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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 النكاح

THE BOOK OF MARRIAGE (5)

TABLE OF CONTENTS

| | |
|---|----|
| THE BOOK OF MARRIAGE (5) | 1 |
| Chapter 93 – Chapters of the <i>Mut'a</i> (temporary marriage) | 5 |
| Chapter 94 – They (wives of <i>Mut'a</i>) are at the status of slave girls, and are not from the four (wives allowed)..... | 8 |
| Chapter 95 – It (<i>Mut'a</i>) should be restrained from by the one who is needless from it..... | 10 |
| Chapter 96 – The enjoyment (of <i>Mut'a</i>) is not allowed except with the chaste women.... | 11 |
| Chapter 97 – Stipulations of the <i>Mut'a</i> | 13 |
| Chapter 98 – Regarding him being needy that he repeats upon her the stipulation after the marriage tie..... | 15 |
| Chapter 99 – What suffices from the dower in it (<i>Mut'a</i>)..... | 16 |
| Chapter 100 – Waiting period of the <i>Mut'a</i> | 17 |
| Chapter 101 – The increment in the term..... | 18 |
| Chapter 102 – What is allowed from the term..... | 19 |
| Chapter 103 – The man does <i>Mut'a</i> with the woman many times | 20 |
| Chapter 104 – Withholding of the dower when she differs | 21 |
| Chapter 105 – She would be ratified upon herself | 22 |
| Chapter 106 – The Virgins | 23 |
| Chapter 107 – Marrying the slave girl (with <i>Mut'a</i>) | 24 |
| Chapter 108 – Occurrence of the child | 25 |
| Chapter 109 – The Inheritance | 26 |
| Chapter 110 – The Miscellaneous..... | 27 |
| Chapter 111 – The man permits his slave girl to his brother, and the wife permits her slave girl for her husband | 30 |
| Chapter 112 – The man whose son happens to have a slave girl, so he intends to sleep with her | 34 |
| Chapter 113 – Clearing the womb of the slave girl..... | 36 |
| Chapter 114 – The Concubines | 39 |

| | |
|--|-----------|
| Chapter 115 – The slave girl, the man buys her and she is pregnant | 39 |
| Chapter 116 – The man emancipates his slave girl and he makes her emancipation as her dower | 41 |
| Chapter 117 – What is Permissible for the owned slaves from the women | 42 |
| Chapter 118 – The owned slave gets married without a permission of his master..... | 44 |
| Chapter 119 – The owned slave girl gets married without the permission of her master.. | 46 |
| Chapter 120 – The man marries his slave to his slave girl..... | 47 |
| Chapter 121 – Marriage of the woman whom part of her is free and part of her is enslaved .. | 48 |
| Chapter 122 – The man buys the slave girl, and for her is a husband, be he free or a slave .. | 50 |
| Chapter 123 – The woman happens to be the wife of the slave, then she inherits him or she buys him, so her husband becomes her slave..... | 51 |
| Chapter 124 – The woman happens to have a husband for her, an owned slave, so she inherits him afterwards, then she emancipates him, and she is pleased with him (being her husband)..... | 53 |
| Chapter 125 – The slave girl who happens to be under the owned slave, so she is emancipated, or they are both emancipated together | 53 |
| Chapter 126 – The owned slave under whom is the free woman (as a wife), so he is emancipated | 55 |
| Chapter 127 – The man buys the pregnant slave girl, so he sleeps with her, and she gives birth with him | 56 |
| Chapter 128 – The man falls upon his slave girl, and someone else falls upon her during that very pure period, so she becomes pregnant..... | 57 |
| Chapter 129 – The man happens to have a slave girl, so he sleeps with her, and she falls pregnant, so he accuses her..... | 58 |
| Chapter 130 – Miscellaneous | 60 |
| Chapter 131 – The slave girl, someone else falls upon her in one pure period | 60 |
| Chapter 132 – The man happens to have the slave girl for him, having slept with her, so he sells her, then she gives birth in six months; and the man sells the slave girl to someone else, without having cleared her womb, so a pregnancy is manifested with her after the other one has touched her..... | 61 |

Chapter 133 – The child, when one of its parents is an owned slave, and the other one is free 62

Chapter 134 – The woman happens to have the slave for her, so he sleeps with her 64

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ الطَّاهِرِينَ، وَسَلَّمَ تَسْلِيْمًا.

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.

أبواب المُنْتَعَةِ

Chapter 93 – Chapters of the *Mut'a* (temporary marriage)

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيْدٍ وَعَلَيُّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ أَبِيهِ نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِيهِ بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) عَنِ الْمُنْتَعَةِ فَقَالَ نَزَّلَتْ فِي الْقُرْآنِ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَأَتُوْهُنَّ أَجُورَهُنَّ فَرِيْضَةً وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا تَرَاضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيْضَةِ.

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, altogether from Ibn Abu Najran, from Aasim Bin Humeyd, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about the *Mut'a*, so he^{asws} said : 'It is Revealed in the Quran [4:24] **Then as to those whom you enjoy with, give them their dowries as appointed; and there is no blame on you about what you mutually agree after what is appointed**'.¹

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْقُضْلِيِّ بْنِ شَادَانَ عَنْ صَفَوَانَ بْنِ يَحْيَى عَنْ ابْنِ مُسْكَانَ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ قَالَ سَمِعْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) يَقُولُ كَانَ عَلَيُّ (عَلَيْهِ السَّلَامُ) يَقُولُ لَوْ لَا مَا سَبَقْتِي بِهِ بَنِي الْخَطَابِ مَا رَأَى إِلَّا شَقِّيْ.

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, from Safwan Bin Yahya, from Ibn Muskan, from Abdullah Bin Suleyman who said,

'I heard Abu Ja'far^{asws} saying: 'Ali^{asws} was saying: 'Had the son of Khattab (Umar) not preceded me^{asws} (in the Caliphate), none would have committed adultery except for a wretch'.²

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عُمَيْرٍ عَمَّنْ ذَكَرَهُ عَنْ أَبِيهِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّمَا نَزَّلَتْ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ إِلَى أَجْلِ مُسَمَّى فَأَتُوْهُنَّ أَجُورَهُنَّ فَرِيْضَةً .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from the one who mentioned it,

(It has been narrated) from Abu Abdullah^{asws} having said: 'But rather, it (*Mut'a*) was Revealed [4:24] **Then as to those whom you enjoy with, give them their dowries as appointed**'.³

عَلَيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِيهِ عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ زُرَارَةَ قَالَ جَاءَ عَبْدُ اللَّهِ بْنُ عُمَيْرِ اللَّثِيْثِيِّ إِلَى أَبِيهِ جَعْفَرَ (عَلَيْهِ السَّلَامُ) فَقَالَ لَهُ مَا تَقُولُ فِي مُنْتَعَةِ النِّسَاءِ فَقَالَ أَحَلَّهَا اللَّهُ فِي كِتَابِهِ وَعَلَى لِسَانِ نَبِيِّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) فَوْيَ حَلَالٌ إِلَى يَوْمِ الْقِيَامَةِ

Ali, from his father, from Ibn Abu Umeyr, from Umar in Azina, from Zurara who said,

¹ Al Kafi – V 5 – The Book of Marriage Ch 93 H 1

² Al Kafi – V 5 – The Book of Marriage Ch 93 H 2

³ Al Kafi – V 5 – The Book of Marriage Ch 93 H 3

'Abdullah Bin Umeyr Al-Laysi came over to Abu Ja'far^{asws} and said to him^{asws}, 'What are you^{asws} saying regarding *Mut'a* of the women?' So he^{asws} said: 'Allah^{azwj} Permitted it in His^{azwj} Book and upon the tongue of His^{azwj} Prophet^{saww}, therefore it is Permissible up to the Day of Judgement'.

فَقَالَ يَا أَيَا جَعْفَرُ مِثْلُكَ يَقُولُ هَذَا وَ قَدْ حَرَمَهَا عُمَرٌ وَ نَهَى عَنْهَا فَقَالَ وَ إِنْ كَانَ فَعَلَ قَالَ إِنِّي أُعِيدُكَ بِاللَّهِ مِنْ ذَلِكَ أَنْ تُحَلَّ شَيْئًا حَرَمَهُ عُمَرٌ قَالَ فَقَالَ لَهُ فَإِنْتَ عَلَى قَوْلِ صَاحِبِكَ وَ أَنَا عَلَى قَوْلِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) فَهُمَا أَلَا عِنْكَ أَنَّ الْقَوْلَ مَا قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) وَ أَنَّ الْبَاطِلَ مَا قَالَ صَاحِبُكَ

So he said, 'O Abu Ja'far^{asws}! The likes of you^{asws} is saying this, and Umar has prohibited from it?' So he^{asws} said: 'And even if he did so' He said, 'I seek Refuge with Allah^{azwj} from that, that I should permit something which Umar has prohibited'. So he^{asws} said to him: 'So you are upon the words of your companions, and I^{asws} am upon the words of Rasool-Allah^{saww}. So come, I^{asws} shall curse you if the words are what Rasool-Allah^{saww} said and that the falsehood is what your companion said'.

فَقَالَ فَأَقْرَلَ عَبْدُ اللَّهِ بْنُ عُمَيرٍ فَقَالَ يُسْرُكَ أَنِّي سَاءَكَ وَ بَنَاتِكَ وَ أَخْوَاتِكَ وَ بَنَاتِ عَمِّكَ يَعْنِلَنَّ فَأَعْرَضْ عَنْهُ أَبُوكَ جَعْفَرِ (عَلَيْهِ السَّلَامُ) حِينَ ذَكَرَ سَيِّدَةَ وَ بَنَاتِ عَمِّهِ .

He (the narrator) said, 'So Abdullah Bin Umeyr accepted, and he said, 'It would make you cheerful if your^{asws} wives, and your^{asws} daughters, and your^{asws} sisters, and daughters of your^{asws} paternal uncle do it'. So Abu Ja'far^{asws} turned away from him when he mentioned his^{asws} wives and the daughters of his^{asws} paternal uncle'.⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ أَبِي أَبَانِ بْنِ عُثْمَانَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْمُتَعَشُّ نَزَلَ بِهَا الْقُرْآنُ وَ جَرَتْ بِهَا السُّنْنَةُ مِنْ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) .

Muhammad Bin Yahya, from Abdullah Bin Muhammad, from Ali Bin Al Hakam, from Aban Bin Usman, from Abu Maryam,

(It has been narrated) from Abu Abdulla^{asws} having said: 'The *Mut'a* - the Quran came down with it, and the Sunnah from Rasool-Allah^{saww} flowed by it'.⁵

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِي يَحْيَى بْنِ الْحَسَنِ بْنِ رَبَاطِ عَنْ حَرَيْزِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ سَمِعْتُ أَبَا حَنِيفَةَ يَسْأَلُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْمُتَعَشَّةِ فَقَالَ أَيِّ الْمُتَعَشَّتِينَ تَسْأَلُنِي قَالَ سَأَلْتُكَ عَنِ الْمُتَعَشَّةِ الْحَجَّ فَأَنْبَيْتُكَ عَنِ الْمُتَعَشَّةِ النِّسَاءَ أَحَقُّ هِيَ فَقَالَ سُبْحَانَ اللَّهِ أَمَا قَرَأْتَ كِتَابَ اللَّهِ عَزَّ وَ جَلَّ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُ فَأُتُوهُنَّ أَجُورُهُنَّ فَرِيضَةً فَقَالَ أَبُو حَنِيفَةَ وَ اللَّهُ فَكَانَهَا آيَةً لَمْ أَقْرَأْهَا قَطُّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ali Bin Al Hassan Bin Rabaat, from Hareyz, from Abdul Rahman Bin Abu Abdulla who said,

'I heard Abu Haneefa ask Abu Abdulla^{asws} about the *Mut'a*, so he^{asws} said: 'Which *Mut'a* are you asking about?' He said, 'I am asking you^{asws} about the *Mut'a* of the Hajj, but inform me about the *Mut'a* of the women, is it Truth?' So he^{asws} said: 'Glory be to Allah^{azwj}! Have you not read the Book of Allah^{azwj} Mighty and Majestic [4:24]

⁴ Al Kafi – V 5 – The Book of Marriage Ch 93 H 4

⁵ Al Kafi – V 5 – The Book of Marriage Ch 93 H 5

Then as to those whom you enjoy with, give them their dowries as appointed?
So Abu , 'By Allah^{azwj}! It is an Verse as if I have never recited it at all!'.⁶

عَلَيْ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلَيِّ السَّائِيِّ قَالَ فَلْتُ لِأَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) جَعَلْتُ فِدَاكَ إِنِّي كُنْتُ أَتَرْوَجُ الْمُنْتَعَةَ فَكَرِهُهُنَا وَشَاءْتُ بِهَا فَأَعْطَيْتُ اللَّهَ عَهْدًا بَيْنَ الرُّكْنِ وَالْمَقَامِ وَجَعَلْتُ عَلَيَّ فِي ذَلِكَ نَذْرًا وَصِيَامًا أَلَا أَتَرْوَجُهَا ثُمَّ إِنَّ ذَلِكَ شَقٌّ عَلَىَّ وَنَدَمْتُ عَلَىَّ يَمِينِي وَلَمْ يَكُنْ بِيَدِي مِنَ الْفَوْةِ مَا أَتَرْوَجُ فِي الْعَلَالِيَّةِ قَالَ فَقَالَ لِي عَاهَدْتُ اللَّهَ أَنْ لَا تُطِيعَهُ وَاللَّهُ أَلَّمْ لَمْ تُطِعْهُ لَنْعَصِيَنَّهُ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Ali Al Sa'ayi who said,

'I said to Abu Al-Hassan^{asws}, 'May I be sacrificed for you^{asws}! I had married the *Mut'a*, but I disliked it, and I was accused by it. So I gave Allah^{azwj} a promised between Al-Rukn and Al-Maqam (of the Kabah), and made a vow upon myself with regards to that, and Fasts, that I shall not marry it (in this manner). Then that was doubtful upon me, and I regretted my oath, and there did not happen to be in my hands the (financial) strength what (would enable me) to marry publicly'. So he^{asws} said to me: 'You oathed to Allah^{azwj} that you will not obey Him^{azwj}? By Allah^{azwj}! If you do not obey Him^{azwj}, you would disobey Him^{azwj}.⁷

عَلَيْ رَفِعَةَ قَالَ سَأَلَ أَبُو حَنِيفَةَ أَبَا جَعْفَرٍ مُحَمَّدَ فَقَالَ لَهُ يَا أَبَا جَعْفَرٍ مَا تَقُولُ فِي الْمُنْتَعَةِ أَتَرْعُمُ أَنَّهَا حَلَالٌ قَالَ نَعَمْ قَالَ فَمَا يَمْنَعُكَ أَنْ تَأْمَرَ نِسَاءَكَ أَنْ يُسْتَمْمِنَ وَيَكْتَسِبْنَ عَلَيْكَ فَقَالَ لَهُ أَبُو جَعْفَرٍ لَيْسَ كُلُّ الصَّنَاعَاتِ يُرْغَبُ فِيهَا وَإِنْ كَانَتْ حَلَالًا وَلِلنَّاسِ أَقْدَارٌ وَمَرَاتِبٌ يَرْفَعُونَ أَقْدَارَهُمْ وَلَكِنْ مَا تَقُولُ يَا أَبَا حَنِيفَةَ فِي النَّبِيِّ أَتَرْعُمُ أَنَّهَا حَلَالٌ فَقَالَ نَعَمْ قَالَ فَمَا يَمْنَعُكَ أَنْ تُفْعِدَ نِسَاءَكَ فِي الْحَوَانِيَّتِ تَبَادِلَتِ فِيَكْتَسِبْنَ عَلَيْكَ فَقَالَ أَبُو حَنِيفَةَ وَاحِدَةٌ بِوَاحِدَةٍ وَسَهْمُكَ أَنْقُذُ

Ali, raising it, said,

'Abu Haneefa asked Abu Ja'far Muhammad^{asws}, so he said to him^{asws}, 'O Abu Ja'far^{asws}! What are you^{asws} saying regarding the *Mut'a*, do you^{asws} claim that it is Permissible?' He^{asws} said: 'Yes'. He said, 'So prevents you^{asws} in instructing your^{asws} womenfolk that they should perform *Mut'a* and earn for you^{asws}?' So Abu Ja'far^{asws} said to him: 'Not every work has desirability in it, even though it may be Permissible, because people have their values and positions which raise their values. But, what are you saying, O Abu Haneefa, regarding *Al-Nabeez*, do you claim it as Permissible?' So he said, 'Yes'. He^{asws} said: 'So what prevents you from getting your womenfolk to sit in *Al-Nabeez* shops, so they would be earning for you?' So Abu Haneefa said, 'One with one, and your^{asws} share is more effective'.

ثُمَّ قَالَ لَهُ يَا أَبَا جَعْفَرٍ أَنَّ الْآيَةَ الَّتِي فِي سَأَلَ سَائِلٍ تَنْطِقُ بِنَحْرِيمِ الْمُنْتَعَةِ وَالرَّوَايَةُ عَنِ النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) فَذَ جَاءَتْ بِنَسْخِهَا فَقَالَ لَهُ أَبُو جَعْفَرٍ يَا أَبَا حَنِيفَةَ إِنَّ سُورَةَ سَأَلَ سَائِلٍ مَكِيَّةً وَآيَةَ الْمُنْتَعَةِ مَدِينَيَّةً وَرِوَايَاتُكَ شَادَّةً رَدِيَّةً

Then he said to him^{asws}, 'O Abu Ja'far^{asws}! The Verse regarding the questioner asking speaks with the Prohibition of the *Mut'a*, and the report from the Prophet^{saww} has come with its Abrogation'. So Abu Ja'far^{asws} said to him: 'O Abu Haneefa! The Chapter [70:1] A **questioner, asked** is Meccan and the Verse of the *Mut'a* is Medinite, and your report is abnormal, refuted' (as an earlier Verse cannot Abrogate a later Verese).

⁶ Al Kafi – V 5 – The Book of Marriage Ch 93 H 6

⁷ Al Kafi – V 5 – The Book of Marriage Ch 93 H 7

فَقَالَ لَهُ أَبُو حَنِيفَةَ وَ آتَيْهُ الْمِيرَاثَ أَيْضًا تَنْطِقُ بِنَسْخِ الْمُنْعَةِ فَقَالَ أَبُو جَعْفَرٍ قَدْ ثَبَّتَ النِّكَاحُ بِغَيْرِ مِيرَاثٍ قَالَ أَبُو حَنِيفَةَ مِنْ أَيْنَ قُلْتَ ذَاكَ فَقَالَ أَبُو جَعْفَرٍ لَوْ أَنَّ رَجُلًا مِنَ الْمُسْلِمِينَ تَزَوَّجَ امْرَأً مِنْ أَهْلِ الْكِتَابِ ثُمَّ تُوْفَى عَنْهَا مَا نَفَقُ فِيهَا قَالَ لَا تَرِثُ مِنْهُ قَالَ فَقَدْ ثَبَّتَ النِّكَاحُ بِغَيْرِ مِيرَاثٍ ثُمَّ افْتَرَقَا .

So Abu Haneefa said to him^{asws}, ‘And the Verse of the inheritance as well speaks with the Abrogation of the *Mut'a*'. So Abu Ja'far^{asws} said: ‘The marriage is proved (it can be) without inheritance’. Abu Haneefa said, ‘From where do you^{asws} speak that?’ So Abu Ja'far^{asws} said: ‘If a man from the Muslims were to marry a woman from the People of the Book, then he dies from her, what would you be saying regarding it?’ He said, ‘She would not inherit from him’. He^{asws} said: ‘So that proves the marriage (can be) without inheritance’. Then they departed each other'.⁸

باب أَنَّهُ بِمَنْزِلَةِ الْإِمَاءِ وَ لَيْسَتْ مِنَ الْأَرْبَعِ

Chapter 94 – They (wives of *Mut'a*) are at the status of slave girls, and are not from the four (wives allowed)

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنِ أَبِيهِ عَمَّيْرٍ عَنْ عُمَرَ بْنِ أَذْيَانَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فُلِتُ كُمْ تَحْلُّ مِنَ الْمُنْعَةِ قَالَ فَقَالَ هُنَّ بِمَنْزِلَةِ الْإِمَاءِ .

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

(It has been narrated) from Abu Abdullah^{asws}, said, ‘I said, ‘How many (wives) are Permissible from the *Mut'a*?’ So he^{asws} said: ‘They are at the status of the slave girls (no limit)’.⁹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ أَحْمَدَ بْنِ إِسْحَاقَ الْأَشْعَرِيِّ عَنْ بَكْرِ بْنِ مُحَمَّدِ الْأَزْدِيِّ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) عَنِ الْمُنْعَةِ أَ هِيَ مِنَ الْأَرْبَعِ فَقَالَ لَا .

Al Husayn Bin Muhammad, from Ahmad Bin Is'haq Al Ashary, from Bakr Bin Muhammad Al Azdy who said,

‘I asked Abu Al-Hassan about the *Mut'a*, is she from the four (allowable wives)?’ So he^{asws} said: ‘No’.¹⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رِئَابٍ عَنْ زُرَارَةَ بْنِ أَعْيَنَ قَالَ فُلِتُ مَا يَحْلُّ مِنَ الْمُنْعَةِ قَالَ كُمْ شِئْتَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Raib, from Zurara Bin Ayn who said,

‘I said, ‘What is Permissible from the *Mut'a*?’ He^{asws} said: ‘As many as you so desire to’.¹¹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلَيٌّ عَنْ حَمَادِ بْنِ عُثْمَانَ عَنْ أَبِي بَصِيرٍ قَالَ سُئِلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْمُنْعَةِ أَ هِيَ مِنَ الْأَرْبَعِ فَقَالَ لَا وَ لَا مِنَ السَّبْعِينَ .

⁸ Al Kafi – V 5 – The Book of Marriage Ch 93 H 8

⁹ Al Kafi – V 5 – The Book of Marriage Ch 94 H 1

¹⁰ Al Kafi – V 5 – The Book of Marriage Ch 94 H 2

¹¹ Al Kafi – V 5 – The Book of Marriage Ch 94 H 3

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from Al Hassan Bin Ali, from Hammad Bin Usman, from Abu Baseer who said,

'Abu Abdullah^{asws} was asked about the *Mut'a*, is she from the four (allowable wives)?' So he^{asws} said: 'No, nor from the seventy (i.e. as many as you so desire to).'¹²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيسَى عَنْ الْحُسَينِ بْنِ سَعِيدٍ وَ مُحَمَّدٌ بْنُ خَالِدٍ الْبَرْقِيِّ عَنْ الْفَاسِمِ بْنِ عُرْوَةَ عَنْ عَبْدِ الْحَمِيدِ عَنْ مُحَمَّدٍ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرِ (عَلَيْهِ السَّلَامُ) فِي الْمُنْتَعَةِ قَالَ لَيْسَتِ مِنَ الْأَرْبَعَ لَا تُطْلُقُ وَ لَا تَرِثُ وَ إِنَّمَا هِيَ مُسْتَاجَرَةٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, and Muhammad Bin Khalid Al Barqy, from Al Qasim Bin Urwat, from Abdul Hameed, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} regarding the *Mut'a*. He^{asws} said: 'She is not from the four (allowable wives) because she is not divorced, and does not inherit. But rather, she is only hired'.¹³

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَمِيرٍ عَنْ عُمَرَ بْنِ أَدِيَّةَ عَنْ إِسْمَاعِيلِ بْنِ الْفَضْلِ الْهَاشِمِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْمُنْتَعَةِ فَقَالَ الْقَوْمُ عَبْدُ الْمَالِكِ بْنُ جُرْبِجَ فَسَأَلَهُ عَنْهَا فَإِنَّ عَنْهَا قَوْمٌ عَلَيَّ فَلَيْهِمْ فَأَمَلَى عَلَيَّ مِنْهَا شَيْئًا كَثِيرًا فِي اسْتِحْلَالِهَا فَكَانَ فِيمَا رَوَى لِي ابْنُ جُرْبِجَ قَالَ لَيْسَ فِيهَا وَقْتٌ وَ لَا عَدَدٌ إِنَّمَا هِيَ بِمَنْزِلَةِ الْأَمَاءِ يَتَرَوَّجُ مِنْهُنَّ كَمْ شَاءَ وَ صَاحِبُ الْأَرْبَعِ يَسْوِهِ يَتَرَوَّجُ مِنْهُنَّ مَا شَاءَ بِعِيرٍ وَ لِيٌ وَ لَا شُهُودٍ فَإِذَا انْفَضَى الْأَجْلُ بَاتَتْ مِنْهُ بِعِيرٍ طَلاقٍ وَ يُعْطِيهَا الشَّيْءَ الْأَيْسِيرَ وَ عَنْهَا حَيْضَانٌ وَ إِنْ كَانَتْ لَا تَحِيضُ فَخَمْسَةٌ وَ أَرْبَعُونَ يَوْمًا

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Umar Bin Azina, from Ismail Bin Al Fazl Al hashimy who said,

'I asked Abu Abdullah^{asws} about the *Mut'a*, so he^{asws} said: 'Meet Abdul Malik Bin Jureyh and ask him about it, for with him is knowledge about it (from me^{asws})'. So I met up with him and he dictated to me many things with regards to its Permissibility. So, among what Ibn Jureyh reported to me was that he said, 'There is no time limit nor a number in it. But rather, she is at the status of the slave girl. He can marry from them as many as he so desires to, and the one with the four wives can (also) marry from them as many as he so desires to, without a guardian nor witnesses. So when the term expires, she becomes irrevocably divorced from him without a divorce, and he can give her something little, and her waiting period is of two menstruations. But if she does not menstruate, so it would be of forty five days'.

فَأَنْتَ بِالْكِتَابِ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَعَرَضْتُ عَلَيْهِ فَقَالَ صَدَقَ وَ أَقْرَأَ بِهِ

So I came over with the writing to Abu Abdullah^{asws} and presented it to him^{asws}. So he^{asws} said: 'True, and I^{asws} agree with it'.

قَالَ ابْنُ أَدِيَّةَ وَ كَانَ زُرَارَةُ بْنُ أَعْيَنَ يَقُولُ هَذَا وَ يَخْلُفُ أَنَّهُ الْحَقُّ إِلَّا أَنَّهُ كَانَ يَقُولُ إِنْ كَانَتْ تَحِيضُ فَحَيْضَةٌ وَ إِنْ كَانَتْ لَا تَحِيضُ فَسَهْرٌ وَ نِصْفٌ .

¹² Al Kafi – V 5 – The Book of Marriage Ch 94 H 4

¹³ Al Kafi – V 5 – The Book of Marriage Ch 94 H 5

Ibn Azina said, 'And Zurara Bin Ayn was saying this, and he swore that it is the Truth, except that he was saying, 'If she menstruates so it (waiting period) would be one menstruation, but if she did not menstruate, so it (waiting period) would be a month and a half'.¹⁴

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ أَحْمَدَ بْنِ إِسْحَاقَ عَنْ سَعْدَانَ بْنِ مُسْلِمٍ عَنْ عُيْنَدِ بْنِ زُرَارَةَ عَنْ أَبِيهِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ ذَكَرْتُ لَهُ الْمُنْعَةَ أَهِيَ مِنَ الْأَرْبَعِ فَقَالَ تَرَوْجُ مِنْهُنَّ الْفَأْنَهُنَّ مُسْتَأْجِرَاتٍ .

Al Husayn Bin Muhammad, from Ahmad Bin Is'haq, from Sa'dan Bin Muslim, from Ubeyd Bin Zurara, from his father,

(It has been narrated) from Abu Abdallah^{asws}, said, 'I mentioned the *Mut'a* to him^{asws}, is she from the four (allowable wives)?' So he^{asws} said: 'You can take (by way of *Mut'a*) a thousand from them, so they are recompensed'.¹⁵

باب أَنَّ يَجُبَ أَنْ يَكُفَّ عَنْهَا مَنْ كَانَ مُسْتَغْنِيًّا

Chapter 95 – It (*Mut'a*) should be restrained from by the one who is needless from it

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِنِ أَبِيهِ عُمَيْرٍ عَنْ عَلَيِّ بْنِ يَعْقِيلٍ سَأَلَ أَبَا الْحَسَنِ مُوسَى (عَلَيْهِ السَّلَامُ) عَنِ الْمُنْعَةِ فَقَالَ وَمَا أَنْتَ وَذَاكَ فَقَدْ أَغْنَاكَ اللَّهُ عَنْهَا قُلْتُ إِنَّمَا أَرَدْتُ أَنْ أَعْلَمَهَا فَقَالَ هِيَ فِي كِتَابٍ عَلَيِّ (عَلَيْهِ السَّلَامُ) فَقُلْتُ تَزِيدُهَا وَتَزِدُّهُ فَقَالَ وَهُنَّ يَطْبِئُهُ إِلَّا ذَاكَ .

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

'I asked Abu Al-Hassan Musa^{asws} about the *Mut'a*, so he^{asws} said: 'And what is it with you and that, for Allah^{azwj} has Made you to be needless from it?' I said, 'But rather, I intended to learn (about) it'. So he^{asws} said: 'It is in the Book of Ali^{asws}'. So I said, 'We can increase it, and she can increase it (term)?' So he^{asws} said: 'And would it make him feel better except for that?'.¹⁶

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنِ الْمُخْتَارِ بْنِ مُحَمَّدٍ بْنِ الْمُخْتَارِ وَ مُحَمَّدَ بْنِ الْحَسَنِ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ الْعَلَوِيِّ جَمِيعًا عَنِ الْفَتْحِ بْنِ يَزِيدَ سَأَلَ أَبَا الْحَسَنَ (عَلَيْهِ السَّلَامُ) عَنِ الْمُنْعَةِ فَقَالَ هِيَ حَالٌ مُبَاخٌ مُطْلَقٌ لِمَنْ لَمْ يُعْنِهِ اللَّهُ بِالثَّرْوَيْجِ فَلَيْسَ نَعِيفٌ بِالْمُنْعَةِ فَإِنْ اسْتَغْنَى عَنْهَا بِالثَّرْوَيْجِ فَهِيَ مُبَاخٌ لَهُ إِذَا غَابَ عَنْهَا .

Ali Bin Ibrahim, from Al Mukhtar Bin Muhammad Bin Al Mukhtar, and Muhammad Bin Al Hassan, from Abdullah Bin Al Hassan Al Alawy, altogether from Al Fatah Bin Yazeed who said,

'I asked Abu Al-Hassan^{asws} about the *Mut'a*, so he^{asws} said: 'It is Permissible, Authorised indefinitely for the one whom Allah^{azwj} has not Made to be needless by the marriage, so he can maintain chastity with the *Mut'a*. So if he is needless from it by the marriage, so it is authorised for him when he is absent from her'.¹⁷

¹⁴ Al Kafi – V 5 – The Book of Marriage Ch 94 H 6

¹⁵ Al Kafi – V 5 – The Book of Marriage Ch 94 H 7

¹⁶ Al Kafi – V 5 – The Book of Marriage Ch 95 H 1

¹⁷ Al Kafi – V 5 – The Book of Marriage Ch 95 H 2

عَدَّةٌ مِنْ أَصْحَابَنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمْوَنَ قَالَ كَتَبَ أَبُو الْحَسَنِ (عَلَيْهِ السَّلَامُ) إِلَى بَعْضِ مَوَالِيهِ لَا تُلِحُوا عَلَى الْمُنْتَعَةِ إِنَّمَا عَلَيْكُمْ إِقَامَةُ السُّنَّةِ فَلَا تَشْغُلُوا بِهَا عَنْ فُرُوشُكُمْ وَ حَرَائِرُكُمْ فَيُكَفِّرُونَ وَ يَتَبَرَّئُونَ وَ يَدْعُونَ عَلَى الْأَمْرِ بِذَلِكَ وَ يَأْعُونَا .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun who said,

'Abu Al-Hassan^{asws} wrote to one of his^{asws} (companions) 'Do not persist upon the *Mut'a*. But rather, upon you is the establishment of the Sunnah, therefore do not be too pre-occupied with it from your beds, and your free wives, for they would be disbelieving, and they would be disavowing, and they would be making a religion upon the matter with that, and they would be cursing us^{asws}'.¹⁸

عَلَيُّ بْنُ مُحَمَّدٍ عَنْ صَالِحٍ بْنِ أَبِي حَمَادٍ عَنْ ابْنِ سِنَانٍ عَنْ الْمُفْتَلِ بْنِ عُمَرَ قَالَ سَمِعْتُ أَبَا عَبْدَ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي الْمُنْتَعَةِ دَعْوَهَا أَمَا مَا يَسْتَحِبِي أَحْدُوكُمْ أَنْ يُرَى فِي مَوْضِعِ الْعُورَةِ فَيُحْمَلَ ذَلِكَ عَلَى صَالِحِي إِخْرَانِهِ وَ أَصْحَابِهِ .

Ali Bin Muhammad, from Salih Bin Abu Hammad, from Ibn Sinan, from Al Mufazzal Bin Umar who said,

'I heard Abu Abdullah^{asws} saying regarding the *Mut'a*: 'Leave it! Isn't one of you embarrassed to be seen in a place of blemish? So that would be carried upon the righteous ones of his brethren and companions'.¹⁹

باب أَنَّهُ لَا يَجُوزُ التَّمَثُلُ إِلَّا بِالْغَفِيفَةِ

Chapter 96 – The enjoyment (of *Mut'a*) is not allowed except with the chaste women

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) أَنَّهُ سُئِلَ عَنِ الْمُنْتَعَةِ فَقَالَ إِنَّ الْمُنْتَعَةَ الْيَوْمَ لَيْسَ كَمَا كَانَتْ قَبْلَ الْيَوْمِ إِنَّهُنَّ كُنُّ يُؤْمِنُونَ يُؤْمِنُونَ وَ الْيَوْمَ لَا يُؤْمِنُ فَاسْأَلُوهُنَّ عَنْهُنَّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Aban, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having been asked about the *Mut's*, so he^{asws} said: 'The *Mut'a* today is not as it used to be before today. In those days these women were believers (in it), and today they are not believers (in it), so ask them'.²⁰

وَ عَنْهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْأَعْيَاسِ بْنِ مُوسَى عَنْ إِسْحَاقَ عَنْ أَبِي سَارَةَ قَالَ سَأَلْتُ أَبَا عَبْدَ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْهَا يَعْنِي الْمُنْتَعَةِ فَقَالَ لِي حَلَالٌ فَلَا تَتَرَوَّجْ إِلَّا غَفِيفَةً إِنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ وَ الَّذِينَ هُمْ لُفُرُوجُهُمْ حَافِظُونَ فَلَا تَضَعْ فَرْجَكَ حَيْثُ لَا تَأْمُنُ عَلَى دِرْهَمِكَ .

And from him, from Ahmad Bin Muhammad, from Al Abbas Bin Musa, from Is'haq, from Abu Sarah who said,

'I asked Abu Abdullah^{asws} about it, meaning the *Mut'a*, so he^{asws} said to me: 'Permissible, so do not marry except for the chaste women. Allah^{azwj} Mighty and

¹⁸ Al Kafi – V 5 – The Book of Marriage Ch 95 H 3

¹⁹ Al Kafi – V 5 – The Book of Marriage Ch 95 H 4

²⁰ Al Kafi – V 5 – The Book of Marriage Ch 96 H 1

Majestic is Saying [70:29] ***And those who guard their private parts***, therefore do not place your private part where you would not feel safe upon your Dirham'.²¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ قَالَ سَلَّمَ رَجُلٌ أَبَا الْحَسَنِ الرَّضا (عَلَيْهِ السَّلَامُ) وَ أَنَا أَسْمَعُ عَنْ رَجُلٍ يَتَرَوَّجُ امْرَأَةً مُنْعَةً وَ يَشْتَرِطُ عَلَيْهَا أَنْ لَا يَطْلَبَ وَلَدَهَا فَتَأْتِي بَعْدَ ذَلِكَ بَوَالَدٍ فَشَدَّ فِي إِنْكَارِ الْوَلَدِ وَ قَالَ أَيْجُونَهُ إِغْظَامًا لِذَلِكَ فَقَالَ الرَّجُلُ فَإِنِّي أَنْهَمَهَا فَقَالَ لَا يَبْيَغِي لَكَ أَنْ تَتَرَوَّجَ إِلَّا مُؤْمِنَةً أَوْ مُسْلِمَةً فَإِنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ الرَّازِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَ الرَّازِي لَا يَنْكِحُهَا إِلَّا زَانِ أَوْ مُشْرِكٌ وَ حَرَمَ ذَلِكَ عَلَى الْمُؤْمِنِينَ .

Muhammad Bin Yahy, from Ahmad Bin Muhammad, from Muhammad Bin Ismail who said,

'A man asked Abu Al-Hassan Al-Reza^{asws} and I was listening, about a man who married a woman with *Mut'a* and stipulated upon her that he would not seek her child. So she came over after that with a child. So he was intense in the denial of the child and he^{asws} said: 'Did he fight It greatly due to that?' So the man said, 'But, he was accusing her'. So he^{asws} said: 'It is not befitting for you that you marry except for a Believing woman, or a Muslim woman, for Allah^{azwj} Mighty and Majestic is Saying [24:3] ***The adulterer shall not marry any but a adulteress or an idolatress, and (as for) the adulteress, none shall marry her but an adulterer or an idolater; and that is Forbidden to the Believers'***.²²

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِي عُمَيْرٍ رَفِعَةَ عَنْ أَبِي عَبْدِ اللَّهِ بْنِ أَبِي يَعْفُورٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَلَّمَ عَنِ الْمَرْأَةِ وَ لَا أَدْرِي مَا حَالَهَا أَيْتَنِي وَ لَا يَنْزَوِجُهَا الرَّجُلُ مُنْعَةً قَالَ يَتَعَرَّضُ لَهَا فَإِنْ أَجَابَتْهُ إِلَى الْفُجُورِ فَلَا يَفْعُلُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, raising it, from Abdullah Bin Abu Yafour,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the woman, and I do not know of her state, can the man marry her with *Mut'a*? He^{asws} said: 'He can present (immorality) to her, so if she were to respond (positively) to the immoralities, so he should not do it'.²³

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ الْبَرْقِيِّ عَنْ دَاؤِدَ بْنِ إِسْحَاقَ الْحَدَّاءِ عَنْ مُحَمَّدِ بْنِ الْقَبِيصِ قَالَ سَلَّمَ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْمَنْعَةِ فَقَالَ نَعَمْ إِذَا كَانَتْ عَارِفَةً فَلَا جُعْلَنَا فِدَاكَ فَإِنْ لَمْ تَكُنْ عَارِفَةً قَالَ فَاعْرِضْ عَلَيْهَا وَ قُلْ لَهَا فَإِنْ قِبَلَتْ فَنَرَوْجَهَا وَ إِنْ أَبْتَ أَنْ تَرْضَى بِقَوْلِكَ فَدَعْهَا

A number of our companions, from Ahmad Bin Muhammad Al Barqy, from Dawood Bin Is'haq Al Haza'a, from Muhammad Bin Al Qayz who said,

'I asked Abu Abdullah^{asws} about the *Mut'a*, so he^{asws} said: 'When she was of an understanding'. We said, 'May we be sacrificed for you^{asws}! Supposing she is not of an understanding?' He^{asws} said: 'So present to her and speak to her, so if she accepts, then marry her, and if she refuses to be pleased with your words, so leave her.

وَ إِيَّاكَ وَ الْكَوَافِرَ وَ الدَّوَاعِيَ وَ الْبَغَایَا وَ ذَوَاتِ الْأَزْوَاجِ فَلَمْ تَكُنْ الْلَّوَاتِي يُكَاشِفْنَ وَ يُبَوِّئُنَ مَعْلُومَةً وَ يُبَوِّئُنَ فَلَمْ تَكُنْ الْلَّوَاعِي قَالَ الْلَّوَاتِي يَدْعَيْنَ إِلَى أَنْفُسِهِنَ وَ قَدْ عُرِفَ بِالْفَسَادِ فَلَمْ تَكُنْ فَالْبَغَایَا قَالَ الْمُعْرُوفَاتُ بِالزِّنِ فَلَمْ تَكُنْ ذَوَاتُ الْأَزْوَاجِ قَالَ الْمُطْلَقَاتُ عَلَى غَيْرِ السُّنَّةِ .

²¹ Al Kafi – V 5 – The Book of Marriage Ch 96 H 2

²² Al Kafi – V 5 – The Book of Marriage Ch 96 H 3

²³ Al Kafi – V 5 – The Book of Marriage Ch 96 H 4

And beware of the revealers, and the inviters, and the prostitutes, and those with the husbands'. I said, 'What are the revealers?' He^{asws} said: 'Those women who are revealing and their houses are known, and they (men) are going to them'. I said, 'So (what about) the inviters?' He^{asws} said: 'Those women who are inviting to themselves, and they are recognised with the corruption'. I said, 'So (what about) the prostitutes?' He^{asws} said: 'Those women are well known with the adultery'. I said, 'So (what about) those women with the husbands?' He^{asws} said: 'The women divorced upon other than the Sunnah'.²⁴

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ قَالَ سَأَلَتْ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) عَنِ الْمَرْأَةِ الْحَسَنَاءِ الْفَاجِرَةِ هَلْ يَجُوزُ لِلرَّجُلِ أَنْ يَتَمَّشَّ مِنْهَا يَوْمًا أَوْ أَكْثَرَ فَقَالَ إِذَا كَانَتْ مَشْهُورَةً بِالزُّنْنَاءِ فَلَا يَتَمَّشَّ مِنْهَا وَلَا يُنْكِحُهَا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Al Fuzayl who said,

'I asked Abu Al-Hassan^{asws} about the woman, the beautiful, the immoral. Is it allowed for the man that he does *Mut'a* with her for a day, or more?' So he^{asws} said: 'If it was such that she was well known with the adultery, so he cannot do *Mut'a* with her, nor sleep with her'.²⁵

بِاب شُرُوطِ الْمُتَعَةِ

Chapter 97 – Stipulations of the *Mut'a*

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيْدٍ وَمُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ أَبْنِ مَحْنُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ زُرْرَأَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا تَكُونُ مُتَعَاهِدًا لَا بِأَمْرِنِي أَجْلُ مُسْمَىٰ وَأَجْرٌ مُسْمَىٰ .

A number of our companions, from Sahl Bin Ziyad, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether, from Ibn Mahboub, from Jameel Bin Salih, from Zurara,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘The *Mut'a* does not occur except with two matters – a specified term and a specified recompense’.²⁶

مُحَمَّدٌ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ وَ عِدَّةً مِنْ أَصْحَابِنَا عَنْ أَحْمَادَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ قَالَ لَا بُدُّ مِنْ أَنْ تَقُولَ فِي هَذِهِ الشُّرُوطِ أَتْرَوْجُكَ مُعْنَعَةً كَذَا وَ كَذَا يَوْمًا بِكَذَا وَ كَذَا بِرَهْمًا نَكَاحًا غَيْرَ سِفَاحٍ عَلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ وَ سُنْنَةُ نَبِيِّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) وَ عَلَى أَنْ لَا تَرْتَبِي وَ لَا أَرْتَكِ وَ عَلَى أَنْ تَعْدِي خَمْسَةً وَ أَرْبَعِينَ يَوْمًا وَ قَالَ يَعْضُّهُمْ حَيْضَةً .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, and a number of our companions, from Ahmad Bin Muhammad, from Usman Bin Isa, from Sama'at, from Abu Basheer.

'He^{asws} said: 'It is inevitable that you should be saying regarding these stipulations, 'I hereby marry you with *Mut'a*, for such and such day, and with such and such Dirhams, a marriage without adultery, upon the Book of Allah^{azwj} Mighty and Majestic, and a Sunnah of His^{azwj} Prophet^{saww}, and upon a stipulation that neither will you inherit me nor will I inherit you, and upon a stipulation that you will be observing

²⁴ Al Kafi – V 5 – The Book of Marriage Ch 96 H 5

²⁵ Al Kafi – V 5 – The Book of Marriage Ch 96 H 6

²⁶ Al Kafi – V 5 – The Book of Marriage Ch 97 H 1

a waiting period of forty five days'. And some of them (reporters) have said, 'One menstruation'.²⁷

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرُو بْنِ عُثْمَانَ عَنْ إِبْرَاهِيمَ بْنِ الْفَضْلِ عَنْ أَبَانَ بْنِ تَغْلِبَ وَ عَلَيُّ بْنُ مُحَمَّدٍ عَنْ سَهْلِ بْنِ زَيْدٍ عَنْ إِسْمَاعِيلَ بْنِ مَهْرَانَ وَ مُحَمَّدَ بْنَ أَسْلَمَ عَنْ إِبْرَاهِيمَ بْنِ الْفَضْلِ عَنْ أَبَانَ بْنِ تَغْلِبَ قَالَ فَلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) كَيْفَ أَقُولُ لَهَا إِذَا خَلُوتُ بِهَا قَالَ تَقُولُ أَتَزَوَّجُكِ مُتَعَةً عَلَى كِتَابِ اللَّهِ وَ سُنْنَةِ نَبِيِّهِ (صَلَى اللَّهُ عَلَيْهِ وَ آلِهِ وَ سَلَامٌ) لَا وَارِثَةٌ وَ لَا مَوْرُوثَةٌ كَذَا وَ كَذَا يَوْمًا وَ إِنْ شِئْتَ كَذَا وَ كَذَا سَنَةً بَكَذَا وَ كَذَا دِرْهَمًا وَ تُسَمِّي مِنَ الْأَجْرِ مَا تَرَاضَيْتُمَا عَلَيْهِ قَلِيلًا كَانَ أَمْ كَثِيرًا فَإِذَا قَالْتُ تَعْمَمْ فَقَدْ رَضِيَتْ فَهِيَ امْرَأَتُكَ وَ أَنْتَ أُوْلَى النَّاسِ بِهَا

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Ibrahim Bin Al Fazl, from Aban Bin Taghlub, and Ali Bin Muhammad, from Sahl Bin Ziyad, from Ismail Bin Mihran and Muhammad Bin Aslam, from Ibrahim Bin Al Fazl, from Aban Bin Taghlub who said,

'I said to Abu Abdullah^{asws}, 'How shall I say to her when I am alone with her?' He^{asws} said: 'You should be saying, 'I hereby marry you by *Mut'a* upon the Book of Allah^{azwj} and a Sunnah of His^{azwj} Prophet^{saww}. You will neither inherit nor be inherited from, for such and such days, and if you so desire, such and such a Sunnah with such and such Dirhams', and you should specify from the recompense what both of you are agreed upon, be it little or more. So when she says, 'Yes', if she is pleased, so she is your wife, and you are the closest of the people with her'.

فَلْتُ فَإِنِّي أَسْتَحْيِي أَنْ أَذْكُرْ شَرْطَ الْأَيَّامِ قَالَ هُوَ أَصْرَرْ عَلَيْكَ قَلْتُ وَ كَيْفَ قَالَ إِنَّكَ إِنْ لَمْ تَشْتَرِطْ كَانَ تَزْوِيجَ مَقَامٍ وَ لَزِمَّاتٍ النَّفَقَةُ فِي الْعَدَّةِ وَ كَانَتْ وَارِثَةً وَ لَمْ تَقْدِرْ عَلَى أَنْ تُنْطَلِقَهَا إِلَّا طَلاقَ السُّنْنَةِ .

I said, 'Supposing I am too embarrassed in mentioning the stipulation of the days?' He^{asws} said: 'It would be harmful upon you'. I said, 'And how?' He^{asws} said: 'You, if you do not stipulate, your marriage would have been permanent, and the expenses would be necessitated upon you during the waiting period, and she would inherit, you would not be able upon divorcing her except by a divorce of the Sunnah'.²⁸

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِنِ أَبِيهِ نَصْرٍ عَنْ تَعَلِيَةَ قَالَ تَقُولُ أَتَزَوَّجُكِ مُتَعَةً عَلَى كِتَابِ اللَّهِ وَ سُنْنَةِ نَبِيِّهِ (صَلَى اللَّهُ عَلَيْهِ وَ آلِهِ وَ سَلَامٌ) بِنَكَاحًا غَيْرَ سَفَاحٍ وَ عَلَى أَنْ لَا تَرِثِنِي وَ لَا أَرِثُكَ كَذَا وَ كَذَا يَوْمًا بَكَذَا وَ كَذَا دِرْهَمًا وَ عَلَى أَنْ عَلَيْكَ الْعَدَّةَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Nasr, from Sa'alba,

'He^{asws} said: 'You should be saying, 'I hereby marry you by *Mut'a* upon the Book of Allah^{azwj} and a Sunnah of His^{azwj} Prophet^{saww}, a marriage without adultery, and upon a stipulation that neither will you inherit me nor will I inherit you, for such and such days, and with such and such Dirhams, and upon a stipulation that upon you is the waiting period'.²⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ أَبِنِ أَبِيهِ عُمَيْرٍ عَنْ هَشَامِ بْنِ سَالِمٍ قَالَ فَلْتُ كَفَ بِيَتْزَوَّجُ الْمُتَعَةَ قَالَ تَقُولُ يَا أَمَةَ اللَّهِ أَتَزَوَّجُكِ كَذَا وَ كَذَا يَوْمًا بَكَذَا وَ كَذَا دِرْهَمًا فَإِذَا مَضَتْ تِلْكَ الْأَيَّامِ كَانَ طَلَاقُهَا فِي شُرْطِهَا وَ لَا عَدَّةَ لَهَا عَلَيْكَ .

Muhammad Bin Yahya, from Abdullah Bin Muhammad, from Ibn Abu Umeyr, from Hisham Bin Salim who said,

²⁷ Al Kafi – V 5 – The Book of Marriage Ch 97 H 2

²⁸ Al Kafi – V 5 – The Book of Marriage Ch 97 H 3

²⁹ Al Kafi – V 5 – The Book of Marriage Ch 97 H 4

'I said, 'How can one marry the *Mut'a*?' He^{asws} said: 'You should be saying, 'O maid of Allah^{azwj}! I hereby marry you for such and such days, with such and such Dirhams'. So when those days pass by, her divorce is in her stipulation, and there is no waiting period of her, upon you (to pay for the expenses during those days)'.³⁰

باب في أنَّه يَحْتَاجُ أَنْ يُعِيدَ عَلَيْهَا الشَّرْطَ بَعْدَ عَقْدِ النِّكَاحِ

Chapter 98 – Regarding him being needy that he repeats upon her the stipulation after the marriage tie

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنِ أَبِيهِ عَمِيرٍ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مَا كَانَ مِنْ شَرْطٍ قَبْلَ النِّكَاحِ هَذِهِمُ النِّكَاحُ وَ مَا كَانَ بَعْدَ النِّكَاحِ فَهُوَ جَائزٌ وَ قَالَ إِنْ سَمِّيَ الْأَجْلُ فَهُوَ مُنْتَهٌ وَ إِنْ لَمْ يُسَمِّ الْأَجْلُ فَهُوَ نِكَاحٌ بَاتٌ.

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

'Abu Abdullah^{asws} said: 'Whatever was from a stipulation before the marriage, the marriage demolished it and whatever was after the marriage, so it is allowed'. And he^{asws} said: 'If the term is specified, so it is *Mut'a*, and if the term is not specified, so it is a lasting marriage'.³¹

عَدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَبْنِ مَحْبُوبٍ عَنْ أَبْنِ رِئَابٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ لَا جَنَاحَ عَلَيْكُمْ فِيمَا تَرَاضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ فَقَالَ مَا تَرَاضَوْا بِهِ مِنْ بَعْدِ النِّكَاحِ فَهُوَ جَائزٌ وَ مَا كَانَ قَبْلَ النِّكَاحِ فَلَا يَجُوزُ إِلَّا بِرِضاَهَا وَ بِشَيْءٍ يُعْطِيَهَا فَقْرَضَى بِهِ .

A number of our companions, form Sahl Bin Ziyad, from Ibn Mahboub, from Ibn Raib, from Muhammad Bin Muslim who said,

'I asked Abu Abdullah^{asws} about the Words of Allah^{azwj} Mighty and Majestic [4:24] **and there is no blame on you about what you mutually agree** from after the marriage, so it is allowed, and whatever was from before the marriage, so it is not allowed except by her agreement, and by something being given to her, so she would be pleased with it'.³²

عَدَّةُ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِيهِ عَنْ سُلَيْمَانَ بْنِ سَالِمٍ عَنْ أَبْنِ بُكَيْرٍ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِذَا اشْتَرَطْتَ عَلَى الْمَرْأَةِ شُرُوطًا مُنْتَهَى فَرَضَيْتُ بِهِ وَ إِذَا جَبَتِ التَّزْوِيجَ فَأَرْدَدَ عَلَيْهَا شُرُوطَكَ الْأُولَى بَعْدَ النِّكَاحِ فَإِنْ أَجَارَتْهُ فَقَدْ جَازَ وَ إِنْ لَمْ تُجِرْهُ فَلَا يَجُوزُ عَلَيْهَا مَا كَانَ مِنْ الشَّرْطِ قَبْلَ النِّكَاحِ .

A number of our companions, from Ahmad Bin Abu Abdullah, from his father, form Suleyman Bin Salim, from Ibn Bukeyr who said,

'Abu Abdullah^{asws} said: 'When the stipulations of *Mut'a* are stipulated upon the woman, so she is agreeable with it, and the marriage is binding, so she would be returned upon your first stipulation after the marriage. So if she allows it, then it is allowed, but if she does not allow it, then it is not allowed upon her, whatever was from the stipulation before the marriage'.³³

³⁰ Al Kafi – V 5 – The Book of Marriage Ch 97 H 5

³¹ Al Kafi – V 5 – The Book of Marriage Ch 98 H 1

³² Al Kafi – V 5 – The Book of Marriage Ch 98 H 2

³³ Al Kafi – V 5 – The Book of Marriage Ch 98 H 3

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي الرَّجُلِ يَنْزَوْجُ الْمَرْأَةَ مُتَعَاهْدًا أَنَّهُمَا يَتَوَارَثَانِ إِذَا لَمْ يَسْتَرِطَا وَإِنَّمَا الشَّرْطُ بَعْدَ النِّكَاحِ.

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr, from Muhammad Bin Muslim who said,

'I heard Abu Ja'far^{asws} saying regarding the man marrying the woman by *Mut'a* that they would both be inheriting each other when they had not stipulated it, and rather, the stipulation is after the marriage'.³⁴

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ سُلَيْمَانَ بْنِ سَالِمٍ عَنْ ابْنِ بُكَيْرٍ بْنِ أَعْيَنَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِذَا اشْتَرَطَتْ عَلَى الْمَرْأَةِ شُرُوطَ المُتَعَاهْدَةِ فَرَضَيْتُ بَهَا وَأَوْجَبَتِ التَّرْوِيجَ فَإِذَا شُرُطَكَ الْأَوَّلُ بَعْدَ النِّكَاحِ فَإِنْ أَجَازَتْهُ جَازَ وَإِنْ لَمْ تُجِزْهُ فَلَا يَجُوزُ عَلَيْهَا مَا كَانَ مِنَ الشَّرْطِ قَبْلَ النِّكَاحِ.

Ali Bin Ibrahim, from Muhammad Bin Isa, from Suleyman Bin Salim, from Ibn Bukeyr Bin Ayn who said,

'Abu Abdallah^{asws} said: 'When the stipulations of the *Mut'a* are stipulated upon the woman, so she is pleased with these, and the marriage is binding, so the first stipulations would be repeated upon her after the marriage. So, if she were to allow it, it is allowed, but if she does not allow it, it is not allowed upon her, whatever was the stipulation from before the marriage'.³⁵

باب ما يُجزئ من المهر فيها

Chapter 99 – What suffices from the dower in it (*Mut'a*)

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ وَعَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) كَمِ الْمَهْرُ يَعْنِي فِي الْمُتَعَاهْدَةِ قَالَ مَا تَرَاضَيْتَ عَلَيْهِ إِلَى مَا شَاءَ مِنَ الْأَجْلِ.

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, and Abdul Rahman Bin Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Muslim who said,

'I asked Abu Abdallah^{asws}, 'How much is the dower, meaning in the *Mut'a*?' He^{asws} said: 'Whatever they both agree upon, up to whatever they so desire to from the term'.³⁶

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْخُسْنَى بْنِ سَعِيدٍ وَمُحَمَّدَ بْنَ خَالِدِ الْبَرْقَى عَنْ الْقَاسِمِ بْنِ مُحَمَّدِ الْجَوْهَرِيِّ عَنْ أَبِي سَعِيدٍ عَنِ الْأَحْوَلِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَدْنَى مَا يَنْزَوْجُ بِهِ الْمُتَعَاهْدَةِ قَالَ كَفَّ مِنْ بُرٍّ.

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed and Muhammad Bin Khalid Al Barqy, from Al Qasim Bin Muhammad Al Jowhary, from Abu Saeed, from Al Ahowl who said,

'I said to Abu Abdallah^{asws}, '(What is) the lowest of what can be married with for the *Mut'a*?' He^{asws} said: 'A handful of wheat'.³⁷

³⁴ Al Kafi – V 5 – The Book of Marriage Ch 98 H 4

³⁵ Al Kafi – V 5 – The Book of Marriage Ch 98 H 5

³⁶ Al Kafi – V 5 – The Book of Marriage Ch 99 H 1

أَحْمَدُ بْنُ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَادَ بْنِ عَيْسَى عَنْ شُعَيْبٍ بْنِ يَعْقُوبَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) عَنْ مُتْعَةِ النِّسَاءِ قَالَ حَلَالٌ وَ إِنَّهُ يُجْزِي فِيهِ الدِّرْهُمُ فَمَا فَوْقَهُ .

Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Hammad Bin Isa, from Shuayb Bin Yaqoub, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about *Mut'a* of the women. He^{asws} said: 'Permissible, and it suffices (as a dower) in it, the Dirham and what is above it'.³⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدَ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ أَذْنَى مَهْرِ الْمُتْعَةِ مَا هُوَ قَالَ كَفَّ مِنْ طَعَامٍ دَقِيقٍ أَوْ سَوْيِقٍ أَوْ تَمِّرٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ali Bin Abu Hamza, from Abu Baseer who said,

'I asked Abu Abdullah^{asws} about the lowest dower for the *Mut'a*, what is it?' He^{asws} said: 'A handful of foodstuff, flour, or *Suweiq*, or dates'.³⁹

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيسَى عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَذْنَى مَا تَحْلُّ بِهِ الْمُتْعَةُ كَفَّ مِنْ طَعَامٍ وَ رَوَى بَعْضُهُمْ مِسْوَاكٌ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from one of our companions,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The lowest of what the *Mut'a* is Permissible with, is a handful of foodstuff'. And some of them have reported, 'One toothbrush (twig)'.⁴⁰

باب عَدَّةِ الْمُتْعَةِ

Chapter 100 – Waiting period of the *Mut'a*

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أُدَيْبَةَ عَنْ زُرَارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ إِنْ كَانَتْ تَحِيطُ فَحِيَضَةً وَ إِنْ كَانَتْ لَا تَحِيطُ فَشَهْرٌ وَ نِصْفٌ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umyer, from Umar Bin Azina, from Zurara,

(It has been narrated) from Abu Abdullah^{asws} having said: 'If she was menstruating, so one menstruation, and if she was not menstruating, so a month and a half (as a waiting period)'.⁴¹

عَدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ أَبِي الْحَسَنِ الرِّضَا (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَدَّةُ الْمُتْعَةِ خَمْسَةٌ وَ أَرْبَعُونَ يَوْمًا وَ الإِحْتِاطُ خَمْسَةٌ وَ أَرْبَعُونَ لَيْلَةً .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Nasr,

³⁷ Al Kafi – V 5 – The Book of Marriage Ch 99 H 2

³⁸ Al Kafi – V 5 – The Book of Marriage Ch 99 H 3

³⁹ Al Kafi – V 5 – The Book of Marriage Ch 99 H 4

⁴⁰ Al Kafi – V 5 – The Book of Marriage Ch 99 H 5

⁴¹ Al Kafi – V 5 – The Book of Marriage Ch 100 H 1

(It has been narrated) from Abu Al-Hassan Al-Reza^{asws} having said: ‘Abu Ja’far^{asws} said: ‘The waiting period of *Mut’ā* is of forty five days, and the precaution is of forty five nights (i.e. one extra)’.⁴²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبْنِ فَضَالَ عَنْ أَبْنِ بُكَيْرٍ عَنْ زُرَارَةَ قَالَ عَدَّةُ الْمُتْعَةِ خَمْسَةٌ وَ أَرْبَعُونَ يَوْمًا كَانَى
أَنْظُرُ إِلَى أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) يَعْقُدُ بِيَدِهِ خَمْسَةً وَ أَرْبَعِينَ فَإِذَا جَازَ الْأَجْلُ كَانَتْ فُرْقَةً بِعِيرٍ طَلاقٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr, from Zurara,

He^{asws} said: ‘The waiting period of *Mut’ā* is of forty five days. It is as if I^{asws} am looking at my^{asws} father^{asws} Abu Ja’far^{asws} determining by his hand (counting) forty five. So when the term passes, there would be separation without a divorce’.⁴³

باب الزيادة في الأجل

Chapter 101 – The increment in the term

عَدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ وَ عَلَيُّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ وَ أَحْمَدَ بْنِ مُحَمَّدٍ
بْنِ أَبِي نَصْرٍ عَنْ أَبِي بَصِيرٍ قَالَ لَا بَأْسَ بِأَنْ تَزِيدَهَا وَ تَزِيدَهَا إِذَا انْقَطَعَ الْأَجْلُ فِيمَا بَيْنَكُمَا تَقُولُ أَسْتَحْلِلُكَ بِأَجْلٍ أَخْرَى بِرِضاٍ
مِنْهَا وَ لَا يَجُلُّ ذَلِكَ لِغَيْرِكَ حَتَّى تَنْقُضِي عَدْثَهَا .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, altogether, from Abdul Rahman Bin Abu Najran, and Ahmad Bin Muhammad Bin Abu Nasr, from Abu Baseer who said,

‘There is no problem with you increasing it and her increasing it when the term is cut-off between the two of you. She should be saying, ‘I hereby permit you with another term with agreement from it’, and that is not Permissible for other than you, until her waiting period expires’.⁴⁴

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرُو بْنِ عُثْمَانَ عَنْ إِبْرَاهِيمَ بْنِ الْفَضْلِ وَ عَدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ إِسْمَاعِيلِ
بْنِ مُهَرَّانَ عَنْ مُحَمَّدِ بْنِ أَسْلَمَ وَ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ مُحَمَّدِ بْنِ عَلَيٌّ عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ بْنِ الْفَضْلِ
الْهَشَمِيِّ عَنْ أَبْنَانَ بْنِ تَعْلِبٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) جُعِلْتُ فِدَاكَ الرَّجُلُ يَتَرَوَّجُ الْمَرْأَةُ مُتَعَّهَ فَيَتَرَوَّجُهَا عَلَى
شَهْرٍ ثُمَّ إِنَّهَا تَقَعُ فِي قَلْبِهِ فَيُحِبُّ أَنْ يَكُونَ شَرْطُهُ أَكْثَرَ مِنْ شَهْرٍ فَهُنْ يَجُوزُ أَنْ يَزِيدَهَا فِي أَجْرِهَا وَ يَرْدَدُ فِي الْأَيَّامِ قَبْلَ أَنْ
تَنْقُضِي أَيَّامُهُ الَّتِي شَرَطَ عَلَيْهَا فَقَالَ لَا لَا يَجُوزُ شَرْطٌ قُلْتُ فَكَيْفَ يَصْنَعُ قَالَ يَتَصَدَّقُ عَلَيْهَا بِمَا بَقَى مِنَ الْأَيَّامِ
ثُمَّ يَسْتَأْنِفُ شَرْطًا جَدِيدًا .

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Ibrahim Bin Al Fazl, and a number of our companions, from Sahl Bin Ziyad, from Ismail Bin Mihran, from Muhammad Bin Aslam, and from Ahmad Bin Muhammad Bin Khalid, from Muhammad in Ali, from Muhammad Bin Aslam, from Ibrahim Bin Al Fal Al Hashimy, from Aban Bin Taghlub who said,

‘I said to Abu Abdullah^{asws}, ‘May I be sacrificed for you^{asws}! The man marries the woman by *Mut’ā*, so he marries her upon a month. Then it occurs in his heart, so he likes his stipulation to be more than a month. So, is it Permissible that he increases in her recompense and increases in the days before the expiry of day which he had stipulated upon her (beforehand)?’ So he^{asws} said: ‘No. Two stipulations are not allowed in one stipulation’. I said, ‘How should he deal with it?’ He^{asws} said: ‘He can

⁴² Al Kafi – V 5 – The Book of Marriage Ch 100 H 2

⁴³ Al Kafi – V 5 – The Book of Marriage Ch 100 H 3

⁴⁴ Al Kafi – V 5 – The Book of Marriage Ch 101 H 1

give a charity upon her with whatever remains from the days, then he resumes with a new stipulation'.⁴⁵

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَمْرِيْنَ رَوَاهُ فَالْأَنَّ الرَّجُلُ إِذَا تَزَوَّجَ الْمُرْأَةَ مُتَّعِّنَةً كَانَ عَلَيْهَا عِدَّةٌ لِغَيْرِهِ فَإِذَا أَرَادَ هُوَ أَنْ يَتَزَوَّجَهَا لَمْ يَكُنْ عَلَيْهَا مِنْهُ عِدَّةٌ يَتَزَوَّجُهَا إِذَا شاءَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from the one who reported it,

He^{asws} said: 'The man, when he marries the woman by *Mut'a*, there would be upon her the observance of a waiting period for others. So when he intends to marry her, there would not be an observance of the waiting period upon her from him. He can marry her whenever he so desires to'.⁴⁶

باب ما يجوز من الأجل

Chapter 102 – What is allowed from the term

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَبْنِ مَحْبُوبٍ عَنْ عَلَيِّ بْنِ رَئَابٍ عَنْ عُمَرَ بْنِ حَنْظَلَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ يُشَارِطُهَا مَا شاءَ مِنَ الْأَيَّامِ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboun, from Ali Bin Raib, from Umar Bin Hanzala,

(It has been narrated) from Abu Abdullah^{asws} having said: 'He can stipulate upon her whatever he so desires to, from the days (term)'.⁴⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ أَبِي الْحَسَنِ الرَّضا (عَلَيْهِ السَّلَامُ) قَالَ فَلْتُ لَهُ الرَّجُلُ يَتَزَوَّجُ مُتَّعِّنَةً سَنَةً أَوْ أَقْلَأَ أَوْ أَكْثَرَ قَالَ إِذَا كَانَ شَيْئاً مَعْلُوماً إِلَى أَجَلٍ مَعْلُومٍ قَالَ فَلْتُ وَتَبَيَّنَ بِعِينِ طَلاقٍ قَالَ نَعَمْ .

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

(It has been narrated) from Abu Al-Hassan Al-Reza^{asws}, said, 'I said to him^{asws}, 'The man marries by *Mut'a* for a year, or less or more'. He^{asws} said: 'When it was a known thing to a known term'. I said, 'And she would be irrevocably divorced without a (formal) divorce?' He^{asws} said: 'Yes'.⁴⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبْنِ فَضَالٍ عَنْ أَبْنِ بُكَيْرٍ عَنْ زُرَارَةَ قَالَ فَلْتُ لَهُ هُنْ يَجُوزُ أَنْ يَتَمَّنَّ الرَّجُلُ بِالْمُرْأَةِ سَاعَةً أَوْ سَاعَتَيْنِ فَقَالَ السَّاعَةُ وَالسَّاعَاتُ لَا يُوقَفُ عَلَى حَدِّهِمَا وَلَكِنَّ الْعَرْدَ وَالْعَرْدَيْنِ وَالْيَوْمَ وَالْيَوْمَيْنِ وَالثَّلَيْلَةَ وَالثَّلَيْلَاتِ ذَلِكِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from IBn Bukeyr, from Zurara who said,

'I said to him^{asws}, 'Is it allowed for the man that he marries by *Mut'a* with a woman for a time or two?' So he^{asws} said: 'The time and two, there is no determination upon

⁴⁵ Al Kafi – V 5 – The Book of Marriage Ch 101 H 2

⁴⁶ Al Kafi – V 5 – The Book of Marriage Ch 101 H 3

⁴⁷ Al Kafi – V 5 – The Book of Marriage Ch 102 H 1

⁴⁸ Al Kafi – V 5 – The Book of Marriage Ch 102 H 2

their limits, but the session and two sessions, and the day and two days, and the night and the likes of that'.⁴⁹

مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ خَلْفَ بْنِ حَمَادٍ قَالَ أَرْسَلْتُ إِلَى أَبِي الْخَسَنِ (عَلَيْهِ السَّلَامُ) كَمْ أَذْنَى أَجَلَ الْمُنْعَةِ هُنَّ يَجُوزُ أَنْ يَمْتَنَعَ الرَّجُلُ بِشَرْطٍ مَرَّةً وَاحِدَةٍ قَالَ نَعَمْ .

Muhammad, from Ahmad Bin Muhammad, from Muhammad Bin Khalid, from Khalaf Bin Hammad who said,

'I sent a message to Abu Al-Hassan^{asws}, 'How much is the lowest term for the *Mut'a*. Is it allowed if the man does *Mut'a* with a stipulation of (copulating) once?' He^{asws} said: 'Yes'.⁵⁰

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَبْنِ فَضَالٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ رَجُلٍ سَمَاهُ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَتَرَوَّجُ الْمَرْأَةَ عَلَى عَرْدٍ وَاحِدٍ فَقَالَ لَا بَأْسَ وَلَكِنْ إِذَا فَرَغَ فَلْيُحُولْ وَجْهَهُ وَلَا يَنْظُرْ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Fazzal, from Al Qasim Bin Muhammad, from a man whom he named, said,

'I asked Abu Abdullah^{asws} about the man who marries (*Mut'a*) the woman upon only going to bed once. So he^{asws} said: 'There is no problem, but when he is free, so let him turn his face around and not look'.⁵¹

باب الرَّجُلِ يَمْتَنَعُ بِالْمَرْأَةِ مَرَارًا كَثِيرًا

Chapter 103 – The man does *Mut'a* with the woman many times

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنِ أَبِيهِ عَمِيرٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ زُرَارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ جَعَلْتُ فِدَاكَ الرَّجُلُ يَتَرَوَّجُ الْمُنْعَةَ وَيُنْقُضُ شُرْطَهَا ثُمَّ يَتَرَوَّجُهَا رَجُلٌ آخَرُ حَتَّى بَانَتْ مِنْهُ ثَلَاثَةُ مَنْهُ ثَلَاثَةُ وَ تَرَوَّجَتْ ثَلَاثَةُ أَزْوَاجٍ يَحْلُّ لِلْأَوَّلِ أَنْ يَتَرَوَّجَهَا قَالَ نَعَمْ كُمْ شَاءَ لَيْسَ هَذِهِ مِثْلُ الْحُرَّةِ هَذِهِ مُسْتَأْجَرَةٌ وَهِيَ بِمُنْزِلَةِ الْإِمَاءِ .

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

(It has been narrated) from Abu Ja'far^{asws}, said, 'I said to him^{asws}, 'May I be sacrificed for you^{asws}! The man marries the woman by *Mut'a* and he fulfils her stipulation. Then another man marries her until she is irrevocably divorced from him. Then the first one marries her until she becomes irrevocably divorced from him, three times, and she marries three husbands. Is it Permissible for the first one that he marries her?' He^{asws} said: 'Yes, as many times as he so desires to. This one is not like the free woman. This one is hired, and she is at the status of the slave girl'.⁵²

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ أَبَانٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَمْتَنَعُ مِنَ الْمَرْأَةِ الْمَرَاتِ قَالَ لَا بَأْسَ يَمْتَنَعُ مِنْهَا مَا شَاءَ .

Muahmmad Bin Yahya, from Abdullah Bin Muhammad, from Ali Bin Al Hakam, from Aban, from one of his companions,

⁴⁹ Al Kafi – V 5 – The Book of Marriage Ch 102 H 3

⁵⁰ Al Kafi – V 5 – The Book of Marriage Ch 102 H 4

⁵¹ Al Kafi – V 5 – The Book of Marriage Ch 102 H 5

⁵² Al Kafi – V 5 – The Book of Marriage Ch 103 H 1

(It has been narrated) from Abu Abdullah^{asws} regarding the man who marries the woman by *Mut'a* many times. He^{asws} said: 'There is no problem if he does *Mut'a* with her for whatever (number of times) he so desires to'.⁵³

باب حبس المهر إذا أخلفت

Chapter 104 – Withholding of the dower when she differs

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَينِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ بْنِ أَبِي بَوْبَ عَنْ عُمَرَ بْنِ أَبَانَ عَنْ عُمَرَ بْنِ حَنْظَلَةَ قَالَ فُلُتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنْزَوْجُ الْمَرْأَةَ شَهْرًا فَتَرِيدُ مِنِي الْمَهْرَ كُمْلًا وَ أَخْوَفُ أَنْ تُخْلِفَنِي فَقَالَ لَا يَجُوزُ أَنْ تَحْسِنَ مَا قَدَرْتُ عَلَيْهِ فَإِنْ هِيَ أَخْلَفْتَكَ فَخُذْ مِنْهَا بِقَدْرِ مَا تُخْلَفَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Umar Bin Aban, from Umar Bin Hanzala who said,

'I said to Abu Abdullah^{asws}, 'I married the woman for a month, so she wanted the complete dower from me, and I am fearful that she would differ with me'. So he^{asws} said: 'You are not allowed to withhold what is measured upon it. So if she were to differ, so take from her by a measurement of whatever she has differed with you'.⁵⁴

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيرٍ عَنْ حَصْنِ بْنِ الْبَخْرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا بَقَيَ عَلَيْهِ شَيْءٌ مِنَ الْمَهْرِ وَ عَلِمَ أَنَّ لَهَا زَوْجًا فَمَا أَخْتَنَهُ فَلَهَا بِمَا اسْتَحْلَ مِنْ فَرْجِهَا وَ يَحْسِنُ عَنْهَا مَا بَقَيَ عَنْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hafs Bin Al Bakhtary,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When there remains upon him something from the dower, and he comes to know that for her is a husband, so whatever she has taken so it is for her due to what she has permitted from her private parts, and he would withhold from her whatever remains with him'.⁵⁵

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ صَالِحِ بْنِ السَّنْدِيِّ عَنْ جَعْفَرِ بْنِ يَثْبِيرٍ عَنْ عُمَرَ بْنِ أَبَانَ عَنْ عُمَرَ بْنِ حَنْظَلَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فُلُتُ لَهُ أَنْزَوْجُ الْمَرْأَةَ شَهْرًا فَأَحْسَنَ عَنْهَا شَيْئًا قَالَ نَعَمْ خُذْ مِنْهَا بِقَدْرِ مَا تُخْلَفَ إِنْ كَانَ نِصْفَ شَهْرٍ فَالنِّصْفُ وَ إِنْ كَانَ ثُلَثًا فَالثُّلُثُ .

Ali Bin Ibrahim, from Salih Bin Al Sandy, from Ja'far Bin Basheer, from Umar Bin Aban, from Umar Bin Hanzala,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'Can I marry the woman for a month, so I withhold something from her'. He^{asws} said: 'Yes, take from her by a measurement of whatever she has differed. If it was half a month, so the half (dower), and if it was a third, so the third'.

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيسَى عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ عُمَرَ بْنِ حَنْظَلَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مِثْلًا .

⁵³ Al Kafi – V 5 – The Book of Marriage Ch 103 H 2

⁵⁴ Al Kafi – V 5 – The Book of Marriage Ch 104 H 1

⁵⁵ Al Kafi – V 5 – The Book of Marriage Ch 104 H 2

Muhammad Bin Yahya, from Ahhmad Bin Muhammad Bin Isa, from Ali Bin Al Hakam, from Umar Bin Hanzala, from Abu Abdullah^{asws} – similar to it.⁵⁶

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنَ أَبِيهِ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يَتَرَوَّجُ الْمَرْأَةَ مُنْعَةً شَتَرَطَ لَهُ أَنْ تَأْتِيهِ كُلَّ يَوْمٍ حَتَّىٰ ثُوقَيْهُ شَرْطَهُ أَيْمَانًا مَعْلُومَةً تَأْتِيهِ فِيهَا فَتَغْدِرُ بِهِ فَلَا تَأْتِيهِ عَلَىٰ مَا شَرَطَهُ عَلَيْهَا فَهَلْ يَصْلُحُ لَهُ أَنْ يُحَاسِبَهَا عَلَىٰ مَا لَمْ تَأْتِهِ مِنَ الْأَيَّامِ فَيَحِبِّسُ عَنْهَا مِنْ مَهْرِهَا بِحِسَابِ ذَلِكَ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Is'haq Bin Ammar who said,

'I said to Abu Al-Hassan^{asws}, 'The man marries the woman by *Mut'a*. She stipulates to him that she would come to him every day until his stipulation is fulfilled, or she stipulates certain known days during which she would come to him. So she betrays him with it and does not come to him upon what had been stipulated upon her. So is it correct for him that he accounts her upon what she did not come to him from the days, so that he would withhold from her dower by the accounting of that?'

قَالَ نَعَمْ يَنْظُرُ مَا قَطَعَتْ مِنَ الشَّرْطِ فَيَحِبِّسُ عَنْهَا مِنْ مَهْرِهَا بِمِقْدَارِ مَا لَمْ تَفِ لَهُ مَا خَلَ آيَاتُ الْطَّمْثِ فَإِنَّهَا لَهَا فَلَا يَكُونُ لَهُ إِلَّا مَا أَحَلَّ لَهُ فَرْجَهَا .

He^{asws} said: 'Yes. He would look at what was cut-off from the stipulation, so he would withhold from her from her dower by a measurement of whatever she did not fulfill for him, except for the days she menstruated in, so it would be for her. Thus, there would not happen to be for him except for what was Permissible for him of her private parts'.⁵⁷

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ أَشْبِعٍ بْنِ أَشْبِعٍ بْنِ شَبَّابٍ يَعْنِي أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يَتَرَوَّجُ الْمَرْأَةَ مُنْعَةً بِمَهْرٍ إِلَى أَجَلٍ مَعْلُومٍ وَأَعْطَاهَا بَعْضَ مَهْرِهَا وَأَخْرَتُهُ بِالْبَاقِي ثُمَّ دَخَلَ بِهَا وَعَلِمَ بَعْدَ دُخُولِهِ بِهَا قَبْلَ أَنْ يُوَقِّيَ مَهْرَهَا أَنَّمَا زَوْجَهُ نَفْسَهَا وَلَهَا زَوْجٌ مُقِيمٌ مَعَهَا أَيْجُوزُ لَهُ حَبْسُ بَاقِي مَهْرِهَا أَمْ لَا يَجُوزُ فَكَتَبَ (عَلَيْهِ السَّلَامُ) لَا يُعْطِيَهَا شَيْئًا لِأَنَّهَا عَصَتَ اللَّهَ عَزَّ وَجَلَّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Ahmad Bin Asheym who said,

'Al-Rayyan Bin Shabeen wrote to him^{asws}, meaning Abu Al-Hassan^{asws}, 'The man married the woman by *Mut'a* to a known term, and gave her part of her dower, and delayed with the remainder. Then he slept with her, and came to know after having slept with her, before he had paid her the remainder of her dower, that she had married herself and there was a husband for her staying with her. Is it allowed for him that he withholds the remainder of her dower or is it not allowed?' So he^{asws} wrote: 'He should not give her anything because she has disobeyed Allah^{azwj} Mighty and Majestic'.⁵⁸

باب أَنَّهَا مُصَدَّقَةٌ عَلَىٰ نَفْسِهَا

Chapter 105 – She would be ratified upon herself

⁵⁶ Al Kafi – V 5 – The Book of Marriage Ch 104 H 3

⁵⁷ Al Kafi – V 5 – The Book of Marriage Ch 104 H 4

⁵⁸ Al Kafi – V 5 – The Book of Marriage Ch 104 H 5

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ مُحَمَّدٍ بْنِ أَسْلَمَ عَنْ إِبْرَاهِيمَ بْنِ الْفَضْلِ عَنْ أَبَانَ بْنَ تَعْلِبٍ قَالَ فَلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنِّي أَكُونُ فِي بَعْضِ الطُّرُقَاتِ فَأَرَى الْمَرْأَةَ الْحَسْنَاءَ وَ لَا آمُنُ أَنْ تَكُونَ ذَاتٌ بَعْلٌ أَوْ مِنَ الْعَوَاهِرِ قَالَ لَنِيْسَ هَذَا عَلَيْكَ إِنَّمَا عَلَيْكَ أَنْ تُصَدِّقَهَا فِي نَفْسِهَا .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Muhammad Bin Ali, from Muhammad Bin Aslam, from Ibrahim Bin Al Fazl, from Aban Bin Taghlub who said,

'I said to Abu Abdullah^{asws}, 'I said to Abu Abdullah^{asws}, 'I happen to be in one of the roads, so I see the beautiful woman, and I am not secure if she happens to be with a husband, or from the prostitutes'. He^{asws} said: 'This is not upon you, but rather, upon you is that you ratify her regarding herself'.⁵⁹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيسَى عَنْ الْحُسَينِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ عَنْ مُسِيرٍ قَالَ فَلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَلَقَى الْمَرْأَةَ بِالْفَلَةِ الَّتِي لَنِيْسَ فِيهَا أَحَدٌ فَأَقُولُ لَهَا هَلْ لَكِ زَوْجٌ فَتَقُولُ لَا فَاتَرَوْجُهَا قَالَ نَعَمْ هِيَ الْمُصَدَّقَةُ عَلَى نَفْسِهَا .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Fazalat, from Muyassar who said,

'I said to Abu Abdullah^{asws}, 'I meet the woman in the wilderness wherein there is no one. So I am saying to her, 'Is there a husband for you?' So she is saying, 'No'. So I marry her'. He^{asws} said: 'Yes, she is the ratified one upon herself'.⁶⁰

باب الأنكار

Chapter 106 – The Virgins

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصَ بْنِ الْبُخَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الرَّجُلِ يَتَزَوَّجُ الْبَكْرَ مُنْعَةً قَالَ يَكْرَهُ لِلْعِنْبِ عَلَى أَهْلِهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hafs Bin Al Bakhtary,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the man who marries the virgin by *Mut'a*. He^{asws} said: 'It is disliked due to the shame upon her family'.⁶¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ وَ عَبْدِ اللَّهِ الْيَنْبِيِّ مُحَمَّدُ بْنُ عِيسَى عَنْ حَفْصَ بْنِ الْحَكَمِ عَنْ رِيَادِ بْنِ أَبِي الْحَالَلِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ لَا يَأْسَ بِأَنْ يَتَمَّنَ بِالْبَكْرِ مَا لَمْ يُغْضِبْ إِلَيْهَا مَخَافَةً كَرَاهِيَّةُ الْعِنْبِ عَلَى أَهْلِهَا .

Muhammad Bin Yahya, from Ahmad and Abullah the two sons of Muhammad Bin Isa, from Ali Bin Al Hakam, from Ziyad Bin Abu Al Hallal who said,

'I heard Abu Abdullah^{asws} saying: 'There is no problem with him marrying by *Mut'a* with the virgin only if fear of disgrace to her family will not affect her'.⁶²

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدٍ بْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدٍ بْنِ أَبِي حَمْزَةَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْبَكْرِ يَتَزَوَّجُهَا الرَّجُلُ مُنْعَةً قَالَ لَا يَأْسَ مَا لَمْ يَفْتَنَهَا .

⁵⁹ Al Kafi – V 5 – The Book of Marriage Ch 105 H 1

⁶⁰ Al Kafi – V 5 – The Book of Marriage Ch 105 H 2

⁶¹ Al Kafi – V 5 – The Book of Marriage Ch 106 H 1

⁶² Al Kafi – V 5 – The Book of Marriage Ch 106 H 2

Ali Bin Ibrahim, from his father, from Muhammad Bin Abu Umeyr, from Muhammad Bin Abu Hamza, from one of his companions,

(It has been narrated) from Abu Abdallah^{asws} regarding the virgin whom the man marries by *Mut'a*. He^{asws} said: 'There is no problem for as long as he does not destroy her virginity'.⁶³

عَلَيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَوَيْلِ بْنِ دَرَاجٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَتَمَّنِعُ مِنَ الْجَارِيَةِ الْبِلْكُرِ قَالَ لَا بَأْسَ بِذَلِكِ مَا لَمْ يَسْتَصْغِرْهَا .

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

'I asked Abu Abdallah^{asws} about the man who marries by *Mut'a* with a virgin girl'. He^{asws} said: 'There is no problem with that for as long as he does not belittle her'.⁶⁴

عَلَيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ الْجَارِيَةُ إِنَّهُ كُمْ لَا تُسْتَصْبِي إِنَّهُ سَتْ أَوْ سَبْعَ فَقَالَ لَا إِنَّهُ تَسْعُ لَا تُسْتَصْبِي وَأَجْمَعُوا كُلُّهُمْ عَلَى أَنَّ ابْنَةَ تَسْعِ لَا تُسْتَصْبِي إِلَّا أَنْ يَكُونَ فِي عَقْلِهَا ضَعْفٌ وَإِلَّا فَهُوَ إِلَّا بَلَغَ تِسْعًا فَقَدْ بَلَغَتْ .

Ali, from his father, from Ibn Abu Umeyr, from a man,

(It has been narrated) from Abu Abdallah^{asws}, said, 'I said, 'The girl, when would she not be reckoned as a child, a girl of six or seven (years of age)?' So he^{asws} said: 'No, it is a girl of nine who would not be reckoned as a child, and all of them have formed a consensus upon that a girl of nine would not be reckoned as a child except if there happens to be a weakness in her intellect, or else, so when she reaches nine (years), so she has reached puberty'.⁶⁵

باب تزويج الأماء

Chapter 107 – Marrying the slave girl (with *Mut'a*)

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ أَبِي الْحَسَنِ الرَّضَا (عَلَيْهِ السَّلَامُ) قَالَ لَا يُتَمَّنِعُ بِالْأَمَةِ إِلَّا بِإِذْنِ أَهْلِهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Nasr,

(It has been narrated) from Abu Al-Hassan Al-Reza^{asws} having said: 'Do not marry by *Mut'a* with the slave girl except with the permission of her owner'.⁶⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ أَبَانِ بْنِ عُثْمَانَ عَنْ عِيسَى بْنِ أَبِي مَنْصُورٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا بَأْسَ بِأَنْ يَتَزَوَّجَ الْأَمَةَ مُتْعَةً بِإِذْنِ مَوْلَاهَا .

Muhammad Bin Yahya, from Abdullah Bin Muhammad, from Ali Bin Al Hakam, form Aban Bin Usman, from Isa Bin Abu Mansour,

(It has been narrated) from Abu Abdallah^{asws} having said: 'There is no problem if you were to marry the slave girl by *Mut'a* with the permission of her master'.⁶⁷

⁶³ Al Kafi – V 5 – The Book of Marriage Ch 106 H 3

⁶⁴ Al Kafi – V 5 – The Book of Marriage Ch 106 H 4

⁶⁵ Al Kafi – V 5 – The Book of Marriage Ch 106 H 5

⁶⁶ Al Kafi – V 5 – The Book of Marriage Ch 107 H 1

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ مُحَمَّدٍ بْنِ إِسْمَاعِيلَ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) هَلْ لِلرَّجُلِ أَنْ يَتَمَنَّعَ مِنَ الْمَمْلُوَّةِ بِإِذْنِ أَهْلِهَا وَلَهُ امْرَأَةٌ حُرَّةٌ قَالَ نَعَمْ إِذَا رَضِيَتِ الْحُرَّةُ فَلْتُ فَإِنْ أَذْنَتِ الْحُرَّةُ يَتَمَنَّعُ مِنْهَا قَالَ نَعَمْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Ismail who said,

'I asked Abu Al-Hassan^{asws}, 'Is it for the man that he marries by *Mut'a* to the slave girl with the permission of her owner, and for him there is (already) a free woman (as a wife)?' He^{asws} said: 'Yes, when the free woman agrees'. I said, 'Supposing the free woman (wife) were to allow, can he marry by *Mut'a* from them?' He^{asws} said: 'Yes'.

وَرُوِيَ أَيْضًا أَنَّهُ لَا يُجُوزُ أَنْ يَتَمَنَّعَ بِالْأُمَّةِ عَلَى الْخَرَّةِ .

And it is reported as well that he^{asws} did not allow that he one should marry with the slave girl (as an additional wife) upon the free woman'.⁶⁸

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ سَيِّفِ بْنِ عَمِيرَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يَأْسَ بِأَنْ يَتَمَنَّعَ الرَّجُلُ بِأَمْمَةِ الْمَرْأَةِ فَلَمَّا أَمْمَأَ الرَّجُلَ فَلَا يَتَمَنَّعُ بِهَا إِلَّا بِأَمْرِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al hakam, from Sayf Bin Qmeyra,

(It has been narrated) from Abu Abdullaah^{asws} having said: 'There is no problem with it if a man were to marry with a slave girl of the woman. So, as for a slave girl of the man, so he cannot do *Mut'a* with her except with his instruction'.⁶⁹

باب وقوع الولد

Chapter 108 – Occurrence of the child

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَعِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَبْنَ أَبِي نَجْرَانَ وَأَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدٍ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فَلْتُ لَهُ أَرَأَيْتَ إِنْ حَبَّلَتْ قَالَ هُوَ وَلَدُهُ .

Ali Bin Ibrahim, from his father, and a number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, and Ahmad Bin Muhammad Bin Abu Nasr, from Aasim Bin Humeyd, from Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullaah^{asws}, said, 'I said to him^{asws}', 'What is your^{asws} view if she gets pregnant (from *Mut'a*)'. He^{asws} said: 'It would be his child'.⁷⁰

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنَ أَبِي عُمَيْرٍ وَغَيْرِهِ قَالَ الْمَاءُ مَاءُ الرَّجُلِ يَضْعُفُهُ حَيْثُ شَاءَ إِلَّا أَنَّهُ إِذَا جَاءَ وَلَدٌ لَمْ يُنْكِرُهُ وَشَدَّدَ فِي إِنْكَارِ الْوَلَدِ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, and someone else,

'He^{asws} said: 'The water (seed) of the man, he can place is wherever he so desires to, except him, when there comes a child, he cannot deny it', and he^{asws} was harsh with regards to the denial of the child'.⁷¹

⁶⁷ Al Kafi – V 5 – The Book of Marriage Ch 107 H 2

⁶⁸ Al Kafi – V 5 – The Book of Marriage Ch 107 H 3

⁶⁹ Al Kafi – V 5 – The Book of Marriage Ch 107 H 4

⁷⁰ Al Kafi – V 5 – The Book of Marriage Ch 108 H 1

عَلَيْ بْنِ إِبْرَاهِيمَ عَنْ الْمُخْتَارِ بْنِ مُحَمَّدٍ بْنِ الْمُخْتَارِ وَ مُحَمَّدٍ بْنِ الْحَسَنِ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ جَمِيعاً عَنِ الْفَقْحِ بْنِ يَزِيدٍ قَالَ سَأَلَتْ أُبَا الْحَسَنِ الرَّضَا (عَلَيْهِ السَّلَامُ) عَنِ السُّرُوطِ فِي الْمُتَعَاهِدِ فَقَالَ الشَّرْطُ فِيهَا بَكْدَا وَ كَذَا إِلَى كَذَا وَ كَذَا فَإِنْ قَالَتْ نَعَمْ فَذَاكَ لَهُ جَائِزٌ وَ لَا تَنْوُلُ كَمَا أَنْوَيَ إِلَيْيَ أَنْ أَهْلَ الْعَرَاقِ يَقُولُونَ الْمَاءُ مَائِيٌّ وَ الْأَرْضُ لَكِ وَ لَسْتُ أَسْقِيَ أَرْضَنِكَ الْمَاءَ وَ إِنْ بَنَتْ هُنَاكَ بَنَتْ فَهُوَ لِصَاحِبِ الْأَرْضِ فَإِنْ شَرْطَيْنِ فِي شَرْطٍ فَاسِدٌ فَإِنْ رُزِقْتَ وَ لَدَ قِيلَهُ وَ الْأَمْرُ وَاصِحٌ فَمَنْ شَاءَ التَّابِعُ عَلَى نَفْسِهِ لَئِسَ .

Ali Bin Ibrahim, from Al Mukhtar Bin Muhammad Bin Mukhtar, and Muhammad Bin Al Hassan, from Abdullah Bin Al Hassan, altogether from Al Fatah Bin Yazeed who said,

'I asked Abu Al-Hassan Al-Reza^{asws}, about the stipulation regarding the *Mut'a*, so he^{asws} said: 'The stipulation therein is with such and such (an amount), and to such and such (a term). So if she says, 'Yes', so that is allowed for him, and you should not be saying just as it is ending up to me^{asws} that the people of Al-Iraq are saying, 'The water (seed) is my water, and the land is yours, and I will irrigate your land with the water, and if something grows there with a growing (a child), so it would be for the owner of the land (the woman)'. So the two stipulations in one stipulation are void, and supposing a child is Graced, he has to accept it, and the matter is clear. So the one who so desires to clad the confusion upon himself, he clads'.⁷²

بَابُ الْمِيرَاثِ

Chapter 109 – The Inheritance

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِنِ فَضَالٍ عَنْ أَبِنِ بُكْرٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي الرَّجُلِ يَتَرَوَّحُ الْمَرْأَةُ مُتَعَاهِدًا إِنَّهَا يَتَوَارَثَانِ مَا لَمْ يَسْتَرِطَا وَإِنَّمَا الشَّرْطُ بَعْدَ النِّكَاحِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr, from Muhammad Bin Muslim who said,

'I heard Abu Ja'far^{asws} saying regarding the man who marries the woman by *Mut'a*: 'They would both be inheriting (each other) for as long as they did not stipulate, and rather the stipulation is after the marriage' (as they ignored the condition of time so it has become more like a marriage).⁷³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ أَبِي الْحَسَنِ الرَّضَا (عَلَيْهِ السَّلَامُ) قَالَ تَرْوِيْجُ الْمُتَّعَةِ نَكَاحٌ بِمِيراثٍ وَنَكَاحٌ بِعِصْرٍ مِيراثٍ فَإِنْ اشْتَرَطَتْ كَانَ وَإِنْ لَمْ تَشْتَرَطْ لَمْ يَكُنْ .

Ali Bin Ibrahim, from his father, from Ahmad Bin Muhammad Bin Abu Nasr.

(It has been narrated) from Abu Al-Hassan Al-Reza^{asws} having said: ‘The marriage of the *Mut'a* can be a marriage with inheritance and a marriage without inheritance. So if there was such a stipulation, they would be (inheritance), and if there was no such stipulation, there would not happen to be (inheritance)’.

وَرُوِيَ أَيْضًا لَئِسَ بَيْنَهُمَا مِيرَاثٌ اشْتَرَطَ أَوْ لَمْ يُشَرِّطْ .

⁷¹ Al Kafi – V 5 – The Book of Marriage Ch 108 H 2

⁷² Al Kafi – V 5 – The Book of Marriage Ch 108 H 2

⁷³ Al Kafi – V 5 – The Book of Marriage Ch 108 H 3

And it is reported as well, '(He^{asws} said): 'There would not be inheritance between the two of them, whether is has been stipulated, or not stipulated'.⁷⁴

باب النوادر

Chapter 110 – The Miscellaneous

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ بَشِيرِ بْنِ رَجْلٍ مِنْ قُرَيْشٍ قَالَ بَعَثْتُ إِلَيْ ابْنَهُ عَمَّ لِي كَانَ لَهَا مَالٌ كَثِيرٌ فَدَعَرْفَتْ كُثْرَةً مِنْ يَخْطُبَنِي مِنَ الرِّجَالِ قَلَمْ أَزَوْجُهُمْ نَفْسِي وَمَا بَعَثْتُ إِلَيْكَ رَغْبَةً فِي الرِّجَالِ غَيْرَ أَنَّهُ لِلْأَغْنِيِّ أَنَّهُ أَحْلَّهَا اللَّهُ عَزَّ وَجَلَّ فِي كِتَابِهِ وَبَيْنَهَا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) فِي سُنْنَتِهِ فَحَرَّمَهَا زُفْرٌ فَلَاحَبَّتْ أَنَّ أَطْبَعَ اللَّهُ عَزَّ وَجَلَّ فَوْقَ عَرْشِهِ وَأَطْبَعَ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) وَأَعْصَى زُفْرَ قَتْرَوْجَنِي مُنْعَةً

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Basheer Bin Hamza, from a man from Qureysh who said,

'A cousin of mine sent a message to me, and there was a lot of wealth for her, 'You know the abundance of those from the men whom are proposing to me, but I am not marrying them myself, and I have not sent you a message due to my desiring the men, apart from that it has reached me, that it (*Mut'a*) has been Permitted by Allah^{azwj} Mighty and Majestic in His^{azwj} Book, and Rasool-Allah^{saww} explained it in his^{saww} Sunnah, but Zafar (Umar) prohibited it. Thus, I would like to obey Allah^{azwj} Mighty and Majestic above His^{azwj} Throne, and obey Rasool-Allah^{saww}, and disobey Zafar (Umar). Therefore, marry me by way of *Mut'a*'.

فَقَاتُ أَهْلًا حَتَّى أَذْخُلَ عَلَى أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فَأَسْتَشِيرُهُ قَالَ فَدَخَلْتُ عَلَيْهِ فَخَبَرْتُهُ فَقَالَ افْعُلْ صَلَّى اللَّهُ عَلَيْكُمَا مِنْ زُوْجٍ .

So I said to her, '(Not) until I go over to Abu Ja'far^{asws} and consult him^{asws}'. So I went over to him^{asws}, and informed him^{asws}. So he^{asws} said: 'Do it. May Allah^{azwj} Send Blessings upon both of you from as spouses'.⁷⁵

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ بَعْضِ رَجَالِهِ عَنْ أَبِي عَنْدَ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَتْهُ عَنِ الرَّجُلِ يَتَرَوَّجُ الْمَرْأَةَ مُنْعَةً أَيَّامًا مَعْلُومَةً فَقَرِيبُهُ فِي بَعْضِ أَيَّامَهَا فَتَقُولُ إِنِّي قَدْ بَغَيْتُ قَبْلَ مَحِينَيِّ إِلَيْكَ بِسَاعَةٍ أَوْ بِيَوْمٍ هَلْ لَهُ أَنْ يَطَأَهَا وَقَدْ أَفَرَّتْ لَهُ بِبَعْيَهَا قَالَ لَا يَنْبَغِي لَهُ أَنْ يَطَأَهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Isa, from Yunus, from one of his men,

(It has been narrated) from Abu Abdallah^{asws}, said, 'I asked him^{asws} about the man who marries the woman by *Mut'a* for a known (number of) days. So she comes over during one of her days and she is saying, 'I had committed adultery before my coming to you, by an hour', or 'by a day'. Would it be for him that he sleeps with her and she has accepted to him with her adultery?' He^{asws} said: 'It is not befitting for him that he sleeps with her'.⁷⁶

⁷⁴ Al Kafi – V 5 – The Book of Marriage Ch 108 H 2

⁷⁵ Al Kafi – V 5 – The Book of Marriage Ch 109 H 1

⁷⁶ Al Kafi – V 5 – The Book of Marriage Ch 109 H 2

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ أَذْخَلَ جَارِيَةً يَنْمَنُ بِهَا ثُمَّ أَنْسَى أَنْ يَشْرِطَ حَتَّىٰ وَاقِعَهَا يَجِبُ عَلَيْهِ حُدُودُ الزَّانِي قَالَ لَا وَلَكِنْ يَنْمَنُ بِهَا بَعْدَ النَّكَاحِ وَيَسْتَغْفِرُ اللَّهُ مِمَّا أَتَى .

A number of our companions, from Ahmad Bin Muhammad, from one of his companions, from Zur'at Bin Muhammad, from Sama'at who said,

'I asked him^{asws} about a man slept with a slave girl by way of *Mut'a* with her, then forgets that he should be stipulating (*Mahr* and term) until he has slept with her. Would it Obligate the legal punishment (*Hadd*) of the adulterer upon him?' He^{asws} said: 'No, but he enjoyed with her after the marriage, and he should seek Forgiveness of Allah^{azwj} from what he has done'.⁷⁷

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ عَنْ عَيْسَى بْنِ سُلَيْمَانَ عَنْ بَكَارَ بْنِ كَرْدَمَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يُلْقَى الْمَرْأَةَ فَيَقُولُ لَهَا زَوْجِي نَفْسِكَ شَهْرًا وَ لَا يُسَمِّي الشَّهْرَ بِعِينِهِ ثُمَّ يَمْضِي فَيَلْقَاهَا بَعْدَ سِنِينَ قَالَ فَقَالَ لَهُ شَهْرٌ إِنْ كَانَ سَمَاءً وَ إِنْ لَمْ يَكُنْ سَمَاءً فَلَا سَبِيلٌ لَهُ عَلَيْهَا .

Ahmad Bin Muhammad, from one of our companions, from Umar Bin Abdul Aziz, from Isa Bin Suleyman, from Bakkar Bin Kardam who said,

'I said to Abu Abdullah^{asws}, 'The man meets the woman, so he is saying to her, 'Marry yourself to me for a month', and he does not specify the month in particular. Then he goes away and meets her after (some) years'. So he^{asws} said to him: 'For him is his month if he had specified it, and if he did not happen to have specified it, so there is no way for him upon her'.⁷⁸

عَلَيُّ بْنُ ابْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَمِيرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا بَأْسَ بِالرَّجُلِ يَنْمَنُ بِالْمَرْأَةِ عَلَىٰ حُكْمِهِ وَ لَكِنْ لَا بُدَّ لَهُ مِنْ أَنْ يُعْطِيَهَا شَيْئًا لَا تَنْهَا إِنْ أَخْدَثَ بِهِ حَدِيثٌ لَمْ يَكُنْ أَهْلًا مِيرَاثٍ .

Ali Bin Ibrahim, from his father, form Ibn Abu Umehyr, from one of his companions,

(It has been narrated) from Abu Abdullah^{asws} having said: 'There is no problem with the man who marries by *Mut'a* with the woman upon his decision, but there is no alternative for him from giving her something, because if there was to occur an event with him (of death), there would not happen to be any inheritance for her'.⁷⁹

عَلَيُّ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ مُوسَى (عَلَيْهِ السَّلَامُ) رَجُلٌ تَرَوَّحُ امْرَأَةً مُنْعَةً ثُمَّ وَثَبَ عَلَيْهَا أَهْلَهَا فَزَوَّجُوهَا بِعِينِ إِذْنِهَا عَلَانِيَةً وَ الْمَرْأَةُ امْرَأَةٌ صِدْقٌ كِيفَ الْحِيلَةُ قَالَ لَا تُمْكِنُ زَوْجَهَا مِنْ نَفْسِهَا حَتَّىٰ يَنْقُضِي شَرْطُهَا وَ عَدُّهَا

Ali, from his father, from one of his companions, from Is'haq Bin Ammar who said,

'I said to Abu Al-Hassan Musa^{asws}, 'A man marries a woman by *Mut'a*, then her family members leap upon her, so they get her married without her permission, publicly, and the woman is a truthful woman. How would it be resolved?' He^{asws} said: 'She should not enable her husband upon herself until her stipulations (of *Mut'a*) have expired, along with waiting period'.

⁷⁷ Al Kafi – V 5 – The Book of Marriage Ch 109 H 3

⁷⁸ Al Kafi – V 5 – The Book of Marriage Ch 109 H 4

⁷⁹ Al Kafi – V 5 – The Book of Marriage Ch 109 H 5

فَلْتُ إِنْ شَرْطَهَا سَنَةٌ وَ لَا يَصْبِرُ لَهَا زَوْجُهَا وَ لَا أَهْلُهَا سَنَةٌ قَالَ فَلَيْقَنِ اللَّهُ زَوْجُهَا الْأَوَّلُ وَ لَيَتَصَدَّقُ عَلَيْهَا بِالْأَيَامِ فَإِنَّهَا قَدْ ابْتَلَيْتُ وَ الدَّارُ دَارٌ هُدْنَةٌ وَ الْمُؤْمِنُونَ فِي تَقْيَةٍ فَلَتُ فَإِنَّهَا تَصَدَّقُ عَلَيْهَا بِالْأَيَامِهَا وَ انْفَضَتْ عِدَّهَا كَيْفَ تَصْنَعُ

I said, 'If her stipulation is for a year and her husband is not patient for her, nor her family members, for a year?' He ^{asws} said: 'So let her first husband fear Allah ^{azwj}, and let him give in charity upon her with the (unexpired) days, so she has been tried, and the house (environment) is a house of truce, and the Believers are in dissimulation'. Supposing he were to donate upon her with her (unexpired) days, and she observes her waiting period, how would she deal?'

قَالَ إِذَا خَلَا الرَّجُلُ فَلَتَقْنُ هيَ يَا هَذَا إِنْ أَهْلِي وَتَنَوَّا عَلَيَّ فَزَوْجُونِي مِنْكَ بِغَيْرِ أَمْرِي وَ لَمْ يَسْتَأْمِرُونِي وَ إِنِّي الآنَ قَدْ رَضِيْتُ فَاسْتَأْفِنْ أَنْتَ الآنَ فَتَزَوَّجْنِي تَزْوِيجًا صَحِيحًا فِيمَا بَيْنِي وَ بَيْنَكَ .

He ^{asws} said: 'When she is alone with the man (second husband), so let her said, 'O you! My family leapt over me, so they got me married to you without my consent, and did not seek instruction from me, and I now agree. Therefore, you should now solemnise my marriage with a correct marriage, with regards to what is between me and you'.⁸⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُعَمَّرِ بْنِ خَلَادٍ قَالَ سَأَلَتْ أَبَا الْحَسَنِ الرَّضاً (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ مُتْعِنَّةً فَيَحْلُمُهَا مِنْ بَلِدٍ إِلَى بَلِدٍ فَقَالَ يَجُوزُ النِّكَاحُ الْآخَرُ وَ لَا يَجُوزُ هَذَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Moammar Bin Khallad who said,

'I asked Abu Al-Hassan Al-Reza ^{asws} about the man who married the woman by *Mut'a*, so he carried her from a city to a city. So he ^{asws} said: 'He is allowed another marriage, and he is not allowed this'. (Since *Mut'a* is a temporary measure when one is compelled at a certain place)⁸¹

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ نُوحِ بْنِ شُعَيْبٍ عَنْ عَلَيِّ بْنِ حَسَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ كَثِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ جَاءَتِ امْرَأَةٌ إِلَى عُمَرَ فَقَالَتْ أَنِي زَانَتْ قَطْهَرَنِي فَأَمَرَ بِهَا أَنْ تُرْجَمَ فَأَخْبَرَ بِنَاكَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَقَالَ كَيْفَ زَانَتْ فَقَالَتْ مَرَرْتُ بِالْبَادِيَّةِ فَأَصَابَنِي عَطْشٌ شَدِيدٌ فَاسْتَشْفَيْتُ أَعْرَابِيًّا فَأَلَّى أَنْ يَسْعَنِي إِلَّا أَنْ أَمَكِّنَهُ مِنْ نَفْسِي فَلَمَّا أَجْهَدَنِي الْعَطْشُ وَ خِفْتُ عَلَى نَفْسِي سَقَانِي فَأَمَكَّنَهُ مِنْ نَفْسِي فَقَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) تَزْوِيجٌ وَ رَبُّ الْكَعْبَةِ .

Ali Bin Ibrahim, from his father, from Nuh Bin Shuayb, from Ali Bin Hassam, from Abdul Rahman Bin Kaseer,

(It has been narrated) from Abu Abdullah ^{asws} having said: 'A woman came over to Umar, so she said, 'I have committed adultery, therefore purify me'. So he ordered with her to be stoned. The information of that was given to Amir Al-Momineen ^{asws}, so he ^{asws} said, 'How did you commit adultery?' So she said, 'I was passing by the valley, and I was hit by extreme thirst. So I sought my thirst to be quenched by a Bedouin, but he refused to quench me until I enable him upon myself. So when I struggled against my thirst and I feared upon my life, I let him quench me, and enabled him upon myself'. So Amir Al-Momineen ^{asws} said: 'A (valid) marriage, by the Lord ^{azwj} of the Kabah!'.⁸²

⁸⁰ Al Kafi – V 5 – The Book of Marriage Ch 109 H 6

⁸¹ Al Kafi – V 5 – The Book of Marriage Ch 109 H 7

⁸² Al Kafi – V 5 – The Book of Marriage Ch 109 H 8

عَلَيْهِ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَمَّيْرٍ عَنْ عَمَّارِ بْنِ مَرْوَانَ عَنْ أَبِيهِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ رَجُلٌ جَاءَ إِلَيَّ امْرَأً فَسَأَلَهَا أَنْ تُزِوْجَهُ نَفْسَهَا فَقَالَتْ أَزْوِجْكَ نَفْسِي عَلَى أَنْ تَنْتَمِسَ مِنِّي مَا شِئْتَ مِنْ نَظَرٍ أَوْ التِّمَاسٍ وَ تَنَاهِي مِنِّي مَا يَنْتَأْلُ الرَّجُلُ مِنْ أَهْلِهِ إِلَّا أَنَّكَ لَا تُدْخِلُ فَرْجَكَ فِي فَرْجِي وَ تَنْلَذَ بِمَا شِئْتَ فَإِنِّي أَخَافُ الْفَضْيَةَ قَالَ لَيْسَ لَهُ إِلَّا مَا اشْتَرِطَ.

Ali, from his father, from Ibn Abu Umeyr, from Ammar Bin Marwan,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'A man went over to a woman and asked her that she marry herself to him. So she said, 'I hereby marry myself upon that you will seek from me whatever you so desire to, from looking, or the touching, and attain from me whatever the man attains from his wife except that you would not be entering your private part into my private part, and you can enjoy with whatever (else) you so desire to, for I fear the deflowering' He^{asws} said: 'It is not for him except what has been stipulated'.⁸³

عِدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ عَلَيِّ بْنِ أَسْبَاطٍ وَ مُحَمَّدِ بْنِ الْحُسْنِينَ جَمِيعاً عَنْ الْحَكَمِ بْنِ مُسْكِينٍ عَنْ عَمَّارٍ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) لِي وَ لِسُلَيْمَانَ بْنِ خَالِدٍ قَدْ حَرَمْتُ عَلَيْكُمَا الْمُنْتَعَةَ مِنْ قِبَلِي مَا دُمْمَأَ بِالْمَدِينَةِ لِأَنَّكُمَا تُكْثِرَانِ الدُّخُولَ عَلَيَّ أَخَافُ أَنْ تُؤْخَذَا فِيَقَالُ هُولَاءِ أَصْحَابُ جَعْفِرٍ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Asbaat, and Muhammad Bin Al Husayn, altogether, from Al Hakam Bin Miskeen, from Ammar who said,

'Abu Abdullah^{asws} said to me and to Suleyman Bin Khalid: 'I^{asws} have Prohibited the *Mut'a* unto the two of you for as long as both of you are in Al-Medina, because you two are frequently coming over to me^{asws}, so I^{asws} fear that you would be seized, and it would be said, 'They are the companions of Ja'far^{asws}!'.⁸⁴

باب الرَّجُلِ يُحِلُّ جَارِيَتَهُ لِأَخِيهِ وَ الْمَرْأَةُ تُحِلُّ جَارِيَتَهَا لِزَوْجِهَا

Chapter 111 – The man permits his slave girl to his brother, and the wife permits her slave girl for her husband

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلَيْهِ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ الْفَضِيلِ بْنِ يَسَارٍ قَالَ قُلْتُ لِأَبِيهِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) جُعِلْتُ فِدَاكَ إِنْ بَعْضَ أَصْحَابِنَا قَدْ رَوَى عَنِّكَ أَنَّكَ قُلْتَ إِذَا أَحَلَّ الرَّجُلَ لِأَخِيهِ جَارِيَتَهُ فَهِيَ لَهُ حَالٌ فَقَالَ نَعَمْ يَا فَضِيلُ قُلْتُ لَهُ فَمَا تَقُولُ فِي رَجُلٍ عِنْدَهُ جَارِيَةٌ لَهُ نَفِيسَةٌ وَ هِيَ بِكُرْ أَحَلَ لِأَخِيهِ مَا دُونَ فَرْجِهَا أَلَّا هُوَ أَنْ يَفْتَضِّلَ قَالَ لَا تَلِسْ لَهُ إِلَّا مَا أَحَلَ لَهُ مِنْهَا وَ لَوْ أَحَلَ لَهُ قُبْلَةً مِنْهَا لَمْ يَحِلْ لَهُ مَا سَوَى ذَلِكَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether, from Ibn Mahboub, from Jameel Bin Salih, from Al Fuzayl Bin Yasaar who said,

'I said to Abu Abdullah^{asws}, 'May I be sacrificed for you^{asws}! One of our companions has reported from you^{asws} that you^{asws} said: 'When the man permits his slave girl to his brother, so she is Permissible unto him'. So he^{asws} said: 'Yes, O Fuzayl!' I said, 'So what are you^{asws} saying regarding a man with whom there is a slave girl for himself, and she is a virgin. Is it Permissible for his brother what is besides the private part? Is it for him that he deflowers her?' He^{asws} said: 'No, except what is Permissible for him from it, and had it been Permissible for him, kissing from her, it would not be Permissible for him what is besides that'.

⁸³ Al Kafi – V 5 – The Book of Marriage Ch 109 H 9

⁸⁴ Al Kafi – V 5 – The Book of Marriage Ch 109 H 10

فَلْتُ أَرَأَيْتَ إِنْ أَحَلَّ لَهُ مَا دُونَ الْفَرْجِ فَغَلَبْتُهُ الشَّهُوَةُ فَاقْتَضَهَا قَالَ لَا يَنْبَغِي لَهُ ذَلِكَ فَلْتُ فَإِنْ فَعَلَ أَيْكُونُ زَانِيًا قَالَ لَا وَلَكِنْ يَكُونُ خَائِنًا وَيَغْرِمُ لِصَاحِبِهَا عُشْرَ قِيمَتِهَا إِنْ كَانَتْ بِكُرًا وَإِنْ لَمْ تَكُنْ بِكُرًا فَنِصْفُ عُشْرِ قِيمَتِهَا .

I said, ‘What is your^{asws} view if it is Permissible for him what is besides the private part, so the lust overcomes him, and he deflowers her?’ He^{asws} said: ‘That is not befitting for him’. I said, ‘Supposing he does so, would he become an adulterer?’ He^{asws} said: ‘No, but he would become a betrayer, and he would be fined to her owner, a tenth of her price, if she was a virgin, and if she did not happen to be a virgin, so it would be half of a tenth of her price’.

قَالَ الْحَسَنُ بْنُ مَحْبُوبٍ وَحَدَّثَنِي رِفَاعَةُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مِثْلُهُ إِلَّا أَنْ رِفَاعَةَ قَالَ الْجَارِيَةُ التَّفِيسَةُ تَكُونُ عِنْدِي .

Al-Hassan Bin Mahboub said, ‘And Rafa’at narrated to me, from Abu Abdullah^{asws} similar to it, except that Rafa’at said, ‘The slave girl, the precious, happens to be with me’.⁸⁵

عِدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ وَمُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَعَلَى بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ أَبْنِ مَحْبُوبٍ عَنْ أَبْنِ رَئَابٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ امْرَأَةٍ أَحَلَّتْ لِابْنِهَا فَرْجَ جَارِيَتِهَا قَالَ هُوَ لَهُ حَالٌ فَلْتُ أَفْيَحْ لَهُ ثَمَنُهَا قَالَ لَا إِنَّمَا يَحْلُّ لَهُ مَا أَحَلَّهُ لَهُ .

A number of our companions, from Sahl Bin Ziyad, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether, from Ibn Mahboub, from Ibn Raib, from Abu Baseer who said,

‘I asked Abu Abdullah^{asws} about a woman who permitted the private part of her slave girl to her son. He^{asws} said: ‘It is Permissible for him’. I said, ‘So would her price be Permissible for him?’ He^{asws} said: ‘No, but rather, it is Permissible for him what she had permitted for him’.⁸⁶

عِدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ فَلْتُ لَهُ الرَّجُلُ يَحْلُّ لِأَخِيهِ فَرْجَ جَارِيَتِهِ قَالَ نَعَمْ لَهُ مَا أَحَلَّ لَهُ مِنْهَا .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Abdul Kareem,

(It has been narrated) from Abu Ja’far^{asws}, said, ‘I said to him^{asws}, ‘The man permits to his brother, the private part of his slave girl’. He^{asws} said: ‘Yes, for him is what he permits for him from her’.⁸⁷

عِدَّةُ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَبِيسَى عَنْ الْحُسَينِ بْنِ حَمَادٍ بْنِ عَبِيسَى عَنْ الْحُسَينِ بْنِ الْمُخْتَارِ عَنْ أَبِي بَكْرِ الْحَاضِرِ مَوْلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِنْ أَمْرَأَتِي أَحَلَّتْ لِي جَارِيَتِهَا قَالَ أَنْكِحْهَا إِنْ أَرَدْتَ فَلْتُ أَبْيَعَهَا قَالَ لَا إِنَّمَا أَحَلَّ لَكَ مِنْهَا مَا أَحَلَّتْ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Hammad Bin Isa, from Al Husayn Bin Al Mukhtar, from Abu Bakr Al Hazramy who said,

⁸⁵ Al Kafi – V 5 – The Book of Marriage Ch 110 H 1

⁸⁶ Al Kafi – V 5 – The Book of Marriage Ch 110 H 2

⁸⁷ Al Kafi – V 5 – The Book of Marriage Ch 110 H 3

'I said to Abu Abdullah^{asws}, 'My wife permitted her slave girl to me'. So he^{asws} said: 'Marry her if you so want'. I said, 'Can I sell her?' He^{asws} said: 'No, but rather it is Permitted to you from her whatever she has permitted'.⁸⁸

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَمِيرٍ عَنْ سُلَيْمَانَ الْفَرَاءِ عَنْ حَرِيزٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلِيهِ السَّلَامُ) فِي الرَّجُلِ يُحِلُّ فَرْجَ جَارِيَتِهِ لِأَخِيهِ فَقَالَ لَا يَأْسَ بِذَلِكَ قُلْتُ فَإِنَّهُ أُولَدُهَا قَالَ يَضْمُنُ إِلَيْهِ وَلَدَهُ وَيَرْدُ الْجَارِيَةَ إِلَى صَاحِبِهَا قُلْتُ فِإِنَّهُ لَمْ يَأْذُنْ لَهُ فِي ذَلِكَ قَالَ إِنَّهُ قَدْ حَلَّهُ مِنْهَا فَهُوَ لَا يَأْمُنُ أَنْ يَكُونَ ذَلِكَ

Ali Bin Ibrahim, from his father from Ibn Abu Umeyr, from Suleym Al Far'a, from Hareyz,

(It has been narrated) from Abu Abdullah^{asws} regarding the man who permitted the private part of his slave girl for his brother. So he^{asws} said: 'There is no problem with that'. I said, 'Supposing he makes her give birth?' He^{asws} said: 'His child would be entrusted to him and the slave girl would be returned to her owner'. I said, 'Supposing he had not permitted for him with regards to that?' He^{asws} said: 'He had permitted that for him, so it was not safe for that to happen'.⁸⁹

عَلَيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَمِيرٍ عَنْ سُلَيْمَانَ عَنْ حَرِيزٍ قَالَ قُلْتُ لِأَبِيهِ حَعْفَرَ (عَلِيهِ السَّلَامُ) الرَّجُلُ يُحِلُّ جَارِيَتَهِ لِأَخِيهِ فَقَالَ لَا يَأْسَ قَالَ فَقُلْتُ إِنَّهَا جَاءَتْ بُولَدٍ قَالَ يَضْمُنُ إِلَيْهِ وَلَدَهُ وَيَرْدُ الْجَارِيَةَ عَلَى صَاحِبِهَا قُلْتُ إِنَّهُ لَمْ يَأْذُنْ لَهُ فِي ذَلِكَ قَالَ إِنَّهُ قَدْ أَيْمَنَ لَهُ وَهُوَ لَا يَأْمُنُ أَنْ يَكُونَ ذَلِكَ.

Ali, from his father, from Ibn Abu Umeyr, from Suleym, from Hareyz, from Zurara who said,

'I said to Abu Ja'far^{asws}, 'The man permits his slave girl to his brother. So he^{asws} said: 'There is no problem'. So I said, '(supposing) she were to come with a child?' He^{asws} said: 'His child would be entrusted to him and the slave girl returned to her owner'. I said, 'Supposing he had not permitted to him regarding that?' He^{asws} said: 'He had permitted for him, and it was not safe for that to happen'.⁹⁰

عَلَيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَمِيرٍ عَنْ هَشَامِ بْنِ سَالِمٍ وَ حَفْصَ بْنِ الْبَخْرَىِ عَنْ أَبِيهِ عَبْدِ اللَّهِ (عَلِيهِ السَّلَامُ) فِي الرَّجُلِ يَقُولُ لَا مُرْأَتِهِ أَحْلِي لِي جَارِيَتِكَ فَأَنِّي أَكْرَهُ أَنْ تَرَانِي مُنْكِرِهَا فَتُحَلِّهَا لَهُ قَالَ لَا يَحِلُّ لَهُ مِنْهَا إِلَّا ذَلِكَ وَ لَيْسَ لَهُ أَنْ يَمْسَهَا وَ لَا يَطْأَهَا وَ رَأَدَ فِيهِ هَشَامٌ أَلَّهُ أَنْ يَأْتِيَهَا قَالَ لَا يَحِلُّ لَهُ إِلَّا الَّذِي قَالَتْ .

Ali, from his father, from Ibn Abu Umeyr, from Hisham Bin Salim, and Hafs Bin Al Bakhtary,

(It has been narrated) from Abu Abdullah^{asws} regarding the man who is saying to his wife, 'Will you permit your slave girl for me, for I dislike it that she should see me uncovered?' So she permitted her to him'. He^{asws} said: 'It is not Permissible for him, from her, except for that, and it is not for him that he touches her, nor sleeps with her'. And Hisham increased in it, 'Is it for him that he sleeps with her?' He^{asws} said: 'It is not Permissible for him except for that which she said'.⁹¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيعٍ قَالَ سَأَلْتُ أَبَا الْحَسَنَ (عَلِيهِ السَّلَامُ) عَنِ امْرَأَةِ أَحَدٍ لِي جَارِيَتِهَا فَقَالَ ذَلِكَ قُلْتُ فِإِنْ كَانَتْ تَمْرَحُ قَالَ وَ كَيْفَ لَكَ بِمَا فِي قُلُبِهَا فَإِنْ عَلِمْتَ أَنَّهَا تَمْرَحُ فَلَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail Bin Yzaie who said,

⁸⁸ Al Kafi – V 5 – The Book of Marriage Ch 110 H 4

⁸⁹ Al Kafi – V 5 – The Book of Marriage Ch 110 H 5

⁹⁰ Al Kafi – V 5 – The Book of Marriage Ch 110 H 6

⁹¹ Al Kafi – V 5 – The Book of Marriage Ch 110 H 7

'I asked Abu Al-Hassan^{asws} about a woman who permitted her slave girl to me. So he^{asws} said: 'That is for you'. I said, 'Supposing it was in jest (as a joke)?' He^{asws} said: 'And how could it be for you what is in her heart? So, if she were to let you know that rather it was in jest, so no'.⁹²

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ عُقْبَةَ عَنْ أَبِي شِبْلٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ مُسْلِمٌ ابْنُتَيْ فَقَرَبَ بِجَارِيَةِ أَخِيهِ فَمَا تَوَبَّتْهُ قَالَ يَاتِيهِ فَيُخْبِرُهُ وَيَسْأَلُهُ أَنْ يُجْعَلَ مِنْ ذَلِكَ فِي حَلٍّ وَلَا يَعُودُ

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Ismail, from Salih Bin Uqba, from Abu Shibli who said,

'I said to Abu Abdullah^{asws}, 'A Muslim man was tried, so he was immoral with a slave girl of his brother. So what is his repentance?' He^{asws} said: 'He would go to him and inform him, and he would ask him if he could make from that a permissibility, and he would not repeat'.

قَالَ قُلْتُ قَالَ لَمْ يَجْعَلْهُ مِنْ ذَلِكَ فِي حَلٍّ قَالَ قَدْ لَقِيَ اللَّهُ عَزَّ وَجَلَّ وَهُوَ زَانَ خَائِنٌ قَالَ قُلْتُ فَاللَّهُ مَصِيرُهُ قَالَ شَفَاعَةً مُحَمَّدَ (صَلَى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) وَشَفَاعَتَنَا تَحْمِلُ بَذُونِكُمْ يَا مَعْشَرَ الشِّيَعَةِ فَلَا تَعُودُنَّ وَتَنْكِلُونَ عَلَى شَفَاعَتِنَا فَوَاللَّهِ مَا يَنْأَلُ شَفَاعَتَنَا إِذَا رَكِبَ هَذَا حَنَّى يُصِيبُهُ أَلْمُ الْعَذَابِ وَيَرَى هُولَ جَهَنَّمَ .

He (the narrator) said, 'I said, 'Supposing he does not make a permissibility for him from that?' He^{asws} said: 'He would meet Allah^{azwj} Mighty and Majestic and he would be an adulterer, a betrayer'. I said, 'So the Fire would be (waiting for) his arrival'. He^{asws} said: 'Intercession of Muhammad^{saww} and our^{asws} intercession would drop your sins, O group of the Shias! Therefore, do not go on repeating (your sins), and rely upon our^{asws} intercession, for by Allah^{azwj}, he would not achieve our intercession when he indulges in this until he is hit by the pain of the Punishment and sees the horrors of Hell'.⁹³

وَبِاسْتَادِهِ عَنْ صَالِحِ بْنِ عُقْبَةَ عَنْ سُلَيْمَانَ بْنِ صَالِحٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُلَيْمَانُ عَنِ الرَّجُلِ يُنْكِحُ جَارِيَةَ امْرَأَتِهِ ثُمَّ يَسْأَلُهَا أَنْ تَجْعَلَهُ فِي حَلٍّ فَتَأْبِي فَيَقُولُ إِذَا لَا تَلْقَنِكَ وَيَجْتَبِ فِرَاشَهَا فَتَجْعَلُهُ فِي حَلٍّ فَقَالَ هَذَا غَاصِبٌ فَأَيْنَ هُوَ مِنَ الْلَّطَفِ .

And by his chain, from Salih Bin Uqba, from Suleyman Bin Salih,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} was asked about the man who marries a slave girl of his wife. Then he asks her if she (the wife) would make him to be in permissibility (with the slave girl), but she refuses. So he is saying, 'Then I shall divorce you', and he keeps aside from her bed. So she makes permissibility for him. So he^{asws} said: 'This is a usurper. So where is he from the kindness?'.⁹⁴

وَعَنْ سُلَيْمَانَ بْنِ صَالِحٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يَخْدُعُ امْرَأَتَهُ فَيَقُولُ اجْعَلِينِي فِي حَلٍّ مِنْ جَارِيَتَكَ تَمْسُحُ بَطْنِي وَتَعْمَزُ رِجْلِي وَمِنْ مَسْيِ إِيَاهَا يَعْنِي بِمَسِّهِ إِيَاهَا النَّكَاحَ فَقَالَ الْخَدِيعَةُ فِي النَّارِ قُلْتُ فَإِنْ لَمْ يُرِدْ بِذَلِكَ الْخَدِيعَةَ قَالَ يَا سُلَيْمَانُ مَا أَرَاكَ إِلَّا تَخْدُعُهَا عَنْ بُضْعِ جَارِيَتِهَا

And from him, from Suleyman Bin Salih who said,

⁹² Al Kafi – V 5 – The Book of Marriage Ch 110 H 8

⁹³ Al Kafi – V 5 – The Book of Marriage Ch 110 H 9

⁹⁴ Al Kafi – V 5 – The Book of Marriage Ch 110 H 10

'I said to Abu Abdullah^{asws}, 'The man deceives his wife, so he is saying, 'Make me to be in freedom from your slave girl, for her to touch my belly, and massage my legs, and from me to touch her', meaning with touching her with the sleeping with her. So he^{asws} said: 'The trickery is in the Fire'. I said, 'Supposing he does not intend the trickery by that'. He^{asws} said: 'O Suleyman! I^{asws} do not see you except you are tricking her about sleeping with her slave girl'.⁹⁵

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ هِشَامِ بْنِ سَالِمٍ وَجَوَيْلِ بْنِ دَرَاجٍ وَسَعْدِ بْنِ أَبِي خَلْفٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي امْرَأَ الرَّجُلِ يَكُونُ لَهَا الْخَادِمُ فَذَقَرَتْ فَيَحْتَاجُ إِلَى لَيْنِهَا قَالَ مُرْهَا فَتَحَلَّلَهَا يَطِيبُ اللَّبْنُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham Bin Sali, and Jameel Bin Darraj, and Sa'ad Bin Khalaf, from Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullah^{asws} regarding a wife of the man who happens to have a servant for her who had been immoral, so he became needy to her milk. He^{asws} said: 'Instruct her such, so she would permit her in order to make her milk to be good'.⁹⁶

وَ يَاسِنَاتِهِ عَنْ أَبْنِ أَبِي عَمِيرٍ عَنْ جَمِيلِ بْنِ دَرَاجٍ عَنْ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ كَانَتْ لَهُ مَمْلُوكَةً فَوَلَدَتْ مِنَ الْفَجُورِ فَكَرِهَ مَوْلَاهَا أَنْ تُرْضَعَ لَهُ مَخَافَةً أَلَا يَكُونُ ذَلِكَ جَائِزًا لَهُ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَخَالَ خَادِمَكَ مِنْ ذَلِكَ حَتَّى يَطِيبَ اللَّبْنُ .

And by his chain, from Ibn Abu Umeyr, from Jameel Bin Darraj from one of his companions,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who had a slave girl for him, so she gave birth from the immorality. So her master disliked it that she breast-feeds it fearing that it may not be allowed for him. So Abu Abdullah^{asws} said: 'So permit your servant from that so that the milk becomes good'.⁹⁷

باب الرَّجُلِ تَكُونُ لِوَلْدِهِ الْجَارِيَّةُ يُرِيدُ أَنْ يَطَّاها

Chapter 112 – The man whose son happens to have a slave girl, so he intends to sleep with her

عِدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَبِي نَصْرٍ عَنْ دَاؤَدَ بْنِ سِرْحَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ تَكُونُ لِيْعْضُنِ وُلْدُهُ جَارِيَّةً وَوُلْدُهُ صَغَارٌ فَقَالَ لَا يَصْلُحُ أَنْ يَطَّاها حَتَّى يُقَوِّمَهَا قِيمَةً عَدِّ ثُمَّ يَأْخُذُهَا وَيَكُونُ لِوَلْدِهِ عَلَيْهِ ثَمَنُهُ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Nasr, from Dawood Bin Sirhan who said,

'I said to Abu Abdullah^{asws}, a man, there happens to be a slave girl for one of his son, and his son is young. So he^{asws} said: 'It is not correct that he sleeps with her until he evaluates her with a just price, then takes her, and there would happen to be upon him, for his son, its price'.⁹⁸

⁹⁵ Al Kafi – V 5 – The Book of Marriage Ch 110 H 11

⁹⁶ Al Kafi – V 5 – The Book of Marriage Ch 110 H 12

⁹⁷ Al Kafi – V 5 – The Book of Marriage Ch 110 H 13

⁹⁸ Al Kafi – V 5 – The Book of Marriage Ch 111 H 1

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَىٰ بْنِ الْعُمَانَ عَنْ أَبِي الصَّبَاجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ
تَكُونُ لِيْعْضُ وُلْدِهِ جَارِيَةً وَ وُلْدُهُ صِغَارٌ هَلْ يَصْلُحُ لَهُ أَنْ يَطَأَهَا فَقَالَ يُؤْمِنُهَا قِيمَةً عَذْلٍ ثُمَّ يَأْخُذُهَا وَ يَكُونُ لَوَلِدَهُ عَلَيْهِ ثَمَنُهَا.

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Numan, from Abu Al Sabbah,

(It has been narrated) from Abu Abdallah^{asws} regarding the man, there happens to be a slave girl for one of his young sons. Is it correct for him that he sleeps with her?' So he^{asws} said: 'He would evaluate her with a just price, and then take her, and there would happen to be upon him, for his son, her price'.⁹⁹

عَلَىٰ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَاجِ عَنْ أَبِي الْحَسَنِ مُوسَىٰ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ
لَهُ الرَّجُلُ تَكُونُ لِابْنِهِ جَارِيَةً أَمْ لَهُ أَنْ يَطَأَهَا فَقَالَ يُؤْمِنُهَا عَلَىٰ نَفْسِهِ قِيمَةً وَ يُشَهِّدُ عَلَىٰ نَفْسِهِ بِثَمَنِهَا أَحَبُّ إِلَيَّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umer, from Abdul Rahman Bin Al Hajjaj,

(It has been narrated) from Abu Al-Hassan Musa^{asws}, said, 'I said to him^{asws}, 'The man, there happens to be a slave girl for his son, it is for him that he sleeps with her?' So he^{asws} said: 'He would evaluate her upon himself with a price, and he would bear witness upon him with her price. It would be more beloved to me'.¹⁰⁰

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدٍ بْنِ إِسْمَاعِيلَ قَالَ كَتَبْتُ إِلَىٰ أَبِي الْحَسَنِ (عَلَيْهِ السَّلَامُ) فِي جَارِيَةٍ لِابْنِ لِي
صَغِيرٍ أَيْجُوزُ لِي أَنْ أَطْأَهَا فَكَتَبَ لَا حَتَّىٰ تُخَالِصَهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail who said,

'I wrote to Abu Al-Hassan^{asws} regarding a slave girl of a young son of mine, it is allowed for me that I sleep with her?' So he^{asws} wrote: 'No, until you free her'.¹⁰¹

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ الرَّضاً (عَلَيْهِ السَّلَامُ) أَنِّي كُنْتُ وَهَبْتُ لِابْنِي
جَارِيَةً حَيْثُ زَوَّجْتُهَا فَلَمْ تَزُلْ عِنْدَهَا فِي بَيْتِ زَوْجِهَا حَتَّىٰ مَاتَ زَوْجُهَا فَرَجَعَتْ إِلَيَّ هِيَ وَالْجَارِيَةُ أَفِيلُ لِي الْجَارِيَةُ أَنْ
أَطْأَهَا فَقَالَ قَوْمُهَا بِقِيمَةٍ عَادِلَةٍ وَ أَشْهِدُ عَلَىٰ ذَلِكَ ثُمَّ إِنْ شِئْتُ فَطَأْهَا .

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

'I asked Abu Al-Hassan Al-Reza^{asws}, 'I had gifted a slave girl to my daughter when I got her married. So she did not stay with her in the house of husband until her husband died. So she returned to me, her and her slave girl. Is the slave girl Permissible for me that I sleep with her?' So he^{asws} said: 'Evaluate her with a just price, and testify upon that, then if he so desires to, so he sleeps with her'.¹⁰²

عِدَّةُ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ مُوسَىٰ بْنِ جَعْفَرٍ عَنْ عَمْرُو بْنِ سَعِيدٍ عَنْ الْحَسَنِ بْنِ صَدَقَةٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) فُقِلْتُ إِنْ بَعْضُ أَصْحَابِنَا رَوَى أَنَّ لِلرَّجُلِ أَنْ يَنْكِحَ جَارِيَةً ابْنِهِ وَ جَارِيَةً ابْنَتِهِ وَ لِي ابْنَةً وَ ابْنًَ وَ لِابْنَتِي جَارِيَةً
اَشْتَرَتْهَا لَهَا مِنْ صَدَاقَهَا أَفِيلُ لِي أَنْ أَطْأَهَا فَقَالَ لَا إِلَّا بِإِذْنِهَا

A number of our companions, from Sahl Bin Ziyad, from Musa Bin Ja'far, from Amro Bin Saeed, from Al Hassan Bin Sadaqa who said,

⁹⁹ Al Kafi – V 5 – The Book of Marriage Ch 111 H 2

¹⁰⁰ Al Kafi – V 5 – The Book of Marriage Ch 111 H 3

¹⁰¹ Al Kafi – V 5 – The Book of Marriage Ch 111 H 4

¹⁰² Al Kafi – V 5 – The Book of Marriage Ch 111 H 5

'I asked Abu Al-Hassan^{asws}, so I said, 'One of our companions reported that for the man is that he marries a slave girl of his son, and a slave girl of his daughter, and for me there is a daughter and a son, and for my daughter is a slave girl which I bought for her from her dower. So is it Permissible for me that I sleep with her?' So he^{asws} said: 'No, except by her (daughter's) permission'.

قَالَ الْحَسَنُ بْنُ الْجَهْمَ أَلَيْسَ قَدْ جَاءَ أَنَّ هَذَا جَائزٌ قَالَ نَعَمْ ذَكَرَ إِذَا كَانَ هُوَ سَبَبُهُ ثُمَّ النُّفَرَ إِلَيْيَ وَأَوْمَأَ نَحْوِي بِالسَّبَابَةِ فَقَالَ إِذَا اشْتَرَيْتَ أُنْثَى لِابْنِكَ جَارِيَةً أَوْ لِابْنَكَ وَكَانَ الْابْنُ صَغِيرًا وَلَمْ يَطُهُنَا حَلَّ لَكَ أَنْ تَفْتَضَّهَا فَتُنْكِحَهَا وَإِلَّا فَلَا إِلَاهَ إِلَّا يَنْهَا مَهَا .

Al-Hassan Bin Al-Jaham said, 'Has it not come (in a Hadeeth) that this is allowed?' He^{asws} said: 'Yes, that is when it was his reason'. Then he turned towards me^{asws} and gestured towards me with the index finger. So he^{asws} said: 'When you buy a slave girl for your daughter or for your son, and the son was young and did not sleep with her, it is Permissible for you that you deflower her and marry her, or else so no, except with their permission'.¹⁰³

باب استئراء الأمة

Chapter 113 – Clearing the womb of the slave girl

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَادَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عَيْسَى عَنْ سَمَاعَةَ قَالَ سَالَتْهُ عَنْ رَجُلٍ اشْتَرَى جَارِيَةً وَلَمْ يَكُنْ لَهَا زَوْجٌ أَيْسَتَبِّرُ رَحْمَهَا قَالَ نَعَمْ فُلِتْ فَإِنْ كَانَتْ لَمْ تَحْضُنْ فَقَالَ أَمْرُهَا شَدِيدٌ فَإِنْ هُوَ أَنَّهَا فَلَا يُنْزَلُ الْمَاءُ حَتَّى يَسْتَبِّنَ أَحْبَلَى هِيَ أَمْ لَا فُلِتْ وَفِي كُمْ تَسْتَبِّنُ لَهُ قَالَ فِي خَمْسَةٍ وَأَرْبَعِينَ يَوْمًا .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at, said,

'I asked him^{asws} about a man who bought a slave girl and there did not happen to be a husband for her. Does he have to clear her womb (make her observe the waiting period)?' He^{asws} said: 'Yes'. I said, 'Supposing she does not menstruate?' So he^{asws} said: 'Her matter is difficult. So if he goes to her, so he should not make the water descend (discharge the seed) until it becomes clear whether she is pregnant or not?' I said, 'And in how much (time) would it become clear for him?' He^{asws} said: 'In forty five days'.¹⁰⁴

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنَ أَبِيهِ عَمِيرٍ عَنْ حَمَادٍ عَنْ الْحَلَّيِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي رَجُلٍ اشْتَرَى جَارِيَةً لَمْ يَكُنْ صَاحِبُهَا يَطُهُنَا أَيْسَتَبِّرُ رَحْمَهَا قَالَ نَعَمْ فُلِتْ لَمْ تَحْضُنْ كَيْفَ يُصْنَعُ بِهَا قَالَ أَمْرُهَا شَدِيدٌ عَيْرَ اللَّهِ إِنْ أَنَّهَا فَلَا يُنْزَلُ عَلَيْهَا حَتَّى يَسْتَبِّنَ لَهُ إِنْ كَانَ بِهَا حَبْلٌ فُلِتْ وَفِي كُمْ تَسْتَبِّنُ لَهُ قَالَ فِي خَمْسٍ وَأَرْبَعِينَ لَيْلَةً .

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

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man who bought a slave girl, there not being a companion of hers sleeping with her. Does he have to clear her womb?' He^{asws} said: 'Yes'. I said, 'A slave girl who does not menstruate, how would he deal with it?'

He^{asws} said: 'Her matter is difficult, apart from that if he does go to her, so he should not (make the water) descend to her until it becomes clear for him, if there was a

¹⁰³ Al Kafi – V 5 – The Book of Marriage Ch 111 H 6

¹⁰⁴ Al Kafi – V 5 – The Book of Marriage Ch 112 H 1

pregnancy for her'. I said, 'And in how much (time) would it become clear for him?' He^{asws} said: 'In forty five nights'.¹⁰⁵

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْنُوبٍ عَنْ ابْنِ بَكْيَرٍ عَنْ هَشَامِ بْنِ الْحَارِثِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرُو قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ أَوْ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) الْجَارِيَةُ يَسْتَبِرُهَا الرَّجُلُ وَ هِيَ لَمْ تُنْدِرْكُ أَوْ قَدْ يَئُسَتْ مِنَ الْمَحِيضِ قَالَ فَقَالَ لَا يَأْسَ يَا نَ لَا يَسْتَبِرُهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Bukeyr, from Hisham Bin Al Haris, from Abdullah Bin Amro who said,

'I said to Abu Abdullah^{asws} or to Abu Ja'far^{asws}, 'The slave girl whom the man buys, and she has yet to be an adult, or has despaired from the menstruation'. So he^{asws} said: 'There is no problem if he does not clear her womb'.¹⁰⁶

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصَ بْنِ الْبَخْرَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الرَّجُلِ يَسْتَبِرُ الْأُمَّةُ مِنْ رَجُلٍ فَيُقُولُ أَنِّي لَمْ أَطْأَهَا فَقَالَ إِنْ وَيْقَنَ بِهِ فَلَا يَأْسَ يَا نَ يَأْتِيَهَا وَ قَالَ فِي رَجُلٍ يَبْيَعُ الْأُمَّةُ مِنْ رَجُلٍ فَقَالَ عَلَيْهِ أَنْ يَسْتَبِرَ مِنْ قَبْلِ أَنْ يَبْيَعَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hafs Bin Al Bakhtary,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the man who bought the slave girl from a man, so he was saying, 'I did not sleep with her'. So he^{asws} said: 'If he can be trusted with it, so there is no problem if he were to go to her'. And he^{asws} said regarding a man who sells the slave girl to a man, so he^{asws} said: 'Upon him is that he clears her womb before he sells her'.¹⁰⁷

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَيَّانِ بْنِ عُثْمَانَ عَنْ رَبِيعِ بْنِ الْفَاسِمِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْجَارِيَةِ الَّتِي لَمْ تَبْلُغِ الْمَحِيضَ وَ يُخَافُ عَلَيْهَا الْحَبْلُ فَقَالَ يَسْتَبِرُهَا رَحْمُهَا الَّذِي يَبِيِّعُهَا بِخَمْسٍ وَ أَرْبَعِينَ لَيْلَةً وَ الَّذِي يَسْتَبِرُهَا بِخَمْسٍ وَ أَرْبَعِينَ لَيْلَةً .

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from one of his companions, form Aban Bin Uman, from Rabie Bin Al Qasim who said,

'I asked Abu Abdullah^{asws} about the slave girl who had not reached menstruation, and he feared of the pregnancy upon her. So he^{asws} said: 'He should clear her womb, the one who sold her, by forty five nights, and the one who buys her, by forty five days'.¹⁰⁸

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنْ الْحَلَبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ فِي رَجُلٍ ابْنَاعَ جَارِيَةً وَ لَمْ تَطْمَئِنْ قَالَ إِنْ كَانَتْ صَغِيرَةً وَ لَا يُتَحَوَّفُ عَلَيْهَا الْحَبْلُ فَلَيْسَ بِهِ عِدَّةٌ وَ لَيْطَاهَا إِنْ شَاءَ وَ إِنْ كَانَتْ قَدْ بَلَغَتْ وَ لَمْ تَطْمَئِنْ فَإِنَّ عَلَيْهَا الْعِدَّةَ

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

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man was sold a slave girl and she did not menstruate. He^{asws} said: 'If she was young and he does not fear the pregnancy upon her, so there is no waiting period upon her with him, and let

¹⁰⁵ Al Kafi – V 5 – The Book of Marriage Ch 112 H 2

¹⁰⁶ Al Kafi – V 5 – The Book of Marriage Ch 112 H 3

¹⁰⁷ Al Kafi – V 5 – The Book of Marriage Ch 112 H 4

¹⁰⁸ Al Kafi – V 5 – The Book of Marriage Ch 112 H 5

him go to her if he so desires; and it was such that she had reached puberty and did not menstruate, so upon her would be the waiting period'.

قَالَ وَسَأَلْتُهُ عَنْ رَجُلٍ اشْتَرَى جَارِيَةً وَ هِيَ حَائِضٌ قَالَ إِذَا طَهَرَتْ فَلِيمَسْهَا إِنْ شَاءَ .

He (the narrator) said, 'And I asked him^{asws} about a man who bought a slave girl and she was menstruating. He^{asws} said: 'When she is pure, so let him touch her if he so desires to'.¹⁰⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سَيَّانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَشْتَرِي الْجَارِيَةَ وَ لَمْ تَحْضُنْ قَالَ يَعْتَزِلُهَا شَهْرًا إِنْ كَانَتْ قَدْ مُسْتَقْبَلَةً قَالَ أَفَرَأَيْتَ إِنْ ابْتَاعَهَا وَ هِيَ طَاهِرٌ وَ زَعْمَ صَاحِبِهَا أَنَّهَا لَمْ يَطْلُبْهَا مُنْذَ طَهَرَتْ قَالَ إِنْ كَانَ عِنْدَكَ أَمِينًا فَمَسْهَا وَ قَالَ إِنْ ذَا الْأَمْرُ شَدِيدٌ فَإِنْ كُنْتَ لَا بُدَّ فَاعْلَمْ فَتَحَفَّظْ لَا تُنْزِلْ عَلَيْهَا .

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

'I asked Abu Abdullah^{asws} about the man who buys the slave girl and she does not menstruate. He^{asws} said: 'He would isolate her for a month if she had been touched'. He said, 'So what is your^{asws} view if he would sell her and her owner claimed that he had not slept with her since she was pure?' He^{asws} said: 'If he was trustworthy with him, so he can touch her'. And he^{asws} said: 'That is the difficult matter. So, if it was inevitable that he does it, so he should be careful he does not let the water descend into her'.¹¹⁰

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَبْيَسِيِّ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ اشْتَرَى جَارِيَةً وَ هِيَ طَاهِرٌ أَيْسَتَبَرَتْ رَحْمَهَا بِحِيَضَةٍ أُخْرَى أَمْ تَكْفِيهِ هَذِهِ الْحِيَضَةُ قَالَ لَا بُنْ تَكْفِيهِ هَذِهِ الْحِيَضَةُ فَإِنْ اسْتَبَرَهَا بِأُخْرَى قَلَّا بَأْسٌ هِيَ بِمَنْزِلَةِ فَضْلٍ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from his brother Al Hassan, from Zurara Bin Muhammad, from Sama'at who said,

'I asked about a man who bought a slave girl and she menstruated. Should he clear her womb with another menstruation or would this menstruation suffice?' So he^{asws} said: 'No, but this menstruation would suffice. But, if he were to clear her woman with another (menstruation), so there is no problem. It would be in a state of preference'.¹¹¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَارَةَ عَنْ حُمَرَانَ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ اشْتَرَى امْمَةً هُنْ يُصِيبُهُ مِنْهَا دُونَ الْغُشْيَانِ وَ لَمْ يَسْتَبِرْهُمْ قَالَ نَعَمْ إِذَا اسْتَوْجَبَهُمَا وَ صَارَتْ مِنْ مَالِهِ فَإِنْ مَاتَتْ كَانَتْ مِنْ مَالِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Musa Bin Bakr, from Zurara, from Humran who said,

'I asked Abu Ja'far^{asws} about a man who bought a slave girl. Can he attain from her besides the overwhelming (copulation), and he has not cleared her womb?' He^{asws}

¹⁰⁹ Al Kafi – V 5 – The Book of Marriage Ch 112 H 6

¹¹⁰ Al Kafi – V 5 – The Book of Marriage Ch 112 H 7

¹¹¹ Al Kafi – V 5 – The Book of Marriage Ch 112 H 8

said: ‘Yes, when it Obligates her, and she comes to be from his wealth. So if she were to die, it would be from his wealth’.¹¹²

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ عَنْ عَمْرُو بْنِ سَعِيدٍ عَنْ مُصَدَّقَ بْنِ صَدَقَةَ عَنْ عَمَّارِ بْنِ مُوسَى عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ اشْتَرَى مِنْ رَجُلٍ جَارِيَّةً بِثَمَنٍ مُسَمَّى ثُمَّ افْتَرَقَا قَالَ وَجَبَ الْبَيْعُ وَ لَيْسَ لَهُ أَنْ يَطْلَعَا وَ هِيَ عِنْدَ صَاحِبِهَا حَتَّى يَقْبِضَهَا وَ يُعْلَمَ صَاحِبَهَا وَ الْمُثَمِّ إِذَا لَمْ يَكُونَا اشْتَرَطَا فَهُوَ نَفْدٌ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Ahmad Bin Al Hassan, from Amro Bin Saeed, from Musaddaq Bin Sadaqa, from Ammar Bin Musa,

(It has been narrated) from Abu Abdallah^{asws} regarding a man who bought a slave girl from a man with a specified price. Then separated. He^{asws} said: ‘The sale is obligated and it is not for him that he sleeps with her and she is (still) with her owner until he takes possession of her, and he lets her owner know; and the price, when it was not stipulated, so it is cash’.¹¹³

باب السَّرَّارِي

Chapter 114 – The Concubines

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ جَعْفَرِ بْنِ مُحَمَّدِ الْأَشْعَرِيِّ عَنْ أَبِنِ الْقَدَّاحِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) عَلَيْكُمْ بِأَمْهَاتِ الْأُوْلَادِ فَإِنَّ فِي أَرْحَامِهِنَّ الْبَرَكَةَ .

Ali Bin Ibrahim, from his father, from Ja'far Bin Muhammad Al Ashary, from Ibn Al Qaddah,

(It has been narrated) from Abu Abdallah^{asws} having said: ‘Rasool-Allah^{saww} said: ‘It is up to you with the mothers of the children, for in their wombs is the Blessings’.¹¹⁴

حُمَيْدُ بْنُ زَيْدٍ عَنِ ابْنِ سَمَاعَةَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي حَمْزَةَ عَنْ عَلَيِّ بْنِ الْحُسَيْنِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) اطْلُبُوا الْأُوْلَادَ مِنْ أَمْهَاتِ الْأُوْلَادِ فَإِنَّ فِي أَرْحَامِهِنَّ الْبَرَكَةَ .

Humeyd Bin Ziyad, from Ibn Sama'at, from one of his companion, from Abu Hamza,

(It has been narrated) from Ali^{asws} Bin Al-Husayn^{asws} having said: ‘Rasool-Allah^{saww} said: ‘Seek the children from the mothers, for in their wombs is the Blessing’.¹¹⁵

باب الْأَمَةِ يَشْتَرِيهَا الرَّجُلُ وَ هِيَ حُبْنَى

Chapter 115 – The slave girl, the man buys her and she is pregnant

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ رَفَاعَةَ قَالَ سَأَلَتُ أَبَا الْحَسَنِ مُوسَى (عَلَيْهِ السَّلَامُ) فَقُلْتُ أَشْتَرِي الْجَارِيَّةَ فَقَمَكُثْ عَنِّي الْأَشْهُرُ لَا تَطْمَثُ وَ لَيْسَ ذَلِكَ مِنْ كَبِيرٍ فَأَرِبِّهَا النِّسَاءَ فَيَقْلُنَ لَيْسَ بِهَا حَبْلٌ أَفْلَى أَنْ أَنْكِحَهَا فِي فَرْجِهَا قَالَ إِنَّ الطَّمْثَ قَدْ تَحْبِسُ الرِّيحَ مِنْ غَيْرِ حَبْلٍ فَلَا بَأْسَ أَنْ تَمْسَهَا فِي الْفُرْجِ قُلْتُ فَإِنْ كَانَتْ حُبْنَى فَمَا لِي مِنْهَا إِنْ أَرْدُثُ قَالَ لَكَ مَا دُونَ الْفُرْجِ .

¹¹² Al Kafi – V 5 – The Book of Marriage Ch 112 H 9

¹¹³ Al Kafi – V 5 – The Book of Marriage Ch 112 H 10

¹¹⁴ Al Kafi – V 5 – The Book of Marriage Ch 113 H 1

¹¹⁵ Al Kafi – V 5 – The Book of Marriage Ch 113 H 2

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Rifa'at who said,

'I asked Abu Al-Hassan Musa^{asws}, so I said, 'I bought a slave girl, so she remained with me for the month and did not menstruate, and that was not due to old age. So I showed her to the women, and they said, 'She is not with a pregnancy'. So, is it for me that I sleep in her private part?' So he^{asws} said: 'The wind could have withheld the menstruation from without a pregnancy. So there is no problem if you were to touch her in the private part'. I said, 'Supposing she was pregnant, so what would be for me from her, if I intend?' He^{asws} said: 'Whatever is besides the private part'.¹¹⁶

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيْدٍ وَ عَلَىٰ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ فِي الْوَلِيدَةِ يَشْتَرِيهَا الرَّجُلُ وَ هِيَ حَبْلَىٰ قَالَ لَا يَقْرَبُهَا حَتَّىٰ تَضَعَ وَلَدَهَا .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, from Abdul Rahman Bin Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said regarding the mother whom the man bought and she was pregnant'. He^{asws} said: 'He should not go near her until she places (gives birth to) the child'.¹¹⁷

سَهْلٌ عَنْ أَبْنَىٰ مَحْبُوبٍ عَنْ عَلَىٰ بْنِ رَئَابٍ عَنْ أَبِي بَصِيرٍ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يَشْتَرِي الْجَارِيَةَ وَ هِيَ حَامِلٌ مَا يَحْلُّ لَهُ مِنْهَا فَقَالَ مَا دُونَ الْفَرْجِ قُلْتُ فَيَشْتَرِي الْجَارِيَةَ الصَّغِيرَةَ الَّتِي لَمْ تَطْمَثْ وَ لَيْسَتْ بِعَرَاءَ أَ يَشْتَرِيُهَا قَالَ أَمْرُهَا شَدِيدٌ إِذَا كَانَ مِثْلُهَا تَعْلَقُ فَلَيَسْتَبِرُهَا .

Sahl, from Ibn Mahboub, from Ali Bin Raib, from Abu Baseer who said,

'I said to Abu Ja'far^{asws}, 'The man buys the slave girl and she is pregnant. What is Permissible for him from her?' So he^{asws} said: 'Whatever is besides the private part'. I said, 'So he buys the young slave girl who does not menstruate, and is not with virginity, does he have to wait for her womb to be freed?' He^{asws} said: 'Her matter is difficult. When it was the likes of her, suspend her and let her free her womb (i.e. observe a waiting period)'.¹¹⁸

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِنِ فَضَالٍ عَنْ أَبِنِ بُكْرٍ عَنْ زُرَارَةَ بْنِ أَعْيَنَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنِ الْجَارِيَةِ الْحَبْلَىٰ يَشْتَرِيهَا الرَّجُلُ فَيَصِيبُ مِنْهَا دُونَ الْفَرْجِ قَالَ لَا بُسْ قُلْتُ فَيَصِيبُ مِنْهَا فِي ذَلِكَ قَالَ تُرِيدُ تَغْرِيًّا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr, from Zurara Bin Ayn who said,

'I asked Abu Ja'far^{asws} about the pregnant slave girl whom the man buys, so he attains from her besides the private part. He^{asws} said: 'There is no problem'. I said, 'Supposing he attains from her in that?' He^{asws} said: 'Do you intend deception?'.¹¹⁹

¹¹⁶ Al Kafi – V 5 – The Book of Marriage Ch 114 H 1

¹¹⁷ Al Kafi – V 5 – The Book of Marriage Ch 114 H 2

¹¹⁸ Al Kafi – V 5 – The Book of Marriage Ch 114 H 3

¹¹⁹ Al Kafi – V 5 – The Book of Marriage Ch 114 H 4

باب الرَّجُلِ يُعْنِقُ جَارِيَتَهُ وَ يَجْعَلُ عِنْقَهَا صَدَاقَهَا

Chapter 116 – The man emancipates his slave girl and he makes her emancipation as her dower

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِيهِ عَمِيرٍ عَنْ حَمَادٍ عَنِ الْحَلَّيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ
يُعْنِقُ الْأَمْمَةَ وَ يَقُولُ مَهْرَكَ عِنْقَكِ فَقَالَ حَسَنٌ .

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

(It has been narrated) from Abu Abdullah^{asws}, said, ‘I asked him^{asws} about the man who emancipates the slave girl, and he is saying, ‘Your dower is your emancipation’. So he^{asws} said: ‘Good’.¹²⁰

حُمَيْدُ بْنُ زَيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ غَيْرٍ وَاحِدٍ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ تَكُونُ لَهُ الْأُمْمَةُ فَيُرِيدُ أَنْ يُعْنِقَهَا فَيَنْزَوْ جَهَا أَوْ يَجْعَلُ عِنْقَهَا مَهْرَهَا أَوْ يُعْنِقُهَا ثُمَّ يُصْدِقُهَا وَ هُنَّ عَلَيْهَا مِنْهُ عِدَّةٌ وَ كُمْ تَعْنَدُ إِنْ أَعْنَقَهَا وَ هُنَّ يَجُوزُ لَهُ نِكَاحُهَا بِعِيرٍ مَهْرٍ وَ كُمْ تَعْنَدُ مِنْ عِيرِهِ

Humeyd Bin Ziyad, from Ibn Sama'at, from someone else, from Aban Bin Usman, from Abdul Rahman Bin Abu Abdullah who said,

‘I asked Abu Abdullah^{asws} about the man who happened to have the slave girl for him, so he intended that he emancipates her, so he married her and made her emancipation as her dower, or emancipates her then dowers her; and is there a waiting period upon her from him, and how much she should be observing if he were to emancipate her; and is it Permissible for him to marry her without a dower; and how much waiting period should she observe from someone else?’

فَقَالَ يَجْعَلُ عِنْقَهَا صَدَاقَهَا إِنْ شَاءَ وَ إِنْ كَانَ أَعْنَقَهَا ثُمَّ أَصْدَقَهَا وَ إِنْ كَانَ عِنْقَهَا صَدَاقَهَا فَإِنَّهَا تَعْنَدُ وَ لَا يَجُوزُ نِكَاحُهَا إِذَا
أَعْنَقَهَا إِلَّا بِمَهْرٍ وَ لَا يَطِأُ الرَّجُلُ الْمَرْأَةَ إِذَا تَرَوَجَهَا حَتَّى يَجْعَلَ لَهَا شَيْئًا وَ إِنْ كَانَ دِرْهَمًا .

So he^{asws} said: ‘Her emancipation is allowed as her dower if he so desires, and if he so desires to he can emancipate her, then dowers her; and if it was such that her emancipation was her dower, so she would be observing a waiting period, and he would not be allowed to marry her when he emancipates her except with a dower; and the man cannot sleep with the women when he marries her until he makes something to be for her, even though it may be a Dirham’.¹²¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ الْحَجَّاجِ عَنْ ثَعْلَبَةَ عَنْ عُبَيْدِ بْنِ زُرَارَةَ أَنَّهُ سَمِعَ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا قَالَ الرَّجُلُ لِأَمْتَهِ أَعْنِقُكِ وَ أَجْعَلُ مَهْرَكَ عِنْقَكِ فَهُوَ جَائزٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Abdullah Bin Muhammad Al Hajjal, from Sa'alba,

¹²⁰ Al Kafi – V 5 – The Book of Marriage Ch 115 H 1

¹²¹ Al Kafi – V 5 – The Book of Marriage Ch 115 H 2

(It has been narrated) from Ubeyd Bin Zurara who heard Abu Abdullah^{asws} saying: 'When the man says to his slave girl, 'I emancipate you and marry you, and make your dower to be your emancipation', so it is allowed'.¹²²

عَلَيْ بْنِ إِبْرَاهِيمَ عَنْ أُبْيِهِ عَنْ أَبْنِ أَبِيهِ عُمَيْرٍ عَنْ حَمَادٍ عَنْ الْحَلَّيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَنَاهُ عَنِ الرَّجُلِ يُعْنِقُ سُرْيَتَهُ أَيْصَلْحُ لَهُ أَنْ يَتَزَوَّجَهَا بِغَيْرِ عِدَّةٍ قَالَ نَعَمْ قُلْتُ فَعَيْرُهُ قَالَ لَا حَتَّى تَعْتَدْ ثَلَاثَةَ أَشْهُرٍ .

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

(It has been narrated) from Al-Halby, from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the man who emancipated his concubine. Is it correct for him that he marries her without a waiting period?' He^{asws} said: 'Yes'. I said, 'Supposing he changes it?' He^{asws} said: 'No, until she observes a waiting period of three months'.¹²³

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ جَمِيعاً عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مُهْرَانَ قَالَ سَأَلَنَاهُ عَنْ رَجُلٍ لَهُ زَوْجَةٌ وَ سُرْيَةٌ يَبْدُو لَهُ أَنْ يُعْنِقَ سُرْيَتَهُ وَ يَتَزَوَّجُهَا فَقَالَ إِنْ شَاءَ اسْتَرْطَ عَلَيْهَا أَنْ عَنْهَا صَدَافُهَا فَإِنْ ذَلِكَ حَلَالٌ أَوْ يَشْتَرِطُ عَلَيْهَا إِنْ شَاءَ قَسْمَ لَهَا وَ إِنْ شَاءَ لَمْ يُفْسِمْ وَ إِنْ شَاءَ فَضَلَّ الْحُرَّةَ عَلَيْهَا فَإِنْ رَضَيْتُ بِذَلِكَ فَلَا بَأْسَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, and a number of our companions, from Ahmad Bin Muhammad Bin Khalid, altogether from Usman Bin Isa, from Sama'at Bin Mihran who said,

'I asked him^{asws} about a man who had a wife for him, and a concubine. It became inevitable for him that he emancipates his concubine, and marries her'. So he^{asws} said: 'If he so desires to, he stipulates upon her that her emancipation would be her dower, for that is Permissible; or he stipulates upon her, if he so desires to, he divides (his time) for her, and if he so desires to he does not divide (his time for her); and if he so desires to he prefers the free woman over her. So if she is pleased with that, so there is no problem'.¹²⁴

باب ما يحل للمنلوك من النساء

Chapter 117 – What is Permissible for the owned slaves from the women

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ وَ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ وَ صَفْوَانَ عَنْ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ سَأَلَنَاهُ عَنِ الْعَبْدِ يَتَرَوَّجُ أَرْبَعَ حَرَائِرَ قَالَ لَا وَ لَكُنْ يَتَرَوَّجُ حُرَّيْنَ وَ إِنْ شَاءَ تَرَوَّجَ أَرْبَعَ إِمَاءَ .

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

¹²² Al Kafi – V 5 – The Book of Marriage Ch 115 H 3

¹²³ Al Kafi – V 5 – The Book of Marriage Ch 115 H 4

¹²⁴ Al Kafi – V 5 – The Book of Marriage Ch 115 H 5

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, ‘I asked him^{asws} about the slave marrying four free women. He^{asws} said: ‘No, but he can marry two free women, and if he so desires to, he can marry four slave girls’.¹²⁵

أُبُو عَلَيِّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَارِ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنْ صَفْوَانَ بْنَ يَحْيَى عَنْ أَبْنِ مُسْكَنٍ عَنِ الْحَسَنِ بْنِ زَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَتْهُ عَنِ الْمَمْلُوكِ مَا يَحْلُّ لَهُ مِنَ النِّسَاءِ فَقَالَ حُرَّتَانٌ أَوْ أَرْبَعُ إِمَاءٍ قَالَ وَ لَا تَأْسِ بِأَنْ يَأْذِنَ لَهُ مَوْلَاهُ فَيَشْتَرِي مِنْ مَالِهِ إِنْ كَانَ لَهُ جَارِيَةً أَوْ جَوَارِيَ يَطْوُهُنَّ وَ رَفِيقُهُ لَهُ حَلَالٌ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ismail, from Al Fazal Bin Shazaan, altogether from Safwan Bin Yahya, from Ibn Muskan, from Al Hassan Bin Ziyad,

(It has been narrated) from Abu Abdallah^{asws}, said, ‘I asked him^{asws} about the owned slave, ‘What is Permissible for him from the women?’ So he^{asws} said: ‘Two free women, or four slave girls’. He^{asws} said: ‘There is no problem if his master was to permit for him, so he buys from his wealth, if there was a slave girl for him, or slave girls he could go to, and his slave girls would be Permissible for him’.¹²⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ وَ مُحَمَّدُ بْنُ خَالِدٍ جَمِيعاً عَنِ الْفَاسِمِ بْنِ عُرْوَةَ عَنْ أَبْنِ بُكَيْرٍ عَنْ زُرَارَةَ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ سَأَلَتْهُ عَنِ الْمَمْلُوكِ كُمْ يَحْلُّ لَهُ أَنْ يَتَرَوَّجَ فَلَمْ يَحْلُّ لَهُ أَنْ يَتَرَوَّجَ فَأَنْ يَزَوِّجَ فَلَمْ يَحْلُّ لَهُ أَنْ يَزَوِّجَ فَأَنْ يَرْبُعَ إِمَاءً وَ قَالَ لَا بَأْسَ إِنْ كَانَ فِي يَدِهِ مَالٌ وَ كَانَ مَأْذُونًا لَهُ فِي التِّجَارَةِ أَنْ يَسْتَرِي مَا شَاءَ مِنَ الْجَوَارِيِّ وَ يَطَاهِرُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, and Muhammad Bin Khalid, altogether, from Al Qasim Bin Urwat, from Ibn Bukeyr, from Zurara,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, ‘I asked him^{asws} about the owned slaves, ‘How many that he marry?’ He^{asws} said: ‘Two free ones, or four slave girls’. And he^{asws} said: ‘There is no problem if there was wealth in his hands, and he was permitted for it regarding the business, if he keeps concubines whatever he so desires to from the slave girls, and go to them’.¹²⁷

حُمَيْدُ بْنُ زَيْدٍ عَنْ أَبْنِ سَمَاعَةَ عَنْ عَيْنِ وَاحِدٍ عَنْ أَبْنَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلَتْ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْمَمْلُوكِ يَأْذِنُ لَهُ مَوْلَاهُ أَنْ يَشْتَرِي مِنْ مَالِهِ الْجَارِيَةَ وَ التِّلَاثَ وَ التِّلَاثَ وَ رَفِيقُهُ لَهُ حَلَالٌ قَالَ يَحْدُثُ لَهُ حَدَّا لَا يُجَاوِزُهُ .

Humeyd Bin Ziyad, from Ibn Sama'at, from someone else, from Aban, from Is'haq Bin Ammar who said,

‘I asked Abu Abdallah^{asws} about the owned slave whose master had permitted for him that he can buy from his wealth, the slave girl, and two and three, and his enslaved women would be Permissible for him’. He^{asws} said: ‘He can place limits for him, which he cannot exceed’.¹²⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكْمَ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا أَدِنَ الرَّجُلُ لِعِنْدِهِ أَنْ يَسْتَرِي مِنْ مَالِهِ فَإِنَّهُ يَسْتَرِي كُمْ شَاءَ بَعْدَ أَنْ يَكُونَ قَدْ أَذِنَ لَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Musa Bin Bakr, from Zurara,

¹²⁵ Al Kafi – V 5 – The Book of Marriage Ch 116 H 1

¹²⁶ Al Kafi – V 5 – The Book of Marriage Ch 116 H 2

¹²⁷ Al Kafi – V 5 – The Book of Marriage Ch 116 H 3

¹²⁸ Al Kafi – V 5 – The Book of Marriage Ch 116 H 4

(It has been narrated) from Abu Ja'far^{asws} having said, 'When the man permits for his slave that he can keep concubines from his wealth, so he can buy as many as he so desires to, after him happened to have been permitted for it'.¹²⁹

بَابُ الْمَمْلُوكِ يَتَزَوَّجُ بَعْيَرْ إِذْنٍ مَوْلَاهُ

Chapter 118 – The owned slave gets married without a permission of his master

عَدَّهُ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّاضِرِ بْنِ سُوَيْدٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا يُجُوزُ لِلْعَبْدِ تَحْرِيرُ وَ لَا تَزْوِيجُ وَ لَا اغْطَاءُ مِنْ مَالِهِ إِلَّا بِإذْنِ مَوْلَاهُ .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having said: 'It is not allowed for the slave, neither freedom nor marriage, nor giving from his wealth except with a permission from his master'.¹³⁰

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَارَةَ عَنْ أَبِي جَعْفَرِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَهُ اللَّهُ عَنْ رَجُلٍ تَزَوَّجُ عَبْدَهُ بَعْدَ إِذْنِهِ فَدَخَلَ بِهَا ثُمَّ اطْلَعَ عَلَى ذَلِكَ مُولَّاًهُ إِلَيْهِ فَقَالَ ذَلِكَ إِلَيْهِ مُولَّاًهُ إِنْ شَاءَ فَرَقَ بَيْنَهُمَا وَإِنْ شَاءَ أَجَازَ بَيْنَهُمَا فَإِنْ فَرَقَ بَيْنَهُمَا فَلَمْ يَرْأُهُمَا إِلَّا أَنْ يُكَوِّنَ اعْتِدَى صَدِيقَاهُ صَدِيقَاهُ كَثِيرًا وَإِنْ أَجَازَ بَيْنَهُمَا عَلَيْهِمَا الْأَوْلَى

Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Musa Bin Bakr, from Zurara, from Abu Ja'far^{asws}, said.

'I asked him^{asws} about a man who got his slave married without his permission. So he slept with her, then notified his master upon that. So he^{asws} said: 'That is up to his master, if he so desires to, he effects separation between them, and if he so desires to he allows their marriage. So if he were to separate between the two, so for the woman would be whatever her dower was except if it is excessive, so her dower is a lot of dower' and if he allows his marriage, so they would both be upon their first marriage'.

فَقُلْتُ لِأَبِي جَعْفَرٍ (عليه السلام) **فَإِنَّ أَصْلَ النَّكَاحِ كَانَ عَاصِيًّا فَقَالَ أَبُو جَعْفَرٍ** (عليه السلام) **إِنَّمَا أَتَى شَيْئًا حَلَالًا وَ لَيْسَ بِعَاصِي إِنَّمَا عَصَى سَيِّدَهُ وَ لَمْ يَعْصِ اللَّهَ إِنَّ ذَلِكَ لَيْسَ كَائِنًا مَا حَرَمَ اللَّهُ عَزَّ وَ جَلَّ عَلَيْهِ مِنْ نِكَاحٍ فِي عَدَّةٍ وَ أَشْبَاهِهِ.**

So I said to Abu Ja'far^{asws}, 'It is as if the marriage was (an act of) disobedience'. So Abu Ja'far^{asws} said: 'But rather, he came to something Permissible, and he did not disobey Allah^{azwj}. But rather, he disobeyed his master, and did not disobey Allah^{azwj}. That is not like them both coming to what Allah^{azwj} Mighty and Majestic has Prohibited unto him from a marriage, regarding a waiting period and such like'.¹³¹

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِيهِ عَنْ عُمَرِ بْنِ أُبَيِّ عَنْ زُرَارَةَ عَنْ أَبِي جَعْفَرِ (عَلَيْهِ السَّلَامُ) قَالَ سَلَّمَ اللَّهُ عَلَيْهِ وَسَلَّمَ مَمْلُوكٌ تَزَوَّجُ بَعْدِ إِذْنِ سَيِّدِهِ إِنَّ سَيِّدَهُ إِلَى سَيِّدِهِ فَقَالَ ذَلِكَ إِلَى سَيِّدِهِ إِنْ شَاءَ فَرَقَ بَيْنَهُمَا فَلْتَ أَصْلَحْكَ اللَّهُ أَنْ الْحَكْمَ بْنُ عُتْبَيَةَ وَإِبْرَاهِيمَ النَّخْعَيِّ وَأَصْحَابَهُمَا يَقُولُونَ إِنَّ أَصْلَنَ النَّكَاحَ فَاسِدٌ وَلَا تَحْلِ إِجَازَةُ السَّيِّدِ لَهُ فَقَالَ أَبُو جَعْفَرِ (عَلَيْهِ السَّلَامُ) إِنَّهُ لَمْ يَعْصِ اللَّهَ إِنَّمَا عَصَى سَيِّدَهُ فَإِذَا أَجَازَهُ فَهُوَ لَهُ جَائزٌ.

¹²⁹ Al Kafi – V 5 – The Book of Marriage Ch 116 H 5

¹³⁰ Al Kafi – V 5 – The Book of Marriage Ch 117 H 1

¹³¹ Al Kafi – V 5 – The Book of Marriage Ch 117 H 2

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

(It has been narrated) from Abu Ja'far^{asws}, said, 'I asked him^{asws} about an owned slave who got married without a permission of his master. So he^{asws} said: 'That is up to his master, if he so desires to he allows it, and if he so desires to he effects separation between the two of them'. I said, 'May Allah^{azwj} Keep you^{asws} well! Al-Hakam Bin Uteyba, and Ibrahim Al-Nakhai'e, and their companions are saying that the origin of the marriage is spoilt, and it is not Permissible for the master to allow it for him'. So Abu Ja'far^{asws} said to him: 'He did not disobey Allah^{azwj}. But rather, he disobeyed his master. So when he allows it, so it is allowed for him'.¹³²

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَىٰ بْنِ الْحَكَمِ عَنْ مُعَاوِيَةَ بْنِ وَهْبٍ قَالَ جَاءَ رَجُلٌ إِلَى أَبِيهِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فَقَالَ إِنِّي كُنْتُ مَمْلُوكًا لِقَوْمٍ وَإِنِّي تَرَوَجْتُ امْرَأَةً حُرَّةً بَعْدِ إِذْنِ مَوَالِيٍّ ثُمَّ أَعْنَقْتُنِي بَعْدَ ذَلِكَ أَفْاجَدُ نِكَاحِي إِيَّاهَا حِينَ أَعْنَقْتُ فَقَالَ لَهُ أَكَانُوا عَلَيْهِمْ أَنْكَنْتُ امْرَأَةً وَأَنْتَ مَمْلُوكٌ لَهُمْ فَقَالَ نَعَمْ وَسَكَنُوا عَنِّي وَلَمْ يُعِنُّوْنِي فَقَالَ سُكُونُهُمْ عَنْكَ بَعْدَ عِلْمِهِمْ إِفْرَارٌ مِنْهُمْ أَثْبَتْ عَلَى نِكَاحِكَ الْأَوَّلِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Muawiya Bin Wahab who said,

'A man came over to Abu Abdallah^{asws}, so he said, 'I was an owned slave of a group of people, and I married a free woman without a permission of my master. Then he emancipated me after that. Do I have to renew my marriage with her when I was emancipated'. So he^{asws} said to him: 'Did they know that you had married a woman and you are an owned slave of theirs?' So he said, 'Yes, and they were silent from me, and they did not fault upon me'. So he^{asws} said: 'Their silence from you after their knowledge is an acceptance from them. You are affirmed upon your first marriage'.¹³³

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْفَضْلِ بْنِ شَادَانَ وَ عَلَىٰ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَاجِ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِيهِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي مَمْلُوكٍ تَرَوَجَ بَعْدِ إِذْنِ مَوْلَاهُ أَعَاصِيَ اللَّهَ فَقَالَ عَاصِيَ لِمَوْلَاهِ قُلْتُ حَرَامٌ هُوَ قَالَ مَا أَزْعُمْ أَنَّهُ حَرَامٌ وَ قُلْ لَهُ أَنْ لَا يَفْعَلْ إِلَّا بِإِذْنِ مَوْلَاهِ .

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, and Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj, from Mansour Bin Hazim,

(It has been narrated) from Abu Abdallah^{asws} regarding an owned slave who married without a permission from his master, has he disobeyed Allah^{azwj}? He^{asws} said: 'He disobeyed his master'. I said, 'Prohibited, is it?' He^{asws} said: 'I^{asws} do not claim that it is Prohibited, and say to him that he should not do it except with the permission of his master'.¹³⁴

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَىٰ بْنِ الْحَكَمِ عَنْ مُعَاوِيَةَ بْنِ وَهْبٍ عَنْ أَبِيهِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ فِي رَجُلٍ كَاتَبَ عَلَى نَفْسِهِ وَ مَالِهِ وَ لَهُ أَمْمَةٌ وَ قَدْ شَرِطَ عَلَيْهِ أَنْ لَا يَتَرَوَّجَ فَأَعْنَقَ الْأَمْمَةَ وَ تَرَوَجَهَا فَقَالَ لَهُ أَنْ يُحِبِّتْ فِي مَالِهِ إِلَّا الْأَكْلَةَ مِنَ الطَّعَامِ وَ نِكَاحُهُ فَاسْدُ مَرْدُودٌ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Muawiya Bin Wahab,

¹³² Al Kafi – V 5 – The Book of Marriage Ch 117 H 3

¹³³ Al Kafi – V 5 – The Book of Marriage Ch 117 H 4

¹³⁴ Al Kafi – V 5 – The Book of Marriage Ch 117 H 5

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man who contracted upon himself and upon his wealth, and for him was a slave girl, and there had been stipulated upon him that he would not get married. So he emancipated the slave girl and married her'. So he^{asws} said: 'It is not correct for him that he innovates in his wealth, except for the eating from the foodstuff, and his marriage is void, repudiated'.

قِيلَ فَإِنَّ سَيِّدَهُ عَلِمَ بِنِكَاحِهِ وَلَمْ يَقُلْ شَيْئًا قَالَ إِذَا صَمَّتْ حِينَ يَعْلَمُ بِذَلِكَ فَقَدْ أَفَرَ قِيلَ فَإِنَّ الْمُكَاتَبَ عَنِقَ أَفَرَى أَنْ يُجَدِّدَ نِكَاحَهُ أَوْ يَمْضِي عَلَى النِّكَاحِ الْأُولِ قَالَ يَمْضِي عَلَى نِكَاحِهِ .

It was said, 'Supposing his master knew of his marriage and did not say anything?' He^{asws} said: 'When he was silent when he came to know of that, so he has accepted'. It was said, 'Supposing the contractors emancipate, do you^{asws} view that he should renew his marriage, or remain upon the first marriage?' He^{asws} said: 'He remains upon his marriage'.¹³⁵

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ التَّوْفِلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلِيهِ السَّلَامُ) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) أَيْمَانًا امْرَأَةً حُرَّةً زَوَّجَتْ نَفْسَهَا عَبْدًا بِغَيْرِ إِذْنِ مَوْلَاهُ فَقَدْ أَبَاحَتْ فَرْجَهَا وَلَا صَدَاقَ لَهَا .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'Whichever free woman marries herself to a slave without a permission of his master, so she has legalized her private parts and there is no dower for her'.¹³⁶

باب المَمْلُوكَةِ تَزَوَّجُ بِغَيْرِ إِذْنِ مَوَالِيهَا

Chapter 119 – The owned slave girl gets married without the permission of her master

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ عَنْ أَخْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرِ الْبَزَنْطِيِّ عَنْ ذَوْلَدْ بْنِ الْحُسَيْنِ عَنْ أَبِي الْعَبَّاسِ قَالَ سَأَلَتْ أَبَا عَبْدِ اللَّهِ (عَلِيهِ السَّلَامُ) عَنِ الْأُمَّةِ تَزَوَّجُ بِغَيْرِ إِذْنِ أَهْلِهَا قَالَ يَحْرُمُ ذَلِكَ عَلَيْهَا وَهُوَ الزِّنَا .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr Al Bazanty, from Dawood Bin Al Husayn, from Abu Al Abbas who said,

'I asked Abu Abdullah^{asws} about the slave girl who gets married without a permission of her owner. He^{asws} said: 'It is Prohibited unto her and it would be the adultery'.¹³⁷

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانٍ عَنْ فَضْلِ بْنِ عَبْدِ الْمَلِكِ قَالَ سَأَلَتْ أَبَا عَبْدِ اللَّهِ (عَلِيهِ السَّلَامُ) عَنِ الْأُمَّةِ تَزَوَّجُ بِغَيْرِ إِذْنِ مَوَالِيهَا قَالَ يَحْرُمُ ذَلِكَ عَلَيْهَا وَهُوَ زِنَى .

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from one of his companions, from Aban, from Fazl Bin Abdul Malik who said,

'I asked Abu Abdullah^{asws} about the slave girl getting married without the permission of her masters. He^{asws} said: 'That is Prohibited unto her, and it is adultery'.¹³⁸

¹³⁵ Al Kafi – V 5 – The Book of Marriage Ch 117 H 6

¹³⁶ Al Kafi – V 5 – The Book of Marriage Ch 117 H 7

¹³⁷ Al Kafi – V 5 – The Book of Marriage Ch 118 H 1

باب الرَّجُلُ يُزَوِّجُ عَبْدَهُ أَمَّةً

Chapter 120 – The man marries his slave to his slave girl

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنَى أَبِيهِ عَمِيرٍ عَنْ حَمَادٍ عَنِ الْحَلَبِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ كَيْفَ يُنْكِحُ عَبْدَهُ أَمَّةً قَالَ يَقُولُ قَدْ أَنْكَحْنَا فُلَانَةً وَ يُعْطِيهَا مَا شَاءَ مِنْ قَبْلِهِ أَوْ مِنْ قَبْلِ مَوْلَاهُ وَ لَوْ مُدَّاً مِنْ طَعَامٍ أَوْ دِرْهَمًا أَوْ نَحْوَ ذَلِكَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby who said,

'I said to Abu Abdullah^{asws}, 'How can the man marry his slave to his slave girl?' He^{asws} said: 'He should be saying, 'I hereby marry you, so and so slave girl', and give some whatever he so desires to from himself, or on behalf of his slave, though it be a handful of foodstuff, or a Dirham, or approximately that'.¹³⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ أَبَانَ عَنْ مُحَمَّدٍ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرِ (عَلَيْهِ السَّلَامُ) فِي الْمَمْلُوكِ فَتَكُونُ لِمَوْلَاهُ أَوْ لِمَوْلَاهِ أَمَّةٍ فَيُرِيدُ أَنْ يَجْمَعَ بَيْنَهُمَا أَيُّكُحُّهُ نِكَاحًا أَوْ يُجْزِئُهُ أَنْ يَقُولُ قَدْ أَنْكَحْنَا فُلَانَةً وَ يُعْطِي مِنْ قَبْلِهِ شَيْئًا أَوْ مِنْ قَبْلِ الْعَبْدِ قَالَ نَعَمْ وَ لَوْ مُدَّاً وَ قَدْ رَأَيْتَهُ يُعْطِي الدِّرْهَمَ .

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

(It has been narrated) from Abu Ja'far^{asws} regarding the owned slave, so there happens to be for his master or for her mistress, a slave girl. So he intends to gather between the two of them. Would his marriage be a (valid) marriage, or would it suffice him if he is saying, 'I have married you to so and so woman, and he gives something from himself, or on behalf of the slave?' He^{asws} said: 'Yes, and even if it is a handful, and it is my^{asws} view that he should give the Dirham'.¹⁴⁰

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِي إِسْحَاقِ الْخَفَافِيِّ عَنْ مُحَمَّدٍ بْنِ أَبِي زَيْدٍ عَنْ أَبِي هَارُونَ الْمَكْفُوفِ قَالَ قَالَ لِي أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَيْسُرُكَ أَنْ يَكُونَ لَكَ قَائِدٌ يَا أَبَا هَارُونَ قَالَ قُلْتُ نَعَمْ جُعْلْتُ فِدَاكَ قَالَ فَأَعْطَانِي ثَلَاثِينَ دِينَارًا فَقَالَ اشْتَرِ خَادِمًا كُسُومِيًّا فَاشْتَرَاهُ فَلَمَّا أَنْ حَجَّ دَخَلَ عَلَيْهِ فَقَالَ لَهُ كَيْفَ رَأَيْتَ فَدِيَكَ يَا أَبَا هَارُونَ فَقَالَ حَيْرًا

Ali Bin Ibrahim, from his father, from Abu Is'haq Al Khannaf, from Muhammad Bin Abu Zayd, from Abu Haroun Al Makfouf who said,

'Abu Abdullah^{asws} said to me: 'Would it cheer you up if there happened to be a (travel) guide for you, O Abu Haroun! I said, 'Yes, may I be sacrificed for you^{asws}! So he^{asws} gave me thirty Dinars and said: 'Buy a male *Kasoumiyya* servant'. So I bought him. So when I went to Hajj, I went over to him^{asws}. (He (the narrator) said, 'So he^{asws} said to him: 'How do you see your (travel) guide, O Abu Haroun?' So he said, 'Good'.

فَأَعْطَاهُ خَمْسَةً وَ عَشْرِينَ دِينَارًا فَقَالَ لَهُ اشْتَرِ جَارِيَةً شَبَانِيَّةً فَإِنَّ أَوْلَادَهُنَّ فُرَّةٌ فَاشْتَرَيْتُ جَارِيَةً شَبَانِيَّةً فَرَوَجْنَهَا مِنْهُ فَأَصَبَثَ تَلَاثَ بَنَاتٍ فَأَهَدَيْتُ وَاحِدَةً مِنْهُنَّ إِلَى بَعْضٍ وَ لَدُ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) وَ أَرْجُو أَنْ يَجْعَلَ ثَوَابِي مِنْهَا الْجَنَّةَ وَ بَقِيَتْ بَنَاتٍ مَا يَسِّرُنِي بِهِنَّ الْوَفْ .

So he^{asws} gave him twenty five Dinars and said to him: 'Buy a slave girl, for her children would be a delight'. So I bought a young slave girl and got her married to

¹³⁸ Al Kafi – V 5 – The Book of Marriage Ch 118 H 2

¹³⁹ Al Kafi – V 5 – The Book of Marriage Ch 119 H 1

¹⁴⁰ Al Kafi – V 5 – The Book of Marriage Ch 119 H 2

him. So she attained three daughters, and I gifted one of them to one of the children of Abu Abdullah^{asws}, and hoped that he^{asws} would make my Reward from it to be the Paradise, and I remained with two, what made me to be cheerful thousands of times'.¹⁴¹

باب نِكَاحِ الْمَرْأَةِ الَّتِي بَعْضُهَا حُرٌّ وَ بَعْضُهَا رَقٌ

Chapter 121 – Marriage of the woman whom part of her is free and part of her is enslaved

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ الْبَشِّيرِ قَالَ سَأَلَنَاهُ عَنِ الرَّجُلِ تَكُونُ بَيْنَهُمَا الْأُمَّةُ فَيُعْتَقُ أَحَدُهُمَا نَصِيبَهُ فَتَقُولُ الْأُمَّةُ لِلَّذِي لَمْ يُعْتَقْ لَا يَنْبَغِي فَقَوْمَنِي وَ ذَرْنِي كَمَا أَنَا أَخْدُمُكَ أَرَأَيْتَ إِنْ أَرَادَ الذِّي لَمْ يُعْتَقَ النَّصْفَ الْأَخْرَ أَنْ يَطَّافَهَا أَلَّهُ ذَلِكَ قَالَ لَا يَنْبَغِي لَهُ أَنْ يَفْعَلَ [ذَلِكَ] لِأَنَّهُ لَا يَكُونُ لِلْمَرْأَةِ فَرْجَانٌ وَ لَا يَنْبَغِي لَهُ أَنْ يَسْتَخِدَهَا وَ لَكِنْ يَسْتَسْعِيهَا فَإِنْ أَبْتَ كَانَ لَهَا مِنْ نَفْسِهَا يَوْمٌ وَ لَهُ يَوْمٌ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Ali Bin Raib, from Abu Baseer who said,

'I asked him^{asws} about the man who happened to have the slave girl between them. So, one of them emancipated his share. So the slave girl said to the one who did not emancipate, 'Do not seek me. Evaluate me and leave me as if I am your servant'. What is your^{asws} view if the one who did not emancipate the other half, intends to sleep with her. Would that be for him?' He^{asws} said: 'It is not befitting for him that he does that, because there do not happen to be two private parts for the woman, although it is not befitting for him that he make her serve, but he should make her serve. So, if she were to refuse, there would be a day for herself, and a day for him'.¹⁴²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِّيلِ عَنْ أَبِي الصَّبَّاجِ الْكَنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَنَاهُ عَنْ رَجُلٍ تَكُونُ بَيْنَهُمَا الْأُمَّةُ فَيُعْتَقُ أَحَدُهُمَا نَصِيبَهُ فَتَقُولُ الْأُمَّةُ لِلَّذِي لَمْ يُعْتَقْ نَصْفُهُ لَا أَرِيدُ أَنْ تَقُومَنِي ذَرْنِي كَمَا أَنَا أَخْدُمُكَ وَ إِنَّهُ أَرَادَ أَنْ يَسْتَشْكِحَ النَّصْفَ الْأَخْرَ قَالَ لَا يَنْبَغِي لَهُ أَنْ يَفْعَلَ لِأَنَّهُ لَا يَكُونُ لِلْمَرْأَةِ فَرْجَانٌ وَ لَا يَنْبَغِي أَنْ يَسْتَخِدَهَا وَ لَكِنْ يَقْوِمُهَا فَيَسْتَسْعِيهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Muhammad Bin Al Fuzaul, from Abu Al Sabbah Al Kinany,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about two men who happened to have the slave girl between them. So one of them emancipated his share of her, and the slave girl said to the one who did not emancipate his share, 'I do not want that you evaluate me. Leave me just as I am your servant', and he wanted to marry the other half'. He^{asws} said: 'Is it not befitting for him that he does so, because there do not happen to be two private parts for the woman, and it is not befitting that he makes her serve, but he should evaluate her, so he can make her work for it (to be paid off)'.¹⁴³

¹⁴¹ Al Kafi – V 5 – The Book of Marriage Ch 119 H 3

¹⁴² Al Kafi – V 5 – The Book of Marriage Ch 120 H 1

¹⁴³ Al Kafi – V 5 – The Book of Marriage Ch 120 H 2

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِينَ رَبَّاَتِ عَنْ مُحَمَّدِ بْنِ [قَيْسٍ] عَنْ أَبِي حَفْرٍ (عَلَيْهِ السَّلَامُ)
قَالَ سَالَتْهُ عَنْ جَارِيَةٍ بَيْنَ رَجُلَيْنِ دَبَّرَاَهَا جَمِيعاً ثُمَّ أَحْلَّ أَحَدُهُمَا فَرْجَهَا لِشَرِيكِهِ قَالَ هُوَ لَهُ حَالٌ وَأَيْهُمَا مَاتَ قَبْلَ صَاحِبِهِ
فَقَدْ صَارَ نَصْفُهَا حَرَّاً مِنْ قَبْلِ الْذِي مَاتَ وَنَصْفُهَا مُدَبِّراً

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Raib, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws}, said, 'I asked him^{asws} about a slave girl between two men who both managed her together. Then one of the two permitted her sanctity to his partner. He^{asws} said: 'It is Permissible for him, and whichever of the two dies before his companion, so half of her would be free from the side of the one who dies, and half of her would be managed'.

فُلْتُ أَرَيْتَ إِنْ أَرَادَ الْبَاقِي مِنْهُمَا أَنْ يَمْسَهَا أَلْهَ ذَلِكَ قَالَ لَا إِلَّا أَنْ يَبْتَعِ عَنْهُمَا وَيَتَرَوَّجَهَا بِرِضاً مِثْلَ مَا أَرَادَ فُلْتُ لَهُ أَلْسِنْ قَدْ صَارَ نَصْفُهَا حُرَاً قَدْ مَلَكَ نَصْفَ رَفْقَتِهَا وَالنَّصْفُ الْأَخْرُ الْبَاقِي، مِنْهُمَا قَالَ لَيْلَى

I said, 'What is your^{asws} view if the remaining one of the two wants to touch her, would that be for him?' He^{asws} said: 'No, unless decided her emancipation, and he marries her with her pleasure from it, similar to what he intends'. I said to him^{asws}, 'Did not half of her become free, and she was in control of her emancipated half, and the other half being for the remaining one of the two?' He^{asws} said: 'Yes'.

فَلَمْ يَأْتِ فَلَمْ يَجِدْ مَوْلَاهَا فِي حَلَّ مِنْ فَرْجَهَا وَ أَحَدَتْ لَهُ ذَلِكَ قَالَ لَا يَجُوزُ لَهُ ذَلِكَ فَلَمْ يَأْتِ فَلَمْ يَجِدْ كَمَا أَجَزَتْ اللَّذِي كَانَ لَهُ نِصْفُهَا حِينَ أَحَلَ فَرْجَهَا لِشَرِيكِهِ مِنْهَا قَالَ إِنَّ الْحُرَّةَ لَا تَهُبُ فَرْجَهَا وَ لَا تُعِيرُهُ وَ لَا تُحَلِّهُ وَ لِكُنْ لَهَا مِنْ نَفْسِهَا يَوْمٌ وَ لِلَّذِي دَبَرَهَا يَوْمٌ فَإِنْ أَحَبَ أَنْ يَتَرَوَّجَهَا مُنْعَةً بِشَيْءٍ فِي الْيَوْمِ الَّذِي تَمَلَّكَ فِيهِ نَفْسَهَا فَلَيَتَمَمِّعْ مِنْهَا بِشَيْءٍ قَلْ أَوْ كَثِيرًا.

I said, ‘Supposing she were to make her master to be in permission from her private parts, would that be Permissible for her?’ He^{asws} said: ‘That is not allowed for him’. I said, ‘Why is that not allowed for her just as she allowed is for the one who had half of her for him, where she allowed her private part to his partner from it?’ He^{asws} said: ‘The free woman can neither gift her private part, nor can she expose it, nor permit it, but for her from her half would be a day, and for the one who manages her would be a day. I^{asws} would love it if he would marry her by *Mut'a* with something during the day which she is in control of herself, so let him do *Mut'a* with her with something, be it little or more’.¹⁴⁴

مُحَمَّدُ بْنُ يَحْيَىٰ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ الْعَبَّاسِ بْنِ مَعْرُوفٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ سَلَّمَةُ عَنْ رَجُلٍ كَانَتْ مَعْنَاهُ أَمْمَةً فَرَوَّجَهَا مِنْ رَجُلٍ ثُمَّ أَنَّ الرَّجُلَ اشْتَرَى بَعْضَ السَّمَمِينَ فَقَالَ حَرُمَتْ عَلَيْهِ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Al Abbas Bin Marouf, from Al Hassan Bin Muhammad, from Zur'at, from Sama'at who said:

'I asked him^{asws} about two men between them was a slave girl. So they both got her married to a man. Then the man bought part of the two shares. So he^{asws} said: 'She would be Prohibited unto him'¹⁴⁵

¹⁴⁴ Al Kafi – V 5 – The Book of Marriage Ch 120 H 3

¹⁴⁵ Al Kafi – V 5 – The Book of Marriage Ch 120 H 3

باب الرَّجُلِ يُشْتَرِي الْجَارِيَةَ وَلَهَا زَوْجٌ حُرٌّ أَوْ عَبْدٌ

Chapter 122 – The man buys the slave girl, and for her is a husband, be he free or a slave

مُحَمَّدٌ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ وَأَبْيُونَ عَلَيِّ الْأَشْعَرِيِّ عَنْ مُحَمَّدٍ بْنِ عَبْدِ الْجَبَارِ جَمِيعاً عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ أَبْنِ مُسْكَانٍ عَنِ الْخَسَنِ بْنِ زَيْدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ اشْتَرَى جَارِيَةً يَطْلُوْهَا فَبَلَغَهُ أَنَّ لَهَا زَوْجًا قَالَ يَطْلُوْهَا فَإِنَّ بَيْعَهَا طَلَاقُهَا وَذَلِكَ أَنَّهُمَا لَا يَعْدَرَانِ عَلَى شَيْءٍ مِّنْ أَمْرِهِمَا إِذَا بِيعَا.

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, altogether from Safwan Bin Yahya, from Ibn Muskan, from Al Hassan Bin Ziyad who said,

'I asked Abu Abdullah^{asws} about a man who bought a slave girl. He slept with her, and (news) reached him that for her is a husband. He^{asws} said: 'He can sleep with her, for her sale is her divorce, and that is because they are both not able upon anything from their matters, when there is a sale'.¹⁴⁶

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَادٍ بْنِ عِيسَى عَنْ رَبِيعِيْ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْأَمَةِ تَبَاعُ وَلَهَا زَوْجٌ فَقَالَ صَفَقَهَا طَلَاقُهَا.

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Rabie Bin Abdullaah, from Abdul Rahman Bin Abu Abdullaah who said,

'I asked Abu Abdullaah^{asws} about the slave girl who is sold and for her is a husband. So he^{asws} said: 'Her take-over is her divorce'.¹⁴⁷

عَلَيُّ عَنْ أَبِيهِ عَنْ أَبْنِ أَدِينَةَ عَنْ بُكَيْرٍ بْنِ أَعْيَنَ وَبُرَيْدٍ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ وَأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ اشْتَرَى مَمْوُكَةً لَهَا زَوْجٌ فَإِنَّ بَيْعَهَا طَلَاقُهَا فَإِنْ شَاءَ الْمُشْتَرِي فَرَقَ بَيْنَهُمَا وَإِنْ شَاءَ تَرَكَهُمَا عَلَى نِكَاحِهِمَا.

Ali, from his father, from Ibn Abu Umeyr, from Ibn Azina, from Bukeyr Bin Ayn, and Bureyd Bin Muawiya,

(It has been narrated) from Abu Ja'far^{asws} and Abu Abdullaah^{asws} both having said: 'The one who buys a slave girl who has a husband for her, so her sale is her divorce. So, if the buyer so desires to, he effects separation between them, and if he so desires to he leaves them both upon their marriage'.¹⁴⁸

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدٍ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ طَلَاقُ الْأَمَةِ بَيْعُهَا أَوْ بَيْعُ زَوْجِهَا وَقَالَ فِي الرَّجُلِ يُزَوِّجُ أُمَّتَهُ رَجُلًا حُرًّا ثُمَّ بَيْعُهَا قَالَ هُوَ فَرَاقُ مَا بَيْنَهُمَا إِلَّا أَنْ يَسْأَلَ الْمُشْتَرِي أَنْ يَدْعَهُمَا.

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

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'A divorce of the slave girl is her sale, or sale of her husband'. And he^{asws} said regarding the

¹⁴⁶ Al Kafi – V 5 – The Book of Marriage Ch 121 H 1

¹⁴⁷ Al Kafi – V 5 – The Book of Marriage Ch 121 H 2

¹⁴⁸ Al Kafi – V 5 – The Book of Marriage Ch 121 H 3

man who married his slave girl to a free man, then sold her. He^{asws} said: 'It is a separation of what is between them unless the buyer so desires to leave them (to be upon their marriage)'.¹⁴⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ الْعَبَاسِ بْنِ مَعْرُوفٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ سَأَلَتُهُ عَنْ رَجُلٍ ثُمَّ إِنْ رَجُلًا اشْتَرَى بَعْضَ السَّهْمِينَ قَالَ حَرُمَتْ عَلَيْهِ بِشَرَائِهِ إِلَيْهَا وَذَلِكَ أَنَّ بَيْعَهَا طَلَاقُهَا إِلَّا أَنْ يَشْتَرِيهَا مِنْ جَمِيعِهِمْ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Al Abbas Bin Marouf, from Al Hassan Bin Muhammad, from Zurara, from Sama'at who said,

'I asked him^{asws} about two men who had a slave girl between them, so they got her married to a man. Then the man bought part of their shares. He^{asws} said: 'She is Prohibited unto him by his stipulation of her, and that is that her sale is her divorce, unless he buys her from them entirely'.¹⁵⁰

باب المَرْأَةِ تَكُونُ زَوْجَةَ الْعَبْدِ ثُمَّ تَرِثُهُ أَوْ تَشْتَرِيهِ فَيَصِيرُ زَوْجَهَا عَبْدَهَا

Chapter 123 – The woman happens to be the wife of the slave, then she inherits him or she buys him, so her husband becomes her slave

عَلَيُّ بْنُ أَبِرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبْنَى نَجْرَانَ عَنْ حَمِيدِ بْنِ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي سُرِّيَّةٍ رَجُلٌ وَلَدُتْ لِسَيِّدِهِ ثُمَّ اعْتَزَلَ عَنْهَا فَانْكَحَهَا عَبْدُهُ ثُمَّ تُوْقِيَ سَيِّدُهَا وَأَعْنَقَهَا فَوَرَثَ وَلَدُهَا رَوْجَهَا مِنْ أَبِيهِ ثُمَّ تُوْقِيَ وَلَدُهَا فَوَرَثَتْ رَوْجَهَا مِنْ وَلَدِهَا فَجَاءَ يَخْتَلِفُانِ يَقُولُ الرَّجُلُ امْرَأَتِي وَلَا أَطْلَقُهَا وَالْمَرْأَةُ تَقُولُ عَبْدِي وَلَا يُجَامِعُنِي

Ali Bin Ibrahim, from his father, from Ibn Abu Najra, from Aasim Bin Humeyr, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a concubine of a man who gave birth for her master. Then he isolated from her, so his slave married her. Then her master died and emancipated her. So her inherited her husband from his father. Then her son died, so she inherited her husband from her son. So they went on to dispute. The man was saying, 'She is my wife, and I have not divorced her', and the wife was saying, 'He is my slave he should not be copulating with me'.

قَالَتِ الْمَرْأَةُ يَا أَمِيرَ الْمُؤْمِنِينَ إِنَّ سَيِّدِي نَسَرَانِي وَلَدًا ثُمَّ اعْتَزَلَنِي فَانْكَحَنِي مِنْ عَبْدِهِ هَذَا فَلَمَّا حَضَرَتْ سَيِّدِي الْوَفَاءَ أَعْنَقَنِي عَنْدَ مَوْتِهِ وَأَنَا رَوْجَهُ هَذَا وَإِنَّهُ صَارَ مَمْلُوكًا لِوَلَدِي الَّذِي وَلَدَتْهُ مِنْ سَيِّدِي وَإِنَّ وَلَدِي مَاتَ فَوَرَثَتْهُ هَلْ يَصْلُحُ لَهُ أَنْ يَطَّافِنِي

So the woman said, 'O Amir Al-Momineen^{asws}! My master had kept me as a concubine, so he made me give birth to a son. Then he isolated from me, and got me married to this slave of his. So when the death presented itself to my master, he emancipated me during his death, and I am a wife of this one, and he has become

¹⁴⁹ Al Kafi – V 5 – The Book of Marriage Ch 121 H 4

¹⁵⁰ Al Kafi – V 5 – The Book of Marriage Ch 121 H 5

an owned slave of my son whom I gave birth to from my master. And then my son dies, so I inherited him. Is it correct for him that he sleeps with me?’

فَقَالَ لَهَا هَلْ جَاءَكِ مُنْدُ صَارَ عَبْدَكِ وَ أَنْتِ طَائِعَةٌ قَالَتْ لَا يَا أَمِيرَ الْمُؤْمِنِينَ قَالَ لَوْ كُنْتِ فَعَلْتِ لَرَجْمُتُكِ اذْهَبِي فَإِنَّهُ عَبْدَكِ لَيْسَ لَهُ عَلَيْكِ سَبِيلٌ إِنْ شِئْتِ أَنْ تَبْيَعِي وَ إِنْ شِئْتِ أَنْ تُرْفَقِي وَ إِنْ شِئْتِ أَنْ تُعْتَقِي .

So he^{asws} said to her: ‘Has he slept with you since he came to be your slave and you were willing?’ She said, ‘No, O Amir Al-Momineen^{asws}! He^{asws} said: ‘Had you done it, you would have been stoned. Go, for he is your slave. There is no way for him upon you. If you so desire to you sell him, and if you so desire to you leave him, and if you so desire to you emancipate him’.¹⁵¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَادَ بْنِ عِيسَى عَنْ عَبْدِ اللَّهِ بْنِ سَيَّانَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي رَجُلٍ زَوْجٌ وَلِدٌ لَهُ مَمْلُوكٌ ثُمَّ مَاتَ الرَّجُلُ فَوَرَثَهُ أَبْنُهُ فَصَارَ لَهُ نَصِيبٌ فِي زَوْجِ أُمِّهِ ثُمَّ ماتَ الْوَلَدُ أَتَرَثَهُ أُمُّهُ قَالَ نَعَمْ قَالَ فَإِذَا وَرَثَهُ كَيْفَ تَصْنَعُ وَ هُوَ زَوْجُهَا قَالَ تُفَارِقُهُ وَ لَيْسَ لَهُ عَلَيْهَا سَبِيلٌ وَ هُوَ عَبْدُهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Hammad Bin Isa, from Abdullah Bin Al Mugheira, from Abdullah Bin Sinan who said,

‘I heard Abu Abdullah^{asws} saying regarding a man who married a mother of a child of a slave of his. Then the man died, so his son inherited her. So there came to be a share for him in the husband of his mother. Then the son died. Would his mother inherit him?’ He^{asws} said: ‘Yes’. I said, ‘So, when she inherits him, how would she deal, and he is her husband?’ He^{asws} said: ‘She would separate from him, and there would be no way for him over her, and he would be his slave’.¹⁵²

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِنِ أَبِيهِ عُمَيْرٍ عَنْ سَيْفِ بْنِ عَمِيرَةَ وَ مُحَمَّدِ بْنِ أَبِي حَمْزَةَ عَنْ إِسْحَاقِ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي امْرَأَةٍ لَهَا زَوْجٌ مَمْلُوكٌ فَمَاتَ مُوْلَاهُ فَوَرَثَتْهُ قَالَ لَيْسَ بِيَنْهُمَا نِكَاحٌ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Sayf Bin Ameyra and Muhammad Bin Abu Hamza, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a woman for whom there was a slave husband. So his master died, and she inherited him. He^{asws} said: ‘There is no marriage between the two of them’.¹⁵³

أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ أَبِي يُوبَ بْنِ سَعِيدٍ عَنْ صَفْوَانَ عَنْ سَعِيدِ بْنِ سَارَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ امْرَأَةٍ حُرَّةٍ تَكُونُ تَحْتَ الْمَمْلُوكِ فَتَشْرِيكِهِ هَلْ يَبْطُلُ نِكَاحُهُ قَالَ نَعَمْ لِأَنَّهُ عَبْدَ مَمْلُوكٍ لَا يَقْدِرُ عَلَى شَيْءٍ .

Abu Al Abbas Muhammad Bin Ja'far, from Ayoub Bin Nuh, from Safwan, from Saeed Bin Yasaar who said,

‘I asked Abu Abdullah^{asws} about a free woman who happened to be under the owned slave (as a wife), so she bought him. Would his marriage be invalidated?’ He^{asws} said: ‘Yes, because he is an owned slave, not be able upon anything’.¹⁵⁴

¹⁵¹ Al Kafi – V 5 – The Book of Marriage Ch 122 H 1

¹⁵² Al Kafi – V 5 – The Book of Marriage Ch 122 H 2

¹⁵³ Al Kafi – V 5 – The Book of Marriage Ch 122 H 3

¹⁵⁴ Al Kafi – V 5 – The Book of Marriage Ch 122 H 4

باب المرأة تكون لها زوج مملوك فترثه بعد ثم تعتقه وترضى به

Chapter 124 – The woman happens to have a husband for her, an owned slave, so she inherits him afterwards, then she emancipates him, and she is pleased with him (being her husband)

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحَسَنِ بْنِ عَلَىٰ بْنِ فَضَّالٍ عَنْ عَبْدِ اللَّهِ بْنِ بَكْرٍ عَنْ عُبَيْدِ بْنِ زُرَارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي امْرَأَةٍ كَانَ لَهَا زَوْجٌ مَمْلُوكٌ فَوَرِثَتْهُ فَأَعْنَقَتْهُ هُنْ يَكُونُونَ عَلَىٰ نِكَاحِهِمَا الْأَوَّلِ قَالَ لَا وَ لَكِنْ يُجَدِّدُهُنَّ نِكَاحًا آخَرَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali Bin Fazzal, from Abdullah Bin Bukeyr, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdallah^{asws} regarding a woman who had a slave husband for her, so she inherited him, and emancipated him. Would they both happen to be upon their first marriage?' He^{asws} said: 'No, but they would both renew with another marriage'.¹⁵⁵

حُمَيْدُ بْنُ زَيَادٍ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ وَ غَيْرِهِ عَنْ أَبَانِ بْنِ عُثْمَانَ عَنْ الْفَضْلِ بْنِ عَبْدِ الْمُلَكِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنِ امْرَأَةٍ وَرِثَتْ زَوْجَهَا فَأَعْنَقَتْهُ هُنْ يَكُونُونَ عَلَىٰ نِكَاحِهِمَا الْأَوَّلِ قَالَ لَا وَ لَكِنْ يُجَدِّدُهُنَّ نِكَاحًا .

Humeyr Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ja'far Bin Sama'at, and someone else, from Aban Bin Usman, from Al Fazl Bin Abdul Malik who said,

'I asked Abu Abdallah^{asws} about a woman who inherited her husband (a slave), so she emancipated him. Would they both happen to be upon their first marriage?' He^{asws} said: 'No, but they would both be renewing their marriage'.¹⁵⁶

باب الأمة تكون تحت المملوك فتعتق أو يعتقان جميعاً

Chapter 125 – The slave girl who happens to be under the owned slave, so she is emancipated, or they are both emancipated together

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِنِ أَبِيهِ عَنْ حَمَادٍ عَنْ الْحَلَبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ أَمَةٍ كَانَتْ تَحْتَ عَبْدِ فَأَعْنَقَتِ الْأَمْمَةَ قَالَ أَمْرُهَا بِيَدِهَا إِنْ شَاءَتْ تَرَكْتُ نَفْسَهَا مَعَ زَوْجِهَا وَ إِنْ شَاءَتْ نَزَعْتُ نَفْسَهَا مِنْهُ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad, from Al Halby who said,

'I asked Abu Abdallah^{asws} about a slave girl who was under a slave, so the slave girl was emancipated. He^{asws} said: 'Her command is in her hands. If she so desires to she leaves herself with her husband, and if she so desires to she removes herself from him'.

¹⁵⁵ Al Kafi – V 5 – The Book of Marriage Ch 123 H 1

¹⁵⁶ Al Kafi – V 5 – The Book of Marriage Ch 123 H 2

وَذَكَرَ أَنَّ بَرِيرَةَ كَانَتْ عِنْدَ زَوْجِهَا وَ هِيَ مَمْلُوكَةٌ فَاسْتَرْتَهَا عَائِشَةُ فَأَعْنَقَتْهَا فَخَيْرَهَا رَسُولُ اللَّهِ (صَلَى اللَّهُ عَلَيْهِ وَآلِهِ) وَ قَالَ إِنْ شَاءَتْ أَنْ تَقْرَأَ عِنْدَ زَوْجِهَا وَ إِنْ شَاءَتْ فَارْقَطْهُ وَ كَانَ مَوَالِيهَا الَّذِينَ بَاعُوهَا اشْتَرَطُوا عَلَى عَائِشَةَ أَنْ لَهُمْ وَلَاءُهَا فَقَالَ رَسُولُ اللَّهِ (صَلَى اللَّهُ عَلَيْهِ وَآلِهِ) الْوَلَاءُ لِمَنْ أَعْنَقَ

And he^{asws} mentioned that Bureyra was with a husband of hers, and she was an owned slave. So Ayesha bought her and emancipated her. So Rasool-Allah^{saww} gave her a choice and said: 'If she so desires to she stays with her husband, and if she so desires to, she separates from him'; and it was so that her masters who had sold her had stipulated upon Ayesha that her mastership would be for them. So Rasool-Allah^{saww} said: 'The mastership is for the one who emancipates'.

وَ تُصَدِّقَ عَلَى بَرِيرَةَ بِلْحُمْ فَأَهَدَتْهُ إِلَى رَسُولِ اللَّهِ (صَلَى اللَّهُ عَلَيْهِ وَآلِهِ) لَا يَأْكُلُ لَحْمَ الصَّدَقَةِ فَجَاءَ رَسُولُ اللَّهِ (صَلَى اللَّهُ عَلَيْهِ وَآلِهِ) وَ الْلَّحْمُ مُعَافٌ فَقَالَ مَا شَاءَنَ هَذَا الْلَّحْمُ لَمْ يُطْبَخْ فَقَالَتْ يَا رَسُولَ اللَّهِ صَدَقَ بِهِ عَلَى بَرِيرَةَ وَ أَنْتَ لَا تَأْكُلُ الصَّدَقَةَ فَقَالَ هُوَ لَهَا صَدَقَةٌ وَ لَنَا هَدِيَةٌ ثُمَّ أَمْرَ بِطَبَخِهِ فَجَاءَ فِيهَا تَلَاثٌ مِنَ السُّنَنِ .

And some meat was given in charity to Bureyra, so she gifted it to Rasool-Allah^{saww}. So Ayesha kept it aside and said, 'Rasool-Allah^{saww} does not eat the charity'. So Rasool-Allah^{saww} came over and the meat was kept aside, so he^{saww} said: 'What is the matter with this meat not having been cooked?' So she said, 'O Rasool-Allah^{saww}! It was given in charity with upon Bureyra and you^{saww} do not eat the charity'. So he^{saww} said: 'It is a charity for her, and for us^{saww} it is a gift'. Then he^{saww} ordered with cooking it. Thus, there flowed three Sunnahs in it'.¹⁵⁷

أَبُو عَلَيِّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَارِ عَنْ صَفْوَانَ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ الْفَضْلِ بْنِ شَادَانَ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عِيسَى بْنِ الْفَاسِيمِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِنَّ بَرِيرَةَ كَانَ لَهَا زَوْجٌ فَلَمَّا أَعْنَقَتْ خُيُورٌ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, from Safwan Bin Yahya, from Ays Bin Al Qasim who said,

'Abu Abdullah^{asws} said: 'Bureyra had a husband for her. So when she was emancipated, she had a choice (to be with him or not)'.¹⁵⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سَيَّانَ قَالَ سَعَثْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا أَعْنَقْتَ مَمْلُوكَيْكَ رَجُلًا وَ امْرَأَهُ فَلَيْسَ بِيَنْهُمَا نِكَاحٌ وَ قَالَ إِنْ أَحْبَبْتَ أَنْ يَكُونَ زَوْجَهَا كَانَ ذَلِكَ بِصَدَاقٍ

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

'I heard Abu Abdullah^{asws} saying: 'When two owned slaves of yours, a man and his wife, are emancipated, so there is no marriage between them'. And he^{asws} said: 'If she so likes, he can be her husband, and that would be with a dower'.

قَالَ وَ سَأَلْتُهُ عَنِ الرَّجُلِ يُنْكِحُ عَبْدَهُ أَمَّهُ ثُمَّ أَعْنَقَهَا خُيَرٌ فِيهِ أُمْ لَا قَالَ نَعَمْ ثُخَيَرٌ فِيهِ إِذَا أَعْنَقْتُ .

He (the narrator) said, 'And I asked him^{asws} about the man who got his slave to be married to his slave girl. Then he emancipated her. Would she have a choice

¹⁵⁷ Al Kafi – V 5 – The Book of Marriage Ch 124 H 1

¹⁵⁸ Al Kafi – V 5 – The Book of Marriage Ch 124 H 2

regarding it or not?' He^{asws} said: 'Yes, she would have a choice in it (to stay with him or not) when she is emancipated'.¹⁵⁹

حُمَيْدُ بْنُ زَيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبَيِ عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي بَرِيرَةِ ثَلَاثٍ مِنَ السُّنْنِ حِينَ أَعْتَقْتُ فِي التَّخِيَّرِ وَفِي الصَّدَقَةِ وَفِي الْوَلَاءِ .

Humeyd Bin Ziyad, from Ibn Sama'at, from someone else, from Aban, from the one who narrated it,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'Regarding Bureyra, there are three Sunnahs when she was emancipated – regarding the choice, and regarding the charity, and regarding the mastership'.¹⁶⁰

عَدَّةُ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عَيْسَى عَنْ سَمَاعَةَ قَالَ ذَكَرَ أَنَّ بَرِيرَةَ مَوْلَةَ عَائِشَةَ كَانَ لَهَا زَوْجٌ عَبْدٌ فَلَمَّا أَعْنَقْتُ قَالَ لَهَا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) اخْتارِي إِنْ شِئْتِ أَقْنَتْ مَعَ زَوْجِكَ وَإِنْ شِئْتِ فَلَا .

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

'(He^{asws}) mentioned that Bureyra was a slave of Ayesha and had a husband for her who was a slave. So when she was emancipated, Rasool-Allah^{saww} said to her: 'Choose! If you so desire to you can stay with your husband, and if your so desire to, so no'.¹⁶¹

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنْ الْفَضْلِ بْنِ شَاذَانَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ رِبْعَيِّ بْنِ عَبْدِ اللَّهِ عَنْ بُرَيْدَ بْنِ مُعَاوِيَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ كَانَ زَوْجُ بَرِيرَةَ عَبْدًا .

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, from Ibn Abu Umeyr, from Rabie Bin Abdulla, from Bureyd Bin Muawiya,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The husband of Bureyra was a slave'.¹⁶²

باب المَمْلُوكِ تَحْتَهُ الْحَرَّةُ فَيُعْتَقُ

Chapter 126 – The owned slave under whom is the free woman (as a wife), so he is emancipated

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي رَيَّابٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْعَبْدِ يَتَزَوْجُ الْحَرَّةَ ثُمَّ يُعْنَقُ فَيُصِيبُ فَاجْسَهُ قَالَ فَقَالَ لَا يُرْجِمَ حَتَّى يُوَاقِعُ الْحَرَّةَ بَعْدَ مَا يُعْنَقُ قُلْتُ فَلِلْحَرَّةِ عَنِيهِ الْخِيَارُ إِذَا أَعْنَقْتُ قَالَ لَا قَدْ رَضِيَتْ بِهِ وَهُوَ مَمْلُوكٌ فَهُوَ عَلَى نِكَاحِهِ الْأَوَّلِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Raib, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding the slave who marries the free woman, then he is emancipated, so he commits immorality. So he^{asws} said: 'He

¹⁵⁹ Al Kafi – V 5 – The Book of Marriage Ch 124 H 3

¹⁶⁰ Al Kafi – V 5 – The Book of Marriage Ch 124 H 4

¹⁶¹ Al Kafi – V 5 – The Book of Marriage Ch 124 H 5

¹⁶² Al Kafi – V 5 – The Book of Marriage Ch 124 H 6

would not be stoned until he falls upon the free woman after having been emancipated'. I said, 'So, for the free woman would be the choice upon him, when he is emancipated?' He ^{asws} said: 'No. She was pleased with him and he was a slave, so he would be upon his first marriage'.¹⁶³

باب الرَّجُلِ يَشْتَرِي الْجَارِيَةَ الْحَامِلَ فَيَطْوُهَا فَنَلِدَ عَذْدَهُ

Chapter 127 – The man buys the pregnant slave girl, so he sleeps with her, and she gives birth with him

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَىٰ بْنِ الْحَكَمِ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عليه السلام) عَنْ رَجُلٍ اشْتَرَى جَارِيَةً حَامِلًا وَ قَدْ اسْتَبَانَ حَمْلُهَا فَوَطَنَهَا قَالَ بِنُسْ مَا صَنَعْ قُلْتُ فَمَا تَقُولُ فِيهِ قَالَ أَعَزَّلَ عَنْهَا أَمْ لَا قُلْتُ أَجِنْبِي فِي الْوَجْهِيْنِ قَالَ إِنْ كَانَ عَزَّلَ عَنْهَا فَلَيُنْقِقَ اللَّهُ وَ لَا يَعُودُ وَ إِنْ كَانَ لَمْ يَعْزِزْ عَنْهَا فَلَا يَبِعُ ذَلِكَ الْوَلَدَ وَ لَا يُورِثُهُ وَ لَكِنْ يُعْتَقُهُ وَ يَجْعَلُ لَهُ شَيْئاً مِنْ مَالِهِ يَعِيشُ بِهِ فَإِنَّهُ قَدْ عَذَّاهُ بِنُطْفَتِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Say Bin Ameyra, from Is'haq Bin Ammar who said,

'I asked Abu Al-Hassan ^{asws} about a man who bought a pregnant slave girl and her pregnancy had manifested, so he slept with her. He ^{asws} said: 'Evil is what he has done'. I said, 'So what are you ^{asws} saying regarding it?' He ^{asws} said: 'Is he isolated from her or not?' I said, 'Answer me regarding the two aspects'. He ^{asws} said: 'If he had isolated, so let him fear Allah ^{azwj} and he should not repeat, and if he had not isolated from her, so she should not sell that child, and he would not inherit him, but he should emancipate him and make something from his wealth to be for him he can live by, for he had nourished him with his seed'.¹⁶⁴

عَلَىٰ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ التَّوْفِلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) أَنَّ رَسُولَ اللَّهِ (صلى الله عليه وآلـهـ) دَخَلَ عَلَى رَجُلٍ مِنَ الْأَنْصَارِ وَ إِذَا وَلَيْدَةً عَظِيمَةَ الْبَطْنِ تَخْتَلِفُ فَسَأَلَ عَنْهَا فَقَالَ اشْتَرَيْتُهَا يَا رَسُولَ اللَّهِ وَ بِهَا هَذَا الْجَبَلُ قَالَ أَقْرَبْتُهَا قَالَ نَعَمْ قَالَ أَعْتِقْ مَا فِي بَطْنِهَا قَالَ يَا رَسُولَ اللَّهِ وَ بِمَا اسْتَحْقَ الْعِتْقَ قَالَ لَأَنْ نُطْفَتَكَ غَدَتْ سَمْعَهُ وَ بَصَرَهُ وَ لَحْمُهُ وَ دَمُهُ .

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

(It has been narrated) from Abu Abdullah ^{asws} that Rasool-Allah ^{saww} went over to a man from the Helpers, and there was a mother with a large belly arguing. So he ^{saww} asked about her, so he said, 'I bought her, O Rasool-Allah ^{saww}', and with her was this pregnancy'. He ^{saww} said: 'Did you go near her?' He said, 'Yes'. He ^{saww} said: 'Emancipate whatever is in her belly'. He said, 'O Rasool-Allah ^{saww}', with what is the emancipation deserved?' He ^{saww} said: 'Because your seed nourished his hearing, and his vision, and his flesh, and his blood'.¹⁶⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ يَحْيَى عَنْ غَيَاثِ بْنِ إِبْرَاهِيمَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ مَنْ جَاءَعَ أَمَةً حُبْلَى مِنْ غَيْرِهِ فَعَلَيْهِ أَنْ يُعْنِقَ وَلَدَهَا وَ لَا يَسْتَرِقَ لِأَنَّهُ شَارَكَ فِيهِ الْمَاءَ تَمَامَ الْوَلَدِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Yahya, from Giyas Bin Ibrahim,

¹⁶³ Al Kafi – V 5 – The Book of Marriage Ch 125 H 1

¹⁶⁴ Al Kafi – V 5 – The Book of Marriage Ch 126 H 1

¹⁶⁵ Al Kafi – V 5 – The Book of Marriage Ch 126 H 2

(It has been narrated) from Abu Abdullah^{asws} having said: ‘The one who sleeps with a slave girl pregnant from someone else, so upon him is that he should emancipated her child, and he should not enslave, because the water participated in him to complete the child’. ¹⁶⁶

باب الرَّجُل يَقْعُدُ عَلَى جَارِيَتِهِ فَيَقْعُدُ عَلَيْهَا غَيْرُهُ فِي ذَلِكَ الظَّهَرِ فَتَحْبَلُ

Chapter 128 – The man falls upon his slave girl, and someone else falls upon her during that very pure period, so she becomes pregnant

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلَى بْنِ أَبِي إِيْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ أَبِنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سَنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ رَجُلًا مِنَ الْأَنْصَارِ أَتَى أَبِي (عَلَيْهِ السَّلَامُ) فَقَالَ أَنِّي اِنْتَلَيْتُ بِأَمْرِ عَظِيمٍ إِنْ لِي جَارِيَةٌ كُنْتُ أَطْأَلُهَا فَوَطَنْتُهَا بِيَوْمًا وَ حَرَجْتُ فِي حَاجَةٍ لِي بَعْدَ مَا أَغْسَلْتُ مِنْهَا وَ نَسِيْتُ نَفْقَهَ لِي فَرَجَعْتُ إِلَى الْمَنْزِلِ لِأَخْذُهَا فَوَجَدْتُ عَلَامِي عَلَى بَطْنِهَا فَعَدَدْتُ لَهَا مِنْ يَوْمِي ذَلِكَ تِسْعَةَ أَشْهُرٍ فَوَلَدَتْ جَارِيَةٍ

Muhammad Bin Yahya, form Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Abdallah Bin Sinan,

(It has been narrated) from Abu Abdullaah^{asws} having said: ‘A man from the Helpers came over to my^{asws} father^{asws}, so he said, ‘I am afflicted with a grievous matter. There is a slave girl for me which I had slept with. So, one day I slept with her, and went out regarding a need of mine, after having washed from it, and I forgot my expenses. So returned to the house in order to take it, and I found my slave upon her belly. So I counted for her nine months from that day of mine, and the slave girl gave birth’.

قَالَ فَقَالَ لَهُ أَبِي (عَلَيْهِ السَّلَامُ) لَا يَنْبَغِي لَكَ أَنْ تَقْرَبَهَا وَ لَا أَنْ تَبْيَعَهَا وَ لَكُنْ أَنْفَقَ عَلَيْهَا مِنْ مَالِكٍ مَا دُمْتَ حَيَاً ثُمَّ أَوْصَعْتَ عِنْدَ مَوْلَكٍ أَنْ يُنْفَقَ عَلَيْهَا مِنْ مَالِكٍ حَتَّى يَجْعَلَ اللَّهُ لَهَا مَحْرَجاً .

He^{asws} said: ‘So my^{asws} father^{asws} said to me: ‘It is not befitting for you that you go near her, nor that you should sell her, but spend upon her from your wealth for as long as she is alive. Then bequeath at your death that he (your successor) should spend upon her from your wealth until Allah^{azwj} Makes a way out for her’. ¹⁶⁷

عِدَّةُ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ أَبِنِ فَضَالٍ عَنْ مُحَمَّدِ بْنِ عَجْلَانَ قَالَ إِنَّ رَجُلًا مِنَ الْأَنْصَارِ أَتَى أَبِي جَعْفَرَ (عَلَيْهِ السَّلَامُ) فَقَالَ لَهُ أَنِّي قَدْ اِنْتَلَيْتُ بِأَمْرِ عَظِيمٍ أَنِّي وَقَعْتُ عَلَى جَارِيَتِي ثُمَّ حَرَجْتُ فِي بَعْضِ حَوَالِيِّ فَانْصَرَفْتُ مِنَ الْطَّرِيقِ فَأَصْبَثْتُ عَلَامِي بَيْنَ رِجْلَيِّ الْجَارِيَةِ فَاعْتَرَلَتْهَا فَحَبَّتْ ثُمَّ وَضَعَتْ جَارِيَةٍ لِعِدَّةِ تِسْعَةَ أَشْهُرٍ

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Ibn Fazzal, from Muhammad Bin Ajlan who said that,

‘A man from the Helpers came over to Abu Ja’far^{asws}, so he said to him^{asws}, ‘I am afflicted with a grievous matter. I fell upon my slave girl, then I went out regarding one of my needs, and I turned back from the road, so I came across my slave between the two legs of the slave girl. So I isolated her, and she became pregnant. Then I place a waiting period of nine months on the slave girl’.

¹⁶⁶ Al Kafi – V 5 – The Book of Marriage Ch 126 H 3

¹⁶⁷ Al Kafi – V 5 – The Book of Marriage Ch 127 H 1

فَقَالَ لَهُ أَبُو جَعْفَرَ (عَلَيْهِ السَّلَامُ) احْبِسِ الْجَارِيَةَ لَا تَتَبَعَهَا وَأَنْفَقْ عَلَيْهَا حَتَّى تَمُوتَ أَوْ يَجْعَلَ اللَّهُ لَهَا مَخْرَجًا فَإِنْ حَدَثَ بِكَ حَدَثَ فَأُوصِ بِأَنْ يُنْفَقْ عَلَيْهَا مِنْ مَالِكٍ حَتَّى يَجْعَلَ اللَّهُ لَهَا مَخْرَجًا

So Abu Ja'far^{asws} said to him: 'Keep the slave girl and do not pursue her, and spend upon her until she dies, or Allah^{azwj} Makes a way out for her. So if there occurs with you an occurrence (of death), so bequeath with the expenditure to be spent upon her from you wealth until Allah^{azwj} Makes a way out for her'.

وَقَالَ إِذَا خَرَجَتْ مِنْ بَيْتِكَ فَقُلْ بِسْمِ اللَّهِ عَلَى دِينِي وَنَفْسِي وَوُلْدِي وَأَهْلِي وَمَالِي ثَلَاثَ مَرَاتٍ ثُمَّ قُلْ اللَّهُمَّ بَارِكْ لَنَا فِي قَدْرِكَ وَرَضِّنَا بِقَضَائِكَ حَتَّى لَا نُحْبَطْ تَعْجِيلًا مَا أَخْرَتْ وَلَا تَأْخِيرًا مَا عَجَلْ

And he (a.s.) said: 'Whenever you go our from your house so say, 'In the Name of Allah^{azwj} upon myself, and my children, and my wife, and my wealth' – three times. Then say, 'O Allah (s.w.t.)! Bless for us in Your (s.w.t.) Measurement, and (Make us to be) Pleased with Your (s.w.t.) Judgement until we do not love the haste in what You (s.w.t.) Delay, nor (do we love) delay in what You (s.w.t.) Hasten'.¹⁶⁸

بَابُ الرَّجُلِ يَكُونُ لَهُ الْجَارِيَةُ يَطْوُهَا فَتَحْبِلُ فَيَتَهَمُهَا .

Chapter 129 – The man happens to have a slave girl, so he sleeps with her, and she falls pregnant, so he accuses her

أَبُو عَلَى الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَارِ وَ حُمَيْدِ بْنِ زَيَادٍ عَنْ أَبْنِ سَمَاعَةَ جَمِيعاً عَنْ صَنْفَوَانَ بْنَ يَحْيَى عَنْ سَعِيدِ بْنِ سَيَارٍ قَالَ سَأَلْتُ أَبَا الْحَسَنَ (عَلَيْهِ السَّلَامُ) عَنِ الْجَارِيَةِ تَكُونُ لِلرَّجُلِ يُطِيفُ بِهَا وَ هِيَ تَخْرُجُ فَتَعْلَفُ قَالَ يَتَهَمُهَا الرَّجُلُ أَوْ يَتَهَمُهَا أَهْلُهُ فَلَمْ يُقْلِتْ أَمَّا ظَاهِرَةً فَلَا قَالَ إِذَا لَزِمَّهُ الْوَلَدُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ziyad, from Ibn Sama'at, altogether, from Safwan Bin Yahya, from Saeed Bin Yasaar who said,

'I asked Abu Al-Hassan^{asws} about the slave girl who happened to be for the man who wandered around and she brought forth (a child), so she attached (it to him)'. He^{asws} said: 'The man accused her, or his family accused her?' I said, 'As for apparently, so no'. He^{asws} said: 'Then, the child is necessitated upon him'.¹⁶⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ الْفُلَاسِمِ بْنِ مُحَمَّدٍ عَنْ سُلَيْمَ مَوْلَى طَرْبَالَ عَنْ حَرَيْزَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ كَانَ يَطِئُ جَارِيَةً لَهُ وَأَنَّهُ كَانَ يَبْعَثُهَا فِي حَوَائِجهِ وَأَنَّهَا حَبَّلَتْ وَأَنَّهُ بَلَغَهُ عَنْهَا فَسَادٌ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِذَا وَلَدْتِ أَمْسَكِ الْوَلَدَ فَلَا يَبْيَعُهُ وَيَجْعَلُ لَهُ نَصِيبًا فِي دَارِهِ

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad, from Suleym Mowla Tarbal, from Hareyz,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who slept with a slave girl of his and he used to send her regarding his needs, and she became pregnant, and (news of) immorality about her reached him. So Abu Abdullah^{asws} said: 'When she gives birth, keep the child, but he should not sell him, and should make for him a share in his house'.

¹⁶⁸ Al Kafi – V 5 – The Book of Marriage Ch 127 H 2

¹⁶⁹ Al Kafi – V 5 – The Book of Marriage Ch 128 H 1

قَالَ فَقِيلَ لَهُ رَجُلٌ يَطْأُ جَارِيَّةً لَهُ وَ إِنَّهُ لَمْ يَكُنْ يَبْعَثُهَا فِي حَوَائِجِهِ وَ إِنَّهُ أَتَاهُمْهَا وَ حَبَّلْتُ فَقَالَ إِذَا هِيَ وَلَدَتْ أَمْسَكَ الْوَلَدَ وَ لَا يَبْيَعُهُ وَ يَجْعَلُ لَهُ نَصِيبًا مِنْ دَارِهِ وَ مَالِهِ وَ لَيْسَ هَذِهِ مِثْلُ تِلْكَ .

He (the narrator) said, ‘It was said to him^{asws}, ‘A man slept with a slave girl of his and he did not used to send her regarding his needs, and he accused her, and she became pregnant’. So he^{asws} said: ‘When she gives birth, he keeps the child and does not sell him, and he makes for him a share from his house, and his wealth, and this is not the like of that’. ¹⁷⁰

عَلَى بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ آدَمَ بْنِ إِسْحَاقَ عَنْ رَجُلٍ مِنْ أَصْحَابِنَا عَنْ عَبْدِ الْحَمِيدِ بْنِ إِسْمَاعِيلَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ رَجُلٍ كَانَتْ لَهُ جَارِيَّةً يَطْأُهَا وَ هِيَ تَخْرُجُ فِي حَوَائِجِهِ فَحَسِبَ أَنْ لَا يَكُونَ مِنْهُ كَيْفَ يَصْنَعُ أَيْبَعُ الْجَارِيَّةَ وَ الْوَلَدَ قَالَ يَبْيَعُ الْجَارِيَّةَ وَ لَا يُبَيِّعُ الْوَلَدَ وَ لَا يُورِثُهُ مِنْ مِيرَاثِهِ شَيْئًا .

Ali Bin Ibrahim, from his father, from Adam Bin Is'haq, from a man from our companions, from Abdul Hameed Bin Ismail who said,

‘I asked Abu Abdullah^{asws} about a man who had a slave girl for him, he slept with her and she used to go out regarding his needs. So she became pregnant, and he feared that it may not be from him. How should he deal, should he sell the slave girl and the child?’ He^{asws} said: ‘He sells the slave girl but does not sell the child, and he would not inherit him anything from his inheritance’. ¹⁷¹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدٍ بْنِ حَمَادٍ عَنْ حَمَادَ بْنِ عُثْمَانَ عَنْ سَعِيدِ بْنِ يَسَارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ رَجُلٍ وَقَعَ عَلَى جَارِيَّةٍ لَهُ تُدْهَبُ وَ تَحْيَءُ وَ قَدْ عَزَّلَ عَنْهَا وَ لَمْ يَكُنْ مِنْهُ إِلَيْهَا شَيْءٌ مَا تَنْفُلُ فِي الْوَلَدِ قَالَ أَرَى أَنْ لَا يُبَاعَ هَذَا يَا سَعِيدُ

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from Al Hassan Bin Ali, from Hammad Bin Usman, from Saeed Bin Yasaar who said,

‘I asked Abu Abdullah^{asws} about a man who fell upon a slave girl of his who used to go and come, and he had isolated himself from her and there did not happen to be anything from him to her. What are you^{asws} saying regarding the child?’ He^{asws} said: ‘I^{asws} view that he should not sell this (child), O Saeed!’.

قَالَ وَ سَأَلْتُ أَبَا الْحَسَنِ (عليه السلام) فَقَالَ أَيْتَهُمْهَا فَقُلْتُ أَمَّا تُهَمَّهُ ظَاهِرًا فَلَا قَالَ فَيَتَهُمْهَا أَهْلُكَ فَقُلْتُ أَمَّا شَيْءٌ ظَاهِرٌ فَلَا قَالَ فَكَيْفَ تَسْتَطِعُ أَنْ لَا يَأْرِمَكَ الْوَلَدُ .

He (the narrator) said, ‘And I asked Abu Al-Hassan^{asws}, so he^{asws} said: ‘Is he accusing her?’ So I said, ‘As for the apparent accusation, so no’. He^{asws} said: ‘So, is his family accusing her?’ So I said, ‘As for something apparent, so no’. He^{asws} said: ‘So how can he have the leeway that the child would not be necessitated on him?’ ¹⁷²

¹⁷⁰ Al Kafi – V 5 – The Book of Marriage Ch 128 H 2

¹⁷¹ Al Kafi – V 5 – The Book of Marriage Ch 128 H 3

¹⁷² Al Kafi – V 5 – The Book of Marriage Ch 128 H 4

Chapter 130 – Miscellaneous

مُحَمَّدٌ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ دَاوُدَ بْنَ فَرْقَادَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَتَى رَجُلٌ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) فَقَالَ يَا رَسُولَ اللَّهِ إِنِّي حَرَجْتُ وَأَمْرَأَتِي حَانِصٌ فَرَجَعْتُ وَهِيَ حُلْبَى فَقَالَ لَهُ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) مَنْ تَشَهَّدُهُ قَالَ أَتْهُمْ رَجُلَيْنِ قَالَ أَنْتَ بِهِمَا فَجَاءَ بِهِمَا فَقَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) إِنَّكَ أَنْتَ هَذَا فَيَخْرُجُ قَطْطًا كَذَا وَكَذَا فَخَرَجَ كَمَا قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) فَجَعَلَ مَعْقِلَتَهُ عَلَى قَوْمٍ أُمِّهِ وَمِيرَاثِهِ لَهُمْ وَلَوْ أَنَّ إِنْسَانًا قَالَ لَهُ يَا ابْنَ الْرَّانِيَةِ يُجْلِدُ الْحَدَّ.

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from one of his companions, from Dawood Bin Farqad,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘A man came over to Rasool-Allah^{saww}, so he said, ‘O Rasool-Allah^{saww}! I went out and my wife was menstruating. So when I came back, she was pregnant’. So Rasool-Allah^{saww} said to him: ‘Whom are you accusing?’ He said, ‘They are two men’. He^{saww} said: ‘Come with both of them’. So he came with both of them. So Rasool-Allah^{saww} said: ‘If this is his son, it would come out as a cat’. So it came out just as Rasool-Allah^{saww} had said. So its mother’s family went out protecting it from the people, and his inheritance is for them; and had it been a human being, and it was said to him, ‘O son of an adulteress’, he (the accuser) would be whipped the legal punishment (*Hadd*)’.¹⁷³

باب الجارية يقع عليها غير واحد في طهرين واحد

Chapter 131 – The slave girl, someone else falls upon her in one pure period

عَلَيْيُ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِنِ أَبِي عَمِيرٍ عَنْ حَمَادٍ عَنْ الْحَلَبِيِّ وَمُحَمَّدٌ بْنُ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا وَقَعَ الْحُرُّ وَالْعَبْدُ وَالْمُشْرِكُ بِأَمْرِهِ فِي طَهْرٍ وَاحِدٍ فَأَدَّعُوا الْوَلَدَ أَفْرِعَ بَيْنَهُمْ فَكَانَ الْوَلَدُ لِلَّذِي يَخْرُجُ سَهْمُهُ.

Ali Bin Ibrahim, from his father, from Ibn Abu Umyar, from Hammad, from Al Halby, and Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘When the free man and the slave and the Polytheist fall with one woman in one pure period, so the child is claimed for, a lot would be drawn between them, and the child would be for the one whose arrow (lot) comes out’.¹⁷⁴

عَلَيْيُ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ يَعْثَرُ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) عَلَيْهِ (عَلَيْهِ السَّلَامُ) إِلَيْهِ الْيَمِنِ فَقَالَ لَهُ حِينَ قَدِيمٌ حَتَّى يَبْعَجِبَ مَا وَرَدَ عَلَيْكَ قَالَ يَا رَسُولَ اللَّهِ أَتَانِي قَوْمٌ قَدْ تَبَاهَوْا جَارِيَةً فَوَطَّوْهَا جَمِيعًا فِي طَهْرٍ وَاحِدٍ فَوَلَدَتْ غُلَامًا وَأَخْجَجَوْهَا فِيهِ كُلُّهُمْ يَدِ عِيهِ فَأَسْهَمُتْ بَيْنَهُمْ وَجَعَلْتُهُ لِلَّذِي خَرَجَ سَهْمُهُ وَصَمَّتْهُ نَصِيبَهُمْ

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasim, Bin Humeyd, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: ‘Rasool-Allah^{saww} sent Ali^{asws} to Al-Yemen, so he^{saww} said to him^{asws} when he^{asws} came back: ‘Narrate to me^{saww}

¹⁷³ Al Kafi – V 5 – The Book of Marriage Ch 129 H 1

¹⁷⁴ Al Kafi – V 5 – The Book of Marriage Ch 130 H 1

with the wonder of what you^{asws} encountered'. He^{asws} said: 'O Raool-Allah^{saww}! A group of people came over to me who had been sold a slave girl, so all of them had slept with her in one pure period. So she gave birth to a boy, and they disputed with regards to him, all of them claiming him. So I^{asws} drew a lot between them, and made him to be for the one whose lot came, and I^{asws} safeguarded their share'.

فَقَالَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ) إِنَّهُ لَيْسَ مِنْ قَوْمٍ تَنَازَّعُوا ثُمَّ فَرَضُوا أَمْرَهُمْ إِلَى اللَّهِ عَزَّ وَجَلَّ إِلَّا خَرَجَ سَهْمُ الْمُحْقِقِ .

So the Prophet^{saww} said: 'There are none from a group of people who dispute, then delegate their affair to Allah^{azwj} Mighty and Majestic, except that the rightful lot came out'.¹⁷⁵

بَابُ الرَّجُلِ يَكُونُ لَهَا الْجَارِيَةُ يَطْوُهَا فَيَبِيعُهَا ثُمَّ تَلِدُ لَاقْلَ مِنْ سِتَّةِ أَشْهُرٍ وَالرَّجُلُ يَبِيعُ الْجَارِيَةَ مِنْ عَيْنِ أَنْ يَسْتَبِّنَهَا فَيُظْهِرُ بِهَا حَبْلَ بَعْدَ مَا مَسَّهَا الْآخِرُ

Chapter 132 – The man happens to have the slave girl for him, having slept with her, so he sells her, then she gives birth in six months; and the man sells the slave girl to someone else, without having cleared her womb, so a pregnancy is manifested with her after the other one has touched her

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبْنِ مَحْبُوبٍ عَنْ الْخَلَّالِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا كَانَ لِلرَّجُلِ مِنْكُمُ الْجَارِيَةُ يَطْوُهَا فَيَعْنَقُهَا فَأَعْنَدَتْ وَنَكَحْتُ فَإِنَّ وَضَعَتْ لِخَمْسَةِ أَشْهُرٍ فَإِنَّهُ مِنْ مَوْلَاهَا الَّذِي أَعْنَقَهَا وَإِنْ وَضَعَتْ بَعْدَ مَا تَزَوَّجَتْ لِسِتَّةِ أَشْهُرٍ فَإِنَّهُ لِزَوْجِهَا الْآخِرِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Raib, from Al Halby,

(It has been narrated) from Abu Abdallah^{asws} having said: 'When there was the slave girl for one of you, so he sleeps with her, and then frees her, so she observes the waiting period and marries. So if she gives birth in five months, so it would be from her master whom had freed her, and if she were to give birth after having married, in six months, so it would be for her later husband'.¹⁷⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ عَنْ أَبَانِ بْنِ عُثْمَانَ عَنْ الْحَسَنِ الصَّنِيقِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَمِعْنَاهُ يَقُولُ وَسُئِلَ عَنْ رَجُلٍ اشْتَرَى جَارِيَةً ثُمَّ وَقَعَ عَلَيْهَا قَبْلَ أَنْ يَسْتَبِّنَهَا رَحْمَهَا قَالَ بِنْسَ مَا صَنَعَ يَسْتَغْفِرُ اللَّهُ وَلَا يَعُودُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban Bin Usman, from Al Hassan Al Sayqal,

(It has been narrated) from Abu Abdallah^{asws}, said, 'I heard him^{asws} saying, and he^{asws} had been asked about a man who bought a slave girl, then fell upon her before her womb had been cleared. He^{asws} said: 'Evil is what he has done. He should seek Forgiveness from Allah^{azwj} and he should not repeat'.

¹⁷⁵ Al Kafi – V 5 – The Book of Marriage Ch 130 H 2

¹⁷⁶ Al Kafi – V 5 – The Book of Marriage Ch 131 H 1

فُلِتْ فَإِنَّهُ بَاعَهَا مِنْ أَخَرَ وَ لَمْ يَسْتَبِرْ رَحْمَهَا ثُمَّ بَاعَهَا الثَّانِي مِنْ رَجُلٍ أَخَرَ فَوَقَعَ عَلَيْهَا وَ لَمْ يَسْتَبِرْ رَحْمَهَا فَاسْتَبَانَ حَمْلُهَا إِنْدَ التَّالِثِ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الْوَلْدُ لِلْفَرَاشِ وَ الْعَاهِرُ الْحَجَرُ .

I said, ‘Supposing if he were to sell her to another and does not clear her womb, then the second one sells her to another man, so he falls upon her, and does not clear her womb, so her pregnancy manifests in the presence of the third?’ So Abu Abdullah^{asws} said: ‘The child is for the bed (it was conceived upon), and for the adulterer are the stones’.¹⁷⁷

أَبُو عَلَيٰ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَارِ وَ حُمَيْدِ بْنِ زَيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعاً عَنْ صَفْوَانَ عَنْ سَعِيدِ الْأَعْرَجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلَيْنِ وَ قَعَا عَلَى جَارِيَةٍ فِي طَهْرٍ وَاحِدٍ لِمَنْ يَكُونُ الْوَلْدُ قَالَ لِلَّذِي عِنْدَهُ لِقَوْلٍ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) الْوَلْدُ لِلْفَرَاشِ وَ الْعَاهِرُ الْحَجَرُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Humeyd Bin Ziyad, from Ibn Sama'at, altogether from Safwan, from Saeed Al Araby,

(It has been narrated) from Abu Abdullah^{asws}, said, ‘I asked him^{asws} about two men who fell upon a slave girl during one pure period, for whom would the child come to be?’ He^{asws} said: ‘For the one in whose presence it is, due to the words of Rasool-Allah^{saww}: ‘The child is for the bed (it is conceived upon), and for the adulterer are the stones’.¹⁷⁸

باب الْوَلَدِ إِذَا كَانَ أَحَدُ أَبْوَيْهِ مَمْلُوكًا وَ الْأَخْرُ حُرًّا

Chapter 133 – The child, when one of its parents is an owned slave, and the other one is free

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْزَةَ وَ الْحَكَمِ بْنِ مَسْكِينٍ عَنْ جَمِيلٍ وَ ابْنِ بُكَيْرٍ فِي الْوَلَدِ مِنَ الْحُرِّ وَ الْمَمْلُوكَةِ قَالَ يَدْهُبُ إِلَى الْحُرِّ مِنْهُمَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Muhammad Bin Abu Hamza, and Al Hakam Bin Miskeen, from Jameel, and Ibn Bukeyr,

‘With regards to the child from the free man and the slave woman, he^{asws} said: ‘He would go to the free one from them’.¹⁷⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ أَبِي الْفَضْلِ الْمَكْفُوفِ صَاحِبِ الْعَرَبِيَّةِ عَنْ أَبِي جَعْفَرِ الْأَحْوَلِ الطَّาقيِّ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ سُئِلَ عَنِ الْمَمْلُوكِ يَتَرَوَّجُ الْحُرَّةَ مَا حَالُ الْوَلَدِ فَقَالَ حُرٌّ فَقْلَتْ وَ الْحُرُّ يَتَرَوَّجُ الْمَمْلُوكَةَ قَالَ يُلْحَقُ الْوَلَدُ بِالْحُرَّةِ حَيْثُ كَانَتْ إِنْ كَانَتِ الْأُمُّ حُرَّةً أَعْنِقَ بِأُمِّهِ وَ إِنْ كَانَ الْأَبُ حُرًّا أَعْنِقَ بِأُبِيهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Abu Ismail, from Abu Al Fazl Al Makfouf, author of Al Arabiyya, from Abu Ja'far Al Ahowl Al Taqaqy, from a man,

(It has been narrated) from Abu Abdullah^{asws} having been asked about the owned slave who marries a free woman, what would be the state of the child? So he^{asws} said: ‘Free’. So I said, ‘And the free man who marries the slave woman?’ He^{asws} said:

¹⁷⁷ Al Kafi – V 5 – The Book of Marriage Ch 131 H 2

¹⁷⁸ Al Kafi – V 5 – The Book of Marriage Ch 131 H 3

¹⁷⁹ Al Kafi – V 5 – The Book of Marriage Ch 132 H 1

'The child would be attached with the free one wherever it (the freedom) may be. If the mother was free, so he would be free with his mother, and if the father was free, so he would be free with his father'.¹⁸⁰

أَحْمَدُ بْنُ مُحَمَّدٍ الْعَاصِمِيُّ عَنْ عَلَيِّ بْنِ الْحَسَنِ التَّیمِيِّ عَنْ أَسْبَاطِ عَنْ الْحَكَمِ بْنِ مِسْكِينٍ عَنْ جَمِيلِ بْنِ دَرَاجٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا تَزَوَّجَ الْعَبْدُ الْحُرَّةَ فَوْلَدُهُ أَحْرَارٌ وَإِذَا تَزَوَّجَ الْحُرُّ الْأَمَمَةَ فَوْلَدُهُ أَحْرَارٌ .

Ahmad Bin Muhammad Al Asaamy, from Ali Bin Al Hassan Al Taymi, from Ali Bin Asbaat, from Al Hakam Bin Miseen, from Jameel Bin Darraj who said,

'I heard Abu Abdullah^{asws} saying: 'When the slave marries the free woman, so his children would be free ones, and when the free man marries the slave woman, so his children would be free ones'.¹⁸¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلَيِّ بْنِ الْحَكَمِ وَأَحْمَدَ بْنِ مُحَمَّدٍ بْنِ نَصْرٍ عَنْ الْحَكَمِ بْنِ مِسْكِينٍ عَنْ جَمِيلِ بْنِ دَرَاجٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْحُرُّ يَتَرَوَّجُ الْأَمَمَةَ أَوْ عَبْدٌ يَتَرَوَّجُ حُرَّةً قَالَ لِي لَيْسَ يَسْتَرْقُ الْوَلَدُ إِذَا كَانَ أَحَدُ أَبْوَيْهِ حُرًا إِنَّهُ يُحْقِقُ بِالْحُرُّ مِنْهُمَا كَانَ أَبًا كَانَ أَوْ أُمًا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam and Ahmad Bin Muhammad Bin Abu Nasr, from Al Hakam Bin Miskeen, from Jameel Bin Darraj who said,

'I asked Abu Abdullah^{asws} about the free man marrying the slave woman, or a slave marrying a free woman. So he^{asws} said to me: 'The child would not be enslaved when one of its parents was free. It would be attached with the free one of the two, whichever of them, be it a father or a mother'.¹⁸²

سَهْلُ بْنُ زَيَادٍ عَنْ عَلَيِّ بْنِ أَسْبَاطٍ وَمُحَمَّدُ بْنُ الْحُسَيْنِ جَمِيعًا عَنْ الْحَكَمِ بْنِ مِسْكِينٍ عَنْ جَمِيلِ بْنِ دَرَاجٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا تَزَوَّجَ الْعَبْدُ الْحُرَّةَ فَوْلَدُهُ أَحْرَارٌ وَإِذَا تَزَوَّجَ الْحُرُّ الْأَمَمَةَ فَوْلَدُهُ أَحْرَارٌ .

Sahl Bin Ziyad, from Ali Bin Asbaat, and Muhammad Bin Al Husayn, altogether from Al Hakam Bin Miskeen, from Jameel Bin Darraj who said,

'I heard Abu Abdullah^{asws} saying: 'When the slave marries the free woman, so his children would be free, and when the free man marries the slave woman, so his children would (also) be free'.¹⁸³

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَبِنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ فِي الْعَبْدِ تَكُونُ تَحْنَةُ الْحُرَّةِ قَالَ وُلْدُهُ أَحْرَارٌ فَإِنْ أَغْتَقَ الْمُمْنَوِّكَ لَحَقَ بِأَبِيهِ .

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

(It has been narrated) from Abu Abdullah^{asws} having said regarding the slave who happens to have the free woman under him (as a wife). He^{asws} said: 'His children would be free. So if the slave is emancipated, it would be attached with its father'.¹⁸⁴

¹⁸⁰ Al Kafi – V 5 – The Book of Marriage Ch 132 H 2

¹⁸¹ Al Kafi – V 5 – The Book of Marriage Ch 132 H 3

¹⁸² Al Kafi – V 5 – The Book of Marriage Ch 132 H 4

¹⁸³ Al Kafi – V 5 – The Book of Marriage Ch 132 H 5

¹⁸⁴ Al Kafi – V 5 – The Book of Marriage Ch 132 H 6

عَلَيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عَمِيرٍ عَنْ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ الْحُرِّ يَتَرَوَّجُ بِأَمَّةٍ قَوْمٌ الْوُلْدُ مَمَالِيكُ أَوْ أَحْرَارٌ قَالَ إِذَا كَانَ أَحَدُ أَبْوَيْهِ حُرًّا فَلَوْلُدُ أَحْرَارٌ.

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the free man marrying a slave girl of a group of people, would the children be slaves or free ones?' He^{asws} said: 'When it was such that one of its parents was free, so the children would be free ones'.

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ ابْنِ أَبِي عَمِيرٍ مُثْلُهُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Isa, from Ibn Abu Umayr – similar to it.¹⁸⁵

باب المرأة يكون لها العبد فينكمها

Chapter 134 – The woman happens to have the slave for her, so he sleeps with her

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ هَلَالٍ عَنْ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي امْرَأَةٍ أَمْكَنَتْ نَفْسَهَا مِنْ عَبْدٍ لَهَا فَنَكَّهَا أَنْ تُضْرِبَ مَائَةً وَيُضْرِبَ الْعَبْدُ خَمْسِينَ جَلْدًا وَيُبَاعَ بِصُغْرٍ مِنْهَا قَالَ وَيَحْرُمُ عَلَى كُلِّ مُسْلِمٍ أَنْ يَبِيعَهَا عَبْدًا مُّرِكَّا بَعْدَ ذَلِكَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Abdullah Bin Hilal, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a woman who let herself be enabled upon from a slave of hers, so he slept with her, that she would be whipped one hundred lashes and the slave would be whipped fifty lashes, and he would be sold (for a price) cheaper than her'. He^{asws} said: 'And he^{asws} prohibited upon every Muslim that he sells to her an adult slave, after that'.¹⁸⁶

مُحَمَّدُ بْنُ جَعْفَرٍ أَبْوَ الْعَبَاسِ عَنْ أَئُوبَ بْنِ نُوحٍ عَنْ صَفْوَانَ عَنْ سَعِيدِ بْنِ يَسَارٍ قَالَ سَأَلْتُهُ عَنِ الْمَرْأَةِ الْحُرَّةِ تَكُونُ تَحْتَ الْمَمْلُوكِ فَشَتَرَهُ هَلْ بَيْطِلُ ذَلِكَ نِكَاحٌ قَالَ نَعَمْ لِأَنَّهُ عَبْدٌ مَمْلُوكٌ لَا يَقْدِرُ عَلَى شَيْءٍ .

Muhammad Bin Ja'far Abu Al Abbas, from Ayoub Bin Nuh, from Safwan, from Saeed Bin Yasaar who said,

'I asked him^{asws} about the free woman who happens to be under the slave (as his wife), would that invalidate his marriage?' He^{asws} said: 'Yes, because an owned slave has no power over anything'.¹⁸⁷

¹⁸⁵ Al Kafi – V 5 – The Book of Marriage Ch 132 H 7

¹⁸⁶ Al Kafi – V 5 – The Book of Marriage Ch 133 H 1

¹⁸⁷ Al Kafi – V 5 – The Book of Marriage Ch 133 H 2