

# الكافي

## AL-KAFI

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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 الطلاق

**THE BOOK OF DIVORCE (1)**

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

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

## بَابُ كَرَاهِيَةِ طَلَاقِ الزَّوْجَةِ الْمُوَافِقَةِ

### Chapter 1 – Abhorrence of divorcing the compatible wife

أَخْبَرَنَا عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنْ أَبِي جَمِيلَةَ عَنْ سَعْدِ بْنِ طَرِيفٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ مَرَّ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) بِرَجُلٍ فَقَالَ مَا فَعَلْتَ أَمْرًا تَكُ قَالَ طَلَّقْتُهَا يَا رَسُولَ اللَّهِ قَالَ مَنْ غَيْرِ سَوْءٍ قَالَ مَنْ غَيْرِ سَوْءٍ

A number of our companions informed us, from Ahmad Bin Muhammad, from Ibn Fazzal, from Abu Jameela, from Sa'ad Bin Tareyf,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Rasool-Allah<sup>saww</sup> passed by a man, so he<sup>saww</sup> said: 'What did you do (with) your wife?' He said, 'I divorced her, O Rasool-Allah<sup>saww</sup>!' He<sup>saww</sup> said: 'Without any wrongdoing (on her part)?' He said, 'Without any wrongdoing'.

ثُمَّ قَالَ إِنَّ الرَّجُلَ تَزَوَّجَ فَمَرَّ بِهِ النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَقَالَ تَزَوَّجْتَ قَالَ نَعَمْ ثُمَّ قَالَ لَهُ بَعْدَ ذَلِكَ مَا فَعَلْتَ أَمْرًا تَكُ قَالَ طَلَّقْتُهَا قَالَ مَنْ غَيْرِ سَوْءٍ قَالَ مَنْ غَيْرِ سَوْءٍ

Then he<sup>asws</sup> said: 'The man got re-married, so the Prophet<sup>saww</sup> passed by him, so he<sup>saww</sup> said: 'You got married?' He said, 'Yes'. Then he<sup>saww</sup> said after that, 'What did you do (with) your wife?' He said, 'I divorced her'. He<sup>saww</sup> said: 'Without any wrongdoing (on her part)?' He said, 'Without any wrongdoing'.

ثُمَّ إِنَّ الرَّجُلَ تَزَوَّجَ فَمَرَّ بِهِ النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَقَالَ تَزَوَّجْتَ فَقَالَ نَعَمْ ثُمَّ قَالَ لَهُ بَعْدَ ذَلِكَ مَا فَعَلْتَ أَمْرًا تَكُ قَالَ طَلَّقْتُهَا قَالَ مَنْ غَيْرِ سَوْءٍ قَالَ مَنْ غَيْرِ سَوْءٍ فَقَالَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) إِنَّ اللَّهَ عَزَّ وَجَلَّ يُبْغِضُ أَوْ يَلْعَنُ كُلَّ ذَوَاقٍ مِنَ الرِّجَالِ وَكُلَّ ذَوَاقَةٍ مِنَ النِّسَاءِ .

Then the man got re-married, so the Prophet<sup>saww</sup> passed by him, so he<sup>saww</sup> said: 'You got married?' So he said, 'Yes'. Then he<sup>saww</sup> said to him after that: 'What did you do (with) your wife?' He said, 'I divorced her'. He<sup>saww</sup> said: 'Without any wrongdoing (on her part)?' He said, 'Without any wrongdoing'. So Rasool-Allah<sup>saww</sup> said: 'Allah<sup>azwj</sup> Mighty and Majestic Hates, or Curses every taster from the men, and every taster from the women'.<sup>1</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ غَيْرِ وَاحِدٍ عَنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ مَا مِنْ شَيْءٍ مِمَّا أَحَلَّهُ اللَّهُ عَزَّ وَجَلَّ أَبْغَضَ إِلَيْهِ مِنَ الطَّلَاقِ وَإِنَّ اللَّهَ يُبْغِضُ الْمِطْلَاقَ الذَّوَاقِ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'There is none from the things from what Allah<sup>azwj</sup> Mighty and Majestic Made Permissible, more hateful to

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

Him<sup>azwj</sup> than the divorce, and that Allah<sup>azwj</sup> Hates the frequent divorcer, 'الدَّوَّاقِ' the taster'.<sup>2</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ مُحَمَّدٍ عَنْ أَبِي خَدِيجَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِنَّ اللَّهَ عَزَّ وَجَلَّ يُحِبُّ الْبَيْتَ الَّذِي فِيهِ الْعُرْسُ وَيُبْغِضُ الْبَيْتَ الَّذِي فِيهِ الطَّلَاقُ وَ مَا مِنْ شَيْءٍ أَبْغَضَ إِلَى اللَّهِ عَزَّ وَجَلَّ مِنَ الطَّلَاقِ.

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Abdul Rahman Bin Muhammad, from Abu Khadeeja,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Allah<sup>azwj</sup> Mighty and Majestic Loves the house in which is the bride, and Hates the house in which is the divorce, and there is none from the things more Hateful to Allah<sup>azwj</sup> Mighty and Majestic than the divorce'.<sup>3</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ يَحْيَى عَنْ طَلْحَةَ بْنِ زَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَمِعْتُ أَبِي ( عَلَيْهِ السَّلَامُ ) يَقُولُ إِنَّ اللَّهَ عَزَّ وَجَلَّ يُبْغِضُ كُلَّ مَطْلَاقٍ دَوَّاقٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Yahya, from Talha Bin Zayd,

(The narrator says) 'I heard Abu Abdullah<sup>asws</sup>, saying that Allah Mighty and Majestic Hates every frequent divorcer, the taster'.<sup>4</sup>

وَ بِإِسْنَادِهِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ بَلَغَ النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أَنَّ أَبَا أَيُّوبَ يُرِيدُ أَنْ يُطَلِّقَ امْرَأَتَهُ فَقَالَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) إِنَّ طَلَّاقَ أُمَّ أَيُّوبَ لِحُوبٌ .

And by his chain, from Abu Abdullah<sup>asws</sup> having said: 'It reached the Prophet<sup>saww</sup> that Abu Ayoub intends to divorce his wife. So he<sup>saww</sup> said: 'Divorce of the mother of Ayoub is a wrongdoing'.<sup>5</sup>

### باب تَطْلِيقِ الْمَرْأَةِ غَيْرِ الْمُوَافِقَةِ

## Chapter 2 – Divorcing the incompatible woman

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ رَجُلٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ كَانَتْ عِنْدَهُ امْرَأَةٌ تُعْجِبُهُ وَ كَانَ لَهَا مُجِبًا فَأَصْبَحَ يَوْمًا وَ قَدْ طَلَّقَهَا وَ اغْتَمَّ لِذَلِكَ فَقَالَ لَهُ بَعْضُ مَوَالِيهِ جُعِلَتْ فِدَاكَ لِمَ طَلَّقْتَهَا فَقَالَ إِنِّي ذَكَرْتُ عَلِيًّا ( عَلَيْهِ السَّلَامُ ) فَتَنَقَّصْتُهُ فَكْرِهْتُ أَنْ أُلْصِقَ جَمْرَةً مِنْ جَمْرِ جَهَنَّمَ بِجِلْدِي .

A number of our companions, from Ahmad Bin Muhammad, from Usman Bin Isa, from a man,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, that he<sup>asws</sup> used to have a wife who astounded him<sup>asws</sup> and he<sup>asws</sup> loved her. So, one morning he<sup>asws</sup> had divorced her, and was gloomy due to that. So one of his<sup>asws</sup> friends said to him<sup>asws</sup>, 'May I be sacrificed for you<sup>asws</sup>! Why did you<sup>asws</sup> divorce her?' So he<sup>asws</sup> said: 'I<sup>asws</sup> mentioned

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

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

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

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

Ali<sup>asws</sup>, so she reduced him<sup>asws</sup> (was disrespectful to him<sup>asws</sup>) therefore I<sup>asws</sup> disliked that I<sup>asws</sup> should be attached to an ember from the embers of Hell with my<sup>asws</sup> skin'.<sup>6</sup>

مُحَمَّدُ بْنُ الْحُسَيْنِ عَنْ إِبْرَاهِيمَ بْنِ إِسْحَاقَ الْأَحْمَرِ عَنْ عَبْدِ اللَّهِ بْنِ حَمَّادٍ عَنْ خَطَّابِ بْنِ سَلَمَةَ قَالَ كَانَتْ عِنْدِي امْرَأَةٌ تَصِفُ هَذَا الْأَمْرَ وَكَانَ أَبُوهَا كَذَلِكَ وَكَانَتْ سَيِّئَةَ الْخُلُقِ فَكُنْتُ أَكْرَهُ طَلَاقَهَا لِمَعْرِفَتِي بِإِيمَانِهَا وَ إِيْمَانِ أَبِيهَا فَلَقِيْتُ أَبَا الْحَسَنِ مُوسَى (عليه السلام) وَ أَنَا أُرِيدُ أَنْ أَسْأَلَهُ عَنْ طَلَاقِهَا فَقُلْتُ جُعِلْتُ فِدَاكَ إِنَّ لِي إِلَيْكَ حَاجَةً فَتَأَدُّنْ لِي أَنْ أَسْأَلَكَ عَنْهَا فَقَالَ أَنْتَبِي غَدًا صَلَاةَ الظُّهْرِ

Muhammad Bin Al Husayn, from Ibrahim Bin Is'haq Al Ahmar, from Abdullah Bin Hammad, from Khattab Bin Salma who said,

'There was a wife with me described upon this matter (*Al-Wilayah*), and her father was like that, and she was of evil manners. But, I abhorred divorcing her due to my recognition of her faith and the faith of her father. So I met Abu Al-Hassan Musa<sup>asws</sup>, and I intended to ask him<sup>asws</sup> about divorcing her. So I said, 'May I be sacrificed for you! For me there is a need to you<sup>asws</sup>'. So he<sup>asws</sup> permitted me that I ask him<sup>asws</sup> about her, and he<sup>asws</sup> said: 'Come to me<sup>asws</sup> tomorrow at *Al-Zohr* Prayer'.

قَالَ فَلَمَّا صَلَّيْتُ الظُّهْرَ أَنْتَبَيْتُهُ فَوَجَدْتُهُ قَدْ صَلَّى وَ جَلَسَ فَدَخَلْتُ عَلَيْهِ وَ جَلَسْتُ بَيْنَ يَدَيْهِ فَأَبْتَدَأَنِي فَقَالَ يَا خَطَّابُ كَانَ أَبِي زَوْجِي ابْنَةً عَمِّ لِي وَ كَانَتْ سَيِّئَةَ الْخُلُقِ وَ كَانَ أَبِي رَبَّمَا أَعْلَقَ عَلَيَّ وَ عَلَيْهَا الْبَابُ رَجَاءً أَنْ أَلْقَاهَا فَتَسْلُقُ الْحَائِطُ وَ أَهْرُبُ مِنْهَا فَلَمَّا مَاتَ أَبِي طَلَّقْتُهَا

He (the narrator) said, 'So when I had Prayed *Al-Zohr*, I found him<sup>asws</sup> (also) to have Prayed, and seated. So I went over to him<sup>asws</sup> and sat in front of him. He began before me, so he<sup>asws</sup> said: 'O Khattab! My<sup>asws</sup> father<sup>asws</sup> got me<sup>asws</sup> married to a daughter of an uncle of mine<sup>asws</sup>, and she was of evil manners; and sometimes my<sup>asws</sup> father<sup>asws</sup> used to lock the door upon me<sup>asws</sup> and upon her, hoping that I<sup>asws</sup> settle (my affairs) with her. So I<sup>asws</sup> would climb the wall and go away from her. So when my<sup>asws</sup> father<sup>asws</sup> passed away, I<sup>asws</sup> divorced her'.

فَقُلْتُ اللَّهُ أَكْبَرُ أَجَابَنِي وَ اللَّهُ عَنْ حَاجَتِي مِنْ غَيْرِ مَسْأَلَةٍ .

So I said, 'Allah<sup>azwj</sup> is the Greatest! You<sup>asws</sup> have answered me, by Allah<sup>azwj</sup>, from my need, without being asked'.<sup>7</sup>

أَحْمَدُ بْنُ مَهْرَانَ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ عَنْ خَطَّابِ بْنِ سَلَمَةَ قَالَ دَخَلْتُ عَلَيْهِ بَعْنِي أَبَا الْحَسَنِ مُوسَى (عليه السلام) وَ أَنَا أُرِيدُ أَنْ أَسْأَلَ إِيَّاهُ مَا أَلْفَى مِنْ امْرَأَتِي مِنْ سُوءِ خُلُقِهَا فَأَبْتَدَأَنِي فَقَالَ إِنَّ أَبِي كَانَ زَوْجِي مَرَّةً امْرَأَةً سَيِّئَةَ الْخُلُقِ فَشَكَوْتُ ذَلِكَ إِلَيْهِ فَقَالَ لِي مَا يَمْنَعُكَ مِنْ فِرَاقِهَا قَدْ جَعَلَ اللَّهُ ذَلِكَ إِلَيْكَ فَقُلْتُ فِيمَا بَيْنِي وَ بَيْنَ نَفْسِي قَدْ فَرَجَتْ عَلَيَّ .

Ahmad Bin Mahran, from Muhammad Bin Ali, from Umar Bin Abdul Aziz, from Khattab Bin Salma who said,

'I went over to him<sup>asws</sup>, meaning Abu Al-Hassan<sup>asws</sup>, and I wanted to complain to him<sup>asws</sup> what I faced from my wife from the evil of her mannerisms. So he<sup>asws</sup> began before me, so he<sup>asws</sup> said: 'My<sup>asws</sup> father<sup>asws</sup> had got me<sup>asws</sup> married once to a woman of evil manners. So I<sup>asws</sup> complained of that to him<sup>asws</sup>, so he<sup>asws</sup> said to me<sup>asws</sup>: 'What is preventing you from separating from her. Allah<sup>azwj</sup> has Made that

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

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

(Permissible) to you<sup>asws</sup>?’ So I said in what is between me and myself, ‘He<sup>asws</sup> has relieved me’.<sup>8</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ مَعْلَى بْنِ مُحَمَّدٍ عَنِ الْوَشَاءِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنِ الْوَلِيدِ بْنِ صَبِيحٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَمِعْتُهُ يَقُولُ ثَلَاثَةٌ تَرُدُّ عَلَيْهِمْ دَعْوَتُهُمْ أَحَدُهُمْ رَجُلٌ يَدْعُو عَلَى امْرَأَتِهِ وَهُوَ لَهَا ظَالِمٌ فَيُقَالُ لَهُ أَلَمْ نَجْعَلْ أَمْرَهَا بِيَدِكَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Washa, from Abdullah Bin Sinan, from Al Waleed Bin Sabeeh,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, ‘I heard him<sup>asws</sup> saying: ‘Three (people), the supplication is returned unto them (unanswered) – one of them is a man who supplicates against his wife, and he is unjust to her, so it is said to him: ‘Did we not make her matter to be in your hands (the choice of divorcing her)?’<sup>9</sup>

بَابُ أَنَّ النَّاسَ لَا يَسْتَقِيمُونَ عَلَى الطَّلَاقِ إِلَّا بِالسَّيْفِ

### Chapter 3 – The people will not be standing straight upon the divorce (matters) except by the sword

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ حُدَيْفَةَ عَنِ مَعْمَرِ بْنِ عَطَاءِ بْنِ وَشِيكَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) يَقُولُ لَا يَصْلُحُ النَّاسُ فِي الطَّلَاقِ إِلَّا بِالسَّيْفِ وَ لَوْ وَلِيْتُهُمْ لَرَدَدْتُهُمْ فِيهِ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad, from Al Hassan Bin Huzeyfa, from Ma'mar Bin Ata'a Bin Washeyka who said,

‘I heard Abu Ja’far<sup>asws</sup> saying: ‘The people would not be correct regarding the divorce except by the sword, and if I<sup>asws</sup> were to rule over them, I<sup>asws</sup> would refer them in it to the Book of Allah<sup>azwj</sup> Mighty and Majestic’.<sup>10</sup>

قَالَ وَ حَدَّثَنِي بِهَذَا الْحَدِيثِ الْمِثْمِيُّ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ عَنْ بَعْضِ رِجَالِهِ أَوْ هَمَّهُ الْمِثْمِيُّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) .

He (the narrator) said, ‘And it was narrated to me with this Hadeeth by Al-Maysami, from Muhammad Bin Abu Hamza, from one of his men, guessing it was Al-Maysami, from Abu Abdullah<sup>asws</sup>’.

وَ عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ أَبِي الْمَعْرَاءِ عَنِ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ لَوْ وَلِيْتُ النَّاسَ لَأَعْلَمْتُهُمْ كَيْفَ يَنْبَغِي لَهُمْ أَنْ يُطَلِّقُوا ثُمَّ لَمْ أَوْتِ بِرَجُلٍ قَدْ خَالَفَ إِلَّا وَ أَوْجَعَتْ ظَهْرُهُ وَ مَنْ طَلَّقَ عَلَى غَيْرِ السُّنَّةِ رُدَّ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنْ رَغِمَ أَنْفُهُ .

And from him, from Abdullah Bin Jabala, from Abu Al Magra, from Sama’at, from Abu Baseer,

(It has been narrated) from Abu Ja’far<sup>asws</sup> having said: ‘If I<sup>asws</sup> were taken as a *Wali* (guardian to) the people, I<sup>asws</sup> would teach them how it is befitting for them that they should be divorcing. Then they would not come to me with a man who had opposed, except I<sup>asws</sup> would inflict pain upon his back; and the one who divorces upon other

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

<sup>9</sup> Al Kafi – V 7 – The Book of Divorce Ch 2 H 5

<sup>10</sup> Al Kafi – V 7 – The Book of Divorce Ch 3 H 1

than the Sunnah, I<sup>asws</sup> would return him to the Book of Allah<sup>azwj</sup> Mighty and Majestic, even if I<sup>asws</sup> have to force his nose'.<sup>11</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عُمَرَ بْنِ مَعْمَرِ بْنِ عَطَاءِ بْنِ وَشِيكَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) يَقُولُ لَا يَصْلِحُ النَّاسُ فِي الطَّلَاقِ إِلَّا بِالسَّيْفِ وَ لَوْ وَلِيْتُهُمْ لَرَدَدْتُهُمْ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Muhammad Bin Sama'at, from Umar Bin Ma'mar Bni Ata'ie Bin Washeyka who said,

'I heard Abu Ja'far<sup>asws</sup> saying: The people would not be corrected regarding the divorce except by the sword, and if I<sup>asws</sup> were to be taken as a *Wali* (guardian) them, I<sup>asws</sup> would return them to the Book of Allah<sup>azwj</sup> Mighty and Majestic'.<sup>12</sup>

قَالَ أَحْمَدُ وَ ذَكَرَ بَعْضُ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) وَ مُحَمَّدُ بْنُ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنِ الْعَبْدِ الصَّالِحِ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ قَالَ لَوْ وَلِيْتُ أَمْرَ النَّاسِ لَعَلَّمْتُهُمُ الطَّلَاقَ ثُمَّ لَمْ أَوْتِ بِأَحَدٍ خَالَفَ إِلَّا أَوْجَعْتُهُ ضَرْبًا .

Ahmad said, and he mentioned one of our companions, from Abu Abdullah<sup>asws</sup>, and Muhammad Bin Sama'at, from Abu Baseer,

(It has been narrated) from Al-Abd Al-Salih<sup>asws</sup> (7th Imam<sup>asws</sup>) having said: 'If I<sup>asws</sup> am entrusted with the affairs of the people, I<sup>asws</sup> would teach them the divorce, then they would not come with anyone who opposed, except that I<sup>asws</sup> would Obligate the whipping (on him)'.<sup>13</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبَانَ عَنْ أَبِي بَصِيرٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) يَقُولُ وَ اللَّهُ لَوْ مَلَكْتُ مِنْ أَمْرِ النَّاسِ شَيْئًا لَأَقَمْتُهُمُ بِالسَّيْفِ وَ السَّوْطِ حَتَّى يُطَلَّقُوا لِلْعِدَّةِ كَمَا أَمَرَ اللَّهُ عَزَّ وَ جَلَّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from one of our companions, from Aban, from Abu Baseer who said,

'I heard Abu Ja'far<sup>asws</sup> saying: 'By Allah<sup>azwj</sup>! If I<sup>asws</sup> owned anything from the affairs of the people, I<sup>asws</sup> would straighten them by the sword and the whip until they would be divorcing to the waiting period just as Allah<sup>azwj</sup> Mighty and Majestic has Commanded'.<sup>14</sup>

#### بَابُ مَنْ طَلَّقَ لِعَیْرِ الْكِتَابِ وَ السُّنَّةِ

### Chapter 4 – The one who divorces to other than the Book and the Sunnah

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ أَبَانَ عَنْ أَبِي بَصِيرٍ عَنْ عَمْرٍو بْنِ رِيَّاحٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ قُلْتُ لَهُ بَلِّغْنِي أَنَّكَ تَقُولُ مَنْ طَلَّقَ لِعَیْرِ السُّنَّةِ أَنْكَ لَا تَرَى طَلَّاقَهُ شَيْئاً فَقَالَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) مَا أَقُولُهُ بَلِّ اللَّهُ عَزَّ وَ جَلَّ يَقُولُهُ أَمَا وَ اللَّهُ لَوْ كُنَّا نَفْنِيكُمْ بِالْجَوْرِ لَكُنَّا شَرّاً مِنْكُمْ لِأَنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ لَوْ لَا يَنْهَاهُمُ الرَّبَّانِيُّونَ وَ الْأَخْبَارُ عَنْ قَوْلِهِمُ الْإِثْمَ وَ أَكَلِهِمُ السُّحْتَ إِلَى آخِرِ الْآيَةِ .

<sup>11</sup> Al Kafi – V 7 – The Book of Divorce Ch 3 H 2

<sup>12</sup> Al Kafi – V 7 – The Book of Divorce Ch 3 H 3

<sup>13</sup> Al Kafi – V 7 – The Book of Divorce Ch 3 H 4

<sup>14</sup> Al Kafi – V 7 – The Book of Divorce Ch 3 H 5



A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, both together from Ahmad Bin Muhammad Bin Abu Nasr, from Aban, from Abu Baseer, from Amro Bin Riyah,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, said, 'I said to him<sup>asws</sup>, 'It has reached me that you<sup>asws</sup> said: 'The one who divorces to other than the Sunnah, you<sup>asws</sup> do not view his divorce as anything?' So Abu Ja'far<sup>asws</sup> said: 'I<sup>asws</sup> am not saying it, but Allah<sup>azwj</sup> Mighty and Majestic is Saying it. By Allah<sup>azwj</sup>! If we<sup>asws</sup> were to issue a Verdict/*Fatwas* with the inequity we<sup>asws</sup> would be more evil than you all because Allah<sup>azwj</sup> Mighty and Majestic is Saying [5:63] **Why do not the Rabbis and the Monks prohibit them from their speaking of what is sinful and their eating of what is unlawfully acquired?** – up to the end of the Verse'.<sup>15</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ الصَّيْرَفِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ كُلُّ شَيْءٍ خَالَفَ كِتَابَ اللَّهِ عَزَّ وَجَلَّ وَ السُّنَّةَ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Everything which opposes the Book of Allah<sup>azwj</sup> Mighty and Majestic is to be returned to the Book of Allah<sup>azwj</sup> Mighty and Majestic, and the Sunnah'.<sup>16</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ عَنْ صَفْوَانَ بْنِ بَجَبِيٍّ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ مُحَمَّدِ بْنِ الْحَلْبِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) الرَّجُلُ يُطَلِّقُ امْرَأَتَهُ وَ هِيَ حَائِضٌ قَالَ الطَّلَاقُ عَلَى غَيْرِ السُّنَّةِ بَاطِلٌ قُلْتُ فَالرَّجُلُ يُطَلِّقُ ثَلَاثًا فِي مَقْعَدٍ قَالَ يُرَدُّ إِلَى السُّنَّةِ .

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

'I said to Abu Abdullah<sup>asws</sup>, 'The man divorces his wife and she is menstruating'. He<sup>asws</sup> said : 'The divorce upon other than the Sunnah is invalid'. I said, 'So the man divorces three (times) in one sitting?' He<sup>asws</sup> said: 'He is to be returned to the Sunnah'.<sup>17</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ أَبِي الْمُعْرَاءِ عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ مَنْ طَلَّقَ لِغَيْرِ السُّنَّةِ رُدَّ إِلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَ إِنْ رَغِمَ أَنْفُهُ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The one who divorces to other than the Sunnah, should be returned to the Book of Allah<sup>azwj</sup> Mighty and Majestic, even if his nose it to be forced'.<sup>18</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنِ الطَّلَاقِ إِذَا لَمْ يُطَلِّقْ لِلْعِدَّةِ فَقَالَ يُرَدُّ إِلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ .

<sup>15</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 1

<sup>16</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 2

<sup>17</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 3

<sup>18</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 4

Ali Bin Ibrahim, from his father, from one of his companions, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the divorce, when he does not divorce to the waiting period. So he<sup>asws</sup> said: 'Return him to the Book of Allah<sup>azwj</sup> Mighty and Majestic'.<sup>19</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هِيَ حَائِضٌ فَقَالَ الطَّلَاقُ لِعَبْرِ السُّنَّةِ بَاطِلٌ .

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

'I asked Abu Abdullah<sup>asws</sup> about a man who divorces his wife and she is menstruating'. So he<sup>asws</sup> said: 'The divorce to other than the Sunnah is invalid'.<sup>20</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قَالَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَام ) مَنْ طَلَّقَ ثَلَاثًا فِي مَجْلِسٍ عَلَى غَيْرِ طَهْرٍ لَمْ يَكُنْ شَيْئًا إِنَّمَا الطَّلَاقُ الَّذِي أَمَرَ اللَّهُ عَزَّ وَجَلَّ بِهِ فَمَنْ خَالَفَ لَمْ يَكُنْ لَهُ طَّلَاقٌ وَإِنَّ ابْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ ثَلَاثًا فِي مَجْلِسٍ وَ هِيَ حَائِضٌ فَأَمَرَهُ النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أَنْ يَنْكِحَهَا وَ لَا يَتَعَدَّ بِالطَّلَاقِ

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abu Ayoub, from Muhammad Bin Muslim who said,

'Abu Ja'far<sup>asws</sup> said: 'The one who divorces three (times) in one sitting upon other than purity (menstruation), will not amount to anything. But rather, the divorce is which Allah<sup>azwj</sup> Mighty and Majestic Commanded has with. So the one who opposed, there would be no divorce for him, and that the son of Umar divorced his wife three (divorces) in one sitting, and she was menstruating. So the Prophet<sup>saww</sup> ordered that he should sleep with her and not to exceed with the divorce'.

قَالَ وَ جَاءَ رَجُلٌ إِلَى أَمِيرِ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي طَلَّقْتُ امْرَأَتِي قَالَ أَلْ لَكَ بَيِّنَةٌ قَالَ لَا فَقَالَ اغْرُبْ.

He<sup>asws</sup> said: 'And a man came over to Amir Al-Momineen<sup>asws</sup>, so he said, 'O Amir Al-Momineen<sup>asws</sup>! I divorced my wife'. He<sup>asws</sup> said: 'Is there any proof (two witnesses) for you?' He said, 'No'. So he<sup>asws</sup> said: 'Single'.<sup>21</sup>

مُحَمَّدُ بْنُ جَعْفَرٍ أَبُو الْعَبَّاسِ عَنْ أَيُّوبَ بْنِ نُوحٍ عَنْ صَفْوَانَ عَنْ يَعْقُوبَ بْنِ شُعَيْبٍ قَالَ سَمِعْتُ أَبَا بَصِيرٍ يَقُولُ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَام ) عَنْ امْرَأَةٍ طَلَّقَهَا رَوْجَهَا لِعَبْرِ السُّنَّةِ وَ قُلْنَا إِنَّهُمْ أَهْلُ بَيْتٍ وَ لَمْ يَعْلَمْ بِهِمْ أَحَدٌ فَقَالَ لَيْسَ بِشَيْءٍ .

Muhammad Bin Ja'far Abu Al Abbas, from Ayoub Bin Nuh, from Safwan, from Yaquob Bin Shuayb who said, 'I heard Abu Baseer saying,

'I asked Abu Ja'far<sup>asws</sup> about a woman whose husband had divorced her to other than the Sunnah, and we said they are a family, and there is no one who knows them. So he<sup>asws</sup> said: 'It is not with anything'.<sup>22</sup>

<sup>19</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 5

<sup>20</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 6

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

<sup>22</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 8



أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ يُطَلِّقُ امْرَأَتَهُ فِي طَهْرٍ مِنْ غَيْرِ جَمَاعٍ ثُمَّ يَرَجِعُهَا مِنْ يَوْمِهِ ثُمَّ يُطَلِّقُهَا تَبَيَّنَ مِنْهُ ثَلَاثُ تَطْلِيقَاتٍ فِي طَهْرٍ وَاحِدٍ فَقَالَ خَالَفَ السُّنَّةَ فَلَيْسَ يَنْبَغِي لَهُ إِذَا هُوَ رَاجِعُهَا أَنْ يُطَلِّقَهَا إِلَّا فِي طَهْرٍ آخَرَ قَالَ نَعَمْ فَلَنْتُ حَتَّى يُجَامِعَ قَالَ نَعَمْ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Is'haq Bin Ammar,

(It has been narrated) from Abu Ibrahim<sup>asws</sup> (7th Imam<sup>asws</sup>), said, 'I asked him<sup>asws</sup> about a man who divorced his wife during (her being) clean without copulating with her. Then he returned to her from that day. Then divorced her, manifesting from it with three divorces during one purity'. So he<sup>asws</sup> said: 'Opposite to the Sunnah'. I said, 'So is it not befitting for him when he returns to her that he should divorce her except during another purity?' He<sup>asws</sup> said: 'Yes'. I said, 'Until he sleeps with her?' He<sup>asws</sup> said: 'Yes'.<sup>26</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ مَنْ طَلَّقَ بِغَيْرِ شُهُودٍ فَلَيْسَ بِشَيْءٍ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The one who divorces without witnesses, so it is not with anything'.<sup>27</sup>

سَهْلٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عُمَرَ بْنِ بَزِيدٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قَدِمَ رَجُلٌ إِلَى أَمِيرِ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) بِالْكَوْفَةِ فَقَالَ إِنِّي طَلَّقْتُ امْرَأَتِي بَعْدَ مَا طَهَّرْتُ مِنْ مَحِيضِهَا قَبْلَ أَنْ أُجَامِعَهَا فَقَالَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) أَشْهَدْتُ رَجُلَيْنِ دَوِيَ عَذْلٍ كَمَا أَمَرَ اللَّهُ عَزَّ وَجَلَّ فَقَالَ لَا فَقَالَ أَذْهَبُ فَإِنَّ طَلَّاقَكَ لَيْسَ بِشَيْءٍ .

Sahl, from Ahmad Bin Muhammad, from Muhammad Bin Sama'at, from Umar Bin Yazeed, from Muhammad Bin Muslim who said,

'A man came over to Amir Al-Momineen<sup>asws</sup> at Al-Kufa, so he said, 'I divorced my wife after she was clean from her menstruation, before I slept with her'. So Amir Al-Momineen<sup>asws</sup> said: 'Did you get two just witnesses just as Allah<sup>azwj</sup> Mighty and Majestic had Commanded?' So he said, 'No'. So he<sup>asws</sup> said: 'Go, for your divorce is not with anything'.<sup>28</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ مَنْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا فِي مَجْلِسٍ وَهِيَ حَائِضٌ فَلَيْسَ بِشَيْءٍ وَ قَدْ رَدَّ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) طَلَّاقَ عَبْدِ اللَّهِ بْنِ عُمَرَ إِذَا طَلَّقَ امْرَأَتَهُ ثَلَاثًا وَ هِيَ حَائِضٌ فَأَبْطَلَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) ذَلِكَ الطَّلَاقَ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said; 'The one who divorces his wife three (times) in one sitting, and she is menstruating, so it is invalid, and Rasool-Allah<sup>saww</sup> had rejected a divorce of Abdullah Bin Umar when he divorced his wife

<sup>26</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 12

<sup>27</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 13

<sup>28</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 14

three (times) and she was menstruating. So Rasool-Allah<sup>saww</sup> invalidated that divorce’.

وَقَالَ كُلُّ شَيْءٍ خَالَفَ كِتَابَ اللَّهِ عَزَّ وَجَلَّ فَهُوَ رَدٌّ إِلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَقَالَ لَا طَلَّاقَ إِلَّا فِي عِدَّةٍ .

And he<sup>asws</sup> said: ‘Everything which opposes the Book of Allah<sup>azwj</sup> Mighty and Majestic, so it is returned to the Book of Allah<sup>azwj</sup> Mighty and Majestic’. And he<sup>asws</sup> said: ‘There is no divorce except in a waiting period’.<sup>29</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَرِيْعٍ عَنْ عَلِيِّ بْنِ النُّعْمَانِ عَنْ سَعِيدِ الْأَعْرَجِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) إِنِّي سَأَلْتُ عَمْرَو بْنَ عَبِيدٍ عَنْ طَلَّاقِ ابْنِ عُمَرَ فَقَالَ طَلَّقَهَا وَ هِيَ طَامِثٌ وَاحِدَةً قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَوْ فَلَاقُكُمْ لَهُ إِذَا طَلَّقَهَا وَاحِدَةً وَ هِيَ طَامِثَةٌ كَانَتْ أَوْ غَيْرَ طَامِثٍ فَهُوَ أَمْلَكُ بِرَجْعَتِهَا قَالَ قَدْ قُلْتُ لَهُ ذَلِكَ فَقَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) كَذَبَ عَلَيْهِ لَعْنَةُ اللَّهِ بَلْ طَلَّقَهَا ثَلَاثًا فَرَدَّهَا النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَقَالَ أَمْسِكْ أَوْ طَلَّقْ عَلَى السُّنَّةِ إِنْ أَرَدْتَ أَنْ تُطَلَّقَ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Muhammad Bin Ismail Bin Bazie, from Ali Bin Al Noman, from Saeed Al A'araj who said,

‘I said to Abu Abdullah<sup>asws</sup>, ‘I asked Amro Bin Ubeyd about divorce of Ibn Umar, so he said, ‘He divorced her and she was with one menstruation’. Abu Abdullah<sup>asws</sup> said: ‘So did you not say to him, ‘When he divorced her and she was with a menstruation, or she was without a menstruation, so he had control with returning to her?’ He said, ‘I had said that to him’. So Abu Abdullah<sup>asws</sup> said: ‘He has lied against him, may Allah<sup>azwj</sup> Curse him. But he divorced her three (times), so the Prophet<sup>saww</sup> rejected it, so he<sup>saww</sup> said: ‘Keep or divorce upon the Sunnah, if you intend to divorce’.<sup>30</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدْنِيَةَ عَنْ بُكَيْرٍ وَغَيْرِهِ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ كُلُّ طَلَّاقٍ لِعَدَّةٍ فَلَيْسَ بِطَلَّاقٍ أَنْ يُطَلَّقَ وَ هِيَ حَائِضٌ أَوْ فِي دَمِ نَفْسَاهَا أَوْ بَعْدَ مَا يَعْشَاهَا قَبْلَ أَنْ تَحِيضَ فَلَيْسَ طَلَّاقًا بِطَلَّاقٍ فَإِنْ طَلَّقَهَا لِلْعِدَّةِ أَكْثَرَ مِنْ وَاحِدَةٍ فَلَيْسَ الْفَضْلُ عَلَى الْوَاحِدَةِ بِطَلَّاقٍ وَ إِنْ طَلَّقَهَا لِلْعِدَّةِ بِغَيْرِ شَاهِدٍ عَدِلَ فَلَيْسَ طَلَّاقًا بِطَلَّاقٍ وَ لَا تَجُوزُ فِيهِ شَهَادَةُ النِّسَاءِ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: ‘Every divorce without a waiting period, is not with a (valid) divorce, if he divorces her and she is menstruating, or in blood of childbirth, or after he had overwhelmed (copulated) with her before she menstruated, so his divorce is not a (valid) divorce. So if he were to divorce her to the waiting period more than once, so there is no preference (of the second one) over the one with a divorce; and if he divorces her to the waiting period without two just witnesses, so his divorce is not with a (valid) divorce, nor is there allowed with regards to it, the testimony of the women’.<sup>31</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدْنِيَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ كُنْتُ عِنْدَهُ إِذْ مَرَّ بِهِ نَافِعٌ مَوْلَى ابْنِ عُمَرَ فَقَالَ لَهُ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنْتَ الَّذِي تَزْعُمُ أَنَّ ابْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ وَاحِدَةً وَ هِيَ حَائِضٌ فَأَمَرَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) عُمَرَ أَنْ يَأْمُرَهُ أَنْ يُرَاجِعَهَا قَالَ نَعَمْ فَقَالَ لَهُ كَذَبْتَ وَ اللَّهُ الَّذِي لَا إِلَهَ إِلَّا هُوَ

<sup>29</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 15

<sup>30</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 16

<sup>31</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 17

عَلَى ابْنِ عُمَرَ أَنَا سَمِعْتُ ابْنَ عُمَرَ يَقُولُ طَلَّقْتُهَا عَلَى عَهْدِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) ثَلَاثًا فَرَدَّهَا رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) عَلَيَّ وَ أَمْسَكْتُهَا بَعْدَ الطَّلَاقِ فَاتَّقِ اللَّهَ يَا نَافِعُ وَ لَا تَرَوْ عَلَى ابْنِ عُمَرَ الْبَاطِلَ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup>, said, 'I was in his<sup>asws</sup> presence when Nafau, a slave of Ibn Umar passed by. So (I recalled) Abu Ja'far<sup>asws</sup> said to him: 'Are you the one who is alleging that Ibn Umar divorced his wife once and she was menstruating, so Rasool-Allah<sup>saww</sup> ordered Umar that he should instruct him to return to her?' He said, 'Yes'. So he<sup>asws</sup> said to him: 'You lie, by the One<sup>azwj</sup> there is not God except for Him<sup>azwj</sup>, upon Ibn Umar. I<sup>asws</sup> heard Ibn Umar saying: 'I divorced her in the era of Rasool-Allah<sup>saww</sup> three (times), so Rasool-Allah<sup>saww</sup> rejected it upon me, and I kept her after the divorce. Therefore, fear Allah<sup>azwj</sup>, O Nafau, and do not report falsehood upon Ibn Umar!'<sup>32</sup>

### بَابُ أَنَّ الطَّلَاقَ لَا يَقَعُ إِلَّا لِمَنْ أَرَادَ الطَّلَاقَ

## Chapter 5 – The divorce does not occur except for the one who intended the divorce

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنِ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ لَا طَّلَاقَ إِلَّا مَا أَرِيدَ بِهِ الطَّلَاقُ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'There is no divorce except when what is intended by it is the divorce'.<sup>33</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنِ الْإِسْعَنْدَرِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) وَ عَنْ عَبْدِ الْوَّاحِدِ بْنِ الْمُخْتَارِ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) أَنَّهُمَا قَالَا لَا طَّلَاقَ إِلَّا لِمَنْ أَرَادَ الطَّلَاقَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr, from Zurara, from Al Yas'a, from Abu Abdullah<sup>asws</sup>, and from Abdul Wahid Bin Al Mukhtar,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, both of them<sup>asws</sup> having said: 'There is no divorce except for the one who intended the divorce'.<sup>34</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنِ الْإِسْعَنْدَرِ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) يَقُولُ لَا طَّلَاقَ إِلَّا عَلَى السُّنَّةِ وَ لَا طَّلَاقَ عَلَى السُّنَّةِ إِلَّا عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ وَ لَا طَّلَاقَ عَلَى سُنَّةٍ وَ عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ إِلَّا بِبَيِّنَةٍ وَ لَوْ أَنَّ رَجُلًا طَلَّقَ عَلَى سُنَّةٍ وَ عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ وَ لَمْ يُشْهَدْ لَمْ يَكُنْ طَلَّاقًا وَ لَوْ أَنَّ رَجُلًا طَلَّقَ عَلَى سُنَّةٍ وَ عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ وَ أَشْهَدَ وَ لَمْ يَنْوِ الطَّلَاقَ لَمْ يَكُنْ طَلَّاقًا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, from Abdul Rahman Bin Abu Najran, from Abdullah Bin Bukeyr, from Zurara, from Al Yas'a who said,

<sup>32</sup> Al Kafi – V 7 – The Book of Divorce Ch 4 H 18

<sup>33</sup> Al Kafi – V 7 – The Book of Divorce Ch 5 H 1

<sup>34</sup> Al Kafi – V 7 – The Book of Divorce Ch 5 H 2

'I heard Abu Ja'far<sup>asws</sup> saying: 'There is no divorce except upon the Sunnah, and there is no divorce upon the Sunnah except upon purity from without copulation, and there is no divorce upon Sunnah, and upon purity without copulation except with proof (two witnesses); and if a man were to divorce upon Sunnah, and upon purity from without copulation, and does not have it witnessed, his divorce would not happen to be a divorce; and if a man were to divorce upon Sunnah, and upon purity from without copulation, and have it witnessed, and did not intend the divorce, his divorce would not happen to be a divorce'.<sup>35</sup>

### باب أَنَّهُ لَا طَلَّاقَ قَبْلَ النِّكَاحِ

## Chapter 6 – There is no divorce before the copulation

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ مُحَمَّدُ بْنُ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ مَنْصُورِ بْنِ يُوسُفَ عَنْ حَمْرَةَ بْنِ حُمْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ عَنْ أَبِيهِ سُلَيْمَانَ قَالَ كُنْتُ فِي الْمَسْجِدِ فَدَخَلَ عَلَيَّ بْنُ الْحُسَيْنِ ( عَلَيْهِ السَّلَام ) وَ لَمْ أَتْبَهُ فَسَأَلْتُ عَنْهُ فَأَخْبَرْتُ بِاسْمِهِ فَقُمْتُ إِلَيْهِ أَنَا وَ غَيْرِي فَكَتَبْنَا عَلَيْهِ فَسَلَّمْنَا عَلَيْهِ فَقَالَ لَهُ رَجُلٌ أَصْلَحَكَ اللَّهُ مَا تَرَى فِي رَجُلٍ سَمَى امْرَأَةً بِعَيْنِهَا وَ قَالَ يَوْمَ يَتَزَوَّجُهَا هِيَ طَالِقٌ ثَلَاثًا ثُمَّ بَدَأَ لَهُ أَنْ يَتَزَوَّجَهَا أَيْ صُلِحَ لَهُ ذَلِكَ فَقَالَ إِنَّمَا الطَّلَاقُ بَعْدَ النِّكَاحِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Muhammad Bin Al Husayn, from Muhammad Bin Ismail Bin Bazie, from Mansour Bin Yunus, from Hamza Bin Humran, from Abdullah Bin Suleyman, from his father Suleyman who said,

'I was in the Masjid, so Ali<sup>asws</sup> Bin Al-Husayn<sup>asws</sup> entered, and I was not sure of it. So I asked about him<sup>asws</sup>, so I was informed with his<sup>asws</sup> name. So I and others arose to go to him<sup>asws</sup>. So we encircled him<sup>asws</sup> and greeted him<sup>asws</sup>. So a man said to him<sup>asws</sup>, 'May Allah<sup>azwj</sup> Keep you<sup>asws</sup> well! What is your<sup>asws</sup> view regarding a man who names a woman exactly and says on the day he marries her that she is divorced three (times), then changes his mind and marries her. Is that correct for him?' So he<sup>asws</sup> said: 'But rather, the divorce is after the marriage'.<sup>36</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَقُولُ يَوْمَ أَتَزَوَّجُ فَلَانَةَ فَهِيَ طَالِقٌ فَقَالَ لَيْسَ بِشَيْءٍ إِنَّهُ لَا يَكُونُ طَلَّاقٌ حَتَّى يَمْلِكَ عُقْدَةَ النِّكَاحِ .

A number of our companions, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, from Usman Bin Isa, from sama'at who said,

'I asked him<sup>asws</sup> about the man saying on a day, 'I shall marry so and so woman, so she is divorced'. So he<sup>asws</sup> said: 'It is nothing. It does not happen to be a divorce until he has contracted the marriage'.<sup>37</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ مُحَمَّدِ بْنِ عِيسَى عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادِ بْنِ عِيسَى عَنْ شُعَيْبِ بْنِ يَعْقُوبَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ كَانَ الذَّيْنُ مِنْ قَبْلِنَا يَقُولُونَ لَا عَتَاقَ وَ لَا طَلَّاقَ إِلَّا بَعْدَ مَا يَمْلِكُ الرَّجُلُ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Hammad Bin Isa, from Shuayb Bin Yaquob, from Abu Baseer,

<sup>35</sup> Al Kafi – V 7 – The Book of Divorce Ch 5 H 3

<sup>36</sup> Al Kafi – V 7 – The Book of Divorce Ch 6 H 1

<sup>37</sup> Al Kafi – V 7 – The Book of Divorce Ch 6 H 2

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The ones<sup>asws</sup> before us<sup>asws</sup> were saying: 'There is neither emancipation nor a divorce except after what the man owns'.<sup>38</sup>

مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ أَبِي عَلِيٍّ الْأَشْعَرِيِّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ حَرِيزِ بْنِ حَمْرَةَ بْنِ حُمْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ عَنْ أَبِيهِ قَالَ كُنْتُ فِي الْمَسْجِدِ فَدَخَلَ عَلِيُّ بْنُ الْحُسَيْنِ ( عَلَيْهِ السَّلَامُ ) وَ لَمْ أَتُبَّهِ وَ عَلَيْهِ عِمَامَةٌ سَوْدَاءٌ قَدْ أُرْسِلَ طَرَفَيْهَا بَيْنَ كَتِفَيْهِ فَقُلْتُ لِرَجُلٍ قَرِيبٍ الْمَجْلِسِ مِنِّي مَنْ هَذَا الشَّيْخِ فَقَالَ مَا لَكَ لَمْ تُسْأَلْنِي عَنْ أَحَدٍ دَخَلَ الْمَسْجِدَ غَيْرَ هَذَا الشَّيْخِ قَالَ فَقُلْتُ لَهُ لَمْ أَرُ أَحَدًا دَخَلَ الْمَسْجِدَ أَحْسَنَ هَيْئَةً فِي عَيْنِي مِنْ هَذَا الشَّيْخِ فَلَدَيْكَ سَأَلْتُكَ عَنْهُ قَالَ فَإِنَّهُ عَلِيُّ بْنُ الْحُسَيْنِ ( عَلَيْهِ السَّلَامُ )

Muhammad Bin Ja'far Al Razzaz, from Ayoub Bin Nuh and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Hareyz, from Hamza Bin Humran, from Abdullah Bin Suleyman, form his father who said,

'I was in the Masjid, so Ali<sup>asws</sup> Bin Al-Husayn<sup>asws</sup> entered, and I was not sure of it, and upon him was a black turban, and both its ends (of the turban) were between his<sup>asws</sup> shoulders (one at the front and one at the back). So I said to a man sitting near me, 'Who is this Sheykh?' So he said, 'What is the matter with you. You did not ask men about anyone who entered the Masjid apart from this Sheykh?' I said to him, 'I did not see anyone enter the Masjid to have better appearance in my eyes than this Sheykh, thus it is due to that, I ask about him'. He said, 'So he is Ali<sup>asws</sup> Bin Al-Husayn<sup>asws</sup>'.

قَالَ فَقُمْتُ وَ قَامَ الرَّجُلُ وَ غَيْرُهُ فَانْتَفَفْنَا وَ سَلَّمْنَا عَلَيْهِ فَقَالَ لَهُ الرَّجُلُ مَا تَرَى أَصْلَحَكَ اللَّهُ فِي رَجُلٍ سَمَى امْرَأَتَهُ بِعَيْنَيْهَا وَ قَالَ يَوْمَ يَتْرُوجُهَا فَهِيَ طَالِقٌ ثَلَاثًا ثُمَّ بَدَأَ لَهُ أَنْ يَتْرُوجَهَا أَوْ يَصْلُحُ لَهُ ذَلِكَ قَالَ فَقَالَ إِنَّمَا الطَّلَاقُ بَعْدَ النِّكَاحِ

He (the narrator) said, 'So I arose, and the man and others arose. So we encircled him<sup>asws</sup> and we greeted him<sup>asws</sup>. So the man said to him<sup>asws</sup>, 'What is your view, may Allah<sup>azwj</sup> Keep you<sup>asws</sup> well, regarding a man who mentions his wife exactly and said on the day he marries her, so she is divorced three (times). Then changes his mind and marries her, is that correct for him?' So he<sup>asws</sup> said: 'But rather, the divorce is after the marriage'.

قَالَ عَبْدُ اللَّهِ فَدَخَلْتُ أَنَا وَ أَبِي عَلِيٍّ أَبِي عَبْدِ اللَّهِ جَعْفَرِ بْنِ مُحَمَّدٍ ( عَلَيْهِ السَّلَامُ ) فَحَدَّثَنِي أَبِي بِهَذَا الْحَدِيثِ فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَنْتَ تَشْهَدُ عَلَيَّ بِنِ الْحُسَيْنِ ( عَلَيْهِ السَّلَامُ ) بِهَذَا الْحَدِيثِ قَالَ نَعَمْ .

Abdullah (son of the narrator) said, 'So I and my father went over to Abu Abdullah<sup>asws</sup> Ja'far Bin Muhammad<sup>asws</sup>. So my father narrated to him<sup>asws</sup> with this Hadeeth. So Abu Abdullah<sup>asws</sup> said to him: 'You are a witness upon Ali<sup>asws</sup> Bin Al-Husayn<sup>asws</sup> with this Hadeeth?' He said, 'Yes'.<sup>39</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ إِنْ تَزَوَّجْتُ فُلَانَةَ فَهِيَ طَالِقٌ وَ إِنْ اسْتَرَيْتُ فُلَانًا فَهُوَ حُرٌّ وَ إِنْ اسْتَرَيْتُ هَذَا النَّوْبَ فَهُوَ لِلْمَسَاكِينِ فَقَالَ لَيْسَ بِشَيْءٍ لَا يُطْلَقُ إِلَّا مَا يَمْلِكُ وَ لَا يَتَصَدَّقُ إِلَّا بِمَا يَمْلِكُ .

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

<sup>38</sup> Al Kafi – V 7 – The Book of Divorce Ch 6 H 3

<sup>39</sup> Al Kafi – V 7 – The Book of Divorce Ch 6 H 4



(It has been narrated) Abu Ja'far<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who said, 'I shall marry so and so woman, so she is divorced, and I shall buy so and so (slave) so he is free, and if I were to buy this cloth, so it is for the poor'. So he<sup>asws</sup> said: 'It is not with anything. There is neither a divorce except what he owns, not a charity except with what he owns'.<sup>40</sup>

### باب الرَّجُلُ يَكْتُبُ بِطَلَاقِ امْرَأَتِهِ

## Chapter 7 – The man writes with a divorce to his wife

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ أَبِي حَمْرَةَ الثَّمَالِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ قَالَ لِرَجُلٍ اكْتُبْ يَا فُلَانُ إِلَى امْرَأَتِي بِطَلَاقِهَا أَوْ اكْتُبْ إِلَى عَبْدِي بِعِتْقِهِ يَكُونُ ذَلِكَ طَلَاقًا أَوْ عِتْقًا فَقَالَ لَا يَكُونُ طَلَاقًا وَلَا عِتْقًا حَتَّى يَنْطِقَ بِهِ لِسَانَهُ أَوْ يَخْطُهُ بِيَدِهِ وَهُوَ يُرِيدُ الطَّلَاقَ أَوْ الْعِتْقَ وَ يَكُونُ ذَلِكَ مِنْهُ بِالْأَهْلِ وَالشُّهُودِ وَ يَكُونُ غَائِبًا عَنْ أَهْلِهِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Abu Hamza Al Sumaly who said,

'I asked Abu Ja'far<sup>asws</sup> about a man who says to a man, 'Write, O so and so, to my wife, in regard to her divorce', or 'Write to my slave with his emancipation (liberation)'. Does that happen to be a divorce or an emancipation?' So he<sup>asws</sup> said: 'Neither does a divorce happen nor an emancipation until it is spoken with by his tongue, or he writes it by his own handwriting, and he intends the divorce or the emancipation, and that happens from him with (counting the) the new moons, and the witnesses, and he happens to be absent from his wife'.<sup>41</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَادِ بْنِ عَيْسَى أَوْ ابْنِ أَبِي عُمَيْرٍ عَنْ ابْنِ أُدَيْنَةَ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) رَجُلٌ كَتَبَ بِطَلَاقِ امْرَأَتِهِ أَوْ بِعِتْقِ غُلَامِهِ ثُمَّ بَدَأَ لَهُ فَمَحَاهُ قَالَ لَيْسَ ذَلِكَ بِطَلَاقٍ وَلَا عِتْقٍ حَتَّى يَتَكَلَّمَ بِهِ .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, or Ibn Abu Umeyr, from Ibn Azina, from Zurara who said,

'I said to Abu Ja'far<sup>asws</sup>, 'A man wrote with a divorce to his wife, or with an emancipation (liberation) of his slave. Then he changed his mind for it, so he deleted it'. He<sup>asws</sup> said: 'That is not with a divorce nor an emancipation, until he speaks with it'.<sup>42</sup>

### باب تَفْسِيرِ طَلَاقِ السُّنَّةِ وَالْعِدَّةِ وَمَا يُوجِبُ الطَّلَاقَ

## Chapter 8 – Interpretation of the divorce of the Sunnah, and the waiting period, and what Obligates the divorce

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ جَعْفَرٍ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ مُسْكَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ طَلَاقُ السُّنَّةِ يُطَلَّقُهَا تَطْلِيقَةً يَعْنِي عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ بِشَهَادَةِ شَاهِدَيْنِ ثُمَّ يَدْعُهَا حَتَّى تَمْضِيَ أَقْرَأُهَا فَإِذَا مَضَتْ أَقْرَأُهَا فَقَدْ بَانَتْ

<sup>40</sup> Al Kafi – V 7 – The Book of Divorce Ch 6 H 5

<sup>41</sup> Al Kafi – V 7 – The Book of Divorce Ch 7 H 1

<sup>42</sup> Al Kafi – V 7 – The Book of Divorce Ch 7 H 2

مِنْهُ وَ هُوَ خَاطِبٌ مِنَ الْخُطَابِ إِنْ شَاءَتْ نَكَحَتْهُ وَ إِنْ شَاءَتْ فَلَا وَ إِنْ أَرَادَ أَنْ يُرَاجِعَهَا أَشْهَدَ عَلَى رَجْعَتِهَا قَبْلَ أَنْ تَمْضِيَ أَفْرَاؤُهَا فَتَكُونُ عِنْدَهُ عَلَى النَّطْلِيقَةِ الْمَاضِيَةِ

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar and Muhammad Bin Ja'far Abu Al Abbas Al Razaz, from Ayoub Bin Nuh, and Ali Bin Ibrahim, from his father, both together, from Safwan Bin Yahya, from Ibn Muskan, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Divorce of the Sunnah is (where) he divorces her with a (valid) divorce, meaning upon the purity from without copulation, with a testimony of two witnesses. Then he leaves her until she completes her menstruation. So when her menstruation is gone, so she is irrevocably divorced from him, and he would be an proposer from the proposers if he so desires to marry her (again); and if he intends to return to her, he should keep a witness upon returning to her before her menstruation passes, so he would be upon the past divorce'.

قَالَ وَ قَالَ أَبُو بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) هُوَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ الطَّلَاقُ مَرَّتَانِ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ التَّلْطِيقَةُ الثَّانِيَةُ التَّسْرِيحُ بِإِحْسَانٍ .

He (the narrator) said, 'And Abu Baseer, from Abu Abdullah<sup>asws</sup> (having said): 'These are the Words of Allah<sup>azwj</sup> Mighty and Majestic **[2:229] Divorce (is only Permissible) twice, then keep (them) in good fellowship or let (them) go with kindness.** (In) the second divorce is the letting go with kindness'.<sup>43</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِعٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ قَالَ كُلُّ طَلَاقٍ لَا يَكُونُ عَلَى السُّنَّةِ أَوْ طَلَاقٍ عَلَى الْعِدَّةِ فَلَيْسَ بِشَيْءٍ

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 Al Hassan Bin Mahboub, from Ali Bin Raib, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Every divorce which does not take place upon the Sunnah, or a divorce upon the waiting period, so it is nothing'.

قَالَ زُرَّارَةُ فَقُلْتُ لِأَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فَسَّرَ لِي طَلَاقَ السُّنَّةِ وَ طَلَاقَ الْعِدَّةِ فَقَالَ أَمَّا طَلَاقُ السُّنَّةِ فَإِذَا أَرَادَ الرَّجُلُ أَنْ يُطَلِّقَ امْرَأَتَهُ فَلْيَنْتَظِرْ بِهَا حَتَّى تَطْمَئِنَّ وَ تَطْهَرَ فَإِذَا خَرَجَتْ مِنْ طَمَئِنِّهَا طَلَّقَهَا تَطْلِيقَةً مِنْ غَيْرِ جَمَاعٍ وَ يُشْهَدُ شَاهِدَيْنِ عَلَى ذَلِكَ ثُمَّ يَدْعُهَا حَتَّى تَطْمَئِنَّ طَمَئِنِّينِ فَتَنْقُضِي عِدَّتَهَا بِثَلَاثِ حَيْضٍ وَ قَدْ بَانَتْ مِنْهُ وَ يَكُونُ خَاطِباً مِنَ الْخُطَابِ إِنْ شَاءَتْ تَزَوَّجَتْهُ وَ إِنْ شَاءَتْ لَمْ تَتَزَوَّجْهُ وَ عَلَيْهِ نَفَقَتُهَا وَ السُّكْنَى مَا دَامَتْ فِي عِدَّتِهَا وَ هُمَا يَتَوَارَثَانِ حَتَّى تَنْقُضِيَ الْعِدَّةَ

Zurara narrates, I said to Abu Ja'far<sup>asws</sup>, 'Explain for me a divorce of the Sunnah, and a divorce of the waiting period'. So he<sup>asws</sup> said: 'As for a divorce of the Sunnah, so when the man intends to divorce his wife, so let him wait with her until she menstruates and is pure. So when she comes out from her menstruation, he divorces her with a divorce from without copulation, and he have it witnessed by two witnesses upon that. Then he leaves until she menstruates with two menstruations. Thus, she fulfills her waiting period by three menstruations, and she would be irrevocably divorced from him, and he would happen to be a proposer from the proposers, if he so desires to marry her. And if he desires not to marry her, and upon

<sup>43</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 1

him is her expenses and her dwelling for as long as she is in her waiting period; and they would both be inheriting (each other) until she fulfills the waiting period’.

قَالَ وَ أَمَّا طَلَاقُ الْعِدَّةِ الَّذِي قَالَ اللَّهُ عَزَّ وَ جَلَّ فَطَلَّقُوهُنَّ لِعِدَّتِهِنَّ وَ أَحْصُوا الْعِدَّةَ فَإِذَا أَرَادَ الرَّجُلُ مِنْكُمْ أَنْ يُطَلِّقَ امْرَأَتَهُ طَلَاقَ الْعِدَّةِ فَلْيَنْتَظِرْ بِهَا حَتَّى تَحِيضَ وَ تَخْرُجَ مِنْ حَيْضِهَا ثُمَّ يُطَلِّقْهَا تَطْلِيقَةً مِنْ غَيْرِ جِمَاعٍ وَ يُشْهَدُ شَاهِدَيْنِ عَدْلَيْنِ وَ يُرَاجِعُهَا مِنْ يَوْمِهِ ذَلِكَ إِنْ أَحَبَّ أَوْ بَعْدَ ذَلِكَ بِأَيَّامٍ أَوْ قَبْلَ أَنْ تَحِيضَ وَ يُشْهَدُ عَلَى رَجْعَتِهَا وَ يُوَاقِعُهَا وَ يَكُونُ مَعَهَا حَتَّى تَحِيضَ فَإِذَا حَاضَتْ وَ خَرَجَتْ مِنْ حَيْضِهَا طَلَّقَهَا تَطْلِيقَةً أُخْرَى مِنْ غَيْرِ جِمَاعٍ وَ يُشْهَدُ عَلَى ذَلِكَ ثُمَّ يُرَاجِعُهَا أَيْضاً مَتَى شَاءَ قَبْلَ أَنْ تَحِيضَ وَ يُشْهَدُ عَلَى رَجْعَتِهَا وَ يُوَاقِعُهَا وَ تَكُونُ مَعَهُ إِلَى أَنْ تَحِيضَ الْحَيْضَةَ الثَّلَاثَةَ فَإِذَا خَرَجَتْ مِنْ حَيْضَتِهَا الثَّلَاثَةَ طَلَّقَهَا التَّطْلِيقَةَ الثَّلَاثَةَ بِغَيْرِ جِمَاعٍ وَ يُشْهَدُ عَلَى ذَلِكَ

He<sup>asws</sup> said: ‘And as for a divorce of the waiting period which Allah<sup>azwj</sup> Mighty and Majestic Speaks of [65:1] **When you divorce women, divorce them for their prescribed time, and calculate the number of the days prescribed.** So when the man from you intends to divorce his wife by a divorce of the waiting period, so let him wait with her until she menstruates, and comes out from her menstruation. Then he divorces her with a divorce without copulation, and have it witnessed by two just witnesses, and he can return to her from that day of his if he so likes, or after that by (some) days, or before she menstruates, and he should have it witnessed upon his returning to her, and copulate with her, and be with her until she menstruates. So when she menstruates and comes out from her menstruation, divorces her with another divorce from without copulation, and have it witnessed upon that. Then he returns to her again whenever he so desires to before she menstruates, and have it witnessed upon his returning to her; and he copulates with her and happens to be with her up to her menstruating with the third menstruation. So when she comes out from her third menstruation, divorces her with the third divorce without copulation, and have it witnessed upon that.

فَإِذَا فَعَلَ ذَلِكَ فَقَدْ بَانَتْ مِنْهُ وَ لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجاً غَيْرَهُ قِيلَ لَهُ فَإِنْ كَانَتْ مِمَّنْ لَا تَحِيضُ فَقَالَ مِثْلُ هَذِهِ تُطَلِّقُ طَلَاقَ السُّنَّةِ .

So when he does that, so she is irrevocably divorced from him, and she is not Permissible unto him until she marries another husband’. It was said to him<sup>asws</sup>, ‘Supposing she is from the ones who does not menstruate?’ So he<sup>asws</sup> said: ‘For the likes of these is a divorce of the Sunnah’.<sup>44</sup>

ابْنُ مَحْبُوبٍ عَنِ ابْنِ بُكَيْرٍ عَنِ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَام ) يَقُولُ أَحَبُّ لِلرَّجُلِ الْفَقِيهِ إِذَا أَرَادَ أَنْ يُطَلِّقَ امْرَأَتَهُ أَنْ يُطَلِّقَهَا طَلَاقَ السُّنَّةِ

Ibn Mahboub, from Ibn Bukeyr, from Zurara who said,

‘I heard Abu Ja’far<sup>asws</sup> saying: ‘I<sup>asws</sup> would love it for the understanding man when he intends to divorce his wife that he should divorce her with a divorce of the Sunnah’.

قَالَ ثُمَّ قَالَ وَ هُوَ الَّذِي قَالَ اللَّهُ عَزَّ وَ جَلَّ لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمراً يَعْنِي بَعْدَ الطَّلَاقِ وَ انْقِضَاءِ الْعِدَّةِ التَّرْوِيجَ لَهُمَا مِنْ قَبْلِ أَنْ تَزُوجَ زَوْجاً غَيْرَهُ

He (the narrator) said, ‘Then he<sup>asws</sup> said: ‘And it is that which Allah<sup>azwj</sup> Mighty and Majestic Says [65:1] **Perhaps Allah may, after that, bring about a matter –**

<sup>44</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 2

Meaning, after the divorce and the fulfilling of the waiting period, the marriage of them both from before she marries another husband’.

قَالَ وَمَا أَعْدَلُهُ وَأَوْسَعُهُ لُهُمَا جَمِيعاً أَنْ يُطَلَّقَهَا عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ تَطْلِيقَةً بِشُهُودٍ ثُمَّ يَدْعُهَا حَتَّى يَخْلُوَ أَجْلُهَا ثَلَاثَةَ أَشْهُرٍ أَوْ ثَلَاثَةَ قُرُوءٍ ثُمَّ يَكُونُ خَاطِباً مِنَ الْخَطَابِ .

He<sup>asws</sup> said: ‘How much justice there is, and leeway for both of them together, that he divorces her upon purity from without copulation with a divorce by witnesses, then leaves her until her term is free with three months, or three menstruations, then he happens to be a proposer from the proposers’.<sup>45</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ أَوْ غَيْرِهِ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ طَلَاقِ السُّنَّةِ قَالَ طَلَاقُ السُّنَّةِ إِذَا أَرَادَ الرَّجُلُ أَنْ يُطَلِّقَ امْرَأَتَهُ يَدْعُهَا إِنْ كَانَ قَدْ دَخَلَ بِهَا حَتَّى تَحِيضَ ثُمَّ تَطْهَرُ فَإِذَا طَهَّرَتْ طَلَّقَهَا وَاحِدَةً بِشَهَادَةِ شَاهِدَيْنِ ثُمَّ يَبْرُكُهَا حَتَّى تَعْتَدَ ثَلَاثَةَ قُرُوءٍ فَإِذَا مَضَتْ ثَلَاثَةَ قُرُوءٍ فَقَدْ بَانَ مِنْهُ بِوَاحِدَةٍ وَكَانَ زَوْجُهَا خَاطِباً مِنَ الْخَطَابِ إِنْ شَاءَتْ تَزَوَّجَتْهُ وَإِنْ شَاءَتْ لَمْ تَفْعَلْ فَإِنْ تَزَوَّجَهَا بِمَهْرٍ جَدِيدٍ كَانَتْ عِنْدَهُ عَلَى اثْنَتَيْنِ بِأَقْبَتَيْنِ وَقَدْ مَضَتْ الْوَاحِدَةَ

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, or someone else, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, ‘I asked him<sup>asws</sup> about divorce of the Sunnah. He<sup>asws</sup> said: ‘Divorce of the Sunnah is when the man intends to divorce his wife, he leaves her if he had copulated with her, until she menstruates, then is pure. So when she is pure, he divorces her once with the witnesses of two witnesses. Then he leaves her until she waits for three menstruation. So when she fulfills three menstruations, so she is irrevocably divorced from him, once, and her husband is (now) a proposer from the proposers, if she so desires to, she marries him, and if she so desires to, does not do it. So if he marries her with a new dowry, so she would be in his presence upon the two remaining (divorces), and the one would have passed’.

فَإِنْ هُوَ طَلَّقَهَا وَاحِدَةً أُخْرَى عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ بِشَهَادَةِ شَاهِدَيْنِ ثُمَّ تَرَكَهَا حَتَّى تَمْضِيَ أَقْرَأُهَا فَإِذَا مَضَتْ أَقْرَأُهَا مِنْ قَبْلِ أَنْ يُرَاجِعَهَا فَقَدْ بَانَ مِنْهُ بِاثْنَتَيْنِ وَ مَلَكَتْ أَمْرَهَا وَ حَلَّتْ لِلزَّوْجِ وَ كَانَ زَوْجُهَا خَاطِباً مِنَ الْخَطَابِ إِنْ شَاءَتْ تَزَوَّجَتْهُ وَإِنْ شَاءَتْ لَمْ تَفْعَلْ فَإِنْ هُوَ تَزَوَّجَهَا تَزَوَّجاً جَدِيداً بِمَهْرٍ جَدِيدٍ كَانَتْ مَعَهُ بِوَاحِدَةٍ بِأَقْبَتَيْنِ وَقَدْ مَضَتْ اثْنَتَانِ

So if he were to divorce her with another one upon purity from without copulation, with a testimony of two witnesses, then leaves her until she fulfills her menstruation. So when she fulfills her menstruation from before he returns to her, so she is irrevocably divorced from him with the two (divorces) and is in control of her affairs, and she is free to re-marry, and her (ex) husband would be a proposer from the proposers if she so desires to, she marries him, and if she so desires to, does not do it. So if he were to marry her with a new marriages, with a new dowry, she would be with him with one (divorce) remaining, and two would have passed.

فَإِنْ أَرَادَ أَنْ يُطَلِّقَهَا طَلِيقاً لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجاً غَيْرَهُ تَرَكَهَا حَتَّى إِذَا حَاضَتْ وَ طَهَّرَتْ أَشْهَدَ عَلَى طَلِيقَتِهَا تَطْلِيقَةً وَاحِدَةً ثُمَّ لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجاً غَيْرَهُ

So if he intends to divorce her with a divorce, there is no Permissibility for him until she marries another husband, who leave her until when she menstruates, and is

<sup>45</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 3

pure, have it witnessed upon her divorce with one divorce, then she is not Permissible for him until she marries another husband.

وَأَمَّا طَلَقُ الرَّجْعَةِ فَإِنْ يَدَعَهَا حَتَّى تَحِيضَ وَ تَطْهَرَ ثُمَّ يُطَلِّقُهَا بِشَهَادَةِ شَاهِدَيْنِ ثُمَّ يُرَاجِعُهَا وَ يُوَاقِعُهَا ثُمَّ يَنْتَظِرُ بِهَا الطُّهْرَ فَإِذَا حَاضَتْ وَ طَهَّرَتْ أَشْهَدَ شَاهِدَيْنِ عَلَى تَطْلِيْقِهَا أُخْرَى ثُمَّ يُرَاجِعُهَا وَ يُوَاقِعُهَا ثُمَّ يَنْتَظِرُ بِهَا الطُّهْرَ فَإِذَا حَاضَتْ وَ طَهَّرَتْ أَشْهَدَ شَاهِدَيْنِ عَلَى التَّطْلِيْقِ الثَّلَاثَةِ ثُمَّ لَا تَحِلُّ لَهُ أَبَدًا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ عَلَيْهَا أَنْ تَعُدَّ ثَلَاثَةَ قُرُوءٍ مِنْ يَوْمِ طَلْقِهَا التَّطْلِيْقِ الثَّلَاثَةِ

And as for a divorce of the reversion, so he leaves her until she menstruates and is pure, then he divorces her with a testimony of two witnesses. Then he returns to her, and copulates with her. Then he waits with her for the purity. So when she has menstruated and is pure, witnesses it with two witnesses upon his another divorce. Then he returns to her and copulates with her, then waits with her for the purity. So when she has menstruated and is pure, has it witnessed by two witnesses upon the third divorce. Then she would not be Permissible for him, ever, until she marries another husband, and it is upon her that she waits for three menstruations from the day she is divorced with her third divorce.

فَإِنْ طَلَّقَهَا وَاحِدَةً عَلَى طُهْرٍ بِشُهُودٍ ثُمَّ انْتَظَرَ بِهَا حَتَّى تَحِيضَ وَ تَطْهَرَ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يُرَاجِعَهَا لَمْ يَكُنْ طَلْقُهُ الثَّانِيَةَ طَلْقًا لِأَنَّهُ طَلَّقَ طَالِقًا لِأَنَّهُ إِذَا كَانَتْ الْمَرْأَةُ مُطَلَّقَةً مِنْ زَوْجِهَا كَانَتْ خَارِجَةً مِنْ مِلْكِهِ حَتَّى يُرَاجِعَهَا فَإِذَا رَاجَعَهَا صَارَتْ فِي مِلْكِهِ مَا لَمْ يُطَلَّقِ التَّطْلِيْقِ الثَّلَاثَةَ فَإِذَا طَلَّقَهَا التَّطْلِيْقِ الثَّلَاثَةَ فَقَدْ خَرَجَ مِلْكُ الرَّجْعَةِ مِنْ يَدِهِ فَإِنْ طَلَّقَهَا عَلَى طُهْرٍ بِشُهُودٍ ثُمَّ رَاجَعَهَا وَ انْتَظَرَ بِهَا الطُّهْرَ مِنْ غَيْرِ مُوَاقَعَةٍ فَحَاضَتْ وَ طَهَّرَتْ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يُدْنِسَهَا بِمُوَاقَعَةٍ بَعْدَ الرَّجْعَةِ لَمْ يَكُنْ طَلْقُهُ لَهَا طَلْقًا لِأَنَّهُ طَلَّقَهَا التَّطْلِيْقِ الثَّانِيَةَ فِي طُهْرِ الْأُولَى وَ لَا يُنْقِضُ الطُّهْرَ إِلَّا بِمُوَاقَعَةٍ بَعْدَ الرَّجْعَةِ

Then her divorce is once, upon purity, with witnesses. Then she would be awaited with until she menstruates and is pure. Then he divorces her before he returns to her, the second divorce would not take place because he would be divorcing a divorced woman, because when the woman was divorced from her husband, she would have come out from his ownership until he returns to her. So when he returns to her, she comes to be in his ownership for as long as he does not divorce her with the third divorce.

So when he divorces her with the third divorce, so she would have come out from the bounds of the return from his hands. So if he divorces her upon purity with witnesses, then returns to her, and waits with her for the purity from without copulation, so she menstruates and is pure, then he divorces her before he violates by copulating with her after the return, his divorcing her would not happen to be a divorce because he would have divorced her with the second divorce in the first purity, and the purity is not passed except by copulation after the reversion.

وَ كَذَلِكَ لَا تَكُونُ التَّطْلِيْقِ الثَّلَاثَةُ إِلَّا بِمُرَاجَعَةٍ وَ مُوَاقَعَةٍ بَعْدَ الْمُرَاجَعَةِ ثُمَّ حِيْضٍ وَ طُهْرٍ بَعْدَ الْحِيْضِ ثُمَّ طَلْقٍ بِشُهُودٍ حَتَّى يَكُونَ لِكُلِّ تَطْلِيْقٍ طُهْرٌ مِنْ تُدْنِيْسِ الْمُوَاقَعَةِ بِشُهُودٍ .

And similar to that, the third divorce does not happen except by the reversion and copulation after the reversion, then she menstruates and is pure after the menstruation, then there is a divorce with witnesses, until there happens for each divorce, a purity from the violation of the copulation, by witnesses'.<sup>46</sup>

<sup>46</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 4

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ بَيْحِيٍّ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ بَيْحِيٍّ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ جَمِيعاً عَنْ الْحَسَنِ بْنِ زِيَادٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ طَلَاقِ السُّنَّةِ كَيْفَ يُطَلَّقُ الرَّجُلُ امْرَأَتَهُ فَقَالَ يُطَلَّقُهَا فِي طَهْرٍ قَبْلَ عِدَّتِهَا مِنْ غَيْرِ جَمَاعٍ بِشَهْرٍ فَإِنْ طَلَّقَهَا وَاحِدَةً ثُمَّ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلَهَا فَقَدْ بَانَتْ مِنْهُ وَ هُوَ خَاطِبٌ مِنَ الْخَطَابِ وَ إِنْ رَاجَعَهَا فِيهِ عِنْدَهُ عَلَى تَطْلِيفِهِ مَاضِيَةٍ وَ بَقِيَ تَطْلِيفَتَانِ

Abu Ali Al Ashary, from Muhammad Bni Abdul Jabbar, from Safwan Bin Yahya, and a number of our companions, from Sahl Bin Ziyad, and Muhammad Bin Yahya, from Ahmad Biin Muhammad, and Ali Bin Ibrahim, from his father, both together, from Ahmad Bin Muhammad Bin Abu Nasr, from Abdul Kareem, both together from Al Hassan Bin Ziyad,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about divorce, how should the man divorce his wife. So he<sup>asws</sup> said: 'He should divorce her during purity, before her waiting period from without copulation, with witnesses. So if he divorces her once, then leaves her until she is free from her term, so she is irrevocably divorced from him, and he would be a proposer from the proposers. And if he reverts to her, so she would be with him upon a previous divorce, and there would remain two divorces.

فَإِنْ طَلَّقَهَا الثَّانِيَةَ وَ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلَهَا فَقَدْ بَانَتْ مِنْهُ وَ إِنْ هُوَ أَشْهَدَ عَلَى رَجْعَتِهَا قَبْلَ أَنْ يَخْلُوَ أَجْلَهَا فِيهِ عِنْدَهُ عَلَى تَطْلِيفَتَيْنِ مَاضِيَتَيْنِ وَ بَقِيَتْ وَاحِدَةً فَإِنْ طَلَّقَهَا الثَّلَاثَةَ فَقَدْ بَانَتْ مِنْهُ وَ لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجاً غَيْرَهُ وَ هِيَ تَرْتٌ وَ تَوْرَتْ مَا كَانَ لَهُ عَلَيْهَا رَجْعَةٌ مِنَ التَّطْلِيفَتَيْنِ الْأُولَتَيْنِ .

So if he were to divorce her for the second (divorce), and leaves her until she is free from her term, so she would be irrevocably divorced from him, and if he has taken witnesses upon returning to her before she is free from her term, so she would be with him upon two previous divorces, and there would remain one (divorce). So if he were to divorce her for the third (divorce) so she would be irrevocably divorced from him, and she would not be Permissible for him until she marries another husband, and she would inherit him and he would inherit her for as long as there is (the right of) reversion for him to her, from the two former divorces'.<sup>47</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ بَعْدَ مَا عَشِيَهَا بِشَهَادَةِ عَدْلَيْنِ فَقَالَ لَيْسَ هَذَا بِطَلَاقٍ فَقُلْتُ جُعِلَتْ فِدَاكَ كَيْفَ طَلَاقُ السُّنَّةِ فَقَالَ يُطَلَّقُهَا إِذَا طَهَّرْتَ مِنْ حَيْضِهَا قَبْلَ أَنْ يَعْشَاهَا بِشَاهِدَيْنِ عَدْلَيْنِ كَمَا قَالَ اللَّهُ عَزَّ وَ جَلَّ فِي كِتَابِهِ فَإِنْ خَالَفَ ذَلِكَ رَدَّ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ

Ali Bin Ibrahim, from his father, from Ahmad Bin Muhammad Bin Abu Nasr who said,

'I asked Abu Al-Hassan<sup>asws</sup> about a man who divorced his wife after having copulated with her, with two just witnesses. So he<sup>asws</sup> said: 'This is not with a (valid) divorce'. So I said, 'May I be sacrificed for you<sup>asws</sup>! How is the divorce of the Sunnah?' So he<sup>asws</sup> said: 'He divorces her when she is pure from her menstruation, before he copulates with her, with two just witnesses, just as Allah<sup>azwj</sup> Mighty and Majestic has Said in His<sup>azwj</sup> Book. So if he were to oppose that, he has to be returned to the Book of Allah<sup>azwj</sup> Mighty and Majestic'.

فَقُلْتُ لَهُ فَإِنْ طَلَّقَ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ بِشَاهِدٍ وَ امْرَأَتَيْنِ فَقَالَ لَا تَجُوزُ شَهَادَةُ النِّسَاءِ فِي الطَّلَاقِ وَ قَدْ تَجُوزُ شَهَادَتُهُنَّ مَعَ غَيْرِهِنَّ فِي الدَّمِ إِذَا حَضَرَتْهُ فَقُلْتُ فَإِنْ أَشْهَدَ رَجُلَيْنِ نَاصِبَيْنِ عَلَى الطَّلَاقِ أَيْ كُونَ طَلَاقاً فَقَالَ مَنْ وُلِدَ عَلَى الْفُطْرَةِ أُجِيزَتْ شَهَادَتُهُ عَلَى الطَّلَاقِ بَعْدَ أَنْ تَعْرِفَ مِنْهُ خَيْرًا .

<sup>47</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 5

So I said to him<sup>asws</sup>, 'Suppose if he divorces her upon purity from without copulation, with one (male) witness and two women?' So he<sup>asws</sup> said: 'It is not allowed, the testimony of the women in the (matter of) divorce, and their testimony has been allowed along with another, in the (matter of) the blood, when she is present'. So I said, 'Supposing two men, Hostile ones (*Nasibis*) were to witness upon the divorce, would that divorce take place?' So he<sup>asws</sup> said: 'The one who is born upon the nature, his testimony is allowed upon the divorce after you recognise the goodness from him'.<sup>48</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ أُدَيْنَةَ عَنِ ابْنِ بُكَيْرٍ وَغَيْرِهِ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ قَالَ إِنَّ الطَّلَاقَ الَّذِي أَمَرَ اللَّهُ عَزَّ وَجَلَّ بِهِ فِي كِتَابِهِ وَ الَّذِي سَنَّ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أَنْ يُخْلِيَ الرَّجُلُ عَنِ الْمَرْأَةِ فَإِذَا حَاضَتْ وَ طَهَّرَتْ مِنْ مَحِيضِهَا أَشْهَدَ رَجُلَيْنِ عَدْلَيْنِ عَلَى تَطْلِيقِهَا وَ هِيَ طَاهِرٌ مِنْ غَيْرِ جَمَاعٍ وَ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَنْقُضْ ثَلَاثَةَ فُرُوعٍ وَ كُلُّ طَلَاقٍ مَا خَلَا هَذَا فَبَاطِلٌ لَيْسَ بِطَلَاقٍ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The divorce which Allah<sup>azwj</sup> Mighty and Majestic Commanded with in His<sup>azwj</sup> Book, and which is a Sunnah of Rasool-Allah<sup>saww</sup> is that the man isolates from the wife. So when she menstruates and is pure from her menstruation, two just men bear witness upon a divorce, and she is pure from without copulation, and he is more rightful with reverting back to her, for as long as she has not fulfilled three menstruations; and every divorce apart from this, so it is invalid, it is not a divorce'.<sup>49</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ طَلَاقُ السُّنَّةِ إِذَا طَهَّرْتَ الْمَرْأَةَ فَلْيُطَلِّقْهَا وَاحِدَةً مَكَانَهَا مِنْ غَيْرِ جَمَاعٍ يُسْهَدُ عَلَى طَلَاقِهَا فَإِذَا أَرَادَ أَنْ يُرَاجِعَهَا أَشْهَدَ عَلَى الْمَرَّاجِعَةِ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Jameel Bin Darraj, from Zurara,

Abu Ja'far<sup>asws</sup> has said: 'A divorce of the Sunnah is when the woman is pure, so he divorces her in one place, from without copulation, keeping witnesses upon her divorce. So when he intends to revert to her, he should keep witnesses upon the return'.<sup>50</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) إِذَا أَرَادَ الرَّجُلُ الطَّلَاقَ طَلَّقْهَا فِي قُبُلِ عَدَّتَيْهَا بَعِيرٍ جَمَاعٍ فَإِنَّهُ إِذَا طَلَّقَهَا وَاحِدَةً ثُمَّ تَرَكَهَا حَتَّى يَخْلُوَ أَجَلَهَا إِنْ شَاءَ أَنْ يَخْطُبَ مَعَ الْخُطَابِ فَعَلَّ فَإِنْ رَاجَعَهَا قَبْلَ أَنْ يَخْلُوَ أَجَلَهَا أَوْ بَعْدَهُ كَانَتْ عِنْدَهُ عَلَى تَطْلِيقِهَا

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Muhammad Bin Ziyad, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> said: 'When the man intends the divorce, he divorces her before her waiting period, without copulation. So if he divorces her once, then leaves her until she is free from

<sup>48</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 6

<sup>49</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 7

<sup>50</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 8

her term, if he so desires to he can propose with the proposers, he can do so. So if he reverts to her before she is free from her term, or after it, she would be with him upon a (previous) divorce.

فَإِنْ طَلَّقَهَا الثَّانِيَةَ أَيْضاً فَشَاءَ أَنْ يَخْطُبَهَا مَعَ الْخَطَّابِ إِنْ كَانَ تَرَكَهَا حَتَّى يَخْلُوَ أَجْلَهَا فَإِنْ شَاءَ رَاجَعَهَا قَبْلَ أَنْ يَنْقَضِيَ أَجْلَهَا فَإِنْ فَعَلَ فِيهَا عِنْدَهُ عَلَى تَطْلِيقَتَيْنِ فَإِنْ طَلَّقَهَا الثَّالِثَةَ فَلَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجاً غَيْرَهُ وَ هِيَ تَرِثُ وَ تُورِثُ مَا كَانَتْ فِي الدَّمِ مِنَ التَّطْلِيقَتَيْنِ الْأُولَتَيْنِ .

So if he divorces her for the second (divorce) as well, so if he so desires he can propose to her along with the (other proposers), if he had left her until she was free from her term, so if he so desires to he can revert to her before she has fulfilled her term. So if he does so, so she would be with him upon two (previous) divorces. So if he divorces her for the third (divorce), so she would not be Permissible for him until she marries another husband, and she would inherit from him and he would inherit her for as long as she was in the blood from the two former divorces'.<sup>51</sup>

### بَاب مَا يَجِبُ أَنْ يَقُولَ مَنْ أَرَادَ أَنْ يُطَلِّقَ

## Chapter 9 – What is Obligated in saying for the one who intends to divorce

جُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنِ ابْنِ رَبَاطٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ جَمِيعاً عَنِ ابْنِ أُذَيْنَةَ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ أَنَّهُ سَأَلَ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتِ عَلَيَّ حَرَامٌ أَوْ بَائِنَةٌ أَوْ بَيْتَةٌ أَوْ بَرِيئَةٌ أَوْ خَلِيَّةٌ قَالَ هَذَا كُلُّهُ لَيْسَ بِشَيْءٍ إِنَّمَا الطَّلَاقُ أَنْ يَقُولَ لَهَا فِي قَبْلِ الْعِدَّةِ بَعْدَ مَا تَطَهَّرَ مِنْ مَحِيضِهَا قَبْلَ أَنْ يُجَامِعَهَا أَنْتِ طَالِقٌ أَوْ اعْتَدِي يُرِيدُ بِذَلِكَ الطَّلَاقَ وَ يُشْهَدُ عَلَى ذَلِكَ رَجُلَيْنِ عَدْلَيْنِ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ibn Rabat, and Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, both together, from Ibn Azina,

(It has been narrated) from Muhammad Bin Muslim who asked Abu Ja'far<sup>asws</sup> about a man who says to his wife, 'You are forbidden unto me', or 'a stranger', or 'cut-off', or 'disavowed', or 'free'. He<sup>asws</sup> said: 'All these are not with anything. But rather, the divorce is that he should be saying to her in the beginning of the waiting period, after what she had been purified from her menstruation, before he copulates with her, 'You are divorced', or 'Begin your waiting period', intending the divorce by that, and there witness upon that, two just men'.<sup>52</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ حَمَّادِ عَنِ الْحَلْبِيِّ عَنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ الطَّلَاقُ أَنْ يَقُولَ لَهَا اعْتَدِي أَوْ يَقُولَ لَهَا أَنْتِ طَالِقٌ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The divorce is that he is saying to her, 'Begin your waiting period', or is saying to her, 'You are divorced'.<sup>53</sup>

<sup>51</sup> Al Kafi – V 7 – The Book of Divorce Ch 8 H 9

<sup>52</sup> Al Kafi – V 7 – The Book of Divorce Ch 9 H 1

<sup>53</sup> Al Kafi – V 7 – The Book of Divorce Ch 9 H 2



عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ الطَّلَاقُ لِلْعِدَّةِ أَنْ يُطْلَقَ الرَّجُلُ امْرَأَتَهُ عِنْدَ كُلِّ طَهْرٍ يُرْسَلُ إِلَيْهَا أَنْ اعْتَدِي فَإِنْ فَلَانَا قَدْ طَلَّقَكَ قَالَ وَ هُوَ أَمْلَكَ بِرَجْعَتِهَا مَا لَمْ تَنْقُضِ عِدَّتَهَا .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The divorce for the waiting period is that the man divorces his wife during every purity, sending a message to her that, 'Begin her waiting period, for so and so has divorced you'. He<sup>asws</sup> said: 'And he is in control with reverting back to her for as long as she has not fulfilled her waiting period'.<sup>54</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ يُرْسَلُ إِلَيْهَا فَيَقُولُ الرَّسُولُ اعْتَدِي فَإِنْ فَلَانَا قَدْ فَارَقَكَ .

Humeyd Bin Ziyad, from Ibn Sama'at, from Muhammad Bin Ziyad, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'He sends her a message so the messenger is saying, 'Begin your waiting period, for so and so had separated from you'.<sup>55</sup>

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

## Chapter 10 – The one who divorces three (divorces) upon purity, with witnesses, in one sitting, or more, it is one (divorce)

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثًا فِي مَجْلِسٍ وَاحِدٍ أَوْ أَكْثَرَ وَ هِيَ طَاهِرَةٌ قَالَ هِيَ وَاحِدَةٌ.

A number of our companions, from Ahmad Bin Muhammad, and Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Jameel Bin Darraj, from Zurara,

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>), said, 'I asked him<sup>asws</sup> about a man who divorced his wife three (divorces) in one sitting, or more, and she was pure. He<sup>asws</sup> said: 'It is one'.<sup>56</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّارَةَ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) قَالَ سَأَلْتُهُ عَنِ الَّذِي يُطْلَقُ فِي حَالِ طَهْرٍ فِي مَجْلِسٍ ثَلَاثًا قَالَ هِيَ وَاحِدَةٌ .

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

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>), said, 'I asked him<sup>asws</sup> about those who divorce during a state of purity, in a sitting, three (divorces). He<sup>asws</sup> said: 'It is one'.<sup>57</sup>

<sup>54</sup> Al Kafi – V 7 – The Book of Divorce Ch 9 H 3

<sup>55</sup> Al Kafi – V 7 – The Book of Divorce Ch 9 H 4

<sup>56</sup> Al Kafi – V 7 – The Book of Divorce Ch 10 H 1

<sup>57</sup> Al Kafi – V 7 – The Book of Divorce Ch 10 H 2

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدِ بْنِ جَعْفَرِ أَبِي الْعَبَّاسِ الرَّزَّازِ عَنْ أُبُوبِ بْنِ نُوحٍ جَمِيعاً عَنْ صَفْوَانَ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي بَصِيرِ الْأَسَدِيِّ وَ مُحَمَّدِ بْنِ عَلِيٍّ الْحَلْبِيِّ وَ عَمَرَ بْنِ حَنْظَلَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ الطَّلَاقُ ثَلَاثًا فِي غَيْرِ عِدَّةٍ إِنْ كَانَتْ عَلَى طَهْرٍ فَوَاحِدَةً وَإِنْ لَمْ يَكُنْ عَلَى طَهْرٍ فَلَيْسَ بِشَيْءٍ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ja'far Abu Al Abbas Al Razzaz, from Ayoub Bin Nuh, both together, from Safwan, from Mansour Bin Hazim, from Abu Baseer Al Asady, and Muhammad Bin Ali Al Halby, and Umar Bin Al Hanzala,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The three divorces without a waiting period, even if it was upon purity, so it is one, and if it did not happen upon purity, so it is nothing'.<sup>58</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ وَ عَلِيٍّ بْنِ خَالِدٍ عَنْ عَبْدِ الْكَرِيمِ بْنِ عَمْرٍو عَنْ عَمْرٍو بْنِ الْبَرَاءِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) إِنَّ أَصْحَابَنَا يَقُولُونَ إِنَّ الرَّجُلَ إِذَا طَلَّقَ امْرَأَةً مَرَّةً أَوْ مِائَةَ مَرَّةٍ فَإِنَّمَا هِيَ وَاحِدَةٌ وَ قَدْ كَانَ يُبَلِّغُنَا عَنْكَ وَ عَنْ آبَائِكَ ( عَلَيْهِمُ السَّلَامُ ) أَنَّهُمْ كَانُوا يَقُولُونَ إِذَا طَلَّقَ مَرَّةً أَوْ مِائَةَ مَرَّةٍ فَإِنَّمَا هِيَ وَاحِدَةٌ فَقَالَ هُوَ كَمَا بَلَّغَكُمْ .

Humejd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ja'far Bin Sama'at, and Ali Bin Halid, from Abdul Kareem Bin Amro, from Amro Bin Al Bara'a who said,

'I said to Abu Abdullah<sup>asws</sup>, 'Our companions are saying that the man, when he divorces a woman once, or a hundred times, but rather it is one, and it had reached us from you<sup>asws</sup>, and from your<sup>asws</sup> forefathers<sup>asws</sup> that they<sup>asws</sup> were saying: 'When a divorce is one, or one hundred times, but rather it is one'. So he<sup>asws</sup> said: 'It is just as it has reached you'.<sup>59</sup>

بَابُ مَنْ طَلَّقَ وَ فَرَّقَ بَيْنَ الشُّهُودِ أَوْ طَلَّقَ بِحَضْرَةِ قَوْمٍ وَ لَمْ يَقُلْ لَهُمْ أَشْهَدُوا

## Chapter 11 – The one who divorces and separates between the witnesses, or divorces in the presence of a group and does not say to them, 'Bear witness'

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ وَ أَشْهَدَ الْيَوْمَ رَجُلًا ثُمَّ مَكَتْ خَمْسَةَ أَيَّامٍ ثُمَّ أَشْهَدَ آخَرَ فَقَالَ إِنَّمَا أَمْرٌ أَنْ يُشْهَدَا جَمِيعاً .

Ali Bin Ibrahim, from his father, from Ahmad Bin Muhammad Bin Abu Nasr who said,

'I asked Abu Al-Hassan<sup>asws</sup> about a man who divorces his wife upon purity, from without copulation, and keeps a man as a witness on that day, then remains for five days, then keeps another. So he<sup>asws</sup> said: 'But rather, he is ordered to have both witnesses together'.<sup>60</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَلِيٍّ بْنِ أَحْمَدَ بْنِ أُسَيْمٍ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَهَّرَتْ امْرَأَتَهُ مِنْ حَيْضِهَا فَقَالَ فَلَانَهُ طَلِيقٌ وَ قَوْمٌ يَسْمَعُونَ كَلَامَهُ وَ لَمْ يَقُلْ لَهُمْ أَشْهَدُوا أَوْ يَقَعُ الطَّلَاقُ عَلَيْهَا قَالَ نَعَمْ هِيَ شَهَادَةٌ أَوْ فَتْرُكٌ مُعَلَّقَةٌ .

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

<sup>58</sup> Al Kafi – V 7 – The Book of Divorce Ch 10 H 3

<sup>59</sup> Al Kafi – V 7 – The Book of Divorce Ch 10 H 3

<sup>60</sup> Al Kafi – V 7 – The Book of Divorce Ch 11 H 1

'I asked him<sup>asws</sup> about a man whose wife was pure from her menstruation, so he said, 'So and so woman is divorced, and a group was listening his speech, and he did not tell them, 'Bear witness', has his divorced occurred upon her?' He said, 'Yes, it is a witnessing (otherwise) she would be left hanging'.<sup>61</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ كَانَتْ لَهُ امْرَأَةٌ طَهَّرَتْ مِنْ حَيْضِهَا فَجَاءَ إِلَى جَمَاعَةٍ فَقَالَ فَلَانَةٌ طَالِقٌ يَقَعُ عَلَيْهَا الطَّلَاقُ وَ لَمْ يَقُلْ لَهُمْ أَشْهَدُوا قَالَ نَعَمْ .

Ali Bin Ibrahim, from his father, from Ahmad Bin Muhammad Bin Abu Nasr, who said,

'I asked Abu Al-Hassan<sup>asws</sup> about a man for whom was a wife who was pure from her menstruation, so he went to a group, so he said, 'So and so woman is divorced'. Does the divorce occur upon her, and he did not say to them, 'Bear witness'? He<sup>asws</sup> said: 'Yes'.<sup>62</sup>

عَلِيُّ عَنْ أَبِيهِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ أَبِي الْحَسَنِ الرَّضَا ( عَلَيْهِ السَّلَامُ ) قَالَ سُئِلَ عَنْ رَجُلٍ طَهَّرَتْ امْرَأَتُهُ مِنْ حَيْضِهَا فَقَالَ فَلَانَةٌ طَالِقٌ وَ قَوْمٌ يَسْمَعُونَ كَلَامَهُ وَ لَمْ يَقُلْ لَهُمْ أَشْهَدُوا أ يَقَعُ الطَّلَاقُ عَلَيْهَا قَالَ نَعَمْ هَذِهِ شَهَادَةٌ .

Ali, from his father, from Safwan Bin Yahya,

(It has been narrated) from Abu Al-Hassan Al-Reza<sup>asws</sup>, said, 'He<sup>asws</sup> was asked about a man whose wife was pure from her menstruation, so he said, 'So and so woman is divorced', and a group was listening to his speech, and he did not say to them, 'Bear witness'. Does the divorce occur upon her?' He<sup>asws</sup> said: 'Yes, this is witnessing'.<sup>63</sup>

بَابُ مَنْ أَشْهَدَ عَلَى طَلَّاقِ امْرَأَتَيْنِ بِلَفْظَةٍ وَاحِدَةٍ

## Chapter 12 – The one who keeps witnesses upon divorcing two wives with one word

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ مُعَاوِيَةَ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) مَا تَقُولُ فِي رَجُلٍ أَحْضَرَ شَاهِدَيْنِ عَدْلَيْنِ وَ أَحْضَرَ امْرَأَتَيْنِ لَهُ وَ هُمَا طَاهِرَتَانِ مِنْ غَيْرِ جِمَاعٍ ثُمَّ قَالَ أَشْهَدَا أَنَّ امْرَأَتِي هَاتَيْنِ طَالِقٌ وَ هُمَا طَاهِرَتَانِ أ يَقَعُ الطَّلَاقُ قَالَ نَعَمْ .

Ali Bin Ibrahim, from his father, from Ahmad Bin Muhammad, from Ibn Bukeyr, from Zurara who said,

'I said to Abu Ja'far<sup>asws</sup>, 'What are you<sup>asws</sup> saying regarding a man who presents two just witnesses, and presents two wives of his, and they are both pure (from menstruation) from without copulation, then says, 'Bear witness that these two wives of mine are divorced', and they are both pure. So the divorce occurs?' He<sup>asws</sup> said: 'Yes'.<sup>64</sup>

<sup>61</sup> Al Kafi – V 7 – The Book of Divorce Ch 11 H 2

<sup>62</sup> Al Kafi – V 7 – The Book of Divorce Ch 11 H 3

<sup>63</sup> Al Kafi – V 7 – The Book of Divorce Ch 11 H 4

<sup>64</sup> Al Kafi – V 7 – The Book of Divorce Ch 12 H 1

باب الإِشْهَادِ عَلَى الرَّجْعَةِ**Chapter 13 – The witnessing upon the reversion**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الَّذِي يَرْجِعُ وَ لَمْ يُشْهَدْ قَالَ يُشْهَدُ أَحَبُّ إِلَيَّ وَ لَا أَرَى بِالَّذِي صَنَعَ بَأْسًا .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the one who reverts (back to his wife) and does not keep witnesses. He<sup>asws</sup> said: 'Witnessing is more beloved to me<sup>asws</sup>, and I<sup>asws</sup> do not see any problem with what he has done'.<sup>65</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنِ مُوسَى بْنِ بَكْرٍ عَنِ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ يُشْهَدُ رَجُلَيْنِ إِذَا طَلَّقَ وَ إِذَا رَجَعَ فَإِنْ جَهِلَ فَعَشِيهَا فَلْيُشْهَدْ الْآنَ عَلَى مَا صَنَعَ وَ هِيَ امْرَأَتُهُ فَإِنْ كَانَ لَمْ يُشْهَدْ حِينَ طَلَّقَ فَلَيْسَ طَلَّاقُهُ بِشَيْءٍ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Two men should bear witness when there is a divorce and when there is a reversion. If he is ignorant (of it), so he copulates with her, so let him keep witnesses now upon what he has done, and she is his wife. So if he had not kept witnesses when he divorced her, so his divorce is nothing'.<sup>66</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُدَيْنَةَ عَنْ زُرَّارَةَ وَ مُحَمَّدَ بْنَ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ إِنَّ الطَّلَاقَ لَا يَكُونُ بِغَيْرِ شُهُودٍ وَ إِنَّ الرَّجْعَةَ بِغَيْرِ شُهُودٍ رَجْعَةٌ وَ لَكِنْ لَيْشْهَدُ بَعْدَ فَهُوَ أَفْضَلُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Umar Bin Azina, from urara, and Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The divorce does not happen without witnesses, and the reversion without witnesses is a (valid) reversion, but let him keep witnesses afterwards, for it is preferable'.<sup>67</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنِ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ بَعْضِ أَصْحَابِهِ عَنِ أَبَانَ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سِئِلَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَام ) عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَاحِدَةً ثُمَّ رَاجَعَهَا قَبْلَ أَنْ تَنْقَضِيَ عِدَّتُهَا وَ لَمْ يُشْهَدْ عَلَى رَجْعَتِهَا قَالَ هِيَ امْرَأَتُهُ مَا لَمْ تَنْقَضِ عِدَّتُهَا وَ قَدْ كَانَ يَبْتَغِي لَهُ أَنْ يُشْهَدْ عَلَى رَجْعَتِهَا فَإِنْ جَهِلَ ذَلِكَ فَلْيُشْهَدْ حِينَ عَلِمَ وَ لَا أَرَى بِالَّذِي صَنَعَ بَأْسًا وَ إِنَّ كَثِيرًا مِنَ النَّاسِ لَوْ أَرَادُوا الْبَيْتَةَ عَلَى نِكَاحِهِمُ الْيَوْمَ لَمْ يَجِدُوا أَحَدًا يُنْبِئُ الشَّهَادَةَ عَلَى مَا كَانَ مِنْ أَمْرِهِمَا وَ لَا أَرَى بِالَّذِي صَنَعَ بَأْسًا وَ إِنَّ يُشْهَدُ فَهُوَ أَحْسَنُ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of his companions, from Aban, from Muhammad Bin Muslim who said,

'Abu Ja'far<sup>asws</sup> was asked about a man who divorces his wife, then reverts back to her before she fulfils her waiting period, and does not keep a witness upon his

<sup>65</sup> Al Kafi – V 7 – The Book of Divorce Ch 13 H 1

<sup>66</sup> Al Kafi – V 7 – The Book of Divorce Ch 13 H 2

<sup>67</sup> Al Kafi – V 7 – The Book of Divorce Ch 13 H 3

reversion. He<sup>asws</sup> said: 'She is his wife for as long as her waiting period is not fulfilled, and it would have been befitting for him if he kept a witness upon his reversion to her. So if he was ignorant of that, so let him keep a witness when he knows, and I<sup>asws</sup> do not see any problem with what he has done; and that a lot of the people, if the proof was wanted upon their marriages, they would not find anyone who would affirm the testimony upon what was from their matters, and I<sup>asws</sup> do not see any problem with that which he has done, and if he were to keep witnesses, so it would be better'.<sup>68</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَاجِدَةً قَالَ هُوَ أَمْلَكُ بِرَجْعَتِهَا مَا لَمْ تَنْقُضِ الْعِدَّةَ قُلْتُ فَإِنْ لَمْ يُشْهَدْ عَلَى رَجْعَتِهَا قَالَ فَلْيُشْهَدْ قُلْتُ فَإِنْ عَفَلَ عَنْ ذَلِكَ قَالَ فَلْيُشْهَدْ حِينَ يَذْكُرُ وَ إِنَّمَا جُعِلَ الشُّهُودُ لِمَكَانِ الْمِيرَاثِ .

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

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who divorces his wife, once. He<sup>asws</sup> said: 'He is in control with reverting back to her for as long as she has not fulfilled her waiting period'. I said, 'So if he does not keep witnesses upon his reversion?' He<sup>asws</sup> said: 'So let him keep witnesses'. I said, 'So if he is oblivious (unaware) from that?' He<sup>asws</sup> said: 'So let him keep witnesses when he remembers, and rather the witnesses have been made for the place of inheritance'.<sup>69</sup>

#### بَابُ أَنَّ الْمُرَاجَعَةَ لَا تَكُونُ إِلَّا بِالْمُؤَاقَعَةِ

### Chapter 14 – The reversion does not happen except with the copulation

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَصْرِ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ الْمُرَاجَعَةُ هِيَ الْجَمَاعُ وَ إِلَّا فَإِنَّمَا هِيَ وَاجِدَةٌ .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, from Ibn Abu Nasr, from Abdul Kareem, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The reversion, it is the copulation, or else, rather it is one (divorce)'.<sup>70</sup>

عَلِيُّ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي رَجُلٍ يُطَلِّقُ امْرَأَتَهُ لَهُ أَنْ يَرَجِعَ وَ قَالَ لَا يُطَلِّقُ التَّطْلِيقَةَ الْأُخْرَى حَتَّى يَمَسَّهَا .

Ali, from his father, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj who said,

'Abu Abdullah<sup>asws</sup> said regarding a man who divorced his wife: 'It is for him that he reverts'. And he<sup>asws</sup> said: 'He cannot divorce her with another divorce until he touches her'.<sup>71</sup>

<sup>68</sup> Al Kafi – V 7 – The Book of Divorce Ch 13 H 4

<sup>69</sup> Al Kafi – V 7 – The Book of Divorce Ch 13 H 5

<sup>70</sup> Al Kafi – V 7 – The Book of Divorce Ch 14 H 1

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ أُذَيْنَةَ عَنْ بُكَيْرٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَام ) يَقُولُ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ وَ أَشْهَدَ شَاهِدَيْنِ عَدْلَيْنِ فِي قُبُلٍ عَدَّتْهَا فَلَيْسَ لَهُ أَنْ يُطَلِّقَهَا حَتَّى تَنْقَضِيَ عِدَّتُهَا إِلَّا أَنْ يُرَاجِعَهَا .

Ali, from his father, from Ibn Abu Umeyr, from Ibn Azina, from Bukeyr who said,

'I heard Abu Ja'far<sup>asws</sup> sayig: 'When the man divorces his wife, and two just witnesses witness it prior to her waiting period, so it is not for him that he should divorce her until she has completed her waiting period, except if he reverts to her'.<sup>72</sup>

أَبُو عَلِيٍّ الْأَسْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ وَ مُحَمَّدَ بْنَ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ يُطَلِّقُ امْرَأَتَهُ فِي طَهْرٍ مِنْ غَيْرِ جَمَاعٍ ثُمَّ يُرَاجِعُهَا فِي يَوْمِهِ ذَلِكَ ثُمَّ يُطَلِّقُهَا تَبْيِينٌ مِنْهُ بِثَلَاثِ تَطْلِيقَاتٍ فِي طَهْرٍ وَاحِدٍ فَقَالَ خَالَفَ السُّنَّةَ فَلَيْسَ يَنْبَغِي لَهُ إِذَا هُوَ رَاجِعَهَا أَنْ يُطَلِّقَهَا إِلَّا فِي طَهْرٍ فَقَالَ نَعَمْ فَلْتُ حَتَّى يُجَامِعَ قَالَ نَعَمْ .

Abu Ali Al Ashary, from Muhammad Bin Abul Jabbar, from Safwan, and Muhammad Bin Ismail, from Al Fazl Bin Shazan, from Safwan, from Is'haq Bin Ammar,

(It has been narrated) from Abu Ibrahim<sup>asws</sup> (7th Imam<sup>asws</sup>), said, 'I asked him<sup>asws</sup> about a man who divorces his wife during purity, from without sleeping with her, then reverts back to her during that very day, then divorces her with three divorces during one purity. So he<sup>asws</sup> said: 'Opposite to the Sunnah'. I said, 'So it is not befitting for him when he reverts to her, if he were to divorce her except during a purity?' So he<sup>asws</sup> said: 'Yes'. I said, 'Until he sleeps with her?' He<sup>asws</sup> said: 'Yes'.<sup>73</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ صَفْوَانَ عَنِ ابْنِ مُسْكَانَ عَنِ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَام ) قَالَ الرَّجْعَةُ الْجَمَاعُ وَ إِلَّا فَإِنَّمَا هِيَ وَاحِدَةٌ .

Humejd Bin Ziyad, from Ibn Sama'at, from Safwan, from Ibn Muskan, from Is'haq Bin Ammar,

(It has been narrated) from Abu Al-Hassan<sup>asws</sup> having said: 'The reversion is the copulation with her, or else, rather it is one (divorce)'.<sup>74</sup>

## باب

### Chapter 15 – A Chapter

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادٍ الْحَنَاطِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ ادَّعَتْ عَلَى زَوْجِهَا أَنَّهُ طَلَّقَهَا تَطْلِيقَةً طَلَّقَ الْعِدَّةَ طَلِيقًا صَحِيحًا يَعْنِي عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ وَ أَشْهَدَ لَهَا شُهُودًا عَلَى ذَلِكَ ثُمَّ أَنْكَرَ الزَّوْجُ بَعْدَ ذَلِكَ فَقَالَ إِنْ كَانَ انْكَارُهُ الطَّلَاقَ قَبْلَ انْقِضَاءِ الْعِدَّةِ فَإِنَّ انْكَارَهُ لِلطَّلَاقِ رَجْعَةٌ لَهَا وَ إِنْ كَانَ أَنْكَرَ الطَّلَاقَ بَعْدَ انْقِضَاءِ الْعِدَّةِ فَإِنَّ عَلَى الْإِمَامِ أَنْ يُفَرِّقَ بَيْنَهُمَا بَعْدَ شَهَادَةِ الشُّهُودِ بَعْدَ أَنْ يَسْتَحْلِفَ أَنْ انْكَارَهُ لِلطَّلَاقِ بَعْدَ انْقِضَاءِ الْعِدَّةِ وَ هُوَ خَاطِبٌ مِنَ الْخَطَابِ .

Muhammad Bin Yahya, form Ahmad Bin Muhammad, form Ibn Mahboub, from Abu Wallad Al Hannat,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a woman who claimed upon her husband, that he had divorced her with a divorce of the

<sup>71</sup> Al Kafi – V 7 – The Book of Divorce Ch 14 H 2

<sup>72</sup> Al Kafi – V 7 – The Book of Divorce Ch 14 H 3

<sup>73</sup> Al Kafi – V 7 – The Book of Divorce Ch 14 H 4

<sup>74</sup> Al Kafi – V 7 – The Book of Divorce Ch 14 H 5

waiting period, being a correct divorce, meaning upon purity from without copulating, and witnesses testified for her upon that. Then the husband denied after that. So he<sup>asws</sup> said: 'If his denial of the divorce was before the fulfillment of the waiting period, so his denial of the divorce, there is reversion to her, and if his denial of the divorce was after the fulfillment of the waiting period, so it is upon the Imam<sup>asws</sup> that he effects separated between them, both after the testimony of the witnesses, after having him swear on oath that his denial of the divorce was after the waiting period, and he would be a proposer from the proposers'.<sup>75</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ سَعْدِ بْنِ سَعْدٍ عَنِ الْمَرْزُبَانِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ الرَّضَا ( عَلَيْهِ السَّلَام ) عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ فَقَدْ خَلَيْتُ سَبِيلَكَ ثُمَّ أَشْهَدُ عَلَى رَجْعَتِهَا بَعْدَ ذَلِكَ بِأَيَّامٍ ثُمَّ غَابَ عَنْهَا قِيلَ أَنْ يُجَامِعَهَا حَتَّى مَضَتْ لِذَلِكَ أَشْهُرٌ بَعْدَ الْعِدَّةِ أَوْ أَكْثَرَ فَكَيْفَ تَأْمُرُهُ قَالَ إِذَا أَشْهَدَ عَلَى رَجْعَتِهِ فَهِيَ رَوْجَتُهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Khalid, from Sa'ad Bin Sa'ad, from Al Marzuban who said,

'I asked Abu Al-Hassan Al-Reza<sup>asws</sup> about a man who says to his wife, 'Begin your waiting period for I have freed your way, and keeps witnesses upon his reversion after a few days, then remains absent from her before he copulates with her until months pass by for that after the waiting period, or more. So how would you<sup>asws</sup> order him?' He<sup>asws</sup> said: 'When he kept witnesses over his reversion, so she is his wife'.<sup>76</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) أَنَّهُ قَالَ فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ أَشْهَدَ شَاهِدَيْنِ ثُمَّ أَشْهَدَ عَلَى رَجْعَتِهَا سِرًّا مِنْهَا وَ اسْتَكْتَمَ ذَلِكَ الشُّهُودَ فَلَمْ تَعْلَمْ الْمَرْأَةُ بِالرَّجْعَةِ حَتَّى انْقَضَتْ عِدَّتُهَا قَالَ نَخَيْرُ الْمَرْأَةَ فَإِنْ شَاءَتْ رَوْجَتُهَا وَ إِنْ شَاءَتْ غَيْرَ ذَلِكَ وَ إِنْ تَرَوَّجَتْ قَبْلَ أَنْ تَعْلَمْ بِالرَّجْعَةِ الَّتِي أَشْهَدَ عَلَيْهَا رَوْجَتُهَا فَلَيْسَ لِلَّذِي طَلَّقَهَا عَلَيْهَا سَبِيلٌ وَ رَوْجَتُهَا الْأَخِيرُ أَحَقُّ بِهَا .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said regarding a man who divorces his wife, and two witnesses bear witness. Then he keeps witnesses upon his reversion a secret from her, and those witnesses conceal it. So the woman does not know with the reversion until her waiting period has passed. He<sup>asws</sup> said: 'The woman has a choice, is she desires her husband, or if she desires other than that, and if she were to get married before she knows about the reversion which her husband had witnesses upon, so it is not for the one who divorced her, anyway, and the later husband would be more rightful with her'.<sup>77</sup>

باب

## Chapter 16 – A Chapter

حُمَيْدُ بْنُ زَيْدٍ عَنْ ابْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبَانَ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) فِي رَجُلٍ يُطَلِّقُ امْرَأَتَهُ تَطْلِيقَهُ ثُمَّ يَدْعُهَا حَتَّى تَمُضِيَ ثَلَاثَةُ أَشْهُرٍ إِلَّا يَوْمًا ثُمَّ يَرَا جُعُهَا فِي مَجْلِسٍ ثُمَّ يُطَلِّقُهَا ثُمَّ فَعَلَ ذَلِكَ فِي آخِرِ الثَّلَاثَةِ الْأَشْهُرِ أَيْضًا قَالَ فَقَالَ إِذَا أَدْخَلَ الرَّجْعَةَ اعْتَدْتُ بِالتَّطْلِيقَةِ الْأَخِيرَةِ وَ إِذَا طَلَّقَ بِغَيْرِ رَجْعَةٍ لَمْ يَكُنْ لَهُ طَلَّاقٌ .

<sup>75</sup> Al Kafi – V 7 – The Book of Divorce Ch 15 H 1

<sup>76</sup> Al Kafi – V 7 – The Book of Divorce Ch 15 H 2

<sup>77</sup> Al Kafi – V 7 – The Book of Divorce Ch 15 H 3

Humejd Bin Ziyad, from Ibn Sama'at, from someone else, from Aban Bin Zurara,

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>) regarding a man who divorces his wife with a divorce, then leaves her until she fulfils three months, except for one day, then he reverts back to her in a gathering. Then he divorces her, then does that again at the end of the three months. So he<sup>asws</sup> said: 'When the reversion begins, she would observe the waiting period with the last divorce, and when a divorce is without reversion, the divorce does not occur for him'.<sup>78</sup>

### بَابُ الَّتِي لَا تَحِلُّ لِرُؤُوسِهَا حَتَّى تَنْكِحَ رُؤُوسًا غَيْرَهُ

## Chapter 17 – (That) which does not make her to be Permissible for her husband unless she married another husband

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ ( عَلَيْهِ السَّلَامُ ) عَنِ الطَّلَاقِ الَّذِي لَا يَحِلُّ لَهُ حَتَّى تَنْكِحَ رُؤُوسًا غَيْرَهُ فَقَالَ أَخْبِرْكَ بِمَا صَنَعْتُ أَنَا بِأَمْرٍ أَوْ كَانَتْ عِنْدِي وَ أَرَدْتُ أَنْ أُطَلِّقَهَا فَتَرَكَتُهَا حَتَّى إِذَا طَمِنْتُ وَ طَهَّرْتُ طَلَّقْتُهَا مِنْ غَيْرِ جِمَاعٍ وَ أَشْهَدْتُ عَلَى ذَلِكَ شَاهِدَيْنِ ثُمَّ تَرَكَتُهَا حَتَّى إِذَا كَادَتْ أَنْ تَنْقُضِي عِدَّتَهَا رَاجِعْتُهَا وَ دَخَلْتُ بِهَا وَ تَرَكَتُهَا حَتَّى إِذَا طَمِنْتُ وَ طَهَّرْتُ ثُمَّ طَلَّقْتُهَا عَلَى طَهْرٍ مِنْ غَيْرِ جِمَاعٍ بِشَاهِدَيْنِ ثُمَّ تَرَكَتُهَا حَتَّى إِذَا كَانَ قَبْلَ أَنْ تَنْقُضِي عِدَّتَهَا رَاجِعْتُهَا وَ دَخَلْتُ بِهَا حَتَّى إِذَا طَمِنْتُ وَ طَهَّرْتُ طَلَّقْتُهَا عَلَى طَهْرٍ بَعِيرٍ جِمَاعٍ بِشُهُودٍ وَ إِنَّمَا فَعَلْتُ ذَلِكَ بِهَا إِنَّهُ لَمْ يَكُنْ لِي بِهَا حَاجَةٌ .

Ali Bin Ibrahim, from his father, from Al Hassan Bin Mahboub, from Ali Bin Raib, from Abu Baseer who said,

'I asked Abu Ja'far<sup>asws</sup> about the divorce which results in her not being Permissible for him unless she marries another husband. So he<sup>asws</sup> said: 'I<sup>asws</sup> hereby inform you with what I<sup>asws</sup> did with a woman who was with me, and I<sup>asws</sup> intended to divorce her. So I<sup>asws</sup> left her until when she menstruated and was pure, I<sup>asws</sup> divorced her from without touching her, and I<sup>asws</sup> had witnesses upon that, two witnesses. Then I<sup>asws</sup> left her until she very nearly fulfilled her waiting period, I<sup>asws</sup> reverted back to her, and slept with her, and left her until when she menstruated and was pure. Then I<sup>asws</sup> divorced her upon purity from without touching her, with two witnesses. Then I<sup>asws</sup> left her until when she was facing the fulfillment of her waiting period, I<sup>asws</sup> reverted back to her and slept with her until when she menstruated and was pure, I<sup>asws</sup> divorced her upon purity without touching her, with witnesses; and, but rather I<sup>asws</sup> did that with her, (because) there did not happen to be any need for me<sup>asws</sup>, with her'.<sup>79</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ أَبِي نَصْرٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ جَعْفَرَ بْنِ سَمَاعَةَ وَ عَلِيِّ بْنِ خَالِدٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ قُلْتُ لَهُ الْمَرْأَةُ الَّتِي لَا تَحِلُّ لِرُؤُوسِهَا حَتَّى تَنْكِحَ رُؤُوسًا غَيْرَهُ قَالَ هِيَ الَّتِي تَطْلُقُ ثُمَّ تَرَاجِعُ ثُمَّ تَطْلُقُ ثُمَّ تَرَاجِعُ ثُمَّ تَطْلُقُ فَهِيَ الَّتِي لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ رُؤُوسًا غَيْرَهُ وَ قَالَ الرَّجْعَةُ بِالْجِمَاعِ وَ إِلَّا فَاِنَّمَا هِيَ وَاحِدَةٌ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Nasr and Humejd Bin Ziyad, from Ibn Sama'at, from Ja'far Bin Sama'at, and Ali Bin Khalid, from Abdul Kareem, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I said to him<sup>asws</sup>, 'The woman who is not Permissible for her husband until she marries another husband'. He<sup>asws</sup> said: 'She is (one) who is divorced, then reverted to, then divorced, then reverted to,

<sup>78</sup> Al Kafi – V 7 – The Book of Divorce Ch 16 H 1

<sup>79</sup> Al Kafi – V 7 – The Book of Divorce Ch 17 H 1



then divorced. So she is (one) who is nor Permissible for him until she marries another husband'. And he<sup>asws</sup> said: 'The reversion is with the copulation, or else, rather it is one (divorce)'.<sup>80</sup>

مُحَمَّدُ بْنُ جَعْفَرِ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ أَبِي عَلِيٍّ الْأَشْعَرِيِّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ كُلِّهِمْ عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) الْمَرْأَةُ الَّتِي لَا تَحِلُّ لِرُجُلِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ قَالَ هِيَ الَّتِي تُطَلَّقُ ثُمَّ تُرَاجَعُ ثُمَّ تُطَلَّقُ ثُمَّ تُرَاجَعُ ثُمَّ تُطَلَّقُ الثَّلَاثَةَ فَهِيَ الَّتِي لَا تَحِلُّ لِرُجُلِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ يَذُوقُ عُسَيْلَتَهَا .

Muhammad Bin Ja'far Al Razzaz, from Ayoub Bin Nuh, and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, and Humejd Bin Ziyad, from Ibn Sama'at, all of them from Safwan, from Ibn Muskan, from Abu Baseer who said,

'I said to Abu Abdullah<sup>asws</sup>, 'The woman who is not Permission for her husband until she marries another husband'. He<sup>asws</sup> said: 'She is who is divorced, then reverted to, then divorced, then reverted to, then divorced for the third (divorce), so she is (the one) who is not Permissible for her husband until she marries another husband, and he tastes her honey (sleeps with her)'.<sup>81</sup>

صَفْوَانُ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ تَطْلِيقَةً ثُمَّ يُرَاجِعُهَا بَعْدَ انْقِضَاءِ عِدَّتِهَا فَإِذَا طَلَّقَهَا الثَّلَاثَةَ لَمْ تَحِلَّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَإِذَا تَزَوَّجَهَا غَيْرَهُ وَ لَمْ يَدْخُلْ بِهَا وَ طَلَّقَهَا أَوْ مَاتَ عَنْهَا لَمْ تَحِلَّ لِرُجُلِهَا الْأَوَّلِ حَتَّى يَذُوقَ الْآخَرَ عُسَيْلَتَهَا .

Safwan, from Musa Bin Bakr, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup>: 'Regarding the man who divorces his wife, then reverts back to her after the fulfillment of her waiting period. So when he divorces her for the third (divorce), she is not Permissible for him until she marries another husband. So when another one marries her, and does not copulated with her, and divorces her, or dies from her, she would (still) not be Permissible for her first husband until another (husband) tastes her honey'.<sup>82</sup>

صَفْوَانُ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الْمُطَلَّغَةِ التَّلْثِيَّةِ لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَ يَذُوقَ عُسَيْلَتَهَا .

Safwan, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup>: 'Regarding the divorced woman with the third divorce, she is not Permissible for him until she married another husband and he tastes her honey (sleeps with her)'.<sup>83</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ أَصْبَاطٍ عَنْ عَلِيِّ بْنِ الْفَضْلِ الْوَاسِطِيِّ قَالَ كَتَبْتُ إِلَى الرَّضَا ( عَلَيْهِ السَّلَامُ ) رَجُلٌ طَلَّقَ امْرَأَتَهُ الطَّلَاقَ الَّذِي لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَتَزَوَّجَهَا غُلَامٌ لَمْ يَحْتَلِمِ قَالَ لَا حَتَّى يَبْلُغَ فَكَتَبْتُ إِلَيْهِ مَا حَدَّ الْبُلُوغَ فَقَالَ مَا أَوْجَبَ عَلَى الْمُؤْمِنِينَ الْحُدُودَ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Asbat, from Ali Bin Al Fazl Al Wasity who said,

<sup>80</sup> Al Kafi – V 7 – The Book of Divorce Ch 17 H 2

<sup>81</sup> Al Kafi – V 7 – The Book of Divorce Ch 17 H 3

<sup>82</sup> Al Kafi – V 7 – The Book of Divorce Ch 17 H 4

<sup>83</sup> Al Kafi – V 7 – The Book of Divorce Ch 17 H 5

'I wrote to Al-Reza<sup>asws</sup>, 'A man divorced his wife with the divorce which made her to be not Permissible for him until she marries another husband. So she married a slave who had yet to bed-wet'. He<sup>asws</sup> said: 'No, until he reaches adulthood'. So I wrote to him<sup>asws</sup>, 'What is a limit of the adulthood?' So he<sup>asws</sup> said: 'Whatever makes the legal penalties (*Hadd*) to be Obligated upon the Believers'.<sup>84</sup>

### بَاب مَا يَهْدُمُ الطَّلَاقَ وَ مَا لَا يَهْدُمُ

## Chapter 18 – What demolishes the divorce and what does not demolish

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ شُعَيْبِ الْحَدَّادِ عَنِ الْمُعَلَّى بْنِ خُنَيْسٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ ثُمَّ لَمْ يُرَاجِعْهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ ثُمَّ تَزَوَّجَهَا ثُمَّ طَلَّقَهَا فَتَرَكَهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ مِنْ غَيْرِ أَنْ يُرَاجِعَهَا يَعْنِي يَمَسُّهَا قَالَ لَهُ أَنْ يَتَزَوَّجَهَا أَبَدًا مَا لَمْ يُرَاجِعْ وَيَمَسَّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Abdullah Bin Al Mugheira, from Shuayb Al Hadda, from Moala Bin Khunays,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who divorced his wife, then did not revert back to her until she menstruated with three menstruation. Then he married her, then divorced her. So he left her until she menstruated with three menstruations from without him reverting back to her, meaning touching her'. He<sup>asws</sup> said: 'For him is that he can marry her forever for as long as he does not revert back to her and touches'.<sup>85</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ أَحْمَدَ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ شُعَيْبِ الْحَدَّادِ عَنِ الْمُعَلَّى بْنِ خُنَيْسٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ ثُمَّ لَمْ يُرَاجِعْهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ ثُمَّ تَزَوَّجَهَا ثُمَّ طَلَّقَهَا فَتَرَكَهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ مِنْ غَيْرِ أَنْ يُرَاجِعَهَا ثُمَّ تَرَكَهَا حَتَّى حَاضَتْ ثَلَاثَ حِيضٍ قَالَ لَهُ أَنْ يَتَزَوَّجَهَا أَبَدًا مَا لَمْ يُرَاجِعْ وَيَمَسَّ .

Humeyd Bin Ziyad, from Ubeydullah Bin Ahmad, from Ibn Abu Umeyr, from Abdullah Bin Al Mugheira, from Shuayb Al Haddad, from Al Moala Bin Khunays,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who divorced his wife, then did not revert to her until she menstruated three menstruation. Then he married her, then divorced her. So he left her until she menstruation three menstruation, then married her, then divorced her without reverting back to her. Then he left her until she menstruation three menstruations. He<sup>asws</sup> said: 'For him is that he can marry her forever for as long as he does not revert and touches'.

وَ كَانَ ابْنُ بُكَيْرٍ وَ أَصْحَابُهُ يَقُولُونَ هَذَا فَأَخْبَرَنِي عَبْدُ اللَّهِ بْنُ الْمُغِيرَةِ قَالَ قُلْتُ لَهُ مِنْ أَيْنَ قُلْتَ هَذَا قَالَ قُلْتُهُ مِنْ قِبَلِ رَوَايَةِ رِفَاعَةَ رَوَى عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) أَنَّهُ يَهْدُمُ مَا مَضَى قَالَ قُلْتُ لَهُ فَإِنَّ رِفَاعَةَ إِنَّمَا قَالَ طَلَّقَهَا ثُمَّ تَزَوَّجَهَا رَجُلٌ ثُمَّ طَلَّقَهَا ثُمَّ تَزَوَّجَهَا الْأَوَّلُ إِنَّ ذَلِكَ يَهْدُمُ الطَّلَاقَ الْأَوَّلَ .

And Ibn Bukeyr and his companions were saying, this is what Abdullah Bin Al-Mugheira informed me saying, 'I said to him, 'From where do you say this?' He said, 'I say it from a report which Rifa'at reported from Abu Abdullah<sup>asws</sup> that it demolishes whatever is past. I said to him, 'So if Rifa'at, rather said, 'He divorced her, then a

<sup>84</sup> Al Kafi – V 7 – The Book of Divorce Ch 17 H 6

<sup>85</sup> Al Kafi – V 7 – The Book of Divorce Ch 18 H 1

(another) man married her. Then he divorced her, then the first one married her. That demolished the first divorce'.<sup>86</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ وَصَفْوَانَ عَنِ رِفَاعَةَ عَنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ حَتَّى بَانَتْ مِنْهُ وَانْقَضَتْ عِدَّتُهَا ثُمَّ تَزَوَّجَتْ زَوْجًا آخَرَ فَطَلَّقَهَا أَيْضًا ثُمَّ تَزَوَّجَهَا زَوْجَهَا الْأَوَّلَ أَيْهَدُمُ ذَلِكَ الطَّلَاقُ الْأَوَّلُ قَالَ نَعَمْ .

Humeyd Bin Ziyad, from Ibn Sama'at, from Muhammad Bin Ziyad and Safwan, from Rafa'at,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who divorces his wife until she becomes irrevocably divorced from him, and fulfils her waiting period. Then she marries another husband, so he divorces her as well. Then she marries her first husband. Does that demolish the first divorce?' He<sup>asws</sup> said; 'Yes'.<sup>87</sup>

مُحَمَّدُ بْنُ أَبِي عَبْدِ اللَّهِ عَنِ مُعَاوِيَةَ بْنِ حُكَيْمٍ عَنِ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةَ قَالَ سَأَلْتُ عَبْدِ اللَّهِ بْنَ بُكَيْرٍ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَاحِدَةً ثُمَّ تَرَكَهَا حَتَّى بَانَتْ مِنْهُ ثُمَّ تَزَوَّجَهَا قَالَ هِيَ مَعَهُ كَمَا كَانَتْ فِي التَّزْوِيجِ قَالَ قُلْتُ لَهُ فَإِنَّ رِوَايَةَ رِفَاعَةَ إِذَا كَانَ بَيْنَهُمَا زَوْجٌ فَقَالَ لِي عَبْدُ اللَّهِ هَذَا زَوْجٌ وَ هَذَا مِمَّا رَزَقَ اللَّهُ مِنَ الرَّأْيِ وَ مَتَى مَا طَلَّقَهَا وَاحِدَةً فَبَانَتْ مِنْهُ ثُمَّ تَزَوَّجَهَا زَوْجٌ آخَرَ ثُمَّ طَلَّقَهَا فَتَزَوَّجَهَا الْأَوَّلَ فَهِيَ عِنْدَهُ مُسْتَقْبَلَةٌ كَمَا كَانَتْ

Muhammad Bin Abu Abdullah, from Muawiya Bin Hukeym, from Abdullah Bin Al Mugheira who said,

'I asked Abdullah Bin Bukeyr about a man who divorces his wife once, then leaves her until she irrevocably divorced from him. Then he re-marries her. He said, 'She is with him as she was regarding the marriage'. I said to him, So in the report of Rafa'at is, 'When there is a husband between the two'. So Abdullah said to me, 'This is a husband, and this is from what Allah<sup>azwj</sup> has Granted from the opinion, and when he divorces her once, so she becomes irrevocably divorced from him, then she marries another husband. Then her husband divorces her, so she marries her former husband, so she would be with him accepted as she used to be'.

قَالَ قُلْتُ لِعَبْدِ اللَّهِ هَذَا بِرِوَايَةِ مَنْ فَقَالَ هَذَا مِمَّا رَزَقَ اللَّهُ قَالَ مُعَاوِيَةُ بْنُ حُكَيْمٍ رَوَى أَصْحَابُنَا عَنْ رِفَاعَةَ بْنِ مُوسَى أَنَّ الرَّوْجَ يَهْدُمُ الطَّلَاقَ الْأَوَّلَ فَإِنْ تَزَوَّجَهَا فَهِيَ عِنْدَهُ مُسْتَقْبَلَةٌ فَقَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يَهْدُمُ الثَّلَاثَ وَ لَا يَهْدُمُ الْوَاحِدَةَ وَ الثَّنَيْنِ .

He (the narrator) said, 'So I said to Abdullah, 'With whose report is this, 'So he said, 'This is from what Allah<sup>azwj</sup> has Granted'? He said, 'Muawiya Bin Hukeym reported, from our companions, from Rafa'at Bin Musa that the husband demolishes the first divorce. So if he were to marry her, so she would be with him, acceptable'. So Abu Abdullah<sup>asws</sup> said: 'The third (divorce) demolishes, and the first and the second do not'.

وَ رِوَايَةُ رِفَاعَةَ عَنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) هُوَ الَّذِي احْتَجَّ بِهِ ابْنُ بُكَيْرٍ .

And in a report of Rafa'at, from Abu Abdullah<sup>asws</sup>, it is that which Ibn Bukeyr argues by'.<sup>88</sup>

<sup>86</sup> Al Kafi – V 7 – The Book of Divorce Ch 18 H 2

<sup>87</sup> Al Kafi – V 7 – The Book of Divorce Ch 18 H 3

<sup>88</sup> Al Kafi – V 7 – The Book of Divorce Ch 18 H 4

بَابُ الْغَائِبِ يَقْدُمُ مِنْ غَيْبَتِهِ فَيُطَلِّقُ عِنْدَ ذَلِكَ أَنَّهُ لَا يَقَعُ الطَّلَاقُ حَتَّى تَحِيضَ وَ تَطْهَرَ

**Chapter 19 – The absentee comes back from his absence, so he divorces during that, so that divorce does not occur until she menstruates and is pure**

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنْ حَجَّاجِ الْخَشَّابِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ كَانَ فِي سَفَرٍ فَلَمَّا دَخَلَ الْمِصْرَ جَاءَ مَعَهُ بِشَاهِدَيْنِ فَلَمَّا اسْتَقْبَلَتْهُ امْرَأَتُهُ عَلَى الْبَابِ أَشْهَدَهُمَا عَلَى طَلَاقِهَا قَالَ لَا يَقَعُ بِهَا طَلَاقٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Hajjaj Al Khashab who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who was on a journey. So when he entered the city, he came over with two witnesses, and when he faced his wife at the door, made them bear witness upon him divorcing her. He<sup>asws</sup> said: 'A divorce did not occur by it'.<sup>89</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنِ الْحَكَمِ بْنِ مِسْكِينٍ عَنِ مُعَاوِيَةَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا غَابَ الرَّجُلُ عَنِ امْرَأَتِهِ سَنَةً أَوْ سَنَتَيْنِ أَوْ أَكْثَرَ ثُمَّ قَدِمَ وَ أَرَادَ طَلَاقَهَا وَ كَانَتْ حَائِضًا تَرَكَهَا حَتَّى تَطْهَرَ ثُمَّ يُطَلِّقُهَا .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Al Hakam Bin Miskeen, from Muawiya Bin Ammar,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When the man is absent from his wife for a year, or two years, or more, then comes over and intends to divorce her, and she was menstruating, he has to leave her until she is pure, then divorces her'.<sup>90</sup>

بَابُ النِّسَاءِ اللَّائِي يُطَلِّقَنَّ عَلَى كُلِّ حَالٍ

**Chapter 20 – The women who can be divorces upon every state**

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ خَمْسُ يُطَلِّقُهُنَّ الرَّجُلُ عَلَى كُلِّ حَالٍ الْحَامِلُ وَ الَّتِي لَمْ يَدْخُلْ بِهَا زَوْجُهَا وَ الْغَائِبُ عَنْهَا زَوْجُهَا وَ الَّتِي لَمْ تَحِضْ وَ الَّتِي قَدْ يَبَسَتْ مِنَ الْحَيْضِ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Jameel Bin Darraj, from Ismail Al Ju'fy,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'There are five whom the man can divorce upon every state – The pregnant, and the one whom her husband had not slept with, and the absentee from her husband, and the one who does not menstruate, and the one who has despaired from the menstruation (menopause)'.<sup>91</sup>

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

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

<sup>91</sup> Al Kafi – V 7 – The Book of Divorce Ch 20 H 1

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ لَا بَأْسَ بِطَلَاقِ خَمْسٍ عَلَى كُلِّ حَالٍ الْغَائِبِ عَنْهَا زَوْجُهَا وَ الَّتِي لَمْ تَحْضُ وَ الَّتِي لَمْ يَدْخُلْ بِهَا زَوْجُهَا وَ الْحُبْلَى وَ الَّتِي قَدْ يَبَسَّتْ مِنَ الْمَحِيضِ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'There is no problem with a divorce of five upon every state – the one from whom her husband was absent, and the one who does not menstruate, and the one whom her husband had not slept with, and the pregnant, and the one who has despaired from the menstruations (menopause)',<sup>92</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ جَعْفَرَ بْنِ سَمَاعَةَ عَنْ جَمِيلٍ عَنِ إِسْمَاعِيلِ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ خَمْسٌ يُطَلَّقْنَ عَلَى كُلِّ حَالٍ الْحَامِلُ وَ الْغَائِبُ عَنْهَا زَوْجُهَا وَ الَّتِي لَمْ تَحْضُ وَ الَّتِي قَدْ يَبَسَّتْ مِنَ الْمَحِيضِ وَ الَّتِي لَمْ يَدْخُلْ بِهَا .

Humeyd Bin Ziyad, from Ibn Sama'at, from Abdullah Bin Jabalat, and Ja'far Bin Sama'at, from Jameel, from Ismail Al Ju'fy,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Five can be divorced upon every state – the pregnant, and the one from whom her husband was absent, and one who does not menstruate, and the one who has despaired from the menstruation (menopause), and one who has not been slept with'.

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنِ إِسْمَاعِيلِ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) مِثْلَهُ .

Ali, from his father, from Ibn Abu Umeyr, from Jameel, from Ismail Al Ju'fy,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, similar to it.<sup>93</sup>

## باب طَلَاقِ الْغَائِبِ

### Chapter 21 – Divorce by the absentee

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ أُدَيْنَةَ عَنْ زُرَّارَةَ عَنْ بُكَيْرٍ قَالَ أَشْهَدُ عَلَى أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) أَنِّي سَمِعْتُهُ يَقُولُ الْغَائِبُ يُطَلَّقُ بِالْأَهْلَةِ وَ الشُّهُورِ .

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

'I hereby testify upon Abu Ja'far<sup>asws</sup> that I heard him<sup>asws</sup> saying: 'The absentee should divorce by the (counting of the) new-moons and the months',<sup>94</sup>

مُحَمَّدُ بْنُ بَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْحُسَيْنِ بْنِ عُمَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ الْغَائِبُ إِذَا أَرَادَ أَنْ يُطَلِّقَهَا تَرَكَهَا شَهْرًا .

<sup>92</sup> Al Kafi – V 7 – The Book of Divorce Ch 20 H 2

<sup>93</sup> Al Kafi – V 7 – The Book of Divorce Ch 20 H 3

<sup>94</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 1

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Al Husayn Bin Usman, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Then absentee, when he intends to divorce her, should leave her for a month'.<sup>95</sup>

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ وَحُسَيْنِ بْنِ عُمَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ الْغَائِبُ إِذَا أَرَادَ أَنْ يُطَلِّقَهَا تَرَكَهَا شَهْرًا .

Ali, from his father, from Ibn Abu Umeyr, from Muhammad Bin Abu Hamza, and Husayn Bin Usman, form Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The absentee, when he intends to divorce her, should leave her for a month'.<sup>96</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ قَالَ سَأَلْتُ جَعْفَرَ بْنَ مُحَمَّدٍ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَهُوَ غَائِبٌ فِي بَلَدٍ أُخْرَى وَ أَشْهَدَ عَلَى طَلَّاقِهَا رَجُلَيْنِ ثُمَّ إِنَّهُ رَاجَعَهَا قَبْلَ انْقِضَاءِ الْعِدَّةِ وَ لَمْ يُشْهَدْ عَلَى الرَّجْعَةِ ثُمَّ إِنَّهُ قَدِمَ عَلَيْهَا بَعْدَ انْقِضَاءِ الْعِدَّةِ وَ قَدْ تَزَوَّجَتْ رَجُلًا فَأَرْسَلَ إِلَيْهَا أَنِّي قَدْ كُنْتُ رَاجِعُكَ قَبْلَ انْقِضَاءِ الْعِدَّةِ وَ لَمْ أَشْهَدْ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al Hassan Bin Salih who said,

'I asked Ja'far<sup>asws</sup> Bin Muhammad<sup>asws</sup> about a man who divorces his wife and he is absent in another city, and two men bear witness upon his divorcing her. Then he returns before the fulfillment of the waiting period and does not keep witnesses upon the reversion. Then he comes over to her after the fulfillment of the waiting period, and she had married (again) to a man. So he sends her a message to her, 'I had reverted to you before the fulfillment of the waiting period, and did not keep a witness.

قَالَ فَقَالَ لَا سَبِيلَ لَهُ عَلَيْهَا لِأَنَّهُ قَدْ أَقْرَبَ بِالطَّلَاقِ وَ ادَّعَى الرَّجْعَةَ بِغَيْرِ بَيِّنَةٍ فَلَا سَبِيلَ لَهُ عَلَيْهَا وَ لِذَلِكَ يُبْغِي لِمَنْ طَلَّقَ أَنْ يُشْهَدَ وَ لِمَنْ رَاجَعَ عَلَى الرَّجْعَةِ كَمَا أَشْهَدَ عَلَى الطَّلَاقِ وَ إِنْ كَانَ قَدْ أَدْرَكَهَا قَبْلَ أَنْ تَزَوَّجَ كَانَ خَاطِبًا مِنَ الْخُطَابِ .

He (the narrator) said, 'So he<sup>asws</sup> said: 'There is no way for him to her, because he had accepted with the divorce, and left the reversion without a proof. Thus, there is no way for him to her, and due to that it befits the one who divorces that he keeps witnesses, and for the one who reverts, that he should keep witnesses upon the reversion, just as there are witnesses upon the divorce. Had he been there before her marriage, he would have been a proposer from the proposers'.<sup>97</sup>

عَلِيٌّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ بُؤَيْسَ عَنِ ابْنِ مُسْكَانَ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَهُوَ غَائِبٌ وَ أَشْهَدَ عَلَى طَلَّاقِهَا ثُمَّ قَدِمَ فَأَقَامَ مَعَ الْمَرْأَةِ شَهْرًا لَمْ يَعْلَمْهَا بِطَلَّاقِهَا ثُمَّ إِنَّ الْمَرْأَةَ ادَّعَتْ الْحَبْلَ فَقَالَ الرَّجُلُ قَدْ طَلَّقْتُكَ وَ أَشْهَدْتُ عَلَى طَلَّاقِكَ قَالَ يَلْزَمُ الْوَلَدَ وَ لَا يُقْبَلُ قَوْلُهُ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus, from Ibn Muskan, from Suleyman Bin Khalid who said,

<sup>95</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 2

<sup>96</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 3

<sup>97</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 4

'I asked Abu Abdullah<sup>asws</sup> about a man who divorces his wife and he is absent, and keeps witnesses upon divorcing her. Then he comes over, so he lives with the woman for months, not letting her know of her divorce. Then the woman claims the pregnancy, so the man says, 'I had divorced you, and I kept witnesses upon your divorce'. He<sup>asws</sup> said: 'The child would be necessitated upon him, and his words would not be accepted'.<sup>98</sup>

عَلِيٌّ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ حَمَّادِ بْنِ عَثْمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) مَا تَقُولُ فِي رَجُلٍ لَهُ أَرْبَعُ نِسْوَةٍ طَلَّقَ وَاحِدَةً مِنْهُنَّ وَهُوَ غَائِبٌ عَنْهُنَّ مَتَى يَجُوزُ لَهُ أَنْ يَنْزَوِيَ قَالَ بَعْدَ تِسْعَةِ أَشْهُرٍ وَ فِيهَا أَجَلَانِ فَسَادُ الْحَيْضِ وَ فَسَادُ الْحَمْلِ .

Ali, from his father, from Ahmad Bin Muhammad, from Hammad Bin Usman who said,

'I said to Abu Abdullah<sup>asws</sup>, 'What are you<sup>asws</sup> saying regarding a man for whom are four women. He divorces one of them, and he is absent from them. When would he be allowed to marry?' He<sup>asws</sup> said: 'After nine months, and in it are two terms – the duration of the menstruation, and the duration of the pregnancy'.<sup>99</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَطْلُقُ امْرَأَتَهُ وَ هُوَ غَائِبٌ قَالَ يَجُوزُ طَلْقُهُ عَلَى كُلِّ حَالٍ وَ تَعَدُّ امْرَأَتُهُ مِنْ يَوْمِ طَلْقِهَا .

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

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>), said, 'I asked him<sup>asws</sup> about the man who divorces his wife and he is absent. He<sup>asws</sup> said: 'His divorce is allowed upon every state, and his wife should observe the waiting period from the day of her divorce'.<sup>100</sup>

حُمَيْدُ بْنُ زَيْدٍ عَنِ ابْنِ سَمَاعَةَ قَالَ سَأَلْتُ مُحَمَّدَ بْنَ أَبِي حَمْزَةَ مَتَى يُطَلَّقُ الْغَائِبُ قَالَ حَدَّثَنِي إِسْحَاقُ بْنُ عَمَّارٍ أَوْ رَوَى إِسْحَاقُ بْنُ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَوْ أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا مَضَى لَهُ شَهْرٌ .

Humeyd Bin Razeyn, form Ibn Sama'at who said,

'I asked Muhammad Bin Abu Hamza, 'When can the absentee divorce?' He said, 'Is'haq Bin Ammar narrated to me, or Is'haq Bin Ammar reported from Abu Abdullah<sup>asws</sup>, or Abu Al-Hasan<sup>asws</sup> having said: 'When a month passes by for him'.<sup>101</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زَيْدٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ مَهْزَبَانَ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْأَشْعَرِيِّ قَالَ كُنْتُ بَعْضُ مَوَالِينَا إِلَى أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنَّ مَعِيَ امْرَأَةً عَارَفَهُ أَحَدَتْ زَوْجَهَا فَهَرَبَ عَنِ الْبِلَادِ فَتَبِعَ الزَّوْجُ بَعْضُ أَهْلِ الْمَرْأَةِ فَقَالَ إِمَّا طَلَّقْتَ وَ إِمَّا رَدَدْتِكِ فَطَلَّقَهَا وَ مَضَى الرَّجُلُ عَلَى وَجْهِهِ فَمَا تَرَى لِلْمَرْأَةِ فَكُنْتُ بِخَطِّهِ تَزَوَّجِي بِرَحْمَتِكَ اللَّهُ .

A number of our companions, from Sahl Bin Ziyad, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Mahiyar, from Muhammad Bin Al Hassan Al Ashary who said,

<sup>98</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 5

<sup>99</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 6

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

<sup>101</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 8

'One of our friends wrote to Abu Ja'far<sup>asws</sup> that, 'With me is a woman I know. Something occurred with her husband, so he fled from the city. So, some of the family members of the wife followed him, so they said, 'Either you divorce her, or revert back to her'. So he divorced her, and the man went upon his direction. So what is your<sup>asws</sup> view for the woman?' So he<sup>asws</sup> wrote by his<sup>asws</sup> own handwriting: 'You can marry her, may Allah<sup>azwj</sup> have Mercy on you'.<sup>102</sup>

### بَاب طَلَاقِ الْحَامِلِ

## Chapter 22 – Divorce of the pregnant woman

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ الْحُبْلَى تَطْلُقُ تَطْلِيقَةً وَاحِدَةً .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The pregnant woman is divorced with one divorce'.<sup>103</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيعٍ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ طَلَاقُ الْحَامِلِ وَاحِدَةٌ وَ عِدَّتُهَا أَقْرَبُ الْأَجَلَيْنِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail Bin Bazie, from Muhammad Bin Al Fuzayl, from Abu Al Sabbah Al Kinani,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'A divorce of the pregnant woman is once, and her waiting period is the closest of the two terms (three menstruations or the childbirth)'.<sup>104</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ جَمِيلِ بْنِ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ طَلَاقُ الْحُبْلَى وَاحِدَةٌ فَإِذَا وَضَعَتْ مَا فِي بَطْنِهَا فَقَدْ بَأَنْتَ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Abdullah Bin Jabala, and Ha'far Bin Sama'at, from Jameel, from Ismail Al Ju'fy,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'A divorce of the pregnant woman is once. So when she places what is in her belly (gives birth), so she is irrevocably divorced'.<sup>105</sup>

وَ عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ صَفْوَانَ بْنِ يَحْيَى عَنِ ابْنِ بُكَيْرٍ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ الْحُبْلَى تَطْلُقُ تَطْلِيقَةً وَاحِدَةً .

And from him, from Abdullah Bin Jabala, and Safwan Bin Yahya, from Ibn Bukeyr, from Abu Baseer,

<sup>102</sup> Al Kafi – V 7 – The Book of Divorce Ch 21 H 9

<sup>103</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 1

<sup>104</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 2

<sup>105</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 3



(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The pregnant woman is divorced with one divorce'.<sup>106</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ جَمِيلٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ طَلَّقَ الْحَامِلَ وَاحِدَةً فَإِذَا وَضَعَتْ مَا فِي بَطْنِهَا فَقَدْ بَانَتْ مِنْهُ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Nasr, from Jameel, from Ismail Al Ju'fy,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Divorce of a pregnant woman is once. So when she places what is in her belly, so she has been irrevocably divorced from him'.<sup>107</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ جَمِيعاً عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) طَلَّقَ الْحُبْلَى وَاحِدَةً وَ أَجْلَهَا أَنْ تَضَعَ حَمْلَهَا وَ هُوَ أَقْرَبُ الْأَجَلَيْنِ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Abu Al Abbas Al Razzaz, from Ayoub Bin Nuh, both together from Safwan, from Ibn Muskan, from Abu Baseer who said,

'Abu Abdullah<sup>asws</sup> said: 'Divorce of the pregnant woman is once, and her term is that she places her load (gives birth), and it is the closest of the two terms (three menstruations or giving birth)'.<sup>108</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ طَلَاقِ الْحُبْلَى فَقَالَ وَاحِدَةً وَ أَجْلَهَا أَنْ تَضَعَ حَمْلَهَا .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, and Ali Bin Ibrahim, from his father, both together from Usman Bin Isa, from Sama'at who said,

'I asked him<sup>asws</sup> about divorce of a pregnant woman, so he<sup>asws</sup> said: 'Once, and her term is that she places her load (gives birth)'.<sup>109</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ طَلَّقُ الْحُبْلَى وَاحِدَةً وَ أَجْلَهَا أَنْ تَضَعَ حَمْلَهَا وَ هُوَ أَقْرَبُ الْأَجَلَيْنِ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said; 'Divorce of the pregnant woman is once, and her term is that she places her load (gives birth), and it is the closest of the two terms (three menstruations or giving birth)'.<sup>110</sup>

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

<sup>106</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 4

<sup>107</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 5

<sup>108</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 6

<sup>109</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 7

<sup>110</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 8

Humejd Bin Ziyad, from Ibn Sama'at, from Al Husayn Bin Hashim and Muhammad Bin Ziyad, from Abdul Rahman Bin Al Hajjaj,

(It has been narrated) from Abu Al-Hassan<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the pregnant woman when her husband divorces her, so she places a miscarried, complete or incomplete, or places a lump'. He<sup>asws</sup> said: 'Everything she places (gives birth to) proves that she was pregnant, complete or incomplete, so she has fulfilled her waiting period, even if it was a lump'.<sup>111</sup>

وَعَنْهُ عَنِ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ عَلِيِّ بْنِ عِمْرَانَ الشَّافِعِيِّ عَنْ رُبَيْعِ بْنِ عَبْدِ اللَّهِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ الْبَصْرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَهِيَ حُبْلَى وَكَانَ فِي بَطْنِهَا اثْنَانِ فَوَضَعَتْ وَاحِدًا وَبَقِيَ وَاحِدٌ قَالَ قَالَ تَبَيَّنُ بِالْأَوَّلِ وَلَا تَحِلُّ لِلْأَزْوَاجِ حَتَّى تَضَعَ مَا فِي بَطْنِهَا .

And from him, from Ja'far Bin Sama'at, from Ali Bin Imran SI Shafa, from Rabie Bin Abdullah, from Abdul Rahman Bin Abu Abdullah Al Basry,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who divorced his wife and she was pregnant, and in her belly were two (twins). So she placed one, and there remained one'. He<sup>asws</sup> said: 'It is proved by the first one, and she is not Permissible for the marriage until she places what is in her belly'.<sup>112</sup>

وَعَنْهُ عَنِ صَفْوَانَ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ إِذَا طَلَّقَتِ الْمَرْأَةُ وَهِيَ حَامِلٌ فَأَجَلُهَا أَنْ تَضَعَ حَمْلَهَا وَإِنْ وَضَعَتْ مِنْ سَاعَتِهَا .

And from him, from Safwan, from Musa Bin Bakr, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'When the woman is divorced and she is pregnant, so her term is that she places her load (gives birth), even if she were to place it within an hour'.<sup>113</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَعَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ يَزِيدِ الْكِنَاسِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَام ) عَنْ طَلَّاقِ الْحُبْلَى فَقَالَ يُطَلِّقُهَا وَاحِدَةً لِلْعِدَّةِ بِالشُّهُورِ وَ الشُّهُودِ قُلْتُ لَهُ فَلَهُ أَنْ يَرَجِعَهَا قَالَ نَعَمْ وَ هِيَ امْرَأَتُهُ قُلْتُ فَإِنْ رَجَعَهَا وَ مَسَّهَا ثُمَّ أَرَادَ أَنْ يُطَلِّقَهَا تُطَلِّقُهُ أُخْرَى قَالَ لَا يُطَلِّقُهَا حَتَّى يَمُضِيَ لَهَا بَعْدَ مَا مَسَّهَا شَهْرٌ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub Al Khazzaz, from Yazeed Al Kunasy who said,

'I asked Abu Ja'far<sup>asws</sup> about divorce of the pregnant woman, so he<sup>asws</sup> said: 'He would divorce her once for the waiting period by the months, and the witnesses'. I said to him<sup>asws</sup>, 'So is it for him to reverts back to her?' He<sup>asws</sup> said: 'Yes, and she is his wife'. I said, 'So if he reverts back to her and touches her, then intends to divorce her with another divorce?' He<sup>asws</sup> said: 'He cannot divorce her until there pass by for her one month after him having touched her'.

<sup>111</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 9

<sup>112</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 10

<sup>113</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 11

قُلْتُ فَإِنْ طَلَّقَهَا تَابِيَةً وَ أَشْهَدَ ثُمَّ رَاجَعَهَا وَ أَشْهَدَ عَلَيَّ رَجَعَتَهَا وَ مَسَّهَا ثُمَّ طَلَّقَهَا التَّطْلِيقَةَ الثَّالِثَةَ وَ أَشْهَدَ عَلَيَّ طَلَّقَهَا لِكُلِّ عِدَّةٍ شَهْرٍ هَلْ تَبِينُ مِنْهُ كَمَا تَبِينُ الْمُطَلَّاقَةُ عَلَيَّ الْعِدَّةَ الَّتِي لَا تَحِلُّ لِرُؤُوسِهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ قَالَ نَعَمْ قُلْتُ فَمَا عِدَّتُهَا قَالَ عِدَّتُهَا أَنْ تَضَعَ مَا فِي بَطْنِهَا ثُمَّ قَدْ حَلَّتْ لِلزَّوْجِ .

I said, 'So if he divorces her second (divorce), and keeps witnesses, then reverts back to her, and keeps witnesses upon his reversion, and touches her, then divorces her with the third divorce, and keeps witnesses upon divorcing her, with every waiting period being a month. Would there be manifested from him just as it is manifest from the divorced woman, upon the waiting period which she would not be Permissible for her husband until she marries another husband?' He<sup>asws</sup> said: 'Yes'. I said, 'So what is her waiting period?' He<sup>asws</sup> said: 'Her waiting period is that she places what is in her belly, then she would be permitted for the marriage'.<sup>114</sup>

### باب طَلَّاقِ الَّتِي لَمْ يُدْخَلْ بِهَا

## Chapter 23 – Divorce of the one who has not been consummated

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ إِذَا طَلَّقَ امْرَأَتَهُ وَ لَمْ يُدْخَلْ بِهَا فَقَالَ قَدْ بَانَتْ مِنْهُ وَ تَزَوَّجُ إِنْ شَاءَتْ مِنْ سَاعَتِهَا .

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, from Ibn Abu Nasr, from Abdul Kareem, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the man when he divorces his wife, and without consummating his marriage. So he<sup>asws</sup> said: 'She is irrevocably divorced from him and she can re-marry if she so desire to from that very moment'.<sup>115</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) أَنَّهُ قَالَ إِذَا طَلَّقَتِ الْمَرْأَةُ الَّتِي لَمْ يُدْخَلْ بِهَا بَانَتْ بِتَطْلِيقَةٍ وَاحِدَةٍ .

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

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>) having said: 'When the woman is divorced, the one whose marriage has not been consummated, she is irrevocably divorced with the one divorce'.<sup>116</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ قَبْلَ أَنْ يُدْخَلَ بِهَا فَلَيْسَ عَلَيْهَا عِدَّةٌ تَزَوَّجُ مِنْ سَاعَتِهَا إِنْ شَاءَتْ وَ تَبِينُهَا تَطْلِيقَةً وَاحِدَةً وَ إِنْ كَانَ فَرَضَ لَهَا مَهْرًا فَلَهَا نِصْفُ مَا فَرَضَ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When the man divorces his wife before he consummated marriage, so there is no waiting period upon her.

<sup>114</sup> Al Kafi – V 7 – The Book of Divorce Ch 22 H 11

<sup>115</sup> Al Kafi – V 7 – The Book of Divorce Ch 23 H 1

<sup>116</sup> Al Kafi – V 7 – The Book of Divorce Ch 23 H 2

She can re-marry from that very moment if she so desires to, and one divorce would make her irrevocably divorced; and if a dower was Obligated for her, so for her would be half the obligation'.<sup>117</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ وَ عَلِيِّ بْنِ رَبَائِبٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) فِي رَجُلٍ تَزَوَّجَ امْرَأَةً بَكَرًا ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا ثَلَاثَ تَطْلِيقَاتٍ كُلَّ شَهْرٍ تَطْلِيقَةً قَالَ بَأَنْتَ مِنْهُ فِي التَّطْلِيقَةِ الْأُولَى وَ اثْنَتَانِ فَضْلٌ وَ هُوَ خَاطِبٌ يَتَزَوَّجُهَا مَتَى شَاءَتْ وَ شَاءَ بِمَهْرٍ جَدِيدٍ قِيلَ لَهُ فَلَهُ أَنْ يُرَاجِعَهَا إِذَا طَلَّقَهَا تَطْلِيقَةً قَبْلَ أَنْ تَمُضِيَ ثَلَاثَةُ أَشْهُرٍ قَالَ لَا إِنَّمَا كَانَ يَكُونُ لَهُ أَنْ يُرَاجِعَهَا لَوْ كَانَ دَخَلَ بِهَا أَوْ لَا فَأَمَّا قَبْلَ أَنْ يَدْخُلَ بِهَا فَلَا رَجْعَةَ لَهُ عَلَيْهَا قَدْ بَأَنْتَ مِنْهُ مِنْ سَاعَةٍ طَلَّقَهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, and Ali Bin Raib, from Zurara,

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>) regarding a man who married a virgin woman, then divorced her without consummating, three divorces, each month one divorce. He<sup>asws</sup> said: 'She is irrevocably divorced from during the first divorce, and the other two are superfluous, and he is a proposer to marry her when she so desire, and if he so desire, by a new dower'. It was said to him<sup>asws</sup>, 'Is it for him to revert back to her when he divorces her with a divorce before the passing of three months?' He<sup>asws</sup> said: 'No. But rather, there would happen to be for him (the right) to revert back to her if he had slept with her firstly. So as for before he slept with her, so there is no reversion for him to her. She is irrevocably divorced from him from the moment he divorces her'.<sup>118</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ عَبْدِ اللَّهِ عَنْ عُبَيْسِ بْنِ هِشَامٍ عَنْ ثَابِتِ بْنِ شَرِيحٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِذَا تَزَوَّجَ الرَّجُلُ الْمَرْأَةَ فَطَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا فَلَيْسَ عَلَيْهَا عِدَّةٌ وَ تَزَوَّجُ مِنْ سَاعَتِهَا وَ تُبَيِّنُهَا تَطْلِيقَةً وَاحِدَةً .

Abu Ali Al Ashary, from Al Hassan Bin Ali Bin Abdullah, from Ubeys Bin Hisham, from Sabit Bin Shreyh, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When he marries a woman, so he divorces her before going to bed with her, so there is no waiting period upon her, and she can marry the one whom she so desires to, from that very moment, and the one divorce makes her to be irrevocably divorced'.

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ صَالِحِ بْنِ خَالِدٍ وَ عُبَيْسِ بْنِ هِشَامٍ عَنْ ثَابِتِ بْنِ شَرِيحٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) مِثْلَهُ .

Humeyd Bin Ziyad, from Ibn Sama'at, from Salih Bin Khalid and Ubeys Bin Hisham, from Sabit Bin Shurayh, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup> – similar to it'.<sup>119</sup>

أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَبِي يُونُسَ بْنِ نُوحٍ وَ حُمَيْدِ بْنِ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ صَفْوَانَ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا تَطْلِيقَةً وَاحِدَةً فَقَدْ بَأَنْتَ مِنْهُ وَ تَزَوَّجُ مِنْ سَاعَتِهَا إِذَا شَاءَتْ .

<sup>117</sup> Al Kafi – V 7 – The Book of Divorce Ch 23 H 3

<sup>118</sup> Al Kafi – V 7 – The Book of Divorce Ch 23 H 4

<sup>119</sup> Al Kafi – V 7 – The Book of Divorce Ch 23 H 5

Abu Al Abbas Al Razzaz, from Ayoub Bin Nuh, and Humeyd Bin Ziyad, from Ibn Sama'at, from Safwan, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When the man divorces his wife before he sleeping with her, one divorce, she is irrevocably divorced from him, and she can marry from that very moment if she so desires to'.<sup>120</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) قَالَ الْعِدَّةُ مِنَ الْمَاءِ .

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<sup>asws</sup>) having said: 'The waiting period is from the water'.<sup>121</sup>

### بَابُ طَلَاقِ النِّسَاءِ لَمْ تَبْلُغْ وَ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ

## Chapter 24 – Divorce of the woman who has yet to mature, and one who has despaired from the menstruation (menopause)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) فِي الرَّجُلِ يُطَلِّقُ الصَّبِيَّةَ الَّتِي لَمْ تَبْلُغْ وَ لَا تَحْمَلُ مِثْلَهَا وَ قَدْ كَانَ دَخَلَ بِهَا وَ الْمَرْأَةُ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ وَ ارْتَفَعَ حَيْضُهَا فَلَا تَلِدُ مِثْلَهَا قَالَ لَيْسَ عَلَيْهِمَا عِدَّةٌ وَ إِنْ دَخَلَ بِهِمَا .

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

(It has been narrated) from one of the two (5th or 6th Imam<sup>asws</sup>) regarding the man who divorces the child who has yet to mature and the likes of her cannot get pregnant, and he had slept with her; and the woman who has despaired from the menstruation (in menopause), and her menstruation are lifted, so she cannot give birth. He<sup>asws</sup> said: 'There is no waiting period upon her, even if he has slept with them both'.

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِنَا مِثْلَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed, from Jameel Bin Darrah, from one of our companions – similar to it.<sup>122</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنْ رَوَاهُ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الصَّبِيَّةِ الَّتِي لَا تَحِيضُ مِثْلَهَا وَ الَّتِي قَدْ بَيَّسَتْ مِنَ الْمَحِيضِ قَالَ لَيْسَ عَلَيْهِمَا عِدَّةٌ وَ إِنْ دَخَلَ بِهِمَا .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Hammad Bin Usman,

(It has been narrated) reporting from Abu Abdullah<sup>asws</sup> regarding the young girl the likes of whom do not menstruate, and the woman who has despaired from the

<sup>120</sup> Al Kafi – V 7 – The Book of Divorce Ch 23 H 6

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

<sup>122</sup> Al Kafi – V 7 – The Book of Divorce Ch 24 H 1

menstruation (in menopause). He<sup>asws</sup> said: 'There is no waiting period upon both of them, even if they had both been copulated with'.<sup>123</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدِ بْنِ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعاً عَنْ صَفْوَانَ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ الَّتِي لَا تَحْبَلُ مِثْلَهَا لَا عِدَّةَ عَلَيْهَا .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Al Razzaz, from Ayoub Bin Nuh, and Humejd Bin Ziyad, from Ibn Sama'at both together, from Safwan, from Muhammad Bin Hakeem, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The woman the likes of whom do not get pregnant, there is no waiting period upon her'.<sup>124</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) ثَلَاثٌ يَنْزَوِجَنَّ عَلَى كُلِّ حَالٍ الَّتِي لَمْ تَحْبُضْ وَ مِثْلَهَا لَا تَحْبِضُ قَالَ فُلْتُ وَ مَا حَدُّهَا قَالَ إِذَا أَتَى لَهَا أَقْلٌ مِنْ تِسْعِ سِنِينَ وَ الَّتِي لَمْ يَدْخُلْ بِهَا وَ الَّتِي قَدْ يَبَسَتْ مِنَ الْمَحْبِضِ وَ مِثْلَهَا لَا تَحْبِضُ فُلْتُ وَ مَا حَدُّهَا قَالَ إِذَا كَانَ لَهَا خَمْسُونَ سَنَةً .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, from safwan, from Abdul Rahman Bin Al Hajjaj who said,

'Abu Abdullah<sup>asws</sup> said: 'Three women can marry upon every state – the one who does not menstruate, and the likes of whom who cannot menstruate'. I said, 'And what is her limit?' He<sup>asws</sup> said: 'When there have come for her less than nine years, and one who has not been slept with, and one who has despaired from the menstruation (in menopause), and the likes of the her who cannot menstruate'. I said, 'And what is her limit?' He<sup>asws</sup> said: 'When there are for her, fifty years'.<sup>125</sup>

بَعْضُ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ صَفْوَانَ عَنْ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) يَقُولُ فِي الْمَرْأَةِ الَّتِي قَدْ يَبَسَتْ مِنَ الْمَحْبِضِ قَالَ بَانَتْ مِنْهُ وَ لَا عِدَّةَ عَلَيْهَا .

One of our companions, from Ahmad Bin Muhammad, from Safwan, from Muhammad Bin Hakeem, from Muhammad Bin Muslim who said,

'I heard Abu Ja'far<sup>asws</sup> saying regarding the woman who has despaired from the menstruation: 'She is irrevocably divorced from him, and there is no waiting period for her'.

وَ قَدْ رُوِيَ أَيْضاً أَنَّ عَلَيْهَا الْعِدَّةَ إِذَا دُخِلَ بِهِنَّ .

And it has been reported as well that: 'Upon her is the waiting period when she has been slept with'.<sup>126</sup>

<sup>123</sup> Al Kafi – V 7 – The Book of Divorce Ch 24 H 2

<sup>124</sup> Al Kafi – V 7 – The Book of Divorce Ch 24 H 3

<sup>125</sup> Al Kafi – V 7 – The Book of Divorce Ch 24 H 4

<sup>126</sup> Al Kafi – V 7 – The Book of Divorce Ch 24 H 5

**Chapter 25 – The woman whose menstruation is obscure**

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَعَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَامِ ) عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً سِرّاً مِنْ أَهْلِهَا وَ هِيَ فِي مَنْزِلِ أَهْلِهَا وَ قَدْ أَرَادَ أَنْ يُطَلِّقَهَا وَ لَيْسَ يَصِلُ إِلَيْهَا فَيَعْلَمُ طَمْتُمَهَا إِذَا طَمِثَتْ وَ لَا يَعْلَمُ بِطَهْرِهَا إِذَا طَهَّرَتْ قَالَ فَقَالَ هَذَا مِثْلُ الْعَائِبِ عَنْ أَهْلِهِ يُطَلِّقُهَا بِالْأَهْلَةِ وَ الشُّهُورِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Abdul Raham Bin Al Hajjaj who said,

‘I asked Abu Al-Hassan<sup>asws</sup> about a man who married a woman secretly from her family and she was in the house of her family, and had intended to divorce her, and he could not go to her. So he knew her menstruation when she menstruated, and did not know of her purity when she was pure. So he<sup>asws</sup> said: ‘This is like the absentee from his wife. He divorces her by the new-moons and the months’.

قُلْتُ أَرَأَيْتَ إِنْ كَانَ يَصِلُ إِلَيْهَا الْأَحْيَانُ وَ الْأَحْيَانُ لَا يَصِلُ إِلَيْهَا فَيَعْلَمُ حَالَهَا كَيْفَ يُطَلِّقُهَا فَقَالَ إِذَا مَضَى لَهُ شَهْرٌ لَا يَصِلُ إِلَيْهَا فِيهِ يُطَلِّقُهَا إِذَا نَظَرَ إِلَى غُرَّةِ الشَّهْرِ الْآخِرِ بِشُهُودٍ وَ يَكْتُمُ الشَّهْرَ الَّذِي يُطَلِّقُهَا فِيهِ وَ يُشْهَدُ عَلَى طَلِّقِهَا رَجُلَيْنِ فَإِذَا مَضَى ثَلَاثَةُ أَشْهُرٍ فَقَدْ بَانَتْ مِنْهُ وَ هُوَ خَاطِبٌ مِنَ الْخُطَابِ وَ عَلَيْهِ نَفَقَتُهَا فِي تِلْكَ الثَّلَاثَةِ الْأَشْهُرِ الَّتِي تَعَنَّدُ فِيهَا .

I said, ‘What is your<sup>asws</sup> view if he could sometimes go to her and sometimes he could not go to her, so he would know of her state, how should he divorce her?’ So he<sup>asws</sup> said: ‘When a month passes by for him, not being able to go to her in it, he can divorce her by looking at the onset of the month, with witnesses, and he writes down the month in which he divorces her, and keeps two men as witnesses upon his divorcing her. So when three months pass by, so she is irrevocably divorced from him, and he is a proposer from the proposers, and upon him is her expenses in the third month which she had her waiting period in’.<sup>127</sup>

<sup>127</sup> Al Kafi – V 7 – The Book of Divorce Ch 25 H 1