



THE FIQH OF MARRIAGE



Al-Isnad

Speaker Profile

Instructor: **Shaykh Ahsan Hanif**



Born and bred in Birmingham, UK, Shaykh Ahsan is well known in his community as the young Qari who memorised the Qur'an at the tender age of 13 and who delivered regular halaqaat in Birmingham.

In the year 2000, he gained a scholarship to enter the Islamic University of Madinah. After completing his Arabic diploma, he graduated from the Faculty of Shari'ah in 2006 with honours. He obtained ijazah in the Qur'an as well as studying under a number of well-known scholars, such as

Sh. Abdul Muhsin al-Abbad and Sh. Muhammad ibn Muhammad Mukhtar al-Shinqiti.

Upon his return to the UK he attained his PhD from the University of Birmingham. He is currently an imam at Green Lane Masjid, Birmingham as well as the head of the Qur'an & Hadith Studies Department for AlMaghrib Institute.

He has spoken at Islamic conferences in various countries, published translations of Arabic works and is a presenter of IslamQA for Islam Channel.



About Al-Isnad Institute ...

Al-Isnad is an ijazah accredited 5-6 year study programme which aims to familiarise students with major authentic Islamic works. We want to ensure that through this programme we educate individuals and help them in developing themselves as well-rounded and grounded students.

We aim to continue the centuries old tradition of learning from classical texts for our future imams and provide an opportunity to those individuals who may not be able to study abroad at Islamic institutions.

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كتاب النكاح من

The Book of Marriage from

عمدة الطالب لنيل المآرب

العلامة منصور بن يونس البهوتي

The Student's Foundation

By

Manṣūr ibn Yūnus al-Bahūtī

و بلوغ المرام

الحافظ ابن حجر العسقلاني

And

Bulūgh al-Marām

By

Ibn Ḥajar al-'Asqalānī

فصل

Section

إذا باع سيّد فنه نفسه بمالٍ مُنجمٍ مُجمين فأكثر صحَّ، فإذا أدّاه عتق، وولّاه له، وإن عجز عاد قنّاً

If a slave purchases his freedom from his master in two or more instalments, the sale is valid. Once payment is complete, the slave is free and his allegiance remains with the former master. If he is unable to pay, the slave returns to the original ownership.

وتصحُّ كتابةُ أمٍ ولده، وبيعُ المكاتب، وإذا أدّى لمشتريه عتق، وولّاه له ويملك كسبته ونفعه وكلّ تصرف يُصلح ماله

It is valid to give a freedom contract to the slave-mother of his child, and the sale of a *mukatab* (a slave who buys their freedom). If the slave fulfils his payment to the new owner, the slave is considered freed, and their allegiance goes to the last owner. The *mukatab* slave retains ownership of what they earn and any benefits, and every action they take that contributes to their wealth management.

ويتبع مكاتبه ولدٌ ولدته بعدّها كأمٍّ وولدٍ ومدبرة

The child born to a *mukatab* mother after her contract follows the same rules as the mother, just as the slave-mother of a child and *mudabbarah*.

فصل

Section

إذا أُولد حُرٌّ أمته أو أمةٌ ولده أو أمةٌ لأحدهما فيها شركٌ فولدت ما فيه صورةٌ ولو خفية صارت أمٍّ وولدٍ له، تعتق بموته من كلّ ماله ولو قتلته.

If a free person fathers a child by his female slave, or a slave owned by his son, or owned co-owned by him and his son, even with others, and she gives birth – even if just recognisable, she takes the ruling of a slave mother. She is thereby emancipated upon his death from all his property, even if she were to have killed him.

وأحكامها كأمة في وطءٍ واستخدامٍ وإجارةٍ ونحوها، لا فيما ينقل الملك، أو يُراد له كالبيع والوقف والرهن ونحوه.

Her legal status is like that of a female slave with regard to sexual relations, service, hire, and similar matters, but not in cases where ownership is transferred or intended, such as sale, endowment (*waqf*), pledge, or similar transactions.

كِتَابُ الْعِتْقِ

Book of Emancipation

عَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم - : «يُتِمُّ أَمْرِي مُسْلِمٍ أَعْتَقَ امْرَأً مُسْلِمًا، اسْتَنْقَذَ اللَّهُ بِكُلِّ عَضْوٍ مِنْهُ عَضْوًا مِنْهُ مِنَ النَّارِ.» مُتَّفَقٌ عَلَيْهِ

وَلِلتِّرْمِذِيِّ وَصَحَّحَهُ; عَنْ أَبِي أُمَامَةَ: «وَأَيُّ امْرَأَةٍ مُسْلِمَةٍ أَعْتَقَ امْرَأَتَيْنِ مُسْلِمَتَيْنِ، كَانَتْ فِكَائِكُهُ مِنَ النَّارِ.

وَلِأَبِي دَاوُدَ: مِنْ حَدِيثِ كَعْبِ بْنِ مُرَّةٍ: «وَأَيُّ امْرَأَةٍ أَعْتَقَتْ امْرَأَةً مُسْلِمَةً، كَانَتْ فِكَائِكُهَا مِنَ النَّارِ.

Narrated by Abu Hurayrah, who said that the Messenger of Allah (ﷺ): “Any Muslim who frees a Muslim slave, Allah will save, for every limb of that slave, one of his own limbs from the Fire.” Al-Bukhari & Muslim.

And in Al-Tirmidhi, which he graded authentic, from Abu Umamah: “Any Muslim who frees two Muslim women, they will be his ransom from the Fire.”

And in Sunan Abi Dawud, from the narration of Ka'b ibn Murrah: “Any woman who frees a Muslim woman, she will be her ransom from the Fire.”

وَعَنْ أَبِي ذَرٍّ - رضي الله عنه - قَالَ: سَأَلْتُ النَّبِيَّ - صلى الله عليه وسلم - أَيُّ الْعَمَلِ أَفْضَلُ؟ قَالَ: «إِيمَانٌ

بِاللَّهِ، وَجِهَادٌ فِي سَبِيلِهِ.» «قُلْتُ: فَأَيُّ الرِّقَابِ أَفْضَلُ؟ قَالَ: «أَعْلَاهَا ثَمَنًا، وَأَنْفُسُهَا عِنْدَ أَهْلِهَا.» مُتَّفَقٌ عَلَيْهِ.

Narrated by Abu Dharr al-Ghifari, who said: I asked the Prophet (ﷺ) “Which deed is best?” He said, “Faith in Allah, and striving in His cause.” I said, “Then which slave is best to free?” He said, “The one highest in price and most valued by its owner.” Agreed upon

وَعَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَنْ أَعْتَقَ شَرِكًا لَهُ فِي عَبْدٍ، فَكَانَ لَهُ مَالٌ يَبْلُغُ ثَمَنَ الْعَبْدِ، فُؤِمَ قِيَمَةً عَدْلٍ، فَأَعْطَى شُرَكَاءَهُ حِصَصَهُمْ، وَعَتَقَ عَلَيْهِ الْعَبْدُ، وَإِلَّا فَقَدْ عَتَقَ مِنْهُ مَا عَتَقَ. «مُتَّفَقٌ عَلَيْهِ

وَهُمَا: عَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - «وَأِلَّا فُؤِمَ عَلَيْهِ، وَاسْتُسْعِيَ غَيْرَ مَشْفُوقٍ عَلَيْهِ. وَقِيلَ: إِنَّ السَّعَايَةَ مُدْرَجَةٌ فِي الْخَبَرِ

Narrated by Abdullah ibn Umar, who said that the Messenger of Allah ﷺ said: “Whoever frees his share in a slave, and possesses wealth sufficient to cover the price of the slave, the slave is to be fairly valued, his partners are given their shares, and the slave is fully freed on his behalf. If he does not have the means, then only the part he freed remains free.” Agreed upon

And in both collections, from Abu Hurayrah: “If not, the slave is to be valued against him, and the slave is required to work to pay the remainder, without hardship being imposed upon him.” And it has been said that the phrase about earning the remainder is an inserted statement within the report.

وَعَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «لَا يَجْزِي وُلْدٌ وَالِدَهُ، إِلَّا أَنْ يَجِدَهُ مَمْلُوكًا فَيُعْتِقَهُ. «رَوَاهُ مُسْلِمٌ

Narrated by Abu Hurayrah that the Messenger of Allah ﷺ said: “A child does not suffice for the parent, except that he finds him as a slave and then frees him.” Sahih Muslim.

وَعَنْ سَمُرَةَ - رَضِيَ اللَّهُ عَنْهُ - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «مَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ، فَهُوَ حُرٌّ. «رَوَاهُ أَحْمَدُ، وَالْأَرْبَعَةُ وَرَجَّحَ جَمْعٌ مِنَ الْخُفَاطِ أَنَّهُ مَوْفُوفٌ

Narrated by Samurah ibn Jundub that the Prophet ﷺ said: “Whoever owns a close blood relative who is forbidden to enslave, he is free.” Reported by Ahmad ibn Hanbal and the four Imams, and a group of hadith scholars favored considering it as *Mawqūf*.

وَعَنْ عِمْرَانَ بْنِ حُصَيْنٍ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ رَجُلًا أَعْتَقَ سِتَّةَ مَمْلُوكِينَ لَهُ، عِنْدَ مَوْتِهِ، لَمْ يَكُنْ لَهُ مَالٌ غَيْرِهِمْ، فَدَعَا بِهِمْ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَجَزَّاهُمْ أَثْلَانًا، ثُمَّ أَفْرَعَ بَيْنَهُمْ، فَأَعْتَقَ اثْنَيْنِ، وَأَرْقَّ أَرْبَعَةً، وَقَالَ لَهُ قَوْلًا شَدِيدًا. رَوَاهُ مُسْلِمٌ

Narrated by Imran ibn Husayn, that a man had freed six of his slaves, and at the time of his death, he had no other wealth besides them. The Messenger of Allah ﷺ called them together, divided them into three groups, then drew lots among them. He freed two, and set four back into servitude, and spoke to the man firmly. Sahih Muslim.

وَعَنْ سَفِينَةَ - رضي الله عنه - قَالَ: كُنْتُ مَمْلُوكًا لِأُمِّ سَلَمَةَ فَقَالَتْ: أُعْتِقُكَ، وَأَشْتَرُ عَلَيْكَ أَنْ تَخْدِمَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا عِشْتَ. رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَالنَّسَائِيُّ، وَالْحَاكِمُ

Narrated by Safinah that he said: "I was a slave to Umm Salamah, and she said: 'I free you, on the condition that you serve the Messenger of Allah ﷺ for as long as you live.'" Reported by Ahmad, Abu Dawud, An-Nasa'i, and Al-Hakim.

وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا; أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «إِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ». مُتَّفَقٌ عَلَيْهِ فِي حَدِيثٍ.

Narrated by A'ishah that the Messenger of Allah ﷺ said: "Al-walā' (loyalty) belongs only to the one who frees." Agreed upon

وَعَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «الْوَلَاءُ لِحِمَّةٍ كَلْحِمَةِ النَّسَبِ، لَا يُبَاعُ وَلَا يُوهَبُ». «رَوَاهُ الشَّافِعِيُّ، وَصَحَّحَهُ ابْنُ جِبَانَ، وَالْحَاكِمُ. وَأَصْلُهُ فِي «الصَّحِيحَيْنِ بِعَبْرَةِ هَذَا اللَّفْظِ

Narrated by Ibn Umar that the Messenger of Allah ﷺ said: "Al-walā' (loyalty) is like kinship, just as real as blood relation; it cannot be sold nor gifted." Al-Shafi'i, authenticated by Ibn Hibban and Al-Hakim. Its original wording appears in the Şahīḥayn with a slightly different phrasing.

بَابُ الْمُدَبَّرِ وَالْمُكَاتَبِ وَأُمِّ الْوَلَدِ

Chapter: The Freed, the Contracted, and the Mother of the Child

عَنْ جَابِرٍ - رضي الله عنه - أَنَّ رَجُلًا مِنَ الْأَنْصَارِ أَعْتَقَ غُلَامًا لَهُ عَنْ دُبُرٍ، لَمْ يَكُنْ لَهُ مَالٌ غَيْرُهُ، فَبَلَغَ ذَلِكَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. فَقَالَ: «مَنْ يَشْتَرِيهِ مِنِّي؟» فَاشْتَرَاهُ نُعَيْمُ بْنُ عَبْدِ اللَّهِ بِثَمَانِمِائَةِ دِرْهَمٍ. مُتَّفَقٌ عَلَيْهِ. وَفِي لَفْظٍ لِلْبُخَارِيِّ: فَاحْتَجَّ وَفِي رِوَايَةٍ لِلنَّسَائِيِّ: وَكَانَ عَلَيْهِ دَيْنٌ، فَبَاعَهُ بِثَمَانِمِائَةِ دِرْهَمٍ، فَأَعْطَاهُ وَقَالَ: «أَفْضِ دَيْنَكَ»

Narrated Jabir: A man from the Ansar freed a young boy upon his death, and he had no other wealth besides him. When this reached the Prophet ﷺ, he said: "Who will buy him from me?" Nu'aym ibn 'Abdullah purchased him for eight hundred dirhams. Agreed upon.

In one wording in al-Bukhari's narration: "He was in need." And in al-Nasa'i's narration: "He was in debt, so he sold him for eight hundred dirhams; then he gave it and said, 'Pay off your debt.'"

وَعَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «قَالَ: «الْمُكَاتَبُ عَبْدٌ مَا بَقِيَ عَلَيْهِ مِنْ مُكَاتَبَتِهِ ذَرْهَمٌ». أَخْرَجَهُ أَبُو دَاوُدَ بِإِسْنَادٍ حَسَنٍ، وَأَصْلُهُ عِنْدَ أَحْمَدَ، وَالثَّلَاثَةُ، وَصَحَّحَهُ الْحَاكِمُ

Narrated 'Amr ibn Shu'ayb, from his father, from his grandfather, from the Prophet ﷺ: "A mukatab remains a slave so long as only a single dirham remains of his contract." This was reported by Abu Dawud with a good chain of transmission. Its origin is in Ahmad and the three and al-Hakim authenticated it.

وَعَنْ أُمِّ سَلَمَةَ -رَضِيَ اللَّهُ عَنْهَا- قَالَتْ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «إِذَا كَانَ لِإِحْدَاكُنَّ مُكَاتَبٌ، وَكَانَ عِنْدَهُ مَا يُؤَدِّي، فَلْتَحْتَجِبِي مِنْهُ». «رَوَاهُ الْحَمْسَةُ وَصَحَّحَهُ التِّرْمِذِيُّ

Narrated Umm Salamah: The Messenger of Allah ﷺ said: "If one of you has a mukatab and he possesses the means to pay off his contract, let her (the owner) conceal herself from him." The five and authenticated by al-Tirmidhi.

وَعَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «يُودَى الْمُكَاتَبُ بِقَدْرِ مَا عَتَقَ مِنْهُ دِيَةَ الْحُرِّ، وَبِقَدْرِ مَا رَقَّ مِنْهُ دِيَةَ الْعَبْدِ». «رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَالتَّنْسَائِيُّ

Narrated Ibn Abbas: The Prophet ﷺ said: "The blood money of a mukatab is paid in proportion to what he has been freed of a free person's blood-money, and in proportion to what remains of a slave's blood-money." Ahmad, Abu Dawud, and al-Nasa'i.

وَعَنْ عَمْرٍو بْنِ الْحَارِثِ - أَخِي جُوزَيْرِيَّةَ أُمِّ الْمُؤْمِنِينَ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: «مَا تَرَكَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عِنْدَ مَوْتِهِ ذَرْهَمًا، وَلَا دِينَارًا، وَلَا عَبْدًا، وَلَا أَمَةً، وَلَا شَيْئًا، إِلَّا بَعَلْتَهُ الْبَيْضَاءَ، وَسِلَاحَهُ، وَأَرْضًا جَعَلَهَا صَدَقَةً». «رَوَاهُ الْبُخَارِيُّ .

Narrated by Amr ibn al-Harith, the brother of Juwayriyah bint al-Harith who said: "The Messenger of Allah ﷺ left at the time of his death neither dirham nor dinar, nor slave nor bondwoman, nor anything at all, except his white mule, his weapons, and a piece of land which he had made a charity." Sahih al-Bukhari.

وَعَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «أَيُّمَا أَمَةٍ وُلِدَتْ مِنْ سَيِّدِهَا، فَهِيَ حُرَّةٌ بَعْدَ مَوْتِهِ». «أَخْرَجَهُ ابْنُ مَاجَهَ، وَالْحَاكِمُ بِإِسْنَادٍ ضَعِيفٍ. وَرَوَّجَحَ جَمَاعَةٌ وَقَفَهُ عَلَى عُمَرَ .

Narrated by Ibn Abbas, who said that the Messenger of Allah ﷺ said: "Any bondwoman who bears a child to her master becomes free after his death." Sunan Ibn Majah and Al-Hakim through a weak chain of transmission. A number of hadith scholars considered it more likely to be a statement of Umar ibn al-Khattab.

وَعَنْ سَهْلِ بْنِ حُنَيْفٍ - رضي الله عنه - أَنَّ رَسُولَ اللَّهِ - صلى الله عليه وسلم - قَالَ: «مَنْ أَعَانَ مُجَاهِدًا فِي سَبِيلِ اللَّهِ، أَوْ غَارِمًا فِي عُسْرَتِهِ، أَوْ مُكَاتَبًا فِي رَقَبَتِهِ، أَظَلَّهُ اللَّهُ يَوْمَ لَا ظِلَّ إِلَّا ظِلُّهُ.» «رَوَاهُ أَحْمَدُ، وَصَحَّحَهُ الْحَاكِمُ»

Narrated by Sahl ibn Hunayf that the Messenger of Allah ﷺ said: "Whoever helps a fighter in the path of Allah, or a debtor in hardship, or a *mukatab* seeking to free himself, Allah will shade him on the Day when there is no shade except His shade." Ahmad and authenticated by Al-Hakim.

كتاب النكاح

The Book of Marriage

يُسْنُ لذي شهوة، وَيَجِبُ إنْ حَافَ زني، وَيُباحَ لمن لا شهوة له، وَهوَ معها أفضل من نُقل العِبادة.

Marriage is recommended for one who has desire; it becomes obligatory if one fears falling into fornication; and it is permissible for one who has no desire. Even with desire, it is superior to optional acts of worship.

وَسُنَّ نكاح واحدة دَيِّتة أجنبية بِكرٍ وُلودٍ

It is recommended to marry one woman: religious, unrelated, previously unmarried, and likely to bear children.

وَلَهُ نَظَرُ ما يَظهر غالباً ممن أراد خطبتها، وَمِنْ ذاتِ مَحْرَمه

He is allowed to see what is usually apparent from the he wishes to propose to, just like what he sees of his closest relatives.

ويَحْرُمُ تصریح بِخطبة مُعتدَّةٍ ولو مِنْ وَفاةٍ، دُونَ تَعْرِيضٍ لمبانة

It is forbidden to explicitly propose to a woman who is in the iddah (waiting period), even if she is widowed, unless it is done indirectly.

ويُباحان لبائِن منه تحلُّ له، وَهي في جواب كهُوَ

It is permissible to propose directly and indirectly to a woman who is in the iddah from him, and her response must match his.

والتعريضُ: إني في مثلك لراغب، وتجيئه: ما يُرْعَبُ عنك ونحوه

Indirect proposal is like, "I am interested in someone like you," and she responds with something like, "Someone like you is not overlooked" and so on.

وتَحْرُمُ خِطبةٌ على خِطبة مُسلم أُحِبُّ ولو تَعْرِيضاً، لا إنْ رُدَّ أو أذِنَ أو جُهل الحال

A proposal is forbidden for a man to a Muslim woman who has already been engaged, even if only by indirect indication, unless the first proposal is explicitly rejected, permission is given, or the situation is unknown.

وَيُسَنُّ عَقْدُ مَسَاءٍ يَوْمَ الْجُمُعَةِ وَأَنْ يَخْطُبَ قَبْلَهُ بِخُطْبَةِ ابْنِ مَسْعُودٍ

It is recommended to conclude a marriage contract in the evening on Friday, and to deliver the beforehand the sermon of Ibn Mas'ūd.

فصل

Section

رُكْنَاهُ إِجَابَةٌ بِلَفْظٍ: أَنْكَحْتُ أَوْ زَوَّجْتُ، وَقَبُولٌ بِلَفْظٍ: قَبِلْتُ، أَوْ رَضِيْتُ، أَوْ تَزَوَّجْتَهَا وَنَحْوَهُ

Its two pillars are: an offer using the words "I give in marriage" or "I marry off," and an acceptance using the words "I accept," "I consent," or "I marry her," and similar expressions.

فَلَا يَنْعَقَدُ مَنْ يُحْسِنُ الْعَرَبِيَّةَ بغير ذلك، فَإِنْ لَمْ يَحْسِنَهَا لَمْ يَلْزَمَهُ تَعَلُّمُهَا وَكَفَاهَا مَعْنَاهُمَا الْخَاصَّ بِكُلِّ لِسَانٍ

For one who is able to speak Arabic well, the marriage contract is not concluded except with these expressions. If he is unable to speak Arabic, he is not required to learn it; rather, it is sufficient for him to use their specific equivalent meaning in any language.

وَإِنْ تَرَاخَى قَبُولٌ صَحَّ مَا دَامَا بِالْمَجْلِسِ وَلَمْ يَتَشَاغَلَا بِمَا يَقْطَعُهُ عَرَفًا لَا إِنْ تَقَدَّمَ

If acceptance is delayed, the contract remains valid so long as both parties are still in the same sitting and have not occupied themselves with something customarily regarded as interrupting it; but it is not valid if acceptance comes before the offer.

فصل

Section

وشروطه: تعيين الزوجين؛ باسم، أو صفة، أو إشارة

Its conditions include specifying the two spouses; by name, description, or indication.

وكذا إن قال: زوجتك بنتي وليس له غيرها، لا إن قال: زوجتك فاطمة ولم يقل بنتي

Likewise, if he says, "I marry you to my daughter," and he has no daughter other than her, it is valid; but if he says, "I marry you to Fatimah," without saying "my daughter," it is invalid.

الثاني: رضاهما أو من يقوم مقامهما

The second condition: their consent, or the consent of someone who represents them.

ويجبر أب بكرًا، ولو بالغة ومجنونة ومجنوناً ومعتوهاً، وصغيراً، وسيد أمة غير مكاتبه وعبده الصغير، وكذا وصيه في

نكاح

A father may contract a marriage for a virgin, and even for a mature mentally ill woman, a mentally ill person, or one who is incapacitated; likewise, for a minor. The master can do likewise for a non-contractually bound female slave, and his young male slave, as well as for his ward in marriage.

ولا يُزوج باقي الأولياء صغيرةً دون تسع بحال، ولا صغيراً، ولا كبيرة عاقلة ولا بنت تسع إلا بإذنها، وهو

صمات بكرٍ ونطق ثيب

No other guardians may marry off a minor girl under nine years of age under any circumstances, nor a minor boy, nor a mature sane woman, nor a girl who has reached nine, except with their consent. This consent for a virgin is her silent acceptance and verbal consent for one who has been previously married.

الثالث: الولي، فلا تُزوج امرأةً نفسها ولا غيرها، وأبؤها أحقُّ به ثم وصيه فيه، ثم جدُّ لأب وإن علا، ثم ابنها ثم

ابنه وإن نزل ثم أخ لأبوين، ثم لأب ثم ابناهما كذلك، ثم الأقرب فالأقرب، ثم المولى المعتق، ثم عصباته الأقرب

كميراث ثم الحاكم ثم دهقان القرية ونحوه

Third: The guardian (*wali*). A woman may not marry herself off or anyone else. Her father has the strongest right, then her appointed guardian, then her paternal grandfather and above, then her son, then her grandson and below, then her full brother, then her paternal brother and their sons likewise, continuing to the closest relatives in order of kinship, then the master who freed her, then her closest agnates according to inheritance, then the ruler, then the village headman or similar local authority.

وشرطه: حُرِّيَّة، وتكْلِيف، ودُّكُورِيَّة، ورشد فيه واتفاق دين سوى سيد وسلطان، وعدالة، وإذا استوى وليَّان فُدِّمَ مَنْ أذنته، وإلا فُرْعَة

Its conditions: the guardian must be free, legally competent (*mukallaf*), male, mature in it, of the same religion except for a master and ruler and just. If two guardians are equal in rank, priority goes to the one to whom she grants permission, otherwise by drawing lots.

وإن عَضَلَ أَقْرَبَ أَوْ لَمْ يَكُنْ أَهْلًا أَوْ غَابَ غَيْبَةً مَنْقُطَةً زَوْجَ أَبْعَدُ، وَإِنْ زَوْجَ أَبْعَدُ أَوْ أَجْنَبِي بِلَا عُذْرٍ لَمْ يَصِحَّ

If the closest guardian is incapacitated, unfit, or absent for a prolonged period, then a more distant guardian may contract the marriage. But if a more distant relative or a stranger marries off the person without a valid reason, the marriage is not valid.

الرابع: الشهادة، فلا يصح إلا بحضور ذكَّرين عدلَّين ولو ظاهراً مُكَلَّفَيْن سَمِيعَيْن ناطِقَيْن

Fourth: Testimony: A marriage is not valid except in the presence of two just male witnesses – even if only apparently, accountable, able to hear, and able to speak.

الخامس: الخُلُوعُ مِنَ الْمَوَانِعِ

Fifth: Absence of impediments

وليس الكفاءة شَرْطاً لصحته، فَيَصِحُّ إِنْ زَوَّجَتْ بِغَيْرِ كَفْوٍ، وَلَمْ يَرْضَ مِنْ امْرَأَةٍ وَعَصَبَةِ الْفَسْخِ، وَإِنْ بَعْدَ

Compatibility (*Kafa'ah*) is not a condition for validity. A marriage is valid even she marries one who is incompatible. Moreover, if a woman or her male agnate, even if distant, does not consent, annulment ensues.

والكفاءة: دِينٌ وَنَسَبٌ وَحُرِّيَّةٌ وَصِنَاعَةٌ غَيْرُ زَرِيَّةٍ وَغَنَى بِمَا يَجِبُ لَهَا

Compatibility (*Kafa'ah*) refers to religion, lineage, freedom, profession not being lowly and sufficient wealth to meet her needs.

كِتَابُ النِّكَاحِ - أَحَادِيثُ فِي النِّكَاحِ

The Book of Marriage

عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ لَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «يَا مَعْشَرَ الشَّبَابِ! مَنْ اسْتَطَاعَ مِنْكُمْ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ أَغْضُ لِلْبَصَرِ، وَأَحْصَنُ لِلْفَرْجِ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ؛ فَإِنَّهُ لَهُ وَجَاءٌ». مُتَّفَقٌ عَلَيْهِ .

Narrated 'Abdullah ibn Mas'ud that the Messenger of Allah ﷺ said: "O young people! Whoever among you is able to marry, let him do so, for it helps lower the gaze and guard the private parts. And whoever is not able, let him fast, for fasting will be a shield for him." Agreed upon.

وَعَنْ أَنَسِ بْنِ مَالِكٍ - رَضِيَ اللَّهُ عَنْهُ - - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَمِدَ اللَّهَ، وَأَثْنَى عَلَيْهِ، وَقَالَ: «لِكَيْ أَنَا أُصَلِّي وَأَنَامُ، وَأَصُومُ وَأُفْطِرُ، وَأَتَزَوَّجُ النِّسَاءَ، فَمَنْ رَغِبَ عَنِّي فَلَيْسَ مِنِّي». مُتَّفَقٌ عَلَيْهِ

Narrated Anas ibn Malik that the Prophet ﷺ praised Allah and extolled Him, then said: "But I pray and I sleep, I fast and I break my fast, and I marry women. So whoever turns away from my Sunnah is not from me." Agreed upon.

وَعَنْهُ قَالَ: كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَأْمُرُ بِالْبَاءَةِ، وَيَنْهَى عَنِ التَّبْتُلِ نَهْيًا شَدِيدًا، وَيَقُولُ: «تَزَوَّجُوا الْوُدُودَ الْوُلُودَ. إِنِّي مُكَاتِرٌ بِكُمْ الْأَنْبِيَاءَ يَوْمَ الْقِيَامَةِ». رَوَاهُ أَحْمَدُ، وَصَحَّحَهُ ابْنُ حِبَّانَ وَ لَهُ شَاهِدٌ: عِنْدَ أَبِي دَاوُدَ، وَالتَّنَسَائِيَّ، وَابْنَ حِبَّانَ أَيْضًا مِنْ حَدِيثِ مَعْقِلِ بْنِ يَسَارٍ

Narrated from Anas that the Prophet ﷺ used to command marriage and strongly forbid celibacy, saying: "Marry the loving and fertile, for I will boast of your numbers before the Prophets on the Day of Resurrection." Ahmad and authenticated by Ibn Hibban.

It is also supported in reports of Abu Dawud, An-Nasa'i, and Ibn Hibban from the narration of Ma'qil ibn Yasar.

وَعَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «تُنكَحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا، وَلِحَسَبِهَا، وَلِحِمَاهَا، وَلِدِينِهَا، فَاطْفَرُ بَدَاتِ الدِّينِ تَرَبَّتْ يَدَاكَ». مُتَّفَقٌ عَلَيْهِ مَعَ بَقِيَّةِ السَّبْعَةِ

Narrated from Abu Hurayrah that the Prophet ﷺ said: "A woman is married for four things: for her wealth, for her lineage, for her beauty, and for her religion. So seek the one who is religious, you will prosper." Agreed upon along with the rest of the seven.

وَعَنْهُ؛ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ إِذَا رَفَأَ إِنْسَانًا إِذَا تَزَوَّجَ قَالَ: «بَارَكَ اللَّهُ لَكَ، وَبَارَكَ عَلَيْكَ، وَجَمَعَ بَيْنَكُمَا فِي خَيْرٍ». (رَوَاهُ أَحْمَدُ، وَالْأَرْبَعَةُ، وَصَحَّحَهُ التِّرْمِذِيُّ، وَابْنُ حِبَّانَ

And from Abu Hurayrah that the Prophet ﷺ when he congratulated someone who had married, would say: "May Allah bless you, bless upon you, and unite you both in goodness." Ahmad and the four and authenticated by al-Tirmidhi, Ibn Khuzaymah, and Ibn Hibban.

وَعَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: عَلَّمَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - التَّشَهُدَ فِي الْحَاجَةِ: «إِنَّ الْحَمْدَ لِلَّهِ، نَحْمَدُهُ، وَنَسْتَعِينُهُ، وَنَسْتَغْفِرُهُ، وَنَعُوذُ بِاللَّهِ مِنْ شُرُورِ أَنْفُسِنَا، مَنْ يَهْدِهِ اللَّهُ فَلَا مُضِلَّ لَهُ، وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ»، وَيَقْرَأُ ثَلَاثَ آيَاتٍ. رَوَاهُ أَحْمَدُ، وَالْأَرْبَعَةُ، وَحَسَنَهُ التِّرْمِذِيُّ، وَالْحَاكِمُ

'Abdullah ibn Mas'ud said that the Messenger of Allah ﷺ taught us the sermon of need: "Indeed, all praise is due to Allah; we praise Him, seek His help, and ask His forgiveness. We seek refuge in Allah from the evils of our own souls. Whomsoever Allah guides, none can misguide; and I bear witness that there is no deity but Allah, and I bear witness that Muhammad is His servant and Messenger." And then one recites three Qur'anic verses. Ahmad and the four, and graded good by al-Tirmidhi and al-Hakim.

وَعَنْ جَابِرٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «إِذَا خَطَبَ أَحَدُكُمْ الْمَرْأَةَ، فَإِنْ اسْتَطَاعَ أَنْ يَنْظُرَ مِنْهَا مَا يَدْعُوهُ إِلَى نِكَاحِهَا، فَلْيَفْعَلْ». (رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَرِجَالُهُ ثِقَاتٌ، وَصَحَّحَهُ الْحَاكِمُ وَلَهُ شَاهِدٌ: عِنْدَ التِّرْمِذِيِّ، وَالنَّسَائِيِّ; عَنِ الْمُغِيرَةِ

Jabir said that the Messenger of Allah ﷺ said: "When one of you proposes to a woman, if he is able to look at what attracts him to marry her, let him do so." Ahmad and Abu Dawud, whose narrators are trustworthy, and authenticated by al-Hakim. It is also reported with supporting narration by al-Tirmidhi and an-Nasa'i from al-Mughirah.

وَعِنْدَ ابْنِ مَاجَةَ، وَابْنِ حِبَّانَ: مِنْ حَدِيثِ مُحَمَّدِ بْنِ مَسْلَمَةَ.

وَلِمُسْلِمٍ: عَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لِرَجُلٍ تَزَوَّجَ امْرَأَةً: «أَنْظَرْتَ إِلَيْهَا؟» قَالَ: لَا. قَالَ: «أَذْهَبْ فَانظُرْ إِلَيْهَا»

It is also in Ibn Majah and Ibn Hibban from the narration of Muhammad ibn Maslamah. And in Muslim, from Abu Hurayrah that the Prophet ﷺ said to a man who had married a woman: "Did you look at her?" He said, "No." The Prophet ﷺ said: "Go and look at her."

وَعَنْ ابْنِ عُمَرَ - رَضِيَ اللَّهُ عَنْهُمَا- قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «لَا يَخْطُبُ بَعْضُكُمْ عَلَى خِطْبَةِ أَخِيهِ، حَتَّى يَتْرُكَ الْخَاطِبُ قَبْلَهُ، أَوْ يَأْذَنَ لَهُ الْخَاطِبُ». «مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِلْبُخَارِيِّ

Ibn Umar said that the Messenger of Allah ﷺ said: "None of you should propose to a woman who has been proposed to by his brother, until the first suitor withdraws or gives permission to him." Agreed upon, and this wording is from al-Bukhari.

وَعَنْ سَهْلِ بْنِ سَعْدِ السَّاعِدِيِّ - رَضِيَ اللَّهُ عَنْهُمَا- قَالَ: جَاءَتْ امْرَأَةٌ إِلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَتْ: يَا رَسُولَ اللَّهِ! جِئْتُ أَهْبُ لَكَ نَفْسِي. فَتَنَظَّرَ إِلَيْهَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَصَعَدَ النَّظَرَ فِيهَا، وَصَوَّبَهُ، ثُمَّ طَاطَأَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَأْسَهُ، فَلَمَّا رَأَتْ الْمَرْأَةُ أَنَّهُ لَمْ يَقْضِ فِيهَا شَيْئًا جَلَسَتْ، فَقَامَ رَجُلٌ مِنْ أَصْحَابِهِ. فَقَالَ: يَا رَسُولَ اللَّهِ! إِنَّ لَمْ يَكُنْ لَكَ بِهَا حَاجَةٌ فَزَوِّجْنِيهَا. قَالَ: «فَهَلْ عِنْدَكَ مِنْ شَيْءٍ؟». «فَقَالَ: لَا، وَاللَّهِ يَا رَسُولَ اللَّهِ. فَقَالَ: «أَذْهَبَ إِلَى أَهْلِكَ، فَاَنْظُرْ هَلْ تَجِدُ شَيْئًا؟» «فَدَهَبَ، ثُمَّ رَجَعَ؟» فَقَالَ: لَا، وَاللَّهِ يَا رَسُولَ اللَّهِ، مَا وَجَدْتُ شَيْئًا. فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «انْظُرْ وَلَوْ حَاتِمًا مِنْ حَدِيدٍ»، فَدَهَبَ، ثُمَّ رَجَعَ. فَقَالَ: لَا وَاللَّهِ، يَا رَسُولَ اللَّهِ، وَلَا حَاتِمًا مِنْ حَدِيدٍ، وَلَكِنْ هَذَا إِزَارِي - قَالَ سَهْلٌ: مَالُهُ رِدَاءٌ - فَلَهَا نِصْفُهُ. فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَا تَصْنَعُ بِإِزَارِكَ؟ إِنْ لَبِسْتَهُ لَمْ يَكُنْ عَلَيْهَا مِنْهُ شَيْءٌ، وَإِنْ لَبِسْتَهُ لَمْ يَكُنْ عَلَيْكَ شَيْءٌ». «فَجَلَسَ الرَّجُلُ، وَحَتَّى إِذَا طَالَ مَجْلِسُهُ قَامَ; فَرَأَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مُؤَلِّيًا، فَأَمَرَ بِهِ، فَدَعِيَ لَهُ، فَلَمَّا جَاءَ. قَالَ: «مَاذَا مَعَكَ مِنَ الْقُرْآنِ؟». «قَالَ: مَعِيَ سُورَةُ كَذَا، وَسُورَةُ كَذَا، عَدَدَهَا. فَقَالَ: «تَقْرَأُ عَنْ ظَهْرِ قَلْبِكَ؟»

قَالَ: نَعَمْ، قَالَ: «أَذْهَبَ، فَقَدْ مَلَكَتْهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ». «مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِمُسْلِمٍ

وَفِي رِوَايَةٍ لَهُ: «انْطَلِقْ، فَقَدْ زَوَّجْتُكَهَا، فَعَلِمَهَا مِنَ الْقُرْآنِ.

وَفِي رِوَايَةٍ لِلْبُخَارِيِّ: «أَمَكَّنَّاكَهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ.»

وَلِأَبِي دَاوُدَ: عَنْ أَبِي هُرَيْرَةَ قَالَ: «مَا تَحْفَظُ؟». «قَالَ: سُورَةَ الْبَقَرَةِ، وَالَّتِي تَلِيهَا. قَالَ: «قُمْ. فَعَلِمَهَا عِشْرِينَ آيَةً»

Sahl ibn Sa'd al-Sa'idi said: A woman came to the Messenger of Allah ﷺ and said: "O Messenger of Allah, I have come to offer myself to you." The Messenger of Allah ﷺ looked at her, raising his gaze and lowering it, then lowered his head. When the woman saw that he had made no decision concerning her, she sat down. Then a man from his Companions stood and said: "O Messenger of Allah, if you have no need of her, then marry her to me." He said: "Do you have anything?" He replied: "No, by Allah, O Messenger of Allah." He said: "Go to your family and see whether you can find anything." So he went, then returned and said: "No, by Allah, O Messenger of Allah, I found nothing." The Messenger of Allah ﷺ said: "Look, even if only for an iron ring." So he went again, then returned and said: "No, by Allah, O Messenger of Allah, not even an iron ring. But this lower garment of mine..." Sahl said: He had no upper garment. "...she may have half of it." The Messenger of Allah ﷺ said: "What would she do with your lower garment? If you wear it, she will have nothing of it, and if she wears it, you will have nothing of it." Then the man sat down, and after sitting for some time, he stood to leave. The Messenger of Allah ﷺ saw him turning away and called him back. When he came, he said: "What do you have of the Qur'an?" He said: "I know such-and-such surah, and such-and-such surah," listing them. He said: "Do you recite them by heart?" He replied: "Yes." He said: "Go, for I have given her to you in marriage for what you possess of the Qur'an." Agreed upon, and this wording is from Muslim.

In another narration of Muslim: "Go, for I have married her to you, so teach her from the Qur'an." In a narration of al-Bukhari: "We have granted her to you because of what you possess of the Qur'an." And in Abu Dawud, from Abu Hurayrah: He said: "What do you know by heart?" He replied: "Surat al-Baqarah and the one after it." He said: "Go and teach her twenty verses."

وَعَنْ عَامِرِ بْنِ عَبْدِ اللَّهِ بْنِ الزُّبَيْرِ، عَنْ أَبِيهِ؛ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «أَعْلِنُوا النِّكَاحَ». «رَوَاهُ أَحْمَدُ، وَصَحَّحَهُ الْحَاكِمُ».

'Amir ibn 'Abdullah ibn al-Zubayr narrated from his father that the Messenger of Allah ﷺ said: "Publicise the marriage." Ahmad, and authenticated by al-Hakim.

وَعَنْ أَبِي بُرْدَةَ بْنِ أَبِي مُوسَى، عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «لَا نِكَاحَ إِلَّا بِوَالِيٍّ». «رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ وَصَحَّحَهُ ابْنُ الْمَدِينِيِّ، وَالتِّرْمِذِيُّ، وَابْنُ حِبَّانَ، وَأُعْلِلَ بِالْإِسْرَائِيلِيِّ».

Abu Burdah ibn Abi Musa narrated from his father that the Messenger of Allah ﷺ said: "There is no marriage except with a guardian (*wali*)." Ahmad and the four, and authenticated by Ibn al-Madini, al-Tirmidhi, and Ibn Hibban, though some considered it defective due to *irsal*.

وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - : «أَيُّ امْرَأَةٍ نَكَحَتْ بِغَيْرِ إِذْنِ وَلِيِّهَا، فَنِكَاحُهَا بَاطِلٌ، فَإِنْ دَخَلَ بِهَا فَلَهَا الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا، فَإِنْ اسْتَجْرُوا فَالسُّلْطَانُ وَلِيُّ مَنْ لَا وَلِيَ لَهُ .»
أَخْرَجَهُ الْأَزْبَعِيُّ إِلَّا النَّسَائِيَّ، وَصَحَّحَهُ أَبُو عَوَانَةَ، وَابْنُ حِبَّانَ وَالْحَاكِمُ.

'A'ishah said that The Messenger of Allah ﷺ said: "Any woman who marries without the permission of her guardian, her marriage is invalid; her marriage is invalid; her marriage is invalid. If he has consummated the marriage with her, then she is entitled to the dowry because he made lawful intimacy with her. If they dispute, then the ruler is the guardian of the one who has no guardian." The four except al-Nasa'i, and authenticated by Abu 'Awanah, Ibn Hibban, and al-Hakim.

وَعَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «لَا تُنْكَحُ الْأَيِّمُ حَتَّى تُسْتَأْمَرَ، وَلَا تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ .» قَالُوا: يَا رَسُولَ اللَّهِ، وَكَيْفَ إِذْهَاهَا؟ قَالَ: «أَنْ تَسْكُتَ .» مُتَّفَقٌ عَلَيْهِ

Abu Hurayrah said that the Messenger of Allah ﷺ said: "A previously married woman is not to be married until she is consulted, and a virgin is not to be married until her permission is sought." They said: "O Messenger of Allah, how is her permission given?" He said: "By her silence." Agreed upon.

وَعَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُ - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «التَّيِّبُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْمَرُ، وَإِذْهَاهَا سُكُوتُهَا .» رَوَاهُ مُسْلِمٌ

وَفِي لَفْظٍ: «لَيْسَ لِلْوَلِيِّ مَعَ التَّيِّبِ أَمْرٌ، وَالْبَيْمَةُ تُسْتَأْمَرُ .» رَوَاهُ أَبُو دَاوُدَ، وَالنَّسَائِيُّ، وَصَحَّحَهُ ابْنُ حِبَّانَ

Ibn 'Abbas narrated that the Prophet ﷺ said: "A previously married woman has more right over herself than her guardian; and a virgin is to be consulted, and her permission is given by her silence." Muslim.

In another wording: "The guardian has no authority over a previously married woman, and the orphaned girl is to be consulted." Abu Dawud and an-Nasa'i, and authenticated by Ibn Hibban.

وَعَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - : «لَا تُزَوِّجُ الْمَرْأَةَ الْمَرْأَةَ، وَلَا تُزَوِّجُ الْمَرْأَةَ نَفْسَهَا .» رَوَاهُ ابْنُ مَاجَةَ، وَالِدَارَقُطْنِيُّ، وَرِجَالُهُ ثِقَاتٌ

Abū Hurayrah narrated that the Prophet ﷺ said: "A woman does not marry off another woman, nor may a woman marry herself." Ibn Mājah and ad-Daraqutnī, and the narrators are trustworthy.

وَعَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ قَالَ: نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنِ الشِّغَارِ وَالشِّغَارِ: أَنْ يُرْوَجَ الرَّجُلُ ابْنَتَهُ عَلَى أَنْ يُرْوَجَهُ الْأَخْرُ ابْنَتَهُ، وَلَيْسَ بَيْنَهُمَا صَدَاقٌ. مُتَّفَقٌ عَلَيْهِ. وَاتَّفَقَا مِنْ وَجْهِ آخَرَ عَلَى أَنَّ تَفْسِيرَ الشِّغَارِ

مِنْ كَلَامِ نَافِعٍ

And from Nāfi', from Ibn 'Umar that the Messenger of Allah ﷺ forbade al-Shighār. Al-Shighār is when a man marries his daughter to another man's daughter, and that other man marries his daughter to the first man's son, without any mahr being specified. Agreed upon. They also agreed, from another perspective, that the explanation of al-Shighār comes from the words of Nāfi'.

وَعَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا؛ أَنَّ جَارِيَةً بَكَرًا أَتَتْ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَتْ: أَنَّ أَبَاهَا زَوَّجَهَا وَهِيَ كَارِهَةٌ، فَخَيَّرَهَا النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَابْنُ مَاجَةَ، وَأَعْلَى بِالْإِسْرَائِيلِ

Ibn 'Abbās narrated: A young virgin girl came to the Prophet ﷺ and mentioned that her father had married her off while she disliked it. The Prophet ﷺ gave her the choice. Aḥmad, Abū Dāwūd, Ibn Mājah, and critiqued with *Isrā'īl*.

وَعَنْ الْحُسَيْنِ، عَنْ سَمُرَةَ، عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «أَيُّ امْرَأَةٍ زَوَّجَهَا وَلِيَّانِ، فَهِيَ لِأَوَّلِ مَنْهُمَا.» رَوَاهُ أَحْمَدُ، وَالْأَزْبَعَةُ، وَحَسَنَةُ التِّرْمِذِيُّ

Al-Ḥasan narrated from Samurah, from the Prophet ﷺ: "Whichever woman is married off by two guardians, she belongs to the first of them." Aḥmad and the four compilers, and authenticated as good by al-Tirmidhī.

وَعَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «أَيُّ عَبْدٍ تَزَوَّجَ بِغَيْرِ إِذْنِ مَوْلِيهِ أَوْ أَهْلِهِ، فَهُوَ عَاهِرٌ.» رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَالتِّرْمِذِيُّ وَصَحَّحَهُ، وَكَذَلِكَ ابْنُ حِبَّانَ

And from Jābir that the Prophet ﷺ said: "Any slave who marries without the permission of their master or their family is committing adultery." Aḥmad, Abū Dāwūd, and al-Tirmidhī, who authenticated it, as did Ibn Ḥibbān.

باب المُحَرَّمَات فِيهِ

Chapter: The Prohibitions

تَحْرِمُ أَبَدًا: الْأُمُّ وَالْجَدَّةُ وَإِنْ عَلَتْ، وَالْبِنْتُ وَبِنْتُ الْوَلَدِ، وَإِنْ نَزَلَتْ مِنْ حَلَالٍ وَحَرَامٍ، وَالْأُخْتُ وَبِنْتُهَا وَبِنْتُ وَلَدِهَا وَإِنْ نَزَلَتْ مُطْلَقًا، وَبِنْتُ كُلِّ أَخٍ، وَبِنْتُ وَلَدِهِ وَإِنْ سَفَلَ، وَالْعَمَةُ وَالْحَالَةُ وَإِنْ عَلْنَا مُطْلَقًا

It is forever forbidden to marry the following: mother and grandmother, even if elevated in lineage, daughter and granddaughter, and below, whether from a lawful or unlawful union, sister, her daughter, and her granddaughter, daughter of any brother, and the daughter of his son, even if distant in lineage, paternal and maternal aunts, even if elevated in lineage.

وَيَحْرِمُ مِنَ الرِّضَاعِ مَا يَحْرِمُ مِنَ النَّسَبِ إِلَّا أُمُّ أَخِيهِ وَأُخْتُ ابْنِهِ

What is forbidden through milk-fostering is the same as what is forbidden through lineage, except for the mother of one's brother and the sister of one's son.

وَيَحْرِمُ بِمُصَاهَرَةٍ: زَوْجَةُ أَبِيهِ وَجَدِّهِ وَإِنْ عَلَا، وَزَوْجَةُ ابْنِهِ وَابْنِ وَلَدِهِ وَإِنْ سَفَلَ، وَأُمُّ زَوْجَتِهِ وَجَدَّاتُهَا وَإِنْ عَلَوْنَ بِمُجَرَّدِ عَقْدٍ، وَبِنْتُ زَوْجَتِهِ وَبِنْتُ ابْنِهَا، وَبِنْتُ بِنْتِهَا، وَإِنْ نَزَلَا بِدُخُولٍ فَإِنْ مَاتَتِ الزَّوْجَةُ قَبْلَهُ أَوْ بَانَتِ الْأُخْتُ، وَكَذَا وَطْءُ شَبْهَةِ زَنَا وَلِوَاطِ

Prohibited through marriage are: the wife of one's father or grandfather, even if higher; the wife of one's son or grandson, even if lower; and the mother of one's wife and her grandmothers, even if higher, this being established merely by the contract. Also prohibited are the daughter of one's wife, her granddaughter through her son, and her granddaughter through her daughter, even if lower in descent—but only after consummation. If the wife dies before consummation or the marriage is dissolved, they become permissible. The same rulings apply in cases of intercourse by mistake, fornication, or sodomy.

وَتَحْرِمُ الْمَلَاعِنَةُ، وَلَوْ أَكْذَبَ نَفْسَهُ

A woman involved in mutual imprecation (*li'ān*) becomes permanently forbidden, even if the man later declares himself to have lied.

فصل

Section

يُحْرَمُ الْجُمُعُ بَيْنَ أُخْتَيْنِ، أَوْ عَمَتَيْنِ، أَوْ خَالَتَيْنِ، أَوْ امْرَأَةً وَعَمَّتَهَا وَنَحْوَهُ مِنْ نَسَبٍ، أَوْ رِضَاعٍ، فَإِنْ تَزَوَّجَهُمَا فِي عَقْدٍ أَوْ عَقْدَيْنِ مَعاً لَمْ يَصِحَّ، وَإِنْ تَأَخَّرَ أَحَدُهُمَا أَوْ وَقَعَ فِي عِدَّةِ الْأُخْرَى وَلَوْ مِنْ فُسْخٍ أَوْ طَلَاقٍ بَائِنٍ بَطَلَ

It is forbidden to combine in marriage two sisters, or two paternal aunts, or two maternal aunts, or a woman and her paternal or maternal aunt, and the like, whether through lineage or breastfeeding. If one marries them together in a single contract, or in two contracts concluded at the same time, it is not valid. If one marriage is delayed, or occurs during the waiting period ('iddah) of the other, even if from annulment or an irrevocable divorce, it is invalid.

وَيُحْرَمُ مُعْتَدَّةٌ وَمُسْتَبْرَأَةٌ مِنْ غَيْرِهِ وَزَانِيَةٌ حَتَّى تَتُوبَ وَتُنْقِضِي عِدَّتَهَا وَمَطْلُوقَةٌ ثَلَاثًا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ بِشَرْطِهِ، وَالْمُحْرِمَةُ حَتَّى تَحِلَّ، وَلَا مُسَلِّمَةٌ لِكَافِرٍ، وَلَا كَافِرَةٌ لِمُسْلِمٍ غَيْرَ حُرَّةٍ كِتَابِيَّةٍ وَلَا أُمَّةٍ لِحُرٍّ إِلَّا إِنْ خَافَ الْعَنْتَ وَلَوْ لِحَاجَةِ خِدْمَةٍ وَلَمْ يَجِدْ طَوَّلًا لِنِكَاحِ حُرَّةٍ. وَلَا يَنْكِحُ عَبْدٌ سَيِّدَتَهُ وَلَا سَيِّدٌ أُمَّتَهُ، وَلِحُرِّ نِكَاحِ أُمَّةٍ أَبِيهِ لَا أُمَّةَ ابْنِهِ،

وَلَيْسَ لِحُرَّةٍ نِكَاحُ عَبْدٍ وَوَلَدِهَا

It is forbidden to marry a woman in her waiting period ('iddah), or one undergoing *istibrā'* (waiting to ensure she is not pregnant) from another man, and a fornicating woman until she repents and completes her waiting period. Also forbidden is one who has been divorced three times, until she marries another husband under the proper conditions. A woman in a state of *ihrām* is forbidden until she exits it. A Muslim woman may not marry a disbeliever, nor may a disbelieving woman marry a Muslim, except a free woman from the People of the Book. A free man may not marry a slave woman unless he fears sin, even if due to need for service, and cannot afford to marry a free woman. A slave may not marry his mistress, nor may a master marry his own slave woman. A free man may marry his father's slave woman, but not his son's. And a free woman may not marry her son's slave.

وَإِنْ مَلَكَ أَحَدُ الرُّوَجَيْنِ أَوْ وُلِدَهُ الحُرُّ أَوْ مَكَاتَبُهُ الرُّوَجِ الْآخِرِ أَوْ بَعْضُهُ انْفَسَخَ النِّكَاحُ، وَمَنْ حَرَّمَ نِكَاحَهَا حُرٌّ وَطَوْهَا بِمِلْكٍ يَمِينٍ غَيْرِ أُمَّةٍ كِتَابِيَّةٍ، وَلَا يَصِحُّ نِكَاحُ حُنْثَى مُشْكِلٍ حَتَّى يَتَّضِحَ

If either spouse, or the free son of one of them, or their *mukatab* (contracted slave), acquires ownership of the other spouse or part of them, the marriage is annulled. Whoever is forbidden to marry is also forbidden to have sexual relations with them through ownership of the right hand, except for a female slave from the People of the Book. A marriage involving an ambiguous intersex person (*khunthā mushkil*) is not valid until their status becomes clear.

وَعَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - أَنَّ النَّبِيَّ - صلى الله عليه وسلم - قَالَ: «لَا يُجْمَعُ بَيْنَ الْمَرْأَةِ وَعَمَّتِهَا, وَلَا بَيْنَ الْمَرْأَةِ وَخَالَتِهَا.» «مُتَّفَقٌ عَلَيْهِ»

Abu Hurayrah narrated that the Prophet ﷺ said: "A woman may not be combined in marriage with her paternal aunt, nor with her maternal aunt." Agreed upon.

وَعَنْ عُثْمَانَ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: «لَا يَنْكِحُ الْمُحْرِمُ, وَلَا يُنْكَحُ - رَوَاهُ مُسْلِمٌ. وَفِي رِوَايَةٍ لَهُ: وَلَا يُخْطَبُ. وَزَادَ ابْنُ حِبَّانَ: «وَلَا يُخْطَبُ عَلَيْهِ»

‘Uthmān narrated that the Messenger of Allah ﷺ said: "The one in ihrām may not marry, nor be married." Narrated by Muslim. In another narration by him: "nor may he propose marriage." And Ibn Ḥibbān added: "nor may anyone propose over him."

وَعَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: نَزَّوَجَ النَّبِيُّ - صلى الله عليه وسلم - مَيْمُونَةَ وَهُوَ مُحْرِمٌ. مُتَّفَقٌ عَلَيْهِ وَلِمُسْلِمٍ: عَنْ مَيْمُونَةَ نَفْسِهَا - أَنَّ النَّبِيَّ - صلى الله عليه وسلم - نَزَّوَجَهَا وَهُوَ حَلَالٌ.

Ibn ‘Abbās said: The Prophet ﷺ married Maymūnah while he was in a state of ihrām. Agreed upon. And in Muslim, from Maymūnah herself: that the Prophet ﷺ married her while he was in a state of *ihlāl* (not in *ihrām*).

فصل

Section

إِنْ شَرَطَتْ طَلَّاقَ ضَرَّتْهَا، أَوْ أَنْ لَا يَتَزَوَّجَ أَوْ يَتَسَرَّى عَلَيْهَا، أَوْ أَلَّا يُخْرِجَهَا مِنْ بَلَدِهَا أَوْ دَارِهَا صَحَّ، وَلَهَا الْفَسْخُ
إِنْ لَمْ يَفِ

If a condition is stipulated such as divorcing her co-wife, or that he does not marry another wife or take a concubine, or that he does not take her out of her town or home, then the contract is valid; and she has the right of annulment if he does not fulfil the condition.

وَإِنْ زَوَّجَهُ وَلَيْتَهُ عَلَى أَنْ يُزَوِّجَهُ الْآخَرَ وَلَيْتَهُ وَلَا مَهْرٍ ففَعَلًا بَطَلَ النِّكَاحَانِ، وَإِنْ سُمِّيَ لِكُلِّ مَهْرٍ غَيْرُ قَلِيلٍ
حِيلَةً صَحَّ.

If a guardian marries his female ward on the condition that the other man marries his female ward in return, with no dowry for either, then both marriages are invalid. But if a dowry is specified for each, even if nominal and not a trick, then the marriage is valid.

وَإِنْ تَزَوَّجَهَا بِشَرْطِ أَنَّهُ مَتَى أَحَلَّهَا لِلأَوَّلِ طَلَّقَهَا أَوْ نَوَّاهُ بِإِلَّا شَرْطٍ لَمْ يَصِحَّ كِنِكَاحِ مُتَعَةٍ وَمُعَلَّقِ بِشَرْطِ مُسْتَقْبَلِ

If a man marries a woman on the condition that, whenever he makes her lawful for the first husband, he will divorce her, or he intends this even without explicitly stating it, the marriage is not valid, as it is like temporary marriage (*mut'ah*) or a contract suspended upon a future condition.

فصل

Section

وَإِنْ شَرَطَ أَنْ لَا مَهْرَ لَهَا، أَوْ لَا نَفَقَةَ أَوْ لَا قَسَمَ أَوْ أَقَلَّ مِنْ ضَرَّتْهَا أَوْ خِيَاراً فِيهِ، أَوْ إِنْ جَاءَ بِالْمَهْرِ وَقَتَّ كَذَا وَإِلَّا
فَلَا نِكَاحَ بَيْنَهُمَا، وَنَحْوَهُ، بَطَلَ الشَّرْطُ وَصَحَّ النِّكَاحُ

If a condition is stipulated such as: that she has no dowry, or no maintenance, or no division of nights, or less than her co-wife, or a right of option in the marriage, or that if the dowry is not brought at a specified time there is no marriage between them, and the like, then such conditions are invalid, but the marriage itself remains valid.

وإن شَرَطَهَا مُسْلِمَةً فَبَانَتْ كِتَابِيَّةً، أَوْ شَرَطَهَا بِكْرًا أَوْ جَمِيلَةً أَوْ نَسِيبَةً، أَوْ نَفَى نَحْوَ عَوْرِ فَبَانَتْ بِخِلَافِهِ فَلَهُ الْفَسْخُ، وَمَنْ عَتَقَتْ تَحْتَ رَقِيقٍ كُلَّهُ فَلَهَا الْفَسْخُ مَا لَمْ تُمَكِّنْهُ مِنْ نَفْسِهَا وَلَوْ جَاهِلَةً

If he stipulated that she is Muslim but she turns out to be from the People of the Book, or he stipulated that she is a virgin, beautiful, or of noble lineage, or he rejected a defect such as being one-eyed but it appears otherwise, then he has the right to annul the marriage. And if a slave woman is emancipated while under a slave husband, she has the right to annul the marriage, unless she has already enabled him to have marital relations with her, even if she was unaware of her right.

فصل

Section

وَيُثْبِتُ الْخِيَارُ بِنَحْوِ جَبِّ إِنْ لَمْ يَبْقَ مَا يُمْكِنُ جَمَاعَ بِهِ، وَبِعِنَّةٍ، وَيُؤَجَّلُ سَنَةً مِنْ تَحَاكُمِهِمَا، فَإِنْ وَطِئَ فِيهَا وَإِلَّا فَلَهَا الْفَسْخُ، وَإِنْ اعْتَرَفَتْ بِوَطْئِهِ فَلَيْسَ بِعَيْنٍ، كَمَا لَوْ رَضِيَتْ عَنْتَهُ

The right of annulment is established in cases such as castration if nothing remains suitable for intercourse, and impotence (*innah*). In the case of impotence, the matter is postponed for one year from the time they refer the dispute to the judge. If he is able to have intercourse during that period, then the claim is dismissed; otherwise, she has the right to annul the marriage. If she admits that he has had intercourse with her, then he is not considered impotent, just as her acceptance of his condition negates the claim of impotence.

وَبَرْتَقٍ، وَقَرْنٍ، وَعَقْلٍ، وَفَتَقٍ، وَاسْتِطْلَاقِ بَوْلٍ، وَمَجْوٍ، وَقُرُوحٍ سَيَّالَةٍ بِفَرْجٍ، وَبِاسْتِطْلَاقِ بَوْلٍ، وَجُنُونٍ وَلَوْ سَاعَةً، وَجُدَامٍ وَبَرَصٍ، وَلَوْ حَدَثَ بَعْدَ عَقْدٍ أَوْ كَانَ بِالْآخِرِ عَيْبٌ مِثْلُهُ

And the right of annulment is also established due to: vaginal obstruction (*ratq*), a bone or growth obstructing intercourse (*qarn*), severe vaginal defect (*afal*), vaginal rupture (*fatq*), urinary incontinence, faecal incontinence, flowing ulcers in the genital area, haemorrhoids, fistula, insanity, even if momentary, leprosy, and vitiligo. This applies whether the defect appears after the marriage contract or if the other spouse has a similar defect.

وَمَنْ وُجِدَ مِنْهُ دَلِيلٌ رِضَاهُ سَقَطَ خِيَارُهُ.

And whoever is found to have shown evidence of acceptance, his right of option is forfeited.

وَلَا يَصِحُّ فَسْخُ هُنَا إِلَّا بِحَاكِمٍ، فَقَبْلَ دُخُولِ لَا مَهْرٍ، وَبَعْدَهُ لَهَا الْمَسْمُومَةُ، وَيُرْجَعُ بِهِ عَلَى غَايَةِ إِنْ وُجِدَ

And no annulment in this case is valid except through a judge. If it occurs before consummation, there is no dowry; but if it occurs after consummation, she is entitled to the specified dowry. And it is to be recovered from the deceiver if one is found.

وَلَا تُزَوَّجُ صَغِيرَةً، أَوْ مَجْنُونَةً أَوْ أَمَةً بِمَعِيبٍ يُرَدُّ بِهِ

A minor, a mentally ill woman, or a slave woman may not be married off to someone with a defect that would normally justify annulment.

وَأِنْ رَضِيَتْ كَبِيرَةً مَّجْبُوبًا أَوْ عَيْنِيًّا لَمْ تُنْعَمْ، بَلْ مَجْنُونًا أَوْ أَجْذَمًا أَوْ أَبْرَصًا، وَإِنْ عَلِمَتْ الْعَيْبَ أَوْ حَدَّثَ بَعْدُ لَمْ يُجْزَى عَلَى فسخٍ

If an adult woman accepts a man who is castrated or impotent, she is not prevented from marrying him. However, this does not apply in cases of insanity, leprosy, or vitiligo. And if she knew of the defect or it occurred later, she is not compelled to annul the marriage.

بَابٌ

Chapter

نِكَاحُ الْكُفَّارِ كَنِكَاحِ الْمُسْلِمِينَ فِيمَا يَجِبُ بِهِ، وَطَلَاقٌ وَنَحْوُهُ

The marriages of non-Muslims are treated like those of Muslims with regard to what they entail, such as divorce and similar rulings.

وَيُقَرُّونَ عَلَى فَاسِدِهِ مَا اعْتَقَدُوا حَلَّهُ وَلَمْ يَرْتَفِعُوا إِلَيْنَا

And they are allowed to remain upon what is invalid so long as they believed it to be permissible and have not referred the matter to us.

وَإِنْ أَتَوْنَا قَبْلَ عَقْدِهِ عَقَدْنَاهُ عَلَى حُكْمِنَا، وَبَعْدَهُ أَوْ أَسْلَمَ الزَّوْجَانِ؛ فَإِنْ حَلَّتْ إِذْنًا أَوْ إِلَّا فُرِقَ بَيْنَهُمَا

If they come to us before concluding the marriage, we contract it according to our ruling. If they come after it has been concluded, or both spouses embrace Islam, then if the marriage is permissible under our law they are affirmed in it; otherwise, a separation is made between them.

وَإِنْ وَطِئَ حَرْبِيٌّ حَرْبِيَّةً وَاعْتَقَدَاهُ نِكَاحًا أَقْرَأَ، وَمَتَى كَانَ الْمَهْرُ صَحِيحًا أَخَذَتْهُ، وَإِنْ كَانَ فَاسِدًا وَلَمْ تَقْبُضْهُ أَوْ لَمْ يُسَمَّ فَمَهْرٌ مِثْلُهَا

If a hostile non-Muslim man has intercourse with a hostile non-Muslim woman, and they both consider it a valid marriage, they are left as they are. If the dowry is valid, she is entitled to take it. If it is invalid, or no dowry was specified, then she is entitled to a dowry equivalent to that of her peers.

وإن أسلما معًا، أو زوج كتابية بقي النكاح

If they both embrace Islam together, or a man remains married to a woman from the People of the Book, then the marriage remains valid.

وإن أسلمت هي أو أحد غير كتابيين قبل دخول بطل، وإن سبها فنصفه، وبعد دخول وقف على انقضاء عدتها، فإن أسلم الآخر فيها وإلا بان فسخه منذ أسلم الأول، وإن ارتدا أو أحدهما قبل دخول انفسخ وبعده وقف على انقضاء العدة

If she embraces Islam, or either spouse not from the People of the Book does so before consummation, the marriage is invalidated. If the husband's Islam precedes hers, she is entitled to half the dowry. After consummation, the matter is suspended until the end of her waiting period; if the other spouse embraces Islam within that period, the marriage continues, otherwise it is considered dissolved from the time the first spouse accepted Islam. If both spouses or one of them apostatise before consummation, the marriage is annulled; and after consummation, it is suspended until the end of the waiting period.

وَعَنْ عُقْبَةَ بْنِ عَامِرٍ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: «إِنَّ أَحَقَّ الشُّرُوطِ أَنْ يُؤْتَى بِهِ، مَا اسْتَحَلَلْتُمْ بِهِ الْفُرُوجَ.» مُتَّفَقٌ عَلَيْهِ

'Uqbah ibn 'Āmir narrated that the Messenger of Allah ﷺ said: "The most deserving of conditions to be fulfilled are those by which you have made lawful the private parts." Agreed upon.

وَعَنْ سَلَمَةَ بْنِ الْأَكْوَعِ - رضي الله عنه - قَالَ: رَحَّصَ رَسُولُ اللَّهِ - صلى الله عليه وسلم - عَامَ أُوطَاسٍ فِي الْمُتَعَةِ، ثَلَاثَةَ أَيَّامٍ، ثُمَّ هَيَّ عَنْهَا. رَوَاهُ مُسْلِمٌ

Salamah ibn al-Akwa' said: The Messenger of Allah ﷺ permitted temporary marriage (*mut'ah*) during the year of Awṭās for three days, then he forbade it. Muslim.

وَعَنْ عَلِيٍّ - رضي الله عنه - قَالَ: نَهَى رَسُولُ اللَّهِ - صلى الله عليه وسلم - عَنِ الْمُتَعَةِ عَامَ حَيْبَرَ. مُتَّفَقٌ عَلَيْهِ

'Alī said: The Messenger of Allah ﷺ forbade temporary marriage (*mut'ah*) during the year of Khaybar. Agreed upon.

وَعَنْ ابْنِ مَسْعُودٍ - رضي الله عنه - قَالَ: لَعَنَ رَسُولُ اللَّهِ - صلى الله عليه وسلم - الْمُحَلِّلَ وَالْمُحَلَّلَ لَهُ. رَوَاهُ أَحْمَدُ، وَالتِّرْمِذِيُّ، وَصَحَّحَهُ. وَفِي الْبَابِ: عَنْ عَلِيٍّ أَخْرَجَهُ الْأَرْبَعَةُ إِلَّا النَّسَائِيَّ

Ibn Mas'ūd said: The Messenger of Allah ﷺ cursed the one who makes a woman lawful (*al-muḥallil*) and the one for whom she is made lawful (*al-muḥallal lahu*). Aḥmad, an-Nasā'ī, and at-Tirmidhī, who authenticated it. And in this chapter, there is a report from 'Alī narrated by the four except an-Nasā'ī.

وَعَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم - «لَا يَنْكِحُ الرَّأْيِي الْمَجْلُودُ إِلَّا مِثْلَهُ». «رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَرِجَالُهُ ثِقَاتٌ

Abu Hurayrah narrated that the Messenger of Allah ﷺ said: "A flogged fornicator does not marry except someone like him." Aḥmad and Abū Dāwūd, and its narrators are trustworthy.

وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، قَالَتْ: طَلَّقَ رَجُلٌ امْرَأَتَهُ ثَلَاثًا، فَتَزَوَّجَهَا رَجُلًا، ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا، فَأَرَادَ زَوْجَهَا أَنْ يَتَزَوَّجَهَا، فَسُئِلَ رَسُولُ اللَّهِ - صلى الله عليه وسلم - عَنْ ذَلِكَ، فَقَالَ: «لَا. حَتَّى يَذُوقَ الْآخِرَ مِنْ عُسَيْلَتِهَا مَا ذَاقَ الْأَوَّلَ». «مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِمُسْلِمٍ

'A'ishah said: A man divorced his wife three times, then she married another man, who later divorced her before consummating the marriage. The first husband then wanted to remarry her. The Messenger of Allah ﷺ was asked about that, and he said: "No, until the second husband tastes of her sweetness as the first one tasted." Agreed upon, and this wording is from Muslim.

بَابُ الْكَفَاءَةِ وَالْخِيَارِ

Chapter: Compatibility and the Right of Choice

وَعَنْ ابْنِ عُمَرَ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «الْعَرَبُ بَعْضُهُمْ أَكْفَاءُ بَعْضٍ, وَالْمَوَالِي بَعْضُهُمْ أَكْفَاءُ بَعْضٍ, إِلَّا حَائِكٌ أَوْ حَجَّامٌ». «رَوَاهُ الْحَاكِمُ, وَفِي إِسْنَادِهِ رَاوٍ لَمْ يُسَمَّ, وَاسْتَنْكَرَهُ أَبُو حَاتِمٍ وَلَهُ شَاهِدٌ عِنْدَ الْبَزَّارِ: عَنْ مُعَاذِ بْنِ جَبَلٍ بِسَنَدٍ مُنْقَطِعٍ»

Ibn 'Umar narrated that the Messenger of Allah ﷺ said:

"The Arabs are compatible with one another, and the freedmen (*mawālī*) are compatible with one another, except a weaver or a cupper." Al-Hākim, though its chain includes an unnamed narrator, and Abū Hātim rejected it. It also has a supporting narration with al-Bazzār from Mu'ādh ibn Jabal, though its chain is disconnected.

وَعَنْ فَاطِمَةَ بِنْتِ قَيْسٍ; أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهَا: «انكِحي أُسَامَةَ». «رَوَاهُ مُسْلِمٌ»

Fāṭimah bint Qays narrated that the Prophet ﷺ said to her: "Marry Usāmah." Muslim.

وَعَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «يَا بَنِي بَيَاضَةَ, أَنْكِحُوا أَبَا هِنْدٍ, وَأَنْكِحُوا إِلَيْهِ». «وَكَانَ حَجَّامًا. رَوَاهُ أَبُو دَاوُدَ, وَالْحَاكِمُ بِسَنَدٍ جَيِّدٍ».

Abu Hurayrah narrated that the Prophet ﷺ said: "O Banu Bayadah, marry Abu Hind and give your daughters in marriage to him." And he was a cupper. Abu Dawud and al-Hakim with a good chain.

وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: حُيِّرْتُ بِرَبْرَةَ عَلَى زَوْجِهَا حِينَ عَتَّقْتُ. مُتَّفَقٌ عَلَيْهِ فِي حَدِيثٍ طَوِيلٍ.

وَلِمُسْلِمٍ عَنْهَا: أَنَّ زَوْجَهَا كَانَ عَبْدًا. وَفِي رِوَايَةٍ عَنْهَا: كَانَ حُرًّا - وَالْأَوَّلُ أَثْبَتُ. وَصَحَّ عَنْ ابْنِ عَبَّاسٍ عِنْدَ الْبُحَارِيِّ; أَنَّهُ كَانَ عَبْدًا

'Ā'ishah said: Bariirah was given the choice regarding her husband when she was emancipated. Agreed upon in a lengthy hadith.

And in Muslim from her: her husband was a slave. In another narration from her: he was free, but the first report is more authentic. And it is authentically reported from Ibn 'Abbās in al-Bukhārī that he was a slave.

وَعَنْ الضَّحَّاكِ بْنِ فَيْرُوزَ الدَّيْلَمِيِّ، عَنْ أَبِيهِ قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ! إِنِّي أَسَلَمْتُ وَتَحْتِي أُخْتَانِ، فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «طَلِّقْ أَيْتَهُمَا شِئْتَ». «رَوَاهُ أَحْمَدُ، وَالْأَرْبَعَةُ إِلَّا النَّسَائِيَّ، وَصَحَّحَهُ ابْنُ حِبَّانَ، وَالِدَارَقُطْنِيُّ، وَالْبَيْهَقِيُّ، وَأَعْلَهُ الْبُخَارِيُّ».

Al-Ḍaḥḥāk ibn Fayrūz al-Daylamī narrated from his father, who said: I said: "O Messenger of Allah, I have embraced Islam while I am married to two sisters." The Messenger of Allah ﷺ said: "Divorce whichever of them you wish." Aḥmad and the four except an-Nasā'ī, and authenticated by Ibn Ḥibbān, ad-Dāraqutnī, and al-Bayhaqī, though al-Bukhārī considered it to have a defect.

وَعَنْ سَالِمٍ، عَنْ أَبِيهِ، أَنَّ غَيْلَانَ بْنَ سَلَمَةَ أَسْلَمَ وَلَهُ عَشْرُ نِسْوَةٍ، فَأَسْلَمْنَ مَعَهُ، فَأَمَرَهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ يَتَخَيَّرَ مِنْهُنَّ أَرْبَعًا. رَوَاهُ أَحْمَدُ، وَالتِّرْمِذِيُّ، وَصَحَّحَهُ ابْنُ حِبَّانَ، وَالْحَاكِمُ، وَأَعْلَهُ الْبُخَارِيُّ، وَأَبُو حَاتِمٍ.

And from Sālim, from his father: that Ghaylān ibn Salamah embraced Islam while he had ten wives, and they embraced Islam with him. The Prophet ﷺ then ordered him to choose four of them. Aḥmad and at-Tirmidhī, and authenticated by Ibn Ḥibbān and al-Ḥākim, though al-Bukhārī, Abū Zur'ah, and Abū Ḥātim considered it to have a defect.

وَعَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: رَدَّ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ابْنَتَهُ زَيْنَبَ عَلَى أَبِي الْعَاصِ بْنِ الرَّبِيعِ، بَعْدَ سِتِّ سِنِينَ بِالنِّكَاحِ الْأَوَّلِ، وَمَ يُحْدِثُ نِكَاحًا. رَوَاهُ أَحْمَدُ، وَالْأَرْبَعَةُ إِلَّا النَّسَائِيَّ، وَصَحَّحَهُ أَحْمَدُ، وَالْحَاكِمُ

Ibn 'Abbās said: The Prophet ﷺ returned his daughter Zaynab to Abū al-'Āṣ ibn al-Rabī' after six years, on the basis of the first marriage contract, without renewing the marriage. Aḥmad and the four except an-Nasā'ī, and authenticated by Aḥmad and al-Ḥākim.

وَعَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَدَّ ابْنَتَهُ زَيْنَبَ عَلَى أَبِي الْعَاصِ بْنِ شُعَيْبٍ بِنِكَاحٍ جَدِيدٍ. قَالَ التِّرْمِذِيُّ: حَدِيثُ ابْنِ عَبَّاسٍ أَجْوَدُ إِسْنَادًا، وَالْعَمَلُ عَلَى حَدِيثِ عَمْرِو بْنِ شُعَيْبٍ

'Amr ibn Shu'ayb narrated from his father, from his grandfather: that the Prophet ﷺ returned his daughter Zaynab to Abū al-'Āṣ with a new marriage contract. Al-Tirmidhī said: the hadith of Ibn 'Abbās has a stronger chain, while the practice is based on the hadith of 'Amr ibn Shu'ayb.

وَعَنِ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: أَسْلَمَتْ امْرَأَةٌ، فَتَزَوَّجْتُ، فَجَاءَ زَوْجُهَا، فَقَالَ: يَا رَسُولَ اللَّهِ! إِنِّي كُنْتُ أَسْلَمْتُ، وَعَلِمْتُ بِإِسْلَامِي، فَانْتَزَعَهَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ زَوْجِهَا الْأَخْرِي، وَرَدَّهَا إِلَيَّ زَوْجِهَا الْأَوَّلِ. رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَابْنُ مَاجَهَ. وَصَحَّحَهُ ابْنُ حِبَّانَ، وَالْحَاكِمُ

Ibn 'Abbās said: A woman embraced Islam and then married another man. Later her first husband came and said: "O Messenger of Allah, I had already embraced Islam and she knew of my Islam." So the Messenger of Allah ﷺ took her away from the second husband and returned her to her first husband. Ahmad, Abū Dāwūd, and Ibn Mājah, and authenticated by Ibn Ḥibbān and al-Ḥākim.

وَعَنْ زَيْدِ بْنِ كَعْبِ بْنِ عُجْرَةَ، عَنْ أَبِيهِ قَالَ: تَزَوَّجَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْعَالِيَةَ مِنْ بَنِي غِفَّارٍ، فَلَمَّا دَخَلَتْ عَلَيْهِ وَوَضَعَتْ ثِيَابَهَا، رَأَى بِكَشْحِهَا بَيَاضًا، فَقَالَ: «الْبَيْسِي ثِيَابِكِ، وَالْحَقِّي بِأَهْلِكَ»، وَأَمَرَ لَهَا بِالصَّدَاقِ. رَوَاهُ الْحَاكِمُ، وَفِي إِسْنَادِهِ جَمِيلُ بْنُ زَيْدٍ وَهُوَ مَجْهُولٌ، وَاخْتَلَفَ عَلَيْهِ فِي شَيْخِهِ اخْتِلَافًا كَثِيرًا

Zayd ibn Ka'b ibn 'Ujrah narrated from his father that he said: The Messenger of Allah ﷺ married a woman from Banī Ghifār. When she entered upon him and removed her clothing, he saw whiteness on her side. He said: "Wear your clothes and return to your family," and he ordered that she be given her dowry. Al-Ḥākim, but in its chain is Jamīl ibn Zayd who is unknown, and there is also much disagreement about his teacher.

وَعَنْ سَعِيدِ بْنِ الْمُسَيَّبِ; أَنَّ عُمَرَ بْنَ الْخَطَّابِ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: أَيُّمَا رَجُلٍ تَزَوَّجَ امْرَأَةً، فَدَخَلَ بِهَا، فَوَجَدَهَا بَرِّصَاءَ، أَوْ مَجْنُونَةً، أَوْ مَجْدُومَةً، فَلَهَا الصَّدَاقُ بِمَسِيئِهِ إِتَاهَا، وَهُوَ لَهُ عَلَى مَنْ عَرَّهَ مِنْهَا. أَخْرَجَهُ سَعِيدُ بْنُ مَنْصُورٍ، وَمَالِكٌ، وَابْنُ أَبِي شَيْبَةَ، وَرِجَالُهُ ثِقَاتٌ

وَرَوَى سَعِيدٌ أَيْضًا: عَنْ عَلِيِّ نَحْوَهُ، وَزَادَ: نَوِيحًا قَرْنًا، فَزَوَّجَهَا بِالْخِيَارِ، فَإِنْ مَسَّهَا فَلَهَا الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا وَمِنْ طَرِيقِ سَعِيدِ بْنِ الْمُسَيَّبِ أَيْضًا قَالَ: قَضَى بِهِ عُمَرُ فِي الْعَيْنِ، أَنْ يُوجَلَ سَنَةً، وَرِجَالُهُ ثِقَاتٌ

Sa'īd ibn al-Musayyib narated that 'Umar ibn al-Khaṭṭāb said: "Any man who marries a woman and consummates the marriage, then finds her to be leprous, insane, or afflicted with vitiligo, she is entitled to the dowry due to his having had marital relations with her, and he has recourse against the one who deceived him." Sa'īd ibn Manṣūr, Mālik, and Ibn Abī Shaybah, and its narrators are trustworthy.

And Sa'īd also narrated from 'Alī something similar, adding: "or if she has a defect (qaran), then her husband has the option; but if he consummates with her, she is entitled to the dowry due to his having made lawful intercourse." And also from Sa'īd ibn al-Musayyib: 'Umar judged regarding the impotent husband that he be given one year, and its narrators are trustworthy.

كتاب الصِّدَاق

The Book of Dowry

يُسَنُّ تَخْفِيفَهُ وَتَسْمِيَتَهُ فِي الْعَقْدِ، وَكُلُّ مَا صَحَّ ثَمَّ صَحَّ مَهْرًا وَإِنْ قَلَّ

It is recommended to make the dowry light and to specify it in the marriage contract. And whatever is valid as a price may be valid as a dowry, even if it is small.

وَإِنْ أَصْدَقَهَا تَعْلِيمَ قُرْآنٍ لَمْ يَصِحَّ، بَلْ فِقْهٍ وَأَدَبٍ وَشِعْرٍ مَبَاحٍ، وَإِنْ أَصْدَقَهَا نَفْعًا مُبَاحًا مَعْلُومًا كَرِعَايَةِ غَنَمِهَا شَهْرًا
صَحَّ، لَا طَلَاقَ ضَرَّتْهَا وَنَحْوَهُ، وَلَهَا مَهْرٌ الْمِثْلُ

If he gives as a dowry the teaching of the Qur'an, it is not valid; but he can give teaching fiqh, literature, or permissible poetry. If he gives a known permissible benefit, such as tending her sheep for a month, it is valid. He cannot give divorcing her co-wife and the like; and she is entitled to a dowry equivalent to that of her peers (*mahr al-mithl*).

وَإِنْ أَصْدَقَهَا أَلْفًا إِنْ لَمْ تَكُنْ لَهُ زَوْجَةٌ وَأَلْفَيْنِ إِنْ كَانَتْ صَحَّ، لَا أَلْفَيْنِ إِنْ كَانَ أَبُوهَا مَيِّتًا، وَأَلْفًا إِنْ كَانَ حَيًّا

If he stipulates a dowry of one thousand if he has no other wife, and two thousand if he does, it is valid. But it is not valid to say: two thousand if her father is deceased and one thousand if he is alive.

وَيَصِحُّ تَأْجِيلُ صَدَاقٍ وَبَعْضُهُ، فَإِنْ أَطْلَقَ فَمَحَلُّهُ الْفَرْقَةُ الْبَائِتَةُ، وَإِنْ أَصْدَقَهَا مَغْضُوبًا أَوْ خَنْزِيرًا وَنَحْوَهُ فَمَهْرٌ الْمِثْلُ،
وَإِنْ وَجَدْتَ الْمَبَاحَ مَعْيَبًا حُيِّرَتْ بَيْنَ أَرْشِهِ وَقِيَمَتِهِ

It is valid to defer the dowry, in whole or in part. If it is left unspecified, its due time is at the occurrence of an irrevocable separation. If he gives as a dowry something unlawfully taken (usurped) or something impermissible like a pig, then she is entitled to a dowry equivalent (*mahr al-mithl*). If she finds the permissible dowry to be defective, she has the choice between taking compensation for the defect or its full value.

وَيَصِحُّ عَلَى أَلْفٍ لَهَا وَأَلْفٍ لِأَبِيهَا وَيَمْلِكُهُ بِقَبْضِ، وَإِنْ شَرَطَ لِغَيْرِ الْأَبِ فَلِهَا الْمَسْمِيُّ كُلُّهُ.

It is valid to stipulate a dowry of one thousand for her and one thousand for her father, and he (the father) owns it upon taking possession. But if it is stipulated for someone other than the father, then the entire specified dowry belongs to her.

ويصح تزويج بنته بدون مهر مثلها ولو كرهت، وإن زوّجها به غيره بإذنها صحّ، وبدونه يلزم زوجاً تتمته، وإن زوّج ابنه الصغير بأكثر من مهر مثل صحّ ولزم الزوج ولو معسراً ما لم يضمه أبٌ

It is valid for a man to marry off his daughter for less than her equivalent dowry (*mahr al-mithl*), even if she dislikes it. If someone else marries her without an equivalent dowry but with her permission, it is valid; but without her permission, the husband is obliged to complete the proper dowry amount. If a father marries off his minor son for more than the customary dowry, it is valid and binding upon the husband, even if he is insolvent, unless the father guarantees it.

فصلٌ

Section

وتملك زوجةً صدّاقها بعقد، فلها نماء معين قبل قبضه، وتلفه عليها إن لم يمنعها قبضه، ولها التصرف فيه، وعليها زكّاته

A wife owns her dowry by the marriage contract. She is entitled to its growth if it is specific before taking possession of it. If it is lost before she takes possession and she was not prevented from receiving it, then the loss is upon her. She may dispose of it, and its *zakat* is due from her.

وإن طلق أو خلع أو جاءت الفرقة من قبله قبل دخول وخلوة فنصفه حكماً، ويستقر كاملاً بدخول وخلوة وموت أحدهما، ويسقط كله بفسخها ولو لعنة قبل دخول

If he divorces her, or there is *khul'*, or separation comes from his side before consummation and valid seclusion, then half the dowry is due by ruling. It becomes fully established by consummation, valid seclusion, or the death of one of them. And it is completely waived if the marriage is annulled by her, even if due to an impotence claim, before consummation.

وإن اختلفا في قدر صداق أو عينه أو ما يستقر به فقوله، وفي قبضه فقولها

If they differ regarding the amount of the dowry, its specific type, or what establishes it, then the husband's statement is accepted. But if they differ regarding whether it has been received, then the wife's statement is accepted.

فصل

Section

مَنْ زَوَّجَ مُجْبَرَةً أَوْ غَيْرَهَا بِإِذْنِهَا بِلَا مَهْرٍ، أَوْ زَوَّجَ عَلَى مَا يَشَاءُ أَحَدُهُمَا أَوْ غَيْرَهُمَا، فَلَهَا مَهْرٌ مِثْلَ بَعْقَدٍ، وَيَفْرُضُهُ حَاكِمٌ بِقَدْرِهِ بِطَلْبِهَا إِنْ لَمْ يَتَرَاضِيَا

If someone marries off a woman compelled, or one not compelled with her permission but without specifying a dowry, or marries her on whatever amount one of them or someone else may decide, then she is entitled to a dowry equivalent (*mahr al-mithl*) by virtue of the contract. It is to be assessed by a judge according to what is appropriate upon her request if they do not reach mutual agreement.

وَيَصِحُّ أَمْرًا مِنْهُ قَبْلَ فَرْضِهِ، وَمَنْ مَاتَ مِنْهُمَا وَرَثَهُ الْآخَرُ، وَاسْتَقَرَّ الْمَهْرُ، وَإِنْ طُلِّقَتْ قَبْلَ دُخُولِ الْفَالْتَمَعَةِ عَلَى الْمَوْسَرِّ قَدْرَهُ وَعَلَى الْمُقْتَرِّ قَدْرَهُ، وَبَعْدَهُ الْمَهْرُ فَقَطْ

It is valid for her to absolve him of the dowry before it is even specified. If either spouse dies, the other inherits, and the dowry becomes fully established. If she is divorced before consummation, then a consolatory gift (*mut'ah*) is due, according to the wealthy man's means or the poor man's means. After consummation, only the dowry is due.

وَإِنْ افْتَرَقَا فِي فَاسِدٍ قَبْلَ دُخُولِ وَخُلُوتِهَا فَلَا مَهْرَ، وَبَعْدَ ذَلِكَ الْمُسْمَى، وَفِي وَطْءٍ شَبَهَةٍ أَوْ زِنَا كَرِهًا مَهْرٌ مِثْلُ لَا أَرَشَ بِكَارَةٍ.

If they separate due to an invalid marriage before consummation or valid seclusion, then there is no dowry. But after that, the specified dowry is due. In cases of intercourse by mistake (*shubhah*) or coerced fornication, the woman is entitled to a dowry equivalent (*mahr al-mithl*), but not compensation for loss of virginity.

وَلِزَوْجَةٍ مَنَعَتْ نَفْسَهَا حَتَّى تَقْبِضَ حَالَ صَدَاقِهَا، وَهِيَ النِّفَقَةُ إِذْ كَانَ مُؤَجَّلًا، وَلَوْ حَلَّتْ أَوْ سَلَّمَتْ نَفْسَهَا ابْتِدَاءً فَلَا، وَإِنْ أَعْسَرَ بِحَالِهِ فَلَهَا الْفَسْخُ بِحَاكِمٍ وَلَوْ بَعْدَ دُخُولِ

A wife has the right to withhold herself (from marital relations) until she receives her immediate dowry, and she is entitled to maintenance even if the dowry is deferred. But if it becomes due and she surrenders herself initially, then she has no such right thereafter. If the husband becomes financially incapable of paying the due dowry, she has the right to seek annulment through a judge, even after consummation.

بَابُ الصَّدَاقِ

Chapter: Dowry

عَنْ أَنَسِ بْنِ مَالِكٍ، عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ؛ أَنَّهُ أَعْتَقَ صَفِيَّةَ، وَجَعَلَ عِتْقَهَا صَدَاقَهَا. مُتَّفَقٌ عَلَيْهِ
Anas ibn Mālik narrated that the Prophet ﷺ freed Ṣafīyah and made her emancipation her dowry. Agreed upon

وَعَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ؛ أَنَّهُ قَالَ: سَأَلْتُ عَائِشَةَ زَوْجَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَمْ كَانَ صَدَاقُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَتْ: كَانَ صَدَاقُهُ لِأَزْوَاجِهِ ثِنْتِي عَشْرَةَ أُوقِيَّةً وَنَشًا. قَالَتْ: أَتَدْرِي مَا النَّشُ؟ قَالَ: قُلْتُ: لَا. قَالَتْ: نِصْفُ أُوقِيَّةٍ. فَمِلْكَ حَمْسُمِائَةِ دِرْهَمٍ، فَهَذَا صَدَاقُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِأَزْوَاجِهِ. رَوَاهُ مُسْلِمٌ.

Abū Salamah ibn ‘Abd al-Raḥmān said: I asked ‘Ā’ishah, the wife of the Prophet ﷺ, “How much was the dowry of the Messenger of Allah?” She said: “The dowry he gave to his wives was twelve uqiyahs and a nash.” She said: “Do you know what a nash is?” He said: “No.” She said: “Half an uqiyah.” So that amounts to five hundred dirhams, and this was the dowry of the Messenger of Allah ﷺ for his wives. Muslim

وَعَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: لَمَّا تَزَوَّجَ عَلِيٌّ فَاطِمَةَ. قَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «أَعْطِهَا شَيْئًا». قَالَ: «مَا عِنْدِي شَيْءٌ». قَالَ: «فَأَيْنَ دِرْعَكَ الْخُطْمِيَّةُ». «رَوَاهُ أَبُو دَاوُدَ، وَالتِّرْمِذِيُّ، وَصَحَّحَهُ الْحَاكِمُ»

Ibn ‘Abbās said: When ‘Alī married Fāṭimah, the Messenger of Allah ﷺ said to him: "Give her something (as a dowry)." He said: "I have nothing." He said: "Where is your ḥuṭamiyyah armour?" Abū Dāwūd and al-Nasā’ī, and authenticated by al-Ḥākim.

وَعَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «أَيُّمَا امْرَأَةٍ نَكَحْتَ عَلَى صَدَاقٍ، أَوْ حِبَاءٍ، أَوْ عِدَّةٍ، فَبَلَّ عِصْمَةَ النِّكَاحِ، فَهُوَ لَهَا، وَمَا كَانَ بَعْدَ عِصْمَةِ النِّكَاحِ، فَهُوَ لِمَنْ أُعْطِيَهِ، وَأَحَقُّ مَا أُكْرِمَ الرَّجُلُ عَلَيْهِ ابْنَتُهُ، أَوْ أُحْتَهُ. رَوَاهُ أَحْمَدُ، وَالْأَزْبَعَةُ إِلَّا التِّرْمِذِيُّ»

‘Amr ibn Shu‘ayb narrated from his father, from his grandfather: that the Messenger of Allah ﷺ said: "Any woman who is married upon a dowry, gift, or promise given before the marriage bond, then it belongs to her. But whatever is given after the marriage bond belongs to the one to whom it was given. And the most deserving thing by which a man is honored is his daughter or his sister." Aḥmad and the four except al-Tirmidhī.

وَعَنْ عَلْقَمَةَ، عَنِ ابْنِ مَسْعُودٍ - رَضِيَ اللَّهُ عَنْهُ - أَنَّهُ سُئِلَ عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً، وَلَمْ يَفْرِضْ لَهَا صَدَاقًا، وَلَمْ يَدْخُلْ بِهَا حَتَّى مَاتَ، فَقَالَ ابْنُ مَسْعُودٍ: لَهَا مِثْلُ صَدَاقِ نِسَائِهَا، لَا وَكَسَ، وَلَا شَطَطَ، وَعَلَيْهَا الْعِدَّةُ، وَهِيَ الْمِيرَاثُ، فَقَامَ مَعْقِلُ بْنُ سِنَانَ الْأَشْجَعِيُّ فَقَالَ: فَضَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي بَرُوعِ بِنْتِ وَاشِقِ - امْرَأَةٍ مِنَّا - مِثْلَ مَا فَضَيْتَ، فَفَرَّحَ بِهَا ابْنُ مَسْعُودٍ. رَوَاهُ أَحْمَدُ، وَالْأَزْبَعِيُّ، وَصَحَّحَهُ التِّرْمِذِيُّ وَالْجَمَاعَةُ .

And from ‘Alqamah, from Ibn Mas‘ūd that he was asked about a man who married a woman but did not specify a dowry for her and did not consummate the marriage until he died. He said: “She is entitled to a dowry equivalent to that of her peers—no reduction and no excess. She must observe the waiting period (‘iddah), and she is entitled to inheritance.” Then Ma‘qil ibn Sinān al-Ashja‘ī stood up and said: “The Messenger of Allah ﷺ judged in the case of Birwa‘ bint Wāshiq, a woman from among us—just as you have judged.” So Ibn Mas‘ūd was pleased with that. Ahmad and the four, and authenticated by al-Tirmidhī and others.

وَعَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ - رَضِيَ اللَّهُ عَنْهُمَا - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «مَنْ أَعْطَى فِي صَدَاقِ امْرَأَةٍ سَوِيْقًا، أَوْ تَمْرًا، فَقَدْ اسْتَحَلَّ». «أَخْرَجَهُ أَبُو دَاوُدَ، وَأَشَارَ إِلَى تَرْجِيحِ وَقْفِهِ

Jābir ibn ‘Abdillāh narrated that the Prophet ﷺ said: "Whoever gives in the dowry of a woman sawiq (ground grain) or dates has made her lawful for himself." Abū Dāwūd, who indicated that it is more likely to be *mawqūf*

وَعَنْ عَبْدِ اللَّهِ بْنِ عَامِرِ بْنِ رَبِيعَةَ، عَنْ أَبِيهِ: أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَجَارَ نِكَاحَ امْرَأَةٍ عَلَى نَعْلَيْنِ. أَخْرَجَهُ التِّرْمِذِيُّ وَصَحَّحَهُ، وَحَوْلَفَ فِي ذَلِكَ

‘Abdullāh ibn ‘Āmir ibn Rabī‘ah narrated from his father that the Prophet ﷺ approved the marriage of a woman for (a dowry of) two sandals. Al-Tirmidhī, who graded it authentic, though it has been disputed.

وَعَنْ سَهْلِ بْنِ سَعْدٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: رَوَّجَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَجُلًا امْرَأَةً بِخَاتَمٍ مِنْ حَدِيدٍ. أَخْرَجَهُ الْحَاكِمُ. وَهُوَ طَرَفٌ مِنَ الْحَدِيثِ الطَّوِيلِ الْمُتَقَدِّمِ فِي أَوَائِلِ النِّكَاحِ

Sahl ibn Sa‘d said: The Prophet ﷺ married a man to a woman for a ring made of iron. Al-Hākim, and it is part of the long hadith previously mentioned in the earlier chapters of marriage.

وَعَنْ عَلِيِّ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: «لَا يَكُونُ الْمَهْرُ أَقَلَّ مِنْ عَشْرَةِ دَرَاهِمٍ». «أَخْرَجَهُ الدَّارِقُطْنِيُّ مَوْفُوفًا، وَفِي سَنَدِهِ مَقَالٌ.

‘Alī said: "The dowry should not be less than ten dirhams." Ad-Dāraqutnī as a statement of a Companion, and its chain has some criticism.

وَعَنْ عُقْبَةَ بْنِ عَامِرٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «خَيْرُ الصَّدَاقِ أَيْسَرُهُ». «أَخْرَجَهُ أَبُو دَاوُدَ، وَصَحَّحَهُ الْحَاكِمُ

'Uqbah ibn 'Āmir narrated that the Messenger of Allah ﷺ said: "The best dowry is the easiest." Abū Dāwūd and authenticated by al-Ḥākim.

وَعَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - أَنَّ عَمْرَةَ بِنْتَ الْجَوْنِ تَعَوَّذَتْ مِنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حِينَ أُدْخِلَتْ عَلَيْهِ - تَعْنِي: لَمَّا تَزَوَّجَهَا - فَقَالَ: «لَقَدْ عُدْتِ بِمَعَاذِ , «فَطَلَّقَهَا, وَأَمَرَ أُسَامَةَ فَمَتَّعَهَا بِثَلَاثَةِ أَثْوَابٍ.

أَخْرَجَهُ ابْنُ مَاجَهَ, وَفِي إِسْنَادِهِ رَاوٍ مَثْرُوكٌ. وَأَصْلُ الْقِصَّةِ فِي «الصَّحِيحِ» مِنْ حَدِيثِ أَبِي أُسَيْدٍ السَّاعِدِيِّ 'Ā'ishah narrated that 'Amrah bint al-Jawn sought refuge from the Messenger of Allah ﷺ when she was brought to him i.e., after she was married her. He said: "You have sought refuge with One who grants refuge." So he divorced her and ordered Usāmah to give her a gift of three garments. Ibn Mājah, though in its chain is a narrator who is abandoned. The basis of the story is found in the Ṣaḥīḥ from the hadith of Abū Usayd al-Sā'idī.

فصل

Section

تُسَنُّ وَلِيْمَةٌ بِعَقْدٍ، وَتَجِبُ إِجَابَةُ مُسْلِمٍ عَيْنَهُ يَحْرِمُ هَجْرَهُ إِلَيْهَا أَوَّلَ مَرَّةٍ، إِنْ لَمْ يَكُنْ تَمَّ مُنْكَرًا، فَإِنْ دَعَاهُ الْجَفَلَى، أَوْ فِي الْيَوْمِ الثَّلَاثِ، أَوْ ذَمِيٌّ كُرِهَتْ إِجَابَتُهُ

It is recommended to hold a wedding banquet (*walimah*) at the time of the marriage contract, and it is obligatory to respond to a specific Muslim invitation when attending it for the first time, as long as there is no prohibited matter present. But if the invitation is general, or it is on the third day, or it is from a non-Muslim under covenant (*dhimmī*), then responding to it is disliked.

وَلَا يَجِبُ الْأَكْلُ، وَيُحِبُّ صَائِمٌ مُتَنَقِّلٌ

Eating at the *walimah* is not obligatory, and a voluntary fasting person is given the choice.

وَيُكْرَهُ نِثَارٌ وَالتَّقَاطُ، وَتُسَنُّ تَسْمِيَةٌ عَلَى أَكْلِ وَشُرْبِ، وَحَمْدُهُ إِذَا فَرَّغَ، وَأَكْلُهُ بِيَمِينِهِ مِمَّا يَلِيهِ

It is disliked to scatter (*nithār*) and for people to pick it up. It is recommended to mention the name of Allah before eating and drinking, to praise Him upon finishing, and to eat with the right hand from what is directly in front of one.

وَسُنَّ إِعْلَانُ نِكَاحٍ وَضَرْبٌ فِيهِ بِدَفِّ مُبَاحٍ

It is recommended to make the marriage public, and to announce it with the beating of a permissible *duff* (hand drum).

بَابُ الْوَلِيمَةِ

Chapter: The Walimah

عَنْ أَنَسِ بْنِ مَالِكٍ - رضي الله عنه - أَنَّ النَّبِيَّ - صلى الله عليه وسلم - رَأَى عَلَى عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَثَرَ صُفْرَةٍ، قَالَ: «مَا هَذَا؟»، قَالَ: يَا رَسُولَ اللَّهِ! إِنِّي تَزَوَّجْتُ امْرَأَةً عَلَى وَزْنِ نَوَاقِ مِنْ ذَهَبٍ. فَقَالَ: فَبَارَكَ اللَّهُ لَكَ، أَوْمٌ وَلَوْ بِشَاةٍ. «مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِمُسْلِمٍ».

Anas ibn Mālik narrated that the Prophet ﷺ saw on 'Abd al-Raḥmān ibn 'Awf traces of yellow (perfume), and said: "What is this?" He said: "O Messenger of Allah, I have married a woman for the weight of a date-stone of gold." He said: "May Allah bless you. Give a wedding feast, even if with a single sheep." Agreed upon, and this wording is from Muslim.

وَعَنْ ابْنِ عُمَرَ - رضي الله عنهما - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: «إِذَا دُعِيَ أَحَدُكُمْ إِلَى الْوَلِيمَةِ فَلْيَأْتِهَا. «مُتَّفَقٌ عَلَيْهِ. وَلِمُسْلِمٍ: إِذَا دَعَا أَحَدُكُمْ أَحَاهُ، فَلْيُجِبْ; عُرْسًا كَانَ أَوْ نَحْوَهُ».

Ibn 'Umar narrated that the Messenger of Allah ﷺ said: "If one of you is invited to a wedding feast (walimah), let him attend it." Agreed upon. And in Muslim: "If one of you invites his brother, let him respond—whether it is a wedding or something similar."

وَعَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: «شَرُّ الطَّعَامِ طَعَامُ الْوَلِيمَةِ: يُمْنَعُهَا مَنْ يَأْتِيهَا، وَيُدْعَى إِلَيْهَا مَنْ يَأْبَاهَا، وَمَنْ لَمْ يُجِبِ الدَّعْوَةَ فَقَدْ عَصَى اللَّهَ وَرَسُولَهُ. «أَخْرَجَهُ مُسْلِمٌ».

Abū Hurayrah narrated that the Messenger of Allah ﷺ said: "The worst food is the food of a wedding feast to which those who would come are prevented, and those who refuse are invited. And whoever does not respond to the invitation has disobeyed Allah and His Messenger." Muslim

وَعَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: «إِذَا دُعِيَ أَحَدُكُمْ فَلْيُجِبْ; فَإِنْ كَانَ صَائِمًا فَلْيُصَلِّ، وَإِنْ كَانَ مُفْطِرًا فَلْيُطْعَمْ. «أَخْرَجَهُ مُسْلِمٌ أَيْضًا. وَلَهُ مِنْ حَدِيثِ جَابِرٍ نَحْوُهُ. وَقَالَ: «فَإِنْ شَاءَ طَعِمَ وَإِنْ شَاءَ تَرَكَ».

From Abu Hurayrah that the Messenger of Allah ﷺ said: "If one of you is invited, let him respond. If he is fasting, let him pray (for the host), and if he is not fasting, let him eat." Muslim. And there is a similar narration from Jābir: "Then if he wishes, he eats, and if he wishes, he leaves it."

وَعَنْ ابْنِ مَسْعُودٍ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: « طَعَامُ الْوَلِيمَةِ أَوَّلَ يَوْمٍ حَقٌّ، وَطَعَامُ يَوْمِ الثَّانِي سُنَّةٌ، وَطَعَامُ يَوْمِ الثَّلَاثِ سُمْعَةٌ، وَمَنْ سَمِعَ سَمِعَ اللَّهُ بِهِ. » رَوَاهُ التِّرْمِذِيُّ وَاسْتَعْرَبَهُ، وَرِجَالُهُ رِجَالُ الصَّحِيحِ. وَلَهُ شَاهِدٌ: عَنْ أَنَسٍ عِنْدَ ابْنِ مَاجَهَ

Ibn Mas'ūd narrated that the Messenger of Allah ﷺ said: "The wedding feast on the first day is a right, on the second day is a Sunnah, and on the third day is for showing off (sum'ah). And whoever shows off, Allah will expose him." Al-Tirmidhī, who considered it strange, though its narrators are those of the Ṣaḥīḥ. And it has a supporting narration from Anas in Ibn Mājah.

وَعَنْ صَفِيَّةَ بِنْتِ شَيْبَةَ قَالَتْ: أَوْلَمَ النَّبِيُّ - صلى الله عليه وسلم - عَلَى بَعْضِ نِسَائِهِ بِمُدَّيْنِ مِنْ شَعِيرٍ. أَخْرَجَهُ الْبُخَارِيُّ

Ṣafiyyah bint Shaybah said: The Prophet ﷺ gave a wedding feast for one of his wives with two *mudd* of barley. Al-Bukhārī.

وَعَنْ أَنَسٍ قَالَ: أَقَامَ النَّبِيُّ - صلى الله عليه وسلم - بَيْنَ حَيْبَرَ وَالْمَدِينَةِ ثَلَاثَ لَيَالٍ، يُبْنَى عَلَيْهِ بِصَفِيَّةَ، فَدَعَوْتُ الْمُسْلِمِينَ إِلَى وِلِيمَتِهِ، فَمَا كَانَ فِيهَا مِنْ حُبْزٍ وَلَا لَحْمٍ، وَمَا كَانَ فِيهَا إِلَّا أَنْ أَمَرَ بِالْأَنْطَاعِ، فَبَسِطْتُ، فَأُلْقِيَ عَلَيْهَا التَّمْرُ، وَالْأَقِطُ، وَالسَّمْنُ. مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِلْبُخَارِيِّ

Anas said: The Prophet ﷺ stayed between Khaybar and Madinah for three nights while the marriage to Safiyyah was being arranged for him. I invited the Muslims to his wedding feast, and there was no bread or meat in it. Rather, leather mats were spread out, and upon them were placed dates, dried yogurt (aqiṭ), and ghee. Agreed upon, and this wording is from al-Bukhārī.

وَعَنْ رَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ - صلى الله عليه وسلم - قَالَ: إِذَا اجْتَمَعَ دَاعِيَانِ، فَأَجِبْ أَقْرَبَهُمَا بَابًا، فَإِنْ سَبَقَ أَحَدُهُمَا فَأَجِبْ الَّذِي سَبَقَ. رَوَاهُ أَبُو دَاوُدَ، وَسَنَدُهُ ضَعِيفٌ

And from a man among the Companions of the Prophet ﷺ: He said: "If two people invite you at the same time, then respond to the one whose door is closest. If one of them preceded the other, then respond to the one who came first." Abū Dāwūd, and its chain is weak.

وَعَنْ أَبِي جُحَيْفَةَ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: « لَا آكُلُ مُتَّكِنًا. » رَوَاهُ الْبُخَارِيُّ

Abū Juḥayfah narrated that the Messenger of Allah ﷺ said: "I do not eat while reclining." Al-Bukhārī.

وَعَنْ عُمَرَ بْنِ أَبِي سَلَمَةَ - رضي الله عنه - قَالَ: قَالَ النَّبِيُّ - صلى الله عليه وسلم: « يَا غُلَامُ! سَمِّ اللَّهَ، وَكُلْ بِيَمِينِكَ، وَكُلْ مِمَّا يَلِيكَ. » مُتَّفَقٌ عَلَيْهِ

'Umar ibn Abī Salamah said: The Prophet ﷺ said: "O boy! Mention the name of Allah, eat with your right hand, and eat from what is directly in front of you." Agreed upon.

وَعَنْ ابْنِ عَبَّاسٍ؛ - أَنَّ النَّبِيَّ - صلى الله عليه وسلم - أُتِيَ بِفَصْعَةٍ مِنْ ثَرِيدٍ، فَقَالَ: «كُلُوا مِنْ جَوَانِبِهَا، وَلَا تَأْكُلُوا مِنْ وَسْطِهَا، فَإِنَّ الْبَرَكَةَ تَنْزَلُ فِي وَسْطِهَا. » (رَوَاهُ الْأَرْبَعَةُ، وَهَذَا لَفْظُ النَّسَائِيِّ، وَسَنَدُهُ صَحِيحٌ

Ibn 'Abbās said that the Prophet ﷺ was brought a dish of *tharīd* and said: "Eat from its sides and do not eat from its middle, for blessing descends in its middle." The four and this wording is from al-Nasā'ī, and its chain is authentic.

وَعَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - قَالَ: مَا عَابَ رَسُولُ اللَّهِ - صلى الله عليه وسلم - طَعَامًا قَطُّ، كَانَ إِذَا اشْتَهَى شَيْئًا أَكَلَهُ، وَإِنْ كَرِهَهُ تَرَكَهُ. مُتَّفَقٌ عَلَيْهِ

Abū Hurayrah said: The Messenger of Allah ﷺ never criticized any food at all. If he desired it, he ate it, and if he disliked it, he left it. Agreed upon.

وَعَنْ جَابِرٍ، عَنْ رَسُولِ اللَّهِ - صلى الله عليه وسلم - قَالَ: « لَا تَأْكُلُوا بِالشِّمَالِ؛ فَإِنَّ الشَّيْطَانَ يَأْكُلُ بِالشِّمَالِ. » رَوَاهُ مُسْلِمٌ

Jābir narrated that the Messenger of Allah ﷺ said: "Do not eat with the left hand, for indeed Satan eats with the left hand." Muslim.

وَعَنْ أَبِي قَتَادَةَ - رضي الله عنه - أَنَّ النَّبِيَّ - صلى الله عليه وسلم - قَالَ: « إِذَا شَرِبَ أَحَدُكُمْ، فَلَا يَتَنَفَّسْ فِي الْإِنَاءِ. » مُتَّفَقٌ عَلَيْهِ. وَلِأَبِي دَاوُدَ: عَنْ ابْنِ عَبَّاسٍ نَحْوَهُ، وَرَادَ: « أَوْ يَنْفُخَ فِيهِ. » وَصَحَّحَهُ التِّرْمِذِيُّ

Abū Qatādah narrated that the Prophet ﷺ said: "If one of you drinks, let him not breathe into the vessel." Agreed upon. And in Abū Dāwūd, from Ibn 'Abbās with a similar meaning, with the addition: "or blow into it." And al-Tirmidhī graded it authentic.

باب

Chapter

يلزم الزوجين العشرة بالمعروف، ويجزم مطلق أحدهما الآخر بما يلزمه، والتكفره لبدله

It is obligatory upon both spouses to live together in goodness. It is forbidden for either of them to withhold what is due from them to the other, or to show dislike or reluctance in fulfilling it.

ويلزم تسليم حرّة يوطأ مثلها بيت زوج إن طلبها ولم تشتترط دارها

It is obligatory to deliver a free woman who is of an age suitable for marital relations to her husband's residence if he requests it, provided she did not stipulate that she remains in her own home.

ويمهل مستمهل العادة لا لعمل جهاز ونحوه، وتسلم أمة ليلاً فقط، وله الإستمتاع بها ما لم يشغلها عن واجب أو يضرها.

A husband is given a customary grace period if he requests delay, but not for purposes such as preparing furnishings and the like. A slave woman is to be delivered to him only at night. A husband may enjoy her so long as it does not distract her from an obligation or cause her harm.

ويقول عند وطء: "بسم الله، اللهم جنّبنا الشيطان وجنّب الشيطان ما رزقنا"

And one should say at the time of intercourse: "In the name of Allah. O Allah, keep us away from Satan, and keep Satan away from what You have provided for us."

وله السفر بحرّة لم تشتترط بلدها

He has the right to travel with a free woman if she did not stipulate that she remains in her own country.

ويحرم وطء في حيض ودبر، وله إجباؤها على غسل حيض وجنابة، وأخذ ما يُعاف من شعر ونحوه

It is forbidden to have intercourse during menstruation or anal intercourse. The husband may compel her to perform ghusl after menstruation and *janābah*, and to remove what is considered undesirable such as hair and the like.

بَابُ عَشْرَةِ النِّسَاءِ

Chapter: Living Together

عَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: «مَلْعُونٌ مَنْ أَتَى امْرَأَةً فِي دُبُرِهَا.»
رَوَاهُ أَبُو دَاوُدَ، وَالتِّرْمِذِيُّ وَاللَّفْظُ لَهُ، وَرِجَالُهُ ثِقَاتٌ، وَلَكِنْ أُعْلِيَ بِالْإِسْنَانِ

Abū Hurayrah narrated that the Messenger of Allah ﷺ said: "Cursed is the one who has intercourse with a woman in her anus." Abū Dāwūd and al-Nasā'ī and this is his wording. Its narrators are trustworthy, though it has been critiqued for being *mursal*.

وَعَنِ ابْنِ عَبَّاسٍ - رضي الله عنهما - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم: «لَا يَنْظُرُ اللَّهُ إِلَى رَجُلٍ أَتَى رَجُلًا أَوْ امْرَأَةً فِي دُبُرِهَا.» (رَوَاهُ التِّرْمِذِيُّ، وَالتِّرْمِذِيُّ، وَابْنُ حِبَّانَ، وَأَعْلِيَ بِالْوَقْفِ

Ibn 'Abbās narrated that the Messenger of Allah ﷺ said: "Allah does not look at a man who has intercourse with a man or with a woman in her anus." Al-Tirmidhī, al-Nasā'ī, and Ibn Hibbān, though it has been critiqued as being *mawqūf*

وَعَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - عَنِ النَّبِيِّ - صلى الله عليه وسلم - قَالَ: «مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ فَلَا يُؤْذِي جَارَهُ، وَاسْتَوْصُوا بِالنِّسَاءِ خَيْرًا، فَإِنَّهُنَّ خُلْفَنَ مِنْ ضِلَعٍ، وَإِنَّ أَعْوَجَ شَيْءٍ فِي الصِّلَعِ أَعْلَاهُ، فَإِنْ ذَهَبَتْ تَقِيمُهُ كَسَرْتَهُ، وَإِنْ تَرَكْتَهُ لَمْ يَزَلْ أَعْوَجَ، فَاسْتَوْصُوا بِالنِّسَاءِ خَيْرًا.» (مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِلْبُخَارِيِّ.
وَلِمُسْلِمٍ: «فَإِنْ اسْتَمْتَعَتْ بِهَا اسْتَمْتَعْتَ وَبِهَا عَوَجٌ، وَإِنْ ذَهَبَتْ تَقِيمُهَا كَسَرْتَهَا، وَكَسَرْتُهَا طَلَّقْتُهَا.»

Abū Hurayrah narrated from the Prophet ﷺ that he said: "Whoever believes in Allah and the Last Day should not harm his neighbor. And treat women well, for they were created from a rib, and the most crooked part of the rib is its upper part. If you try to straighten it, you will break it, and if you leave it, it will remain crooked. So treat women well." Agreed upon, and this wording is from al-Bukhārī.

And in Muslim: "If you enjoy her, you will enjoy her while she has some crookedness; and if you try to straighten her, you will break her—and breaking her is divorcing her."

وَعَنْ جَابِرٍ - رضي الله عنه - قَالَ: كُنَّا مَعَ رَسُولِ اللَّهِ - صلى الله عليه وسلم - فِي غَزَاةٍ، فَلَمَّا قَدِمْنَا الْمَدِينَةَ، دَهَبْنَا لِنَدْخُلَ. فَقَالَ: «أْمْهَلُوا حَتَّى تَدْخُلُوا لَيْلًا». «بِعْنِي: عِشَاءً - لِكَيْ تَمْتَشِطَ الشَّعِثَةُ، وَتَسْتَحِدَّ الْمَغِيبَةُ. مُتَّفَقٌ عَلَيْهِ. وَفِي رِوَايَةِ لِلْبُخَارِيِّ: إِذَا أَطَالَ أَحَدُكُمْ الْعَيْبَةَ، فَلَا يَطْرُقُ أَهْلَهُ لَيْلًا.

Jābir said: We were with the Messenger of Allah ﷺ on an expedition, and when we returned to Madinah, we were about to enter. He said: "Wait until you enter at night", meaning the evening, "so that the disheveled woman may comb her hair and the one whose husband has been absent may remove her unwanted hair." Agreed upon.

And in a narration of al-Bukhārī: "If one of you has been away for a long time, he should not return to his family at night."

وَعَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ - رضي الله عنه - قَالَ: قَالَ رَسُولُ اللَّهِ - صلى الله عليه وسلم - «إِنَّ شَرَّ النَّاسِ مَنْزِلَةً عِنْدَ اللَّهِ يَوْمَ الْقِيَامَةِ: الرَّجُلُ يُفْضِي إِلَى امْرَأَتِهِ وَتُفْضِي إِلَيْهِ، ثُمَّ يَنْشُرُ سِرَّهَا». «أَخْرَجَهُ مُسْلِمٌ

Abū Sa'īd al-Khudrī narrated that the Messenger of Allah ﷺ said: "Indeed, among the worst people in status with Allah on the Day of Resurrection is a man who is intimate with his wife and she with him, then he spreads her secrets." Muslim.

وَعَنْ حَكِيمِ بْنِ مُعَاوِيَةَ، عَنْ أَبِيهِ قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ! مَا حَقُّ زَوْجٍ أَحَدِنَا عَلَيْهِ؟ قَالَ: «تُطْعِمُهَا إِذَا أَكَلْتَ، وَتَكْسُوهَا إِذَا اكْتَسَيْتَ، وَلَا تَضْرِبُ الْوَجْهَ، وَلَا تُفْبِحَ، وَلَا تَهْجُرُ إِلَّا فِي الْبَيْتِ». «رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ، وَالنَّسَائِيُّ، وَابْنُ مَاجَةَ، وَعَلَّقَ الْبُخَارِيُّ بَعْضَهُ، وَصَحَّحَهُ ابْنُ حِبَّانَ، وَالْحَاكِمُ

Ḥakīm ibn Mu'āwiyah narrated from his father that he said: I said: "O Messenger of Allah, what is the right of one's wife over him?" He said: "That you feed her when you eat, clothe her when you clothe yourself, do not strike the face, do not insult her, and do not boycott her except within the home." Ahmad, Abū Dāwūd, al-Nasā'ī, and Ibn Mājah. Al-Bukhārī cited part of it in suspended form, and it was authenticated by Ibn Ḥibbān and al-Ḥākim.

وَعَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ - رضي الله عنهما - قَالَ: كَانَتِ الْيَهُودُ تَقُولُ: إِذَا أَتَى الرَّجُلُ امْرَأَتَهُ مِنْ دُبُرِهَا فِي قُبُلِهَا، كَانَ الْوَلَدُ أَحْوَلَ. فَنَزَلَتْ: {نِسَاؤُكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ} [البقرة: ٢٢٣]. [مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِمُسْلِمٍ.

Jābir ibn 'Abdillāh said: The Jews used to say: If a man has intercourse with his wife from behind in her front passage, the child will be cross-eyed. Then Allah revealed: "Your wives are a place of sowing for you, so come to your place of cultivation however you wish." [Al-Baqarah 2:223] Agreed upon, and this wording is from Muslim.

وَعَنِ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «لَوْ أَنَّ أَحَدَكُمْ إِذَا أَرَادَ أَنْ يَأْتِيَ أَهْلَهُ قَالَ: بِسْمِ اللَّهِ، اللَّهُمَّ جَنِّبْنَا الشَّيْطَانَ وَجَنِّبِ الشَّيْطَانَ مَا رَزَقْتَنَا؛ فَإِنَّهُ إِنْ يُعَدَّرَ بَيْنَهُمَا وَلَدٌ فِي ذَلِكَ، لَمْ يَضُرَّهُ الشَّيْطَانُ أَبَدًا.» مُتَّفَقٌ عَلَيْهِ

Ibn 'Abbās narrated that the Messenger of Allah ﷺ said: "If one of you, when he intends to approach his wife, says: 'In the name of Allah. O Allah, keep us away from Satan and keep Satan away from what You provide for us,' then if a child is decreed between them, Satan will never harm him." Agreed upon.

وَعَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «إِذَا دَعَا الرَّجُلُ امْرَأَتَهُ إِلَى فِرَاشِهِ فَأَبَتْ أَنْ تَجِيءَ، لَعَنَتَهَا الْمَلَائِكَةُ حَتَّى تُصْبِحَ.» مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِلْبُخَارِيِّ.

وَلِمُسْلِمٍ: «كَانَ الَّذِي فِي السَّمَاءِ سَاخِطًا عَلَيْهَا حَتَّى يَرْضَى عَنْهَا»

Abū Hurayrah narrated that the Prophet ﷺ said: "If a man calls his wife to his bed and she refuses to come, the angels curse her until morning." Agreed upon, and this wording is from al-Bukhārī.

And in Muslim: "The One in the heaven remains angry with her until he (her husband) is pleased with her."

وَعَنِ ابْنِ عُمَرَ - رَضِيَ اللَّهُ عَنْهُمَا؛ - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَعَنَ الْوَاصِلَةَ وَالْمُسْتَوْصِلَةَ، وَالْوَاشِمَةَ وَالْمُسْتَوْشِمَةَ. مُتَّفَقٌ عَلَيْهِ .

Ibn 'Umar narrated that the Prophet ﷺ cursed the woman who attaches hair extensions (*al-wāṣilah*) and the one who has it done (*al-mustaūsilah*), and the woman who tattoos (*al-wāshimah*) and the one who has it done (*al-mustaūshimah*). Agreed upon.

وَعَنْ جُدَامَةَ بِنْتِ وَهَبٍ - رَضِيَ اللَّهُ عَنْهَا - قَالَتْ: حَضَرْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي أَنَاسٍ، وَهُوَ يَقُولُ: «لَقَدْ هَمَمْتُ أَنْ أَهَيَّ عَنِ الْغِيلَةِ، فَتَنْظَرْتُ فِي الرُّومِ وَفَارِسَ، فَإِذَا هُمْ يُغِيلُونَ أَوْلَادَهُمْ فَلَا يَضُرُّ ذَلِكَ أَوْلَادَهُمْ شَيْئًا.»

ثُمَّ سَأَلُوهُ عَنِ الْعَزْلِ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «ذَلِكَ الْوَأْدُ الْخَفِيُّ.» رَوَاهُ مُسْلِمٌ

Judhāmah bint Wahb said: I was present with the Messenger of Allah ﷺ among some people when he said: "I intended to forbid *ghilah*, but I looked at the Romans and the Persians, and I found that they do it and it does not harm their children." Then they asked him about *'azl*, and the Messenger of Allah ﷺ said: "That is hidden infanticide." Muslim.

وَعَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ - رضي الله عنه - أَنَّ رَجُلًا قَالَ: يَا رَسُولَ اللَّهِ! إِنَّ لِي جَارِيَةً، وَأَنَا أَعَزُّ عَنْهَا، وَأَنَا أَكْرَهُ أَنْ تَحْمِلَ، وَأَنَا أُرِيدُ مَا يُرِيدُ الرِّجَالُ، وَإِنَّ الْيَهُودَ تُحَدِّثُ: أَنَّ الْعَزْلَ الْمُؤَوَّدَةَ الصُّعْرَى. قَالَ: «كَذَبَتْ يَهُودُ، لَوْ أَرَادَ اللَّهُ أَنْ يَخْلُقَهُ مَا اسْتَطَعَتْ أَنْ تَصْرِفَهُ». «رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ وَاللَّفْظُ لَهُ، وَالنِّسَائِيُّ، وَالطَّحَاوِيُّ، وَرِجَالُهُ ثِقَاتٌ

Abū Saʿīd al-Khudrī narrated that a man said: "O Messenger of Allah, I have a slave woman and I practice withdrawal (ʿazl) from her, and I dislike that she becomes pregnant, while I still desire what men desire. The Jews say that withdrawal is a minor form of infanticide." He ﷺ said: "The Jews have lied. If Allah intends to create it, you would not be able to prevent it." Ahmad, Abū Dāwūd and this wording is his, al-Nasāʿī, and al-Ṭahāwī; and its narrators are trustworthy.

وَعَنْ جَابِرٍ - رضي الله عنه - قَالَ: كُنَّا نَعَزُّ عَلَى عَهْدِ رَسُولِ اللَّهِ - صلى الله عليه وسلم - وَالْقُرْآنُ يَنْزِلُ، وَلَوْ كَانَ شَيْئًا يُنْهَى عَنْهُ لَنَهَانَا عَنْهُ الْقُرْآنُ. مُتَّفَقٌ عَلَيْهِ. وَلِمُسْلِمٍ: فَبَلَغَ ذَلِكَ نَبِيِّ اللَّهِ - صلى الله عليه وسلم - فَلَمْ يَنْهَنَا

Jābir said: We used to practice withdrawal (ʿazl) during the time of the Messenger of Allah ﷺ while the Qurʾān was being revealed. If it had been something forbidden, the Qurʾān would have prohibited us from it. Agreed upon.

And in Muslim: When that reached the Prophet of Allah ﷺ, he did not forbid us.

وَعَنْ أَنَسِ بْنِ مَالِكٍ - رضي الله عنه - أَنَّ النَّبِيَّ - صلى الله عليه وسلم - كَانَ يَطُوفُ عَلَى نِسَائِهِ بِغُسْلٍ وَاحِدٍ. أَخْرَجَاهُ، وَاللَّفْظُ لِمُسْلِمٍ

Anas ibn Mālik narrated that the Prophet ﷺ used to go around to his wives with one *ghusl*. Al-Bukhārī and Muslim, and the wording is from Muslim.

فصل

Section

يَلْزَمُ بَطْلِبِ مَبِيْتِ لَيْلَةٍ مِنْ أَرْبَعٍ عِنْدَ حَرَّةٍ، وَمِنْ سَبْعٍ عِنْدَ أَمَةٍ، وَلَهُ الْإِنْفِرَادُ فِي الْبَاقِي

It is obligatory, upon request, to allocate one night out of every four for a free wife, and one night out of every seven for a slave wife. The husband is free to be alone in the remaining nights.

وَيَلْزَمُهُ وَطْءٌ إِنْ قَدِرَ كُلَّ ثُلْثِ سَنَةٍ مَرَّةً، وَإِنْ سَافَرَ فَوْقَ نِصْفِهَا وَطَلَبَتْ قُدُومَهُ وَقَدِرَ لَزِمَهُ، فَإِنْ أَبِي ذَلِكَ فُرِّقَ

بَيْنَهُمَا بِطَلْبِهَا

It is obligatory for the husband, if he is able, to have marital relations at least once every three months. If he travels for more than half a year and she requests his return and he is able, he is obliged to return. If he refuses, then separation is made between them upon her request.

وَيُكْرَهُ كَثْرَةُ كَلَامٍ حَالِ جَمَاعٍ، وَنَزْعُهُ قَبْلَ فِرَاقِهَا

It is disliked to engage in excessive talk during intercourse, and to withdraw before she has finished.

وَيَحْرُمُ جَمْعُ زَوْجَتَيْنِ فَأَكْثَرَ بِمَسْكَنِ بَغَيْرِ رِضَاهُمَا، وَلَهُ مَنَعُهَا مِنْ خُرُوجٍ، وَسُنُّ إِذْنِهِ إِنْ مَرَضَتْ مُحْرَمَهَا، أَوْ مَاتَ، وَلَهُ

مَنَعُهَا مِنْ رِضَاعِ وَلَدِهَا مِنْ غَيْرِهِ إِلَّا لِحَاجَتِهِ

It is forbidden to house two or more wives together in one dwelling without their consent. He has the right to prevent her from going out, though it is recommended for him to permit her if a close relative (*maḥram*) of hers is ill or dies. He may also prevent her from nursing her child from another man, unless there is a necessity.

فصل

Section

وعليه التسوية بين زوجاته في قَسْمِ، وعِمَادَةِ الليل، وسُنِّ في وطء

It is obligatory for him to be just between his wives in the division of time (*qasm*), and its basis is the night. It is recommended to be fair in intercourse as well.

ويُقَسِّمُ لحائضٍ ومريضةٍ ومجنونة مَأْمُونَةٍ وغيرها

He must allocate turns to a menstruating wife, a sick wife, a safe insane wife, and others as well.

وإن سَافَرَتْ بلا إذنه أو لحاجتها أو نَشَزَتْ فلا قَسَمَ لها ولا نَفَقَةَ، ولها هِبَةٌ قَسَمِهَا لضرَّتْها بإذنه، وله يجعله لمن شاء، ولها الرجوع في المستقبل، ولا قَسَمَ لسرائره، وأمّهات أولاده

If she travels without his permission, or even for her own need, or becomes disobedient (*nushūz*), then she is not entitled to her allotted turn nor to maintenance. She may gift her turn to her co-wife with his permission, and he may assign it to whomever he wishes. She has the right to revoke this for the future. There is no division of turns for concubines or for mothers of his children (*ummhāt al-awlād*).

ومن تزوّج بكراً أقام عندها سبعا، ثم دار، وثيباً ثلاثاً، ثم إن أحبّت لا هو، فعَلَّ وقَصَى السبع للبواقي

Whoever marries a virgin stays with her for seven days, then resumes the rotation among his wives. And if he marries a previously married woman, he stays with her for three days, then resumes rotation. If she wishes to remain longer and he agrees, he may do so, but he must compensate the other wives with the equivalent of the extra days.

ومتى ظهرَ منها أمارَةٌ نُشُوزِها، بأن لم تُجِبْهُ لإستمتاعٍ أو أجابته مُتبرمةً، أو متكرهَةً وَعَظْهَها، فإن أَصْرَتْ هَجْرَها في المضجع ما شاء، وفي الكلام ثلاثة أيام، فإن أَصْرَتْ ضرَبَها غير مُبرِح

If signs of a wife's *nushūz* appear, such as refusing his request for intimacy or responding with reluctance and displeasure, he should first admonish her. If she persists, he may abandon her in the marital bed for as long as he wishes, and in speech for up to three days. If she still persists, he may discipline her in a non-severe and non-injurious way.

بَابُ الْقَسْمِ

Chapter: Division

عَنْ عَائِشَةَ -رَضِيَ اللَّهُ عَنْهَا- قَالَتْ: كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقْسِمُ، فَيَعْدِلُ، وَيَقُولُ: «اللَّهُمَّ هَذَا قَسَمِي فِيمَا أَمْلِكُ، فَلَا تَلْمَنِي فِيمَا تَمْلِكُ وَلَا أَمْلِكُ». «رَوَاهُ الْأَرْبَعَةُ، وَصَحَّحَهُ ابْنُ حِبَّانَ وَالْحَاكِمُ، وَلَكِنْ رَجَّحَ التِّرْمِذِيُّ إِسْرَافَهُ»

'Ā'ishah said: The Messenger of Allah ﷺ used to divide (his time among his wives) and be just, and he would say: "O Allah, this is my division regarding what I control, so do not blame me for what You control and I do not." The four, and authenticated by Ibn Hibbān and al-Hākim, though al-Tirmidhī considered it more likely to be *mursal*.

وَعَنْ أَبِي هُرَيْرَةَ - رضي الله عنه - عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «مَنْ كَانَتْ لَهُ امْرَأَتَانِ، فَمَالَ إِلَى إِحْدَاهُمَا، جَاءَ يَوْمَ الْقِيَامَةِ وَشِقُّهُ مَائِلٌ». «رَوَاهُ أَحْمَدُ، وَالْأَرْبَعَةُ، وَسَنَدُهُ صَحِيحٌ»

Abū Hurayrah narrated from the Prophet ﷺ that he said: "Whoever has two wives and inclines toward one of them (unjustly), he will come on the Day of Resurrection with one side of his body leaning." Aḥmad and the four, and its chain is authentic.

وَعَنْ أَنَسٍ قَالَ: مِنَ السُّنَّةِ إِذَا تَزَوَّجَ الرَّجُلُ الْبِكْرَ عَلَى النَّيِّبِ أَقَامَ عِنْدَهَا سَبْعًا، ثُمَّ قَسَمَ، وَإِذَا تَزَوَّجَ النَّيِّبِ أَقَامَ عِنْدَهَا ثَلَاثًا، ثُمَّ قَسَمَ. مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِلْبُخَارِيِّ

Anas said: "From the Sunnah is that if a man marries a virgin while already having a previously married wife, he stays with her for seven days, then divides (his time). And if he marries a previously married woman, he stays with her for three days, then divides." Agreed upon, and this wording is from al-Bukhārī.

وَعَنْ أُمِّ سَلَمَةَ -رَضِيَ اللَّهُ عَنْهَا- - أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمَّا تَزَوَّجَهَا أَقَامَ عِنْدَهَا ثَلَاثًا، وَقَالَ: «إِنَّهُ لَيْسَ بِكَ عَلَى أَهْلِكَ هَوَانٌ، إِنْ شِئْتَ سَبَعْتُ لَكَ، وَإِنْ سَبَعْتُ لَكَ سَبَعْتُ لِنِسَائِي». «رَوَاهُ مُسْلِمٌ»

Umm Salamah narrated that when the Prophet ﷺ married her, he stayed with her for three nights and said: "It is not due to any insignificance of yours among your family. If you wish, I will stay seven nights with you, but if I do so, I will also stay seven nights with my other wives." Muslim.

وَعَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا: أَنَّ سَوْدَةَ بِنْتَ زَمْعَةَ وَهَبَتْ يَوْمَهَا لِعَائِشَةَ، وَكَانَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَفْسِمُ لِعَائِشَةَ يَوْمَهَا وَيَوْمَ سَوْدَةَ. مُتَّفَقٌ عَلَيْهِ

'Ā'ishah said that Sawdah bint Zam'ah gave her day to 'Ā'ishah, and the Prophet ﷺ used to divide for 'Ā'ishah her day and the day of Sawdah. Agreed upon.

وَعَنْ عُرْوَةَ قَالَ: قَالَتْ عَائِشَةُ: يَا ابْنَ أُخْتِي! كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَا يُفْضِلُ بَعْضَنَا عَلَى بَعْضٍ فِي الْقَسَمِ مِنْ مَكْتَبِهِ عِنْدَنَا، وَكَانَ قَلَّ يَوْمٌ إِلَّا وَهُوَ يَطُوفُ عَلَيْنَا جَمِيعًا، فَيَدْنُو مِنْ كُلِّ امْرَأَةٍ مِنْ غَيْرِ مَسِيسٍ، حَتَّى يَبْلُغَ الَّتِي هُوَ يَوْمُهَا، فَيَبِيتَ عِنْدَهَا. رَوَاهُ أَحْمَدُ، وَأَبُو دَاوُدَ وَاللَّفْظُ لَهُ، وَصَحَّحَهُ الْحَاكِمُ

'Urwah, narrated that 'Ā'ishah said: "O my nephew, the Messenger of Allah ﷺ did not favor some of us over others in the division of his time spent with us. Hardly a day would pass except that he would visit all of us, drawing near to each wife without intercourse, until he reached the one whose turn it was, and then he would stay the night with her." Ahmad and Abū Dāwūd and this wording is his, and authenticated by al-Ḥākim.

وَلِمُسْلِمٍ: عَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - قَالَتْ: كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِذَا صَلَّى الْعَصْرَ دَارَ عَلَى نِسَائِهِ، ثُمَّ يَدْنُو مِنْهُنَّ. الْحَدِيثُ

And in Muslim, from 'Ā'ishah that she said: When the Messenger of Allah ﷺ prayed 'Aṣr, he would go around to his wives, then draw near to them.

وَعَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يَسْأَلُ فِي مَرَضِهِ الَّذِي مَاتَ فِيهِ: «أَيْنَ أَنَا غَدًا، ؟»؟ يُرِيدُ: يَوْمَ عَائِشَةَ، فَأَذِنَ لَهُ أَزْوَاجُهُ يَكُونُ حَيْثُ شَاءَ، فَكَانَ فِي بَيْتِ عَائِشَةَ. مُتَّفَقٌ عَلَيْهِ

'Ā'ishah narrated that the Messenger of Allah ﷺ during the illness in which he died, used to ask: "Where will I be tomorrow?" — looking for 'Ā'ishah's day. So his wives permitted him to stay wherever he wished, and he remained in the house of 'Ā'ishah. Agreed upon.

وَعَنْهَا قَالَتْ: كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِذَا أَرَادَ سَفَرًا أَفْرَعَ بَيْنَ نِسَائِهِ، فَأَيُّهُنَّ حَرَجَ سَهْمُهَا، حَرَجَ بِهَا. مُتَّفَقٌ عَلَيْهِ

'Ā'ishah said: When the Messenger of Allah ﷺ intended to travel, he would draw lots among his wives, and whichever of them her lot came out, he would take her with him. Agreed upon.

وَعَنْ عَبْدِ اللَّهِ بْنِ زَمْعَةَ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «لَا يَجِلِدُ أَحَدُكُمْ امْرَأَتَهُ جَلْدَ الْعَبْدِ». «رَوَاهُ الْبُخَارِيُّ

'Abdullāh ibn Zam'ah narrated that the Messenger of Allah ﷺ said: "None of you should lash his wife like the lashing of a slave." Al-Bukhārī.

بَابُ الْخُلْعِ

Chapter: Khul'

يَصِحُّ مَنْ يَصِحُّ طَلَاقُهُ، وَبَدْلُ عَوَضِهِ مِمَّنْ صَحَّ تَبَرُّعُهُ، مِنْ زَوْجَةٍ وَأَجْنَبِيٍّ، وَيُكْرَهُ بِلَا حَاجَةٍ، وَيَحْرُمُ إِنْ عَضَلَهَا ظُلْمًا لِيَتَّقَتِي، لَا إِنْ زَنَتْ أَوْ نَشَزَتْ أَوْ تَرَكَتْ فَرْضًا.

Khul' is valid from whoever's divorce is valid, and the compensation (*'iwaq*) may be given by anyone whose voluntary donation is valid, whether the wife herself or a third party. It is disliked without need, and it is prohibited if the husband wrongfully harms or restrains her in order to force her to redeem herself. However, it is not prohibited if she has committed adultery, disobedience (*nushūz*), or has abandoned an obligation.

وَأِنْ بَدَلَتْهُ أُمَّةٌ بِلَا إِذْنِ سَيِّدٍ، أَوْ مَحْجُورٍ عَلَيْهَا لَمْ يَصِحَّ، وَيَقَعُ رَجْعِيًّا بَلْفِظِ طَلَاقٍ أَوْ نِيَّتِهِ

If a slave woman offers compensation for *khul'* without her master's permission, or a legally restricted person offers it, it is not valid. And if *khul'* occurs using the wording of divorce (*ṭalāq*) or with its intention, it takes effect as a revocable divorce.

فَصْلٌ

Section

وَهُوَ طَلَاقٌ بَائِنٌ مَا لَمْ يَقَعْ بَلْفِظٍ صَرِيحٍ فِيهِ، وَهُوَ خَلْعٌ وَفَسْخَتْ وَفَادَيْتُ بِلَا نِيَّةِ طَلَاقٍ، فَيَكُونُ فَسْخَاً لَا يَنْقُصُ بِهِ عَدَدُ الطَّلَاقِ

Khul' is an irrevocable divorce (*ṭalāq bā'in*), unless it occurs using explicit wording specific to *khul'*, such as "I have separated you," "I have annulled you," or "I have ransomed you", without the intention of divorce. In that case it is treated as a dissolution (*faskh*), not a divorce, and it does not reduce the number of divorces.

وَلَا يَقَعُ بِمَعْتَدَةٍ مِنْهُ طَلَاقٌ وَلَوْ وُجِّهَتْ بِهِ، وَلَا يَصِحُّ شَرْطُ رَجْعَةٍ فِيهِ

No divorce is valid upon a woman who is already in the waiting period (*'iddah*) from him, even if it is directed at her, and a condition of return (revocation) is not valid within *khul'*.

وَأِنْ خَالَعَهَا بِلَا عَوَاضٍ أَوْ بِمُحَرَّمَ وَقَعَ رَجْعِيًّا بَلْفِظِ طَلَاقٍ أَوْ نِيَّتِهِ

If he performs *khul'* without compensation, or with something unlawful, it takes effect as a revocable divorce if it is expressed with the wording of divorce or its intention.

وَيُكْرَهُ أَخْذُهُ مِنْهَا أَكْثَرَ مِمَّا أَعْطَاهَا، وَيَصِحُّ بِمَجْهُولٍ وَبِنَفَقَةٍ عِدَّةٍ مِنْ حَامِلٍ

It is disliked for him to take from her more than what he gave her, and *khul'* is valid with an unspecified compensation, and with maintenance for the waiting period of a pregnant woman.

وإن قال إن أعطيتني ألفاً فأنت طالقٍ طلقت بذلك، ولو متراجياً، وإن قالت اخلعني أو طلقني بألفٍ ففعل بانة واستحقها، وطلقتني واحدةً بألفٍ فطلقتها ثلاثاً استحقه لا عكسه، إلا أن لا يئتمى غيرها

If he says: "If you give me a thousand, you are divorced," then she is divorced upon giving it, even if there is a delay. And if she says: "Divorce me or perform *khul'* for a thousand," and he does so, then she becomes irrevocably separated (*bā'in*), and he is entitled to the compensation. If she says: "Divorce me once for a thousand," and he divorces her three times, he is still entitled to the compensation; but the opposite is not the case, except if only that option remains.

وليس لأبٍ خلع زوجته ابنه الصغير، ولا طلاقها، ولا خلع ابنته الصغيرة بشيء من مالها، ولا يسقط خلع غيره شيئاً من الحقوق، وتعود الصنفه في عتق وطلاق

A father has no right to perform *khul'* on his minor son's wife, nor to divorce her, nor to perform *khul'* on his minor daughter using any of her wealth. *Khul'* does not cancel any of the other rights, and previous legal attributes such as rulings related to emancipation or divorce remain in effect.

باب الخلع

Chapter: Khul'

عَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ امْرَأَةً ثَابِتِ بْنِ قَيْسِ أُمَّتِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَتْ: يَا رَسُولَ اللَّهِ! ثَابِتُ بْنُ قَيْسٍ مَا أُعِيبُ عَلَيْهِ فِي حُلُقٍ وَلَا دِينٍ، وَلَكِنِّي أَكْرَهُ الْكُفْرَ فِي الْإِسْلَامِ، قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «أَتُرِيدِينَ عَلَيْهِ حَدِيثَهُ؟»، قَالَتْ: نَعَمْ. قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «أَقْبَلِ الْحَدِيثَ، وَطَلِّقِيهَا تَطْلِيقَةً». «رَوَاهُ الْبُخَارِيُّ».

وَفِي رِوَايَةٍ لَهُ: وَأَمَرَهُ بِطَلَّاقِهَا

Ibn 'Abbās narrated that the wife of Thābit ibn Qays came to the Prophet ﷺ and said: "O Messenger of Allah, I do not find fault with Thābit ibn Qays in his character or his religion, but I dislike disbelief in Islam." The Messenger of Allah ﷺ said: "Will you return to him his garden?" She said: "Yes." So the Messenger of Allah ﷺ said: "Accept the garden, and divorce her once." Al-Bukhārī.

And in another narration: He ordered him to divorce her.

وَلِأَبِي دَاوُدَ، وَالتِّرْمِذِيِّ وَحَسَنَهُ: أَنَّ امْرَأَةً ثَابِتِ بْنِ قَيْسٍ اِحْتَلَعَتْ مِنْهُ، فَجَعَلَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - - عِدَّتَهَا حَيْضَةً»

Abū Dāwūd collected as did al-Tirmidhī who graded it ḥasan that: The wife of Thābit ibn Qays obtained *khul'* from him, and the Prophet ﷺ made her waiting period ('iddah) one menstrual cycle.

وَفِي رِوَايَةِ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ عِنْدَ ابْنِ مَاجَةَ: أَنَّ ثَابِتَ بْنَ قَيْسٍ كَانَ دَمِيمًا وَأَنَّ امْرَأَتَهُ قَالَتْ: لَوْلَا خَافَهُ اللَّهُ إِذَا دَخَلَ عَلَيَّ لَبَسَقْتُ فِي وَجْهِهِ

وَلِأَحْمَدَ: مِنْ حَدِيثِ سَهْلِ بْنِ أَبِي حَثْمَةَ: وَكَانَ ذَلِكَ أَوَّلَ خُلْعٍ فِي الْإِسْلَامِ

In the narration of 'Amr ibn Shu'ayb, from his father, from his grandfather, in Ibn Mājah: That Thābit ibn Qays was unattractive, and his wife said: "Were it not for fear of Allah, when he enters upon me I would have spat in his face."

In Aḥmad, from the hadith of Sahl ibn Abī Ḥathmah: "And that was the first *khul'* in Islam."



Al-Isnad



Al-Isnad



Al-Isnad

