He^{asws} said: 'The boy would be whipped less than the Penalty (*Hadd*), and the woman would be (whipped) with the complete Penalty (*Hadd*)'. It was said to him^{asws}, 'So if she was married?' He^{asws} said: 'She would not be stoned, because the one who copulated with her had not matured yet, and if he had been mature, she would have been stoned'.³⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي آخِرِ مَا لَقِيْتُهُ عَنْ غُلَامٍ لَمْ يَبْلُغِ الْخُلْمَ وَقَعَ عَلَى امْرَأَةٍ أَوْ فَجَرَ بِامْرَأَةٍ أَيُّ شَيْءٍ يُصْنَعُ بِهِمَا قَالَ يُضْرَبُ الْغُلَامُ دُونَ الْحَدِّ وَ يُقَامُ عَلَى الْمَرْأَةِ الْحَدُّ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr who said,

'I asked Abu Abdullah^{asws} at the end of having met him^{asws}, about a boy who had not reached (the age of) bed-wetting, fell upon a woman, or was immoral with a woman, which thing should be done with both of them?' He^{asws} said: 'The boy would be whipped less than the Penalty (*Hadd*), and the (full) Penalty (*Hadd*) would be established upon the woman'.

قُلْتُ جَارِيَةٌ لَمْ تَبْلُغْ وَجَدْتُ مَعَ رَجُلٍ يَفْجُرُ بِهَا قَالَ تُضْرَبُ الْجَارِيَةُ دُونَ الْحَدِّ وَ يُقَامُ عَلَى الرَّجُلِ الْحَدُّ [الْكَامِلُ] .

³³ Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 13

³⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 4 H 1

I said, 'A slave girl not having reached puberty was found with a man being immoral with her'. He^{asws} said: 'The slave girl would be whipped less than the Penalty (*Hadd*), and the complete Penalty (*Hadd*) would be established upon the man'.³⁵

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يُحَدُّ الصَّبِيَّ إِذَا وَقَعَ عَلَى امْرَأَةٍ وَ يُحَدُّ الرَّجُلُ إِذَا وَقَعَ عَلَى الصَّبِيَّةِ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Aban,

Abu Abdullah^{asws} having said: 'The young boy would not be penalised (by the Penalty (*Hadd*)) if he were to fall upon a woman, and the man would be penalised (by the Penalty (*Hadd*)) when he falls upon the young child'.³⁶

باب مَا يُوجِبُ الْجُلْدَ

Chapter 5 – What Obligates the lashing

حَدَّثَنِي عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ حَدُّ الْجُلْدِ أَنْ يُوجَدَا فِي لِحَافٍ وَاحِدٍ فَالرَّجُلَانِ يُجْلَدَانِ إِذَا أَخَذَا فِي لِحَافٍ وَاحِدٍ وَ الْمَرْأَتَانِ تُجْلَدَانِ إِذَا أَخَذَتَا فِي لِحَافٍ وَاحِدٍ الْحَدَّ .

Ali Bin Ibrahim narrated to me, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa altogether, from Ibn Abu Umeyr, from Hammad, from Al Halby,

Abu Abdullah^{asws} having said, '(Apply) the Penalty (*Hadd*) of the lashing if you find two in one bed covering. So if there are two men having taken to be in one quilt, both would be whipped the Penalty (*Hadd*), and the two women would both be whipped the Penalty (*Hadd*) when they take to be in one quilt'.³⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُفَضَّلِ بْنِ صَالِحٍ عَنْ زَيْدِ الشَّحَّامِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الرَّجُلِ وَ الْمَرْأَةِ يُوجَدَانِ فِي لِحَافٍ وَاحِدٍ قَالَ يُجْلَدَانِ مِائَةً مِائَةً غَيْرَ سَوْطٍ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Mufazzal Bin Salih, from Zayd Al Shahaam,

(It has been narrated) from Abu Abdullah^{asws} regarding the man and the woman both found to be in one quilt. He^{asws} said: 'They would both be whipped one hundred one lashes each, apart from one lash'.³⁸

عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَمِعْتُهُ يَقُولُ حَدُّ الْجُلْدِ فِي الزَّوْنَى أَنْ يُوجَدَا فِي لِحَافٍ وَاحِدٍ وَ الرَّجُلَانِ يُوجَدَانِ فِي لِحَافٍ وَاحِدٍ وَ الْمَرْأَتَانِ تُوجَدَانِ فِي لِحَافٍ وَاحِدٍ .

Ali, from his father, from Ibn Mahboub, from Abdullah Bin Sinan,

(The narrator) says, 'I heard Abu Abdullah^{asws} saying: 'The Penalty (*Hadd*) of the whipping (is applied) in the adultery if you find two to be in one quilt, and the two

³⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 4 H 2

³⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 4 H 3

³⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 1

³⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 2

men both found to be in one quilt, and the two women both found to be in one quilt'.³⁹

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبِيَانَ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِذَا وَجِدَ الرَّجُلُ وَالْمَرْأَةَ فِي لِحَافٍ وَاحِدٍ وَ قَامَتْ عَلَيْهِمَا بِذَلِكَ بَيِّنَةٌ وَ لَمْ يُطْلَعْ مِنْهُمَا عَلَى مَا سِوَى ذَلِكَ جُلِدَ كُلُّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ .

Humejd Bin Ziyad, from Ibn Sama'at, from someone else, from Aban and Muhammad Bin Yahya Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Abdul Rahman Bin Abu Abdullah having said:

'Abu Abdullah^{asws} said: 'When the man and the woman are both found to be in one quilt, and the proof is established upon them with that, and nothing else emerges from them both besides that, each one of them would be whipped one hundred lashes'.⁴⁰

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ الرَّحْمَنِ الْحَدَّاءِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا وَجِدَ الرَّجُلُ وَالْمَرْأَةَ فِي لِحَافٍ وَاحِدٍ جُلِدَا مِائَةَ جَلْدَةٍ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Abdul Rahman Al Haza who said,

'I heard Abu Abdullah^{asws} saying: 'When the man and the woman are found to be in one quilt, they would both be whipped a hundred lashes'.⁴¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكَنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ وَالْمَرْأَةِ يُوجَدَانِ فِي لِحَافٍ وَاحِدٍ جُلِدَا مِائَةَ مِائَةَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Ismail Bin Bazie, from Muhammad Bin Al Fuzayl, from Abu Al Sabbah Al Kanany,

(It has been narrated) from Abu Abdullah^{asws} regarding the man and the woman both having been found in one quilt, would both be whipped one hundred, one hundred'.⁴²

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفُضَيْلِ بْنِ شَادَانَ عَنِ ابْنِ أَبِي عُمَيْرٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَامُ) إِذَا أَخَذَ الرَّجُلَيْنِ فِي لِحَافٍ وَاحِدٍ ضَرَبَهُمَا الْحَدَّ فَإِذَا أَخَذَ الْمَرَأَتَيْنِ فِي لِحَافٍ وَاحِدٍ ضَرَبَهُمَا الْحَدَّ .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan, from Ibn Abu Umeyr and Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj who said,

'I heard Abu Abdullah^{asws} saying: 'Ali^{asws}, when he^{asws} used to seize the two men in one quilt, would whip both of them with the Penalty (*Hadd*). So when he^{asws} seized the two women in one quilt, would whip both of them with the Penalty (*Hadd*)'.⁴³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا شَهِدَ الشُّهُودُ عَلَى الزَّانِي أَنَّهُ قَدْ جَلَسَ مِنْهَا مَجْلِسَ الرَّجُلِ مِنْ امْرَأَتِهِ أَقِيمَ عَلَيْهِ الْحَدُّ

³⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 3

⁴⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 4

⁴¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 5

⁴² Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 6

⁴³ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 7

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Zurara,

Abu Ja'far^{asws} has said: 'When the witnesses testify upon the adulterer that he sat upon her with the sitting of the man upon his wife, would establish the Penalty (*Hadd*) upon him'.

قَالَ وَ كَانَ عَلِيٌّ (عليه السلام) يَقُولُ اللَّهُمَّ إِنْ أَمْكَنْتَنِي مِنَ الْمُغَيَّرَةِ لِأَرْمِيَّتِهِ بِالْحَجَارَةِ .

He^{asws} said: 'And Ali^{asws} was saying: 'O Allah^{azwj}! If You^{azwj} were to Make me able over Al-Mugheira, I^{asws} would enforce upon him with the stones'.⁴⁴

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ [عَنْ أَبَانَ] عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ وَجَدْتِ مَعَ رَجُلٍ فِي تَوْبٍ وَاحِدٍ فَقَالَ يُجْلَدَانِ مِائَةَ جَلْدَةٍ .

Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Ali Bin Abu Hamza, from Abu Baseer,

The narrator says, 'I asked Abu Abdullah^{asws} about a woman who was found with a man under one cloth. So he^{asws} said: 'The would both be whipped one hundred lashes'.⁴⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أُيُوبَ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ كَانَ عَلِيٌّ (عليه السلام) إِذَا وَجَدَ رَجُلَيْنِ فِي لِحَافٍ وَاحِدٍ مُجْرَدَيْنِ جُلْدَهُمَا حَذَّ الزَّانِي مِائَةَ جَلْدَةٍ كُلِّ وَاحِدٍ مِنْهُمَا وَ كَذَا الْمَرْأَتَانِ إِذَا وَجِدْنَا فِي لِحَافٍ وَاحِدٍ مُجْرَدَتَيْنِ جَلَدَ كُلِّ وَاحِدَةٍ مِنْهُمَا مِائَةَ جَلْدَةٍ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Ali^{asws}, whenever he^{asws} found two men in one quilt, naked, would whip both of them the Penalty (*Hadd*) of the adultery, one hundred lashes, each one of them, and similarly for the two women if they were both found to be in one quilt, naked, would whip each one of them one hundred lashes'.⁴⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ كُنْتُ عِنْدَ أَبِي عَبْدِ اللَّهِ (عليه السلام) فَدَخَلَ عَلَيْهِ عَبَادُ الْبَصْرِيِّ وَمَعَهُ أَنَسٌ مِنْ أَصْحَابِهِ فَقَالَ لَهُ حَدِّثْنِي إِذَا أَخَذَ الرَّجُلَانِ فِي لِحَافٍ وَاحِدٍ فَقَالَ لَهُ كَانَ عَلِيٌّ (عليه السلام) إِذَا أَخَذَ الرَّجُلَيْنِ فِي لِحَافٍ وَاحِدٍ ضَرَبَهُمَا الْحَدَّ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj who said,

'I was in the presence of Abu Abdullah^{asws} when Abbad Al-Basry came over and with him were some people from his companions. So he said to him^{asws}, 'Narrate to me, if two men were to be found in one quilt: 'So he^{asws} said to him: 'Ali^{asws}, whenever he^{asws} found two men in one quilt, used to whip both of them with the Penalty (*Hadd*)'.

فَقَالَ عَبَادُ إِنَّكَ قُلْتَ لِي غَيْرَ سَوِيٍّ فَأَعَادَ عَلَيْهِ ذَكَرَ الْحَدِيثِ حَتَّى أَعَادَ عَلَيْهِ ذَلِكَ مَرَارًا فَقَالَ غَيْرَ سَوِيٍّ فَكَتَبَ الْقَوْمُ الْحُضُورُ عِنْدَ ذَلِكَ الْحَدِيثِ .

⁴⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 8

⁴⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 9

⁴⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 10

So Abbad said, 'You^{asws} said to me: 'Less one lash'. So he^{asws} repeated to him the mention of the Hadeeth until he had repeated it to him^{asws} a few times. So he^{asws} said: 'Less one lash'. So the people present wrote down during that, the Hadeeth'.⁴⁷

باب صفة حد الزاني

Chapter 6 – Description of the Penalty (*Hadd*) of the adulterer

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ يُضْرَبُ الرَّجُلُ الْحَدَّ قَائِمًا وَالْمَرْأَةُ قَاعِدَةً وَ يُضْرَبُ كُلُّ عَضْوٍ وَ يَنْتَرَكُ الرَّأْسُ وَ الْمَذَاكِيرُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Zurara,

Abu Ja'far^{asws} has said: 'The man would be whipped by the Penalty (*Hadd*) while standing, and the woman whilst seated, and every body part can be whipped except for the head and the sexual parts'.⁴⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ (عليه السلام) عَنِ الزَّانِي كَيْفَ يُجْلَدُ قَالَ أَشَدَّ الْجَلْدِ قُلْتُ فَمِنْ فَوْقِ تِيَابِهِ قَالَ بَلْ يُخْلَعُ تِيَابُهُ

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Is'gaq Bin Ammar who said,

'I asked Abu Ibrahim^{asws} (7th Imam^{asws}) about the adulterer, 'How should he be whipped?' He^{asws} said: 'The most intense of the lashing'. I said, 'So, from the top of his clothes?' He^{asws} said: 'But, his clothes (robe, shirt, vest etc.) are taken off'.

قُلْتُ فَأَلْمَفْتَرِي قَالَ يُضْرَبُ بَيْنَ الضَّرْبَيْنِ يُضْرَبُ جَسَدُهُ كُلُّهُ فَوْقَ تِيَابِهِ .

I said, 'So, for the forger (of lies)?' He^{asws} said: 'He would be whipped between the two lashings (intense and softly). His whole body would be whipped, over his clothes'.⁴⁹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ (عليه السلام) عَنِ الزَّانِي كَيْفَ يُجْلَدُ قَالَ أَشَدَّ الْجَلْدِ فَقُلْتُ فَوْقَ التِّيَابِ فَقَالَ بَلْ يُجْرَدُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Is'haq Bin Ammar who said,

'I asked Abu Ibrahim^{asws} about the adulterer, how he should be whipped. He^{asws} said: 'The most intense of the whipping'. So I said, 'Over his clothes?' He^{asws} said: 'But, bare (back)'.⁵⁰

باب مَا يُوجِبُ الرَّجْمَ

⁴⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 11

⁴⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 6 H 1

⁴⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 6 H 2

⁵⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 6 H 3

Chapter 7 – What Obligates the stoning

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ حَدُّ الرَّجْمِ أَنْ يَشْهَدَ أَرْبَعَةٌ رَأَوْهُ يُدْخِلُ وَ يُخْرِجُ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Abu Umeyr, from Hammad, from Al Halby,

Abu Abdullah^{asws} having said: 'The Penalty (*Hadd*) of the stoning is applied when four testify that they have seen him go in and come out'.⁵¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) لَا يُرْجَمُ رَجُلٌ وَ لَا أَمْرَأَةٌ حَتَّى يَشْهَدَ عَلَيْهِ أَرْبَعَةٌ شُهِدُوا عَلَى الْإِبْلَاجِ وَ الْإِخْرَاجِ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} said: 'Neither a man nor a woman would be stoned until four witnesses testify over it, upon the penetration and the exit'.⁵²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا يَجِبُ الرَّجْمُ حَتَّى تَقُومَ الْبَيِّنَةُ الْأَرْبَعَةُ أَنَّهُمْ قَدْ رَأَوْهُ يُجَامِعُهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The stoning is not Obligated until the proof is established by the four that they had seen both of them copulating'.⁵³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عليه السلام) لَا يُرْجَمُ الرَّجُلُ وَ الْمَرْأَةُ حَتَّى يَشْهَدَ عَلَيْهِمَا أَرْبَعَةٌ شُهِدَا عَلَى الْجِمَاعِ وَ الْإِبْلَاجِ وَ الْإِدْخَالِ كَالْمِئِيلِ فِي الْمُكْحَلَةِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Sama'at, from Abu Baseer who said,

'Abu Abdullah^{asws} said: 'The man and the woman would not be stoned until there testify upon both of them, four witnesses, of the copulation and the penetration and the entering, like needle (applicator) enters into the Kohl'.⁵⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْبَصْرِيِّ عَنْ حَمَادِ بْنِ عَيْسَى عَنْ شُعَيْبِ الْعَقْرُوفِيِّ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ حَدُّ الرَّجْمِ فِي الزَّنى أَنْ يَشْهَدَ أَرْبَعَةٌ رَأَوْهُ يُدْخِلُ وَ يُخْرِجُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Al Basry, from Hammad Bin Isa, from Shuayb Al Aqarquqy, from Abu Baseer,

⁵¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 1

⁵² Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 2

⁵³ Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 3

⁵⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 4

(It has been narrated) from Abu Abdullah^{asws} having said: 'The Penalty (*Hadd*) of the stoning regarding the adultery is that four should testify that they had seen him enter and exit'.⁵⁵

باب صفة الرجم

Chapter 8 – Description of the stoning

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) تَدْفَنُ الْمَرْأَةُ إِلَى وَسْطِهَا إِذَا أَرَادُوا أَنْ يَرْجُمُوهَا وَ يَرْمِي الْإِمَامُ ثُمَّ النَّاسُ بَعْدُ بِأَحْجَارٍ صِغَارٍ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Is'haq Bin Ammar, from Abu Baseer who said,

'Abu Abdullah^{asws} said: 'Bury the woman up to her waist when it is intended to stone her, and the Imam^{asws} would pelt, then the people afterwards, with the small stones'.⁵⁶

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عَيْسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ تَدْفَنُ الْمَرْأَةُ إِلَى وَسْطِهَا ثُمَّ يَرْمِي الْإِمَامُ ثُمَّ النَّاسُ بِأَحْجَارٍ صِغَارٍ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at Bin Mahran,

Abu Abdullah^{asws} has said: 'The woman is buried up to her waist, then the Imam^{asws} pelts, then the people pelt, with the small stones'.⁵⁷

مُحَمَّدُ بْنُ بَحْبَبٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنْ صَفْوَانَ عَمَّنْ رَوَاهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا أَقْرَبَ الزَّانِي الْمُحْصَنَ كَانَ أَوَّلَ مَنْ يَرْجُمُهُ الْإِمَامُ ثُمَّ النَّاسُ فَإِذَا قَامَتْ عَلَيْهِ الْبَيِّنَةُ كَانَ أَوَّلَ مَنْ يَرْجُمُهُ الْبَيِّنَةُ ثُمَّ الْإِمَامُ ثُمَّ النَّاسُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from the one who reported it,

Abu Abdullah^{asws} has said: 'When the married adulterer confesses, the first one to pelt him would be the Imam^{asws}, then the people. So when the proof is established against him, the first ones to pelt him would be the 'provers' (four witnesses), then the Imam^{asws}, then the people'.⁵⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ تَدْفَنُ الْمَرْأَةُ إِلَى وَسْطِهَا ثُمَّ يَرْمِي الْإِمَامُ وَ يَرْمِي النَّاسُ بِأَحْجَارٍ صِغَارٍ وَ لَا يُدْفَنُ الرَّجُلُ إِذَا رُجِمَ إِلَّا إِلَى حَقْوِيهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Sama'at,

Abu Abdullah^{asws} has said: 'The woman would be buried up to her waist, then the Imam^{asws} would pelt, and the people would pelt, with the small stones; and the man would not be buried when stoned, except up to his loins'.⁵⁹

⁵⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 5

⁵⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 1

⁵⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 2

⁵⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 3

⁵⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 4

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنْ الْحُسَيْنِ بْنِ خَالِدٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) أَخْبِرْنِي عَنِ الْمُحْصَنِ إِذَا هُوَ هَرَبَ مِنَ الْحَفِيرَةِ هَلْ يُرَدُّ حَتَّى يُقَامَ عَلَيْهِ الْحَدُّ فَقَالَ يُرَدُّ وَ لَا يُرَدُّ فَقُلْتُ وَ كَيْفَ ذَلِكَ فَقَالَ إِذَا كَانَ هُوَ الْمُؤَرَّ عَلَى نَفْسِهِ ثُمَّ هَرَبَ مِنَ الْحَفِيرَةِ بَعْدَ مَا يُصِيبُهُ شَيْءٌ مِنَ الْحَجَارَةِ لَمْ يُرَدَّ

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Al Husayn Bin Khalid who said,

'I said to Abu Al-Hassan^{asws}, 'Inform me about the married man when he flees from the pit, would he be returned until the Penalty (*Hadd*) (of stoning) is established upon him?' So he^{asws} said: 'He would be returned and not returned'. So I said, 'And how is that?' So he^{asws} said: 'If was a confessor upon himself, then he fled from the pit after something having hit him, from the stones, he would not be returned.

وَ إِنْ كَانَ إِنَّمَا قَامَتْ عَلَيْهِ الْبَيِّنَةُ وَ هُوَ يَجْحَدُ ثُمَّ هَرَبَ رُدُّ وَ هُوَ صَاحِرٌ حَتَّى يُقَامَ عَلَيْهِ الْحَدُّ وَ ذَلِكَ أَنْ مَاعِزَ بْنَ مَالِكٍ أَقْرَّ عِنْدَ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بِالزَّانِي فَأَمَرَ بِهِ أَنْ يُرْجَمَ فَهَرَبَ مِنَ الْحَفِيرَةِ فَرَمَاهُ الزُّبَيْرُ بْنُ الْعَوَّامِ بِسَاقِ بَعِيرٍ فَعَقَلَهُ فَسَقَطَ فَلَحِقَهُ النَّاسُ فَقَتَلُوهُ ثُمَّ أَخْبَرُوا رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بِذَلِكَ فَقَالَ لَهُمْ فَهَلَا تَرَكَمُوهُ إِذَا هَرَبَ يَذْهَبُ فَإِنَّمَا هُوَ الَّذِي أَقْرَّ عَلَى نَفْسِهِ

And if it was so that the proof was established against him, and he was arguing against it, then he flees, he would be returned and would be humiliated until the Penalty (*Hadd*) is established against him. And that is that Maiz Bin Malik accepted in the presence of Rasool-Allah^{saww} with having committed adultery. So he^{saww} ordered that he should be stoned, so he fled from the pit. So Al-Zubeyr Bin Al-Awwam hit him with a left of a camel, so he was injured and fell down. So the people came over and killed him. Then Rasool-Allah^{saww} was informed of that, so he^{saww} said to them: 'If only you would have left him alone when he fled, he would have gone. But rather, it was he who accepted it upon himself'.

وَ قَالَ لَهُمْ أَمَا لَوْ كَانَ عَلَيَّ حَاضِرًا مَعَكُمْ لَمَا ضَلَلْتُمْ

And he^{saww} said: 'And if Ali^{asws} had been present with you all, you would not have gone astray'.

قَالَ وَ وَدَاهُ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ .

He^{asws} said: 'And Rasool-Allah^{saww} paid (his wergild – the blood money) from the public treasury of the Muslims'.⁶⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبِيَانَ عَنْ أَبِي الْعَبَّاسِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَتَى النَّبِيَّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) رَجُلٌ فَقَالَ إِنِّي زَنَيْتُ فَطَهَّرْنِي فَصَرَفَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَجْهَهُ عَنْهُ فَأَتَاهُ مِنْ جَانِبِهِ الْأَخْرَ ثُمَّ قَالَ مِثْلَ مَا قَالَ فَصَرَفَ وَجْهَهُ عَنْهُ ثُمَّ جَاءَ الثَّلَاثَةَ فَقَالَ لَهُ يَا رَسُولَ اللَّهِ إِنِّي زَنَيْتُ وَ عَذَابُ الدُّنْيَا أَهْوَنُ لِي مِنْ عَذَابِ الْآخِرَةِ فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أ بِصَاحِبِكُمْ بَأْسٌ يَعْزِي جَنَّةً فَقَالُوا لَا فَاقْرَّ عَلَى نَفْسِهِ الرَّابِعَةَ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Aban, from Abu Al Abbas who said,

'Abu Abdullah^{asws} said: 'A man came over to the Prophet^{saww} so he said, 'I have committed adultery, so purify me'. So the Prophet^{saww} turned his^{saww} face away from him. So he came over from his^{saww} other side, then said similar to what he had said. So he^{saww} turned his^{saww} face away from him. Then he came for the third time, so he said to him^{saww}, 'O Rasool-Allah^{saww}! I have committed adultery, and the punishment

⁶⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 5

of the world is easier to me than the Punishment of the Hereafter!’ So Rasool-Allah^{saww} said (to his^{saww} companions): ‘Is there a problem with your companion?’ – meaning insanity. So they said, ‘No’. So he confessed upon himself for the fourth time.

فَأَمَرَ بِهِ رَسُولُ اللَّهِ (صلى الله عليه وآله) أَنْ يُرْجَمَ فَحَفَرُوا لَهُ حَفِيرَةً فَلَمَّا وَجَدَ مَسَّ الْحَجَارَةِ خَرَجَ يَسْتَنْدُ فَلَاقِيَهُ الرَّبِيبُ فَرَمَاهُ بِسَاقِ بَعِيرٍ فَسَقَطَ فَعَقَلَهُ بِهِ فَأَدْرَكَهُ النَّاسُ فَفَتَلَوْهُ فَأَخْبَرُوا رَسُولَ اللَّهِ (صلى الله عليه وآله) بِذَلِكَ فَقَالَ هَلَا تَرَ كُنُومَهُ ثُمَّ قَالَ لَوْ اسْتَنْتَرَ ثُمَّ تَابَ كَانَ خَيْرًا لَهُ .

So Rasool-Allah^{saww} ordered that he be stoned, so they dug out a pit for him. So when he found the touch of the stone (being pelted), he came out fleeing hurriedly. So Al-Zubayr met him, and hit him with a leg of a camel. So he fell injured by it. So the people realised, so they killed him’. So they informed Rasool-Allah^{saww} of that, so he^{saww} said: ‘If only you had just left him alone’. Then he^{saww} said: ‘Had he hid himself, then repented, that would have been better for him’.⁶¹

باب آخِرُ مِنْهُ

Chapter 9 – Another chapter from it

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ عِمْرَانَ بْنِ مَيْمَنٍ أَوْ صَالِحِ بْنِ مَيْمَنٍ عَنْ أَبِيهِ قَالَ أَتَتْ امْرَأَةً مُجْحِجٌ أَمِيرَ الْمُؤْمِنِينَ (عليه السلام) فَقَالَتْ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فَطَهِّرْنِي طَهَّرَكَ اللَّهُ فَإِنَّ عَذَابَ الدُّنْيَا أَيْسَرُ مِنْ عَذَابِ الآخِرَةِ الَّذِي لَا يَنْقُطُ فَقَالَ لَهَا مِمَّا أَطَهَّرَكَ فَقَالَتْ إِنِّي زَنَيْتُ فَقَالَ لَهَا أَوْ دَاتٍ بَعْلٍ أَنْتِ أَمْ غَيْرِ ذَلِكَ فَقَالَتْ بَلْ دَاتٍ بَعْلٍ فَقَالَ لَهَا أَوْ فَحَاضِرًا كَانَ بَعْلُكَ إِذْ فَعَلْتِ مَا فَعَلْتِ أَمْ غَائِبًا كَانَ عَنْكَ فَقَالَتْ بَلْ حَاضِرًا فَقَالَ لَهَا أَنْطَلِقِي فَضَعِي مَا فِي بَطْنِكَ ثُمَّ انْتَبِي أَطَهَّرَكَ فَلَمَّا وَلَّتْ عَنْهُ الْمَرْأَةُ فَصَارَتْ حَيْثُ لَا تَسْمَعُ كَلَامَهُ قَالَ اللَّهُمَّ إِنَّهَا شَهِدَةٌ

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Ali Bin Abu Hamza, from Abu Baseer, from Imran Bin Maysam, or Salih Bin Maysam, from his father who said,

‘A woman came over to Amir Al-Momineen^{asws}, so she said, ‘O Amir Al-Momineen^{asws}! I have committed adultery, so purify me, may Allah^{azwj} Purify you^{asws}, for the punishment of the world is easier than the Punishment of the Hereafter which would not be cut off’. So he^{asws} said to her: ‘From what should I^{asws} purify you?’ So she said, ‘I have committed adultery’. So he^{asws} said to her: ‘Are you with a husband or other than that?’ So she said, ‘But, I am with a husband’. So he^{asws} said to her: ‘So, were you with your husband, being present, when you did what you did, or was he absent from you?’ So she said, ‘But, he was present’. So he^{asws} said: ‘So go and place (give birth to) whatever is in your belly, then come to me^{asws} and I^{asws} shall purify you’. So when the woman turned away from him and went where she could not hear his^{asws} speech, he^{asws} said: ‘O Allah^{azwj}! She has testified with one testimony’.

فَلَمْ يَلْبِثْ أَنْ أَتَتْهُ فَقَالَتْ قَدْ وَضَعْتُ فَطَهِّرْنِي قَالَ فَتَجَاهَلَ عَلَيْهَا فَقَالَ أَطَهَّرَكَ يَا أُمَّةَ اللَّهِ مِمَّا دَا فَقَالَتْ إِنِّي زَنَيْتُ فَطَهِّرْنِي فَقَالَ وَ دَاتٍ بَعْلٍ إِذْ فَعَلْتِ مَا فَعَلْتِ قَالَتْ نَعَمْ قَالَ وَ كَانَ زَوْجُكَ حَاضِرًا أَمْ غَائِبًا قَالَتْ بَلْ حَاضِرًا قَالَ فَانْطَلِقِي وَ أَرْضِعِيهِ حَوْلَيْنِ كَامِلَيْنِ كَمَا أَمَرَكَ اللَّهُ قَالَ فَانْصَرَفَتْ الْمَرْأَةُ فَلَمَّا صَارَتْ مِنْ حَيْثُ لَا تَسْمَعُ كَلَامَهُ قَالَ اللَّهُمَّ إِنَّهُمَا شَهِدَاتَانِ

So it was not long before she came over and said, ‘I have placed (given birth), so purify me’. He (the narrator said), ‘He^{asws} ignored her’. He^{asws} said: ‘I^{asws} should purify

⁶¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 6

you, O maid of Allah^{azwj}, from what?' So she said, 'I have committed adultery, so purify me'. So he^{asws} said: 'And that was when you were with a husband when you did what you did?' She said, 'Yes'. He^{asws} said: 'And your husband was present or was he absent from you?' She said, 'But, he was present'. He^{asws} said: 'So go, and breastfeed him for two years complete just as Allah^{azwj} has Commanded you to'. So the woman went away. So when she went to where she could not hear his^{asws} speech, he^{asws} said: 'O Allah^{azwj}! These are two testimonies'.

قَالَ فَلَمَّا مَضَى حَوْلَانَ أَنْتِ الْمَرْأَةُ فَقَالَتْ قَدْ أَرْضَعْتُهُ حَوْلَيْنِ فَطَهَّرْنِي يَا أَمِيرَ الْمُؤْمِنِينَ فَتَجَاهَلَ عَلَيْهَا وَ قَالَ أَطَهَّرُكَ مِمَّا ذَا
فَقَالَتْ إِنِّي زَنَيْتُ فَطَهَّرْنِي قَالَ وَ ذَاتُ بَعْلِ أَنْتِ إِذْ فَعَلْتِ مَا فَعَلْتِ فَقَالَتْ نَعَمْ قَالَ وَ بَعْلُكَ غَائِبٌ عَنْكَ إِذْ فَعَلْتِ مَا فَعَلْتِ أَوْ
حَاضِرٌ قَالَتْ بَلْ حَاضِرٌ قَالَ فَانْطَلِقِي فَأَكْفُلِيهِ حَتَّى يَعْغَلَ أَنْ يَأْكُلَ وَ يَشْرَبَ وَ لَا يَبْرُدَى مِنْ سَطْحٍ وَ لَا يَنْهَوْرَ فِي بئرٍ قَالَ
فَانْصَرَفَتْ وَ هِيَ تَبْكِي فَلَمَّا وَ لَتْ فَصَارَتْ حَيْثُ لَا تَسْمَعُ كَلَامَهُ قَالَ اللَّهُمَّ إِنَّهَا ثَلَاثَ شَهَادَاتٍ

He (the narrator) said, 'So when two years passed by, the woman came over, so she said, 'I have breastfed him for two years, so purify me, O Amir Al-Momineen^{asws}! So he^{asws} ignored her and said: 'What is that which I^{asws} should purify you from?' So she said, 'I have committed adultery, so purify me'. He^{asws} said: 'And you were with a husband when you did what you did?' So she said, 'Yes'. He^{asws} said: 'And being with a husband, was he absent from you when you did what you did, or was he present?' She said, 'But, present'. He^{asws} said: 'So go and look after him (your child) until he has intellect and he eats and drinks, and would not fall off from the roof, nor fall into a well'. So she left, and she was crying. So when she left to be where she could not hear his^{asws} speech, he^{asws} said: 'O Allah^{azwj}! These are three testimonies'.

قَالَ فَاسْتَفْبَلَهَا عَمْرُو بْنُ حُرَيْثِ الْمَخْزُومِيُّ فَقَالَ لَهَا مَا يُبْكِيكِ يَا أَمَةَ اللَّهِ وَ قَدْ رَأَيْتُكَ تَخْتَلِفِينَ إِلَى عَلِيٍّ تَسْأَلِينَهِ أَنْ يُطَهَّرَكَ
فَقَالَتْ إِنِّي أَتَيْتُ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَسَأَلْتُهُ أَنْ يُطَهَّرَنِي فَقَالَ أَكْفُلِي وَلَدَكَ حَتَّى يَعْغَلَ أَنْ يَأْكُلَ وَ يَشْرَبَ وَ لَا
يَبْرُدَى مِنْ سَطْحٍ وَ لَا يَنْهَوْرَ فِي بئرٍ وَ قَدْ خِفْتُ أَنْ يَأْتِيَ عَلَيَّ الْمَوْتُ وَ لَمْ يُطَهَّرْنِي فَقَالَ لَهَا عَمْرُو بْنُ حُرَيْثِ ارْجِعِي إِلَيْهِ
فَأَنَا أَكْفُلُهُ

He (the narrator) said, 'So Amro Bin Hureys Al-Makhzoumy met her, so he said to her, 'What makes you cry, O maid of Allah^{azwj}, and I have seen you having followed you to Ali^{asws}, you asked him that he^{asws} should purify you?' So she said, 'I went over to Amir Al-Momineen^{asws}, so I asked him^{asws} that he should purify me. So he^{asws} said: 'Look after your child until he has intellect of eating and drinking, and does not fall off from the roof, nor fall into a well, and I fear that death would come unto me and he^{asws} has not purified me'. So Amro Bin Hureys said to her, 'Return to him^{asws}, for I will look after him (the child)'.

فَرَجَعَتْ فَأَخْبَرَتْ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِقَوْلِ عَمْرُو فَقَالَ لَهَا أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) وَ هُوَ مُتَجَاهِلٌ عَلَيْهَا
وَ لَمْ يَكْفُلْ عَمْرُو وَ لَدَكَ فَقَالَتْ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فَطَهَّرْنِي فَقَالَ وَ ذَاتُ بَعْلِ أَنْتِ إِذْ فَعَلْتِ مَا فَعَلْتِ قَالَتْ نَعَمْ قَالَ أ
فَعَائِبًا كَانَ بَعْلُكَ إِذْ فَعَلْتِ مَا فَعَلْتِ أَمْ حَاضِرًا فَقَالَتْ بَلْ حَاضِرًا

So she returned and informed Amir Al-Momineen^{asws} with the words of Amro. So Amir Al-Momineen^{asws} said to her, and he^{asws} was ignoring her: 'And why would Amro look after your child?' So she said, 'O Amir Al-Momineen^{asws}! I have committed adultery, so purify me'. So he^{asws} said: 'And you were with a husband when you did what you did?' She said, 'Yes'. He^{asws} said: 'Your husband was absent when you did what you did, or present?' She said, 'But, present'.

قَالَ فَرَفَعَ رَأْسَهُ إِلَى السَّمَاءِ وَ قَالَ اللَّهُمَّ إِنَّهُ قَدْ تَبَيَّنَ لَكَ عَلَيْهَا أَرْبَعُ شَهَادَاتٍ وَ إِنِّي قَدْ قُلْتُ لِنَبِيِّكَ (صلى الله عليه وآله) فِي مَا أَخْبَرْتَهُ بِهِ مِنْ دِينِكَ يَا مُحَمَّدُ مَنْ عَطَلَ حَدًّا مِنْ حُدُودِي فَقَدْ عَانَدَنِي وَ طَلَبَ بِذَلِكَ مُضَادَّتِي اللَّهُمَّ فَإِنِّي غَيْرُ مُعْطِلٍ حُدُودِكَ وَ لَا طَالِبٍ مُضَادَّتِكَ وَ لَا مُضَيِّعٍ لِأَحْكَامِكَ بَلْ مُطِيعٌ لَكَ وَ مُتَّبِعٌ سُنَّةَ نَبِيِّكَ (صلى الله عليه وآله)

He (the narrator) said, 'So he^{asws} raised his^{asws} head towards the sky and said: 'O Allah^{azwj}! Four testimonies have been affirmed against her for You^{azwj}, and You^{azwj} have Said to Your^{azwj} Prophet^{saww} regarding what You^{azwj} Informed him^{saww} with from Your^{azwj} Religion was: "O Muhammad^{saww}! The one who fails any of My^{azwj} Penalties so he has opposed Me^{azwj} and has sought by that what is opposite to Me^{azwj}". Therefore I^{asws} am not failing Your^{azwj} Penalty (*Hadd*) and I^{asws} do not seek opposite to You^{azwj}, nor am I^{asws} a waster of Your^{azwj} Judgements. But, I^{asws} am obedient to You^{azwj}, and obedient to the Sunnah of Your^{azwj} Prophet^{saww}.

قَالَ فَظَنَرَ إِلَيْهِ عَمْرُو بْنُ حُرَيْثٍ وَ كَانَتَا الرُّمَانَ يُفْقَأُ فِي وَجْهِهِ فَلَمَّا رَأَى ذَلِكَ عَمَرُو قَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي إِنَّمَا أَرَدْتُ أَكْفُلُهُ إِذْ ظَنَنْتُ أَنَّكَ تُحِبُّ ذَلِكَ فَأَمَّا إِذَا كَرِهْتَهُ فَإِنِّي لَسْتُ أَفْعَلُ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) أ بَعْدَ أَرْبَعِ شَهَادَاتٍ بِاللَّهِ لَتَكْفُلْنَهُ وَ أَنْتَ صَاغِرٌ

He (the narrator) said, 'So Amro Bin Hurays looked at him^{asws}, and it was as if a pomegranate had been sliced upon his^{asws} face (it was red). So when Amro saw that, said, 'O Amir Al-Momineen^{asws}! I, but rather, I intended to look after him and thought that you^{asws} would like that. So if you^{asws} are disliking it, so I will not do it'. So Amir Al-Momineen^{asws} said: 'After four testimonies with Allah^{azwj}? You will have to look after him, and you are humiliated'.

فَصَعِدَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) الْمُنْبِرَ فَقَالَ يَا قَنْبَرُ نَادِ فِي النَّاسِ الصَّلَاةَ جَامِعَةً فَنَادَى قَنْبَرٌ فِي النَّاسِ فَاجْتَمَعُوا حَتَّى غَصَّ الْمَسْجِدُ بِأَهْلِهِ وَ قَامَ أَمِيرُ الْمُؤْمِنِينَ (صلوات الله عليه) وَ أَتَى عَلَيْهِ ثُمَّ قَالَ أَيُّهَا النَّاسُ إِنَّ إِمَامَكُمْ خَارِجٌ بِهَذِهِ الْمَرْأَةِ إِلَى هَذَا الظُّهْرِ لِيُتَيَّمَّ عَلَيْهَا الْحَدُّ إِنْ شَاءَ اللَّهُ فَعَزَمَ عَلَيْكُمْ أَمِيرُ الْمُؤْمِنِينَ لَمَّا خَرَجْتُمْ وَ أَنْتُمْ مُتَنَكِّرُونَ وَ مَعَكُمْ أَحْبَابُكُمْ لَا يَتَعَرَّفُ أَحَدٌ مِنْكُمْ إِلَى أَحَدٍ حَتَّى تَنْصَرِفُوا إِلَى مَنَارِلِكُمْ إِنْ شَاءَ اللَّهُ

So Amir Al-Momineen^{asws} ascended the Pulpit, so he^{asws} said: 'O Qanbar! Call out among the people for the congregational Prayer'. So Qanbar called about among the people. So they gathered until the Masjid was congested with its inhabitants. And Amir Al-Momineen^{asws} stood up, so he^{asws} Praised Allah^{azwj} and Extolled Him^{azwj}, then said: 'O you people! Your Imam^{asws} will be going out with this woman, to this backyard in order to establish the Penalty (*Hadd*) upon her, Allah^{azwj} Willing! Therefore Amir Al-Momineen^{asws} is instructing you that when you come out, and you should be masking yourselves, and with you should be your stones, noone should be able to recognise anyone from you until you disperse to your houses, Allah^{azwj} Willing'.

قَالَ ثُمَّ نَزَلَ فَلَمَّا أَصْبَحَ النَّاسُ بُكْرَةً خَرَجَ بِالْمَرْأَةِ وَ خَرَجَ النَّاسُ مُتَنَكِّرِينَ مُتَلَمِّمِينَ بِعَمَائِمِهِمْ وَ بِأَرْدِيَّتِهِمْ وَ الْحِجَارَةَ فِي أَرْدِيَّتِهِمْ وَ فِي أَكْمَامِهِمْ حَتَّى انْتَهَى بِهَا وَ النَّاسُ مَعَهُ إِلَى الظُّهْرِ بِالْكَوْفَةِ فَأَمَرَ أَنْ يُحْفَرَ لَهَا حَفِيرَةٌ ثُمَّ دَفَنَهَا فِيهَا ثُمَّ رَكِبَ بَعْلَتَهُ وَ أَتَيْتَ رَجُلَيْهِ فِي عَزْرِ الرِّكَابِ ثُمَّ وَضَعَ إِصْبَعَيْهِ السَّبَابَتَيْنِ فِي أُذُنَيْهِ ثُمَّ نَادَى بِأَعْلَى صَوْتِهِ يَا أَيُّهَا النَّاسُ إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى عَهْدٌ إِلَى نَبِيِّهِ (صلى الله عليه وآله) عَهْدًا عَهْدَهُ مُحَمَّدٌ (صلى الله عليه وآله) إِلَيَّ بِأَنَّهُ لَا يُقِيمُ الْحَدَّ مِنْ اللَّهِ عَلَيْهِ حَدٌّ فَمَنْ كَانَ عَلَيْهِ حَدٌّ مِثْلُ مَا عَلَيْهَا فَلَا يُقِيمُ عَلَيْهَا الْحَدَّ

He (the narrator) said, 'Then he^{asws} descended. So when the people woke up in the morning he^{asws} went out with the woman, and the people went out having veiled themselves with their turbans, and their gowns, and the stones were in their garments and their sleeves, until he^{asws} ended up with her to the back of Al-Kufa, and

the people were with him^{asws}. So he^{asws} instructed that they should dig a pit for her. Then he^{asws} buried her in it, then rode upon his^{asws} mule and affirmed his^{asws} feet in the stirrups. Then he^{asws} placed his^{asws} fingers, the two forefingers in his^{asws} ears, then called out in a high voice: 'O you people! Allah^{azwj} Blessed and High Contracted with His^{azwj} Prophet^{saww} with a contract. Muhammad^{saww} contracted it to me^{asws} that no one should establish the Penalty (*Hadd*) of Allah^{azwj} upon him is a Penalty (*Hadd*) due. So upon whom there is a Penalty (*Hadd*) similar to what is upon her, so he should not establish the Penalty (*Hadd*) upon her!'

قَالَ فَأَنْصَرَفَ النَّاسُ يَوْمَئِذٍ كُلُّهُمْ مَا خَلَا أَمِيرَ الْمُؤْمِنِينَ (عليه السلام) وَ الْحَسَنَ وَ الْحُسَيْنَ (عليهما السلام) فَأَقَامَ هُوَ لِأَيِّ النَّثَاةِ عَلَيْهَا الْحَدَّ يَوْمَئِذٍ وَ مَا مَعَهُمْ غَيْرُهُمْ قَالَ وَ أَنْصَرَفَ

He (the narrator) said: 'So the people dispersed on that day, all of them, except for Amir Al-Momineen^{asws}, and Al-Hassan^{asws}, and Al-Husayn^{asws}. So these three established the Penalty (*Hadd*) upon her on that day, and there was no one with them^{asws} apart from themselves^{asws} being there'.

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ خَلْفِ بْنِ حَمَّادٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ جَاءَتْ امْرَأَةً حَامِلًا إِلَى أَمِيرِ الْمُؤْمِنِينَ (عليه السلام) فَقَالَتْ إِنِّي فَعَلْتُ فِطْرَتِي ثُمَّ ذَكَرْتُ نَحْوَهُ .

A number of our companions, from Ahmad Bin Muhammad, from Muhammad Bin Khalid, from Khalaf Bin Hammad,

Abu Abdullah^{asws} has said: 'A pregnant woman came over to Amir Al-Momineen^{asws}, so she said, 'I have committed adultery, so purify me'. Then he mentioned approximate to it (the above narration)'.⁶²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَمَّنْ رَوَاهُ عَنْ أَبِي جَعْفَرٍ أَوْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ أَنِّي أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) بَرَجَلٌ قَدْ أَقْرَى عَلَى نَفْسِهِ بِالْفُجُورِ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) لِأَصْحَابِهِ اغْدُوا غَدًا عَلَيَّ مُتَلَثِّمِينَ فَعَدُوا عَلَيْهِ مُتَلَثِّمِينَ فَقَالَ لَهُمْ مَنْ فَعَلَ مِثْلَ فِعْلِهِ فَلَا يَرْجُمُهُ فَلْيَنْصَرِفْ قَالَ فَأَنْصَرَفَ بَعْضُهُمْ وَ بَقِيَ بَعْضٌ فَرَجَمَهُ مِنْ بَقِيَّتِهِمْ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from the one who reported it,

(It has been narrated either) from Abu Ja'far or Abu Abdullah^{asws}: 'They came with a man to Amir Al-Momineen^{asws} who had accpeted upon himself with the immorality. So Amir Al-Momineen^{asws} said to his^{asws} companions: 'Come to me^{asws} tomorrow having veiled yourselves'. So they came over to him in the morning being veiled. So he^{asws} said to them: 'The one has done similar to his deed, so he should not stone him, so let him leave'. So some of them left, and some of them remained, so they stoned him, the ones who remained from them'.⁶³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ رَفَعَهُ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عليه السلام) قَالَ أَنَّهُ رَجُلٌ بِالْكُوفَةِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فِطْرَتِي قَالَ مَنْ أَنْتَ قَالَ مِنْ مَرْبِئَةَ قَالَ أَ تَقْرَأُ مِنَ الْقُرْآنِ شَيْئًا قَالَ بَلَى قَالَ فَأَقْرَأْ فَقَرَأَ فَأَجَادَ فَقَالَ أ بِكَ جِنَّةٌ قَالَ لَا قَالَ فَأَذْهَبْ حَتَّى نَسْأَلَ عَنْكَ فَذَهَبَ الرَّجُلُ

Ali Bin Ibrahim, from Ahmad Bin Muhammad Bin Khalid,

⁶² Al Kafi – V 7 – The Book of Legal Penalties Ch 9 H 1

⁶³ Al Kafi – V 7 – The Book of Legal Penalties Ch 9 H 2

(It has been narrated) raising it to Amir Al-Momineen^{asws}, said, 'A man came over to him^{asws} at Al-Kufa, so he said, 'O Amir Al-Momineen^{asws}! I had committed adultery, so purify me'. He^{asws} said: 'From where are you (coming from)?' He said, 'From Muzeyna'. He^{asws} said: 'Have you read anything from the Quran?' He said, 'Yes'. He^{asws} said: 'So read'. So he read, and it was good (recitation). So he^{asws} said: 'Are you with insanity'. He said, 'No'. He^{asws} said: 'So go away, until we ask about you'. So the man went away.

ثُمَّ رَجَعَ إِلَيْهِ بَعْدَ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فَطَهِّرْنِي فَقَالَ أَلَيْكَ زَوْجَةٌ قَالَ بَلَى قَالَ فَمُؤَيَّمَةٌ مَعَكَ فِي الْبَلَدِ قَالَ نَعَمْ قَالَ فَأَمَرَهُ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فَذَهَبَ وَ قَالَ حَتَّى نَسْأَلَ عَنْكَ فَبَعَثَ إِلَى قَوْمِهِ فَسَأَلَ عَنْ خَبْرِهِ فَقَالُوا يَا أَمِيرَ الْمُؤْمِنِينَ صَاحِبِ الْعَقْلِ

Then he returned to him^{asws} afterwards, so he said, 'O Amir Al-Momineen^{asws}! I have committed adultery, so purify me'. So he^{asws} said: 'Is there a wife for you?' He said, 'Yes'. He^{asws} said: 'Is she staying with you in the city?' He said, 'Yes'. So Amir Al-Momineen^{asws} ordered him, 'So go away until we ask about you'. So he sent someone to his people who asked about his news. So they said, 'O Amir Al-Momineen^{asws}! He is of correct mind'.

فَرَجَعَ إِلَيْهِ الثَّلَاثَةَ فَقَالَ لَهُ مِثْلَ مَقَالَتِهِ فَقَالَ لَهُ أَذْهَبَ حَتَّى نَسْأَلَ عَنْكَ فَرَجَعَ إِلَيْهِ الرَّابِعَةَ فَلَمَّا أَقْرَأَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) لَقَنْتُ احْتَفَظَ بِهِ ثُمَّ غَضِبَ ثُمَّ قَالَ مَا أَقْبَحَ بِالرَّجُلِ مِنْكُمْ أَنْ يَأْتِيَ بَعْضَ هَذِهِ الْفَوَاحِشِ فَيُفْضِحَ نَفْسَهُ عَلَى رُءُوسِ الْمَلَأِ أَفَلَا تَابَ فِي بَيْتِهِ فَوَ اللَّهُ لَتَوْبَتُهُ فِيمَا بَيْنَهُ وَ بَيْنَ اللَّهِ أَفْضَلُ مِنْ إِقَامَتِي عَلَيْهِ الْحَدَّ ثُمَّ أَخْرَجَهُ

So he returned to him for the third time, and he said to him similar to his words before. So he^{asws} said to him: 'Go away until we ask about you'. So he returned to him for the fourth time. So when he confessed, Amir Al-Momineen^{asws} said to Qanbar: 'Keep him locked up'. Then he^{asws} got annoyed, then said: 'There is nothing more uglier with the man from you that he comes to one of these immoralities, so he disgraces himself upon the chiefs of the tribes. Why did he not repent in his own house, for by Allah^{azwj}, his repentance between him and Allah^{azwj} is superior than my^{asws} establishing the Penalty (*Hadd*) upon him'.

وَ نَادَى فِي النَّاسِ يَا مَعْشَرَ الْمُسْلِمِينَ أَخْرَجُوا لِيُقَامَ عَلَى هَذَا الرَّجُلِ الْحَدُّ وَ لَا يَعْرِفَنَّ أَحَدُكُمْ صَاحِبَهُ فَأَخْرَجَهُ إِلَى الْجَبَانِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ أَنْظِرْنِي أَصَلِّي رَكْعَتَيْنِ ثُمَّ وَضَعَهُ فِي حُفْرَتِهِ وَ اسْتَقْبَلَ النَّاسَ بِوَجْهِهِ فَقَالَ يَا مَعْشَرَ الْمُسْلِمِينَ إِنَّ هَذَا حَقٌّ مِنْ حُقُوقِ اللَّهِ عَزَّ وَ جَلَّ فَمَنْ كَانَ لِلَّهِ فِي عُنُقِهِ حَقٌّ فَلْيَنْصِرِفْ وَ لَا يُؤَيِّمِ حُدُودَ اللَّهِ مَنْ فِي عُنُقِهِ لِلَّهِ حَدٌّ

And he called out among the people: 'O group of the Muslims! Come out for the establishment of the Penalty (*Hadd*) upon this man, and not one of you should be able to recognise his companion'. So he^{asws} brought him out to the wilderness. So he said, 'Respite me, O Amir Al-Momineen^{asws}, while I Pray two cycles'. Then he^{asws} placed him in his pit, and the people faced him. So he^{asws} said: 'O group of the Muslims! This is a right from the Rights of Allah^{azwj} Mighty and Majestic! So the one whom had (such) a right upon his own neck, so let him disperse, and he should not establish the Penalties of Allah^{azwj}, the one on whose neck is due a Penalty (*Hadd*) of Allah^{azwj}'.

فَأَنْصَرَفَ النَّاسُ وَ بَقِيَ هُوَ وَ الْحَسَنُ وَ الْحُسَيْنُ (عليهما السلام) فَأَخَذَ حَجْرًا فَكَبَّرَ ثَلَاثَ تَكْبِيرَاتٍ ثُمَّ رَمَاهُ بِثَلَاثَةِ أَحْجَارٍ فِي كُلِّ حَجْرٍ ثَلَاثَ تَكْبِيرَاتٍ ثُمَّ رَمَاهُ الْحَسَنُ (عليه السلام) مِثْلَ مَا رَمَاهُ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) ثُمَّ رَمَاهُ الْحُسَيْنُ (عليه السلام) فَمَاتَ الرَّجُلُ فَأَخْرَجَهُ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فَأَمَرَ فَحُورَ لَهُ وَ صَلَّى عَلَيْهِ وَ دَفَنَهُ فَقِيلَ يَا أَمِيرَ الْمُؤْمِنِينَ أَلَا تُغْسَلُهُ فَقَالَ قَدْ اغْتَسَلَ بِمَا هُوَ طَاهِرٌ إِلَى يَوْمِ الْقِيَامَةِ لَقَدْ صَبَّرَ عَلَى أَمْرِ عَظِيمٍ .

So the people dispersed and there remained himself^{asws}, and Al-Hassan^{asws} and Al-Husayn^{asws}. So he^{asws} grabbed the stones, exclaimed the Greatness of Allah^{azwj} with three exclamations, then pelted him with three stones, during each stone, three exclamations. Then Al-Hassan^{asws} pelted him similarly to what Amir Al-Momineen^{asws} had pelted him. Then Al-Husayn^{asws} pelted him^{asws}. So the man died, and Amir Al-Momineen^{asws} brought him out. So he^{asws} ordered for a grave to be dug out for him, and Prayed over him, and buried him. So it was said, 'O Amir Al-Momineen^{asws}! Will you not wash him (before burying him)?' So he^{asws} said: 'He has been washed by what has purified him up to the Day of Judgement. He was patient upon a grievous matter'.⁶⁴

باب الرَّجُلِ يَغْتَصِبُ الْمَرْأَةَ فَرَجَّهَا

Chapter 10 – The man rapes the woman of her chastity

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ بُرَيْدِ الْعَجَلِيِّ قَالَ سَأَلَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ اغْتَصَبَ امْرَأَةً فَرَجَّهَا قَالَ يُقْتَلُ مُحْصَنًا كَانَ أَوْ غَيْرَ مُحْصَنٍ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Abu Ayoub, from Bureyd Al ajaly who said,

'Abu Ja'far^{asws} was asked about a man who raped a woman of her chastity. He^{asws} said: 'He should be killed, whether he was married or without marriage'.⁶⁵

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ غَصَبَ امْرَأَةً نَفْسَهَا قَالَ قَالَ يُضْرَبُ ضَرْبَةً بِالسَّيْفِ بَلَعَتْ مِنْهُ مَا بَلَعَتْ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Ali Bin Hadeed, from Jameel, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} regarding a man who raped a woman of herself. He^{asws} said: 'He should be struck with the sword, it reaches from it what reaches (whatever may happen from it, whether he lives or dies)'.⁶⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي رَجُلٍ غَصَبَ امْرَأَةً نَفْسَهَا قَالَ يُقْتَلُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel, from Zurara,

(It has been narrated either) from one of the two (5th or 6th Imam^{asws}), regarding a man who raped a woman of herself. He^{asws} said: 'He should be killed'.⁶⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبِي بصَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا كَابَرَ الرَّجُلُ الْمَرْأَةَ عَلَى نَفْسِهَا ضَرْبَ ضَرْبَةٍ بِالسَّيْفِ مَاتَ مِنْهَا أَوْ عَاشَ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abu Baseer,

⁶⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 9 H 3

⁶⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 1

⁶⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 2

⁶⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 3

Abu Abdullah^{asws} has said: 'When the man forces the woman upon herself, he should be struck with one stroke of the sword, either he dies from it or lives'.⁶⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ جَمِيلِ بْنِ دَرَّاجٍ وَ مُحَمَّدِ بْنِ حُمْرَانَ جَمِيعاً عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عليه السلام) الرَّجُلُ يُعْصِبُ الْمَرْأَةَ نَفْسَهَا قَالَ يُقْتَلُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Abu Najran, from Jameel Bin Darraj and Muhammad Bin Humran, altogether, from Zurara who said,

'I said to Abu Ja'far^{asws}, 'The man rapes the woman of herself'. He^{asws} said: 'He should be killed'.⁶⁹

باب مَنْ زَنَى بِذَاتِ مَحْرَمٍ

Chapter 11 – The one who commits adultery with a *Mahram* (commits incest)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أُتُوبٍ قَالَ سَمِعْتُ بُكَيْرَ بْنَ أَعْيَنَ يَرْوِي عَنْ أَحَدِهِمَا (عليهما السلام) قَالَ مَنْ زَنَى بِذَاتِ مَحْرَمٍ حَتَّى يُوَاقِعَهَا ضَرْبٌ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهُ مَا أَخَذَتْ وَ إِنْ كَانَتْ تَابِعَتْهُ ضَرْبَتْ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهَا مَا أَخَذَتْ قِيلَ لَهُ فَمَنْ يَضْرِبُهُمَا وَ لَيْسَ لَهُمَا خَصْمٌ قَالَ ذَلِكَ عَلَى الْإِمَامِ إِذَا رُفِعَا إِلَيْهِ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub who said, 'I heard Bukeyr Bin Ayn narrating,

(It has been narrated either) from one the two (5th or 6th Imam^{asws}) having said: 'The one who commits adultery with a *Mahram* (commits incest) until he falls upon her, would be struck with one strike of the sword, taking from him what is taken (lives or dies), and if he was obeying her, she would be struck with one strike of the sword, taking from her what it takes (lives or dies)'. It was said to him^{asws}, 'So who would be striking them both, and there is no adversary for the two of them?' He^{asws} said: 'That is upon the Imam^{asws}, when it (the matter) is raised to him^{asws},⁷⁰

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنِ الْحَكَمِ بْنِ مَسْكِينٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) أَيْنَ يُضْرَبُ الَّذِي يَأْتِي ذَاتَ مَحْرَمٍ بِالسَّيْفِ أَيْنَ هَذِهِ الضَّرْبَةُ قَالَ يُضْرَبُ عُنُقُهُ أَوْ قَالَ يُضْرَبُ رَقَبَتُهُ .

Ahmad Bin Muhammad, from Ali Bin Al Hassan, from Ali Bin Asbaat, from Al Hakaam Bin Muskeyn, form Jameel Bin Darraj who said,

'I said to Abu Abdullah^{asws}, 'Where would he be struck with the sword, the one who came to his *Mahram* (committed incest), where is this strike to be?' He^{asws} said: 'His neck would be struck', or said: 'His throat should be struck'.⁷¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ مِهْرَانَ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ وَقَعَ عَلَى أَخْتِهِ قَالَ يُضْرَبُ ضَرْبَةً بِالسَّيْفِ قُلْتُ فَإِنَّهُ يُخْلَصُ قَالَ يُحْبَسُ أَوَّلًا حَتَّى يَمُوتَ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from one of his companions, from Muhammad Bin Abdullah Bin Mahran, from the one who mentioned it,

⁶⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 4

⁶⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 5

⁷⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 1

⁷¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 2

(The narrator says), 'I asked Abu Abdullah^{asws} about a man who fell upon his sister. He^{asws} said: 'He should be struck with one strike of the sword'. I said, 'So he would be finished (from it)?' He^{asws} said: 'He should be imprisoned forever until he dies'.⁷²

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ أَبِيهِ عَنِ ابْنِ بُكَيْرٍ عَنْ رَجُلٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يَأْتِي دَاتَ مَحْرَمٍ قَالَ يُضْرَبُ ضَرْبَةً بِالسَّيْفِ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from his father, from Ibn Bukeyr, from a man who said,

'I said to Abu Abdullah^{asws}, 'The man comes to his *Mahram*'. He^{asws} said: 'He would be struck with one strike of the sword'.⁷³

قَالَ ابْنُ بُكَيْرٍ حَدَّثَنِي حَرِيْزٌ عَنْ بُكَيْرٍ بِذَلِكَ .

Ibn Bukeyr said, 'Hareyz narrated to me, from Bukeyr, with that'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ سَالِمٍ عَنْ بَعْضِ أَصْحَابِنَا عَنِ الْحَكَمِ بْنِ مَسْكِينٍ عَنْ جَمِيلٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يَأْتِي دَاتَ مَحْرَمٍ أَيُّنَ يُضْرَبُ بِالسَّيْفِ قَالَ رَقَبَتُهُ .

Ali Bin Ibrahim, from Muhammad Bin Salim, from one of our companions, from Al Hakam Bin Muskeyn, from Jameel who said,

'I said to Abu Abdullah^{asws}, 'The man comes to a *Mahram*, where should he be struck with the sword?' He^{asws} said: 'His throat'.⁷⁴

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلٍ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ أَبِيهِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مَنْ أَتَى دَاتَ مَحْرَمٍ ضَرْبَ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهُ مَا أَخَذَتْ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Asbat, from Abdullah Bin Bukeyr, from his father who said,

'Abu Abdullah^{asws} said: 'The one who comes to a *Mahram* would be struck with a strike of the sword, taking from him what it takes (lives or dies)'.⁷⁵

سَهْلٌ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنِ الْحَكَمِ بْنِ مَسْكِينٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَيُّنَ تُضْرَبُ هَذِهِ الضَّرْبَةُ يَعْنِي مَنْ أَتَى دَاتَ مَحْرَمٍ قَالَ يُضْرَبُ عُنُقُهُ أَوْ قَالَ رَقَبَتُهُ .

Sahl, from Ali Bin Asbat, from Al Hakam Bin Maskeyn, from Jameel Bin Darraj who said,

'I said to Abu Abdullah^{asws}, 'Where to strike this strike, meaning the one who comes to a *Mahram*?' He^{asws} said: 'He would strike his neck', or said: 'His throat'.⁷⁶

بَابُ فِي أَنْ صَاحِبَ الْكُبَيْرَةِ يُقْتَلُ فِي الثَّلَاثَةِ

⁷² Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 3

⁷³ Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 4

⁷⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 5

⁷⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 6

⁷⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 7

Chapter 12 – Regarding the committer of the major sins, he should be killed during the third (offence)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الزَّانِي إِذَا زَنَى جُلِدَ ثَلَاثًا وَ يُقْتَلُ فِي الرَّابِعَةِ يَعْنِي إِذَا جُلِدَ ثَلَاثَ مَرَّاتٍ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Ubeyd, from Yunus, from Is'haq Bin Ammar, from Abu Baseer who said,

'Abu Abdullah^{asws} said: 'The adulterer, when he commits adultery would be whipped three times (after three offences), and he would be killed during the fourth, meaning when he has (already) been whipped three times'.⁷⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ صَفْوَانَ عَنْ يُونُسَ عَنْ أَبِي الْحَسَنِ الْمَاضِي (عَلَيْهِ السَّلَامُ) قَالَ أَصْحَابُ الْكِبَائِرِ كُلُّهَا إِذَا أُقِيمَ عَلَيْهِمُ الْحَدُّ مَرَّتَيْنِ قُتِلُوا فِي الثَّلَاثَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Safwan, from Yunus,

(It has been narrated) from Abu Al Hassan 'Al-Maazy' (the 7th Imam^{asws}) having said: 'The committers of the major sins, all of them, when the Penalty (*Hadd*) is established twice upon them, they would be killed (after) the third'.⁷⁸

بَابُ الْمَجْنُونِ وَالْمَجْنُونَةِ يَزْنِيَانِ

Chapter 13 – The insane man and the insane woman both committing adultery

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي امْرَأَةٍ مَجْنُونَةٍ زَنَتْ فَحَبِلَتْ قَالَ هِيَ مِثْلُ السَّائِبَةِ لَا تَمْلِكُ أَمْرَهَا وَ لَيْسَ عَلَيْهَا رَجْمٌ وَ لَا جُلْدٌ وَ لَا نَفْيٌ

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} said regarding an insane woman who committed adultery, so she became pregnant'. He^{asws} said: 'She is similar to *Al-Sa'aiba* (unconditionally freed slave), having no control over her affairs, and there is neither stoning upon her, nor whipping, nor exiling'.

وَ قَالَ فِي امْرَأَةٍ أَقْرَتْ عَلَى نَفْسِهَا أَنَّهُ اسْتَكْرَهَهَا رَجُلٌ عَلَى نَفْسِهَا قَالَ هِيَ مِثْلُ السَّائِبَةِ لَا تَمْلِكُ نَفْسَهَا فَلَوْ شَاءَ قَتَلَهَا فَلَيْسَ عَلَيْهَا جُلْدٌ وَ لَا نَفْيٌ وَ لَا رَجْمٌ .

And he^{asws} said regarding a woman who accepted upon herself that a man forced himself upon her. He^{asws} said: 'She is similar to *Al-Sa'aiba* (unconditionally freed

⁷⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 12 H 1

⁷⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 12 H 2

slave), not having control over her affairs. Had he so desired to, he could have killed her. Therefore, there is neither whipping upon her, nor exiling, nor stoning'.⁷⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) فِي امْرَأَةٍ مَجْنُونَةٍ زَنَتْ قَالَ إِنَّهَا لَا تَمْلِكُ أَمْرَهَا وَ لَيْسَ عَلَيْهَا شَيْءٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated either) from one of the two (5th or 6th Imam^{asws}) regarding an insane woman who committed adultery. He^{asws} said: 'She had no control over her affair, and there is nothing upon her'.⁸⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرٍو بْنِ عُثْمَانَ عَنْ إِبْرَاهِيمَ بْنِ الْفَضْلِ عَنْ أَبَانَ بْنِ تَعْلِبٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) إِذَا زَنَى الْمَجْنُونُ أَوْ الْمَعْتُوهُ جُلِدَ الْحَدَّ وَ إِنْ كَانَ مُحْصَنًا رُجِمَ قُلْتُ وَ مَا الْفَرْقُ بَيْنَ الْمَجْنُونِ وَ الْمَجْنُونَةِ وَ الْمَعْتُوهُ وَ الْمَعْتُوْهَةِ قَالَ الْمَرْأَةُ إِنَّمَا تُؤْتَى وَ الرَّجُلُ يَأْتِي وَ إِنَّمَا يَزْنِي إِذَا عَقَلَ كَيْفَ يَأْتِي اللَّذَّةَ وَ إِنْ الْمَرْأَةُ إِنَّمَا تُسْتَكْرَهُ وَ يَفْعَلُ بِهَا وَ هِيَ لَا تَعْقِلُ مَا يَفْعَلُ بِهَا .

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Ibrahim Bin Al Fazal, from Aban Bin Taglub who said,

'Abu Abdullah^{asws} said: 'When the insane or the feeble minded man commits adultery, he would be whipped by the Penalty (*Hadd*), and if he was married, would be stoned'. I said, 'And what is the difference between the insane man and the insane woman, and the feeble minded man and the feeble minded woman?' He^{asws} said: 'The woman, but rather she is come to, and the man comes to her, and he rather commits adultery and realised how the pleasure comes, and the woman, rather dislikes, and she is done with, and she does not realise what is being done with her'.⁸¹

بَابُ حَدِّ الْمَرْأَةِ الَّتِي لَهَا زَوْجٌ فَتَزَوَّجَ أَوْ تَتَزَوَّجَ وَ هِيَ فِي عَدَّتِهَا وَ الرَّجُلُ الَّذِي يَتَزَوَّجُ دَاتِ زَوْجٍ

Chapter 14 – Penalty (*Hadd*) of the woman who has a husband for her, so she married (another), or she married whilst being in her waiting period, and the man who marries a married woman

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ تَزَوَّجَتْ رَجُلًا وَ لَهَا زَوْجٌ قَالَ فَقَالَ إِنْ كَانَ زَوْجُهَا الْأَوَّلُ مُقِيمًا مَعَهَا فِي الْمَصْرِ الَّذِي هِيَ فِيهِ تَصِلُ إِلَيْهِ وَ يَصِلُ إِلَيْهَا فَإِنَّ عَلَيْهَا مَا عَلَى الزَّانِي الْمُحْصَنِ الرَّجْمَ قَالَ وَ إِنْ كَانَ زَوْجُهَا الْأَوَّلُ غَائِبًا عَنْهَا أَوْ كَانَ مُقِيمًا مَعَهَا فِي الْمَصْرِ لَا يَصِلُ إِلَيْهَا وَ لَا تَصِلُ إِلَيْهِ فَإِنَّ عَلَيْهَا مَا عَلَى الزَّانِيَةِ غَيْرِ الْمُحْصَنَةِ وَ لَا لِعَانَ بَيْنَهُمَا وَ لَا تَفْرِيقَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Jameel Bin Salih, from Abu Ubeyda,

(The narrator) says, 'I asked Abu Abdullah^{asws} about a woman who married a man, (although) for her was a husband'. So he^{asws} said: 'If her first husband was living with her in the city which she was in, she could go to him and he could go to her, so upon

⁷⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 13 H 1

⁸⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 13 H 2

⁸¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 13 H 3

her would be what is upon the married adulterer, the stoning. And if it was that her first husband was absent from her, or was staying with her in the city, not coming to her and she could not go to him, so upon her would be what is upon an unmarried adulteress, and there is no *Li'an* (cursing) between the two of them, nor any separation (to be brought about)'.⁸²

قُلْتُ مَنْ يَرْجُمُهُمَا أَوْ يَضْرِبُهُمَا الْحَدَّ وَ زَوْجُهَا لَا يُقَدِّمُهَا إِلَى الْإِمَامِ وَلَا يُرِيدُ ذَلِكَ مِنْهَا فَقَالَ إِنَّ الْحَدَّ لَا يَزَالُ لِلَّهِ فِي بَدْنِهَا حَتَّى يَفُومَ بِهِ مَنْ قَامَ أَوْ تَلَقَى اللَّهَ وَ هُوَ عَلَيْهَا غَضَبَانُ

I said, 'Who would be stoning the two of them, or whipping the two of them with the Penalty (*Hadd*), and her husband did not come to the Imam^{asws}, nor does he intend that from it'. So he^{asws} said 'The Penalty (*Hadd*) would not cease to be upon her body, for the Sake of Allah^{azwj}, until it is established by the one who establishes it, and or she meets Allah^{azwj} and He^{azwj} would be Angry upon her'.

قُلْتُ فَإِنْ كَانَتْ جَاهِلَةً بِمَا صَنَعَتْ قَالَ فَقَالَ أَلَيْسَ هِيَ فِي دَارِ الْهَجْرَةِ قُلْتُ بَلَى قَالَ فَمَا مِنْ امْرَأَةٍ الْيَوْمَ مِنْ نِسَاءِ الْمُسْلِمِينَ إِلَّا وَ هِيَ تَعْلَمُ أَنَّ الْمَرْأَةَ الْمُسْلِمَةَ لَا يَجِلُّ لَهَا أَنْ تَتَزَوَّجَ زَوْجَيْنِ قَالَ وَ لَوْ أَنَّ الْمَرْأَةَ إِذَا فَجَرَتْ قَالَتْ لَمْ أَدْرِ أَوْ جَهَلْتُ أَنَّ الْأَذَى فَعَلْتُ حَرَامٌ وَ لَمْ يَقُمْ عَلَيْهَا الْحَدُّ إِذَا لَتَعَطَّلَتِ الْحُدُودَ .

I said, 'So if she was ignorant with what she had done?' So he^{asws} said: 'Is she not in the era of the emigration (Hijra)?' I said, 'Yes'. He^{asws} said: 'So there is none from a woman today from the Muslim women except that she knows that it is not Permissible for the Muslim woman to have two husbands for her. And if the woman, when she is immoral, say that 'I did not know, or I was ignorant', of that which she has done, and the Penalty (*Hadd*) is not established upon her, then the Penalties would be disrupted'.⁸²

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ يَزِيدِ الْكُنَاسِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ امْرَأَةٍ تَزَوَّجَتْ فِي عِدَّتِهَا قَالَ إِنْ كَانَتْ تَزَوَّجَتْ فِي عِدَّةٍ طَلَّقَ لِزَوْجِهَا عَلَيْهَا الرَّجْعَةَ فَإِنَّ عَلَيْهَا الرَّجْمَ وَ إِنْ كَانَتْ تَزَوَّجَتْ فِي عِدَّةٍ لَيْسَ لِزَوْجِهَا عَلَيْهَا الرَّجْعَةُ فَإِنَّ عَلَيْهَا حَدَّ الزَّانِي غَيْرِ الْمُحْصَنِ وَ إِنْ كَانَتْ تَزَوَّجَتْ فِي عِدَّةٍ مِنْ بَعْدِ مَوْتِ زَوْجِهَا مِنْ قَبْلِ انْقِضَاءِ الْأَرْبَعَةِ أَشْهُرٍ وَ الْعَشْرَةَ أَيَّامٍ فَلَا رَجْمَ عَلَيْهَا وَ عَلَيْهَا ضَرْبُ مِائَةِ جَلْدَةٍ

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Abu Ayoub, from Yazeed Al Kunasy who said,

'I asked Abu Ja'far^{asws} about a woman who married whilst being in her waiting period. He^{asws} said: 'If she has married during a waiting period of a divorce, and for her husband is the (right of) return, so upon her would be the stoning; and if she has married during a waiting period, there not being the (right of) return for husband, so upon her would be the Penalty (*Hadd*) of the unmarried adulterer; and if she has married during her waiting period from after the death of her husband, before the expiry of four months and ten days, so there would not be stoning upon her, and upon her would be one hundred lashes'.

قُلْتُ أَرَأَيْتَ إِنْ كَانَ ذَلِكَ مِنْهَا بِجَهَالَةٍ قَالَ فَقَالَ مَا مِنْ امْرَأَةٍ الْيَوْمَ مِنْ نِسَاءِ الْمُسْلِمِينَ إِلَّا وَ هِيَ تَعْلَمُ أَنَّ عَلَيْهَا عِدَّةٌ فِي طَلَاقٍ أَوْ مَوْتٍ وَ لَقَدْ كُنَّ نِسَاءً الْجَاهِلِيَّةِ يَعْرِفْنَ ذَلِكَ قُلْتُ فَإِنْ كَانَتْ تَعْلَمُ أَنَّ عَلَيْهَا عِدَّةٌ وَ لَا تَدْرِي كَمْ هِيَ قَالَ فَقَالَ إِذَا عَلِمَتْ أَنَّ عَلَيْهَا الْعِدَّةَ لِزِمْنِهَا الْحُجَّةُ فَتَسْأَلُ حَتَّى تَعْلَمَ .

⁸² Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 1

I said, 'What is your^{asws} view, if that was from her due to ignorance'. So he^{asws} said: 'There is none from a woman today, from the Muslim women, except that she knows that upon her is a waiting period regarding a divorce, or death (of her husband), and the women during the pre-Islamic period used to know that'. I said, 'So if she knew that upon her is a waiting period, and she did not know how much it was?' So he^{asws} said: 'When she knew that upon her is the waiting period, the proof was necessitated upon her, so she should have asked until she had known'.⁸³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ تَزَوَّجَهَا رَجُلٌ فَوَجَدَ لَهَا زَوْجاً قَالَ عَلَيْهِ الْجُلْدُ وَ عَلَيْهَا الرَّجْمُ لِأَنَّهُ قَدْ تَقَدَّمَ بِغَيْرِ عِلْمٍ وَ تَقَدَّمَتْ هِيَ بِعِلْمٍ وَ كَفَّارَتُهُ إِنْ لَمْ يُتَقَدَّمْ إِلَى الْإِمَامِ أَنْ يَبْصُرَ بِخَمْسَةِ أَصْوَعٍ دَقِيقٍ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus, from Abu Baseer,

(The narrator) says, 'I asked Abu Abdullah^{asws} about a woman whom a man married and he found there being a husband for her'. He^{asws} said: 'Upon him would be the whipping and upon her is the stoning, because he has proceeded without knowledge, and she proceeded with knowledge, and his 'kufara' expiation, if he did not proceed to the Imam^{asws}, is that he should give in charity with five Sa'a (a unit of measurement being four handfuls each) of flour'.⁸⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنْ امْرَأَةٍ كَانَتْ لَهَا زَوْجٌ غَائِبٌ عَنْهَا فَتَزَوَّجَتْ زَوْجاً آخَرَ قَالَ إِنْ رُفِعَتْ إِلَى الْإِمَامِ ثُمَّ شَهِدَ عَلَيْهَا شُهُودٌ أَنَّ لَهَا زَوْجاً غَائِباً وَ أَنَّ مَاتَتْهُ وَ خَبَرَهُ بِأَتْيَافِهَا مِنْهُ وَ أَنَّهَا تَزَوَّجَتْ زَوْجاً آخَرَ كَانَ عَلَى الْإِمَامِ أَنْ يَحْدَها وَ يُفَرِّقَ بَيْنَها وَ بَيْنَ الَّذِي تَزَوَّجَها

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Yunus Bin Yaqoub, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws}, when 'He^{asws} was asked about a woman who had a husband, but he was absent from her, so she married another husband'. He^{asws} said: 'If it (the matter) is raised to the Imam^{asws}, then four witnesses testify against her that there was a husband for her, absent, and that his materials and his news were coming to her, and that she has married another husband, it would be upon the Imam^{asws} that he^{asws} established the Penalty (*Hadd*) on her, and effected separation between her and the one she had married'.

قُلْتُ فَالْمَهْرُ الَّذِي أَخَذْتُ مِنْهُ كَيْفَ يُصْنَعُ بِهِ قَالَ إِنْ أَصَابَ مِنْهُ شَيْئاً فَلْيَأْخُذْهُ وَ إِنْ لَمْ يُصِْبْ مِنْهُ شَيْئاً فَإِنَّ كُلَّ مَا أَخَذْتُ مِنْهُ حَرَامٌ عَلَيْهَا مِثْلُ أَجْرِ الْفَاجِرَةِ .

I said, 'So the dower which she has taken from him, how should it be dealt with?' He^{asws} said: 'If he can attain anything from it, so let him take it, and if he cannot attain anything from it, so everything what she has taken from it is Prohibited upon her, similar to the payment of the Immoral woman (prostitute)'.⁸⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ عَلِيّاً (عَلَيْهِ السَّلَامُ) ضَرَبَ رَجُلًا تَزَوَّجَ امْرَأَةً فِي نَفْسِهَا قَبْلَ أَنْ تَطْهَرَ الْحَدَّ .

⁸³ Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 2

⁸⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 3

⁸⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 4

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} that Ali^{asws} struck a man with the Penalty (*Hadd*), who married a woman during her menses, before she had purified'.⁸⁶

بَاب الرَّجُلِ يَأْتِي الْجَارِيَةَ وَ لِعَيرِهِ فِيهَا شِرْكٌ وَ الرَّجُلُ يَأْتِي مُكَاتِبَتَهُ

Chapter 15 – The man whom comes to a slave girl and there is a partnership with regards to her, and the man who comes to his contracted slave girl

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَوْمٌ اشْتَرَوْا فِي شِرَاءِ جَارِيَةٍ فَاتْتَمَنُوا بَعْضُهُمْ وَ جَعَلُوا الْجَارِيَةَ عِنْدَهُ فَوَطَّنَهَا قَالَ يُجْلَدُ الْحَدَّ وَ يُدْرَأُ عَنْهُ مِنَ الْحَدِّ بِقَدْرِ مَا لَهُ فِيهَا وَ نَقَوْمُ الْجَارِيَةِ وَ يُعْرَمُ ثَمَنُهَا لِلشَّرَكَاءِ فَإِنْ كَانَتْ الْقِيمَةُ فِي الْيَوْمِ الَّذِي وَطَّنَهَا أَقَلَّ مِمَّا اشْتَرَيْتَ بِهِ فَإِنَّهُ يُلْزَمُ أَكْثَرَ الثَّمَنِ لِأَنَّهُ قَدْ أَفْسَدَ عَلَى شُرَكَائِهِ وَ إِنْ كَانَتْ الْقِيمَةُ فِي الْيَوْمِ الَّذِي وَطَّى أَكْثَرَ مِمَّا اشْتَرَيْتَ بِهِ يُلْزَمُ الْأَكْثَرَ لِاسْتِفْسَادِهَا .

Ali Bin Ibrahim, from Salih Bin Saeed, from Yunus, from Abdullah Bin Sinan who said,

'I said to Abu Abdullah^{asws}, 'A group participated in buying a slave girl, so they relied upon one of them, and made the slave girl to be with him, so he went to her'. He^{asws} said: 'He would be whipped the Penalty (*Hadd*) and it would be staved off by the measurement of whatever (share) was for him in her, and the slave girl would be evaluated, and her price would be for the associates. So if her price during the day she had been copulated with is less than what she was bought for, so the excess of the price would be necessitated upon him, because he had spoilt upon his associates; and if it was that the price during the day which she had been copulated with is more than what she had been bought for, the excess would be necessitated for having spoilt her'.⁸⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنْ عَدَّةٍ مِنْ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنْ رَجُلٍ أَصَابَ جَارِيَةَ مِنَ الْفِيءِ فَوَطَّنَهَا قَبْلَ أَنْ تُقَسَمَ قَالَ نَقَوْمُ الْجَارِيَةِ وَ تُدْفَعُ إِلَيْهِ بِالْقِيمَةِ وَ يُحِطُّ لَهُ مِنْهَا مَا يُصِيبُهُ مِنْهَا مِنَ الْفِيءِ وَ يُجْلَدُ الْحَدَّ وَ يُدْرَأُ عَنْهُ مِنَ الْحَدِّ بِقَدْرِ مَا كَانَ لَهُ فِيهَا فَقُلْتُ وَ كَيْفَ صَارَتِ الْجَارِيَةُ تُدْفَعُ إِلَيْهِ هُوَ بِالْقِيمَةِ دُونَ غَيْرِهِ قَالَ لِأَنَّهُ وَطَّنَهَا وَ لَا يُؤْمَنُ أَنْ يَكُونَ تَمَّ حَبْلٌ .

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from a number of our companions,

Abu Abdullah^{asws}, said when He^{asws} was asked about a man who got a slave girl from *Al-Fey* (war booty). So he copulated with her before the distribution'. He^{asws} said: 'The slave girl would be evaluated and she would be handed over to him by the price, and reduced for him from her what his share was from the war booty, and he would be whipped the Penalty (*Hadd*), and it would be staved off from him from the Penalty (*Hadd*), by the measurement of what (share) was for him with regards to her'. So I said, 'And how come the slave girl would be handed over to him, and he is with the price, besides the others?' He^{asws} said: 'Because he has copulated with her, and there is no safety that she might happen to be pregnant'.⁸⁸

⁸⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 5

⁸⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 1

⁸⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 2

يُونُسُ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ وَقَعَ عَلَى مُكَاتَبَتِهِ قَالَ إِنْ كَانَتْ أَدَّتِ الرَّبْعَ جُلْدٌ وَ إِنْ كَانَ مُحْصَنًا رُجْمٌ وَ إِنْ لَمْ يَكُنْ أَدَّتْ شَيْئًا فَلَيْسَ عَلَيْهِ شَيْءٌ .

Yunus, from Al Halby who said,

'I asked Abu Abdullah^{asws} about a man who fell upon his contracted slave girl. He^{asws} said: 'If she has paid off the quarter (of what was owed by the contract), he would be whipped; and if he was married, he would be stoned; and if she has not paid off anything, so there is nothing upon him'.⁸⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَوَلَادِ الْحَنَاطِ قَالَ سُئِلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ جَارِيَةٍ بَيْنَ رَجُلَيْنِ أَعْتَقَ أَحَدُهُمَا نَصِيْبَهُ مِنْهَا فَلَمَّا رَأَى ذَلِكَ شَرِيْكُهُ وَثَبَ عَلَى الْجَارِيَةِ فَوَقَعَ عَلَيْهَا قَالَ فَقَالَ يُجْلَدُ الَّذِي وَقَعَ عَلَيْهَا خَمْسِينَ جَلْدَةً وَ يُطْرَحُ عَنْهُ خَمْسِينَ جَلْدَةً وَ يَكُونُ نِصْفُهَا حُرًّا وَ يُطْرَحُ عَنْهَا مِنَ النِّصْفِ الْبَاقِي الَّذِي لَمْ يُعْتَقْ وَ إِنْ كَانَتْ بَكْرًا عَشْرَ قِيَمَتِهَا وَ إِنْ كَانَتْ غَيْرَ بَكْرٍ نِصْفُ عَشْرِ قِيَمَتِهَا وَ تُسْتَسْعَى فِي الْبَاقِي .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abu Wallad Al Hanaat who said,

'Abu Abdullah^{asws} was asked about a slave girl between two men. One of them emancipated (liberated) his share of her. So when his partner saw that, he leapt upon the slave girl and fell upon her. So he^{asws} said: 'The one who fell upon her would be whipped with fifty lashes, and fifty lashes would be subtracted from him, and half of her happens to be free and there would be reduced from the remaining half which is not emancipated; and if she was a virgin, a tenth of her price, and if she was not a virgin, half of the tenth of her price, and she has to work with regards to the remainder'.⁹⁰

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ مَالِكِ بْنِ أَعْيَنَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي أَمَةٍ بَيْنَ رَجُلَيْنِ أَعْتَقَ أَحَدُهُمَا نَصِيْبَهُ فَلَمَّا سَمِعَ ذَلِكَ مِنْهُ شَرِيْكُهُ وَثَبَ عَلَى الْجَارِيَةِ فَاقْتَضَى مِنْ يَوْمِهِ قَالَ يُضْرَبُ الَّذِي اقْتَضَى خَمْسِينَ جَلْدَةً وَ يُطْرَحُ عَنْهُ خَمْسِينَ جَلْدَةً لِحَقِّهَا مِنْهَا وَ يُعْرَمُ لِلْأَمَةِ عَشْرَ قِيَمَتِهَا لِمَوَاقَعَتِهَا بِهَا وَ تُسْتَسْعَى فِي الْبَاقِي .

Ibn Mahboub, from Hisham Bin Salim, from Malik Bin Ayn,

(It has been narrated) from Abu Abdullah^{asws} regarding a slave girl between two men, one of them emancipated his share, so when his partner heard that from him, he leapt upon the slave girl and deflowered her on that very day. He^{asws} said: 'The one who deflowered her would be whipped fifty lashes, and fifty lashes would be subtracted from him due to his right in her; and slave girl would be compensated a tenth of her price due to him falling upon her, and she has to work for the remainder'.⁹¹

أَحْمَدُ بْنُ مُحَمَّدِ بْنِ الْكُوفِيِّ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ النَّهْدِيِّ عَنْ مُحَمَّدِ بْنِ الْوَلِيدِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ إِسْمَاعِيلَ بْنِ عَبْدِ الرَّحْمَنِ الْجَعْفِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي جَارِيَةٍ بَيْنَ رَجُلَيْنِ وَطَنَهَا أَحَدُهُمَا دُونَ الْآخَرِ فَأَحْبَبَهَا قَالَ يُضْرَبُ نِصْفَ الْحَدِّ وَ يُعْرَمُ نِصْفَ الْقِيَمَةِ .

Ahmad Bin Muhammad Al Kufy, from Muhammad Bin Ahmad Al Nahdy, from Muhammad Bin Al Waleed, from Aban Bin Usman, from Ismail Bin Abdul Rahman Al Ju'fy,

⁸⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 3

⁹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 4

⁹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 5

(It has been narrated) from Abu Ja'far^{asws} regarding a slave girl between two men. One of them copulated with her besides the other (without his companion's knowledge), so he impregnated her. He^{asws} said: 'He would be struck with half the Penalty (*Hadd*), and compensate half her price'.⁹²

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمِثَمِيِّ عَنْ أَبَانَ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلَيْنِ اشْتَرَيَا جَارِيَةً فَكَحَّهَا أَحَدُهُمَا دُونَ صَاحِبِهِ قَالَ يُضْرَبُ نِصْفَ الْحَدِّ وَ يُعْرَمُ نِصْفَ الْقِيَمَةِ إِذَا أَحْبَلَ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ahmad Bin Al Hassan Al Maysami, from Aban, from Ismail Al Ju'fy,

(It has been narrated) from Abu Ja'far^{asws} regarding two men who bought a slave girl. So one of them copulated with her (without his companion's knowledge). He^{asws} said: 'He would be struck with half the Penalty (*Hadd*), and compensate half the price, if she is pregnant'.⁹³

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنِ ابْنِ مَحْبُوبٍ عَنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَمِعْتُ عَبَادَ الْبِصْرِيِّ يَقُولُ كَانَ جَعْفَرُ (عَلَيْهِ السَّلَامُ) يَقُولُ يَدْرَأُ عَنْهُ مِنَ الْحَدِّ بِقَدْرِ حِصَّتِهِ مِنْهَا وَ يُضْرَبُ مَا سِوَى ذَلِكَ يَعْنِي فِي الرَّجُلِ إِذَا وَقَعَ عَلَى جَارِيَةٍ لَهُ فِيهَا حِصَّةٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abdul Rahman Bin Al Hajjaj who said,

'I heard Abbad Al-Basry saying, 'Ja'far^{asws} was saying: 'The Penalty (*Hadd*) would be staved off from him by the measurement of his share from her, and he would be struck with what is other than that, meaning regarding the man when he fell upon a slave girl, for him being a share in her'.⁹⁴

بَابُ الْمَرْأَةِ الْمُسْتَكْرَهَةِ

Chapter 16 – The coerced woman

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ أَبِي عَلِيُّ (عَلَيْهِ السَّلَامُ) بِأَمْرَةِ مَعَ رَجُلٍ قَدْ فَجَرَ بِهَا فَقَالَتْ اسْتَكْرَهْنِي وَ اللَّهُ يَا أَمِيرَ الْمُؤْمِنِينَ قَدْرًا عَنْهَا الْحَدُّ وَ لَوْ سِئِلَ هَؤُلَاءِ عَنْ ذَلِكَ لَقَالُوا لَا تُصَدَّقُ وَ قَدْ فَعَلَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Abu Ayoub, from Abu Ubeyda,

Abu Ja'far^{asws} has said: 'They came with a woman to Ali^{asws} along with a man who had been immoral with her. So she said, 'He coerced (forced) me, By Allah^{azwj}, O Amir Al-Momineen^{asws}! So he^{asws} staved off the Penalty (*Hadd*) from her, and had these (people) been asked about that, they would say, 'Do not ratify', and Amir Al-Momineen^{asws} had done it'.⁹⁵

بَابُ الرَّجُلِ يَزْنِي فِي الْيَوْمِ مَرَاراً كَثِيرَةً

⁹² Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 6

⁹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 7

⁹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 8

⁹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 16 H 1

Chapter 17 – The man who commits adultery many times a day

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَزْنِي فِي الْيَوْمِ الْوَاحِدِ مَرَاراً كَثِيرَةً قَالَ فَقَالَ إِنْ زَنَى بِامْرَأَةٍ وَاحِدَةً كَذَا وَ كَذَا مَرَّةً فَإِنَّمَا عَلَيْهِ حَدٌّ وَاحِدٌ وَ إِنْ هُوَ زَنَى بِنِسْوَةٍ شَتَّى فِي يَوْمٍ وَاحِدٍ وَ فِي سَاعَةٍ وَاحِدَةٍ فَإِنَّ عَلَيْهِ فِي كُلِّ امْرَأَةٍ فَجْرٌ بِهَا حَدًّا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Ali Bin Abu Hamza, from Abu Baseer,

(The narrator) says, 'I asked Abu Ja'far^{asws} about the man who committed adultery many times in one day. So he^{asws} said: 'If he has committed adultery with one woman, such and such number of times, so upon him is one Penalty (*Hadd*), and if he has committed adultery with various women in one day, and in one time, so upon him would be a Penalty (*Hadd*) for each woman he had been immoral with'.⁹⁶

باب الرَّجُلِ يُزَوِّجُ أَمَتَهُ ثُمَّ يَقَعُ عَلَيْهَا

Chapter 18 – The man who gets his slave girl married off, then falls upon her

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ زَوَّجَ أَمَتَهُ رَجُلًا ثُمَّ وَقَعُ عَلَيْهَا قَالَ يُضْرَبُ الْحَدَّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umer, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who got his slave girl married off to a man, then fell upon her. He^{asws} said: 'He would be struck with the Penalty (*Hadd*)'.⁹⁷

باب نَفْيِ الرَّانِي

Chapter 19 – Exiling the adulterer

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ النَّفْيُ مِنْ بَلَدَةٍ إِلَى بَلَدَةٍ وَ قَالَ قَدْ نَفَى عَلِيُّ (صَلَوَاتُ اللَّهِ عَلَيْهِ) رَجُلَيْنِ مِنَ الْكُوفَةِ إِلَى الْبَصْرَةِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The exiling is from a city to a city'. And he^{asws} said: 'Ali^{asws} had exiled two men from Al-Kufa to Al-Basra'.⁹⁸

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِذَا زَنَى الرَّجُلُ فَجَلَدَ يَنْبَغِي لِلْإِمَامِ أَنْ يَنْفِيَهُ مِنَ الْأَرْضِ الَّتِي جَلَدَ فِيهَا إِلَى غَيْرِهَا فَإِنَّمَا عَلَى الْإِمَامِ أَنْ يُخْرِجَهُ مِنَ الْمِصْرِ الَّذِي جَلَدَ فِيهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zurara, from Sama'at who said,

⁹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 17 H 1

⁹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 18 H 1

⁹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 1

'Abu Abdullah^{asws} said: 'When the man commits adultery, so he is whipped, it is befitting for the Imam^{asws} that he^{asws} exiles him from the land wherein he was whipped to other than it. But rather, it is upon the Imam^{asws} than he exits him from the city in which he was whipped'.⁹⁹

يُونُسُ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّائِي إِذَا زَنَى أَوْ يُنْفَى قَالَ فَقَالَ نَعَمْ مِنَ الَّتِي جُلِدَ فِيهَا إِلَى غَيْرِهَا .

Yunus, from Ibn Muskan, from Abu Baseer who said,

'I asked Abu Abdullah^{asws} about the adulterer when he commits adultery, should he be exiled?' So he^{asws} said: 'Yes, from (the city) in which he was whipped to other than it'.¹⁰⁰

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ مُثَنَّى الْحَنَاطِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الرَّائِي إِذَا جُلِدَ أَحَدٌ قَالَ يُنْفَى مِنَ الْأَرْضِ إِلَى بَلَدَةٍ يَكُونُ فِيهَا سَنَةً .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, from Musny Al Hanaat,

(The narrator) says, 'I asked Abu Abdullah^{asws} about the adulterer when he is whipped the Penalty (*Hadd*)'. He^{asws} said: 'He should be exiled from the land to a city to happen to be there for a year'.¹⁰¹

بَابُ حَدِّ الْغُلَامِ وَالْجَارِيَةِ اللَّذَيْنِ يَجِبُ عَلَيْهِمَا الْحَدُّ تَامًا

Chapter 20 – Penalty (*Hadd*) of the boy and the girl upon both is Obligated the complete Penalty (*Hadd*)

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الْعَزِيزِ الْعَبْدِيِّ عَنْ حَمْرَةَ بِنِ حُمْرَانَ عَنْ حُمْرَانَ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) قُلْتُ لَهُ مَتَى يَجِبُ عَلَى الْغُلَامِ أَنْ يُؤْخَذَ بِالْحُدُودِ النَّامَةِ وَتُقَامَ عَلَيْهِ وَيُؤْخَذَ بِهَا فَقَالَ إِذَا خَرَجَ عَنْهُ الْبَيْتُمْ وَأَدْرَكَ قُلْتُ فَلِذَلِكَ حَدٌّ يُعْرَفُ بِهِ فَقَالَ إِذَا احْتَلَمَ أَوْ بَلَغَ خَمْسَةَ عَشَرَ سَنَةً أَوْ أَشْعَرَ أَوْ أَنْبَتَ قَبْلَ ذَلِكَ أُقِيمَتْ عَلَيْهِ الْحُدُودُ النَّامَةُ وَأُخِذَ بِهَا وَأُحْدِثَ لَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdul Aziz Al Abady, from Hamza Bin Humran, from Humran who said,

'I asked Abu Ja'far^{asws} saying to him^{asws}, 'When is it Obligatory upon the boy that he should be seized with the complete Penalties, and for it to be established upon him and for him to be seized by it?' So he^{asws} said: 'When the orphan-hood exits from him, and he attains realisation'. I said, 'So for that is a Penalty (*Hadd*) to be recognised by?' So he^{asws} said: 'When he bed-wets, or reaches fifteen years of age, or becomes aware, or grows (pubic hair) before that, the complete Penalties would be established upon him, and he would be seized by it, and it would be taken for him'.

قُلْتُ فَالْجَارِيَةُ مَتَى تَجِبُ عَلَيْهَا الْحُدُودُ النَّامَةُ وَتُؤْخَذُ لَهَا وَيُؤْخَذُ بِهَا قَالَ إِنَّ الْجَارِيَةَ لَيْسَتْ مِثْلَ الْغُلَامِ إِنَّ الْجَارِيَةَ إِذَا تَزَوَّجَتْ وَدَخَلَ بِهَا وَلَهَا تِسْعُ سِنِينَ ذَهَبَ عَنْهَا الْبَيْتُمْ وَدُفِعَ إِلَيْهَا مَالُهَا وَجَارَ أَمْرُهَا فِي الشَّرَاءِ وَالْبَيْعِ وَ أُقِيمَتْ عَلَيْهَا

⁹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 2

¹⁰⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 3

¹⁰¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 4

الْحُدُودُ التَّامَّةُ وَ أَخَذَ لَهَا بِهَا قَالَ وَ الْغُلَامُ لَا يَجُوزُ أَمْرُهُ فِي الشَّرَاءِ وَ الْبَيْعِ وَ لَا يَخْرُجُ مِنَ الْيَتِيمِ حَتَّى يَبْلُغَ خَمْسَةَ عَشَرَ سَنَةً أَوْ يَحْتَلِمَ أَوْ يُشْعِرَ أَوْ يُنْبِتَ قَبْلَ ذَلِكَ .

I said, 'So, for the girl, when would the complete Penalties be Obligated upon her, and these would be taken for her, and she would be seized by it?' He^{asws} said: 'The girl is not like the boy. The girl, when she gets married and copulated with, and for her are nine years, the orphan-hood goes away from her, and her wealth is handed over to her, and her instructions are allowed with regards to the buying and the selling, and the complete Penalties would be established upon her, and she would be seized by it. And the boy, his instructions are not allowed with regards to the buying and the selling, and he does not come out from the orphan-hood until he reaches fifteen years of age, or bed-wets, or becomes aware, or grows (pubic hair) before that'.¹⁰²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ يَزِيدَ الْكُنَاسِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الْجَارِيَةُ إِذَا بَلَغَتْ تِسْعَ سِنِينَ ذَهَبَ عَنْهَا الْيَتِيمُ وَ زُوِّجَتْ وَ أُقِيمَتْ عَلَيْهَا الْحُدُودُ التَّامَّةُ عَلَيْهَا وَ لَهَا قَالَ قُلْتُ الْغُلَامُ إِذَا زَوَّجَهُ أَبُوهُ وَ دَخَلَ بِأَهْلِهِ وَ هُوَ غَيْرُ مُدْرِكٍ أُنْقَامُ عَلَيْهِ الْحُدُودُ وَ هُوَ عَلَى تِلْكَ الْحَالِ قَالَ فَقَالَ أَمَّا الْحُدُودُ الْكَامِلَةُ الَّتِي يُؤْخَذُ بِهَا الرِّجَالُ فَلَا وَ لَكِنْ يُجْلَدُ فِي الْحُدُودِ كُلِّهَا عَلَى مَبْلَغِ سِنِّهِ فَيُؤْخَذُ بِذَلِكَ مَا بَيْنَهُ وَ بَيْنَ خَمْسَةَ عَشَرَ سَنَةً وَ لَا تَبْطُلُ حُدُودُ اللَّهِ فِي خَلْقِهِ وَ لَا تَبْطُلُ حُقُوقُ الْمُسْلِمِينَ بَيْنَهُمْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Yazeed Al Kunasy,

Abu Ja'far^{asws} has said: 'The girl, when she reaches nine years of age, the orphan-hood goes away from her, and she gets married, and the complete Penalties are established upon her, and for her'. I said, 'The boy, when his father gets him married, and copulates with his wife, and he is without realisation, would the Penalties be established upon him, and he would be upon that state?' So he^{asws} said: 'As for the complete Penalties by which the men are seized with, so no, but he would be whipped with regards to the Penalties, all of them, upon his years of age. So he would be seized by that what is between him and between fifteen years, and the Penalties of Allah^{azwj} would not be invalidated among His^{azwj} creatures, nor would the rights of Muslims be invalidated between them'.¹⁰³

بابُ الْحَدِّ فِي اللَّوَاطِ

Chapter 21 – The Penalty (*Hadd*) regarding the sodomy

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفَضِيلِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) حَدُّ اللَّوْطِيِّ مِثْلُ حَدِّ الزَّانِي وَ قَالَ إِنْ كَانَ قَدْ أَحْصَيْنَ رُجْمًا وَ إِلَّا جُلِدَ .

Ali Bin Ibrahi, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Sinan, from Al A'ala Bin Al Fazeyl who said,

¹⁰² Al Kafi – V 7 – The Book of Legal Penalties Ch 20 H 1

¹⁰³ Al Kafi – V 7 – The Book of Legal Penalties Ch 20 H 2

'Abu Abdullah^{asws} said: 'The Penalty (*Hadd*) of the sodomist is like the Penalty (*Hadd*) of the adulterer'. And he^{asws} said: 'If he was married, would be stoned, or else whipped'.¹⁰⁴

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَادِ بْنِ عُمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ أَتَى رَجُلًا قَالَ إِنْ كَانَ مُحْصَنًا فَعَلَيْهِ الْقَتْلُ وَإِنْ لَمْ يَكُنْ مُحْصَنًا فَعَلَيْهِ الْجُلْدُ قَالَ فَقُلْتُ فَمَا عَلَى الْمُوطَأِ قَالَ عَلَيْهِ الْقَتْلُ عَلَى كُلِّ حَالٍ مُحْصَنًا كَانَ أَوْ غَيْرَ مُحْصَنٍ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Hammad Bin Usman who said,

'I said to Abu Abdullah^{asws}, 'A man comes to a man'. He^{asws} said: 'If he was married, so upon him is the killing, and if does not happen to be married, so upon him is the whipping'. So I said, 'So what is upon the passive one?' He^{asws} said: 'Upon him is the killing upon every state, whether he was married, or without marriage'.¹⁰⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ عَنِ آبَائِهِ (عَلَيْهِمُ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) لَوْ كَانَ يَنْبَغِي لِأَحَدٍ أَنْ يُرْجَمَ مَرَّتَيْنِ لَرُجِمَ الْوَطِيُّ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws}, from his^{asws} forefathers^{asws} having said: 'Amir Al-Momineen^{asws} said: 'If it was befitting for anyone that he should be stoned twice, it would be sodomist to be stoned'.¹⁰⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ بَكْرِ بْنِ صَالِحٍ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ أَبِي بَكْرٍ الْخَضْرَمِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَتَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) بَرَجُلٍ وَامْرَأَةً قَدْ لَاطَ زَوْجَهَا بِأَبْنِهَا مِنْ غَيْرِهِ وَتَقَبَّهَ وَشَهِدَ عَلَيْهِ بِذَلِكَ الشُّهُودُ فَأَمَرَ بِهِ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَضَرَبَ بِالسَّيْفِ حَتَّى قُتِلَ وَضَرِبَ الْعُلَامُ دُونَ الْحَدِّ وَ قَالَ أَمَا لَوْ كُنْتُ مُدْرِكًا لَقَتَلْتُكَ لِإِمْكَانِكَ إِيَّاهُ مِنْ نَفْسِكَ بِتَقْبِكَ .

A number of our companions, from Sahl Bin Ziyad, from Bakr Bin Salih, from Muhammad Bin Sinan, from Abu Bakr Al Hazramy,

Abu Abdullah^{asws} having said: 'They came to Amir Al-Momineen^{asws} with a man and a woman, her husband had sodomised her son who was from other than him and had penetrated him, and witnessed had testified with that. So Amir Al-Momineen^{asws} ordered for him to be struck with the sword until he dies, and strike the boy with less than the Penalty (*Hadd*) and said: 'But, had you been mature, I^{asws} would have killed you because of you having made it possible for him to penetrate you'.¹⁰⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ يُونُسَ بْنِ الْحَارِثِ عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ الْعَرَزَمِيِّ عَنْ أَبِيهِ عَبْدِ الرَّحْمَنِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَتَى عُمَرُ بْنُ بَرَجِلٍ وَ قَدْ نَكَحَ فِي دُبُرِهِ فَهَمَّ أَنْ يَجْلِدَهُ فَقَالَ لِلشُّهُودِ رَأَيْتُمُوهُ يُدْخِلُهُ كَمَا يُدْخِلُ الْمَيْلُ فِي الْمُخْلَةِ فَقَالُوا نَعَمْ فَقَالَ لِعَلِيِّ (عَلَيْهِ السَّلَامُ) مَا تَرَى فِي هَذَا فَطَلَبَ الْقَحْلَ الَّذِي نَكَحَهُ فَلَمْ يَجِدْهُ فَقَالَ عَلِيُّ (عَلَيْهِ السَّلَامُ) أَرَى فِيهِ أَنْ تُضْرَبَ عُنُقُهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Yusuf Bin Al Haris, from Muhammad Bin Abdul Rahman A IArzamy, from his father Abdul Rahman,

¹⁰⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 1

¹⁰⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 2

¹⁰⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 3

¹⁰⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 4

(It has been narrated) from Abu Abdullah^{asws}, from his^{asws} forefathers^{asws} having said: 'They came to Umar with a man who had been sodomised in his backside. So he understood that he should be whipped. So he said to the witnesses, 'Did you all see him to be entered into like the entering of the applicator into the Kohl?' So they said, 'Yes'. So he said to Ali^{asws}, 'What do you^{asws} view with regards to this?' So he^{asws} sought the stallion who had copulated with him, but he was not found. So Ali^{asws} said: 'I^{asws} see with regards to him that you should strike his neck'.

قَالَ فَأَمَرَ بِهِ فَضْرِبَتْ عُنُقُهُ ثُمَّ قَالَ خُدُّوهُ فَقَدْ بَقِيَتْ لَهُ عُقُوبَةٌ أُخْرَى قَالُوا وَ مَا هِيَ قَالَ ادْعُوا بَطْنٌ مِنْ حَطْبٍ فَدَعَا بَطْنٌ مِنْ حَطْبٍ فَلَفَّ فِيهِ ثُمَّ أَخْرَجَهُ فَأَحْرَقَهُ بِالنَّارِ

He^{asws} said: 'So he ordered for his neck to be struck off. Then he^{asws} said: 'Hold him, for there remains for him another punishment'. They said, 'And what is it?' He^{asws} said: 'Call for some firewood!' So he called for some firewood. So he (the body) was wrapped, then brought out and incinerated with the fire.

قَالَ ثُمَّ قَالَ إِنَّ لِلَّهِ عِبَادًا لَهُمْ فِي أَصْلَابِهِمْ أَرْحَامٌ كَأَرْحَامِ النِّسَاءِ قَالَ فَمَا لَهُمْ لَا يَحْمِلُونَ فِيهَا قَالَ لِأَنَّهَا مَنْكُوسَةٌ فِي أَدْبَارِهِمْ عُدَّةٌ كَعُدَّةِ الْبَعِيرِ فَإِذَا هَاجَتْ هَاجُوا وَإِذَا سَكَتَتْ سَكَنُوا .

He^{asws} said: 'Then he^{asws} said: 'Allah^{azwj} has servants, for whom in their loins are wombs like the wombs of the women'. He said, 'So what is for them that they do not become pregnant in these?' He^{asws} said: 'Because it is inverted in their backsides, a gland like the gland of the camel. So when it stirs, they stir, and when it is calm, they are calm'.¹⁰⁸

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْكُوفِيِّ عَنِ الْعَبَّاسِ بْنِ غَامِرٍ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ عَبْدِ الرَّحْمَنِ الْعُرْزَمِيِّ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ وَجَدَ رَجُلٌ مَعَ رَجُلٍ فِي إِيمَارَةِ عُمَرَ فَهَرَبَ أَحَدُهُمَا وَ أَخَذَ الْآخَرَ فَجِيءَ بِهِ إِلَى عُمَرَ فَقَالَ لِلنَّاسِ مَا تَرَوْنَ قَالَ فَقَالَ هَذَا اصْنَعْ كَذَا وَ قَالَ هَذَا اصْنَعْ كَذَا قَالَ فَقَالَ مَا تَقُولُ يَا أَبَا الْحَسَنِ قَالَ اضْرِبْ عُنُقَهُ فَضْرِبْ عُنُقَهُ

Abu Ali Al Ashary, from Al Hassan Bin Ali Al Kufy, from Al Abbas Bin Aamir, from Sayf Bin Umeyra, from Abdul Rahman Al Arzamy who said,

'I heard Abu Abdullah^{asws} saying: 'A man was found to be with a man during the emirate of Umar. So one of them fled and the other one was seized. So they came with him to Umar. So he said to the people, 'What are you opining?' So this one said, 'Do this', and this one said, 'Do this'. So he said, 'What are you^{asws} saying, O Abu Al Hassan^{asws}!' He^{asws} said: 'Strike his neck off'. So he had his neck struck off'.

قَالَ ثُمَّ أَرَادَ أَنْ يَحْمِلَهُ فَقَالَ مَهْ إِنَّهُ قَدْ بَقِيَ مِنْ خُدُودِهِ شَيْءٌ قَالَ أَيُّ شَيْءٍ بَقِيَ قَالَ ادْعُ بِحَطْبٍ قَالَ فَدَعَا عُمَرَ بِحَطْبٍ فَأَمَرَ بِهِ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَأَحْرَقَ بِهِ .

He^{asws} said: 'Then he intended that he be carried away, so he^{asws} said: 'Wait! There still remains something outstanding from his Penalty (*Hadd*)'. He^{asws} said: 'Call for the firewood!' He^{asws} said: 'So Umar called for the firewood, and Amir Al-Momineen^{asws} ordered for him to be incinerated by it'.¹⁰⁹

¹⁰⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 5

¹⁰⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 6

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ الْجَوْهَرِيِّ عَنْ عَبْدِ الصَّمَدِ بْنِ بَشِيرٍ عَنْ سُلَيْمَانَ بْنِ هِلَالٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَفْعَلُ بِالرَّجُلِ قَالَ فَقَالَ إِنْ كَانَ دُونَ التَّقْبِيبِ فَالْجَلْدُ وَإِنْ كَانَ تَقْبِيبًا فَمَا تَمَّ ضَرْبُ السَّيْفِ ضَرْبَةً أَخَذَ السَّيْفُ مِنْهُ مَا أَخَذَ فَقُلْتُ لَهُ هُوَ الْقَتْلُ قَالَ هُوَ ذَلِكَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad Al Jowhary, from Abdul Samad Bin Basheer, from Suleyman Bin Hilal,

(It has been narrated) from Abu Abdullah^{asws} regarding the man who did it with the man, so he^{asws} said: 'If it was without the penetration, so the whipping, and if it was with the penetration, stand him up straight, then strike with the sword with one strike. The sword takes from him what it takes'. So I said to him^{asws}, 'It is the killing'. He^{asws} said: 'It is that'.¹¹⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيهِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الْمَلُوطُ حَدُّهُ حَدُّ الزَّانِي .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The passive sodomist, his Penalty (*Hadd*) is the Penalty (*Hadd*) of the adulterer'.¹¹¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ يَحْيَى بْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ جَبَلَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مُحْرِمٌ قَبْلَ غُلَامًا مِنْ شَهْوَةٍ قَالَ يُضْرَبُ مِائَةَ سَوْطٍ .

Ali Bin Ibrahim, from his father, from Yahya Bin Al Mubarak, from Abdullah Jabala, from Is'haq Bin Ammar who said,

'I said to Abu Abdullah^{asws}, 'One in *Ihraam* kissed a boy from desire'. He^{asws} said: 'He would be whipped one hundred lashes'.¹¹²

الْحُسَيْنُ بْنُ مُحَمَّدٍ الْأَشْعَرِيُّ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَّادِ بْنِ عُمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ أَتَى رَجُلًا قَالَ عَلَيْهِ إِنْ كَانَ مُحْصَنًا الْقَتْلُ وَإِنْ لَمْ يَكُنْ مُحْصَنًا فَعَلَيْهِ الْحَدُّ قَالَ قُلْتُ فَمَا عَلَى الْمُؤْتَى قَالَ عَلَيْهِ الْقَتْلُ عَلَى كُلِّ حَالٍ مُحْصَنًا كَانَ أَوْ غَيْرَ مُحْصَنٍ .

Al Husayn Bin Muhammad Al Ashary, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Hammad Bin Usman who said,

'I said to Abu Abdullah^{asws}, 'A man comes to a man'. He^{asws} said: 'Upon him, if he was married, is the killing, and if does not happen to be married, so upon him would be the Penalty (*Hadd*)'. I said, 'So what is upon the passive one?' He^{asws} said: 'Upon him is the killing, upon every state, be he married or without a marriage'.¹¹³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ هَارُونَ عَنْ أَبِي يَحْيَى الْوَأَسِطِيِّ رَفَعَهُ قَالَ سَأَلْتُهُ عَنْ رَجُلَيْنِ يَتَفَاخَذَانِ قَالَ حَدُّهُمَا حَدُّ الزَّانِي فَإِنْ ادَّعَمَ أَحَدُهُمَا عَلَى صَاحِبِهِ ضَرْبُ الدَّاعِمِ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهُ مَا أَخَذَتْ وَتَرَكَتْ مِنْهُ مَا تَرَكَتْ يُرِيدُ بِهَا مَقْتَلَهُ وَالدَّاعِمُ عَلَيْهِ يُحْرَقُ بِالنَّارِ .

¹¹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 7

¹¹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 8

¹¹² Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 9

¹¹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 10

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Haroun, from Abu ahya Al Wasity, raising it, said,

'I asked him^{asws} about two men taking to each other. He^{asws} said: 'The Penalty (Hadd) for both of them is the Penalty (*Hadd*) of the adulterer. So the active one of the two upon his companions, would be struck with one strike with the sword, it takes from him what it takes, and leave from him what it leaves, intending his being killed by it; and the passive one would be burnt in the fire'.¹¹⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَمِعْتُهُ يَقُولُ إِنَّ فِي كِتَابِ عَلِيٍّ (عَلَيْهِ السَّلَامُ) إِذَا أَخَذَ الرَّجُلُ مَعَ غُلَامٍ فِي لِحَافٍ مَجْرَتَيْنِ ضَرَبَ الرَّجُلُ وَ أُدْبَ الْغُلَامُ وَ إِنْ كَانَ تَقَبَّ وَ كَانَ مُحْصَنًا رُجِمَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hisham Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I heard him^{asws} saying that: 'In the Book of Ali^{asws}, when the man is seized being with the boy in one quilt, both naked, the man would be struck (whipped), and the boy be disciplined. And if he has penetrated and was married, would be stoned'.¹¹⁵

باب آخِرُ مِنْهُ

Chapter 22 – Another chapter from it

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائٍ عَنْ مَالِكِ بْنِ عَطِيَّةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ بَيْنَا أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي مَلَأٍ مِنْ أَصْحَابِهِ إِذْ آتَاهُ رَجُلٌ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي قَدْ أُوقِنْتُ عَلَى غُلَامٍ فَطَهَّرْنِي فَقَالَ لَهُ يَا هَذَا امْضِ إِلَى مَنْزِلِكَ لَعَلَّ مَرَارًا هَاجَ بِكَ

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Ibn Raib, from Maalik Bin Atiyah,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Whilst Amir Al-Momineen^{asws} was among a group of his^{asws} companions, when a man came over and said, 'O Amir Al-Momineen^{asws}! I have gone to a boy, therefore purify me'. So he^{asws} said: 'O you! Go to your house, perhaps your gall bladder is exciting you'.

فَلَمَّا كَانَ مِنْ عَدِّ عَادِ إِلَيْهِ فَقَالَ لَهُ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي أُوقِنْتُ عَلَى غُلَامٍ فَطَهَّرْنِي فَقَالَ لَهُ يَا هَذَا امْضِ إِلَى مَنْزِلِكَ لَعَلَّ مَرَارًا هَاجَ بِكَ حَتَّى فَعَلَ ذَلِكَ ثَلَاثًا بَعْدَ مَرَّتَيْهِ الْأُولَى فَلَمَّا كَانَ فِي الرَّابِعَةِ قَالَ لَهُ يَا هَذَا إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) حَكَمَ فِي مِثْلِكَ بِثَلَاثَةِ أَحْكَامٍ فَاخْتَرُ أَبَيْهِنَّ شِئْتُمْ قَالَ وَ مَا هُنَّ يَا أَمِيرَ الْمُؤْمِنِينَ قَالَ ضَرْبَةٌ بِالسَّيْفِ فِي عُقْكَ بِالِغَةِ مَا بَلَغَتْ أَوْ إِهْدَاءٌ مِنْ جَبَلٍ مَشْدُودِ الْيَدَيْنِ وَ الرَّجْلَيْنِ أَوْ إِحْرَاقٌ بِالنَّارِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ أَيُّهِنَّ أَشَدُّ عَلَيَّ قَالَ الْإِحْرَاقُ بِالنَّارِ قَالَ فَإِنِّي قَدْ اخْتَرْتُهَا يَا أَمِيرَ الْمُؤْمِنِينَ قَالَ خُذْ لِي ذَلِكَ أَهْبَيْتَكَ فَقَالَ نَعَمْ

So when is was the next morning, he returned to him^{asws} and said to him^{asws}, 'O Amir Al-Momineen^{asws}! I have gone to a boy, therefore purify me'. So he^{asws} said to him: 'O you! Go to your house, perhaps your gall bladder is exciting you'. He did it three times after the first. So when it was during the fourth, he^{asws} said to him: 'O you! Rasool-Allah^{saww} had judged regarding (a case) similar to yours with three judgements, therefore choose which of these you like'. He said, 'And what are these,

¹¹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 11

¹¹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 12

O Amir Al-Momineen^{asws}? He^{asws} said: 'A strike with the sword in your neck, it reaches what it reaches, or throwing you off the mountain with your hands and feet tied up, or burning with the fire'. So he said, 'O Amir Al-Momineen^{asws}! Which of these is the harshest upon me'. He^{asws} said: 'Burning with the fire'. He said, 'So I have chosen it, O Amir Al-Momineen^{asws}! He^{asws} said: 'Are you prepared to take that, I^{asws} shall call for you'. So he said, 'Yes'.

فَقَالَ فَصَلَّى رَكَعَتَيْنِ ثُمَّ جَلَسَ فِي تَشَهُدِهِ فَقَالَ اللَّهُمَّ إِنِّي قَدْ أَتَيْتُ مِنَ الذَّنْبِ مَا قَدْ عَلِمْتُهُ وَ إِنِّي تَحَوَّرْتُ مِنْ ذَلِكَ فَجِئْتُ إِلَى وَصِيِّ رَسُولِكَ وَ ابْنِ عَمِّ نَبِيِّكَ فَسَأَلْتُهُ أَنْ يُطَهِّرَنِي فَخَيَّرَنِي بَيْنَ ثَلَاثَةِ أَصْنَافٍ مِنَ الْعَذَابِ اللَّهُمَّ فَإِنِّي قَدْ اخْتَرْتُ أَشَدَّهَا اللَّهُمَّ فَإِنِّي أَسْأَلُكَ أَنْ تَجْعَلَ ذَلِكَ كَفَّارَةً لِدُنُوبِي وَ أَنْ لَا تُحْرِقَنِي بِنَارِكَ فِي آخِرَتِي

So he^{asws} said: 'So he (the sinner) Prayed two cycles, then sat in his *Tashahhud*, so he said: 'O Allah^{azwj}! I had committed from the sins which You^{azwj} Know of, and I feared from that. So I went to the successor^{asws} of Your^{azwj} Rasool^{saww}, and a cousin of Your^{azwj} Prophet^{saww}, so I asked him^{asws} that he^{asws} should purify me. So^{asws} gave me a choice of three types of punishment. O Allah^{azwj}! So I have chosen the harshest of these. O Allah^{azwj}! I ask You^{azwj} that You^{azwj} Make that as an expiation of my sin, and that You^{azwj} do not Burn me with Your^{azwj} Fire in my Hereafter!'

ثُمَّ قَامَ وَ هُوَ بَاكِ حَتَّى جَلَسَ فِي الْخُفْرَةِ الَّتِي حَفَرَهَا لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) وَ هُوَ يَرَى النَّارَ تَتَأَجَّجُ حَوْلَهُ قَالَ فَبَكَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) وَ بَكَى أَصْحَابُهُ جَمِيعاً فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) قُمْ يَا هَذَا فَقَدْ أَبْكَيْتَ مَلَائِكَةَ السَّمَاءِ وَ مَلَائِكَةَ الْأَرْضِ فَإِنَّ اللَّهَ قَدْ تَابَ عَلَيْكَ فُفِّمْ وَ لَا تُعَاوِدَنَّ شَيْئاً مِمَّا قَدْ فَعَلْتَ .

Then he stood up and he was crying until he sat in the pit which had been dug out for him by Amir Al-Momineen^{asws}, and he was seeing the fire inflaming around him. So Amir Al-Momineen^{asws} wept and his companions wept altogether. So Amir Al-Momineen^{asws} said to him: 'Arise, O you, for you have made the Angels of the sky and the Angels of the earth to cry, so Allah^{azwj} has Turned towards you (with Mercy). So arise and do not repeat anything from what you have done'.¹¹⁶

باب الْحَدِّ فِي السَّحْقِ

Chapter 23 – The Penalty (*Hadd*) regarding the lesbianism

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ وَ هِشَامٍ وَ حَفْصِ بْنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ دَخَلَ عَلَيْهِ نِسْوَةٌ فَسَأَلَتْهُ أَمْرَاءٌ مِنْهُنَّ عَنِ السَّحْقِ فَقَالَ حَدُّهَا حَدُّ الزَّانِي فَقَالَتِ الْمَرْأَةُ مَا ذَكَرَ اللَّهُ عَزَّ وَ جَلَّ ذَلِكَ فِي الْقُرْآنِ فَقَالَ بَلَى قَالَتْ وَ أَيْنَ هُوَ قَالَ هُنَّ أَصْحَابُ الرَّسِّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Muhammad Bin Abu Hamza and Hisham and hafs,

(It has been narrated) from Abu Abdullah^{asws}, some women having come over to him, so a woman from them asked him^{asws} about the lesbianism. So he^{asws} said: 'The Penalty (*Hadd*) is the Penalty (*Hadd*) of the adulterer'. So the woman said, 'Allah^{azwj} Mighty and Majestic has not Mentioned that in the Quran?' So he^{asws} said: 'Yes'. She said, 'And where is it?' He^{asws} said: 'These are **[25:38] the dwellers of the Al-Rass**'.¹¹⁷

¹¹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 22 H 1

¹¹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 1

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ قَالَ سَأَلْتُهُ عَنِ الْمَرَاتَيْنِ تَوَجَدَانِ فِي لِحَافٍ وَاحِدٍ قَالَ تُجْلَدُ كُلُّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at Bin Mahran who said,

'I asked him^{asws} about the two women, both found in one quilt. He^{asws} said: 'Each one of them should be whipped one hundred lashes'.¹¹⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيسَى عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ بْنِ عُثْمَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ السَّحَاقَةُ تُجْلَدُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ali Bin Al Hakam, from Aban Bin Usman, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The lesbian would be whipped'.¹¹⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدَ بْنِ الْحُسَيْنِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي هَاشِمٍ عَنْ أَبِي خَدِيجَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَيْسَ لِامْرَأَتَيْنِ أَنْ تَبِيْتَا فِي لِحَافٍ وَاحِدٍ إِلَّا أَنْ يَكُونَ بَيْنَهُمَا حَاجِزٌ فَإِنْ فَعَلْنَا نَهَيْتَا عَنْ ذَلِكَ فَإِنْ وَجِدْنَا مَعَ النَّهْيِ جُلِدَتْ كُلُّ وَاحِدَةٍ مِنْهُمَا حَدًّا حَدًّا فَإِنْ وَجِدْنَا أَيْضًا فِي لِحَافٍ جُلِدْنَا فَإِنْ وَجِدْنَا الثَّلَاثَةَ قُتِلْنَا .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Abdul Raham Bin Abu Hashim, from Abu Khadeeja,

(It has been narrated) from Abu Abdullah^{asws} having said: 'It is not for the two women that they should be sleeping in one quilt, except that there happens to be in between the two of them, a partition. So if they were to do that, they should be prevented from that. So if they were to be found after having been prevented, each one of them would be whipped a Penalty (*Hadd*), a Penalty (*Hadd*) (one hundred lashes each). So if they were both found again in one quilt, they would be whipped. So if they were found for the third times, they would both be killed'.¹²⁰

باب آخَرُ مِنْهُ

Chapter 24 – Another chapter from it

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عَمْرٍو بْنِ عُثْمَانَ وَ عَنْ أَبِيهِ جَمِيعاً عَنْ هَارُونَ بْنِ الْجَهْمِ عَنْ مُحَمَّدَ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ وَ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولَانِ بَيْنَنَا الْحَسَنُ بْنُ عَلِيٍّ (عَلَيْهِ السَّلَامُ) فِي مَجْلِسِ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) إِذْ أَقْبَلَ قَوْمٌ فَقَالُوا يَا أَبَا مُحَمَّدٍ أَرَدْنَا أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَالَ وَ مَا حَاجَتُكُمْ قَالُوا أَرَدْنَا أَنْ نَسْأَلَهُ عَنْ مَسْأَلَةٍ قَالَ وَ مَا هِيَ تُخْبِرُونَا بِهَا فَقَالُوا امْرَأَةٌ جَامِعَهَا زَوْجُهَا فَلَمَّا قَامَ عَنْهَا قَامَتْ بِحُمُوتِهَا فَوَقَعَتْ عَلَى جَارِيَةٍ بِكَرٍ فَسَاحَقْتَهَا فَأَلْقَتْ النُّطْفَةَ فِيهَا فَحَمَلَتْ فَمَا تَقُولُ فِي هَذَا

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Amro Bin Usman, and from his father, altogether from Haroun Bin Al Jahm, from Muhammad Bin Muslim who said,

'I heard Abu Ja'far^{asws} and Abu Abdullah^{asws} both saying: 'Whilst Al-Hassan Bin Ali^{asws} was in a gathering of Amir Al-Momineen^{asws}, when a group of people came

¹¹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 2

¹¹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 3

¹²⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 4

over, so they said, 'O Abu Muhammad^{asws}! We want Amir Al-Momineen^{asws}. He^{asws} said: 'So what is your need?' They said, 'We want to ask him a question'. He^{asws} said: 'And what is it that you want to be informed with?' So they said, 'A woman, her husband copulated with her. So when he stood up from her, she stood up with her warmth, so she fell upon a virgin slave girl. So she performed the lesbian act with her. So the sperm fell inside her (the slave girl), so she became pregnant. So what are you^{asws} saying with regard to this?'

فَقَالَ الْحَسَنُ (عَلَيْهِ السَّلَامُ) مُعْضِلَةٌ وَ أَبُو الْحَسَنِ لَهَا وَ أَقُولُ فَإِنْ أَصَبْتُ فَمِنْ اللَّهِ ثُمَّ مِنْ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) وَ إِنْ أَخْطَأْتُ فَمِنْ نَفْسِي فَارْجُو أَنْ لَا أَخْطِئَ إِنْ شَاءَ اللَّهُ يُعْمَدُ إِلَى الْمَرْأَةِ فَيُؤَخَذُ مِنْهَا مَهْرُ الْجَارِيَةِ الْبَكْرِ فِي أَوَّلِ وَهْلَةٍ لِأَنَّ الْوَلَدَ لَا يَخْرُجُ مِنْهَا حَتَّى تَشَقَّ فَنَذْهَبَ عَذْرُوتُهَا ثُمَّ تُرْجَمُ الْمَرْأَةُ لِأَنَّهَا مُحْصَنَةٌ ثُمَّ يُنْتَظَرُ بِالْجَارِيَةِ حَتَّى تَضَعَ مَا فِي بَطْنِهَا وَ يُرَدُّ الْوَلَدُ إِلَى أَبِيهِ صَاحِبِ النُّطْفَةِ ثُمَّ تُجَادُّ الْجَارِيَةُ الْحَدَّ

So Al-Hassan^{asws} said: 'It is a dilemma and Abu Al-Hassan^{asws} is (appropriate) for it, and I^{asws} am saying, so if I^{asws} get it right, so it is from Allah^{azwj}, then from Amir Al-Momineen^{asws}, and if I^{asws} were to err, so it is from myself^{asws}, so I^{asws} hope that I^{asws} shall not err, Allah^{azwj} Willing. He should deliberate to the woman and take the dower of the virgin slave girl for her during the first opportunity, because the child would not come out from her until she is split, so her virginity would go away. Then the woman would be stoned because she is married. Then the slave girl would be awaited with until she gives birth to what is in her belly, and the child would be returned to its father, the owner of the sperm. Then the slave girl would be whipped the Penalty (Hadd)'.¹²¹

قَالَ فَانصَرَفَ الْقَوْمُ مِنْ عِنْدِ الْحَسَنِ (عَلَيْهِ السَّلَامُ) فَلَقُوا أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَقَالَ مَا قُلْتُمْ لِأَبِي مُحَمَّدٍ وَ مَا قَالَ لَكُمْ فَأَخْبَرُوهُ فَقَالَ لَوْ أَنَّي الْمَسْئُولُ مَا كَانَ عِنْدِي فِيهَا أَكْثَرُ مِمَّا قَالَ ابْنِي .

He^{asws} said: 'So the people dispersed from the presence of Al-Hassan^{asws}, so they met up with Amir Al-Momineen^{asws}. So they said they had said to Abu Muhammad^{asws} and what he^{asws} said to you all, so they informed him^{asws}. So he^{asws} said: 'Had it been me^{asws} who had been questioned, there would not have been with me^{asws} any more that what my^{asws} son^{asws} has said'.¹²¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ دَعَانَا زِيَادٌ فَقَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ كَتَبَ إِلَيَّ أَنْ أَسْأَلَكَ عَنْ هَذِهِ الْمَسْأَلَةِ فَقُلْتُ وَ مَا هِيَ فَقَالَ رَجُلٌ أَتَى امْرَأَةً فَاحْتَمَلَتْ مَاءَهُ فَسَاحَقَتْ بِهِ جَارِيَةً فَحَمَلَتْ لَهُ فَقُلْتُ لَهُ فَسَلْ عَنْهَا أَهْلَ الْمَدِينَةِ قَالَ فَالْقَى إِلَيَّ كِتَابًا فَإِذَا فِيهِ سَلٌ عَنْهَا جَعْفَرُ بْنُ مُحَمَّدٍ فَإِنْ أَجَبْتُكَ وَ إِلَّا فَاحْمِلْهُ إِلَيَّ قَالَ فَقُلْتُ لَهُ تُرْجَمُ الْمَرْأَةُ وَ تُجَادُّ الْجَارِيَةُ وَ يُلْحَقُ الْوَلَدُ بِأَبِيهِ قَالَ وَ لَا أَعْلَمُهُ إِلَّا قَالَ وَ هُوَ الَّذِي ابْتُلِيَ بِهَا .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Ali Bin Abu Hamza, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Ziyad called us and said that, 'The commander of the faithful (the caliph Mansour) has written to me that I should ask around about this question'. So I said, 'And what is it?' So he said, 'A man went to a woman so she carried his water (sperm). So she performed the lesbian act with a slave girl, so she (the slave girl) became pregnant'. So I said to him, 'So did you ask the people of Al-Medina about it'. He said, 'So he placed the letter to me and therein was, 'Ask Ja'far^{asws} Bin Muhammad^{asws} about it. So if he^{asws}

¹²¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 24 H 1

were to answer you (fine), or else carry it back to me'. So I said to him, 'The woman would be stoned, and the slave girl would be whipped, and the child would be attached with its father'. He said, and I do not know it except that he said, 'And he (the caliph) is the one who is involved in it'.¹²²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي امْرَأَةٍ أَفْتَضَتْ جَارِيَةً بِيَدِهَا قَالَ عَلَيْهَا مَهْرُهَا وَتُجَلَّدُ ثَمَانِينَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} regarding a woman who deflowered a slave girl by her hand. He^{asws} said: 'Upon her is her dower, and she would be whipped eighty lashes'.¹²³

بَابُ الْحَدِّ عَلَى مَنْ يَأْتِي الْبَهِيمَةَ

Chapter 25 – The Penalty (*Hadd*) upon the one who goes to the animal (bestiality)

مُحَمَّدُ بْنُ بَحْبَحٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ جَرِيرٍ عَنْ سَدِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي الرَّجُلِ يَأْتِي الْبَهِيمَةَ قَالَ يُحَدُّ دُونَ الْحَدِّ وَ يُغْرَمُ قِيمَةُ الْبَهِيمَةِ لِصَاحِبِهَا لِأَنَّهُ أَفْسَدَهَا عَلَيْهِ وَ تَذْبَحُ وَ تُحْرَقُ وَ تُدْفَنُ إِنْ كَانَتْ مِمَّا يُؤْكَلُ لَحْمُهُ وَ إِنْ كَانَتْ مِمَّا يُرْكَبُ ظَهْرُهُ أُغْرِمَ قِيمَتَهَا وَ جُلِدَ دُونَ الْحَدِّ وَ أُخْرِجَهَا مِنَ الْمَدِينَةِ الَّتِي فَعَلَ بِهَا فِيهَا إِلَى بِلَادٍ أُخْرَى حَيْثُ لَا تُعْرَفُ فَيَبِيعُهَا فِيهَا كَيْلًا يُعَيَّرُ بِهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Is'haq Bin Jareer, from Sudeyr,

(It has been narrated) from Abu Ja'far^{asws} regarding the man who went to the animal. He^{asws} said: 'He would be penalised less than the (complete) Penalty (*Hadd*), and would have to compensate the price of the animal to its owner, because he has spoiled it, and it would be slaughtered, and burnt, and buried, if it was from what its flesh is eaten; and if it was from what its back is ridden upon, he would have to compensate its price, and be whipped less than the (complete) Penalty (*Hadd*), and it would be thrown out from the city in which the act had been committed with it, to another city where no one recognises it. So it would be sold therein, lest it be scoffed at'.¹²⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدَ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ يَأْتِي بِبَهِيمَةٍ أَوْ شَاةٍ أَوْ نَاقَةٍ أَوْ بَقْرَةٍ قَالَ فَقَالَ عَلَيْهِ أَنْ يُجَلَّدَ حَدًّا غَيْرَ الْحَدِّ ثُمَّ يُنْفَى مِنْ بِلَادٍ إِلَى غَيْرِهَا وَ ذَكَرُوا أَنَّ لَحْمَ تِلْكَ الْبَهِيمَةِ مُحَرَّمٌ وَ لَبَنُهَا .

Ali Bin Ibrahim, form Muhammad Bin Isa, form Yunus, from Sama'at who said,

'I asked Abu Abdullah^{asws} about the man who went to an animal, or a sheep, or a camel, or a cow. So he^{asws} said: 'Upon him is that he would be whipped a Penalty (*Hadd*) less than the (complete) Penalty (*Hadd*). Then he would be exiled from the

¹²² Al Kafi – V 7 – The Book of Legal Penalties Ch 24 H 2

¹²³ Al Kafi – V 7 – The Book of Legal Penalties Ch 24 H 3

¹²⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 1

city to another one'. And they^{asws} have mentioned that the flesh of that animal is Prohibited, along with its milk'.¹²⁵

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ صَالِحِ بْنِ أَبِي حَمَّادٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) وَالْحُسَيْنِ بْنِ خَالِدٍ عَنْ أَبِي الْحَسَنِ الرِّضَا (عَلَيْهِ السَّلَامُ) وَصَبَّاحِ الْحَدَّاءِ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَأْتِي الْبَهِيمَةَ فَقَالُوا جَمِيعاً إِنَّ كَانَتِ الْبَهِيمَةُ لِلْفَاعِلِ دُبِحَتْ فَإِذَا مَاتَتْ أُحْرِقَتْ بِالنَّارِ وَ لَمْ يُنْتَفَعْ بِهَا وَ ضُرِبَ هُوَ خَمْسَةً وَ عَشْرِينَ سَوْطاً رُبْعَ حَدِّ الزَّانِي وَ إِنْ لَمْ تَكُنِ الْبَهِيمَةُ لَهُ فُؤِمَتْ فَأُخِذَ ثَمَنُهَا مِنْهُ وَ دُفِعَ إِلَى صَاحِبِهَا وَ دُبِحَتْ وَ أُحْرِقَتْ بِالنَّارِ وَ لَمْ يُنْتَفَعْ بِهَا وَ ضُرِبَ خَمْسَةً وَ عَشْرِينَ سَوْطاً

Ali Bin Muhammad, from Salih Bin Abu Hammad, from one of his companions, from Yunus, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws}, and Al-Husayn Bin Khalid, from Abu Al-Hassan Al-Reza^{asws}, and Sabbah Al-Haza'a, from Is'haq Bin Ammar from Abu Ibrahim^{asws} (7th Imam^{asws}), regarding the man who went to the animal. So they^{asws} all said: 'If the animal belonged to the doer, it would be slaughtered. So when it is dead, it would be burnt with the fire and would not be benefited by (its flesh and milk), and he would be whipped with twenty five lashes, a quarter of the (complete) Penalty (*Hadd*) of the adultery. And if the animal did not belong to him, it would be evaluated, and its price would be taken from him, and it would be handed over to the owner, and it (the animal) would be slaughtered and burnt by the fire, and it would not be benefited with, and he would be whipped twenty five lashes'.

فَقُلْتُ وَ مَا دَنَبُ الْبَهِيمَةِ فَقَالَ لَا دَنَبَ لَهَا وَ لَكِنْ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَعَلَ هَذَا وَ أَمَرَ بِهِ لِكَيْلَا يَجْتَرِيَ النَّاسُ بِالْبَهَائِمِ وَ يَنْقَطِعَ النَّسْلُ .

So I said, 'And what is the sin of the animal?' So he^{asws} said: 'There is no sin for it, but Rasool-Allah^{saww} did this, and ordered with it, perhaps the people would be doing this with the animal and the lineages would be cut off'.¹²⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الَّذِي يَأْتِي الْبَهِيمَةَ فَيُولِجُ قَالَ عَلَيْهِ الْحُدُّ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Isa, from Yunus, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding the one who goes to the animals, so he penetrates. He^{asws} said: 'Upon him is the Penalty (*Hadd*)'.¹²⁷

¹²⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 2

¹²⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 3

¹²⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 4

الكافي

AL-KAFI

ج 7

Volume 7

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة
الإسلام الكليني المتوفى سنة 329 هجرية

Of the majestic narrator and the scholar, the jurist, the Sheykh
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كتاب الحدود

THE BOOK OF LEGAL PENALTIES (2)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّم تَسْلِيمًا.

In the Name of Allah^{azwj} the Beneficent, the Merciful. The Praise is for Allah^{azwj} Lord^{azwj} of the Worlds, and Blessing be upon our Chief Muhammad^{saww} and his^{saww} Purified Progeny^{asws}, and greetings with abundant greetings.

بَابُ حَدِّ الْقَافِيفِ

Chapter 26 – The Penalty (Hadd) of the slanderer

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) أَنَّ الْفَرْيَةَ ثَلَاثَةٌ يُعْنِي ثَلَاثٌ وَجُوهٌ إِذْ رَمَى الرَّجُلُ الرَّجُلَ بِالزَّنَى وَ إِذَا قَالَ إِنَّ أُمَّهُ زَانِيَةٌ وَ إِذَا دُعِيَ لِغَيْرِ أَبِيهِ فَذَلِكَ فِيهِ حَدٌّ ثَمَانُونَ .

Ali Bin Ibrhim, from his father, from Ibn Mahboub, from Abdullah Bin Sinan who said,

Abu Abdullah^{asws} said: ‘Amir Al-Momineen^{asws} judged that the fabrications are three, meaning three aspects of it – when the man accuses the man with the adultery, and when he says that his mother is an adulteress, and when he claims that he is for other than his father. So that, regarding it is a Penalty (*Hadd*) of eighty (lashes)’.¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الرَّجُلِ إِذَا قَدَفَ الْمُحْصَنَةَ قَالَ يُجْلَدُ ثَمَانِينَ خَرًّا كَانَ أَوْ مَمْلُوكًا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zurara, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the man when he slanders the married woman. He^{asws} said: ‘He would be whipped eighty lashes, whether he is free or a slave’.²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَغْذِفُ الرَّجُلَ بِالزَّنَى قَالَ يُجْلَدُ هُوَ فِي كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَ سُنَّةِ نَبِيِّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ)

A number of our companions, from Sahl Bin Ziyad, from Abdul Rahman Bin Abu Najran, from Aasim Bin Humejd, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding the man who slanders the man with the adultery. He^{asws} said: ‘He would be whipped, and it is in the Book of Allah^{azwj} Mighty and Majestic and a Sunnah of His^{azwj} Prophet^{saww}’.

قَالَ وَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَغْذِفُ الْجَارِيَةَ الصَّغِيرَةَ فَقَالَ لَا يُجْلَدُ إِلَّا أَنْ يَكُونَ قَدْ أَدْرَكَتْ أَوْ قَارَبَتْ .

He (the narrator) said, ‘And I asked Abu Abdullah^{asws} about the man who slanders the young slave girl. So he^{asws} said: ‘He would not be whipped except if she happened to have matured, or near to it’.³

¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 1

² Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 2

³ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 3

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ مَالِكِ بْنِ عَطِيَّةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي امْرَأَةٍ قَذَفَتْ رَجُلًا قَالَ تُجَدُّ ثَمَانِينَ جَلْدَةً .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Maalik Bin Atiyya, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} regarding a woman who slandered a man. He^{asws} said: 'She would be whipped eighty lashes'.⁴

أَحْمَدُ بْنُ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنِ الْقَاسِمِ بْنِ سُلَيْمَانَ عَنْ أَبِي مَرْيَمَ الْأَنْصَارِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنِ الْغُلَامِ لَمْ يَحْتَلِمَ يَذْفُ الرَّجُلَ هَلْ يُجَدُّ قَالَ لَا وَ ذَلِكَ لَوْ أَنَّ رَجُلًا قَذَفَ الْغُلَامَ لَمْ يُجَدِّ .

Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Al Qasim Bin Suleyman, from Abu Maryam Al Ansary who said,

'I asked Abu Ja'far^{asws} about the boy who had not yet bed wetted, slanders the man, would he be whipped?' He^{asws} said: 'No, and that, had the man slandered the boy, he would not be whipped (either)'.⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَكَمِ الْأَعْمَى وَ هِشَامِ بْنِ سَالِمٍ عَنْ عَمَارِ السَّبَّاطِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي رَجُلٍ قَالَ لِرَجُلٍ يَا ابْنَ الْفَاعِلَةِ يَعْنِي الزَّوْنِيَّ قَالَ فَإِنْ كَانَتْ أُمُّهُ حَيَّةً شَاهِدَةً ثُمَّ جَاءَتْ تَطْلُبُ حَقَّهَا ضَرْبَ ثَمَانِينَ جَلْدَةً وَ إِنْ كَانَتْ غَائِبَةً انْتَضَرَ بِهَا حَتَّى تَقْدَمَ فَتَطْلُبَ حَقَّهَا وَ إِنْ كَانَتْ قَدْ مَاتَتْ وَ لَمْ يُعْلَمْ مِنْهَا إِلَّا خَيْرٌ ضَرْبَ الْمُفْتَرِي عَلَيْهَا الْحَدَّ ثَمَانِينَ جَلْدَةً .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Al Hakam Al A'ama and Hisham Bin Salim, from Ammar Al Sabaty,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who said to a man, 'O son of the done with', meaning the adultery. He^{asws} said: 'If his mother was alive, present, then she came seeking her right, he would be whipped eighty lashes; and if she was absent, she would be awaited with until she proceeds, so she seeks her right; and if she had died and nothing was known about her except for the goodness, the fabricator, upon him would be eighty lashes'.⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرِو بْنِ عُثْمَانَ الْخَزَّازِ عَنِ الْفَضْلِ بْنِ إِسْمَاعِيلَ الْهَاشِمِيِّ عَنْ أَبِيهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ وَ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَام) عَنْ امْرَأَةٍ زَنَتْ فَأَتَتْ بِوَلَدٍ وَ أَفْرَتْ عِنْدَ إِمَامِ الْمُسْلِمِينَ بِأَنَّهَا زَنَتْ وَ أَنَّ وَلَدَهَا ذَلِكَ مِنَ الزَّوْنِيِّ فَأَقِيمَ عَلَيْهَا الْحَدَّ وَ إِنْ ذَلِكَ الْوَلَدُ نَشَأَ حَتَّى صَارَ رَجُلًا فَأَفْرَى عَلَيْهِ رَجُلٌ هَلْ يُجَدُّ مَنْ أَفْرَى عَلَيْهِ فَقَالَ يُجَدُّ وَ لَا يُجَدُّ فَقُلْتُ كَيْفَ يُجَدُّ وَ لَا يُجَدُّ

Ali Bin Ibrahim, from his father, from Amro Bin Usman Al Khazaz, from Al Fazl Bin Ismail Al Hashimy, from his father who said,

'I asked Abu Abdullah^{asws} and Abu Al-Hassan^{asws} about a woman who committed adultery, so she came with a child, and accepted in the presence of an Imam of the Muslims, of her having committed adultery, and that, that child of hers, is from the adultery. So the Penalty (*Hadd*) was established upon her and that child grew up until he became a man. So a man fabricated against him, would he be whipped, the

⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 4

⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 5

⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 6

one who fabricated upon him?’ So he^{asws} said: ‘He would be whipped, and not whipped’. So I said, ‘How can he be whipped and not whipped?’

فَقَالَ مَنْ قَالَ لَهُ يَا وَلَدَ الزَّانِي لَمْ يُجْلَدْ إِنَّمَا يُعَزَّرُ وَ هُوَ دُونَ الْحَدِّ وَ مَنْ قَالَ لَهُ يَا ابْنَ الزَّانِيَةِ جُلِدَ الْحَدَّ تَامًا فَقُلْتُ كَيْفَ يُجْلَدُ هَذَا هَكَذَا فَقَالَ إِنَّهُ إِذَا قَالَ يَا وَلَدَ الزَّانِي كَانَ قَدْ صَدَّقَ فِيهِ وَ عَزَّرَ عَلَى تَعْيِيرِهِ أُمَّهُ ثَانِيَةً وَ قَدْ أُقِيمَ عَلَيْهَا الْحَدُّ وَ إِذَا قَالَ لَهُ يَا ابْنَ الزَّانِيَةِ جُلِدَ الْحَدَّ تَامًا لِفِرْيَتِهِ عَلَيْهَا بَعْدَ إِظْهَارِهَا التَّوْبَةَ وَ إِقَامَةِ الْإِمَامِ عَلَيْهَا الْحَدَّ .

So he^{asws} said: ‘The one who says to him, ‘O son of the adultery’, would not be whipped, but rather he would be rebuked, and it is less than the Penalty (*Hadd*); and the one who says to him, ‘O son of the adulteress’, would be whipped the complete Penalty (*Hadd*)’. So I said, ‘How come this one would be whipped like this?’ So he^{asws} said: ‘He, when he said, ‘O son of the adultery, he would have spoken the truth in it, and he would be rebuked upon his mother having been scolded the second time, and the Penalty (*Hadd*) has already been established upon her; and when he says to her, ‘O son of the adulteress, he would be whipped the complete Penalty (*Hadd*) for being malicious upon her after her repentance having purified her and the Imam having established the Penalty (*Hadd*) upon her’.⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ قَدَفَتْ مَلَاعَنَةً قَالَ عَلَيْهِ الْحَدُّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al halby,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who slandered a woman cursed by her husband. He^{asws} said: ‘Upon him is the Penalty (*Hadd*)’.⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ حَرِيْزٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنِ ابْنِ الْمَعْصُوبَةِ يَفْتَرِي عَلَيْهِ الرَّجُلُ فَيَقُولُ يَا ابْنَ الْفَاعِلَةِ فَقَالَ أَرَى أَنَّ عَلَيْهِ الْحَدَّ ثَمَانِينَ جُلْدَةً وَ يَتُوبُ إِلَى اللَّهِ عَزَّ وَ جَلَّ مِمَّا قَالَ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub, from Hareyz,

(It has been narrated) from Abu Abdullah^{asws}, said, ‘He^{asws} was asked about a son of the raped woman, the man having fabricated against her, so he was saying, ‘O son of the (sexually) active’. So he^{asws} said: ‘I^{asws} view that upon him is the Penalty (*Hadd*) of eighty lashes, and he should repent to Allah^{azwj} Mighty and Majestic from what he said’.⁹

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي امْرَأَةٍ وَهَبَتْ جَارِيَتَهَا لِرَوْحِهَا فَوَقَعَ عَلَيْهَا فَحَمَلَتْ الْأُمَّةُ فَانْكُرَتْ الْمَرْأَةُ أَنَّهَا وَهَبَتْهَا لَهُ وَ قَالَتْ هِيَ خَادِمِي فَلَمَّا حَشِيَتْ أَنْ يُقَامَ عَلَى الرَّجُلِ الْحَدُّ أَقْرَتْ بِأَنَّهَا وَهَبَتْهَا لَهُ فَلَمَّا أَقْرَتْ بِأَلْهَبَةٍ جَلَدَهَا الْحَدَّ بِقَدْفِهَا رَوْحَهَا .

Ali, from his father, from Ibn Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja’far^{asws} having said: ‘Amir Al-Momineen^{asws} had judged regarding a woman who gifted her maid to her husband, so he fell upon her. So the slave girl became pregnant and the woman denied that she had gifted her to

⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 7

⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 8

⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 9

him, and she said, 'She is my servant'. So when she feared that the Penalty (*Hadd*) would be established upon the man, she confessed that she had gifted her to him'. (He^{asws} said): 'So when she has accepted having gifted, she should be whipped the Penalty (*Hadd*) due to her having slandered her husband'.¹⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنِ الْحَكَمِ الْأَعْمَى وَ هِشَامِ بْنِ سَالِمٍ عَنْ عَمَّارِ السَّابِطِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي رَجُلٍ قَالَ لِرَجُلٍ يَا ابْنَ الْفَاعِلَةِ يَعْني الزَّوْنِي قَالَ إِنْ كَانَتْ أُمُّهُ حَيَّةً شَاهِدَةً ثُمَّ جَاءَتْ تَطْلُبُ حَقَّهَا ضَرْبَ ثَمَانِينَ جَلْدَةً وَ إِنْ كَانَتْ غَائِبَةً أَنْتَظِرْ بِهَا حَتَّى تَقْدَمَ فَتَطْلُبْ حَقَّهَا وَ إِنْ كَانَتْ قَدْ مَاتَتْ وَ لَمْ يُعْلَمْ مِنْهَا إِلَّا خَيْرٌ ضَرْبَ الْمُفْتَرِي عَلَيْهَا الْحَدَّ ثَمَانِينَ جَلْدَةً .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Al Hakam Al A'ama and Hisham Bin Salim, from Ammar Al Sabaty,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man who said to a man, 'O son of the (sexually) active', meaning the adultery. He^{asws} said: 'If his mother was alive, present, then she comes seeking her right, he would be whipped eighty lashes; and if she was absent, she would be awaited with until she proceeds, so she seeks her right; and if she had died and nothing was known from her except for the goodness, the fabricator would be whipped, upon him being eighty lashes'.¹¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى بْنِ عُنَيْدٍ عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِهِ رَفَعَهُ قَالَ كَانَ عَلَى عَهْدِ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) رَجُلَانِ مُتَوَاحِبَانِ فِي اللَّهِ عَزَّ وَ جَلَّ فَمَاتَ أَحَدُهُمَا وَ أَوْصَى إِلَى الْآخَرِ فِي حِفْظِ بَنِيَّةٍ كَانَتْ لَهُ فَحَفِظَهَا الرَّجُلُ وَ أَنْزَلَهَا مَنْزِلَةً وَ لَدِهِ فِي اللَّطْفِ وَ الْإِكْرَامِ وَ التَّعَاهُدِ ثُمَّ حَضَرَهُ سَفَرٌ فَخَرَجَ وَ أَوْصَى امْرَأَتَهُ فِي الصَّبِيَّةِ فَأَطَالَ السَّفَرَ حَتَّى إِذَا أَدْرَكَتِ الصَّبِيَّةُ وَ كَانَ لَهَا جَمَالٌ وَ كَانَ الرَّجُلُ يَكْتُبُ فِي حِفْظِهَا وَ التَّعَاهُدِ لَهَا فَلَمَّا رَأَتْ ذَلِكَ امْرَأَتُهُ خَافَتْ أَنْ يُقَدَّمَ فَيُرَاهَا قَدْ بَلَغَتْ مَبْلَغَ النِّسَاءِ فَيَعْجِبُهُ جَمَالُهَا فَيَنْزَوِجَهَا

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from one of his companions, raising it, said,

'It was in the era of Amir Al-Momineen, two men had established brotherhood between themselves for the Sake of Allah^{azwj} Mighty and Majestic. So, one of the two died and bequeathed to the other regarding the protection of a daughter he had. So the man protected her and made her status to be of the status of his children with regards to the kindness, and the honour, and the care. Then a journey presented itself, so he went out, and bequeathed to his wife with regards to the young girl. His journey got prolonged to the extent that the young girl matured, and she had beauty for her, and the man had been contracted with regard to her protection and the care for her. So when his wife saw that, she feared that he would proceed, and he would see her to have reached the age of the women, so he would be astounded by her beauty, so he would marry her.

فَعَمَدَتْ إِلَيْهَا هِيَ وَ نِسْوَةٌ مَعَهَا قَدْ كَانَتْ أَعَدَّتْهُنَّ فَأَمْسَكْنَهَا لَهَا ثُمَّ افْتَرَعَتْهَا بِاصْبِعِهَا فَلَمَّا قَدِمَ الرَّجُلُ مِنْ سَفَرِهِ وَ صَارَ فِي مَنْزِلِهِ دَعَا الْجَارِيَةَ فَأَبَتْ أَنْ تُجِيبَهُ اسْتَحْيَاءً مِمَّا صَارَتْ إِلَيْهِ قَالِحٌ عَلَيْهَا بِالْأَدْعَاءِ كُلِّ ذَلِكَ تَأَبَى أَنْ تُجِيبَهُ فَلَمَّا أَكْثَرَ عَلَيْهَا قَالَتْ لَهُ امْرَأَتُهُ دَعَهَا فَإِنَّهَا تَسْتَحْيِي أَنْ تَأْتِيكَ مِنْ ذَنْبٍ كَانَتْ فَعَلْتَهُ قَالَ لَهَا وَ مَا هُوَ قَالَتْ كَذَا وَ كَذَا وَ رَمَتْهَا بِالْفُجُورِ فَاسْتَرْجَعَ الرَّجُلُ

So she and the women who were with her pre-conceived malice against her, a number of whom held her down, then she destroyed her virginity by her fingers. So

¹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 10

¹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 11

when the man came over from his journey and came to be in his house, called the young girl. But, she refused to answer him being too embarrassed from what had happened. So he insisted calling her, she refused to answer him with all of that. So when he had frequented that, his wife said to him, 'Leave her, for she is too embarrassed as she had come to a sin which she has done'. He said to her, 'And what is it?' She said, 'Such and such', and accused her with the immorality. So the man said, 'We are for Allah^{azwj} and to Him^{azwj} we are returning'.

ثُمَّ قَامَ إِلَى الْجَارِيَةِ فَوَبَّخَهَا وَقَالَ لَهَا وَيْحَكَ أَمَا عَلِمْتَ مَا كُنْتُ أَصْنَعُ بِكَ مِنَ الْأَطَافِ وَاللَّهِ مَا كُنْتُ أَعْدُكَ إِلَّا لِيَعُضَ وَوَلَدِي أَوْ إِخْوَانِي وَإِنْ كُنْتُ لِأَبْنَتِي فَمَا دَعَاكَ إِلَى مَا صَنَعْتَ فَقَالَتِ الْجَارِيَةُ أَمَا إِذَا قِيلَ لَكَ مَا قِيلَ فَوَاللَّهِ مَا فَعَلْتُ الَّذِي رَمَيْتَنِي بِهِ أَمْرًا تَكُ وَالْقَدْ كَذَّبْتَ عَلَيَّ وَإِنَّ الْفِصَّةَ لَكَذَا وَكَذَا وَوَصَفْتُ لَهُ مَا صَنَعْتَ بِهَا أَمْرًا

Then he stood up to the girl, so he rebuked her and said to her, 'Woe be unto you! Do you not know what I have done with you from the kindness? By Allah^{azwj}! I had not promised you except to one of my sons or my brothers, even if you were my own daughter. So what called you to what you did?' So the girl said, 'But when she said to you what she said, by Allah^{azwj}, I did not do what your wife is accusing me with, and she had lied against me, and that the story is such and such', and she described to him what his wife had done with her.

قَالَ فَأَخَذَ الرَّجُلُ بِيَدِ امْرَأَتِهِ وَبِيدِ الْجَارِيَةِ فَمَضَى بِهِمَا حَتَّى اجْلَسَهُمَا بَيْنَ يَدَيْ أَمِيرِ الْمُؤْمِنِينَ (عليه السلام) وَ أَخْبَرَهُ بِالْفِصَّةِ كُلِّهَا وَ أَقْرَبَتِ الْمَرْأَةُ بِذَلِكَ

He^{asws} said: 'So the man grabbed the hand of his wife and a hand of the girl, so he went with the two of them until he sat both of them down in front of Amir Al-Momineen^{asws}, and informed him^{asws} of the story, all of it, and the woman accepted with that.

قَالَ وَ كَانَ الْحَسَنُ (عليه السلام) بَيْنَ يَدَيْ أَبِيهِ فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) أَفْضِ فِيهَا فَقَالَ الْحَسَنُ (عليه السلام) نَعَمْ عَلَى الْمَرْأَةِ الْحُدُّ لِقَدْفِهَا الْجَارِيَةَ وَ عَلَيَّهَا الْقِيمَةُ لِأَفْتِرَاعِهَا إِيَّاهَا قَالَ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) صَدَقْتَ ثُمَّ قَالَ أَمَا لَوْ كَلَّفَ الْجَمَلُ الطَّحْنَ لَفَعَلَ .

He^{asws} said: 'And Al-Hassan^{asws} was in front of his^{asws} father^{asws}. So Amir Al-Momineen^{asws} said to him^{asws}: 'Judge with regards to it!' So Al-Hassan^{asws} said: 'Yes. Upon the woman is the Penalty (*Hadd*) due to her slandering the girl, and upon her is the price of deflowering her'. So Amir Al-Momineen^{asws} said: 'You^{asws} have spoken the truth'. Then he^{asws} said: 'If the camel is tasked with the grinding, it does it'.¹²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ مَالِكِ بْنِ عَطِيَّةَ عَنْ سُلَيْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ يُجْلَدُ قَاذِفُ الْمَلَاعَنَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, and a number of our companions, from Sahl Bin Ziyad, altogether from Ibn Mahboub, from Maalik Bin Atiyya, from Suleyman,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The slanderer of the woman cursed by her husband, would be whipped'.¹³

¹² Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 12

¹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 13

ابْنُ مَحْبُوبٍ عَنْ نَعِيمِ بْنِ إِبرَاهِيمَ عَنْ عَبَّادِ النَّصْرِيِّ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ (عليه السلام) قَالَ إِذَا قَدَفَ الرَّجُلُ الرَّجُلَ فَقَالَ إِنَّكَ لَتَعْمَلُ عَمَلَ قَوْمِ لوطٍ تَنْكِحُ الرَّجَالَ قَالَ يُجَادُّ حَذَّ الْقَافِظِ ثَمَانِينَ جَلْدَةً .

Ibn Mahboub, from Naeem Bin Ibrahim, from Abbad Al Basry,

(It has been narrated) from Ja'far^{asws} Bin Muhammad^{asws} having said: 'When the man slanders the man, so he says, 'You have done the deed of the people of Lot^{as}, having copulated with the men'. He^{asws} said: 'He would be whipped the Penalty (*Hadd*) of the slanderer, eighty lashes'.¹⁴

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ وَ ابْنِ بُكَيْرٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) فِي الرَّجُلِ يَفْذِفُ الرَّجُلَ فَيُجَادُّ فَيَعُودُ عَلَيْهِ بِالْفَذْفِ قَالَ إِنْ قَالَ لَهُ إِنْ الَّذِي قُلْتُ لَكَ حَقٌّ لَمْ يُجَادِّ وَإِنْ قَدَفَهُ بِالرَّزِيِّ بَعْدَ مَا جُلِدَ فَعَلَيْهِ الْحَدُّ وَإِنْ قَدَفَهُ قَبْلَ أَنْ يُجَادِّ بِعَشْرِ قَدَفَاتٍ لَمْ يَكُنْ عَلَيْهِ إِلَّا حَدٌّ وَاحِدٌ .

Ibn Mahboub, from Abu Ayoub and Ibn Bakeyr, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} regarding the man who slanders the man, so he is whipped, and he repeats the slander against him. He^{asws} said: 'If he says to him, 'That which I said to you was true', he would not be whipped; and if he were to slander with the adultery after having been whipped, so upon him would be the Penalty (*Hadd*); and if he slanders him before he is whipped, by ten slanders, there would not happen to be upon him, except for one Penalty (*Hadd*)'.¹⁵

ابْنُ مَحْبُوبٍ عَنْ عَبَّادِ بْنِ صُهَيْبٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَمِعْتُهُ يَقُولُ كَانَ عَلِيٌّ (عليه السلام) يَقُولُ إِذَا قَالَ الرَّجُلُ لِلرَّجُلِ يَا مَعْفُوحَ وَيَا مَنْكُوحَ فِي دُبُرِهِ فَإِنَّ عَلَيْهِ الْحَدَّ حَذَّ الْقَافِظِ .

Ibn Mahboub, from Abbad Bin Suheyb,

(It has been narrated) from Abu Abdullah^{asws}, (the narrator says), 'I heard him^{asws} saying: 'Ali^{asws} was saying: 'When the man says to the man, 'O passive sodomist!', and 'O one copulated with in his backside!', so upon him is the Penalty (*Hadd*), a Penalty (*Hadd*) of the slanderer'.¹⁶

ابْنُ مَحْبُوبٍ عَنْ عَبْدِ الْعَزِيزِ الْعَبْدِيِّ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) يَقُولُ لَوْ أُتَيْتُ بِرَجُلٍ قَدَفْتَهُ عَبْدًا مُسْلِمًا بِالرَّزِيِّ لَا نَعْلَمُ مِنْهُ إِلَّا خَيْرًا لَضَرْبُهُ الْحَدَّ حَذَّ الْحُرِّ إِلَّا سَوَطًا .

Ibn Mahboub, from Abdul Aziz, from Ubeyd Bin Zurara who said,

'I heard Abu Abdullah^{asws} saying: 'If they come up to me^{asws} with a man who slandered a Muslim servant with the adultery, not being known from him except for the goodness, I^{asws} would strike him with the Penalty (*Hadd*), a Penalty (*Hadd*) of the free (man) except for one lash (less)'.¹⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ حَمْرَةَ بْنِ حُمْرَانَ عَنْ أَحَدِهِمَا (عليهما السلام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ أَعْتَقَ نِصْفَ جَارِيَتِهِ ثُمَّ قَدَفَهَا بِالرَّزِيِّ قَالَ فَقَالَ أَرَى عَلَيْهِ خَمْسِينَ جَلْدَةً وَ يَسْتَعْفِرُ اللَّهُ عَزَّ وَ جَلَّ مِنْ فِعْلِهِ قُلْتُ أَرَأَيْتَ إِنْ جَعَلْتَهُ فِي حِلٍّ مِنْ قَدْوِهِ إِيَّاهَا وَ عَفَّتْ عَنْهُ قَالَ لَا ضَرْبَ عَلَيْهِ إِذَا عَفَّتْ عَنْهُ مِنْ قَبْلِ أَنْ تَرْفَعَهُ .

¹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 14

¹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 15

¹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 16

¹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 17

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hisham Bin Salim, from Hamza Bin Humran,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, 'I asked him^{asws} about a man who emancipated (librated) half of his slave girl, then accused her with the adultery. So he^{asws} said: 'I^{asws} view upon him being fifty lashes, and he should repent to Allah^{azwj} Mighty and Majestic for his deed'. I said, 'What is your^{asws} view of her having freed him from his accusation and forgiven him about it?' He^{asws} said: 'There is no whipping upon him if she has forgiven him before it (the matter) is raised (before a judge)'.¹⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ يُحَدِّثُ قَائِدُ الْقَائِدِ وَالْمَلَأَعَنَةُ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from one of his companions,

Abu Abdullah^{asws} has said: 'The slanderer of the bastard would be penalised (by the Penalty (*Hadd*)), and the slanderer of the son of a woman cursed by her husband would be penalised (by the Penalty (*Hadd*))'.¹⁹

عَنْهُ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) إِذَا سُئِلَتْ الْفَاجِرَةُ مَنْ فَجَرَ بِكَ فَقَالَتْ فُلَانٌ فَإِنَّ عَلَيْهَا حَدَّيْنِ حَدًّا لِفُجُورِهَا وَحَدًّا لِفَرِيئَتِهَا عَلَى الرَّجُلِ الْمُسْلِمِ .

From him, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'When an immoral woman is asked, 'Who has been immoral with you?', so she says, 'So and so', so upon her would be two Penalties – a Penalty (*Hadd*) for her immorality, and a Penalty (*Hadd*) for her accusation upon the Muslim man'.²⁰

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنْ أَبَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ النَّصْرَانِيَّةُ وَالْيَهُودِيَّةُ تَكُونُ تَحْتَ الْمُسْلِمِ فَتُجْلَدُ فَيُقَدِّفُ ابْنُهَا قَالَ تُضْرَبُ حَدًّا لِأَنَّ الْمُسْلِمَ حَصَّنَهَا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Aban, from Abdul Rahman Bin Abu Abdullah,

(It has been narrated) from Abu Abdullah^{asws}, said: 'If a Christian woman, and/or the Jewish woman are under the Muslim man (married to him), so if she is subjected to Penalty, and (if) he slanders her son?' He^{asws} said: 'He would be whipped the Penalty (*Hadd*) because being (legal wife of a) 'Muslim' has given her protected'.²¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ بَعْضِ أَصْحَابِهِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ يُقَدِّفُ الْجَارِيَةَ الصَّغِيرَةَ قَالَ لَا يُجْلَدُ إِلَّا أَنْ تَكُونَ قَدْ أَدْرَكْتَ أَوْ قَارَبْتِ .

Ali Bin Ibrahim, from his father, from one of his companions, from Aasim Bin Humejd, from Abu Baseer who said,

¹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 18

¹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 19

²⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 20

²¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 21

'I asked Abu Abdullah ^{asws} about the man who slanders the young girl. He ^{asws} said: 'He would not be whipped except if she happens to have matured or near to it'.²²

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ أَبِي نَصْرِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَفْذِفُ الصَّبِيَّةَ يُجَادُّ قَالَ لَا حَتَّى تَبْلُغَ .

A number of our companions, from Ahmad Bin Muhammad, from Ibn Abu Nasr, from Aasim Bin Jumejd, from Abu Baseer,

(It has been narrated) from Abu Abdullah ^{asws} regarding the man who slanders the young girl. He ^{asws} said: 'No, until she is an adult'.²³

بَابُ الرَّجُلِ يَفْذِفُ جَمَاعَةً

Chapter 27 – The man slanders a group

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ افْتَرَى عَلَى قَوْمٍ جَمَاعَةً قَالَ إِنْ أَتَوْا بِهِ مُجْتَمِعِينَ ضَرْبٌ حَدًّا وَوَاحِدًا وَإِنْ أَتَوْا بِهِ مُتَفَرِّقِينَ ضَرْبٌ لِكُلِّ وَاحِدٍ مِنْهُمْ حَدًّا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel Bin Darraj,

(It has been narrated) from Abu Abdullah ^{asws}, said, 'I asked him ^{asws} about a man who fabricated upon a group of people. He ^{asws} said: 'If they come with it altogether, he would be whipped with one Penalty (*Hadd*), and if they come to be separately, he would be whipped a Penalty (*Hadd*) for each one of them'.²⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ بْنِ عُمَانَ عَنْ الْحَسَنِ الْعَطَّارِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ فَذَفَ قَوْمًا قَالَ قَالَ بِكَلِمَةٍ وَاحِدَةٍ قُلْتُ نَعَمْ قَالَ يُضْرَبُ حَدًّا وَوَاحِدًا فَإِنْ فَرَّقَ بَيْنَهُمْ فِي الْقَذْفِ ضَرْبٌ لِكُلِّ وَاحِدٍ مِنْهُمْ حَدًّا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban Bin Usman, form Al Hassan Al Ataar who said,

'I said to Abu Abdullah ^{asws}, 'A man who slanders a people?' He ^{asws} said: 'With one speech?' I said, 'Yes'. He ^{asws} said: 'He would be whipped one Penalty (*Hadd*). So if he had differentiated between them with regards to the slander, he would be whipped a Penalty (*Hadd*) for each one of them'.²⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ حُمَرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ افْتَرَى عَلَى قَوْمٍ جَمَاعَةً قَالَ فَقَالَ إِنْ أَتَوْا بِهِ مُجْتَمِعِينَ ضَرْبٌ حَدًّا وَوَاحِدًا وَإِنْ أَتَوْا بِهِ مُتَفَرِّقِينَ ضَرْبٌ لِكُلِّ رَجُلٍ حَدًّا .

Ali Bin Ibrahim, form Muhammad Bin Isa, from Yunus, from Muhammad Bin Humran,

(The narrator) says, 'I asked Abu Abdullah ^{asws} about a man who fabricated upon a group of people. So he ^{asws} said: 'If they come with it altogether, he would be whipped

²² Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 22

²³ Al Kafi – V 7 – The Book of Legal Penalties Ch 26 H 23

²⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 27 H 1

²⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 27 H 2

one Penalty (*Hadd*), and if they come with it separately, he would be whipped for each man, one Penalty (*Hadd*).²⁶

عَنْهُ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) مِثْلَهُ .

From him, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws}, similar to it'.

باب فِي نَحْوِهِ

Chapter 28 – A chapter regarding approximately it (the above one)

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ نَعِيمِ بْنِ إِبْرَاهِيمَ عَنْ عَبْدِ النَّبْرِ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنْ ثَلَاثَةِ شَهَدَاءَ عَلَى رَجُلٍ بِالزَّوْنَى وَ قَالُوا الْآنَ نَأْتِي بِالرَّابِعِ قَالَ يُجْلَدُونَ حَدَّ الْقَافِزِ ثَمَانِينَ جَلْدَةً كُلُّ رَجُلٍ مِنْهُمْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Naeem Bin Ibrahim, from Abbad Al basry who said,

'I asked Abu Ja'far^{asws} about three testimonies upon a man, with the adultery, and they said, 'We will now be coming with the fourth'. He^{asws} said: 'They would be whipped with the Penalty (*Hadd*) of the slander, eighty lashes, each man among them'.²⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) لَا أَكُونُ أَوَّلَ الشُّهُودِ الْأَرْبَعَةِ عَلَى الزَّوْنَى أَحْسَى أَنْ يَنْكَلَّ بَعْضُهُمْ فَأَجْلَدَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws}: 'Amir Al Momineen^{asws} said: 'May I^{asws} not be the first of the witnessed upon the adultery, for fear that one of them might withdraw, so I^{asws} would be whipped'.²⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ عَنْ عَمْرِو بْنِ سَعِيدٍ عَنْ مُصَدِّقِ بْنِ صَدَقَةَ عَنْ عَمَارِ بْنِ مُوسَى عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ شَهِدَ عَلَيْهِ ثَلَاثَةٌ أَنَّهُ زَنَى بِفُلَانَةٍ وَ شَهِدَ الرَّابِعُ أَنَّهُ لَا يَدْرِي بِمَنْ زَنَى قَالَ لَا يُجْلَدُ وَ لَا يُرْجَمُ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Ahmad Bin Al Hassan, from Amro Bin Saeed, from Musaddaq Bin Sadaqa, from Ammar Bin Musa,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man against whom three testified that he had committed adultery with so and so woman, and the fourth one testified that he does not know who he committed adultery with. He^{asws} said: 'He (the accused) would neither be whipped, nor stoned'.²⁹

²⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 27 H 3

²⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 28 H 1

²⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 28 H 2

²⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 28 H 3

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ عَنْ أَبِيهِ (عَلَيْهِ السَّلَام) فِي ثَلَاثَةِ شَهَدُوا عَلَى رَجُلٍ بِالزَّوْنِيِّ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَيْنَ الرَّابِعُ فَقَالُوا الْآنَ يَجِيءُ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) حُدُومَهُمْ فَلَيْسَ فِي الْحُدُودِ نَظْرَةٌ سَاعَةً .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws}, from his^{asws} father^{asws} regarding three witnesses upon one man with the adultery. So Amir Al-Momineen^{asws} said: 'Where is the fourth?' So they said, 'He is coming just now'. So Amir Al-Momineen^{asws} said: 'Apply the Penalty (*Hadd*) upon them, for there is nothing in the Penalties, waiting for a moment'.³⁰

بَابُ الرَّجُلِ يَفْذِفُ امْرَأَتَهُ وَوَلَدَهُ

Chapter 29 – The man slanders his wife and his child

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينٍ وَ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي رَجُلٍ قَالَ لِامْرَأَتِهِ يَا زَانِيَةٌ أَنَا زَنَيْتُ بِكَ قَالَ عَلَيْهِ حَدٌّ وَاحِدٌ لِقَدْفِهِ إِيَّاهَا وَ أَمَا قَوْلُهُ أَنَا زَنَيْتُ بِكَ فَلَا حَدٌّ فِيهِ إِلَّا أَنْ يَشْهَدَ عَلَى نَفْسِهِ أَرْبَعَ شَهَادَاتٍ بِالزَّوْنِيِّ عِنْدَ الْإِمَامِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Al A'ala Bin Razeyn and Abu Ayoub, form Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} regarding a man who said to his wife, 'O adulteress, I have committed adultery with you'. He^{asws} said: 'Upon him is one Penalty (*Hadd*) due to slandering her, and as for his words, 'I have committed adultery with you', so there is no Penalty (*Hadd*) with regards to it, except if he were to testify against her with four testimonies with the adultery in the presence of the Imam^{asws}.³¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) الرَّجُلُ يَفْذِفُ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ يُضْرَبُ الْحَدَّ وَ يُخْلَى بَيْنَهُ وَ بَيْنَهَا .

Ali Bin Ibrahim, form his father, from Ibn Abu Umeyr, from one of his companions who said,

'I said to Abu Abdullah^{asws}, 'The man accuses his wife before he copulates with her. He^{asws} said: 'He would be whipped the Penalty (*Hadd*), and there would be separation between him and her'.³²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ مُضَارِبٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَنْ قَدَفَ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا جُلِدَ الْحَدَّ وَ هِيَ امْرَأَتُهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Muhammad Bin Muzarab,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who accuses his wife before he copulates with her would be whipped one Penalty (*Hadd*), and she would (still) be his wife'.³³

³⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 28 H 4

³¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 1

³² Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 2

عَنْهُ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا قَدَفَ الرَّجُلُ امْرَأَتَهُ ثُمَّ أَكْذَبَ نَفْسَهُ جُلِدَ الْحَدَّ وَ كَانَتْ امْرَأَتُهُ وَ إِنْ لَمْ يُكْذِبْ عَلَى نَفْسِهِ تَلَاعَنَا وَ يُفْرَقُ بَيْنَهُمَا .

From him, from Yunus, from Abdullah Bin Sinan,

Abu Abdullah^{asws} has said: 'When the man accuses his wife, then admits having lied to himself, would be whipped the Penalty (*Hadd*), and she would be his wife; but if he did not admit lying to himself, there would be cursing and separation between the two of them'.³⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ مُنْتَنَى الْحَنَاطِ عَنْ زُرَّارَةَ قَالَ سَأَلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ الَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَ لَمْ يَكُنْ لَهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ قَالَ هُوَ الَّذِي يَقْدِفُ امْرَأَتَهُ فَإِذَا قَدَفَهَا ثُمَّ أَقْرَبَ بَأْتَهُ كَذَبَ عَلَيْهَا جُلِدَ الْحَدَّ وَ رُدَّتْ إِلَيْهِ امْرَأَتُهُ وَ إِنْ أَبَى إِلَّا أَنْ يَمْضِيَ فَشَهَدَ عَلَيْهَا أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ وَ الْخَامِسَةَ يَلْعَنُ فِيهَا نَفْسَهُ إِنْ كَانَ مِنَ الْكَاذِبِينَ

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Musny Al Hanaat, from Zurara who said,

'Abu Abdullah^{asws} was asked about the Words of Allah^{azwj} Mighty and Majestic [24:6] **And (as for) those who accuse their wives and have no witnesses except for themselves**, he^{asws} said: 'He is the one who accuses his wife, so when he has accused her, then he accepts that he had lied against her, would be whipped the Penalty (*Hadd*), and his wife would be returned to him. So if he refuses (to admit having lied) and stands by it, so **the testimony of one of these (should be taken) four times, bearing Allah to Witness that he is from the truthful ones [24:7] And the fifth (time) then the Curse of Allah be on him if he is one of the liars.**

وَ إِنْ أَرَادَتْ أَنْ تَدْرَأَ عَنْ نَفْسِهَا الْعَذَابَ وَ الْعَذَابُ هُوَ الرَّجْمُ شَهَدَتْ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ وَ الْخَامِسَةَ أَنْ غَضِبَ اللَّهُ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ وَ إِنْ لَمْ تَفْعَلْ رُجِمَتْ فَإِنْ فَعَلَتْ دَرَأَتْ عَنْ نَفْسِهَا الْحَدَّ ثُمَّ لَا تَحِلُّ لَهُ إِلَى يَوْمِ الْقِيَامَةِ.

And if she intends to stave off the punishment from herself, and the punishment, it is the stoning, she should testify by four testimonies with Allah^{azwj} that he is from the liars, and during the fifth that the Anger of Allah^{azwj} would be upon her if he was from the truthful ones. And if she does not do it, she would be stoned; and if she were to do it, the Penalty (*Hadd*) would be staved off from herself, then she would not be Permissible for him up to the Day of Judgement'.³⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبَّادِ بْنِ صُهَيْبٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَوْقَفَهُ الْإِمَامُ لِلْعَانَ فَشَهَدَ شَهَادَتَيْنِ ثُمَّ نَكَلَ وَ أَكْذَبَ نَفْسَهُ قَبْلَ أَنْ يُفْرَعَ مِنَ اللَّعَانِ قَالَ يُجْلَدُ حَدَّ الْفَازِفِ وَ لَا يُفْرَقُ بَيْنَهُ وَ بَيْنَ الْمَرْأَةِ .

Ali Bin Ibrahim, from his and Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, altogether from Ibn Mahboub, from Abbad Bin Suheyb,

(It has been narrated) from Abu Abdullah^{asws} regarding a man paused by the Imam^{asws} for the cursing. So he testifies with two testimonies, then withdraws, and admits lying by himself before he is free from the cursing. He^{asws} said: 'He would be

³³ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 3

³⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 4

³⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 5

whipped a Penalty (*Hadd*) of the slanderer, and there would be no separation between him and his wife'.³⁶

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ لَاعَنَ امْرَأَتَهُ وَ هِيَ حُبْلَى ثُمَّ ادَّعَى وَلَدَهَا بَعْدَ مَا وُلِدَتْ وَ زَعَمَ أَنَّهُ مِنْهُ قَالَ يُرَدُّ إِلَيْهِ الْوَلَدُ وَ لَا يُجْلَدُ لِأَنَّهُ قَدْ مَضَى التَّلَاعُنُ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Abdul Kareem, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who cursed his wife, and she was pregnant. Then he called her child, after it had been born, and alleged that it was from him'. He^{asws} said: 'The child would be return to him, and he would not be whipped because the cursing has passed'.³⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادٍ عَنْ حَرِيزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَقْتَرِي عَلَى امْرَأَتِهِ قَالَ يُجْلَدُ ثُمَّ يُخْلَى بَيْنَهُمَا وَ لَا يُلَاعِنُهَا حَتَّى يَقُولَ أَشْهَدُ أَنِّي رَأَيْتُكَ تَفْعَلِينَ كَذَا وَ كَذَا .

Ali Bin Ibrahim, from his father, from Hammad, from Hareyz, from Muhammad Bin Muslim who said,

'I asked him^{asws} about the man who fabricated upon his wife. He^{asws} said: 'He would be whipped, then there would be separation between the two, and he would not curse her until he is saying, 'I testify that I saw you, such and such being done with you'.³⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ فِي الرَّجُلِ يَقْدِفُ امْرَأَتَهُ يُجْلَدُ ثُمَّ يُخْلَى بَيْنَهُمَا وَ لَا يُلَاعِنُهَا حَتَّى يَقُولَ إِنَّهُ قَدْ رَأَى مَنْ يَفْجُرُ بِهَا بَيْنَ رِجْلَيْهَا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the man who slandered his wife: 'He would be whipped, then there would be separation between the two, and he would not curse her until he is saying that he had seen someone being immoral with her between her two legs'.³⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ صَفْوَانَ عَنْ شُعَيْبٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَدَفَ امْرَأَتَهُ فَتَلَاعَنَّا ثُمَّ قَدَفَهَا بَعْدَ مَا تَفَرَّقَا أَيْضًا بِالزَّنَى أَعَلَيْهِ حَدٌّ قَالَ نَعَمْ عَلَيْهِ حَدٌّ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Safwan, from Shuayb, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who accused his wife, so he cursed, then accused her after the separation as well, with the adultery, is there a Penalty (*Hadd*) upon him?' He^{asws} said: 'Yes, upon him is the Penalty (*Hadd*)'.⁴⁰

³⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 6

³⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 7

³⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 8

³⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 9

⁴⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 10

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ قَالَ لِامْرَأَتِهِ لَمْ أَجِدْكَ عَذْرَاءَ قَالَ يُضْرَبُ قُلْتُ فَإِنَّهُ عَادَ قَالَ يُضْرَبُ فَإِنَّهُ يُوشِكُ أَنْ يَنْتَهِيَ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Is'haq Bin Ammar, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who said to his wife, 'I did not find you as a virgin'. He^{asws} said: 'He would be whipped'. I said, 'So if he were to repeat it?' He^{asws} said: 'He would be whipped, for he would probably stop'.⁴¹

يُونُسُ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ قَالَ لِامْرَأَتِهِ لَمْ تَأْتِي عَذْرَاءَ قَالَ لَيْسَ عَلَيْهِ شَيْءٌ لِأَنَّ الْعُدْرَةَ نَدَّهَبُ بِغَيْرِ جَمَاعٍ .

Yunus, from Zurara,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who says to his wife, 'You did not come to me as a virgin'. He^{asws} said: 'There is nothing upon him because the virginity can go away without copulation'.⁴²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عليه السلام) عَنْ رَجُلٍ قَدَفَ ابْنَهُ بِالزَّانِيَةِ قَالَ لَوْ قَتَلَهُ مَا قُتِلَ بِهِ وَإِنْ قَدَفَهُ لَمْ يُجَدَّ لَهُ قُلْتُ فَإِنْ قَدَفَ أَبُوهُ أُمَّهُ فَقَالَ إِنْ قَدَفَهَا وَانْتَقَى مِنْ وَلَدِهَا تَلَاعَنَا وَ لَمْ يَلْزَمْ ذَلِكَ الْوَلَدَ الَّذِي انْتَقَى مِنْهُ وَ فُرِّقَ بَيْنَهُمَا وَ لَمْ تَحِلَّ لَهُ أَبَدًا

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim who said,

'I asked Abu Abdullah^{asws} about a man who accused his son with the adultery. He^{asws} said: 'Had he (father) killed him, he would not be killed due to it, and if he has accused him, he would not be whipped for it'. I said, 'So if his father accused his mother?' So he^{asws} said: 'If he had accused her and negates himself from her child, then there is cursing, and that child which he had negated from would not be necessitated upon him, and there would be separation between the two, and she would not be Permissible for him, ever.

قَالَ وَ إِنْ كَانَ قَالَ لِابْنِهِ وَ أُمُّهُ حَيَّةٌ يَا ابْنَ الزَّانِيَةِ وَ لَمْ يَنْتَفِ مِنْ وَلَدِهَا جُلِدَ الْحَدَّ لَهَا وَ لَمْ يَفْرَقْ بَيْنَهُمَا قَالَ وَ إِنْ كَانَ قَالَ لِابْنِهِ يَا ابْنَ الزَّانِيَةِ وَ أُمُّهُ مَيِّتَةٌ وَ لَمْ يَكُنْ لَهَا مَنْ يَأْخُذُ بِحَقِّهَا مِنْهُ إِلَّا وَ لَدَهَا مِنْهُ فَإِنَّهُ لَا يُقَامُ عَلَيْهِ الْحَدُّ لِأَنَّ حَقَّ الْحَدِّ قَدْ صَارَ لَوْلَادِهِ مِنْهَا وَ إِنْ كَانَ لَهَا وَلَدٌ مِنْ غَيْرِهِ فَهُوَ وَلِيُّهَا يُجَدُّ لَهُ وَ إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ مِنْ غَيْرِهِ وَ كَانَ لَهَا قَرَابَةٌ بِقَوْمُونَ بِأَخْذِ الْحَدِّ جُلِدَ لَهُمْ .

He^{asws} said: 'And if he had said to his son and his mother was alive, 'O son of the adulteress', and does not negated from her child, he would be whipped the Penalty (Hadd) for her, and there would not be separation between the two. And if he had said to his son, 'O son of the aduteress', and his mother had died, and there does not happen to be anyone who can take with her right from him except for her child from him, so the Penalty (Hadd) would not be established upon him, because the right of the Penalty (Hadd) has gone to a son from her, and if there was a son for her from other than him, so he would be her guardian, the whipping would be for him, and if there does not happen to be a child from other than him, and for her are

⁴¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 11

⁴² Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 12

relatives, they would be standing for taking the Penalty (*Hadd*), the whipping would be for them'.⁴³

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنْ أَبِيَانَ عَنِ ابْنِ مُضَارِبٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَنْ قَدَفَ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا ضَرْبَ الْحَدِّ وَ هِيَ امْرَأَتُهُ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Aban, from Ibn Muzarab,

Abu Abdullah^{asws} has said: 'The one who accuses his wife before he copulates with her would be whipped the Penalty (*Hadd*), and she would (still) be his wife'.⁴⁴

بَابُ صِفَةِ حَدِّ الْقَازِفِ

Chapter 30 – Description of the Penalty (*Hadd*) of the slanderer

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مَهْرَانَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ يَفْتَرِي كَيْفَ يَنْبَغِي لِلْإِمَامِ أَنْ يَضْرِبَهُ قَالَ جُلْدَ بَيْنَ الْجُلْدَيْنِ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at Bin Mahran who said,

'I asked him^{asws} about a man who fabricated, how would it befit the Imam^{asws} that he^{asws} whips him?' He^{asws} said: 'He^{asws} would whip him between the two whippings (between the highest and the lowest Penalty (*Hadd*))'.⁴⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) (أَمَرَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَنْ لَا يُنَزَعَ شَيْءٌ مِنْ ثِيَابِ الْقَازِفِ إِلَّا الرِّدَاءُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'Rasool-Allah^{saww} ordered that nothing should be removed from the clothes of the slanderer except for the robe'.⁴⁶

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَام) قَالَ يُجْلَدُ الْمُفْتَرِي ضَرْبًا بَيْنَ الضَّرْبَيْنِ يُضْرَبُ جَسَدُهُ كُلُّهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Is'haq Bin Ammar,

(It has been narrated) from Abu Al-Hassan^{asws} having said: 'The fabricator would be whipped with a whipping between the two whippings. All of his body would be whipped'.⁴⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَام) قَالَ الْمُفْتَرِي يُضْرَبُ بَيْنَ الضَّرْبَيْنِ يُضْرَبُ جَسَدُهُ كُلُّهُ فَوْقَ ثِيَابِهِ .

⁴³ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 13

⁴⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 29 H 14

⁴⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 30 H 1

⁴⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 30 H 2

⁴⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 30 H 3

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Is'haq Bin Ammar,

(It has been narrated) from Abu Al-Hassan^{asws} having said: 'The fabricator would be whipped between the two whippings. His whole body would be whipped, over his clothes'.⁴⁸

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) الزَّانِي أَشَدُّ ضَرْبًا مِنْ شَارِبِ الْخَمْرِ وَ شَارِبِ الْخَمْرِ أَشَدُّ ضَرْبًا مِنَ الْفَاقِيفِ وَ الْفَاقِيفُ أَشَدُّ ضَرْبًا مِنَ التَّعْزِيرِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a Bin Abdul Mallik,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'The adulterer would be whipped more intensely than the drinker of the wine, and the drinker of the wine would be whipped more intensely than the slanderer, and the slanderer would be whipped more intensely than the rebuker (of a sinner)'.⁴⁹

بَاب مَا يَجِبُ فِيهِ الْحَدُّ فِي الشَّرَابِ

Chapter 31 – What is Obligated in the Penalty (*Hadd*) regarding the drinking (of wine)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ شَرِبَ حُسْوَةَ خَمْرٍ قَالَ يُجْلَدُ ثَمَانِينَ جَلْدَةً قَلِيلًا وَ كَثِيرًا حَرَامٌ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether, from Ibn Mahboub, from Is'haq Bin Ammar who said,

'I asked Abu Abdullah^{asws} about a man who drank a sip of wine. He^{asws} said: 'He would be whipped eighty lashes. A little of it or more of it, is Prohibited'.⁵⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ كَيْفَ كَانَ يُجْلَدُ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قَالَ فَقَالَ كَانَ يَضْرِبُ بِالنَّعَالِ وَ يَزِيدُ كُلَّمَا أَتَى بِالشَّرَابِ ثُمَّ لَمْ يَزَلِ النَّاسُ يَزِيدُونَ حَتَّى وَقَفَ عَلَى ثَمَانِينَ أَشَارَ بِذَلِكَ عَلِيٌّ (عَلَيْهِ السَّلَام) عَلَى عَمْرٍ فَرَضِي بِهَا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, (the narrator) says, 'I said to him^{asws}, 'How did Rasool-Allah^{saww} used to whip?' So he^{asws} said: 'He^{saww} used to whip by the slippers (feet) and he^{saww} increased, every time they came with a drinker. Then the people did not cease to increase until it paused at eighty (lashes). Ali^{asws} pointed that out to Umar, so he was pleased with it'.⁵¹

⁴⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 30 H 4

⁴⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 30 H 5

⁵⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 1

⁵¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 2

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) يَقُولُ أَفِيمَ عُبَيْدِ اللَّهِ بْنِ عُمَرَ وَ قَدْ شَرِبَ الْخَمْرَ فَأَمَرَ بِهِ عُمَرُ أَنْ يُضْرَبَ فَلَمْ يَتَقَدَّمْ عَلَيْهِ أَحَدٌ يَضْرِبُهُ حَتَّى قَامَ عَلِيٌّ (عَلَيْهِ السَّلَامُ) بِنِيسَعَةٍ مَنِيَّةٍ فَضْرَبَهُ بِهَا أَرْبَعِينَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazaal, from Ibn Bukeyr, from Zurara who said,

'I heard Abu Ja'far^{asws} saying: 'Ubeydullah Bin Umar was made to stand, and he had drunk the wine. So Umar instructed that he should be whipped. But no one proceeded anyone to whip him until Ali^{asws} arose with a doubled belt, so he^{asws} whipped him with it'.⁵²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عَثْمَانَ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِنَّ فِي كِتَابِ عَلِيٍّ (عَلَيْهِ السَّلَامُ) يُضْرَبُ شَارِبُ الْخَمْرِ ثَمَانِينَ وَ شَارِبُ النَّبِيذِ ثَمَانِينَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from hammad Bin Usman, from Bureyd Bin Muawiyah who said,

'I heard Abu Abdullah^{asws} saying that in the Book of Ali^{asws}, the drinker of the wine is to be whipped eighty (lashes) and the drinker of *Al-Nabeez* is to be whipped eighty (lashes)'.⁵³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عَثْمَانَ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ أَرَأَيْتَ النَّبِيَّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) كَيْفَ كَانَ يَضْرِبُ فِي الْخَمْرِ فَقَالَ كَانَ يَضْرِبُ بِالنَّعَالِ وَ يَزِيدُ إِذَا أَتَى بِالشَّارِبِ ثُمَّ لَمْ يَزَلِ النَّاسُ يَزِيدُونَ حَتَّى وَقَفَ ذَلِكَ عَلَى ثَمَانِينَ أَشَارَ بِذَلِكَ عَلِيٌّ (صَلَوَاتُ اللَّهِ عَلَيْهِ) عَلَى عُمَرَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws}, (the narrator) said, 'I said to him^{asws}, What is your^{asws} view how the Prophet^{saww} used to whip regarding the wine?' So he^{asws} said: 'He^{saww} used to whip by the slippers (feet), and he^{saww} increase when they came with the drinker. Then the people did not cease increasing until that paused at eighty. Ali^{asws} pointed that out to Umar'.⁵⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) يَقُولُ إِنَّ الْوَلِيدَ بْنَ عُقْبَةَ حِينَ شَهِدَ عَلَيْهِ بِشُرْبِ الْخَمْرِ قَالَ عُثْمَانُ لِعَلِيٍّ (عَلَيْهِ السَّلَامُ) أَقْضِ بَيْنَهُ وَ بَيْنَ هَؤُلَاءِ الَّذِينَ زَعَمُوا أَنَّهُ شَرِبَ الْخَمْرَ فَأَمَرَ عَلِيٌّ (عَلَيْهِ السَّلَامُ) فَجَلِدَ بِسَوْطٍ لَهُ شُعْبَتَانِ أَرْبَعِينَ جَلْدَةً .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Musa Bin Bakr, from Zurara who said,

'I heard Abu Ja'far^{asws} saying that Al-Waleed Bin Uqba, when he was witnessed with the drinking of the wine, Usman said to Ali^{asws}, 'Judge between him and those who are alleging that he as drunk the wine. So Ali^{asws} ordered, so he was whiped by a whip which had two stripes, forty lashes'.⁵⁵

⁵² Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 3

⁵³ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 4

⁵⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 5

⁵⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 6

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَالَ إِنَّ عَلِيًّا (عَلَيْهِ السَّلَام) كَانَ يَقُولُ إِنَّ الرَّجُلَ إِذَا شَرِبَ الْخَمْرَ سَكِرَ وَإِذَا سَكِرَ هَدَى وَإِذَا هَدَى أَفْتَرَى فَاجْلُدُوهُ حَدَّ الْمُفْتَرِي .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Ali^{asws} was saying that the man, when he drinks the wine, gets intoxicated, and when he is intoxicated, raves, and when he raves, he fabricates, therefore he would be whipped a Penalty (*Hadd*) of the fabricator'.⁵⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَام) يَضْرِبُ فِي الْخَمْرِ وَالنَّبِيذِ ثَمَانِينَ الْحُرَّ وَالْعَبْدَ وَالْيَهُودِيَّ وَالنَّصْرَانِيَّ فَلَتْ وَ مَا شَأْنُ الْيَهُودِيَّ وَالنَّصْرَانِيَّ قَالَ لَيْسَ لَهُمْ أَنْ يُظْهِرُوا شَرْبَهُ يَكُونُ ذَلِكَ فِي بُيُوتِهِمْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali, from Is'haq Bin Ammar, from Abu Baseer,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'Ali^{asws} used to whip regarding the wine and Al-Nabeez, eighty (lashes), and the slave, and the Jew, and the Christian'. I said, 'And what is the relevance of the Jew and the Christian?' He^{asws} said: 'it is not for them that they should be displaying their drinking. That can happen to be in their homes'.⁵⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يَجْلُدُ الْحُرَّ وَالْعَبْدَ وَالْيَهُودِيَّ وَالنَّصْرَانِيَّ فِي الْخَمْرِ وَالنَّبِيذِ ثَمَانِينَ فَقُلْتُ مَا بَالُ الْيَهُودِيَّ وَالنَّصْرَانِيَّ فَقَالَ إِذَا أَظْهِرُوا ذَلِكَ فِي مِصْرٍ مِنَ الْأَمْصَارِ لِأَنَّهُمْ لَيْسَ لَهُمْ أَنْ يُظْهِرُوا شَرْبَهَا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Sama'at, from Abu Baseer who said,

'Amir Al-Momineen^{asws} whipped the free, and the slave, and the Jew, and the Christian regarding the wine and Al-Nabeez, eighty (lashes)'. So I said, 'What has it to do with the Jew and the Christian?' So he^{asws} said: 'When they display that in a city from the cities, because it is not for them that they should be displaying their drinking of it'.⁵⁸

يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) الْحَدُّ فِي الْخَمْرِ إِنْ شَرِبَ مِنْهَا قَلِيلًا أَوْ كَثِيرًا قَالَ ثُمَّ قَالَ أَنِّي عَمَرْتُ بَقْدَامَةَ بْنَ مَطْعُونٍ وَقَدْ شَرِبَ الْخَمْرَ وَقَامَتْ عَلَيْهِ الْبَيْتَةُ فَسَأَلَ عَلِيًّا (عَلَيْهِ السَّلَام) فَأَمَرَهُ أَنْ يَجْلِدَهُ ثَمَانِينَ فَقَالَ قَدَامَةُ يَا أَمِيرَ الْمُؤْمِنِينَ لَيْسَ عَلَيَّ حَدٌّ أَنَا مِنْ أَهْلِ هَذِهِ الْأَيَّةِ لَيْسَ عَلَى الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ جُنَاحٌ فِيمَا طَعَمُوا قَالَ فَقَالَ عَلِيُّ (عَلَيْهِ السَّلَام) لَسْتُ مِنْ أَهْلِهَا إِنَّ طَعَامَ أَهْلِهَا لَهُمْ حَلَالٌ لَيْسَ يَأْكُلُونَ وَلَا يَشْرَبُونَ إِلَّا مَا أَحَلَّهُ اللَّهُ لَهُمْ ثُمَّ قَالَ عَلِيُّ (عَلَيْهِ السَّلَام) إِنَّ الشَّارِبَ إِذَا شَرِبَ لَمْ يَدْرِ مَا يَأْكُلُ وَلَا مَا يَشْرَبُ فَاجْلُدُوهُ ثَمَانِينَ جَلْدَةً .

Yunus, from Abdullah Bin Sinan who said,

'Abu Abdullah^{asws} said: 'The Penalty (*Hadd*) (would be established) regarding the wine, if it is drunk from it, a little or more'. Then he^{asws} said: 'They came to Umar with Qadamat Bin Mazoun, and he had drunk the wine, and the proof was established upon him. So he (Umar) asked Ali^{asws}, so he^{asws} ordered that he should be whipped

⁵⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 7

⁵⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 8

⁵⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 9

eighty (lashes). So Qadamat said, 'O Amir Al-Momineen^{asws}! There is no Penalty (*Hadd*) upon me. I am from the ones rightful of this Verse [5:93] **On those who believe and do righteous deeds there is no blame for what they eat**. So Ali^{asws} said: 'You are not from its rightful ones. The food of its rightful ones is Permissible unto them. They are not eating and drinking except what Allah^{azwj} has Permitted to them'. Then Ali^{asws} said: 'The drinker, when he drinks (wine), he does not know what he eats and what he drinks'. So he^{asws} whipped him eighty lashes'.⁵⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنْ عُمَرَ بْنِ يَزِيدٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ فِي كِتَابِ عَلِيٍّ (عَلَيْهِ السَّلَام) يُضْرَبُ شَارِبُ الْخَمْرِ وَ شَارِبُ الْمُسْكِرِ قُلْتُ كَمْ قَالَ حَدُّهُمَا وَاحِدٌ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from hammad Bin Usman, from Umar Bin Yazeed who said,

'I heard Abu Abdullah^{asws} saying: 'In the Book of Ali^{asws}, a drinker of the wine is to be whipped, and a drinker of the intoxicant'. I said, 'How much?' He^{asws} said: 'Their Penalty (*Hadd*) is one (and the same)'.⁶⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي الْمَعْرَاءِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَام) يَجِدُ الْحُرَّ وَالْعَبْدَ وَالْيَهُودِيَّ وَالنَّصْرَانِيَّ فِي الْخَمْرِ ثَمَانِينَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abu Al Magra, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Ali^{asws} used to whipe the free, and the slave, and the Jew, and the Christian, regarding the wine, eighty (lashes)'.⁶¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ النُّعْمَانِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كُلُّ مُسْكِرٍ مِنَ الْأَشْرِبَةِ يَجِبُ فِيهِ كَمَا يَجِبُ فِي الْخَمْرِ مِنَ الْحَدِّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Noman, from Abu Al Sabbah Al Kanany,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Every intoxicant from the drinks Obligates the Penalty (*Hadd*) with regards to it, just as it Obligates regarding the wine'.⁶²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ حَدُّ الْيَهُودِيِّ وَالنَّصْرَانِيِّ وَالْمَمْلُوكِ فِي الْخَمْرِ وَالْفَرِيَّةِ سَوَاءٌ وَإِنَّمَا صَوْلِحَ أَهْلُ الذِّمَّةِ أَنْ يَشْرَبُوهَا فِي بُيُوتِهِمْ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus Bin Abdul Rahman, from Ibn Muskan, from Abu Baseer who said,

'He^{asws} (6th Imam^{asws}) said: 'The Penalty (*Hadd*) of the Jew, and the Christian, and the slave regarding the wine, and the fabrication, is the same. But rather, it is correct

⁵⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 10

⁶⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 11

⁶¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 12

⁶² Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 13

for the people under the responsibility (Al-Zimmy), that they can drink it in their own houses’.

قَالَ وَ سَأَلْتُهُ عَنِ السُّكْرَانِ وَ الزَّانِي قَالَ يُجْلَدَانِ بِالسِّيَاطِ مُجَرَّدَيْنِ بَيْنَ الْكَتِفَيْنِ فَأَمَّا الْحَدُّ فِي الْقَذْفِ فَيُجْلَدُ عَلَى تَيَابِهِ ضَرْبًا بَيْنَ الضَّرْبَيْنِ .

He (the narrator) said, ‘And I asked him^{asws} about the intoxicated ones and the adulterers. He^{asws} said: ‘They would both be whipped with the whips, without clothes, between the two shoulders. So, as for the Penalty (*Hadd*) regarding the slander, so he should be whipped upon his clothes, a Penalty (*Hadd*) between the two Penalty (*Hadd*)’.⁶³

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ سَالِمٍ عَنْ أَحْمَدَ بْنِ النَّضْرِ عَنْ عَمْرِو بْنِ شِمْرٍ عَنْ جَابِرِ رَفَعَهُ عَنْ أَبِي مَرْيَمَ قَالَ قَالَ أَبُو مِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) بِالنَّجَاشِيِّ الشَّاعِرِ قَدْ شَرِبَ الْخَمْرَ فِي شَهْرِ رَمَضَانَ فَضْرِبَهُ تَمَانِينَ ثُمَّ حَبَسَهُ لَيْلَةً ثُمَّ دَعَا بِهِ مِنْ الْعِدِّ فَضْرِبَهُ عَشْرِينَ سَوْطًا فَقَالَ لَهُ يَا أَمِيرَ الْمُؤْمِنِينَ فَقَدْ ضَرَبْتَنِي فِي شَرِبِ الْخَمْرِ وَ هَذِهِ الْعِشْرُونَ مَا هِيَ فَقَالَ هَذَا لِتَجْرِيكَ عَلَى شَرِبِ الْخَمْرِ فِي شَهْرِ رَمَضَانَ .

Abu Ali Al Ashary, from Muhammad Bin Salim, from Ahmad Bin Al Nazar, from Amro Bin Shimr, from Jabid, raising it, from Abu Maryam who said,

‘They came to Amir Al-Momineen^{asws} with Al-Najjashy the poet who had drunk the wine during the Month of Ramazan. So he^{asws} whipped him eighty (lashes). Then he^{asws} held him in custody for one night. The he^{asws} called for him in the morning, so he^{asws} whipped him twenty lashes’. So he said to him^{asws}, ‘O Amir Al-Momineen^{asws}! You^{asws} have already whipped me with regards to drinking the wine, and these twenty, what are they for?’ So he^{asws} said: ‘This is for your audacity on drinking of the wine during the Month of Ramazan’.⁶⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ شَرِبَ رَجُلٌ الْخَمْرَ عَلَى عَهْدِ أَبِي بَكْرٍ فَرُفِعَ إِلَيَّ أَبِي بَكْرٍ فَقَالَ لَهُ أَسْرَبْتَ خَمْرًا قَالَ نَعَمْ قَالَ وَ لِمَ وَ هِيَ مُحْرَمَةٌ قَالَ فَقَالَ لَهُ الرَّجُلُ إِنِّي أَسْلَمْتُ وَ حَسَنٌ إِسْلَامِي وَ مَنْزِلِي بَيْنَ ظَهْرَانِي قَوْمٌ يَشْرَبُونَ الْخَمْرَ وَ يَسْتَجِلُّونَهَا وَ لَوْ عَلِمْتُ أَنَّهَا حَرَامٌ اجْتَنَبْتُهَا

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from Ibn Bukeyr,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘A man drank the wine in the era of Abu Bakr, so it was raised to Abu Bakr. So said to him, ‘Did you drink the wine?’ He said, ‘Yes’. He said, ‘And why did you, and it is Prohibited?’ So the man said to him, ‘I became a Muslim, and my Islam was good, and my house is among a people who are drinking the wine, and they are permitting it, and had I know that it is Prohibited, I would have kept away from it’.

فَأْتَفَتَ أَبُو بَكْرٍ إِلَى عُمَرَ فَقَالَ مَا تَقُولُ فِي أَمْرِ هَذَا الرَّجُلِ فَقَالَ عُمَرُ مُعْضِلَةٌ وَ لَيْسَ لَهَا إِلَّا أَبُو الْحَسَنِ قَالَ فَقَالَ أَبُو بَكْرٍ ادْعُ لَنَا عَلِيًّا فَقَالَ عُمَرُ يُؤْتِي الْحَكْمَ فِي بَيْتِهِ

So Abu Bakr turned to Umar, so he said, ‘So what are you saying regarding the matter of this man?’ So Umar said, ‘And there is none for it except for Abu Al-Hassan^{asws}’. So Abu Bakr said, ‘Call Ali^{asws} for us’. So Umar said, ‘He^{asws} gives the judgement in his^{asws} home’.

⁶³ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 14

⁶⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 15

فَقَامَا وَ الرَّجُلُ مَعَهُمَا وَ مَنْ حَضَرَهُمَا مِنَ النَّاسِ حَتَّى أَتَوْا أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَأَخْبَرَاهُ بِقِصَّةِ الرَّجُلِ وَ قَصَّ الرَّجُلُ قِصَّتَهُ قَالَ فَقَالَ ابْعَثُوا مَعَهُ مَنْ يَدُورُ بِهِ عَلَى مَجَالِسِ الْمُهَاجِرِينَ وَ الْأَنْصَارِ مَنْ كَانَ تَلَا عَلَيْهِ آيَةَ التَّحْرِيمِ فَلْيَشْهَدْ عَلَيْهِ فَفَعَلُوا ذَلِكَ بِهِ فَلَمْ يَشْهَدْ عَلَيْهِ أَحَدٌ بِأَنَّهُ قَرَأَ عَلَيْهِ آيَةَ التَّحْرِيمِ فَخَلَّى عَنْهُ وَ قَالَ لَهُ إِنْ شَرِبْتَ بَعْدَهَا أَقْمَنَا عَلَيْكَ الْحَدَّ .

So they both stood up, and the man was with the two of them, along with the ones who were present with them both, until they all came to Amir Al-Momineen^{asws}. So they informed him of the story of the man, and the man related his own story. So he^{asws} said: 'Send (some people) with him who would go around with him at the gatherings of the Emigrants and the Helpers, (to find) one who had recited to him the Verse of the Prohibition, so let him testify against him'. So they did that with him, but no one testified against him that he had recited the Verse of the Prohibition to him. So he^{asws} freed him and said to him: 'If you drink wine after it, we would establish the Penalty (*Hadd*) upon you'.⁶⁵

باب الأوقات التي يُحد فيها من وجب عليه الحد

Chapter 32 – The timings during which the Penalty (*Hadd*) is applied on the one upon whom it is Obligated

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ أَبِي دَاوُدَ الْمُسْتَرْقِ قَالَ حَدَّثَنِي بَعْضُ أَصْحَابِنَا قَالَ مَرَرْتُ مَعَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) بِالْمَدِينَةِ فِي يَوْمٍ بَارِدٍ وَ إِذَا رَجُلٌ يُضْرَبُ بِالسَّوِطِ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) سُبْحَانَ اللَّهِ فِي مِثْلِ هَذَا الْوَقْتِ يُضْرَبُ قُلْتُ لَهُ وَ لِلضَّرْبِ حَدٌّ قَالَ نَعَمْ إِذَا كَانَ فِي الْبَرْدِ ضَرْبٌ فِي حَرِّ النَّهَارِ وَ إِذَا كَانَ فِي الْحَرِّ ضَرْبٌ فِي بَرْدِ النَّهَارِ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Abu Dawood Al Mustaraq who said, 'One of our companions narrated to me saying,

'I passed by Al-Medina with Abu Abdullah^{asws} during a cold night, and there was a man being whipped with the lash. So Abu Abdullah^{asws} said: 'Glory be to Allah^{azwj}! It is during a time similar to this that they are whipping him?' I said to him^{asws}, 'And is there for the whipping, a Penalty (*Hadd*)?' He^{asws} said: 'Yes. Whenever it was during the cold (season), whipping should be during the heat of the day; and whenever it was during the hot (season), whipping should be during the cold part of the day'.⁶⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَفْوَانَ عَنِ الْحُسَيْنِ بْنِ عَطِيَّةَ عَنْ هِشَامِ بْنِ أَحْمَرَ عَنِ الْعَبْدِ الصَّالِحِ (عَلَيْهِ السَّلَام) قَالَ كَانَ جَالِسًا فِي الْمَسْجِدِ وَ أَنَا مَعَهُ فَسَمِعَ صَوْتَ رَجُلٍ يُضْرَبُ صَلَاةَ الْغَدَاةِ فِي يَوْمٍ شَدِيدِ الْبَرْدِ قَالَ فَقَالَ مَا هَذَا فَقَالُوا رَجُلٌ يُضْرَبُ فَقَالَ سُبْحَانَ اللَّهِ فِي مِثْلِ هَذِهِ السَّاعَةِ إِنَّهُ لَا يُضْرَبُ أَحَدٌ فِي شَيْءٍ مِنَ الْحُدُودِ فِي الشِّتَاءِ إِلَّا فِي آخِرِ سَاعَةٍ مِنَ النَّهَارِ وَ لَا فِي الصَّيْفِ إِلَّا فِي أَوَّلِ مَا يَكُونُ مِنَ النَّهَارِ .

Ali Bin Ibrahim, from his father, from Safwan, from Al Husayn Bin Atiyya, from Hisham Bin Ahmad,

from Al-Abd Al-Salih^{asws} (7th Imam^{asws}), said, 'He^{asws} was seated in the Masjid, and I was with him, so he^{asws} heard the voice of a man being whipped, at the morning Prayer on a day of intense cold. So he^{asws} said: 'What is this?' So they said, 'A man being whipped'. So he^{asws} said: 'Glory be to Allah^{azwj}! During a time like this? They should not whip anyone with regards to anything from the Penalties during the winter

⁶⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 31 H 16

⁶⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 32 H 1

except during the last hour of the day, nor in the summer except during the coldest time of what happens from the day'.⁶⁷

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ مَرْدَاسٍ عَنْ سَعْدَانَ بْنِ مُسْلِمٍ عَنْ بَعْضِ أَصْحَابِنَا قَالَ خَرَجَ أَبُو الْحَسَنِ (عليه السلام) فِي بَعْضِ حَوَائِجِهِ فَمَرَّ بِرَجُلٍ يُحَدِّثُ فِي الشِّتَاءِ فَقَالَ سُبْحَانَ اللَّهِ مَا يَنْبَغِي هَذَا فَقُلْتُ وَ لِهَذَا حَدٌّ قَالَ نَعَمْ يَنْبَغِي لِمَنْ يُحَدِّثُ فِي الشِّتَاءِ أَنْ يُحَدِّثَ فِي حَرِّ النَّهَارِ وَ لِمَنْ حَدٌّ فِي الصَّيْفِ أَنْ يُحَدِّثَ فِي بَرْدِ النَّهَارِ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Ali Bin Mardas, from Sa'dan Bin Muslim, from one of our companions who said,

'Abu Al-Hassan^{asws} went out for one of his^{asws} needs, so he^{asws} passed by a man being penalised during the winter. So he^{asws} said: 'Glory be to Allah^{azwj}! This is not befitting!' So I said, 'And for this is a Penalty (*Hadd*)?' He^{asws} said: 'It befits the man applying the Penalty (*Hadd*) during the winter that he applies ip during the heat of the day, and for the one who applies a Penalty (*Hadd*) during the summer, is that he should apply it during the coldness of the day'.⁶⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) لَا يَقَامُ عَلَى أَحَدٍ حَدٌّ بِأَرْضِ الْعَدُوِّ .

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from yunus Bin Yaqoub, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} said: 'A Penalty (*Hadd*) would not be established upon anyone in the land of the enemy'.⁶⁹

بَابُ أَنْ شَارِبَ الْخَمْرِ يُقْتَلُ فِي الثَّلَاثَةِ

Chapter 33 – The drinker of the wine would be killed during the third (offence)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ بْنِ الْمُعَلَّى عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ كَانَ رَسُولُ اللَّهِ (صلى الله عليه وآله) إِذَا أَتَى بِشَارِبِ الْخَمْرِ ضَرَبَهُ ثُمَّ إِنْ أَتَى بِهِ تَائِبَةً ضَرَبَهُ ثُمَّ إِنْ أَتَى بِهِ تَائِبَةً ضَرَبَ عُنُقَهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Al Moala, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww}, whenever they came with a drinker of the wine, would whip him. Then if they came with him for a second time, he^{saww} would whip him. They if they came up with him for a third time, he^{saww} would strike his neck'.⁷⁰

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ مَنْ شَرِبَ الْخَمْرَ فَاجْلِدُوهُ فَإِنْ عَادَ فَاجْلِدُوهُ فَإِنْ عَادَ فَاقْتُلُوهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Mansour Bin Hazim, from Abu Ubeyda,

⁶⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 32 H 2

⁶⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 32 H 3

⁶⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 32 H 4

⁷⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 33 H 1

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who drinks the wine, so whip him. So if he repeats, so whip him. So if he repeats, so kill him'.⁷¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مَنْ شَرِبَ الْخَمْرَ فَاجْلِدُوهُ فَإِنْ عَادَ فَاجْلِدُوهُ فَإِنْ عَادَ الثَّلَاثَةَ فَاقْتُلُوهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Abu Umeyr, from Hisham Bin Salim, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'The one who drinks the wine, so whip him. So if he repeats, so whip him. So if he repeats for the third time, so kill him'.⁷²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ وَابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ فِي شَارِبِ الْخَمْرِ إِذَا شَرِبَ ضَرْبَ فَإِنْ عَادَ ضَرْبَ فَإِنْ عَادَ قُتِلَ فِي الثَّلَاثَةِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed, and Ibn Abu Umeyr, from Jameel Bin Darraj,

(It has been narrated) from Abu Abdullah^{asws} having said with regards to the drinker of the wine: 'When he drinks, he is whipped. So if he repeats, he is whipped. So if he repeats, he is killed during the third (offence)'.⁷³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بصيرٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ مَنْ شَرِبَ الْخَمْرَ فَاجْلِدُوهُ فَإِنْ عَادَ فَاجْلِدُوهُ فَإِنْ عَادَ فَاقْتُلُوهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali, from Is'haq Bin Ammar, from Abu Baseer,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'The one who drinks the wine, so whip him. So if he repeats, so whip him. So if he repeats, so kill him'.⁷³

مُحَمَّدُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ صَفْوَانَ عَنْ يُونُسَ عَنْ أَبِي الْحَسَنِ الْمَاضِي (عَلَيْهِ السَّلَام) قَالَ أَصْحَابُ الْكِبَائِرِ كُلِّهَا إِذَا أُقِيمَ عَلَيْهِمُ الْحُدُودُ مَرَّتَيْنِ قُتِلُوا فِي الثَّلَاثَةِ .

Muhammad, from Ahmad Bin Muhammad, from Safwan, from Yunus,

(It has been narrated) from Abu Al-Hassan Al-Maazy^{asws} (7th Imam^{asws}) having said: 'The committers of the major sins, all of them, the Penalty (*Hadd*) would be established upon them twice. They would be killed during the third'.⁷⁴

بَاب مَا يَجِبُ عَلَى مَنْ أَقْرَّ عَلَى نَفْسِهِ بِحَدٍّ وَ مَنْ لَا يَجِبُ عَلَيْهِ الْحَدُّ

⁷¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 33 H 2

⁷² Al Kafi – V 7 – The Book of Legal Penalties Ch 33 H 3

⁷³ Al Kafi – V 7 – The Book of Legal Penalties Ch 33 H 5

⁷⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 33 H 6

Chapter 34 – What Penalty (*Hadd*) is Obligated upon the one who accepts upon himself (confesses), and the one upon whom the Penalty (*Hadd*) is not Obligated

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَقْرَّ عَلَى نَفْسِهِ بِحَدٍّ وَ لَمْ يُسَمِّ أَيَّ حَدٍّ هُوَ قَالَ أَمَرَ أَنْ يُجْلَدَ حَتَّى يَكُونَ هُوَ الَّذِي يَنْهَى عَنْ نَفْسِهِ [فِي] الْحَدِّ .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, altogether from Ibn Abu Najran, from Aaim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws}, from Amir Al-Momineen^{asws} regarding a man who accepted upon himself with a Penalty (*Hadd*), and he did not name which Penalty (*Hadd*) it was. He^{asws} said: 'He would be whipped until it so happens that he is the one who prevents the Penalty (*Hadd*) from himself'.⁷⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي رَجُلٍ أَقْرَّ عَلَى نَفْسِهِ بِالزَّانِي أَرْبَعَ مَرَّاتٍ وَ هُوَ مُحْصَنٌ يُرْجَمُ إِلَى أَنْ يَمُوتَ أَوْ يُكَدِّبَ نَفْسَهُ قَبْلَ أَنْ يُرْجَمَ فَيَقُولَ لَمْ أَفْعَلْ فَإِنْ قَالَ ذَلِكَ تَرَكَ وَ لَمْ يُرْجَمَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed, from Jameel Bin Darraj, from one of our companions,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding a man who accepted upon himself with the adultery, four times, and he was married, that he would he be stoned until he dies, or he (admits) lying before he is stoned, so he is saying, 'I did not do it'. So if he were to say that, he would be left alone and would not be stoned'.

وَ قَالَ لَا يُفْطَعُ السَّارِقُ حَتَّى يُقَرَّ بِالسَّرِقَةِ مَرَّتَيْنِ فَإِنْ رَجَعَ ضَمِنَ السَّرِقَةَ وَ لَمْ يُفْطَعْ إِذَا لَمْ يَكُنْ شَاهِدًا

And he^{asws} said: 'The thief would not be cut until he accepts with the theft, twice. So if he retracts responsibility of the theft, he would not be cut if there do not happen to be any witnesses'.

وَ قَالَ لَا يُرْجَمُ الزَّانِي حَتَّى يُؤَرَّ أَرْبَعَ مَرَّاتٍ بِالزَّانِي إِذَا لَمْ يَكُنْ شَاهِدًا فَإِنْ رَجَعَ تَرَكَ وَ لَمْ يُرْجَمَ .

And he^{asws} said: 'The adulter would not be stoned until he accepts four times with the adultery, when there do not happen to be witnesses. So if he were to retract, he would be left alone and would not be stoned'.⁷⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا أَقْرَّ الرَّجُلُ عَلَى نَفْسِهِ بِحَدٍّ أَوْ فَرِيَةٍ تَمَّ جَدُّ جُلْدٍ فَلْتُ أَرَأَيْتَ إِنْ أَقْرَّ بِحَدٍّ عَلَى نَفْسِهِ يَبْلُغُ فِيهِ الرَّجْمُ أَ كُنْتَ تَرَجُمُهُ قَالَ لَا وَ لَكِنْ كُنْتُ صَارِبَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

⁷⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 1

⁷⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 2

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man accepts upon himself with a Penalty (Hadd), or fabrication, then denies it, would be whipped'. I said, 'What is your view that if he accepts with a Penalty (Hadd) upon himself, in which stoning is reached, would you^{asws} have him stoned?' He^{asws} said: 'No. But, I^{asws} would have whipped him'.⁷⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ أَبِي عَدِيٍّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَقْرَّ عَلَى نَفْسِهِ بِحَدٍّ ثُمَّ جَدَّ بَعْدَ فَقَالَ إِذَا أَقْرَّ عَلَى نَفْسِهِ عِنْدَ الْإِمَامِ أَنَّهُ سَرَقَ ثُمَّ جَدَّ قَطَعَتْ يَدُهُ وَإِنْ رَغِمَ أَنْفُهُ فَإِنْ أَقْرَّ عَلَى نَفْسِهِ أَنَّهُ شَرِبَ خَمْرًا أَوْ بَفَرِيَةٍ فَاجْلِدُوهُ ثَمَانِينَ جَلْدَةً فَلْتُ فَإِنْ أَقْرَّ عَلَى نَفْسِهِ بِحَدٍّ يَجِبُ فِيهِ الرَّجْمُ أَ كُنْتَ رَاجِمَهُ قَالَ لَا وَ لَكِنْ كُنْتُ ضَارِبَهُ الْحَدَّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Aban, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who accepted upon himself with a Penalty (Hadd), then denied it afterwards. So he^{asws} said: 'When he accepted upon himself in the presence of the Imam^{asws} that he had stolen, then denie, his hand would be cut in spite of his nose (haughtiness). So if he were to accept upon himself that he has drunk wine, or fabricated, so he would be whipped eighty lashes'. I said, 'So if he were to accept upon himself with a Penalty (Hadd) in which the stoning is Obligated, would you^{asws} have him stoned?' He^{asws} said: 'No. But I^{asws} would have whipped him the Penalty (Hadd)'.⁷⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ أَقْرَّ عَلَى نَفْسِهِ بِحَدٍّ أَقْمَنَهُ عَلَيْهِ إِلَّا الرَّجْمَ فَإِنَّهُ إِذَا أَقْرَّ عَلَى نَفْسِهِ ثُمَّ جَدَّ لَمْ يُرْجَمَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abu Ayoub, from Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who accepts upon himself with a Penalty (Hadd), it would be established upon him, except for the stoning. So if he were to accept upon himself, then deny, he would not be stoned'.⁷⁹

عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) أَنَّهُ قَالَ إِذَا أَقْرَّ الرَّجُلُ عَلَى نَفْسِهِ بِالْقَتْلِ قَتِلَ إِذَا لَمْ يَكُنْ عَلَيْهِ شَهُودٌ فَإِنْ رَجَعَ وَقَالَ لَمْ أَفْعَلْ تُرِكَ وَ لَمْ يُقْتَلِ .

Ali, from his father, from Ibn Abu Umeyr, from Jameel Bin Darraj, from one of his companions,

(It has been narrated) from one of the two^{asws} (5th or 6th Imam^{asws}) having said: 'When the man accepts upon himself with the murder, he would be killed if there do not happen to be witnessed. So if he were to retract (his confession), and says, 'I did not do it', he would be left alone and would not be killed'.⁸⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِعٍ عَنْ ضَرِيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الْعَبْدُ إِذَا أَقْرَّ عَلَى نَفْسِهِ عِنْدَ الْإِمَامِ مَرَّةً أَنَّهُ قَدْ سَرَقَ قَطَعَهُ وَالْأَمَةُ إِذَا أَقْرَتْ عَلَى نَفْسِهَا بِالسَّرِقَةِ قَطَعَهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Raib, from Zureys,

⁷⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 3

⁷⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 4

⁷⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 5

⁸⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 6

(It has been narrated) from Abu Ja'far^{asws} having said: 'The slave, when he accepts once upon himself in the present of the Imam^{asws} that he has stolen, he would be cut, and the slave girl, when she accepts upon herself with the theft, would be cut'.⁸¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ السَّارِقُ إِذَا جَاءَ مِنْ قَبْلِ نَفْسِهِ تَائِبًا إِلَى اللَّهِ عَزَّ وَجَلَّ وَرَدَّ سِرْقَتَهُ عَلَى صَاحِبِهَا فَلَا قَطْعَ عَلَيْهِ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The thief, when he comes from his own self, repentant to Allah^{azwj} Mighty and Majestic, and returns the stolen goods to its owner, so there is not cutting (of the hand) upon him'.⁸²

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنِ الْفُضَيْلِ بْنِ يَسَارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ مَنْ أَقْرَبَ عَلَى نَفْسِهِ عِنْدَ الْإِمَامِ بَحْوً أَحَدٍ مِنْ حُقُوقِ الْمُسْلِمِينَ فَلَيْسَ عَلَى الْإِمَامِ أَنْ يُقِيمَ عَلَيْهِ الْحَدَّ الَّذِي أَقْرَبَ بِهِ عِنْدَهُ حَتَّى يَحْضُرَ صَاحِبُ حَقِّ الْحَدِّ أَوْ وَلِيُّهُ فَيُطْلَبُهُ بِحَقِّهِ .

Ibn Mahboub, from Abu Ayoub, from Al Fuzayl Bin Yasaar,

(It has been narrated) from Abu Abdullah^{asws}: 'The one who accepts upon himself in the presence of the Imam^{asws} with a right of someone from the rights of the Muslims, so it is not upon the Imam^{asws} that he^{asws} should established the Penalty (*Hadd*) upon him, the one who accepted with it in his^{asws} presence, until the owner of the right is present, or his guardian, so he seeks his right'.⁸³

بَابُ قِيَمَةِ مَا يُقَطَّعُ فِيهِ السَّارِقُ

Chapter 35 – The value with regards to which the thief would be cut

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ بْنِ سَمَاعَةَ بْنِ مَهْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَطَّعَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي بَيْضَةٍ قُلْتُ وَ مَا بَيْضَةٌ قَالَ بَيْضَةٌ قِيمَتُهَا رُبْعُ دِينَارٍ وَ قُلْتُ هُوَ أَذْنَى حَدِّ السَّارِقِ فَسَكَتَ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Sama'at Bin Mahran,

Abu Abdullah^{asws} has said: 'Amir Al-Momineen^{asws} used to cut regarding a 'Bayza'. I said, 'And what is a 'Bayza' (a helmet)?' He^{asws} said: 'A Bayza, its value is a quarter Dinar'. And I said, 'Is it the lowest (value) for a Penalty (*Hadd*) of a thief?' So he^{asws} was silent (in agreement)'.⁸⁴

عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يُقَطَّعُ يَدُ السَّارِقِ إِلَّا فِي شَيْءٍ تَبْلُغُ قِيَمَتُهُ مَجْتًا وَ هُوَ رُبْعُ دِينَارٍ .

From him, from Abdullah Bin Sinan,

⁸¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 7

⁸² Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 8

⁸³ Al Kafi – V 7 – The Book of Legal Penalties Ch 34 H 9

⁸⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 35 H 1

(It has been narrated) from Abu Abdullah^{asws} having said: ‘The hand of the thief would not be cut regards to anything except if it reaches the value of a *Mijanna*, and it is a quarter of a Dinar’.⁸⁵

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا يُفْطَعُ يَدُ السَّارِقِ حَتَّى تَبْلُغَ سِرْقَتُهُ رُبْعَ دِينَارٍ وَ قَدْ قَطَعَ عَلِيٌّ (صلوات الله عليه) فِي بَيْضَةِ حَدِيدٍ

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad, from Ali Bin Abu Hamza,

Abu Abdullah^{asws} has said: ‘The hand of the thief must not be cut until his theft reaches a quarter of a Dinar; and Ali^{asws} had cut regarding an iron helmet (Bayza)’.

قَالَ عَلِيٌّ وَ قَالَ أَبُو بَصِيرٍ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ أَدْنَى مَا يُفْطَعُ فِيهِ السَّارِقُ فَقَالَ فِي بَيْضَةِ حَدِيدٍ قُلْتُ وَ كَمْ تَمَنَّا قَالَ رُبْعَ دِينَارٍ .

Ali (Bin Abu Hamza) said, and Abu Baseer said, ‘I asked Abu Abdullah^{asws} about the lower of what regards to which the thief’s (hand) is cut, so he^{asws} said: ‘An iron helmet (Bayza)’. I said, ‘And how much is its price?’ He^{asws} said: ‘A quarter of a Dinar’.⁸⁶

عَلِيٌّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ حُمْرَانَ وَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ جَمِيعاً عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ أَدْنَى مَا يُفْطَعُ فِيهِ يَدُ السَّارِقِ خُمْسُ دِينَارٍ .

Ali, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Humran, and from his father, from Ibn Abu Umeyr, from Jameel Bin Darraj, altogether from Muhammad Bin Muslim,

Abu Ja’far^{asws} has said: ‘The lowest of that with regards to which the hand of the thief would be cut, is five Dinars’.⁸⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانَ بْنِ عُمَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ أَقَلُّ مَا يُفْطَعُ فِيهِ الرَّجُلُ خُمْسُ دِينَارٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from one of his companions, from Aban Bin Usman, from Zurara,

(It has been narrated) from Abu Ja’far^{asws} having said: ‘The lowest of what with regards to which the man is cut, is five Dinars’.⁸⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) فِي كَمْ يُفْطَعُ السَّارِقُ فَقَالَ فِي رُبْعِ دِينَارٍ قَالَ قُلْتُ لَهُ فِي دَرَمَيْنِ فَقَالَ فِي رُبْعِ دِينَارٍ بَلَعَ الدِّينَارُ مَا بَلَغَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Muhammad Bin Muslim who said,

‘I said to Abu Abdullah^{asws}, ‘Regarding how much would the thief’s (hand) be cut?’ So he^{asws} said: ‘Regarding a quarter of a Dinaar’. I said to him^{asws}, ‘Regarding to

⁸⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 35 H 2

⁸⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 35 H 3

⁸⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 35 H 4

⁸⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 35 H 5

Dirhams?’ So he^{asws} said: ‘Regarding a quarter of a Dinar, the (value of the) Dinar reaching what it reaches’.

قَالَ فَقُلْتُ لَهُ أَرَأَيْتَ مَنْ سَرَقَ أَقْلَ مِنْ رُبْعِ دِينَارٍ هَلْ يَفْعُ عَلَيْهِ حِينَ سَرَقَ اسْمُ السَّارِقِ وَ هَلْ هُوَ عِنْدَ اللَّهِ سَارِقٌ فِي تِلْكَ الْحَالِ فَقَالَ كُلُّ مَنْ سَرَقَ مِنْ مُسْلِمٍ شَيْئاً قَدْ حَوَاهُ وَ أَحْرَزَهُ فَهُوَ يَفْعُ عَلَيْهِ اسْمُ السَّارِقِ وَ هُوَ عِنْدَ اللَّهِ سَارِقٌ وَ لَكِنْ لَا يُقَطُّ إِلَّا فِي رُبْعِ دِينَارٍ أَوْ أَكْثَرَ وَ لَوْ قُطِعَتْ أَيْدِي السَّرَاقِ فِيمَا هُوَ أَقْلٌ مِنْ رُبْعِ دِينَارٍ لَأَلْفَيْتَ عَامَّةَ النَّاسِ مُقَطَّعِينَ .

He (the narrator) said, ‘So I said to him^{asws}, ‘What is your^{asws} view of the one who steals less than a quarter of a Dinar when he steals, he would be named as a thief, and is he a thief in the Presence of Allah^{azwj} in that state?’ So he^{asws} said: ‘Every one who steals anything from a Muslim, so he has taken it and kept it in his possession, so upon him would occur the name of the thief, and he would be a thief in the Presence of Allah^{azwj}, but, his hand would not be cut except with regards to a quarter of a Dinar, or more. And if the hands of the thief were to be cut regarding what is less than a quarter of a Dinar, you would find the generality of the people as being (hand) cut’.⁸⁹

بَابُ حَدِّ الْقَطْعِ وَ كَيْفَ هُوَ

Chapter 36 – Penalty (Hadd) of the cutting, and how it is to be

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ مِنْ أَيْنَ يَجِبُ الْقَطْعُ فَبَسَطَ أَصَابِعَهُ وَ قَالَ مِنْ هَاهُنَا يَعْنِي مِنَ مَفْصِلِ الْكَفِّ .

Ali Bin Ibrahim, from his father, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws}, said, ‘I said to him^{asws}, ‘From where is the cutting (of the hand) Obligated?’ So he^{asws} extended his fingers and said: ‘For over here, meaning from the hinge of the palm’.⁹⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ الْقَطْعُ مِنْ وَسْطِ الْكَفِّ وَ لَا يُقَطُّ الْإِبْهَامُ وَ إِذَا قُطِعَتِ الرَّجْلُ تَرَكَ الْعُقُوبَ لَمْ يُقَطَّعْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘The cutting (of the hand) is from the middle of the palm, and the thumb is not cut; and when the foot is cut, the heel is not cut’.⁹¹

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبَانَ بْنِ عُمَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ كَانَ عَلِيٌّ (صَلَوَاتُ اللَّهِ عَلَيْهِ) لَا يَزِيدُ عَلَى قَطْعِ الْيَدِ وَ الرَّجْلِ وَ يَقُولُ إِنِّي لَأَسْتَحْيِي مِنْ رَبِّي أَنْ أَدْعَهُ لَيْسَ لَهُ مَا يَسْتَنْجِي بِهِ أَوْ يَنْظُرُ بِهِ

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama’at, from someone else, from Aban Bin Usman, from Zurara,

⁸⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 35 H 6

⁹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 1

⁹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 2

(It has been narrated) from Abu Ja'far^{asws} having said: 'Ali^{asws} did not increased upon cutting of the hand and the leg, and he^{asws} was saying, I^{asws} am embarassed from my^{asws} Lord^{azwj} that I^{asws} should leave him not having for him what he can wash himself with (from toilet), or clean himself with'.

قَالَ وَ سَأَلْتُهُ إِنْ هُوَ سَرَقَ بَعْدَ قَطْعِ الْيَدِ وَالرَّجْلِ فَقَالَ أَسْتَوِدِعُهُ السِّجْنَ أَبَدًا وَ أُغْنِي عَنِ النَّاسِ شَرَّهُ .

He (the narrator) said, 'And I asked him^{asws}, 'If he were to steal after cutting of the hand and the leg?' So he^{asws} said: 'I^{asws} would leave him in the prison forever, and make the people to be free from his evil'.⁹²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعًا عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي السَّارِقِ إِذَا سَرَقَ قَطَعْتُ يَمِينَهُ وَ إِذَا سَرَقَ مَرَّةً أُخْرَى قَطَعْتُ رِجْلَهُ الْيُسْرَى ثُمَّ إِذَا سَرَقَ مَرَّةً أُخْرَى سَجَّنْتُهُ وَ تَرَكْتُ رِجْلَهُ الْيُمْنَى يَمْشِي عَلَيْهَا إِلَى الْغَائِطِ وَ يَدُهُ الْيُسْرَى يَأْكُلُ بِهَا وَ يَسْتَنْجِي بِهَا وَ قَالَ إِنِّي لَأَسْتَحْيِي مِنَ اللَّهِ أَنْ أتركَهُ لَا يَنْتَفِعُ بِشَيْءٍ وَ لَكِنِّي أَسْجُنُهُ حَتَّى يَمُوتَ فِي السِّجْنِ

Ali Bin Ibrahim, from his father, and a number of our companions, from Sahl Bin Ziyad, altogether from Ibn Abu Najran, from Aasim Bin Humeid, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the thief: 'When he steals, cut off his right hand, and when he steals again, cut off his left leg. Then if he were to steal again, imprison him and leave his right leg to walk upon it to the WC, and his left hand, he can eat with it, and wash himself (from the WC) with it'. And he^{asws} said: 'I^{asws} am embarassed from Allah^{azwj} that I^{asws} would leave him not being able to do anything, but I^{asws} would imprison him until he dies in the prison'.

وَ قَالَ مَا قَطَعُ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مِنْ سَارِقٍ بَعْدَ يَدِهِ وَ رِجْلِهِ .

And he^{asws} said: 'Rasool-Allah^{saww} did not cut (anymore) from a thief after (having cut) his hand and his leg'.⁹³

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنِ الْقَاسِمِ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ سَرَقَ فَقَالَ سَمِعْتُ أَبِي يَقُولُ أَتَيْتِي عَلِيٌّ (عَلَيْهِ السَّلَامُ) فِي زَمَانِهِ بِرَجُلٍ قَدْ سَرَقَ فَقَطَعُ يَدَهُ ثُمَّ أَتَيْتِي بِهِ ثَانِيَةً فَقَطَعُ رِجْلَهُ مِنْ خِلَافِ ثُمَّ أَتَيْتِي بِهِ ثَالِثَةً فَخَلَدَهُ فِي السِّجْنِ وَ أَنْفَقَ عَلَيْهِ مِنْ نَيْتِ مَالِ الْمُسْلِمِينَ وَ قَالَ هَكَذَا صَنَعَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا أَخَالِفُهُ .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Al Qasim,

(the narrator) says, 'I asked Abu Abdullah^{asws} about a man who stole, so he^{asws} said: 'I^{asws} heard my^{asws} father^{asws} saying, 'They came with a man who had stolen, to Ali^{asws} during his^{asws} era. So he^{asws} cut his hand. They came with him for a second time, so he^{asws} cut his opposite leg (left leg). Then they came with him for a third time, so he^{asws} imprisoned him for life, and spent upon him from the public treasury

⁹² Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 3

⁹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 4

of the Muslims and said: 'This is what Rasool-Allah^{saww} used to do. I^{asws} will not oppose him^{saww}'.⁹⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ شُعَيْبِ بْنِ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَطَعَ رَجُلٌ السَّارِقَ بَعْدَ قَطْعِ الْيَدِ ثُمَّ لَا يُقَطَّعُ بَعْدَ فَإِنْ عَادَ حَبَسَ فِي السِّجْنِ وَ أَنْفَقَ عَلَيْهِ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Safwan Bin Yahy, from Shuayb, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Cut the thieving man after cutting the hand, then do not cut afterwards. So if he repeats, withhold him in the prison, and spend upon him from the public treasury of the Muslims'.⁹⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَمَرَ بِهِ أَنْ يُقَطَّعَ يَمِينُهُ فَقَدَّمَتْ شِمَالُهُ فَقَطَّعُوهَا وَ حَسَبُوهَا يَمِينَهُ وَ قَالُوا إِنَّمَا قَطَّعْنَا شِمَالَهُ أَوْ نَقَطَّعُ يَمِينَهُ قَالَ فَقَالَ لَا يُقَطَّعُ يَمِينُهُ وَ قَدْ قَطَّعَتْ شِمَالَهُ وَ قَالَ فِي رَجُلٍ أَخَذَ بَيْضَهُ مِنَ الْمَعْنَمِ وَ قَالُوا قَدْ سَرَقَ اقْطَعُوهُ فَقَالَ إِنِّي لَمْ أَقْطَعُ أَحَدًا لَهُ فِيمَا أَخَذَ شِرْكَ .

Ali Bin Ibrahim, from his father, and a number of our companions, from Sahl Bin Ziyad, altogether from Ibn Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man whom he^{asws} ordered for his right hand to be cut. So he placed forward his left hand, so they cut it off, and reckoned it as his right, and they said, 'But rather, we have cut off his left, shall his right be cut off (as well)?' So he^{asws} said: 'His right hand would not be cut off, and his left has already been cut'. And he^{asws} said regarding a man who took a helmet from the war booty, and they said, 'He has stolen, so cut him'. So he^{asws} said: 'I^{asws} would not cut any who is a participant in what he has taken'.⁹⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ قَالَ إِذَا أَخَذَ السَّارِقُ قُطِعَتْ يَدُهُ مِنْ وَسْطِ الْكَفِّ فَإِنْ عَادَ قُطِعَتْ رِجْلُهُ مِنْ وَسْطِ الْقَدَمِ فَإِنْ عَادَ اسْتُودِعَ السِّجْنَ فَإِنْ سَرَقَ فِي السِّجْنِ قُتِلَ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from usman Bin Isa, from Sama'at Bin Mahran who said,

'When the thief is seized, cut his hand from the middle of the palm. So if he were to repeat, cut his left foot from the middle. So if he repeats, leave him in the prison. So if he steals in the prison, kill (him)'.⁹⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ سَرَقَ سَرَقَةً فَكَابَرَ عَنْهَا فَضْرِبَ فَجَاءَ بِهَا بِعَيْنَيْهَا هَلْ يَجِبُ عَلَيْهِ الْقَطْعُ قَالَ نَعَمْ وَ لَكِنْ لَوْ اعْتَرَفَ وَ لَمْ يَجِئْ بِالسَّرِقَةِ لَمْ نُقَطَّعْ يَدَهُ لِأَنَّهُ اعْتَرَفَ عَلَى الْعَذَابِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Salim, from Suleyman Bin Khalid who said,

⁹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 5

⁹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 6

⁹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 7

⁹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 8

'I asked Abu Abdullah^{asws} about a man who stole something, but he argued from it. So he was whipped. So he came with it (the stolen item) exactly. Would the cutting be Obligated upon him?' He^{asws} said: 'Yes. But, had he acknowledged, and did not come with the stolen item, his hand would not be cut, because he would have acknowledged (his theft) upon the punishment'.⁹⁸

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ نَقَبَ بَيْتًا فَأَخَذَ قَبْلَ أَنْ يَصِلَ إِلَى شَيْءٍ قَالَ يُعَاقَبُ فَإِنْ أَخَذَ وَ قَدْ أَخْرَجَ مَتَاعًا فَعَلَيْهِ الْقَطْعُ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby who said,

'I asked Abu Abdullah^{asws} about a man who pierced a hole in a house (to steal), but he was seized before he could arrive to anything. He^{asws} said: 'He would be punished. So if he was seized and he had extracted goods (from the house), so upon him would be the cutting (of the hand)'.

قَالَ وَ سَأَلْتُهُ عَنْ رَجُلٍ أَخَذُوهُ وَ قَدْ حَمَلَ كَارَةً مِنْ تِيَابٍ وَ قَالَ صَاحِبُ الْبَيْتِ أَعْطَانِيهَا قَالَ يُدْرَأُ عَنْهُ الْقَطْعُ إِلَّا أَنْ يَفُومَ عَلَيْهِ النَّبِيَّةُ فَإِنْ قَامَتِ النَّبِيَّةُ عَلَيْهِ قُطِعَ

He (the narrator) said, 'And I asked him^{asws} about a man who was seized and he was carrying a bundle of clothes, and said that the owner of the house had given these to him'. He^{asws} said: 'The cutting would be staved off from him except if the proof is established upon him. So if the proof is established upon him, his (hand) would be cut'.

قَالَ وَ يُقَطِّعُ الْيَدَ وَ الرَّجْلَ ثُمَّ لَا يُقَطِّعُ بَعْدَ وَ لَكِنْ إِنْ عَادَ حُبَسَ وَ أَنْفَقَ عَلَيْهِ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ .

He^{asws} said: 'The hand and the leg would be cut, then no other (parts) of his be cut afterwards, but if he were to repeat, he would be imprisoned and would be expended upon from the public treasury of the Muslims'.⁹⁹

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي السَّارِقِ إِذَا أَخَذَ وَ قَدْ أَخَذَ الْمَتَاعَ وَ هُوَ فِي الْبَيْتِ لَمْ يَخْرُجْ بَعْدُ فَقَالَ لَيْسَ عَلَيْهِ الْقَطْعُ حَتَّى يَخْرُجَ بِهِ مِنَ الدَّارِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said regarding the thief: 'When he is seized and he has taken the goods, and he is in the house and not having come out. So he^{asws} said: 'There is no cutting upon him until he comes out with it (the goods) from the house'.¹⁰⁰

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ بُكَيْرِ بْنِ أَعْيَنَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي رَجُلٍ سَرَقَ فَلَمْ يُقَدَّرْ عَلَيْهِ ثُمَّ سَرَقَ مَرَّةً أُخْرَى فَلَمْ يُقَدَّرْ عَلَيْهِ وَ سَرَقَ مَرَّةً أُخْرَى فَأَخَذَ فَجَاءَتِ النَّبِيَّةُ فَشَهِدُوا عَلَيْهِ بِالسَّرِقَةِ الْأُولَى وَ السَّرِقَةِ الْأُخْرَى فَقَالَ تُقَطِّعُ يَدَهُ بِالسَّرِقَةِ الْأُولَى وَ لَا تُقَطِّعُ رِجْلَهُ بِالسَّرِقَةِ الْأُخْرَى فَبَيَّنَ كَيْفَ ذَلِكَ فَقَالَ لِأَنَّ الشُّهُودَ شَهِدُوا جَمِيعاً فِي مَقَامٍ وَاحِدٍ بِالسَّرِقَةِ الْأُولَى وَ الْأُخْرَى قَبْلَ أَنْ يُقَطِّعَ بِالسَّرِقَةِ الْأُولَى وَ لَوْ أَنَّ الشُّهُودَ شَهِدُوا عَلَيْهِ بِالسَّرِقَةِ الْأُولَى ثُمَّ أَمْسَكُوا حَتَّى يُقَطِّعَ ثُمَّ شَهِدُوا عَلَيْهِ بِالسَّرِقَةِ الْأُخْرَى قُطِعَتْ رِجْلُهُ الْيُسْرَى .

⁹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 9

⁹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 10

¹⁰⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 11

A number of our companions, from Sahl Bin Ziyad and Ali Bi Ibrahim, from his father, altogether from Ibn Mahboub, from Abdul Rahman Bin Al Hajjaj, from Bukeyr Bin Ayn,

(It has been narrated) from Abu Ja'far^{asws} regarding a man who stole but they were not able over (catching him). Then he stole again but they were not able over (catching) him, and he stole again, so he was seized. So the proof came, and they (witnesses) testified against him with the earlier ones and the last theft. So he^{asws} said: 'His hand would be cut due to the first theft and his leg would not be cut due to the second theft'. So it was said, 'So how come that is so?' So he^{asws} said: 'Because the witnessed testified together in one place with the first theft and the last one, before he had been cut due to the first theft. And had the witnesses testified against him with the first theft, then waited until he was cut, then testified against him with the last theft, his left leg would be cut'.¹⁰¹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ (عَلَيْهِ السَّلَام) قَالَ نُقَطَعُ يَدُ السَّارِقِ وَ يَنْزَعُ إِيَّاهُ وَ صَدْرُ رَاحَتِهِ وَ تُقَطَعُ رِجْلُهُ وَ تَنْزَعُ لَهُ عَقِبُهُ يَمْشِي عَلَيْهَا .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Is'haq Bin Ammar,

(It has been narrated) from Abu Ibrahim^{asws} (7th Imam^{asws}) having said: 'The hand of the thief would be cut and his thumb would be left alone along with the centre of the palm; and his leg would be cut and his sole would be left alone so he can walk upon it'.¹⁰²

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَتَيْتُ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِرَجَالٍ قَدْ سَرَقُوا فَفَطَعَ أَيْدِيَهُمْ ثُمَّ قَالَ إِنَّ الَّذِي بَانَ مِنْ أَجْسَادِكُمْ قَدْ وَصَلَ إِلَى النَّارِ فَإِنْ تَتُوبُوا تَجْرُوهَا وَ إِنْ لَمْ تَتُوبُوا تَجْرُكُمْ .

A number of our companions, from Ahmad Bin Abu Abdullah, from Usman Bin Isa, from Sama'at who said,

'Abu Abdullah^{asws} said: 'They came to Amir Al-Momineen^{asws} with men who had stolen. So he cut their hands, then said: 'That which has spearated from your bodies has arrived to the fire. So if you were to repent, you would pull it (out from the Fire of Hell), and if you do not repent, it would pull you (into the Fire of Hell)'.¹⁰³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) إِذَا سَرَقَ السَّارِقُ قُطِعَتْ يَدُهُ وَ عُرِّمَ مَا أَخَذَ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Mansour Bin Hazim, from Suleyman Bin Khalid who said,

'Abu Abdullah^{asws} said: 'When thief steals, his hand it cut, and he has to compensate for whatever he has taken (stolen)'.¹⁰⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي رَجُلٍ أَشَلَّ الْيَدَ الْيُمْنَى أَوْ أَشَلَّ الْيَدَ الشَّمَالِ سَرَقَ قَالَ تُقَطَعُ يَدُهُ الْيُمْنَى عَلَى كُلِّ حَالٍ .

¹⁰¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 12

¹⁰² Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 13

¹⁰³ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 14

¹⁰⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 15

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} regarding a man with a crippled right hand, or a crippled left hand, steals'. He^{asws} said: 'His right hand would be cut upon every state'.¹⁰⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ هِلَالٍ عَنْ أَبِيهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ أَخْبِرْنِي عَنِ السَّارِقِ لِمَ تُقَطَّعُ يَدُهُ الْيُمْنَى وَرِجْلُهُ الْيُسْرَى وَ لَا تُقَطَّعُ يَدُهُ الْيُمْنَى وَ رِجْلُهُ الْيُمْنَى فَقَالَ (عَلَيْهِ السَّلَام) مَا أَحْسَنَ مَا سَأَلْتَ إِذَا قُطِّعَتْ يَدُهُ الْيُمْنَى وَ رِجْلُهُ الْيُمْنَى سَقَطَ عَلَى جَانِبِهِ الْاَيْسَرِ وَ لَمْ يَقْدِرْ عَلَى الْقِيَامِ فَإِذَا قُطِّعَتْ يَدُهُ الْيُمْنَى وَ رِجْلُهُ الْيُسْرَى اعْتَدَلَ وَ اسْتَوَى قَائِمًا

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Abdullah Bin Hilal, from his father,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'Inform me about the thief, why is his right hand and his left leg cut, and his right hand and his right leg is not cut?' So he^{asws} said: 'How good is what you have asked. When his right hand and right leg is cut, he would fall upon his left side, and he would not be able to stand. So when his right hand and his left leg are cut, he would balance and be able to stand straight'.

قُلْتُ لَهُ جُعِلَتْ فِدَاكَ وَ كَيْفَ يَقُومُ وَ قَدْ قُطِّعَتْ رِجْلُهُ قَالَ إِنَّ الْأَقْطَعَ لَيْسَ مِنْ حَيْثُ رَأَيْتَ يُقَطَّعُ إِنَّمَا يُقَطَّعُ الرَّجُلُ مِنَ الْكُعْبِ وَ يُنْرَكَ مِنْ قَدَمِهِ مَا يَقُومُ عَلَيْهِ يُصَلِّي وَ يَعْبُدُ اللَّهَ

I said to him^{asws}, 'May I be sacrificed for you^{asws}! And how can he stand and his leg has been cut?' He^{asws} said: 'The cutting is not from where you view as him being cut. But rather, the man would be cut from the lower part of the foot, and there would be left from his foot upon which he can stand to Pray and worship Allah^{azwj}'.

قُلْتُ لَهُ مِنْ أَيْنَ تُقَطَّعُ الْيَدُ قَالَ تُقَطَّعُ الْأَرْبَعُ أَصَابِعَ وَ تُنْرَكَ الْإِبْهَامُ يَعْتَمِدُ عَلَيْهَا فِي الصَّلَاةِ وَ يَغْسِلُ بِهَا وَجْهَهُ لِلصَّلَاةِ

I said to him^{asws}, 'From where would the hand be cut?' He^{asws} said: 'The four fingers would be cut, and the thumb would be left, so he can depend upon it during the Prayer, and he can wash his face with it for the Prayer'.

قُلْتُ فَهَذَا الْقَطُّعُ مَنْ أَوَّلُ مَنْ قُطِّعَ قَالَ قَدْ كَانَ عُمَانُ بْنُ عَفَّانَ حَسَنَ ذَلِكَ لِمُعَاوِيَةَ .

I said, 'So this is the cutting from the first one who was cut (in such a manner)?' He^{asws} said: 'It was Usman Bin Affan who made that good for Muawiya'.¹⁰⁶

¹⁰⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 16

¹⁰⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 36 H 17

بَاب مَا يَجِبُ عَلَى الطَّرَارِ وَالْمُخْتَلِسِ مِنَ الْحَدِّ

Chapter 37 – What Penalty (*Hadd*) is Obligated upon the villain and the embezzler

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ سَمِعْتُهُ يَقُولُ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) لَا أَقْطَعُ فِي الدَّغَارَةِ الْمُعْلَنَةِ وَ هِيَ الْخُلْسَةُ وَ لَكِنْ أَعَزُّهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Is'haq Bin Ammar, from Abu Baseer,

from one of the two (5th or 6th Imam^{asws}), said, 'I heard him^{asws} saying: 'Amir Al-Momineen^{asws} said: 'I^{asws} do not cut regarding *Al-Dagara* (picking up somebody else's belongings) openly and it is stealth, but I^{asws} reprimand him'.¹⁰⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ اخْتَلَسَ ثَوْباً مِنَ السُّوقِ فَقَالُوا قَدْ سَرَقَ هَذَا الرَّجُلُ فَقَالَ إِنِّي لَا أَقْطَعُ فِي الدَّغَارَةِ الْمُعْلَنَةِ وَ لَكِنْ أَقْطَعُ يَدَ مَنْ يَأْخُذُ نَمَ يُخْفِي .

Ali Bin Ibrahim, from his father, and a number of our companions, from Sahl Bin Ziyad altogether, from Ibn Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qasy,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who pilfered clothes from the market. So they said, 'This man has stolen'. So he^{asws} said, 'I^{asws} do not cut with regards in the *Al-Dagara* (picking up somebody else's belongings) openly, but I^{asws} cut a hand of the one who takes, then hides'.¹⁰⁸

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَيْسَ عَلَى الَّذِي يَسْتَلْبِقُ قَطْعَ وَ لَيْسَ عَلَى الَّذِي يَطْرُقُ الدَّرَاهِمَ مِنْ ثَوْبِ الرَّجُلِ قَطْعٌ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from a number of our companions, from Aban Bin Usman, from Abdul Rahma Bin Abu Abdullah,

(It has been narrated) from Abu Abdullah^{asws} having said: 'There is no cutting upon the one who embezzles, and there is no cutting upon the one who displaces the Dirhams from a cloth of the man'.¹⁰⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ قَالَ مَنْ سَرَقَ خُلْسَةً اخْتَلَسَهَا لَمْ يُقْطَعْ وَ لَكِنْ يُضْرَبُ ضَرْباً شَدِيداً .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at who said,

'He^{asws} said: 'The one who steals with stealthy embezzlement, he would not be cut, but he would be whipped with an intense whipping'.¹¹⁰

¹⁰⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 1

¹⁰⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 2

¹⁰⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 3

عَلِيُّ بْنُ إِبرَاهِيمَ عَنِ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَتَى أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِطَرَّارٍ قَدْ طَرَّ دَرَاهِمَ مِنْ كُمْ رَجُلٍ قَالَ فَقَالَ إِنْ كَانَ قَدْ طَرَّ مِنْ قَمِيصِهِ الْأَعْلَى لَمْ أَقْطَعُهُ وَإِنْ كَانَ طَرَّ مِنْ قَمِيصِهِ الدَّخْلِ قَطَعْتُهُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

Abu Abdullah^{asws} has said: 'They came with a pick-pocket who had picked some Dirhams from a man. So he^{asws} said: 'If he has picked it from his outer shirt, I^{asws} would not cut his (hand), but if he picked is from his inner shirt, I^{asws} would cut his (hand)'.¹¹¹

عَلِيُّ عَنِ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَرْبَعَةٌ لَا قَطْعَ عَلَيْهِمُ الْمُخْتَلِسُ وَالْغُلُولُ وَمَنْ سَرَقَ مِنَ الْعَنِيمَةِ وَسَرِقَهُ الْأَجْبِرُ فَإِنَّهَا خِيَانَةٌ .

Ali, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'Four, there is no cutting upon them – the embezzler, and the unfaithful (of trust), and the one who steals from the war booty, and the employee thief, for these are treachery'.¹¹²

وَبِهَذَا الْإِسْنَادِ أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَتَى بِرَجُلٍ اخْتَلَسَ دُرَّةً مِنْ أُذُنِ جَارِيَةٍ قَالَ هَذِهِ الدَّغَارَةُ الْمُعْلَنَةُ فَضْرَبَهُ وَحَبَسَهُ .

And by this chain, that,

'They came with a man to Amir Al-Momineen^{asws} who had picked ear rings from the ears of a girl. He^{asws} said: 'This is open snatching'. So he^{asws} whipped him and imprisoned him'.¹¹³

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مَسْمَعِ أَبِي سَيَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَتَى بِطَرَّارٍ قَدْ طَرَّ مِنْ رُدْنِهِ دَرَاهِمَ قَالَ إِنْ كَانَ طَرَّ مِنْ قَمِيصِهِ الْأَعْلَى لَمْ نَقْطَعُهُ وَإِنْ كَانَ طَرَّ مِنْ قَمِيصِهِ الْأَسْفَلِ قَطَعْنَاهُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a Abu Sayyar,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws}, they came to him^{asws} with a pick-pocket who had picked some Dirhams from the sleeve of a man. He^{asws} said: 'If he has picked it from his outer shirt, we^{asws} will not cut him; and if he has stolen from his inner shirt, we^{asws} would cut him'.¹¹⁴

¹¹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 4

¹¹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 5

¹¹² Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 6

¹¹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 7

¹¹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 37 H 8

Chapter 38 – The employed and the guest

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) أَنَّهُ قَالَ فِي رَجُلٍ اسْتَأْجَرَ أَجِيرًا فَأَقْعَدَهُ عَلَى مَتَاعِهِ فَسَرَقَهُ قَالَ هُوَ مُؤْتَمَنٌ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man employed a man for wages, so he seated him upon his belongings, but he stole it. He^{asws} said: 'He was a trustee'.

وَقَالَ فِي رَجُلٍ أَتَى رَجُلًا فَقَالَ أَرْسَلَنِي فَلَانٌ إِلَيْكَ لِتُرْسِلَ إِلَيْهِ بِكَذَا وَكَذَا فَأَعْطَاهُ وَصَدَّقَهُ فَلَقِيَ صَاحِبَهُ فَقَالَ لَهُ إِنَّ رَسُولَكَ أَتَانِي فَبَعَثْتُ إِلَيْكَ مَعَهُ بِكَذَا وَكَذَا فَقَالَ مَا أَرْسَلْتُهُ إِلَيْكَ وَمَا أَتَانِي بِشَيْءٍ وَرَعَمَ الرَّسُولُ أَنَّهُ قَدْ أَرْسَلَهُ وَقَدْ دَفَعَهُ إِلَيْهِ

And he^{asws} said regarding a man who came to a man, so he said, 'So and so has sent me to you, to send to him such and such' So he gave it to him, and regarded him as truthful. So (when) he met his companions, he said to him, 'Your messenger came to me, so I sent such and such with him, to you'. So he said, 'I did not send him to you, and he has not come to me with anything. And the messenger claim that he has sent him, and he had handed over (the items) to him.

فَقَالَ إِنَّ وَجَدَ عَلَيْهِ بَيِّنَةٌ أَنَّهُ لَمْ يُرْسَلْهُ فُطِعَتْ يَدُهُ وَ مَعْنَى ذَلِكَ أَنْ يَكُونَ الرَّسُولُ قَدْ أَقْرَمَ مَرَّةً أَنَّهُ لَمْ يُرْسَلْهُ وَ إِنْ لَمْ يَجِدْ بَيِّنَةً فَيَمِينُهُ بِاللَّهِ مَا أَرْسَلَهُ وَ يَسْتَوْفِي الْأَخْرُ مِنَ الرَّسُولِ الْمَالِ

So he^{asws} said: 'If proof is found against him that he did not send him, his (messenger's) hand would be cut, and the meaning of that is he happened to be the messenger who has accepted once that he (the sender) did not send him; and if proof is not found, so he (the sender) would have to swear by Allah^{azwj} that he did not send him (the messenger), and the other one can retrieve the goods from the messenger'.

قُلْتُ أَرَأَيْتَ إِنْ رَعَمَ أَنَّهُ إِنَّمَا حَمَلَهُ عَلَى ذَلِكَ الْحَاجَةِ فَقَالَ يُفْطَعُ لِأَنَّهُ سَرَقَ مَالَ الرَّجُلِ .

I said, 'What is your^{asws} view if he (the messenger) claims that he had carried it away due to the need'. So he^{asws} said: 'His hand would be cut because he stole the goods of the man'.¹¹⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ عَلِيِّ بْنِ سَعِيدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ رَجُلٍ أَكْتَرَى حِمَارًا ثُمَّ أَقْبَلَ بِهِ إِلَى أَصْحَابِ الثِّيَابِ فَاثْبَنَ مِنْهُمْ تَوْبًا أَوْ تَوْبَيْنِ وَ تَرَكَ الْحِمَارَ فَقَالَ يَرُدُّ الْحِمَارُ عَلَى صَاحِبِهِ وَ يُتْبَعُ الَّذِي دَهَبَ بِالتَّوْبَيْنِ وَ لَيْسَ عَلَيْهِ قَطْعٌ إِنَّمَا هِيَ خِيَانَةٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Musa Bin Bakr, from Ali Bin Saeed who said,

'I asked Abu Abdullah^{asws} about a man who hired a donkey. Then he went to the owners of the clothes (shop), so he bought a cloth or two clothes from them, and left the donkey (with them). So he^{asws} said: 'The donkey would be returned to its owner,

¹¹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 38 H 1

and the one who went away with the two clothes would be followed, and there is no cutting upon him, but rather, it is betrayal (of trust)'.¹¹⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَسْتَأْجِرُ أَجِيرًا فَيَسْرِقُ مِنْ بَيْتِهِ هَلْ تُقَطَّعُ يَدُهُ قَالَ هَذَا مُؤْتَمَنٌ لَيْسَ بِسَارِقٍ هَذَا خَائِنٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Suleyman Bin Khalid who said,

'I asked Abu Abdullah^{asws} about the man who employed someone on wages, so he stole from his house. Would his hand be cut?' He^{asws} said: 'This one was a trustee, he is not with a theft. This is treachery'.¹¹⁷

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الضَّيْفُ إِذَا سَرَقَ لَمْ يَقْطَعْ وَ إِنْ أَضَافَ الضَّيْفُ ضَيْفًا فَسَرَقَ قُطِعَ ضَيْفُ الضَّيْفِ .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Ali Bin Raib, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The guest, when he steals, his hand would not be cut, and if the guest invites a guest and his guest steals, so the (hand of the) guest of the guest would be cut'.¹¹⁸

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ اسْتَأْجَرَ أَجِيرًا فَأَخَذَ الْأَجِيرُ مَتَاعَهُ فَسَرَقَهُ فَقَالَ هُوَ مُؤْتَمَنٌ ثُمَّ قَالَ الْأَجِيرُ وَ الضَّيْفُ أَمْنَاءُ لَيْسَ يَقَعُ عَلَيْهِمْ حَدُّ السَّرِقَةِ .

A number of our companions, from Ahmad Bin Muhammad, from Usman Bin Isa, from Sama'at who said,

'I asked him^{asws} about a man who employed someone on wages, so the employee took his belongings and stole it. So he^{asws} said: 'He is a trustee'. Then he^{asws} said: 'The employee and the guest are trustees, there is no cutting upon them, the Penalty (Hadd) of the thief'.¹¹⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ قَوْمٍ اصْطَحَبُوا فِي سَفَرٍ رُفَقَاءَ فَسَرَقَ بَعْضُهُمْ مَتَاعَ بَعْضٍ فَقَالَ هَذَا خَائِنٌ لَا يَقْطَعْ وَ لَكِنْ يُتْبَعُ بِسَرِقَتِهِ وَ خِيَانَتِهِ

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about a group of people who accompany each other on a journey of friends, so one of them steals the belongings of the other. So he^{asws} said: 'This is treachery, he would not be cut, but he would be followed due to his theft and his treachery'.

قِيلَ لَهُ فَإِنْ سَرَقَ مِنْ مَنْزِلِ أَبِيهِ فَقَالَ لَا يَقْطَعْ لِأَنَّ ابْنَ الرَّجُلِ لَا يُحْجَبُ عَنِ الدُّخُولِ إِلَى مَنْزِلِ أَبِيهِ هَذَا خَائِنٌ وَ كَذَلِكَ إِنْ سَرَقَ مِنْ مَنْزِلِ أَخِيهِ وَ أُخْتِهِ إِذَا كَانَ يَدْخُلُ عَلَيْهِمْ لَا يَحْجَبَانِهِ عَنِ الدُّخُولِ .

¹¹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 38 H 2

¹¹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 38 H 3

¹¹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 38 H 4

¹¹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 38 H 5

It was said to him^{asws}, ‘So if one steals from the house of his own father?’ So he^{asws} said: ‘He would not be cut, because a son of the man is not barred from entering the house of his father. This is treachery, and similar to that is the one who steals from the house of his brother, and his sister, when he enters (their house), as he is not barred from the entering’.¹²⁰

بَابُ حَدِّ النَّبَاشِ

Chapter 39 – Penalty (*Hadd*) of the grave robber

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصِ بْنِ الْبُخْتَرِيِّ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ حَدُّ النَّبَاشِ حَدُّ السَّارِقِ .

Ali Bin Ibraahim, from his father and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Ibn Abu Umeyr, from Hafs Bin Al Bakhtary who said,

‘I heard Abu Abdullah^{asws} saying: ‘Penalty (*Hadd*) of the grave robber is the Penalty (*Hadd*) of the thief’.¹²¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ آدَمَ بْنِ إِسْحَاقَ عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ الْجُعْفِيِّ قَالَ كُنْتُ عِنْدَ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) وَ جَاءَهُ كِتَابُ هِشَامِ بْنِ عَبْدِ الْمَلِكِ فِي رَجُلٍ نَبَشَ امْرَأَةً فَسَلَبَهَا ثِيَابَهَا ثُمَّ نَكَحَهَا فَإِنَّ النَّاسَ قَدِ اخْتَلَفُوا عَلَيْنَا هَاهُنَا فَطَائِفَةٌ قَالُوا أَقْتُلُوهُ وَ طَائِفَةٌ قَالُوا أَحْرِقُوهُ

Ali Bin Ibrahim, from his father, from Adam Bin Is’haq, from Abdullah Bin Muhammad Al Ju’fy who said,

‘I was in the presence of Abu Ja’far^{asws} and there came to him^{asws} a letter of Hisham Bin Abdul Malik (the Caliph) regarding, (saying), ‘A man robbed the grave of a woman, so he took her clothes, then copulated with her. So the people have differed against us over here. So there is a group which are saying, ‘Kill him’, and a group is saying, ‘Burn him’.

فَكَتَبَ إِلَيْهِ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَام) إِنَّ حُرْمَةَ الْمَيِّتِ كَحُرْمَةِ الْحَيِّ حَدُّهُ أَنْ تُقَطَعَ يَدُهُ لِنَبَشِهِ وَ سَلْبِهِ الثِّيَابِ وَ يُقَامَ عَلَيْهِ الْحَدُّ فِي الزَّوْنِ إِنْ أَحْصِيَ رُجْمٌ وَ إِنْ لَمْ يَكُنْ أَحْصِيَ جُلْدٌ مِائَةً .

So Abu Ja’far^{asws} wrote to him: ‘The sanctity of the deceased is like the sanctity of the living. His Penalty (*Hadd*) is that his hand would be cut due to his robbing the grave and stealing the clothes, and the Penalty (*Hadd*) with regards to adultery would be established upon him – if he was married, stoning, and if he was not married, one hundred lashes’.¹²²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِنَا قَالَ أَتَى أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِرَجُلٍ نَبَّاشٍ فَأَخَذَ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِشَعْرِهِ فَضْرَبَ بِهِ الْأَرْضَ ثُمَّ أَمَرَ النَّاسَ أَنْ يَطُونَهُ بِأَرْجُلِهِمْ فَوَطُونُوهُ حَتَّى مَاتَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from someone else from our companions who said,

¹²⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 38 H 6

¹²¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 39 H 1

¹²² Al Kafi – V 7 – The Book of Legal Penalties Ch 39 H 2

'They came to Amir Al-Momineen^{asws} with a grave robber man. So Amir Al-Momineen^{asws} grabbed him by his hair, and struck him down on the ground. Then he^{asws} ordered the people that they should trample upon him with their feet. So he was trampled until he died'.¹²³

حَبِيبُ بْنُ الْحَسَنِ عَنْ مُحَمَّدِ بْنِ الْوَلِيدِ عَنْ عَمْرِو بْنِ تَابِتٍ عَنْ أَبِي الْجَارُودِ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يُقَطُّعُ سَارِقُ الْمَوْتَى كَمَا يُقَطُّعُ سَارِقُ الْأَحْيَاءِ .

Habeen Bin Al Hassan, from Muhammad Bin Al Waleed, from Amro Bin Sabit, from Abu Al Jaroud,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} said: 'The thief of the dead would be cut just as the thief of the living is cut'.¹²⁴

عَنْهُ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْحَمِيدِ الْعَطَّارِ عَنْ سَيَّارٍ عَنْ زَيْدِ الشَّحَامِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَخَذَ نَبَّاشٌ فِي زَمَنِ مُعَاوِيَةَ فَقَالَ لِأَصْحَابِهِ مَا تَرَوْنَ فَقَالُوا تُعَاقِبُهُ وَتُحْلِي سَبِيلَهُ فَقَالَ رَجُلٌ مِنَ الْقَوْمِ مَا هَكَذَا فَعَلَّ عَلِيُّ بْنُ أَبِي طَالِبٍ (عَلَيْهِ السَّلَام) قَالَ وَ مَا فَعَلَ قَالَ فَقَالَ يُقَطُّعُ النَّبَّاشَ وَ قَالَ هُوَ سَارِقٌ وَ هَتَاكَ لِلْمَوْتَى .

From him, from Muhammad Bin Abdul Hameed Al Attar, from Sayyar, from Zayd Al Shahaam,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A grave robber was seized in the era of Muawiya, so he said to his companions, 'What are your views?' So they said, 'Punish him and free his way'. So a man from the people said, 'This is not what Ali^{asws} Bin Abu Talib^{asws} did'. He (Muawiya) said, 'So what did he^{asws} do?' So he said, 'He cut (the hand) of the grave robber and said, 'He is a thief, and a desecrator of the dead'.¹²⁵

مُحَمَّدُ بْنُ جَعْفَرِ الْكُوفِيِّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْحَمِيدِ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ مَنْصُورِ بْنِ حَازِمٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ يُقَطُّعُ النَّبَّاشَ وَ الطَّرَارُ وَ لَا يُقَطُّعُ الْمُخْتَلِسُ .

Muhammad Bin Ja'far Al Kufy, from Muhammad Bin Abdul Hameed, from Sayf Bin Umeyra, from Mansour Bin Hazim who said,

'I heard Abu Abdullah^{asws} saying: 'The grave robber, and the pick-pocket would be cut, and the embezzler would not be cut'.¹²⁶

بَابُ حَدِّ مَنْ سَرَقَ حُرًّا فَبَاعَهُ

Chapter 40 – The one who steals a free (kidnaps a free person), so he sells him

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ حَنَانَ عَنْ مُعَاوِيَةَ بْنِ طَرِيفٍ عَنْ سُفْيَانَ الثَّوْرِيِّ قَالَ سَأَلْتُ جَعْفَرَ بْنَ مُحَمَّدٍ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ سَرَقَ حُرًّا فَبَاعَهُ قَالَ فَقَالَ فِيهَا أَرْبَعَةُ حُدُودٍ أَمَّا أَوْلَاهَا فَسَارِقٌ تُقَطُّعُ يَدُهُ وَ الثَّانِيَةُ إِنْ كَانَ وَطَنُهَا جُلْدَ الْحَدِّ وَ عَلَى الَّذِي اسْتَرَى إِنْ كَانَ وَطَنُهَا وَ قَدْ عَلِمَ إِنْ كَانَ مُحْصَنًا رَجْمًا وَ إِنْ كَانَ غَيْرَ مُحْصَنٍ جُلْدَ الْحَدِّ وَ إِنْ كَانَ لَمْ يَعْلَمْ فَلَا شَيْءَ عَلَيْهِ وَ عَلَيْهَا هِيَ إِنْ كَانَ اسْتَكْرَهَهَا فَلَا شَيْءَ عَلَيْهَا وَ إِنْ كَانَتْ أَطَاعَتْهُ جُلِدَتْ الْحَدُّ .

¹²³ Al Kafi – V 7 – The Book of Legal Penalties Ch 39 H 3

¹²⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 39 H 4

¹²⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 39 H 5

¹²⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 39 H 6

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Hanan, from Muawiya Bin Tareyf, from Sufyan Al Sowry who said,

'I asked Ja'far^{asws} Bin Muhammad^{asws} about a man who stole a free woman, so he sold her. So he^{asws} said: 'Four Penalties (are applicable) – as for the first one, so he is a thief, his hand would be cut; and the second if he had copulated with her, he would be whipped the Penalty (*Hadd*), and (a Penalty (*Hadd*) upon the one who bought, if he had knowingly copulated with her, if he was married, stoning, and if he was not married, the Penalty (*Hadd*) of whipping; and if he had not known, then there is nothing upon him; and upon her, if she was coerced (forced), so there is nothing upon her, and if she had obeyed him, she would be whipped the Penalty (*Hadd*)'.¹²⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَتَى بِرَجُلٍ قَدْ بَاعَ حُرًّا فَفَطَعَ يَدَهُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws}, they came to him^{asws} with a man who had sold a free man. He^{asws} cut his hand'.¹²⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ حَفْصِ بْنِ عَبْدِ اللَّهِ بْنِ طَلْحَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ يَبِيعُ الرَّجُلَ وَهُمَا حُرَّانِ يَبِيعُ هَذَا هَذَا وَهَذَا هَذَا وَ يَفْرَانِ مِنْ بَلَدٍ إِلَى بَلَدٍ فَيَبِيعَانِ أَنْفُسَهُمَا وَ يَفْرَانِ بِأَمْوَالِ النَّاسِ فَقَالَ تَقَطُّعُ يَدَيْهِمَا لِأَنَّهُمَا سَارِقَانِ أَنْفُسَهُمَا وَ أَمْوَالِ النَّاسِ .

Ali Bin Ibrahim, from his father, from Muhammad Bin Hafsa, from Abdullah Bin Talha who said,

'I asked Abu Abdullah^{asws} about the man who sells the man, and they are both free. This one sells this one, and this one (sells) this one, and they both run from city to city, so they sell themselves, and they both run with the wealth of the people. So he^{asws} said: 'Then hands of them both would be cut, because they are both thieves stealing themselves, and the wealth of the people'.¹²⁹

باب نَفْيِ السَّارِقِ

Chapter 41 – Exiling the thief

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ بْنِ رَبِاطٍ عَنِ ابْنِ مُسْكَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا أُقِيمَ عَلَى السَّارِقِ الْحَدُّ نُفِيَ إِلَى بَلَدٍ أُخْرَى .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Ali Bin Al Hassan Bin Rabat, from Ibn Muskaan, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the Penalty (*Hadd*) is established upon the thief, he is exiled for another city'.¹³⁰

¹²⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 40 H 1

¹²⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 40 H 2

¹²⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 40 H 3

¹³⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 41 H 1

بَاب مَا لَا يُقَطَّعُ فِيهِ السَّارِقُ**Chapter 42 – With regards to what the thief is not cut**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) لَا قَطْعَ فِي رِيشِ الطَّيْرِ كُلِّهِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘Amir Al-Momineen^{asws} said: ‘(There would be) no cutting-off (the hand) with regards to a feather, meaning the whole bird’.¹³¹

وَبِهَذَا الْإِسْنَادِ قَالَ قَالَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا قَطْعَ عَلَى مَنْ سَرَقَ الْحَجَارَةَ يَعْني الرُّخَامَ وَ أَشْبَاهَ ذَلِكَ .

And by this chain,

He^{asws} said: ‘The Prophet^{saww} did not cut, upon the one who stole stones, meaning the marble and similar to that’.¹³²

وَبِهَذَا الْإِسْنَادِ قَالَ قَضَى النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فِي مَنْ سَرَقَ الثَّمَارَ فِي كُمَّهِ فَمَا أَكَلَ مِنْهُ فَلَا شَيْءَ عَلَيْهِ وَ مَا حَمَلَ فَيَعْرُزُ وَ يَعْرَمُ فِيمَتَهُ مَرَّتَيْنِ .

And by this chain,

He^{asws} said: ‘The Prophet^{saww} judged regarding the one who stole the fruits being in their clusters. So whatever he ate from it, there was nothing upon him; and whatever he carried, so he was rebuked and made to compensate its price, twice (double)’.¹³³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيسَى عَنْ مُحَمَّدِ بْنِ يَحْيَى الْخَزَّازِ عَنْ غِيَاثِ بْنِ إِبْرَاهِيمَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ عَلِيًّا (صَلَوَاتُ اللَّهِ عَلَيْهِ) أَتَى بِالْكُوفَةِ بِرَجُلٍ سَرَقَ حَمَامًا فَلَمْ يَفْطَعْهُ وَ قَالَ لَا قَطْعَ فِي الطَّيْرِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Yahya Al Khazzaz, from Gayas Bin Ibrahim,

(It has been narrated) from Abu Abdullah^{asws} that Ali^{asws}, they came to him^{asws} with a man at Al-Kufa who had stolen a dove. So he^{asws} did not cut him, and said: ‘There is no cutting (of the hand) regarding the bird’.¹³⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) كُلُّ مَدْخَلٍ يَدْخُلُ فِيهِ بِغَيْرِ إِذْنِ صَاحِبِهِ فَسَرَقَ مِنْهُ السَّارِقُ فَلَا قَطْعَ عَلَيْهِ يَعْني الْحَمَامَاتِ وَ الْخَانَاتِ وَ الْأَرْحِيَةَ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘Amir Al-Momineen^{asws} said: ‘Every place which can be entered without permission of its owner, so a thief

¹³¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 42 H 1

¹³² Al Kafi – V 7 – The Book of Legal Penalties Ch 42 H 2

¹³³ Al Kafi – V 7 – The Book of Legal Penalties Ch 42 H 3

¹³⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 42 H 4

steals from it, so there would be no cutting upon him, meaning the (public) baths, and the hotels, and the resting places'.¹³⁵

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مِسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ عَلِيًّا (عَلَيْهِ السَّلَام) آتَى بِرَجُلٍ سَرَقَ مِنْ بَيْتِ الْمَالِ فَقَالَ لَا يُقَطَّعُ فَإِنَّ لَهُ فِيهِ نَصِيبًا .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Misma'a Bin Abdul Malik,

(It has been narrated) from Abu Abdullah^{asws} that they came to Ali^{asws} with a man who had stolen from the public treasury, so he^{asws} said: 'He would not be cut, for there is a share for him in it'.¹³⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا قَطْعَ فِي ثَمَرٍ وَلَا كَثْرٍ وَلَا كَثْرُ شَحْمِ النَّخْلِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'There would be no cutting regarding a fruit, nor a *Kasar*, and the *Kasar* is a sap of the palm tree'.¹³⁷

بَابُ أَنَّهُ لَا يُقَطَّعُ السَّارِقُ فِي الْمَجَاعَةِ

Chapter 43 – The thief would not be cut during the famine

مُحَمَّدُ بْنُ يَحْيَى وَغَيْرُهُ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ زِيَادِ الْقَنْدِيِّ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يُقَطَّعُ السَّارِقُ فِي سَنَةِ الْمَحَلِّ فِي كُلِّ شَيْءٍ يُؤْكَلُ مِثْلَ الْخُبْزِ وَاللَّحْمِ وَأَشْبَاهِ ذَلِكَ .

Muhammad Bin Yahya, and someone else, from Muhammad Bin Ahmad, from Muhammad Bin Isa Bin Ubeyd, from Ziyad Al Qindy, from the one who mentioned it,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The thief would not be cut during a year of drought with regards to everything he eats, like the bread, and the meat, and the likes of that'.¹³⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ لَا يُقَطَّعُ السَّارِقُ فِي عَامِ سَنَةٍ يُعْنِي فِي عَامِ مَجَاعَةٍ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The thief would not be cut during a year of inactivity, meaning during a year of famine'.¹³⁹

¹³⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 42 H 5

¹³⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 42 H 6

¹³⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 42 H 7

¹³⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 43 H 1

¹³⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 43 H 2

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدٍ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَمَّنْ أَخْبَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) لَا يَقْطَعُ السَّارِقَ فِي أَيَّامِ الْمَجَاعَةِ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ali Bin Al Hakam, from Aasim Bin Humeyd, from the one who informed him,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} did not cut the thief during the days of famine'.¹⁴⁰

بَابُ حَدِّ الصَّبِيَّانِ فِي السَّرْفَةِ

Chapter 44 – Penalty (*Hadd*) of the children regarding the theft

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الصَّبِيِّ يَسْرِقُ قَالَ يُعْفَى عَنْهُ مَرَّةً وَ مَرَّتَيْنِ وَ يُعَزَّرُ فِي الثَّلَاثَةِ فَإِنْ عَادَ قُطِعَتْ أُطْرَافُ أَصَابِعِهِ فَإِنْ عَادَ قُطِعَ أَسْفَلُ مِنْ ذَلِكَ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Abdullah Bin Sinan who said,

'I asked Abu Abdullah^{asws} about the child who steals. He^{asws} said: 'He would be excused from it once, and twice, and he would be rebuked during the third. So if he repeats, a bit of his finger would be cut. So if he repeats, lower than that would be cut'.¹⁴¹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ سَأَلْتُهُ عَنِ الصَّبِيِّ يَسْرِقُ قَالَ إِذَا سَرَقَ مَرَّةً وَ هُوَ صَغِيرٌ عَفِيَ عَنْهُ فَإِنْ عَادَ عَفِيَ عَنْهُ فَإِنْ عَادَ قُطِعَ بَنَانُهُ فَإِنْ عَادَ قُطِعَ أَسْفَلُ مِنْ ذَلِكَ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, 'I asked him^{asws} about the child who steals. He^{asws} said: 'When he steals once and he is small, he would be excused from it. So if he repeats, he would be excused from it. So if he repeats, his fingertip would be cut. So if he repeats, he would be cut lower than that'.¹⁴²

عَنْهُ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي إِبْرَاهِيمَ (عَلَيْهِ السَّلَام) الصَّبِيَّانُ إِذَا أَتَى بِهِمْ عَلِيُّ (عَلَيْهِ السَّلَام) قَطَعَ أُنَامِلَهُمْ مِنْ أَيْنَ قَطَعَ فَقَالَ مِنَ الْمَفْصِلِ الْمَفْصِلِ الْأَنَامِلِ .

From him, from Safwan, from Is'haq Bin Ammar, said,

'I said to Abu Ibrahim^{asws} (7th Imam^{asws}), 'The children, when they came with them, Ali^{asws} cut their fingertips from where did he^{asws} cut?' So he^{asws} said: 'From the joints, the joints of the fingertips'.¹⁴³

¹⁴⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 43 H 3

¹⁴¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 1

¹⁴² Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 2

¹⁴³ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 3

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا سَرَقَ الصَّبِيُّ عُفِيَ عَنْهُ فَإِنْ عَادَ قُطِعَ أَطْرَافُ الْأَصَابِعِ فَإِنْ عَادَ قُطِعَ أَسْفَلُ مِنْ ذَلِكَ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the child steals, he would be excused from it. So if he repeats, he is rebuked. So if he repeats, the ends of the fingers are cut. So if he repeats, he would be cut lower than that'.

وَقَالَ أَبُو عَلِيٍّ بِغُلَامٍ يُشَكُّ فِي اخْتِلَامِهِ فَقَطَعَ أَطْرَافَ الْأَصَابِعِ .

And he^{asws} said: 'They came to Ali^{asws} with a boy, there was doubt with regards to him having bed-wetted yet. So he^{asws} cut the ends of the fingers'.¹⁴⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أُتِيَ عَلِيٌّ (عَلَيْهِ السَّلَام) بِجَارِيَةٍ لَمْ تَحِضْ قَدْ سَرَقَتْ فَضَرَبَهَا أَسْوِاطًا وَ لَمْ يَقُطِعْهَا .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'They came to Ali^{asws} with an unmarried girl who had stolen. So he^{asws} lashed her with a whip and did not cut her'.¹⁴⁵

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الصَّبِيِّ يَسْرِقُ قَالَ يُعْفَى عَنْهُ مَرَّةً فَإِنْ عَادَ قُطِعَتْ أُنْمُلُهُ أَوْ حُكَّتْ حَتَّى تَنْدَمَى فَإِنْ عَادَ قُطِعَتْ أَصَابِعُهُ فَإِنْ عَادَ قُطِعَ أَسْفَلُ مِنْ ذَلِكَ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} regarding the child who steals. He^{asws} said: 'He would be excused from it once. So if he repeats, his fingertips would be cut, or they would be scratched until they bleed. So he if repeats, his fingers would be cut. So if he repeats, he would be cut lower than that'.¹⁴⁶

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِهِ عَنْ أَبِيَانَ بْنِ عُمَانَ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَام) يَقُولُ أُتِيَ عَلِيٌّ (عَلَيْهِ السَّلَام) بِغُلَامٍ قَدْ سَرَقَ فَطَرَفَ أَصَابِعَهُ ثُمَّ قَالَ أَمَا لئنْ عُدْتُ لَأَقُطِعَنَّهَا ثُمَّ قَالَ أَمَا إِنَّهُ مَا عَمِلَهُ إِلَّا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ أَنَا .

Humeyd Bin Ziyad, from Ibn Sama'at, from someone else, from his companion, from Aban Bin Usman, from Zurara who said,

'I heard Abu Ja'far^{asws} saying: 'They came to Ali^{asws} with a boy who had stolen. So he^{asws} scratched his fingers, then said: 'But, if you were to repeat, I would cut these'. Then he^{asws} said: 'But it has not been done except by Rasool-Allah^{saww} and myself^{asws}'.¹⁴⁷

¹⁴⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 4

¹⁴⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 5

¹⁴⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 6

¹⁴⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 7

أَبَانٌ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا سَرَقَ الصَّبِيُّ وَ لَمْ يَحْتَلَمْ قُطِعَتْ أَطْرَافُ أَصَابِعِهِ قَالَ وَ قَالَ [عَلِيٌّ ع] لَمْ يَصْنَعُهُ إِلَّا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ أَنَا .

Aban, from Abdul Rahman Bin Abu Abdullah,

Abu Abdullah^{asws} has said: 'When the child steals and he has yet to bed-wet, the ends of his fingers would be cut'. And Ali^{asws} said: 'It has not been done except by Rasool-Allah^{saww} and myself^{asws}'.¹⁴⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ بَعْضِ أَصْحَابِهِ عَنِ الْعَلَاءِ بْنِ رَزِينِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنِ الصَّبِيِّ يَسْرِقُ فَقَالَ إِنْ كَانَ لَهُ تِسْعُ سِنِينَ قُطِعَتْ يَدُهُ وَ لَا يُضَيِّعُ حَدٌّ مِنْ حُدُودِ اللَّهِ عَزَّ وَ جَلَّ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from one of his companions, from Al A'la Bin Razeyn, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about the child who stole, so he^{asws} said: 'If he was nine years of age, his hand would be cut, and a Penalty (*Hadd*) from the Penalties of Allah^{azwj} would not be wasted'.¹⁴⁹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنْ أَبَانَ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) يَقُولُ أَتَى عَلِيٌّ (عَلَيْهِ السَّلَامُ) بَغْلَامٌ قَدْ سَرَقَ قَطْرَفَ أَصَابِعِهِ ثُمَّ قَالَ أَمَا لَيْتُنِي عُذْتُ لِأَقْطَعَنَّهَا قَالَ ثُمَّ قَالَ أَمَا إِنَّهُ مَا عَمِلَهُ إِلَّا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ أَنَا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Aban, from Razeyn who said,

'I heard Abu Ja'far^{asws} saying: 'They came to Ali^{asws} with a boy who had stolen, so he^{asws} scratched his fingers, then said: 'But, if you were to repeat, I^{asws} would cut these'. Then he^{asws} said: 'But, it was not done except by Rasool-Allah^{saww} and myself^{asws}'.¹⁵⁰

حُمَيْدُ بْنُ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ أَحْمَدَ النَّهَيْكِيِّ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ مُحَمَّدِ بْنِ خَالِدِ بْنِ عَبْدِ اللَّهِ الْقَسْرِيِّ قَالَ كُنْتُ عَلَى الْمَدِينَةِ فَأَتَيْتُ بَغْلَامٌ قَدْ سَرَقَ فَسَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْهُ فَقَالَ سَلُهُ حَيْثُ سَرَقَ كَانَ يَعْلَمُ أَنْ عَلَيْهِ فِي السَّرِقَةِ عُقُوبَةٌ فَإِنْ قَالَ نَعَمْ قِيلَ لَهُ أَيُّ شَيْءٍ تِلْكَ الْعُقُوبَةُ فَإِنْ لَمْ يَعْلَمْ أَنَّ عَلَيْهِ فِي السَّرِقَةِ قَطْعًا فَخَلَّ عَنْهُ

Humeyd Bin ziyad, from Ubeydullah Bin Ahmad Al Naheyki, from Ibn Abu Umeyr, from a number of companions, from Muhammad Bin Khalid Bin Abdullah Al Qasary who said,

'I was at Al-Medina, so they came with a boy who had stolen. So I asked Abu Abdullah^{asws} about it, so he^{asws} said: 'Ask him that when he stole, did he know that with regards to the stealing there would be punishment upon him? So if he says yes, so say to him, 'Which is that punishment?' So if he does not know that upon him, with regards to the theft, is the cutting, so free him from it'.

قَالَ فَأَخَذْتُ الْبَغْلَامَ فَسَأَلْتُهُ وَ قُلْتُ لَهُ أ كُنْتَ تَعْلَمُ أَنَّ فِي السَّرِقَةِ عُقُوبَةٌ قَالَ نَعَمْ قُلْتُ أَيُّ شَيْءٍ هُوَ قَالَ الضَّرْبُ فَخَلَّيْتُ عَنْهُ .

¹⁴⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 8

¹⁴⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 9

¹⁵⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 10

He said, 'So I seized the boy and asked him, and said to him, 'Did you know that regarding the theft is punishment?' He said, 'Yes'. I said, 'Which thing is it?' He said, 'The whipping'. So I freed him from it'.¹⁵¹

بَاب مَا يَجِبُ عَلَى الْمَمَالِكِ وَ الْمُكَاتِبِينَ مِنَ الْحَدِّ

Chapter 45 – What Penalty (*Hadd*) is Obligated upon the owned (slaves) and the contracted (slaves)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادِ بْنِ عَثْمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا قَدَفَ الْعَبْدُ الْحُرَّ جُلْدًا ثَمَانِينَ وَ قَالَ هَذَا مِنْ حُقُوقِ النَّاسِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the slave slanders the free, he would be whipped eighty (lashes)'. And he^{asws} said: 'This is from the rights of the people'.¹⁵²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الْمَمْلُوكِ يَفْتَرِي عَلَى الْحُرِّ قَالَ يُجْلَدُ ثَمَانِينَ قُلْتُ فَإِنَّهُ رَأَى قَالَ يُجْلَدُ خَمْسِينَ .

A number of our companions, from Ahmad Bin Muhammad, from Usman Bin Isa, from Sama'at who said,

'I asked him^{asws} about the slave who fabricates upon the free. He^{asws} said: 'He would be whipped eighty (lashes)'. I said, 'So if it was adultery?' He^{asws} said: 'he would be whipped fifty (lashes)'.¹⁵³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيسَى عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ عَدِّ افْتَرَى عَلَى حُرٍّ قَالَ يُجْلَدُ ثَمَانِينَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Ismail, from Muhammad Bin Al Fazeyl, from Abu Al Sabbah Al Kinany,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a slave who fabricates upon a free. He^{asws} said: 'He would be whipped fifty (lashes)'.¹⁵⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَارِثِ بْنِ الْأَحْوَلِ عَنْ بُرَيْدٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي الْأُمَةِ تَزْنِي قَالَ تُجْلَدُ نِصْفَ حَدِّ الْحُرِّ كَانَ لَهَا زَوْجٌ أَوْ لَمْ يَكُنْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al Haris Bin Al Ahowl, from Bureyd,

(It has been narrated) from Abu Ja'far^{asws} regarding the slave woman who committed adultery. He^{asws} said: 'She would be whipped half the Penalty (*Hadd*) of the free, whether she had a husband for her, or there did not happen to be one'.¹⁵⁵

¹⁵¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 44 H 11

¹⁵² Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 1

¹⁵³ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 2

¹⁵⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 3

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فِي عَبْدٍ سَرَقَ وَ اخْتَانَ مِنْ مَالِ مَوْلَاهُ قَالَ لَيْسَ عَلَيْهِ قَطْعٌ .

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, altogether from Abdul Rahman Bin Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a slave who stole and betrayed from the wealth of his master. He^{asws} said: 'There is no cutting upon him'.¹⁵⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عليهما السلام) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ تَعَالَى فَإِذَا أَحْصِنَ قَالَ إِحْصَانُهُمْ أَنْ يُدْخَلَ بِهِمْ فَلْتٌ إِنْ لَمْ يُدْخَلَ بِهِمْ أَمَا عَلَيْهِمْ حَدٌّ قَالَ بَلَى .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from one of the two^{asws}, said, 'I asked him^{asws} about the Words of Allah^{azwj} the High **[4:25] and when they are taken in marriage**. He^{asws} said: 'Their being married is that they have been copulated with'. I said, 'If he has not copulated with them, is there no Penalty (*Hadd*) on them?' He^{asws} said: 'Yes (there is)'.¹⁵⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْأَصْبَغِ بْنِ الْأَصْبَغِ عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ عَنْ مَرْوَانَ بْنِ مُسْلِمٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ أَوْ عَنْ بُرَيْدِ الْعَجَلِيِّ الشُّكُّ مِنْ مُحَمَّدٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) أَمَةٌ زَنَتْ قَالَ تُجْلَدُ خَمْسِينَ قُلْتُ فَإِنْ عَادَتْ قَالَ تُجْلَدُ خَمْسِينَ قُلْتُ فَيَجِبُ عَلَيْهَا الرَّجْمُ فِي شَيْءٍ مِنَ الْحَالَاتِ قَالَ إِذَا زَنَتْ ثَمَانَ مَرَّاتٍ يَجِبُ عَلَيْهَا الرَّجْمُ قُلْتُ كَيْفَ صَارَ فِي ثَمَانَ مَرَّاتٍ قَالَ لِأَنَّ الْحُرَّ إِذَا زَنَى أَرْبَعَ مَرَّاتٍ وَ أُقِيمَ عَلَيْهِ الْحُدُّ قُتِلَ فَإِذَا زَنَتْ الْأَمَةُ ثَمَانَ مَرَّاتٍ رُجِمَتْ فِي التَّاسِعَةِ

Ali Bin Ibrahim, from his father, from Al Asbagh Bin Asbagh, from Muhammad Bin Suleyman, from Marwan Bin Muslim, from Ubeyd Bin Zurara, or from Bureyd Al Ajaly, the doubt is, from Muhammad who said,

'I said to Abu Abdullah^{asws}, 'A slave woman commits adultery'. He^{asws} said: 'She would be whipped fifty'. I said, 'So if she repeats?' He^{asws} said: 'She would be whipped fifty'. I said, 'Would stoning be Obligated upon her from any of the situations?' He^{asws} said: 'If she were to commit adultery eight times, the stoning would be Obligated upon her'. I said, 'How did it come to be eight times?' He^{asws} said: 'Because the free man when he commits adultery four times, and the Penalty (*Hadd*) is established upon him, he is killed. So when the slave woman commits adultery eight times, she would be stoned during the ninth'.

قُلْتُ وَ مَا الْعِلَّةُ فِي ذَلِكَ فَقَالَ إِنَّ اللَّهَ رَجَمَهَا أَنْ يَجْمَعَ عَلَيْهَا رِيقَ الرَّقِّ وَ حَدَّ الْحُرِّ ثُمَّ قَالَ وَ عَلَى إِمَامِ الْمُسْلِمِينَ أَنْ يَدْفَعَ تَمَنَّهُ إِلَى مَوْلَاهُ مِنْ سَهْمِ الرَّقَابِ .

I said, 'And what is the reason with regards to that?' So he^{asws} said: 'Allah^{azwj} has been Merciful to her that He^{azwj} would Gather upon her the rope of slavery and the

¹⁵⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 4

¹⁵⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 5

¹⁵⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 6

Penalty (*Hadd*) of the free'. Then he^{asws} said: 'And it is upon the Imam^{asws} of the Muslims that he hand over her price to her master from the portion of the slaves'.¹⁵⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ بُكَيْرٍ عَنْ عَنَبَسَةَ بْنِ مُصْعَبِ الْعَابِدِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) كَأَنْتَ لِي جَارِيَةٌ فَزَنْتُ أَخْذُهَا قَالَ نَعَمْ وَ لَكِنْ لِيَكُونَ ذَلِكَ فِي سِرِّ لِحَالِ السُّلْطَانِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Bukeyr, from Anbasat Bin Mus'ab Al Aabid who said,

'I said to Abu Abdullah^{asws}, 'There was a slave girl for me, so she committed adultery. Shall I (apply the) Penalty (*Hadd*) on her?' He^{asws} said: 'Yes, but that should happen in secret, due to the state of the authorities'.¹⁵⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي مَمْلُوكٍ قَدَفَ مُحْصَنَةً حُرَّةً قَالَ يُجْلَدُ ثَمَانِينَ لِأَنَّهُ إِنَّمَا يُجْلَدُ لِحَقِّهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Musa Bin Bakr, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} regarding an owned (slave) who slandered a married free woman. He^{asws} said: 'He would be whipped eighty (lashes) because, but rather he is being whipped for her rights'.¹⁶⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَصْرٍ عَنْ حُمَيْدِ بْنِ زِيَادٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا زَنَى الْعَبْدُ ضُرِبَ خَمْسِينَ فَإِنْ عَادَ ضُرِبَ خَمْسِينَ فَإِنْ عَادَ ضُرِبَ خَمْسِينَ إِلَى ثَمَانِي مَرَّاتٍ فَإِنْ زَنَى ثَمَانِي مَرَّاتٍ قُتِلَ وَ أَدَى الْإِمَامُ قِيمَتَهُ إِلَى مَوْلَاهُ مِنْ نَيْتِ الْمَالِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Nasr, from Humejd Bin Ziyad,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the slave commits adultery, he would be whipped fifty (lashes). So if he repeats, he would be whipped fifty (lashes). So if he repeats, he would be whipped fifty (lashes), up to eight times. So if he commits adultery eight times, he would be killed (for the ninth time), and the Imam^{asws} would pay his price to his master from the public treasury'.¹⁶¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي مَمْلُوكٍ طَلَّقَ أَمْرَأَتَهُ تَطْلِيقَتَيْنِ ثُمَّ جَامَعَهَا بَعْدُ فَأَمَرَ رَجُلًا يَضْرِبُهُمَا وَ يُفَرِّقُ مَا بَيْنَهُمَا يَجْلُدُ كُلَّ وَاحِدٍ مِنْهُمَا خَمْسِينَ جَلْدَةً .

Ali Bin Ibrahim, from his father, from Ibn Abu Umejr, from Ibn Abu najran, from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding an owned (slave) who divorced his wife with two divorces, then copulated

¹⁵⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 7

¹⁵⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 8

¹⁶⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 9

¹⁶¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 10

with her afterwards. So he^{asws} ordered a man to whip both of them, and separate what is between the two of them. He whipped each one of the two with fifty lashes'.¹⁶²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْمُكَاتَبِ يَزْنِي قَالَ يُجْلَدُ فِي الْحَدِّ بِقَدْرِ مَا أُعْتِقَ مِنْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding the contracted (slave) who committed adultery. He^{asws} said: 'He would be whipped regarding the Penalty (*Hadd*) by the measurement of what he has been emancipated (librated) from it (the contract)'.¹⁶³

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ يُجْلَدُ الْمُكَاتَبُ إِذَا زَنَى عَلَى قَدْرِ مَا أُعْتِقَ مِنْهُ فَإِنْ قَدَفَ الْمُحْصَنَةَ فَعَلَيْهِ أَنْ يُجْلَدَ ثَمَانِينَ حُرًّا كَانَ أَوْ مَمْلُوكًا .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from usman Bin Isa, from Sama'at who said,

'The contracted (slave) would be whipped when he commits adultery, upon the measurement of what he has been emancipated from it. So if he were to slander a married woman, so upon him would be that he would be whipped eighty (lashes), whether he was free or an owned (slave)'.¹⁶⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ حَمَّادِ بْنِ عِيسَى عَنْ حَرِيزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ يُجْلَدُ الْمُكَاتَبُ عَلَى قَدْرِ مَا أُعْتِقَ مِنْهُ وَ ذَكَرَ أَنَّهُ يُجْلَدُ بِبَعْضِ السَّوْطِ وَ لَا يُجْلَدُ بِهِ كُلَّهُ .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Hareyz, from Muhammad Bin Muslim,

Abu Ja'far^{asws} has said: 'The contracted (slave) would be whipped upon the measurement of what he has been emancipated (librated) from it'. And he^{asws} mentioned that he would be whipped with part of the whip and would not be whipped with all of it'.¹⁶⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُوسُفَ بْنِ عَقِيلٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي مُكَاتَبَةٍ زَنَتْ قَالَ يُنْظَرُ مَا أَخَذَ مِنْ مُكَاتَبَتِهَا فَيَكُونُ فِيهَا حَدُّ الْحُرَّةِ وَ مَا لَمْ يُقْضَ فَيَكُونُ فِيهِ حَدُّ الْأَمَةِ

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Muhammad Bin Isa, from Yunus Bin Aqeel, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a contracted (slave girl) who committed adultery. He^{asws} said: 'Look at what is taken from her contract, for there happens to be in it a Penalty (*Hadd*) of the free, and whatever has not been fulfilled, so there would happen to be in it a Penalty (*Hadd*) of the slave girl'.

¹⁶² Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 11

¹⁶³ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 12

¹⁶⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 13

¹⁶⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 14

وَقَالَ فِي مُكَاتَبَةِ زَنْتٍ وَ قَدْ أُعْتِقَ مِنْهَا ثَلَاثَةُ أَرْبَاعٍ وَ بَقِيَ رُبْعٌ فَجَلِدَتْ ثَلَاثَةَ أَرْبَاعِ الْحَدِّ حِسَابَ الْحُرَّةِ عَلَى مِائَةِ فَدَلِكِ خَمْسَةَ وَ سَبْعُونَ سَوْطاً وَ جَلَدَ رُبْعَهَا حِسَابَ خَمْسِينَ مِنَ الْأُمَّةِ اثْنِي عَشَرَ سَوْطاً وَ نِصْفاً فَدَلِكِ سَبْعَةٌ وَ ثَمَانُونَ جَلْدَةً وَ نِصْفٌ وَ أَبِي أَنْ يَرْجُمَهَا وَ أَنْ يَنْفِيَهَا قَبْلَ أَنْ يُبَيِّنَ عِنْفَهَا .

And he^{asws} said regarding a contracted (slave girl) who committed adultery, and she had been emancipated (librated) from three-quarters of it, and there remained one quarter (to be fulfilled). So she would be whipped three-quarters of the Penalty (*Hadd*) of the free woman upon a hundred, so that would be seventy five lashes. And she would be whipped a quarter of the number of fifty from the (Penalty (*Hadd*) of the) slave girl, being twelve and a half lashes. So that come to eighty seven and a half lashes. And he^{asws} refused to stone her and exile her before her emancipation is manifested'.¹⁶⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ وَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ جَمِيعاً عَنْ عَاصِمِ بْنِ جُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) مِثْلَهُ إِلَّا أَنَّ يُونُسَ قَالَ يُؤْخَذُ السَّوْطُ مِنْ نِصْفِهِ فَيُضْرَبُ بِهِ وَ كَذَلِكَ الْأَقْلُ وَ الْأَكْثَرُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, and from his father, from Ibn Abu Najran, altogether from Aasim Bin Humeid, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} similar to it, except that Yunus said, 'The whip would be grabbed from its halfway, so he would whip with it, and similar to that is for the lesser (amount of lashes) and the more'.¹⁶⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ حَمَّادٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ سُئِلَ عَنِ الْمُكَاتَبِ أَفْتَرَى عَلَى رَجُلٍ مُسْلِمٍ قَالَ يُضْرَبُ حَدُّ الْحُرِّ ثَمَانِينَ إِنْ أَدَّى مِنْ مُكَاتَبَتِهِ شَيْئاً أَوْ لَمْ يُؤَدِّ قِيلَ لَهُ فَإِنْ زَنَى وَ هُوَ مُكَاتَبٌ وَ لَمْ يُؤَدِّ شَيْئاً مِنْ مُكَاتَبَتِهِ قَالَ هُوَ حَقُّ اللَّهِ يُطْرَحُ عَنْهُ مِنَ الْحَدِّ خَمْسُونَ جَلْدَةً وَ يُضْرَبُ خَمْسِينَ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Hammad, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having been asked about the contracted (slave) who fabricated upon a Muslim man. He^{asws} said: 'He would be whipped a Penalty (*Hadd*) of the free, eighty (lashes), whether he has paid anything from his contract or has not paid'. It was said to him^{asws}, 'So if he commits adultery and he is contracted, and has not paid anything from his contract?' He^{asws} said: 'It is a Right of Allah^{azwj}. Fifty lashes would be staved off from him, and he would be whipped fifty'.¹⁶⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِعٍ عَنْ ضُرَيْبِ بْنِ الْكُنَاسِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الْعَبْدُ إِذَا أَقْرَأَ عَلَى نَفْسِهِ عِنْدَ الْإِمَامِ مَرَّةً أَنَّهُ سَرَقَ قَطْعُهُ وَ الْأُمَّةُ إِذَا أَقْرَأَتْ عَلَى نَفْسِهَا عِنْدَ الْإِمَامِ بِالسَّرِقَةِ قَطْعُهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Raib, from Zureys Al Kunasy,

Abu Ja'far^{asws} has said: 'The slave, when he accepts upon himself in the presence of the Imam^{asws}, once, that he has stolen, and the slave girl, when she accpets upon herself in the presence of the Imam^{asws} with the theft, they would both be cut'.¹⁶⁹

¹⁶⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 15

¹⁶⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 16

¹⁶⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 17

¹⁶⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 18

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ أَبِي بَكْرٍ الْخَضْرَمِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ عَبْدٍ مَمْلُوكٍ فَذَنَّفَ حُرًّا قَالَ يُجْلَدُ ثَمَانِينَ هَذَا مِنْ حُقُوقِ النَّاسِ فَأَمَّا مَا كَانَ مِنْ حُقُوقِ اللَّهِ عَزَّ وَجَلَّ فَإِنَّهُ يُضْرَبُ نِصْفَ الْحَدِّ فُلْتُ الَّذِي مِنْ حُقُوقِ اللَّهِ عَزَّ وَجَلَّ مَا هُوَ قَالَ إِذَا زَنَى أَوْ شَرِبَ خَمْرًا فَهَذَا مِنَ الْحُقُوقِ الَّتِي يُضْرَبُ فِيهَا نِصْفَ الْحَدِّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Sayf Bin Umeyr, from Abu Bakr Al Hazramy who said,

'I asked Abu Abdullah^{asws} about an owned slave who slandered a free (person). He^{asws} said: 'He would be whipped eighty (lashes). This is from the rights of the people. So as for what was from the Rights of Allah^{azwj} Mighty and Majestic, so he would be whipped half the Penalty (*Hadd*)'. I said, 'That which is from the Right of Allah^{azwj}, what is it?' He^{asws} said: 'When he commits adultery or drinks wine, so these are from the Rights for which he would be whipped half the Penalty (*Hadd*) with regards to it'.¹⁷⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) (عَلَيْهِ السَّلَام) إِذَا سَرَقَنِي لَمْ أَقْطَعُهُ وَ عَبْدِي إِذَا سَرَقَ غَيْرِي قَطَعْتُهُ وَ عَبْدُ الْإِمَارَةِ إِذَا سَرَقَ لَمْ أَقْطَعُهُ لِأَنَّهُ فِيَّ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'If my^{asws} slave steals from me^{asws}, I^{asws} would not cut him, and if my^{asws} slave steals from others, I^{asws} would cut him, and a slave of the emirate, if he were to steal, I^{asws} would not cut him because he is 'Fey' (war booty)'.¹⁷¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ سُئِلَ عَنْ رَجُلٍ كَانَتْ لَهُ أَمَةٌ فَكَاتَبَهَا فَقَالَتْ مَا أَدْبَيْتُ مِنْ مَكَاتِبِي فَأَنَا بِهِ حُرَّةٌ عَلَى حِسَابِ ذَلِكَ فَقَالَ لَهَا نَعَمْ فَأَدْبَيْتُ بَعْضَ مَكَاتِبِهَا وَ جَامَعَهَا مَوْلَاهَا بَعْدَ ذَلِكَ فَقَالَ إِنْ كَانَ اسْتَكْرَهَهَا عَلَى ذَلِكَ ضَرْبٌ مِنَ الْحَدِّ بِقَدْرِ مَا أَدْبَيْتُ مِنْ مَكَاتِبِهَا وَ دَرَى عَنْهُ مِنَ الْحَدِّ بِقَدْرِ مَا بَقِيَ مِنْ مَكَاتِبِهَا وَ إِنْ كَانَتْ تَابَعَتْهُ كَانَتْ شَرِيكَتَهُ فِي الْحَدِّ ضَرْبَتْ مِثْلَ مَا يُضْرَبُ .

Ali Bin Ibrahim, from his father, from Salih Bin Saeed, from Al Husayn Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having been asked about a man who had a slave girl, so he contracted her. So she said, 'Whatever I pay off from my contract, so I would be free by it upon that accounting'. So he said to her, 'Yes'. So she paid off some of her contract, and her master copulated with her after that. So he^{asws} said: 'If she was unwilling upon that, he would be whipped from the Penalty (*Hadd*) by the measurement of whatever she has paid off from her contract, and the Penalty (*Hadd*) would be staved off from him by the measurement of whatever remained from her contract. And if she had obeyed him, she would be his participant with regards to the Penalty (*Hadd*). She would be whipped similar to what he would be whipped'.¹⁷²

عَلِيُّ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ الْمَمْلُوكُ إِذَا سَرَقَ مِنْ مَوَالِيهِ لَمْ يُقْطَعْ فَإِذَا سَرَقَ مِنْ غَيْرِ مَوَالِيهِ قُطِعَ .

¹⁷⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 19

¹⁷¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 20

¹⁷² Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 21

Ali, from his father, from Salih Bin Saeed, from Yunus, from one of our companions,

Abu Abdullah^{asws} has said: 'The owned (slave), when he steals from his master, he would not be cut. So if he steals from other than his master, he would be cut'.¹⁷³

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي الْعَبِيدِ وَالْإِمَاءِ إِذَا زَنَى أَحَدُهُمْ أَنْ يُجْلَدَ خَمْسِينَ جَلْدَةً إِنْ كَانَ مُسْلِمًا أَوْ كَافِرًا أَوْ نَصْرَانِيًّا وَ لَا يُرْجَمَ وَ لَا يُنْفَى .

Ali, from his father, from Ibn Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the slave men and the slave women when one of them committed adultery, that he would be whipped eighty lashes whether he was a Muslim, or an Infidel, or a Christian, and would neither be stoned nor exiled'.¹⁷⁴

¹⁷³ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 22

¹⁷⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 45 H 23

الكافي

AL-KAFI

ج 7

Volume 7

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة
الإسلام الكليني المتوفى سنة 329 هجرية

Of the majestic narrator and the scholar, the jurist, the Sheykh
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كتاب الحدود

THE BOOK OF LEGAL PENALTIES (3)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّم تَسْلِيمًا.

In the Name of Allah^{azwj} the Beneficent, the Merciful. The Praise is for Allah^{azwj} Lord^{azwj} of the Worlds, and Blessing be upon our Chief Muhammad^{saww} and his^{saww} Purified Progeny^{asws}, and greetings with abundant greetings.

بَاب مَا يَجِبُ عَلَى أَهْلِ الدِّمَّةِ مِنَ الْخُدُودِ

Chapter 46 – What Penalty (*Hadd*) is Obligated upon the *Ahl Al-Zimma* (people under responsibility)

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يَجِدُّ الْحُرَّ وَالْعَبْدَ وَالْيَهُودِيَّ وَالنَّصْرَانِيَّ فِي الْخَمْرِ وَالْمُسْكِرِ النَّبِيذِ تَمَانِينَ فَقِيلَ مَا بَالُ الْيَهُودِيِّ وَالنَّصْرَانِيَّ قَالَ إِذَا أَظْهَرُوا ذَلِكَ فِي مِصْرٍ مِنَ الْأَمْصَارِ لِأَنَّهُمْ لَيْسَ لَهُمْ أَنْ يَظْهَرُوهُ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at who said,

'Amir Al-Momineen^{asws} used to whip the free, and the slave, and the Jew, and the Christian, regarding the wine and the intoxicant *Al-Nabeez*, eighty (lashes). So it was said, 'What is the matter (with whipping) the Jew and the Christian?' He^{asws} said: 'When they (openly) display that in a city from the cities, because it is not for them that they should be displaying (openly drinking)'¹.

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدَ بْنِ أَحْمَدَ عَنْ جَعْفَرِ بْنِ رَزْقِ اللَّهِ أَوْ رَجُلٍ عَنْ جَعْفَرِ بْنِ رَزْقِ اللَّهِ قَالَ قُدِّمَ إِلَى الْمُتَوَكَّلِ رَجُلٌ نَصْرَانِيٌّ فَجَرَ بِامْرَأَةٍ مُسْلِمَةٍ فَأَرَادَ أَنْ يُقِيمَ عَلَيْهِ الْحَدَّ فَاسْتَلَمَ فَقَالَ يَحْيَى بْنُ أَكْثَمٍ قَدْ هَدَمَ إِيْمَانَهُ شِرْكُهُ وَفَعَلَهُ وَقَالَ بَعْضُهُمْ يُضْرَبُ ثَلَاثَةَ خُدُودٍ وَقَالَ بَعْضُهُمْ يُفْعَلُ بِهِ كَذَا وَكَذَا

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Ja'far Bin Rizqallah or a man from Ja'far Bin Rizqallah who said,

'A Christian man who had been immoral with a Muslim woman, was brought before Al-Mutawakkal (the Caliph). So he wanted to establish the Penalty (*Hadd*) upon him, but he became a Muslim. So Yahya Bin Aksam said, 'His belief (has now) demolished his Polytheism and his deed'. And some of them said, 'Whip him with three Penalties', and some of them said, 'Do with him such and such'.

فَأَمَرَ الْمُتَوَكَّلُ بِالْكِتَابِ إِلَى أَبِي الْحَسَنِ الثَّلَاثِ (عَلَيْهِ السَّلَام) وَ سَأَلَهُ عَنْ ذَلِكَ فَلَمَّا قَرَأَ الْكِتَابَ كَتَبَ يُضْرَبُ حَتَّى يَمُوتَ فَأَنْكَرَ يَحْيَى بْنُ أَكْثَمٍ وَأَنْكَرَ فَقَهَاءُ الْعَسْكَرِ ذَلِكَ وَقَالُوا يَا أَمِيرَ الْمُؤْمِنِينَ سَلْ عَنْ هَذَا فَإِنَّهُ شَيْءٌ لَمْ يَنْطِقْ بِهِ كِتَابٌ وَ لَمْ تَجِئْ بِهِ سُنَّةٌ

So Al-Mutawakkal instructed for a letter (to be written to) Abu Al-Hassan^{asws} the 3rd and ask him^{asws} about that. So when he^{asws} read the letter, he^{asws} wrote: 'Whip him until he dies'. But, Yahya Bin Aksam disagreed, and the jurists of Al-Askar disagreed with that, and they said, 'O commander of the faithful! Ask about this, for it is a thing which the Book (Quran) does not Speak of and a Sunnah has not come with it'.

¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 46 H 1

فَكَتَبَ إِلَيْهِ أَنَّ فَقَهَاءَ الْمُسْلِمِينَ قَدْ أَنْكَرُوا هَذَا وَ قَالُوا لَمْ يَجِئْ بِهِ سُنَّةٌ وَ لَمْ يُنْطِقْ بِهِ كِتَابٌ فَبَيَّنَ لَنَا لِمَ أُوجِبَتْ عَلَيْهِ الضَّرْبُ حَتَّى يَمُوتَ فَكَتَبَ بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ [فَلَمَّا أَحْسَبُوا] فَلَمَّا رَأَوْا بَأْسَنَا قَالُوا آمَنَّا بِاللَّهِ وَ حَذَهُ وَ كَفَرْنَا بِمَا كُنَّا بِهِ مُشْرِكِينَ فَلَمْ يَكُ يَنْفَعُهُمْ إِيمَانُهُمْ لَمَّا رَأَوْا بَأْسَنَا سُنَّتَ اللَّهِ الَّتِي قَدْ خَلَتْ فِي عِبَادِهِ وَ خَسِرَ هُنَالِكَ الْكَافِرُونَ

So the jurists of the Muslims who had disagreed this wrote saying, 'A Sunnah has not come with it, and the Book (Quran) does not speak of it. Therefore, explain for us why is the whipping until death Obligated upon him?' So he^{asws} wrote: 'In the Name of Allah^{azwj} the Beneficent, the Merciful. **[40:84] But when they saw Our Punishment, they said: We believe in Allah alone and we deny what we used to associate with Him [40:85] But their belief was not going to profit them when they had seen Our Punishment; (this is) Allah's Way, which has been excluded regarding His servants, and there the unbelievers are in loss**'.

قَالَ فَأَمَرَ بِهِ الْمُتَوَكَّلُ فَضُرِبَ حَتَّى مَاتَ .

He (the narrator) said, 'So Al-Mutawakkil ordered by it, and he was whipped until he died'.²

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ حَنَانَ بْنِ سَدِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ يَهُودِيٍّ فَجَرَ بِمُسْلِمَةٍ قَالَ يُقْتَلُ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Hanan Bin Sudeyr,

(The narrator) says, 'I asked Abu Abdullah^{asws} about a Jew who had been immoral with a Muslim woman. He^{asws} said: 'He should be killed'.³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ بْنِ يُونُسَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ حَدُّ الْيَهُودِيِّ وَ النَّصْرَانِيِّ وَ الْمَمْلُوكِ فِي الْخَمْرِ وَ الْفُرْيَةِ سَوَاءٌ وَ إِنَّمَا صَوْلِحَ أَهْلُ الذِّمَّةِ عَلَى أَنْ يَشْرَبُوهَا فِي بُيُوتِهِمْ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ibn Muskan, from Abu Baseer who said,

'He^{asws} said: 'The Penalty of the Jew, and the Christian, and the owned (slaves) regarding the wine and the fabrication is the same. But rather, it is correct for the *Ahl Al-Zimma* (people under responsibility) that they can drink it in their houses'.⁴

يُونُسُ عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ الْيَهُودِيِّ وَ النَّصْرَانِيِّ يَفْذِفُ صَاحِبَهُ مَلَّةً عَلَى مَلَّةٍ وَ الْمَجُوسِيِّ يَفْذِفُ الْمُسْلِمَ قَالَ يُجْزَأُ الْحَدُّ.

Yunus, from Sama'at who said,

I asked him^{asws} about the Jew, and the Christian who slandered his companion of a same religion, and the Magian who slandered the Muslim. He^{asws} said: 'He would be whipped the Penalty (*Hadd*)'.⁵

² Al Kafi – V 7 – The Book of Legal Penalties Ch 46 H 2

³ Al Kafi – V 7 – The Book of Legal Penalties Ch 46 H 3

⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 46 H 4

⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 46 H 5

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ بْنِ صُهَيْبٍ قَالَ سَأَلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ نَصْرَانِيٍّ قَدَفَ مُسْلِمًا فَقَالَ لَهُ يَا زَانَ فَقَالَ يُجْلَدُ ثَمَانِينَ جَلْدَةً لِحَقِّ الْمُسْلِمِ وَ ثَمَانِينَ سَوَطًا إِلَّا سَوَطًا لِحُرْمَةِ الْإِسْلَامِ وَ يُحْلَقُ رَأْسُهُ وَ يُطَافُ بِهِ فِي أَهْلِ دِينِهِ لِكَيْ يُنْكَلَ غَيْرُهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abbad Bin Suheyb who said,

‘Abu Abdullah^{asws} was asked about a Christian who had slandered a Muslim, so he said to him, ‘O adulterer!’ So he^{asws} said: ‘He would be whipped eighty lashes due to a right of the Muslim, and eighty lashes except for one due to the sanctity of Al-Islam, and his head would be shaved off, and he would be paraded with among the people of his religion as a lesson for others’.⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْوَشَاءِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) أَنْ يُجْلَدَ الْيَهُودِيُّ وَ النَّصْرَانِيُّ فِي الْخَمْرِ وَ النَّبِيذِ الْمُسْكِرِ ثَمَانِينَ جَلْدَةً إِذَا أَظْهَرُوا شَرْبَهُ فِي مِصْرٍ مِنْ أَمْصَارِ الْمُسْلِمِينَ وَ كَذَلِكَ الْمَجُوسِيُّ وَ لَمْ يَعْزِضْ لَهُمْ إِذَا شَرِبُوهَا فِي مَنْزِلِهِمْ وَ كُنَائِسِهِمْ حَتَّى يَصِيرُوا بَيْنَ الْمُسْلِمِينَ .

Ali Bin Ibrahim, from his father, from Al Washa, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: ‘Amir Al-Momineen^{asws} judged that the Jew, and the Christian would be whipped regarding the wine and *Al-Nabeez* the intoxicant (drink), eighty lashes, when they display drinking it in a city from the cities of the Muslims. And similar to that is the Magian; and they would not be treated harshly when they drink it in their houses and their churches, until they come to be in between the Muslims’.⁷

بَابُ كَرَاهِيَةِ قَدْفِ مَنْ لَيْسَ عَلَى الْإِسْلَامِ

Chapter 47 – Abhorrence of slandering one who is not upon Al-Islam

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ نَهَى عَنْ قَدْفِ مَنْ لَيْسَ عَلَى الْإِسْلَامِ إِلَّا أَنْ يَطَّلَعَ عَلَى ذَلِكَ مِنْهُمْ وَ قَالَ أَيْسَرُ مَا يَكُونُ أَنْ يَكُونَ قَدْ كَذَبَ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} that he^{asws} forbid from slandering one who is not upon Al-Islam except that he emerges upon that, from them’. And he^{asws} said: ‘The easiest of what could happen is that he would happen to have lied’.⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ نَهَى عَنْ قَدْفِ مَنْ كَانَ عَلَى غَيْرِ الْإِسْلَامِ إِلَّا أَنْ يَكُونَ قَدْ أَطَّلَعَتْ عَلَى ذَلِكَ مِنْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 46 H 6

⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 46 H 7

⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 47 H 1

(It has been narrated) from Abu Abdullah^{asws} that he^{asws} forbid from slandering one who was upon other than Al-Islam, except that he happened to have been notified upon that, from him'.⁹

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي الْحَسَنِ الْحَدَّاءِ قَالَ كُنْتُ عِنْدَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَسَأَلَنِي رَجُلٌ مَا فَعَلَ غَرِيمَكَ فُلْتُ ذَلِكَ ابْنُ الْفَاعِلَةِ فَنَظَرَ إِلَيَّ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) نَظْرًا شَدِيدًا قَالَ فَقُلْتُ جُعِلَتْ فِدَاكَ إِنَّهُ مَجُوسِيٌّ أُمُّهُ أُخْتُهُ فَقَالَ أَوْ لَيْسَ ذَلِكَ فِي دِينِهِمْ نِكَاحًا .

Ali, from his father, from Ibn Abu Umeyr, from Abu Al Hassan Al Haza'a who said,

'I was in the presence of Abu Abdullah^{asws}, so a man said to me, 'What did your creditor do?' I said, 'That one is a son of a 'sexually active (immoral) woman'. So Abu Abdullah^{asws} looked at me with a harsh look. So I said, 'May I be sacrificed for you^{asws}! He is a Magian. His mother is his sister'. So he^{asws} said: 'Or is that not (considered a valid) marriage in their religion?'¹⁰

بَاب مَا يَجِبُ فِيهِ التَّعْزِيرُ فِي جَمِيعِ الْحُدُودِ

Chapter 48 – Regarding what the discretion is Obligated in the entirety of the Penalties

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجُبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ التَّعْزِيرِ كَمْ هُوَ قَالَ بِضْعَةَ عَشَرَ سَوَاطِمًا مَا بَيْنَ الْعَشْرَةِ إِلَى الْعِشْرِينَ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Is'haq Bin Ammar who said,

'I asked Abu Abdullah^{asws} about the reprimanding, how much is it?' He^{asws} said: 'A part of (about) ten lashes, what is between the ten to the twenty'.¹¹

عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلَيْنِ افْتَرَى كُلُّ وَاحِدٍ مِنْهُمَا عَلَى صَاحِبِهِ فَقَالَ يُدْرَأُ عَنْهُمَا الْحَدُّ وَ يُعْرَزَانِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunush, from Abdullah Bin Sinan who said,

'I asked Abu Abdullah^{asws} about two men, each one of the two fabricated upon his companion. So he^{asws} said: 'The Penalty (*Hadd*) would be staved off from them, and they would both be reprimanded'.¹²

عَنْهُ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ سَبَّ رَجُلًا بِغَيْرِ قَذْفٍ يُعْرَضُ بِهِ هَلْ يُجْلَدُ قَالَ عَلَيْهِ تَعْزِيرٌ .

From him, from Abdul Rahman Bin Abu Abdullah who, said,

'I asked Abu Abdullah^{asws} about a man who insulted a man without slander, would he be treated harshly? Would he be whipped?' He^{asws} said: 'Upon him is a reprimand'.¹³

⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 47 H 2

¹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 47 H 3

¹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 1

¹² Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 2

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ أَبِي بَنِي عُثْمَانَ عَنْ إِسْمَاعِيلِ بْنِ الْفَضْلِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْإِفْتِرَاءِ عَلَى أَهْلِ الدِّمَةِ وَ أَهْلِ الْكِتَابِ هَلْ يُجْلَدُ الْمُسْلِمُ الْحَدَّ فِي الْإِفْتِرَاءِ عَلَيْهِمْ قَالَ لَا وَ لَكِنْ يُعَزَّرُ .

Humejd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ja'far Bin Sama'at, from Aban Bin Usman, from Ismail Bin Al Fazl who said,

'I asked Abu Abdullah^{asws} about the fabrication upon the *Ahl Al-Zimma* (under the responsibility), and the people of the Book (Jews and Christians), would the Muslim be whipped the Penalty (*Hadd*) with regards to the fabrication against them?' He^{asws} said: 'No, but he would be reprimanded'.¹⁴

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَّادِ بْنِ عُثْمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) كَمْ النَّعْزِيرُ فَقَالَ دُونَ الْحَدِّ قَالَ قُلْتُ دُونَ ثَمَانِينَ قَالَ فَقَالَ لَا وَ لَكِنْ دُونَ الْأَرْبَعِينَ فَإِنَّهُ حَدُّ الْمَمْلُوكِ قَالَ قُلْتُ وَ كَمْ ذَلِكَ قَالَ قَالَ عَلَى قَدْرِ مَا يَرَى الْوَالِي مِنْ ذَنْبِ الرَّجُلِ وَ قُوَّةِ بَدَنِهِ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al hassan Bin Ali, from Hammad Bin Usman who said,

'I said to Abu Abdullah^{asws}, 'How much is the reprimand?' So he^{asws} said: 'Less than the Penalty (*Hadd*)'. I said, 'Less than eighty (lashes)?' So he^{asws} said: 'No, but it is less than the forty (lashes), for it is a Penalty (*Hadd*) of the owned (slaves)'. I said, 'And how much is that?' He^{asws} said: 'Upon the measurement of what the guardian sees fit from a sin of the man, and strength of his body'.¹⁵

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُوَيْدٍ عَنِ الْقَاسِمِ بْنِ سَلِيمَانَ عَنْ جَرَّاحِ الْمَدَائِنِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا قَالَ الرَّجُلُ لِلرَّجُلِ أَنْتَ حَبِيبٌ وَ أَنْتَ خِنْزِيرٌ فَلَيْسَ فِيهِ حَدٌّ وَ لَكِنْ فِيهِ مَوْعِظَةٌ وَ بَعْضُ الْعُقُوبَةِ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Al Qasim Bin Suleyman, from Jarrah Al Madainy,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man says to the man, 'You are filthy', and 'You are a pig', so there is no Penalty (*Hadd*) with regards to it, but in it is advising, and part of the punishment'.¹⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ شُهُودِ الزُّوْرِ قَالَ فَقَالَ يُجْلَدُونَ حَدًّا لَيْسَ لَهُ وَقْتُ وَ ذَلِكَ إِلَى الْإِمَامِ وَ يُطَافُ بِهِمْ حَتَّى يَعْرِفَهُمُ النَّاسُ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zurara, from Sama'at who said,

'I asked him^{asws} about false testifiers'. So he^{asws} said: 'They would be whipped the Penalty (*Hadd*). There is not (fixed) time for it, and that is upon the Imam^{asws}, and they would be paraded with until the the people recognise them'.

وَ أَمَّا قَوْلُ اللَّهِ عَزَّ وَ جَلَّ وَ لَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا... إِلَّا الَّذِينَ تَابُوا قَالَ قُلْتُ كَيْفَ تُعْرَفُ تَوْبَتُهُ قَالَ يُكْذِبُ نَفْسَهُ عَلَى رُءُوسِ النَّاسِ حَتَّى يُضْرَبَ وَ يَسْتَعْفِرَ رَبَّهُ وَ إِذَا فَعَلَ ذَلِكَ فَقَدْ ظَهَرَتْ تَوْبَتُهُ .

¹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 3

¹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 4

¹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 5

¹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 6

And as for the Words of Allah^{azwj} Mighty and Majestic [24:4] and do not accept any testimony from them ever [24:5] Except those who repent, I said, 'How is their repentance recognised?' He^{asws} said: 'He would belie himself (confess) to the chiefs of the people until he is whipped, and he would seek Forgiveness of his Lord^{azwj}. And when he does that, so his repentance would have been manifested'.¹⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ تَزَوَّجَ ذِمِّيَّةً عَلَى مُسْلِمَةٍ وَ لَمْ يَسْتَأْمَرْهَا قَالَ وَ يُفَرِّقُ بَيْنَهُمَا قَالَ فَقُلْتُ فَعَلَيْهِ أَدَبٌ قَالَ نَعَمْ إِنَّا عَشَرَ سَوَاطٍ وَ نِصْفُ ثَمْنِ حَدِّ الزَّانِي وَ هُوَ صَاغِرٌ قُلْتُ فَإِنْ رَضِيَتْ الْمَرْأَةُ الْحُرَّةَ الْمُسْلِمَةَ بِفِعْلِهِ بَعْدَ مَا كَانَ فَعَلٌ قَالَ لَا يُضْرَبُ وَ لَا يُفَرَّقُ بَيْنَهُمَا بِنِّقْيَانٍ عَلَى النِّكَاحِ الْأَوَّلِ .

Ali Bin Ibrahim, from his father, from Salih Bin Saeed, from one of his companions, from Mansour Bin Hazam,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who married a *Zimmi* woman (woman under the responsibility of the Islamic government) over a Muslim woman, (as a second wife) and did not have her instructions (permission). He^{asws} said: 'And there would be separation between the two of them'. So I said, 'So is there disciplining upon him?' He^{asws} said: 'Yes, twelve lashes, and half of eighty being a Penalty (*Hadd*) of the adulterer, and he would be belittled'. I said, 'So if the free Muslim woman were to be happy with his deed after what he had done?' He^{asws} said: 'He would not be whipped, nor would there be separation between the two. They would both remain upon the first marriage'.¹⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ يَعْقُوبَ بْنِ يَزِيدَ عَنْ يَحْيَى بْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ أَبِي جَمِيلَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ وَ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ قَالَ قُلْتُ أَكَلُ الرِّبَا بَعْدَ الْبَيِّنَةِ قَالَ يُؤَدَّبُ فَإِنْ عَادَ أُدْبُ فَإِنْ عَادَ قُتِلَ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Yaqoub Bin Yazeed, from Yahya Bin Al Mubarak, from Abdullah Bin Jabala, from Abu Jameela, from Is'haq Bin Ammar and Sama'at, from Abu Baseer who said,

'I said, 'The consumer of the interest after the evidence (is clarified to him)?' He^{asws} said: 'He would be disciplined. So if he repeats, he would be disciplined. So if he repeats, he would be killed'.¹⁹

وَ بِهَذَا الْإِسْنَادِ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ أَكَلُ الْمَيْتَةِ وَ الدَّمِ وَ لَحْمِ الْخَنزِيرِ عَلَيْهِ أَدَبٌ فَإِنْ عَادَ أُدْبُ فَإِنْ عَادَ أُدْبُ وَ لَيْسَ عَلَيْهِ حَدٌّ .

And by this chain, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The consumer of the dead (animals, fish etc.), and the blood, and the flesh of the swine, upon him is the disciplining. So if he repeats, he is disciplined. So if he repeats, he is disciplined, and there is no Penalty (*Hadd*) upon him'.²⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ صَالِحِ بْنِ السُّنْدِيِّ عَنْ جَعْفَرِ بْنِ بَشِيرٍ عَنِ الْحُسَيْنِ بْنِ أَبِي الْعَلَاءِ عَنْ أَبِي مَخْلَدٍ السَّرَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ دَعَا آخَرَ ابْنَ الْمُجَنُونِ فَقَالَ لَهُ الْآخَرُ أَنْتَ ابْنُ

¹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 7

¹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 8

¹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 9

²⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 10

الْمَجْنُونِ فَأَمَرَ الْأَوَّلَ أَنْ يَجِدَ صَاحِبَهُ عِشْرِينَ جَلْدَةً وَ قَالَ لَهُ اعْلَمْ أَنَّهُ مُسْتَحَقٌّ مِثْلَهَا عِشْرِينَ فَلَمَّا جَلَدَهُ أَعْطَى الْمَجْلُودَ السُّوطَ فَجَلَدَهُ نَكَالًا يُنْكَلُ بِهِمَا .

Ali Bin Ibrahim, from Salih Bin Al Sindy, from Ja'far Bin Basheer, from Al Husayn Bin Abu Al A'la, from Abu Makhlad Al Sarraj,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who called another, 'Son of the insane'. So the other one said to him, 'You are a son of the insane'. So he^{asws} ordered that the first one (who was slandered) to whip his companion with twenty lashes, and said to him, 'Know that he is also deserving the like of it, twenty'. So when he had whipped him, he^{asws} gave the whip to the whipped one, so he whipped him, being a lesson to be learnt by both of them'.²¹

عَلِيُّ بْنُ مُحَمَّدِ بْنِ بُنْدَارٍ عَنْ إِبْرَاهِيمَ بْنِ إِسْحَاقَ الْأَحْمَرِ عَنْ عَبْدِ اللَّهِ بْنِ حَمَّادِ الْأَنْصَارِيِّ عَنْ مُفَضَّلِ بْنِ عُمَرَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَتَى امْرَأَتَهُ وَ هِيَ صَائِمَةٌ وَ هُوَ صَائِمٌ قَالَ إِنْ كَانَ قَدْ اسْتَكْرَهَهَا فَعَلَيْهِ كَفَّارَتَانِ وَ إِنْ لَمْ يَسْتَكْرَهَهَا فَعَلَيْهِ كَفَّارَةٌ وَ إِنْ كَانَ أَكْرَهَهَا فَعَلَيْهِ ضَرْبُ خَمْسِينَ سَوْطًا نِصْفَ الْحَدِّ وَ إِنْ كَانَتْ طَاوَعَتْهُ ضَرْبَ خَمْسَةٍ وَ عِشْرِينَ سَوْطًا وَ ضَرْبَتِ خَمْسَةٍ وَ عِشْرِينَ سَوْطًا .

Ali Bin Muhammad Bin Bandaar, from Ibrahim Bin Is'haq Al Ahmar, from Abdullah Bin Hammad Al Ansary, from Mufazzal Bin Umar,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who came to his wife and she was Fasting, and he was Fasting'. He^{asws} said: 'If she was forced, so upon him would be two expiations, and if she was not forced, so upon him is an expiation and upon her is an expiation, and if she had abhorred it, so upon him would be a whipping of fifty lashes, half the Penalty (*Hadd*), and if she had obeyed him, he would be whipped twenty five lashes, and she would be whipped fifty lashes'.²²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ إِسْمَاعِيلَ بْنِ الْفَضْلِ الْهَاشِمِيِّ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ أَتَى أَهْلَهُ وَ هِيَ حَائِضٌ قَالَ يَسْتَعْفِرُ اللَّهُ وَ لَا يُعَوِّدُ قُلْتُ فَعَلَيْهِ أَدَبٌ قَالَ نَعَمْ خَمْسَةٌ وَ عِشْرِينَ سَوْطًا رُبْعَ حَدِّ الزَّانِي وَ هُوَ صَاغِرٌ لِأَنَّهُ أَتَى سِفَاحًا .

Ali Bin Ibrahim, from his father, from Salih Bin Saeed, from Ismail Bin Al Fazl Al Hasimy who said,

'I asked Abu Al-Hassan^{asws} about a man who came to his wife and she was in menstruation. He^{asws} said: 'He should seek Forgiveness of Allah^{azwj}, and should not repeat it'. I said, 'So upon him would be the disciplining?' He^{asws} said: 'Yes, twenty five lashes, being a quarter of the Penalty (*Hadd*) of the adulterer, and he would be belittled, because he came unlawfully'.²³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادِ الْحَنَاطِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ أَتَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) بِرَجُلَيْنِ قَدْ قَذَفَ كُلُّ وَاحِدٍ مِنْهُمَا صَاحِبَهُ بِالزَّانِي فِي بَدَنِهِ فَدَرَأَ عَنْهُمَا الْحَدَّ وَ عَزَّرَهُمَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abu Wallad Al hannat who said,

²¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 11

²² Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 12

²³ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 13

'I heard Abu Abdullah^{asws} saying, 'They came to Amir Al-Momineen^{asws} with two men, each one of them had slandered his companion with the adultery in his body. So he^{asws} staved off the Penalty (*Hadd*) from both of them, and reprimanded them both'.²⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ الْمَنْقَرِيِّ عَنِ النُّعْمَانِ بْنِ عَبْدِ السَّلَامِ عَنْ أَبِي حَنِيْفَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ قَالَ لِأَخْرَ يَا فَاسِقُ قَالَ لَا حَدَّ عَلَيْهِ وَ يُعَزَّرُ .

Ali Bin Ibrahim, from his father, from Al Qasim Bin Muhammad Al Miqary, from Al Noman Bin Abdul Salam, from Abu Haneefa who said,

'I asked Abu Abdullah^{asws} about a man who said to another, 'O wicked!' He^{asws} said: 'There is no Penalty (*Hadd*) upon him, and he would be reprimanded'.²⁵

مُحَمَّدُ بْنُ بَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنِ سَمَاعَةَ قَالَ سَمِعْتُ الزُّورَ يُجَادُونَ حَدًّا لَيْسَ لَهُ وَقْتُ ذَلِكَ إِلَى الْإِمَامِ وَ يُطَافُ بِهِمْ حَتَّى يُعْرَفُوا فَلَا يُعَوَّدُوا قُلْتُ لَهُ فَإِنْ تَابُوا وَ أَصْلَحُوا تُقْبَلُ شَهَادَتُهُمْ بَعْدُ قَالَ إِذَا تَابُوا تَابَ اللَّهُ عَلَيْهِمْ وَ قُبِلَتْ شَهَادَتُهُمْ بَعْدُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Sama'at who said,

'The false testifiers would be whipped a Penalty (*Hadd*), there being no timing for it, that is up to the Imam^{asws}, and they would be paraded with until they are recognised as such, so they would not repeat'. I said to him^{asws}, 'So if they repent and be correct, would their testimonies be accepted afterwards?' He^{asws} said: 'When they repent, Allah^{azwj} would Turn to them (with Mercy), and their testimonies would be accepted afterwards'.²⁶

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنِ أَبِيَانَ عَنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي رَجُلٍ سَبَّ رَجُلًا بَعِيرٍ فَذَفَّ عَرَضَ بِهِ هَلْ عَلَيْهِ حَدٌّ قَالَ عَلَيْهِ تَعَزُّرٌ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Aban, from Abdul Rahman Bin Abu Abdullah,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who insulted a man without slander, would he be treated harshly? Is there a Penalty (*Hadd*) upon him?' He^{asws} said: 'Upon him is the reprimanding'.²⁷

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمَيْثَمِيِّ عَنِ أَبِيَانَ بْنِ عَثْمَانَ عَنْ إِسْمَاعِيلَ بْنِ الْفَضْلِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الْإِفْتِرَاءِ عَلَى أَهْلِ الذَّمَّةِ هَلْ يُجْلَدُ الْمُسْلِمُ الْحَدَّ فِي الْإِفْتِرَاءِ عَلَيْهِمْ قَالَ لَا وَ لَكِنْ يُعَزَّرُ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ahmad Bin Al Hassan Al Maysami, from Aban Bin Usman, from Ismail Bin Al Fazal who said,

²⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 14

²⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 15

²⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 16

²⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 17

'I asked Abu Abdullah^{asws} about the fabricating upon the *Ahl al-Zimma*, would the Muslim be whipped the Penalty (*Hadd*) with regards to the fabrication against them?' He^{asws} said: 'No, but he would be reprimanded'.²⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي الْهَجَاءِ التَّعْزِيرَ .

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from Yunus Bin Yaquob, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the defamation, (to be) the reprimanding'.²⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ جَعْفَرٍ عَنْ أَبِي حَبِيبٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ يَأْتِي الْمَرْأَةَ وَهِيَ حَائِضٌ قَالَ يَجِبُ عَلَيْهِ فِي اسْتِيفَالِ الْحَيْضِ دِينَارٌ وَفِي اسْتِدْبَارِهِ نِصْفُ دِينَارٍ قَالَ قُلْتُ جُعِلَتْ فِدَاكَ يَجِبُ عَلَيْهِ شَيْءٌ مِنَ الْحَدِّ قَالَ نَعَمْ خَمْسَةٌ وَعِشْرِينَ سَوْتًا رُبْعَ حَدِّ الزَّانِي لِأَنَّهُ أَتَى سِفَاحًا .

Ali Bin Ibrahim, from his father, from Muhammad Bin Ja'far, from Abu Habeeb, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about the man who came to the woman and she was Fasting. He^{asws} said: 'It would be Obligated upon him, during the beginning of the menstruation, one Dinar, and during its ending, half a Dinar'. I said, 'May I be sacrificed for you^{asws}! Is something from the Penalty (*Hadd*) Obligated upon him?' He^{asws} said: 'Yes, twenty five lashes, being a quarter of the Penalty (*Hadd*) of the adulterer, because he came unlawfully'.³⁰

بَابُ الرَّجُلِ يَجِبُ عَلَيْهِ الْحَدُّ وَهُوَ مَرِيضٌ أَوْ بِهِ قُرُوحٌ

Chapter 49 – The man upon whom the Penalty (*Hadd*) is Obligated, and he is ill or with injuries

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيْسَى عَنْ ابْنِ مَحْبُوبٍ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ حَنَانَ بْنِ سَدِيرٍ عَنْ يَحْيَى بْنِ عَبَّادِ الْمَكِّيِّ قَالَ قَالَ لِي سُفْيَانُ الثَّوْرِيُّ إِنِّي أَرَى لَكَ مِنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) مَنَزَلَةً فَسَلُّهُ عَنْ رَجُلٍ زَنَى وَهُوَ مَرِيضٌ إِنْ أَقِيمَ عَلَيْهِ الْحَدُّ مَاتَ مَا نَقُولُ فِيهِ فَسَأَلْتُهُ فَقَالَ هَذِهِ الْمَسْأَلَةُ مِنْ تَلْقَاءِ نَفْسِكَ أَوْ قَالَ لَكَ إِنْسَانٌ أَنْ تَسْأَلَنِي عَنْهَا فَقُلْتُ سُفْيَانُ الثَّوْرِيُّ سَأَلَنِي أَنْ أَسْأَلَكَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub and Muhammad Bin Ismail Bin Bazie, from Hanan Bin Sudeyr, from Yahya Bin Abbad Al Makky who said,

'Sufyan said to me, 'I see for you having a status from Abu Abdullah^{asws}, so ask him^{asws} about a man who commits adultery and he is sick. If the Penalty (*Hadd*) were to be established upon him, he would die. What are you^{asws} saying with regards to it?' So I asked him^{asws}, so he^{asws} said: 'Is this from yourself or a person told you to ask me^{asws} about it?' So I said, 'Sufyan Al-Sowry asked me that I should ask you^{asws}'.

²⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 18

²⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 19

³⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 48 H 20

فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَتَى بِرَجُلٍ احْتَبَنَ مُسْتَسْقَى الْبَطْنِ قَدْ بَدَتْ عُرُوقُ قَدْحِيهِ وَ قَدْ زَنَى بِامْرَأَةٍ مَرِيضَةٍ فَأَمَرَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بِعِدْقٍ فِيهِ مِائَةٌ شِمْرًاخَ فَضْرَبَ بِهِ الرَّجُلَ ضَرْبَةً وَ ضْرَبَتْ بِهِ الْمَرْأَةَ ضَرْبَةً ثُمَّ خَلَى سَبِيلَهُمَا ثُمَّ قَرَأَ هَذِهِ الْآيَةَ وَ خَذَ بِيَدِكَ ضِعْغًا فَضْرَبَ بِهِ وَ لَا تَحْنُثْ .

So Abu Abdullah^{asws} said: 'They came with a man to Rasool-Allah^{saww} who suffered from illness of the belly and the veins of his thighs were visible, and he had committed adultery with a sick woman. So Rasool-Allah^{saww} ordered a palm branch which had a hundred stalks to it, so the man was whipped with it by one lash, and the woman was whipped with it with one lash, then he^{saww} freed both their ways. Then he^{saww} recited this Verse [38:44] **And take in your hand a green branch and beat with it and do not break your oath**'.³¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ يَحْيَى بْنِ أَبِي عَمْرَانَ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَحَدَهُمَا (عَلَيْهِمَا السَّلَام) عَنْ حَدِّ الْأَخْرَسِ وَالْأَصْمِّ وَالْأَعْمَى فَقَالَ عَلَيْهِمُ الْحُدُودُ إِذَا كَانُوا يَعْقِلُونَ مَا يَأْتُونَ .

Ali Bin Ibrahim, from his father, from Yahya Bin Abu Imran, from Yunus, from Is'haq Bin Ammar who said,

'I asked one of the two (5th or 6th Imam^{asws}) about a Penalty (*Hadd*) of the speechless, the deaf and the blind, so he^{asws} said: 'Upon them are the Penalties, when they they have the intellect of what they are coming to'.³²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي هَمَّامٍ عَنْ مُحَمَّدِ بْنِ سَعِيدٍ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَنِّي أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِرَجُلٍ أَصَابَ حَدًّا وَ بِهِ قُرُوحٌ فِي جَسَدِهِ كَثِيرَةٌ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَخْرُوه حَتَّى يَبْرَأَ لَا تَنْكُوهَا عَلَيْهِ فَتَقْتُلُوهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Abu Hammam, from Muhammad Bin Saeed, from Al Sakuny,

Abu Abdullah^{asws} has said: 'They came to Amir Al-Momineen^{asws} with a man who had numerous sores in his body. So Amir Al-Momineen^{asws} said: 'Delay it until he is cured. Do not peel these off (by beating him) for you would kill him'.³³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَتَى رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بِرَجُلٍ دَمِيمٍ قَصِيرٍ قَدْ سَقَى بَطْنَهُ وَ قَدْ دَرَّتْ عُرُوقُ بَطْنِهِ قَدْ فَجَرَ بِامْرَأَةٍ فَقَالَتْ الْمَرْأَةُ مَا عَلِمْتُ بِهِ إِلَّا وَ قَدْ دَخَلَ عَلَيَّ فَقَالَ لَهُ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَرَنْبِتِ فَقَالَ نَعَمْ وَ لَمْ يَكُنْ أَحْصِينَ فَصَعَدَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بَصْرَهُ وَ حَفَّضَهُ ثُمَّ دَعَا بِعِدْقٍ فَعَدَّهُ مِائَةً ثُمَّ ضْرَبَهُ بِشِمَارِيخِهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Aban Bin Usman, from Abu Al Abbas,

Abu Abdullah^{asws} has said: 'They came to Rasool-Allah^{saww} with a short, ugly man who had illness in his belly, and the veins of his belly had turned around. He had been immoral with a woman, so she said, 'I did not know of him except that he entered into me'. So Rasool-Allah^{saww} said to him: 'Did you commit adultery?' So he said, 'Yes', and he was not married. So Rasool-Allah^{saww} raised his^{saww} gaze and

³¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 49 H 1

³² Al Kafi – V 7 – The Book of Legal Penalties Ch 49 H 2

³³ Al Kafi – V 7 – The Book of Legal Penalties Ch 49 H 3

lowered it. Then he^{saww} called for a palm branch, counted a hundred, then whipped him with its stalk'.³⁴

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مِسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَتَى بِرَجُلٍ أَصَابَ حَدًّا وَ بِهِ فُرُوحٌ وَ مَرَضٌ وَ أَشْبَاهُ ذَلِكَ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَخْرُوه حَتَّى يَبْرَأَ لَا تَنْكَأ فُرُوحَهُ عَلَيْهِ فَيَمُوتَ وَ لَكِنْ إِذَا بَرَأَ حَدَّنَاهُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Assam, from Misma'a Bin Abdul Malik,

(It has been narrated) from Abu Abdullah^{asws} that they came to Amir Al-Momineen^{asws} with a man who was due a Penalty (*Hadd*), and with him were blisters and an illness, and such like that. So Amir Al-Momineen^{asws} said: 'Delay it until he is cured. Do not peel off his blisters (by beating him), for he would die, but when he is cured, we^{asws} shall Penalty (*Hadd*) him'.³⁵

بَابُ حَدِّ الْمُحَارِبِ

Chapter 50 – Penalty (*Hadd*) of the combatant

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِهِ جَمِيعاً عَنْ أَبِي بَانَ بْنِ عُثْمَانَ عَنْ أَبِي صَالِحٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَدِمَ عَلَى رَسُولِ اللَّهِ قَوْمٌ مِنْ بَنِي ضَبَّةٍ مَرْضَى فَقَالَ لَهُمْ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَقِيمُوا عِنْدِي فَإِذَا بَرَأْتُمْ بَعَثْنَاكُمْ فِي سَرِيَةٍ فَقَالُوا أَخْرَجْنَا مِنَ الْمَدِينَةِ فَبَعَثَ بِهِمْ إِلَى إِبِلِ الصَّدَقَةِ يَشْرَبُونَ مِنْ أَبْوَالِهَا وَ يَأْكُلُونَ مِنْ أَلْبَانِهَا فَلَمَّا بَرُّوا وَ اسْتَدُّوا قَتَلُوا ثَلَاثَةً مِمَّنْ كَانُوا فِي الْإِبِلِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam and Humejd Bin Ziyad, from Ibn Sama'at, from someone else from his companions, altogether from Aban Bin Usman, from Abu Salih,

Abu Abdullah^{asws} has said: 'A group of sick people from the Clan of Zabbat came to Rasool-Allah^{saww}. So Rasool-Allah^{saww} said to them: 'Stay with me^{saww}, so whenever you are cured, I^{saww} will send you with an escort, secretly. So they said, 'Get us out from Al-Medina'. So he^{saww} sent them to the charity camels. They were drinking from their urine and eating from their milk. So when they were cured and became strong, they killed three people who were tending the camels.

فَبَلَغَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَبَعَثَ إِلَيْهِمْ عَلِيًّا (عَلَيْهِ السَّلَام) فَهُمْ فِي وَادٍ قَدْ تَحَيَّرُوا لَيْسَ يَفْقَهُونَ أَنْ يَخْرُجُوا مِنْهُ قَرِيباً مِنْ أَرْضِ الْيَمَنِ فَاسْرَهُمْ وَ جَاءَ بِهِمْ إِلَى رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَنَزَلَتْ هَذِهِ الْآيَةُ عَلَيْهِ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَ رَسُولَهُ وَ يَسْعَوْنَ فِي الْأَرْضِ فَسَاداً أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَ أَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ فَاخْتَارَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) الْقَطْعَ فَقَطَّعَ أَيْدِيَهُمْ وَ أَرْجُلَهُمْ مِنْ خِلَافٍ .

So (the news) reached Rasool-Allah^{saww}, so he^{saww} sent Ali^{asws} to them, and they were in a valley and were confused (of their way) and did not have the ability to come out from it, near to the land of Al-Yemen. So he^{asws} captured them and came with them to Rasool-Allah^{saww}. So this Verse was Revealed unto him^{saww} [5:33] **But rather, the Recompense of those who wage war against Allah and His Rasool and strive to make mischief in the land is only this, that they should be killed or crucified or their hands and their feet should be cut off on opposite sides or**

³⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 49 H 4

³⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 49 H 5

they should be exiled from the land. So Rasool-Allah^{saww} chose the cutting, so he^{saww} cut their hands, and their feet from opposite sides'.³⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ أَبِي عَلِيٍّ الْأَشْعَرِيِّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ جَمِيعاً عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ طَلْحَةَ النَّهْدِيِّ عَنْ سُرَّةَ بْنِ كُنَيْبٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) رَجُلٌ يَخْرُجُ مِنْ مَنْزِلِهِ يُرِيدُ الْمَسْجِدَ أَوْ يُرِيدُ الْحَاجَةَ فَيَلْقَاهُ رَجُلٌ أَوْ يَسْتَفِيهِ فَيَضْرِبُهُ وَيَأْخُذُ تَوْبَهُ قَالَ أَيُّ شَيْءٍ يَقُولُ فِيهِ مَنْ قَبْلَكُمْ قُلْتُ يَقُولُونَ هَذِهِ دَعَارَةٌ مُعَلَّنَةٌ وَإِنَّمَا الْمُحَارَبُ فِي فُرَى مُشْرِكِيَّةٍ فَقَالَ أَيُّهُمَا أَعْظَمُ حُرْمَةً دَارُ الْإِسْلَامِ أَوْ دَارُ الشِّرْكِ قَالَ قُلْتُ دَارُ الْإِسْلَامِ فَقَالَ هَؤُلَاءِ مِنْ أَهْلِ هَذِهِ الْآيَةِ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَ رَسُولَهُ إِلَى آخِرِ الْآيَةِ .

Ali Bin Ibrahim, from his father and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, altogether from Safwan Bin Yahya, from Talha Al Nahdy, from Sowrat Bin Kuleyb who said,

'I said to Abu Abdullah^{asws}, 'A man comes out from his house intending (to go to) the Masjid, or he intends the need, so he meets a man or he is followed by him, and he beats him up and takes his clothes'. He^{asws} said: 'Which thing are they saying with regards to it, the ones who are around you?' I said, 'They are saying, 'This is an open violation, but rather the warrior is in the town of the Polytheists'. So he^{asws} said: 'Which one is greater in sanctity, the house of Al-Islam or the house of the Polytheism?' I said, 'The house of Al-Islam'. He^{asws} said: 'These are the ones who are rightful of this Verse **[5:33] But rather, the Recompense of those who wage war against Allah and His Rasool** – up to the end of the Verse'.³⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَ رَسُولَهُ وَ يَسْعَوْنَ فِي الْأَرْضِ فَسَاداً أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ إِلَى آخِرِ الْآيَةِ فَقُلْتُ أَيُّ شَيْءٍ عَلَيْهِمْ مِنْ هَذِهِ الْخُدُودِ الَّتِي سَمَّى اللَّهُ عَزَّ وَ جَلَّ قَالَ ذَلِكَ إِلَى الْإِمَامِ إِنْ شَاءَ قَطَعَ وَ إِنْ شَاءَ صَلَبَ وَ إِنْ شَاءَ نَفَى وَ إِنْ شَاءَ قَتَلَ قُلْتُ النَّفَى إِلَى أَيْنَ قَالَ يُنْفَى مِنْ مِصْرَ إِلَى مِصْرٍ آخَرَ وَ قَالَ إِنَّ عَلِيًّا (عَلَيْهِ السَّلَام) نَفَى رَجُلَيْنِ مِنَ الْكُوفَةِ إِلَى الْبَصْرَةِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel Bin Darraj who said,

'I asked Abu Abdullah^{asws} about the Words of Allah^{azwj} Mighty and Majestic **[5:33] But rather, the Recompense of those who wage war against Allah and His Rasool and strive to make mischief in the land is only this, that they should be killed or crucified or their hands and their feet should be cut off** – up to the end of the Verse'. So I said, 'Which thing is upon them from these Penalties which Allah^{azwj} Mighty and Majestic has Mentioned?' He^{asws} said: 'That is upon the Imam^{asws}, if he^{asws} so desires to, he^{asws} cuts, and if he^{asws} so desires to he^{asws} crucifies, and if he^{asws} so desires to he^{asws} exiles, and if he^{asws} so desires to he^{asws} kills'. I said, 'The exiling is to where?' He^{asws} said: 'He would be exiled from a city to another city'. And he^{asws} said: 'Ali^{asws} exiled two men from Al-Kufa to Al-Basra'.³⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَ رَسُولَهُ إِلَى آخِرِ الْآيَةِ قَالَ لَا يُبَاعِعُ وَ لَا يُؤْوَى وَ لَا يُتَصَدَّقُ عَلَيْهِ .

Ali Bin Ibrahim, from his father, from Hanan,

³⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 1

³⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 2

³⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 3

(It has been narrated) from Abu Abdullah^{asws} regarding the Words of Allah^{azwj} Mighty and Majestic **[5:33] But rather, the Recompense of those who wage war against Allah and His Rasool** – up to the end of the Verse. He^{asws} said: ‘Neither pledge your allegiance to him, nor shelter him, nor give charity to him’.³⁹

عَنْهُ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ يَحْيَى الْحَلْبِيِّ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ قَالَ سَأَلَ رَجُلٌ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ قَالَ ذَلِكَ إِلَى الْإِمَامِ يَفْعَلُ بِهِ مَا يَشَاءُ قُلْتُ فَمَقْوُضٌ ذَلِكَ إِلَيْهِ قَالَ لَا وَ لَكِنْ نَحْوُ الْجَنَابَةِ .

From him, from Muhammad Bin Isa, from Yunus, from Yahya Al Halby, from Bureyd Bin Muawiya who said,

‘A man asked Abu Abdullah^{asws} about the Words of Allah^{azwj} Mighty and Majestic **[5:33] But rather, the Recompense of those who wage war against Allah and His Rasool**. He^{asws} said: ‘That is up to the Imam^{asws}. He^{asws} can do with him whatever he^{asws} so desires to’. I said, ‘ So it has been delegated to him^{asws}?’ He^{asws} said: ‘No, but, it is roughly (like dealing with) the crime’.⁴⁰

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ ضُرَيْسِ الْكُنَاسِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ مَنْ حَمَلَ السَّلَاحَ بِاللَّيْلِ فَهُوَ مُحَارِبٌ إِلَّا أَنْ يَكُونَ رَجُلًا لَيْسَ مِنْ أَهْلِ الرَّيْبَةِ .

A number of our companions, from Sahl Bin Ziyad, from Al Hassan Bin Mahboub, from Ali Bin Raib, from Zureys Al Kunasy,

Abu Ja'far^{asws} has said: ‘The one who carries the weapon at night, so he is a combatant, except if he happens to be a man who is not from the doubtful people’.⁴¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) صَلَّى رَجُلًا بِالْحَيْرَةِ ثَلَاثَةَ أَيَّامٍ ثُمَّ أَنْزَلَهُ يَوْمَ الرَّابِعِ فَصَلَّى عَلَيْهِ وَ دَفَنَهُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} curcified a man at Al-Hira, for three days. Then he^{asws} brought him down on the fourth day, so he^{asws} Prayed over him and buried him’.⁴²

عَلِيُّ عَنْ أَبِيهِ عَنْ عَمْرٍو بْنِ عَثْمَانَ عَنْ عُبَيْدِ اللَّهِ بْنِ إِسْحَاقَ الْمَدَائِنِيِّ عَنْ أَبِي الْحَسَنِ الرِّضَا (عَلَيْهِ السَّلَام) قَالَ سُئِلَ عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَ يَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا الْآيَةَ فَمَا الَّذِي إِذَا فَعَلَهُ اسْتَوْجِبَ وَاحِدَةً مِنْ هَذِهِ الْأَرْبَعِ

Ali, from his father, from Amro Bin Usman, from Ubeydullah Bin Is'haq Al madainy, from Abu Al Hassan Al Reza^{asws}, said,

‘He^{asws} was asked about the Words of Allah^{azwj} Mighty and Majestic **[5:33] But rather, the Recompense of those who wage war against Allah and His Rasool and strive to make mischief in the land is only this, that they should be killed** – the Verse. So what is that which Obligates one from these four?’

³⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 4

⁴⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 5

⁴¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 6

⁴² Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 7

فَقَالَ إِذَا حَارَبَ اللَّهُ وَ رَسُولَهُ وَ سَعَى فِي الْأَرْضِ فَسَاداً فَقَتَلَ قَتِلَ بِهِ وَ إِنْ قَتَلَ وَ أَخَذَ الْمَالَ قَتِلَ وَ صُلِبَ وَ إِنْ أَخَذَ الْمَالَ وَ لَمْ يَقْتُلْ قُطِعَتْ يَدُهُ وَ رِجْلُهُ مِنْ خِلَافٍ وَ إِنْ شَهَرَ السَّيْفَ فَحَارَبَ اللَّهَ وَ رَسُولَهُ وَ سَعَى فِي الْأَرْضِ فَسَاداً وَ لَمْ يَقْتُلْ وَ لَمْ يَأْخُذِ الْمَالَ يَنْفَى مِنَ الْأَرْضِ

So he^{asws} said: 'When he wages war against Allah^{azwj} and His^{azwj} Rasool^{saww}, and strives to make mischief in the land and he kills, so he would be killed due to it. And if he kills and take the wealth (steals), he would be killed and crucified. And if he were to take the wealth (steal) and does not kill, his hand and his leg would be cut from opposite sides. And if he were to brandish the sword, so he wages war against Allah^{azwj} and His^{azwj} Rasool^{saww}, and strives in the land to make mischief, and does not kill and does not take the wealth (steals), he would be exiled from the land'.

قُلْتُ كَيْفَ يَنْفَى وَ مَا حَدُّ نَفْيِهِ قَالَ يَنْفَى مِنَ الْمِصْرِ الَّذِي فَعَلَ فِيهِ مَا فَعَلَ إِلَى مِصْرٍ غَيْرِهِ وَ يُكْتَبُ إِلَى أَهْلِ ذَلِكَ الْمِصْرِ أَنَّهُ مَنْفِيٌّ فَلَا تُجَالِسُوهُ وَ لَا تُبَايِعُوهُ وَ لَا تُنَاجِحُوهُ وَ لَا تُؤَاكِلُوهُ وَ لَا تُشَارِبُوهُ فَيُفْعَلُ ذَلِكَ بِهِ سَنَةً فَإِنْ خَرَجَ مِنْ ذَلِكَ الْمِصْرِ إِلَى غَيْرِهِ كُتِبَ إِلَيْهِمْ بِمِثْلِ ذَلِكَ حَتَّى تَتِمَّ السَّنَةُ قُلْتُ فَإِنْ تَوَجَّهَ إِلَى أَرْضِ الشَّرْكِ لِيَدْخُلَهَا قَالَ إِنْ تَوَجَّهَ إِلَى أَرْضِ الشَّرْكِ لِيَدْخُلَهَا قُوتِلَ أَهْلُهَا .

I said, 'How would he be exiled, and what is the boundary of his exile?' He^{asws} said: 'He would be exiled from the city in which he did what he did, to another city, and it would be written to the people of that city that he is in exile, so that they should neither sit with him, nor pledge allegiance to him, nor inter-marry with him, nor eat with him, nor drink with him. So that is done with him for a year. So if he were to go out from that city to another, it would be written to them with similar to that, until the year is completed'. I said, 'So if he were to divert himself to the land of the Polytheism in order to enter it?' He^{asws} said: 'If he were to divert himself to the land of the Polytheism in order to enter into it, its people, he would be fought against (and killed)'.⁴³

عَلِيٌّ عَنِ مُحَمَّدِ بْنِ عَيْسَى عَنِ يُونُسَ عَنِ مُحَمَّدِ بْنِ سُلَيْمَانَ عَنِ عُبَيْدِ اللَّهِ بْنِ إِسْحَاقَ عَنِ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) مِثْلَهُ إِلَّا أَنَّهُ قَالَ فِي آخِرِهِ يُفْعَلُ بِهِ ذَلِكَ سَنَةً فَإِنَّهُ سَيُتَوَبُّ قَبْلَ ذَلِكَ وَ هُوَ صَاحِرٌ قَالَ قُلْتُ فَإِنْ أَمَّ أَرْضَ الشَّرْكِ يَدْخُلَهَا قَالَ يَقْتُلُ .

Ali Bin Muhammad Bin Isa, from Yunus, from Muhammad Bin Suleyman, from Ubeydullah Bin Is'haq,

(It has been narrated) from Abu Al-Hassan^{asws}, similar to it, except that he^{asws} said at the end of it: 'That would be done with him for a year. So if he were to repent before that, he would be belittled'. I said, 'If he were to enters the land of the Ploytheism?' He^{asws} said: 'He would be killed'.⁴⁴

عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ عَنِ مُحَمَّدِ بْنِ حَفْصِ بْنِ عَبْدِ اللَّهِ بْنِ طَلْحَةَ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَ رَسُولَهُ وَ يَسْعَوْنَ فِي الْأَرْضِ فَسَاداً أَنْ يُقَتَّلُوا الْآيَةَ هَذَا نَفْيُ الْمُحَارَبَةِ غَيْرُ هَذَا النَّفْيُ قَالَ يَحْكُمُ عَلَيْهِ الْحَاكِمُ بِقَدْرِ مَا عَمِلَ وَ يَنْفَى وَ يُحْمَلُ فِي الْبَحْرِ تَمَّ يَفْدَى بِهِ لَوْ كَانَ النَّفْيُ مِنْ بَلَدٍ إِلَى بَلَدٍ كَانَ يَكُونُ إِخْرَاجُهُ مِنْ بَلَدٍ إِلَى بَلَدٍ آخَرَ عَدَلَ الْقَتْلِ وَ الصَّلْبِ وَ الْقَطْعِ وَ لَكِنْ يَكُونُ حَدًّا يُوَافِقُ الْقَطْعَ وَ الصَّلْبَ .

Ali Bin Ibrahim, from his father, from Muhammad Bin Hafs, from Abdullah^{asws} Bin Talha,

(It has been narrated) from Abu Abdullah^{asws} regarding the Words of Allah^{azwj} Mighty and Majestic [5:33] **But rather, the Recompense of those who wage war against Allah and His Rasool and strive to make mischief in the land is only this, that**

⁴³ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 8

⁴⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 9

they should be killed – the Verse. This is an exiling of the combatant, it is other than the (general) exiling'. He^{asws} said: 'The ruler would issue a ruling upon him in accordance with what he had done, and he would be exiled, and he would be carried in the sea, then thrown by it, if it was the exiling from a city to another city, as if his exit happens to be from a city to another city, being justice, of the killing, and the crucifixion, and the cutting, but the Penalty (*Hadd*) happens to be in accordance with the cutting and the crucifixion'.⁴⁵

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ النَّيْمِيِّ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ دَاوُدَ بْنِ أَبِي بَرِيْدٍ عَنْ عُيْبَةَ بْنِ بَشِيرٍ الْخَنْعَمِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ قَاطِعِ الطَّرِيقِ وَ قُلْتُ إِنَّ النَّاسَ يَقُولُونَ إِنَّ الْإِمَامَ فِيهِ مُخَيَّرٌ أَيُّ شَيْءٍ شَاءَ صَنَعَ قَالَ لَيْسَ أَيُّ شَيْءٍ شَاءَ صَنَعَ وَ لَكِنَّهُ يَصْنَعُ بِهِمْ عَلَى قَدْرِ جِنَايَاتِهِمْ مَنْ قَطَعَ الطَّرِيقَ فَقَتَلَ وَ أَخَذَ الْمَالَ فَطَعَّتْ يَدَهُ وَ رِجْلَهُ وَ صَلَبَ وَ مَنْ قَطَعَ الطَّرِيقَ فَقَتَلَ وَ لَمْ يَأْخُذْ الْمَالَ قَتَلَ وَ مَنْ قَطَعَ الطَّرِيقَ وَ أَخَذَ الْمَالَ وَ لَمْ يَقْتُلْ يَدَهُ وَ رِجْلَهُ [مِنْ خِلَافِهِ] وَ مَنْ قَطَعَ الطَّرِيقَ وَ لَمْ يَأْخُذْ مَالًا وَ لَمْ يَقْتُلْ نَفْسًا مِنَ الْأَرْضِ .

Ali Bin Muhammad, from Ali Bin Al Hassan Al Taymi, from Ali Bin Asbat, from Dawood Bin Abu Yazeed, from Ubeyda Bin Basheer Al Khash'amy who said,

'I asked Abu Abdullah^{asws} about the cutter of the way (bandit), and I said, 'The people are saying that the Imam^{asws} has a choice in it which thing he^{asws} so desires to do'. He^{asws} said: 'It is not which thing he^{asws} so desires to do, but he^{asws} would deal with them in accordance with their crimes. The one who cuts off the way, so he kills and seizes the property, his hand and his leg would be cut, and he would be crucified. And the one who cuts off the way, so he kills and does not seize the property, he would be killed. And the one who cuts off the way, and seizes the property, and does not kill, his hand and his leg would be cut (from opposite sides). And the one who cuts off the way and does not seize the property, and does not kill, he would be exiled from the land'.⁴⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ شَهَرَ السَّلَاحَ فِي مِصْرٍ مِنَ الْأَمْصَارِ فَعَفَرَ أَقْضَى مِنْهُ وَ نَفِيَّ مِنْ تِلْكَ الْبَلَدَةِ وَ مَنْ شَهَرَ السَّلَاحَ فِي غَيْرِ الْأَمْصَارِ وَ ضَرَبَ وَ عَفَرَ وَ أَخَذَ الْمَالَ وَ لَمْ يَقْتُلْ فَهُوَ مُحَارِبٌ فَجَزَاؤُهُ جَزَاءُ الْمُحَارِبِ وَ أَمْرُهُ إِلَى الْإِمَامِ إِنْ شَاءَ قَتَلَهُ وَ [إِنْ شَاءَ] صَلَبَهُ وَ إِنْ شَاءَ قَطَعَ يَدَهُ وَ رِجْلَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Muhammad Bin Muslim,

Abu Ja'far^{asws} has said: 'The one who brandishes the weapon in a city from the cities, so he injures, he would be retaliated due to it, and he would be exiled from that city. And the one who brandishes the weapon in another city and strikes and injures, and takes the property, and does not kill, so he is a combatant, and his recompense is the Recompense of the combatant, and his matter is up to the Imam^{asws}, if he^{asws} so desire to he^{asws} kills him, and if he^{asws} so desires to, he^{asws} crucifies him, and if he^{asws} so desires to, he^{asws} cuts his hand and his leg'.

قَالَ وَ إِنْ ضَرَبَ وَ قَتَلَ وَ أَخَذَ الْمَالَ فَعَلَى الْإِمَامِ أَنْ يَقْطَعَ يَدَهُ الْيُمْنَى بِالسَّرِقَةِ ثُمَّ يَدْفَعُهُ إِلَى أَوْلِيَاءِ الْمُقْتُولِ فَيَتَّبِعُونَهُ بِالْمَالِ ثُمَّ يَقْتُلُونَهُ

⁴⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 10

⁴⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 11

He^{asws} said: 'And if he strikes and kills, and takes the property, so it is upon the Imam^{asws} that he^{asws} cuts his right hand due to the theft, then hands him over to the guardians of the murdered one, to pursue him for the property, then they kill him'.

قَالَ فَقَالَ أَبُو عُبَيْدَةَ أَصْلَحَكَ اللَّهُ أَرَأَيْتَ إِنْ عَفَا عَنْهُ أَوْلِيَاءُ الْمَقْتُولِ قَالَ فَقَالَ أَبُو جَعْفَرٍ (عليه السلام) إِنْ عَفَوْا عَنْهُ فَإِنَّ عَلَى الْإِمَامِ أَنْ يَقْتُلَهُ لِأَنَّهُ قَدْ حَارَبَ وَ قَتَلَ وَ سَرَقَ

He (the narrator) said, 'So Abu Ubeyda said, 'May I be sacrificed for you^{asws}! What is your^{asws} view if he is forgiven by the guardians of the murdered one?' So Abu Ja'far^{asws} said: 'If they excuse him from it, so it is up to the Imam^{asws} that he^{asws} kills him, because he has waged war, and killed, and stolen'.

قَالَ فَقَالَ أَبُو عُبَيْدَةَ أَرَأَيْتَ إِنْ أَرَادَ أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَأْخُذُوا مِنْهُ الدِّيَةَ وَ يَدَعُونَهُ أَلَهُمْ ذَلِكَ قَالَ فَقَالَ لَا عَلَيْهِ الْقَتْلُ .

He (the narrator) said, 'So Abu Ubeyda said, 'What is your^{asws} view if the guardians of the murdered one intend that the wergild (blood money) should be taken from it, and then leave him, is that for them (to do)?' So he^{asws} said: 'No. Upon him is the killing'.⁴⁷

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ الطَّائِيِّ عَنْ رَجُلٍ مِنْ أَصْحَابِنَا عَنْ أَبِي عُبَيْدَةَ (عليه السلام) قَالَ سَأَلْتُهُ عَنِ الْمَحَارِبِ فَقُلْتُ لَهُ إِنَّ أَصْحَابِنَا يَقُولُونَ إِنَّ الْإِمَامَ مُخَيَّرٌ فِيهِ إِنْ شَاءَ قَطَعَ وَ إِنْ شَاءَ صَلَبَ وَ إِنْ شَاءَ قَتَلَ فَقَالَ لَا إِنَّ هَذِهِ أَشْيَاءٌ مَحْدُودَةٌ فِي كِتَابِ اللَّهِ عَزَّ وَ جَلَّ فَإِذَا مَا هُوَ قَتَلَ وَ أَخَذَ قَتْلًا وَ صَلَبَ وَ إِذَا قَتَلَ وَ لَمْ يَأْخُذْ قَتْلًا وَ إِذَا أَخَذَ وَ لَمْ يَقْتُلْ قَطَعَ وَ إِذَا هُوَ فَرَّ وَ لَمْ يُفْذَرْ عَلَيْهِ تَمَّ أَخْذُ قَطْعٍ إِلَّا أَنْ يَتُوبَ فَإِنْ تَابَ لَمْ يُقَطَعْ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Dawood Al Tai'y, from a man from our companions,

(The narrator) says, 'I asked Abu Abdullah^{asws} about the combatant, so I said to him^{asws}, 'Our companions are saying that the Imam^{asws} has a choice in it, if he^{asws} so desires to he^{asws} cuts, and if he^{asws} so desires to he^{asws} crucifies, and if he^{asws} so desires to, he^{asws} kills'. So he^{asws} said: 'No! These things are Limited in the Book of Allah^{azwj} Mighty and Majestic. So if it is such that he has killed and seized (property), he would be killed and crucified; and when he has killed and die not seize (property), he would be killed; and when he seizes (property) and doe not kill, so he would be cut; and when he flees and is not able to be caught, then he is seized, he would be cut, except if he were to repent. So if he were to repent, he would not be cut'.⁴⁸

بَابُ مَنْ زَنَى أَوْ سَرَقَ أَوْ شَرِبَ الْخَمْرَ بَجَهَالَةٍ لَا يَعْلَمُ أَنَّهَا مُحْرَمَةٌ

Chapter 51 – The one who commits adultery, or theft, or drinks the wine due to ignorance, not knowing it is Prohibited

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عليه السلام) رَجُلٌ دَعَوْنَاهُ إِلَى جُمْلَةٍ مَا نَحْنُ عَلَيْهِ مِنْ جُمْلَةِ الْإِسْلَامِ فَأَقْرَبَ بِهِ تَمَّ شَرِبَ الْخَمْرَ وَ زَنَى وَ أَكَلَ الرِّبَا وَ لَمْ يَتَّبِعْ لَهُ شَيْءٌ مِنَ الْحَلَالِ وَ الْحَرَامِ أَفِيمَ عَلَيْهِ الْحُدُ إِذَا جَهَلَهُ قَالَ لَا إِلَّا أَنْ تَقُومَ عَلَيْهِ بَيِّنَةٌ أَنَّهُ قَدْ كَانَ أَقْرَبَ بِتَحْرِيمِهَا .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Abu Ayoub Al Khazzaz, from Muhammad Bin Muslim who said,

⁴⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 12

⁴⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 50 H 13

'I said to Abu Ja'far^{asws}, 'We invited a man to the entirety of what we are upon, from the entirety of Al-Islam, so he accepted with it, then he drank the wine, and committed adultery, and consumed the usury, and nothing from the Permissibles and the Prohibitions had been explained to him. Would the Penalty (*Hadd*) be established upon him, when he was ignorant of it?' He^{asws} said: 'No, except if the proof were to be established upon him that he had previously accepted with these prohibitions'.⁴⁹

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَمَّنْ رَوَاهُ عَنْ أَبِي عُبَيْدَةَ الْحَدَّاءِ قَالَ قَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) لَوْ وَجَدْتُ رَجُلًا مِّنَ الْعَجَمِ أَقْرَبَ بِجُمْلَةِ الْإِسْلَامِ لَمْ يَأْتِهِ شَيْءٌ مِّنَ التَّفْسِيرِ زَنَى أَوْ سَرَقَ أَوْ شَرِبَ الْخَمْرَ لَمْ أَقِمَّ عَلَيْهِ الْحَدَّ إِذَا جَهَلَهُ إِلَّا أَنْ تَقُومَ عَلَيْهِ بَيِّنَةٌ أَنَّهُ قَدْ أَقْرَبَ بِذَلِكَ وَعَرَفَهُ .

Ali, from his father, from Ibn Abu Umeyr, from the one who reported it, from Abu Ubeyda who said,

'Abu Ja'far^{asws} said: 'If I^{asws} were to find a man from the non-Arabs who accepted with the entirety of Al-Islam, not been given anything from the explanation of adultery, or theft, or drinking the wine, I^{asws} would not establish the Penalty (*Hadd*) upon him when he is ignorant, except if the proof were to be established that he had previously accepted with that, and recognised it'.⁵⁰

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ جَمِيلٍ عَنِ بَعْضِ أَصْحَابِهِ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي رَجُلٍ دَخَلَ فِي الْإِسْلَامِ فَشَرِبَ خَمْرًا وَهُوَ جَاهِلٌ قَالَ لَمْ أَكُنْ أَقِيمُ عَلَيْهِ الْحَدَّ إِذَا كَانَ جَاهِلًا وَ لَكِنْ أَخْبَرُهُ بِذَلِكَ وَ أَعْلَمُهُ فَإِنْ عَادَ أَقَمْتُ عَلَيْهِ الْحَدَّ .

Ali, from his father, from Ibn Abu Umeyr, from Jameel, from one of his companion,

(It has been narrated) from one of the two (5th or 6th Imam^{asws} regarding a man who entered into Al-Islam, so he drank the wine, and he was ignorant. He^{asws} said: 'I^{asws} would not happen to be the one who establishes the Penalty (*Hadd*) upon him, when he was ignorant, but I^{asws} would inform him with that, and teach him. So if he were to repeat, I^{asws} would establish the Penalty (*Hadd*) upon him'.⁵¹

عِدَّةٌ مِّنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَقَدْ قَضَى أَمِيرُ الْمُؤْمِنِينَ (صَلَوَاتُ اللَّهِ عَلَيْهِ) بِقَضِيَّةٍ مَا قَضَى بِهَا أَحَدٌ كَانَ قَبْلَهُ وَ كَانَتْ أَوَّلَ قَضِيَّةٍ قَضَى بِهَا بَعْدَ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ ذَلِكَ أَنَّهُ لَمَّا قَبِضَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ أَقْضَى الْأَمْرُ إِلَى أَبِي بَكْرٍ أَتَى بِرَجُلٍ قَدْ شَرِبَ الْخَمْرَ فَقَالَ لَهُ أَبُو بَكْرٍ أ شَرِبْتَ الْخَمْرَ فَقَالَ الرَّجُلُ نَعَمْ فَقَالَ وَ لِمَ شَرِبْتَهَا وَ هِيَ مُحْرَمَةٌ فَقَالَ إِنِّي لَمَّا أَسْلَمْتُ وَ مَنْزِلِي بَيْنَ ظَهْرَانِي قَوْمٌ يَشْرَبُونَ الْخَمْرَ وَ يَسْتَحْلُونَهَا وَ لَوْ أَعْلَمْتُ أَنَّهَا حَرَامٌ فَاجْتَنَبْتُهَا

A number of our companions, from Ahmad Bin Abu Abdullah, from Amro Bin Usman, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} had judged with a judgement which no one else had judged with it before him, and he^{asws} was the first one to have judged with it after Rasool-Allah^{saww}, and that was that after the passing away of Rasool-Allah^{saww} resulting in the command going to Abu Bakr, they came with a man to Abu Bakr who had drunk the wine. So Abu Bakr said to him, 'Did you drink the wine?' So the man said, 'Yes'. So he said, 'And why did you drink it and it is a Prohibition?' So he said, 'When I became a Muslim, and my house

⁴⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 51 H 1

⁵⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 51 H 2

⁵¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 51 H 3

was in the midst of a people who were drinking the wine, and they were permitting it, and had I known that it was Prohibited, I would have avoided it’.

قَالَ فَالْتَفَتَ أَبُو بَكْرٍ إِلَى عُمَرَ فَقَالَ مَا تَقُولُ يَا أَبَا حَفْصٍ فِي أَمْرِ هَذَا الرَّجُلِ فَقَالَ مُعْضِلَةٌ وَ أَبُو الْحَسَنِ لَهَا فَقَالَ أَبُو بَكْرٍ يَا غُلَامُ ادْعُ لَنَا عَلِيًّا قَالَ عُمَرُ بَلْ يُؤْتَى الْحَكْمُ فِي مَنْزِلِهِ فَأَتَوْهُ وَ مَعَهُ سَلْمَانُ الْفَارِسِيُّ

He^{asws} said: ‘So Abu Bakr turned towards Umar, so he said, ‘What are you saying, O Abu Hafs, regarding the matter of this man?’ So he said, ‘It is a dilemma, and Abu Al-Hassan^{asws} is (right) for it’. So Abu Bakr said, ‘O slave, call Ali^{asws} for us’. Umar said, ‘But he^{asws} gives the judgement in his^{asws} house’. So they came over to hiim^{asws} and with him^{asws} was Salman Al-Farsy^{as}.

فَأَخْبَرَهُ بِقِصَّةِ الرَّجُلِ فَاقْتَصَّ عَلَيْهِ قِصَّتَهُ فَقَالَ عَلِيُّ (عَلَيْهِ السَّلَام) لِأَبِي بَكْرٍ ابْعَثْ مَعَهُ مَنْ يَدُورُ بِهِ عَلَى مَجَالِسِ الْمُهَاجِرِينَ وَ الْأَنْصَارِ فَمَنْ كَانَ تَلَا عَلَيْهِ آيَةَ النَّحْرِيمِ فَلْيَشْهَدْ عَلَيْهِ فَإِنْ لَمْ يَكُنْ تَلَا عَلَيْهِ آيَةَ النَّحْرِيمِ فَلَا شَيْءَ عَلَيْهِ

So he (Abu Bakr) informed him^{asws} of the story of the man, and the man related his own story to him^{asws}. So Ali^{asws} said to Abu Bakr: ‘Send someone who would go around with him at the gatherings of the Emigrants and the Helpers. So the one who had recited the Verse of the Prohibition to him, so let him testify. So if there does not happen to be anyone who had recited the Verse of the Prohibition to him, so there is nothing upon him’.

فَفَعَلَ أَبُو بَكْرٍ بِالرَّجُلِ مَا قَالَ عَلِيُّ (عَلَيْهِ السَّلَام) فَلَمْ يَشْهَدْ عَلَيْهِ أَحَدٌ فَخَلَّى سَبِيلَهُ فَقَالَ سَلْمَانُ لِعَلِيِّ (عَلَيْهِ السَّلَام) لَقَدْ أَرَشَدْتَهُمْ فَقَالَ عَلِيُّ (عَلَيْهِ السَّلَام) إِنَّمَا أَرَدْتُ أَنْ أُجَدِّدَ تَأَكِيدَ هَذِهِ الْآيَةَ فِي وَ فِيهِمْ أَ فَمَنْ يَهْدِي إِلَى الْحَقِّ أَحَقُّ أَنْ يُتَّبَعَ أَمْ لَا يَهْدِي إِلَّا أَنْ يَهْدَى فَمَا لَكُمْ كَيْفَ تَحْكُمُونَ .

So Abu Bakr did that with the man, what Ali^{asws} said. But no one testified upon him, so he freed his way. So, Salman^{as} said to Ali^{asws}, ‘You^{asws} have guided them’. So Ali^{asws} said: ‘But rather, I^{asws} wanted renewal of the confirmation of this Verse of war booty, **[10:35] Is He then Who Guides to the Truth more worthy to be followed, or he who does not find Guidance unless he is himself Guided? So what is the matter with you; how are you judging?**’.⁵²

بَاب مَنْ وَجِبَتْ عَلَيْهِ حُدُودُ أَحَدِهَا الْقَتْلُ

Chapter 52 – The one upon whom (several) Penalties are applicable, one of these being the killing

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الرَّجُلِ يُؤْخَذُ وَ عَلَيْهِ حُدُودُ أَحَدِهَا الْقَتْلُ فَقَالَ كَانَ عَلِيُّ (عَلَيْهِ السَّلَام) يُعِيمُ عَلَيْهِ الْحُدُودَ ثُمَّ يَقْتُلُهُ وَ لَا يُخَالِفُ عَلِيًّا (عَلَيْهِ السَّلَام) .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Al A’ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullah^{asws} regarding the man who was seized and upon him were (several) Penalties, one of these being the killing. So he^{asws} said:

⁵² Al Kafi – V 7 – The Book of Legal Penalties Ch 51 H 4

'Ali^{asws} used to establish upon him the (other) Penalties, then he^{asws} would kill him, and Ali^{asws} will not be opposed'.⁵³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَكُونُ عَلَيْهِ الْحُدُودُ مِنْهَا الْقَتْلُ قَالَ يُقَامُ عَلَيْهِ الْحُدُودُ ثُمَّ يُقْتَلُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman,

(It has been narrated) from Abu Abdullah^{asws} regarding the man who happens to have (several) Penalties due upon him, from these is the killing. He^{asws} said: 'The (other) Penalties would be established (first), then he would be killed'.⁵⁴

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِيمَنْ قَتَلَ وَ شَرِبَ خَمْرًا وَ سَرَقَ فَأَقَامَ عَلَيْهِ الْحَدَّ فَجَلَدَهُ لِشُرْبِهِ الْخَمْرَ وَ قَطَعَ يَدَهُ فِي سَرِقَتِهِ وَ قَتَلَهُ بِقَتْلِهِ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from his brother Al Hassan, from Zurara Bin Muhammad, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the one who murdered, and drank wine, and stole, so he^{asws} established the Penalty (*Hadd*) upon him. So he^{asws} whipped him due to his drinking the wine, and cut his hand regarding his theft, and killed him due to his committing murder'.⁵⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَجْلُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ وَ ابْنِ بُكَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ اجْتَمَعَتْ عَلَيْهِ حُدُودٌ فِيهَا الْقَتْلُ قَالَ يُبَدَأُ بِالْحُدُودِ الَّتِي هِيَ دُونَ الْقَتْلِ ثُمَّ يُقْتَلُ بَعْدُ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abdullah Bin Sinan and Ibn Bukeyr,

(It has been narrated) from Abu Abdullah^{asws} regarding a man upon whom (several) Penalties had gathered, among these being the killing. He^{asws} said: 'He would be begun with the Penalties which are besides the killing, then he would be killed afterwards'.⁵⁶

بَابُ مَنْ أَتَى حَدًّا فَلَمْ يُعَمَّ عَلَيْهِ الْحَدُّ حَتَّى تَابَ

Chapter 53 – The one to whom a Penalty (*Hadd*) is applicable, so it was not established upon him, until he (had already) repented

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَبِيبٍ وَ ابْنِ أَبِي عُمَيْرٍ جَمِيعًا عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ رَجُلٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي رَجُلٍ سَرَقَ أَوْ شَرِبَ الْخَمْرَ أَوْ زَنَى فَلَمْ يَعْلَمْ بِدَلِّكَ مِنْهُ وَ لَمْ يُؤْخَذْ حَتَّى تَابَ وَ صَلَحَ فَقَالَ إِذَا صَلَحَ وَ عُرِفَ مِنْهُ أَمْرٌ جَمِيلٌ لَمْ يُعَمَّ عَلَيْهِ الْحَدُّ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed and Ibn Abu Umeyr, altogether from Jameel Bin Darraj, from a man,

⁵³ Al Kafi – V 7 – The Book of Legal Penalties Ch 52 H 1

⁵⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 52 H 2

⁵⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 52 H 3

⁵⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 52 H 4

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), regarding a man who steals, or drinks the wine, or commits adultery, so he was not know to be with that and he was not seized, until he repented and corrected (himself). So he^{asws} said: 'When his correctness is recognised from him, it is a beautiful matter, the Penalty (*Hadd*) would not be established upon him'.

قَالَ مُحَمَّدُ بْنُ أَبِي عُمَيْرٍ قُلْتُ فَإِنْ كَانَ أَمْرًا قَرِيبًا لَمْ يُقَمَّ قَالَ لَوْ كَانَ خَمْسَةَ أَشْهُرٍ أَوْ أَقَلَّ مِنْهُ وَ قَدْ ظَهَرَ أَمْرٌ جَمِيلٌ لَمْ يُقَمَّ عَلَيْهِ الْحُدُودُ .

Muhammad Bin Abu Umeyr said, 'I said, 'So if it was a matter close by (just been committed), (the Penalty (*Hadd*)) would not be established?' He^{asws} said: 'If it was five or six months from it, and he had manifested a beautiful matter (reformed himself), the Penalties would not be established upon him'.

وَ رُوِيَ ذَلِكَ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) .

And that has been reported from some of our companions,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}).⁵⁷

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي رَجُلٍ أُفِيْمَتْ عَلَيْهِ النَّبِيَّةُ بِأَنَّهُ زَنَى ثُمَّ هَرَبَ قَبْلَ أَنْ يُضْرَبَ قَالَ إِنْ تَابَ فَمَا عَلَيْهِ شَيْءٌ وَ إِنْ وَقَعَ فِي يَدِ الْإِمَامِ أَقَامَ عَلَيْهِ الْحَدَّ وَ إِنْ عَلِمَ مَكَانَهُ بَعَثَ إِلَيْهِ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from one of his companions, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding a man upon whom the proof is established of his having committed adultery, then he flees before he is whipped. He^{asws} said: 'So if he repents, there is nothing upon him, and if he falls in the hands of the Imam^{asws}, he^{asws} would establish the Penalty (*Hadd*) upon him, and if his whereabouts are known, he^{asws} would send (a summoner) to him'.⁵⁸

بَابُ الْعَفْوِ عَنِ الْحُدُودِ

Chapter 54 – The excusing from the Penalties

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَنْ أَخَذَ سَارِقًا فَعَفَا عَنْهُ فَذَلِكَ لَهُ فَإِنْ رُفِعَ إِلَى الْإِمَامِ قَطَعَهُ فَإِنْ قَالَ الَّذِي سُرِقَ مِنْهُ أَنَا أَهْبُ لَهُ لَمْ يَدْعُهُ الْإِمَامُ حَتَّى يَفْطَعَهُ إِذَا رُفِعَ إِلَيْهِ وَ إِنَّمَا الْهَبَةُ قَبْلَ أَنْ يَرْفَعَ إِلَى الْإِمَامِ وَ ذَلِكَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ وَ الْحَافِظُونَ لِحُدُودِ اللَّهِ فَإِذَا أَنْتَهَى الْحَدَّ إِلَى الْإِمَامِ فَلَيْسَ لِأَحَدٍ أَنْ يَنْتَرِكَهُ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at Bin Mahran,

Abu Abdullah^{asws} has said: 'The one who seizes a thief, and he excuses him from it, so that is up to him. But, if it is raised to the Imam^{asws}, he^{asws} would cut him. So if the one who had been stolen from were to say, 'I gift it to you', the Imam^{asws} would not

⁵⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 53 H 1

⁵⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 53 H 2

leave him until he^{asws} cuts him, (after) it is raised to him. But rather, the gifting is before he raises it to the Imam^{asws}, and these are the Words of Allah^{azwj} mighty and Majestic [9:112] and the preservers of the Penalties of Allah. So when the Penalty (Hadd) ends up with the Imam^{asws}, so it is not for anyone that he^{asws} should leave him'.⁵⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَأْخُذُ اللَّصَّ بِرَفْعِهِ أَوْ يَنْزِعُهُ فَقَالَ إِنَّ صَفْوَانَ بْنَ أُمَيَّةَ كَانَ مُضْطَجِعاً فِي الْمَسْجِدِ الْحَرَامِ فَوَضَعَ رِدَاءَهُ وَخَرَجَ يُهْرِيقُ الْمَاءَ فَوَجَدَ رِدَاءَهُ قَدْ سُرِقَ حِينَ رَجَعَ إِلَيْهِ فَقَالَ مَنْ ذَهَبَ بِرِدَائِي فَذَهَبَ يَطْلُبُهُ فَأَخَذَ صَاحِبَهُ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(The narrator) says, 'I asked Abu Abdullah^{asws} about the man who seized the thief, should he raise it (the matter to the Imam^{asws}) or should he leave him?' So he^{asws} said: 'Sufyan Bin Amayya was lying down in the Sacred Masjid, so he placed down his robe, and went out to wash with the water. He found that his robe had been stolen, when he returned to it. So he said, 'Who has gone away with my robe?' So he went seeking it, and he seized the one who was with it.

فَرَفَعَهُ إِلَى النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَفَطَعُوا يَدَهُ فَقَالَ صَفْوَانُ أ تَطْعَمُ يَدَهُ مِنْ أَجْلِ رِدَائِي يَا رَسُولَ اللَّهِ قَالَ نَعَمْ قَالَ فَأَنَا أَهْبُهُ لَهُ فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَهَلَّا كَانَ هَذَا قَبْلَ أَنْ تَرْفَعَهُ إِلَيَّ

So he raised it to the Prophet^{saww}. So the Prophet^{saww} said: 'Cut off his hand'. So Sufyan said, 'You^{saww} will cut his hand due to the reason of my robe, O Rasool-Allah^{saww}? He^{saww} said: 'Yes'. He said, 'So I have gifted it to him'. So Rasool-Allah^{saww} said: 'So why didn't you? This should have been done before you raised it to me^{saww}'.

قُلْتُ فَإِلَإِمَامٍ بِمَنْزِلَتِهِ إِذَا رُفِعَ إِلَيْهِ قَالَ نَعَمْ قَالَ وَ سَأَلْتُهُ عَنِ الْعُفْرِ قَبْلَ أَنْ يَنْتَهِيَ إِلَى الْإِمَامِ فَقَالَ حَسَنٌ .

I said, 'So the Imam^{asws} is at his^{saww} status when it is raised to him^{asws}? He^{asws} said: 'Yes'. And I asked him^{asws} about the excusing before it ends up to the Imam^{asws}, so he^{asws} said: 'Better'.⁶⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْحُسَيْنِ بْنِ أَبِي الْعَلَاءِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَأْخُذُ اللَّصَّ بِرَفْعِهِ أَمْ يَرْفَعُهُ فَقَالَ إِنَّ صَفْوَانَ بْنَ أُمَيَّةَ كَانَ مُتَكِناً فِي الْمَسْجِدِ عَلَى رِدَائِهِ فَقَامَ يَبُولُ فَرَجَعَ وَ قَدْ ذَهَبَ بِهِ فَطَلَبَ صَاحِبَهُ فَوَجَدَهُ فَقَدَّمَهُ إِلَى رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ أَفَطَعُوا يَدَهُ فَقَالَ صَفْوَانُ يَا رَسُولَ اللَّهِ أَنَا أَهْبُ ذَلِكَ لَهُ فَقَالَ لَهُ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَلَا كَانَ ذَلِكَ قَبْلَ أَنْ تَنْتَهِيَ بِهِ إِلَيَّ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ali Bin Al Hakam, from Al Husayn Bin Abu Al A'ala who said,

'I asked Abu Abdullah^{asws} about the man who seized the thief. Is leaving him better or raising it (the matter to the Imam^{asws})?' So he^{asws} said: 'Sufyan Bin Amayya was reclining upon his robe in the Masjid. So he arose to urinate, and when he returned it was gone with. So he sought the one with it and found him. So he proceeded with him to Rasool-Allah^{saww}. So he^{saww} said: 'Cut his hand'. So Sufyan said, 'O Rasool-

⁵⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 54 H 1

⁶⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 54 H 2

Allah^{saww}! I am gifting that to him'. So Rasool-Allah^{saww} said to him: 'Nay! That should be before you ended with it to me^{saww}'.

قَالَ وَ سَأَلْتُهُ عَنِ الْعَفْوِ عَنِ الْحُدُودِ قَبْلَ أَنْ يَنْتَهِيَ إِلَيَّ الْإِمَامُ فَقَالَ حَسَنٌ .

He (the narrator) said, 'And I asked him^{asws} about the excusing from the Penalty (Hadd) before it ends up to the Imam^{asws}, so he^{asws} said: 'Better'.⁶¹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائٍ عَنْ ضُرَيْبِ بْنِ الْكُنَاسِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ لَا يُعْفَى عَنِ الْحُدُودِ الَّتِي لِلَّهِ دُونَ الْإِمَامِ فَأَمَّا مَا كَانَ مِنْ حَقِّ النَّاسِ فِي حَدِّ فَلَا بَأْسَ أَنْ يُعْفَى عَنْهُ دُونَ الْإِمَامِ .

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Ibn Raib, from Zureys Al Kunasy,

Abu Ja'far^{asws} has said: 'None can excuse from the Penalties which are for the Sake of Allah^{azwj}, besides the Imam^{asws}. So as for what was from the rights of the people regarding a Penalty (*Hadd*), so there is no problem if one excuses from it, besides the Imam^{asws}.⁶²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ رَجُلٌ جَنَى عَلَيَّ أَعْفُو عَنْهُ أَوْ أَرْفَعُهُ إِلَى السُّلْطَانِ قَالَ هُوَ حَقُّكَ إِنْ عَفَوْتَ عَنْهُ فَحَسَنٌ وَإِنْ رَفَعْتَهُ إِلَى الْإِمَامِ فَإِنَّمَا طَلَبْتَ حَقَّكَ وَ كَيْفَ لَكَ بِالْإِمَامِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al A'ala, from Muhammad Bin Muslim,

(The narrator) says, 'I said to Abu Ja'far^{asws}, 'A man committed a crime upon me. Shall I excuse him from it, or raise it to the authorities?' He^{asws} said: 'It is your right. If you were to excuse from it, so it is better, and if you were to raise it to the Imam^{asws}, so rather you would be seeking your right, and how would it be (dealt) for you by the Imam^{asws}.⁶³

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَذْفُ الرِّجْلَ بِالزَّنَى فَيَعْفُو عَنْهُ وَ يَجْعَلُهُ مِنْ ذَلِكَ فِي حِلٍّ ثُمَّ إِنَّهُ بَعْدُ يَبْذُو لَهُ فِي أَنْ يُقَدِّمَهُ حَتَّى يَجْلِدَهُ قَالَ فَقَالَ لَيْسَ لَهُ حَدٌّ بَعْدَ الْعَفْوِ فَقُلْتُ لَهُ أَرَأَيْتَ إِنْ هُوَ قَالَ يَا ابْنَ الزَّانِيَةِ فَعَفَا عَنْهُ وَ تَرَكَ ذَلِكَ لِلَّهِ فَقَالَ إِنْ كَانَتْ أُمُّهُ حَيَّةً فَلَيْسَ لَهُ أَنْ يَعْفُوَ الْعَفْوُ إِلَى أُمِّهِ مَتَى شَاءَتْ أَخَذَتْ بِحَقِّهَا قَالَ فَإِنْ كَانَتْ أُمُّهُ قَدْ مَاتَتْ فَإِنَّهُ وَلِيُّ أُمِّهَا يَجُوزُ عَفْوُهُ .

Ibn Mahboub, from Abu Ayoub, from Sama'at who said,

'I asked Abu Abdullah^{asws} about the man who slandered the man with the adultery. So he excused him from it and he made him to be free from that. Is it for him to begin (proceedings) that he can bring him up until he is whipped (for it)?' So he^{asws} said: 'There is no Penalty (*Hadd*) for him after the excusing'. So I said to him^{asws}, 'What is your view that he said, 'O son of the adulteress', so he excused from it and left that to Allah^{azwj}'. So he^{asws} said: 'If his mother was alive, so it is not for him that he should excuse. The excusing it is for his mother whenever she so desires to take her right'.

⁶¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 54 H 3

⁶² Al Kafi – V 7 – The Book of Legal Penalties Ch 54 H 4

⁶³ Al Kafi – V 7 – The Book of Legal Penalties Ch 54 H 5

He^{asws} said: 'If his mother had died, so he would be the guardian of her affairs, his excusing would be allowed'.⁶⁴

باب الرَّجُلِ يَعْفُو عَنِ الْوَلَدِ ثُمَّ يَرْجِعُ فِيهِ وَ الرَّجُلُ يَقُولُ لِلرَّجُلِ يَا ابْنَ الْفَاعِلَةِ وَ لَأُمِّهِ وَلَيَّانِ

Chapter 55 – The man excuses from the Penalty (Hadd), then retracts with regards to it, and the man is saying to the man, 'O son of the 'sexually active' (prostitute), and for his mother are two guardians

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ بْنِ مِهْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَقْتَرِي عَلَى الرَّجُلِ فَيَعْفُو عَنْهُ ثُمَّ يُرِيدُ أَنْ يَجْلِدَهُ بَعْدَ الْعَفْوِ قَالَ لَيْسَ لَهُ أَنْ يَجْلِدَهُ بَعْدَ الْعَفْوِ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from his brother Al Hassan, from Zurara Bin Muhammad, from Sama'at Bin Mihran,

(The narrator) says, 'I asked Abu Abdullah^{asws} about the man who fabricated upon the man, so he excused him from it. Then he wanted him to be whipped after the excusing. He^{asws} said: 'It is not for him that he should be whipped after the excusing'.⁶⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ عَمَّارِ السَّابِاطِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) لَوْ أَنَّ رَجُلًا قَالَ لِرَجُلٍ يَا ابْنَ الْفَاعِلَةِ يَعْفُو الزَّوْنِي وَ كَانَ لِلْمَقْدُوفِ أَخٌ لِأَبِيهِ وَ أُمُّهُ فَعَفَا أَحَدَهُمَا عَنِ الْقَازِبِ وَ أَرَادَ أَحَدُهُمَا أَنْ يُقَدِّمَهُ إِلَى الْوَالِي وَ يَجْلِدَهُ أَمْ كَانَ ذَلِكَ لَهُ فَقَالَ أَلَيْسَ أُمُّهُ هِيَ أُمُّ الَّذِي عَفَا قُلْتُ نَعَمْ ثُمَّ قَالَ إِنَّ الْعَفْوَ إِلَيْهِمَا جَمِيعاً إِذَا كَانَتْ أُمُّهُمَا مَيِّتَةً فَأَلَامَرُ إِلَيْهِمَا فِي الْعَفْوِ فَإِنْ كَانَتْ حَيَّةً فَأَلَامَرُ إِلَيْهَا فِي الْعَفْوِ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, altogether from Al Hassan Bin Mahboub, from Hisham Bin Salim, from Ammar Al Sabaty who said,

'I said to Abu Abdullah^{asws}, 'If a man says to a man, 'O son of the 'sexually active', meaning the adultery, and for the slandered one is a brother of his father and his mother, so one of the two excused the slanderer and one of the two wanted that he should be brought to the ruler, and he would be whipped. Is that for him?' So he^{asws} said: 'Is his mother not alive, the mother who excused him?' I said, 'Yes'. He^{asws} said: 'The excusing is for the both of them together when the mother is dead, so the matter would be for the both of them with regards to the excusing. So if she was alive, so the matter is for her, with regards to the excusing'.⁶⁶

⁶⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 54 H 6

⁶⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 55 H 1

⁶⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 55 H 2

باب أَنَّهُ لَا حَدَّ لِمَنْ لَا حَدَّ عَلَيْهِ**Chapter 56 – There is no Penalty (Hadd) for the one upon whom there is no Penalty (Hadd)**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا حَدَّ لِمَنْ لَا حَدَّ عَلَيْهِ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Is'haq Bin Ammar,

Abu Abdullah^{asws} has said: 'There is no Penalty (Hadd) for the one upon whom there is no Penalty (Hadd)'.⁶⁷

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ فَضَيْلِ بْنِ يَسَارٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) يَقُولُ لَا حَدَّ لِمَنْ لَا حَدَّ عَلَيْهِ يَعْنِي لَوْ أَنَّ مَجْنُونًا قَذَفَ رَجُلًا لَمْ أَرْ عَلَيْهِ شَيْئًا وَ لَوْ قَذَفَهُ رَجُلٌ فَقَالَ لَهُ يَا زَانٍ لَمْ يَكُنْ عَلَيْهِ حَدٌّ .

Ibn Mahboub, from Abu Ayoub, from Fuzeyl Bin Yasaar who said,

'I heard Abu Abdullah^{asws} saying: 'There is no Penalty (Hadd) for the one upon whom there is no Penalty (Hadd), meaning, if an insane person were to slander a man, I^{asws} do not see anything upon him, and if a man were to slander him, so he says to him, 'O adulterer', there would be no Penalty (Hadd) upon him (either)'.⁶⁸

باب أَنَّهُ لَا يُشْفَعُ فِي حَدٍّ**Chapter 57 – There is no intercession regarding a Penalty (Hadd)**

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِي بَانَ بْنِ عُثْمَانَ عَنْ سَلَمَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ كَانَ أَسَامَةُ بْنُ زَيْدٍ يَشْفَعُ فِي الشَّيْءِ الَّذِي لَا حَدَّ فِيهِ فَأَتَى رَسُولَ اللَّهِ (صلى الله عليه وآله) بِإِنْسَانٍ قَدْ وَجِبَ عَلَيْهِ حَدٌّ فَشَفَعَ لَهُ أَسَامَةُ فَقَالَ لَهُ رَسُولُ اللَّهِ (صلى الله عليه وآله) لَا يُشْفَعُ فِي حَدٍّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban Bin Usman, from Salma,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Asama Bin Zayd used to intercede regarding the thing in which there was no Penalty (Hadd) (applicable). So they came to Rasool-Allah^{saww} with a person upon whom a Penalty (Hadd) was Obligated, so Asama interceded for him. So Rasool-Allah^{saww} said to him: 'There is not intercession regarding a Penalty (Hadd)'.⁶⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيسَى وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَاطٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ كَانَ لِأُمِّ سَلَمَةَ زَوْجَةِ النَّبِيِّ (صلى الله عليه وآله) أُمَّةٌ فَسَرَقَتْ مِنْ قَوْمٍ فَأَتَى بِهَا النَّبِيُّ (صلى الله عليه وآله) فَكَلَّمَتْهُ أُمُّ سَلَمَةَ فِيهَا فَقَالَ النَّبِيُّ (صلى الله عليه وآله) يَا أُمَّ سَلَمَةَ هَذَا حَدٌّ مِنْ حُدُودِ اللَّهِ عَزَّ وَ جَلَّ لَا يُضَنِّعُ فَفَطَعَهَا رَسُولُ اللَّهِ (صلى الله عليه وآله) .

⁶⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 56 H 1

⁶⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 56 H 2

⁶⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 57 H 1

A number of our companions, from Sahl Bin Ziyad, and Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Ibn Raib, from Muhammad Bin Qays,

Abu Ja'far^{asws} has said: 'There was a mother for Umm Salma^{as}, wife of the Prophet^{saww}, so she stole from a people. So they came with her to the Prophet^{saww}. So Umm Salma^{as} spoke to him^{saww} with regards to it. O Umm Salma^{as}! This is a Penalty (*Hadd*) from the Penalties of Allah^{azwj} Mighty and Majestic, not to be wasted'. So Rasool-Allah^{saww} cut her'.⁷⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) لَا يَشْفَعَنَّ أَحَدٌ فِي حَدٍّ إِذَا بَلَغَ الْإِمَامَ فَإِنَّهُ يَمْلِكُهُ وَاشْفَعُ فِيمَا لَمْ يَبْلُغِ الْإِمَامَ إِذَا رَأَيْتَ النَّدَمَ وَاشْفَعُ عِنْدَ الْإِمَامِ فِي غَيْرِ الْحَدِّ مَعَ الرَّجُوعِ مِنَ الْمَشْفُوعِ لَهُ وَ لَا تَشْفَعُ فِي حَقِّ امْرِئٍ مُسْلِمٍ وَ لَا غَيْرِهِ إِلَّا بِإِذْنِهِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'There is no interceding for anyone regarding a Penalty (*Hadd*) when it (the matter) reaches the Imam^{asws}, for he^{asws} controls it, and intercession is in what does not reach the Imam^{asws}, when the (accused) shows the remorse, and the intercession in the presence of the Imam^{asws} can be in other (matters) than the Penalty (*Hadd*), with the reference of the interceded to him, and one cannot interceded regarding a right of a Muslim person, nor others, except by his^{asws} permission'.⁷¹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ مُنْتَهَى الْحَنَاطِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا تَشْفَعُ فِي حَدٍّ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, from Musanna Al Hanaat,

Abu Abdullah^{asws} has said: 'Rasool-Allah^{saww} said to Asama Bin Zayd: 'You cannot intercede regarding a Penalty (*Hadd*)'.⁷²

بَابُ أَنَّهُ لَا كَفَالَةَ فِي حَدٍّ

Chapter 58 – There is no bail regarding a Penalty (*Hadd*)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا كَفَالَةَ فِي حَدٍّ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

Abu Abdullah^{asws} has said: 'Rasool-Allah^{saww} said: 'There is no bail regarding a Penalty (*Hadd*)'.⁷³

بَابُ أَنَّ الْحَدَّ لَا يُورَثُ

⁷⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 57 H 2

⁷¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 57 H 3

⁷² Al Kafi – V 7 – The Book of Legal Penalties Ch 57 H 4

⁷³ Al Kafi – V 7 – The Book of Legal Penalties Ch 58 H 1

Chapter 59 – The Penalty (*Hadd*) is not inherited

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ عَمَّارِ السَّابِاطِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَمِعْتُهُ يَقُولُ إِنَّ الْحَدَّ لَا يُورَثُ كَمَا تُوْرَثُ الدِّيَّةُ وَالْمَالُ وَالْعَقَارُ وَ لَكِنْ مَنْ قَامَ بِهِ مِنَ الْوَرَثَةِ فَطَلَبَهُ فَهُوَ وَلِيُّهُ وَ مَنْ تَرَكَهُ فَلَمْ يَطْلُبْهُ فَلَا حَقَّ لَهُ وَ ذَلِكَ مِثْلُ رَجُلٍ قَذَفَ رَجُلًا وَ لِمَقْدُوفٍ أَخٍ فَإِنْ عَفَا عَنْهُ أَحَدُهُمَا كَانَ لِلْآخَرِ أَنْ يَطْلُبَهُ بِحَقِّهِ لِأَنَّهَا أُمُّهُمَا جَمِيعاً وَ الْعَفْوُ لَهُمَا جَمِيعاً .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Hisham Bin Salim, from Ammar Al Sabaty,

(The narrator) says, 'I heard Abu Abdullah^{asws} saying that the Penalty (*Hadd*) is not inheritance just as the wergil is inherited, and the wealth, and the real estate. But the one from the inheritors stands by it, so he seeks it, so he is his guardian (has a right to do so), and the one who leaves it and does not seek it, so there is no right for him, and that is similar to a man who slanders a man, and for the slandered one is a brother. So if one of the two were to excuse him (the slanderer), that would be (a right) for the other one to seek his right, because she is a mother to both of them together, and the excusing is for both of them together'.⁷⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ الْحَدُّ لَا يُورَثُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

Abu Abdullah^{asws} has said: 'The Penalty (*Hadd*) is not inherited'.⁷⁵

بَابُ أَنَّهُ لَا يَمِينُ فِي حَدٍّ

Chapter 60 – There is no swearing (of an oath) regarding a Penalty (*Hadd*)

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَتَى رَجُلٌ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِرَجُلٍ فَقَالَ هَذَا قَدْ قَذَفَنِي وَ لَمْ تَكُنْ لَهُ بَيِّنَةٌ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ اسْتَحْلِفْهُ فَقَالَ لَا يَمِينُ فِي حَدٍّ وَ لَا قِصَاصَ فِي عَظْمٍ .

A number of our companions, from Sahl Bin ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from one of our companions,

Abu Abdullah^{asws} has said: 'A man came to Amir Al-Momineen^{asws} with a man, so he said, 'This one has slandered me', and there did not happen to be any proof for him. So he said, 'O Amir Al-Momineen^{asws}! Make me swear an oath'. So he^{asws} said: 'There is no swearing of an oath regarding a Penalty (*Hadd*), and there is no retaliation regarding a bone'.⁷⁶

⁷⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 59 H 1

⁷⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 59 H 2

⁷⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 60 H 1

Chapter 61 – Penalty (Hadd) of the apostate

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنِ الْمُرْتَدِّ فَقَالَ مَنْ رَغِبَ عَنِ الْإِسْلَامِ وَ كَفَرَ بِمَا أَنْزَلَ اللَّهُ عَلَى مُحَمَّدٍ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بَعْدَ إِسْلَامِهِ فَلَا تَوْبَةَ لَهُ وَ قَدْ وَجِبَ قَتْلُهُ وَ بَانَتْ مِنْهُ امْرَأَتُهُ وَ يُقَسَمُ مَا تَرَكَ عَلَى وُلْدِهِ .

Ali Bin Ibrahim, from his father and a number of our companions, from Sahl Bin Ziyad, altogether from Ibn Mahboub, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about the apostate, so he^{asws} said: 'The one who aspires away from Al-Islam and rejects with what Allah^{azwj} Revealed unto Muhammad^{saww} after his Islam, so there is no repentance for him, and it would Obligate his killing, and his wife would be irrevocably divorced from him, and whatever he leaves (as legacy) would be distributed upon his children'.⁷⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنِ الْفَضِيلِ بْنِ يَسَارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ رَجُلًا مِنَ الْمُسْلِمِينَ تَنَصَّرَ فَأَيَّ بِهِ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَاسْتَنَابَهُ فَأَبَى عَلَيْهِ فَقَبِضَ عَلَيْهِ شَعْرَهُ ثُمَّ قَالَ طَنُوا يَا عِبَادَ اللَّهِ فَوَطِئُوا حَتَّى مَاتَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Musa Bin Bakr, from Al Fuzayl Bin Yasaar,

(It has been narrated) from Abu Abdullah^{asws} that a man from the Muslims became a Christian, so they came with him to Amir Al-Momineen^{asws}. So he^{asws} told him to repent, but he refused him^{asws}. So he^{asws} grabbed his hair, then said: 'Trample him, O servants of Allah^{azwj}!' So they trampled him until he died'.⁷⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِنَا عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْمُرْتَدِّ يُسْتَنَابُ فَإِنْ تَابَ وَ إِلَّا قُتِلَ وَ الْمَرْأَةُ إِذَا ارْتَدَّتْ عَنِ الْإِسْلَامِ اسْتُنْيَبَتْ فَإِنْ تَابَتْ وَ رَجَعَتْ وَ إِلَّا خُلِدَتْ فِي السِّجْنِ وَ ضَيَّقَ عَلَيْهَا فِي حَبْسِهَا .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from someone else from our companions,

(It has been narrated) from Abu Ja'far^{asws} and Abu Abdullah^{asws} regarding the apostate: 'He would be asked to repent. So if he repents (fine), or else he would be killed, and the wife, when she reneges from Al-Islam, would (also) be asked to repent. So if she repents and returns (fine), or else she would be imprisoned for ever, and her imprisonment would be constricted upon her'.⁷⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنِ الْقَاسِمِ بْنِ سُلَيْمَانَ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الصَّبِيِّ يَخْتَارُ الشِّرْكَ وَ هُوَ بَيْنَ أَبَوَيْهِ قَالَ لَا يُتْرَكُ وَ ذَلِكَ إِذَا كَانَ أَحَدُ أَبَوَيْهِ نَصْرَانِيًّا .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Al nazar Bin Suweyd, from Al Qasim Bin Suleyman, from Ubeyd Bin Zurara,

⁷⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 1

⁷⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 2

⁷⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 3

(It has been narrated) from Abu Abdullah^{asws} regarding the child who chose the Polytheism, and he is among his two parents. He^{asws} said: 'He would not be left (alone), and that is when one of his parents is a Christian'.⁸⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ وَغَيْرِهِ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) فِي رَجُلٍ رَجَعَ عَنِ الْإِسْلَامِ قَالَ يُسْتَتَابُ فَإِنْ تَابَ وَ إِلَّا قُتِلَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ali Bin Hadeed, from Jameel Bin Darraj, and others,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding a man who retracted from Al-Islam. He^{asws} said: 'He would be told to repent, so if he does repent (fine), or else killed'.⁸¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مَسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَتَى بِزَنْدِيقٍ فَضَرَبَ عِلَاوَتَهُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} that they came to Amir Al-Momineen^{asws} with an atheist, so he^{asws} struck his neck'.⁸²

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِهِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الصَّبِيِّ إِذَا شَبَّ فَاخْتَارَ النَّصْرَانِيَّةَ وَ أَحَدُ أَبْوَيْهِ نَصْرَانِيٌّ أَوْ مُسْلِمِينَ قَالَ لَا يُتْرَكُ وَ لَكِنْ يُضْرَبُ عَلَى الْإِسْلَامِ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from someone else from his companions, from Aban Bin Usman, from one of his companions,

(It has been narrated) from Abu Abdullah^{asws} regarding the child, when he becomes a youth, so he chooses the Christianity, and one of his parents is a Christian, or they are both Muslims. He^{asws} Said: 'He would not be left, but he would be whipped upon Al-Islam'.⁸³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ قَالَ أَتَى قَوْمٌ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَقَالُوا السَّلَامُ عَلَيْكَ يَا رَبَّنَا فَاسْتَتَابَهُمْ فَلَمْ يَتُوبُوا فَحَفَرَ لَهُمْ حُفِيرَةً وَ أَوْقَدَ فِيهَا نَارًا وَ حَفَرَ حُفِيرَةً أُخْرَى إِلَى جَانِبِهَا وَ أَفْضَى بَيْنَهُمَا فَلَمَّا لَمْ يَتُوبُوا أَلْفَاهُمْ فِي الْحُفِيرَةِ وَ أَوْقَدَ فِي الْحُفِيرَةِ الْأُخْرَى حَتَّى مَاتُوا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A group of people came to Amir Al-Momineen^{asws}, so they said, 'السَّلَامُ عَلَيْكَ يَا رَبَّنَا', 'Peace be upon you^{asws}, O our Lord!' So he^{asws} told them to repent, but they did not repent. So he^{asws} dug out a pit for them, and kindle a fire in it, and dug out another pit to its side, and bore a hole

⁸⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 4

⁸¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 5

⁸² Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 6

⁸³ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 7

between the two. So when they did not repent, he^{asws} cast them into the pit, and inflamed (the fire) in the other pit, until they died'.⁸⁴

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ سَالِمٍ عَنْ أَحْمَدَ بْنِ النَّضْرِ عَنْ عَمْرِو بْنِ شِمْرٍ عَنْ جَابِرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَتَى أَمِيرُ الْمُؤْمِنِينَ (صَلَوَاتُ اللَّهِ عَلَيْهِ) بِرَجُلٍ مِنْ بَنِي تَعْلَبَةَ قَدْ تَنَصَّرَ بَعْدَ إِسْلَامِهِ فَشَهِدُوا عَلَيْهِ فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) مَا يَقُولُ هَؤُلَاءِ الشُّهُودُ قَالَ صَدَقُوا وَ أَنَا أَرْجِعُ إِلَى الْإِسْلَامِ فَقَالَ أَمَا إِنَّكَ لَوْ كَذَبْتَ الشُّهُودَ لَضَرَبْتُ عُنُقَكَ وَ قَدْ قَبِلْتُ مِنْكَ وَ لَا تُعَدُّ فَإِنَّكَ إِنْ رَجَعْتَ لَمْ أَقْبَلْ مِنْكَ رُجُوعاً بَعْدَهُ .

Abu Ali Al Ashary, from Muhammad Bin Salim, from Ahmad Bin Al Nazar, from Amro Bin Shimr, from Jabir,

Abu Abdullah^{asws} has said: 'They came to Amir Al-Momineen^{asws} with a man from the Clan of Sa'alba who had become Christian after his Islam, so they testified against him. So, Amir Al-Momineen^{asws} said: 'What are these witnesses saying?' He said, 'They are speaking the truth, and I have returned to Al-Islam'. So he^{asws} said: 'But, had you belied the witnesses, I^{asws} would have struck your neck, and I^{asws} have accepted from you, and do not repeat, for if you were to return, I^{asws} will not accept the returning from you, after it'.⁸⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ الْعَمْرِيِّ بْنِ عَلِيٍّ النَّيْسَابُورِيِّ عَنْ عَلِيِّ بْنِ جَعْفَرٍ عَنْ أَخِيهِ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ مُسْلِمٍ تَنَصَّرَ قَالَ يُقْتَلُ وَ لَا يُسْتَنْبَابُ قُلْتُ فَتَنْصُرَانِي أَسْلَمْتُ ثُمَّ ارْتَدَّ عَنِ الْإِسْلَامِ قَالَ يُسْتَنْبَابُ فَإِنْ رَجَعَ وَ إِلَّا قُتِلَ .

Muhammad Bin Yahya, from Al Amraki Bin Ali Al Neysabouri,

(It has been narrated) from Ali son of Ja'far^{asws}, from his brother^{asws} Abu Al-Hassan^{asws}, said, 'I asked him^{asws} about a Muslim who became a Christian. He^{asws} said: 'He would be killed, and would not be told to repent'. I said, 'So if a Christian became a Muslim, then reneged from Al-Islam?' He^{asws} said: 'He would be told to repent, so if he were to return (fine) or else killed'.⁸⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ عَمَارِ السَّابِاطِيِّ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ كُلُّ مُسْلِمٍ بَيْنَ مُسْلِمِينَ ارْتَدَّ عَنِ الْإِسْلَامِ وَ جَحَدَ مُحَمَّدًا (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) نُبُوَّتَهُ وَ كَذَبَهُ فَإِنَّ دَمَهُ مَبَاحٌ لِكُلِّ مَنْ سَمِعَ ذَلِكَ مِنْهُ وَ امْرَأَتُهُ بَاطِنَةٌ مِنْهُ يَوْمَ ارْتَدَّ فَلَا تَقْرُبُهُ وَ يُسْمَمُ مَالُهُ عَلَى وَرَثَتِهِ وَ تَعْتَدُ امْرَأَتُهُ [بَعْدَ] عِدَّةِ الْمُتَوَفَّى عَنْهَا زَوْجُهَا وَ عَلَى الْإِمَامِ أَنْ يَقْتُلَهُ وَ لَا يُسْتَنْبِيَهُ .

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Hisham Bin Salim, from Ammar Al Sabat who said,

'I heard Abu Abdullah^{asws} saying: 'Every Muslim, in between two Muslims reneges from Al-Islam (becomes an apostate), and denies Muhammad^{saww} of his^{saww} Prophet-hood, and belies him^{saww}. So his blood is Permissible to be shed for every one who hears that from him, and his wife is irrevocably divorced from him the day he reneges, so she cannot go near him, and his wealth is distributed upon his inheritors, and his wife would observe the waiting period of the one widowed from her husband,

⁸⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 8

⁸⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 9

⁸⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 10

and it would be upon the Imam^{asws} that he kills him, and does not give him (the opportunity) to repent'.⁸⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ أَخَذَ فِي شَهْرِ رَمَضَانَ وَ قَدْ أَطْرَقَ فَرَفَعَ إِلَى الْإِمَامِ يُقْتَلُ فِي الثَّلَاثَةِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abu Baseer,

Abu Abdullah^{asws} has said: 'The one who is seized in a Month of Ramazan and he had broken his Fast, so it is raised to the Imam^{asws}, he^{asws} would kill him during the third (offence)'.⁸⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنْ ابْنِ أَبِي يَعْفُورٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِنَّ بَرِيحًا يَزْعُمُ أَنَّهُ نَبِيٌّ فَقَالَ إِنْ سَمِعْتَهُ يَقُولُ ذَلِكَ فَاقْتُلْهُ قَالَ فَجَلَسْتُ لَهُ غَيْرَ مَرَّةٍ فَلَمْ يُمَكِّنِي ذَلِكَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Hammad Bin Usman, from Ibn Abu Yafour who said,

'I said to Abu Abdullah^{asws} that, Baziya alleges that he is a Prophet. So he^{asws} said: 'If you were to hear him saying that, you should kill him'. He said, 'So I sat with (awaiting) for him many a time, but was not able over that'.⁸⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ عَبْدِ الرَّحْمَنِ الْأَبْزَارِيِّ الْكُنَاسِيِّ عَنِ الْحَارِثِ بْنِ الْمُغْبِرَةِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَرَأَيْتَ لَوْ أَنَّ رَجُلًا أَتَى النَّبِيَّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ وَ اللَّهُ مَا أَدْرِي أ نَبِيٌّ أَنْتَ أَمْ لَا كَانَ يَقْبَلُ مِنْهُ قَالَ لَا وَ لَكِنْ كَانَ يَقْتُلُهُ إِنْهُ لَوْ قَبِلَ ذَلِكَ مِنْهُ مَا أَسْلَمَ مُنَافِقٌ أَبَدًا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Abul Rahman Al Abzary Al Kunasy, from Al Haris Bin Al Mugheira who said,

'I said to Abu Abdullah^{asws}, 'What is your^{asws} view if a man came to the Prophet^{saww}, so he said, 'By Allah^{azwj}! I do not know whether you^{saww} are a Prophet^{saww} or not, would he^{saww} have accepted from him?' He^{asws} said: 'No! But, he^{saww} would have killed him. If he^{saww} had accepted from him, no hypocrite would ever become a Muslim'.⁹⁰

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مَسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَتَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) بَرَزَنْدِيقَ فَضْرَبَ عِلَاوَتَهُ فَقِيلَ لَهُ إِنَّ لَهُ مَا لَا كَثِيرًا فَلَمَنْ يُجْعَلُ مَالَهُ قَالَ لَوْلَدِهِ وَ لَوْرَثَتِهِ وَ لِرُؤُوسِهِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a Bin Abdul Mallik,

(It has been narrated) from Abu Abdullah^{asws} having said: 'They came to Amir Al-Momineen^{asws} with an atheist, so he^{asws} struck his neck. So it was said to him^{asws}, 'He

⁸⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 11

⁸⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 12

⁸⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 13

⁹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 14

had a lot of wealth for him, so for whom would his wealth be for?' He^{asws} said: 'For his children, and for his inheritors, and for his wife'.⁹¹

وَبِهَذَا الْإِسْنَادِ قَالَ أَمِيرُ الْمُؤْمِنِينَ (صَلَوَاتُ اللَّهِ عَلَيْهِ) كَانَ يَحْكُمُ فِي زَنْدِيقٍ إِذَا شَهِدَ عَلَيْهِ رَجُلَانِ عَدْلَانِ مَرْضِيَّانِ وَ شَهِدَ لَهُ أَلْفٌ بِالْبَرَاءَةِ جَارَتْ شَهَادَةُ الرَّجُلَيْنِ وَ أَبْطَلَ شَهَادَةَ أَلْفٍ لِأَنَّهُ دِينٌ مَكْنُومٌ .

And by this chain,

'Amir Al-Momineen^{asws} had judged regarding an atheist when two just, acceptable witnesses testify against him, they testify for him a thousand with the freeing him. He^{asws} allowed the testimony of two men and invalidated the testimonies of a thousand because it is an undisclosed religion'.⁹²

وَبِهَذَا الْإِسْنَادِ قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) الْمُرْتَدُّ تَعَزَّلَ عَنْهُ امْرَأَتُهُ وَ لَا تُؤْكَلُ ذَبِيحَتُهُ وَ يُسْتَنْتَابُ ثَلَاثَةَ أَيَّامٍ فَإِنْ تَابَ وَ إِلَّا قُتِلَ يَوْمَ الرَّابِعِ .

And by this chain, said,

'Amir Al-Momineen^{asws} said: '(As for the) apostate, his wife should isolate herself from him, and she should not eat meat slaughtered by him, and he would be given three days to repent, so if he does repent (fine), or else he would be killed on the fourth day'.⁹³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَتَى قَوْمٌ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَقَالُوا السَّلَامُ عَلَيْكَ يَا رَبَّنَا فَاسْتَنْتَابَهُمْ فَلَمْ يَتُوبُوا فَحَفَرَ لَهُمْ حَفِيرَةً وَ أَوْقَدَ فِيهَا نَارًا وَ حَفَرَ حَفِيرَةً أُخْرَى إِلَى جَانِبِهَا وَ أَفْضَى مَا بَيْنَهُمَا فَلَمَّا لَمْ يَتُوبُوا أَلْقَاهُمْ فِي الْحَفِيرَةِ وَ أَوْقَدَ فِي الْحَفِيرَةِ الْأُخْرَى [نَارًا] حَتَّى مَاتُوا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A group of people came to Amir Al-Momineen, so they said, 'Peace be upon you^{asws}, 'السَّلَامُ عَلَيْكَ يَا رَبَّنَا' O our Lord! So he told them to repent, but they did not repent. So he^{asws} dug out a pit for them and ignited a fire in it, and dug out another pit to its side, and bore a hole between these two. So when they did not repent, he^{asws} cast them into the pit, and ignited fire in the other pit, until they died'.⁹⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِعٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْعَبْدُ إِذَا أَبَقَ مِنْ مَوَالِيهِ ثُمَّ سَرَقَ لَمْ يُقَطَّعْ وَ هُوَ أَبَقٌ لِأَنَّهُ مُرْتَدٌّ عَنِ الْإِسْلَامِ وَ لَكِنْ يُدْعَى إِلَى الرَّجُوعِ إِلَى مَوَالِيهِ وَ الدُّخُولِ فِي الْإِسْلَامِ فَإِنْ أَبَى أَنْ يَرْجِعَ إِلَى مَوَالِيهِ قُطِعَتْ يَدُهُ بِالسَّرِقَةِ ثُمَّ قُتِلَ وَ الْمُرْتَدُّ إِذَا سَرَقَ بِمَنْزِلَتِهِ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Ibn Raib, from Abu Ubeyda,

Abu Abdullah^{asws} has said: 'The slave, when he is a fugitive from his master, then steals, he would not be cut, and he is a fugitive, because he is a renegade from Al-Islam, but he would be called to the return to his master, and the entry into the fold of

⁹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 15

⁹² Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 16

⁹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 17

⁹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 18

Al-Islam. So if he were to refuse to return to his master, his hand would be cut due to the theft, then he would be killed; and the apostate, when he steals is at his status'.⁹⁵

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ بُرَيْدِ الْعَجَلِيِّ قَالَ سُئِلَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ شَهِدَ عَلَيْهِ شُهُودٌ أَنَّهُ أَفْطَرَ مِنْ شَهْرِ رَمَضَانَ ثَلَاثَةَ أَيَّامٍ فَقَالَ يُسْأَلُ هَلْ عَلَيْكَ فِي إِفْطَارِكَ إِثْمٌ فَإِنْ قَالَ لَا فَإِنَّ عَلَى الْإِمَامِ أَنْ يَقْتُلَهُ وَ إِنْ هُوَ قَالَ نَعَمْ فَإِنَّ عَلَى الْإِمَامِ أَنْ يَنْهَكَ ضَرْبًا .

Ibn Mahboub, from Hisham Bin Salim, from Bureyd Al Ajaly who said,

'Abu Ja'far^{asws} was asked about a man against whom witnesses testified that he had broken a Fast from the Month of Ramazan for three days. He^{asws} said: 'He would be asked, 'Is there a sin upon you with regards to your breaking the Fast?' So if he says, 'No', then it would be upon the Imam^{asws} that he^{asws} should kill him; and if he were to say, 'Yes', so it would be upon the Imam^{asws} that he^{asws} blights him with the whipping'.⁹⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ سَأَلَ عَمْرًا سَنَمَ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ يَقْتُلُهُ الْأَذْنَى فَاَلْأَذْنَى قَبْلَ أَنْ يَرْفَعَهُ إِلَى الْإِمَامِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having been asked about the one who insults Rasool-Allah^{saww}. So he^{asws} said: 'He should be killed for the lowest (of insults), as a minimum, before he is brought to the Imam^{asws}'.⁹⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنْ ابْنِ أَبِي يَعْفُورٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِنْ بَزِيعًا يَزْعُمُ أَنَّهُ نَبِيٌّ قَالَ فَإِنْ سَمِعْتَهُ يَقُولُ ذَلِكَ فَاقْتُلْهُ قَالَ فَجَلَسْتُ عَيْرَ مَرَّةٍ فَلَمْ يُمْكِنِّي ذَلِكَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Hammad Bin usman, from Ibn Abu Yafour who said,

'I said to Abu Abdullah^{asws} that Bazi'a is claiming that he is a Prophet. He^{asws} said: 'So if you were to hear him saying that, so kill him'. He (the narrator) said, 'I sat awaiting more than once, but I was not able to do that'.⁹⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ ابْنِ مَحْبُوبٍ عَنْ صَالِحِ بْنِ سَهْلٍ عَنْ كَرْدَيْنَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ وَ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) لَمَّا فَرَّغَ مِنْ أَهْلِ الْبَصْرَةِ آتَاهُ سَبْعُونَ رَجُلًا مِنَ الرُّطِّ فَسَلَّمُوا عَلَيْهِ وَ كَلَّمُوهُ بِلِسَانِهِمْ فَرَدَّ عَلَيْهِمْ بِلِسَانِهِمْ ثُمَّ قَالَ لَهُمْ إِنِّي لَسْتُ كَمَا قُلْتُمْ أَنَا عَبْدُ اللَّهِ مَخْلُوقٌ فَأَبُوا عَلَيْهِ وَ قَالُوا أَنْتَ هُوَ فَقَالَ لَهُمْ لَنْ لَمْ تَنْتَهُوا وَ تَرْجِعُوا عَمَّا قُلْتُمْ فِي وَ تَتَوَبُوا إِلَى اللَّهِ عَزَّ وَ جَلَّ لِأَقْتُلَنَّكُمْ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Salih Bin Sahl, from Kirdayn,

(It has been narrated) from a man from Abu Abdullah^{asws} and Abu Ja'far^{asws} having said that when Amir Al-Momineen^{asws} was free from the people of Al-Basra (Battle of the Camel), seventy men from Al-Zat came over. So they greeted him^{asws} and spoke to him^{asws} in their own language. So he^{asws} responded to them in their language.

⁹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 19

⁹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 20

⁹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 21

⁹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 22

Then he^{asws} said to them: 'I^{asws} am not as you are saying it to be. I^{asws} am a servant of Allah^{azwj}, a Created being'. But they refused to him^{asws} and said, 'أَنْتَ هُوَ' 'You^{asws} are He^{azwj}!' So he^{asws} said to them: 'If you do not cease and retract from what you are saying regarding me^{asws}, and repent to Allah^{azwj} Mighty and Majestic, I^{asws} will kill you all'.

فَابُوا أَنْ يَرْجِعُوا وَ يَتُوبُوا فَأَمَرَ أَنْ تُحْفَرُ لَهُمْ آبَارٌ فَحُفِرَتْ ثُمَّ خَرَقَ بَعْضَهَا إِلَى بَعْضٍ ثُمَّ قَذَفَهُمْ فِيهَا ثُمَّ خَمَرَ رُءُوسَهَا ثُمَّ أَلْهَبَتِ النَّارُ فِي بِنْرِ مِنْهَا لَيْسَ فِيهَا أَحَدٌ مِنْهُمْ فَدَخَلَ الدُّخَانُ عَلَيْهِمْ فِيهَا فَمَاتُوا .

But, they refused to retract and repent. So he^{asws} ordered for wells to be dug out for them. So they dug them. Then he^{asws} bore holes connecting each of these. Then he^{asws} threw them into it. Then he^{asws} covered the top of the wells. Then he^{asws} inflamed a fire in the well in which there was no one from them. So the smoke entered upon them in those (wells). So they died'.⁹⁹

باب حَدِّ السَّاحِرِ

Chapter 62 – Penalty (Hadd) of the sorcerer

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) سَاحِرُ الْمُسْلِمِينَ يُقْتَلُ وَ سَاحِرُ الْكُفَّارِ لَا يُقْتَلُ قِيلَ يَا رَسُولَ اللَّهِ وَ لِمَ لَا يُقْتَلُ سَاحِرُ الْكُفَّارِ قَالَ لِأَنَّ الْكُفْرَ أَعْظَمُ مِنَ السِّحْرِ وَ لِأَنَّ السِّحْرَ وَ الشِّرْكَ مَفْرُوقَانِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'The Muslim sorcerer would be killed, and the Infidel sorcerer would not be killed'. It was said, 'O Rasool-Allah^{saww}! And why would the Infidel sorcerer not be killed?' He^{saww} said: 'Because the infidelity is more grievous than the sorcery, and because the sorcery and the Polytheism are pairs'.¹⁰⁰

مُحَمَّدُ بْنُ يَحْيَى وَ مُحَمَّدُ بْنُ أَحْسَنِ وَ حَبِيبُ بْنُ الْحَسَنِ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْحَمِيدِ الْعَطَّارِ عَنْ بَشَّارٍ عَنْ زَيْدِ الشَّحَامِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ السَّاحِرُ يُضْرَبُ بِالسِّيفِ ضَرْبَةً وَاحِدَةً عَلَى [أَم] رَأْسِهِ .

Muhammad Bin Yahya and Muhammad Bin Al Husayn and Habeeb Bin Al Hassan, from Muhammad Bin Abdul Hameed Al Attar, from Bashar, from Zayd Al Shahham,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The sorcerer would be struck with one strike of the sword on top of his head'.¹⁰¹

باب النَّوَادِرِ

Chapter 63 – The Miscelaneous

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحِ النَّوْرِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَمَرَ قَنْبَرَ أَنْ يَضْرِبَ رَجُلًا حَدًّا فَغَلَطَ قَنْبَرٌ فَرَادَهُ ثَلَاثَةَ أَسْوَاطٍ فَأَقَادَهُ عَلِيٌّ (عَلَيْهِ السَّلَام) مِنْ قَنْبَرٍ ثَلَاثَةَ أَسْوَاطٍ .

⁹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 61 H 23

¹⁰⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 62 H 1

¹⁰¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 62 H 2

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al Hassan Bin Salih Al Sowry,

(It has been narrated) from Abu Ja'far^{asws} having said that Amir Al-Momineen^{asws} ordered Qanbar that he should whip a man, a Penalty (*Hadd*). So Qanbar was harsh, and increased by three lashes. So Ali^{asws} caused retaliation from Qanbar of the three (excessive) lashes'.¹⁰²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِنَّ أَبْغَضَ النَّاسِ إِلَى اللَّهِ عَزَّ وَجَلَّ رَجُلٌ جَرَّدَ ظَهْرَ مُسْلِمٍ بِغَيْرِ حَقٍّ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'The most hateful of the people to Allah^{azwj} Mighty and Majestic is a man who bares the back of a Muslim without a right (to do so)'.¹⁰³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ بَعْضِ أَصْحَابِنَا قَالَ نَهَى رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) عَنِ الْأَدْبِ عِنْدَ الْغَضَبِ .

Ali Bin Ibrahim, from his father, from Ali Bin Asbat, from one of our companions who said,

'Rasool-Allah^{saww} forbade from the disciplining during the anger'.¹⁰⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ أَحْمَدَ بْنِ عُمَرَ الْحَلَّالِ قَالَ قَالَ يَاسِرٌ عَنْ بَعْضِ الْعُلَمَانِ عَنْ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ لَا يَزَالُ الْعَبْدُ يَسْرِقُ حَتَّى إِذَا اسْتَوْفَى ثَمَنَ يَدِهِ أَظْهَرَهَا اللَّهُ عَلَيْهِ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Muhammad Bin Isa, from Ahmad Bin Umar Al Hallal, from Yasir, from one of the slaves,

From Abu Al-Hassan^{asws} having said: 'If a servant does not stop from stealing even after he is satisfied with his wages, Allah^{azwj} Exposes it against him'.¹⁰⁵

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ فِي مَسَائِلِ إِسْمَاعِيلَ بْنِ عِيسَى عَنِ الْأَخِيرِ فِي مَمْلُوكٍ يَعْصِي صَاحِبَهُ أَوْ يَجْلُ ضَرْبُهُ أَمْ لَا فَقَالَ لَا يَجْلُ لَكَ أَنْ تَضْرِبَهُ إِنْ وَاقَفَكَ فَأَمْسِكْهُ وَ إِلَّا فَخَلَّ عَنْهُ .

A number of our companions, from Ahmad Bin Muhammad, in the questions of Ismail Bin Isa,

(It has been narrated) from Al-Akheer regarding an owned (slave) who disobeys his master, is it Permissible to whip him or not? So he^{asws} said: 'It is not Permissible for you that you should whip him, if he is compatible with you, so keep him, or else release him'.¹⁰⁶

عَلِيُّ بْنُ مُحَمَّدِ بْنِ بُنْدَارَ عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِيهِ عَنِ أَبِي الْبَخْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) قَالَ مَنْ أَقْرَّ عِنْدَ تَجْرِيدِهِ أَوْ تَخْوِيفِهِ أَوْ حَبْسِهِ أَوْ تَهْدِيدِهِ فَلَا حَدَّ عَلَيْهِ .

¹⁰² Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 1

¹⁰³ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 2

¹⁰⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 3

¹⁰⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 4

¹⁰⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 5

Ali Bin Muhammad Bin Bandar, from Ahmad Bin Abu Abdullah, from his father, from Abu Al Bakhtary,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} said, 'The one who confesses during the stripping, or frightening, or imprisonment, or imposition of a Penalty (*Hadd*), so there is no Penalty (*Hadd*) upon him (Due to being under duress/pressure)'.¹⁰⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ أَسْلَمَ الْجَبَلِيِّ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ ذَاتِ بَعْلِ زَنْتٌ فَحَبِلَتْ فَلَمَّا وَلَدَتْ قَتَلَتْ وَلَدَهَا سِرًّا قَالَ تُجْلَدُ مِائَةً [جُدَّة] لِقَتْلِهَا وَلَدَهَا وَ تُرْجَمُ لِأَنَّهَا مُحْصَنَةٌ

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Aslam Al Jabaly, from Aasim Bin Humejd, from Muhammad Bin Qays,

(The narrator) says, 'I asked Abu Ja'far^{asws} about a woman who was with a husband, committed adultery, so she became pregnant. So when she gave birth, she killed her child secretly. He^{asws} said: 'She would be whipped one hundred lashes due to killing her child, and she would be stoned (to death) because she was married (while committing immorality)'.

قَالَ وَ سَأَلْتُهُ عَنْ امْرَأَةٍ غَيْرِ ذَاتِ بَعْلِ زَنْتٌ فَحَبِلَتْ فَتَلَّتْ وَلَدَهَا سِرًّا قَالَ تُجْلَدُ مِائَةً لِأَنَّهَا زَنْتٌ وَ تُجْلَدُ مِائَةً لِأَنَّهَا قَتَلَتْ وَلَدَهَا.

He (the narrator) said, 'And I asked him^{asws} about a woman who was not with a husband, committed adultery. So she killed her child secretly. He^{asws} said: 'She would be whipped one hundred (lashes) because she committed adultery, and she would be whipped one hundred (lashes) because she killed her child'.¹⁰⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ أَقْرَبُ بَوْلِدٍ ثُمَّ نَفَاهُ جِلْدَ الْحَدِّ وَالزَّمَّ الْوَلَدَ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} said: 'The one who confesses with (ownership of) a child, then denies it, would be whipped the Penalty (*Hadd*), and the child would be enforced upon him'.¹⁰⁹

عَلِيُّ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ رَفَعَهُ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ يَسْرِقُ فَنُقِطَعُ يَدُهُ بِإِقَامَةِ الْبَيِّنَةِ عَلَيْهِ وَ لَمْ يَرُدَّ مَا سَرَقَ كَيْفَ يُصْنَعُ بِهِ فِي مَالِ الرَّجُلِ الَّذِي سَرَقَ مِنْهُ أَوْ لَيْسَ عَلَيْهِ رُدُّهُ وَ إِنْ أَدْعَى أَنَّهُ لَيْسَ عِنْدَهُ قَلِيلٌ وَ لَا كَثِيرٌ وَ عِلْمٌ ذَلِكَ مِنْهُ قَالَ يُسْتَسْعَى حَتَّى يُؤَدِّيَ آخِرَ دِرْهِمٍ سَرَقَهُ .

Ali, from his father, from Salih Bin Saeed,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, 'I asked him^{asws} about a man who stole, so his hand was cut by the establishment of the proof against him, but he did not return what he had stolen. So how should one deal with the property of the man whom it had been stolen from, or is there not the returning

¹⁰⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 6

¹⁰⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 7

¹⁰⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 8

upon him? And if he were to claim that there is nothing in his possession anymore, neither less nor more, and that is known to be from him?' He^{asws} said: 'He would be made to work until he pays back the last Dirham he had stolen'.¹¹⁰

عَلِيٌّ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَخْبِرْنِي عَنِ الْقَوَادِمِ مَا حَدُّهُ قَالَ لَا حَدَّ عَلَى الْقَوَادِمِ إِلَّا لَيْسَ إِنَّمَا يُعْطَى الْأَجْرَ عَلَى أَنْ يَقُودَ قُلْتُ جُعِلَتْ فِدَاكَ إِنَّمَا يَجْمَعُ بَيْنَ الذَّكَرِ وَالْإُنْثَى حَرَامًا قَالَ ذَلِكَ الْمُؤَلَّفُ بَيْنَ الذَّكَرِ وَالْإُنْثَى حَرَامًا فَقُلْتُ هُوَ ذَلِكَ جُعِلَتْ فِدَاكَ قَالَ يُضْرَبُ ثَلَاثَةَ أَرْبَاعٍ حَدَّ الزَّانِي خُمْسَةً وَسَبْعِينَ سَوْطًا وَ يُنْفَى مِنَ الْمِصْرِ الَّذِي هُوَ فِيهِ

Ali, from his father, from Muhammad Bin Suleyman, from Abdullah Bin Sinan who said,

'I said to Abu Abdullah^{asws}, 'Inform me about the pimp, what is his Penalty (*Hadd*)?' He^{asws} said: 'There is no Penalty (*Hadd*) upon the pimp. Is it not, rather, he is given the wages upon what he procures?' I said, 'May I be sacrificed for you^{asws}! But rather, he gathers between the male and the female unlawfully'. He^{asws} said: 'That is the joiner between the male and the female unlawfully?' So I said, 'He is that, may I be sacrificed for you^{asws}'. He^{asws} said: 'He would be whipped three quarters of a Penalty (*Hadd*) of the adulterer, seventy five lashes, and he would be exiled from the city in which he is in'.

فَقُلْتُ جُعِلَتْ فِدَاكَ فَمَا عَلَى رَجُلٍ الَّذِي وَتَبَّ عَلَى امْرَأَةٍ فَحَلَقَ رَأْسَهَا قَالَ يُضْرَبُ ضَرْبًا وَجِيعًا وَ يُحْبَسُ فِي سِجْنِ الْمُسْلِمِينَ حَتَّى يُسْتَبْرَأَ شَعْرُهَا فَإِنْ نَبَتَ مِنْهُ مَهْرٌ نِسَائِيهَا وَ إِنْ لَمْ يَنْبِتْ أُخِذَتْ مِنْهُ الدِّيَةُ كَامِلَةً خُمْسَةَ أَلْفٍ بِرَّهْمٍ فَقُلْتُ فَكَيْفَ صَارَ مَهْرَ نِسَائِيهَا إِنْ نَبَتَ شَعْرُهَا قَالَ يَا ابْنَ سِنَانَ إِنَّ شَعْرَ الْمَرْأَةِ وَ عُدْرَتَهَا يَشْتَرِكَانِ فِي الْجَمَالِ فَإِذَا ذَهَبَ بِأَحَدِهِمَا وَجَبَ لَهَا الْمَهْرُ كَامِلًا .

So I said, 'May I be sacrificed for you^{asws}! So what is upon a man who pounces upon a woman and shaves off her head?' He^{asws} said: 'He would be whipped painful lashes, and he would be imprisoned in a prison of the Muslims until her hair grows back. So when it does grows back, (an amount equal to) a dower of his womenfolk would be taken from him. And if it does not grow back, the complete wergild of five thousand Dirhams is taken from him'. So I said, 'So how did it come to be a dower of his womenfolk, if her hair does grows back?' He^{asws} said: 'O Ibn Sinan! Hair of the woman, and her virginity are two associates in the beauty. So if one of the two goes away, the complete dower is Obligated for her'.¹¹¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفَضِيلِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ الرَّجُلُ يَنْتَفِي مِنْ وَلَدِهِ وَ قَدْ أَقْرَبَ بِهِ فَقَالَ إِنْ كَانَ الْوَلَدُ مِنْ حُرَّةٍ جُلِدَ الْحَدَّ خَمْسِينَ سَوْطًا حَدَّ الْمَمْلُوكِ وَ إِنْ كَانَ مِنْ أَمَةٍ فَلَا شَيْءَ عَلَيْهِ .

Muhammad Bin yahya, from Muhammad Bin Ahmad, from Muhammad Bin Isa, from Muhammad Bin Sinan, from Al A'la Bin Al Fuzayl,

(The narrator) says, 'I said to Abu Abdullah^{asws}, 'The man denies from his child, and he had previously acknowledge with it. So he^{asws} said: 'If the child was from a free woman, he would be whipped the Penalty (*Hadd*) of fifty lashes, a Penalty (*Hadd*) of the owned (slaves), and if it was from a slave girl, so there is nothing upon him'.¹¹²

¹¹⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 9

¹¹¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 10

¹¹² Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 11

مُحَمَّدُ بْنُ أَحْمَدَ عَنْ أَبِي عَبْدِ اللَّهِ الرَّازِيِّ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي عَبْدِ اللَّهِ الْمُؤْمِنِ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّزَى أَشْرُ أَوْ شَرُّبُ الْخَمْرِ وَ كَيْفَ صَارَ فِي الْخَمْرِ ثَمَانِينَ وَ فِي الرَّزَى مِائَةً فَقَالَ يَا إِسْحَاقُ الْحَدُّ وَاحِدٌ وَ لَكِنْ زَيْدٌ هَذَا لِتَضْيِيعِهِ النَّطْفَةَ وَ لَوْضِعِهِ إِيَّاهَا فِي غَيْرِ مَوْضِعِهَا الَّذِي أَمَرَهُ اللَّهُ عَزَّ وَ جَلَّ بِهِ .

Muhammad Bin Ahmad, from Abu Abdullah Al Razy, from Al Hassan Bin Ali Bin Abu Hamza, from Abu Abdullah Al Momin, from Is'haq Bin Ammar who said,

'I said to Abu Abdullah^{asws}, 'Is the adulterer more evil or drinker of the wine? And how did eighty lashes come to be with regards to the wine, and a hundred regarding adultery?' So he^{asws} said: 'O Is'haq! The Penalty (*Hadd*) is one, but there is an increase in this due to his wasting of the sperm and placing it in other than its (rightful) place which Allah^{azwj} Mighty and Majestic has Commanded it with'.¹¹³

مُحَمَّدُ بْنُ أَحْمَدَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ إِبْرَاهِيمَ بْنِ مُحَمَّدٍ النَّقْفِيِّ عَنْ إِبْرَاهِيمَ بْنِ يَحْيَى النَّوْرِيِّ عَنْ هَيْثَمِ بْنِ بَشِيرٍ عَنْ أَبِي بَشِيرٍ عَنْ أَبِي رَوْحٍ أَنَّ امْرَأَةً تَشَبَّهَتْ بِأَمَةٍ لِرَجُلٍ وَ ذَلِكَ لَيْلًا فَوَاقَعَهَا وَ هُوَ يَرَى أَنَّهَا جَارِيَتُهُ فَرَفَعَ إِلَى عُمَرَ فَأَرْسَلَ إِلَى عَلِيٍّ (عَلَيْهِ السَّلَامُ) فَقَالَ اضْرِبِ الرَّجُلَ حَدًّا فِي السَّرِّ وَ اضْرِبِ الْمَرْأَةَ حَدًّا فِي الْعَلَانِيَةِ .

Muhammad Bin Ahmad, from one of his companions, from Ibrahim Bin Muhammad Al Saqafy, from Ibrahim Bin Yahya Al Sowry, from Haysam Bin Basheer, from Abu Basheer, from Abu Rawh that,

'A woman resembled herself with a slave girl for a man, and that was at night. So he fell upon her, and he took her for his slave girl. So the matter was raised to Umar. So he sent a messenger to Ali^{asws}, so he^{asws} said: 'Whip the man a Penalty (*Hadd*) in the secrecy, and whip the woman a Penalty (*Hadd*) in the open'.¹¹⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يُقَامُ الْحَدُّ عَلَى الْمُسْتَحَاضَةِ حَتَّى يَنْقَطِعَ الدَّمُ عَنْهَا .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The Penalty would not be established upon the menstruating woman until the (flow of) blood is cut off from her'.¹¹⁵

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ الْمَحْمُودِيِّ عَنْ أَبِيهِ عَنِ يُونُسَ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَمِعْتُهُ يَقُولُ الْوَاجِبُ عَلَى الْإِمَامِ إِذَا نَظَرَ إِلَى رَجُلٍ يَزْنِي أَوْ يَشْرَبُ الْخَمْرَ أَنْ يُقِيمَ عَلَيْهِ الْحَدَّ وَ لَا يَحْتَاجُ إِلَى بَيِّنَةٍ مَعَ نَظَرِهِ لِأَنَّهُ أَمِينُ اللَّهِ فِي خَلْقِهِ وَ إِذَا نَظَرَ إِلَى رَجُلٍ يَسْرِقُ فَالْوَاجِبُ عَلَيْهِ أَنْ يَزْبُرَهُ وَ يَنْهَاهُ وَ يَمْضِي وَ يَدْعُهُ قُلْتُ كَيْفَ ذَلِكَ قَالَ لِأَنَّ الْحَقَّ إِذَا كَانَ لِلَّهِ فَالْوَاجِبُ عَلَى الْإِمَامِ إِقَامَتُهُ وَ إِذَا كَانَ لِلنَّاسِ فَهُوَ لِلنَّاسِ .

Ali Bin Muhammad, from Muhammad Bin Ahmad Al Mahmoudy, from his father, from Yunus, from Al Husayn Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I heard him^{asws} saying: 'It is Obligatory upon the Imam^{asws} when he^{asws} finds a man committing adultery, or drinking the wine, that he^{asws} should established the Penalty (*Hadd*) upon him, and he^{asws} is not needy of any proof along with his^{asws} vision, because he^{asws} is a Trustee of Allah^{azwj} among His^{azwj} creatures. And when he^{asws} looks at a man who steals, so it is Obligatory upon him^{asws} that he^{asws} reprimands him, and forbids him, and goes and

¹¹³ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 12

¹¹⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 13

¹¹⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 14

leaves him'. I said, 'How can that be so?' He^{asws} said: 'Because the truth, if it was for the Sake of Allah^{azwj}, so it is Obligatory upon the Imam^{asws} to stand by it, and when it was for the people, so it is for the people (to stand by it)'.¹¹⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ رَفَعَهُ قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يُؤَلِّي الشُّهُودَ الْحُدُودَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, raising it, said,

'Amir Al-Momineen^{asws} used to give the authority to the witnesses for (execution of) the Penalties'.¹¹⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ مَنْ ضَرَبَ مَمْلُوكًا حَدًّا مِنْ الْحُدُودِ مِنْ غَيْرِ حَدِّ أَوْ جَبَهُ الْمَمْلُوكُ عَلَى نَفْسِهِ لَمْ يَكُنْ لِضَارِبِهِ كَفَّارَةٌ إِلَّا عَفْهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hisham Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The one who whips an owned (slave), a Penalty (*Hadd*) from the Penalties, without a Penalty (*Hadd*) having been Obligated upon himself, there would not be an expiation except for his emancipation (libration)'.¹¹⁸

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمَيْمَنِيِّ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ ابْنِ أَبِي يَغْفُورٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ جَاءَ رَجُلٌ إِلَى النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ يَا رَسُولَ اللَّهِ إِنِّي سَأَلْتُ رَجُلًا بِوَجْهِ اللَّهِ فَضَرَبَنِي خَمْسَةَ أَسْوَاطٍ فَضَرَبَهُ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) خَمْسَةَ أَسْوَاطٍ أُخْرَى وَ قَالَ سَلْ بِوَجْهِكَ اللَّئِيمِ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ahmad Bin Al Hassan Al Maysami, from Aban Bin Usman, from Ibn Abu Yafour,

Abu Abdullah^{asws} has said: 'A man came to the Prophet^{saww}, so he said, 'O Rasool-Allah^{saww}! I asked a man by the Face of Allah^{azwj}, so he whipped me five lashes'. So the Prophet^{saww} whipped him another five lashes and said: 'Ask by your own ignoble face'.¹¹⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ قَالَ إِنَّ رَجُلًا قَالَ لِرَجُلٍ عَلَى عَهْدِ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) إِنِّي احْتَلَمْتُ بِأُمَّكَ فَرَفَعَهُ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) قَالَ إِنَّ هَذَا افْتَرَى عَلَى أُمِّي فَقَالَ لَهُ وَمَا قَالَ لَكَ قَالَ زَعَمَ أَنَّهُ احْتَلَمَ بِأُمِّي فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي الْعَدْلِ إِنْ شِئْتَ أَقَمْتُهُ لَكَ فِي الشَّمْسِ فَاجِئْ ظِلَّهُ فَإِنَّ الْحُلْمَ مِثْلُ الظِّلِّ وَ لَكِنْ سَنَضْرِبُهُ حَتَّى لَا يَعُودَ يُؤْذِي الْمُسْلِمِينَ .

A number of our companions, from Ahmad Bin Muhammad, from Usman Bin Isa, from Sama'at who said,

'A man said to a man, during the era of Amir Al-Momineen^{asws}, 'I bed-wetted with your mother (in mind)'. So it was raised to Amir Al-Momineen^{asws}. He said, 'This one has fabricated upon my mother'. So he^{asws} said to him: 'And what did he say to you?' He said, 'He claims that he bed-wetted by (having) my mother (in mind)'. So Amir Al-Momineen^{asws} said to him: 'With regards to the justice, if I^{asws} so desire to, for you,

¹¹⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 15

¹¹⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 16

¹¹⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 17

¹¹⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 18

asws would make him stand in the (heat of) the sun, and whip his shadow, for the dream is similar to the shadow. But, we^{asws} shall be whipping him until he does not repeat hurting the Muslims’.

و فِي رَوَايَةٍ أُخْرَى ضَرَبَهُ ضَرْبًا وَجِيعًا .

And in another report, he^{asws} whipped him with a painful whipping’.¹²⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) رَأَى قَاصًّا فِي الْمَسْجِدِ فَضَرَبَهُ بِالدَّرَّةِ وَطَرَدَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having said that: ‘Amir Al-Momineen^{asws} saw a story-teller in the Masjid, so he^{asws} hit him with the whip and expelled him’.¹²¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ رَفَعَهُ أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) كَانَ لَا يَرَى الْحَبْسَ إِلَّا فِي ثَلَاثِ رَجُلٍ أَكَلَ مَالَ الْيَتِيمِ أَوْ غَصَبَهُ أَوْ رَجُلٍ أَوْثَمَنَ عَلَى أَمَانَةٍ فَذَهَبَ بِهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj, raising it,

(It has been narrated) that Amir Al-Momineen^{asws} would never imprison anyone except regarding three – a man who consumed the property of the orphan, or usurped it (property), or a man who was entrusted upon a trust, so he went away (absconded) with it’.¹²²

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ مَرْدَاسٍ عَنْ سَعْدَانَ بْنِ مُسْلِمٍ عَنْ بَعْضِ أَصْحَابِنَا عَنِ الْحَارِثِ بْنِ حَصِيرَةَ قَالَ مَرَرْتُ بِحَبِيبِي وَهُوَ يَسْتَسْقِي بِالْمَدِينَةِ وَإِذَا هُوَ أَفْطَعُ فَقُلْتُ لَهُ مَنْ قَطَعَكَ فَقَالَ قَطَعَنِي خَيْرُ النَّاسِ إِنَّا أَخَذْنَا فِي سَرِقَةٍ وَنَحْنُ ثَمَانِيَةٌ نَفَرٌ فَذَهَبَ بِنَا إِلَى عَلِيِّ بْنِ أَبِي طَالِبٍ (عَلَيْهِ السَّلَام) فَأَقْرَرْنَا بِالسَّرِقَةِ فَقَالَ لَنَا تَعْرِفُونَ أَنَّهَا حَرَامٌ قُلْنَا نَعَمْ فَأَمَرَ بِنَا فَقَطَعَتْ أَصَابِعُنَا مِنَ الرَّاحَةِ وَخَلَّتِ الْإِبْهَامُ

Al Husayn Bin Muhammad, from Mola Bin Muhammad, from Ali Bin Mardas, from Sa’adan Bin Muslim, from one of our companions, from Al Haris Bin Haseyra who said,

‘I passed my an Ethiopian man, and he used to supply water at Al-Medina, and he had been cut. So I said to him, ‘Who cut you?’ So he said, ‘It was the best of the people who cut me. We were seized during a robbery and we were eight persons. So they went with us to Ali^{asws} Bin Abu Talib^{asws}, and we confessed with the theft. So he^{asws} said to us: ‘Do you recognise that it is Prohibited?’ We said, ‘Yes’. So he^{asws} ordered for our fingers to be cut from the palm and left the thumb.

ثُمَّ أَمَرَ بِنَا فَحَبَسَنَا فِي بَيْتٍ يُطْعَمُنَا فِيهِ السَّمَنَ وَالْعَسَلَ حَتَّى بَرَأَتْ أَيْدِينَا ثُمَّ أَمَرَ بِنَا فَأَخْرَجَنَا وَكَسَانَا فَأَحْسَنَ كِسْوَتَنَا ثُمَّ قَالَ لَنَا إِنَّ تَنُوبُوا وَتَصَلُّوا فَهُوَ خَيْرٌ لَكُمْ يُلْحِقُكُمْ اللَّهُ بِأَيْدِيكُمْ فِي الْجَنَّةِ وَإِنْ لَا تَفْعَلُوا يُلْحِقُكُمْ اللَّهُ بِأَيْدِيكُمْ فِي النَّارِ .

Then he^{asws} ordered with us, for he^{asws} withheld us in a house wherein we were fed the butter and the honey until our hands were cured. Then he^{asws} ordered with us, so we were brought out, and clothed us, so we had the best of the clothes. Then he^{asws}

¹²⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 19

¹²¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 20

¹²² Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 21

said to us: 'If you were to repent and correct yourselves, it would be better for you all, Allah^{azwj} would Attach you with your fingers in the Paradise, but if you do not do it, Allah^{azwj} would Attach you with your fingers in the Fire'.¹²³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ جَاءَ بِهِ رَجُلَانِ وَقَالَ إِنَّ هَذَا سَرَقَ دِرْعًا فَجَعَلَ الرَّجُلُ يُنَاشِدُهُ لِمَا نَظَرَ فِي النَّبِيَّةِ وَجَعَلَ يَقُولُ وَاللَّهِ لَوْ كَانَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مَا قَطَعَ يَدِي أَبَدًا قَالَ وَ لِمَ قَالَ يُخْبِرُهُ رَبُّهُ أَنِّي بَرِيءٌ فَيَبْرَأُنِي بِرَاءَتِي فَلَمَّا رَأَى مُنَاشِدَتَهُ إِيَّاهُ دَعَا الشَّاهِدَيْنِ وَقَالَ اتَّقِيَا اللَّهَ وَلَا تَقْطَعَا يَدَ الرَّجُلِ ظُلْمًا وَ نَاشِدُهُمَا

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who was brought by two men who both said, 'This one stole an armour'. When the man saw the proof he started adjuring and went on saying, 'By Allah^{azwj}! If Rasool-Allah^{saww} was around, my hand would not be cut, ever!' He^{asws} said: 'And why not?' He said, 'His^{saww} Lord^{azwj} would have Informed him^{saww} that I was innocent, so he^{saww} would have freed me due to my innocence'. So when he^{asws} saw his adjuring, he^{asws} called the two witnesses and said: 'Both of you fear Allah^{azwj} and do not cut the hand of the man unjustly', and he^{asws} adjured both of them.

ثُمَّ قَالَ لِيَقْطَعَ أَحَدُكُمَا يَدَهُ وَيُمْسِكِ الْآخَرَ يَدَهُ فَلَمَّا تَقَدَّمَا إِلَى الْمُصْطَبَةِ لِيَقْطَعَ يَدَهُ ضَرَبَ النَّاسَ حَتَّى اخْتَلَطُوا فَلَمَّا اخْتَلَطُوا أَرْسَلَا الرَّجُلَ فِي غَمَارِ النَّاسِ حَتَّى اخْتَلَطَا بِالنَّاسِ فَجَاءَ الَّذِي شَهِدَا عَلَيْهِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ شَهِدَ عَلَيَّ الرَّجُلَانِ ظُلْمًا فَلَمَّا ضَرَبَ النَّاسَ وَ اخْتَلَطُوا أَرْسَلَانِي وَ فَرَا وَ لَوْ كَانَا صَادِقَيْنِ لَمْ يُرْسَلَانِي فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) مَنْ يَدُلُّنِي عَلَى هَذَيْنِ أَنْكَلُهُمَا .

Then he^{asws} said, 'Let one of you cut his hand, while the other one holds his hand'. So when they both went to the outdoor place to cut his hand, the people crowded until they got mixed. So when they were mixed with the people, they sent the man away in the crowd of the people until he was mixed with the people. So the one against who they had testified came over, so he said, 'O Amir Al-Momineen^{asws}! Two men testified against me unjustly. So when the people crowded and mixed, they sent me and fled, and had they both been truthful they would never have sent me away'. So Amir Al-Momineen^{asws} said: 'The one who can point me to these two, I^{asws} will treat them harshly'.¹²⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْوَشَاءِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلَيْنِ سَرَقَا مِنْ مَالِ اللَّهِ أَحَدُهُمَا عَبْدٌ لِمَالِ اللَّهِ وَ الْآخَرُ مِنْ عُرْضِ النَّاسِ فَقَالَ أَمَّا هَذَا فَمِنْ مَالِ اللَّهِ لَيْسَ عَلَيْهِ شَيْءٌ مِنْ مَالِ اللَّهِ أَكَلَ بَعْضُهُ بَعْضًا وَ أَمَّا الْآخَرُ فَفَقَدِمَهُ فَقَطَعَ يَدَهُ ثُمَّ أَمَرَ أَنْ يُطَعَّمَ السَّمْنَ وَ اللَّحْمَ حَتَّى بَرَأَتْ مِنْهُ .

Ali Bin Ibrahim, from his father, from Al Washa, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding two men who had stolen from the wealth of Allah^{azwj}. One of the two was a slave of the wealth of Allah^{azwj}, and the other one was from among the (ordinary) people. So he^{asws} said: 'As for this one who is from the wealth of Allah^{azwj}, there is nothing upon him from the wealth of Allah^{azwj}. One part has eaten the other part. And

¹²³ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 22

¹²⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 23

as for the other one, so bring him'. So he^{asws} cut his hand, then ordered that he should be fed the butter and the meat, until he is cured from it'.¹²⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ طَلْحَةَ بْنِ زَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَتَى بِرَجُلٍ عَيْتَ بِذِكْرِهِ فَضْرَبَ يَدَهُ حَتَّى احْمَرَّتْ ثُمَّ زَوَّجَهُ مِنْ بَيْتِ الْمَالِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Sinan, from Talha Bin Zayd,

(It has been narrated) from Abu Abdullah^{asws} having said that they came with a man to Amir Al-Momineen^{asws}, who had tampered with his manhood. So he^{asws} hit his hand until it was red. Then he^{asws} got him married from the public treasury'.¹²⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ الْوَلِيدِ عَنْ مُحَمَّدِ بْنِ الْفُرَاتِ عَنِ الْأَصْبَغِ بْنِ نُبَاتَةَ رَفَعَهُ قَالَ أَتَى عُمَرُ بِخَمْسَةِ نَفَرٍ أَخَذُوا فِي الرَّئْيِ فَأَمَرَ أَنْ يُقَامَ عَلَى كُلِّ وَاحِدٍ مِنْهُمْ الْحَدُّ وَكَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) حَاضِرًا فَقَالَ يَا عُمَرُ لَيْسَ هَذَا حُكْمُهُمْ قَالَ فَأَقِمِ أَنْتَ عَلَيْهِمُ الْحُكْمَ فَقَدِمَ وَاجِدًا مِنْهُمْ فَضْرَبَ عُنُقَهُ وَ قَدَّمَ الثَّانِي فَرَجَمَهُ وَ قَدَّمَ الثَّالِثَ فَضْرَبَهُ الْحَدَّ وَ قَدَّمَ الرَّابِعَ فَضْرَبَهُ نِصْفَ الْحَدِّ وَ قَدَّمَ الْخَامِسَ فَعَزَّرَهُ

Ali Bin Ibrahim, from his father, from Muhammad Bin Al Waleed, from Muhammad Bin Al Furaat, from Al Asbagh Bin Nubata, raising it, said,

'They came to Umar with five people who had committed adultery. So he ordered that the Penalty (*Hadd*) be established upon each one of them, and Amir Al-Momineen^{asws} was present. So he^{asws} said: 'O Umar! This is not (supposed to be) their judgement'. So he said, 'So you^{asws} establish the judgement upon them'. So they brought forward one of them, so he^{asws} struck his neck; and they brought the second one, so he^{asws} stoned him; and they brought the third one, so he^{asws} whipped him the Penalty (*Hadd*); and they brought the fourth, so he^{asws} whipped him half the Penalty (*Hadd*); and they brought the fifth, so he^{asws} reprimanded him'.

فَتَحَبَّرَ عُمَرُ وَ تَعَجَّبَ النَّاسُ مِنْ فِعْلِهِ فَقَالَ عُمَرُ يَا أَبَا الْحَسَنِ خَمْسَةٌ نَفَرٍ فِي قَضِيَّةٍ وَاحِدَةٍ أَقَمْتَ عَلَيْهِمْ خَمْسَ حُدُودٍ لَيْسَ شَيْءٌ مِنْهَا يُشْبِهُ الْأُخْرَ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَمَّا الْأَوَّلُ فَكَانَ ذِمِّيًّا خَرَجَ عَنْ ذِمَّتِهِ لَمْ يَكُنْ لَهُ حُكْمٌ إِلَّا السَّيْفُ وَ أَمَّا الثَّانِي فَرَجُلٌ مُحْصَنٌ كَانَ حُدُّهُ الرَّجْمُ وَ أَمَّا الثَّالِثُ فَغَيْرُ مُحْصَنٍ جُلِدَ الْحَدَّ وَ أَمَّا الرَّابِعُ فَعَبْدٌ ضَرَبْنَا نِصْفَ الْحَدِّ وَ أَمَّا الْخَامِسُ فَمَجْنُونٌ مَغْلُوبٌ عَلَى عَقْلِهِ .

So Umar was confounded and the people were astounded from his^{asws} actions. So Umar said, 'O Abu Al-Hassan^{asws}, five people in one judgement, five judgements being established upon them, not a thing from it resembling the other!' So Amir Al-Momineen^{asws} said: 'As for the first one, he was a *Zimmi* (under the responsibility) who had exited from the responsibility (of the government), there was no judgement for him except for the sword. And as for the second one, so he was a married man, his Penalty (*Hadd*) was the stoning. And as for the third one, so he was not married, was whipped the Penalty (*Hadd*). And as for the fourth one, so he was a slave, we whipped him half the Penalty (*Hadd*); and as for the fifth, so he was an insane, his intellect had been overcome'.¹²⁷

¹²⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 24

¹²⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 25

¹²⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 26

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ حُمْرَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ أَوْ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ أُقِيمَ عَلَيْهِ الْحَدُّ فِي الدُّنْيَا أَوْ يُعَاقَبُ فِي الْآخِرَةِ فَقَالَ اللَّهُ أَكْرَمُ مِنْ ذَلِكَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ibn Bukeyr, from Zurara, from Humran who said,

(It has been narrated) 'I asked Abu Abdullah^{asws} or Abu Ja'far^{asws} about a man, upon whom the Penalty (*Hadd*) was established in the world, would he be Punished in the Hereafter?' So he^{asws} said: 'Allah^{azwj} is more benevolent than that (to Punish twice)'.¹²⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَنْ أَحْدَثَ فِي الْكَعْبَةِ حَدَّثًا قُتِلَ .

Ali Bin Ibrahim, from his father, from one of our companions, from Abu Al Sabbah Al Kinany,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who excretes in the Kaaba with an excretion, would be killed'.¹²⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْحَجَّالِ عَنْ عَلِيِّ بْنِ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ عَنِ النَّوْفَلِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَبِي أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِرَجُلٍ نَصْرَانِيٍّ كَانَ أَسْلَمَ وَمَعَهُ خِنْزِيرٌ قَدْ شَوَاهُ وَأَدْرَجَهُ بِرَبِجَانَ قَالَ مَا حَمَلَكُ عَلَى هَذَا قَالَ الرَّجُلُ مَرَضْتُ فَقَرَمْتُ إِلَى اللَّحْمِ فَقَالَ أَيُّنَ أَنْتَ مِنْ لَحْمِ الْمَعَزِ وَكَانَ خَلْفًا مِنْهُ ثُمَّ قَالَ لَوْ أَنَّكَ أَكَلْتَهُ لَأَقَمْتُ عَلَيْكَ الْحَدَّ وَ لَكِنْ سَأَضْرِبُكَ ضَرْبًا فَلَا تَعُدُّ فَضْرَبَهُ حَتَّى شَعَرَ بِبَوْلِهِ .

Ali Bin Ibrahim, from his father, from Al Hajjal, from Ali Bin Muhammad Bin Abdul Rahman, from Al Nowfaly, from Al Sakuny,

Abu Abdullah^{asws} has said: 'They came to Amir Al-Momineen^{asws} with a Christian man who had become a Muslim, and with him was a pig which he had roasted, and seasoned it with basil. He^{asws} said: 'What carried you upon that?' The man said, 'I was sick, so I longed for the meat'. So he^{asws} said: 'Where are you from the meat of the goat?' And it was following him. Then he^{asws} said: 'If you were to eat it, I^{asws} will establish the Penalty (*Hadd*) upon you, but I^{asws} would be hitting you with a strike. So he^{asws} hit him until his urine trickled out'.¹³⁰

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْوَشَّاءِ قَالَ سَمِعْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَام) يَقُولُ شَتَمَ رَجُلٌ عَلِيَّ عَهْدَ جَعْفَرِ بْنِ مُحَمَّدٍ (عَلَيْهِ السَّلَام) رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَأَتَيْتُ بِهِ عَامِلَ الْمَدِينَةِ فَجَمَعَ النَّاسَ فَدَخَلَ عَلَيْهِ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) وَهُوَ قَرِيبُ الْعَهْدِ بِالْعَلَّةِ وَ عَلَيْهِ رِدَاءٌ لَهُ مُورَدٌ

Al Husayn Bin Muhammad, from Ali Bin Muhammad, from Al Hassan Bin Ali Al Washa who said,

'I heard Abu Al-Hassan^{asws} saying: 'In the era of Ja'far^{asws} Bin Muhammad^{asws}, a man insulted Rasool-Allah^{saww}. So they came with him to the governor of Al-Medina, and the people gathered. And it was near to the time of his^{asws} illness, and upon him^{asws} was a robe of his^{asws}, wrapped around him^{asws}.

فَأَجْلَسَهُ فِي صَدْرِ الْمَجْلِسِ وَ اسْتَأْذَنَهُ فِي الْإِتْكَاءِ وَ قَالَ لَهُمْ مَا تَرَوْنَ فَقَالَ لَهُ عَبْدُ اللَّهِ بْنُ الْحَسَنِ وَ الْحَسَنُ بْنُ زَيْدٍ وَ غَيْرُهُمَا نَرَى أَنْ يُقَطَعَ لِسَانُهُ فَالْتَقَتِ الْعَامِلُ إِلَى رَبِيعَةَ الرَّأْيِ وَ أَصْحَابِهِ فَقَالَ مَا تَرَوْنَ فَقَالَ يُؤَدَّبُ

¹²⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 27

¹²⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 28

¹³⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 29

So they got him^{asws} to be seated in the centre of the gathering and permitted him^{asws} regarding the reclining, and (the governor) said to them, 'What are your views?' So Abdullah Bin Al-Hassan, and Al-Hassan Bin Zayd, and others said to him, 'We view that his tongue should be cut'. So the governor turned towards Rabi'e Al-Rai'y and his companions, so he said, 'What is your view?' So he said, 'He should be disciplined'.

فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) سُبْحَانَ اللَّهِ فَلَيْسَ بَيْنَ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَبَيْنَ أَصْحَابِهِ فَرْقٌ .

So, Abu Abdullah^{asws} said to him: 'Glory be to Allah^{azwj}! So there is no difference between Rasool-Allah^{saww} and his^{saww} companions?'¹³¹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ الدَّبَلَمِيِّ عَنْ هَارُونَ بْنِ الْجَهْمِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ أَتَيْتُ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِقَوْمٍ لُصُوصٍ قَدْ سَرَقُوا فَقَطَعَ أَيْدِيَهُمْ مِنْ نِصْفِ الْكَفِّ وَتَرَكَ الْإِبْهَامَ وَ لَمْ يَقْطَعْهَا وَ أَمَرَهُمْ أَنْ يَدْخُلُوا دَارَ الضِّيَافَةِ وَ أَمَرَ بِأَيْدِيهِمْ أَنْ تُعَالَجَ فَأَطَعَهُمُ السَّمْنُ وَ الْعَسَلُ وَ اللَّحْمُ حَتَّى بَرَّءُوا فَدَعَاهُمْ وَ قَالَ يَا هَؤُلَاءِ إِنَّ أَيْدِيَكُمْ قَدْ سَبَقَتْ إِلَى النَّارِ فَإِنْ تُبْتُمْ وَ عَلِمَ اللَّهُ مِنْكُمْ صِدْقَ النَّبِيِّ تَابَ اللَّهُ عَلَيْكُمْ وَ جَرَرْتُمْ أَيْدِيَكُمْ إِلَى الْجَنَّةِ وَ إِنْ لَمْ تُقْبِعُوا وَ لَمْ تَنْتَهُوا عَمَّا أَنْتُمْ عَلَيْهِ جَرَرْتُكُمْ أَيْدِيَكُمْ إِلَى النَّارِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Suleyman Al Daylami, from Haroun Bin Al Jahm, from Muhammad Bin Muslim,

Abu Ja'far^{asws} has said: 'They came to Amir Al-Momineen^{asws} with a group who had stolen. So he^{asws} cut their hands from half the palm, and left the thumb and did not cut it, and ordered them that they should enter the guest house, and ordered for the healing of their hands. So they were fed the butter, and the honey, and the meat, until they were cured. So he^{asws} called them over and said: 'O you all! Your hands have preceded you to the Fire. So if you were to repent, and Allah^{azwj} Knows from you the sincerity of the intention, He^{azwj} would Turn towards you (with Mercy) and your hands would join you in the Paradise. And if you do not improve and do not stop from what you are upon, your hands would drag you into the Fire'.¹³²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ عَلِيِّ بْنِ جَعْفَرٍ قَالَ أَخْبَرَنِي أَخِي مُوسَى (عَلَيْهِ السَّلَام) قَالَ كُنْتُ وَاقِفًا عَلَى رَأْسِ أَبِي حِينَ أَنَاءَهُ رَسُولُ زِيَادٍ بِنِ عُبَيْدِ اللَّهِ الْحَارِثِيِّ عَامِلِ الْمَدِينَةِ قَالَ يَقُولُ لَكَ الْأَمِيرُ أَنْهَضَ إِلَيَّ فَاغْتَلَّ بِعِلَّةٍ فَعَادَ إِلَيْهِ الرَّسُولُ فَقَالَ لَهُ قَدْ أَمَرْتُ أَنْ يُفْتَحَ لَكَ بَابُ الْمَقْصُورَةِ فَهُوَ أَقْرَبُ لِخَطْوَتِكَ

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Asbaat,

(It has been narrated) from Ali son of Ja'far^{asws} who said, 'My brother^{asws} Musa^{asws} said: 'I^{asws} was standing next to the head of my^{asws} father^{asws}, when a messenger of Ziyad Bin Ubeydulla, the governor of Al-Medina came over. He said, 'The commander is saying to you^{asws}, 'Arise to come over to me'. So he^{asws} excused himself^{asws} due to illness. So the messenger reiterated to him, so he said to him^{asws}, 'He has ordered that the shorter door be opened up for you, it would be nearer for your^{asws} steps'.

قَالَ فَتَنَهَضَ أَبِي وَ اعْتَمَدَ عَلَيَّ وَ دَخَلَ عَلَيَّ الْوَالِي وَ قَدْ جَمَعَ فُفْهَاءَ الْمَدِينَةِ كُلُّهُمْ وَ بَيْنَ يَدَيْهِ كِتَابٌ فِيهِ شَهَادَةٌ عَلَى رَجُلٍ مِنْ أَهْلِ وَادِي الْقُرَى فَذَكَرَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ مِنْهُ

¹³¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 30

¹³² Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 31

He^{asws} said: 'So my^{asws} father^{asws} arose and leaned upon me^{asws}, and entered upon the governor, and there had gathered therein the jurists of Al-Medina, all of them, and there was a letter in front of him in which was a testimony upon a man from the people of the valley of Al-Qura, in which he mentioned the Prophet^{saww} having been maligned (defamed) in it.

فَقَالَ لَهُ الْوَالِي يَا أَبَا عَبْدِ اللَّهِ أَنْظِرْ فِي الْكِتَابِ قَالَ حَتَّى أَنْظِرَ مَا قَالُوا فَالْتَفَتَ إِلَيْهِمْ فَقَالَ مَا قُلْتُمْ قَالُوا قُلْنَا يُؤَدَّبُ وَ يُضْرَبُ وَ يُعَزَّرُ وَ يُحْبَسُ قَالَ فَقَالَ لَهُمْ أَرَأَيْتُمْ لَوْ ذَكَرَ رَجُلًا مِنْ أَصْحَابِ النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بِمِثْلِ مَا ذَكَرَ بِهِ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مَا كَانَ الْحُكْمُ فِيهِ قَالُوا مِثْلَ هَذَا قَالَ سُبْحَانَ اللَّهِ فَقَالَ فَلَيْسَ بَيْنَ النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ بَيْنَ رَجُلٍ مِنْ أَصْحَابِهِ فَرْقٌ

So the governor said to him^{asws}, 'O Abu Abdullah^{asws}! Look in the letter'. He^{asws} said: '(Not) until I^{asws} look at what they said'. So he turned towards them, so he said, 'What are you saying?' They said, 'We say he should be displied, and whipped, and reprimanded, and imprisoned'. So he^{asws} said to them: 'What is your view if he had mentioned a man from the companions of the Prophet^{saww} with similar to what he has mentioned the Prophet^{saww} by. What would have been the judgement regarding it?' They said, 'Similar to this'. He^{asws} said: 'Glory be to Allah^{azwj}! So there is not between the Prophet^{saww} and a man from his^{saww} companions, a difference?'

قَالَ فَقَالَ الْوَالِي دَعْ هَؤُلَاءِ يَا أَبَا عَبْدِ اللَّهِ لَوْ أَرَدْنَا هَؤُلَاءِ لَمْ نُرْسِلْ إِلَيْكَ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَخْبَرَنِي أَبِي (عَلَيْهِ السَّلَامُ) أَنَّ رَسُولَ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ [إِنَّ] النَّاسَ فِي أَسْوَةِ سِوَاءٍ مَنْ سَمِعَ أَحَدًا يُذَكِّرُنِي فَأَلْوَاجِبُ عَلَيْهِ أَنْ يَقْتُلَ مَنْ سَتَمَنِي وَ لَا يُرْفَعُ إِلَى السُّلْطَانِ وَ الْوَالِجِبُ عَلَى السُّلْطَانِ إِذَا رُفِعَ إِلَيْهِ أَنْ يَقْتُلَ مَنْ نَالَ مِنِّي

He (7th Imam^{asws}) said: 'So the governor said: 'Leave them, O Abu Abdullah^{asws}! Had we intended them, we would not have sent a messenger to you^{asws}'. So Abu Abdullah^{asws} said: 'My^{asws} father^{asws} informed me^{asws} that Rasool-Allah^{saww} said: 'The people are all equal in example. The one who hears anyone mentioning me^{saww} (maliciously) so it is Obligatory upon him that he kills the one who insults me, and not raise it to the authorities, and it is Obligatory upon the authorities when it is raised to them that they should kill the one who maligns (slanders) me^{asws}'.

فَقَالَ زِيَادُ بْنُ عُبَيْدِ اللَّهِ أَخْرَجُوا الرَّجُلَ فَأَقْتُلُوهُ بِحُكْمِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) .

So Ziyad Bin Ubeydullah said, 'Bring out the man, so kill him, by the judgement of Abu Abdullah^{asws}'¹³³.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ رَبِيعٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ رَجُلًا مِنْ هَذَيْلٍ كَانَ يَسُبُّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَبَلَغَ ذَلِكَ النَّبِيَّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ مَنْ لِهَذَا فَقَامَ رَجُلَانِ مِنَ الْأَنْصَارِ فَقَالَ نَحْنُ يَا رَسُولَ اللَّهِ فَأَنْطَلَقَا حَتَّى أَتَيَا عَرَبَةَ فَسَالَا عَنْهُ فَإِذَا هُوَ يَتَلَقَّى غَنَمَهُ فَالْحَقَاهُ بَيْنَ أَهْلِهِ وَ غَنَمِهِ فَلَمْ يُسَلِّمَا عَلَيْهِ فَقَالَ مَنْ أَنْتُمَا وَ مَا اسْمُكُمَا فَقَالَا لَهُ أَنْتَ فُلَانُ بْنُ فُلَانٍ فَقَالَ نَعَمْ فَنَزَلَا وَ ضَرَبَا عُنُقَهُ

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Rabie, from Muhammad Bin Muslim,

Abu Ja'far^{asws} has said: 'A man from Huzayl insulted Rasool-Allah^{saww}. So that reached the Prophet^{saww}, so he^{saww} said: 'Who is for this one?' So two men from the Helpers stood up, so they both said, 'Us, O Rasool-Allah^{saww}!' So they both went until they came over to Bedouins. So they asked about him, so there he was tending his

¹³³ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 32

sheep. So they met him between his family and his sheep. So they did not greet him, so he said, 'Who are you two, and what are both your names?' So they both said to him, 'Are you so and so, son of son and so?' So he said, 'Yes'. So they descended and struck off his neck.

قَالَ مُحَمَّدُ بْنُ مُسْلِمٍ فَقُلْتُ لِأَبِي جَعْفَرٍ (عليه السلام) أَرَأَيْتَ لَوْ أَنَّ رَجُلًا أَلَانَ سَبَّ النَّبِيِّ (صلى الله عليه وآله) أَيْ قَتَلَ قَالَ إِنْ لَمْ تَخَفْ عَلَى نَفْسِكَ فَاقْتُلْهُ .

Muhammad Bin Muslim (the narrator) said, 'So I said to Abu Ja'far^{asws}, 'What is your^{asws} view if a man now were to insult the Prophet^{saww}, should he be killed?' He^{asws} said: 'If you do not fear for yourself, so kill him'.¹³⁴

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) رَبِّمَا ضَرَبْتُ الْعَلَامَ فِي بَعْضِ مَا يَحْرُمُ فَقَالَ وَ كَمْ تَضْرِبُهُ فَقُلْتُ رَبِّمَا ضَرَبْتُهُ مِائَةً فَقَالَ مِائَةً فَأَعَادَ ذَلِكَ مَرَّتَيْنِ ثُمَّ قَالَ حَدَّ الزَّوْنَى اتَّقِ اللَّهَ فَقُلْتُ جُعِلْتُ فِدَاكَ فَكَمْ يَنْبَغِي لِي أَنْ أَضْرِبَهُ فَقَالَ وَاحِدًا فَقُلْتُ وَ اللَّهُ لَوْ عَلِمَ أَنِّي لَا أَضْرِبُهُ إِلَّا وَاحِدًا مَا تَرَكَ لِي شَيْئًا إِلَّا أَفْسَدَهُ فَقَالَ فَاتَنْتَبِئِينَ فَقُلْتُ جُعِلْتُ فِدَاكَ هَذَا هُوَ هَلَاقِي إِذَا قَالَ فَلَمْ أَزَلْ أَمَاكِسُهُ حَتَّى بَلَغَ خُمُسَهُ ثُمَّ غَضِبَ فَقَالَ يَا إِسْحَاقُ إِنْ كُنْتَ تَدْرِي حَدَّ مَا أَجْرَمَ فَأَقِمِ الْحَدَّ فِيهِ وَ لَا تَعُدَّ حُدُودَ اللَّهِ .

A number of our companions, from Ahmad Bin Muhammad, from Usman Bin Isa, from Is'haq Bin Ammar who said,

'I said to Abu Abdullah^{asws}, 'Sometimes I hit the slave regarding something which is Prohibited'. So he^{asws} said: 'And how much do you hit him?' So I said, 'Sometimes I hit him one hundred (hits)'. So he^{asws} said: 'One hundred, one hundred?' So he^{asws} repeated that twice. Then he^{asws} said: 'The Penalty (*Hadd*) of the adulterer, fear Allah^{azwj}'. So I said, 'May I be sacrificed for you^{asws}! So how much is befitting for me that I should hit him?'

So he^{asws} said: 'One'. So I said, 'By Allah^{azwj}! If he comes to know, that I would not be hitting him except for one, he would not leave anything for me except that he would spoil it'. So he^{asws} said: 'So, twice'. So I said, 'May I be sacrificed for you^{asws}! This is my destruction', when he^{asws} said it. So I did not stop haggling until it reached five. Then he^{asws} got angered, so he^{asws} said: 'O Is'haq! If you know a Penalty (*Hadd*) of what crime has been committed, so establish the Penalty (*Hadd*), and do not exceed the Penalties of Allah^{azwj}!¹³⁵

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَّادِ بْنِ عُثْمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) فِي أَدْبِ الصَّبِيِّ وَ الْمَمْلُوكِ فَقَالَ خُمُسَهُ أَوْ سِتَّةٌ وَ أَرْفُوقُ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Hammad Bin Usman who said,

'I spoke to Abu Abdullah^{asws} regarding disciplining of the child and the owned (slave), so he^{asws} said: 'Five, or six, and be kind'.¹³⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) (إِذَا كَانَ الرَّجُلُ كَلَامَهُ كَلَامَ النِّسَاءِ وَ مَشِيئَتُهُ مِثْلَ النِّسَاءِ وَ يُمْكِنُ مِنْ نَفْسِهِ فَيُنْكَحُ كَمَا تُنْكَحُ الْمَرْأَةُ فَارْجُمُوهُ وَ لَا تَسْتَحْيُوهُ .

¹³⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 33

¹³⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 34

¹³⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 35

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'If the man was speaking the speech of the women, and his walking was the walking of the women, and he is abling (men) upon himself, so he is being copulated with like the copulation of the women, so stone him and do not let him live'.¹³⁷

وَبِهَذَا الْإِسْنَادِ قَالَ قَالَ رَسُولُ اللَّهِ (صلى الله عليه وآله) مَنْ بَلَغَ حَدًّا فِي غَيْرِ حَدِّ فَهُوَ مِنَ الْمُعْتَدِينَ .

And by this chain, said, 'Rasool-Allah^{saww} said: 'The one who reaches a Penalty (*Hadd*) regarding (something) in which there is no Penalty (*Hadd*) (applicable), so he is from the exceeders'.¹³⁸

وَبِهَذَا الْإِسْنَادِ أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عليه السلام) أَلْقَى صِنِّيَانِ الْكُتَابِ أَلْوَاحُهُمْ بَيْنَ يَدَيْهِ لِيُخِيرَ بَيْنَهُمْ فَقَالَ أَمَا إِنَّهَا حُكُومَةٌ وَ الْجُورُ فِيهَا كَالْجُورِ فِي الْحُكْمِ أَيْلُغُوا مُعَلِّمَكُمْ إِنْ ضَرَبَكُمْ فَوْقَ ثَلَاثِ ضَرْبَاتٍ فِي الْأَدَبِ اقْتَصَّ مِنْهُ .

And by this chain,

'Amir Al-Momineen^{asws} - two children threw their books and their tablets in front of him^{asws} in order for him^{asws} to choose between them. So he^{asws} said: 'But it is a judgement, and the tyranny in it is like the tyranny in the judgement. Deliver (what I^{asws} am saying) to your teacher that if he were to hit you over three hits during the disciplining, there would be compensation from it'.¹³⁹

وَبِهَذَا الْإِسْنَادِ أَنَّ رَسُولَ اللَّهِ (صلى الله عليه وآله) قَالَ لَا تَدْعُوا الْمُصْلُوبَ بَعْدَ ثَلَاثَةِ أَيَّامٍ حَتَّى يُنْزَلَ فَيُذْفَنَ .

And by this chain,

'Rasool-Allah^{saww} said: 'Do not leave the crucified one after three days until you get him down, so he would be buried'.¹⁴⁰

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ بَعَثَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) إِلَى بَشْرِ بْنِ عَطَّارِ الدِّمَشْقِيِّ فِي كَلَامٍ بَلَغَهُ فَمَرَّ بِهِ رَسُولُ أَمِيرِ الْمُؤْمِنِينَ (عليه السلام) فِي بَنِي أَسَدٍ وَ أَخَذَهُ فَقَامَ إِلَيْهِ نُعَيْمُ بْنُ دَجَاجَةَ الْأَسَدِيُّ فَأَقْلَنَهُ

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub, from one of his companions,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} sent someone to Bishr Bin Utaradi Al-Tameemy regarding a speech which reached him^{asws}. So the messenger of Amir Al-Momineen^{asws} passed by him among the Clan of Asad and seized him. So Nuaym Bin Dajaja Al-Asady stood up to him and had him released.

فَبَعَثَ إِلَيْهِ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فَاتَّوَهُ بِهِ وَ أَمَرَ بِهِ أَنْ يُضْرَبَ فَقَالَ لَهُ نُعَيْمٌ أَمَا وَ اللَّهُ إِنْ الْمَقَامَ مَعَكَ لَذُلٌّ وَ إِنْ فِرَاقَكَ لَكُفْرٌ قَالَ فَلَمَّا سَمِعَ ذَلِكَ مِنْهُ قَالَ لَهُ يَا نُعَيْمُ قَدْ عَفَوْنَا عَنْكَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ ادْفَعِ بِاللَّيِّ هِيَ أَحْسَنُ السَّيِّئَةِ أَمَا قَوْلُكَ إِنْ الْمَقَامَ مَعَكَ لَذُلٌّ فَسَيِّئَةٌ اِكْتَسَبْتَهَا وَ أَمَا قَوْلُكَ إِنْ فِرَاقَكَ لَكُفْرٌ فَحَسَنَةٌ اِكْتَسَبْتَهَا فَهَذِهِ بِهَذِهِ تَمَّ أَمْرٌ أَنْ يُخْلَى عَنْهُ .

¹³⁷ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 36

¹³⁸ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 37

¹³⁹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 38

¹⁴⁰ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 39

So Amir Al-Momineen^{asws} sent someone to him, so he came up with him, and he^{asws} ordered for him to be whipped. So Nuaym said to him^{asws}, 'But, by Allah^{azwj}, the staying with you^{asws} is a disgrace, and in separation from you^{asws} is infidelity'. So when he^{asws} heard that from him, he^{asws} said to him: 'O Nuaym! We^{asws} have excused you, for Allah^{azwj} Mighty and Majestic is Saying **[23:96] Repel evil by what is best.** As for your words that, 'Staying with you^{asws} is disgrace', so it is an evil which you have attained; and as for your words, 'In separation from you^{asws} is infidelity', so it is a good deed which you have attained. So this here (compensates) for this'. Then he^{asws} ordered that he be released from it'.¹⁴¹

الْحُسَيْنُ بْنُ مُحَمَّدٍ الْأَشْعَرِيُّ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْوَشَاءِ عَنْ أَبِيَانَ عَنْ عَلِيِّ بْنِ إِسْمَاعِيلَ عَنْ عَمْرِو بْنِ أَبِي الْمَقْدَامِ عَنْ رَجُلٍ عَنْ رَزِينٍ قَالَ كُنْتُ أَتَوَضُّأُ فِي مِيضَانَةِ الْكُوفَةِ فَإِذَا رَجُلٌ قَدْ جَاءَ فَوَضَعَ نَعْلَيْهِ وَوَضَعَ دِرْتَهُ فَوْقَهَا ثُمَّ دَنَا فَنَوَضُّأُ مَعِي فَرَحَمْتُهُ فَوَفَّعَ عَلَيَّ يَدَيْهِ فَقَامَ فَنَوَضُّأُ فَلَمَّا فَرَعُ ضَرَبَ رَأْسِي بِالْدَّرَةِ ثَلَاثًا ثُمَّ قَالَ إِيَّاكَ أَنْ تَدْفَعَ فَتَكْسِرَ فَتَعْرَمَ فَقُلْتُ مَنْ هَذَا فَقَالُوا أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فَذَهَبْتُ أَعْتَذِرُ إِلَيْهِ فَمَضَى وَ لَمْ يَلْتَفِتْ إِلَيَّ .

Al Husayn Bin Muhammad Al Ashary, from Moala Bin Muhammad, from Al Hassan Bin Ali Al Washa, from Aban, from Ali Bin Ismail, from Amro Bin Abu Al Maqdam, from a man, from Razeyn who said,

'I was performing ablution in the washing facilities of Al-Kufa, so there was a man who had come over. So he took-off his shoes, and placed his whip upon it. Then he approached me, so he performed ablution along with me. So I bumped him, and he fell upon his hands. So he arose and performed ablution. So when he was free, he struck my head with the whip, three times, then said: 'Beware of bumping, so if you break (somebody's bone), you will (have to pay) compensation'. So I said, 'Who is this?' So they (people) said, 'Amir Al-Momineen^{asws}'. So I went to offer my excuses, but he^{asws} went and did not turn towards me'.¹⁴²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ ابْنِ مَحْبُوبٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ مَطَرِ بْنِ أَرْقَمٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) يَقُولُ إِنَّ عَبْدَ الْعَزِيزِ بْنَ عَمْرِو الْوَالِيَّ بَعَثَ إِلَيَّ فَاتَيْتُهُ وَبَيْنَ يَدَيْهِ رَجُلَانِ قَدْ تَنَاوَلَ أَحَدُهُمَا صَاحِبَهُ فَمَرَّشَ وَجْهَهُ وَ قَالَ مَا نَقُولُ يَا أَبَا عَبْدِ اللَّهِ فِي هَذَيْنِ الرَّجُلَيْنِ قُلْتُ وَ مَا قَالَا قَالَ أَحَدُهُمَا لَيْسَ لِرَسُولِ اللَّهِ (صلى الله عليه وآله) فَضْلٌ عَلَى أَحَدٍ مِنْ بَنِي أُمَيَّةَ فِي الْحَسَبِ وَ قَالَ الْآخَرُ لَهُ الْفَضْلُ عَلَى النَّاسِ كُلِّهِمْ فِي كُلِّ حِينٍ وَ غَضِبَ الَّذِي نَصَرَ رَسُولَ اللَّهِ (صلى الله عليه وآله) فَصَنَعَ بَوَجْهِهِ مَا تَرَى فَهَلْ عَلَيْهِ شَيْءٌ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Yunus Bin Yaqoub, from Matar Bin Arqam who said,

'I heard Abu Abdullah^{asws} saying that Abul Aziz Bin Umar the governor sent an escort to me, so I^{asws} went over to him, and in front of him were two men, one of them had grabbed his companions, so he scratched his face, and he (the governor) said, 'What are you^{asws} saying, O Abu Abdullah^{asws} regarding these two men?' I^{asws} said, 'And what did they both say?' He said, 'One of them said, 'There is not merit for Rasool-Allah^{saww} over anyone from the Clan of Umayya with regards to the nobility', and the other one said to him, 'He^{saww} has the merit over the people, all of them, regarding every thing', and the one who supported Rasool-Allah^{saww} got angered, so he did with his face what you^{asws} see. So is there anything upon him?'

فَقُلْتُ لَهُ إِنَّي أَطُّنَّاكَ قَدْ سَأَلْتِ مَنْ حَوْلِكَ فَأَخْبَرُوكَ فَقَالَ أَقْسَمْتُ عَلَيْكَ لَمَّا قُلْتُ فَقُلْتُ لَهُ كَانَ يَبْغِي لِلَّذِي رَعِمَ أَنَّ أَحَدًا مِثْلَ رَسُولِ اللَّهِ (صلى الله عليه وآله) فِي الْفَضْلِ أَنْ يُقْتَلَ وَ لَا يُسْتَحْيَا قَالَ قَالَ أَوْ مَا الْحَسَبُ بِوَاحِدٍ فَقُلْتُ إِنَّ الْحَسَبَ لَيْسَ

¹⁴¹ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 40

¹⁴² Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 41

النَّسَبُ أَوْ لَا تَرَى لَوْ نَزَلَتْ بِرَجُلٍ مِنْ بَعْضِ هَذِهِ الْأَجْنَاسِ فَقَرَأَكَ فَقُلْتَ إِنَّ هَذَا الْحَسَبُ [لَجَارَ ذَلِكَ] فَقَالَ أَوْ مَا النَّسَبُ بِوَاحِدٍ قُلْتَ إِذَا اجْتَمَعَا إِلَى آدَمَ (عَلَيْهِ السَّلَام) فَإِنَّ النَّسَبَ وَاحِدٌ إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَمْ يَخْلُطْهُ شِرْكٌ وَ لَا بَغْيٌ فَأَمَرَ بِهِ الْوَالِي فَقُتِلَ .

So I^{asws} said to him: 'I^{asws} think you have already asked the ones around you, so they have informed you'. So he said, 'I swear to you^{asws}, I have not said it'. So I^{asws} said: 'It would be befitting for the one who alleges that anyone is similar to Rasool-Allah^{azwj} with regards to the merits, that he should be killed, and not be left to live'. So he said, 'Or is not the nobility of descent, one?' So I^{asws} said: 'The nobility is not the lineage. Do you not see, if I^{asws} were to lodge a man from some of these races, your poor ones, so I said, 'This is the nobility (that would be allowed)'. So he said, 'Is not the lineage, one?' I^{asws} said: 'When it is gathered to Adam^{as}, so the lineage is one, (except that) Rasool-Allah^{saww} did not mix with Polytheism, nor unchasteness'. So the governor ordered it, so he was killed'.¹⁴³

عَنْهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ رَبِيعِ بْنِ مُحَمَّدٍ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ الْعَامِرِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَيُّ شَيْءٍ تَقُولُ فِي رَجُلٍ سَمِعْتُهُ يَشْتَمُ عَلِيًّا (عَلَيْهِ السَّلَام) وَ يَتَّبِرُ مِنْهُ قَالَ فَقَالَ لِي وَ اللَّهُ حَلَالُ الدَّمِ وَ مَا أَلْفٌ مِنْهُمْ بِرَجُلٍ مِنْكُمْ دَعَا لَا تَعْرَضُ لَهُ إِلَّا أَنْ تَأْمَنَ عَلَى نَفْسِكَ .

From him, from Ahmad Bin Muhamamd, from Ali Bin Al Hakam, from Rabie Bin Muhammad, from Abdullah Bin Suleyman Al Aamiry who said,

'I said to Abu Abdullah^{asws}, 'Which thing are you^{asws} saying regarding a man who was heard insulting Ali^{asws} and disavowed from him^{asws}?' So he^{asws} said to me: 'By Allah^{azwj}, the blood is Permissible, and (there are) a thousand from them with one man from you. Leave him and do not meddle with him, except if you are secure upon yourself'.¹⁴⁴

وَ عَنْهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ هِشَامِ بْنِ سَالِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) مَا تَقُولُ فِي رَجُلٍ سَبَّابَةٍ لِعَلِيٍّ (عَلَيْهِ السَّلَام) قَالَ فَقَالَ لِي حَلَالُ الدَّمِ وَ اللَّهُ لَوْ لَا أَنْ تَعُمَّ بِهِ بَرِيئاً قَالَ فَقُلْتُ فَمَا تَقُولُ فِي رَجُلٍ مُؤَدِّ لَنَا قَالَ فَقَالَ فِيمَاذَا قُلْتُ مُؤَدِّينَا فِيكَ بِذِكْرِكَ قَالَ فَقَالَ لِي لَهُ فِي عَلِيٍّ (عَلَيْهِ السَّلَام) نَصِيبٌ قُلْتُ إِنَّهُ لَيَقُولُ ذَلِكَ وَ يُظْهِرُهُ قَالَ لَا تَعْرَضُ لَهُ .

And from him, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Hisham Bin Salim who said,

'I said to Abu Abdullah^{asws}, 'What are you^{asws} saying regarding a man who pointed a finger at Ali^{asws} (used foul language)?' So he^{asws} said to me: 'The blood is Permissible, by Allah^{azwj}, if it is not permeated by presumed innocence'. So I said, 'So what are you^{asws} saying regarding a man who is hurting us?' He^{asws} said: 'With regards to what?' I said, 'He is hurting us regarding you^{asws}, by mentioning you^{asws} (in derogatory terms)?' So he^{asws} said to me: 'Is there a share for him with regards to Ali^{asws}? I said, 'He is saying that and manifesting it'. He^{asws} said: 'Do not meddle with him'.¹⁴⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ حَمَّادٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يُخَذُّ فِي السَّجْنِ إِلَّا ثَلَاثَةٌ الَّذِي يُمْتَلُ وَ الْمَرْأَةُ تَرْتُدُّ عَنِ الْإِسْلَامِ وَ السَّارِقُ بَعْدَ قَطْعِ الْيَدِ وَ الرَّجُلُ .

¹⁴³ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 42

¹⁴⁴ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 43

¹⁴⁵ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 44

Ali Bin Ibrahim, from his father, from one of his companions, from Hammad,

(It has been narrated) from Abu Abdullah^{asws} having said: 'No one is to be imprisoned for ever except for three – One who severely tortures someone, and the woman who reneges from Al-Islam, and the thief (who steals) after the cutting of the hand and the leg'.¹⁴⁶

تَمَّ كِتَابُ الْخُدُودِ مِنَ الْكَافِي وَ يَتْلُوهُ كِتَابُ الدِّيَّاتِ إِنْ شَاءَ اللَّهُ .

The Book of the Penalty (Hadd)s from Al Kafi is completed, and would be followed by the Book of Wergild, Allah^{azwj} Willing.

¹⁴⁶ Al Kafi – V 7 – The Book of Legal Penalties Ch 63 H 45

الكافي

AL-KAFI

ج 7

Volume 7

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة
الإسلام الكليني المتوفى سنة 329 هجرية

Of the majestic narrator and the scholar, the jurist, the Sheykh
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كِتَابُ الدِّيَاتِ

THE BOOK OF WERGILDS (COMPENSATIONS)
(1)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّم تَسْلِيمًا.

In the Name of Allah^{azwj} the Beneficent, the Merciful. The Praise is for Allah^{azwj} Lord^{azwj} of the Worlds, and Blessing be upon our Chief Muhammad^{saww} and his^{saww} Purified Progeny^{asws}, and greetings with abundant greetings.

باب القتل

Chapter 1 – The killing

حَدَّثَنِي عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَلِيِّ بْنِ عُقْبَةَ عَنْ أَبِي خَالِدِ الْقَمَاطِ عَنْ حُمْرَانَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) مَا مَعْنَى قَوْلِ اللَّهِ عَزَّ وَجَلَّ مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا قَالَ قُلْتُ وَكَيْفَ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا فَإِنَّمَا قَتَلَ وَاحِدًا فَقَالَ يُوَضَّعُ فِي مَوْضِعٍ مِنْ جَهَنَّمَ إِلَيْهِ يَنْتَهِي شِدَّةُ عَذَابِ أَهْلِهَا لَوْ قَتَلَ النَّاسَ جَمِيعًا إِنَّمَا كَانَ يَدْخُلُ ذَلِكَ الْمَكَانَ قُلْتُ فَإِنَّهُ قَتَلَ آخَرَ قَالَ يُضَاعَفُ عَلَيْهِ.

Ali Bin Ibrahim narrated to me, from his father, from Ibn Abu Umeyr, from Ali Bin Uqba, from Abu Khalid Al Qammat, from Humran who said,

'I said to Abu Abdullah^{asws}, 'What is the Meaning of the Words of Allah^{azwj} Mighty and Majestic [5:32] **For this reason did We Prescribe to the Children of Israel that whoever slays a soul, unless it be for manslaughter or for mischief in the land, it is as though he slew all the people.** I said, 'And how come it is as if he has killed all the people, for he has (only) killed one?' So he^{asws} said: 'He would be placed in a place of Hell where the harshest of Punishments would end up to be upon its inhabitants, had he killed the people altogether. But rather, he would enter that place'. I said, 'So if he were to kill another one?' He^{asws} said: 'It would be doubled upon him'.¹

عَلِيُّ عَنْ أَبِيهِ عَنْ عَمْرٍو بْنِ عُمَانَ عَنِ الْمُفَضَّلِ بْنِ صَالِحٍ عَنْ جَابِرِ بْنِ يَزِيدَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَوَّلُ مَا يَحْكُمُ اللَّهُ فِيهِ يَوْمَ الْقِيَامَةِ الدِّمَاءُ فَيُوقَفُ ابْنُ آدَمَ فَيَفْصَلُ بَيْنَهُمَا ثُمَّ الَّذِينَ يَلُونَهُمَا مِنْ أَصْحَابِ الدِّمَاءِ حَتَّى لَا يَبْقَى مِنْهُمْ أَحَدٌ ثُمَّ النَّاسَ بَعْدَ ذَلِكَ حَتَّى يَأْتِيَ الْمَقْتُولُ بِقَاتِلِهِ فَيَتَشَخَّبُ فِي دَمِهِ وَجْهَهُ فَيَقُولُ هَذَا قَتَلَنِي فَيَقُولُ أَنْتَ قَتَلْتَهُ فَلَا يَسْتَطِيعُ أَنْ يَكْتُمَ اللَّهَ حَدِيثًا .

Ali, from his father, from Amro Bin Usman, from Al Mufazzal Bin Salih, from Jabir Bin Yazeed,

Abu Ja'far^{asws} has said that Rasool-Allah^{saww} said: 'The first of what Allah^{azwj} would Judge on the Day of Judgement would be regarding the blood-shed. So He^{azwj} would Pause the two sons of Adam^{as}, so He^{azwj} would Decide between the two of them. Then it would be those from the committers of the blood-shed who stained themselves by what they (the sons of Adam^{as}) did, until there does not remain anyone from them. Then it would be the (other) people after that, to the extent that the murdered one would come with his murderer, so his face would be soaked in his blood, so he would be saying, 'This one killed me'. So He^{azwj} would be Saying: "Did you kill him?' So he would not be able to conceal any statement from Allah^{azwj},²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ أَبِي الْجَارُودِ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ مَا مِنْ نَفْسٍ قُتِلَتْ بَرَةً وَلَا فَاجِرَةً إِلَّا وَهِيَ تُحْسَرُ يَوْمَ الْقِيَامَةِ مُتَعَلِّقَةً بِقَاتِلِهِ بِيَدِهِ الْيُمْنَى وَرَأْسُهُ بِيَدِهِ الْيُسْرَى وَوَدَّاجُهُ تَشَخَّبُ دَمًا يَقُولُ

¹ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 1

² Al Kafi – V 7 – The Book of Wergilds Ch 1 H 2

يَا رَبِّ سَلْ هَذَا فِيمَ قَتَلْتَنِي فَإِنْ كَانَ قَتَلَهُ فِي طَاعَةِ اللَّهِ أَثِيبَ الْقَاتِلِ الْجَنَّةَ وَ أُذْهِبَ بِالْمَقْتُولِ إِلَى النَّارِ وَ إِنْ قَالَ فِي طَاعَةِ فَلَانٍ قِيلَ لَهُ أَقْتَلُهُ كَمَا قَتَلْتَكَ ثُمَّ يَفْعَلُ اللَّهُ عَزَّ وَ جَلَّ فِيهِمَا بَعْدُ مَشِيئَةً .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Sinan, from Abu Al Jaroud,

Abu Ja'far^{asws} has said: 'There is none from the killed soul, righteous or immoral, except that it would be Resurrected on the Day of Judgement holding on to his murderer by right hand, and his (own severed) head in his left hand and his veins streaming blood. He would be saying, 'O Lord^{azwj}! Ask this one, why did he kill me?' So if it was such that his killing was in obedience of Allah^{azwj}, they would bring the killer to the Paradise and go with the killed one to the Fire; and if it was in obedience to so and so (other than Allah^{azwj}), it would be said to him, 'Kill him just as he had killed you'. Then Allah^{azwj} Mighty and Majestic would Deal with the two of them afterwards as He^{azwj} Wishes to'.³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ مَنْصُورِ بْنِ يُونُسَ عَنْ أَبِي حَمَزَةَ الثَّمَالِيِّ عَنْ عَلِيِّ بْنِ الْحُسَيْنِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا يَغْرَنُكُمْ رَحْبُ الدَّرَاعَيْنِ بِالدَّمِ فَإِنَّ لَهُ عِنْدَ اللَّهِ عَزَّ وَ جَلَّ قَاتِلًا لَا يَمُوتُ قَالُوا يَا رَسُولَ اللَّهِ وَ مَا قَاتِلٌ لَا يَمُوتُ فَقَالَ النَّارُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Mansour Bin Yunus, from Abu Hamza Al Sumaly,

(It has been narrated) from Ali^{asws} Bin Al-Husayn^{asws} having said: 'Rasool-Allah^{saww} said: 'Do not be deceived by the embrace of the two arms with the blood, for it, in the Presence of Allah^{azwj} Mighty and Majestic is a killer who does not die'. They said, 'O Rasool-Allah^{saww}! And what is the killer who does not die?' So he^{saww} said: 'The Fire (of Hell)'.⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا يُعْجِبُكَ رَحْبُ الدَّرَاعَيْنِ بِالدَّمِ فَإِنَّ لَهُ عِنْدَ اللَّهِ قَاتِلًا لَا يَمُوتُ .

A number of our companions, from Sahl Bin Ziyad, from Abdul Rahman Bin Abu Najran, from Aasim Bin Humeyd, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Rasool-Allah^{saww} said: 'Do not let the embrace of the two arms with the blood cause you to wonder, for it, in the Presence of Allah^{azwj}, is a killer who does not die'.⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعًا عَنْ حَمَادِ بْنِ عَيْسَى عَنْ رَبِيعِ بْنِ عَبْدِ اللَّهِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ... فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا قَالَ لَهُ فِي النَّارِ مَقْعَدٌ لَوْ قَتَلَ النَّاسَ جَمِيعًا لَمْ يَرِدْ إِلَّا إِلَى ذَلِكَ الْمَقْعَدِ .

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Hammad Bin Isa, from Rabie Bin Abdullah, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about the Words of Allah^{azwj} Mighty and Majestic **[5:32] whoever slays a soul, unless it be for manslaughter . . . it is as though he slew**

³ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 3

⁴ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 4

⁵ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 5

all the people. He^{asws} said: 'For him is a seat in the Fire, had he killed the people altogether, he would not have been Returned, except to that (very) place'.⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا يَزَالُ الْمُؤْمِنُ فِي فُسْحَةٍ مِنْ دِينِهِ مَا لَمْ يُصِْبْ دَمًا حَرَامًا وَقَالَ لَا يُؤَفَّقُ قَاتِلُ الْمُؤْمِنِ مُتَعَمِّدًا لِلتَّوْبَةِ .

Muhammad Bin Yahya, from Abdullah Bin Muhammad, from Ibn Abu Umeyr, from Hisham Bin Salim,

Abu Abdullah^{asws} has said: 'The Believer does not cease to be in ample space (leeway) in his Religion for as long as he does not shed blood unlawfully'. And he^{asws} said: 'The killer of the Believer deliberately, would not be given the opportunity for the repentance'.⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ مَنْصُورِ بْنِ يُونُسَ عَنْ أَبِي حَمْرَةَ عَنْ أَحَدِهِمَا (عليهما السلام) قَالَ أَتَيْتُ رَسُولَ اللَّهِ (صلى الله عليه وآله) فَقِيلَ لَهُ يَا رَسُولَ اللَّهِ قَتِيلٌ فِي جَهَنَّمَ فَقَامَ رَسُولُ اللَّهِ (صلى الله عليه وآله) يَمْشِي حَتَّى أَتَيْتُهُ إِلَى مَسْجِدِهِمْ قَالَ وَتَسَامَعُ النَّاسُ فَاتَوْهُ فَقَالَ مَنْ قَتَلَ ذَا قَالُوا يَا رَسُولَ اللَّهِ مَا نَدْرِي فَقَالَ قَتِيلٌ بَيْنَ الْمُسْلِمِينَ لَا يُدْرَى مَنْ قَتَلَهُ وَالَّذِي بَعَثَنِي بِالْحَقِّ لَوْ أَنَّ أَهْلَ السَّمَاءِ وَالْأَرْضِ شَرِكُوا فِي دَمِ امْرِئٍ مُسْلِمٍ وَرَضُوا بِهِ لَأَكْبَهُمُ اللَّهُ عَلَى مَنَاحِرِهِمْ فِي النَّارِ أَوْ قَالَ عَلَى وُجُوهِهِمْ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Mansour Bin Yunus, from Abu Hamza,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: '(Someone) came to Rasool-Allah^{azwj}, so he said to him^{saww}: 'O Rasool-Allah^{saww}! There has been killing in Juhayna'. So Rasool-Allah^{saww} arose, and walked until he^{saww} ended up in their Masjid. He^{saww} said, and the people heard him^{saww}, so they came over, so he^{saww} said: 'Who had done that killing?' They said, 'O Rasool-Allah^{saww}! We do not know'. So he^{saww} said: 'There has been killing in between the Muslims, and it is not known who killed? By the One Who^{azwj} Sent me^{saww} with the Truth, if the inhabitants of the sky and the earth were to participate in shedding the blood of a Muslim person, and were pleased with it, Allah^{azwj} would Fling them upon their nostrils, into the Fire!' – or he^{saww} said: 'Upon their faces!'.⁸

عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ سَعِيدِ الْأَزْرَقِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ قَتَلَ رَجُلًا مُؤْمِنًا قَالَ يُقَالُ لَهُ مَتَّ أَيَّ مِيتَةٍ شِئْتَ إِنْ شِئْتَ يَهُودِيًّا وَإِنْ شِئْتَ نَصْرَانِيًّا وَإِنْ شِئْتَ مَجُوسِيًّا .

Ali, from his father, from Ibn Abu Umeyr, from Saeed Al Arzaq,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who killed a Believing man. He^{asws} said: 'It would be said to him: 'Die whichever death you like – if you so like, as a Jew, and if you so like, as a Christian, and if you so like, as a Magian!'.⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ إِنْ الرَّجُلُ لِيَأْتِي يَوْمَ الْقِيَامَةِ وَمَعَهُ قَدْرٌ مَخْجَمَةٌ مِنْ دَمٍ فَيَقُولُ وَاللَّهِ مَا قَتَلْتُ وَلَا شَرِكْتُ فِي دَمِ قَاتِلِي دَكَرْتُ عَبْدِي فَلَأَنَا فَتَرَفِّي ذَلِكَ حَتَّى قُتِلَ فَأَصَابَكَ مِنْ دَمِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

⁶ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 6

⁷ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 7

⁸ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 8

⁹ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 9

(It has been narrated) from Abu Ja'far^{asws} having said that the man would be brought on the Day of Judgement, and on him would be the (minimum amount of) blood - of the measurement of a cup, so he would be saying, 'By Allah^{azwj}! I did not kill, nor did I participate in (shedding of his) blood!' He^{azwj} would Say: "Yes (you did)! You mentioned My^{azwj} so and so servant, so that led to him being killed, therefore you are responsible for his blood (shedding)".¹⁰

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنِ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يَدْخُلُ الْجَنَّةَ سَافِكُ الدَّمِ وَلَا شَارِبُ الْخَمْرِ وَلَا مَسَاءٌ بِنَمِيمٍ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Abdullah Bin Sinan, from a man,

Abu Abdullah^{asws} has said: 'He would not be entering the Paradise, the one who shed the blood, nor the one who drank the wine, nor a slandering backbiter'.¹¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أُسَامَةَ زَيْدِ الشَّحَامِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَقَفَ بِيَمِينِي حِينَ قَضَى مَنَاسِكَهَا فِي حَجَّةِ الْوَدَاعِ فَقَالَ أَيُّهَا النَّاسُ اسْمَعُوا مَا أَقُولُ لَكُمْ وَاعْقِلُوا عَنِّي فَإِنِّي لَا أَذْرِي لَعَلِّي لَا أَلْقَاكُمْ فِي هَذَا الْمَوْقِفِ بَعْدَ عَامِنَا هَذَا

Ali Bin IBrahi, from his father, from Ibn Abu Umeyr, from Abu Asama Zayd Al Shaham,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} paused at Mina where he^{saww} fulfilled his^{saww} rituals during the Farewell Hajj. So he^{saww} said: 'O you people! Listen to what I^{saww} am saying to you all, and understand from me^{saww}, for I^{saww} do not know, perhaps I^{saww} would not meet you all again during this year of ours'.

ثُمَّ قَالَ أَيُّ يَوْمٍ أَعْظَمَ حُرْمَةً قَالُوا هَذَا الْيَوْمُ قَالَ فَأَيُّ شَهْرٍ أَعْظَمَ حُرْمَةً قَالُوا هَذَا الشَّهْرُ قَالَ فَأَيُّ بَلَدٍ أَعْظَمَ حُرْمَةً قَالُوا هَذَا الْبَلَدُ قَالَ فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا إِلَى يَوْمٍ تَلْقَوْنَهُ فَيَسْأَلُكُمْ عَنْ أَعْمَالِكُمْ

Then he^{saww} said: 'Which day is greatest in sanctity?' They said, 'This day!'. He^{saww} said: 'So which month is greatest in sanctity?' They said, 'This month!' He^{saww} said: 'So which city is greatest in sanctity?' They said, 'This city!' He^{saww} said: 'So your blood, and your wealth are sacred upon you like the sacredness of this day of yours, in this month of yours, in this city of yours, up to the day you meet Him^{azwj}, so He^{azwj} would be Questioning you about your deeds.

أَلَا هَلْ بَلَّغْتُمْ قَالُوا نَعَمْ قَالَ اللَّهُمَّ اشْهَدْ أَلَا مَنْ كَانَتْ عِنْدَهُ أَمَانَةٌ فَلْيُؤَدِّهَا إِلَى مَنْ أُنْتَمَنُهَا عَلَيْهَا فَإِنَّهُ لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ وَلَا مَالُهُ إِلَّا بِطَيْبَةٍ نَفْسِيهِ وَلَا تَطْلُمُوا أَنْفُسَكُمْ وَلَا تَرْجِعُوا بَعْدِي كُفَّارًا .

Indeed! Have I^{saww} delivered (the Message)?' They said: 'Yes!' He^{saww} said: 'O Allah^{azwj}! Be Witness! The one with whom is an entrustment, so let him pay it to the one who had entrusted it upon him, for the blood of a Muslim person and his wealth

¹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 10

¹¹ Al Kafi – V 7 – The Book of Wergilds Ch 1 H 11

are not Permissible except if he himself agrees to it; and do not do injustice to yourselves (commit sins), and do not return to Infidelity after me^{saww}!¹²

بَابُ آخِرُ مِنْهُ

Chapter 2 – Another chapter from it

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنِ مُنْتَنَى عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ وَجَدَ فِي قَائِمِ سَيْفِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) صَحِيفَةً إِنَّ أَعْتَى النَّاسِ عَلَى اللَّهِ عَزَّ وَجَلَّ الْقَاتِلُ غَيْرَ قَاتِلِهِ وَ الضَّارِبُ غَيْرَ ضَارِبِهِ وَ مَنْ ادَّعَى لِغَيْرِ أَبِيهِ فَهُوَ كَافِرٌ بِمَا أَنْزَلَ اللَّهُ عَلَى مُحَمَّدٍ وَ مَنْ أَحَدَّثَ حَدَّثًا أَوْ أَوْى مُحَدِّثًا لَمْ يَقْبَلِ اللَّهُ عَزَّ وَجَلَّ مِنْهُ يَوْمَ الْقِيَامَةِ صِرْفًا وَ لَا عَدْلًا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Musny,

Abu Abdullah^{asws} has said: ‘A parchment was found in the sheath of the sword of Rasool-Allah^{saww} (which said): ‘The most troublemaker of the people to Allah^{azwj} Mighty and Majestic, is the one who killed other than the one who (was trying to) kill him, and having struck someone other than the one who struck him, and the one who claims to other than his (biological) father, so he is a disbeliever with what Allah^{azwj} Revealed unto Muhammad^{saww}; and the one who initiates an event (killing), or shelters an initiator (of a killing), Allah^{azwj} Mighty and Majestic would not Accept from him on the Day of Judgement, neither any exchange (for himself) nor any ransom’.¹³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِنَّ أَعْتَى النَّاسِ عَلَى اللَّهِ عَزَّ وَجَلَّ مَنْ قَتَلَ غَيْرَ قَاتِلِهِ وَ مَنْ ضَرَبَ مَنْ لَمْ يَضْرِبْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

Abu Abdullah^{asws} has said: ‘Rasool-Allah^{saww} said: ‘The most trouble-maker of the people to Allah^{azwj} Mighty and Majestic, is the one who killed someone other than his (attempted) killer, and the one who struck someone who did not strike him’.¹⁴

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعًا عَنِ الْوَشَاءِ قَالَ سَمِعْتُ الرَّضَا (عَلَيْهِ السَّلَام) يَقُولُ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَعَنَ اللَّهُ مَنْ قَتَلَ غَيْرَ قَاتِلِهِ أَوْ ضَرَبَ غَيْرَ ضَارِبِهِ وَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَعَنَ اللَّهُ مَنْ أَحَدَّثَ حَدَّثًا أَوْ أَوْى مُحَدِّثًا قُلْتُ وَ مَا الْمُحَدِّثُ قَالَ مَنْ قَتَلَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad and a number of our companions, from Sahl Bin Ziyad, altogether from Al Washa who said,

‘I heard Al-Reza^{asws} saying: ‘Rasool-Allah^{saww} said: ‘May Allah^{azwj} Curse the one who killed someone other than his (attempted) killer, or struck someone other than the one who struck him’. And Rasool-Allah^{saww} said: ‘May Allah^{azwj} Curse the one who initiates an event (killing), or shelters an initiator (of a killing)’. I said, ‘And what is the initiator?’ He^{saww} said: ‘The one who kills’.¹⁵

¹² Al Kafi – V 7 – The Book of Wergilds Ch 1 H 12

¹³ Al Kafi – V 7 – The Book of Wergilds Ch 2 H 1

¹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 2 H 2

¹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 2 H 3

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِي بَانَ عَنْ أَبِي إِسْحَاقَ إِبرَاهِيمَ الصَّيْقَلِيَّ قَالَ قَالَ لِي أَبُو عَبْدِ اللَّهِ (عليه السلام) (وَجَدَ فِي دَوَابَّةِ سَيْفِ رَسُولِ اللَّهِ (صلى الله عليه وآله) صَحِيفَةً فَإِذَا فِيهَا بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ إِنَّ أَعْتَى النَّاسَ عَلَى اللَّهِ عَزَّ وَجَلَّ يَوْمَ الْقِيَامَةِ مَنْ قَتَلَ غَيْرَ قَاتِلِهِ وَ الضَّارِبُ غَيْرَ ضَارِبِهِ وَ مَنْ تَوَلَّى غَيْرَ مَوْلِيهِ فَهُوَ كَافِرٌ بِمَا أَنْزَلَ اللَّهُ عَلَى مُحَمَّدٍ وَ مَنْ أَحْدَثَ حَدِيثًا أَوْ أَوَى مُحَدِّثًا لَمْ يَقْبَلِ اللَّهُ عَزَّ وَجَلَّ مِنْهُ يَوْمَ الْقِيَامَةِ صِرْفًا وَ لَا عَدْلًا

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Abu Is'haq Ibrahim Al Sayqal who said,

'Abu Abdullah^{asws} said to me: 'A parchment was found to be in a handle of a sword of Rasool-Allah^{saww} in which was (inscribed): 'In the Name of Allah^{azwj} the Beneficent, the Merciful. The most troublesome of the people to Allah^{azwj} Mighty and Majestic on the Day of Judgement would be the one who killed someone other than his (attempted) killer, and the striker of someone other than the one who struck him, and the one who befriended other than his friends, so he is a disbeliever with what Allah^{azwj} Revealed upon Muhammad^{saww}. And the one who initiates an event (killing), or shelters an initiator, Allah^{azwj} Mighty and Majestic would not Accept from him on the Day of Judgement, neither any exchange nor a ransom'.

قَالَ ثُمَّ قَالَ لِي أَ تَدْرِي مَا يَعْنِي مَنْ تَوَلَّى غَيْرَ مَوْلِيهِ قُلْتُ مَا يَعْنِي بِهِ قَالَ يَعْنِي أَهْلَ الدِّينِ .

(He - the narrator) said, 'Then he^{asws} said to me: 'Do you know what is the meaning of the who befriends other than his friends?' I said, 'What is the meaning of it?' He^{asws} said: 'It means the people of the Religion'.

وَ الصَّرْفُ التَّوْبَةُ فِي قَوْلِ أَبِي جَعْفَرٍ (عليه السلام) وَ الْعَدْلُ الْفِدَاءُ فِي قَوْلِ أَبِي عَبْدِ اللَّهِ (عليه السلام) .

And the 'exchange' is the repentance in the words of Abu Ja'far^{asws}, and the 'ransom' is the sacrifice in the words of Abu Abdullah^{asws},¹⁶

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِنَّ رَسُولَ اللَّهِ (صلى الله عليه وآله) وَقَفَ بَيْنِي حِينَ قَضَى مَنَاسِكَهُ فِي حَجَّةِ الْوَدَاعِ فَقَالَ أَيُّهَا النَّاسُ اسْمَعُوا مَا أَقُولُ لَكُمْ فَاعْمَلُوا عَنِّي فَإِنِّي لَا أَدْرِي لَعَلِّي لَا أَلْقَاكُمْ فِي هَذَا الْمَوْقِفِ بَعْدَ عَامِنَا هَذَا

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from his brother Al Hassan, from Zur'at Bin Muhammad, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} having said that Rasool-Allah^{azwj} paused at Mina where he fulfilled his^{saww} rituals during the farewell Hajj. So he^{saww} said: 'O you people!, Listen to what I^{saww} am saying to you all, therefore understand from me^{saww}, for I^{saww} do not know perhaps I^{saww} will not meet you all in this pausing place after this year of ours'.

ثُمَّ قَالَ أَيُّ يَوْمٍ أَعْظَمَ حُرْمَةً قَالُوا هَذَا الْيَوْمُ قَالَ فَأَيُّ شَهْرٍ أَعْظَمَ حُرْمَةً قَالُوا هَذَا الشَّهْرُ قَالَ فَأَيُّ بَلَدٍ أَعْظَمَ حُرْمَةً قَالُوا هَذَا الْبَلَدُ قَالَ فَإِنَّ رِمَاءَكُمْ وَ أَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا إِلَى يَوْمِ تَلْقَوْنَهُ فَيَسْأَلُكُمْ عَنْ أَعْمَالِكُمْ

Then he^{saww} said: 'Which day is greatest in sanctity?' They said, 'This day'. He^{saww} said: 'So which month is the greatest in sanctity?' They said, 'This month'. He^{saww} said: 'Which city is greatest in sanctity?' They said, 'This city'. He^{saww} said: 'So your

¹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 2 H 4

blood and your wealth is sacred upon you all like the sacredness of this days of yours, in this month of yours, in this city of yours, up to the Day you meet Him^{azwj}, so He^{azwj} would be Questioning you all about your deeds.

أَلَا هَلْ بَلَغْتُمْ قَالُوا نَعَمْ قَالَ اللَّهُمَّ اشْهَدْ أَلَا وَمَنْ كَانَتْ عِنْدَهُ أَمَانَةٌ فَلْيُؤَدِّهَا إِلَى مَنْ انْتَمَنَ عَلَيْهَا فَإِنَّهُ لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ وَلَا مَالُهُ إِلَّا بِطَيْبَةِ نَفْسِهِ وَلَا تَظْلِمُوا أَنْفُسَكُمْ وَلَا تَرْجِعُوا بَعْدِي كُفَّارًا .

Indeed! Have I^{saww} delivered (the Message)?' They said, 'Yes'. He^{saww} said: 'O Allah^{azwj}! Be Witness! Indeed, and the one with whom was deposited an entrustment, so let him pay it back to the one who had entrusted it upon him, for neither the blood of a Muslim person nor his wealth is Permissible except by him agreeing it himself, and do not be unjust to yourselves (commit sins), nor return to be disbelievers after me^{saww},¹⁷

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ جَمِيلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَمِعْتُهُ يَقُولُ لَعَنَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مَنْ أَخَذَتْ بِالْمَدِينَةِ حَدَنًا أَوْ آوَى مُحْدِثًا قُلْتُ مَا الْحَدَثُ قَالَ الْقَتْلُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Jameel,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I heard him^{asws} saying: 'Rasool-Allah^{saww} cursed at Al-Medina, the one who initiated an event or sheltered an initiator (of a killing)'. I said, 'And what is the 'event'?' He^{asws} said: 'The killing'.¹⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ كُتَيْبِ الْأَسَدِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ وَجَدَ فِي دُوَابَةِ سَيْفِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) صَحِيفَةً مَكْتُوبٌ فِيهَا لَعْنَةُ اللَّهِ وَالْمَلَائِكَةِ عَلَى مَنْ أَخَذَتْ حَدَنًا أَوْ آوَى مُحْدِثًا وَمَنْ أَدْعَى إِلَى غَيْرِ أَبِيهِ فَهُوَ كَافِرٌ بِمَا أَنْزَلَ اللَّهُ عَزَّ وَجَلَّ وَمَنْ أَدْعَى إِلَى غَيْرِ مَوْلِيهِ فَعَلَيْهِ لَعْنَةُ اللَّهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Kuleyb Al Asady,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A parchment was found in the handle of a sword of Rasool-Allah^{saww}, in which was written: 'The Curse of Allah^{azwj} and the Angels is upon the one who initiates an event (killing), or shelters an initiator (of a killing), and the one who claims to other than his (biological) father, so he is a disbeliever with what Allah^{azwj} Mighty and Majestic Revealed; and the one who calls (for help) to other than his friends (people of the Religion), so upon him is the Curse of Allah^{azwj}.¹⁹

بَابُ أَنْ مَنْ قَتَلَ مُؤْمِنًا عَلَى دِينِهِ فَلَيْسَتْ لَهُ تَوْبَةٌ

Chapter 3 – The one who kills a Believer upon his Religion, so there is no repentance for him

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيْسَى عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ [خَالِدًا فِيهَا] قَالَ مَنْ قَتَلَ مُؤْمِنًا عَلَى دِينِهِ فَذَلِكَ الْمُتَعَمِّدُ الَّذِي قَالَ اللَّهُ عَزَّ وَجَلَّ وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا قُلْتُ فَالرَّجُلُ يَقَعُ بَيْنَهُ وَبَيْنَ الرَّجُلِ شَيْءٌ فَيَضْرِبُهُ بِسِنِيهِ فَيَقْتُلُهُ قَالَ لَيْسَ ذَلِكَ الْمُتَعَمِّدُ الَّذِي قَالَ اللَّهُ عَزَّ وَجَلَّ .

¹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 2 H 5

¹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 2 H 6

¹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 2 H 7

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [4:93] **And whoever kills a Believer deliberately, his Punishment is Hell; he shall abide in it eternally**, said: 'The one who kills a Believer upon his Religion, so that is the deliberation which Allah^{azwj} Mighty and Majestic Speaks of **and Prepare for him a Painful Punishment**. I said, 'So what happens if something takes place between two persons, so he strikes him with his sword, so he kills him?' He^{asws} said: 'That is not the deliberation (pre-meditated killer) whom Allah^{azwj} Mighty and Majestic Speaks of'.²⁰

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ وَ ابْنِ بُكَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سُئِلَ عَنِ الْمُؤْمِنِ يَقْتُلُ الْمُؤْمِنَ مُنْعَمًا أَلَهُ تَوْبَةٌ فَقَالَ إِنْ كَانَ قَتَلَهُ لِإِيمَانِهِ فَلَا تَوْبَةَ لَهُ وَ إِنْ كَانَ قَتَلَهُ لِعُضَبٍ أَوْ لِسَبَبٍ شَيْءٍ مِنْ أَمْرِ الدُّنْيَا فَإِنْ تَوْبَتَهُ أَنْ يُقَادَ مِنْهُ وَ إِنْ لَمْ يَكُنْ عَلِمَ بِهِ أَنْطَلَقَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَأَقْرَّ عَنْدَهُمْ بِقَتْلِ صَاحِبِهِمْ فَإِنْ عَفَوْا عَنْهُ فَلَمْ يَقْتُلُوهُ أَعْطَاهُمُ الدِّيَةَ وَ أَعْتَقَ نَسَمَةً وَ صَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ أَطْعَمَ سِتِّينَ مِسْكِينًا تَوْبَةً إِلَى اللَّهِ عَزَّ وَ جَلَّ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub from Abdullah Bin Sinan and Ibn Bakeyr,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} was asked about the Believer who kills the Believer deliberately, is there repentance for him? So he^{asws} said: 'If he killed him for his beliefs, so there is no repentance for him, and if had killed him due to anger, or for a reason for something from the affairs of the world, so his repentance is that he would be retaliated from it, and if he does not know of it, so he should go to the guardians of the killed one, so he confesses in their presence of the murder of their companions. So if they were to forgive from it, then he would not be killed, and he would give them the wergild, and emancipate a slave, and Fast for two moths consecutively, and feed sixty poor (people) as a repentance to Allah^{azwj} Mighty and Majestic'.²¹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُوَيْدٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ سُئِلَ عَنْ رَجُلٍ قَتَلَ مُؤْمِنًا وَ هُوَ يَعْلَمُ أَنَّهُ مُؤْمِنٌ غَيْرَ أَنَّهُ حَمَلَهُ الْعُضَبُ عَلَى قَتْلِهِ هَلْ لَهُ تَوْبَةٌ إِذَا أَرَادَ ذَلِكَ أَوْ لَا تَوْبَةَ لَهُ فَقَالَ يُقَادُ بِهِ وَ إِنْ لَمْ يُعْلَمَ بِهِ أَنْطَلَقَ إِلَى أَوْلِيَائِهِ فَأَعْلَمَهُمْ أَنَّهُ قَتَلَهُ فَإِنْ عَفَوْا عَنْهُ أَعْطَاهُمُ الدِّيَةَ وَ أَعْتَقَ رَقَبَةً وَ صَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ تَصَدَّقَ عَلَى سِتِّينَ مِسْكِينًا .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Al Nazar Bin Suwed, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having been asked about a man who killed a Believer and he knew he was a Believer, besides that it was anger that carried him upon killing him. Is there repentance for him when he intends for that, or there is no repentance for him?' So he^{asws} said: 'He would be retaliated with, and if he does not know, he should go to his (killed one's) guardians, so he would let them know that he has killed him. So if they were to forgive him, he would give them the

²⁰ Al Kafi – V 7 – The Book of Wergilds Ch 3 H 1

²¹ Al Kafi – V 7 – The Book of Wergilds Ch 3 H 2

wergild, and emancipate a slave, and Fast for two months consecutively, and give charity upon sixty poor ones'.²²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حُسَيْنِ بْنِ أَحْمَدَ الْمَنْقَرِيِّ عَنْ عَيْسَى الضَّرِيرِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ قَتَلَ رَجُلًا مُتَعَمِّدًا مَا تَوْبَتُهُ قَالَ يُمَكِّنُ مِنْ نَفْسِهِ قُلْتُ يَخَافُ أَنْ يَقْتُلُوهُ قَالَ فَلْيُعْطِهِمُ الدِّيَةَ قُلْتُ يَخَافُ أَنْ يَعْلَمُوا بِذَلِكَ قَالَ فَلْيَنْظُرْ إِلَى الدِّيَةِ فَلْيَجْعَلْهَا صُرْرًا ثُمَّ لِيَنْظُرْ مَوَاقِبَتِ الصَّلَوَاتِ فَلْيُلْقِهَا فِي دَارِهِمْ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Husayn Bin Ahmad Al Minqary, from Isa Al Zareyr who said,

'I said to Abu Abdullah^{asws}, 'A man kills a man deliberately, what is his repentance?'. He^{asws} said: 'He should make himself available (to the guardians of the killed one)'. I said, 'He is afraid that they might kill him'. He^{asws} said: 'So let him give them the wergild'. I said, 'He is afraid that they would come to know (it was him) due to that'. He^{asws} said: 'So let him be secretive with the wergild, so let him make it as small packages, then place it during the Prayer timings (in their homes), so they can be with the wergild'.²³

باب قَتْلِ الْعَمْدِ وَ شِبْهِ الْعَمْدِ وَ الْخَطَا

Chapter 4 – Deliberate killing, and somewhat deliberate, and the erroneous (killing)

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ وَ ابْنِ أَبِي عُمَيْرٍ جَمِيعاً عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ قَتَلَ الْعَمْدُ كُلُّ مَا عَمَدَ بِهِ الضَّرْبُ فَعَلَيْهِ الْقَوْدُ وَ إِنَّمَا الْخَطَا أَنْ يُرِيدَ الشَّيْءَ فَيُصِيبُ غَيْرَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed and Ibn Abu Umeyr, altogether from Jameel Bin Darraj, from one of his companions,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'The deliberate killing is all of what the strike is deliberated with, so upon him is the retaliation, and rather, the erroneous (killing) is that he intends the thing, so he hits another (person)'.
وَ قَالَ إِذَا أَقَرَّ عَلَى نَفْسِهِ بِالْقَتْلِ قُتِلَ وَ إِنْ لَمْ يَكُنْ عَلَيْهِ بَيِّنَةٌ .

And he^{asws} said: 'When he confesses upon himself with the killing, he would be killed, and even if there does not happen to be a proof against him'.²⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنِ الْحَلْبِيِّ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الْعَمْدُ كُلُّ مَا اعْتَمَدَ شَيْئاً فَأَصَابَهُ بِحَدِيدَةٍ أَوْ بِحَجَرٍ أَوْ بِعَصَاٍ أَوْ بِوَكْرَةٍ فَهَذَا كُلُّهُ عَمْدٌ وَ الْخَطَا مَنْ اعْتَمَدَ شَيْئاً فَأَصَابَ غَيْرَهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdullah Bin Muskan, from Al Halby who said,

²² Al Kafi – V 7 – The Book of Wergilds Ch 3 H 3

²³ Al Kafi – V 7 – The Book of Wergilds Ch 3 H 4

²⁴ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 1

'Abu Abdullah^{asws} said: 'The deliberation is all of what something is anticipated, so he hits it with an iron, or with a rock, or with a stick, or with a nudge, so all of these are deliberate; and the error is from anticipating something, so he hits something else'.²⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ صَفْوَانَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ جَمِيعاً عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ قَالَ لِي أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يُخَالِفُ يَحْيَى بْنَ سَعِيدٍ فُضَّاتَكُمْ قُلْتُ نَعَمْ قَالَ هَاتِ شَيْئاً مِمَّا اخْتَلَفُوا فِيهِ قُلْتُ افْتَتَلَ غُلَامَانِ فِي الرَّحْبَةِ فَعَضَّ أَحَدُهُمَا صَاحِبَهُ فَعَمَدَ الْمَعْضُوضُ إِلَى حَجَرٍ فَضْرَبَ بِهِ رَأْسَ صَاحِبِهِ الَّذِي عَضَهُ فَشَجَّهُ فَكَّرَ فَمَاتَ فَرُفِعَ ذَلِكَ إِلَى يَحْيَى بْنِ سَعِيدٍ فَأَقَادَهُ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Safwan and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, altogether fro, Abdul Rahman Bin Al Hajjaj who said,

'Abu Abdullah^{asws} said to me: 'Does Yahya Bin Saeed oppose your judges?' I said, 'Yes'. He^{asws} said: 'Give me something from what he differed in'. I said, 'Two boys fought each other in the open, so one of them bit his companions. So the bitten one deliberated to pick up a stone, so he struck by it the head of his companion who had bitten him. So it split (his head), and (the wound) exacerbated, so he died. So that was raised to Yahya Bin Saeed, so he judged for the retaliation (revenge).

فَعَظَّمَ ذَلِكَ عَلَى ابْنِ أَبِي لَيْلَى وَ ابْنِ شُبْرَمَةَ وَ كَثُرَ فِيهِ الْكَلَامُ وَ قَالُوا إِنَّمَا هَذَا الْخَطَأُ فَوَدَاهُ عَيْسَى بْنُ عَلِيٍّ مِنْ مَالِهِ قَالَ فَقَالَ إِنَّ مَنْ عِنْدَنَا لَيُقِيدُونَ بِالْوَكْرَةِ وَ إِنَّمَا الْخَطَأُ أَنْ يُرِيدَ الشَّيْءَ فَيُصِيبَ غَيْرَهُ .

So that was grievous upon Ibn Abu Layli, and Ibn Shabrama (other judges), and they spoke a lot with regards to it, and they said, 'But rather, this is an error'. So Isa Bin Ali paid him from his own wealth'. He^{asws} said: 'From our^{asws} (judgement), let there be retaliation for the (fatal) wounding. But rather, the error is when he intended with something, so he hit something else'.²⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ جَمِيعاً عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْنَاهُ عَنْ رَجُلٍ ضْرَبَ رَجُلًا بِعَصَا فَلَمَّ يَقْلَعُ عَنْهُ حَتَّى مَاتَ أ يُدْفَعُ إِلَى وَلِيِّ الْمَقْتُولِ فَيَقْتُلُهُ قَالَ نَعَمْ وَ لَا يُتْرَكُ يَعْبَثُ بِهِ وَ لَكِنْ يُجِيزُ عَلَيْهِ بِالسَّيْفِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Mhammad Bin Al Fuzayl, from Abu Al Sabbah Al Kanany, both together,

(It has been narrated) from Abu Abdullah^{asws}, both said, 'We asked him^{asws} about a man who struck a man with a stick. So he had not stop (hitting him), until he died. Should he be handed over to a guardian of the killed one?' He^{asws} said: 'Yes, and he should not be left to be abused with it, but the sword should be allowed upon him'.²⁷

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ الْحُصَيْنِ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الْخَطِئِ الَّذِي فِيهِ الدِّيَةُ وَ الْكُفَّارَةُ أ هُوَ أَنْ يَتَعَمَّدَ ضْرَبَ رَجُلٍ وَ لَا يَتَعَمَّدَ قَتَلَهُ قَالَ نَعَمْ قُلْتُ رَمَى شاةً فَأَصَابَ إِنْسَانًا قَالَ ذَلِكَ الْخَطِئُ الَّذِي لَا شَكَّ فِيهِ عَلَيْهِ الدِّيَةُ وَ الْكُفَّارَةُ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Dawood Bin Al Husayn, from Abu Al Abbas,

²⁵ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 2

²⁶ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 3

²⁷ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 4

(The narrator) says, 'I asked Abu Abdullah^{asws} about the (killing in) error in which is the wergild and the expiation, is it he who intends to strike a man, but does not anticipate killing him?' He^{asws} said: 'I said, 'A sheep is fired (an arrow) at, so a human being is hit?' He^{asws} said: 'That is the error in which there is no doubt, upon him would be the wergild and 'الْكَفَّارَةُ' the expiation'.²⁸

سَهْلُ بْنُ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ مُوسَى بْنِ بَكْرِ عَنْ عَبْدِ صَالِحٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ ضَرَبَ رَجُلًا بِعَصَا فَلَمْ يَرْفَعْ الْعَصَا حَتَّى مَاتَ قَالَ يُدْفَعُ إِلَى أَوْلِيَاءِ الْمَقْتُولِ وَ لَكِنَّ لَا يُنْرَكُ يُتَلَدَّدُ بِهِ وَ لَكِنَّ يُجَازُ عَلَيْهِ بِالسَّيْفِ .

Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu nasr, from Musa Bin Bakr,

(It has been narrated) from Abd Salih^{asws} (7th Imam^{asws}), regarding a man who struck a man with a stick, so he did not raise the stick (stop) until he died. He^{asws} said: 'He would be handed over to the guardian of the killed one, but he should not be left to enjoy the pleasure of it, but the sword should be allowed upon him'.²⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) لَوْ أَنَّ رَجُلًا ضَرَبَ رَجُلًا بِخَرْفَةٍ أَوْ بِأَجْرَةٍ أَوْ بِعُودٍ فَمَاتَ كَانَ عَمْدًا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hama, from Abu Baseer who said,

'Abu Abdullah^{asws} said: 'If a man were to strike a man with pottery, or with a brick, or with a plank (of wood), so he dies, it would be a deliberate (killing)'.³⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفَضِيلِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْعَمْدُ الَّذِي يَضْرِبُ بِالسَّلَاحِ أَوْ الْعَصَا لَا يَقْلَعُ عَنْهُ حَتَّى يُقْتَلَ وَ الْخَطَأُ الَّذِي لَا يَتَعَمَّدُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Sinan, from Al A'ala Bin Al Fuzayl,

Abu Abdullah^{asws} has said: 'The deliberation is in which he strikes with the sword, or the stick (and) does not stop from it until he kills; and the error is in which he does not anticipate it (the killing)'.³¹

يُونُسُ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنْ ضَرَبَ رَجُلًا رَجُلًا بِعَصَا أَوْ بِحَجَرٍ فَمَاتَ مِنْ ضَرْبِهِ وَاحِدَةً قَبْلَ أَنْ يَتَكَلَّمَ فَهُوَ شِبْهُ الْعَمْدِ فَالَّذِي عَلَى الْقَاتِلِ وَ إِنْ عَلَاهُ وَ أَلْحَ عَلَيْهِ بِالْعَصَا أَوْ بِالْحِجَارَةِ حَتَّى يَقْتُلَهُ فَهُوَ عَمْدٌ يُقْتَلُ بِهِ وَ إِنْ ضَرَبَهُ ضَرْبَةً وَاحِدَةً فَتَكَلَّمَ ثُمَّ مَكَتَ يَوْمًا أَوْ أَكْثَرَ مِنْ يَوْمٍ ثُمَّ مَاتَ فَهُوَ شِبْهُ الْعَمْدِ .

Yunus, from one of his companions,

Abu Abdullah^{asws} has said: 'If a man strikes a man with a stick, or with a rock, so he dies from his one strike before he speaks, so it is somewhat deliberate, therefore the wergild is upon the killer; and if he pounces upon him and hits him incessantly (nonstop) with the stick, or with the rock until he kills him, so he was deliberately

²⁸ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 5

²⁹ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 6

³⁰ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 7

³¹ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 8

killed with; and if he were to strike him with one strike, so he speaks, then remains (alive) for a day or more from (that) day, then dies, so it is somewhat deliberate'.³²

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ وَ مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمِثْمِيِّ عَنْ أَبِي بَنٍ عُثْمَانَ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ أَرْمِي الرَّجُلَ بِالشَّيْءِ الَّذِي لَا يَقْتُلُ مِثْلَهُ قَالَ هَذَا خَطَأٌ ثُمَّ أَخَذَ حَصَاةً صَغِيرَةً فَرَمَى بِهَا قُلْتُ أَرْمِي بِهَا الشَّاةَ فَأَصَابَتْ رَجُلًا قَالَ هَذَا الْخَطَأُ الَّذِي لَا شَكَّ فِيهِ وَ الْعَمْدُ الَّذِي يَضْرِبُ بِالشَّيْءِ الَّذِي يُقْتَلُ بِمِثْلِهِ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ahmad Bin Al Hassan Al Maysami, from Aban Bin Usman, from Abu Al Abbas,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'I threw something at a man, the likes of which does not kill (but he dies)?' He^{asws} said: 'This is erroneous (killing)'. Then he^{asws} picked up a small pebble, so he threw it. I said, 'I threw it at the sheep but it hit a man?' He^{asws} said: 'This is the error in which there is no doubt, and the deliberate is that which he strikes with something, the likes of which could kill'.³³

باب الدية في قتل العمد و الخطأ

Chapter 5 – The wergild regarding the deliberate killing, and the erroneous

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَمِعْتُ ابْنَ أَبِي لَيْلَى يَقُولُ كَانَتْ الدِّيَةُ فِي الْجَاهِلِيَّةِ مِائَةً مِنَ الْإِبِلِ فَأَقْرَهَا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) ثُمَّ إِنَّهُ فَرَضَ عَلَى أَهْلِ الْبُقْرَةِ مِائَتَيْ بَقْرَةٍ وَ فَرَضَ عَلَى أَهْلِ الشَّاةِ أَلْفَ شَاةٍ نَتِيَّةٍ وَ عَلَى أَهْلِ الذَّهَبِ أَلْفَ دِينَارٍ وَ عَلَى أَهْلِ الْوَرِقِ عَشْرَةَ أَلْفٍ دِرْهَمٍ وَ عَلَى أَهْلِ الْبَيْتِ الْحُلَّ مِائَةَ حُلَّةٍ

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Abdul Rahman Bin Al Hajjaj who said,

'I heard Ibn Abu Layli saying, 'The wergild during the Pre-Islamic period was a hundred camels. So Rasool-Allah^{saww} accepted it. Then he^{asws} necessitated upon the owner of the cows, (wergild of) two hundred cows, and upon the owners of the sheep (wergild of) a thousand sheep (or) male goats; and upon the owners of the gold (wergild of) a thousand Dinars; and upon owners of the currency, (a wergild) of ten thousand Dirhams; and upon the clothes merchants of Al-Yemen, a hundred garments'.

قَالَ عَبْدُ الرَّحْمَنِ بْنُ الْحَجَّاجِ فَسَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَمَّا رَوَى ابْنُ أَبِي لَيْلَى فَقَالَ كَانَ عَلِيُّ (عَلَيْهِ السَّلَام) يَقُولُ الدِّيَةُ أَلْفُ دِينَارٍ وَ قِيَمَةُ الدَّيْنَارِ عَشْرَةُ دِرَاهِمٍ وَ عَشْرَةُ أَلْفٍ [دِرْهَمٍ] لِأَهْلِ الْأَمْصَارِ وَ عَلَى أَهْلِ الْبُؤَادِي الدِّيَةُ مِائَةٌ مِنَ الْإِبِلِ وَ لِأَهْلِ السَّوَادِ مِائَتَا بَقْرَةٍ أَوْ أَلْفَ شَاةٍ .

Abdul Rahman Bin Al-Hajjaj (the narrator) said, 'So I asked Abu Abdullah^{asws} about what Ibn Abu Layli is reporting, so he^{asws} said: 'Ali^{asws} was saying: 'The wergild is a thousand Dinars, and the value of the Dinar is ten Dirhams, and a thousand Dirhams being for the people of the city, and upon the people of the valleys is the wergild of

³² Al Kafi – V 7 – The Book of Wergilds Ch 4 H 9

³³ Al Kafi – V 7 – The Book of Wergilds Ch 4 H 10

one hundred camels, and for the vast majority of the people (wergild of) two hundred cows, or a thousand sheep'.³⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) دِيَّةُ الْخَطَا إِذَا لَمْ يَرِدِ الرَّجُلُ مِائَةً مِنَ الْإِبِلِ أَوْ عَشْرَةَ آلَافٍ مِنَ الْوَرِقِ أَوْ أَلْفَ مِنَ الشَّاةِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer who said,

'Abu Abdullah^{asws} said: 'Wergild of the erroneous (killing) when the man did not intend, is one hundred from the camels, or ten thousand (Dirhams) from the (owners of) the foliage, or a thousand from the sheep'.

وَقَالَ دِيَّةُ الْمُعْظَمَةِ الَّتِي تُشْبِهُ الْعَمْدَ وَ لَيْسَ بِعَمْدٍ أَفْضَلُ مِنْ دِيَّةِ الْخَطَا بِأَسْنَانِ الْإِبِلِ ثَلَاثٌ وَ ثَلَاثُونَ حِقَّةً وَ ثَلَاثٌ وَ ثَلَاثُونَ جَذَعَةً وَ أَرْبَعٌ وَ ثَلَاثُونَ تَنِيَّةً كُلُّهَا طَرُوقَةُ الْفَحْلِ

And he^{asws} said: 'The harsh wergild of that which resembles the deliberation, and it is not with deliberation, is higher than the wergild of the erroneous (killing) by the years (ages) of the camel – thirty three *Hiqqa* (four years old), and thirty *Jaz'a* (five years old), and thirty four *Saniyya* (six years old), all of these being easily manageable stallions'.

قَالَ وَ سَأَلْتُهُ عَنِ الدِّيَةِ فَقَالَ دِيَّةُ الْمُسْلِمِ عَشْرَةَ آلَافٍ مِنَ الْفِضَّةِ أَوْ أَلْفُ مِثْقَالٍ مِنَ الذَّهَبِ أَوْ أَلْفُ مِنَ الشَّاةِ عَلَى أَسْنَانِهَا أَثَلَاثًا وَ مِنَ الْإِبِلِ مِائَةً عَلَى أَسْنَانِهَا وَ مِنَ الْبَقَرِ مِائَتَانِ .

He (the narrator) said, 'And I asked him^{asws} about the wergild, so he^{asws} said: 'Wergild of the Muslim is ten thousand from the silver, or a thousand *Misqaal* (unit or measurement) of gold, or a thousand from the sheep based upon their years being three years, and from the camels based upon their years, and from the cows two hundred'.³⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الْخَطَا شِبْهُ الْعَمْدِ أَنْ يَقْتَلَ بِالسُّوْطِ أَوْ بِالْعَصَا أَوْ بِالْحِجَارَةِ إِنَّ دِيَّةَ ذَلِكَ تُعْلَظُ وَ هِيَ مِائَةٌ مِنَ الْإِبِلِ فِيهَا أَرْبَعُونَ خَلْفَةً [مَا بَيْنَ تَنِيَّةٍ إِلَى بَازِلٍ عَامِهَا وَ ثَلَاثُونَ حِقَّةً وَ ثَلَاثُونَ بِنْتِ لَبُونٍ وَ الْخَطَا يَكُونُ فِيهِ ثَلَاثُونَ حِقَّةً وَ ثَلَاثُونَ ابْنَةَ لَبُونٍ وَ عَشْرُونَ ابْنَةَ مَخَاضٍ وَ عَشْرُونَ ابْنَ لَبُونٍ ذَكَرًا وَ قِيمَةُ كُلِّ بَعِيرٍ مِنَ الْوَرِقِ مِائَةٌ وَ عَشْرُونَ دِرْهَمًا أَوْ عَشْرَةَ دَنَابِيرٍ وَ مِنَ الْعَنَمِ قِيمَةُ كُلِّ نَابٍ مِنَ الْإِبِلِ عَشْرُونَ شَاةً .

Ali Bin Ibrahim, from his father, from one of his companions, from Abdullah Bin Sinan who said,

'I heard Abu Abdullah^{asws} saying: 'Amir Al-Momineen^{asws} said regarding the erroneous (killing) resembling the deliberate, if he kills with the whip, or with the stick, or with the rocks. The wergild of that is harsh, and it is one hundred from the camels in which there are forty 'Khalifat' what is between a 'Saniya' (six years old) to 'Bazil' (nine years old), and thirty 'Hiqqa' (four years old), and thirty 'Bint Laboun' (three years old female). And for the erroneous (killing) there should be thirty 'Hiqqa' (four years old), and thirty 'Bint Laboun' (three years old), and twenty 'Ibnat Makhazin' (two years old females), and twenty 'Ibn Laboun' (three years old males), and the value of each camel in terms of foliage is one hundred and twenty Dirhams,

³⁴ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 1

³⁵ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 2

or ten Dinars; and from the sheep, the value of each sheep, for every camel is twenty sheep'.³⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ فِي الدِّيَةِ قَالَ أَلْفُ دِينَارٍ أَوْ عَشْرَةُ آلَافٍ دِرْهَمٍ وَ يُؤْخَذُ مِنْ أَصْحَابِ الْحَلْلِ وَالْحَلْلُ وَ يُؤْخَذُ مِنْ أَصْحَابِ الْإِبِلِ وَالْإِبِلُ وَ مِنْ أَصْحَابِ الْعَنَمِ وَ مِنْ أَصْحَابِ الْبَقَرِ الْبَقَرُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr,

(It has been narrated) from Jameel Bin Darraj regarding the wergild, he^{asws} (6th Imam^{asws}) said: 'A thousand Dinar, or ten thousand Dirhams, and the garments would be seized from the owner of the garments, and the camels would be seized from the owners of the camels, and the sheep from the owners of the sheep, and the cows from the owners of the cows'.³⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ وَ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الدِّيَةُ عَشْرَةُ آلَافٍ دِرْهَمٍ أَوْ أَلْفُ دِينَارٍ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel and Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The wergild is then thousand Dirhams, or a thousand Dinars'.

قَالَ جَمِيلٌ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الدِّيَةُ مِائَةٌ مِنَ الْإِبِلِ .

Jameel (the narrator) said: 'Abu Abdullah^{asws} said: 'The wergild is one hundred from the camels'.³⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ كَلْبِ بْنِ الْأَسَدِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يُقْتَلُ فِي الشَّهْرِ الْحَرَامِ مَا دِيَّتُهُ قَالَ دِيَةٌ وَ ثَلَاثٌ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Kuleyb Al Asady who said,

'I asked Abu Abdullah^{asws} about the man who kill during the Sacred Month, what is its wergild?' He^{asws} said: 'A wergild and a one-third (of it in addition)'.³⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفُضَيْلِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) (أَنَّهُ قَالَ فِي قَتْلِ الْخَطَا مِائَةٌ مِنَ الْإِبِلِ أَوْ أَلْفٌ مِنَ الْعَنَمِ أَوْ عَشْرَةُ آلَافٍ دِرْهَمٍ أَوْ أَلْفُ دِينَارٍ فَإِنْ كَانَ الْإِبِلُ فَخَمْسٌ وَ عَشْرُونَ ابْنَةً مَخَاضٍ وَ خَمْسٌ وَ عَشْرُونَ ابْنَةً لَبُونٍ وَ خَمْسٌ وَ عَشْرُونَ حِقَّةً وَ خَمْسٌ وَ عَشْرُونَ جَذَعَةً

Ali Bin Ibrahim, form Muhammad Bin Isa, from Yunus, from Muhammad Bin Sinan, from Al A'la Bin Al Fuzayl,

(It has been narrated) from Abu Abdullah^{asws} having said: 'With regards to the erroneous killing, it (wergild) is a hundred from the camels, or a thousand from the sheep, or ten thousand Dirhams, or a thousand Dinars. So if it was the camels, so twenty-five should be *Ibnat Makhaz* (two year old females), and twenty five *Ibnat*

³⁶ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 3

³⁷ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 4

³⁸ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 5

³⁹ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 6

Laboun (three year old females), and twenty five *Hiqqa* (four year old females), and twenty five *Jaz'a* (five year old females).

وَالدِّيَّةُ الْمُعْلَظَةُ فِي الْخَطَا الَّذِي يُشْبِهُ الْعَمْدَ الَّذِي يَضْرِبُ بِالْحَجَرِ أَوْ بِالْعَصَا الضَّرْبَةَ وَالضَّرْبَتَيْنِ لَا يُرِيدُ قَتْلَهُ فَهِيَ أَثَلَاثٌ
ثَلَاثٌ وَثَلَاثُونَ حَقَّةً وَثَلَاثٌ وَثَلَاثُونَ جَدَعَةً وَارْبَعَةٌ وَثَلَاثُونَ ثَنِيَّةً كُلُّهَا خَلْفَةُ طَرَوْقَةِ الْفَحْلِ وَإِنْ كَانَ مِنَ الْعَنَمِ فَأَلْفٌ
كَبَشٍ

And the harsh wergild regarding the erroneous (killing) is that which resembles the deliberate which he struck with the rock, or with the stick, the single strike or two strikes not intending to kill him, so it is a third being thirty-three (four year old females), and thirty-three (five year old females), and thirty-four *Saniyya* (six year old females), all of these being capable of bearing the stallion (mount); and if it was from the sheep, so it is a thousand rams.

وَالْعَمْدُ هُوَ الْقَوْدُ أَوْ رِضَا وَلِيِّ الْمَقْتُولِ .

And (as for) the deliberate (killing), it is the retaliation or (as per) the pleasure of the guardian of the killed one'.⁴⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَبِيبٍ وَابْنِ أَبِي عُمَيْرٍ جَمِيعاً عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ وَ
زُرَّارَةَ وَغَيْرِهِمَا عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) فِي الدِّيَّةِ قَالَ هِيَ مِائَةٌ مِنَ الْإِبِلِ وَ لَيْسَ فِيهَا دَنَانِيرٌ وَ لَا ذَرَاهِمٌ وَ لَا غَيْرُ
ذَلِكَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed and Ibn Abu Umeyr, both together from Jameel Bin Darraj, from Muhammad Bin Muslim and Zurara, and others besides these two,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding the wergild. He^{asws} said: 'It is one hundred from the camels, and there are neither Dinars in it nor Dirhams, nor (anything) other than that'.⁴¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ مَنْ قَتَلَ
مُؤْمِناً مُتَعَمِّداً فَإِنَّهُ يُقَادُ بِهِ إِلَّا أَنْ يَرْضَى أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَقْبَلُوا الدِّيَّةَ أَوْ يَتْرَضُوا بِأَكْثَرِ مِنَ الدِّيَّةِ أَوْ أَقَلَّ مِنَ الدِّيَّةِ فَإِنْ
فَعَلُوا ذَلِكَ بَيْنَهُمْ جَارٍ وَ إِنْ تَرَجَعُوا أَقْبَدُوا وَ قَالَ الدِّيَّةُ عَشْرَةُ آلَافٍ دِرْهَمٍ أَوْ أَلْفُ دِينَارٍ أَوْ مِائَةٌ مِنَ الْإِبِلِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from one of our companions,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who kills a Believer deliberately, so he would be retaliated with (the same), except if the guardians of the killed one happy with accepting the wergild, or if he makes them to be pleased with more than the wergild, or less than the wergild. So if he were to do that between them, it is allowed, and if they were to retract (from accepting the wergild), it would be retaliation'. And he^{asws} said: 'The wergild is ten thousand Dirhams, or a thousand Dinars, or one hundred from the camels'.⁴²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام)
قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَام) يَقُولُ تُسْتَأْدَى دِيَّةُ الْخَطَا فِي ثَلَاثِ سِنِينَ وَ تُسْتَأْدَى دِيَّةُ الْعَمْدِ فِي سَنَةٍ .

⁴⁰ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 7

⁴¹ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 8

⁴² Al Kafi – V 7 – The Book of Wergilds Ch 5 H 9

Muhammad Bin Yahya from Ahmad Bin Muhammad, and Ali Bin Ibrahim from his father, both together from Ibn Mahboub, from Abu Wallad,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘Ali^{asws} was saying: ‘You have to pay the wergild of the erroneous (killing) within three years, and you have to pay the wergild of the deliberate (killing) within one year’.⁴³

باب الْجَمَاعَةِ يَجْتَمِعُونَ عَلَى قَتْلِ وَاحِدٍ

Chapter 6 – The group gathers upon killing one

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي عَشْرَةِ اشْتَرَكُوا فِي قَتْلِ رَجُلٍ قَالَ يُخَيَّرُ أَهْلَ الْمَقْتُولِ فَأَيُّهُمْ شَاءُوا قَتَلُوا وَ يَرْجِعُ أَوْلِيَاؤُهُ عَلَى الْبَاقِينَ بِسَعَةِ الدِّيَةِ .

Ali Bin Ibrahim from his father, and Muhammad Bin Yahya from Ahmad Bin Muhammad, both together from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding ten (people) who participated in killing a man. He^{asws} said: ‘The family of the killed one can choose whichever one they so desire (from the ones who) killed, and his guardians has recourse to the remaining ones for nine-tenths of the wergild’.⁴⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي رَجُلَيْنِ قَتَلَا رَجُلًا قَالَ إِنْ أَرَادَ أَوْلِيَاءُ الْمَقْتُولِ قَتْلَهُمَا أَدَّوْا دِيَّةً كَامِلَةً وَ قَتَلُوهُمَا وَ تَكُونُ الدِّيَةُ بَيْنَ أَوْلِيَاءِ الْمَقْتُولَيْنِ فَإِنْ أَرَادُوا قَتْلَ أَحَدِهِمَا فَقَتَلُوهُ أَدَّى الْمُنْرُوكُ نِصْفَ الدِّيَةِ إِلَى أَهْلِ الْمَقْتُولِ وَ إِنْ لَمْ يُوَدَّ دِيَّةً أَحَدِهِمَا وَ لَمْ يَقْتُلْ أَحَدَهُمَا قَبْلَ الدِّيَةِ صَاحِبُهُ مِنْ كِلَيْهِمَا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdullah Bin Muskan,

(It has been narrated) from Abu Abdullah^{asws} regarding two men who both killed one man. He^{asws} said: ‘If the guardians of the killed one intend to kill both of them, or they have to pay the complete wergild (of one person), and kill them both, and the wergild would happen to be between the guardians of the two who are executed. So if they were to intend to execute one of the two, so they can kill him and the remaining one has to pay half the wergild to the family of the executed one; and if they do not want the payment of the wergild of one of the two and they do not kill any one of the two, the guardian of the killed (one) can accept the (half) wergild from each of the two’.⁴⁵

عَنْهُ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا قَتَلَ الرَّجُلَانِ وَ الثَّلَاثَةُ رَجُلًا فَإِنْ أَرَادَ أَوْلِيَاؤُهُ قَتْلَهُمْ تَرَادَوْا فَضَلَّ الدِّيَاتِ وَ إِلَّا أَخَذُوا دِيَّةً صَاحِبِهِمْ .

From him, from Ibn Muskan,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘When two or three men kill one man, so if his guardians wants to, he can execute them (all), (but) he would

⁴³ Al Kafi – V 7 – The Book of Wergilds Ch 5 H 10

⁴⁴ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 1

⁴⁵ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 2

have to pay the excess wergilds, or he can take a wergild of his (killed) companion'.⁴⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمَيْمَنِيِّ عَنْ أَبِيَانَ عَنِ الْفَضْلِ بْنِ بَسَارٍ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) عَشْرَةَ قَتَلُوا رَجُلًا فَقَالَ إِنْ شَاءَ أَوْلِيَاؤُهُ قَتَلُوهُمْ جَمِيعًا وَغَرَمُوا تِسْعَ دِيَّاتٍ وَ إِنْ شَاءُوا تَخَيَّرُوا رَجُلًا فَقَتَلُوهُ وَ أَدَى التَّسْعَةَ الْبَاقُونَ إِلَى أَهْلِ الْمَقْتُولِ الْأَخِيرِ عَشْرَ الدِّيَةِ كُلِّ رَجُلٍ مِنْهُمْ قَالَ نَمَّ إِنَّ الْوَالِيَّ بَعْدُ يَلِي أَدْبَهُمْ وَ حَبَسَهُمْ .

Ali Bin Ibrahim, from his father, from Ahmad Bin Al Hassan Al Maysami, from Aban, from Al Fuzayl Bin Yasaar who said,

'I said to Abu Ja'far^{asws}, 'Ten kill one man?' So he^{asws} said: 'If his guardian so desires to, he can kill them altogether, and pay nine wergilds, and if so desires to he can choose one man, so he kills him and the remaining ones pay to the family of the last one killed, one-tenth of the wergild each man from them'. He^{asws} said: 'Then the ruler afterwards follows it up by disciplining them, and imprisoning them'.⁴⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ بَحْبِئِي عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعًا عَنِ ابْنِ أَبِي تَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي أَرْبَعَةِ شَرِبُوا فَسَكِرُوا فَأَخَذَ بَعْضُهُمْ عَلَى بَعْضِ السَّلَاحِ فَاقْتَتَلُوا فَقَتَلَ اثْنَانِ وَ جُرِحَ اثْنَانِ فَأَمَرَ بِالْمَجْرُوحِينَ فَضْرَبَ كُلُّ وَاحِدٍ مِنْهُمَا ثَمَانِينَ جَلْدَةً وَ قَضَى بِدِيَةِ الْمَقْتُولِينَ عَلَى الْمَجْرُوحِينَ وَ أَمَرَ أَنْ يُقَاسَ جِرَاحَهُ الْمَجْرُوحِينَ فَتُرْفَعُ مِنَ الدِّيَةِ فَإِنْ مَاتَ الْمَجْرُوحَانِ فَلَيْسَ عَلَى أَحَدٍ مِنْ أَوْلِيَاءِ الْمَقْتُولِينَ شَيْءٌ .

Ali Bin Ibrahim from his father, and Muhammad Bin Yahya from Ahmad Bin Muhammad, both together from Ibn Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding four who had drunk (wine) so they were intoxicated. So they took weapons upon each other and fought. So two were killed and two were wounded. So he^{asws} ordered for the two injured ones, so each one of them were whipped eighty lashes, and judged with regards to the wergild of the two killed ones to be upon the two injured ones, and ordered that surgery be performed on the injuries, so it was reimbursed from the wergild. So if the two injured ones died, so there would be nothing upon anyone from the guardians of the two killed ones'.⁴⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ رُفِعَ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) سِتَّةُ غُلَمَانَ كَانُوا فِي الْفُرَاتِ فَغَرِقَ وَاحِدٌ مِنْهُمْ فَشَهِدَ ثَلَاثَةٌ مِنْهُمْ عَلَى اثْنَيْنِ أَنَّهُمَا غَرَقَاهُ وَ شَهِدَ اثْنَانِ عَلَى الثَّلَاثَةِ أَنَّهُمْ غَرَقُوهُ فَقَضَى (عَلَيْهِ السَّلَام) بِالذِّيَةِ أَحْمَاسًا ثَلَاثَةَ أَحْمَاسٍ عَلَى الْإِثْنَيْنِ وَ خُمْسِينَ عَلَى الثَّلَاثَةِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'It was raised to Amir Al-Momineen^{asws}, six boys were in the Euphrates, so one of them drowned. So three from them testified against the two that these two drowned him, and the two testified against the three that they drowned him. So he^{asws} judged with the wergild be five (parts), three-fifths be upon the two, and two-fifths be upon the three'.⁴⁹

⁴⁶ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 3

⁴⁷ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 4

⁴⁸ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 5

⁴⁹ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 6

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي مَرْيَمَ الْأَنْصَارِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلَيْنِ اجْتَمَعَا عَلَى قَطْعِ يَدِ رَجُلٍ قَالَ إِنْ أَحَبَّ أَنْ يَقَطْعَهُمَا أَدَى إِلَيْهِمَا دِيَّةً يَدٍ فَأَقْتَسَمَا تَمَّ يَقَطْعُهُمَا وَإِنْ أَحَبَّ أَخَذَ مِنْهُمَا دِيَّةً يَدٍ قَالَ وَإِنْ قَطَعَ يَدَ أَحَدِهِمَا رَدَّ الَّذِي لَمْ يَقَطَعْ يَدَهُ عَلَى الَّذِي قَطَعَتْ يَدَهُ رُبْعَ الدِّيَّةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Al Hassan Bin Mahboub, from Hisham Bin Salim, from Abu Maryam Al Ansary,

(It has been narrated) from Abu Ja'far^{asws} regarding two men who both gathered upon cutting a hand of a man. He^{asws} said: 'If he likes he can cut the hand of both of them and pay to them both a wergild of one hand, so it would be divided between the two of them, then cut a hand of both of them; and if he so likes, he can take a wergild from both of them for one hand'. He^{asws} said: 'And if he cuts a hand of (just) one of the two, the one who is not cut would have to pay the one who has been cut, a quarter of the wergild'.⁵⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي حَائِطِ اشْتَرَكِ فِي هَدْمِهِ ثَلَاثَةَ نَفَرٍ فَوَقَعَ عَلَى وَاحِدٍ مِنْهُمْ فَمَاتَ فَضَمَّنَ الْبَاقِينَ دِيَّتَهُ لِأَنَّ كُلَّ وَاحِدٍ مِنْهُمْ ضَامِنٌ صَاحِبِهِ .

Ali Bin Ibrahim, from his father, from one of his companions, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding three who had participated in demolishing it upon one of them, so he died. So the remaining ones had to take the responsibility for his wergild because each one of them was responsible for his companion'.⁵¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنِ الْقَاسِمِ بْنِ عُرْوَةَ عَنْ أَبِي الْعَبَّاسِ وَغَيْرِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا اجْتَمَعَتِ الْعِدَّةُ عَلَى قَتْلِ رَجُلٍ وَاحِدٍ حَكَمَ الْوَالِي أَنْ يُقْتَلَ أَيُّهُمْ شَاءَ وَ لَا يُسَّرُّ لَهُمْ أَنْ يَقْتُلُوا أَكْثَرَ مِنْ وَاحِدٍ إِنَّ اللَّهَ عَزَّ وَجَلَّ يَقُولُ وَمَنْ قَتَلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيهِ سُلْطَانًا فَلَا يُسْرِفُ فِي الْقَتْلِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Al Qasim Bin Urwa, from Abu Al Abbas and someone else,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When a number gather upon killing one man, the guardians (of the deceased) decide which one of them they would like to kill, and it is not for them that they kill more than one. Allah^{azwj} Mighty and Majestic is Saying [17:33] and **whoever is killed unjustly, We have indeed Given to his heir authority, so let him not be excessive with regards to the killing**'.⁵²

مُحَمَّدُ بْنُ يَحْيَى عَنْ بَعْضِ أَصْحَابِهِ عَنْ يَحْيَى بْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ أَبِي جَمِيلَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي عَبْدِ وَحُرٍّ قَتَلَا رَجُلًا حُرًّا قَالَ إِنْ شَاءَ قَتَلَ الْحُرُّ وَإِنْ شَاءَ قَتَلَ الْعَبْدَ فَإِنْ اخْتَارَ قَتَلَ الْحُرَّ ضَرْبَ جَنْبِي الْعَبْدِ .

Muhammad Bin Yahya, from one of his companions, from Yahya Bin Al Mubarak, from Abdullah Bin Jabala, from Abu Jameela, from Is'haq Bin Ammar,

⁵⁰ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 7

⁵¹ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 8

⁵² Al Kafi – V 7 – The Book of Wergilds Ch 6 H 9

(It has been narrated) from Abu Abdullah^{asws} regarding a slave and a free both killed a free man. He^{asws} said: 'If he (guardian of the deceased) so desires to, he can kill the free one, and if he so desires to he can kill the slave. So if he were to choose to kill the free one, he should whip the side of the slave'.⁵³

باب الرَّجُلِ يَأْمُرُ رَجُلًا بِقَتْلِ رَجُلٍ

Chapter 7 – The man orders a man with the killing of a man

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِبٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَمَرَ رَجُلًا بِقَتْلِ رَجُلٍ فَقَتَلَهُ فَقَالَ يُقْتَلُ بِهِ الَّذِي قَتَلَهُ وَ يُحْبَسُ الْأَمْرُ بِقَتْلِهِ فِي السَّجْنِ حَتَّى يَمُوتَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and a number of our companions, from Sahl Bin Ziyad, both together from Ibn Mahboub, from Ibn Raib, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} regarding a man who orders a man with the killing of a man, so he killed him. So he^{asws} said: 'The one who killed him should be killed, and the one who ordered with killing him should be held in the prison until he dies'.⁵⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَمَرَ عَبْدَهُ أَنْ يَقْتُلَ رَجُلًا فَقَتَلَهُ قَالَ فَقَالَ يُقْتَلُ السَّيِّدُ بِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who ordered his slave that he should kill a man, so he killed him. So he^{asws} said: 'The master should be killed due to it'.⁵⁵

عَلِيُّ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَمَرَ عَبْدَهُ أَنْ يَقْتُلَ رَجُلًا فَقَتَلَهُ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) وَ هَلْ عَبْدُ الرَّجُلِ إِلَّا كَسَوْطِهِ أَوْ كَسَيْفِهِ يُقْتَلُ السَّيِّدُ بِهِ وَ يُسْتَوَدَعُ الْعَبْدُ الْعَبْدُ السَّجْنَ .

Ali, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said regarding a man who ordered his slave that he should kill a man, so he killed him. So Amir Al-Momineen^{asws} said: 'And is a slave of the man anything except like his whip, or like his sword? The master would be killed due to it, and the slave would be left in the prison'.⁵⁶

⁵³ Al Kafi – V 7 – The Book of Wergilds Ch 6 H 10

⁵⁴ Al Kafi – V 7 – The Book of Wergilds Ch 7 H 1

⁵⁵ Al Kafi – V 7 – The Book of Wergilds Ch 7 H 2

⁵⁶ Al Kafi – V 7 – The Book of Wergilds Ch 7 H 3

باب الرَّجُلِ يَقْتُلُ رَجُلَيْنِ أَوْ أَكْثَرَ

Chapter 8 – The man kills two men or more

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ مُسْكَانَ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِذَا قَتَلَ الرَّجُلُ الرَّجُلَيْنِ أَوْ أَكْثَرَ مِنْ ذَلِكَ قُتِلَ بِهِمْ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ibn Muskan, from the one who mentioned it,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man kills two men or more than that, he would be killed by them (guardians of the deceased)'.⁵⁷

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مِسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) أَنَّ قَوْمًا احْتَفَرُوا زُبَيْةَ لِأَسَدٍ بِالْيَمَنِ فَوَقَعَ فِيهَا الْأَسَدُ فَازْدَحَمَ النَّاسَ عَلَيْهَا يَنْظُرُونَ إِلَى الْأَسَدِ فَوَقَعَ فِيهَا رَجُلٌ فَتَعَلَّقَ بِأَخْرَ فَتَعَلَّقَ الْأَخْرَ بِأَخْرَ وَ الْأَخْرَ بِأَخْرَ فَجَرَحَهُمُ الْأَسَدُ فَمِنْهُمْ مَنْ مَاتَ مِنْ جِرَاحَةِ الْأَسَدِ وَ مِنْهُمْ مَنْ أُخْرِجَ فَمَاتَ

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Mism'a Bin Abdul Malik,

(It has been narrated) from Abu Abdullah^{asws} that a group of people dug a pit for the lion at Al-Yemen. So the lion fell into it, and the people thronged (crowded) upon it to look at the lion. So a man fell into it, so he grabbed another. So the other one grabbed another, and the another one to another one. So the lion wounded them, and among them was one (of them) who died from the injuries caused by the lion, and among them was one who came out, so he died (later on).

فَنَسَاجَرُوا فِي ذَلِكَ حَتَّى أَخَذُوا السُّيُوفَ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) هَلُمُّوا أَقْضِي بَيْنَكُمْ فَقَضَى أَنْ لِلأَوَّلِ رُبْعَ الدِّيَةِ وَ لِلثَّانِي ثُلُثَ الدِّيَةِ وَ لِلثَّلَاثِ نِصْفَ الدِّيَةِ وَ لِلرَّابِعِ دِيَّةً كَامِلَةً وَ جَعَلَ ذَلِكَ عَلَى قَبَائِلِ الدِّيَةِ أَرْذَحْمُوا فَرَضِي بَعْضُ الْقَوْمِ وَ سَخَطَ بَعْضٌ فَرَفَعَ ذَلِكَ إِلَى النَّبِيِّ (صلى الله عليه وآله) وَ أَخْبَرَ بِقَضَاءِ أَمِيرِ الْمُؤْمِنِينَ (عليه السلام) فَأَجَازَهُ .

So they quarreled with regards to that to the extent that they grabbed the swords. So Amir Al-Momineen^{asws} said: 'Come, I^{asws} shall judge between you all'. So he^{asws} judged that the for the first one is a quarter wergild, and for the second one is a third of the wergild, and for the third is half the wergild, and for the fourth is a complete wergild, and made all that to be upon the tribe which had thronged (crowded) over there. So some of the people were happy and some of them were angry. So they raised that to the Prophet^{saww} and informed him^{saww} of the judgement of Amir Al-Momineen^{asws}, so he^{saww} endorsed it'.⁵⁸

وَ فِي رِوَايَةِ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فِي أَرْبَعَةِ نَفَرٍ أَطْلَعُوا فِي زُبَيْةِ الْأَسَدِ فَخَرَّ أَحَدُهُمْ فَاسْتَمْسَكَ بِالثَّانِي وَ اسْتَمْسَكَ الثَّانِي بِالثَّلَاثِ وَ اسْتَمْسَكَ الثَّلَاثِ بِالرَّابِعِ حَتَّى اسْقَطَ بَعْضُهُمْ بَعْضًا عَلَى الْأَسَدِ فَتَقَاتَلَهُمُ الْأَسَدُ فَقَضَى بِالأَوَّلِ فَرِيْسَةَ الْأَسَدِ وَ عَرَّمَ أَهْلَهُ ثُلُثَ الدِّيَةِ لِأَهْلِ الثَّانِي وَ عَرَّمَ أَهْلَ الثَّانِي لِأَهْلِ الثَّلَاثِ ثَلَاثِي الدِّيَةِ وَ عَرَّمَ الثَّلَاثِ لِأَهْلِ الرَّابِعِ دِيَّةً كَامِلَةً .

And in a report of Muhammad Bin Qays,

⁵⁷ Al Kafi – V 7 – The Book of Wergilds Ch 8 H 1

⁵⁸ Al Kafi – V 7 – The Book of Wergilds Ch 8 H 2

(It has been narrated) from Abu Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding four persons who came over to a pit of the lion, so one of them fell, so he attached himself with the second, and the second one attached himself with the third, and the third attached himself with the fourth until they fell with each other upon the lion. So the lion killed them (all). So he^{asws} judged with the first one as being the victim of the lion and fined his family a third of the wergild for the family of the second, and fined the family of the second one in favour of the family of the third one, a third of the wergild, and fined the third one for the family of the fourth, a complete wergild'.⁵⁹

باب الرَّجُلِ يُخَلِّصُ مَنْ وَجِبَ عَلَيْهِ الْقَوْدُ

Chapter 9 – The man discharged from the retaliation being Obligated upon him

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ حَرِيْزٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَتَلَ رَجُلًا عَمْدًا فَرَفَعَ إِلَى الْوَالِي فَدَفَعَهُ الْوَالِي إِلَى أَوْلِيَاءِ الْمَقْتُولِ لِيَقْتُلُوهُ فَوَتَبَ عَلَيْهِمْ قَوْمٌ فَخَلَّصُوا الْقَاتِلَ مِنْ أَيْدِي الْأَوْلِيَاءِ فَقَالَ أَرَى أَنْ يُحْبَسَ الَّذِينَ خَلَّصُوا الْقَاتِلَ مِنْ أَيْدِي الْأَوْلِيَاءِ حَتَّى يَأْتُوا بِالْقَاتِلِ قَبْلَ فَإِنْ مَاتَ الْقَاتِلُ وَ هُمْ فِي السِّجْنِ قَالَ فَإِنْ مَاتَ فَعَلَيْهِمْ الدِّيَةُ يُؤَدُّونَهَا جَمِيعاً إِلَى أَوْلِيَاءِ الْمَقْتُولِ .

Muhammad Bin Yahya from Ahmad Bin Muhammad and Ali Bin Ibrahim from his father, both together from Ibn Mahboub, from Abu Ayoub, from Hareyz,

(The narrator) says: 'I asked Abu Abdullah^{asws} about a man who killed a man deliberately. So it was raised to the governor. So the governor handed him over to the guardians of the killed one to let them kill him. So a group of people leapt upon them, so they had the killer released from the hands of the guardians. So he^{asws} said: 'I^{asws} see that the one who released the killer from the hands of the guardians should be imprisoned until they can come up with the killer'. It was said, 'So if the killer died and they are (still) in prison?' He^{asws} said: 'So if he dies, then upon them is the wergild, which they all have to pay it together to the guardians of the killed one'.⁶⁰

باب الرَّجُلِ يُمَسِّكُ الرَّجُلَ فَيَقْتُلُهُ آخَرَ

Chapter 10 – The man restrains the man, so another one kills him

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلَيْنِ أَمْسَكَ أَحَدُهُمَا وَ قَتَلَ الْآخَرَ قَالَ يُقْتَلُ الْقَاتِلُ وَ يُحْبَسُ الْآخَرُ حَتَّى يَمُوتَ غَمًّا كَمَا كَانَ حَبَسَهُ عَلَيْهِ حَتَّى مَاتَ غَمًّا .

Ali Bin Ibrahim from his father, and Muhammad Bin Yahya from Ahmad Bin Muhammad, both together from Ibn Umeyr, from Hammad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding two men, one of whom restrained, and the other one killed. He^{asws}

⁵⁹ Al Kafi – V 7 – The Book of Wergilds Ch 8 H 3

⁶⁰ Al Kafi – V 7 – The Book of Wergilds Ch 9 H 1

said: 'The killer would be killed, and the other one would be imprisoned until he dies in anguish just as he held him until he died in anguish'.⁶¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ شَدَّ عَلَى رَجُلٍ لِيَقْتُلَهُ وَ الرَّجُلُ فَارٌّ مِنْهُ فَاسْتَقْبَلَهُ رَجُلٌ آخَرَ فَأَمْسَكَهُ عَلَيْهِ حَتَّى جَاءَ الرَّجُلُ فَفَتَلَهُ فَفَتَلَ الرَّجُلَ الَّذِي قَتَلَهُ وَ قَضَى عَلَى الْآخِرِ الَّذِي أَمْسَكَهُ عَلَيْهِ أَنْ يُطْرَحَ فِي السَّجْنِ أَبَدًا حَتَّى يَمُوتَ فِيهِ لِأَنَّهُ أَمْسَكَهُ عَلَى الْمَوْتِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zur'at, from Sama'at who said,

'Amir Al-Momineen^{asws} judged regarding a man who was intense upon a man in order to kill him, and the man fled from him, so another man came across him, so he restrained him until the other man came over, so he killed him. So he^{asws} said: 'The man who killed him would be killed, and the judgement upon the other one who restrained him is that he would be thrown into the prison forever until he dies in it, because he restrained him to the death'.⁶²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ بَعْضِ أَصْحَابِهِ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ عَمْرِو بْنِ أَبِي الْمَقْدَامِ قَالَ كُنْتُ شَاهِدًا عِنْدَ النَّبِيِّ الْحَرَامِ وَ رَجُلٌ يَنَادِي بِأَبِي جَعْفَرِ الْمَنْصُورِ وَ هُوَ يَطُوفُ وَ يَقُولُ يَا أَمِيرَ الْمُؤْمِنِينَ إِنَّ هَذَيْنِ الرَّجُلَيْنِ طَرَقَا أَخِي لَيْلًا فَأَخْرَجَاهُ مِنْ مَنْزِلِهِ فَلَمْ يَرْجِعْ إِلَيَّ وَ اللَّهُ مَا أَدْرِي مَا صَنَعَا بِهِ فَقَالَ لَهُمَا مَا صَنَعْتُمَا بِهِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ كَلَّمْنَاهُ فَرَجَعَ إِلَى مَنْزِلِهِ فَقَالَ لَهُمَا وَافِيَانِي عِدَا صَلَاةِ الْعَصْرِ فِي هَذَا الْمَكَانِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from one of his companions, from Muhammad Bin Al Fuzayl, from Amro Bin Abu Al Miqdam who said,

'I was present at the Sacred House (Kabah) and a man called out to Abu Ja'far Al Mansour (the Caliph), and he was circumambulating, and he was saying, 'O commander of the faithful! These two men went to my brother at night and took him out from his house, and he has not returned to me. By Allah^{azwj}! I do not know what these two have done with him'. So he said to the two, 'What did you two do to him?' So they both said, 'O commander of the faithful! We (only) spoke to him and returned him back to his home'. So he said to them both, 'Meet me tomorrow after Al-Asr Prayer, and this very place'.

فَوَاقُوهُ مِنَ الْعِدَّةِ صَلَاةِ الْعَصْرِ وَ حَضَرْتُهُ فَقَالَ لِأَبِي عَبْدِ اللَّهِ جَعْفَرِ بْنِ مُحَمَّدٍ (عَلَيْهِ السَّلَامُ) وَ هُوَ قَابِضٌ عَلَى يَدِهِ يَا جَعْفَرُ أَفْضُ بَيْنَهُمْ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ أَفْضُ بَيْنَهُمْ أَنْتَ فَقَالَ لَهُ بِحَقِّي عَلَيْكَ إِلَّا قَضَيْتَ بَيْنَهُمْ

So they both came the next day after Al-Asr Prayer, and he was present. So he said to Ja'far Bin Muhammad^{asws}, and he had grabbed his^{asws} hand, 'O Ja'far^{asws}! Judge between them'. So he^{asws} said, 'O commander of the faithful, you judge between them'. So he said to him^{asws}, 'By my right upon you^{asws}, (it shall not be) except that you^{asws} would judge between them'.

قَالَ فَخَرَجَ جَعْفَرُ (عَلَيْهِ السَّلَامُ) فَطَرَحَ لَهُ مُصَلًى فَصَبَّ فَجَلَسَ عَلَيْهِ ثُمَّ جَاءَ الْخُصَمَاءُ فَجَلَسُوا قُدَّامَهُ فَقَالَ مَا تَقُولُ قَالَ يَا ابْنَ رَسُولِ اللَّهِ إِنَّ هَذَيْنِ طَرَقَا أَخِي لَيْلًا فَأَخْرَجَاهُ مِنْ مَنْزِلِهِ فَوَ اللَّهُ مَا رَجَعَ إِلَيَّ وَ اللَّهُ مَا أَدْرِي مَا صَنَعَا بِهِ فَقَالَ مَا تَقُولَانِ فَقَالَ يَا ابْنَ رَسُولِ اللَّهِ كَلَّمْنَاهُ ثُمَّ رَجَعَ إِلَى مَنْزِلِهِ

He (the narrator) said, 'So Ja'far^{asws} came out, and a Prayer mat of reeds was spread out for him^{asws}, and he^{asws} sat upon it. Then the disputants came over, so

⁶¹ Al Kafi – V 7 – The Book of Wergilds Ch 10 H 1

⁶² Al Kafi – V 7 – The Book of Wergilds Ch 10 H 2

they sat facing him^{asws}. So he^{asws} said: 'What are you saying? 'He said, 'O son^{asws} of Rasool-Allah^{saww}! These two went over to my brother at night, so they brought him out from his home. By Allah^{azwj}, he has not returned to me, and by Allah^{azwj}, I do not know what they both did to him'. So he^{asws} said: 'So what are you two saying?' So they both said, 'O son^{asws} of Rasool-Allah^{saww}! We spoke to him, then he returned to his home'.

فَقَالَ جَعْفَرُ (عَلَيْهِ السَّلَامُ) يَا غُلَامُ اكْتُبْ بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) كُلُّ مَنْ طَرَقَ رَجُلًا بِاللَّيْلِ فَأَخْرَجَهُ مِنْ مَنْزِلِهِ فَهُوَ لَهُ ضَامِنٌ إِلَّا أَنْ يُعَيَّمِ الْبَيِّنَةَ أَنَّهُ قَدْ رَدَّهُ إِلَى مَنْزِلِهِ يَا غُلَامُ نَحْ هَذَا فَاضْرِبْ عُنُقَهُ فَقَالَ يَا ابْنَ رَسُولِ اللَّهِ وَاللَّهِ مَا أَنَا قَتَلْتُهُ وَ لَكِنِّي أَمْسَكْتُهُ ثُمَّ جَاءَ هَذَا فَوَجَّاهُ فَقَتَلْتُهُ فَقَالَ أَنَا ابْنُ رَسُولِ اللَّهِ يَا غُلَامُ نَحْ هَذَا وَ اضْرِبْ عُنُقَ الْآخَرَ فَقَالَ يَا ابْنَ رَسُولِ اللَّهِ وَاللَّهِ مَا عَذَّبْتُهُ وَ لَكِنِّي قَتَلْتُهُ بِضَرْبَةٍ وَاحِدَةٍ

So Ja'far^{asws} said: 'O slave, write! In the Name of Allah^{azwj} the Beneficent, the Merciful! Rasool-Allah^{saww} said: 'Everyone who comes to a man at night, so he brings him out from his home, so he is responsible for him except if the proof is established that he has returned him to his home'. O slave! Seize this one, so strike his neck!' So he said, 'O son^{asws} of Rasool-Allah^{saww}! By Allah^{azwj}, it was not I that killed him, but I restrained him, then this one came over, so he ambushed him and killed him'. So he^{asws} said: 'I^{asws} am son^{asws} of Rasool-Allah^{saww}, O slave! Seize this one, and strike the neck of the other one'. So he (the other one) said, 'O son^{asws} of Rasool-Allah^{saww}! By Allah^{azwj}, I did not torment him, but I killed him with one strike'.

فَأَمَرَ أَخَاهُ فَضْرَبَ عُنُقَهُ ثُمَّ أَمَرَ بِالْآخَرَ فَضْرَبَ جَنْبِيهِ وَ حَبَسَهُ فِي السَّجْنِ وَ وَقَعَ عَلَى رَأْسِهِ يُحْبَسُ عُمُرَهُ وَ يُضْرَبُ فِي كُلِّ سَنَةٍ خَمْسِينَ جَلْدَةً.

So he^{asws} ordered his (deceased's) brother, so he struck off his neck. Then he^{asws} ordered for the other one, so he struck his side, and to be withheld in the prison, and wrote upon his head: 'To be held for his life, and he should be whipped every year with fifty lashes'.⁶³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ ثَلَاثَةَ نَفَرٍ رُفِعُوا إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) وَاحِدٌ مِنْهُمْ أَمْسَكَ رَجُلًا وَ أَقْبَلَ آخَرَ فَقَتَلَهُ وَ الْآخَرَ يَرَاهُمْ فَقَضَى فِي الرُّوْيَةِ أَنْ تُسْمَلَ عَيْنَاهُ وَ فِي الَّذِي أَمْسَكَ أَنْ يُسَجَّنَ حَتَّى يَمُوتَ كَمَا أَمْسَكَهُ وَ قَضَى فِي الَّذِي قَتَلَ أَنْ يُقْتَلَ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} that (the matter of) three persons was raised to Amir Al-Momineen^{asws}, one of them had restrained a man, and the other faced him so he killed him, and the other one watched them. He^{asws} judged regarding the on-looker that his eyes be gouged out, and regarding the one who restrained that he should be imprisoned until he dies just as he had restrained him, and judged regarding the one who killed, that he should be killed'.⁶⁴

⁶³ Al Kafi – V 7 – The Book of Wergilds Ch 10 H 3

⁶⁴ Al Kafi – V 7 – The Book of Wergilds Ch 10 H 4

بَاب الرَّجُلِ يَقَعُ عَلَى الرَّجُلِ فَيَقْتُلُهُ**Chapter 11 – The man falls upon the man so he kills him**

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِبٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ وَقَعَ عَلَى رَجُلٍ فَقَتَلَهُ فَقَالَ لَيْسَ عَلَيْهِ شَيْءٌ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub, from Ibn Raib, from Ubeyd Bin Zurara who said,

'I asked Abu Abdullah^{asws} about a man who falls upon a man, so he kills him, so he^{asws} said: 'There is nothing upon him'.⁶⁵

ابْنُ مَحْبُوبٍ عَنْ ابْنِ رَبَائِبٍ وَ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ دَفَعَ رَجُلًا عَلَى رَجُلٍ فَقَتَلَهُ فَقَالَ الدِّيَّةُ عَلَى الَّذِي وَقَعَ عَلَى الرَّجُلِ فَقَتَلَهُ لِأَوْلِيَاءِ الْمَقْتُولِ قَالَ وَ يَرْجِعُ الْمُدْفُوعُ بِالْذِيَّةِ عَلَى الَّذِي دَفَعَهُ قَالَ وَ إِنْ أَصَابَ الْمُدْفُوعُ شَيْءٌ فَهُوَ عَلَى الدَّافِعِ أَيْضًا .

Ibn Mahboub, from Ibn Raib and Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who pushed a man upon another man, so he got killed (by) him. So he^{asws} said: 'The wergild is upon the one who fell upon the man who got killed, for the guardians of the killed one'. He^{asws} said: 'And the pushed one can demand the wergild from the one who pushed him (at the first place)'. He^{asws} said: 'But if the pushed-one was also hit by anything (so got injured), so it would be upon the pusher (to compensate) him as well'.⁶⁶

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنْ أَبَانَ بْنِ عَثْمَانَ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ وَقَعَ عَلَى رَجُلٍ مِنْ فَوْقِ الْبَيْتِ فَمَاتَ أَحَدُهُمَا فَقَالَ لَيْسَ عَلَى الْأَعْلَى شَيْءٌ وَ عَلَى الْأَسْفَلِ شَيْءٌ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Aban Bin Usman, from Ubeyd Bin Zurara who said,

'I asked Abu Abdullah^{asws} about a man who fell upon a man from the top of the house, so one of the two died. So he^{asws} said: 'There is not upon the higher one, anything, and there is not upon the lower one, anything'.⁶⁷

بَاب نَادِرٌ**Chapter 12 - Miscellaneous**

مُحَمَّدُ بْنُ بَحْبِيِّ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ وَجَدَ مَقْتُولًا فَجَاءَ رَجُلَانِ إِلَى وَجْهِهِ فَقَالَ أَحَدُهُمَا أَنَا قَتَلْتُهُ عَمْدًا وَ قَالَ الْآخَرُ أَنَا قَتَلْتُهُ خَطَأً فَقَالَ إِنْ هُوَ أَخَذَ بِقَوْلِ صَاحِبِ الْعَمْدِ فَلَيْسَ لَهُ عَلَى صَاحِبِ الْخَطَا سَبِيلٌ وَ إِنْ أَخَذَ بِقَوْلِ صَاحِبِ الْخَطَا فَلَيْسَ لَهُ عَلَى صَاحِبِ الْعَمْدِ سَبِيلٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, form Al Hassan Bin Mahboub, from Al Hassan Bin Salih who said,

⁶⁵ Al Kafi – V 7 – The Book of Wergilds Ch 11 H 1

⁶⁶ Al Kafi – V 7 – The Book of Wergilds Ch 11 H 2

⁶⁷ Al Kafi – V 7 – The Book of Wergilds Ch 11 H 3

'I asked Abu Abdullah^{asws} about a man who was found killed, so two men came over to his guardian, so one of the two said, 'I killed him deliberately', and the other one said, 'I killed him in error'. So he^{asws} said: 'If he takes to the words of the one with the deliberation, so there is no way for him upon the one with the error; and if he were to take to the words of the one with the error, so there is no way for him against the one with the deliberation'.⁶⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ قَالَ أَخْبَرَنِي بَعْضُ أَصْحَابِنَا رَفَعَهُ إِلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَتَيْتُ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) بِرَجُلٍ وَجَدَ فِي خَرَبَةٍ وَبِيَدِهِ سِكِّينٌ مُلَطَّخٌ بِالدَّمِ وَإِذَا رَجُلٌ مَذْبُوحٌ يَتَسَحَّطُ فِي دَمِهِ فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) مَا تَقُولُ قَالَ يَا أَمِيرَ الْمُؤْمِنِينَ أَنَا قَتَلْتُهُ قَالَ أَذْهَبُوا بِهِ فَأَقْتُلُوهُ بِهِ فَلَمَّا ذَهَبُوا بِهِ لِيَقْتُلُوهُ بِهِ أَقْبَلَ رَجُلٌ مُسْرِعًا فَقَالَ لَا تَعْجَلُوا وَرُدُّوهُ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَرُدُّوهُ

Ali Bin Ibrahim, from his father, from one of our companions,

Abu Abdullah^{asws} has said: 'They came to Amir Al-Momineen^{asws} with a man (who was found in) some ruins, and in his hand was a knife soaked in blood, and there was a slaughtered man soaked in his blood. So Amir Al-Momineen^{asws} said to him: 'What are you saying?' He said, 'O Amir Al-Momineen^{asws}! I killed him'. He^{asws} said: 'Go away with him, so kill him'. So when they went away with him in order to kill him, a man came over in haste, so he said, 'Do not be hasty, and return him to Amir Al-Momineen^{asws}!' So they returned him.

فَقَالَ وَ اللَّهُ يَا أَمِيرَ الْمُؤْمِنِينَ مَا هَذَا صَاحِبِهِ أَنَا قَتَلْتُهُ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) لِلأَوَّلِ مَا حَمَلَكَ عَلَى إِفْرَارِكَ عَلَى نَفْسِكَ وَ لَمْ تَفْعَلْ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ وَ مَا كُنْتُ أَسْتَطِيعُ أَنْ أَقُولَ وَ قَدْ شَهِدَ عَلَيَّ أَمْثَالُ هَؤُلَاءِ الرِّجَالِ وَ أَخَذُونِي وَ بِيَدِي سِكِّينٌ مُلَطَّخٌ بِالدَّمِ وَ الرَّجُلُ يَتَسَحَّطُ فِي دَمِهِ وَ أَنَا قَائِمٌ عَلَيْهِ وَ خِفْتُ الصَّرْبَ

So he said, 'By Allah^{azwj}, O Amir Al-Momineen^{asws}! This one is not its perpetrator, it was I who killed him'. So Amir Al-Momineen^{asws} said to the first one: 'What carried you upon your confession against your own self, and you did not do it?' So he said, 'O Amir Al-Momineen^{asws}, and I did not have the ability that I should be saying (anything in my defense), and there had testified against me the likes of these men, and they seized me, and in my hand was a knife soaked with the blood, and the man was soaked in his blood, and I was standing over him, and I feared the beating.

فَأَقْرَرْتُ وَ أَنَا رَجُلٌ كُنْتُ دَبِحْتُ بِجَنْبِ هَذِهِ الْخَرَبَةِ شَاةً وَ أَخَذَنِي الْبُؤْلُ فَدَخَلْتُ الْخَرَبَةَ فَرَأَيْتُ الرَّجُلَ يَتَسَحَّطُ فِي دَمِهِ فَمَمْتُ مُعْجَبًا فَدَخَلَ عَلَيَّ هَؤُلَاءِ فَأَخَذُونِي

So I confessed, and I am a man who had gone to slaughter a sheep by the side of these ruins, and I was seized (by the need for) the urination. So I entered the ruins, and I saw the man soaked in his blood. So I stood there wondering, and they came over to me, so they seized me'.

فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) خُذُوا هَذَيْنِ فَأَذْهَبُوا بِهِمَا إِلَى الْحَسَنِ وَ قُصُّوا عَلَيْهِ قِصَّتَهُمَا وَ قُولُوا لَهُ مَا الْحُكْمُ فِيهِمَا فَذَهَبُوا إِلَى الْحَسَنِ (عَلَيْهِ السَّلَام) وَ قُصُّوا عَلَيْهِ قِصَّتَهُمَا فَقَالَ الْحَسَنُ (عَلَيْهِ السَّلَام) قُولُوا لِأَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) (إِنَّ هَذَا إِنْ كَانَ دَبِحَ ذَلِكَ فَقَدْ أَحْيَا هَذَا وَ قَدْ قَالَ اللَّهُ عَزَّ وَ جَلَّ وَ مَنْ أَحْبَابَهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا يُخْلَى عَنْهُمَا وَ تُخْرَجَ دِيَّةُ الْمَذْبُوحِ مِنْ بَيْتِ الْمَالِ .

⁶⁸ Al Kafi – V 7 – The Book of Wergilds Ch 12 H 1

So Amir Al-Momineen^{asws} said: 'Take these two and go with them both to Al-Hassan^{asws}, and related both their stories to him^{asws} and say to him^{asws}: 'What is the decision with regards to these two?' So they went to Al-Hassan^{asws} and related the both their stories to him^{asws}. So Al-Hassan^{asws} said: 'Say to Amir Al-Momineen^{asws}, 'If this one has killed him so he has revived this one, and Allah^{azwj} Mighty and Majestic Says **[5:32] and whoever keeps it alive, it is as though he kept alive all men.** Free them both and take the wergild of the slaughtered one from the public treasury'.⁶⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَعَلِيِّ بْنِ إِبرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَتَلَ فَحَمَلَ إِلَى الْوَالِي وَجَاءَهُ قَوْمٌ فَشَهِدُوا عَلَيْهِ الشُّهُودُ أَنَّهُ قَتَلَهُ عَمْدًا فَدَفَعَ الْوَالِي الْقَاتِلَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ لِيُقَادَ بِهِ فَلَمْ يَرْتَمُوا حَتَّى آتَاهُمْ رَجُلٌ فَأَقْرَعَ عِنْدَ الْوَالِي أَنَّهُ قَتَلَ صَاحِبَهُمْ عَمْدًا وَ أَنَّ هَذَا الرَّجُلَ الَّذِي شَهِدَ عَلَيْهِ الشُّهُودُ بَرِيءٌ مِنْ قَتْلِ صَاحِبِكُمْ فَلَا تَقْتُلُوهُ بِهِ وَ خُذُونِي بِدَمِهِ

Muhammad Bin Yahya from Ahmad Bin Muhammad and Ali Bin Ibrahim from his father, both together from Ibn Mahboub, from Hisham Bin Salim, from Zurara,

(The narrator) says, 'I asked Abu Ja'far^{asws} about a man who killed, so they carried him to the governor, and a group came so the witnesses testified against him that they killed him deliberately. So the governor handed over the killer to the guardians of the killed one in order for them to retaliate (revenge) against him. So, they had not begun with him when a man came over and confessed in the presence of the governor that he had killed their companion deliberately, and that this man against whom the witnesses had testified is free from the killing of so and so companion of yours, therefore he should not be killed for it, and seize me (instead) for his blood'.

قَالَ فَقَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَام) إِنْ أَرَادَ أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَقْتُلُوا الَّذِي أَقْرَعَ عَلَى نَفْسِهِ فَلْيَقْتُلُوهُ وَ لَا سَبِيلَ لَهُمْ عَلَى الْآخِرِ ثُمَّ لَا سَبِيلَ لَوَرَثَةِ الَّذِي أَقْرَعَ عَلَى نَفْسِهِ عَلَى وَرَثَةِ الَّذِي شَهِدَ عَلَيْهِ وَ إِنْ أَرَادُوا أَنْ يَقْتُلُوا الَّذِي شَهِدَ عَلَيْهِ فَلْيَقْتُلُوهُ وَ لَا سَبِيلَ لَهُمْ عَلَى الَّذِي أَقْرَعَ ثُمَّ لِيُؤَدَّ الدِّيَةَ الَّذِي أَقْرَعَ عَلَى نَفْسِهِ إِلَى أَوْلِيَاءِ الَّذِي شَهِدَ عَلَيْهِ نَصْفَ الدِّيَةِ

He (the narrator) said, 'So Abu Ja'far^{asws} said: 'If the guardians of the killed one intend to kill the one who confessed against himself, so let them kill him, and there would be no way for them against the other one. Then there is no way for the inheritors of the one who confessed against himself against the inheritors of the one testified against. And if they intend to kill the one who has been testified against, so let them kill him, and there would be no way for them against the one who confessed. Then the one who confessed against himself should pay the wergild to the guardians of the one testified against, of half the wergild'.

قُلْتُ أَرَأَيْتَ إِنْ أَرَادُوا أَنْ يَقْتُلُوهُمَا جَمِيعاً قَالَ ذَلِكَ لَهُمْ وَ عَلَيْهِمْ أَنْ يَدْفَعُوا إِلَى أَوْلِيَاءِ الَّذِي شَهِدَ عَلَيْهِ نَصْفَ الدِّيَةِ خَاصَّةً دُونَ صَاحِبِهِ ثُمَّ يَقْتُلُوهُمَا

I said, 'What is your^{asws} view if they intend to they should kill both of them together?' He^{asws} said: 'That is for them, and upon them would be that they should hand over half the wergild to the guardians of the one testified against in particular, besides his companion. Then they can kill both of them'.

قُلْتُ إِنْ أَرَادُوا أَنْ يَأْخُذُوا الدِّيَةَ قَالَ فَقَالَ الدِّيَةُ بَيْنَهُمَا نَصْفَانِ لِأَنَّ أَحَدَهُمَا أَقْرَعَ وَ الْآخَرَ شَهِدَ عَلَيْهِ

⁶⁹ Al Kafi – V 7 – The Book of Wergilds Ch 12 H 2

I said, 'What is your^{asws} view if they intend to take the wergild?' So he^{asws} said: 'The wergild is in two halves in between them both, because one of the two confessed, and the other one has been testified against'.

قُلْتُ كَيْفَ جُعِلَتْ لِأَوْلِيَاءِ الَّذِي شُهِدَ عَلَيْهِ عَلَى الَّذِي أَقْرَّ عَلَى نَفْسِهِ نِصْفُ الدِّيَةِ حِينَ قُتِلَ وَ لَمْ تُجْعَلْ لِأَوْلِيَاءِ الَّذِي أَقْرَّ عَلَى
أَوْلِيَاءِ الَّذِي شُهِدَ عَلَيْهِ وَ لَمْ يُقْتَلْ

I said, 'How come you^{asws} made half the wergild to be for the guardians of the one who was testified against, over the one who confessed against himself that he had killed, and did not make it for the guardians of the one who confessed against himself over the one who was testified against, and he did not kill?'

قَالَ فَقَالَ لِأَنَّ الَّذِي شُهِدَ عَلَيْهِ لَيْسَ مِثْلَ الَّذِي أَقْرَّ الَّذِي شُهِدَ عَلَيْهِ لَمْ يُقْرَّ وَ لَمْ يُبْرَأْ صَاحِبُهُ وَ الْأَخْرُ أَقْرَّ وَ أَبْرَأَ صَاحِبُهُ
فَلَزِمَ الَّذِي أَقْرَّ وَ أَبْرَأَ صَاحِبُهُ مَا لَمْ يَلْزِمَ الَّذِي شُهِدَ عَلَيْهِ وَ لَمْ يُبْرَأْ وَ لَمْ يُبْرَأْ صَاحِبُهُ .

So he^{asws} said: 'Because the one who was testified against is not similar to the one who confessed. The one who was testified against did not confess and did not free his companions, and the one other confessed and freed his companion. Therefore, it necessitates that the one who confessed and freed his companion that does not necessitate the one who was testified against, and did not confess and did not free his companion'.⁷⁰

بَاب مَنْ لَا دِيَّةَ لَهُ

Chapter 13 – The one for whom there is no wergild

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ أَيُّمَا رَجُلٍ قَتَلَهُ الْخَدُّ فِي الْفِصَاصِ فَلَا دِيَّةَ لَهُ وَ قَالَ أَيُّمَا رَجُلٍ عَدَا عَلَى رَجُلٍ لِيَضْرِبَهُ فَدَفَعَهُ عَنْ نَفْسِهِ فَجَرَحَهُ أَوْ قَتَلَهُ فَلَا شَيْءَ عَلَيْهِ وَ قَالَ أَيُّمَا رَجُلٍ أَطَّلَعَ عَلَى قَوْمٍ فِي دَارِهِمْ لِيَنْظُرَ إِلَى عَوْرَاتِهِمْ فَرَمَوْهُ فَفَقَفُوا عَيْنَيْهِ أَوْ جَرَحُوهُ فَلَا دِيَّةَ لَهُ وَ قَالَ مَنْ بَدَأَ فَاغْتَدَى فَاغْتَدَى عَلَيْهِ فَلَا قَوْلَ لَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Whichever man killed by the legal penalty (*Hadd*) regarding the retaliation, so there is no wergild for him'. And he^{asws} said: 'Whichever man attacks upon a man, so he defends himself, so he injures him or kills him (in self-defense) so there is nothing upon him'. And he^{asws} said: 'Whichever man looks upon a people in their houses, in order to look at their nakedness, so they pelt him, so it blinds his eye, or injures it, so there is no wergild for him'. And he^{asws} said: 'The one who initiates (an attack), so he is attacked against, so there is no retaliation for him'.⁷¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) يَقُولُ فِي رَجُلٍ أَرَادَ امْرَأَةً عَلَى نَفْسِهَا حَرَاماً فَرَمَتْهُ بِحَجَرٍ فَأَصَابَ مِنْهُ مَقْتلاً قَالَ لَيْسَ عَلَيْهَا شَيْءٌ فِيمَا بَيْنَهَا وَ بَيْنَ اللَّهِ عَزَّ وَ جَلَّ وَ إِنْ قُدِّمَتْ إِلَى إِمَامٍ عَادِلٍ أَهْدَرَ دَمَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and a number of our companions, from Sahl Bin Ziyad, both together from Al Hassan Bin Mahboub, from Abdullah Bin Sinan who said,

⁷⁰ Al Kafi – V 7 – The Book of Wergilds Ch 12 H 3

⁷¹ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 1

'I heard Abu Abdullah^{asws} saying regarding a man who intended upon a woman unlawfully, so she pelts him with a rock, and he is hit from it and is killed. He^{asws} said: 'There is nothing upon her regarding what is between her and Allah^{azwj} Mighty and Majestic, and if she is brought to a just Imam^{asws}, he^{asws} would stave off his blood (wergild)'.⁷²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُفَضَّلِ بْنِ صَالِحٍ عَنْ زَيْدِ الشَّحَامِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ قَتَلَهُ الْقِصَاصُ هَلْ لَهُ دِيَّةٌ قَالَ لَوْ كَانَ ذَلِكَ لَمْ يُقْتَصَّ مِنْ أَحَدٍ وَ مَنْ قَتَلَهُ الْاِحْدُ فَلَا دِيَّةَ لَهُ .

Ali Bin Ibrahim, from his father, from Muhammad Bin Isa, from Yunus, from Mufazzal Bin Salih, from Zayd Al Shahaam who said,

'I asked Abu Abdullah^{asws} about a man killed by 'القصاص' the retaliation, is there a wergild for him?' He^{asws} said: 'If it was like that, no one would be retaliated from, and the one who is killed by the legal penalty (*Hadd*), so there is no wergild for him'.⁷³

عَنْهُ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفُضَيْلِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) إِذَا أَرَادَ رَجُلٌ أَنْ يَضْرِبَ رَجُلًا ظُلْمًا فَاتَّقَاهُ الرَّجُلُ أَوْ دَفَعَهُ عَنْ نَفْسِهِ فَأَصَابَهُ ضَرْرٌ فَلَا شَيْءَ عَلَيْهِ .

From him, from Muhammad Bin Sinan, from Al A'ala Bin Al Fuzyal who said,

'Abu Abdullah^{asws} said: 'When a man intends to strike a man unjustly, so the man fights or defends himself and causes him harm, so there is nothing upon him'.⁷⁴

وَ عَنْهُ عَنِ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفُضَيْلِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا أَطَّلَعَ رَجُلٌ عَلَى قَوْمٍ يُشْرَفُ عَلَيْهِمْ أَوْ يَنْظُرُ إِلَيْهِمْ مِنْ خَلَلِ شَيْءٍ لَهُمْ فَرَمَوْهُ فَأَصَابَهُ فِقْتَلُوهُ أَوْ فَقْتَلُوا عَيْنَهُ فَلَيْسَ عَلَيْهِمْ عَرْمٌ وَ قَالَ إِنَّ رَجُلًا أَطَّلَعَ مِنْ خَلَلِ حُجْرَةِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَجَاءَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بِمَشْقَصٍ لِيَفْقَأَ عَيْنَهُ فَوَجَدَهُ قَدْ انْطَلَقَ فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَيَّ حَبِيبٍ أَمَا وَ اللَّهُ لَوْ تَبَّتْ لِي لَفَقَأْتُ عَيْنَيْكَ .

And from him, from Muhammad Bin Sinan, from Al A'la Bin Al Fuzayl,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When a man emerges upon a people to overlook upon them, or look at them from a crack of something of them, so they pelt him and it hits him, so he is either killed or blinds his eye, so there is no penalty upon them'. And he^{asws} said: 'A man peeked at Rasool-Allah^{saww} from a crack of his^{saww} chamber, so Rasool-Allah^{saww} came over with an arrow in order to poke his eyes, so he^{saww} found him to have gone away. So Rasool-Allah^{saww} said: 'Where is the filthy one? But, by Allah^{azwj}, had he remained for me^{saww}, I^{saww} would have poked his eyes'.⁷⁵

يُونُسُ عَنْ أَبِيَانَ بْنِ عُمَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي رَجُلٍ ضَرَبَ رَجُلًا ظُلْمًا فَرَدَّهُ الرَّجُلُ عَنْ نَفْسِهِ فَأَصَابَهُ شَيْءٌ أَنَّهُ قَالَ لَا شَيْءَ عَلَيْهِ .

Yunus, from Aban Bin Usman,

⁷² Al Kafi – V 7 – The Book of Wergilds Ch 13 H 2

⁷³ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 3

⁷⁴ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 4

⁷⁵ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 5

(It has been narrated) from Abu Abdullah^{asws} regarding a man who struck a man unjustly, so the man repulsed him from himself, so he was hit by something. He^{asws} said: 'There is nothing upon him'.⁷⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَرِيعٍ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ صَبِيًّا فِي زَمَنِ عَلِيٍّ (عَلَيْهِ السَّلَام) يَلْعَبُونَ بِأَخْطَارِهِمْ فَرَمَى أَحَدُهُمُ الْآخَرَ بِخَطَرِهِ فَدَقَّ رِبَاعِيَّةَ صَاحِبِهِ فَرُفِعَ ذَلِكَ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَأَقَامَ الرَّامِيَّ الْبَيْتَةَ بِأَنَّهُ قَالَ حَدَارِ حَدَارِ فَدَرَأَ عَنْهُ الْفِصَاصَ ثُمَّ قَالَ قَدْ أَعْدَرَ مَنْ حَدَرَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail Bin Bazie, from Muhammad Bin Al Fuzayl, from Abu Al Sabbah Al Kinani,

(It has been narrated) from Abu Abdullah^{asws} having said: 'There were two young boys in the era of Ali^{asws} who were playing with their toys, so one of them pelted the one with his toy, so he broke his four front teeth. So that (matter) was raised to Amir Al-Momineen^{asws}. So the pelter established the evidence that he had said, 'Beware, beware!' So he^{asws} staved off the retaliation from him, then said: 'He has been excused, the one who cautioned'.

قَالَ وَ سَأَلْتُهُ عَنْ رَجُلٍ قَتَلَهُ الْفِصَاصُ هَلْ لَهُ دِيَّةٌ فَقَالَ لَوْ كَانَ ذَلِكَ لَمْ يَفْتَصَّ أَحَدٌ مِنْ أَحَدٍ وَ مَنْ قَتَلَهُ الْحَدُّ فَلَا دِيَّةَ لَهُ .

He (the narrator) said, 'And I asked him^{asws} about a man killed by 'الفِصَاصُ' the retaliation, is there wergild for him?' So he^{asws} said: 'If it was that, no one would be retaliated from; and the one who is killed by the legal penalty (*Hadd*), so there is no wergild for him'.⁷⁷

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ أَطَّلَعَ رَجُلٌ عَلَى النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مِنَ الْجَرِيدِ فَقَالَ لَهُ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَوْ أَعْلَمَ أَنَّكَ تَنْتَبِئُ لِي لَفَمْتُ إِلَيْكَ بِالْمَشْقَصِ حَتَّى أَفْقَأَ بِهِ عَيْنَكَ قَالَ فَقُلْتُ لَهُ أ ذَاكَ لَنَا فَقَالَ وَيْحَكَ أَوْ وَتِلْكَ أَقُولُ لَكَ إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَعَلَ تَقُولُ ذَلِكَ لَنَا .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Ibn Bukeyr, from Ubeyd Bin Zurara who said,

'I heard Abu Abdullah^{asws} saying: 'A man peeked at the Prophet^{saww} from the reeds, so the Prophet^{saww} said to him: 'If I^{saww} knew you would be standing still for me^{saww}, I^{saww} would have come to you with the arrow until I^{saww} poke your eyes with it'. So I said to him^{asws}, 'Is that for us (as well)?' So he^{asws} said: 'Woe be unto you!', or 'Suffering be upon you!' I^{asws} am saying to you that Rasool-Allah^{saww} did it. You are saying, 'Is that for us?'⁷⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُوَيْدٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ مَنْ بَدَأَ فَأَعْتَدِي فَأَعْتَدِي عَلَيْهِ فَلَا قَوْلَ لَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Hisham Bin Salim, from Suleyman Bin Khalid who said,

⁷⁶ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 6

⁷⁷ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 7

⁷⁸ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 8

'I heard Abu Abdullah^{asws} saying; 'The one who initiates (a killing), so he attacks and get counter-attacked, so there is no retaliation for him'.⁷⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحِ الثَّوْرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَام) يَقُولُ مَنْ ضَرَبْنَا حَدًّا مِنْ حُدُودِ اللَّهِ فَمَاتَ فَلَا دِيَّةَ لَهُ عَلَيْنَا وَ مَنْ ضَرَبْنَا حَدًّا فِي شَيْءٍ مِنْ حُقُوقِ النَّاسِ فَمَاتَ فَإِنَّ دِيَّتَهُ عَلَيْنَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al Hassan Bin Salih Al Sowry,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Ali^{asws} was saying: 'The one we^{asws} hit the legal penalty (*Hadd*) upon and he dies, so there is no wergild for him upon us^{asws}, and the one we^{asws} hit the legal penalty (*Hadd*) upon regarding something from the rights of the people, and he dies, so his wergild is upon us^{asws}.⁸⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ الْمُخْتَارِ عَنْ عُبيدِ بْنِ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ بَيْنَا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فِي حُجْرَاتِهِ مَعَ بَعْضِ أَرْوَاجِهِ وَ مَعَهُ مَعَازِلُ لَهُ بِقُلُوبِهَا إِذْ بَصُرَ بِعَيْنَيْنِ تَطْلِعَانِ فَقَالَ لَوْ أَعْلَمُ أَنَّكَ تَنْتَبِئُ لِي لَقُمْتُ حَتَّى أَبْحَسَكَ فَقُلْتُ نَفَعَلْنَا نَحْنُ مِثْلَ هَذَا إِنْ فَعَلْنَا مِثْلَهُ بِنَا قَالَ إِنْ خَفِيَ لَكَ فَاَفْعَلُهُ .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Al Husayn Bin Al Mukhtar, from Ubeyd Bin Zurara who said,

'I heard Abu Abdullah^{asws} saying: 'While Rasool-Allah^{saww} was in his^{saww} chamber with one of his^{saww} wives, and with him^{asws} was a spindle of his^{saww} which he^{saww} was turning, when he^{saww} saw two eye peaking at him^{saww}. So he^{saww} said: 'If I^{saww} knew that you would remain there for me^{saww}, I^{saww} would arise until I^{saww} blind you'. So I said, 'Shall we do the like of this, if the like of this is done with us?' He^{asws} said: 'If it is hidden for you (you are not seen), so do it'.⁸¹

عَلِيُّ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ حَفْصِ بْنِ عَبْدِ اللَّهِ بْنِ طَلْحَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ سَارِقٍ دَخَلَ عَلَى امْرَأَةٍ لِيَسْرِقَ فَلَمَّا جَمَعَ الثِّيَابَ تَابَعَتْهُ نَفْسُهُ فَكَابِرَهَا عَلَى نَفْسِهَا فَوَاقَعَهَا فَتَحَرَّكَ ابْنُهَا فَقَامَ فَقَتَلَهُ بِفَأْسٍ كَانَ مَعَهُ فَلَمَّا فَرَّغَ حَمَلَ الثِّيَابَ وَ دَهَبَ لِيَخْرُجَ حَمَلَتْ عَلَيْهِ بِالْفَأْسِ فَقَتَلَتْهُ فَجَاءَ أَهْلُهُ يَطْلُبُونَ بَدْمِهِ مِنَ الْعَدِ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَفْضَى عَلَى هَذَا كَمَا وَصَفْتَ لَكَ

Ali, from his father, from Muhammad Bin Hafs, from Abdullah Bin Talha,

(The narrator) says, 'I asked Abu Abdullah^{asws} him^{asws} about a male thief who entered upon a woman in order to steal her belongings. So when he gathered the clothes, he followed his soul, so he overcame her and fell upon her. So her son stirred, so he (the thief), stood up and killed him with an axe which was with him. So when he was free, he carried the clothes and gold in order to exit. She attacked him with the axe, so she killed him. So his family members came over in the morning seeking his blood. So Abu Abdullah^{asws} said: 'I^{asws} shall judge upon this just as it has been described to you'.

⁷⁹ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 9

⁸⁰ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 10

⁸¹ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 11

فَقَالَ يَضْمَنُ مَوَالِيَهُ الَّذِينَ يَطْلُبُونَ بِدَمِهِ دِيَةَ الْغُلَامِ وَ يَضْمَنُ السَّارِقُ فِيمَا تَرَكَ أَرْبَعَةَ آلَافِ دِرْهَمٍ بِمُكَابَرَتِهَا عَلَى فَرْجِهَا أَنَّهُ زَانٌ وَ هُوَ فِي مَالِهِ عَرِيمُهُ وَ لَيْسَ عَلَيْهَا فِي قَتْلِهَا إِيَّاهُ شَيْءٌ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مَنْ كَابَرَ امْرَأَةً لِيَفْجُرَ بِهَا فَقَتَلْتُهُ فَلَا دِيَةَ لَهُ وَ لَا قَوْدَ .

So he^{asws} said: 'His guardians, those who were seeking his blood are responsible for the wergild of the boy, and the thief is responsible with regards to what he has left (as legacy), four thousand Dirhams due to him having forced himself upon her chastity. It is adultery, and it's fine is upon his wealth, and there is nothing upon her regarding her having killed him. Rasool-Allah^{saww} said: 'The one who forces himself upon a woman in order to be immoral with her, so she kills him, so there is no wergild for him, nor a retaliation'.⁸²

وَ عَنْهُ قَالَ قُلْتُ رَجُلٌ تَزَوَّجَ امْرَأَةً فَلَمَّا كَانَ لَيْلَةُ الْبِنَاءِ عَمَدَتِ الْمَرْأَةُ إِلَى رَجُلٍ صَدِيقٍ لَهَا فَأَدْخَلَتْهُ الْحَجَلَةَ فَلَمَّا دَخَلَ الرَّجُلُ يُبَاضِعُ أَهْلَهُ نَارَ الصَّدِيقِ فَأَقْتَتَلَا فِي الْبَيْتِ فَقَتَلَ الزَّوْجَ الصَّدِيقُ وَ قَامَتِ الْمَرْأَةُ فَضَرَبَتِ الزَّوْجَ ضَرْبَةً فَقَتَلَتْهُ بِالصَّدِيقِ فَقَالَ تَضْمَنُ الْمَرْأَةُ دِيَةَ الصَّدِيقِ وَ نُقْتَلُ بِالزَّوْجِ .

And from him, he said, 'I said, 'A man married a woman. So when it was the night of the consummation, the woman brought a male friend of hers so she entered him into (one of) the rooms. So when the man entered in order to copulate with his wife, the friend leapt and they both fought in the house. So the husband killed the friend, and the woman stood up, so she struck the husband with a strike, so she killed him for the (killing of) the friend'. So he^{asws} said: 'The woman is responsible for the wergild of the friend, and she would be killed for (having killed her) husband'.⁸³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُنِلَ عَنْ رَجُلٍ أَتَى رَجُلًا وَ هُوَ رَافِدٌ فَلَمَّا صَارَ عَلَى ظَهْرِهِ أَيْقَنَ بِهِ فَبَعَجَهُ بَعْجَةً فَفَتَلَهُ فَقَالَ لَا دِيَةَ لَهُ وَ لَا قَوْدَ .

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Al Husayn Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} was asked about a man who came to a man while he was asleep. So when he came to be upon his back, he woke up due to it, so he poked him with a knife, so he killed him'. So he^{asws} said: 'There is neither a wergild for him, nor a retaliation'.⁸⁴

عَلِيُّ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ أَعْنَفَ عَلَى امْرَأَتِهِ أَوْ امْرَأَةً أَعْنَفَتْ عَلَى زَوْجِهَا فَفَتَلَا أَحَدُهُمَا الْأُخْرَى قَالَ لَا شَيْءَ عَلَيْهِمَا إِذَا كَانَا مَأْمُونَيْنِ فَإِنْ أَتَاهُمَا الزَّمَهُمَا الْيَمِينِ بِاللَّهِ أَنَّهُمَا لَمْ يُرِيدَا الْقَتْلَ .

Ali, from his father, from Salih Bin Saeed, from Yunus, from one of our companions,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who was harsh upon his wife, or a woman who was harsh upon her husband. So one of the two killed the other. He^{asws} said: 'There is nothing upon both of them when they both trusted each other. So if they were to complain, it would necessitate them to swear an oath with Allah^{azwj}, that they did not intend the killing'.⁸⁵

⁸² Al Kafi – V 7 – The Book of Wergilds Ch 13 H 12

⁸³ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 13

⁸⁴ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 14

⁸⁵ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 15

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ الْمُخْتَارِ بْنِ مُحَمَّدِ بْنِ الْمُخْتَارِ وَ مُحَمَّدُ بْنُ الْحَسَنِ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ الْعُلَوِيِّ جَمِيعاً عَنِ الْفَتْحِ بْنِ زَيْدِ الْجُرْجَانِيِّ عَنِ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ دَخَلَ عَلَى دَارِ آخَرَ لِلتَّلْصُصِ أَوْ الْفُجُورِ فَقَتَلَهُ صَاحِبُ الدَّارِ أَوْ يُقْتَلُ بِهِ أَمْ لَا فَقَالَ اعْلَمْ أَنَّ مَنْ دَخَلَ دَارَ غَيْرِهِ فَقَدْ أَهْدَرَ دَمَهُ وَ لَا يَجِبُ عَلَيْهِ شَيْءٌ .

Ali Bin Ibrahim, from Al Mukhtar Bin Muhammad Bin Al Mukhtar, and Muhammad Bin Al Hassan, from Abdullah Bin Al Hassan Al Alawy, both together from Al Fatah Bin Yazeed Al Jurjany,

(It has been narrated) from Abu Al-Hassan^{asws} regarding a man who entered a house of another in order to steal, or the immorality, so the owner of the house killed him. Would he be killed due to it, or not?' So he^{asws} said: 'Know, the one who enters a house of someone else, so his blood has been spared, and there does not Obligate anything upon him'.⁸⁶

بَابِ الرَّجُلِ الصَّحِيحِ الْعَقْلِ يَقْتُلُ الْمَجْنُونِ

Chapter 14 – The man of correct intellect kills the insane

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ قَتَلَ رَجُلًا مَجْنُونًا فَقَالَ إِنْ كَانَ الْمَجْنُونُ أَرَادَهُ فَدَفَعَهُ عَنْ نَفْسِهِ فَقَتَلَهُ فَلَا شَيْءَ عَلَيْهِ مِنْ قَوْدٍ وَ لَا دِيَّةٍ وَ يُعْطَى وَرَثَتُهُ دِيَّتَهُ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ قَالَ وَ إِنْ كَانَ قَتَلَهُ مِنْ غَيْرِ أَنْ يَكُونَ الْمَجْنُونُ أَرَادَهُ فَلَا قَوْدَ لِمَنْ لَا يَقَادُ مِنْهُ فَارَى أَنَّ عَلَى قَاتِلِهِ الدِّيَّةَ مِنْ مَالِهِ يَدْفَعُهَا إِلَى وَرَثَةِ الْمَجْنُونِ وَ يَسْتَغْفِرُ اللَّهَ وَ يَتُوبُ إِلَيْهِ .

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Ali Bin Raib, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about a man who killed an insane man. So he^{asws} said: 'If it was that the insane intended (to kill) him, so he defended himself, so he killed him, then there is nothing upon him from a retaliation, nor a wergild, and his inheritors would be given his wergild from the public treasury of the Muslims. If his killing was from other than the insane happened to have intended (to kill) him, so there is no retaliation for the one from whom there is no retaliation. So I^{asws} see the wergild to be upon his killer from his own wealth, to be handed over to the inheritors of the insane, and he should seek Forgiveness of Allah^{azwj} and repent to Him^{azwj}.⁸⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِبٍ عَنْ أَبِي الْوَرْدِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ أَوْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) أَصْلَحَكَ اللَّهُ رَجُلٌ حَمَلَ عَلَيْهِ رَجُلٌ مَجْنُونٌ فَضْرَبَهُ الْمَجْنُونُ فَضْرَبَهُ الرِّجْلُ السَّيْفِ مِنَ الْمَجْنُونِ فَضْرَبَهُ فَقَتَلَهُ فَقَالَ أَرَى أَنْ لَا يُقْتَلَ بِهِ وَ لَا يُغْرَمَ دِيَّتُهُ وَ تَكُونُ دِيَّتُهُ عَلَى الْإِمَامِ وَ لَا يَبْطُلُ دَمُهُ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Ibn Raib, from Abu Al Wardi who said,

'I said to Abu Abdullah^{asws}, or Abu Ja'far^{asws}, 'May Allah^{azwj} Keep you^{asws} well! An insane man attacks a man, so the insane one strikes with a strike, so the man grabs the sword from the insane, so he strikes him and kills him'. So he^{asws} said: 'I^{asws} see that he would not be killed due to it, nor fined his wergild, and his wergild would happen to be upon the Imam^{asws}, and his blood would not be invalidated'.⁸⁸

بَابِ الرَّجُلِ يَقْتُلُ فَلَمْ تَصِحَّ الشَّهَادَةُ عَلَيْهِ حَتَّى خُوِطَ

⁸⁶ Al Kafi – V 7 – The Book of Wergilds Ch 13 H 16

⁸⁷ Al Kafi – V 7 – The Book of Wergilds Ch 14 H 1

⁸⁸ Al Kafi – V 7 – The Book of Wergilds Ch 14 H 2

Chapter 15 – The man kills, so the testimony is no established against him, he goes mad

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَخْبُوبٍ عَنْ خَضِرِ الصَّيْرَفِيِّ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ الْعِجْلِيِّ قَالَ سَأَلَ أَبُو جَعْفَرٍ (عليه السلام) عَنْ رَجُلٍ قَتَلَ رَجُلًا عَمْدًا فَلَمْ يُقَمْ عَلَيْهِ الْحَدُّ وَ لَمْ تَصِحَّ الشَّهَادَةُ عَلَيْهِ حَتَّى خَوْلَطَ وَ ذَهَبَ عَقْلُهُ ثُمَّ إِنَّ قَوْمًا آخَرِينَ شَهِدُوا عَلَيْهِ بَعْدَ مَا خَوْلَطَ أَنَّهُ قَتَلَهُ فَقَالَ إِنْ شَهِدُوا عَلَيْهِ أَنَّهُ قَتَلَهُ حِينَ قَتَلَهُ وَ هُوَ صَاحِحٌ لَيْسَ بِهِ عِلَّةٌ مِنْ فَسَادِ عَقْلِهِ قُتِلَ بِهِ وَ إِنْ يَشْهَدُوا عَلَيْهِ بِذَلِكَ وَ كَانَ لَهُ مَالٌ يُعْرِفُ دَفْعَ إِلَى وَرَثَةِ الْمُقْتُولِ الدِّيَّةَ مِنْ مَالِ الْقَاتِلِ وَ إِنْ لَمْ يَثْرِكْ مَالًا أُعْطِيَ الدِّيَّةَ مِنْ بَيْتِ الْمَالِ وَ لَا يَبْطُلُ دَمُ امْرِئٍ مُسْلِمٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Hazir Al Sayrafi, from Bureyd Bin Muawiya Al Ajaly who said,

‘Abu Ja’far^{asws} was asked about a man who killed a man deliberately. So the legal penalty (*Hadd*) had not been established upon him, and the testimonies had not been reckoned against him, he became mad and his intellect went away. Then another group testified against him after he had gone mad that he had killed him’.

(He^{asws}) said: ‘When he killed him, he was correct, there was no reason from the spoiling of his intellect, (thus) he would be killed due to it. And if he is testified against with that, and there was known wealth for him, it would be handed over to the inheritors of the killed one. The wergild is from the wealth of the killer. And if he did not leave wealth, the wergild would be given from the public treasury, and there would be no invalidation of the blood of a Muslim person’.⁸⁹

باب فِي الْقَاتِلِ يُرِيدُ التَّوْبَةَ

Chapter 16 – Regarding the killer intending the repentance

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حُسَيْنِ بْنِ أَحْمَدَ الْمَنْقَرِيِّ عَنْ عَيْسَى الضَّعِيفِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) رَجُلٌ قَتَلَ رَجُلًا مُتَعَمِّدًا مَا تَوْبَتُهُ قَالَ يُمَكِّنُ مِنْ نَفْسِهِ قُلْتُ يَخَافُ أَنْ يَقْتُلُوهُ قَالَ فَلْيُعْطِهِمُ الدِّيَّةَ قُلْتُ يَخَافُ أَنْ يَعْلَمُوا بِذَلِكَ قَالَ فَلْيَنْظُرْ إِلَى الدِّيَّةِ فَلْيَجْعَلْهَا صُرراً ثُمَّ لِيَنْظُرْ مَوَاقِبَتِ الصَّلَاةِ فَلْيُلْقِهَا فِي دَارِهِمْ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Husayn Bin Ahmad Al Minqary, from Isa Al Zaif who said,

‘I said to Abu Abdullah^{asws}, ‘A man kills a man deliberately, what is his repentance?’ He^{asws} said: ‘Make himself available (to the guardians of the killed one)’. I said, ‘He fears that they would kill him’. He^{asws} said: ‘So let him give them the wergild’. I said, ‘He fears that they would come to know him due to that’. He^{asws} said: ‘So let him consider the wergild, so let him make it as small packages, then await the timings of the Prayers, so let him cast these in their houses’.⁹⁰

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي الْخَزْرَجِ قَالَ حَدَّثَنِي فَضَيْلُ بْنُ عُمَانَ الْأَعْرُورُ عَنِ الرَّهْرِيِّ قَالَ كُنْتُ عَامِلًا لِنَبِيِّ أُمِّيَّةٍ فَقَتَلْتُ رَجُلًا فَسَأَلْتُ عَلِيَّ بْنَ الْحُسَيْنِ (عليه السلام) بَعْدَ ذَلِكَ كَيْفَ أَصْنَعُ بِهِ فَقَالَ الدِّيَّةَ اعْرِضْهَا عَلَى قَوْمِهِ قَالَ فَعَرَضْتُ فَأَبَوْا وَ جَهَدْتُ فَأَبَوْا

A number of our companions, from Ahmad Bin Abu Abdullah, from Abu Al Khazraj, from Fuzayl Bin Usman Al Awr, from Al Zahry who said,

⁸⁹ Al Kafi – V 7 – The Book of Wergilds Ch 15 H 1

⁹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 16 H 1

'I was an office bearer for the Clan of Umayya, so I killed a man. So I asked Ali^{asws} Bin Al-Husayn^{asws} after that, how I should deal with it, so he^{asws} said: 'Present the wergild to his people'. So I presented it, but they refused, and I strived, but they (still) refused.

فَأَخْبَرْتُ عَلِيَّ بْنَ الْحُسَيْنِ (عَلَيْهِ السَّلَام) بِذَلِكَ فَقَالَ أَذْهَبَ مَعَكَ بِنْفَرٍ مِنْ قَوْمِكَ فَأَشْهَدُ عَلَيْهِمْ قَالَ فَفَعَلْتُ فَأَبَوْا فَسَهَدُوا عَلَيْهِمْ فَرَجَعْتُ إِلَى عَلِيِّ بْنِ الْحُسَيْنِ (عَلَيْهِ السَّلَام) فَأَخْبَرْتُهُ قَالَ فَخِذِ الدِّيَةَ فَصِرْهَا مُنْفَرَةً ثُمَّ أَنْتِ الْبَابَ فِي وَقْتِ الظُّهْرِ أَوْ الْفَجْرِ فَأَلْقِهَا فِي الدَّارِ فَمَنْ أَخَذَ شَيْئًا فَهُوَ يُحْسَبُ لَكَ فِي الدِّيَةِ فَإِنْ وَقَّتِ الظُّهْرَ وَالْفَجْرَ سَاعَةً يَخْرُجُ فِيهَا أَهْلُ الدَّارِ

So I informed Ali^{asws} Bin Al-Husayn^{asws} of that, so he^{asws} said: 'Go with a number of your people, so let them bear witness upon them'. So I did it, but they refused. So they bore witness upon them. So I returned to Ali^{asws} Bin Al-Husayn^{asws} and informed him^{asws}. He^{asws} said: 'Take the wergild and make separate packages of these, then go to the door (of the guardians of the killed one) during the time of *Al-Zuhr*, or *Al-Fajr*, so throw these in the doorways. So the one who takes anything, so it would be counted for you with regards to the wergild. So when it is the time of *Al-Zuhr* and *Al-Fajr*, during these timings the people of the house come out'.

قَالَ الزُّهْرِيُّ فَفَعَلْتُ ذَلِكَ وَ لَوْ لَا عَلِيُّ بْنُ الْحُسَيْنِ (عَلَيْهِ السَّلَام) لَهَلَكْتُ

Al-Zahry said, 'I did that, and had it not been for Ali^{asws} Bin Al-Husayn^{asws}, I would have been destroyed'.

قَالَ وَ حَدَّثَنِي بَعْضُ أَصْحَابِنَا أَنَّ الزُّهْرِيَّ كَانَ ضَرَبَ رَجُلًا بِهِ قُرُوحٌ فَمَاتَ مِنْ ضَرْبِهِ .

He (the narrator) said, 'And one of our companions has narrated to me that Al-Zahry had struck a man with ulcerated wounds, so he had died from his strike'.⁹¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ وَ ابْنِ بُكَيْرٍ وَ غَيْرِ وَاحِدٍ قَالُوا كَانَ عَلِيُّ بْنُ الْحُسَيْنِ (عَلَيْهِ السَّلَام) فِي الطَّوَافِ فَنظَرَ فِي نَاحِيَةِ الْمَسْجِدِ إِلَى جَمَاعَةٍ فَقَالَ مَا هَذِهِ الْجَمَاعَةُ فَقَالُوا هَذَا مُحَمَّدُ بْنُ شِهَابِ الزُّهْرِيِّ اخْتَلَطَ عَقْلُهُ فَلَيْسَ يَتَكَلَّمُ فَأَخْرَجَهُ أَهْلُهُ لَعَلَّهُ إِذَا رَأَى النَّاسَ أَنْ يَتَكَلَّمَ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Salim, and Ibn Bukeyr and someone else who said,

'Ali^{asws} Bin Al-Husayn^{asws} was in the circumambulation (of the Kaaba), so he^{asws} looked at a group around the Masjid. So he^{asws} said: 'What is this group?' So they said, 'This is Muhammad Bin Shihab Al-Zahry. His intellect is muddled up, so he does not speak. So his family have brought him out, perhaps when he sees the people he would speak'.

فَلَمَّا قَضَى عَلِيُّ بْنُ الْحُسَيْنِ طَوَافَهُ خَرَجَ حَتَّى دَنَا مِنْهُ فَلَمَّا رَأَاهُ مُحَمَّدُ بْنُ شِهَابٍ عَرَفَهُ فَقَالَ لَهُ عَلِيُّ بْنُ الْحُسَيْنِ (عَلَيْهِ السَّلَام) مَا لَكَ فَقَالَ وَ لَيْتَ وَ لَيْتَ فَأَصَبْتُ دَمًا فَفَتَلْتُ رَجُلًا فَدَخَلَنِي مَا تَرَى فَقَالَ لَهُ عَلِيُّ بْنُ الْحُسَيْنِ (عَلَيْهِ السَّلَام) لَأَنَا عَلَيْكَ مِنْ بَأْسِكَ مِنْ رَحْمَةِ اللَّهِ أَشَدُّ خَوْفًا مِنِّي عَلَيْكَ مِمَّا أَتَيْتَ ثُمَّ قَالَ لَهُ أَعْطِهِمُ الدِّيَةَ قَالَ قَدْ فَعَلْتُ فَأَبَوْا فَقَالَ اجْعَلْهَا صُرْرًا ثُمَّ انْظُرْ مَوَاقِيَتِ الصَّلَاةِ فَأَلْقِهَا فِي دَارِهِمْ .

So when Ali^{asws} Bin Al-Husayn^{asws} fulfilled his^{asws} circumambulation, he^{asws} went out until he^{asws} approached him. So when Muhammad Bin Shihab saw him^{asws}, he recognised him^{asws}. So Ali^{asws} Bin Al-Husayn^{asws} said to him: 'What is the matter with

⁹¹ Al Kafi – V 7 – The Book of Wergilds Ch 16 H 2

you?’ So he said, ‘I was given the governorship, so I shed blood. I killed a man, so there entered into me what you^{asws} see’. So Ali^{asws} Bin Al-Husayn^{asws} said to me: ‘I^{asws} have more intense fear of your despair from the Mercy of Allah^{azwj} from what you have come to’. Then he^{asws} said: ‘Give them the wergild’. He said, ‘I have done it, but they refused (to accept it)’. So he^{asws} said: ‘Make it as small packages, then wait for the timings of the Prayers, so throw these in their houses’.⁹²

بَابُ قَتْلِ اللَّصِّ

Chapter 17 – Killing the burglar

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرِ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ إِذَا قَدَرْتَ عَلَى اللَّصِّ فَأَبْدِرْهُ وَأَنَا شَرِيكَكَ فِي دَمِهِ .

Ali Bin Ibrahim, from his father, from Ahmad Bin Muhammad Bin Abu Nasr, from one of our companions,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘When you are able over the burglar, so surprise him, and I^{asws} would be a participant in his blood’.⁹³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يُقَاتِلُ عَنْ مَالِهِ فَقَالَ إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قَالَ مَنْ قَتَلَ دُونَ مَالِهِ فَهُوَ بِمَنْزِلَةِ شَهِيدٍ فَقُلْنَا لَهُ أَيْ قَاتِلُ أَفْضَلُ فَقَالَ إِنَّ لَمْ تُقَاتِلْ فَلَا بَأْسَ أَمَا أَنَا فَلَوْ كُنْتُ لَتَرَكْتُهُ وَلَمْ أَقَاتِلْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer who said,

‘I asked Abu Ja’far^{asws} about the man who fights about his wealth. So he^{asws} said: ‘Rasool-Allah^{saww} said: ‘The one who fights for (to protect) his wealth, so he is at the status of a martyr’. So we said to him^{asws}, ‘So fighting him is better?’ So he^{asws} said: ‘If you do not fight, so there is no problem. As for myself^{asws}, So if it was I^{asws}, I^{asws} would leave him and would not fight’.⁹⁴

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ عَبْدِ اللَّهِ بْنِ عَامِرٍ قَالَ سَمِعْتُهُ يَقُولُ وَ قَدْ تَجَارَيْنَا ذَكَرَ الصَّعَالِيكَ فَقَالَ عَبْدُ اللَّهِ بْنُ عَامِرٍ حَدَّثَنِي هَذَا وَ أَوْمَأَ إِلَى أَحْمَدَ بْنِ إِسْحَاقَ أَنَّهُ كَتَبَ إِلَى أَبِي مُحَمَّدٍ (عَلَيْهِ السَّلَامُ) يَسْأَلُ عَنْهُمْ فَكَتَبَ إِلَيْهِ أَقْتَلُهُمْ .

Ali Bin Muhammad, from one of our companions, from Abdullah Bin Amir who said,

‘I heard him saying, and there had flowed among us a mentioned of the vagabonds, so Abdullah Bin Amir said, ‘This one narrated to me’ – and he gestured towards Ahmad Bin Is’haq that he wrote to Abu Muhammad^{asws}, asking him^{asws} about it, so he^{asws} wrote back to him: ‘Kill him’.⁹⁵

وَ عَنْهُ عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ وَ غَيْرِهِ أَنَّهُ كَتَبَ إِلَيْهِ يَسْأَلُهُ عَنِ الْأَكْرَادِ فَكَتَبَ إِلَيْهِ لَا تُنْبَهُوهُمْ إِلَّا بِحَدِّ السَّيْفِ .

And from him, from Ahmad Bin Abu Abdullah, and someone else,

⁹² Al Kafi – V 7 – The Book of Wergilds Ch 16 H 3

⁹³ Al Kafi – V 7 – The Book of Wergilds Ch 17 H 1

⁹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 17 H 2

⁹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 17 H 3

He having wrote to him^{asws} asking him^{asws} about the Kurds, so he^{asws} wrote back: 'Do not awaken them except by a limit of the sword'.⁹⁶

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ الْقَلَانِسِيِّ عَنْ أَحْمَدَ بْنِ الْفَضْلِ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ فَرَارَةَ عَنْ أَنَسِ بْنِ هُرَيْثٍ بْنِ الْبَرَاءِ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ الْأَصُّ يَدْخُلُ عَلَيَّ فِي بَيْتِي يُرِيدُ نَفْسِي وَ مَالِي فَقَالَ فَاقْتُلْهُ فَأَشْهَدُ اللَّهَ وَ مَنْ سَمِعَ أَنْ دَمَهُ فِي عُنُقِي

Ahmad Bin Muhammad, from Muhammad Bin Ahmad Al Qalanasy, from Ahmad Bin Al Fazl, from Abdullah Bin Jabala, from Fazara, from Ans, or Haysam Bin Al Bara'a,

(It has been narrated) from Abu Ja'far^{asws}, said, 'I said to him^{asws}, 'The burglar entered upon me in my house intending (killing) me and (taking) my wealth'. So he^{asws} said: 'So kill him, for I^{asws} keep Allah^{azwj} as a Witness along with the one who hears me^{asws}, that his blood is upon my neck'.

قَالَ قُلْتُ أَصْلَحَكَ اللَّهُ فَأَيُّنَ عَلَامَةُ هَذَا الْأَمْرِ فَقَالَ أَرَى بِالصُّبْحِ مِنْ خَفَاءٍ قَالَ قُلْتُ لَا قَالَ فَإِنَّ أَمْرَنَا إِذَا كَانَ كَانَ أَتَيْنَ مِنْ قَلْبِ الصُّبْحِ

He (the narrator) said, 'I said, 'May Allah^{azwj} Keep you^{asws} well! So where is the sign of this matter (Al-Qaim^{asws})?' So he^{asws} said: 'Do you see the morning from concealment?' I said, 'No'. He^{asws} said: 'So, our^{asws} matter, when it would be, would be clearer than the break of dawn in the morning'.

قَالَ ثُمَّ قَالَ مَرَاوَلَهُ جَبَلٍ يَظْفِرُ أَهْوُونَ مِنْ مَرَاوَلِهِ مُلْكٍ لَمْ يَنْقُضِ أَكْلُهُ فَاتَّقُوا اللَّهَ تَبَارَكَ وَ تَعَالَى وَ لَا تَقْتُلُوا أَنْفُسَكُمْ لِلظَّالِمَةِ .

He (the narrator) said, 'Then he^{asws} said: 'Achievement by engaging with a mountain is easier than engaging with a kingdom whose consumption is yet to expire. Therefore, fear Allah^{azwj} Blessed and High, and do not kill yourselves for the unjust ones'.⁹⁷

بَابِ الرَّجُلِ يُقْتَلُ ابْنَهُ وَ الْإِبْنُ يُقْتَلُ أَبَاهُ وَ أُمَّهُ

Chapter 18 – The man kills his son, and the son kills his father and his mother

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ حُمْرَانَ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ لَا يُفَادُ وَالدُّ بَوْلُهُ وَ يُقْتَلُ الْوَلَدُ إِذَا قَتَلَ وَالِدَهُ عَمْدًا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, form his father, both together from Al Hassan Bin Mahboub, from Abu Ayoub Al Khazaz, from Humran,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'The father would not be retaliated due to (killing) his son, but the son would be killed when he kills his father deliberately'.⁹⁸

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِعٍ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ قَتَلَ أُمَّهُ قَالَ يُقْتَلُ بِهَا صَاحِرًا وَ لَا أَطْنَ قَتَلَهُ كَفَارَةً لَهُ وَ لَا يَرْتَهَا .

⁹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 17 H 4

⁹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 17 H 5

⁹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 18 H 1

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub, from Ibn Raib, from Abu Umeida who said,

'I asked Abu Ja'far^{asws} about a man who killed his mother. He^{asws} said: 'He would be killed due to it, belittled, and I^{asws} do not think killing him would be an expiation for him, and he would not inherit her'.⁹⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يُقْتَلُ الْوَالِدُ بِابْنِهِ إِذَا قَتَلَهُ وَإِنْ قَتَلَ ابْنُهُ إِذَا قَتَلَ أَبَاهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The father would not be killed due to killing of his son, but the son would be killed if he kills his father'.¹⁰⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَقْتُلُ ابْنَهُ أَوْ يُقْتَلُ بِهِ قَالَ لَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeir, from Hammad, from Al Halby,

(The narrators) says: 'I asked Abu Abdullah^{asws} about the man who killed his son, would he be killed due to it?' He^{asws} said: 'No'.¹⁰¹

عَلِيُّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفَضِيلِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) لَا يُقْتَلُ الْوَالِدُ بِوَالِدِهِ وَ يُقْتَلُ الْوَالِدُ بِوَالِدِهِ وَ لَا يَرِثُ الرَّجُلُ الرَّجُلَ إِذَا قَتَلَهُ وَ إِنْ كَانَ خَطَاً .

Ali, from Muhammad Bin Isa, from Yunus, from Ibn Sinan, from Al A'la Bin Al Fuzayl who said,

'Abu Abdullah^{asws} said: 'The father would not be killed due to his son, but the son would be killed due to (killing of) his father; and the man would not inherit the man when he kills him, even though it (were to) be in error'.¹⁰²

بَابُ الرَّجُلِ يَقْتُلُ الْمَرْأَةَ وَ الْمَرْأَةُ تَقْتُلُ الرَّجُلَ وَ فَضْلُ دِيَّةِ الرَّجُلِ عَلَى دِيَّةِ الْمَرْأَةِ فِي النَّفْسِ وَ الْجَرَاحَاتِ

Chapter 19 – The man kills the woman, and the woman kills the man, and the remainder of the wergild of the man over the wergild of the woman regarding the (killing of) the soul and the injuries

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا قَتَلَتِ الْمَرْأَةُ رَجُلًا قُتِلَتْ بِهِ وَ إِذَا قَتَلَ الرَّجُلُ الْمَرْأَةَ فَإِنْ أَرَادَ الْقَوْدَ أَتَوَا فَضْلَ دِيَّةِ الرَّجُلِ وَ أَقَادُوهُ بِهَا وَ إِنْ لَمْ يَفْعَلُوا قَبِلُوا مِنَ الْقَاتِلِ الدِّيَّةَ دِيَّةَ الْمَرْأَةِ كَامِلَةً وَ دِيَّةَ الْمَرْأَةِ نِصْفَ دِيَّةِ الرَّجُلِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdullah Bin Muskan,

⁹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 18 H 2

¹⁰⁰ Al Kafi – V 7 – The Book of Wergilds Ch 18 H 3

¹⁰¹ Al Kafi – V 7 – The Book of Wergilds Ch 18 H 4

¹⁰² Al Kafi – V 7 – The Book of Wergilds Ch 18 H 5

(It has been narrated) from Abu Abdullah^{asws} having said: 'When a woman kills a man, she would be executed due to it, and when the man kills the woman, so if the retaliation is intended, they (her heirs) have to pay the remainder of the wergild of the man, and retaliate him by it, and if they do not do it, they can accept the wergild from the killer, the complete wergild for the woman, and the wergild of the woman is half the wergild of the man'.¹⁰³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي رَجُلٍ يَقْتُلُ الْمَرْأَةَ مُتَعَمِّدًا فَأَرَادَ أَهْلُ الْمَرْأَةِ أَنْ يَقْتُلُوهُ قَالَ ذَلِكَ لَهُمْ إِذَا أَتَوْا إِلَى أَهْلِهِ نَصَفَ الدِّيَةَ وَ إِنْ قَبِلُوا الدِّيَةَ فَلَهُمْ نِصْفُ دِيَةِ الرَّجُلِ وَ إِنْ قَتَلَتِ الْمَرْأَةُ الرَّجُلَ قُتِلَتْ بِهِ وَ لَيْسَ لَهُمْ إِلَّا نَفْسُهَا

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man who killed the woman deliberately. So the family of the woman intended to kill him. He^{asws} said: 'That is for them. When he gives half the wergild to her family, and if they accept the wergild, so for them is half the wergild which is for the man. And if the woman kills the man, she would be killed due to it, and there would be nothing for them except for her soul'.

وَ قَالَ جِرَاحَاتُ الرَّجَالِ وَ النِّسَاءِ سَوَاءٌ سِنَّ الْمَرْأَةِ بِسِنَّ الرَّجُلِ وَ مُوضِحَةُ الْمَرْأَةِ بِمُوضِحَةِ الرَّجُلِ وَ إِصْبَعُ الْمَرْأَةِ بِإِصْبَعِ الرَّجُلِ حَتَّى تَبْلُغَ الْجِرَاحَةَ ثَلَاثُ الدِّيَةِ فَإِذَا بَلَغَتْ ثَلَاثُ الدِّيَةِ أُضْعِفَتْ دِيَةُ الرَّجُلِ عَلَى دِيَةِ الْمَرْأَةِ .

And he^{asws} said: 'The injuries of the men and the women are equal, tooth of the man with the tooth of the woman, and a bone of the man and a bone of the man, and a finger of the woman with a finger of the man, until the injuries reach a third of the wergild. So when they reach a third of the wergild, the wergild of the man is double over the wergild of the woman'.¹⁰⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بصير قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْجِرَاحَاتِ فَقَالَ جِرَاحَةُ الْمَرْأَةِ مِثْلُ جِرَاحَةِ الرَّجُلِ حَتَّى تَبْلُغَ ثَلَاثَ الدِّيَةِ فَإِذَا بَلَغَتْ ثَلَاثَ الدِّيَةِ سَوَاءٌ أُضْعِفَتْ جِرَاحَةُ الرَّجُلِ ضِعْفَيْنِ عَلَى جِرَاحَةِ الْمَرْأَةِ وَ سِنَّ الرَّجُلِ وَ سِنَّ الْمَرْأَةِ سَوَاءٌ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer who said,

'I asked Abu Abdullah^{asws} about the injuries, so he^{asws} said: 'The injuries of the woman are like the injuries of the man until it reaches a third of the wergild. So when it reaches to be the same as a third of the wergild, the injuries of the man is additional by double upon the injuries of the woman; but a tooth of the man and a tooth of the woman are equal'.

وَ قَالَ إِنْ قَتَلَ رَجُلٌ امْرَأَةً عَمْدًا فَأَرَادَ أَهْلُ الْمَرْأَةِ أَنْ يَقْتُلُوا الرَّجُلَ رَدُّوا إِلَى أَهْلِ الرَّجُلِ نِصْفَ الدِّيَةِ وَ قَتَلُوهُ

And he^{asws} said: 'If a man kills a woman deliberately, so the family of the woman intend that they kill the man, they should return half the wergild to the family of the man, and they can kill him'.

¹⁰³ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 1

¹⁰⁴ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 2

قَالَ وَ سَأَلْتُهُ عَنِ امْرَأَةٍ قَتَلَتْ رَجُلًا قَالَ تُقْتَلُ بِهِ وَ لَا يَغْرَمُ أَهْلُهَا شَيْئًا .

He (the narrator) said, 'And I asked him^{asws} about a woman who kills a man. He^{asws} said: 'She would be killed due to it, and there her family would not be fined anything'.¹⁰⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي رَجُلٍ قَتَلَ امْرَأَةً مُتَعَمِّدًا فَقَالَ إِنْ شَاءَ أَهْلُهَا أَنْ يَقْتُلُوهُ وَ يُرَدُّوا إِلَى أَهْلِهِ نَصَفَ الدِّيَةِ وَ إِنْ شَاءُوا أَخَذُوا نِصْفَ الدِّيَةِ خَمْسَةَ آلَافٍ دِرْهَمٍ وَ قَالَ فِي امْرَأَةٍ قَتَلَتْ زَوْجَهَا مُتَعَمِّدًا فَقَالَ إِنْ شَاءَ أَهْلُهُ أَنْ يَقْتُلُوهُ قَتَلُوهَا وَ لَيْسَ يَجْزِي أَحَدًا أَكْثَرَ مِنْ جِنَايَتِهِ عَلَى نَفْسِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Abdullah Bin Sinan who said,

'I heard Abu Abdullah^{asws} saying regarding a man who killed a woman deliberately. So he^{asws} said: 'If her family so desire to they can kill him, and pay half the wergild to his family; and if they so desire, they can take half the wergild of five thousand Dirhams'. And he^{asws} said regarding a woman who killed her husband deliberately, so he^{asws} said: 'If his family so desire to, they can kill her for his killing, and no one reaps more than the crime upon himself'.¹⁰⁶

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنِ الْحَلْبِيِّ وَ أَبِي عُبَيْدَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنْ رَجُلٍ قَتَلَ امْرَأَةً خَطَأً وَ هِيَ عَلَى رَأْسِ الْوَلَدِ تَمَخُّضٌ قَالَ عَلَيْهِ الدِّيَةُ خَمْسَةَ آلَافٍ دِرْهَمٍ وَ عَلَيْهِ لِلَّذِي فِي بَطْنِهَا غُرَّةٌ وَ صَيْفٌ أَوْ وَصِيفَةٌ أَوْ أَرْبَعُونَ دِينَارًا .

Ibn Mahboub, from Abu Ayoun, from Al Halby, and Abu Ubeyda,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} was asked about a man who killed a woman in error, and she was pregnant with a child. He^{asws} said: 'Upon him is the wergild of five thousand Dirhams (for killing her), and upon him for that which was in her belly for negligence, is a male servant, or a female servant, or forty Dinars'.¹⁰⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبَانَ بْنِ تَغْلِبٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مَا تَقُولُ فِي رَجُلٍ قَطَعَ إصْبَعًا مِنْ أَصَابِعِ الْمَرْأَةِ كَمْ فِيهَا قَالَ عَشْرٌ مِنَ الْإِبِلِ قُلْتُ قَطَعَ اثْنَيْنِ قَالَ عَشْرُونَ قُلْتُ قَطَعَ ثَلَاثًا قَالَ ثَلَاثُونَ قُلْتُ قَطَعَ أَرْبَعًا قَالَ عَشْرُونَ

Ali Bin Ibrahim, from his father, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, both together from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj, from Aban Bin Taghlab who said,

'I said to Abu Abdullah^{asws}, 'What are you^{asws} saying regarding a man who cut-off a finger from the fingers of a woman, how much (compensation) is regarding it?' He^{asws} said: 'Ten from the camels'. I said, 'He cuts off two?' He^{asws} said: 'Twenty'. I said, 'He cuts off three?' He^{asws} said: 'Thirty'. I said, 'He cuts off four?' He^{asws} said: 'Twenty'.

¹⁰⁵ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 3

¹⁰⁶ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 4

¹⁰⁷ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 5

فَلْتُ سُبْحَانَ اللَّهِ يَقْطَعُ ثَلَاثًا فَيَكُونُ عَلَيْهِ ثَلَاثُونَ وَ يَقْطَعُ أَرْبَعًا فَيَكُونُ عَلَيْهِ عَشْرُونَ إِنَّ هَذَا كَانَ يَبْلُغُنَا وَ نَحْنُ بِالْعِرَاقِ قَلِيلًا مِمَّنْ قَالَهُ وَ يَقُولُ الَّذِي جَاءَ بِهِ شَيْطَانٌ فَقَالَ مَهْلًا يَا أَبَانَ هَكَذَا حَكَّمَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِنَّ الْمَرْأَةَ تُقَابِلُ الرَّجُلَ إِلَى تُلْتِ الدِّيَةِ فَإِذَا بَلَغَتِ الثَّلَاثَ رَجَعَتْ إِلَى النِّصْفِ يَا أَبَانَ إِنَّكَ أَخَذْتَنِي بِالْقِيَاسِ وَ السُّنَّةِ إِذَا قَيْسَتْ مُحَقِّقَ الدِّينِ .

I said, 'Glory be to Allah^{azwj}! He cuts-off three, so there happens to be thirty upon him, and he cuts-off four, so there happens to be twenty upon him. This had reached us and we were at Al-Iraq, so we distanced ourselves from the one who said it, and we were saying that the one who comes with it is a devil'. So he^{asws} said: 'Shh! No Aban, it is not like this. Rasool-Allah^{saww} judged that the woman would be equal to the man up to a third of the wergild. So when it reaches the third, she returns to the half. O Aban! You (attempted to) seize me^{asws} with the analogy, but (it's) the Sunnah, (remember) when it is analogised, (it) destroys the Religion'.¹⁰⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْمَرْأَةِ بَيْنَهَا وَ بَيْنَ الرَّجُلِ قِصَاصٌ قَالَ نَعَمْ فِي الْجِرَاحَاتِ حَتَّى تَبْلُغَ الثَّلَاثَ سِوَاءَ فَإِذَا بَلَغَتِ الثَّلَاثَ ارْتَفَعَ الرَّجُلُ وَ سَفَلَتِ الْمَرْأَةُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel Bin Darraj who said,

'I asked Abu Abdullah^{asws} about the woman between her and the man was retaliation. He^{asws} said: 'Yes, with regards to the injuries until it reaches the third (of the wergild), it is the same. So when it reaches the third, the man is higher and the woman is lower'.¹⁰⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِعٍ عَنِ الْحَلْبِيِّ قَالَ سُئِلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْجِرَاحَاتِ الرَّجَالِ وَ النِّسَاءِ فِي الدِّيَاتِ وَ الْقِصَاصِ فَقَالَ الرَّجَالُ وَ النِّسَاءُ فِي الْقِصَاصِ سِوَاءَ السُّنِّ بِالسُّنِّ وَ الشَّجَّةُ بِالشَّجَّةِ وَ الإِصْبَعُ بِالإِصْبَعِ سِوَاءَ حَتَّى تَبْلُغَ الْجِرَاحَاتُ ثَلَاثَ الدِّيَةِ فَإِذَا جَاوَزَتِ الثَّلَاثَ صِيرَتْ دِيَةَ الرَّجُلِ فِي الْجِرَاحَاتِ ثَلَاثِي الدِّيَةِ وَ دِيَةَ النِّسَاءِ ثَلَاثُ الدِّيَةِ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub, from Ibn Raib, from Al Halby who said,

'Abu Abdullah^{asws} was asked about injuries of the men and the women regarding the wergild and the retaliation, so he^{asws} said: 'The men and the women regarding the retaliation are equal, the tooth with the tooth, and the fracture with the fracture, and the finger with the finger, same, until the injuries reach a third of the wergild. So when it exceeds the third, the wergild of the men with regards to the injuries become two-third of the wergild and a wergild of the women, a one-third of the wergild'.¹¹⁰

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنِ أَبِي وَ لَادٍ عَنِ أَبِي مَرْيَمَ الأَنْصَارِيِّ عَنِ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ أَتَى رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بَرَجَلٌ قَدْ ضَرَبَ امْرَأَةً حَامِلًا بِعَمُودِ الْفُسْطَاطِ فَفَتَلَهَا فَخَيْرَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَوْلِيَاءَهَا أَنْ يَأْخُذُوا الدِّيَةَ خَمْسَةَ آلَافٍ دِرْهَمٍ وَ عُرَّةٌ وَصِيفٌ أَوْ وَصِيفَةٌ لِلَّذِي فِي بَطْنِهَا أَوْ يَدْفَعُوا إِلَى أَوْلِيَاءِ الْقَاتِلِ خَمْسَةَ آلَافٍ [دِرْهَمٍ] وَ يَقْتُلُوهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Abu Wallad, from Abu Maryam Al Ansary,

¹⁰⁸ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 6

¹⁰⁹ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 7

¹¹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 8

(It has been narrated) from Abu Ja'far^{asws} having said: 'They came to Rasool-Allah^{saww} with a man who has struck a pregnant woman with a pole of a tent, so he killed her. So Rasool-Allah^{saww} gave a choice to her guardians that they can take the wergild of five thousand Dirhams, and for negligence, a male servant or a female servant for that which was in her belly, or hand over five thousand Dirham to the guardians of the killer, and they can kill him'.¹¹¹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ قُتِلَ لَهُ رَجُلٌ قَتَلَ امْرَأَةً فَقَالَ إِنْ أَرَادَ أَهْلُ الْمَرْأَةِ أَنْ يَقْتُلُوهُ أَدَّوْا نِصْفَ دِيَّتِهِ وَ قَتَلُوهُ وَ إِلَّا قَبِلُوا الدِّيَّةَ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Is'haq Bin Ammar, from Abu Baseer,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, 'I said to him^{asws}, 'A man kills a woman'. So he^{asws} said: 'If the family of the woman intend to kill him, they have to pay half his wergild and kill him, or else accept the wergild (five thousand Dirhams)'.¹¹²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ جَرَاحَاتُ الْمَرْأَةِ وَالرَّجُلِ سَوَاءٌ إِلَيَّ أَنْ تَبْلُغَ ثَلَاثَ الدِّيَّةِ فَإِذَا جَارَ ذَلِكَ تَضَاعَفَتْ جِرَاحَةُ الرَّجُلِ عَلَى جِرَاحَةِ الْمَرْأَةِ ضِعْفَيْنِ .

Ali Bin Ibrahim, from his father, from Usman Bin Isa, from Sama'at, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The injuries of the woman and the man are equal until it reaches a one-third of the wergild. So when it exceeds that, it is added for the injuries of the man, over the injuries of the woman, by double'.¹¹³

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْجَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ فَقَأَ عَيْنَ امْرَأَةٍ فَقَالَ إِنْ يَشَاءُوا أَنْ يَقْتُلُوا عَيْنَهُ وَ يُؤَدُّوا إِلَيْهِ رُبْعَ الدِّيَّةِ وَ إِنْ شَاءَتْ أَنْ تَأْخُذَ رُبْعَ الدِّيَّةِ .

Ali, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who blinded an eye of the woman. So he^{asws} said: 'If they so desire they can blind his eye, and pay him a quarter of the wergild; and if they so desire to that they can take the quarter of the wergild'.

وَ قَالَ فِي امْرَأَةٍ فَقَأَتْ عَيْنَ رَجُلٍ أَنَّهُ إِنْ شَاءَ فَقَأَ عَيْنَهَا وَ إِلَّا أَخَذَ دِيَّةَ عَيْنِهِ .

And he^{asws} said regarding a woman who blinded an eye of a man: 'If he so desires he can blind her eye or else take a wergild for his eye'.¹¹⁴

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ إِنْ قَتَلَ رَجُلٌ امْرَأَةً وَ أَرَادَ أَهْلُ الْمَرْأَةِ أَنْ يَقْتُلُوهُ أَدَّوْا نِصْفَ الدِّيَّةِ إِلَى أَهْلِ الرَّجُلِ .

¹¹¹ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 9

¹¹² Al Kafi – V 7 – The Book of Wergilds Ch 19 H 10

¹¹³ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 11

¹¹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 12

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'If a man kills a woman and the family of the woman intend that they kill him, they should pay half the wergild to the family of the man'.¹¹⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ عَبْدِ الْكَرِيمِ عَنِ ابْنِ أَبِي بَعْفُورٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ قَطَعَ إصْبَعُ امْرَأَةٍ قَالَ يُقَطَعُ إِصْبَعُهُ حَتَّى يَنْتَهِيَ إِلَى ثُلُثِ الدِّيَةِ فَإِذَا جَازَ الثُّلُثَ كَانَ فِي الرَّجُلِ الضَّعْفُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali, from Abdul Kareem, from Ibn Abu Yafour who said,

'I asked Abu Abdullah^{asws} about a man who cut a finger of a woman. He^{asws} said: 'His finger would be cut until it ends up to a third of the wergild. So when it exceeds the third, there would be double regarding the man'.¹¹⁶

بَابُ مَنْ خَطَّوهُ عَمْدًا وَمَنْ عَمَدَهُ خَطًّا

Chapter 20 – The one whose error is (like) deliberate, and one whose deliberation is (like) an error

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ سُنِلَ عَنْ غُلَامٍ لَمْ يَدْرِكْ وَ امْرَأَةٍ قَتَلَا رَجُلًا خَطًّا فَقَالَ إِنَّ خَطًّا الْمَرْأَةِ وَ الْغُلَامِ عَمْدٌ فَإِنْ أَحَبَّ أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَقْتُلُوهُمَا قَتَلُوهُمَا وَ يُؤَدُّوا إِلَى أَوْلِيَاءِ الْغُلَامِ خَمْسَةَ آلَافٍ دِرْهَمٍ وَ إِنْ أَحَبُّوا أَنْ يَقْتُلُوا الْغُلَامَ قَتَلُوهُ وَ تَرُدُّ الْمَرْأَةَ إِلَى أَوْلِيَاءِ الْغُلَامِ رُبْعَ الدِّيَةِ وَ إِنْ أَحَبَّ أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَقْتُلُوا الْمَرْأَةَ قَتَلُوهَا وَ يَرُدُّ الْغُلَامَ عَلَى أَوْلِيَاءِ الْمَرْأَةِ رُبْعَ الدِّيَةِ قَالَ وَ إِنْ أَحَبَّ أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَأْخُذُوا الدِّيَةَ كَانَ عَلَى الْغُلَامِ نِصْفُ الدِّيَةِ وَ عَلَى الْمَرْأَةِ نِصْفُ الدِّيَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, both together from Al Hassan Bin Mahboub, from Hisham Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having been asked about a boy who had yet to mature and a woman, both killed a man in error. So he^{asws} said: 'The error of the woman and the boy is (considered) deliberate. So if the guardians of the killed one like to kill both of them, they can kill them both and pay five thousand Dirhams to the guardians of the boy; and if they like to kill the boy, they kill him and the guardians of the woman return a quarter of the wergild to the guardians of the boy; and if the guardians of the killed one kill the woman, and the boy return a quarter of the wergild to the guardians of the woman; and if the guardians of the killed one like to take the wergild, upon the boy is half the wergild, and upon the woman is half the wergild'.¹¹⁷

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ ضُرَيْبِ بْنِ الْكُنَاسِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ امْرَأَةٍ وَ عَمْدٍ قَتَلَا رَجُلًا خَطًّا فَقَالَ إِنَّ خَطًّا الْمَرْأَةِ وَ الْعَمْدِ مِثْلُ الْعَمْدِ فَإِنْ أَحَبَّ أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَقْتُلُوهُمَا قَتَلُوهُمَا فَإِنْ كَانَ قِيَمَةُ الْعَمْدِ أَكْثَرَ مِنْ خَمْسَةِ آلَافٍ دِرْهَمٍ فَلْيُرَدُّوا إِلَى سَيِّدِ الْعَمْدِ مَا يَفْضَلُ بَعْدَ الْخَمْسَةِ آلَافِ دِرْهَمٍ وَ إِنْ أَحَبُّوا أَنْ يَقْتُلُوا الْمَرْأَةَ وَ يَأْخُذُوا الْعَمْدَ أَخَذُوا الْآلَافَ بِكُورٍ قِيَمَتُهُ أَكْثَرَ مِنْ خَمْسَةِ آلَافِ دِرْهَمٍ فَلْيُرَدُّوا عَلَى مَوْلَى الْعَمْدِ مَا يَفْضَلُ بَعْدَ الْخَمْسَةِ آلَافِ دِرْهَمٍ وَ يَأْخُذُوا الْعَمْدَ أَوْ يَفْتَدِيَهُ سَيِّدُهُ وَ إِنْ كَانَتْ قِيَمَةُ الْعَمْدِ أَقَلَّ مِنْ خَمْسَةِ آلَافِ دِرْهَمٍ فَلْيَسَّرْ لَهُمُ إِلَّا الْعَمْدُ .

¹¹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 13

¹¹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 19 H 14

¹¹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 20 H 1

Ibn Mahboub, from Abu Ayoub, from Zureys Al Kunasy who said,

'I asked Abu Abdullah^{asws} about a woman and a slave who both kill a man in error. So he^{asws} said: 'The error of the woman and the slave is like the deliberate. So if the guardians of the killed one like to kill both of them, they can kill both of them. So if it was such that the value of the slave is more than five thousand Dirhams, so let it be returned to the master of the slave what remains after the five thousand Dirhams; and if they like to kill the woman and take the slave, or ransom him by his master; and if the value of the slave is less than the five thousand Dirhams, so there is nothing for them except for the slave'.¹¹⁸

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ عَمَّارِ السَّابِاطِيِّ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَام) عَنْ أَعْمَى فَقَالَ عَيْنٌ صَحِيحٌ [مُتَعَمِّدًا] قَالَ فَقَالَ يَا أَبَا عُبَيْدَةَ إِنَّ عَمَدَ الْأَعْمَى مِثْلُ الْخَطَايَا هَذَا فِيهِ الدِّيَّةُ مِنْ مَالِهِ فَإِنْ لَمْ يَكُنْ لَهُ مَالٌ فَإِنَّ دِيَّتَهُ عَلَى الْإِمَامِ وَلَا يَبْطُلُ حَقُّ مُسْلِمٍ .

Ibn Mahboub, from Hisham Bin Salim, from Ammar Al Sabaty, from Abu Ubeyda who said,

'I asked Abu Ja'far^{asws} about a blind (man) who blinded an eye of a correct one deliberately. So he^{asws} said: 'O Abu Ubeyda! The deliberation of the blind is like the error. In this in the wergild from his own wealth. So if there does not happen to be wealth for him, so his wergild is upon the Imam^{asws}, and a right of a Muslim would not be invalidated'.¹¹⁹

باب نادر

Chapter 21 - Miscellaneous

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي رَجُلٍ وَغُلَامٍ اشْتَرَكَا فِي قَتْلِ رَجُلٍ فَقَتَلَاهُ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) إِذَا بَلَغَ الْغُلَامُ خَمْسَةَ أَشْبَارٍ اقْتَصَّ مِنْهُ وَإِنْ لَمْ يَكُنْ بَلَغَ خَمْسَةَ أَشْبَارٍ فَضِي بِالْذِّيَّةِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said, 'Amir Al-Momineen^{asws} said regarding a man and a boy both having participated in killing a man, so they both killed him. So Amir Al-Momineen^{asws} said: 'When the boy reaches five open palm widths (In height), he would be retaliated from, and if he does not happen to reach five open palm widths (in height), he would be judged with the wergild'.¹²⁰

باب الرَّجُلِ يَقْتُلُ مَمْلُوكَهُ أَوْ يُنَكِّلُ بِهِ

Chapter 22 – The man kills his slave, or tortures him

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَتَلَ مَمْلُوكًا لَهُ قَالَ يُعْتَقُ رَقَبَةً وَ يَصُومُ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ يَتُوبُ إِلَى اللَّهِ .

¹¹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 20 H 2

¹¹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 20 H 3

¹²⁰ Al Kafi – V 7 – The Book of Wergilds Ch 21 H 1

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who kills a slave of his. He^{asws} said: 'He emancipates a neck, and Fasts for two months consecutively, and repents to Allah^{azwj}'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ مِثْلَهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zurara, from Sama'at - similar to it'.¹²¹

عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ فِي الرَّجُلِ يَقْتُلُ مَمْلُوكَهُ مُتَعَمِّدًا قَالَ يُعْجِبُنِي أَنْ يُعْتِقَ رَقَبَةً وَ يَصُومَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ يُطْعِمَ سِتِّينَ مَسْكِينًا ثُمَّ تَكُونَ التَّوْبَةُ بَعْدَ ذَلِكَ .

Ali, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the man who kills his slave deliberately. He^{asws} said: 'I^{asws} would like it if he would emancipate a neck, and Fasts for two months consecutively, and feed sixty poor (persons), then there would happen to be repentance (for him) after that'.¹²²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ حُمْرَانَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَقْتُلُ مَمْلُوكًا لَهُ قَالَ يُعْتِقُ رَقَبَةً وَ يَصُومُ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ يَتُوبُ إِلَى اللَّهِ عَزَّ وَ جَلَّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Humran,

(It has been narrated) from Abu Ja'far^{asws} regarding the man who kills a slave of his. He^{asws} said: 'He has to emancipate a neck, and Fast for two months consecutively, and repents to Allah^{azwj} Mighty and Majestic'.¹²³

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ بْنِ أَيُّوبَ عَنْ أَبِي الْمَغْرَاءِ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ قَتَلَ عَبْدَهُ مُتَعَمِّدًا فَعَلَيْهِ أَنْ يُعْتِقَ رَقَبَةً وَ أَنْ يُطْعِمَ سِتِّينَ مَسْكِينًا وَ يَصُومَ شَهْرَيْنِ مُتَتَابِعَيْنِ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Abu Al Magra, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who kills his slave deliberately, so upon him is that he should emancipate a neck, and that he should feed sixty poor (persons), and Fasts for two months consecutively'.¹²⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ الْمُخْتَارِ بْنِ مُحَمَّدِ بْنِ الْمُخْتَارِ وَ مُحَمَّدِ بْنِ الْحَسَنِ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ الْعُلَوِيِّ جَمِيعًا عَنِ الْفَتْحِ بْنِ يَزِيدَ الْجُرْجَانِيِّ عَنْ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ قَتَلَ مَمْلُوكَهُ أَوْ مَمْلُوكَهُ قَالَ إِنْ كَانَ الْمَمْلُوكُ لَهُ أَدَبٌ وَ حُبْسٌ إِلَّا أَنْ يَكُونَ مَعْرُوفًا بِقَتْلِ الْمَمَالِكِ فَيُقْتَلُ بِهِ .

¹²¹ Al Kafi – V 7 – The Book of Wergilds Ch 22 H 1

¹²² Al Kafi – V 7 – The Book of Wergilds Ch 22 H 2

¹²³ Al Kafi – V 7 – The Book of Wergilds Ch 22 H 3

¹²⁴ Al Kafi – V 7 – The Book of Wergilds Ch 22 H 4

Ali Bin Ibrahim, from Al Mukhtar Bin Muhammad Bin Al Mukhtar, and Muhammad Bin Al Hassan, from Abdullah Bin Al Hassan Al Alawy, both together, from Al Fatah Bin Yazeed Al Jurjany,

(It has been narrated) from Abu Al-Hassan^{asws} regarding a man who kills his slave girl or slave man. He^{asws} said: 'If it was the owned slave of his, he would be disciplined and imprisoned, except if he happens to be well known with the killing of the slaves, so he would be killed due to it'.¹²⁵

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مَسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) رَفَعَ إِلَيْهِ رَجُلٌ عَذَّبَ عَبْدَهُ حَتَّى مَاتَ فَضَرَبَهُ مِائَةً نَكَالًا وَ حَبَسَهُ سَنَةً وَ أَعْرَمَهُ قِيَمَةَ الْعَبْدِ فَتَصَدَّقَ بِهَا عَنْهُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Misma'a Bin Abdul Malik,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws}, a matter was raised to him of a man who punished his slave until he died. So he^{asws} whipped him one hundred as a punishment, and imprisoned him for a year, and fined him the price of the slave, so it was give out in charity from him'.¹²⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلِ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْهُمْ (عَلَيْهِمُ السَّلَام) قَالَ سُئِلَ عَنْ رَجُلٍ قَتَلَ مَمْلُوكَهُ قَالَ إِنْ كَانَ غَيْرَ مَعْرُوفٍ بِالْقَتْلِ ضَرْبٌ ضَرْبًا شَدِيدًا وَ أَخَذَ مِنْهُ قِيَمَةُ الْعَبْدِ وَ يُدْفَعُ إِلَى بَيْتِ مَالِ الْمُسْلِمِينَ وَ إِنْ كَانَ مُتَعَوِّدًا لِلْقَتْلِ قُتِلَ بِهِ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus,

(It has been narrated) from them^{asws} (one of the Imams^{asws}) having been asked about a man who killed a slave of his. He^{asws} said: 'If he was not well known with the killing (of the slaves), he would be struck with intense strikes, and the price of the slave would be taken from him to the public treasury of the Muslims; and if he was habitual in the killing, he would be killed due to it'.¹²⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي امْرَأَةٍ قَطَعَتْ نَدْيَ وَ لَيْدَتِهَا أَنَّهَا حُرَّةٌ لَا سَبِيلَ لِمَوْلَاتِهَا عَلَيْهَا وَ قَضَى فِي مَنْ نَكَلَ بِمَمْلُوكِهِ فَهُوَ حُرٌّ لَا سَبِيلَ لَهُ عَلَيْهِ سَائِبَةٌ يَذْهَبُ فَيَنْوَلِي إِلَى مَنْ أَحَبَّ فَإِذَا ضَمِنَ جَرِيرَتَهُ فَهُوَ يَرْتَهُ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Hisham Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a woman who cut off a breast of her child-bearing slave girl: 'She is free. There is no way for her mistress upon her'. And he^{asws} judged regarding the one who tortured his slave: 'So he is free, there is no way for him upon him. He is a 'Sa'iba' (unconditionally free), he can go and give his mastership to the one he so likes to. So when he takes the responsibility of his crimes, so he would inherit him'.¹²⁸

¹²⁵ Al Kafi – V 7 – The Book of Wergilds Ch 22 H 5

¹²⁶ Al Kafi – V 7 – The Book of Wergilds Ch 22 H 6

¹²⁷ Al Kafi – V 7 – The Book of Wergilds Ch 22 H 7

¹²⁸ Al Kafi – V 7 – The Book of Wergilds Ch 22 H 8

الكافي

AL-KAFI

ج 7

Volume 7

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة
الإسلام الكليني المتوفى سنة 329 هجرية

Of the majestic narrator and the scholar, the jurist, the Sheykh
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كِتَابُ الدِّيَاتِ

THE BOOK OF WERGILDS (COMPENSATIONS)
(2)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّم تَسْلِيمًا.

In the Name of Allah^{azwj} the Beneficent, the Merciful. The Praise is for Allah^{azwj} Lord^{azwj} of the Worlds, and Blessing be upon our Chief Muhammad^{saww} and his^{saww} Purified Progeny^{asws}, and greetings with abundant greetings.

بَابُ الرَّجُلِ الْحُرِّ يَقْتُلُ مَمْلُوكَ غَيْرِهِ أَوْ يَجْرَحُهُ وَ الْمَمْلُوكُ يَقْتُلُ الْحُرَّ أَوْ يَجْرَحُهُ

Chapter 23 – The free man kills a slave of someone else, or injures him, and the slave kills the free or injures him

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ قُلْتُ لَهُ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ كَتَبَ عَلَيْكُمْ الْفِصَاصُ فِي الْقَتْلِ الْحُرِّ بِالْحُرِّ وَ الْعَبْدُ بِالْعَبْدِ وَ الْأَنْثَى بِالْأَنْثَى قَالَ فَقَالَ لَا يَقْتُلُ حُرٌّ بَعْدِي وَ لَكِنْ يُضْرَبُ ضَرْبًا شَدِيدًا وَ يُعْرَمُ ثَمَنُهُ دِيَّةَ الْعَبْدِ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, 'I said to him^{asws}, 'The Words of Allah^{azwj} Mighty and Majestic [2:178] **O you who believe! The retaliation is Prescribed for you in the matter of the slain, the free for the free, and the slave for the slave, and the female for the female.** So he^{asws} said: 'The free would not be killed due to the slave, but he would be whipped with intense whipping, and would be fined his value as wergild for the slave'.¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ يَقْتُلُ الْعَبْدُ بِالْحُرِّ وَ لَا يَقْتُلُ الْحُرُّ بِالْعَبْدِ وَ لَكِنْ يُعْرَمُ ثَمَنُهُ وَ يُضْرَبُ ضَرْبًا شَدِيدًا حَتَّى لَا يَعُودَ .

A number of our companions, from Ahmad Bin Abu Abdullah, from Usman Bin Isa, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The Slave would be killed due to the free, and the free would not be killed due to the slave, but he would be fined his value, and he would be whipped with an intense whipping until he does not repeat'.²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ لَا يَقْتُلُ الْحُرُّ بِالْعَبْدِ وَ إِذَا قَتَلَ الْحُرُّ الْعَبْدَ عُرِمَ ثَمَنُهُ وَ ضُرِبَ ضَرْبًا شَدِيدًا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The free would not be killed due to the slave. And when the free one kills the slave, he would be fined his value, and would be whipped with intense whipping'.³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يَقْتُلُ حُرٌّ بَعْدِي وَ إِنْ قَتَلَهُ عَمْدًا وَ لَكِنْ يُعْرَمُ ثَمَنُهُ وَ يُضْرَبُ ضَرْبًا شَدِيدًا إِذَا قَتَلَهُ عَمْدًا وَ قَالَ دِيَّةَ الْمَمْلُوكِ ثَمَنُهُ .

¹ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 1

² Al Kafi – V 7 – The Book of Wergilds Ch 23 H 2

³ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 3

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer,

Abu Abdullah^{asws} has said: 'The free would not be killed due to a slave, even if he kills him deliberately, but he would be fined his price and would be whipped with an intense whipping when he kills him deliberately'. And he^{asws} said: 'The wergild of the slave is his value'.⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ دِيَّةُ الْعَبْدِ قِيَمَتُهُ فَإِنْ كَانَ نَفِيسًا فَأَفْضَلُ قِيَمَتِهِ عَشْرَةُ آلَافٍ دِرْهَمٍ وَ لَا يُجَاوِزُ بِهِ دِيَّةَ الْحُرِّ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ibn Muskan,

Abu Abdullah^{asws} has said: 'Wergild of the slave is his value. So if he was precious, so the highest of his value would be a thousand Dirhams, and the wergild of the free would not be exceeded by it'.⁵

يُونُسُ عَنْ أَبَانَ بْنِ تَغْلِبَ عَمَّنْ رَوَاهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا قَتَلَ الْعَبْدُ الْحُرَّ دُفِعَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَإِنْ شَاءُوا قَتَلُوهُ وَ إِنْ شَاءُوا حَبَسُوهُ وَ إِنْ شَاءُوا اسْتَرْقَوْهُ وَ يَكُونُ عَبْدًا لَهُمْ .

Yunus, from Aban Bin Taghlab, from the one who reported it,

Abu Abdullah^{asws} has said: 'When the slave kills the free, he would be handed over to the guardians of the killed. So if they so desire to, they kill him, and if they so desire to, they imprison him, and if they so desire to, or leave him and he can be a slave to them'.⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ حَرِيزٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي الْعَبْدِ إِذَا قَتَلَ الْحُرَّ دُفِعَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَإِنْ شَاءُوا قَتَلُوهُ وَ إِنْ شَاءُوا اسْتَرْقَوْهُ .

Ali Bin Ibrahim, from his father, from hammad Bin Isa, from Hareyz, from Zurara,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding the slave when he kills the free, he would be handed over to the guardians of the killed one, so if they so desire to, they kill him, and if they so desire to they keep him (as a slave for them).⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ مُدَبِّرٍ قَتَلَ رَجُلًا عَمْدًا فَقَالَ يُقْتَلُ بِهِ قَالَ قُلْتُ فَإِنْ قَتَلَهُ خَطَأً قَالَ فَيُدْفَعُ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَيَكُونُ لَهُمْ رِقًا إِنْ شَاءُوا بَاعُوهُ وَ إِنْ شَاءُوا اسْتَرْقَوْهُ وَ لَيْسَ لَهُمْ أَنْ يَقْتُلُوهُ قَالَ نَمَّ قَالَ يَا أَبَا مُحَمَّدٍ إِنَّ الْمُدَبِّرَ مَمْلُوكٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hisham Bin Salim, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about the 'Mudabbir' (slave promised freedom upon the death of his master), who killed a man deliberately. So he^{asws} said: 'He would be killed due to it'. I said, 'So if he killed him in error?' So he^{asws} said: 'He would be handed over to

⁴ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 4

⁵ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 5

⁶ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 6

⁷ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 7

the guardians of the killed one, so he would happen to be a slave for them, if they so desire to they can sell him, and if they so desire to they can keep him, and it is not for them that they kill him'. Then he^{asws} said: 'O Abu Muhammad! The 'Mudabbir' is a slave'.⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مُدَبِّرٌ قَتَلَ رَجُلًا خَطَأً مَنْ يَضْمَنُ عَنْهُ قَالَ يُصَالِحُ عَنْهُ مَوْلَاهُ فَإِنْ أَبِي دَفِعَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ يَخْدُمُهُمْ حَتَّى يَمُوتَ الَّذِي دَبَّرَهُ ثُمَّ يَرْجِعُ حُرًّا لَا سَبِيلَ عَلَيْهِ وَ فِي رِوَايَةٍ أُخْرَى وَ يُسْتَسْعَى فِي قِيَمَتِهِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel who said,

'I said to Abu Abdullah^{asws}, 'A 'Mudabbir' (Slave promised freedom upon the death of his master), who killed a man in error, who is responsible from him?' He^{asws} said: 'His master has to reconcile from him. But, if they refuse, he would be handed over to the guardians of the killed one to serve them until he dies, the one who had promised him freedom. Then he is returned as free, there not being a way against him'. And in another report: 'And he has to work regarding his value'.⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي مُحَمَّدٍ الْوَابِشِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ قَوْمٍ ادَّعَوْا عَلَى عَبْدِ جَنَابِهِ يُحْبِطُ بِرَقَبَتِهِ فَأَقْرَأَ الْعَبْدُ بِهَا قَالَ لَا يَجُوزُ إِفْرَارُ الْعَبْدِ عَلَى سَيِّدِهِ فَإِنْ أَقَامُوا الْبَيِّنَةَ عَلَى مَا ادَّعَوْا عَلَى الْعَبْدِ أَخَذَ الْعَبْدُ بِهَا أَوْ يَفْتَدِيهِ مَوْلَاهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Muhammad Al Wabishy who said,

'I asked Abu Abdullah^{asws} about a group which claimed upon a slave for a crime which (the damage of which) was more than his value. So the slave accepted with it. He^{asws} said; 'The confession of the slave upon his master is not allowed. So if the proof is established upon what is being claimed upon the slave, the slave would be seized for it, or his master has to ransom him'.¹⁰

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِعٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا قَتَلَ الْحُرُّ الْعَبْدَ غَرَمَ قِيَمَتَهُ وَ أَدَبَ فَيْلٍ فَإِنْ كَانَتْ قِيَمَتُهُ عَشْرِينَ أَلْفَ دِرْهَمٍ قَالَ لَا يُجَاوِزُ بِقِيَمَةِ عَبْدٍ دِيَةَ الْأَحْرَارِ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub, from Ibn Raib, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the free kills the slave, he would be fined his value, and be disciplined, so even if his value was twenty thousand Dirhams'. He^{asws} said: 'It is not allowed for the value of a slave to exceed the wergild of the free ones'.¹¹

وَ عَنْهُ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِعٍ عَنِ الْفَضْلِ بْنِ يَسَارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ فِي عَبْدٍ جَرَحَ حُرًّا قَالَ إِنْ شَاءَ الْحُرُّ افْتَصَّ مِنْهُ وَ إِنْ شَاءَ أَخَذَهُ إِنْ كَانَتْ الْجِرَاحَةُ تُحْبِطُ بِرَقَبَتِهِ وَ إِنْ كَانَتْ لَا تُحْبِطُ بِرَقَبَتِهِ افْتَدَاهُ مَوْلَاهُ فَإِنْ أَبِي مَوْلَاهُ أَنْ يَفْتَدِيَهُ كَانَ لِلْحُرِّ الْمَجْرُوحِ مِنَ الْعَبْدِ بِقَدْرِ دِيَةِ جِرَاحَتِهِ وَ الْبَاقِي لِلْمَوْلَى يُبَاغِ الْعَبْدُ فَيَأْخُذُ الْمَجْرُوحَ حَقَّهُ وَ يُرَدُّ الْبَاقِي عَلَى الْمَوْلَى .

⁸ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 8

⁹ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 9

¹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 10

¹¹ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 11

And from him, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Ali Bin Raib, from Al Fuzayl Bin Yasaar,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a slave having injured a free: 'If the free one so desires to he can retaliate from it, and if he so desires to he can seize him, if it was such that the injuries exceeded his freedom (price), and if it did not exceed his freedom price, his master has to ransom him. So if his master refuses to ransom him, there would be for the free one, the injured, a wergild of the measure of his injuries sustained, and the remainder would be for the master. The slave would be sold, so the injured would take his right, and return the remainder upon the master'.¹²

ابْنُ مَحْبُوبٍ عَنْ عَبْدِ الْعَزِيزِ الْعَبْدِيِّ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ شَجَّ عَبْدًا مُوضِحَةً قَالَ عَلَيْهِ نِصْفُ عَشْرِ قِيَمَتِهِ .

Ibn Mahboub, from Abdul Aziz Al Abdy, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who fractured a bone of a slave. He^{asws} said: 'Upon him is half of the tenth of his price'.¹³

ابْنُ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ عَبْدٍ قَطَعَ يَدَ رَجُلٍ حُرٍّ وَ لَهُ ثَلَاثُ أَصَابِعٍ مِنْ يَدِهِ شَلَّلٌ فَقَالَ وَ مَا قِيَمَةُ الْعَبْدِ فَلْتُ اجْعَلْهَا مَا شِئْتُمْ قَالَ إِنْ كَانَ قِيَمَةُ الْعَبْدِ أَكْثَرَ مِنْ دِيَةِ الْإِصْبَعَيْنِ الصَّحِيحَتَيْنِ وَ الثَّلَاثِ أَصَابِعِ الشَّلَّلِ رَدَّ الَّذِي قُطِعَتْ يَدُهُ عَلَى مَوْلَى الْعَبْدِ مَا فَضَلَ مِنَ الْقِيَمَةِ وَ أَخَذَ الْعَبْدَ وَ إِنْ شَاءَ أَخَذَ قِيَمَةَ الْإِصْبَعَيْنِ الصَّحِيحَتَيْنِ وَ الثَّلَاثِ أَصَابِعِ الشَّلَّلِ

Ibn Mahboub, from Al Hassan Bin Salih who said,

'I asked Abu Abdullah^{asws} about a slave who cut-off the hand of a free man, and for him were three paralysed fingers from his hand. So he^{asws} said: 'And what is the value of the slave?' I said, 'Make it to be whatever you^{asws} like'. He^{asws} said: 'If the value of the slave was more than the wergild of the two correct fingers, and the three paralysed fingers, the one whose hand was cut off has to return to the master of the slave whatever was the remainder from the value, and seize the slave; and if he so desire to he can take the value of the two correct fingers and the three paralysed fingers'.

قُلْتُ وَ كَمْ قِيَمَةُ الْإِصْبَعَيْنِ الصَّحِيحَتَيْنِ مَعَ الْكَفِّ وَ الثَّلَاثِ الْأَصَابِعِ [الشَّلَّلِ] قَالَ قِيَمَةُ الْإِصْبَعَيْنِ الصَّحِيحَتَيْنِ مَعَ الْكَفِّ أَلْفٌ دِرْهَمٌ وَ قِيَمَةُ الثَّلَاثِ الْأَصَابِعِ الشَّلَّلِ مَعَ الْكَفِّ أَلْفٌ دِرْهَمٌ لِأَنَّهَا عَلَى الثَّلَاثِ مِنْ دِيَةِ الصَّحَّاحِ

I said, 'And how much is the value of the two correct fingers along with the palm, and the three paralysed fingers?' He^{asws} said: 'The value of the two correct fingers along with the palm is two thousand Dirhams, and the value of the three paralysed fingers along with the palm is a thousand Dirhams, because it is the third from the wergild of the correct (fingers).

قَالَ وَ إِنْ كَانَ قِيَمَةُ الْعَبْدِ أَقَلَّ مِنْ دِيَةِ الْإِصْبَعَيْنِ الصَّحِيحَتَيْنِ وَ الثَّلَاثِ الْأَصَابِعِ الشَّلَّلِ دُفِعَ الْعَبْدُ إِلَى الَّذِي قُطِعَتْ يَدُهُ أَوْ يَفْتَدِيهِ مَوْلَاهُ وَ يَأْخُذُ الْعَبْدَ .

¹² Al Kafi – V 7 – The Book of Wergilds Ch 23 H 12

¹³ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 13

He^{asws} said: 'And if it was such that the value of the slave is less than the wergild of the two correct fingers, and the three paralysed fingers, the slave would be handed over to the one whose hand was cut off, or his master has to ransom him, and he can take the slave'.¹⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَمَّنْ رَوَاهُ قَالَ قَالَ يَلْزَمُ مَوْلَى الْعَبْدِ قِصَاصُ جِرَاحَةِ عَبْدِهِ مِنْ قِيَمَةِ دَيْتِهِ عَلَى حِسَابِ ذَلِكَ بِصِيرُ أَرْشِ الْجِرَاحَةِ وَإِذَا جَرَحَ الْحُرُّ الْعَبْدَ فَقِيَمَةُ جِرَاحَتِهِ مِنْ حِسَابِ قِيَمَتِهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from the one who reported it, said,

'He^{asws} said: 'It necessitates a master of the slave (to accept) the retaliation of an injury of his slave from the value of his wergild upon the accounting which comes to compensate for the injury; and when the free injures the slave, the value of his injury is from accounting of his (own) value'.¹⁵

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ جَمِيلٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ حُمْرَانَ جَمِيعاً عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي مُدَبَّرٍ قَتَلَ رَجُلًا خَطَأً قَالَ إِنْ شَاءَ مَوْلَاهُ أَنْ يُؤَدِّيَ إِلَيْهِمُ الدِّيَةَ وَ إِلَّا دَفَعَهُ إِلَيْهِمْ يَخْدُمُهُمْ فَإِذَا مَاتَ مَوْلَاهُ يَعْنِي الَّذِي أَعْتَقَهُ رَجَعَ حُرًّا وَ فِي رِوَايَةِ يُونُسَ لَا شَيْءَ عَلَيْهِ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Jameel, and Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Humran,

(It has been narrated) both together from Abu Abdullah^{asws} regarding a *Mudabbir* (slave promised freedom upon the death of his master), who killed a man in error. He^{asws} said: 'If his master so desires to he can pay the wergild to them, or else hand him over to them, for him to serve them. So when his master dies, meaning the one who (promised to) free him, he would return as free'. And in another report of Yunus: 'There would be nothing upon him'.¹⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ نُعَيْمِ بْنِ إِبْرَاهِيمَ عَنْ مَسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أُمُّ الْوَلَدِ جَنَابُهَا فِي حُقُوقِ النَّاسِ عَلَى سَيِّدِهَا وَ مَا كَانَ مِنْ حُقُوقِ اللَّهِ عَزَّ وَ جَلَّ فِي الْأَحْدُودِ فَإِنَّ ذَلِكَ فِي بَدَنِهَا قَالَ وَ يُقَاصُّ مِنْهَا لِلْمَمَالِكِ وَ لَا قِصَاصَ بَيْنَ الْحُرِّ وَ الْعَبْدِ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Nuaym Bin Ibrahim, from Misma'a Bin Abdul Malik,

Abu Abdullah^{asws} has said: 'A (slave) mother of the child, her crimes regarding the rights of the people are upon her master, and whatever was from the Rights of Allah^{azwj} Mighty and Majestic regarding the legal penalties (*Hadd*), so that would be upon her body; and there would be retaliation from it for the slaves, and there would be no retaliation between the free and the slave'.¹⁷

عَنْهُ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي عَبْدٍ فَقَأَ عَيْنَ حُرٍّ وَ عَلَى الْعَبْدِ دَيْنٌ إِنَّ عَلَى الْعَبْدِ حَدًّا لِلْمَقْضَى عَيْنُهُ وَ يَبْطُلُ دَيْنُ الْعُرْمَاءِ .

From him, from his father, from Al Nowfaly, from Al Sakuny,

¹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 13

¹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 15

¹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 16

¹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 17

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said regarding a slave who blinded an eye of a free, and upon the slave was a debt: 'Upon the slave is a legal penalty (*Hadd*) for the blinding of his eye, and it would invalidate the debt of the creditors'.¹⁸

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ لَهُ مَمْلُوكَانِ قَتَلَ أَحَدَهُمَا صَاحِبَهُ أَلَهُ أَنْ يُقَيِّدَهُ بِهِ دُونَ السُّلْطَانِ إِنْ أَحَبَّ ذَلِكَ قَالَ هُوَ مَالُهُ يَفْعَلُ بِهِ مَا يَشَاءُ إِنْ شَاءَ قَتَلَهُ وَ إِنْ شَاءَ عَفَا .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Is'haq Bin Ammar who said,

'I asked Abu Abdullah^{asws} about a man for whom were two slaves. One of the two killed his companion, is it for him that he can retaliate with him besides the ruling authorities, if he so likes that?' He^{asws} said: 'He was his property. He can do whatsoever he so desires to with him. If he so desires to, he can kill him, and if he so desires to he can pardon'.¹⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنِ الْخَطَّابِ بْنِ سَلَمَةَ عَنْ هِشَامِ بْنِ أَحْمَرَ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) عَنْ مُدَبِّرٍ قَتَلَ رَجُلًا خَطَأً قَالَ أَيُّ شَيْءٍ رُوَيْتُمْ فِي هَذَا قَالَ قُلْتُ رُوَيْنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ يُنْتَلُ بِرَمْتِهِ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَإِذَا مَاتَ الَّذِي دَبَّرَهُ أُعْتِقَ قَالَ سُبْحَانَ اللَّهِ فَيَبْطُلُ دَمُ امْرِئٍ مُسْلِمٍ قَالَ قُلْتُ هَكَذَا رُوَيْنَا قَالَ قَدْ غَطَّيْتُمْ عَلَيَّ أَبِي يُنْتَلُ بِرَمْتِهِ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَإِذَا مَاتَ الَّذِي دَبَّرَهُ اسْتَسْعَى فِي قِيَمَتِهِ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus, from Al Khattab Bin Salama, from Hisham Bin Ahmad who said,

'I asked Abu Al-Hassan^{asws} about a *Mudabbir* (slave promised freedom upon the death of his master), who killed a man in error. He^{asws} said: 'Which thing are you all reporting with regards to this?' I said, 'We are reporting from Abu Abdullah^{asws} having said: 'He would be completely handed over to the guardians of the killed one. So when the one who promised his freedom upon his own death were to die, he is free'. He^{asws} said: 'Glory be to Allah^{azwj}! So the blood of a Muslim person has been invalidated?' I said, 'This is how we are reporting it'. He^{asws} said: 'You are mistaken upon my^{asws} father^{asws}. He would be completely handed over to the guardians of the killed one. So when the one who promised him freedom upon his own death were to die, he has to work with regards to his value'.²⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي أَنْفِ الْعَبْدِ أَوْ ذَكَرَهُ أَوْ شَيْءٍ يُجْبِطُ بِتَمَنِيهِ أَنَّهُ يُؤَدِّي إِلَى مَوْلَاهُ قِيَمَةَ الْعَبْدِ وَ يَأْخُذُ الْعَبْدَ .

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from Yunus Bin Yaqoub, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a nose of the slave, or his manhood, or something which overcame his value, and he has to pay to his master the value of the slave, and take the slave'.²¹

بَابُ الْمَكَاتِبِ يَقْتُلُ الْحُرَّ أَوْ يَجْرَحُهُ وَ الْحُرُّ يَقْتُلُ الْمَكَاتِبَ أَوْ يَجْرَحُهُ

¹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 18

¹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 19

²⁰ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 20

²¹ Al Kafi – V 7 – The Book of Wergilds Ch 23 H 21

Chapter 24 – The contracted slave kills the free or injures him, and the free kills the contracted slave or injures him

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي مَكَاتِبٍ قُتِلَ قَالَ يُحْسَبُ مَا أَعْتَقَ مِنْهُ فَيُؤَدَّى دِيَةَ الْحُرِّ وَ مَا رَقَّ مِنْهُ فِدْيَةُ الْعَبْدِ.

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a contracted slave who was killed. He^{asws} said: 'It would be counted what (proportion) he was free from it, so he (the killer) would pay the wergild of the free, and what (proportion) he was still enslaved from it, is a ransom of the slave'.²²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادِ الْخَنَاطِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ مَكَاتِبٍ اشْتَرَطَ عَلَيْهِ مَوْلَاهُ حِينَ كَاتَبَهُ جَنَى إِلَى رَجُلٍ جِنَايَةً فَقَالَ إِنْ كَانَ أَدَى مِنْ مَكَاتِبِهِ شَيْئاً أَعْرَمَ فِي جِنَايَتِهِ بِقَدْرِ مَا أَدَى مِنْ مَكَاتِبَتِهِ لِلْحُرِّ فَإِنْ عَجَزَ عَنْ حَقِّ الْجِنَايَةِ شَيْئاً أَخَذَ ذَلِكَ مِنْ مَالِ الْمَوْلَى الَّذِي كَاتَبَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Abu Wallad Al Hannat who said,

'I asked Abu Abdullah^{asws} about a contracted slave, his master stipulated a condition upon him when he contracted him, he would pay to a man he commits a crime against. So he^{asws} said; 'If he has fulfilled something from his contract, he would be fined for his crime in accordance with what he has paid from his contract, to the free. So if he was frustrated from (paying) anything from the right of the crime, that would be taken from the wealth of the master who had contracted him'.

قُلْتُ فَإِنْ كَاتَبَ الْجِنَايَةَ لِلْعَبْدِ قَالَ فَقَالَ عَلَى مِثْلِ ذَلِكَ دُفِعَ إِلَى مَوْلَى الْعَبْدِ الَّذِي جَرَحَهُ الْمَكَاتِبُ وَ لَا تَقَاصَ بَيْنَ الْمَكَاتِبِ وَ بَيْنَ الْعَبْدِ إِذَا كَانَ الْمَكَاتِبُ قَدْ أَدَى مِنْ مَكَاتِبَتِهِ شَيْئاً فَإِنْ لَمْ يَكُنْ أَدَى مِنْ مَكَاتِبَتِهِ شَيْئاً فَإِنَّهُ يُقَاصُ الْعَبْدُ مِنْهُ أَوْ يُعْرَمُ الْمَوْلَى كُلُّ مَا جَنَى الْمَكَاتِبُ لِأَنَّهُ عَبْدُهُ مَا لَمْ يُؤَدِّ مِنْ مَكَاتِبَتِهِ شَيْئاً .

I said, 'If it was that the (compensation of the) crime was for the slave?' So he^{asws} said: 'A similar amount would be handed over to the master of the slave whom the contracted slave injured, and there would be no retaliation between the contracted slave and the (owned) slave when it was that the contracted slave had paid something off from his contract. So if he did not happen to have paid something off from his contract, so the slave would be retaliated from him, or the master would be fined for every crime which the contracted slave committed, because he is his slave, if he has not paid anything off from his contract'.²³

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ مَكَاتِبٍ قَتَلَ رَجُلًا خَطَأً قَالَ إِنْ كَانَ مَوْلَاهُ حِينَ كَاتَبَهُ اشْتَرَطَ عَلَيْهِ أَنْ عَجَزَ فَهُوَ رَدٌّ فِي الرِّقِّ فَهُوَ بِمَنْزِلَةِ الْمَمْلُوكِ يُدْفَعُ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَإِنْ شَاءُوا قَتَلُوا وَ إِنْ شَاءُوا بَاعُوا وَ إِنْ كَانَ مَوْلَاهُ حِينَ كَاتَبَهُ لَمْ يَسْتَرِطْ عَلَيْهِ وَ قَدْ كَانَ أَدَى مِنْ مَكَاتِبَتِهِ شَيْئاً فَإِنَّ عَلِيّاً (عَلَيْهِ السَّلَامُ) كَانَ يَقُولُ يُعْتَقُ مِنَ الْمَكَاتِبِ بِقَدْرِ مَا أَدَى مِنْ مَكَاتِبَتِهِ

Ibn Mahboub, from Abu Ayoub, from Muhammad Bin Muslim who said,

²² Al Kafi – V 7 – The Book of Wergilds Ch 24 H 1

²³ Al Kafi – V 7 – The Book of Wergilds Ch 24 H 2

'I asked Abu Ja'far^{asws} about a contracted slave who killed a man in error. So he^{asws} said: 'If it was the case that his master had stipulated upon him when he contracted him, that if he was frustrated (from paying), so he would return it with regards to the slave, so he would be at the status of the owned slave. He would be handed over to the guardians of the killed one, so if they so desire to they can kill him, and if they so desire to they can sell him. And if it was that his master, when he contracted him, did not stipulate upon him, and it was such that he had paid something off from his contract, so Ali^{asws} was saying: 'He would be free from the contract in proportionate to what he has paid off from his contract'.

فَإِنَّ عَلَى الْإِمَامِ أَنْ يُؤَدِّيَ إِلَى أَوْلِيَاءِ الْمُقْتُولِ مِنَ الدِّيَةِ بِقَدْرِ مَا أُعْتِقَ مِنَ الْمُكَاتَبِ وَ لَا يَبْطُلُ دَمُ امْرِئٍ مُسْلِمٍ وَ أَرَى أَنْ يَكُونَ مَا بَقِيَ عَلَى الْمُكَاتَبِ مِمَّا لَمْ يُؤَدِّهِ رِقًّا لِأَوْلِيَاءِ الْمُقْتُولِ يَسْتَحْدِمُونَهُ حَيَاتَهُ بِقَدْرِ مَا بَقِيَ عَلَيْهِ وَ لَيْسَ لَهُمْ أَنْ يَبِيعُوهُ .

Thus it would be upon the Imam^{asws} that he^{asws} pays the wergild to the guardians of the killed one in accordance to what he has been freed from the contract, and the blood of a Muslim person would not be invalidated. And I^{asws} see that whatever remains upon the contracted slave, from what he has not paid off, he would be enslaved to the guardians of the killed one, to serve them for his life, in proportionate to what remains upon him, and it would not be for them that they sell him'.²⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي مُكَاتَبٍ قَتَلَ رَجُلًا خَطَأً قَالَ عَلَيْهِ مِنْ دِيَّتِهِ بِقَدْرِ مَا أُعْتِقَ وَ عَلَى مَوْلَاهُ مَا بَقِيَ مِنْ قِيَمَةِ الْمَمْلُوكِ فَإِنْ عَجَزَ الْمُكَاتَبُ فَلَا عَاقِلَةَ لَهُ إِنَّمَا ذَلِكَ عَلَى إِمَامِ الْمُسْلِمِينَ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a contracted slave who killed a man in error. He^{asws} said: 'Upon him from his wergild, is in proportion to what he is free, and upon his master is what remains from the value of the price. So if the contracted slave is frustrated (from paying), so there is no blood (compensation) for him. But rather, that is upon the Imam^{asws} of the Muslims'.²⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ الْحَسَنِ بْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ حُرٍّ قَتَلَ عَبْدًا قِيَمَتُهُ عَشْرُونَ أَلْفَ دِرْهَمٍ فَقَالَ لَا يَجُوزُ أَنْ يُتَجَاوَزَ بِقِيَمَةِ عَبْدٍ أَكْثَرَ مِنْ دِيَّةِ حُرٍّ .

Ali Bin Ibrahim, from his father, from Al Hassan Bin Mahboub, from Al Hassan Bin Salih,

(It has been narrated) from Abu Abdullah^{asws} regarding a free man who kills a slave who value is twenty thousand Dirham. So he^{asws} said: 'It is not allowed that the value of a slave should be more than the wergild of a free'.²⁶

²⁴ Al Kafi – V 7 – The Book of Wergilds Ch 24 H 3

²⁵ Al Kafi – V 7 – The Book of Wergilds Ch 24 H 4

²⁶ Al Kafi – V 7 – The Book of Wergilds Ch 24 H 5

بَابُ الْمُسْلِمِ يَقْتُلُ الدَّمِيَّ أَوْ يَجْرَحُهُ وَ الدَّمِيَّ يَقْتُلُ الْمُسْلِمَ أَوْ يَجْرَحُهُ أَوْ يَقْتَصُّ بَعْضُهُمْ بَعْضًا

Chapter 25 – The Muslim kills the *Zimmy* or injures him, and the *Zimmy* kills the Muslim or injures him, or they retaliate against each other

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ دِيَّةُ الْيَهُودِيِّ وَ النَّصْرَانِيِّ وَ الْمَجُوسِيِّ ثَمَانِمِائَةٌ دِرْهَمٌ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ibn Muskan,

Abu Abdullah^{asws} has said: 'Wergild of the Jew, and the Christian, and the Magian, is eight hundred Dirhams'.²⁷

وَ عَنْهُ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِذَا قَتَلَ الْمُسْلِمُ يَهُودِيًّا أَوْ نَصْرَانِيًّا أَوْ مَجُوسِيًّا فَأَرَادُوا أَنْ يُقِيدُوا رَدُّوا فَضْلَ دِيَّةِ الْمُسْلِمِ وَ أَقَادُوهُ .

And from him, from Ibn Muskan,

Abu Abdullah^{asws} has said: 'When the Muslim kills a Jew, or a Christian, or a Magian, so they intend that they retaliate, they have to return the excess wergild to the (guardians of the) Muslim, and retaliate him'.²⁸

وَ عَنْهُ عَنِ زُرْعَةَ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ مُسْلِمٍ قَتَلَ رَجُلًا مِنْ أَهْلِ الدِّمَّةِ فَقَالَ هَذَا حَدِيثٌ شَدِيدٌ لَا يَحْتَمِلُهُ النَّاسُ وَ لَكِنْ يُعْطَى الدَّمِيَّ دِيَّةَ الْمُسْلِمِ ثُمَّ يُقْتَلُ بِهِ الْمُسْلِمُ .

And from him, from Zurara, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} regarding a Muslim man who kills a man from the *Zimmy* people. So he^{asws} said: 'This is a harsh Hadeeth, the people cannot bear it, but the *Zimmy* has to give the wergild of the Muslim, then the Muslim would be killed due to it'.²⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ أَوْ غَيْرِهِ عَنْ أَبِيَانَ عَنْ إِسْمَاعِيلَ بْنِ الْفَضْلِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ دِمَاءِ الْمَجُوسِ وَ الْيَهُودِ وَ النَّصَارَى هَلْ عَلَيْهِمْ وَ عَلَى مَنْ قَتَلَهُمْ شَيْءٌ إِذَا عَشُوا الْمُسْلِمِينَ وَ أَظْهَرُوا الْعَدَاوَةَ لَهُمْ قَالَ لَا إِلَّا أَنْ يَكُونَ مُتَعَوِّدًا لِقَتْلِهِمْ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, or someone else, from Aban, from Ismail Bin Al Fazl who said,

'I asked Abu Abdullah^{asws} about blood of the Magian, and the Jew, and the Christian, is there anything upon them and upon the one who kills them, when they overcome the Muslims and display enmity to them?' He^{asws} said: 'No, except if he is habitual in killing them'.

قَالَ وَ سَأَلْتُهُ عَنِ الْمُسْلِمِ هَلْ يُقْتَلُ بِأَهْلِ الدِّمَّةِ وَ أَهْلِ الْكِتَابِ إِذَا قَتَلَهُمْ قَالَ لَا إِلَّا أَنْ يَكُونَ مُتَعَادًا لِذَلِكَ لَا يَدْعُ قَتْلَهُمْ فَيُقْتَلُ وَ هُوَ صَاحِرٌ .

²⁷ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 1

²⁸ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 2

²⁹ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 3

He (the narrator) said: 'And I asked him^{asws} about the Muslim, would he be killed due to the Zimmy people, and the People of the Book, when he kills them?' He^{asws} said: 'No, except if it happens to be habitual for that, not leaving killing them, so he would be killed due to it, and he would be belittled'.³⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الْحَسَنِ الرِّضَا (عَلَيْهِ السَّلَام) مِثْلَهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Al Fuzayl,

(It has been narrated) from Abu Al Hassan Al Reza^{asws} – similat to it'.

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبَانَ بْنِ تَغْلِبٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) إِبْرَاهِيمُ يَزْعُمُ أَنَّ دِيَةَ الْيَهُودِيِّ وَ النَّصْرَانِيِّ وَ الْمَجُوسِيِّ سَوَاءٌ فَقَالَ نَعَمْ قَالَ الْحَقُّ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Mansour Bin Hazim, from Aban Bin Taghlab who said,

'I said to Abu Abdullah^{asws}, 'Ibrahim is alleging that the wergild of the Jews, and the Christians, and the Magians, is the same'. So he^{asws} said: 'Yes, he said the truth'.³¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) كَانَ يَقُولُ يُقْتَلُ لِلنَّصْرَانِيِّ وَ الْيَهُودِيِّ وَ الْمَجُوسِيِّ بَعْضُهُمْ مِنْ بَعْضٍ وَ يُقْتَلُ بَعْضُهُمْ بِبَعْضٍ إِذَا قَتَلُوا عَمْدًا .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} was saying: 'For the Christians, and the Jews, and the Magians, there would be retaliation from each other, and they would be killed for each other when they kill deliberately'.³²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِبٍ عَنْ ضُرَيْبِ بْنِ الْكُنَاسِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي نَصْرَانِيٍّ قَتَلَ مُسْلِمًا فَلَمَّا أَخَذَ أَسْلَمَ قَالَ أَقْتَلُهُ بِهِ قِيلَ وَ إِنْ لَمْ يُسَلِّمْ قَالَ يُدْفَعُ إِلَى أَوْلِيَاءِ الْمَقْتُولِ [فَإِنْ شَاءُوا قَتَلُوا وَ إِنْ شَاءُوا عَفَوْا وَ إِنْ شَاءُوا اسْتَرْقَوْا وَ إِنْ كَانَ مَعَهُ مَالٌ دَفِعَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ] هُوَ وَ مَالُهُ .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim from his father, both together from Ibn Mahboub, from Ibn Raib, from Zureys Al Kunasy,

(It has been narrated) from Abu Ja'far^{asws} regarding a Christian who killed a Muslim. So when he was seized, he became a Muslim. He^{asws} said: 'He would be killed due to it'. It was said: 'And if he had not become a Muslim?' He^{asws} said: 'He would be handed over to the guardians of the killed one (if they so desire to they kill him, and if they so desire to they pardon him, and if they so desire to they enslave him, and if there was wealth with him, it would be handed over to the guardians of the killed one), him and his wealth'.³³

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَصَّالَةَ بْنِ أَيُّوبَ عَنْ أَبِي الْمَغْرَاءِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا قَتَلَ الْمُسْلِمُ النَّصْرَانِيَّ فَارَادَ أَهْلُ النَّصْرَانِيَّةِ أَنْ يَقْتُلُوهُ قَتَلُوهُ وَ أَدَوْا فَضْلَ مَا بَيْنَ الدِّينَيْنِ .

³⁰ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 4

³¹ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 5

³² Al Kafi – V 7 – The Book of Wergilds Ch 25 H 6

³³ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 7

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Abu Al Magra, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the Muslim kills the Christian, so the family of the Christian intend to kill him, they can kill him and pay the excess of what is between the two Wergilds'.³⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ لَا يُقَادُ مُسْلِمٌ بِذَمِّي فِي الْقَتْلِ وَلَا فِي الْجِرَاحَاتِ وَ لَكِنْ يُؤْخَذُ مِنَ الْمُسْلِمِ جَنَائِئُهُ لِلذَّمِّيِّ عَلَى قَدْرِ دِيَّةِ الذَّمِّيِّ ثَمَانِمِائَةَ دِرْهَمٍ .

Ali Bin Ibrahim, from his father, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Raib, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'A Muslim would not be retaliated regarding the killing, nor with regards to the injuries, but (the compensation) for his crime would be taken from the Muslim for the *Zimmy*, in accordance with the wergild of the *Zimmy*, eight hundred Dirhams'.³⁵

ابْنُ مَحْبُوبٍ عَنْ ابْنِ رَبَائٍ عَنْ بُرَيْدِ الْعَجَلِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ مُسْلِمٍ فَقَالَ عَيْنٌ نَصْرَانِيٍّ فَقَالَ إِنَّ دِيَّةَ عَيْنِ النَّصْرَانِيِّ أَرْبَعُمِائَةَ دِرْهَمٍ .

Ibn Mahboub, from Ibn Raib, from Bureyd Al Ajaly who said,

'I asked Abu Abdullah^{asws} about a Muslim man who blinded an eye of a Christian. So he^{asws} said: 'The wergild of an eye of a Christian is four hundred Dirhams'.³⁶

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ وَ ابْنِ بُكَيْرٍ عَنْ لَيْثِ الْمُرَادِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ دِيَّةِ النَّصْرَانِيِّ وَ الْيَهُودِيِّ وَ الْمَجُوسِيِّ قَالَ دِيَّتُهُمْ جَمِيعاً سَوَاءً ثَمَانِمِائَةَ دِرْهَمٍ ثَمَانِمِائَةَ دِرْهَمٍ .

Ibn Mahboub, from Abu Ayoun, and Ibn Bukeyr, from Lays Al Murady who said,

'I asked Abu Abdullah^{asws} about the wergild of the Christian, and the Jew, and the Magian. He^{asws} said: 'Their wergilds are all the same – eight hundred Dirhams, eight hundred Dirhams'.³⁷

حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمِثَمِيِّ عَنْ أَبَانَ عَنْ إِسْمَاعِيلَ بْنِ الْفَضْلِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الْمُسْلِمِ هَلْ يُقْتَلُ بِأَهْلِ الذَّمِّ قَالَ لَا إِلَّا أَنْ يَكُونَ مُعَوِّدًا لِقَتْلِهِمْ فَيُقْتَلُ وَ هُوَ صَاحِرٌ .

Humejd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ahmad Bin Al Hassan Al Maysami, from Aban, from Ismail Bin Al Fazl who said,

'I asked Abu Abdullah^{asws} about the Muslim, would he be killed due to the Zimmy people?' He^{asws} said: 'No, except if he happens to be habitual of killing them, so he would be killed, and he would be belittled'.³⁸

³⁴ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 8

³⁵ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 9

³⁶ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 10

³⁷ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 11

³⁸ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 12

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنِ الْأَصَمِّ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) قَضَى فِي جَنِينِ الْيَهُودِيَّةِ وَ النَّصْرَانِيَّةِ وَ الْمُجُوسِيَّةِ عَشْرَ دِينَةٍ أُمِّهِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Al Asamma, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} judged regarding foetuses of the Jews, and the Christians, and the Magians to be a tenth of the wergild of its mother'.³⁹

بَاب مَا تَجِبُ فِيهِ الدِّيَّةُ كَامِلَةً مِنَ الْجَرَاحَاتِ الَّتِي دُونَ النَّفْسِ وَ مَا يَجِبُ فِيهِ نِصْفُ الدِّيَّةِ وَ التُّلْثُ وَ التُّلْثَانِ

Chapter 26 – Regarding what Obligates the complete wergild from the injuries which are less than fatal, and regarding what is Obligated half the wergild, and the third, and the two thirds

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ أَنَّهُ عَرَضَ عَلَى أَبِي الْحَسَنِ الرَّضَا (عَلَيْهِ السَّلَام) كِتَابَ الدِّيَاتِ وَ كَانَ فِيهِ فِي ذَهَابِ السَّمْعِ كُلِّهِ أَلْفُ دِينَارٍ وَ الصَّوْتِ كُلِّهِ مِنَ الْعَنَنِ وَ الْبَحِّحِ أَلْفُ دِينَارٍ وَ شَلْلِ الْيَدَيْنِ كِلْتَيْهِمَا [وَ] الشَّلْلِ كُلِّهِ أَلْفُ دِينَارٍ وَ شَلْلِ الرَّجْلَيْنِ أَلْفُ دِينَارٍ وَ الشَّقَقَيْنِ إِذَا اسْتَوْصِلْنَا أَلْفُ دِينَارٍ وَ الظَّهْرِ إِذَا حَدَبَ أَلْفُ دِينَارٍ وَ الذِّكْرِ إِذَا اسْتَوْصِلَ أَلْفُ دِينَارٍ وَ الْبَيْضَتَيْنِ أَلْفُ دِينَارٍ وَ فِي صُدُغِ الرَّجُلِ إِذَا أُصِيبَ فَلَمْ يَسْتَطِعْ أَنْ يَلْتَفِتَ إِلَّا مَا انْحَرَفَ الرَّجُلُ نِصْفُ الدِّيَّةِ خَمْسِمِائَةَ دِينَارٍ فَمَا كَانَ دُونَ ذَلِكَ فَبِحِسَابِهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus and a number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Isa,

(It has been narrated) from Yunus who presented to Abu Al-Hassan Al-Reza^{asws} a book of the wergild, and there was in it for the loss of the hearing, all of it, a thousand Dinars, and (the loss of) the voice, all of it, from the sound of the nose and the hoarse sound, to be a thousand Dinars, and the paralysis of the two hands, of both of them, and the paralyses, all of it to be of a thousand Dinars, and paralyses of the two feet being a thousand Dinars, and the two lips when severed, being a thousand Dinars, and the back when it humps, a thousand Dinars, and the manhood when it is severed, a thousand Dinars, and the two testicles being a thousand Dinars, and regarding the temple of the man when it is hit, so he is not able to turn except by swerving, is half the wergild, five hundred Dinars. So whatever was less than that, that would be by its counting'.⁴⁰

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ عَنِ الرَّضَا (عَلَيْهِ السَّلَام) مِثْلَهُ .

Ali, from his father, from Ibn Fazzal,

(It has been narrated) from Al-Reza^{asws}, similar to it'.

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عَيْسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الْيَدِ فَقَالَ نِصْفُ الدِّيَّةِ وَ فِي الْأُذُنِ نِصْفُ الدِّيَّةِ إِذَا قَطَعَهَا مِنْ أَصْلِهَا .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at who said,

³⁹ Al Kafi – V 7 – The Book of Wergilds Ch 25 H 12

⁴⁰ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 1

'I asked about the hand, so he^{asws} said: 'Half the wergild, and regarding the ears, half the wergild when these are cut off from its roots'.⁴¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الرَّجُلِ يُكْسَرُ ظَهْرُهُ قَالَ فِيهِ الدِّيَةُ كَامِلَةٌ وَفِي الْعَيْنَيْنِ الدِّيَةُ وَفِي إِحْدَاهُمَا نِصْفُ الدِّيَةِ وَفِي الْأَذْنَيْنِ الدِّيَةُ وَفِي إِحْدَاهُمَا نِصْفُ الدِّيَةِ وَفِي الذَّكَرِ إِذَا قُطِعَتِ الْحَشْفَةُ وَ مَا فَوْقَ الدِّيَةِ وَفِي الْأَنْفِ إِذَا قُطِعَ الْمَارِئُ الدِّيَةُ وَفِي الشَّفَتَيْنِ الدِّيَةُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the man who broke his back. He^{asws} said: 'Regarding it is the complete wergild; and regarding the two eyes is the (complete) wergild, and regarding one of the two is half the wergild; and regarding the two ears is the (complete) wergild, and regarding of the two is half the wergild; and regarding the manhood when it's tip is cut off and what is above, is the (complete) wergild; and regarding the nose when the soft parts are cut off, and regarding the two lips is the (complete) wergild'.⁴²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْأَنْفِ إِذَا اسْتَوْصِلَ جَدْعُهُ الدِّيَةُ وَفِي الْعَيْنِ إِذَا قُوتَتْ نِصْفُ الدِّيَةِ وَفِي الْأَذْنِ إِذَا قُطِعَتْ نِصْفُ الدِّيَةِ وَفِي الْيَدِ نِصْفُ الدِّيَةِ وَفِي الذَّكَرِ إِذَا قُطِعَ مِنْ مَوْضِعِ الْحَشْفَةِ الدِّيَةُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} regarding the nose when its stump is eradicated, is the (complete) wergild; and regarding the eye when it is blinded is half the wergild; and regarding the ear when it is cut, is half the wergild; and regarding the hand is half the wergild; and regarding the manhood when it is cut off from the place of the tip, is the (complete) wergild'.⁴³

إِبْنُ مَحْبُوبٍ عَنْ أَبِي جَمِيلَةَ عَنْ أَبِيَانَ بْنِ تَغْلِبٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الشَّفَةِ السُّفْلَى سِتَّةَ آلَافٍ وَفِي الْعُلْيَا أَرْبَعَةَ آلَافٍ لِأَنَّ السُّفْلَى تُمْسِكُ الْمَاءَ .

Ibn Mahboub, from Abu Jameela, from Aban Bin Taghlab,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Regarding the lower lip is six thousand, and regarding the upper lip is four thousand, because the lower (lip) retains the water'.⁴⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ وَ مُحَمَّدِ بْنِ خَالِدٍ عَنِ الْقَاسِمِ بْنِ عُرْوَةَ عَنِ ابْنِ بُكَيْرٍ عَنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الْيَدِ نِصْفُ الدِّيَةِ وَفِي الْيَدَيْنِ جَمِيعاً الدِّيَةُ وَفِي الرَّجُلَيْنِ كَذَلِكَ وَفِي الذَّكَرِ إِذَا قُطِعَتِ الْحَشْفَةُ وَ مَا فَوْقَ ذَلِكَ الدِّيَةُ وَفِي الْأَنْفِ إِذَا قُطِعَ الْمَارِئُ الدِّيَةُ وَفِي الشَّفَتَيْنِ الدِّيَةُ وَفِي الْعَيْنَيْنِ الدِّيَةُ وَفِي إِحْدَاهُمَا نِصْفُ الدِّيَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, and Muhammad Bin Khalid, from Al Qasim Bin Urwat, from Ibn Bukeyr, from Zurara,

⁴¹ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 2

⁴² Al Kafi – V 7 – The Book of Wergilds Ch 26 H 3

⁴³ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 4

⁴⁴ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 5

(It has been narrated) from Abu Abdullah^{asws} having said: 'Regarding the hand is half the wergild; and regarding the two hands together is the (complete) wergild; and regarding the two feet is similar to that; and regarding the manhood when the tip is cut off, and what is above that, is the (complete) wergild; and regarding the nose when the soft parts are cut off, is the (complete) wergild; and regarding the two lips is the (complete) wergild; and regarding the two eyes is the (complete) wergild, and regarding of the two is half the wergild'.⁴⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجْلِ الْوَاحِدَةِ نِصْفُ الدِّيَةِ وَ فِي الْأُذُنِ نِصْفُ الدِّيَةِ إِذَا قَطَعَهَا مِنْ أَصْلِهَا وَ إِذَا قَطَعَهَا طَرَفَهَا فَبِهَا قِيَمَةٌ عَدَلٍ وَ فِي الْأَنْفِ إِذَا قَطَعَتِ الدِّيَةَ كَامِلَةً وَ فِي الظُّهْرِ إِذَا انْكَسَرَ حَتَّى لَا يُنْزَلَ صَاحِبُهُ الْمَاءَ الدِّيَةَ كَامِلَةً وَ فِي الذَّكَرِ إِذَا قَطَعَتِ الدِّيَةَ كَامِلَةً وَ فِي اللِّسَانِ إِذَا قَطَعَتِ الدِّيَةَ كَامِلَةً .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zurara, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws}: 'Regarding the one leg is half the wergild; and regarding the ear is half the wergild when it is cut off from its roots, and when it is cut from its surroundings, so regarding it is a just value; and regarding the nose when it is cut, is the complete wergild; and regarding the back when it is broken to the extents that its owner cannot bring down the semen, is the complete wergild; and regarding the manhood when it is cut off, is the complete wergild; and regarding the tongue when it is cut off is the complete wergild'.⁴⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي سُلَيْمَانَ الْحَمَّارِ عَنْ بُرَيْدِ الْعَجَلِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ كَسِرَ صُلْبُهُ فَلَا يَسْتَطِيعُ أَنْ يَجْلِسَ أَنْ فِيهِ الدِّيَةُ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Suleyman Al Hammar, from Bureyd Al Ajaly,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who broke his back, so he was not able to sit, that regarding it is the (complete) wergild'.⁴⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ الْعَلَاءِ بْنِ الْفُضَيْلِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا قَطَعَتِ الْأَنْفَ مِنَ الْمَارِنِ فِيهِ الدِّيَةُ تَامَةً وَ فِي أَسْنَانِ الرَّجُلِ الدِّيَةَ تَامَةً وَ فِي أُذُنَيْهِ الدِّيَةَ كَامِلَةً وَ الرَّجْلَانِ وَ الْعَيْنَانِ بَيْنَكَ الْمَنْزِلَةَ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Sinan, from Al A'ala Bin Al Fuzayl,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the nose is cut from the soft parts, so regarding it is the complete wergild; and regarding the teeth of the man is the complete wergild; and regarding his ears is the complete wergild; and the two feet, and the two eyes are at that status'.⁴⁸

⁴⁵ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 6

⁴⁶ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 7

⁴⁷ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 8

⁴⁸ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 9

عَلِيٌّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ صَالِحِ بْنِ عُقْبَةَ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ قَالَ تَزَوَّجَ جَارٌ لِي امْرَأَةً فَلَمَّا أَرَادَ مُوَاقَعَتَهَا رَفَسَتْهُ بِرِجْلِهَا فَفُتِقَتْ بَيْضَتُهُ فَصَارَ أَدْرَ فَكَانَ بَعْدَ ذَلِكَ يَنْكُحُ وَ يُؤَلِّدُ لَهُ فَسَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنْ ذَلِكَ وَ عَنْ رَجُلٍ أَصَابَ سُرَّةَ رَجُلٍ فَفَتَّقَهَا فَقَالَ (عَلَيْهِ السَّلَامُ) فِي كُلِّ فَتْقٍ ثُلُثُ الدِّيَةِ .

Ali Bin Muhammad Bin Isa, from Yunus, from Salih Bin Uqba, from Muawiya Bin Ammar who said,

'A neighbour of mine married a woman. So when he intended to copulate with her, she kicked him with her leg and ruptured his testicles, so they became swollen. So after that he copulated with her and she gave birth to a child for him. So I asked Abu Abdullah^{asws} about that, and about a man whose navel was ruptured. So he^{asws} said: 'Regarding all ruptures is a third of the wergild'.⁴⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ كَثِيرٍ بَعْضُ صُؤُوبِهِ فَلَمْ يَمْلِكْ اسْتَنْهَ فَمَا فِيهِ مِنَ الدِّيَةِ فَقَالَ الدِّيَةُ كَامِلَةٌ

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Hisham Bin Salim, from Suleyman Bin Khalid who said,

'I asked Abu Abdullah^{asws} about a man who broke his tail bone (coccyx), so he lost control of his excretion, so what was with regards to it from the wergild. So he^{asws} said: 'The complete wergild'.

قَالَ وَ سَأَلْتُهُ عَنْ رَجُلٍ وَقَعَ بِجَارِيَةٍ فَأَفْضَاهَا وَ كَانَتْ إِذَا نَزَلَتْ بِتِلْكَ الْمَنْزِلَةِ لَمْ تَلِدْ قَالَ الدِّيَةُ كَامِلَةٌ .

He (the narrator) said, 'And I asked him^{asws} about a man who copulated with a slave girl, so he was rough with her, and when she came down from that situation, she could no longer give birth. He^{asws} said: 'The complete wergild'.⁵⁰

عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يُضْرَبُ عَلَى عِجَانِهِ فَلَا يَسْتَمْسِكُ غَائِطُهُ وَ لَا بَوْلُهُ إِنَّ فِي ذَلِكَ الدِّيَةَ كَامِلَةً .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Is'haq Bin Ammar who said,

'I heard Abu Abdullah^{asws} saying: 'Amir Al-Momineen^{asws} judged regarding the man who was struck upon his lower area, so he could no longer withhold his faeces nor his urine - regarding that is the complete wergild'.⁵¹

عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي دَكْرِ الصَّبِيِّ الدِّيَةُ وَ فِي دَكْرِ الْعَيْنِينَ الدِّيَةُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'Regarding a male part of the child is the (complete) wergild, and regarding the male part of an impotent man is the (complete) wergild'.⁵²

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ بُرَيْدِ الْعَجَلِيِّ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ فِي دَكْرِ الْغُلَامِ الدِّيَةُ كَامِلَةٌ .

⁴⁹ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 10

⁵⁰ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 11

⁵¹ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 12

⁵² Al Kafi – V 7 – The Book of Wergilds Ch 26 H 13

Ibn Mahboub, from Abu Ayoub, from Bureyd Al Ajaly,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Regarding the manhood of the slave is the complete wergild'.⁵³

ابْنُ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ سَيَّابَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَوْ أَنَّ رَجُلًا قَطَعَ فَرْجَ امْرَأَةٍ لِأَعْرَمَتِهَا دَيْتَهَا فَإِنَّ لَمْ يُؤَدَّ إِلَيْهَا الدِّيَةَ قَطَعَتْ لَهَا فَرْجَهُ إِنَّ طَلَبْتَ ذَلِكَ .

Ibn Mahboub, from Abdul Rahman Bin Sayaba,

Abu Abdullah^{asws} has said: 'If a man were to cut the female part of a woman, I^{asws} would fine him her wergild. So if he were not to pay the wergild to her, I^{asws} would cut off his male part if she were to seek that'.⁵⁴

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عليه السلام) مَا تَرَى فِي رَجُلٍ ضَرَبَ امْرَأَةً شَاتِيَةً عَلَى بَطْنِهَا فَعَقَرَ رَحِمَهَا فَأَفْسَدَ طَمَثُهَا وَذَكَرَتْ أَنَّهَا قَدِ ارْتَفَعَتْ طَمَثُهَا عَنْهَا لِذَلِكَ وَ قَدْ كَانَ طَمَثُهَا مُسْتَقِيمًا قَالَ يَنْتَظِرُ بِهَا سَنَةً فَإِنْ رَجَعَ طَمَثُهَا إِلَى مَا كَانَ وَ إِلَّا اسْتُحْلِفَتْ وَ عُرِّمَ ضَارِبُهَا ثَلَاثَ دِيَّيْنَهَا لِفَسَادِ رَحِمِهَا وَ انْقِطَاعِ طَمَثِهَا .

Ibn Mahboub, from Hisham Bin Salim, from Abu baseer who said,

'I said to Abu Ja'far^{asws}, 'What is your^{asws} view regarding a man who struck a woman upon her belly, so her womb was misplaced and it spoilt her menstruation'; and I mentioned, 'It stopped her menstruation from her due to that, and her menstruations had been firm beforehand'. He^{asws} said: 'It would be awaited for her for a year, so if her menstruations were to come back to what they used to be, or else she would be made to wear an oath (for her state), and her attacker would be fined a third of the wergild due to spoiling her womb, and cutting off her menstruations'.⁵⁵

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فِي رَجُلٍ قَطَعَ نَدْيَ امْرَأَتِهِ قَالَ إِذْ أَعْرَمَتْ لَهَا يُصَفِّ الدِّيَةَ .

Ibn Mahboub, from Hisham Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who cut off a breast of his wife. He^{asws} said: 'Then he would be fined half a wergild for her'.⁵⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَارِثِ بْنِ مُحَمَّدِ بْنِ النُّعْمَانِ صَاحِبِ الطَّاقِ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ (عليه السلام) فِي رَجُلٍ أَقْتَضَ جَارِيَةً يَعْنِي امْرَأَتَهُ فَأَقْضَاهَا قَالَ عَلَيْهِ الدِّيَةُ إِنْ كَانَ دَخَلَ بِهَا قَبْلَ أَنْ تَبْلُغَ تِسْعَ سِنِينَ قَالَ فَإِنْ كَانَ أَمْسَكَهَا وَ لَمْ يُطَلِّقْهَا فَلَا شَيْءَ عَلَيْهِ وَ إِنْ كَانَ دَخَلَ بِهَا وَ لَهَا تِسْعَ سِنِينَ فَلَا شَيْءَ عَلَيْهِ إِنْ شَاءَ أَمْسَكَ وَ إِنْ شَاءَ طَلَّقَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Al Haris Bin Muhammad Bin Al Noman Sahib Al Taaq, from Bureyd Bin Muawiya,

⁵³ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 14

⁵⁴ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 15

⁵⁵ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 16

⁵⁶ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 17

(It has been narrated) from Abu Ja'far^{asws} regarding a man who caused injuries to the genitals of his slave girl, meaning his wife. He^{asws} said: 'Upon him is the (complete) wergild if he had copulated with her before she had reached nine years of age'. He^{asws} said: 'If he were to keep her and not divorce her, so there is nothing upon him, and if he had copulated with her, and she was nine years of age, so there is nothing upon him; if he so desires to he keeps, and if he so desires to, he divorces'.⁵⁷

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فِي الْقَلْبِ إِذَا رَعَدَ فَطَارَ الدِّيَةُ قَالَ وَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فِي الصَّعْرِ الدِّيَةُ وَ الصَّعْرُ أَنْ يُنْتَى عُنُقُهُ فَيَصِيرَ فِي نَاحِيَةٍ .

A number of our copanions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun from Abdullah Bin Abdul Rahman, from Misma'a Bin Abdul Malik,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'Rasool-Allah^{saww} said: 'With regards to the heart when it is shaken so it is damaged, is the (complete) wergild'. He^{asws} said: 'And Rasool-Allah^{saww} said: 'With regards to the contortion of the neck is the (complete) wergild; and the contortion is that his neck gets bent and it comes to be on its side'.⁵⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يُضْرَبُ عَلَى عَجَانِهِ فَلَا يَسْتَمْسِكُ غَائِطُهُ وَ لَا بَوْلُهُ أَنَّ فِي ذَلِكَ الدِّيَةَ كَامِلَةً .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Is'haq Bin Ammar who said,

'I heard Abu Abdullah^{asws} saying: 'Amir Al-Momineen^{asws} judged regarding the man who was struck upon his lower part, so he was no longer able to withhold his faeces nor his urine, that with regards to that is the complete wergild'.⁵⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ صَالِحِ بْنِ عُقَيْبَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَهُ رَجُلٌ وَ أَنَا عِنْدَهُ عَنْ رَجُلٍ ضَرَبَ رَجُلًا فَفُطِعَ بَوْلُهُ فَقَالَ إِنْ كَانَ الْبَوْلُ يَمُرُّ إِلَى اللَّيْلِ فَعَلَيْهِ الدِّيَةُ لِأَنَّهُ قَدْ مَنَعَهُ الْمَعِيشَةَ وَ إِنْ كَانَ إِلَى آخِرِ النَّهَارِ فَعَلَيْهِ الدِّيَةُ وَ إِنْ كَانَ إِلَى نِصْفِ النَّهَارِ فَعَلَيْهِ ثُلُثَا الدِّيَةِ وَ إِنْ كَانَ إِلَى ارْتِفَاعِ النَّهَارِ فَعَلَيْهِ ثُلُثُ الدِّيَةِ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Ismail, from Salih Bin Uqba, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah^{asws}, said, 'A man asked him^{asws} and I was in his^{asws} presence, 'A man struck a man, so his urine was intermittent. So he^{asws} said: 'If it was that the urine trickled into the night, so upon him is the (complete) wergild, because it has prevented him from the livelihood; and if it was into the end of the day, so upon him is the (complete) wergild; and if it was into half the day, so upon him is a third of the wergild; and if it was into the raising of the day, so upon his is a third of the wergild'.⁶⁰

⁵⁷ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 18

⁵⁸ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 19

⁵⁹ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 20

⁶⁰ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 21

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَا كَانَ فِي الْجَسَدِ مِنْهُ اثْنَانِ فِي الْوَاحِدِ نِصْفُ الدِّيَةِ مِثْلُ الْيَدَيْنِ وَالْعَيْنَيْنِ

Ali Bin Ibrahim, from his father, from Ahmad Bin Muhammad Bin Abu Nasr, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having said: 'There is nothing in the body which are two, so with regards to one of them is half the wergild, like the two hands, and the two eyes'.

قَالَ فَقُلْتُ رَجُلٌ قُتِبَتْ عَيْنُهُ قَالَ نِصْفُ الدِّيَةِ قُلْتُ فَرَجُلٌ قُتِبَتْ يَدُهُ قَالَ فِيهِ نِصْفُ الدِّيَةِ قُلْتُ فَرَجُلٌ ذَهَبَتْ إِحْدَى بَيْضَتَيْهِ قَالَ إِنْ كَانَتْ الْيَسَارَ فَبِهَا الدِّيَةُ قُلْتُ وَ لِمَ أَلَيْسَ قُلْتُ مَا كَانَ فِي الْجَسَدِ اثْنَانِ فِي كُلِّ وَاحِدٍ نِصْفُ الدِّيَةِ قَالَ لِأَنَّ الْوَلَدَ مِنَ الْبَيْضَةِ الْيُسْرَى .

He (the narrator) said, 'So I said, 'A man was blinded with an eye. He^{asws} said: 'Half the wergild'. I said, 'So a man whose hand is cut off?' He^{asws} said: 'Regarding it is half the wergild'. I said, 'So the man, one of his testicles goes away?' He^{asws} said: 'If it was the left one, so with regards to it is the (complete) wergild'. I said, 'And why? Did you^{asws} not say; 'Whatever were two in the body, so with regards to each one is half the wergild?' He^{asws} said: 'Because the birth is from the left testicle'.⁶¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي اللَّحْيَةِ إِذَا حُلِقَتْ فَلَمْ تَنْبُتِ الدِّيَةَ كَامِلَةً فَإِذَا نَبَتَتْ قُنُتْ الدِّيَةُ.

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the beard when it is shaved-off, so it does not grow back, is the complete wergild. So if it does grow back, so it is a third of the wergild'.⁶²

سَهْلُ بْنُ زِيَادٍ عَنْ عَلِيِّ بْنِ خَالِدٍ عَنْ بَعْضِ رِجَالِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ الرَّجُلُ يَدْخُلُ الْحَمَّامَ فَيَصُبُّ عَلَيْهِ صَاحِبُ الْحَمَّامِ مَاءً حَارًّا فَيَمْتَعَطُ شَعْرُ رَأْسِهِ فَلَا يَنْبُتُ فَقَالَ عَلَيْهِ الدِّيَةُ كَامِلَةً .

Sahl Bin Ziyad, from Ali Bin Khalid, from one of his men,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said, 'The man enters the (public) baths, so the owner of the baths splashes hot water upon him, so the hair of his head withers away, so it does not grow back'. So he^{asws} said: 'Upon him is the complete wergild'.⁶³

⁶¹ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 22

⁶² Al Kafi – V 7 – The Book of Wergilds Ch 26 H 23

⁶³ Al Kafi – V 7 – The Book of Wergilds Ch 26 H 24

بَاب الرَّجُلِ يَقْتُلُ الرَّجُلَ وَهُوَ نَاقِصُ الْخَلْقَةِ**Chapter 27 – The man kills the man and he is deficient of the creation (disabled)**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ سَوْرَةَ بْنِ كَلْبٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنْ رَجُلٍ قَتَلَ رَجُلًا عَمْدًا وَ كَانَ الْمَقْتُولُ أَقْطَعَ الْيَدِ الْيُمْنَى فَقَالَ إِنْ كَانَتْ يَدُهُ قُطِعَتْ فِي جَنَابَةِ جَنَاهَا عَلَى نَفْسِهِ أَوْ كَانَ قُطِعَ فَأَخَذَ دِيَّةَ يَدِهِ مِنَ الَّذِي قَطَعَهَا فَإِنْ أَرَادَ أَوْلِيَاؤُهُ أَنْ يَقْتُلُوا قَاتِلَهُ أَدُّوا إِلَى أَوْلِيَاءِ قَاتِلِهِ دِيَّةَ يَدِهِ الَّتِي قَبِدَ مِنْهَا وَ إِنْ كَانَ أَخَذَ دِيَّةَ يَدِهِ وَ يَقْتُلُوهُ وَ إِنْ شَاءُوا طَرَحُوا عَنْهُ دِيَّةَ يَدِهِ وَ أَخَذُوا الْبَاقِي

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together, from Ibn Mahboub, from Hisham Bin salim, from sowrat Bin Kuleyb,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} was asked about a man who killed a man deliberately, and the killed one was with the right hand cut off. So he^{asws} said; 'If it was such that his hand was cut off during a crime which was committed against himself, or it was cut so he took a wergild from the one who had cut it, so if his guardians (of the killed) one intend that they kill him (the killer), they can kill him and pay to the guardians of the killer a wergild of his hand which was retaliated from; even if it was that he had taken the wergild of his hand, and they kill him; and if they so desire to they subtract the wergild of his hand from it, and take the remainder'.

قَالَ وَ إِنْ كَانَتْ يَدُهُ قُطِعَتْ مِنْ غَيْرِ جَنَابَةِ جَنَاهَا عَلَى نَفْسِهِ وَ لَا أَخَذَ بِهَا دِيَّةً قَتَلُوا قَاتِلَهُ وَ لَا يُعْرَمُ شَيْئًا وَ إِنْ شَاءُوا أَخَذُوا دِيَّةً كَامِلَةً

He^{asws} said: 'If it was that his hand was cut from other than a crime committed against himself, and a wergild was not taken by it, his killer would be killed and would not be fined anything; and if they so desire to, they take the complete wergild'.

قَالَ وَ هَكَذَا وَ جَدْنَا فِي كِتَابِ عَلِيِّ (عَلَيْهِ السَّلَامُ) .

He^{asws} said: 'And this is how we^{asws} have found it to be in the Book of Ali^{asws},⁶⁴

بَاب نَادِرٌ**Chapter 28 - Miscellaneous**

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الْحَسَنِ بْنِ الْعَبَّاسِ بْنِ الْحَرِيشِ عَنْ أَبِي جَعْفَرِ الثَّانِي (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَبُو جَعْفَرِ الْأَوَّلُ (عَلَيْهِ السَّلَامُ) لِعَبْدِ اللَّهِ بْنِ عَبَّاسٍ يَا أَبَا عَبَّاسٍ أَسْأَلُكَ اللَّهُ هَلْ فِي حُكْمِ اللَّهِ تَعَالَى اخْتِلَافٌ قَالَ فَقَالَ لَا قَالَ فَمَا تَرَى فِي رَجُلٍ ضَرَبَ رَجُلًا أَصَابِعَهُ بِالسَّيْفِ حَتَّى سَقَطَتْ فَذَهَبَتْ وَ أَتَى رَجُلٌ آخَرَ فَأَطَارَ كَفَّ يَدِهِ فَأَتَى بِهِ إِلَيْكَ وَ أَنْتَ قَاضٍ كَيْفَ أَنْتَ صَانِعٌ

A number of our companions, from Sahl Bin Ziyad, from Al Hassan Bin Al Abbas Bin Al Hareysh,

(It has been narrated) from Abu Ja'far^{asws} the 2nd having said: 'Abu Ja'far^{asws} the 1st said to Abdullah Bin Abbas: 'O Ibn Abbas! I^{asws} hereby adjure you with Allah^{azwj}, is there a discrepancy in a Judgement of Allah^{azwj} the High?' He said, 'No'. He^{asws} said:

⁶⁴ Al Kafi – V 7 – The Book of Wergilds Ch 27 H 1

'So what is your view regarding a man who struck a man's fingers with the sword to the extent that they fell, so they were gone, and another man came over so he severs the palm of his hand. So they come up with him to you, and you are a judge. How would you deal with it?'

قَالَ أَقُولُ لِهَذَا الْقَاطِعِ أَعْطَاهُ دِيَّةَ كَفِّ وَ أَقُولُ لِهَذَا الْمُقْطُوعِ صَالِحُهُ عَلَى مَا نَبَّهْتَ أَوْ أَبَعْتَ إِلَيْهِمَا دَوِي عَدْلٍ فَقَالَ لَهُ جَاءَ الْإِخْتِلَافُ فِي حُكْمِ اللَّهِ وَ نَقَضَتْ الْقَوْلَ الْأَوَّلَ أَبِي اللَّهِ أَنْ يُحَدَّثَ فِي خَلْقِهِ شَيْءٌ مِنَ الْحُدُودِ وَ لَيْسَ تَفْسِيرُهُ فِي الْأَرْضِ أَقْطَعُ يَدَ قَاطِعِ الْكَفِّ أَصْلًا ثُمَّ أَعْطَاهُ دِيَّةَ الْأَصَابِعِ هَذَا حُكْمُ اللَّهِ تَعَالَى .

He said, 'I would say to this cutter to give a wergild for the palm, and I would say to his cut one that he should reconcile whatever he so desires to, or I would sent to them two just persons (for reconciliation)'. So he^{asws} said to him: 'There would be differing in the Judgement of Allah^{azwj} and the first words would be overturned. Allah^{azwj} has Refused that anything from the legal penalties (*Hadd*) be innovated among His^{azwj} creatures, and there is no interpretation for it in the earth. Cut off the hand of the palm cutter then give him a wergild for the fingers. This is the Judgement of Allah^{azwj} the High'.⁶⁵

باب دِيَّةِ عَيْنِ الْأَعْمَى وَ يَدِ الْأَسْلَى وَ لِسَانِ الْأَخْرَسِ وَ عَيْنِ الْأَعْوَرِ

Chapter 29 – Wergild for the eye of the blind, and a hand of the paralytic, and a tongue of the mute, and an eye of the one-eyed

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ قَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ أَعْوَرَ أَصِيبَتْ عَيْنُهُ الصَّحِيحَةُ فَفَقَعْتُ أَنْ تُفَقِّأَ إِحْدَى عَيْنَيْ صَاحِبِهِ وَ يُعَقَّلَ لَهُ نِصْفُ الدِّيَّةِ وَ إِنْ شَاءَ أَخَذَ دِيَّةً كَامِلَةً وَ يُعْفَى عَنْ عَيْنِ صَاحِبِهِ .

Ali Bin Ibrahim, from his father, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays who said,

'Abu Ja'far^{asws} said: 'Amir Al-Momineen^{asws} judged regarding a one-eyed man whose correct eye was hit, so it was blinded: 'He can blind an eye of his companions and pay him half the wergild, and if he so desires to, he can take the complete wergild, and forgive an eye of his companion'.⁶⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي عَيْنِ الْأَعْوَرِ الدِّيَّةُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer,

Abu Abdullah^{asws} has said: 'With regards to an eye of the one-eyed, is the (complete) wergild'.⁶⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي عَيْنِ الْأَعْوَرِ الدِّيَّةُ كَامِلَةً .

⁶⁵ Al Kafi – V 7 – The Book of Wergilds Ch 28 H 1

⁶⁶ Al Kafi – V 7 – The Book of Wergilds Ch 29 H 1

⁶⁷ Al Kafi – V 7 – The Book of Wergilds Ch 29 H 2

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'With regards to an eye of the one-eyed, is the complete wergild'.⁶⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ حَمَّادِ بْنِ زِيَادٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ فِي رَجُلٍ قَطَعَ يَدَ رَجُلٍ شَلَاءً قَالَ عَلَيْهِ ثُلُثُ الدِّيَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hammad Bin Ziyad, from Suleyman Bin Khalid –

With regards to a man whose paralysed hand was cut by a man. He^{asws} said: 'Upon him (the cutter) is a third of the wergild'.⁶⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُوسَى بْنِ الْحَسَنِ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْحَمِيدِ عَنْ أَبِي جَمِيلَةَ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي جَعْفَرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) [أَنَّهُ قَالَ] فِي الْعَيْنِ الْعُورَاءِ تَكُونُ قَائِمَةً فَتُخَسَفُ فَقَالَ قَضَى فِيهَا عَلِيُّ بْنُ أَبِي طَالِبٍ (عَلَيْهِ السَّلَامُ) نِصْفَ الدِّيَةِ فِي الْعَيْنِ الصَّحِيحَةِ .

Muhammad Bin Yahya, from Musa Bin Al Hassan, from Muhammad Bin Abdul Hameed, from Abu Jameela, from Abdullah Bin Suleyman, from Abdullah Bin Abu Ja'far,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the eye of the one-eyed which was firm, then it blurred out. So he^{asws} said: 'Ali^{asws} Bin Abu Talib^{asws} had judged with regards to it being half the wergild for the healthy eye'.⁷⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ فِي لِسَانِ الْأُخْرَسِ وَعَيْنِ الْأَعْمَى وَذَكَرِ الْخَصِيِّ وَأُنْتِيهِ ثُلُثُ الدِّيَةِ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Bureyd Bin Muawiya,

(It has been narrated) from Abu Ja'far^{asws} having said: 'With regards to a tongue of the mute, and an eye of the blind, and one of castrated manhood and his testicles, is a third of the wergild'.⁷¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَهُ بَعْضُ آلِ زُرَّارَةَ عَنْ رَجُلٍ قَطَعَ لِسَانَ رَجُلٍ أُخْرَسَ [قَالَ] إِنْ كَانَ وَلَدَتْهُ أُمُّهُ وَهُوَ أُخْرَسٌ فَعَلَيْهِ ثُلُثُ الدِّيَةِ وَ إِنْ كَانَ لِسَانُهُ ذَهَبَ بِهِ وَجَعٌ أَوْ آفَةٌ بَعْدَ مَا كَانَ يَتَكَلَّمُ فَإِنَّ عَلَى الذِّي قَطَعَ لِسَانَهُ ثُلُثُ دِيَّةٍ لِسَانِهِ قَالَ وَ كَذَلِكَ الْقَضَاءُ فِي الْعَيْنَيْنِ وَ الْجَوَارِحِ

Ali Bin Ibrahim, from his father, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Hisham Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws}, said, 'One of the progeny of Zurara asked him^{asws} about a man who cut the tongue of a mute man. So he^{asws} said: 'If it was such that his mother gave birth to him and he was mute, so upon him is a third of the wergild; and if it was such that his tongue went away by illness or affliction after

⁶⁸ Al Kafi – V 7 – The Book of Wergilds Ch 29 H 3

⁶⁹ Al Kafi – V 7 – The Book of Wergilds Ch 29 H 4

⁷⁰ Al Kafi – V 7 – The Book of Wergilds Ch 29 H 5

⁷¹ Al Kafi – V 7 – The Book of Wergilds Ch 29 H 6

him having spoken beforehand, so upon the one who cut his tongue is a third of the wergild of his tongue; and similar to that is the judgement regarding the two eyes, and the limbs’.

قَالَ هَكَذَا وَجَدْنَاهُ فِي كِتَابِ عَلِيٍّ (عليه السلام) .

He^{asws} said: ‘This is how we^{asws} found it to be in the Book of Ali^{asws}’.⁷²

عَلِيٌّ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ أَبِي جَمِيلَةَ عَنْ مُفَضَّلِ بْنِ صَالِحٍ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ فَقَأَ عَيْنَ رَجُلٍ ذَاهِبَةً وَ هِيَ قَائِمَةٌ قَالَ عَلَيْهِ رُبُعُ ذِيَةِ الْعَيْنِ .

Ali, from his father, from Ahmad Bin Muhammad Bin Abu Nasr, from Abu Jameela, from Mufazzal Bin Salih, from Abdullah Bin Suleyman,

(It has been narrated) from Abu Abdullah^{asws}, regarding a man who blinded an eye of a man, (whose vision) had gone, and it (the eye) was firm’. He^{asws} said: ‘Upon him is the quarter of the wergild of an eye’.⁷³

بَابُ أَنَّ الْجُرُوحَ قِصَاصٌ

Chapter 30 – (For) the injuries there is retaliation

عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ عَنْ سُلَيْمَانَ الدَّهَّانِ عَنْ رِفَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِنَّ عُثْمَانَ أَتَاهُ رَجُلٌ مِنْ قَيْسِ بَمَوْلَى لَهُ قَدْ أَطَمَ عَيْنَهُ فَأَنْزَلَ الْمَاءَ فِيهَا وَ هِيَ قَائِمَةٌ لَيْسَ يُبْصِرُ بِهَا شَيْئًا فَقَالَ لَهُ أُعْطِيكَ الذِّيَّةَ فَأَبَى

Ali Bin Ibrahim, from his father, from IBn Fazzal, from Suleyman Al Dahhan, from Rafa’at,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘They came to Usman with a man from Qays along with a master of his who had slapped his eye, so the water kept dripping in it, and it was firm but he could not visualise anything with it. So he said to him, ‘I can give you the wergild’. But, he refused.

قَالَ فَأَرْسَلَ بِهِمَا إِلَيَّ (عليه السلام) وَ قَالَ احْكُمْ بَيْنَ هَذَيْنِ فَأَعْطَاهُ الذِّيَّةَ فَأَبَى قَالَ فَلَمْ يَزَالُوا يُعْطُونَهُ حَتَّى أُعْطُوهُ دِيْنَتَيْنِ قَالَ فَقَالَ لَيْسَ أُرِيدُ إِلَّا الْقِصَاصَ

He^{asws} said, ‘So he sent someone with both of them to Ali^{asws} and said, ‘Judge between these two’. So he^{asws} gave him the wergild, but he refused. So he^{asws} did not cease to give him until he^{asws} gave him two wergilds. So he said, ‘I do not want anything except for the retaliation’.

قَالَ فَدَعَا عَلِيٌّ بِمِرْآةٍ فَحَمَاهَا ثُمَّ دَعَا بِكُرْسُفٍ فَبَلَّهَ ثُمَّ جَعَلَهُ عَلَى أَشْفَارِ عَيْنَيْهِ وَ عَلَى حَوَالِيهَا ثُمَّ اسْتَقْبَلَ بِعَيْنَيْهِ عَيْنَ الشَّمْسِ قَالَ وَ جَاءَ بِالْمِرْآةِ فَقَالَ أَنْظِرْ فَنَظَرَ فَذَابَ الشُّحْمُ وَ بَقِيَتْ عَيْنُهُ قَائِمَةً وَ ذَهَبَ الْبُصْرُ .

He^{asws} said: ‘So Ali^{asws} called for a mirror, so he^{asws} heated it. Then he^{asws} called for the cotton, so he^{asws} put fuel in it, then made it to be upon the lids of his eyes, and around them. Then he^{asws} made him face with his eyes towards the sun, and came

⁷² Al Kafi – V 7 – The Book of Wergilds Ch 29 H 7

⁷³ Al Kafi – V 7 – The Book of Wergilds Ch 29 H 8

with the mirror. So he^{asws} said: 'Look (into this)!' So he looked, and the grease melted, and his eye remained firm, and his vision was gone'.⁷⁴

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ تُفْطَعُ يَدُ الرَّجُلِ وَ رِجْلُهُ فِي الْفِصَاصِ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Is'haq Bin Ammar, from Abu Baseer who said,

'I heard Abu Abdullah^{asws} saying: 'The hand of the man and his leg would be cut regarding the retaliation'.⁷⁵

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) أَعُورٌ فَقَالَ عَيْنٌ صَحِيحٌ فَقَالَ تَفْقَأُ عَيْنَهُ قَالَ قُلْتُ بِنَفْسِي أَعْمَى قَالَ الْحَقُّ أَعْمَاهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Humejd, from Muhammad Bin Qays who said,

'I said to Abu Ja'far^{asws}, 'A one-eye man blinded an eye of a correct one'. So he^{asws} said: 'His eye would be blinded'. I said, 'He would remain as blind'. He^{asws} said: 'It is the right (of the victim) who has been blinded'.⁷⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ حَبِيبِ السَّجِسْتَانِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ قَطَعَ يَدَيْنِ لِرَجُلَيْنِ الْيَمِينَيْنِ قَالَ فَقَالَ يَا حَبِيبُ تُقَطِّعُ يَمِينَهُ لِلرَّجُلِ الَّذِي قَطَعَ يَمِينَهُ أَوَّلًا وَ تُقَطِّعُ يَسَارَهُ لِلرَّجُلِ الَّذِي قَطَعَ يَمِينَهُ آخِرًا لِأَنَّهُ إِنَّمَا قَطَعَ يَدَ الرَّجُلِ الْآخِرِ وَ يَمِينَهُ فِصَاصٌ لِلرَّجُلِ الْأَوَّلِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hisham Bin Salim, from Habeeb Al Sajistany who said,

'I asked Abu Ja'far^{asws} about a man who cut two right hands of two men. O Habeeb! His right hand would be cut for the first man whose right hand he had cut, and his left would be cut for the last man whose right hand he had cut, because he cut the hand of the last one, and his own right hand had already been cut in retaliation for the first man'.

قَالَ فَقُلْتُ إِنَّ عَلِيًّا (عَلَيْهِ السَّلَامُ) إِنَّمَا كَانَ يَقَطِّعُ الْيَدَ الْيُمْنَى وَ الرَّجْلَ الْيُسْرَى قَالَ فَقَالَ إِنَّمَا كَانَ يُفْعَلُ ذَلِكَ فِيمَا يَجِبُ مِنْ حُقُوقِ اللَّهِ فَأَمَّا يَا حَبِيبُ حُقُوقُ الْمُسْلِمِينَ فَإِنَّهُ يُؤْخَذُ لَهُمْ حُقُوقُهُمْ فِي الْفِصَاصِ الْيَدُ بِالْيَدِ إِذَا كَانَتْ لِلْقَاطِعِ يَدٌ وَ الرَّجُلُ بِالْيَدِ إِذَا لَمْ يَكُنْ لِلْقَاطِعِ يَدٌ

He (the narrator) said, 'But rather, Ali^{asws} used to cut the right hand and the left leg?' So he^{asws} said: 'But rather, he^{asws} used to do that with regards to what was Obligated from the Rights of Allah^{azwj}. O Habeeb! So, as for the rights of the Muslims, he^{asws} used to take their rights for them with regards to the retaliation, the hand for the hand, if it was such that the cutter had a hand and a leg, and the leg for the hand when there did not happen to be a hand for the cutter'.

فَقُلْتُ لَهُ أَوْ مَا يَجِبُ عَلَيْهِ الدِّيَّةُ وَ يُتْرَكُ لَهُ رِجْلُهُ فَقَالَ إِنَّمَا يَجِبُ عَلَيْهِ الدِّيَّةُ إِذَا قَطَعَ يَدَ رَجُلٍ وَ لَيْسَ لِلْقَاطِعِ يَدَانِ وَ لَا رِجْلَانِ فَتَمَّ يَجِبُ عَلَيْهِ الدِّيَّةُ لِأَنَّهُ لَيْسَ لَهُ جَارِحَةٌ يُقَاصُّ مِنْهَا .

⁷⁴ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 1

⁷⁵ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 2

⁷⁶ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 3

So I said to him, 'Or does it not Obligate the wergild upon him, and his leg is left for him?' So he^{asws} said: 'But rather, it Obligated the wergild upon him when a hand of a man is cut, and there are no two hands or two legs for the cutter, so then the wergild would be Obligated upon him, because there is no limb for him to be retaliated from'.⁷⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِيمَا كَانَ مِنْ جِرَاحَاتِ الْجَسَدِ أَنْ فِيهَا الْقِصَاصُ أَوْ يَقْبَلُ الْمَجْرُوحُ دِيَّةَ الْجِرَاحَةِ فَيُعْطَاهَا .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged with regards to what was from the injuries of the body, that regarding these is the retaliation, or the injured one can accept the wergild for the injuries, so he should be given it'.⁷⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي رَجُلٍ كَسَرَ يَدَ رَجُلٍ ثُمَّ بَرَأَتْ يَدُ الرَّجُلِ قَالَ لَيْسَ فِي هَذَا قِصَاصٌ وَ لَكِنْ يُعْطَى الْأَرشَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed, from Jameel Bin Darraj, from one of our companions,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding a man who broke a hand of a man, then the hand of the man was cured. He^{asws} said: 'There is no retaliation regarding this, but he would be given the compensation'.⁷⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ السِّنِّ وَ الذَّرَاعِ يُكْسَرَانِ عَمْدًا أَلَهُمَا أَرشٌ أَوْ قَوْدٌ فَقَالَ قَوْدٌ قَالَ قُلْتُ فَإِنْ أضعَفُوا الدِّيَةَ فَقَالَ إِنْ أَرْضَوْهُ بِمَا شَاءَ فَهُوَ لَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweud, from Aasim Bin Humejd, from Abu Baseer,

(The narrator) says, 'I asked Abu Abdullah^{asws} about the teeth and the arms which are both broken deliberately, is there a compensation for these two, or retaliation?' So he^{asws} said: 'Retaliation'. I said, 'So if they were to double the wergild?' So he^{asws} said: 'If they please him with whatever he so desires to, so it is for him'.⁸⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ أَبِي عُمَيْرٍ وَ عَلِيِّ بْنِ حَدِيدٍ جَمِيعاً عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) أَنَّهُ قَالَ فِي سِنِّ الصَّبِيِّ يَضْرِبُهَا الرَّجُلُ فَتَسْقُطُ ثُمَّ تَنْبُتُ قَالَ لَيْسَ عَلَيْهِ قِصَاصٌ وَ عَلَيْهِ الْأَرشُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Abu Umeyr and Ali Bin Hadeed both together, from Jameel Bin Darraj, from one of his companions,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said with regards to teeth of a child, the man having struck these, so they fall off, then they

⁷⁷ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 4

⁷⁸ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 5

⁷⁹ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 6

⁸⁰ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 7

grow back: 'There is no retaliation upon him, and upon him is (payment of) the compensation'.

قَالَ عَلِيُّ وَ سَأَلَ جَمِيلٌ كَمْ الْأَرْضُ فِي سِنَّ الصَّبِيِّ وَ كَسَرَ الْيَدِ فَقَالَ شَيْءٌ يَسِيرٌ وَ لَمْ يَرَ فِيهِ شَيْئاً مَعْلوماً .

Ali^{asws} said, 'And Jameel asked, 'How much is the compensation regarding teeth of the child, and breaking a hand?' So he^{asws} said: 'Something small, and I^{asws} do not see anything definite with regards to it'.⁸¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ عَنْ أَبِيَانَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ أُعُورٍ فَقَالَ عَيْنٌ صَحِيحٌ مُنْعَمًا فَقَالَ تَفَقَّأَ عَلَيْهِ قُلْتُ يَكُونُ أَعْمَى قَالَ فَقَالَ الْحَقُّ أَعْمَاهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Saeed, from Fazalat, from Aban, from a man,

(The narrator) says, 'I asked Abu Abdullah^{asws} about a one-eyed man who blinded an eye of the healthy one deliberately. So he^{asws} said: 'His eye would be blinded'. I said, 'He would become (completely) blind'. So he^{asws} said: 'It is the right (of the victim) which would have been blinded by him'.⁸²

بَاب مَا يُمْتَحَنُ بِهِ مَنْ يُصَابُ فِي سَمْعِهِ أَوْ بَصَرِهِ أَوْ غَيْرِ ذَلِكَ مِنْ جَوَارِحِهِ وَ الْقِيَاسِ فِي ذَلِكَ

Chapter 31 – What he is tested with, the one who is hit regards to his hearing, or his sight, or other than that from his limbs, and the quantification regarding that

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي رَجُلٍ ضَرَبَ رَجُلًا فِي رَأْسِهِ فَتَقَلَّ لِسَانُهُ أَنَّهُ يُعْرَضُ عَلَيْهِ حُرُوفُ الْمُعْجَمِ كُلِّهَا ثُمَّ يُعْطَى الدِّيَةَ بِحِصَّةٍ مَا لَمْ يُفْصِحْ مِنْهَا .

Ali Bin Ibrahim, from his father, from Ibn Mahboub and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having said: 'With regard to a man who struck a man in his head, so his tongue became heavy, there would be presented to him the letters of the alphabet, all of them. Then he would be given the wergild by the counting of what he could not pronounce correctly from these'.⁸³

عَنْهُ عَنْ أَبِيهِ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغْبِرَةِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ ضَرَبَ رَجُلًا بَعْصاً عَلَى رَأْسِهِ فَتَقَلَّ لِسَانُهُ فَقَالَ يُعْرَضُ عَلَيْهِ حُرُوفُ الْمُعْجَمِ فَمَا أَفْصَحَ مِنْهُ بِهِ وَ مَا لَمْ يُفْصِحْ بِهِ كَانَ عَلَيْهِ الدِّيَةُ وَ هِيَ تِسْعَةٌ وَ عَشْرُونَ حَرْفًا .

From him, from his father, from Abdullah Bin Al Mugheira, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who struck a man with a stick upon his head, so his tongue became heavy. So he^{asws} said: 'There would be presented to him the letter of the alphabet, so whatever he pronounces eloquently

⁸¹ Al Kafi – V 7 – The Book of Wergilds Ch 30 H 8

⁸² Al Kafi – V 7 – The Book of Wergilds Ch 30 H 9

⁸³ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 1

from it, and whatever he cannot pronounce eloquently from it, the wergild would be (based) upon it, and these are twenty nine letters'.⁸⁴

عَنْهُ عَنْ أَبِيهِ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ فِي رَجُلٍ ضَرَبَ رَجُلًا فِي أُذُنِهِ بَعْظَمٍ فَادَّعَى أَنَّهُ لَا يَسْمَعُ قَالَ يُرْصَدُ وَ يُسْتَعْفَلُ وَ يُنْتَظَرُ بِهِ سَنَةٌ فَإِنْ سَمِعَ أَوْ شَهِدَ عَلَيْهِ رَجُلَانِ أَنَّهُ يَسْمَعُ وَ إِلَّا خَلَفَهُ وَ أَعْطَاهُ الدِّيَةَ

From him, from his father, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Abu Ayoub, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having said with regards to a man who struck a man in his ear with a bone, so he claimed that he cannot hear. He^{asws} said: 'He would be placed under surveillance and would be awaited with for a year. So if he hears, or two men testify against him that he can hear, or else he would be made to swear an oath, and he would be given the wergild'.

قِيلَ يَا أَمِيرَ الْمُؤْمِنِينَ فَإِنْ عَثَرَ عَلَيْهِ بَعْدَ ذَلِكَ أَنَّهُ يَسْمَعُ قَالَ إِنْ كَانَ اللَّهُ عَزَّ وَ جَلَّ رَدَّ عَلَيْهِ سَمْعَهُ لَمْ أَرَ عَلَيْهِ شَيْئاً .

It was said, 'O Amir Al-Momineen^{asws}! So if it was discovered afterwards that he can hear?' He^{asws} said: 'If Allah^{azwj} Mighty and Majestic Returns his hearing, I^{asws} do not see anything upon him'.⁸⁵

عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ وُجِيَ فِي أُذُنِهِ فَادَّعَى أَنَّ إِحْدَى أُذُنَيْهِ نَقَصَ مِنْ سَمْعِهَا شَيْءٌ قَالَ قَالَ تَسُدُّ الَّتِي ضَرَبْتَ سَدًّا شَدِيدًا وَ تُفْتَحُ الصَّحِيحَةَ فَيُضْرَبُ لَهَا بِالْجَرَسِ حِيَالَ وَجْهِهِ وَ يُقَالُ لَهُ اسْمَعْ فَإِذَا خَفِيَ عَلَيْهِ الصَّوْتُ عَلَّمَ مَكَانَهُ ثُمَّ يُضْرَبُ بِهِ مِنْ خَلْفِهِ وَ يُقَالُ لَهُ اسْمَعْ فَإِذَا خَفِيَ عَلَيْهِ الصَّوْتُ عَلَّمَ مَكَانَهُ ثُمَّ يُقَاسُ مَا بَيْنَهُمَا فَإِنْ كَانَا سَوَاءً عَلَّمَ أَنَّهُ قَدْ صَدَقَ

Ali, from his father, from Ibn Mahboub, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding a man was hit in his ear, so he claimed that one of his ears is deficient from hearing anything. He^{asws} said: 'The struck ear would be covered up with an intense covering, and the correct ear would be kept open. So the bell would be sounded towards his face and it would be said to him, 'Listen'. So when the sound is hidden to him, its place would be noted. Then it (the bell) would be sounded from behind him, and it would be said to him, 'Listen'. So when the sound is hidden from him its place would be noted. Then it would be measured what is between the two. So if it was the same, it would be known that he is speaking the truth.

ثُمَّ يُؤْخَذُ بِهِ عَنْ يَمِينِهِ ثُمَّ يُضْرَبُ حَتَّى يَخْفَى عَلَيْهِ الصَّوْتُ ثُمَّ يُعَلَّمُ مَكَانَهُ ثُمَّ يُؤْخَذُ بِهِ عَنْ يَسَارِهِ فَيُضْرَبُ حَتَّى يَخْفَى عَلَيْهِ الصَّوْتُ ثُمَّ يُعَلَّمُ مَكَانَهُ ثُمَّ يُقَاسُ مَا بَيْنَهُمَا فَإِنْ كَانَ سَوَاءً عَلَّمَ أَنَّهُ قَدْ صَدَقَ

Then he would be seized by it from his right. Then it (the bell) would be sounded until the sound is hidden from him. Then its place would be noted. Then he would be seized by it from his left. So it (the bell) would be sounded until the sound is hidden from him. Then its place would be noted. There it would be measured what is between the two. So if it was the same, it would be known that he is speaking the truth.

⁸⁴ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 2

⁸⁵ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 3

قَالَ ثُمَّ تَفْتَحُ أُذُنَهُ الْمُعْتَلَّةَ وَ تُسَدُّ الْأُخْرَى سَدًّا جَيِّدًا ثُمَّ يُضْرَبُ بِالْجَرَسِ مِنْ قُدَامِهِ ثُمَّ يُعْلَمُ حَيْثُ يَخْفَى عَلَيْهِ الصَّوْتُ يُصْنَعُ بِهِ كَمَا صُنِعَ أَوَّلَ مَرَّةٍ بِأُذُنِهِ الصَّحِيحَةَ ثُمَّ يُقَاسُ فَضْلُ مَا بَيْنَ الصَّحِيحَةِ وَ الْمُعْتَلَّةِ بِحِسَابِ ذَلِكَ .

He^{asws} said: 'Then his damaged ear would be opened up, and the other one would be closed with a new covering. Then the bell would be struck from in front of him. Then the sounds would be hidden from him, and he would be dealt with just as he had been dealt with the first time around, with his healthy ear. Then to find the difference of the hearing (abilities) of both ears to calculate a fair compensation on the basis of the differences that may have happened between the two ears.⁸⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا ضُرِبَ الرَّجُلُ عَلَى رَأْسِهِ فَتَقَلَّ لِسَانُهُ عَرِضَتْ عَلَيْهِ حُرُوفُ الْمُعْجَمِ يُقْرَأُ ثُمَّ قُسِمَتِ الدِّيَةُ عَلَى حُرُوفِ الْمُعْجَمِ فَمَا لَمْ يُفْصَحْ بِهِ الْكَلَامَ كَانَتْ الدِّيَةُ بِالْقِيَاسِ مِنْ ذَلِكَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man is struck upon his head, so his tongues becomes heavy, the letters of the alphabet would be presented to him. He would read, then the wergild would be divided upon the letters of the alphabet. So whatever he could not pronounce eloquently with the speech, the wergild would be quantified by the measurement from that'.⁸⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِيَانَ بْنِ عُثْمَانَ عَنِ الْحَسَنِ بْنِ كَثِيرٍ عَنْ أَبِيهِ قَالَ قَالَ أُصَيْبُتُ عَيْنُ رَجُلٍ وَ هِيَ قَائِمَةٌ فَأَمَرَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَرَبَطَتْ عَيْنَهُ الصَّحِيحَةَ وَ أَقَامَ رَجُلًا بِجِدَاهُ بِيَدِهِ بِيَضَّةٍ يَقُولُ هَلْ تَرَاهَا قَالَ فَجَعَلَ إِذَا قَالَ نَعَمْ تَأَخَّرَ قَلِيلًا حَتَّى إِذَا خَفِيَتْ عَلَيْهِ عَمَّ ذَلِكَ الْمَكَانُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from one of his companions, from Aban Bin Usman, from Al Hassan Bin Kaseer, from his father who said,

'An eye of a man was hit, and it was firm (in its place). So Amir Al-Momineen^{asws} ordered for his healthy eye to be tied up (blindfolded), and got a man to stand in front of him with an egg in his hand. He^{asws} said to him: 'Can you see it?' So when he said, 'Yes, he^{asws} made him to stand away a little more, (repeating the process) until it was hidden from him (could not see it anymore), he^{asws} noted that place.

قَالَ وَ عُصَبَتْ عَيْنُهُ الْمُصَابَةَ وَ جَعَلَ الرَّجُلُ يَتْبَاعِدُ وَ هُوَ يَنْظُرُ بِعَيْنِهِ الصَّحِيحَةَ حَتَّى إِذَا خَفِيَتْ عَلَيْهِ ثُمَّ قِيسَ مَا بَيْنَهُمَا فَأُعْطِيَ الْأَرْضَ عَلَى ذَلِكَ .

He^{asws} said: 'And he^{asws} tied up (blindfolded) the struck eye and made the man to be remote, and he was looking with his healthy eye, until it was hidden to him (could not see it anymore). Then he^{asws} compared what was between the two, so he^{asws} gave him the compensation upon that'.⁸⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ الْوَلِيدِ عَنْ مُحَمَّدِ بْنِ فُرَاتٍ عَنِ الْأَصْبَغِ بْنِ نُبَاتَةَ قَالَ سَأَلَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ ضُرِبَ رَجُلًا عَلَى هَامَتِهِ فَادْعَى الْمَضْرُوبُ أَنَّهُ لَا يُبْصِرُ شَيْئًا وَ لَا يَشْمُ الرَّاحَةَ وَ أَنَّهُ قَدْ ذَهَبَ لِسَانُهُ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) إِنْ صَدَقَ فَلَهُ ثَلَاثَ دِيَارٍ

⁸⁶ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 4

⁸⁷ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 5

⁸⁸ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 6

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Muhammad Bin Al Waleed, from Muhammad Bin Furaat, from Al Asbagh Bin Nabata who said,

‘Amir Al-Momineen^{asws} was asked about a man who struck a man upon his head. So the struck one claimed that he could not visualise anything, nor smell the aromas, and that his tongue had gone. So Amir Al-Momineen^{asws} said: ‘If he is speaking the truth, there would be three wergilds for him’.

فَقِيلَ يَا أَمِيرَ الْمُؤْمِنِينَ وَ كَيْفَ يُعْلَمُ أَنَّهُ صَادِقٌ فَقَالَ أَمَا مَا ادَّعَاهُ أَنَّهُ لَا يَشْمُ الرَّائِحَةَ فَإِنَّهُ يُدْنِي مِنْهُ الْحُرَاقُ فَإِنْ كَانَ كَمَا يَقُولُ وَ إِلَّا نَحَى رَأْسَهُ وَ دَمَعَتْ عَيْنُهُ وَ أَمَا مَا ادَّعَاهُ فِي عَيْنِهِ فَإِنَّهُ يُقَابِلُ بِعَيْنِهِ الشَّمْسُ فَإِنْ كَانَ كَاذِبًا لَمْ يَتَمَالَكْ حَتَّى يُغْمَضَ عَيْنُهُ وَ إِنْ كَانَ صَادِقًا بَيِّنًا مَفْتُوحَتَيْنِ وَ أَمَا مَا ادَّعَاهُ فِي لِسَانِهِ فَإِنَّهُ يُضْرَبُ عَلَى لِسَانِهِ بِإِبْرَةٍ فَإِنْ خَرَجَ الدَّمُ أَحْمَرَ فَقَدْ كَذَبَ وَ إِنْ خَرَجَ الدَّمُ أَسْوَدَ فَقَدْ صَدَقَ .

So it was said, ‘O Amir Al-Momineen^{asws}! And how does one know that he is truthful?’ So he^{asws} said: ‘As for what he claimed that he could not smell the aromas, the tinder (firewood) would be brought near him. So if it was as he is saying, or else he would turn his head away and his eyes would water. And as for what he is claiming regarding his eyes, so he would be made to turn to face the sun with his eyes. So if he was lying, he would not be able to control himself from closing his eyes, and if he was truthful, they would both remain open. And as for what he claims regarding his tongue, so he would be pricked by a needle upon his tongue, so if the red blood comes out, so he has lied, and if the black blood comes out, so he has spoken truthfully’.⁸⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادِ بْنِ عِيسَى عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يُصَابُ فِي عَيْنِهِ فَيَذْهَبُ بَعْضُ بَصَرِهِ أَيْ شَيْءٍ يُعْطَى قَالَ تَرْتَبُ إِحْدَاهُمَا ثُمَّ يُوضَعُ لَهُ بَيْضَةٌ ثُمَّ يُقَالُ لَهُ أَنْظِرْ فَمَا دَامَ يَدْعِي أَنَّهُ يُبْصِرُ مَوْضِعَهَا حَتَّى إِذَا انْتَهَى إِلَى مَوْضِعِهَا قَالَ لَا أَبْصِرُ قَرِيبَهَا حَتَّى يُبْصِرَ ثُمَّ يُعْلَمُ ذَلِكَ الْمَكَانَ ثُمَّ يُقَاسُ بِذَلِكَ الْقِيَاسِ مِنْ خَلْفِهِ وَ عَنْ يَمِينِهِ وَ عَنْ شِمَالِهِ فَإِنْ جَاءَ سَوَاءً وَ إِلَّا قِيلَ لَهُ كَذَبْتَ حَتَّى يَصْدُقَ قَالَ قُلْتُ أَلَيْسَ يُؤْمَنُ قَالَ لَا وَ لَا كَرَامَةٌ وَ يُصْنَعُ بِالْعَيْنِ الْأُخْرَى مِثْلُ ذَلِكَ ثُمَّ يُقَاسُ ذَلِكَ عَلَى ذِيَةِ الْعَيْنِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Hammad Bin Isa, from Muawiya Bin Ammar who said,

‘I asked Abu Abdullah^{asws} about the man who was hit in his eye, so part of his vision was gone. Which thing would he be given?’ He^{asws} said: ‘One of it (eyes) would be covered and an egg would be placed for him, then it would be said to him, ‘Look!’ So for as long as he claims that he can see its place, (it would be moved away) until it ends up at a place that he is helpless (from seeing it), so he says, ‘I cannot see it’. It would be brought nearer until he can visualise it, then a note would be made of that place. Then it would be compared with that from behind him, and from his right, and from his left. So it comes to be the same, or else it would be said to him, ‘You are lying’, until he speaks the truth’. I said, ‘Can he not be trusted?’ He^{asws} said: ‘No, and there is no honour, and he would be dealt with the other eye similar to that. Then the wergild of the eye would be based upon that’.⁹⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ وَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَالٍ جَمِيعاً عَنْ أَبِي الْحَسَنِ الرِّضَا (عَلَيْهِ السَّلَامُ) قَالَ يُونُسُ عَرَضْتُ عَلَيْهِ الْكِتَابَ فَقَالَ هُوَ صَحِيحٌ

⁸⁹ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 7

⁹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 8

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, and from his father, from Ibn Fazzal both together,

(It has been narrated) from Abu Al-Hassan Al-Reza^{asws}. Yunus said, 'I presented the book to him^{asws}, so he^{asws} said: 'It is correct'.

وَ قَالَ ابْنُ فَضَالٍ قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) إِذَا أُصِيبَ الرَّجُلُ فِي إِحْدَى عَيْنَيْهِ فَإِنَّهَا تَقَاسُ بِبَيْضَةِ تَرْبُطَ عَلَى عَيْنِهِ الْمَصَابَةِ وَ يُنْظَرُ مَا يَنْتَهِي بِصَرِّ عَيْنِهِ الصَّحِيحَةِ ثُمَّ تُعْطَى عَيْنُهُ الصَّحِيحَةُ وَ يُنْظَرُ مَا تَنْتَهِي عَيْنُهُ الْمَصَابَةِ فَيُعْطَى دِيْنَهُ مِنْ حِسَابِ ذَلِكَ وَ الْقَسَامَةُ مَعَ ذَلِكَ مِنَ السَّنَةِ الْأَجْزَاءِ عَلَى قَدْرِ مَا أُصِيبَتْ مِنْ عَيْنِهِ

And Ibn Fazzal said, 'Amir Al-Momineen^{asws} judged: 'When the man is hit in one of his eyes, so it would be measured by an egg. The hit eye would be covered, and he would look what his correct eye can end up visualising. Then his correct eye would be covered, and he would look at what his hit eye can end up (visualising). So he would be given a wergild based upon that accounting. And the sworn endorsement along with that are from six parts, upon a measurement of what he has been hit from his eye.

فَإِنْ كَانَ سُدُسَ بَصَرِهِ فَقَدْ حَلَفَ هُوَ وَ وَحْدَهُ وَ أُعْطِيَ وَ إِنْ كَانَ ثُلُثَ بَصَرِهِ حَلَفَ هُوَ وَ حَلَفَ مَعَهُ رَجُلٌ آخَرُ وَ إِنْ كَانَ نِصْفَ بَصَرِهِ حَلَفَ هُوَ وَ حَلَفَ مَعَهُ رَجُلَانِ وَ إِنْ كَانَ ثَلَاثِي بَصَرِهِ حَلَفَ هُوَ وَ حَلَفَ مَعَهُ ثَلَاثَةُ نَفَرٍ وَ إِنْ كَانَ أَرْبَعَةَ أْخْمَاسَ بَصَرِهِ حَلَفَ هُوَ وَ حَلَفَ مَعَهُ أَرْبَعَةُ نَفَرٍ وَ إِنْ كَانَ بَصَرَهُ كُلَّهُ حَلَفَ هُوَ وَ حَلَفَ مَعَهُ خَمْسَةُ نَفَرٍ وَ كَذَلِكَ الْقَسَامَةُ كُلُّهَا فِي الْجُرُوحِ

So if it was such that a sixth of his vision had gone so he alone would have to swear an oath and he would be given; and if it was that a third of his vision had gone, he and another man along with him would have to swear an oath; and if it was that half of his vision had gone, he and two men along with him would swear an oath; and if it was that two-thirds of his vision had gone, he and three persons would swear an oath; and if it was that four-fifths of his vision had gone, he and four persons would have to swear an oath along with him; and if it was that all of it is gone, he and five persons along with him would have to swear an oath. And similar to that are the sworn endorsements, all of these regarding the injuries.

وَ إِنْ لَمْ يَكُنْ لِلْمَصَابِ بَصَرُهُ مِنْ يَخْلِفُ مَعَهُ ضَوْعَفَتْ عَلَيْهِ الْأَيْمَانُ إِنْ كَانَ سُدُسَ بَصَرِهِ حَلَفَ مَرَّةً وَاحِدَةً وَ إِنْ كَانَ ثُلُثَ بَصَرِهِ حَلَفَ مَرَّتَيْنِ وَ إِنْ كَانَ أَكْثَرَ عَلَى هَذَا الْحِسَابِ وَ إِنَّمَا الْقَسَامَةُ عَلَى مَبْلَغِ مُنْتَهَى بَصَرِهِ

And if there does not happen to be for the one whose eyesight was hit, anyone who would swear an oath along with him, the swearing would be additional upon him. If it was such that a sixth of his vision had gone, he would swear once; and if it was such that a third of his vision had gone, he would have to swear twice; and if it was more, it would be upon this counting. But rather, the sworn endorsements (compurgation) are upon to what extent his vision reaches.

وَ إِنْ كَانَ السَّمْعُ فَعَلَى نَحْوِ مَنْ ذَلِكَ غَيْرَ أَنَّهُ يُضْرَبُ لَهُ بِشَيْءٍ حَتَّى يُعْلَمَ مُنْتَهَى سَمْعِهِ ثُمَّ يُقَاسُ ذَلِكَ وَ الْقَسَامَةُ عَلَى نَحْوِ مَا يُنْقِصُ مِنْ سَمْعِهِ فَإِنْ كَانَ سَمْعُهُ كُلَّهُ فَخِيفَ مِنْهُ فَجُورٌ فَإِنَّهُ يُنْرَكُ حَتَّى إِذَا اسْتَقَلَّ نَوْمًا صِيحَ بِهِ فَإِنْ سَمِعَ قَاسَ بَيْنَهُمُ الْحَاكِمُ بِرَأْيِهِ

And if it was the hearing, so it would be approximate from that, apart from that something would be struck (to make a sound) to him, until the extent of his hearing is known. Then that would be compared, and the sworn endorsement would be

approximated based upon what his hearing had been measured. So if it was such that all of his hearing (was lost), and mischief was feared from him, so he would be left to sleep until when he had slept a little, he would be shrieked at. So if he were to hear, the judge would compare between them by his opinion.

وَ إِنْ كَانَ النِّقْصُ فِي العَضُدِ وَ الفَخْذِ فَإِنَّهُ يُعْلَمُ قَدْرُ ذَلِكَ يُقَاسُ رِجْلُهُ الصَّحِيحَةَ بِخَيْطٍ ثُمَّ يُقَاسُ رِجْلُهُ المُصَابَةَ فَيَعْلَمُ قَدْرُ مَا نَقَصَتْ رِجْلُهُ أَوْ يَدُهُ فَإِنْ أُصِيبَ السَّاقُ أَوْ السَّاعِدُ فَمِنَ الفَخْذِ وَ العَضُدِ يُقَاسُ وَ يَنْظُرُ الحَاكِمُ قَدْرَ فَخْذِهِ .

And if it was such that the deficiency was regarding the upper arms and the thighs, so that would be known by comparing the healthy leg by a cord. Then his hit leg would be compared. Thus it would be known, the measurement of the deficiency of his leg, or his hand. So if the injury was to the leg or the arm, so it is from (the measuring device) for the thigh and the upper arm that he would be compared, and the judge would look at the measurement of his thigh’.

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الحَسَنِ بْنِ ظَرِيفٍ عَنْ أَبِيهِ ظَرِيفِ بْنِ نَاصِحٍ عَنْ رَجُلٍ يُقَالُ لَهُ عَبْدُ اللَّهِ بْنُ أَيُّوبَ قَالَ حَدَّثَنِي أَبُو عَمْرٍو المُنْتَضِبُ قَالَ عَرَضْتُ هَذَا الكِتَابَ عَلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) .

A number of our companions, from Sahl Bin Ziyad, from Al Hassan Bin Zareyf, from his father Zareyf Bin Nasih, from a man caled Abdullah Bin Ayoub,

(It has been narrated) from Abu Amro Al Mutatabbab who said, ‘I presented the book to Abu Abdullah^{asws}’.

وَ عَلِيُّ بْنُ فَضَّالٍ عَنِ الحَسَنِ بْنِ الجَّهْمِ قَالَ عَرَضْتُهُ عَلَى أَبِي الحَسَنِ الرِّضَا (عَلَيْهِ السَّلَامُ) فَقَالَ لِي ارْزُؤُهُ فَإِنَّهُ صَحِيحٌ ثُمَّ ذَكَرَ مِثْلَهُ .

And Ali Bin Fazzal, from Al Hassan Bin Al Jahm who said,

‘I presented it to Abu Al-Hassan Al-Reza^{asws}, so he^{asws} said to me: ‘Report it, for it is correct’. Then he mentioned similar to it’.⁹¹

مُحَمَّدُ بْنُ يَحْيَى عَنِ مُحَمَّدِ بْنِ الحُسَيْنِ عَنِ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ صَالِحِ بْنِ عُقْبَةَ عَنِ رِفَاعَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مَا تَقُولُ فِي رَجُلٍ ضَرَبَ رَجُلًا فَنَقَصَ بَعْضَ نَفْسِهِ بِأَيِّ شَيْءٍ يُعْرَفُ ذَلِكَ قَالَ ذَلِكَ بِالسَّاعَاتِ قُلْتُ وَ كَيْفَ بِالسَّاعَاتِ قَالَ فَإِنَّ النَّفْسَ يَطْلُعُ الفَجْرُ وَ هُوَ فِي الشَّقِّ الأَيْمَنِ مِنَ الأنْفِ فَإِذَا مَضَتْ السَّاعَةُ صَارَ إِلَى الشَّقِّ الأَيْسَرِ فَتَنْتَظَرُ مَا بَيْنَ نَفْسِكَ وَ نَفْسِهِ ثُمَّ يُحْتَسَبُ فَيُؤَخَذُ بِحِسَابِ ذَلِكَ مِنْهُ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Ismail, from Salih Bin Uqba, from Rafa’at who said,

‘I said to Abu Abdullah^{asws}, ‘What are you^{asws} saying regarding a man who struck a man, so some of his breathing was deficient. With what thing would that be known?’ He^{asws} said: ‘By the timing’. I said, ‘And how by the timing?’ He^{asws} said: ‘At the emergence of dawn, he is breathing, and it is from the right nostril. So when an hour goes by, he (comes to be) breathing by the left nostril. So you would look at what (difference) there is between your breathing, and his breathing. Then it would be reckoned, so he would be taking by that counting from it’.⁹²

⁹¹ Al Kafi – V 7 – The Book of Wergilds Ch 31 H 9

⁹² Al Kafi – V 7 – The Book of Wergilds Ch 31 H 10

بَابُ الرَّجُلِ يَضْرِبُ الرَّجُلَ فَيَذْهَبُ سَمْعُهُ وَبَصَرُهُ وَعَقْلُهُ

Chapter 32 – The man strikes the man, so his hearing, and his vision, and his intellect goes

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَعَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ أَبِي عُبَيْدَةَ الْحَدَّاءِ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ ضَرَبَ رَجُلًا بَعْمُودٍ فَسَطَّاطَ عَلَى رَأْسِهِ ضَرْبَةً وَاحِدَةً فَأَجَافَهُ حَتَّى وَصَلَتْ الضَّرْبَةُ إِلَى الدَّمَاعِ فَذَهَبَ عَقْلُهُ فَقَالَ إِنْ كَانَ الْمَضْرُوبُ لَا يَعْقِلُ مِنْهَا الصَّلَاةَ وَلَا يَعُولُ مَا قَالَ وَلَا مَا قِيلَ لَهُ فَإِنَّهُ يُنْتَظَرُ بِهِ سَنَةٌ فَإِنْ مَاتَ فِيهَا بَيْنَهُ وَبَيْنَ السَّنَةِ أَقِيدَ بِهِ ضَارِبُهُ وَإِنْ لَمْ يَمُتْ فِيهَا بَيْنَهُ وَبَيْنَ السَّنَةِ وَلَا يَرْجِعَ إِلَيْهِ عَقْلُهُ أُعْرِمَ ضَارِبُهُ الدِّيَةَ فِي مَالِهِ لِذَهَابِ عَقْلِهِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together, from Ibn Mahboub, from Jameel Bin Salih, from Abu Ubeyda Al Haza'a who said,

'I asked Abu Ja'far^{asws} about a man who struck a man with a pole of a tent, upon his head, with one strike. So it pierced him to the extent that it arrived to the brain. So his intellect went'. So he^{asws} said: 'If it was that the struck one did not have the intellect for the Prayer, nor any intellect of what he says, nor what is said to him, so he would be awaited with for a year. So if he were to die in what is between it and the year, his striker would be retaliated with; and if he does not die in what is between it and the year, and his intellect does not return to him, his striker would be fined the (complete) wergild in his wealth, due to the going away of his (victim's) intellect.

قُلْتُ لَهُ فَمَا تَرَى عَلَيْهِ فِي الشَّجَّةِ شَيْئاً قَالَ لَا لِأَنَّهُ إِنَّمَا ضَرَبَهُ ضَرْبَةً وَاحِدَةً فَجَنَّتِ الضَّرْبَةُ جَنَائَتَيْنِ فَأَلْزَمَهُ أَغْلَطَ الْجَنَائَتَيْنِ وَهِيَ الدِّيَةُ وَلَوْ كَانَ ضَرَبَهُ ضَرْبَتَيْنِ فَجَنَّتِ الضَّرْبَتَانِ جَنَائَتَيْنِ لِأَلْزَمَتْهُ جَنَايَةٌ مَا جَنَّتَا كَانَتْمَا مَا كَانَتْمَا إِلَّا أَنْ يَكُونَ فِيهِمَا الْمَوْتُ فَيُقَادَ بِهِ ضَارِبُهُ [بِوَاحِدَةٍ وَتُطْرَحُ الْأُخْرَى قَالَ وَ قَالَ] فَإِنْ ضَرَبَهُ ثَلَاثَ ضَرْبَاتٍ وَاحِدَةً بَعْدَ وَاحِدَةٍ فَجَنَّتِ ثَلَاثَ جَنَائَاتٍ أَلْزَمَتْهُ جَنَايَةٌ مَا جَنَّتِ الثَّلَاثُ ضَرْبَاتٍ كَانَتْهَا مَا كَانَتْ مَا لَمْ يَكُنْ فِيهَا الْمَوْتُ فَيُقَادَ بِهِ ضَارِبُهُ قَالَ وَ قَالَ فَإِنْ ضَرَبَهُ عَشْرَ ضَرْبَاتٍ فَجَنَّتِ جَنَايَةٌ وَاحِدَةً أَلْزَمَتْهُ تِلْكَ الْجَنَايَةُ الَّتِي جَنَّتِهَا الْعَشْرُ ضَرْبَاتٍ [كَانَتْهَا مَا كَانَتْ] .

I said to him^{asws}, 'So what do you^{asws} view to be upon him for fracturing something?' He^{asws} said: 'No, because, rather he struck him with one strike. So the one strike committed two crimes. Therefore, it necessitates him the harshest of the two crimes, and it is the (complete) wergild. And had he struck him with two strikes, so the two strikes would have committed two crimes, it would necessitate him one crime, so whatever was it was, except if there happens to be the death in it, so his striker would be retaliated (due to one strike and the other would be dropped). So if he had struck him with three strokes, one after the other, so he would have committed three crimes, it would necessitate him with one crime what the three strikes had committed, as it if was such, for as long as there does not happen to be the death in it, so his striker would be retaliated with. So if he had struck him with ten strike, so it would be the one crime, even it ten strikes had committed, so he will be held for one crime – whatever it may be'.⁹³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ خَالِدِ الْبُرْقِيِّ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ إِبْرَاهِيمَ بْنِ عُمَرَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ ضَرَبَ رَجُلًا بَعْصاً فَذَهَبَ سَمْعُهُ وَبَصَرُهُ وَ لِسَانُهُ وَ عَقْلُهُ وَ فَرَجُهُ وَ انْقَطَعَ جِمَاعُهُ وَ هُوَ حَيٌّ بِسِتِّ دِيَّاتٍ .

⁹³ Al Kafi – V 7 – The Book of Wergilds Ch 32 H 1

Ali Bin Ibrahim, from his father, from Muhammad Bin Khalid Al Barqy, from Hammad Bin Isa, from Ibrahim Bin Umar,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who struck a man with a stick, so his hearing, and his vision, and his tongue, and his intellect, and his private parts ceased to function and his (ability) to copulate went, but he was alive - (a judgement of) six wergilds'.⁹⁴

باب آخر

Chapter 33 – Another Chapter

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمَزَةَ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي رَجُلٍ فَقَطَعَ عَيْنَيْ رَجُلٍ وَ قَطَعَ أُذُنَيْهِ ثُمَّ قَتَلَهُ فَقَالَ إِنْ كَانَ فَرَقٌ بَيْنَ ذَلِكَ اقْتَصَصَ مِنْهُ ثُمَّ يُقْتَلُ وَ إِنْ كَانَ ضَرْبُهُ ضَرْبَةً وَاحِدَةً ضُرِبَتْ عُنُقُهُ وَ لَمْ يُقْتَصَّ مِنْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Muhammad Bin Abu Hamza, from Muhammad Bin Qays,

(It has been narrated) from one of the two (5th or 5th Imam^{asws}) regarding a man who blinded an eye of a man and cut-off his ear, then killed him. So he^{asws} said: 'If there was a separation between that (different times), he would be retaliated from, then he would be killed. And if he had struck him with one strike, his neck would be struck, and he would not be retaliated from'.⁹⁵

باب دية الجراحات و الشجاج

Chapter 34 – Wergild for the injuries and the fractures

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مَسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَضَى رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فِي الْمَأْمُومَةِ ثُلُثَ الدِّيَةِ وَ فِي الْمُنْقَلَةِ خَمْسَ عَشْرَةَ مِنَ الْإِبِلِ وَ فِي الْمَوْضِحَةِ خَمْسًا مِنَ الْإِبِلِ وَ فِي الدَّامِيَةِ بَعِيرًا وَ فِي الْبَاضِعَةِ بَعِيرَيْنِ وَ قَضَى فِي الْمُتَلَجِمَةِ ثَلَاثَةَ أَبْعَرَةٍ وَ قَضَى فِي السَّمْحَاقِ أَرْبَعَةَ مِنَ الْإِبِلِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, form Abdullah Bin Abdul Rahman Al Asamma from Misma'a Bin Abdul Malik,

(It has been narrated) from Abu Abdullah^{asws} havind said: 'Amir Al-Momineen^{asws} said: 'Rasool-Allah^{saww} judged regarding *Al-Mamouma* (the skull fracture reaching the brain) for it being a third of the wergild; and regarding *Al Munqala* (bone displacing injury) for it being fifteen from the camels; and regarding *Al-Mowziha* (bone exposing injury) for it being five from the camels; and regarding *Al-Damiya* (bloody injury) for it being one camel; and regarding *Al-Baziya* (flesh exposing injury) for it being two camels. And he^{saww} judged regarding *Al-Mutalahima* (flesh injury) for it being three camels, and judged regarding *Al-Simhak* (injury reaching the bone) for it being four from the camels'.⁹⁶

⁹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 32 H 2

⁹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 33 H 1

⁹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 1

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّيَّاحِ الْكِنَانِيِّ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُمَرُو بْنِ عُثْمَانَ عَنْ الْمُفَضَّلِ بْنِ صَالِحٍ عَنْ زَيْدِ الشَّحَامِ قَالَا سَأَلْنَا أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ الشَّجَةِ الْمَأْمُومَةِ فَقَالَ فِيهَا ثَلَاثُ الدِّيَةِ وَ فِي الْجَائِفَةِ ثَلَاثُ الدِّيَةِ وَ فِي الْمَوْضِحَةِ خَمْسٌ مِنَ الْإِبِلِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Muhammad Bin Al Fuzayl, from Abu Al Sabbah Al Kinany, and Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Al Mufazzal Bin Salih, from Zayd Al Shahham who both said,

'We both asked Abu Abdullah^{asws} about the Al-Mamouma fracture (the head fracture reaching the brain). So he^{asws} said: 'Regarding it is a third of the wergild, and regarding *Al-Jaifa* (skull injury reaching the inside of the brain) is a third of the wergild, and regarding *Al-Mowziha* (bone exposing injury) is five from the camels'.⁹⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ فِي الْمَوْضِحَةِ خَمْسٌ مِنَ الْإِبِلِ وَ فِي السَّمْحَاقِ أَرْبَعٌ مِنَ الْإِبِلِ وَ الْبَاضِعَةُ ثَلَاثٌ مِنَ الْإِبِلِ وَ الْمَأْمُومَةُ ثَلَاثٌ وَ ثَلَاثُونَ مِنَ الْإِبِلِ وَ الْجَائِفَةُ ثَلَاثٌ وَ ثَلَاثُونَ مِنَ الْإِبِلِ وَ الْمَنْقَلَةُ خَمْسٌ عَشْرَةَ مِنَ الْإِبِلِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said regarding *Al-Mowziha* (bone exposing injury) is five from the camels, and regarding *Al-Simhak* (injury reaching the bone) is four from the camels; and *Al-Bazia* (flesh exposing injury) is three from the camels; and *Al-Mamouma* (the skull fracture reaching the brain) is thirty three from the camels; and *Al-Jaifa* (skull injury reaching the inside of the brain) is thirty three from the camels; and *Al-Munqala* (bone displacing injury) is fifteen from the camels'.⁹⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ الْحَسَنِ بْنِ صَالِحِ الثَّوْرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنِ الْمَوْضِحَةِ فِي الرَّأْسِ كَمَا هِيَ فِي الْوَجْهِ فَقَالَ الْمَوْضِحَةُ وَ الشَّجَاعُ فِي الْوَجْهِ وَ الرَّأْسِ سَوَاءٌ فِي الدِّيَةِ لِأَنَّ الْوَجْهَ مِنَ الرَّأْسِ وَ لَيْسَ الْجِرَاحَاتُ فِي الْجَسَدِ كَمَا هِيَ فِي الرَّأْسِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al Hassan Bin Salih Al Sowry,

(The narrator) says, 'I asked Abu Abdullah^{asws} about *Al-Mowziha* (bone exposing injury) is like what is in the face. So he^{asws} said: 'The bone-exposing injury, and the fracture in the face and the head are equal regarding the wergild, because the face is from the head, and there is none from the injuries in the body like it is in the head'.⁹⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَام) وَ عَنْهُ عَنْ أَبِيهِ عَنْ ابْنِ فَضَّالٍ قَالَ عَرَضْتُ الْكِتَابَ عَلَى أَبِي الْحَسَنِ (عَلَيْهِ السَّلَام) فَقَالَ هُوَ صَحِيحٌ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي دِيَةِ جِرَاحَاتِ الْأَعْضَاءِ كُلِّهَا فِي الرَّأْسِ وَ الْوَجْهِ وَ سَائِرِ الْجَسَدِ مِنَ السَّمْعِ وَ الْبَصَرِ وَ الصَّوْتِ وَ الْعَقْلِ وَ الْيَدَيْنِ وَ الرَّجْلَيْنِ فِي الْقَطْعِ وَ الْكَسْرِ وَ الصَّدْعِ وَ الْبُطِّ وَ الْمَوْضِحَةِ وَ الدَّامِيَةِ وَ نَقْلِ الْعِظَامِ وَ النَّاقِبَةِ يَكُونُ فِي شَيْءٍ مِنْ ذَلِكَ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abu Al Hassan^{asws}, and from him, from his father, from Ibn Fazzal who said,

⁹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 2

⁹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 3

⁹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 4

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ شَجَّ رَجُلًا مُوضِحَةً ثُمَّ يَطْلُبُ فِيهَا فَوَهَبَهَا لَهُ ثُمَّ انْتَفَضَتْ بِهِ فَقَتَلَتْهُ فَقَالَ هُوَ ضَامِنٌ لِلدِّيَةِ إِلَّا قِيَمَةَ الْمَوْضِحَةِ لِأَنَّهُ وَهَبَهَا لَهُ وَ لَمْ يَهَبِ النَّفْسَ وَ فِي السَّمْحَاقِ وَ هِيَ الَّتِي دُونَ الْمَوْضِحَةِ حَمْسُمِائَةَ دِرْهَمٍ وَ فِيهَا إِذَا كَانَتْ فِي الْوَجْهِ ضِعْفُ الدِّيَةِ عَلَى قَدْرِ السِّنِّ وَ فِي الْمَأْمُومَةِ ثَلَاثُ الدِّيَةِ وَ هِيَ الَّتِي قَدْ نَفَذَتْ وَ لَمْ تَصِلْ إِلَى الْجَوْفِ فَهِيَ فِيمَا بَيْنَهُمَا وَ فِي الْجَائِفَةِ ثَلَاثُ الدِّيَةِ وَ هِيَ الَّتِي قَدْ بَلَغَتْ جَوْفَ الدَّمَاعِ وَ فِي الْمُنْقَلَةِ حَمْسَ عَشْرَةَ مِنَ الْإِبِلِ وَ هِيَ الَّتِي قَدْ صَارَتْ قَرَحَةً تَنْقَلُ مِنْهَا الْعِظَامُ .

Ali Bin Ibrahim, from his father, from one of his companions, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who fractured a man exposing his bone. Then he sought (forgiveness) so he gifted it to him. Then it (injury) worsened, so it killed him. So he^{asws} said: 'He is responsible for the wergild except for the price of the bone exposed, because he had gifted it to him, and he had not gifted the self; and regarding the cut which reaches the bone, and it is less than the exposure, being of five hundred Dirhams, and with regards to it when it was in the face, it would be double the wergild upon the measurement of the shame (it caused); and regarding the skull fracture being a third of the wergild, and it is which had been plunged in and did not reach to the middle, so it is regarding what is between the two; and regarding the piercing of the hole is a third of the wergild, and it is which had reached the middle of the brain; and regarding the bone displacement being fifteen from the camels, and it is which had become a blister, the bone being displaced from it'.¹⁰³

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنِ الْفَضِيلِ بْنِ يَسَارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الذَّرَاعِ إِذَا ضُرِبَ فَانْكَسَرَ مِنْهُ الزَّنْدُ قَالَ إِذَا يَبَسَتْ مِنْهُ الْكَفُّ فَسَلَّتْ أَصَابِعُ الْكَفِّ كُلُّهَا فَإِنَّ فِيهَا ثَلَاثِي الدِّيَةِ دِيَةَ الْيَدِ قَالَ وَ إِنْ سَلَّتْ بَعْضُ الْأَصَابِعِ وَ بَقِيَ بَعْضُ فَإِنَّ فِي كُلِّ إِصْبَعٍ سَلَّتْ ثَلَاثِي دِيَّتِهَا قَالَ وَ كَذَلِكَ الْحَكْمُ فِي السَّاقِ وَ الْقَدَمِ إِذَا سَلَّتْ أَصَابِعُ الْقَدَمِ .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Ali Bin Raib, from Al Fuzayl Bin Yasaar who said,

'I asked Abu Abdullah^{asws} about the upper-arms when it is hit, so the wrist breaks from it. So he^{asws} said: 'If the palm is dried up from it, so the fingers of the palm are paralysed, all of them, so regarding it is two-thirds of the wergild of the hand. And if some of the fingers are paralysed, and some remain (healthy), so with regards to each of the paralysed finger is two-thirds of its wergild. And like that is the judgement regarding the leg, and the feet, when the toes of the feet are paralysed'.¹⁰⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الْإِصْبَعِ عُسْرُ الدِّيَةِ إِذَا قُطِعَتْ مِنْ أَصْلِهَا أَوْ سَلَّتْ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said regard the fingers being a tenth of the wergild when they are cut off from their roots, or paralysed'.

قَالَ وَ سَأَلْتُهُ عَنِ الْأَصَابِعِ أَسَوَاءٌ هُنَّ فِي الدِّيَةِ قَالَ نَعَمْ

¹⁰³ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 8

¹⁰⁴ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 9

He (the narrator) said, 'And I asked him^{asws} about the fingers, are these equal regarding the wergild?' He^{asws} said: 'Yes'.

قَالَ وَ سَأَلْتُهُ عَنِ الْأَسْنَانِ فَقَالَ دِيْهُنَّ سَوَاءٌ .

He (the narrator) said, 'And I asked him^{asws} about the teeth, so he^{asws} said: 'Their wergild is the same'.¹⁰⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَصَابِعُ الْيَدَيْنِ وَالرِّجْلَيْنِ سَوَاءٌ فِي الدِّيَةِ فِي كُلِّ إِصْبَعٍ عَشْرٌ مِنَ الْإِبِلِ وَ فِي الظَّفْرِ خَمْسَةٌ دَنَانِيرٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The fingers of the two hands and the (toes of) the two legs are equal regarding the wergild. Regarding each finger is ten from the camels; and regarding the nail is five Dinars'.¹⁰⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنِ الْأَصَمِّ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي النَّاقِلَةِ يَكُونُ فِي الْعَضْوِ ثَلَاثُ دِيَّةٍ ذَلِكَ الْعَضْوُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Al Asamma, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the displacement which happens to be in the bone, being a third of the wergild of that bone'.¹⁰⁷

بَابُ تَفْسِيرِ الْجَرَاحَاتِ وَالشَّجَاجِ

Chapter 35 – Classification of the injuries and the fractures

أَوَّلُهَا تُسَمَّى الْحَارِصَةَ وَ هِيَ الَّتِي تَخْدِشُ وَ لَا تُجْرِي الدَّمَ

The first to be named is *Al-Harisa* – and it is which scratches and the blood does not flow.

ثُمَّ الدَّامِيَةَ وَ هِيَ الَّتِي يَسِيلُ مِنْهَا الدَّمُ

Then it is *Al-Daima* – and it is from which the blood flows.

ثُمَّ الْبَاضِعَةَ وَ هِيَ الَّتِي تَبْضَعُ اللَّحْمَ وَ تَقْطَعُهُ

Then *Al-Bazi'a* – and it is which exposes the flesh and cuts it.

ثُمَّ الْمُتَلَاحِمَةَ وَ هِيَ الَّتِي تَبْلُغُ فِي اللَّحْمِ

Then it is *Al-Mutalahima* – and it is which reaches into the flesh.

¹⁰⁵ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 10

¹⁰⁶ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 11

¹⁰⁷ Al Kafi – V 7 – The Book of Wergilds Ch 34 H 12

تُمُّ السَّمْحَاقُ وَ هِيَ الَّتِي تَبْلُغُ الْعِظْمَ وَ السَّمْحَاقُ جِلْدَةٌ رَقِيقَةٌ عَلَى الْعِظْمِ

Then it is *Al-Samhaak* – and it is which reaches the bone; and *Al-Samhaak* (reaching) the thin outer lining upon the bone.

تُمُّ الْمَوْضِحَةَ وَ هِيَ الَّتِي تُوضِحُ الْعِظْمَ

The *Al-Mowziha* – and it is which exposes the bone.

تُمُّ الْهَاشِمَةَ وَ هِيَ الَّتِي تَهْشِمُ الْعِظْمَ

Then *Al-Hashima* – and it is which shatters the bone.

تُمُّ الْمُنْقَلَةَ وَ هِيَ الَّتِي تُنْقَلُ الْعِظَامَ مِنَ الْمَوْضِعِ الَّذِي خَلَقَهُ اللَّهُ

The *Al-Munqala* – And it is which displaces the bone from the place which Allah^{azwj} had Created it to be in.

تُمُّ الْأَمَّةَ وَ الْمَأْمُومَةَ وَ هِيَ الَّتِي تَبْلُغُ أُمَّ الدِّمَاغِ

Then *Al-Ammat* and *Al-Mamouna* – and it is which reaches the top of the brain.

تُمُّ الْجَائِفَةَ وَ هِيَ الَّتِي تَصِيرُ فِي جَوْفِ الدِّمَاغِ .

Then *Al-Ja'ifa* – and it is which arrives to the inside of the brain.

بَابُ الْخَلْقَةِ الَّتِي تُقَسَّمُ عَلَيْهِ الدِّيَّةُ فِي الْأَسْنَانِ وَ الْأَصَابِعِ

Chapter 36 – The creation upon which the wergild is distributed, regarding the teeth and the fingers

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ زِيَادِ بْنِ سُوْفَةَ عَنِ الْحَكَمِ بْنِ عُنَيْبَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) أَصْلَحَكَ اللَّهُ إِنْ بَعْضَ النَّاسِ فِي فِيهِ اثْنَانِ وَ ثَلَاثُونَ سِنّاً وَ بَعْضُهُمْ لَهُمْ ثَمَانِيَّةٌ وَ عَشْرُونَ سِنّاً فَعَلَى كَمْ تُقَسَّمُ دِيَّةُ الْأَسْنَانِ فَقَالَ الْخَلْقَةُ إِنَّمَا هِيَ ثَمَانِيَّةٌ وَ عَشْرُونَ سِنّاً اثْنَتَا عَشَرَ فِي مَقَادِيمِ الْفَمِ وَ سِتَّةَ عَشَرَ سِنّاً فِي مَوَاحِيرِهِ فَعَلَى هَذَا قُسِمَتْ دِيَّةُ الْأَسْنَانِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Hishan Bin Salim, from Ziyad Bin Sowqat, from Al Hakam Bin Uteyba who said,

'I said to Abu Ja'far^{asws}, 'May Allah^{azwj} Keep you^{asws} well! Some of the people have thirty two teeth in their mouths, and for some of them are twenty eight teeth. So upon how much would be the distribution of wergild of the teeth?' So he^{asws} said: 'The creation, rather, it is of twenty eight teeth – twelve in the front of the mouth, and sixteen at the end of it. So it is upon this that the wergild of the teeth would be distributed.

فَدِيَّةُ كُلِّ سِنَّ مِنْ الْمَقَادِيمِ إِذَا كُسِرَتْ حَتَّى يَذْهَبَ خَمْسُمِائَةَ دِرْهَمٍ فَدِيَّتُهَا كُلُّهَا سِتَّةَ آلَافِ دِرْهَمٍ وَ فِي كُلِّ سِنَّ مِنْ الْمَوَاحِيرِ إِذَا كُسِرَتْ حَتَّى يَذْهَبَ فَإِنَّ دِيَّتَهَا مِائَتَانِ وَ خَمْسُونَ دِرْهَمًا وَ هِيَ سِتَّةَ عَشَرَ سِنّاً فَدِيَّتُهَا كُلُّهَا أَرْبَعَةُ آلَافِ دِرْهَمٍ فَجَمِيعُ دِيَّةِ

الْمَقَادِيمَ وَالْمَوَاحِيرَ مِنَ الْأَسْنَانِ عَشْرَةَ أَلْفَ دِرْهَمٍ وَإِنَّمَا وَضَعَتِ الدِّيَةَ عَلَى هَذَا فَمَا زَادَ عَلَى ثَمَانِيَةِ وَ عَشْرِينَ سِنًا فَلَا دِيَّةَ لَهُ وَ مَا نَقَصَ فَلَا دِيَّةَ لَهُ هَكَذَا وَجَدْنَاهُ فِي كِتَابِ عَلِيٍّ (عَلَيْهِ السَّلَام)

Ransom of every tooth from the front, when it breaks until it is gone, is of five hundred Dirhams, the ransom of all of these being six thousand Dirhams. And regarding every tooth from the back when it breaks until it is gone, so its wergild is two hundred and fifty Dirhams, and these are sixteen teeth, all of it being four thousand Dirhams. So the entire wergild of the front and the back from the teeth is of ten thousand Dirhams. But rather, the wergild would be placed upon this, so whatever increased upon twenty eight teeth, so there is no wergild for it, and whatever is deficient, so there is no wergild for it. This is how we^{asws} found it to be in the Book of Ali^{asws}

قَالَ فَقَالَ الْحَكَمُ فَقُلْتُ إِنَّ الدِّيَاتِ إِنَّمَا كَانَتْ تُؤْخَذُ قَبْلَ الْيَوْمِ مِنَ الْإِبِلِ وَالْبَقَرِ وَالْعَنَمِ قَالَ فَقَالَ إِنَّمَا كَانَ ذَلِكَ فِي الْبَوَادِي قَبْلَ الْإِسْلَامِ فَلَمَّا ظَهَرَ الْإِسْلَامُ وَكَثُرَتِ الْوَرِقُ فِي النَّاسِ قَسَمَهَا أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) عَلَى الْوَرِقِ

He (the narrator) said, 'So Al-Hakam said, 'So I said, 'But rather, the wergilds used to be taken before today, from the camels, and the cows, and the sheep'. So he^{asws} said: 'But rather that used to be in the villages, before Al-Islam. So when Al-Islam appeared, and the currency became abundant among the people, so Amir Al-Momineen^{asws} named it upon the currency'.

قَالَ الْحَكَمُ فَقُلْتُ لَهُ أَرَأَيْتَ مَنْ كَانَ الْيَوْمَ مِنْ أَهْلِ الْبَوَادِي مَا الَّذِي يُؤْخَذُ مِنْهُمْ فِي الدِّيَةِ الْيَوْمَ إِبِلٌ أَوْ وَرِقٌ قَالَ فَقَالَ الْإِبِلُ الْيَوْمَ مِثْلُ الْوَرِقِ بَلْ هِيَ أَفْضَلُ مِنَ الْوَرِقِ فِي الدِّيَةِ إِنَّهُمْ كَانُوا يَأْخُذُونَ مِنْهُمْ فِي الدِّيَةِ الْخَطَأَ مِائَةَ مِنَ الْإِبِلِ يُحْسَبُ بِكُلِّ بَعِيرٍ مِائَةَ دِرْهَمٍ فَذَلِكَ عَشْرَةُ أَلْفِ دِرْهَمٍ قُلْتُ لَهُ فَمَا أَسْنَانُ الْمِائَةِ بَعِيرٍ قَالَ فَقَالَ مَا حَالَ عَلَيْهِ الْحَوْلُ ذَكَرَانَ كُلِّهَا .

Al-Hakam said, 'So I said to him^{asws}, 'What is your^{asws} view of the one who was from the people of the villages today. What is that which would be taken from him regarding the wergild today, camels or currency?' So he^{asws} said: 'The camels, today are like the currency. But it is preferable than the currency regarding the wergild. It used to be taken from them, regarding the wergild of the erroneous (killing), one hundred from the camels by the reckoning of every camel being one hundred Dirhams. So that is ten thousand Dirhams'. I said to him^{asws}, 'So what are the ages of the one hundred camels?' So he^{asws} said: 'Whatever a year has passed upon, males, all of them'.¹⁰⁸

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ زِيَادِ بْنِ سَوْقَةَ عَنِ الْحَكَمِ بْنِ عُثَيْبَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَام) عَنْ أَصَابِعِ الْيَدَيْنِ وَالْأَصَابِعِ الرَّجْلَيْنِ أَرَأَيْتَ مَا زَادَ فِيهَا عَلَى عَشْرِ أَصَابِعٍ أَوْ نَقَصَ مِنْ عَشْرَةٍ فِيهَا دِيَّةٌ قَالَ لِي يَا حَكَمُ الْخَلْقَةُ الَّتِي قَسِمَتْ عَلَيْهَا الدِّيَةُ عَشْرَةُ أَصَابِعِ فِي الْيَدَيْنِ فَمَا زَادَ أَوْ نَقَصَ فَلَا دِيَّةَ لَهُ وَ عَشْرَةُ أَصَابِعِ فِي الرَّجْلَيْنِ فَمَا زَادَ أَوْ نَقَصَ فَلَا دِيَّةَ لَهُ وَ فِي كُلِّ إِصْبَعٍ مِنْ أَصَابِعِ الْيَدَيْنِ أَلْفُ دِرْهَمٍ وَ فِي كُلِّ إِصْبَعٍ مِنْ أَصَابِعِ الرَّجْلَيْنِ أَلْفُ دِرْهَمٍ وَ كُلُّ مَا كَانَ مِنْ شَلَلٍ فَهُوَ عَلَى الثَّلَاثِ مِنْ دِيَّةِ الصَّحَّاحِ .

Ibn Mahboub, from Hisham Bin Salim, from Ziyad Bin Sowqat, from Al Hakam Bin Uteyba who said,

'I asked Abu Ja'far^{asws} about fingers of the two hands, and toes of the two feet, 'What is your^{asws} view with regards to these, upon ten fingers, or deficient from ten, regarding wergild?' So he^{asws} said to me: 'O Hakam! The creation upon which the wergild is to be distributed is ten fingers in the two hands. So whatever is additional

¹⁰⁸ Al Kafi – V 7 – The Book of Wergilds Ch 35 H 1

or deficient, so there is no wergild for it; and ten toes in the two feet, so whatever was additional or deficient, so there is no wergild for it; and regarding every finger from the fingers of the two hands, is a thousand Dirhams; and regarding every toe from the toes of the two feet, is a thousand Dirhams; and regarding everything what was from the paralysed, so it is upon the third from the wergild of the healthy'.¹⁰⁹

باب آخر

Chapter 37 – Another chapter

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ وَ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ جَمِيعاً قَالَا عَرَضْنَا كِتَابَ الْفَرَائِضِ عَنْ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) عَلَى أَبِي الْحَسَنِ الرَّضَا (عَلَيْهِ السَّلَام) فَقَالَ هُوَ صَحِيحٌ .

Ali Bin Ibrahim, from his father, from Ibn Fazal and Muhammad Bin Isa, from Yunus, both together said,

'We presented a book of the Obligations, from Amir Al-Momineen^{asws} to Abu Al-Hassan Al-Reza^{asws}, so he^{asws} said: 'It is correct'.¹¹⁰

وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الْحَسَنِ بْنِ ظَرِيفٍ عَنْ أَبِيهِ ظَرِيفِ بْنِ نَاصِحٍ قَالَ حَدَّثَنِي رَجُلٌ يُقَالُ لَهُ عَبْدُ اللَّهِ بْنُ أَيُّوبَ قَالَ حَدَّثَنِي أَبُو عَمْرٍو الْمُتَطَبِّبُ قَالَ عَرَضْتُهُ عَلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ أَقْتَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَكَتَبَ النَّاسُ فُتْيَاهُ وَ كَتَبَ بِهِ أَمِيرُ الْمُؤْمِنِينَ إِلَى أَمْرَائِهِ وَ رُءُوسِ أَجْنَادِهِ

A number of our companions, from Sahl Bin Ziyad, from Al Hassan Bin zareyf, from his father Zareyf Bin Nasih, from a man called Abdullah Bin Ayoubm from Abu Amro Al Mutatabbab who said,

'I presented it (book of Obligations from Amir Al-Momineen^{asws}) to Abu Abdullah^{asws}. He^{asws} said: 'Amir Al-Momineen^{asws} issued Verdicts, so the people wrote down his^{asws} Verdicts, and (what) Amir Al-Momineen^{asws} wrote to his governors, and the heads of his^{asws} battalions.

فَمِمَّا كَانَ فِيهِ إِنْ أُصِيبَ شَفْرُ الْعَيْنِ الْأَعْلَى فَشَتْرَ فِدْيَتُهُ ثَلَاثُ دِيَّةِ الْعَيْنِ مِائَةُ دِينَارٍ وَ سِتَّةٌ وَ سِتُّونَ دِينَاراً وَ ثَلَاثَا دِينَاراً وَ إِنْ أُصِيبَ شَفْرُ الْعَيْنِ الْأَسْفَلِ فَشَتْرَ فِدْيَتُهُ نِصْفُ دِيَّةِ الْعَيْنِ مِائَةُ دِينَارٍ وَ خَمْسُونَ دِينَاراً وَ إِنْ أُصِيبَ الْحَاجِبُ فَذَهَبَ شَعْرُهُ كُلُّهُ فِدْيَتُهُ نِصْفُ دِيَّةِ الْعَيْنِ مِائَتَا دِينَارٍ وَ خَمْسُونَ دِينَاراً فَمَا أُصِيبَ مِنْهُ فَعَلَى حِسَابِ ذَلِكَ

So from what was in it – If an upper eyelid is hit, so it tears, its wergild is a third of the wergild of the eye, being one hundred and sixty-six and two-third Dinars. And if the lower eyelid is hit, so it tears, its wergild is half the wergild of the eye, being one hundred and fifty Dinars. And if the eyebrow is hit and all of its hair is gone, so its wergild is half the wergild of the eye, being two hundred and fifty Dinars. So whatever is hit from it, so it is based upon the accounting of that.

الْأَنْفُ فَإِنْ قُطِعَ رَوْتُهُ الْأَنْفِ وَ هِيَ طَرْفُهُ فِدْيَتُهُ خَمْسُمِائَةِ دِينَارٍ إِنْ أَنْفَذَتْ فِيهِ نَافِذَةٌ لَا تَنْسُدُ بِسَهْمٍ أَوْ رُمْحٍ فِدْيَتُهُ ثَلَاثُمِائَةِ دِينَارٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ إِنْ كَانَتْ نَافِذَةٌ قَبْرَاتٍ وَ التَّامَّتْ فِدْيَتُهَا خُمُسُ دِيَّةِ رَوْتَةِ الْأَنْفِ مِائَةُ دِينَارٍ فَمَا أُصِيبَ مِنْهُ فَعَلَى حِسَابِ ذَلِكَ

The nose – So if the side of the nose is cut, and it is its edge, so its wergild is five hundred Dinars. If it has been pierced by a piercing by an arrow or a spear, and does

¹⁰⁹ Al Kafi – V 7 – The Book of Wergilds Ch 35 H 2

¹¹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 36 H 1

not close, so its wergild is of three hundred and thirty three and a third Dinar; and it was pierced, so it was cured and was complete, so its wergild is a fifth of the wergild of the side of the nose, being one hundred Dinars. So whatever was hit from it, so it would be based upon the accounting of that.

وَ إِنْ كَانَتْ نَافِذَةً فِي إِحْدَى الْمُنْخَرَيْنِ إِلَى الْخَيْسُومِ وَ هُوَ الْحَاجِزُ بَيْنَ الْمُنْخَرَيْنِ فِدْيَتُهَا عَشْرُ دِيَّهِ رَوْتَةَ الْأَنْفِ خَمْسُونَ دِينَاراً لِأَنَّهُ النُّصْفُ وَ إِنْ كَانَتْ نَافِذَةً فِي إِحْدَى الْمُنْخَرَيْنِ أَوْ الْخَيْسُومِ إِلَى الْمُنْخَرِ الْأَخْرَ فِدْيَتُهَا سِتَّةٌ وَ سِتُّونَ دِينَاراً وَ ثَلَاثَا دِينَارٍ .

And if it was pierced in one of the two nostrils to the nasopharynx, and it is the barrier between the two nostrils, so its wergild is a tenth of the wergild of the nose, being fifty Dinars, because it is the half. And if it was pierced in one of the nostrils, or the nasopharynx to the other nostril, so its wergild is sixty-six Dinars and two-thirds of a Dinar'.¹¹¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَضَى فِي حَرَمِ الْأَنْفِ ثَلَاثَ دِيَّهِ الْأَنْفِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} judged regarding (piercing of a) hole in the nose, being a third of the wergild of the nose'.¹¹²

¹¹¹ Al Kafi – V 7 – The Book of Wergilds Ch 36 H 2

¹¹² Al Kafi – V 7 – The Book of Wergilds Ch 36 H 3

الكافي

AL-KAFI

ج 7

Volume 7

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة
الإسلام الكليني المتوفى سنة 329 هجرية

Of the majestic narrator and the scholar, the jurist, the Sheykh
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كِتَابُ الدِّيَاتِ

THE BOOK OF WERGILDS (COMPENSATIONS)
(3)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّم تَسْلِيمًا.

In the Name of Allah^{azwj} the Beneficent, the Merciful. The Praise is for Allah^{azwj} Lord^{azwj} of the Worlds, and Blessing be upon our Chief Muhammad^{saww} and his^{saww} Purified Progeny^{asws}, and greetings with abundant greetings.

باب الشَّفَتَيْنِ

Chapter 38 – The two lips

وَبِالْإِسْنَادِ الْأَوَّلِ قَالَ وَ إِذَا قُطِعَتِ الشَّفَةُ الْعُلْيَا وَ اسْتُوَصِلَتْ فِدْيَتُهَا خَمْسُمِائَةَ دِينَارٍ فَمَا قُطِعَ مِنْهَا فِحْسَابِ ذَلِكَ فَإِذَا انْشَقَّتْ حَتَّى تَبْدُوَ مِنْهَا الْأَسْنَانَ تَمَّ دُورِيَّتُ وَ بَرَأَتْ وَ التَّامَّتْ فِدْيَتُهَا مِائَةٌ دِينَارٍ فَذَلِكَ خُمْسُ دِيَةِ الشَّفَةِ إِذَا قُطِعَتْ فَاسْتُوَصِلَتْ وَ مَا قُطِعَ مِنْهَا فِحْسَابِ ذَلِكَ فَإِنْ شَرَّتْ فَشِيْبَتْ شَيْبًا قَبِيحًا فِدْيَتُهَا مِائَةٌ دِينَارٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلْتٌ دِينَارٍ

And by the first chain,

He^{asws} said: ‘And when the upper lip is cut and is eradicated, so its wergild is five hundred Dinars. So whatever was cut from it, so its accounting would be based upon that. So, when it is cut to the extent that the teeth emerge from it, then medication is applied and it is cured and complete, so its wergild is one hundred Dinars. So that is a fifth of the wergild of the lip when it is cut and is eradicated, and whatever was cut from it, so its accounting would be by that. So if it is torn, so it manifests an ugliness, so its wergild is one hundred and thirty three Dinars and one-third of a Dinar.

وَ دِيَةِ الشَّفَةِ السُّفْلَى إِذَا اسْتُوَصِلَتْ ثَلْتًا الدِّيَةِ سِتْمِائَةَ وَ سِنَّةً وَ سِتُّونَ دِينَارًا وَ ثَلْتًا دِينَارًا فَمَا قُطِعَ مِنْهَا فِحْسَابِ ذَلِكَ فَإِنْ انْشَقَّتْ حَتَّى تَبْدُوَ الْأَسْنَانَ مِنْهَا تَمَّ بَرَأَتْ وَ التَّامَّتْ فِدْيَتُهَا مِائَةٌ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلْتٌ دِينَارٍ وَ إِنْ أَصِيْبَتْ فَشِيْبَتْ شَيْبًا قَبِيحًا فِدْيَتُهَا ثَلَاثُمِائَةَ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلْتٌ دِينَارٍ وَ ذَلِكَ نِصْفُ دِيَّتِهَا

And wergild of the lower lip when it is eradicated, is one-third of the wergild, being six hundred and sixty six Dinars and two-thirds of a Dinar. So whatever is cut from it, so it would be based upon that accounting. So if it is torn to the extent that the teeth emerge from it, then it is cured and complete, so its wergild is one hundred and thirty three Dinars and one-third of a Dinar. And if it is hit, so it manifests an ugliness, so its wergild is three hundred and thirty three Dinars and one-third of a Dinar, and that is half its wergild’.

وَ فِي رَوَايَةِ ظَرِيْفِ بْنِ نَاصِحٍ قَالَ فَسَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ ذَلِكَ فَقَالَ بَلَّغْنَا أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَضَّلَهَا لِأَنَّهَا تُمَسِّكُ الطَّعَامَ مَعَ الْأَسْنَانِ فَلِذَلِكَ فَضَّلَهَا فِي حُكْمَتِهِ .

And in a report of Zareyf Bin Nasih who said, ‘So I asked Abu Abdullah^{asws} about that, so he^{asws} said: ‘It has reached us^{asws} that Amir Al-Momineen^{asws} preferred it (the lower lip) because it withholds the food along with the teeth, therefore it was due to that, that he^{asws} preferred it in his^{asws} judgements’.¹

¹ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 1 & 2

الْخَدُّ**The Cheek**

وَ فِي الْخَدِّ إِذَا كَانَ فِيهِ نَافِذَةٌ يُرَى مِنْهَا جَوْفُ الْعَمِّ فَدَيْتُهَا مِائَتَا دِينَارٍ وَ إِنْ نُودِيَ قَبْرًا وَ الْأَتَامُ وَ بِهِ أَثَرٌ بَيِّنٌ وَ شَتْرٌ فَاحْشٌ فَدَيْتُهُ خَمْسُونَ دِينَارًا فَإِنْ كَانَتْ نَافِذَةٌ فِي الْخَدَّيْنِ كِلَيْهِمَا فَدَيْتُهَا مِائَةَ دِينَارٍ وَ ذَلِكَ نِصْفُ دِيَّةِ الْتِي يُرَى مِنْهَا الْعَمُّ

And regarding the cheek, when there is a rupture in it from which the inside of the mouth can be seen, so its wergild is two hundred Dinars; and if medication is applied so it is cured, and complete, and due to it there is a clear mark and an obscene tear, so its wergild is fifty Dinars. So if there was piercing in both of the cheeks, so its wergild is one hundred Dinars. And that is half the wergild of that from which the (inside of) the mouth can be seen.

فَإِنْ كَانَتْ رَمِيَّةٌ بِنَصْلِ يَنْتُبُ فِي الْعِظْمِ حَتَّى يَنْفُذَ إِلَى الْحَنَكِ فَدَيْتُهَا مِائَةً وَ خَمْسُونَ دِينَارًا جُعِلَ مِنْهَا خَمْسُونَ دِينَارًا لِمُوضِحَتِهَا وَ إِنْ كَانَتْ نَاقِيَةً وَ لَمْ يَنْفُذْ فِيهَا فَدَيْتُهَا مِائَةَ دِينَارٍ فَإِنْ كَانَتْ مُوضِحَةً فِي شَيْءٍ مِنَ الْوَجْهِ فَدَيْتُهَا خَمْسُونَ دِينَارًا فَإِنْ كَانَ لَهَا شَيْءٌ فَدَيْتُهُ شَيْنِهِ مَعَ دِيَّةِ مُوضِحَتِهِ

So if it had been jabbed at with a blade which affirmed into the bone to the extent that it pierced into the jaw, so its wergild is one hundred and fifty Dinars, fifty of which have been made to be for exposing it (the bone); and if it had caused a blister and did not get affirmed in it, so its wergild is one hundred Dinars; so if it had exposed something from the face, so its wergild would be fifty Dinars; so if it was that it had ugliness for it, so its wergild would be for it along with the wergild for the exposure (of the bone).

فَإِنْ كَانَ جُرْحًا وَ لَمْ يُوضِحْ ثُمَّ بَرَأَ وَ كَانَ فِي الْخَدَّيْنِ فَدَيْتُهُ عَشْرَةَ دَنَانِيرٍ فَإِنْ كَانَ فِي الْوَجْهِ صَدَعٌ فَدَيْتُهُ تَمَانُونَ دِينَارًا فَإِنْ سَقَطَتْ مِنْهُ جِذْمَةٌ لَحْمٌ وَ لَمْ يُوضِحْ وَ كَانَ قَدْرُ الدَّرْهِمِ فَمَا فَوْقَ ذَلِكَ فَدَيْتُهُ ثَلَاثُونَ دِينَارًا وَ دِيَّةُ السَّجَّةِ إِذَا كَانَتْ تُوضِحُ أَرْبَعُونَ دِينَارًا إِذَا كَانَتْ فِي الْخَدِّ

So if it has been a wound and did not expose (a bone), then it was cured, and it was in the two cheeks, so its wergild would be ten Dinars; so if it was in the face as a fracture, its wergild would be eighty Dinars; so if a piece of the flesh had fallen from it, and it did not expose bone), and it was the size of the Dirham, and it was not above that, its wergild would be thirty Dinars; and a wergild of the piercing when it had exposed (the bone) is forty Dinars, when it was in the cheek.

وَ فِي مُوضِحَةِ الرَّأْسِ خَمْسُونَ دِينَارًا فَإِنْ نُقِلَ مِنْهَا الْعِظَامُ فَدَيْتُهَا مِائَةً وَ خَمْسُونَ دِينَارًا فَإِنْ كَانَتْ نَاقِيَةً فِي الرَّأْسِ فَتِلْكَ الْمَأْمُومَةُ دَيْتُهَا ثَلَاثِمِائَةً وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلَاثُ دِينَارٍ.

And with regards to exposure (of the bone) in the head, it is fifty Dinars; so if the bone had been displaced from it, its wergild is one hundred and fifty Dinars. So if it had been pierced in the head, so that would be *Al-Mamouma* (the skull fracture reaching the brain), its wergild is three hundred and thirty three Dinars and one-third of a Dinar.²

² Al Kafi – V 7 – The Book of Wergilds Ch 37 H 3

اللَّطْمَةُ**The slap**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي اللَّطْمَةِ يَسْوَدُ أَثْرُهَا فِي الْوَجْهِ أَنَّ أَرْشَهَا سِتَّةُ دَنَانِيرٍ فَإِنْ لَمْ تَسْوَدْ وَ اخْضَرَّتْ فَإِنَّ أَرْشَهَا ثَلَاثَةُ دَنَانِيرٍ فَإِنْ احْمَرَّتْ وَ لَمْ تَخْضَرْ فَإِنَّ أَرْشَهَا دِينَارٌ وَ نِصْفٌ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Is'haq Bin Ammr,

(It has been narrated) from Abu abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the slap, blackening in the face by its impact, that its compensation is six Dinars. So if it does not blacken, and it becomes green, so its compensation is three Dinars; so if it reddens and does not become green, so its compensation is a Dinar and a half'.³

الْأُذُنُ**The ear**

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنْ عَلِيًّا (عَلَيْهِ السَّلَامُ) قَضَى فِي شَحْمَةِ الْأُذُنِ ثُلُثَ دِيَّةِ الْأُذُنِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Misma'a,

Abu Abdullah^{asws} has said: 'Ali^{asws} judged regarding an ear lobe, being one-third of the wergild of the ear'.

وَ بِالْإِسْنَادِ الْأَوَّلِ فِي الْأُذُنَيْنِ إِذَا قُطِعَتْ إِحْدَاهُمَا فِدْيَتُهَا خَمْسُمِائَةِ دِينَارٍ وَ مَا قُطِعَ مِنْهَا فَبِحِسَابِ ذَلِكَ .

And by the first chain regarding the two ears when one of them is cut, so its wergild is five hundred Dinars, and whatever is cut from it, it would be by the accounting of that'.

الْأَسْنَانُ**The teeth**

قَالَ وَ فِي الْأَسْنَانِ فِي كُلِّ سِنٍّ خَمْسُونَ دِينَاراً وَ الْأَسْنَانُ كُلُّهَا سَوَاءٌ وَ كَانَ قَبْلَ ذَلِكَ يَقْضَى فِي الثَّنِيَّةِ خَمْسُونَ دِينَاراً وَ فِي الرَّبَاعِيَّةِ أَرْبَعُونَ دِينَاراً وَ فِي النَّابِ ثَلَاثُونَ دِينَاراً وَ فِي الضَّرْسِ خَمْسَةٌ وَ عَشْرُونَ دِينَاراً

He^{asws} said: 'And regarding the teeth, for every tooth is fifty Dinars, and all the teeth are equal; and before that it was judged with regards to the incisors being fifty Dinars, and regarding the quadrilaterals is forty Dinars, and regarding the canines is thirty Dinars, and regarding the molars is twenty five Dinars.

³ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 4

فَإِنْ اسْوَدَّتِ السُّ إِلَى الْحَوْلِ وَ لَمْ تَسْقُطْ فَدِيَّتُهَا دِيَةُ السَّاقِطَةِ خَمْسُونَ دِينَاراً وَ إِنْ انْصَدَعَتْ وَ لَمْ تَسْقُطْ فَدِيَّتُهَا خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ مَا انْكَسَرَ مِنْهَا مِنْ شَيْءٍ فَبِحِسَابِهِ مِنَ الْخَمْسِينَ دِينَاراً فَإِنْ سَقَطَتْ بَعْدَ وَ هِيَ سَوْدَاءٌ فَدِيَّتُهَا اثْنَا عَشَرَ دِينَاراً وَ نِصْفُ دِينَارٍ فَمَا انْكَسَرَ مِنْهَا مِنْ شَيْءٍ فَبِحِسَابِهِ مِنَ الْخَمْسَةِ وَ الْعَشْرِينَ دِينَاراً .

If the tooth blackens to its surroundings and does not fall off, so its wergild is the wergild of the falling, being fifty Dinars; and if it cracks and does not fall off, so its wergild is twenty Dinars, and whatever breaks from it, from something, so it would be by its accounting from the fifty Dinars. So if it falls of afterwards and it has blackened, so its wergild is twelve Dinars and a half a Dinar. So whatever breaks from it from something, so its accounting would be from the twenty five Dinars'.⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْأَسْنَانُ كُلُّهَا سَوَاءٌ فِي كُلِّ سِنٍّ خَمْسِمِائَةَ دِرْهَمٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdullah Bin Sinan,

Abu Abdullah^{asws} has said: 'The teeth, all of them are equal, regarding each tooth is five hundred Dirhams'.⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ أَوْ غَيْرِهِ عَنْ أَبِيَانَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا اسْوَدَّتِ التَّنِيَّةُ جُعِلَ فِيهَا الدِّيَةُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, or someone else, from Aban, from one of his companions,

Abu Abdullah^{asws} has said: 'Amir Al-Momineen^{asws} was saying: 'When the incisors blacken, the wergild would be applicable regarding it'.⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الْأَسْنَانِ فَقَالَ هِيَ فِي الدِّيَةِ سَوَاءٌ .

A number of our companions, from Ahmad Bin Abu Abdullah, from Usma Bin Isa, from Sama'at who said,

'I asked him^{asws} about the teeth, so he^{asws} said: 'These, with regards to the wergild, are the same'.⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ السُّ إِذَا ضُرِبَتْ انْتَظِرْ بِهَا سَنَةً فَإِنْ وَقَعَتْ أُغْرِمَ الضَّارِبُ خَمْسِمِائَةَ دِرْهَمٍ وَ إِنْ لَمْ تَقَعْ وَ اسْوَدَّتْ أُغْرِمَ ثُلَاثِي دِيَّتِهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdullah Bin Sinan,

Abu Abdullah^{asws} has said: 'The tooth, when it is stuck, would be awaited with for a year. So if it falls off, the striker would be fined five hundred Dirhams, and if it does not fall off and blackens, he would be fined two-thirds of its wergild'.⁸

⁴ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 5

⁵ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 6

⁶ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 7

⁷ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 8

⁸ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 9

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِنَّ عَلِيًّا (عليه السلام) قَضَى فِي سِنَّ الصَّبِيِّ قَبْلَ أَنْ يَنْجُرَ بَعِيرًا بَعِيرًا فِي كُلِّ سِنٍّ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a,

Abu Abdullah^{asws} has said: 'Ali^{asws} judged regarding a tooth of a child before it extrudes, with a camel, a camel regarding each tooth'.

التَّرْفُؤَةُ

The clavicle (collar-bone)

رَجَعَ إِلَى الْإِسْنَادِ الْأَوَّلِ قَالَ وَ فِي التَّرْفُؤَةِ إِذَا انْكَسَرَتْ فَجُبِرَتْ عَلَى غَيْرِ عَتَمٍ وَ لَا عَيْبٍ أَرْبَعُونَ دِينَارًا فَإِنْ انْصَدَعَتْ فَدَيْنُهَا أَرْبَعَةُ أَخْمَاسِ كَسْرِهَا اثْنَانِ وَ ثَلَاثُونَ دِينَارًا فَإِنْ أَوْضَحَتْ فَدَيْنُهَا خَمْسَةٌ وَ عَشْرُونَ دِينَارًا وَ ذَلِكَ خَمْسَةٌ أَجْزَاءٍ مِنْ ثَمَانِيَةِ مَنْ دَيْنُهَا إِذَا انْكَسَرَتْ فَإِنْ نُقِلَ مِنْهَا الْعِظَامُ فَدَيْنُهَا نِصْفُ دِيَةِ كَسْرِهَا عَشْرُونَ دِينَارًا فَإِنْ نُقِبَتْ فَدَيْنُهَا رُبْعُ دِيَةِ كَسْرِهَا عَشْرَةَ دَنَانِيرٍ .

Referring to the first chain, he^{asws} said: 'And regarding the clavicle when it breaks, so it is bandaged upon and becomes flawless, is forty Dinars. So if it cracks, it wergild is four fifths for its breaking, being thirty-two Dinars. So if it is exposed, its wergild is twenty-five Dinars, and this is a fifth part from one-eighth from its wergild, when it breaks. So if the bone is displaced from it, its wergild is half the wergild of its breaking, being twenty Dinars. So if it is pierced, its wergild is a quarter of the wergild of its breaking, being ten Dinars'.

الْمَنْكِبُ

The shoulder

وَ دِيَةِ الْمَنْكِبِ إِذَا كُسِرَ الْمَنْكِبُ خُمُسُ دِيَةِ الْيَدِ مِائَةُ دِينَارٍ فَإِنْ كَانَ فِي الْمَنْكِبِ صَدْعٌ فَدَيْنُهَا أَرْبَعَةُ أَخْمَاسِ دِيَةِ كَسْرِهَا ثَمَانُونَ دِينَارًا فَإِنْ أَوْضِحَ فَدَيْنُهَا رُبْعُ دِيَةِ كَسْرِهَا خَمْسَةٌ وَ عَشْرُونَ دِينَارًا فَإِنْ نُقِلَتْ مِنْهُ الْعِظَامُ فَدَيْنُهَا مِائَةُ دِينَارٍ وَ خَمْسَةٌ وَ سَبْعُونَ دِينَارًا مِنْهَا مِائَةُ دِينَارٍ دِيَةِ كَسْرِهَا وَ خَمْسُونَ دِينَارًا لِنَقْلِ عِظَامِهِ وَ خَمْسَةٌ وَ عَشْرُونَ دِينَارًا لِمُوضِحَتِهِ فَإِنْ كَانَتْ نَاقِبَةً فَدَيْنُهَا رُبْعُ دِيَةِ كَسْرِهَا خَمْسَةٌ وَ عَشْرُونَ دِينَارًا فَإِنْ رُضَّ فَعَتَمٌ فَدَيْنُهَا ثَلَاثُ دِيَةِ النَّفْسِ ثَلَاثِمِائَةٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلَاثُ دِينَارٍ فَإِنْ فَكَّ فَدَيْنُهَا ثَلَاثُونَ دِينَارًا .

And a wergild of the shoulder, when the shoulder breaks, is one-fifth of the wergild of the hand, being one hundred Dinars. So if there was a crack in the shoulder, so its wergild would be four-fifths of the wergild of its breaking, being eighty Dinars. So if it is exposed, so its wergild is one-quarter of the wergild of its breaking, being twenty-five Dinars. So if the bone is displaced from it, so its wergild is one hundred Dinars plus seventy-five Dinars, of which one hundred Dinars being for its breaking, and fifty Dinars for the displacement of its bone, and twenty-five Dinars being for its exposure. So it was pierced, so its wergild is a quarter of its breaking, being twenty-five Dinars. So if it is bruised, so it is defective, so its wergild is one-third of the wergild of the soul, being three hundred and thirty three Dinars and one-third of a Dinar. So if it is disjointed, so its wergild is thirty Dinars'.

الْعَضُدُ

The (upper) arms

وَ فِي الْعَضُدِ إِذَا انْكَسَرَتْ فَجُبِرَتْ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ فِدْيَتُهَا خُمْسُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ وَ دِيَّةُ مُوَضِحَتِهَا رُبْعُ دِيَّةِ كَسْرِهَا خَمْسَةٌ وَ عِشْرُونَ دِينَاراً وَ دِيَّةُ نَقْلِ عِظَامِهَا نِصْفُ دِيَّةِ كَسْرِهَا خَمْسُونَ دِينَاراً وَ دِيَّةُ نَقْبِهَا رُبْعُ دِيَّةِ كَسْرِهَا خَمْسَةٌ وَ عِشْرُونَ دِينَاراً .

And regarding the arm, when it breaks, so it is bandaged upon and there is no fault, so its wergild is a fifth of the wergild of the hand, being one hundred Dinars; and wergild for its exposure is a quarter of the wergild of its breaking, being twenty-five Dinars; and wergild for the displacement of its bone is half the wergild of its breaking, being fifty Dinars; and wergild of its being pierced is a quarter of the wergild of its breaking, being twenty-five Dinars’.

الْمِرْفَقُ

The elbow

وَ فِي الْمِرْفَقِ إِذَا كُسِرَ فَجَبِرَ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ فِدْيَتُهُ مِائَةُ دِينَارٍ وَ ذَلِكَ خُمْسُ دِيَّةِ الْيَدِ فَإِنْ انْصَدَعَ فِدْيَتُهُ أَرْبَعَةٌ أَمْحَاسٍ كَسْرُهُ ثَمَانُونَ دِينَاراً فَإِنْ نُقِلَ مِنْهُ الْعِظَامُ فِدْيَتُهُ مِائَةُ دِينَارٍ وَ خَمْسَةٌ وَ سَبْعُونَ دِينَاراً لِلْكَسْرِ مِائَةُ دِينَارٍ وَ لِنَقْلِ الْعِظَامِ خَمْسُونَ دِينَاراً وَ لِلْمُوضِحَةِ خَمْسَةٌ وَ عِشْرُونَ دِينَاراً فَإِنْ كَانَتْ نَاقِبَةً فِدْيَتُهَا رُبْعُ دِيَّةِ كَسْرِهَا خَمْسَةٌ وَ عِشْرُونَ دِينَاراً فَإِنْ رُضَّ الْمِرْفَقُ فَعَظْمُ فِدْيَتُهُ ثُلُثُ دِيَّةِ النَّفْسِ ثَلَاثِمِائَةُ دِينَارٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ فَإِنْ كَانَ فُكَّ فِدْيَتُهُ ثَلَاثُونَ دِينَاراً .

And regarding the elbow, when it breaks, so it is bandaged upon and there is no fault, so its wergild is one hundred Dinars, and that is a fifth of the wergild of the hand. So if it cracks, its wergild is four-fifths of its breaking, being eighty Dinars. So if the bone was displaced from it, its wergild is one hundred Dinar plus seventy-five Dinars, for the breaking being one hundred Dinars, and for the displacement of the bone being fifty Dinars, and for the exposure being twenty-five Dinars. So if was pierced, its wergild is one-quarter of its breaking, being twenty-five Dinars. So if it is bruised and becomes defective, its wergild is one-third of the wergild of the soul, being three hundred and thirty three Dinars and one-third of a Dinar. So it was disjointed, its wergild is thirty Dinars’.

السَّاعِدُ

The forearm

وَ فِي السَّاعِدِ إِذَا كُسِرَ ثُمَّ جَبِرَ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ فِدْيَتُهُ ثُلُثُ دِيَّةِ النَّفْسِ ثَلَاثِمِائَةُ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ فَإِنْ كُسِرَ إِحْدَى الْقَصَبَتَيْنِ مِنَ السَّاعِدِ فِدْيَتُهُ خُمْسُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ فَإِنْ كُسِرَتْ قَصَبَتَا السَّاعِدِ فِدْيَتُهَا خُمْسُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ .

And regarding the forearm, when it breaks, then is bandaged upon and there is no fault, so its wergild is one-third of a wergild of the soul, being three hundred and thirty three Dinars and one-third of a Dinar. So if one of the two bones of the forearm breaks, its wergild is a fifth of the wergild of the hand, being one hundred Dinars. So if both the bones of the forearm were to break, its wergild is (still) a fifth of the wergild of the hand, being one hundred Dinars.

وَ فِي الْكُسْرِ لِأَحَدِ الزَّنْدَيْنِ خَمْسُونَ دِينَاراً وَ فِي كِلَيْهِمَا مِائَةُ دِينَارٍ فَإِنْ انْصَدَعَتْ إِحْدَى الْقَصَبَيْنِ فَفِيهَا أَرْبَعَةُ أَحْمَاسِ دِيَّةٍ إِحْدَى قَصَبَتَيْ السَّاعِدِ أَرْبَعُونَ دِينَاراً وَ دِيَّةُ مُوضِحَتِهَا رُبْعُ دِيَّةِ كُسْرِهَا خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ دِيَّةُ نَقْلِ عِظَامِهَا رُبْعُ دِيَّةِ كُسْرِهَا خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ دِيَّةُ نَقْبِهَا نِصْفُ دِيَّةِ مُوضِحَتِهَا وَ نِصْفُ دِينَارٍ وَ دِيَّةُ نَافِذَتِهَا خَمْسُونَ دِينَاراً فَإِنْ كَانَتْ فِيهِ قَرْحَةٌ لَا تَبْرَأُ فَدِيَّتُهَا ثَلَاثُ دِيَّةِ السَّاعِدِ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ ذَلِكَ ثَلَاثُ دِيَّةِ الَّذِي هِيَ فِيهِ .

And regarding the breaking of one of the two wrists, it is fifty Dinars, and regarding both of these is one hundred Dinars. So if one of the two bones cracks, so regarding it is four-fifths of the wergild of one of the two bones of the forearms, being forty Dinars; and the wergild for its exposure is a quarter of the wergild of its breaking, being twenty five Dinars; and wergild of the displacement of its bones is a quarter of the wergild of its breaking, being twenty five Dinars; and the wergild of its piercing is half the wergild of its exposure, being twelve Dinars and half a Dinar; and wergild of its being jabbed is fifty Dinars. So if there was a scar in it which does not get cured, so its wergild is one-third of the wergild of the forearm, being thirty-three Dinars, and one-third of a Dinar, that is one-third of the wergild of that which is in it'.

الرُّصْغُ

The wrist

وَ دِيَّةُ الرُّصْغِ إِذَا رُضَّ فَجُبِرَ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ ثَلَاثُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ وَ سِتُّونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ .

And the wergild for the wrist, when it is bruised, so it is bandaged upon and there is no fault, is one-third of the wergild of the hand, being one hundred and sixty-six Dinars, and one-third of a Dinar'.

الْكَفُّ

The palm

وَ فِي الْكَفِّ إِذَا كُسِرَتْ فَجُبِرَتْ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ فَدِيَّتُهَا خُمْسُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ وَ إِنْ فَكَّ الْكَفُّ فَدِيَّتُهَا ثَلَاثُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ وَ سِتُّونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ فِي مُوضِحَتِهَا رُبْعُ دِيَّةِ كُسْرِهَا خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ دِيَّةُ نَقْلِ عِظَامِهَا خَمْسُونَ دِينَاراً نِصْفُ دِيَّةِ كُسْرِهَا وَ فِي نَافِذَتِهَا إِنْ لَمْ تَنْسُدْ خُمْسُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ فَإِنْ كَانَتْ نَاقِبَةً فَدِيَّتُهَا رُبْعُ دِيَّةِ كُسْرِهَا خَمْسَةٌ وَ عَشْرُونَ دِينَاراً

And regarding the palm when it breaks, so it is bandaged upon and there is no fault, so its wergild is a fifth of the wergild of the hand, being one hundred Dinars; and if the palm is disjointed, so its wergild is one-third of the wergild of the hand, being one hundred and sixty-six Dinars and two-thirds of a Dinar; and regarding its exposure is a quarter of the wergild of its breaking, being twenty five Dinars; and a wergild for the displacement of its bones is fifty Dinars, being half the wergild for its breaking; and regarding its piercing, if it not sealed up, is a fifth of the wergild of the hand, being one hundred Dinars. So if it was pierced, its wergild is a quarter of the wergild of its breaking, being twenty-five Dinars.

وَ فِي دِيَّةِ الْأَصَابِعِ وَ الْقَصَبِ الَّتِي فِي الْكَفِّ فِي الْإِبْهَامِ إِذَا قُطِعَ ثَلَاثُ دِيَّةِ الْيَدِ مِائَةُ دِينَارٍ وَ سِتُّونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ دِيَّةُ قَصَبَةِ الْإِبْهَامِ الَّتِي فِي الْكَفِّ تُجْبَرُ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ خُمْسُ دِيَّةِ الْإِبْهَامِ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ إِذَا اسْتَوَى جَبْرُهَا وَ ثَبَّتَ وَ دِيَّةُ صَدْعِهَا سِتُّونَ دِينَاراً وَ عَشْرُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ دِيَّةُ مُوضِحَتِهَا ثَمَانِيَةُ دَنَانِيرٍ وَ ثَلَاثُ دِينَارٍ وَ دِيَّةُ نَقْلِ عِظَامِهَا سِتُّونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ دِيَّةُ نَقْبِهَا ثَمَانِيَةُ دَنَانِيرٍ وَ ثَلَاثُ دِينَارٍ نِصْفُ دِيَّةِ نَقْلِ عِظَامِهَا

And regarding the wergild of the fingers and the bones which are in the palm, so regarding the thumb when it is cut-off, there is one-third of the wergild of the hand, being one hundred and sixty-six Dinars and two-thirds of a Dinar; and wergild of the bone of the thumb which is in the palm, is bandaged upon and there is no fault, is one-fifth of the wergild of the thumb, being thirty-three Dinars and one-third of the Dinar, when its bones are set and evened, and it is firm; and the wergild of its cracking is twenty-six Dinars and two-thirds of a Dinar; and the wergild for its exposure is eighty Dinars and one-third of a Dinar; and wergild of the displacement of its bone is sixteen Dinar and two-thirds of a Dinar; and wergild for its piercing is eight Dinars and one-third of a Dinar, being half the wergild of the displacement of its bones;

وَ دِيَّةٌ مُوَضِّحَتَهَا نِصْفُ دِيَّةِ نَاقِلَتِهَا ثَمَانِيَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ دِيَّةٌ فَكَّهَا عَشْرَةَ دَنَانِيرٍ وَ دِيَّةُ الْمَفْصِلِ الثَّانِي مِنْ أَعْلَى الْإِبْهَامِ إِنْ كُسِرَ فَجَبِرَ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ سِتَّةَ عَشَرَ دِينَاراً وَ ثُلُثَا دِينَارٍ وَ دِيَّةُ الْمُوَضِّحَةِ إِنْ كَانَتْ فِيهَا أَرْبَعَةُ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ دِيَّةُ صَدْعِهَا ثَلَاثَةَ عَشَرَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ دِيَّةُ نَقْلِ عِظَامِهَا خَمْسَةَ دَنَانِيرٍ فَمَا قُطِعَ مِنْهَا فَبِحِسَابِهِ .

And a wergild of its exposure is half the wergild of its displacement, being eight Dinars and one-third of a Dinar; and the wergild of it being disjointed is ten Dinars; and wergild of the second joint from the top of the thumb, if it breaks, so it is bandaged upon and there is no fault, is sixteen Dinars and one-third of a Dinar; and wergild of the exposure, if there was in it, is four Dinars and one-sixth of a Dinar; and wergild of its cracking is thirteen Dinars and one-third of a Dinar; and wergild of the displacement of its bones is five Dinars. So whatever was cut from it, so it would be by its accounting'.

الأصابع

The fingers

وَ فِي الْأَصَابِعِ فِي كُلِّ إِصْبَعٍ سُدُسُ دِيَّةِ الْيَدِ ثَلَاثَةٌ وَ ثَمَانُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ دِيَّةُ قَصَبِ أَصَابِعِ الْكَفِّ سِوَى الْإِبْهَامِ دِيَّةٌ كُلُّ قَصَبَةٍ عَشْرُونَ دِينَاراً وَ ثُلُثَا دِينَارٍ وَ دِيَّةُ كُلِّ مُوَضِّحَةٍ فِي كُلِّ قَصَبَةٍ مِنَ الْقَصَبِ الْأَرْبَعِ أَرْبَعَةَ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ دِيَّةُ نَقْلِ كُلِّ قَصَبَةٍ مِنْهُمْ ثَمَانِيَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ دِيَّةُ كَسْرِ كُلِّ مَفْصِلٍ مِنَ الْأَصَابِعِ الْأَرْبَعِ الَّتِي تَلِي الْكَفَّ سِتَّةَ عَشَرَ دِينَاراً وَ ثُلُثَا دِينَارٍ وَ فِي صَدْعِ كُلِّ قَصَبَةٍ مِنْهُمْ ثَلَاثَةَ عَشَرَ دِينَاراً وَ ثُلُثُ دِينَارٍ

And regarding the fingers, for every finger is a sixth of the wergild of the hand, being eighty three Dinars and one-third of a Dinar; and wergild for the fingers bones of the palm beside the thumb, is a wergild of all bones being twenty Dinars and one-third of a Dinar; and wergild of every exposure regarding each of the bone from the four bones is four Dinars and one-sixth of a Dinar; and wergild of displacement of every bone from these is eight Dinars and one-third of a Dinar; and wergild of breaking of every joint from the four fingers which emerge from the palm is sixteen Dinars and one-third of a Dinar; and regarding a crack in each bone from these is thirteen Dinars and one-third of a Dinar.

فَإِنْ كَانَ فِي الْكَفِّ قَرْحَةٌ لَا تَبْرَأُ فِدِيَّتُهَا ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ فِي نَقْلِ عِظَامِهِ ثَمَانِيَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ فِي مُوَضِّحَتِهِ أَرْبَعَةَ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ فِي نَقْبِهِ أَرْبَعَةَ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ فِي فَكِّهِ خَمْسَةَ دَنَانِيرٍ

So if there was a sore in the palm which does not get cured, so its wergild is thirty-three Dinars and one-third of a Dinar; and regarding the displacement of its bone is eighty Dinars and one-third of a Dinar; and regarding the exposure is four Dinars and

one-sixth of a Dinar; and regarding a piercing is four Dinars and one-sixth of a Dinar; and regarding a disjointing is five Dinars;

و دِيَّةُ الْمَفْصِلِ الْأَوْسَطِ مِنَ الْأَصَابِعِ الْأَرْبَعِ إِذَا قُطِعَ فِدْيَتُهُ خَمْسَةٌ وَ خَمْسُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ فِي كَسْرِهِ أَحَدَ عَشَرَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ فِي صَدْعِهِ ثَمَانِيَةَ دَنَانِيرٍ وَ نِصْفُ دِينَارٍ وَ فِي مُوضِحَتِهِ دِينَارَانِ وَ ثَلَاثَا دِينَارٍ وَ فِي نَقْلِ عِظَامِهِ خَمْسَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ فِي نَقْبِهِ دِينَارَانِ لَنَا دِينَارٍ وَ فِي فَكِّهِ ثَلَاثَةَ دَنَانِيرٍ وَ ثَلَاثَا دِينَارٍ

and wergild of the middle joint from the four fingers, when it is cut, so its wergild is fifty-five Dinars and one-third of a Dinar; and regarding the breaking of one (finger) is ten Dinars and one-third of a Dinar; and regarding its cracking is eight Dinars and half a Dinar; and regarding exposure are two Dinars and one-third of a Dinar; and regarding the displacement of its bone is five Dinars and one-third of a Dinar; and regarding a piercing are two Dinars and one-third of a Dinar; and regarding is disjointing is three Dinars and two-thirds of a Dinar;

وَ فِي الْمَفْصِلِ الْأَعْلَى مِنَ الْأَصَابِعِ الْأَرْبَعِ إِذَا قُطِعَ سَبْعَةٌ وَ عَشْرُونَ دِينَاراً وَ وَ ثُ نِصْفُ وَ رُبُعٌ وَ نِصْفُ عَشْرِ دِينَارٍ وَ فِي كَسْرِهِ خَمْسَةَ دَنَانِيرٍ وَ أَرْبَعَةَ أَحْمَاسِ دِينَارٍ وَ فِي صَدْعِهِ أَرْبَعَةَ دَنَانِيرٍ وَ خُمُسُ دِينَارٍ وَ فِي مُوضِحَتِهِ دِينَارَانِ وَ ثُلُثُ دِينَارٍ وَ فِي نَقْلِ عِظَامِهِ خَمْسَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ فِي نَقْبِهِ دِينَارَانِ وَ ثَلَاثَا دِينَارٍ وَ فِي فَكِّهِ ثَلَاثَةَ دَنَانِيرٍ وَ ثَلَاثَا دِينَارٍ وَ فِي ظَفْرِ كُلِّ إِبْصَعٍ مِنْهَا خَمْسَةَ دَنَانِيرٍ

and regarding the upper joint from the four fingers, when it is cut, is twenty-seven Dinars and a half, and one-quarter, and half of a tenth of a Dinar; and regarding breaking it is five Dinars and four-fifth of a Dinar; and regarding its cracking is four Dinars and a fifth of a Dinar; and regarding its exposure are two Dinars and one-third of a Dinar; and regarding displacement of its bone is five Dinars and one-third of a Dinar; and regarding its piercing are two Dinars and one-third of a Dinar; and regarding its disjointing is three Dinars and one-third of a Dinar; and regarding a nail of each finger from these, is five Dinars;

وَ فِي الْكَفِّ إِذَا كُسِرَتْ فَجَبِرَتْ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ فِدْيَتُهَا أَرْبَعُونَ دِينَاراً وَ دِيَّةُ صَدْعِهَا أَرْبَعَةُ أَحْمَاسِ دِيَّةِ كَسْرِهَا اثْنَانِ وَ ثَلَاثُونَ دِينَاراً وَ دِيَّةُ مُوضِحَتِهَا خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ دِيَّةُ نَقْلِ عِظَامِهَا عَشْرُونَ دِينَاراً وَ نِصْفُ دِينَارٍ وَ دِيَّةُ نَقْبِهَا رُبْعُ دِيَّةِ كَسْرِهَا عَشْرَةَ دَنَانِيرٍ وَ دِيَّةُ قَرْحَةٍ لَا تَبْرَأُ ثَلَاثَةَ عَشَرَ دِينَاراً وَ ثُلُثُ دِينَارٍ .

And regarding the palm when it breaks, so it is bandaged upon and there is no fault, so its wergild is forty Dinars; and wergild of its cracking it four-fifths of the wergild of its breaking, being thirty-two Dinars; wergild of its exposure is twenty-five Dinars; and wergild of displacement of its bone is twenty Dinars and half a Dinar; and wergild of its piercing is a quarter of the wergild of its breaking, being ten Dinars; and wergild of its sore which does not get cured, is ten Dinars and one-third of a Dinar'.⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ يَحْيَى الْخَزَّازِ عَنْ غِيَاثِ بْنِ إِبْرَاهِيمَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْإِبْصَعِ الزَّائِدَةِ إِذَا قُطِعَتْ ثُلُثُ دِيَّةِ الصَّحِيحَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Yahya Al Khazzaz, from Ghayas Bin Ibrahim,

(It has been narrated) from Abu Abdullah^{asws} regarding the excessive finger when it is cut-off, is one-third of the wergild of the healthy (finger)'.

⁹ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 10

الصَّدر**The chest**

وَبِالإِسْنَادِ الأوَّلِ قَالَ وَ فِي الصَّدرِ إِذَا رُضَّ فَتَنَى شَقِيهَ كِلَيْهِمَا فَدِيئُهُ خَمْسُمِائَةَ دِينَارٍ وَ دِيهَهُ أَحَدُ شَقِيهِ إِذَا انْتَنَى مَائَتَانِ وَ خَمْسُونَ دِينَاراً وَ إِذَا انْتَنَى الصَّدرُ وَ الكَتِفَانِ فَدِيئُهُ أَلْفُ دِينَارٍ وَ إِنْ انْتَنَى أَحَدُ شَقِي الصَّدرِ وَ إِحْدَى الكَتِفَيْنِ فَدِيئُهُ خَمْسُمِائَةَ دِينَارٍ وَ دِيهَهُ مُوضِحَةَ الصَّدرِ خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ دِيهَهُ مُوضِحَةَ الكَتِفَيْنِ وَ الطَّهْرَ خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ إِنْ اغْتَرَى الرَّجُلُ مِنْ ذَلِكَ صَعراً لَا يَسْتَطِيعُ أَنْ يَلْتَفِتَ فَدِيئُهُ خَمْسُمِائَةَ دِينَارٍ فَإِنْ انْكَسَرَ الصُّلْبُ فَجَبَرَ عَلَى غَيْرِ عَنَمٍ وَ لَا عَيْبٍ فَدِيئُهُ مِائَةُ دِينَارٍ وَ إِنْ عَنَمَ فَدِيئُهُ أَلْفُ دِينَارٍ وَ فِي حَلْمَةِ تَدْيِ الرَّجُلِ ثَمُنُ الدِّيَةِ مِائَةٌ وَ خَمْسَةٌ وَ عَشْرُونَ دِينَاراً .

And by the first chain, he^{asws} said: 'And regarding the chest when it is bruised, so both of its sides are bent, its wergild is five hundred Dinars; and wergild of one side when it is bent, is two hundred and fifty Dinars; and when the chest and the two shoulders are bent, its wergild is one thousand Dinars; and if one of the side of the chest is bent and one of the shoulders, so its wergild is five hundred Dinars; and wergild of the exposure of the chest is twenty-five Dinars; and wergild of the exposure of the shoulder and the back is twenty five Dinars; and if the man gets twisted from that, not being able to turn around, so its wergild is five hundred Dinars. So if the spine breaks, and it is bandaged upon and there is no fault, so its wergild is one hundred Dinars; and if there remains a flaw, so its wergild is one thousand Dinars; and regarding the nipple of the breast of the man is damaged, the wergild is one hundred and twenty five Dinars'.

الأضلاع**The ribs**

وَ فِي الأضلاعِ فِيمَا خَالَطَ القَلْبَ مِنَ الأضلاعِ إِذَا كُسِرَ مِنْهَا ضِلْعٌ فَدِيئُهُ خَمْسَةٌ وَ عَشْرُونَ دِينَاراً وَ فِي صَدْعِهِ اثْنَا عَشَرَ دِينَاراً وَ نِصْفٌ وَ دِيهَهُ نَقْلَ عِظَامِهِ سَبْعَةَ دَنَانِيرٍ وَ نِصْفٌ وَ مُوضِحَتِهِ عَلَى رُبْعِ كُسْرِهِ وَ نَقْبِهِ مِثْلُ ذَلِكَ وَ فِي الأضلاعِ مِمَّا يَلِي العَضْدَيْنِ دِيهَهُ كُلِّ ضِلْعٍ عَشْرَةُ دَنَانِيرٍ إِذَا كُسِرَ وَ دِيهَهُ صَدْعِهِ سَبْعَةُ دَنَانِيرٍ وَ دِيهَهُ نَقْلَ عِظَامِهِ خَمْسَةُ دَنَانِيرٍ وَ مُوضِحَةَ كُلِّ ضِلْعٍ مِنْهَا رُبْعُ دِيهَةِ كُسْرِهِ دِينَارَانِ وَ نِصْفٌ

And with regards to the ribs, regarding what is mingled with the hear from the ribs, when a rib from these breaks, so its wergild is twenty-five Dinars; and regarding its fracture is twelve Dinars and half a Dinar; and wergild of the displacement of its bone is seven Dinars and a half; and its exposure is upon a quarter of its breaking, and its piercing is like that; and with regards to the ribs from what follow from the two upper arms, wergild of each rib is ten Dinars when it breaks; and wergild of its fracture is seven Dinars; and wergild of the displacement of its bone is five Dinars; and the exposure of each rib from it is a quarter of the wergild of its breaking, being two dinars and a half;

فَإِنْ نُقِبَ ضِلْعٌ مِنْهَا فَدِيئُهَا دِينَارَانِ وَ نِصْفٌ وَ فِي الجَائِفَةِ ثُلُثُ دِيَةِ النَّفْسِ ثَلَاثُمِائَةٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ فَإِنْ نَفَذَتْ مِنَ الجَائِبَيْنِ كِلَيْهِمَا رَمِيَةٌ أَوْ طَعْنَةٌ فَدِيئُهَا أَرْبَعُمِائَةُ دِينَارٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً [وَ ثُلُثُ دِينَارٍ] .

So if a rib from it were to be pierced, so its wergild is two Dinars and a half; and regarding the injury reaching to the inside, is one-third of the wergild of the soul, three hundred and thirty-three Dinars and one-third of a Dinar. So if there is a penetration from both the two sides, by an arrow or a jab, so its wergild is four hundred and thirty-three Dinars and one-third of a Dinar.

الْوَرِكُ**The hip**

وَ فِي الْوَرِكِ إِذَا كُسِرَ فَجُبِرَ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ خُمُسُ دِيَّةِ الرَّجُلِ مِائَتَا دِينَارٍ وَ إِنْ صُدِعَ الْوَرِكُ فَدِيَّتُهُ مِائَةٌ وَ سِتُّونَ دِينَاراً أَرْبَعَةٌ أَخْمَاسُ دِيَّةِ كَسْرِهِ فَإِنْ أَوْضَحَتْ فَدِيَّتُهُ رُبْعُ دِيَّةِ كَسْرِهِ خَمْسُونَ دِينَاراً وَ دِيَّةُ نَقْلِ عِظَامِهِ مِائَةٌ وَ خَمْسَةٌ وَ سَبْعُونَ دِينَاراً مِنْهَا لِكَسْرِهَا مِائَةٌ دِينَارٍ وَ لِنَقْلِ عِظَامِهَا خَمْسُونَ دِينَاراً وَ لِمُوضِحَتِهَا خَمْسَةٌ وَ عِشْرُونَ دِينَاراً وَ دِيَّةُ فَكِّهَا ثَلَاثُونَ دِينَاراً فَإِنْ رُضَّتْ فَعَثَمَتْ فَدِيَّتُهَا ثَلَاثِمِائَةَ دِينَارٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ .

And regarding the hip, when it breaks, so it is bandaged upon and there is no fault, is one-fifth of the wergild of the leg, being one hundred Dinars; and if the hip is fractured, so its wergild is one hundred and sixty Dinars, being four-fifths of the wergild of its breaking. So it is exposed, its wergild is one-quarter of its breaking, being fifty Dinars; and wergild of the displacement of its bone is one hundred and seventy-five Dinars, from it for its break is one hundred Dinars, and for the displacement of its bone is fifty Dinars, and for its exposure is twenty-five Dinars; and wergild of its disjuncting is thirty Dinars. So if it is bruised, and becomes defective, so its wergild is three hundred and thirty-three Dinars and one-third of a Dinar.

الْفَخْذُ**The thigh**

وَ فِي الْفَخْذِ إِذَا كُسِرَتْ فَجُبِرَتْ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ خُمُسُ دِيَّةِ الرَّجُلِ مِائَتَا دِينَارٍ فَإِنْ عَثَمَتْ فَدِيَّتُهَا ثَلَاثِمِائَةٌ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ ذَلِكَ ثَلَاثُ دِيَّةِ النَّفْسِ وَ دِيَّةُ صَدْعِ الْفَخْذِ أَرْبَعَةٌ أَخْمَاسُ دِيَّةِ كَسْرِهَا مِائَةٌ دِينَارٍ وَ سِتُّونَ دِينَاراً فَإِنْ كَانَتْ قَرْحَةً لَا تَبْرَأُ فَدِيَّتُهَا ثَلَاثُ دِيَّةِ كَسْرِهَا سِتَّةٌ وَ سِتُّونَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ دِيَّةُ مُوضِحَتِهَا رُبْعُ دِيَّةِ كَسْرِهَا خَمْسُونَ دِينَاراً وَ دِيَّةُ نَقْلِ عِظَامِهَا نِصْفُ دِيَّةِ كَسْرِهَا مِائَةٌ دِينَارٍ وَ دِيَّةُ نَقْبِهَا رُبْعُ دِيَّةِ كَسْرِهَا مِائَةٌ وَ سِتُّونَ دِينَاراً .

And regarding the thigh, when it breaks, so it is bandaged upon and there is no fault, is one-fifth of the wergild of the left, being two hundred Dinars. So if there is a flaw, so its wergild is three hundred and thirty-three Dinars and one-third of a Dinar, and that is one-third of the wergild of the soul; and wergild of a fracture of the thigh is four-fifths of the wergild of its breaking, being one hundred and sixty Dinars. So if it was a wound that does not get cured, so its wergild is one-third of the wergild of its breaking, being sixty-six Dinars and two-thirds of a Dinar; and wergild of its exposure is a quarter of the wergild of its breaking, being fifty Dinars; and wergild of the displacement of its bone is half the wergild of its breaking, being one hundred Dinars; and wergild of its piercing is a quarter of the wergild of its breaking, being one hundred and sixty Dinars'.

الرُّكْبَةُ**The knee**

وَ فِي الرُّكْبَةِ إِذَا كُسِرَتْ فَجُبِرَتْ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ خُمُسُ دِيَّةِ الرَّجُلِ مِائَتَا دِينَارٍ فَإِنْ انْصَدَعَتْ فَدِيَّتُهَا أَرْبَعَةٌ أَخْمَاسُ دِيَّةِ كَسْرِهَا مِائَةٌ وَ سِتُّونَ دِينَاراً وَ دِيَّةُ مُوضِحَتِهَا رُبْعُ دِيَّةِ كَسْرِهَا خَمْسُونَ دِينَاراً وَ دِيَّةُ نَقْلِ عِظَامِهَا مِائَةٌ دِينَارٍ وَ خَمْسَةٌ وَ سَبْعُونَ دِينَاراً مِنْهَا دِيَّةُ كَسْرِهَا مِائَةٌ دِينَارٍ وَ فِي نَقْلِ عِظَامِهَا خَمْسُونَ دِينَاراً وَ فِي مُوضِحَتِهَا خَمْسَةٌ وَ عِشْرُونَ دِينَاراً وَ فِي قَرْحَةٍ فِيهَا لَا تَبْرَأُ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ فِي نُفُودِهَا رُبْعُ دِيَّةِ كَسْرِهَا خَمْسُونَ دِينَاراً وَ دِيَّةُ نَقْبِهَا رُبْعُ دِيَّةِ

كَسْرَهَا خَمْسُونَ دِينَارًا فَإِنْ رُضَّتْ فَعَنَمَتْ فَوَيْهَا ثَلَاثُ دِيَةِ النَّفْسِ ثَلَاثِمِائَةٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلَاثُ دِينَارٍ فَإِنْ فُكَّتْ فَوَيْهَا ثَلَاثَةُ أَجْزَاءٍ مِنْ دِيَةِ الْكُسْرِ ثَلَاثُونَ دِينَارًا .

And with regards to the knee, when it breaks, so it is bandaged upon and there is no fault, is one-fifth of the wergild of the leg, being two hundred Dinars. So if it is fractured, its wergild is four-fifths of the wergild of its breaking it, being one hundred and sixty Dinars; and wergild of its exposure is one-quarter of the wergild of its breaking, being fifty Dinars; and wergild of the displacement of its bones is one hundred and seventy-five Dinars, from it the wergild of its breaking is one hundred Dinars, and regarding the displacement of its bone is fifty Dinars, and regarding its exposure is twenty-five Dinars; and regarding bruising in it which does not get cured, is thirty-three Dinars and one-third of a Dinar; and regarding its piercing is one-quarter of the wergild of its breaking, being fifty Dinars; and wergild of its bruising is one-quarter of the wergild of its breaking, being fifty Dinars. So if it is bruised and becomes defective, so regarding it is one-third of the wergild of the soul, being three hundred and thirty-three Dinars and one-third of a Dinar. So if it was disjointed, so regarding it is three parts from the break, being thirty Dinars.

السَّاقُ

The leg

وَ فِي السَّاقِ إِذَا كُسِرَتْ فَجُبِرَتْ عَلَى غَيْرِ عَنَمٍ وَ لَا عَيْبٍ خُمُسُ دِيَةِ الرَّجْلِ مِائَتًا دِينَارًا وَ دِيَةُ صَدْعِهَا أَرْبَعَةُ أَخْمَاسِ دِيَةِ كُسْرِهَا مِائَةٌ وَ سِتُونَ دِينَارًا وَ فِي مُوَضِحَتِهَا رُبْعُ دِيَةِ كُسْرِهَا خَمْسُونَ دِينَارًا وَ فِي نَفْيِهَا نِصْفُ دِيَةِ مُوَضِحَتِهَا خَمْسَةٌ وَ عِشْرُونَ دِينَارًا وَ فِي نَقْلِ عِظَامِهَا رُبْعُ دِيَةِ كُسْرِهَا خَمْسُونَ دِينَارًا وَ فِي نَفْوِذِهَا رُبْعُ دِيَةِ كُسْرِهَا خَمْسُونَ دِينَارًا وَ فِي قَرْحَةٍ فِيهَا لَا تَبْرَأُ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلَاثُ دِينَارٍ فَإِنْ عَنَمَ السَّاقُ فِدِيَتُهَا ثَلَاثُ دِيَةِ النَّفْسِ ثَلَاثِمِائَةٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلَاثُ دِينَارٍ .

And regarding the leg, when it breaks, so it is bandaged upon and there is no fault, is one-fifth of the wergild of the leg, being two hundred Dinars; and wergild of its fracture is four-fifths of the wergild of its breaking, being one hundred and sixty Dinars; and regarding its exposure is one-quarter of the wergild of its breaking, being fifty Dinars; and regarding its piercing is half the wergild of its exposure, being twenty-five Dinars; and regarding the displacement of its bone is one-quarter of the wergild of its breaking, being fifty Dinars; and regarding its piercing is one-quarter of the wergild of its breaking, being fifty Dinars; and regarding a bruising in it which does not get cured is thirty-three Dinars and one-third of a Dinar. So if the leg becomes defective, so its wergild is one-third of the wergild of the soul, being three hundred and thirty-three Dinars and one-third of a Dinar.

الْكَعْبُ

The heel

وَ فِي الْكَعْبِ إِذَا رُضَّ فَجُبِرَ عَلَى غَيْرِ عَنَمٍ وَ لَا عَيْبٍ ثَلَاثُ دِيَةِ الرَّجْلِ ثَلَاثِمِائَةٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَارًا وَ ثَلَاثُ دِينَارٍ .

And regarding the heel when it is bruised, so it is bandaged upon and there is no fault, is one-third of the wergild of the leg, being three hundred and thirty-three Dinars and one-third of a Dinar.

الْقَدَمُ**The foot**

وَ فِي الْقَدَمِ إِذَا كُسِرَتْ فَجُبِرَتْ عَلَى غَيْرِ عَظْمٍ وَ لَا عَيْبٍ خُمُسُ دِيَةِ الرَّجْلِ مِائَتَا دِينَارٍ وَ دِيَةٌ مُوَضِحَتَهَا رُبْعُ دِيَةِ كَسْرِهَا خَمْسُونَ دِينَاراً وَ فِي نَقْلِ عِظَامِهَا مِائَةُ دِينَارٍ يُصْفُ دِيَةَ كَسْرِهَا وَ فِي نَافِذَةٍ فِيهَا لَا تَنْسُدُ خُمُسُ دِيَةِ الرَّجْلِ مِائَتَا دِينَارٍ وَ فِي نَاقِيَةٍ فِيهَا رُبْعُ دِيَةِ كَسْرِهَا خَمْسُونَ دِينَاراً .

And regarding the foot, when it beaks, so it is bandaged upon without defect and there is no fault, is one-fifth of the wergild of the leg, being two hundred Dinars; and wergild of its exposure is one-quarter of the wergild of its breaking, being fifty Dinars; and regarding the displacement of its bone is one hundred Dinars, half the wergild of breaking it; and regarding the piercing in it which does not get filled, is one-fifth of the wergild of the leg, being two hundred Dinars; and regarding a bruising in it is one-quarter of the wergild of its breaking, being fifty Dinars.

الْأَصَابِعُ وَ الْقَصَبُ**The toes and the (foot) bones**

الَّتِي فِي الْقَدَمِ وَ الْإِبْهَامِ دِيَةُ الْإِبْهَامِ تُلْثُ دِيَةَ الرَّجْلِ ثَلَاثُمِائَةٍ وَ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ دِيَةُ كَسْرِ قَصَبَةِ الْإِبْهَامِ الَّتِي تَلِي الْقَدَمَ خُمُسُ دِيَةِ الْإِبْهَامِ سِتَّةٌ وَ سِتُّونَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ فِي نَقْلِ عِظَامِهَا سِتَّةٌ وَ عِشْرُونَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ فِي صَدْعِهَا سِتَّةٌ وَ عِشْرُونَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ فِي مُوَضِحَتِهَا ثَمَانِيَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ فِي نَقْبِهَا ثَمَانِيَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ فِي فَكِّهَا عَشْرَةَ دَنَانِيرٍ

(That) which is in the feet and the big toe – Wergild of the big toe is one-third of the wergild of the leg, being three hundred and thirty-three Dinars and one-third of a Dinar; and wergild of the breaking of the bone of the big toe which emerges from the foot is one-fifth of the wergild of the big toe, being sixty-six Dinars and two-thirds of a Dinar; and regarding the displacement of its bone is twenty-six Dinars and two-third of a Dinar; and regarding its fracture is twenty-six Dinars and two-thirds of a Dinar; and regarding its exposure is eighty Dinars and one-third of a Dinar; and regarding its piercing is eighty Dinars and one-third of a Dinar; and regarding its disjuncting is ten Dinars;

وَ دِيَةُ الْمُفْصِلِ الْأَعْلَى مِنَ الْإِبْهَامِ وَ هُوَ الثَّانِي الَّذِي فِيهِ الظُّفْرُ سِتَّةٌ عَشْرَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ فِي مُوَضِحَتِهِ أَرْبَعَةَ دَنَانِيرٍ وَ سُدُسٌ وَ فِي نَقْلِ عِظَامِهِ ثَمَانِيَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ فِي نَاقِيَتِهِ أَرْبَعَةَ دَنَانِيرٍ وَ سُدُسٌ وَ فِي صَدْعِهَا ثَلَاثَةَ عَشْرَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ فِي فَكِّهَا خَمْسَةَ دَنَانِيرٍ وَ فِي ظُفْرِهِ ثَلَاثُونَ دِينَاراً وَ ذَلِكَ لِأَنَّهُ ثُلُثُ دِيَةِ الرَّجْلِ

And wergild of the upper joint from the big toe, and it is the second in which is the nail, is sixteen Dinars; and regarding its exposure is four Dinars and one-sixth; and regarding the displacement of its bone is eighty Dinars and one-third of a Dinar; and regarding its piercing is four Dinars and one-sixth; and regarding its fracture is thirteen Dinars and one-third of a Dinar; and regarding its disjuncting is five Dinars; and regarding its nail is thirty Dinars, and that is because it is one-third of the wergild of the leg;

وَ دِيَةُ الْأَصَابِعِ دِيَةُ كُلِّ إِصْبَعٍ مِنْهَا سُدُسُ دِيَةِ الرَّجْلِ ثَلَاثَةٌ وَ ثَمَانُونَ دِينَاراً وَ ثُلُثُ دِينَارٍ وَ دِيَةُ قَصَبَةِ الْأَصَابِعِ الْأَرْبَعِ سِوَى الْإِبْهَامِ دِيَةُ كُلِّ قَصَبَةٍ مِنْهُنَّ سِتَّةٌ عَشْرَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ دِيَةُ مُوَضِحَةِ قَصَبَةِ كُلِّ إِصْبَعٍ مِنْهُنَّ أَرْبَعَةَ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ دِيَةُ نَقْلِ عِظَمِ كُلِّ قَصَبَةٍ مِنْهُنَّ ثَمَانِيَةَ دَنَانِيرٍ وَ ثُلُثُ دِينَارٍ وَ دِيَةُ صَدْعِهَا ثَلَاثَةَ عَشْرَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ دِيَةُ نَقْبِ

كُلِّ قَصْبَةٍ مِنْهُنَّ أَرْبَعَةُ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ دِيَةٌ قَرْحَةٍ لَا تَنْبَرَأُ فِي الْقَدَمِ ثَلَاثَةٌ وَ ثَلَاثُونَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ دِيَةٌ كَسْرِ
كُلِّ مَفْصِلٍ مِنَ الْأَصَابِعِ الْأَرْبَعِ الَّتِي تَلِي الْقَدَمَ سِتَّةَ عَشَرَ دِينَاراً وَ ثَلَاثُ دِينَارٍ وَ دِيَةٌ صَدْعِهَا ثَلَاثَةٌ عَشَرَ دِينَاراً وَ ثَلَاثُ دِينَارٍ
وَ دِيَةٌ نَقْلِ عِظَامِ كُلِّ قَصْبَةٍ مِنْهُنَّ ثَمَانِيَةَ دَنَانِيرٍ وَ ثَلَاثُ دِينَارٍ وَ دِيَةٌ مُوَضِحَةٍ كُلِّ قَصْبَةٍ مِنْهُنَّ أَرْبَعَةُ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ
دِيَةٌ نَقْبِهَا أَرْبَعَةُ دَنَانِيرٍ وَ سُدُسُ دِينَارٍ وَ دِيَةٌ فَكِّهَا خَمْسَةُ دَنَانِيرٍ

And wergild of the toes – wergild of each toe from it is one-sixth of the wergild of the left, being eighty three Dinars and one-third of a Dinar; and wergild of the bones of the four toes are equal to the big toe, the wergild from each toe from these is sixteen Dinars and one-third of a Dinar; and wergild of the exposure of the bone of each of the toe from these is four Dinars and one-sixth of a Dinar; and wergild of the displacement of a bone of each of the bones from these is eighty Dinars and one-third of a Dinar; and wergild of its fracture is thirteen Dinars and two-thirds of a Dinar; and wergild of the piercing of each bone from these is four Dinars and one-sixth of a Dinar; and wergild of a bruise in the foot which does not get cured is thirty-three Dinars and one-third of a Dinar; and wergild for breaking of each joint from the four toes which emerge from the foot is sixteen Dinars and one-third of a Dinar; and wergild for its fracture is thirteen Dinars and one-third of a Dinar; and wergild of the displacement of a bone of each bones from these is eighty Dinars and one-third of a Dinar; and wergild for the exposure of each bone from these is four Dinars and one-sixth of a Dinar; and wergild for its piercing is four Dinars and one-sixth of a Dinar; and wergild for its disjuncting is five Dinars;

وَ فِي الْمَفْصِلِ الْأَوْسَطِ مِنَ الْأَصَابِعِ الْأَرْبَعِ إِذَا قُطِعَ فِدْيَتُهُ خَمْسَةٌ وَ خَمْسُونَ دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ دِيَةٌ كَسْرِهِ أَحَدَ عَشَرَ
دِينَاراً وَ ثَلَاثَا دِينَارٍ وَ دِيَةٌ صَدْعِهِ ثَمَانِيَةَ دَنَانِيرٍ وَ أَرْبَعَةُ أَخْمَاسِ دِينَارٍ وَ دِيَةٌ مُوَضِحَتِهِ دِينَارَانِ وَ دِيَةٌ نَقْلِ عِظَامِهِ خَمْسَةُ
دَنَانِيرٍ وَ ثَلَاثَا دِينَارٍ وَ دِيَةٌ نَقْبِهِ دِينَارَانِ وَ ثَلَاثَا دِينَارٍ وَ دِيَةٌ فَكِّهِ ثَلَاثَةُ دَنَانِيرٍ

And regarding the middle joints from the four toes when it is cut-off, so its wergild is fifty-five Dinars and two-thirds of a Dinar; and wergild of the breaking is eleven Dinars and two-thirds of a Dinar; and wergild of its fracture is eighty Dinars and four-fifths of a Dinar; and wergild of its exposure is two Dinars; and wergild of the displacement of its bone is five Dinars and two-thirds of a Dinar; and wergild of its piercing is two Dinars and two-thirds of a Dinar; and wergild of its disjuncting is three Dinars;

وَ فِي الْمَفْصِلِ الْأَعْلَى مِنَ الْأَصَابِعِ الْأَرْبَعِ الَّتِي فِيهَا الظُّفْرُ إِذَا قُطِعَ فِدْيَتُهُ سَبْعَةٌ وَ عَشْرُونَ دِينَاراً وَ أَرْبَعَةُ أَخْمَاسِ دِينَارٍ وَ
دِيَةٌ كَسْرِهِ خَمْسَةَ دَنَانِيرٍ وَ أَرْبَعَةُ أَخْمَاسِ دِينَارٍ وَ دِيَةٌ صَدْعِهِ أَرْبَعَةُ دَنَانِيرٍ وَ خُمْسُ دِينَارٍ وَ دِيَةٌ مُوَضِحَتِهِ دِينَارٍ وَ ثَلَاثُ
دِينَارٍ وَ دِيَةٌ نَقْلِ عِظَامِهِ دِينَارَانِ وَ خُمْسُ دِينَارٍ وَ دِيَةٌ نَقْبِهِ دِينَارٍ وَ ثَلَاثُ دِينَارٍ وَ دِيَةٌ فَكِّهِ دِينَارَانِ وَ أَرْبَعَةُ أَخْمَاسِ دِينَارٍ وَ
دِيَةٌ كُلِّ ظَفْرِ عَشْرَةَ دَنَانِيرٍ .

And regarding the upper joint from the four toes in which are the nails, when it is cut-off, so its wergild is twenty-seven Dinars and four-fifths of a Dinar; and wergild of its breaking is five dinars and four-fifths of a Dinar; and wergild of its fracture is four Dinars and a fifth of a Dinar; and wergild of its exposure is a Dinar and one-third of a Dinar; and wergild of the displacement of its bone is two Dinars and one-fifth of a Dinar; and wergild of its piercing is a Dinar and one-third of a Dinar; and wergild of its disjuncting is two Dinars and a four-fifths of a Dinar; and wergild of each nail is ten Dinars'.¹⁰

¹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 11

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الظُّفْرِ إِذَا قُلِعَ وَ لَمْ يَنْبُتْ وَ خَرَجَ أَسْوَدًا قَاسِدًا عَشْرَةَ دَنَانِيرٍ فَإِنْ خَرَجَ أَبْيَضًا فَخَمْسَةَ دَنَانِيرٍ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the nails, when it is ripped out and does not grow back, and blackness emerges and it rots, is ten Dinars. So if whiteness emerges, so it is five Dinars'.

رَجَعَ إِلَى الْإِسْنَادِ الْأَوَّلِ قَالَ وَ قَضَى فِي مُوَضَّحَةِ الْأَصَابِعِ ثُلُثَ دِيَّةِ الْإِصْبَعِ فَإِنْ أُصِيبَ رَجُلٌ فَأَدِرَ خُصْيَتَاهُ كِلْتَاهُمَا فِدْيَتُهُ أَرْبَعُمِائَةَ دِينَارٍ فَإِنْ فَجِحَ فَلَمْ يَسْتَطِعِ الْمَشْيَ إِلَّا مَشْيًا بَسِيرًا لَا يَنْفَعُهُ فِدْيَتُهُ أَرْبَعُمِائَةَ أَلْفِ دِينَارٍ فَإِنْ أَحْدَبَ مِنْهَا الظُّهْرُ فَحَبْنَبُذٌ تَمَّتْ دِيَّتُهُ أَلْفُ دِينَارٍ وَ الْقَسَامَةُ فِي كُلِّ شَيْءٍ مِنْ ذَلِكَ سِتَّةَ نَفَرٍ عَلَى مَا بَلَغَتْ دِيَّتُهُ وَ دِيَّةُ الْبُجْرَةِ إِذَا كَانَتْ فَوْقَ الْعَانَةِ عَشْرُ دِيَّةِ النَّفْسِ مِائَةُ دِينَارٍ فَإِنْ كَانَتْ فِي الْعَانَةِ فَخَرَقَتْ الصَّفَاقَ فَصَارَتْ أُذْرَةً فِي إِحْدَى الْبَيْضَتَيْنِ فِدْيَتُهَا مِائَتَا دِينَارٍ خُمُسُ الدِّيَةِ .

Referring to the first chain, he^{asws} said: 'And he (Amir Al-Momineen^{asws}) judged regarding exposure of the toes being one-third of the wergild of the toes. So if a man is hit and both his testicles turn around, so its wergild is four hundred Dinars. So if he has to straddle and is not able to walk except for a simple walk, which is not beneficial to him, so its wergild is four-fifths of the wergild of the soul, being a hundred Dinars. So if he becomes hunch backed from it, so this is where is the complete wergild, being a thousand Dinars; and the sworn endorsements regarding everything from that is six people upon whatever his wergild reaches; and wergild of the rupture above the pubic area is a tenth of the wergild of the soul, being one hundred Dinars. So if it was in the pubic area, so it violates the abdominal membrane, so there occurs a swelling in one of the testicles, so its wergild is two hundred Dinars, being a fifth of the (complete) wergild'.¹¹

باب دِيَّةِ الْجَنِينِ

Chapter 39 – Wergild of the foetus

وَ بِهِذَا الْإِسْنَادِ عَنْ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَالَ جَعَلَ دِيَّةَ الْجَنِينِ مِائَةَ دِينَارٍ وَ جَعَلَ مَنِيَّ الرَّجُلِ إِلَى أَنْ يَكُونَ جَنِينًا خَمْسَةَ أَجْزَاءٍ فَإِذَا كَانَ جَنِينًا قَبْلَ أَنْ تَلْجِيهِ الرُّوحُ مِائَةَ دِينَارٍ وَ ذَلِكَ أَنَّ اللَّهَ عَزَّ وَ جَلَّ خَلَقَ الْإِنْسَانَ مِنْ سَلَالَةٍ وَ هِيَ النُّطْفَةُ فَهَذَا جُزْءٌ ثُمَّ عَلَقَةٌ فَهِيَ جُزْءٌ أَنْ تَمَّ مُضْغَةٌ فَهِيَ ثَلَاثَةُ أَجْزَاءٍ ثُمَّ عَظْمٌ فَهِيَ أَرْبَعَةُ أَجْزَاءٍ ثُمَّ يُكْسَى لَحْمًا فَحَبْنَبُذٌ تَمَّ جَنِينًا فَكَمَلَتْ لَهُ خَمْسَةُ أَجْزَاءٍ مِائَةُ دِينَارٍ وَ الْمِائَةُ دِينَارٍ خَمْسَةُ أَجْزَاءٍ فَجَعَلَ لِلنُّطْفَةِ خُمُسَ الْمِائَةِ عَشْرِينَ دِينَارًا وَ لِلْعَلَقَةِ خُمُسَ الْمِائَةِ أَرْبَعِينَ دِينَارًا وَ لِلْمُضْغَةِ ثَلَاثَةَ أَلْفِ دِينَارٍ وَ لِلْعَظْمِ أَرْبَعَةَ أَلْفِ دِينَارٍ وَ لِحَمِي الدَّيْتِ كَمِائَةَ دِينَارٍ كَامِلَةً

And by this chain, from Amir Al-Momineen^{asws} having said: 'The wergild of the foetus is made to be one hundred Dinars, and the sperm of the man up to the stage it happens to be a foetus is of five segments. So if it was a foetus before the spirit enters into it, is one hundred Dinars, and that is that Allah^{azwj} Mighty and Majestic Created the human being from an extract, and it is the seed. So this is a segment. Then a clot, so it is a segment. Then a lump, so these are three segments. Then

¹¹ Al Kafi – V 7 – The Book of Wergilds Ch 37 H 12

bones, so this is a fourth segment. Then flesh grows upon it, so this is where the foetus is complete. So when the five segments are completed for it, it is one hundred Dinars, and the one hundred Dinars is of five segment. So for the seed is made to be one-fifth of the hundred, being twenty Dinars; and for the clot being two-fifths of the hundred, being forty Dinars; and for the lump being three-fifths of the hundred, being sixty Dinars; and for the bones is four-fifths of the hundred, being eighty Dinars. So when the flesh covers it, there would be one hundred Dinars for it, complete.

فَإِذَا نَشَأَ فِيهِ خَلْقٌ آخَرَ وَهُوَ الرُّوحُ فَهُوَ جَبِينٌ نَفْسٌ فِيهِ أَلْفُ دِينَارٍ دِيَّةٌ كَامِلَةٌ إِنْ كَانَ ذَكَرًا وَ إِنْ كَانَ أُنْثَى فَخَمْسُمِائَةٍ دِينَارٍ
وَ إِنْ قُتِلَتْ امْرَأَةٌ وَ هِيَ حُبْلَى فَلَمْ يَسْقُطْ وَلَدُهَا وَ لَمْ يُعْلَمَ أَ ذَكَرٌ هُوَ أَمْ أُنْثَى وَ لَمْ يُعْلَمَ أَ بَعْدَهَا مَاتَ أَوْ قَبْلَهَا فَدِيَّتُهُ نِصْفَانِ
نِصْفُ دِيَّةِ الذَّكَرِ وَ نِصْفُ دِيَّةِ الْأُنْثَى وَ دِيَّةُ الْمَرْأَةِ كَامِلَةٌ بَعْدَ ذَلِكَ وَ ذَلِكَ سِتَّةُ أَجْزَاءٍ مِنَ الْجَنِينِ

So when another creation prevails in it, and it is the spirit, so this is where there it is a soul, regarding it is a thousand Dinars complete, if it was a male; and if it was a female, so it is five hundred Dinars. So if a woman is killed, and she is pregnant, so it was complete, but it did not miscarry, and it was not know whether it was a male or a female, and it is not know whether it died after her or before her, so its wergild is in two halves, being half the wergild of the male, and half the wergild of the female, and wergild of the woman is complete after that, and that is of six segments from the foetus.

وَ أَقْتَنِي (عَلَيْهِ السَّلَامُ) فِي مَنِيِّ الرَّجُلِ يُفْرَعُ مِنْ عَرْسِهِ فَيَعْرَلُ عَنْهَا الْمَاءَ وَ لَمْ يَرِدْ ذَلِكَ نِصْفِ خُمْسِ الْمِائَةِ عَشْرَةَ دَنَانِيرَ
وَ إِذَا أُفْرِعَ فِيهَا عَشْرِينَ دِينَارًا

And he^{asws} issued a verdict regarding the seed of the man which flows out from his bride, so the water is isolated from her and that is not returned, being half of the fifth of the hundred, being ten Dinars; and when it is poured from her, being twenty Dinars'.

وَ قَضَى فِي دِيَّةِ جِرَاحِ الْجَنِينِ مِنْ حَسَابِ الْمِائَةِ عَلَى مَا يَكُونُ مِنْ جِرَاحِ الذَّكَرِ وَ الْأُنْثَى الرَّجُلِ وَ الْمَرْأَةِ كَامِلَةً وَ جَعَلَ لَهُ
فِي قِصَاصِ جِرَاحِهِ وَ مَعْقَلَتِهِ عَلَى قَدْرِ دِيَّتِهِ وَ هِيَ مِائَةٌ دِينَارٍ .

And he^{asws} judged regarding wergild of the injuries from the foetus from the accounting of the one hundred based upon what it happens to be, from the injury of the male and the female, the man and the woman (proportion of its completion), and made for it regarding its retaliation of its injuries and its blood relations based upon the measurement of its wergild, and it is one hundred Dinars'.¹²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ أَوْ غَيْرِهِ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ دِيَّةُ الْجَنِينِ
خَمْسَةُ أَجْزَاءٍ خَمْسٌ لِلنُّطْفَةِ عَشْرُونَ دِينَارًا وَ لِلْعَلَقَةِ خُمْسَانُ أَرْبَعُونَ دِينَارًا وَ لِلْمُضْغَةِ ثَلَاثَةٌ أَرْبَعُونَ دِينَارًا وَ لِلْعَظْمِ
أَرْبَعَةٌ أَرْبَعُونَ دِينَارًا فَإِذَا تَمَّ الْجَنِينُ كَانَتْ لَهُ مِائَةٌ دِينَارٍ فَإِذَا أَنْشَى فِيهِ الرُّوحُ فَدِيَّتُهُ أَلْفُ دِينَارٍ أَوْ عَشْرَةُ أَلْفٍ بِرَهْمِ
إِنْ كَانَ ذَكَرًا وَ إِنْ كَانَ أُنْثَى فَخَمْسُمِائَةٍ دِينَارٍ وَ إِنْ قُتِلَتْ الْمَرْأَةُ وَ هِيَ حُبْلَى فَلَمْ يَدْرَ أَ ذَكَرًا كَانَ وَلَدُهَا أَوْ أُنْثَى فَدِيَّةُ الْوَلَدِ
نِصْفَانِ نِصْفُ دِيَّةِ الذَّكَرِ وَ نِصْفُ دِيَّةِ الْأُنْثَى وَ دِيَّتُهَا كَامِلَةٌ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, or someone else, from Ibn Muskan,

Abu Abdullah^{asws} has said: 'Wergild of the foetus is of five segments, one-fifth for the seed being twenty Dinars; and two-fifths for the clot being forty dinars; and three-

¹² Al Kafi – V 7 – The Book of Wergilds Ch 38 H 1

fifths for the lump, being sixty Dinars; and four-fifths for the bones, being eighty Dinars. So when the foetus is complete, there would be one-hundred Dinars for it. So when the spirit prevails in it, so its wergild would be a thousand Dinars, or ten thousand Dirhams, if it was a male; and if it was a female, so it would be five hundred Dinars. And if the woman is killed and she is pregnant, so it is not known whether her child was a male or a female, so the wergild of the child is in two halves – half the wergild of the male, and half the wergild of the female, and her wergild would be complete'.¹³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْزَةَ عَنْ دَاوُدَ بْنِ فَرْقَدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ جَاءَتْ امْرَأَةٌ فَاسْتَعْدَتْ عَلَى أَعْرَابِيٍّ قَدْ أَفْرَزَ عَهَا فَأَلْقَتْ جَنِينًا فَقَالَ الْأَعْرَابِيُّ لَمْ يَهْلُ وَ لَمْ يَصِحْ وَ مِثْلُهُ يُطَلُّ فَقَالَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) اسْكُتْ سَجَاعَهُ عَلَيْكَ غُرَّةٌ وَصَيْفٌ عَبْدٌ أَوْ أَمَةٌ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeir, from Muhammad Bin Abu Hamza, from Dawood Bin Farqad,

Abu Abdullah^{asws} has said: 'A woman came across a Bedouin who terrified her, so she miscarried a foetus. So the Bedouin said, 'I neither scared her nor shouted at her, for the like of it to happen'. So the Prophet^{saww} said: 'Be silent! The compensation is upon you for surprising her (and) negligence, a servant (male) or a maid (female) (to serve her for life)'.¹⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيسَى عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنْ ضَرَبَ رَجُلٌ بَطْنَ امْرَأَةٍ حُبْلَى فَأَلْقَتْ مَا فِي بَطْنِهَا مَيِّتًا فَإِنَّ عَلَيْهِ غُرَّةً عَبْدٍ أَوْ أَمَةٍ يَدْفَعُهَا إِلَيْهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer,

Abu Abdullah^{asws} has said: 'If a man were to strike the belly of a woman, so she miscarries whatever was in her belly as dead, so upon him would be the fine of providing a male or a female servant, and (to be) handing over to her'.¹⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ نُعَيْمِ بْنِ إِبْرَاهِيمَ عَنْ أَبِي سَيَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ قَتَلَ جَنِينًا أَمَةً لِقَوْمٍ فِي بَطْنِهَا فَقَالَ إِنْ كَانَ مَاتَ فِي بَطْنِهَا بَعْدَ مَا ضَرَبَهَا فَعَلَيْهِ نِصْفُ عَشْرِ قِيمَةِ أَمَةٍ وَ إِنْ كَانَ ضَرَبَهَا فَأَلْقَتْهُ حَيًّا فَمَاتَ فَإِنَّ عَلَيْهِ عَشْرَ قِيمَةِ أَمَةٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together, from Ibn Mahboub, from Nuaym Bin Ibrahim, from Abu Sayyar,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who killed a foetus of a slave girl in her belly, (which was) for a people (not belong to him). So he^{asws} said: 'If it died inside her belly after her having been struck, so upon him is half of the price of his slave girl, and if she had been struck, so it was miscarried alive, so it died (afterwards), so upon him is a tenth of the price of his slave girl'.¹⁶

ابْنُ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي امْرَأَةٍ شَرَيْتُ دَوَاءً وَ هِيَ حَامِلٌ لِتَطْرَحَ وَ لَدَهَا فَأَلْقَتْ وَ لَدَهَا فَقَالَ إِنْ كَانَ عَظْمًا قَدْ نَبَتَ عَلَيْهِ اللَّحْمُ وَ شَقَّ لَهُ السَّمْعُ وَ الْبَصْرُ فَإِنَّ عَظْمًا دَيْتَهُ تُسَلَّمُهَا إِلَى أَبِيهِ قَالَ وَ

¹³ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 2

¹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 3

¹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 4

¹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 5

إِنْ كَانَ جَنِينًا عَلَقَةً أَوْ مُضْعَةً فَإِنَّ عَلَيْهَا أَرْبَعِينَ دِينَارًا أَوْ غُرَّةً تُسَلِّمُهَا إِلَى أَبِيهِ قُلْتُ فِيهَا لَا تَرْتُّ مِنْ وَدَيْهَا مِنْ دَيْتِهِ قَالَ لَا لِأَنَّهَا قَتَلَتْهُ .

Ibn Mahboub, from Ali Bin Raib, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far^{asws} regarding a woman who drank medication and she was pregnant, in order to abort her child. So she miscarried her child (as a result). So he^{asws} said: 'If it was bones and flesh had grown upon it, and the hearing and the sight had been pierced for it, so upon her is its wergild to be submitted to its father. And if it was a foetus, either a clot or a lump, so upon her would be forty Dinars, a compensation to be submitted to its father'. I said, 'So she would not be inheriting from her child, from its wergild?' He^{asws} said: 'No, because she killed it'.¹⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَضَى رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فِي جَبِينِ الْهَلَالِيَّةِ حَيْثُ رُمِيَتْ بِالْحَجَرِ فَأَلْفَتْ مَا فِي بَطْنِهَا غُرَّةً عَبْدًا أَوْ أُمَّةً .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} judged regarding a foetus of Al-Hilaliya when she was pelted by a rock, so she miscarried what was in her belly, a compensation of a (male) servant, or a (female) servant'.¹⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ رَجُلٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ الرَّجُلُ يَضْرِبُ الْمَرْأَةَ فَتَطْرَحُ النَّطْفَةَ قَالَ عَلَيْهِ عَشْرُونَ دِينَارًا فَإِنْ كَانَتْ عَلَقَةً فَعَلَيْهِ أَرْبَعُونَ دِينَارًا وَإِنْ كَانَتْ مُضْعَةً فَعَلَيْهِ سِتُونَ دِينَارًا وَإِنْ كَانَ عَظْمًا فَعَلَيْهِ الدِّيَّةُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abdullah Bin Sinan, from man,

(The narrator) says, 'I said to Abu Ja'far^{asws}, 'The man strikes a woman, so she dropped the seed'. He^{asws} said, 'Upon him is twenty Dinars. So if it was a clot, so upon him is forty Dinars; and if it was a lump, so upon him is sixty Dinars; and if it was bones, so upon him is the (complete) wergild'.¹⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ صَالِحِ بْنِ عُقْبَةَ عَنْ سُلَيْمَانَ بْنِ صَالِحٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي النَّطْفَةِ عَشْرُونَ دِينَارًا وَفِي الْعَلَقَةِ أَرْبَعُونَ دِينَارًا وَفِي الْمَضْعَةِ سِتُونَ دِينَارًا وَفِي الْعَظْمِ ثَمَانُونَ دِينَارًا فَإِذَا كُسِيَ اللَّحْمُ فَمِائَةٌ دِينَارٍ ثُمَّ هِيَ دِيْنُهُ حَتَّى يَسْتَهْلَ فَإِذَا اسْتَهَلَ فَالذِّيَّةُ كَامِلَةٌ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Ismail, from Salih Bin Uqba, from Suleyman Bin Salih,

(It has been narrated) from Abu Abdullah^{asws} regarding the seed being twenty Dinars, and regarding the clot being forty Dinars, and regarding the lump being sixty Dinars, and regarding the bones being eighty Dinars. So when the flesh covers it, so it is a hundred Dinars. Then it is its wergild until it commences (living). So when it commences, so it is the complete wergild (a thousand Dinars).²⁰

¹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 6

¹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 7

¹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 8

²⁰ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 9

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَضْرِبُ الْمَرْأَةَ فَتَطْرُحُ النُّطْفَةَ فَقَالَ عَلَيْهِ عَشْرُونَ دِينَاراً فَقُلْتُ بَصْرُهَا فَتَطْرُحُ الْعَلَقَةَ فَقَالَ عَلَيْهِ أَرْبَعُونَ دِينَاراً قُلْتُ فَيَضْرِبُهَا فَتَطْرُحُ الْمَضْغَةَ قَالَ عَلَيْهِ سِتُّونَ دِينَاراً قُلْتُ فَيَضْرِبُهَا فَتَطْرُحُهَا وَ قَدْ صَارَ لَهُ عَظْمٌ فَقَالَ عَلَيْهِ الدِّيَّةُ كَامِلَةً وَ بِهَذَا قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ)

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about the man who struck the woman, so she dropped the seed. So he^{asws} said: 'Upon him is twenty Dinars'. So I said, 'He hits her and she drops the clot?' So he^{asws} said: 'Upon him is forty Dinars'. I said, 'So he hits her, and she drops the lump?' He^{asws} said: 'Upon his is sixty Dinars'. I said, 'So he hits her, she drops it, and bones had occurred upon it?' So he^{asws} said: 'Upon him is the complete wergild, and it is by this that Amir Al-Momineen^{asws} judged'.

قُلْتُ فَمَا صِفَةُ خَلْقَةِ النُّطْفَةِ الَّتِي تُعْرَفُ بِهَا فَقَالَ النُّطْفَةُ تَكُونُ بِيضَاءً مِثْلَ النَّخَامَةِ الْعَلِيظَةِ فَتَمُكُّ فِي الرَّحْمِ إِذَا صَارَتْ فِيهِ أَرْبَعِينَ يَوْماً ثُمَّ تَصِيرُ إِلَى عَلَقَةٍ قُلْتُ فَمَا صِفَةُ خَلْقَةِ الْعَلَقَةِ الَّتِي تُعْرَفُ بِهَا فَقَالَ هِيَ عَلَقَةٌ كَعَلَقَةِ الدَّمِ الْمَحْجَمَةِ الْجَامِدَةِ تَمُكُّ فِي الرَّحْمِ بَعْدَ تَحْوِيلِهَا عَنِ النُّطْفَةِ أَرْبَعِينَ يَوْماً ثُمَّ تَصِيرُ مُضْغَةً

I said, 'So what is the description of the creation of the seed which it is recognised by?' So he^{asws} said: 'The seed happens to be white, like the thick phlegm. So it remains in the womb. When forty days pass over it, then it becomes a clot'. I said, 'So what is the description of the creation of the clot which it is recognised by?' So he^{asws} said: 'It is a clot like the clot of the coagulated blood, solidified, remaining in the womb after its conversion from the seed, for forty days, then it becomes a lump'.

قُلْتُ فَمَا صِفَةُ الْمَضْغَةِ وَ خَلْقَتِهَا الَّتِي تُعْرَفُ بِهَا قَالَ هِيَ مُضْغَةٌ لَحْمٌ حَمْرَاءُ فِيهَا عُرُوقٌ خَضِرٌ مُشْتَبِكَةٌ ثُمَّ تَصِيرُ إِلَى عَظْمٍ قُلْتُ فَمَا صِفَةُ خَلْقَتِهِ إِذَا كَانَ عَظْماً فَقَالَ إِذَا كَانَ عَظْماً شَقَّ لَهُ السَّمْعُ وَ الْبَصَرُ وَ رُنَّبَتْ جَوَارِحُهُ فَإِذَا كَانَ كَذَلِكَ فَإِنَّ فِيهِ الدِّيَّةَ كَامِلَةً .

I said, 'So what is the description of the lump and its creation which it is recognised by?' He^{asws} said: 'It is a lump of red flesh in which are green veins, entangled. Then it becomes bones'. I said, 'So what is the description of its creation when it was bones?' So he^{asws} said: 'When it was bones, there are formed limbs for it, the hearing, and the sight, and arrangement of its limbs. So when it was like that, so regarding it is the complete wergild'.²¹

صَالِحُ بْنُ عُفَيْهَ عَنْ يُونُسَ الشَّيْبَانِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَإِنْ خَرَجَ فِي النُّطْفَةِ قَطْرَةٌ دَمٍ قَالَ الْقَطْرَةُ عَشْرُ النُّطْفَةِ فِيهَا اثْنَانِ وَ عَشْرُونَ دِينَاراً قُلْتُ فَإِنْ قَطَرَتْ قَطْرَتَيْنِ قَالَ أَرْبَعَةٌ وَ عَشْرُونَ دِينَاراً قَالَ قُلْتُ فَإِنْ قَطَرَتْ بِنِثْلَاثٍ قَالَ قِسْمَتُهُ وَ عَشْرُونَ دِينَاراً قُلْتُ فَأَرْبَعٌ قَالَ فَتَمَائِيْنَةُ وَ عَشْرُونَ دِينَاراً وَ فِي خَمْسٍ ثَلَاثُونَ دِينَاراً وَ مَا زَادَ عَلَى النِّصْفِ فَعَلَى حِسَابِ ذَلِكَ حَتَّى تَصِيرَ عَلَقَةً فَإِذَا صَارَتْ عَلَقَةً فَفِيهَا أَرْبَعُونَ

Salih Bin Uqba, from Yunus Al Shaybani who said,

'I said to Abu Abdullah^{asws}, 'Suppose a drop of blood comes out in the seed?' He^{asws} said: 'The drop is a tenth of the seed, regarding it is twenty two Dinars'. I said, 'So if the drop are two drops?' He^{asws} said: 'Twenty four Dinars'. I said, 'So if there are three drops?' He^{asws} said: 'Twenty-six Dinars'. I said, 'So, four?' He^{asws} said: 'Twenty-eight Dinars; and regarding five is thirty Dinars; and whatever increases upon the

²¹ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 10

half. So it would be based upon the accounting of that until it becomes a clot. So when it becomes a clot, so with regards to it is forty (Dinars)'.

فَقَالَ لَهُ أَبُو شَيْبَلٍ وَ أَخْبَرَنَا أَبُو شَيْبَلٍ قَالَ حَضَرْتُ يُونُسَ وَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يُخْبِرُهُ بِالدِّيَّاتِ قَالَ قُلْتُ فَإِنَّ النُّطْفَةَ حَرَجْتُ مُتَّحَصِّصَةً بِالدَّمِ قَالَ فَقَالَ لِي فَقَدْ عَلِقْتُ إِنْ كَانَ دَمًا صَافِيًا فَفِيهَا أَرْبَعُونَ دِينَارًا وَ إِنْ كَانَ دَمًا أَسْوَدَ فَلَا شَيْءَ عَلَيْهِ إِلَّا التَّعْزِيرُ لِأَنَّهُ مَا كَانَ مِنْ دَمٍ صَافٍ فَذَلِكَ لِلْوَلَدِ وَ مَا كَانَ مِنْ دَمٍ أَسْوَدَ فَذَلِكَ مِنَ الْجَوْفِ

So Abu Shibl asked him^{asws}, and Abu Shibl informed us saying, 'Yunus was present and Abu Abdullah^{asws} informed him with the wergilds. I said, 'So if the seed comes out submerged in the blood?' So he^{asws} said to me: 'So it has clotted, if it was clear blood. Therefore with regards to it is forty Dinars; and if it was black blood, so there is nothing upon it except for the reprimanding, because whatever was from clear blood, so that is for the child, and whatever was from the black blood, so that is from the inside'.

قَالَ أَبُو شَيْبَلٍ فَإِنَّ الْعَلَقَةَ صَارَ فِيهَا شِبْهُ الْعِرْقِ مِنْ لَحْمٍ قَالَ أَنْتَانِ وَ أَرْبَعُونَ الْعُسْرُ قَالَ قُلْتُ فَإِنَّ عُسْرَ الْأَرْبَعِينَ أَرْبَعَةٌ فَقَالَ لَا إِنَّمَا هُوَ عُسْرٌ الْمَضْعَةُ لِأَنَّهُ إِنَّمَا ذَهَبَ عُسْرُهَا فَكَلَّمَا زَادَتْ زِيدَ حَتَّى تَبْلُغَ السَّتِينَ قَالَ قُلْتُ فَإِنَّ رَأَيْتُ فِي الْمَضْعَةِ شِبْهُ الْعُقْدَةِ عَظْمًا يَابِسًا قَالَ فَذَلِكَ عَظْمٌ كَذَلِكَ أَوَّلُ مَا يَبْدَأُ الْعَظْمُ فَيَبْدَأُ بِخَمْسَةِ أَشْهُرٍ فَفِيهِ أَرْبَعَةٌ دَنَائِيرٍ فَإِنْ زَادَ فَزِدْ أَرْبَعَةً أَرْبَعَةً حَتَّى يَبْلُغَ الثَّمَانِينَ

Abu Shibl said, 'So if the clot is such that there happen to be in it resembling the veins from the flesh?' He^{asws} said: 'Forty-two and the one-tenth'. I said, 'So if the tenth is forty-four?' So he^{asws} said: 'No! But rather, it is a tenth of the lump, because its one-tenth has gone. So whatever is increased, it increased until it reaches the sixty'. I said, 'So what is your^{asws} view regarding the lump with nodes resembling the dry bones?' He^{asws} said: 'So that is the bone. It is like that in the beginning, what is the beginning of (the formation of) the bones, by five months. Therefore, with regards to it is forty Dinars. So if it is additional, so it increases by four, four, until it is completed at eighty'.

قَالَ قُلْتُ وَ كَذَلِكَ إِذَا كُيِّبَ الْعَظْمُ لَحْمًا قَالَ (عَلَيْهِ السَّلَامُ) كَذَلِكَ قُلْتُ فَإِذَا وَكَّرَهَا فَسَقَطَ الصَّبِيُّ وَ لَا يُدْرَى أَمْ كَانَ أَمْ لَا قَالَ هِيَئَاتِ يَا أَبَا شَيْبَلٍ إِذَا مَضَتْ الْخَمْسَةُ الْأَشْهُرُ فَقَدْ صَارَتْ فِيهِ الْحَيَاةُ وَ قَدْ اسْتَوْجَبَ الدِّيَّةَ .

I said, 'And similar to that when the bones attain flesh?' He^{asws} said: 'It is like that'. I said, 'So when she is punched (in the belly) and the child is dropped, and it is not known whether it was alive, or not?' He^{asws} said: 'Far be it! O Abu Shibl, when five months elapse, so the life has come into it, and the wergild is Obligated'.²²

صَالِحُ بْنُ عُقْبَةَ عَنْ يُونُسَ الشَّيْبَانِيِّ قَالَ حَضَرْتُ أَنَا وَ أَبُو شَيْبَلٍ عِنْدَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَسَأَلْتُهُ عَنْ هَذِهِ الْمَسَائِلِ فِي الدِّيَّاتِ ثُمَّ سَأَلَ أَبُو شَيْبَلٍ وَ كَانَ أَشَدَّ مُبَالَغَةً فَخَلَّيْتُهُ حَتَّى اسْتَنْظَفَ .

Salih Bin Iqba, from Yunus Al Shaybani who said,

'I and Abu Shibl were present in the presence of Abu Abdullah^{asws}, so I asked him^{asws} about these questions regarding the wergild. The Abu Shibl asked, and he was speaking intensely about it. So I left him until he grasped it'.²³

²² Al Kafi – V 7 – The Book of Wergilds Ch 38 H 11

²³ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 12

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ عُبيدِ بْنِ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) (إِنَّ الْعُرَّةَ تَكُونُ بِثَمَانِيَةِ دَنَانِيرٍ وَ تَكُونُ بِعَشْرَةِ دَنَانِيرٍ فَقَالَ بِخَمْسِينَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel Bin Darraj, from Ubeyd Bin Zurara who said,

'I said to Abu Abdullah^{asws}, 'The commencement (of the foetus) happens with eight Dinars, and happens with ten Dinars?' So he^{asws} said: 'By fifty'.²⁴

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ ضَرَبَ ابْنَتَهُ وَ هِيَ حُبْلَى فَأَسْقَطَتْ سَقْطاً مَيِّتاً فَأَسْتَعْدَى زَوْجَ الْمَرْأَةِ عَلَيْهِ فَقَالَتْ الْمَرْأَةُ لِرَوْجِهَا إِنْ كَانَ لِهَذَا السَّقْطِ دِيَةٌ وَ لِي فِيهِ مِيرَاثٌ فَإِنَّ مِيرَاثِي مِنْهُ لِأَبِي فَقَالَ يَجُوزُ لِأَبِيهَا مَا وَهَبَتْ لَهُ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at,

(The narrator) says, 'I asked Abu Abdullah^{asws} about a man who struck his daughter, and she was pregnant. So she dropped a dead (foetus). So the husband of the woman antagonised against him. So the woman said to her husband, 'If there was a wergild for this aborted (foetus), and for me with regards to it is inheritance, so my inheritance from it is for my father'. So he^{asws} said: 'It is allowed for her father whatever she gifts for him'.²⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ غَالِبٍ عَنْ أَبِيهِ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ قَالَ سَأَلْتُ عَلِيَّ بْنَ الْحُسَيْنِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ ضَرَبَ امْرَأَةً حَامِلاً بِرِجْلِهِ فَطَرَحَتْ مَا فِي بَطْنِهَا مَيِّتاً فَقَالَ إِنْ كَانَ نُطْفَةٌ فَإِنَّ عَلَيْهِ عَشْرِينَ دِينَاراً قُلْتُ فَمَا حَدُّ النُّطْفَةِ فَقَالَ هِيَ الَّتِي إِذَا وَقَعَتْ فِي الرَّحِمِ فَاسْتَقَرَّتْ فِيهِ أَرْبَعِينَ يَوْماً

Ali Bin Ibrahim, from his father, from Ibn Mahboun, from Abdullah Bin Ghalib, from his father, from Saeed Bin Al Musayyab who said,

'I asked Ali Bin Al-Husayn^{asws} about a man who struck a pregnant woman by his leg, so she dropped what was in her belly, as dead'. So he^{asws} said: 'So if it was seed, so upon is twenty Dinars'. I said, 'So what is the limit for the seed?' So he^{asws} said: 'It is which, when it fall in the womb, so it rests in it for forty days'.

قَالَ وَ إِنْ طَرَحَتْهُ وَ هُوَ عَلَقَةٌ فَإِنَّ عَلَيْهِ أَرْبَعِينَ دِينَاراً قُلْتُ فَمَا حَدُّ الْعَلَقَةِ فَقَالَ هِيَ الَّتِي إِذَا وَقَعَتْ فِي الرَّحِمِ فَاسْتَقَرَّتْ فِيهِ ثَمَانِينَ يَوْماً

He^{asws} said: 'And if she dropped it and it was a clot, so upon him is forty Dinars'. I said, 'So what is the limit of the clot?' So he^{asws} said: 'It is which, when it falls in the womb, so it settles in it for eighty days'.

قَالَ وَ إِنْ طَرَحَتْهُ وَ هُوَ مُضْغَةٌ فَإِنَّ عَلَيْهِ سِتِينَ دِينَاراً قُلْتُ فَمَا حَدُّ الْمُضْغَةِ فَقَالَ هِيَ الَّتِي إِذَا وَقَعَتْ فِي الرَّحِمِ فَاسْتَقَرَّتْ فِيهِ مِائَةً وَ عَشْرِينَ يَوْماً

He^{asws} said: 'And if she dropped it, and it was a lump, so upon him is sixty Dinars'. I said, 'So what is the limit of the lump?' So he^{asws} said: 'it is which, when it falls in the womb, so it settles in it for one hundred and twenty days'.

²⁴ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 13

²⁵ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 14

قَالَ وَ إِن طَرَحْتُهُ وَ هُوَ نَسَمَةٌ مَخْلَقَةٌ لَهُ عَظْمٌ وَ لَحْمٌ مُزَيَّلَ الْجَوَارِحِ قَدْ نُفِخَ فِيهِ رُوحُ الْعَقْلِ فَإِنَّ عَلَيْهِ دِيَّةً كَامِلَةً قُلْتُ لَهُ أَرَأَيْتَ تَحَوَّلَهُ فِي بَطْنِهَا إِلَى حَالٍ أَوْ بَرُوحٍ كَأَنَّ ذَلِكَ أَوْ بَعِيرٍ رُوحٌ قَالَ بَرُوحٌ عَذَا الْحَيَاةِ الْقَدِيمِ الْمَنْقُولِ فِي أَصْلَابِ الرِّجَالِ وَ أَرْحَامِ النِّسَاءِ وَ لَوْ لَا أَنَّهُ كَانَ فِيهِ رُوحٌ عَذَا الْحَيَاةِ مَا تَحَوَّلَ عَنْ حَالٍ بَعْدَ حَالٍ فِي الرَّحِمِ وَ مَا كَانَ إِذَا عَلَى مَنْ يَقْتُلُهُ دِيَّةً وَ هُوَ فِي تِلْكَ الْحَالِ .

He^{asws} said: 'And if she dropped it, and it is a person for whom is Created the bones, and the flesh, distinguishable limbs, and there has been Blown into it the spirit of the intellect, so upon him is the complete wergild'. I said to him^{asws}, 'So what is your^{asws} view if it is transforming in her belly to a state, would it be with a spirit, or without a spirit?' He^{asws} said: 'With a spirit except for the old life which gets transferred in the loins of the men and the wombs of the women. And if it were not so that there was spirit in it except for the life, it would not have converted from a state after a state, in the womb, and there would not have been a wergild upon the one who kills it, and it would be in that state'.²⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ الْغُرَّةَ تَزِيدُ وَ تَنْقُصُ وَ لَكِنْ قِيمَتُهَا أَرْبَعُونَ دِينَارًا .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Is'haq Bin Ammar,

Abu Abdullah^{asws} has said: 'The commencement of the foetus increases and (sometimes) it is deficient, but its value is forty Dinars'.²⁷

بَابُ الرَّجُلِ يَفْطَعُ رَأْسَ مَيِّتٍ أَوْ يَفْعَلُ بِهِ مَا يَكُونُ فِيهِ اجْتِيَاخُ نَفْسِ الْحَيِّ

Chapter 40 – The man cuts-off the head of a deceased, or does with him what annihilated the self of the live

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْحُسَيْنِ بْنِ مُوسَى عَنْ مُحَمَّدِ بْنِ الصَّبَّاحِ عَنْ بَعْضِ أَصْحَابِنَا قَالَ أَتَى الرَّبِيعُ أَبَا جَعْفَرٍ الْمَنْصُورَ وَ هُوَ خَلِيفَةٌ فِي الطَّوَافِ فَقَالَ لَهُ يَا أَمِيرَ الْمُؤْمِنِينَ مَاتَ فُلَانٌ مَوْلَاكَ الْبَارِحَةَ فَقَطَعَ فُلَانٌ مَوْلَاكَ رَأْسَهُ بَعْدَ مَوْتِهِ قَالَ فَاسْتَشَاظَ وَ غَضِبَ قَالَ فَقَالَ لِابْنِ شَبْرَمَةَ وَ ابْنِ أَبِي لَيْلَى وَ عِدَّةٍ مَعَهُ مِنَ الْقَضَاةِ وَ الْفُقَهَاءِ مَا تَقُولُونَ فِي هَذَا فُكُلٌ قَالَ مَا عِنْدَنَا فِي هَذَا شَيْءٌ قَالَ فَجَعَلَ يَرُدُّ الْمَسْأَلَةَ فِي هَذَا وَ يَقُولُ أَقْتُلُهُ أَمْ لَا فَقَالُوا مَا عِنْدَنَا فِي هَذَا شَيْءٌ

Ali Bin Ibrahim, from his father, from Al Husayn Bin Musa, from Muhammad Bin Al Sabbah, from one of our companions who said,

'Al-Rabie came over to Abu Ja'far Al-Mansour and he was the caliph, during him being in the circumambulation. So he said to him, 'O commander of the faithful! So and so slave of yours died last night, so and so slave of yours cut-off his head after his death'. So he was fuming and angry, and said to Ibn Shabrama, and Ibn Abu Layli, and a number who were with him, from the judges, 'What are you all saying regarding this?' So all of them said, 'There is nothing with us with regards to this, anything'. So he repeated the question regarding this, and he was saying, 'Shall I kill him or not?' So they said, 'There is nothing with us with regards to this, anything'.

قَالَ فَقَالَ لَهُ بَعْضُهُمْ قَدْ قَدِمَ رَجُلٌ السَّاعَةَ فَإِنْ كَانَ عِنْدَ أَحَدٍ شَيْءٌ فَعِنْدَهُ الْجَوَابُ فِي هَذَا وَ هُوَ جَعْفَرُ بْنُ مُحَمَّدٍ وَ قَدْ دَخَلَ الْمَسْجِدَ فَقَالَ لِلرَّبِيعِ اذْهَبْ إِلَيْهِ فَقُلْ لَهُ لَوْ لَا مَعْرِفَتُنَا بِشَيْءٍ مَا أَنْتَ فِيهِ لَسَأَلْنَاكَ أَنْ تَأْتِيَنَا وَ لَكِنْ أَجَبْنَا فِي كَذَا وَ كَذَا

²⁶ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 15

²⁷ Al Kafi – V 7 – The Book of Wergilds Ch 38 H 16

He (the narrator) said, 'So, one of them said to him, 'At the moment a man has set foot here, so if there was anyone who had anything with regards to this, the answer would be with him^{asws}, and he^{asws} is Ja'far^{asws} Bin Muhammad^{asws}, and he^{asws} has entered into (performance of) *Al-Sa'ee*'. So he said to Al-Rabie, 'Go to him^{asws}, and say to him^{asws}, 'Had we not know what you^{asws} are occupied in, we would have asked you^{asws} to come over, but answer us regarding such and such'.

قَالَ فَاتَاهُ الرَّبِيعُ وَهُوَ عَلَى الْمَرْوَةِ فَأَبْلَغَهُ الرَّسَالَهَ فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَدْ تَرَى شُعْلَ مَا أَنَا فِيهِ وَ قَبْلَكَ
الْفُقَهَاءَ وَ الْعُلَمَاءَ فَسَلُّهُمْ قَالَ فَقَالَ لَهُ قَدْ سَأَلْتُهُمْ وَ لَمْ يَكُنْ عِنْدَهُمْ فِيهِ شَيْءٌ قَالَ فَرَدَّهُ إِلَيْهِ فَقَالَ أَسَأَلْتُكَ إِلَّا أَجَبْتَنَا فِيهِ فَلَيْسَ عِنْدَ
الْقَوْمِ فِي هَذَا شَيْءٌ فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) حَتَّى أَفْرُغَ مِمَّا أَنَا فِيهِ

He (the narrator) said, 'So Al-Rabie went over, and he^{asws} was at Al-Marwa. So he delivered the message to him^{asws}. So Abu Abdullah^{asws} said to him: 'You have seen what I^{asws} am occupied in, and in front of you are the judges and the scholars, so ask them'. So he said to him^{asws}, 'He has asked them, and there did not happen to with anything with them regarding it'. So he^{asws} responded (similarly) to him. So he said, 'I ask you^{asws} only to answer us with regards to it, for there is nothing with the people regarding this'. So Abu Abdullah^{asws} said: 'Until after I^{asws} are free from what I^{asws} am occupied in (*Al-Sa'ee*)'.

قَالَ فَلَمَّا فَرَغَ جَاءَ فَجَلَسَ فِي جَانِبِ الْمَسْجِدِ الْحَرَامِ فَقَالَ لِلرَّبِيعِ اذْهَبْ فَقُلْ لَهُ عَلَيْهِ مِائَةُ دِينَارٍ قَالَ فَأَبْلَغَهُ ذَلِكَ فَقَالُوا لَهُ فَسَلُّهُ
كَيْفَ صَارَ عَلَيْهِ مِائَةُ دِينَارٍ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي النَّطْفَةِ عَشْرُونَ وَ فِي الْعَلَقَةِ عَشْرُونَ وَ فِي الْمُضْغَةِ
عَشْرُونَ وَ فِي الْعِظَمِ عَشْرُونَ وَ فِي اللَّحْمِ عَشْرُونَ ثُمَّ أَنْشَأَنَاهُ خُلُقًا آخَرَ وَ هَذَا هُوَ مَيِّتٌ بِمَنْزِلَتِهِ قَبْلَ أَنْ يَنْفَخَ فِيهِ الرُّوحُ فِي
بَطْنِ أُمِّهِ جَنِينًا

He (the narrator) said, 'So when he^{asws} was free, he^{asws} came and sat by the side of the Sacred Masjid. He^{asws} said to Al-Rabie: 'Go and say to him, 'Upon him is (wergild of) one hundred Dinars'. So he delivered that. So they said, 'Ask him^{asws} how it came to be one hundred Dinars upon him'. So Abu Abdullah^{asws} said: 'With regards to the seed is twenty, and regarding the clot is twenty, and regarding the lump is twenty, and regarding the bone is twenty, and regarding the flesh is twenty. The it grows to another creation, and this deceased is at its status, before the spirit has been Blown into it, in the belly of its mother, as a foetus'.

قَالَ فَرَجَعَ إِلَيْهِ فَأَخْبَرَهُ بِالْجَوَابِ فَأَعْجَبَهُمْ ذَلِكَ وَ قَالُوا ارْجِعْ إِلَيْهِ فَسَلُّهُ الدَّنَانِيرَ لِمَنْ هِيَ لَوْرَتِيهِ أَمْ لَا فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ
السَّلَامُ) لَيْسَ لَوْرَتِيهِ فِيهَا شَيْءٌ إِنَّمَا هَذَا شَيْءٌ أَتَى إِلَيْهِ فِي بَدَنِهِ بَعْدَ مَوْتِهِ يُحْجُّ بِهَا عَنْهُ أَوْ يُتَصَدَّقُ بِهَا عَنْهُ أَوْ تَصِيرُ فِي
سَبِيلِ مَنْ سَبَّلَ الْخَيْرِ

He (the narrator) said, 'So he returned to him and informed him of the answer. So that astounded them, and they said, 'Return to him^{asws}, and ask him^{asws} about the Dinars, for who it is to be, for his (of the decapitated deceased) inheritors or not?' So Abu Abdullah^{asws} said: 'There is not for his inheritors, anything. But rather this is a thing which came upon him in his body after his death. It would be (utilised for) performing Hajj on his behalf, or given in charity by it on his behalf, or it would be made to be in a way from the ways of the goodness'.

قَالَ فَزَعَمَ الرَّجُلُ أَنَّهُمْ رَدُّوا الرَّسُولَ إِلَيْهِ فَأَجَابَ فِيهَا أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) بِسِنَّةٍ وَ ثَلَاثِينَ مَسْأَلَةً وَ لَمْ يَحْفَظِ الرَّجُلُ
إِلَّا قَدْرَ هَذَا الْجَوَابِ .

He (the narrator) said, 'The man claimed that the messenger returned (many a time), so Abu Abdullah^{asws} answered regarding it with thirty-six questions, and the man did not memorise except to the measurement of this answer'.²⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ قَطَعَ رَأْسَ الْمَيِّتِ أَسَدٌ مِنْ قَطْعِ رَأْسِ الْحَيِّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel, from someone else from our companions,

Abu Abdullah^{asws} has said: 'Cutting-off of the head of the deceased is harsher than cutting a head of the living'.²⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ أَخْبَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ رَجُلٌ قَطَعَ رَأْسَ مَيِّتٍ فَقَالَ حُرْمَةُ الْمَيِّتِ كَحُرْمَةِ الْحَيِّ .

Muhammad Bin Yahya, from Ahmad, from Muhammad Bin Sinan, from the one who informed him,

Abu Abdullah^{asws}, said, 'I said, 'A man cuts-off the head of a deceased'. So he^{asws} said: 'The sanctity of the dead is like the sanctity of the living'.³⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ مُحَمَّدِ بْنِ حَفْصٍ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ قَطَعَ رَأْسَ رَجُلٍ مَيِّتٍ فَقَالَ إِنَّ اللَّهَ عَزَّ وَجَلَّ حَرَّمَ مِنْهُ مَيِّتًا كَمَا حَرَّمَ مِنْهُ حَيًّا فَمَنْ فَعَلَ بِمَيِّتٍ فَعَلًا يَكُونُ فِي مِثْلِهِ اجْتِيَاخُ نَفْسِ الْحَيِّ فَعَلَيْهِ الدَّبِيَّةُ

Ali Bin Ibrahim, from his father, from Muhammad Bin Hafs, from Al Husayn Bin Khalid who said,

'Abu Abdullah^{asws} was asked about a man who cut off the head of a dead man. So he^{asws} said: 'Allah^{azwj} Mighty and Majestic has Sanctified from it for a dead just as He^{azwj} has Sanctified from it for a living. So the one who deals with a dead with a deed which violates it is similar to violating a living. Thus, upon him would be the wergild'.

فَسَأَلْتُ عَنْ ذَلِكَ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَام) فَقَالَ صَدَقَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) هَكَذَا قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قُلْتُ فَمَنْ قَطَعَ رَأْسَ مَيِّتٍ أَوْ شَقَّ بَطْنَهُ أَوْ فَعَلَ بِهِ مَا يَكُونُ فِيهِ اجْتِيَاخُ نَفْسِ الْحَيِّ فَعَلَيْهِ دِيَّةُ النَّفْسِ كَامِلَةً فَقَالَ لَا وَ لَكِنْ دِيَّةُ دِيَّةِ الْجَنِينِ فِي بَطْنِ أُمِّهِ قَبْلَ أَنْ تُنْشَأَ فِيهِ الرُّوحُ وَ ذَلِكَ مِائَةُ دِينَارٍ وَ هِيَ لَوْرَتِيهِ وَ دِيَّةُ هَذَا هِيَ لَهُ لَا لِلْوَرَثَةِ

So I asked Abu Al-Hassan^{asws} about that, so he^{asws} said: 'Abu Abdullah^{asws} spoke truthfully. Such is what Rasool-Allah^{saww} said'. I said, 'So the one who cut of the head of a dead, or pierces his belly, or does with him what happens to be a violation in it of a living soul, so upon him is the complete wergild of the soul?' So he^{asws} said: 'No, but its wergild is the wergild of the foetus which is in the belly of its mother, before the spirit is Breathed into it, and that is one hundred Dinars, and it is for its (foetus's) inheritors, while the wergild of this one (deceased), it is for him, not for his inheritors.

قُلْتُ فَمَا الْفَرْقُ بَيْنَهُمَا قَالَ إِنَّ الْجَنِينَ أَمْرٌ مُسْتَقْبِلٌ مَرَجُو نَفْعُهُ وَ هَذَا قَدْ مَضَى وَ ذَهَبَتْ مَنَفَعَتُهُ فَلَمَّا مِثْلَ بِهِ بَعْدَ مَوْتِهِ صَارَتْ دِيَّتُهُ بِتِلْكَ الْمَثَلَةِ لَهُ لَا لِغَيْرِهِ يُحْجُّ بِهَا عَنْهُ وَ يُفْعَلُ بِهَا أَبْوَابُ الْخَيْرِ وَ الْبِرِّ مِنْ صَدَقَةٍ أَوْ غَيْرِهَا

²⁸ Al Kafi – V 7 – The Book of Wergilds Ch 39 H 1

²⁹ Al Kafi – V 7 – The Book of Wergilds Ch 39 H 2

³⁰ Al Kafi – V 7 – The Book of Wergilds Ch 39 H 3

I said, 'So what is the difference between the two?' He^{asws} said: 'The foetus is a matter of the future, its benefit is hoped for, and this one has passed and its benefit has gone. So when his is tortured with after his death, his wergild comes to be for the torture of his, not for someone else. It (wergild) would be utilised for performing Hajj with it on his behalf, and would be done with it from the doors of goodness and the righteousness, from charity or other than it.'

قُلْتُ فَإِنْ أَرَادَ رَجُلٌ أَنْ يَحْفَرَ لَهُ لِيُعْسِلَهُ فِي الْحُفْرَةِ فَسَدِرَ الرَّجُلُ مِمَّا يَحْفَرُ فَدِيرَ بِهِ فَمَالَتْ مِسْحَاتُهُ فِي يَدِهِ فَأَصَابَ بَطْنَهُ فَشَقَّهُ فَمَا عَلَيْهِ فَقَالَ إِذَا كَانَ هَكَذَا فَهُوَ خَطَأٌ وَكَفَّارَتُهُ عُنُقُ رَقَبَةٍ أَوْ صِيَامٌ شَهْرَيْنِ مُتَتَابِعَيْنِ أَوْ صَدَقَةٌ عَلَى سِتِّينَ مِسْكِينًا مُدًّا لِكُلِّ مِسْكِينٍ بِمُدِّ النَّبِيِّ (صلى الله عليه وآله) .

I said, 'So if a man intends that he digs a grave for him in order to wash him in his grave, so the man shovel from what he digs, and the shovel in his hand touches his belly so it pierces. So what would be upon him?' So he^{asws} said: 'When it is like that, so it is a mistake, and its expiation is the freeing of a neck, or Fasting for two months consecutively, or charity upon sixty poor ones, a handful (*Mudd*) for each poor, by a handful (*Mudd*) of the Prophet^{saww},³¹

باب مَا يَلْزَمُ مَنْ يَحْفَرُ الْبُئْرَ فَيَقَعُ فِيهَا الْمَارُّ

Chapter 41 – What necessitates the one who digs the well, so there falls in it the passer-by

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَحْفَرُ الْبُئْرَ فِي دَارِهِ أَوْ فِي أَرْضِهِ فَقَالَ أَمَا مَا حَفَرَ فِي مَلِكِهِ فَلَيْسَ عَلَيْهِ ضَمَانٌ وَأَمَا مَا حَفَرَ فِي الطَّرِيقِ أَوْ فِي غَيْرِ مَا يَمْلِكُهُ فَهُوَ ضَامِنٌ لِمَا يَسْفُطُ فِيهِ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at who said,

'I asked him^{asws} about the man who dug the well in his own home, or in his own land. So he^{asws} said: 'As for what he dug in his kingdom, so there is no responsibility upon him, and as for what he digs in the road, or in other than what he owns, so he is responsible for whatever falls into it'.³²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ مِثْلَهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Zurara, from Sama'at – similar to it.

عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ عَنِ الشَّيْءِ يُوَضَعُ عَلَى الطَّرِيقِ فَنَمَرُ الدَّابَّةُ فَتَنْفَرُ بِصَاحِبِهَا فَتَعْفَرُهُ فَقَالَ كُلُّ شَيْءٍ يُضِرُّ بِطَرِيقِ الْمُسْلِمِينَ فَصَاحِبُهُ ضَامِنٌ لِمَا يُصِيبُهُ .

Ali, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(The narrator) says: 'I asked Abu Abdullah^{asws} about the thing which is placed on the road, so the animal passes by, so it panics and fells its rider. So he^{asws} said:

³¹ Al Kafi – V 7 – The Book of Wergilds Ch 39 H 4

³² Al Kafi – V 7 – The Book of Wergilds Ch 40 H 1

'Everything which harms the Muslims by a road, so its perpetrator is responsible for what (harm) it causes'.³³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ النُّعْمَانِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مَنْ أَضَرَ بِشَيْءٍ مِنْ طَرِيقِ الْمُسْلِمِينَ فَهُوَ لَهُ ضَامِنٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Noman, from Abu Al Sabbah Al Kanany who said,

'Abu Abdullah^{asws} said: 'The one who harms with something from the roads of the Muslims, so he is responsible for it'.³⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أُيُوبَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَحْفَرُ الْبَيْتَ فِي دَارِهِ أَوْ فِي مَلِكِهِ فَقَالَ مَا كَانَ حَفَرَ فِي دَارِهِ أَوْ فِي مَلِكِهِ فَلَيْسَ عَلَيْهِ ضَمَانٌ وَ مَا حَفَرَ فِي الطَّرِيقِ أَوْ فِي غَيْرِ مَلِكِهِ فَهُوَ ضَامِنٌ لِمَا يَسْقُطُ فِيهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Sama'at who said,

'I asked Abu Abdullah^{asws} about the man who dug the well in his house, or in his kingdom. So he^{asws} said: 'Whatever he had dug in his house or in his kingdom, so there is no responsibility upon him, and whatever he dug in the road, or in other than is kingdom, so he is responsibility to whatever falls into it'.³⁵

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ حَمَلَ مَتَاعاً عَلَى رَأْسِهِ فَأَصَابَ إِنْسَاناً فَمَاتَ أَوْ أَنْكَسَرَ مِنْهُ فَقَالَ هُوَ ضَامِنٌ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Nasr, from Dawood Bin Sirhan,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who carried provisions upon his head, so they struck a human being and he died, or something broke from him. So he^{asws} said: 'He is responsible'.³⁶

سَهْلٌ وَ ابْنُ أَبِي نَجْرَانَ جَمِيعاً عَنْ ابْنِ أَبِي نَصْرٍ عَنْ مُتَنَّى الْحَنَاطِ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَوْ أَنَّ رَجُلًا حَفَرَ بَيْتًا فِي دَارِهِ ثُمَّ دَخَلَ رَجُلٌ فَوَقَعَ فِيهَا لَمْ يَكُنْ عَلَيْهِ شَيْءٌ وَ لَا ضَمَانٌ وَ لَكِنْ لِيُعْطَهَا .

Sahl and Ibn Abu Najran, both together from Ibn Abu Nasr, from Musanna Al Hannat, from Zurara,

(It has been narrated) from Abu Abdullah^{asws} having said: 'If a man were to dig a well in his house, then a man enters and falls into it, there is nothing upon him, and no responsibility, but for covering it'.³⁷

ابْنُ أَبِي نَجْرَانَ عَنْ مُتَنَّى الْحَنَاطِ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ رَجُلٌ حَفَرَ بَيْتًا فِي غَيْرِ مَلِكِهِ فَمَرَّ عَلَيْهِ رَجُلٌ فَوَقَعَ فِيهَا قَالَ فَقَالَ عَلَيْهِ الضَّمَانُ لِأَنَّ كُلَّ مَنْ حَفَرَ فِي غَيْرِ مَلِكِهِ كَانَ عَلَيْهِ الضَّمَانُ .

Ibn Abu Najran, from Musanna Al Hannat, from Zurara,

³³ Al Kafi – V 7 – The Book of Wergilds Ch 40 H 2

³⁴ Al Kafi – V 7 – The Book of Wergilds Ch 40 H 3

³⁵ Al Kafi – V 7 – The Book of Wergilds Ch 40 H 4

³⁶ Al Kafi – V 7 – The Book of Wergilds Ch 40 H 5

³⁷ Al Kafi – V 7 – The Book of Wergilds Ch 40 H 6

(The narrator) says, 'I said to Abu Abdullah^{asws}, 'A man digs a well in other than his kingdom. So a man passed by it and fell into it'. So he^{asws} said: 'Upon him is the responsibility, because everyone who digs in other than his own kingdom, upon him would be the responsibility'.³⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مَنْ أَخْرَجَ مِيزَابًا أَوْ كَنْيْفًا أَوْ أَوْتَدًا وَتَدًّا أَوْ أَوْتَقَ دَابَّةً أَوْ حَفَرَ بِنْرًا فِي طَرِيقِ الْمُسْلِمِينَ فَأَصَابَ شَيْئًا فَعَطِبَ فَهُوَ لَهُ ضَامِنٌ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'The one who extracts a water spout, or a toilet (enclosure), or fixes a peg, or fastens an animal, or digs a well in the road of the Muslims, so something is damaged, so he would be responsible for it'.³⁹

بَابُ ضَمَانِ مَا يُصِيبُ الدَّوَابَّ وَ مَا لَا ضَمَانَ فِيهِ مِنْ ذَلِكَ

Chapter 42 – Responsibility of what hits the animals and what is not a responsibility regarding it from that

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ بِهَيْمَةَ الْأَنْعَامِ لَا يَغْرَمُ أَهْلَهَا شَيْئًا مَا دَامَتْ مُرْسَلَةً .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from a man,

Abu Abdullah^{asws} has said: 'The animals, cattle, its owner would not be fined for as long as they are left free to roam'.⁴⁰

يُونُسُ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفَضْلِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ سُئِلَ عَنْ رَجُلٍ يَسِيرُ عَلَى طَرِيقٍ مِنْ طَرِيقِ الْمُسْلِمِينَ عَلَى دَابَّتِهِ فَتَصِيبُ بِرَجْلِهَا فَقَالَ لَيْسَ عَلَيْهِ مَا أَصَابَتْ بِرَجْلِهَا وَ عَلَيْهِ مَا أَصَابَتْ بِبَيْدِهَا وَإِذَا وَقَفَتْ فَعَلَيْهِ مَا أَصَابَتْ بِبَيْدِهَا وَ رَجْلِهَا وَ إِنْ كَانَ يَسُوقُهَا فَعَلَيْهِ مَا أَصَابَتْ بِبَيْدِهَا وَ رَجْلِهَا أَيْضًا .

Yunus, from Muhammad Bin Sinan, from Al A'ala Bin Al Fazl,

(It has been narrated) from Abu Abdullah^{asws} being asked about a man who travelled upon a road from the Muslim roads upon his animal, so it hit someone with its (hind) legs. So he^{asws} said: 'There is nothing upon him what it hits by its (hind) legs, and when he pauses it, so upon him is what it hits by its hands (front legs) and its (hind) legs, and even if he is ushering it, so upon him is what it hits by its hands (front legs) and its (hind) legs, as well'.⁴¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ سُئِلَ عَنِ الرَّجُلِ يَمُرُّ عَلَى طَرِيقٍ مِنْ طَرِيقِ الْمُسْلِمِينَ فَتَصِيبُ دَابَّتَهُ إِنْسَانًا بِرَجْلِهَا فَقَالَ لَيْسَ عَلَيْهِ مَا أَصَابَتْ بِرَجْلِهَا وَ لَكِنْ عَلَيْهِ مَا أَصَابَتْ بِبَيْدِهَا لِأَنَّ رَجُلَهَا خَلْفَهُ إِنْ رَكِبَ وَ إِنْ كَانَ قَائِدَهَا فَإِنَّهُ يَمْلِكُ بِإِذْنِ اللَّهِ يَدَهَا يَضَعُهَا حَيْثُ يَشَاءُ

³⁸ Al Kafi – V 7 – The Book of Wergilds Ch 40 H 7

³⁹ Al Kafi – V 7 – The Book of Wergilds Ch 40 H 8

⁴⁰ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 1

⁴¹ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 2

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having been asked about the man who passes upon a road from the roads of the Muslim, so his animal hits a human being by its (hind) legs. So he^{asws} said: 'There is nothing upon him what it hit by its (hind) legs, but upon him is what it hits by its hands (front legs), because its (hind) legs are behind him if he is riding, and if he was guiding it, so he was in control of its hands (front legs), by the Permission of Allah^{azwj}, to place these wherever he so wishes to'.

قَالَ وَ سُئِلَ عَنِ الْبُخْتِيِّ إِغْتَلَمَ فَخَرَجَ مِنَ الدَّارِ فَقَتَلَ رَجُلًا فَجَاءَ أَخُو الرَّجُلِ فَضَرَبَ الْفَحْلَ بِالسَّيْفِ فَعَقَرَهُ فَقَالَ صَاحِبُ
الْبُخْتِيِّ ضَامِنٌ لِلدَّيْبَةِ وَ يَقْبِضُ تَمَنُّ بُخْتِيهِ

He (the narrator) said, 'And he^{asws} was asked about a camel in heat, so it went out from the house and killed a man. So a brother of the man came and struck the stallion with the sword and he slew it. So he^{asws} said: 'The owner of the camel is responsible of the wergild and would seize the price of his camel'.

وَ عَنِ الرَّجُلِ يُنْفِرُ بِالرَّجُلِ فَيَعْقِرُهُ وَ تَعْقُرُ دَابَّتُهُ رَجُلًا آخَرَ فَقَالَ هُوَ ضَامِنٌ لِمَا كَانَ مِنْ شَيْءٍ .

And about the man who caused the man to flee, so another man slew him and his animal. So he^{asws} said: 'He is responsible for whatever was from something'.⁴²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِعٍ عَنْ أَبِي
عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ حَمَلَ عِنْدَهُ عَلَى دَابَّةٍ فَوَطِئَتْ رَجُلًا قَالَ الْغَرْمُ عَلَى مَوْلَاهُ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Ibn Raib,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who carried his slave upon an animal, so it trampled a man. He^{asws} said: 'The fine is upon his master'.⁴³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ شَيْخٍ مِنْ أَهْلِ الْكُوفَةِ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ قُلْتُ
جُعِلَتْ فِدَاكَ رَجُلٌ نَحَلَ دَارَ رَجُلٍ فَوَتَبَ كَلْبٌ عَلَيْهِ فِي الدَّارِ فَعَقَرَهُ فَقَالَ إِنْ كَانَ دُعِيَ فَعَلَى أَهْلِ الدَّارِ أَرْضُ الْخَدَشِ وَ إِنْ
كَانَ لَمْ يُدْعَ فَدَخَلَ فَلَا شَيْءَ عَلَيْهِمْ .

Ali Bin Ibrahim, from his father, from Sheykh from the people of Al Kufa, from one of our companions,

(The narrator) says, 'I asked Abu Abdullah^{asws} saying, 'May I be sacrificed for you^{asws}! A man enters a house of a man, so a dog leaps upon him in the house, so it injures him'. So he^{asws} said: 'If he was invited, so it is upon the people of the house, the compensation of the scratch; and if he was not invited, so he entered (of his own accord), so there is nothing upon them'.⁴⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ أَبِي الْخَزَرَجِ عَنْ مُصْعَبِ بْنِ سَلَامٍ التَّمِيمِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ)
عَلَيْهِ السَّلَامُ (أَنْ تَوْرَأَ قَتَلَ جَمَاراً عَلَى عَهْدِ النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَرَفَعَ ذَلِكَ إِلَيْهِ وَ هُوَ فِي أَنَسٍ مِنْ أَصْحَابِهِ فِيهِمْ
أَبُو بَكْرٍ وَ عُمَرُ فَقَالَ يَا أَبَا بَكْرٍ أَفْضُ بَيْنَهُمْ فَقَالَ يَا رَسُولَ اللَّهِ بَهِيمَةٌ قَتَلَتْ بَهِيمَةً مَا عَلَيْهَا شَيْءٌ فَقَالَ يَا عُمَرُ أَفْضُ بَيْنَهُمَا
فَقَالَ مِثْلَ قَوْلِ أَبِي بَكْرٍ

⁴² Al Kafi – V 7 – The Book of Wergilds Ch 41 H 3

⁴³ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 4

⁴⁴ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 5

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Abu Al Khazzaz, from Mos'ab Bin Sallam Al Tameemi,

(It has been narrated) from Abu Abdullah^{asws}, from his^{asws} father^{asws}: 'A bull killed a donkey during the era of the Prophet^{saww}, so that (matter) was raised to him^{saww}, and he^{asws} was among the people from his companions, among whom were Abu Bakr, and Umar. So he^{saww} said: 'O Abu Bakr! Judge between the two'. So he said, 'O Rasool-Allah^{saww}! An animal has killed an animal, there is nothing upon it'. So he^{saww} said: 'O Umar! Judge between the two'. So he spoke similar to the words of Abu Bakr'.

فَقَالَ يَا عَلِيُّ أَفْضِلْ بَيْنَهُمْ فَقَالَ نَعَمْ يَا رَسُولَ اللَّهِ إِنَّ كَانَ الثَّوْرُ دَخَلَ عَلَى الْجَمَارِ فِي مُسْتَرَاكِهِ ضَمِنَ أَصْحَابُ الثَّوْرِ وَ إِنْ كَانَ الْجَمَارُ دَخَلَ عَلَى الثَّوْرِ فِي مُسْتَرَاكِهِ فَلَا ضَمَانَ عَلَيْهِمَا

So he^{saww} said: 'O Ali^{asws}! Judge between the two'. So he^{asws} said: 'Yes, O Rasool-Allah^{saww}! If the bull entered upon the donkey in its resting place, the owner of the bull is responsible; and if it was the donkey which had entered upon the bull in its resting place, so there is no one responsible upon the two'.

قَالَ فَرَفَعَ رَسُولُ اللَّهِ (صلى الله عليه وآله) يَدَهُ إِلَى السَّمَاءِ فَقَالَ الْحَمْدُ لِلَّهِ الَّذِي جَعَلَ مِنِّي مَنْ يَفْضِي بِقَضَاءِ النَّبِيِّينَ .

He (the narrator) said, 'So Rasool-Allah^{saww} raised his^{saww} hands towards the sky, so he^{saww} said: 'The Praise is for Allah^{azwj} Whom Made from me^{saww}, one who judges by the judgements of the Prophets^{as}'.⁴⁵

عَنْهُ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ صَبَّاحِ الْحَدَّاءِ عَنْ رَجُلٍ عَنْ سَعْدِ بْنِ طَرِيفِ الْإِسْكَافِ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ أَتَى رَجُلٌ رَسُولَ اللَّهِ (صلى الله عليه وآله) فَقَالَ إِنَّ ثَوْرًا قَتَلَ جَمَارِي فَقَالَ لَهُ النَّبِيُّ (صلى الله عليه وآله) أَنْتَ أَبَا بَكْرٍ فَسَلْهُ فَأَتَاهُ فَسَأَلَهُ فَقَالَ لَيْسَ عَلَى الْبَهَائِمِ قَوْلٌ فَرَجَعَ إِلَى النَّبِيِّ (صلى الله عليه وآله) فَأَخْبَرَهُ بِمَقَالَةِ أَبِي بَكْرٍ

From him, from Abdul Rahman Bin Abu Najran, fromo Sabbah, from a man, from Sa'ad Bin Tareyf Al Iskaaf,

(It has been narrated) from Abu Ja'far^{asws} having said: 'A man came over to Rasool-Allah^{saww}, so he said, 'A bull of so and so killed my donkey!' So the Prophet^{saww} said to him; 'Go to Abu Bakr, so ask him'. So he went to him, so he said, 'There is nothing upon the animals'. So he returned to the Prophet^{as} and informed him^{saww} of the words of Abu Bakr.

فَقَالَ لَهُ النَّبِيُّ (صلى الله عليه وآله) أَنْتَ عُمَرُ فَسَلْهُ فَأَتَاهُ فَسَأَلَهُ فَقَالَ مِثْلَ مَقَالَةِ أَبِي بَكْرٍ فَرَجَعَ إِلَى النَّبِيِّ (صلى الله عليه وآله) فَأَخْبَرَهُ

So the Prophet^{saww} said to him: 'Go to Umar, so ask him'. So he asked him, and he said similar to the words of Abu Bakr. So he returned to the Prophet^{saww} and informed him^{saww}.

فَقَالَ لَهُ النَّبِيُّ (صلى الله عليه وآله) أَنْتَ عَلِيٌّ (عليه السلام) فَسَلْهُ فَأَتَاهُ فَسَأَلَهُ فَقَالَ عَلِيُّ (عليه السلام) إِنْ كَانَ الثَّوْرُ الدَّاخِلَ عَلَى جَمَارِكَ فِي مَنَامِهِ حَتَّى قَتَلَهُ فَصَاحِبُهُ ضَامِنٌ وَإِنْ كَانَ الْجَمَارُ هُوَ الدَّاخِلَ عَلَى الثَّوْرِ فِي مَنَامِهِ فَلَيْسَ عَلَى صَاحِبِهِ ضَمَانٌ

⁴⁵ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 6

So the Prophet^{saww} said to him: 'Go to Ali^{asws}, so ask him^{asws}'. So he asked him^{asws}, so Ali^{asws} said: 'If the bull had entered upon your donkey in his sleeping place until it killed it, so its owner is responsible; but if it was that the donkey was the one who entered upon the bull in his sleeping place, so there is no responsibility upon its owner'.

قَالَ فَرَجَعَ إِلَى النَّبِيِّ (صلى الله عليه وآله) فَأَخْبَرَهُ فَقَالَ النَّبِيُّ (صلى الله عليه وآله) (الْحَمْدُ لِلَّهِ الَّذِي جَعَلَ مِنْ أَهْلِ بَيْتِي مَنْ يَحْكُمُ بِحُكْمِ الْأَنْبِيَاءِ .

He^{asws} said: 'So he returned to the Prophet^{saww} and informed him^{saww}. So the Prophet^{saww} said: 'The Praise is for Allah^{azwj} Who Made from the People^{asws} of my^{saww} Household one who judges by the judgements of the Prophets^{as}'.⁴⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عُبَيْدِ اللَّهِ الْحَلْبِيِّ عَنْ رَجُلٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ بَعَثَ رَسُولُ اللَّهِ (صلى الله عليه وآله) عَلِيًّا (عليه السلام) إِلَى الْيَمَنِ فَأَقْلَتَ فَرَسٌ لِرَجُلٍ مِنْ أَهْلِ الْيَمَنِ وَ مَرَّ يَعْذُو فَمَرَّ بِرَجُلٍ فَتَفَحَّهُ بِرَجْلِهِ فَقَتَلَهُ فَجَاءَ أَوْلِيَاءُ الْمَقْتُولِ إِلَى الرَّجُلِ فَأَخَذُوهُ وَ رَفَعُوهُ إِلَى عَلِيٍّ (عليه السلام) فَأَقَامَ صَاحِبُ الْفَرَسِ الْبَيِّنَةَ عِنْدَ عَلِيٍّ (عليه السلام) أَنَّ فَرَسَهُ أَقْلَتَ مِنْ دَارِهِ وَ نَفَحَ الرَّجُلَ فَأَبْطَلَ عَلِيٌّ (عليه السلام) دَمَ صَاحِبِهِمْ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ubeydullah Al Halby, from a man,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Rasool-Allah^{asws} sent Ali^{asws} to Al-Yemen. A horse of a man from the people of Al-Yemen had escaped, and it had passed galloping by a man, and kicked him with its feed, so it had killed him. So the guardians of the killed one went over to the man and seized him, and brought him to Ali^{asws}. So the owner of the horse established the evidence in the presence of Ali^{asws} that his horse had escaped from his house and kicked the man'. So Ali^{asws} invalidated the blood (compensation) of their companion.

فَجَاءَ أَوْلِيَاءُ الْمَقْتُولِ مِنَ الْيَمَنِ إِلَى رَسُولِ اللَّهِ (صلى الله عليه وآله) فَقَالُوا يَا رَسُولَ اللَّهِ إِنَّ عَلِيًّا (عليه السلام) ظَلَمَنَا وَ أَبْطَلَ صَاحِبَنَا فَقَالَ رَسُولُ اللَّهِ (صلى الله عليه وآله) إِنَّ عَلِيًّا (عليه السلام) لَيْسَ بِظَلَامٍ وَ لَمْ يَخْلُقْ لِلظُّلْمِ إِنَّ الْوَلَايَةَ لِعَلِيٍّ (عليه السلام) مِنْ بَعْدِي وَ الْحُكْمُ حُكْمُهُ وَ الْقَوْلُ قَوْلُهُ وَ لَا يَرُدُّ وَلَا يَنْتَه وَ قَوْلُهُ وَ حُكْمُهُ إِلَّا كَافِرٌ وَ لَا يَرْضَى وَلَا يَنْتَه وَ قَوْلُهُ وَ حُكْمُهُ إِلَّا مُؤْمِنٌ

So the guardians of the killed one came over from Al-Yemen, to Rasool-Allah^{asws}, so they said, 'O Rasool-Allah^{asws}! Ali^{asws} has been unjust to us and invalidated (the wergild) of our companion'. So Rasool-Allah^{saww} said: 'Ali^{asws} is not with injustice and had not been Created for the injustice. Verily, the Wilayah is for Ali^{asws} from after me^{saww}, and the (final) judgement is his^{asws} judgement, and the (final) words are his^{asws} words, and none would repudiate (deny) his^{asws} Wilayah, and his^{asws} words, and his^{asws} judgement except for an Infidel; and none would be pleased with his^{asws} Wilayah, and his^{asws} words, and his^{asws} judgements except for a Believer'.

فَلَمَّا سَمِعَ الْيَمَانِيُّونَ قَوْلَ رَسُولِ اللَّهِ (صلى الله عليه وآله) فِي عَلِيٍّ (عليه السلام) قَالُوا يَا رَسُولَ اللَّهِ رَضِينَا بِحُكْمِ عَلِيٍّ (عليه السلام) وَ قَوْلِهِ فَقَالَ رَسُولُ اللَّهِ (صلى الله عليه وآله) هُوَ تَوْبَتُكُمْ مِمَّا قُلْتُمْ .

So when the Yemenis heard the words of Rasool-Allah^{saww} regarding Ali^{asws}, they said, 'O Rasool-Allah^{saww}! We are pleased with the judgement of Ali^{asws}, and his^{asws} words'. So Rasool-Allah^{saww} said: 'It is your repentance from what you had said'.⁴⁷

⁴⁶ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 7

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَيُّمًا رَجُلٍ فَرَعَ رَجُلًا عَنِ الْجِدَارِ أَوْ نَفَرَ بِهِ عَنْ دَابَّتِهِ فَخَرَّ قَمَاتَ فَهُوَ ضَامِنٌ لِذِيئِهِ وَ إِنْ انْكَسَرَ فَهُوَ ضَامِنٌ لِذِيئِهِ مَا يَنْكَسِرُ مِنْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Whichever man panics a man from the wall, or dislodges him from his animal, so he falls off and dies, so he is responsible for his wergild; and if he (the rider) breaks something, so he is responsible of the wergild of whatever has been broken from him'.⁴⁸

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَابٍ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ حَمَلَ عَبْدَهُ عَلَى دَابَّةٍ فَأَوْطَأَتْ فَقَالَ الْعُرْمُ عَلَى مَوْلَاهُ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Ibn Raib, from a man,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who carried his slave upon an animal, so it trampled (someone). So he^{asws} said: 'The fine is upon his master'.⁴⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي صَاحِبِ الدَّابَّةِ أَنَّهُ يَضْمَنُ فِي مَا وَطِئَتْ بِبَيْدِهَا وَ رِجْلِهَا وَ مَا نَفَحَتْ بِرِجْلِهَا فَلَا ضَمَانَ عَلَيْهِ إِلَّا أَنْ يَضْرِبَهَا إِنْسَانٌ .

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from Yunus Bin Yaquob, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the owner of the animal that he is responsible regarding whatever it tramples by its hands (front legs), and its (hind) legs; and whatever it kicks with its (hind) legs, so there is no responsibility upon him except if a human being strikes it'.⁵⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ أَنَّ امْرَأَةً نَذَرَتْ أَنْ تُقَادَ مَرْمُومَةً فَدَفَعَهَا بَعِيرٌ فَخَرَّمَ أَنْفَهَا فَآتَتْ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) تُخَاصِمُ صَاحِبَ الْبَعِيرِ فَأَبْطَلَهُ وَ قَالَ إِنَّمَا نَذَرْتُ لَيْسَ عَلَيْكَ ذَلِكَ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus, from one of his companions,

(It has been narrated) from Abu Abdullah^{asws} that a woman had vowed to be le bridled, so she was pushed by a camel and her nose was pierced. So she came over to Amir Al-Momineen^{asws} to dispute against the owner of the camel. But, he^{asws} invalidated it (her claim) and said: 'But rather, she had vowed (to be bridles), and that is not upon you (the camel owner)'.⁵¹

⁴⁷ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 8

⁴⁸ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 9

⁴⁹ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 10

⁵⁰ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 11

⁵¹ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 12

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مَسْمَعِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) كَانَ إِذَا صَالَ الْفَحْلَ أَوَّلَ مَرَّةٍ لَمْ يُضْمَنْ صَاحِبُهُ فَإِذَا تَنَّى ضَمَّنَ صَاحِبَهُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Misma'a Bin Abdul Malik,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} assails (attacks) for the first time, its owner is not responsible. So when it is the second (time), its owner is responsible'.⁵²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي رَجُلٍ دَخَلَ دَارَ قَوْمٍ بغيرِ إِذْنِهِمْ فَعَقَرَهُ كَلْبُهُمْ قَالَ لَا ضَمَانَ عَلَيْهِمْ وَإِنْ دَخَلَ بِإِذْنِهِمْ ضَمِنُوا .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who entered a house of a people without their permission. So their dog injured him. He^{asws} said: 'There is no responsibility upon them, and if he had entered with their permission, they would have been responsible'.⁵³

عَنْهُ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ ضَمَّنَ الْقَائِدَ وَ السَّائِقَ وَ الرَّاَكِبَ فَقَالَ مَا أَصَابَ الرَّجُلَ فَعَلَى السَّائِقِ وَ مَا أَصَابَ الْيَدَ فَعَلَى الْقَائِدِ وَ الرَّاَكِبِ .

From him, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} that the guide, and the usher, and the rider is responsible, so he^{asws} said: 'Whatever the (hind) legs hit, so it is upon the usher, and whatever the hands (front legs) hit, so it is upon the guide and the rider'.⁵⁴

بابُ الْمَقْتُولِ لَا يُدْرَى مَنْ قَتَلَهُ

Chapter 43 – The killed one, it being not known who killed him

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ وَ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ جَمِيعاً عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي رَجُلٍ وَجِدَ مَقْتُولاً لَا يُدْرَى مَنْ قَتَلَهُ قَالَ إِنْ كَانَ عُرِفَ وَ كَانَ لَهُ أَوْلِيَاءُ يَطْلُبُونَ دِيْنَهُ أَعْطُوا دِيْنَهُ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ وَ لَا يَبْتَاطِلُ دَمُ امْرِئٍ مُسْلِمٍ لِأَنَّ مِيرَاثَهُ لِلْإِمَامِ (عَلَيْهِ السَّلَام) فَكَذَلِكَ تَكُونُ دِيْنُهُ عَلَى الْإِمَامِ وَ يُصَلُّونَ عَلَيْهِ وَ يَدْفِنُونَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Abdullah Bin Sinan, and Abdullah Bin Bukeyr, both together,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a man who found a killed person and it was not known who killed him. He^{asws} said: 'If it was known and there were guardians who were seeking his wergild, they would be given his wergild from the public treasury of the Muslims, and the blood of a Muslim person would not be invalidated, because his inheritance is for

⁵² Al Kafi – V 7 – The Book of Wergilds Ch 41 H 13

⁵³ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 14

⁵⁴ Al Kafi – V 7 – The Book of Wergilds Ch 41 H 15

the Imam^{asws}. Thus, like that, his wergild would happen to be upon the Imam^{asws}, and he^{asws} would Pray over him, and bury him’.

قَالَ وَ قَضَى فِي رَجُلٍ زَحَمَهُ النَّاسُ يَوْمَ الْجُمُعَةِ فِي زِحَامِ النَّاسِ فَمَاتَ أَلَّ دَيْئَهُ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ .

He^{asws} said: ‘And he^{asws} judged regarding a man who was crushed by the crowd in the throng of the people, so he said, ‘His wergild is from the public treasury of the Muslims’.⁵⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ سَوَّارٍ عَنِ الْحَسَنِ قَالَ إِنَّ عَلِيًّا (عَلَيْهِ السَّلَامُ) لَمَّا هَزَمَ طَلْحَةَ وَ الزُّبَيْرَ أَقْبَلَ النَّاسَ مُنْهَزِمِينَ فَمَرُّوا بِامْرَأَةٍ حَامِلٍ عَلَى الطَّرِيقِ فَفَزِعَتْ مِنْهُمْ فَطَرَحَتْ مَا فِي بَطْنِهَا حَيًّا فَاضْطَرَبَ حَتَّى مَاتَ ثُمَّ مَاتَتْ أُمُّهُ مِنْ بَعْدِهِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hammad Bin Isa, from Sawwar, from Al Hassan who said,

‘When Ali^{asws} defeated Talha and Al-Zubeyr, the people came back defeated, so they passed by a pregnant woman upon the road. So she panicked from them, and aborted what was in her belly, alive. So it was restless until it died. Then its mother died from after it’.

فَمَرَّ بِهَا عَلِيٌّ (عَلَيْهِ السَّلَامُ) وَ أَصْحَابُهُ وَ هِيَ مَطْرُوحَةٌ وَ وَلَدَهَا عَلَى الطَّرِيقِ فَسَأَلَهُمْ عَنْ أَمْرِهَا فَقَالُوا لَهُ إِنَّهَا كَانَتْ حَامِلًا فَفَزِعَتْ حِينَ رَأَتْ الْقِتَالَ وَ الْهَزِيمَةَ قَالَ فَسَأَلَهُمْ أَيُّهُمَا مَاتَ قَبْلَ صَاحِبِهِ فَقَالُوا إِنَّ ابْنَهَا مَاتَ قَبْلَهَا قَالَ فَدَعَا بِرُوحِهَا أَبِي الْعَلَامِ الْمَيْتِ فَوَرَّثَهُ مِنْ ابْنِهِ ثَلَاثِي الدِّيَةِ وَ وَرَّثَ أُمُّهُ ثَلَاثَ الدِّيَةِ ثُمَّ وَرَّثَ الرَّوْحَ مِنْ امْرَأَتِهِ الْمَيْتَةِ نِصْفَ ثَلَاثِ الدِّيَةِ الَّذِي وَرَّثَتْهُ مِنْ ابْنِهَا الْمَيْتِ وَ وَرَّثَ قَرَابَةَ الْمَيْتِ الْبَاقِي

So Ali^{asws} and his companions passed by her and she and her child were lying upon the road. So he^{asws} asked them about her matter, so they said to him^{asws}, ‘She was pregnant, so she panicked when she was the fighting and the defeat’. So he^{asws} asked them: ‘Which of the two died before its companion?’ So they said, ‘Her son dies before her’. So he^{asws} called for her husband, father of the deceased boy, so he^{asws} made him inherit two-thirds wergild from his son, and her mother to inherit one-third of his wergild. Then the husband inherited from his dead wife, half of the wergild which she had inherited from her dead son, and the relatives of the deceased inherited the remainder’.

قَالَ ثُمَّ وَرَّثَ الرَّوْحَ أَيْضاً مِنْ دِيَةِ الْمَرْأَةِ الْمَيْتَةِ نِصْفَ الدِّيَةِ وَ هُوَ أَلْفَانٍ وَ خَمْسِمِائَةٍ دِرْهَمٍ وَ ذَلِكَ أَنَّهُ لَمْ يَكُنْ لَهَا وَلَدٌ غَيْرُ الَّذِي رَمَتْ بِهِ حِينَ فَزِعَتْ

He (the narrator) said, ‘Then the husband inherited as well from the wergild of the deceased wife, half the wergild, and it was two thousand and five hundred Dirhams, and that is because there did not happen to be any child for her except for the one who had been thrown with, when she had panicked’.

قَالَ وَ أَدَّى ذَلِكَ كُلَّهُ مِنْ بَيْتِ مَالِ الْبَصْرَةِ .

He (the narrator) said, ‘And he^{asws} (Amir Al-Momineen^{asws}) paid all of that from the public treasury of the Muslims’.⁵⁶

⁵⁵ Al Kafi – V 7 – The Book of Wergilds Ch 42 H 1

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَنْ مَا أَخْطَأَتِ الْقَضَاةُ فِي دَمٍ أَوْ قَطَعِ فَعَلَى بَيْتِ مَالِ الْمُسْلِمِينَ .

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from Yunus Bin Yaquob, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged that whatever erroneous judgement (is made) regarding blood, or cutting, so it is upon the public treasury of the Muslims'.⁵⁷

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) قَالَ مَنْ مَاتَ فِي زِحَامِ النَّاسِ يَوْمَ الْجُمُعَةِ أَوْ يَوْمَ عَرَفَةَ أَوْ عَلَى جِسْرٍ لَا يَعْلَمُونَ مَنْ قَتَلَهُ فِدْيَتُهُ مِنْ بَيْتِ الْمَالِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} said: 'The one who dies in the throng (crowd) of the people on the day of Friday, or day of Arafaat, or upon a bridge, not being know who killed him, so his wergild is upon the public treasury'.⁵⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ أَرْدَحَمَ النَّاسُ يَوْمَ الْجُمُعَةِ فِي إِمْرَةٍ عَلِيٍّ (عَلَيْهِ السَّلَام) بِالْكُوفَةِ فَتَقْتَلُوا رَجُلًا فَوَدَى دِيْنَتَهُ إِلَى أَهْلِهِ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} having said: '(Whenever) the people thronged on the day of Friday during the emirate of Ali^{asws} at Al-Kufa, so a man got killed, his wergild was paid to his family from the public treasury of the Muslims'.⁵⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) (لَيْسَ فِي الْهَائِشَاتِ عَقْلٌ وَ لَا قِصَاصٌ وَ الْهَائِشَاتُ الْفَزَعَةُ تَقَعُ بِاللَّيْلِ وَ النَّهَارِ فَيَسْجُ الرَّجُلُ فِيهَا أَوْ يَقَعُ قَتِيلٌ لَا يُدْرَى مَنْ قَتَلَهُ وَ شَجَّهُ)

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'There is no compensation (to be paid) by relative with regards to the mischief, nor retaliation, and the mischievous terrifying, occurring by the night and the day, so the man is scarred during it, or falls being killed, not known who killed him and scarred him'.

وَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي حَدِيثٍ آخَرَ يَرْفَعُهُ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَوَدَاهُ مِنْ بَيْتِ الْمَالِ .

And Abu Abdullah^{asws} said, in another Hadeeth, raising it to Amir Al-Momineen^{asws}: 'So it would be paid from the public treasury'.⁶⁰

⁵⁶ Al Kafi – V 7 – The Book of Wergilds Ch 42 H 2

⁵⁷ Al Kafi – V 7 – The Book of Wergilds Ch 42 H 3

⁵⁸ Al Kafi – V 7 – The Book of Wergilds Ch 42 H 4

⁵⁹ Al Kafi – V 7 – The Book of Wergilds Ch 42 H 5

باب آخِرُ مِنْهُ**Chapter 44 – Another chapter from it**

عَلِيٌّ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ سَمِعْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَام) يَقُولُ لَوْ أَنَّ رَجُلًا قُتِلَ فِي قَرْيَةٍ أَوْ قَرِيبٍ مِنْ قَرْيَةٍ وَ لَمْ تَوْجَدْ بَيِّنَةً عَلَى أَهْلِ تِلْكَ الْقَرْيَةِ أَنَّهُ قُتِلَ عِنْدَهُمْ فَلَيْسَ عَلَيْهِمْ شَيْءٌ .

Ali, from his father, from one of his companions, from Aasim Bin Humeyd, from Muhammad Bin Qays who said,

'I heard Abu Ja'far^{asws} saying: 'If a man is killed in a town, or near to the town, and no evidence is found upon the people of that town that he was killed in their presence, so there would not be anything upon them'.⁶¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ فِي رَجُلٍ كَانَ جَالِسًا مَعَ قَوْمٍ فَمَاتَ وَ هُوَ مَعَهُمْ أَوْ رَجُلٍ وَجَدَ فِي قَبِيلَةٍ أَوْ عَلَى بَابِ دَارٍ قَوْمٍ فَادَّعَى عَلَيْهِمْ قَالَ لَيْسَ عَلَيْهِمْ شَيْءٌ وَ لَا يَبْطُلُ دَمُهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man who was seated with a group of people, so he died and he was with them, or a man was found (dead) among his tribe, or upon a door of a people, so it was claimed against them. He^{asws} said: 'There is nothing upon them, nor would his blood be invalidated'.⁶²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ إِنْ وَجِدَ قَتِيلٌ بِأَرْضِ فَلَاةٍ أَدْبَتَ دَيْتُهُ مِنْ بَيْتِ الْمَالِ فَإِنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) كَانَ يَقُولُ لَا يَبْطُلُ دَمُ أَمْرِي مُسْلِمٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A dead body was found in the wilderness, is wergild is paid from the public treasury, for Amir Al-Momineen^{asws} was saying: 'Blood of a Muslim person would not be invalidated'.⁶³

باب آخِرُ مِنْهُ**Chapter 45 – Another chapter from it**

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُوْجَدُ قَتِيلًا فِي الْقَرْيَةِ أَوْ بَيْنَ قَرْيَتَيْنِ فَقَالَ يُقَاسُ مَا بَيْنَهُمَا فَأَيُّهُمَا كَانَتْ أَقْرَبَ ضُمَّتْ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at Bin Mahran,

⁶⁰ Al Kafi – V 7 – The Book of Wergilds Ch 42 H 6

⁶¹ Al Kafi – V 7 – The Book of Wergilds Ch 43 H 1

⁶² Al Kafi – V 7 – The Book of Wergilds Ch 43 H 2

⁶³ Al Kafi – V 7 – The Book of Wergilds Ch 43 H 3

(The narrator) says, 'I asked Abu Abdullah^{asws} about the man who was found killed in the town, or in between two towns. So he^{asws} said: 'It would be compared what is between the two, so whichever of the two was nearer, would be responsible'.⁶⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) مِثْلَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws}, similar to it'.

باب الرَّجُلِ يُقْتَلُ وَ لَهُ وَلِيَّانِ أَوْ أَكْثَرُ فَيَعْفُو أَحَدَهُمْ أَوْ يَقْبَلُ الدِّيَةَ وَ بَعْضُ يُرِيدُ الْقَتْلَ

Chapter 46 – The man is killed and for him are two guardians, or more, so one of them forgives or accepts the wergild, and one wants the (retaliatory) killing

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ وَ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِهِ رَفَعَهُ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي رَجُلٍ قُتِلَ وَ لَهُ وَلِيَّانِ فَعَفَا أَحَدُهُمَا وَ أَبِي الْآخَرَ أَنْ يَعْفُو قَالَ إِنْ أَرَادَ الَّذِي لَمْ يَعْفُ أَنْ يَقْتَلَ قَتْلَ وَ رَدَّ نِصْفَ الدِّيَةِ عَلَى أَوْلِيَاءِ الْمَقْتُولِ الْمَقَادِ مِنْهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed and Ibn Abu Umeyr, from Jameel Bin Darraj, from one of his companions,

(It has been narrated) that it was asked from Amir Al Momineen^{asws} regarding a man who was killed and for him were two guardians. So one of them forgave and the other one refused to forgive. He^{asws} said: 'If the one who did not forgive want him to be killed, he kills and returns half the wergild to the guardians of the killed one for the retaliation from it'.⁶⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَدِ الْخَنَّاطِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ قُتِلَ وَ لَهُ أُمُّ وَ أَبٌ وَ ابْنٌ فَقَالَ الْإِبْنُ أَنَا أُرِيدُ أَنْ أَقْتَلَ قَاتِلَ أَبِي وَ قَالَ الْأَبُ أَنَا أَعْفُو وَ قَالَتِ الْأُمُّ أَنَا أُرِيدُ أَنْ أَخَذَ الدِّيَةَ قَالَ فَقَالَ فَلْيُعْطِ الْإِبْنُ أَمْ الْمَقْتُولِ السُّدُسُ مِنَ الدِّيَةِ وَ يُعْطَى وَرَثَةُ الْقَاتِلِ السُّدُسُ مِنَ الدِّيَةِ حَقَّ الْأَبِ الَّذِي عَفَا وَ لِيَقْتُلَهُ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together, from Ibn Mahboub, from Abu Wallad Al Hannat who said,

'I asked Abu Abdullah^{asws} about a man who was killed and for him was a mother and a father and a son. So the son said, 'I want that the killer of my father be killed'. And the father said, 'I forgive'. And the mother said, 'I want that I should take the wergild'. He^{asws} said: 'So let the son pay the mother of the killed one, one-sixth of the wergild, and give to the inheritors of the killer, one-sixth from the wergild, a right of the father who forgave, and (then) let him kill him'.⁶⁶

ابْنُ مَحْبُوبٍ عَنْ أَبِي وَ لَدِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ قُتِلَ وَ لَهُ أَوْلَادٌ صِغَارٌ وَ كِبَارٌ أَرَأَيْتَ إِنْ عَفَا الْأَوْلَادُ الْكِبَارُ قَالَ فَقَالَ لَا يُقْتَلُ وَ يَجُوزُ عَفْوُ الْأَوْلَادِ الْكِبَارِ فِي حِصَصِهِمْ فَإِذَا كَبِرَ الصِّغَارُ كَانَ لَهُمْ أَنْ يَطْلُبُوا حِصَصَهُمْ مِنَ الدِّيَةِ .

⁶⁴ Al Kafi – V 7 – The Book of Wergilds Ch 44 H 1

⁶⁵ Al Kafi – V 7 – The Book of Wergilds Ch 45 H 1

⁶⁶ Al Kafi – V 7 – The Book of Wergilds Ch 45 H 2

Ibn Mahboub, from Abu Wallad who said,

'I asked Abu Abdullah^{asws} about a man who was killed and for him were young children, and older ones. What is your^{asws} view that if the older children forgive?' So he^{asws} said: 'He would not be killed, and the forgiveness of the older children is allowed regarding their share. So when the young ones become older, it would be for them to invalidate (forgive) their shares from the wergild'.⁶⁷

ابْنُ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ قُتِلَ وَ لَهُ أَخٌ فِي دَارِ الْهَجْرَةِ وَ لَهُ أَخٌ فِي دَارِ الْبَدْوِ وَ لَمْ يُهَاجِرْ أَرَأَيْتَ إِنْ عَفَا الْمُهَاجِرِيُّ وَ أَرَادَ الْبَدْوِيُّ أَنْ يَقْتُلَ أَلَهُ ذَلِكَ لَيْسَ لِلْبَدْوِيِّ أَنْ يَقْتُلَ مُهَاجِرِيًّا حَتَّى يُهَاجِرَ قَالَ وَ إِذَا عَفَا الْمُهَاجِرِيُّ فَإِنَّ عَفْوَهُ جَائِزٌ قُلْتُ فَلِلْبَدْوِيِّ مِنَ الْمِيرَاثِ شَيْءٌ قَالَ أَمَّا الْمِيرَاثُ فَلَهُ حَظُّهُ مِنْ دِيَّةِ أَخِيهِ إِنْ أَخَذَتْ .

Ibn Mahboub, from Ali Bin Raib, from Zurara who said,

'I asked Abu Ja'far^{asws} about a man who was killed, and for him is a brother in the house of the migration, and for him is a brother in the house of the Bedouins who did not migrate. What is your^{asws} view if the emigrant forgive and the Bedouin want that he be killed. Is that for him (to do)? It is not for the Bedouin that he kills an emigrant until he emigrates'. He^{asws} said: 'If the emigrant forgives, so his forgiveness is allowed'. I said, 'So is there for the Bedouin anything from the inheritance?' He^{asws} said: 'As for the inheritance, so for him is his share from the wergild of his brother, if he takes it'.⁶⁸

أَحْمَدُ بْنُ مُحَمَّدٍ الْكُوفِيُّ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ النَّهْدِيِّ عَنْ مُحَمَّدِ بْنِ الْوَلِيدِ عَنْ أَبَانَ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَيْسَ لِلنِّسَاءِ عَفْوٌ وَ لَا قَوْدٌ .

Ahmad Bin Muhammad Al Kufy, from Muhammad Bin Ahmad Al Nahdy, from Muhammad Bin Ali Waleed, from Aban, from Abu Al Abbas,

(It has been narrated) from Abu Abdullah^{asws} having said: 'There is neither forgiveness nor retaliation for the women'.⁶⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِيمَنْ عَفَا مِنْ ذِي سَهْمٍ فَإِنَّ عَفْوَهُ جَائِزٌ وَ قَضَى فِي أَرْبَعَةِ إِخْوَةٍ عَفَا أَحَدَهُمْ قَالَ يُعْطَى بِقِيَّتِهِمُ الدِّيَّةَ وَ يُرْفَعُ عَنْهُمْ بِحِصَّةِ الَّذِي عَفَا .

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from Yunus Bin Yaquob, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the one with a share who forgave, so his forgiveness is allowed; and he^{asws} judged regarding four brothers, one of them forgave, he^{asws} said: 'He would be given the wergild, and from the remaining ones, (the wergild) would be raised from them by the share of the one who forgave'.⁷⁰

⁶⁷ Al Kafi – V 7 – The Book of Wergilds Ch 45 H 3

⁶⁸ Al Kafi – V 7 – The Book of Wergilds Ch 45 H 4

⁶⁹ Al Kafi – V 7 – The Book of Wergilds Ch 45 H 5

⁷⁰ Al Kafi – V 7 – The Book of Wergilds Ch 45 H 6

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنْ عَلِيِّ بْنِ حَبِيبٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلَيْنِ قَتَلَا رَجُلًا عَمْدًا وَ لَهُ وَلِيَّانِ فَعَفَا أَحَدُ الْوَلِيِّينَ فَقَالَ إِذَا عَفَا عَنْهُمَا بَعْضُ الْأَوْلِيَاءِ دُرِيَ عَنْهُمَا الْقَتْلُ وَ طَرِحَ عَنْهُمَا مِنَ الدِّيَةِ بِقَدْرِ حِصَّةِ مَنْ عَفَا وَ أَدْيَا الْبَاقِيَّ مِنْ أَمْوَالِهِمَا إِلَى الَّذِي لَمْ يَعْفُ وَ قَالَ عَفُو كُلِّ ذِي سَهْمٍ جَائِزٌ .

Ali Bin Ibrahim, from his father, from Ali Bin Hadeed, from Jameel Bin Darraj, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} regarding two men who killed a man deliberately, and for him were two guardians, so one of the guardians forgave. So he^{asws} said: 'When one of the two guardians forgives both of them, the killing would be staved off from them, and the wergild would be dropped from both of them by the measurement of the share of the one who forgave, and the remaining would be paid from their two guardians to the one who did not forgive'. And he^{asws} said: 'Forgiveness of every one with a share, is allowed'.⁷¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَتَلَ رَجُلَيْنِ عَمْدًا وَ لَهُمَا أَوْلِيَاءُ فَعَفَا أَحَدُهُمَا وَ أَبِي الْأَخْرُوعِ قَالَ فَقَالَ يَفْتُلُ الَّذِي لَمْ يَعْفُ وَ إِنْ أَحْبَبُوا أَنْ يَأْخُذُوا الدِّيَةَ أَخَذُوا

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdul Rahman,

(The narrator) says, 'I asked Abu Abdullah^{asws} about a man who killed two men deliberately, and for both of them were guardians. So the guardians of one of the two forgave and the other ones refused. So he^{asws} said: 'The ones who did not forgive can kill him, and if they so like to take the wergild, they can take it'.

قَالَ عَبْدُ الرَّحْمَنِ فَقُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَرَجُلَانِ قَتَلَا رَجُلًا عَمْدًا وَ لَهُ وَلِيَّانِ فَعَفَا أَحَدُ الْوَلِيِّينَ قَالَ فَقَالَ إِذَا عَفَا بَعْضُ الْأَوْلِيَاءِ دُرِيَ عَنْهُمَا الْقَتْلُ وَ طَرِحَ عَنْهُمَا مِنَ الدِّيَةِ بِقَدْرِ حِصَّةِ مَنْ عَفَا وَ أَدْيَا الْبَاقِيَّ مِنْ أَمْوَالِهِمَا إِلَى الَّذِي لَمْ يَعْفُوا .

Abdul Rahman said, 'So I said to Abu Abdullah^{asws}, 'So two men both kill a man deliberately, and for him are two guardians, so one of the guardians forgives?' So he^{asws} said: 'When one of the guardians forgives, the killing is staved off from them both, and the wergild would be dropped from both of them by the measurement of the share of the one who forgave, and the remainder would be paid from both their wealth to the one who did not forgive'.⁷²

بَابُ الرَّجُلِ يَتَصَدَّقُ بِالْذِّيَّةِ عَلَى الْقَاتِلِ وَ الرَّجُلِ يَغْتَدِي بَعْدَ الْعَفْوِ فَيَقْتُلُ

Chapter 47 – The man gives the wergild in charity upon the killer, and the man assaults after the forgiveness, so he kills

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَمَنْ تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ فَقَالَ يُكْفَرُ عَنْهُ مِنْ ذُنُوبِهِ بِقَدْرِ مَا عَفَا

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [5:45] but he who foregoes it, it shall be an

⁷¹ Al Kafi – V 7 – The Book of Wergilds Ch 45 H 7

⁷² Al Kafi – V 7 – The Book of Wergilds Ch 45 H 8

expiation for him. So he^{asws} said: 'It would expiate from his sins by the measurement of what he forgave'.

وَسَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ فَمَنْ عَفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبَاعُ بِالْمَعْرُوفِ وَ أَدَاءُ إِلَيْهِ بِإِحْسَانٍ قَالَ يَنْبَغِي لِلَّذِي لَهُ الْحَقُّ أَنْ لَا يُعَسِّرَ أَخَاهُ إِذَا كَانَ قَدْ صَالَحَهُ عَلَى دِيَّةٍ وَ يَنْبَغِي لِلَّذِي عَلَيْهِ الْحَقُّ أَنْ لَا يَمْطُلَّ أَخَاهُ إِذَا قَدَّرَ عَلَى مَا يُعْطِيهِ وَ يُؤَدِّي إِلَيْهِ بِإِحْسَانٍ

And I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [2:178] **but if any remission is made to any one by his (aggrieved) brother then prosecution (for the blood wit) should be made according to usage, and payment should be made to him in a good manner.** He^{asws} said: 'It is befitting for the one for whom is the right that he should not (financially) constrain his brother when he has reconciled with him upon the wergild, and if it befitting for the one upon whom is the (payable) right that he should not delay his brother when he has the ability upon what he has to be given, and he should pay it to him in a good manner'.

قَالَ وَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَمَنْ اعْتَدَى بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ فَقَالَ هُوَ الرَّجُلُ يَقْبَلُ الدِّيَّةَ أَوْ يَعْفُو أَوْ يُصَالِحُ ثُمَّ يَعْتَدِي فَيُقْتَلُ فَلَهُ عَذَابٌ أَلِيمٌ كَمَا قَالَ اللَّهُ عَزَّ وَ جَلَّ .

He (the narrator) said, 'And I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [2:178] **so whoever exceeds the limit after this he shall have a painful Punishment.** So he^{asws} said: 'He is the man who accepts the wergild, or forgives, or reconciles, then exceeds, so he kills. Thus, for him is the painful Punishment just as Allah^{azwj} Mighty and Majestic Says'.⁷³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بصير قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَمَنْ تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ قَالَ يُكْفَرُ عَنْهُ مِنْ ذُنُوبِهِ بِقَدْرِ مَا عَفَا مِنْ جِرَاحٍ أَوْ غَيْرِهِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer who said,

'I asked Abu Abdullah^{asws} about the Words of Allah^{azwj} Mighty and Majestic [5:45] **but he who foregoes it, it shall be an كَفَّارَةٌ** 'expiation for him. He^{asws} said: 'It would expiate from him his sins by the measurement of whatever he forgives from the injuries or other than it'.

قَالَ وَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَمَنْ عَفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبَاعُ بِالْمَعْرُوفِ وَ أَدَاءُ إِلَيْهِ بِإِحْسَانٍ قَالَ هُوَ الرَّجُلُ يَقْبَلُ الدِّيَّةَ فَيَنْبَغِي لِلطَّالِبِ أَنْ يَرْفُقَ بِهِ فَلَا يُعَسِّرَهُ وَ يَنْبَغِي لِلْمَطْلُوبِ أَنْ يُؤَدِّيَ إِلَيْهِ بِإِحْسَانٍ وَ لَا يَمْطُلَّهُ إِذَا قَدَّرَ .

He (the narrator) said, 'And I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [2:178] **but if any remission is made to any one by his (aggrieved) brother then prosecution (for the blood wit) should be made according to usage, and payment should be made to him in a good manner.** He^{asws} said: 'He is the man who accepts the wergild, so it is befitting for the seeker that he should be kind with it, so he should not (financially) constrain him, and it is befitting for the sought that he should pay to him with the goodly manner and not delay it when (he is) able to do so'.⁷⁴

⁷³ Al Kafi – V 7 – The Book of Wergilds Ch 46 H 1

⁷⁴ Al Kafi – V 7 – The Book of Wergilds Ch 46 H 2

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ أَبِي جَمِيلَةَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي قَوْلِ اللَّهِ عَزَّ وَجَلَّ فَمَنْ اعْتَدَى بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ فَقَالَ الرَّجُلُ يَعْفُو أَوْ يَأْخُذُ الدِّيَةَ تَمْ يَجْرَحُ صَاحِبَهُ أَوْ يَقْتُلُهُ فَلَهُ عَذَابٌ أَلِيمٌ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Abu Jameela, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding the Words of Allah^{azwj} Mighty and Majestic [2:178] **so whoever exceeds the limit after this he shall have a painful Punishment.** So he^{asws} said: 'The man who forgives, or takes the wergild, then injures his companion (the killer), or kills him, so for him is a painful Punishment'.⁷⁵

أَحْمَدُ بْنُ مُحَمَّدِ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي قَوْلِ اللَّهِ عَزَّ وَجَلَّ فَمَنْ عَفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبَعَ بِالْمَعْرُوفِ وَ آدَاءٌ إِلَيْهِ بِإِحْسَانٍ مَا ذَلِكَ الشَّيْءُ قَالَ هُوَ الرَّجُلُ يَقْبَلُ الدِّيَةَ فَأَمَرَ اللَّهُ عَزَّ وَجَلَّ الرَّجُلَ الَّذِي لَهُ الْحَقُّ أَنْ يَتَّبِعَهُ بِمَعْرُوفٍ وَ لَا يُعَسِّرَهُ وَ أَمَرَ الَّذِي عَلَيْهِ الْحَقُّ أَنْ يُؤَدِّيَ إِلَيْهِ بِإِحْسَانٍ إِذَا أُيسِرَ

Ahmad Bin Muhammad Bin Abu Nasr, from Abdul Kareem, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} regarding the Words of Allah^{azwj} Mighty and Majestic [2:178] **but if any remission is made to any one by his (aggrieved) brother then prosecution (for the blood wit) should be made according to usage, and payment should be made to him in a good manner,** what is that thing?' He^{asws} said: 'He is the man who accepts the wergild, so Allah^{azwj} Mighty and Majestic has Command the man for who is the right that he should follow it with the goodness and not (financially) constrict him, and Commanded the one upon whom is the (payment of) right that he should pay it with the goodness when he is financially solvent' (capable).

فَأُتِيَ أَوْ رَأَيْتَ قَوْلَهُ عَزَّ وَجَلَّ فَمَنْ اعْتَدَى بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ قَالَ هُوَ الرَّجُلُ يَقْبَلُ الدِّيَةَ أَوْ يُصَالِحُ تَمْ يَجِيءُ بَعْدَ ذَلِكَ قَيْمَتٌ أَوْ يَقْتُلُ فَوَعَدَهُ اللَّهُ عَذَابًا أَلِيمًا .

I said, 'What is your view of the Words of the Mighty and Majestic [2:178] **so whoever exceeds the limit after this he shall have a painful Punishment?'** He^{asws} said: 'He is the man who accepts the wergild, or reconciles, then comes after that, so he tortures him or kills, so Allah^{azwj} has Promised him a painful Punishment'.⁷⁶

باب

Chapter 48 – A chapter

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادٍ الْحَنَاطِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ مُسْلِمٍ قَتَلَ رَجُلًا مُسْلِمًا عَمْدًا فَلَمْ يَكُنْ لِلْمَقْتُولِ أَوْلِيَاءٌ مِنَ الْمُسْلِمِينَ إِلَّا أَوْلِيَاءٌ مِنْ أَهْلِ الدِّمَةِ مِنْ قَرَابَتِهِ فَقَالَ عَلَى الْإِمَامِ أَنْ يُعْرَضَ عَلَى قَرَابَتِهِ مِنْ أَهْلِ بَيْتِهِ الْإِسْلَامَ فَمَنْ أَسْلَمَ مِنْهُمْ فَهُوَ وَلِيُّهُ يَدْفَعُ الْقَاتِلَ إِلَيْهِ فَإِنْ شَاءَ قَتَلَ وَ إِنْ شَاءَ عَفَا وَ إِنْ شَاءَ أَخَذَ الدِّيَةَ

⁷⁵ Al Kafi – V 7 – The Book of Wergilds Ch 46 H 3

⁷⁶ Al Kafi – V 7 – The Book of Wergilds Ch 46 H 4

Muhammad Bin Yahya from Ahmad Bin Muhammad, and Ali Bin Ibrahim from his father, from Ibn Mahboub, from Abu Wallad who said,

'I asked Abu Abdullah^{asws} about a Muslim man who killed a Muslim man deliberately. So there did not happen to be for the killed one any guardians from the Muslims except for guardians from the *Ahl Zimmi* (people under the responsibility) from his relatives. So he^{asws} said: 'It would be upon the Imam^{asws} to present Al-Islam to his relatives from his family. So the one who became a Muslim from them, so he would be his guardian, the killer would be handed over to him. So if he so desires to he kills, and if he so desires to he excuses, and if he so desires to he takes the wergild.

فَإِنْ لَمْ يُسَلِّمْ أَحَدٌ كَانَ الْإِمَامُ وَلِيَّ أَمْرِهِ فَإِنْ شَاءَ قَتَلَ وَ إِنْ شَاءَ أَخَذَ الدِّيَةَ يَجْعَلُهَا فِي بَيْتِ مَالِ الْمُسْلِمِينَ لِأَنَّ جِنَايَةَ الْمُقْتُولِ كَانَتْ عَلَى الْإِمَامِ فَكَذَلِكَ يَكُونُ دِيَّتُهُ لِإِمَامِ الْمُسْلِمِينَ

So if no one were to become a Muslim, the Imam^{asws} would be the guardian of his affairs. So if he^{asws} so desires to he^{asws} kills, and if he^{asws} so desires to he takes the wergild. He^{asws} would make it to be in the public treasury of the Muslims, because the crime of the killed would be to be resolved by the Imam^{asws}. So, like that, his wergild would happen to be for the Imam^{asws} of the Muslims'.

قُلْتُ فَإِنْ عَفَا عَنْهُ الْإِمَامُ قَالَ فَقَالَ إِنَّمَا هُوَ حَقٌّ جَمِيعِ الْمُسْلِمِينَ وَ إِنَّمَا عَلَى الْإِمَامِ أَنْ يَقْتُلَ أَوْ يَأْخُذَ الدِّيَةَ وَ لَيْسَ لَهُ أَنْ يَعْفُو .

I said, 'So if the Imam^{asws} excuses him from it?' So he^{asws} said: 'But rather, it is a right of the Muslims, and rather it is upon the Imam^{asws} that he^{asws} either kills or he^{asws} takes the wergild, and it is not for him^{asws} that he^{asws} excuses'.⁷⁷

باب

Chapter 49 – A chapter

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَمَّنْ أَخْبَرَهُ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ أَتَيْتُ عُمَرَ بْنَ الْخَطَّابِ بِرَجُلٍ قَدْ قَتَلَ أَخَا رَجُلٍ فَدَفَعَهُ إِلَيْهِ وَ أَمَرَهُ بِقَتْلِهِ فَضْرِبَهُ الرَّجُلُ حَتَّى رَأَى أَنَّهُ قَدْ قَتَلَهُ فَحَمَلَ إِلَى مَنْزِلِهِ فَوَجَدُوا بِهِ رَمَقًا فَعَالَجُوهُ فَبَرَأَ

Ali Bin Ibrahim, from his father, from one of his companions, from Aban Bin Usman, from the one who informed him,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'They came to Umar Bin Al-Khattab with a man who had killed a brother of a man, so he handed him over to him, and ordered him with his killing. So the man struck him until he saw that he had killed him. So he carried him over to his house. So they found him to be barely alive. So they treated him and he was cured.

فَلَمَّا خَرَجَ أَخَذَهُ أَخُو الْمَقْتُولِ الْأَوَّلِ فَقَالَ أَنْتَ قَاتِلُ أَخِي وَ لِي أَنْ أَقْتَلَكَ فَقَالَ قَدْ قَتَلْتَنِي مَرَّةً فَانْطَلِقْ بِهِ إِلَيَّ عَمَرَ فَأَمَرَهُ بِقَتْلِهِ فَخَرَجَ وَ هُوَ يَقُولُ وَ اللَّهُ قَتَلْتَنِي مَرَّةً

So when he went out, the brother of the first killed one seized him, so he said, 'You are the killer of my brother, and it is for me that I kill you'. So he said, 'You have

⁷⁷ Al Kafi – V 7 – The Book of Wergilds Ch 47 H 1

already killed me once'. So he went with him to Umar. So he ordered him to be killed. So he went out and was saying: 'By Allah^{azwj}! I have already been killed once'.

فَمَرُّوا عَلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَأَخْبَرَهُ خَبْرَهُ فَقَالَ لَا تَعْجَلْ حَتَّى أَخْرُجَ إِلَيْكَ فَدَخَلَ عَلَى عُمَرَ فَقَالَ لَيْسَ الْحُكْمُ فِيهِ هَكَذَا فَقَالَ مَا هُوَ يَا أَبَا الْحَسَنِ فَقَالَ يَقْتَضِي هَذَا مِنْ أَخِي الْمَقْتُولِ الْأَوَّلِ مَا صَنَعَ بِهِ ثُمَّ يَقْتُلُهُ بِأَخِيهِ فَتَنْظَرُ الرَّجُلُ أَنَّهُ إِنْ أَقْتَصَ مِنْهُ أَتَى عَلَى نَفْسِهِ فَعَفَا عَنْهُ وَتَنَارَكَ .

So they passed by Amir Al-Momineen^{asws}. So they informed him^{asws} of his news, so he^{asws} said: 'Do not be hasty until I^{asws} come out to you'. So he^{asws} went over to Umar, so he^{asws} said: 'The judgement regarding him is not like this!' So he said, 'And what is it, O Abu Al-Hassan^{asws}?' So he^{asws} said: 'He has the right to do to the brother of the deceased what he has done to the killer, then he can subject the killer to retaliation for his deceased brother. Then he would be killed by his brother'. So the man (brother of the deceased) realised that if he retaliates, it would come upon his soul. So, he forgave him, and they both left'.⁷⁸

باب الْقَسَامَةِ

Chapter 50 – The compurgation (sworn endorsements)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنِ الْقَسَامَةِ كَيْفَ كَانَتْ فَقَالَ هِيَ حَقٌّ وَ هِيَ مَكْتُوبَةٌ عِنْدَنَا وَ لَوْ لَا ذَلِكَ لَقَتَلْنَا النَّاسَ بَعْضُهُمْ بَعْضًا ثُمَّ لَمْ يَكُنْ شَيْءٌ وَ إِنَّمَا الْقَسَامَةُ نَجَاةٌ لِلنَّاسِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby,

(The narrator) says, 'I asked Abu Abdullah^{asws} about the compurgation (sworn endorsements), how it was to be?' So he^{asws} said: 'It is truth, and it is written with us^{asws}. And had it not been for that, the people would have killed each other, then nothing would happen. But rather, the compurgation (sworn endorsements) is a salvation for the people'.⁷⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الْقَسَامَةِ هَلْ جَرَتْ فِيهَا سُنَّةٌ قَالَ نَعَمْ خَرَجَ رَجُلَانِ مِنَ الْأَنْصَارِ يُصَيِّبَانِ مِنَ النَّمَارِ فَتَقَرَّقَا فَوَجِدَ أَحَدُهُمَا مَيِّتًا فَقَالَ أَصْحَابُهُ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِنَّمَا قَتَلْنَا صَاحِبِنَا الْيَهُودَ فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) تَحَلَّفَ الْيَهُودُ فَقَالُوا يَا رَسُولَ اللَّهِ كَيْفَ نَحَلِّفُ الْيَهُودَ عَلَى أٰخِينَا وَ هُمْ قَوْمٌ كُفَّارٌ قَالَ فَاحْلِفُوا أَنْتُمْ قَالُوا كَيْفَ نَحَلِّفُ عَلَى مَا لَمْ نَعْلَمْ وَ لَمْ نَشْهَدْ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdullah Bin Sinan who said,

'I asked Abu Abdullah^{asws} about the compurgation (sworn endorsements), did the Sunnah flow with regards to it?' So he^{asws} said: 'Yes. Two men from the Helpers went out to collect fruits. So they separated, and one of the two was found to be dead. So his companion said to Rasool-Allah^{saww}, 'But rather, the Jews killed our companion'. So Rasool-Allah^{saww} said: 'The Jews should swear an oath'. So they said, 'O Rasool-Allah^{saww}! How can we get the Jews to swear upon our brother, and they are an Infidel people?' He^{saww} said: 'So you all swear an oath'. They said, 'How can we swear upon what we do not know, and did not witness?'

⁷⁸ Al Kafi – V 7 – The Book of Wergilds Ch 48 H 1

⁷⁹ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 1

قَالَ قَوْلَهُ النَّبِيُّ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) مِنْ عِنْدِهِ قَالَ قُلْتُ كَيْفَ كَانَتْ الْقَسَامَةُ قَالَ فَقَالَ أَمَا إِنَّهَا حَقٌّ وَ لَوْ لَا ذَلِكَ لَقَتَلَ النَّاسُ بَعْضُهُمْ بَعْضًا وَ إِنَّمَا الْقَسَامَةُ حَوْطٌ يُحَاطُ بِهِ النَّاسُ .

He^{asws} said: 'So the Prophet^{saww} paid him from himself^{saww}'. I said, 'How did the compurgation (sworn endorsements) come to be?' So he^{asws} said: 'But, it is the truth, and had it not been for that, the people would have killed each other. But rather, the compurgation (sworn endorsements) is a safeguard which the people are safeguarded by'.⁸⁰

عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الْقَسَامَةِ هَلْ جَرَتْ فِيهَا سُنَّةٌ قَالَ فَذَكَرَ مِثْلَ حَدِيثِ ابْنِ سِنَانَ قَالَ وَ فِي حَدِيثِهِ هِيَ حَقٌّ وَ هِيَ مَكْتُوبَةٌ عِنْدَنَا .

From him, from Abdullah Bin Muskam, from Suleyman Bin Khalid who said,

'I asked Abu Abdullah^{asws} about the compurgation (sworn endorsements), has the Sunnah flowed regarding it?' He (the narrator) said, 'So he^{asws} mentioned a Hadeeth similar to the one of Ibn Sinan, and said in his^{asws} Hadeeth: 'It is the truth, and it is written with us^{asws}',⁸¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِينَةَ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنِ الْقَسَامَةِ فَقَالَ الْحَقُّ كُلُّهَا الْبَيِّنَةُ عَلَى الْمُدَّعِي وَ الْيَمِينُ عَلَى الْمُدَّعَى عَلَيْهِ إِلَّا فِي الدَّمِ خَاصَّةً فَإِنَّ رَسُولَ اللَّهِ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) يَتِيمًا هُوَ بِخَيْرٍ إِذْ فَتَدَّتِ الْأَنْصَارُ رَجُلًا مِنْهُمْ فَوَجَدُوهُ قَتِيلًا فَقَالَتِ الْأَنْصَارُ إِنَّ فُلَانَ الْيَهُودِيَّ قَتَلَ صَاحِبَنَا فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) لِلطَّالِبِينَ أَقِيمُوا رَجُلَيْنِ عَدْلَيْنِ مِنْ غَيْرِكُمْ أَقِيدُوهُ بِرُمَّتِهِ فَإِنْ لَمْ تَجِدُوا شَاهِدَيْنِ فَأَقِيمُوا قَسَامَةَ خَمْسِينَ رَجُلًا أَقِيدُوهُ بِرُمَّتِهِ فَقَالُوا يَا رَسُولَ اللَّهِ مَا عِنْدَنَا شَاهِدَانِ مِنْ غَيْرِنَا وَ إِنَّا لَنَكْرَهُ أَنْ نُفْسِمَ عَلَى مَا لَمْ نَرَهُ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Umar Bin Azina, from Bureyd Bin Muawiya,

(The narrator) says: 'I asked Abu Abdullah^{asws} about the compurgation (sworn endorsements), so he^{asws} said: 'With regards to the right, all of them, the burden of proof is upon the claimant, and the swearing of the oath is upon the defendant, except regarding the blood, in particular, for Rasool-Allah^{saww} was in Khyber when the Helpers missed a man from them, so he was found killed. So the Helpers said, 'So and so the Jew killed our companion'. So Rasool-Allah^{saww} said to the seekers: 'Establish two just men from others, I^{saww} shall retaliate by its entirety. So if you do not find two witnesses, so establish compurgation (sworn endorsements) of fifty men, I^{saww} shall retaliate by its entirety'. So they said, 'O Rasool-Allah^{saww}! There are no two witnesses with us from others, and we hate that we swear upon what we have not seen'.

قَوْلَهُ رَسُولُ اللَّهِ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) مِنْ عِنْدِهِ وَ قَالَ إِنَّمَا حَقٌّ دِمَاءُ الْمُسْلِمِينَ بِالْقَسَامَةِ لِكَيْ إِذْ رَأَى الْفَاجِرُ الْفَاسِقُ فُرْصَةً مِنْ عَدُوِّهِ حَجَزَهُ مَخَافَةُ الْقَسَامَةِ أَنْ يُقْتَلَ بِهِ فَكَفَّ عَنْ قَتْلِهِ وَ إِلَّا حَلَفَ الْمُدَّعَى عَلَيْهِ قَسَامَةَ خَمْسِينَ رَجُلًا مَا قَتَلْنَا وَ لَا عَلِمْنَا قَاتِلًا وَ إِلَّا أَعْرَمُوا الدَّبِيَّةَ إِذَا وَجَدُوا قَتِيلًا بَيْنَ أَظْهُرِهِمْ إِذَا لَمْ يُفْسِمِ الْمُدَّعُونَ .

So Rasool-Allah^{saww} paid it from himself^{saww}, and said: 'But rather, the blood of the Muslims is saved by the compurgation, perhaps when the immoral mischievous one might see a chance from his enemy, would keep aside in fear of the compurgation (sworn endorsements), that he himself would be killed by it. So he would restrain

⁸⁰ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 2

⁸¹ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 3

from killing him, or else the claimant would swear an oath against him, a compurgation (sworn endorsement) of fifty men, 'We have neither killed nor do we know the killer', or else be fined the wergild. When the killer is found in their presence, when the claimants do not swear'.⁸²

ابن أبي عمير عن عمر بن أذينة عن زرارة قال سألت أبا عبد الله (عليه السلام) عن القسامة فقال هي حق إن رجلاً من الأنصار وجد قتيلاً في قليب من قليب اليهود فأتوا رسول الله (صلى الله عليه وآله) فقالوا يا رسول الله إنا وجدنا رجلاً من قليب في قليب من قليب اليهود فقال أنتوني بشاهدين من غيركم قالوا يا رسول الله ما لنا شاهدان من غيرنا فقال لهم رسول الله (صلى الله عليه وآله) فليقسم خمسون رجلاً منكم على رجل ندفعه إليكم قالوا يا رسول الله وكيف نقسم على ما لم نره قال فيقسم اليهود قالوا يا رسول الله وكيف نرضى باليهود وما فيهم من الشرك أعظم فوداه رسول الله (صلى الله عليه وآله)

Ibn Abu Umeyr, from Umar Bin Aina, from Zurara who said,

'I asked Abu Abdullah^{asws} about the compurgation (sworn endorsements), so he^{asws} said: 'It is truth. A man from the Helpers was found killed in a well from the wells of the Jews. So they came to Rasool-Allah^{saww}, so they said, 'O Rasool-Allah^{saww}! We found a man from us killed in a well from the wells of the Jews'. So he^{saww} said: 'Come to me with two witnesses from other than you all'. They said, 'O Rasool-Allah^{saww}! There are no two witnesses for us from others'. So Rasool-Allah^{saww} said to them: 'So let fifty men from you swear upon a man, we shall hand him over to you'. They said, 'O Rasool-Allah^{saww}! And how can we swear upon what we have not seen?' He^{saww} said: 'So the Jew should swear'. So they said, 'O Rasool-Allah^{saww}! And how can we be pleased with the Jew and what is among them from the grievous Polytheism?' So Rasool-Allah^{saww} paid it'.

قال زرارة قال أبو عبد الله (عليه السلام) إنما جعلت القسامة احتياطاً لدماء الناس لكيما إذا أراد الفاسق أن يقتل رجلاً أو يقتل رجلاً حيث لا يراه أحد خاف ذلك و امتنع من القتل .

Zurara said, 'Abu Abdullah^{asws} said; 'But rather, the compurgation (sworn endorsements) has been made to be as a precaution for the blood of the people so that when the immoral intends to kill a man, or assassinate a man where no one would see him, he would fear that, and be prevented from the killing'.⁸³

أبو علي الأشعري عن محمد بن عبد الجبار عن صفوان بن يحيى عن ابن بكير عن أبي بصير عن أبي عبد الله (عليه السلام) قال إن الله عز وجل حكّم في دمائكم بغير ما حكّم به في أموالكم

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Ibn Bukeyr, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Allah^{azwj} Mighty and Majestic has Judged with regards to your blood (lives) with other than what He^{azwj} has Judged with regards to your wealth.

حكّم في أموالكم أنّ النبيّ على المدعيّ والنبيّ على المدعى عليه و حكّم في دمائكم أنّ النبيّ على من ادعى عليه والنبيّ على من ادعى لكيلا يبطل دم امرئ مسلم .

⁸² Al Kafi – V 7 – The Book of Wergilds Ch 49 H 4

⁸³ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 5

A Judgement with regards to your wealth is that the burden of proof is upon the claimant, and the swearing is upon the defendant; and a Judgement with regards to your blood (life) is that the burden of proof is upon the defendant, but the swearing is upon the one who claims, so that the blood of a Muslim is not lost'.⁸⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَرِيعٍ عَنْ حَنَّانِ بْنِ سَدِيرٍ قَالَ قَالَ لِي أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) سَأَلَنِي ابْنُ شُبْرُمَةَ مَا تَقُولُ فِي الْقَسَامَةِ فِي الدَّمِ فَأَجَبْتُهُ بِمَا صَنَعَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ أَرَأَيْتَ لَوْ أَنَّ النَّبِيَّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَمْ يَصْنَعْ هَكَذَا كَيْفَ كَانَ الْقَوْلُ فِيهِ قَالَ فَقُلْتُ لَهُ أَمَا مَا صَنَعَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَدْ أَخْبَرْتُكَ بِهِ وَ أَمَا مَا لَمْ يَصْنَعْ فَلَا عِلْمَ لِي بِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail Bin Bazie, from hanan Bin Sudeyr who said,

'Abu Abdullah^{asws} said to me^{asws}, 'Ibn Shabrama asked me^{asws}, 'What are you^{asws} saying regarding the compurgation (sworn endorsements) with regards to the blood?' So I^{asws} answered him: 'With what the Prophet^{saww} dealt with'. So he said, 'What is your^{asws} view if the Prophet^{saww} had not done it like this, how would have been the word (of judgement) with regards to it?' So I^{asws} said: 'As far as what the Prophet^{saww} did do, so I^{asws} have informed you of it; and as for what he^{saww} did not do, so there is no knowledge for me^{asws} of it'.⁸⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بصيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْقَسَامَةِ أَيَّنَ كَانَ يَدُوهَا قَالَ كَانَ مِنْ قِبَلِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَمَّا كَانَ بَعْدَ فَتْحِ خَيْبَرَ تَخَلَّفَ رَجُلٌ مِنَ الْأَنْصَارِ عَنْ أَصْحَابِهِ فَرَجَعُوا فِي طَلْبِهِ فَوَجَدُوهُ مُتَشَحِّطًا فِي دَمِهِ قَتِيلًا فَجَاءَتْ الْأَنْصَارُ إِلَى رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَتْ يَا رَسُولَ اللَّهِ قَتَلْتَ الْيَهُودَ صَاحِبِنَا فَقَالَ لِيُقْسِمَ مِنْكُمْ خَمْسُونَ رَجُلًا عَلَى أَنَّهُمْ قَتَلُوهُ قَالُوا يَا رَسُولَ اللَّهِ كَيْفَ نُقْسِمُ عَلَى مَا لَمْ نَرَهُ قَالَ فَيُقْسِمُ الْيَهُودُ فَقَالُوا يَا رَسُولَ اللَّهِ مَنْ يُصَدِّقُ الْيَهُودَ فَقَالَ أَنَا إِذَا أَدَى صَاحِبِكُمْ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer who said,

'I asked Abu Abdullah^{asws} about the compurgation (sworn endorsements), 'Where was its beginning?' He^{asws} said: 'It was from before Rasool-Allah^{saww}. When it was after the victory of Khyber, a man from the Helpers was left behind from his companions. So they returned to seek him, and they found him covered in his blood, killed. So the Helpers came over to Rasool-Allah^{saww}, so they said, 'The Jews have killed our companion'. So he^{saww} said: 'Let fifty men from you swear upon that it is they who killed him'. They said, 'O Rasool-Allah^{saww}! How can we swear upon what we have not seen?' He^{saww} said: 'So the Jew should swear'. So they said, 'O Rasool-Allah^{saww}! Who would ratify the Jew?' So he^{saww} said: 'I^{saww} would then pay your companion'.

فَقُلْتُ لَهُ كَيْفَ الْحُكْمُ فَقَالَ إِنَّ اللَّهَ عَزَّ وَجَلَّ حَكَمَ فِي الدِّمَاءِ مَا لَمْ يَحْكَمْ فِي شَيْءٍ مِنْ حُقُوقِ النَّاسِ لِتَعْظِيمِهِ الدِّمَاءَ لَوْ أَنَّ رَجُلًا ادَّعَى عَلَى رَجُلٍ عَشْرَةَ آلَافٍ دِرْهَمٍ أَوْ أَقَلَّ مِنْ ذَلِكَ أَوْ أَكْثَرَ لَمْ يَكُنِ الْيَمِينُ لِلْمُدَّعَى وَكَانَتْ الْيَمِينُ عَلَى الْمُدَّعَى عَلَيْهِ فَإِذَا ادَّعَى الرَّجُلُ عَلَى الْقَوْمِ بِالْدَّمِ أَنَّهُمْ قَتَلُوا كَانَتْ الْيَمِينُ لِمُدَّعَى الدَّمِ قَبْلَ الْمُدَّعَى عَلَيْهِمْ فَعَلَى الْمُدَّعَى أَنْ يَجِيءَ بِخَمْسِينَ رَجُلًا يَحْلِفُونَ أَنَّ فُلَانًا قَتَلَ فُلَانًا فَيُدْفَعُ إِلَيْهِمُ الَّذِي حَلَفَ عَلَيْهِ فَإِنْ شَاءُوا عَفَوْا وَ إِنْ شَاءُوا قَتَلُوا وَ إِنْ شَاءُوا قَبِلُوا الدِّيَةَ

⁸⁴ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 6

⁸⁵ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 7

So I said to him^{asws}, 'How is the judgement?' So he^{asws} said: 'Allah^{azwj} Mighty and Majestic Judged regarding the blood what He^{azwj} did not Judge regarding anything from the rights of the people, due to the reverence of the blood.

If a man were to claim upon a man ten thousand Dirhams, or less than that, or more, there would not be swearing for the claimant, and the swearing was upon the defendant. So when the man claims upon a group with the blood that they killed him, the swearing would be for the claimant of the blood before the defendant. Thus, it would be upon the claimant that he comes with fifty men swearing on oath that so and so killed so and so. So he would be handed over to them, the one who has been sworn against. So if they so desire to they may excuse, and if they so desire to they may kill, and if they so desire to they accept the wergild.

وَ إِنْ لَمْ يُقْسَمُوا فَإِنَّ عَلَى الَّذِينَ ادَّعَى عَلَيْهِمْ أَنْ يَحْلِفَ مِنْهُمْ خَمْسُونَ مَا قَتَلْنَا وَلَا عَلِمْنَا لَهُ قَاتِلًا فَإِنْ فَعَلُوا وَدَى أَهْلِ الْقَرْيَةِ الَّذِينَ وَجَدَ فِيهِمْ وَإِنْ كَانَ بِأَرْضٍ فَلَاةٍ أَدَيْتَ دِيْنَهُ مِنْ بَيْتِ الْمَالِ فَإِنَّ أَمِيرَ الْمُؤْمِنِينَ (عليه السلام) يَقُولُ لَا يَبْطُلُ دَمُ امْرِئٍ مُسْلِمٍ .

And if they do not swear, so it would be upon the defendant that he should get fifty of them (the accusers) to swear, 'We neither have killed nor do we know his killer'. So if they do that, it is the people of the town where he (the killed one) was found to be among them, should pay, and if (he was found) in the land of wilderness, his wergild would be paid from the public treasury, for Amir Al-Momineen^{asws} was saying: 'There would be no invalidation of the blood of a Muslim'.⁸⁶

عَلَى بَنِي إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ فَضَّالٍ وَ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ جَمِيعاً عَنِ الرَّضَا (عليه السلام) وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الْحَسَنِ بْنِ ظَرْيَفٍ عَنْ أَبِيهِ ظَرْيَفِ بْنِ نَاصِحٍ عَنْ عَبْدِ اللَّهِ بْنِ أَيُّوبَ عَنْ أَبِي عَمْرٍو الْمُتَطَبِّبِ قَالَ عَرَضْتُ عَلَى أَبِي عَبْدِ اللَّهِ (عليه السلام) مَا أَقْتَى بِهِ أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فِي الدِّيَاتِ فَمِمَّا أَقْتَى بِهِ أَقْتَى فِي الْجَسَدِ وَ جَعَلَهُ سِتَّةَ فَرَايِضِ النَّفْسِ وَ الْبَصَرِ وَ السَّمْعِ وَ الْكَلَامِ وَ نَقْصِ الصَّوْتِ مِنَ الْعُنَى وَ الْبَحْحِ وَ الشَّلَلِ مِنَ الْيَدَيْنِ وَ الرَّجْلَيْنِ ثُمَّ جَعَلَ مَعَ كُلِّ شَيْءٍ مِنْ هَذِهِ قَسَامَةٌ عَلَى نَحْوِ مَا بَلَغَتْ الدِّيَةُ وَ الْقَسَامَةُ جَعَلَ فِي النَّفْسِ عَلَى الْعُمْدِ خَمْسِينَ رَجُلًا

Ali Bin Ibrahim, from his father, from Ibn Fazzal, and Muhammad Bin Isa, from Yunus,

(It has been narrated) both together from Al-Reza^{asws},

and and number of our companions, from Sahl Bin Ziyad, from Al Hassan Bin Zareyf, from his father Zareyf Bin Naih, from Abdullah Bin Ayoun, from Abu Amro Al Mutatayyab who said,

'I presented to Abu Abdullah^{asws} the verdict of Amir Al-Momineen^{asws} regarding the wergild. So from what he^{asws} had issued verdict with regarding the body, and made it six obligations of the self, and the sight, and the hearing, and the speech, and deficiency of the voice from the croaking, and the paralysis of the two hands, and the two legs.

وَ جَعَلَ فِي النَّفْسِ عَلَى الْخَطَا خَمْسَةً وَ عَشْرِينَ رَجُلًا وَ عَلَى مَا بَلَغَتْ دِيْنَهُ مِنَ الْجُرُوحِ أَلْفَ دِينَارٍ سِتَّةَ نَفَرٍ فَمَا كَانَ دُونَ ذَلِكَ فَبِحِسَابِهِ مِنْ سِتَّةِ نَفَرٍ وَ الْقَسَامَةُ فِي النَّفْسِ وَ السَّمْعِ وَ الْبَصَرِ وَ الْعُقْلِ وَ الصَّوْتِ مِنَ الْعُنَى وَ الْبَحْحِ وَ نَقْصِ الْيَدَيْنِ وَ الرَّجْلَيْنِ فَهُوَ مِنْ سِتَّةِ أَجْزَاءِ الرَّجُلِ .

⁸⁶ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 8

And he^{asws} made to be regarding the self upon the erroneous (killing), being twenty-five men (swearing), and upon what his wergild reached from the injuries sustained, a thousand Dinars, being six persons (swearing). So whatever was less than that, it would be by that counting, from six persons (swearing). And the compurgation (sworn endorsements) regarding the self, and the hearing and the sight, and the intellect, and the voice, from the croaking, and the deficiency of the two hands and the two legs, so it is from six parts of the man'.⁸⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْقَسَامَةِ خَمْسُونَ رَجُلًا فِي الْعَمْدِ وَ فِي الْخَطَا خَمْسَةٌ وَعِشْرُونَ رَجُلًا وَ عَلَيْهِمْ أَنْ يَخْلِفُوا بِاللَّهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdullah Bin Sinan who said,

'Abu Abdullah^{asws} said regarding the compurgation (sworn endorsements) being fifty men regarding the deliberate (killing), and regarding the erroneous, being twenty-five men, and upon them is that they should be swearing by Allah^{azwj}'.⁸⁸

باب ضَمَانِ الطَّبِيبِ وَ النُّبَّاطِ

Chapter 51 – Responsibility of the doctor and the veterinarian

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) مَنْ تَطَبَّبَ أَوْ تَبَيَّطَرَ فَلْيَأْخُذْ الْبَرَاءَةَ مِنْ وَلِيِّهِ وَ إِلَّا فَهُوَ لَهُ ضَامِنٌ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said; 'Amir Al-Momineen^{asws} said: 'The one who treats people (doctor) or treats animals (vet), so let him take the waiver from his guardian, or else he would be held responsible for him'.⁸⁹

باب الْعَاقَلَةِ

Chapter 52 – The (wergild paid by) the blood relatives

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَيْسَ بَيْنَ أَهْلِ الذَّمَّةِ مُعَاقَلَةٌ فِيمَا يَجْنُونَ مِنْ قَتْلِ أَوْ جِرَاحَةٍ إِنَّمَا يُؤْخَذُ ذَلِكَ مِنْ أَمْوَالِهِمْ فَإِنْ لَمْ يَكُنْ لَهُمْ مَالٌ رَجَعَتِ الْجَنَابَةُ عَلَى إِمَامِ الْمُسْلِمِينَ لِأَنَّهُمْ يُؤَدُّونَ إِلَيْهِ الْجَزِيَّةَ كَمَا يُؤَدِّي الْعَبْدُ الضَّرْبِيَّةَ إِلَى سَيِّدِهِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Abu Wallad,

(It has been narrated) from Abu Abdullah^{asws} having said: 'There is no (payment of the wergild) by the blood relatives between the people under the responsibility (*Ahl Al-Zimma*), regarding what crimes they commit from killing or injuries. But rather, that would be taken from their wealth. So if there does not happen to be wealth for them, the crime would be referred to Imam^{asws} of the Muslims, because they would be paying the tax to him^{asws}, just like the slave pays whatever he earns to his master'.

⁸⁷ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 9

⁸⁸ Al Kafi – V 7 – The Book of Wergilds Ch 49 H 10

⁸⁹ Al Kafi – V 7 – The Book of Wergilds Ch 50 H 10

قَالَ وَ هُمْ مَمَالِيكُ الْإِمَامِ فَمَنْ أَسْلَمَ مِنْهُمْ فَهُوَ حُرٌّ .

He^{asws} said: 'And they are the owned slaves of the Imam^{asws}, so the one who becomes a Muslim from them, so he is free'.⁹⁰

ابْنُ مَحْبُوبٍ عَنْ مَالِكِ بْنِ عَطِيَّةَ عَنْ أَبِيهِ عَنْ سَلْمَةَ بْنِ كُهَيْلٍ قَالَ أَتَيْتُ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) بِرَجُلٍ قَدْ قَتَلَ رَجُلًا خَطَأً فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) مَنْ عَشِيرَتُكَ وَ قَرَابَتُكَ فَقَالَ مَا لِي بِهِذِهِ الْبَلَدَةِ عَشِيرَةٌ وَ لَا قَرَابَةٌ قَالَ فَقَالَ فَمَنْ أَيْ أَهْلِ الْبُلْدَانِ أَنْتَ فَقَالَ أَنَا رَجُلٌ مِنْ أَهْلِ الْمُوصِلِ وَ لِدْتُ بِهَا وَ لِي بِهَا قَرَابَةٌ وَ أَهْلُ بَيْتِ

Ibn Mahboub, from Malik Bin Atiyya, from his father, from Salma Bin Kuheyl who said,

'They came to Amir Al-Momineen^{asws} with a man who had killed a man in error. So Amir Al-Momineen^{asws} said to him: 'Who are your clan and your relatives?' So he said, 'There is neither a clan nor any relatives for me in this city'. So he^{asws} said: 'So from which of the cities are you?' So he said, 'I am a man from the people of Mosul, born in it and for me are relatives and family'.

قَالَ فَسَأَلَ عَنْهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَلَمْ يَجِدْ لَهُ بِالْكَوْفَةِ قَرَابَةً وَ لَا عَشِيرَةً قَالَ فَكَتَبَ إِلَى عَامِلِهِ عَلَى الْمُوصِلِ أَمَا بَعْدُ فَإِنَّ فُلَانًا بِنَ فُلَانٍ وَ حَلِيَّتَهُ كَذَا وَ كَذَا قَتَلَ رَجُلًا مِنَ الْمُسْلِمِينَ خَطَأً فَذَكَرَ أَنَّهُ رَجُلٌ مِنَ الْمُوصِلِ وَ أَنَّ لَهُ بِهَا قَرَابَةً وَ أَهْلَ بَيْتٍ وَ قَدْ بَعَثْتُ بِهِ إِلَيْكَ مَعَ رَسُولِي فُلَانِ بْنِ فُلَانٍ وَ حَلِيَّتَهُ كَذَا وَ كَذَا فَإِذَا وَرَدَ عَلَيْكَ إِنْ شَاءَ اللَّهُ وَ قَرَأْتَ كِتَابِي فَافْحَصْ عَنْ أَمْرِهِ وَ سَلْ عَنْ قَرَابَتِهِ مِنَ الْمُسْلِمِينَ فَإِنْ كَانَ مِنْ أَهْلِ الْمُوصِلِ مِمَّنْ وُلِدَ بِهَا وَ أُصْنَبَتْ لَهُ بِهَا قَرَابَةٌ مِنَ الْمُسْلِمِينَ فَاجْمَعْهُمْ إِلَيْكَ ثُمَّ انظُرْ فَإِنْ كَانَ مِنْهُمْ رَجُلٌ يَرِثُهُ لَهُ سَهْمٌ فِي الْكِتَابِ لَا يَحْجُبُهُ عَنْ مِيرَاثِهِ أَحَدٌ مِنْ قَرَابَتِهِ فَالْزِمْهُ الدِّيَةَ وَ خُذْهَا بِهَا نُجُومًا فِي ثَلَاثِ سِنِينَ

He (the narrator) said, 'So Amir Al-Momineen^{asws} asked about him, but they did not find at Al-Kufa, neither relatives nor a clan. So he^{asws} wrote to his^{asws} office-bearer in Al-Mosul: 'As for afterwards, so and so son of so and so, and his appearance is such and such, killed one (person) from the Muslim in error. So, he mentioned that he is a man from Al-Mosul, and that for him, at it, are relatives and a family, and I^{asws} am sending him to you with my^{asws} so and so son of so and so messenger, and his appearance is such and such. So when they come over to you, Allah^{azwj} Willing, and you read my^{asws} letter, so examine his matter and ask about his relatives from the Muslims. So if there was one from the people of Al-Mosul, from the ones who were born at it, and relationships were established by it from the Muslims, so gather them to you. Then look around, so if there was among them a man who would inherit a share from him, in the Book (Quran), no one from his relatives barring him from his inheritance, so necessitate the wergild, and take it by instalments over three years.

فَإِنْ لَمْ يَكُنْ لَهُ مِنْ قَرَابَتِهِ أَحَدٌ لَهُ سَهْمٌ فِي الْكِتَابِ وَ كَانُوا قَرَابَتُهُ سَوَاءً فِي النَّسَبِ وَ كَانَ لَهُ قَرَابَةٌ مِنْ قِبَلِ أَبِيهِ وَ أُمِّهِ فِي النَّسَبِ سَوَاءً فَفَضَّ الدِّيَةَ عَلَى قَرَابَتِهِ مِنْ قِبَلِ أَبِيهِ وَ عَلَى قَرَابَتِهِ مِنْ قِبَلِ أُمِّهِ مِنَ الرِّجَالِ الْمُدْرِكِينَ الْمُسْلِمِينَ ثُمَّ اجْعَلْ عَلَى قَرَابَتِهِ مِنْ قِبَلِ أَبِيهِ ثُلْثِي الدِّيَةِ وَ اجْعَلْ عَلَى قَرَابَتِهِ مِنْ قِبَلِ أُمِّهِ ثُلْثَ الدِّيَةِ

So if there does not happen to be a relative of his for whom there is a share in the Book (Quran), and that his relatives were equal in their kinship, and there was for him a relative from his father and his mother being equal in the kinship, so divide the payable wergild upon his relatives from his father, and upon the relatives from his mother, from the adult Muslim males. Then make it upon his relatives (female) from

⁹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 51 H 1

his father, two-thirds of the wergild, and make it upon his relatives from his mother, one-third of the wergild.

وَ إِنْ لَمْ يَكُنْ لَهُ قَرَابَةٌ مِنْ قَبْلِ أَبِيهِ فَفُضَّ الدِّيَّةَ عَلَى قَرَابَتِهِ مِنْ قَبْلِ أُمِّهِ مِنَ الرِّجَالِ الْمُدْرِكِيِّينَ الْمُسْلِمِينَ ثُمَّ خَذَهُمْ بِهَا وَ اسْتَأْدَهُم الدِّيَّةَ فِي ثَلَاثِ سِنِينَ فَإِنْ لَمْ يَكُنْ لَهُ قَرَابَةٌ مِنْ قَبْلِ أُمِّهِ وَ لَا قَرَابَةٌ مِنْ قَبْلِ أَبِيهِ فَفُضَّ الدِّيَّةَ عَلَى أَهْلِ الْمَوْصِلِ مِمَّنْ وُلِدَ بِهَا وَ نَسَأَ وَ لَا تَدْخُلْنَ فِيهِمْ غَيْرُهُمْ مِنْ أَهْلِ الْبَلَدِ ثُمَّ اسْتَأْدَ ذَلِكَ مِنْهُمْ فِي ثَلَاثِ سِنِينَ فِي كُلِّ سَنَةٍ نَجْمًا حَتَّى تَسْتَوْفِيَهُ إِنْ شَاءَ اللَّهُ

And if there do not happen to be relatives for him from his father, so divide the payable wergild upon his relatives from his mother, from the adult Muslim males. Then seize them by it, and make them pay the wergild during three years. So if there do not happen to be relatives for him from his mother, nor any relatives for him from his father, so divide the payable wergild upon the people of Al-Mosul from the one who were born at it, and grew up, and do not include others among them from the people of the city. Then make it payable from them over three years, an instalment in each year, until they have fulfilled it, Allah^{azwj} Willing.

وَ إِنْ لَمْ يَكُنْ لِفُلَانِ بْنِ فُلَانٍ قَرَابَةٌ مِنْ أَهْلِ الْمَوْصِلِ وَ لَا يَكُونُ مِنْ أَهْلِهَا وَ كَانَ مُبْتَطَلًا فَرَدَّهُ إِلَيَّ مَعَ رَسُولِي فُلَانِ بْنِ فُلَانٍ إِنْ شَاءَ اللَّهُ فَأَنَا وَ لِوَيْهِ وَ الْمُؤَدِّي عَنْهُ وَ لَا أَبْطُلُ دَمَ امْرِئٍ مُسْلِمٍ .

And if there do not happen to be relatives for so and so, son of so and so, from the people of Al-Mosul. And if he does not happen to be from its people, and he has falsified it, so return him to me^{asws} along with my^{asws} messenger, so and so, son of so and so, Allah^{azwj} willing, for I^{asws} am his guardian, and the claimant from him, and I^{asws} will not invalidate the blood of a Muslim person'.⁹¹

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمَيْثَمِيِّ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ قَتَلَ رَجُلًا مُتَعَمِّدًا ثُمَّ هَرَبَ الْقَاتِلُ فَلَمْ يُعَدَّرْ عَلَيْهِ قَالَ إِنْ كَانَ لَهُ مَالٌ أَخَذَتِ الدِّيَّةُ مِنْ مَالِهِ وَ إِلَّا فَمِنَ الْأَقْرَبِ فَأَلْأَقْرَبِ فَإِنْ لَمْ يَكُنْ لَهُ قَرَابَةٌ وَ دَاهُ الْإِمَامُ فَإِنَّهُ لَا يَبْطُلُ دَمَ امْرِئٍ مُسْلِمٍ .

Humejd Bin Ziyad, from Al Hazzan Bin Muhammad Bin Sama'at, from Ahmad Bin Al Hassan Al Maysami, from Aban Bin Usman, from Abu Baseer who said,

'I asked Abu Abdullah^{asws} about a man who killed a man deliberately, then the killer fled and they were not able over him (to catch him). He^{asws} said: 'If there was wealth for him, the wergild would be taken from his wealth, or else from the relatives, if there are relatives. So if there do not happen to be relatives for him, the Imam^{asws} would pay it, for the blood of a Muslim person would not be invalidated'.

وَ فِي رِوَايَةٍ أُخْرَى تُمُّ لِلْوَالِي بَعْدَ حَبْسِهِ وَ أَدْبُهُ .

And in another report: 'The it would be for the ruler afterwards to imprison him, and discipline him'.⁹²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) أَنَّهُ لَا يُحْمَلُ عَلَى الْعَاقِلَةِ إِلَّا الْمَوْضِحَةُ فَصَاعِدًا وَ قَالَ مَا دُونَ السَّمْحَاقِ أَجْرُ الطَّيِّبِ سِوَى الدِّيَّةِ .

⁹¹ Al Kafi – V 7 – The Book of Wergilds Ch 51 H 2

⁹² Al Kafi – V 7 – The Book of Wergilds Ch 51 H 3

Ali Bin Ibrahim, from his father, from Ibn Fazzal, from Yunus Bin Yaquob, from Abu Maryan,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged that there would be no burden upon the (wergild payable by) the blood relatives except for the bone exposing injury upwards'. And he^{asws} said: 'What is below bone reaching injury, the fees of the doctor is in addition to the wergild'.⁹³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ لَا تَضْمَنُ الْعَاقِلَةُ عَمْدًا وَ لَا إِفْرَارًا وَ لَا صَلْحًا .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The blood relatives are not guarantors in deliberate (killing), nor confession, nor a reconciliation'.⁹⁴

باب

Chapter 53 – A chapter

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) قَضَى فِي أَرْبَعَةٍ شَهِدُوا عَلَى رَجُلٍ أَنَّهُمْ رَأَوْهُ مَعَ أَمْرَأَةٍ يُجَامِعُهَا فَيَرْجِمُ ثُمَّ يَرْجِعُ وَاحِدٌ مِنْهُمْ قَالَ يُعْرَمُ رُبْعَ الدِّيَةِ إِذَا قَالَ شِبْهَ عَلِيٍّ فَإِنْ رَجَعَ اثْنَانِ وَ قَالََا شِبْهَ عَلَيْنَا غُرْمًا نِصْفَ الدِّيَةِ وَ إِنْ رَجَعُوا جَمِيعًا وَ قَالَُوا شِبْهَ عَلَيْنَا غُرْمُوا الدِّيَةَ وَ إِنْ قَالَُوا شَهِدْنَا بِالزُّورِ قُتِلُوا جَمِيعًا .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws} judged regarding four witnesses upon a man who had seen him copulating with a woman. So he was stoned. Then one of them retracted (his statement). He^{asws} said: 'He would be fined a quarter of the wergild, when he says, 'It was doubtful to me'. So if two were to retract, and they both say, 'It was doubtful upon us', they would both be fined half the wergild. And if all of them were to retract, and they say, 'It was doubtful upon us', they would be fined the (complete) wergild. But if they were to say, 'We testified falsely', they would be killed all together'.⁹⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي أَرْبَعَةٍ شَهِدُوا عَلَى رَجُلٍ مُحْصَنٍ بِالزَّوْنِ ثُمَّ رَجَعَ أَحَدُهُمْ بَعْدَ مَا قُتِلَ الرَّجُلُ قَالَ إِنْ قَالَ الرَّابِعُ وَ هَمْتُ ضَرْبَ الْحَدِّ وَ غُرْمَ الدِّيَةِ وَ إِنْ قَالَ تَعَمَّدْتُ قُتِلَ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from one of his companion,

(It has been narrated) from Abu Abdullah^{asws} regarding four who testified upon a married man with the adultery. Then one of them retracted after the man had been killed. He^{asws} said : 'If the fourth one says, 'I was delusional', he would be struck the

⁹³ Al Kafi – V 7 – The Book of Wergilds Ch 51 H 4

⁹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 51 H 5

⁹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 1

legal penalty (*Hadd*), and fined the wergild. And if he says, 'I was deliberate', he would be killed'.⁹⁶

ابْنُ مَحْبُوبٍ عَنْ إِبْرَاهِيمَ بْنِ نُعَيْمِ الْأَزْدِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ أَرْبَعَةٍ شَهِدُوا عَلَى رَجُلٍ بِالزَّوْنَى فَلَمَّا قُتِلَ رَجَعَ أَحَدُهُمْ عَنْ شَهَادَتِهِ قَالَ فَقَالَ يُقْتَلُ الرَّابِعُ وَيُؤَدَّى الثَّلَاثَةُ إِلَى أَهْلِهِ ثَلَاثَةَ أَرْبَاعِ الدِّيَةِ .

Ibn Mahboub, from Ibrahim Bin Nuaym Al Azdy who said,

'I asked Abu Abdullah^{asws} about four who testified upon a man with the adultery. So when he was killed, one of them retracted from his testimony. So he^{asws} said: 'The fourth one would be killed, and the (other) three would pay three-quarters of the wergild to his family'.⁹⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ الْمُخْتَارِ بْنِ مُحَمَّدِ بْنِ الْمُخْتَارِ وَ مُحَمَّدُ بْنُ الْحَسَنِ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ الْعُلَوِيِّ جَمِيعاً عَنِ الْفَتْحِ بْنِ يَزِيدَ الْجُرْجَانِيِّ عَنْ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) فِي أَرْبَعَةٍ شَهِدُوا عَلَى رَجُلٍ أَنَّهُ زَنَى فَرَجِمَ ثُمَّ رَجَعُوا وَقَالُوا قَدْ وَهَمْنَا بِلِزْمِ الدِّيَةِ وَإِنْ قَالُوا إِنَّا تَعَمَّدْنَا قَتَلَ أَيُّ الأَرْبَعَةِ شَاءَ وَلِيُّ الْمَقْتُولِ وَ رَدَّ الثَّلَاثَةَ ثَلَاثَةَ أَرْبَاعِ الدِّيَةِ إِلَى أَوْلِيَاءِ الْمَقْتُولِ الثَّانِي وَ يُجْلَدُ الثَّلَاثَةُ كُلُّ وَاحِدٍ مِنْهُمْ ثَمَانِينَ جَلْدَةً وَ إِنْ شَاءَ وَلِيُّ الْمَقْتُولِ أَنْ يَقْتُلَهُمْ رَدَّ ثَلَاثَ دِيَّاتٍ عَلَى أَوْلِيَاءِ الشُّهُودِ الأَرْبَعَةِ وَ يُجْلَدُونَ ثَمَانِينَ كُلُّ وَاحِدٍ مِنْهُمْ ثُمَّ يَقْتُلُهُمُ الْإِمَامُ

Ali Bin Ibrahim, from Al Mukhtar Bin Muhammad Bin Al Mukhtar and Muhammad Bin Al Hassan, from Abdullah Bin Al Hassan Al Alawy, both together from Al Fatah Bin Yazeed Al Jarjany,

(It has been narrated) from Abu Al-Hassan^{asws} regarding four who testified upon a man that he had committed adultery. So he was stoned. Then they retracted and said, 'We had imagined'. (He^{asws} said): 'They would be necessitated (payment of) wergild. And if they say, 'We were deliberate', whichever of the four the guardian of the killed one so desires to kill, and the three would pay three quarters of the wergild to the guardians of the second one killed, and the three would be whipped eighty (lashes), each one from them, then the Imam^{asws} would kill them'.

وَ قَالَ فِي رَجُلَيْنِ شَهِدَا عَلَى رَجُلٍ أَنَّهُ سَرَقَ فَقُطِعَ ثُمَّ رَجَعَ وَاحِدٌ مِنْهُمَا وَ قَالَ وَهَمْتُ فِي هَذَا وَ لَكِنْ كَانَ غَيْرُهُ يُلْزَمُ نِصْفَ دِيَةِ الْيَدِ وَ لَا تُقْبَلُ شَهَادَتُهُ فِي الأَخْرِ فَإِنْ رَجَعَا جَمِيعاً وَ قَالَا وَهَمْنَا بَلْ كَانَ السَّارِقُ فَلَنَا أَلْزَمًا دِيَةَ الْيَدِ وَ لَا تُقْبَلُ شَهَادَتُهُمَا فِي الأَخْرِ

And he^{asws} said regarding two men who testified upon a man that he had stolen. So he (his hand) was cut. Then one of the two retracted and said, 'I imagined it with regards to this, but it was someone else: 'He would be necessitated (payment of) half the wergild of the hand, and his testimony with regards to the others would not be accepted. So if both of them were to retract and both say, 'We imagined it, but so and so was the thief', they would both be necessitated (payment of) the wergild of the hand and both their testimonies with regards to the others would not be acceptable.

وَ إِنْ قَالَا إِنَّا تَعَمَّدْنَا قُطِعَ يَدُ أَحَدِهِمَا بِيَدِ الْمَقْتُولِ وَ يُؤَدَّى الَّذِي لَمْ يُقْطَعْ رُبْعَ دِيَةِ الرَّجُلِ عَلَى أَوْلِيَاءِ الْمَقْتُولِ الْيَدِ فَإِنْ قَالَ الْمَقْتُولُ الأَوَّلُ لَا أَرْضَى أَوْ تُقْطَعُ أَيُّدِيَهُمَا مَعًا رَدَّ دِيَةَ يَدٍ فَتَنْفَسُمُ بَيْنَهُمَا وَ تُقْطَعُ أَيُّدِيَهُمَا .

And if both say, 'We were deliberate', the hand of one of the two would be cut by the one whose hand was cut, but the one whose (hand) was not cut would pay a quarter

⁹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 2

⁹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 3

of the wergild to the guardians of the one whose hand was cut. So if the first one (whose hand was) cut says, 'I am not pleased until the hands of both of them are to be cut together, he has to return the wergild of one hand to be divided between the two of them, and he can cut (hands of) both of them'.⁹⁸

باب فِيمَا يُصَابُ مِنَ الْبَهَائِمِ وَغَيْرِهَا مِنَ الدَّوَابِّ

Chapter 54 – Regarding what is hit from the cattle and others from the animals

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي عَيْنِ فَرَسٍ فُقِنَتْ عَيْنُهَا بِرُبْعِ ثَمَنِهَا يَوْمَ فُقِنَتْ عَيْنُهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding an eye of a horse which was blinded (by someone), by a quarter of its price on the day its eye was blinded (price when horse had both eyes)'.⁹⁹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ الْأَصَمِّ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ عَلِيًّا (عَلَيْهِ السَّلَام) قَضَى فِي عَيْنِ دَابَّةٍ رُبْعَ الثَّمَنِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman Al Asamma, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} that Ali^{asws} judged regard an eye of an animal, being a quarter of its price'.¹⁰⁰

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنِ ابْنِ أَبِي عُمَرَ عَنْ أَبِي الْعَبَّاسِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) مَنْ فَقَأَ عَيْنَ دَابَّةٍ فَعَلَيْهِ رُبْعُ ثَمَنِهَا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Aban Bin Usman, from Abu Al Abbas who said,

'Abu Abdullah^{asws} said: 'The one who blinds an eye of an animal, so upon him is a quarter of its price'.¹⁰¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) رَفَعَ إِلَيْهِ رَجُلٌ قَتَلَ خَنْزِيرًا فَضَمَّنَهُ قِيمَتَهُ وَرَفَعَ إِلَيْهِ رَجُلٌ كَسَرَ بَرَبُطًا فَأَبْطَلَهُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} that Amir Al-Momineen^{asws}, a matter was raised to him^{asws} of a man who killed a pig, so he^{asws} made him responsible for

⁹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 4

⁹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 53 H 1

¹⁰⁰ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 2

¹⁰¹ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 3

its price, and a matter was raised to him^{asws} of a man who had broken a guitar (musical instrument), so he^{asws} invalidated it (dismissed the case)'.¹⁰²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ الْحَمِيدِ عَنِ الْوَلِيدِ بْنِ صَبِيحٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ فِي دِيَّةِ الْكَلْبِ السَّلْوْقِيِّ أَرْبَعُونَ دِرْهَمًا أَمَرَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَنْ يَدِّيَهُ لِبَنِي جُدَيْمَةَ .

Ali Bin Ibrahim, from his father, and Muhammad Bin Ismail, from Al Fazal Bin Shazaan, both together, from Ibn Abu Umeyr, from Ibrahim Bin Abdul Hameed, from Al Waleed Bin Sabeeh,

(It has been narrated) from Abu Abdullah^{asws} having said regarding wergild of the greyhound dog being forty Dirhams. Rasool-Allah^{saww} ordered it to be paid to the Clan of Juzayma'.¹⁰³

عَلِيُّ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ حَفْصِ بْنِ عَلِيٍّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) أَنَّهُ قَالَ دِيَّةُ الْكَلْبِ السَّلْوْقِيِّ أَرْبَعُونَ دِرْهَمًا جَعَلَ ذَلِكَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ دِيَّةُ كَلْبِ الْغَنَمِ كَنْشٌ وَ دِيَّةُ كَلْبِ الزَّرْعِ حَرِيبٌ مِنْ بُرٍّ وَ دِيَّةُ كَلْبِ الْأَهْلِيِّ قَفِيزٌ مِنْ تُرَابٍ لِأَهْلِهِ .

Ali, from his father, from Muhammad Bin Hafs, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'Wergild of the greyhound dog is forty Dirhams, Rasool-Allah^{saww} made it to be that, and wergild of the shepherd dog, and the wergild of the plantation guard dog being a 'Jareyb' (unit of measurement) from the wheat; and wergild of domesticated dog being a 'Qafeez' (Unit of measurement) from the soil of its owners'.¹⁰⁴

عَلِيُّ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) (فِيْمَنْ قَتَلَ كَلْبَ الصَّيِّدِ قَالَ يُؤَمُّهُ وَ كَذَلِكَ الْبَارِي وَ كَذَلِكَ كَلْبُ الْغَنَمِ وَ كَذَلِكَ كَلْبُ الْحَائِطِ .

Ali, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said regarding the one who killed the hunting dog: 'It would be evaluated, and similar to that is the falcon, and similar to that is the sheep dog, and similar to that is the wall (guard) dog'.¹⁰⁵

النَّوْفَلِيُّ عَنِ السَّكُونِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فِي جَنِينِ الْبُهَيْمَةِ إِذَا ضُرِبَتْ فَارَأَتْ عَشْرَ ثَمَنِيهَا .

Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said regarding a foetus of the animal when it is truck, so it aborts it, (the compensation is) being one-tenth of its price'.¹⁰⁶

¹⁰² Al Kafi – V 7 – The Book of Wergilds Ch 54 H 4

¹⁰³ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 5

¹⁰⁴ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 6

¹⁰⁵ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 7

¹⁰⁶ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 8

أَحْمَدُ بْنُ مُحَمَّدٍ الْكُوفِيُّ عَنْ إِبْرَاهِيمَ بْنِ الْحَسَنِ عَنْ مُحَمَّدِ بْنِ خَلْفٍ عَنْ مُوسَى بْنِ إِبْرَاهِيمَ الْمَرْزُوقِيِّ عَنْ أَبِي الْحَسَنِ مُوسَى (عليه السلام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فِي فَرَسَيْنِ اصْطَدَمَا فَمَاتَ أَحَدُهُمَا فَضَمَّنَ الْبَاقِي دِيَةَ الْمَيِّتِ .

Ahmad Bin Muhammad Al Kufy, from Ibrahim Bin Al Hassan, from Muhammad Bin Khalaf, from Musa Bin Ibrahim Al Marouzy,

(It has been narrated) from Abu Al-Hassan Musa^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding two horses collided, so one of the two dies. So the responsibility is upon the (owner of the) remaining one, wergild of the dead (horse)'.¹⁰⁷

باب النُّوَادِر

Chapter 55- The Miscellaneous

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنِ الْحُسَيْنِ بْنِ يُوسُفَ عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ عَنْ أَبِي الْحَسَنِ الثَّانِي (عليه السلام) وَ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ مُحَمَّدِ بْنِ أَسْلَمَ عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ وَ يُونُسَ بْنِ عَبْدِ الرَّحْمَنِ قَالَا سَأَلْنَا أَبَا الْحَسَنِ الرَّضَا (عليه السلام) عَنْ رَجُلٍ اسْتَعَاثَ بِهِ قَوْمٌ لِيُنْقِذَهُمْ مِنْ قَوْمٍ يُغِيرُونَ عَلَيْهِمْ لِيَسْتَبِيحُوا أَمْوَالَهُمْ وَ يَسْبُوا ذُرَارِيَهُمْ

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Al Husayn Bin Yusuf, from Muhammad Bin Suleyman,

(It has been narrated) from Abu Al-Hassan^{asws} the 2nd and Muhammad Bin Ali, from Muhammad Bin Aslam, from Muhammad Bin Suleyman and Yunus Bin Abdul Rahman who both said, 'We both asked Abu Al-Hassan Al-Reza^{asws} about a man who was sought for help by a group of people to rescue them from a group of people who were attacking them, looting their wealth and capturing their children.

فَخَرَجَ الرَّجُلُ يَعْذُو بِسِلَاحِهِ فِي جَوْفِ اللَّيْلِ لِيُغِيثَ الْقَوْمَ الَّذِينَ اسْتَعَاثُوا بِهِ فَمَرَّ بِرَجُلٍ قَائِمٍ عَلَى شَفِيرِ بئرٍ يَسْتَقِي مِنْهَا فَدَفَعَهُ وَ هُوَ لَا يُرِيدُ ذَلِكَ وَ لَا يَعْلَمُ فَسَقَطَ فِي الْبئرِ فَمَاتَ وَ مَضَى الرَّجُلُ فَاسْتَنْقَذَ أَمْوَالَ أَوْلِيكَ الْقَوْمِ الَّذِينَ اسْتَعَاثُوا بِهِ

So the man went out prepared with his weapons, in the middle of the night in order to help the people who had sought his help, So (on the way) he passed by the brink of a well where someone was quenching himself from it. So he inadvertently pushed him, and he was not aware of that and did not know. So he fell into the well and died, and the man went (on his way). So he rescued the wealth of those people who had sought his help.

فَلَمَّا انْصَرَفَ إِلَى أَهْلِهِ قَالُوا لَهُ مَا صَنَعْتَ قَالَ قَدْ انْصَرَفَ الْقَوْمُ عَنْهُمْ وَ آمَنُوا وَ سَلِمُوا قَالُوا لَهُ أَسْعَرْتَ أَنَّ فُلَانًا بِنَ فُلَانٍ سَقَطَ فِي الْبئرِ فَمَاتَ قَالَ أَنَا وَ اللَّهُ طَرَحْتُهُ قَيْلًا وَ كَيْفَ ذَلِكَ فَقَالَ إِنِّي خَرَجْتُ أُعْذُو بِسِلَاحِي فِي ظُلْمَةِ اللَّيْلِ وَ أَنَا أَخَافُ الْقَوْتَ عَلَى الْقَوْمِ الَّذِينَ اسْتَعَاثُوا بِي فَمَرَرْتُ بِفُلَانٍ وَ هُوَ قَائِمٌ يَسْتَقِي فِي الْبئرِ فَزَحَمْتُهُ وَ لَمْ أَرِدْ ذَلِكَ فَسَقَطَ فِي الْبئرِ فَمَاتَ فَعَلَى مَنْ دِيَةُ هَذَا

So when he went to his family, they said to him, 'What did you do?' He said, 'I dispersed the people from them, and made them secure and safe'. They said to him, 'Are you aware that so and so fell into the well, so he died?' He said, 'By Allah^{azwj}! I tossed him'. It was said, 'And how was that?' So he said, 'I went out prepared with my weapons in the darkness of the night, and I feared the death upon the people who had sought my help. So I passed by so and so, and he was standing quenching

¹⁰⁷ Al Kafi – V 7 – The Book of Wergilds Ch 52 H 9

himself from the well. So I bumped into him, and I did not intend that. So he fell into the well, so he died. So upon whom is the wergild for this one?’

فَقَالَ دَيْبُهُ عَلَى الْقَوْمِ الَّذِينَ اسْتَنْجَدُوا الرَّجُلَ فَأَنْجَدَهُمْ وَ أَنْقَذَ أَمْوَالَهُمْ وَ نِسَاءَهُمْ وَ ذُرَارِيَهُمْ أَمَا إِنَّهُ لَوْ كَانَ آجَرَ نَفْسَهُ بِأَجْرَةِ لَكَانَتْ الدِّيَةُ عَلَيْهِ وَ عَلَى عَاقِلَتِهِ دُونَهُمْ وَ ذَلِكَ أَنَّ سُلَيْمَانَ بْنَ دَاوُدَ (عَلَيْهِ السَّلَامُ) أَنْتَهُ امْرَأَةٌ عَجُوزٌ تَسْتَعِينِي عَلَى الرِّيحِ فَقَالَتْ يَا نَبِيَّ اللَّهِ إِنِّي كُنْتُ قَائِمَةً عَلَى سَطْحٍ لِي وَ إِنَّ الرِّيحَ طَرَحَتْني مِنَ السَّطْحِ فَكَسَرَتْ يَدِي فَأَعْدِنِي عَلَى الرِّيحِ

So he^{asws} said: ‘His wergild is upon the group which the man rescued. So he rescued them, and saved their wealth, and their womenfolk, and their children. But, had he employed himself with a wage (to be paid by the group he had saved), the wergild would have been upon himself, and upon his blood relatives, besides them; and that is that Suleyman Bin Dawood^{as}, an old woman came over to him^{as}, making a claim against the wind, so she said, ‘O Prophet^{as} of Allah^{azwj}! I was standing upon the roof of mine, and the wind pushed me from the roof, so my hand broke. Therefore, support me against the wind’.

فَدَعَا سُلَيْمَانَ بْنَ دَاوُدَ (عَلَيْهِ السَّلَامُ) الرِّيحَ فَقَالَ لَهَا مَا دَعَاكَ إِلَى مَا صَنَعْتَ بِهِذِهِ الْمَرْأَةِ فَقَالَتْ صَدَقْتَ يَا نَبِيَّ اللَّهِ إِنَّ رَبَّ الْعِزَّةِ جَلَّ وَ عَزَّ بَعَثَنِي إِلَى سَفِينَةِ بَنِي فُلَانٍ لِأَنْقِذَهَا مِنَ الْعَرَقِ وَ قَدْ كَانَتْ أَشْرَفَتْ عَلَى الْعَرَقِ فَخَرَجْتُ فِي سَنِّي وَ عَجَلْتِي إِلَى مَا أَمَرَنِي اللَّهُ عَزَّ وَ جَلَّ بِهِ فَمَرَرْتُ بِهِذِهِ الْمَرْأَةِ وَ هِيَ عَلَى سَطْحِهَا فَعَثَرْتُ بِهَا وَ لَمْ أَرِدْهَا فَسَقَطَتْ فَأَنْكَسَرَتْ يَدُهَا

So Suleyman Bin Dawood^{as} called the wind over, so he^{as} said to it: ‘What invited you what you did with this woman?’ So it said, ‘She speaks the truth, O Prophet^{as} of Allah^{azwj}! The Lord^{azwj} of Honour, Mighty and Majestic had Sent me to a ship of the Clan of so and so, in order to rescue it from the drowning, and it had come close to the drowning. So I went out in my way, and my haste to what Allah^{azwj} Mighty and Majestic had Commanded me with. So I passed by this woman, and she was upon her roof. So I bumped into her, and I did not intend her. So she fell and she broke her hand’.

قَالَ فَقَالَ سُلَيْمَانَ يَا رَبِّ بِمَا أَحْكُمُ عَلَى الرِّيحِ فَأَوْحَى اللَّهُ عَزَّ وَ جَلَّ إِلَيْهِ يَا سُلَيْمَانَ احْكُمِ بِأَرْشِ كَسْرِ يَدِ هَذِهِ الْمَرْأَةِ عَلَى أَرْبَابِ السَّفِينَةِ الَّتِي أَنْقَذْتَهَا مِنَ الْعَرَقِ فَإِنَّهُ لَا يُظْلَمُ لَدِي أَحَدٌ مِنَ الْعَالَمِينَ .

He^{asws} said: ‘So Suleyman Bin Dawood^{as} said: ‘O Lord^{azwj}! With what shall I^{as} judge with, upon the wind?’ So Allah^{azwj} Mighty and Majestic Revealed upon him^{as}: ‘O Suleyman^{as}! Judge with the compensation of the breaking of the hand of this woman, upon the lords of the ship, which the wind rescued it from the drowning, for I^{azwj} am not the least unjust to the claim of anyone from the worlds’.¹⁰⁸

عَنْهُ عَنْ مُحَمَّدِ بْنِ أَسْلَمَ عَنْ هَارُونَ بْنِ الْجَهْمِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) أَيُّمَا ظَنِرُ قَوْمٍ قَتَلَتْ صَبِيًّا لَهُمْ وَ هِيَ نَائِمَةٌ فَأَنْقَلَبَتْ عَلَيْهِ فَتَقَاتَلَتْهُ فَإِنَّ عَلَيْهَا الدِّيَةَ مِنْ مَالِهَا خَاصَّةً إِنْ كَانَتْ إِيَّامًا ظَاءَرَتْ طَلَبَ الْعِزِّ وَ الْفَخْرِ وَ إِنْ كَانَتْ إِيَّامًا ظَاءَرَتْ مِنَ الْفَقْرِ فَإِنَّ الدِّيَةَ عَلَى عَاقِلَتِهَا .

From him, from Muhammad Bin Aslam, from Haroun Bin Al Jaham, from Muhammad Bin Muslim who said,

‘Abu Ja’far^{asws} said: ‘Whichever wet-nurse of the people who kills a child of their whilst in her sleep, turning over upon it, so she kills it, then upon her is the wergild from her wealth in particular, if she was wet-nursing seeking the honour and the

¹⁰⁸ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 1

pride; and if she was rather wet-nursing out of poverty, so the wergild is upon her blood relatives'.¹⁰⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنِ أَبِي الْعَبَّاسِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مَا لِلرَّجُلِ يُعَاقِبُ بِهِ مَمْلُوكَهُ فَقَالَ عَلَى قَدْرِ ذَنْبِهِ قَالَ فَقُلْتُ فَقَدْ عَاقَبْتَ حَرِيْزاً بِأَعْظَمَ مِنْ جُرْمِهِ فَقَالَ وَيْلَكَ هُوَ مَمْلُوكٌ لِي وَ إِنَّ حَرِيْزاً شَهْرَ السَّنَةِ وَ لَيْسَ مِنِّي مِنْ شَهْرِ السَّنَةِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby, from Abu Al Abbas who said,

'I said to Abu Abdullah^{asws}, 'What is for the man he can punish his slave with?' So he^{asws} said: 'Upon the measurement of his sin'. So I said, 'So I have punished Hareza with greater than his offence'. So he^{asws} said: 'Woe be unto you! He was a slave of mine^{asws}, and Hareyz brandished the sword, and the one who brandishes the sword is not from me^{asws}'.¹¹⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ إِبْرَاهِيمَ بْنِ أَبِي الْبِلَادِ عَنْ بَعْضِ أَصْحَابِهِ رَفَعَهُ قَالَ كَانَتْ فِي رَمَنْ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) امْرَأَةٌ صِدْقٌ يُقَالُ لَهَا أُمُّ قَيْبَانَ فَاتَاهَا رَجُلٌ مِنْ أَصْحَابِ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَسَلَّمَ عَلَيْهَا قَالَ فَرَأَاهَا مُهْتَمَةً فَقَالَ لَهَا مَا لِي أَرَاكِ مُهْتَمَةً فَقَالَتْ مَوْلَاةٌ لِي دَفَنْتُهَا فَتَبَدَّتْهَا الْأَرْضُ مَرَّتَيْنِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Ibrahim Bin Abu Al Balad, from one of his companions, raising it, said,

'There was a truthful woman in the era of Amir Al-Momineen^{asws} called Umm Qayyan. So, a man from the companions of Amir Al-Momineen^{asws} came over to her, so he greeted her. He saw her as worried, so he said to her, 'What is the matter I see you to be worried?' So she said, 'I buried a slave girl of mine, but the earth rejected her twice'.

فَدَخَلْتُ عَلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَأَخْبَرْتُهُ فَقَالَ إِنَّ الْأَرْضَ لَتَقْبَلُ الْيَهُودِيَّ وَ النَّصْرَانِيَّ فَمَا لَهَا إِلَّا أَنْ تَكُونَ تُعَذِّبُ بَعْدَ اللَّهِ ثُمَّ قَالَ أَمَا إِنَّهُ لَوْ أَخَذْتُ تُرْبَةً مِنْ قَبْرِ رَجُلٍ مُسْلِمٍ فَأَلْقَيْتُ عَلَى قَبْرِهَا لَقَرَّتْ

So I went over to Amir Al-Momineen^{asws} and informed him^{asws} of it, so he^{asws} said: 'The earth accepts the Jews and the Christian, so what is for her except that she is being Punished by the Punishment of Allah^{azwj}'. Then he^{asws} said: 'If she were to take the sand from a grave of a Muslim man, so let her throw it upon her grave, in order to calm it'.

قَالَ فَاتَيْتُ أُمَّ قَيْبَانَ فَأَخْبَرْتُهَا فَأَخَذُوا تُرْبَةً مِنْ قَبْرِ رَجُلٍ مُسْلِمٍ فَأَلْقَيْتُ عَلَى قَبْرِهَا فَفَرَّتْ فَسَأَلْتُ عَنْهَا مَا كَانَتْ حَالَهَا فَقَالُوا كَانَتْ شَدِيدَةً الْحُبِّ لِلرَّجَالِ لَا تَزَالُ قَدْ وَلدَتْ فَالْقَتْ وَلدَهَا فِي النَّتُورِ .

He (the narrator) said, 'So I went over to Umm Qayyan and informed her of it. So she took some sand from a grave of a Muslim man, so she threw it upon her grave. So it settled. So I asked (people) about her, what her situation used to be, so they said, 'She used to intensely love the man. She would not stop giving birth, so she used to throw her children into the oven (to kill them)'.¹¹¹

¹⁰⁹ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 2

¹¹⁰ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 3

¹¹¹ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 4

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِنَّ النَّبِيَّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) كَانَ يَحْبِسُ فِي نَهْمَةِ الدَّمِ سِنَةً أَيْامًا فَإِنْ جَاءَ أَوْلِيَاءُ الْمَقْتُولِ بِبَيِّنَةٍ وَإِلَّا خَلَّى سَبِيلَهُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said that the Prophet^{saww} used to imprison for six days with regards to the one (who was) accused of the blood (killing). So if the guardians of the killed-one were to come over (to seek blood money), or else he^{saww} would release his way'.¹¹²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ إِذَا مَاتَ وَلِيُّ الْمَقْتُولِ قَامَ وَلَدُهُ مِنْ بَعْدِهِ مَقَامَهُ بِالدَّمِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel, from one of our companions,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'When a guardian of the killed-one dies, his son stands from after him in his place, with the blood (wergild)'.¹¹³

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ عَنْ سَنَفِ بْنِ عَمِيرَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ (عَلَيْهِ السَّلَام) إِنْ اللَّهُ عَزَّ وَجَلَّ يَقُولُ فِي كِتَابِهِ وَ مَنْ قُتِلَ مَطْلُومًا فَقَدْ جَعَلْنَا لَوْلِيِهِ سُلْطَانًا فَلَا يُسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مُنْصُورًا فَمَا هَذَا الْإِسْرَافُ الَّذِي نَهَى اللَّهُ عَزَّ وَجَلَّ عَنْهُ قَالَ نَهَى أَنْ يَقْتُلَ غَيْرَ قَاتِلِهِ أَوْ يُمْتَلَّ بِالْقَاتِلِ

Ali Bin Muhammad, from one of his companions, from Muhammad Bin Suleyman, from Sayf Bin Umeyra, from Is'haq Bin Ammar who said,

'I said to Abu Al-Hassan^{asws} that Allah^{azwj} Mighty and Majestic is Saying in His^{azwj} Book [17:33] **And do not kill any one whom Allah has Forbidden, except with the right; and whoever is killed unjustly, We have indeed Given to his heir authority, so let him not be excessive with regards to the killing; surely he would always be Aided.** So what is this excessiveness which Allah^{azwj} Mighty and Majestic has Forbidden from?' He^{asws} said: 'Forbidden that he should kill anyone other than his killer, or dismembering the killer'.

قُلْتُ فَمَا مَعْنَى قَوْلِهِ إِنَّهُ كَانَ مُنْصُورًا قَالَ وَ أَيُّ نَصْرَةٍ أَعْظَمُ مِنْ أَنْ يُدْفَعَ الْقَاتِلُ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَيَقْتُلَهُ وَ لَا تَبِعَةَ تَلْزَمُهُ مِنْ قَتْلِهِ فِي دِينٍ وَ لَا دُنْيَا .

I said, 'So what is the Meaning of His^{azwj} Words **surely he would always be Aided.** He^{asws} said: 'And which Aid is greater than that the killer should be handed over to the guardians of the killed-one, so they can kill him and there would be no follow-up (consequences) from killing him (the killer), neither in Religion nor in the world'.¹¹⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ دَخَلَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) الْمَسْجِدَ فَاسْتَقْبَلَهُ شَابٌّ يَبْكِي وَ حَوْلَهُ قَوْمٌ يُسْكِنُونَهُ فَقَالَ عَلِيُّ (عَلَيْهِ السَّلَام) مَا أَنْبَأَكَ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنَّ شَرِيحًا قَضَى عَلَيَّ بِقَضِيَّةٍ مَا أَذْرِي مَا هِيَ إِنَّ هَؤُلَاءِ النَّفَرِ خَرَجُوا بِأَبِي مَعَهُمْ فِي السَّفَرِ فَرَجَعُوا وَ لَمْ يَرْجِعْ أَبِي فَسَأَلْتُهُمْ عَنْهُ فَقَالُوا مَاتَ فَسَأَلْتُهُمْ عَنْ مَالِهِ فَقَالُوا مَا تَرَكَ مَالًا فَقَدَّمْتُهُمْ إِلَى شَرِيحٍ فَاسْتَحْلَفَهُمْ وَ قَدْ عَلِمْتُ يَا أَمِيرَ الْمُؤْمِنِينَ أَنَّ أَبِي خَرَجَ وَ مَعَهُ مَالٌ كَثِيرٌ

¹¹² Al Kafi – V 7 – The Book of Wergilds Ch 54 H 5

¹¹³ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 6

¹¹⁴ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 7

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} entered the Masjid, so a young man came across him crying, and around him was a group calming him down. So Ali^{asws} said: 'What makes you weep?' So he said, 'O Amir Al-Momineen^{asws}! Shurayh judged upon me with a judgement, I do not know what it is. These persons went out with my father being with them in a journey. So they came back, and my father did not return. So I asked them about him. So they said, 'he died'. So I asked them about his wealth. So they said, 'He did not leave any wealth'. So I proceeded with them to Shurayh. So he made them swear oaths; and I know well, O Amir Al-Momineen^{asws}, that my father went out, and with him was a lot of wealth.

فَقَالَ لَهُمْ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) ارْجِعُوا فَرَجِعُوا وَ الْفَتَى مَعَهُمْ إِلَى شُرَيْحٍ فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يَا شُرَيْحُ كَيْفَ قَضَيْتَ بَيْنَ هَؤُلَاءِ فَقَالَ يَا أَمِيرُ الْمُؤْمِنِينَ ادَّعَى هَذَا الْفَتَى عَلَى هَؤُلَاءِ النَّفَرِ أَنَّهُمْ خَرَجُوا فِي سَفَرٍ وَ أَبُوهُ مَعَهُمْ فَرَجِعُوا وَ لَمْ يَرْجِعْ أَبُوهُ فَسَأَلْتُهُمْ عَنْهُ فَقَالُوا مَاتَ فَسَأَلْتُهُمْ عَنْ مَالِهِ فَقَالُوا مَا خَلَفَ مَالًا فَقُلْتُ لِلْفَتَى هَلْ لَكَ بَيْنَهُ عَلَى مَا تَدَّعَى فَقَالَ لَا فَاسْتَحْلَفْتُهُمْ فَحَلَفُوا

So Amir Al-Momineen^{asws} said to them: 'Return to Shurayh, and the youth was with them. So Amir Al-Momineen^{asws} said to him: 'O Shurayh! How did you judge between these people?' So he said, 'O Amir Al-Momineen^{asws}! This youth claimed against these persons that they had gone out in a journey, and his father was with them. So they returned, and his father did not return. So he asked them about him, so they said, 'Died'. So he asked them about his wealth, so they said, 'He did not leave behind any wealth'. So I said to the youth, 'Is there any evidence with you upon what you are claiming?' So he said, 'No'. So I made them swear an oath, so they oathed'.

فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) هَيْهَاتَ يَا شُرَيْحُ هَكَذَا تَحْكُمُ فِي مِثْلِ هَذَا فَقَالَ يَا أَمِيرُ الْمُؤْمِنِينَ كَيْفَ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) وَ اللَّهُ لَأَحْكَمَنَّ فِيهِمْ بِحُكْمِ مَا حَكَمَ بِهِ خَلْقٌ قَبْلِي إِلَّا دَاوُدَ النَّبِيَّ (عَلَيْهِ السَّلَام) يَا قَنْبَرُ ادْعُ لِي شُرَيْطَةَ الْخَمِيسِ فَدَعَاهُمْ فَوَكَّلَ بِكُلِّ رَجُلٍ مِنْهُمْ رَجُلًا مِنَ الشَّرْطَةِ ثُمَّ نَظَرَ إِلَى وُجُوهِهِمْ فَقَالَ مَاذَا تَقُولُونَ أَمْ تَقُولُونَ إِنِّي لَا أَعْلَمُ مَا صَنَعْتُمْ بِأَيِّ هَذَا الْفَتَى إِنِّي إِذَا لَجَاهِلٌ ثُمَّ قَالَ فَرَفَوْهُمْ وَ غَطَوْا رُءُوسَهُمْ

So Amir Al-Momineen^{asws} said: 'Far be it! O Shurayh, is it like this that you judge for the likes of this?' So he said, 'O Amir Al-Momineen^{asws}! So how?' So Amir Al-Momineen^{asws} said: 'By Allah^{azwj}! I^{asws} shall not be judging regarding them with a judgement what a creature before me^{asws} has judged with except for the Prophet Dawood^{as}. O Qanbar! Call the thursday policemen for me!' So he called them over. So he^{asws} allocated with each man from them, with a man from the police. Then he^{asws} looked at their faces, so he^{asws} said; 'What is that which you are saying? Are you saying that I^{asws} do not know what you have done with the father of this youth, that I^{asws} am ignorant?' Then he^{asws} said: 'Separate them and cover their heads!'.

قَالَ فَفَرَّقَ بَيْنَهُمْ وَ أَقِيمَ كُلَّ رَجُلٍ مِنْهُمْ إِلَى أَسْطَوَانَةٍ مِنَ أَسَاطِينِ الْمَسْجِدِ وَ رُءُوسَهُمْ مَعْطَاةً بَيْنَابِهِمْ ثُمَّ دَعَا بَعْبِيدَ اللَّهِ بْنِ أَبِي رَافِعٍ كَاتِبَهُ فَقَالَ هَاتِ صَحِيفَةً وَ دَوَاةً وَ جَلَسَ أَمِيرُ الْمُؤْمِنِينَ صَلَوَاتُ اللَّهِ عَلَيْهِ فِي مَجْلِسِ الْقَضَاءِ وَ جَلَسَ النَّاسُ إِلَيْهِ فَقَالَ لَهُمْ إِذَا أَنَا كَبُرْتُ فَكَبِّرُوا ثُمَّ قَالَ لِلنَّاسِ اخْرُجُوا ثُمَّ دَعَا بِرَاحِدٍ مِنْهُمْ فَأَجْلَسَهُ بَيْنَ يَدَيْهِ وَ كَشَفَ عَنْ وَجْهِهِ ثُمَّ قَالَ لِعَبِيدِ اللَّهِ بْنِ أَبِي رَافِعٍ اكْتُبْ إِفْرَارَهُ وَ مَا يَقُولُ

He (Abu Ja'far^{asws}) said: 'So he^{asws} separated them and stood each one of the man from them to a pillar from the pillars of the Masjid, and their head were covered by their own clothes. Then he called for Ubeydullah Bin Abu Rafi'e, his^{asws} scribe. So

he^{asws} said: 'Give me a parchment, and ink'. And Amir Al-Momineen^{asws} sat in the seat of the judges, and the people sat facing him^{asws}. So he^{asws} said to them: 'When I^{asws} exclaim (Takbeer) so you all exclaim (as well)'. Then he^{asws} said to the people: 'Go out'. Then he called one of them, so he^{asws} made him sit in front of him^{asws}, and uncovered his face. Then he^{asws} said to Ubeydullah Bin Abu Rafi'e: 'Write down his confession and whatever he is saying'.

ثُمَّ أَقْبَلَ عَلَيْهِ بِالسُّؤَالِ فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي أَيِّ يَوْمٍ خَرَجْتُمْ مِنْ مَنَازِلِكُمْ وَ أَبُو هَذَا الْفَتَى مَعَكُمْ فَقَالَ الرَّجُلُ فِي يَوْمٍ كَذَا وَ كَذَا قَالَ وَ فِي أَيِّ شَهْرٍ قَالَ فِي شَهْرٍ كَذَا وَ كَذَا قَالَ فِي أَيِّ سَنَةٍ قَالَ فِي سَنَةٍ كَذَا وَ كَذَا قَالَ وَ إِلَى أَيْنَ بَلَّغْتُمْ فِي سَفَرِكُمْ حَتَّى مَاتَ أَبُو هَذَا الْفَتَى قَالَ إِلَى مَوْضِعٍ كَذَا وَ كَذَا قَالَ وَ فِي مَنْزِلٍ مَنْ مَاتَ قَالَ فِي مَنْزِلِ فُلَانِ بْنِ فُلَانٍ قَالَ وَ مَا كَانَ مَرَضُهُ قَالَ كَذَا وَ كَذَا قَالَ وَ كَمْ يَوْمًا مَرَضَ قَالَ كَذَا وَ كَذَا قَالَ فَفِي أَيِّ يَوْمٍ مَاتَ وَ مِنْ عَسَلَهُ وَ مِنْ كَفَّنَهُ وَ بِمَا كَفَّنْتُمُوهُ وَ مِنْ صَلَّى عَلَيْهِ وَ مِنْ نَزَلَ قَبْرَهُ

Then he^{asws} faced him with the questioning, so Amir Al-Momineen^{asws} said: 'In which day did you all go from your houses, and the father of this youth was with you?' So the man said, 'In such and such a day'. He^{asws} said: 'And in which month?' He said, 'In such a such a month'. He^{asws} said; 'In which year?' He said, 'In such a such a year'. He^{asws} said: 'And to where did you reach in your journey until the father of this youth died?' He said, 'To such and such a place'. He^{asws} said: 'And in whose house did he die?' He said, 'In the house of so and so, son of so and so'. He^{asws} said: 'And what was his illness?' He said, 'Such and such'. He^{asws} said: 'And for how many days was he ill?' He said, 'For such and such number of days'. He^{asws} said: 'And in which day did he die? And who washed him? And who shrouded him? And with what did you shroud him with? And who Prayed over him? And who descended into his grave?'

فَلَمَّا سَأَلَهُ عَنْ جَمِيعِ مَا يُرِيدُ كَبَّرَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) وَ كَبَّرَ النَّاسُ جَمِيعًا فَارْتَابَ أَوْلَئِكَ الْبَاقُونَ وَ لَمْ يَشْكُرُوا أَنْ صَاحِبَهُمْ قَدْ أَقْرَأَ عَلَيْهِمْ وَ عَلَى نَفْسِهِ فَأَمَرَ أَنْ يُعْطَى رَأْسُهُ وَ يُنْطَلَقَ بِهِ إِلَى السَّجْنِ

So when he^{asws} had questioned him about the entirety of what he^{asws} had intended to, Amir Al-Momineen^{asws} exclaimed (Takbeer), and the people exclaimed altogether. So the remaining ones (accused) suspected that did not doubt that their companion had confessed against them, and against himself. So he^{asws} ordered for his head to be covered and be taken to the prison.

ثُمَّ دَعَا بِأَخْرَجَ فَأَجْلَسَهُ بَيْنَ يَدَيْهِ وَ كَشَفَ عَنْ وَجْهِهِ ثُمَّ قَالَ كَلَّا زَعَمْتُمْ أَنِّي لَا أَعْلَمُ مَا صَنَعْتُمْ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ مَا أَنَا إِلَّا وَاحِدٌ مِنَ الْقَوْمِ وَ لَقَدْ كُنْتُ كَارِهًا لِقَتْلِهِ فَأَقْرَأَ ثُمَّ دَعَا بِوَاحِدٍ بَعْدَ وَاحِدٍ كُلُّهُمْ يُقْرَأُ بِالْقَتْلِ وَ أَخَذَ الْمَالَ ثُمَّ رَدَّ الَّذِي كَانَ أَمَرَ بِهِ إِلَى السَّجْنِ فَأَقْرَأَ أَيْضًا فَأَلَزَمَهُمُ الْمَالَ وَ الدَّمَ

Then he^{asws} called for the other one and made him to sit in front of him^{asws}, and uncovered (the covering) from his face, then said: 'All of you are thinking that I^{asws} do not know what you have done'. So he said, 'O Amir Al-Momineen^{asws}! I^{asws} not except one of a group, and I had detested his killing. So he confessed. Then he called for one after the other. All of them confessed with the killing, and he^{asws} seized the wealth, then returned the one he^{asws} had ordered to be in the prison. So he confessed as well. So he^{asws} necessitated upon them the wealth and the blood'.

فَقَالَ شُرَيْحٌ يَا أَمِيرَ الْمُؤْمِنِينَ وَ كَيْفَ حَكَمَ دَاوُدُ النَّبِيُّ (عَلَيْهِ السَّلَامُ) فَقَالَ إِنَّ دَاوُدَ النَّبِيَّ (عَلَيْهِ السَّلَامُ) مَرَّ بِغُلْمَةٍ يَلْعَبُونَ وَ يُنَادُونَ بَعْضُهُمْ بِنِيبَا مَاتَ الدَّيْنُ فَيَجِيبُ مِنْهُمْ غُلَامٌ قَدَعَاهُمْ دَاوُدُ (عَلَيْهِ السَّلَامُ) فَقَالَ يَا غُلَامُ مَا اسْمُكَ قَالَ مَاتَ الدَّيْنُ فَقَالَ لَهُ دَاوُدُ (عَلَيْهِ السَّلَامُ) مَنْ سَمَّاكَ بِهَذَا الْإِسْمِ فَقَالَ أُمِّي

So Shurayh said, 'O Amir Al-Momineen^{asws}! And how was the judgement of the Prophet Dawood^{as}?' So he^{asws} said: 'The Prophet Dawood^{as} passed by boys who were playing and one of them called out, O Maat Al-Deen' (O Religion is dead)! So a boy from them responded. So Dawood^{as} called him over and said: 'O boy! What is your name?' He said, 'Maat Al-Deen'. So Dawood^{as} said to him: 'Who has named you with this name?' So he said, 'My mother'.

فَأَنْطَلَقَ دَاوُدُ (عَلَيْهِ السَّلَامُ) إِلَى أُمِّهِ فَقَالَ لَهَا يَا أَيْتُهَا الْمَرْأَةُ مَا اسْمُ ابْنِكَ هَذَا قَالَتْ مَاتَ الدِّينُ فَقَالَ لَهَا وَمَنْ سَمَاهُ بِهَذَا قَالَتْ أَبُوهُ قَالَ وَكَيْفَ كَانَ ذَلِكَ قَالَتْ إِنَّ أَبَاهُ خَرَجَ فِي سَفَرٍ لَهُ وَمَعَهُ قَوْمٌ وَهَذَا الصَّبِيُّ حَمْلٌ فِي بَطْنِي فَأَنْصَرَفَ الْقَوْمُ وَ لَمْ يَنْصَرِفْ زَوْجِي فَسَأَلْتُهُمْ عَنْهُ فَقَالُوا مَاتَ فَقُلْتُ لَهُمْ فَأَيْنَ مَا تَرَكَ قَالُوا لَمْ يُخَلِّفْ شَيْئًا فَقُلْتُ هَلْ أَوْصَاكُمْ بِوَصِيَّةٍ قَالُوا نَعَمْ زَعَمَ أَنَّكَ حَبْلِي فَمَا وُلِدَتْ مِنْ وَلَدٍ جَارِيَةٍ أَوْ غُلَامٍ فَسَمِيَهُ مَاتَ الدِّينُ فَسَمَّيْتُهُ

So Dawood went with him to his mother, so he^{as} said to her: 'O you woman! What is the name of this son of yours?' She said, 'Maat Al-Deen'. So he^{as} said to her: 'And who named him with this name?' She said, 'His father'. He^{as} said: 'And how was that'. She said, 'His father had gone out in a journey of his and with him was a group, and this is the boy whom I was carrying in my belly. So the group left and my husband did not. So I asked them about him, so they said, 'Died'. So I said to them, 'What did he leave?' They said, 'He did not leave anything'. So I said, 'Did he bequeath you all with a bequest?' They said, 'Yes. He claimed that you were pregnant, so whatever is born, a girl or a boy, so name him Maat Al-Deen. So I named him' (like that after his birth).

قَالَ دَاوُدُ (عَلَيْهِ السَّلَامُ) وَتَعْرِيفِينَ الْقَوْمِ الَّذِينَ كَانُوا خَرَجُوا مَعَ زَوْجِكَ قَالَتْ نَعَمْ قَالَ فَأَحْيَاءٌ هُمْ أَمْ أَمْوَاتٌ قَالَتْ بَلْ أَحْيَاءٌ قَالَ فَأَنْطَلِقِي بِنَا إِلَيْهِمْ ثُمَّ مَضَى مَعَهَا فَاسْتَخْرَجَهُمْ مِنْ مَنَازِلِهِمْ فَحَكَمَ بَيْنَهُمْ بِهَذَا الْحُكْمِ بَعَيْنِهِ وَ أَثْبَتَ عَلَيْهِمُ الْمَالَ وَ الدَّمَّ وَ قَالَ لِلْمَرْأَةِ سَمِّي ابْنَكَ هَذَا عَاشَ الدِّينُ ثُمَّ إِنَّ الْفَتَى

Dawood^{as} said: 'And would you recognise the people who had gone out with your husband?' She said, 'Yes'. He^{as} said: 'So are they alive, or dead?' She said, 'But, (they are) alive'. He^{as} said: 'So come with us to them'. So he^{as} went with her and made them come out from their houses. So he^{as} judged between them with this judgement, exactly, and established against them the wealth, and the blood, and said to the woman: 'Name this son of yours 'Aash Al-Deen (Religion is alive)'.

وَ الْقَوْمَ اخْتَلَفُوا فِي مَالِ الْفَتَى كَمْ كَانَ فَأَخَذَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) خَاتَمَهُ وَ جَمِيعَ خَوَاتِيمِ مَنْ عِنْدَهُ ثُمَّ قَالَ أَجِيبُوا هَذَا السَّهَامَ فَأَيْكُمْ أَخْرَجَ خَاتَمِي فَهُوَ صَادِقٌ فِي دَعْوَاهُ لِأَنَّهُ سَهْمُ اللَّهِ وَ سَهْمُ اللَّهِ لَا يَخِيبُ .

And the people differed with regards to the wealth of the youth, how much it was, so Amir Al-Momineen^{asws} took his^{asws} ring and the all of the rings from his^{asws} presence (from people), then said: 'Make these as the arrows, so whichever one of you extracts my^{asws} ring, so he is truthful in his claim, because it is a divination of Allah^{azwj}, and the divination of Allah^{azwj} is not unsuccessful'.¹¹⁵

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ إِسْحَاقَ بْنِ إِبْرَاهِيمَ الْكِنْدِيِّ قَالَ حَدَّثَنَا خَالِدُ النَّوْفَلِيُّ عَنِ الْأَصْبَغِ بْنِ نُبَاتَةَ قَالَ لَقَدْ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَاسْتَقْبَلَهُ شَابٌ يَبْكِي وَ حَوْلَهُ قَوْمٌ يُسْكِنُونَهُ فَلَمَّا رَأَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنَّ شَرِيحًا قَضَى عَلَيَّ قَضِيَّةً مَا أُدْرِي مَا هِيَ فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) مَا هِيَ فَقَالَ الشَّابُّ إِنَّ هُوَ لَأَنَّ النَّفَرَ خَرَجُوا بِأَبِي مَعَهُمْ فِي سَفَرٍ فَرَجَعُوا وَ لَمْ يَرْجِعْ فَسَأَلْتُهُمْ عَنْهُ فَقَالُوا مَاتَ فَسَأَلْتُهُمْ عَنْ مَالِهِ فَقَالُوا مَا تَرَكَ مَالًا فَقَدَّمْتُهُمْ إِلَى شَرِيحٍ فَاسْتَحْلَفَهُمْ وَ قَدْ عَلِمْتُ أَنَّ أَبِي خَرَجَ وَ مَعَهُ مَالٌ كَثِيرٌ

¹¹⁵ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 8

A number of our companions, from Ahmad Bin Abu Abdullah, from Is'haq Bin Ibrahim Al Kindy, from Khalid Al Nowfaly, from Al Asbagh Bin Nubata who said,

'Amir Al-Momineen^{asws} had judged, and a youth came across him^{asws} and he was weeping, and round him was a group calming him. So when he saw Amir Al-Momineen^{asws}, he said, 'O Amir Al-Momineen^{asws}! Shuray (the judge) has judged upon me with a judgement, I do not know what it is'. So Amir Al-Momineen^{asws} said to him: 'What is it?' So the youth said, 'These persons went out with my father being with them, in a journey. So they returned and he did not return. So I asked them about him, so they said, 'Died'. So I asked them about his wealth, so they said, 'He did not leave any wealth'. So I proceeded with them to Shurayh. He made them swear oaths, and I know that my father went out and with him was a lot of wealth'.

فَقَالَ لَهُمْ ارْجِعُوا فَرَجِعُوا وَعَلِيٌّ (عَلَيْهِ السَّلَامُ) يَقُولُ. أَوْرَدَهَا سَعْدٌ وَ سَعْدٌ يَشْتَمِلُ مَا هَكَذَا تُوْرِدُ يَا سَعْدُ الْإِبِلُ مَا يُغْنِي قَضَاؤَكَ يَا شَرِيحُ ثُمَّ قَالَ وَ اللَّهُ لِأَحْكَمَنَّ فِيهِمْ بِحُكْمِ مَا حَكَمَ أَحَدٌ قَبْلِي إِلَّا دَاوُدَ النَّبِيَّ (عَلَيْهِ السَّلَامُ) يَا قَنْبَرُ ادْعُ لِي شَرْطَةَ الْخَمِيْسِ قَالَ فَدَعَا شَرْطَةَ الْخَمِيْسِ فَوَكَّلَ بِكُلِّ رَجُلٍ مِنْهُمْ رَجُلًا مِنَ الشَّرْطَةِ ثُمَّ دَعَا بِهِمْ فَنظَرَ إِلَى وُجُوْهِهِمْ ثُمَّ ذَكَرَ مِثْلَ حَدِيثِ الْأَوَّلِ إِلَى قَوْلِهِ سَمِّي ابْنُكَ هَذَا عَاشَ الدِّينُ

So he^{asws} said to them: 'Return!' So they returned, and Ali^{asws} was saying: '(A proverb) 'Sa'ad ushered them and Sa'ad incorporated them. It is not like this you should be ushering the camels, O Sa'ad'. Your judgement did not suffice them, O Shurayh'. Then he^{asws} said: 'By Allah^{azwj}! I^{asws} shall judge among them with a judgement, which no one has judged by before me^{asws} except for the Prophet Dawood^{as}. O Qanbar! Call the Thursday policemen for me'. So he called over the Thursday police and he^{asws} allocated with each man from them with a man from the police. Then he called for them and looked at their faces' – then he (the narrator) mentioned a Hadeeth similar to the first one, until his (Prophet Dawood^{as}'s) words: 'Name this son of your Aash Al-Islam (Religion is alive)'.

فَقُلْتُ جُعِلْتُ فِدَاكَ كَيْفَ تَأْخُذُهُمْ بِالْمَالِ إِنْ ادَّعَى الْغُلَامُ أَنَّ أَبَاهُ خَلَفَ مِائَةَ أَلْفٍ أَوْ أَقَلَّ أَوْ أَكْثَرَ وَ قَالَ الْقَوْمُ لَا بَلْ عَشْرَةَ أَلْفٍ أَوْ أَقَلَّ أَوْ أَكْثَرَ فَلَهُوْا لَاءَ قَوْلٍ وَ لِهَذَا قَوْلٌ قَالَ فَإِنِّي أَخَذَ خَاتَمَهُ وَ خَوَاتِيمَهُمْ وَ أَلْفِيهَا فِي مَكَانٍ وَاحِدٍ ثُمَّ أَقُولُ أُجِيلُوا هَذِهِ السَّهْمَ فَإِيْكُمْ خَرَجَ سَهْمُهُ فَهُوَ الصَّادِقُ فِي دَعْوَاهُ لِأَنَّهُ سَهْمُ اللَّهِ وَ سَهْمُ اللَّهِ لَا يَخِيْبُ .

So I said, 'May I be sacrificed for you^{asws}! How did he^{as} seize them with the wealth, if the boy claimed that his father left behind one hundred thousand, or less, or more, and the group said, 'No, but it was ten thousand', or less or more. So for them would be their word, and for this one would be his word'. He^{asws} said: 'So I^{asws} would take his ring and their rings and throw them in one place. Then I^{asws} would be saying: 'Make these to be the arrows. So whichever one of you extract his right, so he is the truthful in his claim because it is a divination of Allah^{azwj}, and a divination of Allah^{azwj} is not unsuccessful'.¹¹⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ خَرَجَ رَجُلٌ مِنَ الْمَدِيْنَةِ يُرِيدُ الْعِرَاقَ فَاتَّبَعَهُ أَسْوَدَانِ أَحَدُهُمَا غُلَامٌ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَلَمَّا أَتَى الْأَعْوَصَ نَامَ الرَّجُلُ فَأَخَذَا صَخْرَةً فَشَدَخَا بِهَا رَأْسَهُ فَأَخَذَا فَاتَيَا بِهِمَا مُحَمَّدُ بْنُ خَالِدٍ وَ جَاءَ أَوْلِيَاءُ الْمُقْتُولِ فَسَأَلُوهُ أَنْ يُقْبِدَهُمْ فَكَّرَهُ أَنْ يَفْعَلَ فَسَأَلَ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ ذَلِكَ فَلَمْ يُجِبْهُ

Ali Bin Ibrahim, from his father, from Safwan Bin Yahya, from Abdul Rahman Bin Al Hajjaj who said,

¹¹⁶ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 9

'A man went out from Al-Medina intending for Al-Iraq. So two black men followed him, one of them being a slave of Abu Abdullah^{asws}. So when he came to Al-Aws, the man slept. So they both took a rock and cracked his head with it. So they were both seized, and Muhammad Bin Khalid came with them both, and the guardians of the killed-one came over and asked him for the retaliation, but he did not like that to be done. So Abu Abdullah^{asws} was asked about that, but he^{asws} did not answer him.

قَالَ عَبْدُ الرَّحْمَنِ فَظَنَنْتُ أَنَّهُ كَرِهَ أَنْ يُجِيبَهُ لِأَنَّهُ لَا يَرَى أَنْ يُقْتَلَ اثْنَانِ بِوَاحِدٍ فَشَكَأَ أَوْلِيَاءُ الْمَقْتُولِ مُحَمَّدَ بْنَ خَالِدٍ وَ صَنِيعَهُ إِلَى أَهْلِ الْمَدِينَةِ فَقَالَ لَهُمْ أَهْلُ الْمَدِينَةِ إِنْ أَرَدْتُمْ أَنْ يُفِيدَكُمْ مِنْهُ فَاتَّبِعُوا جَعْفَرَ بْنَ مُحَمَّدٍ (عليه السلام) فَاشْكُوا إِلَيْهِ ظَلَامَتَكُمْ

Abdul Rahman said, 'So I guessed that he^{asws} did not like answering him because he^{asws} did not view that two should be killed for one. So the guardians of the killed-one complained of Muhammad Bin Khalid and his dealings, to the people of Al-Medina. So the people of Al-Medina said to him, 'If you intend the retaliation from him, so follow Ja'far^{asws} Bin Muhammad^{asws}. So complain to him^{asws} of your grievances.

فَفَعَلُوا فَقَالَ أَبُو عَبْدِ اللَّهِ (عليه السلام) أَقْدَهُمْ فَلَمَّا أَنْ دَعَاهُمْ لِيُقِيدَهُمْ اسْوَدَّ وَجْهُ غُلَامِ أَبِي عَبْدِ اللَّهِ (عليه السلام) حَتَّى صَارَ كَأَنَّهُ الْمِدَادُ فَذَكَرَ ذَلِكَ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) فَقَالُوا أَصْلَحَكَ اللَّهُ إِنَّهُ لَمَّا قُدِّمَ لِيُقْتَلَ اسْوَدَّ وَجْهُهُ حَتَّى صَارَ كَأَنَّهُ الْمِدَادُ فَقَالَ إِنَّهُ كَانَ يَكْفُرُ بِاللَّهِ جَهْرَةً فَقُتِلَ جَمِيعاً .

So they did it. So Abu Abdullah^{asws} said: 'Retaliate them'. So when they called them over for their retaliation, the face of the slave of Abu Abdullah^{asws} turned black until it became as if it was the ink. So that was mentioned to Abu Abdullah^{asws}, so they said, 'May Allah^{azwj} Keep you^{asws} well! When he was brought forward to be killed, his face blackened until it became as if it was the ink'. So he^{asws} said: 'He had disbelieved in Allah^{azwj} openly'. So both of them were killed'.¹¹⁷

أَحْمَدُ بْنُ مُحَمَّدٍ الْعَاصِمِيُّ عَنْ عَلِيِّ بْنِ الْحَسَنِ الْمَيْمَنِيِّ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ عَمِّهِ يَعْقُوبَ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ كَانَتْ امْرَأَةٌ بِالْمَدِينَةِ تُؤْتِي فَبَلَغَ ذَلِكَ عُمَرَ فَبَعَثَ إِلَيْهَا فَرَوَّعَهَا وَ أَمَرَ أَنْ يُجَاءَ بِهَا إِلَيْهِ فَفَزَعَتْ الْمَرْأَةَ فَأَخَذَهَا الطَّلُقُ فَأَنْطَلَقَتْ إِلَى بَعْضِ الدُّورِ فَوَلَدَتْ غُلَاماً فَاسْتَهَلَ الْغُلَامُ ثُمَّ مَاتَ فَدَخَلَ عَلَيْهِ مِنْ رَوْعَةِ الْمَرْأَةِ وَ مِنْ مَوْتِ الْغُلَامِ مَا شَاءَ اللَّهُ فَقَالَ لَهُ بَعْضُ جُلَسَائِهِ يَا أَمِيرَ الْمُؤْمِنِينَ مَا عَلَيْكَ مِنْ هَذَا شَيْءٍ وَ قَالَ بَعْضُهُمْ وَ مَا هَذَا

Ahmad Bin Muhammad Al Asamy, from Ali Bin Al Hassan Al Maysami, from Ali Bin Asbaat, from his uncle Yaqaub Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having said: 'There used to be a woman at Al-Medina to whom (visitors used to come to frequently). So the news of that reached Umar, so he sent a messenger to awe her and ordered that he should come with her to him. So the woman panicked, and she was seized by the pangs of childbirth. So she went to one of the rooms and gave birth to a boy. So the boy was alive but then died. So there entered upon him (Umar) dread of the woman and from the death of the boy, what Allah^{azwj} so Desired. So one from his gathering said, 'O commander of the faithful! There is nothing upon you from this thing'. And one of the said, 'And what is this (it is of no consequence)'.¹¹⁷

قَالَ سَلُوا أَبَا الْحَسَنِ فَقَالَ لَهُمْ أَبُو الْحَسَنِ (عليه السلام) لَئِنْ كُنْتُمْ اجْتَهَدْتُمْ مَا أَصَبْتُمْ وَ لَئِنْ كُنْتُمْ قُلْتُمْ بِرَأْيِكُمْ لَقَدْ أَخْطَأْتُمْ ثُمَّ قَالَ عَلَيْكَ دِيَةُ الصَّبِيِّ .

¹¹⁷ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 10

He (Umar) said, 'Ask Abu Al-Hassan^{asws}'. So Abu Al-Hassan^{asws} said to them: 'If you did your Ijtihad you did not hit the truth, and if you spoke by your opinion, so you have erred'. Then he^{asws} said: 'Upon you (Umar) is the (payment of the) wergild of the child'.¹¹⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ أَعْتَفَ عَلَى امْرَأَتِهِ أَوْ امْرَأَةٍ أَعْتَفَتْ عَلَى زَوْجِهَا فَقَتَلَ أَحَدَهُمَا الْآخَرَ قَالَ لَا شَيْءَ عَلَيْهِمَا إِذَا كَانَا مَأْمُونَيْنِ فَإِنْ أَتَاهُمَا الرِّمَا الْيَمِينِ بِاللَّهِ أَنَّهُمَا لَمْ يُرِيدَا الْقَتْلَ .

Ali Bin Ibrahim, from his father, from Salih Bin Saeed, from Yunus, from one of his companions,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who was fierce upon his woman, or a woman who was fierce upon her husband, so one of the them killed the other one. He^{asws} said: 'There is nothing upon both of them, when they were two trustworthy ones. So if they are brought, the swearing of oath by Allah^{azwj} would be necessitated upon them both that they did not intend the killing'.¹¹⁹

مُحَمَّدُ بْنُ يَحْيَى رَفَعَهُ فِي غُلَامٍ دَخَلَ دَارَ قَوْمٍ فَوَقَعَ فِي الْبُئْرِ فَقَالَ إِنْ كَانُوا مُتَّهَمِينَ ضَمُّوْا .

Muhammad Bin Yahya, raising it,

Regarding a boy who entered a house of a people, so he fell down into well. So he^{asws} said: 'If they were suspicious, they would be responsible'.¹²⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أُيُوبَ عَنْ بُرَيْدِ الْعَجَلِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنْ مُؤْمِنٍ قَتَلَ رَجُلًا نَاصِبًا مَعْرُوفًا بِالنَّصَبِ عَلَى دِينِهِ غَضَبًا لِلَّهِ تَبَارَكَ وَتَعَالَى أَوْ يُقْتَلُ بِهِ فَقَالَ أَمَا هُوَ لَأَيُّ قَتْلُونَهُ بِهِ وَ لَوْ رُفِعَ إِلَى إِمَامٍ عَادِلٍ ظَاهِرٍ لَمْ يَقْتُلْهُ بِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Bureyd Al Ajaly who said,

'I asked Abu Abdullah^{asws} about a Believer who kills a well-known Hostile one (Nasibi), upon his Religion, being angry for the Sake of Allah^{azwj} Blessed and High, would he be killed due to it?' He^{asws} said: 'As for them (rulers), so they would kill him for it, but if it were raised to a Just Imam^{asws} present, he would not be killed for it'.

قُلْتُ فَيَبْطُلُ دَمُهُ قَالَ لَا وَ لَكِنْ إِنْ كَانَ لَهُ وَرَثَةٌ فَعَلَى الْإِمَامِ أَنْ يُعْطِيَهُمُ الدِّيَةَ مِنْ بَيْتِ الْمَالِ لِأَنَّ قَاتِلَهُ إِنَّمَا قَتَلَهُ غَضَبًا لِلَّهِ عَزَّ وَ جَلَّ وَ لِلْإِمَامِ وَ لِدِينِ الْمُسْلِمِينَ .

I said, 'So his blood would be invalidated'. He^{asws} said: 'No, but if there were inheritors for him, so it would be upon the Imam^{asws} that he^{asws} gives them the wergild from the public treasury of the Muslims, because his killer, but rather his killing was an (act of) anger for the Sake of Allah^{azwj} Mighty and Majestic, and for the Imam^{asws}, and for the Religion of the Muslims'.¹²¹

¹¹⁸ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 11

¹¹⁹ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 12

¹²⁰ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 13

¹²¹ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 14

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ بْنِ رَبَاطٍ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي مَخْلَدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ كُنْتُ عِنْدَ دَاوُدَ بْنِ عَلِيٍّ فَأَتَانِي بِرَجُلٍ قَدْ قَتَلَ رَجُلًا فَقَالَ لَهُ دَاوُدُ بْنُ عَلِيٍّ مَا تَقُولُ فَقُلْتُ هَذَا الرَّجُلُ قَالَ نَعَمْ أَنَا قَتَلْتُهُ قَالَ فَقَالَ لَهُ دَاوُدُ وَ لِمَ قَتَلْتَهُ قَالَ فَقَالَ إِنَّهُ كَانَ يَدْخُلُ عَلَيَّ مِنْزِلِي بِغَيْرِ إِذْنِي فَاسْتَعْدَيْتُ عَلَيْهِ الْوَلَاةَ الَّذِينَ كَانُوا قَبْلَكَ فَأَمَرُونِي أَنْ يَدْخُلَ بِيغَيْرِ إِذْنِي أَنْ أَقْتُلَهُ فَقَتَلْتُهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, and Ali Bin Ibrahim, from his father, both together, from Ibn Mahboub, from Ali Bin Al Hassan Bin Rabaat, from Ibn Muskan, from Abu Makhlad,

(It has been narrated) from Abu Abdullah^{asws}, having said, 'I^{asws} was in the presence of Dawood Bin Ali, so they came with a man who had killed a man. So Dawood Bin Ali said to him, 'What are you saying, having killed this man?' He said, 'Yes, I did kill him'. So Dawood said to him, 'And why did you kill him?' So he said, 'He used to enter into my house without my permission. So I made claims against him to the rules who were before you, so they instructed me that if he were to enter without my permission so I should kill him. So I killed him'.

قَالَ فَالْتَفَتَ دَاوُدُ إِلَيَّ فَقَالَ يَا أَبَا عَبْدِ اللَّهِ مَا تَقُولُ فِي هَذَا قَالَ فَقُلْتُ لَهُ أَرَى أَنَّهُ قَدْ أَقْرَبَ بِقَتْلِ رَجُلٍ مُسْلِمٍ فَأَقْتُلْتَهُ قَالَ فَأَمَرَ بِهِ فَقَتِلَ

He^{asws} said: 'So Dawood turned towards me, so he said, 'O Abu Abdullah^{asws}! What are you^{asws} saying regarding this?' So I^{asws} said to him: 'I^{asws} view that he has confessed with the killing of a Muslim man, so kill him'. So he ordered for it, so he was killed.

ثُمَّ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِنَّ أَنْاسًا مِنْ أَصْحَابِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) كَانَ فِيهِمْ سَعْدُ بْنُ عُبَادَةَ فَقَالُوا يَا سَعْدُ مَا تَقُولُ لَوْ ذَهَبْتَ إِلَى مَنْزِلِكَ فَوَجَدْتَ فِيهِ رَجُلًا عَلَى بَطْنِ امْرَأَتِكَ مَا كُنْتَ صَانِعًا بِهِ قَالَ فَقَالَ سَعْدُ كُنْتُ وَ اللَّهُ أَضْرِبُ رَقَبَتَهُ بِالسَّيْفِ

Then Abu Abdullah^{asws} said: 'There were people from the companions of Rasool-Allah^{azwj}, and among when was Sa'ad Bin Ubada. So they said, 'O Sa'ad! What are you saying, if you were to go to your house, so you find in it a man upon the belly of your wife, what would you do with him?' So Sa'ad said, 'By Allah^{azwj}! I would strike his neck with the sword'.

قَالَ فَخَرَجَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) وَ هُمْ فِي هَذَا الْكَلَامِ فَقَالَ يَا سَعْدُ مَنْ هَذَا الَّذِي قُلْتَ أَضْرِبُ عُنُقَهُ بِالسَّيْفِ قَالَ فَأَخْبَرَهُ بِالَّذِي قَالُوا وَ مَا قَالَ سَعْدُ قَالَ فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) عِنْدَ ذَلِكَ يَا سَعْدُ فَأَيُّ الشُّهُودِ الْأَرْبَعَةِ الَّذِينَ قَالَ اللَّهُ عَزَّ وَ جَلَّ فَقَالَ سَعْدُ يَا رَسُولَ اللَّهِ بَعْدَ رَأْيِ عَيْنِي وَ عِلْمِ اللَّهِ فِيهِ أَنَّهُ قَدْ فَعَلَ فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِي وَ اللَّهُ يَا سَعْدُ بَعْدَ رَأْيِ عَيْنِكَ وَ عِلْمِ اللَّهِ عَزَّ وَ جَلَّ إِنَّ اللَّهَ عَزَّ وَ جَلَّ قَدْ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا وَ جَعَلَ عَلَيَّ مَنْ تَعْدَى حُدُودَ اللَّهِ حَدًّا وَ جَعَلَ مَا دُونَ الشُّهُودِ الْأَرْبَعَةِ مَسْئُورًا عَلَى الْمُسْلِمِينَ .

He^{asws} said: 'So Rasool-Allah^{saww} came out, and they were in this speech, so he^{saww} said: 'O Sa'ad! Who is this one whom you are speaking that, 'I would strike his neck with the sword?' So he informed him^{saww} with that which they had said, and what Sa'ad had said. So Rasool-Allah^{saww} said during that: 'O Sa'ad! So where are the four witnesses whom Allah^{azwj} Mighty and Majestic Speaks of?' So Sa'ad said, 'O Rasool-Allah^{saww}! After my having seen with my own eyes, and Allah^{azwj} Knows that he has done it?' So Rasool-Allah^{saww} said: 'Yes, by Allah^{azwj}, O Sa'ad! After your eyes have seen, and Allah^{azwj} Mighty and Majestic Knows. Allah^{azwj} Mighty and Majestic has Made a Limit for everything, and Made for everyone who exceeds the

Limits of Allah^{azwj} a legal penalty (*Hadd*), and Made whatever was less than the four witnesses as a veil upon the Muslims'.¹²²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ رَجُلٍ مِنْ أَصْحَابِنَا عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِنَّ لَنَا جَاراً مِنْ هَمْدَانَ يُقَالُ لَهُ الْجَعْدُ بْنُ عَبْدِ اللَّهِ وَهُوَ يَجْلِسُ إِلَيْنَا فَتَذَكُرُ عَلَيًّا أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) وَفَضْلَهُ فَيَقْعُ فِيهِ أَفْتَادُنْ لِي فِيهِ فَقَالَ لِي يَا أَبَا الصَّبَّاحِ أَفَكُنْتَ فَاعِلًا فَقُلْتُ إِي وَ اللَّهِ لَئِنْ أَدْنَيْتَ لِي فِيهِ لِأَرْضِدْنَهُ فَإِذَا صَارَ فِيهَا أَفْتَحَمْتُ عَلَيْهِ بِسَيْفِي فَخَبَطْتُهُ حَتَّى أَقْتُلَهُ قَالَ يَا أَبَا الصَّبَّاحِ هَذَا الْفَتْكُ وَ قَدْ نَهَى رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) عَنِ الْفَتْكِ يَا أَبَا الصَّبَّاحِ إِنَّ الْإِسْلَامَ قَيْدُ الْفَتْكِ وَ لَكِنْ دَعَا فَسُكِّفِي بِعَيْرِكَ

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from a man from our companions, from Abu Al Sabbah Al Kinany who said,

'I said to Abu Abdullah^{asws} that we have a neighbour from Hamdan called Al-Ja'd Bin Abdullah, and he was sitting with us. So we mentioned Ali^{asws} Amir Al-Momineen^{asws}, and his^{asws} merits, but he falls out with us with regards to it (quarrels with us). Do you^{asws} permit me with regards to (killing) him?' So he^{asws} said to me: 'O Abu Al-Sabbah! Will you do it?' So I said, 'Yes, by Allah^{azwj}! If you^{asws} were to permit me with regards to it, I would ambush him. So when the time comes, I would storm upon him with my sword and strike him until I kill him'. He^{asws} said: 'O Abu Al Sabbah, this is the assassination, and Rasool-Allah^{saww} has forbidden from the assassination. O Abu Al-Sabbah! Al-Islam retaliates the assassination. But, leave him, so it would be sufficed by other than you'.

قَالَ أَبُو الصَّبَّاحِ فَلَمَّا رَجَعْتُ مِنَ الْمَدِينَةِ إِلَى الْكُوفَةِ لَمْ أَلْبَثْ بِهَا إِلَّا ثَمَانِيَةَ عَشَرَ يَوْمًا فَخَرَجْتُ إِلَى الْمَسْجِدِ فَصَلَّيْتُ الْفَجْرَ ثُمَّ عَقَبْتُ فَإِذَا رَجُلٌ يُحَرِّكُنِي بِرِجْلِهِ فَقَالَ يَا أَبَا الصَّبَّاحِ الْبُشْرَى فَقُلْتُ بِشْرَكَ اللَّهُ بِخَيْرٍ فَمَا ذَلِكَ فَقَالَ إِنَّ الْجَعْدَ بْنَ عَبْدِ اللَّهِ بَاتَ الْبَارِحَةَ فِي دَارِهِ الَّتِي فِي الْجَبَانَةِ فَأَيَّقَطُوهُ لِلصَّلَاةِ فَإِذَا هُوَ مِثْلُ الزُّقِّ الْمَنْفُوخِ مَيِّتًا فَذَهَبُوا يَحْمِلُونَهُ فَإِذَا لَحْمُهُ يَسْقُطُ عَنْ عَظْمِهِ فَجَمَعُوهُ فِي نَطْعٍ فَإِذَا تَحْتَهُ أَسْوَدٌ فَذَفَقُوهُ

Abu Al-Sabbah said, 'So when I returned from Al-Medina to Al-Kufa, there had not elapsed except for eighteen days, when I went out to the Masjid, so I Prayed Al-Fajr, then optional, so there was a man to stirred me with his left, so he said, 'O Abu Al-Sabbah! The good news'. So I said, 'May Allah^{azwj} Give you good news with the goodness, so what is that'. So he said, 'Al-Ja'd Bin Abdullah was sleeping last night in his house in al-Jabanah, so (they came) to wake him up was for the Prayer, but there he was all puffed up like the balloon and dead. So they went to carry him, but his flesh kept falling off from his bones. So they gathered him in a leather rug, and there was a black (snake) underneath him. So they buried him'.¹²³

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنِ ابْنِ مَحْبُوبٍ مِثْلَهُ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Ibn Mahboub – similar to it.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ رَفَعَهُ عَنْ بَعْضِ أَصْحَابِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَظْنُهُ أَبَا عَاصِمِ السَّجِسْتَانِيِّ قَالَ زَامَلْتُ عَبْدِ اللَّهِ بْنَ النَّجَّاشِيِّ وَكَانَ يَرَى رَأْيَ الرَّيْدِيِّ فَلَمَّا كُنَّا بِالْمَدِينَةِ ذَهَبَ إِلَى عَبْدِ اللَّهِ بْنِ الْحَسَنِ وَ ذَهَبْتُ إِلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَلَمَّا أَنْصَرَفَ رَأَيْتُهُ مُغْتَمًا فَلَمَّا أَصْبَحَ قَالَ لِي اسْتَأْذِنْ لِي عَلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَدَخَلْتُ عَلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) وَ قُلْتُ إِنَّ عَبْدِ اللَّهِ بْنَ النَّجَّاشِيِّ يَرَى رَأْيَ الرَّيْدِيِّ وَ إِنَّهُ ذَهَبَ إِلَى عَبْدِ اللَّهِ بْنِ الْحَسَنِ وَ قَدْ سَأَلَنِي أَنْ اسْتَأْذِنَ لَهُ عَلَيَّ فَقَالَ أُنْذِرْ لَهُ

¹²² Al Kafi – V 7 – The Book of Wergilds Ch 54 H 15

¹²³ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 16

Ali Bin Ibrahim, from his father, raising it,

(It has been narrated) from one of the companions of Abu Abdullah^{asws}, I guess it was Abu Aasim Al-Sajstany who said, 'I was a fellow traveller of Abdullah Bin Al-Najjashy, and he viewed by the opinion of Al-Zaydiyya. So when we were at Al-Medina, he went to Abdullah Bin Al-Hassan (Al Basry), and I went to Abu Abdullah^{asws}. So when I left, I saw him gloomy. So when it was the morning he said to me, 'Get me permission to (see) Abu Abdullah^{asws}. So I went over to Abu Abdullah^{asws} and said, 'Abdullah Bin Al-Najjashy, who views by the opinions of Al-Zaydiyya, and he had gone to Abdullah Bin Al-Hassan, and has asked me that I seek permission for him, to (see) you^{asws}. So he^{asws} said; 'Give permission to him'.

فَدَخَلَ عَلَيْهِ فَسَلَّمَ فَقَالَ يَا ابْنَ رَسُولِ اللَّهِ إِنِّي رَجُلٌ أَتَوَّلَاكُمْ وَ أَقُولُ إِنَّ الْحَقَّ فِيكُمْ وَ قَدْ قَتَلْتُ سَبْعَةً مِمَّنْ سَمِعْتُهُ يَشْتِمُ أَمِيرَ الْمُؤْمِنِينَ (عليه السلام) فَسَأَلْتُ عَنْ ذَلِكَ عَبْدَ اللَّهِ بْنَ الْحَسَنِ فَقَالَ لِي أَنْتَ مَأْخُودٌ بِدِمَائِهِمْ فِي الدُّنْيَا وَ الْآخِرَةِ فَقُلْتُ فَعَلِمَ نِعَادِي النَّاسَ إِذَا كُنْتُ مَأْخُودًا بِدِمَاءِ مَنْ سَمِعْتُهُ يَشْتِمُ عَلَيَّ بِنِ أَبِي طَالِبٍ (عليه السلام)

So he came over to him^{asws}, so he said, 'O son^{asws} of Rasool-Allah^{saww}! I am a man who has befriended you^{asws}, and I am saying that the truth is among you^{asws}, and I have killed seven from the ones whom I heard insulting Amir Al-Momineen^{asws}. So I asked Abdullah Bin Al-Hassan about that, so he said to me, 'You will be seized for their blood in the world and the Hereafter'. So I said, 'So why do the people antagonise me when I am to be seized with the blood of the one I hear insulting Ali^{asws} Bin Abu Talib^{asws}?'

فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ (عليه السلام) فَكَيْفَ قَتَلْتَهُمْ قَالَ مِنْهُمْ مَنْ جَمَعَ بَيْنِي وَ بَيْنَهُ الطَّرِيقُ فَتَلَّيْتُهُ وَ مِنْهُمْ مَنْ دَخَلْتُ عَلَيْهِ بَيْتَهُ فَتَلَّيْتُهُ وَ قَدْ خَفِيَ ذَلِكَ عَلَيَّ كُلُّهُ قَالَ لَهُ أَبُو عَبْدِ اللَّهِ (عليه السلام) يَا أَبَا خِدَاشٍ عَلَيْكَ بِكُلِّ رَجُلٍ مِنْهُمْ قَتَلْتُهُ كَيْشَ تَدْبَحُهُ بِمَنَى لِأَنَّكَ قَتَلْتَهُمْ بِغَيْرِ إِذْنِ الْإِمَامِ وَ لَوْ أَنَّكَ قَتَلْتَهُمْ بِإِذْنِ الْإِمَامِ لَمْ يَكُنْ عَلَيْكَ شَيْءٌ فِي الدُّنْيَا وَ الْآخِرَةِ .

So Abu Abdullah^{asws} said to him: 'So how did you kill them?' He said, 'Among them was one whom there was a gathering between me and him, on the road, so I killed him. And among them was one whom I went over to, in his house, so I killed him, and that is concealed (matter) upon me, all of it'. So Abu Abdullah^{asws} said to him: 'O Abu Jidash! It is upon you, with each man you killed from them, a ram. You should slaughter it at Mina, because you killed them without permission from the Imam^{asws}. And had you kill them with the permission of the Imam^{asws}, there would not happen to be upon you anything in the world and the Hereafter'.¹²⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الْهَيْثَمِ بْنِ أَبِي مَسْرُوقٍ النَّهْدِيِّ عَنْ مَرْوَكِ بْنِ عُبَيْدٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ مَنْصُورِ بْنِ حَازِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) كُنْتُ أَخْرَجْتُ فِي الْحَدَاثَةِ إِلَى الْمَخَارِجَةِ مَعَ شَبَابِ أَهْلِ الْحَيِّ وَ إِنِّي بَلَيْتُ أَنْ ضَرَبْتِ رَجُلًا ضَرْبَةً بَعْضًا فَتَلَّيْتُهُ فَقَالَ أ كُنْتُ تَعْرِفُ هَذَا الْأَمْرَ إِذْ ذَاكَ قَالَ قُلْتُ لَا فَقَالَ لِي مَا كُنْتُ عَلَيْهِ مِنْ جَهْلِكَ بِهَذَا الْأَمْرِ أَشَدَّ عَلَيْكَ مِمَّا دَخَلْتَ فِيهِ .

A number of our companions, from Sahl Bin Ziyad, from Al Haysam Bin Abu Masrouq Al nahdy, from Marouk Bin Ubeyd, from one of our companions, from Mansour Bin Hazim who said,

'I said to Abu Abdullah^{asws}, 'I had gone out with regards to the need to the outskirts with youths of the people of Al-Hayy, and I had a misadventure that I struck a man with a strike of a stick, so I killed him'. So he^{asws} said: 'Did you recognise this matter (Al-Wilayah) when that (happened)?' I said, 'No'. So he^{asws} said to me: 'What you

¹²⁴ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 17

were upon from your ignorance with this matter (Al-Wilayah) is severer upon you from what you have entered into'.¹²⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مَرْوَكِ بْنِ عَبْدِ مِثْلَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Marouk Bin Ubeyd – similar to it.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَنْ أَقْتَصَّ مِنْهُ فَهُوَ قَتِيلُ الْقُرْآنِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who is retaliated from it (Al-Wilayah), so he is killed (by the) Quran'.¹²⁶

وَ بِهَذَا الْإِسْنَادِ قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) الْبَيْتُ جُبَارٌ وَ الْعَجْمَاءُ جُبَارٌ وَ الْمَعْدِنُ جُبَارٌ .

And by this chain,

He^{asws} said: 'Rasool-Allah^{saww} said: '(Being killed by) the well is 'Jubarru', (no wergild for it), and (being killed by) the beasts, is 'Jubarru' (no wergild for it), and (being killed by) the mines, is 'Jubarru' (no wergild for it).¹²⁷

وَ بِهَذَا الْإِسْنَادِ قَالَ رُفِعَ إِلَى أَمِيرِ الْمُؤْمِنِينَ (صَلَوَاتُ اللَّهِ عَلَيْهِ) رَجُلٌ دَاسَ بَطْنٍ رَجُلٍ حَتَّى أَحْدَثَ فِي ثِيَابِهِ فَقَضَى (عَلَيْهِ السَّلَام) عَلَيْهِ أَنْ يُدَاسَ بَطْنُهُ حَتَّى يُحْدِثَ فِي ثِيَابِهِ كَمَا أَحْدَثَ أَوْ يُعْرَمَ ثُلُثَ الدِّيَةِ .

And by this chain, said,

'(A matter) was raised to Amir Al-Momineen^{asws} of a man who squeezed the stomach of a man until he defecated in his clothes. So he^{asws} judged upon him that he (also) be squeezed in the stomach until he defecate in his clothes, just as he (the other one) had defecated, or he is fined one-third of the wergild'.¹²⁸

هَذَا آخِرُ كِتَابِ الدِّيَاتِ وَ يَتْلُوهُ إِنْ شَاءَ اللَّهُ تَعَالَى كِتَابُ الشَّهَادَاتِ .

This is the end of the Book of the Wergilds, and it would be followed, Allah^{azwj} the Exalted Willing, by the book of the testimonies.

¹²⁵ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 18

¹²⁶ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 19

¹²⁷ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 20

¹²⁸ Al Kafi – V 7 – The Book of Wergilds Ch 54 H 21

Part Three: The Book of Legal Penalties

[The Book of Legal Penalties and the Book of Compensations are not published due to the complicated nature of the issues dealt with that cannot be practiced in the absence of the Imam of the time.]

End of the Book of Penalties of al-Kafi followed by the Book of Compensations by the will of Allah.

Part Four: The Book of Compensations

[The Book of Legal Penalties and the Book of Compensations are not published due to the complicated nature of the issues dealt with that cannot be practiced in the absence of the Imam of the time.]

The end of the Book of Wergild and Compensation followed, by the will of Allah, the Book of Testimony.

Part Five: The Book of Testimony

Chapter 1 - The First Certificate that was Written on Earth

H 14104, Ch. 1, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from his father from Khalaf ibn Hammad from ‘Abd Allah ibn Sinan who has narrated the following:

“When abu ‘Abd Allah, *‘Alayhi al-Salam*, went to meet abu al-‘Abbas who was in al-Hirah (a place in Iraq), one day he came out for ‘Isa ibn Musa. They came face to face between al-Hirah and al-Kufah when ibn Shubramah, the judge, was also with him and he asked, ‘Where do you want to go, O abu ‘Abd Allah?’ He (the Imam) said, ‘I wanted to meet you.’ He then said, ‘Allah has shortened the distance of the journey for you because we are here.’ He (the Imam) then went along with him. Ibn Shubramah asked, ‘What do you say, O abu ‘Abd Allah, concerning something about which the Amir (the ruler) asked me but I had nothing about it?’ He (the Imam) asked, ‘What is it?’ He said, ‘He asked me about the first document that was written on earth.’ He (the Imam) said, ‘Yes, Allah, most Majestic, most Glorious, showed to Adam, *‘Alayhi al-Salam*, his offspring before his eyes in the form of particles, one Prophet after the other Prophet, king after king, believers after believers and unbelievers after unbelievers. When he reached Dawud *‘Alayhi al-Salam*, he asked, “Who is this one whom You have granted Prophet-hood and honor but his life is very short?” He (the Imam) said that Allah, most Majestic, most Glorious, sent him revelation that said, “This is your son Dawud and his life is for forty years, I have written the duration of lives, distributed sustenance and I can delete or write down whatever I want, as I want, because the mother of the book is with Me. If you want to donate something from your life to him, you can do so and I implement it.” He then said, “O Lord, I donate sixty years of my life to him so that he will live for one hundred years.” Allah, most Majestic, most Glorious, said to Jibril, Michael and the angel of death to write down a document about it because he will forget. He (the Imam) said that they wrote the document for it and sealed it with their wings which were from the *Tinah* (seed) of the ones high above.’ He (the Imam) said, ‘When it was the time for the death of Adam, *‘Alayhi al-Salam*, the angel of death came to him and Adam, *‘Alayhi al-Salam*, asked, “O angel of death, what brings you here?” The angel of death said, “I have come to take your soul.” He said, “I have another sixty years to live.” The angel said, “That much you donated to your son Dawud.”’ He (the Imam) said that Jibril then came and showed him the document. Abu ‘Abd Allah, *‘Alayhi al-Salam*, said, ‘For that reason when a certificate is brought out to show the indebted he is humbled. Then he took away his soul.’”

H 14105, Ch. 1, h 2

Abu Ali *al-Ash‘ariy* has narrated from ‘Isa ibn Ayyub from Ali ibn Mahziyar from those whom he has mentioned who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that when Adam, *‘Alayhi al-Salam*, was shown his offspring, he looked at Dawud, he liked him and donated fifty years of his life to him. He (the Imam) said that Jibril and Michael came to him and the angel of death wrote a document about fifty years of his life being donated. When the time of his death came the angel of death came and Adam, *‘Alayhi al-Salam*, said that fifty years of his life still has remained, and he said, ‘What about fifty years that you donated to your son Dawud?’ He (the Imam) said, ‘It was because that he had forgotten or denied it. Jibril and Michael came and testified about the matter, then the angel of death took away his soul.’ Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘It was the first check (certificate or deed) that was ever written on earth.’”

Chapter 2 - The Case of Man who is Summoned to Testify

H 14106, Ch. 2, h 1

A number of our people have narrated from Ahmad ibn abu ‘Abd Allah from ‘Uthman ibn ‘Isa from Sama‘ah who has narrated the following:

“About the meaning of the words of Allah, ‘. . . the witnesses must not refuse to testify when they are summoned to testify,’ (2:282) abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘It is not proper for one who is called to testify to what he has witnessed to say, “I do not want to testify for you.”’”

H 14107, Ch. 2, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“About the meaning of the words of Allah, ‘. . . the witnesses must not refuse to testify when they are summoned to testify,’ (2:282) abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘It is not proper for one who is called to testify to what he has witnessed to say, “I do not want to testify for you.”’”

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad ibn ‘Uthaman from al-Halabiy from abu ‘Abd Allah, *‘Alayhi al-Salam*, a similar *Hadith* and said that it is before the documentation.

H 14108, Ch. 2, h 3

A number of our people have narrated from Ahmad ibn Muhammad ibn ‘Isa from al-Husayn ibn Sa‘id from Muhammad ibn al-Fudayl who has narrated the following:

“This is about the meaning of the words of Allah, most Majestic, most Glorious. ‘. . . the witnesses must not refuse to testify when they are summoned to testify,’ (2:282) abu al-Hassan, *‘Alayhi al-Salam*, has said, ‘When the man calls you to testify for him about a loan or a right, it is not proper for you to refuse and step back to delay.’”

H 14109, Ch. 2, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hisham ibn Salim who has narrated the following:

“This is about the meaning of the words of Allah, most Majestic, most Glorious. ‘. . . the witnesses must not refuse to testify when they are summoned to testify,’ (2:282) abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘It is before the presentation of testimony.’”

H 14110, Ch. 2, h 5

A number of our people have narrated from Ahmad ibn Muhammad ibn ‘Isa from al-Nadr ibn Suwayd from al-Qasim ibn Sulayman from Jarrah al-Madi‘iniy who has narrated the following:

“He (the Imam), *‘Alayhi al-Salam*, has said, ‘When you are called to present your testimony you must accept to testify.’”

H 14111, Ch. 2, h 6

A number of our people have narrated from Sahl ibn Ziyad Ahmad ibn Muhammad from ibn abu Nasr from Dawud ibn Sarhan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Witnesses must not refuse to present their testimony when they are called before it (the case and testimony) is written down.’”

Chapter 3 - Hiding the Testimony

H 14112, Ch. 3, h 1

A number of our people have narrated from Ahmad ibn ‘Abd Allah from ‘Abd al-Rahman ibn abu Najran and Muhammad ibn Ali from abu Jamilah from Jabir who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said this. ‘One may hide a testimony, or testify to invalidate the case of the murder of a Muslim, or to turn away from its rightful course the assets of a Muslim. He on the Day of Judgment will be brought with darkness before him as far as eyes can see, with bruises on his face whom all creatures will know by his name and genealogy. One who presents the right testimony to revive a right of a Muslim, he on the Day of Judgment will be brought with light before him as far as the eye can see, and all creatures will know him by his name and genealogy.’ Abu Ja‘far, *‘Alayhi al-Salam*, then said, ‘Have you not seen that Allah, the most Blessed, the most High, says, ‘. . . you must present the testimony for Allah.’ (65:2)”

H 14113, Ch. 3, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hisham ibn Salim who has narrated the following:

“About the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . one who hides a testimony his heart is sinful,’ (2: 283) abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘It is after having witnessed a case.’”

H 14114, Ch. 3, h 3

A number of our people have narrated from Sahl ibn Ziyad from ‘Isma‘il ibn Mehran from Muhammad ibn Mansur al-Khuza‘iy from Ali ibn Suwayd al-Sa‘iy who has narrated the following:

“My father wrote to me in his letter and I asked abu al-Hassan, *‘Alayhi al-Salam*, about testimony for them. He (the Imam) said, ‘You must present a testimony for Allah, even if it is against your own soul or parents or relatives between you and them, but if you fear injustice to your brother then do not do so.’”

Al-Husayn from Muhammad has narrated from Muhammad ibn Ahmad al-Nahdiy from ‘Isma‘il ibn Mehran a similar *Hadith*.

Chapter 4 - The Case of a Man who hears a Testimony but does not Witness it

H 14115, Ch. 4, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If a man hears a testimony but has not witnessed it, he has the choice to present it or not, but if he has witnessed it, has no choice but to present his testimony.’”

H 14116, Ch. 4, h 2

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘If a man hears a testimony but has not witnessed it, he has the choice to testify or remain silent.’”

H 14117, Ch. 4, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘If a man hears a testimony but has not witnessed it, he has the choice to testify or remain silent, unless he knows that a rightful party suffers injustice, in which case it is not lawful to remain silent.’”

H 14118, Ch. 4, h 4

Ali ibn Ibrahim has narrated from his father from 'Isma'il ibn Marrar and others from Yunus from certain persons of his people who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘If a man hears a testimony but has not witnessed it, he has the choice to testify or remain silent, unless he knows that a rightful party suffers injustice, in which case it is not lawful to remain silent.’”

H 14119, Ch. 4, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘If a man hears a testimony but has not witnessed it, he has the choice to testify or remain silent.’”

H 14120, Ch. 4, h 6

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Muhammad ibn 'Abd Allah ibn Hilal from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a man who is present during the accounting of the two of them who ask him to bear witness to what he has heard from them. He (the Imam) said, ‘It is up to him to bear witness or not, but if he witnesses a true case which he has heard and does not testify, there is nothing against him if he did not testify because they had not asked him to bear witness.’”

Chapter 5 - The Case of a Man who Forgets his Bearing Testimony but Recognizes his Handwriting

H 14121, Ch. 5, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Ali ibn al-Nu'man from Hammad ibn 'Uthaman from 'Umar ibn Yazid who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who asks me to testify for a case and I recognize my handwriting and seal but do not remember anything of the rest, little or more. He (the Imam) said, ‘If the party is trustworthy and there is another trustworthy man, you can testify.’”

H 14122, Ch. 5, h 2

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id who has narrated the following:

“Ja'far ibn 'Isa wrote to him (the Imam), *'Alayhi al-Salam*, and asked this question. ‘I pray to Allah to keep my soul in service for your cause. Our neighbor has brought to me a document thinking that they had appointed me as a witness for the case; in the document in which there is my name in my handwriting which I have recognized. However, I do not remember my witnessing the case; can I testify to my recognizing that my name is in the document, even though I do not remember my witnessing the case, or is it that testifying is not obligatory unless I remember witnessing the case, regardless, my name is in the document or not?’ He (the Imam) wrote the answer that said, ‘Do not testify.’”

H 14123, Ch. 5, h 3

Ahmad ibn Muhammad has narrated from Muhammad ibn Hassan from Idris ibn al-Hassan from Ali ibn Ghiyath who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Do not testify for a case unless you know it as you know your palm.’”

H 14124, Ch. 5, h 4

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘Do not testify for a case which you do not remember to have witnessed, because if one likes, he can write a document or draw an insignia.’”

Chapter 6 - False Testimony

H 14125, Ch. 6, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from Ali ibn al-Hakam from Aban 'Uthman from a man from Salih ibn Mitham who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Whoever presents a false testimony against the assets of a Muslim man to cut off his ownership, for such witnessing Allah writes a certificate for him to the fire.’”

H 14126, Ch. 6, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“Abu 'Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one presents a false testimony, his feet do not move before the fire is made obligatory for him.’”

H 14127, Ch. 6, h 3

Ali ibn Muhammad ibn Bandar has narrated from Ibrahim ibn Ishaq al-Ahmar from 'Abd Allah ibn Hammad from 'Abd Allah ibn Sinan who has narrated the following:

“Abu 'Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has pronounced this *Hadith*. ‘The words of one who presents false testimony do not end before the judge, until his seat is filled up with the fire; and so also is the case of one who hides a testimony.’”

Chapter 7 - The Case of One who Testifies, then Retracts it

H 14128, Ch. 7, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj from those who narrated to him who has narrated the following:

“About the case of witnesses who testify against a man, then retract their testimony when judgment is already issued against the man, they are held responsible for what they have testified to and to compensate, but if judgment is not yet issued, their testimony is made void and the witnesses are not held responsible for anything.”

H 14129, Ch. 7, h 2

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:

“About the case of a man who testifies falsely and upon his repenting, abu 'Abd Allah, '*Alayhi al-Salam*, has said, 'He must pay for the assets that are gone due to his false testimony, like one-half or one-third if another one has testified with him.’”

H 14130, Ch. 7, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Jamil who has narrated the following:

“About the case of false testimony abu 'Abd Allah, '*Alayhi al-Salam*, has said, 'If the asset exists in its substance, it must be returned to its owner, but if it does not exist, then he is responsible for an amount equal to what is lost from the assets of the man.’”

H 14131, Ch. 7, h 4

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from certain persons of his people who has narrated the following:

“This is about the case of four men who testify against *al-Muhsin* (married male) to have committed fornication; then one of them retracts his testimony after the man is executed. Abu 'Abd Allah, '*Alayhi al-Salam*, has said, 'If the fourth cites doubt, he is subjected to penalty, but if he says it was intentional then he is put to death.’”

H 14132, Ch. 7, h 5

Ibn Mahbub has narrated from Ibrahim ibn Nu'aym al-'Azdiy who has narrated the following:

“I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about the case of four witnesses who testify against a man to have committed fornication and when he is executed, one of them retracts his testimony. He (the Imam) said, 'The fourth one among them is executed and the other three must pay three-fourth of wergild to his family of the fourth witness.’”

H 14133, Ch. 7, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil who has narrated the following:

“About the case of false testimony abu 'Abd Allah, '*Alayhi al-Salam*, has said, 'If the asset exists, it must be returned to the owner, otherwise, equal to what of the assets of the man is lost must be paid to him.’”

H 14134, Ch. 7, h 7

Ibn abu 'Umayr has narrated from Ibrahim ibn 'Abd al-Hamid who has narrated the following:

“About the case of two witnesses who testify for a woman that her husband has divorced her and she marries; but her husband comes and denies the divorce, he (the Imam) has said, 'The two must be subjected to penalty and held responsible for the *mahr* (dower) in favor of the husband; then she is returned to the first husband.’”

H 14135, Ch. 7, h 8

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“This is about the case of a man against whom two men had testified for theft, thus his hand was cut off and thereafter the two witnesses brought another man saying that this was the thief and not the one whose hand was cut off but we were only confused about it. Abu Ja‘far, ‘*Alayhi al-Salam*, has said that ‘*Amir al-Mu‘minin*, Ali, ‘*Alayhi al-Salam*, issued a judgment. It required the two to pay one-half of the wergild and did not accept their testimony against the other man.’”

Chapter 8 - The Case of the Testimony of One Person and the Oath of the Plaintiff

H 14136, Ch. 8, h 1

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali al-Washsha’ from Hammad ibn ‘Uthaman who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying that in the case of a loan *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, would accept the testimony of one person with the oath of the plaintiff.”

H 14137, Ch. 8, h 2

Ali ibn Ibrahim has narrated from his father from Hammad ibn ‘Isa who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘My father has narrated to me that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, issued judgment on the basis of one witness and an oath.’”

H 14138, Ch. 8, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from Zur‘ah from Sama‘ah from abu Basir who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has a certain claim on a man about which he has only one witness. He (the Imam) said, ‘The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, would issue judgment on the basis of one witness and an oath by the claimant in the issue of loan.’”

H 14139, Ch. 8, h 4

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan ibn Yahya from Mansur ibn Hazim who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, would issue judgment on the basis of one witness and an oath by the claimant.”

H 14140, Ch. 8, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“Once al-Hakam ibn ‘Utaybah and Salmah ibn Kuhayl visited abu Ja‘far, *‘Alayhi al-Salam*, and asked about the testimony of one witness and a oath. He (the Imam) said, ‘The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, issued judgment on such basis as well as Ali, *‘Alayhi al-Salam*, before you in al-Kufah.’ They said, ‘This is against al-Quran because Allah, the most Blessed, the most High, says, “. . . two just people must testify.” (65:2) Abu Ja‘far, *‘Alayhi al-Salam*, then said to them, does, “. . . two just people must testify” (65:2) mean, do not accept the testimony of one witness with one oath? Besides, once Ali, *‘Alayhi al-Salam*, was sitting in the Masjid of al-Kufah that ‘Abd Allah ibn Qufal-Tamimiyy carrying the shield of Talhah passed by, and Ali, *‘Alayhi al-Salam*, said, “This is the shield of Talhah which you have stolen from the items captured in the war on the day of Basrah.” ‘Abd Allah ibn Qufal said, “Find a judge to decide for us and he can be the judge whom you have appointed for the Muslims.” He (the Imam) then found Shurayh to judge for them. Ali, *‘Alayhi al-Salam*, stated that this shield belonged to Talhah. He (Qufal) had stolen it on the day of al-Basrah. Shurayh asked for proof and he (the Imam) brought al-Hassan, *‘Alayhi al-Salam*, as witness who testified that it was the shield of Talhah which Qufal had stolen on the day of al-Basrah. Shurayh said, “This is one witness and I do not issue a judgment with one witness unless there is another one.” He (the Imam) called Qanbar who testified saying, “This was the shield of Talhah which he had stolen on the day of al-Basrah.” Shurayh

said, "He is a slave and I do not issue judgment on the basis of the testimony of a slave." `Amir al-Mu`minin, Ali, `Alayhi al-Salam, became angry and said, "You take it and it is an unjust judgment." He (the Imam) said it three times. Shurayh then turned around and said, "I will not work as a judge between two people until you tell me on what basis you said three times that my judgment is unjust." He (the Imam) said to him, "Woe is upon you", or he (the Imam) said, "Fie up on you. When I said, 'This is the shield of Talhah which he had stolen on the day of al-Basrah', you said that I must present proof. The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, 'If items stolen from assets captured in a war are found, they can be taken back without testimony.' I said, 'The man has not heard the *Hadith* of the Messenger of Allah.' This is one. Then I brought al-Hassan before you who testified and you said, 'This is one and I do not issue judgment on the basis of one witness until there is another one.' The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, issued judgment based on one witness and an oath. This is two. I then brought Qanbar before you who testified that it is the shield of Talhah, which he had stolen on the day of al-Basrah. You said that he is a slave and that you do not issue judgment on the basis of the testimony of a slave. In fact it is not harmful to accept the testimony of a slave if he is a just person." He (the Imam) then said, 'Woe is upon you' or he (the Imam) said, 'Fie upon you. Imam of the Muslims is trusted for issues much more important than this.'"

H 14141, Ch. 8, h 6

Certain persons of our people have narrated from Muhammad ibn `Abd al-Hamid from Sayf ibn `Amirah from Mansur ibn Hazim who has narrated the following:

"A trustworthy man narrated to me from abu al-Hassan, `Alayhi al-Salam, who has said that if two women testify for the right of someone with his (plaintiff's) oath, it is an accepted proof."

H 14142, Ch. 8, h 7

Ali ibn Ibrahim has narrated from his father from ibn abu `Umayr from Hammad from al-Halabiy who has narrated the following:

"Abu `Abd Allah, `Alayhi al-Salam, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, accepted the testimony of women with the oath by the plaintiff in matters of loan. He swears by Allah that it is his right."

H 14143, Ch. 8, h 8

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn `Isa from Ali ibn al-Hakam from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has narrated the following:

"Abu `Abd Allah, `Alayhi al-Salam, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, in the matter of loan accepted the testimony of one man and the oath of the creditor. However, in the case of the sighting of new moon he would only accept two witnesses."

Chapter 9 - Another Chapter

H 14144, Ch. 9, h 1

Ali ibn Ibrahim has narrated from his father from and Ali ibn Muhammad al-Qasaniy all have narrated from al-Qasim ibn Yahya from Sulayman ibn Dawud from Hafs ibn Ghiyath who has narrated the following:

“Once a man asked abu ‘Abd Allah, *‘Alayhi al-Salam*, ‘If I see something in the hand of a man can I testify that it belongs to him?’ He (the Imam) said, ‘Yes, you can do so.’ The man then said, ‘I can testify that it is in his hand but how can I testify that it belongs to him, perhaps it belongs to someone else?’ He (the Imam) asked, ‘Is it lawful to buy it from him?’ The man replied, ‘Yes, it is lawful to buy it from him.’ Abu ‘Abd Allah, *‘Alayhi al-Salam*, then said, ‘It perhaps belongs to someone else; then how it becomes lawful for you to buy it from him and how can it become of your belongings? How after taking possession can you say that it belongs to you, you can swear and it would be unlawful to ascribe its ownership to one from whose possession its ownership is transferred to you?’ He (the Imam) said, ‘Had it been as you said, the Muslims could never establish a market.’”

H 14145, Ch. 9, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Mu‘awiyah ibn Wahab who has narrated the following:

“I once said to him (the Imam), *‘Alayhi al-Salam*, that ibn abu Layla’ asks me to testify that this is a house and so and so has died and has left it behind as his legacy and that there is no other heir for him except the ones in whose favor we have testified. He (the Imam) said, ‘You can testify about what you have knowledge thereof.’ I then said that ibn abu Layla’ makes us to swear falsely. He (the Imam) said, ‘You can swear about what you know.’”

H 14146, Ch. 9, h 3

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from ‘Uthman ibn ‘Isa from certain persons of his people who has narrated the following:

“I once said to abu ‘Abd Allah, *‘Alayhi al-Salam*, that I bear a testimony for one of our brothers but all of the judges around us do not grant it. He (the Imam) said, ‘If you know that it is right then you can correct it as such that can prove his right.’”

H 14147, Ch. 9, h 4

Ali ibn Ibrahim has narrated from his father from ‘Isma‘il ibn Marrar from Yunus from Mu‘awiyah ibn Wahab who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has a house and he remains absent from it for thirty years; but he leaves his family there, then news of his death comes. We do not know what may have happened in his house as well as to his children. We however, do not know of anything happening to his house and no birth of children has happened to him. This house is not divided among his heirs whom he had left in his house so that two just witnesses can testify that this house is the house of so and so son of so and so who has died and has left behind as legacy for so and so. Can we testify about it? He (the Imam) said, ‘Yes, you can do so.’ I then said that a man has a slave and slave woman. He says that his slave has run away, his slave woman has run away and they are found in the town. The judge asks for proof that this is the slave of so and so whom he has not sold or gifted; if we can testify about it if we are asked and we do not know if anything has happened or not. He (the Imam) said, ‘Whatever goes out of the hands of a Muslim man, slave or slave woman or is absent from you, do not testify about it.’”

Chapter 10 - Presenting Testimony for the Creditors

H 14148, Ch. 10, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from certain persons of his people who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man of truth whose claim is denied. The party swears that he does not owe anything in favor of the owner of right and the owner of right does not have any proof; if we can restore his right by false testimony if there is fear for the loss of his right. He (the Imam) said, ‘It is not permissible because of deception.’

H 14149, Ch. 10, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Khalid from Sa‘d ibn Sa‘d from Muhammad ibn al-Qasim ibn al-Fudayl who has narrated the following:

“I once asked abu al-Hassan, *‘Alayhi al-Salam*, about a man who is one of his followers and owes to a *Mukhalif* (opposing) man a certain amount of loan who wants to cause him difficulties and imprison him. He knows that he does not have anything to pay and he is not able to pay but his creditor has no proof, if it is permissible to swear to keep him away from himself until Allah grants him ease and if it is permissible to testify against him. He (the Imam) said, ‘It is not permissible to testify against him when he is not intending to be unjust to him.’”

Chapter 11 - Testimony of Children

H 14150, Ch. 11, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from abu Ayyub al-Khazzaz who has narrated the following:
"I once asked 'Isma'il ibn Ja'far, 'When it is permissible for a boy to testify?' He said, 'It is permissible when he becomes ten years old.' I then asked, 'Can he issue a command?' He said, 'The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, went to bed with 'A'ishah when she was ten years old and it is not permissible to go to bed with a girl unless she is a woman ('A'ishah was not underage). When a boy becomes ten years old his commanding is permissible and his testimony is admissible.'"

(They have mentioned his words perhaps to show his invalid analogizing effort)

H 14151, Ch. 11, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil who has narrated the following:
"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, if presenting testimony by children is permissible. He (the Imam) said, 'Yes, in the case of murder his first words are accepted but not his second ones.'"

H 14152, Ch. 11, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from Muhammad ibn Humran who has narrated the following:
"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the testimony of children. He (the Imam) said, 'No, except in the case of murder, in which case his first words are accepted but his second words are not accepted.'"

H 14153, Ch. 11, h 4

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from al-'Ala' ibn Razin from Muhammad ibn Muslim who has narrated the following:
"About the case of a child if his bearing testimony to an existing testimony, he (the Imam) said, 'If his reason can comprehend when he becomes mature that it is right, it then is permissible.'"

H 14154, Ch. 11, h 5

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:
"Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, has said, 'If children are asked to bear testimony if they did so as children it is permissible, when they grow up, to present it if they have not forgotten.'"

H 14155, Ch. 11, h 6

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Jamil who has narrated the following:
"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about a child if he can testify in the case of murder. He (the Imam) said, 'His first words are accepted but his second words are not accepted.'"

Chapter 12 - Testimony of Slaves

H 14156, Ch. 12, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following: "Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, has said, 'A slave's testimony is not harmful if he is a just man.'"

H 14157, Ch. 12, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Khalid and al-Husayn ibn Sa'id all from al-Qasim ibn Muhammad ibn 'Urwah from 'Abd al-Hamid al-Ta'iy from Muhammad ibn Muslim who has narrated the following: "About the testimony of a slave abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'If he is a just man it is permissible. The first one who rejected the testimony of a slave was 'Umar ibn al-Khattab. Once a slave was brought before him to testify and he said, 'If I testify I fear for myself; if I hide, it is a sin for me before my Lord.' He ('Umar) then said, 'Testify, but after you I will not allow any slave to testify.'"

H 14158, Ch. 12, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from al-Qasim ibn 'Urwah from Burayd ibn Mu'awiyah who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, if the testimony of a slave is acceptable. He (the Imam) said, 'Yes, it is permissible and the first one who rejected the testimony of a slave was so and so.'"

Chapter 13 - That which is Acceptable of the Testimony of Women and that, which is not Acceptable

H 14159, Ch. 13, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj and Muhammad ibn Humran who has narrated the following:

“We asked abu 'Abd Allah, *'Alayhi al-Salam*, if testimony of women is acceptable in penalty cases. He (the Imam) said, ‘Only in murder cases it is acceptable. *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, would say, “The blood (life) of a Muslim cannot be invalidated.””

H 14160, Ch. 13, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad ibn 'Uthaman from al-Halabiy who has narrated the following:

“Once abu 'Abd Allah, *'Alayhi al-Salam*, was asked, if testimony by women is acceptable in the case of marriage?’ He (the Imam) said, ‘It is acceptable if there is a man with them. Ali, *'Alayhi al-Salam*, would say, “I do not accept the testimony by women in divorce.”’ I then asked if testimony of women with a man is acceptable in matters of a loan. He (the Imam) said, ‘Yes, it is acceptable.’ I asked about the testimony of a nurse about childbirth. He (the Imam) said, ‘The testimony of one nurse is acceptable.’ He (the Imam) said, ‘Testimony of women in matters of a loan, childbirth and virginity is acceptable.’ Those who had heard from him (the Imam) narrated to me that his father had informed him that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, allowed testimony by women in matters of a loan with an oath by the plaintiff. He must swear by Allah that his claim is right.’”

H 14161, Ch. 13, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the testimony of women in the case of stoning. He (the Imam) said, ‘If there are three men and two women, but if there are two men and four women, stoning is not permissible.’”

H 14162, Ch. 13, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Ali ibn abu Hamzah from abu Basir who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the testimony of women. He (the Imam) said, ‘It is acceptable in matters in which men cannot become a witness. It is acceptable about marriage if there is a man with them, but it is not acceptable in divorce or blood (life) except that it is acceptable in the penalty for fornication if there are three men and two women, but the testimony of two men and four women is not acceptable in this case.’”

H 14163, Ch. 13, h 5

Ali ibn Ibrahim has narrated from his father and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from Muhammad ibn al-Fudayl who has narrated the following:

“I once asked abu al-Hassan, al-Rida', *'Alayhi al-Salam*, if testimony of women is acceptable in marriage or divorce or stoning. He (the Imam) said, ‘It is acceptable in matters which men cannot witness (look at) and there is no man with them. Their testimony in marriage is acceptable if there is a man with them; and their testimony in the penalty for fornication is acceptable if there are three men and two women; but the testimony of two men and four women is not acceptable in this case and their testimony about divorce and blood (life) is not acceptable.’”

H 14164, Ch. 13, h 6

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has narrated the following:

“He (the Imam) has said that testimony of women about new moon is not acceptable as well as in divorce. I asked him (the Imam), ‘*Alayhi al-Salam*, if testimony of women is acceptable. He (the Imam) said, ‘Yes, it is acceptable about virginity and childbirth.’”

H 14165, Ch. 13, h 7

Yunus has narrated from ‘Abd Allah ibn Bukayr who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said testimony of women about virginity and every defect which men cannot look at is admissible.’”

H 14166, Ch. 13, h 8

It is narrated from the narrator of the previous *Hadith* from ‘Abd Allah ibn Sinan who has narrated the following:

“I once heard abu ‘Abd Allah, ‘*Alayhi al-Salam*, saying, ‘Testimony of women about the new moon is not acceptable. It is not acceptable in stoning with two men and four women but it is acceptable with three men and two women.’ He (the Imam) said, ‘The testimony of women without men is acceptable in matters that cannot be witnessed by men who are not allowed to look at it and the testimony of a nurse is admissible about childbirth.’”

H 14167, Ch. 13, h 9

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Najran from Muthanna’ al-Hannat from Zurarah who has narrated the following:

“I once asked abu Ja‘far, ‘*Alayhi al-Salam*, about the testimony of women if it is acceptable in marriage. He (the Imam) said, ‘Yes, it is acceptable, but it is not acceptable about divorce.’ He (the Imam) said that Ali, ‘*Alayhi al-Salam*, has said, ‘Testimony of women is acceptable in stoning if there are three men and two women; but if there are four women and two men it is not acceptable about stoning.’ I asked, ‘Is testimony of women with men acceptable in blood (life) cases?’ He (the Imam) said, ‘No, it is not acceptable.’”

H 14168, Ch. 13, h 10

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Washsha’ from Aban ibn ‘Uthman from ‘Abd al-Rahman ibn abu ‘Abd Allah who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a woman who is about to die and there is no one with her except a woman; if her testimony is admissible or not. He (the Imam) said, ‘Testimony of women is acceptable about childbirth and virginity.’”

H 14169, Ch. 13, h 11

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Ibrahim al-Harithiy who has narrated the following:

“I once heard abu ‘Abd Allah, ‘*Alayhi al-Salam*, saying, ‘Testimony of women is acceptable in matters where men cannot witness and look to bear witness thereof. Testimony of women is acceptable about marriage but not about divorce or blood (life) and it is acceptable about the penalty for fornication if there are three men and two women but not if there are two men and four women and their testimony about stoning is not acceptable.’”

H 14170, Ch. 13, h 12

Ibn Mahbub has narrated from ‘Umar ibn Yazid who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who dies and leaves behind a

woman who is pregnant and gives birth after his death to a boy. Then the boy dies after falling on the ground and she who nursed witnesses it all. She says that he was alive and cried upon falling on the ground, then died. He (the Imam) said, ‘The Imam can allow her testimony about one-fourth of the legacy of the boy.’”

H 14171, Ch. 13, h 13

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from Dawud ibn Sarhan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘I accept testimony of women about a boy who cried or did not cry, and about everything to which men cannot look, the testimony of women is acceptable.’”

Chapter 14 - Testimony of Woman for her Husband and the Testimony of Man for his Wife

H 14172, Ch. 14, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from abu al-Mighra' from al-Halabiy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the testimony of a man is acceptable for his wife and testimony of a wife is acceptable for her husband if there are others with her.”

H 14173, Ch. 14, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from ibn Mahbub from Hisham ibn Salim from ‘Ammar ibn Marwan who has narrated the following:

“I or a certain persons of our people asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who presents testimony for his wife. He (the Imam) said, ‘If it is for a good cause it is permissible to testify for one’s wife.’”

Chapter 15 - Testimony of a Father for his Son or a Son's Testimony for his Father and Testimony of a brother for his Brother

H 14174, Ch. 15, h 1

Ali ibn Ibrahim has narrated from his father from Muhammad ibn 'Isa from Yunus from Zur'ah from Sama'ah from abu Basir who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the testimony of a father for his son or a son's testimony for his father and the testimony of a brother for his brother. He (the Imam) said, 'It is permissible.'"

H 14175, Ch. 15, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the testimony of a father for his son, the testimony of a son for his father and the testimony of a brother for his brother. He (the Imam) said, 'It is permissible.'"

H 14176, Ch. 15, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from abu al-Mighra' from al-Halabiy who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'The testimony of a father for his son, the testimony of a son for his father and the testimony of a brother for his brother is permissible.'"

H 14177, Ch. 15, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Hisham ibn Salim from 'Ammar ibn Marwan who has narrated the following:

"I or a certain persons of our people asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who testifies for his father or a father testifies for his son or for his brother. He (the Imam) said, 'It is not harmful if it is for a good cause. His testimony is permissible for his father as is the case with a father's testimony for his son or a brother's testimony for his brother.'"

Chapter 16 - Testimony of a Business Partner, one Wagerworker and the Executor of the Will

H 14178, Ch. 16, h 1

Abu Ali *al-Ash'ariy* has narrated from Ahmad ibn Muhammad ibn 'Isa and Humayd ibn Ziyad from al-Hassan ibn Muhammad ibn Sama'ah all from Ahmad ibn al-Hassan al-Mithamiy from Aban ibn 'Uthman from 'Abd al-Rahman ibn abu 'Abd Allah who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of three partners of whom two have testified against one. He (the Imam) said, ‘Their testimony is not admissible.’”

H 14179, Ch. 16, h 2

Muhammad ibn Yahya has narrated from al-Husayn ibn Ali ibn Ribat from Muhammad ibn al-Salt who has narrated the following:

“I once asked abu al-Hassan, al-Rida', *'Alayhi al-Salam*, about the case of certain friends who were on a journey when their road was blocked, and they caught the thieves, then certain ones of them testified against the others. He (the Imam) said, ‘Their testimony is not admissible unless the thieves confess or others testify against them.’”

H 14180, Ch. 16, h 3

Muhammad ibn Yahya has said that Muhammad ibn al-Hassan once wrote to abu Muhammad, *'Alayhi al-Salam*, asking if testimony of executor of the will is acceptable for the deceased about a loan that a man owes to the deceased with one more just witness. He (the Imam), *'Alayhi al-Salam*, signed the answer that said, ‘If one more just man testifies with him then the plaintiff must take an oath.’ He also wrote asking if it is permissible for an executor of the will to testify for an heir of the deceased, small or an adult in a right for him on the deceased or on others and he is the one who takes possession for the heir who is a minor and not an adult. He (the Imam), signed the answer that said, ‘Yes, it is proper for an executor of the will to testify for a right and he must not hide a testimony.’ He wrote asking that if the testimony of an executor of the will along with the testimony of another just man is admissible against the deceased. He (the Imam), *'Alayhi al-Salam*, signed the answer that said, ‘Yes, it is acceptable with an oath.’”

H 14181, Ch. 16, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn Musa from Ahmad ibn al-Hassan from Ali from his father from Ali ibn 'Uqbah from Musa ibn 'Ukayl al-Numayriy from al-'Ala' ibn Sayabah who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, would not allow the testimony of a wage worker.’”

Chapter 17 - The Witnesses who are Rejected

H 14182, Ch. 17, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus ibn 'Abd al-Rahman from 'Abd Allah ibn Sinan who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the kind of witnesses whose testimony is rejected. He (the Imam) said, 'Of such people are a pessimist and an accused.' I then asked, 'What about a sinful and a treacherous one?' He (the Imam) said, 'Such ones are included in "pessimist".'"

H 14183, Ch. 17, h 2

It is narrated from the narrator of the previous *Hadith* from 'Abd Allah ibn Muskan from Sulayman ibn Khalid who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the witnesses whose testimony is rejected. He (the Imam) said, 'Of such people are a pessimist and an antagonist.' I then asked, 'What about a sinful and a treacherous one?' He (the Imam) said, 'Such ones are included in "pessimist".'"

H 14184, Ch. 17, h 3

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Safwan from Shu'ayb from abu Basir who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the witnesses whose testimonies are rejected. He (the Imam) said, 'He (the Imam) said, 'Of such people are a pessimist, an accused and an antagonist.' I then asked, 'What about a sinful and a treacherous one?' He (the Imam) said, 'Such ones are included in "pessimist".'"

H 14185, Ch. 17, h 4

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Aban from abu Basir who has narrated the following:

"I once asked abu Ja'far, *'Alayhi al-Salam*, about the testimony of one who is born out of wedlock if it is acceptable. He (the Imam) said, 'No, it is not acceptable.' I then said that al-Hakam ibn al-'Utaybah considers it acceptable. He (the Imam) said, 'O Lord, do not forgive his sin. Allah, most Majestic, most Glorious, has not said to al-Hakam ibn 'Utaybah, '. . . it is a reminder for you and your people.' (43:44)"

H 14186, Ch. 17, h 5

A number of our people have narrated from ands from al-Husayn ibn Sa'id from al-Qasim ibn Sulayman from Jarrah al-Mad'iniy who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'I do not accept the testimony of a sinful man except against his own-self.'"

H 14187, Ch. 17, h 6

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'The testimony of one born out of wedlock is not admissible.'"

H 14188, Ch. 17, h 7

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, would not accept the testimony of persons of offensive manners and those humiliated by law."

H 14189, Ch. 17, h 8

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from ibn Faddal from Muhammad al-Ash'ariy from 'Ubayd ibn Zurarah from his father who has narrated the following:

“I once heard abu Ja'far, *'Alayhi al-Salam*, saying, ‘If four men among whom one is born out of wedlock testify before me against a man for fornication I will execute penalty on them all because his testimony is not acceptable and he cannot lead the people in *Salat* (prayer).’”

H 14190, Ch. 17, h 9

Muhammad ibn Yahya has narrated from Muhammad ibn Musa from Ahmad ibn al-Hassan ibn Ali from Ali ibn 'Uqbah from Musa b 'Ukayl al-Numayriy from al-'Ala' ibn Sayabah who has narrated the following:

“I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, ‘Testimony of the following people is not acceptable. (Of such people is) one who plays dice, (backgammon), or the game played with fourteen pieces of tokens and a friend (player) of *Shahayn* (the two kings) which means chess who says, ‘No, by Allah and yes by Allah. His king by Allah is dead and his king is killed but it is not dead or killed.’”

H 14191, Ch. 17, h 10

Through the same chain of narrators as that of the previous *Hadith*, the following is narrated:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘The testimony of one who goes before al-Hujjaj (travelers for al-Hajj) as a precursor, is not acceptable because he kills his stumper, depletes his supplies, tires himself and treats his *Salat* (prayer) lightly.’ I then asked about the one who provides transportation for hire, camel man and boat operators. He (the Imam) said, ‘They are not bad and their testimony is acceptable if they are virtuous people.’”

H 14192, Ch. 17, h 11

Through the same chain of narrators as that of the previous *Hadith*, the following is narrated:

“Abu Ja'far, *'Alayhi al-Salam*, has said, ‘Performing *Salat* (prayer) behind one who asks payment for saying Adhan (call for *Salat* (prayer)) and *Salat* (prayer) and his testimony are not admissible.’”

H 14193, Ch. 17, h 12

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Hassan Shammun from 'Abd Allah ibn 'Abd al-Rahman al-Asamm from Misma' ibn 'Abd al-Malik who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, would not allow the testimony of one who moves before al-Hujjaj (pilgrims to Makkah) as a precursor.”

H 14194, Ch. 17, h 13

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from ibn Faddal from Hammad ibn 'Uthaman from Hariz from Muhammad ibn Muslim who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, rejected the testimony of a beggar who extends his hand for help. It is because he does not believe in testimony in the sense that if one gives to him something he is happy and if he does not give anything he becomes angry.”

H 14195, Ch. 17, h 14

Muhammad ibn Yahya has narrated from al-'Amrakiy ibn Ali from Ali ibn Ja'far from his brother who has narrated the following:

“I once asked abu al-Hassan, *'Alayhi al-Salam*, about the case of a beggar man who extends his hand for begging, if his testimony is acceptable. He (the Imam) said, ‘My father would not accept his testimony if he extended his hand for begging.’”

Chapter 18 - The Testimony of an Accuser and an Ex-convict

H 14196, Ch. 18, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn `Isma'il from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about an accuser who is convicted and subjected to penalty and about what his repentance is. He (the Imam) said, ‘He must call his soul a liar.’ I then asked, ‘If he calls his soul a liar and repents, is then his testimony acceptable?’ He (the Imam) said, ‘Yes, it then becomes acceptable.’”

H 14197, Ch. 18, h 2

Ahmad ibn Muhammad has narrated from al-Husayn ibn Sa‘id from al-Nadr ibn Suwayd and Hammad from al-Qasim ibn Sulayman who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who accuses a man, then he is whipped as penalty then he repents and nothing but good is seen from him; if his testimony is acceptable. He (the Imam) said, ‘Yes, it is acceptable. What do people in your area say about it?’ I replied, ‘They say that his repentance is between him and Allah but his testimony is never acceptable.’ He (the Imam) said, ‘What they say is bad. My father would say that if he repents and nothing but good is seen from him his testimony is acceptable.’”

H 14198, Ch. 18, h 3

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, accepted the testimony of a man whose hand and foot was cut off, he had repented and his repentance had become known.”

H 14199, Ch. 18, h 4

Through the same chain of narrators as that of the previous *Hadith*, the following is narrated:

“He (the Imam), *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, has said, ‘If one is subjected to penalty and he thereafter repents, his testimony becomes admissible.’”

H 14200, Ch. 18, h 5

Ali ibn Ibrahim has narrated from his father from `Isma'il ibn Marrar from Yunus from certain persons of his people who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who accuses married woman: if his testimony after his being subjected to penalty and his repenting is admissible. He (the Imam) said, ‘Yes, it is admissible.’ I then asked, ‘What is his repentance?’ He (the Imam) said, ‘He comes before the Imam and calls his soul a liar and says that he had fabricated against so and so and retracts what he had said.’”

H 14201, Ch. 18, h 6

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ibn Sinan who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who is subjected to penalty; then he repents: if his testimony becomes acceptable. He (the Imam) said, ‘If he repents which is retracting what he has said and calls himself a liar before the Imam of the Muslims. When he does this then it is necessary for the Imam to accept his testimony thereafter.’”

Chapter 19 - Testimony of the Members of all other Nations

H 14202, Ch. 19, h 1

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from ibn Ri'ab from abu 'Ubaydah who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that testimony of Muslims is admissible against the people of all other nations. The testimony of taxpayers is not admissible against Muslims.”

H 14203, Ch. 19, h 2

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from Zur'ah from Sama'ah who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the testimony of members of other nations. He (the Imam) said, ‘It is admissible only against the people of their nation, however, if no one can be found to bear witness about the will (of a Muslim), then their testimony is acceptable because invalidating one’s right is not proper.’”

H 14204, Ch. 19, h 3

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, has said, ‘If Jews and Christians bear testimony then become Muslims, their testimony is admissible.’”

H 14205, Ch. 19, h 4

Ali has narrated from Muhammad ibn 'Isa from Yunus from Muhammad ibn Muslim who has narrated the following:

“I once asked one of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, about a child, a slave and a Christian who bear testimony; then the Christian becomes a Muslim, if his testimony becomes admissible. He (the Imam) said, ‘Yes, it becomes admissible.’”

H 14206, Ch. 19, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn abu Najran from Muhammad ibn Humran who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about a Christian man who bears a testimony, then becomes a Muslim if his testimony is acceptable. He (the Imam) said, ‘Yes, he is in the right position to testify.’”

H 14207, Ch. 19, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hisham ibn al-Hakam who has narrated the following:

“About the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . or two from people other than your people,’ (5:106) abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘This applies when a man is away from his land where Muslims are not found, then appointing non-Muslims as witness to a will is permissible.’”

H 14208, Ch. 19, h 7

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from ibn Mahbub from abu Ayyub 'Abd al-'Aziz al-' from Durays al-Kunasiy who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the testimony of people of other nations if they can be appointed as witness. He (the Imam) said, ‘No, unless no one else can be found, in which case their bearing testimony about a will is permissible, because it is not proper to invalidate the right of a Muslim man and void his will.’”

H 14209, Ch. 19, h 8

Ibn Mahbub has narrated from Jamil ibn Salih from Hamzah ibn Humran who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . two just man from among you or two men from other people.’ (5:106) He (the Imam) said, ‘The ‘two from you’ means two Muslims, the ‘two from other people’ means from the followers of the book.’ He (the Imam) then said, ‘This can happen when a Muslim dies far away from his land where he cannot find two Muslim men, thus he can appoint two taxpayers of the followers of the book who are acceptable among their own people to bear witness to his will.’”

Chapter 20 - Another Chapter

H 14210, Ch. 20, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from b Sinan who has narrated the following:

“This is about the case of a man who bears testimony to the testimony of another witness but then the man says that he had not appointed him as witness. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'The testimony of the one who is more just is admissible but if such man of justice is one man then his testimony is not acceptable because of fairness for both.'”

H 14211, Ch. 20, h 2

Al-Husayn Muhammad has narrated from Mu'alla' ibn Muhammad from al-Washsha' from Aban ibn 'Uthman from 'Abd al-Rahman ibn abu 'Abd Allah who has narrated the following:

“About the case of a man who bears testimony to the testimony of a witness but then the man says that he had not appointed him as witness, abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'The testimony of the one who is more just is admissible.'”

Chapter 21 - Testimony of a Blind and Speechless

H 14212, Ch. 21, h 1

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Tha'labah ibn Maymun from Muhammad ibn Qays who has narrated the following:

"I once asked abu Ja'far, '*Alayhi al-Salam*, about the testimony of a blind man. He (the Imam) said, 'Yes, it is admissible if he has preserved it.'"

H 14213, Ch. 21, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from al-Hajjal from Tha'labah ibn Maymun from Muhammad ibn Qays who has narrated the following:

"I once asked abu Ja'far, '*Alayhi al-Salam*, about the testimony of a blind man if it is admissible. He (the Imam) said, 'Yes, it is admissible if he has preserved it.'"

H 14214, Ch. 21, h 3

A number of our people have narrated from Sahl ibn Ziyad from 'Isma'il ibn Mehran from Durust from Jamil who has narrated the following:

"I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about the testimony of a speechless man in the case of murder. He (the Imam) said, 'His first words are admissible and his second words are not admissible.'"

Chapter 22 - A Man Bears Testimony against a Woman without Looking at Her Face

H 14215, Ch. 22, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isa from his brother Ja'far ibn 'Isa ibn Yaqtin who has narrated the following:

“Abu al-Hassan, al-Awwal, *'Alayhi al-Salam*, has pronounced this fatwa. ‘Bearing testimony to the confession of a woman, whose face is not open, if one knows her in person or the one who is present knows her, is not harmful. However, if she is not known in person and no one present knows her, then bearing testimony against her or against her confession is not permissible without her face being uncovered so that he can look at her face.’”

Chapter 23 - The Rare Ahadith

H 14216, Ch. 23, h 1

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from Mu'awiyah ibn Wahab who has narrated the following:

“The paved area where *Salat* (prayer) for the dead had been performed in the time of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, was called al-Batha' where people sold milk, ghee and cheese. A desert dwelling Arab once came with his horse and tied it there. The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, bought it from him. He (the Messenger of Allah) went inside to bring the price. Certain hypocrites asked the man, 'For how much did you sell your horse?' He replied, 'I have sold it for such and such amount.' They said, 'This is a bad deal. Your horse is better than this.' The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, then came out with the complete and nice price. The Arab man said, 'By Allah I did not sell it.' The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, said, 'Allah is free of all defects, yes, by Allah, you sold it to me.' Voices rose and certain people said, 'The Messenger of Allah is bargaining with a desert Arab man.' Many people gathered around. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, 'With the Holy Prophet, there his companions were also present when Khudhaymah ibn Thabit Ansari came and moved people with his hand until he reached the Holy Prophet, and said, 'O Messenger of Allah, I testify that you bought from him.' The Arab man said, 'How can you testify, when you were not here present with us?' The Messenger of Allah asked, 'Did you see us concluding the sale?' Khudhaymah said, 'No, I was not here, but I know that you have bought it. I have believed in what you have brought from Allah and acknowledged your truthfulness; how can I not believe you against this filthy Arab? How that can happen?' He (the Imam) said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, liked his standpoint and said, 'O Khudhaymah, your testimony equals to two testimonies.'”

H 14217, Ch. 23, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Musa ibn Ja'far al-Baghdadiy from Ja'far ibn Yahya fn 'Abd Allah ibn 'Abd al-Rahman fn al-Husayn ibn Zayd who has narrated the following:

“Abu 'Abd Allah, has narrated from his father, *'Alayhim al-Salam*, who has said that once Qudamah ibn Maz'un was brought before 'Umar ibn al-Khattab because of drinking wine and two men testified against him. One, called 'Amr al-Tamimiy, was castrated and the other one was Mu'alla' ibn al-Jarud. One of them testified that he saw him drinking wine and the other said that he saw him throwing out wine. 'Umar then sent for several people of the companions of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, among whom one was *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*. 'Umar then asked, 'What do you say, O abu al-Hassan? You are the one about whom the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, "He is the most knowledgeable one in the nation and the one who judges with the truth all the time." These have presented different testimonies.' He (the Imam) said there is no difference in their testimonies, he could not have thrown out wine without drinking it.' 'Umar then asked about the testimony of a castrated man. He (the Imam) said, 'His losing his beard is just like the loss of a certain part of his body.'”

H 14218, Ch. 23, h 3

A number of our people have narrated from Ahmad ibn Muhammad from Muhammad ibn `Isma`il from Mansur from Yunus from Musa ibn Bakr from al-Hakam ibn abu `Aqil who has narrated the following:

“I once said to abu `Abd Allah, *‘Alayhi al-Salam*, that my opponent brings a great deal of false testimony against me and I dislike to fight back. I do not know if it is the right thing that I do. He (the Imam) said to me, ‘Have you not noticed that *‘Amir al-Mu`minin*, Ali, *‘Alayhi al-Salam*, would say, “Do not leave yourselves and assets hostage to the false testimonies.” If it is not an offense in religion and a sin against his Lord, then there is nothing wrong for a man to defend himself. It is like preventing unlawful sexual relations and unlawful bloodshed by one’s testimony which is good, so also is the case with defending one’s assets.’”

H 14219, Ch. 23, h 4

Muhammad ibn Yahya has narrated from Muhammad ibn al-Hassan who has narrated the following:

“I once wrote to abu Muhammad, *‘Alayhi al-Salam*, and asked about the case of a man who sells a piece of land to another man. He does not know its limits, and so he does not appoint any witness to the deal, saying that when the limits are defined then witnesses are appointed; if it is permissible to bear witness or not. He (the Imam), *‘Alayhi al-Salam*, signed the answer that said, ‘Yes, it is permissible, all praise belongs to Allah.’ A man wanted to leave for Makkah. He had certain pieces of land in a town, which was a certain distance away from his home. He did not define the limits of the land. He only knew the limits of the town, all of its four sides. He said to the witnesses to bear witness that he has sold the whole town of such and such limits of all four sides one, two, three and four, to so and so. In fact, he only owned a piece of land in the town; if buying as such is permissible, when he has confirmed for him the selling of the whole town. He (the Imam) signed the answer that said, ‘It is not permissible to sell what does not belong to him, however, the purchase of what he owns has become binding in favor of the buyer.’ A man wrote to him (the Imam) asking if it is permissible for the witnesses whom he had appointed to bear testimony for the selling of the whole town to testify about the limits of the land that he owns in the town. He may have come to know such limits of such land through the people of the town if they are just people. He (the Imam) signed the answer that said, ‘Yes, it is permissible about something which is known and understood.’ A man wrote saying that a man says to another man to bear witness that the whole of the house that he owns in such and such place with its limits, all of it is for so and so with all that is in the house of assets; if the buyer can have all that is in the house. He (the Imam), *‘Alayhi al-Salam*, signed the answer that said, ‘It is permissible for all that the buying has covered, by the will of Allah.’”

H 14220, Ch. 23, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Mahbub from Ayyub from Hariz who has narrated the following:

“This is about the case of four men who testified against an *al-Muhsin* (married man) due to fornication of whom two retracted their testimony and not the other two. Abu `Abd Allah, *‘Alayhi al-Salam*, has said, ‘If the four are Muslims who are not known as falsely testifying people, the testimony of all four is admissible, and penalty must be applied on the one against whom they have testified, however, they must testify only to what they have seen and have the knowledge thereof. The person in authority must accept their testimony unless they are known to be sinful people.’”

H 14221, Ch. 23, h 6

Ali ibn Ibrahim has narrated from his father from al-Husayn ibn Sayf from Muhammad ibn Sulayman who has narrated the following:

“I once asked abu Ja`far, al-Thaniy, *‘Alayhi al-Salam*, ‘How is it that when a man accuses his wife of

committing fornication his testimony is four testimonies by Allah? Why is it not permissible for those other than him, if someone other than husband accuses her, he is subjected to penalty even if he is a son or brother?’ He (the Imam) said, ‘Abu Ja‘far, ‘*Alayhi al-Salam*, was asked about it and he (the Imam) replied that suppose if a man accuses his wife he can be asked about how he has learned that his wife has behaved as such, his eyes have seen her doing it then his testimony is four testimonies by Allah. It is because of the possibility for a man to go in privacy where others cannot do so. A son or father cannot see as such in the night or day. For this reason, his testimony has become four testimonies by Allah if he says, “I have seen it with my eyes.” If he says, “I have not seen with my eyes” he is an accuser like other people and he is subjected to penalty unless he establishes testimony. If people other than the husband thinks, accuses and claims seeing it with his eyes he is then asked, “How did you see and who made it possible for you to be in such place where you alone saw it? You stand accused about your claim even if you speak truth, you are in the position of one being accused; and it is necessary to discipline you by penalty which Allah has made obligatory upon you.”’ He (the Imam) said, ‘The testimony of a husband has become four testimonies by Allah, in place of every witness one oath.’”

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from Muhammad ibn Aslam from certain ones of the people of Qum from abu al-Hassan al-Rida’, ‘*Alayhi al-Salam*, a similar *Hadith*.

H 14222, Ch. 23, h 7

Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from ibn abu Nasr from `Isma‘il ibn abu Hanifah from abu Hanifah who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, ‘Why in a murder case only two witnesses are required, and in the case of fornication four witnesses are required when murder is more serious than fornication?’ He (the Imam) said, ‘It is because murder is one act and fornication is two acts, for this reason less than four witnesses is not admissible; two against man and two against the woman.’”

Certain one of our people have narrated from him (abu Hanifah) that then he (the Imam) asked, ‘What is with you, O abu Hanifah?’ I replied, ‘We have nothing about it except the *Hadith* of ‘Umar that says, ‘Allah has taken two words in the testimony against the people.’ He (the Imam) then said, ‘It is not as such, O abu Hanifah, in fornication there are two penalties. It is not permissible for less than two to testify against one, two against the man and two against the woman; penalty is obligatory on both man and woman, when in murder it is applied to the killer only and the one murdered is defended.’”

H 14223, Ch. 23, h 8

Al-Husayn from Muhammad has narrated from al-Sayyariy from Muhammad ibn Jumhur from those who narrated to him from ibn abu Ya‘fur who has narrated the following:

“I had to testify in a case before abu Yusuf, the judge, who said, ‘O ibn abu Ya‘fur I still say about you, when you are my neighbor, that I know you only as a truthful person of long nights (for worshipping Allah) except “that thing”.’ He then asked, ‘What is “that thing”?’ He (the judge) said, ‘It is your tendency to the *al-Rafidah* (rejectionists).’ Ibn abu Ya‘fur then wept until his tears flowed down and said, ‘O abu Yusuf, you are ascribing me to a community of people. I am afraid of not being of them.’ The judge then admitted his testimony.”

H 14224, Ch. 23, h 9

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Hassan Shammun from ‘Abd Allah ibn ‘Abd al-

Rahman from Misma' ibn 'Abd al-Malik who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, in the case of an atheist would issue a judgment. If two just and acceptable people testified against him and one thousand in his favor, he (the Imam) would accept the testimony of two people. He (the Imam) would reject the testimony of one thousand because it is a hidden religion.” (It is considered applicable when the testimonies are presented in different times.)

H 14225, Ch. 23, h 10

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, issued a judgment. It was in the case of a virgin woman who was accused of fornication. He (the Imam) commanded certain women to examine her. They reported about her to be a virgin. He (the Imam) issued a judgment that said, 'I am not to penalize one on whom Allah, most Majestic, most Glorious, has placed a seal.' He (the Imam) accepted the testimony of women in such cases.”

H 14226, Ch. 23, h 11

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from Ibrahim ibn abu al-Balad from Sa'd al-Iskaf who has said that I know the following to be from abu Ja'far, *'Alayhi al-Salam*, only:

“Abu Ja'far, *'Alayhi al-Salam*, has said that among the Israelites there was a worshipper. Dawud *'Alayhi al-Salam*, liked him for his worship. Allah, most Majestic, most Glorious, sent revelation to him and informed him that the worshipper is only a showoff person. The man died and Dawud *'Alayhi al-Salam*, was informed about his death. He told them to bury him. The Israelites disliked it and said, 'Why did you not attend his funeral?' He (the Imam) said, 'When Ghysl (bath) was complete fifty people testified by Allah that they did not know of him except good.' He (the Imam) said, 'When they performed *Salat* (prayer) for him then fifty people stood up and testified that they did not know anything about him except good.' Allah, most Majestic, most Glorious, then sent revelation to Dawud, *'Alayhi al-Salam*. It said, 'What has stopped you from attending the funeral of so and so?' He replied, 'It is because of the information You gave me about him.' He (the Imam) said, 'Allah, most Majestic, most Glorious, sent him revelation saying that it was true but a people of learned men and monks testified that they did not know about him anything except good, so I admitted their testimony about him and forgave (overlooked, covered) My knowledge about him.'”

End of the Book of Testimonies of the book al-Kafi compiled by abu Ja'far, Muhammad ibn Ya'qub al-Kuklayniy, followed by the Book of Adjudication and Rules, by the will of Allah, most High.

Part Six: The Book of Adjudication and Rules

Chapter 1 - The Authority to Govern Rests with the Imam Only

H 14227, Ch. 1, h 1

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn 'Isa from abu 'Abd Allah al-Mu'min from ibn Muskan from Sulayman ibn Khalid who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘Stay away from governing, it is only for the Imam who has the knowledge of adjudication with justice among the Muslims. It is for a Prophet or Executor of the will of a Prophet.’”

H 14228, Ch. 1, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ya'qub ibn Yazid from Yahya ibn al-Mubarak from 'Abd Allah ibn Jabalah from abu Jamilah from Ishaq ibn 'Ammar who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, once said to Shurayh, ‘You have sat in a place where no one can sit except a Prophet or an Executor of the will of a Prophet, or a wicked one.’”

H 14229, Ch. 1, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, appointed Shurayh as a judge with the condition that his judgments will take effect only after they are shown to him (Imam Ali, *'Alayhi al-Salam*).”

Chapter 2 - Kinds of Judges

H 14230, Ch. 2, h 1

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from his father in a *marfu'* manner who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Judges are of four kinds of whom three are in the fire and one is in the garden (paradises). There is a man who issues judgments unjustly and he knows it, so he is in the fire. There is a man who issues judgments unjustly but he does not know, he also is in the fire; and there is a man who issues judgments that are right but he does not have the knowledge, he also is in the fire. There is a man who issues the right kind of judgments, based on his right knowledge, thus he is in the garden (paradises).’

“He (the Imam), *‘Alayhi al-Salam*, has said, ‘Judgments are of two kinds: the judgments under rules of Allah and the judgments of ignorance. If one misses the law and judgment of Allah, he then has judged by the judgment of ignorance.’”

H 14231, Ch. 2, h 2

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from ibn Faddal from Tha‘labah ibn Maymun from abu Basir who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Judgments and laws are of two kinds: the judgment of Allah and the judgment of ignorance. Allah, most Majestic, most Glorious, has said, “. . . who is a better judge than Allah for a believing people.” (5:59) You all must bear testimony that Zayd ibn Thabit issued a judgment in matters of obligations according to the judgment of ignorance.’”

(In the case of a contracting slave-girl and her fornication Zayd judged opposite to the judgment of Ali, *‘Alayhi al-Salam*, in the time of ‘Uthman)

Chapter 3 - The Case of one who Judges by Means of what is other than what Allah, most Majestic, most Glorious, has Revealed

H 14232, Ch. 3, h 1

Ali ibn Ibrahim has narrated from his father from ibn Faddal from Tha'labah from Sabbah al-Azraq from Hakam al-Hannat from abu Basir from abu Ja'far, *'Alayhi al-Salam*, and Hakam from ibn abu Ya'fur from abu 'Abd Allah, *'Alayhi al-Salam*, who has narrated the following:

“The two Imam, *'Alayhim al-Salam*, have made this pronouncement. ‘One who issues judgment and he is of the people who possess whip or stick (government). Even though it is about two dirham but it is by means of something other than what Allah, most Majestic, most Glorious, has sent, he is in denial of what Allah, most Majestic, most Glorious, has sent to Muhammad, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.*”

H 14233, Ch. 3, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Muhammad ibn Humran from abu Basir who has narrated the following:

“I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, ‘One who issues judgment on the basis of something other than what Allah, most Majestic, most Glorious, has sent is in denial of the existence of Allah, the most Great.’”

H 14234, Ch. 3, h 3

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from certain persons of our people from 'Abd Allah ibn Kathir from 'Abd Allah ibn Muskan in a *marfu'* manner who has narrated the following:

“He (the Imam), *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said this *Hadith*. ‘One who issues judgment even about two dirham by means of injustice then applies it by force is of those to whom this verse of the Quran applies, “. . . those who issue judgment but not according to the laws of Allah, they are of the unbelievers.” (5:44) I then said, ‘How does he enforce on him?’ He (the Imam) said, ‘He is one who has the whip and jail. He issues judgment against him to agree with his judgment, otherwise, he beats him up with his whip and confines him in his jail.’”

H 14235, Ch. 3, h 4

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn 'Isa from 'Abd Allah al-Mu'min from Mu'awiyah ibn Wahab who has narrated the following:

“I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, ‘Any judge who issues a judgment between the two and makes a mistake, he falls into a depth farther than the sky.’”

H 14236, Ch. 3, h 5

A number of our people have narrated from Ahmad ibn Muhammad ibn 'Isa from al-Husayn ibn Sa'id from ibn Faddal from Dawud ibn Farqad who has narrated the following:

“A man narrated to me from Sa'id ibn abu al-Khasib al-Bajaliy who has said that once I was with ibn abu Layla' as a travelmate until we arrived in al-Madinah. When we were in the Masjid of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, Ja'far ibn Muhammad, *'Alayhim al-Salam*, came in. I then said to ibn abu Layla' to go to him (the Imam). He asked, ‘What will we do before him?’ I said, ‘Speak to him and ask him questions.’ He then said, ‘Stand up and allow us to go.’ We went before him (the Imam) and he asked me about my family and myself and asked, ‘Who is this man with you?’ I said, ‘This is ibn abu Layla', the judge of the Muslims.’ He (the Imam) then asked, ‘Are you ibn abu Layla' the judge of the Muslims?’ He replied, ‘Yes, I am he.’ He (the Imam) asked, ‘Do you take the assets of this and

give it to this one, (issue command to) kill and separate a man from his woman without being afraid of anyone?’ He replied, ‘Yes, I do so.’ He (the Imam) then asked, ‘By what means do you judge?’ He replied, ‘I judge by means of what has come to me from the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and from Ali, *‘Alayhi al-Salam*, from abu Bakr and ‘Umar.’ He (the Imam) asked, ‘Has it come to your notice that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, said, “Ali is the best among you to issue judgment.”’ He replied, ‘Yes, it has come to my notice.’ He (the Imam) asked, ‘Why then do you judge against the judgment of Ali, *‘Alayhi al-Salam*? You do it after knowing this fact. What will you say if an earth of gold will be brought and a sky of silver on one side? On the other hand the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, will hold your hand and make you stand before your Lord, and say, ‘This judged on the basis of something other than Your laws and judgment.’ The face of ibn abu Layla’ turned pale like saffron. He (the Imam) said to me, ‘Find another travelmate, otherwise, I will not speak to you, not even a word from my head.’”

Chapter 4(a) - One Who Issues Fatwa is Responsible

H 14237, Ch. 4a, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following: "Once abu 'Abd Allah, *'Alayhi al-Salam*, was in the group of the circle of Rabi'ah al-Ra'y when an Arab man came and asked Rabi'ah al-Ra'iy a question and he replied. When he became quiet the Arab man asked, 'Do you take responsibility for your answer?' He remained quiet and did not respond. He repeated the question and he gave a similar answer and the Arab man asked, 'Do you take the responsibility? But Rabi'ah al-Ra'y remained quiet. Abu 'Abd Allah, *'Alayhi al-Salam*, said to him that it is his responsibility. He said, 'Has He not said that everyone who issues a Fatwa is responsible for it?'"

H 14238, Ch. 4a, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ibn Ri'ab from abu 'Ubaydah who has narrated the following:

"Abu Ja'far, *'Alayhi al-Salam*, has said, 'If one issues fatwas without knowledge and guidance from Allah, all angels, of mercy and angels of suffering condemn him and the sin of those who follow his fatwas will be attached to him.'"

Chapter 4(b) - Accepting a Bribe for Issuing Judgments

H 14239, Ch. 4b, h 1

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from ‘Abd Allah ibn Sinan who has narrated the following:

“Once abu ‘Abd Allah, *‘Alayhi al-Salam*, was asked about a judge between two towns who receives his wages from al-Sultan. He (the Imam) said, ‘It is a sinful earning.’”

H 14240, Ch. 4b, h 2

A number of our people have narrated from Ahmad ibn Muhammad ibn ‘Isa from al-Husayn ibn Sa‘id from his brother al-Hassan from Zur‘ah from Sama‘ah, who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Accepting a bribe to issue a judgment is denial of the existence of Allah.’”

H 14241, Ch. 4b, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Sinan from ibn Muskan from Yazid ibn Farqad who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about *al-Suht* (sinful earning). He (the Imam) said, ‘It is accepting a bribe to issue judgments.’”

Chapter 5 - Committing Injustice in Issuing a Judgment

H 14242, Ch. 5, h 1

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, has said, ‘The hand of Allah waves over the head of a governor and a judge because of judgment; but when he acts unjustly then Allah leaves him to his own self.’”

H 14243, Ch. 5, h 2

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father from all from ibn Mahbub from abu Hamzah al-Thumaliy who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said among the Israelites there was a judge who judged with the truth. When his death approached, he said to his woman, ‘When I die, wash my body, shroud me, place me on my bed and cover my head so you do not see anything bad.’ When he died, she followed his instructions and waited for some time; then she opened his face to look at him and found a worm cutting his nostril. She was shocked because of it and at night he came in her dream and asked, ‘Did what you saw shock you?’ She replied, ‘Yes, it shocked me.’ He said, ‘That was because of your brother who had a dispute with another man and they came to me for judgment. Only in my heart, I said, ‘O Lord, make the right to be on his side.’ When they presented their case, the right was on the side of your brother, which I saw clearly in the rules of judgment. Just for what I said in my heart I face the suffering that shocked you even though it was in accordance with the truth.’”

Chapter 6 - The Undesirability of Sitting near the Unjust Judges

H 14244, Ch. 6, h 1

Ali ibn Ibrahim has narrated from his father from certain persons of our people from Muhammad ibn Muslim who has narrated the following:

“Once, in al-Madinah I was sitting before a judge, when abu Ja‘far and abu ‘Abd Allah, ‘*Alayhim al-Salam*, passed by. The next day I went to visit him (the Imam), he asked, ‘What was the gathering where I saw you?’ I said, ‘I pray to Allah to keep my soul in service for your cause, this judge honors me and sometimes I sit with him.’ He (the Imam) said, ‘What will protect you if condemnation falls up on such gathering to encompass you also?’”

Chapter 7 - The Undesirability of Taking a case before the Unjust Judges

H 14245, Ch. 7, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Mahbub from ‘Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Any believing person who takes another believing person before a judge or Sultan of injustice who then judges by means of something other than what Allah has sent, he becomes his (judge’s) partner in the sin.’”

H 14246, Ch. 7, h 2

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Yazid ibn Ishaq from Harun ibn Hamzah al-Ghanawiy from Hariz from abu Basir who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If anyone may have a dispute with his brother about a certain right, he then calls him before one of his brothers to judge for them but he refuses. He takes him before these ones, he will be like the one about whom Allah, most Majestic, most Glorious, has said, “. . . have you considered those who think they have believed in what Allah has sent before you, they like to seek judgment before the transgressors when they are commanded to reject the transgressors, the devil.” (4:60)’”

H 14247, Ch. 7, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa‘id from ‘Abd Allah ibn Bahr from ‘Abd Allah ibn Muskan from abu Basir who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . do not consume your wealth among yourselves in falsehood and throw them to the rulers.’ (2:188) He (the Imam) said, ‘O abu Basir, Allah, most Majestic, most Glorious, knows that among the nations there are unjust rulers who commit injustice. He has not thereby meant the rulers of justice but He has meant the unjust rulers. O abu Muhammad, if you have a certain right on a man and you call him before the judges of justice but he refuses and wants to take you before the unjust rulers and judges for judgment for him, he is one of those who has gone for justice before the transgressors. This is mentioned in the words of Allah, most Majestic, most Glorious. “. . . have you considered those who think they have believed in what Allah has sent before you, they like to seek judgment before the transgressors when they are commanded to reject the transgressors, the devil.” (4:60)’”

H 14248, Ch. 7, h 4

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali from abu Khadijah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, once said to me, ‘Beware no one among you must take one another before the people of injustice. You must find among yourselves one who knows certain things of our judgment; then you must appoint him to judge for you; I have made him to judge for you and you must seek adjudication before him.’”

H 14249, Ch. 7, h 5

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Muhammad ibn ‘Isa from Safwan from Dawud ibn al-Haseen from ‘Umar ibn Hanzalah who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about two of our people who have a dispute over a certain issue of religion or inheritance, and they go for judgment before the Sultan or a judge; if it is lawful. He (the Imam) said, ‘Whoever seeks judgment before *al-Taghut* (transgressors) who judges for him, whatever he then receives by such judgment is *al-suht* (sinful earning) even if it is his established

right; he has taken it through the judgment of *al-Taghut* (transgressors) when Allah has commanded to reject *al-Taghut*.' I then asked, 'What then should they do?' He (the Imam) said, 'You must find one among you who narrates our *Hadith* and has given thought about our lawful and unlawful matters and has learned our rules; then you must accept him as the judge among you; I have made him the judge and ruler over you. When he issues judgments according to our rules and it is not accepted from him, then the rule and laws of Allah are taken lightly and our rules are rejected. Those who reject us, they have rejected Allah and that is like taking things as partners of Allah.'"

Chapter 8 - Adjudication Disciplines

H 14250, Ch. 8, h 1

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from 'Amr ibn abu al-Miqdam from his father Salmah ibn Kuhayl who has narrated the following:

"I heard *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, saying to Shurayh, 'Keep an eye on those who delay payment of debts on them and on the procrastinators and on defending the rights of people against the capable and the affluent ones who throw the wealth of the Muslims to the ruling parties. Take the rights of people from them and sell for this purpose real properties and buildings; I heard the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, saying, "The procrastination of an affluent Muslim is injustice to the Muslim." Those who do not own real properties and homes or other assets, there is no way against them. You must take notice that people cannot be made to do the right thing except by stopping them from falsehood. Be comforting for the Muslims by the appearance of your face, words and sitting manners so that people with nearness to you cannot expect you to be unjust and your adversary loses hope of your justice. Make a plaintiff to take an oath along with testimony; it clears up the blindness and confusion and solidifies the judgment. You must take notice that Muslims are all just people toward each other except those whipped for penalty who have not repented, those well-known for presenting false testimony and a doubting pessimist. You must always stay away from censuring and hurting people in an adjudicating session, for conducting of which Allah has made the recompense obligatory with good rewards for those who render the right judgment. You must keep in mind that arranging a settlement is permissible among the Muslims, except a settlement that makes the lawful as unlawful and the unlawful as lawful. You must set a time limit for those who claim to have absent witnesses. If they present such witnesses then restore their rights; but if they did not present such witnesses, then you must issue judgment against them. You must never issue a judgment in equitable retaliation or a penalty of the penalties, which Allah has sanctioned for the rights of the Muslims without first showing it to me, by the will of Allah. Do not sit (to eat) in the adjudicating session until you complete eating.'"

H 14251, Ch. 8, h 2

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, 'One whose task is adjudication he must not take his seat to adjudicate when angry.'"

H 14252, Ch. 8, h 3

Through the same chain of narrators as that of the previous *Hadith*, the following is narrated:

"*'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, has said, 'One who has the task of adjudication must comfort people by means of his gestures, look and seating positions.'"

H 14253, Ch. 8, h 4

Through the same chain of narrators as that of the previous *Hadith*, the following is narrated:

"A man once became a guest of *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, and stayed with him for several days. He then presented a case before him (the Imam) for adjudication, which he had not mentioned to him (the Imam) before. He (the Imam) asked, 'Are you the plaintiff?' The man replied, 'Yes, I am the plaintiff.' He (the Imam) said, 'You must move in another place for lodging; the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their*

services to Your cause, has prohibited entertaining a plaintiff as a guest without the presence of the defendant.’”

H 14254, Ch. 8, h 5

A number of our people have narrated from Ahmad ibn abu ‘Abd Allah in a *marfu*‘ manner who has narrated the following:

“‘*Amir al-Mu’minin, Ali, ‘Alayhi al-Salam, once said to Shurayh, ‘You must not please anyone in your adjudicating session, and if you become angry, you must stand up and must not issue a judgment when you are angry.’* Abu ‘Abd Allah, ‘*Alayhi al-Salam, has said that the Messenger of Allah, O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause, has said, ‘The tongue of a judge is behind his heart. If it is for him, he speaks; and if it is against him, he remains quiet.’”*

H 14255, Ch. 8, h 6

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hajjal from Dawud ibn abu Yazid from the one who had heard from him (the Imam) who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam, has said, ‘If a judge, to those on his right or left side, says, “What do you think, what do you say?”* He is condemned by Allah, the angels and all people. Why must he not move away and make them sit in his place?’”

Chapter 9 - Judgments must be Issued on the Basis of Testimony and Oath

H 14256, Ch. 9, h 1

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma`il has narrated from al-Fadl ibn Shadhan from all from ibn abu `Umayr from Sa`d ibn Hisham ibn al-Hakam who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘I must judge among you on the basis of evidence and oath. Certain ones among you make more mistakes in their argument than others. For whomever I cut off (takes away) from the assets of his brother, I only cut off for him thereby a piece of the fire.’”

H 14257, Ch. 9, h 2

Ali has narrated from his father from certain persons of his people from `Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja`far, *‘Alayhi al-Salam*, has said that once one of the prophets complained before his Lord saying, ‘How can I judge in matters about which I am not informed how to deal with.’ He said, ‘Leave them for Me and add them to My name by which they must swear and take an oath.’”

H 14258, Ch. 9, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa`id from ibn Faddal ibn Ayyub from Aban ibn `Uthman from those who narrated to him who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said that it is in the book of Ali, *‘Alayhi al-Salam*, that one of the Prophets complained before his Lord about adjudication saying, ‘How can I judge about what my eyes have not seen and my ears have not heard?’ He told him to judge among them by means of evidence and testimony and make them to swear by His name. He (the Imam) then said that Dawud *‘Alayhi al-Salam*, once said, ‘O Lord, show me the reality as it is so I can judge accordingly.’ The Lord said, ‘You will not be able to bear it.’ He insisted that the reality be shown to him. A man then came with a complaint against another man for taking his assets. Allah, most Majestic, most Glorious, revealed to Dawud *‘Alayhi al-Salam*, that the plaintiff has killed the father of the defendant and has taken his assets. He then issued a judgment that required the plaintiff to be executed and his assets must be given to the defendant. He (the Imam) said, ‘People were confused and they spoke about it until it reached Dawud *‘Alayhi al-Salam*. He felt uncomfortable about it so he prayed before the Lord to remove what he had asked for (showing the reality). Allah, most Majestic, most Glorious, then commanded him to judge on the basis of evidence and asking them to swear by His name.’”

H 14259, Ch. 9, h 4

It is narrated from the narrator of the previous *Hadith* from al-Nadr ibn Suwayd from Hisham ibn Salim from Sulayman ibn Khalid who has narrated the following:

“Abu `Abd Allah, *‘Alayhi al-Salam*, has said that it is in the book of Ali, *‘Alayhi al-Salam*, that one of the Prophets complained before his Lord saying, ‘O Lord, how can I judge among people what I have not witnessed?’ Allah, most Majestic, most Glorious, then sent him revelation that said, ‘Judge among them by means of my book and making them to swear by My name.’ He (the Imam) said, ‘This is in the case of those who cannot establish evidence and testimony.’”

Chapter 10 - Establishing Testimony is on the Plaintiff and Oath is on the Defendant

H 14260, Ch. 10, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy from Jamil and Hisham who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘Establishing testimony (the burden of proof) is on the plaintiff and oath is on the defendant.’”

H 14261, Ch. 10, h 2

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from abu 'Abd Allah, ibn Bukayr from abu Basir who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘In the matters of your blood (lives), Allah has judged differently from His judging in matters of your assets. In matters of your assets and belongings, He has judged by means of placing the establishment of testimony (burden of proof) on the plaintiff and oath on the defendant. In matters of your blood (lives), He has placed establishment of testimony (burden of proof) on the defendant, and oath on the plaintiff so that the blood (life) of a Muslim is not invalidated.’”

Chapter 11 - Complaint against a Deceased

H 14262, Ch. 11, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isa ibn 'Ubayd from Yasin who has said that narrated to him 'Abd al-Rahman ibn abu 'Abd Allah who has narrated the following:

“I once said to the Shaykh, *'Alayhi al-Salam*, to instruct me about the case of a man who claims against another for owing him a certain right but has no testimony to prove it. He (the Imam) said, ‘The defendant then must take an oath; and if he did so then he does not have any right, if he did not take an oath his right is established. If the defendant has died and testimony is established against him, then the plaintiff must take an oath by Allah, besides whom no one deserves to be worshipped, that so and so has died and that his right is on him. If he takes such an oath, otherwise, he has no right; we do not know, perhaps the deceased may have paid him in the presence of witnesses that we do not know their place or without testimony, before his death. For this reason oath is on the plaintiff with testimony, but if he claims without testimony he has no right because the defendant is not living; had he been living he had to take an oath or pay the right or turn the oath on the plaintiff in which case the right would not have been proved against him.’”

Chapter 12 - One who Does not have Testimony, then Oath is Turned on Him

H 14263, Ch. 12, h 1

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from al-'Ala' from Muhammad ibn Muslim who has narrated the following:

“This is about the case of a man who brings a complaint against another but does not have testimony. One of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, has said, ‘He must ask him (defendant) to take an oath; and if he turns the oath on the plaintiff who does not take oath, then he has no right.’”

H 14264, Ch. 12, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Isa from al-Husayn ibn Sa'id from al-Nadr ibn Suwayd from al-Qasim ibn Sulayman from 'Ubayd ibn Zurarah who has narrated the following:

“About the case of a man who brings a complaint against another but does not have testimony, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘He must ask him (defendant) to take an oath, and if he turns the oath on the plaintiff who does not take the oath, then he has no right.’”

H 14265, Ch. 12, h 3

Ali ibn Ibrahim has narrated from Muhammad ibn 'Isa from Yunus from the one who narrated to him who has narrated the following:

“He (the Imam), *'Alayhi al-Salam*, has said, ‘There are four ways to prove a case. One way to prove it is the testimony of two just men, if this is not available, then one man and two women, if this is not available, then it is the testimony of one man and the oath of the plaintiff; if there is no witness then the oath is on the defendant. If the defendant does not take the oath and turns it to plaintiff then it is obligatory on him to take the oath to receive his right, and if he declines, there is nothing for him.’”

H 14266, Ch. 12, h 4

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah, from certain persons of his people from Aban from a man who has narrated the following:

“This is about the case of a man who claims to have a right on another man but does not have any testimony. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘He can ask the defendant to take an oath, but if he declines and asks the plaintiff to take an oath, then it is obligatory on him to take an oath to receive his right.’”

H 14267, Ch. 12, h 5

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hisham ibn Salim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said that the oath can be turned to the plaintiff.”

Chapter 13 - One who has Testimony there is no Oath on Him

H 14268, Ch. 13, h 1

Ali ibn Ibrahim has narrated from his father from certain persons of his people from 'Asem ibn Humayd from Muhammad ibn Muslim who has narrated the following:

“I once asked abu Ja‘far, *'Alayhi al-Salam*, about the case of a man who has testimony; if it is obligatory on him to take an oath. He (the Imam) said, ‘No, it is not obligatory on him.’”

H 14269, Ch. 13, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam or others from Aban from abu al-‘Abbas who has narrated the following:

“Abu ‘Abd Allah, *'Alayhi al-Salam*, has said, ‘If a man presents testimony to prove his right, it then is not obligatory on him to take an oath; but if he does not present testimony and the defendant turns the oath to him and he (plaintiff) declines to take an oath, he then does not have any right.’”

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Aban from a man from abu ‘Abd Allah, *'Alayhi al-Salam*, has narrated a similar *Hadith*.

Chapter 14 - If one Agrees with an Oath that is Taken, it Dismisses his Claim even if he has Testimony

H 14270, Ch. 14, h 1

Ali ibn Ibrahim has narrated from his father from ibn Faddal from Ali ibn ‘Uqbah from Musa ibn ‘Ukayl al-Numayriy from ibn abu Ya’fur who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If a plaintiff agrees with the defendant’s taking an oath who then swears that the plaintiff does not have any right on him, it abolishes the right of the plaintiff and the case is dismissed.’ I then asked, ‘What happens if he can present just testimony?’ He (the Imam) said, ‘Yes, even so, an oath by Allah fifty times abolishes and invalidates his claim because of which he had asked for an oath.’”

H 14271, Ch. 14, h 2

Ali ibn Ibrahim has narrated from his father and Muhammad ibn `Isma‘il has narrated from al-Fadl ibn Shadhan all from ibn abu ‘Umayr from Ibrahim ibn ‘Abd al-Hamid from Khidr al-Nakha’iy who has narrated the following:

“About the case of a man who has a certain right on another man who denies it, abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If he has made him to take an oath, then he does not have any right; but if he has not made him to take an oath, then his right is in place.’”

H 14272, Ch. 14, h 3

Ali has narrated from his father from ‘Abd al-Rahman ibn Hammad from Ibrahim ibn ‘Abd al-Hamid from certain persons of his people who has narrated the following:

“This is about the case of a man to whom another man owes a certain amount of assets who denies and takes an oath that he does not owe him anything; if he (plaintiff) must be content with it or there is any remedy for him? He (the Imam), *‘Alayhi al-Salam*, has said, ‘He does not have any right thereafter and so also is the case if he (plaintiff) waives it for the sake of Allah, he does not have any right to ask for it anymore.’”

Chapter 15 - The Case of Two People who Claim for Something Each one with Testimony

H 14273, Ch. 15, h 1

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Safwan from Shu'ayb from abu Basir who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who comes to a certain people and claims the house. It is in their possession but he claims to be his house. The one who has the house in his possession presents testimony that he has inherited it from his father but does not know more about it. He (the Imam) said, ‘The party that has the greater degree of testimony is asked to take an oath and it then is given to him.’ He (the Imam) then mentioned that once a certain people came before Ali, *‘Alayhi al-Salam*. They had a dispute over a mule. There was testimony that this party had bred it in their barn, which they did not sell, or gift; and the other party presented testimony that they had bred it in their barn and had not sold or gifted. He (the Imam) issued a judgment in favor of the party with a greater degree of testimony and asked him to take an oath. I then asked about the one who claims a house to be his house. He (the Imam) said, ‘If the father of the one who lives there had taken it without price and the one living in it did not present testimony but that he has inherited it from his father’, he (the Imam) said, ‘if this is the case it then belongs to the one who has claimed it and has presented testimony.’”

(In al-Masalik it is said that when testimonies contradict and the asset is in their hand they each receive one-half)

H 14274, Ch. 15, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Khashshab from Ghiyath ibn Kallub from Ishaq ibn ‘Ammar who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that once two men presented their case before *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, about a stumper in their hand and each presented testimony that it was bred in his facilities. He (the Imam) then asked them to take an oath. One party did not take oath, then he (the Imam) issued a judgment in favor of the one who had taken the oath. It then was asked, ‘What would have happened if it was not in the hand of anyone of them and both presented testimony?’ He (the Imam) said, ‘I would ask them to take an oath. If one party took the oath and the other refused, the one who took the oath wins the case. If both of them took oath I will make it for them half and half.’ It then was asked, ‘What happens if it is in the hand of one of them and they both present testimony?’ He (the Imam) said, ‘I would issue a judgment in favor of the one who has it in his hand and takes an oath.’”

H 14275, Ch. 15, h 3

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Washsha’ from Aban from ‘Abd al-Rahman ibn abu ‘Abd Allah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, whenever two people came before him with just witnesses in equal numbers, would cast a raffle about who must take the oath.’ He (the Imam) said that he (the Imam) would say, ‘O Lord of the seven heavens, whoever is right then make it available for him’ and he would decide in favor of the one whose raffle came out for taking the oath; if he took the oath.’”

H 14276, Ch. 15, h 4

It is narrated from the narrator of the previous *Hadith* from Mu‘alla’ ibn Muhammad ibn Muhammad from al-Washsha’ from Dawud <https://downloadshiaabooks.co>

ibn Sarhan who has narrated the following:

“About the case of two witnesses who testify about one thing and two others testify differently, abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that a raffle must be arranged and whoever’s name comes out to take an oath then judgment must be issued in his favor.”

H 14277, Ch. 15, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from abu Jamilah from Sammak ibn Harb from Tamim ibn Tarafah who has narrated the following:

“Once, two men recognized a camel and each one presented testimony. ‘*Amir al-Mu’minin*, Ali, ‘*Alayhi al-Salam*, made it half and half for them.”

H 14278, Ch. 15, h 6

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Yahya from Ghiyath ibn Ibrahim who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that once two men presented their case before ‘*Amir al-Mu’minin*, Ali, ‘*Alayhi al-Salam*, about a stumper and both presented testimony that he has bred it in his facilities. He (the Imam) issued a judgment in favor of the one who had it in his possession saying, ‘Had it not been in his possession I would make it one-half for each one of them.’”

Chapter 16 - Another Chapter

H 14279, Ch. 16, h 1

Ali ibn Ibrahim has narrated from his father from certain persons of our people from Muthanna' al-Hannat from Zurarah who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of two men who testify in favor of a man to confirm that so and so owes him fifty dirham, then two other men testify and state that he owes him one hundred dirham and all of them testify at the same place. He (the Imam) said, ‘I (in such case) arrange a raffle and whoever’s name (of the defendant or the plaintiff) comes out I would ask him to take an oath to confirm that he has spoken the truth.’”

H 14280, Ch. 16, h 2

Ali has narrated from his father from ibn Faddal from Dawud ibn abu Yazid al-'Attar from certain persons of his people who has narrated the following:

“This is about the case of a man who has a woman but a man comes with witnesses to prove her to be his woman, yet others come with testimony to prove her to be the woman of so and so and they all are just witnesses. Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘A raffle must be arranged and whoever’s name comes out is the rightful party with priority to her over the others.’”

Chapter 17 - Another Chapter

H 14281, Ch. 17, h 1

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from ibn Ri'ab from Humran ibn 'Ayan who has narrated the following:

“I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a girl who is not mature. She is about seven years old. She lives with a man and a woman. The man claims her to be his slave and the woman claims her to be her daughter. He (the Imam) said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, had issued a judgment about it. I then asked, ‘How did *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, judge it?’ He (the Imam) said that he would say, ‘People are all free except those who confess to their slavery in their maturity, or testimony is established in favor of one who claims a slave or slave-girl in which the slave or slave-girl must be given to the plaintiff as his slave.’ I then asked, ‘What do you say about it?’ He (the Imam) said, ‘I would ask the one who claims her to be his slave-girl to present testimony. If they testify that she is his slave-girl and have no knowledge if he has sold her or has gifted, then I would give her to him unless the woman presents testimony that she is her daughter and free like her mother; then she is taken from the man and is given to her.’ I then asked, ‘What happens if the man did not present testimony to prove her as his slave-girl?’ He (the Imam) said, ‘She is then taken away from him. If the woman presents testimony to prove her to be her daughter, she then is given to her and if neither one of the man and woman presented testimony to prove their claim, she then is left alone to go wherever she wants.’”

Chapter 18 - The Rare Ahadith

H 14282, Ch. 18, h 1

Ali ibn Ibrahim has narrated from his father and a number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub from abu Hamzah who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that once Dawud *‘Alayhi al-Salam*, asked his Lord to show him one of the cases of the next life being judged. Allah, most Majestic, most Glorious, sent him revelation. It said, ‘O Dawud, what you have asked Me is something about which no one of My creatures has known. It is not proper for any of My creatures to judge in that manner besides Me.’ He (the Imam) said that this did not stop him from asking Allah to show him a case and judgment of the cases and judgments of the next life. He (the Imam) said that Jibril, *‘Alayhi al-Salam*, then came to him and said, ‘O Dawud, you had asked your Lord for something that no other Prophet before you had asked. What you have asked is not known to anyone of His creatures and it is not proper for anyone to judge in that manner besides Him. However, Allah has accepted your prayer and has granted what you wanted. O Dawud, the case of the first two parties that will come to you tomorrow, is one of the cases of the next life.’ He (the Imam) said that next day when Dawud *‘Alayhi al-Salam*, took his seat in the adjudicating office, one old man who had grabbed a young boy with a bunch of grapes in his hand came to him. The old man said, ‘O Prophet of Allah, this young man entered my garden, destroyed my vineyard, ate from them without my permission and this bunch is what he has taken without my permission.’ Dawud then asked the young man, ‘What do you say?’ The young man confessed that he has done so. Allah, most Majestic, most Glorious, sent revelation to Dawud and said, ‘If I reveal before you a case of the cases of the next life and you judge between the old man and the young man your heart cannot bear it and your people will not agree. O Dawud, this old man entered on the father of this boy in his garden and killed him, usurped his garden, took from him forty thousand dirham and buried it on the side of the garden. Therefore, you must give a sword to the young man and command him to strike the neck of the old man, give the garden back to him, command him to dig such and such place and take his assets thereof. Dawud, *‘Alayhi al-Salam*, was shocked. He called the scholars of his companions, informed them of the news and then approved to issue the judgment as Allah, most Majestic, most Glorious, had revealed to him.’”

H 14283, Ch. 18, h 2

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Musa ibn Sa‘dan from al-Husayn ibn abu al-‘Ala’ from Ishaq who has narrated the following:

“This is about the case of a man to whom one man sends thirty dirham in a piece of cloth, another man sends him twenty dirham in a piece of cloth and they become mixed so much that he cannot distinguish. Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘He must give three-fifths of the value to the man of thirty dirham and two-fifths of the value to the other one.’ I then said the man with thirty has said to the man with twenty, take whichever you like. He (the Imam) said, ‘He has been fair.’”

H 14284, Ch. 18, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-‘Abbas ibn Ma‘ruf from abu Shu‘ayb al-Muhamiliy al-Rifa‘iy who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who forms a contract with another man. It requires him to dig a well of ten heights of a man deep for ten dirhams of which he digs one height and could not do the rest. Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘He deserves one part out of fifty-five parts of a ten dirhams.’”

H 14285, Ch. 18, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn Yazid from abu Mu'alla', who has narrated the following:

"Abu 'Abd Allah, *'Alayhi al-Salam*, has said that once a woman was brought before 'Umar. She was attached to a man of al-Ansar (people of al-Madinah) and loved him but was not able to achieve from him what she wanted. She plotted to use the white part of the egg, after removing the yolk, poured it on her cloth between her thighs and came to 'Umar saying, 'O `Amir al-Mu'minin, this man in such and such place caught, raped and disgraced me.' 'Umar then intended to subject al-Ansari to applicable penalty, but he (the accused) was swearing and denying the accusation, when `Amir al-Mu'minin, Ali, *'Alayhi al-Salam*, was also present, saying, 'O `Amir al-Mu'minin, why are you quiet in my case?' When the man pleaded a great deal 'Umar then said to `Amir al-Mu'minin, Ali, *'Alayhi al-Salam*, 'O abu al-Hassan, what do you say about him?' `Amir al-Mu'minin, Ali, *'Alayhi al-Salam*, looked at the white substance on her cloth between her thighs and he (the Imam) charged her with plotting a trick. He (the Imam) asked to bring water in boiling condition. When water in boiling condition was brought, he (the Imam) asked them to pour it on the white substance, which turned into a cooked shape. `Amir al-Mu'minin, Ali, *'Alayhi al-Salam*, picked up (a part) thereof, placed in his mouth and after recognizing the test, threw it out and then turned to the women until she confessed. Thus Allah, most Majestic, most Glorious, saved the man of al-Ansar from penalty of 'Umar.'"

H 14286, Ch. 18, h 5

Ali ibn Ibrahim has narrated from his father from certain persons of his people from Mansur ibn Hazim who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of ten people sitting in a certain place, among them there was a bag with a thousand dirham in it and they asked each other about whose bag is it. No one claimed it except one man. To whom does it belong?' He (the Imam) said, 'It belongs to the one who claimed it.'"

H 14287, Ch. 18, h 6

Ali ibn Muhammad has narrated from Ibrahim ibn Ishaq al-Ahmar who has said that narrated to me 'Isa ibn Yusuf ibn Muhammad a relative of Sa'id al-Amraniy who has said that narrated to him Suwayd ibn Sa'id from 'Abd al-Rahman ibn Ahmad al-Farsiyy from Muhammad ibn Ibrahim ibn abu Layla' from 'Aytham ibn Jamil from Zuhayr from abu Ishaq al-Sabi'iy from Asem ibn Hamzah al-Saluliy who has said the following:

"I heard a boy in al-Madinah saying, 'O best of judges, judge between me and my mother.' 'Umar ibn al-Khattab asked, 'O boy, why do you pray against your mother?' He replied, 'O `Amir al-Mu'minin, she bore me in her womb for nine months and breastfed me until I began to move, learn to distinguish between good and bad, right and left. She then expelled me and disowned me as if she did not know me at all.' 'Umar asked, 'Where is your mother?' He replied, 'She is in Saqifah (meeting place) of banu so and so.' 'Umar commanded to bring her to him. They brought her before him with her four brothers and forty people who took an oath that she did not know the boy. The boy is an oppressive and aggressive boy who wants to disgrace her in her tribe, that she is a girl from Quraysh who has not married anyone and that she still has the seal of the Lord, on her. 'Umar then asked the boy, 'What do you say?' He replied, 'O `Amir al-Mu'minin, by Allah she is my mother who bore me for nine months in her womb, breastfed me for two years. When I began to move, learned what is good and what is bad and which is my right and my left she expelled me, disowned me and thought that she did not know me.' 'Umar then asked her, 'What does the boy say?' She replied, 'O `Amir al-Mu'minin, I swear by the One who is hidden in light, no eye can see Him and by the right of Muhammad and his progeny, that I do not know him and I do not know to which people does he belong except that he is a boy

whose claim disgraces me in my tribe. I am a girl from Quraysh and I am not yet married. I still have the seal (virginity) from my Lord on me.’ ‘Umar asked, ‘Do you have witnesses?’ She replied, ‘Yes, these people are my witnesses.’ Forty people came forward and took oath before ‘Umar that the boy’s claim was false, that he wanted to disgrace her in her tribe, that she is a girl from Quraysh who is not married yet and that she still has the seal (virginity) from the Lord on her.’ ‘Umar then ordered the boy to be jailed so that he can examine the witnesses if they are balanced then subject the boy to the penalty applicable to a falsely accuser. As they took the boy to jail ‘*Amir al-Mu’minin*, Ali, ‘*Alayhi al-Salam*, met them on the way and the boy cried, ‘O son of the uncle of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, I am an oppressed boy.’ He repeated the words of ‘Umar and said that ‘Umar has commanded to imprison him. Ali, ‘*Alayhi al-Salam*, then told them to return him back to ‘Umar. When they returned, ‘Umar said, ‘I commanded you to jail him but you have brought him back to me.’ They replied, ‘O ‘*Amir al-Mu’minin*, Ali ibn abu Talib has told us to return him back to you and we have heard you saying, “Do not disobey Ali ibn abu Talib, ‘*Alayhi al-Salam*.”’ At this time Ali, ‘*Alayhi al-Salam*, arrived and asked to bring the mother of the boy before him. She was then brought before Ali, ‘*Alayhi al-Salam*. Ali, ‘*Alayhi al-Salam*, asked, ‘What do you say, O boy?’ He repeated his words. Ali ‘*Alayhi al-Salam*, then asked ‘Umar, ‘Do you allow me to judge among them?’ ‘Umar replied, ‘Allah is free of all defects, how will I not allow you when I heard the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, saying, “The most knowledgeable among you is Ali ibn abu Talib.”’ Ali, ‘*Alayhi al-Salam*, then asked the woman, ‘Do you have witnesses?’ She replied, ‘Yes,’ and forty swearing men came forward who presented the testimony that they had done before. Ali, ‘*Alayhi al-Salam*, said, ‘Today I will judge with a judgment that will be acceptable to the Lord from above the throne in the way my beloved, the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has taught me.’ Ali, ‘*Alayhi al-Salam*, then asked her, ‘Do you have a guardian?’ She replied, ‘Yes, these are my brothers.’ He (the Imam) then asked her brothers, ‘Can I command your sister?’ They replied, ‘Yes, O son of the uncle of Muhammad, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, your command on us and on our sister is obligatory.’ Ali, ‘*Alayhi al-Salam*, said, ‘I hereby appoint Allah as witness and all the Muslims present that I pronounce this boy and this girl as wife and husband for a *mahr* (dower) of four hundred dirham which is payable from my assets. O Qanbar, bring for us the dirhams.’ Qanbar then brought the dirhams. He placed in the hand of the boy and said, ‘Take it, place it in the lap of your woman, and do not come back to us without signs of being married, after Ghushl (bath)’ The boy took the dirhams and placed them in the lap of the woman, then asked her to stand up. The woman cried, ‘It is the fire, it is the fire. O son of the uncle of Muhammad, why do you give me in marriage to my own son, this one? This by Allah is my son. My brothers gave me in marriage to a *Hajin* (ignoble) man from whom I gave birth to this boy. When he grew up, they commanded me to disown and expel him. This by Allah is my son, and my heart burns for my son in regret.’ She then took the hand of the boy and left and ‘Umar said aloud, ‘Woe is you O ‘Umar, if Ali would have not been present ‘Umar would have been destroyed.’”

H 14288, Ch. 18, h 7

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from Muhammad ibn Ali from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that once a woman was brought before ‘Umar who was married to an old man who when going to bed with her had died on her belly. When she gave birth to a boy, his sons claimed that she has committed fornication and presented testimony against her. ‘Umar

commanded to stone her to death. Ali, *'Alayhi al-Salam*, passed by and she said, 'O son of the uncle of the Messenger of Allah, O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause, I have a proof.' He (the Imam) said, 'Show it to me.' She give a document to him (the Imam) and he read it and said, 'This woman is informing you about the day she became married, the day she went to bed and how the sexual intercourse took place. You must return the woman back.' The next day he called the children of the same age along with the disputed child and asked them to play until they were tired. He (the Imam) told them to sit down until they had taken their places, then he (the Imam) called them to get up. The children stood up but the (disputed) child when getting up had to support himself by placing both of his palms on the ground. Ali, *'Alayhi al-Salam*, then made him to inherit his father and whipped his brothers one by one of falsely accusing his mother. 'Umar then asked him (the Imam), 'How did you do it?' He (the Imam) said, 'I found out the weakness of the old man in the boy's seeking support from his palms when getting up to stand upright.'"

H 14289, Ch. 18, h 8

Ali ibn Ibrahim has narrated from his father from 'Abd Allah ibn 'Uthman from a man who has narrated the following: "Abu 'Abd Allah, *'Alayhi al-Salam*, has said that in the time of the government of Ali, *'Alayhi al-Salam*, a man from the mountains with his slave went for al-Hajj. His slave committed a sin and his master beat him as a measure for discipline. He (the slave) said, 'You are not my master. I am your master.' They continued threatening each other. He told him, 'Wait until our arrival in al-Kufah, O enemy of Allah, and I will take you before *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*.' When they arrived in al-Kufah, they came to *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, and the one who had beaten the slave said, 'I pray to Allah to keep you well, this is my slave. He committed a sin and I beat him for discipline but he jumped on me.' The other one said, 'He by Allah is my slave. My father sent him for me for guidance but he jumped on me to claim and take away my assets.' They each began to swear and the other to refute. He (the Imam) told them to leave for the night, be truthful and come to me with the truth. The next day *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, asked Qanbar to make two holes in the wall. He (the Imam) said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, in the morning would remain reciting prayer after his morning *Salat* (prayer) until the sun would rise by the length of a spear. The two men then came and people gathered. They said that there is a case like no other case before him (the Imam), it is difficult and he (the Imam) may not be able to solve it. He (the Imam) then asked them, 'What do you say?' Each one swore and claimed that the other man is his slave. He (the Imam) then told them, 'You both stand up. I do not think you are speaking the truth.' He then told one of them to place his neck in the hole in the wall and pull out his head from the other side. Then he told the other one to do the same thing. He (the Imam) said, 'O Qanbar, bring for me the sword of the Messenger of Allah, O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause, quickly and of the two strike down the neck of the slave one.' He (the Imam) said that the slave quickly pulled his head out of the hole. Ali, *'Alayhi al-Salam*, asked him (slave), 'Did you not think that you were not a slave?' The other one remained with his head in the hole. He then said, 'Yes, but he beat me up and transgressed against me.' He (the Imam) said that *'Amir al-Mu'minin*, Ali, *'Alayhi al-Salam*, prepared a document for him and handed over the slave to him (the slave-master)."

H 14290, Ch. 18, h 9

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Mu'awiyah ibn Wahab who has narrated the following: "Abu 'Abd Allah, *'Alayhi al-Salam*, has said that once a girl was brought before 'Umar ibn al-Khattab

and testimony was presented against her for committing fornication. Her story was that she was an orphan with a man who very often remained absent from his family. The orphan girl matured and the woman feared her husband's being attracted to the young girl. She called certain of her neighbor women to hold the girl and she with her finger destroyed the virginity of the young girl in the absence of her husband and accused her of committing fornication, presented testimony of her neighbor women, who had helped her, before 'Umar who did not know how to deal with the case. 'Umar then asked the people, 'Allow us to go before Ali ibn abu Talib, *'Alayhi al-Salam.*' They came to Ali, *'Alayhi al-Salam,* and told him (the Imam) the story. He (the Imam) asked the wife of the man if she had testimony and evidence. She said, 'I have witnesses. These are my neighbors who testify against her about what I have said' and she brought them in. Ali, *'Alayhi al-Salam,* took the sword out of its sheath and placed it before him. He (the Imam) commanded to keep each one of them in a separate home. He (the Imam) called the woman of the man and questioned her in several ways but she remained firm on her accusation in her position. He (the Imam) then returned her to her room, called another one of the witnesses when he was sitting with his legs folded backward, and said, 'Do you know that I am Ali ibn abu Talib and this is my sword. The woman of the man has said what she said and turned to the truth. I granted her amnesty but if you will not tell me the truth I will fill you up with the sword.' She then turned to 'Umar and said, 'O *'Amir al-Mu'minin,* will you grant me amnesty?' *'Amir al-Mu'minin,* Ali, *'Alayhi al-Salam,* said, 'Tell the truth.' She said, 'No, by Allah, when she saw the beauty of the young girl, she feared that her husband may become attracted to her and that may destroy her relation with him. She then made her drink an intoxicating drink, called us to hold her down and she then destroyed her virginity with her finger.' Ali, *'Alayhi al-Salam,* said *Takbir* (Allah is great beyond description). He (the Imam) then said, 'I am the first one to separate the witnesses from each other besides Daniel, the Prophet.' He then subjected the women to the penalty applicable to falsely accusers and made all of them to pay *mahr* (dower) of the girl, which was four hundred dirham. He (the Imam) commanded the woman to be divorced by her husband and gave the girl in marriage to him. Ali, *'Alayhi al-Salam,* paid the *mahr* (dower) for him. 'Umar then asked, 'O abu al-Hassan, tell us about the story of Daniel. Ali, *'Alayhi al-Salam,* said that Daniel was an orphan, a boy without parents. Among the Israelites, there was an old woman who cared for him. One of the kings of the Israelites had two judges who had a virtuous friend. Their friend had a beautiful woman. He would meet the king and speak to him. The king needed a man to send for a task so he asked the judges to find for him someone for the task. They said that so and so is proper for this task. The man then said to the two judges, 'I ask you to look after the welfare of my wife in my absence.' They said, 'Yes, we will do so.' The man left and the two judges would go to the door of their friend at certain times and they fell in love with his woman. They tried to seduce her but she refused. They said to her, 'By Allah, if you do not agree with us we will testify before the king against you for fornication, then you will be stoned to death.' She said, 'You can do what you want.' They went to the king, informed him of their story, and testified before him against her for her committing fornication. The king was troubled a great deal with sadness. He also liked her. He then said to them, 'Your words are acceptable but stone her to death after three days.' He called people of the town where he lived to attend the stoning to death of so and so worshipper woman because of her committing fornication and that the two judges have testified against her, so great many people gathered. The king asked his vizier for help who said, 'I have no way out of this.' The vizier on the third day went out and it was the last day for her when he saw children playing naked and among them was Daniel whom he did not know. Daniel said to the children, 'O children allow me to be the king. You, so and so pretend to be the worshipper woman and so and so with so and so be the two witnessing judges against her.' He collected soil, made a sword out

of a piece of reed, and told the children, 'Take the hand of this and move him away to so and so place.' He then called the other and said to him, 'Speak the truth because if you did not speak the truth I will put you to death.' The vizier standing listened and watched it all. He said, 'I testify that she committed fornication.' He asked, 'When was it?' He replied, 'It was on so and so day.' He then said, 'Take him away to his place and bring the other one.' They took him away and brought the other one. He asked, 'What do you say and how you testify?' He said, 'I testify that she committed fornication.' He then asked, 'When was it?' He then asked, 'With whom did she commit fornication?' He replied, 'He was so and so son of so and so.' He asked, 'Where did it happen?' He replied, 'It happened in such and such place.' Thus they contradicted each other's testimony and Daniel said, '*Takbir* (Allah is great beyond description) they have testified falsely. O so and so announce among people that they have testified falsely against her so come to witness their death as their penalty.' The vizier quickly went to the king and informed him of his experience. He called the two judges and they contradicted each other in their testimony just as the children had found. The king announced among people to witness their (the two judges') penalty in the form of death.'"

H 14291, Ch. 18, h 10

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from 'Abd al-Rahman ibn al-Hajjaj who has narrated the following:

"I once heard ibn abu Layla' speaking to his people. He said, 'About the case of two men of whom one during a journey for their lunch took out of his supplies five loafs of bread, the other one took out three and a passerby, whom they invited joined them for lunch, ate with them so they finished all the loafs. The passerby gave them eight dirham for what he ate of their food. The owner of three said to the owner of five to divide it into half and half among them but the owner of five said that each one must take a number of dirham equal to the number of their bread loafs used. He said that they went to 'Amir al-Mu'minin, Ali, 'Alayhi al-Salam, who listened to their story and told them to reach a settlement in their small case. They insisted that he must judge among them with truth. He gave seven dirham to the owner of five and one dirham to the owner of three. He (the Imam) then asked, 'Is it not the case that one of you took out five and the other took out three loafs of bread from his supplies?' They replied, 'Yes, that is true.' He (the Imam) then asked, 'Did your guest not eat equal to what each one of you did?' They replied, 'Yes, that is true.' He (the Imam) then asked, 'Is it not the case that each one of you ate three loafs less one-third of a loaf?' They replied, 'Yes, that is true.' He (the Imam) asked, 'Did you, owner of three, not eat three loafs less one-third of a loaf? Did you, the owner of five loafs, not eat three loafs less one-third of a loaf of bread and your guest ate three loafs less one-third of a loaf? Is it not the case, O owner of three loafs that only one-third of a loaf of your loafs of bread was left extra and two loafs and one-third of a loaf of the owner five? You ate three loafs less one-third.' He gave to them for each one-third of a loaf one dirham so the owner of two loafs and one-third loaf received seven dirham and the owner of one-third of a loaf one dirham.'"

H 14292, Ch. 18, h 11

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isa from Yusuf ibn 'Aqil from Muhammad ibn Qays who has narrated the following:

"Abu Ja'far, 'Alayhi al-Salam, has said that about the case of a man who had a sheep told his people, 'If you eat all of it, it then is yours; but if you could not eat, then you must pay such and such amount.' 'Amir al-Mu'minin, Ali, issued a judgment that said, 'It is invalid. There is nothing in eating food, more or less'; and he (the Imam) prohibited it.'"

H 14293, Ch. 18, h 12

Al-Husayn Muhammad has narrated from Ahmad ibn Ali al-Katib from Ibrahim ibn Muhammad al-Thaqafiy from ‘Abd Allah ibn abu Shaybah from Hariz from ‘Ata’ ibn al-Sa’ib from Zadhan who has narrated the following:

“Two men once left something in trust with a woman and said, ‘Do not give it back unless we both are present.’ They remained absent; then one of them came to her and asked for the trust saying, ‘My friend has died.’ She refused and the argument became a great deal. She then gave it to him then the other one came and asked for the trust. She said, ‘Your friend took it saying that you have died.’ They brought it before ‘Umar who said, ‘I see that you are responsible,’ but she said, ‘We must leave it before Ali, *‘Alayhi al-Salam,*’ ‘Umar asked him (the Imam) to judge for them. Ali, *‘Alayhi al-Salam,* said, ‘She is in trust with me; you had commanded her not to give the trust to anyone of you without the presence of the other, so you must bring your friend (to get her).’ He (the Imam) did not hold her responsible. He (the Imam) said, ‘They only wanted to take away her assets.’”

H 14294, Ch. 18, h 13

Abu Ali al-Ash‘ariy has narrated from ‘Imran ibn Musa from Muhammad ibn Al-Husayn from Muhammad ibn ‘Abd Allah ibn Hilal from Ali ibn ‘Uqbah from his father Uqbah ibn Khalid who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam,* once said to me, ‘If you see Ghaylan ibn Jami‘ ask permission for a meeting with me, you should give him permission. I had information that he would meet with people of banu Hashim.’ When he sat down he said, ‘I pray to Allah to keep you well, I am Ghaylan ibn Jami‘ al-Muharibiy, judge of ibn Hubayrah.’ I (the narrator) then asked, ‘O Ghaylan, I do not think ibn Hubayrah appoints a judge other than one who is a scholar of law.’ He replied, ‘Yes, that is true.’ I then asked, ‘O Ghaylan, do you issue decree which brings a man together with his wife?’ He replied, ‘Yes, I do so.’ I asked, ‘Do you issue a decree that separates a man from his wife?’ He replied, ‘Yes, I do so.’ I asked, ‘Do you issue a decree which puts a man to death?’ He replied, ‘Yes, I do so.’ I asked, ‘Do you execute penalties?’ He replied, ‘Yes, I do so.’ I asked, ‘Do you issue decrees about the assets of the orphans?’ He replied, ‘Yes, I do so.’ I asked, ‘According to whose judgments do you judge?’ He replied, ‘I judge according to the judgment of ‘Umar, ibn Mas‘ud, ibn al-‘Abbas and the judgments of *‘Amir al-Mu‘minin,* Ali, *‘Alayhi al-Salam,* in a few things.’ I then asked, ‘O Ghaylan, did you not, O people of Iraq, think and believe that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause,* has said, “Ali, *‘Alayhi al-Salam,* is the best judge among you?”’ He replied, ‘Yes, that is true.’ I then asked, ‘Why is it then that you judge according to the judgment of Ali, *‘Alayhi al-Salam,* only in few things, when the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause,* has said, “Ali, *‘Alayhi al-Salam,* is the best judge among you?”’ I then asked, ‘How do you issue judgments, O Ghaylan?’ He replied, ‘I write, “This is the judgment issued by so and so son of so and so, on so and so day of so and so month of so and so year, and then keep it in the office (for the record).”’ I then said, ‘O Ghaylan, that indeed is necessary for a judge to do as you mentioned. What will you say when all people of the past and later generations will be brought in one place and you are found judging against the judgment of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause,* and Ali, *‘Alayhi al-Salam?*’ I swear by Allah, he began to sob. I then said, ‘Just keep your tongue balanced.’ He (the narrator) has said, ‘I then arrived in al-Kufah and stayed as Allah wanted, and then I heard a man in the town speaking, a close associate of ibn Hubayrah, saying, “One night I was with ibn Hubayrah when the guard came and said, ‘Ghaylan ibn Jami‘ is here.’ He said, ‘Allow him to come in.’ When he came in he (ibn Hubayrah) treated him with insults and asked, ‘How is the condition of the people and tell me, in a turbulent condition, who do you think is for them?’ He replied, ‘I did not see there anyone else for them besides Ja‘far ibn Muhammad, *‘Alayhi al-Salam.*’ He then asked, ‘Tell me about what you did

with the assets with you? It has come to my notice that he asked you but you refused.’ He replied, ‘I distributed it.’ ‘Why did you not give him what he had asked from you?’ He replied, ‘I was afraid to act against you.’ He then said, ‘I ask you by Allah, did I not ask you to allow him to be the first?’ He replied, ‘Yes, that is true.’ He then asked, ‘Did you then do so?’ He replied, ‘No, I did not do so.’ He then said, ‘Why did you oppose me in giving him of the assets as you opposed me in making him to be the last? By Allah, had you done it, you would still remain a great master. What do you need?’ He replied, ‘I ask for a private meeting.’ He said, ‘You must speak it out in public.’ He said, ‘I ask you to excuse me from performing the task of a judging.’ The associate said that he pulled his sleeves up to his elbows and said, ‘I am abu Khalid and you have found him to be a readily prepared box of assets. Yes, we have excused you from performing the task of judgeship and we appoint al-Hajjaj ibn ‘Asem instead.’”””

H 14295, Ch. 18, h 14

Muhammad ibn Yahya has narrated from Muhammad ibn Ahmad from abu ‘Abd Allah, al-Jamuraniy from al-Hassan ibn Ali ibn abu Hamzah from ‘Abd Allah ibn Waddah who has narrated the following:

“Once I had a business deal with a Jewish man and he cheated me in the deal for one thousand dirham. I took him before the governor and made him take an oath, which he did. I knew that it was a sinful oath, taking on his part. Afterward a profit of many dirham emerged for him with me, I wanted to compensate the one thousand dirham from his profits; so I wrote to abu al-Hassan, ‘*Alayhi al-Salam*, about it and informed him (the Imam) about my asking the Jewish man to take oath, and that he did take an oath. That now a certain amount of profit that belongs to him exists with me; if you permit, me I can offset thereof the one thousand dirham for which he took an oath. He (the Imam) wrote back the answer, ‘No, do not take anything thereof. If he did injustice to you, you must not do injustice to him. Had you not agreed to his taking an oath, I would have commanded you to compensate from what is in your hands; but you agreed that he must take an oath and it has taken with it whatever there was.’ I then was stopped by the letter of abu al-Hassan, ‘*Alayhi al-Salam*.”

H 14296, Ch. 18, h 15

Ali ibn Ibrahim has narrated from Muhammad ibn ‘Isa from Yunus from certain persons of his people who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about testimony when it is presented before a judge; if he can issue a judgment on the basis of the testimony, which he does not know, without asking? He (the Imam) said, ‘In five things it is obligatory on people to accept them for the face value of the rule: guardianship, marriage, inheritance slaughtered animals and testimonies. If they apparently are safe and clear, it then is permissible to accept the testimony, and there is no need to ask about its indepth details.’”

H 14297, Ch. 18, h 16

Muhammad ibn Yahya has narrated from Ali ibn ‘Isma‘il from Muhammad ibn ‘Amr from Ali ibn al-Hassan from Hariz from abu ‘Ubaydah who has narrated the following:

“I once asked abu Ja‘far, ‘*Alayhi al-Salam*, about the case of a man who gives one thousand dirham to a man to mix with his assets and use in trade. When he asks for payment, he says that the asset has gone along with an equal amount of assets that belongs to someone else with a great deal of funds of other people. He then asks, ‘What have the others done?’ He replies, ‘They took their assets.’ Abu Ja‘far, and abu ‘Abd Allah, ‘*Alayhim al-Salam*, both have said, ‘He can ask him (the trader) for his assets, who can then ask them for whatever (extra) they have taken.’”

H 14298, Ch. 18, h 17

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Yazid ibn Ishaq from Harun ibn Hamzah who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of one who hires a man who because of not being able to trust each other, places the wages in the hand of another man who dies without any replacement and the wages vanish. He (the Imam) said, ‘The person hiring is responsible for the wages of the worker until he pays, unless the worker has told him to do so and agreed to give it to that person; if so then his right is where he agreed to be placed.’”

H 14299, Ch. 18, h 18

Muhammad ibn Ja‘far al-Kufiy has narrated from Muhammad ibn `Isma‘il from Ja‘far ibn ‘Isa who has narrated the following:

“I once wrote to abu al-Hassan, *‘Alayhi al-Salam*, saying, ‘I pray to Allah to keep my soul in service for your cause, a woman dies and her father claims that she had borrowed from him certain things of household materials; if his claim is acceptable without testimony.’ He (the Imam) wrote to him, ‘It is permissible to accept his claim without testimony.’ He wrote to him (the Imam) asking, ‘What happens if a husband claims against a dead woman or father of her husband or mother of her husband about her assets or her servants like what her father claimed which was in the form of borrowing; if it is like the claim of the father. He (the Imam), *‘Alayhi al-Salam*, wrote the answer, ‘No, it is not permissible.’”

H 14300, Ch. 18, h 19

Muhammad ibn Yahya has narrated from in a *marfu‘* manner from Hammad ibn ‘Isa who has narrated the following:

Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that a taxpayer slave who had become a Muslim was brought before *‘Amir al-Mu‘minin*, Ali, *‘Alayhi al-Salam*. He (the Imam) issued a judgment that said, ‘You (people of the state) must sell him to a Muslim and pay his price to his owner and do not leave him with him.’”

H 14301, Ch. 18, h 20

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from Ahmad ibn Muhammad from ibn ‘Abd Allah from abu Jamilah from `Isma‘il ibn abu Idris from al-Husayn ibn Damrah ibn abu Damrah from his father from his grandfather who has narrated the following:

“*‘Amir al-Mu‘minin* Ali, *‘Alayhi al-Salam*, has said, ‘The judicial laws of Muslims are based on three principles; Just witnesses or decisive oath or a tradition practiced by the Imam of guidance who have passed away.’”

H 14302, Ch. 18, h 21

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa‘id from Fadalab ibn Ayyub Dawud ibn Farqad from `Isma‘il ibn Ja‘far who has said the following:

“Once two men brought their case before Dawud *‘Alayhi al-Salam*, about a cow which both claimed to be his, and each one presented testimony. Dawud went to the temple and asked, ‘Lord, this case has tired me so You must decide.’ Allah, most Majestic, most Glorious, sent him revelation that said, ‘Take away the thigh of the cow from the hand of the one who has it in his hand, give it to the other one and strike his neck with sword.’ The Israelites raised a great deal of objections saying, ‘This one presented testimony and this one presented testimony. The one who had it in his hand was more rightful but he took it away from him and struck his neck with a sword then gave the cow to the other one.’ Dawud *‘Alayhi al-Salam*, went in the temple and said, ‘Lord, the Israelites have made much noise because of Your decree.’ His Lord sent him revelation and said that the one who had the cow in his hand met the father of the other one, killed him and took away his cow. So do not ask Me to issue a decree until the Day of Judgment.’”

H 14303, Ch. 18, h 22

A number of our people have narrated from Sahl ibn Ziyad from Mu'awiyah ibn Hakim from ibn Shu'ayb al-Muhamiliy al-Rifa'iy who has said the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who hires a man to dig for him a well as deep as ten times the height of a man for ten dirham; but then he fails to do so because of weakness. He (the Imam) said, ‘Ten must be divided into fifty-five of which one is for the first length, two for the second and three for the third in the same way until the tenth.’”

H 14304, Ch. 18, h 23

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has said the following:

“This is about the case of two men who each had claimed a mule to be his mule. One of them presented two witnesses and the other one presented five witnesses. Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin* Ali, *‘Alayhi al-Salam*, issued a judgment. It gave two shares to the one who presented two witnesses and five shares to the one who presented five witnesses.”

End of the Book of Adjudication and Rules of the book al-Kafi followed by the Book of Oaths, Vows and Expiations by the will of Allah, most High

Part Seven: The Book of Oaths, Vows and Expiations

Chapter 1 - The Undesirability of Swearing

H 14305, Ch. 1, h 1

A number of our people have narrated from Ahmad ibn Muhammad from ‘Uthman ibn ‘Isa from abu Ayyub al-Khazzaz who has said the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘Do not swear by Allah, regardless, you are truthful or not truthful; Allah, most Majestic, most Glorious, says, “Do not swear by Allah unnecessarily.”’ (2:224)”

H 14306, Ch. 1, h 2

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has said the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘One who delays in swearing by Allah, He grants him better than what he has lost because of the delay.’”

H 14307, Ch. 1, h 3

Ali ibn Ibrahim has narrated from his father from ‘Amr ibn ‘Uthman from ‘Abd Allah ibn Sinan who has said the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the disciples gathered around Jesus, *‘Alayhi al-Salam*, and said, ‘O teacher of good, give us advice.’ He said to them, ‘Musa, the Prophet of Allah has commanded you not to swear by Allah falsely, but I command you not to swear by Allah, regardless, you are truthful or false.’”

H 14308, Ch. 1, h 4

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from Yahya ibn Ibrahim from his father from abu Salam al-Salam al-Muta‘abbid who has said the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying to Sadir, ‘O Sadir, one who swears by Allah, most Majestic, most Glorious, falsely as well as one who swears by Allah truthfully has sinned; Allah, most Majestic, most Glorious, says, ‘Do not swear by Allah, unless you are obligated.’ (2:224)”

H 14309, Ch. 1, h 5

Ahmad ibn Muhammad has narrated from Ali ibn al-Hakam from Ali ibn abu Hamzah from abu Basir who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, once spoke to me about his father, *‘Alayhi al-Salam*. He (the Imam) was with a woman of al-Khawarij, I (the narrator) think he said, ‘banu Hanifah.’ His *mawla* (friend or servant) said to him (the Imam), ‘O child of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, you have a woman who denounces your grandfather.’ (Abu Ja‘far, *‘Alayhi al-Salam*, said) ‘My father divorced her. She presented a claim for her *mahr* (dower) against him (the Imam) and brought him (the Imam) before the Amir (governor) of al-Madinah who asked him (the Imam), “O Ali, you must take an oath or pay her right.” He (the Imam) asked me to go and bring four hundred dinars. I then asked, “Father, I pray to Allah to keep my soul in service for your cause, were you not the rightful party?” He (the Imam) replied, “Yes, son but I because of the Glory of Allah did not want to swear by Allah which is made binding upon me.””

H 14310, Ch. 1, h 6

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn ‘Isa from Ali ibn al-Hakam from certain persons of our people who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If someone brings a claim against you for a certain amount of assets which you do not owe to him, and he wants to make you to take an oath, if it is less than thirty dirham, you must pay and must not take an oath, but if it is more than that you can take an

oath and do not give the asset.’”

Chapter 2 - The False Oath

H 14311, Ch. 2, h 1

A number of our people have narrated from and from ibn Faddal from Tha'labah ibn Maymun from Ya'qub al-Ahmar who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one takes an oath which he knows is false he has opposed Allah, most Majestic, most Glorious.’”

H 14312, Ch. 2, h 2

A number of our people have narrated from Sahl ibn Ziyad from Ja'far ibn Muhammad *al-Ash'ariy* from ibn al-Qaddah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘Swearing falsely and sinfully for a binding purpose leaves the town barren.’”

H 14313, Ch. 2, h 3

Ali ibn Muhammad ibn Bandar has narrated from Ahmad ibn abu ‘Abd Allah from Muhammad ibn Ali from Ali ibn ‘Uthman ibn Razin from Muhammad ibn Furat maternal uncle of abu ‘Ammar al-Sayrafiy from Jabir ibn Yazid who has narrated the following:

“Abu Ja'far, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘You must never take sinfully a false oath because it leaves the town barren.’”

H 14314, Ch. 2, h 4

Ali ibn Ibrahim has narrated from his father from Hanan from Fulayh ibn abu Bakr al-Shaybaniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Taking an oath which is false and binding causes poverty consequently.’”

H 14315, Ch. 2, h 5

Ali has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘Allah has an angel whose legs are on the lowest earth. The length of his leg is a distance of five hundred years’ journey and his head is in the highest sky with a length of one thousand years’ journey. He says, “O Lord, You are free of all defects, O Lord, You are free of all defects, as ever You have been and how great You are!” He (the Messenger of Allah) then said, ‘Allah, most Majestic, most Glorious, sends revelation to him saying, “One who swears falsely by My name does not know this fact.”’”

H 14316, Ch. 2, h 6

Muhammad ibn Yahya has narrated from ‘Abd Allah ibn Muhammad from ibn abu ‘Umayr from Hisham ibn Salim who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A binding oath which is false leaves the town barren.’”

H 14317, Ch. 2, h 7

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn Hassan from Muhammad ibn Ali from Ali ibn Hammad from ibn abu Ya'fur who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘One who takes a sinful oath can wait only for forty nights (before being struck by misfortune).’”

H 14318, Ch. 2, h 8

It is narrated from the narrator of the previous *Hadith* from Muhammad ibn Ali from Ali ibn Hammad from Hariz from certain persons of his people who has narrated the following: <https://downloadshiabooks.co>

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Taking an oath sinfully is that which subjects one to the fire whereby a man holds back the right of a Muslim by seizing his assets.’”

H 14319, Ch. 2, h 9

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Malik ibn ‘Atiyyah from abu ‘Ubaydah al-Hadhdha’ who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that it is in the book of Ali, *‘Alayhi al-Salam*, that false oath and cutting off of good relations with relatives leave a town barren, empty of its inhabitants and destroys the reproducing continuum.’”

H 14320, Ch. 2, h 10

Ali ibn Ibrahim has narrated from his father from Muhammad ibn Yahya from Talhah ibn Zayd who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Sinful and false oath turns the womb barren.’ I then asked him (the Imam) about the meaning of the Arabic word *‘Tunghil’*. He (the Imam) said that it means turning fruitless.”

H 14321, Ch. 2, h 11

Ali has narrated from his father from al-Fadl ibn Shadhan all from ibn abu ‘Umayr from Ibrahim ibn ‘Abd al-Hamid from a Shaykh of our people called abu al-Hassan who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said that Allah, most Blessed, most High, has created a white rooster whose neck is under the throne and its legs in the center of the seventh earth, its one wing is in the east and one wing in the west. Other roosters do not crow until it crows. When it wants to crow it flaps its wings and says, *‘Tasbih* (Allah is free of all defects) and is the most great like whom there is no one.’” He (the Imam) said that ‘Allah, most Blessed, most High, in response says, “A lying person would never swear falsely by My name would he but know about what you say.’””

Chapter 3 - Another Chapter

H 14322, Ch. 3, h 1

A number of our people have narrated from Ahmad ibn Muhammad from ‘Uthman ibn ‘Isa from Wahab ibn ‘Abd Rabbihi who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one says, “Allah knows”, when he does not know something, the Throne of Allah vibrates as a sign of expressing His greatness.’”

H 14323, Ch. 3, h 2

It is narrated from the narrator of the previous *Hadith* from ibn Faddal from Tha‘labah from abu Jamilah, al-Mufaddal ibn Salih from Aban ibn Taghlib who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘When a servant says, “Allah has the knowledge” and he is not truthful in what he says, then Allah, most Majestic, most Glorious, says, “Why did you not find someone other than Me to ascribe a lie to him?”’”

H 14324, Ch. 3, h 3

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad from Wahab ibn Hafs who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one says, “Allah has the knowledge”, when he does not know something, the Throne of Allah vibrates as a sign of expressing His greatness.’”

Chapter 4 - An Oath is not Valid except by Allah, One who does not Agree with Allah is not of Allah

H 14325, Ch. 4, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Mansur ibn Yunus from abu Hamzah who has narrated the following:

“Ali ibn al-Husayn, *‘Alayhim al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘Do not swear except by Allah and one who swears by Allah must be considered truthful. One must agree with an oath by Allah. If one does not agree with an oath by Allah, is not of Allah, most Majestic, most Glorious.’”

H 14326, Ch. 4, h 2

A number of our people have narrated from Ahmad ibn Muhammad from ‘Uthman ibn ‘Isa from abu Ayyub al-Khazzaz who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one swears by Allah it must be considered true, if one does not believe he is not of Allah. One must agree with an oath by Allah, if he does do so he is not of Allah, most Majestic, most Glorious.’”

Chapter 5 - The Detestability of Swearing in the form of Denouncing Allah and His Messenger, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*

H 14327, Ch. 5, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from in a *marfu'* manner who has narrated the following:
"The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, once heard a man saying, 'I disown the religion of Muhammad.' The Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, then asked saying, 'Woe is upon you, if you are not a follower of the religion of Muhammad, then whose religion do you follow?' He (the Imam) has said that as soon as the words of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, were complete, he (the man) dropped dead."

H 14328, Ch. 5, h 2

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Muhammad ibn `Isma'il from Salih ibn 'Uqbah from Yunus ibn Zabayan who has narrated the following:
"He (the Imam), *Alayhi al-Salam*, said to me, 'O Yunus, do not swear to disown us, because if one does so, true or false, he is cut off from us.'"

Chapter 6 - Kinds of Swearing

H 14329, Ch. 6, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn Hadid from certain persons of our people who have narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Swearing is of three kinds. There is one kind of swearing, which does not require expiation, the kind that requires expiation, and the false swearing which causes the fire. The kind, which does not require expiation, is the swearing in which one has sworn by Allah for a good cause not to do it and its expiation is doing such thing. The kind of oath, which requires expiation, is that which a man takes for not to do a sinful deed but he does it, then expiation becomes obligatory. *Al-Ghumus* oath is that which causes the fire and is that in which a man swears against the right of a Muslim man to withhold his assets.’”

Ali ibn Ibrahim has said the following:

“He (the Imam), *‘Alayhi al-Salam*, has said that swearing is of three kinds. There is the kind of swearing because of which fire becomes obligatory, the oath, which makes expiation obligatory, and the kind, which does not make the fire or expiation obligatory. The kind of swearing which makes the fire obligatory is the swearing of a man who swears and denies the assets of another. In this way, he takes it away from him or swears against a Muslim man falsely to tangle him or seek the support of Sultan and so on against him in which he succeeds and causes the loss of his life or his assets. For this kind, fire becomes obligatory. The oath because of which expiation becomes obligatory is that which a man takes about a lawful act in the sight of Allah to do it or swears to do something, which is not lawful not to do it, then he repents, in such case expiation becomes obligatory. The kind of oath, which does not require expiation, is that which one takes to cut off good relations with relatives or the Sultan forces him or against his wishes his father or his wife urges him. He swears for an act which is in disobedience to Allah, he swears to do so although he commits a sin, but there is not any expiation on him.’”

Chapter 7 - The Binding Consequence of Oath and Vows

H 14330, Ch. 7, h 1

A number of our people have narrated from Sahl ibn Ziyad from Ja'far ibn Muhammad Abu Ali *al-Ash'ariy* from al-Qaddah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘There is no oath between a son and his father, a woman and her husband and between a slave and his master.’”

H 14331, Ch. 7, h 2

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Washsha’ from ‘Abd Allah ibn Sinan who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘It is not permissible to take an oath to make an unlawful matter lawful, a lawful matter unlawful or to cut off good relations with relatives.’”

H 14332, Ch. 7, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Khalid ibn Jarir from abu al-Rabi’ al-Shamiy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘It is not permissible to take an oath to make an unlawful matter lawful, a lawful matter unlawful or to cut off good relations with relatives.’”

H 14333, Ch. 7, h 4

Ahmad ibn Muhammad has narrated from `Isma‘il ibn Sa‘d *al-Ash'ariy* who has narrated the following:

“I once asked abu al-Hassan, al-Rida’, *‘Alayhi al-Salam*, about the case of a man who takes an oath to cut off relations with relatives. He (the Imam) said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘A vow for an unlawful matter is not valid and an oath to cut off relations with relatives is not valid.’ I then asked about a man who is made by Sultan to divorce or in other matters. He (the Imam) said, ‘It is not an offense on his part.’ I then asked about a man who fears from Sultan for his assets and takes an oath to protect them from him. He (the Imam) said, ‘It is not an offense on his part.’ I asked if a man could take an oath to protect the assets of his brothers as he does for himself. He (the Imam) said, ‘Yes, it is permissible.’”

H 14334, Ch. 7, h 5

Ahmad ibn Muhammad has narrated from Ali ibn al-Hakam from ‘Amr ibn al-Bara’ who has narrated the following:

“Once abu ‘Abd Allah, *‘Alayhi al-Salam*, was asked, when I was listening, about the case of a man who has made obligatory upon himself to walk to the House of Allah and the offering animal, he has taken an oath in all severity not to ever speak to his father, testify about anything good for him. Never eat with him on one table or live with him under one roof. He then remained quiet. Abu ‘Abd Allah, *‘Alayhi al-Salam*, asked, ‘Is anything else left?’ He replied, ‘No, I pray to Allah to keep my soul in service for your cause.’ He (the Imam) said, ‘All manners of cutting relation with relatives is nothing (not permissible).’”

H 14335, Ch. 7, h 6

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Mansur ibn Hazim who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘There is no swearing between a man and his father, a slave and his master, and between a woman and her husband. There is no vow for unlawful matters and there is no swearing to cut off relations with relatives.’”

H 14336, Ch. 7, h 7

A number of our people have narrated from Ahmad ibn Muhammad from ‘Uthman ibn ‘Isa from Sama‘ah ibn Mehran who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who has taken an oath. He takes an oath to walk to al-Ka’bah or to pay charity or free a slave, vow, or to offer an offering animal if he speaks to his father or mother or his brother or a relative. Alternatively, he takes an oath to cut off relation with relatives or for an unlawful reason or something, which is not proper for him to do. He (the Imam) said, ‘The Book of Allah is before taking an oath and there is no swearing in unlawful matters.’”

H 14337, Ch. 7, h 8

Abu Ali *al-Ash‘ariy* has narrated from Muhammad ibn ‘Abd al-Jabbar from Safwan from al-‘Ala’ from Muhammad ibn Muslim who has narrated the following:

“A woman of the family of al-Mukhtar took an oath against her sister or a relative. She asked her to join her for food but she refused. She then took an oath and made it upon her-self to walk to the house of Allah, free a slave and never to live under one roof with her or eat with her on one table, and the other one did the same thing. ‘Umar ibn Hanzalah took this question before abu Ja‘far, *‘Alayhi al-Salam*, and he (the Imam) said, ‘I can judge this case. She must eat, live under one roof with her, must not walk or set free a slave. She must have fear of Allah, her Lord, and must not transgress in such issues; it is of temptations of Satan.’”

H 14338, Ch. 7, h 9

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Tha‘labah ibn Maymun from Mu‘ammar ibn ‘Umar who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who says there is a vow on him but does not specify anything. He (the Imam) said, ‘He does not owe anything.’”

H 14339, Ch. 7, h 10

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad from al-Halabiy who has narrated the following:

“About the case of a man who makes a vow on himself from Allah but does not specify, abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If he specifies it then it is on him, if he has not specified then he does not owe anything.’”

H 14340, Ch. 7, h 11

Ali ibn Ibrahim has narrated from his father from Safwan ibn Yahya from Ishaq ibn ‘Ammar who has narrated the following:

“I once asked abu Ibrahim, *‘Alayhi al-Salam*, about the case of a man who says, ‘It is on me to walk to al-Ka’bah if I can buy certain things for my family on credit. He (the Imam) asked, ‘Is that difficult on them?’ I replied, ‘Yes, it is difficult for them not to take for them anything on credit.’ He (the Imam) said, ‘He must take for them on credit and he does not owe anything.’”

H 14341, Ch. 7, h 12

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad from al-Halabiy who has narrated the following:

“About the case of a man who takes an oath not to speak to a certain relative, abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘It does not have any valid effect. He must speak to one about whom he has taken an oath not to speak.’ He (the Imam) then said, ‘Any oath which is not for the sake of Allah does not have any valid effect, whether it is in divorce or freeing a slave.’ He (the narrator) has said, ‘I then asked him (the Imam) about a woman who has made her assets for the house of Allah if certain woman borrows her certain items and also so and so woman, then certain ones allow her to borrow and others do not allow.’ He (the Imam) said, ‘There is an offering animal on her. Offering is what Allah

has made a gift for al-Ka'bah and for this reason it is offered if it is made for Allah. Such things are of no valid effect as well as such offering animal on which Allah, most Majestic, most Glorious, is not mentioned.' He (the Imam) was asked about a man who says that there are one thousand camels on me when he is in the state of *Ihram*, or a thousand al-Hajj. He (the Imam) said, 'Such things are of the temptation of Satan.' About the case of a man who in the state of *Ihram* takes an oath for al-Hajj or that he says to offer this food. He (the Imam) said, 'It does not have any valid effect.' He (the Imam) said, 'It does not have any valid effect; food cannot be offered. He may say that the camel slaughtered after it is slaughtered, he wants to offer it to the house of Allah.' He (the Imam) said, 'Camels are offered when they are living, not when it turns to flesh.'”

H 14342, Ch. 7, h 13

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Safwan from ibn Muskan from al-Halabiy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Any oath which is not for the sake of Allah, most High, in divorce or freeing slaves does not have any valid effect.’”

H 14343, Ch. 7, h 14

Ahmad ibn Muhammad has narrated from ibn Faddal from ibn Bukayr from Zurarah who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about the case of a man who takes an oath very seriously not to buy for his family. He (the Imam) said, ‘He must buy for them and he does not owe anything because of his oath.’”

H 14344, Ch. 7, h 15

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Sayf ibn `Amirah am abu al-Sabbah who has narrated the following:

“By Allah, Ja‘far ibn Muhammad, *‘Alayhim al-Salam*, said to me that Allah taught *Tanzil* and *Taw’il* (what was revealed and what it meant) to the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.* who taught it to Ali, *‘Alayhi al-Salam.*’ He (the Imam) said, ‘He by Allah taught to us. Thus, if you do certain things or take an oath and swear because of *taqiyah* (fear), then you are not under constraint.’”

H 14345, Ch. 7, h 16

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Musa ibn Sa‘dan from ‘Abd Allah ibn al-Qasim ibn Muhammad from Muhammad ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘Taking an oath in anger does not have any valid effect or to cut off relations with relatives, by *Jabr* (force) or *Ikrah* (coercion, dislike).’ I (the narrator) then asked saying, ‘I pray to Allah to keep you well, what is the difference between forced and coerced?’ He (the Imam) said, ‘Force is by Sultan, coercion or dislike is from the wife, mother or father and that does not have any valid effect.’”

H 14346, Ch. 7, h 17

Ali ibn Ibrahim has narrated from Muhammad ibn Ali from Musa ibn Sa‘dan from ‘Abd Allah ibn al-Qasim ibn Muhammad from ‘Abd Allah ibn Sinan who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘An oath in anger or to cut off relations with relatives, by *Jabr* (force) or *Ikrah* (coercion, dislike) does not have any valid effect.’ I (the narrator) then asked saying, ‘I pray to Allah to keep you well, what is the difference between forced and coerced?’ He (the Imam) said, ‘Force is by Sultan coercion or dislike is from the wife, mother or father and that does not have any valid effect.’”

H 14347, Ch. 7, h 18

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Sa'd ibn abu Khalaf who has narrated the following:

“I once said to abu al-Hassan, Musa, *‘Alayhi al-Salam*, that I had bought a slave-girl secretly because of my wife and when she found out she went out of my home and refused to come back. I met her in the house of her people and said that what she has heard is false and the person who has told her is her enemy who wants to remove her from home. She said, ‘No, by Allah there will never be anything good between me and you until you swear to free all slave-girls that belong to you and give all of your assets in charity if you have bought something. You must free a slave-girl that still belongs to you.’ I took an oath as she asked and she made me repeat the oath and say, ‘Every slave-girl that belongs to me at this hour is free,’ and I said just as she had asked. I have separated my slave-girl. I thought to free and then marry her because I love her.’ He (the Imam) said, ‘You do not owe anything because of your oath and you must take notice that to free a slave or charity is not valid unless it is for the sake of Allah and for the reward from Him.’”

Chapter 8 - The Meaningless Matters

H 14348, Ch. 8, h 1

Ali ibn Ibrahim has narrated from Harun ibn Muslim from Mas'adah ibn Sadaqah who has narrated the following:

“I once heard abu ‘Abd Allah, ‘*Alayhi al-Salam*, saying, about the meaning of the words of Allah, ‘. . . Allah will not hold you responsible for your meaningless oaths.’ (2:225) *Al-Laghw*, (meaningless) is a reference to a man’s saying, ‘*La wa Allah*, (No, by Allah) *Bala wa Allah-i*, (yes, by Allah)’ and it does not make anything binding.”

Chapter 9 - The Case when one Takes an Oath, then Finds something Better

H 14349, Ch. 9, h 1

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali al-Washsha’ from Aban ibn ‘Uthman from ‘Abd Allah al-Rahman ibn abu ‘Abd Allah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one takes an oath about something when doing it is better than not doing it, he must do what is better and there is no expiation on him, it is only of the temptations of Satan.’”

H 14350, Ch. 9, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Sinan from those who narrated to him who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one takes an oath to do something then finds another thing better which he does, it is the expiation for his oath and he gains one good deed.’”

H 14351, Ch. 9, h 3

Abu Ali al-Ash‘ariy has narrated from Muhammad ibn ‘Abd al-Jabbar from Muhammad ibn `Isma‘il from Ali ibn al-Nu‘man from Sa‘id al-A‘raj who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who vows to do a certain thing then finds out that not doing it is better. If he disregards it, he is afraid of committing a sin. Can he disregard it? He (the Imam) said, ‘Have you not heard the words of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, “If you find something better than that for which you have taken an oath, then you can disregard it.””

H 14352, Ch. 9, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from certain persons of our people who have narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘If one takes an oath to do something then finds another thing better which he does, he must do that which is better; he gains one good deed.’”

H 14353, Ch. 9, h 5

Ali ibn Ibrahim has narrated from his father from Ali ibn al-Nu‘man from Sa‘id al-A‘raj who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who vows to do a certain thing then finds out that not doing it is better, and if he did not disregard it he is afraid of committing a sin; if he can disregard it. He (the Imam) said, ‘Have you not heard the words of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, “If you find something better than that for which you have taken an oath you can disregard it.””

Chapter 10 - The Intention for an Oath

H 14354, Ch. 10, h 1

Ali ibn Ibrahim has narrated from Harun ibn Muslim from Mas'adah ibn Sadaqah who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, when he (the Imam) was asked about what is lawful and what is not lawful about intention and what is in one’s mind, saying, ‘In certain times it is lawful and in certain times it is not lawful. The lawful case is when one is oppressed in which case his oath is based on his intention. If one coerces then it is on the basis of the intention of the oppressed.’”

H 14355, Ch. 10, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from `Isma‘il ibn Sa‘d *al-Ash‘ariy* who has narrated the following:

“I once asked al-Rida’, *‘Alayhi al-Salam*, about the case of a man who swears but his mind is on something other than what he has taken oath for. He (the Imam) said, ‘The oath is for that which is in one’s mind.’”

H 14356, Ch. 10, h 3

Ali ibn Ibrahim has narrated from his father from Safwan ibn Yahya who has narrated the following:

“I once asked abu al-Hassan, *‘Alayhi al-Salam*, about the case of a man who swears but his mind is on something other than that for which he has taken the oath. He (the Imam) said, ‘Swearing is for that which is in one’s mind.’”

Chapter 11 - Tne must Take an Oath only for what He Knows

H 14357, Ch. 11, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Hisham ibn Salim who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A man must not take an oath except for what he knows.’”

H 14358, Ch. 11, h 2

Ali ibn Ibrahim has narrated from his father from ‘Abd Allah ibn al-Mughirah from Khalid ibn Ayman al-Hannat from abu Basir who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A man must not be asked to take an oath except for what he knows.’”

H 14359, Ch. 11, h 3

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hisham ibn Salim who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A man must not be asked to take an oath except for what he knows.’”

H 14360, Ch. 11, h 4

Ali ibn Ibrahim has narrated from his father from `Isma‘il ibn Marrar from Yunus from certain persons of his people who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘A man must not be asked to take an oath except for what he knows and that oath applies only to what he knows, regardless, one is asked to swear or not’”

Chapter 12 - The Oath that Obligates one to Pay Expiation

H 14361, Ch. 12, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Any oath that you take and it is for your benefits in the worldly or matters of hereafter, then there is nothing on you. Expiation is payable only when you take an oath in disobedience to Allah if you did not do it then you do it.’”

H 14362, Ch. 12, h 2

It is narrated from the narrator of the previous *Hadith* from ibn Mahbub from ‘Abd al-Rahman ibn al-Hajjaj who has narrated the following:

“I once heard abu ‘Abd Allah, *‘Alayhi al-Salam*, saying, ‘Every kind of oath does not make one liable to expiation. If the matter is what Allah has made obligatory on you to do and you take an oath not to do it but you do it there is no expiation on you. If it is not of the matters that Allah has made obligatory on you to do and you take an oath not to do it but you do it, then there is expiation on you.’”

H 14363, Ch. 12, h 3

It is narrated from the narrator of the previous *Hadith* from Sa‘d ibn Sa‘d from Muhammad ibn al-Qasim ibn al-Fudayl from Hamzah ibn Humran from Dawud ibn Farqad from Humran who has narrated the following:

“I once asked abu Ja‘far, and abu ‘Abd Allah, *‘Alayhim al-Salam*, about the kind of oath for which I owe expiation. They said, ‘It is when you take an oath for an act in which there is obedience to Allah if you do it and you do not do it, then there is expiation on you. If you take an oath for an act in which there is disobedience to Allah then its expiation is not to do it. An oath about the act which is not an obedience or disobedience does not have any valid effect.’”

H 14364, Ch. 12, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Jamil ibn Darraj from Zurarah who has narrated the following:

“I once asked one of the two Imam, (abu Ja‘far or abu ‘Abd Allah), *‘Alayhim al-Salam*, about the case of the kind of oath which requires one to pay an expiation. He (the Imam) said, ‘It is when you are obligated to do something and you take an oath not to do it but you do it then there is nothing on you when you do it. What is not obligatory on you to do and you take an oath not to do it then you do it, then there is expiation on you.’”

H 14365, Ch. 12, h 5

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa‘id from Fadal ibn Ayyub from ibn Muskan from Hamzah ibn Humran from Zurarah who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the kind of oath that makes expiation obligatory. He (the Imam) said, ‘If you take an oath for doing something which is a virtuous deed, there is expiation if you do not do it. If you take an oath to do something which is an act of disobedience you do not owe anything if you did not do it; other than these which are not virtuous or of disobedience do not have any valid effect.’”

H 14366, Ch. 12, h 6

Al-Husayn Muhammad has narrated from Mu‘alla’ ibn Muhammad from al-Hassan ibn Ali al-Washsha’ from Aban ibn ‘Uthman from ‘Abd al-Rahman ibn abu ‘Abd Allah who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who takes an oath for a man to eat food but does not eat; if there is expiation on him and the kind of oath that makes expiation obligatory. He (the Imam) said, ‘Expiation is obligatory when one takes an oath not to sell an asset or

buy but then he changes his mind. If one takes an oath about something which is better for him to do than not to do and he does what is good then there is no expiation on him, it is only of the temptations of Satan.’”

H 14367, Ch. 12, h 7

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa‘id from Fadalab ibn Ayyub from al-Qasim ibn Yazid from Muhammad ibn Muslim who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about oath and *Nadhr* (a commitment) and swearing about that which is an act of obedience to Allah. He (the Imam) said, ‘What is an act of obedience you must do it. If one makes a commitment then does not fulfill, one must pay expiation; but if it is an oath in sin, then it does not have any valid effect.’”

H 14368, Ch. 12, h 8

A number of our people have narrated from Sahl ibn Ziyad and Ahmad ibn Muhammad ibn ‘Isa all from Ahmad ibn Muhammad from ibn abu Nasr from Tha‘labah from Zurarah who has narrated the following:

“Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Every act for which one takes an oath not to do it and the act is beneficial in this and in the hereafter, there is no expiation for it. *Kaffarah* (expiation) becomes obligatory when one takes an oath and says, ‘By Allah I will not commit fornication, by Allah I will not drink wine, by Allah I will not steal, by Allah I will not act treacherously and so on and I will not disobey, but he does, then *Kaffarah* (expiation) becomes obligatory.’”

H 14369, Ch. 12, h 9

Ahmad ibn Muhammad from ibn abu Nasr has narrated from Jamil from Zurarah who has narrated the following:

“I once asked abu Ja‘far, *‘Alayhi al-Salam*, about the kinds of oath for which *Kaffarah* (expiation) is obligatory. He (the Imam) said, ‘If something is obligatory for you to do and you take an oath not to do it, then you do it, you do not owe anything. If what is not obligatory on you to do and you take an oath not to do it but you do it, then *Kaffarah* (expiation) becomes obligatory on you.’”

H 14370, Ch. 12, h 10

Ahmad ibn Muhammad from ibn abu Nasr has narrated from Tha‘labah and narrated to us from those who narrated to him from Muyassir who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said, ‘The oath that makes expiation obligatory is that which is about an act that is necessary for you to do. However, you take an oath not to do it but you do it. Expiation is not due on you because your act is in obedience to Allah, most Majestic, most Glorious. If it is something that you must not do and you take an oath not to do but you do it, then expiation is obligatory on you.’”

Chapter 13 - Making an Exception in an Oath

H 14371, Ch. 13, h 1

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from abu Jamilah al-Mufaddal ibn Salih from Muhammad al-Halabiy and Zurarah and Muhammad ibn Muslim who has narrated the following:

“About the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . speak of your Lord if you forget’ (18:24) abu Ja‘far, and abu ‘Abd Allah, ‘*Alayhim al-Salam*, have said that if one takes an oath and forgets to make an exception, he must make an exception (say, ‘if Allah wills’) when he remembers.”

H 14372, Ch. 13, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbub from abu Ja‘far al-Ahwal from Salam ibn al-Mustanir who has narrated the following:

“This is about the meaning of the words of Allah, most Majestic, most Glorious. ‘. . . We made a covenant with Adam, ‘*Alayhi al-Salam*, before but he forgot and We did not find in him firm determination.’ (20:115) Abu Ja‘far, ‘*Alayhi al-Salam*, has said, ‘When Allah, most Majestic, most Glorious, said to Adam, ‘*Alayhi al-Salam*, to enter in the garden (paradises) He said, “O Adam, you must not go near this tree.”’ He (the Imam) said that He showed it to him and Adam said to his Lord, “How will I go near the tree when You have prohibited me and my wife?” He (the Imam) said that Allah said to them not to go near the tree meaning do not eat thereof. Adam and his wife said, “Yes, Lord we will not go near the tree and will not eat”, but they did not make an exception (did not say, ‘if Allah wills’) when saying, “yes” Allah, in that matter left them on their own and to their memories.’ He (the Imam) said, ‘Allah, most Majestic, most Glorious, spoke to His Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, about a fact in the book. “. . . You must never say about anything, ‘I will do it tomorrow without saying, ‘unless Allah wills’ otherwise,” (18:23) and Allah decides that I must not do then I will not be able to do.’ He (the Imam) said that for this reason Allah, most Majestic, most Glorious, has said, ‘. . . you must speak of your Lord when you forget’, meaning make the act and the will of Allah an exception in your act.”

H 14373, Ch. 13, h 3

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad all from ibn Mahbub from ibn Ri‘ab from Hamzah ibn Humran who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . speak of your Lord if you forget.’ He (the Imam) said, ‘It is in taking oath when you say, ‘By Allah, I will not do so and so and when you remember that you have forgotten to make an exception then say, ‘if Allah so wills.’”

H 14374, Ch. 13, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa‘id from Hammad ibn ‘Isa from Husayn al-Qalanisiy or certain persons of his people who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘A servant (of Allah) can make the exception up to forty days if he forgets.’”

H 14375, Ch. 13, h 5

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that ‘*Amir al-Mu‘minin*, Ali, ‘*Alayhi al-Salam*, has said, ‘If one makes the exception in taking an oath there is no violation or expiation.’”

H 14376, Ch. 13, h 6

A number of our people have narrated from Sahl ibn Ziyad from Ja'far ibn Muhammad *al-Ash'ariy* from ibn al-Qaddah who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, has said, ‘The forgotten exception in taking an oath must be made even if one remembers after forty mornings.’ He (the Imam) then read this verse, ‘. . . speak of your Lord if you forget.’”

H 14377, Ch. 13, h 7

Ali has narrated from his father from through the same chain of narrators as that of the previous *Hadith* the following is narrated from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, has said, ‘If one takes an oath privately, he must make the exception privately; and if one takes an oath in public, he must make the exception in public.’”

H 14378, Ch. 13, h 8

Ahmad ibn Muhammad has narrated from Ali ibn al-Hassan from Ali ibn Asbat from al-Husayn ibn Zurarah who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the meaning of the words of Allah, most Majestic, most Glorious, ‘. . . speak of your Lord if you forget.’ He (the Imam) said, ‘It is when you take an oath and forget to make the exception (saying if Allah so wills), then you must make the exception when you remember.’”

Chapter 14 - It is not Permissible to take an Oath by anything other than by Allah, most Majestic, most Glorious

H 14379, Ch. 14, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from Muhammad ibn Muslim who has narrated the following:

“This is about the meaning of the words of Allah, most Majestic, most Glorious. ‘. . . I swear by the night when it becomes dark. . .’ (92:2) and ‘. . . I swear by the star when it descends down’ (52:2) and so on. Abu Ja‘far, *‘Alayhi al-Salam*, has said, ‘Allah, most Majestic, most Glorious, swears by anything of His creatures as He wants but His creatures can only swear and take oath by Allah.’”

H 14380, Ch. 14, h 2

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:

“Abu 'Abd Allah, *‘Alayhi al-Salam*, has said, ‘I say that a man must take an oath and swear by Allah only. People’s saying, *la’ bal shane’uka* (no, but may your adversary be it) is of the expressions of the people of ignorance. If one takes an oath by such expressions and so on, he has ignored taking an oath by Allah. One’s expression, *Ya Hayahu* and *ya Hanahu* is only a pausing and punctuating effort to better articulate one’s idea. However, one’s saying *la’umr* Allah or *Lahahu* is swearing by Allah, most Majestic, most Glorious.’”

H 14381, Ch. 14, h 3

A number of our people have narrated from Sahl ibn Ziyad from ibn abu from 'Abd al-Karim from Sama‘ah who has narrated the following:

“Abu 'Abd Allah, *‘Alayhi al-Salam*, has said, ‘I say that a man must take an oath and swear by Allah only. People’s saying, *la’ bal shane’uka* (no, but may your adversary be it) is of the expressions of the people of ignorance.’”

H 14382, Ch. 14, h 4

Ali ibn Ibrahim has narrated from Harun ibn Muslim from Mas‘adah ibn Sadaqah who has narrated the following:

“This is about the meaning of the words of Allah, most Majestic, most Glorious. ‘I do not swear by the places of the stars.’ (56:75) Abu 'Abd Allah, *‘Alayhi al-Salam*, has said, ‘People of the community of ignorance swore by the places of stars and Allah, most Majestic, most Glorious, said, “I do not swear by the places of stars.”’ He (the Imam) said that He called their swearing as such a grave thing. He (the Imam) has said that people of the time of ignorance held the month of Muharram to be a great thing. They would not swear thereby as well as the month of Rajab and did not disturb in these months those going and coming around even if he may have killed one’s father. They would not expel from *al-Haram* (the Sacred area) an animal or sheep or camel and so on. Allah, most Majestic, most Glorious, said to His Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, ‘I do not swear by this town and you are living in this town.’ (90:2-3) He (the Imam) said that their ignorance had climaxed to the level of making them to consider the killing of the Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, as lawful. On the contrary they held days of the month with greatness whereby they swore and stood by such oaths.’”

H 14383, Ch. 14, h 5

Ali ibn Ibrahim has narrated from his father from 'Isma‘il ibn Marrar from Yunus from certain persons of our people who has narrated the following:

“I once asked him (the Imam), *‘Alayhi al-Salam*, about the meaning of the words of Allah, most

Majestic, most Glorious, 'I do not swear by the places of the stars.' (56:75) He (the Imam) said, 'It is a great sin on one who swears thereby. The community of ignorance held *al-Haram* (the sacred area) with greatness. They did not swear thereby. They made lawful to disrespect Allah but they did not disturb those who were there and did not expel animals from there. Allah, most Blessed, most High, said, 'I do not swear by this town despite your living in it and by the father and son.' (90:2-3) He (the Imam) said, 'They held the town with greatness to the extent that they swore thereby but made it lawful to disrespect the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause.*'"

Chapter 15 - Making the People of the Book to take Oath

H 14384, Ch. 15, h 1

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:
"I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about how to make people of the book to take an oath. He (the Imam) said, 'Do not make them to take oath by anything other than Allah, most Majestic, most Glorious.'"

H 14385, Ch. 15, h 2

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid from 'Uthman ibn 'Isa from Sama'ah, who has narrated the following:
"I once asked abu 'Abd Allah, '*Alayhi al-Salam*, if it is proper to make Jews, Christians and Zoroastrians take an oath by their deities. He (the Imam) said, 'It is not proper for anyone to take oath by anything other than Allah, most Majestic, most Glorious.'"

H 14386, Ch. 15, h 3

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:
"Abu 'Abd Allah, '*Alayhi al-Salam*, has said that '*Amir al-Mu'minin*, Ali, '*Alayhi al-Salam*, has said, 'You must make a Jew to take an oath (if needed) by the Torah which was revealed to Musa '*Alayhi al-Salam*.'"

H 14387, Ch. 15, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from al-Nadr ibn Suwayd from Hisham ibn Salim from Sulayman ibn Khalid who has narrated the following:
"Abu 'Abd Allah, '*Alayhi al-Salam*, has said that Jews, Christians and Zoroastrian are not made to take an oath by anything other than Allah, most Majestic, most Glorious, who says, 'Judge among them by means of what Allah has revealed.' (5:52)"

H 14388, Ch. 15, h 5

It is narrated from the narrator of the previous *Hadith* from al-Nadr ibn Suwayd from al-Qasim ibn Sulayman from Jarrah al-Mada'iniy who has narrated the following:
"Abu 'Abd Allah, '*Alayhi al-Salam*, has said, 'An oath is not taken by anything other than by Allah.' He (the Imam) said, 'In the case of Jews, Christians and Zoroastrian, you must not make them to take an oath by anything other than by Allah, most Majestic, most Glorious.'"

Chapter 16 - *Kaffarah* (expiation) for Swearing

H 14389, Ch. 16, h 1

Abu Ali *al-Ash'ariy* has narrated from Muhammad ibn 'Abd al-Jabbar Ahmad ibn Muhammad from Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from Safwan ibn Yahya from ibn Muskan from al-Halabiy who has narrated the following:

“About the case of *Kaffarah* (expiation) because of oath abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘It (expiation) is to feed ten destitute people each with one *mud* (a certain measurement) or a handful of wheat or flour, or clothe them with two pieces of clothes to each person, or free a slave. He has the choice for any one of the three that he may choose and if he cannot do anyone of them then he must fast for three days.’”

H 14390, Ch. 16, h 2

Ali ibn Ibrahim has narrated from his father from Safwan ibn Yahya from Ishaq ibn 'Ammar who has narrated the following:

“I once asked abu Ibrahim, *'Alayhi al-Salam*, about the expiation for oath mentioned in the words of Allah, most Majestic, most Glorious, ‘. . . if one cannot find then it is three days fasting.’ (5:91) and about the limit of ‘if one cannot find’ and that a man asks for help (beggar) but he is not of ‘if one cannot find’. He (the Imam) said, ‘If one does not have more than what his dependents need, then “if one does not find” applies to him.’”

H 14391, Ch. 16, h 3

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from al-Qasim ibn Muhammad from Ali ibn abu Hamzah who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the expiation because of oath. He (the Imam) said, ‘It is to set free a slave or clothing with two clothes or feeding ten destitute persons. Whichever of the three he chooses is sufficient, and if he cannot find any of them, then it is three consecutive days of fasting and in feeding ten destitute persons: it is one *mud* (a certain measurement) for everyone.’”

H 14392, Ch. 16, h 4

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Humayd from Muhammad ibn Qays who has narrated the following:

“Abu Ja'far, *'Alayhi al-Salam*, has said that Allah, most Majestic, most Glorious, has said to His Holy Prophet, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, ‘O Prophet, why do you make unlawful what Allah has made lawful for you.’ ‘Allah has shown you how to absolve yourselves of your oaths.’ (66:1-2) He made it an oath and the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, then paid expiation for it.’ I then asked, ‘By what means did he pay the expiation thereof?’ He (the Imam) said, ‘He fed ten destitute people one *mud* (a certain measurement) to each person.’ We then asked about the limit of clothing. He (the Imam) said, ‘It is such clothing which provides cover for his privacy.’”

H 14393, Ch. 16, h 5

Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from ibn abu Nasr from abu Jamilah who has narrated the following:

“About the case of expiation due to an oath which is freeing a slave, or feeding ten destitute person of the average kind of food for your family or clothing them, abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘The average kind of food is vinegar and oil, and a high quality is bread and meat. Charity is one *mud* (a certain measurement) of wheat for each destitute person and clothes are two pieces. If one cannot

find any of these, then he must fast for three consecutive days as Allah, most Majestic, most Glorious, has said, “. . . if one cannot find then he must fast for three days.””

H 14394, Ch. 16, h 6

Ali has narrated from his father from Ahmad ibn Muhammad from ibn abu Nasr and al-Hajjal from Tha'labah ibn Maymun from Mu'ammār ibn 'Umar who has narrated the following:

“I once asked abu Ja'far, '*Alayhi al-Salam*, about the case of a man who must clothe the needy because of expiation due to oath. He (the Imam) said, 'It is a kind of clothing which can cover his privacy.’”

H 14395, Ch. 16, h 7

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hammad from al-Halabiy who has narrated the following:

“This is about the meaning of the words of Allah, most Majestic, most Glorious. '. . . it is of the average kind of food that you provide to your family.' Abu 'Abd Allah, '*Alayhi al-Salam*, has said, 'It is just as it is at home. Certain people eat one *mud* (a certain measurement) and certain others less or in between. If you like you can prepare a certain kind of sauce, the least of which is salt, the middle is vinegar and oil, and of a high quality is meat.’”

H 14396, Ch. 16, h 8

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from abu Hamzah al-Thumaliy who has narrated the following:

“I once asked abu 'Abd Allah, '*Alayhi al-Salam*, about the case of a man who has said by Allah, but has not remained firm about it. He (the Imam), '*Alayhi al-Salam*, said, 'The *Kaffarah* (expiation) for it is to feed ten destitute people, one *mud* (a certain measurement) to each one of flour or wheat, or free a slave, or fast for three consecutive days if he cannot find the other remedies.’”

H 14397, Ch. 16, h 9

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hisham ibn al-Hakam who has narrated the following:

“About the *Kaffarah* (expiation) due to an oath which is one *mud* (a certain measurement) for each person abu 'Abd Allah, '*Alayhi al-Salam*, has said that it must be a handful of food made into flour and cooked.’”

H 14398, Ch. 16, h 10

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu 'Abd Allah, '*Alayhi al-Salam*, has said that '*Amir al-Mu'minin*, Ali, '*Alayhi al-Salam*, has said, 'If one cannot find ten destitute people at one time he can feed fewer people several times like this and in next day until it is equal to feeding ten destitute people.’”

H 14399, Ch. 16, h 11

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah who has narrated the following:

“I once asked abu Ja'far, '*Alayhi al-Salam*, about the *Kaffarah* (expiation) due to oath. He (the Imam) said, 'It is fasting for three days.' I then asked, 'What happens if one feels weak and cannot do it?' He (the Imam) said, 'He can give charity to ten destitute people.' I asked, 'What happens if he cannot do it?' He (the Imam) said, 'He must ask forgiveness from Allah and must not do such thing again because the best is *Kaffarah* (expiation) in its highest and lowest form, so he must ask forgiveness from his Lord and express regret and repentance.’”

H 14400, Ch. 16, h 12

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Yahya from Ghiyath ibn Ibrahim who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said in paying expiation for an oath, feeding small people is not sufficient, however, two small ones are equal to one grown-up person.’”

H 14401, Ch. 16, h 13

Ali ibn Ibrahim has narrated from his father from Hammad ibn ‘Isa from Ibrahim ibn ‘Umar al-Yemaniy from abu Khalid al-Qammat who has narrated the following:

“I once heard abu ‘Abd Allah, ‘*Alayhi al-Salam*, saying, ‘If one is able to feed ten destitute people for expiation of an oath he cannot fast instead. He must feed ten destitute people, one *mud* (a certain measurement) to each one, and if one cannot do this, then he must fast for three days.’”

H 14402, Ch. 16, h 14

Ali has narrated from his father from ibn Mahbub from abu Ayyub from abu Basir who has narrated the following:

“I once asked abu Ja‘far, ‘*Alayhi al-Salam*, about, ‘. . . the average kind of food that you provide for your family.’ He (the Imam) said, ‘It is the kind of food which you feed your family, it must be of the middle of the two, high and low, quality that you provide for your family.’ I then asked, ‘What is the middle of such food?’ He (the Imam) said, ‘It is vinegar and oil and dates and bread to satisfy them once.’ I then asked about clothing them. He (the Imam) said, ‘It is one piece of cloth.’”

Chapter 17 - Forming a Commitment

H 14403, Ch. 17, h 1

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from Mansur ibn Hazim who has narrated the following:

“Abu 'Abd Allah, *'Alayhi al-Salam*, has said, ‘A man says, ‘It is obligatory on me to walk to the house of Allah’ when he is in the state of *Ihram* for al-Hajj. He may say, ‘It is obligatory on me to offer such and such offering.’ However, he does not owe anything until he says, ‘It is obligatory on me *from Allah* to walk to His house.’ Or says, ‘It is obligatory *from Allah* on me to assume the state of *Ihram* for al-Hajj.’ Or he says, ‘*From Allah* it is obligatory on me to offer an offering of such and such if I did not do such and such thing.’”

H 14404, Ch. 17, h 2

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isma'il from Muhammad al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who says that there is a vow, a commitment on him (the Imam) said, ‘It does not have any valid effect until one specifies it, like fasting, charity, a gift or al-Hajj.’”

H 14405, Ch. 17, h 3

Ahmad ibn Muhammad from has narrated from Ali ibn al-Hakam from Ali ibn abu Hamzah from abu Basir who has narrated the following:

“I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who says that there is a vow, a commitment on him. He (the Imam) said, ‘It does not have any valid effect until he says, “There is fasting, or paying charity, or freeing a slave, or offering an animal offering.” If a man says, “I give this food as an offering,” it is not valid, because only a camel or so can become an animal offering.’”

H 14406, Ch. 17, h 4

Ahmad ibn Muhammad has narrated from al-Husayn ibn Sa'id from al-Qasim ibn Muhammad from Jamil ibn Salih who has narrated the following:

“I had a girl in al-Madinah whose *Hayd* (menses) stopped. I then made a vow, a commitment before Allah for His sake if her *Hayd* (menses) becomes normal, I then fulfill the vow and commitment. I then learned that she experiences *Hayd* (menses) before my fulfilling the vow and commitment. I wrote to abu 'Abd Allah, *'Alayhi al-Salam*, when I was in al-Madinah and he (the Imam) replied, ‘If she experienced *Hayd* (menses) before your vow and commitment then you do not owe anything, but if she experienced *Hayd* (menses) after your vow and commitment then you must fulfill the vow and commitment.’”

H 14407, Ch. 17, h 5

Ali ibn Ibrahim has narrated from his father from Safwan from Ishaq ibn 'Ammar who has narrated the following:

“I once said to abu 'Abd Allah, *'Alayhi al-Salam*, ‘I have made it upon myself to perform two *Rak'at Salat* (prayer) as thanksgiving to Allah at home or on a journey’ if on a journey I can perform them during the day. He (the Imam) said, ‘Yes, you can do so.’ He (the Imam) then said, ‘I dislike a man’s making it obligatory upon himself.’ I then said, ‘I have not made them for Allah but I have made it upon myself to perform the two *Rak'at* to thank Allah and I have not made it obligatory on myself if I can stop performing them when I wanted. He (the Imam) said, ‘Yes, you can do so.’”

H 14408, Ch. 17, h 6

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said that ‘*Amir al-Mu’minin*, Ali, ‘*Alayhi al-Salam*, was asked about a man who made a vow and commitment to walk to the house and he arrived on a crossing. He (the Imam) said, ‘He must remain standing until there is room to cross the crossing.’”

H 14409, Ch. 17, h 7

Ali ibn Ibrahim has narrated from his father from Safwan ibn Yahya from Ishaq ibn ‘Ammar who has narrated the following:

“I once asked abu Ibrahim, ‘*Alayhi al-Salam*, about the case of a man who owed al-Hajjah al-Islam and wanted to perform al-Hajj. He was told to become married first, then perform al-Hajj. He said, ‘If I become married before al-Hajj my slave is free.’ He married before performing al-Hajj. He (the Imam) said, ‘He must free his slave.’ I then said, ‘He did not free his slave for the sake of Allah.’ He (the Imam) said, ‘It is a vow and commitment in the way of Allah and al-Hajj is of a greater priority than marriage and an obligation of a greater degree than marriage.’ I then asked, ‘What happens if al-Hajj is optional?’ He (the Imam) said, ‘Even if it is optional it is an act of obedience that has made his slave free.’”

H 14410, Ch. 17, h 8

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Khalid ibn Hariz from abu al-Rabi’ who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who buys something and says, ‘I gift it to the Sacred House of Allah.’ He (the Imam) said, ‘It does not have any valid effect. It is a lie that he has spoken.’”

H 14411, Ch. 17, h 9

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hammad from al-Halabiy who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘If you say, ‘It is from Allah upon me’ then its expiation is like that for an oath.’”

H 14412, Ch. 17, h 10

Abu Ali al-Ash‘ariy has narrated from Muhammad ibn ‘Abd al-Jabbar from Ali ibn Mahziyar from who has narrated the following:

“Bundar, *mawla* of Idris, once wrote, ‘My master, I made a vow and commitment to fast every Saturday; and if I did not fast what is the expiation?’ He (the Imam) wrote and I read it, ‘Do not stop fasting except because of illness, and you do not have to fast when on a journey or during your illness unless you had the intention to do so. If you stop fasting without illness and good reason, then pay charity for every day missed to seven destitute people, we ask Allah to grant good opportunity for doing what He loves and pleases.’”

H 14413, Ch. 17, h 11

It is narrated from the narrator of the previous *Hadith* from Ali ibn Mahziyar from who has narrated the following:

“I once asked abu al-Hassan, ‘*Alayhi al-Salam*, about the case of a man who has made a vow and commitment that if Allah makes his wish to come true, he will pay a certain amount of dirham as charity. Allah then made his wish come true. He then made the dirham into gold and has sent to you; if that is sufficient or he has to do it again. He (the Imam) said, ‘He must do it again.’”

H 14414, Ch. 17, h 12

Muhammad ibn Ja‘far al-Razzaz has narrated from Muhammad ibn ‘Isa from Ali ibn Mahziyar from has said narrated a similar *Hadith* and he wrote to him (the Imam) the following:

“My master, a man has made a vow and commitment to fast on Fridays all the time. What happens if such days coincide with the day of ‘Id of Fitr, or Adha’, or days of al-Tashriq or a journey or illness; if he owes to fast on such days or its *Qada*’ (compensatory fasting) and what must he do, O my master?”

He (the Imam) wrote, ‘Allah has exempted him from fasting on all of these days and he can fast one day for (an alternate) one day, if Allah so will.’ He wrote to him (the Imam) asking, ‘O my master, there is a man who had made a vow and commitment to fast a certain day and on that day he fell on his wife. What is the expiation for it?’ He (the Imam) wrote, ‘He must fast one day for one day and set free a believing slave.’”

H 14415, Ch. 17, h 13

Ali ibn Ibrahim has narrated from his father from al-Qasim ibn Muhammad from Sulayman ibn Dawud from Hafs ibn Ghiyath who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the expiation because of a vow and commitment. He (the Imam) said, ‘*Kaffarah* (expiation) for a vow and commitment is like the expiation because of an oath. If one makes a vow and commitment to offer an animal for sacrifice he must find a camel, he must mark and collar it and stay with it in ‘Arafah. If one makes a vow and commitment to offer a *Jazur*, (a certain kind of camel) then he can slaughter by manner of *Nahr* (slaughtering from the upper part of the chest) wherever he wants.’”

H 14416, Ch. 17, h 14

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn al-Husayn al-Lu’lu’iy in a *marfu’* manner who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who says, ‘There is a vow and commitment on me’, but does not specify. He (the Imam) said, ‘He owes one handful of wheat, regardless, he has taken it seriously or with great emphasis.’”

H 14417, Ch. 17, h 15

It is narrated from the narrator of the previous *Hadith* from Ya‘qub ibn Yazid from Yahya al-Mubarak from ‘Abd Allah ibn al-Jabalah from Ishaq ibn ‘Ammar who has narrated the following:

“About the case of a man who makes a vow and commitment to fast and is not able to do so, abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘He must pay someone to fast for him and for every day it is two *mud* (a certain measurement) of food.’”

H 14418, Ch. 17, h 16

Through the same chain of narrators as that of the previous *Hadith*, the following is narrated from ‘Abd Allah ibn Jundab who has narrated the following:

“‘Abbad ibn Maymun asked (abu ‘Abd Allah, ‘*Alayhi al-Salam*) when I was present, about the case of a man who made a vow and commitment to fast and wanted to leave for Makkah. ‘Abd Allah ibn Jundab said, ‘I heard the one who narrated from abu ‘Abd Allah, ‘*Alayhi al-Salam*, who was asked about a man who made a vow and commitment to fast. He became aware of his intention during his visiting abu ‘Abd Allah, ‘*Alayhi al-Salam*, who said, ‘He can leave without fasting on the way and on his return arrange for *Qada*’ (compensatory fasting).’”

H 14419, Ch. 17, h 17

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from Jamil ibn Salih from abu al-Hassan Musa, ‘*Alayhi al-Salam*, who has narrated the following:

“Abu al-Hassan, ‘*Alayhi al-Salam*, has said, ‘Whoever makes a vow and commitment to fast and then fails to do so, the expiation on him is like the *Kaffarah* (expiation) for an oath.’”

H 14420, Ch. 17, h 18

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Sindiyy ibn Muhammad from Safwan al-Jammal who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, saying, ‘I pray to Allah to keep my soul in service for

your cause, I have made a vow and commitment to walk to the House of Allah. He (the Imam) said, 'You must pay expiation for your oath, because you have made it on yourself and you have not made for Allah; you must then fulfill.'"

H 14421, Ch. 17, h 19

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Rif'ah and Hafs who has narrated the following:

"I once asked abu 'Abd Allah, *'Alayhi al-Salam*, about the case of a man who makes a vow and commitment to walk to the House of Allah barefoot. He (the Imam) said, 'He must walk and if he becomes tired, he can ride.'"

H 14422, Ch. 17, h 20

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from al-'Ala' from Muhammad ibn Muslim who has narrated the following:

"I once asked one of the two Imam, (abu Ja'far or abu 'Abd Allah), *'Alayhim al-Salam*, about the case of a man who has made a vow and commitment to walk to the House of Allah but cannot do so. He (the Imam) said, 'He can perform al-Hajj and ride.'"

H 14423, Ch. 17, h 21

Ali ibn Ibrahim has narrated from his father from Hammad from Hariz from Muhammad ibn Muslim who has narrated the following:

"I once asked abu Ja'far, *'Alayhi al-Salam*, about the case of a man who makes a vow and commitment to walk to the House of Allah but cannot do so. He (the Imam) said, 'He must perform al-Hajj riding.'"

H 14424, Ch. 17, h 22

Ali ibn Ibrahim has narrated from Harun ibn Muslim from Mas'adah ibn Sadaqah who has narrated the following:

"I once heard abu 'Abd Allah, *'Alayhi al-Salam*, saying, when he (the Imam) was asked about the case of a man who took an oath to make a vow and commitment and his intention in his oath is about one dirham or less. He (the Imam) said, 'If he has not made it for Allah, then it does not have any valid effect.'"

H 14425, Ch. 17, h 23

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from Muhammad ibn Yahya al-Khath'amiy who has narrated the following:

"Once we were with abu 'Abd Allah, *'Alayhi al-Salam*, in a group when a man came who was of the Mawali of abu Ja'far, *'Alayhi al-Salam*. He offered *Salam* (the phrase of offering greeting of peace), sat down, wept and said, I pray to Allah to keep my soul in service for your cause. I made a covenant with Allah that if He gives me recovery from my illness because of which I was afraid for my life, to give in charity all of my belongings and Allah, most Majestic, most Glorious, granted me recovery from the illness. I have moved my family from my house to a ruined dome of al-Ansar (people of al-Madinah). I have carried all of my belongings and I am selling my house and all that I own to give them in charity.' Abu 'Abd Allah, *'Alayhi al-Salam*, said, 'Go and appraise your house, all of your assets and belongings for a fair price and make it certain. Thereafter find a white sheet and write on it all that you have appraised, then find the most trustworthy person known to you among people around you, then give the sheet to him and make a will. Instruct him that if something happened to you (death), to sell your house and all that belongs to you and give in charity on your behalf. Thereafter move back to your house to live as before with your family and maintain your family as before, but make a list of what you spend and pay as charity, or gifts to relatives or for good causes, write them down all and calculate them. At the end of the year go to the executor of the will you have made and

instruct him to deduct from the total on the list what you have spent as such for charity as mentioned in that year. Thereafter, every year you must do the same things until you fulfill all of what you had committed to do for Allah in the form of vow and commitment. In this way your house will remain for you as well as your other assets, if Allah so wills.’ The man then said, ‘You have released me from my entanglement, O child of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, I pray to Allah to keep my soul in service for your cause.’”

H 14426, Ch. 17, h 24

Ali has narrated from his father from ibn Mahbub from ibn Ri’ab from Zurarah who has narrated the following:

“My mother had made a vow and commitment. She had made a commitment for Allah, most Majestic, most Glorious, about one of her children because of fear of something for him. She said that from that day on, she will fast all the time as long as she lives. She came out with us to Makkah, her fasting on the journey made us face questions, and she did not know if she must fast or not. I asked abu Ja’far, *‘Alayhi al-Salam*, about it and he (the Imam) said, ‘She must not fast on a journey. Allah, most Majestic, most Glorious, has exempted her from His right during a journey; but she must fast otherwise for what she has committed herself to.’ I then asked, ‘What happens if she ignores her commitment? He (the Imam) said, ‘No, I fear that she may experience in her child that which made her to form such commitment.’”

H 14427, Ch. 17, h 25

It is narrated from the narrator of the previous *Hadith* from ibn Mahbub from ibn Ri’ab from Misma’ who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of my girl who was pregnant and I made a vow and commitment for Allah, most Majestic, most Glorious, that if she gives birth to a boy, I will help him to perform al-Hajj or I will perform al-Hajj on his behalf. He (the Imam) said, ‘A man made a vow and commitment for Allah, most Majestic, most Glorious, about his son that if he matures he will perform al-Hajj for him or help him to perform al-Hajj. The father died and the boy became mature thereafter and came to the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, who commanded him to perform al-Hajj by means of what his father has left behind.’”

Chapter 18 - The Rare Ahadith

H 14428, Ch. 18, h 1

Ali ibn Ibrahim has narrated from Harun ibn Muslim from Mas'adah ibn Sadaqah who has narrated the following:

“A Shaykh of the children of ‘Adi ibn Hatim narrated from his father from his grandfather who was with ‘*Amir al-Mu’minin*, Ali, ‘*Alayhi al-Salam*, in his campaign against his adversaries. He has said that on the day ‘*Amir al-Mu’minin*, Ali, ‘*Alayhi al-Salam*, met Mu‘awiyah in Siffin, raised his voice to reach his companions and said, ‘By Allah I will fight and kill Mu‘awiyah and his people’, then said in the end of his words slowly, ‘if Allah wills.’ I was close nearby and I asked, ‘O ‘*Amir al-Mu’minin*, you swore about what you said, then why did you make an exception to what you said?’ He (the Imam) said to me, ‘War is tricky and I am not an untruthful person before the believing people. I wanted to encourage my companions against them so they will not fail and keep an interest in their (enemy’s) defeat. The ones of most understanding among them will benefit thereby after this day, if Allah so wills. You must take notice that Allah, most Majestic, most Glorious, once said to Musa, ‘*Alayhi al-Salam*, when He sent him to pharaoh, “The two of you speak to him softly so that perhaps he may learn or become afraid.” (20:44) He knew that he will not learn or become afraid but He wanted to encourage Musa ‘*Alayhi al-Salam*, to go.’”

H 14429, Ch. 18, h 2

Abu Ali al-Ash‘ariy has narrated from Muhammad ibn Hassan from abu ‘Imran al-Armaniyy from ‘Abd al-Hakam from ‘Isa ibn ‘Atiyah who has narrated the following:

“I once said to abu Ja‘far, ‘*Alayhi al-Salam*, that I had taken an oath not to drink from the milk of my goat and not to eat its flesh; so I sold it but its offspring has remained with me. He (the Imam) said, ‘Do not drink from its milk and do not eat from its flesh; it is from that.’”

H 14430, Ch. 18, h 3

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Muhammad ibn ‘Abd Allah ibn Hilal from ‘Uqbah ibn Khalid who has narrated the following:

“An indebted man who was held by his creditor said, ‘All lawful things will be unlawful for me if I leave you, unless you agree to allow me to go.’ However, he then leaves without his creditor agreeing, about this and what he might do because of not knowing the condition of his oath and swearing, when in reality he did not have the intention to swear, he (the Imam) said, ‘It does not have any valid effect.’”

H 14431, Ch. 18, h 4

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Qasim ibn Yahya from his grandfather al-Hassan ibn Rashid from Najiyah al-‘Attar who has narrated the following:

“I once travelled with abu Ja‘far, ‘*Alayhi al-Salam*, to Makkah and he (the Imam) commanded his slave to do something but he disobeyed and abu Ja‘far, ‘*Alayhi al-Salam*, said, ‘By Allah, I will beat you, O *ghulam* (servant).’ I however, did not see him beating the *ghulam*, thus, I asked, ‘I pray to Allah to keep my soul in service for your cause, you swore to beat him but I did not see you do so.’ He (the Imam) said, ‘Is it not a fact that Allah, most Majestic, most Glorious, says, “If you forgive it is closer to piety.” (2:237)’”

H 14432, Ch. 18, h 5

Ali ibn Ibrahim has narrated from his father from certain persons of his people from ‘Asem ibn Hamid ibn Humayd from abu Basir who has narrated the following:

“Abu ‘Abd Allah, ‘*Alayhi al-Salam*, has stated this *Hadith*. ‘If one fails to pay an expiation which is

due on him or setting free of a slave or charity because of an oath or a vow and commitment or murder and so forth or causes for which expiation is obligatory on him, then asking forgiveness is his choice in place of paying expiation. However, in the case of an oath due to *Zihar*, if one cannot find anything to pay as expiation, going to bed with her remains unlawful and they must stay away from each other unless the woman agrees with his living with her without going to bed.”

H 14433, Ch. 18, h 6

Ali ibn Ibrahim has narrated from his father from Safwan ibn Yahya from Ishaq ibn ‘Ammar who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that in the case of *al-Zihar* if the man fails to pay the expiation, he must then ask forgiveness from his Lord and keep his intention not to repeat it again before going to bed and then go to bed, it is sufficient for expiation. When he finds a way to pay the expiation in one of the days, he then must pay the expiation. If he pays charity, feeds himself and his family, it is sufficient if he is needy. If he cannot find, then he must ask forgiveness from his Lord and keep his intention not to repeat it again; it then is enough, by Allah as the expiation.”

H 14434, Ch. 18, h 7

Muhammad ibn Yahya has narrated the following:

“Muhammad ibn al-Hassan once wrote to abu Muhammad, *‘Alayhi al-Salam*, that a man has sworn to disown Allah and the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, and he then opposed his oath and about what is his repentance and expiation. He (the Imam), *‘Alayhi al-Salam*, signed the answer that said, ‘He must feed ten destitute people with one *mud* (a certain measurement) to each one and ask forgiveness from Allah, most Majestic, most Glorious.’”

H 14435, Ch. 18, h 8

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“Abu ‘Abd Allah, has said that *‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, has said, ‘If one swears saying, “No, by the Lord of the book”, then opposes it, he must pay one *Kaffarah* (expiation).’”

H 14436, Ch. 18, h 9

Through the same chain of narrators as that of the previous *Hadith*, the following is narrated:

“*‘Amir al-Mu’minin*, Ali, *‘Alayhi al-Salam*, was asked, ‘Can the *Kaffarah* (expiation) because of an oath be fed to the destitute from the flesh of the offering animals for al-Hajj?’ He (the Imam) said, ‘No, because it is sacrifice for Allah.’”

H 14437, Ch. 18, h 10

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Sahl from Muhammad ibn Sinan from Ishaq ibn ‘Ammar who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a man who is under oath and his creditor makes him to take an oath with all seriousness not to leave the town without his knowledge. He (the Imam) said, ‘He must not leave the town without his knowledge.’ I then said that if he informs, he would not allow him to go out. He (the Imam) said, ‘If informing him is harmful to him and his family he can go out and he does not owe anything.’”

H 14438, Ch. 18, h 11

Ahmad ibn Muhammad has narrated from al-Husayn ibn Sa‘id from Ali ibn al-Nu‘man from ‘Abd Allah ibn Muskan from al-‘Ala’ Bayya’ al-Sabiriy who has narrated the following:

“I once asked abu ‘Abd Allah, *‘Alayhi al-Salam*, about the case of a woman who leaves in trust with a man a certain amount of assets; and when the time of her death comes, she tells him that the asset she

has left with him belongs to so and so female person. The woman dies and her people come to him and ask him to take an oath that she has not left anything with him. Must he take an oath in such case? He (the Imam) said, ‘If he trusts her he can take an oath but if she is accused, he must not take an oath and instead leave the matter as is; only one-third belongs to her, after all.’”

H 14439, Ch. 18, h 12

Ahmad ibn Muhammad has narrated from ibn Faddal from Hafs and from more than one person of our people who has narrated the following:

“Once abu ‘Abd Allah, ‘*Alayhi al-Salam*, was asked about the case of a man who swears by his brother. He (the Imam) said, ‘It does not have any valid effect on him; he only wanted to honor and respect him.’”

H 14440, Ch. 18, h 13

Ahmad ibn Muhammad has narrated from ibn Mahbub from ibn Ri’ab from al-Halabiy who has narrated the following:

“Once abu ‘Abd Allah, ‘*Alayhi al-Salam*, was asked about the case of a man who falls on his wife during her experiencing *Hayd* (menses). He (the Imam) said, ‘If he has done so in the beginning of her *Hayd* (menses) he must ask forgiveness from Allah and give charity, to seven people of the believing ones, of one day’s meals and must not repeat. If it is in the end of her *Hayd* (menses) before her taking Ghysl (bath), then he does not owe anything.’”

H 14441, Ch. 18, h 14

Ali ibn Ibrahim has narrated from his father from ibn abu ‘Umayr from Hafs ibn Sawqah from ibn Bukayr from Zurarah who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the meaning of: ‘there is no vow and commitment in sinful matters’. He (the Imam) said, ‘Whatever is beneficial to you in the worldly matters or the hereafter, there is no violation in it.’”

H 14442, Ch. 18, h 15

Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from ibn abu Nasr and ibn abu ‘Umayr all from Mu’ammār ibn Yahya who has narrated the following:

“I once asked abu ‘Abd Allah, ‘*Alayhi al-Salam*, about the case of a man who involves himself in *al-Zihar* against his wife; if it is permissible to free a newborn slave for *Kaffarah* (expiation). He (the Imam) said, ‘Every kind of *Kaffarah* (expiation) that requires freeing of a slave, freeing of a newborn slave is sufficient for it except for murder; Allah, most Majestic, most Glorious, says, “. . . then set free a believing slave.” (4:92) He has meant thereby one who affirms the faith and is of the age of being held responsible for violating an oath.’”

H 14443, Ch. 18, h 16

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ahmad ibn al-Husayn from ‘Amr ibn Sa‘id from Musaddiq ibn Sadaqah from ‘Ammār al-Sabatiy who has narrated the following:

“About the case of a man who makes it upon himself to free a slave then sets free a paralyzed or lame one, abu ‘Abd Allah, ‘*Alayhi al-Salam*, has said, ‘If he is sellable, it is sufficient unless he has specified, in which case he must meet the condition.’”

H 14444, Ch. 18, h 17

Ali ibn Ibrahim has narrated from his father from ‘Isma‘il ibn Marrar from Yunus from certain persons of his people who has narrated the following:

“About the case of a man who swears because of *taqiyah* (fear), one of the two Imam, (abu Ja‘far or abu ‘Abd Allah), ‘*Alayhim al-Salam*, has said, ‘If you fear for your belongings or life, you can swear if

it can spare it; but if you see that it cannot avert anything, then do not swear.’”

H 14445, Ch. 18, h 18

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Hassan Shammun from ‘Abd Allah ibn ‘Abd al-Rahman al-Asamm from Misma‘ ibn ‘Abd al-Malik who has narrated the following:

“Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu‘minin*, Ali, *‘Alayhi al-Salam*, was asked about a man who makes a vow and commitment without specifying anything, has said, ‘If he wants he can perform two *Rak‘at Salat* (prayer) or fast for one day or give one loaf of bread for charity.’”

H 14446, Ch. 18, h 19

Ali ibn Ibrahim has narrated from his father from al-Nawfaliy from al-Sakuniy who has narrated the following:

“This is about the case of a man who after being asked, ‘Did you do such and such work?’ says, ‘No, by Allah, I have not done it’ when in fact he has done it. Abu ‘Abd Allah, *‘Alayhi al-Salam*, has said that *‘Amir al-Mu‘minin*, Ali, *‘Alayhi al-Salam*, has said, ‘It is a lie that he has spoken and he must ask Allah for forgiveness.’”

H 14447, Ch. 18, h 20

A number of our people have narrated from Sahl ibn Ziyad from al-Nawfaliy from ‘Isa ibn ‘Abd Allah ibn Muhammad ibn ‘Umar ibn Ali from his father from his grandfather who has narrated the following:

“Of the oath of the Messenger of Allah, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, was his saying, ‘No, and I ask Allah for forgiveness.’”

H 14448, Ch. 18, h 21

Ali ibn Ibrahim has narrated from his father from certain persons of his people whom he has mentioned who has narrated the following:

“Al-Mutawakkil specified a vow and commitment that if he recovers he will give in charity *kathir* (a great deal of) assets. When he recovered, he asked the scholars of law about the limit of *kathir* (great deal) but they had different opinions. Certain ones among them said that it is a hundred thousand; others said that it is ten thousand, and they cited different things as proof in the matter. It all became confusing for him. One of his officers called Saf‘an said, ‘Why do you not send this black to ask him about it?’ Al-Mutawakkal asked, ‘Who do you mean thereby? Woe upon you!’ He replied, ‘I mean ibn al-Rida.’ He asked, ‘Is he good in it?’ He (the officer) replied, ‘If he takes you out of this, you then must pay me so and so much; or you can whip me one hundred times.’ Al-Mutawakkal said, ‘I agree. O Ja‘far ibn Mahmud, go to him and ask him about the limit of *kathir* (a great deal of asset).’ Ja‘far ibn Mahmud went to abu al-Hassan, Ali ibn Muhammad, *‘Alayhim al-Salam*, and asked him about the limit of *al-Kathir* (great deal of assets). He (the Imam) said, ‘It is eighty.’ Ja‘far asked, ‘O my master, he will ask me for a reason.’ Abu al-Hassan, *‘Alayhi al-Salam*, said, ‘Allah, most Majestic, most Glorious, says, ‘We have helped you in *Mawatin al-Kathirah* (in a great many places)’ and we counted them, they were eighty such places.’”

End of the Book of Oaths, Vow and Commitment and *Kaffarah* (expiations); with this ends the Book of al-Fru‘ of al-Kafi, compiled by abu Ja‘far Muhammad ibn Ya‘qub, al-Raziyy, al-Kulayniyy.

All praise belongs to Allah, Cherisher of the worlds, *O Allah, grant compensation to Muhammad and his family worthy of their services to Your cause*, our master and Prophet Muhammad and his purified family with *Salam* and submission a great deal, followed by the Book of al-Rawdah of al-Kafi, if Allah so wills.