

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ, وَ صَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَ آلِهِ الطَّاهِرِينَ, وَسَلَّم تَسْلِيمًا.

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

اللَّهُمَّ صَلِّ عَلَى مُحَمَّدٍ وَآلِ مُحَمَّدٍ وَعَجِّلْ فَرَجَهُمْ وَالْعَزَّ أَغْدَائَهُمْ أَجْمَعِينَ

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## Disputing, filing lawsuits and passing Judgements

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## Summary:

The followers of Ahl Al-Bayt<sup>-asws</sup> have been instructed not to take their disputes to the judges appointed by the governments. If a believer gets his rights from the judgment of a ruler or a judge, he will neither reap the benefits nor find any blessings in what he succeeds in obtaining from his lawsuit. We have also been advised not to take a position of a judge, appointed by a government, e.g., Imam<sup>-asws</sup> says: Therefore, shun the judging for you cannot stand with it (uphold it)!'<sup>1</sup>

## Believers must appoint a Scholar of Ahadith if they have a dispute:

الإحتجاج عَنْ عُمَرَ بْنِ حَنْظَلَةَ قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ رَجُلَيْنِ مِنْ أَصْحَابِنَا بَيْنَهُمَا مُنَازَعَةٌ فِي دَيْنٍ أَوْ مِيرَاثٍ فَتَحَاكَمَا إِلَى السُّلْطَانِ وَ إِلَى الْقَضَاةِ أَتَحِلُّ ذَلِكَ

(The book) 'Al Ihtijaj' – From Umar Bin Hanzala who said,

'I asked Abu Abdullah<sup>-asws</sup> about two men from our companions (people of Wilayah). There is a dispute between them regarding a debt or inheritance, so they take the case (dispute) to the ruler or to the judges (appointed by the ruler), 'Is that permissible?'

قَالَ ع مَنْ تَحَاكَمَ إِلَيْهِمْ فِي حَقٍّ أَوْ بَاطِلٍ فَإِنَّمَا تَحَاكَمَ إِلَى الْحَيْثِ وَ الطَّاغُوتِ الْمُنْهَيِّ عَنْهُ وَ مَا حُكِمَ لَهُ بِهِ فَإِنَّمَا يَأْخُذُ سُحْتًا وَ إِن كَانَ حَقُّهُ ثَابِتًا لَهُ لِأَنَّهُ أَخَذَهُ بِحُكْمِ الطَّاغُوتِ وَ قَدْ أَمَرَ اللَّهُ عَزَّ وَ جَلَّ أَنْ يَكْفُرَ بِهِ قَالَ اللَّهُ عَزَّ وَ جَلَّ - يُرِيدُونَ أَنْ يَتَحَاكَمُوا إِلَى الطَّاغُوتِ وَ قَدْ أُمِرُوا أَنْ يَكْفُرُوا بِهِ

He<sup>-asws</sup> said: 'Whoever refers to them for judgment, true or false, he has rather taken his case to the false god (*Jibt*) and the tyrant (*Taghout*) which he has been forbidden from, and whatever he judges for him with, he has rather taking an ill-gotten gain, and even if his right is established for him, because he has taken by a judgment of the tyrant, and Allah<sup>-azwj</sup> Mighty and Majestic has Commanded him to disbelieve him. Allah<sup>-azwj</sup> Mighty and Majestic Says: ***They are intending to summon each other to the judgment of the tyrant, although they have been Commanded to disbelieve in him [4:60]***'.

قُلْتُ فَكَيْفَ يَصْنَعَانِ وَ قَدْ اِخْتَلَفَا

I said, 'So how should they deal with it, and they have differed (disagreement regarding a matter)?'

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<sup>1</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 5 H 6

قَالَ يَنْظُرَانِ مَنْ كَانَ مِنْكُمْ مِمَّنْ قَدْ رَوَى حَدِيثَنَا وَ عَرَفَ حَالَئَنَا وَ حَرَامَنَا وَ عَرَفَ أَحْكَامَنَا فَلْيَرْضَوْا بِهِ حَكْمًا فَإِنِّي قَدْ جَعَلْتُهُ عَلَيْكُمْ حَكِيمًا

He<sup>-asws</sup> said: 'They should look for the one from you who has reported our<sup>-asws</sup> Ahadith, and recognises our<sup>-asws</sup> permissible(s) and our<sup>-asws</sup> prohibitions, and recognises our<sup>-asws</sup> rulings, so they should be satisfied with him as a judge, for I<sup>-asws</sup> have made him (the narrator of the Ahadith) to be a judge upon you all!

فَإِذَا حَكَمَ بِحُكْمٍ وَ لَمْ يَقْبَلْهُ مِنْهُ فَإِنَّمَا بِحُكْمِ اللَّهِ اسْتَحَفَّ وَ عَلَيْنَا رَدُّ وَ الرَّادُّ عَلَيْنَا كَالرَّادِّ عَلَى اللَّهِ وَ هُوَ عَلَى حَدِّ الشِّرْكِ بِاللَّهِ

If he were to judge with a ruling and he (disputant) does not accept it from him, rather he has taken lightly with a Ruling of Allah<sup>-azwj</sup> and has rejected upon us<sup>-asws</sup>, and the rejecter upon us is the rejecter upon Allah<sup>-azwj</sup>, and he would be upon the borders of association (Shirk) with Allah<sup>-azwj</sup>!

قُلْتُ فَإِنْ كَانَ كُلُّ وَاحِدٍ مِنْهُمَا اخْتَارَ رَجُلًا مِنْ أَصْحَابِنَا فَرَضِيَا أَنْ يَكُونَا النَّاطِرَيْنِ فِي حَقِّهِمَا فَاخْتَلَفَا فِيمَا حَكَمًا فَإِنَّ الْحَكَمَيْنِ اخْتَلَفَا فِي حَدِيثِنَا

I said, 'Supposing each one of them had chosen a man from our companions, and they agree that they would be looking into their rights, but they differ in what they judge, so the two judges differ regarding your<sup>-asws</sup> Ahadith?'

قَالَ إِنَّ الْحَكْمَ مَا حَكَمَ بِهِ أَعَدَّهُمَا وَ أَفَقَّهُهُمَا وَ أَصْدَقُهُمَا فِي الْحَدِيثِ وَ أَوْزَعُهُمَا وَ لَا يُلْتَمَسُ إِلَى مَا يَحْكُمُ بِهِ الْآخَرُ

He<sup>-asws</sup> said: 'The (final) judgment is what is judged by their most just, and their most understanding, and their most truthful regarding the Hadith, and their most devout (pious), and what the other one had judged with should not be turned to!'

قُلْتُ فَإِنَّمَا عَدْلَانِ مَرْضِيَانِ عَرَفَا بِذَلِكَ - لَا يُفْضَلُ أَحَدُهُمَا صَاحِبُهُ

I said, 'Supposing they are both just, satisfactory, well-known with that, one of them does not surpass the other?'

قَالَ يُنْظَرُ إِلَى مَا كَانَ مِنْ رَوَايَتِهِمَا عَنَّا فِي ذَلِكَ الَّذِي حَكَمَا الْمُجْمَعُ عَلَيْهِ بَيْنَ أَصْحَابِكَ فَيُؤْخَذُ بِهِ مِنْ حُكْمَيْهِمَا وَ يُتْرَكُ الشَّاذُّ الَّذِي لَيْسَ بِمَشْهُورٍ عِنْدَ أَصْحَابِكَ فَإِنَّ الْمُجْمَعُ عَلَيْهِ لَا رَيْبَ فِيهِ

He<sup>-asws</sup> said: 'It should be looked at what was from their reporting from us<sup>-asws</sup> regarding that (case) which they had judged, what there is consensus upon between your companions. It should be taken from their rulings, and leave the unusual which isn't well-known in the presence of your companions, for where there is consensus, there is no doubt in it!

فَإِنَّمَا الْأُمُورُ ثَلَاثَةٌ أَمْرٌ بَيْنَ رُشْدِهِ فَيَتَّبَعُ وَ أَمْرٌ بَيْنَ غِيٍّ فَيُجْتَنَّبُ وَ أَمْرٌ مُشْكِلٌ يُرَدُّ حُكْمُهُ إِلَى اللَّهِ عَزَّ وَ جَلَّ وَ إِلَى رَسُولِهِ ص

But rather, the matters are three – a matter its guidance is clear so it should be followed, and a matter its error is clear so it should be avoided, and a problematic matter. Its ruling should be referred to Allah<sup>-azwj</sup> Mighty and Majestic and to His<sup>-azwj</sup> Rasool<sup>-saww</sup>.

وَقَدْ قَالَ رَسُولُ اللَّهِ ص حَلَالٌ بَيِّنٌ وَ حَرَامٌ بَيِّنٌ وَ شُبُهَاتٌ تَتَرَدَّدُ بَيْنَ ذَلِكَ فَمَنْ تَرَكَ الشُّبُهَاتِ نَجَا مِنَ الْمُحَرَّمَاتِ وَ مَنْ أَخَذَ بِالشُّبُهَاتِ اِذْتَكَبَ الْمُحَرَّمَاتِ وَ هَلَكَ مِنْ حَيْثُ لَا يَعْلَمُ

And Rasool-Allah<sup>-saww</sup> had said: 'Halal (Permissible) is clear, and Haram (Prohibition) is clear, and suspect matters fluctuate between that. The one who leaves the suspect matters will be saved from the Prohibitions, and the one who takes with the suspect matters will indulge in the Prohibitions, and he will be destroyed from where he does not know!'

قُلْتُ فَإِنْ كَانَ الْخَبْرَانِ عَنْكُمَا مَشْهُورَيْنِ قَدْ رَوَاهُمَا الثِّقَاتُ عَنْكُمْ

I said, 'Supposing there were two Ahadith from you<sup>-asws</sup> are well-known having been reported by the trusted ones, from you<sup>-asws</sup> all (Imams<sup>-asws</sup>)?'

قَالَ يُنْظَرُ مَا وَافَقَ حُكْمَهُ حُكْمَ الْكِتَابِ وَ السُّنَّةِ وَ خَالَفَ حُكْمَهُ حُكْمَ الْكِتَابِ وَ السُّنَّةِ وَ وَافَقَ الْعَامَّةَ

He<sup>-asws</sup> said: 'Whatever his judgment is compatible with Judgment of the Book and the Sunnah and opposes the general Muslims should be taken with, and whatever of his judgment opposes Judgment of the Book and the Sunnah and is compatible to the general Muslims should be neglected!'

قُلْتُ جُعِلْتُ فِدَاكَ أَرَأَيْتَ إِنْ كَانَ الْفَقِيهَانِ عَرَفَا حُكْمَهُ مِنَ الْكِتَابِ وَ السُّنَّةِ ثُمَّ وَجَدْنَا أَحَدَ الْخَبْرَيْنِ يُوَافِقُ الْعَامَّةَ وَ الْآخَرَ يُخَالِفُ بَابَهُمَا نَأْخُذُ مِنَ الْخَبْرَيْنِ

I said, 'May I be sacrificed for you<sup>-asws</sup>! What is your<sup>-asws</sup> view if they were both jurists, recognising its ruling from the Book and the Sunnah? Then we find one of the Hadith being compatible with the general Muslims and the other opposing, which of the two should we take from the two Ahadith?'

قَالَ يُنْظَرُ إِلَى مَا هُمْ إِلَيْهِ يَمِيلُونَ فَإِنْ مَا خَالَفَ الْعَامَّةَ فَفِيهِ الرَّشَادُ

He<sup>-asws</sup> said: 'One should look at when they are inclining towards, for whatever opposes the general Muslims, the rightful guidance is in it'.

قُلْتُ جُعِلْتُ فِدَاكَ فَإِنْ وَافَقَهُمُ الْخَبْرَانِ جَمِيعاً

I said, 'May I be sacrificed for you<sup>-asws</sup>! Supposing both the Ahadith are compatible with them all?'

قَالَ انْظُرُوا إِلَى مَا يَمِيلُ إِلَيْهِ حُكَّامُهُمْ وَ قُضَاتُهُمْ فَانْزِكُوهُ جَانِبًا وَ خُذُوا بِعَيْتِهِ

He<sup>-asws</sup> said: 'Look at what their rulers and their judges are inclining towards, leave it aside and take with the other one!'

قُلْتُ فَإِنْ وَافَقَ حُكَّامُهُمُ الْخَيْرَيْنِ جَمِيعًا

I said, 'Supposing their rulers are compatible with both the Ahadith together?'

قَالَ إِذَا كَانَ كَذَلِكَ فَأَرْجِهْ وَ قِفْ عِنْدَهُ حَتَّى تَلْقَى إِمَامَكَ فَإِنَّ الْوُقُوفَ عِنْدَ الشُّبُهَاتِ خَيْرٌ مِنَ الْإِفْتِحَامِ فِي الْهَلَكَاتِ وَ اللَّهُ الْمُرْشِدُ.

He<sup>-asws</sup> said: 'When it was like that, postpone it and pause at it until you meet your Imam<sup>-asws</sup>, for the pausing at the suspicious matters is better than the storming into the destruction, and Allah<sup>-azwj</sup> is the Guide'.<sup>2</sup>

شيء، تفسير العياشي عَنْ يُونُسَ مَوْلَى عَلِيٍّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: مَنْ كَانَتْ بَيْنَهُ وَ بَيْنَ أَخِيهِ مَنَازَعَةٌ فَدَعَاهُ إِلَى رَجُلٍ مِنْ أَصْحَابِهِ يَحْكُمُ بَيْنَهُمَا فَأَبَى إِلَّا أَنْ يَرْفَعَهُ إِلَى السُّلْطَانِ فَهُوَ كَمَنْ حَاكَمَ إِلَى الْجِبْتِ وَ الطَّاغُوتِ وَ قَدْ قَالَ اللَّهُ يُرِيدُونَ أَنْ يَتَحَاكَمُوا إِلَى الطَّاغُوتِ إِلَى قَوْلِهِ بَعِيدًا.

Tafseer Al-Ayyashi – From Yunus, a disciple of Ali,

From Abu Abdullah<sup>-asws</sup> having said: 'One who has a dispute between him and his brother so he calls him to a man from his companion to judge between them but he refuses except that he will raise it to the ruler, he is like the one who has gone for judgment to the false god (Jibt) and the tyrant (Taghout), and Allah<sup>-azwj</sup> has Said: ***They are intending to summon each other to the judgment of the tyrant, although they have been Commanded to disbelieve in him, and the Satan intends to stray them with a far straying [4:60]***'.<sup>3</sup>

تفسير العياشي عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِ اللَّهِ تَعَالَى أَمْ تَرَى إِلَى الَّذِينَ يَزْعُمُونَ أَنَّهُمْ آمَنُوا بِمَا أُنْزِلَ إِلَيْكَ وَ مَا أُنْزِلَ مِنْ قَبْلِكَ يُرِيدُونَ أَنْ يَتَحَاكَمُوا إِلَى الطَّاغُوتِ

(The book) 'Tafseer Al Ayyashi' – From Abu Baseer,

From Abu Abdullah<sup>-asws</sup> regarding Words of Allah<sup>-azwj</sup> Exalted: ***Have you not seen those who are alleging that they do believe in what is Revealed unto you and what was***

<sup>2</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 5 H 1

<sup>3</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 5 H 7

***Revealed from before you? They are intending to summon each other to the judgment of the tyrant [4:60].***

فَقَالَ يَا أَبَا مُحَمَّدٍ إِنَّهُ لَوْ كَانَ لَكَ عَلَى رَجُلٍ حَقٌّ فَدَعَوْتَهُ إِلَى حُكَّامِ أَهْلِ الْعَدْلِ فَأَتَى عَلَيْكَ إِلَّا أَنْ يُرَافِعَكَ إِلَى حُكَّامِ أَهْلِ الْجَوْرِ لَيَقْضُوا لَهُ كَانَ مِنْ حَاكِمٍ إِلَى الطَّاغُوتِ.

He<sup>-asws</sup> said: 'O Abu Muhammad! It is that if there was a right for you upon a man so you call him to the judges of the Just people (followers of Ahl Al-Bayt<sup>-asws</sup>) but he refuses upon you except he will raise your case to the judges of the tyrannical people in order for them to judge for him, he would be from the ones taking a case to the tyrant'.<sup>4</sup>

**Judgement of a Judge is always flawed:**

الْإِحْتِجَاجُ عَنْ سَعْدِ بْنِ أَبِي الْحَصِيبِ قَالَ: دَخَلْتُ أَنَا وَابْنُ أَبِي لَيْلَى الْمَدِينَةَ فَبَيْنَا نَحْنُ فِي مَسْجِدِ الرَّسُولِ ص إِذْ دَخَلَ جَعْفَرُ بْنُ مُحَمَّدٍ ع فَقُمْنَا إِلَيْهِ فَسَاءَلَنِي عَنْ نَفْسِي وَ أَهْلِي ثُمَّ قَالَ مَنْ هَذَا مَعَكَ

(The book) 'Al Ihtijaj' – From Sa'ad Bin Abu Al Khaseyb who said,

'I and Ibn Abu Layla entered Al-Medina. While we were in Masjid of the Rasool<sup>-saww</sup> when Ja'far<sup>-asws</sup> Bin Muhammad<sup>-asws</sup> entered. We stood up to him<sup>-asws</sup>. He<sup>-asws</sup> asked me about myself and my family, then said: 'Who is this one with you?'

فَقُلْتُ ابْنُ أَبِي لَيْلَى قَاضِي الْمُسْلِمِينَ

I said, 'Ibn Abu Layla, judge of the Muslims!'

فَقَالَ نَعَمْ

He<sup>-asws</sup> said: 'Yes'.

ثُمَّ قَالَ لَهُ تَأْخُذُ مَالَ هَذَا فَتُعْطِيهِ هَذَا وَ تُفَرِّقُ بَيْنَ الْمَرْءِ وَ زَوْجِهِ وَ لَا تَخَافُ فِي هَذَا أَحَدًا

Then he<sup>-asws</sup> said to him: 'You take the wealth of this one and give it to this one, and you separate between the man and his wife and you don't fear anyone in this?'

قَالَ نَعَمْ

He said, 'Yes'.

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<sup>4</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 5 H 8

قَالَ فَبِأَيِّ شَيْءٍ تَقْضِي

He<sup>-asws</sup> said: 'So by which thing do you judge?'

قَالَ بِمَا بَلَغَنِي عَنْ رَسُولِ اللَّهِ ص وَ عَنْ أَبِي بَكْرٍ وَ عُمَرَ

He said, 'With whatever has reached me from Rasool-Allah<sup>-saww</sup>, and from Abu Bakr and Umar'.

قَالَ فَبَلِّغْكَ أَنَّ رَسُولَ اللَّهِ ص قَالَ أَفْضَاكُمْ عَلَيَّ

He<sup>-asws</sup> said: 'Has it reached you that Rasool-Allah<sup>-saww</sup> had said that your most judicial is Ali<sup>-asws</sup>?'

قَالَ نَعَمْ

He said, 'Yes'.

قَالَ فَكَيْفَ تَقْضِي بِغَيْرِ قَضَاءٍ عَلَيَّ ع وَ قَدْ بَلَغَكَ هَذَا

He<sup>-asws</sup> said: 'So how come you are judging with other than the judgment of Ali<sup>-asws</sup>, and this has reached you?'

قَالَ فَاصْفَرَّ وَجْهُ ابْنِ أَبِي لَيْلَى ثُمَّ قَالَ اتَّمِسْ لِنَفْسِكَ زَمِيلًا وَ اللَّهُ لَا أَكَلِمَتِكَ مِنْ رَأْسِي كَلِمَةً أَبَدًا.

He (the narrator) said, 'The face of Ibn Abu Layla paled. Then he<sup>-asws</sup> said: 'Seek a companion for yourself. By Allah<sup>-azwj</sup>, I<sup>-asws</sup> will not speak to you from my<sup>-asws</sup> head a single word, ever!'<sup>5</sup>

الخصال ابنُ الْمُتَوَكِّلِ عَنِ السَّعْدِ ابْنِ أَبِي بَرْقٍ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ رَفَعَهُ إِلَى أَبِي عَبْدِ اللَّهِ ع قَالَ: الْقَضَاءُ أَرْبَعَةٌ قَاضٍ قَضَى بِالْحَقِّ وَ هُوَ لَا يَعْلَمُ أَنَّهُ حَقٌّ فَهُوَ فِي النَّارِ وَ قَاضٍ قَضَى بِالْبَاطِلِ وَ هُوَ لَا يَعْلَمُ أَنَّهُ بَاطِلٌ فَهُوَ فِي النَّارِ وَ قَاضٍ قَضَى بِالْبَاطِلِ وَ هُوَ يَعْلَمُ أَنَّهُ بَاطِلٌ فَهُوَ فِي النَّارِ وَ قَاضٍ قَضَى بِالْحَقِّ وَ هُوَ يَعْلَمُ أَنَّهُ حَقٌّ فَهُوَ فِي الْجَنَّةِ.

(The book) 'Al Khisaal' – Ibn Al Mutawakkil, from Al Sa'dabady, from Al Barqy, from his father, from Ibn Abu Umeyr raising it to,

Abu Abdullah<sup>-asws</sup> said: The judgments are four – a judge judges with the truth and he does not know that it is the truth, so, he would be in the Hellfire; and a judge judging with the falsehood and he does not know that it is false, so he would be in the Hellfire;

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<sup>5</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 5 H 2



and a judge judging with the falsehood and he knows that it is false, he would be in the Hellfire; and a judge judging with the truth and he knows that it is true, he would be in the Paradise'.<sup>6</sup>

### A Fallible cannot be Just in his judgement

فقه الرضا عليه السلام اعلم أنَّ القضاة أربعة قاضي يقضي بالباطل وَ هُوَ يَعْلَمُ أَنَّهُ بَاطِلٌ فَهُوَ فِي النَّارِ وَ قَاضٍ يَقْضِي بِالْبَاطِلِ وَ هُوَ لَا يَعْلَمُ أَنَّهُ بَاطِلٌ فَهُوَ فِي النَّارِ وَ قَاضٍ قَضَى بِالْحَقِّ وَ هُوَ لَا يَعْلَمُ أَنَّهُ حَقٌّ فَهُوَ فِي النَّارِ وَ قَاضٍ قَضَى بِالْحَقِّ وَ هُوَ يَعْلَمُ أَنَّهُ حَقٌّ فَهُوَ فِي الْجَنَّةِ فَاجْتَنِبِ الْقَضَاءَ فَإِنَّكَ لَا تُقِيمُ بِهِ.

(The book) 'Fiqh Al-Reza<sup>-asws</sup>' – 'Know that the judgments are four – a judge judging with the falsehood and he knows that it is false, so he would be in the Hellfire; and a judge judging with the falsehood and he does not know that it is false, he would be in the Hellfire; and a judge judging with the truth and he does not know it is true, he would be in the Hellfire; and a judge judging with the truth and he knows it is true, he would be in the Paradise! Therefore, shun the judging for you cannot stand with it (uphold it)!'<sup>7</sup>

### Fairness in dealing with an aggressor:

وَ [يُرْوَى] رُوي أَنَّهُ عَ كَانَ جَالِسًا فِي أَصْحَابِهِ - [إِذْ مَرَّتْ] فَمَرَّتْ بِهِمْ امْرَأَةٌ جَمِيلَةٌ فَرَمَقَهَا الْقَوْمُ بِأَبْصَارِهِمْ فَقَالَ ع - إِنَّ أَبْصَارَ هَذِهِ الْفُحُولِ طَوَامِعُ وَ إِنَّ ذَلِكَ سَبَبُ هِبَائِهَا فَإِذَا نَظَرَ أَحَدُكُمْ إِلَى امْرَأَةٍ تُعْجِبُهُ فَلْيَلَامِسْ أَهْلَهُ فَإِنَّمَا هِيَ امْرَأَةٌ كَأَمْرَأَتِهِ

And it is reported that he<sup>-asws</sup> (Ali Amir Al-Momineen<sup>-asws</sup>) was seated among his<sup>-asws</sup> companions when a beautiful woman passed by him<sup>-asws</sup>. The people gazed at her with their eyes. He<sup>-asws</sup> said: 'The eyes of these stallions are covetous, and that is the cause of their looking. So, whenever one of you looks at a woman who fascinates him, then let him touch his wife, for rather she is a woman like his woman'.

فَقَالَ رَجُلٌ مِنَ الْخَوَارِجِ قَاتَلَهُ اللَّهُ كَافِرًا مَا أَفْقَهُهُ - [قَالَ] فَوَتَبَ الْقَوْمُ لِيُقْتُلُوهُ فَقَالَ ع رُوَيْدًا إِنَّمَا هُوَ سَبٌّ بِسَبِّ أَوْ عَفْوٌ عَنْ ذَنْبٍ

A man from the Kharijites said, 'May Allah<sup>-azwj</sup> Kill him<sup>-asws</sup> a Kafir! How understanding he<sup>-asws</sup> is!' The people leapt up to kill him. He<sup>-asws</sup> said: 'Gently! But rather it is an insult (reviling) for an insult (reviling) or pardoning from a sin''.<sup>8</sup>

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<sup>6</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 5 H 4

<sup>7</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 5 H 6

<sup>8</sup> Nahj Al Balagah – Saying 420

كِتَابُ الْغَرَاةِ، لِإِبْرَاهِيمَ بْنِ مُحَمَّدٍ التَّقْفِيِّ عَنْ إِسْمَاعِيلَ بْنِ أَبَانَ عَنْ عَمْرِو بْنِ شَمْرٍ عَنْ سَالِمِ الْجُعْفِيِّ عَنِ الشَّعْبِيِّ قَالَ: وَجَدَ عَلِيٌّ عِ دِرْعًا لَهُ عِنْدَ نَصْرَانٍ فَجَاءَ بِهِ إِلَى شُرَيْحٍ مُخَاصِمُهُ إِلَيْهِ فَلَمَّا نَظَرَ إِلَيْهِ شُرَيْحٌ دَهَبَ يَتَنَحَّى وَ قَالَ مَكَانَكَ فَجَلَسَ إِلَى جَنْبِهِ وَ قَالَ يَا شُرَيْحُ أَمَا لَوْ كَانَ خَصْمِي مُسْلِمًا مَا جَلَسْتُ إِلَّا مَعَهُ وَ لَكِنَّهُ نَصْرَانِيٌّ

(The book) 'Kitab Al Gharaat' of Ibrahim Bin Muhammad Al Saqafy, from Ismail Bin Aban, from Amro Bin Shmr, from Salim Al Jufy, from Al Shaby who said,

'Ali<sup>-asws</sup> found a shield of his<sup>-asws</sup> in the possession of a Christian. He<sup>-asws</sup> came with him to Shureyh (the judge) bringing his<sup>-asws</sup> dispute to him. When Shureyh looked at him he went on to move aside, and he<sup>-asws</sup> said: 'Stay in your place!' He<sup>-asws</sup> sat to his side and said: 'O Shureyh! If a Muslim had disputed me<sup>-asws</sup>, I<sup>-asws</sup> would not have sat except with him, but he is a Christian.

وَ قَالَ رَسُولُ اللَّهِ ص إِذَا كُنْتُمْ وَ إِيَّاهُمْ فِي طَرِيقٍ فَأَلْجُوهُمْ إِلَى مَضَابِقِهِ وَ صَعُرُوا بِهِمْ كَمَا صَعَرَ اللَّهُ بِهِمْ فِي غَيْرِ أَنْ تَظْلُمُوا

And Rasool-Allah<sup>-sawww</sup> had said: 'When you and them were in a road, drive them to its narrowness and belittle them just as Allah<sup>-azwj</sup> has Belittle them without being oppressive'.

ثُمَّ قَالَ عَلِيٌّ ع إِنَّ هَذَا دِرْعِي لَمْ أَبِيعْ وَ لَمْ أَهَبْ

Then Ali<sup>-asws</sup> said: 'This is my<sup>-asws</sup> shield, I<sup>-asws</sup> did not sell nor did I<sup>-asws</sup> gift!'

فَقَالَ لِلنَّصْرَانِيِّ مَا يَقُولُ أَمِيرُ الْمُؤْمِنِينَ

He (Shureyh) said to the Christian, 'What is Amir Al-Momineen<sup>-asws</sup> saying?'

فَقَالَ النَّصْرَانِيُّ مَا الدِّرْعُ إِلَّا دِرْعِي وَ مَا أَمِيرُ الْمُؤْمِنِينَ عِنْدِي إِلَّا بِكَاذِبٍ

The Christian said, 'The shield is not except my shield, and Amir Al-Momineen<sup>-asws</sup> is not in my view except a liar!'

فَالْتَفَتَ شُرَيْحٌ إِلَى عَلِيٍّ ع فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ هَلْ مِنْ بَيِّنَةٍ

Shureyh turned to Ali<sup>-asws</sup>. He said, 'O Amir Al-Momineen<sup>-asws</sup>! Is there any proof?'

قَالَ لَا

He<sup>-asws</sup> said: 'No!'

فَقَضَى بِهَا لِلنَّصْرَانِيِّ فَمَشَى هُنَيْئَةً ثُمَّ أَقْبَلَ فَقَالَ أَمَا أَنَا فَأَشْهَدُ أَنَّ هَذِهِ أَحْكَامُ النَّبِيِّينَ أَمِيرُ الْمُؤْمِنِينَ يَمْشِي بِهَا إِلَى قَاضِيهِ وَ قَاضِيهِ يَقْضِي عَلَيْهِ أَشْهَدُ أَنَّ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ وَ أَنَّ مُحَمَّدًا عَبْدُهُ وَ رَسُولُهُ الدِّرْعُ وَ اللَّهُ دِرْعُكَ يَا أَمِيرَ الْمُؤْمِنِينَ

So, he judged with it to be for the Christian. The man walked a while, then came back. He said, 'As for me, I testify that this is the ruling of the Prophet<sup>-as</sup>! Amir Al-Momineen<sup>-asws</sup> walked with me to his<sup>-asws</sup> judge, and his<sup>-asws</sup> judged judges against him<sup>-asws</sup>. I hereby testify that there is no god except Allah<sup>-azwj</sup> Alone, there is no associate for Him<sup>-azwj</sup>, and that Muhammad<sup>-saww</sup> is His<sup>-azwj</sup> servant and His<sup>-azwj</sup> Rasool<sup>-saww</sup>! By Allah<sup>-azwj</sup>, the shield is your<sup>-asws</sup> shield), O Amir Al-Momineen<sup>-asws</sup>!'

فَخَرَجَ مَعَ أَمِيرِ الْمُؤْمِنِينَ عَ إِلَى صِفِّينَ فَأَخْبَرَنِي مَنْ رَأَاهُ يُقَاتِلُ مَعَ عَلِيٍّ عَ الْخَوَارِجَ فِي النَّهْرَوَانِ.

He went out with Amir Al-Momineen<sup>-asws</sup> to (the battle of) Siffeen. The one who saw him informed me, he fought the Kharijites along with Ali<sup>-asws</sup> in (the battle of) Al-Naharwan'.<sup>9</sup>

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<sup>9</sup> Bihar Al-Anwaar V 101 – The Book of Rulings – CH 12 H 4