

بحار الأنوار

BIHAR AL-ANWAAR

الجزء المائة

Volume 100

Part 4 out of 4

بحار الانوار الجامعة لدرر أخبار الائمة الاطهار

**Bihar Al-Anwaar – The summary of the pearls of the
Ahadeeth of the Pure Imams^{-asws}**

تأليف العلامة فخر الامة المولى الشيخ محمد باقر المجلسي

Author – The Allama, the pride of the community, the Mullah, the Sheikh Muhammad
Baqir Al Majlisi

TABLE OF CONTENTS

CHAPTER 68 – THE NURSING (BREAST-FEEDING) AND ITS RULES	2
CHAPTER 69 – PERMISSIBILITY AND ITS RULES	8
CHAPTER 70 – INTIMATE MARITAL RELATIONS WITH A YOUNG GIRL AND WHAT ITS CONSEQUENCES ARE	13
CHAPTER 71 – THE GUARDIANS OF THE MARRIAGE, AND WHAT CONDITIONS ARE PLACED IN THE TWO SPOUSES FOR THE HEALTH OF LASTING OF THE CONTRACT	14
CHAPTER 72 – RULES OF THE SLAVE GIRL AND WHAT IS PERMISSIBLE FROM HER AND WHAT IS PROHIBITED	19
CHAPTER 73 – RULES OF THE MARRIAGE OF SLAVE GIRLS, ADDITIONAL TO WHAT HAS PRECEDED IN THE PREVIOUS CHAPTER	28
CHAPTER 74 – THE DOWRIES AND THEIR RULES	42
CHAPTER 75 – DECEPTIONS AND THE DEFECTS WARRANTING ANNULMENT	64
CHAPTER 76 – SUMMARY OF PROHIBITIONS OF THE MARRIAGE AND ITS REASONS	74
CHAPTER 77 – WHAT IS PROHIBITED FROM IT, FROM THE PRE-ISLAMIC MARRIAGES ...	78
CHAPTER 78 – THE MATCHING IN THE MARRIAGE AND THAT SOME OF THE MOMINEEN ARE A MATCH FOR SOME, AND ONE WHOSE MARRIAGE IS DISLIKED, AND THE PROHIBITION OF THE PREVENTION (OF MARRIAGE)	81

باب 68 الرضاع و أحكامه

CHAPTER 68 – THE NURSING (BREAST-FEEDING) AND ITS RULES

1- ب، قرب الإسناد ابن عيسى عن البرنطبي قال: سألت الرضا ع عن امرأة أرضعت جارية ثم ولدت أولاداً ثم أرضعت غلاماً بحل للغلام أن يتزوج تلك الجارية التي أرضعت

(The book) 'Qurb Al Isnaad' – Ibn Isa, from Al Bazanty who said,

'I asked Al-Reza^{-asws} about a woman who breast-feeds a girl. Then she gives birth to children. Then she breastfeeds a body. Is it Permissible for the boy to marry that girls which she had breast-fed?'

قال لا هي أختُهُ

He^{-asws} said: 'No, she is his sister'.

و سألتُهُ عن امرأة أرضعت جارية و لزوجها ابنٌ من غيرها بحل لابن زوجها أن يتزوج الجارية التي أرضعت

And I asked him^{-asws} about a woman who breast-feeds a girl, and for her husband there is a boy from someone else. Is it Permissible for the son to marry the girl whom she had breast-fed?’

قَالَ اللَّيْبِيُّ لِلْمَحَلِّ.

He^{-asws} said: ‘The milk is for the stallion (male)’¹.

2- ب، قرب الإسناد ابن رباب قال: قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع مَا يُحْرِمُ مِنَ الرَّضَاعِ

(The book) ‘Qurb Al Isnad’ – Ibn Riab who said,

‘I said to Abu Abdullah^{-asws}, ‘What makes sanctimony (Mahram) from the breast-feeding?’

قَالَ مَا أَنْبَتَ اللَّحْمَ وَ شَدَّ الْعَظْمَ

He^{-asws} said: ‘What grows the flesh and strengthens the bones’.

قُلْتُ أَ تُحْرِمُ عَشْرَ رَضَعَاتٍ

I said, ‘Do ten breast-feeding (sessions) make one sanctimonious (Mahram)?’

قَالَ إِذَا لَا تُنْبِتُ اللَّحْمَ وَ لَا تَشُدُّ الْعَظْمَ عَشْرَ رَضَعَاتٍ.

He^{-asws} said: ‘Ten breast-feeding sessions neither grow the flesh nor strengthen the bones’².

3- ب، قرب الإسناد ابن الوليد عن ابن بكير قال سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ عَشْرَ رَضَعَاتٍ لَا تُحْرِمُ.

(The book) ‘Qurb Al Isnad’ – Ibn Al Waleed, from Ibn Bukeyr who said,

‘I heard Abu Abdullah^{-asws} saying: ‘Ten breastfeeding sessions do not make one sanctimonious (Mahram)’³.

4- ب، قرب الإسناد عبد الله بن عامر عن ابن أبي نجران عن صالح بن عبد الله الخثعمي قال: كَتَبْتُ إِلَى أَبِي الْحُسَيْنِ مُوسَى ع أَسْأَلُهُ عَنْ أُمِّ وَلَدِي لِئِنْ دَكَّرْتُ أَهْمًا أَرْضَعْتُ جَارِيَةً لِي فَقَالَ لَا تَقْبَلُ قَوْلَهَا وَ لَا تُصَدِّقْهَا.

(The book) ‘Qurb Al Isnad’ – Abdullah Bin Aamir, from Ibn Abu Najran, from Salih Bin Abdullah Al Khas’amy who said,

‘I wrote to Abu Al-Hassan Musa^{-asws} asking him^{-asws} about mother of a child of mine. She mentioned that she had breast-fed a girl of mine. He^{-asws} said: ‘Neither will her word be accepted nor will she be ratified’⁴.

¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 1

² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 2

³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 3

⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 4

5- مع، معاني الأخبار أبي عن أحمد بن إدريس عن الأشعري عن أحمد بن هلال عن ابن سينان عن حريز عن فضيل بن يسار عن أبي عبد الله ع قال: لا يجزئ من الرضاع إلا ما كان مجبوراً

(The book) 'Ma'any Al Akhbar' – My father, from Ahmad Bin Idrees, from Al Ash'ary, from Ahmad Bin Hilal, from Ibn Sinan, from Hareyz, from Fuzeyl Bin Yasaar,

'From Abu Abdullah^{-asws} having said: 'Breastfeeding does not create a sanctimonious one (Mahram) except a 'Majboura''.

قَالَ قُلْتُ وَ مَا الْمَجْبُورُ

He (the narrator) said, 'I said, 'And what is 'Majboura'?'

قَالَ أُمُّ مَرْيَمَةَ أَوْ ظَفَرٌ مُسْتَأْجَرَةٌ أَوْ خَادِمٌ مُشْتَرَاةٌ وَ مَا كَانَ مِثْلَ ذَلِكَ مَوْثُوفٌ عَلَيْهِ.

He said, 'A mother who nourishes (the child), a hired wet nurse, a purchased servant, and anything similar that is dependent upon him'.⁵

6- لي، الأماالي للصدوق ابن الوليد عن ابن أبان عن الحسين بن سعيد عن ابن أبي عمير و ابن بريع عن منصور بن يونس عن منصور بن حازم و علي بن إسماعيل الميموني عن ابن حازم عن الصادق عن آبائه ع قال قال رسول الله ص لا رضاع بعد فطام الحبر.

(The book) 'Al Amaali' of Al Sadouq – Ibn Al Waleed, from Ibn Aban, from Al Husayn Bin Saeed, from Ibn Abu Umeyr and Ibn Bazie, from Mansour Bin Yunus, from Masour Bin Hazim, and Ali Bin Ismail Al Maysami, from Ibn Hazim,

'From Al-Sadiq^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'Rasool-Allah^{-saww} said: 'There is no breast-feeding after the weaning'- the Hadeeth''.⁶

7- نَوَادِرُ الرَّوَّانِدِيِّ، بِإِسْنَادِهِ عَنْ مُوسَى بْنِ جَعْفَرٍ ع عَنْ آبَائِهِ ع مِثْلَهُ.

(The book) 'Nawadir' of Al Rawandy – By his chain,

'From Musa^{-asws} Bin Ja'far^{-asws}, from his^{-asws} forefathers^{-asws}, similar to it.⁷

8 ما، الأماالي للشيخ الطوسي العضايري عن الصدوق مِثْلَهُ.

(The book) 'Al Amaali' of the sheykh Al Tusi – Al Gazairy, from Al Sadouq, similar to it.⁸

9- ل، الخصال الأربعة قال أمير المؤمنين ع تَوْفُّؤًا عَلَى أَوْلَادِكُمْ لَبَنَ الْبَعِجِ مِنَ النِّسَاءِ وَ الْمَجْنُونَةِ فَإِنَّ اللَّبَنَ يُعْدِي.

(The book) 'Al Khisaal' -

⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 5

⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 6

⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 7

⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 8

'Al-Arbamiya – Amir Al-Momineen^{-asws} said: 'Guard upon your children from the milk of prostitutes from the women, and the insane, for the milk transmits effects'.⁹

10- ب، قرب الإسناد ابن طريف عن غلوان عن الصادق عن أبيه ع أن علياً ع كان يقول تحيروا للرضاع كما تتخرون للنگاح فإن الرضاع يغير الطباع.

(The book) 'Qurb Al Isnaad' – Ibn Tareyf, from Ulwan,

'From Al-Sadiq^{-asws}, from his^{-asws} that Ali^{-asws} had said: 'Choose for the breast-feeding just as you tend to choose for the marriage, for the breast-feeding alters the nature (disposition)'.¹⁰

11- ب، قرب الإسناد علي عن أخيه ع قال: سألته عن الرجل المسلم هل يصلح له أن يسترضع لولده اليهودية و النصرانية و هُنَّ يشربن الخمر

(The book) 'Qurb Al Isnaad' -

Ali, from his brother (Al-Kazim^{-asws}), said, 'I asked him^{-asws} about the Muslim man, 'Is it correct for him to seek the breast-feeding for his child to the Jewish woman and the Christian woman, and these are drinking the wine?'

قَالَ امْنَعُوهُمْ مِنْ شُرْبِ الْخَمْرِ مَا أَرْضَعْنَ لَكُمْ.

He^{-asws} said: 'Prevent them from drinking the wine for as long as they are breast-feeding for you!'¹¹

12- قَالَ: وَ سَأَلْتُهُ عَنِ الْمَرْأَةِ وَلَدَتْ مِنْ زَنَاءٍ هَلْ يَصْلُحُ أَنْ يُسْتَرْضَعَ بِلَبَنِهَا

He said, 'And I asked him^{-asws} about the woman giving birth from the adultery, 'Is it correct that she is sought for her milk?'

قَالَ لَا وَ لَا الَّتِي ابْتَنَتْهَا وَ لَدَتْ مِنَ الزَّانَا.

He^{-asws} said: 'No, nor her daughter which she has given birth from the adultery'.¹²

13- ن، عيون أخبار الرضا عليه السلام بالأسانيد الثلاثة عن الرضا عن آتائه ع قال قال رسول الله ص لا تسترضعوا الحمقاء و لا العمشاء فإن اللبن يُغدي.

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws}, by the three chains from Al-Reza^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'Rasool-Allah^{-saww} said: 'Neither seek breast-feeding of the idiot (foolish woman), nor the blind, for the milk transmits its effects'.¹³

⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 9

¹⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 10

¹¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 11

¹² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 12

¹³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 13

14 صح، صحيفة الرضا عليه السلام عنه ع مثله.

(The book) 'Saheefa Al-Reza^{-asws}', may the greeting be upon him^{-asws} – similar to it.¹⁴

15 ن، عيون أخبار الرضا عليه السلام بهذا الإسناد قال قال رسول الله ص ليس للصبي لبن خير من لبن أمه.

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws}, by this chain, he^{-asws} said: 'Rasool-Allah^{-saww} said: 'There isn't for the child any milk better than milk of its mother''.¹⁵

16- صح، صحيفة الرضا عليه السلام عنه ع مثله.

(The book) 'Saheefa Al-Reza^{-asws}', may the greeting be upon him^{-asws}, from him^{-asws} – similar to it.¹⁶

17 ضا، فقه الرضا عليه السلام و أعلم أنه يحرم من الرضاع ما يحرم من النسب في وجه النكاح فقط و قد يحل ملكه و بيعه و ثمنه إلا في المرضع نفسها و الفحل الذي اللبن منه فأههما يثومان مقام الأبوين لا يحل بيعهما و لا ملكهما مؤمنين كانا أو مخالفتين

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws}: 'And know that sanctimony (Mahram) is created from the breast-feeding what is created from the lineage in perspective of the marriage only, and its ownership, and selling it and its price is lawful except the wet-nurse herself, and the male from whom the milk is from. So whichever of the two are standing in place of the parents, it is not permissible to sell them nor owning them, whether they are Momineen or adversaries.

و الحد الذي يحرم به الرضاع بما عليه عمل العصابة دون كل ما روي فإنه مختلف ما أثبت اللحم و قوى العظم و هو رضاع ثلاثة أيام متواليات أو عشرة رضعات متواليات محزرات مرويات بلبن الفحل و قد روي مص و مصتين و ثلاثة.

And the limit which breastfeeding creates sanctimony (Mahram), according to what the community relies upon and not every report, is that which causes flesh to grow and bones to strengthen, and that is breastfeeding for three consecutive days or ten consecutive full feedings with the milk of the man (the father). It has also been reported as one suckling, two sucklings, and three".¹⁷

18- قب، المناقب لابن شهر آشوب علي بن مهزيار عن أبي جعفر ع قال: قيل له إن رجلاً تزوج بجمارية صغيرة فأرضعتها امرأة ثم أرضعتها امرأة أخرى فقال ابن شبرمة حرمت عليه الجارية و امرأته

(The book) 'Al Manaqib' of Ibn Shehr Ashub – Ali Bin Mahziyar,

¹⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 14

¹⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 15

¹⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 16

¹⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 17

‘From Abu Ja’far^{asws}, (the narrator) said, ‘It was said to him^{asws}, ‘A man marries a young girl and his wife breast-feeds her. Then another woman breast-feeds her. Ibn Shubrumah (a judge) said, ‘The girl is prohibited unto him, and so is his wife’.

فَقَالَ عَ أَخْطَأَ ابْنُ شُبْرُمَةَ حُرْمَتَ عَلِيٍّ الْجَارِيَةَ وَ امْرَأَتَهُ الَّتِي أَرْضَعَتْهَا أَوْلَا فَأَمَّا الْأَخِيرَةُ لَمْ تَحْرَمَ عَلَيْهِ لِأَنَّهَا أَرْضَعَتْ لِبَنَتِهِ.

He^{asws} said: ‘Ibn Shubrumah is mistaken! Prohibited unto him is the girl and his wife which had breast-fed her firstly. As for the latter one, she is not prohibited unto him because she breast-fed his daughter’.¹⁸

19- مكا، مكارم الأخلاق عَنِ الصَّادِقِ عَ عَنْ أَبِيهِ عَ قَالَ قَالَ عَلِيُّ عَ لَا تَسْتَرْضِعُوا الْحَمَقَاءَ فَإِنَّ اللَّبْنَ يَغْلِبُ الطَّبَاعَ.

(The book) ‘Makarim Al Akhlaq’ -

‘From Al-Sadiq^{asws}, from his^{asws} father^{asws} having said: ‘Ali^{asws} said: ‘Do not seek breast-feeding of the idiots, for the milk overcomes the disposition (nature)’.¹⁹

20- وَقَالَ النَّبِيُّ صَ لَا تَسْتَرْضِعُوا الْحَمَقَاءَ فَإِنَّ الْوَلَدَ يَشْبُ عَلَيْهِ.

And the Prophet^{saww} said: ‘Do not seek breast-feeding of the idiots, for the child will have resemblance upon it’.²⁰

21- نَوَادِرُ الرَّاَوْنَدِيِّ، بِإِسْنَادِهِ عَنِ جَعْفَرِ بْنِ مُحَمَّدٍ عَنِ آبَائِهِ عَ قَالَ قَالَ رَسُولُ اللَّهِ صَ إِيَّاكُمْ أَنْ تَسْتَرْضِعُوا الْحَمَقَاءَ فَإِنَّ اللَّبْنَ يَشْبُ عَلَيْهِ.

(The book) ‘Nawadir’ of Al Rawandy – By his chain,

‘From Ja’far^{asws} Bin Muhammad^{asws}, from his^{asws} forefathers^{asws} having said: ‘Rasool-Allah^{saww}: ‘Beware of seeking breast-feeding of the idiots for the milk (child) will have resemblance upon it!’²¹

22- الْهُدَايَةُ، وَقَالَ الصَّادِقُ عَ يَحْرُمُ مِنَ الْإِمَاءِ عَشْرٌ لَا يُجْمَعُ بَيْنَ الْأُمِّ وَالْإِبْنَةِ وَالْأُخْتَيْنِ وَلَا بَيْنَ الْأَخْتَيْنِ وَلَا بَيْنَ زَوْجٍ وَلَا أُمَّتِكَ وَ هِيَ أُخْتُكَ مِنَ الرِّضَاعَةِ وَلَا أُمَّتِكَ وَ هِيَ عَمَّتُكَ وَلَا أُمَّتِكَ وَ هِيَ خَالَتُكَ مِنَ الرِّضَاعَةِ وَلَا أُمَّتِكَ وَ هِيَ خَائِضٌ حَتَّى تَطْهُرَ وَلَا أُمَّتِكَ وَ هِيَ رَضِيعَتُكَ وَلَا أُمَّتِكَ وَ لَكَ فِيهَا شَرِيكَ.

(The book) ‘Al Hidayah’ -

‘And Al-Sadiq^{asws} said: ‘Prohibited from the slave girls are ten – neither gather between the mother and the daughter, nor between the two sisters, nor your slave girl having a husband for her, nor your slave girl and she is your sister from the breast-feeding, nor your slave girl and she is your paternal aunt, nor your slave girl and she is your maternal aunt from the

¹⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 18

¹⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 19

²⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 20

²¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 21

breast-feeding, nor your slave girl while she is menstruating until she is pure, nor your slave girl and she had breast-fed you, nor your slave girl and there is a partner for you in her".²²

22- وَقَالَ الصَّادِقُ ع يَحْرُمُ مِنَ الرِّضَاعِ مَا يَحْرُمُ مِنَ النَّسَبِ وَ لَا يَحْرُمُ مِنَ الرِّضَاعِ إِلَّا رِضَاعٌ خَمْسَةَ عَشَرَ يَوْمًا وَ لَيْالِيَهُنَّ وَ لَيْسَ بَيْنَهُنَّ رِضَاعٌ.

And Al-Sadiq^{asws} said: 'Sanctimony (Mahram) is created from the breast-feeding what is created from the lineage, and there is no sanctimony created from the breast-feeding except breast-feeding of fifteen days and their nights, and there isn't any interruption of the breast-feeding between them'.²³

[باب 69 التحليل و أحكامه](#)

CHAPTER 69 – PERMISSIBILITY AND ITS RULES

1- ين، كتاب حسين بن سعيد و النوادر حمادُ بنُ عيسى عن الحسين بن المختار عن أبي بكرٍ الحضرمي قال: قُلْتُ لِأبي عَبْدِ اللَّهِ ع امْرَأَتِي أَحَلَّتْ لِي جَارِيَتَهَا

The book of Haseen Bin Saeed, and 'Al Nawadir' – Hammad Bin Isa, from Al Husayn Bin Al Mukhtar, from Abu Bakr Al Hazramy who said,

'I said to Abu Abdullah^{asws}, 'My wife has permitted her slave girl for me'.

فَقَالَ اُنكِحْهَا إِنْ أَرَدْتَ

He^{asws} said: 'Have intimate marital relations with her if you want'.

قُلْتُ أبيعها

I said, 'Can I sell her?'

قَالَ إِمَّا حَلَّ مِنْهَا مَا أَحَلَّتْ.

He^{asws} said: 'But rather it is permitted from her what she has permitted'.²⁴

2- ين، كتاب حسين بن سعيد و النوادر فضالةُ بنُ أيوبَ عن أبيان بن عثمان عن الحسن العطار قال: سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ عَارِيَةِ الْفَرْجِ فَقَالَ لَا بَأْسَ بِهِ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Fazalah Bin Ayoub, from Aban Bin Usman, from Al-Hassan Al Attar who said,

'I asked Abu Abdullah^{asws} about hiring the private part. He^{asws} said: 'There is no problem with it'.

²² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 22

²³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 68 H 23

²⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 1

قُلْتُ فَإِنْ كَانَ مِنْهُ الْوَلَدُ

I said, 'Supposing there is a child from it?'

قَالَ لِصَاحِبِ الْجَارِيَةِ إِلَّا أَنْ يَشْتَرِطَ عَلَيْهِ.

He^{-asws} said: 'For owner of the slave girl except if he had placed a condition upon it'.²⁵

3- ين، كتاب حسين بن سعيد و النوادر صفوان عن العلاء عن محمد بن أحمد بن محمد بن عبد الكريم جميعاً عن أبي جعفر ع قال قلت الرجل لرجل لأخيه فزوج جارية

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Al A'ala, from Muhammad, and Ahmad Bin Muhammad, from Abdul Kareem, altogether,

'From Abu Ja'far^{-asws}, he (the narrator) said, 'I said, 'A man permits the private part of a slave girl for his brother'.

قَالَ نَعَمْ حَلَّ لَهُ مَا أَحَلَّ لَهُ مِنْهَا.

He^{-asws} said: 'Yes, it is permissible for him what he had permitted from her for him'.²⁶

4- ين، كتاب حسين بن سعيد و النوادر حماد بن عيسى عن حريز بن محمد بن مسلم قال: سألت أبا عبد الله ع عن الرجل يكون له المملوكة فيجلبها لغيره قال لا بأس.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Hammad Bin Isa, from Hareez, from Muhammad Bin Muslim who said,

'I asked Abu Abdullah^{-asws} about the man having the owned slave girl for him, so he legalises her for someone else. He^{-asws} said: 'There is no problem'.²⁷

5- ين، كتاب حسين بن سعيد و النوادر القاسم بن سليمان عن حريز بن عبد الله ع في الرجل يزوج جاريته لأخيه قال لا بأس بذلك

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Qasim Bin Suleyman, from Hareez,

'From Abu Abdullah^{-asws} regarding the man legalising the private part of his slave girl for his brother. He^{-asws} said: 'There is no problem with that'.

قُلْتُ فَإِنَّهُ أَوْلَدَهَا

I said, 'Supposing he impregnates her?'

قَالَ يَضُمُّ إِلَيْهِ وَلَدَهُ وَ يَزِدُّ الْجَارِيَةَ عَلَى مَوْلَاهَا.

²⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 2

²⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 3

²⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 4

He^{-asws} said: ‘His child will be attached to him and the slave girl will be returned to her master’.²⁸

6- ين، كتاب حسين بن سعيد و النوادر أحمد بن محمد عن حماد بن عيسى عن إسحاق بن عمار قال: سألت أبا عبد الله ع عن غلام لي وثبت على جاريتي فأحببتها فأخترتني إلى لبنها فقال إن أخللت لهما ما صنعنا فطيب لبنها.

The book Haseen Bin Saeed, and ‘Al Nawadir’ – Ahmad Bin Muhammad, from Hammad Bin Isa, from Is’haq Bin Ammar who said,

‘I asked Abu Abdullah^{-asws} about a boy of mine who pounces upon a slave girl and impregnates her. We became needy to her milk. He^{-asws} said: ‘If you had legalised for them both what they had done, her milk is good’.²⁹

8- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن القاسم بن عروة عن أبي العباس قال: كنت عند أبي عبد الله ع فقال له رجل أصلحك الله ما تقول في عاريتي الفرج

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – Ibn Abu Umeyr, from Al Qasim Bin Urwah, from Abu Al Abbas who said,

‘I was in the presence of Abu Abdullah^{-asws}. A Man said to him^{-asws}, ‘May Allah^{-azwj} Keep you^{-asws} well! What are you saying regarding hiring the private part?’

قال حرام

He^{-asws} said: ‘Prohibited!’

ثم مكث قليلاً ثم قال لا بأس بأن يجل الرجل جاريتيه لأخيه.

Then he^{-asws} remained (silent) for a little while, then said: ‘There is no problem with the man legalising his slave girl for his brother’.³⁰

9- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن سليمان الفراء عن حريز عن زرارة قلت لأبي جعفر ع الرجل يجل جاريتيه لأخيه

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – Ibn Abu Umeyr, from Suleyman Al Fara’a, from Hareez, from Zurara,

‘I said to Abu Ja’far^{-asws}, ‘Can a man legalise his slave girl for his brother?’

فقال لا بأس

He^{-asws} said: ‘There is no problem’.

²⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 5

²⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 6

³⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 8

قُلْتُ فَإِنَّمَا جَاءَتْ بِوَلَدٍ

I said, 'Supposing she comes with a child?'

قَالَ يَضُمُّ إِلَيْهِ وَلَدَهُ وَ يَرُدُّ الْجَارِيَةَ عَلَى صَاحِبِهَا

He^{-asws} said: 'His child will be attached to him and the slave girl will be returned to her master'.

قُلْتُ إِنَّهُ لَمْ يَأْذَنْ لَهُ فِي ذَلِكَ

I said, 'Supposing he had not permitted for him regarding that?'

فَقَالَ إِنَّهُ قَدْ أَذِنَ لَهُ وَ هُوَ لَا يَدْرِي أَنْ يَكُونَ ذَلِكَ.

He^{-asws} said: 'Surely, he had permitted for him, and he did not know that would happen'.³¹

10- ين، كتاب حسين بن سعيد و النوادر القاسم بن محمد عن أبان عن المفضل قال: قلت لأبي عبد الله ع الرجل يقول لامرأته أجلي لي جاريتك

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Qasim Bin Muhammad, from Aban, from Al Mufazzal who said,

'I said to Abu Abdullah^{-asws}, 'The man says to his wife, 'Can you legalise your slave girl for me?'

قَالَ يُشْهَدُ عَلَيْهَا

He^{-asws} said: 'He should keep witness upon her'.

قُلْتُ فَإِنْ لَمْ يُشْهَدْ عَلَيْهَا عَلَيْهِ شَيْءٌ فِيمَا بَيْنَهُ وَ بَيْنَ اللَّهِ

I said, 'If he does not keep witness upon her, there is something in what is between him and Allah^{-azwj!}'

قَالَ هِيَ لَهُ حَلَالٌ.

He^{-asws} said: 'She is permissible for him'.³²

11- ين، كتاب حسين بن سعيد و النوادر الحسن بن محبوب عن جميل بن صالح عن الفضل بن يسار قال: قلت لأبي عبد الله ع إن بعض أصحابنا قد روى عنك أنك قلت إذا أحل الرجل لأخيه المؤمن جاريتته فهي له حلال

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al-Hassan Bin Mahboub, from Jameel Bin Salih, from Al Fuzeyl Bin Yasaar who said,

³¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 9

³² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 10

'I said to Abu Abdullah^{-asws}, 'One of our companions has reported from you^{-asws} that you^{-asws} said: 'When the man legalises his slave girl for his Momin brother, she is lawful for him''.

قَالَ نَعَمْ يَا فُضَيْلُ

He^{-asws} said: 'Yes, O Fuzeyl!'

قُلْتُ فَمَا تَقُولُ فِي رَجُلٍ عِنْدَهُ جَارِيَةٌ لَهُ نَفِيسَةٌ وَ هِيَ بِكَرٍّ أَحَلَّ مَا دُونَ الْفَرْجِ أَلَهُ أَنْ يَفْتَتِهَا

I said, 'What are you^{-asws} saying regarding a man having a precious slave girl for him in his possession and she is a virgin, is it permissible whatever is besides the private part, or is it for him to deflower her?'

قَالَ لَيْسَ لَهُ إِلَّا مَا أَحَلَّ لَهُ مِنْهَا وَ لَوْ أَحَلَّ لَهُ فُبَلَّةٌ مِنْهَا لَمْ يَحِلَّ لَهُ مَا سِوَى ذَلِكَ

He^{-asws} said: 'It isn't for him except what he has permitted from her, for him, and if he had permitted a kiss from her for him, it will not be lawful for him besides that'.

قُلْتُ أَرَأَيْتَ إِنْ أَحَلَّ لَهُ دُونَ الْفَرْجِ فَعَلَبَتِ الشَّهْوَةَ فَأَفْضَاهَا

I said, 'What is your^{-asws} view if he were to legalise for him apart from the private part, but the lust overcomes him so he deflowers her?'

قَالَ لَا يَنْبَغِي لَهُ ذَلِكَ

He^{-asws} said: 'That is not appropriate for him!'

قُلْتُ فَإِنْ فَعَلَ يَكُونُ زَانِيًا

I said, 'If he does so, will he be an adulterer?'

قَالَ لَا وَ لَكِنْ خَائِنًا وَ يَغْرُمُ لِصَاحِبِهَا عَشْرَ فِيمَتِهَا.

He^{-asws} said: 'No, but a betrayer, and he will have to pay a fine to her owner, a tenth of her price''.³³

12- قَالَ الْحَسَنُ وَ حَدَّثَ رِفَاعَةُ بْنُ مُوسَى عَنْ أَبِي عَبْدِ اللَّهِ ع بِمِثْلِهِ إِلَّا أَنَّ رِفَاعَةَ قَالَ الْجَارِيَةُ النَّفِيسَةُ تُكُونُ عِنْدِي.

Al-Hassan said, 'And Rifa'at Bin Musa narrated,

'From Abu Abdullah^{-asws}, similar to it, except that Rifa'at said, 'The precious slave girl happens to be in my possession''.³⁴

³³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 11

³⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 12

13- ين، كتاب حسين بن سعيد و النوادر الحسن بن محبوب عن جميل بن صالح عن زُرَيْس بن عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الرَّجُلِ يُجِلُّ لِأَخِيهِ جَارِيَتَهُ وَ هِيَ تَخْرُجُ فِي حَوَائِجِهِ قَالَ لَهُ خَلَّالٌ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al-Hassan Bin Mahboub, from Jameel Bin Salih, from Zureys Bin Abdul Malik,

'From Abu Abdullah^{-asws} regarding the man who legalises his slave girl for his brother and she goes out regarding his need. He^{-asws} said: 'She is lawful for him'.

قُلْتُ أَرَأَيْتَ إِنْ جَاءَتْ بِوَلَدٍ مَا يُصْنَعُ بِهِ

I said, 'What is your^{-asws} view if she comes with a child, what should he do with it?'

قَالَ هُوَ لِمَوْلَى الْجَارِيَةِ إِلَّا أَنْ يَكُونَ اشْتَرَطَ عَلَيْهِ حِينَ أَخْلَاهَا لَهُ إِنْ جَاءَتْ بِوَلَدٍ مِنِّي فَهُوَ حُرٌّ

He^{-asws} said: 'It is for the master of the slave girl, except if he has placed a condition upon him when he had legalised her for him that if she were to come with a child from me, it would be free'.

قُلْتُ فَيَمْلِكُ وَلَدَهُ

I said, 'So he owns his child?'

قَالَ إِنْ كَانَ لَهُ مَالٌ اشْتَرَاهُ بِالْقِيمَةِ.

He^{-asws} said: 'If there was wealth for him, he can buy him with the price'³⁵.

[باب 70 وطاء الصبية و ما يترتب عليه](#)

CHAPTER 70 – INTIMATE MARITAL RELATIONS WITH A YOUNG GIRL AND WHAT ITS CONSEQUENCES ARE

1- ين، كتاب حسين بن سعيد و النوادر أحمد بن محمد عن عبد الكريم عن أبي بصير قال سمعت أبا جعفر ع يقول لا تدخل المرأة على زوجها حتى يأتي لها تسع سنين أم عشر.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ahmad Bin Muhammad, from Abdul Kareem, from Abu Baseer who said,

'I heard Abu Ja'far^{-asws} saying: 'The woman cannot be entered (escorted) to her husband until nine or ten years have come to her'³⁶.

³⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 69 H 13

³⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 70 H 1

2- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن حماد عن الحلبي عن أبي عبد الله ع قال: إِذَا تَزَوَّجَ الرَّجُلُ بِالْجَارِيَةِ وَ هِيَ صَغِيرَةٌ فَلَا يَدْخُلُ بِهَا حَتَّى يَكُونَ لَهَا تِسْعُ سِنِينَ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Hammad, from Al Halby,

'From Abu Abdullah^{asws} having said: 'When the man gets married to the girl while she is young, he should not have intimate relations with her until there happens to be nine years for her'.³⁷

3- ين، كتاب حسين بن سعيد و النوادر النَّضْرُ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع قَالَ: لَا يَدْخُلُ بِالْجَارِيَةِ حَتَّى يَأْتِيَ لَهَا تِسْعٌ أَوْ عَشْرٌ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Musa Bin Bakr, from Zurara,

'From Abu Ja'far^{asws} having said: 'Do not have intimate marital relations with the girl until nine or ten years have come for her'.³⁸

باب 71 أولياء النكاح و ما يشترط في الزوجين لصحة إيقاع العقد

CHAPTER 71 – THE GUARDIANS OF THE MARRIAGE, AND WHAT CONDITIONS ARE PLACED IN THE TWO SPOUSES FOR THE HEALTH OF LASTING OF THE CONTRACT

1- ب، قرب الإسناد علي عن أخيه ع قال: سَأَلْتُهُ عَنْ رَجُلٍ أَنَاهُ رَجُلَانِ يَخْطَبَانِ ابْنَتَهُ فَهَوِيَ أَنْ يُزَوِّجَ أَحَدَهُمَا وَ هَوِيَ أَبُوهُ الْآخَرَ أُبْهِمَا أَحَقُّ أَنْ يُنْكَحَ

(The book) 'Qurb Al Isnad' -

Ali, from his brother (Al-Kazim^{asws}), said, 'I asked him^{asws} about a man, two men come to him to propose for his daughter. He inclines to marry to one of them, and his father inclines to marry to the other. Which of the two is more rightful for the marriage?'

قَالَ الَّذِي هَوِيَ الْجَدُّ لِأُمَّهَا وَ أَبَاهَا لِلْجَدِّ.

He^{asws} said: 'The one to whom the grandfather inclines to, because she and her father (both belong) to the grandfather'.³⁹

2- ن، عيون أخبار الرضا عليه السلام جعفر بن نعيم عن عمه محمد بن شاذان عن الفضل بن شاذان عن ابن بري ع قال: سَأَلْتُ الرِّضَا ع عَنِ الصَّبِيَّةِ يُزَوِّجُهَا أَبُوهَا ثُمَّ مَاتَ وَ هِيَ صَغِيرَةٌ ثُمَّ تَكَبَّرَ قَبْلَ أَنْ يَدْخُلَ بِهَا زَوْجُهَا أَوْ يُجُوزَ عَلَيْهَا التَّزْوِيجُ أَوْ الْأَمْرُ إِلَيْهَا

(The book) 'Uyoun Akhbar Al-Reza^{asws}', may the greeting be upon him^{asws} – Ja'far Bin Nueym, from his uncle Muhammad Bin Shazan, from Al Fazl Bin Shazan, from Ibn Bazie who said,

³⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 70 H 2

³⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 70 H 3

³⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 1

'I asked Al-Reza^{-asws} about the young girl, her father gets her married, then he dies while she is young. Then she grows older before her husband consummates the marriage, 'Is the marriage allowed upon her or is the matter up to her?'

فَقَالَ يَجُوزُ عَلَيْهَا تَزْوِيجُ أَبِيهَا.

He^{-asws} said: 'The marriage by her father is allowed upon her'.⁴⁰

3- قَالَ: وَ سَأَلْتُهُ عَنِ امْرَأَةٍ ابْتُلِيَتْ بِشُرْبِ نَبِيذٍ فَسَكِرَتْ فَزَوَّجَتْ نَفْسَهَا مِنْ رَجُلٍ فِي سُكْرِهَا ثُمَّ أَفَاقَتْ فَأَنْكَرَتْ ذَلِكَ ثُمَّ ظَنَّتْ أَنَّهُ يَلْزِمُهَا فَوَرَعَتْ مِنْهُ فَأَقَامَتْ مَعَ الرَّجُلِ عَلَى ذَلِكَ التَّزْوِيجِ أَحْلَالٌ هُوَ لَهَا أَمْ التَّزْوِيجُ فَاسِدٌ لِمَكَانِ السُّكْرِ وَ لَا سَبِيلَ لِلزَّوْجِ عَلَيْهَا

He said, 'And I asked him^{-asws} about a woman who indulges in drinking 'Nabeez' (intoxicant). She marries herself to a man during her intoxication. Then she sobers and denies that. Then she assumes that it necessitates her, so she is afraid from it and stays with the man upon that marriage. 'Is he lawful for her or is the marriage invalid due to the place of the intoxication and there is no way for the husband to her?'

قَالَ إِذَا أَقَامَتْ مَعَهُ بَعْدَ مَا أَفَاقَتْ فَهُوَ رِضَاهَا

He^{-asws} said: 'When she stays with him after having sobered, it is her agreement.

فُلْتُ وَ يَجُوزُ ذَلِكَ التَّزْوِيجُ عَلَيْهَا

I said, 'And that marriage is valid upon her?'

قَالَ نَعَمْ.

He^{-asws} said: 'Yes'.⁴¹

4- قَالَ: وَ سَأَلْتُهُ عَنْ مَمْلُوكَةٍ كَانَتْ بَيْنَ اثْنَيْنِ فَأَعْتَقَاهَا وَ لَهَا أَخٌ غَائِبٌ وَ هِيَ بِكُرٍّ أَيْ يَجُوزُ لِأَحَدِهِمَا أَنْ يُزَوِّجَهَا أَوْ لَا يَجُوزُ إِلَّا بِأَمْرِ أَحْيَبِهَا

He said, 'And I asked him^{-asws} about a slave girl being owned between two. They free her, and there is a brother of her who is absent, and she is a virgin, 'Is it allowed for one of them to marry her off or is it not allowed except by the instructions of her brother?'

فَقَالَ بَلَى يَجُوزُ أَنْ يُزَوِّجَهَا

He^{-asws} said: 'Yes, it is allowed for her to marry her off'.

فُلْتُ فَيَتَزَوَّجُهَا هُوَ إِنْ أَرَادَ ذَلِكَ

I said, 'Can he marry her if he wants?'

⁴⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 2

⁴¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 3

قَالَ نَعَمْ.

He^{-asws} said: 'Yes'.⁴²

5- ين، كتاب حسين بن سعيد و النوادر فضالة عن العلاء عن ابن أبي يعفور قال: قلت لأبي عبد الله ع يتزوج الرجل بالجارية ممتعة

The book of Haseen Bin Saeed, and 'Al Nawadir' – Fazalah, from Al A'ala, from Ibn Abu Yafour who said,

'I said to Abu Abdullah^{-asws}, 'Can a man marry a girl in Mut'ah?'

فَقَالَ نَعَمْ إِلَّا أَنْ يَكُونَ لَهَا أَبٌ وَ الْجَارِيَةُ يَسْتَأْمُرُهَا كُلُّ أَحَدٍ إِلَّا أَبُوهَا.

He^{-asws} said: 'Yes, except if there happens to be a father for her, and the girl, everyone has to seek her instructions except her father'.⁴³

6- ين، كتاب حسين بن سعيد و النوادر صفوان عن العلاء عن محمد عن أخيهما ع قال: قلت للرجل يزوج ابنه و هو صغير فيجوز طلاق أبيه

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Al A'ala, from Muhammad,

'From one of the two (5th or 6th Imam^{-asws}, he (the narrator) said, 'I said, 'The man gets his son married while he is young. Is the divorce by his father valid?'

قَالَ لَا

He^{-asws} said: 'No'.

فُلْتُ فَعَلَى مِنَ الصَّدَاقِ

I said, 'Upon whom is the dowry?'

قَالَ عَلَى أَبِيهِ إِذَا كَانَ قَدْ ضَمِنَهُ لَهُمْ فَإِنْ لَمْ يَكُنْ ضَمِنَهُ لَهُمْ فَعَلَى الْغُلَامِ إِلَّا أَنْ لَا يَكُونَ لِلْغُلَامِ مَالٌ فَعَلَى الْأَبِ ضَمِنَ أَوْ لَمْ يَضْمَنْ.

He^{-asws} said: 'Upon his father if he had guaranteed it to them. If he did not guarantee, it would be upon the boy, except if there is no money for the boy, so it would be upon the father whether he had guaranteed it or not guaranteed it'.⁴⁴

7- ين، كتاب حسين بن سعيد و النوادر التضرع عن القاسم بن سليمان عن عبید بن زرارة عن أبي عبد الله ع في الصبي يتزوج الصبية هل يتوارثان

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Al Qasim Bin Suleyman, from Ubeyd Bin Zurara,

'From Abu Abdullah^{-asws} regarding the young boy marrying the young girl, 'Will they inherit from each other?'

⁴² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 4

⁴³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 5

⁴⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 6

فَقَالَ إِنْ كَانَ آبَاؤُهُمَا اللَّذَانِ زَوَّجَاهُمَا حَيَّيْنِ فَتَنَعَم

He^{-asws} said: 'If their fathers, those who had got them married, were alive, yes'.

فُلْنَا فَهَلْ يَجُوزُ طَلَاقُ الْآبِ

We said, 'Is divorce by the father allowed?'

قَالَ لَا.

He^{-asws} said: 'No'.⁴⁵

8- ين، كتاب حسين بن سعيد و النوادر صفوان عن عبد الله بن بكير عن عبيد بن زرارَةَ قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ رَجُلٍ يُزَوِّجُ ابْنَهُ وَ هُوَ صَغِيرٌ قَالَ إِنْ كَانَ لِابْنِهِ مَالٌ فَعَلَيْهِ الْمَهْرُ إِلَّا أَنْ يَكُونَ الْآبُ ضَمِنَ الْمَهْرَ وَ إِنْ لَمْ يَكُنْ لِلابْنِ مَالٌ فَالْآبُ ضَامِنٌ لِلْمَهْرِ ضَمِنَ أَوْ لَمْ يَضْمَنْ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Abdullah Bin Bukeyr, from Ubeyd Bin Zurara who said,

'I asked Abu Abdullah^{-asws} about a man getting his son married while he is young. He^{-asws} said: 'If there was wealth for his son, upon him is the dowry, and if there does not happen to be any wealth for the son, the father is responsible for the dowry, whether he had guaranteed it or not'.⁴⁶

9- ين، كتاب حسين بن سعيد و النوادر صفوان عن العلاء عن محمد عن أحدهما ع، قَالَ: فُلْتُ الصَّبِيَّ يَتَزَوَّجُ الصَّبِيَّةَ هَلْ يَتَوَارَثَانِ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Al A'la, from Muhammad,

'From one of the two (5th or 6th Imam^{-asws}), he (the narrator) said, 'I said, 'The young boy married the young girl, will they inherit each other?'

قَالَ إِنْ كَانَ آبَاؤُهُمَا زَوَّجَاهُمَا فَتَنَعَم

He^{-asws} said: 'If their fathers who had got them married (were alive), yes'.

فُلْتُ فَهَلْ يَجُوزُ طَلَاقُ الْآبِ

I said, 'Is divorce by the father allowed?'

قَالَ لَا.

He^{-asws} said: 'No'.⁴⁷

⁴⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 7

⁴⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 8

⁴⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 9

10- ين، كتاب حسين بن سعيد و النوار صَفْوَانُ عَنِ الْعَلَاءِ عَنْ أَحَدِهِمَا ع قَالَ: سَأَلْتُهُ عَنْ رَجُلٍ كَانَ لَهُ وَلَدٌ فَزَوَّجَ مِنْهُ ابْنَتِي وَ فَرَضَ الصَّدَاقَ ثُمَّ مَاتَ مِنْ أَيْنٍ يُحْسَبُ الصَّدَاقُ قَالَ مِنْ جَمِيعِ الْمَالِ إِنَّمَا هُوَ بِمَنْزِلَةِ الدَّيْنِ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Al A'la,

'From one of the two (5th or 6th Imam^{-asws}), he (the narrator) said, 'I asked him^{-asws} about a man who has a son for him. He gets his son to marry my daughter and the dowry is obligated. Then he dies before the dowry is calculated. He^{-asws} said: 'From entirety of the wealth. But rather, it is at the status of the debt''⁴⁸.

11- د، العدد القوية مُحَمَّدُ بْنُ جَرِيرٍ الطَّبْرِيُّ الشَّيْبِيُّ عَنِ التَّارِخِيِّ قَالَ: لَمَّا وَرَدَ سَيِّئُ الْفُرْسِ إِلَى الْمَدِينَةِ أَرَادَ عُمَرُ بْنُ الْخَطَّابِ بَيْعَ الْبَسَاءِ وَ أَنْ يُجْعَلَ الرِّجَالُ عِبِيداً فَمَنْعَهُ أَمِيرُ الْمُؤْمِنِينَ وَ أَعْتَقَ نَصِيبَهُ مِنْهُمْ ثُمَّ الصَّحَابَةُ وَ هَبُوا أَنْصِبَاءَهُمْ فَقَبِلَ وَ أَعْتَقَهُمْ جَمِيعاً

(The book) 'Al Adad Al Qawiya' – Muhammad Bin Jareer Al Tabari the Shia, not the historian, he said,

'When the Persian captives arrived at Al-Medina, Umar Bin Al-Khattab wanted to sell the women and make the men as captives. Amir Al-Momineen^{-asws} prevented him and liberated his^{-asws} share from them. Then the companions (also) gifted their shares. He accepted and freed them all.

ثُمَّ قَالَ ع هَؤُلَاءِ لَا يُكْرَهُنَّ عَلَى التَّرْوِيجِ وَ لَكِنْ يُخَيَّرَنَّ

Then he^{-asws} said: 'They will not be coerced upon the marriage, but they should be given a choice!'

فَلَمَّا خُيِّرَتْ شَهْرَبَانُوَيْهَ فَقِيلَ لَهَا مَنْ تَخْتَارِينَ مِنْ خُطَّابِكَ وَ هَلْ أَنْتِ بِمَنْ يُرِيدُ بَعْلًا

When Shehrbanuwayh^{-ra} was given a choice, it was said to her^{-asws}, 'Whom do you^{-ra} choose from the proposers, and are you^{-ra} from the one who want a husband?'

فَسَكَتَتْ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ ع قَدْ أَرَادَتْ وَ بَقِيَ الْإِخْتِيَارُ

She^{-ra} was silent. Amir Al-Momineen^{-asws} said: 'She^{-ra} has intended, and the choosing remains'.

فَقَالَ عُمَرُ وَ مَا عَلِمَكَ بِإِرَادَتِهَا الْبَعْلَ

Umar said, 'And what makes you^{-asws} know of her^{-ra} wanting the husband?'

قَالَ ع إِنَّ رَسُولَ اللَّهِ ص كَانَ إِذَا أَتَتْهُ كَرِيمَةٌ قَوْمٍ لَا وِلِيَّ لَهَا وَ قَدْ خُطِبَتْ بِأَمْرِ أَنْ يُقَالَ لَهَا أَنْتِ رَاضِيَةٌ بِالْبَعْلِ فَإِنْ اسْتَحْبَبْتَ وَ سَكَتَتْ جُعِلَتْ إِذْهًا صُمَاتَهَا وَ أَمَرَ بِتَرْوِيجِهَا وَ إِنْ قَالَتْ لَا لَمْ تُكْرَهُ عَلَى مَا تَخْتَارُهُ

He^{-asws} said: 'It so happened that when a noblewoman of a people was brought to him^{-asws}, there being no guardian for her and she had been proposed to, he^{-saww} instructed that it be said to her, 'Do you agree with (having) the husband?' If she is shy and remained silent, it was

⁴⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 10

made to be her permission, and he^{-saww} instructed with getting her married, and if she said, 'No', she was not coerced upon what she did not choose'.

وَ إِنَّ شَهْرَبَانُوَيْهَ أَرَبَتِ الْخَطَّابَ فَأَوْمَأَتْ بِيَدِهَا وَ اخْتَارَتِ الْحُسَيْنَ ع فَأُعِيدَ الْقَوْلُ عَلَيْهَا فِي التَّخْيِيرِ فَأَشَارَتْ بِيَدِهَا وَ قَالَتْ بِلُغَتِهَا هَذَا إِنْ كُنْتُ مُحَيَّرَةً وَ جَعَلْتُ أَمِيرَ الْمُؤْمِنِينَ ع وَ لَيْتَهَا وَ حَطَبَ حَدِيثَهُ إِلَى آخِرِ الْحَبْرِ وَ قَدْ مَرَّ فِي كِتَابِ الْجِهَادِ.

And Shehrbanuwayh^{-ra} was shown the proposers, and she^{-ra} gestured by her^{-ra} hand and chose Al-Husayn^{-asws}. The word was repeated unto her regarding the choice. She^{-ra} indicated by her^{-ra} hand and said in her^{-ra} language: 'I^{-ra} have chosen!', and she^{-ra} made Amir Al-Momineen^{-asws} her^{-ra} guardian, and Huzeyfa addressed the proposal (on her^{-asws} behalf) – up to end of the Hadeeth, and it has passed in the book of Jihad".⁴⁹

12- **الْهُدَايَةُ، وَ لَا وِلَايَةَ لِأَخِيذٍ عَلَى الْإِثْنَةِ إِلَّا لِأَبِيهَا مَا دَامَتْ بَكْرًا فَإِذَا صَارَتْ نَيْبًا فَلَا وِلَايَةَ لَهُ عَلَيْهَا وَ هِيَ أَمْلَكُ بِنَفْسِهَا**

(The book) 'Al Hidayah' -

'And there is no governance for anyone upon the daughter (girl) except for her father for as long as she is a virgin. When she becomes deflowered, there is no governance for him upon her, and she is in control of herself.

وَ إِذَا كَانَتْ بَكْرًا وَ كَانَ لَهُ أَبٌ وَ جَدٌّ فَالْجَدُّ أَحَقُّ بِتَرْوِجِهَا مِنَ الْأَبِ مَا دَامَ الْأَبُ حَيًّا فَإِذَا مَاتَ الْأَبُ فَلَا وِلَايَةَ لِلْجَدِّ عَلَيْهَا لِأَنَّ الْجَدَّ إِذَا بَلَغَ أَمْرَهَا فِي حَيَاتِهِ ابْنَهُ لِأَنَّهُ يَمْلِكُ ابْنَهُ فَإِذَا مَاتَ ابْنُهُ بَطَلَتْ وِلَايَتُهُ.

And when she was a virgin and there was a father for him and a grandfather, the grandfather is more rightful with getting her married than the father is, for as long as the father is alive. When the father dies, there is no governance for the grandfather upon her, because the grandfather rather is in control of her matter during the lifetime of his son because he controls his son. When his son dies, his governance is nullified".⁵⁰

[باب 72 أحكام الإماء و ما يحل منها و ما يحرم](#)

CHAPTER 72 – RULES OF THE SLAVE GIRL AND WHAT IS PERMISSIBLE FROM HER AND WHAT IS PROHIBITED

1- **ب، قرب الإسناد ع لِيٍّ عَنْ أَخِيهِ قَالَ: سَأَلْتُهُ عَنْ رَجُلٍ قَالَ لِأَخْرَجَ هَذِهِ الْجَارِيَةَ لَكَ حَيَاتَكَ أَوْ يَحِلُّ فَرْجُهَا**

(The book) 'Qurb Al Isnaad' –

Ali, from his brother (Al-Kazim^{-asws}), he said, 'I asked him^{-asws} about a man who said to another, 'This slave girl is for you during your lifetime'. Is her private part permissible?'

قَالَ يَحِلُّ لَهُ فَرْجُهَا مَا لَمْ يَدْفَعَهَا إِلَى الَّذِي تَصَدَّقَ بِهَا عَلَيْهِ فَإِذَا تَصَدَّقَ بِهَا حُرِّمَتْ عَلَيْهِ.

⁴⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 11

⁵⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 71 H 12

He^{-asws} said: 'Her private part is permissible for him for as long as he does not hand her back to the one who had donated her to him. When he donates her, she is prohibited unto him'.⁵¹

2- وَ سَأَلْتُهُ عَنْ مَمْلُوكَةٍ بَيْنَ رَجُلَيْنِ تَزَوَّجَهَا أَحَدُهُمَا وَ الْآخَرُ غَائِبٌ هَلْ يَجُوزُ النِّكَاحُ

And I asked him^{-asws} about a slave girl being between two men. One of them married her while the other was absent. Is the marriage valid?'

قَالَ إِذَا كَرِهَ الْغَائِبُ لَمْ يَجْزِ النِّكَاحُ.

He^{-asws} said: 'When the absentee dislikes it, the marriage is not valid'.⁵²

3- قَالَ: وَ سَأَلْتُهُ عَنْ رَجُلٍ تَزَوَّجَ جَارِيَةَ أُخْتِهِ أَوْ عَمَّتِهِ أَوْ ابْنِ أُخْتِهِ فَوَلَدَتْ مَا حَالُهُ

And I asked him^{-asws} about a man who marries a slave girl of his sister, or his paternal aunt, or son (daughter) of his sister, so she gives birth. What is his state?'

قَالَ إِذَا كَانَ الْوَلَدُ شَيْئاً مِمَّنْ يَمْلِكُهُ عَتَقَ.

He^{-asws} said: 'When the child was something from the ones he owns, it is liberated'.⁵³

No. 4 is missing

5- قَالَ: وَ سَأَلْتُهُ عَنِ الرَّجُلِ يَشْتَرِي الْجَارِيَةَ فَيَقَعُ عَلَيْهَا أَوْ يَصْلُحُ بِنِعْمَتِهَا مِنَ الْجَدِّ

And I asked him^{-asws} about the man who buys the slave girl. He has intimate marital relations with her. Is it permissible for her to be sold by the grandfather?'

قَالَ لَا بَأْسَ.

He^{-asws} said: 'There is no problem'.⁵⁴

6- قَالَ: وَ سَأَلْتُهُ عَنِ الرَّجُلِ يَحْتَاجُ إِلَى جَارِيَةِ ابْنِهِ فَيَطُوقُهَا إِذَا كَانَ الْإِبْنُ لَمْ يَطَّأَهَا هَلْ يَصْلُحُ ذَلِكَ

He said, 'And I asked him^{-asws} about the man who was in need to a slave girl of his son, so he has intimate marital relations with her. If the son had not had intimate marital relations with her, is that correct?'

قَالَ نَعَمْ هِيَ لَهُ حَالِلٌ إِلَّا أَنْ يَكُونَ الْأَبُ مُوسِراً فَيَقُومُ الْجَارِيَةَ عَلَى نَفْسِهِ قِيمَةً ثُمَّ يَرُدُّ الْقِيمَةَ عَلَى ابْنِهِ.

⁵¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 1

⁵² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 2

⁵³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 3

⁵⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 5

He^{-asws} said: ‘Yes, she is lawful for him except if the father happens to be affluent. The slave girl would be evaluated upon himself for a price. Then the price would be returned to his son’.⁵⁵

7- ل، الخصال ابن الوليد عن الحميري عن هارون عن ابن زياد قال قال أبو عبد الله ع يحرم من الإماء عشر لا يجمع بين الأم والبنت وبين الأختين ولا أمتك وهي حامل من غيرك حتى تضع ولا أمتك ولها زوج ولا أمتك وهي أختك من الرضاعة ولا أمتك وهي عمثك من الرضاعة ولا أمتك وهي خالتك من الرضاعة ولا أمتك وهي حائض حتى تطهر ولا أمتك وهي رضيعتك ولا أمتك ولا لك فيها شريك.

(The book) ‘Al Khisaal’ – Ibn Al Waleed, from Al Himeyri, from Haroun, from Ibn Ziyad who said,

‘Abu Abdullah^{-asws} said: ‘Ten from the slave girls are prohibited – One cannot gather between the mother and the daughter, and between the two sisters, nor your slave girl while she is pregnant from another until she gives birth, nor your slave girl having a husband for her, nor your slave girl and she is your sister from the breast-feeding, nor your slave girl and she is your slave girl from the breast-feeding, nor your slave girl and she is your maternal aunt from the breast-feeding, nor your slave girl and she is menstruating until she is pure, nor your slave girl and she has breast-fed you, nor your slave and there is a partner for you in her’.⁵⁶

8- ن، عيون أخبار الرضا عليه السلام جعفر بن نعيم بن شاذان عن عمه محمد بن الفضل بن شاذان عن ابن بزيع قال: سألت الرضا ع عن الرجل له الجارية فيقبلها هل تحل لولده

(The book) ‘Uyoun Akhbar Al-Reza^{-asws}’, may the greeting be upon him^{-asws} – Ja’far Bin Nueym Bin Shazan, from his uncle Muhammad Bin al Fazl Bin Shazan, from Ibn Bazie who said,

‘I asked Al-Reza^{-asws} about the man having a slave girl for him, and he kisses her. ‘Is she lawful for his son?’

فقال بشهوة

He^{-asws} said: ‘With lust?’

قلت نعم

I said, ‘Yes’.

قال لا ما ترك شيئاً إذا قبلها بشهوة

He^{-asws} said: ‘No! He has not left out anything when he had kissed her with lustful desire!

ثم قال ع ابتداء منه لو جردتها فنظر إليها بشهوة حرمت على أبيه و ابنه

Then he^{-asws} said initiating, from him^{-asws}: ‘If he bares her and looks at her with lustful desire, she is prohibited unto his father and his son’.

⁵⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 6

⁵⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 7

فُلْتُ إِذَا نَظَرَ إِلَى جَسَدِهَا

I said, 'When he looks at her body?'

قَالَ إِذَا نَظَرَ إِلَى فَرْجِهَا.

He^{-asws} said: 'When he looks at her private part'.⁵⁷

9- قَالَ: وَ سَأَلْتُهُ عَنْ مَمْلُوكَةٍ كَانَتْ بَيْنَ اثْنَيْنِ فَأَعْتَقَاهَا وَ لَهَا أَخٌ غَائِبٌ وَ هِيَ بَكْرٌ أَمْحُورٌ لِأَخِيهَا أَنْ يُرْجِعَهَا أَوْ لَا يُجُوزُ إِلَّا بِأَمْرِ أَخِيهَا

And I asked him^{-asws} about a slave girl being between two, so they both freed her, and there is an absentee brother for her, and she is a virgin. 'Is it allowed for one of them to marry her, or not allowed except by instructions of her brother?'

فَقَالَ بَلَى يُجُوزُ أَنْ يُرْجِعَهَا

He^{-asws} said: 'Yes, he can marry her off'.

فُلْتُ فَيَتْرُجُهَا هُوَ إِنْ أَرَادَ ذَلِكَ

I said, 'Can he marry her if he wants?'

قَالَ نَعَمْ.

He^{-asws} said: 'Yes'.⁵⁸

10- ع، علل الشرائع أَبِي عَنْ عَلِيٍّ عَنْ أَبِيهِ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ قَالَ: فُلْتُ لِأَبِي عَبْدِ اللَّهِ عَ أَقْوَامٍ اشْتَرَكُوا فِي جَارِيَةٍ وَ اتَّيَمَّنُوا بَعْضُهُمْ وَ جَعَلُوا الْجَارِيَةَ عِنْدَهُ فَوَطَّئَهَا

(The book) 'Ilal Al Sharaie' – My father, from Ali, from his father, from Salih Bin Saeed, from Yunus, from Abdullah Bin Sinan who said,

'I said to Abu Abdullah^{-asws}, 'A group of people associate in a slave girl and they entrust one of them and make the slave girl to be with him. He has intimate marital relations with her'.

قَالَ يُجْلَدُ الْحَدَّ وَ يُدْرَأُ عَنْهُ مِنَ الْحَدِّ بِقَدْرِ مَا لَهُ فِيهَا وَ تُقَوَّمُ الْجَارِيَةُ وَ يُعْرَمُ مَمْنَعُهَا لِلشُّرَكَاءِ

He^{-asws} said: 'He will be struck the legal penalty and stave off from him the legal penalty in accordance of what (share) is for him in her, and the slave girl will be evaluated and he will be fined her price to be for the associates.

⁵⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 8

⁵⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 9

فَإِنْ كَانَتْ الْقِيَمَةُ فِي الْيَوْمِ الَّذِي وَطِئَ أَقْلًا مِمَّا اشْتَرَيْتَ فَإِنَّهُ يُلْزَمُ أَكْثَرَ الثَّمَنِ لِأَنَّهُ قَدْ أَفْسَدَ عَلَى شُرَكَائِهِ وَإِنْ كَانَتْ الْقِيَمَةُ فِي الْيَوْمِ الَّذِي وَطِئَ أَكْثَرَ مِمَّا اشْتَرَيْتَ بِهِ الزَّمَّ الْأَكْثَرَ لِاسْتِفْسَادِهَا.

If the value during the day in which he had intimate marital relations with her was less than what she had been bought for, he will be necessitated the larger of the two values, because he had corrupted upon his associates; and if the value during the day in which he had intimate marital relations with her is more than what she had been bought for, he will be necessitated the larger (of the two values) because he had corrupted her”.⁵⁹

11- ب، قرب الإسناد أبو البختري عن الصادق عن أبيه ع أَنَّ عَلِيًّا كَانَ يَنْهَى الرَّجُلَ إِذَا كَانَتْ لَهُ أَمَةٌ وَ لَهَا وَلَدٌ مِنْ غَيْرِهِ فَمَاتَ وَلَدُهَا أَنْ يَمَسَّهَا حَتَّى تَحِيضَ حِيضَةً أَوْ يَسْتَبِينَ حَامِلًا هِيَ أَمْ لَا.

(The book) ‘Qurb Al Isnaad’ – Abu Al Bakhtari,

‘From Al-Sadiq^{asws}, from his^{asws} father^{asws}: ‘Ali^{asws} had forbidden the man, when there was a slave girl for him and there was a child for her from someone else, so her child dies, (forbidden) from touching her until she menstruates a menstruation, or it becomes clear whether she is pregnant or not’.⁶⁰

12- ب، قرب الإسناد أبو البختري عن الصادق ع عَنْ أَبِيهِ ع قَالَ قَالَ عَلِيُّ ع مَنْ اتَّخَذَ مِنَ الْإِمَاءِ أَكْثَرَ مِمَّا يَنْكِحُ أَوْ نَكَحَ فَالْإِثْمُ عَلَيْهِ إِنْ بَعَثَ.

(The book) ‘Qurb Al Isnaad’ – Abu Al Bakhtari,

‘From Al-Sadiq^{asws}, from his^{asws} father^{asws} having said: ‘Ali^{asws} said: ‘One who takes more slave girls than what he can marry or has intimate marital relations with, the sin is upon him if he transgresses’.⁶¹

13- ل، الخصال أبي عن سعد بن ابن يزيد عن محمد بن إبراهيم عن الحسين بن المختار رفعه إلى سلمان رحمه الله عليه أنه قال في حديث له من اتخذ جارية فلم يأتمها في كل أربعين يوماً ثم أتت محرماً كان وزر ذلك عليه.

(The book) ‘Al Khisaal’ – My father, from Sa’ad, from Ibn Yazeed, from Muhammad Bin Ibrahim, from Al-Husayn Bin Al Mukhtar, raising it to,

Salman^{ra}, may Allah^{azwj} have Mercy upon him^{ra}, he^{ra} said in a Hadeeth: ‘One who takes a slave girl and does not come to her (at least) during every forty days, then she commits a prohibited act, the burden of that would be upon him’.⁶²

14- ل، الخصال ابن الوليد عن الصغار عن ابن يزيد عن عثمان بن عيسى عن ذكره عن أبي عبد الله ع قال: من اتخذ جارية فلم يأتمها في كل أربعين يوماً كان وزر ذلك عليه.

⁵⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 10

⁶⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 11

⁶¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 12

⁶² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 13

(The book) 'Al Khisaal' – Ibn Al Waleed, from Al Saffar, from Ibn Yazeed, from Usman Bin Isa, from the one who mentioned it,

'From Abu Abdullah^{-asws} having said: 'One who takes a slave girl but does not come to her during every forty days, the burden of that would be upon him'.⁶³

15- ج، الإحتجاج الریان بن شبيب قال: سأل أبو جعفر ع يحيى بن أكنم الفاضلي في مجلس المؤمن فقال ع أخبرني عن رجل نظر إلى امرأة في أول النهار وكان نظره إليها حراماً عليه فلما ارتفع النهار حلت له فلما زالت الشمس حُرِّمَتْ عَلَيْهِ فَلَمَّا كَانَ وَقْتُ الْعَصْرِ حَلَّتْ لَهُ فَلَمَّا غَرَبَتِ الشَّمْسُ حُرِّمَتْ عَلَيْهِ فَلَمَّا دَخَلَ وَقْتُ الْعِشَاءِ الْأَخْرَجَ حَلَّتْ لَهُ فَلَمَّا كَانَ وَقْتُ انْتِصَافِ اللَّيْلِ حُرِّمَتْ عَلَيْهِ فَلَمَّا طَلَعَ الْفَجْرُ حَلَّتْ مَا حَالَ هَذِهِ الْمَرْأَةِ وَبِمَا دَا حَلَّتْ لَهُ وَحُرِّمَتْ عَلَيْهِ

(The book) 'Al Ihtijaj' – Al Rayyan Bin Shabeeb who said,

'Abu Ja'far^{-asws} was asked by Yahya Bin Aksam the judge in a gathering of Al-Mamoun. He^{-asws} said: 'Inform me about a man who looks at a woman in the beginning of the day, and his looking at her was prohibited unto him. When the day rose, she was lawful to him. When the sun declined (at midday), she was prohibited to him. When it was the time of Al Asr (afternoon), she was lawful for him. When the sun set (evening) she was prohibited to him. When the time of Al Isha the last (night) entered, she was lawful for him. When it was the time of midnight she was prohibited to him. When the dawn emerged, she was lawful. What is the state of this woman and what is what which is permissible for him and prohibited to him?'

فَقَالَ لَهُ يَحْيَى بْنُ أَكْنَمَ لَا وَاللَّهِ لَا أَهْتَدِي إِلَى جَوَابِ هَذَا السُّؤَالِ وَلَا أَعْرِفُ الْوَجْهَ فِيهِ فَإِنْ رَأَيْتَ أَنْ تُفِيدَنَاهُ

Yahya Bin Aksam said to him^{-asws}, 'No, by Allah^{-azwj}! Neither am I guided to answer this question nor do I know the perspective in it. If you^{-asws} deem fit to guide us'.

فَقَالَ أَبُو جَعْفَرٍ ع هَذِهِ أَمَةٌ لِرَجُلٍ مِنَ النَّاسِ نَظَرَ إِلَيْهَا أَجْنَبِيٍّ فِي أَوَّلِ النَّهَارِ فَكَانَ نَظْرُهُ إِلَيْهَا حَرَاماً عَلَيْهِ فَلَمَّا ارْتَفَعَ النَّهَارُ ابْتَاعَهَا مِنْ مَوْلَاهَا فَحَلَّتْ لَهُ فَلَمَّا كَانَ عِنْدَ الظُّهْرِ أَعْتَقَهَا فَحُرِّمَتْ عَلَيْهِ فَلَمَّا كَانَ وَقْتُ الْعَصْرِ تَزَوَّجَهَا فَحَلَّتْ لَهُ

Abu Ja'far^{-asws} said: 'This is a slave girl of a man from the people. He looks at her as a stranger in the beginning of the day, so his looking at her is prohibited unto him. When the day rises, he buys her from her master so she becomes lawful for him. When it was at Al-Zohr (midday) he frees her, so she becomes prohibited to him. When it was the time of Al-Asr (afternoon) he marries her, she became permissible for him.

فَلَمَّا كَانَ وَقْتُ الْمَغْرِبِ ظَاهَرَ مِنْهَا فَحُرِّمَتْ عَلَيْهِ فَلَمَّا كَانَ وَقْتُ الْعِشَاءِ الْأَخْرَجَ كَفَّرَ عَنِ الظُّهْرِ فَحَلَّتْ لَهُ فَلَمَّا كَانَ نِصْفُ اللَّيْلِ طَلَّقَهَا وَاحِدَةً فَحُرِّمَتْ عَلَيْهِ فَلَمَّا كَانَ عِنْدَ الْفَجْرِ رَاجَعَهَا فَحَلَّتْ لَهُ.

When it was the time of Al-Maghrib (evening), he pronounces 'Zihaar' from her, so she was prohibited to him. When it was the time of Al-Isha the last (night), he expiates from the 'Zihaar', so she was permissible for him. When it was midnight he divorces her, one divorce,

⁶³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 14

so she was prohibited unto him. When it was at day, he returns to her, so she was lawful for him”⁶⁴.

16- شاء، الإرشاد رُفِعَ إِلَى أَمِيرِ الْمُؤْمِنِينَ ع بِالْيَمَنِ رَجُلَانِ بَيْنَهُمَا جَارِيَةٌ يَمْلِكَانِ رَقَبَهَا عَلَى السَّوَاءِ قَدْ جَهَلَا حَظْرَ وَطَيْهَا فَوَطَّأَهَا مَعًا فِي طَهْرٍ وَاحِدٍ عَلَى ظَنِّ مِنْهُمَا جَوَّازَ ذَلِكَ لِغُرْبِ عَهْدِهِمَا بِالْإِسْلَامِ وَ قَلَّةِ مَعْرِفَتِهِمْ بِمَا تَضَمَّنَتْهُ الشَّرِيعَةُ مِنَ الْأَحْكَامِ

(The book) ‘Al Irshad’ -

‘A case of two men who were raised to Amir Al-Momineen^{-asws} at Al-Yemen having a slave girl. They owned her neck upon the equality. Being ignorant of the caution of having intimate marital relations with her both of them did so during one pure period upon the thinking from them of the validity of that due to the nearness of their period with Al-Islam and lack of their understanding with what the law had necessitated of the rulings.

فَحَمَلَتِ الْجَارِيَةُ وَ وَضَعَتْ غُلَامًا فَاحْتَصَمَا إِلَيْهِ فِيهِ فَفَرَعَ عَلَى الْغُلَامِ بِاسْمَيْهِمَا فَخَرَجَتِ الثَّرَعَةُ لِأَحَدِهِمَا فَالْحَقَّ الْغُلَامُ بِهِ وَ أَلَزَمَهُ نِصْفَ فِيمَةِ الْوَالِدِ أَنْ لَوْ كَانَ عَبْدًا لِشَرِيكِهِ وَ قَالَ لَوْ عَلِمْتُ أَنَّكُمْ أَقْدَمْتُمَا عَلَى مَا فَعَلْتُمَا بَعْدَ الْحُجَّةِ عَلَيْكُمَا بِحَظْرِهِ لَبَالَغْتُ فِي عُقُوبَتِكُمَا

The slave girl became pregnant and gave birth to a boy. They brought the dispute to him^{-asws} regarding it. He^{-asws} drew lots upon the boy with their names, and the lot came out for one of them, so he^{-asws} attached the boy to him and necessitated him half the value of the child as if he was a slave of his partner, and he^{-asws} said: ‘Had I^{-asws} known that both of you had gone ahead upon what you have done after the proof upon you of its caution, I^{-asws} would have been extensive in punishing you two!’

وَ بَلَغَ رَسُولُ اللَّهِ ص هَذِهِ الْقِصَّةَ فَأَمَضَاهَا وَ أَقَرَّ الْحُكْمَ بِهَا فِي الْإِسْلَامِ وَ قَالَ الْحَمْدُ لِلَّهِ الَّذِي جَعَلَ فِينَا أَهْلَ الْبَيْتِ مَنْ يَفْضِي عَلَى سُنَنِ دَاوُدَ ع.

And this story reached Rasool-Allah^{-saww}, so he^{-saww} continued it and accepted the judgment of it in Al-Islam, and said: ‘The Praise is for Allah^{-azwj} Who Made People^{-asws} of the Household to be among us, someone who judges based upon the practice of Dawood^{-as}’⁶⁵.

17- شي، تفسير العياشي عن عيسى بن عبد الله قال: سئل أبو عبد الله ع عن أختين مملوكتين ينيح إحداهما أ بجل له الأخرى

Tafseer Al Ayyashi – From Isa Bin Abdullah who said,

‘Abu Abdullah^{-asws} was asked about two sister slave girls. He has intimate marital relations with one of them, ‘Is the other one lawful for him?’

فَقَالَ لَيْسَ يَنْكِحُ الْأُخْرَى إِلَّا دُونَ الْفَرْجِ وَ إِنْ لَمْ يَفْعَلْ فَهُوَ حَيْرٌ لَهُ نَظِيرُ تِلْكَ الْمَرْأَةِ تَحِيضُ فَتَحْرُمُ عَلَى زَوْجِهَا أَنْ يَأْتِيَهَا فِي فَرْجِهَا لِقَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ لَا تَقْرُبُوهُمْ حَتَّى يَطْهُرُوا قَالَ وَ أَنْ يَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ يَعْنِي فِي التَّكَاحِ فَيَسْتَقِيمُ لِلرَّجُلِ أَنْ يَأْتِيَ امْرَأَتَهُ وَ هِيَ حَائِضٌ فِيمَا دُونَ الْفَرْجِ.

He^{-asws} said: ‘He can only have intimate marital relations with the other only other than the private part, and if he does not do so, it is better for him, being similar to a woman menstruating being forbidden to her husband of her private part due to the Saying of Allah^{-azwj} Mighty and Majestic: **and from gathering between the two sisters (in marriage) except**

⁶⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 15

⁶⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 16

for what has passed [4:23] – meaning in the marriage. Thus, it is correct for the man if he comes to his wife while she is menstruating, other than the private part”⁶⁶

18 شي، تفسير العياشي عن أبي عَونٍ قَالَ سَمِعْتُ أَبَا صَالِحٍ قَالَ: قَالَ عَلِيٌّ عَ ذَاتِ يَوْمٍ سَلَوْنِي

(The book) ‘Tafseer Al Ayyashi’ – from Abu Own who said, ‘I heard Abu Salih saying,

‘One day Ali^{-asws} said: ‘Ask me^{-asws}!’

فَقَالَ ابْنُ الْكَوَّاءِ أَحْبَبْتَنِي عَنْ بِنْتِ الْأَخِ مِنَ الرِّضَاعَةِ وَ عَنِ الْمَمْلُوكَتَيْنِ الْأُخْتَيْنِ

Ibn Al-Kawwa said, ‘Inform me about a daughter of the brother from the breast-feeding and about two sister slave girls!’

فَقَالَ إِنَّكَ لَذَاهِبٌ فِي التَّبِيهِ سَلْ مَا يَغْنِيكَ أَوْ مَا يَنْفَعُ

He^{-asws} said: ‘You have gone to the bottom! Ask what concerns you or what would benefit’.

فَقَالَ ابْنُ الْكَوَّاءِ إِنَّمَا نَسَأَلُكَ عَمَّا لَا نَعْلَمُ فَأَمَّا مَا نَعْلَمُ فَلَا نَسَأَلُكَ عَنْهُ

Ibn Al-Kawwa said, ‘But rather we ask about what we don’t know. As for what we know, we do not ask you^{-asws} about it’.

ثُمَّ قَالَ أَمَّا الْأُخْتَانِ الْمَمْلُوكَتَانِ أَحَلَّتَهُمَا آيَةٌ وَ حَرَمَتْهُمَا آيَةٌ وَ لَا أَحِلُّهُ وَ لَا أَحْرَمُهُ وَ لَا أَفْعَلُهُ أَنَا وَ لَا وَاحِدٌ مِنْ أَهْلِ بَيْتِي.

Then he^{-asws} said: ‘As for the two sister slave girls, a Verse legalises it and a Verse prohibits it, and I^{-asws} neither legalise it nor do I^{-asws} prohibited, and I^{-asws} don’t do it nor does anyone from People^{-asws} of my^{-asws} Household”⁶⁷.

19- ين، كتاب حسين بن سعيد و النوادر مُحَمَّدُ بْنُ الْفَضْلِ عَنْ أَبِي الصَّبَّاحِ قَالَ: سئِلَ أَبُو عَبْدِ اللَّهِ عَ عَنْ رَجُلٍ عِنْدَهُ أُخْتَانِ مَمْلُوكَتَانِ فَوَطِئَ إِحْدَاهُمَا ثُمَّ وَطِئَ الْأُخْرَى قَالَ حَرَمَتْ عَلَيْهِ الْأُولَى حَتَّى تَمُوتَ الْأُخْرَى

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – Muhammad Bin Al Fuzeyl, from Abu Al Sabbah who said,

‘Abu Abdullah^{-asws} was asked about a man having two sister slave girls in his possession. He has intimate marital relations with one of them, then the other one. He^{-asws} said: ‘The first one is prohibited unto him until the other one dies!’

فُلْتُ أَرَأَيْتَ إِنْ بَاعَهَا

I said, ‘What is your^{-asws} view if he were to sell her (the second one)?’

قَالَ إِنْ كَانَ إِثْمًا يَبِيعُهَا حَاجَةً وَ لَا يَخْطُرُ عَلَى بَالِهِ مِنَ الْأَوَّلِ شَيْءٌ فَلَا بَأْسَ وَ إِنْ كَانَ إِثْمًا يَبِيعُهَا لِيَرْجِعَ إِلَى الْأُولَى فَلَا.

⁶⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 17

⁶⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 18

He^{-asws} said: 'If he was rather selling her out of need and nothing from the first one had crossed his mind, then there is no problem, and if he was rather selling in order to return to the first one, so no'.⁶⁸

20- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن جميل و حماد عن أبي عبد الله ع قال: الأُمُّ و الإبنَةُ سَوَاءٌ إِذَا لَمْ يَدْخُلْ بِهَا.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Jameel and Hammad,

'From Abu Abdullah^{-asws} having said: 'The mother and the daughter (slave girls) are the same when he did not have intimate marital relations with her''.⁶⁹

21- ين، كتاب حسين بن سعيد و النوادر القاسم عن علي عن أبي إبراهيم ع قال: سألتُهُ عن رجلٍ يملكُ أُختَيْنِ أ يطوهُمَا جَمِيعاً

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Qasim,

'From Ali, from Abu Ibrahim^{-asws}, he said, 'I asked him^{-asws} about a man who owns two sisters, 'Can he have intimate marital relations with them both?'

قَالَ يَطَأُ إِحْدَاهُمَا إِذَا وَطِئَ الثَّانِيَةَ حُرِّمَتِ الْأُولَى عَلَيْهِ حَتَّى تَمُوتَ الثَّانِيَةُ أَوْ يُفَارِقَهَا وَ لَيْسَ لَهُ أَنْ يَبِيعَ الثَّانِيَةَ مِنْ أَجْلِ الْأُولَى لِيَرْجِعَ إِلَيْهَا إِلَّا أَنْ يُجَادِيَ فِيهِ بِجَارِيَتِهِ أَوْ يَتَصَدَّقَ بِهَا أَوْ يَمُوتَ.

He^{-asws} said: 'He can have intimate marital relations with one of them. When he does it with the second one, the first one becomes prohibited unto him until the second one dies or he separates from her, and it isn't for him to sell the second one for the reason of the first one to be returning to her, except if there is a renewal for him regarding his slave girl, or he donates her, or she dies'.⁷⁰

22- كِتَابُ، سُلَيْمِ بْنِ قَيْسٍ عَنْ أَمِيرِ الْمُؤْمِنِينَ ع فِي سِيَاقِ ذِكْرِ بَدْعِ عُمَرَ قَالَ ع وَ عِنْفُهُ أُمَّهَاتِ الْأَوْلَادِ وَ أَخَذَ النَّاسُ بِقَوْلِهِ وَ تَرَكُوا أَمْرَ اللَّهِ وَ أَمَرَ رَسُولِهِ وَ رَدُّهُ سَبَايَا تُسْتَرَّ وَ هُنَّ حَبَالَى وَ إِعْتَاْفُهُ سَبَايَا أَهْلِ الْيَمَنِ الْحَدِيثِ.

The book of Suleym Bin Qays -

'From Amir Al-Momineen^{-asws} in continuation of mention of the innovations by Umar, he^{-asws} said: 'And his freeing mothers of the children, and the people taking with his word, and their neglecting the Commands of Allah^{-azwj} and instructions of His^{-azwj} Rasool^{-saww}, and his returning the captives of Tustar while they were pregnant, and his freeing captives of the people of Yemen' – Hadeeth''.⁷¹

23- نَوَادِرُ الرَّوَنْدِيِّ، بِإِسْنَادِهِ عَنْ مُوسَى بْنِ جَعْفَرٍ عَنْ أَبِيهِ ع قَالَ قَالَ عَلِيُّ ع إِنَّ رَجُلًا مِنَ الْأَنْصَارِ دَعَا رَسُولَ اللَّهِ ص إِلَى طَعَامِهِ فَإِذَا وَلِيْدَةً عَظِيمَةً بَطْنُهَا تَحْتَلِفُ بِالطَّعَامِ فَقَالَ رَسُولُ اللَّهِ ص مَا هَذِهِ

(The book) 'Nawadir' of Al Rawandy – By his chain,

⁶⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 19

⁶⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 20

⁷⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 21

⁷¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 22

'From Musa^{-asws} Bin Ja'far^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'Ali^{-asws} said: 'A man from the Helpers invited Rasool-Allah^{-saww} to his meal. There was a large-bellied woman coming and going with the food. Rasool-Allah^{-saww} said: 'What is this?'

فَقَالَ اشْتَرَيْتُهَا يَا رَسُولَ اللَّهِ ص وَ بِهَا هَذَا الْحَبْلُ

He said, 'I have bought her, O Rasool-Allah^{-saww}, and this pregnancy was already with her'.

فَقَالَ النَّبِيُّ ص هَلْ تَرَاهَا

The Prophet^{-saww} said: 'Did you see her?'

قَالَ نَعَمْ

He said, 'Yes'.

قَالَ لَوْ لَا حُرْمَةُ طَعَامِكَ لَلَعْنَتِكَ لَعْنَةً تَدْخُلُ عَلَيْكَ فِي قَبْرِكَ أَغْنَيْتُ مَا فِي بَطْنِهَا

He^{-saww} said: 'Had it not been for sanctity of your meal, I^{-saww} would have cursed you with such a curse, it would enter upon you in your grave! Free what is her belly!'

فَقَالَ يَا رَسُولَ اللَّهِ وَ بِمِ اسْتَحَقَّ الْعِتْقُ

He said, 'O Rasool-Allah^{-saww}, and due to what does it deserve the freedom?'

قَالَ لِأَنَّ نُطْقَتَكَ غَدَى سَمْعُهُ وَ بَصَرُهُ وَ لَحْمُهُ وَ دَمُهُ وَ شَعْرُهُ وَ بَشِيرُهُ.

He^{-saww} said: 'Because your seed is feeding its ears, and its sight, and its flesh, and its blood, and its hair, and its skin''.⁷²

[باب 73 أحكام تزويج الإمام زائدا على ما تقدم في الباب السابق](#)

CHAPTER 73 – RULES OF THE MARRIAGE OF SLAVE GIRLS, ADDITIONAL TO WHAT HAS PRECEDED IN THE PREVIOUS CHAPTER

1- ب، قرب الإسناد علي عن أخيه ع قال: سألتُهُ عن رجلٍ قال لأُمِّهِ وَ أَرَادَ أَنْ يُعْتِقَهَا وَ يَتَزَوَّجَهَا أَعْتَقْتُكَ وَ جَعَلْتُ صَدَاقَكَ عِتْقَكَ

(The book) 'Qurb Al Isnad' -

'Ali, from his brother (Al-Kazim^{-asws}), he said, 'I asked him^{-asws} about a man who says to his slave girl, and he intends to liberate her and marry her, 'I shall liberate you and make your freedom to be your dowry!'

⁷² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 72 H 23

قَالَ عَتَقْتُ وَ هِيَ بِالْخِيَارِ إِنْ شَاءَتْ تَزَوَّجْتُهُ وَ إِنْ شَاءَتْ فَلَا وَ إِنْ تَزَوَّجْتُهُ فَلْيُعْطِهَا شَيْئاً وَ إِنْ قَالَ تَزَوَّجْتُكَ وَ جَعَلْتُ مَهْرَكَ عِتْقَكَ كَانَ الْبِكَاحِ شَيْئاً وَاجِباً إِلَى أَنْ يُعْطِيَهَا شَيْئاً.

He^{-asws} said: ‘She is set free and she is with the choice. If she likes she can marry him and if she likes not to, so no, and if she does marry him let him give her something, and if he says, ‘I have married you and made your dowry to be your freedom, the marriage would be a thing obligated until he gives her something’.⁷³

2- ما، الأماالي للشيخ الطوسي حمويه عن أبي الحسين عن أبي خليفه عن شاكِر بن العياض عن هاشم بن سعيد عن كنانة عن صفية قالت أعتقني رسول الله ص و جعل عتقي صداهي.

(The book) ‘Al Amaali’ of the sheykh Al Tusi – Hammawiya, from Abu Al-Hassan, from Abu Khaleefa, from Shakir Bin Al Iyaz, from Hashim Bin Saeed, from Kinana, from Safiya who said,

‘Rasool-Allah^{-saww} liberated me and made my freedom as my dowry’.⁷⁴

3- ب، قرب الإسناد ابن طريف عن ابن غلوان عن الصادق عن أبيه ع أن رسول الله ص قضى في برة بشيئين قضى فيها بأن الولاء لمن أعتق و قضى لها بالتخيير حين أعتقت و قضى أن ما تصدق به عليها فأهدته فهي هديته لا بأس بأكله.

(The book) ‘Qurb Al Isnaad’ – Ibn Tareyf, from Ibn Ulwan,

‘From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: ‘Rasool-Allah^{-saww} decreed regarding Bareyra with two things – the governance is for the one who liberates and she is with the choice when freed; and decreed that whatever he donates with upon her, so she gifts it, it is a gift. There is no problem with him consuming it.’⁷⁵

4- ل، الخصال ابن الوليد عن الصفار عن أحمد و عبد الله النبي محمد بن عيسى عن ابن أبي عمير عن حماد عن الحلبي عن أبي عبد الله ع أنه ذكر أن برة كانت عند زوج لها و هي مملوكة فاشترتها عائشة فأعتقها [فأعتقها] فخيرها رسول الله ص إن شاءت أن تقر عند زوجها و إن شاءت فارقت و كان مواليتها الذين باعوها قد اشترطوا على عائشة أن لهم ولأهبا

(The book) ‘Al Khisal’ – Ibn Al Waleed, from Al Saffar, from Ahmad and Abdullah, two sons of Muhammad Bin Isa, from Ibn Abu Umeir, from Hammad, from Al Halby,

‘From Abu Abdullah^{-asws}, he^{-asws} mentioned that Bareyra was with a husband of hers, and she was an owned slave. Ayesha bought her and liberated her. Rasool-Allah^{-saww} gave her a choice. If she likes, she can stay with her husband, and if she likes, separate from him, and her masters, those that had sold her had stipulated upon Ayesha that her governance would be for them.

فقال رسول الله ص الولاء لمن أعتق و صدق على برة بلحم فأهدته إلى رسول الله ص فعلقته عائشة و قالت إن رسول الله ص لا يأكل الصدقة

⁷³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 1

⁷⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 2

⁷⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 3

Rasool-Allah^{-saww} said: ‘The governance is for the one who liberates’, and meat was donated in charity to Bareyra. She gifted it to Rasool-Allah^{-saww}. Ayesha kept it aside and said, ‘Rasool-Allah^{-saww} does not consume the charity!’

فَجَاءَ رَسُولُ اللَّهِ صَ وَاللَّحْمُ مُعَلَّقٌ فَقَالَ مَا شَأْنُ هَذَا اللَّحْمِ لَمْ يُطْبَخْ

Rasool-Allah^{-saww} came and the meat had been kept aside. He^{-asws} said: ‘What is the concern with this meat not being cooked?’

قَالَتْ يَا رَسُولَ اللَّهِ صَدَّقَ بِهِ عَلَيَّ بَرِيرَةَ فَأَهْدَتْهُ لَنَا وَ أَنْتَ لَا تَأْكُلُ الصَّدَقَةَ

She said, ‘O Rasool-Allah^{-saww}! It was donated in charity to Bareyra, so she gifted it to us, and you^{-saww} do not consume the charity!’

فَقَالَ هُوَ لَهَا صَدَقَةٌ وَ لَنَا هَدِيَّةٌ

He^{-saww} said: ‘It is charity for her, and for us it is a gift’.

ثُمَّ أَمَرَ بِطَبْخِهِ فَجَزَتْ فِيهَا ثَلَاثٌ مِنَ السُّنَنِ.

Then he^{-saww} instructed with it being cooked, so three of the practices (Sunnah) flowed regarding her’’.⁷⁶

5- شي، تفسير العياشي عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ: سَأَلْتُ أَبَا جَعْفَرٍ عَ عَنْ قَوْلِ اللَّهِ تَعَالَى وَ الْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ قَالَ هُوَ أَنْ يَأْتِيَ الرَّجُلُ عَبْدَهُ وَ حَتَّى أُمَّتُهُ فَيَقُولَ لَهُ اعْتَرِفْهَا فَلَا تَقْرَبْهَا ثُمَّ يَحْسِبُهَا عَنْهُ حَتَّى يَحِيضَ

(The book) ‘Tafseer Al Ayyashi’ – From Muhammad Bin Muslim who said,

‘I asked Abu Ja’far^{-asws} about Words of Allah^{-azwj} the Exalted: **‘And (Prohibited are) the married ones from the women except what your right hands possess [4:24].** He^{-asws} said: ‘It is the man ordering his slave while his slave girls is under (married to) him (the slave). He says to him, ‘Isolate her and do not go near her!’

ثُمَّ يَمَسُّهَا فَإِذَا حَاضَتْ بَعْدَ مَبِيئِهِ إِيَّاهَا رَدَّهَا عَلَيْهِ بِغَيْرِ نِكَاحٍ.

Then he touches her. When she has menstruated after his having touched her, he returns her to him (the slave) without a marriage’’.⁷⁷

6- شي، تفسير العياشي عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ عَ فِي الْمُحْصَنَاتِ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ قَالَ هُنَّ ذَوَاتُ الْأَرْوَاجِ.

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

⁷⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 4

⁷⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 5

‘From Abu Abdullah^{-asws} regarding: **‘And (Prohibited are) the married ones from the women except what your right hands possess [4:24].** He^{-asws} said: ‘These are with the husbands’’.⁷⁸

7 شي، تفسير العياشي عن عبد الله بن سنان عن أبي عبد الله ع في الْمُحْصَنَاتِ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ قَالَ سَمِعْتُهُ يَقُولُ تَأْمُرُ عَبْدَكَ وَتَحْتَهُ أَمْتُكَ فَيَعْتَرِهَا حَتَّى تَحِيضَ فَتُصِيبُ مِنْهَا.

(The book) ‘Tafseer Al Ayyashi’ – From Abdullah Bin Sinan,

‘From Abu Abdullah^{-asws} regarding: **And (Prohibited are) the married ones from the women except what your right hands possess [4:24].** He (the narrator) said, ‘I heard him^{-asws} saying: ‘You can order your slave, and beneath (married to) him is your slave girl. So, he isolates from her until she has menstruated, then you can attain from her’’.⁷⁹

8- شي، تفسير العياشي عن ابن مسكان عن أبي بصير عن أحدهما ع في قَوْلِ اللَّهِ وَ الْمُحْصَنَاتِ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ قَالَ هُنَّ ذَوَاتُ الْأَرْوَاحِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ إِنْ كُنْتِ زَوْجَتِ زَوْجِكَ غُلَامِكَ نَزَعْتَهَا مِنْهُ إِذَا شِئْتَ

(The book) ‘Tafseer Al Ayyashi’ – From Ibn Muskan, from Abu Baseer,

‘From one of the two (5th or 6th Imam^{-asws}) regarding Words of Allah^{-azwj}: **And (Prohibited are) the married ones from the women except what your right hands possess [4:24].** He^{-asws} said: ‘These are with the husband, except what your right hands possess. If you have got your slave girl married to your slave man, you can remove her from him whenever you desire to’.

فَقُلْتُ أَرَأَيْتَ إِنْ زَوَّجَ غَيْرَ غُلَامِهِ

I said, ‘What is your^{-asws} view if he gets her married to other than his slave’.

قَالَ لَيْسَ لَهُ أَنْ يَنْزِعَ حَتَّى يُبَاعَ فَإِنْ بَاعَهَا صَارَ بُضْعُهَا فِي يَدِ غَيْرِهِ فَإِنْ شَاءَ الْمُشْتَرِي فَرَّقَ وَ إِنْ شَاءَ أَقْرَبَ.

He^{-asws} said: ‘It isn’t for him to remove (her) until sold. When he sells, she comes to be in the hand (control) of another. If the buyer likes, he can separate her and if he likes he can let her stay’’.⁸⁰

9- شي، تفسير العياشي عن البرزطي قال: سَأَلْتُ الرِّضَا ع يُتَمَنَّعُ بِالْأَمَةِ بِإِذْنِ أَهْلِهَا

(The book) ‘Tafseer Al Ayyashi’ – From Al Bazanti who said,

‘I asked Al-Reza^{-asws}, ‘Can I contract Mut’ah with the permission of her family?’

قَالَ نَعَمْ إِنْ أَلَّ اللَّهُ يَقُولُ فَانْكِحُوهُنَّ بِإِذْنِ أَهْلِهِنَّ.

⁷⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 6

⁷⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 7

⁸⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 8

He^{-asws} said: ‘Yes. Allah^{-azwj} Says: **So marry them with the permission of their families [4:25]**’.⁸¹

10- وَ قَالَ مُحَمَّدُ بْنُ صَدَقَةَ الْبَصْرِيِّ سَأَلْتُهُ عَنِ الْمُتَعَةِ أَلَيْسَ هَذَا بِمَنْزِلَةِ الْإِمَاءِ

And Muhammad Bin Sadaqa Al Basry said,

‘I asked him^{-asws} about the Mut’ah, ‘Isn’t this one at the status of the slave girl?’

قَالَ نَعَمْ أَمَا تَقْرَأُ قَوْلَ اللَّهِ وَ مَنْ لَمْ يَسْتَطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكَحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ إِلَى وَ لَا مُتَّحِدَاتِ أَحْدَانٍ فَكَمَا لَا يَسَعُ الرَّجُلُ أَنْ يَنْزُجَ بِالْأَمَةِ وَ هُوَ يَسْتَطِيعُ أَنْ يَنْزُجَ بِالْحُرَّةِ فَكَذَلِكَ لَا يَسَعُ الرَّجُلُ أَنْ يَتَمَتَّعَ بِالْأَمَةِ وَ هُوَ يَسْتَطِيعُ أَنْ يَنْزُجَ بِالْحُرَّةِ.

He^{-asws} said: ‘Yes. Have you not read the Word of Allah^{-azwj}: **And the ones from you who do not have the capacity to marry the free Mominat, then from what your right hands possess from your youthful Mominat, [4:25]**. Just as the man has no leeway to marry the slave girl and he has the capacity to marry the free woman, like that the man has no leeway to do Mut’ah with the slave girl and he has the capacity to marry the free woman’.⁸²

11- شي، تفسير العياشي عن أبي العباس قال: فُلْتُ لِأَبِي عَبْدِ اللَّهِ يَنْزُجُ بِالْأَمَةِ بَعِيرٍ إِذْ فِي أَهْلِهَا

(The book) ‘Tafseer Al Ayyashi’ – from Abu Al Abbas who said,

‘I said to Abu Abdullah^{-asws}, ‘Can the man marry the slave girl without permission of her family?’

قَالَ هُوَ زِنَا إِنَّ اللَّهَ يَقُولُ فَاَنْكِحُوهُنَّ بِإِذْنِ أَهْلِهِنَّ.

He^{-asws} said: ‘It is adultery! Allah^{-azwj} Says: **So marry them with the permission of their families [4:25]**’.⁸³

12- شي، تفسير العياشي عن عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ عَنِ الْمُحْصَنَاتِ مِنَ الْإِمَاءِ قَالَ هُنَّ الْمُسْلِمَاتُ.

(The book) ‘Tafseer Al Ayyashi’ – From Abdullah Bin Sinan,

‘I asked him^{-asws} about the married women from the slave girls. He^{-asws} said: ‘These are Muslim women’.⁸⁴

13- شي، تفسير العياشي عن عَبْدِ اللَّهِ بْنِ صُهَيْبٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: لَا يَنْبَغِي لِلرَّجُلِ الْمُسْلِمِ أَنْ يَنْزُجَ مِنَ الْإِمَاءِ إِلَّا مَنْ خَشِيَ الْعَنْتَ وَ لَا يَحِلُّ لَهُ مِنَ الْإِمَاءِ إِلَّا وَاحِدَةٌ.

(The book) ‘Tafseer Al Ayyashi’ – from Abbad Bin Suheyb,

⁸¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 9

⁸² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 10

⁸³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 11

⁸⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 12

‘From Abu Abdullah^{-asws} having said: ‘It is not befitting for the Muslim man that he marries from the slave girls except the one who fears the adversity and it is not permissible for him from the slave girls except one’^{.85}

14- سر، السرائر من كتاب المسائل عن داود الصرمي قال: سألت أبا الحسن ع عن عبد كانت تحتة زوجة حرة ثم إن هذا العبد أبى فطلق امرأته من أجل إباقه قال نعم إن أرادت هي ذلك.

(The book) ‘Al Saraair’, from the book ‘Al Masaail’, from Dawood Al Surimy who said,

‘I asked Abu Al-Hassan^{-asws} about a slave under (married to) whom is a free woman. Then this slave absconds, so his wife is divorced from the reason of his absconding. He^{-asws} said: ‘Yes, if she wants that’^{.86}

15- شي، تفسير العياشي عن محمد بن مسلم قال: سألت أبا عبد الله ع عن الرجل ينجح أمتة من رجل قال إن كان مملوكاً فليفرق بينهما إذا شاء لأن الله يقول عبداً مملوكاً لا يمدر على شيء فليس للعبد من الأمر شيء وإن كان زوجها حراً فإن طلقها عنها.

(The book) ‘Tafseer Al Ayyashi’ – From Muhammad Bin Muslim who said,

‘I asked Abu Abdullah^{-asws} about the man marrying his slave girl to a man. He^{-asws} said: ‘If he were a slave, he can separate between the two whenever he so desires to because Allah^{-azwj} Says: **an owned slave, not being able upon anything [16:75]**. Thus, there isn’t anything from the matters for the slave, and if her husband were a free man, her divorce would be her freedom’^{.87}

16- شي، تفسير العياشي عن محمد بن مسلم عن أبي جعفر ع قال: مر علي غلام له فدعاه إليه ثم قال يا فتى أريد عليك فلانة و نطعمنا بدينهم حريب [حررت]

(The book) ‘Tafseer Al Ayyashi’ – From Muhammad Bin Muslim,

‘From Abu Ja’far^{-asws}, he (the narrator) said, ‘A young slave of his^{-asws} passed by. He^{-asws} called him over, then said: ‘O young man! Shall I return such and such girl to you and you feed us grain for a Dirham?’

قال فقلت جعلت فداك إننا نروي عندنا أن علياً ع أهديت له أو اشتريت جارية فسألها أ فارغة أنت أم مشغولة قالت مشغولة

He said, ‘I said, ‘May I be sacrificed for you^{-asws}! We are reporting among us that Ali^{-azwj}, a slave girl was either gifted to him^{-asws} or he^{-asws} purchased her. He^{-asws} asked her, ‘Are you free (unmarried) or pre-occupied (married)?’ She said, ‘Pre-occupied’.

قال فأرسل فاشترى بضعها من زوجها بحمسة درهم

⁸⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 13

⁸⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 14

⁸⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 15

He said, 'He^{-asws} sent a message and bought her private parts from her husband for five hundred Dirhams'.

فَقَالَ كَذَبُوا عَلَى عَلِيٍّ ع وَ لَمْ يَحْفَظُوا أَمَا تَسْمَعُ قَوْلَ اللَّهِ وَ هُوَ يَقُولُ ضَرَبَ اللَّهُ مَثَلًا عَبْدًا مَمْلُوكًا لَا يَقْدِرُ عَلَى شَيْءٍ .

He^{-asws} said: 'They are lying upon Ali^{-asws} and they have not preserved! Have you not heard the Words of Allah^{-azwj} and He^{-azwj} Says: **Allah Strikes an example of an owned slave, not being able upon anything [16:75]**'.⁸⁸

17- شي، تفسير العياشي عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ ع قَالَ: الْمَمْلُوكُ لَا يَجُوزُ طَلَاقُهُ وَ لَا نِكَاحُهُ إِلَّا بِإِذْنِ سَيِّدِهِ

(The book) 'Tafseer Al Ayyashi' – From Zurara,

'From Abu Ja'far^{-asws} and Abu Abdullah^{-asws} having said: 'The owned slave, neither is his divorce allowed nor his marriage except by the permission of his master!'

فُلْتُ فَإِنْ كَانَ السَّيِّدُ زَوَّجَهُ يَدٍ مِنَ الطَّلَاقِ

I said, 'If the master was the one who had married her off, in the hand of whom is the divorce?'

قَالَ يَدِ السَّيِّدِ ضَرَبَ اللَّهُ مَثَلًا عَبْدًا مَمْلُوكًا لَا يَقْدِرُ عَلَى شَيْءٍ أَ فَشَيْءُ الطَّلَاقِ .

He^{-asws} said: 'In the hand (control) of the master. **Allah Strikes an example of an owned slave, not being able upon anything [16:75]**. Isn't the divorce 'a thing?''⁸⁹

18- شي، تفسير العياشي عَنْ أَبِي بصيرٍ فِي الرَّجُلِ يَنْكِحُ أُمَّةً لِرَجُلٍ أَلَهُ أَنْ يُفَرِّقَ بَيْنَهُمَا إِذَا شَاءَ

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

'Regarding the man who marries off his slave girl to a man, 'Is it for him to separate between the two whenever he so desires to?'

قَالَ إِنْ كَانَ مَمْلُوكًا فَلْيُفَرِّقْ بَيْنَهُمَا إِذَا شَاءَ لِأَنَّ اللَّهَ يَقُولُ عَبْدًا مَمْلُوكًا لَا يَقْدِرُ عَلَى شَيْءٍ فَلَيْسَ لِلْعَبْدِ مِنَ الْأَمْرِ شَيْءٌ وَ إِنْ كَانَ زَوْجُهَا حُرًّا فَفَرَّقْ بَيْنَهُمَا إِذَا شَاءَ الْمَوْلَى .

He^{-asws} said: 'If he was an owned slave, he can separate between the two whenever he so desires to, because Allah^{-azwj} Says: **an owned slave, not being able upon anything [16:75]**. And if her husband were a free man, the master can separate between the two whenever he so desires to'.⁹⁰

19- شي، تفسير العياشي عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ سَمِعْتُهُ يَقُولُ إِذَا زَوَّجَ الرَّجُلُ غُلَامَهُ جَارِيَتَهُ فَفَرَّقَ بَيْنَهُمَا مَتَى شَاءَ .

⁸⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 16

⁸⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 17

⁹⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 18

(The book) 'Tafseer Al Ayyashi' – From Abdullah Bin Sinan,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I heard him^{-asws} saying: 'When the man marries off his slave to his slave girl, he can separate between the two whenever he so desires to''^{.91}

20- شي، تفسير العياشي عن الخليلي عنه ع الرجل يُنكِح عبده أخته قال يُنزعها إذا شاء بغير طلاقٍ لأنَّ الله يقول عبداً مملوكاً لا يقدرُ على شيءٍ.

(The book) 'Tafseer Al Ayyashi' – From Al Halby,

'From him^{-asws} regarding the man who gets his slave married to his slave girl. He^{-asws} said: 'He can remove her whenever he so desires to without a divorce because Allah^{-azwj} Says: **an owned slave, not being able upon anything [16:75]**'^{.92}

21- شي، تفسير العياشي عن أحمد بن عبد الله العلوي عن الحسن بن الحسين بن الحسين بن زيد بن علي عن جعفر بن محمد عن أبيه ع قال كان علي بن أبي طالب ع يقول ضرب الله مثلاً عبداً مملوكاً لا يقدرُ على شيءٍ

(The book) 'Tafseer Al Ayyashi' – From Ahmad Bin Abdullah Al Alawy, from Al-Hassan Bin Al-Husayn, from Al-Husayn Bin Zayd Bin Ali,

'From Ja'far^{-asws} Bin Muhammad^{-asws}, from his^{-asws} father^{-asws} having said: 'Ali^{-asws} Bin Abu Talib^{-asws} had said: **Allah Strikes an example of an owned slave, not being able upon anything [16:75]**'.

و يقول للعبد لا طلاق ولا نكاح ذلك إلى سيده و الناس يزون خلاف ذلك إذا أذن السيد لعبده لا يزون له أن يفترق بينهما.

And he^{-asws} said: 'For the slave, there is neither divorce nor marriage. That is up to his master, and the people are viewing opposite to that, when the master permits for his slave, they are not viewing that for him is to separate between the two''^{.93}

22- مكا، مكارم الأخلاق عن الحسين بن المختار يرفعه قال: إنَّ سلمان تزوج امرأة عتيبة فدخل فإذا البئث فيه الفرس فقال إنَّ بيتكم لمحرّم إذ قد تحوّلت فيه الكعبة

(The book) 'Makarim Al Akhlaq' – from Al-Husayn Bin Al Mukhtar, raising it, said,

'Salman^{-ra} married a wealthy woman. He^{-ra} entered the house. In it were furnishings. He^{-ra} said, 'Your house is sacred as if the Kabah has been transferred into it!'

قال فإذا جارية محتمة فقال لمن هذه

He (the narrator) said, 'There was a slave girl wearing a ring. He^{-ra} said: 'For whom is this one?'

⁹¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 19

⁹² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 20

⁹³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 21

فَقَالُوا لِفُلَانَةَ امْرَأَتِكَ

They said, 'For your^{fa} so and so wife!'

قَالَ مَنْ أَخَذَ جَارِيَةً لَا يَأْتِيهَا ثُمَّ أَتَتْ مُحْرِمًا كَانَ وَزُرَ ذَلِكَ عَلَيْهِ.

He^{asws} said: 'One who take a slave girl and does not come to her, then she commits a prohibited act, the burden of that would be upon him!'⁹⁴

23- عَنِ الصَّادِقِ ع قَالَ: مَنْ أَخَذَ جَارِيَةً فَلْيَأْتِهَا فِي كُلِّ أَرْبَعِينَ يَوْمًا مَرَّةً.

From Al-Sadiq^{asws} having said: 'One who takes a slave girl, let him come to her at least once every forty days'.⁹⁵

24- عَنْهُ ع قَالَ: إِذَا أَتَى الرَّجُلُ جَارِيَتَهُ ثُمَّ أَرَادَ أَنْ يَأْتِيَ الْأُخْرَى تَوْصِيًا.

From him^{asws} having said: 'When the man comes to his slave girl, then wants to come to another, let him perform Wud'u'.⁹⁶

25- يَنْ، كِتَابِ حَسَنِ بْنِ سَعِيدٍ وَ النُّوَادِرِ صَفْوَانَ عَنِ الْعَلَاءِ عَنِ مُحَمَّدٍ عَنِ أَحَدِهِمَا ع قَالَ: سَأَلْتُهُ عَنِ الرَّجُلِ يَتَزَوَّجُ الْمَمْلُوكَةَ عَلَى الْحُرَّةِ قَالَ لَا وَ إِذَا كَانَتْ نَحْتَهُ امْرَأَةً مَمْلُوكَةً فَتَزَوَّجَ عَلَيْهَا حُرَّةً فَسَمَّ لِلْحُرَّةِ ثُلثِي مَا يُقْسِمُ لِلْأَمَةِ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Al A'la, from Muhammad,

'From one of the two (5th or 6th Imam^{asws}), he (the narrator) said, 'I asked him^{asws} about the man who marries a slave girl upon (while being married to) the free woman. He^{asws} said: 'No, and if there was a slave girl married to him, he can marry a free woman upon her. The apportionment of the free woman is two-thirds what is apportioned for the slave girl (one-third)'.⁹⁷

26- قَالَ مُحَمَّدٌ وَ سَأَلْتُهُ عَنِ الرَّجُلِ يَتَزَوَّجُ الْمَمْلُوكَةَ فَقَالَ لَا بَأْسَ إِذَا اضْطُرَّ إِلَيْهِ.

Muhammad said,

'And I asked him^{asws} about the man marrying the slave girl. He^{asws} said: 'There is no problem if he is desperate to it'.⁹⁸

27- يَنْ، كِتَابِ حَسَنِ بْنِ سَعِيدٍ وَ النُّوَادِرِ النَّصْرُ بْنُ سُؤَيْدٍ عَنِ عَاصِمِ بْنِ حُمَيْدٍ عَنِ مُحَمَّدِ بْنِ قَيْسٍ عَنِ أَبِي جَعْفَرٍ ع فِي رَجُلٍ نَكَحَ أُمَّةً فَوَجَدَ طَوْلًا إِلَى حُرَّةٍ وَ كَرِهَ أَنْ يُطَلِّقَ الْأُمَّةَ قَالَ يَنْكِحُ الْحُرَّةَ عَلَى الْأُمَّةِ إِنْ كَانَتْ الْأُمَّةُ أَوْلَاهُمَا عِنْدَهُ وَ لَيْسَ لَهُ أَنْ يَنْكِحَ الْأُمَّةَ عَلَى الْحُرَّةِ إِذَا كَانَتْ الْحُرَّةُ أَوْلَاهُمَا عِنْدَهُ وَ يُقْسِمُ لِلْحُرَّةِ الثُّلثَيْنِ مِنْ مَالِهِ وَ نَفْسِهِ وَ لِلْأُمَّةِ الثُّلثَ مِنْ مَالِهِ وَ نَفْسِهِ.

⁹⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 22

⁹⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 23

⁹⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 24

⁹⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 25

⁹⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 26

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr Bin Suweyd, from Aasim Bin Humeyd, from Muhammad Bin Qays,

'From Abu Ja'far^{-asws} regarding a man who marries a slave girl. He found financial ease to marry a free woman and he disliked to divorce the slave girl. He^{-asws} said: 'He can marry the free woman upon the slave girl, if the slave girl was first of the two with him, and it isn't for him that he marries the slave girl upon the free woman when the free woman was first of the two with him, and he should apportion for the free woman the two-thirds from his wealth and himself, and for the slave woman is the third from his wealth and himself'.⁹⁹

28- ين، كتاب حسين بن سعيد و النوادر الحسن بن محبوب عن يحيى اللخام عن سماعة عن أبي عبد الله ع في رجل يتزوج امرأة حرة و له امرأة أمة و لم تعلم الحرة أن له امرأة أمة فقال إن شاءت الحرة أن تُقيم مع الأمة أقامت و إن شاءت ذهبت إلى أهلها

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al-Hassan Bin Mahboub, from Al Laham, from Sama'at,

'From Abu Abdullah^{-asws} regarding a man who marries a free woman and there is a slave girl wife for him, and the free woman did not know that there is a slave wife for him. He^{-asws} said: 'If the free woman desires to stay with the slave woman, she can stay, and if she desires, she can go to her family'.

قُلْتُ لَهُ فَإِنْ لَمْ يَرْضَ بِدَهَابِهَا أَلَهُ عَلَيْهَا سَبِيلٌ

I said to him^{-asws}, 'If he does not agree with her going away, is there any way for him to her?'

قَالَ لَا سَبِيلَ لَهُ عَلَيْهَا إِذَا لَمْ تَرْضَ بِالْمَقَامِ

He^{-asws} said: 'There is no way for him to her when she does not agree to stay'.

قُلْتُ فَدَهَابُهَا إِلَى أَهْلِهَا هُوَ طَلَاُهَا

I said, 'So her going to her family is her divorce?'

قَالَ نَعَمْ إِذَا خَرَجَتْ مِنْ مَنْزِلِهِ اغْتَدَّتْ ثَلَاثَةَ قُرُوءٍ أَوْ ثَلَاثَةَ أَشْهُرٍ ثُمَّ تَتَزَوَّجُ إِنْ شَاءَتْ.

He^{-asws} said: 'Yes. When she went out from his house, she should observe waiting period of a menses-free period, or three months. Then she can get married if she so desires to'.¹⁰⁰

29- ين، كتاب حسين بن سعيد و النوادر علي بن النعمان عن يحيى الأزرق سأل أبا عبد الله ع عن الرجل عنده امرأة وليدة و تزوج حرة و لم يعلمها قال إن شاءت الحرة أقامت و إن شاءت لم تُقيم

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ali Bin Al Numan, from Yahya Al Azraq -

⁹⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 27

¹⁰⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 28

'I asked Abu Abdullah^{-asws} about the man having a slave girl with a child, and he marries a free woman and did not inform her. He^{-asws} said: 'If the free woman desires, she can stay, and if she desires, she does not stay'.

فُلْتُ قَدْ أَخَذَتْ الْمَهْرَ فَتَذَهَبُ بِهِ

I said, 'She has already taken the dowry, so can she go with it?'

قَالَ نَعَمْ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا.

He^{-asws} said: 'Yes, due to what she had legalised of her private parts'¹⁰¹.

30- ين، كتاب حسين بن سعيد و النوادر النَّصْرُ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: لَا يَنْكِحُ الرَّجُلُ الْأُمَّةَ عَلَى الْحُرَّةِ وَإِنْ شَاءَ نَكَحَ الْحُرَّةَ عَلَى الْأُمَّةِ ثُمَّ يَقْسِمُ لِلْحُرَّةِ مِثْلِي مَا يَقْسِمُ لِلْأُمَّةِ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Abdullah Bin Sinan,

'From Abu Abdullah^{-asws} having said: 'The man cannot marry the slave girl upon the free woman, and if he so desires, he can marry the free woman upon the slave girl, then he should apportion for the free woman double of what he apportions for the slave girl'¹⁰².

31- ين، كتاب حسين بن سعيد و النوادر صَفْوَانُ عَنِ ابْنِ مُسْكَانَ عَنِ الْحَسَنِ بْنِ زِيَادٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ع تَنْزُوحُ الْحُرَّةِ عَلَى الْأُمَّةِ وَلَا تَنْزُوحُ الْأُمَّةِ عَلَى الْحُرَّةِ وَلَا النَّصْرَانِيَّةُ وَلَا الْيَهُودِيَّةُ عَلَى الْمُسْلِمَةِ فَمَنْ فَعَلَ ذَلِكَ فَنِكَاحُهُ بَاطِلٌ.

(The book) 'Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Inn Muskan, from Al-Hassan Bin Ziyad who said,

'Abu Abdullah^{-asws} said: 'You can marry the free woman upon the slave girl but you cannot marry the slave girl upon the free woman, nor a Christian, nor a Jewess upon the Muslim woman. The one who does that, his marriage is invalid'¹⁰³.

32- ين، كتاب حسين بن سعيد و النوادر الْقَاسِمُ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ هَلْ لِلرَّجُلِ أَنْ يَنْزُوحَ النَّصْرَانِيَّةَ عَلَى الْمُسْلِمَةِ وَالْأُمَّةَ عَلَى الْحُرَّةِ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Qasim, from Aban, from Abdul Rahman,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws}, 'Is it for the man that he marries a Christian woman upon the Muslim woman, and the slave girl upon the free woman?'

قَالَ لَا يَنْزُوحُ وَاحِدَةً مِنْهُمَا عَلَى الْمُسْلِمَةِ وَ يَنْزُوحُ الْمُسْلِمَةَ عَلَى الْأُمَّةِ وَ النَّصْرَانِيَّةَ وَ لِلْمُسْلِمَةِ الثُّلَاثَانَ وَ لِلْأُمَّةِ وَ النَّصْرَانِيَّةِ الثَّلَاثَ.

¹⁰¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 29

¹⁰² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 30

¹⁰³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 31

He^{-asws} said: ‘Not one of the two can be married upon the Muslim woman, and he can marry the Muslim woman upon the slave girl and the Christian woman, and for the Muslim woman would be two-thirds, and for the slave girl and the Christian woman is the third’¹⁰⁴.

33- من كتاب صفوة الأخبار، قال: جاء رجل إلى أمير المؤمنين ع وقال إن هذا مملوكي و تزوج بعير إديني

From the book ‘Safwat Al Akhbaar’ –

‘He said, ‘A man came to Amir Al-Momineen^{-asws} and said: ‘This is a slave of mine and he has got married without my permission.

فقال أمير المؤمنين ع فترق بينهما أنت

Amir Al-Momineen^{-asws} said: ‘You can separate between the two’.

فالتفت الرجل إلى مملوكه و قال يا حبيث طلق امرأتك

The man turned to his slave and said, ‘O wicked one, divorce your wife!’

فقال أمير المؤمنين ع للعبد إن شئت فطلق و إن شئت فأمسك

Amir Al-Momineen^{-asws} said to the slave: ‘If you desire, divorce, and if you desire, withhold’.

قال كان قول المالك للعبد طلق امرأتك رضاه بالتزويج فصار الطلاق عند ذلك للعبد.

He (the narrator) said, ‘The word of the owner to the slave, ‘Divorce your wife’, is his agreement (recognition) with the marriage, therefore the divorce came to be for the slave due to that’¹⁰⁵.

34- نواذير الراوندي، بإسناده عن موسى بن جعفر عن آبائه ع قال قال علي ع إذا تزوج الرجل حرة و أمة في عقد واحد فبناهما باطل.

(The book) ‘Nawadir’ of Al Rawandy – By his chain,

‘From Musa^{-asws} Bin Ja’far^{-asws}, from his^{-asws} forefathers^{-asws} having said: ‘Ali^{-asws} said: ‘When the man marries a free woman and a slave girl in one contract, both their marriages are invalid’¹⁰⁶.

35- و بهذا الإسناد قال قال علي ع إذا تزوج الحر أمة فإمها نخدم أهلها نهاراً و تأتي زوجها ليلاً و عليه النفقة إذا فعلوا ذلك فإن خالوا بينه و بينها ليلاً فلا نفقة.

And by this chain, he^{-asws} said: ‘Ali^{-asws} said: ‘When a free man marries a slave-girl, she serves her master’s household during the day and comes to her husband at night, and he is

¹⁰⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 32

¹⁰⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 33

¹⁰⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 34

responsible for her maintenance if this arrangement is followed. But if they prevent him from her at night, then he has no obligation of maintenance”¹⁰⁷.

36- وَ بِحَدِّ إِسْنَادٍ قَالَ قَالَ عَلِيٌّ ع فِي بَرِيرَةَ أَنْبَغَ فَضِيَّاتٍ أَرَادَتْ عَائِشَةُ شِرَاهَا فَاشْتَرَطَ مَوَالِيهَا أَنَّ الْوَلَاءَ لَهُمْ فَاشْتَرَتْهَا مِنْهُمْ عَلَى ذَلِكَ الشَّرْطِ فَصَعِدَ رَسُولُ اللَّهِ ص فَقَالَ مَا بَالُ أَقْوَامٍ يَبِيعُ أَحَدُهُمْ رَقِيقَهُ وَ يَشْتَرِطُ أَنَّ الْوَلَاءَ لَهُمْ إِنَّ الْوَلَاءَ لِمَنْ أَعْتَقَ وَ أَعْطَى الْمَالَ

And by this chain, he^{-asws} said: ‘Ali^{-asws} said: ‘In Bareyra there are four decrees. Ayesha wanted to buy her, and she stipulated to her masters that the governance would be for them, so she bought her from them based upon that condition. Rasool-Allah^{-saww} ascended (the pulpit). He^{-saww} said: ‘What is the matter with a people? One of them sold his slave girl and stipulated that the governance would be for them! The governance is for the one who liberates and gives the wealth!’

فَلَمَّا كَاتَبَتْهَا عَائِشَةُ كَانَتْ تَدُورُ فَتَسْأَلُ النَّاسَ وَ كَانَتْ تَأْوِي إِلَى عَائِشَةَ فَتُهْدِي إِلَيْهَا الْقَدِيدَ وَ الْحُبْزَ فَقَالَ النَّبِيُّ ص هَلْ مِنْ شَيْءٍ أَكَلُهُ

When Ayesha contracted her (freedom), she went around asking the people, and she was inclined to Ayesha. She gifted the meat and bread to her. The Prophet^{-saww} said: ‘Is there anything to eat?’

فَقَالَتْ لَا إِلَّا مَا أَتَتْنَا بِهِ بَرِيرَةُ

She said, ‘No, except what Bareyra has come with’.

فَقَالَ ص هَاتِيهِ هُوَ عَلَيْهَا صَدَقَةٌ وَ لَنَا هَدِيَّةٌ فَأَكَلَهُ

He^{-saww} said: ‘Give it! It is charity to her and a gift for us!’, and he^{-saww} ate it.

فَلَمَّا أَدَّتْ كِتَابَتَهَا حَبَّرَهَا رَسُولُ اللَّهِ ص وَ كَانَ لَهَا زَوْجٌ فَاحْتَارَتْ نَفْسَهَا فَقَالَ النَّبِيُّ ص لَهَا اعْتَدِي ثَلَاثَ حِيضٍ.

When she had fulfilled her contract, Rasool-Allah^{-saww} gave her a choice, and there was a husband for her. She chose herself. The Prophet^{-saww} said to her: ‘Observe waiting period of three menstruations’¹⁰⁸.

37- كِتَابُ الْعَارَاتِ، لِإِبْرَاهِيمَ بْنِ مُحَمَّدٍ التَّقْفِيِّ عَنْ يَحْيَى بْنِ صَالِحٍ عَنِ الثَّقَاتِ مِنْ أَصْحَابِهِ أَنَّ عَلِيًّا ع كَتَبَ مِنْ عَبْدِ اللَّهِ أَمِيرِ الْمُؤْمِنِينَ إِلَى عَوْسَجَةَ بِنِ شَدَادٍ سَلَامًا عَلَيْكَ أَمَّا بَعْدُ فَإِنَّ جَهَالَ الْعِبَادِ تُسْتَفَرُّ فُلُوبُهُمْ بِالْأَطْمَاعِ حَتَّى تَسْتَعْلِقَ الْحَدَائِعَ فَتَرِينَ بِالْمُنَى

(The book) ‘Kitab Al Gharaat’ of Ibrahim Bin Muhammad Al Saqafi, from Yahya Bin Salih, from the trusted ones from his companions,

‘Ali^{-asws} wrote: ‘From a servant of Allah^{-azwj}, Commander of the faithful, to Awsaja Bin Shaddad. The greeting be upon you! As for after, the hearts of ignorant servants are stirred by desires until they become entangled in deceptions, seeing wonders in their wishes.

¹⁰⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 34

¹⁰⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 35

عَجِبْتُ مِنْ ابْتِئَاعِكَ الْمَمْلُوكَةَ الَّتِي أَمَرْتُكَ بِابْتِئَاعِهَا مِنْ مَالِكِهَا وَ لَمْ تَعْلَمْ حِينَ ابْتَعْتَهَا أَنَّ لَهَا بَعْلًا فَلَمَّا أَتَنِي فَسَأَلْتُهَا رَدَدْتُهَا إِلَيْكَ مَعَ مَوْلَايَ مُنْعَبٍ

I^{-asws} was surprised from you having purchased a slave girl which I^{-asws} had instructed to you buy her from her owners, and you did not know when you bought her that there is a husband for her. When she came to me I^{-asws} asked her. I^{-asws} am returner her to you along with my slave Mus'ab.

فَادْعُ الَّذِي بَاعَكَ الْجَارِيَةَ وَ ادْعُ زَوْجَهَا فَابْتَعْ مِنْ زَوْجِهَا بُضْعَهَا وَ أَخْلِصْهَا إِنْ رَضِيَ فَإِنْ أَبَى وَ كَرِهَ بَيْعَ بُضْعِهَا فَأَقْبِضْ ثَمَنَهَا وَ ارْزُدْهَا إِلَى الْبَائِعِ وَ السَّلَامُ

Summon the one who had sold you the slave girl and summon her husband, and buy from her private parts from her husband and her purify if he agrees. If he refuses and dislikes to sell her private parts, take her price back and return her to the seller; and the greetings!

وَ كَتَبَ عَبْدُ اللَّهِ بْنُ أَبِي رَافِعٍ فِي سَنَةِ تِسْعٍ وَ ثَلَاثِينَ.

And it is written by Abdullah Bin Abu Rafie in the year thirty-nine".¹⁰⁹

38- كِتَابُ عَاصِمِ بْنِ حُمَيْدٍ، عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: مَرَّ عَلَيَّ غُلَامٌ لَهُ فَدَعَاهُ فَقَالَ يَا قَيْنُ

The book of Aasim Bin Humejd, from Muhammad Bin Muslim,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'A slave boy of his^{-asws} passed by. He^{-asws} called him. He^{-asws} said: 'O 'Qayn'!

قَالَ قُلْتُ وَ مَا الْقَيْنُ

He said, 'I said, 'And what is 'Al-Qayn'?

قَالَ الْحَدَّادُ

He^{-asws} said: 'The blacksmith'.

قَالَ أَرُودُ عَلَيَّكَ فُلَانَةٌ عَلَى أَنْ تُطْعَمَنَا بِدِرْهِمٍ خَرْبِزَةً جَاشِئَةً خَرْبِزَةً نَعْنِي الْبِطِيحَ

He^{-asws} said: 'I^{-asws} shall return so and so girl to you if you feed us 'Kharbiza' (meaning the melon)'.
قَالَ قُلْتُ لَهُ جُعِلْتُ فِدَاكَ إِنَّا نُرْوَى بِالْكُوفَةِ أَنَّ عَلِيًّا اشْتَرَيْتَ لَهُ جَارِيَةً أَوْ أُهْدِيَتْ لَهُ جَارِيَةً فَسَأَلَهَا أ فَأَرَعَهُ أَنْتِ أَمْ مَشْغُولَةٌ فَقَالَتْ مَشْغُولَةٌ فَأَرْسَلْتُ فَاشْتَرَيْتُ بِبُضْعِهَا بِخَمْسِمِائَةِ دِرْهِمٍ

He said, 'I said to him^{-asws}, 'May I be sacrificed for you^{-asws}! We are reporting at Al-Kufa that Ali^{-asws} had bought a slave girl for himself, or a slave girl had been gifted to him^{-asws}. He^{-asws}

¹⁰⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 36

asked her: 'Are you free (unmarried), or pre-occupied (married)?' She said, 'Pre-occupied (married)'. So he^{-asws} sent a message and bought her private parts for five hundred Dirhams'.

قَالَ كَذَبُوا عَلَى عَلِيٍّ ع أَوْ لَمْ يَحْفَظُوا أَمَا تَسْمَعُ إِلَى اللَّهِ عَزَّ وَجَلَّ كَيْفَ يَقُولُ ضَرَبَ اللَّهُ مَثَلًا عَبْدًا مَمْلُوكًا لَا يَقْدِرُ عَلَى شَيْءٍ.

He^{-asws} said: 'They are lying upon Ali^{-asws}, or they have not preserved! Have you not listened to Allah^{-azwj} Mighty and Majestic how He^{-azwj} Said: **Allah Strikes an example of an owned slave, not being able upon anything [16:75]?**'¹¹⁰

[باب 74 المهور و أحكامها](#)

CHAPTER 74 – THE DOWRIES AND THEIR RULES

1 ب، قرب الإسناد مُحَمَّدُ بْنُ الْوَلِيدِ وَ مُحَمَّدُ بْنُ عَيْسَى وَ الْحُسَيْنُ بْنُ ظَرْيَفٍ وَ عَلِيُّ بْنُ إِسْمَاعِيلَ كُلُّهُمْ عَنْ حَمَّادِ بْنِ عَيْسَى عَنِ الصَّادِقِ عَنْ أَبِيهِ ع قَالَ: مَا زَوَّجَ رَسُولُ اللَّهِ ص شَيْئاً مِنْ بَنَاتِهِ وَ لَا تَزَوَّجَ شَيْئاً مِنْ نِسَائِهِ عَلَى أَكْثَرِ مِنْ اثْنَتَيْ عَشْرَةَ أُوقِيَةً وَ نَشْرٍ يَعْني نِصْفَ أُوقِيَةٍ.

(The book) 'Qurb Al Isnaad' – Muhammad Bin Al Waleed, and Muhammad Bin Isa, and Al-Hassan Bin Zareyf, and Ali Bin Ismail, all of them from Hammad Bin Isa,

'From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws} having said: 'Neither did Rasool-Allah^{-saww} give any of his^{-saww} (step) daughters in marriage, nor did he^{-saww} marry any of his^{-saww} wives, for more than twelve Owqiyas and a Nash' – meaning half an Owqiya"¹¹¹. (1 Owqiya = 40 Dirhams)

2- أَرْبَعِينَ الشَّهِيدِ، بِإِسْنَادِهِ عَنِ الصَّدُوقِ عَنْ جَعْفَرِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ جَعْفَرِ الْحَمَزِيِّ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ عَيْسَى الْأَشْعَرِيِّ عَنْ حَمَّادٍ مِثْلَهُ.

(The book) 'Arbaeen' of Al Shaheed – By his chain, from Al Sadouq, from Ja'far Bin Al-Husayn, from Muhammad Bin Abdullah Bin Ja'far Al Himeyri, from his father, from Muhammad Bin Isa Al Ash'ary, from Hammad, similar to it.¹¹²

3- ب، قرب الإسناد أَبُو الْبَحْتَرِيِّ عَنِ الصَّادِقِ عَنْ أَبِيهِ ع قَالَ قَالَ عَلِيُّ ع إِنِّي لَأَكْرَهُ أَنْ يَكُونَ الْمَهْرُ أَقَلَّ مِنْ عَشْرَةِ دَرَاهِمٍ لَكِنِّي لَا يُشْبِهُ مَهْرَ الْبَغِيِّ.

(The book) 'Qurb Al Isnaad' – Abu Al Bakhtari,

'From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws} having said: 'Ali^{-asws} said: 'I^{-asws} dislike for the dowry to be less than ten Dirhams so that it may not resemble dower of the prostitute"¹¹³

4- ع، علل الشرائع أَبِي عَنْ سَعْدِ بْنِ الْبَرْهَمِيِّ عَنْ أَبِيهِ عَنْ أَبِي الْبَحْتَرِيِّ مِثْلَهُ.

¹¹⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 73 H 37

¹¹¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 1

¹¹² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 2

¹¹³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 3

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Al Barqy, from his father, from Abu Al Bakhtari, similar to it.¹¹⁴

5- ع، علل الشرائع ابْنُ الْوَلِيدِ عَنِ الصَّفَّارِ عَنِ ابْنِ يَزِيدَ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي أُيُوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: قُلْتُ أَذْكَ مَا يُجْزِي مِنَ الْمَهْرِ

(The book) 'Ilal Sharaie' – Ibn Al Waleed, from Al Saffar, from Ibn Yazeed, from Safwan Bin Yahya, from Ibn Muskan, from Abu Ayoub, from Muhammad Bin Muslim,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I said, (What is) the least of what suffices from the dowry?'

قَالَ تَمَثَّلْ مِنْ شُكْرَةٍ.

He^{-asws} said: 'A lump of sugar'¹¹⁵.

6- ب، قرب الإسناد مُحَمَّدُ بْنُ الْوَلِيدِ عَنِ ابْنِ بُكَيْرٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ زَوْجَ رَسُولِ اللَّهِ ص عَلِيًّا فَاطِمَةَ صَلَوَاتِ اللَّهِ عَلَيْهِمَا عَلَى دِرْعٍ لَهُ حُطْمِيَّةٍ تَسْمَى ثَلَاثِينَ دِرْهَمًا.

(The book) 'Qurb Al Isnaad' – Muhammad Bin Al Waleed, from Ibn Bukeyr who said,

'I heard Abu Abdullah^{-asws} saying: 'Rasool-Allah^{-saww} got Ali^{-asws} to (Syeda) Fatima^{-asws}, may the Salawaat of Allah^{-azwj} be upon them^{-asws}, upon a shield of his^{-asws} (called) 'Hutamiya', valued at thirty Dirham'¹¹⁶.

7- ع، علل الشرائع ن، عيون أخبار الرضا عليه السلام مَا جَلَلَتْهُ عَنْ عَلِيٍّ عَنِ أَبِيهِ عَنِ عَلِيِّ بْنِ مَعْبُدٍ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ قَالَ: سَأَلْتُ أَبَا الْحَسَنِ ع عَنْ مَهْرِ السُّنَّةِ كَيْفَ صَارَ حَمْسِمِائَةَ دِرْهَمٍ

(The book) 'Ilal Al Sharaie', (and) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – Majaylawiya, from Ali, from his father, from Ali Bin Ma'bad, from Al-Husayn Bin Khalid who said,

'I asked Abu Al-Hassan^{-asws} about the Sunnah dowry, 'How did it become five hundred Dirhams?'

فَقَالَ إِنَّ اللَّهَ تَبَارَكَ وَتَعَالَى أَوْجَبَ عَلَيَّ نَفْسِي أَنْ لَا يُكَبِّرَهُ مُؤْمِنٌ مِائَةَ تَكْبِيرَةٍ وَ يُحَمِّدُهُ مِائَةَ تَحْمِيدَةٍ وَ يُسَبِّحُهُ مِائَةَ تَسْبِيحَةٍ وَ يُهَلِّلُهُ مِائَةَ تَهْلِيلَةٍ وَ يُصَلِّيَ عَلَيَّ مُحَمَّدٍ وَ آلِ مُحَمَّدٍ مِائَةَ مَرَّةٍ ثُمَّ يَقُولُ اللَّهُمَّ زَوِّجْنِي مِنَ الْخَيْرِ الْعَيْنِ إِلَّا زَوَّجَهُ اللَّهُ خَوْزَاءَ مِنَ الْجَنَّةِ وَ جَعَلَ ذَلِكَ مَهْرَهَا

He^{-asws} said: 'Allah^{-azwj} Blessed and Exalted Obligated upon Himself that no Momin will exclaim one hundred Takbeers, and praise Him^{-azwj} with one hundred praises, and glorify Him^{-azwj} one hundred glorifications, and extols His^{-azwj} Oneness with one hundred extollations, and sends Salawaat upon Muhammad^{-saww} and Progeny^{-asws} of Muhammad^{-saww} one hundred times, then

¹¹⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 4

¹¹⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 5

¹¹⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 6

says, 'O Allah^{-azwj}! Marry me to the Maiden Hourie', except Allah^{-azwj} will get him married to a Hourie from the Paradise, and Make that to be her dowry.

فَمِنْ تَمَّ أَوْحَى اللَّهُ عَزَّ وَجَلَّ إِلَى نَبِيِّهِ ص أَنَّ يَسْرَ مُهُورِ الْمُؤْمِنَاتِ خَمْسِمِائَةَ دِرْهَمٍ فَفَعَلَ ذَلِكَ رَسُولُ اللَّهِ ص.

From then Allah^{-azwj} Mighty and Majestic Revealed to His^{-azwj} Prophet^{-saww} to establish the practice of the believing women to be five hundred Dirhams, so Rasool-Allah^{-saww} did that".¹¹⁷

8- سن، المحاسن مُحَمَّدُ بْنُ عَلِيٍّ أَبِي سُمَيْيَةَ عَنْ مُحَمَّدِ بْنِ أَسْلَمَ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ مِثْلَهُ.

(The book) 'Al Mahasin' – Muhammad Bin Ali Abu Sumeyna, from Muhammad Bin Aslam, from Al-Husayn Bin Khalid, similar to it.¹¹⁸

9- ختص، الإختصاص مُحَمَّدُ بْنُ الْحُسَيْنِ عَنْ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ مِثْلَهُ.

(The book) 'Al Ikhtisas' – Muhammad Bin Al-Hassan, from Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Al-Husayn Bin Khalid, similar to it.¹¹⁹

10- ع، علل الشرائع ن، عيون أخبار الرضا عليه السلام ابْنُ إِدْرِيسَ عَنْ أَبِيهِ عَنْ ابْنِ عَيْسَى عَنِ ابْنِ زَيْدٍ عَنِ الْحُسَيْنِ بْنِ خَالِدٍ قَالَ: قُلْتُ لِأَبِي الْحُسَيْنِ ع جُعِلَتْ فِدَاكَ كَيْفَ صَارَ مَهْرُ النِّسَاءِ خَمْسِمِائَةَ دِرْهَمٍ اثْنَتَيْ عَشْرَةَ أَوْفِيَّةً وَ نَش [نَشَأًا]

(The book) 'Ilal Al Sharaie', (and) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – Ibn Idrees, from his father, from Ibn Isa, from Al Bazanty, from Al-Husayn Bin Khalid who said,

'I said to Abu Al-Hassan^{-asws}, 'May I be sacrificed for you^{-asws}! How did dowry of the women come to be five hundred Dirhams, twelve Owqiyas and a Nash (half)?'

قَالَ إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى أَوْجَبَ عَلَيَّ نَفْسِي أَنْ لَا بُكْرَةَ مُؤْمِنٍ مِائَةَ تَكْبِيرَةٍ وَ يُسَبِّحُهُ مِائَةَ تَسْبِيحَةٍ وَ يُحَمِّدُهُ مِائَةَ تَحْمِيدَةٍ وَ يُهَلِّلُهُ مِائَةَ مَرَّةٍ وَ يُصَلِّي عَلَيَّ عَلَى مُحَمَّدٍ وَ آلِ مُحَمَّدٍ مِائَةَ مَرَّةٍ ثُمَّ يَقُولُ اللَّهُمَّ رَوِّجِي مِنَ الْخَوَرِ الْعَيْنِ إِلَّا رَوِّجَهُ اللَّهُ عَزَّ وَ جَلَّ

He^{-asws} said: 'Allah^{-azwj} Blessed and Exalted Obligated upon Himself that no Momin will exclaim one hundred Takbeers, and glorify Him^{-azwj} one hundred glorifications, and praise Him^{-azwj} one hundred praises, and extol His^{-azwj} Oneness one hundred times, and send Salawaat upon Muhammad^{-saww} and Progeny^{-asws} of Muhammad^{-saww} one hundred times, then says, 'O Allah^{-azwj}! Get me married to the Maiden Hourie', except Allah^{-azwj} Mighty and Majestic will Get him married.

فَمِنْ تَمَّ جُعِلَ مَهْرُ النِّسَاءِ خَمْسِمِائَةَ دِرْهَمٍ وَ أَيُّمَا مُؤْمِنٍ خَطَبَ إِلَى أُخِيهِ حَرَمَةَ [حُرْمَتَهُ] وَ بَدَّلَ لَهُ خَمْسِمِائَةَ دِرْهَمٍ فَلَمْ يُزَوِّجْهُ فَقَدْ عَفَّهَ وَ اسْتَحَقَّ مِنَ اللَّهِ عَزَّ وَ جَلَّ أَلَّا يُزَوِّجَهُ خَوْرَاءً.

From them He^{-azwj} Made dowry of the women to be five hundred Dirhams, and whichever Momin proposes to his brother for his sanctimonious one (womenfolk) and spends five

¹¹⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 7

¹¹⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 8

¹¹⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 9

hundred Dirhams for it, but he does not get him married, has been disloyal to him and deserves from Allah^{-azwj} Mighty and Majestic not to get him married to the Houries”¹²⁰

11- ع، علل الشرائع أبي عن سعد بن البرقي عن السياري عن ذكره عن حماد عن حريز عن محمد بن إسحاق قال قال أبو جعفر ع أتدري من أين صار مهر النساء أربعة آلاف درهم

(The book) ‘Ilal Al Sharaie’ – My father, from Sa’ad, from Al Barqy, from Al Sayyari, from the one who mentioned it, from Hammad, from Hareez, from Muhammad Bin Is’haq who said,

‘Abu Ja’far^{-asws} said: ‘Do you know from where did dowries of the woman became four thousand Dirhams?’

قُلْتُ لَا

I said, ‘No’.

قال إن أم حبيب بنت أبي سفيان كانت بالمبشة فخطبها النبي ص فساق عنه النجاشي أربعة آلاف درهم فمن تم هؤلاء يأخذون [به] فأما المهر فأتتنا عشرة أوقية و نش.

He^{-asws} said: ‘Umm Habeeba^{-ra}, daughter of Abu Sufyan was in Ethiopia. The Prophet^{-saww} proposed to her. Al-Najashy (the king) ushered four thousand Dirhams on his^{-saww} behalf, then they took with it. As for the dowry, it is twelve Owqiyas and a Nash”¹²¹

12- سن، المحاسن أبي عن حماد عن حريز مثله.

(The book) ‘Al Mahasin’ – My father, from Hammad, from Hareez, similar to it.¹²²

13- مع، معاني الأخبار أبي عن سعد بن ابن عيسى عن أبيه عن ابن أبي عمير عن بعض أصحابنا عن أبي عبد الله ع قال: ما تزوج رسول الله ص شيئاً من نسائه ولا زوج شيئاً من بناته على أكثر من اثنتي عشرة أوقية و نش و الأوقية أربعون درهماً و النش عشرون درهماً.

(The book) ‘Ma’any Al Akhbar’ – My father, from Sa’ad, from Ibn Isa, from his father, from Ibn Abu Umeyr, from one of our companions,

‘From Abu Abdullah^{-asws} having said: ‘Rasool-Allah^{-saww} did not marry anyone of his^{-saww} wives, nor got anyone of his^{-saww} (step) daughters married upon more than twelve Owqiyas and a Nash; and the Owqiya is forty Dirhams, and the Nash is twenty Dirhams”¹²³

14- لي، الأمالي للصدوق في خبر المناهي عن النبي ص قال: من ظلم امرأة مهرها فهو عند الله زان يقول الله عز و جل يوم القيامة عبدي زوجتك أمتي على عهدتي فلم توف بعهدتي و ظلمت أمتي فؤخذ من حسناته فيدفع إليها بقدر حقها

(The book) ‘Al Amaali’ of Al Sadouq -

¹²⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 10

¹²¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 11

¹²² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 12

¹²³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 13

In a Hadeeth of the prohibitions from the Prophet^{-saww} having said: ‘One who oppresses a woman of her dowry, in the View of Allah^{-azwj} he is an adulterer. Allah^{-azwj} Mighty and Majestic will Say on the Day of Qiyamah: “My^{-azwj} servant! I^{-azwj} got you married to My^{-azwj} maid upon My^{-azwj} Pact, but you were not loyal to My^{-azwj} Pact and were unjust to My^{-azwj} maid! Take from his good deeds and hand it over to her in accordance with her right!”

فَإِذَا لَمْ تَبْقَ لَهُ حَسَنَةٌ أَمَرَ بِهِ إِلَى النَّارِ بِتَكْتِيهِ لِلْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا.

When there does not remain any good deed for him, he will be Commanded with to the Fire due to his having broken the Pact: **and fulfil the oath, surely the oath would always be questioned about [17:34]**.¹²⁴

15 ل، الخصال ابن الوليد عن محمد العطار عن الأشعري عن الجماوراني عن علي بن سليمان عن الحسن بن علي بن يقطين عن يونس عن إسماعيل بن كثير قال قال أبو عبد الله ع السراق ثلاثة مانع الزكاة و مستحل مهوور النساء و كذلك من استدان و لم ينو قضاءه.

(The book) ‘Al Khisal’ – Ibn Al Waleed, from Muhammad Al Attar, from Al Ash’ary, from Al Jamourany, from Ali Bin Suleyman, from Al-Hassan Bin Ali Bin Yaqtan, from Yunus, from Ismail Bin Kaseer who said,

Abu Abdullah^{-asws} said: ‘The thieves are three – preventer of the Zakat, and legaliser of dowries of the women, and like that is the one who borrows and does not intend to pay it back’.¹²⁵

16- ن، عيون أخبار الرضا عليه السلام ع، علل الشرائع في علل ابن سنان عن الرضا ع أنه كتب إليه علة المهر و وجوبه على الرجال و لا يجب على النساء أن يعطين أزواجهن قال لأن على الرجال مئونة المرأة [المراة] بائعة نفسها و الرجل مشتر و لا يكون البيع بلا ثمن و لا الشراء بغير إعطاء الثمن مع أن النساء محظورات عن التعامل و المتجر مع علي كثير.

(The book) ‘Uyoun Akhbar Al-Reza^{-asws}’, may the greeting be upon him^{-asws}, (and) ‘Ilal Al Sharaie’, in ‘Ilal’ of Ibn Sinan,

‘From Al-Reza^{-asws}, he^{-asws} wrote to him the reason of the dowry and its obligation upon the men and not obligated upon the women to give to their husbands. He^{-asws} said: ‘Because upon the men is the provision of the woman (wife). She is selling herself and the man is a buyer, and the buying cannot happen except with a price, nor can the buying without the price being given. Moreover, women are generally restricted from trade and business dealings, along with many other reasons’.¹²⁶

17- ع، علل الشرائع و روي في خبر آخر أن الصادق ع قال: إنما صار الصداق على الرجل دون المرأة و إن كان فعلهما واحداً فإن الرجل إذا قضى حاجته منها قام عنها و لم ينتظر فراغها فصار الصداق عليه دونها لذلك.

(The book) ‘Ilal Al-Sharaie’ – And it is reported in another Hadeeth that Al-Sadiq^{-asws} said: ‘But rather the dowry came to be upon the man rather than the woman, and even though their actions are one, because when the man has fulfilled his need from her, he stands from her

¹²⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 14

¹²⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 15

¹²⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 16

and does not wait for her being free, therefore the dowry came to be upon him, rather than on her, due to that”¹²⁷.

18- صح، صحيفة الرضا عليه السلام عن الرضا ع عن آتائه ع قَالَ قَالَ رَسُولُ اللَّهِ ص إِنَّ اللَّهَ تَعَالَى غَافِرٌ كُلِّ ذَنْبٍ إِلَّا مَنْ جَحَدَ مَهْرًا أَوْ اغْتَصَبَ أُجِيرًا أَجْرَهُ أَوْ بَاعَ رَجُلًا حُرًّا.

(The book) ‘Saheefa Al-Reza^{-asws}’, may the greeting be upon him^{-asws} – From Al-Reza^{-asws}, from his^{-asws} forefathers^{-asws} having said: ‘Rasool-Allah^{-saww} said: ‘Allah^{-azwj} the Exalted, is a Forgiver of every sin except the one who rejects a dowry or usurps a recompense (wages), or sells a free person (as a slave)’¹²⁸.

19- ضا، فقه الرضا عليه السلام إِذَا تَزَوَّجْتَ فَاجْهَدِ أَنْ لَا تَجَاوِزَ مَهْرَهَا مَهْرَ السُّنَّةِ وَ هُوَ حُمْسِمِائَةِ دِرْهَمٍ فَعَلَى ذَلِكَ زَوْجَ رَسُولِ اللَّهِ ص وَ تَزَوَّجَ نِسَاءَهُ وَ وَجِدْ إِلَيْهَا قَبْلَ أَنْ تَدْخُلَ بِهَا مَا عَلَيْكَ أَوْ بَعْضُهُ مِنْ قَبْلِ أَنْ تَطَّأَهَا فَلِ أُمَّ كَثُرَ مِنْ ثَوْبٍ أَوْ دِرَاهِمٍ أَوْ دَنَانِيرٍ أَوْ خَادِمٍ.

(The book) ‘Fiqh Al-Reza^{-asws}’, may the greeting be upon him^{-asws} – ‘When you get married, strive that her dowry does not surpass the Sunnah, and it is five hundred Dirhams. Upon that, Rasool-Allah^{-saww} married off (his^{-saww} stepdaughters), and married his^{-saww} wives, and divert to her, before you enter to be with her, whatever is upon you or part of it, from before you have intimate marital relations with her, be it little or more, whether from a garment, or Dirhams, or Dinars, or a servant’¹²⁹.

20- سر، السرائر البرنطبي عن حماد عن خديجة بن منصور أنه سمع أبا عبد الله ع يقول إن صدق أزواج رسول الله ص كان اثنتي عشرة أوقية و نساء و الأوقية أربعون درهماً و النش نصف الأوقية.

(The book) ‘Al Saraair’ of Al Bazanty – From Hammad, from Huzeifa Bin Mansour,

‘He heard Abu Abdullah^{-asws} saying: ‘The dowry of wives of Rasool-Allah^{-saww} was twelver Owqiyas and a Nash – and the Owqiya is forty Dirhams, and the Nash is half the Owqiya’¹³⁰.

21 شي، تفسير العياشي عن عمر بن يزيد قال: قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع أَحْبَبْتَنِي عَلَى أَنْ تَزَوَّجَ عَلَيَّ أَكْثَرَ مِنْ مَهْرِ السُّنَّةِ أَمْ يُجُوزُ لَهُ ذَلِكَ

(The book) ‘Tafseer Al Ayyashi’ – From Umar Bin Yazeed who said,

‘I said to Abu Abdullah^{-asws}, ‘Inform me about the one who gets married upon more than the Sunnah dowry, is that allowed for him?’

قَالَ إِذَا جَازَ مَهْرَ السُّنَّةِ فَلَيْسَ هَذَا مَهْرًا إِنَّمَا هُوَ نُحْلٌ لِأَنَّ اللَّهَ يَقُولُ فَإِنْ آتَيْتُمْ إِحْدَاهُنَّ فِنْطَارًا فَلَا تَأْخُذُوا مِنْهُ شَيْئًا إِنَّمَا عَلَى النُّحْلِ وَ لَمْ يَعْزِزْ الْمَهْرَ

He^{-asws} said: ‘When it exceeds the Sunnah dowry, this isn’t dowry. But rather, it is a gift, because Allah^{-azwj} Says: **and you have given to one of them a heap (of gold), do not take anything from it [4:20]**. But rather He^{-azwj} Means the gift, and does not Mean the dowry.

¹²⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 17

¹²⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 18

¹²⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 19

¹³⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 20

أَ لَا تَرَى أَنَّهُ إِذَا أَمَهَرَهَا مَهْرًا ثُمَّ اخْتَلَعَتْ كَانَ لَهَا أَنْ تَأْخُذَ الْمَهْرَ كَامِلًا فَمَا زَادَ عَلَى مَهْرِ السُّنَّةِ فَإِنَّمَا هُوَ نُحْلٌ كَمَا أَخْبَرْتِكَ فَمِنْ ثَمَّ وَجِبَ لَهَا مَهْرُ نِسَائِهَا لِغَلَّةٍ مِنَ الْعَلَلِ

Don't you see, when he gives her dowry, then she gets divorced, it would be for her to take the total dowry. Whatever exceeds upon the Sunnah dowry, so rather it is a gift, just as I^{-asws} have informed you. From them, dowry of her (his) wives would be obligated due to a reason from the reasons'.

قُلْتُ كَيْفَ يُعْطَى وَكَمْ مَهْرُ نِسَائِهَا

I said, 'How is it given and how much is the dowry of her (his) wives?'

قَالَ إِنَّ مَهْرَ الْمُؤْمِنَاتِ حُمْسِمَائَةٍ وَهُوَ مَهْرُ السُّنَّةِ وَقَدْ يَكُونُ أَقْلًا مِنْ حُمْسِمَائَةٍ وَلَا يَكُونُ أَكْثَرَ مِنْ ذَلِكَ وَمَنْ كَانَ مَهْرُهَا وَ مَهْرُ نِسَائِهَا أَقْلًا مِنْ حُمْسِمَائَةٍ أُعْطِيَ ذَلِكَ الشَّيْءَ وَمَنْ فَخَرَ وَ بَدَّخَ بِالْمَهْرِ فَازْدَادَ عَلَى حُمْسِمَائَةٍ ثُمَّ وَجِبَ لَهَا مَهْرُ نِسَائِهَا فِي غَلَّةٍ مِنَ الْعَلَلِ لَمْ يَزِدْ عَلَى مَهْرِ السُّنَّةِ حُمْسِمَائَةٍ دِرْهَمٍ.

He^{-asws} said: 'The dowry of the believing women is five hundred (Dirhams), and it is the Sunnah dowry, and it can be less than five hundred and cannot be more than that, and the one who sets the dowry for his wife or wives at less than five hundred should give that amount. But if someone boasts and shows pride by increasing the dowry beyond five hundred, and then the dowry of his wives becomes obligatory for some reason, it should not exceed the dowry of the Sunnah, which is five hundred Dirhams'.¹³¹

22- مكا، مكارم الأخلاق من كتاب نوادر الحكمة عن علي ع قال: لا تُغَالُوا بِمُهْرِ النِّسَاءِ فَيَكُونُ عَدَاوَةً.

(The book) 'Makarim Al Akhlaq' – From the book 'Nawadir Al Hikmah',

'From Ali^{-asws} having said: 'Do not exaggerate with dowries of the women, for the enmity will happen''.¹³²

23- وَ عَنِ الصَّادِقِ ع عَنْ أَبِيهِ ع قَالَ قَالَ قَالَ النَّبِيُّ ص مَا مِنْ امْرَأَةٍ تَصَدَّقَتْ عَلَى زَوْجِهَا بِمَهْرٍ قَبْلَ أَنْ يَدْخُلَ بِهَا إِلَّا كَتَبَ اللَّهُ لَهَا بِكُلِّ دِينَارٍ عِتْقَ رَقَبَةٍ

And from Al-Sadiq^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'The Prophet^{-saww} said: 'There is none from a woman who donates her dowry upon her husband before he establishes intimate marital relations with her, except Allah^{-azwj} will Write for her, with every Dinar, liberation of a neck!'

قِيلَ يَا رَسُولَ اللَّهِ ص فَكَيْفَ الْهَيْبَةُ بَعْدَ الدُّحُولِ

It was said, 'O Rasool-Allah^{-saww}! How about the gifting after the establishment of intimate marital relations?'

¹³¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 21

¹³² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 22

27- ين، كتاب حسين بن سعيد و النوادر صفوان بن يحيى فُلْتُ لِأَبِي الْحَسَنِ ع قَوْلُ شُعَيْبٍ إِنِّي أُرِيدُ أَنْ أَنْكِحَكَ إِحْدَى ابْنَتَيْ هَاتَيْنِ عَلَى أَنْ تَأْجُرَنِي ثَمَانِي حَجَجٍ فَإِنْ أَتَمَمْتَ عَشْرًا فَمِنْ عِنْدِكَ أَيُّ الْأَجَلَيْنِ قَضَى مُوسَى قَالَ أَوْقَى مِنْهُمَا أَبْعَدُهُمَا عَشْرَ سِنِينَ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan Bin Yahya,

'I said to Abu Al-Hassan^{asws}, 'Words of Shueyb: **He said: 'I want to marry one of these two daughters of mine to you on a stipulation that you will hire yourself to me for eight years. So if you complete ten, then it would be from you [28:27]** – i.e. the two terms. Musa^{as} fulfilled. He^{as} said: 'I^{as} shall fulfil the most distant of the two, ten years!'

فُلْتُ فَدَخَلَ بِهَا قَبْلَ أَنْ يَمْضِيَ الشَّرْطُ أَوْ بَعْدَ انْقِضَائِهِ

I said, 'Did he^{as} have intimate marital relations with her before he^{as} accomplished the condition or after its expiry?'

قَالَ قَبْلَ أَنْ يَنْقُضِي

He^{asws} said: 'Before expiry'.

فُلْتُ فَالرَّجُلُ يَتَزَوَّجُ الْمَرْأَةَ وَ يَشْتَرِطُ لِأَبِيهَا إِجَارَةَ شَهْرَيْنِ أَوْ يَجُوزُ ذَلِكَ

I said, 'The man marries the woman and accepts a condition to her father of working for two month, is that allowed?'

فَقَالَ إِنَّ مُوسَى قَدْ عَلِمَ أَنَّهُ سَيُتِمُّ الشَّرْطَ فَكَيْفَ هَذَا بِأَنْ يَعْلَمَ أَنَّهُ سَيَبْقَى حَتَّى يَفِيَّ وَ قَدْ كَانَ الرَّجُلُ عِنْدَ رَسُولِ اللَّهِ ص يَتَزَوَّجُ الْمَرْأَةَ عَلَى السُّورَةِ مِنَ الْقُرْآنِ وَ عَلَى الدِّرْهَمِ وَ عَلَى الْقُبْضَةِ مِنَ الْحِنْطَةِ

He^{asws} said: 'Musa^{as} had known that he^{as} will be completing the condition. How can it be for this one to know that he will be remaining alive until he fulfils? And the man would marry the woman in the presence of Rasool-Allah^{saww} upon (reading of) a chapter of the Quran, and upon the Dirhams, and upon the handful of wheat!'

فَقُلْتُ لَهُ الرَّجُلُ يَتَزَوَّجُ الْمَرْأَةَ عَلَى الصَّدَاقِ الْمَعْلُومِ يَدْخُلُ بِهَا قَبْلَ أَنْ يُعْطِيَهَا شَيْئًا

I said to him^{asws}, 'The man marries the woman upon the known dowry, can he have intimate marital relations with her before he gives her anything?'

قَالَ يُعْطِيهَا مَا قَلَّ أَوْ كَثُرَ إِلَّا أَنْ يَكُونَ لَهُ وَفَاءٌ مِنْ عَرَضٍ إِنْ حَدَّثَ بِهِ حَدَّثَ أُدِيَّ عَنْهُ فَلَا بَأْسَ.

He^{asws} said: 'He should forward to her whatever it may be, little or more, except if there happens to be a loyalty of honour that in an event of death were to occur, it would be paid on his behalf, there is no problem'¹³⁷.

¹³⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 27

28- نَوَادِرُ الرَّوَّانِدِيِّ، بِإِسْنَادِهِ عَنِ مُوسَى بْنِ جَعْفَرٍ عَنِ آبَائِهِ ع قَالَ قَالَ رَسُولُ اللَّهِ ص مَا مِنْ امْرَأَةٍ تَصَدَّقَتْ عَلَى زَوْجِهَا قَبْلَ أَنْ يَدْخُلَ بِهَا إِلَّا كَتَبَ اللَّهُ تَعَالَى لَهَا مَكَانَ كُلِّ دِينَارٍ عُنُقَ رَقَبَةٍ

(The book) 'Nawadir' of Al Rawandy – By his chain,

'From Musa^{-asws} Bin Ja'far^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'Rasool-Allah^{-saww} said: 'There is none from a woman donating her dowry upon her husband before he establishes intimate marital relations with her, except Allah^{-azwj} the Exalted Writes for her, in place of each Dinar, liberation of a neck!'

قِيلَ يَا رَسُولَ اللَّهِ فَكَيْفَ بِأَهْبَةِ بَعْدَ الدُّخُولِ

It was said, 'O Rasool-Allah^{-saww}! How can the gifting be after the intimate marital relations?'

فَقَالَ رَسُولُ اللَّهِ ص إِنَّمَا ذَلِكَ مِنْ مَوَدَّةِ الْأَلْفَةِ.

Rasool-Allah^{-saww} said: 'But rather, that is from cordiality, the intimacy'.¹³⁸

وَ بِحَدِّثِ الْإِسْنَادِ قَالَ قَالَ رَسُولُ اللَّهِ ص إِنَّ اللَّهَ تَعَالَى غَافِرٌ كُلِّ ذَنْبٍ إِلَّا رَجُلًا اغْتَنَصَبَ أَجِيرًا أَجْرَهُ أَوْ مَهْرَ امْرَأَةٍ.

And by this chain,

'He^{-asws} said: 'Rasool-Allah^{-saww} said: 'Allah^{-azwj} the Exalted is a Forgiver of every sin except a man who usurps wages of his employee, or dowry of a wife'.¹³⁹

29- وَ بِحَدِّثِ الْإِسْنَادِ قَالَ قَالَ عَلِيُّ ع فِي قَوْلِهِ تَعَالَى وَ آتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً أَعْطُوهُنَّ الصَّدَاقَ الَّذِي اسْتَحَلَلْتُمْ بِهِ فُرُوجَهُنَّ فَمَنْ ظَلَمَ الْمَرْأَةَ صَدَاقَهَا الَّذِي اسْتَحَلَّ بِهِ فَرَجَهَا فَقَدْ اسْتَبَاحَ فَرَجَهَا زَنًا.

And by this chain,

'He^{-asws} said: 'Ali^{-asws} said regarding Words of the Exalted: **And give women their dowries as a gift [4:4]:** 'Give them the dowry which you have legalised their private parts with. The one who oppresses the wife of her dowry by which he had legalised her private parts, has violated her private part by adultery!'¹⁴⁰

30- وَ بِحَدِّثِ الْإِسْنَادِ قَالَ قَالَ عَلِيُّ ع إِذَا أُرْحِيَ السِّتْرُ فَقَدْ وَجِبَ الْمَهْرُ كُلُّهُ جَامِعٌ أَوْ لَمْ يُجَامِعْ.

And by this chain,

'He^{-asws} said: 'Ali^{-asws} said: 'When the curtain is drawn, the dowry is obligated, all of it, whether he has intimate marital relations or not'.¹⁴¹

¹³⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 28 a

¹³⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 28 b

¹⁴⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 29

¹⁴¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 30

31- وَ هَذَا الْإِسْنَادِ قَالَ: قَالَ عَلِيٌّ فِي الْمُكْرَهَةِ لَا حَدَّ عَلَيْهَا وَ لَهَا مَهْرٌ مِثْلِهَا.

And by the chain,

He^{-asws} said: ‘Ali^{-asws} said regarding the coerced (raped) woman: ‘There is no legal penalty upon her, and for her is a dowry a woman similar to her’.¹⁴²

32- تَجَالِسُ الشَّيْخِ، عَنِ الْحُسَيْنِ بْنِ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ وَهْبَانَ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ بْنِ زَكَرِيَّا عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ فَضَّالٍ عَنْ عَلِيٍّ بْنِ عُقْبَةَ عَنِ الْحُسَيْنِ بْنِ مُوسَى الْحَيَّاطِ عَنْ أَبِيهِ أَنَّهُ قَالَ ذُكِرَ عَنْ أَبِي جَعْفَرٍ ع أَنَّهُ ذَكَرَ عِنْدَهُ رَجُلًا فَقَالَ إِنَّ الرَّجُلَ إِذَا أَصَابَ مَالًا مِنْ حَرَامٍ لَمْ يُقْبَلْ مِنْهُ حَجٌّ وَ لَا عُمْرَةٌ وَ لَا صَلَةٌ رَحِمَ حَتَّى أَنَّهُ يَفْسُدُ فِيهِ الْفَرْجُ.

(The book) ‘Majalis’ of the sheykh – from Al-Husayn Bin Ibrahim, from Muhammad Bin Wahban, from Muhammad Bin Ahmad Bin Zakariya, from Al-Hassan Bin Ali Bin Fazzal, from Ali Bin Uqbah, from Al-Husayn Bin Musa Al Khayyat, from his father, he said mentioning,

‘From Abu Ja’far^{-asws}, he (the narrator) said, ‘A man was mentioned in his^{-asws} presence. He^{-asws} said: ‘When the man attains wealth from prohibited means, neither a Hajj is accepted from him, nor an Umrah, nor maintaining the kinship, to the extent that his marital relations will be corrupted’.¹⁴³

33- اهْدَايَةُ، وَ مَهْرُ السُّنَّةِ حُمْسِمِائَةِ دِرْهَمٍ فَمَنْ زَادَ عَلَى السُّنَّةِ زِدًّا إِلَى السُّنَّةِ فَإِنَّ أَعْطَاهَا مِنَ الْحُمْسِمِائَةِ دِرْهَمٍ دِرْهَمًا وَاحِدًا أَوْ أَكْثَرَ مِنْ ذَلِكَ ثُمَّ دَخَلَ بِهَا فَلَا شَيْءَ لَهَا بَعْدَ ذَلِكَ إِلَّا مَا أَخَذَتْ مِنْهُ قَبْلَ أَنْ يَدْخُلَ.

(The book) ‘Al Hidayah’ -

‘And the Sunnah dowry is five hundred Dirhams. The one who exceeds upon the Sunnah will be returned to the Sunnah. If he gives her even one Dirham out of the five hundred, or more than that, and then consummates the marriage, she has no further claim after that. She is only entitled to what she has already taken from it before consummation’.¹⁴⁴

34- الْمَجَازَاتُ النَّبَوِيَّةُ، لِلسَّيِّدِ الرَّضِيِّ قَالَ ص لَا تُعَالُوا بِمُهْرِ النِّسَاءِ فَإِنَّمَا هِيَ سُقْمِيَا اللَّهُ سُبْحَانَهُ.

(The book) ‘Al Majazaat Al Nabawiya’ of the seyyid Al Razy -

‘He^{-saww} said: ‘Do not exaggerate with dowries of the women, for rather it is a provision of Allah^{-azwj} the Glorious’.¹⁴⁵

35 الدُّرُّ الْمَنْشُورُ، لِلسَّيِّدِ الرَّضِيِّ عَنِ ابْنِ عَسَاكِرَ بِإِسْنَادِهِ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ جَدِّهِ ع قَالَ قَالَ رَسُولُ اللَّهِ ص إِنَّ اللَّهَ لَمَّا خَلَقَ الدُّنْيَا لَمْ يَخْلُقْ فِيهَا ذَهَبًا وَ لَا فِضَّةً فَلَمَّا أَنْ أَهْبَطَ آدَمَ وَ حَوَاءَ أَنْزَلَ مَعَهُمَا ذَهَبًا وَ فِضَّةً فَسَلَكَهُمَا يَتَابِعِ فِي الْأَرْضِ مَنَفَعَةً لِأَوْلَادِهِمَا مِنْ بَعْدِهِمَا وَ جَعَلَ ذَلِكَ صَدَاقَ آدَمَ لِحَوَاءَ فَلَا يَنْبَغِي لِأَحَدٍ أَنْ يَتَزَوَّجَ إِلَّا بِصَدَاقٍ.

¹⁴² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 31

¹⁴³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 32

¹⁴⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 33

¹⁴⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 34

(The book) 'Al Durr Al Mansour' (non-Shia source) of Al Suyuti – From Ibn Asakir, by his chain,

'From Ja'far^{-asws} Bin Muhammad^{-asws}, from his^{-asws} father^{-asws}, from his^{-asws} grandfather^{-asws} having said: 'Rasool-Allah^{-saww} said: 'When Allah^{-azwj} Created the world, He^{-azwj} neither Created any gold in it nor silver. When Adam^{-as} and Hawwa^{-as} came down, gold and silver descended with them^{-as}. He^{-azwj} Made these as springs in the earth as a benefit for their^{-as} children from after them^{-as}, and Made that as dowry of Adam^{-as} for Hawwa^{-as}. Therefore, it is not appropriate for anyone to get married except with a dowry".¹⁴⁶

36- ب، قرب الإسناد ابن طريف عن ابن غلوان عن الصادق عن أبيه ع عن علي ع في المرأة يتزوجها الرجل ثم يموت ولم يفرض لها صداقاً قال حسبها الميراث.

(The book) 'Qurb Al Isnad' – Ibn Tareyf, from Ibn Ulwan,

'From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}, from Ali^{-asws} regarding the woman whom the man marries, then he dies and did not necessitate the dowry for her. He^{-asws} said: 'The inheritance suffices her".¹⁴⁷

37- ب، قرب الإسناد بهذا الإسناد قال: كان يقضي علي ع في الرجل يتزوج المرأة ولا يفرض لها صداقاً ثم يموت قبل أن يدخل بها أن لها الميراث ولا صداق لها.

(The book) 'Qurb Al Isnad' – By this chain,

'He^{-asws} said: 'Ali^{-asws} had judged regarding the man who married the woman and did not necessitate a dowry for her, then he died before he had established intimate marital relations with her, that for her is the inheritance and there is no dowry for her".¹⁴⁸

38 ب، قرب الإسناد بهذا الإسناد قال قال علي ع لكل مطلقه متعة إلا المختلعة.

(The book) 'Qurb Al Isnad' – By this chain,

'He^{-asws} said: 'Ali^{-asws} said: 'For every divorced woman is Mut'ah except the one divorced by mutual consent (Khula)".¹⁴⁹

39- ب، قرب الإسناد ابن الوليد عن ابن بكير قال: سألت أبا عبد الله ع عن قول الله عز وجل و ما قدر الموسع و المقتر قدره ما قدر الموسع و المقتر

(The book) 'Qurb Al Isnad' – Ibn Al Waleed, from Ibn Bukeyr who said,

'I asked Abu Abdullah^{-asws} about Words of Allah^{-azwj} Mighty and Majestic: **and their provision upon the affluent is in accordance to him, and upon the (financially) straitened is in**

¹⁴⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 35

¹⁴⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 36

¹⁴⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 37

¹⁴⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 38

accordance to him [2:236], ‘What is a measurement of the affluent and the financially straitened?’

قَالَ كَانَ عَلِيٌّ بْنُ الْحُسَيْنِ ع يُتَمَتَّعُ بِالرَّاحِلَةِ.

He^{-asws} said: ‘Ali^{-asws} Bin Al-Husayn^{-asws} has done Mut’ah with the (dowry) of the riding animal’.¹⁵⁰

40- ع، علل الشرائع ابن الوليد عن الصغار عن ابن عيسى عن ابن محبوب عن هشام بن سالم عن الحسين بن زرارة عن أبيه قال: سألت أبا جعفر ع عن رجل تزوج امرأة على حكمها قال فقال لا يتجاوز بحكمها مهر آل محمد ع اثنتا عشرة أوقية و نثن و هو وزن خمسمائة درهم من الفضة

(The book) ‘Ilal Al Sharaie’ – Ibn Al Waleed, from Al Saffar, from Ibn Isa, from Ibn Mahboub, from Hisham Bin Salim, from Al-Husayn Bin Zurara, from his father who said,

‘I asked Abu Ja’far^{-asws} about a man who marries a woman upon her decision. He^{-asws} said: ‘Her decision cannot exceed dowries of Progeny^{-asws} of Muhammad^{-saww} of twelve Owqiyas and a Nash, and it is the weight of five hundred Dirhams of silver’.

قُلْتُ أَرَأَيْتَ إِنْ تَزَوَّجَهَا عَلَى حُكْمِهِ وَ رَضِيَتْ بِذَلِكَ

I said, ‘What is your^{-asws} view if he marries her upon his decision and she agrees with that?’

فَقَالَ مَا حَكَمَ بِشَيْءٍ فَهُوَ جَائِزٌ عَلَيْهَا قَلِيلًا كَانَ أَوْ كَثِيرًا

He^{-asws} said: ‘Whatever he decides with something, it is allowed upon her, whether it is little or more’.

قَالَ قُلْتُ لَهُ كَيْفَ لَمْ تُجِزْ حُكْمَهَا عَلَيْهِ وَ أَجَزْتَ حُكْمَهُ عَلَيْهَا

He (the narrator) said, ‘I said to him^{-asws}, ‘Why did you^{-asws} not allow her decision upon him and allow his decision upon her?’

قَالَ فَقَالَ لِأَنَّهُ حَكَمَهَا فَلَمْ يَكُنْ لَهَا أَنْ يَجُوزَ مَا سَأَلَ رَسُولَ اللَّهِ ص وَ تَزَوَّجَ عَلَيْهِ نِسَاءَهُ فَرَدَدْتُهَا إِلَى السُّنَّةِ وَ أَجَزْتُ حُكْمَ الرَّجُلِ لِأَنَّهَا هِيَ حَكَمَتْ وَ جَعَلَتْ الْأَمْرَ فِي الْمَهْرِ إِلَيْهِ وَ رَضِيَتْ بِحُكْمِهِ فِي ذَلِكَ فَعَلَيْهَا أَنْ تَقْبَلَ حُكْمَهُ فِي ذَلِكَ قَلِيلًا كَانَ أَوْ كَثِيرًا.

He (the narrator) said, ‘He^{-asws} said: ‘Because he sought her decision, so it was not for her to exceed what Rasool-Allah^{-saww} had practised and married his^{-saww} wives upon, so I^{-asws} returned her to the Sunnah, and I^{-asws} allowed decision of the man because she had decided and made the matter regarding the dowry to him, and she agreed with his decision in that. It is up to her to accept his decision in that, whether it was a little or more’.¹⁵¹

¹⁵⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 39

¹⁵¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 40

41- ب، قرب الإسناد أحمد بن محمد بن الحسين معاً عن ابن محبوب عن ابن رباب قال: سئل أبو الحسن موسى ع و أنا حاضر عن رجل تزوج امرأة على مائة دينار وعلى أن يخرج معه إلى بلاده فإن لم يخرج معه إلى بلاده فإني مهرها خمسون ديناراً رأيت إن لم يخرج معه إلى بلاده

(The book) 'Qurb Al Isnaad' – Ahmad Bin Muhammad, and Muhammad Bin Al-Husayn, both together from Ibn Mahboub, from Ibn Riab who said,

'Abu Al-Hassan Musa^{-asws} was asked while I was present, about a man who marries a woman upon one hundred Dinars and upon that she would go with him to his city. If she does not come out with him to his city, her dowry would be fifty Dinars. 'What is your^{-asws} view if she does not go out with him to his city?'

قال فقال إن أراد أن يخرج بها إلى بلاد الشرك فلا شرط له عليها في ذلك و لها مائة دينار التي أصدقها إياها

He (the narrator) said, 'He^{-asws} said: 'If he wanted to go out with her to a city of Polytheism, there is no condition for him upon her regarding that, and for her would be one hundred Dinars which he had dowered to her'.

قال و إن أراد أن يخرج بها إلى بلاد المسلمين و دار الإسلام فله ما شرط عليها و المسلمون عند شروطهم و ليس له أن يخرج بها إلى بلاده حتى يؤدي إليها صداقها أو ترضى منه ذلك فما رضيته جائز له.

He said, 'And if he wants to go out with her to a city of Muslims and the house of Islam, for him is what he had stipulated upon her, and the Muslims are with their condition, and it is isn't for him that he goes out with her to his city until he pays her dowry to her, or she is satisfied with that from him. Whatever she is satisfied with is allowed for him'.¹⁵²

42- ب، قرب الإسناد البرزطي قال: كتبت إلى أبي الحسن ع أسأله عن خصي تزوج امرأة ثم طلقها بعد ما دخل بها و هما مسلمان فهل للزوج أن يرجع عليها بشيء من المهر و هل عليها عدة رأيك فذكرت نفسي

(The book) 'Qurb Al Isnaad' – Al Bazanty who said,

'I wrote to Abu Al-Hassan^{-asws} asking him^{-asws} about a eunuch marrying a woman, then he divorces after having had intimate marital relations with her, and they are both Muslims. Is it for the husband that he retracts against her something from the dowry, and is there a waiting period for her? What is your^{-asws} view? May my soul be sacrificed for you^{-asws}!'

فكتب هذا لا يصلح

He^{-asws} wrote: 'This is not correct'.¹⁵³

43- ع، علل الشرائع أبي عن سعد بن أحمد و عبد الله بن محمد بن عيسى عن ابن محبوب عن جميل عن أبي عبيدة عن أبي عبد الله ع في الرجل يتزوج المرأة البكر أو الثيب فيرجي عليه و عليها السنن أو غلق عليه و عليها الباب ثم يطلقها فتقول لم يمسي و يقول هو لم أمسها

¹⁵² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 41

¹⁵³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 42

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Ahmad and Abdullah two sons of Muhammad Bin Isa, from Ibn Mahboub, from Jameel, from Abu Umeydi,

'From Abu Abdullah^{-asws} regarding the man who marries the virgin woman or the previously married, so the curtain is drawn upon him and her, or the door is locked upon him and her. Then he divorces her so she says, 'He did not touch me', and he says he did not touch her'.

قَالَ لَا يُصَدِّقَانِ لِأَنَّهَا تَدْفَعُ عَنْ نَفْسِهَا الْعِدَّةَ وَالرَّجُلُ يَدْفَعُ عَنْ نَفْسِهِ الْمَهْرَ.

He^{-asws} said: 'They will not be ratified because she is repelling the waiting period away from her, and the man is repelling the dowry from himself'¹⁵⁴.

44- ج، الإحتجاج كَتَبَ الْحَمَيْرِيُّ إِلَى الْقَائِمِ ع أَنَّهُ قَدِ اخْتَلَفَ أَصْحَابُنَا فِي مَهْرِ الْمَرْأَةِ فَقَالَ بَعْضُهُمْ إِذَا دَخَلَ بِهَا سَقَطَ الْمَهْرُ وَ لَا شَيْءَ لَهَا وَ قَالَ بَعْضُهُمْ هُوَ لَزِيمٌ فِي الدُّنْيَا وَ الْآخِرَةِ فَكَيْفَ ذَلِكَ وَ مَا الَّذِي يَجِبُ فِيهِ

(The book) 'Al Ihtijaj' -

'Al-Himeyri wrote to Al-Qaim^{-ajfi}, 'Our companions are differing regarding dowry of the woman. Some of them are saying, 'When he has intimate marital relations with her the dowry is dropped and there is nothing for her', and some of them are saying, 'It is necessary in the world and the Hereafter'. How can that be, and what is that which is obligated in it?'

فَأَجَابَ إِنْ كَانَ عَلَيْهِ كِتَابٌ فِيهِ دَيْنٌ فَهُوَ لَزِيمٌ لَهُ فِي الدُّنْيَا وَ الْآخِرَةِ وَ إِنْ كَانَ عَلَيْهِ كِتَابٌ فِيهِ ذِكْرُ الصَّدَقَاتِ سَقَطَ إِذَا دَخَلَ بِهَا وَ إِنْ لَمْ يَكُنْ عَلَيْهِ كِتَابٌ فَإِذَا دَخَلَ بِهَا سَقَطَ بَاقِي الصَّدَاقِ.

He^{-ajfi} answered: 'If there is a written document against him stating a debt, it is binding upon him in this world and the Hereafter. But if there is a written document mentioning the dowry, it is nullified once he consummates the marriage. And if there is no written document, then once he consummates the marriage, the remainder of the dowry is nullified'¹⁵⁵.

45- ضا، فقه الرضا عليه السلام كُلُّ مَنْ طَلَّقَ امْرَأَتَهُ مِنْ قَبْلِ أَنْ يَدْخُلَ بِهَا فَلَا عِدَّةَ عَلَيْهَا مِنْهُ فَإِنْ كَانَ سَمَى لَهَا صَدَاقًا فَلَهَا نِصْفُ الصَّدَاقِ وَ إِنْ لَمْ يَكُنْ سَمَى لَهَا صَدَاقًا مُتَّعُهَا بِشَيْءٍ قَلَّ أَوْ كَثُرَ عَلَى قَدْرِ بَسَارِهِ

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'Everyone who divorces his wife from before consummating the marriage with her, there is no waiting period upon her, from him. If he had specified the dowry for her would be half the dowry, and if he had not specified a dowry for her, he should give her something, little or more, in accordance to his financial ability.

فَالْمَوْسِعُ مُتَّعُ بِخَادِمٍ أَوْ دَابَّةٍ وَ الْوَسْطُ بِتَوْبٍ وَ الْفَقِيرُ بِدِرْهَمٍ أَوْ خَاتَمٍ كَمَا قَالَ اللَّهُ تَبَارَكَ وَ تَعَالَى وَ مِتَّعُوهُنَّ عَلَى الْمَوْسِعِ قَدْرُهُ وَ عَلَى الْمُتَّعِ قَدْرُهُ مَتَاعًا بِالْمَعْرُوفِ.

¹⁵⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 43

¹⁵⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 44

The affluent can give a servant, or a riding animal, and the medium one with a garment, and the poor with a Dirham or a ring, just as Allah^{-azwj} has Said: **and their provision upon the affluent is in accordance to him, and upon the (financially) straitened is in accordance to him, a provision with the reasonableness [2:236]**¹⁵⁶.

46- سر، السرائر البرزطي عن عبد الله بن عجلان قال: سألتُه عمَّا يُوجِبُ الغُسلُ على الرَّجُلِ وَ الْمَرْأَةِ قَالَ إِذَا أُوْجِبَ الغُسلُ وَ الْمَهْرُ وَ الرَّجْمُ.

(The book) 'Al Saraair' – Al Bazantay, from Abdullah Bin Ajlan who said,

'I asked him^{-asws} about what obligates the washing upon the man and the woman. He^{-asws} said: 'When there is consummation, the washing, and the dowry and the stoning is obligated'¹⁵⁷.

47- شي، تفسير العياشي عن سماعة بن مهران عن أبي عبد الله ع أو أبي الحسن ع قال: سألتُه عن قَوْلِ اللَّهِ عَزَّ وَ جَلَّ فَإِنْ طَبِنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا قَالَ يَعْنِي بِذَلِكَ أَمْوَالَهُنَّ الَّتِي فِي أَيْدِيهِنَّ بِمَا مَلَكَنَّ.

Tafseer Al Ayyashi – From Sama'at Bin Mihran,

'From Abu Abdullah^{-asws}, or Abu Al-Hassan^{-asws}, he (the narrator) said, 'I asked him^{-asws} about Words of Allah^{-azwj} Mighty and Majestic: **And give women their dowries as a gift, but if they remit for you something from it themselves, then consume it enjoying wholesomely [4:4]**. He^{-asws} said: 'Meaning of that is their wealth, which is in their hands from what they own'¹⁵⁸.

48- شي، تفسير العياشي عن سعيد بن يسار قال: قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع جُعِلْتُ فِدَاكَ امْرَأَةٌ دَعَعَتْ إِلَى زَوْجِهَا مَالًا لِيَعْمَلَ بِهِ وَ قَالَتْ لَهُ حِينَ دَعَعَتْهُ إِلَيْهِ أَنْفَقَ مِنْهُ فَإِنْ حَدَثَ بِي حَدَثٌ فَمَا أَنْفَقْتُ مِنْهُ فَكَأَنَّكَ حَلَالٌ طَيِّبٌ وَ إِنْ حَدَثَ بِكَ حَدَثٌ فَمَا أَنْفَقْتُ مِنْهُ فَكَأَنَّكَ حَلَالٌ طَيِّبٌ

(The book) 'Tafseer Al Ayyashi' – From Saeed Bin Yasaar who said,

'I said to Abu Abdullah^{-asws}, 'May I be sacrificed for you^{-asws}! A woman hands over money to her husband for him to work with and says to him when she hands it to him, 'Spend from it. If an event of death occurs with me, whatever you have spent from it, it is permissible for you, good, and if an event of death occurs with you, whatever you spend from it, for you it is permissible, good''.

قَالَ أَعِدْ يَا سَعِيدُ الْمَسْأَلَةَ

He^{-asws} said: 'Repeat the question, O Saeed!'

فَلَمَّا دَهَبْتُ أُعْرِضُ عَلَيْهِ الْمَسْأَلَةَ عَرَضَ فِيهَا صَاحِبُهَا وَ كَانَ مَعِيَ فَأَعَادَ عَلَيْهِ مِثْلَ ذَلِكَ فَلَمَّا فَرَعْتُ أَشَارَ بِإِصْبَعِهِ إِلَى صَاحِبِ الْمَسْأَلَةِ فَقَالَ يَا هَذَا إِنْ كُنْتُ تَعْلَمُ أَهْمًا قَدْ أَفْضَنْتَ بِذَلِكَ إِلَيْكَ فِيمَا بَيْنَكَ وَ بَيْنَهَا وَ بَيْنَ اللَّهِ فَحَلَالٌ طَيِّبٌ ثَلَاثَ مَرَّاتٍ

When I was about to present the question to him, the man concerned, and he was with me, spoke up and presented it himself. He^{-asws} gave him the same answer as before. When he finished, he^{-asws} pointed with his^{-asws} finger to the man and said: 'O you! If you know that she

¹⁵⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 45

¹⁵⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 46

¹⁵⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 47

has fully yielded herself to you in this matter, between you, her, and Allah^{-azwj}, then it is lawful, good’ – three times.

ثُمَّ قَالَ يَقُولُ اللَّهُ عَزَّ وَ جَلَّ فَإِنْ طَبِنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا.

Then he^{-asws} said: ‘Allah^{-azwj} Mighty and Majestic Said: **And give women their dowries as a gift, but if they remit for you something from it themselves, then consume it enjoying wholesomely [4:4]**’.¹⁵⁹

49- شي، تفسير العياشي عَنْ خَفْصِ بْنِ الْبَحْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ يُتَعَمَّهَا

(The book) ‘Tafseer Al Ayyashi’ – From Hafis Al Bakhtari -

‘From Abu Abdullah^{-asws} regarding the man who divorces his wife, should he provide for her?’

فَقَالَ نَعَمْ أَمَا تُحِبُّ أَنْ تَكُونَ مِنَ الْمُحْسِنِينَ أَمَا تُحِبُّ أَنْ تَكُونَ مِنَ الْمُتَّقِي.

He^{-asws} said: ‘Yes. Wouldn’t you like to be from the good doers? Wouldn’t you like to be from the pious?’¹⁶⁰

50 شي، تفسير العياشي عَنْ أَبِي الصَّبَّاحِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا فَلَهَا نِصْفُ مَهْرِهَا وَإِنْ لَمْ يَكُنْ سَمَى لَهَا مَهْرًا فَمَتَاعٌ بِالْمَعْرُوفِ عَلَى الْمَوْسِعِ قَدْرُهُ وَعَلَى الْمُقْتِرِ قَدْرُهُ وَ لَيْسَ لَهَا عِدَّةٌ وَ تَتَزَوَّجُ مَنْ شَاءَتْ فِي سَاعَتِهَا.

(The book) ‘Tafseer Al Ayyashi’ – From Abu Al Sabbah,

‘From Abu Abdullah^{-asws} having said: ‘When the man divorces his wife before he has consummated the marriage with her, for her is half the dowry, and if he had not specified dowry to her, he should provide with the moderation: **upon the affluent is in accordance to him, and upon the (financially) straitened is in accordance to him [2:236]**, and there isn’t a waiting period for her, and she can marry the one she desires to in her very moment’.¹⁶¹

51 شي، تفسير العياشي عَنِ الْحُلَيْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: الْمَوْسِعُ يُمْتَعُ بِالْعَبْدِ وَالْأَمَةِ وَ يُمْتَعُ الْمُعْسِرُ بِالْحِنْطَةِ وَ الرَّيْبِ وَ النَّوْبِ وَ الدَّرَاهِمِ

(The book) ‘Tafseer Al Ayyashi’ – From Al Halby,

‘From Abu Abdullah^{-asws} having said: ‘They should provide a slave, and the maid, and the poor should provide the wheat, and the raisins, and the garment, and the Dirhams’.

وَ قَالَ إِنَّ الْحُسَيْنَ بْنَ عَلِيٍّ مَتَعَ امْرَأَةً طَلَّقَهَا أُمَّةً لَمْ يَكُنْ يُطَلِّقُ امْرَأَةً إِلَّا مَتَعَهَا بِشَيْءٍ.

¹⁵⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 48

¹⁶⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 49

¹⁶¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 50

And he^{-asws} said: ‘Al-Husayn^{-asws} Bin Ali^{-asws} had provided a maid to a woman he^{-asws} had divorced. He^{-asws} had not divorced a woman except he^{-asws} had provided with something’.¹⁶²

52 عن ابن بكير قال: سألت أبا عبد الله ع عن قوله و متعوهن على الموسع قدره و على المفتر قدره ما قدر الموسع و المفتر

From Ibn Bukeyr who said,

‘I asked Abu Abdullah^{-asws} about His^{-azwj} Words: **upon the affluent is in accordance to him, and upon the (financially) straitened is in accordance to him [2:236]**. What is a measurement for the affluent and the straitened?’

قال كان علي بن الحسين ع ممتع براحلة يعني حملها الذي عليها.

He^{-asws} said: ‘Ali^{-asws} Bin Al-Husayn^{-asws} had provided a riding animal, meaning its load which was upon it’.¹⁶³

53 شي، تفسير العياشي عن محمد بن مسلم قال: سألت عن الرجل يريد أن يطلق امرأته قال يمتعها قبل أن يطلقها قال الله في كتابه و متعوهن على الموسع قدره و على المفتر قدره.

(The book) ‘Tafseer Al Ayyashi’ – From Muhammad Bin Muslim who said,

‘I asked him^{-asws} about the man who intends to divorce his wife. He^{-asws} said: ‘He should provide her before he divorces her. Allah^{-azwj} Says in His^{-azwj} Book: **upon the affluent is in accordance to him, and upon the (financially) straitened is in accordance to him [2:236]**’.¹⁶⁴

54 شي، تفسير العياشي عن أسامة بن حفص عن موسى بن جعفر ع قال: قلت له سله عن رجل تزوج المرأة و لم يسم لها مهراً قال لها الميراث و عليها العدة و لا مهر لها

(The book) ‘Tafseer Al Ayyashi’ – from Usama Bin Hafsa,

‘Musa^{-asws} Bin Ja’far^{-asws}, he (the narrator) said, ‘I said to him^{-asws}, asking him^{-asws} about a man marrying the woman and did not name (specify) dowry her. He^{-asws} said: ‘For her is the inheritance and upon her is (to observe) the waiting period, and there is no dowry for her’.

و قال أما تقرأ ما قال الله في كتابه عز و جل إن طلقتموهن من قبل أن تمسوهن و قد فرضتم هنن فريضة فيصنف ما فرضتم.

And he^{-asws} said: ‘Have you not hear what Allah^{-azwj} Mighty and Majestic Says in His^{-azwj} Book: **And if you divorce them before having touched them and you have necessitated for them the necessity (dowry), so it would be half of whatever you necessitated [2:237]**’.¹⁶⁵

55 شي، تفسير العياشي عن منصور بن حازم قال: قلت له رجل تزوج امرأة و سمى لها صداقاً ثم مات عنها و لم يدخل بها

¹⁶² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 51

¹⁶³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 52

¹⁶⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 53

¹⁶⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 54

(The book) 'Tafseer Al Ayyashi' – From Mansour Bin Hazim who said,

'I said to him^{-asws}, 'A man marries a woman and specifies dowry to her, then he dies from her and had not consummated the marriage with her'.

قَالَ لَهَا الْمَهْرُ كَمَالًا وَ لَهَا الْمِيرَاثُ

He^{-asws} said: 'For her is the whole dowry, and for her is the inheritance'.

قُلْتُ فَإِنَّهُمْ رَوَوْا عَنْكَ أَنَّ لَهَا نِصْفَ الْمَهْرِ

I said, 'But they are reporting from you^{-asws} that for her is half the dowry!'

قَالَ لَا يَحْفَظُونَ عَنِّي إِذَا كَانَ الْمُطَلَّعَةُ.

He^{-asws} said: 'They are not memorising from me^{-asws}. But rather that is the divorced woman''¹⁶⁶.

56 شي، تفسير العياشي عن عبد الله بن سينان عن أبي عبد الله ع قال: الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ هُوَ وُلِيُّ أَمْرِهِ.

(The book) 'Tafseer Al Ayyashi' – from Abdullah Bin Sinan,

'From Abu Abdullah^{-asws} having said: 'The one in whose hand is the marriage tie, he is the guardian of his matter''¹⁶⁷.

57 شي، تفسير العياشي عن زُرَّارَةَ وَ حُمْرَانَ وَ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ وَ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِهِ إِلَّا أَنْ يَعْفُونَ أَوْ يَعْفُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ قَالَ هُوَ الْوَلِيُّ وَ الَّذِيْنَ يَعْفُونَ عَنْهُ الصَّدَاقُ أَوْ يَخْطُونَ عَنْهُ بَعْضُهُ أَوْ كُلُّهُ.

(The book) 'Tafseer Al Ayyashi' – From Zurara and Humran and Muhammad Bin Muslim,

'From Abu Ja'far^{-asws} and Abu Abdullah^{-asws} regarding His^{-azwj} Words: **or he excuses, the one in whose hand is the tie of marriage [2:237]**. He^{-asws} said: 'He is the guardian and those who can excuse the dowry from him, or drop part of it or all of it''¹⁶⁸.

58 شي، تفسير العياشي عن أبي بصير عن أبي جعفر ع في قول الله تعالى أَوْ يَعْفُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ قَالَ هُوَ الْأَبُ وَ الْأَخُ يُوصِي إِيَّاهُ وَ الَّذِي يَجُوزُ أَمْرَهُ فِي مَالِ الْمَرْأَةِ فَيَبْتَاغِ لَهَا وَ يَشْتَرِي فَأَيُّ هَؤُلَاءِ عَفَا فَقَدْ جَازَ.

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

'From Abu Ja'far^{-asws} regarding Words of Allah^{-azwj} the Exalted: **or he excuses, the one in whose hand is the tie of marriage [2:237]**. He^{-asws} said: 'He is the father, and the brother bequeathed

¹⁶⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 55

¹⁶⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 56

¹⁶⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 57

to, and the one whose instruction is allowed in the wealth of the woman, so he can sell for her and buy. So whichever of them excuses, it is allowed'.¹⁶⁹

59 شي، تفسير العياشي عن رفاعَةَ عن أبي عبد الله ع قال: الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ وَ هُوَ الْوَلِيُّ الَّذِي أَنْكَحَ يَأْخُذُ بَعْضاً وَ يَدَعُ بَعْضاً وَ لَيْسَ لَهُ أَنْ يَدَعَ كُلَّهُ.

(The book) 'Tafseer Al Ayyashi' – From Rifa'at,

'From Abu Abdullah^{-asws} having said: 'The one in whose hand is the marriage tie, and he is the guardian who got them married. He can take part and leave part, and it isn't for him to leave all of it''.¹⁷⁰

60 شي، تفسير العياشي عن أبي بصير عن أبي عبد الله ع في قول الله تعالى أَوْ يَعْطُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ قَالَ هُوَ الْأَبُ وَ الْأَخُ وَ الرَّجُلُ يُوصَى إِلَيْهِ وَ الَّذِي يَجُوزُ أَمْرُهُ فِي مَالٍ بِقِيَمَتِهِ

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

'From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj} the Exalted: **or he excuses, the one in whose hand is the tie of marriage [2:237]**. He^{-asws} said: 'He is the father, and the brother, and the man bequeathed to, and the one whose instruction is allowed in wealth with its value'.

كُلُّهُ أَرَأَيْتَ إِنْ قَالَتْ لَا أُجِيزُ مَا يَصْنَعُ

I said, 'What is your^{-asws} view if she says, 'I did not allow what he has done!''?

قَالَ لَيْسَ ذَلِكَ أَجْيزُ بِنَعْتِهِ فِي مَالِهَا وَ لَا تُجِيزُ هَذَا.

He^{-asws} said: 'That can't be! She allows his selling in her wealth and does not allow this?'¹⁷¹

61 شي، تفسير العياشي عن رفاعَةَ عن أبي عبد الله ع قال: سَأَلْتُهُ عَنِ الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ فَقَالَ هُوَ الَّذِي يُزَوِّجُ يَأْخُذُ بَعْضاً وَ يَتْرُكُ بَعْضاً وَ لَيْسَ لَهُ أَنْ يَتْرُكَ كُلَّهُ.

(The book) 'Tafseer Al Ayyashi' – From Rifa'at,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about the one in whose hand is the marriage tie. He^{-asws} said: 'He is the one who got them married. He can take part and leave part, and it isn't for him to leave all of it''.¹⁷²

62 شي، تفسير العياشي عن إسحاق بن عمار قال: سَأَلْتُ جَعْفَرَ بْنَ مُحَمَّدٍ ع عَنِ قَوْلِ اللَّهِ إِلَّا أَنْ يَعْطُونَ قَالَ الْمَرْأَةُ تَعْطُو عَنْ نِصْفِ الصَّدَاقِ

(The book) 'Tafseer Al Ayyashi' – From Is'haq Bin Ammar who said,

¹⁶⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 58

¹⁷⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 59

¹⁷¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 60

¹⁷² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 61

'I asked Ja'far^{-asws} Bin Muhammad^{-asws} about Words of Allah^{-azwj}: **or he excuses, the one in whose hand is the tie of marriage [2:237]**. He^{-asws} said: 'The woman excuses half the dowry'.

قُلْتُ أَوْ يَعْفُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ

I said, '**or he excuses, the one in whose hand is the tie of marriage [2:237]**'.

قَالَ أَبُوهَا إِذَا عَفَا جَارَ لَهُ وَ أَحْوَهَا إِذَا كَانَ يُقِيمُ بِهَا وَ هُوَ الْقَائِمُ عَلَيْهَا فَهُوَ بِمَنْزِلَةِ الْأَبِ يَجُوزُ لَهُ وَ إِذَا كَانَ الْأَخُ لَا يُقِيمُ بِهَا وَ لَا يَقُومُ عَلَيْهَا لَمْ يَجُزْ عَلَيْهَا أَمْرُهُ.

He^{-asws} said: 'Her father, if he excuses, it is allowed for him, and her brother if he was living with her, and he is the custodian upon her, for he is at the status of the father, it is allowed for him, and when it was the brother neither staying with her nor a custodian upon her, his instruction is not allowed upon her'¹⁷³.

63 شي، تفسير العياشي عن مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع فِي قَوْلِهِ إِلَّا أَنْ يَعْفُونَ أَوْ يَعْفُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ الْوَلِيُّ الَّذِي يَعْفُو عَنِ الصَّدَاقِ أَوْ يَحْطُ بِعَضَّةٍ أَوْ كُلِّهِ.

(The book) 'Tafseer Al Ayyashi – From Muhammad Bin Muslim,

'From Abu Ja'far^{-asws} regarding His^{-azwj} Words: **except if they are excusing, or he excuses, the one in whose hand is the tie of marriage [2:237]**: 'The guardian who excuses from the dowry, or drop part of it or all of it'¹⁷⁴.

64 شي، تفسير العياشي عن سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع أَوْ يَعْفُوا الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ قَالَ هُوَ الْأَبُ وَ الْأَخُ وَ الرَّجُلُ يُوصَى إِلَيْهِ وَ الَّذِي يَجُوزُ أَمْرُهُ فِي مَالِ الْمَرْأَةِ فَيَبْتَاغُ لَهَا وَ يَشْتَرِي فَأَيُّ هَؤُلَاءِ عَفَا فَقَدْ جَازَ

(The book) 'Tafseer Al Ayyashi' – From Sama'at,

'From Abu Abdullah^{-asws}: **or he excuses, the one in whose hand is the tie of marriage [2:237]**. He^{-asws} said: 'He is the father, and the brother, and the man bequeathed to, and the one who instructions are allowed regarding wealth of the woman, so he can sell for her and buy.

قُلْتُ أَرَأَيْتَ إِنْ قَالَتْ لَا أُجِيزُهَا مَا يَصْنَعُ

I said, 'What is your^{-asws} view if she says, 'I had not allowed it, what he has done!''

قَالَ لَيْسَ لَهَا ذَلِكَ أُجِيزُ بَيْعَهُ فِي مَالِهَا وَ لَا تُجِيزُ هَذَا.

He^{-asws} said: 'That isn't for her! She allows his selling of her wealth and does not allow this?'¹⁷⁵

¹⁷³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 62

¹⁷⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 63

¹⁷⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 64

65 شي، تفسير العياشي عن أبي بصير عن أبي عبد الله ع في قول الله عز وجل وللمطلقات متاع بالمعروف حفا على المتقين قال متاعها بعد ما تنقضي عدتها على الموسع قدره وعلى المقتر قدره

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

'From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj} Mighty and Majestic: **And for the divorced women there should be a provision with the reasonableness being a right upon the pious [2:241].** He^{-asws} said: 'Her provision is after her waiting period has expired, **upon the affluent is in accordance to him, and upon the (financially) straitened is in accordance to him [2:236].**

فأما في عدتها فكيف يمتعها وهي ترجوه وهو يرجوها ويؤري الله بينهما ما شاء أما إن الرجل الموسر يمتع المرأة العبد والأمة ويمتغ الفقير بالحنطة والزبيب والثوب والدرهم فإن الحسن بن علي ع متع امرأة كانت له بأمة ولم يطلق امرأة إلا امتعها

As for during her waiting period, so how can he provide for her, and she is hoping for him and he is hoping for her, and Allah^{-azwj} will Cause to flow between the two whatever He^{-azwj} so Desires. As for the affluent man, he can provide the woman the slave and the maid, and the poor can provide the wheat, and the raisins, and the garment, and the Dirhams. Al-Hassan^{-asws} Bin Ali^{-asws} had provided a maid for a wife he^{-asws} had for him^{-asws}, and he^{-asws} did not divorce any woman except he^{-asws} provided her'.

قال وقال الحلبي متاعها بعد ما تنقضي عدتها على الموسع قدره وعلى المقتر قدره.

He (the narrator) said, 'And Al-Halby said, 'Providing her is after the expiry of her waiting period, **upon the affluent is in accordance to him, and upon the (financially) straitened is in accordance to him [2:236]**'.¹⁷⁶

66 شي، تفسير العياشي عن أبي عبد الله ع وأبي الحسن موسى ع قال: سألت أحدهما عن المطلقة ما لها من المتعة

(The book) 'Tafseer Al Ayyashi' -

'From Abu Abdullah^{-asws} and Abu Al-Hassan Musa^{-asws}, he (the narrator) said, 'I asked one of the two (5th or 6th Imam^{-asws}) about the divorced woman, 'What is for her from the provisions?'

قال على قدر مال زوجها.

He^{-asws} said: 'In accordance to the wealth of her husband'.¹⁷⁷

67 شي، تفسير العياشي عن الحسن بن زياد عن أبي عبد الله ع عن رجل طلق امرأته قبل أن يدخل بها قال فقال إن كان سمي لها مهرًا فلها نصف المهر ولا عدة عليها وإن لم يكن سمي لها مهرًا فلا مهر لها ولكن يمتعها فإن الله يقول في كتابه وللمطلقات متاع بالمعروف حفا على المتقين.

(The book) 'Tafseer Al Ayyashi' – From Al-Hassan Bin Ziyad,

¹⁷⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 65

¹⁷⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 66

‘From Abu Abdullah^{-asws} about a man who divorces his wife before he consummates with her. He (the narrator) said, ‘He^{-asws} said: ‘If he had specified a dowry for her, for her is half the dowry, and there is no waiting period for her, and if he had not specified a dowry, there is no dowry for her, but he should provide for her, for Allah^{-azwj} Says in His^{-azwj} Book: **And for the divorced women there should be a provision with the reasonableness being a right upon the pious [2:241]**’¹⁷⁸.

16 قَالَ أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِنَا إِنَّ مُتْعَةَ الْمُطَلَّقةِ فَرِيضَةٌ.

Ahmad Bin Muhammad said, from one of our companions,

‘Provision for the divorced woman is an obligation’.¹⁷⁹

68 شي، تفسير العياشي عن أبي بصير قال: قُلْتُ لِأَبِي جَعْفَرٍ ع وَ لِلْمُطَلَّقاتِ مَتَاعٌ بِالْمَعْرُوفِ حَتَّى عَلَى الْمُتَّقِينَ مَا أَذَى ذَلِكَ الْمَتَاعِ إِذَا كَانَ الرَّجُلُ مُعْسِراً لَا يَجِدُ

(The book) ‘Tafseer Al Ayyashi’ – From Abu Baseer who said,

‘I said to Abu Ja’far^{-asws}: **And for the divorced women there should be a provision with the reasonableness being a right upon the pious [2:241]**, what is the least of that provision if the man was poor, he cannot find (the means)?’

قَالَ الْحَمَّازُ وَ شِبْهُهُ.

He^{-asws} said: ‘The scarf, and it’s like’.¹⁸⁰

[باب 75 التذليل و العيوب الموجبة للفسخ](#)

CHAPTER 75 – DECEPTIONS AND THE DEFECTS WARRANTING ANNULMENT

1- سر، السرائر من كتاب البزنطي عن الحلبي قال: سألت أبا عبد الله ع عن البزء قال قضى أمير المؤمنين ع في امرأة زوجها وليها وهي بزء أن لها مهراً بما استحل من فرجها وأن المهر على الذي زوجها وإنما صار عليه المهر لأنه دلستها

(The book) ‘Al Saraair’ – From the book of Al Bazant, from Al Halby who said,

‘I asked Abu Abdullah^{-asws} about the ones (women) with vitiligo. He said, ‘Amir Al-Momineen^{-asws} judged regarding a woman, her husband was her guardian, and she was with vitiligo, that for her is dowry due to what she had legalised her private parts, and the dowry is upon the one who had got her married, and rather the dowry came to be upon him because (he had deceived the husband) of her deception.

و لَوْ أَنَّ رَجُلًا تَزَوَّجَ امْرَأَةً وَ زَوَّجَهَا رَجُلٌ لَا يَعْرِفُ دَخِيلَةَ أَمْرَهَا لَمْ يَكُنْ عَلَيْهِ شَيْءٌ وَ كَانَ الْمَهْرُ يُؤْخَذُ مِنْهَا.

¹⁷⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 67 a

¹⁷⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 67 b

¹⁸⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 74 H 68

And if a man were to marry a woman and a man got her married off not knowing of her hidden matter, there would not be anything upon him, and the dowry would be taken from her”¹⁸¹.

2- سر، السرائر البرزطي عن محمد بن سماعة عن عبد الحميد عن محمد بن مسلم عن أبي جعفر ع قال: سألتُه عن رجلٍ خطبَ إلى رجلٍ بنتاً له من مَهْرَةٍ فلما كانت ليلة دُخولها على زوجها أدخل عليه بنتاً له أخرى من أمةٍ قال تُردُّ على أبيها و تُردُّ عليه امرأتُه و يكون مهرها على أبيها.

(The book) ‘Al Saraair’ of Al Bazanty – from Muhammad Bin Sama’at, from Abdul Hameed, from Muhammad Bin Muslim,

‘From Abu Ja’far^{asws}, he (the narrator) said, ‘I asked him^{asws} about a man who proposes to a man for a daughter of his daughters from a dowered wife. When it was the night of her to be escorted to her husband, he entered another daughter of his from a slave girl. He^{asws} said: ‘She will be returned to her father and his wife would be returned to him, and her dowry will be upon her father’¹⁸².

3- قب، المناقب لابن شهر آشوب إسماعيل بن موسى بإسناده أن رجلاً خطبَ إلى رجلٍ ابنةً له عربيةً فأنكحها إياه ثم بعث له ابنةً له أمها أعجميةً فعلم بذلك بعد أن دخل بها فأتى معاوية و قصَّ عليه القصة فقال مفضلٌ لها أبو الحسن

(The book) ‘Al Manaqib’ of Ibn Shehr Ashub – Ismail Bin Musa by his chain,

‘A man proposes to a man for an Arabian daughter of his, so he gets her married to him. Then he sent to him a daughter of his whose mother was not an Arab. He came to know that after he had consummated the marriage with her. He came to Muawiya and narrated the story to him. He said, ‘A dilemma! Abu Al-Hassan^{asws} is for it’.

فاستأذنه و أتى الكوفة و قصَّ على أمير المؤمنين ع فقال على أبي الجارية أن يجهر الابنة التي أنكحها إياه بمثل صدق التي ساق إليه فيها و يكون صدق التي ساق منها لأختها بما أصاب من فوجها و أمره أن لا يمس التي تُرْفُ إليه حتى تفضي عدتها و يجلد أبوها نكالا لما فعل.

He sought his^{asws} permission and came to Al-Kufa and narrated to Amir Al-Momineen^{asws}. He^{asws} said: ‘Upon father of the girl is that he must equip the daughter he married to him with a dowry equal to that which the husband had provided, and the dowry given by the husband is to be for her sister in compensation for what he consummated with her. He ordered that the husband must not touch the one who is now to be given to him until she has completed her waiting period, and that her father be flogged as a deterrent for what he had done’¹⁸³.

4- نوادر الراوندي، بإسناده عن موسى بن جعفر عن آبائه ع قال: قال رجلٌ لعلي ع يا أمير المؤمنين إن امرأتِي خدعتني و غرّني بئساب و خدم و غيرها فلما تزوجتها و أمهرتها مهرًا ثقيلاً كثيراً لم تكن الأشياء لها

(The book) ‘Nawadir’ of Al Rawandy – By his chain,

‘From Musa^{asws} Bin Ja’far^{asws}, from his^{asws} forefathers^{asws} having said: ‘A man said to Ali^{asws}, ‘O Amir Al-Momineen^{asws}! My wife has deceived me and deluded me with clothes, servants,

¹⁸¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 1

¹⁸² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 2

¹⁸³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 3

and other things. When I married her and gave her a heavy and large dowry, I discovered that these things were not hers!

فَقَالَ عَلِيٌّ عَ لَا شَيْءَ لَكَ إِذَا أَرَادَتْ أَنْ تُنْفِقَ نَفْسَهَا

Ali^{-asws} said: 'You have no claim against her. She only intended to offer herself in marriage'.

وَ قَالَ أَرَأَيْتَ لَوْ قُلْتَ لَهَا لِي مِائَةُ أَلْفِ دِرْهَمٍ فَتَزَوَّجْتَهَا أ تَأْخُذُكَ بِمِائَةِ أَلْفِ دِرْهَمٍ

And he^{-asws} said: 'Suppose you told her you possessed one hundred thousand Dirhams and then married her, would she have the right to take one hundred thousand Dirhams from you?'

قَالَ لَا.

The man said, 'No'.¹⁸⁴

5- ب، قرب الإسناد ابن طريف عن ابن علقوان عن أبيه عن الصادق ع قال: كان علي ع بمضي في العنين أن يؤجل سنة من يوم ترفع المرأة.

(The book) 'Qurb Al-Isnaad' – Ibn Tareyf, from Ibn Ulwan, from his father,

'Al-Sadiq^{-asws} having said: 'Ali^{-asws} had judged regarding the impotent man that he be respited for a year from the day the wife raises his case'.¹⁸⁵

6- ب، قرب الإسناد علي عن أخيه قال: سألته عن حصي دلس نفسه لامرأة ما عليه

(The book) 'Qurb Al Isnaad' -

'Ali, from his brother (Al-Kazim^{-asws}), he said, 'I asked him^{-asws} about a eunuch who deceived of his self to a woman, 'What is upon him?'

قَالَ يُوجَع ظَهْرُهُ وَ يُفْرَقُ بَيْنَهُمَا وَ عَلَيْهِ الْمَهْرُ كَامِلًا إِنْ دَخَلَ بِهَا وَ إِنْ لَمْ يَدْخُلْ بِهَا فَعَلَيْهِ نِصْفُ الْمَهْرِ.

He^{-asws} said: 'His back would be pained and there would be separation between the two, and upon him is the whole dowry if he had consummated the married, and if he had not consummated with her, upon him is half the dowry'.¹⁸⁶

7- وَ سَأَلْتُهُ عَنْ عَيْنِ دَلَسَ نَفْسَهُ لِامْرَأَةٍ مَا حَالُهُ

And I asked him^{-asws} about an impotent man who deceived of his self to a woman, 'What is his state?'

¹⁸⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 4

¹⁸⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 5

¹⁸⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 6

قَالَ عَلَيْهِ الْمَهْرُ وَ يُفْرَقُ بَيْنَهُمَا إِذَا عَلِمَ أَنَّهُ لَا يَأْتِي النِّسَاءَ.

He^{-asws} said: ‘Upon him is the dowry and there would be separation between the two, when he knew that he could not go to the women’.¹⁸⁷

8- وَ سَأَلْتُهُ عَنِ امْرَأَةٍ دَلَّسَتْ نَفْسَهَا لِرَجُلٍ وَ هِيَ رَتْقَاءُ قَالَ يُفْرَقُ بَيْنَهُمَا وَ لَا مَهْرَ لَهَا.

And I asked him^{-asws} about a woman deceiving of herself to a man and she is imperforate. He^{-asws} said: ‘There would be separation between the two and there is no dowry for her’.¹⁸⁸

9- مع، معاني الأخبار أبي عن أحمد بن إدريس عن الأشعري عن الجماهوري عن الحسن بن الحسين عن ياسين الضريبي أو غيره عن حماد بن عيسى عن جعفر بن محمد عن أبيه ع قال: خطب رجل إلى قوم فقالوا ما تجارئك

(The book) ‘Ma’any Al Akhbaar’ – My father, from Ahmad Bin Idrees, from Al Ash’ary, from Al Jamourani, from Al-Hassan Bin Al Husayn, from Yaseen Al Zareer, or someone else, from Hammad Bin Isa,

‘From Ja’far^{-asws} Bin Muhammad^{-asws}, from his^{-asws} father^{-asws} having said: ‘A man brought proposal (for a woman) to a people. They said, ‘What is your business?’

قَالَ أَبِيغ الدَّوَابَّ

‘He said, ‘I sell the livestock!’

فَرَوَّجُوهُ فَإِذَا هُوَ يَبِيعُ السَّنَانِيرَ فَاحْتَضَمُوا إِلَى عَلِيِّ بْنِ أَبِي طَالِبٍ ع فَأَجَارَ نِكَاحَهُ وَ قَالَ السَّنَانِيرُ دَوَابُّ.

So, they got him married, and behold, he was a seller of cats. They brought the dispute to Ali^{-asws} Bin Abu Talib^{-asws}. He^{-asws} allowed his marriage and said: ‘The cats are livestock’.¹⁸⁹

10- ضا، فقه الرضا عليه السلام إِذَا تَزَوَّجَ رَجُلٌ فَأَصَابَهُ بَعْدَ ذَلِكَ جُنُونٌ فَيَبْلُغُ بِهِ مَبْلَغًا حَتَّى لَا يَعْرِفَ أَوْقَاتَ الصَّلَاةِ فُرِقَ بَيْنَهُمَا فَإِنْ عَرَفَ أَوْقَاتَ الصَّلَاةِ فَلْتَصْبِرِ الْمَرْأَةُ مَعَهُ فَقَدْ ابْتُلِيَتْ

(The book) ‘Fiqh Al-Reza^{-asws}’, may the greeting be upon him^{-asws} – ‘When a man gets married, then after that insanity afflicts him and reaches him extensively to the extent that he does not know timings of the Salat, there would be separation between the two. If he does recognise timings of the Salat, let the wife be patient with him, so he has been afflicted.

وَ إِنْ تَزَوَّجَهَا حَصِيٌّ فَدَلَّسَ نَفْسَهُ لَهَا وَ هِيَ لَا تَعْلَمُ فُرِقَ بَيْنَهُمَا وَ يُوجَعُ ظَهْرُهُ كَمَا دَلَّسَ نَفْسَهُ وَ عَلَيْهِ نِصْفُ الصَّدَاقِ وَ لَا عِدَّةَ عَلَيْهَا مِنْهُ فَإِنْ رَضِيَتْ بِذَلِكَ لَمْ يُفْرَقْ مَا بَيْنَهُمَا وَ لَيْسَ لَهَا الْحَيَاةُ بَعْدَ ذَلِكَ

And if a eunuch marries her deceiving of his self to her and she did not know, there would be separation between the two and his back will be pained as he had deceived of his self, and upon him is half the dowry, and there is no waiting period upon her, from him. If she is

¹⁸⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 7

¹⁸⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 8

¹⁸⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 9

satisfied with that, there would not be separation between them, and it wouldn't be for her to choose after that.

فَإِنْ تَزَوَّجَهَا عَيْتِينَ وَ هِيَ لَا تَعْلَمُ فَإِنَّ أَعْلَمَ أَنَّ فِيهِ عِلَّةٌ عَلَيْهَا أَنْ تَصْبِرَ حَتَّى يُعَالِجَ نَفْسَهُ سَنَةً فَإِنْ صَلَحَ فَهِيَ امْرَأَتُهُ عَلَى التَّكَاحِ الْأَوَّلِ وَ إِنْ لَمْ يَصْلُحْ فُفِرَّقْ بَيْنَهُمَا وَ لَهَا نِصْفُ الصَّدَاقِ وَ لَا عِدَّةَ عَلَيْهَا مِنْهُ فَإِنْ رَضِيَتْ لَا يُفَرِّقُ بَيْنَهُمَا وَ لَيْسَ لَهَا خِيَارٌ بَعْدَ ذَلِكَ

If an impotent one marries her and she did not know, and if he knew that there is an illness with him, upon her is to be patient until he treats himself for a year. If he is healthy, she is his wife upon the first marriage, and if he is not corrected, there would be separation between the two, and for her would be half the dowry, and there is no waiting period upon her, from him. If she is satisfied, there would not be separation between them, and there wouldn't be a choice for her after that.

وَ إِذَا ادَّعَتْ أَنَّهُ لَا يُجَامِعُهَا عَيْتِينَ كَانَ أَوْ عَبَّرَ عَيْتِينَ فَيَقُولُ الرَّجُلُ إِنَّهُ قَدْ جَامَعَهَا فَعَلَيْهِ الْيَمِينُ وَ عَلَيْهَا الْبَيِّنَةُ لِأَنَّهَا الْمُدَّعِيَةُ وَ إِذَا ادَّعَتْ عَلَيْهِ أَنَّهُ عَيْتِينَ وَ أَنْكَرَ الرَّجُلُ أَنْ يَكُونَ كَذَلِكَ فَإِنَّ الْحُكْمَ فِيهِ أَنْ يَجْلِسَ الرَّجُلُ فِي مَاءٍ بَارِدٍ فَإِنْ اسْتَرْتَحَى ذَكَرَهُ فَهُوَ عَيْتِينَ وَ إِنْ تَشْتَجَّ فَلَيْسَ بِعَيْتِينَ

And if she claims that he has not consummated the marriage with her, whether he was impotent or not impotent, and the man says he has consummated the marriage with her, upon him is to swear an oath and upon her is to provide proof because she is the claimant; and when she claims upon him that he is impotent, and the man denies that he happens to be like that, the ruling regarding it is that the man would be seated in cold water. If his organ is flaccid, he is impotent, and if it becomes rigid, he isn't impotent.

وَ إِنْ تَزَوَّجَ بِامْرَأَةٍ فَوَجَدَهَا قَرْنَاءً أَوْ عَقْلَاءً أَوْ بَرَصَاءً أَوْ مَجْنُونَةً إِذَا كَانَ بِهَا ظَاهِرًا كَانَ لَهُ أَنْ يَرُدَّهَا عَلَى أَهْلِهَا بِغَيْرِ طَلَاقٍ وَ يَرْجِعَ الزَّوْجَ عَلَى وَلِيِّهَا مَا أَصْدَقَهَا إِنْ كَانَ أَغْطَاهَا شَيْئًا فَإِنَّ لَمْ يَكُنْ أَغْطَاهَا الشَّيْءَ فَلَا شَيْءَ لَهُ.

And he marries a woman and finds her to have an obstruction of her private part, or a deformity, or is with vitiligo, or insanity, when it was apparent with her, it would be for him to return her to her family without a divorce, and husband would have recourse to her guardian of whatever dowry he had provided, if he had given her anything. If he had not given her anything, there is nothing for him".¹⁹⁰

11- ين، كتاب حسين بن سعيد و النوادر زُرْعَةُ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّ خَصِيئًا دَلَّسَ نَفْسَهُ عَلَى امْرَأَةٍ قَالَ يُفَرِّقُ بَيْنَهُمَا وَ يُؤْخَذُ مِنْهُ صَدَاقُهَا وَ يُوجَعُ ظَهْرُهُ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Zur'ah, from Sama'at,

'From Abu Abdullah^{-asws} about a eunuch deceiving of his self to the woman. He^{-asws} said: 'There would be separation between the two and her dowry would be taken from him, and his back would be pained'.¹⁹¹

¹⁹⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 10

¹⁹¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 11

12- ين، كتاب حسين بن سعيد و النوادر النَّضْرُ عَنْ عَاصِمٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ: فَضَى أَمِيرُ الْمُؤْمِنِينَ ع فِي الْمَرْأَةِ إِذَا انْتَمَتْ إِلَى قَوْمٍ وَ أَخْبَرَتْ أَنَّهَا مِنْهُمْ وَ هِيَ كَاذِبَةٌ وَ ادَّعَتْ أَنَّهَا حُرَّةٌ فَتَزَوَّجَتْ أَنَّهَا تُرَدُّ إِلَى أَزْوَاجِهَا وَ يَطْلُبُ زَوْجَهَا مَالَهُ الَّذِي أَصْدَقَهَا وَ لَا حَقَّ لَهَا فِي عُنُقِهِ وَ مَا وَلَدَتْ مِنْ وَلَدٍ فَهُمْ عَيْدٌ.

(The book) 'The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Aasim, from Muhammad Bin Qays,

'From Abu Ja'far^{-asws} having said: 'Amir Al-Momineen^{-asws} judged regarding the woman when she claimed lineage to a people and informed that she is from them, and she was lying, and claimed that she was a free woman, so they got her married, she would be returned to her masters and her husband can demand his wealth which he had given as dowry, and there is no right for her in his neck, and whatever children she begets would be slaves'.¹⁹²

13- ين، كتاب حسين بن سعيد و النوادر صَفْوَانُ بْنُ يَحْيَى عَنِ الْعَلَاءِ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ع قَالَ: سَأَلْتُهُ عَنِ امْرَأَةٍ حُرَّةٍ تَزَوَّجَتْ رَجُلًا مَمْلُوكًا عَلَى أَنَّهُ حُرٌّ فَعَلِمَتْ بَعْدَ أَنَّهُ مَمْلُوكٌ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan Bin Yahya, from Al A'ala, from Muhammad Bin Muslim,

'From one of the two (5th or 6th Imam^{-asws}), he said, 'I asked him^{-asws} about the free woman marrying a slave man based upon that he was free. She comes to know afterwards he is a slave.

قَالَ هِيَ أَمْلَكُ بِنَفْسِهَا فَإِنْ كَانَ دَخَلَ بِهَا فَلَهَا الصَّدَاقُ وَ إِنْ لَمْ يَدْخُلْ بِهَا فَلَا شَيْءَ لَهَا وَ إِنْ عَلِمَتْ هُوَ [هِيَ] وَ دَخَلَ بِهَا بَعْدَ مَا عَلِمَتْ أَنَّهُ مَمْلُوكٌ فَلَا خِيَارَ لَهَا.

He^{-asws} said: 'She is in control of herself. If he had consummated the marriage with her, for her is the dowry, and if he had not consummated the marriage with her, there is nothing for her, and if she had come to know, and he consummated the marriage with her after her having known that he is a slave, there is no choice for her'.¹⁹³

14- ين، كتاب حسين بن سعيد و النوادر النَّضْرُ عَنْ عَاصِمٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ: فَضَى أَمِيرُ الْمُؤْمِنِينَ ع فِي امْرَأَةٍ حُرَّةٍ دَلَّسَ عَلَيْهَا عَبْدٌ فَتَكَحَّهَا وَ لَا تَعْلَمُ أَنَّهُ عَبْدٌ بِالتَّفْرِيقَةِ بَيْنَهُمَا إِنْ شَاءَتِ الْمَرْأَةُ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Aasim, from Muhammad Bin Qays,

'From Abu Ja'far^{-asws} having said: 'Amir Al-Momineen^{-asws} judged regarding a free woman who was deceived by a slave, and he married her and she did not know that he was a slave – there would be separation between the two if the woman so desires'.¹⁹⁴

15- ين، كتاب حسين بن سعيد و النوادر أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي رَجُلٍ دَلَّسَتْهُ امْرَأَةٌ أَمْرَهَا لَا يَعْلَمُ دَخِيلَةَ أَمْرَهَا فَوَجَدَهَا قَدْ دَلَّسَتْ عَيْبًا هُوَ بِهَا فَفَضَى أَنْ يَأْخُذَ مِنْهَا الْمَهْرَ وَ لَا يَكُونَ لَهَا عَلَى زَوْجِهَا شَيْءٌ.

¹⁹² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 12

¹⁹³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 13

¹⁹⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 14

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ahmad Bin Muhammad, from Dawood Bin Sirhan,

'From Abu Abdullah^{-asws} regarding a man regarding a woman who had deceived him. He did not know of her hidden matter and found that she had deceived him about a defect which was with her. He^{-asws} judged that the dowry be taken from her and there would not be anything for her against her husband'.¹⁹⁵

16 ين، كتاب حسين بن سعيد و النوادر علي بن النعمان عن أبي الصباح الكيناني و ابن أبي عمير عن حماد بن الحلي عن أبي عبد الله ع مثله.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ali Bin Al Numan, from Al Sabbah Al Kinani, and Ibn Abu Umeyr, from Hammad, from Al Halby,

'From Abu Abdullah^{-asws}, similar to it'.¹⁹⁶

17- ين، كتاب حسين بن سعيد و النوادر صفوان بن العلاء عن محمد بن قيس عن أبي جعفر ع قال: العنين يترتب به سنة ثم إن شاءت المرأة تزوجت و إن شاءت أقامت.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Al A'ala, from Muhammad Bin Qays,

'From Abu Ja'far^{-asws} having said: 'The impotent man will be respited with for a year. Then if the wife so desires she can marry (someone else), and if she desires, she can stay'.¹⁹⁷

18- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن حماد بن عثمان عن الحلي عن أبي عبد الله ع أنه قال: في الرجل يتزوج إلى قومه فإذا امرأته عوراء و لم يبيئوا به

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

'From Abu Abdullah^{-asws} having said regarding the man who gets married among his people, and behold, his wife turned out to be one-eyed, and they had not disclosed it to him.

قال لا يرُدُّ إنما يرُدُّ النكاح من البرص و الجذام و الجنون و العفل

He^{-asws} said: 'She will not be returned! But rather, the marriage is annulled due to the vitiligo, and the leprosy, and the insanity, and the private part deformity'.

قلت أ رأيت إن كان دخل بها كيف يصنع بمهرها

I said, 'What is your view if he had consummated the marriage with her, how is her dowry dealt with?'

قال لها المهر بما استحل من فرجها و يعرَّم وليها الذي أنكحها مثل ما ساق لها.

¹⁹⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 15

¹⁹⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 16

¹⁹⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 17

He^{-asws} said: 'For her is the dowry due to her having legalised her private part, and her guardian would be fined, the one who had married her off, similar to what had been given to her'.¹⁹⁸

19- ين، كتاب حسين بن سعيد و النوادر القاسم عن ابن ابي عبد الرحمن بن ابي عبد الله قال: سألت أبا عبد الله ع عن رجل تزوج امرأة قد كانت زنت قال إن شاء زوجها أخذ الصداق بمن زوجها و لها الصداق بما استحل من فرجها و إن شاء تركها.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Qasim, from Ibn Aban,

'From Abdul Rahman son of Abu Abdullah^{-asws}, he said, 'I asked Abu Abdullah^{-asws} about a man who marries a woman who had committed adultery. He^{-asws} said: 'If her husband so desires, he can take the dowry from the one who had got her married, and for her is the dowry due to what she had legalised of her private parts, and if so desires, he can leave it'.¹⁹⁹

20- ين، كتاب حسين بن سعيد و النوادر عن ابن النعمان عن أبي الصباح عن أبي عبد الله ع قال: سألت عن رجل تزوج امرأة فأبى بها عمناء أو برصاء أو عرجاء قال ترد على من دلستها و يرد على زوجها مهرها الذي له و يكون لها المهر على وليها فإن كانت بها زمانة لا يراها الرجال أجزت شهادة النساء عليها.

The book of Haseen Bin Saeed, and 'Al Nawadir' – from Ibn Al Numan, from Abu Al Sabbah,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about a man who marries a woman, so they brought her a blind, or with vitiligo, or lame. He^{-asws} said: 'She can be returned to the one who had deceived of her, and her dowry is to be returned to her husband, which is for him, and for her would be the dowry upon her guardian. If there was a defect with her the men cannot see, the testimony of women would be allowed upon her'.²⁰⁰

21- ين، كتاب حسين بن سعيد و النوادر فضالة عن القاسم بن بريد عن محمد بن مسلم عن أبي جعفر ع قال: في كتاب علي امرأة زوجها رجلاً و لها عيب دلست به و لم يبين ذلك لزوجها فإنه يكون لها الصداق بما استحل من فرجها و يكون الذي ساق الرجل إليها على الذي زوجها و لم يبين.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Fazalah, from Al Qasim Bin Bureyd, from Muhammad Bin Muslim,

'From Abu Ja'far^{-asws} having said: 'In the book of Ali^{-asws} – a woman was married by a man and for her was a defect she had deceived with and had not disclosed that to her husband, for her would be the dowry due to what she had legalised of her private parts, and that (dowry) which the man had given to her would be upon the one who had got her married and had not disclosed it (the defect)'.²⁰¹

22- ين، كتاب حسين بن سعيد و النوادر فضالة عن رفاعة بن موسى قال: سألت عن المخدودة قال لا يُفترق بينهما يترادان النكاح

The book of Haseen Bin Saeed, and 'Al Nawadir' – Fazalah, from Rifa'at Bin Musa who said,

¹⁹⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 18

¹⁹⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 19

²⁰⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 20

²⁰¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 21

'I asked him^{-asws} about the woman with limited capability. He^{-asws} said: 'There will be no separation between the two seeking the marriage'.

قَالَ وَ لَمْ يَفْضِ عَلَيَّ ع فِي هَذِهِ وَ لَكِنْ بَلَّغَنِي فِي امْرَأَةٍ بَرِّصَاءَ أَنَّهُ يَفْرُقُ بَيْنَهُمَا وَ يَجْعَلُ الْمَهْرَ عَلَى وَلِيِّهَا لِأَنَّهُ دَلَّسَهَا.

He said, 'And Ali^{-asws} did not judge regarding this, but it has reached me^{-asws} regarding a woman who had vitiligo that there would be separation between the two, and the dowry to be made upon her guardian because he had deceived of her (to her husband)'.²⁰²

23- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن حماد عن الحلبي قال: سألتُه عن المرأة تلد من الزنا و لا يعلم ذلك إلا وليها يصلح له أن يزوجهَا يسكتُ على ذلك إذا كان قد رأى منها توبةً أو معروفاً

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Hammad, from Al Halby who said,

'I asked him^{-asws} about the woman giving birth from the adultery and no one knows that except her guardian, 'Is it correct for him to marry her, being silent upon that, if he were to see repentance from her or reasonableness?'

قَالَ إِذَا لَمْ يُذَكَّرْ ذَلِكَ لِزَوْجِهَا ثُمَّ عَلِمَ بَعْدَ ذَلِكَ فَشَاءَ أَنْ يَأْخُذَ صَدَاقَهَا مِنْ وَلِيِّهَا بِمَا دَلَّسَ لَهُ كَانَ ذَلِكَ لَهُ عَلَى وَلِيِّهَا وَ كَانَ الصَّدَاقُ الَّذِي أَخَذَتْ مِنْهُ لَهَا وَ لَا سَبِيلَ لَهُ عَلَيْهَا بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا وَ إِنْ شَاءَ زَوْجُهَا أَنْ يُمْسِكَهَا فَلَا بَأْسَ.

He^{-asws} said: 'If he had not mentioned that to her husband, then he came to know after that, if he desires, he can take her dowry from her guardian due to what he had been deceived with. That would be for him upon her guardians, and the dowry which had been taken from it for her, there would be no way for him upon her due to what she had legalised her private parts, and if her husband desires to keep her, there is no problem'.²⁰³

24- ين، كتاب حسين بن سعيد و النوادر عن ابن أبي عمير عن حماد عن الحلبي عن أبي عبد الله ع في رجل أتى قوماً فخطب إليهم فقال أنا فلان بن فلان من بني فلان فوجد ذلك على عدي ما أوماً

The book Haseen Bin Saeed, and 'Al Nawadir' – from Ibn Abu Umeyr, from Hammad, from Al Halby,

'From Abu Abdullah^{-asws} said regarding a man who comes to a people and proposes to them (for a woman of theirs). He says, 'I am so and so, son of so and so, from so and so clan!' He is found to be upon other than what he had indicated.

قَالَ إِنَّ عَلِيًّا قَضَى فِي رَجُلٍ لَهُ ابْنَتَانِ إِحْدَاهُمَا لِمَهْبِرَةٍ وَ الْأُخْرَى لِأُمِّ وَ لِدٍ فَزَوَّجَ ابْنَةَ الْمَهْبِرَةِ فَلَمَّا كَانَ لَيْلَةَ الْبِنَاءِ أَدْخَلَ عَلَيْهِ ابْنَةَ أُمِّ الْوَلَدِ فَوَقَعَ عَلَيْهَا قَالَ يُرَدُّ عَلَيْهِ امْرَأَتُهُ الَّتِي كَانَ تَزَوَّجَهَا وَ تُرَدُّ هَذِهِ عَلَى أَبِيهَا وَ يَكُونُ مَهْرُهَا عَلَى أَبِيهَا

He^{-asws} said: 'Ali^{-asws} had decreed regarding a man having two daughters for him, one of them being for a dowered wife, and the other of a mother of a child. He marries off the daughter of the dowered woman. When it was the wedding night, the daughter of a mother of the children was brought to him, and he had intimate marital relations with her. He^{-asws} said: 'His

²⁰² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 22

²⁰³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 23

wife which he had married would be returned to him, and this one would be returned to her father, and her dowry would be upon her father’.

وَقَالَ فِي رَجُلٍ تَزَوَّجَ امْرَأَةً بَرَصَاءً أَوْ عَمِيَاءً أَوْ عَرَجَاءً قَالَ تُرَدُّ عَلَى وَلِيِّهَا وَ يُرَدُّ عَلَى زَوْجِهَا مَهْرُهَا الَّذِي زَوَّجَهَا عَلَيْهِ

And he^{asws} said regarding a man who marries a woman with vitiligo, or blind, or lame. He^{asws} said: ‘She would be returned to her guardian and her dowry would be returned to her husband which he had married her upon’.

قَالَ وَ إِنْ كَانَ بِهَا مَا لَا يَرَاهُ الرَّجَالُ جَازَتْ شَهَادَةُ النِّسَاءِ عَلَيْهَا.

He^{asws} said: ‘And if there was (defect) with her what the men cannot see, testimony the women would be allowed upon her’.²⁰⁴

25- ين، كتاب حسين بن سعيد و النوادر مُحَمَّدُ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عَبْدِ الْحَمِيدِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ: تُرَدُّ الْبَرَصَاءُ وَالْعَرَجَاءُ وَالْعَمِيَاءُ.

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – Muhammad Bin Muhammad, from Muhammad Bin Sama’at, from Abdul Hameed, from Muhammad Bin Muslim,

‘From Abu Ja’far^{asws} having said: ‘The ones with vitiligo, and the lame, and the blind can be returned’.²⁰⁵

26- ين، كتاب حسين بن سعيد و النوادر مُحَمَّدُ بْنُ مُحَمَّدٍ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: إِذَا تَزَوَّجَ الرَّجُلُ الْمَرَأَةَ وَ هُوَ لَا يَقْدِرُ عَلَى النِّسَاءِ أَجَلَ سَنَةٍ حَتَّى يُعَالِجَ نَفْسَهُ

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – Muhammad Bin Al Fuzeyl, from Abu Al Sabbah Al Kinani,

‘From Abu Abdullah^{asws} having said: ‘When the man marries the woman and he is not able upon (establishing intimate marital relations) with the women, he will be respited for a year until he treats himself’.

قَالَ وَ سَأَلْتُهُ عَنِ امْرَأَةِ ابْتُلِيَ زَوْجُهَا فَلَا يَقْدِرُ عَلَى الْجَمَاعِ الْبَيْتَةَ تُفَارِقُهُ

He (the narrator) said, ‘And I asked him^{asws} about a woman whose husband is afflicted so he is not able upon the marital relations absolutely, ‘Will there be separation?’

قَالَ نَعَمْ إِنْ شَاءَتْ.

He said: ‘Yes, if she so desires’.²⁰⁶

²⁰⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 24

²⁰⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 25

²⁰⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 26

27- كَش، رَجَالِ الْكَشِيِّ مُحَمَّدُ بْنُ مَسْعُودٍ عَنْ مُحَمَّدِ بْنِ نُصَيْرٍ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ مُسْكَانَ أَنَّهُ كَتَبَ إِلَى الصَّادِقِ عَ مَعَ إِبْرَاهِيمَ بْنِ مَيْمُونٍ يَسْأَلُهُ عَنْ خَصِيٍّ دَلَسَ نَفْسَهُ عَلَى امْرَأَةٍ قَالَ يُفَرِّقُ بَيْنَهُمَا وَ يُوجَعُ ظَهْرُهُ.

(The book) 'Rijal' of Al Kashi – Muhammad Bin Masoud, from Muhammad Bin Nuseyr, from Muhammad Bin Isa, from Yunus, from Ibn Muskan,

'He wrote to Al-Sadiq^{-asws} (dispatched) with Ibrahim Bin Masoud, asking him^{-asws} about a eunuch deceiving his self to a woman. He^{-asws} said: 'There will be separation between the two and his back would be pained''²⁰⁷.

28- مِنْ كِتَابِ صَفْوَةِ الْأَخْبَارِ، فَضَى أَمِيرُ الْمُؤْمِنِينَ ع فِي رَجُلٍ ادَّعَى امْرَأَتَهُ أَنَّهُ عَيْنٌ فَأَنْكَرَ الزَّوْجُ ذَلِكَ فَأَمَرَ النِّسَاءَ أَنْ يَحْشُونَ فَرْجَ الْامْرَأَةِ بِالْحَلُوقِ وَ لَمْ يَعْلَمْ زَوْجُهَا بِذَلِكَ ثُمَّ قَالَ لَزَوْجِهَا ائْتِيهَا فَإِنْ تَلَطَّحَ الذَّكَرُ بِالْحَلُوقِ فَلَيْسَ بِعَيْنٍ.

From the book 'Safwat Al Akhbar' -

'Amir Al-Momineen^{-asws} judged regarding a man, it was claimed he was impotent. The husband denied that. He^{-asws} ordered the women to stuff the private part of the woman with 'Khalouq' (saffron), and not let her husband know of that. Then he^{-asws} said: 'Go to her!' If the male organ is stained with the saffron, he isn't impotent''²⁰⁸.

[باب 76 جوامع محرمات النكاح و عللها](#)

CHAPTER 76 – SUMMARY OF PROHIBITIONS OF THE MARRIAGE AND ITS REASONS

1- ل، الخصال الحسن بن حَزْرَةَ الْعَلَوِيِّ عَنْ مُحَمَّدِ بْنِ يَزْدَادَ عَنْ عَبْدِ اللَّهِ بْنِ أَحْمَدَ عَنْ سَهْلِ بْنِ صَالِحٍ عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ مُوسَى بْنِ جَعْفَرٍ عَنْ أَبِيهِ ع قَالَ: سُئِلَ أَبِي ع عَمَّا حَرَّمَ اللَّهُ عَزَّ وَ جَلَّ مِنَ الْفُرُوجِ فِي الْقُرْآنِ وَ عَمَّا حَرَّمَهُ رَسُولُ اللَّهِ ص فِي سُنَّتِهِ

(The book) 'Al Khisaal' – Al-Hassan Bin Hama Al Alawy, from Muhammad Bin Yazdad, from Abdullah Bin Ahmad, from Sahl Bin Salih, from Ibrahim Bin Abdul Rahman,

'From Musa^{-asws} Bin Ja'far^{-asws}, from his^{-asws} father^{-asws} having said: 'My^{-asws} father^{-asws} was asked about what private parts of women Allah^{-azwj} has Prohibited in the Quran, and about what Rasool-Allah^{-saww} had prohibited in his^{-saww} Sunnah.

فَقَالَ الَّذِي حَرَّمَ اللَّهُ عَزَّ وَ جَلَّ أَرْبَعَةٌ وَ ثَلَاثُونَ وَجْهًا سَبْعَةَ عَشَرَ فِي الْقُرْآنِ وَ سَبْعَةَ عَشَرَ فِي السُّنَّةِ

He^{-asws} said: 'That which Allah^{-azwj} Mighty and Majestic has Prohibited are thirty-four aspects – seventeen are in the Quran and seventeen are in the Sunnah.

فَأَمَّا الَّتِي فِي الْقُرْآنِ فَالزَّيْنَةُ قَالَ اللَّهُ عَزَّ وَ جَلَّ وَ لَا تَقْرُبُوا الرِّجَالَ وَ نِكَاحَ امْرَأَةِ الْأَبِ قَالَ اللَّهُ عَزَّ وَ جَلَّ وَ لَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ

²⁰⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 27

²⁰⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 75 H 28

As for that which is in the Quran, it is the adultery. Allah^{-azwj} Mighty and Majestic Said: **And do not go near the adultery [17:32]**, and marrying a wife of the father. Allah^{-azwj} Mighty and Majestic Said: **And you cannot marry from the women whom your fathers married [4:22]**.

وَأُمَّهَاتِكُمْ وَبَنَاتِكُمْ وَأَخَوَاتِكُمْ وَعَمَّاتِكُمْ وَخَالَاتِكُمْ وَبَنَاتِ الْأَخِ وَبَنَاتِ الْأُخْتِ وَأُمَّهَاتِكُمُ اللَّاتِي أَرْضَعْنَكُمْ وَأَخَوَاتِكُمُ مِنَ الرِّضَاعَةِ وَأُمَّهَاتِ نِسَابِكُمْ وَرَبَائِكُمُ اللَّاتِي فِي حُجُورِكُمْ مِنْ نِسَابِكُمُ اللَّاتِي دَخَلْتُمْ بِهِنَّ فَإِنْ لَمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَائِلُ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ وَأَنْ تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ

And **your mothers, and your daughters, and your sisters, and your paternal aunts, and your maternal aunts, and daughters of the brother and daughters of the sister, and your mothers who breast-fed you, and your sisters from the breast-feeding, and mothers of your wives, and your step-daughters who are in your care from the women whom you entered with, but, if you did not enter into them, then there is no blame upon you; and the wives of your sons who are from your loins, and from gathering between the two sisters (in marriage) [4:23]**.

وَالْحَائِضُ حَتَّى تَطْهُرَ قَالَ اللَّهُ عَزَّ وَجَلَّ وَلَا تَقْرُبُوهُنَّ حَتَّى يَطْهُرْنَ

And the menstruating woman until she is pure. Allah^{-azwj} Mighty and Majestic Says: **and do not go near them until they are clean [2:222]**.

وَالنِّكَاحُ فِي الْإِعْتِكَافِ قَالَ اللَّهُ عَزَّ وَجَلَّ وَلَا تُبَاشِرُوهُنَّ وَأَنْتُمْ عَاكِفُونَ فِي الْمَسَاجِدِ

And the marriage during Itikaaf. Allah^{-azwj} Mighty and Majestic Said: **and do not sleep with them while you are performing Itikaaf in the Masjid [2:187]**.

وَأَمَّا الَّتِي فِي الشَّئِئَةِ فَالْمُؤَاقَعَةُ فِي شَهْرِ رَمَضَانَ حَمَراً وَتَزْوِيجُ الْمَلَاعِنَةِ بَعْدَ الْبَعَانِ وَالتَّزْوِيجُ فِي الْعِدَّةِ وَ الْمُؤَاقَعَةُ فِي الْإِحْرَامِ وَ الْمُخْرَمُ يَتَزَوَّجُ أَوْ يُزَوَّجُ وَ الْمَطَاهِرُ قَبْلَ أَنْ يُكْفَرَ

And as for which is in the Sunnah – intimate marital relations during the daytime in Ramazan; marrying a woman who has undergone mutual cursing after the cursing; marriage during a woman's waiting period, intercourse during Hajj while in the state of Ihraam; a person in Ihraam marrying or giving someone in marriage; a man who has declared Zihhaar (saying his wife is like his mother) before offering expiation.

وَ تَزْوِيجُ الْمُشْرِكَةِ وَ تَزْوِيجُ الرَّجُلِ امْرَأَةً قَدْ طَلَّقَهَا لِالْعِدَّةِ تَسَعِ تَطْلِيقَاتٍ وَ تَزْوِيجُ الْأُمَةِ عَلَى الْحَرَّةِ وَ تَزْوِيجُ الدَّيْمِيَّةِ عَلَى الْمُسْلِمَةِ وَ تَزْوِيجُ الْمَرْأَةِ عَلَى عَمَّتِهَا أَوْ خَالَتِهَا وَ تَزْوِيجُ الْأُمَةِ مِنْ غَيْرِ إِذِنْ مَوْلَاهَا وَ تَزْوِيجُ الْأُمَةِ لِمَنْ يَغْدِرُ عَلَى تَزْوِيجِ الْحَرَّةِ

And marrying a Polytheist woman, marrying a woman whom a man has divorced nine times in sets of three within the waiting periods, marrying a slave woman alongside a free woman, marrying a Zimmi woman (non-Muslim under Muslim protection) alongside a Muslim woman, marrying a woman together with her paternal or maternal aunt, marrying a slave woman without her master's permission, marrying a slave woman when capable of marrying a free woman.

وَ الْجَارِيَّةُ مِنَ السَّبْيِ قَبْلَ الْقِسْمَةِ وَ الْجَارِيَّةُ الْمُشْرِكَةُ وَ الْجَارِيَّةُ الْمُشْتَرَاةُ قَبْلَ أَنْ يَسْتَبْرَأَهَا وَ الْمُكَاتِبَةُ الَّتِي قَدْ آدَتْ بَعْضَ الْمُكَاتِبَةِ.

And taking a slave girl (captive woman) before the spoils have been divided, taking a Polytheist slave woman, taking a purchased slave woman before ensuring she is not pregnant (by observing a waiting period), and marrying a slave woman who is under a contract of manumission when she has already paid part of her contract”²⁰⁹

2- ج، الإحتجاج سأل الزنديق فيما سأل أبا عبد الله ع لم حرم الله الزنا

(The book) ‘Al Ihtijaj’ -

‘An atheist asked, among what he asked Abu Abdullah^{-asws}, ‘Why did Allah^{-azwj} Prohibit the adultery?’

قَالَ لِمَا فِيهِ مِنَ الْفَسَادِ وَ ذَهَابِ الْمَوَارِيثِ وَ انْقِطَاعِ الْأَنْسَابِ لَا تَعْلَمُ الْمَرْأَةُ فِي الزَّيْنِ مَنْ أَحْبَلَهَا وَ لَا الْمَوْلُودُ يَعْلَمُ مَنْ أَبُوهُ وَ لَا الْأَرْحَامُ مَوْصُولَةً وَ لَا قَرَابَةً مَعْرُوفَةً

He^{-asws} said: ‘Due to the corruption what is in it, and misappropriation of the inheritances, and termination of the lineages. The woman in the adultery does not know who had impregnated her, nor does the new-born know who its father it, nor the connected kinship, nor are the relatives recognised’.

قَالَ فَلِمَ حَرَّمَ اللّٰوِاطَ

He said, ‘Why did He^{-azwj} Prohibit sodomy?’

قَالَ مِنْ أَجْلِ أَنَّهُ لَوْ كَانَ إِثْبَانُ الْعُلَامِ حَالًا لَا سْتَعْنَى الرَّجَالُ مِنَ النِّسَاءِ وَ كَانَ فِيهِ قَطْعُ النَّسْلِ وَ تَغْطِيلُ الْفُرُوجِ وَ كَانَ فِي إِجَارَةِ ذَلِكَ فَسَادٌ كَثِيرٌ

He^{-asws} said: ‘For the reason, if approaching boys were permissible, men would have no need for women, lineages would be cut off, private parts would be rendered idle, and permitting such a thing would lead to a lot of corruption’.

قَالَ فَلِمَ حَرَّمَ إِثْبَانَ الْبَهِيمَةِ

He said, ‘Why did He^{-azwj} Prohibit approaching the animals (bestiality)?’

قَالَ كَرِهَ أَنْ يُضَيِّعَ الرَّجُلُ مَاءَهُ وَ يَأْتِيَ غَيْرَ شَكْلِهِ وَ لَوْ أَبَاحَ ذَلِكَ لَرَبَطَ كُلُّ رَجُلٍ أَنَا نَا بَرَكِبَ ظَهْرَهَا وَ يَعْشَى فَرْجَهَا فَكَانَ يَكُونُ فِي ذَلِكَ فَسَادٌ كَثِيرٌ فَأَبَاحَ ظَهْرَهَا وَ حَرَّمَ عَلَيْهِمْ فُرُوجَهَا وَ خَلَقَ لِلرِّجَالِ النِّسَاءَ لِيَأْنِسُوا بِهِنَّ وَ يَسْكُنُوا إِلَيْهِنَّ وَ يَكُنَّ مَوْضِعَ شَهَوَاتِهِمْ وَ أُمَّهَاتِ أَوْلَادِهِمْ.

He^{-asws} said: ‘He^{-azwj} Dislikes for the man to that a man should waste his water and approach something other than its proper form. If that were permitted, every man would tie up a she-donkey, ride on its back, and union with it, which would lead to great corruption. So, He^{-azwj} Permitted their backs for riding but Forbade their private parts, and He^{-azwj} Created women

²⁰⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 76 H 1

for men so they may find comfort with them, be at peace with them, and so that women would be the place for their desires and be mothers of their children!”²¹⁰

3- فس، تفسير القمي قَالَ عَلِيُّ بْنُ إِبْرَاهِيمَ فِي قَوْلِهِ وَ لَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ فَإِنَّ الْعَرَبَ كَانُوا يَنْكِحُونَ نِسَاءَ آبَائِهِمْ فَكَانَ إِذَا كَانَ لِلرَّجُلِ أَوْلَادٌ كَثِيرٌ وَ لَهُ أَهْلٌ وَ لَمْ تَكُنْ أُمَّهُمُ ادَّعَى كُلُّ وَاحِدٍ فِيهَا فَحَرَّمَ اللَّهُ مُنَاكَحَتَهُمْ

(The book) ‘Tafseer Al Qummi’ –

Ali Bin Ibrahim said regarding His^{-azwj} Words: **And you cannot marry from the women whom your fathers married except for what has passed [4:22]**. The Arabs were marrying wives of their mothers and when a man had many sons and a wife who was not their mother, each one of them would lay claim to her. So, Allah^{-azwj} Forbade them from marrying such women.

ثُمَّ قَالَ حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَ بنَاتُكُمْ وَ أَخَوَاتُكُمْ وَ عَمَّاتُكُمْ وَ خَالَاتُكُمْ وَ بناتُ الْأَخِ وَ بناتُ الْأُخْتِ إِلَى آخِرِ الْآيَةِ فَإِنَّ هَذِهِ الْمُحَرَّمَاتِ هِيَ مُحَرَّمَةٌ وَ مَا فَوْقَهَا إِلَى أَقْصَاهَا وَ كَذَلِكَ الْإِبْنَةُ وَ الْأُخْتُ

Then He^{-azwj} Said: **your mothers, and your daughters, and your sisters, and your paternal aunts, and your maternal aunts, and daughters of the brother and daughters of the sister [4:23]** – up to the end of the Verse. So, these women who are forbidden in marriage are indeed prohibited, as well as those above them to the utmost degree, and likewise a daughter and a sister.

وَ أَمَّا الْبَنَاتُ هِيَ مُحَرَّمَةٌ بِنَفْسِهَا وَ بِنْتُهَا حَلَالٌ فَالْعَمَّةُ وَ الْخَالَاتُ هِيَ مُحَرَّمَةٌ بِنَفْسِهَا وَ بِنْتُهَا حَلَالٌ وَ أُمَّهَاتُ النِّسَاءِ أُمَّهَاتُ مُحَرَّمَةٌ وَ بِنْتُهَا حَلَالٌ إِذَا مَاتَتْ ابْنَتُهَا الْأُولَى الَّتِي هِيَ امْرَأَتُهُ أَوْ طَلَّقَهَا.

As for those who are forbidden in themselves while their daughters are lawful, they are the paternal aunt and the maternal aunt, for they are forbidden in themselves while their daughters are lawful. And the mothers of wives are forbidden, while their daughters are lawful if his first wife, who is their mother, dies or if he divorces her”^{.211}

4- شي، تفسير العياشي عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي الْمُحْصَنَاتِ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ قَالَ هُنَّ ذَوَاتُ الْأَزْوَاجِ.

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

‘From Abu Abdullah^{-asws} regarding **And (Prohibited are) the married ones from the women except what your right hands possess [4:24]**. He^{-asws} said: ‘These are ones with the husbands’^{.212}

5- ين، كتاب حسين بن سعيد و النوادر عن ابن خُرَّزَادٍ عَمَّنْ رَوَاهُ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِهِ وَ الْمُحْصَنَاتُ مِنَ النِّسَاءِ قَالَ كُلُّ ذَوَاتِ الْأَزْوَاجِ.

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – From Ibn Khurrazad, from the one who reported it,

²¹⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 76 H 2

²¹¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 76 H 3

²¹² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 76 H 4

‘From Abu Abdullah^{-asws} regarding His^{-azwj} Words: **And (Prohibited are) the married ones from the women [4:24]**. He^{-asws} said: ‘Every one with the husbands’^{.213}

6- شي، تفسير العياشي أحمد بن محمد بن المثنى عن زُرارة و داود بن سِرْحان عن عبد الله بن بكير عن أديم بن أبي الهروي عن أبي عبد الله ع أنه قال: الملائنة إذا لا عنها زوجها لم تحل له أبداً و الذي يتزوج المرأة في عدتها و هو يعلم لا تحل له أبداً و الذي يطلق الطلاق الذي لا تحل له حتى تنكح زوجاً غيره ثلاث مرات لا تحل له أبداً و المخرم إن تزوج و هو يعلم أنه حرام عليه لا تحل له أبداً.

(The book) ‘Tafseer Al Ayyashi’ – Ahmad Bin Muhammad, from Al Musanna, from Zurara, and Dawood Bin Sirhan, from Abdullah Bin Bukeyr, from Udeym Baya Al Harwy,

‘From Abu Abdullah^{-asws} having said: ‘The mutually cursed wife, when her husband curses her, she is not Permissible for him, ever, and the one who marries the woman during her waiting period while he knows, she is not Permissible for him, ever, and the one who divorces the divorce which is not permissible for him until she marries another husband three times, she is not permissible for him, ever, and the one in Ihraam, if he marries while he knows it is prohibited unto him, she is not permissible for him, ever’^{.214}

باب 77 ما نهي عنه من نكاح الجاهلية

CHAPTER 77 – WHAT IS PROHIBITED FROM IT, FROM THE PRE-ISLAMIC MARRIAGES

1- مع، معاني الأخبار أبي عن سعد بن ابن أبي الخطاب عن جعفر بن بشير عن عيانت قال سمعت أبا عبد الله ع يقول لا جلب و لا جنب و لا شغار في الإسلام.

(The book) ‘Ma’any Al Akhbar’ – My father, from Sa’ad, from Ibn Abu Al Khattab, from Ja’far Bin Bashir, from Giyas who said,

‘I heard Abu Abdullah^{-asws} saying: ‘There is neither ‘Jalab’, nor ‘Janab’, nor ‘Shighar’ in Al-Islam’^{.215}

قال الجلب الذي يجلب مع الخيل يركض معها و الجنب الذي يقوم في أعراض الخيل فيصيح بها و الشغار كان يزوج الرجل في الجاهلية ابنته بأخته. قال الصدوق يعني أنه كان الرجل في الجاهلية يزوج ابنته من رجل على أن يكون مهرها أن يزوجه ذلك الرجل أخته.

Explanation – ‘Al-Jalab’ is when someone drives horses, running along with them, and Janab’ is when someone stands at the sides of the horses and shouts at them. As for ‘Shighar’, it was that in the pre-Islamic period a man would marry off his daughter in exchange for the other man marrying him his sister. Al-Saduq said, ‘This means that in the Pre-Islamic period, a man would give his daughter in marriage to another man on the condition that the dowry would be that the other man give him his sister in marriage’.

²¹³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 76 H 5

²¹⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 76 H 6

²¹⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 77 H 1

2- مع، معاني الأخبار القاسم بن محمد السراج عن أحمد بن الحسين عن إبراهيم بن أحمد عن أبي الحماني عن عبد السلام عن إسحاق بن عبد الله عن زيد بن أسلم عن عطاء بن يسار عن أبي هريرة قال: كان البدل في الجاهلية أن يقول الرجل للرجل بادلي بامرأتك و أبادلك بامرأتي تترك لي عن امرأتك فأترك لك عن امرأتي فأنزل الله عز وجل ولا أن تبدل بهن من أزواج ولو أعجبك حسنهن

(The book) 'Ma'any Al Akhbar' – Al Qasim Bin Muhammad Al Sarraj, from Ahmad Bin Al Husayn, from Ibrahim Bin Ahmad, from Abu Al Himmani, from Abdul Salam, from Is'haq Bin Abdullah, from Zayd Bin Aslam, from Ata'a Bin Yasaar, from Abu Hureyra (well-known fabricator) who said,

'The 'Badal' (exchange) during the pre-Islamic period was that the man would say to the man, 'Exchange for me your wife for mine! Leave your wife for me and I will leave my wife for you'. So, Allah^{-azwj} Mighty and Majestic Revealed: **nor for you to replace them with (other) wives even though their beauty may fascinate you [33:52]**'.

قَالَ فَدَخَلَ عُيَيْنَةُ بْنُ حُصَيْنٍ عَلَى النَّبِيِّ صَ وَ عِنْدَهُ عَائِشَةُ فَدَخَلَ بِغَيْرِ إِذْنٍ فَقَالَ لَهُ النَّبِيُّ صَ فَأَيُّنَ الْإِسْتِغْدَانُ

He (Abu Hureyra) said, 'Uyayna Bin Huseen entered to see the Prophet^{-saww} and in his^{-saww} presence was Ayesha. He entered without permission. The Prophet^{-saww} said to him: 'So where is seeking of the permission?'

قَالَ مَا اسْتَأْذَنْتُ عَلَى رَجُلٍ مِنْ مُضَرَ مُنْذُ أُدْرِكْتُ ثُمَّ قَالَ مَنْ هَذِهِ الْحَمِيرَاءُ إِلَى جَنْبِكَ

He said, 'I have not sought permission to see any man from (the tribe of) Muzar since I became an adult!' Then he said, 'Who is this 'Al-Humeyra' to your^{-saww} side?'

فَقَالَ رَسُولُ اللَّهِ صَ هَذِهِ عَائِشَةُ أُمُّ الْمُؤْمِنِينَ

Rasool-Allah^{-saww} said: 'This is Ayesha, mother of the believers'.

قَالَ عُيَيْنَةُ أَفَلَا أُتْرِكُ لَكَ عَنْ أَحْسَنِ الْخَلْقِ وَ تَتْرُكُ عَنْهَا

Uyayna said, 'Shall I leave for you^{-saww} the most beautiful of the creatures and you^{-saww} leave her (for me)?'

فَقَالَ رَسُولُ اللَّهِ صَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ قَدْ حَرَّمَ ذَلِكَ عَلَيَّ

Rasool-Allah^{-saww} said: 'Allah^{-azwj} Mighty and Majestic has Prohibited that unto me^{-saww}!'

فَلَمَّا خَرَجَ قَالَتْ لَهُ عَائِشَةُ مَنْ هَذَا يَا رَسُولَ اللَّهِ

When he went out, Ayesha said to him^{-saww}, 'Who is this, O Rasool-Allah^{-saww}?'

قَالَ هَذَا أَحْمَقُ مُطَاعٌ وَ إِنَّهُ عَلَى مَا تَرَيْنَ سَيِّدُ قَوْمِهِ.

He^{-saww} said: ‘This is an idiot obeyed (by the people), and upon what you have seen, he is chief of his people’^{.216}

3- لي، الأماالي للصدوق في خبر المناهي أن النبي ص نهى أن يقول الرجل للرجل زوجني أختك أزوجك أخي.

(The book) ‘Al Amaali’ of Al Sadouq -

‘In a Hadeeth of the prohibitions, the Prophet^{-saww} prohibited the man from saying to the man, ‘Get your sister married to me, I will get my sister married to you!’²¹⁷

²¹⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 77 H 2

²¹⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 77 H 3

باب 21 الكفاءة في النكاح و أن المؤمنين بعضهم أكفاء بعض و من يكره نكاحه و النهي على العضل

CHAPTER 78 – THE MATCHING IN THE MARRIAGE AND THAT SOME OF THE MOMINEEN ARE A MATCH FOR SOME, AND ONE WHOSE MARRIAGE IS DISLIKED, AND THE PROHIBITION OF THE PREVENTION (OF MARRIAGE)

1- ع، علل الشرائع ن، عيون أخبار الرضا عليه السلام أبي عن القاسم بن محمد بن علي النهأوندي عن صالح بن زاهويه عن أبي حنون مؤلى الرضا ع قال: نزل جبرئيل على النبي ع فقال يا محمد ربك يقرئك السلام و يقول إن الأبقار من النساء بمنزلة القمر على الشجر فإذا أبتع فلا دواء له إلا اجتنأؤه و إلا أفسدته الشمس و غيرته الريح و إن الأبقار إذا أدركن ما تدرك النساء فلا دواء لهن إلا البعول و إلا لم يؤمن عليهن الفتنه

(The book) 'Ilal Al Sharaie', (and) 'Uyoun Akhbar Al-Reza^{asws}, may the greeting be upon him^{asws} – My father, from Al Qasim Bin Muhammad Bin Ali Al Nahwandy, from Salih Bin Rahway,

'From Abu Hayoun slave of Al-Reza^{asws} said: 'Jibraeel^{as} descended unto the Prophet^{saww}. He^{as} said: 'O Muhammad^{saww}! Your^{saww} Lord^{azwj} Conveys the greeting to you^{saww} and Says: 'The virgins from the women are at the status of the fruit upon the tree. When they ripen, there is no cure for it except to pick it, or else the sun would spoil it and the wind will alter it! And the virgins, when they mature what the women mature to, there is no cure for them except the husbands, or else there is no safety upon them of the Fitna (temptation)!''

فصعد رسول الله ص المنبر فخطب الناس ثم أعلمهم ما أمرهم الله به فقالوا بمن يا رسول الله

Rasool-Allah^{saww} ascended the pulpit and addressed the people. Then he let them know what Allah^{azwj} had Commended them with. They said, '(Get them married to) who, O Rasool-Allah^{saww}?

فقال الأكفاء

He^{saww} said: 'The matches!'

فقالوا و من الأكفاء

They said, 'And who are the matches?'

فقال المؤمنون بعضهم أكفاء بعض

He^{saww} said: 'Some of the believers are matches of some!'

ثم لم ينزل حتى روج ضباعة الميقداد بن الأسود ثم قال أيها الناس إنما زوجت ابنة عمي الميقداد ليتضع النكاح.

Then he^{saww} did not descend until he^{saww} got Zuba'a to Al-Miqdad Bin Al Aswad^{ra}, then said: 'O you people! But rather, I^{saww} am getting a daughter of my^{saww} uncle married to Al-Miqdad^{ra} in order to place (lay the foundation) of the marriage!''²¹⁸

²¹⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 1

2 ما، الأماي للشيخ الطوسي بإسناد المَجاشعِي عَنِ الصَّادِقِ عَنِ آبَائِهِ ع قَالَ قَالَ النَّبِيُّ ص إِنَّمَا النِّكَاحُ رِقٌّ فَإِذَا أَنْكَحَ أَحَدُكُمْ وَلِيدَةً فَقَدْ أَرْفَهَا فَلْيَنْظُرْ أَحَدُكُمْ لِمَنْ يُرِقُّ كَرِيْمَتَهُ.

(The book) 'Al Amali' of the sheykh Al Tusi – By a chain of Al Mujashie,

'From Al-Sadiq^{-asws}, from his^{-asws} forefather^{-asws} having said: 'The Prophet^{-saww} said: 'But rather, the marriage is a form of servitude (submission). So, when one of you gives his daughter in marriage, he has placed her in servitude; therefore, let each one of you look carefully to whom he is placing his noble daughter in servitude'.²¹⁹

3- ما، الأماي للشيخ الطوسي بِهَذَا الْإِسْنَادِ قَالَ قَالَ رَسُولُ اللَّهِ ص إِذَا جَاءَكُمْ مَنْ تَرْضَوْنَ دِينَهُ وَ أَمَانَتَهُ يَخْطُبُ إِلَيْكُمْ فَزَوِّجُوهُ إِلَّا تَفْعَلُوهُ تَكُنْ فِتْنَةً فِي الْأَرْضِ وَ فَسَادًا كَبِيرًا.

(The book) 'Al Amaali' of the sheykh Al Tusi – By this chain,

He^{-asws} said: 'Rasool-Allah^{-saww} said: 'When there comes to you someone you are pleased with his religion, and his trustworthiness, proposing to you (of your daughter), marry to him, **if you do not do it, Fitna (strife) would occur in the land and a great mischief [8:73]**'.²²⁰

4- مع، معاني الأخبار أَبِي عَنْ سَعْدِ عَنِ ابْنِ هَاشِمٍ عَنِ ابْنِ مَرَّارٍ عَنْ يُونُسَ قَالَ حَدَّثَنِي جَمَاعَةٌ مِنْ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ: الْكُفُو أَنْ يَكُونَ عَقِيفًا وَ عِنْدَهُ يَسَارٌ.

(The book) 'Ma'any Al Akhbar' – My father, from Sa'ad, from Ibn Hashim, from Ibn Marrar, from Yunus who said, 'It is narrated to me by a group of our companions,

'From Abu Abdullah^{-asws}, he^{-asws} said: 'The match is that he should be chaste and there should be financial ease with him''.²²¹

5- ب، قرب الإسناد عَلِيُّ عَنْ أَخِيهِ ع قَالَ: سَأَلْتُهُ أَنْ زَوْجَ بِنْتِي عَلَامٌ فِيهِ لِينٌ وَ أَبُوهُ لَا بَأْسَ بِهِ

(The book) 'Qurb Al Isnaad' -

'Ali, from his brother (Al-Kazim^{-asws}), said, 'I asked him^{-asws}, 'Can I get my daughter to a boy having gentleness in him and his father, there is no problem with him?'

قَالَ إِذَا لَمْ تَكُنْ فَاحِشَةً فَزَوِّجْهُ.

He^{-asws} said: 'If she does not happen to be immoral, get her married to him''.²²²

6- ع، علل الشرائع أَبِي عَنْ سَعْدِ عَنِ ابْنِ هَاشِمٍ عَنِ عَبْدِ اللَّهِ بْنِ حَمَّادٍ عَنِ شَرِيكَ عَنِ جَابِرٍ عَنِ أَبِي جَعْفَرٍ ع قَالَ قَالَ رَسُولُ اللَّهِ ص لَا تَسْبُوا فُرَيْشًا وَ لَا تُبْعِضُوا الْعَرَبَ وَ لَا تُدْلُوا الْمَوَالِيَّ وَ لَا تُسَاكِنُوا الْحَوْرَ وَ لَا تَزَوِّجُوا إِلَيْهِمْ فَإِنَّ لَهُمْ عِرْقًا يَدْعُوهُمْ إِلَى غَيْرِ الْوَفَاءِ.

²¹⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 2

²²⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 3

²²¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 4

²²² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 5

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Ibn Hashim, from Abdullah Bin Hammad, from Shareek, from Jabir,

'From Abu Ja'far^{-asws} having said: 'Rasool-Allah^{-saww} said: 'Neither revile Qureysh nor hate the Arabs, nor humiliate the 'Mawali' (freed people integrated into society), nor settle with Al-Khowz (a region of Khuzestan), nor marry to them, for there is a vein for them calling them to disloyalty''²²³

7- ضا، فقه الرضا عليه السلام إِنْ حَظَبَ إِلَيْكَ رَجُلٌ رَضِيتَ دِينَهُ وَ حُلُقَهُ فَرَوْجُهُ وَ لَا يَمْتَعِكَ قَرُؤُهُ وَ فَاقْتُهُ قَالَ اللَّهُ تَعَالَى وَ إِنْ يَتَفَرَّقَا يُغْنِ اللَّهُ كُلاًّ مِنْ سَعَتِهِ وَ قَالَ إِنْ يَكُونُوا قُرَاءً يُغْنِيهِمُ اللَّهُ مِنْ فَضْلِهِ وَ اللَّهُ وَاسِعٌ عَلِيمٌ وَ لَا يُتَزَوَّجُ شَارِبُ خَمْرٍ فَإِنَّ مَنْ فَعَلَ فَكَأَنَّمَا فَادَهَا إِلَى الزَّانَا.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'If a proposes to you (for your daughter), you are pleased with his religion and his mannerisms, marry to him and his poverty and his destitution should not prevent you! Allah^{-azwj} the Exalted: **And if they separate, Allah would Enrich each one from His Capaciousness [4:130]**, and do not marry to a drinker of wine, for the one who does, it is as if he has led her to the adultery''²²⁴

8- ضا، فقه الرضا عليه السلام نُورِي أَنَّ رَسُولَ اللَّهِ ص نَظَرَ إِلَى وَلَدَيْ أَمِيرِ الْمُؤْمِنِينَ الْحَسَنِ وَ الْحُسَيْنِ صَلَوَاتِ اللَّهِ عَلَيْهِمْ وَ بَنَاتِ جَعْفَرِ بْنِ أَبِي طَالِبٍ صَلَوَاتِ اللَّهِ عَلَيْهِ فَقَالَ بَنُونَا لِبَنَاتِنَا وَ بَنَاتُنَا لِبَنِينَا.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'We are reporting that Rasool-Allah^{-saww} looked at the two sons^{-asws} of Amir Al-Momineen^{-asws}, Al-Hassan^{-asws} and Al-Husayn^{-asws}, may the Salawaat of Allah^{-azwj} be upon them^{-asws}, and the daughters of Ja'far^{-asws} Bin Abu Talib^{-asws}, may the Salawaat of Allah^{-azwj} be upon him^{-asws}. He^{-saww} said: 'Our^{-asws} son are for our^{-asws} daughters, and our^{-asws} daughters are for our^{-asws} sons!''²²⁵

9- فتح، فتح الأبواب مُحَمَّدُ بْنُ يَعْقُوبَ الْكَلْبِيِّ فِي كِتَابِ الرَّسَائِلِ قَالَ: كَتَبَ مَوْلَانَا الْجَوَادُ ع إِلَى عَلِيِّ بْنِ أَسْبَاطٍ فَهَمَّتْ مَا ذَكَرْتَ مِنْ أَمْرِ بَنَاتِكَ وَ أَنَّكَ لَا تَجِدُ أَحَدًا مِثْلَكَ فَلَا تُفَكِّرْ فِي ذَلِكَ يَرْحَمَكَ اللَّهُ فَإِنَّ رَسُولَ اللَّهِ ص قَالَ إِذَا جَاءَكُمْ مِنْ تَرْضَوْنَ حُلُقَهُ وَ دِينَهُ فَرَوْجُهُ وَ إِلَّا تَفَعَلُوهُ تَكُنْ فِتْنَةً فِي الْأَرْضِ وَ فَسَادًا كَبِيرًا.

(The book) 'Fatah Al Abwab' – Muhammad Bin Yaquob Al Kulayni in the book 'Al Rasaail', said,

'Our Master Al-Jawad^{-asws} wrote to Ali Bin Asbat: 'I^{-asws} have understood what you mentioned from the matter of your daughters, and you cannot find anyone like you, so do not think (worry) regarding that, Allah^{-azwj} will Mercy you, for Rasool-Allah^{-saww} said: 'When there comes to you someone you are pleased with his manners and his religion, marry to him, **if you do not do it, Fitna (strife) would occur in the land and a great mischief [8:73]**'²²⁶

10- شي، تفسير العياشي عَنْ إِبْرَاهِيمَ بْنِ مَيْمُونٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ لَا يَحِلُّ لَكُمْ أَنْ تَرْتُوا النِّسَاءَ كَرْهًا وَ لَا تَعْضُلُوهُنَّ لِيَتَذَعِبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ قَالَ الرَّجُلُ تَكُونُ فِي حَجْرِهِ الْيَتِيمَةُ فَيَمْنَعُهَا مِنَ التَّزْوِيجِ لِيَرْتَهَا بِمَا تَكُونُ قَرِينَةً لَهُ

²²³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 6

²²⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 7

²²⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 8

²²⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 9

(The book) 'Tafseer Al Ayyashi' – From Ibrahim Bin Maymoun,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about Words of Allah^{-azwj} Mighty and Majestic: ***It is not Permissible for you that you should take women as heritage forcibly, and do not straiten them in order to go away with part of what you gave them [4:19]***. He^{-asws} said: 'The man, happening to have an orphan girl in his lap, so he prevents her from the marriage in order to inherit her inheritance due to her close relationship to him'.

قُلْتُ وَ لَا تَعْضُلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ

I said, '***and do not straiten them in order to go away with part of what you gave them [4:19]***?'

قَالَ الرَّجُلُ تَكُونُ لَهُ الْمَرْأَةُ فَيَضْرِبُهَا حَتَّى تَقْتَلِي مِنْهُ فَهِيَ اللَّهُ عَنْ ذَلِكَ.

He^{-asws} said: 'The man, happening to have the wife for him, so he beats her until she ransoms herself from him. Allah^{-azwj} has Prohibited from that''²²⁷

11- شي، تفسير العياشي عن هاشم بن عبد الله بن السري العجلي قال: سألتُه عن قول الله وَ لَا تَعْضُلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ قَالَ فَحَكَى كَلَاماً ثُمَّ قَالَ كَمَا يَقُولُونَ بِالْبَطِيَّةِ إِذَا طَرَحَ عَلَيْهَا النَّوْبَ عَضَلَهَا فَلَا تَسْتَطِيعُ أَنْ تَزُوجَ غَيْرَهُ وَ كَانَ هَذَا فِي الْجَاهِلِيَّةِ.

(The book) 'Tafseer Al Ayyashi' – From Hashim Bin Abdullah Bin Al Sary Al Ajly who said,

'I asked him^{-asws} about Words of Allah^{-azwj}: ***and do not straiten them in order to go away with part of what you gave them [4:19]***. He^{-asws} said: 'He^{-asws} narrated a speech, then said: 'Just as they were saying (gesturing) in the Nabatean (language/tradition), when he drops the garment upon her, he has straitened her, so she is not able to marry someone else, and this was happening during the pre-Islamic period''²²⁸

12- قب، المناقب لابن شهر آشوب قَالَ بَعْضُ الْخَوَارِجِ لِهَيْشَامِ بْنِ الْحَكَمِ الْعَجَمِيِّ تَزَوَّجَ فِي الْعَرَبِ

(The book) 'Al Manaqib' of Ibn Shehr Ashub –

'One of the Kharijites said to Hisham Bin Al-Hakam, 'The non-Arab marries among the Arabs'.

قَالَ نَعَمْ

He said, 'Yes'.

قَالَ فَالْعَرَبُ تَزَوَّجُ فِي قُرَيْشٍ

He said, 'The Arab marrying into Qureysh?'

²²⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 10

²²⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 11

قَالَ نَعَمْ

He said, 'Yes'.

قَالَ فُقَيْرِشٌ تَنْزَوْحٌ فِي بَنِي هَاشِمٍ

He said, 'Qureysh marrying into the clan of Hashim^{-as?}'

قَالَ نَعَمْ

He said, 'Yes'.

فَجَاءَ الْخَارِجِيُّ إِلَى الصَّادِقِ ع فَقَصَّ عَلَيْهِ ثُمَّ قَالَ أَسَمِعَهُ مِنْكَ

The Kharijite came to Al-Sadiq^{-asws} and narrated the story to him^{-asws}, then said, 'Can I hear it from you^{-asws?}'

فَقَالَ ع نَعَمْ فَقَدْ قُلْتَ ذَلِكَ

He^{-asws} said: 'Yes, I^{-asws} have said that!'

قَالَ الْخَارِجِيُّ فَهَذَا أَنَا قَدْ جِئْتُكَ خَاطِبًا

The Kharijite said, 'So here I am having come to you^{-asws} as a proposer!'

فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ ع إِنَّكَ لَكُفُوٌّ فِي دِينِكَ وَ حَسْبُكَ فِي قَوْمِكَ وَ لَكِنَّ اللَّهَ عَزَّ وَ جَلَّ صَانِعَنَا عَنِ الصَّدَقَاتِ وَ هِيَ أَوْسَاخُ أَيْدِي النَّاسِ فَتَكْرَهُ أَنْ تُشْرِكَ فِيهَا فَصَلْنَا اللَّهَ بِهِ مَنْ لَمْ يَجْعَلِ اللَّهُ لَهُ مِثْلَ مَا جَعَلَ لَنَا

Abu Abdullah^{-asws} said to him: 'You are a match in your religion and it suffices you in your people, but Allah^{-azwj} Mighty and Majestic has Protected us^{-asws} from the charities, and these are filth of hands of the people. Thus, in what Allah^{-azwj} had Merited us^{-asws} with, we^{-asws} dislike to participate someone Allah^{-azwj} has not Made for him similar to what He^{-azwj} has Made for us^{-asws}!'

فَقَامَ الْخَارِجِيُّ وَ هُوَ يَقُولُ بِاللَّهِ مَا رَأَيْتُ رَجُلًا مِثْلَهُ رَدَّنِي وَ اللَّهُ أَقْبَحَ رَدِّ وَ مَا خَرَجَ مِنْ قَوْلِ صَاحِبِهِ.

The Kharijite stood up and he was saying, 'By Allah^{-azwj}, I have not seen a man like him^{-asws}! He^{-asws} rejected me, by Allah^{-azwj}, with ugliest of rejections, and did not go out from the words of his^{-asws} companion!''²²⁹

13- ين، كتاب حسين بن سعيد و النوادر النضر عن ابن رباب عن زُرارة عن أبي جعفر ع قَالَ: إِنَّ عَلِيَّ بْنَ الْحُسَيْنِ ع رَأَى امْرَأَةً فِي بَعْضِ مَشَاهِدِ مَكَّةَ فَأَعْجَبَتْهُ فَحَطَبَتْهَا إِلَى نَفْسِهَا وَ تَزَوَّجَهَا فَكَانَتْ عِنْدَهُ وَ كَانَ لَهُ صَدِيقٌ مِنَ الْأَنْصَارِ فَاعْتَمَّ لِتَزْوِجِهِ بِتِلْكَ الْمَرْأَةِ فَسَأَلَ عَنْهَا فَأُخْبِرَ أَنَّهَا مِنْ آلِ ذِي الْجُدَيْينِ مِنْ بَنِي سَيْبَانَ فِي نَيْبِ عَلِيٍّ مِنْ قَوْمِهَا

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Ibn Riab, from Zurara,

'From Abu Ja'far^{-asws} having said: 'Ali^{-asws} Bin Al-Husayn^{-asws} saw a woman in one of the Monuments of Makkah. She fascinated him. He^{-asws} proposed to her to herself and married her. She was with him^{-asws}, and there was a friend of his^{-asws} from the Helpers. He was saddened at his^{-asws} having married that woman. He asked about her and was informed that she was from the family of Zil Jadeyn from the clan of Shayban in an exalted household from her people.

فَأَقْبَلَ عَلَى عَلِيٍّ بْنِ الْحُسَيْنِ فَقَالَ اللَّهُ فِدَاكَ مَا زَالَ تَزْوِيحُكَ هَذِهِ الْمَرْأَةَ فِي نَفْسِي وَ قُلْتُ تَزْوِجَ عَلِيٍّ بْنِ الْحُسَيْنِ امْرَأَةً مَجْهُولَةً وَ يَقُولُ النَّاسُ أَيْضاً فَلَمْ أَزَلْ أَسْأَلُ عَنْهَا حَتَّى عَرَفْتُهَا وَ وَجَدْتُهَا فِي بَيْتِ قَوْمِهَا شَيْبَانِيَّةً

He came to Ali^{-asws} Bin Al-Husayn^{-asws}. He said, 'May Allah^{-azwj} Make me sacrificed for you^{-asws}! Your^{-asws} marrying this woman has not ceased to be in my mind, and I said, 'Ali^{-asws} Bin Al-Husayn^{-asws} has married an unknown woman', and the people are saying so as well! So, I did not cease asking about her until I recognised her and found her to be in a household of her people, the clan of Shayban'.

فَقَالَ لَهُ عَلِيٌّ بْنُ الْحُسَيْنِ عَ قَدْ كُنْتُ أَحْسَبُكَ أَحْسَنَ رَأياً مِمَّا أَرَى إِنَّ اللَّهَ أتَى بِالْإِسْلَامِ فَرَفَعَ بِهِ الْحَسِيْسَةَ وَ أَمَّ بِهِ النَّاقِصَةَ [النَّاقِصَةَ] وَ كَرَّمَ بِهِ اللَّؤْمَ فَلَا لُؤْمَ عَلَى الْمُسْلِمِ إِتْمَا اللَّؤْمَ لُؤْمَ الْجَاهِلِيَّةِ.

Ali^{-asws} Bin Al-Husayn^{-asws} said to him: 'I^{-asws} had viewed that you were of better view than what I^{-asws} view! Allah^{-azwj} Came with Al-Islam. He^{-azwj} Raised the lowly by it and Completed the deficiency, and Honoured the base. Thus, there is no baseness upon the Muslim, but rather the baseness is baseness of the pre-Islamic period"²³⁰

14- ~~ين، كتاب حسين بن سعيد و البوادير النضر عن الحسين بن موسى عن زرارة عن أحدهما ع قال: إن علي بن الحسين ع تزوج أم ولد عبد الحسين و تزوج أمه مولاة~~

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Husayn Bin Musa, from Zurara,

~~'From one of the two (5th or 6th Imam^{-asws}) having said: 'Ali^{-asws} Bin Al-Husayn^{-asws} married mother of the children of his^{-asws} uncle Al-Hassan^{-asws} and got his^{-asws} mother married to his^{-asws} freed slave.~~

~~فَلَمَّا بَلَغَ ذَلِكَ عَبْدَ الْمَلِكِ بْنِ مَرْوَانَ كَتَبَ إِلَيْهِ يَا عَلِيُّ بْنُ الْحُسَيْنِ كَأَنَّكَ لَا تَعْرِفُ مَوْضِعَكَ مِنْ قَوْمِكَ وَ قَدِيرَكَ عِنْدَ النَّاسِ تَزَوَّجْتَ مَوْلَاةً وَ زَوَّجْتَ مَوْلَاكَ بِأُمَّتِكَ~~

~~When that reached Abdul Malik Bin Marwan, he wrote to him^{-asws}, 'O Ali^{-asws} Bin Al-Husayn^{-asws}! It is as if you^{-asws} do not know your^{-asws} own place from your^{-asws} people, and your^{-asws} own worth in the view of the people! You^{-asws} married a slave woman and you^{-asws} gave your^{-asws} mother in marriage to your^{-asws} slave?'~~

²³⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 13

كَتَبَ إِلَيْهِ عَلِيُّ بْنُ الْحُسَيْنِ عَ فِيهِمْ كِتَابَكَ وَ لَنَا أُسْوَةٌ بِرَسُولِ اللَّهِ ص فَقَدْ زَوَّجَ زَيْنَبَ بِنْتَ عَمِّهِ زَيْدًا مَوْلَانَهُ وَ زَوَّجَ مَوْلَانَهُ بِنْتَ حُجَيْبِ بْنِ أَحْطَبٍ.

Ali^{-asws} Bin Al Husayn^{-asws} wrote to him: ‘I^{-asws} have understood your letter, and for us there is an example with Rasool Allah^{-sawww}! He^{-sawww} had got Zaynab daughter of his^{-sawww} uncle to his^{-sawww} freed slave Zayd, and married his^{-sawww} freed slave girl the daughter of Huyay Bin Al Akhtab’²³¹

NB: Unclear and inconsistent Hadith. Please refer to different versions in Al Kafi vol 5, the book of marriage.

15- نَوَادِرُ الرَّوَّانِدِيِّ، بِإِسْنَادِهِ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ ع قَالَ قَالَ رَسُولُ اللَّهِ ص إِذَا آتَاكُمْ مَنْ تَرْضَوْنَ دِينَهُ وَ أَمَانَتَهُ فَرَوْجُوهُ فَإِنْ لَمْ تَفْعَلُوا تَكُنْ فِتْنَةً فِي الْأَرْضِ وَ فَسَادًا كَبِيرًا.

(The book) ‘Nawadir’ of Al Rawandy – by his chain,

‘From Ja’far^{-asws} Bin Muhammad^{-asws}, from his^{-asws} forefathers^{-asws} having said: ‘Rasool-Allah^{-sawww} said: ‘When there comes to you someone you are pleased with his religion and his trustworthiness, marry (your daughter) to him. If you don’t do so, there will be Fitna in the earth and great corruption!’²³²

16- وَ بِحَدَاثِ الْإِسْنَادِ قَالَ قَالَ رَسُولُ اللَّهِ ص أَنْكِحُوا الْأَكْفَاءَ وَ انْكِحُوا مِنْهُمْ وَ اخْتَارُوا لِطُغْيِكُمْ.

And by this chain, he^{-asws} said: ‘Rasool-Allah^{-sawww} said: ‘Marry the matches and marry from them, and choose for your seeds!’²³³

17- مِصْبَاحُ الْأَنْوَارِ، عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: لَوْ لَا أَنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى خَلَقَ أَمِيرَ الْمُؤْمِنِينَ ع لِفَاطِمَةَ مَا كَانَ لَهَا كُفُوٌ عَلَى طَهْرِ الْأَرْضِ.

(The book) ‘Misbah Al Anwaar’ -

‘From Abu Abdullah^{-asws} having said: ‘If Allah^{-azwj} Blessed and Exalted had not Created Amir Al-Momineen^{-asws} for Fatima^{-asws}, there would not have been any match for her^{-asws} on the surface of the earth!’²³⁴

[باب 79 نكاح المشركين و الكفار و المخالفين و النصاب](#)

CHAPTER 79 – MARRIAGE OF THE POLYTHEISTS, AND THE KAFIRS, AND THE ADVERSARIES, AND THE HOSTILE ONES (NASIBIS)

1- ين، كتاب حسين بن سعيد و النوادر ابن محبوب عن معاوية بن وهب و غيره عن أبي عبد الله ع قال: سألتُهُ عَنِ الرَّجُلِ الْمُؤْمِنِ يَتَزَوَّجُ النَّصْرَانِيَّةَ وَ الْيَهُودِيَّةَ فَقَالَ إِذَا أَصَابَ الْمُسْلِمَةَ فَمَا يَصْنَعُ بِالْيَهُودِيَّةِ وَ النَّصْرَانِيَّةِ

²³¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 14

²³² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 15

²³³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 16

²³⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 78 H 17

The book of Haseen Bin Saeed, and 'Al Nawadir – Ibn Mahboub, from Muawiya Bin Wahb and someone else,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about the Momin man marrying the Christian woman and the Jewess. He^{-asws} said: 'If he gets the Muslim woman (as wife), what will he do with the Jewess and the Christian woman?'

قُلْتُ يَكُونُ لَهُ فِيهَا الْهُوَى

I said, 'There happens to be desire for him in her'.

قَالَ إِذَا فَعَلَ فَلْيَمْنَعَهَا مِنْ شُرْبِ الْخَمْرِ وَ أَكْلِ لَحْمِ الْخِنْزِيرِ وَ اعْلَمْ أَنَّ عَلَيْهِ فِي دِينِهِ عِصَابَةٌ.

He^{-asws} said: 'If he does that, let him forbid her from drinking the wine, and eating flesh of the swine, and (let her) know that there is a blame (for him) in his religion (if he were to marry her)'.²³⁵

2- ين، كتاب حسين بن سعيد و النوادر صفوان عن العلاء عن محمد عن أبي جعفر ع قال: لا تتزوج اليهودية و النصرانية على المسلمة.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Al A'ala, from Muhammad,

'From Abu Ja'far^{-asws} having said: 'Neither marry the Jewess nor the Christian woman upon the Muslim woman'.²³⁶

3- ين، كتاب حسين بن سعيد و النوادر صفوان عن ابن مسكان عن الحسن بن زياد قال قال أبو عبد الله ع لا تتزوج النصرانية و لا اليهودية على المسلمة فمن فعل ذلك فبطلت.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Ibn Muskan, from Al Hassan Bin Ziyad who said,

'Abu Abdullah^{-asws} said: 'Neither marry the Christian woman nor the Jewess upon the Muslim woman. The one who does that, his marriage is invalid'.²³⁷

4- ين، كتاب حسين بن سعيد و النوادر عثمان بن عيسى عن سماعة قال: سألت عن اليهودية و النصرانية أ يتزوجها على المسلمة

The book of Haseen Bin Saeed, and 'Al Nawadir' – Usman Bin Isa, from Sama'at who said,

'I asked him^{-asws} about the Jewess and the Christian woman, 'Can one marry her upon the Muslim woman?'

قَالَ لَا تُتْرَجُ الْمُسْلِمَةُ عَلَى الْيَهُودِيَّةِ وَ النَّصْرَانِيَّةِ.

He^{-asws} said: 'Do not marry the Muslim woman upon the Jewess and the Christian woman'.²³⁸

²³⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 1

²³⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 2

²³⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 3

²³⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 4

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Qasim, from Aban, from Abdul Rahman,

'From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws}, 'Is it for the man that he married the Christian woman upon the Muslim woman, and the slave upon the free woman?'

5- ين، كتاب حسين بن سعيد و النوادر القاسم عن أبان عن عبد الرحمن عن أبي عبد الله ع قال: سألتُهُ هل للرجل أن يتزوج النصرانية على المسلمة و الأمة على الحرة فقال لا يتزوج واحدة منهما على المسلمة و يتزوج المسلمة على الأمة و النصرانية و للمسلمة الثلثان و للأمة و النصرانية الثلث.

He^{-asws} said: 'Not one of the two can be married upon the Muslim woman, and the Muslim woman can be married upon the slave woman and the Christian woman, and for the Muslim woman would be two-thirds, and for the slave woman and the Christian woman is the one third'.²³⁹

6- ين، كتاب حسين بن سعيد و النوادر ابن محبوب عن العلاء عن محمد بن أبي جعفر ع قال: سألتُهُ عن الرجل يتزوج المجوسية قال لا و لكن إن كانت له أمة مجوسية فلا بأس أن يطأها و يعزل عنها و لا يطلب ولدها.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Mahboub, from Al A'ala, from Muhammad,

'From Abu Ja'far^{-asws}, he (the narrator) said, 'I asked him^{-asws} about the man who marries a Magian woman. He^{-asws} said: 'No, but if there was a Magian slave woman for him, there is no problem with him having intimate marital relations with her, and he should isolate from her and not seek her child'.²⁴⁰

7- ين، كتاب حسين بن سعيد و النوادر التضر بن سويد عن الحلبي عن عبد الحميد الكلبي عن زرارَةَ قُلتُ لأبي عبد الله ع أتزوج مُرجئة أو حُرورية

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr Bin Suweyd, from Al Halby, from Abdul Hameed Al Kalby, from Zurara,

'I said to Abu Abdullah^{-asws}, 'Can I marry a Murjia woman or a Harouriya (Kharijite)?'

قال لا عليك بالبُله من النساء

He^{-asws} said: 'No, upon you is with the simple-minded ones from the women'.

قال زرارَةُ ما هي إلا مُؤمنة أو كافرة

Zurara said, 'She isn't except a believing woman or a disbelieving woman!'

قال فأين أهلُ ثنيا [تنوي] الله قولُ الله أصدقُ من قولك إلا المُستضعفين من الرجال و النساء و الولدان لا يستطعون حيلة و لا يهتدون سبيلاً.

²³⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 5

²⁴⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 6

He^{-asws} said: 'Who are the people of the laudation? The Word of Allah^{-azwj} is more truthful than your word: **Except for the weak ones from the men and the women and the children, not being capable of dodging (Kufr) nor being guided to a Way [4:98]**'.²⁴¹

8- ين، كتاب حسين بن سعيد و النوادر أحمد بن محمد عن عبد الكريم عن أبي بصير و النضر بن سويد عن موسى بن بكر عن زرارَةَ جميعاً عن أبي عبد الله ع قال: تزوجوا في الشكّاء و لا تزوجوهم لأنّ المرأة تأخذ من أدب الرجل و يُفهّرها على دينه.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ahmad Bin Muhammad, from Abdul Kareem, from Abu Baseer, and Al Nazr Bin Suweyd, from Musa Bin Bakr, from Zurara, altogether,

'From Abu Abdullah^{-asws} having said: 'You can marry into the doubting ones and (but) do not marry to them, because the woman tends to take from the etiquettes of the man, and he coerces her upon his religion!'²⁴²

9- ين، كتاب حسين بن سعيد و النوادر صفوان بن يحيى عن ابن مسكان عن الحلبي عن ابن أبي عمير عن جميل عن حماد جميعاً عن أبي عبد الله ع قال: لا يصلح للأعرابي أن ينكح المهاجرة يخرج بها من أرض الهجرة فيتعرب بها إلا أن يكون قد عرف السنة و الهمة - [الحجّة] و إن أقام بهذا في أرض الهجرة فهو مهاجر.

The book Haseen Bin Saeed, and 'Al Nawadir' – Safwan Bin Yahya, from Ibn Muskan, from Al Halby, from Ibn Abu Umeyr, from Jameel, from Hammad, altogether,

'From Abu Abdullah^{-asws} having said: 'It is not correct for the Bedouin to marry the Emigrant woman going out with her from the land of emigration (Al-Medina), so he would Arabise her (revert to the Bedouin ways), except if he happens to know the Sunnah and the proof, and if he stays with her in the land of emigration, he is an emigrant'.²⁴³

10- ين، كتاب حسين بن سعيد و النوادر عثمان بن عيسى عن سماعة قال: سألتُه عن منأكتهم و الصلاة معهم فقال هذا أمرٌ تمديد إن يستطيعوا ذلك قد أنكح رسول الله ص و صلى عليّ و رآهم.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Usman Bin Isa, from Sama'at who said,

'I asked him^{-asws} about marrying them and (praying) the Salat behind them (general Muslims). He^{-asws} said: 'This is a lenient matter, if you are able to do that! Rasool-Allah^{-saww} had married them, and Ali^{-asws} had prayed Salat behind them'.²⁴⁴

11- ين، كتاب حسين بن سعيد و النوادر النضر عن ابن سنان قال: سألتُ أبا عبد الله ع بكم يكون الرجل مسلماً يجل منأكتهم و مؤارتهم و بما يجزم
دّمه

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Ibn Sinan who said,

²⁴¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 7

²⁴² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 8

²⁴³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 9

²⁴⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 10

'I asked Abu Abdullah^{-asws}, 'By what the does the Muslims man become such, his marriage and his inheritances is lawful, and his blood sacred?'

فَقَالَ يَحْرُمُ دَمُهُ بِالْإِسْلَامِ إِذَا أَظْهَرَهُ وَبِحِلِّ مُنَاكَحَتِهِ وَ مُوَارَثَتِهِ.

He^{-asws} said: 'His blood is sacred with Al-Islam when he manifests it, and his marriage and his inheritance become lawful'.²⁴⁵

12- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن حماد بن عثمان عن معمر عن أبي عبد الله ع فقال: زَوَّجَ رَسُولُ اللَّهِ ص مُنَافِقَيْنِ مَعْرُوفِي الْيَقَاقِ

The book Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Hammad Bin Usman, from Ma'mar,

'From Abu Abdullah^{-asws}, he^{-asws} said: 'Rasool-Allah^{-saww} married two hypocrites, well-known of the hypocrisy'.

ثُمَّ قَالَ أَبُو الْعَاصِ بْنِ الرَّبِيعِ وَ سَكَتَ عَنِ الْآخَرِ.

Then Abu Al-A'as Bin Al Rabie said, 'And he^{-asws} was silent about the other'.²⁴⁶

13- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن حماد بن عثمان عن جميل بن دراج عن زرارَةَ قَالَ: قُلْتُ لِأَبِي جَعْفَرٍ ع أَخْشَوْفُ أَنْ لَا نُحِلَّ لِي أَنْ أَنْزَوَّجَ صَبِيَّةً مَنْ لَمْ يَكُنْ عَلَى مَذْهَبِي

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Hammad, from Jameel Bin Darraj, from Zurara who said,

'I said to Abu Ja'far^{-asws}, 'I fear that it might not be permissible for me to marry a girl, someone who does not happen to be upon my doctrine!'

فَقَالَ مَا يَمْتَعُكَ مِنَ الْبُلْهِ مِنَ التَّسَاءِ اللَّاتِي لَا يُعْرِفُنَ مَا أَنْتُمْ عَلَيْهِ وَ لَا يَنْصِبُنَ.

He^{-asws} said: 'What prevents you from the simple-minded one from the women, those who neither know what you are upon nor are they hostile'.²⁴⁷

14- ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن عمر بن أُدَيْنَةَ عَنِ الْفَضْلِ بْنِ يَسَارٍ قَالَ: سَأَلْتُ أَبَا جَعْفَرٍ ع عَنْ مُنَاكَحَةِ النَّاصِبِ وَ الصَّلَاةِ خَلْفَهُ فَقَالَ لَا تُنَاكِحُهُ وَ لَا تُصَلِّ خَلْفَهُ.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Umar Bin Uzina, from Al Fazl Bin Yasaar who said,

²⁴⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 11

²⁴⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 12

²⁴⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 13

'I asked Abu Ja'far^{-asws} about marrying the Nasibis (hostile ones), and praying the Salat behind him. He^{-asws} said: 'Neither marry to him nor pray Salat behind him!'²⁴⁸

15- ين، كتاب حسين بن سعيد و النوادر النَّضْرُ عَنْ ابْنِ سِنَانٍ قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنِ النَّاصِبِ الَّذِي قَدْ عَرِفَ نَصْبَهُ وَ عَدَاؤُهُ هَلْ يُزَوِّجُهُ الْمُؤْمِنُ وَ هُوَ قَادِرٌ عَلَى رَدِّهِ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Ibn Sinan who said,

'I asked Abu Abdullah^{-asws} about the Nasibi (hostile one) whose hostility and his enmity is known, 'Can the Momin marry to him while he is able about rejecting him?'

قَالَ لَا يَتَزَوَّجُ الْمُؤْمِنُ نَاصِبَةً وَ لَا يَتَزَوَّجُ النَّاصِبُ مُؤْمِنَةً وَ لَا يَتَزَوَّجُ الْمُسْتَضْعَفُ مُؤْمِنَةً.

He^{-asws} said: 'The Momin cannot marry a Nasibi woman, nor can the Nasibi marry believing woman, nor can the weak one marry a believing woman'.²⁴⁹

16- ين، كتاب حسين بن سعيد و النوادر صَفْوَانُ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنِ الْفَضْلِ بْنِ يَسَارٍ قَالَ: قُلْتُ لِأَبِي جَعْفَرٍ عَ إِنَّ لَامْرَأَتِي أُخْتًا مُسْلِمَةً لَا بَأْسَ بِرَأْيِهَا وَ لَيْسَ بِالْبَصْرَةِ أَحَدٌ فَمَا تَرَى فِي تَزْوِجِهَا مِنَ النَّاسِ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Safwan, from Abdullah Bin Bukeyr, from Al Fuzeyl Bin Yasaar who said,

'I said to Abu Ja'far^{-asws}, 'My wife has a Muslim sister. There is no problem with her views, and there isn't anyone at Al-Basra, so what is your^{-asws} view in getting her married to the people?'

فَقَالَ لَا تُزَوِّجُهَا إِلَّا بِمَنْ هُوَ عَلَى رَأْيِهَا وَ تَزْوِجُ الْمَرْأَةِ الَّتِي لَيْسَتْ بِنَاصِبَةٍ لَا بَأْسَ بِهِ.

He^{-asws} said: 'Do not get her married except to the one being upon her views, and marrying the woman who isn't hostile (Nasibi), there is no problem with it'.²⁵⁰

17- كش، رجال الكشي مُحَمَّدُ بْنُ فُؤَادٍ عَنْ سَعْدِ بْنِ أَحْمَدَ بْنِ هِلَالٍ عَنِ ابْنِ مُحَمَّدٍ عَنِ ابْنِ رِيَابٍ قَالَ: دَخَلَ زُرَّارَةُ عَلَى أَبِي عَبْدِ اللَّهِ ع فَقَالَ يَا زُرَّارَةُ مَتَّاهِلٌ أَنْتَ

(The book) 'Rijal' of Al Kashy – Muhammad Bin Qawlawayi, from Sa'ad, from Ahmad Bin Hilal, from Ibn Mahboub, from Ibn Riab who said,

'Zurara entered to see Abu Abdullah^{-asws}. He^{-asws} said: 'O Zurara! Are you married?'

قَالَ لَا

He said, 'No'.

²⁴⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 14

²⁴⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 15

²⁵⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 16

قَالَ وَ مَا يَمْتَعُكَ عَنْ ذَلِكَ

He^{-asws} said: 'And what prevents you from that?'

قَالَ لِأَنِّي لَا أَعْلَمُ تَطِيبُ مُنَاكِحَهُ هؤُلاءِ أَمْ لَا

He said, 'Because I don't know marrying them (general Muslims) is good or not!'

قَالَ فَكَيْفَ تَصْبِرُ وَأَنْتَ شَابٌ

He^{-asws} said: 'How can you be patient, and you are a youth?'

قَالَ أَشْتَرِي الْإِمَاءَ

He said, 'I buy the slave girl'.

قَالَ وَمِنْ أَيْنَ طَابَ لَكَ نِكَاحُ الْإِمَاءِ

He^{-asws} said: 'And from where is it good for you to marry the slave girl?'

قَالَ إِنَّ الْأَمَةَ إِنْ رَأَيْتَ مِنْ أَمْرِهَا شَيْئًا بِعْتُهَا

He said, 'If the slave girl goes against me by anything from her matter, I can sell her!'

قَالَ لَمْ أَسْأَلْكَ عَنْ هَذَا وَ لَكِنْ سَأَلْتُكَ مِنْ أَيْنَ طَابَ لَكَ فَرَجُهَا

He^{-asws} said: 'I^{-asws} did not ask you about this, but I^{-asws} asked you, from where is her private part good for you?'

قَالَ لَهُ فَتَأْمُرُنِي أَنْ أَتَزَوَّجَ

He said to him^{-asws}, 'So you^{-asws} are instructing me to get married?'

قَالَ لَهُ ذَلِكَ إِلَيْكَ

He^{-asws} said: 'That is up to you'.

قَالَ فَقَالَ لَهُ زُرَّارَةُ هَذَا الْكَلَامُ يَنْصَرِفُ عَلَى ضَرْبَيْنِ إِمَّا أَنْ لَا تُبَالِيَ أَنْ أَعْصِيَ اللَّهَ إِذْ لَمْ تَأْمُرْنِي بِذَلِكَ وَ الْوَجْهُ الْآخَرُ أَنْ يَكُونَ مُطْلَقًا لِي

He (the narrator) said, 'Zurara said to him^{-asws}, 'This speech can be utilised upon two types – either you^{-asws} don't care if I were to disobey Allah^{-azwj}, since you^{-asws} are not instructing me with that (getting married), and the other aspect is that it would be absolute for me'.

قَالَ فَقَالَ عَلَيْكَ بِالْبَلَاءِ

He (the narrator) said, 'He^{-asws} said: 'Upon you is with (marrying) the simple-minded ones'.

قَالَ فَقُلْتُ مِثْلَ الَّذِي يَكُونُ عَلَى رَأْيِ الْحَكَمِ بْنِ عُتَيْبَةَ وَ سَالِمِ بْنِ أَبِي حَفْصَةَ

He said, 'I said, 'Like the ones who happen to be upon the view of Al-Hakam Bin Uteyba, and Salim Bin Abu Hafsa?'

قَالَ لَا أَلِيَّ لَا تَعْرِفُ مَا أَنْتُمْ عَلَيْهِ وَ لَا تَنْصِبُ قَدْ زَوَّجَ رَسُولُ اللَّهِ صَ أَبَا الْعَاصِ بْنَ الرَّبِيعِ وَ عُثْمَانَ بْنَ عَفَّانَ وَ تَزَوَّجَ عَائِشَةَ وَ حَفْصَةَ وَ غَيْرَهُمَا

He^{-asws} said: 'No! The one who does not know what you are upon nor is she hostile. Rasool-Allah^{-saww} had married to Abu Al Aas Bin Al Rabie, and Usman Bin Affan, and he^{-saww} married Ayesha and Hafsa and others'.

فَقَالَ لَسْتُ أَنَا بِمَنْزِلَةِ النَّبِيِّ صَ الَّذِي كَانَ يَجْرِي عَلَيْهِ حُكْمُهُ وَ مَا هُوَ إِلَّا مُؤْمِنٌ أَوْ كَافِرٌ قَالَ اللَّهُ عَزَّ وَ جَلَّ فَمِنْكُمْ كَافِرٌ وَ مِنْكُمْ مُؤْمِنٌ

He said, 'I am not at the status of the Prophet^{-saww} whose judgment would flow upon, and he (from the people) is either a believer or a disbeliever. Allah^{-azwj} Mighty and Majestic Says: **He is the One Who Created you all, so from you is a Kafir and from you is a Momin, and Allah Sees what you are doing [64:2]**'.

فَقَالَ لَهُ أَبُو عَبْدِ اللَّهِ فَأَيُّنَ أَصْحَابِ الْأَعْرَابِ وَ أَيُّنَ الْمُؤَلَّفَةِ قُلُوبُهُمْ وَ أَيُّنَ الَّذِينَ خَلَطُوا عَمَلًا صَالِحًا وَ آخَرَ سَيِّئًا وَ أَيُّنَ الَّذِينَ لَمْ يَدْخُلُوهَا وَ هُمْ يَطْمَعُونَ.

Abu Abdullah^{-asws} said to him: 'So where are **companions of the heights [7:48]**, and where are **the ones (recently) inclined of their hearts (to Al-Islam) [9:60]**, and where are those **mingling one righteous deed and another evil one [9:102]**, and where are those **they shall not have entered it yet, but they would be hoping to [7:46]**?²⁵¹

18- كَشَّ، رَجَالَ الْكَشِيِّ مُحَمَّدُ بْنُ مَسْعُودٍ قَالَ كَتَبَ إِلَيَّ الْفَضْلُ حَدَّثَنَا ابْنُ أَبِي عُمَيْرٍ عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ الْحَمِيدِ عَنْ إِسْمَاعِيلَ بْنِ جَابِرٍ قَالَ: قَالَ دَاوُدُ بْنُ عَلِيٍّ لِأَبِي عَبْدِ اللَّهِ عَ قَدْ أَتَيْتَ ذَنْبًا لَا يَغْفِرُهُ اللَّهُ لَكَ

(The book) 'Rijal' of Al Kashi – Muhammad Bin Masoud said, 'Al Fazl wrote to me, 'It is narrated to us by Abu Umeyr, from Ibrahim Bin Abdul Hameed, from Ismail Bin Jabir who said,

'Dawood Bin Ali said to Abu Abdullah^{-asws}, 'You^{-asws} have committed such a sin, Allah^{-azwj} will not Forgive it for you^{-asws}!'

قَالَ وَ مَا ذَلِكَ

He^{-asws} said: 'And what is that?'

قَالَ زَوَّجْتَ ابْنَتَكَ فَلَانَا الْأُمَوِيِّ

He said, 'You^{-azwj} got your^{-asws} daughter married to so and so, the Umayyid!'

قَالَ إِنَّ كُنْتُ زَوَّجْتُ فَلَانَا الْأُمَوِيِّ فَقَدْ زَوَّجَ رَسُولُ اللَّهِ صَ عُثْمَانَ وَ لِي بِرَسُولِ اللَّهِ أُسْوَةٌ.

²⁵¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 17

He^{-asws} said: 'If I^{-asws} have married to so and so, the Umayyid, so Rasool-Allah^{-saww} had married to Usman, and for me^{-asws} there is an example with Rasool-Allah^{-saww}!'²⁵²

19- تَفْسِيرُ النُّعْمَانِيِّ، بِالإِسْنَادِ الْمُتَقَدِّمِ فِي كِتَابِ الْقُرْآنِ عَنِ أَمِيرِ الْمُؤْمِنِينَ ع فِي قَوْلِهِ تَعَالَى وَ لَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَ وَ لِأَمَةٍ مُؤْمِنَةٌ خَيْرٌ مِنْ مُشْرِكَةٍ وَ لَوْ أَعْجَبَتْكُمْ وَ لَا تَنْكِحُوا الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا وَ لَعَبْدٌ مُؤْمِنٌ خَيْرٌ مِنْ مُشْرِكٍ وَ لَوْ أَعْجَبَكُمْ

(The book) 'Tafseer Al Numani' –

By the previous chain in 'Kitab Al Quran', from Amir Al Momineen^{-asws} regarding Words of the Exalted: **And do not marry the Mushrik women until they believe, and a Momina maid is better than a Mushrik woman, and even if she fascinates you; and do not marry the Mushrik men until they believe, and a Momin slave is better than a Mushrik man, and even if he fascinates you [2:221].**

وَ ذَلِكَ أَنَّ الْمُسْلِمِينَ كَانُوا يَنْكِحُونَ فِي أَهْلِ الْكِتَابِ مِنَ الْيَهُودِ وَ النَّصَارَى وَ يُنْكِحُوهُمْ حَتَّى نَزَلَتِ الْآيَةُ حَتَّى أَنْ يَنْكِحَ الْمُسْلِمُ مِنَ الْمُشْرِكِ أَوْ يُنْكِحُوهُ

'And that is because the Muslims were marrying among People of the Book, from the Jews and the Christians, and they were giving in marriage to them until the Verse was Revealed Prohibiting the Muslims from marrying the Polytheist, or marrying to him'.

ثُمَّ قَالَ تَعَالَى فِي سُورَةِ الْمَائِدَةِ مَا نَسَخَ هَذِهِ الْآيَةَ فَقَالَ وَ طَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَالٌ لَكُمْ وَ طَعَامُكُمْ حَلَالٌ لَهُمْ وَ الْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَ الْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ

Then the Exalted Said in Surah Al Maidah what Abrogated this Verse. He^{-azwj} Said: **and the food of those Given the Book is Permissible for you, and your food is Permissible for them; and the chaste (protective) ones from the believing women and the chaste (protective) ones from those Given the Book from before you [5:5].**

فَأُطْلِقَ عَزَّ وَ جَلَّ مُنَاكِحَتَهُمْ بَعْدَ أَنْ كَانَ هَيَّ وَ تَرَكَ قَوْلُهُ وَ لَا تَنْكِحُوا الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا عَلَى حَالَةٍ لَمْ يَنْسَخْهُ.

Thus, the Mighty and Majestic Permitted marrying them after having Prohibited, and Left His^{-azwj} Words: **And do not marry the Mushrik women until they believe [2:221]** upon its state, not Abrogating it'.²⁵³

20- نَوَادِرُ الرَّأُوْنِدِيِّ، بِالإِسْنَادِ عَنْ مُوسَى بْنِ جَعْفَرٍ عَنْ آبَائِهِ ع قَالَ قَالَ عَلِيُّ ع لَا يَجُوزُ لِلْمُسْلِمِ التَّرْوُجُ بِالْأَمَةِ الْيَهُودِيَّةِ وَ لَا النَّصْرَانِيَّةِ لِأَنَّ اللَّهَ تَعَالَى قَالَ مِنْ قَتَاتِكُمْ الْمُؤْمِنَاتِ

(The book) 'Nawadir' of Al Rawandy – By his chain,

'From Musa Bin Ja'far^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'Ali^{-asws} said: 'It is not allowed for the Muslim to marry the Jewish slave girl nor a Christian, because Allah^{-azwj} the Exalted Said: **then from what your right hands possess from your youthful Momiinat [4:25].**

²⁵² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 18

²⁵³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 19

وَقَالَ كَرِهَ رَسُولُ اللَّهِ ص التَّزْوِجَ بِهَا لِأَنَّهَا يَسْتَرْقُ وَوَلَدُهُ الْيَهُودِيُّ وَالنَّصْرَانِيُّ.

And he^{-asws} said: 'Rasool-Allah^{-saww} disliked the marriage (with a Jewish or Christian slave girl), let the Jews and the Christians steal his child'.²⁵⁴

21- الْهَيْدَايَةُ، وَ تَزْوِيجِ الْمَجُوسِيَّةِ وَالنَّاصِبِيَّةِ حَرَامٌ.

(The book) 'Al Hidayah' -

'And marry the Magian and the Nasibi (hostile) woman is prohibited'.²⁵⁵

22- وَ مِنْهُ، وَ تَزْوِيجِ الْيَهُودِيَّةِ وَالنَّصْرَانِيَّةِ جَائِزٌ وَ لَكِنَّهُ يُمْنَعَانِ مِنْ شُرْبِ الْخَمْرِ وَ أَكْلِ لَحْمِ الْخِنْزِيرِ وَ عَلَى مَنْ تَزَوَّجَهَا فِي دِينِهِ عَصَاةٌ.

And from him, 'And marrying the Jewess and the Christian woman is allowed, but they would be prevented from drinking the wine, and eating flesh of the swine, and upon the one marrying them is shortcoming in his religion'.²⁵⁶

23- ع، علل الشرائع أَبِي عَنْ سَعْدِ بْنِ أَبِي عُبَيْدٍ عَنْ أُيُوبَ بْنِ نُوحٍ عَنْ صَفْوَانَ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: تَزَوَّجُوا فِي الشُّكِّ وَ لَا تَزَوَّجُوهُمْ لِأَنَّ الْمَرْأَةَ تَأْخُذُ مِنْ آدَبِ زَوْجِهَا وَ يَغْفَرُهَا عَلَى دِينِهِ.

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Ayoub Bin Nuh, from Safwan, from Musa Bin Bakr, from Zurara,

'From Abu Abdullah^{-asws} having said: 'Marry among the doubting ones and do not give in marriage to them, because the woman takes from etiquettes of her husband, and he coerces her upon his religion'.²⁵⁷

24 ب، قرب الإسناد أَبُو الْبَخْتَرِيِّ عَنِ الصَّادِقِ عَنْ أَبِيهِ ع أَنَّ عَلِيًّا ع كَرِهَ مُنَاكِحَةَ أَهْلِ الْحَرْبِ.

(The book) 'Qurb Al Isnaad' – Abu Al Bakhtari,

'From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: 'Ali^{-asws} disliked marrying the people at war'.²⁵⁸

25- ع، علل الشرائع أَبِي عَنْ سَعْدِ بْنِ الْأَصْبَهَانِيِّ عَنِ الْمُنْقَرِيِّ عَنِ عِيسَى بْنِ يُونُسَ عَنِ الْأَوْزَاعِيِّ عَنِ الزُّهْرِيِّ عَنِ عَلِيِّ بْنِ الْحُسَيْنِ ع قَالَ: لَا يَحِلُّ لِلْأَسِيرِ أَنْ يَتَزَوَّجَ مَا دَامَ فِي أَيْدِي الْمُشْرِكِينَ خَافَةَ أَنْ يُوَلَدَ فَيَبْقَى وَوَلَدُهُ كَافِرًا فِي أَيْدِيهِمْ.

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Al Asbahani, from Al Minqary, from Isa Bin Yunus, from Al Awzaie, from Al Zuhry,

²⁵⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 20

²⁵⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 21

²⁵⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 22

²⁵⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 23

²⁵⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 24

'From Ali Bin Al-Husayn^{-asws} having said: 'It is not permissible for the captive that he marries for as long as he is in the hands of the Polytheists, fearing that he might beget and his child would remain a Kafir in their hands'.²⁵⁹

26- فس، تفسير القمي و الْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ فَقَدْ أَحَلَّ اللَّهُ نِكَاحَ أَهْلِ الْكِتَابِ بَعْدَ تَحْرِيمِهِ فِي قَوْلِهِ فِي سُورَةِ الْبَقَرَةِ وَ لَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَ وَ إِنَّمَا يَحِلُّ نِكَاحُ أَهْلِ الْكِتَابِ الَّذِينَ يُؤَدُّونَ الْجِزْيَةَ عَلَى مَا يَحِبُّ فَأَمَّا إِذَا كَانُوا فِي دَارِ الشِّرْكِ وَ لَمْ يُؤَدُّوا الْجِزْيَةَ لَمْ يَحِلَّ مُنَاكَحَتُهُمْ.

(The book) 'Tafseer Al Qummi' -

'And the chaste (protective) ones from the believing women and the chaste (protective) ones from those Given the Book from before you [5:5]. Allah^{-azwj} has Permitted marrying People of the Book after having Forbidden it in His^{-azwj} Words in Surah Al Baqarah: **And do not marry the Mushrik women until they believe [2:221].** And rather, He^{-azwj} Permitted marrying People of the Book, those who were paying the taxes upon what is obligated. As for if they were in the house of Polytheism and do not pay the tax, marrying them is not Permissible'.²⁶⁰

27- ضا، فقه الرضا عليه السلام إِنْ تَزَوَّجْتَ يَهُودِيَّةً أَوْ نَصْرَانِيَّةً فَامْتَنَعَهَا مِنْ شُرْبِ الْخَمْرِ وَ أَكْلِ لَحْمِ الْخِنْزِيرِ وَ اعْلَمْ أَنَّ عَلَيْكَ فِي دِينِكَ فِي تَزْوِيجِكَ إِيَّهَا غَضَاظَةً وَ لَا يَجُوزُ تَزْوِيجُ الْمُجُوسِيَّةِ وَ لَا يَجُوزُ أَنْ تَتَزَوَّجَ مِنْ أَهْلِ الْكِتَابِ وَ لَا مِنْ الْإِمَاءِ إِلَّا اثْنَتَيْنِ.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'If you marry a Jewess or a Christian woman, forbid them from drinking the wine and eating the flesh of swine, and know that upon you, in your religion there is a blame, if you were to marry them, and it is not allowed to marry a Magian woman, nor allowed to marry from People of the Book nor from the slave girls except two'.²⁶¹

28- شي، تفسير العياشي عَنْ زُرَّارَةَ قَالَ: قُلْتُ لِأَبِي عَبْدِ اللَّهِ عَ أَتَزَوَّجُ الْمُرْجَمَةَ أَوْ الْحُرُورِيَّةَ أَوْ الْقَدْرِيَّةَ

(The book) 'Tafseer Al Ayyashi' – From Zurara who said,

'I said to Abu Abdullah^{-asws}, 'Can I marry the Murjiya woman or the Harouriya or the Qadiriya?'

قَالَ لَا عَلَيْكَ بِالْبُهْمِ مِنَ النِّسَاءِ

He^{-asws} said: 'No! Upon you is with (marrying) the simple-minded ones from the women'.

قَالَ زُرَّارَةُ فَقُلْتُ مَا هِيَ إِلَّا مُؤْمِنَةٌ أَوْ كَافِرَةٌ

Zurara said, 'I said, 'She isn't except a believing woman or a disbelieving woman!'

فَقَالَ أَبُو عَبْدِ اللَّهِ عَ فَأَيُّنَ أَهْلِ اسْتِثْنَاءِ اللَّهِ قَوْلُ اللَّهِ أَصْدَقُ مِنْ قَوْلِكَ إِلَّا الْمُسْتَضْعَفِينَ مِنَ الرِّجَالِ وَ النِّسَاءِ وَ الْوُلْدَانَ إِلَى قَوْلِهِ سَبِيلًا.

²⁵⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 25

²⁶⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 26

²⁶¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 27

Abu Abdullah^{-asws} said: 'So where are the excluded people? The Word of Allah^{-azwj} is more truthful than your word: **Except for the weak ones from the men and the women and the children, not being capable of dodging (Kufr) nor being guided to a Way [4:98]**'.²⁶²

Tafseer Al Ayyashi – From Humran who said,

'I asked Abu Abdullah^{-asws} about Words of Allah^{-azwj}: **Except for the weak ones [4:98]**. He^{-asws} said: 'They are the people of authority (Wilayah)!'

فَقُلْتُ أَيُّ وِلَايَةٍ

I said, 'Which authority?'

فَقَالَ أَمَا إِنَّمَا لَيْسَتْ بِوِلَايَةٍ فِي الدِّينِ وَ لَكِنَّهَا الْوِلَايَةُ فِي الْمُنَاكِحَةِ وَ الْمَوَارِثَةِ وَ الْمُخَالَطَةِ وَ هُمْ لَيْسُوا بِالْمُؤْمِنِينَ وَ لَا بِالْكَفَّارِ وَ هُمْ الْمُرْجُونَ لِأَمْرِ اللَّهِ.

He^{-asws} said: 'But, it isn't authority in the religion, but it is the authority in the marriages and the inheritances and the social interactions, and they are neither believers nor disbelievers, and they are the ones hoping for the Command of Allah^{-azwj}!'²⁶³

30- شي، تفسير العياشي عن ابن سنان عن أبي عبد الله ع قال: وَ الْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ قَالَ هُنَّ الْمُسْلِمَاتُ.

(The book) 'Tafseer Al Ayyashi' – From Ibn Sinan,

'From Abu Abdullah^{-asws} having said: '**and the chaste (protective) ones from the believing women [5:5]**. He^{-asws} said: 'They are from the Muslim women'.²⁶⁴

31- شي، تفسير العياشي عن مسعدة بن صدقة قال: سئِلَ أَبُو جَعْفَرٍ ع عَنْ قَوْلِ اللَّهِ وَ الْمُحْصَنَاتُ مِنَ الدِّينِ أَوْتُوا الْكِتَابَ مِنْ قَبْلِكُمْ قَالَ نَسَخْتَهَا وَ لَا تُنْسِكُوا بِعَصَمِ الْكُوفِرِ.

(The book) 'Tafseer Al Ayyashi' – From Ma'ada Bin Sadaqa who said,

'Abu Ja'far^{-asws} was asked about Words of Allah^{-azwj}: **and the chaste (protective) ones from the believing women and the chaste (protective) ones from those Given the Book from before you [5:5]**. He^{-asws} said: 'It is Abrogated by: **and do not hold on to the ties of marriage of the Kafir women [60:10]**'.²⁶⁵

32 شي، تفسير العياشي عن أبي جميلة عن أبي عبد الله ع في الْمُحْصَنَاتُ مِنَ الدِّينِ أَوْتُوا الْكِتَابَ قَالَ هُنَّ الْعَقَائِفُ.

(The book) 'Tafseer Al Ayyashi' – From Abu Jameela -

²⁶² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 28

²⁶³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 29

²⁶⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 30

²⁶⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 31

'From Abu Abdullah^{-asws} regarding: **and the chaste (protective) ones from the believing women and the chaste (protective) ones from those Given the Book [5:5]**. He^{-asws} said: 'These are the chaste women'.²⁶⁶

33 شي، تفسير العياشي عن العبد الصالح قال: سألناه عن قوله و الْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ مَا هُنَّ وَ مَا مَعْنَى إِحْصَانِهِنَّ قَالَ هُنَّ الْعَقَائِفُ مِنْ نِسَائِهِمْ.

(The book) 'Tafseer Al Ayyashi' -

'From Al-Abd Al Salih (Musa Al-Kazim^{-asws}), he (the narrator) said, 'We asked him^{-asws} about His^{-azwj} Words: **and the chaste (protective) ones from the believing women and the chaste (protective) ones from those Given the Book from before you [5:5]**, 'What are they and what is the meaning of their being protective?' He^{-asws} said: 'They are the chaste ones from their women'.²⁶⁷

[باب 80 إسلام أحد الزوجين](#)

CHAPTER 80 – PROFESSING ISLAM BY ONE OF THE TWO SPOUSES

1- ب، قرب الإسناد علي عن أخيه قال: سألته عن امرأة أسلمت ثم أسلم زوجها أ تحل له

(The book) 'Qurb Al Isnaad' -

Ali, from his brother (Al-Kazim^{-asws}), he said, 'I asked him^{-asws} about a woman who became a Muslim, then her husband became a Muslim, 'Is she permissible for him?'

قال هو أحق بما لم تتزوج و لكنها تحب فلها ما اختارت.

He^{-asws} said: 'He is more rightful with her for as long as she has not remarried, but she will be given a choice. For her is whatever she chooses'.²⁶⁸

2- و سألته عن امرأة أسلمت قبل زوجها و تزوجت غيره ما حالها قال هي للذي تزوجت و لا ترد على الأول.

And I asked him^{-asws} about a woman who became a Muslim before her husband, and she married someone else, 'What is her state?' He^{-asws} said: 'She is for the one she married, and she will not be returned to the first one'.²⁶⁹

3- ب، قرب الإسناد ابن عيسى عن البرنطي قال: سمعت رجلاً يسأل أبا الحسن الرضا ع [عن] النضراني تسلم المرأة ثم يسلم زوجها يكونان على النكاح الأول

²⁶⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 32

²⁶⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 79 H 33

²⁶⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 80 H 1

²⁶⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 80 H 2

(The book) 'Qurb Al Isnaad' – Ibn Isa, from Al Bazanty who said,

'I heard a man asking Abu Al-Hassan Al-Reza^{-asws} about the Christian. The wife became a Muslim then her husband became a Muslim, 'Will they both be upon the first marriage?'

قَالَ لَا يُجِدَّانِ نِكَاحًا آخَرَ.

He^{-asws} said: 'They will not be renewing another marriage'.²⁷⁰

4- ضا، فقه الرضا عليه السلام أَبِي عَنْ جَعْفَرٍ عَنْ أَبِيهِ ع فِي امْرَأَةٍ تُسَلِّمُ تَحْتَ نَضْرَابِي قَالَ هِيَ امْرَأَتُهُ مَا لَمْ يُخْرِجَهَا مِنْ دَارِ الْهِجْرَةِ.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'My^{-asws} father^{-asws}, from Ja'far^{-asws}, from his^{-asws} father^{-asws} regarding a woman who became a Muslim while being married to a Christian. He^{-asws} said: 'She is his wife for as long as he does not take her out from the house of emigration'.²⁷¹

[باب 81 ما يحل من عدد الأزواج للحر و العبد](#)

CHAPTER 81 – WHAT IS PERMISSIBLE FROM THE NUMBER OF WIVES, FOR THE FREE AND THE SLAVE

1- ب، قرب الإسناد عَلِيِّ عَنْ أَخِيهِ ع قَالَ: سَأَلْتُهُ عَنْ رَجُلٍ كَانَتْ لَهُ أَرْبَعُ نِسْوَةٍ فَمَاتَتْ إِخْدَاهُنَّ هَلْ يَصْلُحُ أَنْ يَتَزَوَّجَ فِي عِدَّتِهَا أُخْرَى قَبْلَ أَنْ تَنْقُضِي عِدَّةَ الْمُتَوَفَّاةِ قَالَ إِذَا مَاتَتْ فَلْيَتَزَوَّجْ مَتَى أَحَبَّ.

(The book) 'Qurb Al Isnaad' -

'Ali, from his brother (Al-Kazim^{-asws}), he said, 'I asked him^{-asws} about a man who has four wives for him. One of them dies. Is it correct for him to marry another during her waiting period before expiry of the waiting period of the dead one?' He^{-asws} said: 'When she dies, he can marry whenever he likes'.²⁷²

2- قَالَ: وَ سَأَلْتُهُ عَنْ رَجُلٍ لَهُ أَرْبَعُ نِسْوَةٍ فَطَلَّقَ وَاحِدَةً هَلْ يَصْلُحُ لَهُ أَنْ يَتَزَوَّجَ أُخْرَى قَبْلَ أَنْ تَنْقُضِي عِدَّةَ الَّتِي طَلَّقَ

He said, 'And I asked him^{-asws} about a man having four wives for him. He divorces one, 'Is it correct for him to marry another before expiry of the waiting period of the one he divorced?'

قَالَ لَا يَصْلُحُ أَنْ يَتَزَوَّجَ حَتَّى تَنْقُضِي عِدَّةَ الْمُطَلَّقةِ.

²⁷⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 80 H 3

²⁷¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 80 H 4

²⁷² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 1

He^{-asws} said: 'No. It is not correct for him to marry until expiry of the waiting period of the divorced (wife)'.²⁷³

3- ل، الخصال فِي حَبْرِ الْأَعْمَشِ عَنِ الصَّادِقِ ع قَالَ: لَا يُجْمَعُ بَيْنَ أَكْثَرَ مِنْ أَرْبَعِ حَرَائِرٍ.

(The book) 'Al Khisaal' – In a Hadeeth by Al Amsh,

'From Al-Sadiq^{-asws} having said: 'He cannot gather more than four free ones (as wives)'.²⁷⁴

4- ن، عيون أخبار الرضا عليه السلام فيما كتبت الرضا ع للمأمون مثله.

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – Among what Al-Reza^{-asws} wrote for Al-Mamoun, similar to it.²⁷⁵

5- ع، علل الشرائع فِي عِلَلِ ابْنِ سِنَانٍ قَالَ: كَتَبَ الرِّضَا عِ عَلَّةً تَذْوِيحَ الرَّجُلِ أَرْبَعَ نِسْوَةٍ وَ تَحْرِيمَ أَنْ تَنْزَوِيَ الْمَرْأَةُ أَكْثَرَ مِنْ وَاحِدٍ لِأَنَّ الرَّجُلَ إِذَا تَزَوَّجَ أَرْبَعَ نِسْوَةٍ كَانَ الْوَلَدُ مَنْسُوباً إِلَيْهِ وَ الْمَرْأَةُ لَوْ كَانَ لَهَا زَوْجَانِ أَوْ أَكْثَرَ مِنْ ذَلِكَ لَمْ يُعْرَفِ الْوَلَدُ لِمَنْ هُوَ إِذْ هُمْ مُشْتَرِكُونَ فِي نِكَاحِهَا وَ فِي ذَلِكَ فَسَادُ الْأَنْسَابِ وَ الْمَوَارِيثِ وَ الْمَعَارِفِ.

(The book) 'Ilal Al Sharaie', in 'Ilal' of Ibn Sinan who said,

'Al-Reza^{-asws} wrote: 'The reason for the man marrying four wives and prohibition of the woman marrying more than one is because if the man marries four women, the child would be attributed to him, and if the woman were to have two husbands for her or more than that, it will not be known who the child is for when they had both participated in having intimate marital relations with her, and in that is corruption of the lineages and the inheritances and the acquaintances'.²⁷⁶

6- ب، قرب الإسناد حمادُ بْنُ عَيْسَى قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع وَ لَيْسَ مَعَهُ إِلَّا غُلَامُهُ فَقُلْتُ جُعِلْتُ فِدَاكَ حَبْرِي عَنِ الْعَبْدِ كَمْ يَتَزَوَّجُ

(The book) 'Qurb Al Isnaad' – Hammad Bin Isa said,

'I asked Abu Abdullah^{-asws} and there wasn't anyone with him^{-asws} except his^{-asws} slave. I said, 'May I be sacrificed for you^{-asws}! Inform me about the slave, how many can he marry?'

قَالَ قَالَ أَبِي قَالَ عَلِيُّ ع لَا يَزِيدُ عَلَى امْرَأَتَيْنِ.

He^{-asws} said: 'My^{-asws} father^{-asws} said: 'Ali^{-asws} said: 'He cannot increase upon two women'.²⁷⁷

7- ب، قرب الإسناد ابْنُ طَرِيفٍ عَنِ ابْنِ عُلوَانَ عَنِ الصَّادِقِ عَنِ أَبِيهِ ع أَنَّ عَلِيّاً ع كَانَ يَقُولُ لَا يَتَزَوَّجُ الْعَبْدُ إِلَّا امْرَأَتَيْنِ.

(The book) 'Qurb Al Isnaad' – Ibn Tareyf, from Ibn Ulwan,

²⁷³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 2

²⁷⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 3

²⁷⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 4

²⁷⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 5

²⁷⁷ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 6

'From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: 'Ali^{-asws} had said: 'The slave cannot marry except two women!'²⁷⁸

8- ضا، فقه الرضا عليه السلام لا يجوز أن تتزوج من أهل الكتاب ولا من الإماء إلا اثنتين و لك أن تتزوج من الحرائر المسلمات أربعاً أو يتزوج العبد حرّتين أو أربع إماء.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'It is not allowed to marry from People of the Book nor from the slave women except two, and for you is to marry four from the free Muslim women, or the slave to marry two free women or four slave women'.²⁷⁹

9- شي، تفسير العياشي عن يونس بن عبد الرحمن عمّن أخبره عن أبي عبد الله ع قال: في كل شيء إسراف إلا في النساء قال الله تعالى فأنكحوا ما طاب لكم من النساء مثنى وثلاث ورباع

(The book) 'Tafseer Al Ayyashi' – From Yunus Bin Abdul Rahman, from the one who informed him,

'From Abu Abdullah^{-asws} having said: 'In all things there is extravagance except in the women. Allah^{-azwj} the Exalted Says: **then marry such women as seem good to you, two and three and four [4:3]**'.

و قال و أحل ما ملكت أيماكم.

And he^{-asws} said: 'And permissible is what your right hands possess (slave girls)'.²⁸⁰

10- شي، تفسير العياشي عن منصور بن حازم عن أبي عبد الله ع قال: لا يحل لِماء الرجل أن يجري في أكثر من أربعة أرحام من الحرائر.

(The book) 'Tafseer Al Ayyashi' – From Mansour Bin Hazim,

'From Abu Abdullah^{-asws} having said: 'It is not permissible for the water (seed) of the man to flow in more than four wombs from the free women'.²⁸¹

11- ين، كتاب حسين بن سعيد و النوادر النضر عن عبد الله بن سنان عن أبي عبد الله ع أنه قال في رجل تحته أربع نسوة فطلق إحداهن قال لا ينكح حتى تنقضي عدّة التي طلق.

From the book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, from Abdullah Bin Sinan,

'From Abu Abdullah^{-asws} having said regarding a man having four wives under him. He divorces one of them. He^{-asws} said: 'He cannot marry until the waiting period of the divorced one expires'.²⁸²

²⁷⁸ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 7

²⁷⁹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 8

²⁸⁰ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 9

²⁸¹ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 10

²⁸² Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 11

12- ين، كتاب حسين بن سعيد و النوادر النَّضْرُ وَ أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ فِي رَجُلٍ كُنَّ عِنْدَهُ أَرْبَعُ نِسْوَةٍ يُطَلِّقُ وَاحِدَةً ثُمَّ نَكَحَ أُخْرَى قَبْلَ أَنْ تَسْتَكْمِلَ الْمُطَلَّعَةَ أَجَلَهَا

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Nazr, and Ahmad Bin Muhammad, from Aasim Bin Humeyd, from Muhammad Bin Qays who said,

'I heard Abu Ja'far^{-asws} saying regarding a man having four wives with him. He divorces one, then marries another before the divorced one had completed her waiting period.

قَالَ الْحَفْهَاءُ بِأَهْلِهَا حَتَّى تَسْتَكْمِلَ الْمُطَلَّعَةَ الْعِدَّةَ وَ تَسْتَقْبِلَ الْأُخْرَى عِدَّةَ أُخْرَى وَ لَهَا صَدَاقُهَا إِنْ كَانَ دَخَلَ بِهَا وَ إِنْ لَمْ يَكُنْ دَخَلَ بِهَا فَلَهُ مَالُهَا وَ لَا عِدَّةَ عَلَيْهَا ثُمَّ إِنْ شَاءَ أَهْلُهَا بَعْدَ انْقِضَاءِ عِدَّتِهَا زَوَّجُوهُ وَ إِنْ شَاءُوا لَمْ يَزَوَّجُوهُ.

He^{-asws} said: 'The divorced one will be joined with her family until she completes her waiting period, and the other one will start another waiting period, and for her would be her dowry if he had consummated the marriage with her; and if he had not consummated with her, for him would be his wealth and there will be no waiting period upon her. If, after the expiry of the waiting period, if her family so desires, they can marry her to him, and if they so desire, they do not marry to him'.²⁸³

13- ين، كتاب حسين بن سعيد و النوادر ابنُ أَبِي عُمَيْرٍ عَنْ هِشَامٍ وَ جَمِيلٍ عَنْ زُرَّارَةَ أَوْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ: إِذَا اجْتَمَعَ عِنْدَ الرَّجُلِ أَرْبَعُ نِسْوَةٍ فَطَلَّقَ إِحْدَاهُنَّ فَلَا يَتَزَوَّجُ الْخَامِسَةَ حَتَّى تَنْقَضِيَ عِدَّةُ الْأُتَى طَلَّقَ

From the book of Haseen Bin Saeed, and 'Al Nawadir' – Ibn Abu Umeyr, from Hisham and Jameel, from Zurarah or Muhammad Bin Muslim,

'From Abu Abdullah^{-asws}, he^{-asws} said: 'When four wives gather with the man, so he divorces one of them, he cannot marry the fifth until the waiting period of the one he divorced expires'.

وَ قَالَ لَا يَجْتَمِعُ مَأْوُهُ فِي خَمْسٍ.

And he^{-asws} said: 'His water (seed) should not gather in five'.²⁸⁴

14- ين، كتاب حسين بن سعيد و النوادر الْقَاسِمُ عَنْ عَلِيِّ بْنِ أَبِي إِبْرَاهِيمَ ع مِثْلَ ذَلِكَ قُلْتُ وَ إِنْ كَانَتْ مُتْعَةً قَالَ وَ إِنْ كَانَتْ مُتْعَةً.

The book of Haseen Bin Saeed, and 'Al Nawadir' – Al Qasim, from Ali,

'From Abu Ibrahim^{-asws} (Al-Kazim^{-asws}), similar to that. I said, 'And if it was Mut'ah (temporary marriage)?' He^{-asws} said: 'And even if it was Mut'ah'.²⁸⁵

15- الْهُدَايَةُ، يَجُوزُ لِلرَّجُلِ أَنْ يَتَزَوَّجَ مِنَ الْحَرَائِرِ أَرْبَعًا وَ يَجْمَعُ بَيْنَهُنَّ وَ مِنَ الْإِمَاءِ أَمْتَيْنِ وَ يَجْمَعُ بَيْنَهُمَا وَ ذَلِكَ مِنْ أَهْلِ الْكِتَابِ وَ الْعَبْدُ يَتَزَوَّجُ بِحُرَّتَيْنِ أَوْ أَرْبَعٍ إِمَاءٍ.

²⁸³ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 12

²⁸⁴ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 13

²⁸⁵ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 14

(The book) 'Al Hidayah' -

'It is allowed for the man that he marries four from the free women, and gather between them, and two slave girls from the slave women, and gather between them, and that is from People of the Book, and the slave can marry two free women or four slave women'.²⁸⁶

²⁸⁶ Bihar Al-Anwaar V 100 – The Book of Contracts and Declarations – CH 81 H 15