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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 (3)

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

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

بَاب طَلَاقِ الْمَرِيضِ وَنِكَاحِهِ

Chapter 48 – Divorce by the sick (man) and his marriage

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْمَرِيضِ أَلَهُ أَنْ يُطَلِّقَ امْرَأَتَهُ فِي تِلْكَ الْحَالِ قَالَ لَا وَ لَكِنْ لَهُ أَنْ يَتَزَوَّجَ إِنْ شَاءَ فَإِنْ دَخَلَ بِهَا وَرِثَتْهُ وَ إِنْ لَمْ يَدْخُلْ بِهَا فَنِكَاحُهُ بَاطِلٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Bukeyr, from Ubeyd Bin Zurara who said,

'I asked Abu Abdullah^{asws} about the sick (man), is it for him that he divorces his wife during that state?' He^{asws} said: 'No, but for him is the he gets married if he so desires to. So if he were to copulate with her, she would inherit him, and if he does not copulate with her, so his marriage is invalid'.¹

وَ بِإِسْنَادِهِ عَنِ ابْنِ مَحْبُوبٍ عَنِ رَبِيعِ الْأَصَمِّ عَنْ أَبِي عُبَيْدَةَ الْحَدَّاءِ وَ مَالِكِ بْنِ عَطِيَّةَ عَنِ أَبِي الْوَرْدِ كِلَاهُمَا عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ تَطْلِيقًا فِي مَرَضِهِ ثُمَّ مَكَثَتْ فِي مَرَضِهِ حَتَّى انْقَضَتْ عِدَّتُهَا فَإِنَّهَا تَرِثُهُ مَا لَمْ تَتَزَوَّجَ فَإِنْ كَانَتْ تَزَوَّجَتْ بَعْدَ انْقِضَاءِ الْعِدَّةِ فَإِنَّهَا لَا تَرِثُهُ .

And by his chain, from Ibn Mahboub, from Rabi'e Al Asam, from Abu Ubeyda Al Haza'a, and Maalik Bin Atiyya, from Abu Al Warad, both of them,

(It has been narrated) from Abu Ja'far^{asws} having said: 'When the man divorces his wife with a divorce during his illness, then he remains in his illness until she has fulfilled her waiting period, so she would inherit him for as long as she has not re-married. So if she re-marries after the fulfillment of the waiting period, so she would not inherit him'.²

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ وَ حُمَيْدِ بْنِ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ كُلِّهِمْ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَمَّنْ حَدَّثَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هُوَ مَرِيضٌ قَالَ إِنْ مَاتَ فِي مَرَضِهِ وَ لَمْ يَتَزَوَّجْ وَرِثَتْهُ وَ إِنْ كَانَتْ قَدْ تَزَوَّجَتْ فَقَدْ رَضِيَتْ بِالَّذِي صَنَعَ لَا مِيرَاثَ لَهَا .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Al Razzaz, from Ayoub Bin Nuh, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan and Muhammad Bin Ziyad, from Ibn Sama'at, all of them from Safwan, from Abdul Rahman Bin Hajjaj, from the one who narrated it,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who divorces his wife and he is sick. He^{asws} said: 'If her were to die in his illness and she has not re-

¹ Al Kafi – V 7 – The Book of Divorce Ch 48 H 1

² Al Kafi – V 7 – The Book of Divorce Ch 48 H 2

married, she would inherit him, but if she has re-married, so she has accepted with that which has been done. There would be no inheritance for her'.³

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنِ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ قَالَ لَا يَجُوزُ طَلْقُ الْمَرِيضِ وَ يَجُوزُ نِكَاحُهُ .

Humejd Bin Ziyad, from Ibn sama'at, from Abdullah Bin Jabala, from Ibn Bukeyr, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The divorce of the sick (man) is not allowed, but his marriage is allowed'.⁴

عَنْهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَسِّنٍ عَنْ مُعَاوِيَةَ بْنِ وَهَبٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هُوَ مَرِيضٌ حَتَّى مَضَى لِذَلِكَ سَنَةً قَالَ تَرْتُهُ إِذَا كَانَ فِي مَرَضِهِ الَّذِي طَلَّقَهَا وَ لَمْ يَصِحَّ بَيْنَ ذَلِكَ .

From him, from Ahmad Bin Muhammad, from Muhassan, from Muawiya Bin Wahab, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who divorces his wife and he is sick, until he dies in that year. He^{asws} said: 'She would inherit him when it was during his illness in which he divorced her, while he was not healthy during that (time)'.⁵

وَ عَنْهُ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنِ ابْنِ سَمَاعَةَ عَنِ ابْنِ رَبَاطٍ عَنِ ابْنِ مُسْكَانَ عَنِ أَبِي الْعَبَّاسِ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ رَجُلٌ طَلَّقَ امْرَأَتَهُ وَ هُوَ مَرِيضٌ تَطْلِيقَةً وَ قَدْ كَانَ طَلَّقَهَا قَبْلَ ذَلِكَ تَطْلِيقَتَيْنِ قَالَ فَإِنَّمَا تَرْتُهُ إِذَا كَانَ فِي مَرَضِهِ قَالَ قُلْتُ وَ مَا حَدُّ الْمَرَضِ قَالَ لَا يَزَالُ مَرِيضاً حَتَّى يَمُوتَ وَ إِنْ طَالَ ذَلِكَ إِلَى السَّنَةِ .

And from him, from Al Hassan Bin Muhammad, from Ibn Sama'at, from Ibn Rabat, from Ibn Muskan, from Abu Al Abbas,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him, 'A man divorces his wife with a divorce, and he is sick, and he had divorced her before that with two divorces. He^{asws} said: 'So she would inherit him when it was during his illness'. He (the narrator) said, 'I said, 'And what is a limit of the illness?' He^{asws} said: 'The illness does not decline until he dies, and if that is prolonged, up to the year'.⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ أَبِي الْعَبَّاسِ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا طَلَّقَ الرَّجُلُ الْمَرْأَةَ فِي مَرَضِهِ وَرْتَهُ مَا دَامَ فِي مَرَضِهِ ذَلِكَ وَ إِنْ انْقَضَتْ عِدَّتُهَا إِلَّا أَنْ يَصِحَّ مِنْهُ قَالَ قُلْتُ فَإِنْ طَالَ بِهِ الْمَرَضُ قَالَ مَا بَيْنَهُ وَ بَيْنَ سَنَةٍ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeir, from Jameel Bin Darraj, from Abu Al Abbas,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man divorces his wife during his illness, she would inherit him for as long as (he dies) in that illness of his even if she had fulfilled her waiting period, except if he became healthy from it'.

³ Al Kafi – V 7 – The Book of Divorce Ch 48 H 3

⁴ Al Kafi – V 7 – The Book of Divorce Ch 48 H 4

⁵ Al Kafi – V 7 – The Book of Divorce Ch 48 H 5

⁶ Al Kafi – V 7 – The Book of Divorce Ch 48 H 6

He (the narrator) said, 'I said, 'So if that illness is prolonged?' He^{asws} said: 'What is between that and a year'.⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَيْسَ لِلْمَرِيضِ أَنْ يُطَلَّقَ وَ لَهُ أَنْ يَنْزَوِيَ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'It is not for the sick that he divorces but for him is that he can marry'.⁸

مُحَمَّدٌ عَنْ أَحْمَدَ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ وَ هُوَ مَرِيضٌ قَالَ تَرْتُهُ مَا دَامَتْ فِي عِدَّتِهَا وَ إِنْ طَلَّقَهَا فِي حَالِ إِضْرَارٍ فَهِيَ تَرْتُهُ إِلَى سَنَةٍ فَإِنْ زَادَ عَلَى السَّنَةِ يَوْمًا وَاحِدًا لَمْ تَرْتُهُ وَ تَعْتَدُ مِنْهُ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا عِدَّةَ الْمَتَوَفَى عَنْهَا زَوْجَهَا .

Muhammad, from Ahmad, from Al Husayn Bin Saeed, from his brother Al Hassan, from Zurara Bin Muhammad, from Sama'at who said,

'I asked him^{asws} about a man who divorces his wife whilst he was ill. He^{asws} said: 'She would inherit him for as long as she was in her waiting period; and if he had divorced her during the state of restlessness, so she would inherit him up to a year. So if there was an increase upon the year by one day, she would not inherit him, and she would observe the waiting period from him, for four months and ten (days), a waiting period of the woman widowed from her husband'.⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبَانَ بْنِ عُمَانَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ تَطْلِيقَتَيْنِ فِي صِحَّةٍ ثُمَّ طَلَّقَ التَّطْلِيقَةَ الثَّلَاثَةَ وَ هُوَ مَرِيضٌ إِنَّهَا تَرْتُهُ مَا دَامَ فِي مَرَضِهِ وَ إِنْ كَانَ إِلَى سَنَةٍ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Aban Bin Usman, from a man,

(It has been narrated) from Abu Abdullah^{asws} having said regarding a man who divorces his wife with two divorces during good health, then divorces with the third divorce while he was sick: 'She would inherit him for as long as he is in his illness, even if it was up to a year'.¹⁰

عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ أَنَّهُ سُئِلَ عَنِ الرَّجُلِ يَحْضُرُهُ الْمَوْتُ فَيُطَلِّقُ امْرَأَتَهُ هَلْ يَجُوزُ طَلَّاقُهَا قَالَ نَعَمْ وَ إِنْ مَاتَ وَرَثَتَهُ وَ إِنْ مَاتَتْ لَمْ يَرِثَهَا .

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

(It has been narrated) who asked about the man to whom death approached, so he divorced his wife. Is his divorce allowed?' He^{asws} said: 'Yes, and if he dies, she would inherit him, and if she dies, he would not inherit her'.¹¹

⁷ Al Kafi – V 7 – The Book of Divorce Ch 48 H 7

⁸ Al Kafi – V 7 – The Book of Divorce Ch 48 H 8

⁹ Al Kafi – V 7 – The Book of Divorce Ch 48 H 9

¹⁰ Al Kafi – V 7 – The Book of Divorce Ch 48 H 10

¹¹ Al Kafi – V 7 – The Book of Divorce Ch 48 H 11

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَيْابٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ لَيْسَ لِلْمَرِيضِ أَنْ يُطَلَّقَ وَ لَهُ أَنْ يَنْزَوِيَ فَإِنْ هُوَ تَزَوَّجَ وَ دَخَلَ بِهَا فَهُوَ جَائِزٌ وَ إِنْ لَمْ يَدْخُلْ بِهَا حَتَّى مَاتَ فِي مَرَضِهِ فَتَكَاحُهُ بَاطِلٌ وَ لَا مَهْرَ لَهَا وَ لَا مِيرَاثَ .

Ali, from his father, from Ibn Mahboub, from Ibn Raib, from Zurara,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'It is not for the sick that he divorces, but for him is that he can marry. So if he were to marry and copulate with her, so it is allowed, and if he does not copulate with her until he dies during his illness, so his marriage is invalid, and there is no dower for her, nor inheritance'.¹²

بَاب فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ لَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ

Chapter 49 – Regarding the Words of Allahazwj Mighty and Majestic [65:6] and do not injure them in order that you may discipline them

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يُضَارُّ الرَّجُلُ امْرَأَتَهُ إِذَا طَلَّقَهَا فَيُضَيِّقُ عَلَيْهَا حَتَّى تَنْتَوِيَ قَبْلَ أَنْ تَنْقُضِيَ عِدَّتَهَا فَإِنَّ اللَّهَ عَزَّ وَ جَلَّ قَدْ نَهَى عَنْ ذَلِكَ فَقَالَ وَ لَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'The man must not harm his wife when he divorces her, so he (financially) straitens upon her until she moves before the fulfillment of her waiting period, for Allah^{azwj} Mighty and Majestic has Forbidden from that, so He^{azwj} Said **[65:6] and do not injure them in order that you may straiten them**'.¹³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) مِثْلَهُ .

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

(It has been narrated) from Abu Abdullah^{asws} – similar to it'.

بَاب طَلَاقِ الصَّبِيَّانِ

Chapter 50 – Divorce of the children

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ طَلَاقِ الْغُلَامِ لَمْ يَحْتَلَمْ وَ صَدَقْتِهِ فَقَالَ إِذَا طَلَّقَ لِلْسُّنَّةِ وَ وَضَعَ الصَّدَقَةَ فِي مَوْضِعِهَا وَ حَفَّهَا فَلَا بَأْسَ وَ هُوَ جَائِزٌ .

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

¹² Al Kafi – V 7 – The Book of Divorce Ch 48 H 12

¹³ Al Kafi – V 7 – The Book of Divorce Ch 49 H 1

'I asked him^{asws} about divorce of the young boy who has yet to bed-wet, and his charity. So he^{asws} said: 'When he divorces in accordance to the Sunnah (under guidance) and places the charity in its rightful place, so there is no problem, and it is allowed'.¹⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَيْسَ طَلَاقُ الصَّبِيِّ بِشَيْءٍ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'A divorce of the child is not with anything'.¹⁵

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا يَجُوزُ طَلَاقُ الصَّبِيِّ وَلَا السَّكْرَانَ .

Humejd Bin ziyad, from Ibn Sama'at, from Abdullah Bin Jabala, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The divorce of the child is not allowed, nor of the intoxicated ones'.¹⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عِدَّةٍ مِنْ أَصْحَابِهِ عَنِ ابْنِ بُكَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ [لَا] يَجُوزُ طَلَاقُ الْغُلَامِ إِذَا كَانَ قَدْ عَقَلَ وَوَصِيئُهُ وَصَدَقَتُهُ وَإِنْ لَمْ يَحْتَلَمْ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Husayn, from a number of our companions, from Ibn Bukeyr,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A divorce of the young boy is (not) allowed even when he had intellect, and (as well as) his bequest, and his charity even if he has yet to bed-wet'.¹⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ مُحَمَّدِ بْنِ الْحُسَيْنِ جَمِيعاً عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) (مِثْلَهُ) .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Muhammad Bin Al Husayn altogether, from Ibn Fazzal, from Ibn Bukeyr,

(It has been narrated) from Abu Abdullah^{asws} – similar to it'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ رِجَالِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ [لَا] يَجُوزُ طَلَاقُ الصَّبِيِّ إِذَا بَلَغَ عَشْرَ سِنِينَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from one of his men,

¹⁴ Al Kafi – V 7 – The Book of Divorce Ch 50 H 1

¹⁵ Al Kafi – V 7 – The Book of Divorce Ch 50 H 2

¹⁶ Al Kafi – V 7 – The Book of Divorce Ch 50 H 3

¹⁷ Al Kafi – V 7 – The Book of Divorce Ch 50 H 4

(It has been narrated) from Abu Abdullah^{asws} having said: 'A divorce of the child is (not) allowed when he is ten years old'.¹⁸

باب طلاق المَعْتُوهِ وَ الْمُجْنُونِ وَ طَلَاقِ وَلِيِّهِ عَنْهُ

Chapter 51 – Divorce of the feeble-minded, and the insane, and his guardian on his behalf

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنِ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي خَالِدٍ الْقَمَاطِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ الْأَحْمَقُ الذَّاهِبُ الْعَقْلُ يَجُوزُ طَلَاقُ وَلِيِّهِ عَلَيْهِ قَالَ وَ لِمَ لَا يُطَلَّقُ هُوَ قُلْتُ لَا يُؤْمَنُ إِنْ طَلَّقَ هُوَ أَنْ يَقُولَ غَدًا لَمْ أُطَلِّقْ أَوْ لَا يُحْسِنُ أَنْ يُطَلِّقَ قَالَ مَا أَرَى وَلِيِّهِ إِلَّا بِمَنْزِلَةِ السُّلْطَانِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Muhammad Bin Abu Hamza, from Abu Khalid Al Qammat who said,

'I said to Abu Abdullah^{asws}, 'The man, the idiot, the one with the intellect gone, is the divorce of his guardian allowed over him?' He^{asws} said: 'Why does he himself does not divorce?' I said, 'It is not trusted if he were to divorce, and tomorrow he would be saying, 'I did not divorce', or he is not proficient in the divorce'. He^{asws} said: 'I^{asws} do not see his guardian except being at the status of the Sultan (ruling authority)'.¹⁹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ الرَّزَّازُ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زَيْيَادٍ عَنِ ابْنِ سَمَاعَةَ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ صَفْوَانَ عَنْ أَبِي خَالِدِ الْقَمَاطِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ يَعْرِفُ رَأْيَهُ مَرَّةً وَ يُنْكِرُهُ أُخْرَى يَجُوزُ طَلَاقُ وَلِيِّهِ عَلَيْهِ قَالَ مَا لَهُ هُوَ لَا يُطَلَّقُ قُلْتُ لَا يَعْرِفُ حَدَّ الطَّلَاقِ وَ لَا يُؤْمَنُ عَلَيْهِ إِنْ طَلَّقَ الْيَوْمَ أَنْ يَقُولَ غَدًا لَمْ أُطَلِّقْ قَالَ مَا أَرَاهُ إِلَّا بِمَنْزِلَةِ الْإِمَامِ يَعْنِي الْوَلِيَّ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Abu Al Abbas Al Razzaz, from Ayoub Bin Nuh, and Humejd Bin Ziyad, from Ibn Sama'at and Muhammad Bin Ismail, from Al Al Fazal Bin Shazan, altogether from safwan, from Abu Khalid Al qammat who said,

'I said to Abu Abdullah^{asws}, 'A man whose opinion is recognised at one time, and denied another, is the divorce of his guardian allowed over him?' He^{asws} said: 'What is the matter with him that he does not divorce (himself)?' I said, 'He does not know the limit of the divorce, and is not secure upon it, if he divorces today, but he would be saying tomorrow, 'I did not divorce''. He^{asws} said: 'I^{asws} do not see him except being at the status of the Imam, meaning the guardian'.²⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَادِ بْنِ عَيْسَى عَنْ عُمَرَ بْنِ أُدَيْبَةَ عَنْ زُرَّارَةَ وَ بَكَيْرٍ وَ مُحَمَّدِ بْنِ مُسْلِمٍ وَ بُرَيْدٍ وَ فَضَيْلِ بْنِ يَسَارٍ وَ إِسْمَاعِيلَ الْأَزْرَقِ وَ مَعْمَرِ بْنِ يَحْيَى عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ الْمَوْلَةَ لَيْسَ لَهُ طَلَاقٌ وَ لَا عِنْفَةٌ عِنْفًا .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Umar Bin Azina, from Zurara, and Bukeyr and Muhammad Bin Muslim, and Bureyd, and Fuzayl Bin Yasaar, and Ismail Al Azraq, and Moamar Bin Yahya,

¹⁸ Al Kafi – V 7 – The Book of Divorce Ch 50 H 5

¹⁹ Al Kafi – V 7 – The Book of Divorce Ch 51 H 1

²⁰ Al Kafi – V 7 – The Book of Divorce Ch 51 H 2

(It has been narrated) from Abu Ja'far^{asws} and Abu Abdullah^{asws} that: 'The confused one, there is neither a divorce for him nor is his freeing (a slave) a (valid) emancipation (liberating)'.²¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ طَلَاقِ الْمَعْتُوهِ الدَّاهِبِ الْعَقْلِ أَوْ يَجُوزُ طَلَاقُهُ قَالَ لَا وَ عَنِ الْمَرْأَةِ إِذَا كَانَتْ كَذَلِكَ أَوْ يَجُوزُ بَيْعُهَا أَوْ صَدَقَّتْهَا قَالَ لَا .

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

'I asked Abu Abdullah^{asws} about the deranged (unstable), the devoid of intellect, is his divorce allowed?' He^{asws} said: 'No!' And about the woman when she was like that, is her selling or her charity allowed?' He^{asws} said: 'No!'²²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ عَنْ شِهَابِ بْنِ عَبْدِ رَبِّهِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الْمَعْتُوهُ الَّذِي لَا يُحْسِنُ أَنْ يُطْلَقَ عَنْهُ وَلَيْتَهُ عَلَى السَّنَةِ قَلْتُ فَإِنْ جَهَلَ فَطَلَّقَهَا ثَلَاثًا فِي مَعْدَةٍ قَالَ يُرَدُّ إِلَى السَّنَةِ فَإِذَا مَضَتْ ثَلَاثَةٌ أَشْهُرٍ أَوْ ثَلَاثَةٌ قُرُوءٍ فَقَدْ بَانَتْ مِنْهُ بِوَاحِدَةٍ .

Ali Bin Ibrahim, from his father, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al Hassan Bin Salih, from Shihab Bin Abdu Rabbihi who said,

'Abu Abdullah^{asws} said: 'The deranged (unstable) who is not competent that he divorces upon the Sunnah, his guardian can divorce of his behalf'. I said, 'Supposing he was ignorant, so he divorces her three (times) in one sitting?' He^{asws} said: 'He would be returned to the Sunnah. So when three months pass by or three *Quuroo* (pure periods), so she has been irrevocably divorced from him, by one (divorce)'.²³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ كُلُّ طَلَاقٍ جَائِزٌ إِلَّا طَلَاقَ الْمَعْتُوهِ أَوْ الصَّبِيِّ أَوْ مَبْرَسَمٍ أَوْ مَجْنُونٍ أَوْ مَكْرُوهٍ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'Every divorce is allowed except for a divorce of the deranged (unstable/mad), or the child, or the (sufferer of) pleurisy, or an insane, or a coerced one'.²⁴

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ أَبِي خَالِدِ الْقَمَاطِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي طَلَاقِ الْمَعْتُوهِ قَالَ يُطْلَقُ عَنْهُ وَلَيْتَهُ فَإِنِّي أَرَاهُ بِمَنْزِلَةِ الْإِمَامِ .

A number of our companions, from sahl Bin Ziyad, from Muhammad Bin Al Husayn, from Muhammad Bin Sinan, from Abu Khalid Al Qammat,

(It has been narrated) from Abu Abdullah^{asws} regarding a divorce of the deranged. He^{asws} said: 'His guardian would divorce on his behalf, for I see him being at the status of the Imam'.²⁵

²¹ Al Kafi – V 7 – The Book of Divorce Ch 51 H 3

²² Al Kafi – V 7 – The Book of Divorce Ch 51 H 4

²³ Al Kafi – V 7 – The Book of Divorce Ch 51 H 5

²⁴ Al Kafi – V 7 – The Book of Divorce Ch 51 H 6

²⁵ Al Kafi – V 7 – The Book of Divorce Ch 51 H 7

باب طلاق السَّكَرَانِ**Chapter 52 – Divorce of the intoxicated ones**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ طَلَاقِ السَّكَرَانِ فَقَالَ لَا يَجُوزُ وَلَا كِرَامَةٌ .

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about divorce of the intoxicated one, so he^{asws} said: 'It is not allowed, and there is no prestige'.²⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَيْسَ طَلَاقُ السَّكَرَانِ بِشَيْءٍ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'A divorce by the intoxicated one is not with anything'.²⁷

مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ ابْنِ مُسْكَانَ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ طَلَاقِ السَّكَرَانِ فَقَالَ لَا يَجُوزُ وَلَا كِرَامَةٌ .

Muhammad, from Ahmad Bin Muhammad, from Muhammad Bin Sinan, from Ibn Muskan, from Al Halby who said,

'I asked Abu Abdullah^{asws} about a divorce by the intoxicated one, so he^{asws} said: 'Not allowed, and there is no prestige'.²⁸

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنِ ابْنِ رَبَاطٍ وَ الْحُسَيْنِ بْنِ هَاشِمٍ عَنْ صَفْوَانَ جَمِيعاً عَنِ ابْنِ مُسْكَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ طَلَاقِ السَّكَرَانِ فَقَالَ لَا يَجُوزُ وَلَا عِنْفُهُ .

Humeyd Bin Ziyad, from Ibn Sama'at, from Ibn Rabat and Al Husayn Bin Hashim, from Safwan, altogether from Ibn Muskan, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a divorce by the intoxicated one, so he^{asws} said: 'Not allowed, nor his emancipation (liberation of a slave)'.²⁹

باب طلاق المُنْظَرِّ وَالْمُكْرَهِ**Chapter 53 – Divorce of the restless and the coerced**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنِ ابْنِ أَبِي عُمَيْرٍ أَوْ غَيْرِهِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَمِعْتُهُ يَقُولُ لَوْ أَنَّ رَجُلًا مُسْلِمًا مَرَّ بِقَوْمٍ أَلْبَسُوا بِسُلْطَانٍ فَفَهَرُوهُ حَتَّى يَتَخَوَّفَ عَلَى نَفْسِهِ أَنْ يُعْتِقَ أَوْ يُطَلَّقَ فَفَعَلَ لَمْ يَكُنْ عَلَيْهِ شَيْءٌ .

²⁶ Al Kafi – V 7 – The Book of Divorce Ch 52 H 1

²⁷ Al Kafi – V 7 – The Book of Divorce Ch 52 H 2

²⁸ Al Kafi – V 7 – The Book of Divorce Ch 52 H 3

²⁹ Al Kafi – V 7 – The Book of Divorce Ch 52 H 4

Ali Bin Ibrahim, from his father, from one of his companions, from Ibn Abu Umeyr, or someone else, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I heard him^{asws} saying: 'If a Muslim man who passes by a people who are not with any authority, so they compel him until he fears upon himself, that he should either emancipate (liberate a slave) or divorce, so he does it, there would be nothing upon him'.³⁰

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُدَيْنَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ طَلَاقِ الْمُكْرَهِ وَ عِتْقِهِ فَقَالَ لَيْسَ طَلَاقُهُ بِطَلَاقٍ وَ لَا عِتْقُهُ بِعِتْقٍ فَقُلْتُ إِنِّي رَجُلٌ تَاجِرٌ أَمْرٌ بِالْعَشَارِ وَ مَعِيَ مَالٌ فَقَالَ عَيْنِيهِ مَا اسْتَطَعْتَ وَ ضَعُهُ مَوَاضِعَهُ فَقُلْتُ وَ إِنْ حَلَفْتِي بِالطَّلَاقِ وَ الْعَتَاقِ فَقَالَ أَحْلَفْ لَهُ تَمَّ أَخَذَ تَمْرَةً فَحَفَنَ بِهَا مِنْ زُبْدٍ كَانَ قُدَامَهُ فَقَالَ مَا أَبَالِي حَلَفْتُ لَهُمْ بِالطَّلَاقِ وَ الْعَتَاقِ أَوْ أَكَلْتَهَا .

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

(It has been narrated) from Abu Ja'far^{asws}, said, 'I asked him^{asws} about a divorce of the coerced, and his emancipation (liberation of a slave). So he^{asws} said: 'His divorce is not with a (valid) divorce, nor is his emancipation a (valid) emancipation'. So I said, 'I am a businessman. I pass by the tax collector and with me is wealth'. So he^{asws} said: 'Hide from him according to your capacity, and place it in its (proper) place'. So I said, 'And if he makes me swear an oath with the divorce and the emancipation (of a slave)?' So he^{asws} said: 'Swear for him'. Then he^{asws} took a date, so he scooped with it from butter which was in front of him^{asws}, so he^{asws} said: 'I^{asws} don't mind if you swear for them with the divorce, and the emancipation (of a slave), or I^{asws} eat it (the date)'.³¹

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ عُبَيْسِ بْنِ هِشَامٍ وَ صَالِحِ بْنِ خَالِدٍ عَنْ مَنْصُورِ بْنِ يُونُسَ قَالَ سَأَلْتُ الْعَبْدَ الصَّالِحَ (عَلَيْهِ السَّلَام) وَ هُوَ بِالْعَرَبِيِّينَ فَقُلْتُ لَهُ جُعِلْتُ فِدَاكَ إِنِّي قَدْ تَزَوَّجْتُ امْرَأَةً وَ كَانَ تُحِبُّنِي فَتَزَوَّجْتُ عَلَيْهَا ابْنَةَ خَالِي وَ قَدْ كَانَ لِي مِنَ الْمَرْأَةِ وَ لَدَّ فَرَجَعْتُ إِلَى بَعْدَادَ فَطَلَّقْتُهَا وَاحِدَةً ثُمَّ رَاجَعْتُهَا ثُمَّ طَلَّقْتُهَا الثَّانِيَةَ ثُمَّ رَاجَعْتُهَا ثُمَّ خَرَجْتُ مِنْ عِنْدِهَا أُرِيدُ سَفَرِي هَذَا حَتَّى إِذَا كُنْتُ بِالْكُوفَةِ أَرَدْتُ النَّظَرَ إِلَى ابْنَةِ خَالِي فَقَالَتْ أَخْتِي وَ خَالَتِي لَا تَنْظُرِي إِلَيْهَا وَ اللَّهُ أَبَدًا حَتَّى تُطَلَّقَ فَلَانَةَ فَقُلْتُ وَ يَحْكُمُ وَ اللَّهُ مَا لِي إِلَى طَلَاقِهَا سَبِيلٌ

Humejd Bin Ziyad, from Ibn sama'at, from Ubeys Bin Hisham, and Salih Bin Khalid, from Mansour Bin Yunus who said,

'Al-Abd Al-Salih^{asws} (7th Imam^{asws}) was asked, and he^{asws} was at Al-Urayz, so I said to him^{asws}, 'May I be sacrificed for you^{asws}! I have married a woman and she used to love me, then I married upon her a daughter of my maternal uncle, and there was a son for me from the woman. So I returned to Baghdad, so I divorced her once. Then I reverted to her, then divorced her the second (divorce). Then I went from her presence intending this journey, until I was at Al-Kufa. I wanted to look at the daughter of my maternal uncle, so my sister and my maternal aunt said, 'You will not look at her ever, by Allah^{azwj}, until you divorce so and so'. So I said, 'Woe be unto you! By Allah^{azwj}, there is no way for me to divorce her'.

فَقَالَ لِي هُوَ مِنْ شَأْنِكَ لَيْسَ لَكَ إِلَى طَلَاقِهَا سَبِيلٌ فَقُلْتُ جُعِلْتُ فِدَاكَ إِنَّهُ كَانَتْ لِي مِنْهَا بِنْتُ وَ كَانَتْ بِبَعْدَادَ وَ كَانَتْ هَذِهِ بِالْكُوفَةِ وَ خَرَجْتُ مِنْ عِنْدِهَا قَبْلَ ذَلِكَ بِأَرْبَعِ قَابِوَا عَلَيَّ إِلَّا تَطْلِيْقَهَا ثَلَاثًا وَ لَا وَ اللَّهُ جُعِلْتُ فِدَاكَ مَا أَرَدْتُ اللَّهُ وَ مَا أَرَدْتُ إِلَّا أَنْ أَدَارِيَهُمْ عَنْ نَفْسِي وَ قَدْ امْتَلَأَ قَلْبِي مِنْ ذَلِكَ جُعِلْتُ فِدَاكَ

³⁰ Al Kafi – V 7 – The Book of Divorce Ch 53 H 1

³¹ Al Kafi – V 7 – The Book of Divorce Ch 53 H 2

So he^{asws} said to me: 'It is from your affairs, there is no way for you to divorce her'. So I said, 'May I be sacrificed for you! There was a daughter for me from her, and she was at Baghdad, and this one is at Al-Kufa, and I went out from her presence before that by four (days), so they refused me (to see her) except that I divorce her three times, and no, by Allah^{azwj}, may I be sacrificed for you^{asws}! I did not intend (for the Sake of) Allah^{azwj} except that I manage them from myself, and it has afflicted my heart due to that, may I be sacrificed for you^{asws}!'

فَمَكَتَ طَوِيلًا مُطْرَقًا ثُمَّ رَفَعَ رَأْسَهُ إِلَيَّ وَ هُوَ مُتَبَسِّمٌ فَقَالَ أَمَا مَا بَيْنَكَ وَ بَيْنَ اللَّهِ عَزَّ وَ جَلَّ فَلَيْسَ بِشَيْءٍ وَ لَكِنْ إِذَا قَدَّمُوكَ إِلَى السُّلْطَانِ أَبَانَهَا مِنْكَ .

So he^{asws} remained silent for a long time, then raised his^{asws} head towards me, and he^{asws} was smiling. So he^{asws} said: 'As for what is between you and Allah^{azwj} Mighty and Majestic, so it is not with anything, but, when they proceed you to the Sultan (ruling authority), they would irrevocably divorce her from you'.³²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ يَحْيَى بْنِ عَبْدِ اللَّهِ بْنِ الْحَسَنِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَمِعْتُهُ يَقُولُ لَا يَجُوزُ الطَّلَاقُ فِي اسْتِكْرَاهٍ وَ لَا يَجُوزُ عَتَقٌ فِي اسْتِكْرَاهٍ وَ لَا يَجُوزُ يَمِينٌ فِي قَطِيعَةِ رَحِمٍ وَ لَا فِي شَيْءٍ مِنْ مَعْصِيَةِ اللَّهِ فَمَنْ حَلَفَ أَوْ حَلَفَ فِي شَيْءٍ مِنْ هَذَا وَ فَعَلَهُ فَلَا شَيْءَ عَلَيْهِ

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I heard him^{asws} saying: 'The divorce is not allowed during the compulsion, nor an emancipation (liberation of a slave) during compulsion, nor is an oath allowed regarding cutting-off of a relationship, nor with regards to something from the disobedience to Allah^{azwj}. So the one who swears or be made to swear regarding something from this, and he does it, so there is nothing upon him'.

قَالَ وَ إِنَّمَا الطَّلَاقُ مَا أُرِيدَ بِهِ الطَّلَاقُ مِنْ غَيْرِ اسْتِكْرَاهٍ وَ لَا اضْطِرَارٍ عَلَى الْعِدَّةِ وَ السُّنَّةِ عَلَى طَهْرِ بَعْضِ جَمَاعٍ وَ شَاهِدَيْنِ فَمَنْ خَالَفَ هَذَا فَلَيْسَ طَلَّاقُهُ وَ لَا يَمِينُهُ بِشَيْءٍ يُرَدُّ إِلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ .

He^{asws} said: 'But rather, the divorce is what is intended by it, the divorce from without compulsion, nor any harm upon the waiting period, and the Sunnah upon purity without copulation, and two witnesses. So, the one who opposes this, so neither his divorce nor his oath is with anything. He would be returned to the Book of Allah^{azwj} Mighty and Majestic'.³³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُعَاوِيَةَ بْنِ وَهَبٍ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) أَمْرٌ بِالْعَشَارِ وَ مَعِيَ مَالٌ فَيَسْتَحْلِفُنِي فَإِنْ حَلَفْتُ لَهُ تَرَكَنِي وَ إِنْ لَمْ أَحْلِفْ لَهُ فَتَشَنِّي وَ ظَلَمَنِي فَقَالَ أَحْلِفْ لَهُ قُلْتُ فَإِنَّهُ يَسْتَحْلِفُنِي بِالطَّلَاقِ فَقَالَ أَحْلِفْ لَهُ فَقُلْتُ فَإِنَّ الْمَالَ لَا يَكُونُ لِي قَالَ فَعَنْ مَالِ أَخِيكَ إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَ آلِهِ) رَدَّ طَلَّاقَ ابْنِ عُمَرَ وَ قَدْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا وَ هِيَ حَائِضٌ فَلَمْ يَرِ ذَلِكَ رَسُولُ اللَّهِ شَيْئًا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Muawiya Bin Wahab, from Ismail Al Ju'fy who said,

³² Al Kafi – V 7 – The Book of Divorce Ch 53 H 3

³³ Al Kafi – V 7 – The Book of Divorce Ch 53 H 4

'I said to Abu Ja'far^{asws}, 'I pass by the tax collector and with me is wealth, so he makes me swear an oath. So if I were to swear for him, he leave me (alone), and if I do not swear for him, so he ransacks me and oppresses me'. So he^{asws} said: 'Swear for him'. I said, 'Suppose he makes me swear with the divorce?' So he^{asws} said: 'Swear for him'. I said, 'So if the wealth does not happen to be mine?' He^{asws} said: 'So (do it) for (the sake of) the wealth of your brother. Rasool-Allah^{saww} rebuffed a divorce of Ibn Umar and he had divorced his wife three (divorces) and she was menstruating. Thus Rasool-Allah^{saww} viewed that (divorce) as nothing'.³⁴

باب طَلَقِ الْأَخْرَسِ

Chapter 54 – Divorce of the mute

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ تَكُونُ عِنْدَهُ الْمَرْأَةُ ثُمَّ يَصْمُتُ فَلَا يَتَكَلَّمُ قَالَ يَكُونُ أَخْرَسًا قُلْتُ نَعَمْ فَيَعْلَمُ مِنْهُ بُغْضٌ لِامْرَأَتِهِ وَكَرَاهَتُهُ لَهَا أَوْ يَجُوزُ أَنْ يُطَلَّقَ عَنْهُ وَلَيْتَهُ قَالَ لَا وَ لَكِنْ يَكْتُبُ وَ يُشْهَدُ عَلَى ذَلِكَ

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

'I asked Abu Al-Hassan^{asws} about the man who happened to have the woman with him. Then he kept silent and could not speak'. He^{asws} said: 'He became mute?' I said, 'Yes. So it was known from him to be with hatred for his wife and his abhorrence for her. Is it allowed that his guardian divorces on his behalf?' He^{asws} said: 'No. But, he can write it out and keep witnesses upon that'.

قُلْتُ لَا يَكْتُبُ وَ لَا يَسْمَعُ كَيْفَ يُطَلِّقُهَا فَقَالَ بِالَّذِي يُعْرِفُ مِنْهُ مِنْ فِعَالِهِ مِثْلَ مَا ذَكَرْتَ مِنْ كَرَاهَتِهِ وَ بُغْضِهِ لَهَا .

I said, 'He can neither write nor hear, how would he divorce her?' So he^{asws} said: 'By that which is recognised from him from his actions the likes of what you mentioned from his abhorrence, and his hatred for her'.³⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ السَّنْدِيِّ عَنْ جَعْفَرِ بْنِ بَشِيرٍ عَنْ أَبَانَ بْنِ عُمَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ طَلَقِ الْأَخْرَسَاءِ قَالَ يُلْفُ قِنَاعَهَا عَلَى رَأْسِهَا وَ يَجِدُّبُهُ .

Ali Bin Ibrahim, from his father, from Salih Bin Al Sandy, from Ja'far Bin Basheer, from Aban Bin Usman who said,

'I asked Abu Abdullah^{asws} about a divorce of the mute. He^{asws} said: 'He should wrap her scarf upon her head and pull it away'.³⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ طَلَقُ الْأَخْرَسِ أَنْ يَأْخُذَ مِقْنَعَهَا فَيَضَعَهَا عَلَى رَأْسِهَا وَ يَعْتَزِلَهَا .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'A divorce of the mute is that he takes her veil, so he places it upon her head, and he takes it off'.³⁷

³⁴ Al Kafi – V 7 – The Book of Divorce Ch 53 H 5

³⁵ Al Kafi – V 7 – The Book of Divorce Ch 54 H 1

³⁶ Al Kafi – V 7 – The Book of Divorce Ch 54 H 2

عَلِيٌّ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ فِي رَجُلٍ أَخْرَسَ كَتَبَ فِي الْأَرْضِ بِطَلَاقِ امْرَأَتِهِ قَالَ إِذَا فَعَلَ ذَلِكَ فِي قَبْلِ الطَّهْرِ بِشَهْوَةٍ وَفَهُمْ عَنْهُ كَمَا يُفَهُمْ عَنْ مِثْلِهِ وَ يُرِيدُ الطَّلَاقَ جَازَ طَلَاغُهُ عَلَى السُّنَّةِ .

Ali, from his father, from Ismail Bin Marrar, from Yunus,

'With regards to a mute man who writes in the ground with a divorce of his wife. He^{asws} said: 'When he does that, accepting the purity, with witnesses, and it is understood from him just as it is understood the likes of it, and he intends the divorce, so his divorce is allowed upon the Sunnah'.³⁸

باب الْوَكَاةِ فِي الطَّلَاقِ

Chapter 55 – The representation in the divorce

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ الرَّزَّازِ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ جَمِيعاً عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ سَعِيدِ الْأَعْرَجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ جَعَلَ أَمْرَ امْرَأَتِهِ إِلَى رَجُلٍ فَقَالَ أَشْهَدُوا أَنِّي جَعَلْتُ أَمْرَ فُلَانَةَ إِلَى فُلَانٍ أَوْ يَجُوزُ ذَلِكَ لِلرَّجُلِ قَالَ نَعَمْ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Razzaz, from Ayoub Bin Nuh and Humeyd Bin Ziyad, from Ibn Sama'at, altogether from Safwan Bin yahya, from Saeed Al A'araj,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who made the matter of his wife to a man, so he said, 'Bear witness that I made the matter of so and so woman to so and so man'. Is that allowed for the man?' He^{asws} said: 'Yes'.³⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ جَمِيعاً عَنْ عَلِيِّ بْنِ النُّعْمَانَ عَنْ سَعِيدِ الْأَعْرَجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ يَجْعَلُ أَمْرَ امْرَأَتِهِ إِلَى رَجُلٍ فَقَالَ أَشْهَدُوا أَنِّي قَدْ جَعَلْتُ أَمْرَ فُلَانَةَ إِلَى فُلَانٍ فَيُطَلَّقُهَا أَوْ يَجُوزُ ذَلِكَ لِلرَّجُلِ قَالَ نَعَمْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Muhammad Bin Ismail, altogether from Ali Bin Al Nu'man, from Saeed Al A'araj,

(It has been narrated) from Abu Abdullah^{asws} regarding a man making a matter of his wife to a man, so he said, 'Bear witness that I have made a matter of so and so woman to so and so man'. So he (the representative) divorced her. Is that allowed for the man?' He^{asws} said: 'Yes'.⁴⁰

عَلِيُّ بْنُ إِبرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ جَعَلَ طَلَاقَ امْرَأَتِهِ بِيَدِ رَجُلَيْنِ فَطَلَّقَ أَحَدُهُمَا وَ أَبِي الْأَخْرَقَابِي أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) أَنْ يُجِيزَ ذَلِكَ حَتَّى يَجْتَمِعَا جَمِيعاً عَلَى طَلَاقٍ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said regarding a man who made a divorce of his wife in the hands of two men. So

³⁷ Al Kafi – V 7 – The Book of Divorce Ch 54 H 3

³⁸ Al Kafi – V 7 – The Book of Divorce Ch 54 H 4

³⁹ Al Kafi – V 7 – The Book of Divorce Ch 55 H 1

⁴⁰ Al Kafi – V 7 – The Book of Divorce Ch 55 H 2

one of them divorced her and the other one refused. So Amir Al-Momineen^{asws} refused that until both of them form a consensus upon the divorce'.⁴¹

مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي هِلَالِ الرَّازِيِّ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ وَكَلَّ رَجُلًا بِطَلَاقِ امْرَأَتِهِ إِذَا حَاضَتْ وَطَهَّرَتْ وَخَرَجَ الرَّجُلُ قَبْدًا لَهُ فَأَشْهَدَ أَنَّهُ قَدْ أَبْطَلَ مَا كَانَ أَمْرُهُ بِهِ وَ أَنَّهُ قَدْ بَدَأَ لَهُ فِي ذَلِكَ قَالَ فَلْيُعْلَمِ أَهْلُهُ وَ لْيُعْلَمِ الْوَكِيلَ .

Muhammad, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Muskan, from Abu Hilal Al Razy who said,

'I said to Abu Abdullah^{asws}, 'A man appointed a man with the divorce of his wife when she menstruation and was pure, and the man went out. So he (later on) changed his mind, and kept witnesses that he has invalidated that matter, and that he had changed his mind with regards to that'. He^{asws} said: 'So let him inform his wife, and let him inform the representative'.⁴²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ شَمُونَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مَسْمَعٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ جَعَلَ طَلَاقَ امْرَأَتِهِ بِيَدِ رَجُلَيْنِ فَطَلَّقَ أَحَدُهُمَا وَ أَبِي الْأَخْرُ قَابِي عَلِيٍّ (عَلَيْهِ السَّلَامُ) أَنْ يُجِيزَ ذَلِكَ حَتَّى يَجْتَمِعَا عَلَى الطَّلَاقِ جَمِيعًا .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Bin Shamoun, from Abdullah Bin Abdul Rahman, from Misma'a,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who made the divorce of his wife in the hands of two men. So one of the two divorced and the other one refused. So Ali^{asws} refused to allowed that until they both gather upon the divorce together'.

وَ رُوِيَ أَنَّهُ لَا تَجُوزُ الْوَكَالَةُ فِي الطَّلَاقِ .

And it is reported that he^{asws} did not allow the representation in the divorce.⁴³

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ وَ حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ جَمِيعًا عَنْ حَمَّادِ بْنِ عَثْمَانَ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ لَا تَجُوزُ الْوَكَالَةُ فِي الطَّلَاقِ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, and Humeyd Bin Ziyad, from Ibn Sama'at, from Ja'far Bin Sama'at, altogether from Hammad Bin Usman, from Zurara,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The representative is not allowed in the divorce'.⁴⁴

باب الإيلاء

Chapter 56 – The solemn oath

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي الْإِيْلَاءِ إِذَا أَلَى الرَّجُلُ أَنْ لَا يَفْرَبَ امْرَأَتَهُ وَ لَا يَمْسَهَا وَ لَا يَجْمَعُ رَأْسَهُ وَ رَأْسَهَا فَهُوَ فِي سَعَةٍ مَا لَمْ تَمُضِ الْأَرْبَعَةُ

⁴¹ Al Kafi – V 7 – The Book of Divorce Ch 55 H 3

⁴² Al Kafi – V 7 – The Book of Divorce Ch 55 H 4

⁴³ Al Kafi – V 7 – The Book of Divorce Ch 55 H 5

⁴⁴ Al Kafi – V 7 – The Book of Divorce Ch 55 H 6

الْأَشْهُرُ فَإِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ وَقِفَ فَإِمَّا أَنْ يَفِيءَ فَيَمَسَّهَا وَ إِمَّا أَنْ يَعْزِمَ عَلَى الطَّلَاقِ فَيُخَلِّي عَنْهَا حَتَّى إِذَا حَاصَتْ وَ طَهَّرَتْ مِنْ حَيْضِهَا طَلَّقَهَا تَطْلِيقَةً قَبْلَ أَنْ يُجَامِعَهَا بِشَهَادَةِ عَدْلَيْنِ تَمَّ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَمُضِ الثَّلَاثَةُ الْأَقْرَاءُ .

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

'I heard Abu Abdullah^{asws} saying regarding the solemn oath when the man oaths that he would not approach his wife and will not touch her, nor gather his head and her head, so he is in a leeway for as long as four months do not pass by. So when four months pass by, he pauses. So either he fulfils, so he touches her, and if he is determined upon the divorce, so he separates from her until she menstruates and is pure from her menstruation, divorces her with one divorce before he sleeps with her, with two just witnesses. Then he is more rightful with reverting back to her for as long as three *Quroos* (pure periods) do not pass by her'.⁴⁵

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَهْجُرُ امْرَأَتَهُ مِنْ غَيْرِ طَلَاقٍ وَ لَا يَمِينِ سَنَةً لَمْ يَقْرَبْ فَرَأْسَهَا قَالَ لِيَأْتِ أَهْلَهُ وَ قَالَ أَيُّمَا رَجُلٍ آلَى مِنْ امْرَأَتِهِ وَ الْإِيْلَاءُ أَنْ يَقُولَ لَا وَ اللَّهُ لَا أَجْمَعُكَ كَذَا وَ كَذَا وَ يَقُولُ وَ اللَّهُ لَا أَعْصِيكَ [لَأَعْصِيَنَّكَ] تَمَّ يُعَاضِبُهَا فَإِنَّهُ يَتَرَبَّصُ بِهَا أَرْبَعَةَ أَشْهُرٍ تَمَّ يُؤَخِّدُ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ فَيُوقِفُ فَإِنْ فَاءَ وَ الْإِيْفَاءُ أَنْ يُصَالِحَ أَهْلَهُ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ فَإِنْ لَمْ يَفِيءَ جُبِرَ عَلَى أَنْ يُطَلِّقَ وَ لَا يَقَعُ بَيْنَهُمَا طَلَاقٌ حَتَّى يُوقِفَ وَ إِنْ كَانَ أَيْضًا بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ يُجْبِرُ عَلَى أَنْ يَفِيءَ أَوْ يُطَلِّقَ .

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

'I asked Abu Abdullah^{asws} about the man who abandons his wife from without a divorce and oaths that for a year he would not go near her bed'. He^{asws} said: 'Let him go to his wife'. And he^{asws} said: 'Whichever man solemnly oaths from his wife, and the solemn oath is that he is saying, 'No, by Allah^{azwj}, I will not sleep with you, such and such', and he is saying, 'By Allah^{azwj}, I shall constrict you (due to my anger with you), then he is angry with her, so he awaits with her for four months. Then he should be seized by it, after four months. So he pauses, and he meets and the meeting is that he reconciles with his wife, so Allah^{azwj} is most Forgiving more Merciful. So if he does not meet, he is compelled that he divorces, and a divorce does not happen between the two of them until he pauses, even if it was as well after the four months, he would be compelled upon that he either meets (reconciles) or divorces'.⁴⁶

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنِ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا آلَى الرَّجُلُ مِنْ امْرَأَتِهِ وَ الْإِيْلَاءُ أَنْ يَقُولَ وَ اللَّهُ لَا أَجْمَعُكَ كَذَا وَ كَذَا وَ يَقُولُ وَ اللَّهُ لَا أَعْصِيَنَّكَ [لَأَعْصِيَنَّكَ] تَمَّ يُعَاضِبُهَا تَمَّ يَتَرَبَّصُ بِهَا أَرْبَعَةَ أَشْهُرٍ فَإِنْ فَاءَ وَ الْإِيْفَاءُ أَنْ يُصَالِحَ أَهْلَهُ أَوْ يُطَلِّقَ عِنْدَ ذَلِكَ وَ لَا يَقَعُ بَيْنَهُمَا طَلَاقٌ حَتَّى يُوقِفَ وَ إِنْ كَانَ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ حَتَّى يَفِيءَ أَوْ يُطَلِّقَ .

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

'I heard Abu Abdullah^{asws} saying, 'When the man solemnly oaths from his wife, and the solemn oath is that he is saying, 'By Allah^{azwj} I will not sleep with you, such and such', and is saying, 'By Allah^{azwj}, and he is saying, 'By Allah^{azwj}, I shall constrict you (due to my anger with you), then he is angry with her, then she is awaited with for

⁴⁵ Al Kafi – V 7 – The Book of Divorce Ch 56 H 1

⁴⁶ Al Kafi – V 7 – The Book of Divorce Ch 56 H 2

four months. So if he meets, and the meeting is that he reconciles with his wife, or he divorces during that, and a divorce does not happen between the two of them until he pauses, even if it is after the four months, until he either meets (reconciles) or divorces'.⁴⁷

عَلِيٌّ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ بُكَيْرِ بْنِ أَعْيَنَ وَ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُمَا قَالَا إِذَا أَلَى الرَّجُلُ أَنْ لَا يَقْرَبَ امْرَأَتَهُ فَلَيْسَ لَهَا قَوْلٌ وَ لَا حَقٌّ فِي الْأَرْبَعَةِ الْأَشْهُرِ وَ لَا إِثْمٌ عَلَيْهِ فِي كَفِّهِ عَنْهَا فِي الْأَرْبَعَةِ الْأَشْهُرِ فَإِنْ مَضَتْ الْأَرْبَعَةُ الْأَشْهُرُ قَبْلَ أَنْ يَمْسَهَا فَسَكَتَتْ وَ رَضِيَتْ فَهُوَ فِي حِلٍّ وَ سَعَةٍ

Ali, from his father, from Hammad Bin Isa, from Umar Bin Azina, from Bukeyr Bin Ayn and Bureyd Bin Muawiya,

(It has been narrated) from Abu Ja'far^{asws} and Abu Abdullah^{asws}, both of them^{asws} having said: 'When the man solemnly oaths that he would not go near his wife, so it is not for her to say (anything), nor any right during the four months, nor is there a sin upon him with regards to his refraining from her during the four months. So when the four months pass by before him having touched her, so she is silent and pleased, so he is in a solution and a leeway.

فَإِنْ رَفَعَتْ أَمْرَهَا قِيلَ لَهُ إِمَّا أَنْ تَقِيَّءَ فَتَمَسَّهَا وَ إِمَّا أَنْ تُطَلَّقَ وَ عَزْمُ الطَّلَاقِ أَنْ يُخَلِّيَ عَنْهَا فَإِذَا حَاضَتْ وَ طَهَّرَتْ طَلَّقَهَا وَ هُوَ أَحَقُّ بِرَجْعَتِهَا مَا لَمْ تَمُضِ ثَلَاثَةٌ فُرُوءٍ فَهَذَا الْإِبْلَاءُ الَّذِي أَنْزَلَهُ اللَّهُ تَبَارَكَ وَ تَعَالَى فِي كِتَابِهِ وَ سُنَّةَ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) .

So if she raises her matter, it would be said to him, 'Either you meet, so you touch her, or you divorce, and if the divorce is determined if you stay clear from her'. So when she menstruates and is pure, he divorces her, and he is more rightful with reverting back to her for as long as three *Quroos* (pure periods) do not pass by. So this is the solemn oath which Allah^{azwj} Blessed and High Revealed in His^{azwj} Book, and a Sunnah of Rasool-Allah^{saww}.⁴⁸

عَلِيٌّ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَتَى رَجُلٌ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنَّ امْرَأَتِي أَرْضَعَتْ غُلَامًا وَ إِنِّي قُلْتُ وَ اللَّهُ لَا أَقْرُبُكَ حَتَّى تَفْطِمِيهِ فَقَالَ لَيْسَ فِي الْإِصْلَاحِ إِبْلَاءٌ .

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

Abu Abdullah^{asws} has said: 'A man came over to Amir Al-Momineen^{asws}, so he said, 'O Amir Al-Momineen^{asws}! My wife breast-fed a boy and I said, 'By Allah^{azwj}, I shall not go near you until you wean him'. So he^{asws} said: 'There is not solemn oath in the reconciliation'.⁴⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ أَلَى مِنْ امْرَأَتِهِ بَعْدَ مَا دَخَلَ بِهَا فَقَالَ إِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ وَقَفَ وَ إِنْ كَانَ بَعْدَ حِينٍ فَإِنْ فَاءَ فَلَيْسَ بِشَيْءٍ وَ هِيَ امْرَأَتُهُ وَ إِنْ عَزَمَ الطَّلَاقَ فَقَدْ عَزَمَ

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

⁴⁷ Al Kafi – V 7 – The Book of Divorce Ch 56 H 3

⁴⁸ Al Kafi – V 7 – The Book of Divorce Ch 56 H 4

⁴⁹ Al Kafi – V 7 – The Book of Divorce Ch 56 H 6

'I asked Abu Abdullah^{asws} about a man who solemnly oathed from his wife after having slept with her. So he^{asws} said: 'When four months pass by, he pause, even if it was after a while. So if he meets (reconciles) so it is not with anything, and she is (still) his wife, and if he is determined upon the divorced, so it is determined'.

وَقَالَ الْإِبْلَاءُ أَنْ يَقُولَ الرَّجُلُ لِامْرَأَتِهِ وَ اللَّهُ لَا غِيظَنَّكَ [لَا غِيظَنَّكَ] وَ لَأَسُوءَنَّكَ ثُمَّ يَهْجُرَهَا وَ لَا يُجَامِعُهَا حَتَّى تَمُضِيَ أَرْبَعَةَ أَشْهُرٍ فَإِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ فَقَدْ وَقَعَ الْإِبْلَاءُ وَ يَنْبَغِي لِلْإِمَامِ أَنْ يُجْبِرَهُ عَلَى أَنْ يَقِيءَ أَوْ يُطَلِّقَ فَإِنْ فَاءَ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ وَ إِنْ عَزَمَ الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ وَ هُوَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ فِي كِتَابِهِ.

And he said, 'The solemn oath is that the man is saying to his wife, 'By Allah^{azwj}, I shall constrict you (due to my anger with you), and worsen you'. Then he abandons her and does not go near her until four months pass by. So when four months pass by, so the solemn oath has occurred, and it is befitting for the Imam^{asws} that he^{asws} compels him upon that he either meets (reconciles) or divorces. **[2:226] so if they meet, then Allah is surely Forgiving, Merciful [2:227] And if they have resolved upon the divorce, then Allah is surely Hearing, Knowing**'.⁵⁰

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ أَبِيَانَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الْمَوْلَى يُوقَفُ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ فَإِنْ شَاءَ إِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ فَإِنَّ عَزَمَ الطَّلَاقَ فَهِيَ وَاحِدَةٌ وَ هُوَ أَمْلَكُ بِرَجْعَتِهَا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Aban, from Abu Maryam,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The one with solemn oath is paused after the four months, so if he so desires to he **[2:229] then keeps in good fellowship or lets go with kindness**. So if the divorce is determines, so it is the one, and he is in control with reverting back to her'.⁵¹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ وَ حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ جَمِيعاً عَنْ صَفْوَانَ عَنْ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ الْإِبْلَاءِ مَا هُوَ فَقَالَ هُوَ أَنْ يَقُولَ الرَّجُلُ لِامْرَأَتِهِ وَ اللَّهُ لَا أُجَامِعُكَ كَذَا وَ كَذَا وَ يَقُولُ وَ اللَّهُ لَا غِيظَنَّكَ [لَا غِيظَنَّكَ] فَيَتَرَبَّصَ بِهَا أَرْبَعَةَ أَشْهُرٍ ثُمَّ يُؤَخِّدُ فَيُوقَفُ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ فَإِنْ فَاءَ وَ هُوَ أَنْ يُصَالِحَ أَهْلَهُ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ وَ إِنْ لَمْ يَقِيءَ جَبَرَ عَلَى أَنْ يُطَلِّقَ وَ لَا يَقَعُ طَلَاقٌ فِيمَا بَيْنَهُمَا وَ لَوْ كَانَ بَعْدَ الْأَرْبَعَةِ الْأَشْهُرِ مَا لَمْ يَرْفَعَهُ إِلَى الْإِمَامِ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and abu Al Abbas Muhammad Bin Ja'far, from Ayoub Bin Nuh, and Muhammad Bin Ismail, from al Fazl Bin Shzaan, and Humei Bin Ziyad, from Ibn Sama'at, altogether from Safwan, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the solemn oath, what is it?' He^{asws} said: 'It is if he, the man, is saying to his wife, 'By Allah^{azwj}, I will not sleep with you such and such', and he is saying, 'By Allah^{azwj}, I shall constrict you (due to my anger with you)'. So she would be awaited with for four months, then he would be seized. So he would be paused after the four months, so if he meets, and it is that he reconciles with his wife, so Allah^{azwj} is most Forgiving and most Merciful; and if he does not meet, he would be compelled upon that he divorces her,

⁵⁰ Al Kafi – V 7 – The Book of Divorce Ch 56 H 7

⁵¹ Al Kafi – V 7 – The Book of Divorce Ch 56 H 8

and a divorce does not happen in what is between the two of them, even though it be after the four months, what has not been raised to the Imam^{asws},⁵²

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ حَمَّادِ بْنِ عُثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ فِي الْمُؤَلِّي إِذَا أَبِي أَنْ يُطَلَّقَ قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يَجْعَلُ لَهُ حَظِيرَةً مِنْ قَصَبٍ وَ يَحْبِسُهُ فِيهَا وَ يَمْنَعُهُ مِنَ الطَّعَامِ وَ الشَّرَابِ حَتَّى يُطَلَّقَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Hammad Bin Usman,

(It has been narrated) from Abu Abdullah^{asws} having said regarding the one who solemn oath when he refuses to divorce: 'Amir Al-Momineen^{asws} had made an enclosure from canes, and imprisoned him in it, and prevented him from the food and the drink until he divorces'.⁵³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ خَلْفِ بْنِ حَمَّادٍ رَفَعَهُ إِلَى أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الْمُؤَلِّي إِذَا أَنْ يَفِيءَ أَوْ يُطَلَّقَ فَإِنْ فَعَلَ وَ إِلَّا ضُرِبَتْ عُنُقُهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Khalid, from Khalaf Bin Hammad,

(It has been narrated) from Abu Abdullah^{asws} regarding the solemn oather, either he meets (reconciles) or he divorces. So if he does it, or else his neck is struck'.⁵⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصِ بْنِ الْبُخْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا غَاظَبَ الرَّجُلُ امْرَأَتَهُ فَلَمْ يَقْرُبْهَا مِنْ غَيْرِ يَمِينٍ أَرْبَعَةَ أَشْهُرٍ فَاسْتَعَدَّتْ عَلَيْهِ فَإِمَّا أَنْ يَفِيءَ وَ إِذَا أَنْ يُطَلَّقَ فَإِنْ تَرَكَهَا مِنْ غَيْرِ مُعَاذَبَةٍ أَوْ يَمِينٍ فَلَيْسَ بِمُؤَلِّي .

Ali Bin Ibrahim, from Ibn Abu Umeyr, from Hafis Bin Al Bakhtary,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man is angered over his wife, so he does not go near her from without an oath for four months, so he would be disciplined over it. So either he meets (reconciles) or he divorces. So if he neglects her from other than anger, or an oath, so it is not a solemn oath'.⁵⁵

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ حَمْدَانَ الْقَلَانِسِيِّ عَنْ إِسْحَاقَ بْنِ بُنَانَ عَنِ ابْنِ بَقَّاحٍ عَنْ غِيَاثِ بْنِ إِبْرَاهِيمَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) إِذَا أَبِي الْمُؤَلِّي أَنْ يُطَلَّقَ جَعَلَ لَهُ حَظِيرَةً مِنْ قَصَبٍ وَ أَعْطَاهُ رُبْعَ قُوَّتِهِ حَتَّى يُطَلَّقَ .

Al Husayn Bin Muhammad, from Hamdan Al Qalanasy, from Is'haq Bin Bunan, from Ibn Baqqah, from Giyas Bin Ibrahim,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws}, when the solemn oather refused to divorce, he^{asws} made an enclosure from cane, and gave him a quarter of his provision until he divorces'.⁵⁶

⁵² Al Kafi – V 7 – The Book of Divorce Ch 56 H 9

⁵³ Al Kafi – V 7 – The Book of Divorce Ch 56 H 10

⁵⁴ Al Kafi – V 7 – The Book of Divorce Ch 56 H 11

⁵⁵ Al Kafi – V 7 – The Book of Divorce Ch 56 H 12

⁵⁶ Al Kafi – V 7 – The Book of Divorce Ch 56 H 13

بَابُ أَنَّهُ لَا يَقَعُ الْإِبْلَاءُ إِلَّا بَعْدَ دُخُولِ الرَّجُلِ بِأَهْلِهِ

Chapter 57 – The solemn oath does not occur except after the sleeping of the man with his wife

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا يَقَعُ الْإِبْلَاءُ إِلَّا عَلَى امْرَأَةٍ قَدْ دَخَلَ بِهَا زَوْجُهَا .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'The solemn oath does not occur except upon a man who had slept with her'.⁵⁷

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قُلْتُ لَهُ الرَّجُلُ يُؤَلِّي مِنْ امْرَأَتِهِ قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ لَا يَقَعُ الْإِبْلَاءُ حَتَّى يَدْخُلَ بِهَا .

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'The man solemnly oath from his wife before he slept with her'. He^{asws} said: 'The solemn oath does not occur until he sleeps with her'.⁵⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ أُدَيْنَةَ قَالَ لَا أَعْلَمُهُ إِلَّا عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا يَكُونُ مُؤَلِّياً حَتَّى يَدْخُلَ بِهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ibn Azina who said, 'I have no knowledge of it except from Zurara,

(It has been narrated) from Abu Abdullah^{asws} having said: 'He does not happen to be a solemn oather until he sleeps with her'.⁵⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلَ أَمِيرَ الْمُؤْمِنِينَ (عليه السلام) عَنْ رَجُلٍ آتَى مِنْ امْرَأَتِهِ وَ لَمْ يَدْخُلْ بِهَا قَالَ لَا إِبْلَاءَ حَتَّى يَدْخُلَ بِهَا فَقَالَ أَرَأَيْتَ لَوْ أَنَّ رَجُلًا حَلَفَ أَنْ لَا يَبْنِي بِأَهْلِهِ سَنَتَيْنِ أَوْ أَكْثَرَ مِنْ ذَلِكَ أَمْ كَانَ يَكُونُ إِبْلَاءً .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} was asked about a man who solemnly swore from his wife and did not sleep with her'. He^{asws} said: 'There is no solemn oath until he sleeps with her'. So he^{asws} said, 'Do you not see that if a man were to oath that he would not make up with his wife for two years or more than that, would that be a solemn oath?'⁶⁰

⁵⁷ Al Kafi – V 7 – The Book of Divorce Ch 57 H 1

⁵⁸ Al Kafi – V 7 – The Book of Divorce Ch 57 H 2

⁵⁹ Al Kafi – V 7 – The Book of Divorce Ch 57 H 3

⁶⁰ Al Kafi – V 7 – The Book of Divorce Ch 57 H 4

باب الرَّجُلِ يَقُولُ لِامْرَأَتِهِ هِيَ عَلَيَّ حَرَامٌ

Chapter 58 – The man is saying to his wife that she is prohibited unto him

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ أَبِي نَصْرٍ عَنْ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتَ عَلَيَّ حَرَامٌ فَقَالَ لِي لَوْ كَانَ لِي عَلَيْهِ سُلْطَانٌ لَأَوْجَعْتُ رَأْسَهُ وَ قُلْتُ لَهُ اللَّهُ أَحَلَّهَا لَكَ فَمَا حَرَمَهَا عَلَيْكَ إِنَّهُ لَمْ يَزِدْ عَلَيَّ أَنْ كَذَبَ فَرَعَمَ أَنْ مَا أَحَلَّ اللَّهُ لَهُ حَرَامٌ وَ لَا يَدْخُلُ عَلَيْهِ طَلَاقٌ وَ لَا كَفَّارَةٌ

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Nasr, from Muhammad Bin Sama'at, from Zurara,

(It has been narrated) from Abu Ja'far^{asws}, said, 'I asked him^{asws} about a man who says to his wife, 'You are prohibited unto me'. So he^{asws} said to me: 'If there was authority for me^{asws} upon him, I^{asws} would have pained his head, and said to him: 'Allah^{azwj} has Made her Permissible for you, so what is prohibiting her unto you?' It does not increase upon a lie if he claims that whatever Allah^{azwj} has Permitted for him is prohibited, and a divorce does not enter upon him, nor an expiation'.

فَقُلْتُ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ يَا أَيُّهَا النَّبِيُّ لِمَ تُحَرِّمُ مَا أَحَلَّ اللَّهُ لَكَ فَجَعَلَ فِيهِ الْكُفَّارَةَ فَقَالَ إِنَّمَا حَرَّمَ عَلَيَّ جَارِيَتَهُ مَارِيَةَ وَ حَلَفْتُ أَنْ لَا يَفْرَبَهَا فَإِنَّمَا جَعَلَ عَلَيْهِ الْكُفَّارَةَ فِي الْحَلْفِ وَ لَمْ يَجْعَلْ عَلَيْهِ فِي التَّحْرِيمِ .

So I said, '(What about) the Words of Allah^{azwj} Mighty and Majestic [66:1] **O Prophet! Do not deny (yourself) that which Allah has made lawful for you**, so He^{azwj} Made the expiation to be with regards to it?' So he^{asws} said: 'But rather he^{saww} forbid unto himself a slave girls Mariah (the Coptic), and swore that he^{saww} would not go near her. But rather the expiation was Made to be upon him^{saww} regarding the swear, and was not Made upon him^{saww} for the prohibition'.⁶¹

عَلَيْ بِنِ إِبرَاهِيمَ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِينَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ مَا تَقُولُ فِي رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتَ عَلَيَّ حَرَامٌ فَإِنَّا نُرْوِي بِالْعِرَاقِ أَنَّ عَلِيًّا (عَلَيْهِ السَّلَامُ) جَعَلَهَا ثَلَاثًا فَقَالَ كَذَبُوا لَمْ يَجْعَلَهَا طَلَاقًا وَ لَوْ كَانَ لِي عَلَيْهِ سُلْطَانٌ لَأَوْجَعْتُ رَأْسَهُ ثُمَّ أَقُولُ إِنَّ اللَّهَ عَزَّ وَ جَلَّ أَحَلَّهَا لَكَ فَمَا ذَا حَرَمَهَا عَلَيْكَ مَا زِدْتُ عَلَيَّ أَنْ كَذَبْتَ فَقُلْتُ لِشَيْءٍ أَحَلَّهُ اللَّهُ لَكَ إِنَّهُ حَرَامٌ .

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

(It has been narrated) from Abu Ja'far^{asws}, said, 'I said to him^{asws}, 'What are you^{asws} saying regarding a man who says to his wife, 'You are prohibited unto me', for we are reporting at Al-Iraq that Ali^{asws} made it to be as three (divorces)?' So he^{asws} said: 'They are lying! He^{asws} did not make it to be as a divorce, and if there was an authority for me^{asws} over him, I^{asws} would pain his head, then I^{asws} would be saying that Allah^{azwj} Mighty and Majestic has Made her to be Permissible for you, so what is that which prohibits her unto you? It would not be any more a life if you were to say for something which Allah^{azwj} has Permitted it for you, that it is prohibited'.⁶²

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنِ ابْنِ رَبِاطٍ عَنِ أَبِي مَخْلَدٍ السَّرَّاجِ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ لِي شَبَّهْتُ بِنُ عَقَالٍ بَلَّغَنِي أَنَّكَ تَزْعُمُ أَنَّ مَنْ قَالَ مَا أَحَلَّ اللَّهُ عَلَيَّ حَرَامٌ أَنْكَ لَا تَرَى ذَلِكَ شَيْئًا قُلْتُ أَمَا قَوْلُكَ الْحَلُّ عَلَيَّ حَرَامٌ فَهَذَا أَمِيرُ

⁶¹ Al Kafi – V 7 – The Book of Divorce Ch 58 H 1

⁶² Al Kafi – V 7 – The Book of Divorce Ch 58 H 2

الْمُؤْمِنِينَ الْوَلِيدُ جَعَلَ ذَلِكَ فِي أَمْرِ سَلَامَةَ امْرَأَتِهِ وَ أَنَّهُ بَعَثَ يَسْتَفْتِي أَهْلَ الْحِجَازِ وَ أَهْلَ الْعِرَاقِ وَ أَهْلَ الشَّامِ فَاخْتَلَفُوا عَلَيْهِ فَأَخَذَ بِقَوْلِ أَهْلِ الْحِجَازِ إِنَّ ذَلِكَ لَيْسَ بِشَيْءٍ .

Humeyd Bin Ziyad, from Ibn Sama'at, from Ibn Rabat, from Abu Makhlad,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Shabbat Bin Aqqal said to me^{asws}, 'It has reached me that you^{asws} are claiming that the one who says, 'what Allah^{azwj} has Permitted upon me is prohibited', that you^{asws} do not see that as anything?' I^{asws} said: 'As for your words, 'I have permitted upon me a prohibition', so this is what Amir Al-Momineen^{asws} made that in the matter of Salama of his wife, and he had sent for a verdict to the people of Al-Hijaz, and the people of Al-Iraq, and people of Syria, so they differed over it. So he took to by the words of the people of Al-Hijaz that, that is not with anything'.⁶³

حُمَيْدٌ عَنِ ابْنِ سَمَاعَةَ عَنْ صَفْوَانَ عَنْ حَرِيْزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) رَجُلٌ قَالَ لِامْرَأَتِهِ أَنْتِ عَلَيَّ حَرَامٌ قَالَ لَيْسَ عَلَيْهِ كَفَّارَةٌ وَ لَا طَلَاقٌ .

Humeyd, from Ibn Sama'at, from Safwan, from Hareyz, from Muhammad Bin Muslim who said,

'I said to Abu Abdullah^{asws}, 'A man says to his wife, 'You are prohibited unto me''. He^{asws} said: 'There is no expiation upon him, nor a divorce'.⁶⁴

بَابُ الْخَلِيَّةِ وَ الْبَرِيئَةِ وَ النَّبْتَةِ

Chapter 59 – The freed (woman), and the disavowed (woman), and the severed (woman)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَقُولُ لِامْرَأَتِهِ أَنْتِ مِنِّي خَلِيَّةٌ أَوْ بَرِيئَةٌ أَوْ نَبْتَةٌ أَوْ حَرَامٌ قَالَ لَيْسَ بِشَيْءٍ .

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

'I asked Abu Ja'far^{asws} about the man who is saying to his wife, 'You are, from me, free', or 'disavowed', or 'severed', or 'prohibited''. He^{asws} said: 'It is not with anything'.⁶⁵

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتِ مِنِّي بَائِنٌ وَ أَنْتِ مِنِّي خَلِيَّةٌ وَ أَنْتِ مِنِّي بَرِيئَةٌ قَالَ لَيْسَ بِشَيْءٍ .

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

'I asked him^{asws} about a man who says to his wife, 'You are aside from me', and 'your are free from me', and 'you are disavowed from me'. He^{asws} said: 'It is not with anything'.⁶⁶

⁶³ Al Kafi – V 7 – The Book of Divorce Ch 58 H 3

⁶⁴ Al Kafi – V 7 – The Book of Divorce Ch 58 H 4

⁶⁵ Al Kafi – V 7 – The Book of Divorce Ch 59 H 1

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِامْرَأَتِهِ أَنْتِ خَلِيَّةٌ أَوْ بَرِيئَةٌ أَوْ بَنَةٌ أَوْ حَرَامٌ قَالَ لَيْسَ بِشَيْءٍ .

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who says to his wife, 'You are free from me', or 'disavowed from me', or 'prohibited'. He^{asws} said: 'It is not with anything'.⁶⁷

باب الْخِيَارِ

Chapter 60 – The Choice

مُحَمَّدُ بْنُ أَبِي عَبْدِ اللَّهِ عَنْ مُعَاوِيَةَ بْنِ حُكَيْمٍ عَنْ صَفْوَانَ وَ عَلِيِّ بْنِ الْحَسَنِ بْنِ رَبَاطٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنِ الْخِيَارِ فَقَالَ وَ مَا هُوَ وَ مَا ذَلِكَ إِنَّمَا ذَلِكَ شَيْءٌ كَانَ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) .

Muhammad Bin Abu Abdullah, from Muawiya Bin Hukeym, from Safwan, and Ali Bin Al Hassan Bin Rabat, from Abu Ayoub Al Khazzaz, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about the choice, so he^{asws} said: 'And what is it, and what is that? But rather, that is something which was for Rasool-Allah^{saww}'.⁶⁸

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ وَ ابْنِ رَبَاطٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) إِنِّي سَمِعْتُ أَبَاكَ يَقُولُ إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) خَيْرٌ نِسَاءَهُ فَأَخْتَرَنَ اللَّهُ وَ رَسُولُهُ فَلَمْ يُمِسِّكُهُنَّ عَلَى طَلَاقٍ وَ لَوْ أَخْتَرَنَ أَنْفُسَهُنَّ لَبِئْسَ فَقَالَ إِنَّ هَذَا حَدِيثٌ كَانَ يَرَوِيهِ أَبِي عَنْ عَائِشَةَ وَ مَا لِلنَّاسِ وَ لِلْخِيَارِ إِنَّمَا هَذَا شَيْءٌ حَصَّ اللَّهُ عَزَّ وَ جَلَّ بِهِ رَسُولُهُ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) .

Humeyd Bin Ziyad, from Ibn Sama'at, from Muhammad Bin Ziyad, and Ibn Rabat, from Abu Ayoub Al Khazzaz, from Muhammad Bin Muslim who said,

'I said to Abu Abdullah^{asws}, 'I heard your^{asws} father^{asws} saying that Rasool-Allah^{saww} (gave) a choice to his^{saww} wives, so they chose Allah^{azwj} and His^{azwj} Rasool^{saww}, so he^{saww} did not keep them upon a divorce, and had they chosen themselves, they would have been irrevocably divorced'. So he^{asws} said: 'This is a Hadeeth which my^{asws} father^{asws} had reported about Ayesha. And what is for the people and the choice? But rather, this is something which Allah^{azwj} Mighty and Majestic Specialised His^{azwj} Rasool^{saww} with'.⁶⁹

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ ابْنِ رَبَاطٍ عَنْ عِيصِ بْنِ الْقَاسِمِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ خَيْرَ امْرَأَتِهِ فَأَخْتَارَتْ نَفْسَهَا بَانَتٍ مِنْهُ قَالَ لَا إِنَّمَا هَذَا شَيْءٌ كَانَ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) خَاصَّةً أَمْرٌ بِذَلِكَ فَفَعَلَ وَ لَوْ أَخْتَرَنَ أَنْفُسَهُنَّ لَطَلَّقَهُنَّ وَ هُوَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ قُلْ لِأَزْوَاجِكُمْ إِنْ كُنْتُمْ تُرِيدُونَ الْحَيَاةَ الدُّنْيَا وَ زِينَتَهَا فَتَعَالَيْنَ أُمْتَعِكُنَّ وَ أَسْرَحِكُنَّ سَرَاحًا جَمِيلًا .

Humeyd, from Ibn Sama'at, from Ibn Rabat, from Ays Bin Al Qasim,

⁶⁶ Al Kafi – V 7 – The Book of Divorce Ch 59 H 2

⁶⁷ Al Kafi – V 7 – The Book of Divorce Ch 59 H 3

⁶⁸ Al Kafi – V 7 – The Book of Divorce Ch 60 H 1

⁶⁹ Al Kafi – V 7 – The Book of Divorce Ch 60 H 2

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who (gave a) choice to his wife, so she chose herself to be irrevocably divorced from him'. He^{asws} said: 'No! This is something which was for Rasool-Allah^{saww} in particular. He^{saww} was Commanded with that, so he^{saww} did it; and had they chosen themselves, they would have been divorced, and these are the Words of Allah^{azwj} Mighty and Majestic [33:28] **O Prophet! Say to your wives: If you desire the life of the world and its adornment, then come, I will give you a provision and allow you to depart a goodly departing**'.⁷⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنْ هَارُونَ بْنِ مُسْلِمٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ مَا تَقُولُ فِي رَجُلٍ جَعَلَ أَمْرَ امْرَأَتِهِ بِيَدِهَا قَالَ قَالَ وَلَى الْأَمْرَ مَنْ لَيْسَ أَهْلُهُ وَ خَالَفَ السُّنَّةَ وَ لَمْ يُجِزِ النِّكَاحَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from haroun Bin Muslim, from one of our companions,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'What are you^{asws} saying regarding a man who made the matter of his wife to be in her hands?' So he^{asws} said: 'He has given the matter to the one who is not deserving of it, and he has opposed the Sunnah, and the marriage is not allowed'.⁷¹

بَابُ كَيْفَ كَانَ أَصْلُ الْخِيَارِ

Chapter 61 – How was the origin of the choice

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) يَقُولُ إِنَّ اللَّهَ عَزَّ وَ جَلَّ أَنْفَ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مِنْ مَقَالَةٍ قَالَتْهَا بَعْضُ نِسَائِهِ فَأَنْزَلَ اللَّهُ آيَةَ التَّخْيِيرِ فَأَعْتَزَلَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) نِسَاءَهُ تِسْعًا وَ عَشْرِينَ لَيْلَةً فِي مَشْرَبَةِ أُمِّ إِبْرَاهِيمَ ثُمَّ دَعَاهُنَّ فَخَيَّرَهُنَّ فَاخْتَرْنَهُ فَلَمْ يَكُنَّ شَيْئًا وَ لَوْ اخْتَرْنَ أَنْفُسَهُنَّ كَانَتْ وَاحِدَةً بَائِنَةً

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

'I heard Abu Ja'far^{asws} saying that Allah^{azwj} Mighty and Majestic Scorned for Rasool-Allah^{saww} due to the speech which one of his^{saww} wives said, so He^{azwj} Revealed the Verse of the Choice (33:28). So Rasool-Allah^{saww} detached from his^{saww} wives for twenty-nine nights in the watering place of Umm Ibrahim^{as} (Mariah the Coptic). Then he^{saww} called them over, so he^{saww} gave them a choice, so they chose him^{saww}. So nothing happened, and had they chosen themselves, even once, they would have been irrevocably divorced'.

قَالَ وَ سَأَلْتُهُ عَنْ مَقَالَةِ الْمَرْأَةِ مَا هِيَ قَالَ فَقَالَ إِنَّهَا قَالَتْ بَرَى مُحَمَّدٌ أَنَّهُ لَوْ طَلَقْنَا أَنَّهُ لَا يَأْتِينَا الْأَكْفَاءُ مِنْ قَوْمِنَا يَتَرَوُجُونَا .

He (the narrator) said, 'And I asked him^{asws} about the speech of the woman, and what it is?' So he^{asws} said: 'She said, 'Muhammad^{saww} sees that if he^{saww} were to divorce us, the matches from our people would not come to us to marry us'.⁷²

⁷⁰ Al Kafi – V 7 – The Book of Divorce Ch 60 H 3

⁷¹ Al Kafi – V 7 – The Book of Divorce Ch 60 H 4

⁷² Al Kafi – V 7 – The Book of Divorce Ch 61 H 1

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ ذَكَرَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ زَيْنَبَ قَالَتْ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا تَعْدِلْ وَ أَنْتَ رَسُولُ اللَّهِ وَ قَالَتْ حَفْصَةُ إِنَّ طَلَقَنَا وَجَدْنَا أَكْفَاءَنَا فِي قَوْمِنَا فَاحْتَبَسَ الْوَحْيُ عَنْ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) عَشْرِينَ يَوْمًا

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

‘Abu Abdullah^{asws} mentioned that Zaynab said to Rasool-Allah^{saww}, ‘You^{saww} are not being just and you^{saww} are Rasool^{saww} of Allah^{azwj}!’ And Hafsa said, ‘If you^{saww} were to divorce us, we would find our matches among our people’. So the Revelation was withheld (to Decide their matter) Rasool-Allah^{saww} for twenty days (as a punishment to those wives).

قَالَ فَأَيْفَ اللَّهُ عَزَّ وَ جَلَّ لِرَسُولِهِ فَأَنْزَلَ يَا أَيُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكُمْ إِنْ كُنْتُمْ تُرِيدْنَ الْحَيَاةَ الدُّنْيَا وَ زِينَتَهَا فَتَعَالَيْنَ إِلَى قَوْلِهِ أَجْرًا عَظِيمًا

He^{asws} said: ‘So Allah^{azwj} Mighty and Majestic Condemned on behalf to His^{azwj} Rasool^{saww} [33:28] **O Prophet! Say to your wives: If you desire the life of the world and its adornment, then come – up to His^{azwj} Words [33:29] a mighty Recompense.**

قَالَ فَاخْتَرَنَ اللَّهُ وَ رَسُولَهُ وَ لَوْ اخْتَرْنَ أَنْفُسَهُنَّ لَبِئْسَ وَ إِنْ اخْتَرْنَ اللَّهَ وَ رَسُولَهُ فَلَيْسَ بِشَيْءٍ .

He^{asws} said: ‘So they chose Allah^{azwj} and His^{azwj} Rasool^{saww}, and had they chosen themselves, they would have been irrevocably divorced, and since they chose Allah^{azwj} and His^{azwj} Rasool^{saww}, so it is not with anything’.⁷³

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ أَبِي نَصْرٍ عَنْ حَمَادِ بْنِ عُمَانَ عَنْ عَبْدِ الْأَعْلَى بْنِ أَعْيَنَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ يَقُولُ إِنَّ بَعْضَ نِسَاءِ النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قَالَتْ أَيْرَى مُحَمَّدًا أَنَّهُ إِنْ طَلَقْنَا لَا نَجِدُ الْأَكْفَاءَ مِنْ قَوْمِنَا قَالَ فَغَضِبَ اللَّهُ عَزَّ وَ جَلَّ مِنْ فَوْقِ سَبْعِ سَمَاوَاتِهِ فَأَمَرَهُ فَخَيَّرَهُنَّ حَتَّى انْتَهَى إِلَى زَيْنَبَ بِنْتِ جَحْشٍ فَقَامَتْ وَ قَبَّلَتْهُ وَ قَالَتْ اخْتَارَ اللَّهُ وَ رَسُولَهُ.

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Nasr, from Hammad Bin Usman, from Abdul A'ala Bin ayn who said,

‘I heard Abu Abdullah^{asws} saying that one of the wives of the Prophet^{saww} said, ‘Does Muhammad^{saww} view that if he^{saww} were to divorce us we would not find our matches from our people?’ So Allah^{azwj} Mighty and Majestic was Angered from above the seven skies. So He^{azwj} Commanded it, so he^{saww} gave them a choice until he^{saww} ended up with Zaynab Bint Jahash. So she stood up, and kissed him^{saww} and said, ‘I choose Allah^{azwj} and His^{azwj} Rasool^{saww}’.⁷⁴

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ زَيْنَبَ بِنْتَ جَحْشٍ قَالَتْ أَيْرَى رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِنْ خَلَى سَبِيلَنَا أَنَا لَا نَجِدُ زَوْجًا غَيْرَهُ وَ قَدْ كَانَ اعْتَزَلَ نِسَاءَهُ تِسْعًا وَ عَشْرِينَ لَيْلَةً فَلَمَّا قَالَتْ زَيْنَبُ الَّذِي قَالَتْ بَعَثَ اللَّهُ عَزَّ وَ جَلَّ جَبْرَائِيلَ إِلَى مُحَمَّدٍ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَقَالَ قُلْ لِأَزْوَاجِكُمْ إِنْ كُنْتُمْ تُرِيدْنَ الْحَيَاةَ الدُّنْيَا وَ زِينَتَهَا فَتَعَالَيْنَ أُمْعَكُنَّ الْأَيْتِينَ كَلِمَتَيْهِمَا فَقُلْنَ بَلْ نَخْتَارُ اللَّهَ وَ رَسُولَهُ وَ الدَّارَ الْآخِرَةَ .

Humeyd Bin Ziyad, from Ibn Sama'at, from Ja'far Bin sama'at, from Dawood Bin Sirhan,

⁷³ Al Kafi – V 7 – The Book of Divorce Ch 61 H 2

⁷⁴ Al Kafi – V 7 – The Book of Divorce Ch 61 H 3

(It has been narrated) from Abu Abdullah^{asws} having said: 'Zaynab Bint Jahash said, 'Does Muhammad^{saww} view that if he^{saww} were to free our way we would not find husbands other than him^{saww}?' And he^{saww} had detached from his^{saww} wives for twenty-nine nights. So when Zaynab said which she said, Allah^{azwj} Mighty and Majestic Sent Jibraeel^{as} to Muhammad^{saww}, so he^{as} said **[33:28] O Prophet! Say to your wives: If you desire the life of the world and its adornment, then come, I will give you a provision** – both the two Verses. So they said, 'But we choose Allah^{azwj} and His^{azwj} Rasool^{saww} and the House of the Hereafter'.⁷⁵

عَنْهُ عَنِ الْحَسَنِ بْنِ سَمَاعَةَ عَنْ وَهَيْبِ بْنِ حَفْصٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ إِنَّ زَيْنَبَ بِنْتَ جَحْشٍ قَالَتْ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا تُعْدِلْ وَ أَنْتَ نَبِيٌّ فَقَالَ تَرَيْتِ يَدَاكَ إِذَا لَمْ أُعْدِلْ فَمَنْ يَعْدِلُ فَقَالَتْ دَعَوْتَ اللَّهَ يَا رَسُولَ اللَّهِ لِيَقْطَعَ يَدَيَّ فَقَالَ لَا وَ لَكِنْ لَتُنْتَرِيَانِ فَقَالَتْ إِنَّكَ إِنْ طَلَقْتَنَا وَجَدْنَا فِي قَوْمِنَا أَكْفَاءَنَا فَاحْتَسِبِ الْوَحْيَ عَنِ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) تِسْعًا وَ عَشْرِينَ لَيْلَةً

From him, from Al Hassan Bin Sama'at, from Wuheyb Bin Hafs, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Zaynab Bin Jahash said to Rasool-Allah^{saww}, 'You^{saww} are not being just and you^{asws} are a Prophet^{saww}'. So he^{saww} said: 'Dust be on your hands! If I^{saww} am not just so who is just?' So she said, 'You^{saww} have supplicated, O Rasool-Allah^{saww} for my hands to be cut-off?' So he^{saww} said: 'No, but for them to be dusty'. So she said, 'If you^{saww} were to divorce us, we would find our matches among our people'. So the Revelation was withheld from Rasool-Allah^{saww} for twenty-nine nights (to Decide their matter).

ثُمَّ قَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَام) فَأَنْفَتَ اللَّهُ عَزَّ وَ جَلَّ لِرَسُولِهِ فَأَنْزَلَ يَا أَيُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكُمْ إِنْ كُنْتُمْ تُرِيدُونَ الْحَيَاةَ الدُّنْيَا وَ زِينَتَهَا الْأَيَّتِيْنَ فَاحْتَرْنَ اللَّهُ وَ رَسُولَهُ قَلَمَ يَكُ شَيْئًا وَ لَوْ احْتَرْنَ أَنْفُسَهُنَّ لَبَيِّنٌ .

Then, Abu Ja'far^{asws} said: 'So Allah^{azwj} Mighty and Majestic Condemned (them on behalf of) His^{azwj} Rasool^{saww}, so He^{azwj} Revealed **[33:28] O Prophet! Say to your wives: If you desire the life of the world and its adornment** – the two Verses. So they chose Allah^{azwj} and His^{azwj} Rasool^{saww}, so nothing occurred, and had they chosen themselves, they would have been irrevocably divorced'.⁷⁶

وَ عَنْهُ عَنِ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ مِثْلَهُ .

And from him, from Abdullah Bin Jabala, from Ali Bin Abu Hamza, from Abu Baseer – similar to it.

وَ بِهَذَا الْإِسْنَادِ عَنْ يَعْقُوبَ بْنِ سَالِمٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الرَّجُلِ إِذَا خَيَّرَ امْرَأَتَهُ فَقَالَ إِنَّمَا الْخَيْرَةُ لَنَا لَيْسَ لِأَحَدٍ وَ إِنَّمَا خَيْرٌ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لِمَكَانِ عَائِشَةَ فَاحْتَرْنَ اللَّهُ وَ رَسُولَهُ وَ لَمْ يَكُنْ لَهُنَّ أَنْ يَخْتَرْنَ غَيْرَ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) .

And by this chain, from Yaqoub Bin Salim, from Muhammad Bin Muslim,

(It has been narrated) from Abu Abdullah^{asws} regarding the man when he gives a choice to his wife. So he^{asws} said: 'But rather, the choice is for us^{asws} and not for anyone (else), and rather Rasool-Allah^{saww} gave a choice to Ayesha at her place, so

⁷⁵ Al Kafi – V 7 – The Book of Divorce Ch 61 H 4

⁷⁶ Al Kafi – V 7 – The Book of Divorce Ch 61 H 5

she chose Allah^{azwj} and His^{azwj} Rasool^{saww}, and it was not for her that she chooses other than Rasool-Allah^{saww}.⁷⁷

باب الخلع

Chapter 62 – The Compensatory Divorce (*Khul'a*)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يَجِلُّ خُلْعُهَا حَتَّى تَقُولَ لِرَوْجِهَا وَ اللَّهِ لَا أُبْرُكَ قَسَمًا وَ لَا أُطِيعُ لَكَ أَمْرًا وَ لَا أُغْتَسِلُ لَكَ مِنْ جَنَابَةٍ وَ لَا أُوطِنُ فِرَاشَكَ وَ لَا ذَنْنُكَ عَلَيْكَ بَعْبِرَانِكَ وَ قَدْ كَانَ النَّاسُ يَرْخِصُونَ فِيهَا نُونٌ هَذَا فَإِذَا قَالَتِ الْمَرْأَةُ ذَلِكَ لِرَوْجِهَا حَلَّ لَهُ مَا أَخَذَ مِنْهَا فَكَانَتْ عِنْدَهُ عَلَى تَطْلِيفَتَيْنِ بَاقِيَتَيْنِ وَ كَانَ الْخُلْعُ تَطْلِيفَةً

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

(It has been narrated) from Abu Abdullah^{asws} having said: ‘Her *Khul'a* is not Permissible until she is saying to her husband, ‘By Allah^{azwj}, I will not fulfill a promise for you, and I will not obey you in a matter, and I will not wash myself for you from the sexual impurity, and I will settle (another) on your bed, and permit upon you without your permission’, and the people used to permit with regards to what is less than this. So when the woman says said to her husband, it is permissible for him whatever he takes from her. So she would be with him upon two remaining divorces, and *Al-Khul'a* is one divorce’.

وَ قَالَ يَكُونُ الْكَلَامُ مِنْ عِنْدِهَا وَ قَالَ لَوْ كَانَ الْأَمْرُ إِلَيْنَا لَمْ نُجِزْ طَلَاقًا إِلَّا لِلْعِدَّةِ .

And he^{asws} said: ‘And the speech has to happen from her’. And he^{asws} said: ‘If the matter was up to us^{asws}, we^{asws} would not allowed a divorce except for the waiting period’.⁷⁸

وَ عَنْهُ عَنِ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ جَمِيعًا عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الْمُخْتَلَعَةِ فَقَالَ لَا يَجِلُّ لِرَوْجِهَا أَنْ يَخْلَعَهَا حَتَّى تَقُولَ لَا أُبْرُكَ قَسَمًا وَ لَا أُقِيمُ حُدُودَ اللَّهِ فِيكَ وَ لَا أُغْتَسِلُ لَكَ مِنْ جَنَابَةٍ وَ لَا أُوطِنُ فِرَاشَكَ وَ لَا أُدْخِلُ بَيْنَكَ مَنْ تَكْرَهُ مِنْ غَيْرِ أَنْ تَعْلَمَ هَذَا وَ لَا يَتَكَلَّمُونَ هُمْ وَ تَكُونُ هِيَ الَّتِي تَقُولُ ذَلِكَ فَإِذَا هِيَ اخْتَلَعَتْ فِيهَا بَائِنٌ وَ لَهُ أَنْ يَأْخُذَ مِنْ مَالِهَا مَا قَدَرَ عَلَيْهِ وَ لَيْسَ لَهُ أَنْ يَأْخُذَ مِنَ الْمُبَارَنَةِ كُلِّ الَّذِي أُعْطَاهَا .

And from him, from his father, from a number of our companions, from Ahmad Bin Muhammad Bin Khalid, altogether from Usman Bin Isa, from Sama'at who said,

‘I asked him^{asws} about the woman divorced by *Khul'a*. So he^{asws} said: ‘It is not Permissible for her that he divorces her by *Khul'a* until she is saying, ‘I shall neither fulfill a vow for you, nor establish Limits of Allah^{azwj} with regards to you, nor will I wash myself for you from the sexual impurity, and will settle (another) on your bed, and will let enter your house the one whom you dislike from others. If this is known, and he is not speaking these, and she is the one (who is) speaking that, so then she is a woman divorced by *Khul'a*. So she is irrevocably divorced, and for him is that he takes from her wealth whatever he is able to, and it is not for him that he takes from the disavowed woman everything which he had given her’.⁷⁹

⁷⁷ Al Kafi – V 7 – The Book of Divorce Ch 61 H 6

⁷⁸ Al Kafi – V 7 – The Book of Divorce Ch 62 H 1

⁷⁹ Al Kafi – V 7 – The Book of Divorce Ch 62 H 2

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْمُخْتَلَعَةُ الَّتِي تَقُولُ لِرَوْجِهَا اخْلَعْنِي وَ أَنَا أُعْطِيكَ مَا أَخَذْتُ مِنْكَ فَقَالَ لَا يَحِلُّ لَهُ أَنْ يَأْخُذَ مِنْهَا شَيْئًا حَتَّى تَقُولَ وَاللَّهِ لَا أُبْرُ لَكَ قَسَمًا وَ لَا أُطِيعُ لَكَ أَمْرًا وَ لَا أَدْنُو فِي بَيْتِكَ بِغَيْرِ إِذْنِكَ وَ لَا أُوطِئَنَّ فِرَاشَكَ بِغَيْرِكَ فَإِذَا فَعَلْتَ ذَلِكَ مِنْ غَيْرِ أَنْ يَعْلَمَهَا حَلَّ لَهُ مَا أَخَذَ مِنْهَا وَ كَانَتْ تَطْلِيقَةً بِغَيْرِ طَلَاقٍ يَتَّبِعُهَا فَكَانَتْ بَائِنًا بِذَلِكَ وَ كَانَ خَاطِبًا مِنَ الْخُطَابِ .

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

(It has been narrated) from Abu Abdullah^{asws} having said, 'The woman divorced by *Khul'a* is the one who is saying to her husband, 'Detach from me, and I will give you whatever I have taken from you'. He^{asws} said: 'It is not Permissible for him that he takes anything from her until she is saying, 'By Allah^{azwj}, I will not fulfill a vow for you, and will not obey you in a matter, and will permit in your house without your permission, and will settle in your bed other than you'. So when she does that from without him knowing it (forcing her), it is permissible for him whatever he takes from her, and it would be a divorce without a divorce following it. So she would be irrevocably divorced by that, and he would be a proposer from the proposers'.⁸⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا خَلَعَ الرَّجُلُ امْرَأَتَهُ فَهِيَ وَاحِدَةٌ بَائِنَةٌ وَ هُوَ خَاطِبٌ مِنَ الْخُطَابِ وَ لَا يَحِلُّ لَهُ أَنْ يَخْلَعَهَا حَتَّى تَكُونَ هِيَ الَّتِي تَطْلُبُ ذَلِكَ مِنْهُ مِنْ غَيْرِ أَنْ يُضِيرَ بِهَا وَ حَتَّى تَقُولَ لَا أُبْرُ لَكَ قَسَمًا وَ لَا أَعْتَسِلُ لَكَ مِنْ جَنَابَةٍ وَ لَا أَدْخُلَنَّ بَيْتَكَ مِنْ تَكْرَهُهُ وَ لَا أُوطِئَنَّ فِرَاشَكَ وَ لَا أَقِيمُ حُدُودَ اللَّهِ فَإِذَا كَانَ هَذَا مِنْهَا فَقَدْ طَابَ لَهُ مَا أَخَذَ مِنْهَا .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man divorces his wife by *Khul'a* so it is one (divorce). She would be irrevocably divorced and he a proposer from the proposers, and it is not permissible for him that he divorces her by *Khul'a* until she happens to be the one who seeks that from him from without him having beaten her, and until she is saying, 'I shall not fulfill a vow for you, nor wash for you from sexual impurity, and will let enter your house the one whom you dislike, and let settle (another) in your bed, and will not establish the Limits of Allah^{azwj}'. So when this is from her, so it is suitable for him what he takes from her'.⁸¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَيْسَ يَحِلُّ خُلْعُهَا حَتَّى تَقُولَ لِرَوْجِهَا تَمَّ نَكَرٌ مِثْلَ مَا ذَكَرَ أَصْحَابُهُ تَمَّ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) وَ قَدْ كَانَ يُرْخَصُ لِلنِّسَاءِ فِيمَا هُوَ دُونَ هَذَا فَإِذَا قَالَتْ لِرَوْجِهَا ذَلِكَ حَلَّ خُلْعُهَا وَ حَلَّ لِرَوْجِهَا مَا أَخَذَ مِنْهَا وَ كَانَتْ عَلَى تَطْلِيقَتَيْنِ بَاقِيَتَيْنِ وَ كَانَ الْخُلْعُ تَطْلِيقَةً وَ لَا يَكُونُ الْكَلَامُ إِلَّا مِنْ عِنْدِهَا تَمَّ قَالَ لَوْ كَانَ الْأَمْرُ إِلَيْنَا لَمْ يَكُنِ الطَّلَاقُ إِلَّا لِلْعَدَّةِ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'Her *Khul'a* divorce is not Permissible until she is saying to her husband' – them mentioned similar to what his companion mentioned – then Abu Abdullah^{asws} said: 'And it was permitted for the women with regards to what is less than this. So when she says that to her husband, her *Khul'a* is permitted and it is permissible for her husband what he takes from her, and she would be upon two remaining divorces, and *Al-Khul'a* is one divorce, and

⁸⁰ Al Kafi – V 7 – The Book of Divorce Ch 62 H 3

⁸¹ Al Kafi – V 7 – The Book of Divorce Ch 62 H 4

the speech cannot happen to be except from her'. Then he^{asws} said: 'If the matter was up to us^{asws}, the divorce would not take place except to the waiting period'.⁸²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ إِذَا قَالَتْ الْمَرْأَةُ لِرَوْحِهَا جُمْلَةً لَا أُطِيعُ لَكَ أَمْرًا مَفْسَرًا أَوْ غَيْرَ مَفْسَرٍ حَلَّ لَهُ مَا أَخَذَ مِنْهَا وَ لَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ .

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

(It has been narrated) from Abu Ja'far^{asws} having said: 'When the woman says to him the sentence, 'I will not obey you in a matter', be it explained or not explained, it is permissible for him what he takes from her, and it is not for him, a reversion back to her'.⁸³

وَ بِإِسْنَادِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ الْخُلْعُ وَ الْمُبَارَاةُ تَطْلِيقَةٌ بَائِنٌ وَ هُوَ خَاطِبٌ مِنَ الْخُطَابِ .

And by his chain,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The *Khul'a* and the disavowing is an irrevocable divorce, and he is a proposer from the proposers'.⁸⁴

حُمَيْدٌ عَنِ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ جَمِيلٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ إِذَا قَالَتْ الْمَرْأَةُ وَاللَّهِ لَا أُطِيعُ لَكَ أَمْرًا مَفْسَرًا أَوْ غَيْرَ مَفْسَرٍ حَلَّ لَهُ مَا أَخَذَ مِنْهَا وَ لَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ .

Humeyd, from Ibn Sama'at, from Abdullah Bin Jabala, from Jameel, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} having said: 'When the woman says, 'By Allah^{azwj}, I will not obey a matter for you', be it explained or without explanation, it is permissible for him what he takes from her, and there is no right of reversion for him to her'.⁸⁵

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ أَنَّ جَمِيلًا شَهِدَ بَعْضَ أَصْحَابِنَا وَ قَدْ أَرَادَ أَنْ يَخْلَعَ ابْنَتَهُ مِنْ بَعْضِ أَصْحَابِنَا فَقَالَ لِرَجُلٍ مَا نَقُولُ رَضِيَتْ بِهَذَا الَّذِي أَخَذْتَ وَ تَرَكْتَهَا فَقَالَ نَعَمْ فَقَالَ لَهُمْ جَمِيلٌ قَوْمُوا فَقَالُوا يَا أَبَا عَلِيٍّ لَيْسَ تُرِيدُ يَتْبَعُهَا الطَّلَاقُ قَالَ لَا قَالَ وَ كَانَ جَعْفَرُ بْنُ سَمَاعَةَ يَقُولُ يَتْبَعُهَا الطَّلَاقُ فِي الْعِدَّةِ وَ يَحْتَجُّ بِرَوَايَةِ مُوسَى بْنِ بَكْرٍ عَنِ الْعَبْدِ الصَّالِحِ (عَلَيْهِ السَّلَام) قَالَ قَالَ عَلِيُّ (عَلَيْهِ السَّلَام) الْمُخْتَلَعَةُ يَتْبَعُهَا الطَّلَاقُ مَا دَامَتْ فِي الْعِدَّةِ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ja'far Bin Sama'at that,

'Jameel kept one of our companions as a witness and he intended to detach (Kul'a) his daughter from one of our companions. So Jameel said to the man, 'What are you saying by this which you have taken, and you leave her?' So he said, 'Yes'. So Jameel said to them, 'Arise you all!' They said, 'O Abu Ali! Do you not want the divorce to follow it?' He said, 'No, and I heard Ja'far Bin Sama'at saying, 'The divorce would follow it during the waiting period, and he argued by a report of Musa Bin Bakr, from Al-Abd Al Salih^{asws} (7th Imam^{asws}) having said: 'Ali^{asws} said: 'The

⁸² Al Kafi – V 7 – The Book of Divorce Ch 62 H 5

⁸³ Al Kafi – V 7 – The Book of Divorce Ch 62 H 6

⁸⁴ Al Kafi – V 7 – The Book of Divorce Ch 62 H 7

⁸⁵ Al Kafi – V 7 – The Book of Divorce Ch 62 H 8

woman divorced by *Khul'a*, the divorce would follow it for as long as she is in her waiting period'.⁸⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ فِي الْمُخْتَلَعَةِ إِنَّهَا لَا تَحِلُّ لَهُ حَتَّى تَتُوبَ مِنْ قَوْلِهَا الَّذِي قَالَتْ لَهُ عِنْدَ الْخُلْعِ .

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

(It has been narrated) from Abu Abdullah^{asws} having said regarding the woman divorced by *Khul'a*: 'She is not permissible for him until she repents from her words which she said to him during the *Khul'a*'.⁸⁷

باب الْمُبَارَاة

Chapter 63 – The Divorce of disavowment by payment (Al-Mubarat)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ جَمِيعاً عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الْمُبَارَاةِ كَيْفَ هِيَ فَقَالَ يَكُونُ لِلْمَرْأَةِ شَيْءٌ عَلَى رَوْحِهَا مِنْ صَدَاقٍ أَوْ مِنْ غَيْرِهِ وَ يَكُونُ قَدْ أُعْطَاهَا بَعْضَهُ فَيَكْرَهُ كُلَّ وَاحِدٍ مِنْهُمَا فَيَقُولُ الْمَرْأَةُ لِرَوْحِهَا مَا أَخَذْتُ مِنْكَ فَهُوَ لِي وَ مَا بَقِيَ عَلَيْكَ فَهُوَ لَكَ وَ أَبَارِكُكَ فَيَقُولُ الرَّجُلُ لَهَا فَإِنْ أَنْتِ رَجَعْتِ فِي شَيْءٍ مِمَّا تَرَكَتِ فَأَنَا أَحَقُّ بِبُضْعِكَ .

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

'I asked him^{asws} about the *Al-Mubaraat*, how is it?' So he^{asws} said; 'There happens to be something for the woman upon her husband, from a dower or from something else, and it so happens that he had given her part of it. So each one of them dislike it (the marriage tie). So the woman is saying to her husband, 'Whatever I have taken from you, so it is for me, and whatever remains upon you is for you, and I disavow from you'. So the man is saying to her, 'So if you were to retract with regards to something from what you have left, so I would be more rightful with coupling with you'.⁸⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَبِيلٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ الْمُبَارَاةُ يُؤْخَذُ مِنْهَا دُونَ الصَّدَاقِ وَ الْمُخْتَلَعَةُ يُؤْخَذُ مِنْهَا مَا شَاءَ أَوْ مَا تَرْضَايَا عَلَيْهِ مِنْ صَدَاقٍ أَوْ أَكْثَرَ وَ إِنَّمَا صَارَتِ الْمُبَارَاةُ يُؤْخَذُ مِنْهَا دُونَ الْمَهْرِ وَ الْمُخْتَلَعَةُ يُؤْخَذُ مِنْهَا مَا شَاءَ لِأَنَّ الْمُخْتَلَعَةَ تَعْتَدِي فِي الْكَلَامِ وَ تَكَلِّمُ بِمَا لَا يَحِلُّ لَهَا .

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

(It has been narrated) from Abu Ja'far^{asws} having said: 'The woman divorced by *Al-Mubaraat* – he takes from her less than the dower, and the woman divorced by *Al-Khul'a*, he takes from her whatever he so desires to, or what she is pleased over it, from a dower or more. But rather, *Al-Mubaraat* became such that he takes from her less than the dower, and the *Khul'a* he takes from her whatever he so desires to,

⁸⁶ Al Kafi – V 7 – The Book of Divorce Ch 62 H 9

⁸⁷ Al Kafi – V 7 – The Book of Divorce Ch 62 H 10

⁸⁸ Al Kafi – V 7 – The Book of Divorce Ch 63 H 1

because the woman divorced by *Al-Khul'a* exceeded in the speech and she spoke with what is not permissible for her'.⁸⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِنَّ بَارَأَتْ امْرَأَةً زَوْجَهَا فَهِيَ وَاحِدَةٌ وَ هُوَ خَاطِبٌ مِنَ الْخَطَابِ .

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

'Abu Abdullah^{asws} said: 'The disavowment of a woman from her husband, so it is once and he is a proposer from the proposers'.⁹⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادٍ عَنْ حَرِيزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ امْرَأَةٍ قَالَتْ لِرَوْجِهَا لَكَ كَذَا وَ كَذَا وَ خَلَّ سَبِيلِي فَقَالَ هَذِهِ الْمُبَارَاةُ .

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

'I asked Abu Abdullah^{asws} about a woman who said to her husband, 'For you is such and such, and free my way'. So he^{asws} said: 'This is *Al-Mubaraat*'.⁹¹

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ وَ أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ جَمِيعاً عَنْ سُفْيَانَ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْمُبَارَاةُ تَقُولُ الْمَرْأَةُ لِرَوْجِهَا لَكَ مَا عَلَيْكَ وَ أَنْتَ كُنِي أَوْ تَجْعَلُ لَهُ مِنْ قَبْلِهَا شَيْئاً فَيَنْتَرِكُهَا إِلَّا أَنَّهُ يَقُولُ فَإِنْ ارْتَجَعْتَ فِي شَيْءٍ فَأَنَا أَمْلِكُ بِبُضْعِكَ وَ لَا يَجِلُّ لِرَوْجِهَا أَنْ يَأْخُذَ مِنْهَا إِلَّا الْمَهْرَ فَمَا دُونَهُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, and Abu Al Abbas Muhammad Bin Ja'far, from Ayoub Bin Nuh, and Humeyd Bin Ziyad, from Ibn Sama'at, altogether, from Sufyan, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} having said: '*Al-Mubaraat* – the woman is saying to her husband, 'For you is what (debt) is upon you, and leave me', or she makes something from her to be for him, so he leaves her, except that he is saying, 'So if you retract with regards to something, so I am in control with coupling with you', and it is not permissible for her husband that he takes from her except for the dower, so whatever is less than it'.⁹²

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْمُبَارَاةُ تَقُولُ لِرَوْجِهَا لَكَ مَا عَلَيْكَ وَ بَارِئِي وَ يَنْتَرِكُهَا قَالَ قُلْتُ فَيَقُولُ لَهَا فَإِنْ ارْتَجَعْتَ فِي شَيْءٍ فَأَنَا أَمْلِكُ بِبُضْعِكَ قَالَ نَعَمْ .

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

(It has been narrated) from Abu Abdullah^{asws} having said, '*Al-Mubaraat* – She is saying to her husband, 'For you is what (debt) is upon you, and disavow me', and he leaves her'. I said, 'So he is saying to her, 'So if you retract with regards to something, so I am in control with coupling with you?' He^{asws} said: 'Yes'.⁹³

⁸⁹ Al Kafi – V 7 – The Book of Divorce Ch 63 H 2

⁹⁰ Al Kafi – V 7 – The Book of Divorce Ch 63 H 3

⁹¹ Al Kafi – V 7 – The Book of Divorce Ch 63 H 4

⁹² Al Kafi – V 7 – The Book of Divorce Ch 63 H 5

⁹³ Al Kafi – V 7 – The Book of Divorce Ch 63 H 6

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ قَالَ سَأَلْتُ أَبَا الْحَسَنِ الرَّضَا (عَلَيْهِ السَّلَام) عَنِ الْمَرْأَةِ تُبَارِئُ زَوْجَهَا أَوْ تَخْتَلِعُ مِنْهُ بِشَاهِدَيْنِ عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ هَلْ تَبِيئُ مِنْهُ فَقَالَ إِذَا كَانَ ذَلِكَ عَلَى مَا ذَكَرْتَ فَتَعَمَّ قَالَ قُلْتُ قَدْ رُوِيَ لَنَا أَنَّهَا لَا تَبِيئُ مِنْهُ حَتَّى يَتَّبِعَهَا الطَّلَاقُ قَالَ فَلَيْسَ ذَلِكَ إِذَا خَلَعَا فَقُلْتُ تَبِيئُ مِنْهُ قَالَ نَعَمْ .

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

'I asked Abu Al-Hassan Al-Reza^{asws} about the woman who disavows (rejects) from her husband or divorced by *Al-Khul'a* from him, with two witnesses, upon purity from without copulation, would she be irrevocably divorced from him?' So he^{asws} said: 'If it was upon what you have mentioned, so yes'. I said, 'It has been reported for us that she is not irrevocably divorced from him until the divorce follows it'. He^{asws} said: 'So that then is not *Al-Khul'a*'. So I said, 'She is irrevocably divorced from him?' He^{asws} said: 'Yes'.⁹⁴

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ جَمِيعاً عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) هَلْ يَكُونُ خُلْعٌ أَوْ مُبَارَاةٌ إِلَّا بِطَهْرٍ فَقَالَ لَا يَكُونُ إِلَّا بِطَهْرٍ .

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, and abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, altogether from Safwan, from Abdul Rahman Bin Al Hajjaj who said,

'I asked Abu Abdullah^{asws}, 'Does either *Al-Khul'a* or *Al-Mubaraat* happen except by purity?' So he^{asws} said: 'It does not happen except by purity (from menstruation)'.⁹⁵

صَفْوَانُ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) وَ صَفْوَانُ عَنْ عَنبَسَةَ بْنِ مُصْعَبٍ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يَكُونُ طَلَاقٌ وَ لَا تَخْيِيرٌ وَ لَا مُبَارَاةٌ إِلَّا عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ بِشُهُودٍ .

Safwan, from Abdullah Bin Muskan, from Muhammad Bin Muslim, from Abu Ja'far^{asws}, and Safwan, from Anbasa Bin Mus'ab, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A divorce does not happen, nor the choice, nor *Al-Mubaraat*, except upon purity from without copulation, with witnesses'.⁹⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ لَا طَلَاقٌ وَ لَا خُلْعٌ وَ لَا مُبَارَاةٌ وَ لَا خِيَارٌ إِلَّا عَلَى طَهْرٍ مِنْ غَيْرِ جَمَاعٍ .

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

(It has been narrated) from Abu Ja'far^{asws} having said: 'There is neither a divorce, nor a *Khul'a*, nor a *Mubaraat*, nor choice, except upon purity from without copulation'.⁹⁷

⁹⁴ Al Kafi – V 7 – The Book of Divorce Ch 63 H 7

⁹⁵ Al Kafi – V 7 – The Book of Divorce Ch 63 H 8

⁹⁶ Al Kafi – V 7 – The Book of Divorce Ch 63 H 9

⁹⁷ Al Kafi – V 7 – The Book of Divorce Ch 63 H 10

بَابُ عِدَّةِ الْمُخْتَلِعَةِ وَالْمُبَارَاةِ وَنَفَقَتَيْهِمَا وَسُكْنَاهُمَا

Chapter 64 – Waiting period of the women divorced by *Al-Khul'a*, and *Al-Mubaraat*, and their expenses, and their dwelling

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرِ عَنْ عَبْدِ الْكَرِيمِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ عِدَّةُ الْمُخْتَلِعَةِ مِثْلُ عِدَّةِ الْمُطَلَّاقَةِ وَخُلْعُهَا طَلَّاقُهَا .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'A waiting period of the woman divorced by *Al-Khul'a* is similar to a waiting period of the divorced woman, and her *Khul'a* is her divorce'.⁹⁸

وَبِإِسْنَادِهِ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَبْدِ الْكَرِيمِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا تُمْتَعُ الْمُخْتَلِعَةُ .

And by his chain, from Ahmad Bin Muhammad, from Abdul Kareem, from Al Halby,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Do not provide for the woman divorced by *Al-Khul'a*'.⁹⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ قَالَ الْمُخْتَلِعَةُ لَا تُمْتَعُ .

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

'The woman divorced by *Al-Khul'a* is not to be provided for'.¹⁰⁰

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيِّ الْوَشَّاءِ عَنْ أَبَانَ عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ عِدَّةِ الْمُخْتَلِعَةِ كَمْ هِيَ قَالَ عِدَّةُ الْمُطَلَّاقَةِ وَتُتَعَدُّ فِي بَيْتِهَا وَالْمُبَارَاةُ بِمَنْزِلَةِ الْمُخْتَلِعَةِ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali Al Washa, from Aban, from Zurara who said,

'I asked Abu Ja'far^{asws} about a waiting period of the woman divorced by *Al-Khul'a*, how much is it?' He^{asws} said: 'A waiting period of the divorced woman, and let her wait in her house; and a woman divorced by *Al-Mubaraat* is as the status of the woman divorced by *Al-Khul'a*'.¹⁰¹

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ عِدَّةُ الْمُخْتَلِعَةِ عِدَّةُ الْمُطَلَّاقَةِ وَخُلْعُهَا طَلَّاقُهَا قَالَ

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'A waiting period of the woman divorced by *Al-Khul'a* is a waiting period of the divorced woman, and her *Khul'a* is her divorce'.

⁹⁸ Al Kafi – V 7 – The Book of Divorce Ch 64 H 1

⁹⁹ Al Kafi – V 7 – The Book of Divorce Ch 64 H 2

¹⁰⁰ Al Kafi – V 7 – The Book of Divorce Ch 64 H 3

¹⁰¹ Al Kafi – V 7 – The Book of Divorce Ch 64 H 4

وَسَأَلْتُهُ هَلْ تُمْتَعُ بِشَيْءٍ قَالَ لَا .

And I asked him^{asws}, 'Would she be provided with something?' He^{asws} said: 'No'.¹⁰²

حُمَيْدٌ عَنِ الْحَسَنِ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الْمُخْتَلِعَةِ قَالَ عِدَّتُهَا عِدَّةُ الْمُطَلَّاقَةِ وَ تَعُدُّ فِي بَيْتِهَا وَ الْمُخْتَلِعَةُ بِمَنْزِلَةِ الْمُبَارَاةِ .

Humeyd, from Al Hassan, from Ja'far Bin Sama'at, from Dawood Bin Sirham,

(It has been narrated) from Abu Abdullah^{asws} regarding the woman divorced by *Al-Khul'a*. He^{asws} said: 'Her waiting period is a waiting period of the divorced woman, and she would wait in her house, and the woman divorced by *Al-Khul'a* is as the status of a woman divorced by *Al-Mubaraat*'.¹⁰³

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ عَنْ مُحَمَّدِ بْنِ زِيَادٍ وَ صَفْوَانَ عَنْ رِفَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْمُخْتَلِعَةُ لَا سُكْنَى لَهَا وَ لَا نَفَقَةَ .

Humeyd Bin Ziyad, from Al Hassan, from Muhammad Bin Ziyad, and Safwan, from Rafa'at,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The woman divorced by *Al-Khul'a*, there is neither (a provision of) a dwelling for her nor expenses'.¹⁰⁴

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْبَرْقِيِّ عَنْ أَبِي الْبَخْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) لِكُلِّ مُطَلَّاقَةٍ مُنْعَةٌ إِلَّا الْمُخْتَلِعَةَ فَإِنَّهَا اشْتَرَتْ نَفْسَهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Barqy, from Abu Al Bakhtary,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} said: 'For every divorced woman is a provision except for the woman divorced by *Al-Khul'a*, for she has bought herself'.¹⁰⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِعٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ اخْتَلَعَتْ مِنْهُ امْرَأَتُهُ أَيْحِلُّ لَهُ أَنْ يَخْطُبَ أُخْتَهَا مِنْ قَبْلِ أَنْ تَنْقُضِيَ عِدَّةَ الْمُخْتَلِعَةِ قَالَ نَعَمْ فَذَبْرَنْتُ عِصْمَتُهَا مِنْهُ وَ لَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ .

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man whose wife divorced herself by *Khul'a* from him, is it permissible for him that he proposes to her sister from before she has fulfilled her waiting period?' He^{asws} said: 'Yes, she has disavowed her marriage from him and there is no reversion for him to her'.¹⁰⁶

¹⁰² Al Kafi – V 7 – The Book of Divorce Ch 64 H 5

¹⁰³ Al Kafi – V 7 – The Book of Divorce Ch 64 H 6

¹⁰⁴ Al Kafi – V 7 – The Book of Divorce Ch 64 H 7

¹⁰⁵ Al Kafi – V 7 – The Book of Divorce Ch 64 H 8

¹⁰⁶ Al Kafi – V 7 – The Book of Divorce Ch 64 H 9

Chapter 65 – The disharmony

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ قَالَ سَأَلْتُ أَبَا الْحَسَنِ (عَلَيْهِ السَّلَامُ) عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ وَ إِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا فَقَالَ إِذَا كَانَ كَذَلِكَ فَهَمَّ بِطَلَاقِهَا قَالَتْ لَهُ أَمْسِكْنِي وَ أَدَعْ لَكَ بَعْضَ مَا عَلَيْكَ وَ أَهْلَكَ مِنْ يَوْمِي وَ لَيْلَتِي حَلَّ لَهُ ذَلِكَ وَ لَا جُنَاحَ عَلَيْهِمَا .

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

'I asked Abu Al-Hassan^{asws} about the Words of Allah^{azwj} Mighty and Majestic [4:128] **And if a woman fears from her husband, either cruelty or desertion.** So he^{asws} said: 'When it was like that, so he thinks of divorcing her, she says to him, 'Keep me, and I shall leave part of what is upon you (dower), and waive for you from my days and my nights, that would be permissible for him, and there is no blame upon both of them'.¹⁰⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ وَ إِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا فَقَالَ هِيَ الْمَرْأَةُ تَكُونُ عِنْدَ الرَّجُلِ فَيَكْرَهُهَا فَيَقُولُ لَهَا إِنِّي أُرِيدُ أَنْ أَطْلُقَكَ فَتَقُولُ لَهُ لَا تَفْعَلْ إِنِّي أَكْرَهُ أَنْ تُشَمَّتْ بِي وَ لَكِنْ أَنْظِرْ فِي لَيْلَتِي فَاصْنَعْ بِهَا مَا شِئْتَ وَ مَا كَانَ سِوَى ذَلِكَ مِنْ شَيْءٍ فَهُوَ لَكَ وَ دَعْنِي عَلَى حَالَتِي فَهُوَ قَوْلُهُ تَبَارَكَ وَ تَعَالَى فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَ هُوَ هَذَا الصُّلْحُ .

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [4:128] **And if a woman fears from her husband, either cruelty or desertion,** so he^{asws} said: 'She is the woman who happens to be with the man, so they both dislike each other. So he is saying to her, 'I want to divorce you'. So she is saying to him, 'Do not do it. I dislike it that I would be gloated with, but I would waive my night, so do with it whatever you so desire to, and whatever is besides that from anything, so it is for you, and leave me upon my state'. So these are the Words of the Blessed and High [4:128] **there is not blame on them both, if they effect a reconciliation between them,** so it is this reconciliation'.¹⁰⁸

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنِ الْحُسَيْنِ بْنِ هَاشِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ وَ إِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا قَالَ هَذَا تَكُونُ عِنْدَهُ الْمَرْأَةُ لَا تُعْجِبُهُ فَيُرِيدُ طَلَاقَهَا فَتَقُولُ لَهُ أَمْسِكْنِي وَ لَا تَطْلُقْنِي وَ أَدَعْ لَكَ مَا عَلَى ظَهْرِكَ وَ أُعْطِيكَ مِنْ مَالِي وَ أَهْلَكَ مِنْ يَوْمِي وَ لَيْلَتِي فَقَدْ طَابَ ذَلِكَ لَهُ كُلُّهُ .

Humejd Bin Ziyad, from Ibn Sama'at, from Al Husayn Bin Hashim, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [4:128] **And if a woman fears from her husband, either cruelty or desertion.** He^{asws} said: 'This is where the woman happens to be with him who does not get attracted her, so he wants to divorce her. So she is saying to him, 'Keep me and do not divorce me, and I will leave for you what is upon your

¹⁰⁷ Al Kafi – V 7 – The Book of Divorce Ch 65 H 1

¹⁰⁸ Al Kafi – V 7 – The Book of Divorce Ch 65 H 2

back (dower), and give you from my wealth, and free you from my day and my night', so all that is agreeable to him'.¹⁰⁹

باب الْحَكَمَيْنِ وَ الشَّقَاقِ

Chapter 66 – The two judges and the discord

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ قَالَ سَأَلْتُ الْعَبْدَ الصَّالِحَ (عَلَيْهِ السَّلَامُ) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ إِنَّ خِفْتُمْ بَيْنَهُمَا فَبِئْتَا حَكَمًا مِنْ أَهْلِهِ وَ حَكَمًا مِنْ أَهْلِهَا فَقَالَ يَشْتَرِطُ الْحَكَمَانِ إِنْ شَاءَا فَرَقًا وَ إِنْ شَاءَا جَمَعًا فَرَقًا أَوْ جَمَعًا جَارًا .

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

'I asked Al Abd Al-Salih^{asws} (7th Imam^{asws}) about the Words of Allah^{azwj} Mighty and Majestic **[4:35] And if you fear a discord between the two, then appoint a judge from his family and a judge from her family.** So he^{asws} said: 'The two judges stipulate (specify) that if they so desire to they would separate them, and if they so desire to they would gather them. So, whether they separate or gather, it is allowed'.¹¹⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَبِئْتَا حَكَمًا مِنْ أَهْلِهِ وَ حَكَمًا مِنْ أَهْلِهَا قَالَ لَيْسَ لِلْحَكَمَيْنِ أَنْ يُفَرَّقَا حَتَّى يَسْتَأْمِرَا الرَّجُلَ وَ الْمَرْأَةَ وَ يَشْتَرِطَا عَلَيْهِمَا إِنْ شِئْنَا جَمَعْنَا وَ إِنْ شِئْنَا فَرَقْنَا فَإِنْ جَمَعَا فَجَائِزٌ فَإِنْ فَرَقَا فَجَائِزٌ .

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic **[4:35] then appoint a judge from his family and a judge from her family.** He^{asws} said: 'It is not for the two judges that they separate them until the man and the woman instruct them and they (two judges) stipulate upon them both, 'If we so desire to we would get you two together, and if we so desire to we would separate you both'. So if they gather them both, it is allowed, and if they separate them both, it is allowed'.¹¹¹

حُمَيْدُ بْنُ زَيْيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَبِئْتَا حَكَمًا مِنْ أَهْلِهِ وَ حَكَمًا مِنْ أَهْلِهَا قَالَ الْحَكَمَانِ يَشْتَرِطَانِ إِنْ شَاءَا فَرَقًا وَ إِنْ شَاءَا جَمَعًا فَإِنْ جَمَعَا فَجَائِزٌ وَ إِنْ فَرَقَا فَجَائِزٌ .

Humeyd Bin Ziyad, from Ibn Sama'at, from Abdullah Bin Jabala, from Ali Bin Abu Hamza, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding the Words of Allah^{azwj} Mighty and Majestic **[4:35] then appoint a judge from his family and a judge from her family.** He^{asws} said: 'The two judges would stipulate, 'If we so desire to we would

¹⁰⁹ Al Kafi – V 7 – The Book of Divorce Ch 65 H 3

¹¹⁰ Al Kafi – V 7 – The Book of Divorce Ch 66 H 1

¹¹¹ Al Kafi – V 7 – The Book of Divorce Ch 66 H 2

separate, and if we so desire to we would gather'. So if they gather them both, it is allowed, and if they separate them, it is allowed'.¹¹²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا أَرَأَيْتَ إِنْ اسْتَأْذَنَ الْحَكَمَانِ فَقَالَ لِلرَّجُلِ وَالْمَرْأَةِ أَلَيْسَ قَدْ جَعَلْتُمَا أَمْرَكُمَا إِلَيْنَا فِي الْإِصْلَاحِ وَالتَّفْرِيقِ فَقَالَ الرَّجُلُ وَالْمَرْأَةُ نَعَمْ فَأَشْهَدَا بِذَلِكَ شُهَدَاءَ عَلَيْهِمَا أَوْ يَجُوزُ تَفْرِيفُهُمَا عَلَيْهِمَا قَالَ نَعَمْ وَ لَكِنْ لَا يَكُونُ إِلَّا عَلَى طَهْرٍ مِنَ الْمَرْأَةِ مِنْ غَيْرِ جِمَاعٍ مِنَ الرَّوْجِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Sama'at who said,

'I asked Abu Abdullah^{asws} about the Words of Allah^{azwj} Mighty and Majestic [4:35] **then appoint a judge from his family and a judge from her family**, 'What is your^{asws} view if the two judges seek permission, so they both say to the man and the woman, 'Is it not that you have both made your matter to us regarding the reconciliation, and the separation?' So the man and the woman say, 'Yes'. So witnessed bear witness with that upon them both. Is their separating them allowed?' He^{asws} said: 'Yes, but it does not happen except upon purity from the woman, from without copulation from the husband'.

قِيلَ لَهُ أَرَأَيْتَ إِنْ قَالَ أَحَدُ الْحَكَمَيْنِ قَدْ فَرَّقْتُ بَيْنَهُمَا وَ قَالَ الْآخَرُ لَمْ أَفَرِّقْ بَيْنَهُمَا فَقَالَ لَا يَكُونُ تَفْرِيقٌ حَتَّى يَجْتَمِعَا جَمِيعًا عَلَى التَّفْرِيقِ فَإِذَا اجْتَمَعَا عَلَى التَّفْرِيقِ جَازَ تَفْرِيفُهُمَا .

It was said to him^{asws}, 'What is your^{asws} view if one of the two judges has effected separation between the two, and the other one says, 'I will not affect separation between them both'. So he^{asws} said: 'Separation does not happen until they both agree upon the separation. So when they are both gathered upon the separation, their separation is allowed'.¹¹³

وَ عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ غَيْرِهِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَجَلَّ فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا قَالَ لَيْسَ لِلْحَكَمَيْنِ أَنْ يُفَرِّقَا حَتَّى يَسْتَأْمِرَا .

And from him, from Abdullah Bin Jabala, and someone else, from Al A'ala, from Muhammad Bin Muslim,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}), said, 'I asked him^{asws} about the Words of Allah^{azwj} Mighty and Majestic [4:35] **then appoint a judge from his family and a judge from her family**. He^{asws} said: 'It is not for the two judges that they effect separation until they are instructed for it'.¹¹⁴

باب الْمُفْقُودِ

Chapter 67 – The lost

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ سُئِلَ عَنِ الْمُفْقُودِ فَقَالَ الْمُفْقُودُ إِذَا مَضَى لَهُ أَرْبَعُ سِنِينَ بَعَثَ الْوَالِي أَوْ يَكْتُبُ إِلَى النَّاحِيَةِ الَّتِي هُوَ غَائِبٌ فِيهَا فَإِنْ لَمْ يُوجَدْ لَهُ أَتْرُ أَمَرَ الْوَالِي وَلِيِّهِ أَنْ يُنْفِقَ عَلَيْهَا فَمَا أَنْفَقَ عَلَيْهَا فَهِيَ امْرَأَتُهُ

¹¹² Al Kafi – V 7 – The Book of Divorce Ch 66 H 3

¹¹³ Al Kafi – V 7 – The Book of Divorce Ch 66 H 4

¹¹⁴ Al Kafi – V 7 – The Book of Divorce Ch 66 H 5

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

(It has been narrated) from Abu Abdullah^{asws} having said about the lost one. So he^{asws} said: 'The lost one, where there pass by four years for him, the ruler should write to the area in which he disappeared in. So if no trace is found for him, the ruler would order his guardian that he should spend upon her. So whatever he spends upon her, she is his wife'.

قَالَ قُلْتُ فَإِنَّهَا تَقُولُ فَإِنِّي أُرِيدُ مَا تُرِيدُ النَّسَاءُ قَالَ لَيْسَ ذَلِكَ لَهَا وَ لَا كَرَامَةَ فَإِن لَمْ يُنْفِقْ عَلَيْهَا وَلِيَّهٌ أَوْ وَكِيلُهُ أَمَرَهُ أَنْ يُطَاقَهَا فَكَانَ ذَلِكَ عَلَيْهَا طَلَاقًا وَاجِبًا .

He (the narrator) said, 'I said, 'Suppose she is saying, 'I want what the women want'. He^{asws} said: 'That is not for her, nor is it honourable. So if his guardian or his representative does not spend upon her, he would be instructed to divorce her, so that would be an Obligatory divorce for her'.¹¹⁵

عَلِيٌّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الْمَفْقُودِ كَيْفَ يُصْنَعُ بِأَمْرَاتِهِ قَالَ مَا سَكَتَتْ عَنْهُ وَ صَبَرَتْ يُخَلَى عَنْهَا فَإِن هِيَ رَفَعَتْ أَمْرَهَا إِلَى الْوَالِي أَجَلَهَا أَرْبَعِ سِنِينَ ثُمَّ يَكْتَسِبُ إِلَى الصُّغْعِ الَّذِي فَقَدْ فِيهِ فَلْيَسْأَلْ عَنْهُ فَإِن خُبِرَ عَنْهُ بِحَيَاةٍ صَبَرَتْ وَ إِن لَمْ يُخْبَرَ عَنْهُ بِشَيْءٍ حَتَّى تَمُضِيَ الْأَرْبَعِ سِنِينَ دُعِيَ وَلِيُّ الزَّوْجِ الْمَفْقُودِ فَقِيلَ لَهُ هَلْ لِلْمَفْقُودِ مَالٌ فَإِن كَانَ لَهُ مَالٌ أَنْفَقَ عَلَيْهَا حَتَّى يُعْلَمَ حَيَاتُهُ مِنْ مَوْتِهِ

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

'I asked Abu Abdullah^{asws} about the lost one, how should his wife be dealt with?' He^{asws} said: 'If she is silent from it and has been patient, she would be left alone, but if she raises her matter to the ruler, her term is four years. Then he should write to the region in which he disappeared. So let him ask about him, and if there is news of him being alive, she has to be patience, and if there is no news about him, until the four years have passed, he would call the guardian of the lost husband, so he would say to him, 'Is there wealth for the lost one?' So if there was wealth for the lost for him, it would be spent upon her until his living from his death would be known.

وَ إِن لَمْ يَكُنْ لَهُ مَالٌ قَبِلَ لِلْوَالِي أَنْفَقَ عَلَيْهَا فَإِن فَعَلَ فَلَا سَبِيلَ لَهَا إِلَى أَنْ تَتَزَوَّجَ وَ إِن لَمْ يُنْفِقْ عَلَيْهَا أَجْبَرَهُ الْوَالِي عَلَى أَنْ يُطَلِّقَ تَطْلِيقَةً فِي اسْتِقْبَالِ الْعِدَّةِ وَ هِيَ طَاهِرٌ فَيَصْبِرُ طَلَّاقَ الْوَالِي طَلَّاقَ الزَّوْجِ فَإِن جَاءَ زَوْجُهَا مِنْ قَبْلِ أَنْ تَنْقَضِيَ عِدَّتُهَا مِنْ يَوْمِ طَلَّقَهَا الْوَالِي قَبْدًا لَهُ أَنْ يَرَاغِبَهَا فِيهَا أَمْرَاتُهُ وَ هِيَ عِنْدَهُ عَلَى تَطْلِيقَتَيْنِ فَإِن انْقَضَتِ الْعِدَّةُ قَبْلَ أَنْ يَجِيءَ أَوْ يَرَاغِبَ فَقَدْ حَلَّتْ لِلزَّوْجِ وَ لَا سَبِيلَ لِلزَّوْجِ عَلَيْهَا .

And if there is no wealth for him, he would say to the guardian, 'Spend upon her. So if he were to do that, so there is no way for her to be remarried, and if he does not spend upon her, the ruler would compel him that he should divorce with one divorce during the inception of the waiting period and she is pure. Thus a divorce of the guardian would be a divorce of the husband. So if her husband were to come before the fulfillment of her waiting period, from the day the guardian divorced her, so it would be inevitable for him to revert to her, for she is his wife, and she is with him upon the two (remaining) divorces. So if her waiting period has passed before he is (found) alive, or he returns, so she is free for the marriage, and there is no way for the first (husband) upon her'.¹¹⁶

¹¹⁵ Al Kafi – V 7 – The Book of Divorce Ch 67 H 1

¹¹⁶ Al Kafi – V 7 – The Book of Divorce Ch 67 H 2

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي امْرَأَةٍ غَابَ عَنْهَا زَوْجُهَا أَرْبَعَ سِنِينَ وَ لَمْ يُنْفَقْ عَلَيْهَا وَ لَا يُدْرَى أَحَى هُوَ أَمْ مَيِّتٌ أَوْ يُجْبَرُ وَلِيُّهُ عَلَى أَنْ يُطَلِّقَهَا قَالَ نَعَمْ وَ إِنْ لَمْ يَكُنْ لَهُ وَلِيٌّ طَلَّقَهَا السُّلْطَانُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Ismail, from Muhammad Bin Al Fuzayl, from Abu Al asbbah Al Kinany,

(It has been narrated) from Abu Abdullah^{asws} regarding a woman from whom her husband is absent for four years, and he did not spend upon her, and it is not known whether he is alive or dead. Is it allowed for his guardian upon him divorcing her?' He^{asws} said: 'Yes, and if there does not happen to be a guardian for him, the ruler would divorce her'.

قُلْتُ فَإِنْ قَالَ الْوَلِيُّ أَنَا أَنْفَقُ عَلَيْهَا قَالَ فَلَا يُجْبَرُ عَلَى طَلْقِهَا قَالَ قُلْتُ أَرَأَيْتَ إِنْ قَالَتْ أَنَا أُرِيدُ مِثْلَ مَا تُرِيدُ النِّسَاءَ وَ لَا أَصْبِرُ وَ لَا أَفْعُدُ كَمَا أَنَا قَالَ لَيْسَ لَهَا ذَلِكَ وَ لَا كِرَامَةٌ إِذَا أَنْفَقَ عَلَيْهَا .

I said, 'Supposing the guardian were to say, 'I shall spend upon her'. He^{asws} said: 'So he (the ruler) is not allowed to divorce her'. I said, 'What is your^{asws} view if she were to say, 'I want similar to what the women want, and I am not patient, and will not sit just as I am?'' He^{asws} said: 'That is not for her, nor is it honourable, when she is being spent upon'.¹¹⁷

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنِ الْمَفْقُودِ فَقَالَ إِنْ عَلِمْتَ أَنَّهُ فِي أَرْضٍ فَهِيَ مُنْتَظَرَةٌ لَهُ أَبَدًا حَتَّى تَأْتِيَهَا مَوْتُهُ أَوْ يَأْتِيَهَا طَلْقُهُ وَ إِنْ لَمْ تَعْلَمْ أَيُّنَ هُوَ مِنَ الْأَرْضِ كُلِّهَا وَ لَمْ يَأْتِهَا مِنْهُ كِتَابٌ وَ لَا خَبْرٌ فَإِنَّهَا تَأْتِي الْإِمَامَ

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

'I asked him^{asws} about the lost one, so he^{asws} said: 'If it is known that he is in a land, so she would wait for him forever until death comes upon her, or his divorce comes to her. And if it is not known where he is from the whole of the earth, and no letter comes from him, nor any news, so she would go to the Imam^{asws} .

فَيَأْمُرُهَا أَنْ تَنْتَظِرَ أَرْبَعَ سِنِينَ فَيَطْلُبُ فِي الْأَرْضِ فَإِنْ لَمْ يُوجَدْ لَهُ أَثَرٌ حَتَّى تَمْضِيَ الْأَرْبَعُ سِنِينَ أَمْرًا أَنْ تَعْتَدَّ أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا ثُمَّ تَحِلُّ لِلرِّجَالِ فَإِنْ قَدِمَ زَوْجُهَا بَعْدَ مَا تَنقَضِيَ عِدَّتُهَا فَلَيْسَ لَهُ عَلَيْهَا رَجْعَةٌ وَ إِنْ قَدِمَ وَ هِيَ فِي عِدَّتِهَا أَرْبَعَةَ أَشْهُرٍ وَ عَشْرًا فَهِيَ أَمْلَكُ بِرَجْعَتِهَا .

He would order her to wait for four years, and he would seek him in the earth. So if not trace is found for him until four years pass by, he would order her to observe the waiting period of four months and ten (days), then she would be permissible for the men. So if her husband were to come over after the fulfillment of her waiting period, so it is not for him any reversion to her, and if he comes up while she is in her waiting period of four months and (ten) days, so he is in control with reverting back to her'.¹¹⁸

¹¹⁷ Al Kafi – V 7 – The Book of Divorce Ch 67 H 3

¹¹⁸ Al Kafi – V 7 – The Book of Divorce Ch 67 H 4

باب الْمَرَأَةِ يَبْلُغُهَا مَوْتُ زَوْجِهَا أَوْ طَلَّاقُهَا فَتَعْتَدُ ثُمَّ تَزَوِّجُ فَيَجِيءُ زَوْجُهَا

Chapter 68 – The woman to whom reaches (the news of) the death of her husband, or his divorce, so she observes the waiting period, then remarries, and her husband returns

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ إِذَا نُجِيَ الرَّجُلُ إِلَى أَهْلِهِ أَوْ حَبْرُوهَا أَنَّهُ طَلَّقَهَا فَأَعْتَدَتْ ثُمَّ تَزَوَّجَتْ فَجَاءَ زَوْجُهَا بَعْدَ فَإِنَّ الْأَوَّلَ أَحَقُّ بِهَا مِنْ هَذَا الْآخَرَ دَخَلَ بِهَا أَوْ لَمْ يَدْخُلْ بِهَا وَ لَهَا مِنَ الْأَخِيرِ الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا قَالَ وَ لَيْسَ لِلْآخِرِ أَنْ يَتَزَوَّجَهَا أَبَدًا .

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^{asws} having said: 'When the obituary of the man comes to his wife, or she is informed that he has divorced her, so she observes the waiting period, then she remarries. So her husband comes over afterwards, so he is more rightful with her than this later one, whether he has copulated with her or not copulated with her, and for her is the later of the dowers with what she had allowed from her relief'. He^{asws} said: 'And it is not for the later one that he remarries her, ever'.¹¹⁹

أَبُو الْعَبَّاسِ الرَّزَّازُ مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ أَيُّوبَ بْنِ نُوحٍ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ صَفْوَانَ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) مِثْلَهُ .

Abu Al Abbas Al Razzaz Muhammad Bin Ja'far, from Ayoub Bin Noh, and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Safwan, from Musa Bin Bakr, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} – similar to it'.

مُحَمَّدٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ وَ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلَيْنِ شَهِدَا عَلَى رَجُلٍ غَائِبٍ عِنْدَ امْرَأَةٍ أَنَّهُ طَلَّقَهَا فَأَعْتَدَتْ الْمَرَأَةُ وَ تَزَوَّجَتْ ثُمَّ إِنَّ الزَّوْجَ الْغَائِبَ قَدِمَ فَزَعَمَ أَنَّهُ لَمْ يُطَلِّقْهَا وَ أَكْذَبَ نَفْسَهُ أَحَدُ الشَّاهِدَيْنِ فَقَالَ لَا سَبِيلَ لِلْأَخِيرِ عَلَيْهَا وَ يُؤْخَذُ الصَّدَاقُ مِنَ الَّذِي شَهِدَ قَبْلَهُ عَلَى الْأَخِيرِ وَ الْأَوَّلُ أَمْلَكُ بِهَا وَ تَعْتَدُ مِنَ الْأَخِيرِ وَ لَا يَفْرَبُهَا الْأَوَّلُ حَتَّى تَنْقُضِي عِدَّتَهَا .

Muhammad, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al A'ala, and Abu Ayoub, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws}, said, 'I asked Him^{asws} about two men who testified upon an absent man in the presence of a woman that he had divorced her. So she observes the waiting period, and remarries (to another man). Then the absent husband comes over, so he claims that he did not divorce her, and one of the two witnesses belies upon himself. So he^{asws} said: 'There is no way for the later one upon her, and the dower would be taken from the one who witnesses and it would be returned upon the later one, and the first one is in control with her, and she would observe the waiting period from the later one, and the first one would not go near her until her waiting period passes by'.¹²⁰

¹¹⁹ Al Kafi – V 7 – The Book of Divorce Ch 68 H 1

¹²⁰ Al Kafi – V 7 – The Book of Divorce Ch 68 H 2

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ حَسِبَ أَهْلُهُ أَنَّهُ قَدْ مَاتَ أَوْ قُتِلَ فَتَكَحَّتْ امْرَأَتُهُ وَ تَزَوَّجَتْ سُرِّيئَةً فَوَلَدَتْ كُلُّ وَاحِدَةٍ مِنْهُمَا مِنْ زَوْجِهَا فَجَاءَ زَوْجُهَا الْأَوَّلُ وَ مَوْلَى السُّرِّيَّةِ قَالَ فَقَالَ يَأْخُذُ امْرَأَتَهُ فَهِيَ أَحَقُّ بِهَا وَ يَأْخُذُ سُرِّيئَةَ وَ وَلَدَهَا أَوْ يَأْخُذُ عَوْضاً مِنْ ثَمَنِهِ .

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

'I asked Abu Ja'far^{asws} about a man whose wife reckoned that he had died, or been killed. So his wife as well as his concubine remarried. So each one of them gave birth from her husband. So the first husband and master of the concubine came over'. So he^{asws} said: 'He would take his wife, for he is more rightful with her, and he would take the concubine, and her child, or take its price in place of it'.¹²¹

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ الْحَمِيدِ عَنْ أَبِي بَصِيرٍ وَ غَيْرِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ فِي شَاهِدَيْنِ شَهَدَا عَلَى امْرَأَةٍ بِأَنَّ زَوْجَهَا طَلَّقَهَا أَوْ مَاتَ فَتَزَوَّجَتْ ثُمَّ جَاءَ زَوْجُهَا قَالَ يُضْرَبَانِ الْحَدَّ وَ يُضْمَنَانِ الصَّدَاقَ لِلزَّوْجِ بِمَا عَرَّاهُ ثُمَّ تَعْتَدُ وَ تَرْجِعُ إِلَى زَوْجِهَا الْأَوَّلِ .

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, and Ali Bin Ibrahim, from his father, altogether from Ibn Abu Umeyr, from Ibrahim Bin Abdul Hameed, from Abu Baseer, and someone else,

(It has been narrated) from Abu Abdullah^{asws} having said regarding two witnesses having testified upon a woman with her husband having divorced her, or had died. So she remarried. Then her (former) husband came over. He^{asws} said: 'They would both be whipped the legal penalty (Hadd), and both be responsible for the dower to the (second) husband with what they had deceived him. Then she would observe the waiting period and return to her first husband'.¹²²

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ أَبِي نَصْرٍ عَنْ عَبْدِ الْكَرِيمِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرَ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا نَجِيَ الرَّجُلُ إِلَى أَهْلِهِ أَوْ خَبَرُوا أَنَّهُ قَدْ طَلَّقَهَا فَاعْتَدَتْ ثُمَّ تَزَوَّجَتْ فَجَاءَ زَوْجُهَا الْأَوَّلُ قَالَ الْأَوَّلُ أَحَقُّ بِهَا مِنَ الْآخِرِ نَحَلَ بِهَا أَوْ لَمْ يَدْخُلْ بِهَا وَ لَهَا مِنَ الْآخِرِ الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, altogether from Ibn Abu Nasr, from Abdul Kareen, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} having said: 'When the obituary of the man comes to his wife, or she is informed that he has divorced her, so she observes the waiting period, then remarries. So her first husband comes over. He^{asws} said: 'The first (husband) is more rightful with her than the later one, whether he has copulated with her or not copulated with her, and for her is the dower from the later one with what she had permitted him from her relief'.¹²³

¹²¹ Al Kafi – V 7 – The Book of Divorce Ch 68 H 3

¹²² Al Kafi – V 7 – The Book of Divorce Ch 68 H 4

¹²³ Al Kafi – V 7 – The Book of Divorce Ch 68 H 5

بَابُ الْمَرْأَةِ يَبْلُغُهَا نَعْيُ زَوْجِهَا أَوْ طَلَاقُهُ فَتَنْزُوجُ فَيَجِيءُ زَوْجُهَا الْأَوَّلُ فَيُفَارِقَانِيهَا جَمِيعاً

Chapter 69 – The woman to whom reaches the obituary of her husband, or his divorce, so she remarries, and her first husband comes over, so she is separated from both of them

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ قَالَتْ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ امْرَأَةٍ نَعِيَ إِلَيْهَا زَوْجَهَا فَأَعْتَدَتْ وَتَزَوَّجَتْ فَجَاءَ زَوْجُهَا الْأَوَّلُ فَفَارَقَهَا وَفَارَقَهَا الْأَخْرُ كَمْ تَعْتَدُ لِلنَّاسِ قَالَ ثَلَاثَةَ فُرُوءٍ وَ إِنَّمَا يُسْتَنْبَرُ رَحْمَتُهَا بِثَلَاثَةِ فُرُوءٍ تَحِلُّهَا لِلنَّاسِ كُلِّهِمْ

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

'I asked Abu Ja'far^{asws} about a woman whose husband's obituary comes to her. So she observes the waiting period, and remarries, so her former husband comes up. So he separates her and the later one separates her, how much does she have to wait for the people?' He^{asws} said: 'Three *Quroos* (pure periods). But rather, her womb is freed by three *Quroos* (pure period), she would be permissible to the people, all of them'.

قَالَ زُرَّارَةُ وَ ذَلِكَ أَنَّ أَنْسَاءَ قَالُوا تَعْتَدُ عِدَّتَيْنِ مِنْ كُلِّ وَاحِدٍ عِدَّةً فَأَبَى ذَلِكَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ تَعْتَدُ ثَلَاثَةَ فُرُوءٍ فَتَحِلُّ لِلرِّجَالِ .

Zurara (the narrator) said, 'And that is because the people are saying that she would observe two waiting periods, one waiting period from each one of the two. So Abu Ja'far^{asws} refused that saying: 'She would observe three *Quroo* (pure periods), so and would be permissible for the men'.¹²⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ بَعْضِ أَصْحَابِهِ فِي امْرَأَةٍ نَعِيَ إِلَيْهَا زَوْجُهَا فَتَزَوَّجَتْ ثُمَّ قَدِمَ زَوْجُهَا الْأَوَّلُ فَطَلَّقَهَا وَ طَلَّقَهَا الْأَخْرُ قَالَ فَقَالَ إِبْرَاهِيمُ النَّخَعِيُّ عَلَيْهَا أَنْ تَعْتَدَ عِدَّتَيْنِ فَحَمَلَهَا زُرَّارَةُ إِلَى أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فَقَالَ عَلَيْهَا عِدَّةٌ وَاحِدَةٌ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus, from one of his companions,

(It has been narrated) Regarding a woman whose husband's obituary came to her, so she remarried. Then her first husband came over. So he divorced her, and the later one divorced her (as well). So Ibrahim Al Nakhai'e said she has to observe two waiting periods. So Zurara brought her over to Abu Ja'far^{asws}, so he^{asws} said to her: 'One waiting period (three purifying durations)'.¹²⁵

بَابُ عِدَّةِ الْمَرْأَةِ مِنَ الْخَصِيِّ

Chapter 70 – Waiting period of the woman from the eunuch

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ خَصِيٍّ تَزَوَّجَ امْرَأَةً وَ فَرَضَ لَهَا صِدَاقاً وَ هِيَ تَعْلَمُ أَنَّهُ خَصِيٌّ فَقَالَ جَائِزٌ فَقِيلَ إِنَّهُ مَكَتٌ مَعَهَا مَا شَاءَ اللَّهُ ثُمَّ طَلَّقَهَا هَلْ عَلَيْهَا عِدَّةٌ قَالَ نَعَمْ أَلَيْسَ قَدْ لَدَّ مِنْهَا وَ لَدَّتْ مِنْهُ

¹²⁴ Al Kafi – V 7 – The Book of Divorce Ch 69 H 1

¹²⁵ Al Kafi – V 7 – The Book of Divorce Ch 69 H 2

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Jameel Bin Salij, from Abu Ubeyda who said,

‘Abu Ja’far^{asws} was asked about a eunuch who married a woman, and obligated a dower for her, and she knew he was a eunuch. So he^{asws} said: ‘Allowed’. So it was said, ‘He remained with her for as long as Allah^{azwj} so desired, then divorced her. Is there a waiting period upon her?’ He^{asws} said: ‘Yes. Did he not achieve pleasure from her, and she achieved pleasure from him?’

قِيلَ لَهُ فَهَلْ كَانَ عَلَيْهَا فِيمَا كَانَ يَكُونُ مِنْهُ وَ مِنْهَا غُسْلٌ قَالَ فَقَالَ إِنْ كَانَتْ إِذَا كَانَ ذَلِكَ مِنْهُ أَمَنْتَ فَإِنَّ عَلَيْهَا غُسْلًا قِيلَ لَهُ فَلَهُ أَنْ يَرْجِعَ عَلَيْهَا بِشَيْءٍ مِنْ صَدَاقِهَا إِذَا طَلَّقَهَا فَقَالَ لَا .

It was said to him^{asws}, ‘So is there a washing upon her with regards to what happened from him and her?’ So he^{asws} said: ‘If it was like that from him, she discharged, so upon her is a washing’. It was said to him^{asws}, ‘So is there for him if wants something returned from her from her dower when he divorces her?’ He^{asws} said: ‘No’.¹²⁶

باب فِي الْمَصَابِ بِعَقْلِهِ بَعْدَ التَّزْوِيجِ

Chapter 71 – Regarding the one afflicted by his intellect after the marriage

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ قَالَ سُئِلَ أَبُو إِبْرَاهِيمَ (عَلَيْهِ السَّلَامُ) عَنِ الْمَرْأَةِ يَكُونُ لَهَا زَوْجٌ وَقَدْ أَصِيبَ فِي عَقْلِهِ مِنْ بَعْدِ مَا تَزَوَّجَهَا أَوْ عَرَضَ لَهُ جُنُونٌ فَقَالَ لَهَا أَنْ تَنْزِعَ نَفْسَهَا مِنْهُ إِنْ شَاءَتْ.

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

‘Abu Ibrahim^{asws} (7th Imam^{asws}) was asked about the woman who had a husband for her, and was afflicted in his intellect from after having married her, or insanity presented itself to him. So he^{asws} said to her: ‘You can remove yourself from him if you so desire to’.¹²⁷

¹²⁶ Al Kafi – V 7 – The Book of Divorce Ch 70 H 1

¹²⁷ Al Kafi – V 7 – The Book of Divorce Ch 71 H 1