



Divorce (Talaq)

Table of Contents

INTRODUCTION.....	4
THE DIVORCE – A DETESTABLE ACT	4
DIVORCING AN UNCOOPERATIVE WIFE	5
PEOPLE DO NOT REMAIN STRAIGHT IN MATTERS OF DIVORCE WITHOUT THE SWORD.....	5
THE DIVORCES NOT ACCORDING TO THE BOOK AND SUNNAH.....	6
DIVORCE DOES NOT TAKE PLACE UNLESS ONE HAS THE INTENTION TO DIVORCE	10
THERE CANNOT BE DIVORCE BEFORE MARRIAGE	11
DIVORCE IN WRITING	12
EXPLANATION OF DIVORCE WITH WAITING PERIOD AND WHAT MAKES DIVORCE BINDING.....	13
THE NECESSARY EXPRESSIONS TO PRONOUNCE WITH THE DECISION TO DIVORCE.....	18
THREE TALAQ (DIVORCE) IN HAYD (MENSES) FREE PERIOD IN THE PRESENCE OF WITNESSES IN ONE PLACE AND TIME OR MORE IS ONE TALAQ	19
THE ONE WHO ARRANGES WITNESSES SEPARATELY	20
APPOINTING WITNESS TO DIVORCE TWO WOMEN WITH ONE WORD	20
ARRANGING WITNESS FOR REVOCATION OF DIVORCE	21
REVOCATION OF DIVORCE WITHOUT GOING TO BED IS NOT VALID	22
FALSE DIVORCE	23
DIVORCE AT ONE TIME	24
ONE WHO IS NOT LAWFUL FOR HER HUSBAND WITHOUT MARRIAGE TO ANOTHER MAN.....	24
ISSUES THAT VALIDATE AND INVALIDATE DIVORCE	26
AN ABSENT MAN RETURNS AND DIVORCES AT THAT TIME THAT DIVORCE DOES NOT TAKE PLACE UNTIL SHE EXPERIENCES HAYD (MENSES)	27
WOMEN WHO CAN BE DIVORCED IN ALL CONDITIONS	28
DIVORCE BY AN ABSENT HUSBAND	28
DIVORCE OF A PREGNANT WOMAN.....	30
DIVORCE OF A WOMAN WHOSE MARRIAGE IS NOT CONSUMMATED.....	32
DIVORCE OF ONE WHO IS NOT MATURE YET AND DIVORCE OF ONE AFTER MENOPAUSE	34
WOMEN WHOSE HAYD (MENSES) IS CONFUSING.....	35
THE TIME WHEN A DIVORCED WOMAN IN THE MANNER OF DIVORCE WITH WAITING PERIOD AND REVOCABLE FORM BECOMES STRANGER TO HIM.....	36
MEANING OF AL- 'IQRA' (HAYD-FREE PERIOD)	38
WAITING PERIOD FOR A DIVORCED WOMAN AND WHERE SHE MUST HAVE IT.....	39
'YOU MUST NOT SEND THEM OUT OF THEIR HOMES AND THEY MUST NOT GO OUT, . . .	42
DIVORCE OF A WOMAN WHOSE HAYD (MENSES) IS CONFUSING.....	42
DIVORCE OF WOMEN WHO HIDE THEIR EXPERIENCING HAYD (MENSES)	42
A WOMAN WHO EXPERIENCES HAYD AFTER EVERY TWO OR THREE MONTHS	43
WAITING PERIOD OF A WOMAN WHOSE HAYD IS CONFUSED.....	43
THE WORDS OF WOMEN ARE ACCEPTED IN MATTERS OF HAYD	46
A WOMAN CONFUSED ABOUT PREGNANCY.....	46
MAINTENANCE OF PREGNANT DIVORCED WOMEN	47
A WOMAN DIVORCE 3-TIMES IS NOT ENTITLED TO LODGING OR MAINTENANCE	48
BENEFITS FOR A DIVORCED WOMAN.....	49
THE RIGHTS OF A DIVORCED WOMAN OF MAHR.....	51
THE ISSUE THAT COMPLETES MAHR	54
THE DIVORCED WOMAN WHOSE HUSBAND IS ABSENT	56
WAITING PERIOD OF A WIDOW WHOSE HUSBAND IS ABSENT	57
REASON FOR DIFFERENCE ABOUT WAITING PERIOD OF A WIDOW	58
WAITING PERIOD OF PREGNANT WIDOW AND HER EXPENSES	59
WAITING PERIOD OF A WIDOW WHERE SHE MUST COMPLETE.....	61

A WOMAN WHOSE HUSBAND DIES BEFORE CONSUMATION OF MARRIAGE.....	64
A MAN WHO DIVORCES HIS WIFE AND DIES BEFORE HER WAITING PERIOD ENDS	66
DIVORCE AND MARRIAGE DURING ONE 'S ILLNESS	67
THE VERSE: DO NOT HARM THEM (WOMEN) TO MAKE IT DIFFICULT FOR THEM.....	69
DIVORCE OF CHILDREN	70
DIVORCE OF PEOPLE WITH MENTAL CONDITION	70
DIVORCE BY A DRUNK MAN	72
DIVORCE OF ONE COMPELLED AND COERCED	73
DIVORCE BY A SPEECHLESS MAN	74
ATTORNEY FOR DIVORCE.....	75
SWEARING AND TAKING AN OATH	76
'ILA ' (SWEARING) AND ITS CONDITIONS	80
IF A MAN SAYS TO HIS WIFE, 'YOU ARE UNLAWFUL FOR ME'	80
THE FREE, CLEARED AND SEVERED WOMAN	81
THE CHOICES	82
HOW THE CHOICE ORIGINALLY WAS.....	83
WIFE ASKING FOR DIVORCE	85
WAITING PERIOD FOR ' AL-KHUL AND AL-MUBARAT (DISAVOWING).....	89
DISHARMONY BETWEEN WIFE AND HUSBAND.....	91
TWO ARBITRATORS IN THE CASE OF DISCORD	92
THE ABSENT AND MISSING	93
A WOMAN RECEIVES NEWS OF THE DEATH OF HER HUSBAND OR HER PREVIOUS HUSBAND COMES	94
A WOMAN 'S FIRST HUSBAND COMES	96
A WOMAN WAITING PERIOD FROM A CASTRATED HUSBAND	96
ONE WHO BECOMES ILL MENIALLY AFTER MARRIAGE	97
SHOWING DISLIKE	97
AL-LI 'AN (CONDEMNATION)	107

Introduction

Ahadith on Talaq are compiled from Al-Kafi, volume 6 and are presented below:

الكافي ج : 6 ص : 54

كتاب الطلاق بَابُ كَرَاهِيَةِ طَلَاقِ الزَّوْجَةِ الْمُوَافِقَةِ *The Divorce – A Detestable Act*

1- أَخْبَرَنَا عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ أَبِي جَمِيلَةَ عَنْ سَعْدِ بْنِ طَرِيفٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ مَرَّ رَسُولُ اللَّهِ ص بِرَجُلٍ فَقَالَ مَا فَعَلْتَ امْرَأَتَكَ قَالَ طَلَقْتُهَا يَا رَسُولَ اللَّهِ قَالَ مَنْ غَيْرُ سَوْءٍ قَالَ مَنْ غَيْرُ سَوْءٍ ثُمَّ قَالَ إِنَّ الرَّجُلَ تَزَوَّجَ فَمَرَّ بِهِ النَّبِيُّ ص فَقَالَ تَزَوَّجْتَ قَالَ نَعَمْ ثُمَّ قَالَ لَهُ بَعْدَ ذَلِكَ مَا فَعَلْتَ امْرَأَتَكَ قَالَ طَلَقْتُهَا قَالَ مَنْ غَيْرُ سَوْءٍ قَالَ مَنْ غَيْرُ سَوْءٍ ثُمَّ قَالَ إِنَّ الرَّجُلَ تَزَوَّجَ فَمَرَّ بِهِ النَّبِيُّ ص فَقَالَ تَزَوَّجْتَ فَقَالَ نَعَمْ ثُمَّ قَالَ لَهُ بَعْدَ ذَلِكَ مَا فَعَلْتَ امْرَأَتَكَ قَالَ طَلَقْتُهَا قَالَ مَنْ غَيْرُ سَوْءٍ قَالَ مَنْ غَيْرُ سَوْءٍ فَقَالَ رَسُولُ اللَّهِ ص إِنَّ اللَّهَ عَزَّ وَجَلَّ يُبْغِضُ أَوْ يَلْعَنُ كُلَّ ذَوَّاقٍ مِنَ الرِّجَالِ وَكُلَّ ذَوَّاقَةٍ مِنَ النِّسَاءِ

Narrated to us certain persons of our people from Ahmad ibn Muhammad from ibn Faddal from abu Jamilah from Sa'd ibn Tarif who has said the following:

'Abu Ja'far^{asws}, has said that once the Messenger of Allah^{saww} passed by a man and asked, 'How is your wife doing?' He said, 'I have divorced her, O Messenger of Allah^{saww}'. He^{saww} asked, 'Did you do it without her misbehaving?' He replied, 'Yes. it was without her misbehaving.' He (the Imam) said that he married (again) and the Holy Prophet^{saww}, passed by and asked, 'Have you got married?' He replied, 'Yes, I have married.' He^{saww} afterward asked, 'How is your wife?' He replied, 'I have divorced her.' He^{saww} asked, 'Did you divorce her without her misbehaving?' He replied, 'Yes, it was without her misbehaving.' The man then got married and the Holy Prophet^{saww}, passed by and asked, 'Have you got married?' Afterward he^{saww} asked about his wife and he replied, 'I divorced her.' He^{saww} asked, 'Did you do without her misbehaving?' He replied, 'Yes, it was without her misbehaving.' The Messenger of Allah^{saww} then said, 'Allah^{azwj} Condemns every man who divorces hastily (like an epicure who keeps tasting this and that food) and every woman who is as such.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ مَا مِنْ شَيْءٍ مِمَّا أَحَلَّهُ اللَّهُ عَزَّ وَجَلَّ أُبْغَضَ إِلَيْهِ مِنَ الطَّلَاقِ وَ إِنَّ اللَّهَ يُبْغِضُ الْمُطَّلَاقَ الدَّوَاقَ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from more than one person who has said the following:

'Abu 'Abd Allah^{asws}, has said, 'Of whatever Allah^{azwj} has made lawful nothing is more hateful to Him^{azwj} than divorce. Allah^{azwj} hates those who divorce very often in a hasty manner (like an epicure who keeps tasting this and that food).'

3- مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ مُحَمَّدٍ عَنْ أَبِي خَدِيجَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِنَّ اللَّهَ عَزَّ وَجَلَّ يُحِبُّ النَّبْتَ الَّذِي فِيهِ الْعُرْسُ وَ يُبْغِضُ النَّبْتَ الَّذِي فِيهِ الطَّلَاقُ وَ مَا مِنْ شَيْءٍ أُبْغَضَ إِلَى اللَّهِ عَزَّ وَجَلَّ مِنَ الطَّلَاقِ

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from 'Abd al-Rahman bin Muhammad from abu Khadijah who has said the following:

'Abu 'Abd Allah^{asws}, has said, 'Allah^{azwj} Loves the house in which there is wedding and He^{azwj} hates the house where divorce takes place. There is nothing more hateful to Allah^{azwj} than divorce'.

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ يَحْيَى عَنْ طَلْحَةَ بْنِ زَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَمِعْتُ أَبِي ع يَقُولُ إِنَّ اللَّهَ عَزَّ وَجَلَّ يُبْغِضُ كُلَّ مُطَّلَاقٍ ذَوَّاقٍ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Yahya from Talhah ibn Zayd who has said the following:

'I once heard abu 'Abd Allah^{asws}, saying, 'Allah^{azwj} hates those who divorce very often in big haste (like an epicure who keeps tasting this and that food).'

وَبِإِسْنَادِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ بَلَغَ النَّبِيُّ ص أَنَّ أَبَا أَيُّوبَ يُرِيدُ أَنْ يُطْلِقَ امْرَأَتَهُ فَقَالَ رَسُولُ اللَّهِ ص إِنَّ طَلَاقَ أُمِّ أَيُّوبَ لِحُبِّ
Through the same chain of narrators as that of the previous Hadith, the following is narrated:
'Abu 'Abd Allah^{asws}, has said that the Holy Prophet^{saww} was informed about abu Ayyub's divorcing his wife. The Messenger of Allah^{saww} then said, 'Divorcing 'Umm (mother of) Ayyub is a sin.'

بَابُ تَطْلِيقِ الْمَرْأَةِ غَيْرِ الْمُوَافِقَةِ *Divorcing an Uncooperative Wife*

1- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ رَجُلٍ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ كَانَتْ عَدَّةُ امْرَأَةٍ تُعِيبُهُ وَكَانَ
لَهَا مُحِبًّا فَأَصْبَحَ يَوْمًا وَ قَدْ طَلَّقَهَا وَ اغْتَمَّ لِذَلِكَ فَقَالَ لَهُ بَعْضُ مَوَالِيهِ جُعِلَتْ فِدَاكَ لِمَ طَلَّقْتَهَا فَقَالَ إِنِّي ذَكَّرْتُ عَلَيْهَا ع فَتَنَقَّصَتْهُ
فَكَرِهْتُ أَنْ أُلْصِقَ جَمْرَةً مِنْ جَمَرِ جَهَنَّمَ بِجُلْدِي

A number of our people have narrated from Ahmad ibn Muhammad from 'Uthman ibn Isa from a man who has said the following:

'Abu Ja'far^{asws} had a wife whom he^{asws} liked and loved. One day he^{asws} divorced her and he was sad about it. A certain person of his followers asked, 'Why did you^{asws} divorce her?' He^{asws} replied, 'I^{asws} mentioned Ali^{asws}, before her and she reduced him^{asws}. I^{asws} did not like touching a burning piece of charcoal, of the charcoal of hell with my skin.'

2- أَحْمَدُ بْنُ مِهْرَانَ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ عَنْ خَطَّابِ بْنِ سَلَمَةَ قَالَ دَخَلْتُ عَلَيْهِ يَغْنِي أَبَا الْحَسَنِ مُوسَى
ع وَ أَنَا أُرِيدُ أَنْ أَشْكُوَ إِلَيْهِ مَا أَلْقَى مِنْ امْرَأَتِي مِنْ سُوءِ خُلُقِهَا فَأَبْتَدَأَنِي فَقَالَ إِنَّ أَبِي كَانَ زَوْجَنِي مَرَّةً امْرَأَةً سَيِّئَةَ الْخُلُقِ فَشَكَوْتُ
ذَلِكَ إِلَيْهِ فَقَالَ لِي مَا يَمْنَعُكَ مِنْ فِرَاقِهَا قَدْ جَعَلَ اللَّهُ ذَلِكَ إِلَيْكَ فَقُلْتُ فِيمَا بَيْنِي وَ بَيْنَ نَفْسِي قَدْ فَرَجَتْ عَلَيَّ

Ahmad ibn Mehran has narrated from Muhammad ibn Ali from 'Umar ibn 'Abd al-'Aziz from Khattab ibn Salmah who has said the following:

'I once went to see him, abu al-Hassan^{asws} (Musa^{asws}) and complain before him against my wife because of her bad moral behaviors. He^{asws} initiating to speak to me said, 'One time my father arranged for me the marriage to a woman who had very bad moral behaviors and I complained before him against her. He said, 'What stops you from divorcing her? Allah^{azwj} has already given you such authority.' I (the narrator) then said to myself, 'You^{asws} by Allah^{azwj} have provided relief and a way out for me.'

3- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَّاءِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنِ الْوَلِيدِ بْنِ صَبِيحٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ
سَمِعْتُهُ يَقُولُ ثَلَاثَةٌ نُرَدُّ عَلَيْهِمْ دَعْوَتُهُمْ أَحَدُهُمْ رَجُلٌ يَدْعُو عَلَى امْرَأَتِهِ وَ هُوَ لَهَا ظَالِمٌ فَيَقَالُ لَهُ أَلَمْ تَجْعَلْ أَمْرَهَا بِيَدِكَ

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-'Washsha' from 'Abd Allah ibn Sinan from al-Walid ibn Sabih who has said the following:

'I once heard abu 'Abd Allah^{asws} saying, 'The prayers of three kinds of people are returned to them without a favorable answer. One of such people is one who prays against his wife to whom he is unjust and it is said to him, 'Have we not given you the authority to divorce her?'

بَابُ أَنَّ النَّاسَ لَا يَسْتَقِيمُونَ عَلَى الطَّلَاقِ إِلَّا بِالسَّيْفِ *People do not Remain Straight in Matters of Divorce without the Sword*

1- حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ حُذَيْفَةَ عَنْ مَعْمَرِ بْنِ عَطَاءٍ عَنْ وَشِيكَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ لَا
يَصْلُحُ النَّاسُ فِي الطَّلَاقِ إِلَّا بِالسَّيْفِ وَ لَوْ وَلِيْتُهُمْ لَرَدَدْتُهُمْ فِيهِ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ
قَالَ وَ حَدَّثَنِي بِهَذَا الْحَدِيثِ الْمِثْمِيُّ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْزَةَ عَنْ بَعْضِ رَجَالِهِ أَوْ هَمَّهُ الْمِثْمِيُّ عَنْ أَبِي عَبْدِ اللَّهِ ع

Humayd ibn Ziyad from al-Hassan ibn Muhammad from al-Hassan ibn Hudhayfah, from Mu'ammār ibn ('Ala' ibn) Washik who has said the following:

'I once heard Abu Ja'far^{asws} saying: 'People do not behave properly in matters of divorce without the sword. If you govern them, you can return them to the book of Allah^{azwj}.' He (the narrator) has said that al-Mithamiy from Muhammad ibn abu Hamzah from his narrators narrated this Hadith from abu 'Abd Allah^{asws},

2- وَ عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ أَبِي الْمَغْرَاءِ عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ لَوْ وَلَيْتُ النَّاسَ لَأَعْلَمْتُهُمْ كَيْفَ يَنْبَغِي لَهُمْ أَنْ يُطَلَّقُوا ثُمَّ لَمْ أَوْتِ بِرَجُلٍ قَدْ خَالَفَ إِلَا وَ أَوْجَعْتُ ظَهْرَهُ وَ مَنْ طَلَّقَ عَلَى غَيْرِ السُّنَّةِ رُدَّ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنْ رَغِمَ أَنْفُهُ

It is narrated from the narrator of the previous Hadith from 'Abd Allah ibn Jabalah from abu al-Mighra', from Sama'ah from abu Basir who has said the following:

'Abu Ja'far^{asws} has said, 'Were I to govern the people I would teach them how to divorce, thereafter I would make the back of the violators painful. Those who divorce against the Sunnah must be returned to the book of Allah^{azwj}, despite their opposing.'

3- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ مُحَمَّدَ بْنِ سَمَاعَةَ عَنْ عُمَرَ بْنِ مَعْمَرٍ بْنِ عَطَاءِ بْنِ وَشِيكَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ لَا يَصْلُحُ النَّاسُ فِي الطَّلَاقِ إِلَّا بِالسَّيْفِ وَ لَوْ وَلَيْتُهُمْ لَرَدَدْتُهُمْ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Muhammad ibn Sama'ah from 'Umar ibn Mu'ammār ibn ('Ata: ibn) Washik who has said the following:

'I once heard abu Ja'far^{asws}, saying: 'In matters of divorce people do not behave properly without the sword. Had I been governing them I would return them to the book of Allah^{azwj}.'

4- قَالَ أَحْمَدُ وَ ذَكَرَ بَعْضُ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ع وَ مُحَمَّدُ بْنُ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ الْعَبْدِ الصَّالِحِ ع أَنَّهُ قَالَ لَوْ وَلَيْتُ أَمْرَ النَّاسِ لَعَلَّمْتُهُمُ الطَّلَاقَ ثُمَّ لَمْ أَوْتِ بِأَحَدٍ خَالَفَ إِلَا أَوْجَعْتُهُ ضَرْبًا

Ahmad has said that certain persons of our people have narrated from abu 'Abd Allah^{asws}, and Muhammad ibn Sama'ah from the virtuous servant (of Allah^{azwj}) has said the following:

'Had I been governing people I would teach them how to conclude a divorce case and thereafter make the violators to suffer pain.'

5- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبَانَ عَنْ أَبِي بَصِيرٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ وَ اللَّهُ لَوْ مَلَكَتُ مِنْ أَمْرِ النَّاسِ شَيْئًا لَأَقَمْتُهُمْ بِالسَّيْفِ وَ السَّوْطِ حَتَّى يُطَلَّقُوا لِلْعَدَّةِ كَمَا أَمَرَ اللَّهُ عَزَّ وَ جَلَّ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from certain persons of our people from Aban from abu Basir who has said the following:

'I once heard abu Ja'far^{asws}, saying: 'Had the affairs of people been in my hands, I would straighten them with the sword and whip them until they divorce with waiting period as Allah^{azwj} has Commanded.'

بَابُ مَنْ طَلَّقَ لِغَيْرِ الْكِتَابِ وَ السُّنَّةِ

The Divorces Not According to the Book and Sunnah

1- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ أَبَانَ عَنْ أَبِي بَصِيرٍ عَنْ عَمْرِو بْنِ رِيَّاحٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ قُلْتُ لَهُ بَلِّغْنِي أَتَاكَ تَقُولُ مَنْ طَلَّقَ لِغَيْرِ السُّنَّةِ أَتَاكَ لَا تَرَى طَلَّاقَهُ شَيْئًا فَقَالَ أَبُو جَعْفَرٍ ع مَا أَقُولُهُ بَلَّ اللَّهُ عَزَّ وَ جَلَّ يَقُولُهُ أَمَا وَ اللَّهُ لَوْ كُنَّا نَقْتَبِكُمْ بِالْجَوْرِ لَكُنَّا شَرًّا مِنْكُمْ لِأَنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ لَوْ لَا يَنْهَاهُمْ الرَّبَّانِيُّونَ وَ الْأَحْبَارُ عَنْ قَوْلِهِمُ اللَّيْمَ وَ أَكْلِهِمُ السُّحْتَ إِلَى آخِرِ الْآيَةِ

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father from all from Ahmad ibn Muhammad from ibn abu Nasr from Aban from abu Basir from 'Amr ibn Riyyah who has said the following:

'I once said to abu Ja'far^{asws}, 'Have you said that one who does not divorce according to the book and al-Sunnah his divorce is not valid?' Abu Ja'far^{asws} replied: 'I have not said

so (by my opinion), in fact, Allah^{azwj} has said it. By Allah^{azwj}, were we to give you fatwas with injustice we become worse than you; Allah^{azwj} Says: 'Would that their Rabbis and Ahbar prohibit them from their sinful words and consuming what is filthy. . . .' (5:63).

2- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ الصَّيْرَفِيِّ عَنْ أَبِي جَعْفَرٍ ع قَالَ كُلُّ شَيْءٍ خَالَفَ كِتَابَ اللَّهِ عَزَّ وَجَلَّ رُدُّهُ إِلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَ السُّنَّةِ

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from 'Abd al-Karim from 'Abd Allah ibn Sulaymaa al-Sayrafiy who has said the following:

'Abu Ja'far^{asws}, has said, 'Whatever is not according to the book of Allah^{azwj} has to return to the book of Allah^{azwj} and al-Sunnah.'

3- مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ مُحَمَّدٍ الْحَلْبِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع الرَّجُلُ يُطَلِّقُ امْرَأَتَهُ وَ هِيَ حَائِضٌ قَالَ الطَّلَاقُ عَلَى غَيْرِ السُّنَّةِ بَاطِلٌ قُلْتُ فَالرَّجُلُ يُطَلِّقُ ثَلَاثًا فِي مَقْعَدٍ قَالَ يَرُدُّ إِلَى السُّنَّةِ

Muhammad ibn 'Isma'il has narrated from al-Fadi ibn Shadhan from Safwan ibn Yahya from 'Abd Allah ibn Muskan from Muhammad al-Halabi who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a man who divorces his wife when she experiences Hayd (menses). He^{asws} said, 'A divorce which is not according to Sunnah is invalid.' I then asked, 'What happens if a man divorces his wife three times in one place and time?' He^{asws} said, 'It must be returned to Sunnah.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ أَبِي الْمَعْرَاءِ عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ مَنْ طَلَّقَ لِغَيْرِ السُّنَّةِ رُدُّهُ إِلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَ إِنْ رَغِمَ أَنْفُهُ

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

'Abu Ja'far^{asws}, has said: 'One who does not divorce according to Sunnah must return to the book of Allah^{azwj} even though he may not like it.'

5- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنِ الطَّلَاقِ إِذَا لَمْ يُطَلِّقْ لِلْعِدَّةِ فَقَالَ يَرُدُّ إِلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ

Ali ibn Ibrahim has narrated from his father from certain persons of his people from 'Abd Allah ibn Sinan who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a divorce which is not with waiting period. He^{asws} said, 'It must be returned to the book of Allah^{azwj}.'

6- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هِيَ حَائِضٌ فَقَالَ الطَّلَاقُ لِغَيْرِ السُّنَّةِ بَاطِلٌ

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from 'Abd al-Karim from al-Halabi who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife during her experiencing Hayd (menses). He^{asws} said, 'It is a divorce which is not according to Sunnah.'

7- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدٍ بْنِ مُسْلِمٍ قَالَ قَالَ أَبُو جَعْفَرٍ ع مَنْ طَلَّقَ ثَلَاثًا فِي مَجْلِسٍ عَلَى غَيْرِ طَهَرٍ لَمْ يَكُنْ شَيْئًا إِلَّا مَا الطَّلَاقُ الَّذِي أَمَرَ اللَّهُ عَزَّ وَجَلَّ بِهِ فَمَنْ خَالَفَ لَمْ يَكُنْ لَهُ طَلَاقٌ وَ إِنْ ابْنُ عُمَرَ طَلَّقَ امْرَأَتَهُ ثَلَاثًا فِي مَجْلِسٍ وَ هِيَ حَائِضٌ فَأَمَرَهُ النَّبِيُّ ص أَنْ يَتَكَحَّهَا وَ لَا يَعْتَدَ بِالطَّلَاقِ قَالَ وَ جَاءَ رَجُلٌ إِلَى أَمِيرِ الْمُؤْمِنِينَ ع فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي طَلَّقْتُ امْرَأَتِي قَالَ أَلَا لَكَ بَيِّنَةٌ قَالَ لَا فَقَالَ اعْزُبْ

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

'Abu Ja'far^{asws}, has said, 'If one divorces his wife in one place three times when she is experiencing Hayd (menses) such divorce does not have any valid effect. A valid divorce is that which Allah^{azwj} has Commanded. Whoever does otherwise it is not a divorce. Ibn 'Umar divorced his wife three times in one place and time when she experienced Hayd

(menses). The Holy Prophet^{saww} commanded him to go to bed with her and ignore that kind of divorce. 'He^{asws} said, 'A man once came to 'Amir al-Mu'minin^{asws}, and said. 'O 'Amir al-Mu'minin^{asws}, I have divorced my wife.' He^{asws} asked, 'Do you have witness?' he replied, 'No, I do not have any witness.' He^{asws} said, 'You must disregard it.

8- مُحَمَّدُ بْنُ جَعْفَرٍ أَبُو الْعَبَّاسِ عَنْ أَيُّوبَ بْنِ نُوحٍ عَنْ صَفْوَانَ عَنْ يَعْقُوبَ بْنِ شُعَيْبٍ قَالَ سَمِعْتُ أَبَا بَصِيرٍ يَقُولُ سَأَلْتُ أَبَا جَعْفَرٍ عَ عَنْ امْرَأَةٍ طَلَّقَهَا لِغَيْرِ السُّنَّةِ وَفَلْنَا إِلَيْهِمْ أَهْلُ بَيْتٍ وَلَمْ يَعْلَمْ بِهِمْ أَحَدٌ فَقَالَ لَيْسَ بِشَيْءٍ

Muhammad ibn Ja'far abu al-' Abbas has narrated from Ayyub ibn Null from Safwan from Ya'qub ibn Shu'ayb who has said that I heard abu Basir saying the following:

'I once asked abu Ja'far^{asws}, about the case of a woman who is not divorced according to Sunnah and said that they are a family and no one knows them. He^{asws} said, 'It does not have any valid effect.'

9- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُوَيْدٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْزَةَ عَنْ سَعِيدِ الْأَعْرَجِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ طَلَّقَ ابْنُ عُمَرَ امْرَأَتَهُ ثَلَاثًا وَ هِيَ حَائِضٌ فَسَأَلَ عُمَرَ رَسُولَ اللَّهِ ص فَأَمَرَهُ أَنْ يُرَاجِعَهَا فَقُلْتُ إِنَّ النَّاسَ يَقُولُونَ إِنَّمَا طَلَّقَهَا وَاحِدَةً وَ هِيَ حَائِضٌ فَقَالَ فَلَايَ شَيْءٍ سَأَلَ رَسُولَ اللَّهِ ص إِذَا كَانَ هُوَ أَمْلَكَ بِرَجْعَتِهَا كَذَبُوا وَلَكِنَّهُ طَلَّقَهَا ثَلَاثًا فَأَمَرَهُ رَسُولُ اللَّهِ ص أَنْ يُرَاجِعَهَا ثُمَّ قَالَ إِنَّ شَيْئًا قَطَّلُوهُ وَإِنْ شِئْتَ فَأَمْسِكْ

A number of our people have narrated from Ahmad ibn Muhammad from al-Husayn ibn Saeed. from al-Nadr ibn Suwayd from Muhammad ibn abu Hamzah from Sa'id al-A'raj who has said the following:

'I once heard abu 'Abd Allah^{asws}, state this Hadith. 'Ibn 'Umar divorced his wife three times at the same place and time, when she was experiencing Hayd (menses). He asked the Messenger of Allah^{saww} and he commanded him to go back to his wife.' I then said. 'People say that he divorced only once when she experienced Hayd (menses).' He^{asws} asked, 'What for then he asked the Messenger of Allah^{saww} if he was able to go back to her? They speak a lie. He divorced three times at the same place and time. Then the Messenger of Allah^{saww} commanded him to go back to her and then divorce her if he wanted or keep her if he so willed.'

10- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ سُئِلَ عَنْ امْرَأَةٍ سَمِعَتْ أَنَّ رَجُلًا طَلَّقَهَا وَ جَدَّ ذَلِكَ أَوْ تَقِيمُ مَعَهُ قَالَ نَعَمْ فَإِنْ طَلَّقَهَا بِغَيْرِ شُهُودٍ لَيْسَ بِطَلَّاقٍ وَ الطَّلَاقُ لِغَيْرِ الْعِدَّةِ لَيْسَ بِطَلَّاقٍ وَ لَا يَحِلُّ لَهُ أَنْ يَفْعَلَ فَيُطَلِّقَهَا بِغَيْرِ شُهُودٍ وَ لِغَيْرِ الْعِدَّةِ الَّتِي أَمَرَ اللَّهُ عَزَّ وَ جَلَّ بِهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al -Hakam from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws}, was asked about the case of a woman who hears that the man has divorced her but he denies it: if she can stay with him. He^{asws} said, 'Yes, because divorce without witness is not a divorce, also divorce without waiting period is not a divorce. It is not lawful to divorce without witnesses and without waiting period that Allah^{azwj} has Commanded to do.'

11- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ عُمَرَ بْنِ أَدْبَنَةَ عَنْ زُرَّارَةَ وَ مُحَمَّدِ بْنِ مُسْلِمٍ وَ بُكَيْرِ بْنِ أَعْيَنَ وَ بُرَيْدٍ وَ فَضِيلٍ وَ إِسْمَاعِيلَ الْأَزْرَقِ وَ مَعْمَرِ بْنِ يَحْيَى عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ ع أَنَّهُمَا قَالَا إِذَا طَلَّقَ الرَّجُلُ فِي دَمِ النَّفَاسِ أَوْ طَلَّقَهَا بَعْدَ مَا يَمَسُّهَا فَلَيْسَ طَلَّاقُهُ إِلَّا بِهَا بِطَلَّاقٍ وَ إِنْ طَلَّقَهَا فِي اسْتِقْبَالِ عِدَّتِهَا طَاهِرًا مِنْ غَيْرِ جَمَاعٍ وَ لَمْ يُشْهَدْ عَلَى ذَلِكَ رَجُلَيْنِ عَدْلَيْنِ فَلَيْسَ طَلَّاقُهُ إِلَّا بِهَا بِطَلَّاقٍ

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa from ibn 'Udhaynah from Zurarah and Muhammad ibn Muslim and Bukayr ibn 'A'yan and Burayd and Fudayl and 'Isma'il al-Azraq and Mu'ammam ibn Yahya from abu Ja'far^{asws} and abu 'Abd Allah^{asws} who has said the following:

'When a man during a woman's experiencing blood discharge because of childbirth or after going to bed with her divorces, such divorce is not a valid divorce. A divorce at such time when commencing waiting period is possible and valid, that it is in a menses-free time but without the presence of two just witnesses, such divorce also is not a valid divorce.'

12- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ يُطَلِّقُ امْرَأَتَهُ فِي طَهْرٍ مِنْ غَيْرِ جَمَاعٍ ثُمَّ يُرَاجِعُهَا مِنْ يَوْمِهِ ثُمَّ يُطَلِّقُهَا ثَبِينَ مِنْهُ بِثَلَاثِ تَطْلِيقَاتٍ فِي طَهْرٍ وَاحِدٍ فَقَالَ خَالَفَ السُّنَّةَ فَلَيْسَ يَنْبَغِي لَهُ إِذَا هُوَ رَاجِعُهَا أَنْ يُطَلِّقَهَا إِلَّا فِي طَهْرٍ آخَرَ قَالَ نَعَمْ فَلَنْتُ حَتَّى يُجَامَعَ قَالَ نَعَمْ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Satwan ibn Yahya from Ishaq ibn 'Ammar who has said the following:

'I once asked abu al-Hassan^{asws} (Musa)^{asws}, about the case of a man who divorces his wife in a menses-free period during which he has not gone to bed with her. He then goes back to her on the same day, then divorces her: if it becomes irrevocable with three divorces during one menses-free period. He^{asws} said, 'He has opposed the Sunnah.' I then asked, 'Is it necessary after going back to his wife to divorce her in another menses-free period of time?' He^{asws} replied, 'Yes, it is necessary.' I said, 'So that he can go to bed with her?' He^{asws} replied, 'Yes, he can do so.'

13- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ مَنْ طَلَّقَ بَعْدَ شَهْوٍ فَلَيْسَ بِشَيْءٍ

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

'Abu 'Abd Allah^{asws}, has said, 'If one divorces his wife without witnesses it does not become of any valid effect.'

14- سَهْلٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عُمَرَ بْنِ يَزِيدَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قَدِمَ رَجُلٌ إِلَى أَمِيرِ الْمُؤْمِنِينَ ع بِالْكُوفَةِ فَقَالَ إِنِّي طَلَقْتُ امْرَأَتِي بَعْدَ مَا طَهَّرْتُ مِنْ مَحِيضِهَا قَبْلَ أَنْ أَجَامِعَهَا فَقَالَ أَمِيرُ الْمُؤْمِنِينَ ع أَشْهَدْتُ رَجُلَيْنِ ذَوَيْ عَدْلٍ كَمَا أَمَرَ اللَّهُ عَزَّ وَجَلَّ فَقَالَ لَا فَقَالَ أَذْهَبَ فَإِنَّ طَلَاكَ لَيْسَ بِشَيْءٍ

Sahl has narrated from Ahmad ibn Muhammad from Muhammad ibn Sama'ah from 'Umar ibn Yazid from Muhammad ibn Muslim who has said the following:

'Once, a man in al-Kufah came to 'Amir al-Mu'minin^{asws}, and said, 'I have divorced my wife after she became clean from her Hayd (menses) and before I went to bed with her.' 'Amir al-Mu'minin^{asws} asked, 'Did you ask two just men to witness as Allah^{azwj} has commanded to do?' He replied, 'No. I did not do so.' He^{asws} said, 'Your divorce is not valid.'

15- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ مَنْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا فِي مَجْلِسٍ وَهِيَ حَائِضٌ فَلَيْسَ بِشَيْءٍ وَقَدْ رَدَّ رَسُولُ اللَّهِ ص طَلَّاقَ عَبْدِ اللَّهِ بْنِ عُمَرَ إِذَا طَلَّقَ امْرَأَتَهُ ثَلَاثًا وَهِيَ حَائِضٌ فَأَبْطَلَ رَسُولُ اللَّهِ ص ذَلِكَ الطَّلَاقَ وَقَالَ كُلُّ شَيْءٍ خَالَفَ كِتَابَ اللَّهِ عَزَّ وَجَلَّ فَهُوَ رَدٌّ إِلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَقَالَ لَا طَلَّاقَ إِلَّا فِي عِدَّةٍ

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

'Abu 'Abd Allah^{asws}, has said, 'If one divorces his wife three times at the same place and time it is invalid. The Messenger of Allah^{asws} rejected the divorce of 'Abd Allah ibn 'Umar when he divorced his wife with three divorces when she experienced Hayd (menses). The Messenger of Allah^{saww} called it an invalid divorce saying, 'Whatever is against the book of Allah^{azwj} must return to the book of Allah^{azwj}, He^{saww} said, 'Divorce without waiting period is invalid.'

16- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ عَلِيِّ بْنِ الثُّعْمَانِ عَنْ سَعِيدِ الْأَعْرَجِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع إِنِّي سَأَلْتُ عُمَرَ بْنَ عُيَيْدٍ عَنْ طَلَّاقِ ابْنِ عُمَرَ فَقَالَ طَلَّقَهَا وَهِيَ طَامِثٌ وَاحِدَةً قَالَ أَبُو عَبْدِ اللَّهِ ع أَفَلَا قُلْتُمْ لَهُ إِذَا طَلَّقَهَا وَاحِدَةً وَهِيَ طَامِثٌ كَانَتْ أَوْ غَيْرَ طَامِثٍ فَهُوَ أَمْلَكَ بِرَجْعَتِهَا قَالَ قَدْ قُلْتُ لَهُ ذَلِكَ فَقَالَ أَبُو عَبْدِ اللَّهِ ع كَذَبَ عَلَيْهِ لَعْنَةُ اللَّهِ بَلْ طَلَّقَهَا ثَلَاثًا فَرَدَّهَا النَّبِيُّ ص فَقَالَ أَمْسِكْ أَوْ طَلِّقْ عَلَى السُّنَّةِ إِنْ أَرَدْتَ أَنْ تُطَلِّقَ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Muhammad ibn 'Isma'il ibn Bazi' from Ali ibn al-Nuoman from Sa'id al-A'raj who has said the following:

'I once said to abu 'Abd Allah^{asws}, 'I asked 'Amr ibn 'Ubayd about the divorce of 'Abd Allah ibn 'Umar and he said, 'He divorced her once when she experienced Hayd (menses).' Abu 'Abd Allah^{asws}, said, 'Why did you not say to him, 'If he divorced her once

during her experiencing Hayd (menses) or when she did not experience Hayd (menses), he had more authority to go back to his wife.' I said, 'I did say so.' He (the Imam) then said, 'He has not spoken the truth, may Allah^{azwj} condemn him. He divorced three times but the Messenger of Allah^{saww} rejected it and said, 'You can keep your wife or divorce her according to Sunnah if you wanted.'

17- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِيْنَةَ عَنْ بُكَيْرٍ وَغَيْرِهِ عَنْ أَبِي جَعْفَرٍ ع قَالَ كُلُّ طَلَقٍ لِيْغَيْرِ الْعِدَّةِ فَلَيْسَ بِطَلَقٍ أَنْ يُطْلَقَهَا وَ هِيَ حَائِضٌ أَوْ فِي دَمِ نَفَاسِهَا أَوْ بَعْدَ مَا يَحْشَاهَا قَبْلَ أَنْ تَحِيضَ فَلَيْسَ طَلَقُهَا بِطَلَقٍ فَإِنْ طَلَّقَهَا لِلْعِدَّةِ أَكْثَرَ مِنْ وَاحِدَةٍ فَلَيْسَ الْفَضْلُ عَلَى الْوَاحِدَةِ بِطَلَقٍ وَ إِنْ طَلَّقَهَا لِلْعِدَّةِ بِغَيْرِ شَاهِدَيْنِ عَدْلٍ فَلَيْسَ طَلَاغُهُ بِطَلَقٍ وَ لَا تَجُوزُ فِيهِ شَهَادَةُ النِّسَاءِ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah from Bukayr and others who has said the following:

'Abu Ja'far^{asws}, has said, 'Every divorce without waiting period is not a valid divorce, or divorce during her experiencing Hayd (menses), Nifas (childbirth), after going to bed with her before her Hayd (menses), such divorces are not valid. If one divorces with waiting period more than once (the extra over one divorce does not have any valid effect). If one divorces with waiting period without just witnesses, it also is not a divorce and women's witnessing is not sufficient.'

18- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِيْنَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ كُنْتُ عِنْدَهُ إِذْ مَرَّ بِهِ نَافِعٌ مَوْلَى ابْنِ عُمَرَ فَقَالَ لَهُ أَبُو جَعْفَرٍ ع أَنْتَ الَّذِي تَزْعُمُ أَنَّ ابْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ وَاحِدَةً وَ هِيَ حَائِضٌ فَأَمَرَ رَسُولُ اللَّهِ ص عُمَرَ أَنْ يَأْمُرَهُ أَنْ يَرَايَهَا قَالَ نَعَمْ فَقَالَ لَهُ كَذَبْتَ وَ اللَّهُ الَّذِي لَا إِلَهَ إِلَّا هُوَ عَلَى ابْنِ عُمَرَ أَنَا سَمِعْتُ ابْنَ عُمَرَ يَقُولُ طَلَّقْتُهَا عَلَى عَهْدِ رَسُولِ اللَّهِ ص ثَلَاثًا فَرَدَّهَا رَسُولُ اللَّهِ ص عَلَيَّ وَ أَمْسَكْتُهَا بَعْدَ الطَّلَاقِ فَاتَّقِ اللَّهَ يَا نَافِعُ وَ لَا تُرَوِّ عَلَى ابْنِ عُمَرَ الْبَاطِلَ

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

'Once, I was with abu Ja'far^{asws}, when, Nafi' Mawla' ibn 'Umar came to visit him^{asws}. Abu Ja'far^{asws}, asked him. 'Are you the one who believes that ibn 'Umar divorced his wife once during her experiencing Hayd (menses) and the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worth of their services to Your cause, commanded 'Umar to ask him to go back to his wife?' He replied, 'Yes, that is correct.' He^{asws} said, 'You have spoken a lie against ibn 'Umar, by Allah^{azwj}, besides whom no one deserves worship. I heard ibn 'Umar saying. 'I divorced her during the time of the Messenger of Allah^{saww}, three divorces but the Messenger of Allah^{saww} reversed it on me and I kept her after divorce.' O Nafi' you must have fear of Allah^{azwj} and do not narrate falsehood against ibn 'Umar.'

بَابُ أَنَّ الطَّلَاقَ لَا يَقَعُ إِلَّا لِمَنْ أَرَادَ الطَّلَاقَ

Divorce Does not Take Place unless Once has the Intention to Divorce

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ لَا طَلَقَ إِلَّا مَا أَرِيدَ بِهِ الطَّلَاقُ

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

'Abu 'Abd Allah^{asws}, has said, 'It is not a divorce unless it is intended to be a divorce.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ النَّبِيِّ ع عَنْ أَبِي عَبْدِ اللَّهِ ع وَ عَنْ عَبْدِ الْوَاحِدِ بْنِ الْمُخْتَارِ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُمَا قَالَا لَا طَلَقَ إِلَّا لِمَنْ أَرَادَ الطَّلَاقَ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah from al-Yasa' from abu 'Abd Allah^{asws} from 'Abd al-Wahid ibn al-Mukhtar from abu Ja'far^{asws}, who has said the following:

'One of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}), has said, 'It is not a divorce unless it is intended to be a divorce.'

3- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ الْيَسَعِ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ يَقُولُ لَا طَلَّاقَ إِلَّا عَلَى السُّنَّةِ وَلَا طَلَّاقَ عَلَى السُّنَّةِ إِلَّا عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ وَلَا طَلَّاقَ عَلَى سُنَّةٍ وَ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ وَلَا يَنْتَزِعُ طَلَّاقُ إِلَّا بِبَيِّنَةٍ وَ لَوْ أَنَّ رَجُلًا طَلَّقَ عَلَى سُنَّةٍ وَ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ وَ لَمْ يُشْهَدْ لَمْ يَكُنْ طَلَّاقًا وَ لَوْ أَنَّ رَجُلًا طَلَّقَ عَلَى سُنَّةٍ وَ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ وَ أَشْهَدَ وَ لَمْ يَنْتَزِعِ طَلَّاقُ لَمْ يَكُنْ طَلَّاقًا طَلَّاقًا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father from 'Abd al-Rahman ibn abu Najran from 'Abd Allah ibn Bukayr from Zurarah from al-Yasa' who has said the following:

'I once heard abu Ja'far^{asws}, has stated this Hadith, 'Divorce, which is not according to Sunnah, is not a divorce. A divorce is not according to Simnah if it is not pronounced in the presence of two just witnesses, in a menses-free period in which the husband has not gone to bed with her. If a man divorces his wife in a menses-free period during which he has not gone to bed with her but it is not in presence (of two just) witnesses, such divorce is not a valid divorce. If a man divorces his wife according to Simnah, in a menses-free period in which he has not gone to bed with her and pronounces it in the presence of witnesses but has not intended it to be a divorce it also is not a valid divorce.'

بَابُ أَنَّهُ لَا طَلَّاقَ قَبْلَ النِّكَاحِ

There Cannot be Divorce before. Marriage

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ مُحَمَّدُ بْنُ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ مِثْوَرٍ عَنْ يُونُسَ عَنْ حَمْرَةَ بْنِ حُمْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ عَنْ أَبِيهِ سُلَيْمَانَ قَالَ كُنْتُ فِي الْمَسْجِدِ فَدَخَلَ عَلَيَّ بْنُ الْحُسَيْنِ ع وَ لَمْ أَتَبَيَّنْ فَسَأَلْتُ عَنْهُ فَأُخْبِرْتُ بِاسْمِهِ فَقُمْتُ إِلَيْهِ أَنَا وَ غَيْرِي فَاسْتَفْتَيْنَاهُ فَسَلَّمْنَا عَلَيْهِ فَقَالَ لَهُ رَجُلٌ أَصْلَحَكَ اللَّهُ مَا تَرَى فِي رَجُلٍ سَمَى امْرَأَةً بِعَيْنِهَا وَ قَالَ يَوْمَ يَنْتَزِعُهَا هِيَ طَالِقٌ ثَلَاثًا ثُمَّ بَدَأَ لَهُ أَنْ يَنْتَزِعَهَا أَوْ يَصْلَحَ لَهُ ذَلِكَ فَقَالَ إِنَّمَا الطَّلَاقُ بَعْدَ النِّكَاحِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Muhammad ibn al-Husayn from Muhammad ibn 'Isma'il ibn Bazi' from Mansur ibn Yunus from Hamzah ibn Humran from 'Abd Allah ibn Sulayman from his father Sulayman who has said the following:

'Once I was in the Masjid when Ali ibn al-Husayn^{asws} came in but I could not recognise him properly; so I asked about him and I was told about his name so others and I stood up for him, we surrounded him^{asws} and offered him^{asws} greeting of peace. A man then said, 'I pray to Allah to keep you well, what is your view about a man who mentions a woman exactly and on the day of his marriage says three times that she is divorced then he decides to marry her: if he can do so.' He^{asws} said, 'Divorce is only after marriage.'

2- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ الرَّجُلِ يَقُولُ يَوْمَ أَتَزَوَّجَ فَلَانَهُ فَمَهِي طَالِقٌ فَقَالَ لَيْسَ بِشَيْءٍ إِنَّهُ لَا يَكُونُ طَلَّاقٌ حَتَّى يَمْلِكَ عُقْدَةَ النِّكَاحِ

A number of our people have narrated from Ahmad ibn Muhammad from and Ali ibn Ibrahim has narrated from his father from 'Uthman ibn 'Isa from Sama'ah who has said the following:

'I once asked him^{asws}, about the case of a man who says that on the day I will get married to so and so she is divorced. He^{asws} said, 'It does not have any valid effect until he has a binding marriage.'

3- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ مُحَمَّدُ بْنُ عِيسَى عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادِ بْنِ عِيسَى عَنْ شُعَيْبِ بْنِ يَعْقُوبَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ كَانَ الَّذِينَ مِنْ قَبْلِنَا يَقُولُونَ لَا عَنَاقَ وَ لَا طَلَّاقَ إِلَّا بَعْدَ مَا يَمْلِكُ الرَّجُلُ

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

'Abu 'Abd Allah^{asws}, has said. 'Those who were before us would say, 'Setting free of a slave or divorce does not have any valid effect until a man has an ownership and marriage.'

4- مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ حَرِيزٍ عَنْ حَمَزَةَ بْنِ حُمْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ عَنْ أَبِيهِ قَالَ كُنْتُ فِي الْمَسْجِدِ فَدَخَلَ عَلَيَّ بْنُ الْحُسَيْنِ ع وَ لَمْ أَتُبَّهِ وَ عَلَيْهِ عِمَامَةٌ سَوْدَاءُ قَدْ أُرْسِلَ طَرَفُهَا بَيْنَ كَتِفَيْهِ فَقُلْتُ لِرَجُلٍ قَرِيبٍ الْمَجْلِسِ مِنِّي مَنْ هَذَا الشَّيْخُ فَقَالَ مَا لَكَ لَمْ تُسْأَلْنِي عَنْ أَحَدٍ دَخَلَ الْمَسْجِدَ غَيْرَ هَذَا الشَّيْخِ قَالَ فَقُلْتُ لَهُ لَمْ أَرِ أَحَدًا دَخَلَ الْمَسْجِدَ أَحْسَنَ هَيْئَةً فِي عَيْنِي مِنْ هَذَا الشَّيْخِ فَلِذَلِكَ سَأَلْتُكَ عَنْهُ قَالَ فَإِنَّهُ عَلِيُّ بْنُ الْحُسَيْنِ ع قَالَ فَقُمْتُ وَ قَامَ الرَّجُلُ وَ غَيْرُهُ فَانْتَفَقَاهُ وَ سَلَمْنَا عَلَيْهِ فَقَالَ لَهُ الرَّجُلُ مَا تَرَى أَصْلَحَكَ اللَّهُ فِي رَجُلٍ سَمَى امْرَأَتَهُ بَعِيزَةً وَ قَالَ يَوْمَ يَتَزَوَّجُهَا فَهِيَ طَالِقٌ ثَلَاثًا ثُمَّ بَدَأَ لَهُ أَنْ يَتَزَوَّجَهَا أ يَصْلُحُ لَهُ ذَلِكَ قَالَ فَقَالَ إِنَّمَا الطَّلَاقُ بَعْدَ النِّكَاحِ قَالَ عَبْدُ اللَّهِ فَقَدَخْتُ أَنَا وَ أَبِي عَلِيُّ أَبِي عَبْدِ اللَّهِ جَعْفَرُ بْنُ مُحَمَّدٍ ع فَحَدَّثَهُ أَبِي بِهَذَا الْحَدِيثِ فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ ع أَنْتَ تَشْهَدُ عَلَى عَلِيٍّ بْنِ الْحُسَيْنِ ع بِهَذَا الْحَدِيثِ قَالَ نَعَمْ

Muhammad ibn Ja'far al-Razzaz has narrated from Ayyub ibn Nuh and Abu Ali Al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan ibn Yahya from Hariz from Hamzah ibn Iiumran from 'Abd Allah ibn Sulayman from his father who has said the following:

'Once I was in the Masjid when Ali ibn al-Husayn^{asws} came and I could not recognise him. He^{asws} had a black turban and he had allowed both ends of the turban to hang down between his two shoulders. I then asked a man sitting near me, 'Who is this Shaykh?' He asked, 'Why did you not ask me about people other than this shaykh coming in the Masjid?' I replied, 'Because I did not see anyone else entering the Masjid look as good as this Shaykh and his condition in my eyes, thus I asked you.' He then said, 'This is Ali ibn al-Husayn^{asws}. The man, others and I stood up. We surrounded him^{asws} and offered greeting of peace. A man then said, 'I pray to Allah^{azwj} to keep you well, what is your view about a man who mentions a woman exactly and on the day of his marriage says three times that she is divorced but then he decides to marry her: if he can do so.' He^{asws} said, 'Divorce is only after marriage.' 'Abd Allah has said that my father and I visited abu 'Abd Allah^{asws}, Ja'far ibn Muhammad^{asws}, and my father narrated this Hadith to him^{asws}. Abu 'Abd Allah^{asws} asked, 'Will you testify that this is a Hadith of Ali ibn al-Husayn^{asws}?' He replied, 'Yes I will do so.'

5- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ إِنْ تَزَوَّجْتُ فُلَانَةً فَهِيَ طَالِقٌ وَ إِنْ اشْتَرَيْتُ فُلَانًا فَهُوَ حُرٌّ وَ إِنْ اشْتَرَيْتُ هَذَا التَّوْبَ فَهُوَ لِلْمَسَاكِينِ فَقَالَ لَيْسَ بِشَيْءٍ لَا يُطْلَقُ إِلَّا مَا يَمْلِكُ وَ لَا يَتَصَدَّقُ إِلَّا بِمَا يَمْلِكُ

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Hamid from Muhammad ibn Oays who has said the following:

'I once asked abu Ja'far^{asws}, about the case of a man who says, 'If I marry so and so woman she is divorced, if I buy so and so slave he is free and if I buy this cloth it is for the destitute. He^{asws} said, 'It does not have any valid effect; he cannot divorce until he is married and owns. He cannot give charity except what he owns.'

بَابُ الرَّجُلِ يَكْتُبُ بِطَلَاقِ امْرَأَتِهِ Divorce in Writing

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ أَبِي حَمَزَةَ الثَّمَالِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ع عَنْ رَجُلٍ قَالَ لِرَجُلٍ اكْتُبْ يَا فُلَانُ إِلَى امْرَأَتِي بِطَلَاقِهَا أَوْ اكْتُبْ إِلَى عَبْدِي بِعِقْدِهِ يَكُونُ ذَلِكَ طَلَاقًا أَوْ عِتْقًا فَقَالَ لَا يَكُونُ طَلَاقًا وَ لَا عِتْقًا حَتَّى يَنْطِقَ بِهِ لِسَانُهُ أَوْ يَخْطُهُ بِيَدِهِ وَ هُوَ يُرِيدُ الطَّلَاقَ أَوْ الْعِتْقَ وَ يَكُونُ ذَلِكَ مِنْهُ بِالْأَهْلِ وَ الشُّهُودِ وَ يَكُونُ غَائِبًا عَنْ أَهْلِهِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Mahbub from abu Hamzah al-Thumaliy who has said the following:

'I once asked abu Ja'far^{asws}, about the case of a man who says to another man, 'O so and so write to my wife her divorce or to my slave that he is free: If it is a divorce and

setting free of a slave. He^{asws} said, 'It is not a divorce or freedom until he says by his own tongue or in his own handwriting and with the intention to divorce or set a slave free. This can happen by counting new moons and in the presence of witnesses when he is absent from his family.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عِيسَى أَوْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ عَ رَجُلٍ كَتَبَ بِطَلَاقِ امْرَأَتِهِ أَوْ بَعِثَ غُلَامَهُ ثُمَّ بَدَأَ لَهُ فَمَحَاهُ قَالَ لَيْسَ ذَلِكَ بِطَلَاقٍ وَلَا عِتَاقٌ حَتَّى يَتَكَلَّمَ بِهِ

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa or ibn abu ' Umayr from ibn Udhaynah from Zurarah who has said the following:

'I once asked abu Ja'far^{asws}, about the case of a man who divorces his wife in writing or sets free his slave he then changes his mind and deletes it. He^{asws} said, 'It is not a divorce or setting free of a slave until he pronounces it through his mouth.'

بَابُ تَفْسِيرِ طَلَاقِ السُّنَّةِ وَالْعِدَّةِ وَمَا يُوجِبُ الطَّلَاقَ

Explanation of Divorce with Waiting Period and what Makes Divorce Binding

1- أَبُو عَلِيٍّ الشَّاعِرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ جَعْفَرٍ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ مُسْكَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ طَلَاقُ السُّنَّةِ يُطَلِّقُهَا تَطْلِيقَةً يَعْنِي عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ بِشَهَادَةِ شَاهِدَيْنِ ثُمَّ يَدْعُوهَا حَتَّى تَمْضِيَ أَقْرَأُوهَا فَإِذَا مَضَتْ أَقْرَأُوهَا فَقَدْ بَازَتْ مِنْهُ وَ هُوَ خَاطِبٌ مِنَ الْخُطَّابِ إِنْ شَاءَتْ نَكَحَتْهُ وَ إِنْ شَاءَتْ فَلَا وَ إِنْ أَرَادَ أَنْ يُرَاجِعَهَا أَشْهَدَ عَلَى رَجْعَتِهَا قَبْلَ أَنْ تَمْضِيَ أَقْرَأُوهَا فَتَكُونُ عِنْدَهُ عَلَى التَّطْلِيقَةِ الْمَاضِيَةِ قَالَ وَ قَالَ أَبُو بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع هُوَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ الطَّلَاقُ مَرَّتَانِ فَلِمَسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ التَّطْلِيقَةُ الثَّانِيَةُ التَّسْرِيحُ بِإِحْسَانٍ

Abu Ali al-Ash'any has narrated from Muhammad ibn 'Abd al-Jabbar and Muhammad ibn Ja'far abu al-'Abbas al-Razzaz from abu Ayyub ibn Nuh and Ali ibn Ibrahim has narrated from his father all from Safwan ibn Yahya from ibn Muskan from Muhammad ibn Muslim who has said the following:

'Abu Ja'far^{asws} has said, 'Divorce according to Sunnah is the divorce which one pronounces once in a menses-free period during which sexual intercourse has not taken place. It is pronounced in the presence of two witnesses and leaves her until her menses-free period is over. When this period is over she becomes stranger to him and he is one of those who may propose marriage: if he likes he can marry or not marry . If he decides to go back to his wife there must be a witness to bear witness to his going back to his wife before her menses-free period is over so that she remains with him within the first divorce.' He (the narrator) has said that abu Basir narrated from abu 'Abd Allah^{asws}, who stated this about the words of Allah^{azwj}. 'Divorce is twice, thereafter one must keep her in proper manner or in kindness allow her to go,' (2:229) He^{asws} has said that it is the second divorce and allowing with kindness to go.'

2- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَاطٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ قَالَ كُلُّ طَلَاقٍ لَا يَكُونُ عَلَى السُّنَّةِ أَوْ طَلَاقٌ عَلَى الْعِدَّةِ فَلَيْسَ بِشَيْءٍ قَالَ زُرَّارَةُ قُلْتُ لِأَبِي جَعْفَرٍ ع فَسَّرَ لِي طَلَاقَ السُّنَّةِ وَ طَلَاقَ الْعِدَّةِ فَقَالَ أَمَّا طَلَاقُ السُّنَّةِ فَإِذَا أَرَادَ الرَّجُلُ أَنْ يُطَلِّقَ امْرَأَتَهُ فَلْيَنْتَظِرْ بِهَا حَتَّى تَطْمَئِنَّ وَ تَطْهَرُ فَإِذَا خَرَجْتَ مِنْ طَمْئِنَتِهَا تَطْلِيقَةً مِنْ غَيْرِ جِمَاعٍ وَ يُشْهَدُ شَاهِدَيْنِ عَلَى ذَلِكَ ثُمَّ يَدْعُوهَا حَتَّى تَطْمَئِنَّ طَمْئِنَتَيْنِ فَتَنْقَضِيَ عِدَّتُهَا بِثَلَاثِ حَيَضٍ وَ قَدْ بَازَتْ مِنْهُ وَ يَكُونُ خَاطِبًا مِنَ الْخُطَّابِ إِنْ شَاءَتْ تَزَوَّجَتْهُ وَ إِنْ شَاءَتْ لَمْ تَزَوَّجْهُ وَ عَلَيْهِ نَفَقَتُهَا وَ السُّكْنَى مَا دَامَتْ فِي عِدَّتِهَا وَ هُمَا بِتَوَارَتَانِ حَتَّى تَنْقَضِيَ الْعِدَّةُ قَالَ وَ أَمَّا طَلَاقُ الْعِدَّةِ الَّذِي قَالَ اللَّهُ عَزَّ وَ جَلَّ فَطَلْفُوهُنَّ لِعِدَّتِهِنَّ وَ أَحْصُوا الْعِدَّةَ فَإِذَا أَرَادَ الرَّجُلُ مِنْكُمْ أَنْ يُطَلِّقَ امْرَأَتَهُ طَلَاقَ الْعِدَّةِ فَلْيَنْتَظِرْ بِهَا حَتَّى تَحِيضَ وَ تَخْرُجَ مِنْ حَيْضِهَا ثُمَّ يُطَلِّقُهَا تَطْلِيقَةً مِنْ غَيْرِ جِمَاعٍ وَ يُشْهَدُ شَاهِدَيْنِ عَدْلَيْنِ وَ يُرَاجِعُهَا مِنْ يَوْمِهِ ذَلِكَ إِنْ أَحَبَّ أَوْ بَعْدَ ذَلِكَ بِأَيَّامٍ أَوْ قَبْلَ أَنْ تَحِيضَ وَ يُشْهَدُ عَلَى رَجْعَتِهَا وَ يُوَاقِعُهَا وَ يَكُونُ مَعَهَا حَتَّى تَحِيضَ فَإِذَا حَاضَتْ وَ خَرَجَتْ مِنْ حَيْضِهَا طَلْفُهَا تَطْلِيقَةً أُخْرَى مِنْ غَيْرِ جِمَاعٍ وَ يُشْهَدُ عَلَى ذَلِكَ ثُمَّ يُرَاجِعُهَا أَيْضًا مَتَى شَاءَ قَبْلَ أَنْ تَحِيضَ وَ يُشْهَدُ عَلَى رَجْعَتِهَا وَ يُوَاقِعُهَا وَ تَكُونُ مَعَهُ إِلَى أَنْ

A number of our people have narrated from Sahl ibn Ziyad Ahmad ibn Muhammad from Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from al-Hassan ibn Mahbub from ibn Ri'ab from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'Divorce which is not according to Sunnah or not with waiting period does not have any valid effect.' Zurarah has said that I then asked abu Ja'far^{asws}, 'Please explain to me divorce according to Sunnah and divorce with waiting period.' He^{asws} said, 'For divorce according to Sunnah the man must wait until she experiences Hayd (menses) and becomes clean from Hayd (menses). When this happens he can divorce her in the presence of two witnesses without going to bed with her; then he leaves her until she experiences Hayd (menses) twice and her waiting period becomes complete. On her experiencing the third Hayd (menses) she becomes stranger to him. He then is one of those who may propose marriage : if he wants he can marry or not to marry. He must pay her maintenance as long as she is in her waiting period and they inherit each other during the waiting period.' He^{asws} said, 'Divorce with waiting period is the divorce which Allah^{azwj}, has mentioned, **'divorce them with waiting period and keep a count of the waiting period.'** (65:2) For this kind of divorce if a man wants to divorce his wife he must wait until she experiences (menses) and become clean from (menses) then divorce her one divorce in the presence of two just witnesses without going to bed with her. He then can go back to her on the same day if he likes or after several days or before she experiences Hoyd (menses). He must have a witness for his going back to her. He can go to bed with her and live with her until she experiences Hayd (menses). When she experiences Hayd (menses) and becomes clean, divorce her divorce in the presence of witnesses without going to bed with her. He then can go back to her again anytime he likes before she experiences Hayd (menses) for the third Hayd (menses). When she becomes clean of the third Hayd (menses) he divorces her in the presence of witness for the third time without sexual intercourse. When he does this she becomes stranger to him and he cannot marry her again before she marries another man.' He^{asws} was asked, 'What happens if she does not experience Hayd (menses)?' He^{asws} said, 'In such case she is divorced according to Sunnah.'

3- ابن محبوب عن ابن بكير عن زرارة قال سمعت أبا جعفر ع يقول أحب للرجل الفقيه إذا أراد أن يطلق امرأته أن يطلقها طلاق السنة قال ثم قال وهو الذي قال الله عز وجل لعل الله يحدث بعد ذلك أمرا يعني بعد الطلاق وانقضاء العدة الزوجين لهما من قبل أن تزوجا غيره قال وما أعدله وأوسعها لهما جميعا أن يطلقها على طهر من غير جماع تطليقة يشهود ثم يدعها حتى يخلوا أجلها ثلاثة أشهر أو ثلاثة فروع ثم يكون خاطبا من الخطاب

Ibn Mahbub has narrated from ibn Bukayr from Zurarah who has said the following:

'I once heard abu Ja'far^{asws}, saying, 'If a man wants to divorce his wife I like if he does so in the form of divorce according to Swmah.' He (the narrator) has said that He^{asws} then said, 'This is that about which Allah^{azwj}, has said, '... perhaps Allah^{azwj} thereafter will cause something to happen.' (65:2) It means after divorce and waiting period a marriage with him, before the advance of the case to a marriage with another man. He^{asws} said, 'How vast is the justice and time for them! He must divorce her in a Hayd (menscs)-free period without sexual intercourse one divorce in the presence of witnesses then leave her until three months or three Hayd (menses) then he becomes one of those who may propose marriage.'

4- علي بن إبراهيم عن أبيه عن ابن أبي نجران أو غيره عن ابن مسكان عن أبي بصير عن أبي عبد الله ع قال سألتُهُ عن طلاق السنة قال طلاق السنة إذا أراد الرجل أن يطلق امرأته يدعها إن كان قد دخل بها حتى تحيض ثم تطهر فإذا طهرت طلقها واحدة بشهادة شاهدين ثم يتركها حتى تعتد ثلاثة فروع فإذا مضت ثلاثة فروع فقد بانت منه واحدة وكان زوجها خاطبا من

حَتَّى تَحِيضَ وَ تَطْهَرَ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يُرَاجِعَهَا لَمْ يَكُنْ طَلَاقُهُ الثَّانِيَةَ طَلَاقًا لِأَنَّهُ طَلَّقَ طَلِيقًا لِأَنَّهُ إِذَا كَانَتْ الْمَرْأَةُ مُطْلَقَةً مِنْ زَوْجِهَا كَانَتْ خَارِجَةً مِنْ مِلْكِهِ حَتَّى يُرَاجِعَهَا فَإِذَا رَاجَعَهَا صَارَتْ فِي مِلْكِهِ مَا لَمْ يُطْلَقِ التَّطْلِيقُ الثَّالِثَةُ فَإِذَا طَلَّقَهَا التَّطْلِيقُ الثَّالِثُ فَقَدْ خَرَجَ مِلْكُ الرَّجْعَةِ مِنْ يَدِهِ فَإِنْ طَلَّقَهَا عَلَى طَهْرٍ يَشْهُدُ ثُمَّ رَاجَعَهَا وَ انْتَهَرَ بِهَا الطَّهْرَ مِنْ غَيْرِ مُوَاقَعَةٍ فَخَاضَتْ وَ طَهَّرَتْ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يُدْنَسَهَا بِمُوَاقَعَةٍ بَعْدَ الرَّجْعَةِ لَمْ يَكُنْ طَلَاقُهُ لَهَا طَلَاقًا لِأَنَّهُ طَلَّقَهَا التَّطْلِيقَ الثَّانِيَةَ فِي طَهْرِ الْأُولَى وَ لَا يُنْقِضُ الطَّهْرُ إِلَّا بِمُوَاقَعَةٍ بَعْدَ الرَّجْعَةِ وَ كَذَلِكَ لَا تَكُونُ التَّطْلِيقُ الثَّالِثَةُ إِلَّا بِمُرَاجَعَةٍ وَ مُوَاقَعَةٍ بَعْدَ الْمُرَاجَعَةِ ثُمَّ حِيضَ وَ طَهَّرَ بَعْدَ الْحِيضِ ثُمَّ طَلَّقَ يَشْهُدُ حَتَّى يَكُونَ لِكُلِّ تَطْلِيقٍ طَهْرٌ مِنْ تَدْنِيسِ الْمُوَاقَعَةِ يَشْهُدُ

Ali ibn Ibrahim has narrated from his father from ibn abu Najran or others from ibn Muskan from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the divorce according to Sunnah. He^{asws} said, 'For divorce according to Sunnah when a man wants to divorce his wife he must leave her, if he has gone to bed with her, until she experiences Hayd (menses), then becomes clean. When she becomes clean he can divorce her once in the presence of two witnesses then leave her for three cycles of Hayd (menses). When three Hayd (menses)-free periods are over she becomes stranger to him and he becomes one of those who may propose for marriage. He can marry if he wants or not many. If he marries with a new mahr (dower) she can live with him for the two remaining chances when only one is complete. If he divorces her once more in the presence of two witnesses, in a Hayd (menses)-free period, without sexual intercourse and then leaves her until her Hayd (menses)-free periods are over. If they are over before he goes back to her she then becomes stranger to him with control on her affairs and is free to marry. Her previous husband is now one of those who may propose for marriage if he likes to marry or not to marry. If he marries with a new marriage with a new mahr (dower) she can live with him for one more chance. Two chances are complete. If he decides to divorce her once more, she then is not lawful for him until she marries another man. 'For divorce with choice to go back to her he waits until she experiences Hayd (menses) and becomes clean, he arranges two witnesses for divorce; then goes back to her and to bed with her then waits for the next Hayd (menses)-free period. When she experiences Hayd (menses) and becomes clean, he arranges two witnesses for divorce, after which he goes back to go to bed with her. He then waits until after her Hayd (menses)-free period she experiences Hayd (menses) and becomes clean. He then arranges for two witnesses for another divorce and thereafter she becomes unlawful for him to marry forever until she marries another man. She must complete a waiting period for three Hayd (menses)-free periods from the day of the third divorce. If he divorces once in a Hayd (menses)-free period in the presence of witnesses and waits until she experiences Hayd (menses) and becomes clean then divorces her before he goes back to her the second divorce is not a divorce. It is because he has divorced one who is divorced; she was a divorced woman from her husband and out of his authority until he goes back to her. When he goes back to her then marriage comes in his authority until he divorces for the third time. Upon divorcing her for the third time, the authority to go back to her goes out of his hand. When he divorces her in a Hayd (menses)-free period, in the presence of witnesses, then goes back to her and waits until one Hayd (menses)-free period ends without sexual intercourse. She then experience Hayd (menses) and becomes clean

then he divorces her before sexual intercourse after going back to her his divorce as such is not a divorce. It is because he has divorced her for the second time in the first Hayd (menses)-free period and a Hayd (menses)-free period cannot be broken without sexual intercourse after going back to her. In the same way, the third divorce cannot take place except by going back to her. After going back then she experiences Hayd (menses) and a Hayd (menses)-free period. He then divorces in the presence of witnesses until there is Hayd (menses)-free period after every divorce with sexual intercourse is a Hayd (menses)-free period and cleansing by sexual intercourse then divorce takes place in the presence of witnesses.'

5- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى وَ عَدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرِ عَنْ عَبْدِ الْكَرِيمِ جَمِيعًا عَنْ الْحَسَنِ بْنِ زِيَادٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ طَلَاقِ السَّنَةِ كَيْفَ يُطَلَّقُ الرَّجُلُ امْرَأَتَهُ فَقَالَ يُطَلِّقُهَا فِي طَهْرٍ قَبْلَ عِدَّتِهَا مِنْ غَيْرِ جِمَاعٍ بِشَهَادَةِ بَيِّنَةٍ أَوْ طَلِّقَهَا وَاحِدَةً ثُمَّ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلُهَا فَقَدْ بَانَ مِنْهُ وَ هُوَ خَاطِبٌ مِنَ الْخُطَّابِ وَ إِنْ رَاجَعَهَا فِيهِ عِدَّتُهُ عَلَى تَطْلِيقِ مَاضِيَةٍ وَ بَقِيَ تَطْلِيقَتَانِ فَإِنْ طَلَّقَهَا الثَّانِيَةَ وَ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلُهَا فَقَدْ بَانَ مِنْهُ وَ إِنْ هُوَ أَشْهَدَ عَلَى رَجْعَتِهَا قَبْلَ أَنْ يَخْلُوَ أَجْلُهَا فَهِيَ عِنْدَهُ عَلَى تَطْلِيقَتَيْنِ مَاضِيَتَيْنِ وَ بَقِيَتْ وَاحِدَةٌ فَإِنْ طَلَّقَهَا الثَّلَاثَةَ فَقَدْ بَانَ مِنْهُ وَ لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ هِيَ تَرِثُ وَ تَوَرَّثَ مَا كَانَ لَهُ عَلَيْهَا رَجْعَةٌ مِنَ التَّطْلِيقَتَيْنِ الْأُولَتَيْنِ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar, from Safwan ibn Yahya. A number of our people have narrated from Sah! ibn Ziyad from Muhammad ibn Yahya who has narrated from Ahmad ibn Muhammad. Ali ibn Ibrahim has narrated from his father all of them from Ahmad ibn Muhammad ibn abu Nasr, from 'Abd al-Karim, all from al-Hassan ibn Ziyad. who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the divorce according to Sunnah and how a man can divorce his wife. He^{asws} said, 'He must divorce her in a Hayd (menses)-free period at a time when she can commence her waiting period, in the presence of witnesses without going to bed with her. If he divorces her once then leaves until her waiting period is complete, she then becomes stranger to him and he is one of those who may propose marriage. If he goes back to her she then is with him for two more divorces. If he divorces her for the second time and leaves until her waiting period is complete, she becomes stranger to him. If he arranges witness for his going back to her before her waiting period is complete she is then with him after two divorces and one more is left. If he divorces her for the third time she becomes stranger to him and is not lawful for him until she marries another man. She inherits him during the waiting period of the two previous divorces in which he had the right to go back to her.'

6- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ع عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ بَعْدَ مَا غَشِيَهَا بِشَهَادَةِ عَدْلَيْنِ فَقَالَ لَيْسَ هَذَا بِطَلَّاقٍ فَقُلْتُ جُعِلَتْ فِدَاكَ كَيْفَ طَلَّقَ السَّنَةَ فَقَالَ يُطَلِّقُهَا إِذَا طَهَّرْتَ مِنْ حَيْضَتِهَا قَبْلَ أَنْ يَغْشَاهَا بِشَاهِدَيْنِ عَدْلَيْنِ كَمَا قَالَ اللَّهُ عَزَّ وَ جَلَّ فِي كِتَابِهِ فَإِنْ خَالَفَ ذَلِكَ رَدَّ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ فَقُلْتُ لَهُ فَإِنْ طَلَّقَ عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ بِشَاهِدٍ وَ امْرَأَتَيْنِ فَقَالَ لَا تَجُوزُ شَهَادَةُ النِّسَاءِ فِي الطَّلَاقِ وَ قَدْ تَجُوزُ شَهَادَتُهُنَّ مَعَ غَيْرِهِنَّ فِي الدَّمِ إِذَا حَضَرَتْهُ فَقُلْتُ فَإِنْ أَشْهَدَ رَجُلَيْنِ نَاصِبَيْنِ عَلَى الطَّلَاقِ أ يَكُونُ طَلَّاقًا فَقَالَ مَنْ وَلَدَ عَلَى الْفِطْرَةِ أُجِيزَتْ شَهَادَتُهُ عَلَى الطَّلَاقِ بَعْدَ أَنْ تُعْرَفَ مِنْهُ خَيْرًا

Ali ibn Ibrahim has narrated from his father from and Ahmad ibn Muhammad from ibn abu Nasr who has said the following:

'I once asked abu al-Hassan^{asws}, about the case of a man who divorces his wife in the presence of two just witness after going to bed with her. He^{asws} said, 'It is not divorce,' I then asked saying, 'I pray to Allah^{azwj} to keep my soul in service for your cause, how is divorce according to Sunnah? He^{asws} said, 'He divorces her after she becomes clean of Hayd (menses) in the presence of two just witnesses before going to bed with her as Allah^{azwj} has said in His book. (65:2) If it is against what Allah^{azwj} has said it must be returned to the book of Allah^{azwj}.' I then asked. 'What happens if he divorces, in the presence of one witness and two women, during a Hayd (menses)- which he has not gone to bed with her?' He^{asws} said, 'Witnessing of women is not permissible in the case

of divorce, however, it can be accepted along with other witnesses in man-slaughter case if she is present.' I then asked, 'What happens if two Nasibiy men (people hostile to 'A 'immah^{asws}) bear witness in the case of divorce, is it a divorce?' He^{asws} said, 'Whoever is bom on al-Filrah (proper belief) his testimony is accepted in the case of divorce after it is known that he does aood deeds.'

7- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ أُذَيْنَةَ عَنْ ابْنِ بُكَيْرٍ وَغَيْرِهِ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ قَالَ إِنَّ الطَّلَاقَ الَّذِي أَمَرَ اللَّهُ عَزَّ وَجَلَّ بِهِ فِي كِتَابِهِ وَ الَّذِي سَنَّ رَسُولُ اللَّهِ ص أَنْ يُخْلَى الرَّجُلُ عَنِ الْمَرْأَةِ فَإِذَا حَاضَتْ وَ طَهَّرَتْ مِنْ مَحِيضِهَا أَشْهَدَ رَجُلَيْنِ عَدْلَيْنِ عَلَى تَطْلِيقِهَا وَ هِيَ طَاهِرٌ مِنْ غَيْرِ جِمَاعٍ وَ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَنْقُضْ ثَلَاثَةَ فُرُوءٍ وَ كُلُّ طَلَاقٍ مَا خَلَا هَذَا فَباطِلٌ لَيْسَ بِطَلَاقٍ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn 'Udhaynah from ibn Bukayr and others who has said the following:

'Abu Ja'far^{asws}, has stated this Hadith. 'The divorce which Allah^{azwj}, in His book has commanded lo be formed and that which the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, has established is that the man must remain away from the woman. When she experiences Hayd (menses) and becomes clean of her Hayd (menses), he must arrange two just witnesses for one divorce when she is clean of Hayd (menses) and sexual intercourse has not taken place. He has the right to go back to her as long as three menses cycles have not expired. Divorce other than being in this manner is invalid and is not a divorce.'

8- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ طَلَاقُ السَّنَةِ إِذَا طَهَّرَتْ الْمَرْأَةُ فَلْيُطْلَقْهَا وَاحِدَةً مَكَانَهَا مِنْ غَيْرِ جِمَاعٍ يُشْهَدُ عَلَى طَلَاقِهَا فَإِذَا أَرَادَ أَنْ يُرَاجِعَهَا أَشْهَدَ عَلَى الْمُرَاجَعَةِ

A number of our people have narrated from Sahl ibn Ziyad Ahmad ibn Muhammad from ibn abu Nasr from Jamil ibn Darraj from Zurarah from Abi Ja'far^{asws} who has said the following: 'Divorce according to Simnah takes place when the woman is clean of Hayd (menses) and is divorced in her place in the presence of witnesses without sexual intercourse. If he decides to go back to her he must arrange for witness to his going back (reversing his pronouncement of divorce).'

9- حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ع إِذَا أَرَادَ الرَّجُلُ الطَّلَاقَ طَلَّقْهَا فِي قُبُلٍ عِدَّتِهَا بِغَيْرِ جِمَاعٍ فَإِنَّهُ إِذَا طَلَّقَهَا وَاحِدَةً ثُمَّ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلَهَا إِنْ شَاءَ أَنْ يَخْطُبَ مَعَ الْخُطَّابِ فَعَلَّ فَإِنْ رَاجَعَهَا قَبْلَ أَنْ يَخْلُوَ أَجْلَهَا أَوْ بَعْدَهُ كَانَتْ عِدَّةٌ عَلَى تَطْلِيقِهَا فَإِنْ طَلَّقَهَا الثَّانِيَةَ أَيْضًا فَشَاءَ أَنْ يَخْطُبَهَا مَعَ الْخُطَّابِ إِنْ كَانَ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلَهَا فَإِنْ شَاءَ رَاجَعَهَا قَبْلَ أَنْ يَنْقُضِيَ أَجْلَهَا فَإِنْ فَعَلَ فَهِيَ عِدَّةٌ عَلَى تَطْلِيقَتَيْنِ فَإِنْ طَلَّقَهَا الثَّالِثَةَ فَلَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ هِيَ تَرثُ وَ ثَوْرُثُ مَا كَانَتْ فِي الدَّمِ مِنَ التَّطْلِيقَتَيْنِ الْأُولَتَيْنِ

Humayd ibn Ziyad from al-Hassan ibn Muhammad from 'Abd Allah ibn Sinan who has said the following:

'Abu 'Abd Allah^{asws} has said that 'Amir al-Mu'minin^{asws} has said, 'If a man decides to divorce he must do so before her waiting period without sexual intercourse. If he divorces once then leaves until her waiting period is complete, he then can be one of those who may propose marriage if he so wills. If he goes back to her before waiting period is complete or afterward, she can live with him after one divorce. If he divorces a second time also he then proposes marriage as others may do, in case he did not go back before the end of waiting period, if he wants he can go back to her if he so wills before waiting period is complete and if he did then she is with him after two divorces. If he divorces her for the third time then she is not lawful for him before marriage with another man. She inherits and is inherited if one of them dies as long as she experiences Hayd (menses) after the two first divorces.'

بَابُ مَا يَجِبُ أَنْ يَقُولَ مَنْ أَرَادَ أَنْ يُطْلَقَ

The Necessary Expressions to Pronounce with the Decision to Divorce

1- حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ ابْنِ رَبَاطٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ جَمِيعًا عَنْ ابْنِ أَدِيْنَةَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ أَنَّهُ سَأَلَ أَبَا جَعْفَرٍ عَ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتَ عَلَيَّ حَرَامٌ أَوْ بَائِنَةٌ أَوْ بَيْتٌ أَوْ بَرِيئَةٌ أَوْ خَلِيَّةٌ قَالَ هَذَا كُلُّهُ لَيْسَ بِشَيْءٍ إِلَّا الطَّلَاقُ أَنْ يَقُولَ لَهَا فِي قُبُلِ الْعِدَّةِ بَعْدَ مَا تَطَهَّرَ مِنْ مَحِيضِهَا قَبْلَ أَنْ يُجَامِعَهَا أَنْتَ طَالِقٌ أَوْ اعْتَدِّي يُرِيدُ بِذَلِكَ الطَّلَاقَ وَيُشْهَدُ عَلَى ذَلِكَ رَجُلَيْنِ عَدْلَيْنِ

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ali from ibn Ribat and Ali ibn ibrahim has narrated from his father from ibn abu 'Umayr all from ibn 'Udhaynah from Muhammad ibn Muslim who has said the following:

'I once asked abu Ja'far^{asws} about the case of a man who says to his wife, 'You are unlawful for me, you are stranger to me, you are cut off, you are free and your way is clear.' He^{asws} said, 'All of such expressions do not have any valid effect in the form of divorce. Divorce is when one just before waiting period, after her becoming clean from Hard (menses) without sexual intercourse says, 'Anti Taliq (you are let go, divorced) or 'I'tady (commence waiting period) intending thereby Talaq (divorce) which must be in the presence of two witnesses.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الطَّلَاقُ أَنْ يَقُولَ لَهَا اعْتَدِّي أَوْ يَقُولَ لَهَا أَنْتَ طَالِقٌ

Ali ibn Ibrahim has narrated from his father from ibn abu • Umayr from Hammad from al-Halabi who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Divorce takes place when he says, ' 'I'tady (commence waiting period) or says, 'Anti Taliq (you are let go, divorced).'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ الطَّلَاقُ لِلْعِدَّةِ أَنْ يُطْلَقَ الرَّجُلُ امْرَأَتَهُ عِنْدَ كُلِّ طَهْرٍ يُرْسَلُ إِلَيْهَا أَنْ اعْتَدِّي فَإِنْ فَلَانَا قَدْ طَلَقَكَ قَالَ وَ هُوَ أَمْلَكَ بِرَجْعَتِهَا مَا لَمْ تَنْقُضْ عِدَّتَهَا

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

'Abu Ja'far^{asws}, has said, 'Divorce with waiting period is that by which a man divorces his wife whenever she is clean of Hayd (menses) and sends her a message to commence her waiting period because so and so has divorced her .' He^{asws} said, 'He has the authority to go back to her as long as waiting period is not complete.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ يُرْسَلُ إِلَيْهَا فَيَقُولُ الرَّسُولُ اعْتَدِّي فَإِنْ فَلَانَا قَدْ فَارَقَكَ قَالَ ابْنُ سَمَاعَةَ وَ إِنَّمَا مَعْنَى قَوْلِ الرَّسُولِ اعْتَدِّي فَإِنْ فَلَانَا قَدْ فَارَقَكَ يَعْنِي الطَّلَاقُ إِنَّهُ لَا يَكُونُ فُرْقَةً إِلَّا بِطَلَقِ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَلِيٍّ بْنِ الْحَسَنِ الطَّاطَرِيِّ قَالَ الَّذِي أَجْمَعَ عَلَيْهِ فِي الطَّلَاقِ أَنْ يَقُولَ أَنْتَ طَالِقٌ أَوْ اعْتَدِّي وَ ذَكَرَ أَنَّهُ قَالَ لِمُحَمَّدِ بْنِ أَبِي حَمْزَةَ كَيْفَ يَشْهَدُ عَلَى قَوْلِهِ اعْتَدِّي قَالَ يَقُولُ اشْهَدُوا اعْتَدِّي قَالَ ابْنُ سَمَاعَةَ غَلِطَ مُحَمَّدُ بْنُ أَبِي حَمْزَةَ أَنْ يَقُولَ اشْهَدُوا اعْتَدِّي قَالَ الْحَسَنُ بْنُ سَمَاعَةَ يَنْبَغِي أَنْ يَجِيءَ بِالشُّهُودِ إِلَى حَجَلَتِهَا أَوْ يَذْهَبَ بِهَا إِلَى الشُّهُودِ إِلَى مَنْزِلِهِمْ وَ هَذَا الْمَحَالُّ الَّذِي لَا يَكُونُ وَ لَمْ يُوجِبِ اللَّهُ عَزَّ وَ جَلَّ هَذَا عَلَى الْعِبَادِ وَ قَالَ الْحَسَنُ لَيْسَ الطَّلَاقُ إِلَّا كَمَا رَوَى بُكَيْرُ بْنُ أَعِينٍ أَنْ يَقُولَ لَهَا وَ هِيَ طَاهِرٌ مِنْ غَيْرِ جَمَاعٍ أَنْتَ طَالِقٌ وَ يُشْهَدُ شَاهِدَيْنِ عَدْلَيْنِ وَ كُلُّ مَا سِوَى ذَلِكَ فَهُوَ مُلْعَى

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has said the following:

'Abu 'Abd Allah^{asws}, has said, 'He (the husband) can send a message to his wife saying, 'You must commence your waiting period because so and so has departed you.'

'Ibn Sama'ah has said that the meaning of the words of the messenger, 'You must commence your waiting period because so and so has departed you,' is that he has divorced you because there is no departing without divorce. 'Humayd ibn Ziyad has narrated from ibn Sama'ah from Ali ibn al-Hassan al-T'atriy who has said that what is unanimously agreed upon to say for divorce is to say, 'Anti Taliq' (you are let go,

divorced) or 'Itadi' (you must commence your waiting period). He has mentioned that he asked Muhammad ibn Hamzah about how to arrange witnesses for his word, 'Ttadi' (you must commence your waiting period). He said that one must say, 'Bear witness Ttadi' (commence waiting period).' Ibn Sama'ah has said, 'Muhammad ibn abu Hamzah has made a mistake in saying, 'Bear witness ' 'Itad (commence waiting period).' Al-Hassan ibn Sama'ah has said that it is proper to come with witnesses to her place or take her to the witnesses to their homes and this is not possible to happen. Allah^{azwj}, does not make it obligatory on His slaves. Al-Hassan has said, 'Divorce is nothing other than what Bukayr ibn 'A'yan has narrated that one must say to her when she is clean of Hayd (menses) without sexual intercourse 'Anti Taliq' (you are let go) or 'Itadi (commence waiting period) in the presence of two witnesses. All other expressions are invalid.'

بَابُ مَنْ طَلَّقَ ثَلَاثًا عَلَى طَهْرٍ بِشُهُودٍ فِي مَجْلِسٍ أَوْ أَكْثَرَ إِنَّهَا وَاحِدَةٌ

Three Talaq (Divorce) in Hayd (menses) Free Period in the Presence of Witnesses in One place and Time or More is One Talaq

1- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ سَهْلٍ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثًا فِي مَجْلِسٍ وَاحِدٍ أَوْ أَكْثَرَ وَ هِيَ طَاهِرَةٌ قَالَ هِيَ وَاحِدَةٌ

A number of our people have narrated from Ahmad ibn Muhammad from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Jamil ibn Darraj from Zurarah who has said the following:

'I once asked one of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}), about the case of a man who divorces his wife three times in one place and time or [more] when she is clean of Hayd(menses). He^{asws} said, 'It is only one.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ع قَالَ سَأَلْتُهُ عَنِ الَّذِي يُطَلِّقُ فِي حَالِ طَهْرٍ فِي مَجْلِسٍ ثَلَاثًا قَالَ هِيَ وَاحِدَةٌ

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

'I once asked one of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}), about the case of a man who divorces his wife in a Hayd (menses)-free period in one place and time three times. He^{asws} said, 'It is one.'

3- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدِ بْنِ جَعْفَرٍ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ جَمِيعًا عَنْ صَفْوَانَ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي بَصِيرٍ الْأَسَدِيِّ وَ مُحَمَّدِ بْنِ عَلِيٍّ الْحَلَبِيِّ وَ عُمَرَ بْنِ حَنْظَلَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الطَّلَاقُ ثَلَاثًا فِي غَيْرِ عِدَّةٍ إِنْ كَانَتْ عَلَى طَهْرٍ فَوَاحِدَةٌ وَإِنْ لَمْ يَكُنْ عَلَى طَهْرٍ فَلَيْسَ بِشَيْءٍ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and Muhammad ibn Ja'far from abu al-'Abbas al-Razzaz from abu Ayyub ibn Nuh all from Safwan from Mansur ibn Hazim from abu Basir al-Asadiy and Muhammad ibn Ali al-Halabiy and 'Umar ibn Hanzalah who has said the following:

'Abu 'Abd Allah^{asws}, has said, 'Divorce three times in non-waiting period (without waiting period) if she is clean from Hayd (menses) counts as one, but if she is not clean of Hayd (menses) then it (divorce) does not have any valid effect.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ وَ عَلِيِّ بْنِ خَالِدٍ عَنْ عَبْدِ الْكَرِيمِ بْنِ عَمْرٍو عَنْ عَمْرٍو عَنْ الْبَرَاءِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع إِنَّ أَصْحَابَنَا يَقُولُونَ إِنَّ الرَّجُلَ إِذَا طَلَّقَ امْرَأَةً مَرَّةً أَوْ مِائَةَ مَرَّةٍ فَإِنَّمَا هِيَ وَاحِدَةٌ وَ قَدْ كَانَ يَلْعَنُنَا عَنْكَ وَ عَنْ آبَائِكَ ع أَنَّهُمْ كَانُوا يَقُولُونَ إِذَا طَلَّقَ مَرَّةً أَوْ مِائَةَ مَرَّةٍ فَإِنَّمَا هِيَ وَاحِدَةٌ فَقَالَ هُوَ كَمَا بَلَّغَكُمْ

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from Ja'far ibn Sama'ah and Ali ibn Khalid from 'Abd al-Karim ibn 'Amr from 'Amr ibn al-Bara who has said the following:

'I once said to abu 'Abd Allah^{asws}, 'Our people say that if one divorces (pronounces the expression for divorce) his wife once or one hundred times it counts only one divorce.' It has been narrated to us from you^{asws} that your ancestors^{asws}, have stated this Hadith. 'if

one divorces his wife (at one time and place) once or one hundred times it counts only one divorce.' He^{asws} said. 'It is just as it is narrated to you.'

بَابُ مَنْ طَلَّقَ وَفَرَّقَ بَيْنَ الشُّهُودِ أَوْ طَلَّقَ بِحَضْرَةِ قَوْمٍ وَلَمْ يَقُلْ لَهُمْ أَشْهَدُوا

The One who Arranges Witnesses Separately

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ عَ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ وَ أَشْهَدَ الْيَوْمَ رَجُلًا ثُمَّ مَكَثَ خَمْسَةَ أَيَّامٍ ثُمَّ أَشْهَدَ آخَرَ فَقَالَ إِنَّمَا أَمْرٌ أَنْ يُشْهَدَا جَمِيعًا

Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from ibn abu Nasr who has said the following:

'I once asked abu al-Hassan^{asws} about the case of a man who divorces his wife in a Hayd (menses)-free period and without sexual intercourse and asks one man to bear witness on that day, then after five days asks another man to bear witness. He^{asws} said, 'He is commanded to arrange witnesses together.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ أَحْمَدَ بْنِ أَشْيَمٍ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَهَّرَتْ امْرَأَتُهُ مِنْ حَيْضِهَا فَقَالَ فَلَانَهُ طَالِقٌ وَ قَوْمٌ يَسْمَعُونَ كَلَامَهُ وَ لَمْ يَقُلْ لَهُمْ أَشْهَدُوا أَوْ يَقَعُ الطَّلَاقُ عَلَيْهَا قَالَ نَعَمْ هِيَ شَهَادَةٌ أَوْ قَتْرُكَ مُعَلَّقَةٌ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali Ahmad ibn 'Ubayd al-Qasbi who has said the following:

'I once asked him^{asws}, about the case of a man whose wife becomes clean of Hayd (menses) and he says, 'So and so is Taliaq (let go divorced) and a people hears his statement but he does not say, 'Bear witness': if divorce takes place or not. He^{asws} said, 'Yes. it is bearing witness. Can she be left in suspense?'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ عَ عَنْ رَجُلٍ كَانَتْ لَهُ امْرَأَةٌ طَهَّرَتْ مِنْ حَيْضِهَا فَجَاءَ إِلَى جَمَاعَةٍ فَقَالَ فَلَانَهُ طَالِقٌ يَقَعُ عَلَيْهَا الطَّلَاقُ وَ لَمْ يَقُلْ لَهُمْ أَشْهَدُوا قَالَ نَعَمْ

Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from ibn abu Nasr who has said the following:

'I once asked abu al-Hassan^{asws} about the case of a man whose wife becomes clean of Hayd (menses) and he comes to a group of people and says, 'So and so is 'Taliq' (let go, divorced)' if divorce takes place or not but he has not asked them to bear witness. He^{asws} said, 'Yes, divorce takes place.'

4- عَلِيُّ عَنْ أَبِيهِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ أَبِي الْحَسَنِ الرُّضَا عَ قَالَ سُئِلَ عَنْ رَجُلٍ طَهَّرَتْ امْرَأَتُهُ مِنْ حَيْضِهَا فَقَالَ فَلَانَهُ طَالِقٌ وَ قَوْمٌ يَسْمَعُونَ كَلَامَهُ وَ لَمْ يَقُلْ لَهُمْ أَشْهَدُوا أَوْ يَقَعُ الطَّلَاقُ عَلَيْهَا قَالَ نَعَمْ هَذِهِ شَهَادَةٌ

Ali ibn Ibrahim has narrated from his father from Safwan ibn Yahya who has said the following:

'Abu al-Hassan al-Rida^{asws} was asked about the case of a man whose wife becomes clean of Hayd (menses) and he says this: 'So and so is 'Taliq (let go, divorced) and a people hears his statement but he does not ask them to bear witness: if divorce takes place or not, he^{asws} said, 'Yes, is bearing witness.'

بَابُ مَنْ أَشْهَدَ عَلَى طَلَاكِ امْرَأَتَيْنِ بِلَفْظَةٍ وَاحِدَةٍ

Appointing Witness to Divorce Two Women with One Word

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ عَ مَا تَقُولُ فِي رَجُلٍ أَحْضَرَ شَاهِدَيْنِ غَدَلَيْنِ وَ أَحْضَرَ امْرَأَتَيْنِ لَهُ وَ هُمَا طَاهِرَتَانِ مِنْ غَيْرِ جَمَاعٍ ثُمَّ قَالَ أَشْهَدَا أَنَّ امْرَأَتِي هَاتَيْنِ طَالِقٌ وَ هُمَا طَاهِرَتَانِ أَوْ يَقَعُ الطَّلَاقُ قَالَ نَعَمْ

Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from ibn Bukayr from Zurarah who has said the following:

'I once asked abu Ja'far^{asws} about the case of a man who arranges for the presence of two just witnesses. He then brings two of his wives who both are clean of Hayd (menses) and has not gone to bed with them: then says, 'Bear witness that these two my wives are 'Taliq' (let go, divorced) and they are clean of Hayd (menses): if divorce takes place or not. He^{asws} said, 'Yes, it is a valid divorce.'

بَابُ الْإِشْهَادِ عَلَى الرَّجْعَةِ *Arranging Witness for Revocation of Divorce*

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الَّذِي يُرَاجِعُ وَ لَمْ يُشْهَدْ قَالَ يُشْهَدُ أَحَبُّ إِلَيَّ وَ لَا أَرَى بِالَّذِي صَنَعَ بَاسًا

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

'About the case of a man who goes back to his wife without witness, abu 'Abd Allah^{asws}, has said, 'I like if he arranged for witness; however, what he has done is not unlawful.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ يُشْهَدُ رَجُلَيْنِ إِذَا طَلَّقَ وَ إِذَا رَجَعَ فَإِنْ جَهِلَ فَلْيُشْهَدْ الْآنَ عَلَى مَا صَنَعَ وَ هِيَ امْرَأَتُهُ فَإِنْ كَانَ لَمْ يُشْهَدْ حِينَ طَلَّقَ فَلَيْسَ طَلَّاقُهُ بِشَيْءٍ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Aii ibn al -Hakam from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws} has stated this Hadith. 'Divorce must take place in the presence of two men as well as one's going back to his divorced wife. If he is ignorant (of the need for witness) and goes to bed with his wife, he must also appoint witness for what has happened; she still is his wife. If he had not done (pronounced divorce) in the presence of witnesses, his divorce as such does not have any valid effect.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَمْرِو بْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ وَ مُحَمَّدَ بْنَ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِنْ الطَّلَاقُ لَا يَكُونُ بِغَيْرِ شُهَدَاءٍ وَ إِنْ الرَّجْعَةُ بِغَيْرِ شُهَدَاءٍ رَجْعَةٌ وَ لَكِنْ لَيْشْهَدْ بَعْدَ فَهَوَ أَفْضَلُ

'Udhaynah from Zurarah and Muhammad ibn Muslim who has said the following:

'Abu Ja'far^{asws}, has said, 'Divorce does not take place without witnesses, however, going back to one's wife without witnesses is lawful but having witnesses for it is better.'

4- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَاحِدَةً ثُمَّ رَاجَعَهَا قَبْلَ أَنْ تَنْقُضَ عِدَّتَهَا وَ لَمْ يُشْهَدْ عَلَى رَجْعَتِهَا قَالَ هِيَ امْرَأَتُهُ مَا لَمْ تَنْقُضْ عِدَّتَهَا وَ قَدْ كَانَ يَنْبَغِي لَهُ أَنْ يُشْهَدْ عَلَى رَجْعَتِهَا فَإِنْ جَهِلَ ذَلِكَ فَلْيُشْهَدْ حِينَ عِلْمٍ وَ لَا أَرَى بِالَّذِي صَنَعَ بَاسًا وَ إِنْ كَثِيرًا مِنَ النَّاسِ لَوْ أَرَادُوا الْبَيِّنَةَ عَلَى نِكَاحِهِمُ الْيَوْمَ لَمْ يَجِدُوا أَحَدًا يُثَبِّتُ الشَّهَادَةَ عَلَى مَا كَانَ مِنْ أَمْرِهِمَا وَ لَا أَرَى بِالَّذِي صَنَعَ بَاسًا وَ إِنْ يُشْهَدْ فَهُوَ أَحْسَنُ

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from certain persons of his people from Aban from Muhammad ibn Muslim who has said the following:

'About the case of a man who divorces his wife, abu Ja'far^{asws}, has said, 'Although it is proper to arrange for witness about one's going back to one's wife before the expiration of waiting period, but if one is ignorant one should arrange for witness when he comes to know. However, I do not see any harm in what he has done. Many people, when in need of witnesses, at the time of marriage do not find witnesses for what has happened about their affair. I do not see anything harmful in it but if one finds witness it is better.'

5- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَاحِدَةً قَالَ هُوَ أَمْلَكُ بِرَجْعَتِهَا مَا لَمْ تَنْقُضِ الْعِدَّةَ قُلْتُ فَإِنْ لَمْ يُشْهَدْ عَلَى رَجْعَتِهَا قَالَ فَلْيُشْهَدْ قُلْتُ فَإِنْ غَفَلَ عَنْ ذَلِكَ قَالَ فَلْيُشْهَدْ حِينَ يَذْكُرُ وَ إِنَّمَا جُعِلَ الشُّهُودُ لِمَكَانِ الْمِيرَاثِ

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

'I once asked one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}), possessors of divine supreme covenant, about the case of a man who divorces his wife once. He^{asws} said, 'He has the authority to go back to her before the expiration of waiting period.' I then asked about if he does not arrange witnesses to his going back. He^{asws} said, 'He must do so.' I then asked, 'What happens if he is not attentive to it?' He^{asws} said, 'He must find witness when he remembers; witness is because of inheritance.'

بَابُ أَنَّ الْمُرَاجَعَةَ لَا تَكُونُ إِلَّا بِالْمُوَاقَعَةِ

Revocation of Divorce without Going to Bed is not Valid

1- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُرَاجَعَةُ هِيَ الْجِمَاعُ وَ إِلَّا فَإِنَّمَا هِيَ وَاحِدَةٌ

A number of our people have narrated from Sahi ibn Ziyad and Ali ibn Ibrahim has narrated, from his father from ibn abu Nasr from 'Abd al-Karim from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Going back to one's wife is to go to bed with her, otherwise, it is counted as one divorce.'

2- عَلِيُّ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ع فِي رَجُلٍ يُطَلِّقُ امْرَأَتَهُ لَهُ أَنْ يُرَاجِعَ وَ قَالَ لَا يُطَلِّقُ التَّطْلِيقَةَ الْآخِرَى حَتَّى يَمَسَّهَا

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

'About the ease of a man who divorces his wife, abu 'Abd Allah^{asws}, has said, 'He has the right to go back to his wife. Another divorce cannot take place unless he touches her (goes to bed with her).'

3- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ أُذَيْنَةَ عَنْ بُكَيْرٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ وَ أَشْهَدَ شَاهِدَيْنِ عَدْلَيْنِ فِي قُبُلٍ عِدَّتِهَا فَلَيْسَ لَهُ أَنْ يُطَلِّقَهَا حَتَّى تَنْقَضِيَ عِدَّتُهَا إِلَّا أَنْ يُرَاجِعَهَا

Ali has narrated from his father from ibn abu 'Umayr from ibn Idhaynah from Bukayr who has said the following:

'I once heard abu Ja'far^{asws} saying, 'If one divorces his wife in the presence of two just witnesses at a time when commencement of waiting period is possible, he then cannot divorce her before the end of waiting period unless he goes back to her.'

4- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْفَضْلِ بْنِ شاذَانَ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ يُطَلِّقُ امْرَأَتَهُ فِي طَهْرٍ مِنْ غَيْرِ جِمَاعٍ ثُمَّ يُرَاجِعُهَا فِي يَوْمِهِ ذَلِكَ ثُمَّ يُطَلِّقُهَا ثَبِينَ مِنْهُ بِثَلَاثِ تَطْلِيقَاتٍ فِي طَهْرٍ وَاحِدٍ فَقَالَ خَالَفَ السُّنَّةَ فَلَيْسَ يَنْبَغِي لَهُ إِذَا هُوَ رَاجِعَهَا أَنْ يُطَلِّقَهَا إِلَّا فِي طَهْرٍ فَقَالَ نَعَمْ فَلَنْتُ حَتَّى يُجَامِعَ قَالَ نَعَمْ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan and Muhammad ibn Isma'il has narrated from al-Fadl ibn Shadhan from Safwan from Ishaq ibn 'Ammar who has said the following:

'I once asked abu Ibrahim^{asws}, about the case of a man who divorces his wife in a Hayd (menses)-free period and without sexual intercourse; then goes back to her on the same day then divorces her with three divorces in one Hayd (menses)-free period. He^{asws} said, 'It is against Sunnah.' I then asked, 'Is it not the case that if he goes back to her to divorce her he must do so in a Hayd (menses)-free period?' He^{asws} replied, 'Yes, that is correct.' I then said, 'So that he can go to bed with her.' He^{asws} said, 'Yes, that is correct.'

5- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ ع قَالَ الرَّجْعَةُ الْجِمَاعُ وَ إِلَّا فَإِنَّمَا هِيَ وَاحِدَةٌ

Humayd ibn Ziyad has narrated from ibn Sama'ah from Safwan from ibn Muskan from Ishaq ibn 'Ammar who has said the following:

'Abu al-Hassan^{asws} has said, 'Going back is going to bed with her, otherwise, it is only one divorce.'

بَابُ

False Divorce

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَلَادٍ الْحَنَاطِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ ادَّعَتْ عَلَى زَوْجِهَا أَنَّهُ طَلَّقَهَا تَطْلِيقَةً طَلَّاقِ الْعِدَّةِ طَلَّاقًا صَحِيحًا يَعْنِي عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ وَ أَشْهَدَ لَهَا شُهُودًا عَلَى ذَلِكَ ثُمَّ أَنْكَرَ الزَّوْجُ بَعْدَ ذَلِكَ فَقَالَ إِنْ كَانَ انْكَارُهُ الطَّلَاقَ قَبْلَ انْقِضَاءِ الْعِدَّةِ فَإِنَّ انْكَارَهُ لِلطَّلَاقِ رَجْعَةٌ لَهَا وَإِنْ كَانَ أَنْكَرَ الطَّلَاقَ بَعْدَ انْقِضَاءِ الْعِدَّةِ فَإِنَّ عَلَى الْإِمَامِ أَنْ يُفَرِّقَ بَيْنَهُمَا بَعْدَ شَهَادَةِ الشُّهُودِ بَعْدَ أَنْ يَسْتَحْلِفَ أَنْ انْكَارَهُ لِلطَّلَاقِ بَعْدَ انْقِضَاءِ الْعِدَّةِ وَ هُوَ خَاطِبٌ مِنَ الْخُطَّابِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from abu Wallad al-Hannat who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a woman who claims that her husband has divorced her once in the manner of divorce which requires a waiting period. That it has taken place in the presence of witnesses in a Hayd (menses)-free period and without going to bed, but the husband denies it. He^{asws} said, 'If his denying is before the expiration of waiting period it is (his Ruju') going back to her but if it is after the expiration of waiting period, then it is the task of the Imam to separate them from each other after establishing testimony and after oath. His denying after the expiration of waiting period places him in the position of one of those who may propose marriage with her.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ سَعْدِ بْنِ سَعْدٍ عَنْ الْمَرْزُبَانِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ الرِّضَا ع عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ اعْتَدِي فَقَدْ خَلَيْتُ سَبِيلَكَ ثُمَّ أَشْهَدَ عَلَى رَجْعَتِهَا بَعْدَ ذَلِكَ بِأَيَّامٍ ثُمَّ غَابَ عَنْهَا قَبْلَ أَنْ يُجَامِعَهَا حَتَّى مَضَتْ لِذَلِكَ أَشْهُرٌ بَعْدَ الْعِدَّةِ أَوْ أَكْثَرَ فَكَيْفَ تَأْمُرُهُ قَالَ إِذَا أَشْهَدَ عَلَى رَجْعَتِهِ فَهِيَ زَوْجَتُهُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn Khalid from Sa'd ibn Sa'd from al-Mamibani who has said the following:

'I once asked al-Rida^{asws} about the case of a man who says to his wife, 'I'tad (you must commence waiting period); I have opened your way. In few days he arranges witness for his going back to her; then remains absent from her before going to bed with her until months pass from the waiting period or more. What do you command in the case?' He^{asws} said, 'Since he has arranged for witness about his going back to his wife, she is his wife.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ قَالَ فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ أَشْهَدَ شَاهِدَيْنِ ثُمَّ أَشْهَدَ عَلَى رَجْعَتِهَا سِرًّا مِنْهَا وَ اسْتَكْتَمَ ذَلِكَ الشُّهُودَ فَلَمْ تَعْلَمْ الْمَرْأَةُ بِالرَّجْعَةِ حَتَّى انْقَضَتْ عِدَّتُهَا قَالَ تَخَيَّرُ الْمَرْأَةُ فَإِنْ شَاءَتْ زَوْجَهَا وَ إِنْ شَاءَتْ غَيْرَ ذَلِكَ وَ إِنْ تَزَوَّجَتْ قَبْلَ أَنْ تَعْلَمَ بِالرَّجْعَةِ الَّتِي أَشْهَدَ عَلَيْهَا زَوْجَهَا فَلَيْسَ لِلَّذِي طَلَّقَهَا عَلَيْهَا سَبِيلٌ وَ زَوْجُهَا الْأَخِيرُ أَحَقُّ بِهَا

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Asem ibn Hainid from Muhammad ibn Qays from Abi Ja'far^{asws} who has said the following: 'About the case of a man, who divorces his wife in the presence of two witnesses, and then arranges for witness about his going back to his wife privately without her knowledge. He asks the witnesses to keep it secret from her so she remains uninformed about his revoking the divorce until her waiting period is complete. Abu Ja'far^{asws}, has said, 'She will have the choice to remarry him or someone else. If she marries before learning about the revocation of divorce for which witness was arranged by her husband, then the one who divorced her has no way to her and the other husband is more rightful in the case.'

بَابُ

Divorce at One Time

1- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ غَيْرٍ وَاحِدٍ عَنْ أَبَانَ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ع فِي رَجُلٍ يُطَلِّقُ امْرَأَتَهُ تَطْلِيقَةً ثُمَّ يَدْعُهَا حَتَّى تَمُضِيَ ثَلَاثَةُ أَشْهُرٍ إِلَّا يَوْمًا ثُمَّ يَرَايُهَا فِي مَجْلِسٍ ثُمَّ يُطَلِّقُهَا ثُمَّ فَعَلَ ذَلِكَ فِي آخِرِ الثَّلَاثَةِ الْأَشْهُرِ أَيْضًا قَالَ فَقَالَ إِذَا أَدْخَلَ الرَّجُلُ اعْتَدَّتْ بِالتَّطْلِيقَةِ الْآخِرَةِ وَإِذَا طَلَّقَ بَغَيْرِ رَجْعَةٍ لَمْ يَكُنْ لَهُ طَلَقٌ

Humayd ibn Ziyad has narrated from ibn Sama'ah from more than one person from Aban from Zurarah who has said the following:

'About the case of a man who divorces his wife one divorce, then leaves her for three months minus one day then revokes the divorce in a session then divorces her, then at the end of the third month does so again. He (the narrator) has said that one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}), has said, if he has gone to bed she can count the waiting period from the last divorce; if he has divorced without going back then it does not have any valid effect.'

بَابُ الَّتِي لَا تَحِلُّ لِرَوْجِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ

One Who Is not Lawful for her Husband without Marriage to another Man

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَابٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ع عَنِ الطَّلَاقِ الَّذِي لَا يَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَقَالَ أَخْبِرُكَ بِمَا صَنَعْتُ أَنَا بِامْرَأَةٍ كَانَتْ عِنْدِي وَ أَرَدْتُ أَنْ أُطَلِّقَهَا فَتَرَكَتُهَا حَتَّى إِذَا طَمِئْتُ وَ طَهَّرْتُ طَلَّقْتُهَا مِنْ غَيْرِ جِمَاعٍ وَ أَشْهَدْتُ عَلَى ذَلِكَ شَاهِدَيْنِ ثُمَّ تَرَكَتُهَا حَتَّى إِذَا كَانَتْ أَنْ تَنْقُضِي عِدَّتَهَا رَاجَعْتُهَا وَ دَخَلْتُ بِهَا وَ تَرَكَتُهَا حَتَّى إِذَا طَمِئْتُ وَ طَهَّرْتُ ثُمَّ طَلَّقْتُهَا عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ بِشَاهِدَيْنِ ثُمَّ تَرَكَتُهَا حَتَّى إِذَا كَانَ قَبْلَ أَنْ تَنْقُضِي عِدَّتَهَا رَاجَعْتُهَا وَ دَخَلْتُ بِهَا حَتَّى إِذَا طَمِئْتُ وَ طَهَّرْتُ طَلَّقْتُهَا عَلَى طَهْرٍ بَغَيْرِ جِمَاعٍ بِشُهُودٍ وَ إِنَّمَا فَعَلْتُ ذَلِكَ بِهَا إِنَّهُ لَمْ يَكُنْ لِي بِهَا حَاجَةٌ

Ali ibn Ibrahim has narrated from his father from al-Hassan ibn Mahbub from ibn Ri'ab from abu Basir who has said the following:

'I once asked abu Ja'far^{asws}, about the case of a divorce after the husband cannot marry without her being married to another man. He^{asws} said, 'I can inform you about the woman who was with me and I wanted to divorce her and how I did. I left her until she experienced Hayd (menses) and became clean of Hayd (menses). I divorced her in the presence of two witnesses without a going to bed with her. I then left her until waiting period was almost to expire. I went back to bed with her and then left her until she experienced Hayd (menses) and became clean, I then divorced her in a Hayd (menses)-free period in the presence of two witnesses without going to be with her then left her until her waiting period was almost to expire. I then went back to go to bed with her until she experienced Hayd (menses) and became clean of her Hayd (menses). I then divorced her in a Hayd (menses)-free period in the presence of witnesses without going to bed with her. I did so with her because I was not interested in her.'

2- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ وَ عَلِيِّ بْنِ خَالِدٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قُلْتُ لَهُ الْمَرْأَةُ الَّتِي لَا تَحِلُّ لِرَوْجِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ قَالَ هِيَ الَّتِي تُطَلِّقُ ثُمَّ تُرَاجِعُ ثُمَّ تُطَلِّقُ فَهِيَ الَّتِي لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ قَالَ الرَّجْعَةُ بِالْجِمَاعِ وَ إِلَّا فَإِنَّمَا هِيَ وَاحِدَةٌ

A number of our people have narrated from Sahl ibn Ziyad from ibn abu and Humayd ibn Ziyad from ibn Sama'ah from Ja'far ibn Sama'ah and Ali ibn Khalid from Abd al-Karim from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a woman who cannot become lawful in marriage for her previous husband without marriage with another man. He^{asws} said, 'She is a woman who is divorced, then her husband goes back to her, then is divorced then he goes back to her, then is divorced. She becomes unlawful for him in marriage unless she marries another man.' He^{asws} said that going back to her must be for going to bed with her, otherwise, it is only one divorce.'

3- مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ كُلُّهُمْ عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ عِ الْمَرْأَةُ الَّتِي لَا تَحِلُّ لِزَوْجِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ قَالَ هِيَ الَّتِي تُطْلَقُ ثُمَّ تَرْجَعُ ثُمَّ تُطْلَقُ ثُمَّ تَرْجَعُ ثُمَّ تُطْلَقُ الثَّلَاثَةُ فَهِيَ الَّتِي لَا تَحِلُّ لِزَوْجِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ يَذُوقَ عُسَيْلَتَهَا

Muhammad ibn Ja'far al-Razzaz has narrated from Ayyub ibn Nuh and Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from and Humayd ibn Ziyad from Sama'ah all from Safwan from ibn Muskan from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a woman who cannot become lawful for her previous husband in marriage without marriage with another man. He^{asws} said, 'She is a woman who is divorced and he goes back to her, then divorces her then goes back to her, then divorces for the third time. She becomes unlawful for him in marriage until she marries another man who tastes her honey (goes to bed with her).'

4- صَفْوَانُ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع فِي الرَّجُلِ يُطْلَقُ امْرَأَتَهُ تَطْلِيقَةً ثُمَّ يَرْجِعُهَا بَعْدَ انْقِضَاءِ عِدَّتِهَا فَإِذَا طَلَّقَهَا الثَّلَاثَةَ لَمْ تَحِلَّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَإِذَا تَزَوَّجَهَا غَيْرَهُ وَ لَمْ يَدْخُلْ بِهَا وَ طَلَّقَهَا أَوْ مَاتَ عَنْهَا لَمْ تَحِلَّ لِزَوْجِهَا الْأَوَّلِ حَتَّى يَذُوقَ الْآخَرَ عُسَيْلَتَهَا

Safwan has narrated from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws}, has said, 'If a man divorces his wife once then goes back to her after waiting period is complete, when he divorces her for the third time she cannot become lawful for him in marriage until she marries another man. If another man marries her then divorces her but does not go to bed with her or dies, she does not become lawful for her previous husband until another man tastes her honey (goes to bed after a marriage with her).'

5- صَفْوَانُ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمَطْلُوقَةِ التَّطْلِيقَةَ الثَّلَاثَةَ لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ يَذُوقَ عُسَيْلَتَهَا

Safwan has narrated from ibn Muskan from abu Basir who has said the following:

'About the case of a woman who is divorced for the third time, abu 'Abd Allah^{asws} has said, 'She cannot become lawful in marriage for her previous husband until she marries another man who tastes her honey (goes to bed with her).'

6- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ أَصْبَاطٍ عَنْ عَلِيِّ بْنِ الْفَضْلِ الْوَاسِطِيِّ قَالَ كَتَبْتُ إِلَى الرَّضَا ع رَجُلٌ طَلَّقَ امْرَأَتَهُ الطَّلَاقَ الَّذِي لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَتَزَوَّجَهَا غُلَامٌ لَمْ يَحْتَلِمَ قَالَ لَا حَتَّى يَبْلُغَ فَكَتَبْتُ إِلَيْهِ مَا حَدُّ الْبُلُوغِ فَقَالَ مَا أُوجِبَ عَلَى الْمُؤْمِنِينَ الْحُدُودَ

A number of our people have narrated from Sahl ibn Ziyad from Ali ibn Asbat from Ali ibn al-Fadl al-Wasitiy who has said the following:

'I once wrote to al-Rida^{asws} and asked, 'A man has divorced his wife as such that she cannot become lawful for him in marriage without marriage with another man; but a boy who is not mature married her. He^{asws} replied, 'No, until he becomes mature.' I then wrote and asked, 'What is the limit of maturity?' He^{asws} replied, 'It is that which makes it obligatory for believers to execute penalties.'

بَابُ مَا يَهْدُمُ الطَّلَاقَ وَمَا لَا يَهْدُمُ

Issues that Validate and Invalidate Divorce

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ شُعَيْبِ الْحَدَّادِ عَنْ مُعَلَّى بْنِ خُنَيْسٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ ثُمَّ لَمْ يُرَاجِعْهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ ثُمَّ تَزَوَّجَهَا ثُمَّ طَلَّقَهَا فَتَرَكَهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ مِنْ غَيْرِ أَنْ يُرَاجِعَهَا يَعْنِي يَمَسُّهَا قَالَ لَهُ أَنْ يَتَزَوَّجَهَا أَبَدًا مَا لَمْ يُرَاجِعْ وَ يَمَسَّ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Abd al-Malik ibn al-Mughirah from Shu'ayb al-Haddad from Mu'alla' ibn al-Khunays who has said the following:

'There is a man who divorces his wife and does not go back to her until three Hayd (menses) are complete, then marries her then divorces her and leaves until three Hayd (menses) are complete and does not go back to her. Abu 'Abd Allah^{asws}, has said, 'He can marry forever as long as he does not go back to her to touch.'

2- حُمَيْدُ بْنُ زِيَادٍ عَنْ عُيَيْدِ اللَّهِ بْنِ أَحْمَدَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ شُعَيْبِ الْحَدَّادِ عَنْ مُعَلَّى بْنِ خُنَيْسٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ ثُمَّ لَمْ يُرَاجِعْهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ ثُمَّ تَزَوَّجَهَا ثُمَّ طَلَّقَهَا فَتَرَكَهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ ثُمَّ تَزَوَّجَهَا ثُمَّ لَمْ يُرَاجِعْ وَ يَمَسَّ وَ كَانَ ابْنُ بُكَيْرٍ وَ أَصْحَابُهُ يَقُولُونَ هَذَا فَأَخْبَرَنِي عَبْدُ اللَّهِ بْنُ الْمُغِيرَةِ قَالَ قُلْتُ لَهُ مِنْ أَيْنَ قُلْتَ هَذَا قَالَ فَلْتُهُ مِنْ قِبَلِ رَوَايَةِ رِفَاعَةَ رَوَى عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ يَهْدُمُ مَا مَضَى قَالَ قُلْتُ لَهُ فَإِنْ رِفَاعَةَ إِثْمًا قَالَ طَلَّقَهَا ثُمَّ تَزَوَّجَهَا رَجُلٌ ثُمَّ طَلَّقَهَا ثُمَّ تَزَوَّجَهَا الْأَوَّلُ إِنَّ ذَلِكَ يَهْدُمُ الطَّلَاقَ الْأَوَّلَ

Humayd ibn Ziyad has narrated from 'Ubayd Allah ibn Ahmad from ibn 'Umayr from 'Abd Allah ibn al-Mughirah from Shu'ayb al-Haddad from Mu'alla' ibn al-Khunays who has said the following:

'There is a man who divorces his wife, then does not go back to her until three cycles of Hayd (menses) are complete, then divorces and leaves her until three cycles of Hayd (menses) are complete then marries her then divorces without going back to her and leaves until three cycles of Hayd (menses) are complete. Abu 'Abd Allah^{asws} has said, 'He can marry her forever as long as he does not go back and touch her.' Ibn Bu-kayr and his companions were of this opinion and 'Abd Allah ibn al-Mughirah narrated it to me that he asked, 'On what basis do you say so?' He replied, 'I say so on the basis of Hadith narrated by Rifa'ah who has narrated from abu 'Abd Allah^{asws}, that it destroys what is passed. He (the narrator) has said, that Rifa'ah has only said, 'He divorced, then another man married her, then divorced; then the first man married her and this destroys the first 'Talaq' (divorce).'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ وَ صَفْوَانَ عَنْ رِفَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ حَتَّى بَازَتْ مِنْهُ وَ انْقَضَتْ عِدَّتُهَا ثُمَّ تَزَوَّجَتْ زَوْجًا آخَرَ فَطَلَّقَهَا أَيْضًا ثُمَّ تَزَوَّجَهَا الْأَوَّلُ أ يَهْدُمُ ذَلِكَ الطَّلَاقَ الْأَوَّلَ قَالَ نَعَمْ قَالَ ابْنُ سَمَاعَةَ وَ كَانَ ابْنُ بُكَيْرٍ يَقُولُ الْمُطَلَّقةُ إِذَا طَلَّقَهَا زَوْجَهَا ثُمَّ تَرَكَهَا حَتَّى تَبَيَّنَ ثُمَّ تَزَوَّجَهَا فَإِذَا هِيَ عَنْدهُ عَلَى طَلَقٍ مُسْتَأْنَفٍ قَالَ ابْنُ سَمَاعَةَ وَ ذَكَرَ الْحُسَيْنُ بْنُ هَاشِمٍ أَنَّهُ سَأَلَ ابْنَ بُكَيْرٍ عَنْهَا فَأَجَابَهُ بِهَذَا الْجَوَابِ فَقَالَ لَهُ سَمِعْتُ فِي هَذَا شَيْئًا فَقَالَ رَوَايَةُ رِفَاعَةَ فَقَالَ ابْنُ سَمَاعَةَ رَوَى إِذَا دَخَلَ بَيْنَهُمَا زَوْجٌ فَقَالَ زَوْجٌ وَ غَيْرُ زَوْجٍ عِنْدِي سَوَاءٌ قُلْتُ سَمِعْتُ فِي هَذَا شَيْئًا فَقَالَ لَا هَذَا مِمَّا رَزَقَ اللَّهُ عَزَّ وَ جَلَّ مِنَ الرَّأْيِ قَالَ ابْنُ سَمَاعَةَ وَ لَيْسَ نَأْخُذُ بِقَوْلِ ابْنِ بُكَيْرٍ فَإِنَّ الرِّوَايَةَ إِذَا كَانَ بَيْنَهُمَا زَوْجٌ

Humayd ibn Ziyad has narrated from Sama'ah from Muhammad ibn Ziyad and Safwan from Rifa'ah who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a man who divorces his wife and she becomes stranger to him because of the expiration of her waiting period; then another man marries her who divorces her also; then she marries the first husband: if it destroys the first divorce. He^{asws} said, 'Yes, it destroys the first divorce.' Ibn Sama'ah has said that ibn Bukayr would say, 'If a divorced woman is divorced by her husband. then leaves her until she becomes stranger to him, then marries her, she then can live with him on the basis of a new divorce. Ibn Sama'ah has said that al-Husayn ibn Hashim has mentioned that he asked ibn Bukayr who gave this answer and he then asked, 'Have you heard

anything about it?' He replied, 'No. it is what Allah^{azwj}, has granted in the form of opinion.' Ibn Sama'ah has said, 'We do not accept the words of ibn Bukayr; in fact Hadith says, 'If there is a husband between them.'

4- مُحَمَّدُ بْنُ أَبِي عَبْدِ اللَّهِ عَنْ مُعَاوِيَةَ بْنِ حُكَيْمٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ قَالَ سَأَلْتُ عَبْدَ اللَّهِ بْنَ بُكَيْرٍ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَاحِدَةً ثُمَّ تَرَكَهَا حَتَّى بَانَتْ مِنْهُ ثُمَّ تَزَوَّجَهَا قَالَ هِيَ مَعَهُ كَمَا كَانَتْ فِي التَّرْوِيجِ قَالَ قُلْتُ لَهُ فَإِنْ رَوَايَةَ رِفَاعَةَ إِذَا كَانَ بَيْنَهُمَا زَوْجٌ فَقَالَ لِي عَبْدُ اللَّهِ هَذَا زَوْجٌ وَهَذَا مِمَّا رَزَقَ اللَّهُ مِنَ الرَّأْيِ وَمَتَى مَا طَلَّقَهَا وَاحِدَةً فَبَانَتْ مِنْهُ ثُمَّ تَزَوَّجَهَا زَوْجٌ آخَرَ ثُمَّ طَلَّقَهَا تَزَوَّجَهَا الْأَوَّلَ فَهِيَ عِنْدَهُ مُسْتَقْبَلَةٌ كَمَا كَانَتْ قَالَ فَقُلْتُ لِعَبْدِ اللَّهِ هَذَا بِرَوَايَةٍ مَنْ فَقَالَ هَذَا مِمَّا رَزَقَ اللَّهُ قَالَ مُعَاوِيَةُ بْنُ حُكَيْمٍ رَوَى أَصْحَابُنَا عَنْ رِفَاعَةَ بْنِ مُوسَى أَنَّ الزَّوْجَ يَهْدِمُ الطَّلَاقَ الْأَوَّلَ فَإِنْ تَزَوَّجَهَا فَهِيَ عِنْدَهُ مُسْتَقْبَلَةٌ فَقَالَ أَبُو عَبْدِ اللَّهِ ع يَهْدِمُ الثَّلَاثَ وَلَا يَهْدِمُ الْوَاحِدَةَ وَالثَّنَيْنِ وَرَوَايَةَ رِفَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع هُوَ الَّذِي احْتَجَّ بِهِ ابْنُ بُكَيْرٍ

Muhammad ibn abu 'Abd Allah has narrated from Mu'awiyah ibn Hakam from 'Abd Allah ibn al-Mughirah who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a man who divorces his wife and leaves until she becomes stranger to him, then marries her. He^{asws} said, 'She can live with him just as she did with marriage.' I then said, 'Hadith of Rifa'ah says, 'If there is a husband in between.' Then 'Abd Allah^{asws} said to me, 'This is husband and it is what Allah^{azwj} has granted of opinion. Whenever he divorces once and then she becomes stranger to him, then another man marries her then her husband divorces, then she marries the first husband she can live with him accepted as she was.' I then asked 'Abd Allah^{asws}, 'According to whose Hadith is this?' He^{asws} replied, 'It is what Allah^{azwj} has granted.' Mu'awiyah ibn Hukaym has said that our people have narrated from Rifa'ah ibn Musa that husband destroys the first divorce and if he marries her she lives with him accepted.' Abu 'Abd Allah^{asws}, then said, 'Three divorces destroy but not one and two.' Hadith of Rifa'ah from abu 'Abd Allah^{asws}, is the one on the basis of which ibn Bukayr has argued.'

بَابُ الْغَائِبِ يَقْدَمُ مِنْ غَيْبَتِهِ فَيُطَلِّقُ عِنْدَ ذَلِكَ أَنَّهُ لَا يَقَعُ الطَّلَاقُ حَتَّى تَحِيضَ وَتَطْهَرَ

An Absent Man Returns and Divorces at that Time that Divorce Does not Take Place until She Experiences Hayd (menses)

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ حَجَّاجِ الْخَشَّابِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ كَانَ فِي سَفَرٍ فَلَمَّا دَخَلَ الْمَصْرَ جَاءَ مَعَهُ بِشَاهِدَيْنِ فَلَمَّا اسْتَقْبَلَتْهُ امْرَأَتُهُ عَلَى الْبَابِ أَشْهَدَهُمَا عَلَى طَلَاقِهَا قَالَ لَا يَقَعُ بِهَا طَلَاقٌ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from al-Hajaj al-Khashshab who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a man who is on a journey and when he enters the city he brings two witnesses, and when his wife comes to the door he asks them to bear witness to the divorce. He^{asws} said, 'Divorce does not take place in this way.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنِ الْحَكَمِ بْنِ مِسْكِينَ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا غَابَ الرَّجُلُ عَنْ امْرَأَتِهِ سَنَةً أَوْ سَنَتَيْنِ أَوْ أَكْثَرَ ثُمَّ قَدِمَ وَارَادَ طَلَاقَهَا وَكَانَتْ حَائِضًا تَرَكَهَا حَتَّى تَطْهَرَ ثُمَّ يُطَلِّقُهَا

Muhammad ibn Yahya ibn al-Husayn has narrated from Hakam ibn Miskin from Mu'awiyah ibn 'Ammar who has said the following:

'Abu 'Abd Allah^{asws} has said: 'When a man is absent from his wife for one year or two years or more, then comes and wants to divorce her when she is experiencing Hayd (menses), he must leave her until she becomes clean, then divorce her.'

بَابُ النِّسَاءِ اللَّاتِي يُطَلِّقَنَّ عَلَى كُلِّ حَالٍ

Women who Can be Divorced in all Conditions

1- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ع قَالَ خَمْسٌ يُطَلَّقُهُنَّ الرَّجُلُ عَلَى كُلِّ حَالٍ الْحَامِلُ وَ الَّتِي لَمْ يَدْخُلْ بِهَا زَوْجُهَا وَ الغَائِبُ عَنْهَا زَوْجُهَا وَ الَّتِي لَمْ تَحِضْ وَ الَّتِي قَدْ يَبَسَتْ مِنَ الْحَيْضِ

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from Jamil ibn Darraj from 'Isma'il al-Ju'fiy who has said the following:

'Abu Ja'far^{asws}, has said, 'A man can divorce five kinds of women in all conditions: They are pregnant women, women with whom one has not gone to bed, those whose husbands are absent, those who do not experience Hayd (menses) and those in their menopause.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا بَأْسَ بِطَلَّاقِ خَمْسٍ عَلَى كُلِّ حَالٍ الغَائِبُ عَنْهَا زَوْجُهَا وَ الَّتِي لَمْ تَحِضْ وَ الَّتِي لَمْ يَدْخُلْ بِهَا زَوْجُهَا وَ الْحَبْلَى وَ الَّتِي قَدْ يَبَسَتْ مِنَ الْمَحِيضِ

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

'Abu 'Abd Allah^{asws}, has said, 'It is not unlawful to divorce five kinds of women in all conditions. They are those whose husbands are absent, those who do not experience Hayd (menses), women with whom one has not gone to bed, pregnant women, and those in their menopause.'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ جَمِيلِ بْنِ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ع قَالَ خَمْسٌ يُطَلَّقْنَ عَلَى كُلِّ حَالٍ الْحَامِلُ وَ الغَائِبُ عَنْهَا زَوْجُهَا وَ الَّتِي لَمْ تَحِضْ وَ الَّتِي قَدْ يَبَسَتْ مِنَ الْمَحِيضِ وَ الَّتِي لَمْ يَدْخُلْ بِهَا عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ع مِثْلَهُ

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah and Ja'far ibn Sama'ah from Jamil from 'Isma'il al-Ju'fiy who has said the following:

'Abu Ja'far^{asws} has said, 'Five kinds of women can be divorced in all conditions. They are pregnant women, those whose husbands are absent, those who do not experience Hayd (menses), those in their menopause and women with whom one has not gone to bed,' Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil from Isma'il al-Ju'fiy a similar Hadith.

بَابُ طَلَّاقِ الغَائِبِ

Divorce by an Absent Husband

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ عَنْ بُكَيْرٍ قَالَ أَشْهَدُ عَلَى أَبِي جَعْفَرٍ ع أَنِّي سَمِعْتُهُ يَقُولُ الغَائِبُ يُطَلَّقُ بِالأَهْلَةِ وَ الشُّهُورِ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn 'Udhaynah from Zurarah from ibn Bukayr who has said the following: 'I can testify that I heard abu Ja'far^{asws}, saying, 'A man absent from his wife can divorce her by counting new moons and months.'

الكافي ج : 6 ص : 80

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ الْحُسَيْنِ بْنِ عُثْمَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الغَائِبُ إِذَا أَرَادَ أَنْ يُطَلِّقَهَا تَرَكَهَا شَهْرًا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from al-Husayn ibn 'Uthman from Ishaq ibn 'Ammar who has said the following: 'Abu 'Abd Allah^{asws}, has said, 'If a man who is absent from his wife wants to divorce her, he can do so and he must leave her for one month.'

3- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْزَةَ وَحُسَيْنِ بْنِ عُثْمَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْغَائِبُ إِذَا أَرَادَ أَنْ يُطَلِّقَهَا تَرَكَهَا شَهْرًا

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

'Abu 'Abd Allah^{asws} has said, 'If a man who is absent from his wife wants to divorce her, he can do so and he must leave her for one month.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ الْحَسَنِ بْنِ صَالِحٍ قَالَ سَأَلْتُ جَعْفَرَ بْنَ مُحَمَّدٍ ع عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَهُوَ غَائِبٌ فِي بَلَدٍ أُخْرَى وَ أَشْهَدَ عَلَى طَلَّاقِهَا رَجُلَيْنِ ثُمَّ إِنَّهُ رَاجَعَهَا قَبْلَ انْقِضَاءِ الْعِدَّةِ وَلَمْ يُشْهَدْ عَلَى الرَّجْعَةِ ثُمَّ إِنَّهُ قَدِمَ عَلَيْهَا بَعْدَ انْقِضَاءِ الْعِدَّةِ وَ قَدْ تَزَوَّجَتْ رَجُلًا فَأَرْسَلَ إِلَيْهَا أَنِّي قَدْ كُنْتُ رَاجِعُكَ قَبْلَ انْقِضَاءِ الْعِدَّةِ وَلَمْ أَشْهَدْ قَالَ فَقَالَ لَا سَبِيلَ لَهُ عَلَيْهَا لِأَنَّهُ قَدْ أَقْرَأَ بِالطَّلَاقِ وَ ادَّعَى الرَّجْعَةَ بغيرِ بَيِّنَةٍ فَلَا سَبِيلَ لَهُ عَلَيْهَا وَلِذَلِكَ يَنْبَغِي لِمَنْ طَلَّقَ أَنْ يُشْهَدْ وَلِمَنْ رَاجَعَ أَنْ يُشْهَدْ عَلَى الرَّجْعَةِ كَمَا أَشْهَدَ عَلَى الطَّلَاقِ وَإِنْ كَانَ قَدْ أَدْرَكَهَا قَبْلَ أَنْ تَزَوَّجَ كَانَ خَاطِبًا مِنَ الْخُطَّابِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from al-Hassan ibn Salih who has said the following:

'I once asked abu Ja'far^{asws}, about the case of a man who divorces his wife when he is absent from her. He is in another city and has two men as witness about his divorce; then he goes back to her without witness. After expiration of waiting period he comes and finds out that she has married another man. He sends a message to her informing her about his revoking the divorce before the expiration of waiting period without witnesses. He (the narrator) has said that he^{asws} said, 'He has no way to her because he has confirmed divorce and has claimed revocation without witness, thus, he has no way to her. It is proper for one who divorces or revokes divorce to have witness about revocation like divorce. Had he been there before her marriage he could have been one of those who proposes to her for marriage.'

5- عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ ابْنِ مُسْكَانَ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَهُوَ غَائِبٌ وَ أَشْهَدَ عَلَى طَلَّاقِهَا ثُمَّ قَدِمَ فَأَقَامَ مَعَ الْمَرْأَةِ أَشْهُرًا لَمْ يَعْلَمْهَا بِطَلَّاقِهَا ثُمَّ إِنَّ الْمَرْأَةَ ادَّعَتْ الْحَبْلَ فَقَالَ الرَّجُلُ قَدْ طَلَّقْتُكَ وَ أَشْهَدْتُ عَلَى طَلَّاقِكَ قَالَ يُزِمُ الْوَلَدُ وَ لَا يُقْبَلُ قَوْلُهُ

Ali ibn Ibrahim has narrated from his father from 'Isma'il ibn Marrar from Yunus from ibn Muskan from Sulayman ibn Khalid who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a man who divorces his wife when he is absent from her. He arranges witnesses about his divorce; then he comes home and stays with her for months without informing her of divorce and the woman claims to have become pregnant but the man says. 'I had divorced you in the presence of witnesses. He^{asws} said, 'He is responsible for the child and his words are not accepted.'

6- عَلِيٌّ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع مَا تَقُولُ فِي رَجُلٍ لَهُ أَرْبَعُ نِسْوَةٍ طَلَّقَ وَاحِدَةً مِنْهُنَّ وَهُوَ غَائِبٌ عَنْهُنَّ مَتَى يَجُوزُ لَهُ أَنْ يَتَزَوَّجَ قَالَ بَعْدَ تِسْعَةِ أَشْهُرٍ وَ فِيهَا أَجْلَانِ فُسَادُ الْحَيْضِ وَ فُسَادُ الْحَمْلِ

Ali has narrated from his father from Ahmad ibn Muhammad from Hammad ibn 'Uthman who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a man who has four wives, of whom he divorces one when he is absent from them. When is it permissible for him to marry? He^{asws} said, 'He can do so after nine months because there are two appointed times, the irregularity of Hayd (menses) and the irregularity of pregnancy.'

7- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ وَهُوَ غَائِبٌ قَالَ يَجُوزُ طَلَّاقُهُ عَلَى كُلِّ حَالٍ وَ تَعَدُّ امْرَأَتُهُ مِنْ يَوْمِ طَلَّقَهَا

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

'I once asked one of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}), about the case of a man who divorces his wife when he is absent from her. He^{asws} said, 'His

divorce is permissible in all conditions and his wife commences waiting period from the day of divorce.'

8- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ قَالَ سَأَلْتُ مُحَمَّدَ بْنَ أَبِي حَمَزَةَ مَتَى يُطَلَّقُ الْغَائِبُ قَالَ حَدَّثَنِي إِسْحَاقُ بْنُ عَمَّارٍ أَوْ رَوَى إِسْحَاقُ بْنُ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ عَ أَوْ أَبِي الْحَسَنِ عَ قَالَ إِذَا مَضَى لَهُ شَهْرٌ

Humayd ibn Ziyad has narrated from ibn Sama'ah who has said the following:

'I once asked Muhammad ibn abu Hamzah about when a man absent from his wife can divorce. He said that Ishaq ibn 'Ammar narrated to him from abu 'Abd Allah^{asws}, or abual-Hassan^{asws}, who said that he can do so after one month.'

9- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ مَهْزِيَارٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْأَشْعَرِيِّ قَالَ كَتَبَ بَعْضُ مَوَالِينَا إِلَى أَبِي جَعْفَرٍ عَ أَنْ مَعِيَ امْرَأَةٌ عَارِفَةٌ أَحَدَتْ زَوْجَهَا فَهَرَبَ عَنِ الْبِلَادِ فَتَبِعَ الزَّوْجَ بَعْضُ أَهْلِ الْمَرْأَةِ فَقَالَ إِمَّا طَلَقْتَ وَإِمَّا رَدَدْتِكِ فَطَلَقَهَا وَ مَضَى الرَّجُلُ عَلَى وَجْهِهِ فَمَا تَرَى لِلْمَرْأَةِ فَكَتَبَ بِخَطِّهِ تَزَوَّجِي بِرَحْمَةِ اللَّهِ

A number of our people have narrated from Sahl ibn Ziyad and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn Mahzsyar from Muhammad ibn al-Hassan al-Ash'ariy who has said the following:

'A certain one of our Mawali once wrote to abu Ja'far^{asws}, asking, 'With me there is a woman who is knowledgeable, whose husband created something unpopular and ran away from the land. Certain ones of the people of the woman followed him and told him to divorce or that he is returned back. He then divorced and himself went his own way. What is your instruction for the woman?' He^{asws} wrote in his handwriting, 'You can marry, may Allah be kind to you.'

بَابُ طَلَاكِ الْحَامِلِ

Divorce of a Pregnant Woman

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ الْخُبْلَى تُطَلَّقُ تَطْلِيقَةً وَاحِدَةً

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from abu Basir who has said the following: 'Abu 'Abd Allah^{asws}, has said, 'A pregnant woman is divorced once.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَرِيعٍ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ طَلَاكِ الْحَامِلِ وَاحِدَةٌ وَ عِدَّتُهَا أَقْرَبُ الْأَجَلَيْنِ

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

'Abu 'Abd Allah^{asws}, has said, 'Divorce of a pregnant woman is once and her waiting period is the closest of the two periods, (that is, childbirth or three months),'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ جَمِيلٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ عَ قَالَ طَلَاكِ الْخُبْلَى وَاحِدَةٌ فَإِذَا وَضَعَتْ مَا فِي بَطْنِهَا فَقَدْ بَاءَتْ

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from 'Abd Allah ibn Jabalah and Ja'far ibn Sama'ah from Jamil from 'Isma'il al-Ju'fiy 'Isma'il who has said the following:

'Abu Ja'far^{asws}, has said, 'Divorce of a pregnant woman is one and when she gives birth to what is inside her, she becomes stranger to him.'

4- وَ عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ صَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ بُكَيْرٍ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ الْخُبْلَى تُطَلَّقُ تَطْلِيقَةً وَاحِدَةً

It is narrated from the narrator of the previous Hadith from 'Abd Allah ibn Jabalah and from Safwan ibn Yahya from ibn Bukayr from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'A pregnant woman is divorced once.'

5- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ جَمِيلٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ع قَالَ طَلَقُ الْحَامِلِ وَاحِدَةٌ فَإِذَا وَضَعَتْ مَا فِي بَطْنِهَا فَقَدْ بَانَتْ مِنْهُ

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from Jamil from 'Isma'il al-Ju'fiy who has said the following:

'Abu Ja'far^{asws}, has said, 'Divorce of a pregnant woman is one and when she gives birth she become stranger to him.'

6- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ جَمِيعًا عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ع طَلَقُ الْحُبْلَى وَاحِدَةٌ وَأَجَلُهَا أَنْ تَضَعَ حَمْلَهَا وَ هُوَ أَقْرَبُ الْأَجَلَيْنِ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and abu al-'Abbas al-Razzaz from Ayyub ibn Nuh all from Safwan from ibn Muskan from abu Basir who has said the following:

'Abu 'Abd Allah^{asws}, has said, 'Divorce of a pregnant woman is one and her waiting period is childbirth, if it is the nearer of the two.'

7- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ طَلَقِ الْحُبْلَى فَقَالَ وَاحِدَةٌ وَأَجَلُهَا أَنْ تَضَعَ حَمْلَهَا

A number of our people have narrated from Ahmad ibn Muhammad from ibn Khalid and Ali ibn Ibrahim has narrated from his father from all from 'Uthman ibn 'Isa from Sama'ah who has said the following:

'I once asked him^{asws}, about the divorce of a pregnant woman. He^{asws} said, 'It is one and her waiting period is childbirth.'

8- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ طَلَقُ الْحُبْلَى وَاحِدَةٌ وَأَجَلُهَا أَنْ تَضَعَ حَمْلَهَا وَ هُوَ أَقْرَبُ الْأَجَلَيْنِ

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

'Abu 'Abd Allah^{asws}, has said, 'Divorce of a pregnant woman is one and her waiting period ends with childbirth if it is the nearer of the two.'

9- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنِ الْحُسَيْنِ بْنِ هَاشِمٍ وَ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي الْحَسَنِ ع قَالَ سَأَلْتُهُ عَنْ الْحُبْلَى إِذَا طَلَّقَهَا زَوْجُهَا فَوَضَعَتْ سِقْطًا تَمَّ أَوْ لَمْ يَتِمَّ أَوْ وَضَعَتْهُ مُضْغَةً قَالَ كُلُّ شَيْءٍ وَضَعَتْهُ يَسْتَبِينُ أَنَّهُ حَمْلٌ تَمَّ أَوْ لَمْ يَتِمَّ فَقَدْ انْقَضَتْ عِدَّتُهَا وَ إِنْ كَانَتْ مُضْغَةً

Humayd ibn Ziyad has narrated from ibn Sama'ah from al-Husayn ibn al-Hashim and Muhammad ibn Ziyad from 'Abd al-Rahman ibn al-Hajjz who has said the following:

'I once asked abu al-Hassan^{asws} about the case of a woman who is pregnant: if her husband divorces her and she-gives birth prematurely or by abortion or it is just a lump. He^{asws} said, 'Whatever she gives birth to shows that she was pregnant, complete or not. Her waiting period is complete even if it is a lump.'

10- وَ عَنْهُ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ عَلِيٍّ بْنِ عِمْرَانَ الشَّقَا عَنْ رَبِيعِ بْنِ عَبْدِ اللَّهِ ع عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ الْبَصْرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هِيَ حُبْلَى وَ كَانَ فِي بَطْنِهَا اثْنَانِ فَوَضَعَتْ وَاحِدًا وَ بَقِيَ وَاحِدٌ قَالَ قَالَ نَبِيُّنَ بِالْأَوَّلِ وَ لَا تَحِلُّ لِلزَّوْجِ حَتَّى تَضَعَ مَا فِي بَطْنِهَا

It is narrated from the narrator of the previous Hadith from Ja'far ibn Sama'ah from Ali 'hnan al-Shifa' from Rib'iy ibn 'Abd Allah from 'Abd al-Rahman ibn abu 'Abd Allah al-Basriy who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his pregnant wife with two children in her womb. She gives birth to one and one remains. He^{asws} said, 'She becomes stranger with the birth of one child and she is not lawful for marriage until the birth of the other child,'

11- وَ عَنْهُ عَنْ صَفْوَانَ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِذَا طَلَّقَتِ الْمَرْأَةُ وَ هِيَ حَامِلٌ فَأَجَلُهَا أَنْ تَضَعَ حَمْلَهَا وَ إِنْ وَضَعَتْ مِنْ سَاعَتِهَا

It is narrated from the narrator of the previous Hadith from Safwan from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'If a woman is divorced when she is pregnant her waiting period is childbirth even if she gives birth in the same hour.'

12- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ يَزِيدَ الْكُنَاسِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ عَ عَنْ طَلَاقِ الْحَبْلَى فَقَالَ يُطَلِّقُهَا وَاحِدَةً لِلْعِدَّةِ بِالشُّهُورِ وَ الشُّهُورِ قُلْتُ لَهُ قُلْتُ أَنْ يُرَاجِعَهَا قَالَ نَعَمْ وَ هِيَ أَمْرَأَتُهُ قُلْتُ فَإِنْ رَاجَعَهَا وَ مَسَّهَا ثُمَّ أَرَادَ أَنْ يُطَلِّقَهَا تُطَلِّقُهَا أُخْرَى قَالَ لَا يُطَلِّقُهَا حَتَّى يَمُضِيَ لَهَا بَعْدَ مَا مَسَّهَا شَهْرٌ قُلْتُ فَإِنْ طَلَّقَهَا ثَانِيَةً وَ أَشْهَدَ ثُمَّ رَاجَعَهَا وَ أَشْهَدَ عَلَى رَجْعَتِهَا وَ مَسَّهَا ثُمَّ طَلَّقَهَا التَّطْلِيقَةَ الثَّالِثَةَ وَ أَشْهَدَ عَلَى طَلَاقِهَا لِكُلِّ عِدَّةٍ شَهْرٌ هَلْ تَبِينُ مِنْهُ كَمَا تَبِينُ الْمُطَلَّاقَةُ عَلَى الْعِدَّةِ الَّتِي لَا تَحِلُّ لِزَوْجِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ قَالَ نَعَمْ قُلْتُ فَمَا عِدَّتُهَا قَالَ عِدَّتُهَا أَنْ تَضَعَ مَا فِي بَطْنِهَا ثُمَّ قَدْ حَلَّتْ لِلزَّوْجِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father from ibn Mahbub from abu Ayyub al-Khazzaz from Yazid al-Kunasiy who has said the following:

'I once asked abu Ja'far^{asws} about the divorce of a pregnant woman. He^{asws} said, 'She is divorced once for waiting period by months and in the presence of witnesses.' I then asked, 'Can he go back to her?' He^{asws} said, 'Yes, she is his wife.' (I then asked,) 'What happens if he revokes the divorce, then decides to divorce once more?' He^{asws} said, 'He cannot divorce until a month passes after he has touched her.' I then asked, 'What happens if he divorces for the second time and arranges for witness about his revoking the divorce and touches her? Then he divorces for the third time in the presence of witnesses for waiting period of even' month: if she becomes stranger like the woman who is divorced with waiting period because of which she is not lawful for her husband until she marries another man.' He^{asws} said, 'Yes. it can happen.' I then asked, 'What is her waiting period?' He^{asws} said, 'Her waiting period is giving birth to what is in her womb; then she becomes lawful for whoever wants to marry her.'

بَابُ طَلَاقِ الَّتِي لَمْ يَدْخُلْ بِهَا

Divorce of a Woman whose Marriage is not Consummated

1- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ إِذَا طَلَّقَ أَمْرَأَتَهُ وَ لَمْ يَدْخُلْ بِهَا فَقَالَ قَدْ بَانَتْ مِنْهُ وَ تَزَوَّجَ إِنْ شَاءَتْ مِنْ سَاعَتِهَا

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father from ibn abu Nasr from 'Abd al-Karim from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife with whom he has not gone to bed. He^{asws} said, 'She becomes stranger to him and she can marry in the same hour after divorce.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا عَ أَنَّهُ قَالَ إِذَا طَلَّقَتِ الْمَرْأَةُ الَّتِي لَمْ يَدْخُلْ بِهَا بَانَتْ بِتَطْلِيقِهَا وَاحِدَةً

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

'One of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'If a woman with whom her husband has not gone to bed is divorced, she becomes stranger to him by one divorce.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ إِذَا طَلَّقَ الرَّجُلُ أَمْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا فَلَيْسَ عَلَيْهَا عِدَّةُ تَزَوُّجٍ مِنْ سَاعَتِهَا وَ تَبِينُهَا تَطْلِيقُهَا وَاحِدَةً وَ إِنْ كَانَ قَرَضَ لَهَا مَهْرًا فَلَهَا نِصْفُ مَا قَرَضَ

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

'Abu 'Abd Allah^{asws} has said, 'If a man divorces his wife before going to bed with her, she does not need to wait for a waiting period. She can marry in the same hour after divorce if she wants. With one divorce she becomes stranger to him and if mahr (dower) is set for her, she deserves half of such mahr (dower).'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ وَ عَلِيٍّ بْنِ رَبَّابٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ع فِي رَجُلٍ تَزَوَّجَ امْرَأَةً بَكَرًا ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا ثَلَاثَ تَطْلِيقَاتٍ كُلَّ شَهْرٍ تَطْلِيقَةً قَالَ بَأَنْتَ مِنْهُ فِي التَّطْلِيقَةِ الْأُولَى وَ اثْنَتَانِ فَضْلٌ وَ هُوَ خَاطِبٌ يَتَزَوَّجُهَا مَتَى شَاءَتْ وَ شَاءَ بِمَهْرٍ جَدِيدٍ قِيلَ لَهُ قُلْهُ أَنْ يُرَاجِعَهَا إِذَا طَلَّقَهَا تَطْلِيقَةً قَبْلَ أَنْ تَمُضِيَ ثَلَاثَةُ أَشْهُرٍ قَالَ لَا إِنَّمَا كَانَ يَكُونُ لَهُ أَنْ يُرَاجِعَهَا لَوْ كَانَ دَخَلَ بِهَا أَوَّلًا فَأَمَّا قَبْلَ أَنْ يَدْخُلَ بِهَا فَلَا رَجْعَةَ لَهُ عَلَيْهَا قَدْ بَأَنْتَ مِنْهُ مِنْ سَاعَةٍ طَلَّقَهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from abu Ayyub and ibn Ri'ab from Zurarah who has said the following:

'There is the case of a man who marries a virgin woman, then divorces her before going to bed with her three divorces, one divorce every month. One of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'With the first divorce she becomes stranger to him and the other two are extra. He is one of those who may propose marriage when he wants with new mahr (dower).' It then was asked from him^{asws}, 'Can he go back to her before the passing of three months?' He^{asws} said, 'No, he cannot do so. He could have done so if he were to go to bed with her before, but with a divorce without going to bed with her he cannot revoke and she becomes stranger to him in the same hour of his divorcing.'

5- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ الْحَسَنِ بْنِ عَلِيٍّ بْنِ عَبْدِ اللَّهِ عَنْ عُبَيْسِ بْنِ هِشَامٍ عَنْ ثَابِتِ بْنِ شَرِيحٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا تَزَوَّجَ الرَّجُلُ الْمَرْأَةَ فَطَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا فَلَيْسَ عَلَيْهَا عِدَّةٌ وَ تَزَوَّجُ مَنْ شَاءَتْ مِنْ سَاعَتِهَا وَ تُبَيِّئُهَا تَطْلِيقَةً وَاحِدَةً حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ صَالِحِ بْنِ خَالِدٍ وَ عُبَيْسِ بْنِ هِشَامٍ عَنْ ثَابِتِ بْنِ شَرِيحٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع مِثْلُهُ

Abu Ali al-Ash'ariy has narrated from al-Hassan ibn Ali ibn 'Abd Allah from 'Ubays ibn Hisham from Thabit ibn Shurayh from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If a man marries a woman, then divorces before going to bed with her, she then does not need to count her waiting period. She can marry whomever she wants in the same hour after divorce and she becomes stranger to him by one divorce.' Humayd ibn Ziyad has narrated from ibn Sama'ah from Salih ibn Khalid and 'Ubays ibn Hisham from Thabil ibn Shurayh from abu Basir from abu 'Abd Allah^{asws} a similar Hadith .

6- أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا تَطْلِيقَةً وَاحِدَةً فَقَدْ بَأَنْتَ مِنْهُ وَ تَزَوَّجُ مَنْ سَاعَتِهَا إِنْ شَاءَتْ

Abu al-'Abbas al-Razzaz has narrated from Ayyub ibn Null and Humayd ibn Ziyad from ibn Sama'ah from Safwan from ibn Muskan from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If a man divorces his wife before going to bed with her with one divorce, she becomes stranger to him in the same hour after divorce. She can marry someone if she wants.'

7- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيٍّ بْنِ الْحَكَمِ عَنْ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ الْعِدَّةُ مِنَ الْمَاءِ

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

'One of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'Waiting period is because of water (seed, semen).'

بَابُ طَلَاقِ الَّتِي لَمْ تَبْلُغْ وَ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ
Divorce of one who is not Mature yet and Divorce of one after Menopause

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا ع فِي الرَّجُلِ يُطَلِّقُ الصَّبِيَّةَ الَّتِي لَمْ تَبْلُغْ وَ لَا تُحْمِلُ مِثْلَهَا وَ قَدْ كَانَ دَخَلَ بِهَا وَ الْمَرْأَةُ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ وَ ارْتَفَعَ حَيْضُهَا فَلَا تَلِدُ مِثْلَهَا قَالَ لَيْسَ عَلَيْهِمَا عِدَّةٌ وَ إِنْ دَخَلَ بِهِمَا مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا مِثْلُهُ

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

'There is the case of a man who divorces a girl who is not mature yet and the like of whom cannot become pregnant, but he has gone to bed with her and a woman after menopause when women of her condition cannot give birth. One of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'There is no waiting period for them.' Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn Hadid from Jamil ibn Darraj from certain persons of our people a similar Hadith.

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنْ رَوَاهُ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الصَّبِيَّةِ الَّتِي لَا تَحِيضُ مِثْلَهَا وَ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ قَالَ لَيْسَ عَلَيْهِمَا عِدَّةٌ وَ إِنْ دَخَلَ بِهِمَا

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from Hammad ibn 'Uthman from the one who narrated to him who has said the following:

'About the case of a girl whose likes do not experience Hayd (menses) and a woman after menopause abu 'Abd Allah^{asws} has said, 'They do not need to count waiting period even if he has gone to bed with them.'

3- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعًا عَنْ صَفْوَانَ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ الَّتِي لَا تَحْبِلُ مِثْلَهَا لَا عِدَّةَ عَلَيْهَا

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-jabbar and al-Razzaz from Ayyub ibn Nuh and Humayd ibn Ziyad from ibn Sama'ah all from Safwan from Muhammad ibn Hakim from Muhammad ibn Muslim who has said the following:

'Abu Ja'far^{asws}, has said, 'A woman the like of whom cannot become pregnant does not need to count a waiting period.'

4- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ع ثَلَاثٌ يَتَزَوَّجْنَ عَلَى كُلِّ حَالٍ الَّتِي لَمْ تَحْبِضْ وَ مِثْلَهَا لَا تَحْبِضُ قَالَ قُلْتُ وَ مَا حَدُّهَا قَالَ إِذَا أَتَى لَهَا أَقْلٌ مِنْ تِسْعِ سِنِينَ وَ الَّتِي لَمْ يُدْخَلَ بِهَا وَ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ وَ مِثْلَهَا لَا تَحْبِضُ قُلْتُ وَ مَا حَدُّهَا قَالَ إِذَا كَانَ لَهَا خَمْسُونَ سَنَةً

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Najran from Safwan from 'Abd al-Rahman ibn al-Hajjmj who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Three kinds of women can marry in all conditions: a woman who does not experience Hayd (menses) and alike whom women do not experience Hayd (menses).' He (the narrator) has said that I then asked, 'What is her limit?' He^{asws} said, 'One who is less than nine years, one with whom he has not gone to bed and one after menopause and whose like do not experience Hayd (menses).' I then asked, 'What is the limit?' He^{asws} said, 'It is when she becomes fifty years old.'

5- بَعْضُ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ صَفْوَانَ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ فِي الْمَرْأَةِ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ قَالَ بَانَتْ مِنْهُ وَ لَا عِدَّةَ عَلَيْهَا وَ قَدْ رُويَ أَيْضًا أَنَّ عَلَيْنَهَا الْعِدَّةَ إِذَا دَخَلَ بِهَا حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ قَالَ عِدَّةُ الَّتِي لَمْ تَبْلُغِ الْمَحِيضَ ثَلَاثَةُ أَشْهُرٍ وَ الَّتِي قَدْ قَعَدَتْ مِنَ الْمَحِيضِ ثَلَاثَةُ أَشْهُرٍ وَ كَانَ ابْنُ سَمَاعَةَ يَأْخُذُ بِهَا وَ يَقُولُ إِنَّ ذَلِكَ فِي الْإِمَاءِ لَا يُسْتَبْرَأْنَ إِذَا لَمْ يَكُنْ بَلْعَنَ الْمَحِيضَ فَأَمَّا

المَحِيضُ مِنْ نِسَائِكُمْ إِنْ ارْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةُ أَشْهُرٍ وَاللَّائِي لَمْ يَحْضَنْ وَكَانَ مُعَاوِيَةُ بْنُ حُكَيْمٍ يَقُولُ لَيْسَ عَلَيْهِنَّ عِدَّةٌ وَمَا احْتَجَّ بِهِ ابْنُ سَمَاعَةَ فَإِنَّمَا قَالَ اللَّهُ عَزَّ وَجَلَّ إِنْ ارْتَبْتُمْ وَإِنَّمَا ذَلِكَ إِذَا وَقَعَتِ الرِّبَّةُ بَأَن قَدْ يَبْسُنَ أَوْ لَمْ يَبْسُنَ فَأَمَّا إِذَا جَارَتْ الْحَدَّ وَارْتَفَعَ الشَّكُّ بِأَنَّهُا قَدْ يَبْسُنُ أَوْ لَمْ تَكُنِ الْجَارِيَةُ بَلَّغَتْ الْحَدَّ فَلَيْسَ عَلَيْهِنَّ عِدَّةٌ

Certain persons of our people have narrated from Ahmad ibn Muhammad, from Safwan from Muhammad ibn Hakim from Muhammad ibn Muslim who has said the following:

'I once heard abu Ja'far^{asws} saying, 'A woman after menopause if divorced becomes stranger to him and she does not need to count a waiting period.' It is also narrated that if sexual intercourse has taken place with them there is a waiting period for them.

6- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ قَالَ عِدَّةُ الَّتِي لَمْ تَبْلُغِ الْمَحِيضَ ثَلَاثَةُ أَشْهُرٍ وَالَّتِي قَدْ فَعِدَّتْ مِنَ الْمَحِيضِ ثَلَاثَةُ أَشْهُرٍ وَكَانَ ابْنُ سَمَاعَةَ يَأْخُذُ بِهَا وَيَقُولُ إِنَّ ذَلِكَ فِي الْإِمَاءِ لَا يُسْتَبْرَأَنَّ إِذَا لَمْ يَكُنْ بَلَّغْنَ الْمَحِيضَ فَأَمَّا الْحَرَائِرُ فَحُكْمُهُنَّ فِي الْقُرْآنِ يَقُولُ اللَّهُ عَزَّ وَجَلَّ وَاللَّائِي يَبْسُنَ مِنَ الْمَحِيضِ مِنْ نِسَائِكُمْ إِنْ ارْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةُ أَشْهُرٍ وَاللَّائِي لَمْ يَحْضَنْ وَكَانَ مُعَاوِيَةُ بْنُ حُكَيْمٍ يَقُولُ لَيْسَ عَلَيْهِنَّ عِدَّةٌ وَمَا احْتَجَّ بِهِ ابْنُ سَمَاعَةَ فَإِنَّمَا قَالَ اللَّهُ عَزَّ وَجَلَّ إِنْ ارْتَبْتُمْ وَإِنَّمَا ذَلِكَ إِذَا وَقَعَتِ الرِّبَّةُ بَأَن قَدْ يَبْسُنَ أَوْ لَمْ يَبْسُنَ فَأَمَّا إِذَا جَارَتْ الْحَدَّ وَارْتَفَعَ الشَّكُّ بِأَنَّهُا قَدْ يَبْسُنُ أَوْ لَمْ تَكُنِ الْجَارِيَةُ بَلَّغَتْ الْحَدَّ فَلَيْسَ عَلَيْهِنَّ عِدَّةٌ

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah from Ali ibn abu Hamzah from abu Basir who has said the following:

'Waiting period of those who do not experience Hayd (menses) and after menopause is three months and ibn Sama'ah would follow it. He would say it is about slave-girls. They do not need Istibra' (quarantine) if they have not become mature. The rules for free women are in the Quran as Allah^{azwj}, says, 'after menopause if you have doubts their waiting period is three months and those who do not experience Hard (menses).' Mu'awiyah ibn Hukaym would say, 'They do not need to count waiting period and ibn Sama'ah's argument is based on 'if you doubt' which is only when there is doubt about menopause. When she passes this limit and doubt is removed and that the girl has not reached the limit then waiting period does not apply to their case.'

بَابُ فِي الَّتِي يَخْفَى حَيْضُهَا

Women Whose Hayd (menses) is Confusing

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً سِرّاً مِنْ أَهْلِهَا وَ هِيَ فِي مَنْزِلِ أَهْلِهَا وَ قَدْ أَرَادَ أَنْ يُطَلِّقَهَا وَ لَيْسَ بِصِلٍ إِلَيْهَا فَيَعْلَمُ طَمَئَتْ إِذَا طَمِئَتْ وَ لَا يَعْلَمُ بِطَهَرِهَا إِذَا طَهَّرَتْ قَالَ فَقَالَ هَذَا مِثْلُ الْغَائِبِ عَنْ أَهْلِهِ يُطَلِّقُهَا بِالْأَهْلِ وَ الشُّهُورِ فَلَنْتُ أَرَأَيْتَ إِنْ كَانَ يَصِلُ إِلَيْهَا الْأَحْيَانُ وَ الْأَحْيَانُ لَا يَصِلُ إِلَيْهَا فَيَعْلَمُ حَالَهَا كَيْفَ يُطَلِّقُهَا فَقَالَ إِذَا مَضَى لَهُ شَهْرٌ لَا يَصِلُ إِلَيْهَا فِيهِ يُطَلِّقُهَا إِذَا نَظَرَ إِلَى غُرَّةِ الشَّهْرِ الْآخِرِ بِشُهُودٍ وَ يَكْتُبُ الشَّهْرَ الَّذِي يُطَلِّقُهَا فِيهِ وَ يُشْهَدُ عَلَى طَلْقِهَا رَجُلَيْنِ فَإِذَا مَضَى ثَلَاثَةُ أَشْهُرٍ فَقَدْ بَانَتْ مِنْهُ وَ هُوَ خَاطِبٌ مِنَ الْخُطَابِ وَ عَلَيْهِ نَفَقَتُهَا فِي تِلْكَ الثَّلَاثَةِ الْأَشْهُرِ الَّتِي تَعُدُّ فِيهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father ail from ibn Mahbub from 'Abd al-Rahman ibn al-Hajaj who has said the following:

'I once asked abu al-Hassan^{asws} about the case of a man who marries a woman secretly in the house of her family. He wants to divorce her but cannot reach her to know about her Hayd (menses) and docs not know when she becomes clean of Hayd (menses). He^{asws} said, 'This is like the case of a husband who is absent who divorces by counting new moon and months.' I then asked, 'What happens if he is able to reach her at certain times to find out about her Hayd (menses): how he should divorce her?' He^{asws} said, 'When a month, during which he is not able to reach her, passes he can divorce her when he finds himself in the beginning of the next month. He must write down about the month in which he has divorced and arrange for two men as witnesses. When three months pass she becomes stranger to him and he becomes one of those who can

propose marriage. He, however, must pay her expenses for the three months in which she counted the waiting period.'

بَابُ الْوَقْتِ الَّذِي تَبَيَّنُ مِنْهُ الْمُطَلَّقةُ وَالَّذِي يَكُونُ فِيهِ الرَّجْعَةُ مَتَى يَجُوزُ لَهَا أَنْ تَتَزَوَّجَ
The Time when a Divorced Woman in the Manner of Divorce with
Waiting Period and Revocable Form Becomes Stranger to him

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ قُلْتُ لَهُ أَصْلَحَكَ اللَّهُ رَجُلٌ طَلَّقَ امْرَأَتَهُ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ بِشَهَادَةِ عَدْلَيْنِ فَقَالَ إِذَا دَخَلْتُ فِي الْحَيْضَةِ الثَّالِثَةِ فَقَدْ انْقَضَتْ عِدَّتُهَا وَحَلَّتْ لِلزَّوْجِ قُلْتُ لَهُ أَصْلَحَكَ اللَّهُ إِنَّ أَهْلَ الْعِرَاقِ يَرَوْنَهُ عَنْ عَلِيٍّ ص أَنَّهُ قَالَ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَغْتَسِلْ مِنَ الْحَيْضَةِ الثَّالِثَةِ فَقَالَ فَقَدْ كَذَّبُوا

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

'I once said to abu Ja'far^{asws} I pray to Allah^{azwj} to keep you well, a man has divorced his wife in Hayd (menses)-free period, in the presence of two just witnesses before going to bed with her. He^{asws} said, 'When she experiences Hayd (menses) for the third time her waiting period is complete and she is lawful for marriage.' I then said, 'I pray to Allah^{azwj} to keep you well, people of Iraq narrate from Ali^{asws}, who has said that he has the right to go back to her before she takes Ghushl (bath) for the third Hayd (menses). He^{asws} said, 'They have spoken a lie.'

2- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ جَمِيعًا عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْمُطَلَّقةُ إِذَا رَأَتْ الدَّمَ مِنَ الْحَيْضَةِ الثَّالِثَةِ فَقَدْ بَانَتْ مِنْهُ

Ali has narrated from his father from ibn abu 'Umayr and A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr all from Jamil ibn Darraj from Zurarah who has said the following:

'Abu Ja'far^{asws} has said. 'When a divorced woman experiences blood discharge of the third Hayd (menses) she becomes stranger to him.'

3- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ بُكَيْرٍ وَ جَمِيلِ بْنِ دَرَّاجٍ وَ عُمَرَ بْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُطَلَّقةُ تَبَيَّنُ عِنْدَ أَوَّلِ قَطْرَةٍ مِنَ الْحَيْضَةِ الثَّالِثَةِ قَالَ قُلْتُ بَلَّغْنِي أَنَّ رِبْعَةَ الرَّأْيِ قَالَ مَنْ رَأَى أَنَّهَا تَبَيَّنُ عِنْدَ أَوَّلِ قَطْرَةٍ فَقَالَ كَذَبَ مَا هُوَ مِنْ رَأْيِهِ إِنَّمَا هُوَ شَيْءٌ بَلَغَهُ عَنْ عَلِيٍّ ع

Ali has narrated from his father from ibn Bukayr and Jamil ibn Darraj and 'Umar ibn 'Udhaynah from Zurarah who has said the following:

'Abu 'Abd Allah^{asws} has said, 'A woman divorced becomes stranger to her husband at the time of her experiencing the first drop of blood of Hayd (menses) for the third time (after divorce).' I then said that Rabi'ah al-R'y also is of the opinion that she becomes stranger as soon as she experiences the first drop of blood.' He^{asws} said, 'It is not true. It is not his opinion but is something that has reached him from Ali^{asws}.'

4- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ع قَالَ قُلْتُ لَهُ رَجُلٌ طَلَّقَ امْرَأَتَهُ قَالَ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَقَعْ فِي الدَّمِ مِنَ الْحَيْضَةِ الثَّالِثَةِ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from Ishaq ibn 'Ammar from 'Isma'il al-Ju'fiy who has said the following:

'I once said to abu Ja'far^{asws} that a man has di-vorced his wife. He^{asws} said, 'He has the right to go back to her as long as she has not seen blood discharge because of Hayd (menses) for the third time (after divorce).'

5- وَ عَنْهُ عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ع قَالَ الْمُطَلَّقةُ ثَرَتْ وَ ثَوْرَتْ حَتَّى تَرَى الدَّمَ الثَّالِثَ فَإِذَا رَأَتْهُ فَقَدْ انْقَطَعَ

It is narrated from the narrator of the previous Hadith from Safwan from ibn Muskan from Zurarah who has said the following:

'About the case of a woman who is divorced, one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'She inherits and is inherited until she sees blood of Hayd (menses) for the third time after divorce and when that happens it (such relation) is cut off.'

6- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ جَمِيلِ بْنِ دَرَّاجٍ وَصَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ بُكَيْرٍ وَجَعْفَرَ بْنِ سَمَاعَةَ عَنْ ابْنِ بُكَيْرٍ وَجَمِيلِ كُلِّهِمْ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ أَوَّلُ دَمٍ رَأَتْهُ مِنَ الْحَيْضَةِ الثَّالِثَةِ فَقَدْ بَاءَتْ مِنْهُ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانٍ عَنْ زُرَّارَةَ مِثْلَهُ

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah from Jamil ibn Darraj and Safwan ibn Yahya from ibn Bukayr and Ja'far ibn Sama'ah from ibn Bukayr and Jamil all of them from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'With first blood that she sees because of Hayd (menses) for the third time after divorce she becomes stranger to him.'

Humayd ibn Ziyad has narrated from ibn Sama'ah from Safwan from ibn Muskan from Zurarah a similar Hadith.

7- صَفْوَانَ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَمِعْتُهُ يَقُولُ الْمُطَلَّقةُ تَبِينُ عِنْدَ أَوَّلِ قَطْرَةٍ مِنَ الدَّمِ فِي الْفَرْءِ الْآخِرِ

Safwan has narrated from ibn Bukayr from Zurarah who has said the following:

'I once heard abu Ja'far^{asws} saying, 'A woman divorced becomes stranger to him with the first drop of blood because of Hayd (menses) during the last Hayd (menses)-free period.'

8- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ع فِي الرَّجُلِ يُطْلَقُ امْرَأَتَهُ فَقَالَ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَقَعْ فِي الدَّمِ الثَّالِثِ

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah from Ishaq ibn 'Ammar from 'Isma'il al-Ju'fiy who has said the following:

'About the case of a man who divorces his wife, abu Ja'far^{asws} has said, 'He has the right to go back to her until she experiences Hayd (menses) for the third time after divorce.'

9- عَنْهُ عَنْ صَفْوَانَ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ ع إِنِّي سَمِعْتُ رَبِيعَةَ الرَّأْيِ يَقُولُ إِذَا رَأَتْ الدَّمَ مِنَ الْحَيْضَةِ الثَّالِثَةِ بَاءَتْ مِنْهُ وَإِنَّمَا الْفَرْءُ مَا بَيْنَ الْحَيْضَتَيْنِ وَزَعَمَ أَنَّهُ إِنَّمَا أَخَذَ ذَلِكَ بِرَأْيِهِ فَقَالَ أَبُو جَعْفَرٍ ع كَذَبَ لَعْمَرِي مَا قَالَ ذَلِكَ بِرَأْيِهِ وَلَكِنَّهُ أَخَذَهُ عَنْ عَلِيٍّ ع قَالَ فَلْتُ لَهُ وَمَا قَالَ فِيهَا عَلِيٌّ ع قَالَ كَانَ يَقُولُ إِذَا رَأَتْ الدَّمَ مِنَ الْحَيْضَةِ الثَّالِثَةِ فَقَدْ انْقَضَتْ عِدَّتُهَا وَلَا سَبِيلَ لَهُ عَلَيْهَا وَإِنَّمَا الْفَرْءُ مَا بَيْنَ الْحَيْضَتَيْنِ وَلَيْسَ لَهَا أَنْ تَتَزَوَّجَ حَتَّى تَغْتَسِلَ مِنَ الْحَيْضَةِ الثَّالِثَةِ الْحَسَنُ بْنُ مُحَمَّدٍ عَنْ سَمَاعَةَ قَالَ كَانَ جَعْفَرُ بْنُ سَمَاعَةَ يَقُولُ تَبِينُ عِنْدَ أَوَّلِ قَطْرَةٍ مِنَ الدَّمِ وَلَا تَحِلُّ لِلتَّزْوِاجِ حَتَّى تَغْتَسِلَ مِنَ الْحَيْضَةِ الثَّالِثَةِ وَقَالَ الْحَسَنُ بْنُ مُحَمَّدٍ عَنْ سَمَاعَةَ تَبِينُ عِنْدَ أَوَّلِ قَطْرَةٍ مِنَ الْحَيْضَةِ الثَّالِثَةِ ثُمَّ إِنْ شَاءَتْ تَزَوَّجَتْ وَ إِنْ شَاءَتْ لَا وَقَالَ عَلِيٌّ بْنُ إِبْرَاهِيمَ إِنْ شَاءَتْ تَزَوَّجَتْ وَ إِنْ شَاءَتْ لَا فَإِنْ تَزَوَّجَتْ لَمْ يَدْخُلْ بِهَا حَتَّى تَغْتَسِلَ

It is narrated from the narrator of the previous Hadith from Safwan from Musa ibn Bakr from Zurarah who has said the following:

'I once asked abu Ja'far^{asws} I have heard that Rabi'ah al-Ra'iy says, 'When a divorced woman experiences Hayd (menses) for the third time after divorce she becomes stranger to him and that the Hayd (menses)-free period is between the two Hayd (menses)' and he thinks that it is his own opinion,' Abu Ja'far^{asws} said. 'What he has said, by my life is not true because he has taken it from Ali^{asws}, I then asked, 'What Ali^{asws} has said about it?' He^{asws} said that he^{asws} (Imam Ali^{asws}) would say. 'When she sees blood of the third Hayd (menses) (after divorce) her waiting period expires and he has no way to her and that Hayd (menses)-free period is between two Hayd (menses). She cannot marry before taking Ghusl (bath) for the third Hayd (menses) (after divorce).'

'Al-Hassan ibn Muhammad ibn Sama'ah has said that Ja'far ibn Sama'ah would say. 'A divorced woman becomes stranger to him with the first drop of blood of Hayd (menses) for the third time after divorce. It is not lawful for her to marry until she takes Ghusl (bath) because of Hayd (menses) for the third time after divorce.' Al-Hassan ibn Muhammad

ibn Sama'ah has said that she becomes stranger with the first drop of blood because of Hayd (menses) for the third time after divorce and thereafter if she wants to marry she can do so or not to do so. Ali ibn Ibrahim has said that she can marry if so she wants or not to do so but if she marries he must not go to bed with her before Ghushl (bath).'

10- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنِ الْمَرْأَةِ إِذَا طَلَّقَهَا زَوْجُهَا مَتَى تَكُونُ هِيَ أَمْلَكَ بِنَفْسِهَا فَقَالَ إِذَا رَأَتْ الدَّمَ مِنَ الْحَيْضَةِ الثَّالِثَةِ فَهِيَ أَمْلَكَ بِنَفْسِهَا قُلْتُ فَإِنْ عَجَلَ الدَّمُ عَلَيْهَا قَبْلَ أَيَّامِ فُرُجِهَا فَقَالَ إِذَا كَانَ الدَّمُ قَبْلَ عَشْرَةِ أَيَّامٍ فَهُوَ أَمْلَكَ بِهَا وَهُوَ مِنَ الْحَيْضَةِ الَّتِي طَهَّرْتَ مِنْهَا وَإِنْ كَانَ الدَّمُ بَعْدَ الْعَشْرِ الْيَوْمِ فَهُوَ مِنَ الْحَيْضَةِ الثَّالِثَةِ وَهِيَ أَمْلَكَ بِنَفْسِهَا

Al-Husayn from Muhammad has narrated from Mu'alia' ibn Muhammad from al-Hassan ibn Ali from Aban ibn 'Uthman from 'Abd al-Rahman ibn abu 'Abd Allah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a woman who is divorced; when can she get the control of her affairs? He^{asws} said, 'It happens when she sees Hayd (menses) for the third time after divorce.' I then asked, 'What happens if blood discharge begins earlier in her Hayd (menses)-free period?' He^{asws} said, 'If blood discharge is before ten days it is part of the previous Hayd (menses), thus he has the control of the affairs but if it is after ten days then it is of the third Hayd (menses) and she gets control of her affairs.'

11- مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ بَعْضِ أَصْحَابِهِ أَظْنَهُ مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ هِلَالٍ أَوْ عَلِيٌّ بْنُ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ مَتَى تَبِينُ مِنْهُ قَالَ حِينَ يَطْلُعَ الدَّمُ مِنَ الْحَيْضَةِ الثَّالِثَةِ تَمْلِكُ نَفْسَهَا قُلْتُ فَلَهَا أَنْ تَتَزَوَّجَ فِي تِلْكَ الْحَالِ قَالَ نَعَمْ وَلَكِنْ لَا تُمْكِنُ مِنْ نَفْسِهَا حَتَّى تَطْهَرَ مِنَ الدَّمِ

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from certain persons of his people, I think he is Muhammad ibn 'Abd Allah ibn Hilal or Ali ibn al-Hakam from al-'Ala' ibn Razin from Muhammad ibn Muslim who has said the following:

'I once asked abu Ja'far^{asws} about the case of a man who divorces his wife and about when she becomes stranger to him. He^{asws} said, 'It is when blood of the third Hayd (menses) appears. She gets control of her own affairs.' I then asked, 'Can she marry in that condition?' He^{asws} said, 'Yes, but she must not allow him to approach her before she is clean of blood of Hayd (menses).'

بَابُ مَعْنَى الْإِقْرَاءِ

Meaning of al- 'Iqra' (Hayd-free period)

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدْنَةَ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ رَبِيعَةَ الرَّائِي يَقُولُ مِنْ رَأْيِي أَنَّ الْإِقْرَاءَ الَّتِي سَمَّى اللَّهُ عَزَّ وَجَلَّ فِي الْقُرْآنِ إِنَّمَا هُوَ الطَّهْرُ فِيمَا بَيْنَ الْحَيْضَتَيْنِ فَقَالَ كَذَبَ لَمْ يَقُلْهُ بَرَّاءُ وَلَكِنَّهُ إِنَّمَا بَلَّغَهُ عَنْ عَلِيٍّ ص فَقُلْتُ أَصْلَحَكَ اللَّهُ أَمْ كَانَ عَلِيٌّ ع يَقُولُ ذَلِكَ فَقَالَ نَعَمْ إِنَّمَا الْفَرْءُ الطَّهْرُ يَقْرِي فِيهِ الدَّمُ فَيَجْمَعُهُ فَإِذَا جَاءَ الْمَحِيضُ نَفَقَهُ

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

'I heard Rabi' al-Ra'iy saying, 'It is my opinion that al- 'Iqra' which Allah^{azwj}, has mentioned in the Quran is nothing but Hayd (menses)-free period between the two Hayd (menses).' He^{asws} said, 'He has spoken a lie. it is not his opinion. In fact it has reached him from Ali^{asws}, I then said, 'I pray to Allah^{azwj} to keep you well, did Ali^{asws} say so?' He^{asws} said, 'Al-Qur' means clean. Blood stops coming out and accumulates. During Hayd (menses) it is pushed out.' (Al-Qur' means accumulates and Hayd means flows).

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ جَمِيعًا عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْفَرْءُ هُوَ مَا بَيْنَ الْحَيْضَتَيْنِ

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

'Abu Ja'far^{asws} has said, 'Al-Qur' is the period between two Hayd (menses).'

3- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْفَرْءُ هُوَ مَا بَيْنَ الْحَيْضَتَيْنِ

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

'Abu Ja'far^{asws}, has said, 'Al-Qur' is the period between two Hayd (menses).'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحَجَّالِ عَنْ ثَعْلَبَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْفَرْءُ هِيَ الْأَطْهَارُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hajjal from Tha'labah from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'Al-Qur' is being clean (Hayd (menses)- free).'

بَابُ عِدَّةِ الْمُطَلَّاقَةِ وَ أَيْنَ تَعْتَدُ

Waiting Period for a Divorced Woman and Where She must have it

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَنْبَغِي لِلْمُطَلَّاقَةِ أَنْ تَخْرُجَ إِلَّا بِإِذْنِ زَوْجِهَا حَتَّى تَنْقُضِيَ عِدَّتَهَا ثَلَاثَةَ أَشْهُرٍ أَوْ ثَلَاثَةَ أَشْهُرٍ إِنْ لَمْ تَحِضْ

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

'Abu 'Abd Allah^{asws} has said, 'A divorced woman must not go out without the permission of her husband until her waiting period is complete after three Hayd (menses)- free periods or three months, if she does not experience Hayd (menses).'

2- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ عِدَّةُ الْمُطَلَّاقَةِ ثَلَاثَةٌ أَشْهُرٍ أَوْ ثَلَاثَةُ أَشْهُرٍ إِنْ لَمْ تَكُنْ تَحِضُ حُمَيْدٌ عَنْ ابْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع مِثْلُهُ

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from Dawud ibn Sarhan who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Waiting period for a divorced woman is three Hayd (menses)-free periods or three months if she does not experience Hayd (menses).'

Hu-mayd has narrated from ibn Sama'ah from Ja'far ibn Sama'ah from Dawud ibn Sarhan from abu 'Abd Allah^{asws} a similar Hadith.

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ قَالَ سَأَلْتُهُ عَنْ الْمُطَلَّاقَةِ أَيْنَ تَعْتَدُ قَالَ فِي بَيْتِهَا لَا تَخْرُجُ وَ إِنْ أَرَادَتْ زِيَارَةَ خَرَجَتْ بَعْدَ نِصْفِ اللَّيْلِ وَ لَا تَخْرُجُ نَهَاراً وَ لَيْسَ لَهَا أَنْ تَحُجَّ حَتَّى تَنْقُضِيَ عِدَّتَهَا وَ سَأَلْتُهُ عَنْ الْمُتَوَفَّى عَنْهَا زَوْجُهَا أ كَذَلِكَ هِيَ قَالَ نَعَمْ وَ تَحُجُّ إِنْ شَاءَتْ

Ali ibn Ibrahim has narrated from his father from 'Uthman ibn 'Isa from Sama'ah ibn Mehran who has said the following:

'I once asked him^{asws} about the case of a woman who is divorced and about where she must complete her waiting period. He^{asws} said, 'She completes her waiting period in her house and must not go out. If she wants to visit she must go after midnight but not during the day. She does not have the right to perform al-Hajj until her waiting period is complete.' I asked about one whose husband dies: if her case is the same. He^{asws} said, 'Yes, it is the same but she can perform al-Hajj if she wants.'

4- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْمُطَلَّاقَةُ تَعْتَدُ فِي بَيْتِهَا وَ لَا يَنْبَغِي لَهَا أَنْ تَخْرُجَ حَتَّى تَنْقُضِيَ عِدَّتَهَا وَ عِدَّتُهَا ثَلَاثَةُ أَشْهُرٍ أَوْ ثَلَاثَةَ أَشْهُرٍ إِنْ لَمْ تَكُنْ تَحِضُ

All has narrated from his father from ibn abu Najran from 'Asem ibn Ilamid from Muhammad ibn Qays who has said the following:

'Abu Ja'far^{asws} has said, 'A woman divorced must complete her waiting period in her home and it is not proper for her to go out until her waiting period is complete. Her

waiting period is three Hayd (menses)-free periods or three months except if she experiences Hayd (menses).'

5- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ سَعْدِ بْنِ أَبِي خَلْفٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ مُوسَى بْنَ جَعْفَرٍ ع عَنْ شَيْءٍ مِنَ الطَّلَاقِ فَقَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ طَلَّاقًا لَا يَمْلِكُ فِيهِ الرَّجْعَةَ فَقَدْ بَانَتْ مِنْهُ سَاعَةٌ طَلَّقَهَا وَ مَلَكَتْ نَفْسَهَا وَ لَا سَبِيلَ لَهُ عَلَيْهَا وَ تَعَتَّدَتْ حَيْثُ شَاءَتْ وَ لَا نَفَقَةَ لَهَا قَالَ فُلْتُ أَلَيْسَ اللَّهُ عَزَّ وَ جَلَّ يَقُولُ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَ لَا يَخْرُجْنَ قَالَ فَقَالَ إِنَّمَا عَنْكَ بِذَلِكَ الَّتِي تُطَلِّقُ تَطْلِيقَةً بَعْدَ تَطْلِيقَةٍ فَبِكَذَا الَّتِي لَا تُخْرَجُ وَ لَا تُخْرَجُ حَتَّى تُطَلِّقَ الثَّالِثَةَ فَإِذَا طَلَّقْتَ الثَّالِثَةَ فَقَدْ بَانَتْ مِنْهُ وَ لَا نَفَقَةَ لَهَا وَ الْمَرْأَةُ الَّتِي يُطَلِّقُهَا الرَّجُلُ تَطْلِيقَةً ثُمَّ يَدْعُوهَا حَتَّى يَخْلُوَ أَجْلَهَا فَهَذِهِ أَيْضًا تَقْعُدُ فِي مَنْزِلِ زَوْجِهَا وَ لَهَا النَّفَقَةُ وَ السُّكْنَى حَتَّى تَنْقُضِيَ عِدَّتَهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Sa'd ibn abu Khalaf who has said the following:

'I once asked abu al-Hassan Musa ibn Ja'far^{asws}, something about divorce. He^{asws} said, 'When a man divorces his wife in a manner because of which he cannot go back to her, she becomes stranger to him in the hour divorce is pronounced and she takes control of her affairs and he has no way to her. She can complete her waiting period where she wants. He does not owe her maintenance.' He (the narrator) has said that I then said, 'Does Allah^{azwj}, not say, '... do not send them out of their houses and they must not go out'? He^{asws} said, 'It means she is divorced after being divorced. She is the one who must not be sent out of her house and must not go out of her house until the third divorce. When the third divorce is pronounced she becomes stranger to him and he does not owe her maintenance. A woman whom a man divorces once then leaves so that her waiting period is complete is (he kind of woman who must stay in the house of her husband and she must be paid maintenance and lodging until waiting period is complete.'

6- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكَنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ تَعَتَّدُ الْمُطَلَّقةُ فِي بَيْتِهَا وَ لَا يَنْبَغِي لِرَجُلِهَا إِخْرَاجُهَا وَ لَا تَخْرُجُ هِيَ

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

'Abu 'Abd Allah^{asws} has said, 'A divorced woman completes her waiting period in her home and it is not proper for her husband to send her out and she also must not go out.'

7- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْمُطَلَّقةُ تَشَوَّقُ لِرَجُلِهَا مَا كَانَ لَهُ عَلَيْهَا رَجْعَةٌ وَ لَا يَسْتَأْذِنُ عَلَيْهَا

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from 'Asem ibn Hamid from Muhammad ibn Qays who has said the following:

'Abu Ja'far^{asws} has said, 'A woman who is divorced and her husband has the right to go back to her, can beautify herself before her husband and he does not need to ask permission to go to her.'

8- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ ابْنِ رَبَاطٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ ع قَالَ سَأَلْتُهُ عَنْ الْمُطَلَّقةِ أَيْنَ تَعَتَّدُ فَقَالَ فِي بَيْتِ زَوْجِهَا

Humayd ibn Ziyad has narrated from ibn Sama'ah from ibn Ribat from Ishaq ibn 'Ammar who has said the following:

'I once asked abu al-Hassan^{asws} about the divorced woman: where she completes her waiting period. He^{asws} said, 'She completes it in the house of her husband.'

9- عَنْهُ عَنْ وَهَيْبِ بْنِ حَفْصٍ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا ع فِي الْمُطَلَّقةِ أَيْنَ تَعَتَّدُ فَقَالَ فِي بَيْتِهَا إِذَا كَانَ طَلَّاقًا لَهُ عَلَيْهَا رَجْعَةٌ لَيْسَ لَهُ أَنْ يُخْرِجَهَا وَ لَا لَهَا أَنْ تَخْرُجَ حَتَّى تَنْقُضِيَ عِدَّتَهَا عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ مِثْلَهُ

It is narrated from the narrator of the previous Hadith from Wuhayb ibn Hal's from abu Basir who has said the following:

'I once asked one of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) about the case of a woman who is divorced and about where she counts her waiting period. He^{asws} said, 'She completes it in her home if divorce is in a manner where he has the right to go back to her. He cannot send her out and it is not for her to go out until waiting period is complete.' It is narrated from the narrator of the previous Hadith from 'Abd Allah ibn Jabalah from Ali ibn abu Hamzah and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al -Hakam from Ali ibn abu Hamzah from abu Basir a similar Hadith.

10- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ وَهَيْبِ بْنِ حَفْصٍ عَنْ أَبِي بَصِيرٍ عَنْ أَحَدِهِمَا ع فِي الْمُطَلَّقةِ تَعْتَدُ فِي بَيْتِهَا وَتُظْهِرُ لَهُ زِينَتَهَا لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

Humayd ibn Ziyad has narrated from ibn Sama'ah from Wuhayb ibn Hafs from abu Basir who has said the following:

'About the case of a divorced woman, one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said that she completes her waiting period in her house and she can beautify herself: perhaps Allah^{azwj} brings about something thereafter.'

11- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ وَالحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ عُرْوَةَ عَنْ أَبِي الْعَبَّاسِ قَالَ لَا يَنْبَغِي لِلْمُطَلَّقةِ أَنْ تَخْرُجَ إِلَّا بِإِذْنِ زَوْجِهَا حَتَّى تَنْقُضِيَ عِدَّتَهَا بِثَلَاثَةِ أَشْهُرٍ أَوْ ثَلَاثَةِ أَشْهُرٍ إِنْ لَمْ تَحْضُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad [from Muhammad ibn Khalid] and al-Husayn ibn Sa'id from al-Qasim ibn 'Urwah from al-'Abbas who has said the following:

'He^{asws} has said, that it is not proper for a divorced woman to go out without the permission of her husband until waiting period is complete with three Hayd (menses)-free periods or three months if she does not experience Hayd (menses). '

12- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَمِعْتُهُ يَقُولُ الْمُطَلَّقةُ تَحُجُّ فِي عِدَّتِهَا إِنْ طَابَتْ نَفْسُ زَوْجِهَا

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from Mu'awiyah ibn 'Ammar who has said the following:

'I once heard abu 'Abd Allah^{asws} saying, 'A divorced woman can perform al-Hajj if her husband agrees.'

13- مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ الْمُطَلَّقةُ تَحُجُّ وَ تَشْهَدُ الْحُقُوقَ

Muhammad ibn Isma'il has narrated from al-Fadl ibn Shadhan and Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from al-'Ala' from Muhammad ibn Muslim who has said the following:

'He^{asws} has said, 'A divorced woman can perform al-Hajj and testify about rights.'

14- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنِ الْقَاسِمِ بْنِ عُرْوَةَ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُطَلَّقةُ تَكْتَحِلُ وَ تَحْتَضِبُ وَ تَطِيبُ وَ تَلْبَسُ مَا شَاءَتْ مِنَ الثِّيَابِ لِأَنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا لَعَلَّهَا أَنْ تَقَعَ فِي نَفْسِهِ فَيُرَاجِعَهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Khalid from al-Qasim ibn 'Urwah from Zurarah who has said the following:

'Abu 'Abd Allah^{asws} has said, 'A divorced woman can use kohl, dyes, perfumes and wear whatever she likes because Allah^{azwj}, says, '. perhaps Allah^{azwj} may bring about something thereafter.' Perhaps something happens in his mind and he goes back to her.'

بَابُ فِي تَأْوِيلِ قَوْلِهِ تَعَالَى لَا تَخْرُجُوهُنَّ مِنْ بُيُوتِهِنَّ وَ لَا يَخْرُجْنَ

'You must not send them out of their homes and they must not go out, . .

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنِ الرِّضَا ع فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيَّنَةٍ قَالَ أَذَاهَا لِأَهْلِ الرَّجُلِ وَ سُوءُ خُلُقِهَا

Ali ibn Ibrahim has narrated from his father from certain persons of his people who has said the following: 'About the words of Allah^{azwj}, ' . . . you must not send them out of their homes and they must not go out except if they commit an open indecent act', abu al-Hassan al-Rida^{asws} has said, 'It is a reference to her troubling the family of the man and her bad moral behavior.'

2- بَعْضُ أَصْحَابِنَا عَنْ عَلِيِّ بْنِ الْحَسَنِ التَّيْمُلِيِّ عَنْ عَلِيِّ بْنِ أَصْبَاطٍ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ بْنِ جَعْفَرٍ قَالَ سَأَلَ الْمَأْمُونُ الرِّضَا ع عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيَّنَةٍ قَالَ يَعْنِي بِالْفَاحِشَةِ الْمُبَيَّنَةِ أَنْ تُؤْذِيَ أَهْلَ زَوْجِهَا فَإِذَا فَعَلَتْ فَإِنْ شَاءَ أَنْ يُخْرِجَهَا مِنْ قَبْلِ أَنْ تَنْقُضِيَ عِدَّتَهَا فَعَلَّ

Certain persons of our people have narrated from Ali ibn al-Hassan al-Taymuliyy from Ali ibn Asbat from Muhammad ibn Ali ibn Ja'far who has said the following;

'Once al-Ma'mun asked al-Rida^{asws} about (the-words of Allah^{azwj}, you must riot send them out of their homes and they must not go out except if they commit an open indecent act' He^{asws} said, ' . . . 'open indecent act', is a reference to her troubling the family of the man. If she did he can send her out, if he wants, before the end of her waiting period.'

بَابُ طَلَاقِ الْمُسْتَرَابَةِ

Divorce of a Woman whose Hayd (menses) is Confusing

1- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْبَرْقِيِّ عَنْ دَاوُدَ بْنِ أَبِي يَزِيدَ الْعَطَّارِ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنِ الْمَرْأَةِ يُسْتَرَابُ بِهَا وَ مِثْلُهَا تَحْمِلُ وَ مِثْلُهَا لَا تَحْمِلُ وَ لَا تَحِيضُ وَ قَدْ وَاقَعَهَا زَوْجُهَا كَيْفَ يُطَلِّقُهَا إِذَا أَرَادَ طَلَّاقَهَا قَالَ لِيُمْسِكَ عَنْهَا ثَلَاثَةَ أَشْهُرٍ ثُمَّ يُطَلِّقُهَا

A number of our people have narrated from Ahmad ibn Muhammad from al-Barqiy from Dawud ibn abu Yazid al-Attar from certain persons of our people who have said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a woman whose Hayd (menses) is confusing, when women like her become pregnant and also women like her do not become pregnant and do not experience Hayd (menses). Her husband has gone to bed with her and about how can he divorce her if he so wants. He^{asws} said, 'He must hold back from her for three months then divorce her.'

بَابُ طَلَاقِ الَّتِي تَكْتُمُ حَيْضَهَا

Divorce of Women Who Hide Their Experiencing Hayd (menses)

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ جَعْفَرٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ كَيْسَانَ قَالَ كَتَبْتُ إِلَى الرَّجُلِ ع أَسْأَلُهُ عَنْ رَجُلٍ لَهُ امْرَأَةٌ مِنْ نِسَاءِ هَؤُلَاءِ الْعَامَّةِ وَ أَرَادَ أَنْ يُطَلِّقَهَا وَ قَدْ كَتَمَتْ حَيْضَهَا وَ طَهَّرَهَا مَخَافَةَ الطَّلَاقِ فَكَتَبَ ع يَعْتَزِّلُهَا ثَلَاثَةَ أَشْهُرٍ وَ يُطَلِّقَهَا

Muhammad ibn Yahya has narrated from 'Abd Allah ibn Ja'far from al-Hassan ibn Ali ibn Kaysaii who has said the following:

'I once wrote to the man^{asws} and asked about the case of a man who has a wife who is of 'Ammah (the general population). He wants to divorce her but she hides her Hayd (menses) and Hayd (menses)-free period for fear of divorce. He^{asws} wrote, 'He can hold back from her for three months, then divorce her.'

بَابُ فِي الَّتِي تَحِيضُ فِي كُلِّ شَهْرَيْنِ وَ ثَلَاثَةٍ

A Woman who Experiences Hayd after Every Two or Three Months

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ عَمَّارِ السَّابَّاطِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سُئِلَ عَنْ رَجُلٍ عِنْدَهُ امْرَأَةٌ شَابَّةٌ وَ هِيَ تَحِيضُ كُلَّ شَهْرَيْنِ أَوْ ثَلَاثَةِ أَشْهُرٍ حَيْضَةً وَاحِدَةً كَيْفَ يُطْلَقُهَا زَوْجُهَا فَقَالَ أَمْرُهَا شَدِيدٌ يُطْلَقُ طَلَاقَ السَّنَةِ تَطْلِيقَةً وَاحِدَةً عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ بِشُهُودٍ ثُمَّ تَنَزَّكُ حَتَّى تَحِيضَ ثَلَاثَ حَيَضٍ مَتَى حَاضَتْ فَإِذَا حَاضَتْ ثَلَاثًا فَقَدْ انْقَضَتْ عِدَّتُهَا قِيلَ لَهُ وَ إِنْ مَضَتْ سَنَةٌ وَ لَمْ تَحِضْ فِيهَا ثَلَاثَ حَيَضٍ قَالَ إِذَا مَضَتْ سَنَةٌ وَ لَمْ تَحِضْ ثَلَاثَ حَيَضٍ يُتَرَبَّصُ بِهَا بَعْدَ السَّنَةِ ثَلَاثَةَ أَشْهُرٍ ثُمَّ قَدْ انْقَضَتْ عِدَّتُهَا قِيلَ فَإِنْ مَاتَ أَوْ مَاتَتْ فَقَالَ أَيُّهُمَا مَاتَ وَرَثَ صَاحِبُهُ مَا بَيْنَهُ وَ بَيْنَ خَمْسَةِ عَشَرَ شَهْرًا

Ali ibn Ibrahim has narrated from his father from al-Hassan ibn Mahbub from Hisham ibn Salim from 'Ammar al-Sabatiy who has said the following:

'Once abu 'Abd Allah^{asws} was asked about the case of a man who has a young wife who experiences Hayd (menses) every two or three months after once and about how he can divorce her. He (the Imam) said, 'Her case is difficult. He can divorce her according to Sunnah once in a Hayd (menses)-free period in the presence of witnesses and without going to bed; then leave her until she experiences Hayd (menses) three times whenever she experiences Hayd (menses). When she experiences three Hayd (menses) her waiting period is complete.' It then was asked, 'What happens if one year passes and she does not experience Hayd (menses)?' He^{asws} said, 'If one year passes and she does not experience three Hayd (menses) he waits three months after that (one year) time then her waiting period expires. It then asked, 'What happens if he or she dies?' He^{asws} said, 'Whoever dies, the living one inherits the deceased one from that day up to fifteen months.'

بَابُ عِدَّةِ الْمُسْتَرَابَةِ

Waiting Period of a Woman whose Hayd is Confused

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ أَمْرَانِ أَيُّهُمَا سَبَقَ بَأْنَتْ مِنْهُ الْمَطْلُوعَةُ الْمُسْتَرَابَةُ تَسْتَرِيبُ الْحَيْضِ إِنْ مَرَّتْ بِهَا ثَلَاثَةُ أَشْهُرٍ بِيضٍ لَيْسَ فِيهَا دَمٌ بَأْنَتْ بِهِ وَ إِنْ مَرَّتْ بِهَا ثَلَاثَ حَيَضٍ لَيْسَ بَيْنَ الْحَيْضَتَيْنِ ثَلَاثَةُ أَشْهُرٍ بَأْنَتْ بِالْحَيْضِ قَالَ ابْنُ عُمَيْرٍ قَالَ جَمِيلٌ وَ تَفْسِيرُ ذَلِكَ إِنْ مَرَّتْ بِهَا ثَلَاثَةُ أَشْهُرٍ إِلَّا يَوْمًا فَحَاضَتْ ثُمَّ مَرَّتْ بِهَا ثَلَاثَةَ أَشْهُرٍ إِلَّا يَوْمًا فَحَاضَتْ ثُمَّ مَرَّتْ بِهَا ثَلَاثَةَ أَشْهُرٍ إِلَّا يَوْمًا فَحَاضَتْ فَهَذِهِ تَعُدُّ بِالْحَيْضِ عَلَى هَذَا الْوَجْهِ وَ لَا تَعُدُّ بِالشُّهُورِ وَ إِنْ مَرَّتْ بِهَا ثَلَاثَةُ أَشْهُرٍ بِيضٍ لَمْ تَحِضْ فِيهَا فَقَدْ بَأْنَتْ

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

'Abu Ja'far^{asws} has stated this Hadith. 'In the case of a woman whose Hayd (menses) is confusing, of the two issues whichever comes first marks a woman's becoming stranger to her husband. One is passing of three months without any blood discharge and taking place of three Hayd (menses) the two of which are not three months apart from each other.' According to ibn abu 'Umayr Jamil has made this statement, 'It can be explained as follows: If three months one day less pass and she experiences Hayd (menses) then three months one day less pass and she experiences Hayd (menses) then three months one day less pass and she experiences Hayd (menses), she counts waiting period with Hayd (menses) in this way. She does not count by months. If three months pass without blood discharge for three months and she does not experience Hayd (menses) she then becomes stranger to her husband.'

2- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرِ بْنِ زَيْدٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ عَبْدِ صَالِحٍ ع قَالَ قُلْتُ لَهُ الْجَارِيَةُ الشَّابَّةُ الَّتِي لَا تَحِيضُ وَ مِثْلَهَا تَحْمِلُ طَلَقُهَا زَوْجُهَا قَالَ عِدَّتُهَا ثَلَاثَةُ أَشْهُرٍ

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr al-Bazantiy from 'Abd al-Karim from Muhammad ibn Hakim who has said the following:

'I once asked the virtuous servant of Allah^{asws} about the case of a young girl who does not experience Hayd (menses) when girls like her become pregnant and her husband has divorced her. He^{asws} said, 'Her waiting period is three months.'

3- سَهْلُ بْنُ زِيَادٍ عَنْ أَحْمَدَ بْنِ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ عِدَّةُ الْتِي لَمْ تَحِضْ وَ الْمُسْتَحَاضَةُ الَّتِي لَا تَطْهَرُ ثَلَاثَةَ أَشْهُرٍ وَ عِدَّةُ الْتِي تَحِضُ وَ يَسْتَقِيمُ حَيْضُهَا ثَلَاثَةَ أَشْهُرٍ وَ الْفُرُؤُ جَمْعُ الدَّمِ بَيْنَ الْحَيْضَتَيْنِ

Sahl ibn Ziyad has narrated from Ahmad from 'Abd al-Karim from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Waiting period of a woman who does not experience Hayd (menses) and the one who experiences Istihadah who does not become clean is three months. Waiting period of one whose Hayd (menses) is straight is three Quru' (Hayd free periods). Al-Quru' (Hayd free period) is the time of accumulation of blood between two Hayd (menses).'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكَنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ الْتِي تَحِضُ كُلَّ ثَلَاثَةِ أَشْهُرٍ مَرَّةً كَيْفَ تَعُدُّ قَالَ تَنْتَظِرُ مِثْلَ فُرَيْهَا الَّتِي كَانَتْ تَحِضُ فِيهِ فِي الْإِسْتِقَامَةِ فَلْتَعُدَّ ثَلَاثَةَ أَشْهُرٍ ثُمَّ لَتَزَوِّجَ إِنْ شَاءَتْ

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

'I once asked abu 'Abd Allah^{asws} about the case of a woman who experiences Hayd (menses) once every three months: if she needs to count a waiting period. He^{asws} said. 'She must wait for a period of time equal to that when she experienced Hayd normally; thus she counts her waiting period for three Hayd-free periods. Thereafter she can marry if she so wants.'

5- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع أَنَّهُ قَالَ فِي الْتِي تَحِضُ فِي كُلِّ ثَلَاثَةِ أَشْهُرٍ مَرَّةً أَوْ فِي سِنَةٍ أَوْ فِي سَبْعَةِ أَشْهُرٍ وَ الْمُسْتَحَاضَةُ الَّتِي لَمْ تَبْلُغِ الْحَيْضَ وَ الْتِي تَحِضُ مَرَّةً وَ تَرْتَفِعُ مَرَّةً وَ الْتِي لَا تَطْمَعُ فِي الْوَلَدِ وَ الَّتِي قَدْ ارْتَفَعَ حَيْضُهَا وَ زَعَمَتْ أَنَّهَا لَمْ تَبْلُغِ وَ الَّتِي تَرَى الصُّفْرَةَ مِنْ حَيْضٍ لَيْسَ بِمُسْتَقِيمٍ فَذَكَرَ أَنَّ عِدَّةَ هَوْلَاءِ كُلِّهِنَّ ثَلَاثَةُ أَشْهُرٍ

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

'One of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said that the waiting period for women of the following condition is three months. Of such women is one who experiences Hayd (menses) once every three, six or seven months. Another is one who experiences Istihadah and has not reach the age of experiencing Hayd (menses) also one who experiences Hayd (menses) in one month but not in the other month as well as one who has no hope to have a child. Another is one in her menopause who thinks that she is not of such age and the one who sees a yellowish discharge whose Hayd (menses) is not straight.'

6- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادِ بْنِ عِيسَى عَنْ شُعَيْبٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ فِي الْمَرْأَةِ يُطْلِفُهَا زَوْجُهَا وَ هِيَ تَحِضُ كُلَّ ثَلَاثَةِ أَشْهُرٍ حَيْضَةً فَقَالَ إِذَا انْقَضَتْ ثَلَاثَةُ أَشْهُرٍ انْقَضَتْ عِدَّتُهَا يُحْسَبُ لَهَا لِكُلِّ شَهْرٍ حَيْضَةً

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from Hammad ibn 'Isa from Shu'ayb from abu Basir who has said the following:

'About the case of a woman who is divorced and experiences Hayd (menses) once every three months, abu 'Abd Allah^{asws} has said, 'When three months are over her waiting period is complete. For every month he counts for her one Hayd (menses).'

7- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ الْحُسَيْنِ عَنْ أَبِي الْعَاسِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ بَعْدَ مَا وَلَدَتْ وَ طَهَّرَتْ وَ هِيَ امْرَأَةٌ لَا تَرَى دَمًا مَا دَامَتْ تُرَضِعُ مَا عِدَّتُهَا قَالَ ثَلَاثَةَ أَشْهُرٍ

Ali ibn Ibrahim has narrated from his father from ibn abu Nasr, from Dawud ibn al-Ilusayn, from abu al-'Abbas who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife after childbirth and her becoming clean and she is a woman who does not experience Hayd (menses) as long as she breastfeeds and about how much is her waiting period. He^{asws} said, 'It is three months.'

8- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ عِدَّةُ الْمَرْأَةِ الَّتِي لَا تُحِيضُ وَ الْمُسْتَحَاضَةِ الَّتِي لَا تَطْهُرُ ثَلَاثَةَ أَشْهُرٍ وَ عِدَّةُ الَّتِي تُحِيضُ وَ يَسْتَقِيمُ حَيْضُهَا ثَلَاثَةَ أَشْهُرٍ قَالَ وَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ إِنْ أَرَبْتُمْ مَا الرِّبَّةُ فَقَالَ مَا زَادَ عَلَى شَهْرٍ فَهُوَ رَبِّيهِ فَلْتَعِدَّ ثَلَاثَةَ أَشْهُرٍ وَ لَتَتْرُكِ الْحَيْضَ وَ مَا كَانَ فِي الشَّهْرِ لَمْ تَزِدْ فِي الْحَيْضِ عَلَيْهِ ثَلَاثَ حَيْضٍ فَعِدَّتُهَا ثَلَاثُ حَيْضٍ

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

'Abu 'Abd Allah^{asws} has said, 'The waiting period of a woman who does not experience Hayd (menses) and one who experiences Istihadah which does not become clean for three months, their waiting period is three months. Waiting period of a woman whose Hayd is straight is three Hayd-free periods.' I then asked about the meaning of the words of Allah^{azwj}, '... if you have doubt.' He^{asws} said, 'This 'doubt' is about what is more than one month, thus, she counts her waiting period for three months and ignores Hayd. Whatever of Hayd is in a month which does not increase in Hayd & waiting period is three cycles of Hayd.'

9- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ع قَالَ أَيُّ الْأَمْرَيْنِ سَبَقَ إِلَيْهَا فَقَدْ انْقَضَتْ عِدَّتُهَا إِنْ مَرَّتْ ثَلَاثَةُ أَشْهُرٍ لَا تَرَى فِيهَا دَمًا فَقَدْ انْقَضَتْ عِدَّتُهَا وَ إِنْ مَرَّتْ ثَلَاثَةُ أَفْرَاءٍ فَقَدْ انْقَضَتْ عِدَّتُهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Hassan ibn Aji ibn Faddal from ibn Bukayr from Zurarah who has said the following:

'One of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has stated this Hadith. 'Of the two issues whichever comes first, it marks the end of her waiting period: one is passing of three months in which she does not see Hayd (menses), thus her waiting period ends. If three Hayd-free periods pass this also marks the end of her waiting period.'

10- مُحَمَّدٌ عَنْ أَحْمَدَ عَنْ عَلِيٍّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ قَالَ إِذَا نَظَرْتَ فَلَمْ تَجِدِ الْإِفْرَاءَ إِلَّا ثَلَاثَةَ أَشْهُرٍ فَإِذَا كَانَتْ لَا يَسْتَقِيمُ لَهَا حَيْضٌ تُحِيضُ فِي الشَّهْرِ مَرَارًا فَإِنَّ عِدَّتَهَا عِدَّةُ الْمُسْتَحَاضَةِ ثَلَاثَةَ أَشْهُرٍ وَ إِذَا كَانَتْ تُحِيضُ حَيْضًا مُسْتَقِيمًا فَهُوَ فِي كُلِّ شَهْرٍ حَيْضَةٌ بَيْنَ كُلِّ حَيْضَتَيْنِ شَهْرٌ وَ ذَلِكَ الْفَرْءُ

Muhammad has narrated from Ahmad from Ali ibn al-Hakam from Musa ibn Bakr from Zurarah who has said the following:

'He^{asws} has said, 'If she waits and does not find the Hayd (menses)-free period except three months then if her Hayd (menses) is not straight. If she experiences Hayd in a month several times such woman's waiting period is like the waiting period of one who experiences Istihadah, whose 'Iddah (waiting period) is three months. If she experiences Hayd straightly, thus, in every month is one Hayd and between two Hayd (menses) one month of time it is the Hayd-free period.'

11- مُحَمَّدٌ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ يَزِيدَ بْنِ إِسْحَاقَ شَعْرٍ عَنْ هَارُونَ بْنِ حَمَزَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي امْرَأَةٍ طَلَّقَتْ وَ قَدْ طَعَنْتْ فِي السِّنِّ فَحَاضَتْ حَيْضَةً وَاحِدَةً ثُمَّ ارْتَفَعَ حَيْضُهَا فَقَالَ تَعِدُّ بِالْحَيْضَةِ وَ شَهْرَيْنِ مُسْتَقْبَلَيْنِ فَإِنَّهَا قَدْ بَيَسَتْ مِنَ الْمَحِيضِ

Muhammad ibn Yahya has narrated from Muhammad ibn al-Husayn from Yazid ibn Ishaq Sha'ir from Harun ibn Hamzah who has said the following:

'About the case of a woman who is divorced and is old but experiences Hayd (menses) once then her Hayd stops, abu 'Abd Allah^{asws} has said, 'She must count her waiting period for one Hayd and two months in future because she has reached menopause.'

بَابُ أَنَّ النِّسَاءَ يُصَدَّقْنَ فِي الْعِدَّةِ وَالْحَيْضِ

The Words of Women are Accepted in Matters of Hayd

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْعِدَّةُ وَالْحَيْضُ لِلنِّسَاءِ إِذَا ادَّعَتْ صَدَّقَتْ

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

'Abu Ja'far^{asws} has said, 'Waiting period and Hayd (menses) are for women. If they say something about it their words are accepted,'

بَابُ الْمُسْتَرَابَةِ بِالْحَبْلِ

A Woman Confused about Pregnancy

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَمِعْتُ أَبَا إِبْرَاهِيمَ ع يَقُولُ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ فَادَّعَتْ حَبْلاً انْتَظِرْ تِسْعَةَ أَشْهُرٍ فَإِنْ وَلَدَتْ وَ إِلَّا اعْتَدَتْ ثَلَاثَةَ أَشْهُرٍ ثُمَّ قَدْ بَانَتْ مِنْهُ

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

'I once heard abu Ibrahim^{asws} saying, 'If one divorces his wife and she claims to be pregnant, he must wait for nine months if she gives birth, otherwise, she counts a waiting period of three months.'

2- حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ أَبِي الْحَسَنِ ع قَالَ قُلْتُ لَهُ الْمَرْأَةُ الشَّابَّةُ الَّتِي تَحِيضُ مِثْلَهَا يُطْلَقُهَا زَوْجُهَا فَيَرْتَفِعُ طَمَنُهَا كَمْ عِدَّتُهَا قَالَ ثَلَاثَةَ أَشْهُرٍ قُلْتُ فَإِنَّهَا ادَّعَتْ الْحَبْلَ بَعْدَ ثَلَاثَةِ أَشْهُرٍ قَالَ عِدَّتُهَا تِسْعَةَ أَشْهُرٍ قُلْتُ فَإِنَّهَا ادَّعَتْ الْحَبْلَ بَعْدَ تِسْعَةِ أَشْهُرٍ قَالَ إِمَّا الْحَبْلَ تِسْعَةَ أَشْهُرٍ قُلْتُ تَزَوَّجُ قَالَ تَحْتَاطُ بِثَلَاثَةِ أَشْهُرٍ قُلْتُ فَإِنَّهَا ادَّعَتْ بَعْدَ ثَلَاثَةِ أَشْهُرٍ قَالَ لَا رَيْبَةَ عَلَيْهَا تَزَوَّجُ إِنْ شَاءَتْ

Humayd ibn Ziyad has narrated from ibn Satna'ah from Muhammad ibn abu Hamzah from Muhammad ibn Hakim who has said the following:

'I once asked abu al-Hassan^{asws} about the case of a woman who is young and other women like her experience Hayd (menses). She is divorced: then her Hayd stops. How long is her waiting period? He^{asws} said, 'It is three months.' I then asked that she has claimed to be pregnant after three months. He^{asws} said, 'Her waiting period is nine months.' I then said that after nine months she has claimed to be pregnant. He^{asws} said, 'Pregnancy is for nine months.' I then asked, 'Can she marry?' He^{asws} said, 'She must observe precaution for three months.' I then said that after three months she has claimed. He^{asws} said, 'There is no doubt about her, so she can marry if she wants.'

3- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ الْحَسَنِ عَنْ عَلِيٍّ عَنْ أَبَانَ عَنْ ابْنِ حَكِيمٍ عَنْ أَبِي إِبْرَاهِيمَ أَوْ أَبِيهِ ع أَنَّهُ قَالَ فِي الْمَطْلُوقَةِ يُطْلَقُهَا زَوْجُهَا فَنَقُولُ أَنَا حَبْلِي فَتَمَكُّتْ سَنَةً قَالَ إِنْ جَاءَتْ بِهِ لَأَكْثَرَ مِنْ سَنَةٍ لَمْ تُصَدَّقْ وَلَوْ سَاعَةً وَاحِدَةً فِي دَعْوَاهَا

Al-Husayn ibn Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali from Aban ibn Hakim who has said the following:

'About the case of a woman who is divorced and she claims to be pregnant; so she waits for one year, abu Ibrahim^{asws} or his father^{asws} has said, 'if she comes up with such claim after a year it is not accepted even if it is one hour more.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنِ الْعَبْدِ الصَّالِحِ ع قَالَ قُلْتُ لَهُ الْمَرْأَةُ الشَّابَّةُ الَّتِي تَحِيضُ مِثْلَهَا يُطْلَقُهَا زَوْجُهَا فَيَرْتَفِعُ طَمَنُهَا مَا عِدَّتُهَا قَالَ ثَلَاثَةَ أَشْهُرٍ قُلْتُ جَعَلْتُ فِدَاكَ فَإِنَّهَا تَزَوَّجَتْ بَعْدَ ثَلَاثَةِ أَشْهُرٍ فَتَبَيَّنَ بِهَا بَعْدَ مَا دَخَلْتُ عَلَى زَوْجِهَا أَنَّهَا حَامِلٌ قَالَ هِيَآتِ مِنْ ذَلِكَ يَا ابْنَ حَكِيمٍ رَفَعَ الطَّمَنُ

Humayd ibn Ziyad has narrated from ibn Sama'ah and Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al Jabbar from Safwan from Muhammad ibn Hakim who has said the following:

'I once asked the virtuous servant^{asws} about the case of a woman who is young and women like her experience Hayd (menses). Her husband divorces her and her Hayd stops. How long is her waiting period? He^{asws} said, 'It is three months.' I then said that she after three months became married and after going with her husband it was found that she is pregnant. He^{asws} said, 'This cannot happen. O ibn Hakim. Stoppage of Hayd is because of two reasons. It is because of disorder in Hayd in which case husbands were lawful for her, but she was not pregnant or that she is pregnant in which case it becomes apparent in three months because Allah^{azwj}, most Majestic, most Glorious, has set a time for it in which lime pregnancy becomes apparent.' I then asked, 'What happens if she has any doubts?' He^{asws} said, 'Her 'Iddah (waiting period) is nine months.' I then said that she after nine months has doubts. He^{asws} said, 'Pregnancy is for nine months only.' I then asked if she could marry. He^{asws} said, 'She must observe precaution for three months.' I then said that she has doubts after three months.' He^{asws} said, 'There is no doubt in her case, so she can marry if she wants.'

5- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ أَبِي عَبْدِ اللَّهِ أَوْ أَبِي الْحَسَنِ ع قَالَ قُلْتُ لَهُ رَجُلٌ طَلَّقَ امْرَأَتَهُ فَلَمَّا مَضَتْ ثَلَاثَةُ أَشْهُرٍ ادَّعَتْ حَبْلًا قَالَ يُنْتَظَرُ بِهَا تِسْعَةُ أَشْهُرٍ قَالَ قُلْتُ فَإِنَّهَا ادَّعَتْ بَعْدَ ذَلِكَ حَبْلًا قَالَ هِيَ هِيَ هِيَ إِمَّا يَرْتَفِعُ الطَّمْثُ مِنْ ضَرْبَيْنِ إِمَّا حَبْلٌ بَيْنَ وَ إِمَّا فُسَادٌ مِنَ الطَّمْثِ وَ لَكِنَّهَا تَحْتَاطُ بِثَلَاثَةِ أَشْهُرٍ بَعْدَ وَ قَالَ أَيْضًا فِي الَّتِي كَانَتْ تَطْمِثُ ثُمَّ يَرْتَفِعُ طَمْثُهَا سَنَةً كَيْفَ تُطْلَقُ قَالَ تُطْلَقُ بِالشَّهْرِ فَقَالَ لِي بَعْضُ مَنْ قَالَ إِذَا أَرَادَ أَنْ يُطْلَقَهَا وَ هِيَ لَا تُحِيضُ وَ قَدْ كَانَ يَطْوُهَا اسْتَبْرَأَهَا بِأَنْ تَمْسَكَ عَنْهَا ثَلَاثَةَ أَشْهُرٍ مِنَ الْوَقْتِ الَّذِي تَبَيَّنَ فِيهِ الْمُطْلَقَةُ الْمُسْتَقِيمَةُ الطَّمْثُ فَإِنْ ظَهَرَ بِهَا حَبْلٌ وَ إِلَّا طَلَّقَهَا تَطْلِيقَةً بِشَاهِدَيْنِ فَإِنْ تَرَكَهَا ثَلَاثَةَ أَشْهُرٍ فَقَدْ بَانَتْ بِوَاحِدَةٍ وَ إِذَا أَرَادَ أَنْ يُطْلَقَهَا ثَلَاثَ تَطْلِيقَاتٍ تَرَكَهَا شَهْرًا ثُمَّ رَاجَعَهَا ثُمَّ طَلَّقَهَا ثَانِيَةً ثُمَّ امْسَكَ عَنْهَا ثَلَاثَةَ أَشْهُرٍ يَسْتَبْرِئُهَا فَإِنْ ظَهَرَ بِهَا حَبْلٌ فَلَيْسَ لَهُ أَنْ يُطْلَقَهَا إِلَّا وَاحِدَةً

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn 'Isa from Yunus from Muhammad ibn Hakim who has said the following:

'I once asked abu 'Abd Allah^{asws} or abu al-Hassan^{asws} about the case of a man who divorces his wife and after three months she claims to be pregnant. He^{asws} said, 'There is a waiting for her for nine months.' I then said, 'She has claimed to be pregnant after that. He^{asws} said, 'This is far from reality. Hayd (menses) stops for two reasons, because of a clear pregnancy or disorder in Havel. However, she can remain cautious for three months thereafter.' 'He (the narrator) also asked about a woman who experienced Hayd and then it stopped after one year and about how she is divorced. He^{asws} said, 'She is divorced in the presence of witnesses.'

بَابُ نَفَقَةِ الْحُبْلَى الْمُطْلَقَةِ

Maintenance of Pregnant Divorced Women

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْحَامِلُ أَجَلُهَا أَنْ تَضَعَ حَمْلَهَا وَ عَلَيْهِ نَفَقَتُهَا بِالْمَعْرُوفِ حَتَّى تَضَعَ حَمْلَهَا

Ali ibn Ibrahim has narrated from his father from ibn abu Najran from 'Aseni ibn Hamid from Muhammad ibn Qays who has said the following:

'Abu Ja'far^{asws} has said, 'Waiting period of a pregnant divorcee expires at childbirth and he must pay for her maintenance in fairness until childbirth.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا طَلَّقَ الرَّجُلُ الْمَرْأَةَ وَهِيَ حُبْلَى أَنْفَقَ عَلَيْهَا حَتَّى تَضَعَ حَمْلَهَا فَإِذَا وَضَعَتْهُ أَعْطَاهَا أَجْرَهَا وَ لَا يُضَارُّهَا إِلَّا أَنْ يَجِدَ مَنْ هُوَ أَرْخَصُ أَجْرًا مِنْهَا فَإِنْ هِيَ رَضِيَتْ بِذَلِكَ الْأَجْرِ فَهِيَ أَحَقُّ بِابْنِهَا حَتَّى تَقْطِمَهُ

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

'Abu 'Abd Allah^{asws} has said, 'If a man divorces his pregnant wife he must pay for her maintenance until childbirth. When she gives birth, he must pay her wages without causing any harm to her, unless he finds someone who breast feeds for less. If she also agrees for less then she has the priority to have her son until weaning.'

3- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْحُبْلَى الْمُطَلَّقةُ يُنْفَقُ عَلَيْهَا حَتَّى تَضَعَ حَمْلَهَا وَ هِيَ أَحَقُّ بِوَلَدِهَا إِنْ تُرْضِعُهُ بِمَا تَقْبَلُهُ امْرَأَةٌ أُخْرَى إِنْ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ لَا تُضَارُّ وَالِدَةُ بِوَلَدِهَا وَ لَا مَوْلُودٌ لَهُ بِوَلَدِهِ وَ عَلَى الْوَارِثِ مِثْلُ ذَلِكَ قَالَ كَانَتْ الْمَرْأَةُ مِمَّا تَرْفَعُ يَدَهَا إِلَى زَوْجِهَا إِذَا أَرَادَ مُجَامَعَتَهَا فَتَقُولُ لَا أَدْعُكَ لِأَنِّي أَخَافُ أَنْ أَحْمَلَ عَلَى وَلَدِي وَ يَقُولُ الرَّجُلُ لَا أَجَامَعُكَ إِنِّي أَخَافُ أَنْ تَعْلَقِي فَأَقْتُلَ وَلَدِي فَهِيَ اللَّهَ عَزَّ وَ جَلَّ أَنْ تُضَارَّ الْمَرْأَةُ الرَّجُلَ وَ أَنْ يُضَارَّ الرَّجُلُ الْمَرْأَةَ وَ أَمَّا قَوْلُهُ وَ عَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنَّهُ نَهَى أَنْ يُضَارَّ بِالصَّبِيِّ أَوْ يُضَارَّ أُمُّهُ فِي رِضَاعِهِ وَ لَيْسَ لَهَا أَنْ تَأْخُذَ فِي رِضَاعِهِ قَوْفَ حَوْلَيْنِ كَامِلَيْنِ وَ إِنْ أَرَادَا فَصَالًا عَنْ تَرْضَاعٍ مِنْهُمَا قَبْلَ ذَلِكَ كَانَ حَسَنًا وَ الْفَصَالُ هُوَ الْفِطَامُ

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

'A pregnant divorcee must receive her maintenance until childbirth, and she has the priority to breastfeed the child for wages equal to what another woman asks. Allah^{azwj} most Majestic, most Glorious, has said, 'A mother must not be harmed because of her child or the father because of the child and the heirs also bear such responsibility.' (2:232) He^{asws} said, 'A woman (from us) would raise her hand before her husband, when he wanted to go to bed with her, and say, 'i do not want to allow you because I fear of becoming pregnant with my child.' The man would say, 'I do not want to go to bed with you because for fear of your suspension and I kill my child. Allah^{azwj} prohibited a woman's harming a man or a man's harming a woman' and His words '... , the heirs also bear the same responsibility is a prohibition against harming the child or his mother in breastfeeding. She must not charge for breastfeeding for more than two complete years. If they with mutual agreement wean the child before such time, it is fine.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادٍ بْنِ عِيسَى عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ وَ هِيَ حُبْلَى قَالَ أَجَلُهَا أَنْ تَضَعَ حَمْلَهَا وَ عَلَيْهِ نَقْفَتُهَا حَتَّى تَضَعَ حَمْلَهَا

Muhammad ibn Yaliya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from Hammad ibn 'Isa from 'Abd Allah ibn al-Mughirah from 'Abd Allah ibn Sinan who has said the following:

'About the case of a woman who is pregnant and is divorced, abu 'Abd Allah^{asws} has said, 'Her waiting period ends with childbirth and he must pay for her maintenance until she gives birth.'

بَابُ أَنَّ الْمُطَلَّقةَ ثَلَاثًا لَا سَكُنَى لَهَا وَ لَا نَفَقَةَ

A Woman Divorce 3-Times is not Entitled to Lodging or Maintenance

1- أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْفَضْلِ بْنِ شَاذَانَ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ كُلِّهِمْ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِنَّ الْمُطَلَّقةَ ثَلَاثًا لَيْسَ لَهَا نَفَقَةٌ عَلَى زَوْجِهَا إِنَّمَا هِيَ لِلَّتِي لَزَّوَجَهَا عَلَيْهَا رَجْعَةٌ

Al-'Abbas al-Razza from Ayyub ibn Nuh and Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhari from and Humayd ibn Ziyad from ibn Sama'ah all from Safwan ibn Yahya from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'A woman divorced three times does not have the right to ask for her maintenance from her husband. Such right becomes due on a husband who has the right to go back to her.'

2- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنِ الْمُطَلَّاقَةِ ثَلَاثًا عَلَى السُّنَّةِ هَلْ لَهَا سُكْنَى أَوْ نَفَقَةٌ قَالَ لَا

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a woman who is divorced three times according to Sunnah: if she deserves maintenance and accommodation. He^{asws} said, 'No. it does not apply to her case.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عِيسَى أَوْ رَجُلٍ عَنْ حَمَّادٍ عَنْ شُعَيْبٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ سُئِلَ عَنِ الْمُطَلَّاقَةِ ثَلَاثًا أَلَهَا سُكْنَى وَ نَفَقَةٌ قَالَ حُبْلَى هِيَ قُلْتُ لَا قَالَ لَا

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa or a man from Hammad from Shu'ayb from abu Basir who has said the following:

'Once abu 'Abd Allah^{asws} was asked about the case of a woman who is divorced three times; if she deserves maintenance and accommodation. He^{asws} asked, 'Is she pregnant?' I replied, 'No, she is not pregnant.' He^{asws} said, 'No, She does not deserve.'

4- مُحَمَّدُ بْنُ بَحْيٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْمُطَلَّاقَةُ ثَلَاثًا لَيْسَ لَهَا نَفَقَةٌ عَلَى زَوْجِهَا إِنَّمَا ذَلِكَ لِلَّتِي لَزَّوَجَهَا عَلَيْهَا رَجْعَةٌ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al -Hakam from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'A woman who is divorced three times does not deserve maintenance from her husband; it is for the one whose husband has the right to go back to her.'

5- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ قُلْتُ الْمُطَلَّاقَةُ ثَلَاثًا أَلَهَا سُكْنَى أَوْ نَفَقَةٌ فَقَالَ حُبْلَى هِيَ فَقُلْتُ لَا قَالَ لَيْسَ لَهَا سُكْنَى وَ لَا نَفَقَةٌ

A number of our people have narrated from Ahmad ibn Muhammad ibn Khalid and Ali ibn Ibrahim has narrated from his father from 'Uthman ibn Msa from Sama'ah who has said the following:

'I once asked him^{asws} about the case of a woman who is divorced three times: if she deserves maintenance and accommodation. He^{asws} asked, 'Is she pregnant?' I replied, 'No, she is not pregnant.' He^{asws} said, 'No, she does not deserve it.'

بَابُ مَنَعَةِ الْمُطَلَّاقَةِ

Benefits for a Divorced Woman

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصِ بْنِ الْخَثَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ أَوْ يَمْتَعُهَا قَالَ نَعَمْ أَوْ مَا يُحِبُّ أَنْ يَكُونَ مِنَ الْمُحْسِنِينَ أَوْ مَا يُحِبُّ أَنْ يَكُونَ مِنَ الْمُتَّقِينَ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hafs ibn al-Bakhtariy who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife: if he can benefit her. He^{asws} said, 'Yes, does he not want to be of the people of good deeds, does he not want to be of the pious people?'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الْبَزْزَطِيِّ قَالَ ذَكَرَ بَعْضُ أَصْحَابِنَا أَنَّ مَنَعَةَ الْمُطَلَّاقَةِ قَرِيبَةٌ

Ali ibn Ibrahim has narrated from his father and a number of our people have narrated from Sahl ibn Ziyad from al-Bazantiy who has said the following:

'Certain persons of our people have mentioned that benefiting a divorced woman is obligatory.'

3- أَحْمَدُ بْنُ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ الْبَزْزَنْطِيُّ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِ اللَّهِ عَزَّ وَجَلَّ وَ لِلْمُطَلَّقاتِ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ قَالَ مَتَاعُهَا بَعْدَ مَا تَنْقَضِي عِدَّتُهَا عَلَى الْمَوْسِعِ قَدْرُهُ وَ عَلَى الْمُقْتِرِ قَدْرُهُ وَ كَيْفَ لَا يُمَتَّعُهَا وَ هِيَ فِي عِدَّتِهَا تَرْجُوهُ وَ يَرْجُوها وَ يُحْدِثُ اللَّهُ عَزَّ وَجَلَّ بَيْنَهُمَا مَا يَشَاءُ وَ قَالَ إِذَا كَانَ الرَّجُلُ مُوسِعًا عَلَيْهِ مَتَّعَ امْرَأَتَهُ بِالْعَبْدِ وَ الْأَمَةِ وَ الْمُقْتِرُ يُمَتَّعُ بِالْحِنْطَةِ وَ الشَّعِيرِ وَ الزَّبِيبِ وَ الثُّوبِ وَ الدَّرَاهِمِ وَ إِنَّ الْحَسَنَ بْنَ عَلِيٍّ ع مَتَّعَ امْرَأَةً لَهُ بِأَمَةٍ وَ لَمْ يُطْلَقْ امْرَأَةً إِلَّا مَتَّعَهَا

Ahmad ibn Muhammad from ibn abu Nasr has narrated from al-Bazantiy from 'Abd al-Karim from al-Halabi who has said the following:

'About the words of Allah^{azwj} most Majestic, most Glorious, ' . . . divorced women have rights on the pious ones,' (2:241) abu 'Abd Allah^{asws} has said. 'It is benefiting her after her waiting period ends. An affluent man or one who is not affluent, each must benefit according to their abilities. During the waiting period, however, why he should not benefit her when she is in waiting period and hopes for him as well as he hopes for her that Allah^{azwj}, as He wills, may make something happen for them?' He^{asws} said, 'If a man is affluent he benefits his wife with servants and a not-so-affluent one benefits with wheat [and barley], raisins, clothes and dirham. Al-Hassan ibn Ali^{asws} benefited his wife with slave-girl. He^{asws} benefited all the women that he divorced.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ جَمِيعًا عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ فِي قَوْلِ اللَّهِ عَزَّ وَجَلَّ وَ لِلْمُطَلَّقاتِ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ قَالَ مَتَاعُهَا بَعْدَ مَا تَنْقَضِي عِدَّتُهَا عَلَى الْمَوْسِعِ قَدْرُهُ وَ عَلَى الْمُقْتِرِ قَدْرُهُ قَالَ كَيْفَ يُمَتَّعُهَا فِي عِدَّتِهَا وَ هِيَ تَرْجُوهُ وَ يَرْجُوها وَ يُحْدِثُ اللَّهُ مَا يَشَاءُ أَمَا إِنَّ الرَّجُلَ الْمَوْسِعَ يُمَتَّعُ الْمَرْأَةَ بِالْعَبْدِ وَ الْأَمَةِ وَ يُمَتَّعُ الْفَقِيرُ بِالْحِنْطَةِ [بِالْتَّمَرِ] وَ الزَّبِيبِ وَ الثُّوبِ وَ الدَّرَاهِمِ وَ إِنَّ الْحَسَنَ بْنَ عَلِيٍّ ع مَتَّعَ امْرَأَةً طَلَّقَهَا بِأَمَةٍ وَ لَمْ يَكُنْ يُطْلَقُ امْرَأَةً إِلَّا مَتَّعَهَا حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ع مِثْلَهُ إِلَّا أَنَّهُ قَالَ وَ كَانَ الْحَسَنُ بْنُ عَلِيٍّ ع يُمَتَّعُ نِسَاءَهُ بِالْأَمَةِ

Humayd ibn Ziyad has narrated from Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan and Ali ibn Ibrahim has narrated from his father from 'Uthman ibn 'Isa from Sama'ah all from abu 'Abd Allah^{asws} who has said the following:

'About the words of Allah^{azwj}. ' . . . , divorced women must be benefited with fairness; it is a right on the pious ones', abu 'Abd Allah^{asws} has stated this Hadith. 'It is after the end of waiting period, and about, 'an affluent man and one not-so-affluent each according to their abilities', he^{asws} said, 'Why should he not benefit her during her waiting period when she hopes and he hopes that Allah^{azwj} by His will may make something good to happen for them? An affluent man must benefits his woman with servant and one not affluent, benefit with wheat, (dates), raisins, clothes and dirham. Al-Hassan ibn Ali^{asws} benefited the woman he divorced with slave-girl. He^{asws} benefited all the women he divorced.'

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from Mu'awiyah ibn 'Ammar from abu 'Abd Allah^{asws}, a similar Hadith except that he has said, 'Al-Hassan ibn Ali^{asws} would benefit his women with slave-girls.'

5- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ ع أَخْبِرْنِي عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ وَ لِلْمُطَلَّقاتِ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ مَا أَذْنَى ذَلِكَ الْمَتَاعِ إِذَا كَانَ مُعْسِرًا لَا يَجِدُ قَالَ خِمَارٌ أَوْ شِبْهُهُ

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from 'Abd al-Karim from abu Nasr who has said the following:

'I once asked abu Ja'far^{asws} about the words of Allah^{azwj}, ' . . . divorced women must be benefited with fairness. It is a right on the pious ones,' and about what is the minimum of such benefits if one is not affluent. He^{asws} said, 'It is a scarf or similar things.'

بَابُ مَا لِلْمُطَلَّقةِ الَّتِي لَمْ يَدْخُلْ بِهَا مِنَ الصَّدَاقِ

The Rights of a Divorced Woman of mahr

1- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعًا عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا فَقَدْ بَانَتْ مِنْهُ وَ تَنَزَّوَجَ إِنْ شَاءَتْ مِنْ سَاعَتِهَا وَ إِنْ كَانَ فَرَضَ لَهَا مَهْرًا فَلَهَا نِصْفُ الْمَهْرِ وَ إِنْ لَمْ يَكُنْ فَرَضَ لَهَا مَهْرًا فَلَيْمَتُهَا

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and al-'Abbas Muhammad ibn Ja'far al-Razzaz from Ayyub ibn Null and Humayd ibn Ziyad has narrated from ibn Sama'ah all from Safwan from ibn Muskan from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If a man divorces his wife before going to bed with her, she becomes stranger to him and she can marry if she wants in the same hour after divorce. If mahr (dower) is set, she deserves one-half of it but if mahr (dower) is not set he must benefit her.'

2- صَفْوَانُ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ وَ عَلِيٍّ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ جَمِيعًا عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَ قَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنِصْفُ مَا فَرَضْتُمْ إِلَّا أَنْ يَعْفُونَ أَوْ يَعْفُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ قَالَ هُوَ الْأَبُ أَوْ الْأَخُ أَوْ الرَّجُلُ يُوصِي إِلَيْهِ وَ الَّذِي يَجُوزُ أَمْرُهُ فِي مَالِ الْمَرْأَةِ فَيَبْتَاعَ لَهَا فَتُحْيِرُ فَإِذَا عَفَا فَقَدْ جَازَ

Safwan has narrated from in from abu Basir and Ali has narrated from his father and A number of our people have narrated from Ahmad ibn Muhammad from ibn Khalid from 'Uthman ibn 'Isa from Sama'ah all from abu 'Abd Allah^{asws} who has said the following:

'The following are the words of Allah^{azwj}. 'If you divorce them before you touch them and if you have set mahr (dower) for them that must be paid them one-half of it is payable unless it is waved or one who has authority in the matter of marriage waves it.' (2:237) Abu 'Abd Allah^{asws} has said, 'O people with such authority is father, or brother or the executor of the will and those whose command in the assets of the woman is effective to buy certain things and she authorizes, if such person waves, then it is permissible.'

3- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ عَلَيْهِ نِصْفُ الْمَهْرِ إِنْ كَانَ فَرَضَ لَهَا شَيْئًا وَ إِنْ لَمْ يَكُنْ فَرَضَ لَهَا فَلَيْمَتُهَا عَلَى نَحْوِ مَا يُمْتَعُ مِثْلُهَا مِنَ النِّسَاءِ قَالَ وَ قَالَ فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ أَوْ يَعْفُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ قَالَ هُوَ الْأَبُ أَوْ الْأَخُ وَ الرَّجُلُ يُوصِي إِلَيْهِ وَ الرَّجُلُ يَجُوزُ أَمْرُهُ فِي مَالِ الْمَرْأَةِ فَيَبْتَاعَ لَهَا وَ يَسْتَتِرُ لَهَا فَإِذَا عَفَا فَقَدْ جَازَ

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

'About the ease of a man who divorces his wife before going to bed with her, abu 'Abd Allah^{asws} has stated this Hadith. 'He owes to her one-half of mahr (dower) if he has set something for her; but if he has not set anything for her he must benefit her like the benefits that similar women receive.' The words of Allah^{azwj}, say, ' . . . or it is waived by the one who has authority in the matters of marriage. . . ' He^{asws} said. 'Of such people is father, or a brother or the executor of the will or a man who is authorized in dealing with the assets of the woman to buy for her and he buys if he waves, it then is effective.'

الكافي ج : 6 ص : 107

4- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع رَجُلٌ تَزَوَّجَ امْرَأَةً عَلَى مِائَةِ شَاةٍ ثُمَّ سَاقَ إِلَيْهَا الْغَنَمَ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا وَ قَدْ وَلَدَتْ الْغَنَمَ قَالَ إِنْ كَانَتْ الْغَنَمُ حَمَلَتْ عَنْدهُ رَجَعَ بِنِصْفِهَا وَ نِصْفِ أَوْلَادِهَا وَ إِنْ لَمْ يَكُنْ الْحَمْلُ عَنْدهُ رَجَعَ بِنِصْفِهَا وَ لَمْ يَرْجِعْ مِنَ الْأَوْلَادِ بِشَيْءٍ مُحَمَّدُ بْنُ أَحْمَدَ عَنْ ابْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع مِثْلَهُ إِلَّا أَنَّهُ قَالَ سَاقَ إِلَيْهَا غَنَمًا وَ رَقِيقًا فَوَلَدَتْ الْغَنَمَ وَ الرِّقِيقُ

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman and sets a malir (dower) of one hundred sheep. He then delivers them to her, then divorces her before going to bed with her and the sheep have given birth to their young. He^{asws} said, 'If the sheep had become pregnant with him she must return one-half of them and one-

half of the young ones; but if they did not become pregnant with him she must return one-half of the sheep but not the young ones.' Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from 'Ubayd ibn Zurarah who has narrated the following: 'He has narrated a similar Hadith from abu 'Abd Allah^{asws} except that he has said. 'He delivered sheep and slaves, then sheep and slaves gave birth.'

5- مُحَمَّدٌ عَنْ أَحْمَدَ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عَلِيِّ بْنِ رَبِابٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ الرِّثَاءَ أَوْ الْجَارِيَةَ الْبَكْرَ فَيُطْلِقُهَا سَاعَةً يُدْخِلُ عَلَيْهَا فَقَالَ هَاتَانِ يَنْظُرُ إِلَيْهِمَا مَنْ يُوثِقُ بِهِ مِنَ النِّسَاءِ فَإِنْ كُنَّ عَلَى خَالِهِنَّ كَمَا أُذْخِلْنَ عَلَيْهِ فَإِنَّ لَهُنَّ نِصْفَ الصَّدَاقِ الَّذِي فَرَضَ لَهَا وَ لَا عِدَّةَ عَلَيْهَا مِنْهُ

Muhammad has narrated from Ahmad from ibn Mahbub. from ibn Bukayr from ibn Ri'ab from Zurarah who has said the following:

'About the case of a man who marries a non-virgin woman or a virgin one and divorces her in the hour that she enters his house, abu Ja'farasws has stated this Hadith. 'Trustworthy women must examine them and if they find such woman with the condition before she came to him then she deserves one-half of the mahr (dower) which is set for her and she does not need to count any waiting period.'

6- مُحَمَّدٌ عَنْ أَحْمَدَ عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ الْفَضِيلِ بْنِ يَسَارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً بِأَلْفِ دِرْهَمٍ فَأَعْطَاهَا عَبْدًا لَهُ أَبَقًا وَ بُرْدَ حَبْرَةٍ بِأَلْفِ أَلْفٍ أَصْدَقَهَا فَقَالَ إِذَا رَضِيتُ بِالْعَبْدِ وَ كَانَ قَدْ عَرَفْتُهُ فَلَا بَأْسَ إِذَا هِيَ قَبِضَتْ الثَّوْبَ وَ رَضِيتُ بِالْعَبْدِ فَلْتُ فَإِنْ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ لَا مَهْرَ لَهَا وَ تَرُدُّ عَلَيْهِ خَمْسِمِائَةَ دِرْهَمٍ وَ يَكُونُ الْعَبْدُ لَهَا

Muhammad ibn Ahmad has narrated from ibn Mahbub from Jamil ibn Salih from al-Fudayl ibn Yasar who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman and sets a mahr (dower) of one thousand dirham and gives her a runaway slave and a gown of Hibr for the one thousand set as mahr (dower). He^{asws} said, 'If she knows about the slave and has agreed, then it is not unlawful if she has taken delivery of the cloths and has agreed about the slave.' I then asked, 'What happens if he divorces her before going to bed with her? He^{asws} said, 'She has no mahr (dower) and she must return five hundred dirham and the slave is for her.'

7- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ ابْنِ أَبِي يَعْفُورٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً وَ جَعَلَ صَدَاقَهَا أَبَاهَا عَلَى أَنْ تَرُدَّ عَلَيْهِ أَلْفَ دِرْهَمٍ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا مَا يَنْبَغِي لَهَا أَنْ تَرُدَّ عَلَيْهِ وَ إِنَّمَا لَهَا نِصْفُ الْمَهْرِ وَ أَبُوهَا شَيْخٌ قِيمَتُهُ خَمْسِمِائَةَ دِرْهَمٍ وَ هُوَ يَقُولُ لَوْ لَا أَنْتُمْ لَمْ أَبِيعْهُ بِثَلَاثَةِ أَلْفٍ دِرْهَمٍ فَقَالَ لَا يَنْظُرُ فِي قَوْلِهِ وَ لَا تَرُدُّ عَلَيْهِ شَيْئًا

Humayd ibn Ziyad has narrated from ibn Sama'ah from more than one person from Aban ibn 'Uthman from ibn abu Ya'fur who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman and has set her father as her mahr (dower) and that she must return one thousand dirham to him. He then divorces her before going to bed with her. What must she return to him when she deserves only one-half of the mahr (dower)? Her father is an old man who is worth only five hundred dirham and he says, 'Were it not because of you I would not sell him for three thousand dirhani. He^{asws} said, 'His words are not considered and not anything is returned to him.'

8- مُحَمَّدٌ بْنُ بَحْيٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ صَالِحِ بْنِ رَزِينٍ عَنْ شِهَابٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً بِأَلْفِ دِرْهَمٍ فَأَذَاهَا إِلَيْهَا فَوَهَبَتْهَا لَهُ وَ قَالَتْ أَنَا فِيكَ أَرْغَبُ فُطِّلَقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ يَرْجِعُ عَلَيْهَا بِخَمْسِمِائَةِ دِرْهَمٍ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from Salih ibn Razin from Shihab who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman for one thousand dirham and pays to her; but she gives it as a gift to him and says, 'I am

interested in you.' He then divorces her before going to bed with her.' He^{asws} said, 'He must return to her five hundred dirham.'

الكافي ج : 6 ص : 108

9- مُحَمَّدٌ عَنْ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مَنصُورِ بْنِ يُوسَ عَنْ ابْنِ أُذَيْنَةَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً فَأَمَّهَرَهَا أَلْفَ دِرْهَمٍ وَدَفَعَهَا إِلَيْهَا فَوَهَبَتْ لَهُ خَمْسِمِائَةَ دِرْهَمٍ وَرَدَّتْهَا عَلَيْهِ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ تَرُدُّ عَلَيْهِ الْخَمْسِمِائَةَ دِرْهَمَ الْبَاقِيَةِ لِأَنَّهَا إِذَا كَانَتْ لَهَا خَمْسِمِائَةُ دِرْهَمٍ فَهَبْتُهَا إِلَيْهَا لَهُ وَلِغَيْرِهِ سِوَاءً

Muhammad has narrated from Ahmad from Muhammad ibn 'Isma'il from Mansur ibn Yunus from ibn 'Udhaynah from Muhammad ibn Muslim who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman and sets a mahr (dower) of one thousand dirham and pays it to her. She then keeps five hundred and returns five hundred to him as gift. He then divorces before going to bed with her. He^{asws} said, 'She must return the other five hundred because five hundred belonged to her. Her giving as gift to him or others is the same.'

10- مُحَمَّدٌ عَنْ أَحْمَدَ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ النَّضْرِ بْنِ سُوَيْدٍ عَنْ الْقَاسِمِ بْنِ سُلَيْمَانَ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ عَ فِي رَجُلٍ تَزَوَّجَ امْرَأَةً وَأَمَّهَرَهَا أَبَاهَا وَبَيْعَهُ أَبَيْهَا خَمْسِمِائَةَ دِرْهَمٍ عَلَى أَنْ تُعْطِيَهُ أَلْفَ دِرْهَمٍ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ لَيْسَ عَلَيْهَا شَيْءٌ

Muhammad has narrated from Ahmad from al-Husayn ibn Sa'id from al-Nadr ibn Suwayd from al-Qasim ibn Sulayman from 'Ubayd ibn Zurarah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman and sets her (slave) father as her mahr (dower). His price is five hundred dirham; then he divorces before going to bed with her.' He^{asws} said, 'She does not owe anything to him.'

11- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ عَلَيْهِ نِصْفُ الْمَهْرِ إِنْ كَانَ قَرَضَ لَهَا شَيْئًا وَ إِنْ لَمْ يَكُنْ قَرَضَ لَهَا شَيْئًا فَلْيُمْتَعْهَا عَلَى نَحْوِ مَا يُمْتَعُ بِهِ مِثْلَهَا مِنَ النِّسَاءِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from AH ibn abu Hamzah from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife before going to bed with her. He^{asws} said, 'He owes to her one-half of the mahr (dower) if he has set mahr (dower) for her, but if he has not set anything for her then he must benefit her in a fair manner as it is done with women similar to her.'

12- مُحَمَّدٌ بْنُ يَحْيَى رَفَعَهُ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ الْأَوَّلِ عَ فِي رَجُلٍ تَزَوَّجَ امْرَأَةً عَلَى عَبْدٍ وَ امْرَأَتِهِ فَسَاقَهُمَا إِلَيْهَا فَمَاتَتِ امْرَأَةُ الْعَبْدِ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ إِنْ كَانَ قَوْمَهَا عَلَيْهَا يَوْمَ تَزَوَّجَهَا فَإِنَّهُ يُقَوِّمُ الْعَبْدَ الْبَاقِي بِقِيَمَتِهِ ثُمَّ يَنْظُرُ مَا بَقِيَ مِنَ الْقِيَمَةِ الَّتِي تَزَوَّجَهَا عَلَيْهَا فَتَرُدُّ الْمَرْأَةَ عَلَى الزَّوْجِ ثُمَّ يُعْطِيهَا الزَّوْجَ النِّصْفَ مِمَّا صَارَ إِلَيْهِ

Muhammad ibn Yahya in a marfu' manner has narrated from Sshaq ibn 'Ammar who has said the following:

'This is the case of a man who marries a woman for a slave with his wife. He delivers them to her then the wife of the slave dies in the possession of the woman; then he divorces her before going to bed with her. Abu al-Hassan al-Awwal^{asws} has said, 'If he had appraised her for her on the day of marriage he then appraises the slave. He then counts the difference of the day of marriage which she must return to him, then he gives her one-half of what he has received back.'

13- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ عَ أَنَّ أَمِيرَ الْمُؤْمِنِينَ عَ قَالَ فِي الْمَرْأَةِ تَزَوَّجَ عَلَى الْوَصِيفِ فَيَكْبُرُ عِنْدَهَا فَيَزِيدُ أَوْ يَنْقُصُ ثُمَّ يُطَلِّقُهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ عَلَيْهَا نِصْفُ قِيَمَتِهِ يَوْمَ دَفَعَهَا إِلَيْهَا لَا يَنْظُرُ فِي زِيَادَةٍ وَلَا نُقْصَانٍ

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

'Abu 'Abd Allah^{asws} has said that 'Amir al-Mu'minin^{asws} has said this. 'If a woman marries for a woman as mahr (dower) who grows with her whereby her price increases or

reduces, then he divorces her before going to bed with her. She must give back half of the price of the day it was given to her regardless of any increase or decrease.'

14- وَبَهَذَا الْإِسْنَادِ فِي الرَّجُلِ يُعْتِقُ أَمَتَهُ فَيَجْعَلُ عَتَقَهَا مَهْرَهَا ثُمَّ يُطْلِقُهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ ثَرْدُ عَلَيْهِ نَصْفَ قِيمَتِهَا تُسْتَسْعَى فِيهَا

Through the same chain of narrators as that of the previous Hadith the following is narrated:

'About the case of a man who sets his slave-girl free then sets her freedom as her mahr (dower) then divorces before going to bed with her. He^{asws} said, 'She must return one-half of her price and must work to pay the rest.'

بَابُ مَا يُوجِبُ الْمَهْرَ كَمَّا *The Issue that Completes mahr*

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ دَخَلَ بِامْرَأَةٍ قَالَ إِذَا التَّقَى الْخِتَانَانِ وَجَبَ الْمَهْرُ وَالْعِدَّةُ

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who has married a woman and has gone to bed with her. He^{asws} said, 'When the two organs meet mahr (dower) become obligatory.'

2- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصِ بْنِ الْبَحْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا التَّقَى الْخِتَانَانِ وَجَبَ الْمَهْرُ وَالْعِدَّةُ وَالْغُسْلُ

Ali has narrated from his father from ibn abu 'Umayr from Hafs ibn al-Bakhtariy who has said the following:

'Abu 'Abd Allah^{asws} has said. 'When the two organs meet, mahr (dower), waiting period and Ghusl (bath) become obligatory.'

3- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ أَبِي تَصْرٍ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا أُولِجَهُ فَقَدْ وَجَبَ الْغُسْلُ وَالْجَلْدُ وَالرَّجْمُ وَ وَجَبَ الْمَهْرُ

A number of our people have narrated from Sah! ibn Ziyad and Ali ibn Ibrahim has narrated from his father from all ibn abu Nasr from Dawud ibn Sarhan who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If he makes it penetrate Ghusl (bath), whipping, stoning and mahr (dower) become obligatory.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ مُلَامَسَةُ النِّسَاءِ هُوَ الْإِبْقَاعُ بِهِنَّ

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

'Abu 'Abd Allah^{asws} has said, 'Touching women is falling upon them (going to bed with them).'

5- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً فَأَغْلَقَ بَابًا وَ أَرَخَى سِتْرًا وَ لَمَسَ وَ قَبَّلَ ثُمَّ طَلَّقَهَا أَوْ يُوْجِبُ عَلَيْهِ الصَّدَاقَ قَالَ لَا يُوجِبُ عَلَيْهِ الصَّدَاقَ إِلَّا الْوَقَاعُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from Yunus ibn Ya'qub who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman, closes the door, pulls the curtains, touches and kisses her; then divorces: if mahr (dower) becomes obligatory. He^{asws} said, 'Mahr (dower) becomes obligatory only after sexual intercourse.'

6- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلَهُ أَبِي وَ أَنَا حَاضِرٌ عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً فَأَدْخَلَتْ عَلَيْهِ فَلَمْ يَمَسَّهَا وَ لَمْ يَصِلْ إِلَيْهَا حَتَّى طَلَّقَهَا هَلْ عَلَيْهَا عِدَّةٌ مِنْهُ فَقَالَ إِنَّمَا الْعِدَّةُ مِنَ الْمَاءِ قِيلَ لَهُ فَإِنْ كَانَ وَاقَعَهَا فِي الْفَرْجِ وَ لَمْ يُنْزَلْ فَقَالَ إِذَا أَدْخَلَهُ وَجِبَ الْغُسْلُ وَ الْمَهْرُ وَ الْعِدَّةُ

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

'Abu Basir once asked abu 'Abd Allah^{asws} when I was also there, about a man who marries a woman, goes to her but does not touch or approach her before divorcing if she needs to count waiting period. He^{asws} said, 'Waiting period is because of fluid discharge.' It was asked, 'What happens if there is sexual intercourse without semen discharge?' He^{asws} said, 'If he inserts it Ghushl (bath), mahr (dower) and waiting period become obligatory.'

7- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُطَلِّقُ الْمَرْأَةَ وَ قَدْ مَسَّ كُلَّ شَيْءٍ مِنْهَا إِلَّا أَنَّهُ لَمْ يُجَامِعْهَا أَلَيْهَا عِدَّةٌ فَقَالَ ابْنُ أَبِي جَعْفَرٍ ع بِذَلِكَ فَقَالَ لَهُ أَبُوهُ عَلِيُّ بْنُ الْحُسَيْنِ ع إِذَا أَغْلَقَ بَابًا وَ أَرَخَى سِتْرًا وَجِبَ الْمَهْرُ وَ الْعِدَّةُ قَالَ ابْنُ أَبِي عُمَيْرٍ اخْتَلَفَ الْحَدِيثُ فِي أَنَّ لَهَا الْمَهْرَ كَمَلًا وَ بَعْضُهُمْ قَالَ يَنْصَفُ الْمَهْرُ وَ إِنَّمَا مَعْنَى ذَلِكَ أَنَّ الْوَالِيَّ إِنَّمَا يَحْكُمُ بِالْحُكْمِ الظَّاهِرِ إِذَا أَغْلَقَ الْبَابَ وَ أَرَخَى السِّتْرَ وَجِبَ الْمَهْرُ وَ إِنَّمَا هَذَا عَلَيْهَا إِذَا عَلِمَتْ أَنَّهُ لَمْ يَمَسَّهَا فَلَيْسَ لَهَا فِيهَا بَيْنَتَا وَ بَيَّنَّ اللَّهُ إِلَّا يَنْصَفُ الْمَهْرَ

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces a woman whom he has touched without sexual intercourse if waiting period is obligatory. He^{asws} said. 'Abu Ja'far^{asws} had faced such a condition and his father, Ali ibn al-Husayn^{asws} said, 'When doors are closed and curtains are pulled down mahr (dower) and waiting period become necessary.'

Ibn abu ' Umayr has said that Ahadith are not the same about this issue if mahr (dower) is complete or not. Certain ones have said that it is one-half of mahr (dower) and it means that a judge rules according to apparent condition of a case. When the doors are closed and curtains are pulled down mahr (dower) becomes obligatory. It is up to her when she knows before Allah^{azwj} that he has not touched then she deserves only half of mahr (dower).'

8- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ رَبَّابٍ عَنْ أَبِي بَصِيرٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع الرَّجُلُ يَتَزَوَّجُ الْمَرْأَةَ فَيُرْخِي عَلَيْهَا السِّتْرَ وَ يُغْلِقُ الْبَابَ ثُمَّ يُطَلِّقُهَا فَتُسْأَلُ الْمَرْأَةُ هَلْ أَتَاكَ فَتَقُولُ مَا أَتَانِي وَ يُسْأَلُ هُوَ هَلْ أَتَيْتَهَا فَيَقُولُ لَمْ أَتَهَا فَقَالَ لَا يُصَدِّقَانِ وَ ذَلِكَ أَنَّهَا تُرِيدُ أَنْ تَدْفَعَ الْعِدَّةَ عَنْ نَفْسِهَا وَ يُرِيدُ هُوَ أَنْ يَدْفَعَ الْمَهْرَ عَنْ نَفْسِهِ يَعْنِي إِذَا كَانَا مُتَّهِمَيْنِ

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

'I once asked abu 'Abd Allah, asws, about the case of a man who marries a woman; then pulls the curtains down upon himself and on her and closes the door; then divorces her and the woman is asked, 'Did he come to you? She says, 'No, he did not come to me.' He then is asked. 'Did you go to her?' He says, 'No. I did go to her.' He (the Imam) said, 'Their words are not accepted because she wants to avoid waiting period from herself and he wants to avoid mahr (dower), meaning when they are accused.'

9- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ ع قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ فَيَدْخُلُ بِهَا فَيُغْلِقُ بَابًا وَ يُرْخِي سِتْرًا عَلَيْهَا وَ يَزْعُمُ أَنَّهُ لَمْ يَمَسَّهَا وَ تُصَدِّقُ هِيَ بِذَلِكَ عَلَيْهَا عِدَّةٌ قَالَ لَا قُلْتُ فَإِنَّهُ شَيْءٌ دُونَ شَيْءٍ قَالَ إِنْ أَخْرَجَ الْمَاءَ اعْتَدْتُ يَعْنِي إِذَا كَانَا مَأْمُونَيْنِ صَدَقَا

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from Ishaq ibn 'Ammar who has said the following:

'I once asked abu al-Hassan^{asws} about the case of a man who marries a woman then goes to her, closes the door, pulls down the curtain on her and thinks that he has not

touched her and she also confirms his words: if she must count waiting period. He^{asws} said, 'No, it is not necessary.' I then asked, 'One thing is near the thing.' He^{asws} said, 'If fluid is discharged she must count waiting period but if they are trusted then their words are accepted.'

بَابُ أَنَّ الْمُطَلَّقةَ وَهُوَ غَائِبٌ عَنْهَا تَعْتَدُ مِنْ يَوْمِ طَلَّقَتْ

The Divorced Woman Whose Husband is Absent

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ وَهُوَ غَائِبٌ عَنْهَا مِنْ أَيِّ يَوْمٍ تَعْتَدُ فَقَالَ إِنْ أَقَامَتْ لَهَا بَيِّنَةٌ عَدْلٍ أَنَّهَا طَلَّقَتْ فِي يَوْمٍ مَعْلُومٍ وَتَيَقَّنَتْ فَلْتَعْتَدُ مِنْ يَوْمِ طَلَّقَتْ وَ إِنْ لَمْ تَحْقُظْ فِي أَيِّ يَوْمٍ وَ فِي أَيِّ شَهْرٍ فَلْتَعْتَدُ مِنْ يَوْمٍ يَبْلُغُهَا

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife when he is absent. When must his wife commence her 'Iddah (waiting period)? He^{asws} said, 'If just testimony is established for his divorcing her on a known day which gives her certainty, she must commence her 'Iddah (waiting period) from the day she is divorced; but if she is not certain then she must commence her 'Iddah from the day she is informed.'

2- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِيْنَةَ عَنْ زُرَّارَةَ وَ مُحَمَّدٍ بْنِ مُسْلِمٍ وَ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ قَالَ فِي الْغَائِبِ إِذَا طَلَّقَ امْرَأَتَهُ إِنَّهَا تَعْتَدُ مِنَ الْيَوْمِ الَّذِي طَلَّقَهَا

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr. from 'Umar ibn 'Udhaynah, from Zurarah and Muhammad ibn Muslim and Burayd ibn Mu'awiyah ibn 'Ammar who has narrated the following:

'About the case of one who is absent if he divorces his wife abu Ja'far^{asws} has said, 'She must commence her 'Iddah (waiting period) from the day he has divorced her.'

3- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنِ الْمُثَنَّى عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَهُوَ غَائِبٌ عَنْهَا مَتَى تَعْتَدُ قَالَ إِذَا قَامَتْ لَهَا بَيِّنَةٌ أَنَّهَا طَلَّقَتْ فِي يَوْمٍ مَعْلُومٍ وَ شَهْرٍ مَعْلُومٍ فَلْتَعْتَدُ مِنْ يَوْمِ طَلَّقَتْ وَ إِنْ لَمْ تَحْقُظْ فِي أَيِّ يَوْمٍ وَ فِي أَيِّ شَهْرٍ فَلْتَعْتَدُ مِنْ يَوْمٍ يَبْلُغُهَا

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from al-Muthanna' from Zurarah who has narrated the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife when he is absent. When must she commence her 'Iddah (waiting period)? He^{asws} said, 'If testimony is established that he has divorced on a known day, of a known month, she must commence her 'Iddah (waiting period) from that day; but if she cannot ascertain the date, then she must commence her 'Iddah (waiting period) from the day she is informed.'

4- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادٍ بْنِ عِيسَى عَنْ شُعَيْبِ بْنِ يَعْقُوبَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ سُئِلَ عَنِ الْمُطَلَّقةِ يُطَلِّقُهَا زَوْجَهَا فَلَا يَعْلَمُ إِلَّا بَعْدَ سَنَةٍ فَقَالَ إِنْ جَاءَ شَاهِدًا عَدْلٍ فَلَا تَعْتَدُ وَ إِلَّا فَلْتَعْتَدُ مِنْ يَوْمٍ يَبْلُغُهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id from Hammad ibn 'Isa from Shu'ayb ibn Ya'qub from abu Basir who has narrated the following:

'Once, abu 'Abd Allah^{asws} was asked about the case of a man who divorces his wife. He informs her about it only after one year. He^{asws} said, 'If two just witness testify to prove it, she does not need to complete any 'Iddah (waiting period), otherwise, she must commence her 'Iddah (waiting period) from the day she is informed.'

5- مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدٍ بْنِ مُسْلِمٍ قَالَ قَالَ أَبُو جَعْفَرٍ ع إِذَا طَلَّقَ الرَّجُلُ وَهُوَ غَائِبٌ فَلْيَشْهَدْ عَلَى ذَلِكَ فَإِذَا مَضَى ثَلَاثَةُ أَقْرَاءٍ مِنْ ذَلِكَ الْيَوْمِ فَقَدْ انْقَضَتْ عِدَّتُهَا

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

'Abu Ja'far^{asws}, recipient of divine supreme covenant, has said, 'If a man divorces his wife when he is absent he must appoint witnesses. When three Hayd (menses)-free periods pass from that time her 'Iddah (waiting period) is complete.'

6- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ أَبِي الْحَسَنِ الرِّضَا ع قَالَ قَالَ فِي الْمَطْلَقَةِ إِذَا قَامَتِ الْبَيِّنَةُ أَنَّهُ قَدْ طَلَّقَهَا مِنْذُ كَذَا وَكَذَا فَكَانَتْ عِدَّتُهَا قَدْ انْقَضَتْ فَقَدْ بَانَتْ

Ali ibn Ibrahim has narrated from his father from ibn abu Nasr who has narrated the following:

'Abu al-Hassan al-Rida^{asws} has said, 'If proof is established that she was divorced on such and such date which proves the expiration of her 'Iddah (waiting period) she becomes a stranger for him.'

7- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ الْوَاسِطِيِّ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ وَهُوَ غَائِبٌ فَقَامَتِ الْبَيِّنَةُ عَلَى ذَلِكَ فَعِدَّتُهَا مِنْ يَوْمٍ طَلَّقَ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Musa ibn Bakr al-Wasitiy from Zurarah who has narrated the following:

'Abu Ja'far^{asws} has said, 'If one divorces his wife when he is absent and proof is established to prove such divorce, her 'Iddah (waiting period) commences from the day he has divorced her.'

8- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا طَلَّقَ الرَّجُلُ وَهُوَ غَائِبٌ فَقَامَتِ لَهَا الْبَيِّنَةُ أَنَّهُ طَلَّقَهَا فِي شَهْرٍ كَذَا وَكَذَا اعْتَدَّتْ مِنَ الْيَوْمِ الَّذِي كَانَ مِنْ زَوْجِهَا فِيهِ الطَّلَاقُ وَإِنْ لَمْ تَحْفَظْ ذَلِكَ الْيَوْمَ اعْتَدَّتْ مِنْ يَوْمٍ عَلِمَتْ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'Isma'il from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaniy who has narrated the following: 'Abu 'Abd Allah^{asws}, recipient of divine supreme covenant, has stated this Hadith. 'If a man divorces his wife when he is absent and testimony is established to prove the date of such divorce, she can commence her 'Iddah (waiting period) from the day her husband had divorced her. If it is not proved then she must commence her 'Iddah (waiting period) from the time she is informed.'

بَابُ عِدَّةِ الْمُتَوَفَّى عَنْهَا زَوْجُهَا وَهُوَ غَائِبٌ

Waiting period of a Widow whose Husband is Absent

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع فِي الرَّجُلِ يَمُوتُ وَتَحْتَهُ امْرَأَةٌ وَهُوَ غَائِبٌ قَالَ تَعُدُّ مِنْ يَوْمٍ يَبْلُغُهَا وَقَائِلُهُ

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

'About the case of a man who dies and leaves behind a widow and he is absent, one of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'She must commence her 'Iddah (waiting period) from the day she receives the news of his death.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْيَتْمَى يَمُوتُ عَنْهَا زَوْجُهَا وَهُوَ غَائِبٌ فَعِدَّتُهَا مِنْ يَوْمٍ يَبْلُغُهَا إِنْ قَامَتِ الْبَيِّنَةُ أَوْ لَمْ تَقَمْ

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

'About the case of a woman whose husband dies and who is absent, abu 'Abd Allah^{asws} has said, 'Her waiting period begins from the day she is informed, regardless, there is proving evidence or not.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ وَ مُحَمَّدٍ بْنِ مُسْلِمٍ وَ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ قَالَ فِي الْغَائِبِ عَنْهَا زَوْجُهَا إِذَا تَوَقَّيَ قَالَ الْمُتَوَقَّى عَنْهَا زَوْجُهَا تَعُدُّ مِنْ يَوْمِ يَأْتِيهَا الْخَبَرُ لِأَنَّهَا تُحْدُ عَلَيْهِ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah from Zurarah Ahmad ibn Muhammad from Muhammad ibn Muslim and Burayd who has said the following:

'About the case of a woman whose husband is absent when he dies, abu Ja'far^{asws} has said, 'She must count her waiting period from the day the news reaches her because she commences mourning for him.'

4- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ جَمِيعًا عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ الْحَسَنِ بْنِ زِيَادٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ فِي الْمَرْأَةِ إِذَا بَلَغَهَا نَعْيُ زَوْجِهَا قَالَ تَعُدُّ مِنْ يَوْمِ يَبْلُغُهَا أَنَّهَا تُرِيدُ أَنْ تُحْدَ لَهُ

Abu AH al-Ash'ariy has narrated from Muhammad ibn ' Abd al-Jabbar and abu al-'Abbas al-Razzaz from Ayyub ibn Nuh all from Safwan from ibn Muskan from al-Hassan ibn Ziyad who has said the following:

'Abu 'Abd Allah^{asws} has said, 'When a woman receives the news of the death of her husband, she must begin counting her waiting period and mourning for him.'

5- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ رِفَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ الْمُتَوَقَّى عَنْهَا زَوْجُهَا وَ هُوَ غَائِبٌ مَتَى تَعُدُّ فَقَالَ يَوْمَ يَبْلُغُهَا وَ ذَكَرَ أَنَّ رَسُولَ اللَّهِ ص قَالَ إِنَّ إِحْدَاكُنَّ كَانَتْ تَمْكُثُ الْحَوْلَ إِذَا تَوَقَّيَ زَوْجُهَا وَ هُوَ غَائِبٌ ثُمَّ تُرْمِي بِعُزْرَةٍ وَرَاءَهَا

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from Rifa'ah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a woman whose husband dies and he is absent and about when she must begin counting her waiting period. He^{asws} said, 'It is from the day the news reaches her. The Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to four cause, said to women, 'One of you would wait for one year, when her husband died and he was absent, hold back her carnal desires and throw it behind her.'

6- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِنْ مَاتَ عَنْهَا زَوْجُهَا يَعْنِي وَ هُوَ غَائِبٌ فَقَامَتِ الْبَيِّنَةُ عَلَى مَوْتِهِ فَعَدَّتْهَا مِنْ يَوْمِ يَأْتِيهَا الْخَبَرُ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا لِأَنَّ عَلَيْهَا أَنْ تُحْدَ عَلَيْهِ فِي الْمَوْتِ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا فَتَمْسِكُ عَنِ الْكُحْلِ وَ الطَّيِّبِ وَ الْأَصْبَاغِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad Ali ibn al-Hakam from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws} has stated this Hadith. 'When a woman's husband who is abseni dies and evidence is established about it, then her waiting period is counted from the day the news reaches her up to four months and ten days. She must begin mourning for him for four months and ten days, thus, she must stay away from musk, kohl, perfumes and dyes.'

7- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ أَبِي الْحَسَنِ الرِّضَا ع قَالَ الْمُتَوَقَّى عَنْهَا زَوْجُهَا تَعُدُّ حِينَ يَبْلُغُهَا لِأَنَّهَا تُرِيدُ أَنْ تُحْدَ عَلَيْهِ

Ali ibn Ibrahim has narrated from his father from ibn abu Nasr who has said the following:

'Abu al-Hassan al-Rida^{asws} has said, 'A woman whose husband dies must begin counting her waiting period from the day the news reaches her as well as mourning for him.'

بَابُ عِلَّةِ اخْتِلَافِ عِدَّةِ الْمُطَلَّاقَةِ وَ عِدَّةِ الْمُتَوَقَّى عَنْهَا زَوْجُهَا

Reason for Difference about Waiting Period of a Widow

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْحُسَيْنِ بْنِ سَيْفٍ عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ عَنْ أَبِي جَعْفَرٍ الثَّانِي ع قَالَ قُلْتُ لَهُ جُعِلْتُ فِدَاكَ كَيْفَ صَارَتْ عِدَّةُ الْمُطَلَّقةِ ثَلَاثَ حَيَضٍ أَوْ ثَلَاثَةَ أَشْهُرٍ وَ صَارَتْ عِدَّةُ الْمُتَوَقَّى عَنْهَا زَوْجُهَا أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا فَقَالَ أَمَّا عِدَّةُ الْمُطَلَّقةِ ثَلَاثَةُ فُرُوعٍ فَلِإِسْتِيزَاءِ الرَّجْمِ مِنَ الْوَلَدِ وَ أَمَّا عِدَّةُ الْمُتَوَقَّى عَنْهَا زَوْجُهَا فَإِنَّ اللَّهَ عَزَّ وَ جَلَّ شَرَطَ لِلنِّسَاءِ شَرْطًا وَ شَرَطَ عَلَيْهِنَّ شَرْطًا فَلَمْ يَجَأْ بَهِنَّ فِيمَا شَرَطَ لَهُنَّ وَ لَمْ يَجِرْ فِيمَا اشْتَرَطَ عَلَيْهِنَّ شَرَطَ لَهُنَّ فِي الْإِلْيَاءِ أَرْبَعَةَ أَشْهُرٍ إِذْ يَقُولُ اللَّهُ عَزَّ وَ جَلَّ لِلَّذِينَ يُؤْلُونَ مِنْ نِسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَلَمْ يُجَوِّزْ لِأَحَدٍ أَكْثَرَ مِنْ أَرْبَعَةِ أَشْهُرٍ فِي الْإِلْيَاءِ لِعِلْمِهِ تَبَارَكَ وَ تَعَالَى أَنَّهُ غَايَةُ صَبْرِ الْمَرْأَةِ مِنَ الرَّجُلِ وَ أَمَّا مَا شَرَطَ عَلَيْهِنَّ فَإِنَّهُ أَمَرَهَا أَنْ تَعْتَدَ إِذَا مَاتَ عَنْهَا زَوْجُهَا أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا فَأَخَذَ مِنْهَا لَهُ عِنْدَ مَوْتِهِ مَا أَخَذَ لَهَا مِنْهُ فِي حَيَاتِهِ عِنْدَ إِيْلَائِهِ قَالَ اللَّهُ تَبَارَكَ وَ تَعَالَى يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا وَ لَمْ يَذْكُرِ الْعَشْرَةَ إِلَّا فِي الْعِدَّةِ إِلَّا مَعَ الْأَرْبَعَةِ أَشْهُرٍ وَ عَلَّمَ أَنَّ غَايَةَ صَبْرِ الْمَرْأَةِ الْأَرْبَعَةَ أَشْهُرَ فِي تَرْكِ الْجَمَاعِ فَمِنْ ثَمَّ أَوْجِبَهُ عَلَيْهَا وَ لَهَا

Ali ibn Ibrahim has narrated from his father from al-Husayn ibn Sayf from Muhammad ibn Sulayman who has said the following:

'I once asked abu Ja'far al-Thaniy^{asws} saying, 'I pray to Allah^{azwj} to keep my soul in service for your cause, why is it that waiting period for a woman divorced three times, is three cycles of Hayd (menses) or three months, and the waiting period of a widow is four months and ten days'? He^{asws} said, 'Waiting period for a woman divorced three times is passing of three Hayd (menses)-free periods. It is to ascertain a womb is free of child and pregnancy. About the waiting period of a widow Allah^{azwj}, has set a condition for and a condition against women. In the condition for them He does not hold them accountable and in the condition against them He has not done injustice to them. In the case of 'ila' (swearing not to go to bed with one's wife) it is four months as Allah^{azwj}, says, ' . . . for those who swear there is a four month waiting period.' (2:226) He has not made it permissible for anyone in the case of 'ila' to wait more than four months because He, most Blessed, most High, knows that how long women can wait without going to bed and without men. The condition against women is in the case of the death of their husband in which case they must wait for four months and ten days. Thus He has taken from her when he dies as much as He has takes for her from him during his life time in the case of 'ila' as Allah^{azwj}, most Blessed, most High, says, ' . . . they must wait for four months and ten days.' He has not mentioned the ten days in waiting period except with four months. He knows that women can wait without men only for four months and without going to bed. For this reason He has set conditions for and against them.'

بَابُ عِدَّةِ الْحُبْلَى الْمُتَوَقَّى عَنْهَا زَوْجُهَا وَ نَفَقَتِهَا

Waiting period of Pregnant Widow and her Expenses

1- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ قَالَ الْمُتَوَقَّى عَنْهَا زَوْجُهَا الْحَامِلُ آخِرُ الْأَجَلَيْنِ إِذَا كَانَتْ حُبْلَى قَتِمَتْ لَهَا أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا وَ لَمْ تُضَعْ فَإِنَّ عِدَّتَهَا إِلَى أَنْ تُضَعْ وَ إِنْ كَانَتْ تُضَعُ حَمْلًا قَبْلَ أَنْ يَتِمَّ لَهَا أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا تَعْتَدُ بَعْدَ مَا تُضَعُ تَمَامَ أَرْبَعَةِ أَشْهُرٍ وَ عَشْرًا وَ ذَلِكَ أَبَعْدَ الْأَجَلَيْنِ

A number of our people have narrated from Ahmad ibn Muhammad from ibn Khaiid and Ali ibn Ibrahim has narrated from his father from 'Uthman ibn 'Isa from Sama'ah who has said the following:

'He^{asws} has said, 'Waiting period for a pregnant widow is the one which ends last. If she is pregnant when four months end but her child is not yet born, then her waiting period ends when the child is born. If she gives birth before the end of four months and ten days, she must wait until the four months and ten days are complete and this is the longer of the two time periods.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ فِي الْمُتَوَقَّى عَنْهَا زَوْجُهَا تَنْقُضِي عِدَّتَهَا آخِرَ الْأَجَلَيْنِ

Ali has narrated from his father from ibn abu 'Utnayr from Harnmad from al-Halabiy who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Waiting period of a widow ends with the end of the longer of the two time periods.'

3- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ فِي الْحُبْلَى الْمُتَوَقَّى عَنْهَا زَوْجُهَا إِنَّهُ لَا نَفَقَةَ لَهَا

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

'Abu 'Abd Allah^{asws} has said, 'A pregnant widow does not have any right for maintenance.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ عِدَّةُ الْمُتَوَقَّى عَنْهَا زَوْجُهَا آخِرُ الْأَجَلَيْنِ لِأَنَّ عَلَيْهَا أَنْ تُحْدَ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا وَلَيْسَ عَلَيْهَا فِي الطَّلَاقِ أَنْ تُحْدَ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Musa ibn Bukayr from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'Waiting period of a widow ends with the end of one of the two which ends last because she must sit in mourning for four months and ten days, while in divorce there is no mournin.'

5- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ع فِي امْرَأَةٍ تُوقَى عَنْهَا زَوْجُهَا وَ هِيَ حُبْلَى قَوْلَدَتْ قَبْلَ أَنْ تَنْقَضِيَ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرٍ فَتَزَوَّجَتْ فَقَضَى أَنْ يُخَلِّيَ عَنْهَا ثُمَّ لَا يَخْطُبُهَا حَتَّى يَنْقَضِيَ آخِرُ الْأَجَلَيْنِ فَإِنْ شَاءَ أَوْلِيَاءُ الْمَرْأَةِ أَنْكَحُوهَا وَ إِنْ شَاءُوا أَمْسَكُوهَا فَإِنْ أَمْسَكُوهَا رَكُّوا عَلَيْهِ مَالَهُ

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

'Abu Ja'far^{asws} has said that 'Amir al-Mu'minin^{asws} issued a judgment in the case of a pregnant widow who gave birth before the end of four months and ten days and married. The judgment said that she must be left alone and no one must propose to her for marriage until the longer of the two periods of time ends; and thereafter if her family wants they can give her in marriage or keep her, but if they choose to keep her they must return his (one who had married her) assets.'

6- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْحُبْلَى الْمُتَوَقَّى عَنْهَا زَوْجُهَا عِدَّتُهَا آخِرُ الْأَجَلَيْنِ

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Waiting period of a pregnant widow ends with the end of the longer of the two time periods.'

7- عَنْهُ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ مُسْكَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع الْمَرْأَةُ الْحُبْلَى الْمُتَوَقَّى عَنْهَا زَوْجُهَا تَضَعُ وَ تَزَوَّجُ قَبْلَ أَنْ تَخْلُوَ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرٍ قَالَ إِنْ كَانَ زَوْجُهَا الَّذِي تَزَوَّجَهَا دَخَلَ بِهَا فُرَقَ بَيْنَهُمَا وَ اعْتَدَّتْ مَا بَقِيَ مِنْ عِدَّتِهَا الْأُولَى وَ عِدَّةٌ أُخْرَى مِنَ الْآخِرِ وَ إِنْ لَمْ يَكُنْ دَخَلَ بِهَا فُرَقَ بَيْنَهُمَا وَ اعْتَدَّتْ مَا بَقِيَ مِنْ عِدَّتِهَا وَ هُوَ خَاطِبٌ مِنَ الْخُطَّابِ وَ عَنْهُ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ وَ عَلِيِّ بْنِ خَالِدٍ الْعَاقُولِيِّ عَنْ كَرَّامٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع مِثْلَهُ

It is narrated from the narrator of the previous Hadith from Safwan ibn Yahya from ibn Muskan from Muhammad ibn Muslim who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a pregnant widow who after childbirth marries before the end of four months and ten days. He^{asws} said, 'If the new husband has gone to bed with her he must stay away from her and she must complete the remaining time of the first waiting period and another waiting period for the later (separation). If he has not gone to bed with her they must separate from each other and she must complete the remaining of the first waiting period and he is then one of those who may propose for marriage.' It is narrated from the narrator of the previous Hadith from Ja'far ibn Sama'ah and Ali ibn Khalid al-Aquliy from Karram from Muhammad ibn Muslim from abu Ja'far^{asws} a similar Hadith.

8- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمَرْأَةِ الْحَامِلِ الْمُتَوَقَّى عَنْهَا زَوْجَهَا هَلْ لَهَا نَفَقَةٌ قَالَ لَا

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

'I once asked abu 'Abd Allah^{asws} about the case of a pregnant widow if she has the right for maintenance. He^{asws} said, 'No, she does not have such right.'

9- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ مُثَنَّى الْحَنَاطِ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمَرْأَةِ الْحَامِلِ الْمُتَوَقَّى عَنْهَا زَوْجَهَا هَلْ لَهَا نَفَقَةٌ قَالَ لَا وَرُويَ أَيْضاً أَنَّ نَفَقَتَهَا مِنْ مَالٍ وَلَدَهَا الَّذِي فِي بَطْنِهَا رَوَاهُ

A number of our people have narrated from Sahl ibn Ziyad from ibn abu Nasr from Muthanna' al-Hannat from Zurarah who has said the following:

'About the case of a pregnant widow abu 'Abd Allah^{asws} has said that she does not have the right to receive maintenance.' It is also narrated that her maintenance is from the assets of the child in her womb. [So he has narrated].

10- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَرِيعٍ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمَرْأَةُ الْحَبْلَى الْمُتَوَقَّى عَنْهَا زَوْجَهَا يُنْفَقُ عَلَيْهَا مِنْ مَالٍ وَلَدَهَا الَّذِي فِي بَطْنِهَا

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

'Abu 'Abd Allah^{asws} has said that the maintenance of a pregnant widow is paid from the assets of the child in her womb.'

بَابُ الْمُتَوَقَّى عَنْهَا زَوْجَهَا الْمَدْخُولَ بِهَا أَيْنَ تَعْتَدُّ وَ مَا يَجِبُ عَلَيْهَا

Waiting Period of a Widow where she must Complete

1- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ الْحَسَنِ عَنْ عَلِيٍّ أَوْ غَيْرِهِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ الْمُتَوَقَّى عَنْهَا زَوْجَهَا أ تَخْرُجُ إِلَى بَيْتِ أَبِيهَا وَ أُمِّهَا مِنْ بَيْتِهَا إِنْ شَاءَتْ فَتَعْتَدُّ فَقَالَ إِنْ شَاءَتْ أَنْ تَعْتَدَّ فِي بَيْتِ زَوْجِهَا اعْتَدَّتْ وَ إِنْ شَاءَتْ اعْتَدَّتْ فِي أَهْلِهَا وَ لَا تَكْتَحِلُ وَ لَا تَلْبَسُ حُلِيًّا

Al-Husayn from Muhammad has narrated from Mu'alla'ibn Muhammad from al-Hassan ibn Ali or others from Aban ibn 'Uthman from 'Abd Allah ibn Sulayman who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a widow if she can go out to the house of her father and mother from her house, if she so chooses, to complete her waiting period. He^{asws} said, 'If she wants to complete her waiting period in the house of her husband, she can do so. If she wants to complete it in the house of her family she must not use kohl or wear ornaments.'

2- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ أَبَانَ عَنْ ابْنِ أَبِي يَعْقُورٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُ عَنْ الْمُتَوَقَّى عَنْهَا زَوْجَهَا فَقَالَ لَا تَكْتَحِلُ لِلزَّيْنَةِ وَ لَا تَطِيبُ وَ لَا تَلْبَسُ ثَوْبًا مَصْبُوعًا وَ لَا تَبِيتُ عَنْ بَيْتِهَا وَ تَقْضِي الْحُقُوقَ وَ تَمْتَسِيطُ بِغَسَلَةٍ وَ تَحُجُّ وَ إِنْ كَانَتْ فِي عَدَّتِهَا

Abu Ali al-Ashariy has narrated from Muhammad ibn 'Abd al-Jabbar from Muhammad ibn 'Isma'il from Aban from ibn abu Ya'fur who has said the following:

'I once asked abu Ibrahim^{asws} about the case of a woman whose husband dies. He^{asws} said, 'She must not use kohl for beautification or perfume and must not wear colorful dress, spend the night somewhere else. She can pay off rights, use hair clip and go for al-Hajj even though she is in her waiting period.'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمُتَوَفَّى عَنْهَا زَوْجَهَا أَوْ تَحُجُّ وَتَسْتَهْدُ الْحُقُوقَ قَالَ نَعَمْ

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah from ibn Bukayr from 'Ubayd ibn Zurarah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a woman whose husband dies if she can perform al-Hajj and bear witness for rights. He^{asws} said. 'Yes, she can do so.'

4- حُمَيْدُ عَنْ ابْنِ سَمَاعَةَ عَنْ ابْنِ رِبَاطٍ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي الْعَبَّاسِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع الْمُتَوَفَّى عَنْهَا زَوْجَهَا قَالَ لَا تَكْتَحِلُ لِلزَّيْنَةِ وَ لَا تَطْيِبُ وَ لَا تَلْبَسُ ثَوْبًا مَصْبُوغًا وَ لَا تَخْرُجُ نَهَارًا وَ لَا تَبِيتُ عَنْ بَيْتِهَا قُلْتُ أَرَأَيْتَ إِنْ أَرَادَتْ أَنْ تَخْرُجَ إِلَى حَقٍّ كَيْفَ تَصْنَعُ قَالَ تَخْرُجُ بَعْدَ نِصْفِ اللَّيْلِ وَ تَرْجِعُ عِشَاءً

Humayd has narrated from ibn Sama'ah from ibn Ribat from ibn Muskan from abu al-'Abbas who has said the following:

'I once asked Abu Ibrahim^{asws} about the case of a woman whose husband dies. He^{asws} said, 'She must not use kohl for beautification, perfume or colorful dresses. She must not go out of her house during the day or spend the night:, somewhere other than her house.' I then asked, 'Can she go out to bear witness for a right? He^{asws} said, 'She can do so after midnight and return in al-'Isha' (darkness, late evening).'

5- حُمَيْدُ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ الْمُتَوَفَّى عَنْهَا زَوْجَهَا أَوْ تَخْرُجُ مِنْ بَيْتِ زَوْجِهَا قَالَ تَخْرُجُ مِنْ بَيْتِ زَوْجِهَا وَ تَحُجُّ وَ تَنْتَقِلُ مِنْ مَنْزِلٍ إِلَى مَنْزِلٍ

Humayd has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah from ibn Bukayr from 'Ubayd ibn Zurarah who has said the following:

'I once asked abu Ibrahim^{asws} about the case of a woman whose husband dies: if she can go out of the house of her husband. He^{asws} said. 'She can go out of the house of her husband, travel for al-Hajj or move from one house to another house.'

6- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ سَأَلْتُهُ عَنْ الْمُتَوَفَّى عَنْهَا زَوْجَهَا أَيْنَ تَعْتَدُّ قَالَ حَيْثُ شَاءَتْ وَ لَا تَبِيتُ عَنْ بَيْتِهَا

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

I once asked one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) about the case of a woman whose husband dies and about where she can complete her waiting period. He^{asws} said, 'She can do so wherever she likes but she must not pass a night in a place other than her house.'

7- مُحَمَّدُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ الْمُتَوَفَّى عَنْهَا زَوْجَهَا أَوْ تَعْتَدُّ فِي بَيْتٍ تَمَكَّتْ فِيهِ شَهْرًا أَوْ أَقَلَّ مِنْ شَهْرٍ أَوْ أَكْثَرَ ثُمَّ تَحُولُ مِنْهُ إِلَى غَيْرِهِ فَتَمَكَّتْ فِي الْمَنْزِلِ الَّذِي تَحُولَتْ إِلَيْهِ مِثْلَ مَا مَكَّتَتْ فِي الْمَنْزِلِ الَّذِي تَحُولَتْ مِنْهُ كَذَا صَنِيعُهَا حَتَّى تَنْقُضِيَ عِدَّتَهَا قَالَ يَجُوزُ ذَلِكَ لَهَا وَ لَا بَأْسَ

Muhammad ibn Ahmad has narrated from Muhammad ibn al-Husayn from Muhammad ibn 'Isha from Yunus from a man who has said the following:

'I once asked abu Ibrahim^{asws} about the case of a woman who is widowed: if she can count her waiting period in a house for a month or less or more then move to another house and stay there as she did in the other house and so on until her waiting period is complete. He^{asws} said, 'It is permissible and it is not harmful.'

8- حُمَيْدُ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ جَاءَتْ امْرَأَةٌ إِلَى أَبِي عَبْدِ اللَّهِ ع تَسْتَفْتِيهِ فِي الْمَبِيتِ فِي غَيْرِ بَيْتِهَا وَ قَدْ مَاتَ زَوْجُهَا فَقَالَ إِنَّ أَهْلَ الْجَاهِلِيَّةِ كَانَ إِذَا مَاتَ زَوْجُ الْمَرْأَةِ أَحَدَتْ عَلَيْهِ امْرَأَتُهُ اثْنَيْ عَشَرَ شَهْرًا فَلَمَّا بَعَثَ اللَّهُ مُحَمَّدًا ص رَحِمَ ضَعْفَهُنَّ فَجَعَلَ عِدَّتَهُنَّ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا وَ أَثْنًا لَا تُصْبِرْنَ عَلَى هَذَا

Humayd has narrated from ibn Sama'ah from Muhammad ibn abu Hamzah from Ayyub from Muhammad ibn Muslim who has said the following:

'A woman came to abu 'Abd Allah^{asws} to ask for a fatwa about spending the night in another house; her husband had died. He^{asws} said, 'In the time of ignorance widows had to sit in mourning for twelve months. When Muhammad^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, was sent he felt sympathy for their weakness and reduced it (mourning) to four months and ten days but you do not bear it patiently.'

9- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سُئِلَ عَنِ الْمَرْأَةِ يَمُوتُ عَنْهَا زَوْجُهَا أَيْصَلِّحُ لَهَا أَنْ تَحْجَّ أَوْ تَعُودَ مَرِيضًا قَالَ نَعَمْ تَخْرُجُ فِي سَبِيلِ اللَّهِ وَلَا تَكْتَحِلُ وَلَا تَطْيِبُ

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

'Once abu 'Abd Allah^{asws} was asked about the case of a woman whose husband dies: if it is proper for her to perform al-Hajj and visit the sick people. He^{asws} said, 'Yes, she can do so for the sake of Allah^{azwj}, but must not use kohl and perfume.'

10- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنِ الْقَاسِمِ بْنِ عُرْوَةَ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُتَوَفَّى عَنْهَا زَوْجُهَا لَيْسَ لَهَا أَنْ تَطْيِبَ وَلَا تَرَيَّنَ حَتَّى تَنْقَضِيَ عِدَّتُهَا أَرْبَعَةَ أَشْهُرٍ وَعَشْرَةَ أَيَّامٍ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn IChalid from al-Qasim ibn 'Urwah from Zurarah who has said the following:

'Abu 'Abd Allah^{asws} has said, 'A widow whose husband has died must not use perfumes and beautify herself until her 'Iddah (waiting period) of four months and ten days is complete.'

11- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنِ الْمَرْأَةِ يُتَوَفَّى عَنْهَا زَوْجُهَا وَتَكُونُ فِي عِدَّتِهَا أَوْ تَخْرُجُ فِي حَقِّ فَقَالَ إِنْ بَعْضَ نِسَاءِ النَّبِيِّ ص سَأَلْتُهُ فَقَالَتْ إِنْ فَلَانَةُ تُوفِّي عَنْهَا زَوْجُهَا فَتَخْرُجُ فِي حَقِّ يُتَوَفَّى فَقَالَ لَهَا رَسُولُ اللَّهِ ص أَفَ لَكُنْ قَدْ كُنْتِ مِنْ قَبْلِ أَنْ أُبْعَثَ فَيَكُنْ وَأَنَّ الْمَرْأَةَ مِثْلُكَ إِذَا تُوفِّي عَنْهَا زَوْجُهَا أَخَذَتْ بَعْرَةً فَرَمَتْ بِهَا خَلْفَ ظَهْرِهَا ثُمَّ قَالَتْ لَا أَمْتَشِطُ وَلَا أَكْتَحِلُ وَلَا أَخْتَضِبُ حَوْلًا كَامِلًا وَإِنَّمَا أَمْرُكُنَّ بِأَرْبَعَةِ أَشْهُرٍ وَعَشْرًا ثُمَّ لَا نَصْبِرُنَّ لَا نَمْتَشِطُ وَلَا تَكْتَحِلُ وَلَا تَخْتَضِبُ وَلَا تَخْرُجُ مِنْ بَيْتِهَا نَهَارًا وَلَا لَيْلًا عَنْ بَيْتِهَا فَقَالَتْ يَا رَسُولَ اللَّهِ فَكَيْفَ تُصْنَعُ إِنْ عَرَضَ لَهَا حَقٌّ فَقَالَ تَخْرُجُ بَعْدَ زَوَالِ اللَّيْلِ وَتَرْجِعُ عِنْدَ الْمَسَاءِ فَتَكُونُ لَمْ تَبْتَ عَنْ بَيْتِهَا قُلْتُ لَهُ فَتَحْجُّ قَالَ نَعَمْ

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from ibn Ri'ab from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a woman whose husband dies: if she during her waiting period can go out for a right. He^{asws} said, 'Certain ones of the wives of the Holy Prophet^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, asked saying, 'Husband of so and so has died: if she can go out for a right which affects her.' The Messenger of Allah^{saww} said, 'Woe upon you! Before I commenced my mission a woman among you whose husband would die needed to hold back carnal desires and throw it behind her.' She then would say, 'I will not use comb, kohl, or dyes for one complete year.' I have only commanded you to wait for four months and ten days; even then you do not remain patient not to use comb, kohl, dyes not to go out during the day and not to spend the night somewhere other than your home.' She then asked, 'O Messenger of Allah^{saww}, what must she do? There is a right that affects her.' He^{saww} said, 'She can go only after midnight and return when it is dark after sunset so that she is not spending the night somewhere other than her house.' I then asked him^{asws} if she could perform al-Hajj. He^{asws} said, 'Yes, she can do so.'

12- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنِ الَّتِي تُوفِّي عَنْهَا زَوْجُهَا أَوْ تَحْجُّ قَالَ نَعَمْ وَتَخْرُجُ وَتَنْتَقِلُ مِنْ مَنْزِلٍ إِلَى مَنْزِلٍ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr who has said the following:

'I once asked abu Ibrahim^{asws} about the case of a woman whose husband dies: if she can perform al-Hajj. He^{asws} said, 'Yes, she can do so and she can move from one house to another house.'

بَابُ الْمُتَوَفَّى عَنْهَا زَوْجُهَا وَلَمْ يَدْخُلْ بِهَا وَمَا لَهَا مِنَ الصَّدَاقِ وَالْعِدَّةِ

A Woman whose Husband Dies before Consumation of Marriage

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع فِي الرَّجُلِ يَمُوتُ وَتَحْتَهُ امْرَأَةٌ لَمْ يَدْخُلْ بِهَا قَالَ لَهَا نِصْفُ الْمَهْرِ وَلَهَا الْمِيرَاثُ كَامِلًا وَ عَلَيْهَا الْعِدَّةُ كَامِلَةٌ

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

'I once asked one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) about the case of a woman whose husband dies before going to bed with her. He^{asws} said, 'She deserves one-half of mahr (dower) and complete inheritance but she must count a complete waiting period.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً وَلَمْ يَدْخُلْ بِهَا قَالَ إِنْ هَلَكَتْ أَوْ هَلَكَ أَوْ طَلَّقَهَا فَلَهَا النِّصْفُ وَ عَلَيْهَا الْعِدَّةُ كَمَلًا وَلَهَا الْمِيرَاثُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Fadda! from ibn Bukayr from 'Ubayd ibn Zurarah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who marries a woman but has not gone to bed with her. He^{asws} said, 'If he or she dies or he divorces her, she deserves one-half of the mahr (dower), complete inheritance and must count complete waiting period.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْفَضْلِ بْنِ شاذَانَ جَمِيعًا عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ رَجُلٍ عَنْ عَلِيِّ بْنِ الْحُسَيْنِ ع أَنَّهُ قَالَ فِي الْمُتَوَفَّى عَنْهَا زَوْجُهَا وَلَمْ يَدْخُلْ بِهَا إِنْ لَهَا نِصْفُ الصَّدَاقِ وَلَهَا الْمِيرَاثُ وَ عَلَيْهَا الْعِدَّةُ

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

'About the case of a woman whose husband dies before going to bed with her, Ali ibn al-Husayn^{asws} has said, 'She deserves one-half of mahr (dower), complete inheritance and must count complete waiting period.'

4- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِنْ لَمْ يَكُنْ قَدْ دَخَلَ بِهَا وَ قَدْ فَرَضَ لَهَا مَهْرًا فَلَهَا نِصْفُ مَا فَرَضَ لَهَا وَلَهَا الْمِيرَاثُ وَ عَلَيْهَا الْعِدَّةُ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hamad from at-Halabi who has said the following:

'Abu 'Abd Allah^{asws} has said. 'If one has not gone to bed with his wife but has set up mahr (dower), she deserves one-half of the mahr (dower) that is set for her and complete inheritance. She must count complete waiting period.'

الكافي ج : 6 ص : 119

5- عَلِيُّ بْنُ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائٍ عَنْ زُرَّارَةَ قَالَ سَأَلْتُهُ عَنْ الْمَرْأَةِ تَمُوتُ قَبْلَ أَنْ يَدْخُلَ بِهَا أَوْ يَمُوتَ الزَّوْجُ قَبْلَ أَنْ يَدْخُلَ بِهَا فَقَالَ أُيْهِمَا مَاتَ فَلِلْمَرْأَةِ نِصْفُ مَا فَرَضَ لَهَا وَ إِنْ لَمْ يَكُنْ فَرَضَ لَهَا فَلَا مَهْرَ لَهَا

Ali has narrated from his father and a number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub from ibn Ri'ab from Zurarah who has said the following:

'I once asked him^{asws} about the case of a woman who dies before his going to bed with her or her husband dies before going to bed with her. He^{asws} said, 'Whoever of them dies

she deserves one-half of mahr (dower) which is set for her. but if it is not set for her then mahr (dower) is not payable to her.'

6- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْوَشَّاءِ عَنْ أَبِيَانَ عَنْ ابْنِ أَبِي يَعْقُورٍ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ فِي امْرَأَةٍ تُوَفِّيَتْ قَبْلَ أَنْ يَدْخُلَ بِهَا مَا لَهَا مِنَ الْمَهْرِ وَكَيْفَ مِيرَاثُهَا فَقَالَ إِذَا كَانَ قَدْ فَرَضَ لَهَا صَدَاقًا فَلَهَا نِصْفُ الْمَهْرِ وَهُوَ يَرِثُهَا وَإِنْ لَمْ يَكُنْ فَرَضَ لَهَا صَدَاقًا فَلَا صَدَاقَ لَهَا وَقَالَ فِي رَجُلٍ تُوَفِّيَ قَبْلَ أَنْ يَدْخُلَ بِامْرَأَتِهِ قَالَ إِنْ كَانَ فَرَضَ لَهَا مَهْرًا فَلَهَا نِصْفُ الْمَهْرِ وَهِيَ تَرِثُهُ وَإِنْ لَمْ يَكُنْ فَرَضَ لَهَا مَهْرًا فَلَا مَهْرَ لَهَا

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al -Washsha' from Aban from ibn abu Ya'fur who has said the following:

'About the case of a woman who dies before his going to bed with her, about her mahr (dower) and her inheritance, abu 'Abd Allah^{asws} has said, 'If mahr (dower) is set for her. she deserves one-half of it and he inherits her legacy. If mahr (dower) is not set then mahr (dower) is not payable to her.' About the case of a man who dies before going to bed with his wife, he^{asws} said, 'If he has set mahr (dower) for her she deserves one-half of it and she inherits him, but if mahr (dower) is not set she then does not have the right to demand any mahr (dower).'

7- وَبِإِسْنَادِهِ عَنْ أَبِيَانَ بْنِ عُثْمَانَ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ وَفَضْلِ أَبِي الْعَبَّاسِ قَالَا قُلْنَا لِأَبِي عَبْدِ اللَّهِ ع مَا تَقُولُ فِي رَجُلٍ تَزَوَّجَ امْرَأَةً ثُمَّ مَاتَ عَنْهَا وَقَدْ فَرَضَ لَهَا الصَّدَاقَ فَقَالَ لَهَا نِصْفُ الصَّدَاقِ وَتَرِثُهُ مِنْ كُلِّ شَيْءٍ وَإِنْ مَاتَتْ فَهِيَ كَذَلِكَ

Through the same chain of narrators as that of the previous Hadith the following is narrated from Aban ibn 'Ulhman from 'Ubayd ibn Zurarah and Fadl ibn al-' Abbas who have said the following:

'Once we asked abu 'Abd Allah^{asws} about the case of a man who marries a woman and then dies. He has set mahr (dower) for her. He^{asws} said, 'She deserve one-half of the mahr (dower) and complete inheritance. If she dies the same rule applies in her favor.'

8- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ع فِي الْمُتَوَفَّى عَنْهَا زَوْجَهَا وَلَمْ يَمْسَسْهَا قَالَ لَا تَنْكِحُ حَتَّى تَعْتِدَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا عِدَّةَ الْمُتَوَفَّى عَنْهَا زَوْجَهَا

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has said the following:

'Abu 'Abd Allah^{asws} has said that 'Amir al-Mu'minin^{asws} issued a judgment about one whose husband had died before going to bed with her, that said. 'She must not marry until her waiting period of four months and ten days is complete, which is the waiting period for one whose husband dies.'

9- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ عَنْ مُعَاوِيَةَ بْنِ وَهَبٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمُتَوَفَّى عَنْهَا زَوْجَهَا وَلَمْ يَدْخُلْ بِهَا قَالَ هِيَ بِمَنْزِلَةِ الْمُطَلَّاقَةِ الَّتِي لَمْ يَدْخُلْ بِهَا إِنْ كَانَ سَمَى لَهَا مَهْرًا فَلَهَا نِصْفُهُ وَهِيَ تَرِثُهُ وَإِنْ لَمْ يَكُنْ سَمَى لَهَا مَهْرًا فَلَا مَهْرَ لَهَا وَهِيَ تَرِثُهُ قُلْتُ وَالْعِدَّةُ قَالَ كُفَّ عَنْ هَذَا

Humayd has narrated from ibn Sama'ah from Ahmad ibn al-Hassan from Mu'awiyah ibn Wahab from 'Ubayd ibn Zurarah who has said the following:

'About the case of a woman whose husband dies before going to bed with her. abu 'Abd Allah^{asws} has said, 'She is like a divorced woman with whom he has not gone to bed. If mahr (dower) is set for her she deserves one-half of it, otherwise, she docs not have the right to demand mahr (dower) but she has the right to inherit.' I asked about waiting period. He^{asws} said, 'Do not ask about it.'

الكافي ج : 6 ص : 120

10- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ وَابْنِ الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعًا عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ مُسْكَانَ عَنِ الْحَسَنِ الصَّبَّاقِ وَ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمَرْأَةِ يَمُوتُ عَنْهَا زَوْجُهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ لَهَا نِصْفُ الْمَهْرِ وَلَهَا الْمِيرَاثُ وَ عَلَيْهَا الْعِدَّةُ

Huimayd has narrated from ibn Sama'ah and abu al-'Abbas al-Razzaz from Ayyub ibn Null and Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from Safwan ibn Yahya from ibn Muskan from al-Hassan al-Sayqal and abu Abbas who has said the following:

'About the case of a woman whose husband dies before going to bed with her, abu 'Abd Allah^{asws} has said, 'She deserves one-half of mahr (dower), complete inheritance and she must count waiting period.'

11- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ امْرَأَةٍ هَلَكَ زَوْجُهَا وَلَمْ يَدْخُلْ بِهَا قَالَ لَهَا الْمِيرَاثُ وَ عَلَيْهَا الْعِدَّةُ كَامِلَةً وَإِنْ سَمِيَ لَهَا مَهْرًا فَلَهَا نِصْفُهُ وَإِنْ لَمْ يَكُنْ سَمِيَ لَهَا مَهْرًا فَلَا شَيْءَ لَهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from 'Ubayd ibn Zurarah who has said the following:

'I once asked abu Ibrahim^{asws} about the case of a woman whose husband dies before going to bed with her. He^{asws} said, 'She inherits and must count the waiting period, if mahr (dower) was set for her she deserved one-half of it, otherwise, she does not have the right to demand mahr (dower).'

بَابُ الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ ثُمَّ يَمُوتُ قَبْلَ أَنْ تَنْقُضِيَ عِدَّتَهَا

A Man who Divorces his Wife and Dies before her Waiting period Ends

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا عَ فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ طَلَاقًا يَمْلِكُ فِيهِ الرَّجْعَةُ ثُمَّ مَاتَ عَنْهَا قَالَ تَعْتَدُ بِالْبَعْدِ الْأَجَلَيْنِ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا

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

'This is about the case of a man who divorces his wife in a manner that gives him the right to go back to her, then he dies. One of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'She must count her waiting period in the form of the longer period of time, which is four months and ten days.'

2- عَنْهُ عَنْ بَعْضِ أَصْحَابِنَا فِي الْمَطْلُوقَةِ الْبَائِنَةِ إِذَا تَوَفِّيَ عَنْهَا وَ هِيَ فِي عِدَّتِهَا قَالَ تَعْتَدُ بِالْبَعْدِ الْأَجَلَيْنِ

It is narrated from the narrator of the previous hadith from certain persons of our people who has said the following:

'About the case of a woman divorced irrevocably if her husband dies, he^{asws} has said, 'She must count her waiting period according to the longer of the two forms of waiting periods.'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ عَ فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ ثُمَّ تَوَفَّى وَ هِيَ فِي عِدَّتِهَا قَالَ تَرْتُهُ وَ إِنْ تَوَفَّيْتُ وَ هِيَ فِي عِدَّتِهَا فَإِنَّهُ يَرْتُهَا وَ كُلُّ وَاحِدٍ مِنْهُمَا يَرِثُ مِنْ دِيَّةِ صَاحِبِهِ مَا لَمْ يَقْتُلْ أَحَدُهُمَا الْآخَرَ وَ زَادَ فِيهِ مُحَمَّدُ بْنُ أَبِي حَمْزَةَ وَ تَعْتَدُ عِدَّةَ الْمُتَوَفَّى عَنْهَا زَوْجُهَا قَالَ الْحَسَنُ بْنُ سَمَاعَةَ وَ هَذَا الْكَلَامُ سَقَطَ مِنْ كِتَابِ ابْنِ زِيَادٍ وَ لَا أَطْنُهُ إِلَّا وَ قَدْ رَوَاهُ

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has said the following:

'Abu 'Abd Allah^{asws} has stated this Hadith. 'Amir al-Mu'minin^{asws} issued a judgment in the case of a man who divorced his wife; then died: when she counted her waiting period, that said, 'She inherits his legacy, and if she dies during her waiting period he inherits her legacy, each one inherits from the wergild of the other, if one of them does not kill the other.' Muhammad ibn abu Hamzah has added, 'She counts her waiting period for a woman whose husband has died.' Al-Hassan ibn Sama'ah has said that this much is missing from the book of ibn Ziyad and I do not think except that he has narrated it.

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ الْمُتَوَفَّى عَنْهَا زَوْجُهَا يُنْفَقُ عَلَيْهَا مِنْ مَالِهِ

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

'About the case of a woman whose husband has died, one of the two Imam^{asws}, (abu Ja'far^{asws} or abu 'Abd Allah^{asws}), asws, has said that her maintenance must be paid from her husband's assets.'

الكافي ج : 6 ص : 121

5- مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ كَانَتْ تَحْتَهُ امْرَأَةٌ فَطَلَّقَهَا ثُمَّ مَاتَ عَنْهَا قَبْلَ أَنْ تَنْقَضِيَ عِدَّتُهَا قَالَ تَعُدُّ أَبْعَدَ الْأَجَلَيْنِ عِدَّةَ الْمُتَوَقَّى عَنْهَا زَوْجَهَا

Muhammad ibn Yahya has narrated from 'Abd Allah ibn Muhammad ibn 'Isa from ibn abu 'Urnayr from Hisham ibn Salim who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife and dies before the end of her waiting period. He^{asws} said, 'She must count her waiting period according to the longer of the two periods of time.'

6- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ وَ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَمِعْتُهُ يَقُولُ أَيُّمَا امْرَأَةٍ طَلَّقَتْ ثُمَّ تَوَقَّى عَنْهَا زَوْجَهَا قَبْلَ أَنْ تَنْقَضِيَ عِدَّتُهَا وَ لَمْ تَحْرُمْ عَلَيْهِ فَإِنَّهَا تَرِثُهُ ثُمَّ تَعُدُّ عِدَّةَ الْمُتَوَقَّى عَنْهَا زَوْجَهَا وَ إِنْ تَوَقَّيْتُ وَ هِيَ فِي عِدَّتِهَا وَ لَمْ تَحْرُمْ عَلَيْهِ فَإِنَّهُ يَرِثُهَا

Ali ibn Ibrahim has narrated from his father from ibn abu Najran and Ahmad ibn Muhammad from ibn abu Nasr from 'Asem ibn Hamid from Muhammad ibn Qays who has said the following:

'I once heard abu Ja'far^{asws} saying, 'If a woman is divorced and her husband dies before her waiting period ends, when she has not become stranger to him, she inherits his legacy and must complete a waiting period for a widow. If she dies before the end of her waiting period when she has not become stranger to him, he inherits her legacy.'

بَابُ طَلَّاقِ الْمَرِيضِ وَ نِكَاحِهِ

Divorce and Marriage during one 's Illness

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ الْمَرِيضِ أَلَهُ أَنْ يَطْلُقَ امْرَأَتَهُ فِي تِلْكَ الْحَالِ قَالَ لَا وَ لَكِنْ لَهُ أَنْ يَتَزَوَّجَ إِنْ شَاءَ فَإِنْ دَخَلَ بِهَا وَرِثَتْهُ وَ إِنْ لَمْ يَدْخُلْ بِهَا فَنِكَاحُهُ بَاطِلٌ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ibn Bukayr from 'Ubayd ibn Zurarah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who is ill: if he can divorce his wife in such condition. He^{asws} said, 'No, he cannot divorce, however, he can marry if he wants and if he goes to bed with her, she inherits his legacy but if he did not go to bed with her his marriage is invalid.'

2- وَ بِإِسْنَادِهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ رَبِيعِ الْأَصَمِّ عَنْ أَبِي عُبَيْدَةَ الْحَدَّاءِ وَ مَالِكِ بْنِ عَطِيَّةٍ عَنْ أَبِي الْوَرْدِ كِلَاهُمَا عَنْ أَبِي جَعْفَرٍ ع قَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ تَطْلِيقَةً فِي مَرَضِهِ ثُمَّ مَكَتَتْ فِي مَرَضِهِ حَتَّى انْقَضَتْ عِدَّتُهَا فَإِنَّهَا تَرِثُهُ مَا لَمْ تَتَزَوَّجْ فَإِنْ كَانَتْ تَزَوَّجَتْ بَعْدَ انْقِضَاءِ الْعِدَّةِ فَإِنَّهَا لَا تَرِثُهُ

Through the same chain of narrators as that of the previous Hadith the following is narrated from ibn Mahbub from Rabi' al-Asamm from abu 'Ubaydah al-Hadhdha' and Malik ibn 'Atiyyah from abu al-Ward who both have said the following:

'About the case of a man who divorces his wife once during his illness and waits until her waiting period ends she inherits him as long as she does not marry; but if she marries after her waiting period she then does not inherit his legacy.'

الكافي ج : 6 ص : 122

3- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ كُلُّهُمَّ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَمَّنْ حَدَّثَهُ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هُوَ مَرِيضٌ قَالَ إِنْ مَاتَ فِي مَرَضِهِ وَ لَمْ يَتَزَوَّجْ وَرَثَتُهُ وَ إِنْ كَانَتْ قَدْ تَزَوَّجَتْ فَقَدْ رَضِيَتْ بِالَّذِي صَنَعَ لَا مِيرَاثَ لَهَا

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and al-Razzaz from Ayyub ibn Nuh and Muhammad ibn 'Isma'i'i has narrated from al-Fadl ibn Shadhan and Humayd ibn Ziyad from ibn Sama'ah all from Safwan from 'Abd al-Rahman ibn al-Hajjaj from those who narrated to him who has said the following:

'About the case of a man who divorces his wife during his illness, abu 'Abd Allah^{asws}, has said, 'If he dies from his illness and she has not married, she inherits his legacy. If she has married then she has agreed with what she has done, thus, she does have the right to inherit.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبيدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ قَالَ لَا يَجُوزُ طَلْقُ الْمَرِيضِ وَ يَجُوزُ نِكَاحُهُ

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah from ibn Bukayr from 'Ubayd ibn Zurarah who has said the following:

'Abu 'Abd Allah^{asws} has said, 'One's divorcing during his illness is not permissible, however, his marriage is permissible.'

5- عَنْهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَسِّنٍ عَنْ مُعَاوِيَةَ بْنِ وَهَبٍ عَنْ عُبيدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هُوَ مَرِيضٌ حَتَّى مَضَى لِذَلِكَ سَنَةً قَالَ ثَرَّتُهُ إِذَا كَانَ فِي مَرَضِهِ الَّذِي طَلَّقَهَا وَ لَمْ يَصِحَّ بَيْنَ ذَلِكَ

It is narrated from the narrator of the previous Hadith from Ahmad ibn Muhammad from Muhsin from Mu'awiyah ibn Wahab from 'Ubayd ibn Zurarah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife during his illness and one year passes. He^{asws} said, 'She inherits if it is during his illness in which he divorced her, but not in between (she does not inherit if divorce takes place between two illnesses).'

6- وَ عَنْهُ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ ابْنِ سَمَاعَةَ عَنْ ابْنِ رِبَاطٍ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قُلْتُ لَهُ رَجُلٌ طَلَّقَ امْرَأَتَهُ وَ هُوَ مَرِيضٌ تَطْلِيقُهُ وَ قَدْ كَانَ طَلَّقَهَا قَبْلَ ذَلِكَ تَطْلِيقَيْنِ قَالَ فَإِنَّهَا ثَرَّتُهُ إِذَا كَانَ فِي مَرَضِهِ قَالَ قُلْتُ وَ مَا حَدُّ الْمَرَضِ قَالَ لَا يَزَالُ مَرِيضًا حَتَّى يَمُوتَ وَ إِنْ طَالَ ذَلِكَ إِلَى السَّنَةِ

It is narrated from the narrator of the previous Hadith from al-Hassan ibn Muhammad from ibn Sama'ah from ibn Ribat from ibn Muskan from abu al-'Abbas who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife once when he is ill and he had divorced her twice before. He^{asws} said, 'She inherits his legacy if it was during his illness.' I then asked, 'What is the limit of illness?' He^{asws} said, 'The illness which continues until he dies even if it prolongs for one year.'

7- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا طَلَّقَ الرَّجُلُ الْمَرْأَةَ فِي مَرَضِهِ وَرَثَتُهُ مَا دَامَ فِي مَرَضِهِ ذَلِكَ وَ إِنْ انْقَضَتْ عِدَّتُهَا إِلَّا أَنْ يَصِحَّ مِنْهُ قَالَ قُلْتُ فَإِنْ طَالَ بِهِ الْمَرَضُ قَالَ مَا بَيْنَهُ وَ بَيْنَ سَنَةٍ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Jamil ibn Darraj from abu al-'Abbas who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If a man divorces his wife during his illness she inherits his legacy as long as it is in his illness even if her waiting period ends unless he gets well from that illness.' I then asked, 'What happens if the illness prolongs?' He^{asws} said, 'It is up to one year.'

8- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَيْسَ لِلْمَرِيضِ أَنْ يُطْلَقَ وَ لَهُ أَنْ يَتَزَوَّجَ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah who has said the following:

'Abu 'Abd Allah^{asws} has said, 'One cannot divorce his wife in his illness but his marriage is permissible.'

9- مُحَمَّدٌ عَنْ أَحْمَدَ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَهُوَ مَرِيضٌ قَالَ تَرْتُهُ مَا دَامَتْ فِي عَدَّتِهَا وَ إِنْ طَلَّقَهَا فِي حَالِ إِضْرَارٍ فَهِيَ تَرْتُهُ إِلَى سَنَةٍ فَإِنْ زَادَ عَلَى السَّنَةِ يَوْمًا وَاحِدًا لَمْ تَرْتُهُ وَ تَعُدُّ مِنْهُ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا عِدَّةَ الْمُتَوَقَّى عَنْهَا زَوْجَهَا

Muhammad has narrated from Ahmad from al-Husayn ibn Sa'id from his brother al-Hassan from Zur'ah ibn Muhammad from Sama'ah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who divorces his wife when he is ill. He^{asws} said that she inherits his legacy. She inherits him as long as she is in her wailing period. If he has divorced her in a condition that harms her, she inherits him up to one year; and if it is more than one year even by one day, then she does not inherit and she counts a waiting period for four months and ten days like the waiting period for a widow.'

10- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ تَطْلِيقَيْنِ فِي صِحَّةٍ ثُمَّ طَلَّقَ التَّطْلِيقَةَ الثَّالِثَةَ وَهُوَ مَرِيضٌ إِنَّهَا تَرْتُهُ مَا دَامَ فِي مَرَضِهِ وَ إِنْ كَانَ إِلَى سَنَةٍ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Aban ibn 'Uthman from a man who has said the following:

'About the case of a man who divorces his wife twice when he is not, ill and the third divorce is in his illness, abu 'Abd Allah^{asws} has said, 'She inherits him as long as he is ill even if it prolongs for one year.'

11- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ أَنَّهُ سُئِلَ عَنِ الرَّجُلِ يَحْضُرُهُ الْمَوْتُ فَيُطَلِّقُ امْرَأَتَهُ هَلْ يَجُوزُ طَلَّاقُهَا قَالَ نَعَمْ وَ إِنْ مَاتَ وَرَثَتُهُ وَ إِنْ مَاتَتْ لَمْ يَرِثَهَا

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

'Once abu 'Abd Allah^{asws} was asked about the case of a man who is about to die, and he divorces his wife: if such divorce is permissible. He^{asws} said, 'Yes, this is permissible and if he dies she inherits his legacy but if she dies he does not inherit her legacy.'

12- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَّابٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ع قَالَ لَيْسَ لِلْمَرِيضِ أَنْ يُطَلِّقَ وَ لَهُ أَنْ يَتَزَوَّجَ فَإِنْ هُوَ تَزَوَّجَ وَ دَخَلَ بِهَا فَهُوَ جَائِزٌ وَ إِنْ لَمْ يَدْخُلْ بِهَا حَتَّى مَاتَ فِي مَرَضِهِ فَنِكَاحُهُ بَاطِلٌ وَ لَا مَهْرَ لَهَا وَ لَا مِيرَاثَ

Ali has narrated from his father from ibn Mahbub from ibn Ri'ab from Zurarah who has said the following:

'One of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'A man in his illness must not divorce his wife: but he can marry a woman. If he marries and goes to bed with her, it is permissible: and if he did not go to bed with her until he dies from that illness, his marriage is invalid and she does not have mahr (dower) or inheritance.'

بَابُ فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ لَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ

The Verse: Do not harm them (women) to make it Difficult for them

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يُضَارُّ الرَّجُلُ امْرَأَتَهُ إِذَا طَلَّقَهَا فَيُضَيِّقُ عَلَيْهَا حَتَّى تَنْتَقِلَ قَبْلَ أَنْ تَنْقَضِيَ عِدَّتُهَا فَإِنَّ اللَّهَ عَزَّ وَ جَلَّ قَدْ نَهَى عَنْ ذَلِكَ فَقَالَ وَ لَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ

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

'Abu 'Abd Allah^{asws} has said, 'A man must not harm his wife when he divorces her to make it difficult for her so she is forced to move away before the end of her waiting period. Allah^{azwj}, has prohibited it. saying, ' . . . you must not harm them (women) to make it difficult for them.' (65:6)

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad, from Ali ibn al-Hakam, from Ali ibn abu Hamzah from abu Basir from abu 'Abd Allah^{asws} a similar hadith.

بَابُ طَلَاقِ الصَّبِيَّانِ **Divorce of Children**

1- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ طَلَاقِ الْغُلَامِ لَمْ يَحْتَلَمْ وَ صَدَّقْتِهِ فَقَالَ إِذَا طُلِّقَ لِلْسُّنَّةِ وَ وَضَعَ الصَّدَقَةَ فِي مَوْضِعِهَا وَ حَقَّهَا فَلَا بَأْسَ وَ هُوَ جَائِزٌ

A number of our people have narrated from Ahmad ibn Muhammad from ibn Khalid and Ah ibn Ibrahim has narrated from his father from all from 'Uthman ibn Msa from Sama'ah who has said the following:

'I once asked him^{asws} about the divorce of a boy who is not mature yet, and his charity. He^{asws} said, 'If he divorces according to Sunnah and places charily in the proper place where it rightly belongs, it is not unlawful and it is permissible.'

2- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَيْسَ طَلَاقُ الصَّبِيِّ بِشَيْءٍ

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

'Abu 'Abd Allah^{asws} has said that divorce of a child does not have any valid effect.'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيٍّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَجُوزُ طَلَاقُ الصَّبِيِّ وَ لَا السَّكَرَانِ

Humayd ibn Ziyad has narrated from ibn Sama'ah 'Abd Allah ibn Jabalah from Ali ibn abu Hamzah from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Divorce by a child and one who is drunk do not have any valid effect.'

4- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عَدَّةٍ مِنْ أَصْحَابِهِ عَنْ ابْنِ بُكَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ [لَا] يَجُوزُ طَلَاقُ الْغُلَامِ إِذَا كَانَ قَدْ عَقَلَ وَ وَصِيَّتُهُ وَ صَدَقَتُهُ وَ إِنْ لَمْ يَحْتَلَمْ مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ مُحَمَّدِ بْنِ الْحُسَيْنِ جَمِيعًا عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع مِثْلَهُ

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Husayn from a number of his people from ibn Bukayr who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Divorce by a child is [not] permissible if he understands as well as his will and charity and even if he does not experience wet dream.'

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad Ahmad ibn Muhammad from Muhammad ibn al-Husayn all from ibn Faddal from ibn Bukayr from Abu 'Abd Allah^{asws}, a similar Hadith.

5- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ رَجَالِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ [لَا] يَجُوزُ طَلَاقُ الصَّبِيِّ إِذَا بَلَغَ عَشْرَ سِنِينَ

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

'Abu 'Abd Allah^{asws} has said that divorce by a child is [not] permissible when he becomes ten years old.'

بَابُ طَلَاقِ الْمَعْتُوهِ وَ الْمَجْنُونِ وَ طَلَاقِ وَلِيِّهِ عَنْهُ **Divorce of People with Mental Condition**

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُوَيْدٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي خَالِدٍ الْقَمَاطِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ عِ الرَّجُلِ الْأَحْمَقُ الذَّاهِبُ الْعَقْلُ يَجُوزُ طَلَاؤُهُ وَلَيْتَهُ عَلَيْهِ قَالَ وَ لِمَ لَا يُطَلِّقُ هُوَ قُلْتُ لَا يُؤْمَنُ إِنْ طَلَّقَ هُوَ أَنْ يَقُولَ غَدًا لَمْ أَطَلِّقْ أَوْ لَا يُحْسِنُ أَنْ يُطَلِّقَ قَالَ مَا أَرَى وَلَيْتَهُ إِلَّا بِمَنْزِلَةِ السُّلْطَانِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Husayn ibn Sa'id. from al-Nadr ibn Suwayd, from Muhammad ibn abu Hamzah from abu Khalid al-Qammat who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who has a mental condition and his reason is gone: if ; divorce by his guardian is permissible. He^{asws} said, 'Why docs he not divorce?' I replied, 'He docs not feel safe because tomorrow he may say that he did not divorce or he does not know how to do it.' He^{asws} said, 'I do not see his guardian except like a sultan (king, authority).'

2- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعًا عَنْ صَفْوَانَ عَنْ أَبِي خَالِدٍ الْقَمَاطِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ عِ رَجُلٌ يَعْرِفُ رَأْيَهُ مَرَّةً وَ يُنْكِرُهُ أُخْرَى يَجُوزُ طَلَاؤُهُ وَلَيْتَهُ عَلَيْهِ قَالَ مَا لَهُ هُوَ لَا يُطَلِّقُ قُلْتُ لَا يَعْرِفُ حَدَّ الطَّلَاقِ وَ لَا يُؤْمَنُ عَلَيْهِ إِنْ طَلَّقَ الْيَوْمَ أَنْ يَقُولَ غَدًا لَمْ أَطَلِّقْ قَالَ مَا أَرَاهُ إِلَّا بِمَنْزِلَةِ الْإِمَامِ يَعْنِي الْوَلِيَّ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-jabbar and abu al-'Abbas al-Razza from Ayyub ibn Nuh and Humayd ibn Ziyad has narrated from ibn Sama'ah Ahmad ibn Muhammad from Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from 'Abd Allah from Safwan from abu Khalid al-Qammat who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who sometime understands and sometimes does not understand: if his divorce by his guardian is permissible. He^{asws} asked, 'What is the matter with him, why docs he not divorce?' I replied, 'He does not know the rules of divorce and does not feel safe. Perhaps tomorrow he will say that he did not divorce.' He^{asws} said, 'I do not see him (guardian) except like an Imam (in his case).'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عِيسَى عَنْ عُمَرَ بْنِ أَدِينَةَ عَنْ زُرَّارَةَ وَ بُكَيْرٍ وَ مُحَمَّدِ بْنِ مُسْلِمٍ وَ بُرَيْدٍ وَ فَضِيلِ بْنِ يَسَارٍ وَ إِسْمَاعِيلَ الْأَزْرَقِ وَ مَعْمَرِ بْنِ يَحْيَى عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ عِ أَنَّ الْمُؤَلَّةَ لَيْسَ لَهُ طَلَاؤُ وَ لَا عَتْقُهُ عَتَقٌ

Ali ibn Ibrahim has narrated from his father from Hammad ibn 'Isa from 'Umar ibn 'Udhaynah from Zurarah and Bukayr and Muhammad ibn Muslim and Burayd and Fudayl ibn Yasar Ahmad ibn abu 'Abd Allah 'Isma'il ibn al-Azraq and Mu'ammam ibn Yahya who has said the following:

'Abu Ja'far^{asws}, and abu 'Abd Allah^{asws} have said, 'Divorce by al-Muwallah (confused, excited, awestruck) one's divorce and setting free of slaves is not valid.'

4- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عِ عَنْ طَلَاقِ الْمَعْتُوهِ الذَّاهِبِ الْعَقْلُ أَوْ يَجُوزُ طَلَاؤُهُ قَالَ لَا وَ عَنْ الْمَرْأَةِ إِذَا كَانَتْ كَذَلِكَ أَوْ يَجُوزُ بَيْعُهَا أَوْ صَدَّقْتُهَا قَالَ لَا

A number of our people have narrated from Sahl ibn Ziyad ibn abu Nasr from 'Abd al-Karim from al-Halabi who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who has a mental condition whose reason has gone: if his divorce is permissible. He^{asws} said, 'No, it is not permissible.' About a woman of the same condition if her selling and charity is permissible, He^{asws} said, 'It is not permissible.'

5- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ عَنْ شِهَابِ بْنِ عَبْدِ رَبِّهِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ عِ الْمَعْتُوهُ الَّذِي لَا يُحْسِنُ أَنْ يُطَلِّقَ عَنْهُ وَلَيْتَهُ عَلَى السُّنَّةِ قُلْتُ فَإِنْ جَهِلَ فَطَلَّقَهَا ثَلَاثًا فِي مَقْعَدٍ قَالَ يُرَدُّ إِلَى السُّنَّةِ فَإِذَا مَضَتْ ثَلَاثَةُ أَشْهُرٍ أَوْ ثَلَاثَةُ فُرُوعٍ فَقَدْ بَانَتْ مِنْهُ بَوَاحِدَةٍ

Ali ibn Ibrahim has narrated from his father from and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from al-Hassan ibn Salih from Shihab ibn 'Abd Rabbihi who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If a man because of a mental condition cannot divorce properly, his guardian must do it for him according to Sunnah.' I then asked, 'What happens if because of ignorance he divorced her three times at the same place and

time?' He^{asws} said. 'It is returned to the Sunnah and when three months pass or three Hayd (menses)-free periods, she becomes stranger to him with one divorce.'

6- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ كُلُّ طَلَقٍ جَائِزٌ إِلَّا طَلَقَ الْمَعْنُوهُ أَوْ الصَّبِيِّ أَوْ مُبْرَسَمٍ أَوْ مَجْنُونٍ أَوْ مَكْرُوهٍ

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

'Abu 'Abd Allah^{asws} has said, 'Divorce is permissible except divorce by a man with mental condition, a child or Mubarsam, (suffering from a disease of diaphragm), an insane or a coerced one.'

7- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ سِنَانٍ عَنْ أَبِي خَالِدٍ الْقَمَاطِ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي طَلَقِ الْمَعْنُوهِ قَالَ يُطْلَقُ عَنْهُ وَلَيْتُهُ فَإِنِّي أَرَاهُ بِمَنْزِلَةِ الْإِمَامِ

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Husayn from Muhammad ibn Sinan from abu Khalid al-Qammat who has said the following:

'About the case of a man suffering from a mental condition, abu 'Abd Allah^{asws} has said, 'His guardian divorces for him because i see him like the Imam (for him).'

بَابُ طَلَقِ السَّكَرَانَ *Divorce by a Drunk Man*

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ طَلَقِ السَّكَرَانَ فَقَالَ لَا يَجُوزُ وَلَا كَرَامَةً

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

'I once asked abu 'Abd Allah, asws, about the divorce of a drunken man. He (the Imam) said, 'It is not permissible and it is not an honorable thing.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكَنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَيْسَ طَلَقُ السَّكَرَانَ بِشَيْءٍ

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

'Abu 'Abd Allah^{asws}, has said, 'Divorce of a drunken man does not have any valid effect.'

3- مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سِنَانٍ عَنْ ابْنِ مُسْكَانَ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ طَلَقِ السَّكَرَانَ فَقَالَ لَا يَجُوزُ وَلَا كَرَامَةً

Muhammad has narrated from Ahmad ibn Muhammad from Muhammad ibn Sinan from ibn Muskan from al-Halabiyy who has said the following:

'I once asked abu 'Abd Allah^{asws} about the divorce of a drunken man. He^{asws} said, 'It is not permissible and it is not an honorable thing.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ ابْنِ رَبَاطٍ وَ الْحُسَيْنِ بْنِ هَاشِمٍ عَنْ صَفْوَانَ جَمِيعًا عَنْ ابْنِ مُسْكَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ طَلَقِ السَّكَرَانَ فَقَالَ لَا يَجُوزُ وَلَا عِتْفُهُ

Humayd ibn Ziyad has narrated from ibn Sama'ah from ibn Ribat and al-Husayn ibn Hashim from Safwan all from ibn Muskan from al-Halabiyy who has said the following:

'I once asked abu 'Abd Allah^{asws} about the divorce of a drunken man. He^{asws} said, 'It is not permissible as well as his setting free of slaves.'

بَابُ طَلَاقِ الْمُضْطَرِّ وَالْمُكْرَهِ Divorce of One Compelled and Coerced

الكافي ج : 6 ص : 127

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ ابْنِ أَبِي عُمَيْرٍ أَوْ غَيْرِهِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَمِعْتُهُ يَقُولُ لَوْ أَنَّ رَجُلًا مُسْلِمًا مَرَّ بِقَوْمٍ لَيْسُوا بِسُلْطَانٍ فَقَهَرُوهُ حَتَّى يَتَخَوَّفَ عَلَى نَفْسِهِ أَنْ يُعْتَقَ أَوْ يُطْلَقَ فَقَعَلَ لَمْ يَكُنْ عَلَيْهِ شَيْءٌ

Ali ibn Ibrahim has narrated from his father from certain persons of his people from ibn abu 'Umayr or others from 'Abd Allah ibn Sinan who has said the following:

'I once heard abu 'Abd Allah^{asws} saying, 'If a Muslim man passes by a people who do have not any valid authority and they force him, he fears for his life, to set free a slave or divorce and he complies, it does not have any valid effect against him.'

2- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَأَلْتُهُ عَنْ طَلَاقِ الْمُكْرَهِ وَ عَقْبِهِ فَقَالَ لَيْسَ طَلَاقُهُ بِطَلَاقٍ وَلَا عَقْبُهُ بِعِتْقٍ فَقُلْتُ إِنِّي رَجُلٌ تَاجِرٌ أَمُرُّ بِالْعَشَارِ وَمَعِيَ مَالٌ فَقَالَ غَيِّبْهُ مَا اسْتَطَعْتَ وَ ضَعْهُ مَوَاضِعَهُ فَقُلْتُ وَ إِنِ حَلَفَنِي بِالطَّلَاقِ وَ الْعَتَاقِ فَقَالَ احْلِفْ لَهُ ثُمَّ اخَذَ ثَمْرَةً فَحَقَنَ بِهَا مِنْ زُبْدٍ كَانَ فِدَامَهُ فَقَالَ مَا أَبَالِي حَلَفْتُ لَهُمْ بِالطَّلَاقِ وَ الْعَتَاقِ أَوْ أَكَلْتُهَا

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

'I once asked abu Ja'far^{asws} about the divorce of a man who is coerced and about his setting free slaves. He^{asws} said. 'His divorce is not a divorce and his setting free slaves is not valid freedom.' I then said, 'I am a merchant and I pass by a one-tenth tax collector, with certain amount of assets with me.' He^{asws} said, 'Keep it concealed as much as you can in their proper place.' I then asked, 'What must I do if they ask me to swear about divorce and setting free slaves?' He^{asws} said, 'You can swear for him.' He^{asws} then took a piece of date and immersed it in butter in front of him^{asws}. He^{asws} then said, 'I do not mind about your swearing for divorce and setting free slaves or eating this.'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ غُبَيْسِ بْنِ هِشَامٍ وَ صَالِحِ بْنِ خَالِدٍ عَنْ مَصْصُورِ بْنِ يُونُسَ قَالَ سَأَلْتُ الْعَبْدَ الصَّالِحَ ع وَ هُوَ بِالْعُرَيْضِ فَقُلْتُ لَهُ جُعِلْتُ فِدَاكَ إِنِّي قَدْ تَزَوَّجْتُ امْرَأَةً وَ كَانَ تُحِبُّنِي فَتَزَوَّجْتُ عَلَيْهَا ابْنَةً خَالِي وَ قَدْ كَانَ لِي مِنَ الْمَرْأَةِ وَلَدٌ فَرَجَعْتُ إِلَى بَغْدَادَ فَطَلَّقْتُهَا وَاحِدَةً ثُمَّ رَاجَعْتُهَا ثُمَّ طَلَّقْتُهَا الثَّانِيَةَ ثُمَّ رَاجَعْتُهَا ثُمَّ خَرَجْتُ مِنْ عِنْدِهَا أُرِيدُ سَفَرِي هَذَا حَتَّى إِذَا كُنْتُ بِالْكُوفَةِ أَرَدْتُ النَّظَرَ إِلَى ابْنَةِ خَالِي فَقَالَتْ أَخْتِي وَ خَالَتِي لَا تَنْظُرِي إِلَيْهَا وَ اللَّهُ أَبَدًا حَتَّى تُطْلَقَ فَلَانَةً فَقُلْتُ وَيَحْكُمُ وَ اللَّهُ مَا لِي إِلَى طَلَاقِهَا سَبِيلٌ فَقَالَ لِي هُوَ مِنْ شَأْنِكَ لَيْسَ لَكَ إِلَى طَلَاقِهَا سَبِيلٌ فَقُلْتُ جُعِلْتُ فِدَاكَ إِنَّهُ كَانَتْ لِي مِنْهَا بِنْتُ وَ كَانَتْ بِبَغْدَادَ وَ كَانَتْ هَذِهِ بِالْكُوفَةِ وَ خَرَجْتُ مِنْ عِنْدِهَا قَبْلَ ذَلِكَ بِأَرْبَعِ قَابِوَا عَلَيَّ إِلَّا تَطْلِقُهَا ثَلَاثًا وَ لَا وَ اللَّهُ جُعِلْتُ فِدَاكَ مَا أَرَدْتُ اللَّهُ وَ مَا أَرَدْتُ إِلَّا أَنْ أَذَارِيَهُمْ عَنْ نَفْسِي وَ قَدْ امْتَلَأَ قَلْبِي مِنْ ذَلِكَ جُعِلْتُ فِدَاكَ فَمَكَثْتُ طَوِيلًا مُطْرَقًا ثُمَّ رَفَعَ رَأْسَهُ إِلَيَّ وَ هُوَ مُتَبَسِّمٌ فَقَالَ أَمَا مَا بَيْنَكَ وَ بَيْنَ اللَّهِ عَزَّ وَ جَلَّ فَلَيْسَ بِشَيْءٍ وَ لَكِنْ إِذَا قَدَّمُوكَ إِلَى السُّلْطَانِ أَبَاتَهَا مِنْكَ

Humayd ibn Ziyad has narrated from ibn Sama'ah from 'Ubays ibn Hisham and Salih ibn Khalid from Mansur ibn Yimus who has said the following:

'I once asked Allah's virtuous servant, aswj, when he was in al-'Arid, (name of a place) saying, 'I pray to Allah^{azwj} to keep my soul in service for your cause, I married a woman who loved me. I then married the daughter of my maternal uncle and from the woman I had a son, I returned to Baghdad and divorced her once, then I went back to her, then divorced her for the second time, then I went back to her and then left for this journey. I arrived in al-Kufah to see the daughter of my maternal uncle, and my sister and maternal aunt told me that, by Allah^{azwj}, I could never look at her until I divorced so and so. I then told them: 'Fie on you: I have no way to divorce her.' He said, 'It is up to you and it is your problem.' I then said, 'I pray to Allah^{azwj} to keep my soul in service for your cause. From her I had a daughter who lived in Baghdad and this is in al-Kufah; I had left her before four and they refused to allow me to see her unless I divorced her three times. No, by Allah^{azwj}, I pray to Allah^{azwj} to keep my soul in service for your cause, I did not want to do so except that I wanted to keep them away from myself, and my heart has

become full (of disappointment with them). I pray to Allah^{azwj} to keep my soul in service for your cause.' He^{asws} then bent down his head for a long time, then raised his head, smiling and said, 'Between you and Allah^{azwj}, there is no problem, however, if they take their case against you before the Sultan (ruling authorities) they can make her to become stranger to you.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ يَحْيَى بْنِ عَبْدِ اللَّهِ بْنِ الْحَسَنِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَمِعْتُهُ يَقُولُ لَا يَجُوزُ الطَّلَاقُ فِي اسْتِكْرَاهٍ وَلَا يَجُوزُ عِتْقٌ فِي اسْتِكْرَاهٍ وَلَا يَجُوزُ يَمِينٌ فِي قَطِيعَةِ رَحِمٍ وَلَا فِي شَيْءٍ مِنْ مَعْصِيَةِ اللَّهِ فَمَنْ حَلَفَ أَوْ حَلَفَ فِي شَيْءٍ مِنْ هَذَا وَفَعَلَهُ فَلَا شَيْءَ عَلَيْهِ قَالَ وَ إِنَّمَا الطَّلَاقُ مَا أُرِيدَ بِهِ الطَّلَاقُ مِنْ غَيْرِ اسْتِكْرَاهٍ وَلَا إِضْرَارٍ عَلَى الْعِدَّةِ وَ السُّنَّةِ عَلَى طَهْرِ بَغْيٍ جَمَاعٍ وَ شَاهِدَيْنِ فَمَنْ خَالَفَ هَذَا فَلَيْسَ طَلَاغُهُ وَ لَا يَمِينُهُ بِشَيْءٍ يُرَدُّ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ

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

'I once heard abu 'Abd Allah^{asws} saying, 'Divorce under coercion is not permissible or setting free of a slave. It is not permissible to swear for cutting off good relations with relatives or for a sinful act in disobedience to Allah^{azwj}. Thus, whoever swears or is made to swear about something of this kind, it does not have any valid effect on him. Divorce is what is meant to be divorce, and without coercion or harming in a divorce in the manner of waiting period, according to the Sunnah, in a Hayd (menses)-free period, without sexual intercourse and is pronounced in the presence of two witnesses. If one opposes this, his divorce and oath do not have any valid effect and it is relumed to the book of Allah^{azwj}.'

5- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُعَاوِيَةَ بْنِ وَهْبٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ ع أَمْرٌ بِالْعَشَارِ وَ مَعِيَ مَالٌ فَيَسْتَحْلِفُنِي فَإِنْ حَلَفْتُ لَهُ تَرَكَنِي وَ إِنْ لَمْ أَحْلِفْ لَهُ فَتَشْنِي وَ ظَلَمَنِي فَقَالَ أَحْلِفْ لَهُ قُلْتُ فَإِنَّهُ يَسْتَحْلِفُنِي بِالطَّلَاقِ فَقَالَ أَحْلِفْ لَهُ فَقُلْتُ فَإِنَّ الْمَالَ لَا يَكُونُ لِي قَالَ فَعَنْ مَالِ أَخِيكَ إِنَّ رَسُولَ اللَّهِ ص رَدَّ طَلَّاقَ ابْنِ عُمَرَ وَ قَدْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا وَ هِيَ حَائِضٌ فَلَمْ يَرِ ذَلِكَ رَسُولُ اللَّهِ شَيْنًا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al -Hakam from Mu'awiyah ibn Wabab from 'Isma'il al-Ju'fiy who has said the following:

'I pass by one-tenth tax collector for trading with a certain amount of assets with me and the party (tax collector) asks me to swear. If I swear he allows me to go, but if I do not swear he searches my assets and does injustice to me. He^{asws} said, 'You can swear for him.' I then said, 'He asks me to swear in the issue of divorce. He^{asws} said, 'You can swear for him.' I said, 'The asset does not belong to me.' He^{asws} said, 'Do it for the assets of your brother. The Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, reversed the divorce of ibn 'Umar, who had divorced his wife three limes during her menses and the Messenger of Allah^{saww} considered it invalid, of no valid effect.'

بَابُ طَّلَاقِ الْأَخْرَسِ

Divorce by a Speechless Man

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ع عَنِ الرَّجُلِ تَكُونُ عِنْدَهُ الْمَرْأَةُ ثُمَّ يَصْمُتُ فَلَا يَتَكَلَّمُ قَالَ يَكُونُ أَخْرَسَ قُلْتُ نَعَمْ فَيَعْلَمُ مِنْهُ بَعْضُ لِمَرَأَتِهِ وَ كَرَاهَتُهُ لَهَا أَوْ يَجُوزُ أَنْ يُطْلَقَ عَنْهُ وَلَيْتَهُ قَالَ لَا وَ لَكِنْ يَكْتُبُ وَ يُشْهَدُ عَلَى ذَلِكَ قُلْتُ لَا يَكْتُبُ وَ لَا يَسْمَعُ كَيْفَ يُطْلَقُهَا فَقَالَ بِالَّذِي يُعْرِفُ مِنْهُ مِنْ فَعَالِهِ مِثْلَ مَا ذَكَرْتَ مِنْ كَرَاهَتِهِ وَ بَعْضِهِ لَهَا

Ali ibn Ibrahim has narrated from his father from Ahmad ibn Muhammad from ibn abu Nasr who has said the following:

'I once asked abu al-Hassan^{asws} about the case of a man who is mute, does not speak and has a wife. He^{asws} asked, 'Is he speechless?' I replied, 'Yes, he is speechless and it is seen that he hates his wife and dislikes her. Is it permissible for his guardian to divorce on his behalf?' He^{asws} said, 'No, it is not permissible, however, he can write and arrange

for witnesses for it.' I then said. 'He cannot write or speak, how can he divorce?' He^{asws} said, 'It then is done by what is understood from him in the form of his deeds like what you mentioned that he hates and dislikes his wife.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ السُّدِّيِّ عَنْ جَعْفَرِ بْنِ بِشِيرٍ عَنْ أَبِي بَنٍ عُثْمَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ طَلْقِ الْخُرْسَاءِ قَالَ يَلْفُ قِنَاعَهَا عَلَى رَأْسِهَا وَ يَجْدُبُهُ

All ibn Ibrahim has narrated from his father from Salih ibn al-Sindiyy from Ja'l'ar ibn Bashir from Aban ibn 'Uthman who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who is speechless. He^{asws} said, 'He must wrap her scarf around her head, then pull it away.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ النَّوْفَلِيِّ عَنْ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ طَلَقُ الْاُخْرَسِ أَنْ يَأْخُذَ مِقْنَعَتَهَا فَيَضَعَهَا عَلَى رَأْسِهَا وَيَعْتَزِّلَهَا

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

'Abu 'Abd Allah^{asws} has said, 'Divorce by a speechless man can happen by his placing her headscarf on her head and then taking it away from her head.'

الكافي ج : 6 ص : 129

4- عَلِيُّ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُوسُفَ فِي رَجُلٍ أَخْرَسَ كَتَبَ فِي الْأَرْضِ بَطْلَاقَ امْرَأَتِهِ قَالَ إِذَا فَعَلَ ذَلِكَ فِي قُبُلِ الطُّهْرِ بِشُهُودٍ وَ فَهَمَ عَنْهُ كَمَا يُفْهَمُ عَنْ مِثْلِهِ وَ يُرِيدُ الطَّلَاقَ جَازَ طَلَاغُهُ عَلَى السُّنَّةِ

Ali has narrated from his father from 'Isma'il ibn Marrar from Yunus from a speechless man who wrote on the ground the divorce for his wife.

He^{asws} said, 'If he has done so during a Hayd (mcnses)-free period in the presence of witnesses and it is understood from him as it is understood from people like him who decide to divorce, his divorce is permissible according to Sunnah.'

بَابُ الْوَكَالَةِ فِي الطَّلَاقِ Attorney for Divorce

1- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعًا عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ سَعِيدِ الْأَعْرَجِ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ جَعَلَ أَمْرَ امْرَأَتِهِ إِلَى رَجُلٍ فَقَالَ اشْهَدُوا أَنِّي جَعَلْتُ أَمْرَ فَلَانَةٍ إِلَى فُلَانٍ أَوْ يَجُوزُ ذَلِكَ لِلرَّجُلِ قَالَ نَعَمْ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and al-Razzaz from Ayyub ibn Nuh Ahmad ibn Muhammad from Humayd ibn Ziyad has narrated from ibn Sama'ah all from Safwan ibn Yahya from Sa'id al-A'raj who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who has left the affair of his wife to another man saying, 'Bear witness that I have left the affairs of so and so, to so and so, to so and so: if it is permissible for the man. He^{asws} said, 'Yes, it is permissible.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ جَمِيعًا عَنْ عَلِيِّ بْنِ النُّعْمَانَ عَنْ سَعِيدِ الْأَعْرَجِ عَنْ أَبِي عَبْدِ اللَّهِ عَ فِي رَجُلٍ يَجْعَلُ أَمْرَ امْرَأَتِهِ إِلَى رَجُلٍ فَقَالَ اشْهَدُوا أَنِّي قَدْ جَعَلْتُ أَمْرَ فَلَانَةٍ إِلَى فُلَانٍ فَيُطَلِّقُهَا أَوْ يَجُوزُ ذَلِكَ لِلرَّجُلِ قَالَ نَعَمْ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ai-Husayn ibn Sa'id and Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar from Muhammad ibn 'Isma'il all from Ali ibn al-Nu'man from Sa'id al-A'raj who has said the following:

'About the case of a man who leaves the affairs of his wife to a man to deal with saying, 'Bear witness that I have left the affairs of so and so, to so and so, to so and so to deal with: if it is permissible. He^{asws} said, 'Yes, it is permissible.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ع فِي رَجُلٍ جَعَلَ طَلَقَ امْرَأَتِهِ بِيَدِ رَجُلَيْنِ فَطَلَّقَ أَحَدَهُمَا وَابْنُ الْآخَرِ فَأَبَى أَمِيرُ الْمُؤْمِنِينَ ع أَنْ يُحْجِزَ ذَلِكَ حَتَّى يَجْتَمِعَا جَمِيعًا عَلَى طَلَقِ

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

'Abu 'Abd Allah^{asws} has said that about the case of a man who had left the affairs of his wife to two men to deal with: of whom one divorced her but the other one refused, 'Amir al-Mu'minin^{asws} also refused to approve it unless both agreed to divorce her.'

4- مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي هِلَالٍ الرَّازِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع رَجُلٌ وَكَلَّ رَجُلًا بِطَلَقِ امْرَأَتِهِ إِذَا حَاضَتْ وَطَهَّرَتْ وَخَرَجَ الرَّجُلُ فَبَدَأَ لَهُ فَاشْهَدَ أَنَّهُ قَدْ أَبْطَلَ مَا كَانَ أَمْرَهُ بِهِ وَ أَنَّهُ قَدْ بَدَأَ لَهُ فِي ذَلِكَ قَالَ فَلْيُعْلِمُ أَهْلَهُ وَلْيُعْلِمِ الْوَكِيلَ

Muhammad has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Muskan from abu Hilal al-Razi who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who appoints a man to divorce his wife after she experiences Hayd (menses) and becomes clean and he himself goes away; but he changes his mind and arranges witnesses that he has changed his mind. He^{asws} said, 'He must inform his wife and his attorney about it.'

5- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شُمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مِسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ جَعَلَ طَلَقَ امْرَأَتِهِ بِيَدِ رَجُلَيْنِ فَطَلَّقَ أَحَدَهُمَا وَابْنُ الْآخَرِ فَأَبَى عَلِيٌّ ع أَنْ يُحْجِزَ ذَلِكَ حَتَّى يَجْتَمِعَا عَلَى الطَّلَاقِ جَمِيعًا وَرُوي أَنَّهُ لَا تَجُوزُ الْوَكَاةُ فِي الطَّلَاقِ

A number of our people have narrated from Sahl ibn Ziyad from Muhammad ibn al-Hassan ibn Shammun from 'Abd Allah ibn 'Abd al-Rahman from Misma' who has said the following:

'About the case of a man who leaves the matters about the divorce of his wife to two men, of whom one divorces and the other refuses, abu 'Abd Allah^{asws} has said, 'The other man should also agree about divorce to have the agreement of both people.' It is also narrated that attorney in divorce is not permissible.'

الكافي ج : 6 ص : 130

6- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ وَحُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ جَمِيعًا عَنْ حَمَادِ بْنِ عَثْمَانَ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ لَا تَجُوزُ الْوَكَاةُ فِي الطَّلَاقِ قَالَ الْحَسَنُ بْنُ سَمَاعَةَ وَبِهَذَا الْحَدِيثِ نَأْخُذُ

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali Ahmad ibn Muhammad from Humayd ibn Ziyad has narrated from ibn Sama'ah from Ja'far ibn Sama'ah al from Hamad ibn 'Uthaman from Zurarah who has said the following:

'Abu 'Abd Allah^{asws} has said, 'It is not permissible to appoint an attorney in divorce.' Al-Hassan ibn Sama'ah has narrated that this is the Hadith which we follow.

بَابُ الْإِيلَاءِ

Swearing and Taking an Oath

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِيْنَةَ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ فِي الْإِيلَاءِ إِذَا أَلَى الرَّجُلُ أَنْ لَا يَقْرَبَ امْرَأَتَهُ وَلَا يَمَسَّهَا وَلَا يَجْمَعَ رَأْسَهُ وَرَأْسَهَا فَهُوَ فِي سَعَةٍ مَا لَمْ تَمُضِ الْأَرْبَعَةُ أَشْهُرُ فَإِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ وَقَفَ قَلَمًا أَنْ يَفِيءَ فَيَمَسَّهَا وَإِمَّا أَنْ يَغْرِمَ عَلَى الطَّلَاقِ فَيُخَلِّي عَنْهَا حَتَّى إِذَا حَاضَتْ وَطَهَّرَتْ مِنْ حَيْضِهَا طَلَّقَهَا تَطْلِيقَةً قَبْلَ أَنْ يُجَامِعَهَا بِشَهَادَةِ عَدْلَيْنِ ثُمَّ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَمُضِ الثَّلَاثَةُ الْأَفْرَاءُ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah from Burayd ibn Mu'awiyah who has said the following:

'I once heard abu 'Abd Allah^{asws} state this Hadith. 'If a man swears not to go to bed with his wife, not to touch her and not to place his head next to her head, he then has the choice before passing of four months. When four months pass he then must be taken in custody to reach a settlement and go to bed with her, or decide to divorce, thus, he must leave her until she experiences Hayd (menses) and becomes clean from Hayd

(menses), then divorce her once before going to bed with her and in the presence of two just witnesses. Thereafter he has the right to go back to her until her passing three cycles of Hayd (menses)-free periods.'

2- عليّ عن أبيه عن ابن أبي عمير عن حماد عن الحلبي قال سألت أبا عبد الله ع عن الرجل يهجر امرأته من غير طلاق ولا يمين سنة لم يقرب فراشها قال ليأت أهله وقال أئماً رجل إلى من امرأته والى الله لا أجامعك كذا وكذا ويقول والله لا أغيضنك [لاغيظنك] ثم يغاضبها فإنه يتربص بها أربعة أشهر ثم يؤخذ بعد الأربعة الأشهر فيوقف فإن قاء والىفاء أن يصالح أهله فإن الله غفور رحيم فإن لم يفي جبر على أن يطلق ولا يقع بينهما طلاق حتى يوقف وإن كان أيضاً بعد الأربعة الأشهر يجبر على أن يفي أو يطلق

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who separates from his wife without divorce and swearing. He does not go near her bed for one year. He^{asws} said, 'He must go to his wife.' He^{asws} then said, 'If one swears about his wife, it takes place by one's saying. 'No, by Allah^{azwj}, I will not have sexual intercourse with you so and so, and say, by Allah^{azwj} I must reduce you' and then become angry with her. He can wait for four months. After four months, he must be taken in custody, so that he may reach reconciliation with his wife; Allah^{azwj} is forgiving and merciful. If he does not reach a settlement, he then is made to divorce. Divorce cannot take place until he is placed under custody. If it is after four months, still he is made to reach a settlement or divorce.'

الكافي ج : 6 ص : 131

3- محمد بن يحيى عن أحمد بن محمد عن علي بن الحكم عن علي بن أبي حمزة عن أبي بصير قال سمعت أبا عبد الله ع يقول إذا إلى الرجل من امرأته والى الله لا أجامعك كذا وكذا ويقول والله لا أغيضنك [لاغيظنك] ثم يغاضبها ثم يتربص بها أربعة أشهر فإن قاء والىفاء أن يصالح أهله أو يطلق عند ذلك ولا يقع بينهما طلاق حتى يوقف وإن كان بعد الأربعة الأشهر حتى يفي أو يطلق

Muhammad ibn Yahya has narrated from Ahmad tbn Muhammad from Ali ibn al-Hakam from Ali ibn abu Hamzah from abu Basir who has said the following:

'I once heard abu 'Abd Allah^{asws} saying, 'If one swears about his wife and it takes place by one's saying, 'By Allah^{azwj}, I will not have sexual intercourse with you so and so,' and says, 'By Allah^{azwj} I must reduce you' and then become angry with her. He can wait for four months. After four months, he must be taken in custody so that he pays expiation, which is reconciliation with his wife or divorce. Divorce cannot take place until he is placed under custody. If it is after four months, still he is made to expiate (find remedy) or divorce.'

4- عليّ عن أبيه عن حماد بن عيسى عن عمر بن أذينة عن بكير بن أعين و برید بن معاوية عن أبي جعفر و أبي عبد الله ع أنهما قالاً إذا إلى الرجل أن لا يقرب امرأته فليس لها قول ولا حق في الأربعة الأشهر ولا إثم عليه في كفها عنها في الأربعة الأشهر فإن مضت الأربعة الأشهر قبل أن يمسه فسكتت و رضيت فهو في حل و سعة فإن رفعت أمرها قيل له إما أن تفي فتمسها وإما أن تطلق و عزم الطلاق أن يخلي عنها فإذا حاضت و طهرت طلقها و هو أحق برجعها ما لم تمض ثلاثة قروء فهذا الإيلاء الذي أنزل الله تبارك و تعالى في كتابه و سنة رسول الله ص

Ali has narrated from his father from Hammad ibn 'Isa from 'Umar ibn 'Udhaynah from Bukayr ibn A'yan and Burayd ibn Mu'awiyah who has said the following:

'Abu Ja'far^{asws}, and abu 'Abd Allah^{asws} have said, 'If a man swears not to go near his wife, then he has no say and no right for four months; and it is not a sin on him to stay away from her for four months. When four months pass if he agrees to touch her arid she remains silent and agrees, it then is fine. He is within the law and his choices; but if she takes her case to the court he then will be told to expiate (find a remedy), then he can touch her or divorce her. Divorce becomes final when he leaves her until she experience Hayd (menses) and becomes clean, then he divorces her and he has the right to go back to her until three Hayd (menses)-free periods pass. This is the 'Ila'

(swearing) that Allah^{azwj}, most Blessed, most High, has revealed in His book and in the Sunnah of His prophet^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause.'

5- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ مَنْصُورِ بْنِ حَازِمٍ قَالَ إِنَّ الْمُؤَلِّيَ يُجْبَرُ عَلَى أَنْ يُطْلَقَ تَطْلِيقَهُ بَائِنَةً وَ عَنْ غَيْرِ مَنْصُورٍ أَنَّهُ يُطْلَقُ تَطْلِيقَهُ بِمَلِكِ الرَّجْعَةِ فَقَالَ لَهُ بَعْضُ أَصْحَابِهِ إِنَّ هَذَا مُنْتَقِضٌ فَقَالَ لَا الَّتِي تَنْتَكِرُ فَتَقُولُ يُجْبِرُنِي وَ يَضْرِبُنِي وَ يَمْتَنِعُنِي مِنَ الزَّوْجِ يُجْبَرُ عَلَى أَنْ يُطْلَقَهَا تَطْلِيقَهُ بَائِنَةً وَ الَّتِي تَسْكُتُ وَ لَا تَسْكُرُ إِنْ شَاءَ يُطْلَقُهَا تَطْلِيقَهُ بِمَلِكِ الرَّجْعَةِ

Ali ibn Ibrahim has narrated from his father from ibn abu'Umayr from Jamil ibn Darraj from Mansur ibn Hazim has said that one who swears is made to divorce in the form of a final divorce which makes the spouses strangers to each other. People other than Mansur have narrated that he divorces once but has the right to go back to her; and certain persons of his people have said to him that this is deleted. He replied that it is true if she complains and says that he compels her, harms her and prevents her from getting married. In such case he is made to divorce her in the form of a final divorce which makes them to become strangers to each other; but the one who remains silent and does not complain then if he wants he can divorce her once with the choice to go back to her.

6- عَلِيُّ عَنْ أَبِيهِ عَنِ التَّوْقَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ أَتَى رَجُلٌ أَمِيرَ الْمُؤْمِنِينَ ع فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنَّ امْرَأَتِي أَرْضَعَتْ غُلَامًا وَ إِنِّي قُلْتُ وَ اللَّهُ لَا أَقْرُبُكَ حَتَّى تُقْطِعِيَهُ فَقَالَ لَيْسَ فِي الْإِصْلَاحِ إِيلَاءٌ

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

'Abu 'Abd Allah^{asws} has said that once a man came to 'Amir al-Mu'minin^{asws} and said, 'O 'Amir al-Mu'minin^{asws} my wife breastfed a boy and I said, 'By Allah^{azwj}, I will not go to bed with you until you wean him.' He^{asws} said, ' 'Ila ' (swearing) does not take place in constructive and virtuous deeds.'

7- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ إِلَى مِنْ امْرَأَتِهِ بَعْدَ مَا دَخَلَ بِهَا فَقَالَ إِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ وَقَفَ وَ إِنْ كَانَ بَعْدَ حِينَ فَإِنْ قَاءَ فَلَيْسَ بِشَيْءٍ وَ هِيَ امْرَأَتُهُ وَ إِنْ عَزَمَ الطَّلَاقَ فَقَدْ عَزَمَ وَ قَالَ الْإِلْيَاءُ أَنْ يَقُولَ الرَّجُلُ لَامْرَأَتِهِ وَ اللَّهُ لَا غِيْظَنَّاكَ [لَا غِيْظَنَّاكَ] وَ لَأَسُوءَ تَكْ ثُمَّ يَهْجُرَهَا وَ لَا يُجَامِعُهَا حَتَّى تَمُضِيَ أَرْبَعَةُ أَشْهُرٍ فَإِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ فَقَدْ وَقَعَ الْإِلْيَاءُ وَ يَنْبَغِي لِلْإِمَامِ أَنْ يُجْبِرَهُ عَلَى أَنْ يَقِيءَ أَوْ يُطْلَقَ فَإِنْ قَاءَ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ وَ إِنْ عَزَمَ الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ وَ هُوَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ فِي كِتَابِهِ

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

'I once asked abu Abd Allah^{asws} about the case of a man who after going to bed with his wife swears not to go to bed with his wife. He^{asws} said, 'When four months pass he is taken in custody even after a while. If he expiates (finds a remedy), then it is fine and she is his wife. If he decides to divorce he can do so.' He^{asws} said, (swearing) takes place when one says to his wife, 'By Allah^{azwj}, I will reduce you to make you look bad.' Thereafter, separates from her and docs not go to bed with her up to four months. When four months pass then swearing becomes effective and the Imam must make him to expiate or divorce. If he expiates (finds remedy). Allah^{azwj} is Forgiving and Merciful but if he decides to divorce. Allah^{azwj} is hearing and knowing and that is the word of Allah^{azwj}, in His book.'

8- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبَانَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْمُؤَلِّيُ يُوقَفُ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ فَإِنْ شَاءَ إِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ فَإِنْ عَزَمَ الطَّلَاقَ فَهِيَ وَاحِدَةٌ وَ هُوَ أَمْلَكَ بِرَجْعَتِهَا

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali from Aban from abu Maryam who has said the following:

'Abu Ja'far^{asws} has said, 'One who swears not to go to bed with his wife is taken in custody after four months. He may keep her in a fair manner or leave her in the same way. If he decides to divorce then is once and he has the right to go back to her.'

9- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْقُضْلِيِّ بْنِ شاذَانَ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعًا عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ الْإِلْبَاءِ مَا هُوَ فَقَالَ هُوَ أَنْ يَقُولَ الرَّجُلُ لِامْرَأَتِهِ وَ اللَّهُ لَا أَجَامِعُكَ كَذَا وَ كَذَا وَ يَقُولُ وَ اللَّهُ لَا أَعِيشُكَ [لَا غِيظًا] فَيُتْرِكُ بِهَا أَرْبَعَةَ أَشْهُرٍ ثُمَّ يُؤْخَذُ فَيُوقَفُ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ فَإِنْ قَاءَ وَ هُوَ أَنْ يُصَالِحَ أَهْلَهُ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ وَ إِنْ لَمْ يَفِئْ جُبِرَ عَلَى أَنْ يُطْلَقَ وَ لَا يَقَعُ طَلَاقٌ فِيمَا بَيْنَهُمَا وَ لَوْ كَانَ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ مَا لَمْ يَرْفَعُهُ إِلَى الْإِمَامِ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar. Abu al-'Abbas has narrated from Muhammad ibn Ja'far from Ayyub ibn Nuh. Ahmad ibn Muhammad has narrated from Muhammad ibn 'Ismail from al-Fadl ibn Shadhan, from Ahmad ibn Muhammad. Humayd ibn Ziyad has narrated from ibn Sama'ah all from Safwan from ibn Muskan from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about (swearing) and what it is. He^{asws} said, 'It takes place when a man says to his wife, 'By Allah^{azwj}, I will not go to bed with you so and so, and says, 'By Allah^{azwj} I will reduce you and then waits for four months. Thereafter he is taken in custody, if he expiates and reconciles with his wife, Allah^{azwj} is Forgiving and Merciful and if he did not expiate he then is made to divorce. Divorce cannot take place if it is after four months until it is taken before the Imam.'

الكافي ج : 6 ص : 133

10- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ فِي الْمُؤَلِّي إِذَا أَبَى أَنْ يُطْلَقَ قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ ع يَجْعَلُ لَهُ حَظِيرَةً مِنْ قَصَبٍ وَ يَحْبِسُهُ فِيهَا وَ يَمْنَعُهُ مِنَ الطَّعَامِ وَ الشَّرَابِ حَتَّى يُطْلَقَ

Al-Musayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali from Hammad ibn 'Uthaman who has said the following:

About the case of a man's (swearing) abu 'Abd Allah^{asws} has said that if he refuses to divorce 'Amir al- Mu'minin^{asws} has said, that an enclosure of reeds must be made for him and to keep him there without food and drink until he agrees to divorce.'

11- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ خَلْفِ بْنِ حَمَّادٍ رَفَعَهُ إِلَى أَبِي عَبْدِ اللَّهِ ع فِي الْمُؤَلِّي إِمَّا أَنْ يَفِيءَ أَوْ يُطْلَقَ فَإِنْ فَعَلَ وَ إِلَّا ضُرِبَتْ عُنُقُهُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn Khalid from Khalaf ibn Hammad in a marfu ' manner who has said the following:

'About the case of a man's (swearing), abu 'Abd Allah^{asws} has said, 'He either expiates or divorces or is beheaded.'

12- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصِ بْنِ الْبَحْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا غَاضَبَ الرَّجُلُ امْرَأَتَهُ فَلَمْ يَقْرَبْهَا مِنْ غَيْرِ يَمِينٍ أَرْبَعَةَ أَشْهُرٍ فَاسْتَعْدَتْ عَلَيْهِ فِيمَا أَنْ يَفِيءَ وَ إِمَّا أَنْ يُطْلَقَ فَإِنْ تَرَكَهَا مِنْ غَيْرِ مُغَاضَبَةٍ أَوْ يَمِينٍ فَلَيْسَ بِمَوْلٍ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hafs ibn al-Bakhtariy who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If a man angers his wife and docs not go to bed with her without swearing for four months and she complains against him, he then must expiate or divorce her. if he leaves her without anger or swearing, then the rules of (swearing) do not apply.'

13- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ حَمْدَانَ الْقَلَانِيسِيِّ عَنْ إِسْحَاقَ بْنِ بُنَّانَ عَنْ ابْنِ بَقَّاحٍ عَنْ غِيَاثِ بْنِ إِبْرَاهِيمَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ ع إِذَا أَبَى الْمُؤَلِّي أَنْ يُطْلَقَ جَعَلَ لَهُ حَظِيرَةً مِنْ قَصَبٍ وَ أَعْطَاهُ رُبْعَ قُوَّتِهِ حَتَّى يُطْلَقَ

Al-Husayn from Muhammad has narrated from Hamdan al-Qalanisiy from Ishaq ibn Bunan ibn Baqqah from Ghiyath ibn ibrahim who has said the following:

'Abu 'Abd Allah^{asws} has said that when a man because of 'Ila' (swearing) refused to divorce ' Amir al- Mu'minin^{asws} placed him inside an enclosure and gave him one-fourth of his food and drink until he agreed to divorce.'

بَابُ أَنَّهُ لَا يَقَعُ الْإِيلَاءُ إِلَّا بَعْدَ دُخُولِ الرَّجُلِ بِأَهْلِهِ 'Ila' (swearing) and Its Conditions

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَقَعُ الْإِيلَاءُ إِلَّا عَلَى امْرَأَةٍ قَدْ دَخَلَ بِهَا زَوْجُهَا

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

'Abu 'Abd Allah^{asws} has said, 'Ila' (swearing) does not take place unless one has gone to bed with his wife.'

2- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قُلْتُ لَهُ الرَّجُلُ يُؤَلِّي مِنْ امْرَأَتِهِ قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ لَا يَقَعُ الْإِيلَاءُ حَتَّى يَدْخُلَ بِهَا

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from 'Abd al-Karim from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man's 'Ila' (swearing) against his wife before going to bed with her. He^{asws} said, Ila' (swearing) does not take place until one goes to bed with his wife.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ أُذَيْنَةَ قَالَ لَا أَعْلَمُهُ إِلَّا عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَكُونُ مُؤَلِّيًا حَتَّى يَدْخُلَ بِهَا

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from ibn 'Udhaynah who has said that I do not know this Hadith except from Zurarah who has said the following:

'Abu 'Abd Allah^{asws} has said, 'One can only be in 'Ila' (swearing) against his wife when he goes to bed with her.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلَ أَمِيرَ الْمُؤْمِنِينَ ع عَنْ رَجُلٍ أَلِيَ مِنْ امْرَأَتِهِ وَلَمْ يَدْخُلْ بِهَا قَالَ لَا إِيلَاءَ حَتَّى يَدْخُلَ بِهَا فَقَالَ أَرَأَيْتَ لَوْ أَنَّ رَجُلًا حَلَفَ أَنْ لَا يَبْنِيَ بِأَهْلِهِ سَنَتَيْنِ أَوْ أَكْثَرَ مِنْ ذَلِكَ أَوْ كَانَ يَكُونُ إِيلَاءَ

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

'Abu 'Abd Allah^{asws} has said that once a man who was involved in Ila (swearing) against his wife before going to bed with her, asked 'Amir al-Mu'minin^{asws}. He^{asws} said, 'Ila' (swearing) does not place until one goes to bed with his wife,' He^{asws} then said, 'If a man swears not to go to bed with his wife for two years or more can this be Ila (swearing)?'

بَابُ الرَّجُلِ يَقُولُ لِامْرَأَتِهِ هِيَ عَلَيْهِ حَرَامٌ If a Man Says to his Wife, 'You are Unlawful for me'

1- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتَ عَلَيَّ حَرَامٌ فَقَالَ لِي لَوْ كَانَ لِي عَلَيْهِ سُلْطَانٌ لَأَوْجَعْتُ رَأْسَهُ وَ قُلْتُ لَهُ اللَّهُ أَحَلَّهَا لَكَ فَمَا حَرَمَهَا عَلَيْكَ إِنَّهُ لَمْ يَزِدْ عَلَى أَنْ كَذَبَ فَرَعَمَ أَنَّ مَا أَحَلَّ اللَّهُ لَهُ حَرَامٌ وَ لَا يَدْخُلُ عَلَيْهِ طَلِاقٌ وَ لَا كَفَّارَةٌ فَقُلْتُ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ يَا أَيُّهَا النَّبِيُّ لِمَ تُحَرِّمُ مَا أَحَلَّ اللَّهُ لَكَ فَجَعَلَ فِيهِ الْكَفَّارَةَ فَقَالَ إِمَّا حَرَّمَ عَلَيْهِ جَارِيَتُهُ مَارِيَةً وَ حَلَفَ أَنْ لَا يَقْرَبَهَا فَإِنَّمَا جَعَلَ عَلَيْهِ الْكَفَّارَةَ فِي الْحَلْفِ وَ لَمْ يَجْعَلْ عَلَيْهِ فِي التَّحْرِيمِ

A number of our people have narrated from Sahl ihn abu Nasr from Muhammad ibn Sama'ah from Zurarah who has said the following:

'I once asked abu Ja'far^{asws} about the case of a man who says to his wife, 'You are unlawful for me. He^{asws} said to me, 'Had I the control over him I would give him a

headache. You should have said to him that Allah^{azwj} has made her lawful for you then what has made her unlawful for you? In fact it (saying, 'You are unlawful for me.' is nothing more than a lie. He thus has thought that what Allah^{azwj} has made lawful for him has become unlawful and there is no divorce or expiation on him.' I then asked about the meaning of the words of Allah^{azwj}, 'O prophet^{saww}, why do you make unlawful what Allah^{saww} has made lawful for you,' (65: 2) then expiation is made necessary.' He^{asws} said, 'He only made unlawful for him his slave-girl. Maria and swore not to go near her. He, in the case of swearing, made expiation necessary not in the case of making something unlawful.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ قُلْتُ لَهُ مَا تَقُولُ فِي رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتَ عَلَيَّ حَرَامٌ فَإِنَّا نُرْوِي بِالْعِرَاقِ أَنَّ عَلِيًّا ع جَعَلَهَا ثَلَاثًا فَقَالَ كَذَبُوا لَمْ يَجْعَلَهَا طَلَقًا وَ لَوْ كَانَ لِي عَلَيْهِ سُلْطَانٌ لَوُجَعْتُ رَأْسَهُ ثُمَّ أَقُولُ إِنَّ اللَّهَ عَزَّ وَ جَلَّ أَحَلَّهَا لَكَ فَمَاذَا حَرَّمَهَا عَلَيْكَ مَا زِدْتُ عَلَى أَنْ كَذَبْتَ فَقُلْتُ لِشَيْءٍ أَحَلَّهُ اللَّهُ لَكَ إِنَّهُ حَرَامٌ

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

'I once asked abu Ja'far^{asws} about the case of a man who says to his wife, 'You are unlawful for me,' We in Iraq narrate that Ali^{asws} made it three times (divorce). He^{asws} said, They have spoken a lie. He^{asws} did not make it (one's saying. 'You are unlawful for me. ') a divorce. Had I the control over him I would have given him a headache. I then say to him that Allah^{azwj}, has made it lawful for you. You have done nothing other than speaking a lie by saying unlawful what Allah^{azwj} has made lawful.

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ ابْنِ رَبَاطٍ عَنْ أَبِي مَخْلَدٍ السَّرَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قَالَ لِي شَيْءٌ مِنْ عَقَالٍ بَلَغَنِي أَنَّكَ تَزْعُمُ أَنَّ مَنْ قَالَ مَا أَحَلَّ اللَّهُ عَلَيَّ حَرَامٌ أَنَّكَ لَا تَرَى ذَلِكَ شَيْئًا قُلْتُ أَمَا قَوْلُكَ الْحُلُّ عَلَيَّ حَرَامٌ فَهَذَا أَمِيرُ الْمُؤْمِنِينَ الْوَلِيدُ جَعَلَ ذَلِكَ فِي أَمْرِ سَلَامَةَ امْرَأَتِهِ وَ أَنَّهُ بَعَثَ يَسْتَفْتِي أَهْلَ الْحِجَازِ وَ أَهْلَ الْعِرَاقِ وَ أَهْلَ الشَّامِ فَاخْتَلَفُوا عَلَيْهِ فَأَخَذَ يَقُولُ أَهْلُ الْحِجَازِ إِنَّ ذَلِكَ لَيْسَ بِشَيْءٍ

Humayd ibn Ziyad has narrated from ibn Sama'ah from Ribat from abu Mukhallad al-Sarraj who has said the following:

'Abu 'Abd Allah^{asws} has said that Shabbah ibn 'Aqqal once said to me, 'You think that if one says, 'What Allah^{azwj} has made lawful is unlawful for me' (as you believe) does not have any valid effect.' I said, 'About your word 'lawful is unlawful for me' you can consider what al-Walid decided about the issue of Salamah and his wife when he sent for a fatwa from people of Iraq and people of al-Sham who had differences over the issue. He then decided according to the words of the people of al-Hijjaz who say that it does not have any valid effect.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ صَفْوَانَ عَنْ حَرِيزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع رَجُلٌ قَالَ لِامْرَأَتِهِ أَنْتَ عَلَيَّ حَرَامٌ قَالَ لَيْسَ عَلَيْهِ كَفَّارَةٌ وَ لَا طَلَقٌ

Humayd ibn Ziyad has narrated from ibn Sama'ah from Safwan from Hariz from Muhammad ibn Muslim who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who says to his wife, 'You are unlawful for me.' He^{asws} said, 'There is no expiation on him and it is not a divorce.'

بَابُ الْخَلِيَّةِ وَ الْبَرِيَّةِ وَ الْبَتَّةِ

The Free, Cleared and Severed Woman

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ع عَنْ الرَّجُلِ يَقُولُ لِامْرَأَتِهِ أَنْتَ مَيِّ خَلِيَّةٌ أَوْ بَرِيَّةٌ أَوْ بَتَّةٌ أَوْ حَرَامٌ قَالَ لَيْسَ بِشَيْءٍ

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

'I once asked abu Ja'far^{asws} about the case of a man who says to his wife, 'You from my side are free, cleared and severed' or 'you are unlawful.' He^{asws} said, 'It does not have any valid effect.'

2- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتِ مَيِّتٌ بَائِنٌ وَأَنْتِ مَيِّتٌ خَلِيَّةٌ وَأَنْتِ مَيِّتٌ بَرِيئَةٌ قَالَ لَيْسَ بِشَيْءٍ

A number of our people have narrated from Ahmad ibn Muhammad from ibn Khalid and Ali ibn Ibrahim has narrated from his father all from 'Uthman ibn 'Isa from Sama'ah who has said the following:

'I once asked him^{asws} about the case of a man who says to his wife, 'You from my side are free and cleared.' He^{asws} said, 'It does not have any valid effect.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتِ خَلِيَّةٌ أَوْ بَرِيئَةٌ أَوْ بَتَّةٌ أَوْ حَرَامٌ قَالَ لَيْسَ بِشَيْءٍ

Ali ibn Ibrahim has narrated from his father from ibn abti 'Umayr from Hammad from al-Halabi who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who says to his wife, 'You from my side are free, cleared and severed' or 'you are unlawful.' He^{asws} said, 'It does not have any valid effect.'

بَابُ الْخِيَارِ The Choices

1- مُحَمَّدٌ بْنُ أَبِي عَبْدِ اللَّهِ عَنْ مُعَاوِيَةَ بْنِ حُكَيْمٍ عَنْ صَفْوَانَ وَ عَلِيٍّ بْنِ الْحَسَنِ بْنِ رَبَاطٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدٍ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ عَنِ الْخِيَارِ فَقَالَ وَ مَا هُوَ وَ مَا ذَاكَ إِنَّمَا ذَاكَ شَيْءٌ كَانَ لِرَسُولِ اللَّهِ ص

Muhammad ibn abu 'Abd Allah has narrated from Mu'awiyah ibn Hakam from Safwan and Ali ibn al-Husayn ibn Ribat from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has said the following:

'I once asked abu Ja'far^{asws} about choices. He^{asws} said, 'Who is he and what is that, it was something only for the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause.'

2- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ وَ ابْنِ رَبَاطٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع إِنِّي سَمِعْتُ أَبَاكَ يَقُولُ إِنَّ رَسُولَ اللَّهِ ص خَيْرَ نِسَاءٍ فَاخْتَرَنَ اللَّهُ وَ رَسُولُهُ فَلَمْ يُمَسِّكْهُنَّ عَلَى طَلَاقٍ وَ لَوْ اخْتَرْنَ أَنْفُسَهُنَّ لَبُنَّ فَقَالَ إِنَّ هَذَا حَدِيثٌ كَانَ يَرَوِيهِ أَبِي عَنْ عَائِشَةَ وَ مَا لِلنَّاسِ وَ لِلْخِيَارِ إِنَّمَا هَذَا شَيْءٌ خَصَّ اللَّهُ عَزَّ وَ جَلَّ بِهِ رَسُولَهُ ص

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad and ibn Ribat from abu Ayyub al-Khazzaz from Muhammad ibn Muslim who has said the following:

'I once said to abu 'Abd Allah^{asws} that I once heard your father saying. 'The Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, offered his wives the choice and they chose Allah^{azwj} and His Messenger^{saww}. He did not keep them for divorce. Had they chosen themselves they would become strangers.' He^{asws} said, 'This is a Hadith that my father would narrate from 'A'ishah. What people have to do with choice! It was something with which Allah^{azwj}, specially treated His Messenger^{saww}.'

3- حُمَيْدٌ عَنْ ابْنِ سَمَاعَةَ عَنْ ابْنِ رَبَاطٍ عَنْ عِيصِ بْنِ الْقَاسِمِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ خَيْرَ امْرَأَتِهِ فَاخْتَارَتْ نَفْسَهَا بَأْتَتْ مِنْهُ قَالَ لَا إِنَّمَا هَذَا شَيْءٌ كَانَ لِرَسُولِ اللَّهِ ص خَاصَّةً أَمْرٌ بِذَلِكَ فَفَعَلَ وَ لَوْ اخْتَرْنَ أَنْفُسَهُنَّ لَطَلَّقَهُنَّ وَ هُوَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ قُلْ لَأَرْوِجَنَّكُمْ إِنْ كُنْتُمْ تُرِيدُونَ الْحَيَاةَ الدُّنْيَا وَ زِينَتَهَا فَتَعَالَيْنَ أُمَتِّعَنَّكُمْ وَ أُسَرِّحَنَّكُمْ سَرَاحًا جَمِيلًا

Humayd has narrated from ibn Sama'ah from ibn Ribat from 'Es ibn al-Qasim who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who gives his wife the choice: if she becomes stranger for him. He^{asws} said, 'No, this was something especially for the

Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause. He^{saww} was commanded to do so and if they were to choose themselves he would divorce them. This is in the words of Allah, 'Say to , , your wives, 'If you want the worldly life and its beauty, then be prepared, so he^{saww} benefits you and allows you to be free with fairness,' (33:28)

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ هَارُونَ بْنِ مُسْلِمٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قُلْتُ لَهُ مَا تَقُولُ فِي رَجُلٍ جَعَلَ أَمْرَ امْرَأَتِهِ بِيَدِهَا قَالَ فَقَالَ وَلَى الْأَمْرُ مَنْ لَيْسَ أَهْلُهُ وَخَالَفَ السُّنَّةَ وَلَمْ يُجِزِ النَّكَاحَ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from Harun ibn Muslim from certain persons of our people who have said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who leaves the affairs of his wife in her own hands. He^{asws} said, 'He has given the matter in the hands of someone who is not proper for it, thus, he has opposed the Sunnah and has not made marriage permissible.'

بَابُ كَيْفَ كَانَ أَصْلُ الْخِيَارِ

How the Choice originally was

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ إِنَّ اللَّهَ عَزَّ وَجَلَّ أَنْفَلَ لِرَسُولِ اللَّهِ ص مِنْ مَقَالَةٍ قَالَتْهَا بَعْضُ نِسَائِهِ فَأَنْزَلَ اللَّهُ آيَةَ التَّخْيِيرِ فَأَعْتَزَلَ رَسُولُ اللَّهِ ص نِسَاءَهُ تِسْعًا وَعَشْرِينَ لَيْلَةً فِي مَشْرِيقِهِ أُمَّ إِبْرَاهِيمَ ثُمَّ دَعَاهُنَّ فَخَيَّرَهُنَّ فَاخْتَرْنَهُ فَلَمْ يَكُنْ شَيْئًا وَلَوْ اخْتَرْنَ أَنْفُسَهُنَّ كَانَتْ وَاحِدَةً بَانِنَةً قَالَ وَ سَأَلْتُهُ عَنْ مَقَالَةِ الْمَرْأَةِ مَا هِيَ قَالَ فَقَالَ إِنَّهَا قَالَتْ يَرَى مُحَمَّدٌ أَنَّهُ لَوْ طَلَقْنَا أَنَّهُ لَا يَأْتِينَا الْكَفَاءُ مِنْ قَوْمِنَا يَتَرَوُجُونَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from Zurarah who has said the following:

'I once heard abu Ja'far^{asws} saying, 'Allah^{azwj}, disdained and rejected the words of certain ones of his wives against the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, and sent revelation about choice. The Messenger of Allah^{saww} stayed away from his wives for twenty-days in the mashrabah (a place for water containers) of Umm Ibrahim. He then called them and gave them the choice. They chose him^{saww} then nothing happened. Had they chosen themselves it would have been one final divorce which made them all become strangers to him^{saww}.' I then asked him^{asws} about the word of the woman and who she was?' He (the narrator) has said that he^{asws} said, 'She said, 'Muhammad^{saww} thinks that if he divorces us no one of our match from our tribes will marry us.'

2- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ ذَكَرَ أَبُو عَبْدِ اللَّهِ ع أَنَّ زَيْنَبَ قَالَتْ لِرَسُولِ اللَّهِ ص لَا تُعْدِلْ وَ أَنْتَ رَسُولُ اللَّهِ وَ قَالَتْ حَفْصَةُ إِنَّ طَلَقَنَا وَجَدْنَا أَكْفَاءَنَا فِي قَوْمِنَا فَاحْتَبَسَ الْوَحْيُ عَنْ رَسُولِ اللَّهِ ص عَشْرِينَ يَوْمًا قَالَ فَأَنْفَلَ اللَّهُ عَزَّ وَجَلَّ لِرَسُولِهِ فَأَنْزَلَ يَا أَيُّهَا النَّبِيُّ قُلْ لِرِجَالِكُمْ إِنْ كُنْتُمْ تُحِبُّونَ الْحَيَاةَ الدُّنْيَا وَ زِينَتَهَا فَتَعَالَيْنَ إِلَى قَوْلِهِ أَجْرًا عَظِيمًا قَالَ فَاخْتَرْنَ اللَّهُ وَ رَسُولَهُ وَ لَوْ اخْتَرْنَ أَنْفُسَهُنَّ لَبُنَّ وَ إِنْ اخْتَرْنَ اللَّهَ وَ رَسُولَهُ فَلَيْسَ بِشَيْءٍ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Muhammad ibn 'isma'il has narrated from al-Fadl ibn Shadhan from Muhammad ibn al-Fudayl from abu al-Sabbah al-Kinaoiy who has said the following:

'Abu 'Abd Allah^{asws} has said that Zaynab said, You are not fair and you are the Messenger of Allah^{saww}. Hafsa^{la} aid, 'If you divorce us we will find our match in our people.' - Revelation stopped coming to the Messenger of Allah^{saww} for twenty days. He^{asws} said that Allah^{azwj}, disdained and rejected the words of these women against His Messenger^{saww} and sent revelation that said, 'O prophet, say to your wives. 'If you want the worldly life and its beauty become prepared great reward.' He^{asws} said that they chose the Messenger of Allah^{saww}. Had they chosen themselves they would have

become stranger to him^{saww} and they chose the Messenger of Allah^{saww}, then not anything else happened.'

3- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنْ عَبْدِ الْأَعْلَى بْنِ أَعْيَنَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ يَقُولُ إِنَّ بَعْضَ نِسَاءِ النَّبِيِّ ص قَالَتْ أَيْرَى مُحَمَّدٌ أَنَّهُ إِنْ طَلَقْنَا لَا نَجِدُ الْكَفَاءَ مِنْ قَوْمِنَا قَالَ فَغَضِبَ اللَّهُ عَزَّ وَجَلَّ مِنْ قَوْلِ سَبْعِ سَمَاوَاتِهِ فَأَمَرَهُ فَخَيَّرَهُنَّ حَتَّى انْتَهَى إِلَى زَيْنَبَ بِنْتِ جَحْشٍ فَقَامَتْ وَقَبَّلَتْهُ وَقَالَتْ اخْتَارُ اللَّهَ وَرَسُولَهُ

A number of people have narrated from Sahl ibn Ziyad from ibn abu Nasr from Hammad ibn 'Uthaman from 'Abd al-'Ala' ibn Ayan who has said the following:

'I once heard abu 'Abd Allah^{asws} saying. 'Certain ones of the wives of the Holy Prophet^{saww}, had said, 'Does Muhammad^{saww} think that if he divorces us. no one from our people will marry us?' He^{asws} said that Allah^{azwj}, became angry from above the seven heavens and commanded him^{saww} and he gave them the choice until it was the turn of Zaynab bint Jahash. She stood and kissed him (the Messenger of Allah) accepted, saying, 'I choose Allah and His Messenger.'

4- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِنَّ زَيْنَبَ بِنْتَ جَحْشٍ قَالَتْ أَيْرَى رَسُولُ اللَّهِ ص إِنْ خَلَى سَبِيلُنَا أَتَا لَا نَجِدُ زَوْجًا غَيْرَهُ وَقَدْ كَانَ اعْتَزَلَ نِسَاءَهُ تِسْعًا وَعَشْرِينَ لَيْلَةً فَلَمَّا قَالَتْ زَيْنَبُ الْأُذْيُ قَالَتْ بَعَثَ اللَّهُ عَزَّ وَجَلَّ جِبْرِيلَ إِلَى مُحَمَّدٍ ص فَقَالَ قُلْ لِزَوَاجِكِ إِنْ كُنْتُمْ تُرِيدْنَ الْحَيَاةَ الدُّنْيَا وَزِينَتَهَا فَتَعَالَيْنَ أُمَتِّعْكُنَّ الْآيَاتِينَ كُنْتِيَهُمَا فَعَلْنَ بَلْ نَخْتَارُ اللَّهَ وَرَسُولَهُ وَالدَّارَ الْآخِرَةَ

Humayd ibn Ziyad has narrated from ibn Sama'ah from Ja'far ibn Sama'ah from Dawud ibn Sarhan who has said the following:

'Abu 'Abd Allah^{asws} has said that Zaynab bint Jahash once said. 'Does the Messenger of Allah^{saww} think that if he divorces us we will not find anyone other than him to marry us?' He^{saww} had stayed away from his wives for twenty-nine days. When Zaynab said this Allah^{azwj}, sent Jibril to Muhammad^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause. He said, 'Say to your wives, 'if you want the worldly life and its beauty, then be prepared he will benefit you . ' They said, 'We choose Allah^{azwj} and His Messenger^{saww} and the house in the hereafter.'

5- عَنْهُ عَنِ الْحَسَنِ بْنِ سَمَاعَةَ عَنْ وَهَيْبِ بْنِ حَفْصٍ عَنْ أَبِي بصيرٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِنَّ زَيْنَبَ بِنْتَ جَحْشٍ قَالَتْ لِرَسُولِ اللَّهِ ص لَا تَعْدِلْ وَأَنْتَ نَبِيٌّ فَقَالَ تَرَبَّيْتُ يَدَاكَ إِذَا لَمْ أَعْدِلْ فَمَنْ يَعْدِلُ فَقَالَتْ دَعَوْتَ اللَّهَ يَا رَسُولَ اللَّهِ لِيَقْطَعَ يَدَيَّ فَقَالَ لَا وَلَكِنْ لَتُرَبَّيَنَّ فَقَالَتْ إِنَّكَ إِنْ طَلَقْتَنَا وَجَدْنَا فِي قَوْمِنَا أَكْفَاءًا فَاحْتَسِبِ الْوَحْيَ عَنْ رَسُولِ اللَّهِ ص تِسْعًا وَعَشْرِينَ لَيْلَةً ثُمَّ قَالَ أَبُو جَعْفَرٍ ع فَأَنْفَ اللَّهُ عَزَّ وَجَلَّ لِرَسُولِهِ فَأَنْزَلَ يَا أَيُّهَا النَّبِيُّ قُلْ لِزَوَاجِكِ إِنْ كُنْتُمْ تُرِيدْنَ الْحَيَاةَ الدُّنْيَا وَزِينَتَهَا الْآيَاتِينَ فَاخْتَارْنَ اللَّهَ وَرَسُولَهُ فَلَمْ يَكْ شَيْئًا وَلَوْ اخْتَارْنَ أَنْفُسَهُنَّ لَبْنَ وَ عَنْهُ عَنِ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بصيرٍ مِثْلَهُ

It is narrated from the narrator of the previous Hadith from al-Husayn ibn Sama'ah from Wuhayb ibn Hafs from abu Basir who has said the following:

'Abu Ja'far^{asws} has said that once Zaynab bint Jahash said to the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, 'You are not fair and you are the Prophet.' He^{saww} replied, 'May your hands become soiled, 'If I am not fair then who is fair?' She then asked, 'O Messenger of Allah^{saww}, did you pray that my hands get cut off?' He^{saww} replied, 'No, but they become soiled.' She then said, 'If you divorce us we will find in our people men as our match who will marry us.' Revelation stopped coming for twenty-nine nights.' Abu Ja'far^{asws} then said, 'Allah^{azwj}, disdained and rejected her words and sent revelation that said, 'O prophet^{saww}, say to your wives, 'If you want the worldly life and its beauty . . . ' the end of the two verses. They chose Allah^{azwj} and His Messenger^{saww} then further things did not happen. Had they chosen themselves they would have become stranger to him^{saww}. ' ('Your hands become soiled' may mean poverty and it may also mean wealth)

6- وَبِهَذَا الْإِسْنَادِ عَنْ يَعْقُوبَ بْنِ سَالِمٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الرَّجُلِ إِذَا خَيَّرَ امْرَأَتَهُ فَقَالَ إِنَّمَا الْخِيَرَةُ لَنَا لَيْسَ لِأَحَدٍ وَ إِنَّمَا خَيَّرَ رَسُولُ اللَّهِ ص لِمَكَانٍ عَائِشَةُ فَاخْتَرَنَ اللَّهُ وَ رَسُولُهُ وَ لَمْ يَكُنْ لَهُنَّ أَنْ يَخْتَرْنَ غَيْرَ رَسُولِ اللَّهِ ص

Through the same chain of narrators as that of the previous Hadith the following is narrated from Ya'qub ibn Salim from Muhammad ibn Muslim who has said the following:

'About the case of a man who gives his wife the choice abu 'Abd Allah^{asws} has said, 'The choice is only for us and not for anyone else. The Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, gave the choice because of the words of 'A'ishah^{la}. They then chose Allah^{azwj} and His Messenger^{saww} and they must not have chosen anyone other than the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause.

بَابُ الْخُلْعِ

Wife Asking For Divorce

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَحِلُّ خُلْعُهَا حَتَّى تَقُولَ لِرَوْجِهَا وَ اللَّهُ لَا أَبْرَ لَكَ قَسَمًا وَ لَا أُطِيعُ لَكَ أَمْرًا وَ لَا أُغْتَسِلُ لَكَ مِنْ جَنَابَةٍ وَ لَأُوطِنَنَّ فِرَاشَكَ وَ لَا ذَنْنَنَ عَلَيْكَ بِغَيْرِ إِذْنِكَ وَ قَدْ كَانَ النَّاسُ يُرَخَّصُونَ فِيمَا دُونَ هَذَا فَإِذَا قَالَتِ الْمَرْأَةُ ذَلِكَ لِرَوْجِهَا حَلَّ لَهُ مَا أَخَذَ مِنْهَا فَكَانَتْ عِنْدَهُ عَلَى تَطْلِيقَتَيْنِ بَاقِيَتَيْنِ وَ كَانَ الْخُلْعُ تَطْلِيقَةً وَ قَالَ يَكُونُ الْكَلَامُ مِنْ عِنْدِهَا وَ قَالَ لَوْ كَانَ الْأَمْرُ إِلَيْنَا لَمْ نُجِزْ طَلَاقًا إِلَّا لِلْعِدَّةِ

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

'Abu 'Abd Allah^{asws} has stated this Hadith. 'Al-Khul' (divorce for payment) is not lawful until she says to her husband, 'By Allah^{azwj}, I will not honor your turn, will not obey your order, will not take Ghushl (bath) for you because of sexual intercourse, will not sit on your furnishing and I will give permission without your permission,' People applied Khul' for less than that. The woman's saying that to her husband makes it lawful for him to receive payment from her. She remains for him for divorces and al-Khul' is one divorce.' He^{asws} said, 'The statements come from her.' He^{asws} said, 'Had the matter been in our hands we would not allow divorce except with waiting period.'

2- وَ عَنْهُ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ جَمِيعًا عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ الْمُخْتَلَعَةِ فَقَالَ لَا يَحِلُّ لِرَوْجِهَا أَنْ يَخْلَعَهَا حَتَّى تَقُولَ لَا أَبْرَ لَكَ قَسَمًا وَ لَا أَقِيمُ حُدُودَ اللَّهِ فِيكَ وَ لَا أُغْتَسِلُ لَكَ مِنْ جَنَابَةٍ وَ لَأُوطِنَنَّ فِرَاشَكَ وَ لَأَدْخُلَنَّ بَيْتَكَ مِنْ تَكْرَهُ مِنْ غَيْرِ أَنْ تَعْلَمَ هَذَا وَ لَا يَتَكَلَّمُونَهُمْ وَ تَكُونُ هِيَ الَّتِي تَقُولُ ذَلِكَ فَإِذَا هِيَ اخْتَلَعَتْ فَهِيَ بَائِنٌ وَ لَهُ أَنْ يَأْخُذَ مِنْ مَالِهَا مَا قَدَرَ عَلَيْهِ وَ لَيْسَ لَهُ أَنْ يَأْخُذَ مِنَ الْمُبَارَنَةِ كُلِّ الَّذِي أَعْطَاهَا

It is narrated from the narrator of the previous Hadith from his father and A number of our people have narrated from Ahmad ibn Muhammad from ibn Khalid all from 'Uthman ibn 'Isa from Sama'ah who has said the following:

'I once asked him^{asws} about the case of a woman divorced by means of al-Khul'. He^{asws} said, 'It is not lawful for him until she says, 'I will not honor your turn, follow any of the laws of Allah^{azwj} about you, will not take Ghushl (bath) for you because of sexual intercourse, will not step on your furnishings, will allow to enter your house, without your knowledge, such people whom you dislike. They do not speak to her and she is the one who makes such statements. When she finalizes al-Khul' she becomes stranger and he can take from her assets as much as he can. He does not have the right to take all that the contesting and denouncing wife gives.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُخْتَلَعَةُ الَّتِي تَقُولُ لِرَوْجِهَا اخْلَعْنِي وَ أَنَا أُعْطِيكَ مَا أَخَذْتُ مِنْكَ فَقَالَ لَا يَحِلُّ لَهُ أَنْ يَأْخُذَ مِنْهَا شَيْئًا حَتَّى تَقُولَ وَ اللَّهُ لَا أَبْرَ لَكَ قَسَمًا وَ لَا أُطِيعُ لَكَ أَمْرًا وَ لَا ذَنْنَنَ فِي بَيْتِكَ بِغَيْرِ إِذْنِكَ وَ لَأُوطِنَنَّ فِرَاشَكَ غَيْرَكَ فَإِذَا فَعَلْتَ ذَلِكَ مِنْ غَيْرِ أَنْ يَعْلَمَهَا حَلَّ لَهُ مَا أَخَذَ مِنْهَا وَ كَانَتْ تَطْلِيقَةً بِغَيْرِ طَلَاكِ يَتَّبِعُهَا فَكَانَتْ بَائِنًا بِذَلِكَ وَ كَانَ خَاطِبًا مِنَ الْخُطَابِ

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

'Abu 'Abd Allah^{asws} has said. 'The woman who is divorced by means of al-Khul', who says to her husband, 'Divorce me and I pay what I have received from you.' He^{asws} said, 'It is not lawful for him to receive such payment until she says, 'By Allah^{azwj}, I will not honor your turn, will not obey any of your orders, will allow people to enter your house without your permission and will allow others to sleep in your bed.' When she does this without informing him, then receiving payment from her is lawful, she is divorced once without any other divorce to follow, and she becomes stranger. He is then one of those who can propose marriage with her.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا خَلَعَ الرَّجُلُ امْرَأَتَهُ فَهِيَ وَاحِدَةٌ بَائِنَةٌ وَهُوَ خَاطِبٌ مِنَ الْخُطَابِ وَ لَا يَحِلُّ لَهُ أَنْ يَخْلَعَهَا حَتَّى تَكُونَ هِيَ الَّتِي تَطْلُبُ ذَلِكَ مِنْهُ مِنْ غَيْرِ أَنْ يُضِرَّ بِهَا وَ حَتَّى تَقُولَ لَا أُبْرُكَ لَكَ قِسْمًا وَ لَا أَغْتَسِلُ لَكَ مِنْ جَنَابِهِ وَ لَا دُخْلُنَ بَيْتَكَ مِنْ تَكْرَهُ وَ لَا وَطْئُنَ فِرَاشَكَ وَ لَا أُقِيمُ حُدُودَ اللَّهِ فَإِذَا كَانَ هَذَا مِنْهَا فَقَدْ طَابَ لَهُ مَا أَخَذَ مِنْهَا

Muhammad ibn Yahya has narrated from Alimad ibn Muhammad from Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from abu al-Sabbah al-Kinaniy who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If a man divorces his wife in the manner of al-Khul', it then is one divorce with which she becomes stranger to him and he then is one of those who may propose marriage. Al-Khul' is not lawful for him unless she is the one who demands for divorce from him without being beaten by her husband. That she says, 'I will not honor your turn, will not take Ghushl (bath) for you because of sexual intercourse, I will allow people whom you dislike to enter your house, allow your bed to be used by others and will not obey any of the laws of Allah^{azwj} about you.' When this happens from her side, then it is fine for him to receive the payment from her.'

5- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرِ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَيْسَ يَحِلُّ خُلْعُهَا حَتَّى تَقُولَ لِرَوْجِهَا ثُمَّ ذَكَرَ مِثْلَ مَا ذَكَرَ أَصْحَابُهُ ثُمَّ قَالَ أَبُو عَبْدِ اللَّهِ ع وَ قَدْ كَانَ يُرَخَّصُ لِلنِّسَاءِ فِيمَا هُوَ ذُوْنُ هَذَا فَإِذَا قَالَتْ لِرَوْجِهَا ذَلِكَ حَلَّ خُلْعُهَا وَ حَلَّ لِرَوْجِهَا مَا أَخَذَ مِنْهَا وَ كَانَتْ عَلَى تَطْلِيقَتَيْنِ بَائِنَتَيْنِ وَ كَانَ الْخُلْعُ تَطْلِيقَةً وَ لَا يَكُونُ الْكَلَامُ إِلَّا مِنْ عِنْدِهَا ثُمَّ قَالَ لَوْ كَانَ الْأَمْرُ إِلَيْنَا لَمْ يَكُنِ الطَّلَاقُ إِلَّا لِلْعِدَّةِ

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from 'Abd ai-Karim from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said that al-Khul' is not permissible until she says to her husband ... he^{asws} then mentioned what his people mention. Abu 'Abd Allah^{asws} then said, 'Less than such expressions was permitted for women and when she said such things to her husband then al-Khul' became lawful for her husband for whatever payment he received. She is then for two more divorces and al-Khul' is one divorce. The expressions must come from her side.' He^{asws} then said, 'Had the matter been in our hands divorce could only take place in the manner with waiting period.'

6- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِذَا قَالَتِ الْمَرْأَةُ لِرَوْجِهَا جُمْلَةً لَا أَطِيعُ لَكَ أَمْرًا مُقَسَّرًا أَوْ غَيْرَ مُقَسَّرٍ حَلَّ لَهُ مَا أَخَذَ مِنْهَا وَ لَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ

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

'Abu Ja'far^{asws} has said that if a woman says to her husband in general, 'I will not obey any of your orders with or without explanation, then it is lawful for him to receive payment and he cannot do ruju' (go back to her).'

7- وَ بِإِسْنَادِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْخُلْعُ وَ الْمُبَارَاةُ تَطْلِيقَةٌ بَائِنٌ وَ هُوَ خَاطِبٌ مِنَ الْخُطَابِ

Through the same chain of narrators as that of the previous Hadith the following is narrated:

'Abu 'Abd Allah^{asws} has said, 'Al -Khul' and al-Mubarat (denouncing) is of the kind of divorce which makes the parties become strangers to each other and he becomes one of those who may propose marriage.'

8- حُمَيْدٌ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ جَمِيلٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِذَا قَالَتِ الْمَرْأَةُ وَاللَّهِ لَا أُطِيعُ لَكَ أَمْرًا مُفْسِرًا أَوْ غَيْرَ مُفْسِرٍ حَلَّ لَهُ مَا أَخَذَ مِنْهَا وَلَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ

Humayd has narrated from ibn Sama'ah from 'Abd Allah ibn Jabalah from Jamil from Muhammad ibn Muslim who has said the following:

'Abu Ja'far^{asws} has said that when a woman says, 'By Allah^{azwj} I will not obey any of your commands with or without explanation', then whatever payment he receives from her becomes lawful for him and he cannot do ruju' (go back to her).'

9- حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ أَنَّ جَمِيلًا شَهِدَ بَعْضَ أَصْحَابِنَا وَقَدْ أَرَادَ أَنْ يَخْلَعَ ابْنَتَهُ مِنْ بَعْضِ أَصْحَابِنَا فَقَالَ جَمِيلٌ لِلرَّجُلِ مَا تَقُولُ رَضِيتُ بِهَذَا الَّذِي أَخَذْتُ وَتَرَكْتُهَا فَقَالَ نَعَمْ فَقَالَ لَهُمْ جَمِيلٌ قَوْمُوا فَقَالُوا يَا أَبَا عَلِيٍّ لَيْسَ نُرِيدُ يَتْبَعُهَا الطَّلَاقُ قَالَ لَا قَالَ وَكَانَ جَعْفَرُ بْنُ سَمَاعَةَ يَقُولُ يَتْبَعُهَا الطَّلَاقُ فِي الْعِدَّةِ وَيَحْتَجُّ بِرَوَايَةِ مُوسَى بْنِ بَكْرٍ عَنْ الْعَبْدِ الصَّالِحِ ع قَالَ قَالَ عَلِيُّ ع الْمُخْتَلَعَةُ يَتْبَعُهَا الطَّلَاقُ مَا دَامَتْ فِي الْعِدَّةِ

Humayd ibn Ziyad has narrated from al-Hassan ibn Muhammad ibn Sama'ah from Ja'far ibn Sama'ah that Jamil wanted al-Khul' for his daughter from a certain persons of our people: that Jamil said to that man, 'What do you say, do you agree with what you have received and leave her free?' He replied, 'Yes, I agree.' Jamil then said to them, 'You can get up and go.' They asked, 'O abu Ali, do you not want that divorce follows it?' He replied, 'No, I do not need it.'

Ja'far ibn Sama'ah would say that it must be followed by divorce in the manner with waiting period. He presented narration of Musa ibn Bakr from the virtuous servant of Allah^{asws} as proof. He^{asws} has said that Ali^{asws} has said, 'When a woman divorced in the manner of al-Khul' it must be followed by divorce as long as she is in waiting period.'

10- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ فِي الْمُخْتَلَعَةِ إِنَّمَا لَا تَحِلُّ لَهُ حَتَّى تَتُوبَ مِنْ قَوْلِهَا الَّذِي قَالَتْ لَهُ عِنْدَ الْخُلْعِ

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

'Abu 'Abd Allah^{asws} has said that a woman involved in al-Khul' cannot become lawful for him until she repents because of her statements that she has expressed when proceeding for al-Khul'.

بَابُ الْمُبَارَاةِ

Al-Mubarat (disavowing) or Divorce for Payment

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ جَمِيعًا عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ الْمُبَارَاةِ كَيْفَ هِيَ فَقَالَ يَكُونُ لِلْمَرْأَةِ شَيْءٌ عَلَى زَوْجِهَا مِنْ صَدَاقٍ أَوْ مِنْ غَيْرِهِ وَ يَكُونُ قَدْ أُعْطَاهَا بَعْضُهُ فَيَكْرَهُ كُلُّ وَاحِدٍ مِنْهُمَا قَتْلَ الْمَرْأَةِ لَزَوْجِهَا مَا أَخَذَتْ مِنْكَ فَهُوَ لِي وَ مَا بَقِيَ عَلَيْكَ فَهُوَ لَكَ وَ أَبَارُكَ فَيَقُولُ الرَّجُلُ لَهَا فَإِنْ أَنْتِ رَجَعْتِ فِي شَيْءٍ مِمَّا تَرَكْتِ فَأَنَا أَحَقُّ بِبُضْعِكَ

Ali ibn Ibrahim has narrated from his father from and A number of our people have narrated from Ahmad ibn Muhammad from ibn Khalid all from 'Uthman ibn 'Isa from Sama'ah who has said the following:

'I once asked him^{asws} about al-Mubarat and about how it takes place. He^{asws} said, 'It happens when a man owes something to his wife like mahr (dower) or so, of which a certain amount is paid to her, then they dislike each other. The woman says to her husband, 'Whatever I have received from you is for me and whatever remains on you will be for you and I want to be free (from the bond of marriage).' The man then says to her, 'If you will demand from me whatever you have waved, I will be more rightful to have you as my wife.'

(In al-Khul' dislike is from the woman only but in al-Mubarat the dislike is from both wife and husband).

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ الْمُبَارَاتُ يُؤْخَذُ مِنْهَا دُونَ الصَّدَاقِ وَ الْمُخْتَلَعَةُ يُؤْخَذُ مِنْهَا مَا شَاءَ أَوْ مَا تَرْضَايَا عَلَيْهِ مِنْ صَدَاقٍ أَوْ أَكْثَرَ وَ إِنَّمَا صَارَتِ الْمُبَارَاتُ يُؤْخَذُ مِنْهَا دُونَ الْمَهْرِ وَ الْمُخْتَلَعَةُ يُؤْخَذُ مِنْهَا مَا شَاءَ لِأَنَّ الْمُخْتَلَعَةَ تَعْتَدِي فِي الْكَلَامِ وَ تَكَلِّمُ بِمَا لَا يَحِلُّ لَهَا

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

'Abu Ja'far^{asws} has said that in al-Mubarat (disavowing) he can receive an amount which is less than mahr (dower) but in al-Khul' he can receive whatever he wants or on what both parties agree, like the amount of mahr (dower) or more. In al-Mubarat (disavowing) she pays less than mahr (dower) and in al-Khul' he can receive whatever he likes, it is because of her transgressing in her statements of what is not lawful for her to say.'

3- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ع إِنَّ بَارَاتِ امْرَأَةٍ زَوْجَهَا فَهِيَ وَاحِدَةٌ وَ هُوَ خَاطِبٌ مِنَ الْخُطَابِ

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

'Abu 'Abd Allah^{asws} has said that if a woman demands for divorce in the manner of al-Mubarat (disavowing) it is a divorce only once, because of which lie becomes one of those who can propose marriage with her.'

4- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادٍ عَنْ حَرِيزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ امْرَأَةٍ قَالَتْ لِرِزْوَجَهَا لَكَ كَذَا وَ كَذَا وَ خَلَّ سَبِيلِي فَقَالَ هَذِهِ الْمُبَارَاتُ

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

'I once asked abu 'Abd Allah^{asws} about the case of a woman who says to her husband, 'So and so amount is for you to set me free (from the bond s of marriage). He^{asws} said, 'This is al-Mubarat (disavowing).'

5- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعًا عَنْ سَفْيَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُبَارَاتُ تَقُولُ الْمَرْأَةُ لِرِزْوَجَهَا لَكَ مَا عَلَيْكَ وَ ائْتِرْكُنِي أَوْ تَجْعَلْ لَهُ مِنْ قَبْلِهَا شَيْئًا فَيَتْرُكَهَا إِلَّا أَنَّهُ يَقُولُ فَإِنْ ارْتَجَعْتَ فِي شَيْءٍ فَأَنَا أَمْلِكُ بِيَضْعِكَ وَ لَا يَحِلُّ لِرِزْوَجَهَا أَنْ يَأْخُذَ مِنْهَا إِلَّا الْمَهْرَ فَمَا دُونَهُ

Abu Ali ai-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and Muhammad ibn 'Isma'il has narrated from ai-Fadl ibn Shadhan from and abu al-' Abbas from Muhammad ibn Ja'far from Ayyub ibn Nuh and Humayd ibn Ziyad has narrated from ibn Sama'ah all from Sufyan from ibn Muskan from abu Basir who has said the following: 'Abu 'Abd Allah^{asws} has said that al-Mubarat (disavowing) takes place when a woman says to her husband, 'Whatever you owe to me is for you and set me free (from the bond of marriage).' Or she pays extra from her side so he sets her free, except that he can say that if she goes back in anything, then he will be more rightful to have her as his wife. It is not lawful for her husband to take more than what is equal to her mahr (dower) or less.'

6- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُبَارَاتُ تَقُولُ لِرِزْوَجَهَا لَكَ مَا عَلَيْكَ وَ بَارْتِنِي وَ يَتْرُكَهَا قَالَ قُلْتُ فَيَقُولُ لَهَا فَإِنْ ارْتَجَعْتَ فِي شَيْءٍ فَأَنَا أَمْلِكُ بِيَضْعِكَ قَالَ نَعَمْ

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has said the following: 'Abu 'Abd Allah^{asws} has said that in al-Mubarat (disavowing) a woman says to her husband. 'You can have whatever you owe to me and free me (from the bond s of marriage). He then sets her free (from the bond s of marriage).' I (the narrator) then asked, 'Will he then say to her, 'If you demand anything back then I will have more right than anyone else to have you as my wife'? He^{asws} said, 'Yes, he can say so.'

7- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ قَالَ سَأَلْتُ أَبَا الْحَسَنِ الرِّضَا عَنِ الْمَرْأَةِ تُبَارِي زَوْجَهَا أَوْ تَخْتَلِعُ مِنْهُ بِشَاهِدَيْنِ عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ هَلْ تَبِينُ مِنْهُ فَقَالَ إِذَا كَانَ ذَلِكَ عَلَى مَا ذَكَرْتَ فَتَعَمَّ قَالَ فَلْتُ قَدْ رُويَ لَنَا أَنَّهَا لَا تَبِينُ مِنْهُ حَتَّى يَتَّبِعَهَا الطَّلَاقُ قَالَ فَلَيْسَ ذَلِكَ إِذَا خُلِعَ فَقُلْتُ تَبِينُ مِنْهُ قَالَ نَعَمْ

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

'I once asked al-Rida^{asws} about the case of a woman who arranges al-Mubarat (disavowing) or al-Khul' in the presence of two witnesses, in a Hayd (menses)-free period and without sexual intercourse: if she becomes stranger to him. He^{asws} said, 'Yes, if it happens as you said has happened.' I then said, 'It is narrated to us that it does not make them to become stranger until it is followed by divorce.' He^{asws} said, 'It then is not al-Khul'.' I then asked, 'Does it make her to become stranger to him?' He^{asws} said, 'Yes, that is what it does.'

8- مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ جَمِيعًا عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ هَلْ يَكُونُ خُلْعٌ أَوْ مُبَارَاةٌ إِلَّا بِطَهْرٍ فَقَالَ لَا يَكُونُ إِلَّا بِطَهْرٍ

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

'I once asked abu 'Abd Allah^{asws} if al-Mubarat (disavowing) or al-Khul' can take place without Hayd (menses)-free period. He^{asws} said, 'It cannot take place without (menses)-free period.'

9- صَفْوَانُ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع وَ صَفْوَانُ عَنْ عَنبَسَةَ بْنِ مُصْعَبٍ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَكُونُ طَلَاقٌ وَلَا تَخْيِيرٌ وَلَا مُبَارَاةٌ إِلَّا عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ بِشُهُودٍ

Safwan has narrated from 'Abd Allah ibn Muskan from Muhammad ibn Muslim from abu Ja'far. asws, and Safwan from 'Anbasah ibn Mus'ab from Sama'ah who has said the following:

'Abu 'Abd Allah^{asws} has said that no divorce, choice or al-Mubarat (disavowing) can take place without Hayd (menses)-free period, free from sexual intercourse and without the presence of witnesses.'

10- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ قَالَ لَا طَلَاقَ وَلَا خُلْعَ وَلَا مُبَارَاةَ وَلَا خِيَارَ إِلَّا عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ

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

'Abu Ja'far^{asws} has said, 'Divorce, al-Khul', al-Mubarat (disavowing) and choice are only valid during a Hayd (menses)-free period in which sexual intercourse has not happened.'

بَابُ عِدَّةِ الْمُخْتَلِعَةِ وَ الْمُبَارَاةِ وَ نَفَقَتِهِمَا وَ سُكْنَاهُمَا

Waiting Period for ' al-Khul and al-Mubarat (disavowing)

1- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ عِدَّةُ الْمُخْتَلِعَةِ مِثْلُ عِدَّةِ الْمُطَلَّاقَةِ وَ خُلْعُهَا طَلَاقُهَا

A number of our people have narrated from Sah! ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from 'Abd al-Karim from ibn abu Nasr who has said the following:

'Abu 'Abd Allah^{asws} has said that waiting period for Al-Mukhtila' is like the wailing period for divorced woman and al-Khul' is her divorce,'

2- وَ بِإِسْنَادِهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا تُمْتَعُ الْمُخْتَلِعَةُ

Through the same chain of narrators as that of the previous Hadith the following is narrated Ahmad ibn Muhammad from 'Abd al-Karim from al-Halabiy who has said the following:

'Abu 'Abd Allah^{asws} has said that a woman because of al-Khul ' does not receive any benefit.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ قَالَ الْمُخْتَلِعَةُ لَا تُمْتَعُ

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

'He^{asws} has said that woman of al-Khul' does not receive any benefits.'

4- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْوَشَّاءِ عَنْ أَبَانَ عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ع عَنْ عِدَّةِ الْمُخْتَلِعَةِ كَمْ هِيَ قَالَ عِدَّةُ الْمُطَلَّاقَةِ وَ لَتَعْتَدَ فِي بَيْتِهَا وَ الْمُبَارَةِ بِمَنْزِلَةِ الْمُخْتَلِعَةِ

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al -Hassan ibn Ali al-Washsha' from Aban from Zurarah who has said the following:

'I once asked abu Ja'far^{asws} about the waiting period of a woman in al-Khul'. He^{asws} said, 'It is like the waiting period of a divorced woman and she must complete her waiting period in her home and a woman in al-Mubarat (disavowing) is the same as the one in al-Khul'.'

5- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ عِدَّةُ الْمُخْتَلِعَةِ عِدَّةُ الْمُطَلَّاقَةِ وَ خُلْعُهَا طَلَاُهَا قَالَ وَ سَأَلْتُهُ هَلْ تُمْتَعُ بِشَيْءٍ قَالَ لَا

Humayd ibn Ziyad has narrated from ibn Sama'ah from Muhammad ibn Ziyad from 'Abd Allah ibn Sinan who has said the following:

'Abu 'Abd Allah^{asws} has said that waiting period for a woman in al-Khul' is like that of a divorced woman and her al-Khul ' is her divorce.' He (the narrator) has said that he then asked if she receives any benefits. He^{asws} said, 'No, she does not receive any benefits.'

6- حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمُخْتَلِعَةِ قَالَ عِدَّتُهَا عِدَّةُ الْمُطَلَّاقَةِ وَ تَعْتَدُ فِي بَيْتِهَا وَ الْمُخْتَلِعَةُ بِمَنْزِلَةِ الْمُبَارَةِ

Humayd has narrated from al-Ilassan from Ja'far ibn Sama'ah from Dswud ibn Sarhan who has said the following:

'About the case of a woman in al-Khul' abu 'Abd Allah^{asws} has said, 'Her waiting period is like the waiting period of a divorced woman. She must count her waiting period in her home and a woman of al-Khul ' is like the woman in al-Mubarat (disavowing).'

7- حُمَيْدُ بْنُ زِيَادٍ عَنْ الْحَسَنِ عَنْ مُحَمَّدِ بْنِ زِيَادٍ وَ صَفْوَانَ عَنْ رِفَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الْمُخْتَلِعَةُ لَا سَكْنَى لَهَا وَ لَا نَفَقَةٌ

Humayd ibn Ziyad has narrated from al-Ilassan from Muhammad ibn Ziyad and Safwan from Rifa'ah who has said the following:

'Abu 'Abd Allah^{asws} has said that women in al-Khul' do not have the right for maintenance and housing.'

8- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْبَرْقِيِّ عَنْ أَبِي الْبَخْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ع لِكُلِّ مُطَلَّاقَةٍ مُتْعَةً إِلَّا الْمُخْتَلِعَةَ فَإِنَّهَا اشْتَرَتْ نَفْسَهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from al-Barqiy from abu al-Bakhtariy who has said the following:

'Abu 'Abd Allah^{asws} has said that 'Amir al-Mu'minin^{asws} has said, 'Every divorced woman has the right to receive benefits except women in al-Khul' who purchase themselves.'

9- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رِئَابٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ اخْتَلَعَتْ مِنْهُ امْرَأَتُهُ أَيْحَلُ لَهُ أَنْ يَخْطُبَ أُخْتَهَا مِنْ قَبْلِ أَنْ تَنْقَضِيَ عِدَّةُ الْمُخْتَلَعَةِ قَالَ نَعَمْ قَدْ بَرَأَتْ عِصْمَتَهَا مِنْهُ وَ لَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ

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

'I once asked abu 'Abd Allah^{asws} about the case of a man whose wife has arranged al-Khul': if it is permissible for him to propose marriage to her sister before wailing period because of al-Khul is complete. He^{asws} said. 'Yes, because she has freed herself from the bonds of his marriage and he does not have the right to go back to her.'

بَابُ الشُّوْزِ

Disharmony Between Wife and Husband

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ع عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا فَقَالَ إِذَا كَانَ كَذَلِكَ فَهَمَّ بِطَلَاقِهَا قَالَتْ لَهُ أَمْسِكْنِي وَ ادْعُ لَكَ بَعْضَ مَا عَلَيْكَ وَ أَحْلَلْكَ مِنْ يَوْمِي وَ لَيْلَتِي حَلَّ لَهُ ذَلِكَ وَ لَا جُنَاحَ عَلَيْهِمَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al -Hakam from Ali ibn abu Hamzah who has said the following:

'I once asked abu al-Hassan^{asws} about the words of Allah^{azwj}, 'If a woman is afraid of disharmony from her husband or his disregarding her. . . .' (4:128) He^{asws} has stated this Hadith. 'If he intends to divorce her and she says to him. 'Keep me: I will leave for you something of what you owe to me and wave my day and night.' It is lawful for him and it is not a sin on anyone of them.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا فَقَالَ هِيَ الْمَرْأَةُ تَكُونُ عِنْدَ الرَّجُلِ فَيَكْرَهُهَا فَيَقُولُ لَهَا إِنِّي أُرِيدُ أَنْ أَطْلُقَكَ فَقَتُولُ لَهُ لَا تَفْعَلْ إِنِّي أَكْرَهُ أَنْ تُسَمَّتْ بِي وَ لَكِنْ انْظُرِي فِي لَيْلَتِي فَاصْنَعِي بِهَا مَا شِئْتِ وَ مَا كَانَ سِوَى ذَلِكَ مِنْ شَيْءٍ فَهُوَ لَكَ وَ دَعْنِي عَلَى حَالَتِي فَهُوَ قَوْلُهُ تَبَارَكَ وَ تَعَالَى فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَ هُوَ هَذَا الصُّلْحُ

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

'I once asked abu 'Abd Allah^{asws} about the words of Allah^{azwj}. 'If a woman is afraid of disharmony from her husband or his disregarding her. . . .' (4:128). He^{asws} said, 'She is a woman who is married and he dislikes her and tells her that he wants to divorce her. She then says, 'Do not do so because I am afraid people will reproach me but I wave for you my turn of night with which you can do what you like, and besides, this if there is anything it is for you to leave me in my condition. This is mentioned in the words of Allah^{azwj} it is not an offense for both of them to reach a settlement among themselves,' and it is a reference to that settlement.'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ الْحُسَيْنِ بْنِ هَاشِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا قَالَ هَذَا تَكُونُ عِنْدَهُ الْمَرْأَةُ لَا تُعْجِبُهُ فَيُرِيدُ طَلَاقَهَا فَقَتُولُ لَهُ أَمْسِكْنِي وَ لَا تَطْلُقْنِي وَ ادْعُ لَكَ مَا عَلَى ظَهْرِكَ وَ أُعْطِيكَ مِنْ مَالِي وَ أَحْلَلْكَ مِنْ يَوْمِي وَ لَيْلَتِي فَقَدْ طَابَ ذَلِكَ لَهُ كُلُّهُ

Humayd ibn Ziyad has narrated from ibn Sama'ah from al-Husayn ibn Hashim from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about the words of Allah^{azwj}, 'If a woman is afraid of disharmony from her husband or his disregarding her. . . .' (4:128) He^{asws} said, 'This is a man who has a wife whom he does not like. He wants to divorce her, thus, she says to him. 'Keep me and do not divorce me. I will leave for you what you owe to me and pay you from my assets, wave in your favor my day and night,' all such offers are acceptable for him.'

بَابُ الْحَكَمَيْنِ وَ الشَّقَاقِ

Two Arbitrators in the case of Discord

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ قَالَ سَأَلْتُ الْعَبْدَ الصَّالِحَ ع عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنَّ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَ حَكَمًا مِنْ أَهْلِهَا فَقَالَ يَشْتَرِطُ الْحَكَمَانِ أَنْ شَاءَا فَرَقًا وَ أَنْ شَاءَا جَمْعًا فَرَقًا أَوْ جَمْعًا جَازَ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Aii ibn al-Hakam from Ali ibn abu Hamzah who has said the following:

'I once asked the virtuous servant of Allah^{asws} about the words of Allah^{azwj}, 'If you are afraid of discord between them then send one arbitrator from his people and another from her people.' (4:35) He^{asws} then said, 'The two arbitrators stipulate upon them that their decision to separate or bring them together must be treated binding and on that basis if they separate or bring them together it is permissible.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَ حَكَمًا مِنْ أَهْلِهَا قَالَ لَيْسَ لِلْحَكَمَيْنِ أَنْ يُفَرَّقَا حَتَّى يَسْتَأْمَرَ الرَّجُلُ وَ الْمَرْأَةُ وَ يَشْتَرِطَا عَلَيْهِمَا أَنْ شِئْنَا جَمَعْنَا وَ أَنْ شِئْنَا فَرَقْنَا فَإِنْ جَمَعَا فَجَائِزٌ فَإِنْ فَرَقَا فَجَائِزٌ

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

'I once asked abu 'Abd Allah^{asws} about the words of Allah^{azwj}, 'If you are afraid of discord between them then send one arbitrators from his people and another from her people.' (4:35) He^{asws} said, 'The arbitrator cannot separate or unite them without first getting approval from the man and woman and a stipulation that their decision of separating or uniting them must be treated binding. Thus, if they decided for separation or unification it is permissible.'

3- حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَ حَكَمًا مِنْ أَهْلِهَا قَالَ الْحَكَمَانِ يَشْتَرِطَانِ أَنْ شَاءَا فَرَقًا وَ أَنْ شَاءَا جَمْعًا فَإِنْ جَمَعَا فَجَائِزٌ وَ إِنْ فَرَقَا فَجَائِزٌ

Humayd ibn Ziyad has narrated from ibn Sama'ah from abd Allah ibn Jabalah from Ali ibn abu Hamzah from abu Basir who has said the following:

'I once asked abu 'Abd Allah^{asws} about the words of Allah^{azwj}, 'If you are afraid of discord between them then send one arbitrators from his people and another from her people.' (4:35) He^{asws} said, 'The two arbitrator stipulate upon them that their decision to separate or to bring them together must be treated binding and on that basis if they separate or bring them together it is permissible.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَ حَكَمًا مِنْ أَهْلِهَا أَرَأَيْتَ إِنْ اسْتَأْذَنَ الْحَكَمَانِ فَقَالَ لِلرَّجُلِ وَ الْمَرْأَةِ أَلَيْسَ قَدْ جَعَلْنَاهُ أَمْرَكُمَا إِلَيْنَا فِي الْإِصْلَاحِ وَ التَّفْرِيقِ فَقَالَ الرَّجُلُ وَ الْمَرْأَةُ نَعَمْ فَاشْهَدَا بِذَلِكَ شَهُودًا عَلَيْهِمَا أَوْ يَجُوزُ تَفْرِيفُهُمَا عَلَيْهِمَا قَالَ نَعَمْ وَ لَكِنْ لَا يَكُونُ إِلَّا عَلَى طَهَرٍ مِنَ الْمَرْأَةِ مِنْ غَيْرِ جَمَاعٍ مِنَ الزَّوْجِ قِيلَ لَهُ أَرَأَيْتَ إِنْ قَالَ أَحَدُ الْحَكَمَيْنِ قَدْ فَرَقْتُ بَيْنَهُمَا وَ قَالَ الْآخَرُ لَمْ أَفَرِّقْ بَيْنَهُمَا فَقَالَ لَا يَكُونُ تَفْرِيقٌ حَتَّى يَجْتَمِعَا جَمِيعًا عَلَى التَّفْرِيقِ فَإِذَا اجْتَمَعَا عَلَى التَّفْرِيقِ جَازَ تَفْرِيفُهُمَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from abu Ayyub from Sama'ah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the words of Allah^{azwj}, '... an arbitrator from his people and an arbitrator from her people' who then by the permission of both parties and with their stipulation that their decision must be accepted as binding. They then agree in the presence of witnesses: if the decision of the arbitrators to separate them is permissible. He^{asws} said, 'Yes, it is permissible, however, it must take place in a Hayd

(menses)-free period and without sexual intercourse by the husband.' It then was asked, 'What happens if one of the arbitrators decides to separate them and the other disagrees?' He^{asws} said, 'It cannot take place unless they both agree for separation. If they both agreed then separation is permissible.'

5- وَ عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ غَيْرِهِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَأُبْعِثُوا
حَكَمًا مِنْ أَهْلِهَا وَ حَكَمًا مِنْ أَهْلِهَا قَالَ لَيْسَ لِلْحَكَمَيْنِ أَنْ يُفَرَّقَا حَتَّى يَسْتَأْمَرَ

It is narrated from the narrator of the previous Hadith from 'Abd Allah ibn Jabalah and others from al-'Ala' from Muhammad ibn Muslim who has said the following:

'I once asked abu 'Abd Allah^{asws} about, 'If you are afraid of discord between them then send one arbitrator from his people and another from her people.' (4:35) He^{asws} said, 'They cannot decide to separate them without previous authorization of their decision by the parties (the wife and husband).'

بَابُ الْمَقْفُودِ

The Absent and Missing

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ سُئِلَ عَنِ الْمَقْفُودِ فَقَالَ الْمَقْفُودُ إِذَا
مَضَى لَهُ أَرْبَعُ سِنِينَ بَعَثَ الْوَالِي أَوْ يَكْتُوبُ إِلَى النَّاحِيَةِ الَّتِي هُوَ غَائِبٌ فِيهَا فَإِنْ لَمْ يُوْجَدْ لَهُ أَمْرٌ الْوَالِي وَلِيُّهُ أَنْ يُنْفِقَ عَلَيْهَا فَمَا
أَنْفَقَ عَلَيْهَا فَهِيَ أَمْرَانُهُ قَالَ قُلْتُ فَإِنَّمَا تَقُولُ فَإِنِّي أُرِيدُ مَا تُرِيدُ النَّسَاءُ قَالَ لَيْسَ ذَلِكَ لَهَا وَ لَا كَرَامَةٌ فَإِنْ لَمْ يُنْفِقْ عَلَيْهَا وَلِيُّهُ أَوْ
وَكِيلُهُ أَمْرُهُ أَنْ يُطْلَقَهَا فَكَانَ ذَلِكَ عَلَيْهَا طَلَقًا وَاجِبًا

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

'Once abu 'Abd Allah^{asws} was asked about the case of a man who is absent and missing. He^{asws} said, 'If one is absent and missing for four years the authorities must send in writing to the area where he has disappeared, and if no trace of him is found the authority then commands his guardian to provide maintenance for her and she is his woman.' I (the narrator) then said, 'She may say, 'I want what women want.' He^{asws} said, 'She cannot do so and it is not honorable. If his guardian did not provide maintenance or his attorney, then he (the authority) commands to divorce her and it then is obligatory divorce for her.'

2- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ بَرِيدِ بْنِ مُعَاوِيَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنِ الْمَقْفُودِ كَيْفَ يُصْنَعُ
بِأَمْرَانِهِ قَالَ مَا سَكَتَتْ عَنْهُ وَ صَبَرَتْ يُحْلَى عَنْهَا فَإِنْ هِيَ رَفَعَتْ أَمْرَهَا إِلَى الْوَالِي أَجَلَهَا أَرْبَعُ سِنِينَ ثُمَّ يَكْتُبُ إِلَى الصُّعْقِ الَّذِي
فُقِدَ فِيهِ فَلْيُسَالِ عَنْهُ فَإِنْ خُبِرَ عَنْهُ بِحَيَاةٍ صَبَرَتْ وَ إِنْ لَمْ يُخْبَرَ عَنْهُ بِشَيْءٍ حَتَّى تَمُضِيَ الْأَرْبَعُ سِنِينَ دُعِيَ وَلِيُّ الزَّوْجِ الْمَقْفُودِ
فَقِيلَ لَهُ هَلْ لِلْمَقْفُودِ مَالٌ فَإِنْ كَانَ لَهُ مَالٌ أَنْفَقَ عَلَيْهَا حَتَّى يُعْلَمَ حَيَاتُهُ مِنْ مَوْتِهِ وَ إِنْ لَمْ يَكُنْ لَهُ مَالٌ قِيلَ لِلْوَلِيِّ أَنْفَقْ عَلَيْهَا فَإِنْ فَعَلَ
فَلَا سَبِيلَ لَهَا إِلَى أَنْ تَنْزَوِّجَ وَ إِنْ لَمْ يُنْفِقْ عَلَيْهَا أَجْبَرَهُ الْوَالِي عَلَى أَنْ يُطْلَقَ تَطْلِيقَةً فِي اسْتِقْبَالِ الْعِدَّةِ وَ هِيَ طَاهِرٌ فَيَصِيرُ طَلَقُ
الْوَلِيِّ طَلَقَ الزَّوْجِ فَإِنْ جَاءَ زَوْجُهَا مِنْ قَبْلِ أَنْ تَنْقَضِيَ عِدَّتُهَا مِنْ يَوْمِ طَلَقِهَا الْوَلِيُّ فَبَدَا لَهُ أَنْ يُرَاجِعَهَا فَهِيَ أَمْرَانُهُ وَ هِيَ عِنْدَهُ
عَلَى تَطْلِيقَتَيْنِ فَإِنْ انْقَضَتِ الْعِدَّةُ قَبْلَ أَنْ يَجِيءَ أَوْ يُرَاجَعَ فَقَدْ حَلَّتْ لِلزَّوْجِ وَ لَا سَبِيلَ لِلأَوَّلِ عَلَيْهَا

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Uthar ibn 'Udhayn from Burayd ibn Mu'awiyah who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who is absent and missing and about how to deal with the issue of his wife. He^{asws} said, 'If she is silent and has exercised patience, she is not disturbed, but if she brings her case before the authorities she will be told to wait for four years. Thereafter they write to the area where he has disappeared to find out about him. If information is achieved that he is alive, she then must wait; but if no information is found until four years the guardian of the husband is summoned and asked if any assets belonging to the missing man exist. If such assets exist then her maintenance must be paid therefrom until it is found out if he is alive or not. If no asset belonging to him exists his guardian is told to provide her maintenance. If

his guardian provides her maintenance she has no way to marry; but if he did not provide her maintenance the authority then compels him to divorce her one divorce before her commencing waiting period when she is in a Hayd (menses)-frec period. Divorce by the guardian is treated like the divorce of the husband. If the husband comes before the end of her waiting period from the day divorce has taken place and he decides to go back to her, she is his wife. She is for him for two more divorces, but if he comes after her waiting period ends then she becomes lawful for marriage to whoever she likes and the first husband has no way to her.'

3- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيسَى عَنْ مُحَمَّدَ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدَ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي امْرَأَةٍ غَابَ عَنْهَا زَوْجُهَا أَرْبَعَ سِنِينَ وَ لَمْ يُنْفَقْ عَلَيْهَا وَ لَا يُدْرَى أ حَيٌّ هُوَ أَمْ مَيِّتٌ أ يُجْبَرُ وَلِيُّهُ عَلَى أَنْ يُطَلِّقَهَا قَالَ نَعَمْ وَ إِنْ لَمْ يَكُنْ لَهُ وَلِيٌّ طَلَّقَهَا السُّلْطَانُ فَلْتُ فَإِنْ قَالَ الْوَلِيُّ أَنَا أَنْفَقُ عَلَيْهَا قَالَ فَلَا يُجْبَرُ عَلَى طَلَاقِهَا قَالَ فَلْتُ أ رَأَيْتَ إِنْ قَالَتْ أَنَا أُرِيدُ مِثْلَ مَا تُرِيدُ النِّسَاءُ وَ لَا أَصْبِرُ وَ لَا أَقْعُدُ كَمَا أَنَا قَالَ لَيْسَ لَهَا ذَلِكَ وَ لَا كَرَامَةٌ إِذَا أَنْفَقَ عَلَيْهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad ibn 'Jsa from Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Sbadhan from abu al-Sabbah al-Kinaniy who has said the following:

'About the case of a woman whose husband is missing and absent for four years, has not provided her maintenance and it is not known if he is alive or not, if his guardian is compelled to divorce her. He^{asws} said, 'Yes, he is compelled to do so. If he does not have any guardian, the authority and al-Sultan divorces her.' I then asked what happens if the guardian says. 'I can provide her maintenance?' He^{asws} said. 'He is not then forced to divorce her,' I then asked what happens if she says, 'I want what women want, I do not want to wait patiently as I am.' He^{asws} said, 'She does not have such right and it is not honorable to say so when he provides maintenance.'

4- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الْمَقْفُودِ فَقَالَ إِنْ عَلِمْتَ أَنَّهُ فِي أَرْضٍ فَهِيَ مُنْتَظَرَةٌ لَهُ أَبَدًا حَتَّى تَأْتِيَهَا مَوْتُهُ أَوْ يَأْتِيَهَا طَلَاقُهُ وَ إِنْ لَمْ تَعْلَمْ أَيْنَ هُوَ مِنَ الْأَرْضِ كُلِّهَا وَ لَمْ يَأْتِهَا مِنْهُ كِتَابٌ وَ لَا خَبَرٌ فَإِنَّهَا تَأْتِي الْإِمَامَ فَيَأْمُرُهَا أَنْ تَنْتَظِرَ أَرْبَعَ سِنِينَ فَيُطَلَّبُ فِي الْأَرْضِ فَإِنْ لَمْ يَوْجَدْ لَهُ أَثَرٌ حَتَّى تَمُضِيَ الْأَرْبَعُ سِنِينَ أَمَرَهَا أَنْ تَعْتَدَ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا ثُمَّ تَحِلَّ لِلرِّجَالِ فَإِنْ قَدِمَ زَوْجُهَا بَعْدَ مَا تَنَقَّضِي عِدَّتَهَا فَلَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ وَ إِنْ قَدِمَ وَ هِيَ فِي عِدَّتِهَا أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا فَهِيَ أَمْلَكَ بِرَجْعَتِهَا

A number of our people have narrated from Ahmad ibn Muhammad from ibn Khalid and Ali ibn Ibrahim has narrated from his father all from 'Uthtnan ibn Msa from Sama'ah who has said the following:

'I once asked him^{asws} about the case of a man who is absent and missing. He^{asws} said, 'If it is known that he is in a certain location she waits for ever until the news of his death comes or her divorce. If it is not known where he is and no letter comes from him or any news, she then comes to the Imam who commands her to wait for four years and search for him in the land. If no trace of him is found until four years pass, she then is commanded to count her waiting period for four months and ten days and then she becomes lawful for men. If she marries after the end of her waiting period, he cannot go back to her and if he comes before the end of her waiting period he has the right to go back to her as her husband.'

بَابُ الْمَرْأَةِ يَبْلُغُهَا مَوْتُ زَوْجِهَا أَوْ طَلَاقُهَا فَتَعْتَدُ ثُمَّ تَزَوِّجُ فَيَجِيءُ زَوْجُهَا

A Woman Receives News of the Death of her Husband or her Previous Husband Comes

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَلِيٍّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِذَا نُعِيَ الرَّجُلُ إِلَى أَهْلِهِ أَوْ خَبَرُوا أَنَّهُ طَلَّقَهَا فَاعْتَدَتْ ثُمَّ تَزَوَّجَتْ فَجَاءَ زَوْجُهَا بَعْدَ فَإِنْ الْوَلَّى أَحَقَّ بِهَا مِنْ هَذَا الْآخِرِ دَخَلَ بِهَا أَوْ لَمْ يَدْخُلْ بِهَا وَ لَهَا مِنَ الْآخِيرِ الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا قَالَ وَ لَيْسَ لِلْآخِرِ أَنْ يَتَزَوَّجَهَا أَبَدًا أَبُو الْعَبَّاسِ الرَّزَّازُ مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ أَيُّوبَ بْنِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Afi ibn a! -Hakam from Musa ibn Bakr from Zurarah who has said the following:

'Abu Ja'far^{asws} has said. 'If a woman receives news of the death of her husband or she is informed about her being divorced by her husband and she counts her waiting period. Thereafter marries then her previous husband comes. The first one is more rightful than the second one. regardless, he (the second) has gone to bed with her or not, but she can demand mahr (dower) from the second one because of his going to bed with her and the second one can thereafter never lawfully marry her again.' Abu al-'Abbas al-Razzaz, Muhammad ibn Ja'far has narrated from abu Ayyub ibn Null. Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar Ahmad ibn Muhammad from Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from all from Safwan from Musa ibn Bakr from Zurarah from abu Ja'far^{asws} a similar Hadith.

2- مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ وَ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَأَلْتُهُ عَنْ رَجُلَيْنِ شَهِدَا عَلَى رَجُلٍ غَائِبٍ عِنْدَ امْرَأَةٍ أَنَّهُ طَلَّقَهَا فَأَعْتَدَتْ الْمَرْأَةُ وَ تَزَوَّجَتْ ثُمَّ إِنَّ الزَّوْجَ الْغَائِبَ قَدِمَ فَزَعَمَ أَنَّهُ لَمْ يُطْلَقْهَا وَ أَكْذَبَ نَفْسَهُ أَحَدُ الشَّاهِدَيْنِ فَقَالَ لَا سَبِيلَ لِلْأَخِيرِ عَلَيْهَا وَ يُؤْخَذُ الصَّدَاقُ مِنَ الَّذِي شَهِدَ فَيُرَدُّ عَلَى الْأَخِيرِ وَ الْأَوَّلُ أَمْلَكُ بِهَا وَ تَعْتَدُ مِنَ الْآخِرِ وَ لَا يَقْرَبُهَا الْأَوَّلُ حَتَّى تَنْقُضِيَ عِدَّتَهَا

Muhammad has narrated from Ahmad ibn Muhammad from ibn Mahbub from 'Ila' (swearing) and abu Ayyub from Muhammad ibn Muslim who has said the following:

'I once asked abu Ja'far^{asws} about the case of a woman before whom two men testify that her absent husband has divorced her and she counts waiting period then marries; then the absent husband comes. He says that he has not divorced her and one of the two testifying people says that he has lied. He^{asws} said, 'The second has no way to her and the one who testified must pay the mahr (dower) to the second man and she must count her waiting period because of the second marriage. The first husband must not go near her until her waiting period is complete.'

3- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعًا عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ع عَنْ رَجُلٍ حَسِبَ أَهْلُهُ أَنَّهُ قَدْ مَاتَ أَوْ قُتِلَ فَتَكَهَّتْ امْرَأَتُهُ وَ تَزَوَّجَتْ سُرِّيَّةً فَوَلَدَتْ كُلَّ وَاحِدَةٍ مِنْهُمَا مِنْ زَوْجِهَا فَجَاءَ زَوْجُهَا الْأَوَّلُ وَ مَوْلَى السَّرِّيَّةِ قَالَ فَقَالَ يَأْخُذُ امْرَأَتَهُ فَهُوَ أَحَقُّ بِهَا وَ يَأْخُذُ سُرِّيَّتَهُ وَ وَلَدَهَا أَوْ يَأْخُذُ عَوْضًا مِنْ ثَمَنِهِ

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

'I once asked abu Ja'far^{asws} about the case of a man whose wife thinks that he has died or is killed; thus she marries as well as his slave-girl and both give birth to their husband; then the first husband comes and the master of the slave-girl. He^{asws} said, 'He takes back his wife because he has the right to do so. He also takes back his slave-girl and her child or the cost of the child's value.'

4- مُحَمَّدٌ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ الْحَمِيدِ عَنْ أَبِي بَصِيرٍ وَ غَيْرِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ فِي شَاهِدَيْنِ شَهِدَا عَلَى امْرَأَةٍ بِأَنِّ زَوْجَهَا طَلَّقَهَا أَوْ مَاتَ فَتَزَوَّجَتْ ثُمَّ جَاءَ زَوْجُهَا قَالَ يُضْرَبَانِ الْحَدَّ وَ يُضَمَّانِ الصَّدَاقُ لِلزَّوْجِ بِمَا عَرَّاهُ ثُمَّ تَعْتَدُ وَ تَرْجِعُ إِلَى زَوْجِهَا الْأَوَّلِ

Muhammad ibn 'Isma'il has narrated from al-Fadl ibn Shadhan from and Ali ibn Ibrahim has narrated from his father all from ibn abu 'Umayr from Ibrahim ibn 'Abd al-Hamid from abu Basir and others who has said the following:

'About the case of two witnesses who testify that a woman's husband has divorced her or that he has died, thus, she marries, then the husband comes, abu 'Abd Allah^{asws} has stated this Hadith. 'They are whipped for their crime. They are held responsible for the mahr (dower) to be paid to the husband for deceit; then she counts waiting period and returns to her first husband.'

5- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ قَالَ إِذَا نُعِيَ الرَّجُلُ إِلَى أَهْلِهِ أَوْ خَبَرُوهَا أَنَّهُ قَدْ طَلَّقَهَا فَاعْتَدَتْ ثُمَّ تَزَوَّجَتْ فَجَاءَ زَوْجُهَا الْأَوَّلُ قَالَ الْأَوَّلُ أَحَقُّ بِهَا مِنَ الْآخِرِ دَخَلَ بِهَا أَوْ لَمْ يَدْخُلْ بِهَا وَلَهَا مِنَ الْآخِرِ الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father all from ibn abu Nasr from 'Abd al-Karim from Zurarah who has said the following:

'Abu Ja'far^{asws} has said, 'If a woman receives news of the death of her husband or she is informed about her being divorced by her husband and she counts her waiting period and thereafter marries, then her previous husband comes. The first one is more rightful than the second one, regardless, he (the second) has gone to bed with her or not; but she can demand mahr (dower) from the second one because of his going to bed with her and the second one can thereafter never lawfully marry her again.'

بَابُ الْمَرْأَةِ يَبْلُغُهَا نَعْيُ زَوْجِهَا أَوْ طَلَاقُهُ فَتَتَزَوَّجُ فَيَجِيءُ زَوْجُهَا الْأَوَّلُ فَيُقَارِقَانِيهَا جَمِيعًا **A Woman 's first Husband Comes**

1- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ عَ عَنْ امْرَأَةٍ نُعِيَ إِلَيْهَا زَوْجُهَا فَاعْتَدَتْ وَ تَزَوَّجَتْ فَجَاءَ زَوْجُهَا الْأَوَّلُ فَقَارِقَهَا وَ قَارِقَهَا الْآخِرُ كَمْ تَعْتَدُ لِلنَّاسِ قَالَ ثَلَاثَةَ فُرُوعٍ وَ إِنَّمَا يُسْتَبْرَأُ رَحِمُهَا بِثَلَاثَةِ فُرُوعٍ تُحِلُّهَا لِلنَّاسِ كُلِّهِمْ قَالَ زُرَّارَةُ وَ ذَلِكَ أَنْ أَنَاسًا قَالُوا تَعْتَدُ عِدَّتَيْنِ مِنْ كُلِّ وَاحِدٍ عِدَّةٌ فَأَبَى ذَلِكَ أَبُو جَعْفَرٍ عَ قَالَ تَعْتَدُ ثَلَاثَةَ فُرُوعٍ فَتَحِلُّ لِلرِّجَالِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al -Hakam from Musa ibn Bakr from Zurarah who has said the following:

'I once asked abu Ja'far^{asws} about the case of a woman who receives news of the death of her husband and she counts her waiting period: then marries. Then her first husband comes. She then separates from him and he from her and about how long is her waiting period. He^{asws} said, 'It is three Hayd (menses)-free periods. She only needs to place her womb in quarantine for three Hayd (menses)-free periods and thereafter she becomes lawful for anyone of all people.' Zurarah has said that it is because people said she needs two waiting periods, one waiting period because of each one. Abu Ja'far^{asws} rejected it and said, 'She must count three Hayd (menses) -free periods and thereafter she becomes lawful for men for marriage.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِهِ فِي امْرَأَةٍ نُعِيَ إِلَيْهَا زَوْجُهَا فَتَزَوَّجَتْ ثُمَّ قِيمَ زَوْجُهَا الْأَوَّلُ فَطَلَّقَهَا وَ طَلَّقَهَا الْآخِرُ قَالَ فَقَالَ إِبْرَاهِيمُ النَّخَعِيُّ عَلَيْهَا أَنْ تَعْتَدَ عِدَّتَيْنِ فَحَمَلَهَا زُرَّارَةُ إِلَى أَبِي جَعْفَرٍ عَ فَقَالَ عَلَيْهَا عِدَّةٌ وَاحِدَةٌ

Ali ibn Ibrahim has narrated from his father from Msma'il ibn Marrar from Yunus from certain persons of his people who has said the following:

About the case of a woman who receives news of the death of her husband, then she marries; then her first husband comes who divorces her and also the second husband divorces. Ibrahim al- Nakha'iy has said that she must count two waiting periods. Zurarah then took the question to abu Ja'far^{asws} who said that she has only one waiting period.'

بَابُ عِدَّةِ الْمَرْأَةِ مِنَ الْخَصِيِّ **A Woman Waiting Period from a Castrated Husband**

1- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلَ أَبُو جَعْفَرٍ عَ عَنْ خَصِيٍّ تَزَوَّجَ امْرَأَةً وَ فَرَضَ لَهَا صَدَاقًا وَ هِيَ تَعْلَمُ أَنَّهُ خَصِيٌّ فَقَالَ جَائِزٌ فَقِيلَ إِنَّهُ مَكَثَ مَعَهَا مَا شَاءَ

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

'Once abu Ja'far^{asws} was asked about the case of castrated man who marries a woman, assigns mahr (dower) for knows that he is castrated. He^{asws} said, 'It is permissible.' It then was said that he lives with her as long as Allah^{azwj} wills, then divorces her: if she has any waiting period. He^{asws} said, 'Yes, because he has enjoyed her and she from him.' It then was asked, 'For whatever they may have done is there Ghusl (bath) on them because of it?' He^{asws} said, 'If there has been enjoyment and because of him she has ejaculated, then Ghusl (bath) is obligatory on her.' It then was asked, 'Can he ask for refund of mahr (dower) in case he divorces her?' He^{asws} said, 'No, he cannot do so.'

بَابُ فِي الْمَصَابِ بِعَقْلِهِ بَعْدَ التَّزْوِيجِ

One Who Becomes ill Mentally after Marriage

1- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمَزَةَ قَالَ سَأَلَ أَبُو إِبْرَاهِيمَ عَ عَنْ الْمَرْأَةِ يَكُونُ لَهَا زَوْجٌ وَ قَدْ أُصِيبَ فِي عَقْلِهِ مِنْ بَعْدِ مَا تَزَوَّجَهَا أَوْ عَرَّضَ لَهُ جُنُونٌ فَقَالَ لَهَا أَنْ تَنْزِعَ نَفْسَهَا مِنْهُ إِنْ شَاءَتْ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Ali ibn abu Hamzah who has said the following:

'Once, abu Ibrahim^{asws} was asked about the case of a woman whose husband becomes mentally ill after marriage or becomes insane. He^{asws} said, 'If she wants to pull herself away from him she can do so if so she wishes.'

بَابُ الظَّهَارِ

Showing Dislike

1- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَلَّادٍ الْحَنَاطِ عَنْ حُمْرَانَ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ ع قَالَ إِنَّ امْرَأَةً مِنَ الْمُسْلِمِينَ أَتَتْ رَسُولَ اللَّهِ ص فَقَالَتْ يَا رَسُولُ اللَّهِ إِنَّ فُلَانًا زَوْجِي قَدْ نَثَرْتُ لَهُ بَطْنِي وَأَعْتَنِي عَلَى دُنْيَاهُ وَ آخِرَتِهِ فَلَمْ يَرِ مِنِّي مَكْرُوهًا وَ أَنَا أَتْنُوهُ إِلَى اللَّهِ عَزَّ وَ جَلَّ وَ إِلَيْكَ قَالَ مِمَّا تَشْتَكِينَ قَالَتْ لَهُ إِنَّهُ قَالَ لِي الْيَوْمَ أَنْتِ عَلَيَّ حَرَامٌ كَظْهَرِ أُمِّي وَ قَدْ أَخْرَجَنِي مِنْ مَنَازِلِي فَأَنْظِرْ فِي أَمْرِي فَقَالَ رَسُولُ اللَّهِ ص مَا أَنْزَلَ اللَّهُ عَلَيَّ كِتَابًا أَقْضِي بِهِ بَيْنَكَ وَ بَيْنَ زَوْجِكَ وَ أَنَا أَكْرَهُ أَنْ أَكُونَ مِنَ الْمُتَكَلِّفِينَ فَجَعَلَتْ تَنكِحِي وَ تَشْتَكِي مَا بَهَا إِلَى اللَّهِ وَ إِلَى رَسُولِهِ وَ انْصَرَفَتْ فَسَمِعَ اللَّهُ عَزَّ وَ جَلَّ مُحَاوَرَتَهَا لِرَسُولِهِ ص فِي زَوْجِهَا وَ مَا شَكَتْ إِلَيْهِ فَأَنْزَلَ اللَّهُ عَزَّ وَ جَلَّ بِذَلِكَ قُرْآنًا بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ قَدْ سَمِعَ اللَّهُ قَوْلَ الَّتِي تُجَادِلُكَ فِي زَوْجِهَا وَ تَشْتَكِي إِلَى اللَّهِ وَ اللَّهُ يَسْمَعُ تَحَاوَرَكُمَا يَغْنِي مُحَاوَرَتَهَا لِرَسُولِ اللَّهِ ص فِي زَوْجِهَا إِنَّ اللَّهَ سَمِيعٌ بَصِيرٌ. الَّذِينَ يُظَاهِرُونَ مِنْكُمْ مِنْ نِسَائِهِمْ مَا هُنَّ أُمَّهَاتُهُمْ إِلَّا اللَّائِي وَلَدْنَهُمْ وَ إِنَّهُمْ لَيَقُولُونَ مُنْكَرًا مِنَ الْقَوْلِ وَ زُورًا وَ إِنَّ اللَّهَ لَعَفُوفٌ غَفُورٌ قَبِيعَتْ رَسُولُ اللَّهِ ص إِلَى الْمَرْأَةِ فَأَتَتْهُ فَقَالَ لَهَا جِئْتِي بِزَوْجِكَ فَأَتَتْهُ فَقَالَ لَهُ أَ قُلْتَ لِامْرَأَتِكَ هَذِهِ أَنْتِ عَلَيَّ حَرَامٌ كَظْهَرِ أُمِّي قَالَ قَدْ قُلْتُ لَهَا ذَلِكَ فَقَالَ لَهُ رَسُولُ اللَّهِ ص قَدْ أَنْزَلَ اللَّهُ عَزَّ وَ جَلَّ فِيكَ وَ فِي امْرَأَتِكَ قُرْآنًا فَقَرَأَ عَلَيْهِ مَا أَنْزَلَ اللَّهُ مِنْ قَوْلِهِ قَدْ سَمِعَ اللَّهُ قَوْلَ الَّتِي تُجَادِلُكَ فِي زَوْجِهَا إِلَى قَوْلِهِ إِنَّ اللَّهَ لَعَفُوفٌ غَفُورٌ فَضَمَّ امْرَأَتَكَ إِلَيْكَ فَإِنَّكَ قَدْ قُلْتَ مُنْكَرًا مِنَ الْقَوْلِ وَ زُورًا قَدْ عَفَا اللَّهُ عَنْكَ وَ غَفَرَ لَكَ فَلَا تُعَدُّ فَانْصَرَفَ الرَّجُلُ وَ هُوَ نَادِمٌ عَلَى مَا قَالَ لِامْرَأَتِهِ وَ كَرِهَ اللَّهُ ذَلِكَ لِلْمُؤْمِنِينَ بَعْدَ فَأَنْزَلَ اللَّهُ عَزَّ وَ جَلَّ وَ الَّذِينَ يُظَاهِرُونَ مِنْ نِسَائِهِمْ ثُمَّ يَعُودُونَ لِمَا قَالُوا يَعْنِي لِمَا قَالَ الرَّجُلُ الْأَوَّلُ لِامْرَأَتِهِ أَنْتِ عَلَيَّ حَرَامٌ كَظْهَرِ أُمِّي قَالَ فَمِنْ قَالَهَا بَعْدَ مَا عَفَا اللَّهُ وَ غَفَرَ لِلرَّجُلِ الْأَوَّلِ فَإِنَّ عَلَيْهِ قِتْرٌ رَقِيبَةٍ مِنْ قَبْلِ أَنْ يَتَمَاسَا يَعْنِي مُجَامَعَتَهَا ذَلِكَ لَكُمْ تُوعِظُونَ بِهِ وَ اللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ. فَمَنْ لَمْ يَجِدْ فَصِيَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ مِنْ قَبْلِ أَنْ يَتَمَاسَا فَمَنْ لَمْ يَسْتَطِعْ فِإِطْعَامُ سِتِّينَ مِسْكِينًا فَجَعَلَ اللَّهُ عُقُوبَةَ مَنْ ظَاهَرَ بَعْدَ النَّهْيِ هَذَا وَ قَالَ ذَلِكَ لِتُؤْمِنُوا بِاللَّهِ وَ رَسُولِهِ وَ تَلْكَ خُدُودُ اللَّهِ فَجَعَلَ اللَّهُ عَزَّ وَ جَلَّ هَذَا حَذَّ الظَّهَارِ قَالَ أَبُو جَعْفَرٍ ع وَ لَا يَكُونُ ظَهَارٌ فِي يَمِينٍ وَ لَا فِي إِصْرَارٍ وَ لَا فِي غَضَبٍ وَ لَا يَكُونُ ظَهَارٌ إِلَّا عَلَى طَهْرٍ بَغَيْرِ جِمَاعٍ بِشَهَادَةِ شَاهِدَيْنِ مُسْلِمَيْنِ

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from abu Wallad al-Hannat from Humran who has said the following:

'Abu Ja'far^{asws} has said that 'Amir al-Mu'minin^{asws} -has stated this Hadith. 'Once a Muslim woman came to the Messenger of Allah^{saww}. O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, and said, 'O Messenger (of Allah)^{saww} so and so married me. I gave birth to many children for him. I

helped him in his world and religion and he has not seen any dislikeable things from me. I complain against him before Allah, and before you.' He ^{saww} asked, 'What is your complaint against him?' She replied, 'Today he said to me. 'You are unlawful for me like the back of my mother is.' He expelled me from my house, please look into my affairs.' The Messenger of Allah ^{saww} said, 'Allah ^{azwj} has not sent down any book by which I can decide between you and your husband and I do not like to take the trouble on myself.' She began to weep and complain before Allah ^{azwj} and His Messenger ^{saww} and returned. Allah ^{azwj}, heard her conversations with His Messenger ^{saww}, O Allah ^{azwj}, grant compensation to Muhammad ^{saww} and his family ^{asws} worthy of their services to Your cause, about her husband and what she complained about. Allah ^{azwj}, sent Quran about it: 'In the Name of Allah ^{azwj}, the Beneficent, the Merciful

'Allah has certainly heard the words of the woman who argued with you about her husband and who (after not having received a favorable response from you) complained to Allah ^{azwj}. Allah ^{azwj} was listening to your argument [meaning the statements of the Messenger of Allah ^{saww} about her husband]. Allah ^{azwj} is All hearing and All aware. (58:1) 'Those who renounce their wives by calling them to be as their mothers should know that their wives could never become their mothers. Their mothers are those who have given birth to them. The words that they speak are certainly de-testable and sinful. However. Allah is Pardoning and All forgiving. (58:2)

'The Messenger of Allah ^{saww}, O Allah ^{azwj}, grant compensation to Muhammad ^{saww} and his family ^{asws} worthy of their services to Your cause, sent for her and she came. He ^{saww} said to bring her husband before him. She brought her husband. He ^{saww} asked, 'Have you said this to your wife, 'you are unlawful to me like the back of my mother is?' He replied, 'I have said so to her, The Messenger of Allah ^{saww}, O Allah ^{azwj}, grant compensation to Muhammad ^{saww} and his family ^{asws} worthy of their services to Your cause, said, 'Allah ^{azwj}, has sent Quran about you and your wife.' He ^{saww} read for him what Allah ^{azwj} had revealed, 'Allah ^{azwj} has heard the words of the woman ... Allah ^{azwj} is Pardoning and All-forgiving.' (58:2) Hold your wife to yourself because you have said evil and sinful words. Allah ^{azwj} has forgiven you and has pardoned you. You must not do such thing again.' The man returned and he was regretful because of what he had said to his wife, Allah ^{azwj} disliked it for the believers thereafter and then He revealed, 'Those who involve themselves in Zihar against their women then return from what they have said. . . ' meaning when the first man said to his wife, 'You are unlawful to me like the back of my mother.' He ^{asws} said, 'Whoever says it after Allah ^{azwj} pardoned and forgave the first man, 'must set free a slave before touching (going to bed with) his wife. This is how Allah ^{azwj} gives advice and Allah ^{azwj} is well aware of what you do. If one cannot set free a slave he must fast for two consecutive months before touching each other, if one cannot do this also then he must feed sixty destitute people.' Allah ^{azwj} has sanctioned this penalty after He prohibited Zihar and said, 'This is done so that you believe in Allah ^{azwj} and His Messenger ^{saww} and such are the laws of Allah ^{azwj}.' Allah ^{azwj}, has sanctioned this penalty because of Zihar.'

Humran has said that abu Ja'far ^{asws}, has said, 'Zihar does not take place by swearing, harming and in anger. Zihar can only take place during a Hayd (menses)-free period and without sexual intercourse and in the presence of two Muslim witnesses.'

2- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا طَلَّاقَ إِلَّا مَا أُرِيدَ بِهِ الطَّلَاقُ وَلَا ظَهَارَ إِلَّا مَا أُرِيدُ بِهِ الظَّهَارُ

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

'Abu 'Abd Allah^{asws} has said, 'Divorce is not a divorce unless it is intended to be a divorce, and Zihar is not Zihar unless it is intended to be so.'

3- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَّابٍ عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ عَنِ الظَّهَارِ فَقَالَ هُوَ مِنْ كُلِّ ذِي مَحْرَمٍ أَمْ أُخْتٍ أَوْ عَمَةٍ أَوْ خَالَةٍ وَ لَا يَكُونُ الظَّهَارُ فِي يَمِينٍ فَلْتٌ فَكَيْفَ يَكُونُ قَالَ يَقُولُ الرَّجُلُ لِامْرَأَتِهِ وَ هِيَ طَاهِرَةٌ مِنْ غَيْرِ جِمَاعٍ أَنْتَ عَلَيَّ حَرَامٌ مِثْلَ ظَهْرِ أُمِّي أَوْ أُخْتِي وَ هُوَ يُرِيدُ بِذَلِكَ الظَّهَارَ

Ali has narrated from his father from ibn Mahbuh from ibn Ri'ab from Zurarah who has said the following:

'I once asked abu Ja'far^{asws} about al-Zihar. He (the Imam) said. 'It applies to all relatives (Dhi Mahram) like mother, sister, paternal or maternal aunts, Al-Zihar is not by swearing.' I then asked, 'How does it take place?' He^{asws} said, 'It happens by a man's saying to his wife when she is clean of Hayd (menses) and sexual intercourse, 'You are unlawful to me like the back of my mother or sister', and he thereby intends al-Zihar.'

4- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ رَجُلٍ مِنْ أَصْحَابِنَا عَنْ رَجُلٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ ع إِنِّي قُلْتُ لِامْرَأَتِي أَنْتَ عَلَيَّ كَظَهْرِ أُمِّي إِنْ خَرَجْتَ مِنْ بَابِ الْحُجْرَةِ فَخَرَجْتَ فَقَالَ لَيْسَ عَلَيْكَ شَيْءٌ فَقُلْتُ إِنِّي قَوِيٌّ عَلَى أَنْ أَكْفَرَ فَقَالَ لَيْسَ عَلَيْكَ شَيْءٌ قُلْتُ إِنِّي قَوِيٌّ عَلَى أَنْ أَكْفَرَ رَقِيبَةً وَ رَقِيبَتَيْنِ قَالَ لَيْسَ عَلَيْكَ شَيْءٌ قَوِيْتُ أَوْ لَمْ تَقَوِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Faddal from ibn Bukayr from a man of our people from a man who has said the following:

'I once asked abu al-Hassan^{asws} about my saying to my wife, 'You are like the back of my mother if you went out of the room' and she went out of the room. He^{asws} said, 'There it does not have any valid effect on you.' I then said, 'I am strong to expiate.' He^{asws} said, 'You do not owe anything because of it.' I said, 'I am strong to set free one or two slaves.' He^{asws} said, 'You do not owe anything because of it, regardless you are strong or not strong.'

5- ابْنُ فَضَّالٍ عَمَّنْ أَخْبَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَكُونُ الظَّهَارُ إِلَّا عَلَى مِثْلِ مَوْضِعِ الطَّلَاقِ

Ibn Faddal has narrated from the one who narrated to him who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Al-Zihar can take place only in the environment of divorce.'

6- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ وَ غَيْرِهِ قَالَ تَزَوَّجَ حَمَزَةُ بْنُ حُمْرَانَ ابْنَةً بُكَيْرٍ فَلَمَّا كَانَ فِي اللَّيْلِ الَّتِي أُدْخِلَ بِهَا عَلَيْهِ قُلْنَ لَهُ النِّسَاءُ أَنْتَ لَا تُبَالِي الطَّلَاقَ وَ لَيْسَ هُوَ عِنْدَكَ بِشَيْءٍ وَ لَيْسَ نُدْخِلُهَا عَلَيْكَ حَتَّى نُظَاهِرَ مِنْ أُمَّهَاتِ أَوْلَادِكَ قَالَ فَقَعَلَ فَذَكَرَ ذَلِكَ لِأَبِي عَبْدِ اللَّهِ ع فَأَمَرَهُ أَنْ يَقْرَبَهُنَّ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn abu Najran from ibn abu 'Umayr from 'Abd Allah ibn al-Mugbirah and others who has said the following:

'Hamzah ibn Humran married daughter of Bukayr. In the night that she was to be brought to him women said to him that divorce does not matter to you much and it is not important for you. 'We will not bring her (the bride) to you until you form al-Zihar about the mothers of your children.' He (the narrator) has said that he agreed to do so and mentioned it to abu 'Abd Allah^{asws}. He^{asws} commanded him to settle (keep) them.'

7- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدَ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ جَمِيعًا عَنْ صَفْوَانَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ قَالَ تَزَوَّجَ حَمَزَةُ بْنُ حُمْرَانَ ابْنَةً بُكَيْرٍ فَلَمَّا أَرَادَ أَنْ يَدْخُلَ بِهَا قَالَ لَهُ النِّسَاءُ لَسْنَا نُدْخِلُهَا عَلَيْكَ حَتَّى نُحْلِفَ لَنَا وَ لَسْنَا نَرْضَى أَنْ نُحْلِفَ بِالْعِثْقِ لِأَنَّكَ لَا تَرَاهُ شَيْئًا وَ لَكِنْ احْلِفْ لَنَا بِالظَّهَارِ وَ ظَاهِرُ مِنْ أُمَّهَاتِ أَوْلَادِكَ وَ جَوَارِيكَ فَظَاهَرُ مِنْهُنَّ ثُمَّ ذَكَرَ ذَلِكَ لِأَبِي عَبْدِ اللَّهِ ع فَقَالَ لَيْسَ عَلَيْكَ شَيْءٌ ارْجِعْ إِلَيْهِنَّ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and abu al-'Abbas al-Razzaz from Ayyub ibn Nuh all from Safwan from ibn abu 'Umayr from 'Abd Allah ibn al-Mughirah who has said the following:

'Hamzah ibn Humran married daughter of Bukayr. In the night that she was to be brought to him women said to him. 'We would not bring her to you until you swear. We will not agree to your swearing about setting free slaves because you do not consider it

anything important: but you must swear about, al-Zihar and form al-Zihar about the mothers of your children and slave-girls.' He formed al-Zihar about them, then he mentioned it to abu 'Abd Allah^{asws}. He^{asws} said, 'You do not owe anything because of it and you can go back to them.'

8- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ أَبِي الْحَسَنِ ع قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُصَلِّي الصَّلَاةَ أَوْ يَتَوَضَّأُ فَيَشْكُ فِيهَا بَعْدَ ذَلِكَ فَيَقُولُ إِنِّي أَعَدْتُ الصَّلَاةَ أَوْ أَعَدْتُ الْوُضُوءَ فَأَمْرَأَتُهُ عَلَيْهِ كَظْهَرِ أُمِّهِ وَ يَحْلِفُ عَلَى ذَلِكَ بِالطَّلَاقِ فَقَالَ هَذَا مِنْ خُطُوتِ الشَّيْطَانِ لَيْسَ عَلَيْهِ شَيْءٌ

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who doubts a great deal in his wudu. He then says, 'If I repeat my Salat (prayer) or wudu (because of doubts), then my wife will be like the back of my mother and swears for it about divorce.' He^{asws} said, 'It is of the misdeeds of Satan. He does not owe anything because of it.'

9- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَمِعْتُهُ يَقُولُ جَاءَ رَجُلٌ إِلَى رَسُولِ اللَّهِ ص فَقَالَ يَا رَسُولَ اللَّهِ ظَاهَرْتُ مِنْ امْرَأَتِي قَالَ اذْهَبْ فَأَعْتِقْ رَقَبَةً قَالَ لَيْسَ عِنْدِي شَيْءٌ قَالَ اذْهَبْ فَصُمْ شَهْرَيْنِ مُتَابِعَيْنِ قَالَ لَا أَقْوَى قَالَ اذْهَبْ فَأَطْعِمْ سِتِّينَ مِسْكِينًا قَالَ لَيْسَ عِنْدِي قَالَ فَقَالَ رَسُولُ اللَّهِ ص أَنَا أَتَصَدَّقُ عَنْكَ فَأَعْطَاهُ ثَمَرًا لِإِطْعَامِ سِتِّينَ مِسْكِينًا قَالَ اذْهَبْ فَتَصَدَّقْ بِهَا فَقَالَ وَ الَّذِي بَعَثَكَ بِالْحَقِّ مَا أَعْلَمُ بَيْنَ لَابَتَيْنِهَا أَحَدًا أَحْوَجَ إِلَيْهِ مِنِّي وَ مِنْ عِيَالِي قَالَ فَادْهَبْ فَكُلْ وَ أَطْعِمْ عِيَالَكَ

Ali ibn Ibrahim has narrated from his father and A number of our people have narrated from Ahmad ibn Muhammad from 'Uthman ibn 'Isa from Sama'ah from abu Basir who has said the following:

'I once heard abu 'Abd Allah^{asws} saying that once a man came to the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, and said, 'O Messenger of Allah^{saww}, I have formed al-Zihar with my wife'. He^{saww} said, 'Go and set free a slave.' He said, 'I do not have anything.' He^{saww} said, 'Go and fast for two consecutive months.' He said, 'I cannot do so.' He^{saww} said, 'Go and feed sixty destitute people.' He said, 'I do not have that much food.' He^{asws} has said that the Messenger of Allah^{saww} then said, 'I will do it for you.' He^{saww} gave him dates to feed sixty destitute people and told him to give to them.' He then said, 'I swear by the One who has sent you with truth, I do not know of anyone between the two mountains on both sides of this city needier to this date than myself and my family.' He^{saww} said, 'Go, eat thereof and feed to your family.'

10- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع الرَّجُلُ يَقُولُ لِامْرَأَتِهِ أَنْتِ عَلَيَّ كَظْهَرِ أُمِّهِ أَوْ خَالَتِهِ قَالَ هُوَ الظَّهَارُ قَالَ وَ سَأَلْنَاهُ عَنِ الظَّهَارِ مَتَى يَقَعُ عَلَى صَاحِبِهِ الْكَفَّارَةُ فَقَالَ إِذَا أَرَادَ أَنْ يُرَاقِعَ امْرَأَتَهُ قُلْتُ فَإِنْ طَلَّقَهَا قَبْلَ أَنْ يُرَاقِعَهَا أَعَلَيْهِ كَفَّارَةٌ قَالَ لَا سَقَطَتْ عَنْهُ الْكَفَّارَةُ قُلْتُ فَإِنْ صَامَ بَعْضًا فَمَرَضَ فَأَفْطَرَ أَمْ يَسْتَقْبِلُ أَمْ يَتِمُّ مَا بَقِيَ عَلَيْهِ فَقَالَ إِنْ صَامَ شَهْرًا فَمَرَضَ اسْتَقْبَلَ وَ إِنْ زَادَ عَلَى الشَّهْرِ الْآخِرَ يَوْمًا أَوْ يَوْمَيْنِ بَنَى عَلَى مَا بَقِيَ قَالَ وَ قَالَ الْحُرَّةُ وَ الْمَمْلُوكَةُ سَوَاءٌ غَيْرَ أَنَّ عَلَى الْمَمْلُوكِ يَصْنَفُ مَا عَلَى الْحُرِّ مِنَ الْكَفَّارَةِ وَ لَيْسَ عَلَيْهِ عِتْقٌ وَ لَا صَدَقَةٌ إِنَّمَا عَلَيْهِ صِيَامُ شَهْرٍ

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

'I once said to abu 'Abd Allah^{asws} that a man says to his wife that she is like the back of his paternal or maternal aunt. He^{asws} said, 'It is al-Zihar.' He (the narrator) has said that we asked him^{asws} about al-Zihar and about when expiation becomes due on such man. He^{asws} said, 'It is when he wants to go to bed with his wife.' I then asked, 'Will there be expiation if he divorces her before going to bed with her?' He^{asws} said, 'Expiation does not fall off of him.' I then asked, 'If he fasts a part of fasting, then he falls ill and he discontinues his fast, must he start it all over again or continue from where he had left to complete what he owes?' He^{asws} said, 'If he has fasted one month, then has fallen ill. he must start all over again, but if he has done more than one month by one day or two days he can continue from there onward to complete the rest.' He (the narrator) has said

that he^{asws} said, 'Free and slaves are the same except that slaves owe one-half of expiation on a free person. He (a slave) docs not owe setting free of slaves or charity. He must only fast for one month.'

11- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أُيُوبَ بْنِ نُوحٍ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ عَنِ الرَّجُلِ يُظَاهِرُ مِنْ جَارِيَّتِهِ فَقَالَ الْحُرَّةُ وَالْأَمَةُ فِي ذَلِكَ سَوَاءٌ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and al-Razzaz from Ayyub ibn Null from Safwan ibn Yahya from Ishaq ibn 'Ammar who has said the following:

'I once asked abu Ibrahim^{asws} about the case of a man who forms al-Zihar about his slave-girl. He^{asws} said, 'Free and slaves are the same in al-Zihar.'

12- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ ظَاهَرَ مِنْ امْرَأَتِهِ خَمْسَ مَرَّاتٍ أَوْ أَكْثَرَ فَقَالَ قَالَ عَلِيُّ ع مَكَانَ كُلِّ مَرَّةٍ كَفَّارَةٌ قَالَ وَ سَأَلْتُهُ عَنْ رَجُلٍ ظَاهَرَ مِنْ امْرَأَتِهِ ثُمَّ طَلَّقَهَا قِيلَ أَنْ يُوَاقِعَهَا عَلَيْهِ كَفَّارَةٌ قَالَ لَا قَالَ وَ سَأَلْتُهُ عَنِ الظَّاهِرِ عَلَى الْحُرَّةِ وَالْأَمَةِ فَقَالَ نَعَمْ قِيلَ فَإِنْ ظَاهَرَ فِي شَعْبَانَ وَ لَمْ يَجِدْ مَا يُعْتِقُ قَالَ يَنْتَظِرُ حَتَّى يَصُومَ شَهْرَ رَمَضَانَ ثُمَّ يَصُومُ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ إِنْ ظَاهَرَ وَ هُوَ مُسَافِرٌ انْتَظَرَ حَتَّى يَقْدَمَ فَإِنْ صَامَ فَأَصَابَ مَالًا فَلْيَمِضْ الَّذِي ابْتَدَأَ فِيهِ

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

'I once asked one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) about the case of a man who forms al-Zihar about his wife five times or more. He^{asws} said, 'For every time there is expiation.' He (the narrator) has said, 'I asked him^{asws} about a man who forms al-Zihar about his wife, then divorces her before going to bed with her: if there is expiation on him. He^{asws} said, 'No, there is no expiation on him.' He (the narrator) has said, 'I asked him^{asws} about al-Zihar of free and a slave-girl. He^{asws} said, 'Yes, it can happen.' It was asked, 'If it takes place in the month of Sha'ban and he cannot find a slave to free.' He^{asws} said, 'He must wait until he completes fasting of the month of Ramadan, then fast for two consecutive months; and if he forms al-Zihar on a journey he must wait until he comes home. If he fasts then finds assets, he continues with what he has started.'

13- مُحَمَّدٌ عَنْ أَحْمَدَ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ مُحَمَّدِ بْنِ حُمْرَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنِ الْمَمْلُوكِ أَوْ عَلَيْهِ ظِهَارٌ فَقَالَ عَلَيْهِ نِصْفُ مَا عَلَى الْحُرِّ صَوْمٌ شَهْرٌ وَ لَيْسَ عَلَيْهِ كَفَّارَةٌ مِنْ صَدَقَةٍ وَ لَا عِتْقٌ

Muhammad itm Ahmad has narrated from ibn abu Najran from Muhammad ibn i lumran who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a slave if there is al-Zihar on him. He^{asws} said, 'He owes one-half of what becomes due on free people. He owes only to fast one month and setting free of slaves does not apply to him as well as charity.'

14- عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عَمِيرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلٍ ظَاهَرَ مِنْ امْرَأَتِهِ ثَلَاثَ مَرَّاتٍ قَالَ يُكْفَرُ ثَلَاثَ مَرَّاتٍ فَلْتُ فَإِنْ وَافَقَ قَبْلَ أَنْ يُكْفَرَ قَالَ يَسْتَغْفِرُ اللَّهُ وَ يُمْسِكُ حَتَّى يُكْفَرَ

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who forms al-Zihar about his wife three times. He^{asws} said, 'He must pay expiation three times.' I then asked about if he goes to bed with her before paying expiation. He^{asws} said, 'He must ask forgiveness from Allah^{azwj} and abstain until he pays expiation.'

15- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي حَمْزَةَ الثَّمَالِيِّ عَنْ أَبِي جَعْفَرٍ ع قَالَ سَأَلْتُهُ عَنِ الْمَمْلُوكِ أَوْ عَلَيْهِ ظِهَارٌ فَقَالَ نِصْفُ مَا عَلَى الْحُرِّ مِنَ الصَّوْمِ وَ لَيْسَ عَلَيْهِ كَفَّارَةٌ صَدَقَةٌ وَ لَا عِتْقٌ

A number of our people have narrated from Sahl ibn Ziyad from ibn Mahbub from abu Hamzah al-Thumaiiy who has said the following: 'I once asked abu Ja'far^{asws} about a

slave if there is expiation for al-Zihar on him. He^{asws} said, 'He owes one-half of what is due on a free person of fasting, and setting free of slaves as expiation does not apply in his case as well as paying charity.'

16- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصِ بْنِ الْبَخْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ أَوْ أَبِي الْحَسَنِ ع فِي رَجُلٍ كَانَ لَهُ عَشْرُ جَوَارٍ فَظَاهَرَ مِنْهُنَّ كُلَّهُنَّ جَمِيعاً بِكَلَامٍ وَاحِدٍ قَالَ عَلَيْهِ عَشْرُ كَفَّارَاتٍ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from Hafs ibn al-Bakhtariy who has said the following:

'About the case of a man who had ten slave-girls and formed al-Zihar about all of them by one statement, abu 'Abd Allah^{asws}, or abu al-Hassan^{asws} has said that he must pay ten expiations.'

17- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِيْنَةَ عَنْ زُرَّارَةَ وَغَيْرِ وَاحِدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ إِذَا وَقَعَ الْمَرْءُ الثَّانِيَةَ قَبْلَ أَنْ يُكْفِّرَ فَعَلَيْهِ كَفَّارَةٌ أُخْرَى قَالَ لَيْسَ فِي هَذَا اخْتِلَافٌ

Ali ibn Ibrahim has narrated from his father from ibn abu 'Umayr from 'Umar ibn 'Udhaynah from Zurarah and from more than one person from abu Basir who has said the following:

'He^{asws} has said, 'If one goes to bed with the woman for the second time before paying expiation he must pay another expiation' He (the narrator) has said that there is no differences in this issue.'

18- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ سَيْفِ الثَّمَارِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع الرَّجُلُ يَقُولُ لِامْرَأَتِهِ أَنْتِ عَلَيَّ كَظْهَرِ أُخْتِي أَوْ عَمَّتِي أَوْ خَالَتِي قَالَ فَقَالَ إِنَّمَا ذَكَرَ اللَّهُ الْأُمّهَاتِ وَإِنَّ هَذَا لِحَرَامٌ

Abu Ali al-Asirariy has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan from Sayf al-Tammar who has said the following:

'I once asked abu 'Abd Allah^{asws}, about the case of a man who says to his wife. 'You are like the back of my sis- ter, maternal or paternal aunt.' He^{asws} said, 'Allah^{azwj} has mentioned the mothers, this certainly is unlawful.'

19- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيٍّ بْنِ مَهْزِيَارٍ قَالَ كَتَبَ عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ إِلَى أَبِي الْحَسَنِ ع جُعِلْتُ فِدَاكَ إِنَّ بَعْضَ مَوَالِيكَ يَزْعُمُ أَنَّ الرَّجُلَ إِذَا تَكَلَّمَ بِالظَّهَارِ وَجَبَتْ عَلَيْهِ الْكَفَّارَةُ حَيْثُ أَوْ لَمْ يَحْنُثْ وَ يَقُولُ حِنْثُهُ كَلَامُهُ بِالظَّهَارِ وَإِنَّمَا جُعِلَتْ عَلَيْهِ الْكَفَّارَةُ عُقُوبَةً لِكَلَامٍ وَ بَعْضُهُمْ يَزْعُمُ أَنَّ الْكَفَّارَةَ لَا تَلْزَمُهُ حَتَّى يَحْنُثَ فِي الشَّيْءِ الَّذِي حَلَفَ عَلَيْهِ فَإِنْ حَيْثُ وَجَبَتْ عَلَيْهِ الْكَفَّارَةُ وَ إِنْ لَا فَلَا كَفَّارَةَ عَلَيْهِ فَوْقَ ع بَخْطِهِ لَا تَجِبُ الْكَفَّارَةُ حَتَّى يَجِبَ الْحِنْثُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ah ibn Mahziyar from who has said the following:

'Abd Allah ibn Muhammad once wrote to abu al-Hassan^{asws} saying, 'I pray to Allah^{azwj} to keep my soul in service for your cause, certain ones of your followers think that if a man speaks the statement of al-Zihar, then expiation becomes due, violating the swearing or not. They say that its sinfulness and violation is in the very statement of al-Zihar and expiation is as penalty for such statement. Certain others think that expiation is not due unless swearing is violated in something about which he swears, and if he violates then expiation is due on him, otherwise, there is no expiation. He^{asws} signed the answer in his own handwriting that said, 'Expiation does not become obligatory until violation of oath occurs.'

20- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ قَالَ سَأَلَ الْحُسَيْنُ بْنُ مِهْرَانَ أَبَا الْحَسَنِ الرُّضَا ع عَنْ رَجُلٍ ظَاهَرَ مِنْ أَرْبَعِ نِسْوَةٍ فَقَالَ يُكْفِّرُ لِكُلِّ وَاحِدَةٍ مِنْهُنَّ كَفَّارَةٌ وَ سَأَلَهُ عَنْ رَجُلٍ ظَاهَرَ مِنْ امْرَأَتِهِ وَ جَارِيَّتِهِ مَا عَلَيْهِ قَالَ عَلَيْهِ لِكُلِّ وَاحِدَةٍ مِنْهُمَا كَفَّارَةٌ عِثْقُ رَقَبَةٍ أَوْ صِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ أَوْ إِطْعَامُ سِتِّينَ مِسْكِيناً

Abu Ali al-Ash'ariv has narrated from Muhammad ibn 'Abd al-Jabbar from Safwan who has said the following:

'Once, al-Husayn ibn Mehran asked abu al-Hassan al-Rida^{asws} about a man who formed al-Zihar about four women. He^{asws} said, 'He owes expiation for each one. He asked him^{asws} about a man who formed al-Zihar about his wife and his slave-girl and what must

he pay. He^{asws} said, 'For each one he must pay expiation in the form of freeing a slave or fasting two consecutive months or feeding sixty destitute people.'

21- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ الْفَضِيلِ بْنِ يَسَارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ رَجُلٍ مُمْلَكٍ ظَاهَرَ مِنْ أَمْرَأَتِهِ فَقَالَ لِي لَا يَكُونُ ظَهَارٌ وَلَا إِيْلَاءٌ حَتَّى يَدْخُلَ بِهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father from all from ibn Mahbub from Jamil ibn Salih from al-Fudayl ibn Yasar who has said the following:

'I once asked abu 'Abd Allah^{asws} about a Mumlak (a man owned as offspring of slaves) who expresses al-Zihar (calling one's wife as one's mother) about his wife. He^{asws} said to me, 'It is not al-Zihar (calling one's wife as one's mother) or swearing before going to bed with her.'

22- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيٍّ بْنِ الْحَكَمِ عَنْ مُعَاوِيَةَ بْنِ وَهَبٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ الرَّجُلِ يَقُولُ لِأَمْرَأَتِهِ هِيَ عَلَيَّ كَظْهَرِ أُمِّهِ قَالَ تَحْرِيرُ رَقَبَةٍ أَوْ صِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ أَوْ إِطْعَامُ سِتِّينَ مِسْكِينًا وَ الرِّقْبَةُ يُجْزَى عَنْهُ صَبِيٌّ مِمَّنْ وُلِدَ فِي الْإِسْلَامِ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ali ibn al-Hakam from Mu'awiyah ibn Wahab who has said the following:

'I once asked abu'Abd Allah^{asws} about the case of a man who says to his wife that she is like the back of his mother to him. He^{asws} said, 'The expiation for it is set-ling free of a slave or fasting for two consecutive months or feeding sixty destitute people. For freeing a slave, a child born in Islam is sufficient.'

23- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ وَ ابْنِ بُكَيْرٍ وَ حَمَّادُ بْنُ عُثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ الْمُظَاهَرُ إِذَا طُلِقَ سَقَطَتْ عَنْهُ الْكَفَّارَةُ قَالَ عَلِيُّ بْنُ إِبْرَاهِيمَ إِنْ طَلَّقَ أَمْرَأَتَهُ أَوْ أَخْرَجَ مَمْلُوكَتَهُ مِنْ مَلِكِهِ قَبْلَ أَنْ يُوَاقِعَهَا فَلَيْسَ عَلَيْهِ كَفَّارَةُ الظَّهَارِ إِلَّا أَنْ يَرَاجِعَ أَمْرَأَتَهُ أَوْ يَرُدَّ مَمْلُوكَتَهُ يَوْمًا فَإِذَا فَعَلَ ذَلِكَ فَلَا يَنْبَغِي لَهُ أَنْ يَتَرَبَّهًا حَتَّى يُكْفَّرَ

Ali ibn Ibrahim has narrated from his father from ibn abu'Umayr from Jamil an ibn Bukayr and Hammad ibn 'Uthaman who has said the following:

'Abu 'Abd Allah^{asws} has said, 'If one who has expressed al-Zihar (calling one's wife as one's mother) about his wife, divorces her then expiation cancels out and it no more is applicable to his case.' Ali ibn Ibrahim has said that if a man divorces his wife or takes his slave-girl out of his possession he then does not owe expiation of al-Zihar unless he goes back to his wife and returns his slave-girl into his possession. When he docs so then it is not proper for him to go near them without paying the expiation.

24- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ الزِّيَّاتِ قَالَ قُلْتُ لِأَبِي الْحَسَنِ عَ إِنِّي ظَاهَرْتُ مِنْ أَمْرَأَتِي فَقَالَ كَيْفَ قُلْتَ قَالَ قُلْتَ أَنْتَ عَلَيَّ كَظْهَرِ أُمِّي إِنْ فَعَلْتَ كَذَا وَ كَذَا فَقَالَ لَا شَيْءَ عَلَيْكَ وَ لَا تُعَذِّبْ

A number of our people have narrated from Sahi ibn Ziyad from al-Qasim ibn Muhammad ai-Zayyat who has said the following:

'I once said to abu 'Abd Allah^{asws} 'I have expressed the statement of al-Zihar about my wife.' He^{asws} asked, 'How did you say it?' I replied that it was, 'You are like the back of my mother to me if you did so and so.' He^{asws} said, 'It does not have any valid effect but you must not repeat it again.'

25- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ الرِّضَا عَ قَالَ الظَّهَارُ لَا يَقَعُ عَلَى الْغَضَبِ

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

'Al-Rida^{asws} has said, 'Al-Zihar (calling one's wife as one's mother) does not take place upon anger (if expressed because of anger).'

26- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَحْمَدَ بْنِ الْحَسَنِ عَنْ عَمْرِو بْنِ سَعِيدٍ عَنْ مُصَدِّقِ بْنِ صَدَقَةَ عَنْ عَمَّارِ بْنِ مُوسَى عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ سَأَلْتُهُ عَنِ الظَّهَارِ الْوَاجِبِ قَالَ الَّذِي يُرِيدُ بِهِ الرَّجُلُ الظَّهَارَ بَعْثِنَهُ

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from Ahmad ibn al-Hassan from 'Amr ibn Sa'id from Musaddiq ibn Sadaqah from 'Ammar ibn Musa who has said the following:

'I once asked abu 'Abd Allah^{asws} about al-Zihar (calling one's wife as one's mother) which brings about the obligation. He^{asws} said, 'It is exactly that whereby a man wants al-Zihar.'

27- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ع إِذَا قَالَتِ الْمَرْأَةُ زَوْجِي عَلَيَّ حَرَامٌ كَظْهَرِ أُمِّي فَلَا كَفَّارَةَ عَلَيْهَا قَالَ وَجَاءَ رَجُلٌ مِنَ الْأَنْصَارِ مِنْ بَنِي النَّجَّارِ إِلَى رَسُولِ اللَّهِ ص فَقَالَ إِنِّي ظَاهَرْتُ مِنْ امْرَأَتِي فَوَاقَعْتُهَا قَبْلَ أَنْ أَكْفَرَ فَقَالَ وَ مَا حَمَلَكَ عَلَى ذَلِكَ قَالَ لَمَّا ظَاهَرْتُ رَأَيْتُ بَرِيقَ خَلْخَالِهَا وَ بَيَاضَ سَاقِهَا فِي الْقَمَرِ فَوَاقَعْتُهَا قَبْلَ أَنْ أَكْفَرَ فَقَالَ لَهُ اعْتَزْلِهَا حَتَّى تُكْفَرَ وَ أَمْرُهُ بِكَفَّارَةٍ وَاحِدَةٍ وَ أَنْ يَسْتَغْفَرَ اللَّهُ

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

'Abu 'Abd Allah^{asws}, has said that 'Amir al-Mu'minin^{asws} has said, 'When a woman says, 'My husband is unlawful like the back of my mother' expiation does not become due on her thereby.' He^{asws} said that once a man from al-Ansar (people of al-Madinah) from Banu al-Najjar came to the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause, and said, 'I have expressed the statement of al-Zihar about my wife, then went to bed with her before paying the expiation.' He^{saww} asked, 'What made you do so?' He replied, 'When I expressed the statement of al-Zihar about her I then saw her shining anklet in the moonlight and the whiteness of her leg, then I went to bed with her before paying the expiation.' He^{saww} said, 'Stay away from her until you pay the expiation.' He^{saww} commanded him to pay the expiation once and ask forgiveness from Allah^{azwj}.'

28- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ أَوْ غَيْرِهِ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ عَلِيِّ بْنِ عُفَيْهٍ عَنْ مُوسَى بْنِ أَكْبَلِ الثَّمِيرِيِّ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ ظَاهَرَ ع فِي رَجُلٍ ظَاهَرَ ثُمَّ طَلَّقَ قَالَ سَقَطَتْ عَنْهُ الْكَفَّارَةُ إِذَا طَلَّقَ قَبْلَ أَنْ يُعَاوَدَ الْمُجَامَعَةَ قِيلَ فَإِنَّهُ رَاجِعَهَا قَالَ إِنْ كَانَ إِذَا طَلَّقَهَا لِيَسْقُطَ الْكَفَّارَةُ عَنْهُ ثُمَّ رَاجِعَهَا فَالْكَفَّارَةُ لَزِمَتْ لَهُ أَبَدًا إِذَا عَاوَدَ الْمُجَامَعَةَ وَ إِنْ كَانَ طَلَّقَهَا وَ هُوَ لَا يَنْوِي شَيْئًا مِنْ ذَلِكَ فَلَا بَأْسَ أَنْ يُرَاجِعَ وَ لَا كَفَّارَةَ عَلَيْهِ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar or others from al-Hassan ibn Ali from Ali ibn 'Uqbah, from Musa ibn 'Ukayl al-Numayriy. from certain persons of our people who has said the following:

'About the case of a man who expresses the statement of al-Zihar about his wife then divorces her, abu 'Abd Allah^{asws} has said, 'Expiation does not apply to his case when he divorces before going to bed with her.' It was then asked, 'What happens if he goes back to her?' He^{asws} said, 'If he has divorced her to escape from expiation, then goes back to her, expiation is obligatory for whenever he goes to bed with her, but if he divorced without such intention then it is not unlawful to go back to her and expiation is not due on him.'

29- أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ جَمِيعًا عَنْ صَفْوَانَ قَالَ حَدَّثَنَا أَبُو عُيَيْنَةَ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ ع إِنِّي ظَاهَرْتُ مِنْ أُمِّ وَلَدٍ لِي ثُمَّ وَاقَعْتُ عَلَيْهَا ثُمَّ كَفَرْتُ فَقَالَ هَكَذَا يَصْنَعُ الرَّجُلُ الْفَقِيهُ إِذَا وَاقَعَ كَفَرَ

Abu Ali al-Ash'ariy has narrated from Muhammad ibn 'Abd al-Jabbar and al-Razzaz from Ayyub ibn Nuh all from Safwan who has said that abu 'Uyaynah narrated from Zurarah who has said the following:

'I once said to abu Ja'far^{asws} 'I have expressed the statement of al-Zihar about the mother of my children, then went to bed with her, then paid the expiation. He^{asws} said, 'This is how a faqih (scholar of law) man does: when he goes to bed he pays expiation.'

30- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِيْنَةَ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع رَجُلٌ ظَاهَرَ ثُمَّ وَاقَعَ قَبْلَ أَنْ يُكْفَرَ فَقَالَ لِي أَوْ لَيْسَ هَكَذَا يَفْعَلُ الْفَقِيهُ

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

'I once asked abu 'Abd Allah^{asws} about the case of a man who expresses the statement of al-Zihar about his wife, then goes to bed with her before paying expiation. He^{asws} said, 'Is it not the way a faqih (scholar of law) man does?'

31- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبَانَ عَنْ الْحَسَنِ الصَّقِيلِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنِ الرَّجُلِ يُظَاهِرُ مِنْ امْرَأَتِهِ قَالَ فَلْيُكَفِّرْ فَلْتَمُوتْ فَإِنَّهُ وَاقِعٌ قَبْلَ أَنْ يُكَفِّرَ قَالَ أَتَى حَدًّا مِنْ حُدُودِ اللَّهِ عَزَّ وَجَلَّ وَ لَيْسَتْغُفِرَ اللَّهُ وَ لَيْكُفَّ حَتَّى يُكَفِّرَ

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al -Hassan ibn Ali from Aban from al-Hassan al-Sayqal who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who expressed the statement of al-Zihar about his wife. He^{asws} said, 'He must pay expiation.' I then said, 'He has gone to bed with her before paying the expiation.' He^{asws} said, 'He has come across a law of laws of Allah^{azwj}, and he must ask forgiveness from Allah^{azwj} and stay away until he pays expiation.'

32- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ الظَّهَارُ ضَرْبَانِ أَحَدُهُمَا فِيهِ الْكَفَّارَةُ قَبْلَ الْمُوَافَقَةِ وَ الْآخَرُ بَعْدَهَا فَالَّذِي يُكَفِّرُ قَبْلَ الْمُوَافَقَةِ الَّذِي يَقُولُ أَنْتَ عَلَيَّ كَظْهَرِ أُمِّي وَ لَا يَقُولُ إِنْ فَعَلْتُ بِكَ كَذَا وَ كَذَا وَ الَّذِي يُكَفِّرُ بَعْدَ الْمُوَافَقَةِ هُوَ الَّذِي يَقُولُ أَنْتَ عَلَيَّ كَظْهَرِ أُمِّي إِنْ قَرَّبْتُكَ

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

'Abu 'Abd Allah^{asws} has said, 'al-Zihar is of two kinds. One kind is that because of which expiation becomes obligatory before going to bed with her, and the other kind is that for which expiation becomes obligatory after going to bed with her. The first kind is that in which one says, 'For me you are like the back of my mother' without saying, 'If I did so and so with you.' The other kind is that for which expiation becomes obligatory after going to bed with her and it is that in which he says, 'For me you are like the back of my mother if I come near you (for sexual intercourse).'

33- مُحَمَّدُ بْنُ أَبِي عَبْدِ اللَّهِ الْكُوفِيُّ عَنْ مُعَاوِيَةَ بْنِ حُكَيْمٍ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ إِذَا حَلَفَ الرَّجُلُ بِالظَّهَارِ فَحَبِثَ فَعَلَيْهِ الْكَفَّارَةُ قَبْلَ أَنْ يُوَاقِعَ وَ إِنْ كَانَ مِنْهُ الظَّهَارُ فِي غَيْرِ يَمِينٍ فَإِمَّا عَلَيْهِ الْكَفَّارَةُ بَعْدَ مَا يُوَاقِعُ قَالَ مُعَاوِيَةُ وَ لَيْسَ يَصِحُّ هَذَا عَلَى جِهَةِ النَّظَرِ وَ الْأَثَرِ فِي غَيْرِ هَذَا الْأَثَرِ أَنْ يَكُونَ الظَّهَارُ لِأَنْ أَصْحَابَنَا رَوَوْا أَنَّ الْإِيمَانَ لَا يَكُونُ إِلَّا بِاللَّهِ وَ كَذَلِكَ نَزَلَ بِهِ الْقُرْآنُ

Muhammad ibn abu 'Abd Allah al-Kufiy has narrated from Mu'awiyah ibn al-Hakim from Safwan from 'Abd al-Rahman ibn al-Hajjaj who has said the following:

'I once heard abu 'Abd Allah^{asws} saying, 'If one swear to express al-Zihar then violates it, expiation becomes obligatory on him before going to bed with her, but if he has expressed the statement of al-Zihar without swearing, then expiation becomes due on him after going to bed with her.' Mu'awiyah has said that this is not correct from thinking point of view. Hadith has come and our people have narrated that swearing can only take place 'by Allah^{azwj} and that is about which Quran has come.'

34- مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ يَزِيدَ الْكِنَاسِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ع عَنْ رَجُلٍ ظَاهَرَ مِنْ امْرَأَتِهِ ثُمَّ طَلَّقَهَا تَطْلِيقَةً فَقَالَ إِذَا طَلَّقَهَا تَطْلِيقَةً فَقَدْ بَطَلَ الظَّهَارُ وَ هَدَمَ الطَّلَاقُ الظَّهَارَ قَالَ فَقُلْتُ فَلَهُ أَنْ يَرَا جَعَهَا قَالَ نَعَمْ هِيَ امْرَأَتُهُ فَإِنْ رَاجَعَهَا وَجَبَ عَلَيْهِ مَا يَجِبُ عَلَى الْمُظَاهِرِ مِنْ قَبْلِ أَنْ يَتِمَّاسًا فَلْتَمُوتْ فَإِنْ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلَهَا وَ تَمَلَّكَ نَفْسَهَا ثُمَّ تَزَوَّجَهَا بَعْدَ ذَلِكَ هَلْ يَلْزَمُهُ الظَّهَارُ قَبْلَ أَنْ يَمَسَّهَا قَالَ لَا قَدْ بَأَنْتَ مِنْهُ وَ مَلَكَتْ نَفْسَهَا فَلْتَمُوتْ فَإِنْ ظَاهَرَ مِنْهَا فَلَمْ يَمَسَّهَا وَ تَرَكَهَا لَا يَمَسُّهَا إِلَّا أَنَّهُ يَرَاهَا مُتَجَرِّدَةً مِنْ غَيْرِ أَنْ يَمَسَّهَا هَلْ يَلْزَمُهُ فِي ذَلِكَ شَيْءٌ فَقَالَ هِيَ امْرَأَتُهُ وَ لَيْسَ يَحْرُمُ عَلَيْهِ مُجَامَعَتُهَا وَ لَكِنْ يَجِبُ عَلَيْهِ مَا يَجِبُ عَلَى الْمُظَاهِرِ قَبْلَ أَنْ يُجَامِعَهَا وَ هِيَ امْرَأَتُهُ فَلْتَمُوتْ فَإِنْ رَفَعَتْهُ إِلَى السُّلْطَانِ وَ قَالَتْ هَذَا زَوْجِي وَ قَدْ ظَاهَرَ مِنِّي وَ قَدْ أَمْسَكَنِي لَا يَمَسُّنِي مَخَافَةَ أَنْ يَجِبَ عَلَيْهِ مَا يَجِبُ عَلَى الْمُظَاهِرِ قَالَ فَقَالَ لَيْسَ عَلَيْهِ أَنْ يُجْبَرَ عَلَى الْعِتْقِ وَ الصِّيَامِ وَ الْإِطْعَامِ إِذَا لَمْ يَكُنْ لَهُ مَا يَعْتَقُ وَ لَمْ يَقْرَ عَلَى الصِّيَامِ وَ لَمْ يَجِدْ مَا يَصَدَّقُ بِهِ قَالَ فَإِنْ كَانَ يَفْقِرُ عَلَى أَنْ يُعْتَقَ فَإِنَّ عَلَى الْإِمَامِ أَنْ يُجْبِرَهُ عَلَى الْعِتْقِ وَ الصَّدَقَةِ مِنْ قَبْلِ أَنْ يَمَسَّهَا وَ مِنْ بَعْدِ مَا يَمَسَّهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad and Ali ibn Ibrahim has narrated from his father all from ibn Mahbtib iruin abu Ayyub al-Kliazzaz from Yazid al-Kuna.siy who has sard the following:

'I once asked abu Ja'far^{asws} about the case of a man who expresses the statement of al-Zihar about his wife, then divorces her once. He^{asws} said, 'If he has divorced her once al-

Zihar becomes void and divorce abolishes al-Zihar.' I then asked, 'What happens if he goes back to her?' He^{asws} said, 'Yes, he can do so. She is his wife and if he went back to her he will owe what a man who has expressed the statement of al-Zihar owes before they touch each other,' I then asked. 'What happens if he allows until her waiting period ends and she becomes free of the bonds of marriage, and he then marries her: if there is expiation for al-Zihar before they touch each other. He^{asws} said, 'No, there is no expiation because she became stranger to him and was free of the bonds of marriage.' I then asked, 'What happens if he expresses the statement of al-Zihar about his wife, then leaves her without touching except that he sees her naked without touching: if expiation becomes obligatory. He^{asws} said, 'She is his wife, his going to bed with her is not unlawful, however, what is obligatory on him is what is obligatory on those who expressed the statement of al-Zihar about their wives before going to bed with her who is his wife.' I then asked, 'What happens if she brings him before the Sultan and says, 'This is my husband who has expressed the statement of al-Zihar about me and he has withheld me. He does not touch me for fear of expiation which is obligatory on those who express the statement si al-Zihar.' He^{asws} said, 'He (the sultan) cannot force him about the expiation of setting free of a slave or fasting for two consecutive months or feeding sixty destitute people if he is not able to set free a slave, fast for two consecutive months or feed sixty destitute people.' He^{asws} said, 'If he is able in setting free of a slave or fasting for two consecutive months or feeding sixty destitute people, then the Imam must make him ready for setting free a slave and charity before he touches her or after he touches her.'

35- ابْنُ مُحَبُّوبٍ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ عَ عَنْ رَجُلٍ ظَاهَرَ مِنْ امْرَأَتِهِ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يُوَاقِعَهَا فَبَاتَتْ مِنْهُ أَعْلَيْهِ كَفَّارَةٌ قَالَ لَا

Ibn Mahbub has narrated from al-'Ala' from Muhammad ibn Muslim who has said the following:

'I once asked abu Ja'far^{asws} about the case of a man who expresses the statement of al-Zihar about his wife, then divorces her before going to bed with her until she becomes stranger to him: if he owes expiation. He^{asws} said, 'No, expiation is not obligatory on him.'

36- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ يُونُسَ عَنْ بَعْضِ رَجَالِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتِ عَلَيَّ كَظْهَرِ أُمِّي أَوْ كَيَدِهَا أَوْ كَبَطْنِهَا أَوْ كَفَرْجِهَا أَوْ كَنَفْسِهَا أَوْ كَكُعْبِهَا أَوْ يَكُونُ ذَلِكَ الظَّهَرُ وَهَلْ يَلْزِمُهُ فِيهِ مَا يَلْزِمُ الْمُظَاهَرَ فَقَالَ الْمُظَاهَرُ إِذَا ظَاهَرَ مِنْ امْرَأَتِهِ فَقَالَ هِيَ كَظْهَرِ أُمِّهِ أَوْ كَيَدِهَا أَوْ كَرَجْلِهَا أَوْ كَشَعْرِهَا أَوْ كَنَسِيِّهَا مِنْهَا يَنْوِي بِذَلِكَ التَّحْرِيمَ فَقَدْ لَزِمَهُ الْكَفَّارَةُ فِي كُلِّ قَلِيلٍ مِنْهَا أَوْ كَثِيرٍ وَكَذَلِكَ إِذَا هُوَ قَالَ كَبَعْضِ ذَوَاتِ الْمَحَارِمِ فَقَدْ لَزِمَتْهُ الْكَفَّارَةُ

Ali ibn Ibrahim has narrated from his father from Salih ibn Sa'id from Yunus from certain persons of his people who has said the following: 'I once asked abu 'Abd Allah^{asws} about the case of a man, who expresses the statement of al-Zihar about his wife. He says, 'For me you are like the back of my mother or like her hand, or like her belly, or like her vagina, or like her soul, or like her feet': if this is al-Zihar and if he owes what one who expressed the statement of al-Zihar owes. He^{asws} said, 'If one expresses the statement of al-Zihar about his wife and says that she is like the back of his mother to him, or like her hand, like her leg, her hairs or something of her with the intention for it to be unlawful, then expiation becomes obligatory in a little or more of it. So also is the case if he says that she is like his relatives and expiation becomes obligatory on him.'

بَابُ اللَّعَانِ

Al-Li 'an (Condemnation)

1- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَقَعُ اللَّعَانُ حَتَّى يَدْخُلَ الرَّجُلُ بِأَهْلِهِ

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father from ibn abu Nasr from 'Abd al-Karim from abu Basir who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Al-Li 'an (condemnation) does not take place until one goes to bed with his wife.'

2- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ أَبِيانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ لَا تَكُونُ الْمَلَاعَنَةُ وَلَا الْإِلَاءُ إِلَّا بَعْدَ الدُّخُولِ

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from a1 -Hassan ibn Ali from Aban from Muhammad ibn Muslim who has said the following:

'Abu Ja'far^{asws} has said, 'Condemnation and swearing take place only after going to bed with her.'

3- عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي نَصْرٍ عَنِ الْمُتَنَّى عَنْ زُرَّارَةَ قَالَ سُئِلَ أَبُو عَبْدِ اللَّهِ ع عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ الَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَ لَمْ يَكُنْ لَهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ قَالَ هُوَ الْقَائِفُ الَّذِي يَقْذِفُ امْرَأَتَهُ فَإِذَا قَذَفَهَا ثُمَّ أَقْرَأَ أَنَّهُ كَذَبَ عَلَيْهَا جُلِدَ الْحَدَّ وَ رُدَّتْ إِلَيْهِ امْرَأَتُهُ وَ إِنْ أَبِي إِلَّا أَنْ يَمْضِيَ فَيَشْهَدُ عَلَيْهَا أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ وَ الْخَامِسَةَ يَلْعَنُ فِيهَا نَفْسَهُ إِنْ كَانَ مِنَ الْكَاذِبِينَ فَإِنْ أَرَادَتْ أَنْ تَدْفَعَ عَنْ نَفْسِهَا الْعَذَابَ وَ الْعَذَابُ هُوَ الرَّجْمُ شَهِدَتْ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ وَ الْخَامِسَةَ أَنْ غَضِبَ اللَّهُ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ فَإِنْ لَمْ تَفْعَلْ رُجِمَتْ وَ إِنْ فَعَلَتْ دَرَأَتْ عَنْ نَفْسِهَا الْحَدَّ ثُمَّ لَا تَحِلُّ لَهُ إِلَى يَوْمِ الْقِيَامَةِ فَلَنْتُ أَرَأَيْتَ إِنْ فُرِقَ بَيْنَهُمَا وَ لَهَا وَلَدٌ فَمَاتَ قَالَ تَرْتُهُ أُمُّهُ وَ إِنْ مَاتَتْ أُمُّهُ وَ رَتَهُ أَخُوهُ وَ مَنْ قَالَ إِنَّهُ وَلَدَ زَوْجِي جُلِدَ الْحَدَّ فَلَنْتُ يُرَدُّ إِلَيْهِ الْوَلَدُ إِذَا أَقْرَأَ بِهِ قَالَ لَا وَ لَا كَرَامَةَ وَ لَا يَرِثُ الْبَائِنُ وَ يَرْتُهُ الْبَائِنُ

A number of our people have narrated from Sahl ibn Ziyad from Ahmad ibn Muhammad from ibn abu Nasr from al-Muthanna' from Zurarah who has said the following:

'Once abu 'Abd Allah^{asws} was asked about the words of Allah^{azwj}, 'Those who accuse their wives and do not have witnesses except themselves. . . .' (24:4) He^{asws} said, 'He is one who accuses his wife. If he accuses then confesses that he has lied against her, the punishment for him is whipping and his wife is returned to him. If he refuses and goes ahead he must testify four times against her, by Allah^{azwj}, that he is truthful. For the fifth time he must condemn himself if he is of the lying people. If she wanted to defend herself against suffering (punishment and penalty), which is to be stoned, she must testify four times, by Allah^{azwj}, that he is of the lying people and for the fifth time must condemn herself by saying that she must be subjected to the anger of Allah^{azwj} if he has spoken the truth. If she did not do it she then is stoned but if she defended herself, penally is diverted from her and thereafter she will never become lawful for him in marriage until the day of Day of Judgment.' I then asked, 'What happens if they are separated and she has a child who dies ? He^{asws} said, 'His mother inherits him and if his mother dies his maternal uncles inherit him. Those who say that he is born out of wedlock must be punished by whipping.' I then asked, 'Is the child returned to him if he confesses that he has lied?' He^{asws} said, 'No, it is not honorable. He does not inherit the son but the son inherits him.'

4- عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ إِنْ عَبَّادَ الْبَصْرِيِّ سَأَلَ أَبَا عَبْدِ اللَّهِ ع وَ أَنَا حَاضِرٌ كَيْفَ يُلَاعَنُ الرَّجُلُ الْمَرْأَةَ فَقَالَ أَبُو عَبْدِ اللَّهِ ع إِنْ رَجُلًا مِنَ الْمُسْلِمِينَ أَتَى رَسُولَ اللَّهِ ص فَقَالَ يَا رَسُولَ اللَّهِ أَرَأَيْتَ لَوْ أَنَّ رَجُلًا دَخَلَ مَنْزِلَهُ فَوَجَدَ مَعَ امْرَأَتِهِ رَجُلًا يُجَامِعُهَا مَا كَانَ يَصْنَعُ قَالَ فَأَعْرَضَ عَنْهُ رَسُولُ اللَّهِ ص وَ انْصَرَفَ ذَلِكَ الرَّجُلُ وَ كَانَ ذَلِكَ الرَّجُلُ هُوَ الَّذِي ابْتُلِيَ بِذَلِكَ مِنْ امْرَأَتِهِ قَالَ فَتَنَزَلَ عَلَيْهِ الْوَحْيُ مِنْ عَبْدِ اللَّهِ عَزَّ وَ جَلَّ بِالْحُكْمِ فِيهِمَا فَأَرْسَلَ رَسُولُ اللَّهِ ع إِلَى ذَلِكَ الرَّجُلِ فَدَعَاهُ فَقَالَ لَهُ أَنْتَ الَّذِي رَأَيْتَ مَعَ امْرَأَتِكَ رَجُلًا فَقَالَ نَعَمْ فَقَالَ لَهُ انْطَلِقْ فَأَتِنِي بِامْرَأَتِكَ فَإِنَّ اللَّهَ عَزَّ وَ جَلَّ قَدْ أَنْزَلَ الْحُكْمَ فِيكَ وَ فِيهَا قَالَ فَأَحْضَرَهَا زَوْجَهَا فَأَوْفَقَهُمَا رَسُولُ اللَّهِ ص ثُمَّ قَالَ لِلزَّوْجِ اشْهَدْ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّكَ لَمِنَ الصَّادِقِينَ فِيمَا رَمَيْتَهَا بِهِ قَالَ فَشَهِدَ ثُمَّ قَالَ لَهُ رَسُولُ اللَّهِ ص أَمْسِكْ وَ وَعْظُهُ ثُمَّ قَالَ أَتَى اللَّهَ فَإِنَّ لَعْنَةَ اللَّهِ شَدِيدَةٌ ثُمَّ قَالَ لَهُ اشْهَدْ الْخَامِسَةَ

Ali ibn Ibrahim has narrated from his father from ibn Mahbub from 'Abd al-Rahman ibn al-Hajj'd who has said the following:

'Once 'Abbad al-Basriy asked abu 'Abd Allah^{asws} when I was present, 'How does a man go through the process of Mula 'mah (condemnation) against the woman?' Abu 'Abd Allah^{asws} explained a judgment of the Messenger of Allah^{saww}. He^{asws} said, 'Once a man of the Muslims came to the Messenger of Allah^{saww}, O Allah^{azwj}, grant compensation to Muhammad^{saww} and his family^{asws} worthy of their services to Your cause. He asked, 'O Messenger of Allah^{saww}, what happens if a man enters his house and finds a man with his wife involved in sexual intercourse? What must he do?' He^{asws} said that the Messenger of Allah^{saww} turned away from him and that man left. That man was the one who had faced that issue from his woman. He^{asws} said that revelation from Allah^{azwj}, came with the commandment about them and the Messenger of Allah^{saww} sent to summon that man. When he came, he^{saww} asked, 'Did you see a man with your woman?' He replied, 'Yes, that it is true.' He^{saww} then said, 'You must go back and bring your woman because Allah^{azwj}, has sent a commandment about you and about her.' He^{asws} said that her husband then brought her and the Messenger of Allah^{saww} held them in custody. He^{saww} said to the man, 'Testify four times by Allah^{azwj} that you are truthful (of the truthful ones) in your accusing her of what you accuse her.' He^{asws} said that he testified; then he^{saww} said, 'You must wait.' He^{saww} preached to him and gave him advice (then said, 'Be pious and have fear of Allah^{azwj}, condemnation of Allah^{azwj} is severe.' He^{saww} then told him to (testify for the fifth time and say, 'Condemnation of Allah^{azwj} will be upon me if I am of the liars.' He^{asws} said that the man testified and he^{saww} commanded him and he moved away. Then he^{saww} said to the woman, 'Do you testify four times that your husband is of the lying people in what he has accused you of?' He^{asws} said that she then testified. Then he^{saww} told her to wait. He^{saww} preached to her, gave her good advice and told her to have fear of Allah^{azwj}: the condemnation of Allah^{azwj} is severe. He^{saww} then told her to testify for the fifth time saying that she will be subjected to the anger of Allah^{azwj} if her husband is of the truthful people in what he has accused her of.' He^{asws} said that she testified. He^{asws} said that he^{saww} separated them from each other and told them that they can never come together in marriage after lodging condemnation upon each other.'

5- الْحَسَنُ بْنُ مَحْبُوبٍ عَنْ عَبْدِ بْنِ صُهَيْبٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ أَوْقَفَهُ الْإِمَامُ لِلْعَانِ فَشَهِدَ شَهَادَتَيْنِ ثُمَّ نَكَلَ فَأَكْذَبَ نَفْسَهُ قَبْلَ أَنْ يَفْرُغَ مِنَ الْعَانِ قَالَ يُجْلَدُ حَدَّ الْقَاضِفِ وَلَا يَفْرَقُ بَيْنَهُ وَبَيْنَ امْرَأَتِهِ

Al-Hassan ibn Mahbub has narrated from 'Abbad ibn Suhayb who has said the following:

'A man is placed under arrest by the Imam in the case of al-Li 'an (condemnation). He testifies twice, then refuses and confesses that he has lied before completing al-Li'an (condemnation). Abu 'Abd Allah^{asws} has said that he is whipped as the penalty for accusing the woman of committing fornication. He is not separated from his woman.'

6- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنْ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ إِذَا قُذِفَ الرَّجُلُ امْرَأَتَهُ فَإِنَّهُ لَا يُلَاعِنُهَا حَتَّى يَقُولَ رَأَيْتُ بَيْنَ رَجُلَيْهَا رَجُلًا يَزْنِي بِهَا قَالَ وَ سُئِلَ عَنِ الرَّجُلِ يَقْذِفُ امْرَأَتَهُ قَالَ يُلَاعِنُهَا ثُمَّ يَفْرَقُ بَيْنَهُمَا فَلَا تَحِلُّ لَهُ أَبَدًا فَإِنْ أَقْرَأَ عَلَى نَفْسِهِ قَبْلَ الْمُلَاعَنَةِ جُلْدَ حَدٍّ وَ هِيَ امْرَأَتُهُ قَالَ وَ سَأَلْتُهُ عَنِ الْمَرْأَةِ الْحُرَّةِ يَقْذِفُهَا زَوْجَهَا وَ هُوَ مَمْلُوكٌ قَالَ يُلَاعِنُهَا ثُمَّ يَفْرَقُ بَيْنَهُمَا فَلَا تَحِلُّ لَهُ أَبَدًا فَإِنْ أَقْرَأَ عَلَى نَفْسِهِ بَعْدَ الْمُلَاعَنَةِ جُلْدَ حَدٍّ وَ هِيَ امْرَأَتُهُ قَالَ وَ سَأَلْتُهُ عَنِ الْحُرِّ تَحْتَهُ أَمَةٌ فَيَقْذِفُهَا قَالَ يُلَاعِنُهَا قَالَ وَ سَأَلْتُهُ عَنِ الْمُلَاعَنَةِ الَّتِي يَرْمِيهَا زَوْجَهَا وَ يَتَنَفَّى مِنْ وَلَدِهَا وَ يُلَاعِنُهَا وَ يَقَارِفُهَا ثُمَّ يَقُولُ بَعْدَ ذَلِكَ الْوَلَدُ وَلَدِي وَ يُكْذِبُ نَفْسَهُ فَقَالَ أَمَّا الْمَرْأَةُ فَلَا تَرْجِعُ إِلَيْهِ أَبَدًا وَ أَمَّا الْوَلَدُ فَإِنِّي أَرُدُّهُ إِلَيْهِ إِذَا ادَّعَاهُ وَ لَا أَدْعُ وَلَدَهُ وَ لَيْسَ لَهُ مِيرَاثٌ وَ يَرِثُ الْإِبْنُ

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

'Abu 'Abd Allah^{asws} has said. 'If a man accuses his wife he cannot condemn her unless he can say that he has seen a man between her legs fornicating.' He (the narrator) has said that he^{asws} was asked about the man who accuses. He^{asws} said, 'He condemns her and then they are separated from each other. She will never be lawful for him in marriage. However, if he confesses against himself before al-Li 'an (condemnation) he is whipped as the penalty and she remains his woman.'

'He (the narrator) has said, 'I asked him^{asws} about a free person with a slave-girl in his control and about his accusing her. He^{asws} said, 'He can deal with it by the process of al-Li'cm (condemnation).'

'He (the narrator) has said, 'I asked him^{asws} about al-Li'an (condemnation) in which the husband accuses her, denies her child and goes through the process of al-Li'an (condemnation), separates from her and thereafter says, 'The child is my child' and calls himself a liar. He^{asws} said, 'The woman cannot return to him forever, however, I return the child if he claims him as his child but do not call him his child. He (the man) cannot inherit the child but he inherits the father and the father does not inherit the son. The legacy of the son goes to his maternal uncles. If his father did not claim him his maternal uncles inherit his legacy but he does not inherit them. If anyone calls him the son of fornication such person is whipped as punishment for such crime.'

7- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَأَلْتُهُ عَنِ الْحُرِّ بَيْنَهُ وَبَيْنَ الْمَمْلُوكَةِ لِعَانٍ فَقَالَ نَعَمْ وَبَيْنَ الْمَمْلُوكِ وَالْحُرَّةِ وَبَيْنَ الْعَبْدِ وَالْأَمَةِ وَبَيْنَ الْمُسْلِمِ وَالْيَهُودِيَّةِ وَالتَّصْرَانِيَّةِ وَلَا يَتَوَارَثَانِ وَلَا يَتَوَارِثُ الْحُرُّ وَالْمَمْلُوكَةُ

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

'I once asked abu 'Abd Allah^{asws} if al-Li'an (condemnation) can take place between a free man and a slave-girl. He^{asws} said, 'Yes, it can take place between a slave and a free woman, between a slave and a slave-girl, between a Muslim and a Jewish woman or a Christian woman but they do not inherit each other and there is no inheritance between a free and a slave-girl.'

8- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرِ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ لَاعَنَ امْرَأَتَهُ وَ هِيَ حَبْلَى ثُمَّ ادَّعَى وَلَدَهَا بَعْدَ مَا وَلَدَتْ وَ زَعَمَ أَنَّهُ مِنْهُ قَالَ يُرَدُّ إِلَيْهِ الْوَلَدُ وَ لَا يُجْلَدُ لِأَنَّهُ قَدْ مَضَى التَّلَاعُنْ

A number of our people have narrated from Sahl ibn Ziyad and Ali ibn Ibrahim has narrated from his father from ibn abu Nasr from 'Abd al-Karim from al-Halabiy who has said the following:

'About the case of a man who goes through the process of al-Li'an (condemnation) against his wife who is pregnant, then claims her child to be his child after childbirth thinking that the child is his. He^{asws} said, 'The child can be given to him without whipping because al-Li 'an (condemnation) has become a matter of the past in the case.'

9- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ وَ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ قَذَفَ امْرَأَتَهُ وَ هِيَ حَرْسَاءُ قَالَ يُفَرَّقُ بَيْنَهُمَا

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

'About the case of a man who goes through the process of al-Li 'an (condemnation) against his wife who is speechless, abu 'Abd Allah^{asws} has said, 'They must be separated from each other.'

10- عَلِيٌّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ جَمِيلٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ عَنِ الْمُلَاعِنِ وَالْمُلَاعَنَةِ كَيْفَ يَصْنَعَانِ قَالَ يَجْلِسُ الْإِمَامُ مُسْتَذِيرَ الْقِبْلَةِ فَيَقِيمُهُمَا بَيْنَ يَدَيْهِ مُسْتَقْبِلَا الْقِبْلَةِ بِحِدَائِهِ وَبَيْدًا بِالرَّجُلِ ثُمَّ الْمَرْأَةَ وَالتِّي يَجِبُ عَلَيْهَا الرَّجْمُ تُرْجَمُ مِنْ وَرَائِهَا وَلَا يُرْجَمُ مِنْ وَجْهِهَا لِأَنَّ الضَّرْبَ وَالرَّجْمَ لَا يُصِيبَانِ الْوَجْهَ يُضْرَبَانِ عَلَى الْجَسَدِ عَلَى الْأَعْضَاءِ كُلِّهَا

Ali has narrated from his father from ibn abu Nasr from Jamil from Muhammad ibn Muslim who has said the following:

'I once asked abu Ja'far^{asws} about the case of a man and woman who are involved in al-Li'an (condemnation) and about how they do it. He^{asws} said, 'The Imam sits with his back to al-Qiblah (al-Ka'bah) and they stand in front of him facing al-Qiblah (al-Ka'bah) before him and he begins with the man, then the woman. The woman on whom stoning is obligatory, is stoned from her backside and not from her front side; beating and stoning must not affect the face. Other parts of the body can be targeted in both, beating and stoning.'

11- أَحْمَدُ بْنُ مُحَمَّدٍ بْنُ أَبِي نَصْرٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ الرِّضَا عَ قُلْتُ لَهُ أَصْلَحَكَ اللَّهُ كَيْفَ الْمُلَاعَنَةُ قَالَ فَقَالَ يَقْعُدُ الْإِمَامُ وَ يَجْعَلُ ظَهْرَهُ إِلَى الْقِبْلَةِ وَ يَجْعَلُ الرَّجُلَ عَنْ يَمِينِهِ وَ الْمَرْأَةَ عَنْ يَسَارِهِ

Ahmad ibn Muhammad from ibn abu Nasr has said the following:

'I once asked al-Rida^{asws} saying, 'I pray to Allah^{azwj} to keep you well, how is al-Li'an (condemnation) completed?' He^{asws} said, 'The Imam sits down with his back to the al-Qiblah (al-Ka'bah) and keeps the man on his right and the woman on his left.'

12- مُحَمَّدُ بْنُ يَحْيَى عَنْ الْعَمْرَكِيِّ بْنِ عَلِيٍّ عَنْ عَلِيٍّ بْنِ جَعْفَرٍ عَنْ أَخِيهِ أَبِي الْحَسَنِ ع قَالَ سَأَلْتُهُ عَنْ رَجُلٍ لَاعَنَ امْرَأَتَهُ فَحَلَفَ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ ثُمَّ نَكَلَ فِي الْخَامِسَةِ قَالَ إِنْ نَكَلَ فِي الْخَامِسَةِ فَهِيَ امْرَأَتُهُ وَ جُلِدَ وَ إِنْ نَكَلَتْ الْمَرْأَةُ عَنْ ذَلِكَ إِذَا كَانَتْ الْيَمِينُ عَلَيْهَا فَعَلَيْهَا مِثْلُ ذَلِكَ قَالَ وَ سَأَلْتُهُ عَنِ الْمُلَاعَنَةِ فَأَمَّا يُلَاعَنُ أَوْ قَاعِدًا قَالَ الْمُلَاعَنَةُ وَ مَا أَشْبَهَهَا مِنْ قِيَامٍ قَالَ وَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا فَادَّعَتْ أَنَّهَا حَامِلٌ قَالَ إِنْ أَقَامَتِ الْبَيِّنَةَ عَلَى أَنَّهُ أَرْخَى سِتْرًا ثُمَّ أَنْكَرَ الْوَلَدَ لَاعَنَهَا ثُمَّ بَاءَتْ مِنْهُ وَ عَلَيْهِ الْمَهْرُ كَمَلًا

Muhammad ibn Yahya has narrated from al-'Amrakiy ibn Ali from Ali ibn Ja'far from his brother abu al-Hassan^{asws} who has said the following:

'I once asked him^{asws} about the case of a man who goes through the process of al-Li'an (condemnation) against his woman and testifies swearing by Allah^{azwj} four times but declines the fifth time. He^{asws} said, 'If he declines the fifth time she is his woman but he is whipped. If the woman declines when swearing is on her, she is subjected to the same process as he was.' I then asked if al-Li'an (condemnation) is completed in a sitting or standing position. He^{asws} said, 'Al-Li'an (condemnation) and similar things are done in a standing position.'

'I then asked about a man who has divorced his wife before going to bed with her and then claims that she is pregnant. He^{asws} said, 'If he presents proof that he has uncovered a secret then denies she child to be his child, he can go through the process of al-Li'an (condemnation) and she becomes stranger to him, but he must pay the mahr (dower).'

13- عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيٍّ بْنِ رِثَابٍ عَنْ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ رَجُلٍ لَاعَنَ امْرَأَتَهُ وَ هِيَ حَبْلَى قَدْ اسْتَبَانَ حَمْلُهَا فَأَنْكَرَ مَا فِي بَطْنِهَا فَلَمَّا وَضَعَتْ ادَّعَاهُ وَ أَقْرَبَهُ وَ زَعَمَ أَنَّهُ مِنْهُ قَالَ فَقَالَ يَرُدُّ إِلَيْهِ وَلَدُهُ وَ يَرْتُهُ وَ لَا يُجْلَدُ لِأَنَّ اللَّعَانَ قَدْ مَضَى

A number of our people have narrated from Sahl ibn Ziyad, Ali ibn Ibrahim has narrated from his father, and Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad from ibn Mahbub from ibn Ri'ah from al-Halabiyy who has said the following:

'I once asked abu 'Abd Allah^{asws} about the case of a man who has gone through the process of al-Li'an (condemnation) against his wife who is pregnant and her pregnancy has become clear but denies what is in her womb. When the child is born, he claims the child, keeps him close, and thinks that the child is his child. He^{asws} said, 'The child is

given to him and he inherits him but he is not whipped; al-Li'an (condemnation) has become a matter of the past in the case,'

14- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع أَنَّهُ سُئِلَ عَنْ عَبْدِ قُذْفِ امْرَأَتِهِ قَالَ يَتْلَاعَنَّ كَمَا يَتْلَاعَنَّ الْحُرَّانَ

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

'I once asked one of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) about the case of a slave who accuses his woman. He^{asws} said, 'They can go through the process of al-Li'an (condemnation) against each other like free people do.'

15- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادٍ عَنْ حَرِيزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَقْتَرِي عَلَى امْرَأَتِهِ قَالَ يُجْلَدُ ثُمَّ يُخْلَى بَيْنَهُمَا وَلَا يُلَاعِنُهَا حَتَّى يَقُولَ أَشْهَدُ أَنِّي رَأَيْتُكَ تَفْعَلِينَ كَذَا وَكَذَا

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

'I once asked him^{asws} about the case of a man who falsely accuses his wife. He^{asws} said, 'He is whipped, then they are left alone. He does not go through the process of al-Li'an (condemnation) who then is made to say, 'I testify that I saw you doing so and so.'

16- مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ لَا يَكُونُ اللَّعَانُ إِلَّا بِنَفْيٍ وَلَوْ قَالَ إِذَا قُذِفَ الرَّجُلُ امْرَأَتَهُ لَاعَنَهَا

Muhammad ibn Yahya has narrated from Ahmad ibn Muhammad, from Ali ibn Hadid from Jamil ibn Darraj from Muhammad ibn Muslim who has said the following:

'One of the two Imam^{asws} (abu Ja'far^{asws} or abu 'Abd Allah^{asws}) has said, 'al-Li'an (condemnation) does not take place without denying the child. He^{asws} said, 'When a man accuses his woman he can go through the process of al-Li'an (condemnation) against her.'

17- مُحَمَّدٌ عَنْ أَحْمَدَ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينَ عَنْ ابْنِ أَبِي يَعْفُورٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يُلَاعِنُ الرَّجُلُ الْمَرْأَةَ الَّتِي يَنْتَمِعُ بِهَا

Muhammad ibn Ahmad has narrated from ibn Mahbub from al-'Ala' ibn Razin from ibn abu Ya'fur who has said the following:

'Abu 'Abd Allah^{asws} has said. 'A man cannot go through the process of al-Li'an (condemnation) against his wife in the manner of Mut'ah (advantageous marriage).'

18- مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ قَالَ سُئِلَ أَبُو عَبْدِ اللَّهِ ع عَنْ رَجُلٍ قُذِفَ امْرَأَتُهُ بِالزَّوْنَى وَهِيَ خَرَسَاءُ صَمَاءٌ لَا تَسْمَعُ مَا قَالَ قَالَ إِنْ كَانَ لَهَا بَيِّنَةٌ فَشَهِدُوا عِنْدَ الْإِمَامِ جُلْدَ الْحَدِّ وَفُرْقَ بَيْنَهُمَا ثُمَّ لَا تَحِلُّ لَهُ أَبَدًا وَإِنْ لَمْ تَكُنْ بَيِّنَةٌ فَهِيَ حَرَامٌ عَلَيْهِ مَا أَقَامَ مَعَهَا وَلَا إِمَامٌ عَلَيْهَا مِنْهُ

Muhammad has narrated from Ahmad ibn Muhammad from ibn Mahbub from Hisham ibn Saiim from abu Basir who has said the following:

'Once abu 'Abd Allah^{asws} was asked about the case of a man who accuses his wife of committing fornication and she is speechless, deaf and cannot hear. He^{asws} said, 'If she has witnesses who testify before the Imam in her favor. he is whipped as punishment and they are separated from each other. Thereafter she will not be lawful for him in marriage forever. If she does not have witnesses she becomes unlawful for him as long as he stays with her and there is no sin on her because of it.'

19- عَنْهُ عَنِ الْحَسَنِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي امْرَأَةٍ قُذِفَتْ زَوْجَهَا وَهُوَ أَصَمٌّ قَالَ يُفَرِّقُ بَيْنَهَا وَبَيْنَهُ وَلَا تَحِلُّ لَهُ أَبَدًا

It is narrated from the narrator of the previous Hadith from al-Hassan from certain persons of his people who has said the following:

'About the case of a woman who accuses her husband who is speechless, abu 'Abd Allah^{asws} has said, 'They are separated from each other and he is not lawful for her forever.'

20- عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ أَبِي جَمِيلَةَ عَنْ مُحَمَّدِ بْنِ مَرْوَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمَرْأَةِ الْخَرَسَاءِ كَيْفَ يُلَاعِنُهَا زَوْجُهَا قَالَ يُفَرِّقُ بَيْنَهُمَا وَلَا تَحِلُّ لَهُ أَبَدًا

Ali ibn Ibrahim has narrated from his father from ibn abu Nasr from abu Jamilah from Muhammad ibn Marwan who has said the following:

'About the case of a woman who is speechless and about how can he go through the process of al-Li'an (condemnation) against her, abu 'Abd Allah^{asws} has said, 'They must be separated from each other and she is not lawful for him in marriage forever.'

21- الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْوَشَّاءِ عَنْ أَبَانَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ لَا يَكُونُ اللَّعَانُ حَتَّى يَزْعُمَ أَنَّهُ قَدْ عَايَنَ

Al-Husayn from Muhammad has narrated from Mu'alla' ibn Muhammad from al-Hassan ibn Ali al-Washsha' from Aban from a man who has said the following:

'Abu 'Abd Allah^{asws} has said, 'Al-Li'an (condemnation) docs not take place unless one believes that he has seen it.'