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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 المَوَارِيثِ

THE BOOK OF INHERITANCES (2)

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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 الْمَرْأَةِ تَمُوتُ وَ لَا تَتْرُكُ إِلَّا زَوْجَهَا

Chapter 24 – The woman dies and she does not leave except for her husband

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ وَ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ جَمِيعًا عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي امْرَأَةٍ تُوَفِّيَتْ وَ لَمْ يُعْلَمْ لَهَا أَحَدٌ وَ لَهَا زَوْجٌ قَالَ الْمِيرَاثُ كُلُّهُ لِزَوْجِهَا .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran and Muhammad Bin Isa, from Yunus, altogether from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} regarding the woman who passed away and no one was known to be for her, and for her was a husband. He^{asws} said: 'The inheritance, all of it, is for her husband'¹.

عَنْهُ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ أَبِي بَصِيرٍ قَالَ كُنْتُ عِنْدَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فَدَعَا بِالْجَامِعَةِ فَنَظَرْنَا فِيهَا فَإِذَا فِيهَا امْرَأَةٌ هَلَكَتْ وَ تَرَكَتْ زَوْجَهَا لَا وَارِثَ لَهَا غَيْرُهُ لَهُ الْمَالُ كُلُّهُ .

From him, from Muhammad Bin Isa, from Yunus, from Yahya al Halby, from Ayoub Bin Al Hurr, from Abu Baseer who said,

'I was in the presence of Abu Abdullah^{asws}, so he^{asws} called for *Al-Jami'a* (Book of Ali^{asws}). So we looked into it, and therein was, a woman who died and left her husband, not having an inheritor for her other than him, for him was the wealth, all of it'².

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ وَهَيْبِ بْنِ حَفْصٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي امْرَأَةٍ تُوَفِّيَتْ وَ تَرَكَتْ زَوْجَهَا قَالَ الْمَالُ لِلزَّوْجِ يَعْنِي إِذَا لَمْ يَكُنْ لَهَا وَارِثٌ غَيْرُهُ .

Humejd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Wuheyb Bin Hafs, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} regarding a woman who died and left her husband. He^{asws} said: 'The wealth is for the husband, meaning when there does not happen to be for her an inheritor other than him'³.

عَنْهُ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ مِثْلَ ذَلِكَ .

From him, from Abdullah Bin Jabala, from Ali Bin Abu Hamza, from Abu Baseer, - similar to that.

¹ Al Kafi – V 7 – The Book of Inheritances Ch 25 H 1

² Al Kafi – V 7 – The Book of Inheritances Ch 25 H 2

³ Al Kafi – V 7 – The Book of Inheritances Ch 25 H 3

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي بَانَ عَنْ إِسْمَاعِيلَ بْنِ عَبْدِ الرَّحْمَنِ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ (عليه السلام) فِي امْرَأَةٍ مَاتَتْ وَ تَرَكَتْ زَوْجَهَا قَالَ الْمَالُ لِلزَّوْجِ يَعْنِي إِذَا لَمْ يَكُنْ لَهَا وَارِثٌ غَيْرُهُ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of his companions, from Aban Bin Ismail Bin Abdul Rahman Al Ju'fy,

(It has been narrated) from Abu Ja'far^{asws} regard a woman who died and left her husband. He^{asws} said: 'The wealth is for the husband, meaning if there does not happen to be for her an inheritor apart from him'.⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قُلْتُ امْرَأَةً مَاتَتْ وَ تَرَكَتْ زَوْجَهَا قَالَ الْمَالُ لَهُ قَالَ مَعْنَاهُ لَا وَارِثٌ لَهَا غَيْرُهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, 'I said, 'A woman died and left her husband'. He^{asws} said: 'The wealth is for him'. He said, 'It meaning is, there is no inheritor for her apart from him'.⁵

عَلِيُّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عليه السلام) عَنِ امْرَأَةٍ تَمُوتُ وَ لَا تَتْرُكُ وَارِثًا غَيْرَ زَوْجِهَا قَالَ الْمِيرَاثُ كُلُّهُ لَهُ .

Ali, from Muhammad Bin Isa, from Yunus, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about a woman who died and she did not leave an inheritor apart from her husband. He^{asws} said: 'The inheritance, all of it is for him'.⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغِيرَةِ عَنْ عُبَيْنَةَ بِيَّاعِ الْقَصَبِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قُلْتُ لَهُ امْرَأَةٌ هَلَكَتْ وَ تَرَكَتْ زَوْجَهَا قَالَ الْمَالُ كُلُّهُ لِلزَّوْجِ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Asbaat, from Abdullah Bin Al Mugheira, from Uyayna Baya'a Al Qasab, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, 'I said to him^{asws}, 'A woman perished (died) and left her husband'. He^{asws} said: 'The wealth, all of it is for the husband'.⁷

بَابُ الرَّجُلِ يَمُوتُ وَ لَا يَتْرُكُ إِلَّا امْرَأَتَهُ

Chapter 25 – The man dies and does not leave (anyone) except his wife

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ زِيَادِ الْعَطَّارِ عَنْ مُحَمَّدِ بْنِ نَعِيمِ الصَّخَّافِ قَالَ مَاتَ مُحَمَّدُ بْنُ أَبِي عُمَيْرٍ بِيَّاعِ السَّابِرِيِّ وَ أَوْصَى إِلَيَّ وَ تَرَكَ امْرَأَةً لَهُ وَ لَمْ يَتْرُكْ وَارِثًا غَيْرَهَا فَكَتَبْتُ إِلَى الْعَبْدِ الصَّالِحِ (عليه السلام) فَكَتَبَ إِلَيَّ أَعْطَى الْمَرْأَةَ الرَّبْعَ وَ أَحْمِلِ الْبَاقِيَ إِلَيْنَا .

⁴ Al Kafi – V 7 – The Book of Inheritances Ch 25 H 4

⁵ Al Kafi – V 7 – The Book of Inheritances Ch 25 H 5

⁶ Al Kafi – V 7 – The Book of Inheritances Ch 25 H 6

⁷ Al Kafi – V 7 – The Book of Inheritances Ch 25 H 7

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Muhammad Bin Al Hassan Bin Ziyad Al Ataar, from Muhammad Bin Naeem Al Sahhaf who said,

'Muhammad Bin Abu Umeyr Baya'a Al-Sabiry died and bequeathed to me and left his wife, and did not leave an inheritor other than her. So I wrote to Al-Abd Al-Salih^{asws} (7th Imam^{asws}). So he^{asws} wrote to me: 'Give the woman the one-quarter, and carry the remainder to us^{asws},⁸

عَنْهُ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَسَنِ بْنِ رَبَاطٍ عَنْ مُحَمَّدِ بْنِ سَكَيْنٍ وَعَلِيِّ بْنِ أَبِي حَمَزَةَ عَنْ مُشْمَعِلٍ وَعَنْ ابْنِ رَبَاطٍ عَنْ مُشْمَعِلٍ كُلُّهُمْ عَنْ أَبِي بَصِيرٍ قَالَ قَرَأَ عَلِيُّ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي الْفَرَائِضِ امْرَأَةً تُؤَقِّتُ وَتَرَكْتُ زَوْجَهَا قَالَ الْمَالُ كُلُّهُ لِلزَّوْجِ وَرَجُلٌ تُؤَقِّتُ وَتَرَكَ امْرَأَتَهُ قَالَ لِلْمَرْأَةِ الرُّبْعُ وَمَا بَقِيَ فَلِلْإِمَامِ .

From him, from Al Hassan Bin Muhammad, from Ali Bin Al Hassan Bin Rabat, from Muhammad Bin Sukeyn and Ali Bin Abu Hamza, from Mushmail, and from Ibn Rabat, from Mushmail, all of them from Abu Baseer who said,

'Abu Ja'far^{asws} read out to me regarding the Obligations (legislated shares of inheritance), a woman who passed away and left her husband. He^{asws} said: 'The wealth, all of it is for the husband'. And (about a man who died and left his wife (only), he^{asws} said: 'For the wife is the one-quarter and whatever remains, so it is for the Imam^{asws},⁹

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنِ وَهَيْبِ بْنِ حَفْصِ بْنِ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ تُؤَقِّتُ وَتَرَكَ امْرَأَتَهُ فَقَالَ لِلْمَرْأَةِ الرُّبْعُ وَمَا بَقِيَ فَلِلْإِمَامِ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad, from Wuheyb Bin Hafs, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} regarding a man who passed away and left his wife. So he^{asws} said: 'For the woman is the one-quarter, and whatever remains, so it is for the Imam^{asws},¹⁰

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ عَلِيِّ بْنِ مَهْزِيَارٍ قَالَ كَتَبَ مُحَمَّدُ بْنُ حَمَزَةَ الْعُلُوِيَّ إِلَى أَبِي جَعْفَرٍ الثَّانِي (عَلَيْهِ السَّلَامُ) مَوْلَى لَكَ أَوْصَى إِلَيَّ بِمَائَةِ دِرْهَمٍ وَ كُنْتُ أَسْمَعُهُ يَقُولُ كُلُّ شَيْءٍ هُوَ لِي فَهُوَ لِمَوْلَايَ فَمَاتَ وَ تَرَكَهَا وَ لَمْ يَأْمُرْ فِيهَا بِشَيْءٍ وَ لَهُ امْرَأَتَانِ أَمَّا إِحْدَاهُمَا فَبِغَدَادَ وَ لَا أَعْرِفُ لَهَا مَوْضِعاً السَّاعَةَ وَ الْأُخْرَى بِقُمْ فَمَا الَّذِي تَأْمُرُنِي فِي هَذِهِ الْمَائَةِ دِرْهَمٍ

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether, from Ali Bin Mahziyar who said,

'Muhammad Bin Hamza Al-Alawy wrote to Abu Ja'far^{asws} the 2nd, 'A friend of yours^{asws} bequeathed to me with one hundred Dirhams, and I heard him saying, 'Everything which is for me, so it is from my Master'. So he died and left it, and did not instruct anything with regards to it, and for him are two wives. As for one of them, so she is at Baghdad and I do not know of her whereabouts at this time, and the other one is at Qum. So what is that which you^{asws} are instructing me with regards to this one hundred Dirhams?'

⁸ Al Kafi – V 7 – The Book of Inheritances Ch 26 H 1

⁹ Al Kafi – V 7 – The Book of Inheritances Ch 26 H 2

¹⁰ Al Kafi – V 7 – The Book of Inheritances Ch 26 H 3

فَكَتَبَ إِلَيْهِ أَنْظُرْ أَنْ تَدْفَعَ مِنْ هَذِهِ الدَّرَاهِمِ إِلَى زَوْجَتِي الرَّجُلِ وَ حَقَّهُمَا مِنْ ذَلِكَ الثَّمَنُ إِنْ كَانَ لَهُ وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ فَالرُّبُعُ وَ تَصَدَّقْ بِالْبَاقِي عَلَى مَنْ تَعْرِفُ أَنَّ لَهُ إِلَيْهِ حَاجَةً إِنْ شَاءَ اللَّهُ .

So he^{asws} wrote to him: 'Look around to hand over from these Dirhams to the two wives of the man, and both their rights from that is the one-eighth, if there was a child for him. So if there was not child for him, so the quarter, and give in charity with the remainder upon the one whom you recognise that he is needy for it, Allah^{azwj} Willing'.¹¹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ خَلْفِ بْنِ حَمَّادٍ عَنْ مُوسَى بْنِ بَكْرِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي زَوْجٍ مَاتَ وَ تَرَكَ امْرَأَةً فَقَالَ لَهَا الرُّبُعُ وَ تَدْفَعُ الْبَاقِي إِلَيْنَا .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Asbaat, from Khalaf Bin Hammad, from Musa Bin Bakr, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} regarding a husband who died and left a wife. So he^{asws} said: 'For her is the quarter, and hand over the remainder to us^{asws}'.¹²

بَابُ أَنَّ النِّسَاءَ لَا يَرِثُنَّ مِنَ الْعَقَارِ شَيْئاً

Chapter 26 – The women do not inherit anything from the real estate

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ حُمْرَانَ عَنْ زُرَّارَةَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ النِّسَاءُ لَا يَرِثُنَّ مِنَ الْأَرْضِ وَ لَا مِنَ الْعَقَارِ شَيْئاً .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Humran, from Zurara, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The women (widows) do not inherit from the land, nor from the realty (property/estate), anything'.¹³

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) أَنَّ الْمَرْأَةَ لَا تَرِثُ مِمَّا تَرَكَ زَوْجُهَا مِنَ الْفُرَى وَ الدُّورِ وَ السَّلَاحِ وَ الدَّوَابِّ شَيْئاً وَ تَرِثُ مِنَ الْمَالِ وَ الْفُرُشِ وَ النَّيَابِ وَ مَتَاعِ الْبَيْتِ مِمَّا تَرَكَ وَ يَفْوَمُ النَّقْضُ وَ الْأَبْوَابُ وَ الْجُدُوعُ وَ الْقَصَبُ فَتُعْطَى حَقَّهَا مِنْهُ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad and Humeyd Bin Ziyad, from Ibn Sama'at, altogether from Ibn Mahboub, from Ali Bin Raib, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} that the woman (wife) does not inherit anything from what her husband leaves, from the realty (property/estate), and the house, and the weapons, and the animals, but she would inherit from the wealth, and the furnishings, and the clothes, and the chattels (possessions) of the house from

¹¹ Al Kafi – V 7 – The Book of Inheritances Ch 26 H 4

¹² Al Kafi – V 7 – The Book of Inheritances Ch 26 H 5

¹³ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 1

what is left, and the damaged (items) would be repaired, and the doors, and the timber, and the canes, so she would be given her right from it'.¹⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ أَدِينَةَ عَنْ زُرَّارَةَ وَبُكَيْرٍ وَفُضَيْلٍ وَبُرَيْدٍ وَ مُحَمَّدٍ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) مِنْهُمْ مَنْ رَوَاهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) وَ مِنْهُمْ مَنْ رَوَاهُ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) أَنَّ الْمَرْأَةَ لَا تَرِثُ مِنْ تَرِكَةِ زَوْجِهَا مِنْ تُرْبَةِ دَارٍ أَوْ أَرْضٍ إِلَّا أَنْ يُقَوْمَ الطُّوبُ وَ الْخَشَبُ قِيَمَةً فَتُعْطَى رُبْعَهَا أَوْ تُمْنَهَا إِنْ كَانَ لَهَا وَلَدٌ مِنْ قِيَمَةِ الطُّوبِ وَ الْجُدُوعِ وَ الْخَشَبِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Ibn Azina, from Zurara, and Bukeyr, and Fuzayl, and Bureyd, and Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} and Abu Abdullah^{asws}, among them being ones who reported from Abu Abdullah^{asws}, and among them being ones who reported from one of the two^{asws}, that: 'The woman does not inherit from the legacy of her husband, from the dust of the house (land value), or land, except that the bricks and the wood would be valued, so she would be given her quarter, or her eighth if there was a child for her, from the value of the bricks, and the timber, and the canes'.¹⁵

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ وَ مُحَمَّدٍ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ لَا تَرِثُ النِّسَاءُ مِنْ عَقَارِ الْأَرْضِ شَيْئًا .

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

(It has been narrated) from Abu Ja'far^{asws} having said: 'The women do not inherit anything from realty of the land'.¹⁶

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) تَرِثُ الْمَرْأَةُ مِنَ الطُّوبِ وَ لَا تَرِثُ مِنَ الرَّيَاحِ شَيْئًا قَالَ فُلْتُ كَيْفَ تَرِثُ مِنَ الْفُرْعِ وَ لَا تَرِثُ مِنَ الْأَصْلِ شَيْئًا فَقَالَ لِي لَيْسَ لَهَا مِنْهُمْ نَسَبٌ تَرِثُ بِهِ وَ إِنَّمَا هِيَ دَخِيلٌ عَلَيْهِمْ فَتَرِثُ مِنَ الْفُرْعِ وَ لَا تَرِثُ مِنَ الْأَصْلِ وَ لَا يَدْخُلُ عَلَيْهِمْ دَاخِلٌ بِسَبَبِهَا .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Al Hakam, from Al A'ala, from Muhammad Bin Muslim who said,

'Abu Abdullah^{asws} said: 'The woman (widow) does inherit from the bricks and does not inherit anything from the land'. I said, 'How comes she inherits from the branches and does not inherit anything from the roots?' So he^{asws} said to me: 'There is no lineage for her from them to inherit by. But rather, she has entered (from being an outsider) upon them, so she inherits from the branches and does not inherit from the roots, and an outsider is not to be included upon them by the cause of it'.¹⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُنْمَانَ عَنْ زُرَّارَةَ [أ] وَ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا تَرِثُ النِّسَاءُ مِنْ عَقَارِ الدُّورِ شَيْئًا وَ لَكِنْ يُقَوْمُ الْبِنَاءُ وَ الطُّوبُ وَ تُعْطَى ثُمْنَهَا أَوْ رُبْعَهَا قَالَ وَ إِنَّمَا ذَلِكَ لِئَلَّا يَنْزَوِجَنَّ النِّسَاءُ فَيُفْسِدَنَّ عَلَى أَهْلِ الْمَوَارِيثِ مَوَارِيثَهُمْ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman, from Zurara and Muhammad Bin Muslim,

¹⁴ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 2

¹⁵ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 3

¹⁶ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 4

¹⁷ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 5

(It has been narrated) from Abu Abdullah^{asws} having said: 'The women do not inherit anything from realty of the house, but the construction would be evaluated, and the bricks and she would be given her eights or her quarter (legislated share). But rather, that is perhaps the women would get married, so she would end upon spoiling the inheritance upon the inheritors'.¹⁸

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَّادِ بْنِ عُمَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِنَّمَا جُعِلَ لِلْمَرْأَةِ قِيَمَةُ الْخَشَبِ وَ الطُّوبِ كَيْلًا يَنْزَوِجَنَّ فَيَدْخُلَ عَلَيْهِمْ يَعْنِي أَهْلَ الْمَوَارِيثِ مَنْ يُفْسِدُ مَوَارِيثَهُمْ .

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: 'But rather, for the woman would be made the value of the wood and the bricks, perhaps she would be getting married, so she would enter upon them, meaning the inheritors, one who would spoil their inheritance'.¹⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ يَحْيَى الْحَلْبِيِّ عَنْ شُعَيْبٍ عَنْ يَزِيدِ الصَّائِغِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ النِّسَاءِ هَلْ يَرِثُنَّ الْأَرْضَ فَقَالَ لَا وَ لَكِنْ يَرِثُنَّ قِيَمَةَ الْبِنَاءِ قَالَ قُلْتُ فَإِنَّ النَّاسَ لَا يَرْضَوْنَ بِذَا فَقَالَ إِذَا وُلِينَا فَلَمْ يَرْضُوا ضَرَبْنَاَهُمْ بِالسَّوْطِ فَإِنْ لَمْ يَسْتَقِيمُوا ضَرَبْنَاَهُمْ بِالسَّيْفِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Yahya Al Halby, from Shuayb, from Yazeed Al Saig who said,

'I asked Abu Abdullah^{asws} about the women, would they inherit the land?' So he^{asws} said: 'No, but they would inherit the value of the construction'. I said, 'But the people would not be happy with that'. So he^{asws} said: 'When we^{asws} rule, and if they are not pleased, we^{asws} would strike them with the whip. So if they are (still) not straightened, we^{asws} would strike them with the sword'.²⁰

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عَمِّهِ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ مُنْتَى عَنْ عَبْدِ الْمَلِكِ بْنِ أَعْيَنَ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ لَيْسَ لِلنِّسَاءِ مِنَ الدُّورِ وَ الْعَقَارِ شَيْءٌ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from his uncle Ja'far Bin Sama'at, from Musny, from Abdul Malik Bin Ayn,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'It is not for the women, from the house and the realty, anything'.²¹

مُحَمَّدُ بْنُ أَبِي عَبْدِ اللَّهِ عَنْ مُعَاوِيَةَ بْنِ حُكَيْمٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ بْنِ رَبَاطٍ عَنْ مُنْتَى عَنْ يَزِيدِ الصَّائِغِ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) يَقُولُ إِنَّ النِّسَاءَ لَا يَرِثُنَّ مِنْ رِبَاعِ الْأَرْضِ شَيْئًا وَ لَكِنْ لَهُنَّ قِيَمَةُ الطُّوبِ وَ الْخَشَبِ قَالَ فَقُلْتُ لَهُ إِنَّ النَّاسَ لَا يَأْخُذُونَ بِهَذَا فَقَالَ إِذَا وُلِينَاهُمْ ضَرَبْنَاَهُمْ بِالسَّوْطِ فَإِنْ أَنْتَهَوْا وَ إِلَّا ضَرَبْنَاَهُمْ عَلَيْهِ بِالسَّيْفِ .

Muhammad Bin Abu Abdullah, from Muawiya Bin Hukeym, form Ali Bin Al Hassan Bin Rabaat, from Musny, from Yazeed Al Saig who said,

¹⁸ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 6

¹⁹ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 7

²⁰ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 8

²¹ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 9

'I heard Abu Ja'far^{asws} saying: 'The women do not inherit anything from the land of the house, but for them is the value of the bricks and the wood'. So I said, 'The people are not taking by this'. So he^{asws} said: 'When we^{asws} rule them, we^{asws} will strike them with the whip. So if they desist, or else we^{asws} will strike against them with the sword'.²²

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبَانَ الْأَحْمَرِ قَالَ لَا أَعْلَمُهُ إِلَّا عَنْ مُبَسَّرِ بَيَّاعِ الزُّطِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنِ النِّسَاءِ مَا لَهُنَّ مِنَ الْمِيرَاثِ قَالَ لَهُنَّ قِيَمَةُ الطُّوبِ وَالْبِنَاءِ وَالْخَشَبِ وَالْقَصَبِ وَ أَمَّا الْأَرْضُ وَالْعَقَارَاتُ فَلَا مِيرَاثَ لَهُنَّ فِيهَا قَالَ قُلْتُ فَالْتِّيَابُ قَالَ التِّيَابُ لَهُنَّ نَصِيبُهُنَّ قَالَ قُلْتُ كَيْفَ صَارَ ذَا وَ لِهَذِهِ الثَّمَنُ وَ لِهَذِهِ الرُّبْعُ مُسَمَّى قَالَ لِأَنَّ الْمَرْأَةَ لَيْسَ لَهَا نَسَبٌ تَرِثُ بِهِ وَ إِنَّمَا هِيَ دَخِيلٌ عَلَيْهِمْ وَ إِنَّمَا صَارَ هَذَا كَذَا كَيْلًا تَتَزَوَّجَ الْمَرْأَةُ فَيَجِيءُ زَوْجُهَا أَوْ وَلَدُهَا مِنْ قَوْمٍ آخَرِينَ فَيُزَاحِمُ قَوْمًا فِي عَقَارِهِمْ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Al Hakam, from Aban Al Ahmar who said,

'I do not know except from Muyassar Baya'a Al Zaty, from Abu Abdullah^{asws}, said, 'I asked him^{asws} about the women, what is for them from the inheritance. He^{asws} said: 'For them is the value of the bricks and the construction, and the timber, and the canes. As for the land and the realty, so it is not an inheritance for them therein'. I said, 'So (what about) the clothes'. He^{asws} said: 'The clothes for them is their share'. I said, 'How it came to be that and for her is the eighth and for her is the quarter, specified'. He^{asws} said: 'Because the woman, there is no lineage for her to inherit by. But rather, she has entered upon them, and this has become like this, perhaps the woman would get married and her husband would come, or her child from another people, so he would rival them with regards to their realty'.²³

بَابِ اخْتِلَافِ الرَّجُلِ وَالْمَرْأَةِ فِي مَتَاعِ الْبَيْتِ

Chapter 27 – Differring of the man and the woman regarding the chattels of the house

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلَنِي هَلْ يَفْضِي ابْنُ أَبِي لَيْلَى بِالْقَضَاءِ ثُمَّ يَرْجِعُ عَنْهُ فَقُلْتُ لَهُ بَلَّغْنِي أَنَّهُ قَضَى فِي مَتَاعِ الرَّجُلِ وَالْمَرْأَةِ إِذْ مَاتَ أَحَدُهُمَا فَادَّعَاهُ وَرَثَةُ الْحَيِّ وَ وَرَثَةُ الْمَيِّتِ أَوْ طَلَّقَهَا الرَّجُلُ فَادَّعَاهُ الرَّجُلُ وَ ادَّعَتْهُ النِّسَاءُ بِأَرْبَعِ قَضِيَّاتٍ

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazal Bin Shazaan, altogether from Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} asked me: 'Has Ibn Abu Layli ever judged with a judgement, then retracted from it?' So I said to him^{asws}, 'It has reached me that he judged with regards to the chattels (possessions) of the man and the woman, when one of the two had died, so the inheritors of the alive and the inheritors of the deceased claimed it, or the man divorced her, so the man claimed it and the women claimed it. He judged with four judgements'.

²² Al Kafi – V 7 – The Book of Inheritances Ch 27 H 10

²³ Al Kafi – V 7 – The Book of Inheritances Ch 27 H 11

فَقَالَ وَمَا ذَاكَ فَقُلْتُ أَمَّا أَوْلَاهُنَّ فَقَضَى فِيهِ بِقَوْلِ إِبْرَاهِيمَ النَّخَعِيِّ كَانَ يَجْعَلُ مَتَاعَ الْمَرْأَةِ الَّتِي لَا يَصْلُحُ لِلرِّجَالِ لِلْمَرْأَةِ وَ مَتَاعَ الرَّجُلِ الَّذِي لَا يَصْلُحُ لِلنِّسَاءِ لِلرِّجُلِ وَمَا كَانَ لِلرِّجَالِ وَالنِّسَاءِ بَيْنَهُمَا نِصْفَانِ

So he^{asws} said: 'And what was that?' So I said, 'As for the first one of these, so he judged in it by the worlds of Ibrahim Al-Nakhai'e who had made the possessions of the woman which were not correct for the men, to be for the women, and the chattels of the man which were not correct for the women, to be for the men, and whatever was for the men and the women, (to be divided) between the two of them in two halves.

ثُمَّ بَلَغَنِي أَنَّهُ قَالَ إِنَّهُمَا مَدَّعِيَانِ جَمِيعاً فَالَّذِي بِأَيْدِيهِمَا جَمِيعاً بَيْنَهُمَا نِصْفَانِ ثُمَّ قَالَ الرَّجَالُ صَاحِبُ الْبَيْتِ وَالْمَرْأَةُ الدَّاخِلَةُ عَلَيْهِ وَ هِيَ الْمُدَّعِيَةُ فَالْمَتَاعُ كُلُّهُ لِلرِّجُلِ إِلَّا مَتَاعَ النِّسَاءِ الَّذِي لَا يَكُونُ لِلرِّجَالِ فَهُوَ لِلْمَرْأَةِ

Then it reached me that he said, 'They are both together claimants, so that which is their hands entirely, (to be divided) between the two of them by two halves'. Then he said, 'The man is the owner of the house, and the woman is the coming upon him as an outsider, and she is the claimant, so the chattels, all of them are for the man except for the chattels of the woman which cannot happen to be for the men, so these are for the woman'.

ثُمَّ قَضَى بَعْدَ ذَلِكَ بِقَضَاءِ لَوْ لَا أَنِّي شَاهَدْتُهُ لَمْ أَرِدْهُ عَلَيْهِ مَا تَبَتِ امْرَأَةٌ مِنَّا وَ لَهَا زَوْجُهَا وَ تَرَكَتْ مَتَاعاً فَرَفَعْتُهُ إِلَيْهِ فَقَالَ اكْتُبُوا الْمَتَاعَ فَلَمَّا قَرَأَهُ قَالَ لِلزَّوْجِ هَذَا يَكُونُ لِلرِّجُلِ وَ الْمَرْأَةُ فَقَدْ جَعَلْنَاهُ لِلْمَرْأَةِ إِلَّا الْمِيزَانَ فَإِنَّهُ مِنْ مَتَاعِ الرَّجُلِ فَهُوَ لَكَ

Then he judged after that with such a judgement, had I not witnessed it, I would not have referred it to him. A woman from us died, and for her was her husband, and she left chattels. So we raised the matter to him, so he said, 'Write down the (list of) chattels'. So when he read it, he said to the husband, 'This which happens to be for the man and the woman, so we make it to be for the woman, except for the scale, for it is from a chattels of the man, so it is for you'.

فَقَالَ لِي فَعَلَى أَيِّ شَيْءٍ هُوَ الْيَوْمَ قُلْتُ رَجَعُ إِلَيَّ أَنْ قَالَ بِقَوْلِ إِبْرَاهِيمَ النَّخَعِيِّ أَنْ جَعَلَ الْبَيْتَ لِلرِّجُلِ ثُمَّ سَأَلْتُهُ عَنْ ذَلِكَ فَقُلْتُ لَهُ مَا تَقُولُ أَنْتَ فِيهِ فَقَالَ الْقَوْلُ الَّذِي أَخْبَرْتَنِي أَنَّكَ شَهِدْتَهُ وَإِنْ كَانَ قَدْ رَجَعَ عَنْهُ فَقُلْتُ يَكُونُ الْمَتَاعُ لِلْمَرْأَةِ فَقَالَ أَرَأَيْتَ إِنْ أَقَامَتْ بَيْنَهُ إِلَى كَمْ كَانَتْ تَحْتَاجُ فَقُلْتُ شَاهِدَيْنِ فَقَالَ لَوْ سَأَلْتِ مَنْ بَيْنَهُمَا يَعْنِي الْجَبَلَيْنِ وَ نَحْنُ يَوْمَئِذٍ بِمَكَّةَ لِأَخْبَرُوكَ أَنَّ الْجَهَارَ وَ الْمَتَاعَ يُهْدَى عَلَانِيَةً مِنْ بَيْتِ الْمَرْأَةِ إِلَى بَيْتِ زَوْجِهَا فَهِيَ الَّتِي جَاءَتْ بِهِ وَ هَذَا الْمُدَّعِي فَإِنْ رَعِمَ أَنَّهُ أَحَدَتْ فِيهِ شَيْئاً فَلْيَأْتِ عَلَيْهِ الْبَيْتَةَ .

So he^{asws} said to me: 'So upon which thing is he on today?' I said, 'He has reverted to what was said by the words of Ibrahim Al-Nakhai'e that the house is to be made to be for the man'. Then I asked him^{asws} about that, so I said to him^{asws}, 'What are you^{asws} saying with regards to it?' So he^{asws} said: 'The words which you informed me^{asws} that you witnessed it, even though he had reverted from it'. So I said, 'The chattels (possessions) happen to be for the woman?' So he^{asws} said, 'What is your view that if she had to establish proof, how much would she need to?' So I said, 'Two witnesses'. So he^{asws} said: 'If you were to ask the ones between the two mountains, and we are today at Makkah, they would tell you that the baggage and the chattels which were gifted openly from the house of the woman to the house of her husband,

so these are which she came with, and if he were to claim, so if he claims that he has renewed any of these, so it is upon him to establish the proof'.²⁴

باب نادر

Chapter 28 - Miscellaneous

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ بَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِبٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ تَزَوَّجَ أَرْبَعَ نِسْوَةٍ فِي عَقْدَةٍ وَاحِدَةٍ أَوْ قَالَ فِي مَجْلِسٍ وَاحِدٍ وَ مَهْرُهُنَّ مُخْتَلِفَةٌ قَالَ جَائِزٌ لَهُ وَ لَهُنَّ قُلْتُ أَرَأَيْتَ إِنْ هُوَ خَرَجَ إِلَى بَعْضِ الْبُلْدَانِ فَطَلَّقَ وَاحِدَةً مِنَ الْأَرْبَعِ وَ أَشْهَدَ عَلَى طَلَاقِهَا قَوْمًا مِنْ أَهْلِ تِلْكَ الْبِلَادِ وَ هُمْ لَا يَعْرِفُونَ الْمَرْأَةَ ثُمَّ تَزَوَّجَ امْرَأَةً مِنْ أَهْلِ تِلْكَ الْبِلَادِ بَعْدَ انْقِضَاءِ عِدَّةِ تِلْكَ الْمُطَلَّاقَةِ ثُمَّ مَاتَ بَعْدَ مَا دَخَلَ بِهَا كَيْفَ يُقْسَمُ مِيرَاثُهُ

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Ibn Raib, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about a man who married four women in one contract, or I said, in one gathering, their dowries being different. He^{asws} said: 'It is allowed for him and for them'. I said, 'What is your^{asws} view if he goes out to one of the cities, so he divorces one of the four, and a group from that city bear witness to his divorce, and they do not know the woman. Then he married a woman from the people of that city, after the passing of the waiting period of that divorced woman. Then he dies after that, after having gone to bed with her. How should his inheritance be distributed?'

قَالَ إِنْ كَانَ لَهُ وَلَدٌ فَإِنَّ لِلْمَرْأَةِ الَّتِي تَزَوَّجَهَا آخِرًا مِنْ أَهْلِ تِلْكَ الْبِلَادِ رُبْعَ ثَمَنِ مَا تَرَكَ وَ إِنْ عُرِفَتِ الَّتِي طَلَّقَتْ مِنَ الْأَرْبَعِ بَعْدَهَا وَ نَسَبَهَا فَلَا شَيْءَ لَهَا مِنَ الْمِيرَاثِ وَ عَلَيْهَا الْعِدَّةُ

He^{asws} said: 'If there were children for him, so the woman whom he married at the end, from the people of that city is a quarter of the eight of what is left (as legacy). And if the woman who had been divorced from the four is recognised by sight and her lineage, so there is nothing for her from the inheritance, and upon her is the waiting period'.

قَالَ وَ يُقْسَمَنَّ الثَّلَاثُ نِسْوَةَ ثَلَاثَةِ أَرْبَاعِ ثَمَنِ مَا تَرَكَ وَ عَلَيْهِنَّ الْعِدَّةُ وَ إِنْ لَمْ تُعْرَفِ الَّتِي طَلَّقَتْ مِنَ الْأَرْبَعِ اقْتَسَمَنَّ الْأَرْبَعُ نِسْوَةَ ثَلَاثَةِ أَرْبَاعِ ثَمَنِ مَا تَرَكَ بَيْنَهُنَّ جَمِيعًا وَ عَلَيْهِنَّ جَمِيعًا الْعِدَّةُ .

He^{asws} said: 'And the three woman would divide the three-fourth of the (remaining) one-eighth of what is left, and upon them is the waiting period. And if the one from the four who had been divorced is not recognised, she would be apportioned as the four women', three-fourth of the one-eighth of what is left, between them all, and upon them all is the waiting period'.²⁵

باب ميراث الغلام و الجارية يزوجان و هما غير مذكرين

²⁴ Al Kafi – V 7 – The Book of Inheritances Ch 28 H 1

²⁵ Al Kafi – V 7 – The Book of Inheritances Ch 29 H 1

Chapter 29 – Inheritance of the boy and the girl both married (arranged) and they both had not matured yet

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَعَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ غُلَامٍ وَ جَارِيَةٍ زَوَّجَهُمَا وَلَيْتَانِ لَهُمَا وَ هُمَا غَيْرُ مُدْرَكَيْنِ قَالَ فَقَالَ النِّكَاحُ جَائِزٌ وَ أَيُّهُمَا أَدْرَكَ كَانَ لَهُ الْخِيَارُ فَإِنْ مَاتَا قَبْلَ أَنْ يُدْرِكَا فَلَا مِيرَاثَ بَيْنَهُمَا وَ لَا مَهْرَ إِلَّا أَنْ يَكُونَا قَدْ أَدْرَكَا وَ رَضِيَا

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

'I asked Abu Ja'far^{asws} about a boy and a girls, their guardians got them married, and they were both not matured yet. So he^{asws} said: 'The marriage is allowed, and whichever of the two matures, the choice would be for him. So if he were to die before he matures, so there would not be any inheritance between the two of them, nor any dowry except if they had matured and were happy (with the marriage).'

قُلْتُ فَإِنْ أَدْرَكَ أَحَدُهُمَا قَبْلَ الْآخَرِ قَالَ يَجُوزُ ذَلِكَ عَلَيْهِ إِنْ هُوَ رَضِيَ قُلْتُ فَإِنْ كَانَ الرَّجُلُ الَّذِي أَدْرَكَ قَبْلَ الْجَارِيَةِ وَ رَضِيَ بِالنِّكَاحِ ثُمَّ مَاتَ قَبْلَ أَنْ تُدْرِكَ الْجَارِيَةُ أَوْ تَرْتُهُ قَالَ نَعَمْ يُعْزَلُ مِيرَاثُهَا مِنْهُ حَتَّى تُدْرِكَ وَ تَحْلِفَ بِاللَّهِ مَا ادَّعَاهَا إِلَى أَخْذِ الْمِيرَاثِ إِلَّا رِضَاهَا بِالتَّرْوِيجِ ثُمَّ يُدْفَعُ إِلَيْهَا الْمِيرَاثُ وَ نِصْفُ الْمَهْرِ

I said, 'So if one of the two were to mature before the other?' He^{asws} said: 'That is allowed upon him if he was happy (with the marriage)'. I said, 'So if the man were to mature before the girl and he was happy with the marriage, then he dies before the girl having matured, would she inherit him?' He^{asws} said: 'Yes. Her inheritance would be isolated from him until she matures, and she would have to swear by Allah^{azwj} that she is not claiming to take the inheritance except that she was happy with the marriage, then the inheritance would be handed over to her, and half of the dower'.

قُلْتُ فَإِنْ مَاتَتِ الْجَارِيَةُ وَ لَمْ تَكُنْ أَدْرَكَتْ أَوْ يَرْتُهُا الرِّوَجُ المُدْرِكُ قَالَ لَا لِأَنَّ لَهَا الْخِيَارَ إِذَا أَدْرَكَتْ قُلْتُ فَإِنْ كَانَ أَبُوهَا هُوَ الَّذِي زَوَّجَهَا قَبْلَ أَنْ تُدْرِكَ قَالَ يَجُوزُ عَلَيْهَا تَرْوِيجُ الْأَبِ وَ يَجُوزُ عَلَى الْغُلَامِ وَ الْمَهْرُ عَلَى الْأَبِ لِلْجَارِيَةِ .

I said, 'So if she the girl dies and not having matured, would the mature husband inherit her?' He^{asws} said: 'No, because for her was a choice when she matured'. I said, 'So if it was her father who had got her married before she had matured?' He^{asws} said: 'The marriage by her father is allowed upon her, and it is allowed upon the boy, and the dower is (due) upon the father of the girl'.²⁶

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ مَحْبُوبٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ نَعِيمِ بْنِ إِبْرَاهِيمَ عَنْ عَبَّادِ بْنِ كَثِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ زَوَّجَ ابْنًا لَهُ مُدْرَكًا مِنْ بَيْتِمَةٍ فِي حَجْرِهِ قَالَ تَرْتُهُ إِنْ مَاتَ وَ لَا يَرْتُهُا لِأَنَّ لَهَا الْخِيَارَ وَ لَا خِيَارَ عَلَيْهَا .

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub and Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Naeem Bin Ibrahim, from Abbad Bin Kaseer,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who got his mature son married to an orphan girls in his custody. He^{asws} said: 'She would

²⁶ Al Kafi – V 7 – The Book of Inheritances Ch 30 H 1

inherit him if he dies, and he would not inherit her because for her there is the choice (to get married again), and there is no choice against her'.²⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنِ الْقَاسِمِ بْنِ عُرْوَةَ عَنِ ابْنِ بُكَيْرٍ عَنْ عَبْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ عَنِ الصَّبِيِّ يُزَوِّجُ الصَّبِيَّةَ هَلْ يَتَوَارَثَانِ قَالَ إِذَا كَانَ أَبُوَاهُمَا [هُمَا] اللَّذَانِ زَوَّجَاهُمَا فَتَنَعَمَ قُلْتُ أَ يَجُوزُ طَلَقُ الْآبِ قَالَ لَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Al Qasim Bin Urwa, from Ibn Bakeyr, from Ubeyd Bin Zurara,

The narrator says: 'I asked Abu Abdullah^{asws} about the young boy who marries the young girl (both immature), would they both be inheriting?' He^{asws} said: 'If their fathers who were the ones who arranged their marriage, then yes'. I said, 'Is the divorce by the father permissible?' He^{asws} said: 'No'.²⁸

باب ميراث المتزوجة المذكرة ولم يدخل بها

Chapter 30 – Inheritance of the married mature woman and he (her husband) not having copulated with her yet

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ رَجُلٍ عَنْ عَلِيِّ بْنِ الْحُسَيْنِ ع فِي الْمَتَوَفَى عَنْهَا زَوْجَهَا وَ لَمْ يَدْخُلْ بِهَا قَالَ لَهَا نِصْفُ الصَّدَاقِ وَ لَهَا الْمِيرَاثُ وَ عَلَيْهَا الْعِدَّةُ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar and Muhammad Bin Ismail, from Al Fazal Bin Shazaan, altogether from Safwan, from Abdul Rahman Bin Al Hajjaj, from a man,

(It has been narrated) from Ali^{asws} Bin Al-Husayn^{asws} regarding the widow whose husband had died from her without having slept with her. He^{asws} said: 'Half the dower and for her is the inheritance, and upon her is the waiting period'.²⁹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ ابْنِ بِنِ غُثَمَانَ عَنِ ابْنِ أَبِي يَعْفُورٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ تَوَفَّى قَبْلَ أَنْ يَدْخُلَ بِامْرَأَتِهِ فَقَالَ إِنْ كَانَ فَرَضَ لَهَا مَهْرًا فَلَهَا النِّصْفُ وَ هِيَ تَرْتُهُ وَ إِنْ لَمْ يَكُنْ فَرَضَ لَهَا مَهْرًا فَلَا مَهْرَ لَهَا وَ هُوَ يَرْتُهَا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Aban Bin Usman, from Ibn Abu Yafour,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who died before having gone to bed with his wife. So he^{asws} said: 'If the dower was assigned for her, so for her is the half (of it), and she would inherit him. And if a dower was not assigned to her, so there is no dower for her, and he would inherit her'.³⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنِ أَحَدِهِمَا (عليهما السلام) فِي الرَّجُلِ يَمُوتُ وَ تَحْتَهُ الْمَرْأَةُ لَمْ يَدْخُلْ بِهَا قَالَ لَهَا نِصْفُ الْمَهْرِ وَ لَهَا الْمِيرَاثُ كَامِلًا .

²⁷ Al Kafi – V 7 – The Book of Inheritances Ch 30 H 2

²⁸ Al Kafi – V 7 – The Book of Inheritances Ch 30 H 3

²⁹ Al Kafi – V 7 – The Book of Inheritances Ch 31 H 1

³⁰ Al Kafi – V 7 – The Book of Inheritances Ch 31 H 2

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

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding the man who died and under him was the wife, not having slept with her. He^{asws} said: 'For her is half the dower, and for her is the inheritance complete (her complete share, not half)'.³¹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ جَمِيعاً عَنْ أَبِي بَنٍ عُثْمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ يَتَزَوَّجُ امْرَأَةً وَ لَمْ يَفْرِضْ لَهَا صَدَاقاً فَمَاتَ عَنْهَا أَوْ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا مَا لَهَا عَلَيْهِ فَقَالَ لَيْسَ لَهَا صَدَاقٌ وَ هِيَ تَرِثُهُ وَ يَرِثُهَا .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali and Muhammad Bin Yahya, from Abdullah Bin Muhammad, from Ali Bin Al Hakam, altogether from Aban Bin Usman, from Abdul Rahman Bin Abu Abdullah who said,

'I asked Abu Abdullah^{asws} about the man who married a woman and did not assign the dower to her. So he died from her, or divorced her before he had slept with her. What is for her against him?' So he^{asws} said: 'There is no dower for her, and she would inherit him, and he would inherit her'.³²

بَاب فِي مِيرَاثِ الْمُطَلَّاقَاتِ فِي الْمَرَضِ وَ غَيْرِ الْمَرَضِ

Chapter 31 – Regarding inheritance of the divorced women during the illness and without illness

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ إِذَا طَلَّقَتِ الْمَرْأَةُ نَفْسَهَا زَوْجَهَا وَ هِيَ فِي عِدَّةٍ مِنْهُ لَمْ تَحْرِمْ عَلَيْهِ فَإِنَّهَا تَرِثُهُ وَ هُوَ يَرِثُهَا مَا دَامَتْ فِي الدَّمِ مِنْ حَيْضَتِهَا الثَّانِيَةِ مِنَ التَّطْلِيقَيْنِ الْأَوَّلَيْنِ فَإِنْ طَلَّقَهَا الثَّلَاثَةَ فَإِنَّهَا لَا تَرِثُ مِنْ زَوْجِهَا شَيْئاً وَ لَا يَرِثُ مِنْهَا .

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

(It has been narrated) from Abu Ja'far^{asws} having said: 'When the woman is divorced then her husband dies from her and she is in a waiting period from him, she has not been Prohibited from him, so she would inherit from him, and he would inherit her for as long as she is in the blood (flow) from her second menstruation from her first two divorces. However, if he has divorced her for the third time, she would not inherit anything from her husband, nor would he inherit from her'.³³

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ يَطْلُقُ الْمَرْأَةَ فَقَالَ تَرِثُهُ وَ يَرِثُهَا مَا دَامَ لَهُ عَلَيْهَا رَجْعَةٌ .

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

³¹ Al Kafi – V 7 – The Book of Inheritances Ch 31 H 3

³² Al Kafi – V 7 – The Book of Inheritances Ch 31 H 4

³³ Al Kafi – V 7 – The Book of Inheritances Ch 32 H 1

'I asked Abu Ja'far^{asws} about the man who divorces the wife. So he^{asws} said: 'She would inherit him and he would inherit her for as long as he has the right to go back to her'.³⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا طَلَّقَ الرَّجُلُ وَهُوَ صَحِيحٌ لَا رَجْعَةَ لَهُ عَلَيْهَا لَمْ تَرْتُهُ وَ لَمْ يَرْتَهَا

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

Abu Abdullah^{asws} has said: 'When the man divorces and he is correct (healthy), there is no reverting for him against her, she would not inherit him and he would not inherit her'.

وَ قَالَ هُوَ يَرِثُ وَ يُورِثُ مَا لَمْ تَرَ الدَّمَ مِنَ الْحَيْضَةِ الثَّلَاثَةِ إِذَا كَانَ لَهُ عَلَيْهَا رَجْعَةٌ .

And he^{asws} said: 'He inherits for as long as she does not see the blood from the second menstruation, if there was a reversion for him against her'.³⁵

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبَانَ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ تَطْلِيْقَتَيْنِ فِي صِحَّةٍ ثُمَّ طَلَّقَ الثَّلَاثَةَ وَ هُوَ مَرِيضٌ قَالَ تَرْتُهُ مَا دَامَ فِي مَرَضِهِ وَ إِنْ كَانَ إِلَى سَنَةٍ .

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

(It has been narrated) from Abu Abdullah^{asws} regarding a man who divorces his wife with two divorces during correctness (well being). Then he divorces the third times and he is ill. He^{asws} said: 'She would inherit him for as long as he is in his illness, and even though it may be up to a year'.³⁶

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

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

Abu Abdullah^{asws} has said: 'When the man divorces the woman during his illness, she inherits him for as long as he is in that illness even if she has fulfilled her waiting period, except if he were to become healthy from it'. So I said to him^{asws}, 'So if the illness prolongs with him?' He^{asws} said: 'What is between it and a year'.³⁷

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنِ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ بَعْضِ أَصْحَابِنَا عَنْ أَبَانَ بْنِ عُثْمَانَ عَنِ الْحَلْبِيِّ وَ أَبِي بصيرٍ وَ أَبِي الْعَبَّاسِ جَمِيعاً عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّهُ قَالَ تَرْتُهُ وَ لَا يَرْتَهَا إِذَا أَنْقَضَتْ الْعِدَّةَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of our companions, from Aban Bin Usman, from Al Halby and Abu baser and Abu Al Abbas, altogether,

³⁴ Al Kafi – V 7 – The Book of Inheritances Ch 32 H 2

³⁵ Al Kafi – V 7 – The Book of Inheritances Ch 32 H 3

³⁶ Al Kafi – V 7 – The Book of Inheritances Ch 32 H 4

³⁷ Al Kafi – V 7 – The Book of Inheritances Ch 32 H 5

Abu Abdullah^{asws} has said: 'She would inherit him and he would not inherit her when the waiting period is fulfilled'.³⁸

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَمَّنْ حَدَّثَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الرَّجُلِ الْمَرِيضِ يُطَلِّقُ امْرَأَتَهُ وَ هُوَ مَرِيضٌ قَالَ إِنْ مَاتَ فِي مَرَضِهِ ذَلِكَ وَ هِيَ مُقِيمَةٌ عَلَيْهِ لَمْ تَنْزُوجْ وَرِثْتَهُ وَ إِنْ كَانَتْ قَدْ تَزَوَّجَتْ فَقَدْ رَضِيَتْ الَّذِي صَنَعَ وَ لَا مِيرَاثَ لَهَا.

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, together from Safwan Bin Yahya, from Abdul Rahman Bin Al Hajjaj, from the one who narrated it,

(It has been narrated) from Abu Abdullah^{asws} regarding the sick man who divorces his wife during illness'. He^{asws} said: 'If he dies in that illness of his, and she is residing with him and has not re-married, she would inherit him, and if she has re-married, so she is happy with that which has been done, and then there is no inheritance for her'.³⁹

باب مِيرَاثِ ذَوِي الْأَرْحَامِ مَعَ الْمَوَالِي

Chapter 32 – Inheritance of the relatives with the *Mawali* (slave)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) إِنْ عَلِيًّا (عَلَيْهِ السَّلَام) لَمْ يَكُنْ يَأْخُذُ مِيرَاثَ أَحَدٍ مِنْ مَوَالِيهِ إِذَا مَاتَ وَ لَهُ قَرَابَةٌ كَانَ يَدْفَعُ إِلَى قَرَابَتِهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus Bin Abdul Rahman, from Zur'at, from Sama'at who said,

'Abu Abdullah^{asws} said that Ali^{asws} never used to take the inheritance of anyone from his^{asws} Mawali upon his death and there was a relative of his. He^{asws} used to hand it over to his relatives'.⁴⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِي خَالَةٍ جَاءَتْ تُخَاصِمُ فِي مَوْلَى رَجُلٍ مَاتَ فَقَرَأَ هَذِهِ الْآيَةَ وَ أَوْلُوا الْأَرْحَامَ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللَّهِ فَدَفَعَ الْمِيرَاثَ إِلَى الْخَالَةِ وَ لَمْ يُعْطِ الْمَوْلَى .

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

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding a maternal aunt who came disputing regarding the slave of a man who had died. So he^{asws} read this Verse [33:6] and the possessors of relationships some of them are closer to others in the Book of Allah – so he^{asws} handed over the inheritance to the maternal aunt and did not give it to the master'.⁴¹

مُحَمَّدُ بْنُ يَحْيَى وَ غَيْرُهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ الْجَهْمِ عَنْ حَنَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَيُّ شَيْءٍ لِلْمَوَالِي فَقَالَ لَيْسَ لَهُمْ مِنَ الْمِيرَاثِ إِلَّا مَا قَالَ اللَّهُ عَزَّ وَ جَلَّ إِلَّا أَنْ تَفْعَلُوا إِلَى أَوْلِيائِكُمْ مَعْرُوفاً .

³⁸ Al Kafi – V 7 – The Book of Inheritances Ch 32 H 6

³⁹ Al Kafi – V 7 – The Book of Inheritances Ch 32 H 7

⁴⁰ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 1

⁴¹ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 2

Muhammad Bin Yahya and others, from Ahmad Bin Muhammad, from Al Hassan Bin Al Jaham, from Hanan who said,

'I said to Abu Abdullah^{asws}, 'Which thing is for the Mawla (Master)?' So he^{asws} said: 'There is nothing for them from the inheritance except what Allah^{azwj} Mighty and Majestic has Said **[33:6] except that you should do good to your guardians**'.⁴²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ أَبِي الْحَمْرَاءِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَيُّ شَيْءٍ لِلْمَوَالِي مِنَ الْمِيرَاثِ فَقَالَ لَيْسَ لَهُمْ شَيْءٌ إِلَّا التَّرْبَاءُ يَعْنِي التَّرَابَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Ibn Abu Al Hamra'a who said,

'I said to Abu Abdullah^{asws}, 'Which thing from the inheritance, is for the Mawla (Master)?' So he^{asws} said: 'There is nothing for them except for the soil, meaning dust'.⁴³

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ كَانَ عَلَيٌّ (عَلَيْهِ السَّلَام) إِذَا مَاتَ مَوْلَى لَهُ وَ تَرَكَ ذَا قَرَابَةٍ لَمْ يَأْخُذْ مِنْ مِيرَاثِهِ شَيْئاً وَ يَقُولُ أَوْلُوا الْأَرْحَامَ بَعْضُهُمْ أَوْلَى بِبَعْضٍ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Abdullah Bin Sinan who said,

'I heard Abu Abdullah^{asws} saying: 'Ali^{asws}, whenever a slave of his^{asws} died and left relatives, he^{asws} would not take anything from his inheritance, and he^{asws} was saying **[33:6] and the possessors of relationships some of them are closer to others**'.⁴⁴

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ النَّبِيِّ عَنِ مُحَمَّدِ بْنِ تَسْنِيمِ الْكَاتِبِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ عَمْرٍو الْأَزْرَقِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ وَ سَأَلَهُ رَجُلٌ عَنْ رَجُلٍ مَاتَ وَ تَرَكَ ابْنَةً أُخْتٌ لَهُ وَ تَرَكَ مَوَالِي وَ لَهُ عِنْدِي أَلْفُ دِرْهَمٍ وَ لَمْ يَعْلَمْ بِهَا أَحَدٌ فَجَاءَتْ ابْنَةُ أُخْتِهِ فَرَهَنْتُ عِنْدِي مُصْحَفًا فَأَعْطَيْتُهَا ثَلَاثِينَ دِرْهَمًا فَقَالَ لِي أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) حِينَ قُلْتُ لَهُ عَلِمَ بِهَا أَحَدٌ قُلْتُ لَا قَالَ فَأَعْطَاهَا إِيَّاهَا قِطْعَةً قِطْعَةً وَ لَا تُعْلَمَ أَحَدًا .

Ahmad Bin Muhammad, from Ali Bin Al Hassan Al Taymi, from Muhammad Bin Tasneem the scribe, from Abdul Rahman Bin Amro, and from Muhammad Bin Sinan, from Amro Al Azraq who said,

'I heard Abu Abdullah^{asws} saying, and a man asked him^{asws} about a man who died and left a daughter of his sister, and left slaves, and for him, with me are a thousand Dirhams, and no one knows about it.

So the daughter of his sister came over and she kept parchments with me as security, so I gave her thirty Dirhams. So Abu Abdullah^{asws} said to me: 'Does anyone know of it?' I said, 'No'. He^{asws} said: 'So give her piece by piece, and do not let anyone know'.⁴⁵

⁴² Al Kafi – V 7 – The Book of Inheritances Ch 33 H 3

⁴³ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 4

⁴⁴ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 5

⁴⁵ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 6

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَامُ) لَا يَأْخُذُ مِنْ مِيرَاثِ مَوْلَى لَهُ إِذَا كَانَ لَهُ ذُو قَرَابَةٍ وَ إِنْ لَمْ يَكُونُوا مِمَّنْ يَجْرِي لَهُمُ الْمِيرَاثُ الْمَفْرُوضُ فَكَانَ يَدْفَعُ مَالَهُ إِلَيْهِمْ .

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

Abu Abdullah^{asws} has said: 'Ali^{asws} never took from the inheritance of a slave of his when there was a relative of his, and if they did not happen to be from the one for whom flows the Obligatory inheritances, so he^{asws} used to hand it over to them (the other relatives)'.⁴⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنْ أَبِي ثَابِتٍ عَنْ حَنَانَ بْنِ أَبِي يَعْفُورٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ مَاتَ مَوْلَى لِعَلِيِّ بْنِ الْحُسَيْنِ (عَلَيْهِ السَّلَامُ) فَقَالَ انظُرُوا هَلْ تَجِدُونَ لَهُ وَارِثًا فَقِيلَ لَهُ ابْنَتَانِ بِالْيَمَامَةِ مَمْلُوكَتَانِ فَاشْتَرَاهُمَا مِنْ مَالِ مَوْلَاهُ الْمَيِّتِ ثُمَّ دَفَعَ إِلَيْهِمَا بَقِيَّةَ الْمَالِ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Abu Sabit, from hanan, from Ibn Abu Yafour, from Is'haq Bin Ammar,

Abu Abdullah^{asws} has said: 'A slave of Ali^{asws} Bin Al-Husayn^{asws} died, so he^{asws} said: 'Look around, can you find an inheritor for him?' So it was said to him^{asws}, 'There are two daughters of his at Yamama, both slaves'. So he^{asws} bought them both from the wealth of the dead slave, then handed over the rest to them both'.⁴⁷

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ عَنْ أَبِي ثَابِتٍ عَنْ حَنَانَ بْنِ سَدِيرٍ عَنْ ابْنِ أَبِي يَعْفُورٍ عَنْ إِسْحَاقَ قَالَ مَاتَ مَوْلَى لِعَلِيِّ بْنِ الْحُسَيْنِ (عَلَيْهِ السَّلَامُ) قَالَ انظُرُوا هَلْ تَجِدُونَ لَهُ وَارِثًا فَقِيلَ لَهُ ابْنَتَانِ بِالْيَمَامَةِ مَمْلُوكَتَانِ فَاشْتَرَاهُمَا مِنْ مَالِ الْمَيِّتِ ثُمَّ دَفَعَ إِلَيْهِمَا بَقِيَّةَ الْمَالِ .

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, from Abu Sabit, from hanan Bin Sudeyr, from Ibn Abu Yafour, from Is'haq who said,

'A slave of Ali^{asws} Bin Al-Husayn^{asws} died. He^{asws} said: 'Look around, can you find an inheritor for him?' So it was said to him^{asws}, 'There are two daughters for him at Al-Yamama, both slaves'. So he^{asws} bought them both from the wealth of the deceased, then handed over to them the remainder of the wealth'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ أَبِي ثَابِتٍ مِثْلَهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abu Sabit - similar to it.⁴⁸

بَابُ مِيرَاثِ الْغُرَقِيِّ وَ أَصْحَابِ الْهَذْمِ

⁴⁶ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 7

⁴⁷ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 8

⁴⁸ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 9

Chapter 33 – Inheritance of the drowned and the ones crushed under a collapsed building

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْقَوْمِ يَغْرُقُونَ فِي السَّفِينَةِ أَوْ يَقَعُ عَلَيْهِمُ النَّبْتُ فَيَمُوتُونَ فَلَا يُعْلَمُ أَيُّهُمْ مَاتَ قَبْلَ صَاحِبِهِ فَقَالَ يُورَثُ بَعْضُهُمْ مِنْ بَعْضٍ كَذَلِكَ هُوَ فِي كِتَابِ عَلِيٍّ (عَلَيْهِ السَّلَامُ) .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Abdul Rahman Bin Al Hajjaj who said,

'I asked Abu Abdullah^{asws} about the people who are drowning in the ship, or the house collapses upon them, so they are dying. So it is not know who has died before his companions'. So he^{asws} said: 'They would inherit from each other, such is how it is in the Book of Ali^{asws}'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ مِثْلَهُ إِلَّا أَنَّهُ قَالَ كَذَلِكَ وَجَدْنَاهُ فِي كِتَابِ عَلِيٍّ (عَلَيْهِ السَّلَامُ) .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdul Rahman Bin Al Hajjaj,

- similar to it, except that he^{asws} said: 'Such is how we^{asws} have found it to be in the Book of Ali^{asws}'.⁴⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ بَيْتٍ وَقَعَ عَلَى قَوْمٍ مُجْتَمِعِينَ فَلَا يَدْرَى أَيُّهُمْ مَاتَ قَبْلُ قَالَ فَقَالَ يُورَثُ بَعْضُهُمْ مِنْ بَعْضٍ

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a house which fell upon a people who had gathered (and they all died). So it was not known which one of them died first'. So he^{asws} said: 'They would inherit from each other'.

قُلْتُ فَإِنَّ أَبَا حَنِيفَةَ أَدْخَلَ فِيهَا شَيْئاً قَالَ وَ مَا أَدْخَلَ قُلْتُ رَجُلَيْنِ أَخَوَيْنِ أَحَدُهُمَا مَوْلَايَ وَ الْآخَرُ مَوْلَى لِرَجُلٍ لِأَحَدِهِمَا مِائَةٌ أَلْفِ دِرْهَمٍ وَ الْآخَرُ لَيْسَ لَهُ شَيْءٌ رَكِبَا فِي السَّفِينَةِ فَعَرَقَا فَلَمْ يَدْرَ أَيُّهُمَا مَاتَ أَوْ لَا كَانَ الْمَالُ لَوْرَثَةِ الَّذِي لَيْسَ لَهُ شَيْءٌ وَ لَمْ يَكُنْ لَوْرَثَةِ الَّذِي لَهُ الْمَالُ شَيْءٌ قَالَ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) لَقَدْ سَمِعَهَا وَ هُوَ هَكَذَا .

I said, 'But Abu Haneefa has included something in it'. He^{asws} said: 'And what has he included?' I said, 'Two men, brother, one of them was my slave and the other was a slave of another man. For one of them was a hundred thousand Dirham, and the other one, there was nothing for him. They both sailed in the ship, so they drowned. So it was not know which of the two died first. The wealth is for the inheritors of the one who had nothing for him, and nothing will be for the inheritors of the one who had the wealth'. So Abu Abdullah^{asws} said: 'He (Abu Haneefa) has heard it (the answer), and it is like this'.⁵⁰

⁴⁹ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 1

⁵⁰ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 2

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ وَ حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ رَجُلٌ وَ امْرَأَةٌ سَقَطَ عَلَيْهِمَا الْبَيْتُ فَمَاتَا قَالَ يُوْرَثُ الرَّجُلُ مِنَ الْمَرْأَةِ وَ الْمَرْأَةُ مِنَ الرَّجُلِ قَالَ قُلْتُ فَإِنْ أَبَا حَنِيفَةَ قَدْ أَدْخَلَ عَلَيْهِمْ فِي هَذَا شَيْئًا قَالَ وَ أَيُّ شَيْءٍ أَدْخَلَ عَلَيْهِمْ قُلْتُ رَجُلَيْنِ أَحْوَيْنِ أُعْجَمِيَيْنِ لَيْسَ لَهُمَا وَارِثٌ إِلَّا مَوَالِيَهُمَا أَحَدُهُمَا لَهُ مِائَةُ أَلْفٍ دِرْهَمٍ مَعْرُوفَةٌ وَ الْآخَرُ لَيْسَ لَهُ شَيْءٌ رَكِبَا فِي سَفِينَةٍ فَعَرَقَا فَأَخْرَجَتِ الْمَاءُ أَلْفَ كَيْفٍ يُصْنَعُ بِهَا

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdul Rahman Bin Al Hajjan, and Humejd Bin Ziyad, from Ibn Sama'at, from Muhammad Bin Abu Hamza, from Abdul Rahman Bin Al Hajjai,

(The narrator says) 'I said to Abu Abdullah^{asws}, (about the case of) a man and a woman, upon whom the house had collapsed, so they both died'. He^{asws} said: 'The man would inherit from the woman, and the woman would inherit from the man'. I said, 'But Abu Haneefa has included something upon them with regards to this'. He^{asws} said: 'And which thing has he included upon them?' I said, 'Two men, brothers, non-Arabs, not having any inheritor except their two masters. One of them had a hundred thousand Dirhams, well known, and the other there was nothing for him. They both sailed in a ship, so it drowned. So the one hundred Dirhams were extracted. What should be done with it?'

قَالَ تُدْفَعُ إِلَى مَوَالِي الَّذِي لَيْسَ لَهُ شَيْءٌ قَالَ فَقَالَ مَا أَنْكَرُ مَا أَدْخَلَ فِيهَا صَدَقَ وَ هُوَ هَكَذَا ثُمَّ قَالَ يُدْفَعُ الْمَالُ إِلَى مَوَالِي الَّذِي لَيْسَ لَهُ شَيْءٌ وَ لَمْ يَكُنْ لِالْآخِرِ مَالٌ يَرِثُهُ مَوَالِي الْآخِرِ فَلَا شَيْءَ لَوْرَثِيهِ .

He^{asws} said: 'It should be handed over to the master of the one who had nothing'. So he^{asws} said: 'I^{asws} do not deny what he has included in it as true, and it is like this'. Then he^{asws} said: 'Hand over the wealth to the master of the one who had nothing, and there would not be anything for the man who had wealth, to be inherited by the other master. So there is nothing for his inheritors'.⁵¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ حَرِيْزٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) بِالْيَمَنِ فِي قَوْمٍ انْهَدَمَتْ عَلَيْهِمْ دَارٌ لَهُمْ قَبِيْقِي مِنْهُمْ صَبِيَّانِ أَحَدُهُمَا مَمْلُوكٌ وَ الْآخَرُ حُرٌّ فَأَسْهَمَ بَيْنَهُمَا فَخَرَجَ السَّهْمُ عَلَى أَحَدِهِمَا فَجَعَلَ الْمَالُ لَهُ وَ أَعْتَقَ الْآخَرَ .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Hareyz,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'Amir Al-Momineen^{asws} judged at Al-Yemen regarding one people upon whom a house of theirs had collapsed. So there remained two young children, one of them being a slave, the other a free one. So he^{asws} drew lots between the two of them, so the lot came upon one of the two, so he^{asws} made the wealth to be for him, and emancipated (liberated) the other one'.⁵²

عَلِيُّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَسْقُطُ عَلَيْهِ وَ عَلَى امْرَأَتِهِ بَيْتٌ قَالَ تُورَثُ الْمَرْأَةُ مِنَ الرَّجُلِ وَ الرَّجُلُ مِنَ الْمَرْأَةِ مَعْنَاهُ يُورَثُ بَعْضُهُمْ مِنْ بَعْضٍ مِنْ صُلْبِ أَمْوَالِهِمْ لَا يَرِثُونَ مِمَّا يُورَثُ بَعْضُهُمْ مِنْ بَعْضٍ شَيْئًا .

Ali Bin Muhammad Bin Isa, from Yunus, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

⁵¹ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 3

⁵² Al Kafi – V 7 – The Book of Inheritances Ch 33 H 4

(It has been narrated) from Abu Ja'far^{asws} regard the mam, a house collapsed upon him and his wife. He^{asws} said: 'The woman would inherit from the man, and the man would inherit from the woman. Its meaning is, they would inherit each other from the origins of their wealth, they would not be inheriting anything from what they would have (already) inherited from each other'.⁵³

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَبِي أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ رَفَعَهُ أَنَّ أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) قَضَى فِي رَجُلٍ وَ امْرَأَةٍ مَاتَا جَمِيعاً فِي الطَّاعُونِ مَاتَا عَلَى فِرَاشٍ وَاحِدٍ وَ يَدُ الرَّجُلِ وَ رِجْلُهُ عَلَى الْمَرْأَةِ فَجَعَلَ الْمِيرَاثَ لِلرَّجُلِ وَ قَالَ إِنَّهُ مَاتَ بَعْدَهَا .

A number of our companions, from Ahmad Bin Abu Abdullah, raising it, said,

'Amir Al-Momineen^{asws} judged regarding a man and a woman who both died together in the plague. They both died upon one bed, and the hand and the leg of the man were found upon the woman. So he^{asws} made the inheritance to be for the man and said: 'He died after her'.⁵⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ حَمَّادِ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ الْمُخْتَارِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) لِأَبِي حَنِيفَةَ يَا أَبَا حَنِيفَةَ مَا تَقُولُ فِي بَيْتٍ سَقَطَ عَلَى قَوْمٍ وَ بَقِيَ مِنْهُمْ صَبِيحَانِ أَحَدُهُمَا حُرٌّ وَ الْآخَرُ مَمْلُوكٌ لِصَاحِبِهِ فَلَمْ يُعْرِفِ الْحُرُّ مِنَ الْمَمْلُوكِ فَقَالَ أَبُو حَنِيفَةَ يُعْتَقُ نِصْفُ هَذَا وَ يُعْتَقُ نِصْفُ هَذَا وَ يُقَسَّمُ الْمَالُ بَيْنَهُمَا فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) لَيْسَ كَذَلِكَ وَ لَكِنَّهُ يُفْرَعُ بَيْنَهُمَا فَمَنْ أَصَابَتْهُ الْفُرْعَةُ فَهُوَ حُرٌّ وَ يُعْتَقُ هَذَا فَيُجْعَلُ مَوْلَى لَهُ .

A number of our companions, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Hammad Bin Isa, from Al Husayn Bin Al Mukhtar who said,

'Abu Abdullah^{asws} said to Abu Haneefa: 'O Abu Haneefa! What are you saying regard a house which fell upon a group of people, and there remained two children from them, one of the free and the other one a slave of his companion, but the free is not recognised from the slave?' So Abu Haneefa said, 'Half of this should be liberated, and half of this, and the wealth be distributed between the two of them'. So he^{asws} said: 'It is not like that, but a lot be drawn between the two of them, so the one who is hit by the lot, so he would be free, and this one be liberated, so he is made to be a master of his'.⁵⁵

بَاب مَوَارِيثِ الْقَتْلَى وَ مَنْ يَرِثُ مِنَ الدَّيَّةِ وَ مَنْ لَا يَرِثُ

Chapter 34 – Inheritances of the murdered, and who would inherit from the wergild (blood money compensation), and who would not inherit

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ سَوَّارٍ عَنِ الْحَسَنِ قَالَ إِنَّ عَلِيًّا (عَلَيْهِ السَّلَامُ) لَمَّا هَرَمَ طَلْحَةَ وَ الزُّبَيْرَ أَقْبَلَ النَّاسَ مُنْهَرَمِينَ فَمَرُّوا بِامْرَأَةٍ حَامِلٍ عَلَى الطَّرِيقِ فَفَزِعَتْ مِنْهُمْ فَطَرَحَتْ مَا فِي بَطْنِهَا حَيًّا فَاضْطَرَبَ حَتَّى مَاتَ ثُمَّ مَاتَتْ أُمُّهُ مِنْ بَعْدِهِ

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Hammad Bin Isa, from Sawwar, from Al Hassan who said,

⁵³ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 5

⁵⁴ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 6

⁵⁵ Al Kafi – V 7 – The Book of Inheritances Ch 33 H 7

'When Ali^{asws} defeated Talha and Al-Zubeyr, the people faced their defeat, so they passed by a pregnant woman upon the road. So she panicked from them, and gave birth to what was in her belly, alive. So it (child) became restless until it died. Then its mother died from after it.

فَمَرَّ بِهَا عَلِيٌّ (عليه السلام) وَ أَصْحَابُهُ وَ هِيَ مَطْرُوحَةٌ وَ وَلَدَهَا عَلَى الطَّرِيقِ فَسَأَلَهُمْ عَنْ أَمْرِهَا فَقَالُوا لَهُ إِنَّهَا كَانَتْ حُبْلَى فَفَزِعَتْ حِينَ رَأَتْ الْقِتَالَ وَ الْهَزِيمَةَ قَالَ فَسَأَلَهُمْ أَيُّهُمَا مَاتَ قَبْلَ صَاحِبِهِ فَقِيلَ إِنَّ ابْنَهَا مَاتَ قَبْلَهَا

So Ali^{asws} and his companions passed by her and she and her child were lying upon the road. So he^{asws} told them about her matter, so they said to him^{asws}, 'But rather, she was pregnant, so she panicked when she saw the fighting and the defeat'. So he^{asws} asked them, 'Which of the two died before its companion?' So it was said, 'Her son died before her'.

قَالَ فَدَعَا بِرَوْجِهَا أَبِي الْعَلَامِ الْمَيِّتِ فَوَرَّثَهُ مِنْ ابْنِهِ ثُلُثِي الدِّيَةِ وَ وَرَّثَ أُمَّهُ ثُلُثَ الدِّيَةِ ثُمَّ وَرَّثَ الزَّوْجَ مِنْ امْرَأَتِهِ الْمَيِّتَةَ نِصْفَ ثُلُثِ الدِّيَةِ الَّذِي وَرَّثَتْهُ مِنْ ابْنِهَا وَ وَرَّثَ قَرَابَةَ الْمَرْأَةِ الْمَيِّتَةِ الْبَاقِي

He (the narrator) said, 'So he^{asws} called her husband, father of the dead boy, so made him to inherit from his son, two-thirds of the wergild (blood money compensation), and her mother to inherit a third of the wergild. Then made the husband to inherit from his dead wife, half of the one-third wergild which she had inherited from her son, and made the relatives of the dead woman, the remainder (of the one-third wergild).

ثُمَّ وَرَّثَ الزَّوْجَ أَيْضاً مِنْ دِيَةِ امْرَأَتِهِ الْمَيِّتَةَ نِصْفَ الدِّيَةِ وَ هُوَ أَلْفَانِ وَ خَمْسُمِائَةِ دِرْهَمٍ وَ وَرَّثَ قَرَابَةَ الْمَرْأَةِ الْمَيِّتَةَ نِصْفَ الدِّيَةِ وَ هُوَ أَلْفَانِ وَ خَمْسُمِائَةِ دِرْهَمٍ وَ ذَلِكَ أَنَّهُ لَمْ يَكُنْ لَهَا وَلَدٌ غَيْرُ الَّذِي رَمَتْ بِهِ حِينَ فَزِعَتْ

Then made the husband to inherit as well from the wergild of the dead woman, half of the wergild, and it was two thousand and five hundred Dirhams, and made the relatives of the dead woman to inherit half of the wergild, and it was two thousand and five hundred Dirhams, and that is because there did not happen to be for her any child other than that which had been miscarried with when she panicked.

قَالَ وَ أَدَّى ذَلِكَ كُلَّهُ مِنْ بَيْتِ مَالِ الْبَصْرَةِ .

He (the narrator) said, 'And he^{asws} paid all of that from the Public Treasury of Al-Basra'.⁵⁶

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فِي دِيَةِ الْمَقْتُولِ أَنَّهُ يَرِثُهَا الْوَرِثَةُ عَلَى كِتَابِ اللَّهِ وَ سِبْأَمِهِمْ إِذَا لَمْ يَكُنْ عَلَى الْمَقْتُولِ دَيْنٌ إِلَّا الْإِخْوَةَ وَ الْأَخَوَاتِ مِنَ الْأُمَّ فَإِنَّهُمْ لَا يَرِثُونَ مِنْ دِيَتِهِ شَيْئاً .

Ibn Mahboub, from Abu Ayoub, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} judged with regards to a wergild of the murdered that the inheritors would inherit the inheritance upon the the Book of Allah^{azwj} and their (legislated) shares, if there does

⁵⁶ Al Kafi – V 7 – The Book of Inheritances Ch 35 H 1

not happen to be a debt upon the murdered, except for the brothers and the sisters from the mother, so they would not be inheriting anything from his wergild'.⁵⁷

ابْنُ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَنَّ الدَّيَّةَ يَرِثُهَا الْوَرَثَةُ إِلَّا الْإِخْوَةَ وَالْأَخَوَاتِ مِنَ الْأُمِّ .

Ibn Mahboub, from Abdullah Bin Sinan who said,

'Abu Abdullah^{asws} said: 'Amir Al-Momineen^{asws} judged that the wergild, the inheritors would inherit it except for the brothers and the sisters from the mother'.⁵⁸

وَ عَنْهُ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) أَنَّ الدَّيَّةَ يَرِثُهَا الْوَرَثَةُ إِلَّا الْإِخْوَةَ مِنَ الْأُمِّ فَإِنَّهُمْ لَا يَرِثُونَ مِنَ الدَّيَّةِ شَيْئًا .

And from him who said,

'Abu Abdullah^{asws} said: 'Amir Al-Momineen^{asws} judged that the wergild, the inheritors would inherit it except for the brothers from the mother, so they would not be inheriting anything from the wergild'.⁵⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَنَسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ قَالَ الدَّيَّةَ يَرِثُهَا الْوَرَثَةُ عَلَى فَرَائِضِ الْمَوَارِيثِ إِلَّا الْإِخْوَةَ مِنَ الْأُمِّ فَإِنَّهُمْ لَا يَرِثُونَ مِنَ الدَّيَّةِ شَيْئًا .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Aasim Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The wergild, the inheritors would inherit it upon the Obligated inheritances except the brothers from the mother, so they would not be inheriting anything from the wergild'.⁶⁰

حُمَيْدُ بْنُ زِيَادٍ عَنْ ابْنِ سَمَاعَةَ عَنْ عَبْدِ اللَّهِ بْنِ جَبَلَةَ وَ عَلِيَّ بْنِ رَبَاطٍ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يَرِثُ الْإِخْوَةَ مِنَ الْأُمِّ مِنَ الدَّيَّةِ شَيْئًا .

Humejd Bin Ziyad, from Ibn Sama'at, from Abdullah Bin Jabala and Ali Bin Rabat, from Abdullah Bin Bukeyr, from Ubeyd Bin Zurara,

Abu Abdullah^{asws} has said: 'The brothers from the mother do not inherit anything from the wergild'.⁶¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ النُّعْمَانِ عَنْ يَحْيَى الْأَزْرَقِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ يُقْتَلُ وَ يَتْرُكُ دَيْنًا وَ لَيْسَ لَهُ مَالٌ فَيَأْخُذُ أَوْلِيَاؤُهُ الدَّيَّةَ أَعْلَيْهِمْ أَنْ يَقْضُوا دَيْنَهُ قَالَ نَعَمْ قُلْتُ وَ إِنْ لَمْ يَتْرُكْ شَيْئًا قَالَ نَعَمْ إِنَّمَا أَخَذُوا دَيْنَهُ فَعَلَيْهِمْ أَنْ يَقْضُوا دَيْنَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Noman, from Yahys Al Azraq who said,

⁵⁷ Al Kafi – V 7 – The Book of Inheritances Ch 35 H 2

⁵⁸ Al Kafi – V 7 – The Book of Inheritances Ch 35 H 3

⁵⁹ Al Kafi – V 7 – The Book of Inheritances Ch 35 H 4

⁶⁰ Al Kafi – V 7 – The Book of Inheritances Ch 35 H 5

⁶¹ Al Kafi – V 7 – The Book of Inheritances Ch 35 H 6

'I asked Abu Abdullah^{asws} about the man who was murdered and left debts, and there was not wealth for him. So his guardians took the wergild. Is it upon them to pay off his debts?' He^{asws} said: 'Yes'. I said, 'And if he had not left anything?' He^{asws} said: 'Yes. But rather, they took the wergild, therefore it is upon them that they pay off his debts'.⁶²

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ الْحُصَيْنِ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ هَلْ لِلْإِخْوَةِ مِنَ الْأُمِّ مِنَ الدِّيَةِ شَيْءٌ قَالَ لَا .

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

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws}, 'Is there anything for the brothers from the mother from the wergild?' He^{asws} said: 'No'.⁶³

باب مِيرَاثِ الْقَاتِلِ

Chapter 35 – Inheritance of the killer

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يَتَوَارِثُ رَجُلَانِ قَتَلَ أَحَدُهُمَا صَاحِبَهُ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'The two men would not inherit when one of them has killed his companion'.⁶⁴

أَحْمَدُ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنِ الْقَاسِمِ بْنِ سُلَيْمَانَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ قَتَلَ أُمَّهُ أَوْ بَرْتَهَا قَالَ سَمِعْتُ أَبِي (عَلَيْهِ السَّلَامُ) يَقُولُ أَيُّمَا رَجُلٍ ذُو رَحِمٍ قَتَلَ قَرِيبَهُ لَمْ يَرِثْهُ .

Ahmad, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Al Qasim Bin Suleyman who said,

'I asked Abu Abdullah^{asws} about a man who killed his mother, would he inherit her?' He^{asws} said: 'I^{asws} heard my^{asws} father^{asws} saying: 'Whichever man with relationship kills his relative, would not inherit from him (the one who has been killed)'.⁶⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَدِيدٍ جَمِيعاً عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ لَا يَرِثُ الرَّجُلُ إِذَا قَتَلَ وَوَلَدَهُ أَوْ وَالِدَهُ وَ لَكِنْ يَكُونُ الْمِيرَاثُ لَوَرَثَةِ الْقَاتِلِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed, altogether from Jameel Bin Darraj,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'The man would not inherit when he kills his child, or his parent, but the inheritance would happen to be for the inheritors of the killer'.⁶⁶

⁶² Al Kafi – V 7 – The Book of Inheritances Ch 35 H 7

⁶³ Al Kafi – V 7 – The Book of Inheritances Ch 35 H 8

⁶⁴ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 1

⁶⁵ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 2

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِبٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي رَجُلٍ قَتَلَ أُمَّهُ قَالَ لَا يَرِثُهَا وَ يُقْتَلُ بِهَا صَاعِراً وَ لَا أَطْنُ قَتْلَهُ بِهَا كَفَّارَةً لِذَنْبِهِ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Ibn Raib, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far^{asws} regarding a man who killed his mother. He^{asws} said: 'He would not inherit her, and he would be killed humiliatingly due to it, and I^{asws} do not think that his being killed due to it is an expiation (*kaffara*) for his sin'.⁶⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ وَ عَبْدِ اللَّهِ ابْنِ مُحَمَّدٍ عَنْ ابْنِ أَبِي عُيَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) لَا مِيرَاثَ لِلْقَاتِلِ .

Muhammad Bin Yahya, from Ahmad and Abdullah, two sons of Muhammad, from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Rasool-Allah^{saww} said: 'There is no inheritance for the killer'.⁶⁸

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائِبٍ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنْ امْرَأَةٍ شَرِبَتْ دَوَاءً وَ هِيَ حَامِلٌ وَ لَمْ يَعْلَمْ بِذَلِكَ زَوْجُهَا فَالْقَتَتْ وَ لَدَهَا قَالَ فَقَالَ إِنْ كَانَ لَهُ عَظْمٌ وَ قَدْ نَبَتَ عَلَيْهِ اللَّحْمُ عَلَيْهَا دَبَّهَ نُسَلْمَهَا لِأَبِيهِ وَ إِنْ كَانَ حَبِيبٌ طَرَحْتَهُ عَاقَةً أَوْ مُضْغَةً فَإِنَّ عَلَيْهَا أَرْبَعِينَ دِينَراً أَوْ غَرَّةً تُؤَدِّيهَا إِلَى أَبِيهِ قُلْتُ لَهُ فَهِيَ لَا تَرِثُ وَ لَدَهَا مِنْ دَبَّيْتِهِ مَعَ أَبِيهِ قَالَ لَا لِأَنَّهَا قَتَلَتْهُ فَلَا تَرِثُهُ .

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

'I asked Abu Ja'far^{asws} about a woman who drank medicine and she was pregnant, and her husband did not know of that. So her child miscarried. So he^{asws} said: 'If there were bones for him (the child), and the flesh had grown upon him, the wergild is upon her to submit it to its father. However, if she miscarried a clot or lump (unformed), so upon her would be forty Dinars, or a slave to be paid to its father'. I said, 'Would she not inherit the wergild of her child along with its father?' He^{asws} said: 'No, because she killed it, so she would not inherit'.⁶⁹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ حَمَّادِ بْنِ عُمَانَ عَنْ فَضِيلِ بْنِ يَسَارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ لَا يُقْتَلُ الرَّجُلُ بِوَلَدِهِ إِذَا قَتَلَهُ وَ يُقْتَلُ الْوَلَدُ بِوَالِدِهِ إِذَا قَتَلَ وَالِدَهُ وَ لَا يَرِثُ الرَّجُلُ أَبَاهُ إِذَا قَتَلَهُ وَ إِنْ كَانَ خَطِئاً .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from one of his companions, from Hammad Bin Usman, from Fuzayl Bin Yasaar,

Abu Abdullah^{asws} has said: 'The man would not be killed if he were to kill his child, but the child would be killed if he were to kill his parent and he would not inherit his father if he kills him, even though it may be in error'.⁷⁰

⁶⁶ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 3

⁶⁷ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 4

⁶⁸ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 5

⁶⁹ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 6

⁷⁰ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 7

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ الْمَرْأَةُ تَرِثُ مِنْ دِيَّةِ زَوْجِهَا وَ يَرِثُ مِنْ دِيَّتِهَا مَا لَمْ يَقْتُلْ أَحَدَهُمَا صَاحِبَهُ .

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

Abu Ja'far^{asws} has said: 'The woman would inherit from the wergild of her husband, and he would inherit from her wergild, so long as one of the two has not killed his partner'.⁷¹

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي يَعْفُورٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) هَلْ لِلْمَرْأَةِ مِنْ دِيَّةِ زَوْجِهَا وَ هَلْ لِلرَّجُلِ مِنْ دِيَّةِ امْرَأَتِهِ شَيْءٌ قَالَ نَعَمْ مَا لَمْ يَقْتُلْ أَحَدَهُمَا الْآخَرَ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Aban Bin Usman, from Abdullah Bin Abu Yafour who said,

'I said to Abu Abdullah^{asws}, 'Is there anything for the woman from the wergild of her husband, and is there anything for the man from the wergild of his wife?' He^{asws} said: 'Yes, so long as one of the two has not killed the other'.⁷²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا قَتَلَ الرَّجُلُ أَبَاهُ قُتِلَ بِهِ وَ إِنْ قَتَلَهُ أَبُوهُ لَمْ يُقْتَلْ بِهِ وَ لَمْ يَرِثْهُ

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

Abu Abdullah^{asws} has said: 'When the man kills his father, he would be killed due to it, and if his father kills him he (father) would not be killed due to it, and he would not inherit him'.⁷³

باب مِيرَاثِ أَهْلِ الْمِلَّةِ

Chapter 36 – Inheritance of the people of the (other) Religions

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ وَ هِشَامٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ فِيمَا رَوَى النَّاسُ عَنِ النَّبِيِّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) أَنَّهُ قَالَ لَا يَتَوَارَثُ أَهْلُ مِلَّتَيْنِ فَقَالَ نَرْتُهُمْ وَ لَا يَرِثُونَا لِأَنَّ الْإِسْلَامَ لَمْ يَزِدْهُ فِي حَقِّهِ إِلَّا شِدَّةً .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel and Hisham,

(It has been narrated) from Abu Abdullah^{asws} having said regarding what the people are reporting from the Prophet^{saww} having said: 'The people of the two Religions do not inherit (each other)', so he^{asws} said: 'We inherit them and they do not inherit us, because Al-Islam did not increase in his favour except for the harshness'.⁷⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) يَقُولُ لَا يَرِثُ الْيَهُودِيُّ وَ لَا النَّصْرَانِيُّ الْمُسْلِمَ وَ يَرِثُ الْمُسْلِمُ الْيَهُودِيَّ وَ النَّصْرَانِيَّ .

⁷¹ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 8

⁷² Al Kafi – V 7 – The Book of Inheritances Ch 36 H 9

⁷³ Al Kafi – V 7 – The Book of Inheritances Ch 36 H 10

⁷⁴ Al Kafi – V 7 – The Book of Inheritances Ch 37 H 1

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

'I heard Abu Ja'far^{asws} saying: 'Neither the Jew nor the Christian would inherit the Muslim, but the Muslim would inherit the Jew and the Christian'.⁷⁵

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنِ الرَّجُلِ الْمُسْلِمِ هَلْ يَرِثُ الْمُشْرِكَ قَالَ نَعَمْ وَ لَا يَرِثُ الْمُشْرِكُ الْمُسْلِمَ .

Ali Bin Ibrahim, from his father, from Muhammad Bin Isa, from Yunus, from Zurara, from Sama'at who said,

'I asked Abu Abdullah^{asws} about the Muslim man, would he inherit the Polytheist?' He^{asws} said: 'Yes, but the Polytheist would not inherit the Muslim'.⁷⁶

عَنْهُ عَنْ مُوسَى بْنِ بَكْرٍ عَنْ عَبْدِ اللَّهِ بْنِ أَعْيَنَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) جُعِلْتُ فِدَاكَ النَّصْرَانِي يَمُوتُ وَ لَهُ ابْنٌ مُسْلِمٌ أ يَرِثُهُ قَالَ فَقَالَ نَعَمْ إِنَّ اللَّهَ عَزَّ وَ جَلَّ لَمْ يَزِدْهُ بِالْإِسْلَامِ إِلَّا عِزًّا فَفَنَحْنُ نَرِثُهُمْ وَ لَا يَرِثُونَا .

From him, from Musa Bin Bakr, from Abdullah Bin Ayn who said,

'I said to Abu Ja'far^{asws}, 'May I be sacrificed for you^{asws}! The Christian died and for him was a Muslim son, would he inherit him?' He^{asws} said: 'Yes. Allah^{azwj} Mighty and Majestic did not Increase with Al-Islam except for honour, so we inherit them, but they do not inherit us'.⁷⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ الْمُسْلِمُ يَحْبِبُ الْكَافِرَ وَ يَرِثُهُ وَ الْكَافِرُ لَا يَحْبِبُ الْمُؤْمِنَ وَ لَا يَرِثُهُ .

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

Abu Abdullah^{asws} has said: 'The Muslim blocks the infidel and inherits him, but the infidel does not block the Believer and does not inherit him'.⁷⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَ لَادٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ الْمُسْلِمُ يَرِثُ امْرَأَتَهُ الذَّمِّيَّةَ وَ لَا تَرِثُهُ .

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

'I heard Abu Abdullah^{asws} saying: 'The Muslim inherits his 'Zimmi' wife (Jew or a Christian under the protection of Islam), but she does not inherit him'.⁷⁹

بَابُ آخَرَ فِي مِيرَاثِ أَهْلِ الْمَلَلِ

⁷⁵ Al Kafi – V 7 – The Book of Inheritances Ch 37 H 2

⁷⁶ Al Kafi – V 7 – The Book of Inheritances Ch 37 H 3

⁷⁷ Al Kafi – V 7 – The Book of Inheritances Ch 37 H 4

⁷⁸ Al Kafi – V 7 – The Book of Inheritances Ch 37 H 5

⁷⁹ Al Kafi – V 7 – The Book of Inheritances Ch 37 H 6

Chapter 37 – Another Chapter regarding the inheritance of the people of (other) Religions

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ مَالِكِ بْنِ أَعْيَنَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ نَصْرَانِيٍّ مَاتَ وَ لَهُ ابْنٌ أَخٌ مُسْلِمٌ وَ ابْنٌ أُخْتِ مُسْلِمٍ وَ لِلنَّصْرَانِيِّ أَوْلَادٌ وَ زَوْجَةٌ نَصْرَانِيٌّ قَالَ فَقَالَ أَرَى أَنْ يُعْطَى ابْنُ أَخِيهِ الْمُسْلِمُ ثُلُثِي مَا تَرَكَ وَ يُعْطَى ابْنُ أُخْتِهِ ثُلُثٌ مَا تَرَكَ إِنْ لَمْ يَكُنْ لَهُ وَ لُدَّ صِغَارٌ فَإِنْ كَانَ لَهُ وَ لُدَّ صِغَارٌ فَإِنَّ عَلَى الْوَارِثَيْنِ أَنْ يُنْفِقَا عَلَى الصِّغَارِ مِمَّا وَرَثَا مِنْ أَبِيهِمْ حَتَّى يُدْرِكُوا

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, and a number of our companions, from Sahl Bin Ziyad, altogether from Al Hassan Bin Mahboub, from Hisham Bin Salim, from Malik Bin Ayn,

(It has been narrated) from Abu Ja'far^{asws}, said, 'I asked him^{asws} about a Christian who died and for him was a son of his Muslim brother, and a son of a Muslim sister, and for the Christian were children and a Christian wife. So he^{asws} said: 'I^{asws} see that you should give the son of his brother two-thirds of what is left (as legacy), and give the son of his sister a third of what is left, if there does not happen to be young children for him. So if there were small children for him, so it would be upon the two inheritors that they should spent upon the small children from what they both had inherited from their father, until they mature'.

قِيلَ لَهُ كَيْفَ يُنْفِقَانِ قَالَ فَقَالَ يُخْرِجُ وَارِثُ الثَّلَاثِينَ ثُلُثِي النَّفَقَةِ وَ يُخْرِجُ وَارِثُ الثُّلُثِ ثُلُثَ النَّفَقَةِ فَإِنْ أَدْرَكُوا قَطَعَا النَّفَقَةَ عَنْهُمْ

It was said to him^{asws}, 'How should the two of them be spending?' So he^{asws} said: 'The inheritor of the two thirds of the inheritance should take out two thirds of the expenses, and the inheritor of the one-third of the inheritance should take out a one-third of the expenses about them'.

قِيلَ لَهُ فَإِنْ أَسْلَمَ الْأَوْلَادُ وَ هُمْ صِغَارٌ قَالَ فَقَالَ يُدْفَعُ مَا تَرَكَ أَبُوهُمْ إِلَى الْإِمَامِ حَتَّى يُدْرِكُوا فَإِنْ بَقُوا عَلَى الْإِسْلَامِ دَفَعَ الْإِمَامُ مِيرَاتَهُمْ إِلَيْهِمْ وَ إِنْ لَمْ يَبْقُوا عَلَى الْإِسْلَامِ إِذَا أَدْرَكُوا دَفَعَ الْإِمَامُ مِيرَاتَهُ إِلَى ابْنِ أَخِيهِ وَ ابْنِ أُخْتِهِ الْمُسْلِمِينَ يُدْفَعُ إِلَى ابْنِ أَخِيهِ ثُلُثِي مَا تَرَكَ وَ يُدْفَعُ إِلَى ابْنِ أُخْتِهِ ثُلُثٌ مَا تَرَكَ .

It was said to him^{asws}, 'so if the children become Muslim and they are still young?' So he^{asws} said: 'Hand over to the Imam^{asws} whatever their father had left until they grow up. So if they remain upon Al-Islam, the Imam^{asws} hands over their inheritance to them, but if they do not remain upon Al-Islam when they mature, the Imam^{asws} hands over their inheritance to the son of his brother, and the son of his sister, the two Muslim. To the son of the brother two-thirds would be handed over, and to the son of the sister, a one-third of whatever was left (as legacy)'.⁸⁰

ابْنُ مَحْبُوبٍ عَنْ ابْنِ رَبَائِعٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ مُسْلِمٍ مَاتَ وَ لَهُ ابْنٌ مُسْلِمٌ وَ لَهُ ابْنٌ نَصْرَانِيٌّ وَ لَهُ زَوْجَةٌ وَ لُدَّ مُسْلِمُونَ قَالَ إِنْ أَسْلَمَتْ أُمُّهُ قَبْلَ أَنْ يُفَسَمَ مِيرَاتُهُ أُعْطِيَتْ السُّدُسَ فَلْتٌ فَإِنْ لَمْ يَكُنْ لَهُ امْرَأَةٌ وَ لَا وَ لُدَّ وَ لَا وَارِثٌ لَهُ سَهْمٌ فِي الْكِتَابِ مِنَ الْمُسْلِمِينَ وَ أُمُّهُ نَصْرَانِيَّةٌ وَ لَهُ قَرَابَةٌ نَصْرَانِيٌّ مِمَّنْ لَهُ سَهْمٌ فِي الْكِتَابِ لَوْ كَانُوا مُسْلِمِينَ لِمَنْ يَكُونُ مِيرَاتُهُ قَالَ إِنْ أَسْلَمَتْ أُمُّهُ فَإِنَّ جَمِيعَ مِيرَاتِهِ لَهَا وَ إِنْ لَمْ تُسَلِّمْ أُمُّهُ وَ أَسْلَمَ بَعْضُ قَرَابَتِهِ مِمَّنْ لَهُ سَهْمٌ فِي الْكِتَابِ فَإِنَّ مِيرَاتَهُ لَهُ وَ إِنْ لَمْ يُسَلِّمْ مِنْ قَرَابَتِهِ أَحَدٌ فَإِنَّ مِيرَاتَهُ لِلْإِمَامِ .

Ibn Mahboub, from Ibn Raib, from Abu Baseer,

⁸⁰ Al Kafi – V 7 – The Book of Inheritances Ch 38 H 1

(It has been narrated) from Abu Ja'far^{asws}, said, 'I asked him^{asws} about a Muslim man who died and for him was a Christian mother, and for him was a Muslim wife and a Muslim child. So he^{asws} said: 'If the mother becomes a Muslim before the distribution of his inheritance, give her the one-sixth'. I said, 'So if there did not happen to be a wife for him nor a child, nor any inheritor for him from the Muslims, with a legislated share in the Book (Quran), and his mother is a Christian, and for him are Christian relatives, from the ones who dont have for them a legislated share in the Book had they been Muslims. For whom would the inheritance be?' He^{asws} said: 'If the mother becomes a Muslim, then the entirety of the inheritance is for her, and if his mother does not become a Muslim, and some of his relatives become Muslim, from the ones who have a legislated share in the Book, so the inheritance would be for him. And if no one from his relatives becomes Muslim, so his inheritance is for the Imam^{asws}'.⁸¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَنْ أَسْلَمَ عَلَى مِيرَاثٍ قَبْلَ أَنْ يُقْسَمَ فَلَهُ مِيرَاثُهُ وَإِنْ أَسْلَمَ بَعْدَ مَا قُسِمَ فَلَا مِيرَاثَ لَهُ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who becomes a Muslim upon an inheritance before the distribution, so for him is his inheritance, and if he becomes a Muslim after the distribution, so there is no inheritance for him'.⁸²

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبَانَ الْأَحْمَرِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ مَنْ أَسْلَمَ عَلَى مِيرَاثٍ قَبْلَ أَنْ يُقْسَمَ الْمِيرَاثُ فَهُوَ لَهُ وَ مَنْ أَسْلَمَ بَعْدَ مَا قُسِمَ فَلَا مِيرَاثَ لَهُ وَ مَنْ أَعْتَقَ عَلَى مِيرَاثٍ قَبْلَ أَنْ يُقْسَمَ الْمَوَارِيثُ فَهُوَ لَهُ وَ مَنْ أَعْتَقَ بَعْدَ مَا قُسِمَ فَلَا مِيرَاثَ لَهُ

Ali, from his father, from Ibn Abu Umeyr, from Aban Al Ahmar, from Muhammad Bin Muslim,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'The one who becomes a Muslim upon an inheritance before the distribution of the inheritance, so it is for him; but the one who becomes a Muslim after the distribution, so there is no inheritance for him; and the one who is emancipated (liberated) upon an inheritance before the distribution of the inheritance, so it is for him; and the one who is emancipated (liberated) after the distribution, so there is no inheritance for him'.

وَ قَالَ فِي الْمَرْأَةِ إِذَا أَسْلَمَتْ قَبْلَ أَنْ يُقْسَمَ الْمِيرَاثُ فَلَهَا الْمِيرَاثُ .

And he^{asws} said regarding the woman: 'If she becomes a Muslim before the distribution of the inheritance, so for her is the inheritance'.⁸³

بَابُ أَنَّ مِيرَاثَ أَهْلِ الْمَلِكِ بَيْنَهُمْ عَلَى كِتَابِ اللَّهِ وَ سُنَّةِ نَبِيِّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ)

⁸¹ Al Kafi – V 7 – The Book of Inheritances Ch 38 H 2

⁸² Al Kafi – V 7 – The Book of Inheritances Ch 38 H 3

⁸³ Al Kafi – V 7 – The Book of Inheritances Ch 38 H 4

Chapter 38 – The inheritance of the people of the (other) Religions among them upon the Book of Allah^{azwj} and the Sunnah of His^{saww} Prophet^{saww}

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَعَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَعَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِبٍ عَنْ أَبِي حَمَزَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ عَلِيًّا (عَلَيْهِ السَّلَامُ) كَانَ يُقْضَى فِي الْمَوَارِيثِ فِيمَا أُدْرِكَ الْإِسْلَامَ مِنْ مَالِ مُشْرِكٍ تَرَكَهُ لَمْ يَكُنْ قَسِمَ قَبْلَ الْإِسْلَامِ أَنَّهُ كَانَ يَجْعَلُ لِلنِّسَاءِ وَالرِّجَالِ حُظُوظَهُمْ مِنْهُ عَلَى كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَ سُنَّةِ نَبِيِّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and a number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Ibb Raib, from Abu Hamza,

(It has been narrated) from Abu Ja'far^{asws} having said that Ali^{asws} had judged regarding the inheritances regarding the one who realised Al-Islam, from the wealth of the Polytheists which had been left undistributed before Al-Islam. He^{asws} made for the women and the men, their shares, upon the Book of Allah^{azwj} Mighty and Majestic and the Sunnah of His^{saww} Prophet^{saww}.⁸⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الْمَوَارِيثِ مَا أُدْرِكَ الْإِسْلَامَ مِنْ مَالِ مُشْرِكٍ لَمْ يُقَسَّمْ فَإِنَّ لِلنِّسَاءِ حُظُوظَهُنَّ مِنْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Aasi Bin Humejd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al Momineen^{asws} judged regarding the inheritances what Al-Islam acquired from the wealth of the Polytheists which had not been distributed, so for the women were their fortunes from it'.⁸⁵

بَابُ مَنْ يَتْرِكُ مِنَ الْوَرَثَةِ بَعْضَهُمْ مُسْلِمُونَ وَبَعْضُهُمْ مُشْرِكُونَ

Chapter 39 – The one who leaves the inheritors, some of them being Muslims and some of them being Polytheists

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ النَّبِيِّ عَنِ أَخِيهِ أَحْمَدَ بْنِ الْحَسَنِ عَنْ أَبِيهِ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ ابْنِ رَبَائِبٍ رَفَعَهُ قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) لَوْ أَنَّ رَجُلًا ذَمِيًّا أَسْلَمَ وَ أَبُوهُ حَيٌّ وَ لِأَبِيهِ وَ لَدَّ غَيْرُهُ ثُمَّ مَاتَ الْأَبُ وَرِثَهُ الْمُسْلِمُ جَمِيعَ مَالِهِ وَ لَمْ يَرِثْهُ وَ لَدَّهُ وَ لَا امْرَأَتَهُ مَعَ الْمُسْلِمِ شَيْئاً .

Ahmad Bin Muhammad, from Ali Bin Al Hassan Al Taymi, from his brother Ahmad Bin Al Hassan, from his father, from Ja'far Bin Muhammad, from Ibn Rabat, raising it, said,

'Amir Al-Momineen^{asws} said: 'If a Zimmy man (Jew or a Christian under the protection) becomes a Muslim while his father is alive, and for his father are children other than him, then the father dies, the Muslim would inherit the entirety of his

⁸⁴ Al Kafi – V 7 – The Book of Inheritances Ch 39 H 1

⁸⁵ Al Kafi – V 7 – The Book of Inheritances Ch 39 H 2

wealth, and his (other) children and his wife would not inherit anything along with the Muslim'.⁸⁶

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَبِيدِ بْنِ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي يَهُودِيٍّ أَوْ نَصْرَانِيٍّ يَمُوتُ وَ لَهُ أَوْلَادٌ مُسْلِمُونَ وَ أَوْلَادٌ غَيْرُ مُسْلِمِينَ فَقَالَ هُمْ عَلَى مَوَارِيثِهِمْ .

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

(It has been narrated) from Abu Abdullah^{asws} regarding a Jew or a Christian who dies and for him are Muslim children, and non-Muslim children, so he^{asws} said: 'They (Muslims) are above their (other non-Muslim) inheritors'.⁸⁷

بَاب مِيرَاثِ الْمَمَالِكِ

Chapter 40 – Inheritance of the slaves

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يَقُولُ فِي الرَّجُلِ الْحُرِّ يَمُوتُ وَ لَهُ أُمٌّ مَمْلُوكَةٌ قَالَ تُشْتَرَى مِنْ مَالِ ابْنِهَا ثُمَّ تُعْتَقُ ثُمَّ يُورَثُهَا .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad and Muhammad Bin Ismail, from Al Fazal Bin Shazaan altogether, from Ibn Abu Umeyr, from Hisham Bin Salim, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} was saying regarding the free man who died and for him what a mother who was a slave. He said: 'She should be bought from the wealth of her son, then emancipated (liberated), then she would inherit it'.⁸⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) يَقُولُ فِي رَجُلٍ تُوَفِّي وَ تَرَكَ مَالاً وَ لَهُ أُمٌّ مَمْلُوكَةٌ قَالَ تُشْتَرَى أُمُّهُ وَ تُعْتَقُ ثُمَّ يُدْفَعُ إِلَيْهَا بَقِيَّةُ الْمَالِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Abu Najran, from Abdullah Bin Sinan who said,

'I heard Abu Abdullah^{asws} saying regarding a man who died and left wealth, and for him was a mother who was a slave. He^{asws} said: 'His mother should be bought and emancipated (with the son's legacy) then the remainder of the wealth should be handed over to her'.⁸⁹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ ابْنِ بُكَيْرٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا مَاتَ الرَّجُلُ وَ تَرَكَ أَبَاهُ وَ هُوَ مَمْلُوكٌ أَوْ أُمُّهُ وَ هِيَ مَمْلُوكَةٌ وَ الْمَيْتُ حُرٌّ اشْتَرِيَ مِمَّا تَرَكَ أَبُوهُ أَوْ قَرَابَتُهُ وَ وَرِثَ مَا بَقِيَ مِنَ الْمَالِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali, from Ibn Bukeyr, from one of our companions,

⁸⁶ Al Kafi – V 7 – The Book of Inheritances Ch 40 H 1

⁸⁷ Al Kafi – V 7 – The Book of Inheritances Ch 40 H 2

⁸⁸ Al Kafi – V 7 – The Book of Inheritances Ch 41 H 1

⁸⁹ Al Kafi – V 7 – The Book of Inheritances Ch 41 H 2

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man dies and leaves his father and he is a slave, or his mother and she is a slave, and the deceased is a free man, his father or his relatives be bought from what is left (the legacy), and they would inherit the remainder of the wealth'.⁹⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) الرَّجُلُ يَمُوتُ وَ لَهُ ابْنٌ مَمْلُوكٌ قَالَ يُشْتَرَى وَ يُعْتَقُ ثُمَّ يُدْفَعُ إِلَيْهِ مَا بَقِيَ .

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

'I said to Abu Abdullah^{asws}, 'The man died, and for him was a son who was a slave'. He^{asws} said: 'He should be bought and emancipated (liberated), then the remainder of what is left to be handed over to him'.⁹¹

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ عَنْ صَفْوَانَ عَنِ ابْنِ مُسْكَانَ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي الرَّجُلِ الْحُرِّ يَمُوتُ وَ لَهُ أُمَّ مَمْلُوكَةٌ قَالَ تُشْتَرَى مِنْ مَالِ ابْنِهَا ثُمَّ تُعْتَقُ ثُمَّ يُورَثُهَا .

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, from Safwan, from Ibn Muskan, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} was saying regarding the free man who died, and for him was a mother who was a slave, he^{asws} said: 'She should be bought from the wealth of her son, then emancipated (liberated), then she would inherit it (the remainder)'.⁹²

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ جَعْفَرٍ عَنْ عَبْدِ اللَّهِ بْنِ طَلْحَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ مَاتَ وَ تَرَكَ مَالًا كَثِيرًا وَ تَرَكَ أُمَّ مَمْلُوكَةٍ وَ أَحْتَا مَمْلُوكَةً قَالَ تُشْتَرَى مِنْ مَالِ الْمَيِّتِ ثُمَّ تُعْتَقَانِ وَ تُورَثَانِ قُلْتُ أَرَأَيْتَ إِنْ أَبِي أَهْلِ الْجَارِيَةِ كَيْفَ يُصْنَعُ قَالَ لَيْسَ لَهُمْ ذَلِكَ وَ يَقَوْمَانِ قِيَمَةَ عَدْلِ ثُمَّ يُعْطَى مَا لَهُمْ عَلَى قَدْرِ الْقِيَمَةِ

Ali Bin Ibrahim, from his father, from Muhammad Bin Ja'far, from Abdullah Bin Talha,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who died and left a lot of wealth, and left a mother who was a slave, and a sister who was a slave. He^{asws} said: 'They should be bought from the wealth of the deceased, and they would both inherit (the remainder)'. I said, 'What is your^{asws} view if the people (owner) of the slaves refuse, how should it be dealt with?' He^{asws} said: 'That is not for them (to refuse), and they would both be evaluated with a just price, then they (masters) would be given what is for them in accordance with the price'.

قُلْتُ أَرَأَيْتَ لَوْ أَنَّهُمَا اشْتَرِيَا ثُمَّ أُعْتِقَا ثُمَّ وَرِثَاهُ مِنْ بَعْدِ مَنْ كَانَ يَرِثُهُمَا قَالَ يَرِثُهُمَا مَوَالِي ابْنَيْهِمَا لِأَنَّهُمَا اشْتَرِيَا مِنْ مَالِ الْإِبْنِ .

I said, 'What is your^{asws} view if they are both bought, then emancipated (liberated), then inherit him, who would be the ones who would be inheriting the two of them

⁹⁰ Al Kafi – V 7 – The Book of Inheritances Ch 41 H 3

⁹¹ Al Kafi – V 7 – The Book of Inheritances Ch 41 H 4

⁹² Al Kafi – V 7 – The Book of Inheritances Ch 41 H 5

afterwards?’ He^{asws} said: ‘They would both be inherited by the guardians of their son (the deceased) because they had both been bought from the wealth of the son’.⁹³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَمُوتُ وَ لَهُ أُمٌّ مَمْلُوكَةٌ وَ لَهُ مَالٌ أَنْ تُشْتَرَى أُمُّهُ مِنْ مَالِهِ وَ تُدْفَعَ إِلَيْهَا بِقِيَّةِ الْمَالِ إِذَا لَمْ يَكُنْ لَهُ ذُو قَرَابَةٍ لَهُمْ سَهْمٌ فِي الْكِتَابِ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘Amir Al-Momineen^{asws} judged regarding the man who died and for him was a mother who was a slave, and for him was wealth that his mother should be bought from his wealth and the remainder be handed over to her when there do not happen to be any (other) relatives who have a (legislated) share in the Book (Quran)’.⁹⁴

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ عَنْ أَبِي تَابِتٍ عَنْ حَنَانَ بْنِ سَدِيرٍ عَنِ ابْنِ أَبِي بَعْفُورٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ مَاتَ مَوْلَى لِعَلِيِّ (عَلَيْهِ السَّلَامُ) فَقَالَ انظُرُوا هَلْ تَجِدُونَ لَهُ وَارثًا فَقِيلَ لَهُ إِنَّ لَهُ بَنَتَيْنِ بِالْيَمَامَةِ مَمْلُوكَتَيْنِ فَاشْتَرَاهُمَا مِنْ مَالِ الْمَيِّتِ ثُمَّ دَفَعَ إِلَيْهِمَا بِقِيَّةِ الْمَالِ .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan, from Abu Sabit, from Hanan Bin Sudeyr, from Ibn Abu Yafour, from Is’haq Bin Ammar who said,

‘A slave of Ali^{asws} died, so he^{asws} said: ‘Look around, do you find an inheritor for him?’ So it was said to him^{asws}, ‘For him are two daughters at Al-Yamama, both slaves’. So he^{asws} bought them both from the wealth of the deceased, then handed over to both of them the remainder of the wealth’.⁹⁵

بَابُ أَنَّهُ لَا يَتَوَارَثُ الْحُرُّ وَالْعَبْدُ

Chapter 41 – They shall not inherit, the free and the slave (each other)

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْوَشَائِ عَنِ جَمِيلِ بْنِ دَرَّاجٍ وَ مُحَمَّدِ بْنِ حُمْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يَتَوَارَثُ الْحُرُّ وَالْمَمْلُوكُ .

Al Husayn Bin Muhammad, from Moala Bin Muhammad, from Al Hassan Bin Ali Al Washa, from Jameel Bin Darraj and Muhammad Bin Humran,

(It has been narrated) from Abu Abdullah^{asws} having said: ‘They do not inherit (each other), the free and the slave’.⁹⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ مُحَمَّدِ بْنِ حُمْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ لَا يَتَوَارَثُ الْحُرُّ وَالْمَمْلُوكُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, altogether from Ibn Abu Najran, from Muhammad Bin Humran,

⁹³ Al Kafi – V 7 – The Book of Inheritances Ch 41 H 6

⁹⁴ Al Kafi – V 7 – The Book of Inheritances Ch 41 H 7

⁹⁵ Al Kafi – V 7 – The Book of Inheritances Ch 41 H 8

⁹⁶ Al Kafi – V 7 – The Book of Inheritances Ch 42 H 1

Abu Abdullah^{asws} has said: 'They do not inherit (each other), the free and the slave'.⁹⁷

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) قَالَ لَا يَتَوَارَثُ الْحُرُّ وَالْمَمْلُوكُ .

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

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) having said: 'They do not inherit (each other), the free and the slave'.⁹⁸

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنِ الْحَسَنِ بْنِ حُدَيْفَةَ عَنْ جَمِيلِ بْنِ الْفُضَيْلِ بْنِ يَسَارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ الْعَبْدُ لَا يَرِثُ وَالطَّلِيقُ لَا يَرِثُ .

Humejd Bin Ziyad, from Al Hassan Bin Sama'at, from Ja'far Bin Sama'at, from Al Hassan Bin Huzeyfa, from Jameel, from Al Fuzayl Bin Yasar,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The slave does not inherit and the unshackled does not inherit'.⁹⁹

بَابُ الرَّجُلِ يَتْرُكُ وَارِثَيْنِ أَحَدُهُمَا حُرٌّ وَالْآخَرُ مَمْلُوكٌ

Chapter 42 – The man leaves two inheritors, one of them a free, and the other a slave

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَخْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ مَهْزَمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي عَبْدٍ مُسْلِمٍ وَ لَهُ أُمٌّ نَصْرَانِيَّةٌ وَ لِلْعَبْدِ ابْنٌ حُرٌّ قِيلَ أَرَأَيْتَ إِنْ مَاتَتْ أُمُّ الْعَبْدِ وَ تَرَكَتْ مَالًا قَالَ يَرِثُهُ ابْنُ ابْنِهَا الْحُرُّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassa Bin Mahboub, from Abu Ayoub, from Mahzam,

(It has been narrated) from Abu Abdullah^{asws} regarding a Muslim slave, and for him is a Christian mother, and for the slave is a free son. It was said, 'What is your^{asws} view if the mother of the slave dies and leaves wealth?' He^{asws} said: 'It would be inherited by the son of her son, the free (grandson)'.¹⁰⁰

بَابُ

Chapter 43 – A Chapter

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ مَخْبُوبٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيْسَى وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَخْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ كَانَتْ لَهُ أُمٌّ مَمْلُوكَةٌ فَلَمَّا حَضَرَتْهُ الْوَفَاةُ أَنْطَلَقَ رَجُلٌ مِنْ أَصْحَابِنَا فَاشْتَرَى أُمَّهُ وَ اشْتَرَطَ عَلَيْهَا أَنِّي أَشْتَرِيكَ وَ أُعْطِيكَ فَإِذَا مَاتَ ابْنُكَ فَلَانَ بْنُ فَلَانَ فَوَرِثْتِهِ أُعْطِيَنِي نَصْفَ مَا تَرِثِينَ عَلَيَّ أَنْ تُعْطِيَنِي بِذَلِكَ عَهْدَ اللَّهِ وَ عَهْدَ رَسُولِهِ فَرَضَيْتَ بِذَلِكَ فَأَعْطَيْتَهُ عَهْدَ اللَّهِ وَ عَهْدَ رَسُولِهِ لِتَقِيَنَّ لَهُ بِذَلِكَ فَاشْتَرَاهَا الرَّجُلُ فَأَعْتَقَهَا عَلَيَّ ذَلِكَ الشَّرْطُ وَ مَاتَ ابْنُهَا بَعْدَ ذَلِكَ فَوَرِثْتَهُ وَ لَمْ يَكُنْ لَهُ وَارِثٌ غَيْرُهَا

⁹⁷ Al Kafi – V 7 – The Book of Inheritances Ch 42 H 2

⁹⁸ Al Kafi – V 7 – The Book of Inheritances Ch 42 H 3

⁹⁹ Al Kafi – V 7 – The Book of Inheritances Ch 42 H 4

¹⁰⁰ Al Kafi – V 7 – The Book of Inheritances Ch 43 H 1

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub and Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa and Ali Bin Ibrahim, form his father, altogether from Ibn Mahboub, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about a man who had a mother who was a slave. So when the death presented itself to him, a man from our companions and bought his mother, and stipulated a condition upon her, 'I am buying you and emancipating (liberated) you, so when your son dies, so and so son of so and so, and when you inherit him, so give me half of what you inherit, and the condition that you would be giving that, vowing by Allah^{azwj} and vowing by His^{azwj} Rasool^{saww}'. So she was pleased with that, and she gave him the vow of Allah^{azwj} and His^{azwj} Rasool^{saww} to convince him. So the man bought her and emancipated (liberated) her upon that condition, and her son died after that. So she inherited him and there did not happen to be any inheritor apart from her.

قَالَ فَقَالَ أَبُو جَعْفَرٍ (عَلَيْهِ السَّلَامُ) لَقَدْ أَحْسَنَ إِلَيْهَا وَ أَجَرَ فِيهَا إِنَّ هَذَا لَفَقِيهٌ وَ الْمُسْلِمُونَ عِنْدَ شُرُوطِهِمْ وَ عَلَيْهَا أَنْ تَقِيَ لَهُ بِمَا عَاهَدَتْ اللَّهَ وَ رَسُولَهُ عَلَيْهِ .

He (the narrator) said, 'So Abu Ja'far^{asws} said: 'He did a favour to her, and he should be recompensed by her. This is for a Faqih and the Muslims during the stipulations of their conditions, and it is upon her that she should fulfill whatever she had vowed by Allah^{azwj} and His^{azwj} Rasool^{saww}, to him'.¹⁰¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ كَاتَبَ مَمْلُوكَهُ وَ اشْتَرَطَ عَلَيْهِ أَنْ مِيرَاثَهُ لَهُ فَرَفَعَ ذَلِكَ إِلَى أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فَأَبْطَلَ شَرْطَهُ وَ قَالَ شَرَطَ اللَّهُ قَبْلَ شَرْطِكَ .

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

(It has been narrated) from Abu Abdullah^{asws} regarding a man who contracted his slave and stipulated a condition upon him that his inheritance would be for him. So that was raised to Amir Al-Momineen^{asws}, so he^{asws} invalidated his condition and said: 'The Stipulated Condition of Allah^{azwj} is before the stipulation of your condition'.¹⁰²

بَاب مِيرَاثِ الْمُكَاتِبِينَ

Chapter 44 – Inheritance of the contracted (slaves)

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْمُكَاتِبُ يَرِثُ وَ يُورِثُ عَلَى قَدْرِ مَا أَدَّى .

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

¹⁰¹ Al Kafi – V 7 – The Book of Inheritances Ch 44 H 1

¹⁰² Al Kafi – V 7 – The Book of Inheritances Ch 44 H 2

(It has been narrated) from Abu Abdullah^{asws} having said: 'The contracted slave inherits, and inherits upon a measurement of whatever he has paid off (to become free)'.¹⁰³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ وَعَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ مَكَاتَبٍ يَمُوتُ وَقَدْ أَدَّى بَعْضَ مَكَاتِبَتِهِ وَ لَهُ ابْنٌ مِنْ جَارِيَتِهِ قَالَ إِنْ كَانَ اشْتَرَطَ عَلَيْهِ أَنَّهُ إِنْ عَجَزَ فَهُوَ مَمْلُوكٌ رَجَعَ ابْنُهُ مَمْلُوكًا وَالْجَارِيَةُ وَإِنْ لَمْ يَكُنْ اشْتَرَطَ عَلَيْهِ ذَلِكَ أَدَّى ابْنُهُ مَا بَقِيَ مِنْ مَكَاتِبَتِهِ وَ وَرِثَ مَا بَقِيَ .

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

(It has been narrated) from Abu Abdullah^{asws} regarding a contracted man who died and had paid off some of his contracted amount, and for him was a son from his slave girl. He^{asws} said: 'If there was a condition upon that if he was frustrated (from paying off his contracted amount), so he would be a slave, his son returns as a slave along with the slave girl, and if there was not such condition upon him, that which remains unpaid from his contract would be paid off by his son, and he would inherit what remains'.¹⁰⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ وَ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ جَمِيعًا عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ مَكَاتَبٍ كَانَتْ تَحْتَهُ امْرَأَةٌ حُرَّةٌ فَأَوْصَتْ عِنْدَ مَوْتِهَا بِوَصِيَّةٍ فَقَالَ أَهْلُ الْمِيرَاثِ لَا يَرِثُ وَ لَا نَجِيزٌ وَصِيَّتَهَا لَهُ لِأَنَّهُ مَكَاتَبٌ لَمْ يُعْتَقْ وَ لَا يَرِثُ فَقَضَى أَنَّهُ يَرِثُ بِحِسَابِ مَا أُعْتِقَ مِنْهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran and Muhammad Bin Isa, from Yunus, altogether from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} regarding a contracted man, under whom was a free wife, so she bequeathed during her death with a bequest. So he^{asws} said: 'The people of the inheritance do not inherit, and her bequest is not allowed for him because he is a contracted slave, yet to be emancipated (liberated), but he would not inherit'. So he^{asws} judged that he would inherit by the calculation of whatever he had been emancipated (liberated) from it (his contract)'.¹⁰⁵

وَ بِالْإِسْنَادِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) فِي مَكَاتِبٍ تُوفِّيَ وَ لَهُ مَالٌ قَالَ يُحْسَبُ مِيرَاثُهُ عَلَى قَدْرِ مَا أُعْتِقَ مِنْهُ لَوْرَثَتِهِ وَ مَا لَمْ يُعْتَقَ مِنْهُ لِأَرْبَابِهِ الَّذِينَ كَاتَبُوهُ مِنْ مَالِهِ .

And by the chain, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far^{asws} regarding a contracted slave who died and for him was wealth. He^{asws} said: 'His inheritance would be calculated in accordance of what he had been emancipated (liberated) from it, to be for his inheritors, and whatever he had not been emancipated from it, is for his master who had contracted him, from his wealth'.¹⁰⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ مَالِكِ بْنِ عَطِيَّةٍ قَالَ سُئِلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ مَكَاتَبٍ مَاتَ وَ لَمْ يُؤَدِّ مَكَاتِبَتَهُ وَ تَرَكَ مَالًا وَ وَدَّأَ قَالَ إِنْ كَانَ سَيِّدُهُ حِينَ كَاتَبَهُ اشْتَرَطَ عَلَيْهِ إِنْ عَجَزَ عَنْ نَجْمٍ مِنْ نَجْمِهِ فَهُوَ رَدٌّ فِي الرِّقِّ وَ كَانَ قَدْ عَجَزَ عَنْ نَجْمٍ فَمَا تَرَكَ مِنْ شَيْءٍ فَهُوَ لِسَيِّدِهِ وَ ابْنُهُ

¹⁰³ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 1

¹⁰⁴ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 2

¹⁰⁵ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 3

¹⁰⁶ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 4

رَدُّ فِي الرَّقِّ إِنْ كَانَ لَهُ وَلَدٌ قَبْلَ الْمُكَاتَبَةِ وَ إِنْ كَانَ كَاتِبَهُ بَعْدَ وَ لَمْ يَشْتَرِطْ عَلَيْهِ فَإِنَّ ابْنَهُ حُرٌّ فَيُؤَدِّي عَنْ أَبِيهِ مَا بَقِيَ عَلَيْهِ مِمَّا تَرَكَ أَبُوهُ وَ لَيْسَ لِابْنِهِ شَيْءٌ مِنَ الْمِيرَاثِ حَتَّى يُؤَدِّيَ مَا عَلَيْهِ فَإِنْ لَمْ يَكُنْ أَبُوهُ تَرَكَ شَيْئاً فَلَا شَيْءَ عَلَى ابْنِهِ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Malik Bin Atiyya who said,

‘Abu Abdullah^{asws} was asked about a contracted man who died and had not paid off his contractual amount, and left wealth and children. He^{asws} said: ‘If his master, when he contracted him, had placed a condition upon him that if he was frustrated (from paying it off) a part of his deficit, so he would be returned in the slaver, and he was frustrated from paying the deficit. So whatever something he left, so it would be for his master, and his son would be returned in the slavery if there was a child of his before the contract. And if he was contracted afterwards and there was no such condition placed upon him, so his son is free, and he would pay off on behalf of his father whatever remained upon him from what his father had left. And there is nothing from the inheritance for his sons until he pays off what was upon him. So if his father had not left anything, so there is nothing upon his son’.¹⁰⁷

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ حُمْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ مُكَاتَبٍ يُؤَدِّي بَعْضَ مُكَاتَبَتِهِ ثُمَّ يَمُوتُ وَ يَتْرُكُ ابْنًا لَهُ مِنْ جَارِيَتِهِ قَالَ إِنْ كَانَ اشْتَرِطَ عَلَيْهِ صَارَ ابْنُهُ مَعَ أُمِّهِ مَمْلُوكِينَ وَ إِنْ لَمْ يَكُنْ اشْتَرِطَ عَلَيْهِ صَارَ ابْنُهُ حُرًّا وَ أَدَّى إِلَى الْمَوَالِي بَقِيَّةَ الْمُكَاتَبَةِ وَ وَرِثَ ابْنُهُ مَا بَقِيَ .

Humejd Bin ziyad, from Al Hassan Bin Muhammad, from Muhammad Bin Ziyad, from Muhammad Bin Humran,

(It has been narrated) from Abu Abdullah^{asws}, said, ‘I asked him^{asws} about a contracted slave who had paid off some of his contractual amount, then died, and left a son of his from his slave girl. He^{asws} said: ‘If there was a stipulated condition upon him, his son and his slave girl would become two slaves, and if there was no stipulated condition upon him, his son would become free and pay off to the master the remainder of the contract, and his son would inherit whatever remains’.¹⁰⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) فِي مُكَاتَبٍ مَاتَ وَ قَدْ أَدَّى مِنْ مُكَاتَبَتِهِ شَيْئاً وَ تَرَكَ مَالاً وَ لَهُ وَلَدَانُ أَحْرَارٌ فَقَالَ إِنْ عَلِيًّا (عَلَيْهِ السَّلَامُ) كَانَ يَقُولُ يُجْعَلُ مَالُهُ بَيْنَهُمْ بِالْحِصَصِ .

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

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding a contracted slave who died and he had paid off something from his contracted amount, and left wealth, and for him were two free children. So he^{asws} said: ‘Ali^{asws} was saying: ‘Make his wealth to be between them with the quotas’.¹⁰⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ قُلْتُ لَهُ مُكَاتَبٌ اشْتَرَى نَفْسَهُ وَ خَلَّفَ مَالاً قِيمَتُهُ مِائَةٌ أَلْفٍ وَ لَا وَارِثَ لَهُ قَالَ يَرِثُهُ مَنْ يَلِي جَرِيرَتَهُ قَالَ قُلْتُ مِنَ الضَّامِنِ لَجَرِيرَتِهِ قَالَ الضَّامِنُ لَجَرَا ئِرِ الْمُسْلِمِينَ .

¹⁰⁷ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 5

¹⁰⁸ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 6

¹⁰⁹ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 7

Ali Bin Ibrahim, from his father, from Ismail Bin marrar, from Yunus, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'A contracted slave bought himself, and left wealth of his price, a hundred thousand, and there was no inheritor for him'. He^{asws} said: 'He would inherit, the one who is a guardian of his actions'. I said, 'Who is the responsible one of his actions?' He^{asws} said: 'The guarantor of the actions of the Muslims'.¹¹⁰

بَاب مِيرَاثِ الْمُرْتَدِّ عَنِ الْإِسْلَامِ

Chapter 45 – Inheritance of the apostates from Al Islam

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ إِبْنِ أَبِي عُمَيْرٍ عَنْ أَبِيَانَ بْنِ عُثْمَانَ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ يَمُوتُ مُرْتَدًّا عَنِ الْإِسْلَامِ وَ لَهُ أَوْلَادٌ فَقَالَ مَالُهُ لَوْلَادِهِ الْمُسْلِمِينَ .

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

(It has been narrated) from Abu Abdullah^{asws} regarding a man who died an apostate (deserter) from Al-Islam, and for him were children. So he^{asws} said: 'His wealth is for his Muslim children'.¹¹¹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعًا عَنْ الْحَسَنِ بْنِ مَخْبُوبٍ عَنْ أَبِي وَ لَادِ الْحَنَاطِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ ارْتَدَّ عَنِ الْإِسْلَامِ لِمَنْ يَكُونُ مِيرَاثُهُ قَالَ يُقْسَمُ مِيرَاثُهُ عَلَى وَرَثَتِهِ عَلَى كِتَابِ اللَّهِ عَزَّ وَ جَلَّ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Al Hassan Bin Mahboub, from Abu Wallad Al Hanaat,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who reneged (go back on) from Al-Islam, for whom would his inheritance happen to be?' He^{asws} said: 'His inheritance would be distributed over his inheritors upon the Book of Allah^{azwj} Mighty and Majestic'.¹¹²

إِبْنُ مَخْبُوبٍ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ أَبِي بَكْرٍ الْخَضْرَمِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِذَا ارْتَدَّ الرَّجُلُ الْمُسْلِمُ عَنِ الْإِسْلَامِ بَانَتْ مِنْهُ امْرَأَتُهُ كَمَا تَبِينُ الْمُطَلَّاقَةُ وَ إِنْ قُتِلَ أَوْ مَاتَ قَبْلَ انْقِضَاءِ الْعِدَّةِ فَهِيَ تَرِثُهُ فِي الْعِدَّةِ وَ لَا يَرِثُهَا إِنْ مَاتَتْ وَ هُوَ مُرْتَدٌّ عَنِ الْإِسْلَامِ .

Ibn Mahboub, from Sayf Bin Umeyra, from Abu Bakr Al Hazramy,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the Muslim man reneges from Al-Islam, his wife becomes irrevocably divorced from him just as the irrevocably divorced woman. And if he were to be killed, or die before the fulfillment of her waiting period, so she would inherit him during the waiting period, and he would not inherit her if she had died and he had reneged from Al-Islam'.¹¹³

¹¹⁰ Al Kafi – V 7 – The Book of Inheritances Ch 45 H 8

¹¹¹ Al Kafi – V 7 – The Book of Inheritances Ch 46 H 1

¹¹² Al Kafi – V 7 – The Book of Inheritances Ch 46 H 2

¹¹³ Al Kafi – V 7 – The Book of Inheritances Ch 46 H 3

ابْنُ مَحْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ (عَلَيْهِ السَّلَامُ) عَنِ الْمُرْتَدِّ فَقَالَ مَنْ رَغِبَ عَنِ دِينِ الْإِسْلَامِ وَكَفَرَ بِمَا أَنْزَلَ اللَّهُ عَلَى مُحَمَّدٍ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) بَعْدَ إِسْلَامِهِ فَلَا تَوْبَةَ لَهُ وَ قَدْ وَجِبَ قَتْلُهُ وَ بَانَتِ امْرَأَتُهُ مِنْهُ فَلْيُقْسَمْ مَا تَرَكَ عَلَى وُلْدِهِ .

Ibn Mahboub, from Al A'la Bin Razeyn, from Muhammad Bin Muslim who said,

'I asked Abu Ja'far^{asws} about the apostate, so he^{asws} said: 'The one who turns away from the Religion of Al-Islam and rejects what Allah^{azwj} Revealed unto Muhammad^{asws}, after his Islam, so there is no repentance for him, and his killing is Obligated, and his wife is irrevocably divorced from him. Therefore, whatever he has left would be distributed upon his (Muslim) children'.¹¹⁴

باب ميراث المفقود

Chapter 46 – Inheritance of the lost (unknown whereabouts)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ [يُونُسَ] عَنْ هِشَامِ بْنِ سَالِمٍ قَالَ سَأَلَ خَطَّابُ الْأَعْوَرُ أَبَا إِبْرَاهِيمَ (عَلَيْهِ السَّلَامُ) وَ أَنَا جَالِسٌ فَقَالَ إِنَّهُ كَانَ عِنْدَ أَبِي أُجْبِرُ يَعْمَلُ عِنْدَهُ بِالْأَجْرِ فَفَقَدْنَاهُ وَ بَقِيَ لَهُ مِنْ أَجْرِهِ شَيْءٌ وَ لَا نَعْرِفُ لَهُ وَارِثًا قَالَ فَاطْلُبُوهُ قَالَ قَدْ طَلَبْنَاهُ فَلَمْ نَجِدْهُ قَالَ فَقَالَ مَسَاكِينٌ وَ حَرَكٌ يَدَيْهِ

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Hisham Bin Salim who said,

'Khatab Al-Awr asked Abu Ibrahim^{asws} (7th Imam^{asws}), and I was seated there, so he said, 'There was an employee with my father who worked for him for the wages. So we lost him, and there remained for him something from his wages, and we do not recognise his inheritors'. He^{asws} said: 'So seek him'. He said, 'We have sought him, but could not find him'. So he^{asws} said: 'Poor' – and he^{asws} moved his^{asws} hands (gestured).

قَالَ فَأَعَادَ عَلَيْهِ قَالَ اطْلُبْ وَ اجْهَدْ فَإِنْ قَدَرْتَ عَلَيْهِ وَ إِلَّا فَهُوَ كَسَبِيلِ مَالِكَ حَتَّى يَجِيءَ لَهُ طَالِبٌ فَإِنْ حَدَّثَ بِكَ حَدَّثَ فَأَوْصِ بِهِ إِنْ جَاءَ لَهُ طَالِبٌ أَنْ يُدْفَعَ إِلَيْهِ .

He (the narrator) said, 'So I repeated to him^{asws}. He^{asws} said: 'Seek and strive in accordance to your ability, or else it is like your wealth until there comes someone seeking it. So if there befalls with you what befalls (death), so bequeath with it that if someone comes seeking it, then it should be handed over to him'.¹¹⁵

يُونُسُ عَنْ أَبِي تَابِتٍ وَ ابْنِ عَوْنٍ عَنْ مُعَاوِيَةَ بْنِ وَهَبٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ كَانَ لَهُ عَلَى رَجُلٍ حَقٌّ فَفَقَدَهُ وَ لَا يَدْرِي أَيْنَ يَطْلُبُهُ وَ لَا يَدْرِي أَحْيٌ هُوَ أَمْ مَيِّتٌ وَ لَا يَعْرِفُ لَهُ وَارِثًا وَ لَا نَسَبًا وَ لَا بَدَأَ قَالَ اطْلُبْ قَالَ إِنَّ ذَلِكَ قَدْ طَالَ فَاتَّصَدَّقْ بِهِ قَالَ اطْلُبْهُ .

Yunus, from Abu Sabit and Ibn Awn, from Muawiya Bin Wahab,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who had a right upon a man, so he lost him and he did not know where to seek him, and he did not know whether he was alive or he was dead, and he did not recognise an inheritor for him,

¹¹⁴ Al Kafi – V 7 – The Book of Inheritances Ch 46 H 4

¹¹⁵ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 1

nor a clan, nor a city. He^{asws} said: 'Seek him'. He said, 'If that is prolonged, so I should give in charity with it?' He^{asws} said: 'Seek him'.¹¹⁶

يُونُسُ عَنْ نَصْرِ بْنِ حَبِيبٍ صَاحِبِ الْخَانَ قَالَ كَتَبْتُ إِلَى عَبْدِ صَالِحٍ (عَلَيْهِ السَّلَامُ) قَدْ وَقَعَتْ عِنْدِي مَائَتَا دِرْهَمٍ وَ أَرْبَعَةُ دَرَاهِمٍ وَ أَنَا صَاحِبُ فُنْدُقٍ وَ مَاتَ صَاحِبُهَا وَ لَمْ أَعْرِفْ لَهُ وَرَثَةً فَرَأَيْتُكَ فِي إِعْلَامِي حَالَهَا وَ مَا أَصْنَعُ بِهَا فَقَدْ ضَيَّعْتُ بِهَا دَرْعًا فَكَتَبْتُ أَعْمَلُ فِيهَا وَ أَخْرَجْتُهَا صَدَقَةً قَلِيلًا قَلِيلًا حَتَّى تَخْرُجَ .

Yunus, from Nasr Bin Habeeb, the author of Al Khan, who said,

'I wrote to Abd Salih^{asws} (7th Imam^{asws}) that there were with me one hundred and forty Dirhams, and I am an owner of a hotel, and its owner (of the money) died, and I do not recognise any inheritor of his. So, your^{asws} view in letting me know of its state and what shall I do with it, for I am fed up with it'. So he^{asws} wrote: 'You can work in it and take out charity, little by little until it is taken out (completely)'.¹¹⁷

يُونُسُ عَنِ الْهَيْثَمِ أَبِي رَوْحِ صَاحِبِ الْخَانَ قَالَ كَتَبْتُ إِلَى عَبْدِ صَالِحٍ (عَلَيْهِ السَّلَامُ) أَنِّي أَتَقَبَّلُ الْفُنَادِقَ فَيَنْزِلُ عِنْدِي الرَّجُلُ فَيَمُوتُ فَجَاءَهُ لَا أَعْرِفُهُ وَ لَا أَعْرِفُ بِلَادَهُ وَ لَا وَرَثَتَهُ فَيَبْقَى الْمَالُ عِنْدِي كَيْفَ أَصْنَعُ بِهِ وَ لِمَنْ ذَلِكَ الْمَالُ فَكَتَبْتُ (عَلَيْهِ السَّلَامُ) أَتُرْكُهُ عَلَى حَالِهِ .

Yunus, from Al Haysam Abu Rawh author of Al Khan, said,

'I wrote to Abd Salih^{asws} (7th Imam^{asws}), 'I manage hotels, so there lodged with me the man, and he died suddenly. I do not know him, nor do I know his city, nor any inheritor for him. So there remains the wealth with me, how should I deal with it, and for whom is that wealth?' So he^{asws} wrote: 'Leave it upon its state' (until you find his inheritors).¹¹⁸

يُونُسُ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قَالَ لِي أَبُو الْحَسَنِ (عَلَيْهِ السَّلَامُ) الْمَفْقُودُ يُتَرَبَّصُ بِمَالِهِ أَرْبَعَ سِنِينَ ثُمَّ يُفَسَّمُ .

Yunus, from Is'haq Bin Ammar who said,

'Abu Al-Hassan^{asws} said to me: 'The lost, one should wait with his wealth for four years, then distribute it'.¹¹⁹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ مَهْزِيَارٍ قَالَ سَأَلْتُ أَبَا جَعْفَرَ الثَّانِيَّ (عَلَيْهِ السَّلَامُ) عَنْ دَارٍ كَانَتْ لِامْرَأَةٍ وَ كَانَ لَهَا ابْنٌ وَ ابْنَةٌ فَغَابَ الْإِبْنُ بِالْبَحْرِ وَ مَاتَتِ الْمَرْأَةُ فَادَّعَتْ ابْنَتُهَا أَنْ أُمَّهَا كَانَتْ صَيَّرَتْ هَذِهِ الدَّارَ لَهَا وَ بَاعَتْ أَشْفَاصًا مِنْهَا وَ بَقِيَتْ فِي الدَّارِ قِطْعَةٌ إِلَى جَنْبِ دَارِ رَجُلٍ مِنْ أَصْحَابِنَا وَ هُوَ يَكْرَهُ أَنْ يَشْتَرِيَهَا لِغَيْبَةِ الْإِبْنِ وَ مَا يَتَخَوَّفُ مِنْ أَنْ لَا يَجِلَّ لَهُ شِرَاؤُهَا وَ لَيْسَ يُعْرِفُ لِإِبْنِ خَبْرَ فَقَالَ لِي وَ مِنْذُ كَمْ غَابَ فَقُلْتُ مِنْذُ سِنِينَ كَثِيرَةٍ فَقَالَ يُنْتَظَرُ بِهِ عَيْنُهُ عَشْرَ سِنِينَ ثُمَّ يُشْتَرَى فَقُلْتُ لَهُ فَإِذَا انْتَهَرَ بِهِ عَيْنُهُ عَشْرَ سِنِينَ يَجِلُّ شِرَاؤُهَا قَالَ نَعَمْ .

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

'I asked Abu Ja'far^{asws} the 2nd - about a house which belonged to a woman, and had a son and a daughter. The son disappeared in the sea, and the woman died, so she left (behind) her daughter. So her daughter claimed that when she was small, her mother had made this house to be for her, and then she sold parts from it, and there

¹¹⁶ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 2

¹¹⁷ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 3

¹¹⁸ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 4

¹¹⁹ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 5

remained a part in the house by the side of a house of a man from our companions and he disliked buying it due to the disappearance of the son, and what made him fear that it might not be Permissible for him to buy it, and there is no new of the son (who had disappeared in the sea). So he^{asws} said to me: 'And since how long has he been absent?' So I said, 'Since many years'. So he^{asws} said: 'He should wait with it after his absence for ten years, then he should buy it'. So I said to him^{asws}, 'So if one were to wait with it after his absence of ten years, it is Permissible to buy it?' He^{asws} said: 'Yes'.¹²⁰

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ كَانَ لَهُ وَلَدٌ فَغَابَ بَعْضُ وَلَدِهِ وَ لَمْ يَدْرِ أَيْنَ هُوَ وَ مَاتَ الرَّجُلُ كَيْفَ يُصْنَعُ بِمِيرَاثِ الْعَائِبِ مِنْ أَبِيهِ قَالَ يُعْزَلُ حَتَّى يَجِيءَ قُلْتُ فَفَقِدَ الرَّجُلُ فَلَمْ يَجِيءْ فَقَالَ إِنْ كَانَ وَرَثَةُ الرَّجُلِ مَلَاءً بِمَالِهِ اقْتَسَمُوهُ بَيْنَهُمْ فَإِذَا جَاءَ رُدُّهُ عَلَيْهِ .

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

'I asked him^{asws} about a man for whom were children. So one of the children disappeared and he did not know where he was, and the man died. How should we deal with the inheritance of the disappeared one from his father?' He^{asws} said: 'Keep it aside until he comes'. I said, 'The man is lost and will not be coming'. So he^{asws} said: 'If the inheritors of the man were reliable with his wealth, distribute it between them, so when he comes, they can return it to him'.

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرِ عَنْ حَمَّادٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ (عليه السلام) مِثْلَهُ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Hammad, from Is'haq Bin Ammar,

(It has been narrated) from Abu Ibrahim^{asws} (7th Imam^{asws}), similar to it'.¹²¹

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ ابْنِ رَبَاطٍ وَ عَبْدِ اللَّهِ بْنِ جَبَلَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي الْحَسَنِ الْأَوَّلِ (عليه السلام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ كَانَ لَهُ وَلَدٌ فَغَابَ بَعْضُ وَلَدِهِ وَ لَمْ يَدْرِ أَيْنَ هُوَ وَ مَاتَ الرَّجُلُ فَأَيُّ شَيْءٍ يُصْنَعُ بِمِيرَاثِ الرَّجُلِ الْعَائِبِ مِنْ أَبِيهِ قَالَ يُعْزَلُ حَتَّى يَجِيءَ قُلْتُ فَفَعَلَى مَالِهِ زَكَاةٌ قَالَ لَا حَتَّى يَجِيءَ قُلْتُ فَإِذَا جَاءَ يُرْكِبُهُ قَالَ لَا حَتَّى يَحُولَ عَلَيْهِ الْحَوْلُ فِي يَدِهِ فَقُلْتُ فَفَقِدَ الرَّجُلُ فَلَمْ يَجِيءْ قَالَ إِنْ كَانَ وَرَثَةُ الرَّجُلِ مَلَاءً بِمَالِهِ اقْتَسَمُوهُ بَيْنَهُمْ فَإِذَا هُوَ جَاءَ رُدُّهُ عَلَيْهِ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ibn Rabat and Abdullah Bin Jabalat, from Is'haq Bin Ammar,

(It has been narrated) from Abu Al Hassan^{asws} the first, said, 'I asked him^{asws} about a man who had children for him, so one of his children disappeared and he did not know where he was, and the man died. So what should be done with the inheritance of the man, for the absent one from his father?' He^{asws} said: 'Keep it aside until he comes'. I said, 'So upon his wealth is the Zakat?' He^{asws} said: 'No, until he comes'. I said, 'So if he comes, he has to purify it (by paying Zakat)?' He^{asws} said: 'No, until there turns a year with it being in his hands'. So I said, 'The man is lost and does not come?' He^{asws} said: 'If the inheritors of the man can be relied upon with his wealth,

¹²⁰ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 6

¹²¹ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 7

so distribute it between them. So whenever he comes, it should be returned to him'.¹²²

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ قَالَ (عَلَيْهِ السَّلَامُ) الْمَفْقُودُ يَحْبِسُ مَالَهُ الْوَرِثَةَ عَلَى قَدْرِ مَا يُطْلَبُ فِي الْأَرْضِ أَرْبَعَ سِنِينَ فَإِنْ لَمْ يُقَدَّرْ عَلَيْهِ فَيَسَمِ مَالَهُ بَيْنَ الْوَرِثَةِ وَإِنْ كَانَ لَهُ وَلَدٌ حَبَسَ الْمَالَ وَانْفَقَ عَلَى وَلَدِهِ تِلْكَ الْأَرْبَعِ سِنِينَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Usman Bin Isa, from Sama'at,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The lost one, the inheritors should withhold his wealth upon doing their best to seek him in the earth, for four years. So if they are not able to locate him, the wealth is distributed between the inheritors. And if there was a child for him, withhold the wealth, and spend upon that very child for four years'.¹²³

بَاب مِيرَاثِ الْمُسْتَهْلِ

Chapter 47 – Inheritance of the new born

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ رَبِيعِ بْنِ عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَمِعْتُهُ يَقُولُ فِي الْمَنْفُوسِ إِذَا تَحَرَّكَ وَرِثَ إِنَّهُ رُبَّمَا كَانَ أَخْرَسًا .

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Ibn Abu Umeyrf, from Rabie Bin Abdullah,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I heard him^{asws} saying regarding the new born: 'If it moves, it inherits, perhaps it is speechless'.¹²⁴

عَلِيُّ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عِيسَى عَنْ رَبِيعِ بْنِ أَبِي عُمَيْرٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ فِي السَّقَطِ إِذَا سَقَطَ مِنْ بَطْنِ أُمِّهِ فَتَحَرَّكَ تَحَرُّكًا بَيِّنًا يَرِثُ وَ يُورِثُ فَإِنَّهُ رُبَّمَا كَانَ أَخْرَسًا .

Ali, from his father, from Hammad Bin Isa, from Rabie who said,

'I heard Abu Abdullah^{asws} saying regarding the miscarried child, when it is miscarried from the belly of its mother, so it moves. Manifest movement makes him inherit and be inherited from, for perhaps it was mute'.¹²⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عُمَرَ بْنِ بَزِيدٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ مَاتَ وَ تَرَكَ امْرَأَتَهُ وَ هِيَ حَامِلٌ فَوَضَعَتْ بَعْدَ مَوْتِهِ غُلَامًا ثُمَّ مَاتَ الْغُلَامُ بَعْدَ مَا وَقَعَ عَلَى الْأَرْضِ فَشَهِدَتِ الْمَرْأَةُ الَّتِي قَبِلَتْهَا أَنَّهُ اسْتَهْلٌ وَ صَاحَ حِينَ وَقَعَ عَلَى الْأَرْضِ ثُمَّ مَاتَ بَعْدَ ذَلِكَ قَالَ عَلَى الْإِمَامِ أَنْ يُجِيزَ شَهَادَتَهَا فِي رُبْعِ مِيرَاثِ الْغُلَامِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and a number of our companions, from Sahl Bin Ziyad, altogether from Ibn Mahboub, from Umar Bin Yazeed who said,

¹²² Al Kafi – V 7 – The Book of Inheritances Ch 47 H 8

¹²³ Al Kafi – V 7 – The Book of Inheritances Ch 47 H 9

¹²⁴ Al Kafi – V 7 – The Book of Inheritances Ch 48 H 1

¹²⁵ Al Kafi – V 7 – The Book of Inheritances Ch 48 H 2

'I asked Abu Abdullah^{asws} about a man who died and left his woman, and she was pregnant. So there was born, after his death, a boy. Then the boy died after having fallen upon the ground. So, the woman who was the midwife testified that he moved and shrieked when he fell upon the ground, then died after that. He^{asws} said: 'It is upon the Imam^{asws} that he^{asws} allow her testimony regarding the one-quarter of the inheritance of the boy'. (p.s. – two men or four women is the requirement of the testimony).¹²⁶

ابْنُ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ سِنَانٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ تَجُوزُ شَهَادَةُ الْقَابِلَةِ فِي الْمَوْلُودِ إِذَا اسْتَهَلَّ وَ صَاحَ فِي الْمِيرَاثِ وَ يُورَثُ الرَّبْعَ مِنَ الْمِيرَاثِ بِقَدْرِ شَهَادَةِ امْرَأَةٍ وَاحِدَةٍ قُلْتُ فَإِنْ كَانَتَا امْرَأَتَيْنِ قَالَ تَجُوزُ شَهَادَتُهُمَا فِي النَّصْفِ مِنَ الْمِيرَاثِ .

Ibn Mahboub, from Abdullah Sinan who said,

'I heard Abu Abdullah^{asws} saying: 'The testimony of the midwife is allowed regarding the birth, when it moves and shrieks, with regards to the inheritance, and he would inherit the one-quarter from the inheritance by the measurement of the testimony of the one woman'. I said, 'So if there were two women?' He^{asws} said: 'Both their testimonies is allowed regarding the half of the inheritance'.¹²⁷

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ عَبْدِ اللَّهِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي مِيرَاثِ الْمَنْفُوسِ مِنَ الدِّيَةِ قَالَ لَا يَرِثُ مِنَ الدِّيَةِ شَيْئاً حَتَّى يَصِيحَ وَ يُسْمَعَ صَوْتُهُ .

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

(It has been narrated) from Abu Abdullah^{asws} regard the inheritance of the new born from the wergild. He^{asws} said: 'He would not inherit anything from the wergild until he shrieks, and his voice is heard'.¹²⁸

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ عَوْنٍ عَنْ بَعْضِهِمْ قَالَ سَمِعْتُهُ (عَلَيْهِ السَّلَامُ) يَقُولُ إِنَّ الْمَنْفُوسَ لَا يَرِثُ مِنَ الدِّيَةِ شَيْئاً حَتَّى يَسْتَهْلَ وَ يُسْمَعَ صَوْتُهُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ibn Awn, from one of them who said,

'I heard him^{asws} saying that the new born does not inherit anything from the wergild until it moves and his voice is heard'.¹²⁹

باب مِيرَاثِ الْخُنْثَى

Chapter 48 – Inheritance of the hermaphrodite (genderless)

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ بَحْبَى وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ جَمِيعاً عَنْ صَفْوَانَ عَنِ ابْنِ مُسْكَانَ عَنْ دَاوُدَ بْنِ فَرْقَدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنْ مَوْلُودٍ وُلِدَ وَ لَهُ قُبْلٌ وَ ذَكَرٌ كَيْفَ يُورَثُ قَالَ إِنْ كَانَ يَبُولُ مِنْ ذَكَرِهِ فَلَهُ مِيرَاثُ الذَّكَرِ وَ إِنْ كَانَ يَبُولُ مِنَ الْقُبْلِ فَلَهُ مِيرَاثُ الْأُنْثَى .

¹²⁶ Al Kafi – V 7 – The Book of Inheritances Ch 48 H 3

¹²⁷ Al Kafi – V 7 – The Book of Inheritances Ch 48 H 4

¹²⁸ Al Kafi – V 7 – The Book of Inheritances Ch 48 H 5

¹²⁹ Al Kafi – V 7 – The Book of Inheritances Ch 48 H 6

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Safwan, from Ibr Muskan, from Dawood Bin Farqad,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} was asked about a birth of a child and for it were a female sexual organ and a male, how would it inherit?' He^{asws} said: 'If he urinates from his male part, for him would be the inheritance of the male, and if it urinated from the female part, so for him would be the inheritance of the women'.¹³⁰

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ يَحْيَى عَنْ طَلْحَةَ بْنِ زَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يُورَثُ الْخَنَثَى مِنْ حَيْثُ يُبُولُ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'Amir Al-Momineen^{asws} used to make the hermaphrodite inherit, (based upon) where it urinated from'.¹³¹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قُلْتُ لَهُ الْمَوْلُودُ يُورَثُ لَهُ مَا لِلرِّجَالِ وَ لَهُ مَا لِلنِّسَاءِ قَالَ يُورَثُ مِنْ حَيْثُ سَبَقَ بَوْلُهُ فَإِنْ خَرَجَ مِنْهُمَا سَوَاءً فَمِنْ حَيْثُ يَنْبَعُثُ فَإِنْ كَانَا سَوَاءً وَرَثَ مِيرَاثَ الرِّجَالِ وَ النِّسَاءِ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Abdullah Bin Muhammad, altogether from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I said to him^{asws}, 'The child was born with what is for the men and for it was what is for the women'. He^{asws} said: 'It would inherit from where its urine precedes from. So if it comes out from both equally, so from where it spurts out (more strongly). So it was equal, it would inherit the inheritance of the men and the women'.¹³²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَام) فِي مَوْلُودٍ لَهُ مَا لِلذَّكَورِ وَ مَا لِلْأُنثَى قَالَ يُورَثُ مِنَ الْمَوْضِعِ الَّذِي يُبُولُ إِنْ بَالَ مِنَ الذَّكَرِ وَرَثَ مِيرَاثَ الذَّكَرِ وَ إِنْ بَالَ مِنَ مَوْضِعِ الْأُنثَى وَرَثَ مِيرَاثَ الْأُنثَى

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazal, from Ibn Bukeyr, from one of our companions,

(It has been narrated) from one of the two (5th or 6th Imam^{asws}) regarding the birth of a child for it was what is there for the males and what is for the women. He^{asws} said: 'It would inherit from the place which it urinates from. If it urinates from the male part, it would inherit the inheritance of the males, and if it urinates from the place of the women, it would inherit the inheritance of the women'.

وَ عَنْ مَوْلُودٍ لَيْسَ لَهُ مَا لِلرِّجَالِ وَ لَا لَهُ مَا لِلنِّسَاءِ إِلَّا تَقَبَّ بِخُرُجِ مِنْهُ الْبَوْلُ عَلَى أَيِّ مِيرَاثٍ يُورَثُ قَالَ إِنْ كَانَ إِذَا بَالَ نَحَى بِبَوْلِهِ وَرَثَ مِيرَاثَ الذَّكَرِ وَ إِنْ كَانَ لَا يَنْحَى بِبَوْلِهِ وَرَثَ مِيرَاثَ الْأُنثَى .

¹³⁰ Al Kafi – V 7 – H 13234 – The Book of Inheritances Ch 49 H 1

¹³¹ Al Kafi – V 7 – H 13235 – The Book of Inheritances Ch 49 H 2

¹³² Al Kafi – V 7 – H 13236 – The Book of Inheritances Ch 49 H 3

And about the child born, there was neither for it what is for the men, nor was there for it what is for the women, except for a hole from which the urine comes out. Upon which inheritance would it inherit?' He^{asws} said: 'If it urinates to a distance it would inherit the inheritance of the males, and if it did not urinate to a distance with his urine, it would inherit the inheritance of the women'.¹³³

وَفِي رَوَايَةٍ أُخْرَى عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي الْمَوْلُودِ لَهُ مَا لِلرِّجَالِ وَ لَهُ مَا لِلنِّسَاءِ يُبُولُ مِنْهُمَا جَمِيعًا قَالَ مِنْ أَيْهِمَا سَبَقَ قَبْلَ فَإِنْ خَرَجَ مِنْهُمَا جَمِيعًا قَالَ فَمِنْ أَيْهِمَا اسْتَدْرَجَ قَبْلَ فَإِنْ اسْتَدْرَجَا جَمِيعًا قَالَ فَمِنْ أَيْهِمَا .

And in another report,

(It has been narrated) from Abu Abdullah^{asws} regarding the child born for him being what is for the men and for him being what is for the women, urinating from both parts together. He^{asws} said: 'From whichever it (urine) preceded'. It was said, 'So if it came out from both parts together?' He^{asws} said: 'So from whichever of the two it gushes out'. It was said, 'So if it were to gush out from both of them together?' He^{asws} said: 'So from the one it reaches the furthest'.¹³⁴

بَابُ آخَرُ مِنْهُ

Chapter 49 – Another chapter form it

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ وَ أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ جَمِيعًا عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُسْكَانَ عَنْ إِسْحَاقَ الْفَزَارِيِّ قَالَ سَأَلَ وَأَنَا عِنْدَهُ يَعْنِي أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ مَوْلُودٍ وُلِدَ وَ لَيْسَ بِذَكَرٍ وَ لَا أُنْثَى وَ لَيْسَ لَهُ إِلَّا دُبُرٌ كَيْفَ يُوْرَثُ قَالَ يَجْلِسُ الْإِمَامُ وَ يَجْلِسُ مَعَهُ نَاسٌ فَيَدْعُو اللَّهَ وَ يُجِيلُ السَّهَامَ عَلَى أَيِّ مِيرَاثٍ يُوْرَثُ مِيرَاثِ الذَّكَرِ أَوْ مِيرَاثِ الْأُنْثَى فَأَيُّ ذَلِكَ خَرَجَ وَرَثَهُ عَلَيْهِ

Muhammad Bin Ismail, from Al Fazal Bin Shazaan and Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, altogether from Safwan Bin Yahya, from Abdullah Bin Muskan, from Is'haq Al Fazary who said,

'He^{asws} was asked and I was in his^{asws} presence, meaning Abu Abdullah^{asws}, about the birth of a child and not being with a male part nor a femal part, and there was not for him except for a backside. How would he inherit?' He^{asws} said: 'The Imam^{asws} would be seated in a gathering, and the people would be seated along with him^{asws}, so he^{asws} would supplicate to Allah^{azwj}, and would make the drawing of the lots upon which inheritance it would inherit, the inheritance of the male or the inheritance of the female? So whichever of that comes out, it would inherit upon it'.

ثُمَّ قَالَ وَ أَيُّ قَضِيَّةٍ أَعْدَلُ مِنْ قَضِيَّةٍ يُجَالُ عَلَيْهَا بِالسَّهَامِ إِنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ فَسَاهِمَ فَكَانَ مِنَ الْمُدْحَضِينَ .

Then he^{asws} said: 'And which judgement is more just than a judgement made upon it by the drawing of the lots. Allah^{azwj} Mighty and Majestic is Saying [37:141] **So he drew lots (with them), so he was of those who are cast off**.¹³⁵

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ فَضَيْلِ بْنِ يَسَارٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ مَوْلُودٍ لَيْسَ لَهُ مَا لِلرِّجَالِ وَ لَا لَهُ مَا لِلنِّسَاءِ قَالَ يُفْرَعُ الْإِمَامُ أَوْ

¹³³ Al Kafi – V 7 – The Book of Inheritances Ch 49 H 4

¹³⁴ Al Kafi – V 7 – The Book of Inheritances Ch 49 H 5

¹³⁵ Al Kafi – V 7 – The Book of Inheritances Ch 50 H 1

الْمُفْرَعُ بِهِ يُكْتَبُ عَلَى سَهْمِ عَبْدِ اللَّهِ وَ عَلَى سَهْمِ آخَرَ أَمَةَ اللَّهِ ثُمَّ يَقُولُ الْإِمَامُ أَوْ الْمُفْرَعُ اللَّهُمَّ أَنْتَ اللَّهُ لَا إِلَهَ إِلَّا أَنْتَ عَالِمُ الْغَيْبِ وَالشَّهَادَةِ أَنْتَ تَحْكُمُ بَيْنَ عِبَادِكَ فِيمَا كَانُوا فِيهِ يَخْتَلِفُونَ فَبَيِّنْ لَنَا أَمْرَ هَذَا الْمَوْلُودِ كَيْفَ يُورَثُ مَا فَرَضْتَ لَهُ فِي الْكِتَابِ ثُمَّ يُطْرَحُ السَّهْمَانِ فِي سَهَامٍ مُبْهَمَةٍ ثُمَّ تُجَالُ السَّهَامُ عَلَى مَا خَرَجَ وَرَثَ عَلَيْهِ .

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

'I asked Abu Abdullah^{asws} about a child born, there was neither for him what is for the men, nor for him what is for the women. He^{asws} said: 'The Imam^{asws} or the drawer of lots would draw lots. It would be written on one lot, 'servant of Allah^{azwj}', and on another lot would be written, 'maid of Allah^{azwj}'. Then the Imam^{asws} or the drawer of the lots would be saying: 'O Allah^{azwj}! You^{azwj} are Allah^{azwj}. There is no god except for You^{azwj}, Knower of the unseen and the seen. You^{azwj} Judge between Your^{azwj} servants regarding what they used to be differing in. So Clarify for us the matter of this birth, how he should inherit what is Obligated for him in the Book (Quran)'. Then the two lots would be thrown in vague lots. Then the lots would be made upon what comes out, it would inherit upon it'¹³⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ وَ الْحَجَّالِ وَ النَّعَلْبَةِ بْنِ مَيْمُونٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنْ مَوْلُودٍ لَيْسَ بِذَكَرٍ وَ لَا أَنْثَى لَيْسَ لَهُ إِلَّا دُبُرٌ كَيْفَ يُورَثُ قَالَ يَجْلِسُ الْإِمَامُ وَ يَجْلِسُ عِنْدَهُ نَاسٌ مِنَ الْمُسْلِمِينَ فَيَدْعُو اللَّهَ عَزَّ وَ جَلَّ وَ تُجَالُ السَّهَامُ عَلَيْهِ عَلَى أَيِّ مِيرَاثٍ يُورَثُهُ أَوْ مِيرَاثِ الذَّكَرِ أَوْ مِيرَاثِ الْأُنْثَى فَأَيُّ ذَلِكَ خَرَجَ عَلَيْهِ وَرَثَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal and Al Hajjal, from Sa'alba Bin Maymoun, from one of our companions,

(It has been narrated) from Abu Abdullah^{asws}, said, 'He^{asws} was asked about the child born, not being with a male part, nor a female part, there was not for him except for a backside. How would he inherit?' He^{asws} said: 'The Imam^{asws} would sit in a gathering, and there would sit in his^{asws} presence people from the Muslims. So he^{asws} would be supplicating to Allah^{azwj} Mighty and Majestic, and the lots would be made upon it which inheritance would he be inheriting, the inheritance of the males or the inheritance of the females? So whichever of that comes out upon him, he would inherit'.

ثُمَّ قَالَ وَ أَيُّ قَضِيَّةٍ أَعْدَلُ مِنْ قَضِيَّةِ تُجَالُ عَلَيْهَا السَّهَامُ يَقُولُ اللَّهُ تَعَالَى فَسَاهَمَ فَكَانَ مِنَ الْمُذْخَصِيْنَ قَالَ وَ مَا مِنْ أَمْرٍ يَخْتَلَفُ فِيهِ اثْنَانِ إِلَّا وَ لَهُ أَصْلٌ فِي كِتَابِ اللَّهِ وَ لَكِنْ لَا تَبْلُغُهُ عُقُولُ الرَّجَالِ .

Then he^{asws} said: 'And which judgement is more just than the judgement made upon the drawing of lots. Allah^{azwj} the High is Saying [37:141] **So he drew lots (with them), so he was of those who are cast off**. He^{asws} said: 'And there is none from the matters in which two (people) have differed except that for it is an origin in the Book of Allah^{azwj}, but the intellects of the men cannot reach it'¹³⁷

باب

¹³⁶ Al Kafi – V 7 – The Book of Inheritances Ch 50 H 2

¹³⁷ Al Kafi – V 7 – The Book of Inheritances Ch 50 H 3

Chapter 50 – A chapter

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سَعِيدِ الْأَذْرَبِيِّ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ جَعْفَرٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ كَيْسَانَ جَمِيعاً عَنْ مُوسَى بْنِ مُحَمَّدٍ أَخِي أَبِي الْحَسَنِ الثَّالِثِ (عَلَيْهِ السَّلَام) أَنَّ يَحْيَى بْنَ أَكْثَمَ سَأَلَهُ فِي الْمَسَائِلِ الَّتِي سَأَلَهُ عَنْهَا قَالَ وَ أَخْبَرَنِي عَنِ الْخُنْثَى وَ قَوْلِ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فِيهِ يُورَثُ الْخُنْثَى مِنَ الْمَبَالِ مَنْ يَنْظُرُ إِلَيْهِ إِذَا بَالَ وَ شَهَادَةُ الْجَارِ إِلَى نَفْسِهِ لَا تُقْبَلُ مَعَ أَنَّهُ عَسَى أَنْ تَكُونَ امْرَأَةً وَ قَدْ نَظَرَ إِلَيْهَا الرَّجَالُ أَوْ عَسَى أَنْ يَكُونَ رَجُلًا وَ قَدْ نَظَرَ إِلَيْهِ النِّسَاءُ وَ هَذَا مِمَّا لَا يَحِلُّ

Ali Bin Muhammad, from Muhammad Bin Saeed Al Azarbayjani and Muhammad Bin Yahya, from Abdullah Bin Ja'far, from Al Hassan Bin Ali Bin Kayaan, altogether,

(It has been narrated) from Musa Bin Muhammad, a brother of Abu Al-Hassan^{asws} the 3rd that Yahya Bin Aksam asked him^{asws} among the questions that he asked him^{asws} was, 'Inform me about the (adult) hermaphrodite (genderless) and the words of Amir Al-Momineen^{asws} with regards to it that the hermaphrodite would inherit based on its urination. One looks at it when it urinates and a testimony of one unjust to himself (a sinner) is not acceptable along with that perhaps that it might be a female and the man looks at her, or perhaps it happens to be a man and the woman looks at her, and this is from what is not Permissible'.

فَأَجَابَهُ أَبُو الْحَسَنِ الثَّالِثُ (عَلَيْهِ السَّلَام) عَنْهَا أَمَّا قَوْلُ عَلِيٍّ (عَلَيْهِ السَّلَام) فِي الْخُنْثَى أَنَّهُ يُورَثُ مِنَ الْمَبَالِ فَهِيَ كَمَا قَالَ وَ يَنْظُرُ قَوْمٌ عُدُولٌ يَأْخُذُ كُلُّ وَاحِدٍ مِنْهُمْ مِرْآةً وَ يَقُومُ الْخُنْثَى خَلْفَهُمْ عُرْبَانَةً فَيَنْظُرُونَ فِي الْمِرْآةِ فَيَرَوْنَ شَبْحًا فَيَحْكُمُونَ عَلَيْهِ.

So Abu Al-Hassan^{asws} the 3rd answered him about it: 'The words of Ali^{asws} regarding the hermaphrodite is that it would inherit based upon the urination so it is as he^{asws} has said. And a group of people would turn around, each one of them taking a mirror, and the (adult) hermaphrodite would be stood behind them, naked, so they would be looking in the mirror, so they would be seeing a resemblance, so they would be deciding upon it'.¹³⁸

باب آخِرُ مِنْهُ

Chapter 51 – Another chapter from it

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيٍّ بْنِ أَحْمَدَ بْنِ أَشْيَمٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ الْجَوْهَرِيِّ عَنْ حَرِيْزِ بْنِ عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ وَ لِدَ عَلَى عَهْدِ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) مَوْلُودٌ لَهُ رَأْسَانِ وَ صَدْرَانِ فِي حَقِّ وَاحِدٍ فَسُئِلَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) يُورَثُ مِيرَاثَ اثْنَيْنِ أَوْ وَاحِدٍ فَقَالَ يُثْرِكُ حَتَّى يَنَامَ ثُمَّ يُصَاحُ بِهِ فَإِنْ ائْتَبَهَا جَمِيعاً مَعًا كَانَ لَهُ مِيرَاثُ وَاحِدٍ وَ إِنْ ائْتَبَهُ وَاحِدٌ وَ بَقِيَ الْآخَرُ نَائِمًا يُورَثُ مِيرَاثَ اثْنَيْنِ .

A number of our companions, from Sahl Bin Ziyad and Ahmad Bin Muhammad, from Ali Bin Ahmad Bin Asheym, from Al Qasim Bin Muhammad Al Jowhary, from Hareyz Bin Abdullah,

(It has been narrated) from Abu Abdullah^{asws} having said: 'In the era of Amir Al-Momineen^{asws}, a child was born and it had two heads for it and two chests in one lower part. So Amir Al-Momineen^{asws} was asked, 'Would it inherit two inheritances or one?' So he^{asws} said: 'Leave it until he goes to sleep, then shout at it. So if both heads wake up together, there would be one inheritance for it, and if one head

¹³⁸ Al Kafi – V 7 – The Book of Inheritances Ch 51 H 1

wakes up and the other one remains sleeping, he would inherit the inheritance of two'.¹³⁹

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ خَالِدٍ عَنْ أَبِيهِ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ الْجَوْهَرِيِّ عَنْ حَرِيْزِ بْنِ عَبْدِ اللَّهِ مِثْلَهُ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from his father, from Al Qasim Bin Muhammad Al Jowhary, from Hareyz Bin Abdullah, - similar to it.

بَاب مِيرَاثِ ابْنِ الْمَلَاعِنَةِ

Chapter 52 – Inheritance of the son of the cursed mother (by her husband)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ مَنْصُورٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَام) يَقُولُ إِذَا مَاتَ ابْنُ الْمَلَاعِنَةِ وَ لَهُ إِخْوَةٌ فُسِمَ مَالُهُ عَلَى سِبْهَامِ اللَّهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Sayf Bin Umeyra, from Mansour,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Ali^{asws} was saying: 'When a son of a mother cursed by her husband dies, and for him are brothers, his wealth would be upon the (legislated) shares of Allah^{azwj}'.¹⁴⁰

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) أَنَّ مِيرَاثَ وَلَدِ الْمَلَاعِنَةِ لِأُمِّهِ فَإِنْ كَانَتْ أُمُّهُ لَيْسَتْ بِحَيَّةٍ فَلِأَقْرَبِ النَّاسِ إِلَى أُمِّهِ أَخْوَالِهِ .

Abu Ali Al Ashary, from Muhammad Bin Al Jabbar, from Safwan, from Musa Bin Bakr, from Zurara,

(It has been narrated) from Abu Ja'far^{asws} that the inheritance of the child of the mother cursed by her husband, is for its mother. So if its mother was not alive, so to the closest to his mother, his maternal uncle'.¹⁴¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) مِثْلَهُ .

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}, similar to it'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ قَالَ فِي الْمَلَاعِنِ إِنْ أَكْذَبَ نَفْسَهُ قَبْلَ اللَّعَانِ رُدَّتْ إِلَيْهِ امْرَأَتُهُ وَ ضُرِبَ الْحَدُّ وَ إِنْ أَبَى لَاعَنَ وَ لَمْ تَحِلَّ لَهُ أَبْدَأُ وَ إِنْ قَذَفَ رَجُلٌ امْرَأَتَهُ كَانَ عَلَيْهِ الْحَدُّ وَ إِنْ مَاتَ وَ لَدَّهُ وَرَثَةٌ أَخْوَالُهُ فَإِنْ ادَّعَاهُ أَبُوهُ لِحَقِّ بِهِ وَ إِنْ مَاتَ وَرَثَتُهُ الْإِبْنُ وَ لَمْ يَرِثْهُ الْأَبُ .

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

(It has been narrated) from Abu Abdullah^{asws} having said regarding a cursing one who (admitted) having lied to himself before the cursing (his wife): 'His wife would be returned to him, and he would be whipped the Limit, and if he refuses and curses

¹³⁹ Al Kafi – V 7 – The Book of Inheritances Ch 52 H 1

¹⁴⁰ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 1

¹⁴¹ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 2

(anyway), his wife would not be Permissible to him, ever. And if a man accuses his wife, upon him would be the Limit (of Punishment), and if his child dies, his maternal uncle would inherit him. So if his father claims him, he would be attached with him, and if the inheritors of the son die, his father would not inherit him'.¹⁴²

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانَ بْنِ عُمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ وَلَدِ الْمَلَاعِنَةِ مَنْ يَرِثُهُ قَالَ أُمُّهُ فَقُلْتُ إِنَّ مَاتَتْ أُمُّهُ مَنْ يَرِثُهُ قَالَ أَخُوهُ .

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

'I asked Abu Abdullah^{asws} about a child of the mother cursed (disowned/denied) by her husband, who would inherit him? So he^{asws} said: 'His mother'. So I said, 'If his mother is dead, who would inherit him?' He^{asws} said: 'His maternal uncle'.¹⁴³

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنْ مُتَنَّى الْحَنَاطِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ لَاعَنَ امْرَأَتَهُ وَانْتَفَى مِنْ وَلَدِهَا ثُمَّ أَكْذَبَ نَفْسَهُ بَعْدَ الْمَلَاعِنَةِ وَ زَعَمَ أَنَّ وَلَدَهَا وَوَلَدَهُ هَلْ تُرَدُّ عَلَيْهِ قَالَ لَا وَ لَا كَرَامَةَ لَا تُرَدُّ عَلَيْهِ وَ لَا تَحِلُّ لَهُ إِلَى يَوْمِ الْقِيَامَةِ

A number of our companions, from Sahl Bin Ziyad, from Abdul Rahman Bin Abu Najran, from Masny Al Hanaat, from Muhammad Bin Muslim who said,

'I asked Abu Abdullah^{asws} about a man who cursed his wife and denied her child. Then he (admitted) having lied to himself after the cursing, and claimed that her child was his child. Would she be returned to him?' He^{asws} said: 'No, and it is not honourable. She would neither be returned to him, nor would she be Permissible to him up to the Day of Judgement'.

قَالَ وَ سَأَلْتُهُ مَنْ يَرِثُ الْوَلَدَ قَالَ أُمُّهُ فَقُلْتُ أَرَأَيْتَ إِنْ مَاتَتْ الْأُمُّ فَوَرِثَهَا الْغُلَامُ ثُمَّ مَاتَ الْغُلَامُ بَعْدَ مَنْ يَرِثُهُ قَالَ أَخُوهُ فَقُلْتُ إِذَا أَقْرَبَ بِهِ الْأَبُ هَلْ يَرِثُ الْأَبُ قَالَ نَعَمْ وَ لَا يَرِثُ الْأَبُ [مِنَ الْإِبْنِ] .

He (the narrator) said, 'And I asked him^{asws}, 'Who would inherit the child?' He^{asws} said: 'His mother'. So I said, 'What is your^{asws} view if the mother dies and the boy inherits her, then the boy dies afterwards, who would inherit him?' He^{asws} said: 'His maternal uncle'. So I said, 'If the father accepts him, would he inherit the father?' He^{asws} said: 'Yes, but the father would not inherit from the son'.¹⁴⁴

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ مَنْصُورٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَامُ) يَقُولُ إِذَا مَاتَ ابْنُ الْمَلَاعِنَةِ وَ لَهُ إِخْوَةٌ فَسِمْ مَالَهُ عَلَى سِهَامِ اللَّهِ عَزَّ وَ جَلَّ .

Muhammad Bin Ismail, from Al Fazal Bin Shazaan, from Ibn Abu Umeyr, from Sayf Bin Umeyra, from Mansour,

From Abu Abdullah^{asws} having said: 'Ali^{asws} was saying: 'When a son of the mother cursed by her husband dies, and for him are brothers, his wealth would be distributed upon the (legislated) shares of Allah^{azwj} Mighty and Majestic'.¹⁴⁵

¹⁴² Al Kafi – V 7 – The Book of Inheritances Ch 53 H 3

¹⁴³ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 4

¹⁴⁴ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 5

¹⁴⁵ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 6

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ لَاعَنَ امْرَأَتَهُ وَ هِيَ حُبْلَى فَلَمَّا وَضَعَتْ أَدْعَى وَلَدَهَا وَ أَقْرَبَ بِهِ وَ زَعَمَ أَنَّهُ مِنْهُ قَالَ يَرُدُّ إِلَيْهِ وَلَدُهُ وَ لَا يَرِثُهُ وَ لَا يُجَدُّ لِأَنَّ اللَّعَانَ قَدْ مَضَى .

A number of our companions, from Sahl Bin Ziyad, from Ibn Mahboub, from Ali Bin Raib, from Al Halbi who said,

'I asked Abu Abdullah^{asws} about a man who cursed his wife and she was pregnant. So when she placed (gave birth), he claimed her child and accepted it and claimed that it is from him'. He^{asws}, 'His child is returned to him, and he (father) would not inherit him (the child), and he would not be whipped because the curse is past'.¹⁴⁶

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ وَ عَلِيِّ بْنِ خَالِدٍ الْعَاقُولِيِّ عَنْ كَرَّامٍ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ لَاعَنَ امْرَأَتَهُ وَ انْتَفَى مِنْ وِلْدَانِهَا ثُمَّ أَكْذَبَ نَفْسَهُ بَعْدَ الْمَلَاعَنَةِ وَ زَعَمَ أَنَّ الْوَلَدَ لَهُ هَلْ يَرُدُّ إِلَيْهِ وَلَدُهُ قَالَ نَعَمْ يَرُدُّ إِلَيْهِ وَ لَا أَدْعُ وَلَدَهُ لَيْسَ لَهُ مِيرَاثٌ وَ أَمَّا الْمَرْأَةُ فَلَا تَحِلُّ لَهُ أَبَدًا

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad, from Ja'far Bin Sama'at and Ali Bin Khalid Al Aqouli, from Karram, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who cursed his wife, and denied her child. Then he (admitted) having lied himself after the cursing, and claimed that the child is for him. Would his child be returned to him?' He^{asws} said: 'Yes, he would be returned to him, but the child would not be called his. There would be no inheritance for him (the father, from the son), but rather, the inheritance is not Permissible for him, ever'.

فَسَأَلْتُهُ مَنْ يَرِثُ الْوَلَدَ قَالَ أَحْوَالُهُ قُلْتُ أَرَأَيْتَ إِنْ مَاتَتْ أُمُّهُ فَوَرِثَهَا الْغُلَامُ ثُمَّ مَاتَ الْغُلَامُ مَنْ يَرِثُهُ قَالَ عَصَبَتُهُ أُمُّهُ قُلْتُ فَهَوَ يَرِثُ أَحْوَالَهُ قَالَ نَعَمْ.

So I asked him^{asws}, 'Who would inherit the child?' He^{asws} said, 'His maternal uncle'. I said, 'What is your^{asws} view if his mother dies, so the boy inherits her, then the boy dies, who would inherit him?' He^{asws} said: 'The relative of his mother'. I said, 'So his maternal uncle would inherit him?' He^{asws} said: 'Yes'.¹⁴⁷

عَنْهُ عَنِ وَهْبِ بْنِ حَفْصٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ لَاعَنَ امْرَأَتَهُ قَالَ يَلْحَقُ الْوَلَدَ بِأُمِّهِ وَ يَرِثُهُ أَحْوَالُهُ وَ لَا يَرِثُهُمْ فَسَأَلْتُهُ عَنِ الرَّجُلِ إِنْ أَكْذَبَ نَفْسَهُ قَالَ يَلْحَقُ بِهِ الْوَلَدُ .

From him, from Wuheyb Bin Hafs, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who cursed his wife. He^{asws} said: 'The child would be attached to its mother, and his maternal uncles would inherit him, and he would not inherit them'. So I asked him^{asws} about the man if he (admits) having lied himself, he^{asws} said: 'The child is joined to him'.¹⁴⁸

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنِ الْحَسَنِ بْنِ عَلِيِّ الْكُوفِيِّ عَنْ عُبَيْسِ بْنِ هِشَامٍ عَنْ ثَابِتٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ وَلَدِ الْمَلَاعَنَةِ إِذَا تَلَاعَنَّا وَ تَفَرَّقَا وَ قَالَ زَوْجُهَا بَعْدَ ذَلِكَ الْوَلَدُ وَ لِدِي وَ أَكْذَبَ نَفْسَهُ قَالَ أَمَّا الْمَرْأَةُ فَلَا

¹⁴⁶ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 7

¹⁴⁷ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 8

¹⁴⁸ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 9

تَرْجِعُ إِلَيْهِ وَ لَكِنْ أَرُدُّ إِلَيْهِ الْوَلَدَ وَ لَا أَدْعُ وَ لَدَهُ لَيْسَ لَهُ مِيرَاثٌ فَإِنْ لَمْ يَدَّعِهِ أَبُوهُ فَإِنَّ أَوْلَاهُ يَرِثُونَهُ وَ لَا يَرِثُهُمْ فَإِنْ دَعَاهُ أَحَدٌ بِابْنِ الزَّانِيَةِ جُلِدَ الْحَدَّ .

Abu Ali Al Ashary, from Al Hassan Bin Ali Al Kufy, from Ubays Bin Hisham, from Sabit, from Abu Baseer,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a child of the mother cursed by her husband, when she was cursed and separated, and her husband said after that, 'The child is my child, and I lied myself'. He^{asws} said: 'As for the woman, so she would not return to him, but the child is returned to him and would not be called as his son. There is no inheritance for him if its father does not claim him. Thus, its maternal uncle would inherit him and he would not inherit them. So if anyone were to call him as being a son of adultery, he would be whipped the Limit'.¹⁴⁹

باب آخَرُ فِي ابْنِ الْمَلَاعِنَةِ

Chapter 53 – Another Chapter regarding the son of a cursed mother (by her husband)

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَّابٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) قَالَ ابْنُ الْمَلَاعِنَةِ تَرِثُهُ أُمُّهُ التَّلْثُ وَ الْبَاقِي لِإِمَامِ الْمُسْلِمِينَ لِأَنَّ جِنَايَتَهُ عَلَى الْإِمَامِ .

A number of our companions, from sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Ibn Raib, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far^{asws} having said: 'A son of the mother cursed by her husband, his mother would inherit him the third, and the remainder is for the Imam^{asws} of the Muslims, because his responsibility is upon the Imam^{asws}'.¹⁵⁰

باب

Chapter 54 – A chapter

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ بْنِ عَبْدِ الرَّحْمَنِ قَالَ حَدَّثَنِي إِسْحَاقُ بْنُ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ أَدْعَى النِّسَاءَ دُونَ الرِّجَالِ بَعْدَ مَا ذَهَبَتْ رَجَالُهُنَّ وَ أَنْقَرَضُوا وَ صَارَ رَجُلًا وَ زَوْجَتُهُ وَ أَدْخَلْنَاهُ فِي مَنَازِلِهِنَّ وَ فِي يَدَيِ رَجُلٍ دَارٌ فَبِعَتْ إِلَيْهِ عَصَبَةُ الرِّجَالِ وَ النِّسَاءُ الَّذِينَ أَنْقَرَضُوا فَنَاشَدُوهُ اللَّهُ أَنْ لَا يُعْطِيَ حَقَّهُمْ مِنْ لَيْسَ مِنْهُمْ وَ قَدْ عَرَفَ الرَّجُلُ الَّذِي فِي يَدَيْهِ الدَّارُ قِصَّتَهُ وَ أَنَّهُ مُدْعٍ كَمَا وَصَفْتَ لَكَ وَ اسْتَبَهَ عَلَيْهِ الْأَمْرُ لَا يَدْرِي يَدْفَعُهَا إِلَى الرَّجُلِ أَوْ إِلَى عَصَبَةِ النِّسَاءِ أَوْ عَصَبَةِ الرِّجَالِ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus Bin Abdul Rahman, from Is'haq Bin Ammar who said,

'I asked Abu Ibrahim^{asws} (7th Imam^{asws}) about a man who claimed to the women besides the men, after the going away of their men and becoming extinct. And he became a man and they got him married and entered him into their chambers, and in the hands of a man was a house. So the relatives of the men and the women who

¹⁴⁹ Al Kafi – V 7 – The Book of Inheritances Ch 53 H 10

¹⁵⁰ Al Kafi – V 7 – The Book of Inheritances Ch 54 H 1

had become extinct had asked him, and adjured him by Allah^{azwj}, that he would not give their rights to the one who was not from them, and the man in whose hand was the house knew the story, and he had a claimant just as I have described to you^{asws}, and the matter was confusing to him, and he does not know whether to hand it over to the man, or to the relatives of the women, or relatives of the men’.

قَالَ فَقَالَ لِي يَدْفَعُهُ إِلَى الَّذِي يَعْرِفُ أَنَّ الْحَقَّ لَهُمْ عَلَى مَعْرِفَتِهِ الَّتِي يَعْرِفُ يَعْنِي عَصَبَةَ النِّسَاءِ لِأَنَّهُ لَمْ يُعْرِفْ لِهَذَا الْمُدَّعِي مِيرَاثَ بَدَعَوَى النِّسَاءِ لَهُ .

He (the narrator) said, ‘So he^{asws} said to me: ‘Hand it over to the one whom he recognises that the right is for them upon his understanding with which he understands, meaning the relatives of the women, because he does not recognise for this claimant (the man), any inheritance by the claiming of the women for him’.¹⁵¹

بَاب مِيرَاثِ وَلَدِ الزَّانِي

Chapter 55 – Inheritance of the child of the adultery (bastard)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ أَيُّمَا رَجُلٍ وَقَعَ عَلَى وَبَلَدَةٍ قَوْمٍ حَرَامًا ثُمَّ اشْتَرَاهَا ثُمَّ ادَّعَى وَلَدَهَا فَإِنَّهُ لَا يُورَثُ مِنْهُ شَيْءٌ فَإِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قَالَ الْوَلَدُ لِلْفِرَاشِ وَ لِلْعَاهِرِ الْحَجَرُ وَ لَا يُورَثُ وَ لَدِ الزَّانَا إِلَّا رَجُلٌ يَدَّعِي ابْنَ وَ لِيَدَّتِيهِ وَ أَيُّمَا رَجُلٍ أَقْرَبَ بَوْلِدِهِ ثُمَّ انْتَقَى مِنْهُ فَلَيْسَ ذَلِكَ لَهُ وَ لَا كِرَامَةً يُلْحَقُ بِهِ وَ لَدُهُ إِذَا كَانَ مِنْ أَمْرَاتِهِ أَوْ وَلِيَدَّتِيهِ .

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: ‘Whichever man falls upon a slave girl of a people unlawfully, then buys her, then claims her child (to be his), so he would not inherit from him anything, for Rasool-Allah^{saww} said: ‘The child is for the bed and for the adulterer is the stone, and the son of the adultery would not inherit except a man who claims a son of his slave girl, and whichever man accepts his child, then denies from it, so that is not for him, nor is it honourable; his child would be attached to him whether it was from his wife or from his slave girl’.¹⁵²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ سَيْفٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْأَشْعَرِيِّ قَالَ كَتَبَ بَعْضُ أَصْحَابِنَا كِتَابًا إِلَى أَبِي جَعْفَرٍ الثَّانِي (عَلَيْهِ السَّلَامُ) مَعِيَ يَسْأَلُهُ عَنْ رَجُلٍ فَجَرَ بِأَمْرَاةٍ ثُمَّ إِنَّهُ تَزَوَّجَهَا بَعْدَ الْحَمْلِ فَجَاءَتْ بِوَلَدٍ وَ هُوَ أَشْبَهُ خَلْقِ اللَّهِ بِهِ فَكَتَبَ بِخَطِّهِ وَ خَاتَمَهُ الْوَلَدُ لِغِيَةِ لَا يُورَثُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Sayf, from Muhammad Bin Al Hassan Al Ashary who said,

‘One of our companions wrote a letter to Abu Ja’far^{asws} the 2nd along with me, asking him^{asws} about a man who was immoral with a woman, then he married her after the pregnancy, so she came with a child, and he resembles him most from the creatures of Allah^{azwj}. So he^{asws} wrote by his^{asws} own handwriting and his^{asws} seal: ‘The child of sin does not inherit’.¹⁵³

¹⁵¹ Al Kafi – V 7 – The Book of Inheritances Ch 55 H 1

¹⁵² Al Kafi – V 7 – The Book of Inheritances Ch 56 H 1

¹⁵³ Al Kafi – V 7 – The Book of Inheritances Ch 56 H 2

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَلِيِّ بْنِ سَالِمٍ عَنْ يَحْيَى عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي رَجُلٍ وَقَعَ عَلَى وَلِيدَةٍ حَرَامًا ثُمَّ اشْتَرَاهَا فَأَدَعَى ابْنَهَا قَالَ فَقَالَ لَا يُورَثُ مِنْهُ إِنَّ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قَالَ الْوَلَدُ لِلْفِرَاشِ وَ لِلْعَاهِرِ الْحَجَرُ وَ لَا يُورَثُ وَ لَدَ الزَّانَا إِلَّا رَجُلٌ يَدَّعِي ابْنَ وَ لِيدَتِهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ali Bin Salim, from Yahya,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who fell upon a slave girl unlawfully, then bought her, so he claimed her son (as his). So he^{asws} said: 'He would not inherit from him. Rasool-Allah^{saww} said: 'The child is for the bed (upon which it was conceived), and for the adulterer is the stone, and the child of the adultery would not inherit except a man who claims a son of a slave girl'.¹⁵⁴

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ مَهْزِيَارٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْأَشْعَرِيِّ قَالَ كَتَبَ بَعْضُ أَصْحَابِنَا إِلَى أَبِي جَعْفَرٍ الثَّانِي (عَلَيْهِ السَّلَام) مَعِيَ يَسْأَلُهُ عَنْ رَجُلٍ فَجَرَ بِامْرَأَةٍ ثُمَّ إِنَّهُ تَزَوَّجَهَا بَعْدَ الْحَمْلِ فَجَاءَتْ بِوَلَدٍ وَ هُوَ أَشْبَهَ خُلُقِ اللَّهِ بِهِ فَكَتَبَ بِخَطِّهِ وَ خَاتَمِهِ الْوَلَدَ لِعَيْتِهِ لَا يُورَثُ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Mahziyar, from Muhammad Bin Al Hassan Al Ashary who said,

'One of our companions wrote to Abu Ja'far^{asws} the 2nd along with me, asking him^{asws} about a man who was immoral with a woman, then he married her after the pregnancy, so she came with a child, and he resembled him the most from the creatures of Allah^{azwj}. So he^{asws} wrote by his^{asws} handwriting and his^{asws} seal: 'The child of sin does not inherit'.¹⁵⁵

باب آخر منه

Chapter 56 – Another chapter from it

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ ابْنِ رِثَابٍ عَنْ حَنَانَ بْنِ سَدِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ فَجَرَ بِنَصْرَانِيَّةٍ فَوَلَدَتْ مِنْهُ غُلَامًا فَأَقْرَبَ بِهِ ثُمَّ مَاتَ فَلَمْ يَتْرُكْ وَ لَدًا غَيْرَهُ أَيْرْتُهُ قَالَ نَعَمْ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Ibn Raib, from Hanan Bin Sudeyr,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who was immoral with a Christian woman, so she gave birth to a boy from it. So he accepted it, then died, and he did not leave any child other than him. Would he inherit him?' He^{asws} said: 'Yes'.¹⁵⁶

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ وَ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ حَنَانَ بْنِ سَدِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ مُسْلِمٍ فَجَرَ بِامْرَأَةٍ يَهُودِيَّةٍ فَأَوْلَدَهَا ثُمَّ مَاتَ وَ لَمْ يَدَّعِ وَ ارْتَأَى قَالَ فَقَالَ يُسَلَّمُ لَوْلَا الْمِيرَاثُ مِنَ الْيَهُودِيَّةِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Ismail Bin Bazie and Al Hassan Bin Mahboub, from Hanan Bin Sudeyr who said,

¹⁵⁴ Al Kafi – V 7 – The Book of Inheritances Ch 56 H 3

¹⁵⁵ Al Kafi – V 7 – The Book of Inheritances Ch 56 H 4

¹⁵⁶ Al Kafi – V 7 – The Book of Inheritances Ch 57 H 1

'I asked Abu Abdullah^{asws} about a Muslim man who was immoral with a Jewish woman, so she gave birth. Then he died and did not leave any inheritors. So he^{asws} said: 'Keep the inheritance safe for his child from the Jewish woman'.

قُلْتُ فَرَجُلٌ نَصْرَانِيٌّ فَجَرَ بِامْرَأَةٍ مُسْلِمَةٍ فَأَوْلَدَهَا غُلَامًا ثُمَّ مَاتَ النَّصْرَانِيُّ وَتَرَكَ مَالًا لِمَنْ يَكُونُ مِيرَاثُهُ قَالَ يَكُونُ مِيرَاثُهُ لِابْنِهِ مِنَ الْمُسْلِمَةِ .

I said, 'So a Christian man is immoral with a Muslim woman, so she gives birth to a boy, then the Christian man dies and leave wealth; for whom would be his inheritance?' He^{asws} said: 'His inheritance would happen to be for his son from the Muslim woman'.¹⁵⁷

باب

Chapter 57 – A Chapter

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنِ سُلَيْمِ مَوْلَى طَرْبَالٍ عَنْ حَرِيْزٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي رَجُلٍ كَانَ يَطَأُ جَارِيَةً لَهُ وَ أَنَّهُ كَانَ يَبْعَثُهَا فِي حَوَائِجِهِ وَ أَنَّهَُا حَبِلَتْ وَ أَنَّهُ [أَتَتْهَا وَ] بَلَغَهُ عَنْهَا فَسَادَ فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) إِذَا هِيَ وَوَلَدَتْ أَمْسَكَ الْوَلَدَ وَ لَا يَبِيعُهُ وَ يَجْعَلُ لَهُ نَصِيبًا مِنْ دَارِهِ [وَ مَالِهِ]

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad, from Suleym, a slave of Tirbal, from Hareyz,

(It has been narrated) from Abu Abdullah^{asws} regarding a man who went to his slave girl of his, and he had sent her somewhere regarding a need of his, and she became pregnant, and he accused her and news of her mischief reached him. So Abu Abdullah^{asws} said: 'When she gives birth, she should keep the child and not sell him, and make for him a share from his house and his wealth'.

قَالَ فَقِيلَ لَهُ رَجُلٌ يَطَأُ جَارِيَةً لَهُ وَ أَنَّهُ لَمْ يَكُنْ يَبْعَثُهَا فِي حَوَائِجِهِ وَ إِنَّمَا أَتَتْهَا وَ حَبِلَتْ فَقَالَ إِذَا هِيَ وَوَلَدَتْ أَمْسَكَ الْوَلَدَ وَ لَا يَبِيعُهُ وَ يَجْعَلُ لَهُ نَصِيبًا مِنْ دَارِهِ وَ مَالِهِ وَ لَيْسَتْ هَذِهِ مِثْلَ تِلْكَ .

He (the narrator) said, 'It was said to him^{asws}, 'A man went to a slave girl of his, and he had not sent her regarding a need of his, and he accused her, and she was pregnant'. So he^{asws} said: 'When she gives birth, he should keep the child and not sell him, and make for him a share from his house and his wealth, and this is not similar to that'.¹⁵⁸

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّ رَجُلًا مِنَ الْأَنْصَارِ أَتَى أَبِي فَقَالَ لَهُ إِنِّي ابْتُلَيْتُ بِأَمْرِ عَظِيمٍ إِنَّ لِي جَارِيَةً كُنْتُ أَطَأُهَا فَوَطِئْتُهَا يَوْمًا وَ خَرَجْتُ فِي حَاجَةٍ لِي بَعْدَ مَا اغْتَسَلْتُ مِنْهَا وَ نَسِيتُ نَفَقَةَ لِي فَرَجَعْتُ إِلَى الْمَنْزِلِ لِأَخْذِهَا فَوَجَدْتُ غُلَامِي عَلَى بَطْنِهَا فَعَدَدْتُ لَهَا مِنْ يَوْمِي ذَلِكَ تِسْعَةَ أَشْهُرٍ فَوَلَدَتْ جَارِيَةً

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'A man from the Helpers came to my^{asws} father^{asws}, so he said to him^{asws}, 'I have been afflicted with a grievous

¹⁵⁷ Al Kafi – V 7 – The Book of Inheritances Ch 57 H 2

¹⁵⁸ Al Kafi – V 7 – The Book of Inheritances Ch 58 H 1

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about two *Al-Hameyl* men, they came with these two from the land of the Polytheism. So one of the two said to his companions, 'You are my brother'. So they were recognised by with. Then they were emancipated (freed), and remained accepting with the brotherhood. Then one of the two died'. So he^{asws} said: 'The inheritance is for the brother, both being ratified'.¹⁶¹

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الْحَمِيلِ فَقَالَ وَ أَيُّ شَيْءِ الْحَمِيلُ فَقُلْتُ الْمَرْأَةُ تُسَبِّي مِنْ أَرْضِهَا وَ مَعَهَا الْوَلَدُ الصَّغِيرُ فَنَقُولُ هُوَ ابْنِي وَ الرَّجُلُ يُسَبِّي فَيَقُولُ أَخَاهُ فَيَقُولُ هُوَ أَخِي وَ يَتَعَارَفَانِ وَ لَيْسَ لَهُمَا عَلَى ذَلِكَ بَيِّنَةٌ إِلَّا قَوْلَهُمَا

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and a number of our companions, from Sahl Bin Ziyad, from Al Hassan Bin Mahboub, from Abdul Rahman Bin Al Hajjaj who said,

'I asked Abu Abdullah^{asws} about *Al-Hameyl* (brought from another land), so he^{asws} said: 'And which thing is *Al-Hameyl*?' So I said, 'The woman is taken prisoner from her land, and with her is the young child. So she is saying, 'He is my son'. And the man is taken prisoner so he meets his brother, so he is saying, 'He is my brother'. And they are both recognised as such, and there is no proof for them both upon that except for their own words'.

فَقَالَ مَا يَقُولُ مَنْ قَبْلَكُمْ قُلْتُ لَا يُورَثُونَهُمْ لِأَنَّهُمْ لَمْ يَكُنْ لَهُمْ عَلَى ذَلِكَ بَيِّنَةٌ إِنَّمَا كَانَتْ وَ لَادَةٌ فِي الشَّرِكِ قَالَ سُبْحَانَ اللَّهِ إِذَا جَاءَتْ بِابْنِهَا أَوْ ابْنَتِهَا مَعَهَا وَ لَمْ تَزَلْ بِهِ مَقْرَّةً وَ إِذَا عَرَفَ أَخَاهُ وَ كَانَ ذَلِكَ فِي صِحَّةٍ مِنْ عَقْلِهِمَا وَ لَا يَزَالَانِ مُؤَرِّبِينَ بِذَلِكَ وَرِثَ بَعْضُهُمْ مِنْ بَعْضٍ .

So he^{asws} said: 'What are the ones before you saying'. I said, 'They would not be inheriting each other because there does not happen to be any proof upon that. But rather, the birth was in the Polytheism'.

He^{asws} said: 'Glory be to Allah^{azwj}! (Allah^{azwj} is free from all defects) She comes with her son or her daughter with her, and she does not cease to accept it, and when he recognises his brother, and that was in good health from their two intellects, and they both do not cease accepting that, they would inherit each other'.¹⁶²

باب إقرار بعض الورثة بدين

Chapter 59 – Acceptance of a debt with an inheritor

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ جَمِيلِ بْنِ دَرَّاجٍ عَنْ زَكَرِيَّا بْنِ يَحْيَى عَنِ الشَّعْبِيِّ عَنِ الْحَكَمِ بْنِ عَتَبَةَ قَالَ كُنَّا عَلَى بَابِ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) وَ نَحْنُ جَمَاعَةٌ نَنْتَظِرُهُ أَنْ يَخْرُجَ إِذْ جَاءَتْ امْرَأَةٌ فَقَالَتْ أَبُوكُمْ أَبُو جَعْفَرٍ فَقَالَ لَهَا الْقَوْمُ مَا تُرِيدِينَ مِنْهُ قَالَتْ أُرِيدُ أَنْ أَسْأَلَهُ عَنْ مَسْأَلَةٍ فَقَالُوا لَهَا هَذَا فَقِيهْ أَهْلَ الْعِرَاقِ فَسَلِيهِ فَقَالَتْ إِنَّ زَوْجِي مَاتَ وَ تَرَكَ أَلْفَ دِرْهَمٍ وَ كَانَ لِي عَلَيْهِ مِنْ صَدَاقِي خَمْسِمِائَةَ دِرْهَمٍ فَأَخَذْتُ صَدَاقِي وَ أَخَذْتُ مِيرَاثِي ثُمَّ جَاءَ رَجُلٌ فَادَّعَى عَلَيْهِ أَلْفَ دِرْهَمٍ فَشَهِدْتُ لَهُ

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Ibn Abu Umeyr, from Jameel Bin Darraj, from Zakariyya Bin Yahya, from Al Shairi, from Al Hakam Bin Uteyba who said,

¹⁶¹ Al Kafi – V 7 – The Book of Inheritances Ch 59 H 2

¹⁶² Al Kafi – V 7 – The Book of Inheritances Ch 59 H 3

'We were at the door of Abu Ja'far^{asws}, and we were a group awaiting him^{asws} that he^{asws} comes out, when a woman came over. So she said, 'Which one of you is Abu Ja'far^{asws}?' So the group said to her, 'What do you want from him^{asws}?' She said, 'I want to ask him^{asws} a question'. So they said to her, 'This here is a jurist of the people of Al-Iraq, so ask him (instead)'. She said, 'My husband died and left a thousand Dirhams, and there is still outstanding upon him, for me, my dower of five hundred Dirhams. So I took my dower and I took my inheritance. Then a man came over, so he claimed a thousand Dirhams against him. So I testified for him (that such is the case)'.
(عليه السلام) فَقَالَ مَا يُصِيبُهَا إِذْ خَرَجَ أَبُو جَعْفَرٍ (عليه السلام) فَقَالَ مَا هَذَا الَّذِي أَرَاكَ تُحَرِّكُ بِهِ أَصَابِعَكَ يَا حَكَمُ فَأَخْبَرْتُهُ بِمَقَالَةِ الْمَرْأَةِ وَمَا سَأَلْتُ عَنْهُ فَقَالَ أَبُو جَعْفَرٍ (عليه السلام) أَقْرَبْتُ بِثُلُثٍ مَا فِي يَدَيْهَا وَلَا مِيرَاثَ لَهَا

So Al-Hakam said, 'So while I was calculating what is for her, when Abu Ja'far^{asws} came out, so he^{asws} said: 'What is this which I^{asws} see you moving your fingers, O Hakam?' So I informed him^{asws} with the words of the woman, and what she asked about?' So Abu Ja'far^{asws} said: 'She accepts with a third of what is in her hands, and there is no inheritance for her'.
قَالَ الْحَكَمُ فَوَ اللَّهُ مَا رَأَيْتُ أَحَدًا أَفْهَمَ مِنْ أَبِي جَعْفَرٍ (عليه السلام)

Al-Hakam said, 'By Allah^{azwj}! I have never seen anyone of more understanding than Abu Ja'far^{asws}'.¹⁶³

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ وَحُسَيْنِ بْنِ عُثْمَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ مَاتَ وَأَقْرَبَ بَعْضُ وَرَثَتِهِ لِرَجُلٍ بَدِينٍ قَالَ يَلْزَمُهُ ذَلِكَ فِي حَصَّتِهِ .

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

(It has been narrated) from Abu Abdullah^{asws} regarding a man who died and one of his inheritors accepted a debt for a man. He^{asws} said: 'That is necessary (to be paid off) from their shares'.¹⁶⁴

باب

Chapter 60 – A Chapter

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مَرْوَانَ بْنِ عُبَيْدٍ عَنْ أَبِي الْحَسَنِ الرَّضَا (عليه السلام) قَالَ دَخَلْتُ عَلَيْهِ وَاسَلَّمْتُ وَقُلْتُ جُعِلَتْ فِدَاكَ مَا نَقُولُ فِي رَجُلٍ مَاتَ وَ لَيْسَ لَهُ وَارِثٌ إِلَّا أَخٌ لَهُ مِنَ الرَّضَاعَةِ يَرِثُهُ قَالَ نَعَمْ أَخْبَرَنِي أَبِي عَنْ جَدِّي أَنَّ رَسُولَ اللَّهِ (صلى الله عليه وآله) قَالَ مَنْ شَرِبَ مِنْ لَبَنِنَا أَوْ أَرْضَعَ لَنَا وَوَلَدًا فَنَحْنُ آبَاؤُهُ .

A number of our companions, from Sahl Bin Ziyad, from Marouk Bin Ubeyd,

(It has been narrated) from Abu Al-Hassan Al-Reza^{asws}, said, 'I went over to him^{asws} and I greeted and said, 'May I be sacrificed for you^{asws}! What are you^{asws} saying regarding a man who dies and there is no inheritor for him except for a brother of his from the breastfeeding. Would he inherit him?' He^{asws} said: 'Yes. My^{asws} father^{asws}

¹⁶³ Al Kafi – V 7 – The Book of Inheritances Ch 60 H 1

¹⁶⁴ Al Kafi – V 7 – The Book of Inheritances Ch 60 H 2

informed me^{asws} from his^{asws} grandfather^{asws} that Rasool-Allah^{saww} said: 'The one who drinks from our^{asws} milks or breastfeeds a child for us^{asws}, so we^{asws} are his fathers'.¹⁶⁵

بَابُ مَنْ مَاتَ وَ لَيْسَ لَهُ وَارِثٌ

Chapter 61 – One dies and there is no inheritor for him

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ مَاتَ وَ تَرَكَ دَيْنًا فَعَلَيْنَا دَيْنُهُ وَ الْيَتِيمَا عِيَالُهُ وَ مَنْ مَاتَ وَ تَرَكَ مَالًا فَلِوَرَثَتِهِ وَ مَنْ مَاتَ وَ لَيْسَ لَهُ مَوَالٍ فَمَالُهُ مِنَ الْأَنْفَالِ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one who dies and leaves debts, so upon us^{asws} is his debt, and upon us^{asws} are his dependents. And the one who dies and leaves wealth, so it is for his inheritors. And the one who dies and there is no guardian for him, so his wealth is from the spoils of war (i.e. Public treasury)'.¹⁶⁶

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ مَنْ مَاتَ وَ لَيْسَ لَهُ وَارِثٌ مِنْ قَرَابَتِهِ وَ لَا مَوْلَى عَتَاقِهِ قَدْ ضَمِنَ جَرِيرَتَهُ فَمَالُهُ مِنَ الْأَنْفَالِ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Al A'ala, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far^{asws} having said: 'The one who dies and there is no inheritor for him nor a master freeing him from the responsibility of his crimes, so his wealth is from the spoils of war (i.e. Public treasury)'.¹⁶⁷

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي الْحَسَنِ الْأَوَّلِ (عَلَيْهِ السَّلَامُ) قَالَ الْإِمَامُ وَارِثٌ مَنْ لَا وَارِثَ لَهُ .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from one of our companions,

(It has been narrated) from Abu Al-Hassan^{asws} the 1st having said: 'The Imam^{asws} is the inheritor of the one who has no inheritor for him'.¹⁶⁸

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ مُسْكَانَ عَنْ مُحَمَّدِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي قَوْلِ اللَّهِ تَبَارَكَ وَ تَعَالَى يَسْأَلُونَكَ عَنِ الْأَنْفَالِ قَالَ مَنْ مَاتَ وَ لَيْسَ لَهُ مَوْلَى فَمَالُهُ مِنَ الْأَنْفَالِ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Safwan Bin Yahya, from Ibn Muskan, from Muhammad Al Halby,

(It has been narrated) from Abu Abdullah^{asws} regarding the Words of Allah^{azwj} Blessed and High **[Shakir 8:1] They are asking you about the spoils of war.**

¹⁶⁵ Al Kafi – V 7 – The Book of Inheritances Ch 61 H 1

¹⁶⁶ Al Kafi – V 7 – The Book of Inheritances Ch 62 H 1

¹⁶⁷ Al Kafi – V 7 – The Book of Inheritances Ch 62 H 2

¹⁶⁸ Al Kafi – V 7 – The Book of Inheritances Ch 62 H 3

He^{asws} said: 'The one who dies and there is no guardian for him, so his wealth is from the spoils of war (i.e. Public treasury)'.¹⁶⁹

باب

Chapter 62 – A Chapter

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيسَى عَنْ دَاوُدَ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَاتَ رَجُلٌ عَلَى عَهْدِ أَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) لَمْ يَكُنْ لَهُ وَارِثٌ فَدَفَعَ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) مِيرَاثَهُ إِلَى هَمْشَرِيحِهِ .

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from dawood, from the one who mentioned it,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A man died in the era of Amir Al-Momineen^{asws}, not having an inheritor for him, so Amir Al-Momineen^{asws} handed over his inheritance to his fellow city folk'.¹⁷⁰

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ خَلَادِ السُّنْدِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ كَانَ عَلِيٌّ (عَلَيْهِ السَّلَام) يَقُولُ فِي الرَّجُلِ يَمُوتُ وَ يَتْرُكُ مَالًا وَ لَيْسَ لَهُ أَحَدٌ أَعْطَى الْمِيرَاثَ هَمْشَارِيحَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Khallad Al Sindy,

(It has been narrated) from Abu Abdullah^{asws} having said: 'Ali^{asws} was saying regarding the man who died and left wealth, and there was no one for him: 'Give the inheritance to his city folk'.¹⁷¹

باب أَنَّ الْوَلَاءَ لِمَنْ أَعْتَقَ

Chapter 63 – The guardianship is for the one who emancipates

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ وَ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) الْوَلَاءُ لِمَنْ أَعْتَقَ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'The Prophet^{saww} said: 'The guardianship is for the one who emancipates (frees)'.¹⁷²

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَام) فِي حَدِيثِ بَرِيرَةَ أَنَّ النَّبِيَّ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) قَالَ لِعَائِشَةَ أَعْتَقِي فَإِنَّ الْوَلَاءَ لِمَنْ أَعْتَقَ .

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

¹⁶⁹ Al Kafi – V 7 – The Book of Inheritances Ch 62 H 4

¹⁷⁰ Al Kafi – V 7 – The Book of Inheritances Ch 63 H 1

¹⁷¹ Al Kafi – V 7 – The Book of Inheritances Ch 63 H 2

¹⁷² Al Kafi – V 7 – The Book of Inheritances Ch 64 H 1

(It has been narrated) from Abu Ja'far^{asws} in a Hadeeth of Bureyra, that the Prophet^{saww} said to Ayesha: 'Emancipate (a slave) for the guardianship is for the one who emancipates'.¹⁷³

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عِيصِ بْنِ الْقَاسِمِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ قَالَتْ عَائِشَةُ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) إِنَّ أَهْلَ بَرِيرَةَ اشْتَرَطُوا وَآءَهَا فَقَالَ رَسُولُ اللَّهِ الْوَلَاءُ لِمَنْ أَعْتَقَ .

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

(It has been narrated) from Abu Abdullah^{asws} having said: 'Ayesha said to Rasool-Allah^{saww}, 'The people of Bureyra has stipulated a condition upon her guardianship'. So he^{saww} said: 'The guardianship is for the one who emancipates'.¹⁷⁴

صَفْوَانُ عَنِ الْعِيصِ بْنِ الْقَاسِمِ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ اشْتَرَى عَبْدًا لَهُ أَوْلَادٌ مِنْ امْرَأَةٍ حُرَّةٍ فَأَعْتَقَهُ قَالَ وَآءٌ وَلِدِهِ لِمَنْ أَعْتَقَهُ .

Safwan, from Al Ays Bin Al Qasim,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a man who bought a slave who had children from a free woman, so he emancipated him. He^{asws} said: 'The guardianship of his children is for the one who emancipated him'.¹⁷⁵

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي امْرَأَةٍ أَعْتَقَتْ رَجُلًا لِمَنْ وَآءُهُ وَ لِمَنْ مِيرَاثُهُ قَالَ لِلَّذِي أَعْتَقَهُ إِلَّا أَنْ يَكُونَ لَهُ وَارِثٌ غَيْرُهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Al Fuzayl, from Abu Al Sabah Al Kanany,

(It has been narrated) from Abu Abdullah^{asws} regarding a woman who emancipated a man, for whom is his guardianship and for whom is his inheritance? He^{asws} said: 'For the one who emancipated him except if there happen to be for him an inheritor other than her'.¹⁷⁶

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَمَّنْ حَدَّثَهُ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَاتَ مَوْلَى لِحَمْزَةَ بْنِ عَبْدِ الْمُطَّلِبِ فَدَفَعَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) مِيرَاثَهُ إِلَى ابْنَةِ حَمْزَةَ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad, from Safwan, from Abdul Rahman Bin Al Hajjaj, from the one who narrated it,

(It has been narrated) from Abu Abdullah^{asws} having said: 'A slave of Hamza Bin Abdul Muttalib^{as} died, so Rasool-Allah^{saww} handed over his inheritance to a daughter of Hamza'.¹⁷⁷

بَابُ وَآءِ السَّائِبَةِ

¹⁷³ Al Kafi – V 7 – The Book of Inheritances Ch 64 H 2

¹⁷⁴ Al Kafi – V 7 – The Book of Inheritances Ch 64 H 3

¹⁷⁵ Al Kafi – V 7 – The Book of Inheritances Ch 64 H 4

¹⁷⁶ Al Kafi – V 7 – The Book of Inheritances Ch 64 H 5

¹⁷⁷ Al Kafi – V 7 – The Book of Inheritances Ch 64 H 6

Chapter 64 – Guardianship of *Al Saibah* (Unconditionally freed slave)

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عُمَرَ بْنِ يَزِيدَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) عَنْ رَجُلٍ أَرَادَ أَنْ يُعْتِقَ مَمْلُوكًا لَهُ وَ قَدْ كَانَ مَوْلَاهُ يَأْخُذُ مِنْهُ ضَرْبِيَّةً فَرَضَهَا عَلَيْهِ فِي كُلِّ سَنَةٍ وَ رَضِيَ بِذَلِكَ مِنْهُ الْمَوْلَى وَ رَضِيَ الْمَمْلُوكُ بِذَلِكَ فَأَصَابَ الْمَمْلُوكُ فِي تِجَارَتِهِ مَالًا سِوَى مَا كَانَ يُعْطِي مَوْلَاهُ مِنَ الضَّرْبِيَّةِ قَالَ فَقَالَ إِذَا أَدَى إِلَى سَيِّدِهِ مَا كَانَ فَرَضَ عَلَيْهِ فَمَا اكْتَسَبَهُ بَعْدَ الْفَرِيضَةِ فَهُوَ لِلْمَمْلُوكِ

Muhammad Bin yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, from Umar Bin Yazeed who said,

'I asked Abu Abdullah^{asws} about a man who intended to emancipate a slave of his, and his master used to take tax from him obligated upon him during every year, and the master was happy with that and the slave was happy with that. So the slave attained wealth in his business equal to what he was giving to his master from the taxes. So he^{asws} said: 'When he pays to his master what was obligated upon him, so whatever he earns after the obligation, so it is for the slave'.

قَالَ ثُمَّ قَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَلَيْسَ قَدْ فَرَضَ اللَّهُ عَلَى الْعِبَادِ فَرَائِضَ فَإِذَا أَدَّوْهَا إِلَيْهِ لَمْ يَسْأَلْهُمْ عَمَّا سِوَاهَا فَقُلْتُ لَهُ فَلِلْمَمْلُوكِ أَنْ يَتَصَدَّقَ مِمَّا اكْتَسَبَ وَ يُعْتِقَ بَعْدَ الْفَرِيضَةِ الَّتِي كَانَ يُؤَدِّيْهَا إِلَى سَيِّدِهِ قَالَ نَعَمْ وَ أَجْرُ ذَلِكَ لَهُ

He (the narrator) said, 'Then Abu Abdullah^{asws} said: 'Is it not the case that Allah^{azwj} has Obligated certain Obligations upon the servant, so when he fulfils it, He^{asws} would not Ask him about what is besides it?' So I said to him^{asws}, 'So it is for the slave that he gives in charity from what he earns, and he emancipates after the obligation which was payable to his master?' He^{asws} said: 'Yes, and the Recompense of that is for him'.

قُلْتُ فَإِذَا أَعْتَقَ مَمْلُوكًا مِمَّا كَانَ اكْتَسَبَ سِوَى الْفَرِيضَةِ لِمَنْ يَكُونُ وَ لَاءَ الْمُعْتَقِ قَالَ يَذْهَبُ فَيُؤَالِي مَنْ أَحَبَّ فَإِذَا ضَمِنَ جَرِيرَتَهُ وَ عَقْلَهُ كَانَ مَوْلَاهُ وَ وَرَثَتُهُ قُلْتُ أَلَيْسَ قَدْ قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) الْوَلَاءُ لِمَنْ أَعْتَقَ قَالَ هَذَا سَائِبَةٌ لَا يَكُونُ وَلَاؤُهُ لِعَبْدٍ مِثْلِهِ قُلْتُ فَإِنْ ضَمِنَ الْعَبْدُ الَّذِي أَعْتَقَهُ جَرِيرَتَهُ وَ حَدَّثَهُ أَيْلَازُهُ ذَلِكَ وَ يَكُونُ مَوْلَاهُ وَ بَرْتُهُ قَالَ لَا يَجُوزُ ذَلِكَ وَ لَا يَرِثُ عَبْدٌ حُرًّا .

I said, 'So if he emancipates a slave from what he had earned, besides the obligation, to whom would belong the guardianship of the emancipated one?' He^{asws} said: 'He should go and give the guardianship to the one whom he likes, who would take the responsibility of his crimes and wergild, he would be his guardian and his inheritor'. I said, 'Is it not the case that Rasool-Allah^{sawww} said: 'The guardianship is for the one who emancipates?' He^{asws} said: 'This is a *Sa'iba* (an unconditionally freed slave), his guardianship cannot happen to be for a slave like him'. I said, 'So if the slave who emancipate guarantees the responsibility of his crimes, and his liabilities, would that necessitate and he would become his master and inherit him?' He^{asws} said: 'That is not allowed, and a slave would not inherit a free one'¹⁷⁸.

ابْنُ مَحْبُوبٍ عَنِ ابْنِ رَبَّابٍ عَنْ عَمَّارِ بْنِ أَبِي الْأَحْوَصِ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَام) عَنِ السَّائِبَةِ فَقَالَ أَنْظِرُوا فِي الْقُرْآنِ فَمَا كَانَ فِيهِ فَتَحْرِيرُ رَقَبَةٍ فَنُتِلَ يَا عَمَّارُ السَّائِبَةُ الَّتِي لَا وَ لَاءَ لِأَحَدٍ عَلَيْهَا إِلَّا اللَّهُ فَمَا كَانَ وَلَاؤُهُ لِلَّهِ فَهُوَ لِرَسُولِهِ وَ مَا كَانَ وَلَاؤُهُ لِرَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ) فَإِنَّ وَ لَاءَهُ لِلْإِمَامِ وَ حِنَائِيَّتُهُ عَلَى الْإِمَامِ وَ مِيرَاتُهُ لَهُ .

¹⁷⁸ Al Kafi – V 7 – The Book of Inheritances Ch 65 H 1

Ibn Mahboub, from Ibn Raib, from Ammar Bin Abu Al Ahows who said,

'I asked Abu Ja'far^{asws} about Al-Sa'iba (unconditionally freed slave), so he^{asws} said: 'Look in the Quran, so whatever was in it, so free a slave (accordingly). So that, O Ammar, is the unconditionally freed slave for whom there is no guardian over him except for Allah^{azwj}. So whatever was the Guardianship for Allah^{azwj}, so it is for His^{azwj} Rasool^{saww}, and whatever was the guardianship for Rasool-Allah^{saww}, so his guardianship is for the Imam^{asws}, and his crimes are upon the Imam^{asws}, and his inheritance is for him'.¹⁷⁹

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ إِذَا وَالَى الرَّجُلُ الرَّجُلَ فَلَهُ مِيرَاثُهُ وَ عَلَيْهِ مَعْفَاتُهُ .

Ali Bin Ibrahim, from his father and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Ibn Abu Umeyr, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah^{asws} having said: 'When the man is the guardian of the man, so for him is his inheritance and upon him is his wergild'.¹⁸⁰

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ حَمَّادِ بْنِ عِيسَى عَنِ شُعَيْبِ بْنِ الْوَيْهَابِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّهُ سُئِلَ عَنِ الْمَمْلُوكِ يُعْتَقُ سَائِبَةً قَالَ يَتَوَلَّى مَنْ شَاءَ وَ عَلَى مَنْ يَتَوَلَّى جَرِيرَتُهُ وَ لَهُ مِيرَاثُهُ فَلَمَّا لَهُ فَإِنْ سَكَتَ حَتَّى يَمُوتَ وَ لَمْ يَتَوَالَ أَحَدًا قَالَ يُجْعَلُ مَالُهُ فِي بَيْتِ مَالِ الْمُسْلِمِينَ .

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

(It has been narrated) from Abu Abdullah^{asws} having been asked about the slave emancipating a slave unconditionally. He^{asws} said: 'He would be his guardian whoever he so desires, and upon the one who is guardian are his crimes, and for him would be his inheritance'. We said to him^{asws}, 'So if remains such until he dies and no one is his guardian?' He^{asws} said: 'His wealth would be made to be in the public treasury of the Muslims'.¹⁸¹

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) قَالَ مَنْ أَعْتَقَ رَجُلًا سَائِبَةً فَلَيْسَ عَلَيْهِ مِنْ جَرِيرَتِهِ شَيْءٌ وَ لَيْسَ لَهُ مِنْ مِيرَاثِهِ شَيْءٌ وَ لَيْسَ هَذَا عَلَى ذَلِكَ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah^{asws} having said: 'The one emancipates a man unconditionally, so there is nothing upon him from his crimes, anything, and there is nothing for him from his inheritance, anything, and let him have witnesses upon that'.¹⁸²

¹⁷⁹ Al Kafi – V 7 – The Book of Inheritances Ch 65 H 2

¹⁸⁰ Al Kafi – V 7 – The Book of Inheritances Ch 65 H 3

¹⁸¹ Al Kafi – V 7 – The Book of Inheritances Ch 65 H 4

¹⁸² Al Kafi – V 7 – The Book of Inheritances Ch 65 H 5

ابْنُ مَحْبُوبٍ عَنْ خَالِدِ بْنِ جَرِيرٍ عَنْ أَبِي الرَّبِيعِ قَالَ سَأَلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ السَّائِبَةِ فَقَالَ هُوَ الرَّجُلُ يُعْتَقُ غَلَامَهُ ثُمَّ يَقُولُ لَهُ أَذْهَبَ حَيْثُ شِئْتَ لَيْسَ لِي مِنْ مِيرَاثِكَ شَيْءٌ وَلَا عَلَيَّ مِنْ جَرِيرَتِكَ شَيْءٌ وَيُشْهَدُ عَلَى ذَلِكَ شَاهِدَيْنِ .

Ibn Mahboub, from Khalid Bin Jareer, from Abu Al Rabie who said,

‘Abu Abdullah^{asws} was asked about the unconditionally freed slave, so he^{asws} said: ‘He is the man who emancipates his slave, then is saying to him, ‘Go wherever you like, there is nothing from your inheritance for me, nor is there upon me from your crimes, anything’, and he should get it witnessed upon that by two witnesses’.¹⁸³

ابْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ بُرَيْدِ بْنِ مُعَاوِيَةَ الْعَجَلِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) عَنْ رَجُلٍ كَانَ عَلَيْهِ عِتْقُ رَقَبَةٍ فَمَاتَ مِنْ قَبْلِ أَنْ يُعْتِقَ رَقَبَتَهُ فَأَنْطَلَقَ ابْنُهُ فَأَتْبَاعَ رَجُلًا مِنْ كَسْبِهِ فَأَعْتَقَهُ عَنْ أَبِيهِ وَإِنَّ الْمُعْتَقَ أَصَابَ بَعْدَ ذَلِكَ مَالًا ثُمَّ مَاتَ وَتَرَكَهُ لِمَنْ يَكُونُ مِيرَاثُهُ

Ibn Mahboub, from Abu Ayoub, from Bureyd Bin MUawiya Al Ajaly who said,

‘I asked Abu Ja’far^{asws} about a man upon whom was the emancipation of a neck, so he died before he could emancipate a neck. So his son went and bought a slave from his own earning and emancipated him on behalf of his father. Then the freed slave got wealth after that, then died and left it for the one who happened to be his inheritor.

قَالَ فَقَالَ إِنْ كَانَتْ الرَّقَبَةُ الَّتِي عَلَى أَبِيهِ فِي ظَهَارٍ أَوْ شُكْرٍ أَوْ وَاجِبَةً عَلَيْهِ فَإِنَّ الْمُعْتَقَ سَائِبَةٌ لَا سَبِيلَ لِأَحَدٍ عَلَيْهِ وَ إِنْ كَانَ تَوَالِي قَبْلَ أَنْ يَمُوتَ إِلَى أَحَدٍ مِنَ الْمُسْلِمِينَ فَضَمَّ جَنَائِزَهُ وَ حَدَّثَهُ كَانَ مَوْلَاهُ وَ وَارَثَهُ إِنْ لَمْ يَكُنْ لَهُ قَرِيبٌ يَرِثُهُ قَالَ وَ إِنْ لَمْ يَكُنْ تَوَالِي إِلَى أَحَدٍ مِنَ الْمُسْلِمِينَ حَتَّى مَاتَ فَإِنَّ مِيرَاثَهُ لِإِمَامِ الْمُسْلِمِينَ إِنْ لَمْ يَكُنْ لَهُ قَرِيبٌ يَرِثُهُ

He (the narrator) said, ‘So he^{asws} said: ‘If the (freeing of) the neck which was upon his father was with regards to *Zihaar*, or a thankfulness, or an Obligation upon him, so the freed one would be a unconditionally freed one. There would not be a way for anyone over him. If he had given his guardianship to anyone from the Muslims, so he would be responsible for his crimes, and his liabilities, he would be his guardian and his inheritor, if there do not happen to be any relatives to inherit him. And if he not give guardianship to anyone from the Muslims until he died, so his inheritance is for the Imam^{asws} of the Muslims, if there do not happen to be any who would inherit him’.

قَالَ وَ إِنْ كَانَتْ الرَّقَبَةُ عَلَى أَبِيهِ تَطَوُّعًا وَ قَدْ كَانَ أَبُوهُ أَمْرَهُ أَنْ يُعْتِقَ عَنْهُ نَسَمَةً فَإِنَّ وِلَاءَ الْمُعْتَقِ هُوَ مِيرَاثٌ لِجَمِيعِ وُلْدِ الْمَيِّتِ مِنَ الرِّجَالِ

He^{asws} said: ‘And if the (freeing of) the neck upon his father was voluntary, and his father had instructed him that he should emancipate a person on his behalf, so the guardianship of the emancipated one, it is the inheritance of the entirety of the children of the deceased, from the men’.

قَالَ وَ يَكُونُ الَّذِي اشْتَرَاهُ وَ أَعْتَقَهُ بِأَمْرِ أَبِيهِ كَوَاحِدٍ مِنَ الْوَرَثَةِ إِذَا لَمْ يَكُنْ لِلْمُعْتَقِ قَرَابَةٌ مِنَ الْمُسْلِمِينَ أَحْرَارًا يَرْتُونَهُ قَالَ وَ إِنْ كَانَ ابْنُهُ الَّذِي اشْتَرَى الرَّقَبَةَ فَأَعْتَقَهَا عَنْ أَبِيهِ مِنْ مَالِهِ بَعْدَ مَوْتِ أَبِيهِ تَطَوُّعًا مِنْهُ مِنْ غَيْرِ أَنْ يَكُونَ أَبُوهُ أَمْرَهُ بِذَلِكَ فَإِنَّ وِلَاءَهُ وَ مِيرَاثَهُ لِلَّذِي اشْتَرَاهُ مِنْ مَالِهِ فَأَعْتَقَ عَنْ أَبِيهِ إِذَا لَمْ يَكُنْ لِلْمُعْتَقِ وَارِثٌ مِنْ قَرَابَتِهِ .

¹⁸³ Al Kafi – V 7 – The Book of Inheritances Ch 65 H 6

He^{asws} said: 'And the one who bought him and emancipated him by the instruction of his father would happen to be one from the inheritors, if there do not happen to be any relatives from the free Muslims for the emancipated one, who would inherit him. And if it was that the son who bought the neck, so he emancipated it on behalf of his father from his own wealth, after the death of his father, voluntarily from other than his father having instructed him for that, so his guardianship and his inheritance is for the one who bought him, from his own wealth, so he emancipated on behalf of his father, if there do not happen to be, for the emancipated one, an inheritor from his relatives'.¹⁸⁴

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ مَمْلُوكٍ أَعْتَقَ سَائِبَةً قَالَ يَتَوَلَّى مَنْ شَاءَ وَ عَلَى مَنْ تَوَلَّاهُ جَرِيرَتُهُ وَ لَهُ مِيرَاثُهُ فَلْتُ فَإِنْ سَكَتَ حَتَّى يَمُوتَ قَالَ يُجْعَلُ مَالُهُ فِي بَيْتِ مَالِ الْمُسْلِمِينَ .

Ali Bin Ibrahim, from his father, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Hisham Bin Salim, from Suleyman Bin Khalid,

(It has been narrated) from Abu Abdullah^{asws}, said, 'I asked him^{asws} about a slave who emancipated a slave unconditionally. He^{asws} said: 'His guardian would be whoever he so like, and upon the one who is his guardian would be his crimes, and for him would be his inheritance'. I said, 'So if it remains such until he dies (without a guardian)?' He^{asws} said: 'His wealth would be made to be in the public treasury of the Muslims'.¹⁸⁵

مُحَمَّدُ بْنُ يَحْيَى وَ غَيْرُهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْحَمِيدِ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَامُ) فِيمَنْ نَكَلَ بِمَمْلُوكِهِ أَنَّهُ حُرٌّ لَا سَبِيلَ لَهُ عَلَيْهِ سَائِبَةٌ يَذْهَبُ فَيَتَوَلَّى إِلَى مَنْ أَحَبَّ فَإِذَا ضَمِنَ جَرِيرَتَهُ فَهُوَ بَرْتُهُ .

Muhammad Bin Yahya and someone else, from Ahmad Bin Muhammad, from Muhammad Bin Abdul Hameed, from Hisham Bin Saalim, from Abu Baseer,

(It has been narrated) from Abu Ja'far^{asws} having said: 'Amir Al-Momineen^{asws} judged regarding the one severely punished his slave, that he was free, there being no way for him (the master) against him (the slave), being unconditionally freed, he can go and give his guardianship to whoever he so likes to. So when he is responsible for his crimes, so he would inherit him'.¹⁸⁶

بَاب آخَرُ مِنْهُ

Chapter 65 – Another chapter from it

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ عَمْرِو بْنِ سَعِيدٍ عَنْ مُصَدِّقِ بْنِ صَدَقَةَ عَنْ عَمَّارِ السَّابَّاطِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي مَكَاتِبِهِ بَيْنَ شَرِيكَيْنِ فَيُعْتَقُ أَحَدُهُمَا نَصِيْبَهُ كَيْفَ يَصْنَعُ الْخَادِمُ قَالَ تَخْدُمُ الْبَاقِيَّ يَوْمًا وَ تَخْدُمُ نَفْسَهَا يَوْمًا فَلْتُ فَإِنْ مَاتَتْ وَ تَرَكَتْ مَالًا قَالَ الْمَالُ بَيْنَهُمَا نَصْفَانِ بَيْنَ الَّذِي أَعْتَقَ وَ بَيْنَ الَّذِي أَمْسَكَ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Ahmad Bin Al Hassan Bin Ali, from Amro Bin Saeed, from Musaddaf Bin Sadaqa, from Ammar Al Sabaty,

¹⁸⁴ Al Kafi – V 7 – H 13288 – The Book of Inheritances Ch 65 H 7

¹⁸⁵ Al Kafi – V 7 – The Book of Inheritances Ch 65 H 8

¹⁸⁶ Al Kafi – V 7 – The Book of Inheritances Ch 65 H 9

(It has been narrated) from Abu Abdullah^{asws} regarding a contracted slave girl between two partners, so one of them emancipated his share, how should the maid deal with it?' He^{asws} said: 'She would serve him for the remainder of the (contracted) days, a day for him (the other partner), and he would serve a day for himself (alternatively)'. I said, 'So if she were to die and leave wealth?' He^{asws} said: 'The wealth is between the two of them, two halves, between the one who emancipated and between the one who did not'.¹⁸⁷

عَنْهُ عَنِ الْحَسَنِ بْنِ مُوسَى الْخَشَّابِ عَنْ غِيَاثِ بْنِ كَلُوبٍ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) أَنَّ مَكَاتِبًا أَتَى أَمِيرَ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَقَالَ إِنَّ سَيِّدِي كَاتَبَنِي وَ شَرَطَ عَلَيَّ نُجُومًا فِي كُلِّ سَنَةٍ فَحِثُّهُ بِالْمَالِ كُلِّهِ ضَرْبَةً وَاحِدَةً وَ سَأَلْتُهُ أَنْ يَأْخُذَ كُلَّهُ ضَرْبَةً وَاحِدَةً وَ يُجِيزَ عَنِّي فَأَبَى عَلَيَّ

From him, from Al Hassan Bin Musa Al Khashab, from Giyas Bin Kaloub, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah^{asws} (having said) that: 'A contracted slave came to Amir Al-Momineen^{asws}, so he said, 'My master has contracted me and stipulated a condition upon me of installments during every year. So I came with all of the wealth, in one go, and asked him that he should take all of it in one go, and allow me my freedom. But he refused'.

فَدَعَاهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَقَالَ صَدَقَ فَقَالَ لَهُ مَا لَكَ لَا تَأْخُذُ الْمَالَ وَ تُمَضِّي عَنَّهُ فَقَالَ مَا أَخْذُ إِلَّا النُّجُومَ الَّتِي شَرَطْتُ وَ أَتَعَرَّضُ مِنْ ذَلِكَ لِمِيرَاثِهِ فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَأَنْتَ أَحَقُّ بِشَرْطِكَ .

So Amir Al Momineen^{asws} called him over, so he said, 'He speaks the truth'. So he^{asws} said to him: 'So what is the matter with you that you are not taking the wealth and fulfill his emancipation?' So he said, 'I will not take except by installments which I had stipulated, and I turn away from the due to his inheritance'. So Amir Al-Momineen^{asws} said: 'So you are more rightful of being upon your stipulation'.¹⁸⁸

تَمَّ كِتَابُ الْمَوَارِيثِ وَ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ وَ يُتْلُوهُ كِتَابُ الْخُودِ .

The Book of the Inheritances is completed, and the Praise is due to Allah^{azwj}, Lord^{azwj} of the Worlds, and it is followed by the Book of the Limits.

¹⁸⁷ Al Kafi – V 7 – The Book of Inheritances Ch 66 H 1

¹⁸⁸ Al Kafi – V 7 – H 13292 – The Book of Inheritances Ch 66 H 2