

# الكافي

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للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة  
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Of the majestic narrator and the scholar, the jurist, the Sheykh  
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كتاب الوصايا

THE BOOK OF BEQUESTS (1)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَي سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّم تَسْلِيمًا.

In the Name of Allah<sup>azwj</sup> the Beneficent, the Merciful. The Praise is for Allah<sup>azwj</sup> Lord<sup>azwj</sup> of the Worlds, and Blessing be upon our Chief Muhammad<sup>saww</sup> and his<sup>saww</sup> Purified Progeny<sup>asws</sup>, and greetings with abundant greetings.

## باب الوصية وما أمر بها

### Chapter 1 – The bequest and what has been ordered with it

حَدَّثَنَا عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ عَلِيِّ بْنِ إِسْحَاقَ عَنِ الْحَسَنِ بْنِ حَازِمِ الْكَلْبِيِّ ابْنِ أُخْتِ هِشَامِ بْنِ سَالِمٍ عَنْ سُلَيْمَانَ بْنِ جَعْفَرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قَالَ رَسُولُ اللَّهِ (صلى الله عليه وآله) مَنْ لَمْ يُحْسِنْ وَصِيَّتَهُ عِنْدَ الْمَوْتِ كَانَ نَقْصًا فِي مَرْوَعِيهِ وَعَقْلِهِ قَبْلَ يَا رَسُولَ اللَّهِ وَكَيْفَ يُوصِي الْمَيِّتُ

Ali Bin Ibrahim narrated to us, from Ali Bin Is'haq, from Al Hassan Bin Hazim Al Kalby son of a sister of Hisham Bin Salim, from Suleyman Bin Ja'far,

Abu Abdullah<sup>asws</sup> says that Rasool-Allah<sup>saww</sup> said: 'The one who does not upgrade his bequest (will/inheritance) in the presence of the death, there was a deficiency in his personality and his mind'. It was said, 'O Rasool-Allah<sup>saww</sup>! And how should the dying ones bequeath?'

قَالَ إِذَا حَضَرْتُهُ وَفَاتَهُ وَاجْتَمَعَ النَّاسُ إِلَيْهِ قَالَ اللَّهُمَّ فَاطِرَ السَّمَاوَاتِ وَالْأَرْضِ عَالِمَ الْغَيْبِ وَالشَّهَادَةِ الرَّحْمَنَ الرَّحِيمَ اللَّهُمَّ إِنِّي أَعْهَدُ إِلَيْكَ فِي دَارِ الدُّنْيَا أَنِّي أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا أَنْتَ وَحَدِّكَ لَا شَرِيكَ لَكَ وَأَنَّ مُحَمَّدًا عَبْدُكَ وَرَسُولُكَ وَأَنَّ الْجَنَّةَ حَقٌّ وَأَنَّ النَّارَ حَقٌّ وَأَنَّ الْبَعْثَ حَقٌّ وَأَنَّ الْحِسَابَ حَقٌّ وَالْقَدَرَ وَالْمِيزَانَ حَقٌّ وَأَنَّ الدِّينَ كَمَا وَصَفْتَ وَأَنَّ الْإِسْلَامَ كَمَا شَرَعْتَ وَأَنَّ الْقَوْلَ كَمَا حَدَّثْتَ وَأَنَّ الْقُرْآنَ كَمَا أَنْزَلْتَ وَأَنَّكَ أَنْتَ اللَّهُ الْحَقُّ الْمُبِينُ جَزَى اللَّهُ مُحَمَّدًا (صلى الله عليه وآله) خَيْرَ الْجَزَاءِ وَحَيَّا اللَّهُ مُحَمَّدًا وَآلَ مُحَمَّدٍ بِالسَّلَامِ

He<sup>saww</sup> said: 'Whenever his death presents itself to him, he gathers the people to him, says, 'O Allah<sup>azwj</sup>! Originator of the skies and the earth, Knower of the unseen and the seen, the Beneficent, the Merciful. O Allah<sup>azwj</sup>! I hereby oath to You<sup>azwj</sup> in the house of the world that I testify that there is no god except for You<sup>azwj</sup> alone, there is no associate for You<sup>azwj</sup>; and that Muhammad<sup>saww</sup> is Your<sup>azwj</sup> servant and Your<sup>azwj</sup> Rasool<sup>saww</sup>, and that the Paradise is truth, and the Fire is truth, and that Resurrection is truth, and the Reckoning is truth, and the Pre-destination, and the Scale are truth, and that the Religion is as described, and that Al-Islam is as it began, and that the Words are as narrated, and that the Quran is as Revealed, and You<sup>azwj</sup> are Allah<sup>azwj</sup> the Manifest; Recompense Muhammad<sup>saww</sup> with the best of Recompenses, and may Allah<sup>azwj</sup> Greet Muhammad<sup>saww</sup> and the Progeny<sup>asws</sup> of Muhammad<sup>saww</sup> with the Greetings (Al-Salaam).

اللَّهُمَّ يَا عُدَّتِي عِنْدَ كُرْبَتِي وَيَا صَاحِبِي عِنْدَ شِدَّتِي وَيَا وَلِيَّ نِعْمَتِي إِلَهِي وَإِلَهَ آبَائِي لَا تَكُنْ لِي إِلَى نَفْسِي طَرْفَةَ عَيْنٍ أَبَدًا فَإِنَّكَ إِن تَكُنْ لِي إِلَى نَفْسِي طَرْفَةَ عَيْنٍ أَقْرَبُ مِنَ الشَّرِّ وَأَبْعَدُ مِنَ الْخَيْرِ فَايَسِّرْ لِي الْقَبْرَ وَحَسِّنْ لِي وَاجْعَلْ لِي عَهْدًا يَوْمَ الْفَلَاحِ مَنْشُورًا

O Allah<sup>azwj</sup>! O my Defence during my affliction, and O my Companion during my difficulties, and O Guardian of my Bounties, my God and the God of my fathers, do not leave me to fend for myself even for the blink of an eye, ever, for if You<sup>azwj</sup> were to leave me to fend for myself for the blink of an eye, I would be closer to the evil and

remote from the goodness. So, Put my loneliness at ease in my grave, and Make a Pledge for me for the Day I meet You<sup>azwj</sup>, Resurrected’.

ثُمَّ يُوصِي بِحَاجَتِهِ وَ تَصَدِّقُ هَذِهِ الْوَصِيَّةِ فِي الْقُرْآنِ فِي السُّورَةِ الَّتِي يُذَكِّرُ فِيهَا مَرِيَمَ فِي قَوْلِهِ عَزَّ وَ جَلَّ لَا يَمْلِكُونَ الشَّفَاعَةَ إِلَّا مَنْ اتَّخَذَ عِنْدَ الرَّحْمَنِ عَهْدًا فَهَذَا عَهْدُ الْمَيِّتِ

Then he bequeaths with his needs, and ratifies this bequest in the Quran in the Chapter in which Maryam<sup>as</sup> is Mentioned in the Words of the Mighty and Majestic [19:87] **They shall not control intercession, except he who took a Covenant with the Beneficent.** So this is the pledge of the dying one’.

وَ الْوَصِيَّةُ حَقٌّ عَلَى كُلِّ مُسْلِمٍ أَنْ يَحْفَظَ هَذِهِ الْوَصِيَّةَ وَ يُعَلِّمَهَا وَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) عَلَّمَنِيهَا رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ قَالَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) عَلَّمَنِيهَا جِبْرَائِيلُ ( عَلَيْهِ السَّلَام ) .

And the bequest is a right upon every Muslim that he preserves this bequest and learns it. And Amir Al-Momineen<sup>asws</sup> said: ‘Rasool-Allah<sup>saww</sup> taught me<sup>asws</sup>, and Rasool-Allah<sup>saww</sup> said: ‘Jibraeel<sup>as</sup> taught me<sup>saww</sup>,<sup>1</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ حَمَّادِ بْنِ عُثْمَانَ عَنِ الْوَلِيدِ بْنِ صَبِيحٍ قَالَ صَحَّبَنِي مَوْلَى لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يُقَالُ لَهُ أَعْيُنُ فَاشْتَكَيْتَنِي أَيَّامًا ثُمَّ بَرَأَ ثُمَّ مَاتَ فَأَخَذْتُ مَتَاعَهُ وَ مَا كَانَ لَهُ فَاتَّيْتُ بِهِ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) وَ أَخْبَرْتُهُ أَنَّهُ اشْتَكَى أَيَّامًا ثُمَّ بَرَأَ ثُمَّ مَاتَ قَالَ تِلْكَ رَاحَةُ الْمَوْتِ أَمَا إِنَّهُ لَيْسَ مِنْ أَحَدٍ يَمُوتُ حَتَّى يَرِدَّ اللَّهُ عَزَّ وَ جَلَّ مِنْ سَمْعِهِ وَ بَصَرِهِ وَ عَقْلِهِ لِلْوَصِيَّةِ أَخَذَ أَوْ تَرَكَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Hamaad Bin Usman, from Al Waleed Bin Sabeeh who said,

‘A slave of Abu Abdullah<sup>asws</sup> called Ayn accompanied me. So he complained (of health problems) for some days, then he was cured from it, then died. So I took his belongings and came with these to Abu Abdullah<sup>asws</sup>, and informed him<sup>asws</sup> that he had complained for a few days, then was cured, then died’. He<sup>asws</sup> said: ‘That is the comfort of the death. But, there is no one who died until Allah<sup>azwj</sup> Mighty and Majestic Restores his hearing, and his eyesight, and his mind for the bequest, (either) he takes it or leaves it’.<sup>2</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ حَمَّادِ بْنِ عُثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ قَالَ لَهُ رَجُلٌ إِنِّي خَرَجْتُ إِلَى مَكَّةَ فَصَحَّبَنِي رَجُلٌ وَ كَانَ زَمِيلِي فَلَمَّا أَنْ كَانَ فِي بَعْضِ الطَّرِيقِ مَرِضٌ وَ ثَقُلَ ثِقَلًا شَدِيدًا فَكُنْتُ أَقُومُ عَلَيْهِ ثُمَّ أَفَاقَ حَتَّى لَمْ يَكُنْ عِنْدِي بِهِ بَأْسٌ فَلَمَّا أَنْ كَانَ الْيَوْمَ الَّذِي مَاتَ فِيهِ أَفَاقَ فَمَاتَ فِي ذَلِكَ الْيَوْمِ فَقَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) مَا مِنْ مَيِّتٍ تَحْضُرُهُ الْوَفَاةُ إِلَّا رَدَّ اللَّهُ عَزَّ وَ جَلَّ عَلَيْهِ مِنْ سَمْعِهِ وَ بَصَرِهِ وَ عَقْلِهِ لِلْوَصِيَّةِ أَخَذَ أَوْ تَرَكَ وَ هِيَ الرَّاحَةُ الَّتِي يُقَالُ لَهَا رَاحَةُ الْمَوْتِ فَهِيَ حَقٌّ عَلَى كُلِّ مُسْلِمٍ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hamaad Bin Usman,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, ‘A man said to him<sup>asws</sup>, ‘I went out to Makkah, so a man accompanied me, and he was my colleague. So when we were in one of the roads, he fell sick and slackened with intense slackness. I used to take care of him. Then he woke up to the extent that there was no problem with him in my presence. So when it was the day in which he died, he was awake, and he died during that day’. So Abu Abdullah<sup>asws</sup> said: ‘There is no dying one and the death

<sup>1</sup> Al Kafi – V 7 - The Book of Bequests Ch 1 H 1

<sup>2</sup> Al Kafi – V 7 - The Book of Bequests Ch 1 H 2

presents itself except that Allah<sup>azwj</sup> Mighty and Majestic Restores to him, his hearing, and his eyesight, and his mind for the bequest. He either takes to the bequeathing or neglects it, and it is the comfort which is called 'the comfort of death'. So it is a right upon every Muslim (to leave a bequest).<sup>3</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ عَنِ الْوَصِيَّةِ فَقَالَ هِيَ حَقٌّ عَلَى كُلِّ مُسْلِمٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Muhammad Bin Al Fuzayl, from Abu Al Sabbah al Kinany,

(The narrator says), 'I asked Abu Abdullah<sup>asws</sup> about the bequest, so he<sup>asws</sup> said: 'It is a right upon every Muslim'.<sup>4</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قَالَ أَبُو جَعْفَرٍ (عليه السلام) الْوَصِيَّةُ حَقٌّ وَقَدْ أَوْصَى رَسُولُ اللَّهِ (صلى الله عليه وآله) فَيَنْبَغِي لِلْمُسْلِمِ أَنْ يُوصِيَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim who said,

'Abu Abdullah<sup>asws</sup> said: 'The bequest is truth, and Rasool-Allah<sup>saww</sup> had bequeathed, so it is befitting for the Muslim that he bequeaths'.<sup>5</sup>

### باب الإِشْهَادِ عَلَى الْوَصِيَّةِ

## Chapter 2 – The witnesses upon the bequest

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ قَوْلِ اللَّهِ تَبَارَكَ وَتَعَالَى يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِنْكُمْ أَوْ آخَرَانِ مِنْ غَيْرِكُمْ فَلْتُمْ قَوْلَ مَا آخَرَانِ مِنْ غَيْرِكُمْ قَالَ هُمَا كَافِرَانِ قُلْتُ ذَوَا عَدْلٍ مِنْكُمْ فَقَالَ مُسْلِمَانِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Muhammad Bin Al Fuzayl, from Abu Al Sabah Al Kinany who said,

'I asked Abu Abdullah<sup>asws</sup> about the Words of Allah<sup>azwj</sup> Blessed and High [5:106] ***O you who believe! Call to witness between you when death approaches one of you, at the time of making the will, two just persons from among you, or two others from among others than you.*** I said, 'What are ***two others from among others than you?***' He<sup>asws</sup> said: 'These two are Infidels'. I said, '***two just persons from among you?***' So he<sup>asws</sup> said: 'Muslims'.<sup>6</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ وَ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ هَلْ تَجُوزُ شَهَادَةُ أَهْلِ مِلَّةٍ مِنْ غَيْرِ أَهْلِ مِلَّتِهِمْ قَالَ نَعَمْ إِذَا لَمْ يُوْجَدْ مِنْ أَهْلِ مِلَّتِهِمْ جَازَتْ شَهَادَةُ غَيْرِهِمْ إِنَّهُ لَا يَصْلُحُ ذَهَابُ حَقِّ أَحَدٍ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hamaad, from Al Halby and Muhammad Bin Muslim,

<sup>3</sup> Al Kafi – V 7 - The Book of Bequests Ch 1 H 3

<sup>4</sup> Al Kafi – V 7 - The Book of Bequests Ch 1 H 4

<sup>5</sup> Al Kafi – V 7 – The Book of Bequests Ch 1 H 5

<sup>6</sup> Al Kafi – V 7 – The Book of Bequests Ch 2 H 1

(The narrator says) 'I asked Abu Abdullah<sup>asws</sup>, 'Is the witnessing of the people of the nation (Muslims) allowed, from other than the people of their nation (Non-Muslims)?' He<sup>asws</sup> said: 'Yes, when they cannot find from the people of their own nation, the witnessing of the others is allowed. It is not correct for anyone's right to go away (be wasted)'.<sup>7</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ الْحَكَمِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي قَوْلِ اللَّهِ تَبَارَكَ وَ تَعَالَى أَوْ آخِرَانِ مِنْ غَيْرِكُمْ قَالَ إِذَا كَانَ الرَّجُلُ فِي بَلَدٍ لَيْسَ فِيهِ مُسْلِمٌ جَازَتْ شَهَادَةُ مَنْ لَيْسَ بِمُسْلِمٍ عَلَى الْوَصِيَّةِ .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan and Ali Bin Ibrahim, from his father together, from Ibn Abu Umeyr, from Hisham Bin Al Hakam,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the Words of Allah<sup>azwj</sup> Blessed and High [5:106] or two others from among others than you, he<sup>asws</sup> said: 'If the man was in a city in which there were no Muslims, it is allowed, the witnessing of the one who is not a Muslim, upon the bequest'.<sup>8</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ رَبِيعٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي شَهَادَةِ امْرَأَةٍ حَضَرَتْ رَجُلًا يُوصِي لَيْسَ مَعَهَا رَجُلٌ فَقَالَ يُجَازُ رُبْعٌ مَا أَوْصَى بِحِسَابِ شَهَادَتِهَا .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan, from Ibn Abu Umeyr, from Rabi'e,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the testimony of a woman in the presence of a man bequeathing, and there is not man with her. So he<sup>asws</sup> said: 'It is allowed, a quarter of what is bequeathed, by the counting of her testimony'.<sup>9</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) أَنَّهُ قَالَ فِي وَصِيَّةٍ لَمْ يَشْهَدَهَا إِلَّا امْرَأَةٌ فَأَجَازَ شَهَادَةَ الْمَرْأَةِ فِي الرَّبْعِ مِنَ الْوَصِيَّةِ بِحِسَابِ شَهَادَتِهَا .

Muhammad Bin Yahya, from Abdullah Bin Muhammad, from Ali Bin Al Hakam, from Aban,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said regarding a bequest which none witnessed it except for a woman: 'The witnessing of the woman is allowed with regards to the quarter from the bequest, by the counting of her testimony'.<sup>10</sup>

مُحَمَّدُ بْنُ أَحْمَدَ عَنْ عَبْدِ اللَّهِ بْنِ الصَّلْتِ عَنْ يُونُسَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ يَحْيَى بْنِ مُحَمَّدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِنْكُمْ أَوْ آخِرَانِ مِنْ غَيْرِكُمْ قَالَ الَّذِينَ مِنْكُمْ مُسْلِمَانِ وَ الَّذِينَ مِنْ غَيْرِكُمْ مِنْ أَهْلِ الْكِتَابِ

Muhammad Bin Ahmad, from Abdulla Bin Al Salt, from Yunus Bin Abdul Rahman, from Yahya Bin Muhammad who said,

'I asked Abu Abdullah<sup>asws</sup> about the Words of Allah<sup>azwj</sup> Mighty and Majestic [5:106] O you who believe! Call to witness between you when death approaches one of you, at the time of making the will, two just persons from among you, or two others from among others than you. He<sup>asws</sup> said: 'Those who are from among

<sup>7</sup> Al Kafi – V 7 – The Book of Bequests Ch 2 H 2

<sup>8</sup> Al Kafi – V 7 – The Book of Bequests Ch 2 H 3

<sup>9</sup> Al Kafi – V 7 – The Book of Bequests Ch 2 H 4

<sup>10</sup> Al Kafi – V 7 – The Book of Bequests Ch 2 H 5

**you** are the Muslims, and those who are **from among others than you** are from the People of the Book (Jews and Christians).

قَالَ لَمْ تَجِدُوا مِنْ أَهْلِ الْكِتَابِ فَمَنْ الْمَجُوسِ لِأَنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) سَنَّ فِي الْمَجُوسِ سُنَّةَ أَهْلِ الْكِتَابِ فِي الْحَزْبِ وَ ذَلِكَ إِذَا مَاتَ الرَّجُلُ فِي أَرْضٍ غُرْبَةٍ فَلَمْ يَجِدْ مُسْلِمِينَ أَشْهَدَ رَجُلَيْنِ مِنْ أَهْلِ الْكِتَابِ يُحْبَسَانِ بَعْدَ الصَّلَاةِ فَيُقْسِمَانِ بِاللَّهِ عَزَّ وَ جَلَّ لَا نَسْتُرِي بِهِ تَمَنَّا وَ لَوْ كَانَ ذَا قُرْبَى وَ لَا نَكْتُمُ شَهَادَةَ اللَّهِ إِنَّا إِذَا لَمِنَ الْأَثِمِينَ

So if you do not find from the People of the Book, then from the Magians, because Rasool-Allah<sup>saww</sup> established a Sunnah regarding the Magians, the Sunnah of the People of the Book with regards to the taxation, and that is when the man dies in a strange land, so he does not find Muslims, two men from the People of the Book **the two (witnesses) you should detain after the Prayer they shall both swear by Allah, (saying): We will not take for it a price, though there be a relative, and we will not hide the testimony of Allah for then certainly we should be among the sinners.**

قَالَ وَ ذَلِكَ إِذَا ارْتَابَ وَلِيُّ الْمَيِّتِ فِي شَهَادَتَيْهِمَا فَإِنْ عَثَرَ عَلَى أَنَّهُمَا شَهَدَا بِالْبَاطِلِ فَلَيْسَ لَهُ أَنْ يَنْقُضَ شَهَادَتَهُمَا حَتَّى يَجِيءَ بِشَاهِدَيْنِ فَيَقُومَانِ مَقَامَ الشَّاهِدَيْنِ الْأَوَّلَيْنِ فَيُقْسِمَانِ بِاللَّهِ لَشَهَادَتِنَا أَحَقُّ مِنْ شَهَادَتَيْهِمَا وَ مَا اعْتَدَيْنَا إِنَّا إِذَا لَمِنَ الظَّالِمِينَ

He<sup>asws</sup> said: 'And that is when the guardian of the dead doubts in their witnessing **[5:107] Then if it becomes known that they both** have born witness with the falsities, so it is not for him that he should invalidate both their testimonies until he comes with **two others shall stand up in their place**, of the first witnesses; **so they two should swear by Allah: Certainly our testimony is truer than the testimony of those two, and we have not exceeded the limit, for then most surely we should be of the unjust.**

فَإِذَا فَعَلَ ذَلِكَ نَقَضَ شَهَادَةَ الْأَوَّلَيْنِ وَ جَازَتْ شَهَادَةُ الْآخَرِينَ يَقُولُ اللَّهُ عَزَّ وَ جَلَّ ذَلِكَ أَدْنَى أَنْ يَأْتُوا بِالشَّهَادَةِ عَلَى وَجْهِهَا أَوْ يَخَافُوا أَنْ تُرَدَّ أَيْمَانٌ بَعْدَ أَيْمَانِهِمْ .

So when they do that, the testimony of the first ones becomes invalid, and the testimonies of the two later ones is allowed. Allah<sup>azwj</sup> Mighty and Majestic is Saying **[5:108] This is more proper in order that they should give testimony truly or fear that other oaths be given after their oaths'**.<sup>11</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ رَجَالِهِ رَفَعَهُ قَالَ خَرَجَ تَمِيمُ الدَّارِيُّ وَ ابْنُ بَيْدِيِّ وَ ابْنُ أَبِي مَارِيَةَ فِي سَفَرٍ وَ كَانَ تَمِيمُ الدَّارِيُّ مُسْلِمًا وَ ابْنُ بَيْدِيِّ وَ ابْنُ أَبِي مَارِيَةَ نَصْرَانِيَيْنِ وَ كَانَ مَعَ تَمِيمِ الدَّارِيِّ خُرْجٌ لَهُ فِيهِ مَتَاعٌ وَ أَيْبَةُ مَنْقُوشَةٌ بِالذَّهَبِ وَ قِلَادَةٌ أَخْرَجَهَا إِلَى بَعْضِ أَسْوَاقِ الْعَرَبِ لِلْبَيْعِ فَاعْتَلَّ تَمِيمُ الدَّارِيُّ عَلَيْهِ سَدِيدَةٌ فَلَمَّا حَضَرَهُ الْمَوْتُ دَفَعَ مَا كَانَ مَعَهُ إِلَى ابْنِ بَيْدِيِّ وَ ابْنِ أَبِي مَارِيَةَ وَ أَمَرَهُمَا أَنْ يُوصِلَاهُ إِلَى وَرَثَتِهِ

Ali Bin Ibrahim, from his men, raising it, said,

'Tameem Al-Dary, and Ibn Baydi, and Abu Mariya went out on a journey, and Tameem Al-Dary was a Muslim, and Ibn Baydi and Ibn Abu Mariya were two Christians, and there was with Tameem Al-Dary some baggage in which were utensils engraved with gold and a necklace which he had brought out to one of the Arabs markets to be sold. Tameem Al-Dary was overcome with severe illness. So when the death presented itself, he handed over whatever was with him, to Ibn Baydi

<sup>11</sup> Al Kafi – V 7 – The Book of Bequests Ch 2 H 6

and Ibn Abu Mariya, and instructed them both that they should deliver it to his inheritors.

فَقَدِمَا الْمَدِينَةَ وَ قَدْ أَخَذَا مِنَ الْمَتَاعِ الْأَيَّيَّةِ وَ الْقِلَادَةَ وَ أَوْصَلَا سَائِرَ ذَلِكَ إِلَى وَرَثَتِهِ فَافْتَقَدَ الْقَوْمُ الْأَيَّيَّةَ وَ الْقِلَادَةَ فَقَالَ أَهْلُ تَمِيمٍ لَهُمَا هَلْ مَرَضَ صَاحِبُنَا مَرَضًا طَوِيلًا أَنْفَقَ فِيهِ نَفَقَةً كَثِيرَةً فَقَالَا لَا مَا مَرَضَ إِلَّا أَيَّامًا قَلِيلًا قَالُوا فَهَلْ سُرِقَ مِنْهُ شَيْءٌ فِي سَفَرِهِ هَذَا قَالَا لَا قَالُوا فَهَلْ اتَّجَرَ تِجَارَةً خَسِرَ فِيهَا قَالَا لَا قَالُوا فَهَلْ أَفْتَقَدْنَا أَفْضَلَ شَيْءٍ كَانَ مَعَهُ أَنِّيئَهُ مَنْفُوشَةً بِالذَّهَبِ مَكْلَأَةً بِالْجَوْهَرِ وَ قِلَادَةً فَقَالَا مَا دَفَعَ إِلَيْنَا فَقَدْ أَدَيْنَاهُ إِلَيْكُمْ

So they both proceeded to Al-Medina, and they had taken from the baggage, the utensils and the necklace, and delivered the rest of that to his inheritors. So the people missed the utensils and the necklace, so the family of the Tameem said to them both, 'Was our companion ill for a long time for which he spent a lot of expenses?' So they both said, 'No, he was not sick except for a few days'. They said, 'So was anything stolen from it during this journey of his'. They both said, 'No'. They said, 'So did he trade and incurred a loss in his trading?' They both said, 'No'. They said, 'We are missing the best things which were with him, utensils engraved with gold and jewellery and a necklace'. So they both said, 'Whatever he handed over to us, so we have given it to you'.

فَقَدَّمُوهُمَا إِلَى رَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَأَوْجَبَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) عَلَيْهِمَا التَّمِيمِينَ فَخَلَفَا فَخَلَى عَنْهُمَا ثُمَّ ظَهَرَتْ تِلْكَ الْأَيَّيَّةُ وَ الْقِلَادَةُ عَلَيْهِمَا فَجَاءَ أَوْلِيَاءُ تَمِيمٍ إِلَى رَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَقَالُوا يَا رَسُولَ اللَّهِ قَدْ ظَهَرَ عَلَيَّ ابْنُ بَيْدِي وَ ابْنُ أَبِي مَارِيَةَ مَا أَدْعَيْنَاهُ عَلَيْهِمَا فَانْتَظِرْ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) مِنْ اللَّهِ عَزَّ وَجَلَّ الْحُكْمَ فِي ذَلِكَ

So they took both of them to Rasool-Allah<sup>saww</sup>. So Rasool-Allah<sup>saww</sup> Obligated the swearing of an oath upon both of them. So they took the oath, and were released, but the utensils and the necklace were seen to be with them. So the guardians of Tameem came over to Rasool-Allah<sup>saww</sup> and said, 'O Rasool-Allah<sup>saww</sup>! These (missing thugs) have appeared to be with Ibn Baydi and Abu Mariya, what we are claiming against the two of them!' So, Rasool-Allah<sup>saww</sup> awaited for the Judgement from Allah<sup>azwj</sup> Mighty and Majestic with regards to that.

فَأَنْزَلَ اللَّهُ تَبَارَكَ وَ تَعَالَى يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِنْكُمْ أَوْ آخَرَانِ مِنْ غَيْرِكُمْ إِنْ أَنْتُمْ ضَرَبْتُمْ فِي الْأَرْضِ فَأَطْلَقَ اللَّهُ عَزَّ وَجَلَّ شَهَادَةَ أَهْلِ الْكِتَابِ عَلَى الْوَصِيَّةِ فَقَطْ إِذَا كَانَ فِي سَفَرٍ وَ لَمْ يَجِدِ الْمُسْلِمِينَ فَأَصَابَكُمْ مُصِيبَةُ الْمَوْتِ تَحْبِسُونَهُمَا مِنْ بَعْدِ الصَّلَاةِ فَيُقْسِمَانِ بِاللَّهِ إِنْ ارْتَبْتُمْ لَا نَشْتَرِي بِهِ ثَمَنًا وَ لَوْ كَانَ ذَا قُرْبَى وَ لَا تَكُنْتُمْ شَهَادَةَ اللَّهِ إِنَّا إِذَا لَمِنَ الْآثِمِينَ

So Allah<sup>azwj</sup> Blessed and High Revealed [5:106] **O you who believe! Call to witness between you when death approaches one of you, at the time of making the will, two just persons from among you, or two others from among others than you, if you are travelling in the land.** So, Allah<sup>azwj</sup> Mighty and Majestic Issued the testimony of the People of the Book upon the bequest only, when one was to be on a journey and does not find Muslims, **and the calamity of death befalls you; the two (witnesses) you should detain after the Prayer; then if you doubt (them), they shall both swear by Allah, (saying): We will not take for it a price, though there be a relative, and we will not hide the testimony of Allah for then certainly we should be among the sinners.**

فَهَذِهِ الشَّهَادَةُ الْأُولَى الَّتِي جَعَلَهَا رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَإِنْ عُرِّرَ عَلَى أَنَّهُمَا اسْتَحَقَّ إِثْمًا أَيْ أَنَّهُمَا حَلَفَا عَلَى كَذِبٍ فَأَخْرَانِ يُقِيمَانِ مَقَامَهُمَا يَعْينِي مِنْ أَوْلِيَاءِ الْمُدَّعِي مِنَ الَّذِينَ اسْتَحَقَّ عَلَيْهِمُ الْأَوْلِيَانِ فَيُقْسِمَانِ بِاللَّهِ يَحْلِفَانِ بِاللَّهِ أَنَّهُمَا أَحَقُّ بِهَذِهِ الدَّعْوَى مِنْهُمَا وَ أَنَّهُمَا قَدْ كَذَبَا فِيمَا حَلَفَا بِاللَّهِ لَشَهَادَتِنَا أَحَقُّ مِنْ شَهَادَتِهِمَا وَ مَا اعْتَدَيْنَا إِنَّا إِذَا لَمِنَ الظَّالِمِينَ

So this is the first testimony which Rasool-Allah<sup>saww</sup> made to be. **[5:107] Then if it becomes known that they both have been guilty of a sin, i.e., they have testified falsely two others shall stand up in their place from among those who have a claim against them, the two nearest in kin; so they two should swear by Allah: Certainly our testimony is truer than the testimony of those two, and we have not exceeded the limit, for then most surely we should be of the unjust**

فَأَمَرَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أَوْلِيَاءَ تَمِيمِ الدَّارِيِّ أَنْ يَحْلِفُوا بِاللَّهِ عَلَى مَا أَمَرَهُمْ بِهِ فَحَلَفُوا فَأَخَذَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) الْفَلَادَةَ وَ الْأَنْيَةَ مِنْ ابْنِ بَيْدِيِّ وَ ابْنِ أَبِي مَارِيَةَ وَ رَدَّهُمَا إِلَى أَوْلِيَاءِ تَمِيمِ الدَّارِيِّ ذَلِكَ أَدْنَى أَنْ يَأْتُوا بِالشَّهَادَةِ عَلَى وَجْهِهَا أَوْ يَخَافُوا أَنْ تُرَدَّ أَيْمَانُ بَعْدَ أَيْمَانِهِمْ .

So Rasool-Allah<sup>saww</sup> ordered the guardians of Tameem Al-Dary that they should swear by Allah<sup>azwj</sup> upon what He<sup>azwj</sup> had Commanded with. So they swore. So Rasool-Allah<sup>saww</sup> seized the necklace and the utensils from Ibn Baydi and Ibn Abu Mariya, and returned both of these to the guardians of Tameem Al-Dary. **[5:108] This is more proper in order that they should give testimony truly or fear that other oaths be given after their oaths**.<sup>12</sup>

### باب الرَّجُلِ يُوصِي إِلَى آخَرَ وَ لَا يَقْبَلُ وَصِيَّتَهُ

## Chapter 3 – The man who appoints another as an executor of a will and he does not accept his appointment

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ رَبِيعٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِنْ أَوْصَى رَجُلٌ إِلَى رَجُلٍ وَ هُوَ غَائِبٌ فَلَيْسَ لَهُ أَنْ يَرُدَّ وَصِيَّتَهُ فَإِنْ أَوْصَى إِلَيْهِ وَ هُوَ بِالْبَلَدِ فَهُوَ بِالْخِيَارِ إِنْ شَاءَ قَبِلَ وَ إِنْ شَاءَ لَمْ يَقْبَلْ .

Ali Bin Ibrahim, from his father, from Hamaad Bin Isa, from Rabie, from Muhammad Bin Muslim,

Abu Abdullah<sup>asws</sup> having said: 'If a man appoints a man as an executor (of his will) and he is absent, so it is not for him that he should repudiate (turn down) his appointment. So if he appoints him and he is in the city, so he is with the choice, if he likes he accepts, and if he (does not) like he does not accept'.<sup>13</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ رَبِيعٍ عَنْ فَضَيْلٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ يُوصَى إِلَيْهِ فَقَالَ إِذَا بُعِثَ بِهَا إِلَيْهِ مِنْ بَلَدٍ فَلَيْسَ لَهُ رُدُّهَا وَ إِنْ كَانَ فِي مِصْرٍ يُوجَدُ فِيهِ غَيْرُهُ فَذَلِكَ إِلَيْهِ .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan, from Ibn Abu Umeyr, from Rabie, from Fuzayl,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man whose appointment as an executor (of will) was sent to him'. So he<sup>asws</sup> said: 'If it was sent to him from (the

<sup>12</sup> Al Kafi – V 7 – The Book of Bequests Ch 2 H 7

<sup>13</sup> Al Kafi – V 7 – The Book of Bequests Ch 3 H 1

same) city, so it is not up to him to reject it, and if it was from a city in which someone else can be found, so that is up to him'.<sup>14</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا أَوْصَى الرَّجُلُ إِلَى أَخِيهِ وَهُوَ غَائِبٌ فَلَيْسَ لَهُ أَنْ يَرُدَّ عَلَيْهِ وَصِيَّتَهُ لِأَنَّهُ لَوْ كَانَ شَاهِدًا فَأَبَى أَنْ يَقْبَلَهَا طَلَبَ غَيْرَهُ .

Abu Ali Al Ashary, from Abdullah Bin Muhammad, from Ali Bin Al Hakam, from Sayf Bin Umeyra, from Mansour Bin Hazim,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'If the man appoints his brother as an executor and he is absent, so it is not up to him to reject to him his appointments as an executor, because if he was present and refused, someone else would be sought to accept it'.<sup>15</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ الْقَاسِمِ بْنِ الْفُضَيْلِ عَنْ رَبِيعِ بْنِ الْفُضَيْلِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ فِي الرَّجُلِ يُوصَى إِلَيْهِ قَالَ إِذَا بُعِثَ بِهَا مِنْ بَلَدٍ إِلَيْهِ فَلَيْسَ لَهُ رَدُّهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Al Qasim Bin Al Fuzayl, from Rabie, from Al Fuzayl,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said regarding the man whose appointment as an executor was sent to him: 'If it was sent to him from within the city, so it is not upon to him to reject it'.<sup>16</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يُوصَى إِلَى رَجُلٍ بِوَصِيَّتِهِ فَيَكْرَهُ أَنْ يَقْبَلَهَا فَقَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) لَا يَخَذُلُهُ عَلَى هَذِهِ الْحَالِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who appoints a man as an executor, but he dislikes to accept it. So Abu Abdullah<sup>asws</sup> said: 'He should not abandon him upon this state'.<sup>17</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ الرَّيَّانِ قَالَ كَتَبْتُ إِلَى أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) رَجُلٌ دَعَاهُ وَالِدُهُ إِلَى قَبُولِ وَصِيَّتِهِ هَلْ لَهُ أَنْ يَمْتَنَعَ مِنْ قَبُولِ وَصِيَّتِهِ فَوَقَعَ ( عَلَيْهِ السَّلَامُ ) لَيْسَ لَهُ أَنْ يَمْتَنَعَ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Al Rayyan who said,

'I wrote to Abu Al-Hassan<sup>asws</sup>, 'A man who invites his father to accept as being his executor of the will, is it for him that he abstains from accepting his appointment as an executor?' So he<sup>asws</sup> quickly said: 'It is not for him to abstain'.<sup>18</sup>

**بَابُ أَنَّ صَاحِبَ الْمَالِ أَحَقُّ بِمَالِهِ مَا دَامَ حَيًّا**

<sup>14</sup> Al Kafi – V 7 – The Book of Bequests Ch 3 H 2

<sup>15</sup> Al Kafi – V 7 – The Book of Bequests Ch 3 H 3

<sup>16</sup> Al Kafi – V 7 – The Book of Bequests Ch 3 H 4

<sup>17</sup> Al Kafi – V 7 – The Book of Bequests Ch 3 H 5

<sup>18</sup> Al Kafi – V 7 – The Book of Bequests Ch 3 H 6

## Chapter 4 – The owner of the wealth is more rightful with (the distribution of) his wealth for as long as he is alive

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيسَى عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ ثَعْلَبَةَ بْنِ مَيْمُونٍ عَنْ أَبِي الْحَسَنِ السَّابَاطِيِّ عَنْ عَمَّارِ بْنِ مُوسَى أَنَّهُ سَمِعَ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يَقُولُ صَاحِبُ الْمَالِ أَحَقُّ بِمَالِهِ مَا دَامَ فِيهِ شَيْءٌ مِنَ الرُّوحِ يَضَعُهُ حَيْثُ شَاءَ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Hassan Bin Ali, from Sa'alba Bin Maymoun, from Abu Al Hassan Al Sabaty, from Ammar Bin Musa, who heard

Abu Abdullah<sup>asws</sup> said: 'The owner of the wealth is more rightful with (the distribution of) his wealth so long as there is something within him from the soul. He can place it wherever he so wishes to'.<sup>19</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ عَنْ عَلِيٍّ بْنِ أَصْبَاطٍ عَنْ ثَعْلَبَةَ عَنْ أَبِي الْحَسَنِ عُمَرَ بْنِ شَدَّادٍ الْأَرْدَبِيِّ وَ السَّرِيِّ جَمِيعاً عَنْ عَمَّارِ بْنِ مُوسَى عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ الرَّجُلُ أَحَقُّ بِمَالِهِ مَا دَامَ فِيهِ الرُّوحُ إِنْ أَوْصَى بِهِ كُلَّهُ فَهُوَ جَائِزٌ لَهُ .

Ahmad Bin Muhammad, from Ali Bin Al Hassan, from Ali Bin Asbaat, from Sa'alba, from Abu Al Hassan Umar Bin Shaddad Al Azdy and Sarayya, both together, from Ammar Bin Musa,

Abu Abdullah<sup>asws</sup> has said: 'The man is more rightful with (the distribution of) his wealth for as long as there is the soul within him. If he were to bequeath with the whole of it, so it is allowed for him'.<sup>20</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ عَنْ إِبْرَاهِيمَ بْنِ أَبِي بَكْرٍ بْنِ أَبِي السَّمَّالِ الْأَسَدِيِّ عَمَّنْ أَخْبَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ الْمَيِّتُ أَوْلَى بِمَالِهِ مَا دَامَ فِيهِ الرُّوحُ .

Ahmad Bin Muhammad, from Ali Bin Al Hassan, from Ibrahim Bin Abu Bakr Bin Abu Al Sammal Al Asady, from the one who informed him,

Abu Abdullah<sup>asws</sup> has said: 'The dying one is higher with (the distribution of his wealth) for as long as there is the soul within him'.<sup>21</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ عَنْ أَخِيهِ أَحْمَدَ بْنِ الْحَسَنِ عَنْ عَمْرٍو بْنِ سَعِيدٍ قَالَ أَوْصَى أَخُو رُوْمِيِّ بْنِ عُمَرَ أَنَّ جَمِيعَ مَالِهِ لِأَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ عَمْرٍو فَأَخْبَرَنِي رُوْمِيُّ أَنَّهُ وَصَّعَ الْوَصِيَّةَ بَيْنَ يَدَيْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) فَقَالَ هَذَا مَا أَوْصَى لَكَ بِهِ أَخِي وَ جَعَلْتُ أَفْرَأَ عَلَيْهِ فَيَقُولُ لِي قِفْ وَ يَقُولُ أَحْمِلْ كَذَا وَ وَهَبْتُ لَكَ كَذَا حَتَّى أَنْتَبْتُ عَلَى الْوَصِيَّةِ فَنظَرْتُ فَإِذَا إِنَّمَا أَخَذَ الثَّلَاثَ قَالَ فَقُلْتُ لَهُ أَمَرْتَنِي أَنْ أَحْمِلَ إِلَيْكَ الثَّلَاثَ وَ وَهَبْتُ لِي الثَّلَاثِينَ فَقَالَ نَعَمْ قُلْتُ أَيْبَعُهُ وَ أَحْمِلُهُ إِلَيْكَ قَالَ لَا عَلَى الْمَيْسُورِ عَلَيْكَ لَا تَبِعْ شَيْئاً .

Ahmad Bin Muhammad, from Ali Bin Al Hassan, from his brother Ahmad Bin Al Hassan, from Amro Bin Saeed who said,

'The brother of Rowmy Bin Umar bequeathed that the entire wealth of his to be for Abu Ja'far<sup>asws</sup>. Amro Said, 'So Rowmy informed his brother that he has placed the will in front of Abu Ja'far<sup>asws</sup>, so he said, 'This is what has been bequeathed to you<sup>asws</sup> by my brother', and I went on to read to him<sup>asws</sup>. So he<sup>asws</sup> said to me: 'Hold on!' And he<sup>asws</sup> said: 'Carry such and such, and I<sup>asws</sup> have gifted such and such for

<sup>19</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 1

<sup>20</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 2

<sup>21</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 3

you', until I came to the will. So I looked and it was so, that he<sup>asws</sup> had taken a third. So I said to him<sup>asws</sup>, 'Are you<sup>asws</sup> ordering me that I should carry a third to you, and you<sup>asws</sup> have gifted to me with the two thirds?' So he<sup>asws</sup> said: 'Yes'. I said, 'Shall I sell it and carry it to you<sup>asws</sup>?', He<sup>asws</sup> said: 'No, if it is feasible upon you, do not sell anything'.<sup>22</sup>

مُحَمَّدُ بْنُ يَحْيَى وَ عَمْرُوهُ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ يَعْقُوبَ بْنِ يَزِيدَ عَنْ يَحْيَى بْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ سَمَاعَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) الرَّجُلُ يُكُونُ لَهُ الْوَلَدُ أَيْسَعُهُ أَنْ يَجْعَلَ مَالَهُ لِقَرَابَتِهِ قَالَ هُوَ مَالُهُ يَصْنَعُ بِهِ مَا شَاءَ إِلَى أَنْ يَأْتِيَهُ الْمَوْتُ .

Muhammad Bin Yahya and someone else, from Muhammad Bin Ahmad, from Yaqoub Bin Yazeed, from Yahya Bin Al Mubarak, from Abdullah Bin Jabala, from Sama'at who said,

'I said to Abu Abdullah<sup>asws</sup>, 'The man, there happens to be a son for him, does he have the leeway that he makes his wealth for his near relatives?' He<sup>asws</sup> said: 'It is his wealth. He can place it wherever he so wishes to, until the death comes to him'.<sup>23</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ جَمِيعاً عَنْ صَفْوَانَ عَنْ مُرَازِمٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الرَّجُلِ يُعْطِي الشَّيْءَ مِنْ مَالِهِ فِي مَرَضِهِ فَقَالَ إِذَا أَبَانَ فِيهِ فَهُوَ جَائِزٌ وَإِنْ أَوْصَى بِهِ فَهُوَ مِنَ الثَّلَاثِ .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan and Abu Ali Al Ash'ary, from Muhammad Bin Abdul Jabbar both together, from Safwan, from Marazim, from one of our companions,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who gave something from his wealth during his illness. So he<sup>asws</sup> said: 'If he has kept it aside, so it is allowed (to use it), and if he has bequeathed with it, so it is from the third (to be given out)'.<sup>24</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ مُرَازِمٍ عَنْ عَمَّارِ السَّابَلِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ الْمَيِّتُ أَحَقُّ بِمَالِهِ مَا دَامَ فِيهِ الرُّوحُ بَيِّنٌ بِهِ قَالَ نَعَمْ فَإِنْ أَوْصَى بِهِ فَإِنْ تَعَدَّى فَلَيْسَ لَهُ إِلَّا الثَّلَاثُ .

Hameed Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ibn Abu Umeyr, from Marazam, from Ammar Al Sabaty,

Abu Abdullah<sup>asws</sup>, said: 'The dying one is more deserving with the (distribution) of his wealth for as long as the soul is within him, keeping it aside?' He<sup>asws</sup> said: 'Yes, so if he were to bequeath by it, so he would be exceeding. There is not for him except for the third (to distribute)'.<sup>25</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ قُلْتُ لَهُ الرَّجُلُ لَهُ الْوَلَدُ أَيْسَعُهُ أَنْ يَجْعَلَ مَالَهُ لِقَرَابَتِهِ فَقَالَ هُوَ مَالُهُ يَصْنَعُ بِهِ مَا شَاءَ إِلَى أَنْ يَأْتِيَهُ الْمَوْتُ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Abdullah Bin Al Mubarak, from Abdullah Bin Jabala, from Sama'at, from Abu Baseer,

<sup>22</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 4

<sup>23</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 5

<sup>24</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 6

<sup>25</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 7

(The narrator says) 'I said to Abu Abdullah<sup>asws</sup>, 'The man has the son for him, does he have the leeway to make his wealth to be for his relatives?' So he<sup>asws</sup> said: 'It is his wealth. He can place it wherever he so wishes to until the death comes upon him'.<sup>26</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُمَانَ بْنِ سَعِيدٍ عَنْ أَبِي الْمَحَامِلِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ الْإِنْسَانُ أَحَقُّ بِمَالِهِ مَا دَامَ الرُّوحُ فِي بَدَنِهِ .

Ali Bin Ibrahim, from his father, from Usman Bin Saeed, from Abu Al Mahamil,

Abu Abdullah<sup>asws</sup> has said: 'The human being is more rightful with (the distribution of) his wealth for as long as the soul is in his body'.<sup>27</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ سَمَاعَةَ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ قُلْتُ لَهُ الرَّجُلُ لَهُ الْوَلَدُ أَيْسَعُهُ أَنْ يَجْعَلَ مَالَهُ لِقَرَابَتِهِ فَقَالَ هُوَ مَالُهُ يَصْنَعُ بِهِ مَا شَاءَ إِلَى أَنْ يَأْتِيَهُ الْمَوْتُ إِنَّ لِصَاحِبِ الْمَالِ أَنْ يَعْمَلَ بِمَالِهِ مَا شَاءَ مَا دَامَ حَيًّا إِنْ شَاءَ وَهَبَهُ وَ إِنْ شَاءَ تَصَدَّقَ بِهِ وَ إِنْ شَاءَ تَرَكَهُ إِلَى أَنْ يَأْتِيَهُ الْمَوْتُ فَإِنْ أَوْصَى بِهِ فَلَيْسَ لَهُ إِلَّا التَّلْتُ إِلَّا أَنْ الْفَضْلَ فِي أَنْ لَا يُضَيِّعَ مَنْ يَعُولُهُ وَ لَا يُضِرَّ بَوْرَثَتِهِ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Abdullah Bin Al Mubarak, from Abdullah Bin Jabala, from Sama'at, from Abu Baseer,

(The narrator says): 'I said to Abu Abdullah<sup>asws</sup>, 'The man has the son for him. Does he have the leeway that he makes his wealth to be for his relatives?' So he<sup>asws</sup> said: 'It is his wealth. He places whatever he so desires to, until the death comes upon him. It is for the owner of the wealth that he does with his wealth whatever he so desires to so long as he is alive. If he so desires, gifts it, and if he so desires, he gives it in charity with it, and if he so desires he leaves it, until the death comes to him. But, if he were to bequeath with it, so there is not for him except for the third (to be given away as charity), except that the preference in that is the he should not waste it from the ones who are dependent upon him, nor harm his inheritors.

وَ قَدْ رُوِيَ أَنَّ النَّبِيَّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) قَالَ لِرَجُلٍ مِنَ الْأَنْصَارِ أَعْتَقَ مَمَالِيكَ لَهُ لَمْ يَكُنْ لَهُ غَيْرُهُمْ فَعَابَهُ النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ قَالَ تَرَكَ صَبِيَّةً صِغَارًا يَتَكَفَّفُونَ النَّاسَ .

And it has been reported that the Prophet<sup>saww</sup> said for a man from the Helpers who had liberated his slaves, not having for himself other than them, so the Prophet<sup>saww</sup> faulted him and said: 'He left young children (of his) to beg from the people'.<sup>28</sup>

### باب الْوَصِيَّةِ لِلْوَارِثِ

## Chapter 5 – (Making) the bequest for the inheritors

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي الْمَغْرَاءِ عَنْ أَبِي بصيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنِ الْوَصِيَّةِ لِلْوَارِثِ فَقَالَ تَجُوزُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abu Al Magra, from Abu Baseer who said,

<sup>26</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 8

<sup>27</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 9

<sup>28</sup> Al Kafi – V 7 – The Book of Bequests Ch 4 H 10

'I asked Abu Abdullah<sup>asws</sup> about the bequest for the inheritor. So he<sup>asws</sup> said: (it is) 'Permissible'.<sup>29</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادٍ الْحَنَاطِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنِ الْمَيْتِ يُوصِي لِلْوَارِثِ بِشَيْءٍ قَالَ نَعَمْ أَوْ قَالَ جَائِزٌ لَهُ .

A number of our companions, from Sahal Bin Ziyad, and Ahmad Bin Muhammad, both together from Ibn Mahbou, from Abu Wallad Al Hanaat who said,

'I asked Abu Abdullah<sup>asws</sup> about the dying one bequeathing for the inheritors with something. He<sup>asws</sup> said: 'Yes', or he<sup>asws</sup> said: 'It is allowed for him'.<sup>30</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ الْوَصِيَّةُ لِلْوَارِثِ لَا بَأْسَ بِهَا

Muhammad Bin Ismail, from Al Fazal Bin Shazan, from Safwan Bin Yahya, from Al A'ala, from Muhammad Bin Muslim,

Abu Ja'far<sup>asws</sup> has said: 'The bequest for the inheritors, there is no problem with it'.

الْفَضْلُ بْنُ شاذَانَ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ نَحْوَهُ .

Al Fazal Bin Shazaan, from Yunus, from Abdullah Bin Bakeyr, from Muhammad Bin Muslim,

(The narrator says) from Abu Ja'far<sup>asws</sup>, approximately the same.<sup>31</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنِ الْوَصِيَّةِ لِلْوَارِثِ فَقَالَ تَجُوزُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali, from Abdullah Bin Bakeyr, from Muhammad Bin Muslim who said,

'I asked Abu Abdullah<sup>asws</sup> about the bequest for the inheritors, so he<sup>asws</sup> said: 'Permissible'.<sup>32</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ ابْنِ بُكَيْرٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ سَأَلْتُهُ عَنِ الْوَصِيَّةِ لِلْوَارِثِ فَقَالَ تَجُوزُ .

A number of our companions, from Sahal Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Ibn Bakeyr, from Muhammad Bin Muslim,

(The narrator says): 'I asked Abu Ja'far<sup>asws</sup> about the bequest for the inheritors, so he<sup>asws</sup> said: 'Permissible'. Then he<sup>asws</sup> recited this Verse [2:180] **Bequest is Prescribed for you when death approaches one of you, if he leaves behind wealth for parents and near relatives**'.<sup>33</sup>

<sup>29</sup> Al Kafi – V 7 – The Book of Bequests Ch 5 H 1

<sup>30</sup> Al Kafi – V 7 – The Book of Bequests Ch 5 H 2

<sup>31</sup> Al Kafi – V 7 – The Book of Bequests Ch 5 H 3

<sup>32</sup> Al Kafi – V 7 – The Book of Bequests Ch 5 H 4

<sup>33</sup> Al Kafi – V 7 – The Book of Bequests Ch 5 H 5

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنِ الْحَجَّالِ عَنِ ثَعْلَبَةَ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ )  
عَنِ الرَّجُلِ يُفَضِّلُ بَعْضَ وُلْدِهِ عَلَى بَعْضٍ قَالَ نَعَمْ وَ نِسَاءَهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Al Hajaal, from Sa'alba, from Muhammad Bin Qays who said,

'I asked him<sup>asws</sup> about the man who prefers some of his children over the others. He<sup>asws</sup> said: 'Yes, and his women'.<sup>34</sup>

بَاب مَا لِلنَّاسِ أَنْ يُوصِيَ بِهِ بَعْدَ مَوْتِهِ وَ مَا يُسْتَحَبُّ لَهُ مِنْ ذَلِكَ

## Chapter 6 – What is for the human being that he bequeaths after his death, and what is recommended from that

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ عَنِ  
أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ كَانَ الْبِرَاءُ بْنُ مَعْرُورٍ الْأَنْصَارِيُّ بِالْمَدِينَةِ وَ كَانَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) بِمَكَّةَ  
وَ إِنَّهُ حَضَرَهُ الْمَوْتُ وَ كَانَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) بِمَكَّةَ وَ أَصْحَابُهُ وَ الْمُسْلِمُونَ يُصَلُّونَ إِلَى بَيْتِ الْمَقْدِسِ وَ  
أَوْصَى الْبِرَاءُ إِذَا دُفِنَ أَنْ يُجْعَلَ وَجْهُهُ إِلَى تِلْقَاءِ النَّبِيِّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) إِلَى الْفَيْلَةِ وَ أَوْصَى بِثُلُثِ مَالِهِ فَجَرَّتْ بِهِ  
السُّنَّةُ .

Ali Bin Ibrahim from his father, and Muhammad Bin Ismail, from Al Fazal Bin Shazaan both together, from Ibn Abu Umeyr, from Muawiya Bin Ammar,

Abu Abdullah<sup>asws</sup> has said: 'Al-Bara'a Bin Marouf the Helper was at Al-Medina, and Rasool-Allah<sup>saww</sup> was at Makkah, and death presented itself to him, and Rasool-Allah<sup>saww</sup> was at Makkah, and his<sup>saww</sup> companions, and the Muslims were Praying towards Bayt Al-Maqdis, and Al-Bara'a bequeathed that he should be buried and his face to be made to be facing towards the direction of the Prophet<sup>saww</sup>, and bequeathed with a third of his wealth. Thus, the Sunnah flowed by it'.<sup>35</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ قَالَ كَتَبَ أَحْمَدُ بْنُ إِسْحَاقَ إِلَى أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) أَنَّ دُرَّةَ بِنْتَ مَقَاتِلٍ تُوَفِّيَتْ وَ  
تَرَكَتْ ضَيْعَةً أَشْقَاصاً فِي مَوَاضِعَ وَ أَوْصَتْ لِسَيِّدِهَا مِنْ أَشْقَاصِهَا بِمَا يَبْلُغُ أَكْثَرَ مِنَ الثُّلُثِ وَ نَحْنُ أَوْصِيَاؤُهَا وَ أَحَبُّنَا أَنْ  
نُنْهِيَ إِلَى سَيِّدِنَا فَإِنَّهُ هُوَ أَمْرٌ بِإِمْضَاءِ الْوَصِيَّةِ عَلَى وَجْهِهَا أَمْضِيَانَهَا وَ إِنَّ أَمْرَ بَعْضِ ذَلِكَ أَنْتَهَيْنَا إِلَى أَمْرِهِ فِي جَمِيعِ مَا يَأْمُرُ  
بِهِ إِنْ شَاءَ اللَّهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad who said,

'Ahmad Bin Is'haq wrote to Abu Al-Hassan<sup>asws</sup> that Durrah, daughter of Maqatil had died, and she left assets and pieces of land in various places, and bequeathed to her master, from her assets which reached to be more than a third, and we are her executors, and we would love that we finalise it to our Master<sup>asws</sup>, for if he<sup>asws</sup> were to sign off the bequest upon its face (as it is), we will sign it off, and if he<sup>asws</sup> commands with other than that, we will end up to his<sup>asws</sup> command in the entirety of what he<sup>asws</sup> commands with, Allah<sup>azwj</sup> Willing'.

قَالَ فَكَتَبَ ( عَلَيْهِ السَّلَامُ ) بِحَظِّهِ لَيْسَ يَجِبُ لَهَا مِنْ تَرَكَتِهَا إِلَّا الثُّلُثُ وَ إِنْ تَفَضَّلْتُمْ وَ كُنْتُمْ الْوَرَثَةَ كَانَ جَائِزاً لَكُمْ إِنْ شَاءَ  
اللَّهُ .

<sup>34</sup> Al Kafi – V 7 – The Book of Bequests Ch 5 H 6

<sup>35</sup> Al Kafi – V 7 – The Book of Bequests Ch 6 H 1

He (the narrator) said, 'So he<sup>asws</sup> wrote in his<sup>asws</sup> own handwriting: 'It is not Obligatory for her from what she left except for the third, and if you have preferences, and you are the inheritors, it is permissible for you, Allah<sup>azwj</sup> Willing'.<sup>36</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادِ بْنِ عِيسَى عَنْ شُعَيْبِ بْنِ يَعْقُوبَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنِ الرَّجُلِ يَمُوتُ مَا لَهُ مِنْ مَالِهِ فَقَالَ لَهُ ثُلُثٌ مَالِهِ وَ لِلْمَرْأَةِ أَيْضًا .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Hamaad Bin Isa, from Shuayb Bin Yaquob who said,

'I asked Abu Abdullah<sup>asws</sup> about the man who died and what would be for him from his wealth. So he<sup>asws</sup> said: 'For him is a third of his wealth, and for the woman as well'.<sup>37</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ صَلَّى اللَّهُ عَلَيْهِ يَقُولُ لِأَنَّ أَوْصِيَّ بِخُمْسِ مَالِي أَحَبُّ إِلَيَّ مِنْ أَنْ أَوْصِيَّ بِالرُّبْعِ وَ لِأَنَّ أَوْصِيَّ بِالرُّبْعِ أَحَبُّ إِلَيَّ مِنْ أَنْ أَوْصِيَّ بِالثُّلُثِ وَ مَنْ أَوْصَى بِالثُّلُثِ فَلَمْ يَتْرِكْ فَقَدْ بَالِغٌ

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, both together from Ibn Abu Umeyr, from Aasim Bin Hameed, from Muhammad Bin Qays,

Abu Ja'far<sup>asws</sup> says that Amir Al-Momineen<sup>asws</sup> was saying: 'If I<sup>asws</sup> were to bequeath with a fifth of my<sup>asws</sup> wealth, it would be more beloved to me<sup>asws</sup> than if I<sup>asws</sup> were to bequeath with a quarter of it; and if I<sup>asws</sup> were to bequeath with a quarter, it would be more beloved to me<sup>asws</sup> than if I<sup>asws</sup> were to bequeath with a third; and if one were to bequeath with a third, so he has not left out anything, so he has reached (the upper limit)'.<sup>38</sup>

قَالَ وَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) فِي رَجُلٍ تُوَفِّيَ وَ أَوْصَى بِمَالِهِ كُلَّهُ أَوْ أَكْثَرَهُ فَقَالَ إِنَّ الْوَصِيَّةَ تُرَدُّ إِلَى الْمَعْرُوفِ غَيْرِ الْمُنْكَرِ فَمَنْ ظَلَمَ نَفْسَهُ وَ أَتَى فِي وَصِيَّتِهِ الْمُنْكَرَ وَ الْحَيْفَ فَإِنَّهَا تُرَدُّ إِلَى الْمَعْرُوفِ وَ يَتْرِكُ لِأَهْلِ الْمِيرَاثِ مِيرَاثَهُمْ

He<sup>asws</sup> said: 'And Amir Al-Momineen<sup>asws</sup> judged with regards to a man who died and bequeathed with his wealth, all of it or most of it. So he<sup>asws</sup> said: 'The bequest is to be returned to from unacceptable level to what is acceptable, other than what will harm (heir) (undefined). So the one who is unjust to himself, and made a will which is harmful and the injustice, so it should be returned to the specified once (one fifth), and there should be left for the people of the inheritance, their inheritances'.<sup>38</sup>

وَ قَالَ مَنْ أَوْصَى بِثُلُثِ مَالِهِ فَلَمْ يَتْرِكْ وَ قَدْ بَلَغَ الْمَدَى

And he<sup>asws</sup> said: 'The one who bequeaths with a third of his wealth, so he does not leave out anything, so he has reached the (upper) limit'.<sup>38</sup>

ثُمَّ قَالَ لِأَنَّ أَوْصِيَّ بِخُمْسِ مَالِي أَحَبُّ إِلَيَّ مِنْ أَنْ أَوْصِيَّ بِالرُّبْعِ .

Then he<sup>asws</sup> said: 'If I<sup>asws</sup> were to bequeath with a fifth of my<sup>asws</sup> wealth, it would be more beloved to me<sup>asws</sup> than if I<sup>asws</sup> were to bequeath with the fourth'.<sup>38</sup>

<sup>36</sup> Al Kafi – V 7 – The Book of Bequests Ch 6 H 2

<sup>37</sup> Al Kafi – V 7 – The Book of Bequests Ch 6 H 3

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ الْوَشَاءِ عَنْ حَمَّادِ بْنِ عَثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ مَنْ أَوْصَى بِالثَّلَاثِ فَقَدْ أَضَرَ بِالْوَرَثَةِ وَالْوَصِيَّةُ بِالْخُمْسِ وَالرُّبْعُ أَفْضَلُ مِنَ الْوَصِيَّةِ بِالثَّلَاثِ وَمَنْ أَوْصَى بِالثَّلَاثِ فَلَمْ يَنْتَرِكْ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together, from Al Washa, from Hamaad Bin Usman,

Abu Abdullah<sup>asws</sup> has said: 'The one who bequeaths with a third, so he has harmed the inheritors, and the bequeathing with a fifth and the fourth is better than the bequeathing with the third; and the one who bequeaths with a third, so he has not left out anything'.<sup>39</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ وَ حَفْصِ بْنِ الْبُخْتَرِيِّ وَ حَمَّادِ بْنِ عَثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ مَنْ أَوْصَى بِالثَّلَاثِ فَلَمْ يَنْتَرِكْ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Saalim and Hafs Bin Al Bakhtary, and Hamaad Bin Usman,

Abu Abdullah<sup>asws</sup> has said: 'The one who bequeath with a third, so he has not left out anything (for the inheritors)'.<sup>40</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) مَنْ أَوْصَى بِثَلَاثٍ مَالِهِ ثُمَّ قُتِلَ خَطَأً فَإِنَّ ثَلَاثَ دِيَّتِهِ دَاخِلٌ فِي وَصِيَّتِهِ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakkuny,

Abu Abdullah<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> said: 'The one who bequeaths with a third of his wealth, then kills by mistake, so the third included his blood money (compensation) in his bequest'.<sup>41</sup>

## باب

### Chapter 7 – A chapter

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ حَمَّادِ بْنِ حَرِيْزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ فِي رَجُلٍ أَوْصَى بِوَصِيَّةٍ وَ وَرَثَتُهُ شُهُودٌ فَأَجَازُوا ذَلِكَ فَلَمَّا مَاتَ الرَّجُلُ نَقَضُوا الْوَصِيَّةَ هَلْ لَهُمْ أَنْ يَرُدُّوا مَا أَقْرُوا بِهِ قَالَ لَيْسَ لَهُمْ ذَلِكَ الْوَصِيَّةُ جَائِزَةٌ عَلَيْهِمْ إِذَا أَقْرُوا بِهَا فِي حَيَاتِهِ .

Ali Bin Ibrahim, from his father, from Hamaad, from Hareyz, from Muhammad Bin Muslim,

Abu Abdullah<sup>asws</sup> having said regarding a man who bequeathed with a bequest, and his inheritors were witnesses, so they endorsed it. But when the man dies, they invalidated the bequest. Is it for them that they can repudiate what they had agreed with (beforehand)? He<sup>asws</sup> said: 'That is not for them. The bequest is enforceable upon them if they had accepted by it during his (deceased) lifetime'.

<sup>38</sup> Al Kafi – V 7 – The Book of Bequests Ch 6 H 4

<sup>39</sup> Al Kafi – V 7 – The Book of Bequests Ch 6 H 5

<sup>40</sup> Al Kafi – V 7 – The Book of Bequests Ch 6 H 6

<sup>41</sup> Al Kafi – V 7 – The Book of Bequests Ch 6 H 7

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) مِثْلَهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Mansour Bin Hazim,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, similar to it'.<sup>42</sup>

### بَاب الرَّجُلِ يُوصِي بِوَصِيَّةٍ ثُمَّ يَرْجِعُ عَنْهَا

## Chapter 8 – The man bequeaths by his bequest, then retracts from it

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ بُكَيْرٍ عَنْ عُيَيْدِ بْنِ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يَقُولُ لِلْمُوصِي أَنْ يَرْجِعَ فِي وَصِيَّتِهِ إِنْ كَانَ فِي صِحَّةٍ أَوْ مَرَضٍ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ibn Bakeyr, from Ubeyd Bin Zarara who said,

'I heard Abu Abdullah<sup>asws</sup> saying to the testator that he can retract (draw back) in his bequest whether it was during good health or illness'.<sup>43</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنِ ابْنِ فَضَّالٍ عَنْ عَلِيِّ بْنِ عُقْبَةَ عَنْ بُرَيْدِ الْعَجَلِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ لِصَاحِبِ الْوَصِيَّةِ أَنْ يَرْجِعَ فِيهَا وَ يُحَدِّثَ فِي وَصِيَّتِهِ مَا دَامَ حَيًّا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Fazal, from Ali Bin Uqba, from Bureyd Al Ajaly,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said to the owner of the bequest (Testator) that he can retract it in, and add something new in his bequest, for as long as he is alive'.<sup>44</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) أَنَّ الْمُدَبَّرَ مِنَ الثَّلَاثِ وَأَنَّ لِلرَّجُلِ أَنْ يَنْقُضَ وَصِيَّتَهُ فَيَزِيدَ فِيهَا وَ يَنْقُصَ مِنْهَا مَا لَمْ يَمُتْ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ibn Muskan,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> judged that the *Mudabbar* (slave to be emancipated (liberated) upon the death of the master), is from the third; and it is up to the man that he invalidates his bequest, so he can increase in it, and decrease from it, for as long as he had not died'.<sup>45</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنِ بَعْضِ أَصْحَابِهِ قَالَ قَالَ عَلِيُّ بْنُ الْحُسَيْنِ ( عَلَيْهِ السَّلَام ) لِلرَّجُلِ أَنْ يُعَيِّرَ وَصِيَّتَهُ فَيَعْتَقَ مَنْ كَانَ أَمْرَ بِمَلِكِهِ وَ يَمْلِكُ مَنْ كَانَ أَمْرَ بَعْنَتِهِ وَ يُعْطِي مَنْ كَانَ حَرَمَهُ وَ يَحْرِمَ مَنْ كَانَ أَعْطَاهُ مَا لَمْ يَمُتْ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from one of his companions who said,

<sup>42</sup> Al Kafi – V 7 – The Book of Bequests Ch 7 H 1

<sup>43</sup> Al Kafi – V 7 – The Book of Bequests Ch 9 H 1

<sup>44</sup> Al Kafi – V 7 – The Book of Bequests Ch 9 H 2

<sup>45</sup> Al Kafi – V 7 – The Book of Bequests Ch 9 H 3

'Ali<sup>asws</sup> Bin Al-Husayn<sup>asws</sup> said: 'It is up to the man that he changes his bequest, so he frees the one who had been ordered to be kept as a slave, and enslaves the one whom he had ordered to be freed, and give to the one whom he had forbidden it, and forbid the one whom he had given to, for as long as he has not died'.<sup>46</sup>

بَاب مَنْ أَوْصَى بِوَصِيَّةٍ فَمَاتَ الْمَوْصَى لَهُ قَبْلَ الْمَوْصِي أَوْ مَاتَ قَبْلَ أَنْ يَقْبِضَهَا

## Chapter 9 – One bequeaths with a bequest, for the beneficiary of it dies before the testator, or he dies before taking possession

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ أَوْصَى لِأَخْرَجَ وَ الْمَوْصَى لَهُ غَائِبٌ فَتُوَفِّيَ الَّذِي أَوْصِيَ لَهُ قَبْلَ الْمَوْصِي قَالَ الْوَصِيَّةُ لِوَارِثِ الَّذِي أَوْصِيَ لَهُ

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Hameed, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> judged regarding a man who bequeathed to another, and the beneficial of it was absent. So the one who was the beneficiary who was bequeathed to, died before the testator. He<sup>asws</sup> said: 'The bequest is for the inheritors of the one who was bequeathed to'.

قَالَ وَمَنْ أَوْصَى لِأَحَدٍ شَاهِدًا كَانَ أَوْ غَائِبًا فَتُوَفِّيَ الْمَوْصَى لَهُ قَبْلَ الْمَوْصِي فَالْوَصِيَّةُ لِوَارِثِ الَّذِي أَوْصِيَ لَهُ إِلَّا أَنْ يَرْجِعَ فِي وَصِيَّتِهِ قَبْلَ مَوْتِهِ .

He<sup>asws</sup> said: 'The one who bequeaths to someone, either he is present or absent, so the beneficiary of it dies before the testator, so the bequest is for the inheritors of the one who was the beneficiary of it, except if he (the testator) were to retract in his bequest before he dies'.<sup>47</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ عُمَرَ بْنِ مُوسَى عَنْ مُوسَى بْنِ جَعْفَرٍ عَنْ عَمْرِو بْنِ سَعِيدٍ الْمَدَائِنِيِّ عَنْ مُحَمَّدِ بْنِ عَمْرٍو السَّابَّاطِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ أَوْصَى إِلَيَّ وَ أَمْرِي أَنْ أُعْطِيَ عَمَّا لَهُ فِي كُلِّ سَنَةٍ شَيْئًا فَمَاتَ الْعَمُّ فَكَتَبَ ( عَلَيْهِ السَّلَامُ ) أَعْطِهِ وَرَثَتَهُ .

Muhammad Bin Yahya, from Imran Bin Musa, from Musa Bin Ja'far, from Amro Bin Saeed Al Madainy, from Muhammad Bin Umar Al Sabaty who said,

'I asked Abu Ja'far<sup>asws</sup> about a man who bequeathed to me (to be an executor), and ordered me to give something to an uncle of his during every year. So the uncle died'. So he<sup>asws</sup> wrote: 'Give it to his inheritors'.<sup>48</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ أَيُّوبَ بْنِ نُوحٍ عَنِ الْعَبَّاسِ بْنِ عَامِرٍ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ أَوْصَى لَهُ بِوَصِيَّةٍ فَمَاتَ قَبْلَ أَنْ يَقْبِضَهَا وَ لَمْ يَثْرِكْ عَقِبًا قَالَ ااطْلُبْ لَهُ وَارثًا أَوْ مَوْلَى فَادْفَعْهَا إِلَيْهِ فَلْتُ فَإِنْ لَمْ أَعْلَمْ لَهُ وَلِيًّا قَالَ اجْهَدْ عَلَى أَنْ تَقْدِرَ لَهُ عَلَى وَلِيٍّ فَإِنْ لَمْ تَجِدْهُ وَ عَلِمَ اللَّهُ عَزَّ وَ جَلَّ مِنْكَ الْجِدَّ فَتَصَدَّقْ بِهَا .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Ayoub Bin Nuh, from Al Abbas Bin Aamir who said,

<sup>46</sup> Al Kafi – V 7 – The Book of Bequests Ch 9 H 4

<sup>47</sup> Al Kafi – V 7 – The Book of Bequests Ch 10 H 1

<sup>48</sup> Al Kafi – V 7 – The Book of Bequests Ch 10 H 2

'I asked the Imam<sup>asws</sup> about a man who had been bequeathed to, so he (the beneficiary) died before taking possession, and did not leave any offspring. He<sup>asws</sup> said: 'Seek out his inheritors, or a guardian, so hand it over to him'. I said, 'So if I do not know who is guardian it?' He<sup>asws</sup> said: 'Strive over it in accordance to your ability, for his guardian, so if you still cannot find him, and Allah<sup>azwj</sup> Mighty and Majestic Knows the striving from you, so give it in charity'.<sup>49</sup>

### بَابُ إِفْذَاءِ الْوَصِيَّةِ عَلَى جَهْتِهَا

## Chapter 10 – The enforcement of the bequest upon its commandments

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ حَرِيزِ بْنِ مُحَمَّدٍ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنْ رَجُلٍ أَوْصَى بِمَالِهِ فِي سَبِيلِ اللَّهِ فَقَالَ أَعْطِهِ لِمَنْ أَوْصَى بِهِ لَهُ وَ إِنْ كَانَ يَهُودِيًّا أَوْ نَصْرَانِيًّا إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى يَقُولُ فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ .

Ali Bin Ibrahim, from his father, from Hamaad Bin Isa, from Hareyz, from Muhammad Bin Muslim who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who bequeathed with his Wealth in the Way of Allah<sup>azwj</sup>. So he<sup>asws</sup> said: 'Give it to the one who has bequeathed with it for him, even if he was a Jew or a Christian. Allah<sup>azwj</sup> Blessed and High is Saying [2:181] **So the one who alters it after he has heard it, the sin of it then is only upon the one who alters it**'.<sup>50</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عَلِيِّ بْنِ الْحَكَمِ بْنِ الْعَلَاءِ بْنِ رَزِينِ بْنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) فِي رَجُلٍ أَوْصَى بِمَالِهِ فِي سَبِيلِ اللَّهِ قَالَ أَعْطِ لِمَنْ أَوْصَى بِهِ لَهُ وَ إِنْ كَانَ يَهُودِيًّا أَوْ نَصْرَانِيًّا إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى يَقُولُ فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Ali Bin Al Hakam, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>), regarding a man who bequeathed his wealth in the Way of Allah<sup>azwj</sup>. He<sup>asws</sup> said: 'Give it to the one who has been bequeathed by it from him, even if he was a Jew or a Christian. Allah<sup>azwj</sup> Blessed and High is Saying [2:181] **So the one who alters it after he has heard it, the sin of it then is only upon the one who alters it**'.<sup>51</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ مَهْرِيَّارٍ قَالَ كَتَبَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَام ) إِلَى جَعْفَرٍ وَ مُوسَى وَ فِيهَا أَمْرُكُمَا مِنَ الْإِشْهَادِ بِكَذَا وَ كَذَا نَجَاةً لَكُمَا فِي آخِرَتِكُمَا وَ إِفْذَاءً لِمَا أَوْصَى بِهِ آبَاؤُكُمَا وَ بَرٌّ مِنْكُمَا لَهُمَا وَ أَحَدَرَا أَنْ لَا تَكُونَا بَدَلْتُمَا وَصِيَّتَهُمَا وَ لَا عَيَّرْتُمَاهَا عَنْ حَالِهَا لِأَنَّهُمَا قَدْ خَرَجَا مِنْ ذَلِكَ رَضِيَ اللَّهُ عَنْهُمَا وَ صَارَ ذَلِكَ فِي رِقَابِكُمَا وَ قَدْ قَالَ اللَّهُ تَبَارَكَ وَ تَعَالَى فِي كِتَابِهِ فِي الْوَصِيَّةِ فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ إِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Mahziyar who said,

'Abu Ja'far<sup>asws</sup> wrote to Ja'far<sup>asws</sup> and Musa<sup>asws</sup>: 'And with regards to what I<sup>asws</sup> am ordering both of you<sup>asws</sup>, from the (appointment of) witnessed with such and such, is

<sup>49</sup> Al Kafi – V 7 – The Book of Bequests Ch 10 H 3

<sup>50</sup> Al Kafi – V 7 – The Book of Bequests Ch 11 H 1

<sup>51</sup> Al Kafi – V 7 – The Book of Bequests Ch 11 H 2

a safety for you<sup>asws</sup> in your<sup>asws</sup> Hereafter, and the enforcement of what I<sup>asws</sup>, your<sup>asws</sup> father, am bequeathing with, and your<sup>asws</sup> righteousness from you<sup>asws</sup> to both of them<sup>asws</sup> (parents), and cautioning that you<sup>asws</sup> do not replace their<sup>asws</sup> bequest, nor change it from its state, because they<sup>asws</sup> both would have exited from that, may Allah<sup>azwj</sup> be Pleased from them<sup>asws</sup>, and that has come to be upon your<sup>asws</sup> necks. And Allah<sup>azwj</sup> Blessed and High has Said in His<sup>azwj</sup> Book with regards to the bequest **[2:181] So the one who alters it after he has heard it, the sin of it then is only upon the one who alters it; surely Allah is Hearing, Knowing**.<sup>52</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْوَلِيدِ عَنْ يُونُسَ بْنِ يَعْقُوبَ أَنَّ رَجُلًا كَانَ بِهِمَاذَانِ ذَكَرَ أَنَّ أَبَاهُ مَاتَ وَ كَانَ لَا يَعْرِفُ هَذَا الْأَمْرَ فَأَوْصَى بِوَصِيَّةٍ عِنْدَ الْمَوْتِ وَأَوْصَى أَنْ يُعْطَى شَيْءٌ فِي سَبِيلِ اللَّهِ فَسُئِلَ عَنْهُ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) كَيْفَ يَفْعَلُ بِهِ فَأَخْبَرَنَاهُ أَنَّهُ كَانَ لَا يَعْرِفُ هَذَا الْأَمْرَ فَقَالَ لَوْ أَنَّ رَجُلًا أَوْصَى إِلَيَّ أَنْ أَضَعَّ فِي يَهُودِيٍّ أَوْ نَصْرَانِيٍّ لَوَضَعْتُهُ فِيهِمَا إِنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَأِنَّمَا إِنَّمَا عَلَى الَّذِينَ يُبَدِّلُونَهُ فَانظُرُوا إِلَى مَنْ يَخْرُجُ إِلَى هَذَا الْوَجْهِ يَعْنِي [بَعْضُ] الثُّغُورِ فَابْعَثُوا بِهِ إِلَيْهِ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Waleed, from Yunus Bin Yaqoub that,

'A man was at Hamdaan mentioned that his father died and he did not recognise this matter (Al-Wilayah), so he bequeathed with a bequest during the death, and bequeathed that something be given in the Way of Allah<sup>azwj</sup> (Jihad). So he asked Abu Abdullah<sup>asws</sup> how he should deal with it. So he informed him<sup>asws</sup> he did not recognise this matter (Al Wilayah)'. So he<sup>asws</sup> said: 'Even if a man had bequeathed to me that I<sup>asws</sup> should place it among the Jews or the Christians, I<sup>asws</sup> would have placed among these two. Allah<sup>azwj</sup> Mighty and Majestic is Saying **[2:181] So the one who alters it after he has heard it, the sin of it then is only upon the one who alters it**. Therefore, look at the one who has gone out to these direction, meaning one of the borders, so send it to him'.<sup>53</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ مُحَمَّدِ بْنِ سُلَيْمَانَ عَنِ الْحُسَيْنِ بْنِ عُمَرَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) إِنَّ رَجُلًا أَوْصَى إِلَيَّ بِشَيْءٍ فِي السَّبِيلِ فَقَالَ لِي أَصْرِفُهُ فِي الْحَجِّ قَالَ قُلْتُ لَهُ أَوْصَى إِلَيَّ فِي السَّبِيلِ قَالَ أَصْرِفُهُ فِي الْحَجِّ فَإِنِّي لَا أَعْلَمُ شَيْئًا مِنْ سَبِيلِهِ أَفْضَلَ مِنَ الْحَجِّ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Muhammad Bin Isa, from Muhammad Bin Suleyman, from Al Husayn Bin Umar who said,

'I said to Abu Abdullah<sup>asws</sup>, 'A man (in Wilayah) bequeathed something in the Way (Jihad)'. So he<sup>asws</sup> said to me: 'Spend it regarding the Hajj'. I said to him<sup>asws</sup>, 'He bequeathed to me (to be in) the Way (Jihad)'. He<sup>asws</sup> said: 'Spend it regarding the Hajj, for I<sup>asws</sup> do not know of anything from His<sup>azwj</sup> Way being superior than the Hajj'.<sup>54</sup>

<sup>52</sup> Al Kafi – V 7 – The Book of Bequests Ch 11 H 3

<sup>53</sup> Al Kafi – V 7 – The Book of Bequests Ch 11 H 4

<sup>54</sup> Al Kafi – V 7 – The Book of Bequests Ch 11 H 5

**Chapter 11 – Another Chapter from it**

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيسَى عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ حَجَّاجِ الْخَشَّابِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ أَوْصَتْ إِلَيَّ بِمَالٍ أَنْ يُجْعَلَ فِي سَبِيلِ اللَّهِ فَقِيلَ لَهَا نَحُجُّ بِهَ فَقَالَتْ اجْعَلْهُ فِي سَبِيلِ اللَّهِ فَقَالُوا لَهَا فَتُعْطِيهِ آلَ مُحَمَّدٍ ( عَلَيْهِمُ السَّلَامُ ) قَالَتْ اجْعَلْهُ فِي سَبِيلِ اللَّهِ

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Ali Bin Al Hakam, from Hajaaj Al Khashab,

(The narrator says): ‘I asked Abu Abdullah<sup>asws</sup> about a woman who bequeathed to me with wealth that I should make it to be in the Way of Allah<sup>azwj</sup>. So it was said to her, ‘We can perform Hajj with it?’ So she said, ‘Make it to be in the Way of Allah<sup>azwj</sup>’. So they said to her, ‘Shall we give it to the Progeny<sup>asws</sup> of Muhammad<sup>saww</sup>?’ She said, ‘Make it to be in the Way of Allah<sup>azwj</sup>’.

فَقَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) اجْعَلْهُ فِي سَبِيلِ اللَّهِ كَمَا أَمَرْتُ فَلْتُ مَرْئِي كَيْفَ اجْعَلْهُ قَالَ اجْعَلْهُ كَمَا أَمَرْتُكَ إِنَّ اللَّهَ تَبَارَكَ وَتَعَالَى يَقُولُ فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ إِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ أَرَأَيْتَكَ لَوْ أَمَرْتُكَ أَنْ تُعْطِيَهُ يَهُودِيًّا كُنْتَ تُعْطِيهِ نَصْرَانِيًّا

So Abu Abdullah<sup>asws</sup> said: ‘Make it to be in the Way of Allah<sup>azwj</sup> just as she had ordered’. I said, ‘Order me how I should make it to be’. He<sup>asws</sup> said: ‘Make it to be just as she had ordered you. Allah<sup>azwj</sup> Blessed and High is Saying [2:181] **So the one who alters it after he has heard it, the sin of it then is only upon the one who alters it; surely Allah is Hearing, Knowing.** Do you see that if she had ordered you to give it to a Jew, would you have given it to a Christian?’

قَالَ فَمَكَثْتُ بَعْدَ ذَلِكَ ثَلَاثَ سِنِينَ ثُمَّ دَخَلْتُ عَلَيْهِ فَقُلْتُ لَهُ مِثْلَ الَّذِي قُلْتُ أَوَّلَ مَرَّةٍ فَسَكَتَ هُنَيْئَةً ثُمَّ قَالَ هَاتِيهَا قُلْتُ مَنْ أُعْطِيهَا قَالَ عِيسَى شَلْقَانَ .

He (the narrator) said, ‘So I remained after that, for three years, then I came over to him<sup>asws</sup>, so I said to him<sup>asws</sup> similar to what I had said the first time. So he<sup>asws</sup> was silent for a while, then said: ‘Give it’. I said, ‘Whom what I give it to?’ He<sup>asws</sup> said: ‘Isa Shalqan’.<sup>55</sup>

مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ مُحَمَّدِ بْنِ عِيسَى وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ عِيسَى بْنِ عُبَيْدٍ عَنِ الْحَسَنِ بْنِ رَاشِدٍ قَالَ سَأَلْتُ الْعَسْكَرِيَّ ( عَلَيْهِ السَّلَامُ ) بِالْمَدِينَةِ عَنْ رَجُلٍ أَوْصَى بِمَالٍ فِي سَبِيلِ اللَّهِ فَقَالَ سَبِيلُ اللَّهِ شِيعَتُنَا .

Muhammad Bin Ja'far Al Razaaz, from Muhammad Bin Isa and Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Muhammad Bin Isa Bin Ubeyd, from Al Hassan Bin Rashid who said,

‘I asked (Imam) Al-Askary<sup>asws</sup> at Al-Medina about a man who had bequeathed wealth to be in the Way of Allah<sup>azwj</sup>. So he<sup>asws</sup> said: ‘The Way of Allah<sup>azwj</sup>, is (a reference to) our<sup>asws</sup> Shias’.<sup>56</sup>

<sup>55</sup> Al Kafi – V 7 – The Book of Bequests Ch 12 H 1

<sup>56</sup> Al Kafi – V 7 – The Book of Bequests Ch 12 H 2

## Chapter 12 – Another Chapter from it

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِي طَالِبٍ عَبْدِ اللَّهِ بْنِ الصَّلْتِ قَالَ كَتَبَ الْخَلِيلُ بْنُ هَاشِمٍ إِلَى ذِي الرَّئِاسَتَيْنِ وَهُوَ وَالِي نَيْسَابُورَ أَنَّ رَجُلًا مِنَ الْمَجُوسِ مَاتَ وَ أَوْصَى الْفُقَرَاءَ بِشَيْءٍ مِنْ مَالِهِ فَأَخَذَهُ قَاضِي نَيْسَابُورَ فَجَعَلَهُ فِي فُقَرَاءِ الْمُسْلِمِينَ فَكَتَبَ الْخَلِيلُ إِلَى ذِي الرَّئِاسَتَيْنِ بِذَلِكَ فَسَأَلَ الْمَأْمُونَ عَنْ ذَلِكَ فَقَالَ لَيْسَ عِنْدِي فِي ذَلِكَ شَيْءٌ فَسَأَلَ أَبُو الْحَسَنِ ( عَلَيْهِ السَّلَام ) فَقَالَ أَبُو الْحَسَنِ ( عَلَيْهِ السَّلَام ) إِنَّ الْمَجُوسِيَّ لَمْ يُوصِ الْفُقَرَاءَ الْمُسْلِمِينَ وَ لَكِنْ يَنْبَغِي أَنْ يُؤَخَذَ مَقْدَارُ ذَلِكَ الْمَالِ مِنْ مَالِ الصَّدَقَةِ فَيُرَدَّ عَلَى فُقَرَاءِ الْمَجُوسِ .

Ali Bin Ibrahim, from his father, from Abu Talib Abdullah Bin Al Salt who said,

'Al-Khaleel Bin Hashim wrote to Zil Riyasatayn (One with two governerships), and he was the governor at Neysabour, that a man from the Magians had died and bequeathed to the poor with something from his wealth. So the judge of Neysabour took possession and made it to be among the poor Muslims. So Al-Khaleel wrote to Zil Riyasatayn and said. So he asked Al-Mamoun about that. So he said, 'There is nothing with me with regards to that, anything'. So he asked Abu Al-Hassan<sup>asws</sup>. So Abu Al-Hassan<sup>asws</sup> said: 'The Magians do not bequeath of the poor Muslims, but it is befitting that you take the measured amount of that wealth from the charity monies (from the public treasury), so it should be distributed upon the poor Magians'.<sup>57</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الرَّيَّانِ بْنِ شَبِيبٍ قَالَ أَوْصَتْ مَارِدَةُ لِقَوْمِ نَصَارَى فَرَأَيْتُ بَوَصِيَّةٍ فَقَالَ أَصْحَابُنَا أَقْسَمُ هَذَا فِي فُقَرَاءِ الْمُؤْمِنِينَ مِنْ أَصْحَابِكَ فَسَأَلْتُ الرَّضَا ( عَلَيْهِ السَّلَام ) فَقُلْتُ إِنَّ أُخْتِي أَوْصَتْ بِوَصِيَّةٍ لِقَوْمِ نَصَارَى وَ أَرَدْتُ أَنْ أَصْرِفَ ذَلِكَ إِلَى قَوْمٍ مِنْ أَصْحَابِنَا مُسْلِمِينَ فَقَالَ أَمْضِ الْوَصِيَّةَ عَلَى مَا أَوْصَتْ بِهِ قَالَ اللَّهُ تَبَارَكَ وَ تَعَالَى فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ .

Ali Bin Ibrahim, from his father, from Al Rayyan Bin Shuayb who said,

'Maradat bequeathed to a group of Christian workers, with a bequest. But I intended to, 'Distribute this among the poor Muslims from your companions'. So I asked Al-Reza<sup>asws</sup>, 'So I said, 'My sister bequeathed with a bequest for a group of Christians, and I intended to spend that upon a group of our Muslim companions'. So he<sup>asws</sup> said: 'Enforce the bequest upon what she had bequeathed with. Allah<sup>azwj</sup> Blessed and High Says [2:181] the sin of it then is only upon the one who alters it'.<sup>58</sup>

باب مِنْ أَوْصَى بَعْتَقِي أَوْ صَدَقَةً أَوْ حَجًّا

## Chapter 13 – One who bequeaths with the libration of a slave, or charity, or Hajj

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ رَجُلٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ فِي رَجُلٍ أَوْصَى بِأَكْثَرِ مِنَ الثَّلَاثِ وَ أَعْتَقَ مَمْلُوكَهُ فِي مَرَضِهِ فَقَالَ إِنْ كَانَ أَكْثَرَ مِنَ الثَّلَاثِ رُدَّ إِلَى الثَّلَاثِ وَ جَارَ الْعَتَقُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from a man, from Muhammad Bin Muslim,

<sup>57</sup> Al Kafi – V 7 – The Book of Bequests Ch 13 H 1

<sup>58</sup> Al Kafi – V 7 – The Book of Bequests Ch 13 H 2

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said regarding a man who bequeathed more than the third, and emancipated (liberated) his slave during his illness. So he<sup>asws</sup> said: 'If it was more than the third, return it to the third; and the emancipation is Permissible'.<sup>59</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِنْ أَعْتَقَ رَجُلٌ عِنْدَ مَوْتِهِ خَادِمًا لَهُ ثُمَّ أَوْصَى بِوَصِيَّةٍ أُخْرَى أَلْفَيْتِ الْوَصِيَّةُ وَ أَعْتَقَ الْخَادِمَ مِنْ ثَلَاثِهِ إِلَّا أَنْ يَفْضَلَ مِنَ الثَّلَاثِ مَا يَبْلُغُ الْوَصِيَّةَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad, from Ali Bin Abu Hamza, from Abu Baseer,

Abu Abdullah<sup>asws</sup> has said: 'If a man emancipates a servant of his during his death, then makes another will, so it is dropped, and the servant is freed from a one-third, except if the bequest reaches to be more than the one-third of the property'.<sup>60</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ إِسْمَاعِيلَ بْنِ هَمَّامٍ عَنِ أَبِي الْحَسَنِ (عليه السلام) فِي رَجُلٍ أَوْصَى عِنْدَ مَوْتِهِ بِمَالٍ لِدَوِي قَرَابَتِهِ وَ أَعْتَقَ مَمْلُوكًا لَهُ وَ كَانَ جَمِيعُ مَا أَوْصَى بِهِ يَزِيدُ عَلَى الثَّلَاثِ كَيْفَ يَصْنَعُ فِي وَصِيَّتِهِ فَقَالَ يَبْدَأُ بِالْأَعْتَقِ فَيَنْفِذُهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ismail Bin Hamam,

(It has been narrated) from Abu Al-Hassan<sup>asws</sup> regarding a man who bequeathed during his death with wealth for the relatives, and emancipated a slave of his, and the entirety of what he had bequeathed with exceeded upon the third. How should one deal with his bequest?' So he<sup>asws</sup> said: 'Begin with the emancipation, and (then) enforce it'.<sup>61</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ حَضَرَهُ الْمَوْتُ فَأَعْتَقَ مَمْلُوكَهُ وَ أَوْصَى بِوَصِيَّةٍ فَكَانَ أَكْثَرَ مِنَ الثَّلَاثِ قَالَ يُمَضَى عِنْدَ الْغَلَامِ وَ يَكُونُ التَّفْصَانُ فِيمَا بَقِيَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Ali Bin Al Hakam, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(The narrator says) 'I asked Abu Abdullah<sup>asws</sup> about a man, the death having presented itself to him, so he liberated his slave and bequeathed with a bequest. So it was more than the third. He<sup>asws</sup> said: 'Enforce the emancipation of the slave, and the deficit is regarding what remains'.<sup>62</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنِ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ عَلِيِّ بْنِ النُّعْمَانِ عَنِ سُؤدِدِ الْقَلَاءِ عَنْ أَبِي بَرْبٍ بْنِ الْحُرِّ عَنْ أَبِي بَكْرِ الْحَضْرَمِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قُلْتُ لَهُ إِنَّ عُلْقَمَةَ بِنْتُ مُحَمَّدٍ أَوْصَانِي أَنْ أَعْتَقَ عَنْهُ رَقَبَةً فَأَعْتَقْتُ عَنْهُ امْرَأَةً أَوْ فَتَجَزِيهِ أَوْ أَعْتَقَ عَنْهُ مِنْ مَالِي قَالَ يُجْزِيهِ

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Muhammad Bin Ismail, from Ali Bin Al Noman, from Suweyd Al Qalla, from Ayoub Bin Al Hurr, from Abu Bakr Al Hazramy,

<sup>59</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 1

<sup>60</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 2

<sup>61</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 3

<sup>62</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 4

(The narrator says): 'I said to Abu Abdullah<sup>asws</sup>, 'Alqamah Bin Muhmmad bequeathed to me that I should emancipate liberated a neck on his behalf, so I emancipated a woman on his behalf. Is that sufficient, or shall I emancipate on his behalf from my own wealth?' He<sup>asws</sup> said: 'It is sufficient'.

ثُمَّ قَالَ لِي إِنَّ فَاطِمَةَ أُمِّ ابْنِي أَوْصَتْ أَنْ أُعْتِقَ عَنْهَا رَقَبَةً فَأَعْتَقْتُ عَنْهَا امْرَأَةً .

Then he<sup>asws</sup> said: 'Fatima, mother of my<sup>asws</sup> son, bequeathed that I<sup>asws</sup> should emancipate a neck on her behalf, so I<sup>asws</sup> emancipated a woman on her behalf'.<sup>63</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ قَالَ سَأَلَنِي رَجُلٌ عَنِ امْرَأَةٍ تُوَفِّيَتْ وَ لَمْ تَحِجَّ فَأَوْصَتْ أَنْ يُنْظَرَ قَدْرُ مَا يَحِجُّ بِهِ فَسَلِلَ عَنْهُ فَإِنْ كَانَ أَمْثَلُ أَنْ يُوَضَعَ فِي فُقَرَاءٍ وَوَلَدِ فَاطِمَةَ وَوَضَعَ فِيهِمْ وَ إِنْ كَانَ الْحِجُّ أَمْثَلُ حُجَّ عَنْهَا فَقُلْتُ لَهُ إِنْ كَانَتْ عَلَيْهَا حَجَّةٌ مَفْرُوضَةٌ فَإِنْ يَنْفَقَ مَا أَوْصَتْ بِهِ فِي الْحِجِّ أَحَبُّ إِلَيَّ مِنْ أَنْ يُقَسَمَ فِي غَيْرِ ذَلِكَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hamaad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'A man asked me<sup>asws</sup> about a woman who died and had not performed Hajj. So she bequeathed, and he looked at an amount with which Hajj could be performed with. So he asked about it, if it was more favourable that he places it among the poor of the Children of Syeda Fatima<sup>asws</sup>, so he would place it among them, and if it was that the Hajj was more favourable, he would perform Hajj with it. So I<sup>asws</sup> said to him: 'If the Obligatory Hajj was upon her, so spending what she has bequeathed with regarding the Hajj is more beloved to me than distribution in other than that'.<sup>64</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ فِي رَجُلٍ مَاتَ وَ أَوْصَى أَنْ يُحِجَّ عَنْهُ فَقَالَ إِنْ كَانَ صَرُورَةً يُحِجُّ عَنْهُ مِنْ وَسْطِ الْمَالِ وَ إِنْ كَانَ غَيْرَ صَرُورَةٍ فَمِنْ الثُّلُثِ .

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazal Bin Shazaan, both together from Ibn Abu Umeyr, from Muawiya Bin Ammar,

(It has been narrated) regarding a man who died and bequeathed (left a will) that Hajj be performed from it. So he<sup>asws</sup> said: 'If it was a first Hajj, perform Hajj from the middle of the wealth, and if it was other than the first Hajj, so it is from the one-third of (his wealth)'.<sup>65</sup>

عَنْهُ عَنِ مُعَاوِيَةَ بْنِ عَمَّارٍ فِي امْرَأَةٍ أَوْصَتْ بِمَالٍ فِي عِتْقٍ وَ صَدَقَةٍ وَ حَجٍّ فَلَمْ يَبْلُغْ قَالَ أِبْدَأُ بِالْحَجِّ فَإِنَّهُ مَفْرُوضٌ فَإِنْ بَقِيَ شَيْءٌ فَاجْعَلْهُ فِي الصَّدَقَةِ طَائِفَةً وَ فِي الْعِتْقِ طَائِفَةً .

From him, from Muawiya Bin Amaar,

(It has been narrated) regarding a woman who bequeathed with wealth regarding emancipation (of a slave), and charity, and Hajj, but it (amount) did not reach (the necessary required). He<sup>asws</sup> said: 'Begin with the Hajj, for it is Obligatory. So if

<sup>63</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 5

<sup>64</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 6

<sup>65</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 7

anything were to remain, so make a portion of it to be regarding the charity, a portion regarding the emancipation (of a slave)'.<sup>66</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَلِيِّ بْنِ أَبِي حَمَزَةَ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَام ) عَنْ رَجُلٍ أَوْصَى بِثَلَاثِينَ دِينَارًا يُعْتَقُ بِهَا رَجُلٌ مِنْ أَصْحَابِنَا فَلَمْ يُوَجَدْ بِذَلِكَ قَالَ يُسْتَرَى مِنَ النَّاسِ فَيُعْتَقُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ali Bin Abu Hama who said,

'I asked Abu Al-Hassan<sup>asws</sup> about a man who bequeathed with thirty Dinars to emancipate (a slave) with it, a man from our companions. So that could not be found. He<sup>asws</sup> said: 'Buy (a slave) from the people, so emancipate him'.<sup>67</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ أَبِي حَمَزَةَ قَالَ سَأَلْتُ عَبْدًا صَالِحًا ( عَلَيْهِ السَّلَام ) عَنْ رَجُلٍ هَلَكَ فَأَوْصَى بِعَتَقِ نَسَمَةٍ مُسْلِمَةٍ بِثَلَاثِينَ دِينَارًا فَلَمْ يُوَجَدْ لَهُ بِالَّذِي سَمَى قَالَ مَا أَرَى لَهُمْ أَنْ يَزِيدُوا عَلَى الَّذِي سَمَى فَلْتُ فَإِنْ لَمْ يَجِدُوا قَالَ فَلْيُسْتَرُوا مِنْ عَرْضِ النَّاسِ مَا لَمْ يَكُنْ نَاصِبًا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad, from Ali Bin Abu Hamza who said,

'I asked Abd Salih<sup>asws</sup> (7<sup>th</sup> Imam<sup>asws</sup>) about a man who perished (died), so he bequeathed for the emancipation of a Muslim person with thirty Dinars. So that could not be found with the named (amount). He<sup>asws</sup> said: 'What I<sup>asws</sup> see is that they should increase upon that which has been named (amount)'. I said, 'So if it cannot be found?' He<sup>asws</sup> said: 'So let him buy from the display of the people, but that does not happen to be a Nasibi (Hostile one)'.<sup>68</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْوَشَاءِ عَنْ أَبِيَانَ عَنْ مُحَمَّدِ بْنِ مَرْوَانَ عَنِ الشَّيْخِ ( عَلَيْهِ السَّلَام ) ( أَنَّ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَام ) مَاتَ وَ تَرَكَ سِتِّينَ مَمْلُوكًا فَأَعْتَقَ ثَلَاثَهُمْ فَأَقْرَعَتْ بَيْنَهُمْ وَ أخرجتُ التَّلْثَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali Al Washa, from Aban, from Muhammad Bin Marwan,

(It has been narrated) from Al-Sheykh (6<sup>th</sup> Imam<sup>asws</sup>) that Abu Ja'far<sup>asws</sup> passed away and left sixty slaves, so I<sup>asws</sup> emancipated a third of them, drawing lots between them, and extracted the third'.<sup>69</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَام ) عَنْ مُحَرَّرَةٍ أَعْتَقَهَا أَخِي وَ قَدْ كَانَتْ تَخْدُمُ مَعَ الْجَوَارِي وَ كَانَتْ فِي عِيَالِهِ فَأَوْصَانِي أَنْ أَنْفِقَ عَلَيْهَا مِنَ الْوَسْطِ فَقَالَ إِنْ كَانَتْ مَعَ الْجَوَارِي وَ أَقَامَتْ عَلَيْهِنَّ فَانْفِقْ عَلَيْهَا وَ اتَّبِعْ وَصِيَّتَهُ .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad, from Ali Bin Abu Hamza, from Abu Baseer who said,

'I asked Abu Ja'far<sup>asws</sup> about a slave girl freed by my brother, and she used to serve with slave girls, and was in his family. So he bequeathed to me to spend upon her

<sup>66</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 8

<sup>67</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 9

<sup>68</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 10

<sup>69</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 11

from the middle (of the legacy). So he<sup>asws</sup> said: 'If she was with the slave girls and was supervising over them, so spend upon her, and follow the bequest'.<sup>70</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ أَوْصَى أَنْ يُعْتَقَ عَنْهُ نَسَمَةٌ بِخَمْسِمِائَةِ دِرْهَمٍ مِنْ ثَلَاثَةِ فَاثْنَتَرِي نَسَمَةٍ بِأَقْلٍ مِنْ خَمْسِمِائَةِ دِرْهَمٍ وَ فَضَلَتْ فَضْلُهُ فَمَا تَرَى قَالَ تُدْفَعُ الْفَضْلَةُ إِلَى النَّسَمَةِ مِنْ قَبْلِ أَنْ تُعْتَقَ ثُمَّ تُعْتَقَ عَنِ الْمَيْتِ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Abu Ayoub, from Sama'at who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who bequeathed that a person be freed with five hundred Dirhams from his third. So a person was bought for less than five hundred Dirhams, and the remainder remained as you<sup>asws</sup> can see. He<sup>asws</sup> said: 'You should give the remainder to the slave from before emancipating him, then emancipate him on behalf of the dead'.<sup>71</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ قَالَ أَوْصَتْ إِلَيَّ امْرَأَةٌ مِنْ أَهْلِي بِثُلُثِ مَالِهَا وَ أَمَرَتْ أَنْ يُعْتَقَ وَ يُحَجَّ وَ يُنْصَقَ فَلَمْ يَبْلُغْ ذَلِكَ فَسَأَلْتُ أَبَا حَنِيفَةَ عَنْهَا فَقَالَ تَجْعَلُ ثَلَاثًا ثَلَاثًا فِي الْعِنَقِ وَ ثَلَاثًا فِي الْحَجِّ وَ ثَلَاثًا فِي الصَّدَقَةِ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Muawiya Bin Ammar who said,

'A woman from my family bequeathed to me with a third of her wealth, and she ordered that (a slave be) emancipated, and Hajj (be performed), and charity (be given), but that (amount) did not reach the requirement. So I asked Abu Haneefa about it, so he said, 'Make it three (parts), a third regarding the emancipation, and a third regarding the Hajj, and a third regarding the charity'.

فَدَخَلْتُ عَلَى أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فَقُلْتُ إِنَّ امْرَأَةً مِنْ أَهْلِي مَاتَتْ وَ أَوْصَتْ إِلَيَّ بِثُلُثِ مَالِهَا وَ أَمَرَتْ أَنْ يُعْتَقَ عَنْهَا وَ يُنْصَقَ وَ يُحَجَّ عَنْهَا فَظَنَرْتُ فِيهِ فَلَمْ يَبْلُغْ فَقَالَ أبدأ بِالْحَجِّ فَإِنَّهُ فَرِيضَةٌ مِنْ فَرَائِضِ اللَّهِ عَزَّ وَ جَلَّ وَ يُجْعَلُ مَا بَقِيَ طَائِفَةً فِي الْعِنَقِ وَ طَائِفَةً فِي الصَّدَقَةِ فَأَخْبَرْتُ أَبَا حَنِيفَةَ بِقَوْلِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فَرَجَعَ عَنْ قَوْلِهِ وَ قَالَ بِقَوْلِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) .

So I came over to Abu Abdullah<sup>asws</sup>, so I said, 'A woman from my family died, and bequeathed to me with a third of her wealth, and ordered that (a slave) be emancipated from it, and charity be given, and Hajj be performed from it. So I looked into it but (the amount) did not reach (was insufficient)'. So he<sup>asws</sup> said: 'Begin with the Hajj, for it is an Obligation from the Obligations of Allah<sup>azwj</sup> Mighty and Majestic, and make whatever remains, a portion regarding the emancipation, and a portion regarding the charity'. So I informed Abu Haneefa with the words of Abu Abdullah<sup>asws</sup>, so he retracted from his own words, and spoke with the words of Abu Abdullah<sup>asws</sup>.<sup>72</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي جَمِيلَةَ عَنْ حُمْرَانَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ أَوْصَى عِنْدَ مَوْتِهِ أَعْتَقَ فُلَانًا وَ فُلَانًا وَ فُلَانًا وَ فُلَانًا فَظَنَرْتُ فِي ثَلَاثِهِ فَلَمْ يَبْلُغْ أَتَمَانَ قِيمَةِ الْمَمَالِكِ الْخَمْسَةِ الَّتِي أَمَرَ بِعِنَقِهِمْ قَالَ يُنْظَرُ إِلَى الذِّينِ سَمَاهُمْ وَ يُبْدَأُ بِعِنَقِهِمْ فَيُفَوِّمُونَ وَ يُنْظَرُ إِلَى

<sup>70</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 12

<sup>71</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 13

<sup>72</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 14

تَلْتِيهِ فَيُعْتَقُ مِنْهُ أَوَّلُ شَيْءٍ تَمَّ الثَّانِي ثُمَّ الثَّلَاثُ ثُمَّ الرَّابِعُ ثُمَّ الْخَامِسُ فَإِنْ عَجَزَ الثَّلَاثُ كَانَ فِي الَّذِي سَمَىٰ أَحْيَرًا لِأَنَّهُ أَعْتَقَ بَعْدَ مَبْلَغِ الثَّلَاثِ مَا لَا يَمْلِكُ فَلَا يَجُوزُ لَهُ ذَلِكَ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Abu Jameela, from Humran,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding a man who bequeathed during his death to free so and so, and so and so, and so and so, and so and so, and so and so. So I looked into his third, but it's value did not reach the price of the five slaves which he had ordered to be emancipated'. Look at that which he had named (the five slaves), and begin by emancipating them. So stand them and look at his third, so emancipate from it, the first one, then the second, then the third, then the fourth, then the fifth. So if the third is insufficient with regards to what had been named, stop, for emancipating after reaching the third is what is not for the slaves, so that is not allowable for him'.<sup>73</sup>

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ قَصَّالٍ عَنْ دَاوُدَ بْنِ أَبِي يَزِيدَ قَالَ سَأَلَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ كَانَ فِي سَفَرٍ وَمَعَهُ جَارِيَةٌ لَهُ وَ غُلَامَانِ مَمْلُوكَانِ فَقَالَ لَهُمَا أَنْتُمَا حُرَّانِ لَوْجِهَ اللَّهِ وَ الشَّهَدَا أَنْ مَا فِي بَطْنِ جَارِيَتِي هَذِهِ مِنِّي فَوَلَدَتْ غُلَامًا فَلَمَّا قَدِمُوا عَلَى الْوَرَثَةِ أَنْكَرُوا ذَلِكَ وَ اسْتَرْقَوْهُمْ ثُمَّ إِنَّ الْغُلَامَيْنِ أُعْتِقَا بَعْدَ ذَلِكَ فَشَهِدَا بَعْدَ مَا أُعْتِقَا أَنَّ مَوْلَاهُمَا الْأَوَّلَ أَشْهَدُهُمَا أَنَّ مَا فِي بَطْنِ جَارِيَتِهِ مِنْهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Dawood Bin Abu Yazeed who said,

'Abu Abdullah<sup>asws</sup> was asked about a man who was in a journey and with him was a slave girl of his, and two slave boys. So he said to them both, 'You are both free for the Sake of Allah<sup>azwj</sup>, and I testify that whatever is in the belly of this slave girl of mine, is from me. So she gave birth to a boy. So when they proceeded to the inheritor, he denied that and enslaved them. Then the two slaves were emancipated after that, so they testified after having been emancipated that their master had at first testified that whatever was in the belly of his slave girl was from him'.

قَالَ يَجُوزُ شَهَادَتُهُمَا لِلْغُلَامِ وَ لَا يَسْتَرْقِيهِمَا الْغُلَامُ الَّذِي شَهِدَا لَهُ لِأَنَّهُمَا أَتَبَتَا نَسَبَهُ.

He<sup>asws</sup> said: 'Both their testimonies is allowed, and the boy whom they had testified for cannot enslave the two of them, because they had both affirmed his lineage'.<sup>74</sup>

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ أَحْمَدَ بْنِ زِيَادٍ عَنْ أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ تَحَضَّرَهُ الْوَفَاةُ وَ لَهُ مَمَالِيكٌ لِخَاصَّةِ نَفْسِهِ وَ لَهُ مَمَالِيكٌ فِي شِرْكَةِ رَجُلٍ آخَرَ فَيُوصِي فِي وَصِيَّتِهِ مَمَالِيكِي أحراراً مَا حَالُ مَمَالِيكِهِ الَّذِينَ فِي الشَّرِكَةِ فَقَالَ يَقُومُونَ عَلَيْهِ إِنْ كَانَ مَالُهُ يَحْتَمِلُ ثُمَّ هُمْ أحراراً .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ahmad Bin Muhammad Bin Abu Nasr, from Ahmad Bin Ziyad,

(The narrator says): 'I asked Abu Al-Hassan<sup>asws</sup> about a man to whom the death presented itself, and for him were slaves in particular for himself, and for him were slaves in a partnership with another man. So he bequeathed in his bequest for his slaves to be freed. What is the state of his slaves which were in the partnership?' So

<sup>73</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 15

<sup>74</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 16

he<sup>asws</sup> said: 'They should be made to stand (for evaluation). If his wealth could bear them (sufficient), then they are free'.<sup>75</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنِ النَّضْرِ بْنِ شُعَيْبٍ الْمُحَارِبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي رَجُلٍ تُوْفِّيَ وَ تَرَكَ جَارِيَةً أَعْتَقَ ثَلَاثَهَا فَتَرَوَّجَهَا الْوَصِيُّ قَبْلَ أَنْ يُقَسَمَ شَيْءٌ مِنَ الْمِيرَاثِ أَنَّهَا تَقُومُ وَ تُسْتَسْعَى هِيَ وَ زَوْجُهَا فِي بَقِيَّةِ ثَمَنِهَا بَعْدَ مَا يُقُومُ فَمَا أَصَابَ الْمَرْأَةَ مِنْ عِتْقٍ أَوْ رِقٍّ فَهُوَ يَجْرِي عَلَى وَلَدِهَا .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Al Nazar Bin Shuayb Al Muharaby,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who died and left a slave girl, emancipated a third of her. So the executor married her before the distribution of anything from the inheritance. (He<sup>asws</sup> said): 'She would be evaluated and she and her husband would have to work to pay off the rest of her price after having been evaluated. So whatever the woman was affected by from the emancipation or enslavement, so it would flow upon her child'.<sup>76</sup>

بَابُ أَنَّ مَنْ خَافَ فِي الْوَصِيَّةِ فَلِلْوَصِيِّ أَنْ يَرُدَّهَا إِلَى الْحَقِّ

## Chapter 14 – If one is unjust in the bequest, so it is for the executor that he returns it to the right

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ رَجَالِهِ قَالَ قَالَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ أَطْلَقَ لِلْمُوصِي إِلَيْهِ أَنْ يُعَيِّرَ الْوَصِيَّةَ إِذَا لَمْ يَكُنْ بِالْمَعْرُوفِ وَ كَانَ فِيهَا حَيْفٌ وَ يَرُدُّهَا إِلَى الْمَعْرُوفِ لِقَوْلِهِ عَزَّ وَ جَلَّ فَمَنْ خَافَ مِنْ مُوصٍ جَنَفًا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا إِثْمَ عَلَيْهِ .

Ali Bin Ibrahim, from his father, from his men who said,

He<sup>asws</sup> said: 'Allah<sup>azwj</sup> Mighty and Majestic has Released it for the executor that he can change the bequest when it does not happen to be with the goodness, and there was injustice in it, and return it to the goodness, due to His<sup>azwj</sup> Words, the Mighty and Majestic **[2:182] But he who fears an inclination to a wrong course or an act of disobedience on the part of the testator, and effects an agreement between the parties, there is no blame on him**'.<sup>77</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنِ مُحَمَّدِ بْنِ سُوْقَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرَ ( عَلَيْهِ السَّلَام ) عَنْ قَوْلِ اللَّهِ تَبَارَكَ وَ تَعَالَى فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ قَالَ نَسَخْنَاهَا الْآيَةَ الَّتِي بَعْدَهَا قَوْلُهُ عَزَّ وَ جَلَّ فَمَنْ خَافَ مِنْ مُوصٍ جَنَفًا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا إِثْمَ عَلَيْهِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Abu Ayoub, from Muhammad Bin Sowqat who said,

'I asked Abu Ja'far<sup>asws</sup> about the Words of Allah<sup>azwj</sup> Blessed and High **[2:181] So the one who alters it after he has heard it, the sin of it then is only upon the one who alters it**. He<sup>asws</sup> said: 'It has to be considered by the Verse, which is after it, the Words of the Mighty and Majestic **[2:182] But he who fears an inclination to a wrong course or an act of disobedience on the part of the testator, and effects an agreement between the parties, there is no blame on him**.

<sup>75</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 17

<sup>76</sup> Al Kafi – V 7 – The Book of Bequests Ch 14 H 18

<sup>77</sup> Al Kafi – V 7 – The Book of Bequests Ch 15 H 1

قَالَ يَعْني الْمَوْصِي إِلَيْهِ إِنْ خَافَ جَنَفًا مِنَ الْمَوْصِي فِيمَا أَوْصَى بِهِ إِلَيْهِ مِمَّا لَا يَرْضَى اللَّهُ بِهِ مِنْ خِلَافِ الْحَقِّ فَلَا إِثْمَ عَلَيْهِ أَيَّ عَلَى الْمَوْصَى إِلَيْهِ أَنْ يُبَدِّلَهُ إِلَى الْحَقِّ وَإِلَى مَا يَرْضَى اللَّهُ بِهِ مِنْ سَبِيلِ الْخَيْرِ .

He<sup>asws</sup> said: 'It means the executor, if he fears injustice on the part of the testator with regards to what he has bequeathed with to him from what Allah<sup>azwj</sup> is not Pleased with, being opposite to the right, so there is no blame upon him, i.e., upon the executor, that he changes it to the right and to what Allah<sup>azwj</sup> is Pleased with, from the way of the Goodness'.<sup>78</sup>

### بَابُ أَنَّ الْوَصِيَّ إِذَا كَانَتْ الْوَصِيَّةُ فِي حَقِّ فَعَيَّرَهَا فَهُوَ ضَامِنٌ

## Chapter 15 – If the executor, when the bequest was right, so he changes it, so he is responsible

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَحُمَيْدُ بْنُ زِيَادٍ عَنْ عُبَيْدِ اللَّهِ بْنِ أَحْمَدَ جَمِيعًا عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ زَيْدِ النَّزْسِيِّ عَنْ عَلِيِّ بْنِ فَرْقَدٍ صَاحِبِ السَّابِرِيِّ قَالَ أَوْصَى إِلَيَّ رَجُلٌ بِتَرْكَتِهِ وَأَمَرَنِي أَنْ أُحْجَّ بِهَا عَنْهُ فَتَنَظَرْتُ فِي ذَلِكَ فَإِذَا شَيْءٌ يَسِيرٌ لَا يَكْفِي لِلْحَجِّ فَسَأَلْتُ أَبَا حَنِيفَةَ وَفُقَهَاءَ أَهْلِ الْكُوفَةِ فَقَالُوا تَصَدَّقْ بِهَا عَنْهُ

Ali Bin Ibrahim, from his father and Hameed Bin Ziyad, from Ubeydullah Bin Ahmad, both together from Ibn Abu Umeyr, from Zayd Al Narsy, from Ali Bin Farqad, from Saahib Al Sabiry who said,

'A man bequeathed to me with what he left and ordered me that I should perform Hajj with it on his behalf. So I looked into that, so it was something small, not sufficient for the Hajj. So I asked Abu Haneefa and the jurists of the people of Al-Kufa. So they said, 'Give charity with it on his behalf.

فَلَمَّا حَاجَبْتُ لَقِيتُ عَبْدَ اللَّهِ بْنَ الْحَسَنِ فِي الطَّوَافِ فَسَأَلْتُهُ وَ قُلْتُ لَهُ إِنَّ رَجُلًا مِنْ مَوَالِيكُمْ مِنْ أَهْلِ الْكُوفَةِ مَاتَ وَ أَوْصَى بِتَرْكَتِهِ إِلَيَّ وَ أَمَرَنِي أَنْ أُحْجَّ بِهَا عَنْهُ فَتَنَظَرْتُ فِي ذَلِكَ فَلَمْ يَكْفِ لِلْحَجِّ فَسَأَلْتُ مَنْ قَبَلْنَا مِنَ الْفُقَهَاءِ فَقَالُوا تَصَدَّقْ بِهَا فَتَصَدَّقْتُ بِهَا فَمَا تَقُولُ فَقَالَ لِي هَذَا جَعَفَرُ بْنُ مُحَمَّدٍ فِي الْحَجْرِ فَأْتِهِ وَ سَلْهُ

So when I went for Hajj, I met Abdullah Bin Al-Hassan during the circumambulation. So I asked him and said to him that a man your friends from the people of Al-Kufa died and bequeathed to me with what he left to me, and ordered me that I should go to Hajj with it on his behalf. So I looked into that, but it was not sufficient for the Hajj. So I asked the jurists from our area, so they said, 'Give charity with it'. So I gave charity with it. So what are you saying?' So he said to me, 'This here is Ja'far Bin Muhammad<sup>asws</sup> at the (Black) Stone, so go over to him<sup>asws</sup> and ask him<sup>asws</sup>.

قَالَ فَدَخَلْتُ الْحَجْرَ فَإِذَا أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) تَحْتَ الْمِيزَابِ مُقْبِلٌ بَوَجهِهِ عَلَى النَّبِيِّ يَدْعُو تَمَّ التَّفَقُّتَ إِلَيَّ فَرَأَيْتُ فَقَالَ مَا حَاجَبْتُكَ قُلْتُ جَعَلْتُ فِدَاكَ إِنِّي رَجُلٌ مِنْ أَهْلِ الْكُوفَةِ مِنْ مَوَالِيكُمْ قَالَ فَدَعَا دَا عَنكَ حَاجَبْتُكَ قُلْتُ رَجُلٌ مَاتَ وَ أَوْصَى بِتَرْكَتِهِ أَنْ أُحْجَّ بِهَا عَنْهُ فَتَنَظَرْتُ فِي ذَلِكَ فَلَمْ يَكْفِ لِلْحَجِّ فَسَأَلْتُ مَنْ عِنْدَنَا مِنَ الْفُقَهَاءِ فَقَالُوا تَصَدَّقْ بِهَا فَقَالَ مَا صَنَعْتُ قُلْتُ تَصَدَّقْتُ بِهَا فَقَالَ ضَمِنْتَ إِلَّا أَنْ يَكُونَ لَا يَبْلُغُ أَنْ يُحْجَّ بِهِ مِنْ مَكَّةَ فَإِنْ كَانَ لَا يَبْلُغُ أَنْ يُحْجَّ بِهِ مِنْ مَكَّةَ فَلَيْسَ عَلَيْكَ ضَمَانٌ وَ إِنْ كَانَ يَبْلُغُ بِهِ مِنْ مَكَّةَ فَانْتِ ضَامِنٌ .

He (the narrator) said, 'So I went over to the (Black) Stone, so there was Abu Abdullah<sup>asws</sup> beneath the groove, facing with his<sup>asws</sup> face towards the House (Kabah), supplicating. Then he<sup>asws</sup> turned towards me, so he<sup>asws</sup> saw me, so he<sup>asws</sup> said: 'What is your need?' I said, 'May I be sacrificed for you<sup>asws</sup>! I am a man from Al-Kufa, from

<sup>78</sup> Al Kafi – V 7 – The Book of Bequests Ch 15 H 2

the ones in your<sup>asws</sup> Wilayah'. He<sup>asws</sup> said: 'Leave that. What is your need?' I said, 'A man died and bequeathed to me with his legacy that I should go to Hajj with it on his behalf. So, I looked into that, but it was no sufficient for the Hajj. So I asked the ones who are in our presence, from the jurists, so they said, 'Give in charity with it'. So he<sup>asws</sup> said: 'What did you do?' I said, 'I gave in charity with it'. So he<sup>asws</sup> said: 'You are responsible, except if it happened not to be sufficient to perform Hajj with it from Makkah. So if it did not reach that (sufficiency) that you could have performed Hajj with it from Makkah, so there is no responsibility upon you, and if it was so that it reached (the sufficiency) to perform Hajj with it from Makkah, so you are responsible'.<sup>79</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي سَعِيدٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلَ عَنْ رَجُلٍ أَوْصَى بِحَجَّةٍ فَجَعَلَهَا وَصِيَّةً فِي نَسَمَةٍ فَقَالَ يَغْرَمُهَا وَصِيَّتُهُ وَ يَجْعَلُهَا فِي حَجَّةٍ كَمَا أَوْصَى بِهِ فَإِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى يَقُولُ فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Sinan, from Ibn Muskan, from Abu Saeed,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, 'He<sup>asws</sup> was asked about a man who bequeathed for the Hajj, so his executor made it to be regarding (freeing) a person. So he<sup>asws</sup> said: 'His executor should be penalized, and he would have to make it to be regarding a Hajj just as he had been bequeathed with, for Allah<sup>azwj</sup> Blessed and High is Saying [2:181] **So the one who alters it after he has heard it, the sin of it then is only upon the one who alters it.**<sup>80</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ مَارِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ أَوْصَى إِلَى رَجُلٍ وَ أَمَرَهُ أَنْ يُعْتِقَ عَنْهُ نَسَمَةً بِسِتْمَانَةِ دِرْهَمٍ مِنْ ثَلَاثَةِ فَنَاطَلَقَ الْوَصِيُّ فَأَعْطَى السَّتْمَانَةَ دِرْهَمٍ رَجُلًا يَحُجُّ بِهَا عَنْهُ قَالَ فَقَالَ أَرَى أَنْ يَغْرَمَ الْوَصِيُّ مِنْ مَالِهِ سِتْمَانَةَ دِرْهَمٍ وَ يَجْعَلَ السَّتْمَانَةَ دِرْهَمٍ فِيمَا أَوْصَى بِهِ الْمَيِّتُ مِنْ نَسَمَةٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Muhammad Bin Marad who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who bequeathed to a man and ordered him that he should emancipate a person on his behalf with six hundred Dirham from his third. So the executor went and gave six hundred Dirhams to a man to perform Hajj with it on his (testator's) behalf. So he<sup>asws</sup> said: 'I<sup>asws</sup> see that the executor be penalised six hundred Dirhams from his own wealth with regards to what the deceased had bequeathed him with, from (freeing) a person'.<sup>81</sup>

بَابُ أَنَّ الْمُدَبَّرَ مِنَ الثَّلَاثِ

## Chapter 16 – The Mudabbar (one whose emancipation is conditional upon the death of the testator) is from the third

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) قَالَ الْمُدَبَّرُ مِنَ الثَّلَاثِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel, from Zarara,

<sup>79</sup> Al Kafi – V 7 – The Book of Bequests Ch 16 H 1

<sup>80</sup> Al Kafi – V 7 – The Book of Bequests Ch 16 H 2

<sup>81</sup> Al Kafi – V 7 – The Book of Bequests Ch 16 H 3

(It has been narrated) from one of the two<sup>asws</sup> (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) having said: ‘*Al-Mudabbar* (one whose emancipation is conditional upon the death of the testator) is from the third’.<sup>82</sup>

عَنْهُ عَنْ أَبِيهِ وَ مُحَمَّدَ بْنَ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ الْحَكَمِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يُدَبِّرُ مَمْلُوكَهُ أَلَهُ أَنْ يَرْجِعَ فِيهِ قَالَ نَعَمْ هُوَ بِمَنْزِلَةِ الْوَصِيَّةِ .

From him, from his father, and Muhammad Bin Ismail, from Al Fazal Bin Shazan, both together from Ibn Abu Umeyr, from Hisham Bin Al Hakam who said,

‘I asked Abu Abdullah<sup>asws</sup> about the man who conditionally (upon his death) set free his slave, is there for him to retract with regards to it?’ He<sup>asws</sup> said: ‘Yes. He is at the status of the bequest’.<sup>83</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ الْمُدَبِّرُ مِنَ الثَّلَاثِ وَقَالَ لِلرَّجُلِ أَنْ يَرْجِعَ فِي ثَلَاثِهِ إِنْ كَانَ أَوْصَى فِي صِحَّةٍ أَوْ مَرَضٍ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Ali Bin Al Hakam, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: ‘*Al-Mudabbar* (conditionally emancipated one) is from the third’. And he<sup>asws</sup> said for the man that he can retract with regards to his third, whether he had bequeathed during good health, or illness’.<sup>84</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الْمُدَبِّرِ قَالَ هُوَ بِمَنْزِلَةِ الْوَصِيَّةِ يَرْجِعُ فِيهَا شَاءَ مِنْهَا .

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazal Bin Shazan, both together from Ibn Abu Umeyr, from Muawiya Bin Amaar who said,

‘I asked Abu Abdullah<sup>asws</sup> about *Al-Mudabbar* (conditionally emancipated one). He<sup>asws</sup> said: ‘He is at the status of the bequest. It can be retracted regarding whatever one so desires to, from it’.<sup>85</sup>

### بَابُ أَنَّهُ يُبَدَأُ بِالْكَفَنِ ثُمَّ بِالذِّينِ ثُمَّ بِالْوَصِيَّةِ

## **Chapter 17 – It shall begin with the shroud, then the debts, then with the bequest**

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ الْكَفْنُ مِنْ جَمِيعِ الْمَالِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: ‘The shroud is from the entirety of the wealth (legacy)’.<sup>86</sup>

<sup>82</sup> Al Kafi – V 7 – The Book of Bequests Ch 17 H 1

<sup>83</sup> Al Kafi – V 7 – The Book of Bequests Ch 17 H 2

<sup>84</sup> Al Kafi – V 7 – The Book of Bequests Ch 17 H 3

<sup>85</sup> Al Kafi – V 7 – The Book of Bequests Ch 17 H 4

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَاطٍ عَنْ مُعَاذِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ مَاتَ وَ عَلَيْهِ دَيْنٌ بِقَدْرِ تَمَنٍ كَفَنِهِ فَقَالَ يُجْعَلُ مَا تَرَكَ فِي تَمَنٍ كَفَنِهِ إِلَّا أَنْ يَتَّجَرَ عَلَيْهِ بَعْضُ النَّاسِ فَيَكْفِنَهُ وَ يُفْضَى مَا عَلَيْهِ مِمَّا تَرَكَ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, both together from Ibn Mahboub, from Ali Bin Raib, from Moaz, from Zurara who said,

'I asked him<sup>asws</sup> about a man who died and upon him was a debt to the value of the price of the shroud. So he<sup>asws</sup> said: 'He should make whatever he leaves to be regarding his shroud, except if one of the people were to trade with him, so they shroud him, and pay off what is upon him from whatever he leaves (as a legacy)' .<sup>87</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ أَوَّلُ شَيْءٍ يُبْدَأُ بِهِ مِنَ الْمَالِ الْكَفَنُ ثُمَّ الدَّيْنُ ثُمَّ الْوَصِيَّةُ ثُمَّ الْمِيرَاثُ .

Ali Bin Ibrahim, from his father, from Al Nowfaly, from Al Sakuny,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The first thing to begin with from the wealth (legacy) is the shroud, then the debts, then the bequest, then the inheritance' .<sup>88</sup>

### بَابُ مَنْ أَوْصَى وَ عَلَيْهِ دَيْنٌ

## Chapter 18 – One who bequeaths and upon his is a debt

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ جُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( صلوات الله عليه ) إِنَّ الدَّيْنَ قَبْلَ الْوَصِيَّةِ ثُمَّ الْوَصِيَّةُ عَلَى إِثْرِ الدَّيْنِ ثُمَّ الْمِيرَاثُ بَعْدَ الْوَصِيَّةِ فَإِنَّ أَوَّلَ الْقَضَاءِ كِتَابُ اللَّهِ عَزَّ وَ جَلَّ .

Ali Bin Ibrahim, from his father, and a number of our companions, from Sahl Bin Ziyad, both together from Ibn Abu Najran, from Aasim Bin Hameed, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> said: 'The debt is before the bequest, then the bequest is upon the footsteps of the debt, then the inheritance after the bequest, for the foremost of the judges is the Book of Allah<sup>azwj</sup> Mighty and Majestic' .<sup>89</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ رَجُلٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عليه السلام ) عَنْ رَجُلٍ أَوْصَى إِلَى رَجُلٍ وَ عَلَيْهِ دَيْنٌ فَقَالَ يُقْضَى الرَّجُلُ مَا عَلَيْهِ مِنْ دَيْنِهِ وَ يُقْسِمُ مَا بَقِيَ بَيْنَ الْوَرَثَةِ فَلَنْتُ فَسَرِقَ مَا كَانَ أَوْصَى بِهِ مِنْ الدَّيْنِ مِمَّنْ يُؤْخَذُ الدَّيْنُ أَمْ مِنَ الْوَرَثَةِ قَالَ لَا يُؤْخَذُ مِنَ الْوَرَثَةِ وَ لَكِنَّ الْوَصِيَّ ضَامِنٌ لَهَا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of his companions, from Aban Bin Usman, from a man who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who bequeathed to a man and upon him was a debt. So he<sup>asws</sup> said: 'The man should pay-off whatever was upon him from his debts, and distribute what remains in between the inheritors'. I said, '(Supposing)

<sup>86</sup> Al Kafi – V 7 – The Book of Bequests Ch 18 H 1

<sup>87</sup> Al Kafi – V 7 – The Book of Bequests Ch 18 H 2

<sup>88</sup> Al Kafi – V 7 – The Book of Bequests Ch 18 H 3

<sup>89</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 1

whatever he had bequeathed with from the debts gets stolen, so from which of the inheritors would it be taken from for the debt?' He<sup>asws</sup> said: 'It will not be taken from the inheritors, but the executor is responsible for it'.<sup>90</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَبِيلِ بْنِ دَرَّاجٍ عَنْ زَكَرِيَّا بْنِ يَحْيَى السَّعِيرِيِّ عَنِ الْحَكَمِ بْنِ عَتِيْبَةَ قَالَ كُنَّا عَلَى بَابِ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) وَ نَحْنُ جَمَاعَةٌ نَنْتَظِرُ أَنْ يَخْرُجَ إِذْ جَاءَتْ امْرَأَةٌ فَقَالَتْ أَيْكُمْ أَبُو جَعْفَرٍ فَقَالَ لَهَا الْقَوْمُ مَا تُرِيدِينَ مِنْهُ قَالَتْ أُرِيدُ أَنْ أَسْأَلَهُ عَنْ مَسْأَلَةٍ فَقَالُوا لَهَا هَذَا فَقِيَهُ أَهْلُ الْعِرَاقِ فَسَلِيهِ

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from al Fazal Bin Shazaan, both together from Ibn Abu Umeyr, from Jameel Bin Darraj, from Zakariyya Bin Yahya Al Shuairy, from Al Hakam Bin Uteyba who said,

'We were at the door of Abu Ja'far<sup>asws</sup> and we were a group awaiting for him<sup>asws</sup> to come out, when a woman came over, so she said, 'Which one of you is Abu Ja'far<sup>asws</sup>?'. So the group said to her, 'What do you want from him<sup>asws</sup>?'. She said, 'I want to ask him<sup>asws</sup> about a certain problem'. So they said, 'This is a jurist of the people of Al Iraq, so ask him'.

فَقَالَتْ إِنَّ زَوْجِي مَاتَ وَ تَرَكَ أَلْفَ دِرْهَمٍ وَ كَانَ لِي عَلَيْهِ مِنْ صَدَاقِي خَمْسُمِائَةَ دِرْهَمٍ فَأَخَذْتُ صَدَاقِي وَ أَخَذْتُ مِيرَاثِي ثُمَّ جَاءَ رَجُلٌ فَادَّعَى عَلَيْهِ أَلْفَ دِرْهَمٍ فَشَهِدْتُ لَهُ قَالَ الْحَكَمُ

So she said, 'My husband died and left a thousand Dirhams, and there was for me, upon him, my dowry of five hundred Dirhams. So I took my dowry, and took my inheritance, then a man came over, so he laid a claim upon him for a thousand Dirhams. So I testified in his favour'.

فَبَيْنَمَا أَنَا أَحْسِبُ إِذْ خَرَجَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَام ) فَقَالَ مَا هَذَا الَّذِي أَرَاكَ تُحَرِّكُ بِهِ أَصَابِعَكَ يَا حَكَمُ فَقُلْتُ إِنَّ هَذِهِ الْمَرْأَةَ ذَكَرَتْ أَنَّ زَوْجَهَا مَاتَ وَ تَرَكَ أَلْفَ دِرْهَمٍ وَ كَانَ لَهَا عَلَيْهِ مِنْ صَدَاقِهَا خَمْسُمِائَةَ دِرْهَمٍ فَأَخَذْتُ صَدَاقَهَا وَ أَخَذْتُ مِيرَاثَهَا ثُمَّ جَاءَ رَجُلٌ فَادَّعَى عَلَيْهِ أَلْفَ دِرْهَمٍ فَشَهِدْتُ لَهُ

So while we were counting when Abu Ja'far<sup>asws</sup> came out, so he<sup>asws</sup> said: 'What is this which I<sup>asws</sup> see you moving your fingers for, O Hakam?' So I said, 'This woman mentioned that her husband died and left a thousand Dirham, and there was for her upon him, from her dowry of five hundred Dirhams. So she took her dowry and took her inheritance. Then a man came over, so he laid a claim upon him of a thousand Dirhams. So she testified for him'.

فَقَالَ الْحَكَمُ فَوَ اللَّهُ مَا أَنْمَمْتُ الْكَلَامَ حَتَّى قَالَ أَفَرَّتْ بِثُلُثِ مَا فِي يَدَيْهَا وَ لَا مِيرَاثَ لَهَا قَالَ الْحَكَمُ فَمَا رَأَيْتُ وَ اللَّهُ أَفْهَمَ مِنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَطُّ .

So Al-Hakam said, 'By Allah<sup>azwj</sup>! I had not even completed my speech until he<sup>asws</sup> said: 'She has accepted with a third of what was in her hands, and there is no inheritance for her'. Al-Hakam said, 'So I had not seen, by Allah<sup>azwj</sup>, anyone of more understanding than Abu Ja'far<sup>asws</sup>, at all'.<sup>91</sup>

قَالَ ابْنُ أَبِي عُمَيْرٍ وَ تَفْسِيرُ ذَلِكَ أَنَّهُ لَا مِيرَاثَ لَهَا حَتَّى تَقْضِيَ الدَّيْنَ وَ إِنَّمَا تَرَكَ أَلْفَ دِرْهَمٍ وَ عَلَيْهِ مِنَ الدَّيْنِ أَلْفٌ وَ خَمْسُمِائَةَ دِرْهَمٍ لَهَا وَ لِلرَّجُلِ فَلَهَا ثُلُثُ الْأَلْفِ وَ لِلرَّجُلِ ثُلُثَانَهَا .

<sup>90</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 2

<sup>91</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 3

Ibn Abu Umeyr said, 'And the interpretation of that is that there is no inheritance for her until the debt is paid off. But rather, he left a thousand Dirhams, and upon him was a debt of a thousand Dirhams and five hundred Dirhams for her and for the man. So her's is a third of a thousand, and for the man is two thirds'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ بَاعَ مَتَاعًا مِنْ رَجُلٍ فَقَبِضَ الْمُشْتَرِي الْمَتَاعَ وَ لَمْ يَدْفَعِ الثَّمَنَ ثُمَّ مَاتَ الْمُشْتَرِي وَ الْمَتَاعُ قَائِمٌ بَعِيْنِهِ قَالَ إِذَا كَانَ الْمَتَاعُ قَائِمًا بَعِيْنِهِ رُدَّ إِلَى صَاحِبِ الْمَتَاعِ وَ قَالَ لَيْسَ لِلْغُرْمَاءِ أَنْ يُخَاصِمُوهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel, from one of our companions,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who sold something to a man. So the buyer took possession of the goods and did not hand over the price. Then the buyer died and the goods existed exactly as they were'. He<sup>asws</sup> said: 'When the goods were exactly as they were, they would be returned to the owner of the goods'. And he<sup>asws</sup> said: 'It is not for the creditors that they dispute it'.<sup>92</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَمُوتُ وَ عَلَيْهِ دَيْنٌ فَيُضْمَنُهُ ضَامِنٌ لِلْغُرْمَاءِ قَالَ إِذَا رَضِيَ الْغُرْمَاءُ فَقَدْ بَرَأَتْ ذِمَّةُ الْمَيِّتِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who died and upon him was a debt, so a guarantor took the responsibility to the creditors. He<sup>asws</sup> said: 'If the creditors are happy, so it has freed the deceased from the responsibility'.<sup>93</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ يَحْيَى الْأَزْرَقِ عَنْ أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ قَتَلَ وَ عَلَيْهِ دَيْنٌ وَ لَمْ يَبْرُكْ مَالًا فَأَخَذَ أَهْلُهُ الدَّيَّةَ مِنْ قَاتِلِهِ عَلَيْهِمْ يَفْضُونَ دَيْنَهُ قَالَ نَعَمْ قُلْتُ وَ هُوَ لَمْ يَبْرُكْ شَيْئًا قَالَ إِنَّمَا أَخَذُوا الدَّيَّةَ فَعَلَبَهُمْ أَنْ يَفْضُوا دَيْنَهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya Al Azraq,

(It has been narrated) from Abu Al-Hassan<sup>asws</sup> regarding the man who was killed and upon him was debt, and he did not leave wealth. So his family took the wergild (blood money) from his killer. Should they be paying-off his debt?' He<sup>asws</sup> said: 'Yes, and he did not leave anything. But rather, they have taken the wergild and so it is upon them to pay-off the debt'.<sup>94</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ الْحَسَنِ بْنِ الْجَهْمِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ مَاتَ وَ لَهُ عَلَى ذَيْنٍ وَ خَلْفٌ وَ لِدًا رَجَالًا وَ نِسَاءً وَ صِبْيَانًا فَجَاءَ رَجُلٌ مِنْهُمْ فَقَالَ أَنْتَ فِي حِلٍّ مِمَّا لِأَبِي عَلَيْكَ مِنْ حِصَّتِي وَ أَنْتَ فِي حِلٍّ مِمَّا لِإِخْوَتِي وَ أَخَوَاتِي وَ أَنَا ضَامِنٌ لِرِضَاهُمْ عَنْكَ قَالَ تَكُونُ فِي سَعَةٍ مِنْ ذَلِكَ وَ حِلٌّ قُلْتُ فَإِنْ لَمْ يُعْطِهِمْ قَالَ كَانَ ذَلِكَ فِي عُنُقِهِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Al Hassan Bin Al Jaham who said,

<sup>92</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 4

<sup>93</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 5

<sup>94</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 6

'I asked Abu Al-Hassan<sup>asws</sup> about a man who died and for him upon me was debt, and he left behind parents, men and women, and young children. So a man from among them came over and said, 'You are free from what my father had upon you, from my share, and you are (also) free from what is for my brothers and my sisters, and I am responsible for their pleasure about you'. He<sup>asws</sup> said: 'You are at ease from that and free'. I said, 'But if he does not give them?' He<sup>asws</sup> said: 'That would be upon his neck'.

قُلْتُ فَإِنْ رَجَعَ الْوَرِثَةُ عَلَيَّ فَقَالُوا أَعْطَيْنَا حَقَّنَا فَقَالَ لَهُمْ ذَلِكَ فِي الْحُكْمِ الظَّاهِرِ فَأَمَّا بَيْنَكَ وَ بَيْنَ اللَّهِ عَزَّ وَ جَلَّ فَأَنْتَ مِنْهَا فِي حِلٍّ إِذَا كَانَ الرَّجُلُ الَّذِي أَحَلَّ لَكَ يَضْمَنُ لَكَ عَنْهُمْ رِضَاهُمْ فَيَحْتَمِلُ الضَّمَامَ لَكَ

I said, 'So if the inheritors return to me so they say, 'Give us our right?' So he<sup>asws</sup> said: 'That is for them in the apparent judgement. So, as for what is between you and Allah<sup>azwj</sup> Mighty and Majestic, so you are free from it, since the man who freed you took the responsibility for you about their pleasure. Thus, the guarantor would be carrying for you'.

قُلْتُ فَمَا تَقُولُ فِي الصَّبِيِّ لِأُمِّهِ أَنْ تُحَلَّلَ قَالَ نَعَمْ إِذَا كَانَ لَهَا مَا تُرْضِيهِ أَوْ تُعْطِيهِ قُلْتُ فَإِنْ لَمْ يَكُنْ لَهَا قَالَ فَلَا قُلْتُ فَقَدْ سَمِعْتُكَ تَقُولُ إِنَّهُ يَجُوزُ تَحْلِيلُهَا فَقَالَ إِنَّمَا أَعْنِي بِذَلِكَ إِذَا كَانَ لَهَا مَالٌ قُلْتُ فَلَأَبُ يَجُوزُ تَحْلِيلُهُ عَلَى ابْنِهِ فَقَالَ لَهُ مَا كَانَ لَنَا مَعَ أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَام ) أَمْرٌ يَفْعَلُ فِي ذَلِكَ مَا شَاءَ قُلْتُ فَإِنَّ الرَّجُلَ ضَمَّنَ لِي عَنْ ذَلِكَ الصَّبِيِّ وَ أَنَا مِنْ حَصَّتِهِ فِي حِلٍّ فَإِنْ مَاتَ الرَّجُلُ قَبْلَ أَنْ يَبْلُغَ الصَّبِيُّ فَلَا شَيْءَ عَلَيْهِ قَالَ الْأَمْرُ جَائِزٌ عَلَى مَا شَرَطَ لَكَ .

I said, 'So what are you<sup>asws</sup> saying with regards to the child and its mother if she frees (on his behalf)?' He<sup>asws</sup> said: 'Yes, if she had what it would take to make him agree, or give him'. I said, 'But what if she does not happen to have anything?' He<sup>asws</sup> said: 'Then, it is no'. I said, 'But I heard you<sup>asws</sup> saying that her freeing is allowed?' So he<sup>asws</sup> said: 'But rather, I<sup>asws</sup> meant that if she had wealth for herself'.

I said, 'So can a father take such responsibility for his son?' So he<sup>asws</sup> said: 'For him is what was for us<sup>asws</sup> with Abu Al-Hassan<sup>asws</sup>, a matter he<sup>asws</sup> did with regards to that whatever he<sup>asws</sup> so desired to'.

I said, 'The man guaranteed to me about that child, and I am free from his share. So if the man were to die before the child becomes an adult, so there is nothing upon him'. He<sup>asws</sup> said: 'The matter is allowed upon whatever he stipulated for you'.<sup>95</sup>

**بَابُ مَنْ أَعْتَقَ وَ عَلَيْهِ دَيْنٌ**

## Chapter 19 – The one who emancipates (a slave) and upon him is debt

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ وَ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلَنِي أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) هَلْ يَحْتَلِفُ ابْنُ أَبِي لَيْلَى وَ ابْنُ شُبْرُمَةَ فَقُلْتُ بَلَعَنِي أَنَّهُ مَاتَ مَوْلَى لِعِيسَى بْنِ مُوسَى وَ تَرَكَ عَلَيْهِ دَيْنًا كَثِيرًا وَ تَرَكَ مَمَالِيكَ يُحِيطُ دَيْنُهُ بِأَمَانِهِمْ فَأَعْتَقَهُمْ عِنْدَ الْمَوْتِ فَسَأَلَهُمَا عِيسَى بْنُ مُوسَى عَنْ ذَلِكَ فَقَالَ ابْنُ شُبْرُمَةَ أَرَى أَنْ يَسْتَسْعِبَهُمْ فِي قِيَمَتِهِمْ فَيُدْفَعَهَا إِلَى الْغُرَمَاءِ فَإِنَّهُ قَدْ أَعْتَقَهُمْ عِنْدَ مَوْتِهِ وَ قَالَ ابْنُ أَبِي لَيْلَى أَرَى أَنْ أَبِيْعَهُمْ وَ أَدْفَعَ أَمَانَهُمْ إِلَى الْغُرَمَاءِ فَإِنَّهُ لَيْسَ لَهُ أَنْ يُعْتَقَهُمْ عِنْدَ مَوْتِهِ وَ عَلَيْهِ دَيْنٌ يُحِيطُ بِهِمْ وَ هَذَا أَهْلُ الْحِجَازِ الْيَوْمَ يُعْتِقُ الرَّجُلُ عَبْدَهُ وَ عَلَيْهِ دَيْنٌ كَثِيرٌ فَلَا يُحْبِرُونَ عَنْهُ إِذَا كَانَ عَلَيْهِ دَيْنٌ كَثِيرٌ فَرَفَعَ ابْنُ شُبْرُمَةَ يَدَهُ إِلَى السَّمَاءِ فَقَالَ سُبْحَانَ اللَّهِ يَا ابْنَ أَبِي لَيْلَى مَتَى قُلْتَ بِهَذَا الْقَوْلِ وَ اللَّهُ مَا قُلْتَهُ إِلَّا طَلَبَ خِلَافِي

<sup>95</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 7

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazal Bin Shazaan and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan and Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj who said,

'Abu Abdullah<sup>asws</sup> asked me: 'Did Ibn Abu Layli and Ibn Shabrama differ?' So I said, 'It reached me that the master of Isa Bin Musa died and left a lot of debts upon him, and left slaves whose value encompassed his debt. So he freed them during the death. Isa Bin Musa asked both of them about that, so Ibn Shabrama said, 'I view that they should be made to work with regards to their own prices, and these should be handed over to the creditors, for he had freed them during his death'. And Ibn Abu Layli said, 'I view that they should be sold and their prices should be handed over to the creditors, for it was not for him to emancipate them during his death, and upon him was debt which encompassed with them, and today the people of Al-Hijaz, if the man emancipates his slave and upon him is a lot of debt, so his emancipation is not allowed if there was a lot of debt upon him'. So Ibn Shabrama raised his hands towards the sky and said, 'Glory be to Allah<sup>azwj</sup>, O Ibn Abu Layli! When did I say these words? By Allah<sup>azwj</sup>! I have not said it, except that you are seeking to go against me'.

فَقَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فَعَنْ رَأْيِ أَيُّهُمَا صَدَرَ قَالَ قُلْتُ بَلَّغْنِي أَنَّهُ أَخَذَ بِرَأْيِ ابْنِ أَبِي لَيْلَى وَكَانَ لَهُ فِي ذَلِكَ هَوَى فَبَاعَهُمْ وَقَضَى دَيْنَهُ قَالَ فَمَعَ أَيُّهُمَا مَنْ قَبْلَكُمْ قُلْتُ لَهُ مَعَ ابْنِ شُبْرُمَةَ وَقَدْ رَجَعَ ابْنُ أَبِي لَيْلَى إِلَى رَأْيِ ابْنِ شُبْرُمَةَ بَعْدَ ذَلِكَ فَقَالَ أَمَا وَاللَّهِ إِنَّ الْحَقَّ لَفِي الَّذِي قَالَ ابْنُ أَبِي لَيْلَى وَإِنْ كَانَ قَدْ رَجَعَ عَنْهُ

So Abu Abdullah<sup>asws</sup> said: 'So which of the two opinions was implemented?' I said, 'It reached me that he took with the opinion of Ibn Abu Layli, and for him there was a desire in that. So he sold them and paid off his debts'. He<sup>asws</sup> said: 'So which of the two opinions are you accepting with?' I said to him<sup>asws</sup>, 'With Ibn Shabrama, and Ibn Abu Layli had returned to the opinion of Ibn Shabrama after that'. So he<sup>asws</sup> said: 'By Allah<sup>azwj</sup>! The truth is in that which Ibn Abu Layli said, even though he retracted from it (afterwards)'.

فَقُلْتُ لَهُ هَذَا يُنْكَسِرُ عِنْدَهُمْ فِي الْقِيَاسِ فَقَالَ هَاتِ قَائِسِي فَقُلْتُ أَنَا أَقَابِسُكَ فَقَالَ لَتَقُولَنَّ بِأَشَدِّ مَا يَدْخُلُ فِيهِ مِنَ الْقِيَاسِ فَقُلْتُ لَهُ رَجُلٌ تَرَكَ عَبْدًا لَمْ يَتْرُكْ مَالًا غَيْرَهُ وَ قِيمَةُ الْعَبْدِ سِتْمَانَةٌ دِرْهَمٌ وَ دَيْنُهُ خَمْسِمِائَةٌ دِرْهَمٍ فَأَعْتَقَهُ عِنْدَ الْمَوْتِ كَيْفَ يُصْنَعُ قَالَ يُبَاعُ الْعَبْدُ فَيَأْخُذُ الْغَرْمَاءُ خَمْسِمِائَةَ دِرْهَمٍ وَ يَأْخُذُ الْوَرَثَةُ مِائَةَ دِرْهَمٍ

So I said to him<sup>asws</sup>, 'This breaks what is with them regarding the analogy'. So he<sup>asws</sup> said: 'Come, analogise for me<sup>asws</sup>'. I said, 'I analogise for you<sup>asws</sup>?'. So he<sup>asws</sup> said: 'In order for you to be saying what is stronger what is included in it from the analogy'. So I said to him<sup>asws</sup>, 'A man left a slave and did not leave wealth other than him, and the value of the slave is six hundred Dirhams, and his debt is of five hundred Dirhams. So he emancipates him during the death, how should one deal with it?' He<sup>asws</sup> said: 'Sell the slave, so the creditors would have five hundred Dirhams, and the inheritors would take a hundred Dirhams'.

قُلْتُ أَلَيْسَ قَدْ بَقِيَ مِنْ قِيمَةِ الْعَبْدِ مِائَةٌ دِرْهَمٌ عَنْ دَيْنِهِ فَقَالَ بَلَى قُلْتُ أَلَيْسَ لِلرَّجُلِ ثَلَاثَةٌ يَصْنَعُ بِهِ مَا يَشَاءُ قَالَ بَلَى قُلْتُ أَلَيْسَ قَدْ أَوْصَى لِلْعَبْدِ بِالثَّلَاثِ مِنَ الْمِائَةِ حِينَ أَعْتَقَهُ فَقَالَ إِنَّ الْعَبْدَ لَا وَصِيَّةَ لَهُ إِنَّمَا مَالُهُ لِمَوَالِيهِ فَقُلْتُ لَهُ فَإِذَا كَانَتْ قِيمَةُ الْعَبْدِ سِتْمَانَةَ دِرْهَمٍ وَ دَيْنُهُ أَرْبَعِمِائَةَ دِرْهَمٍ قَالَ كَذَلِكَ يُبَاعُ الْعَبْدُ فَيَأْخُذُ الْغَرْمَاءُ أَرْبَعِمِائَةَ دِرْهَمٍ وَ يَأْخُذُ الْوَرَثَةُ مِائَتَيْنِ فَلَا يَكُونُ لِلْعَبْدِ شَيْءٌ

So I said, 'Is it not that what has remained from the value of the slave is one hundred Dirhams, from his debt?' So he<sup>asws</sup> said: 'Yes'. I said, 'Is not a third for the man to do with whatever he so desires to?' He<sup>asws</sup> said: 'Yes'. I said, 'Is it not that he bequeathed to the slave with a third from the one hundred when he emancipated him?' So he<sup>asws</sup> said: 'The slave, there is no bequest for him. But rather, his wealth is for his guardians (heirs)'. So I said to him<sup>asws</sup>, 'So if the value of the slave was six hundred Dirhams, and his debt was of four hundred Dirhams?' He<sup>asws</sup> said: 'Similar to that, the slave is sold, so the creditors would take four hundred Dirhams, and the inheritors would take two hundred. So there would not be anything for the slave'.

فَقُلْتُ لَهُ فَإِنَّ قِيَمَةَ الْعَبْدِ سِتْمِائَةَ دِرْهَمٍ وَ دَيْنُهُ ثَلَاثِمِائَةَ دِرْهَمٍ فَضَجَكَ وَ قَالَ مِنْ هَاهُنَا أَتَى أَصْحَابِكَ فَجَعَلُوا الْأَشْيَاءَ شَيْئاً وَاحِداً وَ لَمْ يَعْلَمُوا السُّنَّةَ إِذَا اسْتَوَى مَالُ الْغُرْمَاءِ وَ مَالُ الْوَرَثَةِ أَوْ كَانَ مَالُ الْوَرَثَةِ أَكْثَرَ مِنْ مَالِ الْغُرْمَاءِ لَمْ يَتَّهَمِ الرَّجُلُ عَلَى وَصِيَّتِهِ وَ أُجِيزَتْ عَلَى وَجْهَهَا فَالآنَ يُوقَفُ هَذَا فَيَكُونُ نِصْفُهُ لِلْغُرْمَاءِ وَ يَكُونُ ثُلُثُهُ لِلْوَرَثَةِ وَ يَكُونُ لَهُ السُّدُسُ.

So I said to him<sup>asws</sup>, 'So if the value of the servant is six hundred Dirhams, and his debt is three hundred Dirhams?' So he<sup>asws</sup> smiled and said: 'From over here your companions derived, so they made (all) the things as one thing, and did not act in accordance to the Sunnah, when they equalised the wealth of the creditors with the wealth of the inheritors, or if the wealth of the inheritors is more than the wealth of the creditors, the man would not be accused over his bequest, and his bequest would be allowed upon its aspect. So now this pauses, so half of it would be for the creditors, and a third for the inheritors, and a sixth for him (deceased)'.<sup>96</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ [عَنْ ابْنِ أَبِي عُمَيْرٍ] عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) فِي رَجُلٍ أَعْتَقَ مَمْلُوكَهُ عِنْدَ مَوْتِهِ وَ عَلَيْهِ دَيْنٌ قَالَ إِنْ كَانَ قِيَمَتُهُ مِثْلَ الَّذِي عَلَيْهِ وَ مِثْلَهُ جَارَ عِنْفُهُ وَ إِلَّا لَمْ يَجْزُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel Bin Darraj, from Zurara,

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) regarding a man who emancipated his slave during his death, and upon his was debt. He<sup>asws</sup> said: 'If his value was similar to what was upon him, and like it, his emancipation is allowed, otherwise it is not allowed'.<sup>97</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيسَى عَنْ ابْنِ فَضَّالٍ عَنِ الْحَسَنِ بْنِ الْجَهْمِ قَالَ سَمِعْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَام ) يَقُولُ فِي رَجُلٍ أَعْتَقَ مَمْلُوكاً لَهُ وَ قَدْ حَضَرَهُ الْمَوْتُ وَ أَشْهَدَ لَهُ بِذَلِكَ وَ قِيَمَتُهُ سِتْمِائَةَ دِرْهَمٍ وَ عَلَيْهِ دَيْنٌ ثَلَاثِمِائَةَ دِرْهَمٍ وَ لَمْ يَبْرُكْ شَيْئاً غَيْرَهُ قَالَ يُعْتَقُ مِنْهُ سُدُسُهُ لِأَنَّهُ إِنَّمَا لَهُ مِنْهُ ثَلَاثِمِائَةَ دِرْهَمٍ وَ يُفْضَى مِنْهُ ثَلَاثِمِائَةَ دِرْهَمٍ فَلَهُ مِنَ الثَّلَاثِمِائَةِ ثَلَاثًا وَ هُوَ السُّدُسُ مِنَ الْجَمِيعِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Fazal, from Al Hassan Bin Al Jaham who said,

'I heard Abu Al-Hassan<sup>asws</sup> saying regarding a man who emancipated a slave of his, and death had presented itself, and that was witnessed for him, and his value was of six hundred Dirhams, and upon him was a debt of three hundred Dirhams, and he did not leave anything apart from it'. He<sup>asws</sup> said: 'He would be one-sixth free from it. But rather, from it for him were three hundred Dirhams, and three hundred Dirhams

<sup>96</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 1

<sup>97</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 2

were paid off from it, therefore, for him from the three hundred is a third, and it is a sixth from the total'.<sup>98</sup>

### باب الوصية للمكاتب

## Chapter 20 – The bequests for the contracted (slaves)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي مَكَاتِبٍ كَانَتْ تَحْتَهُ امْرَأَةٌ حُرَّةٌ فَأَوْصَتْ لَهُ عِنْدَ مَوْتِهَا بِوَصِيَّةٍ فَقَالَ أَهْلُ الْمِيرَاثِ لَا نُجِيزُ وَصِيَّتَهَا لَهُ إِنَّهُ مَكَاتِبٌ لَمْ يُعْتَقْ وَلَا يَرِثُ فَقَضَى بِأَنَّهُ يَرِثُ بِحِسَابِ مَا أُعْتِقَ مِنْهُ وَ يَجُوزُ لَهُ مِنَ الْوَصِيَّةِ بِحِسَابِ مَا أُعْتِقَ مِنْهُ

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim Bin Hameed, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding a contracted one under who was a free woman. So she bequeathed to him, during her death, with a bequest. So the inheritors said, 'We do not allow her bequest to him. He is a contracted one and has not been liberated, and he does not inherit. So he<sup>asws</sup> judged that he would inherit by the accounting of what he is liberated from it, and it would be allowed for him from the bequest with the accounting of what he had been freed from it (the contract)'.

وَ قَضَى ( عَلَيْهِ السَّلَامُ ) فِي مَكَاتِبِ أُوصِيَ لَهُ بِوَصِيَّةٍ وَ قَدْ قَضَى نِصْفَ مَا عَلَيْهِ فَأَجَازَ نِصْفَ الْوَصِيَّةِ

And he<sup>asws</sup> judged regard a contracted to who had been bequeathed with a bequest, and he had fulfilled half of what was upon him. So half the bequest would be allowed.

وَ قَضَى ( عَلَيْهِ السَّلَامُ ) فِي مَكَاتِبِ قَضَى رُبْعَ مَا عَلَيْهِ فَأُوصِيَ لَهُ بِوَصِيَّةٍ فَأَجَازَ رُبْعَ الْوَصِيَّةِ

And he<sup>asws</sup> judged regarding a contracted one who had fulfilled a quarter of what was upon him, so he was bequeathed to with a bequest, so he was allowed a quarter of the bequest.

وَ قَالَ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ حُرٍّ أُوصِيَ لِمَكَاتِبَةٍ وَ قَدْ قَضَتْ سُدُسَ مَا كَانَ عَلَيْهَا فَأَجَازَ لَهَا بِحِسَابِ مَا أُعْتِقَ مِنْهَا .

And he<sup>asws</sup> said regarding a free man who had bequeathed to a contracted woman, and he had fulfilled a sixth of what was upon him, so he allowed for her by the accounting of what she was free from it (the contract)'.<sup>99</sup>

<sup>98</sup> Al Kafi – V 7 – The Book of Bequests Ch 19 H 3

<sup>99</sup> Al Kafi – V 7 – The Book of Bequests Ch 20 H 1

**بَابُ وَصِيَّةِ الْغُلَامِ وَالْجَارِيَةِ الَّتِي لَمْ تُدْرِكْ وَمَا يَجُوزُ مِنْهَا وَمَا لَا يَجُوزُ**

**Chapter 21 – Bequest of the boy and the maid who has not attained awareness (puberty), and what is allowed from it, and is not allowed**

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ أَحْمَدُ بْنُ مُحَمَّدٍ بْنِ عَيْسَى عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا أَتَى عَلَى الْغُلَامِ عَشْرَ سِنِينَ فَإِنَّهُ يَجُوزُ لَهُ فِي مَالِهِ مَا أَعْتَقَ وَ تَصَدَّقَ وَ أَوْصَى عَلَى حَدِّ مَعْرُوفٍ وَ حَقِّ فَهُوَ جَائِزٌ .

A number of our companions, from Sahl Bin Ziyad and Ahmad Bin Muhammad Bin Isa, from Safwan Bin Yahya, from Musa Bin Bakr, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'When ten years come upon the boy, so it is allowed for him with regards to his wealth, what to emancipate (liberate), and give in charity, and bequeath upon the known limits and rights, so it is allowed'.<sup>100</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ النُّعْمَانِ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) يَقُولُ إِنَّ الْغُلَامَ إِذَا حَضَرَهُ الْمَوْتُ فَأَوْصَى وَ لَمْ يُدْرِكْ جَارَتَ وَ صِيتَهُ لِذَوِي الْأَرْحَامِ وَ لَمْ تَجْزُ لِلْغُرَبَاءِ .

Ahmad Bin Muhammad, form Ali Bin Al Hakam, from Ali Bin Al Noman, from Abu Ayoub, from Muhammad Bin Muslim who said,

'I heard Abu Abdullah<sup>asws</sup> saying: 'The boy, when the death presents itself to him, so he bequeaths and is not aware (attained puberty), his bequest is allowed for the relatives and is not allowed for the strangers'.<sup>101</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) إِذَا بَلَغَ الْغُلَامُ عَشْرَ سِنِينَ جَارَتَ وَ صِيتَهُ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of his companions, from Aban Bin Usman, from Abdul Rahman Bin Abdullah who said,

'Abu Abdullah<sup>asws</sup> said: 'When the boy reaches ten years, his bequest is allowed'.<sup>102</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ أَبِي الْمَغْرَاءِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا بَلَغَ الْغُلَامُ عَشْرَ سِنِينَ فَأَوْصَى بِثُلُثِ مَالِهِ فِي حَقِّ جَارَتَ وَ صِيتَهُ فَإِذَا كَانَ ابْنُ سَبْعِ سِنِينَ فَأَوْصَى مِنْ مَالِهِ بِالْيُسْبِيرِ فِي حَقِّ جَارَتَ وَ صِيتَهُ .

Hameed Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Abdullah Bin Jabala, from Abu Al Magra, from Abu Baseer,

Abu Abdullah<sup>asws</sup> has said: 'When the boy reaches ten years, so he bequeaths with a third of his wealth rightfully, his bequest is allowed. So if he was a boy of seven years, and he bequeaths with a little in a rightful way, his bequest is allowed'.<sup>103</sup>

<sup>100</sup> Al Kafi – V 7 – The Book of Bequests Ch 21 H 1

<sup>101</sup> Al Kafi – V 7 – The Book of Bequests Ch 21 H 2

<sup>102</sup> Al Kafi – V 7 – The Book of Bequests Ch 21 H 3

<sup>103</sup> Al Kafi – V 7 – The Book of Bequests Ch 21 H 4

## Chapter 22 – The bequest for the mothers and the children

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ قَالَ نَسَخْتُ مِنْ كِتَابِ بَخْطِ أَبِي الْحَسَنِ ( عليه السلام ) فَلَانَ مَوْلَاكَ نُوفَى ابْنُ أَخٍ لَهُ وَ تَرَكَ أُمَّ وَوَلِدَهُ لَهُ لَيْسَ لَهَا وَوَلَدٌ فَأَوْصَى لَهَا بِأَلْفٍ هَلْ تَجُوزُ الْوَصِيَّةُ وَ هَلْ يَفْعُ عَلَيْهَا عِنَقٌ وَ مَا حَالُهَا رَأَيْكَ فَذَنَّاكَ نَفْسِي فَكَتَبْتُ ( عليه السلام ) نَعْتَقُ فِي الثَّلَاثِ وَ لَهَا الْوَصِيَّةُ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Ahmad Bin Muhammad Bin Abu Nasr who said,

'I copied from a letter in the handwriting of Abu Al-Hassan<sup>asws</sup> having been asked, 'So and so, your<sup>asws</sup> friend, a cousin of his died leaving the mother of a child of his not having (any other) child for her, so he bequeathed to her with a thousand. Is the bequest allowed, and will the emancipation occur upon her, and what is her state. (What is) your<sup>asws</sup> view? May I be sacrificed for you<sup>asws</sup>'. So he<sup>asws</sup> wrote: 'She is emancipated with regards to the third, and for her is the bequest'.<sup>104</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حُسَيْنِ بْنِ خَالِدِ الصَّيْرَفِيِّ عَنْ أَبِي الْحَسَنِ الْمَازِيِّ ( عليه السلام ) قَالَ كَتَبْتُ إِلَيْهِ فِي رَجُلٍ مَاتَ وَ لَهُ أُمُّ وَوَلِدٌ وَ قَدْ جَعَلَ لَهَا شَيْئًا فِي حَيَاتِهِ ثُمَّ مَاتَ قَالَ فَكَتَبْتُ لَهَا مَا أَتَابَهَا بِهِ سَيِّدُهَا فِي حَيَاتِهِ مَعْرُوفٌ ذَلِكَ لَهَا تُقْبَلُ عَلَى ذَلِكَ شَهَادَةُ الرَّجُلِ وَ الْمَرْأَةِ وَ الْخَادِمِ غَيْرِ الْمُتَهَمِينَ .

Ahamd Bin Muhammad, from Ibn Abu Umeyr, from Husayn Bin Khalid Al Sayrafi,

(It has been narrated) from Al-Hassan Al-Maazy<sup>asws</sup> (7<sup>th</sup> Imam<sup>asws</sup>) said, 'I wrote to him<sup>asws</sup> regarding a man who died, and for whom was a mother of a child, and he had made something to be for her during his lifetime, then died'. He<sup>asws</sup> said by writing: 'For her is what her master remunerated to her during his lifetime in goodness, that is for her. The testimony of the man, and the woman, and the servant not having been accused of any wrong, would be acceptable upon that'.<sup>105</sup>

مُحَمَّدُ بْنُ يَحْيَى عَمَّنْ ذَكَرَهُ عَنْ أَبِي الْحَسَنِ الرَّضَا ( عليه السلام ) فِي أُمِّ الْوَلَدِ إِذَا مَاتَ عَنْهَا مَوْلَاهَا وَ قَدْ أَوْصَى لَهَا قَالَ نَعْتَقُ فِي الثَّلَاثِ وَ لَهَا الْوَصِيَّةُ .

Muhammad Bin Yahya, from the one who mentioned it,

(It has been narrated) from Abu Al-Hassan Al-Reza<sup>asws</sup> regarding a mother of a child, when her master dies from her, and had bequeathed to her. He<sup>asws</sup> said: 'She is emancipated with regards to the third, and for her is the bequest'.<sup>106</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عليه السلام ) عَنْ رَجُلٍ كَانَتْ لَهُ أُمُّ وَوَلِدٌ وَ لَهُ مِنْهَا غُلَامٌ فَلَمَّا حَضَرَتْهُ الْوَفَاةُ أَوْصَى لَهَا بِأَلْفٍ دِرْهَمٍ أَوْ بِأَكْثَرَ لِلْوَرَثَةِ أَنْ يَسْتَرْفُوها قَالَ لَا بَلْ نَعْتَقُ مِنْ ثُلْثِ الْمَيْتِ وَ نَعْطَى مَا أَوْصَى لَهَا بِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, both together, from Ibn Mahboub, from Jameel Bin Salih, from Abu Ubeyda who said,

<sup>104</sup> Al Kafi – V 7 – The Book of Bequests Ch 22 H 1

<sup>105</sup> Al Kafi – V 7 – The Book of Bequests Ch 22 H 2

<sup>106</sup> Al Kafi – V 7 – The Book of Bequests Ch 22 H 3

'I asked Abu Abdullah<sup>asws</sup> about a man who had a mother of a child of his, and from her was a boy for him. So when the death presented itself to him, he bequeathed to her with two thousand Dirhams, or more. Is it for the inheritors that they enslave her?' So he<sup>asws</sup> said: 'No, but she would be emancipated from a third of the deceased (legacy), and she would be given whatever was bequeathed to her by it'.

وَ فِي كِتَابِ الْعَبَّاسِ تُعْتَقُ مِنْ نَصِيبِ ابْنِهَا وَ تُعْطَى مِنْ ثُلُثِهِ مَا أَوْصَى لَهَا بِهِ .

And in the Book of Al-Abbas, 'She would be emancipated from the share of her son, and she would be given from his third whatever he had bequeathed to her by it'.<sup>107</sup>

بَاب مَا يَجُوزُ مِنَ الْوَقْفِ وَ الصَّدَقَةِ وَ الثَّخْلِ وَ الْهَبَةِ وَ السُّكْنَى وَ الْعُمْرَى وَ الرُّقْبَى وَ مَا لَا يَجُوزُ مِنْ ذَلِكَ عَلَى الْوَالِدِ وَ غَيْرِهِ

## Chapter 23 – What is allowed from the endowment, and the charity, and the grant, and the gift, and the (provision) of habitation, and the lifetime (service) and the bondman, and what is allowed from that upon the child and others

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادِ بْنِ عُمَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ لَا صَدَقَةٌ وَ لَا عِنَقٌ إِلَّا مَا أَرِيدَ بِهِ وَجْهَ اللَّهِ عَزَّ وَ جَلَّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'There is neither charity nor emancipation except what is intended by it is the Face of Allah<sup>azwj</sup> Mighty and Majestic'.<sup>108</sup>

وَ عَنْهُ عَنِ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ وَ حَمَادِ وَ ابْنِ أُدَيْنَةَ وَ ابْنِ بُكَيْرٍ وَ غَيْرِهِمْ كُلُّهُمْ قَالُوا قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) لَا صَدَقَةٌ وَ لَا عِنَقٌ إِلَّا مَا أَرِيدَ بِهِ وَجْهَ اللَّهِ عَزَّ وَ جَلَّ .

And from him, from his father, from Ibn Abu Umeyr, from Hisham, and Hamaad, and Ibn Azina, and Ibn Bakeyr, and others, all of them said,

'Abu Abdullah<sup>asws</sup> said: 'There is neither charity nor emancipation except what is intended by it is the Face of Allah<sup>azwj</sup> Mighty and Majestic'.<sup>109</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَخْبُوبٍ عَنِ عَلِيِّ بْنِ رَبَائِبٍ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِنَّمَا الصَّدَقَةُ مُحَدَّثَةٌ إِنَّمَا كَانَ النَّاسُ عَلَى عَهْدِ رَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَ آلِهِ ) يَنْحَلُونَ وَ يَهْبُونَ وَ لَا يَنْبَغِي لِمَنْ أُعْطِيَ لِلَّهِ عَزَّ وَ جَلَّ شَيْئًا أَنْ يَرْجَعَ فِيهِ

A number of our companions, from Sahl Bin Ziyad and Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Ali Bin Raib, from Zurara,

Abu Abdullah<sup>asws</sup> has said: 'but rather, the charity is newly occurred. But rather, the people in the era of Rasool-Allah<sup>saww</sup> were granting and gifting, and it is not befitting

<sup>107</sup> Al Kafi – V 7 – The Book of Bequests Ch 22 H 4

<sup>108</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 1

<sup>109</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 2

for the one who gives anything for the Sake of Allah<sup>azwj</sup> Mighty and Majestic that he retracts (pulls back) with regards to it.

قَالَ وَمَا لَمْ يُعْطَ لِلَّهِ وَ فِي اللَّهِ فَإِنَّهُ يُرْجَعُ فِيهِ نَحْلَةً كَانَتْ أَوْ هِبَةً حَيْرَتْ أَوْ لَمْ تُحْزَرْ وَ لَا يَرْجَعُ الرَّجُلُ فِيمَا يَهَبُ لِأَمْرَاتِهِ وَ لَا الْمَرْأَةُ فِيمَا تَهَبُ لِرَوْجِهَا حَيْرًا أَوْ لَمْ يُحْزَرْ أَلَيْسَ اللَّهُ تَبَارَكَ وَ تَعَالَى يَقُولُ وَ لَا تَأْخُذُوا بِمَا آتَيْتُمُوهُنَّ شَيْئًا وَ قَالَ فَإِنْ طَبِنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِينًا مَرِينًا وَ هَذَا يَدْخُلُ فِي الصَّدَاقِ وَ الْهَبَةِ .

He<sup>asws</sup> said: ‘And what is not given for the Sake of Allah<sup>azwj</sup> and regarding Allah<sup>azwj</sup>, so there is retraction with regards to it, be it a donation or a gift, acquired or not acquired. And the man cannot retract with regards to what he gifts to his wife, nor the woman regarding what she gifted to her husband, acquired or not acquired. Is Allah<sup>azwj</sup> Blessed and High not Saying [2:229] **and it is not lawful for you to take any part of what you have given them**; and Said [4:4] **but if they of themselves be pleased to give up to you a portion of it, then eat it with enjoyment and with wholesome result**. And this is inclusive with regards to the dowry and the gifts’.<sup>110</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ عُيَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ الرَّجُلِ يَتَصَدَّقُ بِالصَّدَقَةِ أَلَيْسَ أَنْ يَرْجِعَ فِي صَدَقَتِهِ فَقَالَ إِنَّ الصَّدَقَةَ مُحَدَّثَةٌ إِنَّمَا كَانَ النُّحْلُ وَ الْهِبَةُ وَ لِمَنْ وَ هَبَ أَوْ نَحَلَ أَنْ يَرْجِعَ فِي هِبَتِهِ حَيْرًا أَوْ لَمْ يُحْزَرْ وَ لَا يَنْبَغِي لِمَنْ أُعْطِيَ [لِلَّهِ] شَيْئًا أَنْ يَرْجِعَ فِيهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Ibn Bakeyr, from Ubeyd Bin Zurara who said,

‘I asked Abu Abdullah<sup>asws</sup> about the man who gave in charity with the charity. Is it for him that he retracts with regards to his charity?’ So he<sup>asws</sup> said: ‘The charity is a newly occurring thing. But rather, the donations and the gifts were for the one who gifted or donated and he could retract regarding his gift, acquired or not acquired, and it is not befitting for the one who gives anything for the Sake of Allah<sup>azwj</sup> that he retracts with regards to it’.<sup>111</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) الرَّجُلُ يَتَصَدَّقُ عَلَى وُلْدِهِ بِصَدَقَةٍ وَ هُمْ صِغَارٌ أَلَيْسَ أَنْ يَرْجِعَ فِيهَا قَالَ لَا الصَّدَقَةُ لِلَّهِ عَزَّ وَ جَلَّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel who said,

‘I said to Abu Abdullah<sup>asws</sup>, ‘The man who gives charity to his children with a charity, and they are small. Is it for him that he retracts with regards to it?’ He<sup>asws</sup> said: ‘No! The charity is for the Sake of Allah<sup>azwj</sup> Mighty and Majestic’.<sup>112</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي الْمَغْرَاءِ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ صَدَقَةٍ مَا لَمْ تُقَسَمَ وَ لَمْ تُفْبِضْ فَقَالَ جَائِزَةٌ إِنَّمَا أَرَادَ النَّاسُ النُّحْلَ فَأَخْطَأُوا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abu Al Magra, from Abu Baseer who said,

‘I asked Abu Abdullah<sup>asws</sup> about charity what has not been distributed and not been seized (taken possession of). So he<sup>asws</sup> said: ‘It (retraction) is allowed. But rather, the people intended the grant, but they erred’.<sup>113</sup>

<sup>110</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 3

<sup>111</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 4

<sup>112</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 5

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) أَنَّهُ قَالَ فِي الرَّجُلِ يَتَصَدَّقُ عَلَى وُلْدِهِ قَدْ أُدْرِكُوا إِذَا لَمْ يَقْبِضُوا حَتَّى يَمُوتَ فَهُوَ مِيرَاثٌ فَإِنْ تَصَدَّقَ عَلَى مَنْ لَمْ يَدْرِكْ مِنْ وُلْدِهِ فَهُوَ جَائِزٌ لِأَنَّ وَالِدَهُ هُوَ الَّذِي يَلِي أَمْرَهُ وَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said regarding the man who gave in charity to his children who had reached awareness (puberty), but they did not take possession until he died: 'So it is inheritance, for the charity is upon the one who has not reached awareness (puberty) from his children, then it would be allowed, because the father, he is the one who is taking care of his matters'.

قَالَ لَا يَرْجِعُ فِي الصَّدَقَةِ إِذَا ابْتَعَى بِهَا وَجْهَ اللَّهِ عَزَّ وَ جَلَّ

He<sup>asws</sup> said: 'There is no retraction with regards to the charity, when it is the Face of Allah<sup>azwj</sup> Mighty and Majestic which is sought by it'.

وَ قَالَ الْهَبَةُ وَ النَّحْلَةُ يَرْجِعُ فِيهَا إِنْ شَاءَ حِيزَتْ أَوْ لَمْ تُحْزَرْ إِلَّا لِذِي رَحِمٍ فَإِنَّهُ لَا يَرْجِعُ فِيهِ .

And he<sup>asws</sup> said: 'The gift, and the grant, there is retraction with regards to it, whether something has been acquired or not acquired, except for the womb relationships, for there is no retraction in it'.<sup>114</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ إِنْ تَصَدَّقْتَ بِصَدَقَةٍ لَمْ تَرْجِعْ إِلَيْكَ وَ لَمْ تَشْتَرِهَا إِلَّا أَنْ تُورَثَ .

Ali Bin Ibrahim, from his father, from Abdullah Bin Al Mugheira, from Mansour Bin Hazim,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When you are given in charity with a charity, it does not return back to you, and you do not buy it except if you were to inherit it'.<sup>115</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَذَانَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) فِي الرَّجُلِ يَجْعَلُ لَوْلَدِهِ شَيْئاً وَ هُمْ صِغَارٌ ثُمَّ يَبْدُو لَهُ أَنْ يَجْعَلَ مَعَهُمْ غَيْرَهُمْ مِنْ وُلْدِهِ قَالَ لَا بَأْسَ .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan, from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajaaj,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who made something to be for his children and they were small. Then it seemed to him that he should name, along with them, others from his children (as sharers). He<sup>asws</sup> said: 'No problem'.<sup>116</sup>

وَ بِإِسْنَادِهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عليه السلام ) عَنِ الرَّجُلِ يَتَصَدَّقُ عَلَى وُلْدِهِ وَ هُمْ صِغَارٌ بِالْجَارِيَةِ ثُمَّ تُعَجِبُهُ الْجَارِيَةُ وَ هُمْ صِغَارٌ فِي عِيَالِهِ أ تَرَى أَنْ يُصِيبَهَا أَوْ يُقَوِّمَهَا قِيمَةً عَدْلٍ فَيَشْهَدُ بِثَمَنِهَا عَلَيْهِ أَمْ يَدَعُ ذَلِكَ كُلَّهُ فَلَا بَعْضَ لِشَيْءٍ مِنْهُ قَالَ يُقَوِّمُهَا قِيمَةً عَدْلٍ وَ يَحْتَسِبُ بِثَمَنِهَا لَهُمْ عَلَى نَفْسِهِ وَ يَمْسُهَا .

<sup>113</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 6

<sup>114</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 7

<sup>115</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 8

<sup>116</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 9

And by his chain, from Ibn Abu Umeyr, from Abdul Rahman who said,

'I asked Abu Al-Hassan<sup>asws</sup> about the man who gave charity with the slave girl to his children and they were small in his family. Do you<sup>asws</sup> see that if he were to be infatuated (smitten) by her, or evaluate her price justly, so he gets witnesses to testify to her price, or leaves that, all of it, so he does not show anything from it?' He<sup>asws</sup> said: 'He can evaluate her price justly, and reckon her price to be for them (children) upon himself, and he can touch her'.<sup>117</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) وَحَمَادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا كَانَتْ الْهَبَةُ قَائِمَةً بِعَيْنِهَا فَلَهُ أَنْ يَرْجِعَ وَإِلَّا فَلَيْسَ لَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel, from Abu Abdullah<sup>asws</sup>; and Hamaad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'If the gift remains exactly as it used to be, so it is for him to retract, otherwise it is not for him (to do so)'.<sup>118</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ صَفْوَانَ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) أَنَّهُ سُئِلَ عَنْ رَجُلٍ كَانَتْ لَهُ جَارِيَةٌ فَأَذَنَهُ أَمْرًا فِيهَا فَقَالَ هِيَ عَلَيْكَ صَدَقَةٌ فَقَالَ إِنْ كَانَ قَالَ ذَلِكَ لِلَّهِ عَزَّ وَجَلَّ فَلَيْمُضِيهَا وَإِنْ كَانَ لَمْ يَقُلْ فَلَهُ أَنْ يَرْجِعَ إِنْ شَاءَ فِيهَا .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Safwan, from Al A'ala, from Muhammad Bin Muslim,

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) having been asked about a man who had a slave girl for himself, but his wife hurt him with regards to her. So he said: 'She is a charity upon you'. So he<sup>asws</sup> said: 'If he has said, 'For the Sake of Allah<sup>azwj</sup> Mighty and Majestic, so let him fulfil it; and if had not say, so it is for him that he can retract if he so desires with regards to her'.<sup>119</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُعَاوِيَةَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يَكُونُ لَهُ عَلَى الرَّجُلِ الدَّرَاهِمُ فَيَهْبُهَا لَهُ أَلَهُ أَنْ يَرْجِعَ فِيهَا قَالَ لَا .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan, from Ibn Abu Umeyr, from Muawiya Bin Amaar who said,

'I asked Abu Abdullah<sup>asws</sup> about the man for whom were a certain amount of Dirhams upon the man (as debt), so he gifted these to him. Is it for him that he can retract with regards to it?' He<sup>asws</sup> said: 'No'.<sup>120</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنِ عُمَانَ بْنِ عَيْسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ تَصَدَّقَ بِصَدَقَةٍ عَلَى حَمِيمٍ أَوْ يَصْلُحُ لَهُ أَنْ يَرْجِعَ فِيهَا قَالَ لَا وَ لَكِنْ إِنْ أَحْتَاجَ فَلْيَأْخُذْ مِنْ حَمِيمِهِ مِنْ غَيْرِ مَا تَصَدَّقَ بِهِ عَلَيْهِ .

A number of our companions, from Ahmad Bin Abu Abdullah, from Usman Bin Isa, from Sama'at who said,

<sup>117</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 10

<sup>118</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 11

<sup>119</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 12

<sup>120</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 13

'I asked Abu Abdullah<sup>asws</sup> about a man who gave charity with a charity to a friend. Is it correct for him that he retracts with regards to it?' He<sup>asws</sup> said: 'No, but if he is needy, so let him take from his friend, from other than what he had given in charity to him'.<sup>121</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) فِي الرَّجُلِ يَتَصَدَّقُ بِالصَّدَقَةِ أَجَلٌ لَهُ أَنْ يَرْتِهَا قَالَ نَعَمْ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of our companions, from Aban Bin Usman, from Muhammad Bin Muslim,

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) regarding the man who gave in charity with some charity. Is it Permissible for him that he inherits it (back)?' He<sup>asws</sup> said: 'Yes'.<sup>122</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ أَعْطَى أُمَّهُ عَطِيَّةً فَمَاتَتْ وَكَانَتْ قَدْ قَبِضَتْ الَّذِي أَعْطَاهَا وَبَانَتْ بِهِ قَالَ هُوَ وَالْوَرَثَةُ فِيهَا سَوَاءٌ .

A number of our companions, from Ahmad Bin Abu Abdullah, from Usman Bin Isa, from Sama'at who said,

'I asked him<sup>asws</sup> about a man who gave his mother a gift. So she died and she had taken possession of that which he had given her and was irrevocably freed from it. He<sup>asws</sup> said: 'Him and the other inheritors are equal with regards to it'.<sup>123</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ مُحَمَّدِ بْنِ مَسْعُودِ الطَّائِيِّ قَالَ قُلْتُ لِأَبِي الْحَسَنِ ( عَلَيْهِ السَّلَام ) إِنَّ أُمَّي تَصَدَّقْتُ عَلَيَّ بِدَارٍ لَهَا أَوْ قَالَ بِنَصِيبٍ لَهَا فِي دَارٍ فَقَالَتْ لِي اسْتَوْثِقِي لِنَفْسِكَ فَكَذَبْتُ عَلَيْهَا أَنِّي اشْتَرَيْتُ وَأَنَّهَا قَدْ بَاعَتْنِي وَ قَبِضْتُ الثَّمَنَ فَلَمَّا مَاتَتْ قَالَ الْوَرَثَةُ أَخْلِفْ أَنْكَ اشْتَرَيْتُ وَ نَقَدْتِ الثَّمَنَ فَإِنْ خَلَفْتِ لَهُمْ أَخَذْتَهُ وَ إِنْ لَمْ أَخْلِفْ لَهُمْ لَمْ يُعْطَوْني شَيْئًا قَالَ فَقَالَ فَاحْلِفْ لَهُمْ وَ خُذْ مَا جَعَلْتَهُ لَكَ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Muhammad Bin Muslim, from Muhammad Bin Masoud Al Taiy who said,

'I said to Abu Al-Hassan<sup>asws</sup> that 'My mother gave charity to me with a house of hers', or I said, 'With her share in a house'. So she said to me, 'Secure it for yourself'. So I wrote to her that I have bought it, and that she had sold it to me and taken possession of the price'. So when she died, the inheritors said, 'Swear an oath that you had bought it and paid the cash price'. So if I were to swear an oath to them, I would take it, and if I were not to swear an oath to them, they would not give me anything'. He<sup>asws</sup> said: 'So swear an oath to them and take what she had made it to be for you'.<sup>124</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحَسَنِ بْنِ عَلِيٍّ بْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنِ الْحَكَمِ بْنِ أَبِي عَقِيلَةَ قَالَ تَصَدَّقَ أَبِي عَلَيَّ بِدَارٍ وَ قَبِضْتُهَا ثُمَّ وُلِدَ لَهُ بَعْدَ ذَلِكَ أَوْلَادٌ فَأَرَادَ أَنْ يَأْخُذَهَا مِنِّي وَ يَتَصَدَّقَ بِهَا عَلَيْهِمْ فَسَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنْ ذَلِكَ وَ أَخْبَرْتُهُ بِالْقِصَّةِ فَقَالَ لَا تُعْطِهَا إِيَّاهُ قُلْتُ فَإِنَّهُ إِذَا يَخَاصِمُنِي قَالَ فَخَاصِمُهُ وَ لَا تَرْفَعُ صَوْتَكَ عَلَيَّ صَوْتِهِ .

<sup>121</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 14

<sup>122</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 15

<sup>123</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 16

<sup>124</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 17

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali Bin Fazal, from Ibn Bakeyr, from Al Hakam Bin Abu Aqeela who said,

'My father gave me a house in charity and I took possession of it. Then after that, children were born unto him, so he wanted to take it back from me, and give in charity with it to them (instead). So I asked Abu Abdullah<sup>asws</sup> about that and informed him<sup>asws</sup> with the story. So he<sup>asws</sup> said: 'Do not give it to him'. I said, 'Then he would dispute with me'. He<sup>asws</sup> said: 'So dispute with him, but do not raise your voice above his'.<sup>125</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا عَوَّضَ صَاحِبُ الْهَبَةِ فَلَيْسَ لَهُ أَنْ يَرْجِعَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abdullah Bin Sinan,

Abu Abdullah<sup>asws</sup> has said: 'If the giver of the gift has offset it (against something else), so it is not for him that he can retract (from the original gift)'.<sup>126</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبَانَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا تَصَدَّقَ الرَّجُلُ بِصَدَقَةٍ فَبُضِّفَ صَاحِبُهَا أَوْ لَمْ يُبْضِضْهَا عَلِمَتْ أَوْ لَمْ تُعْلَمْ فَهِيَ جَائِزَةٌ .

Hameed Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from someone else, from Aban, from Abu Maryam,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'When the man gives charity, whether the recipient takes possession of it or does not take possession of it, knows about it or does not know, so it is Permissible'.<sup>127</sup>

أَبَانُ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ حُمْرَانَ قَالَ سَأَلْتُهُ عَنِ السُّكْنَى وَالْعُمْرَى فَقَالَ إِنَّ النَّاسَ فِيهِ عِنْدَ شُرُوطِهِمْ إِنْ كَانَ شَرْطُهُ حَيَاتَهُ سَكَنَ حَيَاتَهُ وَإِنْ كَانَ لِعَقْبِهِ فَهُوَ لِعَقْبِهِ كَمَا شَرَطَ حَتَّى يَفْتَنُوا ثُمَّ يُرَدُّ إِلَى صَاحِبِ الدَّارِ .

Aban, from Abdul Rahman Bin Abu Abdullah, from Hamran who said,

'I asked him<sup>asws</sup> about the (provision) of the habitation and the lifetime (gifting). So he<sup>asws</sup> said: 'The people in this (matter) and under their stipulations. If the stipulation was for his lifetime, so they should dwell in it for his lifetime, and if it was for his offspring, so it is for his offspring, just as the condition stipulated, until he dies. Then it reverts back to the owner of the house'.<sup>128</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سُئِلَ عَنِ السُّكْنَى وَالْعُمْرَى فَقَالَ إِنْ كَانَ جَعَلَ السُّكْنَى فِي حَيَاتِهِ فَهُوَ كَمَا شَرَطَ وَإِنْ كَانَ جَعَلَهَا لَهُ وَ لِعَقْبِهِ مِنْ بَعْدِهِ حَتَّى يَفْتَنَى عَقْبُهُ فَلَيْسَ لَهُمْ أَنْ يَبِيعُوا وَلَا يُورِثُوا ثُمَّ تَرْجِعُ الدَّارُ إِلَى صَاحِبِهَا الْأَوَّلِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Muhammad Bin Al Fuzeyl, from Abu Al Sabbah,

<sup>125</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 18

<sup>126</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 19

<sup>127</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 20

<sup>128</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 21

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'He<sup>asws</sup> was asked about the habitation and the lifetime (gifting), so he<sup>asws</sup> said: 'If he makes the habitation during his lifetime, so it is as he has stipulated it, and if makes it for him and for his offspring from after him until his offspring die, so it is not for them that they sell it, nor for it to be inherited. Then the house would revert back to its first owner'.<sup>129</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ صَفْوَانَ عَنْ يَعْقُوبَ بْنِ شَعْبَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَكُونُ لَهُ الْخَادِمُ تَخْدُمُهُ فَيَقُولُ هِيَ لِفُلَانٍ تَخْدُمُهُ مَا عَاشَ فَإِذَا مَاتَ فَهِيَ حُرَّةٌ فَتَأْتِي الْأُمَّةَ قَبْلَ أَنْ يَمُوتَ الرَّجُلُ بِخَمْسِ سِنِينَ أَوْ سِتَّةٍ ثُمَّ يَجِدُهَا وَرَثَتَهُ أَلْهَمَ أَنْ يَسْتَخْدِمُوهَا قَدَرٌ مَا أَبَقَتْ قَالَ إِذَا مَاتَ الرَّجُلُ فَقَدْ عَقَبَتْ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Safwan, from Yaqoub Bin Shuayb,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the man who happens to have a (female) servant for him to serve him, so he says, 'She is for so and so to serve him for as long as he lives. So when he dies, so she is free. So the maid absconds five or six years before the man dies. Then his inheritors find her. Is it for them they can make her serve in accordance with what she absconded?' He<sup>asws</sup> said: 'When the man died, so she was free'.<sup>130</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنْ أَحْمَدَ بْنِ عَمْرٍو الْحَلْبِيِّ عَنْ أَبِيهِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ دَارٍ لَمْ تُقَسِّمْ فَتَصَدَّقَ بَعْضُ أَهْلِ الدَّارِ بِنَصِيْبِهِ مِنَ الدَّارِ قَالَ يَجُوزُ فَلْتُ أَرَأَيْتَ إِنْ كَانَتْ هِبَةً قَالَ يَجُوزُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Ahmad Bin Umar Al Halby, from his father,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a house which was not distributed, so one of the people of the house gave in charity with his share from the house. He<sup>asws</sup> said: 'He is allowed'. I said, 'What is your<sup>asws</sup> view if he had gifted it?' He<sup>asws</sup> said: 'He is allowed'.

قَالَ وَ سَأَلْتُهُ عَنْ رَجُلٍ أَسْكَنَ رَجُلًا دَارَهُ حَيَاتِهِ قَالَ يَجُوزُ لَهُ وَ لَيْسَ لَهُ أَنْ يُخْرِجَهُ قُلْتُ فَلَهُ وَ لِعَقِبِهِ قَالَ يَجُوزُ

He (the narrator) said, 'And I asked him<sup>asws</sup> about a man who settled a man in his house for his lifetime. He<sup>asws</sup> said: 'He is allowed, and it is not for him that he should throw him out'. I said, 'So it is for him and his offspring'. He<sup>asws</sup> said: 'He is allowed'.

وَ سَأَلْتُهُ عَنْ رَجُلٍ أَسْكَنَ رَجُلًا وَ لَمْ يُوقِفْ لَهُ شَيْئًا قَالَ يُخْرِجُهُ صَاحِبُ الدَّارِ إِذَا شَاءَ .

And I asked him<sup>asws</sup> about a man who settles a man but does not stipulate anything from the time period for him. He<sup>asws</sup> said: 'The owner of the house can vacate him if he so desires to'.<sup>131</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الرَّجُلِ يُسْكِنُ الرَّجُلَ دَارَهُ وَ لِعَقِبِهِ مِنْ بَعْدِهِ قَالَ يَجُوزُ وَ لَيْسَ لَهُمْ أَنْ يَبْيَعُوا وَ لَا يُورِثُوا قُلْتُ فَجَرَجُلٌ أَسْكَنَ دَارَهُ رَجُلًا حَيَاتِهِ قَالَ يَجُوزُ ذَلِكَ قُلْتُ فَجَرَجُلٌ أَسْكَنَ رَجُلًا دَارَهُ وَ لَمْ يُوقِفْ قَالَ جَائِزٌ وَ يُخْرِجُهُ إِذَا شَاءَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hamaad, from Al Halby,

<sup>129</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 22

<sup>130</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 23

<sup>131</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 24

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who settles the man in his house, and for it to be for his offspring from after him. He<sup>asws</sup> said: 'He is allowed, and it is not for them that they should sell it, nor for it to be inherited'. I said, 'So a man settles a man in his house for his lifetime?' He<sup>asws</sup> said: 'He is allowed that'. I said, 'So a man settles a man in his house and does not stipulate a time period?' He<sup>asws</sup> said: 'Allowed, and he can vacate him whenever he so desires to'.<sup>132</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ الْعَاصِمِيُّ عَنْ عَلِيِّ بْنِ الْحَسَنِ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ مُحَمَّدِ بْنِ حُمْرَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَنْصَدِّقُ بِالصَّدَقَةِ الْمُسْتَرْكَةِ قَالَ جَائِزٌ .

Ahmad Bin Muhammad Al Asimy, from Ali Bin Al Hassan, from Ali Bin Asbaat, from Muhammad Bin Humran, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding the man who gives charity with something which is a jointly owned. He<sup>asws</sup> said: 'Allowed'.<sup>133</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِينَةَ قَالَ كُنْتُ شَاهِدَ ابْنِ أَبِي لَيْلَى فَقَضَى فِي رَجُلٍ جَعَلَ لِبَعْضِ قَرَابَتِهِ غَلَّةَ دَارِهِ وَ لَمْ يُوقِفْ وَفُنَّا فَمَاتَ الرَّجُلُ فَحَضَرَ وَرَثَتُهُ ابْنُ أَبِي لَيْلَى وَ حَضَرَ قَرَابَتُهُ الَّذِي جُعِلَ لَهُ الدَّارُ فَقَالَ ابْنُ أَبِي لَيْلَى أَرَى أَنْ أَدْعَهَا عَلَيَّ مَا تَرَكَهَا صَاحِبُهَا

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Umar Bin Azina who said,

'I witnessed Ibn Abu Layli judge with regards to a man who made the yield of his house to be for one of his relatives and did not stipulate any time period. So the man died, and his inheritors presented themselves to Ibn Abu Layli, and the relative to whom the (yield of the) house was made to be in favour of was (also) present. So Ibn Abu Layli said, 'I view that it should be left as its owner had left it to be'.

فَقَالَ لَهُ مُحَمَّدُ بْنُ مُسْلِمٍ التَّقْفِيُّ أَمَا إِنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ ( عَلَيْهِ السَّلَامُ ) قَدْ قَضَى فِي هَذَا الْمَسْجِدِ بِخِلَافِ مَا قَضَيْتَ فَقَالَ وَ مَا عَلِمْتُكَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ مُحَمَّدَ بْنَ عَلِيٍّ ( عَلَيْهِ السَّلَامُ ) يَقُولُ قَضَى أَمِيرُ الْمُؤْمِنِينَ عَلِيُّ بْنُ أَبِي طَالِبٍ ( عَلَيْهِ السَّلَامُ ) بَرْدَ الْحَبِيسِ وَ إِنْفَازَ الْمَوَارِيثِ فَقَالَ ابْنُ أَبِي لَيْلَى هَذَا عِنْدَكَ فِي كِتَابٍ قَالَ نَعَمْ قَالَ فَأَرْسِلْ وَ أَنْتَبِي بِهِ قَالَ لَهُ مُحَمَّدُ بْنُ مُسْلِمٍ عَلَيَّ أَنْ لَا تَنْظُرَ فِي الْكِتَابِ إِلَّا فِي ذَلِكَ الْحَدِيثِ

So Muhammad Bin Muslim Al-Saqafy said to him, 'But Ali<sup>asws</sup> Bin Abu Talib<sup>asws</sup> had judged in this very Masjid opposite to what you have judged!' So he said, 'And what taught you (that)?' He said, 'I heard Abu Ja'far Muhammad<sup>asws</sup> Bin Ali<sup>asws</sup> saying: 'Amir Al-Momineen Ali<sup>asws</sup> Bin Abu Talib<sup>asws</sup> judged for the reverting of the withheld (assets) and the enforcement of the inheritance'. So Ibn Abu Layli said, 'This is with you in a book?' He said, 'Yes'. He said, 'So send for it and have it brought to me'. Muhammad Bin Muslim said to him, 'Upon the condition that you will not look into the book except in that particular Hadeed'. He said, 'That is up to you'.

قَالَ لَكَ ذَلِكَ قَالَ فَأَرَاهُ الْحَدِيثَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي الْكِتَابِ فَرَدَّ قَضِيَّتَهُ .

He (the narrator) said, 'So he showed him the Hadeeth from Abu Ja'far<sup>asws</sup> in the book, so he retracted his judgement'.<sup>134</sup>

<sup>132</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 25

<sup>133</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 26

<sup>134</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 27

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِيهِ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ عَبْدِ الرَّحْمَنِ الْخَنْعَمِيِّ قَالَ كُنْتُ أَخْتَلِفُ إِلَى ابْنِ أَبِي لَيْلَى فِي مَوَارِيثَ لَنَا لِيُقَسِّمَهَا وَكَانَ فِيهَا حَبِيبٌ وَكَانَ يُدَافِعُنِي فَلَمَّا طَالَ شَكْوَتُهُ إِلَى أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فَقَالَ أَوْ مَا عَلِمَ أَنَّ رَسُولَ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أَمَرَ بِرَدِّ الْحَبِيبِ وَإِنْفَازِ الْمَوَارِيثِ

A number of our companions, from Ahmad Bin Abu Abdullah, from his father, from Abdullah Bin Al Mugheira, from Abdul Rahman Al Khash'amy who said,

'I differed with Ibn Abu Layli with regards to inheritance for us in order to distribute it, and there was in it a withheld asset, and it had been handed over to me. So when the matter prolonged, I complained to Abu Abdullah<sup>asws</sup>. So he<sup>asws</sup> said: 'Or does he not know that Rasool-Allah<sup>saww</sup> ordered with the return of a withheld asset and enforcement of the inheritance?'

قَالَ فَأَتَيْتُهُ فَفَعَلَ كَمَا كَانَ يَفْعَلُ فَقُلْتُ لَهُ إِنِّي شَكَوْتُكَ إِلَى جَعْفَرِ بْنِ مُحَمَّدٍ ( عَلَيْهِ السَّلَامُ ) فَقَالَ لِي كَيْتَ وَ كَيْتَ قَالَ فَحَافَنِي ابْنُ أَبِي لَيْلَى أَنَّهُ قَالَ ذَلِكَ لَكَ فَحَافَنْتُ لَهُ فَقَضَى لِي بِذَلِكَ .

He (the narrator) said, 'So I went over to him, and he did just as he had done. So I said to him, 'I complained to Ja'far<sup>asws</sup> Bin Muhammad<sup>asws</sup>, so he<sup>asws</sup> said to me such and such'. He said, 'So Ibn Abu Layli made me swear an oath that he<sup>asws</sup> had indeed said that'. So I swore an oath to him, so he judged for me with that'.<sup>135</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَخْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ جَعْفَرِ بْنِ حَيَّانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ وَقَفَ غَلَّةً لَهُ عَلَى قَرَابَةٍ مِنْ أَبِيهِ وَ قَرَابَةٍ مِنْ أُمِّهِ وَ أَوْصَى لِرَجُلٍ وَ لِعَقِبِهِ مِنْ تِلْكَ الْغَلَّةِ لَيْسَ بَيْنَهُ وَ بَيْنَهُ قَرَابَةٌ بِثَلَاثِمِائَةِ دِرْهَمٍ فِي كُلِّ سَنَةٍ وَ يُقَسِّمُ الْبَاقِي عَلَى قَرَابَتِهِ مِنْ أَبِيهِ وَ قَرَابَتِهِ مِنْ أُمِّهِ قَالَ جَائِزٌ لِلَّذِي أَوْصَى لَهُ بِذَلِكَ

A number of our companions, from Sahl Bin Ziyad and Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father both together, from Al Hassan Bin Mahboub, from Ali Bin Raib, from Ja'far Bin Hayyan who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who dedicated a yield of his upon a relative of his father and a relative of his mother, and bequeathed to a man and his offspring from that yield, not between him and him any relationship, with three hundred Dirhams, during every year, and distributed the remained over his relatives of his father, and relatives of his mother. He<sup>asws</sup> said: 'Allowed, that which he bequeathed to him with that'.

قُلْتُ أَرَأَيْتَ إِنْ لَمْ يَجْرُجْ مِنْ غَلَّةِ الْأَرْضِ الَّتِي وَقَفَهَا إِلَّا خَمْسِمِائَةَ دِرْهَمٍ فَقَالَ أَلَيْسَ فِي وَصِيَّتِهِ أَنْ يُعْطَى الَّذِي أَوْصَى لَهُ مِنَ الْغَلَّةِ ثَلَاثِمِائَةَ دِرْهَمٍ وَ يُقَسِّمُ الْبَاقِي عَلَى قَرَابَتِهِ مِنْ أُمِّهِ وَ قَرَابَتِهِ مِنْ أَبِيهِ قُلْتُ نَعَمْ قَالَ لَيْسَ لِقَرَابَتِهِ أَنْ يَأْخُذُوا مِنَ الْغَلَّةِ شَيْئاً حَتَّى يُوَفَّى الْمَوْصَى لَهُ بِثَلَاثِمِائَةِ دِرْهَمٍ ثُمَّ لَهُمْ مَا يَبْقَى بَعْدَ ذَلِكَ

I said, 'What is your<sup>asws</sup> view if there does not come out a yield from the earth which has been dedicated except for five hundred Dirhams?' So he<sup>asws</sup> said: 'Is it not in his bequest that the ones he had bequeathed to should be given three hundred Dirhams from the yield, and the remainder to be distributed upon his relatives of his mother, and relatives of his father?' I said, 'Yes'. He<sup>asws</sup> said: 'There is not for his relatives that they should take from the yield anything, until the beneficiaries he had bequeathed to have been given three hundred Dirhams, then for them would be what remains after that'.

<sup>135</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 28

قُلْتُ أَرَأَيْتَ إِنْ مَاتَ الَّذِي أُوصِيَ لَهُ قَالَ إِنْ مَاتَ كَانَتِ الثَّلَاثُمِائَةُ دِرْهَمٍ لَوَرَثْتَهُ يَتَوَارَثُونَهَا مَا بَقِيَ أَحَدٌ فَإِذَا انْقَطَعَ وَرَثَتُهُ وَ لَمْ يَبْقَ مِنْهُمْ أَحَدٌ كَانَتِ الثَّلَاثُمِائَةُ دِرْهَمٍ لِقَرَابَةِ الْمَيِّتِ تُرَدُّ إِلَى مَا يَخْرُجُ مِنَ الْوَقْفِ ثُمَّ يُقَسَّمُ بَيْنَهُمْ يَتَوَارَثُونَ ذَلِكَ مَا بَقِيَ وَ بَقِيَتِ الْعَلَّةُ

I said, 'What is your view if the beneficiary were to die?' He<sup>asws</sup> said: 'The three hundred Dirhams would be for their inheritors for as long as one of them remains. So when his inheritors are cut off and there does not remain anyone from among them, the three hundred Dirhams would be for the relatives of the deceased to be returned to what came out from the dedicated land, then it would be distributed between them and they would be inheriting that what remains, and the rest of the yield'.

قُلْتُ فَلَوْلَرْتَهُ مِنْ قَرَابَةِ الْمَيِّتِ أَنْ يَبِيعُوا الْأَرْضَ إِذَا احْتَأَجُّوا وَ لَمْ يَكْفِهِمْ مَا يَخْرُجُ مِنَ الْعَلَّةِ قَالَ نَعَمْ إِذَا رَضُوا كُلَّهُمْ وَ كَانَ النَّبِيعُ خَيْرًا لَهُمْ بَاعُوا .

I said, 'So for the inheritors from the relatives of the deceased is that they can sell the land when they need, and it does not suffice for them what comes out from the yield'. He<sup>asws</sup> said: 'Yes, when all of them are happy and that the selling was better for them, they sell'.<sup>136</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ عَلِيِّ بْنِ مَهْزِيَارٍ قَالَ كَتَبْتُ إِلَى أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنَّ فُلَانًا ابْتَاعَ ضَيْعَةً فَوَقَفَهَا وَ جَعَلَ لَكَ فِي الْوَقْفِ الْخُمْسَ وَ يَسْأَلُ عَنْ رَأْيِكَ فِي بَيْعِ حِصَّتِكَ مِنَ الْأَرْضِ أَوْ يُقَوْمَهَا عَلَى نَفْسِهِ بِمَا اشْتَرَاهَا بِهِ أَوْ يَدَعُهَا مَوْفُوقَةً

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa and a number of our companions, from Sahl Bin Ziyad, both together from Ali Bin Mahziyar who said,

'I wrote to Abu Ja'far<sup>asws</sup> that so and so bought a place, so he dedicated it, and made for you<sup>asws</sup> in the dedication, a fifth, and he asks about your view with regards to selling your<sup>asws</sup> share from the land, or evaluate it upon himself with what he had bought it for, or leave it as dedicated'.

فَكَتَبَ ( عَلَيْهِ السَّلَامُ ) إِلَيَّ أَعْلِمُ فُلَانًا أَنِّي أَمَرُهُ بِبَيْعِ حَقِّي مِنَ الضَّيْعَةِ وَ إِصْلَالِ ثَمَنِ ذَلِكَ إِلَيَّ وَ إِنَّ ذَلِكَ رَأْيِي إِنْ شَاءَ اللَّهُ أَوْ يُقَوْمَهَا عَلَى نَفْسِهِ إِنْ كَانَ ذَلِكَ أَوْفَقَ لَهُ

So he<sup>asws</sup> wrote to me: 'Let him know that I<sup>asws</sup> order him to sell my<sup>asws</sup> right from the place, and deliver the price of that to me<sup>asws</sup>. And that is my<sup>asws</sup> view, Allah<sup>azwj</sup> Willing, or he can evaluate it upon himself if that is more satisfactory for him'.

وَ كَتَبْتُ إِلَيْهِ أَنَّ الرَّجُلَ ذَكَرَ أَنَّ بَيْنَ مَنْ وَقَفَ بِقِيَّةِ هَذِهِ الضَّيْعَةِ عَلَيْهِمْ اخْتِلَافًا شَدِيدًا وَ أَنَّهُ لَيْسَ يَأْمَنُ أَنْ يَنْفَاقَمَ ذَلِكَ بَيْنَهُمْ بَعْدَهُ فَإِنْ كَانَ تَرَى أَنْ يَبِيعَ هَذَا الْوَقْفَ وَ يَدْفَعُ إِلَى كُلِّ إِنْسَانٍ مِنْهُمْ مَا كَانَ وَقَفَ لَهُ مِنْ ذَلِكَ أَمْرُهُ فَكَتَبَ بِحَطِّهِ إِلَيَّ وَ أَعْلَمُهُ أَنَّ رَأْيِي لَهُ إِنْ كَانَ قَدْ عَلِمَ الْإِخْتِلَافَ مَا بَيْنَ أَصْحَابِ الْوَقْفِ أَنْ يَبِيعَ الْوَقْفَ أَمْتَلُ فَإِنَّهُ رَبَّمَا جَاءَ فِي الْإِخْتِلَافِ مَا فِيهِ تَلَفُ الْأَمْوَالِ وَ النَّفُوسِ .

And I wrote to him<sup>asws</sup> that the man mentioned that in between the one whom he had dedicated this place over them, there is intense differing, and he is not secure that they would reconcile that between them after him.

So it was your<sup>asws</sup> view that he should sell this dedicated land and hand over to every person from them what was dedicated to him from that, order it'. So he<sup>asws</sup> wrote by

<sup>136</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 29

his<sup>asws</sup> own handwriting to me: 'Let him know that my<sup>asws</sup> view for him is that if he knew of the differing what is between the owners of the dedication, that selling the dedicated land would be more favourable, as perhaps there comes in the differing what is therein, damage to the wealth and the souls'.<sup>137</sup>

عَلِيُّ بْنُ مَهْزِيَارٍ قَالَ قُلْتُ رَوَى بَعْضُ مَوَالِيكَ عَنْ آبَائِكَ ( عَلَيْهِمُ السَّلَامُ ) أَنَّ كُلَّ وَفٍّ إِلَى وَفْتٍ مَعْلُومٍ فَهُوَ وَاجِبٌ عَلَى الْوَرِثَةِ وَكُلُّ وَفٍّ إِلَى غَيْرِ وَفْتٍ مَعْلُومٍ جَهْلٌ مَجْهُولٌ بَاطِلٌ مَرْدُودٌ عَلَى الْوَرِثَةِ وَ أَنْتَ أَعْلَمُ بِقَوْلِ آبَائِكَ فَكَتَبْتُ ( عَلَيْهِ السَّلَامُ ) هُوَ عِنْدِي كَذَا .

Ali Bin Mahziyar said,

(To Imam Al-Baqir<sup>asws</sup>), 'One of those in your<sup>asws</sup> Wilayah reported from your<sup>asws</sup> forefathers<sup>asws</sup> that every dedication of a known time period, so it is Obligatory upon the inheritors, and every dedication for an unknown time period, is an ignorance, unknown, invalid, to be returned to the inheritors, and you<sup>asws</sup> are more knowing of the speech of your<sup>asws</sup> forefathers<sup>asws</sup>'. So he<sup>asws</sup> wrote: 'It is with me<sup>asws</sup>, as such'.<sup>138</sup>

وَ كَتَبَ إِبرَاهِيمُ بْنُ مُحَمَّدٍ الْهَمْدَانِيُّ إِلَيْهِ ( عَلَيْهِ السَّلَامُ ) مَيِّتٌ أَوْصَى بِأَنْ يُجْرَى عَلَى رَجُلٍ مَا بَقِيَ مِنْ ثُلُثِهِ وَ لَمْ يَأْمُرْ بِإِنْفَاقِ ثُلُثِهِ هَلْ لِلْوَصِيِّ أَنْ يُوقِفَ ثُلُثَ الْمَيِّتِ بِسَبَبِ الْإِجْرَاءِ فَكَتَبْتُ ( عَلَيْهِ السَّلَامُ ) يُنْفَذُ ثُلُثُهُ وَ لَا يُوقَفُ .

And Ibrahim Bin Muhammad Al-Hamdany wrote to him<sup>asws</sup>, 'A deceased bequeathed that there should flow (income) upon a man what remains from his third, and did not order with the enforcement of his third. It is for the executor that he dedicates a third of the deceased (legacy) for the cause of the flowing (of the income)?' So he<sup>asws</sup> wrote: 'Enforce his third and do not suspend'.<sup>139</sup>

مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ عَلِيِّ بْنِ سُلَيْمَانَ قَالَ كَتَبْتُ إِلَيْهِ يَعْنِي أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) جُعِلْتُ فِدَاكَ لَيْسَ لِي وَلَدٌ وَ لِي ضِيَاعٌ وَرِثَتُهَا مِنْ أَبِي وَ بَعْضُهَا اسْتَفَدْتُهَا وَ لَا أَمِنُ الْحَدَثَانَ فَإِنْ لَمْ يَكُنْ لِي وَلَدٌ وَ حَدَّثَ بِي حَدَّثٌ فَمَا تَرَى جُعِلْتُ فِدَاكَ لِي أَنْ أَوْقِفَ بَعْضَهَا عَلَى فُقَرَاءِ إِخْوَانِي وَ الْمُسْتَضْعَفِينَ أَوْ أُبِيعَهَا وَ أَنْصَدِّقَ بِتَمَنِّي فِي حَيَاتِي عَلَيْهِمْ فَإِنِّي أَتَخَوَّفُ أَنْ لَا يَنْفَذَ الْوَفِّ بَعْدَ مَوْتِي فَإِنْ أَوْقَفْتَهَا فِي حَيَاتِي فَلِي أَنْ أَكُلَ مِنْهَا أَيَّامَ حَيَاتِي أَمْ لَا

Muhammad Bin Ja'fa Al Razaz, from Muhammad Bin Isa, from Ali Bin Suleyman who said,

'I wrote to him<sup>asws</sup>, meaning Abu Al-Hassan<sup>asws</sup>, 'May I be sacrificed for you<sup>asws</sup>! There is no child for me, and for me is a place which I inherited from my father, and some which I profited, and I am not secure from the adversities. Since there is no child for me, and an adversity occurs with me, so what is your<sup>asws</sup> view, may I be sacrificed for you<sup>asws</sup>, shall I dedicate some of it upon the poor brethren of mine and the weak ones, or shall I sell it and give in charity to them with its price during my lifetime, as I fear that the dedication would not be enforced after my death. So if I were to dedicate it during my lifetime, so it would be for me that I would be eating from it during the days of my life, or not?'

فَكَتَبْتُ ( عَلَيْهِ السَّلَامُ ) فَهَمْتُ كِتَابَكَ فِي أَمْرِ ضِيَاعِكَ وَ لَيْسَ لَكَ أَنْ تَأْكُلَ مِنْهَا مِنَ الصَّدَقَةِ فَإِنْ أَنْتَ أَكَلْتَ مِنْهَا لَمْ يَنْفَذْ إِنْ كَانَ لَكَ وَرَثَةٌ قَبِعَ وَ نَصَدَّقَ بِبَعْضِ تَمَنِّي فِي حَيَاتِكَ وَ إِنْ نَصَدَّقْتَ أَمْسَكَتَ لِنَفْسِكَ مَا يُفَوِّتُكَ مِثْلَ مَا صَنَعَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) .

<sup>137</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 30

<sup>138</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 31

<sup>139</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 32

So he<sup>asws</sup> wrote: 'I<sup>asws</sup> understood your letter in the matter of your place, and it is not for you that you eat from it from the charity, for if you were to eat from it, the inheritance of yours would not be enforced, therefore sell and give in charity with some of its price during your lifetime, and if you were to give in charity, withhold some of it for yourself what is your livelihood, similar to what Amir Al-Momineen<sup>asws</sup> did'.<sup>140</sup>

مُحَمَّدُ بْنُ يَحْيَى قَالَ كَتَبَ بَعْضُ أَصْحَابِنَا إِلَى أَبِي مُحَمَّدٍ ( عَلَيْهِ السَّلَام ) فِي الْوَقْفِ وَ مَا رُويَ فِيهَا فَوَقَعَ ( عَلَيْهِ السَّلَام ) الْوَقُوفُ عَلَى حَسَبِ مَا يَفْقَهُ أَهْلُهَا إِنْ شَاءَ اللَّهُ .

Muhammad Bin Yahya said,

'Some of our companions wrote to Abu Muhammad<sup>asws</sup> regarding the dedication and what is reported with regards to it. (He<sup>asws</sup>) said: 'The dedication depends upon the what (stipulation) its owner has dedicated with, Allah<sup>azwj</sup> Willing'.<sup>141</sup>

مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ أَبِي عَلِيٍّ بْنِ رَاشِدٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَام ) قُلْتُ جُعِلْتُ فِدَاكَ اشْتَرَيْتُ أَرْضاً إِلَى جَنْبِ ضَيْعَتِي بِالْفِي دِرْهَمٍ فَلَمَّا وَقَيْتُ الْمَالَ خُبِرْتُ أَنَّ الْأَرْضَ وَقُفْتُ فَقَالَ لَا يَجُوزُ شِرَاءُ الْوَقْفِ وَ لَا تُدْخِلُ الْعَلَّةَ فِي مَالِكَ ادْفَعَهَا إِلَى مَنْ أَوْقَفْتَ عَلَيْهِ قُلْتُ لَا أَعْرِفُ لَهَا رَبّاً قَالَ تَصَدَّقْ بِعَلَّتِهَا .

Muhammad Bin Ja'far Al Razaz, from Muhammad Bin Isa, from his father Ali Bin Rashid who said,

'I asked Abu Al-Hassan<sup>asws</sup>, I said, 'May I be sacrificed for you<sup>asws</sup>! I bought a land by the side of my place for two thousand Dirhams. So when I paid the money, I was informed that the land was dedicated (Waqf)'. So he<sup>asws</sup> said: 'It is not allowed to buy the dedicated (property), and do not included the yield in your wealth. Hand it over to the one who dedicated it'. I said, 'I do not know its lord (owner)'. He<sup>asws</sup> said: 'Give its yield in charity'.<sup>142</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ جَمِيعاً عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُوقِفُ الضَّيْعَةَ ثُمَّ يَبْدُو لَهُ أَنْ يُحْدِثَ فِي ذَلِكَ شَيْئاً فَقَالَ إِنْ كَانَ أَوْقَفَهَا لِوَلَدِهِ وَ لِعَبِيرِهِمْ ثُمَّ جَعَلَ لَهَا قَيْماً لَمْ يَكُنْ لَهُ أَنْ يَرْجِعَ فِيهَا وَ إِنْ كَانُوا صِغَاراً وَ قَدْ شَرَطَ وَ لَا يَنْتَهَى لَهُمْ حَتَّى يَبْلُغُوا فَيَحْزِرُواهَا لَهُمْ لَمْ يَكُنْ لَهُ أَنْ يَرْجِعَ فِيهَا وَ إِنْ كَانُوا كِبَاراً لَمْ يُسَلِّمَهَا إِلَيْهِمْ وَ لَمْ يُخَاصِمُوا حَتَّى يَحْزِرُواهَا عَنْهُ فَلَهُ أَنْ يَرْجِعَ فِيهَا لِأَنَّهُمْ لَا يَحْزِرُونَهَا عَنْهُ وَ قَدْ بَلَّغُوا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, both together from Safwan Bin Yahya,

(It has been narrated) from Abu Al-Hassan<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the man who dedicated the place, then it seemed to him something with regards to that'. So he<sup>asws</sup> said: 'If he had dedicated it to his children and for others, then made a caretaker for it, it is not for him that he should retract with regards to it, if they were young, and he had stipulated a guardian for the man until they reach maturity, for he has taken possession for them, it is not for him that he can retract with regards to it, if they were mature, not submitting to them, and not disputing until they take

<sup>140</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 33

<sup>141</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 34

<sup>142</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 35

possession from him, so it is for him that he retracts with regards to it, because they had not taken possession from him and have reached maturity'.<sup>143</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُوسَى بْنِ جَعْفَرٍ عَنْ عَلِيِّ بْنِ مُحَمَّدِ بْنِ سُلَيْمَانَ النَّوْفَلِيِّ قَالَ كَتَبْتُ إِلَى أَبِي جَعْفَرِ الثَّانِي ( عَلَيْهِ السَّلَام ) أَسْأَلُ عَنْ أَرْضٍ أَوْقَفَهَا جَدِّي عَلَى الْمُحْتَاجِينَ مِنْ وُلْدِ فُلَانِ بْنِ فُلَانٍ وَ هُمْ كَثِيرٌ مُتَفَرِّقُونَ فِي الْبِلَادِ فَأَجَابَ ( عَلَيْهِ السَّلَام ) ذَكَرْتَ الْأَرْضَ الَّتِي أَوْقَفَهَا جَدُّكَ عَلَى فُقَرَاءِ وُلْدِ فُلَانِ بْنِ فُلَانٍ وَ هِيَ لِمَنْ حَضَرَ الْبَلَدَ الَّذِي فِيهِ الْوَقْفُ وَ لَيْسَ لَكَ أَنْ تُتَبَعَ مَنْ كَانَ غَائِبًا .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Ahmad, from Musa Bin Ja'far, from Ali Bin Muhammad Bin Suleyman Al Nowfaly who said,

'I wrote to Abu Ja'far<sup>asws</sup> the second, asking about a land which was dedicated by my grandfather upon the needy from the sons of so and son, and they were a lot of them, dispersed in the cities'. So he<sup>asws</sup> answered: 'You mentioned the land which your grandfather had dedicated to the poor from the sons of so and so, and it is for the ones who are present in the city in which the dedicated (place) is, and it is not for you that you track down the ones who are absent'.<sup>144</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنِ الْحُسَيْنِ بْنِ نَعِيمٍ عَنْ أَبِي الْحَسَنِ مُوسَى ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ جَعَلَ دَارًا سُكْنَى لِرَجُلٍ إِبَانًا حَيَاتِهِ أَوْ جَعَلَهَا لَهُ وَ لِعَقِبِهِ مِنْ بَعْدِهِ قَالَ هِيَ لَهُ وَ لِعَقِبِهِ مِنْ بَعْدِهِ كَمَا شَرَطْتُ فَلْتُ فَإِنْ أَحْتَاجَ يَبِيعُهَا قَالَ نَعَمْ فَلْتُ فَيَنْفُضُ بَيْعَهُ الدَّارَ السُّكْنَى قَالَ لَا يَنْفُضُ الْبَيْعَ السُّكْنَى كَذَلِكَ سَمِعْتُ أَبِي ( عَلَيْهِ السَّلَام ) يَقُولُ قَالَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَام ) لَا يَنْفُضُ الْبَيْعَ الْإِجَارَةَ وَ لَا السُّكْنَى وَ لَكِنْ يَبِيعُهُ عَلَى أَنْ الَّذِي يَشْتَرِيهِ لَا يَمْلِكُ مَا اشْتَرَى حَتَّى يَنْقُضِيَ السُّكْنَى عَلَى مَا شَرَطَ وَ الْإِجَارَةَ فَلْتُ فَإِنْ رَدَّ عَلَى الْمُسْتَأْجِرِ مَالَهُ وَ جَمِيعَ مَا لَزِمَهُ مِنَ النَّفَقَةِ وَ الْعِمَارَةِ فِيمَا اسْتَأْجَرَهُ قَالَ عَلَى طِيبَةِ النَّفْسِ وَ يَرْضَى الْمُسْتَأْجِرُ بِذَلِكَ لَا بَأْسَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Al Husayn Bin Naeem,

(It has been narrated) from Abu Al-Hassan Musa<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who made a house for a man to settle in during his lifetime, or made it for him and his offspring from after him. He said, 'it is for him, and for his offspring from after him just as stipulated'. I said, 'So if he is needy, can he sell it?' He<sup>asws</sup> said: 'Yes'. I said, 'So does his sale revoke the rented house?'. He<sup>asws</sup> said: 'The sale does not revoke the rented house, such is how I<sup>asws</sup> heard my<sup>asws</sup> father<sup>asws</sup> saying. Abu Ja'far<sup>asws</sup> said: 'The sale does not revoke the flow (of rent) nor the settling (tenancy), but it would be sold upon the condition that the one who buys it would not own what he buys until the tenancy is revoked upon what condition and what recompense (rent)'. I said, 'So if wealth is returned to the tenant, and the entirety of what he had spent, and the building which has been rented?' He<sup>asws</sup> said: 'Upon the goodness of the self, and the tenant is happy, there is no problem'.<sup>145</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ خَالِدِ بْنِ رَافِعِ الْبَجَلِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ جَعَلَ لِرَجُلٍ سُكْنَى دَارَ لَهُ حَيَاتِهِ يَعْنِي صَاحِبَ الدَّارِ فَلَمَّا مَاتَ صَاحِبُ الدَّارِ أَرَادَ وَرَثَتُهُ أَنْ يُخْرِجُوهُ أَلَهُمْ ذَلِكَ قَالَ فَقَالَ أَرَى أَنْ تُقَوِّمَ الدَّارَ بِقِيمَةِ عَادِلَةٍ وَ يَنْظُرَ إِلَى ثَلَاثِ الْمَيْتِ فَإِنْ كَانَ فِي ثَلَاثِهِ مَا يُحِيطُ بِثَمَنِ الدَّارِ فَلَيْسَ لِلْوَرَثَةِ أَنْ يُخْرِجُوهُ وَ إِنْ كَانَ الثَّلَاثُ لَا يُحِيطُ بِثَمَنِ الدَّارِ فَلَهُمْ أَنْ يُخْرِجُوهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Khalid Bin Rafi'e Al Bajaly,

<sup>143</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 36

<sup>144</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 37

<sup>145</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 38

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who made to a man his house to settle in during his lifetime, meaning (lifetime) of the owner of the house. So when the owner of the house died, his inheritors wanted to vacate him. Is that (allowed) for them?' He<sup>asws</sup> said: 'I<sup>asws</sup> view that the house would be evaluated with a just price, and look into a third of the deceased. So if in his third is what encompasses the price of the house, so it is not for the inheritors that they vacate him. And if it was such that the third does not encompass the price of the house, so it is for them that they vacate him'.

قِيلَ لَهُ أَرَأَيْتَ إِنْ مَاتَ الرَّجُلُ الَّذِي جُعِلَ لَهُ السُّكْنَى بَعْدَ مَوْتِ صَاحِبِ الدَّارِ يَكُونُ السُّكْنَى لِعَقِيبِ الَّذِي جُعِلَ لَهُ السُّكْنَى قَالَ لَا .

It was said to him, 'What is your<sup>asws</sup> view if the man to whom the dwelling was made permissible (the tenant) were to die after the owner of the house (had passed away), If those whom he (the owner of the house) has left behind can live in that house?' He<sup>asws</sup> said: 'No'.<sup>146</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَجَلَانَ أَبِي صَالِحٍ قَالَ أَمَّا عَلِيُّ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ هَذَا مَا تَصَدَّقَ اللَّهُ بِهِ فَلَانُ بْنُ فَلَانَ وَهُوَ حَيٌّ سَوِيٌّ يَدَارِهِ الَّتِي فِي بَنِي فَلَانَ بِحُدُودِهَا صَدَقَةٌ لَا تَبَاغُ وَلَا تُوهَبُ وَلَا تُورَثُ حَتَّى يَرِثَهَا وَارِثُ السَّمَاوَاتِ وَالْأَرْضِ وَإِنَّهُ قَدْ أَسْكَنَ صَدَقَتَهُ هَذِهِ فَلَانًا وَعَقِيبَهُ فَإِذَا انْقَرَضُوا فَهِيَ عَلَى ذِي الْحَاجَةِ مِنَ الْمُسْلِمِينَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of his companions, from Aban, from Ajan Abu Salih who said,

'Abu Abdullah<sup>asws</sup> dictated to me: 'In the Name of Allah<sup>azwj</sup> the Beneficent, the Merciful! This is what is given in charity for the Sake of Allah<sup>azwj</sup> by so and so son of so and so, and he is alive, unimpaired, with his house which is in the clan of so and so, by its limits, a charity. It shall neither be sold, not gifted, nor inherited until the inheritor of the skies and the earth inherits it, and that he is settling in this charity, so and so and his offspring. So when they become extinct, so it is to the ones with the need from the Muslims'.

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ عُدَيْسٍ عَنْ أَبِي عَجَلَانَ عَنْ عَبْدِ الرَّحْمَنِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) مِثْلَهُ .

Humeyd Bin iyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ahmad Bin Udeys, from Aban, from Abdul Rahman,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, similar to it'.<sup>147</sup>

أَبَانٌ عَنْ أَبِي الْجَارُودِ قَالَ قَالَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) لَا يَشْتَرِي الرَّجُلُ مَا تَصَدَّقَ بِهِ وَ إِنْ تَصَدَّقَ بِمَسْكَنِ عَلَى ذِي قَرَابَتِهِ فَإِنْ شَاءَ سَكَنَ مَعَهُمْ وَ إِنْ تَصَدَّقَ بِخَادِمٍ عَلَى ذِي قَرَابَتِهِ خَدَمْتَهُ إِنْ شَاءَ اللَّهُ .

Aban, from Abu Al Jaroud who said,

'Abu Ja'far<sup>asws</sup> said: 'The man cannot buy what he has given in charity with, and if he has given a house in charity to the relatives, so if he so desires, he can dwell with

<sup>146</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 39

<sup>147</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 40

them, and if he has given a servant in charity to the relatives, he can serve him (as well), Allah<sup>azwj</sup> Willing'.<sup>148</sup>

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<sup>148</sup> Al Kafi – V 7 – The Book of Bequests Ch 23 H 41