

بحار الأنوار

BIHAR AL-ANWAAR

الجزء الحادي بعد المائة

Volume 101

Part 4 out of 5

بحار الانوار الجامعة لدرر أخبار الأئمة الاطهار

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

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[باب 18 من يجوز شهادته و من لا يجوز](#)

CHAPTER 18 – ONE WHOSE TESTIMONY IS ALLOWED AND ONE IT'S NOT ALLOWED

1- لي، الأماالي للصدوق أبي عن علي بن محمد بن قتيبة عن حمدان بن سليمان عن نوح بن شعيب عن محمد بن إسماعيل عن صالح عن علقمة قال: قَالَ الصَّادِقُ جَعْفَرُ بْنُ مُحَمَّدٍ ع وَ قَدْ قُلْتُ لَهُ يَا ابْنَ رَسُولِ اللَّهِ ص أَحْبَبْتَنِي عَمَّنْ تُقْبَلُ شَهَادَتُهُ وَ مَنْ لَا تُقْبَلُ

(The book) 'Al Amaali' of Al Sadouq – My father, from Ali Bin Muhammad Bin Quteyba, from Hamdan Bin Suleyman, from Nuh Bin Shueyb, from Muhammad Bin Ismail, from Salih, from Alqama who said,

'Al-Sadiq Ja'far^{-asws} Bin Muhammad^{-asws}, and I had said to him^{-asws}, 'O son^{-asws} of Rasool-Allah^{-saww}! Inform me about the one whose testimony is accepted and one it is not accepted!'

فَقَالَ يَا عَلْقَمَةُ كُلُّ مَنْ كَانَ عَلَى فِطْرَةِ الْإِسْلَامِ جَازَتْ شَهَادَتُهُ

He^{-asws} said: 'O Alqama! Everyone who was upon the nature of Islam, his testimony is accepted'.

قَالَ قُلْتُ لَهُ تُقْبَلُ شَهَادَةُ مُعْتَرِفٍ لِلذُّنُوبِ

He (the narrator) said, 'I said to him^{-asws}, 'Is the testimony of an acknowledges of the sins accepted?'

فَقَالَ يَا عَلْقَمَةُ لَوْ لَمْ تُقْبَلِ شَهَادَةُ الْمُعْتَرِفِينَ لِلذُّنُوبِ لَمَا قُبِلَتْ إِلَّا شَهَادَاتُ الْأَنْبِيَاءِ وَ الْأَوْصِيَاءِ ع لِأَنََّّهُمْ هُمُ الْمَعْصُومُونَ دُونَ سَائِرِ الْخَلْقِ

He^{-asws} said: 'O Alqama! If the testimony of an acknowledged of the sins is not accepted, the testimonies will not be accepted except of the Prophets^{-as} and the successors^{-asws} because they^{-asws} are the infallible besides rest of the people!'

فَمَنْ لَمْ تَرَهُ بِعَيْنِكَ يَزْتَكِبُ ذَنْبًا أَوْ لَمْ يَشْهَدْ عَلَيْهِ بِذَلِكَ شَاهِدَانِ فَهُوَ مِنْ أَهْلِ الْعَدَالَةِ وَ السَّيِّئِ وَ شَهَادَتُهُ مَقْبُولَةٌ وَ إِنْ كَانَ فِي نَفْسِهِ مُذْنِبًا وَ مَنْ اعْتَابَهُ بِمَا فِيهِ فَهُوَ خَارِجٌ عَنِ وَّلَايَةِ اللَّهِ عَزَّ وَ جَلَّ دَاخِلٌ فِي وَّلَايَةِ الشَّيْطَانِ

The one did not see with your own eyes indulging in sin or two witnesses did not testify upon, he is from the people of justice and the concealment and his testimony is acceptable, and even if he was a sinner within himself; and the one who backbites with what is in him, he is outside from the Wilayah of Allah^{-azwj} Mighty and Majestic, inside in the Wilayah of Satan^{-la}.

وَ لَقَدْ حَدَّثَنِي أَبِي عَنْ أَبِيهِ عَنْ آتَابِهِ ع أَنَّ رَسُولَ اللَّهِ ص قَالَ مَنْ اعْتَابَ مُؤْمِنًا بِمَا فِيهِ لَمْ يَجْمَعْ اللَّهُ بَيْنَهُمَا فِي الْجَنَّةِ أَبَدًا وَ مَنْ اعْتَابَ مُؤْمِنًا بِمَا لَيْسَ فِيهِ انْقَطَعَتِ الْعِصْمَةُ بَيْنَهُمَا وَ كَانَ الْمُعْتَابُ فِي النَّارِ خَالِدًا فِيهَا- وَ بِنَسِ الْمَصِيرِ الْحَبْرِ.

It has been narrated to me^{-asws} from my^{-asws} father^{-asws}, from his^{-asws} father^{-asws}, from his^{-asws} forefathers^{-asws} that Rasool-Allah^{-saww} said: 'One who backbites a Momin with what is in him,

Allah^{-azwj} will not Gather between the two in Paradise, ever; and the one who backbites a Momin with what isn't in him, the (bond of) protection between them is severed, and the backbiter will be in the Hellfire being eternally in it, and it is an evil destination' – the Hadeeth'.¹

2- شي، تفسير العياشي عن عبّيد الله الحليّ عن أبي عبد الله ع قال: يَنْبَغِي لَوْلَدٍ زِنًا أَنْ لَا يُجُوزَ لَهُ شَهَادَةٌ وَلَا يُؤَمَّمُ بِالنَّاسِ وَلَا يَحْمِلُهُ نُوحٌ فِي السَّفِينَةِ وَ قَدْ حَمَلَ فِيهَا الْكَلْبَ وَ الْحَنْزِيرَ.

Tafseer Al Ayyashi – From Ubeydullah Al Halby,

From Abu Abdullah^{-asws} having said: 'It is befitting for a son of adultery (bastard) that testimony is not accepted from him, nor lead the people (in Salat), and Noah^{-as} did not carry him in the ship and (although) he^{-as} had carried in it the dog and the pig'.²

3- الْهِدَايَةُ، وَ الْمُسْلِمُونَ كُلُّهُمْ عُدُولٌ تُقْبَلُ شَهَادَتُهُمْ إِلَّا مَجْلُودًا فِي حَدِّ أَوْ مَعْرُوفًا بِشَهَادَةِ زُورٍ أَوْ حَاسِدًا أَوْ بَاغِيًا أَوْ مُتَّهَمًا أَوْ تَابِعًا لِمُتَّبِعٍ أَوْ أَجِيرًا لِصَاحِبِهِ أَوْ شَارِبٍ خَمْرٍ أَوْ مُقَامِرًا أَوْ خَصْمًا

(The book) 'Al Hidayah' -

And the Muslims, all of them (are considered) just. Their testimonies excepted, except for the one whipped a legal penalty, or one well-known with false testimonies, or an envier, or a rebel, or one accused, or a follower for a followed, or an employee for his employer, or a drinker of wine, or a gambler, or disputant (party to it).

وَ لَا تُقْبَلُ شَهَادَةُ الشَّرِيكِ لِشَرِيكِهِ إِلَّا فِيمَا لَا يَعُودُ نَفْعُهُ عَلَيْهِ وَ تُقْبَلُ شَهَادَةُ الْأَخِ لِأَخِيهِ وَ عَلَيْهِ وَ تُقْبَلُ شَهَادَةُ الْوَلَدِ لِوَالِدِهِ وَ لَا تُقْبَلُ عَلَيْهِ.

And testimony of a partner cannot be accepted for his partner except in what benefits do not come to him, and testimony is accepted of the brother for his brother and against him, and testimony of the son is accepted for his father and is not accepted against him'.³

4- لي، الأماالي للصدوق ابن مسرور عن ابن عامر عن عمه عن الأزدّي عن إبراهيم بن زياد عن الصادق ع قال: مَنْ صَلَّى خَمْسَ صَلَوَاتٍ فِي الْيَوْمِ وَ اللَّيْلَةِ فِي جَمَاعَةٍ فَظَنُّوا بِهِ خَيْرًا وَ أَجِزُوا شَهَادَتَهُ.

(The book) 'Al Amaali' of Al Sadouq – Ibn Masrouq, from Ibn Aamir, from his uncle, from Al Azdy, from Ibrahim Bin Ziyad,

From Al-Sadiq^{-asws}, having said: 'One who prays the five Salats during the day and the night in congregation, think good of him and allow his testimony'.⁴

5- ج، الإحتجاج كُتِبَ الْجُمُعِيُّ إِلَى الْقَائِمِ ع بِسَأَلِهِ عَنِ الْأَبْرَصِ وَ الْمَجْدُومِ وَ صَاحِبِ الْفَالِجِ هَلْ يُجُوزُ شَهَادَتُهُمْ فَقَدْ رُوِيَ لَنَا أَنَّهُمْ لَا يُؤْمِنُونَ الْأَصْحَاءَ

¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 1

² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 2

³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 3

⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 4

(The book) 'Al Ihtijaj' -

Al-Himeyri wrote to Al-Qaim^{-ajfj} asking him^{-ajfj} about the one with vitiligo and the leprosy, and the one with the partial paralysis, 'Is their testimonies allowed, for it has been reported to us that they cannot lead the healthy ones (in Salat)?'

فَأَجَابَ إِنْ كَانَ مَا بِهِمْ حَدِيثًا جَازَتْ شَهَادَتُهُمْ وَإِنْ كَانَ وِلَادَةً لَمْ يَجِزْ .

The answer: 'If whatever was with them is new, their testimonies are allowed, and if it was at birth, it is not allowed'.⁵

6- ب، قرب الإسناد عليّ عن أخيه ع قال: سألته عن المكاتب هل عليّ فطرته شهر رمضان أو على من كاتبه و هل يجوز شهادته

(The book) 'Qurb Al Isnaad' -

Ali, from his brother (Musa Al-Kazim^{-asws}, he said, 'I asked him^{-asws} about the contracted slave, 'Is *Fitra* of the month of Ramazan due to him, or upon the one who contacted him, and is his testimony allowed?'

قال لا يجوز شهادته و الفطرة عليه.

He^{-asws} said: 'His testimony is not allowed, and the (payment of) *Fitra* is upon him'.⁶

7- قال: و سألته عن ولد الزنا هل يجوز شهادته

He said, 'And I asked him^{-asws} about a son of adultery (bastard), 'Is his testimony allowed?'

قال لا يجوز شهادته و لا يؤم.

He^{-asws} said: 'His testimony is not allowed and he cannot lead (in congregational Salat)'.⁷

8- و سألته عن السائل في كفه يجوز شهادته

And I asked him^{-asws} about the beggar by his hand, 'Is his testimony allowed?'

فقال كان أبي يقول- لا يجوز شهادة السائل في كفه.

He^{-asws} said: 'My^{-asws} father^{-asws} had said the testimony of a beggar by his hand is not allowed'.⁸

⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 5

⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 6

⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 7

⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 8

9- ن، عيون أخبار الرضا عليه السلام الطالقاني عن أحمد بن علي الأنصاري عن الهروي قال سمعت الرضا ع يقول من قال بالجبر فلا تُعطوه من الزكاة ولا تقبلوا له شهادة أبداً.

(The book) 'Uyoun Akhbar Al-Reza^{asws}', may the greeting be upon him^{asws} – Al Talaqany, from Ahmad Bin Ali Al Ansari, from Al Harwy who said,

'I heard Al-Reza^{asws} saying: 'One who says (believes) with the compulsion (by Allah^{azwj}), neither give him from the Zakat nor accept any testimony of his, ever!'⁹

10- مع، معاني الأخبار ابن الوليد عن الصفار عن ابن معروف عن ابن مهزيار عن الحسين بن سعيد عن صفوان عن سيف التمار قال قال أبو عبد الله ع إن سعيد بن عبد الملك قدم حاجاً فلقني أبي ع فقال إني سئمت هدياً فكيف أصنع

(The book) 'Ma'any Al Akhbar' – Ibn Al Waleed, from Al Saffar, from Ibn Marouf, from Ibn Mahziyar, from Al Husayn Bin Saeed, from Safwan, from Sayf Al Tammar who said,

'Abu Abdullah^{asws} said: 'Saeed Bin Abdul Malik arrived as a Pilgrim. He met my^{asws} father^{asws}. He said, 'I have ushered a sacrificial animal, how shall I deal with it?'

فَقَالَ أَطْعِمُ أَهْلَكَ ثُلُثًا وَ أَطْعِمِ الْقَانِعِ ثُلُثًا وَ أَطْعِمِ الْمِسْكِينَ ثُلُثًا

He^{asws} said: 'Feed a third to your family, and feed 'Al-Qanie' a third, and feed the needy a third'.

قُلْتُ الْمِسْكِينُ هُوَ السَّائِلُ

I said, 'The needy, he is the beggar?'

قَالَ نَعَمْ وَ الْقَانِعُ يَتَمَنَعُ بِمَا أُرْسِلَتْ إِلَيْهِ مِنَ الْبُضْعَةِ فَمَا فَوْقَهَا وَ الْمُعْتَرُ يَعْتَرِكُ لَا يَسْأَلُكَ.

He^{asws} said: 'Yes, and 'Al-Qanie' is contented with whatever is sent to him, the piece of meat and what is above eat, and 'Al-Mu'tar' appears to you but does not ask you'.¹⁰

11- وَ قَالَ النَّبِيُّ ص لَا يَجُوزُ شَهَادَةُ حَائِنٍ وَ لَا حَائِنَةٍ وَ لَا ذِي جَفْدٍ وَ لَا ذِي عَمْرٍ عَلَى أَخِيهِ وَ لَا طَيْنٍ فِي وِلَايَةٍ وَ لَا قَرَابَةٍ وَ لَا الْقَانِعِ مَعَ أَهْلِ الْبَيْتِ لَهُمْ-

And the Prophet^{saww} said: 'Neither the testimony of a betrayer accepted, nor of one with malice, nor one with mockery of his brother, nor a suspect in the friendship, or a relative, nor the dependant (living) with a family.

⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 9

¹⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 10

أَمَّا الْخِيَانَةُ فَإِنَّمَا تَدْخُلُ فِي أَشْيَاءَ كَثِيرَةٍ سِوَى الْخِيَانَةِ فِي الْمَالِ مِنْهَا أَنْ يُؤْتَمَنَ عَلَى فَرْجٍ فَلَا يُؤَدِّي فِيهَا الْأَمَانَةَ وَ مِنْهَا أَنْ يُسْتَوْدَعَ سِرًّا يَكُونُ إِذَا أَفْشَى فِيهِ عَطَبَ الْمُسْتَوْدِعِ أَوْ فِيهِ شَيْئُهُ وَ مِنْهَا أَنْ يُؤْتَمَنَ عَلَى حُكْمٍ بَيْنَ اثْنَيْنِ أَوْ فَوْقَهُمَا فَلَا يَعْدِلُ وَ مِنْهَا أَنْ يَغْلَّ مِنَ الْمَغْنَمِ شَيْئاً وَ مِنْهَا أَنْ يَكْتُمَ شَهَادَةً وَ مِنْهَا أَنْ يُسْتَشَارَ فَيُشِيرَ بِخِلَافِ الصَّوَابِ تَعَمُّداً وَ أَشْبَاهَ ذَلِكَ

As for the betrayal, it is entering into many things besides betrayal in the wealth. From these is that he is entrusted upon a private part (slave girl) he does fulfil the entrustment regarding it, or he is entrusted with a secret, the disclosure of which would harm the one who confided it or bring him disgrace; or he is entrusted with judging between two people or more and does not act justly; or he takes something unlawfully from the spoils of war; or he conceals testimony; or he is consulted for advice and deliberately gives an incorrect opinion; and similar acts of that kind.

وَ الْعَمْرُ الشَّحْنَاءُ وَ الْعِدَاوَةُ وَ أَمَّا الظَّنُّ فِي الْوَلَاءِ وَ الْقَرَابَةِ فَالَّذِي يُبْتَهَمُ بِالِدِّعَاوَةِ إِلَى غَيْرِ أَبِيهِ أَوْ الْمُتَوَلَّى إِلَى غَيْرِ مَوْلَاهِ وَ قَدْ يَكُونُ أَنْ يُبْتَهَمَ فِي شَهَادَةٍ لِقَرِيْبِهِ وَ الظَّنُّ أَيْضاً الْمَتَّهَمُ فِي دِينِهِ

And as for one with malice, it means rancour and enmity, as for one who is suspect in the friendship or kinship, he is the one accused of claiming lineage to other than his father, or of affiliating himself with other than his rightful allies. It can also refer to one suspected when testifying on behalf of a relative. The suspect is also the one who is accused concerning his religion.

وَ أَمَّا الْقَانِعُ مَعَ أَهْلِ الْبَيْتِ هُمْ فَالرَّجُلُ يَكُونُ مَعَ الْقَوْمِ فِي حَاشِيَتِهِمْ كَالْحَادِمِ لَهُمْ وَ التَّابِعِ وَ الْأَجِيرِ وَ نَحْوِهِ وَ أَصْلُ الْقَانِعِ الرَّجُلُ الَّذِي يَكُونُ مَعَ الرَّجُلِ يَطْلُبُ فَضْلَهُ وَ يَسْأَلُهُ مَعْرُوفَهُ يَقُولُ هَذَا يَطْلُبُ مَعَاشَهُ مِنْ هَؤُلَاءِ فَلَا يَجُوزُ شَهَادَتُهُ لَهُمْ

As for ‘the dependent who lives with a household in service to them’ he is the man who lives among a people as part of their attendants, like a servant, follower, or hired worker, and similar types. The original meaning of ‘Al-Qun’ou’ refers to a man who stays with another, seeking his favour and asking him for assistance; such a person seeks his livelihood from them, so his testimony in their favour is not permissible.

قَالَ اللهُ تَعَالَى - فَكُلُوا مِنْهَا وَ أَطْعِمُوا الْقَانِعَ وَ الْمُعْتَرَّ فَالْقَانِعُ الَّذِي يَقْنَعُ بِمَا تُعْطِيهِ وَ يَسْأَلُ وَ الْمُعْتَرُّ الَّذِي يَتَعَرَّضُ وَ لَا يَسْأَلُ

Allah the Exalted said: **then eat from these and feed the contented and the beggar. Like that, We Subject these for you, perhaps you would be thankful [22:36].** The ‘Al Qanie’ (contented) is the one who is content with what you give him and who does not ask, while the ‘Mu’tar’ is the one who approaches you but does not ask.¹¹

12- ب، قرب الإسناد أبو البختري عن الصادق عن أبيه ع أَنَّ عَلِيًّا ع كَانَ يَقُولُ لَأَنْ أَدْعَ شُهُودَ حُضُورِ الْأَضْحَى عَشْرَ مَرَّاتٍ أَحَبُّ إِلَيَّ مِنْ [أَنْ] أَدْعَ شُهُودَ الْجُمُعَةِ مَرَّةً وَاحِدَةً مِنْ غَيْرِ عِلَّةٍ.

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

¹¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 11

From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: 'Ali^{-asws} had said: 'If I^{-asws} were to leave attending (Eid) Al-Azha (Salat) ten times, it would be more beloved to me^{-asws} than if I leave attending the Friday (Salat) one time from without a (valid) reason'.¹²

13- ير، بصائر الدرجات السنديُّ بنُ مُحَمَّدٍ وَ مُحَمَّدُ بنُ الْحُسَيْنِ عَنْ جَعْفَرِ بْنِ بَشِيرٍ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ أَبِي بصيرٍ قَالَ: سَأَلْتُ أَبَا جَعْفَرٍ عَ عَنْ شَهَادَةِ وَالدِّ الرَّبَا نَحْوُ قَالَ لَا

(The book) 'Basaair Al Darajaat' – Al Sindy Bin Muhammad, and Muhammad Bin Al Husayn, from Ja'far Bin Bashir, from Aban Bin Usman, from Abu Baseer who said,

'I asked Abu Ja'far^{-asws} about the testimony of a son of adultery (bastard), whether it is allowed. He^{-asws} said: 'No'.

فَعُلْتُ إِنَّ الْحَكَمَ بْنَ عُنَيْبَةَ يَزْعُمُ أَنَّهَا نَحْوُ

I said, 'But Al-Hakam Bin Uteyba claims that it is allowed!'

فَقَالَ اللَّهُمَّ لَا تَغْفِرْ لَهُ ذَنْبَهُ مَا قَالَ اللَّهُ لِلْحَكَمِ - إِنَّهُ لَيَذْكَرُ لَكَ وَ لِقَوْمِكَ وَ سَوْفَ تُسْئَلُونَ فَلْيَذْهَبِ الْحَكَمُ بَيْنَنَا وَ شِمَالًا فَوَ اللَّهُ لَا يُوجَدُ الْعِلْمُ إِلَّا مِنْ أَهْلِ بَيْتِ نَزَلَ عَلَيْهِمْ جِبْرَائِيلُ.

He^{-asws} said: 'O Allah^{-azwj}, do not Forgive his sins for him! What Allah^{-azwj} has Said for Al-Hakam: **And it is a Zikr for you and for your people, and soon you shall be Questioned [43:44]**. So let Al-Hakam go right and left. By Allah^{-azwj}, he will not get the knowledge except People^{-asws} of the Household! Jibraeel^{-as} descends upon them^{-asws}'.¹³

14 كش، رجال الكشي مُحَمَّدُ بنُ مَسْعُودٍ عَنْ عَلِيِّ بْنِ الْحُسَيْنِ بْنِ فَضَالٍ عَنِ الْعَبَّاسِ بْنِ غَامِرٍ وَ جَعْفَرِ بْنِ مُحَمَّدٍ بْنِ حَكِيمٍ عَنْ أَبَانَ مِثْلَهُ.

(The book) 'Rijal' of Al Kashy – Muhammad Bin Masoud, from Ali Bin Al-Hassan Bin Fazal, from Al Abbas Bin Amir, and Ja'far Bin Muhammad Bin Hakeem, from Aban, similar to it.¹⁴

15 عُدَّةُ الدَّاعِي، قَالَ النَّبِيُّ ص شَهَادَةُ الَّذِي يَسْأَلُ فِي كَفِّهِ تُرَدُّ.

(The book) 'Uddat Al Daie' -

The Prophet^{-saww} said: 'The testimony of the one who begs by his hand, is rejected'.¹⁵

16- ضا، فقه الرضا عليه السلام اعلم أنه لا يجوز شهادة شارب الخمر ولا اللاعب بالشطرنج والتزود ولا المقامر ولا متهم ولا تابع لمبتوع ولا أجير لصاحبه ولا امرأة تزوجها ولا المشهور بالفسق والفجور ولا المرابي

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'Know that testimony is not allowed, neither of a drinker of wine, nor the player of chess and the dice game, nor of a gambler, nor one who is accused (of dishonesty), nor a follower who is partial aide to his

¹² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 12

¹³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 13

¹⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 14

¹⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 15

leader, nor a servant for his employer, nor a wife for her husband, nor one known for immorality and corruption, nor a usurer.

وَجُوزُ شَهَادَةِ الرَّجُلِ لِامْرَأَتِهِ وَ شَهَادَةُ الْوَالِدِ لِوَالِدِهِ وَ جُوزُ شَهَادَةِ الْوَالِدِ عَلَى وُلْدِهِ وَ جُوزُ شَهَادَةِ الْأَعْمَى إِذَا ثَبَتَ وَ شَهَادَةُ الْعَبْدِ لِغَيْرِ صَاحِبِهِ وَ لَا جُوزُ شَهَادَةِ الْمُفْتَرِي حَتَّى يَتُوبَ مِنَ الْفِرْيَةِ وَ تَوْبَتُهُ أَنْ تُوقَفَ فِي الْمَوْضِعِ الَّذِي قَالَ فِيهِ مَا قَالَ يُكَذِّبُ نَفْسَهُ.

The testimony of a man for his wife is permissible, as is the testimony of a child for his parent, and the testimony of a parent against his child is permissible. The testimony of a blind person is valid if it is established, and the testimony of a slave is acceptable if it is not for his master. The testimony of a slanderer is not accepted until he repents from his slander, and his repentance is that he stands in the place where he made the false statement and declares himself a liar'.¹⁶

17- وَ نَرَوِي أَنَّهُ مَنْ وُلِدَ عَلَى الْفِطْرَةِ وَ لَمْ يُعْرِفْ مِنْهُ جُرْمَ فَهُوَ عَدْلٌ وَ شَهَادَتُهُ جَائِزَةٌ.

And we are reporting that the one born upon the nature (Islam) and a crime is not known from him, he is just and his testimony is allowed'.¹⁷

18- وَ أَرَوِي عَنِ الْعَالِمِ ع أَنَّهُ قَالَ: لَا جُوزَ شَهَادَةِ ظَنِينٍ وَ حَاسِدٍ وَ لَا بَاغٍ وَ لَا مُتَّهِمٍ وَ لَا خَصْمٍ وَ لَا مُتَّهَتِكٍ وَ لَا مَشْهُودٍ.

And it is reported from the Scholar (Imam^{-asws}), he^{-asws} said: 'The testimony is not allowed for a suspect, or envious, or oppressive, or accused (of dishonesty), or a disputant, or an immoral person, or one testified against (for wrongdoing)'.¹⁸

19- وَ بَلَغَنِي عَنِ الْعَالِمِ ع أَنَّهُ قَالَ: إِذَا كَانَ لِأَخِيكَ الْمُؤْمِنِ عَلَى رَجُلٍ حَقٌّ فَدَفَعَهُ عَنْهُ وَ لَمْ يَكُنْ لَهُ مِنَ الْبَيِّنَةِ إِلَّا وَاحِدَةٌ وَ كَانَ الشَّاهِدُ ثِقَةً فَسَأَلْتَهُ عَنْ شَهَادَتِهِ فَإِذَا أَقَامَهَا عِنْدَكَ شَهِدْتَ مَعَهُ عَلَى مِثَالِ مَا شَهِدَ لِأَخِيكَ يَتَوَى حَقُّ امْرِئٍ مُسْلِمٍ.

And it has reached me from the Scholar (Imam^{-asws}), he^{-asws} said: 'When there was a right for your Momin brother upon a man but he repels it from him and there does not happen to be the proof for him except one (witness), and the witness was trusted, ask him about his testimony. When he establishes it in your presence, testify with him upon similar to what he testifies lest a right of a Muslim person is lost'.¹⁹

20- وَ لَا جُوزَ شَهَادَةِ النِّسَاءِ فِي طَلَاقٍ وَ لَا رُؤْيَةِ هَالِلٍ وَ لَا حُدُودٍ وَ جُوزُ فِي الدُّيُونِ وَ مَا لَا يَسْتَطِيعُ الرَّجُلُ أَنْ يَنْظُرَ إِلَيْهِ.

And the testimony of the women is not allowed in a divorce, nor sighting a crescent, nor legal penalties, and it is allowed regarding the debts and what the man is not capable of looking at'.²⁰

¹⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 16

¹⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 17

¹⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 18

¹⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 19

²⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 20

21- أُرْوِي عَنِ الْعَالِمِ ع أَنَّهُ يُجُوزُ فِي الدَّمِّ وَالْفَسَامَةِ وَالتَّذْيِيرِ.

It is reported from the Scholar (Imam^{-asws}), he^{-asws} had allowed (testimony of the women) regarding the blood, and the distribution, and the management'.²¹

22 وَ رُوِيَ أَنَّهُ يُجُوزُ شَهَادَةُ امْرَأَتَيْنِ فِي اسْتِهْلَالِ الصَّبِيِّ.

And it is reported that he^{-asws} had allowed testimony of two women in naming the child'.²²

23- وَ نَرَوِي أَنَّهُ يُجُوزُ شَهَادَةُ الْقَائِلَةِ وَحَدَهَا.

And we are reporting that the testimony of the midwife alone is allowed.²³

24- وَ نَرَوِي أَنَّهُ لَا يُجُوزُ شَهَادَةُ عَرَّافٍ وَ لَا كَاهِنٍ.

And we are reporting that neither the testimony of a fortune-teller nor a soothsayer is accepted'.²⁴

25- وَ يُجُوزُ شَهَادَةُ الْمُسْلِمِينَ فِي جَمِيعِ أَهْلِ الْمَلِكِ وَ لَا يُجُوزُ شَهَادَةُ أَهْلِ الذِّمَّةِ عَلَى الْمُسْلِمِينَ.

And testimony of the Muslims is allowed regarding the entirety of the people of (other religions), and testimony of the Ahl Al-Zimma (Jews and Christians under protection of the Muslim government) is not allowed upon the Muslims'.²⁵

26- شي، تفسير العياشي عن أبي أسامة عن أبي عبد الله ع قال: سألته عن قول الله- يا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِلَى آخِرِ الْآيَةِ- أَوْ آخِرَانِ مِنْ غَيْرِكُمْ قَالَ هُمَا كَافِرَانِ

Tafseer Al Ayyashi – From Abu Usama,

From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about Words of Allah^{-azwj}: **O you who believe! Keep witness between you when death approaches one of you, - up to - or two other from others (non-Muslims) [5:106].** He^{-asws} said: 'These two are Kafirs'.

قُلْتُ فَيَسْئَلُ اللَّهُ ذَوَا عَدْلٍ مِنْكُمْ

I said, 'But Allah^{-azwj} Says: **two (men) from you possessing justice [5:106]!**'

قَالَ مُسْلِمَانِ.

²¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 21

²² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 22

²³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 23

²⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 24

²⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 25

He^{-asws} said: ‘Muslims’.²⁶

27- شي، تفسير العياشي عن زَيْدِ الشَّحَامِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ - يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِلَىٰ أَوْ آخِرَانِ مِنْ غَيْرِكُمْ فَقَالَ هُمَا كَافِرَانِ.

Tafseer Al Ayyashi – From Zayd Al Shaham,

From Abu Abdullah^{-asws}, he (the narrator) said, ‘I asked him^{-asws} about Words of Allah^{-azwj}: **O you who believe! Keep witness between you when death approaches one of you, - up to - or two other from others (non-Muslims) [5:106].** He^{-asws} said: ‘These two are Kafirs’.²⁷

28- شي، تفسير العياشي عن عَلِيِّ بْنِ سَالِمٍ عَنْ رَجُلٍ قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ قَوْلِ اللَّهِ - يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِنْكُمْ أَوْ آخِرَانِ مِنْ غَيْرِكُمْ

Tafseer Al Ayyashi – From Ali Bin Salim, from a man who said,

‘I asked Abu Abdullah^{-asws} about Words of Allah^{-azwj}: **‘O you who believe! Keep witness between you when death approaches one of you, during bequeathing, two (men) from you possessing justice [5:106].**

قَالَ فَقَالَ اللَّذَانِ مِنْكُمْ مُسْلِمَانِ وَ اللَّذَانِ مِنْ غَيْرِكُمْ مِنْ أَهْلِ الْكِتَابِ فَإِنْ لَمْ يَجِدُوا مِنْ أَهْلِ الْكِتَابِ فَمِنْ الْمَجُوسِ لِأَنَّ رَسُولَ اللَّهِ ص قَالَ وَ سُنُوا بِالْمَجُوسِ سُنَّةَ أَهْلِ الْكِتَابِ فِي الْجُرْيَةِ

He (the narrator) said, ‘He^{-asws} said: ‘Those from you who are two Muslims, and those two from other are from people of the Book. If you cannot find from people of the Book, then from the Magians, because Rasool-Allah^{-saww} said: ‘And practice with the Magians the practice of people of the Book regarding the taxation!’

قَالَ وَ ذَلِكَ إِذَا مَاتَ الرَّجُلُ بِأَرْضٍ غُرْبَةٍ فَلَمْ يَجِدْ مُسْلِمِينَ أَشْهَدَ رَجُلَيْنِ مِنْ أَهْلِ الْكِتَابِ يُحْسِنَانِ مِنْ بَعْدِ الصَّلَاةِ فَيُقْسِمَانِ بِاللَّهِ ... لَا نَشْتَرِي بِهِ نَفْسًا وَ لَوْ كَانَ ذَا قُرْبَىٰ وَ لَا نَكْتُمُ شَهَادَةَ اللَّهِ إِنَّا إِذَا لَعَمْرُ الْأَثَمِينَ

He^{-asws} said: ‘And it is when the man is dying in a strange land and cannot find two Muslims, he can keep witness of two men from people of the Book, **detain both of them after the Salat. If you doubt them then they should both swear by Allah, ‘We will neither take a price for it even if it was a relative, nor would we conceal a testimony of Allah, surely then we would be from the sinners’ [5:106].**

قَالَ وَ ذَلِكَ إِنْ اِزْتَابَ وَلِيُّ الْمَيِّتِ فِي شَهَادَتِهِمَا - فَإِنْ عُثِرَ عَلَىٰ أَحَدِهِمَا اسْتَحْتَفًا إِثْمًا يَقُولُ شَهِدَا بِالْبَاطِلِ فَلَيْسَ لَهُ أَنْ يَنْقُضَ شَهَادَتَهُمَا حَتَّىٰ يَجِيءَ شَاهِدَانِ فَيُقِيمَانِ مَقَامَ الشَّاهِدَيْنِ الْأَوَّلَيْنِ - فَيُقْسِمَانِ بِاللَّهِ لَشَهَادَتُنَا أَحَقُّ مِنْ شَهَادَتِهِمَا وَ مَا اعْتَدَيْنَا إِنَّا إِذَا لَعَمْرُ الظَّالِمِينَ

He^{-asws} said: ‘And that is if the guardian of the deceased doubts in their witnessing, **Then, if it was stumbled upon that they both earned a sin [5:107].** He^{-azwj} Says: “They testified falsely”,

²⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 26

²⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 27

and he does not have the right to annul their testimony until two witnesses come forward and stand in the place of the first two witnesses. ***So they should swear by Allah, 'Our testimony is more rightful than their testimonies and we did not exceed, for them we would be from the unjust ones' [5:107].***

فَإِذَا فَعَلَ ذَلِكَ نَقَضَ شَهَادَةَ الْأُولَىٰ وَ جازتْ شَهَادَةُ الْآخَرَيْنِ يَقُولُ اللَّهُ ذَلِكَ أَذَىٰ أَنْ يَأْتُوا بِالشَّهَادَةِ عَلَىٰ وَجْهِهَا أَوْ يَخَافُوا أَنْ تُرَدَّ أَيْمَانٌ بَعْدَ آيْمَانِهِمْ.

When he has done that, the testimony of the first two is annulled, and the testimony of the latter two is allowed. Allah^{-azwj} Says: ***That is closer that then coming with the testimony upon its aspect, or fearing that you would want an oath after their oaths [5:108]'***.²⁸

29- شي، تفسير العياشي عن ابن الفضيل عن أبي الحسن ع قال: سألتُهُ عن قول الله- إذا حضر أحدكم الموت حين الوصية اثنان ذوا عدلٍ منكم أو آخرانٍ من غيركم

Tafseer Al Ayyashi – From Ibn Al Fuzeyl,

From Abu Al-Hassan^{-asws}, he (the narrator) said, 'I asked him^{-asws} about Words of Allah^{-azwj}: ***O you who believe! Keep witness between you when death approaches one of you, during bequeathing, two (men) from you possessing justice, or two other from others (non-Muslims) [5:106].***

قَالَ اللَّذَانِ مِنْكُمْ مُسْلِمَانِ وَ اللَّذَانِ مِنْ غَيْرِكُمْ مِنْ أَهْلِ الْكِتَابِ فَإِنْ لَمْ يَجِدُوا مِنْ أَهْلِ الْكِتَابِ فَمِنَ الْمَجُوسِ لِأَنَّ رَسُولَ اللَّهِ ص قَالَ سُنُّوا بِهَمَّ سُنَّةِ أَهْلِ الْكِتَابِ وَ ذَلِكَ إِذَا مَاتَ الرَّجُلُ بِأَرْضِ غُرَبَةٍ فَلَمْ يَجِدْ مُسْلِمِينَ يُشْهَدُهُمَا فَرَجُلَيْنِ مِنْ أَهْلِ الْكِتَابِ

He^{-asws} said: 'Those are two Muslims from you, and those from others are from people of the Book. If you cannot find from people of the Book, then from the Magians, because Rasool-Allah^{-azwj} said: 'Practice with them the practice of people of the Book!' And that is when a man is dying in a strange land, so two Muslims cannot be found as witnesses, so two men from the people of the Book.

قَالَ حُمْرَانُ قَالَ أَبُو عَبْدِ اللَّهِ ع وَ اللَّذَانِ مِنْ غَيْرِكُمْ مِنْ أَهْلِ الْكِتَابِ وَ إِذَا مَاتَ الرَّجُلُ الْمُسْلِمُ فِي أَرْضِ غُرَبَةٍ فَطَلَبَ رَجُلَيْنِ مُسْلِمَيْنِ يُشْهَدُهُمَا عَلَىٰ وَصِيَّتِهِ فَلَمْ يَجِدْ مُسْلِمَيْنِ فَيُشْهَدُ رَجُلَيْنِ ذَمِيَّيْنِ مِنْ أَهْلِ الْكِتَابِ مُرَضِيَّيْنِ عِنْدَ أَصْحَابِهِمَا.

Humran said, 'Abu Abdullah^{-asws} said: 'And those two from other are from people of the Book, and rather that is when the Muslim man is dying in a strange land, so two Muslim men are sought to witness upon his bequest, so two Muslims are not found, so two men from the *Zimmy* (Jews or Christian under protection of the Muslim government) from people of the Book, satisfactory in the view of their companions'.²⁹

²⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 28

²⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 29

30- قب، المناقب لابن شهر آشوب يَحْيَى بْنُ سَعْدٍ عَنْ عُمَرَ بْنِ سَعْدِ الرَّقِيِّ قَالَ قَالَ الصَّادِقُ ع مَاتَ عُقْبَةُ بْنُ عَامِرِ الْجُهَنِيِّ وَ تَرَكَ خَيْرًا كَثِيرًا مِنْ أَمْوَالٍ وَ مَوَاشِيٍّ وَ عِبِيدٍ وَ كَانَ لَهُ عَبْدَانِ يُقَالُ لِأَحَدِهِمَا سَالِمٌ وَ لِالْآخَرِ مَطْعُونٌ فَوَرَّثَهُ ابْنُ عَمِّ لَهُ وَ أَعْتَقُوا الْعَبْدَيْنِ وَ جَاءَتِ امْرَأَةٌ إِلَى عَلِيٍّ ع تَذْكُرُ أَنَّ امْرَأَةً عُقْبَةَ وَ أَنْكَرَهَا ابْنُ الْعَمِّ فَشَهِدَ لَهَا سَالِمٌ وَ مَطْعُونٌ وَ عَدِلَا وَ ذَكَرَتِ الْمَرْأَةُ أَنَّهَا حَامِلٌ

(The book) 'Al Manaqib' of Ibn Shehr Ashub – Yahya Bin Sa'ad, from Umar Bin Sa'ad Al Raqy who said,

'Al-Sadiq^{-asws} said: 'Uqba Bin Aamir Al-Juhny dies and left a lot of good from the money, and livestock, and slaves, and there were two slaves of his. One of them was called Saalim and the other Mazoun. A son of a paternal uncle inherited him, and the two slaves were liberated, and a woman came to Ali^{-asws} mentioning that she was the wife of Uqba and the son of the uncle had denied her. Saalim and Mazoun testified for her, and just ones, and the woman mentioned she was pregnant.

فَقَالَ ع يُوقَفُ نَصِيبُ الْمَرْأَةِ فَإِنْ جَاءَتْ بِوَلَدٍ فَلَا شَيْءَ لَهَا وَ لَا لِوَلَدِهَا مِنَ الْمِيرَاثِ لِأَنَّهَا إِذَا شَهِدَتْ هُمَا عَلَى قَوْلِهِمَا عَبْدَانِ هُمَا وَ إِنْ لَمْ تَأْتِ بِوَلَدٍ فَلَهَا الرُّبْعُ لِأَنَّهَا قَدْ شَهِدَتْ لَهَا بِالرُّوْحِيَّةِ حُرَّانٍ قَدْ أَعْتَقَهُمَا مَنْ يَسْتَحِقُّ الْمِيرَاثَ.

He^{-asws} said: 'The share of the woman should be suspended. If she comes with a child, there is nothing from the inheritance for her nor for her child because rather two slaves had testified upon their words; and if she does not come with a child, for her is the quarter because two free men had testified for her with the marriage. They were liberated by the one who deserved the inheritance.³⁰

31- أَقُولُ وَ رَوَى الصَّادِقُ فِي الْفَقِيهِ بِسَنَدٍ حَسَنِ عَنْ الْحُسَيْنِ بْنِ زَيْدٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ ع قَالَ: أَبِي عُمَرُ بْنُ الْحَطَّابِ بِقَدَامَةِ بْنِ مَطْعُونٍ قَدْ شَرِبَ الْخَمْرَ فَشَهِدَ عَلَيْهِ رَجُلَانِ أَحَدُهُمَا حَصِيٌّ وَ هُوَ عَمْرُو التَّمِيمِيُّ وَ الْآخَرُ الْمُعَلَّى بْنُ جَارُودٍ فَشَهِدَ أَحَدُهُمَا أَنَّهُ رَأَى بِشْرَبَ وَ شَهِدَ الْآخَرُ أَنَّهُ رَأَى بَقِيَّةَ الْخَمْرِ

I say, 'And it is reported by Al Sadouq in 'Al Faqeeh' by a chain of Hassan, from Al Husayn Bin Zayd,

From Ja'far^{-asws} Bin Muhammad^{-asws}, from his^{-asws} father^{-asws} having said: 'Umar Bin Al-Khattab was brought Qudama Bin Mazoun. He had drunk the wine. Two men testified against, one of them a eunuch, and he is Amro Al-Tameemi, and the other is Al-Moallah Bin Jaroud. One of them testified that he had seen him drink, and the other testified that he had seen him vomiting the wine.

فَأَرْسَلَ عُمَرُ إِلَى أَنَاكِسٍ مِنْ أَصْحَابِ رَسُولِ اللَّهِ ص فِيهِمْ عَلِيُّ بْنُ أَبِي طَالِبٍ ع فَقَالَ لِعَلِيِّ ع مَا تَقُولُ يَا أَبَا الْحُسَيْنِ فَإِنَّكَ الَّذِي قَالَ رَسُولُ اللَّهِ ص أَنْتَ أَعْلَمُ هَذِهِ الْأُمَّةَ وَ أَقْضَاهَا بِالْحَقِّ فَإِنَّ هَذَيْنِ قَدْ اخْتَلَفَا فِي شَهَادَتَيْهِمَا

Umar sent for some people from the companions of Rasool-Allah^{-saww}, among them was Ali^{-asws} Bin Abu Talib^{-asws}. He said to Ali^{-asws}, 'What are you^{-asws} saying, O Abu Al-Hassan^{-asws}? You^{-asws} are the one for whom Rasool-Allah^{-saww} had said you^{-asws} are the most knowledgeable of this community and their most judging with the truth, for these two have differed in their testimonies!'

³⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 30

فَقَالَ عَلِيُّ ع مَا اخْتَلَفَا فِي شَهَادَتِهِمَا وَ مَا فَاءَهَا حَتَّى شَرِبَهَا

Ali^{-asws} said: 'They have not differed in their testimonies, and he had not vomited until (after) he had drunk it!'

فَقَالَ هَلْ يُجُوزُ شَهَادَةُ الْخَصِيِّ

He said, 'Is the testimony of a eunuch allowed?'

فَقَالَ مَا ذَهَابَ أَنْتَيْبِهِ إِلَّا كَذَهَابِ بَعْضِ أَعْضَائِهِ.

He^{-asws} said: 'The loss of his two testicles is like the loss of one of his limbs'.³¹

32- وَ رَوَاهُ الْكَلْبِيُّ فِي الْكَافِي وَ الشَّيْخُ فِي التَّهْدِيدِ أَيْضاً بِإِسْنَادِهِمَا عَنِ الْحُسَيْنِ بْنِ زَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ ع وَ فِيهِمَا لِحَيْثُ بَدَلُ أَنْتَيْبِهِ.

And it is reported by Al Kulayni in 'Al Kafi', and by the Sheykh in 'Al Tahzeeb' as well by their chains from Al Husayn Bin Zayd,

From Abu Abdullah^{-asws}, and in these two is, 'His beard' instead of 'His two testicles'.³²

[باب 19 شهادة النساء](#)

CHAPTER 19 – TESTIMONY OF THE WOMEN

1- لي، الأما لي للصدوق القطان عن السكري عن الجوهري عن ابن عمارة عن أبيه عن جابر الجعفي عن أبي جعفر ع قال: لا تجوز شهادة النساء في شيء من الحدود ولا تجوز في الطلاق ولا في رؤية الهلال ولا تجوز شهادتهن فيما لا يحل للرجل النظر إليه الخبر.

(The book) 'Al Amaali' of Al Sadouq – Al Qattan, from Al Sukary, from Al Jowhari, from Ibn Umarah, from his father, from Jaber Al Jufy,

From Abu Ja'far^{-asws} having said: 'Testimony of the women is not allowed in things from the legal penalties, nor allowed in the divorce, nor in sighting the crescent, and their testimonies are allowed in what is not permissible for the man to be looking at' – the Hadeeth'.³³

2- ن، عيون أخبار الرضا عليه السلام بالأسانيد الثلاثة عن الرضا عن أبيه ع قال قال علي بن أبي طالب ع سئل النبي ص عن امرأة قيل إنها زنت فذكرت المرأة أنها بكر

(The book) 'Uyoun Akhbar Al-Reza^{-asws}' – by the three chains from Al-Reza^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'Ali^{-asws} Bin Abu Talib^{-asws} said: 'The Prophet^{-saww} was asked about a woman it was said she had committed adultery. The woman mentioned that she was a virgin.

³¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 31

³² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 18 H 32

³³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 1

فَأَمَرَنِي النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ أُنظُرَ فِيهَا فَتَنْظُرَنَّ فَوَجَدْتَهَا بَكْرًا فَقَالَ صَ مَا كُنْتُ لِأَضْرِبَ مَنْ عَلَيْهِ خَاتَمٌ مِنَ اللَّهِ وَكَانَ يُجِيزُ شَهَادَةَ النِّسَاءِ فِي مِثْلِ هَذَا.

The Prophet^{-saww} instructed me^{-asws} that I^{-asws} instruct the women to look at (examine) her. They looked and found her a virgin. He^{-saww} said: 'I^{-saww} would not strike the one having a seal from Allah^{-azwj!}' – and he^{-saww} had allowed testimony of the women in the likes of this'.³⁴

3 صح، صحيفة الرضا عليه السلام عنه ع مئله

(The book) 'Saheefa Al-Reza^{-asws}', may the greeting be upon him^{-asws} – from him^{-asws} similar to it.³⁵

4- ضا، فقه الرضا عليه السلام تُقْبَلُ شَهَادَةُ النِّسَاءِ فِي التَّكَاحِ وَ الدَّيْنِ وَ فِي كُلِّ مَا لَا يَتَهَيَّبُ لِلرِّجَالِ أَنْ يَنْظُرُوا إِلَيْهِ وَ لَا تُقْبَلُ فِي الطَّلَاقِ وَ لَا فِي رُؤْيَةِ الْهَلَالِ وَ تُقْبَلُ فِي الْحُدُودِ - [و] إِذَا شَهِدَ امْرَأَتَانِ وَ ثَلَاثَةُ رِجَالٍ فَلَا تُقْبَلُ شَهَادَتُهُنَّ إِذَا كُنَّ أَرْبَعِ نِسْوَةٍ وَ رَجُلَانِ [رَجُلَيْنِ].

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'Testimony of the women is accepted in the marriage, and the debts and in all what is not feasible to the men to look at, and it is not accepted in the divorce nor in sighting the crescent, and is accepted in the legal penalties, and when two women and three men testify, their testimonies are not accepted when there are four women and two men'.³⁶

5- وَ بَحْوَرُ شَهَادَةُ امْرَأَةٍ فِي رُبْعِ الْوَصِيَّةِ إِذَا لَمْ يَكُنْ مَعَهَا غَيْرُهَا وَ بَحْوَرُ شَهَادَةُ الْمَرْأَةِ وَحْدَهَا فِي مَوْلُودٍ يُوَلَّدُ فَيَمُوتُ مِنْ سَاعَتِهِ.

And testimony of a woman is allowed in four (matters) – the bequest when there does not happen to be others with her, and testimony of the woman alone is allowed regarding a newborn who is born and dies immediately.³⁷

6- وَ أُرْوَى عَنِ الْعَالِمِ ع أَنَّهُ بَحْوَرُ شَهَادَةُ النِّسَاءِ فِي الدَّمِ وَ الْفَسَامَةِ وَ التَّدْبِيرِ.

And it is reported from the Scholar (Imam^{-asws}), the testimony of women is allowed regarding the blood, and the oath, and the management'.³⁸

7- وَ رُوِيَ أَنَّهُ بَحْوَرُ شَهَادَةُ امْرَأَتَيْنِ فِي اسْتِهْلَالِ الصَّبِيِّ.

And it is reported that the testimony of two women is allowed in the first cry of a newborn.³⁹

8 وَ نُرْوَى أَنَّهُ بَحْوَرُ شَهَادَةُ الْقَائِلَةِ وَحْدَهَا.

³⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 2

³⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 3

³⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 4

³⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 5

³⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 6

³⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 7

And we are reporting that the testimony of the midwife alone is accepted.⁴⁰

باب 20 شهادة أهل الكتاب

CHAPTER 20 – TESTIMONY OF PEOPLE OF THE BOOK

1- فس، تفسير القمي يا أيها الذين آمنوا شهادة بينكم إذا حضر أحدكم الموت حين الوصية اثنان ذوا عدلٍ منكم أو آخران من غيركم إن أنتم صرتم في الأرض فأصابتكم مصيبة الموت

Tafseer Al-Qummi - ***O you who believe! Keep witness between you when death approaches one of you, during bequeathing, two (men) from you possessing justice, or two other from others (non-Muslims). If you go about in the land and the calamity of death befalls you [5:106].***

فإنكأ نزلت في ابن بندى و ابن أبي مآوية نصرانيين و كان رجلٌ يقال له تميم الدارى مسلم خرج معهما في سفرٍ و كان مع تميم خُرج و متاع و آنية منقوشة بالذهب و قلادة أخرجها إلى بعض أسواق العرب ليبيعها

It was revealed regarding Ibn Bindy and Ibn Abu Mawiya, two Christians, and there was a man called Tameem Al-Dary, a Muslim. He went out with them on a journey, and with Tameem was a bag, some goods, a vessel engraved with gold, and a necklace which he had taken to one of the Arab markets to sell.

فلما مروا بالمدينة اعتل تميم فلما حضره الموت دفع ما كان معه إلى ابن بندى و ابن أبي مآوية و أمرهما أن يوصلاه إلى ورثته فقدموا المدينة فأوصلا ما كان دفعه إليهما تميم و حبسا الأنية المنقوشة و القلادة

When they passed by Al-Medina Tameem became sick. When death presented to him, he handed whatever he had with him to Ibn Bindy and Ibn Abu Mawiya, and instructed them to give it to his inheritors. They arrived at Al-Medina and handed whatever Tameem had handed to them, and they withheld the engraved vessel and the necklace.

فقال ورثته ألميت هل مرض صاحبنا مرضاً طويلاً أنفق فيه نفقة كثيرة

The inheritors of the deceased said, ‘Did our companion become sick with a lengthy sickness, incurring during it a lot of expenditure?’

فقالوا ما مرض إلا أياماً قليلة

They said, ‘He was not sick except for a few days’.

فقالوا فهل سرق منه شيء في سفره هذا

They said, ‘Was something stolen from it during this journey of his?’

⁴⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 19 H 8

قَالُوا لَا

They said, 'No'.

قَالُوا فَهَلْ أَبْجَرَ تِجَارَةً خَسِرَ فِيهَا

They said, 'Did he make a trade incurring a loss in it?'

قَالُوا لَا

They said, 'No'.

قَالُوا افْتَقَدْنَا أَنْبَلَ شَيْءٍ كَانَ مَعَهُ آيَةٌ مَنْقُوشَةٌ بِالذَّهَبِ مُكَلَّلَةٌ وَ قِلَادَةٌ

They said, 'We are missing precious things. With him was a vessel engraved with the gold embedded, and a necklace!'

فَقَالُوا مَا دَفَعَهُ إِلَيْنَا قَدْ أَدَيْنَاهُ إِلَيْكُمْ

They said, 'Whatever he had handed to us we have delivered it!'

فَقَدَّمُوهُمَا إِلَى رَسُولِ اللَّهِ ص فَأَوْجِبَ عَلَيْهِمَا الْيَمِينَ فَحَلَفَا وَ أَطْلَقَهُمَا ثُمَّ ظَهَرَتِ الْقِلَادَةُ وَ الْآيَةُ عَلَيْهَا فَأَخْبَرُوا رَسُولَ اللَّهِ ص بِذَلِكَ فَانْتَظَرَ الْحُكْمَ مِنَ اللَّهِ

They took them to Rasool-Allah^{-saww}. He^{-saww} obligated upon them the oath, so they swore and freed them. Then the necklace and the vessel appeared with them. They informed Rasool-Allah^{-saww} with that. He^{-saww} awaited the Ruling from Allah^{-azwj}.

فَأَنْزَلَ اللَّهُ - يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِنْكُمْ أَوْ آخَرَانِ مِنْ غَيْرِكُمْ يَعْني مِنْ أَهْلِ الْكِتَابِ - إِنْ أَنْتُمْ ضَرَبْتُمْ فِي الْأَرْضِ فَأَطْلَقِ اللَّهُ شَهَادَةَ أَهْلِ الْكِتَابِ عَلَى الْوَصِيَّةِ فَقَطْ إِذَا كَانَ فِي سَفَرٍ وَ لَمْ يَجِدِ الْمُسْلِمَ

Allah^{-azwj} Revealed: ***O you who believe! Keep witness between you when death approaches one of you, during bequeathing, two (men) from you possessing justice, or two other from others (non-Muslims) - from people of the Book - If you go about in the land – So Allah^{-azwj} Permitted testimony of people of the Book upon the bequest only, when he was in a journey and the Muslim cannot be found.***

ثُمَّ قَالَ - فَأَصَابَتْكُمْ مُصِيبَةُ الْمَوْتِ تَحْسِبُوهُمَا مِنْ بَعْدِ الصَّلَاةِ يَعْني بَعْدَ صَلَاةِ الْعَصْرِ - فَيُقْسِمَانِ بِاللَّهِ إِنْ ارْتَبْتُمْ لَا نَشْتَرِي بِهِ ثَمَنًا وَ لَوْ كَانَ ذَا قُرْبَى وَ لَا نَحْنُمْ شَهَادَةَ اللَّهِ إِنَّا إِذَا لَمِنَ الْأَيْمِينَ فَهَذِهِ الشَّهَادَةُ الْأُولَى الَّتِي حَلَفَهَا رَسُولُ اللَّهِ ص

and the calamity of death befalls you, detain both of them after the Salat – meaning after Al Asr Salat - If you doubt them then they should both swear by Allah, 'We will neither take a price for it even if it was a relative, nor would we conceal a testimony of Allah, surely then we would be from the sinners' [5:106]. So this is the first testimony which Rasool-Allah^{-saww} had made to swear on oath.

ثُمَّ قَالَ عَزَّ وَ جَلَّ- فَإِنْ عُرِّ عَلَىٰ أَهْمَا اسْتَحَقَّا إِثْمًا أَيَّ حَلَفَا عَلَىٰ كَذِبٍ فَأَخْرَانِ يَفُومَانِ مَقَامَهُمَا يَعْنِي مِنْ أَوْلِيَاءِ الْمُدَّعِي - مِنَ الَّذِينَ اسْتَحَقَّ عَلَيْهِمُ الْأَوْلِيَانِ فَيُقْسِمَانِ بِاللَّهِ أَيَّ يَخْلِفَانِ بِاللَّهِ- لَشَهَادَتِنَا أَحَقُّ مِنْ شَهَادَتَيْهِمَا وَ مَا اعْتَدَيْنَا إِنَّا إِذَا لَمِنَ الظَّالِمِينَ

Then the Mighty and Majestic Said: **Then if it was stumbled upon that they both earned a sin** – i.e. swearing an oath upon a lie - **then two others should be standing in their places**, - meaning from guardians of the claimant - **from those the guardians have a right upon. So they should swear by Allah**, - i.e. swearing oath by Allah^{-azwj} - **‘Our testimony is more rightful than their testimonies and we did not exceed, for them we would be from the unjust ones’ [5:107].**

وَ إِهْمَا قَدْ كَذَبَا فَهُمَا حَلَفَا بِاللَّهِ- ذَلِكَ أَدْنَىٰ أَنْ يَأْتُوا بِالشَّهَادَةِ عَلَىٰ وَجْهِهَا أَوْ يَخَافُوا أَنْ تُرَدَّ أَيْمَانٌ بَعْدَ أَيْمَانِهِمْ فَأَمَرَ رَسُولُ اللَّهِ ص أَوْلِيَاءَ تَمِيمِ الدَّارِيِّ أَنْ يَخْلِفُوا بِاللَّهِ عَلَىٰ مَا أَمَرَهُمْ بِهِ فَأَخَذَ الْأَيَّةَ وَ الْقِلَادَةَ مِنْ ابْنِ بِنْدِيِّ وَ ابْنِ أَبِي مَآوِيَةَ وَ رَدَّهَا عَلَىٰ أَوْلِيَاءِ تَمِيمِ.

And these two had lied, they had sworn an oath by Allah^{-azwj} - **That is closer that then coming with the testimony upon its aspect, or fearing that you would want an oath after their oaths [5:108].** Rasool-Allah^{-saww} ordered guardians of Tameem Al-Dary to be swearing oaths with Allah^{-azwj} upon what he^{-saww} instructed them with. He^{-saww} took the vessel and the necklace from Ibn Bindy and Ibn Abu Mawiya and returned these to the guardians of Tameem’.⁴¹

باب 21 القرعة

CHAPTER 21 – THE LOTTERY

1- ل، الخصال الفامية و ابن مسرور معاً عن ابن بطة عن الصغار عن ابن معروف عن حماد بن عيسى عن حريز عن عمير بن أخطب عن أبي جعفر ع قال: **أَوَّلُ مَنْ سُوِّهُمَ عَلَيْهِ مَرْيَمُ بِنْتُ عِمْرَانَ وَ هُوَ قَوْلُ اللَّهِ وَ مَا كُنْتَ لَدَيْهِمْ إِذْ يُلْقُونَ أَقْلَامَهُمْ أَيُّهُمْ يَكْفُلُ مَرْيَمَ وَ السِّهَامُ سِتَّةٌ**

(The book) ‘Al Khisaal’ – Al Famy and Ibn Masrour, both together from Ibn Buttah, from Al Saffar, from Ibn Marouf, from Hammad Bin Isa, from Hareez, from the one who informed him,

From Abu Ja’far^{-asws} having said: ‘The first to draw lots of arrows upon was Maryam Bint Imran^{-as}, and it is the Word of Allah^{-azwj}: **and you were not with them when they cast their pens (to decide) which of them would have the responsibility of Maryam [3:44]**, and the arrows were six.

ثُمَّ اسْتَهْمُوا فِي يُونُسَ لَمَّا رَكِبَ مَعَ الْقَوْمِ فَوَقَمَتِ السَّفِينَةُ فِي اللَّجَّةِ فَاسْتَهَمُوا فَوَقَعَ السَّهْمُ عَلَىٰ يُونُسَ ثَلَاثَ مَرَّاتٍ

Then they drew lots regarding Yunus^{-as} when he^{-as} sailed with the group. The ship paused in the deep sea. They drew lots and the arrow occurred upon Yunus^{-as} three times’.

قَالَ فَصَّىٰ يُونُسَ إِلَىٰ صَدْرِ السَّفِينَةِ فَإِذَا الْخُوثُ فَاتِحٌ فَاهُ فَرَمَىٰ بِنَفْسِهِ

⁴¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 20 H 1

He^{-asws} said: ‘Yunus^{-as} went to the front of the ship, and there was a whale having opened its mouth. He^{-as} threw himself.

ثُمَّ كَانَ عَبْدُ الْمُطَّلِبِ وُلِدَ لَهُ تِسْعَةٌ فَتَدَرَّ فِي الْعَاشِرِ إِنْ رَزَقَهُ اللَّهُ غُلَامًا أَنْ يَذْبَحَهُ

Then Abdul Muttalib^{-as}, nine children were born for him^{-as}. He^{-as} vowed that if Allah^{-azwj} Graces him^{-as} a boy he^{-as} will sacrifice him^{-as}.

قَالَ فَلَمَّا وُلِدَ عَبْدُ اللَّهِ لَمْ يَكُنْ يَقْدِرُ أَنْ يَذْبَحَهُ وَرَسُولُ اللَّهِ ص فِي صُلبِهِ فَجَاءَ بِعَشْرٍ مِنَ الْإِبِلِ وَ سَاهَمَ عَلَيْهَا وَعَلَى عَبْدِ اللَّهِ فَخَرَجَتِ السِّهَامُ عَلَى عَبْدِ اللَّهِ فَرَادَ عَشْرًا فَلَمْ تَزَلِ السِّهَامُ تُخْرَجُ عَلَى عَبْدِ اللَّهِ وَ يَزِيدُ عَشْرًا فَلَمَّا بَلَغَتْ مِائَةً خَرَجَتِ السِّهَامُ عَلَى الْإِبِلِ

He^{-asws} said: ‘When Abdullah^{-as} was born he^{-as} was not able upon sacrificing him^{-as}, and Rasool-Allah^{-saww} was in his^{-as} lineage. So, he^{-as} came ten camels and drew lots upon these and upon Abdullah^{-as}. The lot came upon Abdullah^{-as}. So, he^{-as} increased ten. The lot did not cease to emerge upon Abdullah^{-as} and he^{-as} kept on increasing ten. When it reached a hundred, the lot came upon the camel.

فَقَالَ عَبْدُ الْمُطَّلِبِ مَا أَنْصَفْتُ رَبِّي فَأَعَادَ السِّهَامَ ثَلَاثًا فَخَرَجَتِ عَلَى الْإِبِلِ فَقَالَ الْآنَ عَلِمْتُ أَنَّ رَبِّي قَدْ رَضِيَ فَنَحَرَهَا.

Abdul Muttalib^{-as} said: ‘I^{-as} have not been fair to my^{-as} Lord^{-azwj}, so he^{-as} repeated drawing the lot thrice. It came upon the camel, so he^{-as} said: ‘Now I^{-as} know that my^{-as} Lord^{-azwj} is Pleased’, so he^{-as} sacrificed them’.⁴²

2- مع، معاني الأخبار مُحَمَّدُ بْنُ هَارُونَ الرَّجَزِيُّ عَنْ عَلِيِّ بْنِ عَبْدِ الْعَزِيزِ عَنْ أَبِي عُبَيْدِ الْقَاسِمِ بْنِ سَلَامٍ رَفَعَهُ قَالَ: اخْتَصَمَ رَجُلَانِ إِلَى النَّبِيِّ ص فِي مَوَارِيثَ وَ أَشْيَاءَ قَدْ دَرَسَتْ فَقَالَ النَّبِيُّ ص لَعَلَّ بَعْضُكُمْ أَنْ يَكُونَ الْحَنُّ لِحُجَّتِهِ مِنْ بَعْضٍ فَمَنْ قَضَيْتَ لَهُ بِشَيْءٍ مِنْ حَقِّ أَحِبِّهِ فَإِنَّمَا أَقْطَعُ لَهُ قِطْعَةً مِنَ النَّارِ

(The book) (Ma’any Al Akhbar) – Muhammad Bin Haroun Al Zanjany, from Ali Bin Abdul Aziz, from Ubeyd Al Qasim Bin Sallam raising it, said,

‘Two men brought a dispute to the Prophet^{-as} regarding inheritances and things they had studied. The Prophet^{-saww} said: ‘Perhaps one of you happens to be more eloquent of his argument than the other. The one I^{-saww} judge with something being for him from the right of his brother, rather I^{-asws} am cutting out for him a piece of the Hellfire!’

فَقَالَ كُلُّ وَاحِدٍ مِنَ الرَّجُلَيْنِ يَا رَسُولَ اللَّهِ حَقِّي هَذَا لِصَاحِبِي

Each one of the two men said, ‘O Rasool-Allah^{-saww}! This my right is for my companion!’

فَقَالَ لَا وَ لَكِنَّ اذْهَبَا فَتَوَخَّيَا ثُمَّ اسْتَهَمَا ثُمَّ يُخْلَلُ كُلُّ وَاحِدٍ مِنْكُمَا صَاحِبُهُ.

He^{-saww} said: ‘No, but go and establish brotherhood (reconcile), then draw lots, then let each one of you release his companion’.⁴³

⁴² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 1

⁴³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 2

3- سن، المحاسن ابن محبوب عن جميل بن صالح عن منصور بن حازم قال: سأل بعض أصحابنا أبا عبد الله ع في مسألة فقال هذه تُخرج في الفرعة

(The book) 'Al Mahasin' – Ibn Mahboub, from Jameel Bin Salih, from Mansour Bin Hazim who said,

'One of our companions asked Abu Abdullah^{-asws} regarding an issue. He^{-asws} said: 'This will emerge in the lottery'.

ثم قال فأى قضية أعدل من الفرعة إذا فوض الأمر إلى الله عز وجل أليس الله يقول تبارك وتعالى - فسأهم فكان من المدحزين.

Then he^{-asws} said: 'So which judgment is more just than drawing a lot when the matter is delegated to Allah^{-azwj} Mighty and Majestic? Isn't Allah^{-azwj} Blessed and Exalted Saying: **So, he drew lots with them and he was the one to be thrown off [37:141]**'.⁴⁴

4- ضا، فقه الرضا عليه السلام كل ما لا يتهدأ فيه الإشهاد عليه فإن الحق فيه أن يستعمل فيه الفرعة.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'In all those cases, where a testimony cannot readily be obtained should, in truth, be decided by casting lots'.⁴⁵

و قد روي عن أبي عبد الله ع أنه قال: فأى قضية أعدل من الفرعة إذا فوض الأمر إلى الله لقوله - فسأهم فكان من المدحزين.

And it is reported from Abu Abdullah^{-asws} having said: 'So which judgment is more just than drawing the lots when the matter is delegated to Allah^{-azwj}, due to His^{-azwj} Word: **So he drew lots with them and he was the one to be thrown off [37:141]**'.⁴⁶

5- فتح، فتح الأبواب أخبرني شيخي محمد بن نما و الشيخ أسعد بن عبد القاهر الأصفهاني بإسنادهما إلى جدي أبي جعفر الطوسي بإسناده إلى الحسن بن محبوب من كتاب المشيخة من مسند جميل عن منصور بن حازم قال سمعت أبا عبد الله ع يقول و سأله بعض أصحابنا عن مسألة فقال هذه تُخرج في الفرعة

(The book) 'Fat'h Al Abwaab' – It is informed to me by my sheykh Muhammad Bin Nama and the sheykh As'ad Bin Abdul Qahir Al Asfahany, by their chains to my grandfather Abu Ja'ar Al Tusi, by his chain to Al-Hassan Bin Mahboub, from 'Kitab Al Masheykha', from Musnad Jameel, from Mansour Bin Hazim who said,

'I heard Abu Abdullah^{-asws} saying, and one of our companions had asked him about an issue. He^{-asws} said: 'This will emerge in the drawing of lots'.

ثم قال و أى قضية أعدل من الفرعة إذا فوض الأمر إلى الله عز وجل أليس الله عز وجل يقول - فسأهم فكان من المدحزين.

Then he^{-asws} said: 'And which judgment is more just than the drawing of lots when the matter is delegated to Allah^{-azwj} Mighty and Majestic? Isn't Allah^{-azwj} Mighty and Majestic Saying: **So he drew lots with them and he was the one to be thrown off [37:141]**'.⁴⁷

⁴⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 3

⁴⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 4 a

⁴⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 4 b

⁴⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 5

6- فتح، فتح الأبواب قَالَ الشَّيْخُ فِي النَّهْيَةِ رُوِيَ عَنْ أَبِي الْحَسَنِ مُوسَى بْنِ جَعْفَرٍ عَ وَ عَنْ غَيْرِهِ مِنْ آبَائِهِ وَ أَبْنَائِهِ عَ مِنْ قَوْلِهِمْ كُلُّ مَجْهُولٍ فِيهِ الْقُرْعَةُ

(The book) 'Fat'h Al Abwaab' – The sheykh said in 'Al Nihaya',

'It is reported from Abu Al-Hassan Musa^{-asws} Bin Ja'far^{-asws} and from others from his^{-asws} forefathers^{-asws} and his^{-asws} sons^{-asws}, from their^{-asws} words: 'All uncertain matter, in it is drawing the lots'.

فُلْتُ لَهُ إِنَّ الْقُرْعَةَ تُحْطِئُ وَ تُصِيبُ

I said to him^{-asws}, 'The drawing of lots can be mistaken and correct'.

فَقَالَ كُلَّمَا حَكَمَ اللَّهُ بِهِ فَلَيْسَ بِمُحْطِئٍ.

He^{-asws} said: 'All what Allah^{-azwj} Judges with, it isn't erroneous'.⁴⁸

7- ين، كتاب حسين بن سعيد و النوادر عُثْمَانُ بْنُ عِيسَى عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ عَ قَالَ: إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى أَوْحَى إِلَى مُوسَى عَ إِنَّ بَعْضَ أَصْحَابِكَ نَمَّ عَلَيْكَ فَاحْذَرُهُ

The book of Haseen Bin Saeed, and 'Al Nawadir' – Usman Bin Isa, from one of his companions,

From Abu Abdullah^{-asws} having said: 'Allah^{-azwj} Blessed and Exalted Revealed to Musa^{-as}: "One of your^{-as} companions has gossiped against you^{-as}, so be cautious of him!"

فَقَالَ يَا رَبِّ لَا أَعْرِفُهُ فَأَخْبِرْنِي بِهِ حَتَّى أَعْرِفَهُ

He^{-as} said: 'O Lord^{-azwj}! I^{-as} don't know him, so Inform me^{-as} with him until I^{-as} do recognise him'.

فَقَالَ يَا مُوسَى عَيْبُ عَلَيْهِ التَّمِيمَةَ وَ تُكَلِّفُنِي أَنْ أَكُونَ نَمَامًا

He^{-azwj} Said: 'O Musa^{-as}! I^{-azwj} have Faulted upon him of the gossip and you^{-as} are encumbering Me^{-azwj} to become a Gossiper?'

فَقَالَ يَا رَبِّ وَ كَيْفَ أَصْنَعُ

He^{-as} said: 'O Lord^{-azwj}, and how should I^{-as} deal with it?'

قَالَ اللَّهُ تَعَالَى فَرَّقْ أَصْحَابَكَ عَشْرَةَ عَشْرَةً ثُمَّ تُفَرِّعْ بَيْنَهُمْ فَإِنَّ السَّهْمَ يَقَعُ عَلَيْهِ

He^{-azwj} Said: "Divide your^{-as} companions ten by ten, then draw lots between them, for the lot will occur upon the ten which he is in. Then divide them and draw lots between them, for the lot will occur upon him!"

⁴⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 6

قَالَ فَلَمَّا رَأَى الرَّجُلُ أَنَّ السَّيِّئَةَ تَفَرُّعُ قَامَ فَقَالَ يَا رَسُولَ اللَّهِ أَنَا صَاحِبُكَ لَا وَاللَّهِ لَا أَعُودُ.

He^{-asws} said: 'When the man saw that the lot had occurred upon him, he stood up and said, 'O Rasool^{as} of Allah^{-azwj}! I am your^{-saww} companion! No, by Allah^{-azwj}, I will not repeat!⁴⁹

8- الفتح، فتح الأبواب حَدَّثَنِي بَعْضُ أَصْحَابِنَا مُرْسَلًا فِي صِفَةِ الْفُرْعَةِ أَنَّهُ يُقْرَأُ الْحَمْدَ مَرَّةً وَاحِدَةً وَ إِنَّا أَنْزَلْنَاهُ إِحْدَى عَشْرَةَ مَرَّةً ثُمَّ يَقُولُ اللَّهُمَّ إِنِّي أَسْتَخِيرُكَ لِعِلْمِكَ بِعَاقِبَةِ الْأُمُورِ وَ أَسْتَشِيرُكَ لِحُسْنِ ظَنِّي بِكَ فِي الْمَأْمُولِ وَ الْمَحْدُورِ

(The book) 'Fat'h Al Abwaab' –

It is narrated to me by one of our companions with an unbroken chain regarding description of drawing the lots. He should read Surah Al Hamd once, and Surah Al Qadr eleven times, then he should say, 'O Allah^{-azwj}! I seek Your^{-azwj} Choice due to Your^{-azwj} Knowledge of the outcome of the matters, and I seek Your^{-azwj} Consultation due to my goodly thoughts with You^{-azwj} regarding the hoped-for and the feared!

اللَّهُمَّ إِنْ كَانَ أَمْرِي هَذَا بِمَا قَدْ نَيْطَتْ بِالْبَرَكَةِ أَعْجَازُهُ وَ بَوَادِيهِ وَ حُقَّتْ بِالْكَرَامَةِ أَثَامُهُ وَ لِيَالِيهِ فَخْرٌ لِي فِيهِ بِحَيْرَةِ تَرْدُ شَمْسُهُ دُلُوعًا وَ تَقْضِي أَثَامَهُ سُورًا

O Allah^{-azwj}! If this matter of mine is among those whose peaks are Blessed, whose valleys are fertile, and whose days and nights are surrounded by honour, then Grant me in it a Choice that makes its suns submissive and completes its days with joy.

يَا اللَّهُ فِيمَا أَمْرٌ فَأَتَمِّرْ وَ إِنَّمَا هِيَ فَأَنْتَهِي

O Allah^{-azwj}! If it is a matter to be done, let me proceed, and if it is a matter to be forbidden, let me desist!

اللَّهُمَّ خِرْ لِي بِرَحْمَتِكَ حَيْرَةً فِي عَافِيَةٍ

O Allah^{-azwj}! Choose for me good by Your^{-azwj} Mercy goodness in well-being!

ثُمَّ يَقْرَأُ هُوَ وَ آخَرُ وَ يَقْضِدُ بِقَلْبِهِ أَنَّهُ مَتَى وَقَعَ أَوْ عَلَى رَفِيقِهِ يَفْعَلُ بِحَسَبِ مَا يَقْضِدُ فِي نَيْتِهِ وَ يَعْمَلُ بِذَلِكَ مَعَ تَوَكُّلِهِ وَ إِخْلَاصِ طَوْبِيَّتِهِ.

Then he and another should draw lots intending in his heart whether it falls upon him or his companion. Whatever his intention is, he will act accordingly, and he acts upon it with reliance and sincerity in his resolve.⁵⁰

[باب 22 علل المواريث](#)

CHAPTER 22 – REASON FOR THE INHERITANCES

⁴⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 7

⁵⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 21 H 8

1- ع، علل الشرائع ن، عيون أخبار الرضا عليه السلام في علي ابن سينان عن الرضا ع علة إعطاء النساء نصف ما يُعطى الرجال من الميراث لأن المرأة إذا تزوجت أخذت و الرجل يُعطي فلذلك وفر على الرجال

(The book) 'Ilal Al-Sharaie', (and) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws}, in 'Ilal' of Ibn Sinan, from Al-Reza^{-asws}: 'The reason of giving the women half of what the men are given from the inheritances is because when the woman gets marries, she takes and the man gives. For that, it has been made available for the men.

و علة أخرى في إعطاء الذكر مثلي ما تُعطى الأنثى لأن أنثى في عيال الذكر إن احتاجت و عليه أن يعولها و عليه نفقتها و ليس على المرأة أن تعول الرجل و لا تؤخذ بنفقتها إن احتاج

And another reason for giving the male double of what the female is given is because a female is among the dependants of the male when she is needy and upon him is to support her and upon him is her expenditure, and it isn't upon the woman to support the man nor be seized for his expenditure if he is needy.

فوفر على الرجل لذلك و ذلك قول الله عز و جل- الرجال قوامون على النساء بما فضل الله بعضهم على بعض و بما أنفقوا من أموالهم.

So, that is available to the man for that, and that is the Words of Allah^{-azwj} Mighty and Majestic: ***Men are guardians of the women due to what Allah has Made some of them to excel others and because they are spending from their wealth [4:34]***.⁵¹

2- ع، علل الشرائع علي بن حاتم عن القاسم بن محمد عن حماد بن الحسن بن الحسين بن الوليد عن ابن بكير عن عبد الله بن سينان عن أبي عبد الله ع قال: قلت لأبي علة صار الميراث للذكر مثل حظ الأنثيين

(The book) 'Ilal Al Sharaie' – Ali Bin Hatim, from Al Qasim Bin Muhammad, from Hamdan Bin Al Husayn, from Al Husayn Bin Al Waleed, from Ibn Bukeyr, from Abdullah Bin Sinan,

From Abu Abdullah^{-asws}, he (the narrator) said, 'I said, 'For which reason did the inheritance for the male come to be like the share of two females?'

قال لما جعل لها من الصداق.

He^{-asws} said: 'Due to the dowry what has been made for her'.⁵²

3- ع، علل الشرائع علي بن حاتم عن محمد بن أحمد الكوفي عن عبد الله بن أحمد التيهكي عن ابن أبي عمير عن هشام بن سالم أن ابن أبي العوجاء قال للأحول ما بال المرأة الضعيفة لها سهم واحد و للرجل القوي الموسر سهمان

(The book) 'Ilal Al Sharaie' – Ali Bin Hatim, from Muhammad Bin Ahmad Al Kufi, from Abdullah Bin Ahmad Al Naheyki, from Ibn Abu Umeyr, from Hisham Bin Salim,

⁵¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 1

⁵² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 2

'Ibn Abu Al-Awja said to Al-Ahwal, 'What is the matter the weak woman, for her is one share and for the affluent strong man there are two shares?'

قَالَ فَذَكَرْتُ ذَلِكَ لِأَبِي عَبْدِ اللَّهِ ع فَقَالَ إِنَّ الْمَرْأَةَ لَيْسَ عَلَيْهَا عَاقِلَةٌ وَ لَا نَفَقَةٌ وَ لَا جِهَادٌ وَ عَدَدَ أَشْيَاءَ غَيْرَ هَذَا وَ هَذَا عَلَى الرَّجَالِ فَلِذَلِكَ جُعِلَ لَهُ سَهْمَانِ وَ لَهَا سَهْمٌ.

He said, 'I mentioned that to Abu Abdullah^{-asws}. He^{-asws} said: 'The woman, there is neither wergild upon her, nor expenditure (providing maintenance), nor Jihad, and a number of things other than this, while this is upon the men. For that (reason), two shares have been made to be for him, and one share for her'.⁵³

4 سن، المحاسن أبي و ابن يزيد معاً عن ابن أبي عمير مثله.

(The book) 'Al Mahasin' – My father and Ibn Yazeed, from Ibn Abu Umeyr, similar to it.⁵⁴

5- ع، علل الشرائع الدقاق عن الأسدي عن النخعي عن الثؤفلي عن علي بن سالم عن أبيه قال: سألت أبا عبد الله ع فقلت له كيف صار الميراث للذكر مثل حظ الأنثيين

(The book) 'Ilal Al Sharaie' – Al Daqqaq, from Al Asady, from Al Nakhaie, from Al Nowfali, from Ali Bin Salim, from his father who said,

'I asked Abu Abdullah^{-asws}. I said to him^{-asws}, 'How come the inheritance became, **for the male would be like the share of two females [4:176]**'.

فَقَالَ لِأَنَّ الْحَبَّاتِ الَّتِي أَكَلَهَا آدَمُ وَ حَوَاءُ فِي الْجَنَّةِ كَانَتْ ثَمَانِيَةَ عَشْرٍ أَكَلَ آدَمُ مِنْهَا اثْنَيْ عَشْرَةَ حَبَّةً وَ أَكَلَتْ حَوَاءُ سِتًّا فَلِذَلِكَ صَارَ الْمِيرَاثُ لِلذَّكَرِ مِثْلَ حِظِّ الْأُنثِيَيْنِ.

He^{-asws} said: 'Because the grains which Adam^{-as} and Hawwa^{-as} had eaten in the Paradise were eighteen. Adam^{-as} ate twelve grains from these and Hawwa^{-as} ate six. For that (reason) the inheritance became **for the male would be like the share of two females [4:176]**'.⁵⁵

6- ن، عيون أخبار الرضا عليه السلام ع، علل الشرائع سأل الشامي أمير المؤمنين ع فقال لم صار الميراث للذكر مثل حظ الأنثيين

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws}, (and) 'Ilal Al Sharaie' -

The Syrian asked Amir Al-Momineen^{-asws}. He said, 'Why did the inheritance become **for the male would be like the share of two females [4:176]**'.

قَالَ مِنْ قِبَلِ السُّنْبُلَةِ كَانَ عَلَيْهَا ثَلَاثُ حَبَّاتٍ فَبَادَرَتْ إِلَيْهَا حَوَاءُ فَأَكَلَتْ مِنْهَا حَبَّةً وَ أَطْعَمَتْ آدَمَ حَبَّتَيْنِ فَمِنْ أَجْلِ ذَلِكَ وَرِثَ الذَّكَرُ مِثْلَ حِظِّ الْأُنثِيَيْنِ.

⁵³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 3

⁵⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 4

⁵⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 5

He^{-asws} said: 'From the ear (pod) which had three seeds upon it. Hawwa^{-as} rushed towards it and ate a seed from it and fed Adam^{-as} two seeds. For that reason, the male inherits like the share of two females'.⁵⁶

7- ع، علل الشرائع في خبر ابن سلام أنه سأل النبي ص هل خلقت حواء من يمين آدم أو من شماله

(The book) 'Ilal Al Sharaie' -

In a Hadeeth by Ibn Sallam, he asked the Prophet^{-saww}, 'Was Hawwa^{-as} created from the right of Adam^{-as} or from his^{-as} left?'

قَالَ بَلْ مِنْ شِمَالِهِ وَ لَوْ خُلِقَتْ مِنْ يَمِينِهِ لَكَانَ لِلْأُنثَى كَحِظِّ الذَّكَرِ مِنَ الْمِيرَاثِ فَلِذَلِكَ صَارَ لِلْأُنثَى سَهْمٌ وَ لِلذَّكَرِ سَهْمَانِ وَ شَهَادَةُ امْرَأَتَيْنِ مِثْلُ شَهَادَةِ رَجُلٍ وَاحِدٍ.

He^{-asws} said: 'But, from his^{-as} left, and had she been created from his right, for the female would have been like the share of the male from the inheritance. For that (reason) come to be one share for the female and two shares for the male, and testimony of the two women is like testimony of one man'.⁵⁷

NB: In other Ahadeeth, it is that Hawwa^{-as} was created from a separate part, otherwise it would be as Adam^{-as} got married to his own part (self).

8- يج، الخرائج و الجرائح قَالَ أَبُو هَاشِمٍ الْجَعْفَرِيُّ سَأَلَ الْفَهْفَكِيَّ أَبَا مُحَمَّدٍ الْعَسْكَرِيَّ عَ مَا بَالُ الْمَرْأَةِ الْمِسْكِينَةِ الضَّعِيفَةِ تَأْخُذُ سَهْمًا وَاحِدًا وَ يَأْخُذُ الرَّجُلُ سَهْمَيْنِ

(The book) 'Al Kharaij Wa Al Jaraih' – Abu Hashim Al Jafari said,

'Al-Fahfaki asked Abu Muhammad Al-Askari^{-asws}, 'What is the matter, the needy weak woman takes one share while the man takes two shares?'

قَالَ لِأَنَّ الْمَرْأَةَ لَيْسَ لَهَا جِهَادٌ وَ لَا نَفَقَةٌ وَ لَا عَلَيْهَا مَعْمَلَةٌ إِنَّمَا ذَلِكَ عَلَى الرِّجَالِ

He^{-asws} said: 'Because the woman, there is neither Jihad for her, nor maintenance, nor is there any wergild upon her. But rather, that is upon the men'.

فَقُلْتُ فِي نَفْسِي كَانَ قِيلَ لِي إِنَّ ابْنَ أَبِي الْعَوْجَاءِ سَأَلَ أَبَا عَبْدِ اللَّهِ عَ عَنْ هَذِهِ الْمَسْأَلَةِ فَأَجَابَهُ بِمِثْلِ هَذَا الْجَوَابِ فَأَقْبَلَ عَ عَلَيَّ

I said within myself, 'It was said to me that Ibn Abu Al Awja has asked Abu Abdullah^{-asws} about this issue, and he^{-asws} had answered him with similar to this answer'.

فَقَالَ نَعَمْ هَذِهِ مَسْأَلَةُ ابْنِ أَبِي الْعَوْجَاءِ وَ الْجَوَابُ مِنَّا وَاحِدٌ فَإِذَا كَانَ مَعْنَى الْمَسْأَلَةِ وَاحِدًا جَرَى لِأَجْرِنَا مَا جَرَى لِأَوْلَانَا وَ أَوْلَانَا وَ آخِرُنَا فِي الْعِلْمِ وَ الْأَمْرِ سَوَاءٌ وَ لِرَسُولِ اللَّهِ صَ وَ أَمِيرِ الْمُؤْمِنِينَ عَ فَضْلُهُمَا.

⁵⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 6

⁵⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 7

He^{-asws} turned to me. He^{-asws} said: ‘Yes, this is a question of Ibn Abu Al-Awja, and the answer from us^{-asws} is one! The meaning of the question was one. It flows for our^{-asws} last one what flowed for our^{-asws} first one, and our^{-asws} first one and our^{-asws} last one is the same in the knowledge and the commands, while for Rasool-Allah^{-saww} and Amir Al-Momineen^{-asws} are their merits (superiority)’.⁵⁸

9- قَب، المناقب لابن شهر آشوب سَأَلَ مُحَمَّدُ بْنُ مُسْلِمٍ الْبَاقِرَ ع لِمَ لَا تُورَثُ الْمَرْأَةُ عَمَّنْ يَتَمَتَّعُ بِهَا

(The book) ‘Al Manaqib’ of Ibn Shehr Ashub -

Muhammad Bin Muslim asked Al-Baqir^{-asws}, ‘Why doesn’t the woman inherit from the one who does Mut’ah with her?’

قَالَ لِأَنَّهَا مُسْتَأْجَرَةٌ

He^{-asws} said: ‘Because she is hired’.

قَالَ وَ لِمَ جُعِلَ الْبَيِّنَةُ فِي النِّكَاحِ

He said, ‘And why has the proof made to be regarding the marriage?’

قَالَ لِلْمَوَارِيثِ.

He^{-asws} said: ‘For the inheritances’.⁵⁹

10- الْعَلَلُ، لِمُحَمَّدِ بْنِ عَلِيِّ بْنِ إِبْرَاهِيمَ الْعَلَّةُ فِي أَنَّ لِلذَّكَرِ مِثْلَ حَظِّ الْأُنثَيَيْنِ أَنَّ الرِّجَالَ يَجِبُ عَلَيْهِمْ مَا لَا يَجِبُ عَلَى النِّسَاءِ مِنَ الْجِهَادِ وَ الْمُتُونَاتِ وَ هُمْ قَوَامُونَ عَلَى النِّسَاءِ.

(The book) ‘Al Ilal’ of Muhammad Bin Ali Bin Ibrahim -

The reason regarding that for the male is like the share of two females is that upon the men there are obligation what is not obligated upon the women, from the Jihad, and the maintenance, and they are guardians (maintainers) upon the women’.⁶⁰

⁵⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 8

⁵⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 9

⁶⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 22 H 10

CHAPTER 23- SHARES OF THE INHERITANCES, AND A SUMMARY OF THEIR RULINGS, AND INVALIDATION OF THE PROPORTIONAL REDUCTION, AND THE PREJUDICE

1- كَش، رجال الكشي خَدَوِيهِ بُو نُصَيْرٍ عَنِ ابْنِ أَبِي الْخَطَّابِ عَنِ ابْنِ مُحَمَّدِ بْنِ عَلَاءِ بْنِ رَزِينِ عَنْ يُونُسَ بْنِ عَمَّارٍ قَالَ: قُلْتُ لِأَبِي عَبْدِ اللَّهِ عَ إِنَّ زُرَّارَةَ قَدْ رَوَى عَنْ أَبِي جَعْفَرٍ عَ أَنَّهُ لَا يَرِثُ مَعَ الْأُمِّ وَالْأَبِ وَالْإِنِّ وَالْبِنْتِ أَحَدٌ مِنَ النَّاسِ شَيْئاً إِلَّا زَوْجٌ أَوْ زَوْجَةٌ

(The book) 'Rijal' of Al Kashi – Hamdawiya Bin Nuseyr, from Ibn Abu Al Khattab, from Ibn Mahboub, from Al A'la Bin Razeyn, from Yunus Bin Ammar who said,

'I said to Abu Abdullah^{-asws}, 'Zurara is reporting from Abu Ja'far^{-asws} that along with the father and the son and the daughter, no one from the people will inherit anything except a husband or a wife'!

قَالَ أَبُو عَبْدِ اللَّهِ عَ أَمَا مَا رَوَاهُ زُرَّارَةُ عَنْ أَبِي جَعْفَرٍ عَ فَلَا يَجُوزُ لِي رُدُّهُ وَ أَمَا فِي الْكِتَابِ فِي سُورَةِ التَّسَاءِ فَإِنَّ اللَّهَ عَزَّ وَ جَلَّ يَقُولُ - يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ فَإِنَّ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَ إِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَ لِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَ وَرِثَهُ آبَاؤُهُ فَلِلَّذَّكَ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِلْأُمِّهِ السُّدُسُ

Abu Abdullah^{-asws} said: 'As for what Zurara has reported from Abu Ja'far^{-asws}, it is not allowed for me^{-asws} to reject it, and as for in the Book in Surah Al Nisaa, Allah^{-azwj} Mighty and Majestic Says: **Allah Directs you regarding your children: "For the male is a share of two females. So if there happen to be more than two women, for them would be a third of what is left; and if there was one, for her would be half. And for the parents, for each one of them is the sixth from what is left, if there was a child for him. But if there does not happens to be a child for him and his parents inherit him, then for his mother is the third. So if there are brothers for him, then for his mother is the sixth [4:11].**

يَعْنِي إِخْوَةَ لِأَبٍ وَ أُمِّ وَ إِخْوَةَ لِأَبٍ وَ الْكِتَابُ مَا نُوسَ قَدْ وَرَثَ هَاهُنَا مَعَ الْأَنْبِيَاءِ فَلَا يُورَثُ الْبَنَاتُ إِلَّا التُّلْتَيْنِ.

It means brothers of the father and the mother, and brothers of the father and the Book are familiar having inherited over here with the Prophets^{-as}, so the daughters do not inherit except the two-thirds'.⁶¹

2- خَتَص، الإختصاص هشام بن سالم عن يزيد الكناسي قال قال أبو جعفر ع ابنيك أولى بك من ابني ابنيك و ابني ابنيك أولى بك من أخيك

(The book) 'Al Ikhtisas' – Hisham Bin Salim, from Yazeed Al Kunasi who said,

Abu Ja'far^{-asws} said: 'Your son is foremost with you than a son of your son, and a son of your son is foremost with you than your brother'.

⁶¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 1

قَالَ وَ أَخُوكَ لِأَبِيكَ وَ أُمَّكَ أَوْلَىٰ بِكَ مِنْ أَخِيكَ لِأَبِيكَ

He^{-asws} said: ‘And your brother from both your father and your mother is foremost with you than your brother from your father (alone)’.

قَالَ وَ أَخُوكَ مِنْ أَبِيكَ أَوْلَىٰ بِكَ مِنْ أَخِيكَ مِنْ أُمَّكَ

He^{-asws} said: ‘And your brother from your father is foremost with you than your brother from your mother’.

قَالَ وَ ابْنُ أَخِيكَ مِنْ أَبِيكَ وَ أُمَّكَ أَوْلَىٰ بِكَ مِنْ [ابْنِ] أَخِيكَ مِنْ أَبِيكَ

He^{-asws} said: ‘And a son of your brother from your father and your mother is foremost with you than a son of your brother from your father (alone)’.

قَالَ وَ ابْنُ أَخِيكَ مِنْ أَبِيكَ أَوْلَىٰ بِكَ مِنْ عَمِّكَ

He^{-asws} said: ‘And a son of your brother from your father is foremost with you than your paternal uncle’.

قَالَ وَ عَمُّكَ أَخُو أَبِيكَ مِنْ أَبِيهِ وَ أُمَّهُ أَوْلَىٰ بِكَ مِنْ عَمِّكَ أَخِي أَبِيكَ مِنْ أَبِيهِ

He^{-asws} said: ‘And your paternal uncle, brother of your father from his father and his mother, is foremost with you than your paternal uncle, brother of your father from his father’.

قَالَ وَ عَمُّكَ أَخُو أَبِيكَ لِأَبِيهِ أَوْلَىٰ بِكَ مِنْ بَنِي عَمِّكَ

He^{-asws} said: ‘And your paternal uncle, brother of your father of his father is foremost with you than sons of your paternal uncle’.

قَالَ وَ ابْنُ عَمِّكَ أَخِي أَبِيكَ لِأَبِيهِ وَ أُمَّهُ أَوْلَىٰ بِكَ مِنْ [ابْنِ] عَمِّكَ أَخِي أَبِيكَ مِنْ أَبِيهِ

He^{-asws} said: ‘And a son of your paternal uncle, father of your brother, of his father and his mother is foremost with you than a son of your paternal uncle, brother of your father, from his father (alone)’.

قَالَ وَ ابْنُ عَمِّكَ أَخِي أَبِيكَ مِنْ أَبِيهِ وَ أُمَّهُ أَوْلَىٰ بِكَ مِنْ ابْنِ عَمِّكَ أَخِي أَبِيكَ لِأُمَّهِ.

He^{-asws} said: ‘And a son of your paternal uncle, brother of your father, from his father and his mother is foremost with you than a son of your paternal uncle, brother of your father, of his mother (alone)’.⁶²

⁶² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 2

3- ع، علل الشرائع ابنُ عُبدوسٍ عَنِ ابْنِ فُتَيْبَةَ عَنِ الْفَضْلِ عَنِ مُحَمَّدِ بْنِ يَحْيَى عَنِ عَلِيِّ بْنِ عَبْدِ اللَّهِ عَنِ يَعْقُوبَ بْنِ إِبْرَاهِيمَ بْنِ سَعْدٍ عَنِ أَبِيهِ عَنِ جَدِّهِ عَنِ الزُّهْرِيِّ عَنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ قَالَ: جَلَسْتُ إِلَى ابْنِ عَبَّاسٍ فَعَرَضَ عَلَيَّ ذِكْرَ فَرَائِضِ الْمَوَارِيثِ فَقَالَ ابْنُ عَبَّاسٍ سُبْحَانَ اللَّهِ الْعَظِيمِ أَ تَرَوْنَ الَّذِي أَحْصَى رَمْلَ عَالِجٍ عَدَدًا جَعَلَ فِي مَالٍ نِصْفًا وَ نِصْفًا وَ ثُلثًا فَهَذَانِ النِّصْفَانِ قَدْ دَهَبَا بِالْمَالِ فَأَيْنَ مَوْضِعُ الثُّلُثِ

(The book) 'Ilal Al Sharaie' – Ibn Ubdous, from Ibn Quteyba, from Al Fazl, from Muhammad Bin Yahya, from Ali Bin Ubeydullah, from Yaqoub Bin Ibrahim Bin Sa'ad, from his father, from his grandfather, from Al Zuhry, from Abdullah Bin Utba who said,

'I was seated to Ibn Abbas and he presented to me mention of the obligatory inheritances. Ibn Abbas said, 'Glory be to Allah^{-azwj} the Mighty! Can't you see that the One Who Counts grains of sand of a desert in number Making in wealth half and a half and a third? These two halves go with the (entire) wealth, so where is the place of the third?'

فَقَالَ لَهُ زُفَرُ بْنُ أَوْسٍ الْبَصْرِيُّ يَا ابْنَ عَبَّاسٍ فَمَنْ أَوَّلُ مَنْ أَعَالَ الْفَرَائِضَ قَالَ عُمَرُ لَمَّا التَّمَّتْ عِنْدَهُ الْفَرَائِضُ وَ دَافَعَ بَعْضُهَا بَعْضًا قَالَ وَ اللَّهُ مَا أَدْرِي أَيُّكُمْ قَدَّمَ اللَّهُ وَ أَيُّكُمْ أَخَّرَ وَ مَا أَجِدُ شَيْئًا هُوَ أَوْسَعُ مِنْ أَنْ أَقْسِمَ عَلَيْكُمْ هَذَا الْمَالِ بِالْحِصَصِ فَأَدْخَلَ عَلَيَّ كِلَيْهِمَا مَا دَخَلَ عَلَيْهِ مِنْ عَوْلِ الْفَرِيضَةِ وَ أَيْمُ اللَّهِ أَنْ لَوْ قَدَّمَ مَنْ قَدَّمَ اللَّهُ وَ أَخَّرَ مَا أَخَّرَ اللَّهُ مَا عَالَتْ فَرِيضَةٌ

Zufar Bin Aws Al-Basri said to him, 'O Ibn Abbas! Who was the first one to increase the obligatory (inheritances)?' He said, 'Umar did, when the obligatory inheritance became entangled in his view and overlapped each other. He said, 'By Allah^{-azwj}! I don't know which of you Allah^{-azwj} has Given precedence to and whom He^{-azwj} has Placed after. I find nothing broader in this matter than to divide this wealth among you proportionally, so that each one receives his share affected by the adjustment of the inheritance shares. By Allah^{-azwj}, if those whom Allah^{-azwj} has Given precedence were given precedence, and those whom He^{-azwj} Placed later were placed later, no inheritance share would have required adjustment!'

فَقَالَ لَهُ زُفَرُ بْنُ أَوْسٍ أَيُّهُمَا قَدَّمَ وَ أَيُّهُمَا أَخَّرَ

Zufar Bin Aws said to him, 'Which of them is given precedence and which of them is placed later?'

فَقَالَ كُلُّ فَرِيضَةٍ لَمْ يُهَيِّطْهَا اللَّهُ عَزَّ وَ جَلَّ عَنْ فَرِيضَةٍ إِلَّا إِلَى فَرِيضَةٍ فَهَذَا مَا قَدَّمَ اللَّهُ وَ أَمَّا مَا أَخَّرَ اللَّهُ فَكُلُّ فَرِيضَةٍ زَالَتْ عَنْ فَرِيضَةٍ لَمْ يَكُنْ لَهَا إِلَّا مَا يَبْقَى فَبَقِيَ النَّيِّفُ الَّذِي أَخَّرَ اللَّهُ عَزَّ وَ جَلَّ

He said, 'Every prescribed share that Allah^{-azwj} Mighty and Majestic, has Brought down from one fixed share to another, this is what Allah^{-azwj} has given Precedence to. As for what Allah^{-azwj} has Placed later, it is every share that has been displaced from its original portion and has nothing except what remains; that is what Allah^{-azwj} Mighty and Majestic, has Deferred.

فَأَمَّا الَّتِي قَدَّمَ فَالزَّوْجُ لَهُ النِّصْفُ فَإِذَا دَخَلَ عَلَيْهِ مَا يُرْبِلُهُ عَنْهُ رَجَعَ إِلَى الرَّبْعِ لَا يُرْبِلُهُ عَنْهُ شَيْءٌ وَ الزَّوْجَةُ لَهَا الرَّبْعُ فَإِذَا زَالَتْ عَنْهُ صَارَتْ إِلَى الثُّمَنِ - لَا يُرْبِلُهَا عَنْهُ شَيْءٌ وَ الْأُمُّ لَهَا الثُّلُثُ فَإِذَا زَالَتْ عَنْهُ صَارَتْ إِلَى السُّدُسِ لَا يُرْبِلُهَا عَنْهُ شَيْءٌ فَهَذِهِ الْفَرَائِضُ الَّتِي قَدَّمَ اللَّهُ عَزَّ وَ جَلَّ

As for those whom He^{-azwj} has Given precedence - the husband, his share is one half, but when something occurs that reduces it, it becomes one fourth, and nothing can take it below that. The wife, her share is one fourth, but when it is reduced, it becomes one eighth, and nothing can take it below that. The mother, her share is one third, but when it is reduced, it becomes

one sixth, and nothing can take it below that. These are the prescribed shares that Allah^{-azwj} Mighty and Majestic, has Given precedence to.

وَأَمَّا الَّتِي أَحْرَزَ اللَّهُ فَفَرِيضَةُ الْبَنَاتِ وَالْأَخَوَاتِ لَهَا التَّصْفُفُ إِنْ كَانَتْ وَاحِدَةً وَإِنْ كَانَتْ اثْنَتَيْنِ أَوْ أَكْثَرَ فَالْتَّلْتَانِ فَإِذَا أَرَا لَتْهُنَّ الْفَرَايِضُ لَمْ يَكُنْ لَهُنَّ إِلَّا مَا بَقِيَ فَبِئْسَ مَا جَاءَ إِذَا اجْتَمَعَ مَا قَدَّمَ اللَّهُ وَ مَا أَحْرَزَ بُدِيءٌ بِمَا قَدَّمَ اللَّهُ فَأَعْطِيَ حَقَّهُ كَمَلًا فَإِنْ بَقِيَ شَيْءٌ كَانَ لِمَنْ أَحْرَزَ وَإِنْ لَمْ يَبْقَ شَيْءٌ فَلَا شَيْءَ لَهُ

As for those whom Allah^{-azwj} has Placed later - the prescribed share of daughters and sisters is one half if there is only one, and two-thirds if there are two or more. But when other prescribed shares reduce their portion, they receive only what remains; these are those whom Allah^{-azwj} has deferred. Therefore, when those whom Allah^{-azwj} has Given precedence and those whom He^{-azwj} has Deferred come together, the shares of those given precedence are to be given in full first. If anything remains, it belongs to those whom Allah^{-azwj} has Deferred, and if nothing remains, then they receive nothing’.

فَقَالَ زُهَيْرُ بْنُ أَوْسٍ فَمَا مَنَعَكَ أَنْ تُشِيرَ بِهَذَا الرَّأْيِ عَلَيَّ عُمَرُ

Zufar Bin Aws said, ‘So what prevents you from consulting with this view upon Umar?’

قَالَ هَيْئُهُ

He said, ‘His rage’.

فَقَالَ الزُّهْرِيُّ وَاللَّهِ لَوْ لَا أَنَّهُ تَقَدَّمَ إِمَامٌ عَدْلٌ كَانَ أَمْرُهُ عَلَى الْوَرَعِ فَأَمَضَى أَمْرًا وَ مَضَى مَا اخْتَلَفَ عَلَى ابْنِ عَبَّاسٍ مِنْ أَهْلِ الْعِلْمِ اثْنَانِ.

Al Zuhry said, ‘By Allah^{-azwj}! If only a just leader had preceded him, his matter would have been upon the piety, and thus that ruling would have been carried out and it would have become established; no two among the people of knowledge would have disagreed with Ibn Abbas on the matter’.⁶³ (Not a Hadeeth)

4- قَالَ الْفَضْلُ وَ رَوَى عَبْدُ اللَّهِ بْنُ الْوَلِيدِ الْعَدَنِيُّ صَاحِبُ سُفْيَانَ قَالَ حَدَّثَنِي أَبُو الْقَاسِمِ الْكُوفِيُّ صَاحِبُ أَبِي يُوسُفَ عَنْ أَبِي يُوسُفَ قَالَ حَدَّثَنَا لَيْثُ بْنُ أَبِي سُلَيْمٍ عَنْ أَبِي عُمَرَ الْعَبْدِيِّ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ ع أَنَّهُ كَانَ يَقُولُ الْفَرَايِضُ مِنْ سِتَّةِ أَشْهُمِ التَّلْتَانِ أَرْبَعَةُ أَشْهُمِ وَ التَّصْفُفُ ثَلَاثَةُ أَشْهُمِ وَ التَّلْتُ سَهْمَانِ وَ الرَّبْعُ سَهْمٌ وَ نِصْفٌ وَ التَّمُنُّ ثَلَاثَةُ أَرْبَاعِ سَهْمٍ

Al Fazl said, ‘And it is reported by Abdullah Bin Al Waleed Al Adani, companion of Sufyan. He said, ‘It is narrated to me by Abu Al Qasim Al Kufi, companion of Abu Yusuf, from Abu Yusuf who said, It is narrated to us by Lays Bin Abu Suleym, from Abu Umar Al Abdi,

From Ali^{-asws} Bin Abu Talib^{-asws}, he^{-asws} had said: ‘The obligatory (inheritance) is of six parts – the two-third are four parts, and the half is three parts, and the third is two parts, and the quarter is one part and a half, and the eighth is three-quarters of a part.

⁶³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 3

وَلَا يَرِثُ مَعَ الْوَالِدِ إِلَّا الْأَبَوَانِ وَالزَّوْجُ وَالْمَرْأَةُ وَلَا يَجُوبُ الْأُمُّ مِنَ الثَّلَاثِ إِلَّا الْوَالِدُ وَالْإِخْوَةُ وَلَا يَزَادُ الزَّوْجُ عَلَى النَّصْفِ وَلَا يُنْقَصُ مِنَ الرَّبْعِ وَلَا تَزَادُ الْمَرْأَةُ عَلَى الرَّبْعِ وَلَا تُنْقَصُ مِنَ الثُّمْنِ وَإِنْ كُنَّ أَرْبَعًا أَوْ دُونَ ذَلِكَ فَهِنَّ فِيهِ سَوَاءٌ وَلَا تَزَادُ الْإِخْوَةُ مِنَ الْأُمِّ عَلَى الثَّلَاثِ وَلَا يُنْقَصُونَ مِنَ السُّدُسِ وَهُمْ فِيهِ سَوَاءٌ الذَّكَرُ وَالْأُنثَى وَلَا يَجُوبُهُمْ عَنِ الثَّلَاثِ إِلَّا الْوَالِدُ وَالْوَالِدَةُ وَالذَّيَّةُ تُفَسَّمُ عَلَى مَنْ أَحْرَزَ الْمِيرَاثَ.

Only the parents, the husband, and the wife inherit along with the children. The mother is not excluded from her one-third share except by the children or siblings. The husband's share is not increased beyond one-half and the wife's is not reduced from one-fourth; the wife's share is not increased beyond one-fourth and not reduced from one-eighth, whether there are four or fewer, in which case they are equal in this regard. The siblings from the mother are not increased beyond one-third and not reduced from one-sixth; in this, the male and female are equal. They are only excluded from the one-third share by the children and the parent. Wergild is divided among those who inherit the estate'.⁶⁴

5- ع، علل الشرائع أَبِي عَنْ مُحَمَّدِ الْعَطَّارِ عَنِ الْبَرْقِيِّ عَنِ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ غَيْرِ وَاحِدٍ عَنِ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَهَامُ الْمَوَارِيثِ مِنْ سِتَّةِ أَشْهُمٍ لَا تَزِيدُ عَلَيْهَا

(The book) 'Ilal Al Sharaie' – My father, from Muhammad Al Attar, from Al Barqy, from his father, from Ibn Abu Umeyr, from someone else,

From Abu Abdullah^{-asws} having said: 'The parts of the inheritances are of six parts, not increasing upon these!'

فَقِيلَ لَهُ يَا ابْنَ رَسُولِ اللَّهِ وَ لَمْ صَارَتْ سِتَّةَ أَشْهُمٍ

I was said to him^{-asws}, 'O son^{-asws} of Rasool-Allah^{-saww}, and why did it become as six parts?'

قَالَ لِأَنَّ الْإِنْسَانَ خُلِقَ مِنْ سِتَّةِ أَشْيَاءَ وَ هُوَ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ- وَ لَقَدْ خَلَقْنَا الْإِنْسَانَ مِنْ سَلَالَةٍ مِنْ طِينٍ- ثُمَّ جَعَلْنَاهُ نُطْفَةً فِي قَرَارٍ مَكِينٍ- ثُمَّ خَلَقْنَا النُّطْفَةَ عَلَقَةً فَخَلَقْنَا الْعَلَقَةَ مُضْغَةً فَخَلَقْنَا الْمُضْغَةَ عِظَامًا فَكَسَوْنَا الْعِظَامَ لَحْمًا.

He^{-asws} said: 'Because the human being was Created from six things, and it is the Word of Allah^{-azwj} Mighty and Majestic: **And We have Created the human being from an extract of clay [23:12] Then We Made him a seed in a firm resting place [23:13] Then We Created the seed to be a clot, then We Created the clot to be a lump of flesh, then We Created the lump as bones, then We Clothed the bones with flesh [23:14].**⁶⁵

قال الصدوق ره لذلك علة أخرى و هي أن أهل المواريث الذين يرثون أبدا و لا يسقطون ستة الأب و الأم و الابن و البنت و الزوج و الزوجة.

Al Sadouq said, 'For that is another reason and it is that the rightful of the inheritances, those that always inherit and cannot be dropped, are six – the father and the mother, and the son and the daughter, and the husband and the wife'.

⁶⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 4

⁶⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 5

6- ع، علل الشرائع أَبِي عَنْ سَعْدِ بْنِ أَبِي عَيْسَى عَنْ عُمَانَ بْنِ عَيْسَى عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ ع كَانَ يَقُولُ إِنَّ الَّذِي أَحْصَى رَمْلَ عَالِجٍ يَعْلَمُ أَنَّ السَّهَامَ لَا تَعُولُ عَلَى سِتَّةٍ لَوْ يُبْصِرُونَ وَجْهَهَا لَمْ تُحْزَرْ سِتَّةً.

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Ibn Isa, from Usman Bin Isa, from Sama'at, from Abu Baseer,

From Abu Ja'far^{-asws} having said: 'Amir Al-Momineen^{-asws} had said: 'Surely the One Who Counts the grains of sand of a desert Knows that the shares (of inheritance) cannot exceed upon six. Had they been insightful of their aspects, these would not exceed six'.⁶⁶

7- ن، عيون أخبار الرضا عليه السلام فيما كتبت الرضا ع للمأمون الفرائض على ما أنزل الله عزَّ وجلَّ في كتابه و لا عول فيها و لا يرث مع الولد و الوالدين أحد إلا الزوج و المرأة و ذو السهم أحمق ممن لا سهم له و ليست العصبة من دين الله عزَّ وجلَّ.

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – Among what Al-Reza^{-asws} wrote for Al-Mamoun (the caliph): 'The obligatory (inheritances) are based upon what Allah^{-azwj} Mighty and Majestic Revealed in His^{-azwj} Book, and there can be no adjustment in it; and no one can inherit with the child and the parents except the husband and the wife, and the one with a (Prescribed) share is more rightful than the one having no share for him, and the prejudices aren't from the Religion of Allah^{-azwj} Mighty and Majestic'.⁶⁷

8- جا، المجالس للمفيد ما، الأماي للشيخ الطوسي المفيد عن المظفر بن أحمد البلخي عن محمد بن أحمد بن أبي الثلج عن جعفر بن محمد بن الحسين عن عيسى بن مهران عن حفص بن عمر الفراء عن أبي معاذ الخزاز عن يونس بن عبد الوارث عن أبيه قال: بينا ابن عباس ره يخطب عندنا على منبر البصرة إذ أقبل على الناس بوجهه ثم قال أيها الأمة المتحيرة في دينها أم و الله لو قدّمتم من قدم الله و آخرتم من آخر الله و جعلتم الوراثة و الولاية حيث جعلها الله ما عال سهم من فرائض الله و لا عال ولي الله و لا اختلّف اثنان في حكم الله و لا تنازعت الأمة في شيء من كتاب الله

(The book) 'Al Majalis of Al Mufeed, (and) 'Al Amaali' of the Sheykh Al Tusi – Al Mufeed, from Al Muzaffar Bin Ahmad Al Balkhy, from Muhammad Bin Ahmad Bin Abu Al Salj, from Ja'far Bin Muhammad Bin Al Husayn, from Isa Bin Mihran, from Hafs Bin Umar Al Fara'a, from Abu Muaz Al Khazzaz, from Yunus Bin Abdul Waris, from his father who said, '

'While Ibn Abbas was addressing us upon the pulpit of Basra when he turned towards the people with his face, then said, 'O community confused in its religion! But, by Allah^{-azwj}! Had you given precedence to the one Allah^{-azwj} has Given precedence, and placed back the one whom Allah^{-azwj} has Placed back, and had you made the inheritance and the Wilayah where Allah^{-azwj} has Made it to be, no share from the Obligations of Allah^{-azwj} would have require adjustment, nor adjusted the Guardian of Allah^{-azwj}, and no two would have differed in the Judgment of Allah^{-azwj}, nor would the community have disputed regarding anything from the Book of Allah^{-azwj}!

فدوؤوا و بآل ما فرطتم فيه بما قدّمت أيديكم- و سيعلّم الذين ظلّموا أيّ منقلب ينقلبون.

⁶⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 6

⁶⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 7

Therefore, taste the evil consequence of what you have neglected due to what your own hands have sent forward! **And they shall come to know, those who are being unjust, which overturning they would be Overturned with [26:227]**.⁶⁸ (Not a Hadeeth)

9- جا، المجالس للمفيد عُمرُ بْنُ مُحَمَّدٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدِ الْحَسَنِيِّ عَنْ عَيْسَى بْنِ مِهْرَانَ عَنْ حَفْصِ بْنِ عُمَرَ الْقَرَاءِ عَنْ أَبِي مُعَاذِ الْخَزَّازِ عَنْ عُبَيْدِ اللَّهِ بْنِ أَحْمَدَ الرَّبِيعِيِّ قَالَ: بَيْنَا ابْنُ عَبَّاسٍ يَخْطُبُ النَّاسَ إِلَى آخِرِ الْحَبْرِ.

(The book) 'Al Majaalis' of Al Mufeed – Umar Bin Muhammad, from Ja'far Bin Muhammad Al Hasany, from Isa Bin Mihran, from Hafs Bin Umar Al Fara'a, from Abu Muaz Al Khazzaz, from Ubeydullah Bin Ahmad Al Rabie who said,

'While Ibn Abbas was addressing the people' – up to end of the report'.⁶⁹ (Not a Hadeeth)

10- ب، قرب الإسناد مُحَمَّدُ بْنُ الْوَلِيدِ عَنْ حَمَّادِ بْنِ عُمَانَ قَالَ: سَأَلْتُ الرِّضَا عَ عَنْ رَجُلٍ مَاتَ وَ تَرَكَ أُمًّا وَ أَحَا فَقَالَ يَا شَيْخُ عَنِ الْكِتَابِ تَسْأَلُ أَوْ عَنِ السُّنَّةِ

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

'I asked Al-Reza^{-asws} about a man who dies and leaves behind a mother and a brother. He^{-asws} said: 'O Sheykh! Are you asking from the Book or from the Sunnah?'

قَالَ حَمَّادٌ فَظَنَنْتُ أَنَّهُ يَعْنِي عَنْ قَوْلِ النَّاسِ

Hammad (the narrator) said, 'I thought he meant from words of the people'.

قَالَ قُلْتُ عَنِ الْكِتَابِ

He (the narrator) said, 'I said, 'From the Book!'

قَالَ إِنَّ عَلَيًّا ع كَانَ يُورِثُ الْأَقْرَبَ فَأَلْأَقْرَبَ.

He^{-asws} said: 'Ali^{-asws} used to give inheritance to the nearest of kin first, then to the next nearest'.⁷⁰

11- ج، الإحتجاج ن، عيون أخبار الرضا عليه السلام أَبُو أَحْمَدَ هَانِي بْنُ مُحَمَّدٍ هَانِي بْنِ مُحَمَّدِ بْنِ مُحَمَّدِ الْعَبْدِيِّ عَنْ أَبِيهِ رَفَعَهُ إِلَى مُوسَى بْنِ جَعْفَرٍ ع قَالَ: لَمَّا أُدْخِلْتُ عَلَى الرَّشِيدِ قَالَ أَحَبُّرِي لِمَ فَضَلْتُمْ عَلَيْنَا وَ نَحْنُ وَ أَنْتُمْ مِنْ شَجَرَةٍ وَاحِدَةٍ وَ بَنُو عَبْدِ الْمُطَّلِبِ وَ نَحْنُ وَ أَنْتُمْ وَاحِدٌ إِنَّا بَنُو الْعَبَّاسِ وَ أَنْتُمْ وَ لَدُّ أَبِي طَالِبٍ وَ هُمَا عَمَّا رَسُولِ اللَّهِ ص وَ قَرَابَتُهُمَا مِنْهُ سَوَاءٌ

(The book) 'Al Ihtijaj', (and) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – Abu Ahmad Hani Bin Muhammad Bin Mahmoud Al Abdi, from his father raising it to,

⁶⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 8

⁶⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 9

⁷⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 10

Musa^{-asws} Bin Ja'far^{-asws} said: 'When I^{-asws} brought to (the caliph) Al-Rasheed, he said, 'Inform me! Why are you^{-asws} (Imams^{-asws}) are preferred over us, while we and you^{-asws} all are from one tree (lineage) and son of Abdul Muttalib^{-as}, and we and you^{-asws} all are one. We are the sons of AlAbbas while you^{-asws} are the children of Abu Talib^{-as}, and they^{-as} were both uncles of Rasool-Allah^{-saww}, and their^{-as} relationship from him^{-saww} is the same?'

فَقُلْتُ نَحْنُ أَقْرَبُ

I said, 'We^{-asws} are closer'.

قَالَ وَكَيْفَ ذَلِكَ

He said, 'And how is that?'

قُلْتُ لِأَنَّ عَبْدَ اللَّهِ وَ أَبَا طَالِبٍ لِأَبٍ وَ أُمِّ وَ أَبُوكُمُ الْعَبَّاسُ لَيْسَ هُوَ مِنْ أُمَّ عَبْدِ اللَّهِ وَ لَا مِنْ أُمِّ أَبِي طَالِبٍ

I^{-asws} said: 'Because Abdullah^{-as} and Abu Talib^{-as} are of a father and a mother, while your father Al-Abbas, he is from a mother of Abdullah and not from a mother of Abu Talib^{-as}'.

قَالَ فَلِمَ ادَّعَيْتُمْ أَنْكُمْ وَرِثْتُمُ النَّبِيَّ ص وَ الْعَمُّ يَحْجُبُ ابْنَ الْعَمِّ وَ قُبِضَ رَسُولُ اللَّهِ ص وَ قَدْ تُوِّفِيَ أَبُو طَالِبٍ قَبْلَهُ وَ الْعَبَّاسُ عَمُّهُ حَيٌّ

He said, 'So why are you^{-asws} claiming you (Imams^{-asws}) have inherited the Prophet^{-saww}, and the paternal uncle bars a son of the paternal uncle, and Rasool-Allah^{-saww} passed away and Abu Talib^{-as} had passed away before him^{-as} while Al-Abbas his^{-saww} paternal uncle was alive'.

فَقُلْتُ لَهُ إِنْ رَأَى أَمِيرُ الْمُؤْمِنِينَ أَنْ يُعْفِيَنِي مِنْ هَذِهِ الْمَسْأَلَةِ وَ يَسْأَلَنِي عَنْ كُلِّ بَابٍ سِوَاهُ يُرِيدُهُ

I^{-asws} said to him: 'If the commander of the faithful would see fit to excuse me from this question and ask me about any subject besides it, he wants to!'

فَقَالَ لَا أَوْ تُجِيبُ

He said, 'No, you^{-asws} will answer!'

فَقُلْتُ فَأَمِّي

I^{-asws} grant me^{-asws} safety!'

فَقَالَ قَدْ آمَنْتَكَ قَبْلَ الْكَلَامِ

He said, 'I hereby grant you^{-asws} safety before the speech'.

فَقُلْتُ إِنَّ فِي قَوْلِ عَلِيِّ بْنِ أَبِي طَالِبٍ ع إِنَّهُ لَيْسَ مَعَ وُلْدِ الصُّلْبِ ذَكَرًا كَانَ أَوْ أَنْتَى لِأَحَدٍ سَهْمٌ إِلَّا لِلْأَبَوَيْنِ وَ الرَّوْحِ وَ الرَّوْحَةِ وَ لَمْ يَنْبُتْ لِلْعَمِّ مَعَ وُلْدِ الصُّلْبِ مِيرَاثٌ وَ لَمْ يَنْطِقْ بِهِ الْكِتَابُ إِلَّا أَنَّ تَيْمًا وَ عَدِيًّا وَ نَبِيَّ أُمَيَّةَ قَالُوا الْعَمُّ وَالِدٌ رَأْيًا مِنْهُمْ بِلَا حَقِيقَةٍ وَ لَا أَنْزَرَ عَنِ النَّبِيِّ ص

I^{-asws} said: 'Regarding the word of Ali^{-asws} Bin Abu Talib^{-asws}, there isn't any share for anyone with a direct descendant, whether it was a male or a female except for the two parents, and the husband and the wife, and he^{-asws} did not affirm any inheritance for the paternal uncle with a direct descendant and the Book hasn't spoken with it, except that Taym and Adiy (clans of Abu Bakr and Umar), and the clan of Umayya said, 'The paternal uncle is a parent', being an opinion from them with neither any reality nor Hadeeth from the Prophet^{-sawww}'.

وَمَنْ قَالَ يَقُولُ عَلِيٌّ عٍ مِنَ الْعُلَمَاءِ قَضَايَاهُمْ خِلَافَ قَضَايَا هَؤُلَاءِ هَذَا نُوحُ بْنُ دَرَّاجٍ يَقُولُ فِي هَذِهِ الْمَسْأَلَةِ يَقُولُ عَلِيٌّ عٍ وَ قَدْ حَكَمَ بِهِ وَ قَدْ وَّلَاهُ أَمِيرُ الْمُؤْمِنِينَ الْمُصْرَيْنِ الْكُوفَةَ وَ الْبَصْرَةَ فَقَدْ قَضَى بِهِ فَأُتِيَ إِلَى أَمِيرِ الْمُؤْمِنِينَ

And the ones from the scholars who speak with the words of Ali^{-asws}, their judgment are different to the judgments of these people. This is Nuh Bin Darraj regarding the issue speaking with the word of Ali^{-asws} and he has judged with it, and commander of the faithful (himself) has made him a governor of the two cities, Al-Kufa and Al-Basra. He has judged with it, and it has been conveyed to commander of the faithful'.

فَأَمَرَ بِإِحْضَارِهِ وَ إِحْضَارِ مَنْ يَقُولُ بِخِلَافِ قَوْلِهِ مِنْهُمْ سُفْيَانُ التَّوْرِيُّ وَ إِبْرَاهِيمُ الْمَدِينِيُّ وَ الْمُضَنَّبِيُّ بْنُ عِيَاضٍ فَشَهِدُوا أَنَّهُ قَوْلُ عَلِيٍّ عٍ فِي هَذِهِ الْمَسْأَلَةِ

He ordered with presenting him and presenting the ones saying opposite to his word. From them were Sufyan Al-Sowry, and Ibrahim Al-Madany, and Al-Fuzeyl Bin Iyaz. They testified that it is the word of Ali^{-asws} regarding this issue.

فَقَالَ لَهُمْ فِيمَا أَبْلَغَنِي بَعْضُ الْعُلَمَاءِ مِنْ أَهْلِ الْحِجَازِ فَلِمَ لَا تُفْتُونَ بِهِ وَ قَدْ قَضَى بِهِ نُوحُ بْنُ دَرَّاجٍ

He said to them, 'Among what has reached me, some of the scholars from the people of Al-Hijaz, so why aren't they issuing verdicts with it, and Nuh Bin Darraj has already judged with it?'

فَقَالُوا جَسَرَ نُوحٌ وَ جَبْنَا وَ قَدْ أَمَضَى أَمِيرُ الْمُؤْمِنِينَ قَضِيَّتَهُ يَقُولُ قَدَمَاءُ الْعَامَّةِ عَنِ النَّبِيِّ صٍ أَنَّهُ قَالَ عَلِيٌّ أَقْضَاكُمْ وَ كَذَلِكَ قَالَ عُمَرُ بْنُ الْخَطَّابِ - عَلِيٌّ أَقْضَانَا وَ هُوَ اسْمٌ جَامِعٌ لِأَنَّ جَمِيعَ مَا مَدَحَ بِهِ النَّبِيُّ صٍ أَصْحَابَهُ مِنَ الْقِرَاءَةِ وَ الْقِرَائِضِ وَ الْعِلْمِ دَاخِلٌ فِي الْقَضَاءِ

They said, 'Nuh is bold and we are cowards, and commander of the faithful has implemented his judgment by the word of the ancient ones of the general Muslims from the Prophet^{-sawww}, he^{-sawww} said: 'Ali^{-asws} is your judge', and like that Umar Bin AlKhattab said, 'Ali^{-asws} is our judge', and it is a comprehensive term because entirety of what the Prophet^{-sawww} had praised his^{-sawww} companions with, of the reading (of the Quran), and the obligations, and the knowledge, it is included in the judging'.

قَالَ زَيْنِ يَا مُوسَى

He said, 'Increase for me, O Musa^{-asws}!'

قُلْتُ الْمَجَالِسُ بِالْأَمَانَاتِ وَ خَاصَّةً مَجْلِسَكَ

I^{-asws} said, 'The gatherings are with your amnesty, and especially your gathering'.

فَقَالَ لَا بَأْسَ عَلَيْكَ

He said, 'There will be no problem upon you^{-asws!}'

فَقُلْتُ إِنَّ النَّبِيَّ ص لَمْ يُورَثْ مَنْ لَمْ يُهَاجِرْ وَلَا أُتْبِتْ لَهُ وَلَايَةٌ حَتَّى يُهَاجِرْ

I^{-asws} said: 'The Prophet^{-saww} did not let him inherit, the one who did not emigrate nor affirmed governance for him until he had emigrated'.

فَقَالَ مَا حُجَّتُكَ فِيهِ

He said, 'What is your argument regarding it?'

قُلْتُ قَوْلَ اللَّهِ تَبَارَكَ وَ تَعَالَى - وَ الَّذِينَ آمَنُوا وَ لَمْ يُهَاجِرُوا مَا لَكُمْ مِنْ وَلَايَتِهِمْ مِنْ شَيْءٍ حَتَّى يُهَاجِرُوا وَ إِنَّ عَمِّي الْعَبَّاسَ لَمْ يُهَاجِرْ

I^{-asws} said: 'The Words of Allah^{-azwj} Blessed and Exalted: **Surely those who believed - and did not emigrate, there is nothing for you of their guardianship until they do emigrate [8:72],** and my^{-asws} uncle AlAbbas did not emigrate'.

فَقَالَ لِي أَسْأَلُكَ يَا مُوسَى هَلْ أَقْتَبْتِ بِذَلِكَ أَحَدًا مِنْ أَعْدَائِنَا أَمْ أَحْبَبْتَ أَحَدًا مِنَ الْفُقَهَاءِ فِي هَذِهِ الْمَسْأَلَةِ بِشَيْءٍ

He said to me^{-asws}, 'I ask you^{-asws} O Musa^{-asws}! Have you issued a verdict to anyone from our enemies, or informed anyone of the jurists with anything regarding this issue?'

فَقُلْتُ اللَّهُمَّ لَا وَ مَا سَأَلَنِي عَنْهَا إِلَّا أَمِيرُ الْمُؤْمِنِينَ.

I^{-asws} said: 'O Allah^{-azwj}, no, and no one has asked me^{-asws} about it except commander of the faithful'.⁷¹

12- ضا، فقه الرضا عليه السلام اعلم يزحك الله أن الله تبارك و تعالی قسم الفرائض بقدر مقدور و حساب محسوب و بين في كتابه ما بين القسمة ثم قال عز و جل- و أولوا الأرحام بعضهم أولى ببعض في كتاب الله

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'Know, may Allah^{-azwj} Mercy you! Allah^{-azwj} Blessed and Exalted, has Apportioned the obligatory duties according to a precise measure and an exact calculation, and He^{-azwj} has clarified in His^{-azwj} Book what explains this division. Then the Mighty and Majestic Said: **and the possessors of the relationships, some of them are closer than the others in the Book of Allah [8:75].**

فَجَعَلَ عَلَى ضَرْبَيْنِ قِسْمَةَ مَشْرُوحَةٍ وَ قِسْمَةَ مُجْمَلَةٍ وَ جَعَلَ لِلرَّوَجِ إِذَا لَمْ يَكُنْ لَهُ وَلَدٌ التَّصْفِ وَ مَعَ الْوَلَدِ الرَّبْعِ - لَا يَرِيدُ وَ لَا يَنْقُصُ مَعَ بَاقِي الْوَرَثَةِ وَ جَعَلَ لِلرَّوَجَةِ الرَّبْعَ إِذَا لَمْ يَكُنْ لَهُ وَلَدٌ وَ التَّمَنُّ مَعَ الْوَلَدِ عَلَى هَذَا السَّبِيلِ وَ جَعَلَ لِلأَبَوَيْنِ مَعَ الْوَلَدِ وَ الشَّرَكَاءِ السُّدُسَيْنِ - لَا يَنْقُصَانِ مِنْ ذَلِكَ شَيْئًا وَ هُمَا فِي مَوَاضِعَ زِيَادَةٍ عَلَى السُّدُسَيْنِ

⁷¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 11

He^{-azwj} has Made the division of inheritance into two types - a detailed division and a summarised division. He^{-azwj} has Granted the husband one half if there is no child, and one fourth if there is a child. This share neither increases nor decreases with the presence of other heirs. He^{-azwj} has Granted the wife one fourth if there is no child, and one eighth if there is a child, in the same manner. He^{-azwj} has Granted the two parents, along with the child and other partners, one sixth each, and they are not to receive less than that, though in some cases they may receive more than the two sixths.

ثُمَّ سَمَّى لِلْأَوْلَادِ وَالْإِخْوَةِ وَالْأَخَوَاتِ وَالْقَرَابَاتِ سَهَامًا فِي الثَّرَانِ وَ سَهَامًا بِأَمَّا ذَوِي الْأَرْحَامِ وَ جَعَلَ الْأَمْوَالَ بَعْدَ الرَّوْحِ وَ الرَّوْحَةَ وَ الْأَبْوَيْنِ لِلْأَقْرَبِ
فَالْأَقْرَبُ - لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ

Then He^{-azwj} Assigned to the children, brothers, sisters, and relatives specific shares in the Quran, and other shares by virtue of their being kin. He^{-azwj} Made the remaining wealth, after the shares of the husband, wife, and parents, belong to the nearest of kin in order of closeness: **for the male would be like the share of two females [4:176]**.

وَ إِذَا تَسَاوَتِ الْقَرَابَةُ مِنْ جِهَةِ الْأَبِ وَ الْأُمِّ تَقْسِمُهُ بِفَضْلِ الْكِتَابِ فَإِذَا تَقَارَبَتْ فَيَأْتِي ذَوِي الْأَرْحَامِ وَ اعْلَمَ أَنَّ الْمَوَارِيثَ تَكُونُ سِتَّةَ أَشْهُمٍ لَا تَزِيدُ عَلَيْهَا وَ صَارَتْ مِنْ سِتَّةِ أَشْهُمٍ لِأَنَّ الْإِنْسَانَ خُلِقَ مِنْ سِتَّةِ أَشْيَاءَ وَ هُوَ قَوْلُهُ وَ لَقَدْ خَلَقْنَا الْإِنْسَانَ مِنْ سُلَالَةٍ

And if the relatives are equal in degree of kinship through the father and the mother, you divide according to what is detailed in the Book. But if their relationship is close without a clear distinction, then it is by the verse concerning the kindred of the womb. Know that the inheritances consist of six shares, which do not increase beyond that. They are six because man was created from six things, as in His^{-azwj} Saying, **And We have Created the human being from an extract of clay [23:12]**.

تَمَّ الْأَيَّةِ وَ أَصْلُ الْمَوَارِيثِ أَنْ لَا يَرِثَ مَعَ الْوَلَدِ وَ الْأَبْوَيْنِ أَحَدٌ إِلَّا الرَّوْحُ وَ الرَّوْحَةُ.

The basic principle of inheritance is that no one inherits along with the child and the parents except the husband or the wife'.⁷²

13- شي، تفسير العياشي عن سالم الأشثل قال سمعتُ أبا جعفرٍ ع يقولُ إنَّ اللهَ تباركُ وَ تَعَالَى أَدْخَلَ الْوَالِدَيْنِ عَلَى جَمِيعِ أَهْلِ الْمَوَارِيثِ فَلَمْ يَنْقُصْهُمَا مِنْ السُّدُسِ.

Tafseer Al Ayyashi – From Salim Al Ashalla who said,

'I heard Abu Ja'far^{-asws} saying: 'Allah^{-azwj} Blessed and Exalted Included the parent upon entirety of the ones rightful of the inheritances, and did not Reduce them from the sixth'.⁷³

14- شي، تفسير العياشي عن بُكَيْرِ بْنِ أَعْيَنَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: الْوَلَدُ وَ الْإِخْوَةُ هُمُ الَّذِينَ يُزَادُونَ وَ يَنْقُصُونَ.

Tafseer Al Ayyashi – From Bukeyr Bin Ayn,

⁷² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 12

⁷³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 13

From Abu Abdullah^{-asws} having said: ‘The son and the brothers are those who are increased and reduced’.⁷⁴

15- شي، تفسير العياشي عن أبي بصير عن أبي جعفر الباقر ع قال: الخال و الخالة يرثون إذا لم يكن معهم أحد غيرهم إن الله يقول و أولوا الأرحام بعضهم أولى ببعض في كتاب الله إذا التفت القرابات فالسابق أحق بالميراث من قرابته.

Tafseer Al Ayyashi – from Abu Baseer,

From Abu Ja’far Al-Baqir^{-asws} having said: ‘The maternal uncle and maternal aunt inherit when there is no one else besides them, for Allah^{-azwj} Says, “And those of (blood) relationship are nearer to one another in the Book of Allah^{-azwj}: **and the possessors of the relationships, some of them are closer than the others in the Book of Allah [8:75]**. When relatives are of the same degree, the one closer in relation has a greater right to the inheritance than those more distant’.⁷⁵

16- شي، تفسير العياشي عن ابن سينان عن أبي عبد الله ع قال: لَمَّا اِخْتَلَفَ عَلِيُّ بْنُ أَبِي طَالِبٍ ع وَ عُمَرَانُ بْنُ عَفَّانَ فِي الرَّجُلِ يَمُوتُ وَ لَيْسَ لَهُ عَصَبَةٌ يَرِثُونَهُ وَ لَهُ ذُو قَرَابَةٍ لَا يَرِثُونَهُ لَيْسَ لَهُ بَيْنَهُمْ مَفْرُوضٌ

Tafseer Al Ayyashi – From Ibn Sinan,

From Abu Abdullah^{-asws} having said: ‘When Ali^{-asws} Bin Abu Talib^{-asws} and Usman Bin Affan differed regarding the man who dies and there aren’t any male relatives to inherit him and there are relatives for him not inheriting him, there not being any obligatory inheritance between them,

فَقَالَ عَلِيُّ مِيرَاثُهُ لِدَوِي قَرَابَتِهِ لِأَنَّ اللَّهَ تَعَالَى يَقُولُ- وَ أَوْلُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللَّهِ وَ قَالَ عُمَرَانُ اجْعَلْ مِيرَاثَهُ فِي بَيْتِ مَالِ الْمُسْلِمِينَ وَ لَا يَرِثُهُ أَحَدٌ مِنْ قَرَابَتِهِ.

Ali^{-asws} said: ‘His inheritance is for the relatives because Allah^{-azwj} the Exalted Says: **and the possessors of the relationships, some of them are closer than the others in the Book of Allah [8:75]**, and Usman said, ‘Make his inheritance to be in the public treasury of the Muslims, and no one from his relatives should inherit him’.⁷⁶

17- شي، تفسير العياشي عن سليمان بن خالد عن أبي عبد الله ع قال: كَانَ عَلِيُّ ع لَا يُعْطِي الْمَوْلَى شَيْئاً مَعَ ذِي رَحِمٍ سُمِّيَتْ لَهُ فَرِيضَةٌ أَمْ لَمْ يَسْمَ لَهُ فَرِيضَةٌ وَ كَانَ يَقُولُ وَ أَوْلُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللَّهِ إِنَّ اللَّهَ يَكُلُّ شَيْءٍ عَلَيْهِمُ

Tafseer Al Ayyashi – From Suleyman Bin Khalid,

From Abu Abdullah^{-asws} having said: ‘Ali^{-asws} would not give the freed slave anything with one with kinship whether an obligatory inheritance had been specified for him or an obligatory inheritance had not been specified. He^{-asws} said: **and the possessors of the relationships, some**

⁷⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 14

⁷⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 15

⁷⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 16

of them are closer than the others in the Book of Allah. Allah^{-azwj} is All-Knowing of all things [8:75].

قَدْ عَلِمَ مَكَانَهُمْ فَلَمْ يَجْعَلْ لَهُمْ مَعَ أُولَى الْأَرْحَامِ حَيْثُ قَالَ - وَ أُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللَّهِ.

He^{-azwj} Knew their places, so He^{-azwj} did not Make for them (inheritance) with the possessors of the kinship whereby He^{-azwj} Said: **'and the possessors of the relationships, some of them are closer than the others in the Book of Allah [8:75]'**.⁷⁷

18- شي، تفسير العياشي عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع فِي قَوْلِ اللَّهِ - وَ أُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللَّهِ إِنَّ بَعْضَهُمْ أَوْلَى بِالْمِيرَاثِ مِنْ بَعْضٍ لِأَنَّ أَقْرَبَهُمْ إِلَيْهِ أَوْلَى بِهِ

Tafseer Al Ayyashi – From Zurara,

From Abu Ja'far^{-asws} regarding Words of Allah^{-azwj}: **and the possessors of the relationships, some of them are closer than the others in the Book of Allah [8:75]**: 'Some of them are more entitled to inheritance than others because those who are closer to the deceased are foremost with him'.

ثُمَّ قَالَ أَبُو جَعْفَرٍ إِنَّهُمْ أَوْلَى بِالْمَيْتِ وَ أَقْرَبُهُمْ إِلَيْهِ أُمُّهُ وَ أَخُوهُ وَ أُخْتُهُ لِأُمِّهِ وَ أَبِيهِ أَلَيْسَ الْأُمُّ أَقْرَبَ إِلَى الْمَيْتِ مِنْ إِخْوَتِهِ وَ أَخَوَاتِهِ.

Then Abu Ja'far^{-asws} said: 'Those who are closer to the deceased are more entitled to him, and the closest to him are his mother, his brother, and his sister from his mother and father. Is not the mother nearer to the deceased than his brothers and sisters?'⁷⁸

19- ختص، الإختصاص مُحَمَّدُ بْنُ الْحُسَيْنِ بْنِ أَحْمَدَ عَنْ أَحْمَدَ بْنِ إِدْرِيسَ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ الْعَلَوِيِّ عَنْ مُحَمَّدِ بْنِ الزُّبَيْرَانَ الدَّامَغَانِيِّ عَنْ أَبِي الْحُسَيْنِ مُوسَى ع قَالَ: سَأَلَنِي الرَّشِيدُ أَحْمَدُ بْنُ حَبْرَةَ عَنْ قَوْلِكُمْ لَيْسَ لِلْعَمِّ مَعَ وُلْدِ الصُّلْبِ مِيرَاثٌ

(The book) 'Al Ikhtisas' – Muhammad Bin Al Hassan Bin Ahmad, from Ahmad Bin Idrees, from Muhammad Bin Ahmad, from Muhammad Bin Ismail Al Alawy, from Muhammad Bin Al Zibrqan Al Dam'any,

From Abu Al-Hassan Musa^{-asws} having said: 'Al-Rasheed (the caliph) asked me^{-asws}, 'Inform me about your^{-asws} words: 'There isn't any inheritance with a direct descendant'?'

فَقُلْتُ إِنَّ النَّبِيَّ ص لَمْ يُورَثْ مَنْ قَدَرَ عَلَى الْهَجْرَةِ فَلَمْ يُهَاجِرْ وَ إِنَّ عَمِّي الْعَبَّاسَ قَدَرَ عَلَى الْهَجْرَةِ فَلَمْ يُهَاجِرْ وَ إِنَّمَا كَانَ فِي عَدَدِ الْأَسَارَى عِنْدَ النَّبِيِّ ص وَ جَعَدَ أَنْ يَكُونَ لَهُ الْفِدَاءُ

I said, 'The Prophet^{-saww} did not let inherit the one who was able upon the emigrating but did not emigrate, and my^{-asws} uncle Al-Abbas was able upon the emigrating but did not emigrate, and rather he was among a number of captives with the Prophets^{-as} and struggled that there should be the ransoming for him.

⁷⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 17

⁷⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 18

فَأَنْزَلَ اللَّهُ تَبَارَكَ وَ تَعَالَى عَلَى النَّبِيِّ صِ يُخْبِرُهُ بِدَفِينٍ لَهُ مِنْ ذَهَبٍ فَبَعَثَ عَلِيًّا ع فَأَخْرَجَهُ مِنْ عِنْدِ أُمِّ الْفَضْلِ

Allah^{-azwj} Blessed and Exalted Revealed unto the Prophet^{-saww} Informing him^{-as} with a hoard of gold being for him. So, he^{-saww} dispatched Ali^{-asws}. He^{-asws} extracted it from the possession of Umm Al-Fazl.

فَقَالَ الْعَبَّاسُ أَفْقَرْتَنِي يَا ابْنَ أُخِي

Al-Abbas said, 'You^{-saww} are impoverishing me, O son^{-saww} of my brother^{-as!}'

فَأَنْزَلَ اللَّهُ تَعَالَى إِنَّ يَعْزَمُ اللَّهُ فِي قُلُوبِكُمْ خَيْرًا يُؤْتِكُمْ خَيْرًا مِمَّا أُخِذَ مِنْكُمْ وَ يَغْفِرُ لَكُمْ وَ قَوْلَهُ وَ الَّذِينَ آمَنُوا وَ لَمْ يُهَاجِرُوا مَا لَكُمْ مِنْ وَلَايَتِهِمْ مِنْ شَيْءٍ حَتَّى يُهَاجِرُوا ثُمَّ قَالَ وَ إِنْ اسْتَنْصَرْتُمْ فِي الدِّينِ فَعَلَيْكُمْ النَّصْرُ فَرَأَيْتُمْ قَدِ اعْتَمَّ - الْحَبْرُ بِتَمَامِهِ فِي أَبْوَابِ تَارِيخِ مُوسَى ع.

So, Allah^{-azwj} the Exalted Revealed: **'If Allah Knows any goodness in your hearts, He would Give you better than what He Takes from you [8:70]; and His^{-azwj} Words: and those who believed and did not emigrate, there is nothing for you of their guardianship until they do emigrate [8:72].** Then He^{-azwj} Said: **and if they seek your help in the Religion, then the helping is (incumbent) upon you [8:72].** He (Al-Abbas) was seen to have been saddened' – The complete Hadeeth is in the chapters on the history of Musa^{-asws}.⁷⁹

20- ف، تحف العقول سأل الرّشيد موسى بن جعفر ع أريد أن أسألك عن العباس و عليّ بما صار عليّ أوّل يميّرات رسول الله ص من العباس و العباس عم رسول الله ص و صنف أبيه

(The book) 'Tuhaf Al Uqoul' -

Al-Rasheed (the caliph) asked Musa^{-asws} Bin Ja'far^{-asws}, 'I want to ask you^{-asws} about Al-Abbas and Ali^{-asws}. Due to what did Ali^{-asws} become foremost with inheritance of Rasool-Allah^{-azwj} than Al-Abbas, while Al-Abbas is an uncle of Rasool-Allah^{-saww} and an equal to his^{-saww} father^{-as?}'

فَقَالَ لَهُ مُوسَى ع إِنَّ النَّبِيَّ لَمْ يُورَثْ مَنْ قَدَرَ عَلَى الْهِجْرَةِ فَلَمْ يُهَاجِرْ إِنَّ أَبَاكَ الْعَبَّاسُ آمَنَ وَ لَمْ يُهَاجِرْ وَ إِنَّ عَلِيًّا آمَنَ وَ هَاجَرَ وَ قَالَ اللَّهُ الَّذِينَ آمَنُوا وَ لَمْ يُهَاجِرُوا مَا لَكُمْ مِنْ وَلَايَتِهِمْ مِنْ شَيْءٍ حَتَّى يُهَاجِرُوا

Musa^{-asws} said to him: 'The Prophet^{-saww} did not let inherit the one who was able upon the emigrating but did not emigrate. Your father Al-Abbas was safe and did not emigrate, and Ali^{-asws} was safe and he^{-asws} did emigrate, and Allah^{-azwj} Said: **and those who believed and did not emigrate, there is nothing for you of their guardianship until they do emigrate [8:72].**'

فَالْتَمَعَ لَوْنُ هَارُونَ وَ تَغَيَّرَ.

The colour of Haroun altered and changed'.⁸⁰

⁷⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 19

⁸⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 23 H 20

CHAPTER 24 – CONDITIONS OF THE INHERITANCE AND ITS BARRIERS

1- ب، قرب الإسناد عليّ عن أخيه ع قال: سألتُه عن نصرانيٍّ يموتُ ابْنُهُ وَ هُوَ مُسْلِمٌ هَلْ يَرِثُ

(The book) 'Qurb Al Isnaad' -

Ali, from his brother (Musa Al-Kazim^{-asws}) said, 'I asked him^{-asws} about a Christian whose son dies while he is a Muslim, 'Would he (the Christian) inherit?'

قَالَ لَا يَرِثُ إِلَّا أَهْلُ مِلَّتِهِ.

He^{-asws} said: 'He does not inherit except from people of his own religion'.⁸¹

2- ضا، فقه الرضا عليه السلام اعلم أنه لا يتوارث أهل ملتين حتى نزلهم ولا يرثون ولا أن رجلاً مسلماً أو ذمياً ترك ابناً مسلماً و ابناً ذمياً لكان الميراث من الرجل المسلم و الذمّي للابن المسلم

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'Know that people of two different religions do not inherit from one another - we inherit them, and they do not inherit us. If a man, whether Muslim or protected non-Muslim (*Zimmi*), leaves behind a Muslim son and a *Zimmi* son, the inheritance of the man, whether Muslim or *Zimmi*, goes to the Muslim son.

وَ كَذَلِكَ مَنْ تَرَكَ ذَا قَرَابَةٍ مُسْلِمَةٍ وَ ذَا قَرَابَةٍ مِنْ أَهْلِ ذِمَّةٍ مِمَّنْ قَرُبَ نَسَبُهُ أَوْ بَعْدَ لَكَانَ الْمُسْلِمِ أَوْلَى بِالْمِيرَاثِ مِنَ الذِّمِّيِّ وَ لَوْ كَانَ الذِّمِّيُّ وُلْدًا وَ كَانَ الْمُسْلِمُ أَحَاً أَوْ عَمًّا أَوْ ابْنَ أَخٍ أَوْ ابْنَ عَمٍّ أَوْ أَبْعَدَ مِنْ ذَلِكَ لَكَانَ الْمُسْلِمِ أَوْلَى بِالْمِيرَاثِ مِنَ الذِّمِّيِّ كَانَ الْمَيِّتُ مُسْلِمًا أَوْ ذِمِّيًّا لِأَنَّ الْإِسْلَامَ لَمْ يَزِدْهُ إِلَّا قُوَّةً

And like that, whoever leaves behind a Muslim relative and a relative from the people of the covenant (*Zimmi*), whether the latter is closely or distantly related, the Muslim has a greater right to the inheritance than the *Zimmi* does. Even if the *Zimmi* is a son and the Muslim is a brother, uncle, nephew, cousin, or more distant relative, the Muslim has a greater right to the inheritance than the *Zimmi* does, whether the deceased was Muslim or *Zimmi*, because Islam only strengthens his claim.

وَ لَوْ مَاتَ مُسْلِمًا وَ تَرَكَ امْرَأَةً يَهُودِيَّةً أَوْ نَصْرَانِيَّةً لَمْ يَكُنْ لَهَا مِيرَاثٌ وَ إِنْ مَاتَتْ هِيَ وَرَثَهَا الرَّوْحُ الْمُسْلِمُ وَ إِذَا تَرَكَ الرَّجُلُ ابْنَ الْمَلَاعَنَةِ فَلَا مِيرَاثَ لَوْلِيهِ مِنْهُ وَ كَانَ مِيرَاثُهُ لِأَقْرَبَائِهِ فَإِنْ لَمْ يَكُنْ لَهُ قَرَابَةٌ فَمِيرَاثُهُ لِإِمَامِ الْمُسْلِمِينَ إِلَّا أَنْ يَكُونَ أَكْذَبَ نَفْسَهُ بَعْدَ اللَّعَانِ فَمِيرَاثُهُ لِابْنِ وَ إِنْ مَاتَ الْإِبْنُ لَمْ يَرِثْهُ الْأَبُ.

And if a Muslim man dies leaving behind a Jewish or Christian wife, she has no inheritance. If she dies, her inheritance goes to her Muslim husband. If a man leaves behind a cursed child (from a mutual curse or repudiation), his child does not inherit from him; his inheritance goes to his closest relatives. If he has no relatives, his inheritance goes to the Imam of the Muslims,

⁸¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 24 H 1

except if he belied himself after the mutual curse, in which case his son inherits him. If the son dies, the father does not inherit him'.⁸²

3- شي، تفسير العياشي عن إبراهيم بن عمر اليماني عن ذكره عن أبي عبد الله ع في قول الله و هم يصدون عن المسجد الحرام و ما كانوا أولياءه يعني أولياء البيت يعني المشركون [المشركين] - إن أولياءه إلا المتفون حيث ما كانوا هم أولى به من المشركين.

Tafseer Al Ayyashi – From Ibrahim Bin Umar Al Yamani, from the one who mentioned it,

From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj}: **and they are hindering from the Sacred Masjid, and they were not its custodians?** – meaning custodians of the House, meaning the Polytheists - **Surely, its custodians are only the pious ones [8:34]**, wherever they may be, they are foremost with it than the Polytheists'.⁸³

باب 25 ميراث الأولاد و أولاد الأولاد و الأبوين و فيه حكم الحبو

CHAPTER 25 – INHERITANCE OF THE CHILDREN, AND CHILDREN OF THE CHILDREN, AND THE PARENTS, AND IN IT IS RULING OF THE RESIDUAL SHARE

1- ب، قرب الإسناد ابن أبي الخطاب عن البرزطي قال: قال قلت لأبي الحسن ع رجل مات و ترك ابنة ابن و ابنة ابنة

(The book) 'Qurb Al Isnaad' – Ibn Abu Al Khattab, from Al Bazanty, said, 'He said,

'I said to Abu Al-Hassan^{-asws}, 'A man dies and leaves behind a daughter of a son and a son of a daughter'.

قال كان علي ع يورث الأقرب فالأقرب

He^{-asws} said: 'Ali^{-asws} had made to inherit the closest relative, then the next closest'.

قلت أيهما أقرب

I said, 'So which of the two is closest'.

قال ابنة الابن.

He^{-asws} said: 'Daughter of the son'.⁸⁴

2- مكا، مكارم الأخلاق من كتاب اللباس عن أبي الحسن ع قال: فأومأ خاتم أبي عبد الله ع فأخذه أبي بسبعة

(The book) 'Makarim Al Akhlaq', from 'Kitab Al Libaas',

⁸² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 24 H 2

⁸³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 24 H 3

⁸⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 25 H 1

From Abu Al-Hassan^{-asws} having said: 'A ring of Abu Abdullah^{-asws} was evaluated. My^{-asws} father took it for seven'.

قَالَ فُلْتُ سَبْعَةَ دَرَاهِمٍ

He (the narrator) said, 'I said, 'Seven Dirhams?'

قَالَ سَبْعَةَ دِينَارٍ.

He^{-asws} said: 'Seven Dinars'.⁸⁵

3- فس، تفسير القمي يُوصِيكُمُ اللهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ قَالَ إِذَا مَاتَ الرَّجُلُ وَ تَرَكَ بَيِّنَ وَ بَنَاتٍ - فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ - فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ يَغْنِي إِذَا مَاتَ الرَّجُلُ وَ تَرَكَ أَبَوَيْنِ وَ ابْنَتَيْنِ فَلِلأَبَوَيْنِ السُّدْسَانِ وَ لِلابْنَتَيْنِ الثُّلُثَانِ

Tafseer A Qummi -

Allah Directs you regarding your children: "For the male is a share of two females – He said, 'When the man dies and leaves behind sons and daughters - **So if there happen to be more than two women, for them would be a third of what is left [4:11]** – meaning when the man dies and leaves behind the parents and two daughters, for the parents is the sixth and for the daughter is the two thirds.

وَ إِنْ كَانَتْ الْإِبْنَةُ وَاحِدَةً فَلَهَا التَّصْفُفُ وَ لِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِنْهُمَا السُّدُسُ وَ بَقِيَ سَهْمٌ يُقْسَمُ عَلَى خَمْسَةِ أَشْهُمٍ فَمَا أَصَابَ ثَلَاثَةٌ أَشْهُمٍ فَلِلْإِبْنَةِ وَ مَا أَصَابَ اثْنَتَيْنِ فَلِلأَبَوَيْنِ فَإِنْ كَانَ لِلْمَيِّتِ إِخْوَةٌ وَ أَخَوَاتٌ مِنْ قِبَلِ الْأَبِ وَ الْأُمِّ أَوْ مِنْ قِبَلِ الْأَبِ وَحْدَهُ فَلِلأَبِ خَمْسَةٌ أَشْهُمٍ فَإِنَّ الْإِخْوَةَ وَ الْأَخَوَاتِ مِنْ قِبَلِ الْأَبِ هُمْ فِي عِيَالِ الْأَبِ وَ تَلْزِمُهُ مَوْتُهُمْ فَهُمْ يَحْجُبُونَ الْأُمَّ عَنِ الثُّلُثِ وَ لَا يَرْتُونَ.

And if there is only one daughter, she receives one-half, and each of his parents receives one sixth. One share then remains, which is divided into five parts - three parts go to the daughter and two parts to the parents. If the deceased has brothers and sisters from both his father and mother, or from his father alone, then the mother receives one sixth and the father five sixths, for the brothers and sisters from the father's side are under his care and responsibility, and thus they prevent the mother from receiving one third, though they themselves do not inherit'.⁸⁶

4- ضا، فقه الرضا عليه السلام إِنْ تَرَكَتِ الْمَرْأَةُ مَعَ الرَّوْجِ وَوَلَدًا ذَكَرًا كَانَ أُمَّ أَنْثَى وَوَاحِدًا كَانَ أُمَّ أَكْثَرَ فَلِلرَّوْجِ الرَّبْعُ وَ مَا بَقِيَ فَلِلْوَلَدِ وَ إِنْ تَرَكَتِ الْمَرْأَةُ وَ وُلَدًا فَلِلْمَرْأَةِ الثُّمْنُ وَ مَا بَقِيَ فَلِلْوَلَدِ

(The book) 'Al-Reza^{-asws}', may the greeting be upon him^{-asws} - 'If a woman dies leaving behind a husband and a child, whether male or female, one or more, the husband receives one fourth, and the remainder goes to the child. If a man dies leaving behind a wife and a child, the wife receives one eighth, and the remainder goes to the child.

⁸⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 25 H 2

⁸⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 25 H 3

فَإِنْ تَرَكَ الرَّجُلُ أَبَوَيْهِ فَلِأُمِّهِ الثُّلُثُ وَ لِأَبِ الثُّلُثَانِ فَإِنْ تَرَكَ أَبَوَيْهِ وَ ابْنًا أَوْ أَكْثَرَ مِنْ ذَلِكَ فَلِأَبَوَيْهِ السُّدْسَانِ وَ مَا بَقِيَ فَلِلْإِبْنِ وَ إِنْ تَرَكَ أَبَاهُ وَ ابْنَتَهُ فَلِلْإِبْنَةِ النِّصْفُ ثَلَاثَةٌ أَسْهُمٍ مِنْ سِتَّةٍ وَ لِأَبِ السُّدْسُ يُقَسَّمُ الْمَالُ عَلَى أَرْبَعَةٍ أَسْهُمٍ فَمَا أَصَابَ ثَلَاثَةٌ أَسْهُمٍ فَلِلْإِبْنَةِ وَ مَا أَصَابَ سَهْمًا فَلِلْأَبِ

If a man leaves behind only his parents, then the mother receives one-third and the father two-thirds. If he leaves behind his parents and a son or more, then each of his parents receives one-sixth, and the remainder goes to the son. If he leaves behind his father and a daughter, the daughter receives one-half, which is three shares out of six, and the father receives one-sixth. The estate is divided into four parts - three parts go to the daughter and one part to the father.

وَ كَذَلِكَ إِذَا تَرَكَ أُمَّهُ وَ ابْنَتَهُ فَإِنْ تَرَكَ أَبَوَيْهِ وَ ابْنَةً فَلِلْإِبْنَةِ النِّصْفُ وَ لِأَبَوَيْهِ السُّدْسَانِ يُقَسَّمُ الْمَالُ عَلَى خَمْسَةٍ فَمَا أَصَابَ ثَلَاثَةٌ أَسْهُمٍ فَلِلْإِبْنَةِ وَ مَا أَصَابَ سَهْمَيْنِ فَلِلْأَبَوَيْهِ

And likewise, if he leaves behind his mother and his daughter, then if he leaves both parents and a daughter, the daughter receives one half, and each of the parents receives one-sixth. The estate is divided into five parts - three parts go to the daughter, and two parts go to the parents.

فَإِنْ تَرَكَ ابْنَتَيْنِ وَ أَبَوَيْنِ فَلِلْإِبْنَتَيْنِ الثُّلُثَانِ وَ لِأَبَوَيْهِ السُّدْسَانِ وَ إِنْ تَرَكَ أَبَوَيْهِ وَ ابْنًا وَ ابْنَةً أَوْ ابْنَتَيْنِ وَ بَنَاتٍ فَلِأَبَوَيْهِ السُّدْسَانِ وَ مَا بَقِيَ لِلْبَنَاتِ وَ الْبَنَاتِ لِلذَّكَرِ مِثْلَ حَظِّ الْأُنثِيَيْنِ

If he leaves behind two daughters and both parents, the two daughters receive two-thirds, and each of the parents receives one-sixth. If he leaves behind both parents and a son and a daughter, or two sons and daughters, then each of the parents receives one-sixth, and the remainder goes to the sons and daughters, with the male receiving the share of two females.

فَإِنْ تَرَكَ امْرَأَةً وَ أَبَوَيْنِ- لِامْرَأَتِهِ الرُّبْعُ وَ لِأُمِّهِ الثُّلُثُ وَ مَا بَقِيَ فَلِلْأَبِ

If he leaves behind a wife and parents, for his wife is the quarter and for his mother is the third, and whatever remains is for the father.

فَإِنْ تَرَكَ امْرَأَةً زَوْجَهَا وَ أَبَوَيْهَا وَ وَلَدًا ذَكَرًا كَانَ أَوْ أُنْثَى وَاحِدًا كَانَ أَوْ أَكْثَرَ فَلِلزَّوْجِ الرُّبْعُ وَ لِأَبَوَيْهِ السُّدْسَانِ وَ مَا بَقِيَ فَلِلْوَلَدِ فَإِنْ تَرَكَ أَبَوَيْهِ وَ أَحَاً فَلِأُمِّ الثُّلُثُ وَ لِأَبِ الثُّلُثَانِ وَ سَقَطَ الْأَخُ

If a woman dies leaving behind her husband, her parents, and a child, whether male or female, one or more, the husband receives one fourth, each of the parents receives one-sixth, and the remainder goes to the child. If the deceased leaves behind his parents and a brother, the mother receives one third, the father two thirds, and the brother is dropped (receives nothing).

فَإِنْ تَرَكَ أَبَوَيْهِ فَلِأُمِّ الثُّلُثُ وَ لِأَبِ الثُّلُثَانِ وَ كَذَلِكَ إِذَا تَرَكَ أَحَاً أَوْ أُخْتَيْنِ أَوْ ثَلَاثَ أَخَوَاتٍ أَوْ أُخْتًا وَ أَبَوَيْنِ فَلِأُمِّ الثُّلُثُ وَ لِأَبِ الثُّلُثَانِ

If he leaves behind only his parents, the mother receives one-third and the father two-thirds. Like that, if he leaves behind a brother, or two sisters, or three sisters, or a sister along with both parents, then the mother receives one-third and the father two-thirds.

فَإِنْ تَرَكَ أَبَوَيْنِ وَ أُخْوَتَيْنِ أَوْ أُخَاتٍ أَوْ أَخًا وَ أُخْتَيْنِ فَلِلْأُمِّ السُّدُسُ وَ مَا بَقِيَ فَلِلْأَبِ فَإِنْ كَانَ الْإِخْوَةُ وَ الْأَخَوَاتُ مِنَ الْأُمِّ لَمْ تَحْجِبِ الْأُمَّ عَنِ الثُّلُثِ وَ إِنَّمَا تَحْجِبُهَا الْإِخْوَةُ وَ الْأَخَوَاتُ مِنَ الْأَبِ أَوْ مِنَ الْأَبِ وَ الْأُمِّ.

If he leaves behind both parents and two brothers, and four sisters, or a brother and two sisters, then the mother receives one-sixth, and the remainder goes to the father. If the brothers and sisters are from the mother's side, they do not prevent the mother from receiving one third; she is only prevented from the third by brothers and sisters from the father's side or from both the father and the mother'.⁸⁷

5- شي، تفسير العياشي عَنْ أَبِي بصيرٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ: كَمْ مِنْ إِنْسَانٍ لَهُ حَقٌّ لَا يَعْلَمُ بِهِ

Tafseer Al-Ayyashi – From Abu Baseer,

From Abu Ja'far^{-asws}, having said: 'How many a person has a right for him he does not even know of it!'

قَالَ قُلْتُ وَ مَا ذَاكَ أَصْلَحَكَ اللَّهُ

He (the narrator) said, 'I said, 'And what is that? May Allah^{-azwj} Keep you^{-asws} well!'

قَالَ إِنَّ صَاحِبِي الْجِدَارِ كَانَ لهُمَا كَنْزٌ تَحْتَهُ أَمَا إِنَّهُ لَمْ يَكُنْ مِنْ ذَهَبٍ وَ لَا فِضَّةٍ

He^{-asws} said: 'The two companions of the wall. There was treasure for them under it. But, it did not happen to be of gold nor silver'.

قَالَ قُلْتُ فَأَيُّهُمَا كَانَ أَحَقَّ بِهِ

He (the narrator) said, 'I said, 'Which of the two (boys) was more rightful with it?'

قَالَ الْأَكْبَرُ كَذَلِكَ نَقُولُ.

He^{-asws} said: 'The elder. Like that we^{-asws} say (our tradition)'.⁸⁸

⁸⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 25 H 4

⁸⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 25 H 5

CHAPTER 26 – INHERITANCE OF THE BROTHERS AND THEIR CHILDREN, AND THE GRANDFATHERS AND THE GRANDMOTHERS, AND THE GRANT (ALLOTMENT) OF THE GRANDFATHERS

1- مع، معاني الأخبار أَبِي عَنْ سَعْدِ بْنِ يَزِيدَ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: الْكَلَالَةُ مَا لَمْ يَكُنْ وَالِدٌ وَلَا وَلَدٌ.

(The book) 'Ma'any Al Akhbar' – My father, from Sa'ad, from Ibn Yazeed, from Ibn Abu Umeyr, from one of his companions,

From Abu Abdullah^{-asws} having said: 'The 'Kalalah' is one who neither has a (living) father nor a son'.⁸⁹

2- فس، تفسير القمي أَبِي عَنْ ابْنِ أَبِي عُمَيْرٍ عَنِ ابْنِ أُذَيْنَةَ عَنْ بُكَيْرٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ: إِذَا مَاتَ الرَّجُلُ وَ لَهُ أُخْتُ تَأْخُذُ نِصْفَ الْمِيرَاثِ بِالْآيَةِ كَمَا تَأْخُذُ الْإِثْنَةَ لَوْ كَانَتْ وَ النَّصْفُ الْبَاقِي يُرَدُّ عَلَيْهَا بِالرَّحِمِ

Tafseer Al-Qummi – My father, from Ibn Abu Umeyr, from Ibn Uzina, from Bukeyr,

From Abu Ja'far^{-asws} having said: 'If a man dies leaving a sister, she takes half of the inheritance according to the verse, just as a daughter would, and the remaining half is returned to her through the kinship ties.

إِذَا لَمْ يَكُنْ لِلْمَيِّتِ وَارِثٌ أَقْرَبُ مِنْهَا فَإِنْ كَانَ مَوْضِعَ الْأُخْتِ أَخٌ أَخَذَ الْمِيرَاثَ كُلَّهُ بِالْآيَةِ لِقَوْلِ اللَّهِ- وَ هُوَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ

If the deceased has no heir closer than her, and if the sister is in the position of a brother, she receives the entire inheritance according to the Verse due to Words of Allah^{-azwj}: **and he would inherit her if there does not happen to be a child for her [4:176]**.

فَإِنْ كَانَتْ [كَانَتْ] أُخْتَيْنِ أَخَذَتَا التُّلْثَيْنِ بِالْآيَةِ وَ التُّلْثُ الْبَاقِي بِالرَّحِمِ- وَ إِنْ كَانُوا إِخْوَةً رِجَالًا وَ نِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ وَ ذَلِكَ كُلُّهُ إِذَا لَمْ يَكُنْ لِلْمَيِّتِ وَلَدٌ أَوْ أَبَوَانِ أَوْ زَوْجَةٌ.

If they were two sisters they will take the two-third as per the Verse, and the remaining third is for the kindred, **and if there are brethren, men and women, then for the male would be like the share of two females [4:176]**, and that, all of it when there does not happen to be for the deceased a son or parents or wife'.⁹⁰

3- فس، تفسير القمي وَ إِنْ كَانَ رَجُلٌ يُورِثُ كَلَالَةً أَوْ امْرَأَةً وَ لَهُ أَخٌ أَوْ أُخْتُ فَلِكُلِّ وَاحِدٍ مِنْهُمَا السُّدُسُ فَهَذِهِ كَلَالَةُ الْأُمِّ وَ هِيَ الْإِخْوَةُ وَ الْأَخَوَاتُ مِنَ الْأُمِّ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ يَأْخُذُونَ التُّلْثَ فَيُقَسِّمُونَهُ مَا بَيْنَهُمْ بِالسَّوِيَّةِ الذَّكَرُ وَ الْأُنثَى فِيهِ سَوَاءٌ.

Tafseer Al-Qummi - **And if a man or a woman dies as a Kalalah (having neither father nor child) and has a brother or sister, each of them receives one sixth [4:12]**. This is the Kalalah

⁸⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 1

⁹⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 2

of the mother, which refers to the brothers and sisters from the mother. If there are more than that, they take one third, and they divide it equally among themselves, and the male and female in it are the same'.⁹¹

4- ير، بصائر الدرجات الحَجَّالُ عَنِ اللُّؤلُؤِيِّ عَنِ ابْنِ سِنَانٍ عَنِ إِسْحَاقَ بْنِ عَمَّارٍ عَنِ أَبِي عَبْدِ اللَّهِ ع قَالَ: إِنَّ اللَّهَ أَدَّبَ نَبِيَّهُ ص عَلَى أَدْبِهِ فَلَمَّا انْتَهَى بِهِ إِلَى مَا أَرَادَ قَالَ لَهُ- إِنَّكَ لَعَلَى خُلُقٍ عَظِيمٍ

(The book) 'Basaair Al Darajaat' – Al Hajjal, from Al Luluie, from Ibn Sinan, from Is'haq Bin Ammar,

From Abu Abdullah^{-asws} having said: 'Allah^{-azwj} Educated His^{-azwj} Prophet^{-saww} upon His^{-azwj} Education. When he^{-saww} ended up to what He^{-azwj} Wanted, He^{-azwj} Said to him^{-saww}: **And you are upon magnificent morals [68:4].**

فَقَوَّضَ إِلَيْهِ دِينَهُ فَقَالَ مَا آتَاكُمْ الرَّسُولُ فَخُذُوهُ وَ مَا نَهَاكُمْ عَنْهُ فَانْتَهُوا وَ إِنَّ اللَّهَ فَرَضَ فِي الْقُرْآنِ وَ لَمْ يَقْسِمَ لِلْجَدِّ شَيْئاً وَ إِنَّ رَسُولَ اللَّهِ ص أَطْعَمَهُ السُّدُسَ فَأَجَازَ اللَّهُ لَهُ

He^{-azwj} Delegated His^{-azwj} Religion to him^{-saww}. He^{-azwj} Said: **And whatever the Rasool gives you, so take it, and whatever he forbids you from, then refrain [59:7].** Allah^{-azwj} Obligated (inheritances) in the Quran and did not Apportion anything for the grandfather, and Rasool-Allah^{-saww} fed him the one-sixth, and Allah^{-azwj} Allowed him^{-saww}.

وَ إِنَّ اللَّهَ حَرَّمَ الْحُمْرَ بَعْضُهَا وَ حَرَّمَ رَسُولُ اللَّهِ ص كُلَّ مُسْكِرٍ فَأَجَازَ اللَّهُ لَهُ ذَلِكَ وَ ذَلِكَ قَوْلُ اللَّهِ- هَذَا عَطَاؤُنَا فَاْمُنُّنٌ أَوْ أَمْسِكْ بِعَيْرٍ حِسَابٍ.

Allah^{-azwj} Prohibited the wine in particular, and Rasool-Allah^{-saww} prohibited every intoxicant, and Allah^{-azwj} Allowed that for him^{-saww}, and that is the Word of Allah^{-azwj}: **This is Our Gift, so either confer or withhold, without a Reckoning [38:39]**'.⁹²

5 ير، بصائر الدرجات مُحَمَّدُ بْنُ عَبْدِ الْجُبَّارِ عَنِ مُحَمَّدِ بْنِ يَحْيَى عَنِ فَضَالَةَ عَنِ رَبِيعِ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ قَالَ: إِنَّ اللَّهَ ذَكَرَ الْفَرَائِضَ وَ لَمْ يَذْكُرِ الْجَدَّ فَأَطْعَمَهُ رَسُولُ اللَّهِ ص سَهْمًا فَأَجَازَ اللَّهُ ذَلِكَ لَهُ.

(The book) 'Basaair Al Darajaat' – Muhammad Bin Abdul Jabbar, from Muhamad Al Barqy, from Fazalah, from Rabie, from Al Qasim Bin Muhammad who said,

'Allah^{-azwj} Mentioned the obligatory (inheritances) and did not Mention the grandfather. Rasool-Allah^{-saww} fed him a share, so Allah^{-azwj} Allowed that for him^{-saww}'.⁹³

6- ير، بصائر الدرجات مُحَمَّدُ بْنُ عَيْسَى عَنِ النَّضْرِ عَنِ عَبْدِ اللَّهِ بْنِ سُلَيْمَانَ أَوْ عَمَّنْ رَوَاهُ عَنْ عَبْدِ اللَّهِ عَنِ أَبِي جَعْفَرٍ ع قَالَ: إِنَّ اللَّهَ أَدَّبَ مُحَمَّدًا ص تَأْدِيبًا فَقَوَّضَ إِلَيْهِ الْأَمْرَ وَ قَالَ مَا آتَاكُمْ الرَّسُولُ فَخُذُوهُ وَ مَا نَهَاكُمْ عَنْهُ فَانْتَهُوا وَ كَانَ بِمَا أَمَرَهُ اللَّهُ فِي كِتَابِهِ فَرَائِضُ الصُّلْبِ وَ فَرَضَ رَسُولُ اللَّهِ ص لِلْجَدِّ فَأَجَازَ اللَّهُ ذَلِكَ لَهُ.

⁹¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 3

⁹² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 4

⁹³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 5

(The book) 'Basaair Al Darajaat' – Muhammad Bin Isa, from Al Nazar, from Abdullah Bin Suleyman, or from the one who reported it,

From Abu Abdullah^{-asws}, from Abu Ja'far^{-asws} having said: 'Allah^{-azwj} Educated Muhammad^{-saww} an education. He^{-azwj} Delegated the matters to him^{-saww} and Said: **And whatever the Rasool gives you, so take it, and whatever he forbids you from, then refrain [59:7]**, and it was from what Allah^{-azwj} had Commanded him^{-saww} in His^{-azwj} were obligatory (inheritances) for the descendants, and Rasool-Allah^{-saww} obligated for the grandfather, and Allah^{-azwj} Allowed that for him^{-saww}'.⁹⁴

7- ختص، الإختصاص ير، بصائر الدرجات ابْنُ يَزِيدَ وَ مُحَمَّدُ بْنُ عَيْسَى عَنْ زِيَادِ الْقَنْدِيِّ عَنْ مُحَمَّدِ بْنِ عُمَارَةَ عَنْ فَضَيْلِ بْنِ يَسَارٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: فَرَضَ اللَّهُ الْفَرَائِضَ مِنَ الصُّلْبِ فَأَطَعَمَ رَسُولُ اللَّهِ ص الْجَدَّ فَأَجَارَ اللَّهُ ذَلِكَ لَهُ.

(The book) 'Al Ikhtisas', (and) 'Basaair Al Darajaat' – Ibn Yazeed, and Muhammad Bin Isa, from Ziyad Al Qandy, from Muhammad Bin Umarah, from Fuzeyl Bin Yasaar,

From Abu Abdullah^{-asws} having said: 'Allah^{-azwj} Obligated the obligatory (inheritances) of the lineage. Rasool-Allah^{-saww} fed (granted) the grandfather. Allah^{-azwj} Allowed that for him^{-saww}'.⁹⁵

8 ير، بصائر الدرجات ابْنُ يَزِيدَ عَنْ زِيَادِ الْقَنْدِيِّ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْهُ ع مِثْلُهُ

(The book) 'Basaair Al-Darajaat' – Ibn Yazeed Al Qandy, from Abdullah Bin Sinan, from him^{-asws} similar to it.⁹⁶

9 ير، بصائر الدرجات ابْنُ هَاشِمٍ عَنْ يَحْيَى بْنِ أَبِي عِمْرَانَ عَنْ يُونُسَ عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ الْحَمِيدِ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع مِثْلُهُ.

(The book) 'Basaair Al Darajaat' – Ibn Hashim, from Yahya Bin Abu Imran, from Yunus, from Ibrahim Bin Abdul Hameed, from Abu Baseer, from Abu Abdullah^{-asws}, similar.⁹⁷

10- ير، بصائر الدرجات أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ عُدَّافِرٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي جَعْفَرٍ ع قَالَ: كَانَ فِيمَا فَرَضَ اللَّهُ فِي الْقُرْآنِ فَرَائِضَ الصُّلْبِ وَ فَرَضَ رَسُولُ اللَّهِ ص فَرَائِضَ الْجَدِّ فَأَجَارَ اللَّهُ لَهُ ذَلِكَ.

(The book) 'Basaair Al Darajaat' – Ahmad Bin Muhammad, from Muhammad Bin Ismail, from Muhammad Bin Uzafir, from Abdullah Bin Sinan, from one of our companions,

'From Abu Ja'far^{-asws} having said: 'It was among what Allah^{-azwj} Obligated in the Quran, Obligations of the lineage (inheritances), and Rasool-Allah^{-saww} obligated (for) the grandfather, and Allah^{-azwj} Allowed that for him^{-saww}'.⁹⁸

11 ير، بصائر الدرجات ابْنُ هَاشِمٍ عَنْ عَمْرٍو بْنِ عُثْمَانَ عَنْ مُحَمَّدِ بْنِ عُدَّافِرٍ عَنْ رَجُلٍ مِنْ إِخْوَانِنَا عَنْ أَبِي جَعْفَرٍ ع مِثْلُهُ

⁹⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 6

⁹⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 7

⁹⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 8

⁹⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 9

⁹⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 10

(The book) 'Basaair Al Darajaat' – Ibn Hashim, from Amro Bin Usman, from Muhammad Bin Uzafir, from a man from our brothers, from Abu Ja'far^{asws} similar to it.⁹⁹

12- ضا، فقه الرضا عليه السلام إذا ترك الرجل أخاه لأبيه و أخاه لأمه و أخاه لأبيه و أمه فلأخ من الأم السدس و ما بقي فلأخ من الأم و الأب و سقط الأخ من الأب و كذلك إذا ترك ثلاث أخوات متفرقات فلأخت من الأم السدس فما بقي فلأخت من الأم و الأب

(The book) 'Fiqh Al-Reza^{asws}' - If a man leaves behind a brother from his father, a brother from his mother, and a brother from both father and mother, the brother from the mother receives one sixth, and the remainder goes to the brother from both mother and father; the brother from the father alone receives nothing. Likewise, if he leaves behind three sisters from different parents, the sister from the mother receives one-sixth, and the remainder goes to the sister from both mother and father.

فإن ترك أخوين للأم أو أماً و أختاً لأب أو أكثر من ذلك أو أختاً لأب و أم أو لأب أو إخوة و أخوات لأب و أم أو لأب فلإخوة و الأخوات من الأب و الأم و من الأب للذكر مثل حظ الأنثيين و كذلك سهم أولادهم على هذا

If he leaves behind two brothers from his mother, or a brother and a sister from his mother, or more than that, or a sister from his father and mother, or from his father alone, or brothers and sisters from his father and mother, or from his mother, then the brothers and sisters from both father and mother, and from the father alone, receive the male's share equal to that of two females. Likewise, the share of their children is calculated based on this.

فإن ترك أماً لأب و أم و جدّاً المال بينهما نصفان و كذلك إذا ترك أماً لأب و جدّاً فالأب بينهما نصفان فإن ترك أماً لأب و جدّاً فلأخ من الأم السدس و ما بقي فلأخت من الأم أو أخوات من ذلك و جدّاً فلإخوة و الأخوات من الأم الثلث بينهم بالسوية و ما بقي فلأخت

If he leaves behind a brother from both his father and mother and a grandfather, the estate is divided equally between them, half and half. Like that, if he leaves a brother from his father and a grandfather, the estate is divided equally between them, half and half. But if he leaves a brother from his mother and a grandfather, then the brother from the mother receives one-sixth, and the remainder belongs to the grandfather. If he leaves two sisters, or two brothers, or a brother and a sister from his mother, or more than that, along with a grandfather, then the brothers and sisters from the mother share one-third equally among themselves, and the remainder belongs to the grandfather.

و إن ترك أماً لأب أو أكثر من ذلك و إخوة و أخوات لأب و أم و إخوة و أخوات لأب و جدّاً فلإخوة و الأخوات من الأم الثلث بينهم بالسوية و ما بقي فلإخوة و الأخوات من الأب و الأم و الجد للذكر مثل حظ الأنثيين و سقط الإخوة و الأخوات من الأب

If he leaves a brother from his mother or more than that, along with brothers and sisters from his father and mother, and brothers and sisters from his father, and a grandfather, then the brothers and sisters from the mother receive one-third equally among themselves, and whatever remains goes to the brothers and sisters from the father and mother and to the

⁹⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 11

grandfather, with the share of a male being equal to that of two females, while the brothers and sisters from the father are dropped (receive nothing).

فَإِنْ تَرَكَ أُخْتًا لِأَبٍ وَ أُمٍّ وَ جَدًّا فَلِلأُخْتِ التَّصْنُفُ وَ لِلجَدِّ التَّصْنُفُ فَإِنْ تَرَكَ أُخْتَيْنِ لِأَبٍ وَ أُمٍّ أَوْ لِأَبٍ وَ جَدًّا فَلِلأُخْتِوَ التُّنَانِ وَ مَا بَقِيَ فَلِلجَدِّ وَ مَنْ تَرَكَ عَمًّا وَ جَدًّا فَالْمَالُ لِلجَدِّ فَإِنْ تَرَكَ عَمًّا وَ خَالَاً وَ جَدًّا وَ أَخًا فَالْمَالُ بَيْنَ الأَخِ وَ الجَدِّ وَ سَقَطَ العَمُّ وَ الخَالُ

If he leaves a sister from his father and mother and a grandfather, then the sister receives half and the grandfather receives half. If he leaves two sisters from his father and mother or from his father and a grandfather, then the sisters receive two-thirds, and whatever remains belongs to the grandfather. If he leaves an uncle and a grandfather, the estate belongs to the grandfather. If he leaves an uncle, a maternal uncle, a grandfather, and a brother, the estate is divided between the brother and the grandfather, and the uncle and maternal uncle are dropped (receive nothing).

فَإِنْ تَرَكَ جَدًّا مِنْ قِبَلِ الأَبِ وَ جَدًّا مِنْ قِبَلِ الأُمِّ فَلِلجَدِّ مِنْ قِبَلِ الأُمِّ التُّلُثُ وَ لِلجَدِّ مِنْ قِبَلِ الأَبِ التُّنَانِ

If he leaves a paternal grandfather and a maternal grandfather, then the maternal grandfather receives one-third, and the paternal grandfather receives two-thirds.

فَإِنْ تَرَكَ جَدَّيْنِ مِنْ قِبَلِ الأُمِّ وَ جَدَّيْنِ مِنْ قِبَلِ الأَبِ فَلِلجَدِّ وَ الجَدَّةِ مِنْ قِبَلِ الأُمِّ التُّلُثُ بَيْنَهُمَا بِالسَّوِيَّةِ وَ مَا بَقِيَ فَلِلجَدِّ وَ الجَدَّةِ مِنْ قِبَلِ الأَبِ - لِلذَّكْرِ مِثْلُ حِظِّ الأُنثَيَيْنِ.

If he leaves two grandparents on his mother's side and two grandparents on his father's side, then the grandfather and grandmother on the mother's side receive one-third equally between them, and whatever remains belongs to the grandfather and grandmother on the father's side, **for the male would be like the share of two females [4:176]**.¹⁰⁰

13- شا، الإرشاد سُئِلَ أَبُو بَكْرٍ عَنِ الكَلَالَةِ فَقَالَ أَقُولُ فِيهَا بِرَأْيِي فَإِنْ أَصَبْتُ فَمِنَ اللهِ وَإِنْ أَخْطَأْتُ فَمِنَ نَفْسِي وَ مِنَ الشَّيْطَانِ

(The book) 'Al Irshad' –

Abu Bakr (the caliph) was asked about 'Al-Kalalah'. He said, 'I say regarding it with my opinion. If I am correct, it is from Allah^{-azwj} and if I am mistaken, it is from myself and from the Satan^{-la'}.

فَبَلَغَ ذَلِكَ أَمِيرَ الْمُؤْمِنِينَ ع فَقَالَ مَا أَعْنَاهُ عَنِ الرَّأْيِ فِي هَذَا الْمَكَانِ أَمَا عَلِمَ أَنَّ الكَلَالَةَ هُمُ الإِخْوَةُ وَ الأَخْوَاتُ مِنْ قِبَلِ الأَبِ وَ الأُمِّ وَ مِنْ قِبَلِ الأَبِ عَلَى الإِنْفِرَادِ وَ مِنْ قِبَلِ الأُمِّ أَيْضًا عَلَى حِدَّتِهَا

That reached Amir Al-Momineen^{-asws}. He^{-asws} said: 'How needless he is from the opinion in this place. Does he not know that 'Al-Kalalah', they are the brothers and sisters from the father and mother, and those from the father alone, as well as those from the mother separately?

¹⁰⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 12

قَالَ اللَّهُ عَزَّ وَ جَلَّ يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنْ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَ لَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ وَ قَالَ عَزَّ قَائِلًا وَ إِنْ كَانَ رَجُلًا يُورَثُ كَلَالَةً أَوْ امْرَأَةً وَ لَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثَّلَاثِ.

Allah^{-azwj} Mighty and Majestic Said: **They are asking you for a Fatwa, Say: 'Allah Gives you a Fatwa regarding the person who has neither parents nor offspring; if a man dies (and) there isn't a son for him and for him is a sister, then for her would be half of what he leaves [4:176]; and the Almighty Said on behalf of a speaker: And if there was a man inheriting a 'Kalalah' or a woman with neither parents nor children, and for him is a brother or a sister, then for every one of them is the sixth. But if there were more than that, then they would be participants in the third [4:12]'**.¹⁰¹

14- شي، تفسير العياشي عَنْ بُكَيْرِ بْنِ أَعْيَنَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: الْوَلَدُ وَ الْإِخْوَةُ هُمُ الَّذِينَ يُزَادُونَ وَ يُنْقُصُونَ.

Tafseer Al Ayyashi – From Bukeyr Bin Ayn,

From Abu Abdullah^{-asws} having said: 'The son and the brothers, they are those who are increased and decreased'.¹⁰²

15- شي، تفسير العياشي عَنْ أَبِي الْعَبَّاسِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ لَا يَحْجُبُ مِنَ الثَّلَاثِ الْأَخُ وَ الْأُخْتُ حَتَّى يَكُونَا أَحْوَيْنِ أَوْ أَخًا وَ أُخْتَيْنِ فَإِنَّ اللَّهَ يَقُولُ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِلْأُمِّهِ السُّدُسُ.

Tafseer Al Ayyashi, from Abu Al Abbas who said,

'I heard Abu Abdullah^{-asws} saying: 'The (single) brother and the (single) sister do not bar from the third until they happen to be two brothers, or a brother and two sisters, for Allah^{-azwj} Says: **So if there are brothers for him, then for his mother is the sixth [4:11]'**.¹⁰³

16- شي، تفسير العياشي عَنِ الْقَضِيِّ بْنِ عَبْدِ الْمَلِكِ قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ ع عَنْ أُمِّ وَ أُخْتَيْنِ قَالَ- ع الثَّلَاثُ لِأَنَّ اللَّهَ يَقُولُ- فَإِنْ كَانَ لَهُ إِخْوَةٌ وَ لَمْ يَقُلْ فَإِنْ كَانَ لَهُ أَخَوَاتٌ.

Tafseer Al Ayyashi – From Al Fazl Bin Abdul Malik who said,

'I asked Abu Abdullah^{-asws} about a mother and two sisters. He^{-asws} said; 'The third, because Allah^{-azwj} Says: **So if there are brothers for him [4:11]**, and did not Say: "If there were sisters for him"¹⁰⁴.

17- شي، تفسير العياشي عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ع فِي قَوْلِ اللَّهِ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِلْأُمِّهِ السُّدُسُ يَعْنِي إِخْوَةَ لِأَبٍ وَ أُمِّ وَ إِخْوَةَ لِأَبٍ.

Tafseer Al Ayyashi – From Zurara,

¹⁰¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 13

¹⁰² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 14

¹⁰³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 15

¹⁰⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 16

From Abu Ja'far^{-asws} regarding Words of Allah^{-azwj}: **So if there are brothers for him, then for his mother is the sixth [4:11]** – meaning brothers of the father and mother, and brothers of the father (only).¹⁰⁵

18- شي، تفسير العياشي عن بَكْبَرِ بْنِ أَعْيَنَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: الَّذِي عَنِ اللَّهِ فِي قَوْلِهِ- وَإِنْ كَانَ رَجُلًا يُورَثُ كَلَالَةً أَوْ امْرَأَةً وَ لَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلْثِ إِنَّمَا عَنِ بِذَلِكَ الْإِخْوَةَ وَالْأَخَوَاتِ مِنَ الْأُمِّ خَاصَّةً.

Tafseer Al Ayyashi – From Bukeyr Bin Ayn,

From Abu Abdullah^{-asws} having said: **'And if there was a man inheriting a 'Kalalah' or a woman with neither parents nor children, and for him is a brother or a sister, then for every one of them is the sixth. But if there were more than that, then they would be participants in the third [4:12].** But rather, He^{-azwj} Means by that the brothers and the sisters from the mother especially'.¹⁰⁶

19- شي، تفسير العياشي عن مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ: قُلْتُ لَهُ مَا تَقُولُ فِي امْرَأَةٍ مَاتَتْ وَ تَرَكَتْ زَوْجَهَا وَ إِخْوَتَهَا لِأُمِّهَا وَ إِخْوَةً وَ أَخَوَاتٍ لِأَبِيهَا

Tafseer Al Ayyashi – From Muhammad Bin Muslim,

From Abu Ja'far^{-asws}, he (the narrator) said, 'I said to him^{-asws}, 'What do you^{-asws} say regarding a woman who died and left behind her husband and her maternal brothers and her paternal brothers and sisters?'

قَالَ لِلزَّوْجِ النِّصْفُ ثَلَاثَةَ أَشْهُمٍ وَ لِإِخْوَتِهَا مِنَ الْأُمِّ الثُّلْثُ سَهْمَانِ الذَّكَرِ فِيهِ وَ الْأُنثَى سَوَاءً وَ بَقِيَ سَهْمٌ لِلْإِخْوَةِ وَ الْأَخَوَاتِ مِنَ الْأَبِ- لِلذَّكَرِ مِثْلُ مِثْلِ حِظِّ الْأُنثِيِّينَ لِأَنَّ السِّهَامَ لَا تَعُولُ وَ لِأَنَّ الزَّوْجَ لَا يَنْقُصُ مِنَ النِّصْفِ وَ لَا الْإِخْوَةُ مِنَ الْأُمِّ مِنْ ثُلُثِهِمْ

He^{-asws} said: 'For the husband is the half which is three shares; her maternal brothers receive one-third, which is two shares, the male and female being equal in that; and the remaining one share goes to the paternal brothers and sisters. **for the male would be like the share of two females [4:176]**, because they cannot exceed, and because the husband cannot be reduced from the half, nor can the brothers and the mother (be reduced) from their thirds.

فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلْثِ وَ إِِنْ كَانَ وَاحِدًا فَلَهُ السُّدُسُ

But if there were more than that, then they would be participants in the third [4:12], and even if there was one, for him is the sixth.

وَ أَنَا الَّذِي عَنِ اللَّهِ فِي قَوْلِهِ- وَإِنْ كَانَ رَجُلًا يُورَثُ كَلَالَةً أَوْ امْرَأَةً وَ لَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلْثِ إِنَّمَا عَنِ بِذَلِكَ الْإِخْوَةَ وَ الْأَخَوَاتِ مِنَ الْأُمِّ خَاصَّةً.

And as for which Allah^{-azwj} Meant in His^{-azwj} Words: **And if there was a man inheriting a 'Kalala' or a woman with neither parents nor children, and for him is a brother or a sister,**

¹⁰⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 17

¹⁰⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 18

then for every one of them is the sixth. But if there were more than that, then they would be participants in the third [4:12], rather He^{-azwj} Meant with that the brothers and the sisters from the mother especially'.¹⁰⁷

20- شي، تفسير العياشي عن بَكْبَرِ بْنِ أَعْيَنَ قَالَ: كُنْتُ عِنْدَ أَبِي جَعْفَرٍ عَ فَدَخَلَ عَلَيْهِ رَجُلٌ فَقَالَ مَا تَقُولُ فِي أُخْتَيْنِ وَ زَوْجٍ

Tafseer Al Ayyashi – From Bukeyr Bin Ayn who said,

'I was in the presence of Abu Ja'far^{-asws}, and a man entered to see him^{-asws}. He said, 'What do you^{-asws} say regarding two sisters and a husband?'

قَالَ فَقَالَ أَبُو جَعْفَرٍ عَ لِلزَّوْجِ النِّصْفُ وَ لِأُخْتَيْنِ مَا بَقِيَ

He (the narrator) said, 'Abu Ja'far^{-asws} said: 'For the husband is the half and for the two sisters is what remains'.

قَالَ فَقَالَ الرَّجُلُ لَيْسَ هَكَذَا يَقُولُ النَّاسُ

He (the narrator) said, 'The man said, 'The people are not saying like this!'

قَالَ فَمَا يَقُولُونَ

He^{-asws} said: 'So what are they saying?'

قَالَ يَقُولُونَ لِأُخْتَيْنِ التُّنَانِ وَ لِلزَّوْجِ النِّصْفُ وَ يُقْسِمُونَ عَلَى سَبْعَةٍ

He said, 'They are saying for the two sisters are two-thirds and for the husband is the half, and they will be dividing upon seven'.

قَالَ فَقَالَ أَبُو جَعْفَرٍ عَ وَ لَمْ يَقَالُوا ذَلِكَ

He (the narrator) said, 'Abu Ja'far^{-asws} said: 'And why are they saying that?'

قَالَ لِأَنَّ اللَّهَ سَمَّى لِأُخْتَيْنِ التُّنَانِ وَ لِلزَّوْجِ النِّصْفَ

He said, 'Because Allah^{-azwj} has Specified two-thirds for the two sisters and the half for the husband'.

قَالَ فَمَا يَقُولُونَ لَوْ كَانَ مَكَانَ الْأُخْتَيْنِ أَخٌ

He^{-asws} said: 'So what are they saying if in place of the two sisters there was a brother?'

قَالَ يَقُولُونَ لِلزَّوْجِ النِّصْفُ وَ مَا بَقِيَ فَلِأَخٍ

¹⁰⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 19

He said, 'They are saying for the husband is that half and whatever remains is for the brother'.

فَقَالَ لَهُ فَيُعْطُونَ مَنْ أَمَرَ اللَّهُ لَهُ بِالْكَلِّ النَّصْفَ وَ مَنْ أَمَرَ اللَّهُ بِالثُّلُثَيْنِ أَرْبَعَةً مِنْ سَبْعَةٍ

He^{-asws} said to him: 'One whom Allah^{-azwj} has Commanded with the whole they are giving the half, and one Allah^{-azwj} has Commanded with the two-thirds, (they are giving) four from seven'.

قَالَ وَ أَيْنَ سَمَى اللَّهُ لَهُ ذَلِكَ

He said, 'And where has Allah^{-azwj} Specified that for him?'

قَالَ فَقَالَ أَبُو جَعْفَرٍ عَ إِفْرَأَ الْآيَةَ الَّتِي فِي آخِرِ السُّورَةِ - يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنْ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَ لَهُ أُخٌ أَوْ أُخْتُ فَلَهَا نِصْفُ مَا تَرَكَ وَ هُوَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ

He (the narrator) said, 'Abu Ja'far^{-asws} said: 'Read the Verse which is in the end of the Chapter: ***They are asking you for a Fatwa, Say: 'Allah Gives you a Fatwa regarding the person who has neither parents nor offspring; if a man dies (and) there isn't a son for him and for him is a – brother or - sister, then for her would be half of what he leaves [4:176]; and he would inherit her if there does not happen to be a child for her [4:176].***

قَالَ فَقَالَ أَبُو جَعْفَرٍ عَ إِذَا كَانَ يَنْبَغِي لَهُمْ أَنْ يَجْعَلُوا هَذَا الْمَالَ وَ لِلزَّوْجِ النَّصْفَ ثُمَّ يَفْتَسِمُونَ عَلَى تِسْعَةٍ

He (the narrator) said, 'Abu Ja'far^{-asws} said: 'But rather it would have been appropriate for them if they were to make this wealth as half for the husband, then divide it among nine'.

قَالَ فَقَالَ الرَّجُلُ هَكَذَا يَقُولُونَ

He (the narrator) said, 'The man said, 'That is how they are saying'.

ثُمَّ أَقْبَلَ عَلَيَّ فَقَالَ يَا بُكَيْرُ نَظَرْتَ فِي الْفَرَائِضِ

Then he^{-asws} turned towards me and said: 'O Bukeyr! Have you looked into the obligatory (laws of inheritance)?'

قَالَ قُلْتُ وَ مَا أَصْنَعُ بِشَيْءٍ هُوَ عِنْدِي بَاطِلٌ

He (the narrator) said, 'I said, 'And what shall I do with anything in my view it is false?'

قَالَ فَقَالَ انْظُرْ فِيهَا فَإِنَّهُ إِذَا جَاءَتْ تِلْكَ كَانَ أَقْوَى لَكَ عَلَيْهَا.

He (the narrator) said, 'He^{-asws} said: 'Look into it, for when that (issue) comes, it would be stronger for you upon (dealing with) it'.¹⁰⁸

21- شي، تفسير العياشي عن حمزة بن حمزان قال: سألت أبا عبد الله ع عن الكلالة قال ما لم يكن له والد ولا ولد.

Tafseer Al Ayyashi – From Hamza Bin Humran who said,

'I asked Abu Abdullah^{-asws} about the 'Kalalah'. He^{-asws} said: 'For as long as there does not happen to be any father for him nor son'.¹⁰⁹

22- شي، تفسير العياشي عن محمد بن مسلم عن أبي جعفر ع قال: إذا ترك الرجل أمه وأباه وابنته أو ابنته فإذا هو ترك واحداً من هؤلاء الأربعة فليس هو من الذي عني الله في قوله- فلي الله يفتيكم في الكلالة ليس يرث مع الأم ولا مع الأب ولا مع الابن ولا مع الابنة إلا زوج أو زوجة فإن الزوج لا ينقص من النصف شيئاً إذا لم يكن معه ولد ولا ينقص الزوجة من الربع شيئاً إذا لم يكن معها ولد.

Tafseer Al Ayyashi – From Muhammad Bin Muslim,

From Abu Ja'far^{-asws} having said: 'When the man leaves behind his mother, his father, and his daughter or his son, then if he leaves any one of these four, he is not among those referred to by God in His words: **Say: 'Allah Gives you a Fatwa regarding the person who has neither parents nor offspring (Kalala) [4:176]**. None inherits along with the mother, or the father, or the son, or the daughter, except a husband or a wife. The husband's share is never reduced from one-half if there is no child, and the wife's share is never reduced from one-fourth if there is no child'.¹¹⁰

23- شي، تفسير العياشي عن محمد بن مسلم عن أبي جعفر ع في قوله يستفتونك فلي الله يفتيكم في الكلالة إن امرؤ هلك ليس له ولد ولا له أخ أو أخت إنما عني الله الأخت من الأب والأم أو أخت [أختاً] لأب فلها النصف مما ترك

Tafseer Al Ayyashi – From Muhammad Bin Muslim,

From Abu Ja'far^{-asws} regarding His^{-azwj} Words: **They are asking you for a Fatwa, Say: 'Allah Gives you a Fatwa regarding the person who has neither parents nor offspring (Kalala) [4:176]**, and for him is a brother or sister. But rather Allah^{-azwj} Means the sister from the father and the mother, or paternal sister, for her is half of what is left.

و هو يرثها إن لم يكن لها ولد- وإن كانوا إخوة رجالاً و نساءً فليذكر مثل حظ الأنثيين فهم الذين يرادون و ينقصون وكذلك أولادهم يرادون و ينقصون.

And he would inherit her if there does not happen to be a child for her. So if there were two (sisters), for them would be two-thirds of what he leaves; and if there are brethren, men and women, then for the male would be like the share of two females [4:176]. They are

¹⁰⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 20

¹⁰⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 21

¹¹⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 22

those who are increased and decreased, and like that are their children. They will be increased and reduced'.¹¹¹

24- شي، تفسير العياشي عن زُرارة قال: سأخبرك و لا أزوي لك شيئاً و الذي أنزل لك هو و الله الحق

Tafseer Al Ayyashi –

From Zurara who said, 'I shall inform you and am not reporting anything to you, and what has been Revealed to you, by Allah^{-azwj} it is the truth!'

قال فإذا ترك أمه أو أباه أو ابنته أو ابنته فإذا ترك واحداً من الأربعة فليس الذي عنى الله في كتابه - يستفتونك فإل الله يفتيكم في الكلاله و لا يرث مع الأب و لا مع الأم و لا مع الابن و لا مع الابنة أحد من الخلق غير الزوج و الزوجة - و هو يرثها إن لم يكن لها ولد يعني جميع مالها.

He said, 'When he leaves behind his mother, or his father, or his son, or his daughter, when he leaves behind one of the four, he isn't the one Allah^{-azwj} Meant in His^{-azwj} Book: **They are asking you for a Fatwa, Say: 'Allah Gives you a Fatwa regarding the person who has neither parents nor offspring (Kalala) [4:176]**, and no one from the people will inherit with the father, nor with the mother, nor with the son, nor with the daughter, apart from the husband and the wife, **And he would inherit her if there does not happen to be a child for her [4:176]**, meaning entirety of her wealth'.¹¹²

25- شي، تفسير العياشي عن بكير قال: دخل رجل على أبي جعفر ع فسأله عن امرأة تركت زوجها و إخوتها لأمتها و أختاً لأب قال للزوج نصف ثلاثة أسهم و للإخوة من الأم الثلث سهمان و للأخت لأب سهم

Tafseer Al Ayyashi, from Bukeyr who said,

'A man entered to see Abu Ja'far^{-asws}. He asked him^{-asws} about a woman who leaves behind her husband and maternal brothers and a paternal sister. He^{-asws} said: 'For the husband is half being three shares, and for the maternal brothers is the third being two shares, and for the paternal sister is one share'.

فقال له الرجل فإن فرائض زيد و ابن مسعود و فرائض العامة و الفضاة على غير ذا يا أبا جعفر يقولون لأب و الأم ثلاثة أسهم نصيب من ستة يعول إلى ثمانية

The man said to him^{-asws}, 'But the obligatory (inheritances) of Zayd, and Ibn Masoud, and obligatory (inheritances) of the general Muslims and the judges are upon other than that, O Abu Ja'far^{-asws}! They are saying, for the father and the mother are three shares, being half of six, increasing to eight'.

فقال أبو جعفر و لم قالوا ذلك

¹¹¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 23

¹¹² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 24

Abu Ja'far^{-asws} said: 'And why are they saying that?'

قَالَ لِأَنَّ اللَّهَ قَالَ وَ لَهُ أُخْتُ فَلَهَا نِصْفُ مَا تَرَكَ

He said, 'Because Allah^{-azwj} Said: **and for him is a sister, then for her would be half of what he leaves [4:176]**'.

قَالَ أَبُو جَعْفَرٍ فَمَا لَكُمْ تَقْصُصُ الْأَخَ إِذْ كُنْتُمْ تَحْتَجُونَ بِأَمْرِ اللَّهِ فَإِنَّ اللَّهَ سَمَّى لَهَا النِّصْفَ وَ إِنَّ اللَّهَ سَمَّى لِلْأَخِ الْكُلَّ فَالْكُلُّ أَكْثَرُ مِنَ النِّصْفِ

Abu Ja'far^{-asws} said: 'What is the matter with you all reducing the brother? If you are arguing by a Command of Allah^{-azwj}, so Allah^{-azwj} has Specified the half for her, and Allah^{-azwj} has Specified the whole for the brother! The whole is more than the half!

فَإِنَّهُ قَالَ فَلَهَا النِّصْفُ وَ قَالَ لِلْأَخِ وَ هُوَ يَرْتُهَا يَعْنِي جَمِيعَ الْمَالِ - إِنَّ لَمْ يَكُنْ لَهَا وَلَدٌ فَلَا تُعْطُونَ الَّذِي جُعِلَ لَهُ الْجَمِيعُ فِي بَعْضِ فَرَائِضِكُمْ شَيْئاً وَ تُعْطُونَ الَّذِي جُعِلَ اللَّهُ لَهُ النِّصْفَ تَاماً.

He^{-azwj} Said: **for her would be half**; and Said for the brother: **And he would inherit her** – meaning entirety of the wealth - **if there does not happen to be a child for her [4:176]**. So you are not giving anything to the one Allah^{-azwj} has Made entirety of the wealth for in one of your obligatory (inheritances) and you are giving complete to the one for whom Allah^{-azwj} has Made the half'.¹¹³

26- كِتَابُ سُليْمِ بْنِ قَيْسٍ، عَنْ أَمِيرِ الْمُؤْمِنِينَ ع فِي سِيَاقِ ذِكْرِ بَدْعِ عُمَرَ قَالَ وَ الْعَجَبُ لِمَا قَدْ خَلَطَ قَضَايَا مُخْتَلِفَةً فِي الْجَدِّ بَغَيْرِ عِلْمٍ تَعَسُفاً وَ جَهْلاً وَ إِعَانِهِ مَا لَمْ يَعْلَمْ جُزْأَةً عَلَى اللَّهِ وَ قَلَّةٍ وَرِعٍ ادَّعَى أَنَّ رَسُولَ اللَّهِ ص مَاتَ وَ لَمْ يَفْضِ فِي الْجَدِّ شَيْئاً مِنْهُ وَ لَمْ يَدْعُ أَحداً يَعْلَمُ مَا لِلْجَدِّ مِنَ الْمِيرَاثِ ثُمَّ تَابَعُوهُ عَلَى ذَلِكَ وَ صَدَّقُوهُ.

The book of Suleym Bin Qays –

From Amir Al-Momineen^{-asws} in continuation of mention of innovations by Umar, he^{-asws} said: 'And the astonishing is, he confused different rulings regarding the grandfather without knowledge, out of arbitrariness and ignorance and how he claimed what he did not know, showing audacity toward Allah^{-azwj} and lack of piety! He claimed that Rasool-Allah^{-saww} passed away without making any ruling concerning the grandfather and that no one knew what share the grandfather had in inheritance. Yet they followed him in that and believed him'.¹¹⁴

27- مَجَالِسُ الشَّيْخِ، عَنِ الْمُفِيدِ عَنِ إِبرَاهِيمَ بْنِ الْحَسَنِ بْنِ جُمُهورٍ عَنْ أَبِي بَكْرٍ الْمُفِيدِ الْجُرْجَرِيِّ عَنِ الْمُعَمَّرِ أَبِي الدُّنْيَا الْمَعْرِيِّ عَنِ أَمِيرِ الْمُؤْمِنِينَ ع قَالَ: قَضَى رَسُولُ اللَّهِ ص أَنَّ الدَّيْنَ قَبْلَ الوَصِيَّةِ وَ أَنْتُمْ تَقْرَأُونَ مِنْ بَعْدِ وَصِيَّةِ يُوْصِي بِهَا أَوْ دَيْنٍ وَ أَنَّ ابْنَ أُمِّ وَ أَبِي يَتَوَارَثُونَ دُونَ الْعَلَاتِ وَ الرَّجُلِ يَرِثُ أَخَاهُ لِأُمِّهِ وَ أَبِيهِ دُونَ أَخِيهِ لِأَبِيهِ.

(The book) 'Majaalis' of the sheikh – from Al Mufeed, from Ibrahim Bin Al Hassan Bin Jamhour, from Abu Bakr Al Mufeed Al Jarjaie, from Al Muammar Abu Al Dunya Al Maghriby,

¹¹³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 25

¹¹⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 26

From Amir Al-Momineen^{-asws} having said: ‘Rasool-Allah^{-saww} judged that the debts are before the bequest, and you are reading: **from after a bequest they have bequeathed with or debts [4:12]**, and that brothers from the same mother and father inherit from one another to the exclusion of half-brothers from the father’s side, and a man inherits from his brother who shares both his mother and father, but not from his brother who shares only his father’.¹¹⁵

28- **الْهِدَايَةُ**، إِذَا تَرَكَ الرَّجُلُ أَخَاهُ لِأَبِيهِ فَالْمَالُ لَهُ فَإِنْ تَرَكَ أَخَاهُ لِأُمِّهِ وَ أُمِّهِ فَالْمَالُ لَهُ وَ إِنْ تَرَكَ أَخَاهُ لِأُمِّهِ وَ أَخَاهُ لِأَبِيهِ فَلْيَأْخُ مِنَ الْأُمِّ السُّدُسُ وَ مَا بَقِيَ فَلْيَأْخُ لِلْأَبِ

(The book) ‘Al Hidayah’ –

If the man leaves behind a paternal brother, the wealth is for him. If he leaves behind a maternal brother, the wealth is for him. If he leaves behind his brother of both his father and mother, the wealth is for him; and if he leaves behind his maternal brother and a paternal brother, for the maternal brother is the sixth and whatever remains is for the paternal brother’.

فَإِنْ تَرَكَ أَخًا لِأَبٍ وَ أَخًا لِأُمٍّ وَ أُمَّ فَالْمَالُ لِلْأَخِ لِلْأَبِ وَ الْأُمِّ وَ سَقَطَ الْأَخُ مِنَ الْأَبِ وَ إِنْ تَرَكَ أَخَاهُ لِأَبِيهِ وَ أَخَاهُ لِأُمِّهِ وَ أَخَاهُ لِأَبِيهِ وَ أُمِّهِ فَلْيَأْخُ مِنَ الْأُمِّ السُّدُسُ وَ مَا بَقِيَ فَلْيَأْخُ لِلْأَبِ وَ الْأُمِّ وَ سَقَطَ الْأَخُ لِلْأَبِ

If he leaves behind a paternal brother, and a brother of both the father and the mother, the wealth is for the brother of the father and the mother, and the paternal brother will be dropped (receive nothing), and if he leaves behind his paternal brother and a maternal brother, and his brother of the father and the mother, for the maternal brother is the sixth, and whatever remains is for the brother of the mother and the father, and the paternal brother is dropped (receive nothing).

وَ إِنْ تَرَكَ إِخْوَةً لِأُمِّهِ وَ إِخْوَةً لِأَبِيهِ وَ أُمَّ فَلْيَأْخُ مِنَ الْأُمِّ السُّدُسُ وَ مَا بَقِيَ فَلْيَأْخُ مِنَ الْأَبِ وَ الْأُمِّ وَ سَقَطَ الْإِخْوَةُ مِنَ الْأَبِ

And if he leaves behind a maternal sister and a sister of both the father and the mother, for the maternal sister is the third, and whatever remains is for the full sister, and the paternal sister is dropped.

فَإِنْ تَرَكَ إِخْوَةً وَ أَخَوَاتٍ لِأُمِّهِ وَ إِخْوَةً وَ أَخَوَاتٍ لِأَبِيهِ وَ أُمَّ وَ إِخْوَةً وَ أَخَوَاتٍ لِأَبِيهِ وَ أُمِّهِ فَلْيَأْخُ مِنَ الْأُمِّ السُّدُسُ وَ مَا بَقِيَ فَلْيَأْخُ مِنَ الْأَبِ وَ الْأُمِّ وَ سَقَطَ الْإِخْوَةُ مِنَ الْأَبِ

If he leaves maternal brothers and sisters, and full brothers and sisters, and paternal, then the maternal brothers and sisters receive a third, and whatever remains belongs to the full brothers and sisters, while the paternal brothers and sisters are dropped (receive nothing).

وَ كَذَلِكَ إِنْ تَرَكَ أَخَوَاتٍ مُتَمَرِّقَاتٍ فَهَذَا حُكْمُهُمْ وَ كَذَلِكَ تَجْرِي سِهَامُ أَوْلَادِهِمْ عَلَى هَذَا الْجَدُّ مِنَ الْأَبِ بِمَنْزِلَةِ الْأَخِ مِنَ الْأَبِ وَ الْأُمِّ وَ الْجَدَّةُ مِنَ الْأَبِ بِمَنْزِلَةِ الْأَخْتِ لِلْأَبِ وَ الْأُمِّ وَ الْجَدَّةُ لِلْأُمِّ بِمَنْزِلَةِ الْأَخْتِ لِلْأُمِّ

¹¹⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 27

And like that, if he leaves behind sisters of different kinds, this is their ruling, and the shares of their children follow the same pattern. The paternal grandfather takes the place of the full brother, the paternal grandmother takes the place of the full sister, and the maternal grandmother takes the place of the maternal sister.

فَإِذَا اجْتَمَعَ الْجَدُّ لِلْأُمِّ وَ إِخْوَةٌ لِأَبٍ وَ أُمٌّ وَ إِخْوَةٌ لِأُمِّ وَ إِخْوَةٌ وَ أَخَوَاتٌ وَ جَدٌّ لِأَبٍ فَلِلْإِخْوَةِ وَ الْأَخَوَاتِ مِنَ الْأُمِّ وَ الْأَبِ وَ الْجَدَّةِ وَ الْجَدِّ مِنَ الْأَبِ لِلذَّكَرِ مِثْلَ حَظِّ الْأُنثَيَيْنِ وَ سَقَطَ الْإِخْوَةُ وَ الْأَخَوَاتُ مِنَ الْأَبِ وَ لَا يَرِثُ مَعَ الْأَخِ ابْنُ الْأَخِ وَ لَا يَرِثُ مَعَ الْأَخِ وَ الْجَدُّ عَمٌّ وَ لَا خَالَ

When there is a maternal grandfather, full brothers, maternal brothers, brothers and sisters, and a paternal grandfather, then the inheritance goes to the full brothers and sisters, and to the paternal grandmother and grandfather, with the share of a male being equal to that of two females. The paternal brothers and sisters are dropped (receive nothing). A nephew does not inherit alongside a brother, and neither an uncle nor a maternal uncle inherits alongside a brother or a grandfather.¹¹⁶

فَإِنْ تَرَكَ جَدًّا وَ ابْنَ أَخٍ فَالْمَالُ بَيْنَهُمَا نِصْفَانِ.

If he leaves behind a grandfather and a nephew, the wealth is between them in two halves'.¹¹⁷

باب 27 ميراث الأعمام و الأخوال و أولادها

CHAPTER 27 – INHERITANCE OF THE PATERNAL AND THE MATERNAL UNCLES AND THEIR CHILDREN

1- ضا، فقه الرضا عليه السلام إِنْ تَرَكَ خَالًا وَ خَالَةً وَ عَمًّا وَ عَمَّةً فَلِلْخَالِ وَ الْخَالَةِ الثُّلُثُ بَيْنَهُمَا بِالسُّوِيَّةِ وَ مَا بَقِيَ فَلِلْعَمِّ وَ الْعَمَّةِ لِلذَّكَرِ مِثْلَ حَظِّ الْأُنثَيَيْنِ

(The book) 'Fiqh Al-Reza^{asws}', may the greeting be upon him^{asws} – 'If he leaves behind a maternal uncle and aunt, and paternal uncle and aunt, for the maternal uncle and aunt is the third between them with the equality, and what remains it is for the paternal uncle and aunt, for the male being like the share of two females.

وَ مَنْ تَرَكَ وَاحِدًا مِنْ لَهْ سَهْمٍ يَبْطِنُ كَانَ مِنْ بَقِيَ مِنْ دَرَجَتِهِ أَوْلَى بِالْمِيرَاثِ مِنْ أَسْفَلَ وَ هُوَ أَنْ يَتَرَكَ الرَّجُلُ أَخَاهُ وَ ابْنَ أَخِيهِ فَالْأَخُ أَوْلَى مِنَ ابْنِ أَخِيهِ

Whoever leaves behind one of those entitled to a fixed share, the one remaining in the same degree of kinship has a stronger right to the inheritance than those of a lower degree. This means that if a man leaves his brother and his brother's son, the brother foremost than the brother's son.

وَ كَذَلِكَ إِذَا تَرَكَ عَمَّةً وَ ابْنَ خَالِهِ فَالْعَمُّ أَوْلَى وَ كَذَلِكَ لَوْ تَرَكَ خَالًا وَ ابْنَ عَمِّ فَالْخَالُ أَوْلَى لِأَنَّ ابْنَ الْعَمِّ قَدْ نَزَلَ يَبْطِنُ إِلَّا أَنْ يَتَرَكَ عَمًّا لِأَبٍ وَ ابْنَ عَمِّ لِأَبٍ وَ أُمٌّ فَإِنَّ الْمِيرَاثَ لِابْنِ الْعَمِّ لِلْأَبِ وَ الْأُمُّ لِأَنَّ ابْنَ الْعَمِّ جَمَعَ الْكَلَامَيْنِ كَلَامَةَ لِأَبٍ وَ كَلَامَةَ لِأُمِّ فَعَلَى هَذَا يَكُونُ الْمِيرَاثُ.

¹¹⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 28

¹¹⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 26 H 29

And like that, if he leaves his paternal uncle and his maternal cousin, the uncle is foremost. Similarly, if he leaves his maternal uncle and his paternal cousin, the maternal uncle is foremost, because the paternal cousin is of a lower degree. However, if he leaves a paternal uncle and a cousin who is related through both the father and the mother, then the inheritance belongs to that cousin, because he combines both kinds of kinship, through the father and through the mother, and thus the inheritance is based upon this'.¹¹⁸

2- **الْهِدَايَةُ**، إِذَا تَرَكَ الرَّجُلُ عَمًّا فَالْمَالُ لَهُ وَ إِنْ تَرَكَ عَمَّةً فَالْمَالُ لَهَا وَ إِنْ تَرَكَ عَمًّا وَ عَمَّةً فَلِلْعَمَّةِ التُّلُثُ وَ لِلْعَمِّ التُّنْتَانِ-

(The book) 'Al Hidayah' –

If a man leaves behind a paternal uncle, the wealth is for him, and if he leaves behind a paternal aunt, the wealth is for her, and if he leaves behind a paternal uncle and a paternal aunt, for the paternal aunt is a third and for the paternal uncle is two-thirds.

فَإِنْ تَرَكَ خَالًا فَالْمَالُ لَهُ وَ إِنْ تَرَكَ خَالَاتٍ فَالْمَالُ لَهَا وَ إِنْ تَرَكَ خَالًا وَ خَالَاتٍ بَيْنَهُمَا نَصْفَانِ

If he leaves behind a maternal uncle, the wealth is for him, and if he leaves behind a maternal aunt, the wealth is for her, and if he leaves behind a maternal uncle and a maternal aunt, the wealth between them is two halves.

فَإِنْ تَرَكَ عَمًّا وَ خَالَاتٍ فَلِلْخَالَاتِ التُّلُثُ وَ لِلْعَمِّ التُّنْتَانِ

If he leaves behind a paternal uncle and a maternal uncle, for the maternal uncle is a third, and for the paternal uncle is two-thirds.

وَ كَذَلِكَ إِنْ تَرَكَ عَمًّا وَ خَالَاتٍ وَ كَذَلِكَ إِنْ تَرَكَ عَمَّةً وَ خَالَاتٍ فَلِلْعَمَّةِ التُّنْتَانِ وَ لِلْخَالَاتِ التُّلُثُ

And like that if he leaves behind a paternal uncle and a maternal aunt, and like that if he leaves behind a paternal aunt and a maternal uncle. For the paternal aunt is two-thirds and for the maternal uncle is a third.

فَإِنْ تَرَكَ عَمًّا وَ عَمَّةً وَ خَالَاتٍ فَلِلْخَالَاتِ وَ الْخَالَاتِ التُّلُثُ بَيْنَهُمَا بِالسَّوِيَّةِ وَ مَا بَقِيَ فَلِلْعَمِّ وَ الْعَمَّةِ لِلذَّكَرِ مِثْلَ حَظِّ الْأُنثِيَيْنِ

If he leaves behind a paternal uncle and a paternal aunt, and a maternal uncle and a maternal aunt, for the maternal uncle and the maternal aunt is the third between them with the equality, and whatever remains is for the paternal uncle and the paternal aunt, for the male being like the share of two females.

وَ كَذَلِكَ يُجْرَى سِهَامُ أَوْلَادِهِمْ عَلَى هَذَا وَ لَا يَرِثُ مَعَ الْعَمِّ وَ الْعَمَّةِ وَ الْخَالَاتِ وَ الْخَالَاتِ ابْنُ عَمٍّ وَ لَا ابْنُ عَمَّةٍ وَ لَا ابْنُ خَالَاتٍ وَ لَا ابْنُ خَالَاتٍ.

And like that, the shares flow in their children based upon this, and the son of a paternal uncle, the son of a paternal aunt, the son of a maternal uncle, and the son of a maternal aunt

¹¹⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 27 H 1

do not inherit along with the paternal uncle, paternal aunt, maternal uncle, or maternal aunt.¹¹⁹

3- **الْهِدَايَةُ**، سَهَامُ الْمَوَارِيثِ لَا تَعُولُ عَلَى سِتَّةِ أَشْهُمٍ قَالَ اللَّهُ عَزَّ وَجَلَّ- وَ لَقَدْ خَلَقْنَا الْإِنْسَانَ مِنْ سَلَالَةٍ مِنْ طِينٍ الْآيَةَ وَ أَهْلُ الْمَوَارِيثِ الَّذِينَ يَرْتُونَ وَ لَا يُسْقَطُونَ أَبَدًا الْأَبَوَانَ وَ الْإِبْنُ وَ الْإِبْنَةُ وَ الزَّوْجُ وَ الزَّوْجَةُ وَ أَرْبَعَةٌ لَا يَرِثُ مَعَهُمْ أَحَدٌ إِلَّا زَوْجٌ أَوْ زَوْجَةُ الْأَبَوَانَ وَ الْإِبْنُ وَ الْإِبْنَةُ

(The book) 'Al Hidayah' –

The shares of inheritance cannot exceed over six shares. Allah^{-azwj} Mighty and Majestic Said: **And We have Created the human being from an extract of clay [23:12]** – the (three) Verses; and the rightful of the inheritances, those that are inheriting and not being dropped ever are the parents, and the son, and the daughter, and the husband, and the wife; and four, not one inherits with them except a husband or a wife are the two parents, and the son and the daughter.

فَإِذَا تَرَكَ الرَّجُلُ ابْنًا فَالْمَالُ لَهُ وَ إِنْ كَانَ ابْنَانِ أَوْ أَكْثَرَ فَالْمَالُ لَهُمْ فَإِنْ تَرَكَ بِنْتًا فَالْمَالُ لَهَا وَ كَذَلِكَ إِنْ تَرَكَ ابْنَتَيْنِ فَالْمَالُ لَهُمَا بِالسَّوِيَّةِ وَ إِنْ تَرَكَ ابْنًا وَ ابْنَةً أَوْ بَيْنَ وَ بَنَاتٍ فَالْمَالُ بَيْنَهُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ

When a man leaves behind a son, the wealth is for him, and if there are two sons or more, the wealth is for them. If he leaves behind a daughter, the wealth is for her, and like that if he leaves behind two daughters, the wealth is for them with the equality, and if he leaves behind a son and a daughter, or two sons and daughters, the wealth between them, for the male is like the share of two females.

فَإِنْ تَرَكَ أَبَاهُ فَالْمَالُ لَهُ فَإِنْ تَرَكَ أُمَّهُ فَالْمَالُ لَهَا

If he leaves behind his father, the wealth is for him. If he leaves behind, his mother, the wealth is for her.

فَإِنْ تَرَكَ أَبَوَيْنِ فَلِلْأُمِّ الثُّلُثُ وَ لِلْأَبِ الثُّلُثَانِ

If he leaves behind the parents, for the mother is the third, and for the father is two-thirds.

فَإِنْ تَرَكَ أَبًا وَ ابْنًا فَلِلْأَبِ السُّدُسُ وَ مَا بَقِيَ فَلِلابْنِ وَ إِنْ تَرَكَ ابْنًا وَ أُمَّةً فَلِلْأُمِّ السُّدُسُ وَ مَا بَقِيَ فَلِلابْنِ وَ إِنْ تَرَكَ أَبًا وَ ابْنَةً فَلِلْأَبِ السُّدُسُ وَ لِلابْنَةِ النِّصْفُ يُقْسَمُ الْمَالُ أَرْبَعَةَ أَشْهُمٍ فَمَا أَصَابَ ثَلَاثَةٌ أَشْهُمٍ فَلِلابْنَةِ وَ مَا أَصَابَ سَهْمًا فَلِلْأَبِ وَ كَذَلِكَ إِذَا تَرَكَ أُمَّهُ وَ ابْنَتَهُ-

If he leaves behind a father and a son, for the father is the sixth, and whatever remains is for the son; and if he leaves behind a son and a mother, for the mother is the sixth and whatever remains is for the son; and if he leaves behind a father and a daughter, for the father is the sixth and for the daughter is the half, dividing the wealth in four portions; whatever comes as three portions is for the daughter, and whatever comes as one portion it is for the father, and like that is when he leaves behind his mother and his daughter.

¹¹⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 27 H 2

فَإِنْ تَرَكَ أَبَوَيْنِ وَ ابْنَةً فَلِلْأَبَوَيْنِ السُّدْسَانِ وَ لِلابْنَةِ النِّصْفُ وَ يُقَسَّمُ الْمَالُ عَلَى خَمْسَةِ أَصْهُمٍ فَمَا أَصَابَ ثَلَاثَةَ أَصْهُمٍ فَلِلابْنَةِ وَ مَا أَصَابَ سَهْمَيْنِ فَلِلْأَبَوَيْنِ -

If he leaves behind two parents and a daughter, for the parents are two-sixths, and for the daughter is the half, and the wealth would be divided into five portions. Whatever hits three portions, it is for the daughter, and whatever hits two portions is for the parents.

وَ إِنْ تَرَكَ أَبَوَيْنِ وَ بِنْتاً أَوْ بِنْتَيْنِ وَ بَنَاتٍ فَلِلْأَبَوَيْنِ السُّدْسَانِ وَ مَا بَقِيَ فَلِلْبَنَيْنِ وَ الْبَنَاتِ - لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ وَ إِنْ تَرَكَ امْرَأَةً فَلِلْمَرْأَةِ الرُّبْعُ وَ مَا بَقِيَ فَلِلْقَرَابَةِ لَهُ إِنْ كَانَ لَهُ قَرَابَةٌ وَ إِنْ لَمْ يَكُنْ لَهُ قَرَابَةٌ جَعَلَ مَا بَقِيَ لِإِمَامِ الْمُسْلِمِينَ

And if he leaves behind parents and a daughter, or son and daughters, for the parents are two sixths, and what remains is for the sons and the daughters, for the male being the share of two females; and if he leaves behind a wife, for the wife is the quarter and what remains is for his relatives, if there were relatives for him, and if there do not happen to be relatives for him, whatever remains would be made for the imam of the Muslims.

فَإِنْ تَرَكَتِ امْرَأَةٌ زَوْجَهَا فَلِلزَّوْجِ النِّصْفُ وَ مَا بَقِيَ فَلِلْقَرَابَةِ إِنْ كَانَ فَإِنْ لَمْ تَكُنْ لَهَا قَرَابَةٌ فَالنِّصْفُ يُرَدُّ عَلَى الزَّوْجِ فَإِنْ تَرَكَ الرَّجُلُ امْرَأَتَهُ وَ ابْناً وَ بِنْتاً أَوْ وَدَّ وَدَّ وَ إِنْ سَفَلَ فَلِلْمَرْأَةِ الثُّمُنُ وَ مَا بَقِيَ فَلِلْوَالِدِ أَوْ وَلَدِ الْوَالِدِ وَ إِنْ سَفَلَ

If a woman leaves behind her husband, for the husband is the half, and what remains is for the relatives, if there are. If there do not happen to be any relatives for her, the half will return to the husband. If a man dies leaving his wife and a son and a daughter, or a descendant however far down, then the wife receives one-eighth, and the remainder goes to the child or the descendant, however far down. For the wife is the eighth, and what remains is for the son or a son of a son, and even if low down (in lineage).

فَإِنْ تَرَكَتِ امْرَأَةٌ زَوْجَهَا وَ ابْناً وَ ابْنَةً أَوْ وَدَّ وَدَّ وَ إِنْ سَفَلَ فَلِلزَّوْجِ الرُّبْعُ وَ مَا بَقِيَ فَلِلْوَالِدِ أَوْ وَلَدِ الْوَالِدِ وَ إِنْ سَفَلَ فَإِنْ تَرَكَتِ امْرَأَةٌ زَوْجَهَا وَ أَبَوَيْهَا فَلِلزَّوْجِ النِّصْفُ وَ لِلأُمِّ الثُّلُثُ وَ لِلأَبِ السُّدْسُ

If a woman dies leaving her husband and a son and a daughter, or a descendant however far down, then the husband receives a quarter, and the remainder goes to the child or the descendant, however far down. If a woman dies leaving her husband and her two parents, then the husband receives half, the mother receives a third, and for the father is the sixth.

وَ إِنْ تَرَكَ الرَّجُلُ امْرَأَتَهُ وَ أَبَوَيْهَا فَلِلْمَرْأَةِ الرُّبْعُ وَ لِلأُمِّ الثُّلُثُ وَ لِلأَبِ النِّصْفُ فَإِنْ تَرَكَ امْرَأَتَهُ وَ أَبَوَيْهِ وَ وَدَّ ذَكَرًا أَوْ أَنْثَى وَاحِدًا كَانَ أَوْ أَكْثَرَ فَلِلْمَرْأَةِ الثُّمُنُ وَ لِلْأَبَوَيْنِ السُّدْسَانِ وَ مَا بَقِيَ فَلِلْوَالِدِ

If a man dies leaving his wife and his two parents, then the wife receives one fourth, the mother receives one third, and the remainder goes to the father. If he dies, leaving his wife, his two parents, and a child, whether male or female, one or more, then the wife receives one-eighth, the two parents receive one-sixth each, and the remainder goes to the child.

وَ إِنْ تَرَكَتِ امْرَأَةٌ زَوْجَهَا وَ أَبَوَيْهَا وَ وَدَّ ذَكَرًا أَوْ أَنْثَى وَاحِدًا كَانَ أَوْ أَكْثَرَ فَلِلزَّوْجِ الرُّبْعُ وَ لِلْأَبَوَيْنِ السُّدْسَانِ وَ مَا بَقِيَ فَلِلْوَالِدِ وَ لَا يَرِثُ الْوَالِدُ مَعَ الْوَالِدِ وَ لَا مَعَ الْأَبَوَيْنِ وَ وَدَّ الْوَالِدِ يَتَّخِذُ مَقَامَ الْوَالِدِ إِذَا لَمْ يَكُنْ هُنَاكَ وَدَّ وَ لَا وَارِثَ غَيْرَهُ.

If a woman dies leaving her husband, her two parents, and a child, whether male or female, one or more, then the husband receives a quarter, the two parents receive a sixth each, and the remainder goes to the child. A grandchild does not inherit along with the child or the two parents, but the grandchild takes the place of the child if there is no child and no other heir'.¹²⁰

باب 28 ميراث الزوجين

CHAPTER 28 – INHERITANCE OF THE TWO SPOUSES

1- ضا، فقه الرضا عليه السلام إِذَا تَرَكَ الرَّجُلُ امْرَأَتَهُ فَلِلْمَرْأَةِ الرَّبْعُ وَ مَا بَقِيَ فَلِلْقَرَابَةِ إِنْ كَانَتْ لَهُ قَرَابَةٌ وَ إِنْ لَمْ يَكُنْ لَهُ أَحَدٌ حَصَلَ مَا بَقِيَ لِإِمَامِ الْمُسْلِمِينَ وَ إِنْ تَرَكَتِ الْمَرْأَةُ زَوْجَهَا فَلَهُ النِّصْفُ وَ النِّصْفُ الْآخَرُ لِقَرَابَتِهَا إِنْ كَانَتْ

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'If a man dies leaving his wife, the wife receives one-fourth, and the remainder goes to his relatives if he has any. If he has no relatives, the remainder goes to the Imam of the Muslims. If a woman dies leaving her husband, he receives one-half, and the other half goes to her relatives if she has any.

فَإِنْ لَمْ يَكُنْ لَهَا قَرَابَةٌ فَالنِّصْفُ يُرَدُّ عَلَى الزَّوْجِ وَ إِنْ تَرَكَتْ مَعَ الزَّوْجِ وَوَلَدًا ذَكَرًا كَانَ أُمَّ أَنْتَى وَوَلَدًا مَرَّةً أُمَّ أُمَّ كَثْرَ فَلِلزَّوْجِ الرَّبْعُ وَ مَا بَقِيَ فَلِلوَلَدِ وَ إِنْ تَرَكَ الزَّوْجُ امْرَأَةً وَ وُلَدًا فَلِلْمَرْأَةِ الثُّمْنُ وَ مَا بَقِيَ فَلِلوَلَدِ.

If she has no relatives, the remaining half is returned to the husband. If she leaves behind her husband and a child, male or female, one or more, then the husband receives one-fourth, and the remainder goes to the child. If a man dies leaving his wife and a child, then the wife receives one-eighth, and the remainder goes to the child'.¹²¹

2- شي، تفسير العياشي عَنْ سَالِمِ الْأَشْجَلِ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ إِنَّ اللَّهَ أَدْخَلَ الزَّوْجَ وَ الْمَرْأَةَ عَلَى جَمِيعِ أَهْلِ الْمَوَارِيثِ فَلَمْ يَنْقُصْهُمَا مِنَ الرَّبْعِ وَ الثُّمْنِ.

Tafseer Al Ayyashi – From Salim Al Ashal who said,

'I heard Abu Ja'far^{-asws} saying: 'Allah^{-azwj} Included the husband and the wife upon the entirety of the heirs, so they will not be reduced from the quarter and the eighth'.¹²²

3- شي، تفسير العياشي عَنْ بُكَيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: لَوْ أَنَّ الْمَرْأَةَ تَرَكَتْ زَوْجَهَا وَ أَبَاهَا وَ أَوْلَادًا ذُكُورًا وَ إِنَاثًا كَانَ لِلزَّوْجِ الرَّبْعُ فِي كِتَابِ اللَّهِ وَ لِلأَبَوَيْنِ السُّدْسَانِ وَ مَا بَقِيَ فَلِلذَّكَرِ مِثْلَ حِظِّ الْأُنثِيَيْنِ.

Tafseer Al Ayyashi – From Bukeyr,

From Abu Abdullah^{-asws}, having said: 'If the wife leaves behind her husband and her father, and male and female children, for the husband would be the quarter in the Book of Allah^{-azwj},

¹²⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 27 H 3

¹²¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 1

¹²² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 2

and for the parents would be the two sixths, and whatever remains, for the males would be the share similar to two females'.¹²³

4- ب، قرب الإسناد السِّنْدِيُّ بْنُ مُحَمَّدٍ عَنِ الْعَلَاءِ بْنِ رَزِينَ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ قَالَ: تَرِثُ الْمَرْأَةُ مِنَ الطُّوبِ وَ لَا تَرِثُ مِنَ الرِّبَاعِ شَيْئاً

(The book) 'Qurb Al Isnaad' – Al Sindy Bin Muhammad, from Al A'la Bin Razeyn,

From Abu Abdullah^{-asws}, having said: 'The woman inherits from the building materials but does not inherit anything from the land or property'.

قَالَ قُلْتُ كَيْفَ تَرِثُ مِنَ الْفَرَعِ وَ لَا تَرِثُ مِنَ الرِّبَاعِ شَيْئاً

He (the narrator) said, 'I said, 'How does she inherit from the structure but not anything from the land?'

قَالَ فَقَالَ لَيْسَ لَهَا مِنْهُمْ نَسَبٌ تَرِثُ بِهِ إِذَا هِيَ دَخِلَتْ عَلَيْهِمْ تَرِثُ مِنَ الْفَرَعِ وَ لَا تَرِثُ مِنَ الْأَصْلِ لِأَنَّهَا يَدْخُلُ عَلَيْهِمْ دَاخِلًا بِسَبَبِهَا.

He^{-asws} said: 'She has no blood relation to them by which she would inherit. She is an outsider to them. She inherits from what is built (the structure) but not from the land itself, so that no outsider may gain entry among them on her account.'¹²⁴

5- ب، قرب الإسناد ابنُ عيسى عَنِ الْبَزَنْطِيِّ قَالَ: سَأَلْتُ الرِّضَا عَ عَنِ الْمِيرَاثِ فِي الْمُتْعَةِ فَقَالَ كَانَ جَعْفَرُ عَ يَشْوُلُ نِكَاحَ مِيرَاثٍ وَ نِكَاحَ بَعِيْرِ مِيرَاثٍ إِنْ اشْتَرَطْتَ الْمِيرَاثُ كَانَ وَ إِنْ لَمْ تُشْتَرِطْ لَمْ يَكُنْ.

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

'I asked Al-Reza^{-asws} about the inheritance regarding the Mut'ah. He^{-asws} said: 'Ja'far^{-asws} had said: 'A marriage with inheritance and a marriage without inheritance, if inheritance is stipulated, it exists, and if it is not stipulated, it does not exist'.¹²⁵

6- ع، علل الشرائع أَبِي عَنْ مُحَمَّدِ بْنِ أَبِي الْقَاسِمِ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبَانَ عَنْ مُبَيْسِرٍ قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنِ النِّسَاءِ مَا هُنَّ مِنَ الْمِيرَاثِ

(The book) 'Ilal Al Sharaie' – My father, from Muhammad Bin Abu Al Qasim, from Muhammad Bin Isa, from Ali Bin Al Hakam, from Aban, from Muyassir who said,

'I asked Abu Abdullah^{-asws} about the women, 'What is for them from the inheritance?'

فَقَالَ هُنَّ قِيَمَةُ الطُّوبِ وَ الْبِنَاءِ وَ الْحَشَبِ وَ الْقَصَبِ فَأَمَّا الْأَرْضُ وَ الْعَقَارُ فَلَا مِيرَاثَ لهنَّ فِيهِمَا

He^{-asws} said: 'He said that the value of the bricks, the building, the wood, and the reeds belongs to them. As for the land and the real estate, there is no inheritance for them in these two.

¹²³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 3

¹²⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 4

¹²⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 5

قُلْتُ الْيَتَابُ هُنَّ

I said, 'The clothes are them?'

قَالَ الْيَتَابُ نَصِيبُهُنَّ فِيهِ

He^{-asws} said: 'The clothes, their share is in it'.

قُلْتُ كَيْفَ هَذَا وَ لِهَذَا الثُّمْنُ وَ الرَّبْعُ مُسَمَّى

I said, 'How can this be, and for this is the eight, and the quarter is specified?'

قَالَ لِأَنَّ الْمَرْأَةَ لَيْسَ لَهَا نَسَبٌ تَرِثُ بِهِ وَ إِنَّمَا هِيَ دَخَلَتْ عَلَيْهِمْ وَ إِنَّمَا صَارَ هَذَا هَكَذَا لِأَنَّ تَزْوِجَ الْمَرْأَةِ فَيَجِيءُ زَوْجُهَا أَوْ وَلَدُهَا مِنْ قَوْمٍ آخَرِينَ فَيُرَاجِعُونَ هَؤُلَاءِ فِي عَقَارِهِمْ.

He^{-asws} said: 'Because the wife, there isn't any lineage (blood relations) for her to inherit with, and rather she has entered upon them, and rather this has become like this lest the woman gets married, so her husband or her child comes from another people so they would compete with them in their estate'.¹²⁶

7- ن، عيون أخبار الرضا عليه السلام ع، علل الشرائع في علل ابن سنان عن الرضا ع أنه سئبت إليه علة المرأة أنها لا ترث من العقار شيئاً إلا قيمة الطوب و القصب لأن العقار لا يمكن تغييره و قلبه و المرأة قد يجوز أن ينقطع ما بينها و بينه من العصمة و يجوز تغييرها و تبديلها

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', (and) 'Ilal Al Sharaie', in 'Ilal' Ibn Sinan, from Al-Reza^{-asws} having written to him (Ibn Sinan) regarding the reason by the wife, she does not inherit from the real estate except for the value of the bricks and the reeds is because real estate cannot be changed or altered, whereas a woman may become separated from the man in authority (guardianship) and may be changed or replaced.

و ليس الولد و الوالد كذلك لأنه لا يمكن التخصي منهما و المرأة يمكن الاستبدال بها فما يجوز أن يجيء و يذهب كان ميراثها فيما يجوز تبديله و تغييره إذ أشبهتها و كان الثابت المقيم على حاله لمن كان مثله في الثبات و المقام.

This is not the case for a child or a parent, because they cannot be replaced. A woman, however, can be substituted, so her inheritance applies only to what can be changed or replaced. What remains fixed and permanent stays with those who are similarly permanent and established in position.¹²⁷

8- ير، بصائر الدرجات علي بن إسماعيل عن علي بن النعمان عن سويد بن أبي أيوب عن أبي بصير عن أبي جعفر ع قال: كنت عنده فدعا بالجامعة فنظر فيها جعفر فإذا هو فيها المرأة تموث و تزك زوجها ليس لها وارث غيره قال فله المال كله.

¹²⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 6

¹²⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 7

(The book) 'Basaair Al Darajaat' – Ali Bi Ismail, from Ali Bin Al Numan, from Suweyd, from Abu Ayoub, from Abu Vaseer,

From Abu Ja'far^{-asws}, he (the narrator) said, 'I was in his^{-asws} presence. He^{-asws} called for the register. Ja'far^{-asws} looked into it, and in it was, 'The wife dies and leave behind her husband, there isn't any inheritor for her apart from him. He^{-asws} said: 'For him is the wealth, all of it'.¹²⁸

9- ير، بصائر الدرجات مُحَمَّدُ بْنُ الْحُسَيْنِ عَنْ جَعْفَرِ بْنِ بَشِيرٍ عَنِ الْحُسَيْنِ عَنْ أَبِي مُحَمَّدٍ عَنِ عَبْدِ الْمَلِكِ قَالَ: دَعَا أَبُو جَعْفَرٍ بِكِتَابٍ عَلِيٍّ فَجَاءَ بِهِ جَعْفَرٌ مِثْلُ فِخْدِ الرَّجُلِ مَطْوِيٌّ فَإِذَا فِيهِ إِنَّ النِّسَاءَ لَيْسَ لَهُنَّ مِنْ عَقَارِ الرَّجُلِ إِذَا هُوَ تُوُفِّيَ عَنْهَا شَيْءٌ

(The book) 'Basaair Al Darajaat' – Muhammad Bin Al Husayn, from Ja'far Bin Bashir, from Al Husayn, from Abu Makhlad, from Abdul Malik who said,

'Abu Ja'far^{-asws} called for the book of Ali^{-asws}. Ja'far^{-asws} came with it (as thick as) the thigh of a man, folded. In it was, 'The woman, there isn't anything for her from the real estate of the man when he dies from her'.

فَقَالَ أَبُو جَعْفَرٍ عَ هَذَا وَ اللَّهُ حَطُّ عَلِيٍّ بِيَدِهِ وَ إِفْلَاءُ رَسُولِ اللَّهِ ص.

Abu Ja'far^{-asws} said: 'This, by Allah^{-azwj}, is the handwriting of Ali^{-asws} by his^{-asws} hand, and Rasool-Allah^{-saww} had dictated it'.¹²⁹

10- سن، المحاسن ابنُ مَعْرُوفٍ عَنِ الْقَاسِمِ بْنِ عُرْوَةَ عَنْ عَبْدِ الْحَمِيدِ الطَّائِي عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ: قُلْتُ لِأَبِي جَعْفَرٍ عَ لِمَ لَا تُورِثُ الْمَرْأَةُ عَمَّنْ يَتَمَتَّعُ بِهَا

(The book) 'Al Mahasin' – Ibn Marouf, from Al Qasim Bin Urwah, from Abdul Hameed Al Taie, from Muhammad Bin Muslim who said,

'I said to Abu Ja'far^{-asws}, 'Why the woman does not inherit from the one who does Mut'ah with her?'

فَقَالَ لِأَنَّهَا مُسْتَأْجَرَةٌ وَ عِدَّتُهَا حَمْسَةٌ وَ أَرْبَعُونَ يَوْمًا.

He^{-asws} said: 'Because she is hired and her waiting period is of forty-five days'.¹³⁰

11- سر، السرائر ابنُ بُكَيْرٍ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ: سَمِعْتُ أَبَا جَعْفَرٍ عَ يَقُولُ فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ مُتَعَةً إِهْمَا لَا يَتَوَارَثَانِ إِذَا لَمْ يَشْتَرِطَا وَ إِذَا الشَّرْطُ بَعْدَ النِّكَاحِ.

(The book) 'Al Saraair' – Ibn Bukeyr, from Muhammad Bin Muslim who said,

¹²⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 8

¹²⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 9

¹³⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 10

'I heard Abu Ja'far^{asws} saying regarding the man who marries a woman in Mut'ah (temporary marriage), they do not inherit each other if they have not stipulated, and rather the condition is after the (permanent) marriage'.¹³¹

باب 29 ميراث الخنثى و سائر أحكامها و ميراث الغرقى و المهذوم عليهم و ذى الرأسين

CHAPTER 29 - INHERITANCE OF THE HERMAPHRODITE AND ITS RELATED RULINGS, AND THE INHERITANCE OF THOSE WHO DROWNED, THOSE WHO WERE BURIED UNDER RUINS, AND THE TWO-HEADED PERSON

1- قب، المناقب لابن شهر آشوب شاء، الإرشاد روى الحسن بن عليّ العبدى عن سعد بن طريف عن الأصمغ بن نبتة قال: بينما شريح في مجلس القضاء إذ أتى له شخص فقال له يا أبا أمية أحلي لي فإن لي حاجة

(The book) 'Al Manaqib' of Ibn Shehr Ashub, (and) 'Al Irshad' – It is reported by Al Hassan Bin Ali Al Abdy, from Sa'ad Bin Tareyf, from Al Asbagh Bin Nubata who said,

'While Shureyh was in a gathering of judgment (court) when a person came to him. He said to him, 'O Abu Umayya! Seclude with me for there is a need for me!'

قال فأمر من حوله أن يحفوا عنه فأنصرفوا و بقي خاصة من حضر فقال له ادكر حاجتك

He (the narrator) said, 'He instructed the ones around him to move away from him. They left and there remained his special ones of the ones present. He said to him, 'Mention your need!'

فقال يا أبا أمية إن لي ما للرجل و ما للنساء فما الحكم عندك في أ رجل أنا أم امرأة

He said, 'O Abu Umayya! For me is what is for the men and what is for the women, so what is the ruling with you regarding me, am I a man or am I a woman?'

فقال له قد سمعت من أمير المؤمنين ع فضيئة أنا أدكرها خيرني عن البول من أي الفرجين يخرج

He said to him, 'I have heard from Amir Al-Momineen^{asws} a judgment I remember. Inform me about the urination, from which of the two private parts does it emerge?'

قال الشخص من كليهما

The person said, 'From both of them.'

قال فمن أيهما ينقطع

He said, 'From which of the two does it terminate?'

¹³¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 28 H 11

قَالَ مِنْهُمَا مَعًا

He said, 'From both of them together.

فَتَعَجَّبَ شُرَيْحٌ قَالَ الشَّخْصُ سَأُورِدُ عَلَيْكَ مِنْ أَمْرِي مَا هُوَ أَعْجَبُ

Shureyh was surprised. The person said, 'I shall refer to you from my matter what is even more surprising'.

قَالَ شُرَيْحٌ مَا ذَاكَ

Shureyh said, 'What is that?'

قَالَ زَوْجِي أَبِي عَلَى أَنْبِيِ امْرَأَةٍ فَحَمَلْتُ مِنَ الزَّوْجِ وَ ابْتَعْتُ جَارِيَةً تَخْدُمُنِي فَأَقْضَيْتُ إِلَيْهَا فَحَمَلَتْ مِنِّي

He said, 'My father married me off on the assumption that I was a woman, and I became pregnant from my husband. Later, I purchased a maidservant to serve me, and I had marital relations with her, and she became pregnant by me'.

فَضْرَبَ شُرَيْحٌ إِحْدَى يَدَيْهِ عَلَى الْأُخْرَى مُتَعَجِّبًا وَقَالَ هَذَا أَمْرٌ لَا بُدَّ مِنْ إِتْيَانِهِ إِلَى أَمِيرِ الْمُؤْمِنِينَ فَلَا عِلْمَ لِي بِالْحُكْمِ فِيهِ

Shureyh struck one of his hands upon the other astonished, and said, 'This is a matter there is no escape from referring it to Amir Al-Momineen^{-asws}. There is no knowledge for me with the ruling regarding it!'

فَقَامَ وَ تَبِعَهُ الشَّخْصُ وَ مَنْ حَضَرَ مَعَهُ حَتَّى دَخَلَ عَلَى أَمِيرِ الْمُؤْمِنِينَ ع فَقَصَّ عَلَيْهِ الْقِصَّةَ فَدَعَا أَمِيرُ الْمُؤْمِنِينَ ع بِالشَّخْصِ فَسَأَلَهُ عَمَّا حَكَاهُ لَهُ شُرَيْحٌ وَقَالَ لَهُ مَنْ زَوْجُكَ

He stood up and the person and the ones present with him followed him until he entered to see Amir Al-Momineen^{-asws}. He narrated the story to him^{-asws}. Amir Al-Momineen^{-asws} called for the person and asked him about what Shureyh had narrated to him^{-asws} and said to him: 'Who is your husband?'

قَالَ فُلَانُ بَنُ فُلَانٍ وَ هُوَ حَاضِرٌ بِالْمِصْرِ

He said, 'So and so, son of so and so, and he is present in the city!'

فَدَعَا بِهِ وَ سَأَلَهُ عَمَّا قَالَ فَقَالَ صَدَقَ

He^{-asws} called for him and asked him about what he had said, 'He said, 'He speaks the truth!'

فَقَالَ أَمِيرُ الْمُؤْمِنِينَ ع لَأَنْتَ أَجْرًا مِنْ صَائِدِ [خَاصِي] الْأَسَدِ حَتَّى تُقَدِّمَ عَلَيَّ هَذِهِ الْحَالَةَ

Amir Al-Momineen^{-asws} said: 'You are more audacious than a castrated lion hunter until you have gone ahead upon this situation!'

ثُمَّ دَعَا فَنَبْرًا مَوْلَاهُ فَقَالَ أَذْخِلْ هَذَا الشَّخْصَ بَيْتًا وَ مَعَهُ أَرْبَعُ نِسْوَةٍ مِنَ الْعُدُولِ وَ مُرْهُنٌ بِتَجْرِيدِهِ وَ عَدَدٌ أَضْلَاعِهِ بَعْدَ الْإِسْتِثْنَاءِ مِنْ سِتْرِ فَرْجِهِ

Then he^{-asws} called for Qanbar, his^{-asws} slave. He^{-asws} said; 'Enter this person into a room and with him should be four women from the just ones, and instruct them with bearing him and count his ribs after ensuring his private parts are covered'.

فَقَالَ لَهُ الرَّجُلُ يَا أَمِيرَ الْمُؤْمِنِينَ مَا آمَنُ عَلَى هَذَا الشَّخْصِ الرَّجَالِ وَ النِّسَاءِ

The (a) man said to him^{-asws}, 'O Amir Al-Momineen^{-asws}! The men and the women are not safe upon this person!'

فَأَمَرَ أَنْ يُسَدَّ عَلَيْهِ ثُبَانٌ وَ أَحْلَاهُ فِي بَيْتٍ ثُمَّ وَجَّهَهُ وَ عَدَدَ أَضْلَاعَهُ وَ كَانَتْ مِنَ الْجَانِبِ الْأَيْسَرِ سَبْعَةٌ وَ مِنَ الْجَانِبِ الْأَيْمَنِ ثَمَانِيَةٌ فَقَالَ هَذَا رَجُلٌ

He^{-asws} instructed that a trouser be tied upon him and isolated him in a room. Then he^{-asws} entered it and counted his ribs, and there were seven on the left side, and eight on the right side. He^{-asws} said: 'This is a man!'

وَ أَمَرَ بِطَمِّ شَعْرِهِ وَ أَلْبَسَهُ الْقَلَنْسُوَّةَ وَ التَّلْعَلِينَ وَ الرِّدَاءَ وَ فَرَّقَ بَيْنَهُ وَ بَيْنَ الرَّوْحِ.

And he^{-asws} instructed that his hair be trimmed, and clothed him in the cap, and the slippers, and the cloak, and separated between him and the husband.¹³²

2- وَ رَوَى بَعْضُ أَهْلِ النَّفْلِ أَنَّهُ لَمَّا ادَّعَى الشَّخْصُ مَا ادَّعَاهُ مِنَ الْفَرْجَيْنِ أَمَرَ أَمِيرُ الْمُؤْمِنِينَ عِ دَعْلَيْنِ مِنَ الْمُسْلِمِينَ أَنْ يَخْضُرَا بَيْتًا خَالِيًا وَ أَحْضَرَ الشَّخْصَ مَعَهُمَا وَ أَمَرَ بِنَصْبِ مِرَاتَيْنِ إِحْدَاهُمَا مُقَابِلَةَ لَفَرْجِ الشَّخْصِ وَ الْأُخْرَى مُقَابِلَةَ لِتِلْكَ الْمِرَاةِ وَ أَمَرَ الشَّخْصَ بِالْكَشْفِ عَنْ عَوْرَتِهِ فِي مُقَابِلَةِ الْمِرَاةِ حَيْثُ لَا يَرَاهُ الْعَدْلَانِ وَ أَمَرَ الْعَدْلَيْنِ بِالنَّظَرِ فِي الْمِرَاةِ الْمُقَابِلَةَ لَهَا

And it is reported by one of the transmitters that when the person claimed to possess both male and female organs, Amir Al-Momineen^{-asws} ordered two trustworthy Muslims to attend a private room. He^{-asws} brought the person in with them and ordered two mirrors to be set up, one facing the person's private area and the other facing the first mirror. He^{-asws} then instructed the person to uncover the private part before the first mirror in such a way that the two witnesses would not see directly, but would look only into the second mirror.

فَلَمَّا تَحَقَّقَ الْعَدْلَانِ صِحَّةَ مَا ادَّعَاهُ الشَّخْصُ مِنَ الْفَرْجَيْنِ اعْتَبَرَ لَهُ بِعَدَدِ أَضْلَاعِهِ فَلَمَّا أَحْتَفَهُ بِالرِّجَالِ أَهْمَلَ قَوْلَهُ فِي ادِّعَاءِ الْحَمْلِ وَ أَلْعَاهُ وَ لَمْ يَعْمَلْ بِهِ وَ جَعَلَ حَمْلَ الْجَارِيَةِ مِنْهُ وَ أَحْتَفَهُ بِهِ.

When the two witnesses confirmed the truth of the person's claim of having both organs, Amir Al-Momineen^{-asws} then examined by counting the ribs. When he^{-asws} determined that the person belonged to the category of men, he^{-asws} disregarded the claim of pregnancy and ruled it invalid, but declared that the pregnancy of the maidservant was indeed from him and attributed the child to him'.¹³³

¹³² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 1

¹³³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 2

3- **شا، الإرشاد** كَانَ مِنْ فَضَائِلِهِ ع بَعْدَ بَيْعَةِ الْعَامَّةِ لَهُ وَ مُضِيَّ عُمَانَ عَلَى مَا رَوَاهُ أَهْلُ النَّوَلِ مِنْ حَمَلَةِ الْأَثَارِ أَنَّ امْرَأَةً وُلِدَتْ عَلَى فِرَاشِ زَوْجِهَا وَلَدًا لَهُ بَدَنَانٍ وَ رَأْسَانِ عَلَى حَقْوٍ وَاحِدٍ فَالْتَبَسَ الْأَمْرُ عَلَى أَهْلِهِ أ هُوَ وَاحِدٌ أَوْ اثْنَانِ

(The book) 'Al Irshad' –

Among his^{-asws} judgments, after the general Muslims had pledged allegiance to him^{-asws} and the death of Usman, as reported by narrators among the transmitters of traditions, was that a woman gave birth on her husband's bed to a child with two bodies and two heads joined at the waist. The family was confused as to whether it was one person or two.

فَصَارُوا إِلَى أَمِيرِ الْمُؤْمِنِينَ ع لِيَسْأَلُوهُ عَنْ ذَلِكَ لِيَعْرِفُوا الْحُكْمَ فِيهِ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ ع اعْتَبِرُوهُ إِذَا نَامَ ثُمَّ أَنْبِئُوا أَحَدَ الْبَدَنَيْنِ وَ الرَّأْسَيْنِ فَإِنْ انْتَبَهَا جَمِيعًا مَعًا فِي حَالَةٍ وَاحِدَةٍ فَهُمَا إِنْسَانٌ وَاحِدٌ وَ إِنْ اسْتَيْقَظَ أَحَدُهُمَا وَ الْآخَرُ نَائِمٌ فَهُمَا اثْنَانِ وَ حَقُّهُمَا حَقٌّ اثْنَيْنِ.

They came to Amir Al-Momineen^{-asws} to ask him^{-asws} about the ruling regarding this. Amir Al-Momineen^{-asws} said: 'Observe them when they sleep. Then awaken one of the two bodies and heads. If both awakened at the same time and in the same manner, then they are one person. But if one awakens while the other remains asleep, then they are two persons, and their rights are the rights of two individuals.'¹³⁴

4- **قب، المناقب لابن شهر آشوب** نَقَلَهُ الْأَخْبَارُ وَ ذَكَرَ صَاحِبُ فَضَائِلِ الْعَشْرَةِ أَنَّهُ وُلِدَ عَلَى عَهْدِ أَمِيرِ الْمُؤْمِنِينَ ع مَوْلُودٌ لَهُ رَأْسَانِ وَ صَدْرَانِ عَلَى حَقْوٍ وَاحِدٍ فَسُئِلَ ع كَيْفَ يُورَثُ

(The book) 'Al Manaqib' of Ibn Shehr Ashub –

The transmitters of Hadeeth, and mentioned by author of 'Fazaail Al-Ashara', in the era of Amir Al-Momineen^{-asws} a new-born was born having two heads and two chests upon one waist. He^{-asws} was asked how he would inherit.

قَالَ يُرَّثُ حَتَّى يَنَامَ ثُمَّ يُصَاحَ بِهِ فَإِنْ انْتَبَهَا جَمِيعًا كَانَ لَهُ مِيرَاثٌ وَاحِدٍ وَ إِنْ انْتَبَهَ أَحَدُهُمَا وَ بَقِيَ الْآخَرُ كَانَ لَهُ مِيرَاثٌ اثْنَيْنِ.

He^{-asws} said: 'He should be left until he sleeps, then he is called out to. If they both awaken together, there would be one inheritance for him, and if one of them wakes up and the other one remains (sleeping), there would be two inheritances for him'.¹³⁵

5- **و فيما أخبرنا به أبو عليّ الحَدَّادُ بِإِسْنَادِهِ إِلَى سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ فِي حَبْرٍ قَالَ: أَبِي عُمَرُ بْنُ الْخَطَّابِ بِرَجُلٍ لَهُ رَأْسَانِ وَ قَمَانِ وَ أَنْفَانِ وَ قُبْلَانِ وَ دُبْرَانِ وَ أَرْبَعَةَ أَعْيُنٍ فِي بَدَنِ وَاحِدٍ وَ مَعَهُ أُحْتٌ فَجَمَعَ عُمَرُ الصَّحَابَةَ وَ سَأَلَهُمْ عَنْ ذَلِكَ فَعَجَزُوا فَأَتَوْا عَلِيًّا ع وَ هُوَ فِي حَائِطٍ لَهُ**

And among what we are informed with by Ali Al Haddad by his chain to Salama Bin Abdul Rahman in a Hadeeth, said,

'Umar Ibn Al-Khattab was brought a man who had two heads, two mouths, two noses, two private parts, two anuses, and four eyes in one body, along with his sister. Umar gathered the

¹³⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 3

¹³⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 4

companions and asked them about the matter, but they were unable to give a ruling. They then went to Ali^{-asws} who was in his^{-asws} garden.

فَقَالَ قَضِيَّتُهُ أَنْ يُنَوِّمَ فَإِنْ غَمَصَ الْأَعْيُنَ أَوْ غَطَّ مِنَ الْمَمِينِ جَمِيعاً فَبَدَنٌ وَاحِدٌ وَإِنْ فَتَحَ بَعْضَ الْأَعْيُنِ أَوْ غَطَّ أَحَدَ الْفَمَيْنِ فَبَدَنَانِ هَذِهِ قَضِيَّتُهُ

He said, 'The judgment in this case is that he should be put to sleep. If he closes all his eyes or breathes through both mouths together, then it is one body. But if he opens some of the eyes or breathes through one of the mouths only, then they are two bodies. That is the ruling.

وَأَمَّا الْقَضِيَّةُ الْأُخْرَى فَيُطْعَمُ وَ يُسْقَى حَتَّى يَمْتَلِئَ فَإِنْ بَالَ مِنَ الْمَبَالِغِ جَمِيعاً وَ تَعَوَّطَ مِنَ الْغَائِطَيْنِ جَمِيعاً فَبَدَنٌ وَاحِدٌ وَإِنْ بَالَ أَوْ تَعَوَّطَ مِنْ أَحَدِهِمَا فَبَدَنَانِ وَ قَدْ ذَكَرَهُ الطَّبْرِيُّ فِي كِتَابِهِ.

As for the other judgment, he should be fed and given to drink until he is full. If he urinates from both urinary openings and defecates from both outlets together, then it is one body. But if he urinates or defecates from only one of them, then they are two bodies'. Al-Tabari mentioned this in his book'.¹³⁶

6- مِنْ كِتَابِ صَفْوَةِ الْأَخْبَارِ، قَضَى أَمِيرُ الْمُؤْمِنِينَ ع فِي الْحُثْنِيِّ إِنْ بَالَتْ مِنَ الرَّجْمِ فَلَهَا مِيرَاثُ النِّسَاءِ وَإِنْ بَالَتْ مِنَ الذَّكْرِ فَلَهُ مِيرَاثُ الذَّكْرِ وَإِنْ بَالَتْ مِنْ كِلَيْهِمَا عُدُّ أَضْلَاعُهُ فَإِنْ زَادَ وَاحِدَةً عَلَى ضِلْعِ الرَّجُلِ فَهِيَ امْرَأَةٌ وَإِنْ نَقَصَتْ فَهِيَ رَجُلٌ.

From the book 'Safwat Al Akhbaar' –

Amir Al-Momineen^{-asws} judged regarding a hermaphrodite that if the urination comes from the female organ, the person receives the inheritance of women, and if it comes from the male organ, the inheritance of men. But if urination occurs from both, then the ribs are to be counted. If there is one more rib than that of a man, the person is considered a woman, and if there is one less, the person is considered a man'.¹³⁷

7- وَ قَضَى أَيْضاً فِي الْحُثْنِيِّ فَقَالَ يُقَالُ لِلْحُثْنِيِّ الرَّقُّ بَطْنُكَ بِالْحَائِطِ وَ بُلٌّ فَإِنْ أَصَابَ بَوْلُهُ الْحَائِطَ فَهُوَ ذَكَرٌ وَإِنْ انْتَكَصَ كَمَا يَنْتَكِصُ الْبَعِيرُ فَهُوَ امْرَأَةٌ.

He^{-asws} also ruled regarding the hermaphrodite, saying: 'Tell the hermaphrodite to press her stomach against a wall and urinate. If the urine strikes the wall, the person is male, but if it flows downward as the urine of a camel does, the person is female'.¹³⁸

8- كِتَابُ الْغَارَاتِ، لِإِبْرَاهِيمَ بْنِ مُحَمَّدٍ النَّقْفِيِّ بِإِسْنَادِهِ عَنِ ابْنِ نُبَاتَةَ قَالَ: سُئِلَ أَمِيرُ الْمُؤْمِنِينَ ع عَنِ الْحُثْنِيِّ كَيْفَ يُقَسَّمُ لَهَا الْمِيرَاثُ قَالَ ع إِنَّهُ يُبُولُ فَإِنْ خَرَجَ بَوْلُهُ مِنْ ذَكَرِهِ فَسُنَّتُهُ سُنَّةُ الرَّجُلِ وَإِنْ خَرَجَ مِنْ غَيْرِ ذَلِكَ فَسُنَّتُهُ سُنَّةُ الْمَرْأَةِ الْخَيْرِ.

(The book) 'Kitab Al Gharaat' of Ibrahim Bin Muhammad Al Saqafy, by his chain from Ibn Nubata who said,

'Amir Al-Momineen^{-asws} was asked about how the inheritance of a hermaphrodite should be divided. He^{-asws} said: 'The person should urinate. If the urine comes out from the male organ,

¹³⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 5

¹³⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 6

¹³⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 7

their status is that of a man, and if it comes out from elsewhere, her status is that of a woman' – the Hadeeth.¹³⁹

9- مَشْكَاهُ الْأَنْوَارِ، عَنْ فَضَيْلِ بْنِ يَسَارٍ قَالَ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَ عَنْ مَوْلُودٍ لَيْسَ لَهُ مِمَّا لِلرِّجَالِ وَ لَيْسَ لَهُ مِمَّا لِلنِّسَاءِ فَقَالَ هَذَا يُفْرَعُ عَلَيْهِ الْإِمَامُ يَكْتُبُ عَلَى سَهْمِ عَبْدِ اللَّهِ وَ يَكْتُبُ عَلَى الْآخَرِ أَمَّهُ اللَّهُ

(The book) 'Mishkat Al Anwaar' – From Fuzeyl Bin Yasaar who said,

'Abu Abdullah^{-asws} was asked about the newborn; there wasn't for him from what is for the men, and there wasn't for him from what is for the women. He^{-asws} said: 'This one, the Imam^{-asws} would draw lots upon him. He^{-asws} would write upon a lot, 'Servant of Allah^{-azwj}', and he^{-asws} would write upon the other, 'Maid of Allah^{-azwj}'.

ثُمَّ يَقُولُ الْإِمَامُ أَوْ الْمُفْرَعُ- اللَّهُمَّ أَنْتَ اللَّهُ لَا إِلَهَ إِلَّا أَنْتَ عَالِمُ الْغَيْبِ وَ الشَّهَادَةِ أَنْتَ تَحْكُمُ بَيْنَ عِبَادِكَ يَوْمَ الْقِيَامَةِ فِي مَا كَانُوا فِيهِ يَخْتَلِفُونَ بَيْنَ لَنَا أَمْرٌ هَذَا الْمَوْلُودِ حَتَّى نُورِثَهُ مَا فَرَضْتَ لَهُ فِي كِتَابِكَ

Then either the Imam^{-asws} or the caster of the lots says, 'O Allah^{-azwj}! You^{-azwj} are Allah^{-azwj}! There is no god except You^{-azwj}, Knower of the unseen and the seen! You^{-azwj} will Judge between Your^{-azwj} servants on the Day of Qiyamah regarding what they had been differing! Clarify this newborn for us until we make him inherit what You^{-azwj} have Obligated for him in Your^{-azwj} Book!'

قَالَ ثُمَّ يُطْرَحُ السَّهْمَانِ فِي سَهَامٍ مُبْهَمَةٍ ثُمَّ يُجَالُ فَأُثْبِتُهُمَا حَرَجٌ وَرَثَ عَلَيْهِ.

He^{-asws} said: 'Then the two lots are dropped among ambiguous lots, then shaken. Whichever of the two emerged, he would inherit based upon it'.¹⁴⁰

10 الْهُدَايَةُ، مُرْسَلًا مِثْلَهُ.

(The book) 'Al Hidayah', with an unbroken chain, similar to it.¹⁴¹

11- وَ مِنْهُ، قَالَ: قَضَى أَمِيرُ الْمُؤْمِنِينَ عَ فِي مَوْلُودٍ لَهُ رَأْسَانِ أَنَّهُ يُصْبَرُ عَلَيْهِ حَتَّى يَنَامَ ثُمَّ يَنْتَبِهُ فَإِنْ انْتَبَهَتْ جَمِيعًا مَعًا وَرَثَ مِيرَاثَ اثْنَيْنِ.

And from him, said,

'Amir Al-Momineen^{-asws} judged regarding a newborn having two heads, for it, he would be waited upon until he sleeps. Then awakened. If they both awaken together, he would inherit two inheritances.¹⁴²

12- كِتَابُ الْعَايَاتِ، حَدَّثَنِي مُحَمَّدُ بْنُ عَبْدِ اللَّهِ عَنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ إِبْرَاهِيمَ بْنِ هَاشِمٍ عَنِ أَبِيهِ عَنِ جَدِّهِ عَنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نُجْرَانَ عَنِ عَاصِمِ بْنِ حُمَيْدٍ عَنِ مُحَمَّدِ بْنِ قَبَسٍ عَنِ أَبِي جَعْفَرٍ عَ قَالَ: بَيْنَا أَمِيرُ الْمُؤْمِنِينَ عَ فِي الرَّحْبَةِ وَ النَّاسِ عَلَيْهِ مُتْرَاكِمُونَ وَ الْحَدِيثُ طَوِيلٌ مَوْضِعَ الْحَاجَةِ مِنْهُ هُوَ أَنَّهُ قَالَ

¹³⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 8

¹⁴⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 9

¹⁴¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 10

¹⁴² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 11

مَوْلَانَا الْحَسَنُ بْنُ عَلِيٍّ عَ لِلشَّامِيِّ وَ أَمَّا الْمُؤَنَّثُ الَّذِي لَا تُدْرَى أَدَكَرَّ هُوَ أَمْ أَنْثَى فَإِنَّهُ يُنْتَظَرُ بِهِ فَإِنْ كَانَ دَكَرًا اخْتَلَمَ وَ إِنْ كَانَتْ أَنْثَى حَاصَتْ وَ بَدَأَ تَدْيُهَا وَ إِلَّا قِيلَ لَهُ بَلْ فَإِنْ أَصَابَ بَوْلُهُ الْحَائِطَ فَهُوَ دَكَرٌ وَ إِنْ انْتَكَصَ بَوْلُهُ عَلَى رِجْلَيْهِ كَمَا يَنْتَكِصُ بَوْلُ الْبَعِيرِ فَهِيَ امْرَأَةٌ.

(The book) 'Kitab Al Ghayaat' – It is narrated to me by Muhammad Bin Abdullah, from Muhammad Bin Ali Bin Ibrahim Bin Hashim, from his father, from his grandfather, from Abdul Rahman Bin Abu Najran, from Aasim Bin Humeyd, from Muhammad Bin Qays,

From Abu Ja'far^{-asws} having said: 'While Amir Al-Momineen^{-asws} was in Al-Rahba and the people had gathered to him^{-asws} – and the Hadeeth is lengthy, the subject matter needed from it is – 'Our master Al-Hassan^{-asws} Bin Ali^{-asws} said to the Syrian: 'And as for the effeminate who, you don't know whether it is a male or female, he should be waited with. If he were male he would bed wet, and if he was female she would menstruate and her breasts would begin (to develop), or else it would be said to him, 'Urinate!' If his urine hits the wall, he is male, and if his urine drip upon his legs just as urine of the camel drips, she is a woman'.¹⁴³

13- كِتَابُ الْأَرْبَعِينَ، لِلسَّيِّدِ عَطَاءِ اللَّهِ بْنِ فَضْلِ اللَّهِ رَحِمَهُ اللَّهُ رُوِيَ عَنِ الْحَسَنِ الْبَصْرِيِّ قَالَ: أَتَتِ امْرَأَةٌ إِلَى شُرَيْحِ الْقَاضِي فَقَالَتْ أَخْلِنِي فَأَخْلَاهَا فَقَالَتْ أَنَا امْرَأَةٌ وَ لِي فَجٌّ وَ إِخْلِيلٌ

(The book) 'Kitab Al Arbaeen' of the seyyid Ataullah Bin Fazlulah, may Allah^{-azwj} Mercy him, reporting from Al Hassan Al Basry who said,

'A woman came to Shureyh the judge. She said, 'Seclude with me'. He secluded with her. She said, 'I am a woman, and for me, there is a female private part and a male private part'.

فَقَالَ مِنْ أَيْنَ يَخْرُجُ الْبَوْلُ سَابِقًا

He said, 'From where does the urine emerge first?'

قَالَتْ مِنْهُمَا جَمِيعًا

She said, 'From both of them together'.

فَقَالَ لَقَدْ أُخْبِرْتُ بِعَجِيبٍ

He said, 'You have informed me of a strange matter!'

فَقَالَتْ وَ أَعْجَبَ مِنْهُ أَنَّهُ تَزَوَّجَنِي ابْنُ عَمِّي وَ أَخْدَمَنِي جَارِيَةٌ وَ وَطِئْتُهَا فَأَوْلَدْتُهَا

She said, 'And stranger than it is, a cousin of mine married me and a slave girl served me, and I slept with her and impregnated her!'

فَدُهِشَ شُرَيْحٌ فَقَامَ وَ دَخَلَ عَلَى عَلِيٍّ عَ فَأَخْبَرَهُ فَاسْتَدْعَى بِرُؤُوسِهَا فَاعْتَرَفَ فَقَالَ عَ لِامْرَأَتَيْنِ أَدْخَلَاهَا الْبَيْتَ وَ عُدًّا أَضْلَعَهَا

¹⁴³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 12

Shureyh was confounded. He stood up and entered to see Ali^{-asws}. He informed him^{-asws}. He^{-asws} summoned her husband. He acknowledged. He^{-asws} said to two women: 'Enter her into the room and count her ribs!'

فَفَعَلْنَا فَوَجَدْنَا فِي الْجَانِبِ الْأَيْمَنِ ثَمَانَ عَشْرَةَ ضِلْعاً وَ فِي الْأَيْسَرِ سَبْعَ عَشْرَةَ فَأَخَذَ شَعْرَهَا وَ أَعْطَاهَا جَدَاءً وَ أَلْحَقَهَا بِالرِّجَالِ فَقِيلَ لَهُ فِي ذَلِكَ

They did so and found eighteen ribs to be in her right side, and seventeen in the left. He^{-asws} cut her hair and gave her shoes and joined her with the men. It was said to him^{-asws} regarding that.

فَقَالَ أَخَذْتُ هَذَا مِنْ قِصَّةِ حَوَاءَ فَإِنَّ أُضْلَاعَهَا كَانَتْ سَبْعَ عَشْرَةَ مِنْ كُلِّ جَانِبٍ وَ أُضْلَاعُ الرَّجُلِ يَزِيدُ عَلَيْهَا بِضِلْعٍ فَلِهَذَا أَلْحَقْتُهَا بِالرِّجَالِ.

He^{-asws} said: 'I^{-asws} took this from the story of Hawwa^{-as}. Her^{-as} ribs were seventeen from all (both) sides, and ribs of the man would increase upon it by one rib. For this (reason) I^{-asws} joined her with the men'.¹⁴⁴

14- وَ مِنْهُ، رُوِيَ عَنْ جَعْفَرِ الصَّادِقِ ع قَالَ: لَمَّا وُلِّيَ عُمَرُ أَبِي بَدْرٍ لَمَّا وُلِّيَ لَهُ رَأْسَانِ وَ بَطْنَانِ وَ أَرْبَعَةُ أَيْدٍ وَ رِجْلَانِ وَ قُبُلٌ وَ دُبُرٌ وَاحِدٌ فَتَنَظَّرَ إِلَى شَيْءٍ لَمْ يَرَ مِثْلَهُ قَطُّ فَتَنَظَّرَ إِلَى إِنْسَانٍ أَعْلَاهُ اثْنَانِ وَ أَسْفَلُهُ وَاحِدٌ وَ قَدْ مَاتَ أَبُوهُ

And from him,

'It is reported from Ja'far Al-Sadiq^{-asws} having said: 'When Umar became leader, he was brought a newborn having two head, and two bellies, and four hands, and two legs, and one front and one back. He looked at something he had not seen the like of it at all. He was looking at a human being whose top was two and his bottom was one, and its father had died.

فَبَعْضُهُمْ يَقُولُ هُوَ اثْنَانِ وَ يَرِثُ مِيرَاثَ اثْنَيْنِ وَ بَعْضُهُمْ يَقُولُ وَاحِدٌ يَرِثُ مِيرَاثَ وَاحِدٍ

Some of them said, 'He is two and he should inherit the inheritance of two', and some of them said, 'One, he should inherit one inheritance!'

فَلَمْ يَدْرِ كَيْفَ الْحُكْمِ فِيهِ فَقَالَ اعْرِضُوهُ عَلَى عَلِيِّ بْنِ أَبِي طَالِبٍ ع وَ اطَّلِبُوا الْحُكْمَ مِنْهُ فَعَرَضُوا عَلَيْهِ

He did not know how to judge regarding him. He said, 'Present him to Ali^{-asws} Bin Abu Talib^{-asws} and seek the judgment from him^{-asws}!' So they presented him to him^{-asws}.

فَقَالَ عَلِيٌّ ع انظُرُوا إِذَا رَقَدْتُمْ يُصَاحُ فَإِنْ انْتَبَهَ الرَّأْسَانِ جَمِيعاً فَهُوَ وَاحِدٌ وَ إِنْ انْتَبَهَ الْوَاحِدُ وَ بَقِيَ الْآخَرُ نَائِماً فَاثْنَانِ

Ali^{-asws} said: 'Observe when he sleeps, then talk to him. If both the heads awaken together, he is one, and if one (head) awakens and the other remains sleeping, he is two'.

فَقَالَ عُمَرُ لَا أَبْقَايَنِي اللَّهُ بَعْدَكَ يَا أَبَا الْحَسَنِ.

¹⁴⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 13

Umar said, 'May Allah^{-azwj} not Keep me alive after you^{-asws}, O Abu Al Hassan^{-asws}!'¹⁴⁵

15- ضا، فقه الرضا عليه السلام إذا ترك الرجل ولداً له رأسان فإنه يترك حتى ينم ثم يبيتهما فإن انتبها جميعاً ورت ميراثاً واحداً وإن انتبها أحدهما و بقي الآخر نائماً ورت ميراث اثنين

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'If a man leaves behind a child with two heads, the child should be observed until asleep and then awakened. If both heads awaken together, the child inherits as one; if one awakens while the other remains asleep, the child inherits as two.

و لو أن قوماً غرقوا أو سقط عليهم حائطٌ وهم أقرباء فلم يدرك أيهم مات قبل صاحبه لكان الحكم فيه أن يورث بعضهم من بعض فإذا غرق رجلٌ وامرأةٌ أو سقط عليهما سقطت و لم يدرك أيهما مات قبل صاحبه كان الحكم أن يورث المرأة من الرجل و يورث الرجل من المرأة وكذلك إذا كان الأب والابن ورت الأب من الابن ثم يورث الابن من الأب و إذا ماتا جميعاً في ساعة واحدة فخرجت أنفسهما جميعاً في لحظة واحدة لم يورث بعضهما من بعض.

And if a group drowns or a roof falls on them, and they are relatives, and it is not known who died before the other, then they inherit from one another. If a man and a woman drown together or are buried under a roof and it is unknown who died first, the woman inherits from the man and the man inherits from the woman. Like that, if a father and son die together, the father inherits from the son and the son inherits from the father. But if both die at the same moment and their souls depart simultaneously, neither inherits from the other'.¹⁴⁶

16- قب، المناقب لابن شهر آشوب شا، الإرشاد قضى أمير المؤمنين ع في قوم وقع عليهم حائط فقتلهم وكان في جماعتهم امرأة مملوكة وأخرى حرة وكان للحر ولد طفل من حرٍ وللجارية المملوكة ولد طفل من مملوكٍ ولم يعرف الطفل الحر من الطفل المملوك ففرغ بينهما وحكم بالحرية لمن خرج عليه سهم الحر منهما وحكم بالرق لمن خرج عليه سهم الرق منهما ثم اعتقه وجعله مؤلداً

(The book) 'Al Manaqib' of Ibn Shehr Ashub, (and) 'Al Irshad' –

Amir Al-Momineen^{-asws} judged regarding a people upon whom a wall fell and killed them. Among them was a free woman and a female slave. The free woman had a child by a free man, and the slave had a child by a slave. It was not known which child belonged to the free woman and which to the slave. He^{-asws} cast lots between them and ruled that whoever received the share of the free person would be granted freedom, and whoever received the share of the slave would remain a slave. He^{-asws} then liberated the child and made him his^{-asws} freed slave.

و حكم في ميراثهما بالحر في الحر و مؤلداً فأقضى رسول الله ص هذا الحكم و صوبه.

He^{-asws} also ruled on their inheritance according to the status of the free person and the client, and Rasool-Allah^{-saww} had upheld this ruling and confirmed it'.¹⁴⁷

¹⁴⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 14

¹⁴⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 15

¹⁴⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 16

17- ب، قرب الإسناد أبو البخترى عن الصادق عن أبيه ع أن أمير المؤمنين ع قضى في الخنثى الذي يخلق له ذكر و فرج أن يورث من حيث يبول فإن بال منهما جميعاً فمن أيهما سبق فإن لم يبول من واحدٍ منهما حتى يموت فنصف ميراث المرأة و نصف ميراث الرجل.

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

From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: 'Amir Al-Momineen^{-asws} had judged regarding the hermaphrodite who had a male organ and a female organ, that he should inherit from wherever he urinates. If he urinates from both of them together, then from whichever is first. If he does not urinate from one of them until he dies, then half the inheritance of the woman and half the inheritance of the man.¹⁴⁸

18- ل، الخصال أبي عن علي عن أبيه عن ابن أبي نجران عن ابن حميد عن محمد بن قيس عن أبي جعفر ع قال: بعث معاوية رجلاً يسأل أمير المؤمنين ع عن مسائل فقال ع سل عن الحسن ع

(The book) 'Al Khisaa' – My father, from Ali, from his father, from Ibn Abu Najran, from Ibn Humeyd, from Muhammad Bin Qays,

From Abu Ja'far^{-asws} having said: 'Muawiya sent a man to ask Amir Al-Momineen^{-asws} about issues. He^{-asws} said: 'Ask Al-Hassan^{-asws} about it'.

فَسَأَلَ مَا الْمُؤَنَّثُ

He asked, 'What is the effeminate (Al-Muannas)?'

فَقَالَ الْحَسَنُ ع هُوَ الَّذِي لَا يُدْرَى أ ذَكَرٌ هُوَ أَوْ أُنْثَى فَإِنَّهُ يُنْتَظَرُ بِهِ فَإِنْ كَانَ ذَكَراً اخْتَلَمَ وَ إِنْ كَانَتْ أُنْثَى حَاضَتْ وَ بَدَأَتْ نَدْيُهَا وَ إِذَا قِيلَ لَهُ بَلْ عَلَى الْحَائِطِ فَإِنْ أَصَابَ بَوْلُهُ الْحَائِطَ فَهُوَ ذَكَرٌ وَ إِنْ انْتَكَصَ بَوْلُهُ كَمَا يَنْتَكِصُ بَوْلُ الْبَعِيرِ فَهِيَ امْرَأَةٌ الْخَبْرَ.

Al-Hassan^{-asws} said: 'He is the one, it is not known whether he is a male or a female. He would be waited with. If he were a male, he would bed-wet, and if she were a female, she would menstruate and her breasts would begin to develop, or else it would be said to him, 'Urinate at the wall!' If the urine hits the wall, he is male, and if his urine trickles just as the trickling of the urine of a camel, she is a woman – the Hadeeth.¹⁴⁹

19- ن، عيون أخبار الرضا عليه السلام بالإسناد إلى دارم عن الرضا عن آبائه ع أن علياً ع ورث الخنثى من موضع مبالته.

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – By the chain to Darim, from Al-Reza^{-asws}, from his^{-asws} forefathers^{-asws}: 'Ali^{-asws} had the hermaphrodite inherit based upon his urination'.¹⁵⁰

20- ق، المناقب لابن شهر آشوب سأل يحيى بن أكنم عن قول علي ع إن الخنثى يورث من المبال و قال فمن ينظر إذا بال إليه مع أنه عسى أن تكون امرأة و قد نظر إليها الرجال أو عسى أن يكون رجلاً و قد نظرت إليه النساء و هذا ما لا يحل

¹⁴⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 17

¹⁴⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 18

¹⁵⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 19

(The book) 'Al Manaqib' of Ibn Shehr Ashub' –

Yahya Bin Aksam asked about the words of Ali^{-azwj} that the hermaphrodite would inherit based upon the urination and said, 'So who would look at him when he urinates, along with the fact that perhaps it would be a woman and the men would have looked at her, or perhaps it would be a man and the women would have looked at him, and it is what is not Permissible!'

فَأَجَابَ أَبُو الْحَسَنِ الثَّالِثُ عِ إِذْ قَوْلَ عَلِيِّ حَقٌّ وَ يُنْظَرُ قَوْمٌ عُدُولٌ يَأْخُذُ كُلُّ وَاحِدٍ مِنْهُمْ مِرْآةً وَ تَقُومُ الْخُنْتَى حَلْمَهُمْ عُرْيَانَةً وَ يُنْظَرُونَ فِي الْمِرْيَاةِ فَيَرَوْنَ الشَّيْخَ فَيَحْكُمُونَ عَلَيْهِ.

Abu Al-Hassan^{-asws} the 3rd answered: 'The word of Ali^{-asws} is true, and a group of just men would look. Each one of them would take a mirror and the hermaphrodite would stand behind them, bare, and they would be looking into the mirrors. Thus, they would be seeing the resemblance and would be judging based upon it'.¹⁵¹

21- سنن، المحاسن ابن محبوب عن جميل بن صالح عن فضيل بن يسار قال: سألت أبا عبد الله ع عن مؤلود ليس له ما للرجال ولا ما للنساء فقال هذا يفرع عليه الإمام ع يكتب على ستم عبد الله و يكتب على ستم آخر أمة الله

(The book) 'Al Mahasin' – Ibn Mahboub, from Jameel Bin Salih, from Fuzeyl Bin Yasaar who said,

'I asked Abu Abdullah^{-asws} about the newborn, there isn't for him what is for the men nor what is for the women. He^{-asws} said: 'This one, the Imam^{-asws} would draw lots upon. He^{-asws} would write upon a lot, 'Servant of Allah^{-azwj}', and write upon a lot, 'Maid of Allah^{-azwj}'.

ثُمَّ يَقُولُ الْإِمَامُ أَوْ الْمُفْرَعُ- اللَّهُمَّ أَنْتَ اللَّهُ لَا إِلَهَ إِلَّا أَنْتَ عَالِمُ الْغَيْبِ وَ الشَّهَادَةِ أَنْتَ تَحْكُمُ بَيْنَ عِبَادِكَ يَوْمَ الْقِيَامَةِ فِي مَا كَانُوا فِيهِ يَخْتَلِفُونَ بَيْنَ لَنَا أَمْرٌ هَذَا الْمُؤَلُودِ حَتَّى نُورِثَهُ مَا فَرَضْتَ لَهُ فِي كِتَابِكَ

Then the Imam^{-asws}, or the one casting the lot would say, 'O Allah^{-azwj}! You^{-azwj} are Allah^{-azwj}! There is no god except You^{-azwj}, Knower of the unseen and the seen! You^{-azwj} will Judge on the Day of Qiyamah regarding what they had been differing in! Clarify for us the matter of this newborn until we make him inherit what You^{-azwj} have Obligated for him in Your^{-azwj} Book!'

قَالَ ثُمَّ يُطْرَحُ السَّهْمَانِ فِي سَهَامٍ مُنْهَمَةٍ ثُمَّ يُجَالُ فَأُبْهُمَا خَرَجَ وَرِثَ عَلَيْهِ.

He^{-asws} said: 'Then the two lots would be dropped among ambiguous lots, then shaken. Whichever of the two emerges, he would inherit based upon it'.¹⁵²

22- ضا، فقه الرضا عليه السلام إن ترك رجل ولدًا خنثى فإنه ينظر إلى إخليله إذا نال فإن خرج بؤله مما يخرج من الرجال ورت ميراث الرجال وإن خرج البؤل مما يخرج من النساء ورت ميراث النساء فإن خرج البؤل منهما جميعاً فمن أبيهما سبق البؤل ورت عليه فإن خرج البؤل من الموضعين معاً فله نصف ميراث الذكر و نصف ميراث الأنثى

¹⁵¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 20

¹⁵² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 21

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} - If a man leaves behind a hermaphrodite child, the child's genitalia should be observed when urinating. If the urine comes from what male humans urinate from, the child inherits as a male. If it comes from what female humans urinate from, the child inherits as a female. If urine comes from both, the share goes to whichever organ urinates first. If urine comes simultaneously from both organs, the child receives half the inheritance of a male and half the inheritance of a female.

فَإِنْ لَمْ يَكُنْ لَهُ مَا لِلرِّجَالِ وَ لَا مَا لِلنِّسَاءِ فَإِنَّهُ يُؤْخَذُ سَهْمَانِ يُكْتَبُ عَلَى سَهْمِ عَبْدُ اللَّهِ وَ عَلَى سَهْمِ أُمَّةِ اللَّهِ ثُمَّ يُجْعَلُ السَّهْمَانِ فِي سَهْمِ مُبْتَهَمِ

And if there does not happen to be for him what is for them nor what is for the women, two lots would be taken. It would be written upon one lot, 'Servant of Allah^{-azwj}', and upon a lot, 'Maid of Allah^{-azwj}'. Then the two lots would be mad to be among the ambiguous lots.

ثُمَّ يَقُولُ الْإِمَامُ أَوْ الْمُفْرَعُ- اللَّهُمَّ أَنْتَ تَحْكُمُ بَيْنَ عِبَادِكَ فِي مَا كَانُوا فِيهِ يَخْتَلِفُونَ بَيْنَ لَنَا أَمْرَ هَذَا الْمُؤَلُودِ حَتَّى نُؤَرِّثَهُ مَا فَرَضْتَ لَهُ فِي كِتَابِكَ ثُمَّ يُجَالُ السَّهْمَانِ فَأُتِيَهُمَا حَرْجٌ وَرَّتْ عَلَيْهِ.

Then either the Imam^{-asws} or the caster of the lots would say, 'O Allah^{-azwj}! You^{-azwj} will Judge between Your^{-azwj} servants regarding what they had been differing in! Clarify for us the matter of this newborn until we make him inherit what You^{-azwj} have Obligated for him in Your^{-azwj} Book. Then the lots would be shaken, so whichever of the two emerges, he would inherit based upon it.¹⁵³

[باب 30 ميراث المجوس](#)

CHAPTER 30 – INHERITANCE OF THE MAGIANS

1- ب، قرب الإسناد أبو البختري عن الصادق عن أبيه ع أَنَّ عَلِيًّا ع كَانَ يُورِثُ الْمَجُوسَ إِذَا أَسْلَمُوا مِنْ وَجْهَيْنِ بِالنَّسَبِ وَ لَا يُورِثُ عَلَى النِّكَاحِ.

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

From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: 'Ali^{-asws} had made the Magian inherit when they became Muslims, due to the lineage and not inherited based upon the marriage'.¹⁵⁴

[باب 31 الميراث بالولاء و أحكام الولاء](#)

CHAPTER 31 – THE INHERITANCE THROUGH THE GUARDIANSHIP AND RULINGS OF THE GUARDIANSHIP

1- شي، تفسير العياشي عن غامر بن الأخص قال: سَأَلْتُ أَبَا جَعْفَرٍ عَ عَنِ السَّائِبَةِ فَقَالَ انظُرْ فِي الْقُرْآنِ فَمَا كَانَ فِيهِ فَتَحْرِيرُ رَقَبَةٍ فَذَلِكَ يَا عَمَّارُ السَّائِبَةُ الَّتِي لَا وِلَاءَ لِأَحَدٍ مِنَ النَّاسِ عَلَيْهِ إِلَّا لِلَّهِ فَمَا كَانَ وَلَاؤُهُ لِلَّهِ فَلِرَسُولِ اللَّهِ وَ مَا كَانَ وَلَاؤُهُ لِرَسُولِ اللَّهِ فَإِنَّ وِلَاءَهُ لِلْإِمَامِ وَ جِنَابَتُهُ عَلَى الْإِمَامِ وَ مِيرَاثُهُ لَهُ.

¹⁵³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 29 H 22

¹⁵⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 30 H 1

Tafseer Al-Ayyashi – From Aamir Bin Al Ahwas who said,

‘I asked Abu Ja’far^{-asws} about the ‘Sa’ibah’ (freed slave). He^{-asws} said: ‘Look into the Quran. Whatever was in it: **you should free a neck [58:3]**, so that, O Ammar, is the ‘Sa’ibah’ who there is no guardianship for anyone from the people upon it except for Allah^{-azwj}. So, whoever’s guardianship is for Allah^{-azwj}, it is for Rasool-Allah^{-saww}, and whoever’s guardianship is for Rasool-Allah^{-saww}, his guardianship is for the Imam^{-asws} and his offences are upon the Imam^{-asws}, and his inheritance is for him^{-asws}’.¹⁵⁵

2 نَوَادِرُ الرَّوَّانِدِيِّ، بِإِسْنَادِهِ عَنْ مُوسَى بْنِ جَعْفَرٍ عَنْ آبَائِهِ ع قَالَ: فِي بَرِيْرَةَ أَرْبَعُ قَضِيَّاتٍ أَرَادَتْ عَائِشَةُ شِرَاءَهَا فَاشْتَرَطَ مَوْلَاهَا أَنَّ الْوَلَاءَ لَهُمْ فَاشْتَرَتْهَا مِنْهُمْ عَلَى ذَلِكَ الشَّرْطِ

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

From Musa^{-asws} Bin Ja’far^{-asws}, from his^{-asws} forefathers^{-asws} having said regarding Bareyra: ‘There are four judgments Ayesha wanted to purchase her, but her owners stipulated that the right of guardianship should remain with them. She bought her from them on that condition.

فَصَعِدَ رَسُولُ اللَّهِ ص الْمُنْبَرِ فَقَالَ مَا بَأْسُ أَقْوَامٍ يَبِيعُ أَحَدُهُمْ رَقِيْقَهُ وَ يَشْتَرِي أَنْ الْوَلَاءَ لَهُمْ إِنَّ الْوَلَاءَ لِمَنْ أَعْتَقَ وَ أَعْطَى الْمَالَ تَمَامَ الْحَبْرِ.

Then Rasool-Allah^{-saww} ascended the pulpit and said: ‘What is wrong with some people who sell their slaves and stipulate that the guardianship remains with them? Indeed, the guardianship belongs to the one who sets the slave free and gives the money’.¹⁵⁶

3- كِتَابُ زَيْدِ النَّرْسِيِّ، قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ لَا يَرِثُنَ النِّسَاءُ مِنَ الْوَلَاءِ إِلَّا بِمَا أَعْتَقْنَ.

The book of Zayd Al Narsy who said,

‘I heard Abu Abdullah^{-asws} saying: ‘Women do not inherit from the guardianship except from what has been freed’.¹⁵⁷

4- الْمَجَازَاتُ النَّبَوِيَّةُ، قَالَ عَلَيْهِ وَ عَلَى آلِهِ السَّلَامُ الْوَلَاءُ لِحِمَّةِ كَلْحِمَةِ النَّسَبِ لَا يُبَاعُ وَ لَا يُوهَبُ.

(The book) ‘Al Majazaat Al Nabawiya’ –

He^{-saww}, upon him^{-saww} and upon his^{-saww} Progeny^{-asws} be the greeting, said: ‘The guardianship is a tie like the tie of lineage, it can neither be sold nor gifted’.¹⁵⁸

5- ب، قرب الإسناد ابن طريف عن ابن علقوان عن الصادق ع عن أبيه ع أَنَّ رَسُولَ اللَّهِ ص قَضَى فِي بَرِيْرَةَ بِشَيْئَيْنِ قَضَى بِهَا بِأَنَّ الْوَلَاءَ لِمَنْ أَعْتَقَ وَ قَضَى لَهَا بِالتَّخْيِيرِ حِينَ أُعْتِقَتْ الْحَبْرَ.

¹⁵⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 1

¹⁵⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 2

¹⁵⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 3

¹⁵⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 4

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

From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: 'Rasool-Allah^{-saww} judged regarding Bareyra with two things. He^{-saww} judged with her that the guardianship is for the one who liberates, and judged for her with the choice when she had been freed' – the Hadeeth.¹⁵⁹

6- ل، الخصال ابن الوليد عن الصَّفَّارِ عَنْ أَحْمَدَ وَ عَبْدِ اللَّهِ ابْنَيْ مُحَمَّدِ بْنِ عَيْسَى عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْخَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: إِنَّ بَرِيرَةَ كَانَتْ مَوْلِيهَا الَّذِينَ بَاغَوْهَا قَدْ اشْتَرَطُوا عَلَيَّ غَائِشَةَ أَنَّ لَهُمْ وَلَاءَهَا فَقَالَ رَسُولُ اللَّهِ ص الْوَلَاءُ لِمَنْ أَعْتَقَ الْحَبِيرَ.

(The book) 'Al Khisaa' – Ibn Al Waleed, from Al Saffar, from Ahmad and Abdullah, two sons of Muhammad Bin Isaa, from Ibn Abu Umeyr, from Hammad, from Al Halby,

From Abu Abdullah^{-asws} having said: 'Bareyra, her guardians were those who had sold her. They had stipulated upon Ayesha that her guardianship was for them. Rasool-Allah^{-saww} said: 'The guardianship is for the one who liberates' – the Hadeeth.¹⁶⁰

7- ما، الأماالي للشيخ الطوسي عن زَيْدِ بْنِ أَرْقَمَ عَنِ النَّبِيِّ ص لَعَنَ اللَّهُ مَنْ تَوَلَّى إِلَى غَيْرِ مَوْلِيهِ.

(The book) 'Al Amaali' of the sheikh Al Tusi, from Zayd Bin Arqam,

From the Prophet^{-saww}: 'May Allah^{-azwj} Curse the one who attributes guardianship to other than his guardians'.¹⁶¹

8- ما، الأماالي للشيخ الطوسي ابنُ بُشْرَانَ عَنْ أَحْمَدَ بْنِ سَلِيمَانَ عَنْ مُحَمَّدِ بْنِ عُثْمَانَ عَنِ الْحَسَنِ بْنِ جَعْفَرٍ عَنْ سَعِيدِ بْنِ مُحَمَّدٍ عَنْ يَحْيَى بْنِ سَعِيدٍ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ أَنَّ رَسُولَ اللَّهِ ص هَمَى عَنْ بَيْعِ الْوَلَاءِ وَ عَنْ هَبْتِهِ.

(The book) 'Al Amaali' of the sheikh Al Tusi – Ibn Bushran, from Ahmad Bin Suleyman, from Muhammad Bin Usman, from Al-Hassan Bin Ja'far, from Saeed Bin Muhammad, from Yahya Bin Saeed, from Abdullah Bin Umar, from Nafie, from Ibn Umar,

'Rasool-Allah^{-saww} prohibited from selling the guardianship and from gifting it'.¹⁶²

9- ع، علل الشرائع أَبِي عَنْ سَعْدِ بْنِ هَارُونَ بْنِ مُسْلِمٍ عَنْ أَيُّوبَ بْنِ الْحُرِّ قَالَ: قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع مَمْلُوكٌ يَعْرِفُ هَذَا الْأَمْرَ الَّذِي نَحْنُ عَلَيْهِ أُشْتَرِيهِ مِنَ الزَّكَاةِ فَأَعْطَيْتُهُ

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Haroun Bin Muslim, from Ayoub Bin Al Hurr who said,

'I said to Abu Abdullah^{-asws}, 'A slave who recognises this matter which we are upon, can I buy him from the Zakat and free him?'

قَالَ فَقَالَ اشْتَرِهِ وَ أَعْطَيْتُهُ

¹⁵⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 5

¹⁶⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 6

¹⁶¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 7

¹⁶² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 8

He (the narrator) said, 'He^{-asws} said: 'Buy him, and free him'.

قُلْتُ فَإِنْ هُوَ مَاتَ وَتَرَكَ مَالًا

I said, 'Supposing he dies and leaves wealth behind?'

قَالَ فَقَالَ مِيرَاثُهُ لِأَهْلِ الزَّكَاةِ لِأَنَّهُ اشْتَرَى بِسَهْمِهِمْ وَ فِي حَدِيثٍ آخَرَ بِمَالِهِمْ.

He (the narrator) said, 'He^{-asws} said: 'His inheritance would be for the ones rightful of the Zakat because he had been bought with their shares' – in another Hadeeth: 'With their wealth'.¹⁶³

10- ن، عيون أخبار الرضا عليه السلام بإسناد التميمي عن الرضا عن آبائه ع قَالَ قَالَ النَّبِيُّ ص مَنْ تَوَلَّى غَيْرَ مَوَالِيهِ فَعَلَيْهِ لَعْنَةُ اللَّهِ وَالْمَلَائِكَةِ وَالنَّاسِ أَجْمَعِينَ.

(The book) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – By a chain of Al-Tameemi, from Al-Reza^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'The Prophet^{-saww} said: 'The one attributes guardianship to other than his guardians, upon him is the Curse of Allah^{-azwj} and His^{-azwj} Angels, and of the people altogether''.¹⁶⁴

11- مع، معاني الأخبار ابن المُنَوَّكِلِ عَنِ الْحَمِيرِيِّ عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مُحَمَّدٍ عَنِ خَالِدِ بْنِ جَرِيرٍ عَنِ أَبِي الرَّبِيعِ قَالَ: سُئِلَ أَبُو عَبْدِ اللَّهِ ع عَنِ السَّائِبَةِ فَقَالَ الرَّجُلُ يُعْتِقُ غُلَامَهُ وَ يَقُولُ لَهُ أَذْهَبَ حَيْثُ شِئْتَ لَيْسَ لِي مِنْ مِيرَاثِكَ شَيْءٌ وَ لَيْسَ عَلَيَّ مِنْ جَرِيرَتِكَ شَيْءٌ

(The book) 'Ma'any Al Akhbar' – Ibn Al Mutawakkil, from Al Himeyri, from Ahmad Bin Ahmad Bin Muhammad, from Ibn Mahboub, from Khalid Bin Jareer, from Abu Al Rabie who said,

'Abu Abdullah^{-asws} was asked about 'Al-Sa'iba' (freed slave). He^{-asws} said: 'The man frees his slave and says to him: 'Go wherever you like! There isn't anything for me from your inheritance, and there isn't anything upon me from your offences'.

قَالَ وَ يُشْهَدُ شَاهِدَيْنِ.

He^{-asws} said: 'And he keeps two witnesses'.¹⁶⁵

12- سن، المحاسن ابن فضال عن هارون بن مسلم عن ابن بكير عن عبيد بن زرارة قال: سألت أبا عبد الله ع عن رجلٍ أخرج زكاة ماله ألف درهم فلم يجد مؤمناً يدفع ذلك إليه فنظر إلى مملوكٍ يباع ممن يريد فاشتراه بتلك الألف الدرهم التي أخرجها من زكاته فأعتقه هل يجوز ذلك

(The book) 'Al Mahasin' – Ibn Fazzal, from Haroun Bin Muslim, from Ibn Bukeyr, from Ubeyd Bin Zurara who said,

'I asked Abu Abdullah^{-asws} about a man who extracts Zakat of his wealth, a thousand Dirhams, but cannot find a Momin to hand that to him. So he looks at a slave from the one who had

¹⁶³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 9

¹⁶⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 10

¹⁶⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 11

bid more, with that thousand Dirhams which he had extracted it from his Zakat, and frees him. Is that allowed?’

He^{-asws} said: ‘Yes, there is no problem with that’.

قَالَ نَعَمْ لَا بَأْسَ بِذَلِكَ فُلْتُمْ فَإِنَّهُ لَمَّا أُعْتِقَ وَ صَارَ حُرًّا أَلْبَسَ وَ احْتَرَفَ فَأَصَابَ مَالًا كَثِيرًا ثُمَّ مَاتَ وَ لَيْسَ لَهُ وَارِثٌ فَمَنْ يَرِثُهُ إِذَا لَمْ يَكُنْ لَهُ وَارِثٌ

I said, ‘Supposing when he is liberated and becomes free, he trades and takes upon a crafts so he achieves a lot of wealth. Then he dies and there isn’t any heir for him, so who would inherit him when there does not happen to be any heir for him?’

قَالَ يَرِثُهُ الْفُقَرَاءُ مِنَ الْمُؤْمِنِينَ الَّذِينَ يَسْتَحِقُّونَ الزَّكَاةَ لِأَنَّهُ إِذَا اشْتَرِيَ بِمَالِهِمْ.

He^{-asws} said: ‘He will be inherited by the poor from the Momineen, those who are deserving of the Zakat, because he had rather been bought with their wealth’.¹⁶⁶

13- قب، المناقب لابن شهر آشوب موسى بن عبد الله بن حسن بن حسن و معتب و مصادف مؤلفا الصادق ع في خبر أنه لما دخل هشام بن الوليد المدينة أتاه بنو العباس و شكوا من الصادق ع أنه أخذ تركات ماهر الخصي دوننا

(The book) ‘Al-Manaqib of Ibn Shehr Ashub – Musa Bin Abdullah Bin Hassan Bin Hassan, and Muattib, and Musadif, freed slaves of Al-Sadiq^{-asws} in a Hadeeth – ‘When Hisham Bin Al-Waleed entered Al-Medina, the clan of Abbas came to him and complained about Al-Sadiq^{-asws}, ‘He^{-asws} had taken the legacy of Mahir the eunuch, rather than us!’

فَحَطَبَ أَبُو عَبْدِ اللَّهِ ع فَكَانَ مِمَّا قَالَ إِنَّ اللَّهَ تَعَالَى لَمَّا بَعَثَ رَسُولَهُ مُحَمَّدًا ص كَانَ أَبُو تَالِبٍ الْمُؤَسِّيَ لَهُ بِنَفْسِهِ وَ النَّاصِرَ لَهُ وَ أَبُوهُمُ الْعَبَّاسُ وَ أَبُو هَبٍ يُكَذِّبَانِهِ وَ يُؤَلِّبَانِ عَلَيْهِ شَيَاطِينَ الْكُفْرِ

Abu Abdullah^{-asws} addressed. It was from what he^{-asws} said: ‘When Allah^{-azwj} the Exalted Sent His^{-azwj} Rasool Muhammad^{-saww}, our^{-asws} father^{-asws} Abu Talib^{-asws} was a supporter of his^{-saww} by himself^{-as}, and the helper to him^{-saww}, while your father Al-Abbas and Abu Lahab^{-la} both belied him^{-saww} and they befriended the Satans^{-la} of Kufr against him^{-saww}!

وَ أَبُوهُمُ يَبْغِي بِهِ الْعُوَائِلَ وَ يَقُودُ إِلَيْهِ الْقَبَائِلَ فِي بَدْرٍ وَ كَانَ فِي أَوَّلِ رَعِيلِهَا وَ صَاحِبِ خَيْلِهَا وَ رَجُلِهَا الْمُطْعِمِ يَوْمَئِذٍ وَ النَّاصِبِ الْحَرْبِ لَهُ

And your father sought the calamities to befall with him^{-saww} and he led the tribes against him in (the battle of) Badr, and he was in their first ranks and in charge of their cavalry and their infantry, their feeder on that day and the establisher of the war to him^{-saww}!’

ثُمَّ قَالَ فَكَانَ أَبُوهُمُ طَلِيفَنَا وَ عَتِيفَنَا وَ أَسْلَمَ كَارِهًا تَحْتَ سِيُوفِنَا لَمْ يُهَاجِرْ إِلَى اللَّهِ وَ رَسُولِهِ هَجْرَةً قَطُّ فَفَطَعَ اللَّهُ وَ لَانِيَتَهُ مِنَّا بِقَوْلِهِ- وَ الَّذِينَ آمَنُوا وَ لَمْ يُهَاجِرُوا مَا لَكُمْ مِنْ وَلَايَتِهِمْ مِنْ شَيْءٍ

Then he^{-asws} said: ‘Your father was our^{-asws} freed captive and our^{-asws} liberated slave, and he became a Muslim unwillingly beneath our^{-asws} swords. He did not emigrate to Allah^{-azwj} and

¹⁶⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 12

His-azwj Rasool-saww at all, so Allah-azwj Cut off his guardianship from us-asws by His-azwj Words: **and those who believed and did not emigrate, there is nothing for you of their guardianship until they do emigrate [8:72]!**

فِي كَلَامِهِ لَهُ تَمَّ قَالَ هَذَا مَوْلَى لَنَا مَاتَ فَحُزْنَا تُرَاثُهُ إِذْ كَانَ مَوْلَانَا وَ لِأَنَّا وَ لُدُّ رَسُولِ اللَّهِ ص وَ أُمَّنَا فَاطِمَةُ أَحْرَزَتْ مِيرَاثَهُ.

In a speech of his-asws, then he-asws said: 'This is a freed slave of our-asws! He died so our-asws share is to inherit him when he was our-asws slave, and because we-asws are children of Rasool-Allah-saww and our-asws mother-asws (Syeda) Fatima-asws protected his-saww inheritance'.¹⁶⁷

باب 32 ميراث من لا وارث له

CHAPTER 32 - INHERITANCE OF THE ONE HAVING NOT HAVING ANY HEIR FOR HIM

1- ب، قرب الإسناد أبو البُخَيْرِي عَنِ الصَّادِقِ عَنِ أَبِيهِ ع أَنَّ عَلِيًّا ع أَعْتَقَ عَبْدًا نَصْرَانِيًّا تَمَّ قَالَ مِيرَاثُهُ بَيْنَ الْمُسْلِمِينَ عَامَّةً إِنْ لَمْ يَكُنْ لَهُ وَرِثَةٌ.

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

From Al-Sadiq-asws, from his-asws father-asws: 'Ali-asws liberated a Christian slave, then said: 'His inheritance is between the general Muslims if there does not happen to be a guardian for him'.¹⁶⁸

2- ع، علل الشرائع ابنُ الْمُتَوَكَّلِ عَنِ سَعْدِ عَنِ ابْنِ عِيْسَى عَنِ ابْنِ مُحَمَّدٍ عَنِ مَالِكِ بْنِ عَطِيَّةَ عَنِ سُلَيْمَانَ بْنِ خَالِدٍ عَنِ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ عَنْ رَجُلٍ مُسْلِمٍ قُتِلَ وَ لَهُ أَبٌ نَصْرَانِيٌّ لِمَنْ تَكُونُ دِيْنَتُهُ

(The book) 'Ilal Al Sharaie' – Ibn Al Mutawakkil – from Sa'ad, from Ibn Isa, from Ibn Mahboub, from Malik Atiya, from Suleyman Bin Khalid,

From Abu Abdullah-asws, he (the narrator) said, 'I asked him-asws about a Muslim man who is killed and for him is a Christian father, 'For whom would be his wergild?'

قَالَ تُوْخَدُ دِيْنَتُهُ فَنُجْعَلُ فِي بَيْتِ مَالِ الْمُسْلِمِينَ لِأَنَّ جِنَايَتَهُ عَلَى بَيْتِ مَالِ الْمُسْلِمِينَ.

He-asws said: 'His wergild would be taken and made to be in the Muslim public treasury because his offence is upon the Muslim public treasury'.¹⁶⁹

3- ع، علل الشرائع أَبِي عَنِ سَعْدِ عَنِ أَحْمَدَ وَ عَبْدِ اللَّهِ ابْنِ مُحَمَّدٍ عَنِ ابْنِ مُحَمَّدٍ عَنِ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ عَنْ رَجُلٍ مُسْلِمٍ قُتِلَ رَجُلًا مُسْلِمًا عَمْدًا وَ لَمْ يَكُنْ لِلْمَقْتُولِ أَوْلِيَاءَ مِنَ الْمُسْلِمِينَ وَ لَهُ أَوْلِيَاءُ مِنْ أَهْلِ الدِّمَةِ مِنْ قَرَابَتِهِ

¹⁶⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 31 H 13

¹⁶⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 32 H 1

¹⁶⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 32 H 2

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Ahmad and Abdullah two sons of Muhammad Bin Isa, from Ibn Mahboub, from Muhammad Al Halaby,

From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about a Muslim man who deliberately kills a Muslim man and there do not happen to be any guardians from the Muslims for the killed one, while for him there are guardians from the Zimmy people from his relatives'.

قَالَ عَلَى الْإِمَامِ أَنْ يُعْرِضَ عَلَى قَرَابَتِهِ مِنْ أَهْلِ الذِّمَّةِ الْإِسْلَامَ فَمَنْ أَسْلَمَ مِنْهُمْ دَفَعَ الْقَاتِلَ إِلَيْهِ فَإِنْ شَاءَ قَتَلَ وَ إِنْ شَاءَ عَفَا وَ إِنْ شَاءَ أَحَدَ الدِّيَّةِ

He^{-asws} said: 'It is upon the Imam^{-asws} to present Al Islam to his relatives from the Zimmy people. The one from them who becomes a Muslim, the killer would be handed over to him. If he likes he can kills him and if he likes he can pardon and if he likes he can take the wergild.

فَإِنْ لَمْ يُسَلِّمْ مِنْ قَرَابَتِهِ أَحَدًا كَانَ الْإِمَامُ وَإِيَّاهُ فَإِنْ شَاءَ قَتَلَ وَ إِنْ شَاءَ أَحَدَ الدِّيَّةِ فَجَعَلَهَا فِي بَيْتِ مَالِ الْمُسْلِمِينَ لِأَنَّ جَنَايَةَ الْمَقْتُولِ كَانَتْ عَلَى الْإِمَامِ فَكَذَلِكَ تَكُونُ دِيَّتُهُ لِلْإِمَامِ.

If no one from his relatives becomes a Muslim, the Imam^{-asws} would be the guardian of his matter. If he^{-asws} likes he^{-asws} kills, and if he^{-asws} likes he takes the wergild and makes it to be in the Muslim public treasury because offense of the killed one was upon the Imam^{-asws}, so like that his wergild would be for the Imam^{-asws}.¹⁷⁰

4- شي، تفسير العياشي عن ابن محبوبٍ قَالَ: كَتَبْتُ إِلَى الرِّضَا عَ أَسْأَلُهُ عَن قَوْلِ اللَّهِ وَ لِكُلِّ جَعَلْنَا مَوَالِيَّ بِمَا تَرَكَ الْوَالِدَانِ وَ الْأَقْرَبُونَ وَ الَّذِينَ عَقَدَتْ أَيْمَانُكُمْ قَالَ إِيْمَا عَنِي بِذَلِكَ الْأَيْمَةَ بِهَمْ عَقَدَ اللَّهُ أَيْمَانُكُمْ.

Tafseer Al-Ayyashi – From Ibn Mahboub who said,

'I wrote to Al-Reza^{-asws} about Words of Allah^{-azwj}: **And for everyone We have appointed heirs of what is left by the parents and near relatives; and those with whom your rights hands have agreements [4:33]**. He^{-asws} said: 'But rather, He^{-azwj} Means the Imams^{-asws} with that. Allah^{-azwj} has Bound your oaths through them^{-asws}'.¹⁷¹

5- نَوَادِرُ الرَّوَّانْدِيِّ، بِإِسْنَادِهِ عَن مُوسَى بْنِ جَعْفَرٍ عَن آبَائِهِ ع قَالَ قَالَ عَلِيٌّ ع لَمَّا بَعَثَنِي رَسُولُ اللَّهِ ص إِلَى الْيَمَنِ قَالَ يَا عَلِيُّ لَا تُقَاتِلَنَّ أَحَدًا حَتَّى تَدْعُوهُ إِلَى الْإِسْلَامِ وَ إِيْمَ اللَّهِ لَأَنَّ يَهْدِيكَ اللَّهُ عَلَى يَدَيْكَ رَجُلًا خَيْرَ لَكَ مِمَّا طَلَعَتْ عَلَيْهِ الشَّمْسُ وَ لَكَ وَ لَأُوهُ.

(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 Rasool-Allah^{-saww} Sent me^{-asws} to Al-Yemen, he^{-saww} said: 'O Ali^{-asws}! Do not battle anyone until you^{-asws} have invited him to Al-Islam, and I^{-saww} swear by Allah^{-azwj}! If Allah^{-azwj} were to Guide one man upon your^{-asws} hands, it would be better for you^{-asws} than whatever the sun emerges, and for you^{-asws} would be his loyalty'.¹⁷²

¹⁷⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 32 H 3

¹⁷¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 32 H 4

¹⁷² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 32 H 5

CHAPTER 33 - INHERITANCE OF THE SLAVE AND THE GUARANTEED PERSON, AND THE ACKNOWLEDGMENT OF LINEAGE

1- ب، قرب الإسناد عليّ عن أخيه ع قال: سألتُهُ عن مَكَاتِبٍ أَدَى نِصْفَ مَكَاتِبِيهِ أَوْ بَعْضَهَا ثُمَّ مَاتَ وَ تَرَكَ وُلْدًا وَ مَالًا كَثِيرًا قَالَ إِذَا أَدَى الرَّصْفَ عَتَقَ وَ يُؤَدَى عَن مَكَاتِبِيهِ مِنْ مَالِهِ وَ مِيرَاثُهُ لِوَلَدِهِ.

(The book) 'Qurb Al Isnaad' –

Ali, from his brother (Musa Al-Kazim^{-asws}), he said, 'I asked him^{-asws} about the contracted slave having paid off half of his contract or part of it, then he dies and leaves behind children and a lot of wealth. He^{-asws} said: 'When he has paid off the half, he is free and (the remainder of) his contract would be paid off from his wealth, and his inheritance is for his children'.¹⁷³

2- مع، معاني الأخبار أبي عن سعدٍ عن مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ عَنِ الْحَمِيلِ فَقَالَ فَأَيُّ شَيْءٍ الْحَمِيلُ

(The book) 'Ma'any Al Akhbaar' – My father, from Sa'ad, from Muhammad Bin Al-Husayn, from Safwan, from Abdul Rahman Bin Al Hajjaj,

From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about 'Al-Hameel'. He^{-asws} said: 'Which thing is 'Al-Hameel'?'

فَقُلْتُ الْمَرْأَةُ تُسَبَّى مِنْ أَرْضِهَا مَعَهَا الْوَلَدُ الصَّغِيرُ فَتَقُولُ هُوَ ابْنِي وَ الرَّجُلُ يُسَبَّى فَيَقُولُ أَخَاهُ فَيَقُولُ هُوَ أَخِي لَيْسَ لهُمَا بَيِّنَةٌ إِلَّا قَوْلُهُمَا

I said, 'A woman is taken captive from her land along with a small child, and she says, 'He is my son'. And a man is taken captive and meets another man, saying, 'He is my brother'. They have no proof except their own words'.

قَالَ فَمَا يَقُولُ النَّاسُ فِيهِ عِنْدَكُمْ

He^{-asws} said: 'So what are the people around you saying regarding it?'

قُلْتُ لَا يُورَثُوهُمْ إِذَا لَمْ يَكُنْ عَلَى وِلَادَتِهَا بَيِّنَةٌ إِنَّمَا كَانَتْ وِلَادَةٌ فِي الشِّرْكَ

I said, 'They will not inherit them when there does not happen to be any proof upon their birth. But rather the birth was in the Polytheism'.

فَقَالَ سُبْحَانَ اللَّهِ إِذَا جَاءَتْ بِابْنِهَا أَوْ ابْنَتِهَا لَمْ تَزَلْ مُقَرَّرَةً بِهِ وَ إِذَا عَرَفَ أَخَاهُ وَ كَانَ ذَلِكَ فِي صِحَّةٍ مِنْهُمَا لَمْ يَزَالُوا مُقَرَّرِينَ بِذَلِكَ وَرِثَ بَعْضُهُمْ بَعْضًا.

¹⁷³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 33 H 1

He^{-asws} said: ‘Glory be to Allah^{-azwj}! When she comes with her son or her daughter not ceasing to acknowledge it, and when he recognises his brother, and that was in good (mental) health from them not ceasing acknowledging with that, they will inherit each other’.¹⁷⁴

3- ب، قرب الإسناد أبو البختري عن الصادق عن أبيه ع قَالَ قَالَ: قَضَى عَلِيٌّ ع فِي رَجُلٍ مَاتَ وَ تَرَكَ وَرَثَةً فَأَقْرَبَ أَحَدَ الْوَرَثَةِ بِدَيْنٍ عَلَى أَبِيهِ قَالَ يَلْزَمُهُ فِي حَصَّتِهِ بِقَدْرِ مَا وَرِثَ وَ لَا يَكُونُ ذَلِكَ فِي مَالِهِ كَلْبَةً وَ إِنْ أَقْرَبَ اثْنَانِ مِنَ الْوَرَثَةِ وَ كَانَا عُذُولًا أُجِيزَ ذَلِكَ عَلَى الْوَرَثَةِ وَ إِنْ لَمْ يَكُونَا عُذُولًا أَلْزَمَا فِي حَصَّتَيْهِمَا بِقَدْرِ مَا وَرِثَا وَ كَذَلِكَ إِنْ أَقْرَبَ بَعْضُ الْوَرَثَةِ بِأَخٍ أَوْ أُحْتٍ إِمَّا يَلْزَمُهُ فِي حَصَّتِهِ

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

From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws} having said: ‘Ali^{-asws} had judged regarding a man who dies and left heirs behind. One of the heirs acknowledged a debt upon his father. He^{-asws} said: ‘That heir is responsible for the debt only in proportion to his share of the inheritance; it is not to be taken from the entire estate. But if two heirs acknowledge the debt and they are trustworthy, their acknowledgement is accepted and binding upon all the heirs. If they are not trustworthy, they are liable only in proportion to their shares. Likewise, if some of the heirs acknowledge the existence of a brother or sister, it is binding only upon them in their own shares.

قَالَ وَ قَالَ عَلِيٌّ مِنْ أَقْرَبَ لِأَخِيهِ فَهُوَ شَرِيكٌ فِي الْمَالِ وَ لَا يَثْبُتُ نَسَبُهُ إِنْ أَقْرَبَ لَهُ اثْنَانِ فَكَذَلِكَ إِلَّا أَنْ يَكُونَا عَدْلَيْنِ فَيُلْحَقُ بِنَسَبِهِ وَ يُضْرَبُ فِي الْمِيرَاثِ مَعَهُمْ.

He^{-asws} said: ‘And Ali^{-asws} said: ‘Whoever acknowledges a brother, that brother becomes a partner in the property, although his lineage is not established. However, if two heirs acknowledge him, the same applies, unless both are trustworthy, in which case his lineage is established, and he shares with them in the inheritance.’¹⁷⁵

4- ضا، فقه الرضا عليه السلام إِذَا مَاتَ رَجُلٌ حُرٌّ وَ تَرَكَ أُمَّةً مَمْلُوكَةً فَإِنَّ أَمِيرَ الْمُؤْمِنِينَ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَمَرَ أَنْ تُشْتَرَى الْأُمُّ مِنْ مَالِ ابْنِهَا وَ تُعْتَقَ وَ يُورَثَهَا.

(The book) ‘Fiqh Al-Reza^{-asws}’, may the greeting be upon him^{-asws} – ‘When a free man dies and leaves a mother who is a slave, Amir Al-Momineen^{-asws}, may the Salawaat of Allah^{-azwj} be upon him^{-asws} had ordered that the mother be bought from the wealth of her son and liberated, and inherit’.¹⁷⁶

¹⁷⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 33 H 1

¹⁷⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 33 H 3

¹⁷⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 33 H 4

CHAPTER 34 – RULING OF THE WERGILD IN THE INHERITANCE

1- ع، علل الشرائع أبي عن محمد العطار عن الأشعري عن ابن هاشم عن عمر بن عثمان عن بعض أصحابنا عن الحسين بن خالد عن أبي الحسن ع قال: دية الجنين إذا ضربت أمه فسقطت من بطنها قبل أن ينشأ فيه الروح مائة دينار فهي لورثته و دية الميت إذا قطع رأسه و شق بطنه فلبس هي لورثته إنما هي له دون الورثة

(The book) 'Ilal Al Sharaie' – My father, from Muhammad Al Attar, from Al Ash'ary, from Ibn Hashim, from Umar Bin Usman, from one of our companions, from Al-Husayn Bin Khalid,

From Abu Al-Hassan^{-asws} having said: 'The wergild for a foetus, if its mother is struck and it falls from her womb before the soul has entered it, is one hundred Dinars, and it belongs to its heirs, but the wergild for a dead person, if his head is cut off and his abdomen is slit open, does not belong to his heirs, it belongs to him himself, not to the heirs'.

فقلت و ما الفرق بينهما

I said, 'What is the difference between the two cases?'

فقال إن الجنين أمر مستقبل مرجى نفعه و إن هذا أمر قد مضى و ذهب منفعتُه فلما مثل به بعد وفاته صارت دية المثلثة له لا لغیره مجع بما عنه و يُفعل به أبواب البر من صدقة و غير ذلك.

He^{-asws} said, 'The fetus is a matter of the future, whose benefit is yet to come, whereas this person's matter has passed and his benefit has ended. Therefore, when his body is mutilated after death, the compensation for that mutilation belongs to him, not to anyone else, it should be used on his behalf for performing the Hajj or other acts of charity and other such'.¹⁷⁷

2- ضا، فقه الرضا عليه السلام أعلم أن الدية يرثها الورثة على كتاب الله ما خلا الإخوة و الأخوات من الأم فإهم لا يرثون من الدية شيئاً.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'Know that the wergild is inherited by the heirs based upon the Book of Allah^{-azwj}, apart from the brothers and the sisters from the mother, for they cannot inherit anything from the wergild'.¹⁷⁸

¹⁷⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 34 H 1

¹⁷⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 34 H 2

CHAPTER 35 – MISCELLANEOUS RULINGS OF THE HEIR

1- فس، تفسير القمي إنَّ الَّذِينَ آمَنُوا وَ هَاجَرُوا وَ جَاهَدُوا بِأَمْوَالِهِمْ وَ أَنْفُسِهِمْ فِي سَبِيلِ اللَّهِ وَ الَّذِينَ آوَوْا وَ نَصَرُوا أَوْلِيَاءَ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ فَإِنَّ الْحُكْمَ كَانَ فِي أَوَّلِ النَّبُوَّةِ أَنَّ الْمَوَارِيثَ كَانَتْ عَلَى الْأُخُوَّةِ لَا عَلَى الْوِلَادَةِ فَلَمَّا هَاجَرَ رَسُولُ اللَّهِ ص إِلَى الْمَدِينَةِ أَحَى بَيْنَ الْمُهَاجِرِينَ وَ الْأَنْصَارِ فَكَانَ إِذَا مَاتَ الرَّجُلُ يَرِثُهُ أُخُوهُ فِي الدِّينِ وَ يَأْخُذُ الْمَالَ وَ كَانَ مَا تَرَكَ لَهُ دُونَ وَرَثَتِهِ

Tafseer Al-Qummi - ***Surely those who believed and emigrated with their wealth and their selves in the Way of Allah, sheltered and helped (them), they are guardians of each other [8:72].*** In the early days of Prophethood, the rule regarding inheritance was based on brotherhood, not on lineage. When Rasool-Allah^{-saww} migrated to Medina, he^{-saww} established bonds of brotherhood between the emigrants and the helpers. So when a man died, his brother in faith would inherit him and take his property, and what he left would go to that brother rather than to his blood relatives.

فَلَمَّا كَانَ بَعْدَ بَدْرِ أَنْزَلَ اللَّهُ - النَّبِيُّ أَوْلَى بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ وَ أَزْوَاجُهُ أُمَّهَاتُهُمْ وَ أَوْلُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ فِي كِتَابِ اللَّهِ مِنَ الْمُؤْمِنِينَ وَ الْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَى أَوْلِيَائِكُمْ مَعْرُوفًا فَتَسْخِطَ آيَةُ الْأُخُوَّةِ بَعْضُهُمْ أَوْلَى بِبَعْضٍ.

When it was after (the battle of) Badr, Allah^{-azwj} Revealed: ***The Prophet is foremost with the Momineen than their own selves, and his wives are their mothers; and the possessors of the womb relationships, some of them are higher than the others in the Book of Allah, from the Momineen and the Emigrants, except that you should be doing good to your friends [33:6].*** So the Verse of brotherhood was Abrogated by: ***some of them are higher than the others'***. (opinion)

وَ فِيهِ أَيْضاً عَنْهُ ع أَنَّهُ قَالَ: نَسَخَ قَوْلُهُ تَعَالَى - وَ إِذَا حَضَرَ الْقِسْمَةَ أَوْلُوا الْقُرْبَى الْآيَةَ قَوْلُهُ تَعَالَى يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ.

And in it as well, from him^{-asws} having said: ***'And when there are present at the distribution, the relatives [4:8] was Abrogated by the Verse, the Words of the Exalted: Allah Directs you regarding your children: "For the male is a share of two females [4:11]"***.¹⁷⁹

2- شي، تفسير العياشي عن أبي بصير عن أبي عبد الله ع في قول الله - وَ إِذَا حَضَرَ الْقِسْمَةَ أَوْلُوا الْقُرْبَى وَ الْيَتَامَى وَ الْمَسَاكِينَ فَارْزُقُوهُمْ مِنْهُ قَالَ نَسَخْتَهَا آيَةُ الْفَرَائِضِ.

Tafseer Al Ayyashi – From Abu Baseer,

From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj}: ***And when there are present at the distribution, the relatives and the orphans and the needy, provide them from it [4:8].*** He^{-asws} said: 'The Verse of Obligations Abrogates it'.¹⁸⁰

¹⁷⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 35 H 1

¹⁸⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 35 H 2

3- وَ فِي رِوَايَةٍ أُخْرَى عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ عَ وَإِذَا حَضَرَ الْقِسْمَةَ أَوْلَا الْقُرْبَى وَ الْيَتَامَى وَ الْمَسَاكِينَ فَارْزُقُوهُمْ مِنْهُ وَ قُولُوا لَهُمْ قَوْلًا مَعْرُوفًا فَلْتُ
أَمْسُوخَةٌ هِيَ

And in another report from Abu Baseer,

From Abu Ja'far^{-asws} (regarding): **And when there are present at the distribution, the relatives and the orphans and the needy, sustain them from it and speak to them kind words [4:8].** I said, 'Is it Abrogated?'

قَالَ لَا إِذَا حَضَرَكَ فَأَعْطِهِمْ.

He^{-asws} said: 'No. When they present to you, give them'.¹⁸¹

4- وَ فِي رِوَايَةٍ أُخْرَى عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ عَ قَالَ: سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ- وَإِذَا حَضَرَ الْقِسْمَةَ أَوْلَا الْقُرْبَى قَالَ نَسَخَتْهَا آيَةُ الْفَرَائِضِ.

And in another report from Abu Baseer,

From Abu Ja'far^{-asws}, he said, 'I asked him^{-asws} about Words of Allah^{-azwj}: **And when there are present at the distribution [4:8].** He^{-asws} said: 'The Verse of Obligations Abrogates it'.¹⁸²

5- شي، تفسير العياشي عن مُحَمَّدِ بْنِ قَيْسٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ عَ يَقُولُ فِي الدَّيْنِ وَ الْوَصِيَّةِ فَقَالَ إِنَّ الدَّيْنَ قَبْلَ الْوَصِيَّةِ ثُمَّ الْوَصِيَّةُ عَلَى أَثَرِ الدَّيْنِ ثُمَّ الْمِيرَاثُ وَ لَا وَصِيَّةَ لَوَارِثٍ.

Tafseer Al Ayyashi – From Muhammad Bin Qays who said,

'I heard Abu Ja'far^{-asws} saying regarding the debts and the bequest. He^{-asws} said: 'The debt is before the bequest, then the bequest upon the tracks of debt, then the inheritance, and there is no bequest for an inheritor'.¹⁸³

6- شي، تفسير العياشي عن أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ عَ قَالَ: إِنَّ الْحُكْمَ حُكْمَانِ حُكْمُ اللَّهِ وَ حُكْمُ الْجَاهِلِيَّةِ

Tafseer Al Ayyashi, from Abu Baseer,

From Abu Ja'far^{-asws} having said: 'The ruling is two (types of) rulings – A Ruling of Allah^{-azwj} and ruling of the Pre-Islamic period'.

ثُمَّ قَالَ وَ مَنْ أَحْسَنُ مِنَ اللَّهِ حُكْمًا لِقَوْمٍ يُوقِنُونَ قَالَ فَاشْهَدْ أَنْ زَيْدًا قَدْ حَكَمَ بِحُكْمِ الْجَاهِلِيَّةِ يَعْنِي فِي الْفَرَائِضِ.

Then he^{-asws} said: '**And who is better than Allah in Judging for a people who are certain? [5:50].** He^{-asws} said: 'Bear witness that Zayd has ruled with a ruling of the Pre-Islamic period' – meaning the obligatory (shares of inheritance)'.¹⁸⁴

¹⁸¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 35 H 3

¹⁸² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 35 H 4

¹⁸³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 35 H 5

¹⁸⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 35 H 6

7- **الْهُدَايَةُ، قَالَ الصَّادِقُ ع إِنَّ اللَّهَ عَزَّ وَجَلَّ آخَى بَيْنَ الْأَزْوَاجِ فِي الْأُظْلَمَةِ قَبْلَ أَنْ يَخْلُقَ الْأَجْسَادَ بِالْفِي عَامٍ فَإِذَا قَامَ فَاتَمُّنَا أَهْلَ الْبَيْتِ وَرَثَ الْأَخِ الَّذِي آخَى بَيْنَهُمَا فِي الْأُظْلَمَةِ وَ لَمْ يُورَثِ الْأَخُ مِنَ الْوَلَادَةِ.**

(The book) 'Al Hidayah' –

Al-Sadiq^{-asws} said: 'Allah^{-azwj} Mighty and Majestic Established brother-hood between the souls in the (realm of the) shadows two thousand years before He^{-azwj} Created the bodies. When our^{-asws} Qaim^{-ajfi} of People^{-asws} of the Household rises, the brother who He^{-azwj} had Established brotherhood between them in the (realm of the) shadows will inherit, while the brother from the birth will not inherit'.¹⁸⁵

باب 36 عقوبة قتل النفس و علة القصاص و عقاب من قتل نفسه و كفارة قتل العمد و الخطاء

CHAPTER 36 – PUNISHMENT OF KILLING A SOUL, AND REASON FOR THE RETALIATION, AND PUNISHMENT OF ONE KILLING HIMSELF, AND EXPIATION OF THE DELIBERATE AND THE ACCIDENTAL KILLING

1- لي، الأماالي للصدوق عن الصادق عن آباءه ع قَالَ قَالَ رَسُولُ اللَّهِ ص أَعْتَى النَّاسُ مِنْ قَتَلَ غَيْرَ قَاتِلِهِ أَوْ ضَرَبَ غَيْرَ ضَارِبِهِ.

(The book) 'Al Amaali' of Al Sadouq –

From Al-Sadiq^{-asws}, from his^{-asws} forefathers^{-asws} having said 'Rasool-Allah^{-saww} said 'The most transgressing of the people who kills others than his killer, or strikes other than his striker!'¹⁸⁶

2- لي، الأماالي للصدوق علي بن أحمد عن الأسدي عن سهل عن عبد العظيم الحسيني عن أبي الحسن الثالث ع قَالَ: لَمَّا كَلَّمَ اللَّهُ عَزَّ وَجَلَّ مُوسَى بْنَ عِمْرَانَ ع قَالَ إلهي مَا جَزَاءُ مَنْ قَتَلَ مُؤْمِنًا مُتَعَمِّدًا

(The book) 'Al Amaali' of Al Sadouq – Ali Bin Ahmad, from Al Asady, from Sahl, from Sahl, from Abdul Azeem Al Hasany,

From Abu Al-Hassan^{-asws} the 3rd having said: 'When Allah^{-azwj} Mighty and Majestic Spoke to Musa^{-as} Bin Imran^{-as}, he^{-as} said: 'My^{-as} God^{-azwj}! What is the Recompense of the one who kills a Momin deliberately?'

قَالَ لَا أَنْظُرُ إِلَيْهِ يَوْمَ الْقِيَامَةِ وَ لَا أُقْبِلُ عَثْرَتَهُ.

He^{-azwj} Said: "I^{-azwj} will not Look at him on the Day of Qiyamah nor will I^{-azwj} Pardon his stumbles!"¹⁸⁷

¹⁸⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 35 H 7

¹⁸⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 1

¹⁸⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 2

3- ما، الأماي للشيخ الطوسي جماعة عن أبي المفضل عن عبدة الله بن الحسن العلوي عن أبيه عن عبد العظيم الحسيني عن أبي جعفر عن آتائه ع قال قال أمير المؤمنين ع قلت أربع كلمات أنزل الله تعالى تصديقي بما في كتابه قلت المرء محبوبه تحت لسانه فإذا تكلم ظهر فأُنزل الله تعالى و لتعرفنهم في لحن القول

(The book) 'Al Amaali' of the sheikh Al Tusi – A group, from Abu Al Mufazzal, from Ubeydullah Bin Al-Hassan Al Alawy, from his father, from Abdul Azeem Al Hasany,

From Abu Ja'far^{asws}, from his^{asws} forefathers^{asws} having said: 'Amir Al-Momineen^{asws} said: 'I^{asws} said four phrases, Allah^{azwj} the Exalted Revealed in His^{azwj} Book my^{asws} verification by it. I^{asws} said: 'The person is hidden beneath his tongue, when he talks, he is revealed', so Allah^{azwj} the Exalted Revealed: **and you can (already) recognise them by their tone of speech [47:30].**

قلت فمن جهل شيئاً عاداه فأُنزل الله بل كذبوا بما لم يحيطوا بعلمه

I^{asws} said: 'One who is ignorant of something will be hostile to it', so Allah^{azwj} Revealed: **But, they are belying what they have no comprehension of its Knowledge [10:39].**

و قلت قدر أو قيمة كل امرئ ما يحسن فأُنزل الله في قصة طالوت - إن الله اصطفاه عليكم و زاده بسطة في العلم و الجسم

And I^{asws} said: 'The worth or value of every person is what he does well', so Allah^{azwj} Revealed in the story of Talut: **Allah has Chosen him over you, and has Increased him abundantly in knowledge and physique [2:247].**

و قلت القتل يقتل القتل فأُنزل الله و لكم في القصاص حياة يا أولي الألباب.

And I^{asws} said: 'The killing reduces the killing', so Allah^{azwj} Revealed: **And for you, in the retaliation, there is life, O ones of understanding [2:179].**¹⁸⁸

4- ج، الاحتجاج بالإسناد إلى أبي محمد العسكري عن آتائه عن علي بن الحسين ع في تفسير قوله تعالى - و لكم في القصاص الآية-

(The book) 'Al Ihtijaj' –

By the chain to Abu Muhammad Al-Askari^{asws}, from his^{asws} forefathers^{asws}, from Ali^{asws} Bin Al-Husayn^{asws} regarding interpretation of Words of the Exalted: **And for you, in the retaliation [2:179] – the Verse.**

و لكم يا أمة محمد في القصاص حياة لأن من هم بالقتل فعرف أن يمتص منه فكف ذلك عن القتل كان حياة للذي كان هم يقتله و حياة هذا لهذا الجاني الذي أراد أن يقتل و حياة لغيرهما من الناس إذا علموا أن القصاص واجب - لا يجسرون على القتل مخافة القصاص - يا أولي الألباب أولي العقول لعلكم تتقون

And for you – O community of Muhammad^{saww}, in the retaliation, there is life – because the one who thinks of murdering, so he would know that he would be retaliated from it. Thus, he would refrain from the killing. There would be life for the one whom he had thought of killing

¹⁸⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 3

him, and life for this offender who intended the murder, and life for other than these two from the people, when they (also) know that the retaliation is an Obligation, they would not be audacious upon the killing, fearing the retaliation, **O ones of understanding** – the ones with the intellects, **perhaps you would be fearing [2:179]**’.

ثُمَّ قَالَ عِيبَادُ اللَّهِ هَذَا قِصَاصٌ قَتَلْتُمْ لِمَنْ تَقْتُلُونَهُ فِي الدُّنْيَا وَ تُنْفُونَ رُوحَهُ أَوْ لَا أَنْتُمْ كُمْ بِأَعْظَمَ مِنَ الْقَتْلِ وَ مَا يُوجِبُهُ اللَّهُ عَلَى قَاتِلِهِ بِمَا هُوَ أَكْبَرُ مِنْ هَذَا الْقِصَاصِ

Then he^{-asws} said: ‘Servants of Allah^{-azwj}! This retaliation, your killing the one whom you are killing in the world and perishing his soul, shall I^{-asws} give you the news of (of a killing) greater than this killing, and what Allah^{-azwj} has Obligated, upon killing him from what is greater than this retaliation?’

قَالُوا بَلَى يَا ابْنَ رَسُولِ اللَّهِ

They said, ‘Yes, O son^{-asws} of Rasool-Allah^{-saww}!’

قَالَ أَكْبَرُ مِنْ هَذَا الْقَتْلِ أَنْ يُعْتَلَهُ قَتْلًا لَا يَنْجِيهِ وَلَا يَجِيءُ بَعْدَهُ أَبَدًا قَالُوا مَا هُوَ قَالَ أَنْ يُضَلَّهُ عَنْ نُبُوَّةِ مُحَمَّدٍ وَ عَنْ وِلَايَةِ عَلِيِّ بْنِ أَبِي طَالِبٍ ع وَ يَسْلُكَ بِهِ غَيْرَ سَبِيلِ اللَّهِ وَ يُغْرِبُهُ بِاتِّبَاعِ طَرَائِقِ أَعْدَاءِ عَلِيِّ ع وَ الْقَوْلِ بِإِمَامَتِهِمْ وَ دَفْعِ عَلِيِّ عِنْدَ حَقِّهِ وَ جَحْدِ فَضْلِهِ وَ الْإِيْبَالِي بِإِعْطَائِهِ وَاجِبِ تَعْظِيمِهِ

He^{-asws} said: ‘Greater than this killing is that you kill him with a killing which can neither be amended, nor be revived after it, ever!’ They said, ‘And what is it?’ He^{-asws} said: ‘If you stray him from the Prophet-hood of Muhammad^{-saww} and from the Wilayah of Ali^{-asws} Bin Abu Talib^{-asws}, and travel with him in other than the Way of Allah^{-azwj}, and the deceive him to follow the path of the enemies of Ali^{-asws}, and the speaking with their imamate, and repel Ali^{-asws} from his^{-asws} right, and reject his^{-asws} merits, and you don’t care that obeying him^{-asws} is an Obligation, to revere him^{-asws}.’

فَهَذَا هُوَ الْقَتْلُ الَّذِي هُوَ تَحْلِيْدُ الْمُقْتُولِ فِي نَارِ جَهَنَّمَ خَالِدًا مُخَلَّدًا أَبَدًا فَجَزَاءُ هَذَا الْقَتْلِ مِثْلُ ذَلِكَ الْخُلُودِ فِي نَارِ جَهَنَّمَ.

Thus, this is the killing which is eternal. This is the killed one in the Fire of Hell, abiding eternally, forever. Thus the Recompense of this killing would be like that eternity in the Fire of Hell’.¹⁸⁹

5- ع، علل الشرائع ن، عيون أخبار الرضا عليه السلام في علل ابن سنان أنه كتب الرضا ع إليه حرم قتل النفس لعل فساد الخلق في تحليله لو أجل و فنائهم و فساد التدبير.

(The book) ‘Ilal Al-Sharaie’, (and) ‘Uyoun Akhbar Al-Reza^{-asws}’, may the greeting be upon him^{-asws}, in ‘Ilal of Ibn Sinan, Al-Reza^{-asws} wrote to him: ‘Killing the soul is prohibited because permitting it would lead to the corruption, destruction, and disorder of creation’.¹⁹⁰

¹⁸⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 4

¹⁹⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 5

6- ع، علل الشرائع ابنُ الْمُتَوَكِّلِ عَنِ السُّعْدِ أَبِي عَبْدِ اللَّهِ عَنِ أَبِيهِ عَنِ عَبْدِ الْعَظِيمِ الْحُسَيْنِيِّ عَنِ أَبِي جَعْفَرِ النَّبِيِّ عَنِ أَبِيهِ عَنِ جَدِّهِ عَنِ الصَّادِقِ ع قَالَ: قَتَلَ النَّفْسَ مِنَ الْكِبَائِرِ لِأَنَّ اللَّهَ عَزَّ وَجَلَّ يَقُولُ- وَ مَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ خَالِدًا فِيهَا وَ غَضِبَ اللَّهُ عَلَيْهِ وَ لَعَنَهُ وَ أَعَدَّ لَهُ عَذَابًا عَظِيمًا.

(The book) 'Ilal Al Sharaie' – Ibn Al Mutawakkil, from Al Sa'dabadi, from Al Barqy, from his father, from Abdul Azeem Al Hasany,

From Abu Ja'far^{-asws} the 2nd, from his^{-asws} father^{-asws}, from his^{-asws} grandfather^{-asws}, from Al-Sadiq^{-asws} having said: 'Killing the soul is from the major sins because Allah^{-azwj} Mighty and Majestic Says: **And whoever kills a Momin intentionally, his Recompense is Hell, being eternally in it, and Allah would be Wrathful upon him and Curse him, and would Prepare for him a mighty Punishment [4:93]**'.¹⁹¹

7- فس، تفسير القمي وَ مَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ خَالِدًا فِيهَا وَ غَضِبَ اللَّهُ عَلَيْهِ وَ لَعَنَهُ وَ أَعَدَّ لَهُ عَذَابًا عَظِيمًا

Tafseer Al Qummi - **And whoever kills a Momin intentionally, his Recompense is Hell, being eternally in it, and Allah would be Wrathful upon him and Curse him, and would Prepare for him a mighty Punishment [4:93]**.

قَالَ مَنْ قَتَلَ مُؤْمِنًا عَلَى دِينِهِ لَمْ تُقْبَلْ تَوْبَتُهُ وَ مَنْ قَتَلَ نَبِيًّا أَوْ وَصِيًّا نَبِيًّا فَلَا تَوْبَةَ لَهُ لِأَنَّهُ لَا يَكُونُ مِثْلَهُ فَيَقَادَ بِهِ

He said, 'One who kills a Momin for his religion, his repentance is not Accepted, and one who kills a Prophet^{-as} or a successor^{-asws} of a Prophet^{-as}, there is no repentance for him because there is no one like him to retaliate with.

وَ قَدْ يَكُونُ الرَّجُلُ بَيْنَ الْمُشْرِكِينَ وَ الْيَهُودِ وَ النَّصَارَى يَقْتُلُ رَجُلًا مِنَ الْمُسْلِمِينَ عَلَى أَنَّهُ مُسْلِمٌ فَإِذَا دَخَلَ فِي الْإِسْلَامِ حَاهُ اللَّهُ عَنْهُ لِقَوْلِ رَسُولِ اللَّهِ ص الْإِسْلَامُ يَجِبُ مَا كَانَ قَبْلَهُ أَيْ يَحْوِي لَأَنَّ أَعْظَمَ الذُّنُوبِ عِنْدَ اللَّهِ هُوَ الشِّرْكَ فَإِذَا قُبِلَتْ تَوْبَتُهُ مِنَ الشِّرْكَ قُبِلَتْ فِيهَا سِوَاهُ

And a man could be between the Polytheists, and the Jews, and the Christians. He kills a man from the Muslims because he is a Muslim. When he enters into Al Islam, Allah^{-azwj} Erases it from him due to words of Rasool-Allah^{-saww}: 'Al-Islam erases whatever was before it', i.e. deletes it, because the mightiest of the sins in the Presence of Allah^{-azwj}, it is the associating with Allah^{-azwj}. When his repentance from the association is Accepted, whatever is besides it is (also) Accepted.

فَأَمَّا قَوْلُ الصَّادِقِ ع لَيْسَتْ لَهُ تَوْبَةٌ فَإِنَّهُ عَنِ مَنْ قَتَلَ نَبِيًّا أَوْ وَصِيًّا فَلَيْسَتْ لَهُ تَوْبَةٌ لِأَنَّهُ لَا يُقَادُ أَحَدٌ بِالْأَنْبِيَاءِ إِلَّا الْأَنْبِيَاءُ وَ بِالْأَوْصِيَاءِ إِلَّا الْأَوْصِيَاءُ وَ الْأَنْبِيَاءُ وَ الْأَوْصِيَاءُ لَا يَقْتُلُ بَعْضُهُمْ بَعْضًا وَ غَيْرُ النَّبِيِّ وَ الْوَصِيِّ- لَا يَكُونُ مِثْلَ النَّبِيِّ وَ الْوَصِيِّ فَيَقَادَ بِهِ وَ قَاتِلُهُمَا لَا يُؤَفَّقُ لِلتَّوْبَةِ.

As for the words of Al-Sadiq^{-asws}: 'There isn't any repentance for him', he^{-asws} meant the one who either kills a Prophet^{-as} or a successor^{-as}, so there isn't any repentance for him because no one can be retaliated with the Prophets^{-as} except the Prophets^{-as}, and with the successors^{-as} except the successors^{-as}, and the Prophets^{-as} and the successors^{-as} do not kill each other,

¹⁹¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 6

and someone other than the Prophet^{as} and the successor^{as} cannot be like the Prophet^{as} and the successor^{as} to be retaliated for, and their^{as} killer is not compatible for the repentance'.¹⁹²

8- فس، تفسير القمي وَ الَّذِينَ لَا يَدْعُونَ مَعَ اللَّهِ إِلَهًا آخَرَ وَ لَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَ لَا يَزْنُونَ وَ مَنْ يَفْعَلْ ذَلِكَ يَلْقَ أَثَامًا وَ أَثَامٌ وَادِي [وَإِ] مِنْ صُفْرِ مُذَابٍ قُدَّامَهَا حَرَّةٌ فِي جَهَنَّمَ يَكُونُ فِيهِ مَنْ عَبَدَ غَيْرَ اللَّهِ

Tafseer Al-Qummi - **And those who are not supplication to another god along with Allah, and are not killing the soul which Allah Forbade except with the right, nor are they committing adultery. And one who does that, indulges in sin [25:68], and 'Asaam' (sin) is valley of molten brass in front of it is heat of Hell wherein would be ones who worshipped other than Allah^{azwj}.**

وَ مَنْ قَتَلَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ وَ يَكُونُ فِيهِ الرُّنَاةُ يُضَاعَفُ لَهُمْ فِيهِ الْعَذَابُ - إِلَّا مَنْ تَابَ وَ آمَنَ وَ عَمِلَ إِلَى قَوْلِهِ فَإِنَّهُ يَتُوبُ إِلَى اللَّهِ مَتَابًا يَقُولُ لَا يَعُودُ إِلَى شَيْءٍ مِنْ ذَلِكَ بِإِخْلَاصٍ وَ بِنِيَّةٍ صَادِقَةٍ.

And one who kills the soul which Allah^{azwj} has Prohibited (to kill), and the adulterers will be in it. The Punishment will be doubled for them in it: **Except one who repents, and believes, and does righteous deeds [25:70] – up to His^{azwj} Words: then surely he repents to Allah penitently [25:71].** He^{azwj} is Saying he does not return to anything from that with the sincerity and truthful intent'.¹⁹³

9- ب، قرب الإسناد ابنُ طريفٍ عَنِ ابْنِ عُلوَانَ عَنِ الصَّادِقِ عَنِ أَبِيهِ ع قَالَ: وَجَدَ فِي غِمْدِ سَيْفِ رَسُولِ اللَّهِ ص صَحِيفَةً مَخْتُومَةً فَفَتَحَهَا فَوَجَدُوا فِيهَا إِنَّ أَعْيَى النَّاسِ عَلَى اللَّهِ الْقَاتِلُ غَيْرَ قَاتِلِهِ وَ الضَّارِبُ غَيْرَ ضَارِبِهِ وَ مَنْ أَحْدَثَ حَدَثًا أَوْ آوَى مُحْدِثًا فَعَلَيْهِ لَعْنَةُ اللَّهِ وَ الْمَلَائِكَةِ وَ النَّاسِ أَجْمَعِينَ - لَا يَقْبَلُ اللَّهُ مِنْهُ صَرْفًا وَ لَا عَدْلًا وَ مَنْ تَوَلَّى إِلَى غَيْرِ مَوَالِيهِ فَقَدْ كَفَرَ بِمَا أَنْزَلَ عَلَى مُحَمَّدٍ ص.

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

From Al-Sadiq^{asws}, from his^{asws} father^{asws} having said: 'A sealed parchment was found in the sheath of a sword of Rasool-Allah^{saww}. They opened it and found in it: 'The most transgressing of the people upon Allah^{azwj} is the killer of other than his killer, and the striker of other than his striker, and one who innovates and innovation or shelters an innovator, upon him is the Curse of Allah^{azwj}, and the Angels and the people altogether. Allah^{azwj} will neither Accept any exchange from him or a replacement; and the one who attributes guardianship to other than his guardian has disbelieved in what Allah^{azwj} has Revealed unto Muhammad^{saww}'.¹⁹⁴

10- ب، قرب الإسناد عليٌّ عَنِ أَبِيهِ ع قَالَ: ابْتَدَرَ النَّاسُ إِلَى قِرَابِ سَيْفِ رَسُولِ اللَّهِ - ص بَعْدَ مَوْتِهِ فَإِذَا صَحِيفَةٌ صَغِيرَةٌ وَجَدُوا فِيهَا مِنْ آوَى مُحْدِثًا فَهُوَ كَافِرٌ وَ مَنْ تَوَلَّى غَيْرَ مَوَالِيهِ فَعَلَيْهِ لَعْنَةُ اللَّهِ وَ مِنْ أَعْيَى النَّاسِ عَلَى اللَّهِ عَزَّ وَ جَلَّ مَنْ قَتَلَ غَيْرَ قَاتِلِهِ أَوْ ضَرَبَ غَيْرَ ضَارِبِهِ.

(The book) 'Qurb Al Isnaad' –

Ali, from his brother (Musa Al-Kazim^{asws} having said: 'The people rushed to a sheath of a sword of Rasool-Allah^{saww} after his^{saww} passing away. There was a small parchment (in it).

¹⁹² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 7

¹⁹³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 8

¹⁹⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 9

They found (written) in it: 'One who shelters an innovator, he is a Kafir, and one who attributes guardianship to other than his guardians, upon him is the Curse of Allah^{-azwj}; and from the most transgressing of the people to Allah^{-azwj} Mighty and Majestic is the one who kills other than his killer, or strikes other than his striker'.¹⁹⁵

11- ل، الخصال ماجيلويه عن مُحَمَّدِ الْعَطَّارِ عَنِ الْأَشْعَرِيِّ عَنِ ابْنِ هَاشِمٍ عَنِ الْحُسَيْنِ بْنِ أَبِي الْحُسَيْنِ عَنْ سَلِيمَانَ بْنِ حَفْصِ الْبَصْرِيِّ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ ع قَالَ قَالَ رَسُولُ اللَّهِ ص مَا عَجَبَتِ الْأَرْضُ إِلَى رَبِّهَا عَزَّ وَجَلَّ كَعَجَبِهَا مِنْ ثَلَاثَةٍ مِنْ دَمٍ حَرَامٍ يُسْفِكُ عَلَيْهَا أَوْ اغْتِسَالٍ مِنْ زِنَا أَوْ النَّوْمِ عَلَيْهَا قَبْلَ طُلُوعِ الشَّمْسِ.

(The book) 'Al Khisaal' – Majaylawiya, from Muhammad Al Attar, from Al Ash'ari, from Ibn Hashim, from Al-Hassan Bin Abu Al-Husayn, from Suleyman Bin Hafs Al Basry,

From Ja'far^{-asws} Bin Muhammad^{-asws} having said: 'Rasool-Allah^{-saww} said: 'The earth has not clamoured to its Lord^{-azwj} Mighty and Majestic like its clamouring from three – from a prohibited blood being spilt upon it, or washing from the adultery, or the sleeping upon it before emergence of the sun'.¹⁹⁶

12- ل، الخصال أَبِي عَنْ سَعْدِ بْنِ الْبَرْتَقِيِّ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ بَعْضِ رِجَالِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: ثَلَاثَةٌ لَا يَدْخُلُونَ الْجَنَّةَ السَّقَاكُ لِلدَّمِ وَ شَارِبِ الْحَمْرِ وَ مَشَاءُ بَنِمِيمَةٍ.

(The book) 'Al Khisaal' – My father, from Sa'ad, from Al Barqy, from his father, from Muhammad Bin Sinan, from one of his men,

From Abu Abdullah^{-asws} having said: 'Three will not be entering the Paradise – the shedder of (prohibited) blood, and the drinker of wine, and a walker with gossip'.¹⁹⁷

13 ثو، ثواب الأعمال ماجيلويه عن عَمِّهِ عَنِ الْكُوفِيِّ عَنْ عُثْمَانَ بْنِ عُمَانَ عَنْ عَلِيِّ بْنِ غَالِبٍ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ ع مِثْلَهُ.

(The book) 'Sawaab Al Amaal' – Majaylawiya, from his uncle, from Al Kufi, from Usman Bin Affan, from Ali Bin Ghalib, from a man, from Abu Abdullah^{-asws}, similar to it.¹⁹⁸

14- ل، الخصال فِيمَا أَوْصَى بِهِ النَّبِيُّ ص عَلِيًّا ع يَا عَلِيُّ كَفَرُ بِاللَّهِ الْعَظِيمِ مِنْ هَذِهِ الْأُمَّةِ عَشْرَةٌ الْقَتْلُ وَ السَّاحِرُ وَ الدُّبُوثُ وَ نَاكِحُ الْمَرْأَةِ حَرَامًا فِي دُبُرِهَا وَ نَاكِحُ الْبَيْهَمَةِ وَ مَنْ نَكَحَ ذَاتَ نَحْرٍ مِنْهُ وَ السَّاعِي فِي الْفِتْنَةِ وَ بَائِعُ السِّلَاحِ مِنْ أَهْلِ الْحَرْبِ وَ مَانِعُ الزَّكَاةِ وَ مَنْ وَجَدَ سَعَةً فَمَاتَ وَ لَمْ يَبْخَعْ.

(The book) 'Al Khisaal' –

Among what the Prophet^{-saww} advised to Ali^{-asws}: 'O Ali^{-asws}! Ten people from this community have disbelieved in Allah^{-azwj} the Magnificent - the murderer, and the sorcerer, and the cuckold, and the one who has marital relations with a woman unlawfully from her rear, the one who has sexual relations with an animal, the one who marries a woman who is forbidden to him by kinship (incest), the one who stirs up sedition (Fitna), the seller of weapons to the

¹⁹⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 10

¹⁹⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 11

¹⁹⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 12

¹⁹⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 13

people of war, the one who withholds Zakat, and the one who has the means but dies without performing the Hajj'.¹⁹⁹

15- مع، معاني الأخبار ن، عيون أخبار الرضا عليه السلام ابن الوليد عن ابن أبان عن الحسين بن سعيد عن الوشاء قال سمعت الرضا ع يقول قال رسول الله ص لعن الله من أحدث حديثاً أو آوى محدثاً

(The book) 'Ma'any Al Akhbar', (and) 'Uyoun Akhbar Al-Reza^{-asws}', may the greeting be upon him^{-asws} – Ibn Al Waleed, from Ibn Aban, from Al-Husayn Bin Saeed, from Al Washa who said,

'I heard Al-Reza^{-asws} saying: 'Rasool-Allah^{-saww} said: 'May Allah^{-azwj} Curse the one who innovates an innovation or shelters an innovator!'

قُلْتُ وَ مَا الْحَدِيثُ

I said, 'And what is the innovation?'

قَالَ مَنْ قَتَلَ.

He^{-saww} said: 'The one who murders'.²⁰⁰

16 ثواب الأعمال أبي عن سعد بن أحمد بن محمد بن الحسين بن سعيد مثله.

(The book) 'Sawab Al Amaal' – My father, from Sa'ad, from Ahmad Bin Muhammad, from Al-Husayn Bin Saeed, similar to it.²⁰¹

17- ن، عيون أخبار الرضا عليه السلام بالأسانيد الثلاثة عن الرضا عن آباءه ع قال قال أمير المؤمنين ع ورثت عن رسول الله ص كتابين - كتاب الله و كتاباً في قراب سيفي

(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: 'Amir Al-Momineen^{-asws} said: 'Two books were inherited from Rasool-Allah^{-azwj} – the Book of Allah^{-azwj} and a book (written parchment) in the sheath of my^{-asws} sword'.

قِيلَ يَا أَمِيرَ الْمُؤْمِنِينَ وَ مَا الْكِتَابُ الَّذِي فِي قِرَابِ سَيْفِكَ

It was said, 'O Amir Al-Momineen^{-asws}, and what is the book (written parchment) which was in the sheath of your^{-asws} sword?'

قَالَ مَنْ قَتَلَ غَيْرَ قَاتِلِهِ أَوْ ضَرَبَ غَيْرَ ضَارِبِهِ فَعَلَيْهِ لَعْنَةُ اللَّهِ.

¹⁹⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 14

²⁰⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 15

²⁰¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 16

He^{-asws} said: 'One who kills other than his killer, or strikes other than his striker, upon him is the Curse of Allah^{-azwj}'.²⁰²

18 صح، صحيفة الرضا عليه السلام عنه ع مثله.

(The book) 'Saheefa Al-Reza^{-asws}' – from him^{-asws}, similar to it.²⁰³

19- ع، علل الشرائع ابن مسرور عن ابن عامر عن مَعْلَى بن مُحَمَّد بن عَبَّاس بن الْعَلَاء عن مُجَاهِد عن أَبِيهِ عن أَبِي عَبْدِ اللَّهِ ع قَالَ: الذُّنُوبُ الَّتِي تُغَيِّرُ التَّعَمُّمَ الْبَغْيُ وَ الذُّنُوبُ الَّتِي تُورِثُ النَّدَمَ الْقَتْلُ وَ الَّتِي تُنْزِلُ النَّعَمَ الظُّلْمُ وَ الَّتِي تَحْتِكُ السُّؤْرَ شُرْبُ الْحَمْرِ وَ الَّتِي تَحْبِسُ الرِّزْقَ الزِّنَا وَ الَّتِي تُعَجِّلُ الْفَنَاءَ قَطِيعَةُ الرَّحِمِ وَ الَّتِي تَرُدُّ الدُّعَاءَ وَ تُظْلِمُ الْهَوَاءَ عُقُوقُ الْوَالِدَيْنِ.

(The book) 'Ilal Al Sharaie' – Ibn Masrour, from Ibn Aamir, from Moalla Bin Muhammad, from Al Abbas Bin Al A'ala, from Mujahid, from his father,

From Abu Abdullah^{-asws} having said: 'The sins which change the bounties, prostitution; and the sins which inherit the regret, the murder; and which bring down the scourge, the injustice; and which violate the veil (of modesty), drinking the wine; and which withhold the sustenance, the adultery; and which hastens the annihilation, cutting the kinship; and which repel the supplication and darken the atmosphere, disloyalty to the parents'.²⁰⁴

20- مع، معاني الأخبار أبي عن سعد بن ابن عيسى عن الحسين بن سعيد عن ابن أبي عمير عن منصور بن يونس عن الشمالي عن علي بن الحسين ع قَالَ قَالَ رَسُولُ اللَّهِ ص لَا يُعْرَضُكُمْ رَحْبُ الذَّرَاعَيْنِ بِاللِّدْمِ فَإِنَّ لَهُ عِنْدَ اللَّهِ قَاتِلًا لَا يَمُوتُ

(The book) 'Ma'any Al Akhbar' – My father, from Sa'ad, from Ibn Isa, from Al-Husayn Bin Saeed, from Ibn Abu Umeyr, from Mansour Bin Yunus, from Al Sumali,

From Ali^{-asws} Bin Al-Husayn^{-asws} having said: 'Rasool-Allah^{-saww} said: 'Do not let the one with arms open to bloodshed deceived you, for in the Presence of Allah^{-azwj} there is a killer for him who will not die!'

قَالُوا يَا رَسُولَ اللَّهِ وَ مَا قَاتِلٌ لَا يَمُوتُ

They said, 'O Rasool-Allah^{-azwj}, and what is a killer who does not die?'

فَقَالَ النَّازِ.

He^{-asws} said: 'The Fire'.²⁰⁵

21- مع، معاني الأخبار أبي عن سعد بن إبراهيم بن مهزيار عن أبيه عن الحسين بن سعيد عن صفوان بن يحيى عن جميل عن أبي عبد الله ع قَالَ سَمِعْتُهُ يَقُولُ لَعَنَ رَسُولُ اللَّهِ ص مَنْ أَحْدَثَ فِي الْمَدِينَةِ حَدَثًا أَوْ آوَى مُخْدِنًا

²⁰² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 17

²⁰³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 18

²⁰⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 19

²⁰⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 20

(The book) 'Ma'any Al Akhbar' – My father, from Sa'ad, from Ibrahim Bin Mahziyar, from his brother, from Al-Husayn Bin Saeed, from Safwan Bin Yahya, from Jameel,

From Abu Abdullah^{-asws}, he (the narrator) said, 'I heard him^{-asws} saying: 'Rasool-Allah^{-sawww} had cursed the one who innovates an innovation in Al-Medina, or shelters an innovator'.

قُلْتُ وَ مَا ذَلِكَ الْحَدِيثُ

I said, 'And what is that innovation?'

قَالَ الْعَتَلُ.

He^{-asws} said: 'The murder'.²⁰⁶

22- مع، معاني الأخبار مُحَمَّدُ بْنُ أَحْمَدَ بْنِ تَمِيمٍ عَنْ مُحَمَّدِ بْنِ إِدْرِيسَ عَنْ إِسْحَاقَ بْنِ إِسْرَائِيلَ عَنْ سَنَيْفِ بْنِ هَارُونَ عَنْ عَمْرِو بْنِ قَيْسٍ عَنْ أُمَيَّةَ بْنِ يَزِيدَ الْقُرَشِيِّ قَالَ قَالَ رَسُولُ اللَّهِ ص مَنْ أَحْدَثَ حَدَثًا أَوْ آوَى مُخْدِنًا فَعَلَيْهِ لَعْنَةُ اللَّهِ وَ الْمَلَائِكَةِ وَ النَّاسِ أَجْمَعِينَ وَ لَا يُقْبَلُ مِنْهُ عَدْلٌ وَ لَا صَرْفٌ يَوْمَ الْقِيَامَةِ

(The book) 'Ma'any Al Akhbar' – Muhammad Bin Ahmad Bin Tameem, from Muhammad Bin Idrees, from Is'haq Bin Israil, from Sayf Bin Haroun, from Amro Bin Qays, from Umayya Bin Yazeed Al Qureyshi who said,

'Rasool-Allah^{-sawww} said: 'One who innovates an innovation or shelters an innovator, upon him is the Curse of Allah^{-azwj} and the Angels and the people altogether, and neither replacement nor exchange will be Accepted from him on the Day of Qiyamah'.

فَقِيلَ يَا رَسُولَ اللَّهِ مَا الْحَدِيثُ

It was said, 'O Rasool-Allah^{-sawww}! What is the innovation?'

قَالَ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ أَوْ مَثَلٍ مِثْلَهُ بِغَيْرِ قَوْدٍ أَوْ ابْتَدَعَ بِدْعَةٍ بِغَيْرِ سُنَّةٍ أَوْ انْتَهَبَ هُبَّةً دَاتٍ شَرَفٍ

He^{-sawww} said: 'One who kills a soul for another soul, or corruption, or mutilates someone without retaliation, or innovates an innovation without a Sunnah, or plunders someone with nobility'.

قَالَ فَقِيلَ مَا الْعَدْلُ يَا رَسُولَ اللَّهِ

He (the narrator) said, 'It was said, 'What is the justice, O Rasool-Allah^{-sawww}?'

قَالَ الْفِدْيَةُ

He^{-sawww} said: 'The ransom (compensation)'.

قَالَ فَقِيلَ مَا الصَّرْفُ يَا رَسُولَ اللَّهِ

²⁰⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 21

It was said, 'What is the restoration, O Rasool-Allah^{-saww}?'

قَالَ التَّوْبَةُ.

He^{-saww} said: 'The repentance'.²⁰⁷

23- مع، معاني الأخبار ابن الوليد عن ابن أبنان عن الحسين بن سعيد عن ابن أبي عمير عن علي بن عتبة عن أبي خالد القمط عن حمران قال: قُلْتُ لِأَبِي جَعْفَرٍ ع قَوْلُ اللَّهِ عَزَّ وَجَلَّ - مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَإِنَّمَا قَتَلَ وَاحِدًا

(The book) 'Ma'any Al Akhbar' – Ibn Al Waleed, from Al-Husayn Bin Saeed, from Ibn Abu Umeyr, from Ali Bin Uqbah, from Abu Khalid Al Qammat, from Humran who said,

'I said to Abu Ja'far^{-asws}, 'The Words of Allah^{-azwj} Mighty and Majestic: **For that reason We Prescribed upon the Children of Israel that the one who kills a soul for other than a soul (in retaliation), or (for) mischief in the earth, then it would be as if he killed the entirety of the people [5:32], and rather he killed one**.'

فَقَالَ يُوضَعُ فِي مَوْضِعٍ مِنْ جَهَنَّمَ إِلَيْهِ مُنْتَهَى شِدَّةِ عَذَابِ أَهْلِهَا لَوْ قَتَلَ النَّاسَ جَمِيعًا كَانَ إِذَا يُدْخَلُ ذَلِكَ الْمَكَانَ وَ لَوْ كَانَ قَتَلَ وَاحِدًا كَانَ إِذَا يُدْخَلُ ذَلِكَ الْمَكَانَ

He^{-asws} said: 'He will be placed in a place in Hell where the severity of its punishment reaches its extreme. Even if he were to kill all people, he would only be admitted to that place; and if he killed only one, he would still be admitted only to that place'.

قُلْتُ فَإِنَّهُ قَتَلَ آخَرَ

I said, 'Supposing he kills another?'

قَالَ يُضَاعَفُ عَلَيْهِ.

He^{-asws} said: 'It will be doubled upon him'.²⁰⁸

24- شي، تفسير العياشي عن حمران مثله و زاد في آخره قُلْتُ فَمَنْ أَحْيَاهَا

Tafseer Al Ayyashi –

From Humran, similar to it, and there is an addition in its end – I (the narrator) said, 'So the one who revives it?'

قَالَ نَجَّاهَا مِنْ عَرَقٍ أَوْ حَرَقٍ أَوْ سَعٍ أَوْ عَدُوٍّ

²⁰⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 22

²⁰⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 23

He^{-asws} said: ‘Saves it from drowning, or burning, or a wild animal, or an enemy’.

ثُمَّ سَكَتَ ثُمَّ اتَّفَقَتْ إِلَيَّ فَقَالَ تَأْوِيلُهَا الْأَعْظَمُ دَعَاهَا فَاسْتَجَابَتْ لَهُ.

Then he^{-asws} was silent. Then he^{-asws} turned towards me. He^{-asws} said: ‘Its interpretation is mightier. He called it (to the truth) and it responded to him’.²⁰⁹

25- ثُو، ثواب الأعمال أَبِي عَنِ الْحَمَيْرِيِّ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ مِثْلَهُ.

(The book) ‘Sawab Al Amaal’ – My father, from Al Himeyri, from Ahmad Bin Muhammad, from Al-Husayn Bin Saeed, similar to it.²¹⁰

26- ثُو، ثواب الأعمال بِالْإِسْنَادِ عَنِ الْحُسَيْنِ عَنْ فَضَالَةَ عَنْ أَبَانَ عَمَّنْ أَخْبَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ ع أَنَّهُ سُئِلَ عَمَّنْ قَتَلَ مُتَعَمِّدًا قَالَ جَزَاؤُهُ جَهَنَّمُ.

(The book) ‘Sawab Al Amaal’ – By the chain, from Al-Husayn, from Fazalat, from Aban, from the one who informed him,

From Abu Abdullah^{-asws}, he^{-asws} was asked about the one who kills (murders) deliberately. He^{-asws} said: ‘His Recompense is Hell’.²¹¹

27- مع، معاني الأخبار بِحَدِّ الْإِسْنَادِ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ عَنْ أَبَانَ عَنْ إِسْحَاقَ بْنِ إِبْرَاهِيمَ الصَّيْقَلِيِّ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ع وَجِدَ فِي ذُوَابَةِ سَيْفِ رَسُولِ اللَّهِ ص صَحِيفَةً فَإِذَا فِيهَا مَكْتُوبٌ بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ إِنَّ أَعْتَى النَّاسِ عَلَى اللَّهِ يَوْمَ الْقِيَامَةِ مَنْ قَتَلَ غَيْرَ قَاتِلِهِ وَ مَنْ ضَرَبَ غَيْرَ ضَارِبِهِ وَ مَنْ تَوَلَّى غَيْرَ مَوْلِيهِ فَهُوَ كَافِرٌ بِمَا أَنْزَلَ اللَّهُ تَعَالَى عَلَى مُحَمَّدٍ ص وَ مَنْ أَخَذَتْ حَدَثًا أَوْ آوَى مُخْدِنًا لَمْ يَقْبَلِ اللَّهُ مِنْهُ يَوْمَ الْقِيَامَةِ صَرْفًا وَ لَا عَدْلًا

(The book) ‘Ma’any Al Akhbar’ – By this chain, from Al-Husayn Bin Saeed, from Fazalah, from Aban, from Is’haq Bin Ibrahim Al Sayqal who said,

‘Abu Abdullah^{-asws} said: ‘A parchment was found in the sheath of a sword of Rasool-Allah^{-saww}. Therein was written – ‘In the Name of Allah^{-azwj} the Beneficent, the Merciful! The most transgressing of the people on the Day of Qiyamah will be the one who kills other than his killer; and one who strikes other than his striker; and one who attributes guardianship to other than his guardian is a disbeliever in what Allah^{-azwj} the Exalted Revealed unto Muhammad^{-saww}; and the one who innovates an innovation, or shelters an innovator, Allah^{-azwj} will neither Accept any exchange from him nor a replacement’.

قَالَ ثُمَّ قَالَ تَدْرِي مَا يَعْنِي بِقَوْلِهِ مَنْ تَوَلَّى غَيْرَ مَوْلِيهِ

He (the narrator) said, ‘Then he^{-asws} said: ‘Do you know what is the meaning of his^{-saww} words: ‘One who attributes guardianship to other than his guardians?’

قُلْتُ مَا يَعْنِي بِهِ

²⁰⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 24

²¹⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 25

²¹¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 26

I said, 'What did he^{-saww} mean by it?'

قَالَ يَعْنِي أَهْلَ الدِّينِ

He^{-asws} said: 'He^{-saww} meant the religious people'.

وَ الصَّرْفُ التَّوْبَةُ فِي قَوْلِ أَبِي جَعْفَرٍ ع وَ الْعَدْلُ الْفِدَاءُ فِي قَوْلِ أَبِي عَبْدِ اللَّهِ ع.

And the 'exchange' (restoration) is the repentance in the words of Abu Ja'far^{-asws}, and the 'replacement' is the ransom (compensation) in the words of Abu Abdullah^{-asws}.²¹²

28- مع، معاني الأخبار بهذا الإسناد عن الحسين بن سعيد عن عثمان بن عيسى عن سماعة قال: سألتُهُ عن قول الله عزَّ و جلَّ- وَ مَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ قَالَ مَنْ قَتَلَ مُؤْمِنًا مُتَعَمِّدًا عَلَى دِينِهِ فَذَاكَ الْمُتَعَمِّدُ الَّذِي قَالَ اللَّهُ عَزَّ وَ جَلَّ فِي كِتَابِهِ- وَ أَعَدَّ لَهُ عَذَابًا عَظِيمًا

(The book) 'Ma'any Al Akhbaar' – By this chain from Al-Husayn Bin Saeed, from Usman Bin Isa, from Sama'at who said,

'I asked him^{-asws} about Words of Allah^{-azwj} Mighty and Majestic: **And whoever kills a Momin intentionally, his Recompense is Hell [4:93]**, he^{-asws} said: 'One who kills a Momin deliberately for his religion, so that is the deliberation which Allah^{-azwj} Mighty and Majestic Said in His^{-azwj} Book: **and would Prepare for him a grievous Punishment [4:93]**'.

فُلْتُ فَالرَّجُلُ يَقَعُ بَيْنَهُ وَ بَيْنَ الرَّجُلِ شَيْءٌ فَيَضْرِبُهُ بِسَيْفِهِ فَيَقْتُلُهُ

I said, 'The man, something occurs between him and a man so he strikes him with his sword and kills him?'

قَالَ لَيْسَ ذَلِكَ الْمُتَعَمِّدُ الَّذِي قَالَ اللَّهُ عَزَّ وَ جَلَّ.

He^{-asws} said: 'That is not the deliberate (killing) which Allah^{-azwj} Mighty and Majestic Said'.²¹³

29 شي، تفسير العياشي عن سماعة مثله.

(The book) 'Tafseer Al Ayyashi' – From Sama'at, similar to it.²¹⁴

30- مع، معاني الأخبار بهذا الإسناد عن الحسين بن حماد بن عيسى عن أبي السَّفَاتِجِ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ- وَ مَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ قَالَ جَزَاؤُهُ جَهَنَّمُ إِنْ جَارَاهُ.

(The book) 'Ma'any Al Akhbar' – By this chain, from Al-Husayn, from Hammad Bin Isa, from Abu Al Saffatij,

²¹² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 27

²¹³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 28

²¹⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 29

From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj} Mighty and Majestic: ***And whoever kills a Momin intentionally, his Recompense is Hell [4:93]***. He^{-asws} said: 'His Recompense is Hell, if He^{-azwj} Recompenses him'.²¹⁵

31- ثواب الأعمال أبي عن أحمد بن إدريس عن عثمان بن عيسى عن عمرو بن خالد عن زيد بن علي عن أبيه عن جده عن علي بن عمار قال: تَحْرِمُ الْجَنَّةَ عَلَى ثَلَاثَةٍ عَلَى الْمَنَانِ وَعَلَى الْقَتْلِ وَعَلَى مُدْمِنِ الْخَمْرِ.

(The book) 'Sawaab Al Amaal' – My father, from Ahmad Bin Idrees, from Usman Bin Isa, from Amro Bin Khalid,

From Zayd son of Ali (Bin Al-Husayn^{-asws}), from his father^{-asws}, from his grandfather^{-asws}, from Ali^{-asws} having said: 'The Paradise is prohibited unto three – to the one who reminds of the favours, and to the murderer, and to the one habitual of the wine'.²¹⁶

32- ثواب الأعمال ابنُ المُتَوَكِّلِ عَنِ الْحَمِيرِيِّ عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مُحَمَّدٍ عَنِ أَبِي وَهَّابٍ عَنِ أَبِي عَبْدِ اللَّهِ ع قَالَ: مَنْ قَتَلَ نَفْسَهُ مُتَعَمِّدًا فَهُوَ فِي نَارِ جَهَنَّمَ خَالِدًا فِيهَا.

(The book) 'Sawab Al Amaal' – Ibn Al Mutawakkil, from Al Himeyri, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Al Wallad,

From Abu Abdullah^{-asws} having said: 'One who kills a soul deliberately, he would be in the Fire of Hell being eternally in it'.²¹⁷

33- ثواب الأعمال أبي عن سعد بن محمد بن الحسين عن صفوان عن ابن محبوب عن الحذاء عن أبي جعفر ع قال قال رسول الله ص ألا لا يُعْجَبَنَّكَ رَحْبُ الدَّرَاعَيْنِ بِالْدمِ فَإِنَّ لَهُ عِنْدَ اللَّهِ قَاتِلًا لَا يَمُوتُ.

(The book) 'Sawab Al Amaal' – My father, from Sa'ad, from Muhammad Bin Al-Husayn, from Safwan, from Ibn Humeyr, from Al Haza'a,

From Abu Ja'far^{-asws} having said: 'Rasool-Allah^{-saww} said: 'Indeed! Do not let the one with arms open to bloodshed deceived you, for in the Presence of Allah^{-azwj} there is a killer for him who will not die!'²¹⁸

34 سن، المحاسن محمد بن علي عن صفوان مثله.

(The book) 'Al Mahasin' – Muhammad Bin Ali, from Safwan, similar to it.²¹⁹

35- ثواب الأعمال أبي عن محمد بن أبي القاسم عن الكوفي عن أبي جميلة عن جابر بن يزيد عن أبي جعفر ع قال: أَوَّلُ مَا يَحْكُمُ اللَّهُ فِيهِ يَوْمَ الْقِيَامَةِ الدِّمَاءُ فَيُوقَفُ ابْنُ آدَمَ فَيَفْصَلُ بَيْنَهُمَا ثُمَّ الَّذِينَ يَلُوكُهُمْ مِنْ أَصْحَابِ الدِّمَاءِ حَتَّى لَا يَبْقَى مِنْهُمْ أَحَدٌ ثُمَّ النَّاسُ بَعْدَ ذَلِكَ

²¹⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 30

²¹⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 31

²¹⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 32

²¹⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 33

²¹⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 34

(The book) 'Sawab Al Amaal' – My father, from Muhammad Bin Abu Al Qasim, from Al Kufi, from Abu Jameela, from Jabir Bin Yazeed,

From Abu Ja'far^{-asws} having said: 'The first of what Allah^{-azwj} will be Judging on the Day of Qiyamah is regarding the bloods (killing), so the two sons of Adam^{-as} will be paused and He^{-azwj} will Decide between them, then those who followed from the shedders of blood until not one of them will remain, then the (rest of the) people after that.

فَيَأْتِي الْمَقْتُولُ قَاتِلَهُ فَيَسْحُبُ دَمَهُ فِي وَجْهِهِ فَيَقُولُ هَذَا قَتَلَنِي فَيَقُولُ أَنْتَ قَتَلْتَهُ فَلَا يَسْتَطِيعُ أَنْ يَكْتُمَ اللَّهَ حَدِيثًا.

The killed one will come to his killer and spurt his blood in his face. He will say, 'This is my killer!' He^{-azwj} will Say, "You killed him?" He will not be able to conceal any narration (word) from Allah^{-azwj}.²²⁰

36 سن، المحاسن محمد بن علي عن أبي جميلة مثله.

(The book) 'Al Mahasin' – Muhammad Bin Ali, from Abu Jameela, similar to it.²²¹

37- نو، ثواب الأعمال ابن المنيك عن محمد بن يحيى - عن أحمد بن محمد عن الأهوازي عن ابن أبي نجران و محمد بن سنان عن أبي الجارود عن محمد بن علي ع قال: ما من نفس تُقتل برةً ولا فاجرةً إلا وهي تُحشَرُ يومَ القيامةِ مُتعلِّقاً بِقَاتِلِهِ بِيَدِهِ اليمنى و رأسُهُ بِيَدِهِ اليسرى و أوداجُهُ تُسْحَبُ دَمًا

(The book) 'Sawab Al Amaal' – Ibn Al Mutawakkil, from Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Ahwazy, from Ibn Abu Najran and Muhammad Bin Sinan, from Abu Al Jaroud,

From Muhammad^{-asws} Bin Ali^{-asws} having said: 'There is none from a soul who had been killed, whether it was righteous or immoral except and it will be Resurrected on the Day of Qiyamah attached with its killer by his right hand and his head would be in his left hand, and his sides will be spurting blood.

يَقُولُ يَا رَبِّ سَلْ هَذَا فِيمَ قَتَلَنِي

He would say, 'O Lord^{-azwj}! Ask this one, due to what did he kill me?'

فَإِنْ كَانَ قَتَلَهُ فِي طَاعَةِ اللَّهِ عَزَّ وَ جَلَّ أُتِيَ الْجَنَّةَ وَ دُهِبَ بِالْمَقْتُولِ إِلَى النَّارِ وَ إِنْ قَالَ فِي طَاعَةِ فَلَانٍ قِيلَ لَهُ أَقْتَلَهُ كَمَا قَتَلْتَ ثُمَّ يَفْعَلُ اللَّهُ فِيهِمَا بَعْدَ مَشِيئَتِهِ.

If he had killed him in obedience to Allah^{-azwj} Mighty and Majestic, the killer would be Rewarded the Paradise and they will go with the killed one to the Fire; and if he says, 'It was in obedience to so and so', it will be said to him, 'Kill him just as he had killed you'. Then Allah^{-azwj} will Deal with them afterwards with His^{-azwj} Desire'.²²²

²²⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 35

²²¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 36

²²² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 37

38- ثواب الأعمال ماجيلويه عن عمه عن أحمد بن محمد بن الأهوارزي عن ابن أبي عمير عن سعيد الأزرق عن أبي عبد الله ع في رجل قتل رجلاً مؤمناً قال يُقال له مُت أي ميتة شئت إن شئت يهودياً و إن شئت نصرانياً و إن شئت مجوسياً.

(The book) 'Sawab Al Amaal' – Majaylawiya, from his uncle, from Ahmad Bin Muhammad, from Al Ahwazy, from Ibn Abu Umeyr, from Saeed Al Azraq,

'From Abu Abdullah^{-asws} regarding a man who kills a Momin man. He^{-asws} said: 'It will be said to him, 'Die whichever death you like to! If you like, as a Jew, or if you like as a Christian, and if you like as a Magian!'²²³

39- ثواب الأعمال ابن مسرور عن ابن عامر عن عمه عن ابن أبي عمير عن حماد عن الحلبي عن أبي عبد الله ع قال قال رسول الله ص إن أعنى الناس على الله عز وجل من قتل غير قاتله و من ضرب من لم يضربه.

(The book) 'Sawab Al Amaal' – Ibn Masrou, from Ibn Aamir, from his uncle, from Ibn Abu Umeyr, from Hammad, from Al Halby,

From Abu Abdullah^{-asws} having said: 'Rasool-Allah^{-saww} said: 'The most transgressing of the people to Allah^{-azwj} Mighty and Majestic is the one who kills other than his killer, and one who strikes the one who did not strike him'.²²⁴

40- ثواب الأعمال أبي عن سعد بن أحمد بن محمد بن علي بن الحكيم عن هشام عن سليمان بن خالد قال سمعت أبا عبد الله ع يقول أوحى الله عز وجل إلى موسى بن عمران ع أن يا موسى قل للملأ من بني إسرائيل إياكم و قتل النفس الحرام بغير حق فإن من قتل منكم نفساً في الدنيا قتلته في النار مائة ألف قتلة مثل قتله صاحبه.

(The book) 'Sawab Al Amaal' – My father, from Sa'ad, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Hisham, from Suleyman Bin Khalid who said,

'I head Abu Abdullah^{-asws} saying: 'Allah^{-azwj} Mighty and Majestic Revealed to Musa Bin Imran^{-as}: "O Musa^{-as}! Say to the assembly of the children of Israel: 'Beware of killing the soul unlawfully without right, for the one from you who kills a soul in the world will be killed in the Hellfire one hundred thousand killings, similar to the killing of his companion!'²²⁵

41 سن، المحاسن في رواية سليمان بن خالد مثله.

(The book) 'Al Mahasin' – In a report by Suleyman Bin Khalid, similar to it.²²⁶

42- ثواب الأعمال أبي عن محمد بن أبي القاسم عن الكوفي عن محمد بن أسلم عن عبد الرحمن بن أسلم عن أبيه قال قال أبو جعفر ع من قتل مؤمناً متعمداً أثبت الله عز وجل على قاتله جميع الذنوب و برئ الممئول منها و ذلك قول الله عز وجل - إني أريد أن تبوء بإثمي و إثمك فتكون من أصحاب النار.

²²³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 38

²²⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 39

²²⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 40

²²⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 41

(The book) 'Sawab Al Amaal' – My father, from Muhammad Bin Abu Al Qasim, from Al Kufi, from Muhammad Bin Aslam, from Abdul Rahman Bin Aslam, from his father who said,

'Abu Ja'far^{-asws} said: 'One who kills a Momin deliberately, Allah^{-azwj} Mighty and Majestic will Affirm entirety of the sins upon his killer and Disavow the killed one from these, and that is the Word of Allah^{-azwj} Mighty and Majestic: ***I want that you should occupy with my sin (of killing me) and your sin, so you would happen to be from the inmates of the Fire [5:29]***'.²²⁷

43 سن، المحاسن مُحَمَّدُ بْنُ عَلِيٍّ عَنْ مُحَمَّدِ بْنِ أَسْلَمٍ مِثْلَهُ.

(The book) 'Al Mahasin' – Muhammad Bin Ali, from Muhammad Bin Aslam, similar to it.²²⁸

44- ثواب الأعمال ابنُ مَسْرُورٍ عَنِ ابْنِ عَامِرٍ عَنْ عَمِّهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَفْصِ بْنِ الْبَحْرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: إِنَّ امْرَأَةً عُدَّتْ فِي هِرَّةٍ رَبَطَتْهَا حَتَّى مَاتَتْ عَطَشًا.

(The book) 'Sawab Al Amaal' – Ibn Masrour, from Ibn Aamir, from his uncle, from Ibn Abu Umeyr, from Hafs Al Bakhtari,

From Abu Abdullah^{-asws} having said: 'A woman was punished regarding a cat she had tied up until it died of thirst'.²²⁹

45- ضا، فقه الرضا عليه السلام وَ أَمَّا كَهْرَةُ الدَّمِ فَعَلَى مَنْ قَتَلَ مُؤْمِنًا مُتَعَدِّدًا أَنْ يُقَادَ بِهِ فَإِنْ عَفَا عَنْهُ وَ قُبِلَتْ مِنْهُ الدِّيَّةُ فَعَلَيْهِ التَّوْبَةُ وَ الْإِسْتِغْفَارُ وَ مَنْ قَتَلَ مُؤْمِنًا خَطَأً فَعَلَيْهِ عَشْرُ رَقَبَةٍ مُؤْمِنَةٍ أَوْ صَوْمُ شَهْرَيْنِ مُتَتَابِعَيْنِ أَوْ إِطْعَامُ سِتِّينَ مَسْكِينًا وَ دِيَّةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ فَإِنْ لَمْ يَكُنْ لَهُ مَالٌ أُخِذَ مِنْ عَاقِلَتِهِ.

(The book) 'Fiqh Al-Reza^{-asws}', may the greeting be upon him^{-asws} – 'And as for expiation of the blood, it is upon the one who kills a Momin deliberately if he is retaliated with. If he is pardoned from it and the wergild is accepted from him. Upon him is the repentance and seeking the Forgiveness, and the one who kills a Momin accidentally, upon him is to free a Momin slave, or fasting two months consecutively, or feeding sixty needy ones, and wergild of a Muslim to his family. If there does not happen to be any wealth it would be taken from his relatives'.²³⁰

46- شي، تفسير العياشي عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: لَا يَزَالُ الْمُؤْمِنُ فِي فُسْحَةٍ مِنْ دِينِهِ مَا لَمْ يُصِبْ دَمًا حَرَامًا

Tafseer Al Ayyashi – From Hisham Bin Salim,

From Abu Abdullah^{-asws} having said: 'The Momin does not cease to be in leeway from his religion for as long as he does not shed prohibited blood'.

وَ قَالَ لَا يُؤَفَّقُ قَاتِلُ الْمُؤْمِنِ مُتَعَدِّدًا لِلتَّوْبَةِ.

²²⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 42

²²⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 43

²²⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 44

²³⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 45

And he^{-asws} said: 'A killer of a Momin deliberately will not be successful for the repentance'.²³¹

47- شي، تفسير العياشي عن ابن سنان عن أبي عبد الله ع قال: سئل عن المؤمن يقتل المؤمن متعمداً له توبة

Tafseer Al Ayyashi – From Ibn Sinan,

From Abu Abdullah^{-asws}, he (the narrator) said, 'He^{-asws} was asked about the Momin killing the Momin deliberately, 'Is there repentance for him?'

قَالَ إِنْ كَانَ قَتَلَهُ لِإِيمَانِهِ فَلَا تَوْبَةَ لَهُ وَإِنْ كَانَ قَتَلَهُ لِعَضَبٍ أَوْ لِسَبَبٍ شَيْءٍ مِنْ أَمْرِ الدُّنْيَا فَإِنَّ تَوْبَتَهُ أَنْ يُعَادَ مِنْهُ

He^{-asws} said: 'If he had killed him for his Eman, there is no repentance for him, and if he had killed him due to anger or for a reason of something from the matters of the world, his repentance is that he would be retaliated from.

وَ إِنْ لَمْ يَكُنْ عَلِمَ بِهِ أَحَدٌ انْطَلَقَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ فَأَقَرَّ عَنْهُمْ بِقَتْلِ صَاحِبِهِمْ فَإِنْ عَفَوْا عَنْهُ فَلَمْ يَقْتُلُوهُ أَعْطَاهُمُ الدِّيَةَ وَ اعْتَقَ نَسَمَةً وَ صَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ أَطْعَمَ سِتِّينَ مِسْكِيناً تَوْبَةً إِلَى اللَّهِ.

And if no one had knowledge of it, he should go to guardians of the killed one, acknowledge in their presence the killing of their companions. If they pardon him so they don't kill him, he should give them the wergild, and free a person, and fast two months consecutively, and feed sixty needy ones as repentance to Allah^{-azwj}.²³²

48- شي، تفسير العياشي عن علي بن جعفر عن أخيه موسى ع قال: سألته عن رجل قتل مملوكه قال عليه عتق رقبة و صوم شهرين متتابعين و إطعام ستين مسكيناً ثم تكون التوبة بعد ذلك.

Tafseer Al Ayyashi –

From Ali son of Ja'far^{-asws}, from his brother Musa^{-asws}, he said, 'I asked him^{-asws} about a man who kills his slave. He^{-asws} said: 'Upon him is to free a neck, and fast two months consecutively, and feed sixty needy ones, then the repentance would be after that'.²³³

49- شي، تفسير العياشي عن ابن أبي عمير عن بعض أصحابنا عن أبي عبد الله ع في رجل مسلم كان في أرض الشرك فقتله المسلمون ثم علم به الإمام بعد قال يعتق مكانه رقبة مؤمنة و ذلك في قول الله - فَإِنْ كَانَ مِنْ قَوْمٍ عَدُوِّكُمْ وَ هُوَ مُؤْمِنٌ فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ.

Tafseer Al Ayyashi – From Ibn Abu Umeyr, from one of our companions,

From Abu Abdullah^{-asws} regarding a Muslim who was in the land of Polytheists and the Muslims kill him. Then the Imam comes to know of it afterwards. He^{-asws} said: 'A Momin neck should be liberated in his place, and that is in the Words of Allah^{-azwj}: **But if he was from a people inimical to you, and he is a Momin, so he should free a Momin slave [4:92]**'.²³⁴

²³¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 46

²³² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 47

²³³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 48

²³⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 49

50- شي، تفسير العياشي عَنِ الزُّهْرِيِّ عَنِ عَلِيِّ بْنِ الْحُسَيْنِ ع قَالَ: صِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ مَنْ قَتَلَ خَطَأً لِمَنْ لَمْ يَجِدِ الْعَتَقَ وَاجِبٌ قَالَ اللَّهُ وَ مَنْ قَتَلَ مُؤْمِنًا خَطَأً فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَ دِيَةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ... فَمَنْ لَمْ يَجِدْ فَصِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ.

Tafseer Al Ayyashi – From Al Zuhry,

From Ali^{-asws} Bin Al-Husayn^{-asws} having said: ‘Fasting two months consecutively is for the one who kills accidentally, for the one who cannot find the obligatory liberation (of a slave). Allah^{-azwj} Says: **and the one who kills a Momin in error, so he should free a Momin slave and give wergild of a Muslim to his family** – up to His^{-azwj} Words - **And the one who cannot find (the means), should Fast two months consecutively [4:92]**.²³⁵

51 شي، تفسير العياشي عَنِ الْمُفَضَّلِ بْنِ عُمَرَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ع يَقُولُ صَوْمُ شَعْبَانَ وَ صَوْمُ شَهْرِ رَمَضَانَ مُتَتَابِعَيْنِ تَوْبَةٌ مِنَ اللَّهِ.

Tafseer Al Ayyashi – From Al Mufazzal Bin Umar who said,

‘I heard Abu Abdullah^{-asws} saying: ‘Fasting Shaban and fasting month of Ramazan consecutively is a repentance from Allah^{-azwj}’.²³⁶

52 وَ فِي رِوَايَةِ إِسْمَاعِيلَ بْنِ عَبْدِ الْخَالِقِ عَنْهُ تَوْبَةٌ مِنَ اللَّهِ وَ اللَّهُ مِنَ الْقَتْلِ وَ الظَّهَارِ وَ الْكَفَّارَةِ.

And in a report of Ismail Bin Abdul Khaliq,

From him^{-asws}: ‘A repentance from Allah^{-azwj}, by Allah^{-azwj}, from the killing and ‘Al-Zihaar’, and the expiation’.²³⁷

53 وَ فِي رِوَايَةِ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْهُ صَوْمُ شَعْبَانَ وَ شَهْرِ رَمَضَانَ تَوْبَةٌ مِنَ اللَّهِ.

And in a report by Abu Al Sabbah Al Kinani,

From him^{-asws}: ‘Fasting Shaban and month of Ramazan, by Allah^{-azwj} it is a repentance from Allah^{-azwj}’.²³⁸

54 شي، تفسير العياشي عَنِ سَمَاعَةَ قَالَ: قُلْتُ لَهُ قَوْلُ اللَّهِ تَبَارَكَ وَ تَعَالَى - وَ مَنْ يَفْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَرَاؤُهُ جَهَنَّمَ خَالِدًا فِيهَا وَ غَضِبَ اللَّهُ عَلَيْهِ وَ لَعَنَهُ

Tafseer Al Ayyashi – From Sama’at who said,

‘I said to him^{-asws}, ‘The Words of Allah^{-azwj} Blessed and Exalted: **And whoever kills a Momin intentionally, his Recompense is Hell, being eternally in it, and Allah would be Wrathful upon him and Curse him [4:93]**.

²³⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 50

²³⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 51

²³⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 52

²³⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 53

قَالَ الْمُتَعَمِّدُ الَّذِي يَقْتُلُهُ عَلَى دِينِهِ فَذَلِكَ التَّعَمُّدُ الَّذِي ذَكَرَ اللَّهُ

He^{-asws} said: 'The deliberate is the one who kills him upon his religion, so that is the deliberation which Allah^{-azwj} has Mentioned'.

قَالَ قُلْتُ فَرَجُلٌ جَاءَ إِلَى رَجُلٍ فَضَرَبَهُ بِسَيْفِهِ حَتَّى قَتَلَهُ لِعَضَبٍ - لَا لِعَيْبٍ عَلَى دِينِهِ قَتَلَهُ وَ هُوَ يَقُولُ يَقُولِهِ

He (the narrator) said, 'I said, 'A man comes to a man and strikes him with his sword until he kills him out of anger, not having killed him for a fault upon his religion, and he says with his words'.

قَالَ لَيْسَ هَذَا الَّذِي ذُكِرَ فِي الْكِتَابِ وَ لَكِنْ يُقَادُ بِهِ وَالذَّيْءُ إِنْ قُبِلَتْ

He^{-asws} said: 'This one isn't the one whom Allah^{-azwj} has Mentioned in the Book, but he will be retaliated for his parents, if accepted'.

قُلْتُ فَلَهُ تَوْبَةٌ

I said, 'Is there any repentance for him?'

قَالَ نَعَمْ يُعْتِقُ رَقَبَةً وَ يَصُومُ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ يُطْعِمُ سِتِّينَ مِسْكِينًا وَ يَتُوبُ وَ يَتَضَرَّعُ فَأَرْجُو أَنْ يُتَابَ عَلَيْهِ.

He^{-asws} said: 'Yes. He should liberate a neck, and fast two months consecutively, and feed sixty needy ones, and he should repent and beseech, so it is hoped that He^{-azwj} will Turn (Mercifully) to him'.²³⁹

55 شي، تفسير العياشي عن سماعة بن مهران عن أبي عبد الله ع أو أبي الحسن ع قال: سألت أحدهما عن من قتل مؤمناً هل له توبة

Tafseer Al Ayyashi – From Sama'at Bin Mihran,

From Abu Abdullah^{-asws} or Abu Al-Hassan^{-asws}, he (the narrator) said, 'I asked one of the two (5th or 6th Imam^{-asws}) about the one who kills a Momin, 'Is there any repentance for him?'

قَالَ لَا حَتَّى يُؤَدِّيَ دِينَهُ إِلَى أَهْلِهِ وَ يُعْتِقَ رَقَبَةً مُؤْمِنَةً وَ يَصُومَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ يَسْتَغْفِرَ رَبَّهُ وَ يَتَضَرَّعَ إِلَيْهِ فَأَرْجُو أَنْ يُتَابَ عَلَيْهِ إِذَا هُوَ فَعَلَ ذَلِكَ

He^{-asws} said: 'No, until he pays his wergild to his family, and frees a Momin neck, and fasts two months consecutively, and seeks Forgiveness of his Lord^{-azwj} and beseeches to Him^{-azwj}, so it is hoped that He^{-azwj} would Turn (Mercifully) to him, when he has done that'.

قُلْتُ إِنْ لَمْ يَكُنْ لَهُ مَا يُؤَدِّي دِينَهُ

I said, 'Supposing there does not happen to be for him what he can pay his wergild?'

²³⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 54

قَالَ يَسْأَلُ الْمُسْلِمِينَ حَتَّى يُؤَدِّيَ دَيْنَهُ إِلَى أَهْلِهِ.

He^{-asws} said: 'He should ask (borrow from) the Muslims until he can pay off his wergild to his family'.²⁴⁰

56 شي، تفسير العياشي عَنْ حَنَانِ بْنِ سَدِيدٍ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِ اللَّهِ مَنْ قَتَلَ نَفْسًا... فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا

Tafseer Al Ayyashi – From Hanan Bin Sadeyr,

From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj}: **'the one who kills a soul for other than a soul (in retaliation), or (for) mischief in the earth, then it would be as if he killed the entirety of the people [5:32].**

قَالَ وَادٍ فِي جَهَنَّمَ لَوْ قَتَلَ النَّاسَ جَمِيعًا كَانَ فِيهِ وَ لَوْ قَتَلَ نَفْسًا وَاحِدَةً كَانَ فِيهِ.

He^{-asws} said: 'There is a valley in Hell. If he kills all the people, he would be in it, and even if he kills one soul he would be in it'.²⁴¹

57 شي، تفسير العياشي عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ: سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ... فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا

Tafseer Al Ayyashi – From Muhammad Bin Muslim,

From Abu Ja'far^{-asws}, he (the narrator) said, 'I asked him^{-asws} about Words of Allah^{-azwj}: **the one who kills a soul for other than a soul (in retaliation), or (for) mischief in the earth, then it would be as if he killed the entirety of the people [5:32].**

فَقَالَ لَهُ فِي النَّارِ مَفْعَدٌ لَوْ قَتَلَ النَّاسَ جَمِيعًا لَمْ يُزِدْ عَلَى ذَلِكَ الْعَذَابِ

He^{-asws} said: 'For him is a seat in the Fire. Even if he kills all the people, the punishment will not be increased upon that'.

قَالَ وَ مَنْ أَحْيَاها فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا لَمْ يَقْتُلْها أَوْ أَنْجَى مِنْ غَرَقٍ أَوْ حَرَقٍ أَوْ أَعْظَمَ مِنْ ذَلِكَ كُلِّهِ يُخْرِجُها مِنْ ضَلَالَةٍ إِلَى هُدًى.

He^{-asws} Said: **and the one who revives it (a person), so it would be as if he has revived the entirety of the people [5:32]** (means) he did not kill it or saved it from drowning or burning or mightier than all of that. He extracted him from straying to guidance'.²⁴²

58 شي، تفسير العياشي عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرٍ رَفَعَهُ إِلَى الشَّيْخِ فِي قَوْلِهِ خَلَطُوا عَمَلًا صَالِحًا وَ آخَرَ سَيِّئًا قَالَ قَوْمٌ اجْتَرَحُوا ذُنُوبًا مِثْلَ قَتْلِ حَمْرَةَ وَ جَعْفَرِ الطَّيَّارِ ثُمَّ تَابُوا

Tafseer Al Ayyashi –

²⁴⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 55

²⁴¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 56

²⁴² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 57

From Ahmad Bin Muhammad Bin Abu Nasr raising it to the sheikh, regarding His^{-azwj} Words: ***And others are acknowledging their sins, mingling one righteous deed and another evil one [9:102].*** He said, 'A people who had perpetrated sins like killing Hamza^{-asws} and Ja'far Al-Tayyar^{-asws}, then they repented.

ثُمَّ قَالَ وَ مَنْ قَتَلَ مُؤْمِنًا لَمْ يُوفَّقِ لِلتَّوْبَةِ إِلَّا أَنْ اللَّهَ لَا يَقْطَعُ طَمَعِ الْعِبَادِ فِيهِ وَ رَجَاهُمْ مِنْهُ

Then he said, 'And the one who kills a Momin will not have success of the repentance except that Allah^{-azwj} does not Cut off the hopes of the servants in Him^{-azwj} and their expectations from Him^{-azwj}'.

وَ قَالَ هُوَ أَوْ غَيْرُهُ إِنْ عَسَى مِنَ اللَّهِ وَاجِبٌ.

And he said, 'It or something else, 'Perhaps' from Allah^{-azwj} is an Obligation'.²⁴³

59 ين، كتاب حسين بن سعيد و النوادر فضالة و القاسم بن محمد عن أبان عن إسماعيل الجعفي عن أبي جعفر ع قال: قُلْتُ لَهُ الرَّجُلُ يَقْتُلُ الرَّجُلَ مُتَعَدِّدًا

The book of Haseen Bin Saeed, and 'Al Nawadir' – Fazalah and Al Qasim Bin Muhammad, from Aban, from Ismail Al Jufy,

From Abu Ja'far^{-asws}, he (the narrator) said, 'I said to him^{-asws}, 'The man kills the man deliberately'.

فَقَالَ عَلَيْهِ ثَلَاثُ كَفَّارَاتٍ عُنُقُ رَقَبَةٍ وَ صَوْمُ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ إِطْعَامُ سِتِّينَ مَسْكِينًا

He^{-asws} said: 'Upon him are three expiation penalties – liberation of a neck, and fasting two months consecutively, and feeding sixty needy ones'.

وَ قَالَ أَقْبَى عَلَيَّ بِنُ الْحُسَيْنِ بِمِثْلِهِ.

And he^{-asws} said: 'Ali Bin Al-Husayn^{-asws} had issued a verdict similar to it'.²⁴⁴

60 ين، كتاب حسين بن سعيد و النوادر عن أبي جعفر ع قال: قُلْتُ لَهُ الرَّجُلُ يَقْتُلُ الرَّجُلَ فِي شَهْرٍ حَرَامٍ صَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ مِنْ أَشْهُرِ الْحَرَمِ

(The book) 'Haseen Bin Saeed' and 'Al Nawadir' – From him, from Aban Bin Usman, from Zurara and Al-Husayn Bin Saeed, from Ahmad Bin Abdullah, from Aban, from Zurara who said,

'I heard Abu Ja'far^{-asws} saying: 'When the man kills during a sacred month, he has to fast two months consecutively from the sacred months'.

²⁴³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 58

²⁴⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 59

فَتَبَسَّمْتُ وَ قُلْتُ لَهُ يَدْخُلُ هَاهُنَا شَيْءٌ

I smiled and said to him^{-asws}, 'Over here something is included'.

قَالَ مَا يَدْخُلُهُ

He^{-asws} said: 'What is included?'

قُلْتُ الْعِيدُ وَالْأَضْحَى وَأَيَّامُ التَّشْرِيقِ

I said, 'Eid Al-Azha and the days of Al-Tashreeq'.

قَالَ هَذَا حَقٌّ لَرَمَهُ فَلْيَصُمْهُ

He^{-asws} said: 'It is a right necessitating him, so let him fast it!'

قَالَ أَحْمَدُ بْنُ عَبْدِ اللَّهِ فِي حَدِيثِهِ يُغْتَبَى أَوْ يَصُومُ.

Ahmad Bin Abdullah (the narrator) said in his Hadeeth: 'He should liberate a slave or fast'.²⁴⁵

61 ين، كتاب حسين بن سعيد و النوادر ابن أبي عمير عن حماد بن عثمان عن الحلبي عن أبي عبد الله ع في قول الله فتحرير رقيقة مؤمنة قال يعني مؤمنة.

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

From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj}: **so he should free a Momin slave [4:92]**.
He^{-asws} said: 'Meaning, admitting it'.²⁴⁶

62 ين، كتاب حسين بن سعيد و النوادر عنه عن أبي عبد الله ع لا يجزي في القتل إلا رجلٌ و يجزي في الظهار و كفارة اليمين صبي.

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

From Abu Abdullah^{-asws}: 'Nothing suffices (for expiation) regarding the murder except a man, and a child would suffice regarding the *Zihaar* and expiation of an oath'.²⁴⁷

63 ين، كتاب حسين بن سعيد و النوادر عن سماعة بن مهران قال: سأله عن قتل مؤمناً متعمداً هل له توبة

The book of Haseen Bin Saeed, and 'Al Nawadir' – From Sama'at Bin Mihran who said,

'I asked him^{-asws} about the one who kills a Momin deliberately, 'Is there repentance for him?'

²⁴⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 60

²⁴⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 61

²⁴⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 62

فَقَالَ لَا حَتَّى يُؤَدِّيَ دِينَهُ إِلَى أَهْلِهِ وَ يُعْتِقَ رَقَبَةً وَ يَصُومَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ يَسْتَغْفِرَ اللَّهَ وَ يَتُوبَ إِلَيْهِ وَ يَتَضَرَّعَ فَإِنِّي أَرْجُو أَنْ يُتَابَ عَلَيْهِ إِذَا فَعَلَ ذَلِكَ

He^{-asws} said: ‘No, until he pays his wergild to his family, and liberates a neck, and fasts two months consecutively, and seeks Forgiveness of Allah^{-azwj} and repents to Him^{-azwj} and beseeches, for I^{-asws} hope that He^{-azwj} would Turn to him (Mercifully) when he does that’.

فُلْتُ فَإِن لَمْ يَكُنْ لَهُ مَالٌ يُؤَدِّي دِينَهُ

I said, ‘Supposing there does not happen to be any wealth for him?’

قَالَ يَسْأَلُ الْمُسْلِمِينَ حَتَّى يُؤَدِّيَ إِلَى أَهْلِهِ.

He^{-asws} said: ‘He should ask (borrow from) the Muslims until he pays it to his family’.²⁴⁸

64 ين، كتاب حسين بن سعيد و النوادر عن عبد الله بن سنان عن أبي عبد الله ع أنه سئل رجل مؤمن قتل مؤمناً و هو يعلم أنه مؤمن غير أنه حمله الغضب على أن قتله هل له توبة إن أراد ذلك أو لا توبة له

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – From Abdullah Bin Sinan,

From Abu Abdullah^{-asws}, he^{-asws} was asked, ‘A Momin man kills a Momin while he knows that he is a Momin, other than the fact that it was anger which carried him upon killing him. Is there repentance for him if he intended that or there is no repentance for him?’

فَقَالَ يُقَادُ بِهِ وَ إِنْ لَمْ يُعْلَمْ بِهِ انْطَلَقَ إِلَى أَوْلِيَائِهِ فَأَعْلَمَهُمْ أَنَّهُ قَتَلَهُ فَإِنْ عَمَّا عَنْهُ أَعْطَاهُمُ الدِّيَةَ وَ أَعْتَقَ رَقَبَةً وَ صَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ تَصَدَّقَ عَلَى سِتِّينَ مِسْكِينًا.

He^{-asws} said: ‘He would be retaliated with, and if it was not known, he should go to his guardians and let them know that he had killed him. If they pardon him from it, he should give them the wergild, and liberate a neck, and fast two months consecutively, and donate upon sixty needy ones’.²⁴⁹

65 ين، كتاب حسين بن سعيد و النوادر عن الحلبي عن أبي عبد الله ع أنه قال في رجل قتل مملوكه قال يُعْجِبُنِي أَنْ يُعْتِقَ رَقَبَةً وَ يَصُومَ شَهْرَيْنِ مُتَتَابِعَيْنِ وَ يُطْعَمَ سِتِّينَ مِسْكِينًا ثُمَّ يَكُونُ التَّوْبَةُ بَعْدَ ذَلِكَ.

The book of Haseen Bin Saeed, and ‘Al Nawadir’ – from Al Halby,

From Abu Abdullah^{-asws}, he^{-asws} said regarding a man killing his slave. He^{-asws} said: ‘I^{-asws} would like it if he frees a neck, and fasts two months consecutively, and feeds sixty needy ones, then the repentance could be (Accepted) after that’.²⁵⁰

²⁴⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 63

²⁴⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 64

²⁵⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 65

66 ختص، الإختصاص قَالَ الصَّادِقُ ع أَوْحَى اللَّهُ إِلَى مُوسَى بْنِ عِمْرَانَ ع قُلْ لِلْمَلَآئِكَةِ مِنْ بَنِي إِسْرَائِيلَ إِنِّي أَكْتُمُ وَ قَتَلَ النَّفْسِ الْحَرَامِ بَعِيرٍ حَقِّ قَاتِلٍ مَنْ قَتَلَ مِنْكُمْ نَفْسًا فِي الدُّنْيَا قَتَلْتُهُ فِي النَّارِ مِائَةَ أَلْفِ قَتْلَةٍ مِثْلَ قَتْلِهِ صَاحِبِهِ.

(The book) 'Al Ikhtisas' –

Al-Sadiq^{asws} said: 'Allah^{azwj} Revealed to Musa^{as} Bin Imran^{as}: "Say to the assembly of the children of Israel: 'Beware of killing the soul unlawfully without right, for the one from you who kills a soul in the world, would be killed in the Fire one hundred thousand killings similar to his killing his companion'.²⁵¹

67 نَحَى الْبَلَاغَةَ، فِي عَهْدِهِ ع لِأَشْتَرِ إِيَّاكَ وَ الدِّمَاءِ وَ سَفْكَهَا بَعِيرٍ حَلَّهَا فَإِنَّهُ لَيْسَ شَيْءٌ أَدْعَى لِنِقْمَةٍ وَ لَا أُعْظَمَ لَتَبِعَةٍ وَ لَا أُجْرَى بِرِوَالِ نِعْمَةٍ وَ انْقِطَاعِ مُدَّةٍ مِنْ سَفْكِ الدِّمَاءِ بَعِيرٍ حَقِّهَا وَ اللَّهُ سُبْحَانَهُ مُبْتَدِئٌ بِالْحُكْمِ بَيْنَ الْعِبَادِ فِيمَا تَسَافَكُوا مِنَ الدِّمَاءِ يَوْمَ الْقِيَامَةِ

(The book) 'Nahj Al Balagah' –

In his (Amir Al-Momineen^{asws}) pact to Al-Ashtar: 'Beware of the blood and shedding it without its Permissibility, for there isn't anything calling to a Punishment, nor greater in evil consequence, nor more effective in declining the bounties, and termination the term (life), than shedding the blood without its right, and Allah^{azwj} the Glorious will Begin with the Judgment on the Day of Qiyamah between the servants regarding what bloods they had shed.

فَلَا تُقَوِّضَنَّ سُلْطَانَكَ بِسَفْكِ دِمٍ حَرَامٍ فَإِنَّ ذَلِكَ جَمًّا يُضْعِفُهُ وَ يُوهِنُهُ بَلْ يُرِيْلُهُ وَ يَنْفُلُهُ وَ لَا عُذْرَ لَكَ عِنْدَ اللَّهِ وَ لَا عِنْدِي فِي قَتْلِ الْعَمْدِ لِأَنَّ فِيهِ قَوَدَ الْبَدَنِ

Therefore, do not strengthen your authority by shedding the forbidden blood, for that is from what would weaken it and enfeeble it. But it would decline it and overturn it, and there would be no excuse for you in the Presence of Allah^{azwj} nor in my^{asws} presence regarding the deliberate killing, because regarding it would be the physical retaliation.

وَ إِنْ ابْتُلِيَتْ بِحُطَاءٍ وَ أَفْرَطَ عَلَيْكَ سَوْطُكَ أَوْ يَدُكَ بِعُتُوبَةٍ فَإِنَّ فِي الْوَكْزَةِ فَمَا فَوْقَهَا مَقْتَلُهُ فَلَا تَطْمَحَنَّ بِكَ حُوءُ سُلْطَانِكَ عَنْ أَنْ تُؤَدِّيَ إِلَى أَوْلِيَاءِ الْمُقْتُولِ حَقَّهُمْ.

And if you were involved by error and there was excessiveness by you with your whip and your hand in punishing, for in the (slight) poke and what is above it would be a killing, so do not let the haughtiness of your authority aspire you, preventing you from paying to the guardians of the killed one, their rights'.²⁵²

68 مَجَالِسُ الشَّيْخِ، عَنِ الْحُسَيْنِ بْنِ إِسْمَاعِيلَ عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ صَالِحِ بْنِ الْحُسَيْنِ بْنِ التَّوْفَلِيِّ عَنِ أَبِيهِ عَنِ أَبِي الْهَيْبَمِ النَّهْدِيِّ عَنِ أَحْمَدَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَبْدِ رَبِّهِ عَنِ إِسْمَاعِيلَ بْنِ عَبْدِ الْحَقَّالِيِّ قَالَ: كُنْتُ عِنْدَ أَبِي عَبْدِ اللَّهِ ع فَجَزَى ذِكْرَ صَوْمِ شُعْبَانَ فَقَالَ أَبُو عَبْدِ اللَّهِ ع إِنَّ فَضْلَ صَوْمِ شُعْبَانَ كَذَا وَ كَذَا حَتَّى إِنَّ الرَّجُلَ لَيَرْتَكِبُ الدَّمَ الْحَرَامَ فَيُعْفَرُ لَهُ.

²⁵¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 66

²⁵² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 67

(The book) 'Majalis' of the sheikh – from Al-Hassan Bin Ismail, from Ahmad Bin Muhammad, from Salih Bin Al-Husayn Bin Al-Husayn Al Nowfali, from his father, from Abu Al Haysam Al Nahdi, from Ahmad Bin Abdul Rahman Bin Abd Rabbih, from Ismail Bin Abdul Khaliq who said,

'I was in the presence of Abu Abdullah^{-asws}, and mention of the fasts of Shaban flowed. Abu Abdullah^{-asws} said: 'Merits of the fasts of Shaban are such and such, to the extent that even if the man indulges in shedding the blood unlawfully, he would be Forgiven for it'.²⁵³

69 ضه، روضة الواعظين قَالَ النَّبِيُّ ص لَزَوَالِ الدُّنْيَا أَيْسَرُ عَلَى اللَّهِ مِنْ قَتْلِ الْمُؤْمِنِ.

(The book) 'Rowzat Al Waizeen' –

The Prophet^{-saww} said: 'Destruction of the world is easier unto Allah^{-azwj} and killing of the Momin'.²⁵⁴

70 وَقَالَ ص لَوْ أَنَّ أَهْلَ السَّمَاوَاتِ السَّبْعِ وَأَهْلَ الْأَرْضِينَ السَّبْعِ اشْتَرَكُوا فِي دَمِ مُؤْمِنٍ لَأَكْبَهُمُ اللَّهُ جَمِيعاً فِي النَّارِ.

And he^{-saww} said: 'Even if inhabitants of the seven skies and inhabitants of the seven earths were to participate in (shedding) blood of a Momin, Allah^{-azwj} would Fling them all into the Fire!²⁵⁵

71 وَقَالَ ص أَوَّلُ مَا يُفْضَى يَوْمَ الْقِيَامَةِ الدِّمَاءُ.

And he^{-saww} said: 'The first of what would be Judged on the Day of Qiyamah is the bloods (killing)'.²⁵⁶

72 وَقَالَ الصَّادِقُ ع أَوْحَى اللَّهُ عَزَّ وَجَلَّ إِلَى مُوسَى بْنِ عِمْرَانَ يَا مُوسَى فُلْ لِلْمَلَائِكَةِ مِنْ بَنِي إِسْرَائِيلَ إِيَّاكُمْ وَ قَتَلَ النَّفْسَ الْحَرَامَ بِعَدْرِ حَقِّ فَمَنْ قَتَلَ مِنْكُمْ نَفْساً فِي الدُّنْيَا قَتَلَهُ اللَّهُ فِي النَّارِ مِائَةَ قَتْلَةٍ صَاحِبِهِ.

And Al-Sadiq^{-asws} said: 'Allah^{-azwj} Mighty and Majestic Revealed to Musa^{-as} Bin Imran^{-as}: "O Musa^{-as}! Say to the assembly of the children of Israel: 'Beware of killing the soul unlawfully without right. The one from you who kills a soul in the world, Allah^{-azwj} would Kill him in the Fire a hundred killings of his companion!'²⁵⁷

²⁵³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 68

²⁵⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 69

²⁵⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 70

²⁵⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 71

²⁵⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 36 H 72

CHAPTER 37 – ONE WHO ASSISTS IN KILLING A MOMIN OR PARTICIPATES IN HIS BLOOD

1- ثوب الأعمال ابن الوليد عن الصمغاري عن أحمد بن محمد بن الحسين بن سعيد عن ابن أبي عمير عن غير واحد عن أبي عبد الله ع قال: مَنْ أَعَانَ عَلَى قَتْلِ مُؤْمِنٍ بِشَطْرِ كَلِمَةٍ جَاءَ يَوْمَ الْقِيَامَةِ بَيْنَ عَيْنَيْهِ مَكْتُوبٌ آيسٌ مِنْ رَحْمَةِ اللَّهِ.

(The book) 'Sawaab Al Amaal' – Ibn Al Waleed, from Al Saffar, from Ahmad Bin Muhammad, from Al-Husayn Bin Saeed, from Ibn Abu Umeyr, from someone else,

From Abu Abdullah^{-asws}, having said: 'One who assists upon killing a Momin with even part of a word will come on the Day of Qiyamah, it will be written between his eyes, 'Despaired from Mercy of Allah^{-azwj}'.²⁵⁸

2 ثوب الأعمال أبي عن سعد عن أحمد بن محمد بن الحسين بن سعيد عن ابن أبي عمير عن حماد بن عثمان عن أبي عبد الله ع أو عمّن ذكره عنه ع قال: يَجِيءُ يَوْمَ الْقِيَامَةِ رَجُلٌ إِلَى رَجُلٍ حَتَّى يُلَطِّخَهُ بَدَمٍ وَ النَّاسُ فِي الْحِسَابِ فَيَقُولُ يَا عَبْدَ اللَّهِ مَا لِي وَ لَكَ

(The book) 'Sawab Al Amaal' – My father, from Sa'ad, from Ahmad Bin Muhammad, from Al-Husayn Bin Saeed, from Ibn Abu Umeyr, from Hammad Bin Usman,

From Abu Abdullah^{-asws} or from the one mentioned it from him^{-asws} having said: 'On the Day of Qiyamah a man will come to a man until he smears him with blood while the people will be in the Reckoning. He would say, 'O servant of Allah^{-azwj}! What do I have to do with you?'

فَيَقُولُ أَعَنْتَ عَلَيَّ يَوْمَ كَذَا وَ كَذَا بِكَلِمَةٍ فُقُتِلْتُ.

He will say, 'You assisted against me with such and such a word, so I was killed'.²⁵⁹

3- ثوب الأعمال بهذا الإسناد عن ابن أبي عمير عن منصور بن يونس عن أبي حمزة عن أحدهما ع قال: أُبَيُّ رَسُولَ اللَّهِ ص فَقِيلَ لَهُ يَا رَسُولَ اللَّهِ قَتِيلٌ فِي مَسْجِدِ جُهَيْنَةَ فَقَامَ رَسُولُ اللَّهِ ص يَمْشِي حَتَّى انْتَهَى إِلَى مَسْجِدِهِمْ

(The book) 'Sawab Al Amaal' – By this chain, from Ibn Abu Umeyr, from Mansour Bin Yunus, from Abu Hamza,

From one of the two (5th or 6th Imam^{-asws}) having said: 'Someone came to Rasool-Allah^{-saww} and said to him^{-saww}, 'O Rasool-Allah^{-saww}, there has been a killing in Masjid Juheyne!' Rasool-Allah^{-saww} stood up and walked until he ended to their Masjid'.

قَالَ وَ تَسَامَعِ النَّاسُ فَأَتَوْهُ فَقَالَ ع مَنْ قَتَلَ ذَا

He^{-asws} said: 'And the people heard (about it), so they came to him^{-saww}. He^{-saww} said: 'Who killed this one?'

²⁵⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 37 H 1

²⁵⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 37 H 2

قَالُوا يَا رَسُولَ اللَّهِ مَا نَدْرِي

They said, 'O Rasool-Allah^{-azwj}, we don't know!'

فَقَالَ قَبِيلٌ مِنَ الْمُسْلِمِينَ بَيْنَ ظَهْرَانِي الْمُسْلِمِينَ - لَا يُدْرِي مَنْ قَتَلَهُ وَ اللَّهُ الَّذِي بَعَثَنِي بِالْحَقِّ لَوْ أَنَّ أَهْلَ السَّمَاوَاتِ وَالْأَرْضِ شَرَكُوا فِي دَمِ امْرِئٍ مُسْلِمٍ وَ رَضُوا بِهِ لَأَكْبَهُمُ اللَّهُ عَلَى مَنَاحِرِهِمْ فِي النَّارِ أَوْ قَالَ عَلَى وُجُوهِهِمْ.

He^{-saww} said: 'There has been a killing in the midst of the Muslims and it is not known who killed him! By Allah^{-azwj} Who Send me^{-saww} with the truth! Even if inhabitants of the skies and the earth were to participate in the blood of a Muslim person and were pleased with it, Allah^{-azwj} will Fling them upon their nostril in the Fire!' – or said: 'Upon their faces!'²⁶⁰

4- سنن، المحاسن مُحَمَّدُ بْنُ عَلِيٍّ وَ عَلِيُّ بْنُ عَبْدِ اللَّهِ مَعَا عَنِ ابْنِ مُحَمَّدٍ عَنِ الْعَلَاءِ وَ مُحَمَّدِ بْنِ سِنَانٍ مَعَا عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ع يَقُولُ إِنَّ الْعَبْدَ يُحْسَرُ يَوْمَ الْقِيَامَةِ وَ مَا يُدْمِي دَمًا فَيُدْفَعُ إِلَيْهِ شِبْهُ الْمِحْجَمَةِ أَوْ فَوْقَ ذَلِكَ فَيُقَالُ لَهُ هَذَا سَهْمُكَ مِنْ دَمِ فُلَانٍ

(The book) 'Al Mahasin' – Muhammad Bin Ali and Ai Bin Abdullah both together from Ibn Mahboub, from Al A'ala and Muhammad Bin Sinan both together, from Muhammad Bin Muslim who said,

'I heard Abu Abdullah^{-asws} saying: 'A servant will be Resurrected on the Day of Qiyamah and he would not have shed any blood. A small cup would be handed to him, or larger than that. It will be said to him, 'This is your share from the blood of so and so'.

فَيَقُولُ يَا رَبِّ إِنَّكَ لَتَعْلَمُ أَنَّكَ قَبَضْتَنِي وَ مَا سَفَكْتُ دَمًا

He will said: 'O Lord^{-azwj}! You^{-azwj} Know You^{-azwj} had Recalled me and I had not shed any blood!'

قَالَ بَلَى سَمِعْتُ مِنْ فُلَانٍ بِنِ فُلَانٍ كَذَا وَ كَذَا فَرَوَيْتَهَا عَنْهُ فَتَقَلْتُ حَتَّى صَارَ إِلَى فُلَانٍ الْجَبَّارِ فَقَتَلَهُ عَلَيْهَا فَهَذَا سَهْمُكَ مِنْ دَمِهِ.

He^{-azwj} will Say: "Yes! You heard such and such from so and so, son of so and so. You reported it from him, and it was transmitted until it came to so and so tyrant, and he killed him upon it, so this is your share from his blood!"²⁶¹

5- جاء، المجالس للمفيد المرغبي عن علي بن سليمان عن محمد بن الحسن النهأوندي عن أبي الخزرج الأسدي عن محمد بن الفضيل عن أنان بن أبي عبيد عن جعفر بن إياس عن أبي سعيد الخدري قال: وجد قبيل على عهد رسول الله ص فخرج ع معضبا حتى رقي المنبر فحمد الله و أننى عليه ثم قال يقتل رجل من المسلمين لا يدري من قتله و الذي نفسي بيده لو أن أهل السماوات و الأرض اجتمعوا على قتل مؤمن أو رضوا به لأدخلهم الله في النار

(The book) 'Al Majalis' of Al Mufeed – Al Maraghy, from Ali Bin Suleyman, from Muhammad Bin Al-Hassan Al Nahwandy, from Abu Al Khazraj Al Asady, from Muhammad Bin Al Fuzeyl, from Aban Bin Abu Ayyash, from Ja'far Bin Iyas, from Abu Saeed Al Khudri who said,

'In the era of Rasool-Allah^{-saww} a killed person was found. He^{-saww} went out angrily until he^{-saww} ascended the pulpit. He^{-saww} praised Allah^{-azwj} and extolled upon Him^{-azwj}, then said: 'A man

²⁶⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 37 H 3

²⁶¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 37 H 4

from the Muslims has been killed and it is not known who killed him! By the One in Whose Hand is my^{-saww} soul! Even if inhabitants of the skies and the earth were to unite upon killing of a Momin or were pleased with it, Allah^{-azwj} will Enter them (all) into the Fire!

وَ الَّذِي نَفْسِي بِيَدِهِ لَا يُجِلِدُ أَحَدًا ظُلْمًا إِلَّا جُلِدَ عَدَا فِي نَارِ جَهَنَّمَ مِثْلَهُ

By the One in Whose Hand is my^{-saww} soul! No one will whip anyone unjustly except that he will be whipped tomorrow in the Fire of Hell, similarly!

وَ الَّذِي نَفْسِي بِيَدِهِ لَا يُبَعْضُنَا أَهْلَ الْبَيْتِ أَحَدٌ إِلَّا أَكَبَّهُ اللَّهُ عَلَى وَجْهِهِ فِي نَارِ جَهَنَّمَ.

By the One in Whose Hand is my^{-saww} soul! No one will anger us^{-asws}, People of the Household, except Allah^{-azwj} will Fling him upon his face into the Fire of Hell!²⁶²

6- ضه، روضة الواعظين قَالَ رَسُولُ اللَّهِ ص لَوْ أَنَّ رَجُلًا قُتِلَ بِالْمَشْرِقِ وَ آخَرَ رَضِيَ بِهِ فِي الْمَغْرِبِ كَانَ كَمَنْ قَتَلَهُ وَ شَرِكَ فِي دَمِهِ.

(The book) 'Rowzat Al Waizeen' –

Rasool-Allah^{-saww} said: 'Even if a man was killed in the east and another one in the west was pleased with it, he would be like the one who had killed him and participated in his blood'.²⁶³

[باب 38 أقسام الجنايات و أحكام القصاص](#)

CHAPTER 38 – CATEGORIES OF THE FELONIES AND THE RULINGS OF RETALIATION

1- قب، المناقب لابن شهر آشوب أحمد بن حنبل في المسند و أحمد بن مبيع في أماليه بإسناديهما إلى حماد بن سلمة عن سماك عن حبيش بن المغيرة و قد رواه محمد بن قيس عن أبي جعفر ع و اللفظ له أنه قضى أمير المؤمنين ع في أربعة نفر اطلعوا على زبيبة الأسد فخر أحدهم فاستمسك بالثاني و استمسك الثاني بالثالث و استمسك الثالث بالرابع

(The book) 'Al Manaqib' of Ibn Shehr Ashub – Ahmad Bin Hanbal in 'Al Musnad' and Ahmad Bin Manie in his 'Amaali', by their chains to Hammad Bin Salama, from Simak, from Hubeish Bin Al Mu'tamar, and Muhammad Bin Qays has reported it,

From Abu Ja'far^{-asws} and its wording is: 'Amir Al-Momineen^{-asws} judged regarding four persons who were on the verge of a lion's den. One of them fell, so he held on to the second, and the second held on to the third, and the third held on to the fourth.

فَقَضَى ع بِالْأَوَّلِ فَرِيْسَةَ الْأَسَدِ وَ عَرَمَ أَهْلَهُ تُلَّتِ الدِّيَّةُ لِأَهْلِ الثَّانِي وَ عَرَمَ أَهْلَ الثَّانِي لِأَهْلِ الثَّلَاثِ تُلَّتِ الدِّيَّةُ لِأَهْلِ الرَّابِعِ الدِّيَّةُ كَامِلَةً وَ انْتَهَى الْحَبْرُ إِلَى النَّجِيِّ ص بِذَلِكَ

He^{-asws} judged with the first one as being prey of the lion, and determined his family pay a third of the wergild to family of the second, and determined that family of the second pay

²⁶² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 37 H 5

²⁶³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 37 H 6

two-thirds of the wergild to family of the third, and determined family of the third to pay to family of the fourth the complete wergild, and the news of that ended to the Prophet^{-saww}.

فَقَالَ لَقَدْ قَضَى أَبُو الْحَسَنِ فِيهِمْ بِقَضَاءِ اللَّهِ فَزَقَّ عَرْشِهِ.

He^{-saww} said: ‘Abu Al-Hassan^{-asws} has judged among them with the Judgment of Allah^{-azwj} Above His^{-azwj} Throne!’²⁶⁴

2- أَبُو عُبَيْدٍ فِي عَرِيبِ الْحُدَيْثِ وَ ابْنِ مَهْدِيٍّ فِي نُزْهَةِ الْأَبْصَارِ عَنِ الْأَصْبَغِ بْنِ نُبَاتَةَ أَنَّهُ قَضَى ع فِي الْقَارِصَةِ وَ الْقَامِصَةِ وَ الْوَأَقِصَةِ وَ هُنَّ ثَلَاثُ جَوَارٍ كُنَّ يَلْعَبْنَ فَرَكِبَتْ إِحْدَاهُنَّ صَاحِبَتَهَا فَفَرَصَتْهَا الثَّالِثَةُ فَغَمَصَتْ الْمَرْكُوبَةُ فَوَقَعَتِ الرَّائِكَةُ فَوَقَصَتْ عَنْفُهَا فَقَضَى بِالِدِّيَةِ ثَلَاثًا وَ أَسْقَطَ حِصَّةَ الرَّائِكَةِ لِمَا أَعَانَتْ عَلَى نَفْسِهَا فَبَلَغَ ذَلِكَ النَّبِيَّ ص فَاسْتَصْوَبَهُ.

Abu Ubeyd in a strange Hadeeth, and Ibn Mahdy in ‘Nuzhat Al Absaar’, from Al Asbagh Bin Nubata,

‘He^{-asws} judged regarding one who pinched, the one who was pinched, and the one who was thrown down. There were three girls who were playing. One of them rode on the back of another, then the third pinched the one being ridden, so she bucked, and the one riding fell and broke her neck. He ruled that the blood money be divided into thirds and dropped the share of the rider because she had contributed to her own death. When this judgment reached the Prophet^{-saww}, he^{-saww} approved it’.²⁶⁵

3- قَب، المناقب لابن شهرآشوب أحمد بن عامر بن سليمان الطائفي عن الرضا ع في حبر أنه أقر رجل يقتل ابن رجل من الأنصار فدفعه عمر إليه ليقتله به فضره ضربتين بالسيف حتى طرأ أنه هلك فحمل إلى منزله و به رمق فبرأ الجرح بعد ستة أشهر فلقبه الأب و جره إلى عمر فدفعه إليه عمر فاستغاث الرجل إلى أمير المؤمنين

(The book) ‘Al Manaqib’ of Ibn Shehr Ashub – Ahmad Bin Aamir Bin Suleyman Al Taie,

From Al-Reza^{-asws} in a Hadeeth – A man acknowledged having killed a son of a man from the Helpers. Umar handed him to him for him to be killed. He struck him twice with the sword until he thought he had died. He was carried to his dwelling and there was still the last breaths with him. The injuries healed after six months. The father (of the killed son) met him and dragged him to Umar. Umar (again) handed him to him (to be killed). The man cried out for help with Amir Al-Momineen^{-asws}.

فَقَالَ لِعُمَرَ مَا هَذَا الَّذِي حَكَمْتَ بِهِ عَلَيَّ هَذَا الرَّجُلِ

He^{-asws} said to Umar, ‘What is this which you had ruled with upon this man?’

فَقَالَ النَّفْسَ بِالنَّفْسِ

He said, ‘The soul for the soul!’

²⁶⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 1

²⁶⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 2

قَالَ أَلَمْ تَقْتُلْهُ مَرَّةً

He^{-asws} said: 'Did you not kill him once?'

قَالَ قَدْ قَتَلْتُهُ ثُمَّ عَاشَ

He said, 'I had killed him, then he lived'.

قَالَ فَيَقْتُلُ مَرَّتَيْنِ

He^{-asws} said: 'Then you will be killing him twice!'

فَبُهِتَ ثُمَّ قَالَ فَاقْضِ مَا أَنْتَ قَاضٍ فَخَرَجَ ع

Umar was dumbfounded, then said, 'Judge whatever you^{-asws} want to judge'.

فَقَالَ لِلْأَبِ أَلَمْ تَقْتُلْهُ مَرَّةً

He^{-asws} went out. He^{-asws} said to the father, 'Did you no kill him once?'

قَالَ بَلَى فَيَبْطُلُ دَمُ ابْنِي

He said, 'Yes, but the blood of my son was invalidated!'

قَالَ لَا وَ لَكِنَّ الْحُكْمَ أَنْ تُدْفَعَ إِلَيْهِ فَيَقْتَصَّ مِنْكَ مِثْلَ مَا صَنَعْتَ بِهِ ثُمَّ تَقْتُلُهُ بِدَمِ ابْنِكَ

He^{-asws} said: 'No, but the ruling is that you be handed over to him so he can retaliate from you similar to what you had done with him, then you can kill him for the blood of your son!'

قَالَ هُوَ وَ اللَّهُ الْمَوْتُ وَ لَا بُدَّ مِنْهُ

He said, 'By Allah^{-azwj}, it is the death, and there is no escape from it!'

قَالَ لَا بُدَّ أَنْ يَأْخُذَ بِحَقِّهِ

He^{-asws} said: 'There is no escape from him taking his right'.

قَالَ فَإِنِّي قَدْ صَفَحْتُ عَنْ دَمِ ابْنِي وَ يَصْفَحُ لِي عَنِ الْقِصَاصِ

He said, 'So I hereby pardon the blood of my son and he should pardon me from the retaliation'.

فَكَتَبَ بَيْنَهُمَا كِتَابًا بِالْبَرَاءَةِ فَرَفَعَ عُمَرُ يَدَهُ إِلَى السَّمَاءِ وَ قَالَ الْحَمْدُ لِلَّهِ أَنْتُمْ أَهْلُ بَيْتِ الرَّحْمَةِ يَا أَبَا الْحَسَنِ

He^{-asws} wrote an agreement of the disownment between them. Umar raised his hands towards the sky and said, 'The Praise is for Allah^{-azwj}! You^{-asws} are People^{-asws} of the Household of Mercy, O Abu Al-Hassan^{-asws}!'

ثُمَّ قَالَ لَوْ لَا عَلَيٌّ هَلَكَ عُمَرُ.

Then he said, 'Had it not been for Ali^{-asws}, Umar would have been destroyed!' ²⁶⁶

4- الصَّادِقُ عَنْ أَمِيرِ الْمُؤْمِنِينَ ع فِي رَجُلٍ أَمَرَ عَبْدَهُ أَنْ يُقْتَلَ رَجُلًا فَقَالَ ع وَ هَلِ الْعَبْدُ عِنْدَ الرَّجُلِ إِلَّا كَسَوْطِهِ أَوْ كَسِنْفِيهِ

Al-Sadiq^{-asws}, from Amir Al-Momineen^{-asws}, regarding a man who had ordered his slave to kill a man. He^{-asws} said: 'And is the slave with the man except like his whip or his sword?'

يُقْتَلُ الْمَسِيدُ وَ يُودَعُ الْعَبْدُ السِّجْنَ.

He^{-asws} killed the master and left the slave in the prison'. ²⁶⁷

5- قَالَ: وَلِي ثَلَاثَةٌ قَتَلُوا فِدْفِدُوا إِلَى عَلِيٍّ ع أَمَّا وَاحِدٌ مِنْهُمْ أَمْسَكَ رَجُلًا وَ أَقْبَلَ الْآخَرَ فَقَتَلَهُ وَ الثَّلَاثُ وَقَفَ فِي الرُّؤْيَةِ يَرَاهُمْ فَقَضَى فِي الذِّي كَانَ فِي الرُّؤْيَةِ أَنْ تُسْمَلَ عَيْنَاهُ وَ فِي الذِّي أَمْسَكَ أَنْ يُسَجَّنَ حَتَّى يَمُوتَ كَمَا أَمْسَكَ وَ فِي الذِّي قَتَلَهُ أَنْ يُقْتَلَ.

Three men committed a killing and were brought before Ali^{-asws}. One of them had held the victim, another came forward and killed him, and the third stood watching the scene. Ali^{-asws} ruled that the one who had merely watched should have his eyes gouged out, that the one who held the victim should be imprisoned until he died just as he had restrained the victim, and that the one who actually carried out the killing should be killed'. ²⁶⁸

6- قب، المناقب لابن شهر آشوب مُحَمَّدُ بْنُ قَيْسٍ عَنِ الْبَاقِرِ ع قَضَى أَمِيرُ الْمُؤْمِنِينَ ع فِي أَرْبَعَةٍ نَفَرٍ شَرِبُوا فَسَكِرُوا فَأَخَذَ بَعْضُهُمْ عَلَى بَعْضِ السِّلَاحِ فَأَقْتَتَلُوا فُقْتِلَ اثْنَانِ وَ جُرِحَ اثْنَانِ

(The book) 'Al Manaqib' of Ibn Shehr Ashub – Muhammad Bin Qays,

From Al-Baqir^{-asws}: 'Amir Al-Momineen^{-asws} had judged regarding four persons who drank (intoxicant) and became intoxicated. They took the weapons against each other and fought. Two were killed and two were injured.

فَأَمَرَ بِالْمَجْرُوحَيْنِ فَضْرِبَ كُلُّ وَاحِدٍ مِنْهُمَا ثَمَانِينَ جَلْدَةً وَ قَضَى دِيَةَ الْمَقْتُولَيْنِ عَلَى الْمَجْرُوحَيْنِ وَ أَمَرَ أَنْ يُقَاسَ جِرَاحُ الْمَجْرُوحَيْنِ فَرُقِعَ مِنَ الدِّيَةِ وَ إِنَّ مَاتَ مِنَ الْمَجْرُوحَيْنِ أَحَدٌ فَلَيْسَ عَلَى أَوْلِيَاءِ الْمَقْتُولِ شَيْءٌ.

He^{-asws} ordered for the two injured ones that each one of them be struck eighty lashes, and he^{-asws} judged wergild of the two killed ones being upon the two injured ones, and he^{-asws}

²⁶⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 3

²⁶⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 4

²⁶⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 5

ordered that the injuries of the two injured ones be estimated and lessened from the wergild, and if one of the injured ones dies, there isn't anything upon guardians of the killed one'.²⁶⁹

7- وَ فِي رِوَايَةٍ أَنَّهُ قَالَ: دِيَّةُ الْمُقْتُولَيْنِ عَلَى قَبَائِلِ الْأَرْبَعَةِ بَعْدَ مُقَاصَّةِ الْحَيَيْنِ مِنْهُمَا بِدِيَّةٍ جَزَائِحِهِمَا لِأَنَّهُ لَعَلَّ كُلَّ وَاحِدٍ مِنْهُمَا قَتَلَ صَاحِبَهُ.

And in a report, he^{-asws} said: 'Wergild of the killed ones is upon the tribes of the four after the two who are alive among them have been dealt with by retaliation and by paying wergild for their wounds, because perhaps each one of those two killed his companion'.²⁷⁰

8- قَب، المناقب لابن شهر آشوب الصَّادِقُ ع تَزَوَّجَ رَجُلًا مِنَ الْأَنْصَارِ امْرَأَةً عَلَى عَهْدِ أَمِيرِ الْمُؤْمِنِينَ ع فَلَمَّا كَانَ لَيْلَةَ الْبِنَاءِ بِهَا عَمَدَتِ الْمَرْأَةُ إِلَى رَجُلٍ صَدِيقٍ لَهَا فَأَدْخَلَتْهُ الْحُجْلَةَ فَلَمَّا دَخَلَ الرَّوْحُ يُبَاضِعُ أَهْلَهُ نَارَ الصَّدِيقِ وَ افْتَنَّتَا فِي الْبَيْتِ فَقَتَلَ الرَّوْحُ الصَّدِيقَ وَ قَامَتِ الْمَرْأَةُ فَضَرَبَتِ الرَّوْحَ ضَرْبَةً فَفَتَنَتْهُ بِالصَّدِيقِ

(The book) 'Al Manaqib' of Ibn Shehr Ashub –

Al-Sadiq^{-asws}: 'A man from the Helpers married a woman in the era of Amir Al-Momineen^{-asws}. When it was the night of consummation with her, the woman deliberated to a male friend of hers and entered him into the bridal chamber. When the husband entered to be with his wife, the friend rose and they fought in the room. The husband killed the friend, and the woman stood up and struck the husband with a strike and killed him for the friend.

فَقَالَ ع تُضَمُّنُ الْمَرْأَةَ دِيَّةَ الصَّدِيقِ وَ تُقْتَلُ بِالرَّوْحِ.

He^{-asws} said: 'The woman is responsible for wergild of the friend and she will be killed for (having killed) the husband'.²⁷¹

9- قَب، المناقب لابن شهر آشوب السَّكُونِيُّ أَنَّ سِتَّةَ نَفَرٍ لَعِبُوا فِي الْفُرَاتِ فَغَرِقَ وَاحِدٌ مِنْهُمْ فَشَهِدَ اثْنَانِ مِنْهُمْ عَلَى ثَلَاثَةٍ مِنْهُمْ أَنَّهُمْ غَرَقُوهُ وَ شَهِدَ الثَّلَاثَةُ عَلَى الْإِثْنَيْنِ أَنَّهُمَا غَرَقَاهُ فَأَلْزَمَ الْإِثْنَيْنِ ثَلَاثَةَ أَحْمَاسِ الدِّيَّةِ وَ أَلْزَمَ الثَّلَاثَةَ خُمُسِي الدِّيَّةِ بِحِسَابِ الشَّهَادَةِ.

(The book) 'Al Manaqib' of Ibn Shehr Ashub –

Al-Sakuni, 'Six persons were playing in the Euphrates. One of them drowned. Two of them testified against the three that they had drowned him, and the three testified against the two that they had drowned him. He^{-asws} necessitated the two with three-fifths of the wergild, and necessitated the three with two-fifths of the wergild, in accordance to the testimonies'.²⁷²

10- شي، تفسير العياشي عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: إِذَا اجْتَمَعَ الْعِدَّةُ عَلَى قَتْلِ رَجُلٍ حَكَمَ الْوَالِي بِقَتْلِ أَبِيهِمْ شَاءَ وَ لَيْسَ لَهُ أَنْ يُعْتَلَّ بِأَكْثَرِ مَنْ وَاحِدٍ إِنَّ اللَّهَ يُعُولُ وَ مَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيَيْهِ سُلْطَانًا فَلَا يُسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مَنصُورًا

Tafseer Al Ayyashi – From Abu Al Abbas,

²⁶⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 6

²⁷⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 7

²⁷¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 8

²⁷² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 9

From Abu Abdullah^{-asws} having said: ‘When a number of people gather upon killing a man, the ruling is for the guardian to kill whichever of them he desires to, and it isn’t for him to kill more than one. Allah^{-azwj} Says: **and one who is killed unjustly, so We have Made an authority to be for his guardian, but he should not be excessive in the killing. He would always be Helped [17:33].**

وَ إِذَا قُتِلَ وَاحِدٌ [وَاحِدًا] ثَلَاثَةً حَيَّرَ الْوَالِي أُمَّيِّ الثَّلَاثَةِ شَاءَ أَنْ يَقْتُلَ وَ يُصَمِّنُ الْأَخْرَانَ ثُلْثِي الدِّيَةِ لَوْرَثَةِ الْمَقْتُولِ.

And when one is killed by three, the guardian is with the choice whichever of the three he desires to kill, and the other two will be responsible for two-thirds of the wergild to the heirs of the killed one’.²⁷³

11- شي، تفسير العياشي عن أبي العباس قال: سألت أبا عبد الله ع عن رجلين قَتَلَا رجلاً فقال يُحَيَّرُ وَلِيُّهُ أَنْ يَقْتُلَ أَيُّهُمَا شَاءَ وَ يُعَرِّمُ الْبَاقِي نِصْفَ الدِّيَةِ أَعْنِي دِيَةَ الْمَقْتُولِ فَيَرُدُّ عَلَى ذُرِّيَّتِهِ

Tafseer Al Ayyashi – From Abu Al Abbas who said,

‘I asked Abu Abdullah^{-asws} about two men who killed a man. He^{-asws} said: ‘His guardian will be with a choice whichever of the two he likes to kill, and the remaining one will be penalised half the wergild, meaning wergild of the killed one to be given to his offspring.

وَ كَذَلِكَ إِنْ قَتَلَ رَجُلٌ امْرَأَةً إِنْ قَبِلُوا الدِّيَةَ فَذَلِكَ وَ إِنْ أَبَى أَوْلِيَاؤُهَا إِلَّا قَتَلَ قَاتِلَهَا عَرِمُوا نِصْفَ دِيَةِ الرَّجُلِ الَّذِي قَتَلُوهُ وَ هُوَ قَوْلُ اللَّهِ فَقَدْ جَعَلْنَا لَوْلِيِهِ سُلْطَانًا فَلَا يُسْرِفُ فِي الْقَتْلِ.

And like that if a man kills a woman, if they accept the wergild, that is that, and if her guardian refuses except killing her killer, they will be penalised half the wergild of the man whom they kill, and it is the Word of Allah^{-azwj}: **We have Made an authority to be for his guardian, but he should not be excessive in the killing. He would always be Helped [17:33].**²⁷⁴

12- م، تفسير الإمام عليه السلام يا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ إِلَى قَوْلِهِ تَعَالَى لَعَلَّكُمْ تَتَّقُونَ

Tafseer of the Imam (Hassan Al-Askari^{-asws}) - **O you those who are believing! The retaliation is Prescribed upon you [2:178]** – up to Words of the Exalted: **perhaps you would be fearing [2:179].**

قَالَ عَلِيُّ بْنُ الْحُسَيْنِ ع- يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ يَعْنِي الْمُسَاوَاةَ وَ أَنْ يَسْتَلِكَ الْقَاتِلُ فِي طَرِيقِ الْمَقْتُولِ الَّذِي سَلَكَ بِهِ لَمَّا قَتَلَهُ- الْمُرُّ بِالْحُرِّ وَ الْعَبْدُ بِالْعَبْدِ وَ الْأَنْثَى بِالْأَنْثَى يُقْتَلُ الْمَرْءُ بِالْمَرْءِ إِذَا قَتَلَهَا-

Ali^{-asws} Bin Al-Husayn^{-asws} said: ‘**O you those who are believing! The retaliation is Prescribed upon you regarding the murdered** – meaning the equalisation, and that you should deal with the killing, the way in which the murdered had been dealt with when he was murdered, **the**

²⁷³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 10

²⁷⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 11

free with the free, and the slave with the slave, and the female with the female – you should kill the woman with the woman, when she is killed.

فَمَنْ غَفِيَ لَهُ مِنْ أُخِيهِ شَيْءٌ فَمَنْ غَفِيَ لَهُ الْقَاتِلُ وَ رَضِيَ هُوَ وَ وَلِيُّ الْمَقْتُولِ أَنْ يَدْفَعَ الدِّيَةَ وَ عَفَا عَنْهُ بِمَا فَاتَبَاعَ مِنَ الْوَلِيِّ مُطَابَقَةً تَقَاصٍ بِالْمَعْرُوفِ وَ أَدَاءً مِنَ الْعَاقِبِ الْقَاتِلِ - بِإِحْسَانٍ لَا يُضَارُهُ وَ لَا يُمَاطِلُهُ-

But the one who has pardon for him from his brother with something – So the one who has pardon for him – the killer – and he pleases the guardian of the murdered one that he (the killer) should hand over the wergild and he would be pardoned from it, due to it, **so he should pursue** – from the guardian, the (wergild) sought as a clearance, **with the reasonableness, and pay to him** – the one who pardoned the killing for him, **with goodness** – neither hurting him nor delaying his demand (fulfilment).

ذَلِكَ تَخْفِيفٌ مِنْ رَبِّكُمْ وَ رَحْمَةٌ إِذْ أُجَازَ أَنْ يَعْفُوَ وَلِيُّ الْمَقْتُولِ عَنِ الْقَاتِلِ عَلَى دِيَّةٍ يَأْخُذُهَا فَإِنَّهُ لَوْ لَمْ يَكُنْ لَهُ إِلَّا الْقَتْلُ أَوْ الْعَفْوُ لَقَلَّ مَا طَابَتْ نَفْسُ وَلِيِّ الْمَقْتُولِ بِالْعَفْوِ بِلَا عَوْضٍ يَأْخُذُهُ فَكَانَ قَلَّ مَا يَسْلَمُ الْقَاتِلُ مِنَ الْقَتْلِ -

That is a Lightning from your Lord and a Mercy – when He^{-azwj} Allowed that a guardian of the murdered one can pardon the murder upon the taking of the wergild, for it, if there did not happen to be anything for him except for the killing or the pardoning, seldom would the guardian of the murdered have taken (the wergild) instead. And it would have been so that seldom would the killer have been safe from being killed.

فَمَنْ اعْتَدَى بَعْدَ ذَلِكَ بَعْدَ الْعَفْوِ عَنْهُ بِالذِّبَةِ الَّتِي بَدَلَهَا وَ رَضِيَ هُوَ بِهَا فَلَهُ عَذَابٌ أَلِيمٌ فِي الْآخِرَةِ عِنْدَ اللَّهِ عَزَّ وَ جَلَّ - وَ لَكُمْ يَا أُمَّةَ مُحَمَّدٍ فِي الْقِصَاصِ حَيَاةٌ لِأَنَّ مَنْ هَمَّ بِالْقَتْلِ يَعْرِفُ أَنَّهُ يُقْتَصُّ مِنْهُ فَكَفَتْ لِدَلِيلِكَ عَنِ الْقَتْلِ كَانَ حَيَاةً لِلذِّي كَانَ هَمَّ بِقَتْلِهِ وَ حَيَاةً لِهَذَا الْجَانِبِ الَّذِي أَرَادَ أَنْ يَقْتُلَ وَ حَيَاةً لِعَاقِبَتِهَا مِنَ النَّاسِ إِذَا عَلِمُوا أَنَّ الْقِصَاصَ وَاجِبٌ - لَا يَجْسُرُونَ عَلَى الْقَتْلِ خِيفَةَ الْقِصَاصِ - يَا أُولِي الْأَلْبَابِ أُولِي الْعُقُولِ لَعَلَّكُمْ تَتَّقُونَ.

Allah^{-azwj} Mighty and Majestic Said: **And for you** – O community of Muhammad^{-saww}, **in the retaliation, there is life** – because the one who thinks of murdering, so he would know that he would be retaliated from it. Thus, he would refrain from the killing. There would be life for the one whom he had thought of killing him, and life for this offender who intended the murder, and life for other than these two from the people, when they (also) know that the retaliation is an Obligation, they would not be audacious upon the killing, fearing the retaliation, **O ones of understanding** – the ones with the intellects, **perhaps you would be fearing [2:179]**.²⁷⁵

13- ين، كتاب حسين بن سعيد و النوادر عن يحيى بن أبي العلاء عن أبي عبد الله عن أبيه ع أن امرأة ندرت أن تقاد بريماء في أنفها فوقع بغير فحرم أنفها فأتت علياً ع فأنصم فأبطله و قال إنما التدر لله.

The book of Haseen Bin Saeed, and 'Al Nawadir' – From Yahya Bin Abu Al A'la,

²⁷⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 12

From Abu Abdullah^{-asws}, from his^{-asws} father^{-asws}: 'A woman had vowed that she would be led by a rein in her nose. A camel fell and her nose was trampled. She came to Ali^{-asws} to dispute. He^{-asws} invalidated it and said: 'But rather, the vow is for Allah^{-azwj}'.²⁷⁶

14- شي، تفسير العياشي عن حفص بن غياث عن جعفر بن محمد ع قال: إن الله بعث محمداً بمحسنة أسياف سيف منها معمود سلته إلى غيرنا و حكمه إلينا

Tafseer Al Ayyashi – From Hafsa Bin Giyas,

From Ja'far Bin Muhammad^{-asws} having said: 'Allah^{-azwj} had Sent Muhammad^{-saww} with five swords. A sword from these was sheathed. Its unsheathing is up to others and its ruling is up to us^{-asws}.

فأما السيف المعمود فهو الذي يُقام به القصاص قال الله جلَّ وجهه النفس بالنفس الآية فسئل إلى أولياء المقتول و حكمه إلينا.

As for the sheathed sword, it is with which the retaliation is established. Allah^{-azwj}, Majestic is His^{-azwj} Face, Said: **the soul is for the soul [5:45]** – the Verse. Its unsheathing is up to the guardians of the killed, and its ruling is up to us^{-asws}.²⁷⁷

15- شي، تفسير العياشي عن أبي بصير قال: سألت أبا عبد الله ع فمن تصدق به فهو كفارة له قال يكفر عنه من ذنوبه بقدر ما عفا من جراح أو غيره.

Tafseer Al Ayyashi, from Abu Baseer who said,

'I asked Abu Abdullah^{-asws}, '**So the one who forgoes with it, then it would be an expiation for him [5:45]**. He^{-asws} said: 'It will be an expiation from him of his sins in accordance with whatever he injures, or something else he pardons from'.²⁷⁸

16- ل، الخصال أبي عن سعد عن الأصمعي عن المنقرعي عن حفص عن أبي عبد الله ع قال: و أما السيف المعمود فالسيف الذي يُقام به القصاص قال الله عزَّ و جلَّ النفس بالنفس فسئل إلى أولياء المقتول و حكمه إلينا.

(The book) 'Al Khisaal' – From Sa'ad, from Al Asbahany, from Al Minqary, from Hafsa,

From Abu Abdullah^{-asws}, having said: 'And as for the sheathed sword, it is the sword with which retaliation is established. Allah^{-azwj} Mighty and Majestic Said: **the soul is for the soul [5:45]**. Its unsheathing is up to the guardians of the killed, and its ruling is up to us^{-asws}.²⁷⁹

17- ب، قرب الإسناد أبو البختري عن الصادق ع عن أبيه ع أن علياً ع كان يقول في المجنون المعضوه الذي لا يفيق و الصبي الذي لم يبلغ عمداً خطأ تحمله العاقلة و قد رفع عنهما القلم.

²⁷⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 13

²⁷⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 14

²⁷⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 15

²⁷⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 16

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

From Al-Sadiq^{asws}, from his^{asws} father^{asws}: 'Ali^{asws} had said regarding the insane person who is completely unaware and the child who has not reached the age of responsibility: 'Any intentional act they commit is considered a mistake carried by their guardian, and the Pen (legal responsibility is lifted from them)'.²⁸⁰

18- ع، علل الشرائع أبي عن سعد بن ابن عيسى عن ابن محبوب عن ابن رباب عن أبي بصير قال: سألت أبا جعفر ع عن رجل قتل رجلاً مجنوناً قال إن كان المجنون أرادته فدفعه عن نفسه فقتله فلا شيء عليه من قودٍ ولا ديةٍ و تُعطى ورثته دية من بيت مال المسلمين

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Ibn Isa, from Ibn Mahboub, from Ibn Riab, from Abu Baseer who said,

'I asked Abu Ja'far^{asws} about a man who kills an insane man. He^{asws} said: 'If the insane one had intended him so he defended himself and killed him, there is nothing upon him, neither retaliation nor wergild, and his heirs would give his wergild from the public treasury of the Muslims'.

قال و إن كان قتله من غير أن يكون المجنون أرادته فلا قود لمن لا يقاد منه و أرى أن على قاتله الدية في ماله يدفعها إلى ورثة المجنون و يستغفر الله و يتوب إليه.

He^{asws} said: 'And if he had killed him from other than the insane one had intended him, there cannot be retaliation for the one who cannot be retaliated from, and I^{asws} view that upon his killer is the wergild in his wealth to be handed over to heirs of the insane, and he should seek Forgiveness of Allah^{azwj} and repent to Him^{azwj}'.²⁸¹

19- لي، الأماالي للصدوق ابن موسى عن الأسدي عن النخعي عن إبراهيم بن الحكم عن عمرو بن جبير عن أبيه عن أبي جعفر الباقر ع قال: بعث رسول الله ص علينا إلى اليمن فأنقلت فرس لرجل من أهل اليمن فنفع رجلاً برجله فقتله و أخذته أولياء المقتول فرفعوه إلى علي ع فأقام صاحب الفرس البينة أن الفرس أنقلت من داره فنفع الرجل برجله فأبطل علي ع دم الرجل

(The book) 'Al Amaali' of Al Sadouq – Ibn Musa, from Al Asady, from Al Nakhaie, from Ibrahim Bin Al Hakam, from Amro Bin Jubeyr, from his father,

From Abu Ja'far Al-Baqir^{asws} having said: 'Rasool-Allah^{saww} sent Ali^{asws} to Al-Yemen. A horse of a man from the people of Al-Yemen bolted and trampled a man with its legs and killed him, and the guardians of the killed one seized it and raised it (the case) to Ali^{asws}. The owner of the horse established proof that the horse had bolted from his house and trampled the man with its legs. Ali^{azwj} invalidated blood (wergild) of the man'.

فجاء أولياء المقتول من اليمن إلى النبي ص يشكون علينا ع فيما حكّم عليهم فقالوا إن علينا ظلمنا و أبطل دم صاحبنا

²⁸⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 17

²⁸¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 18

The guardians of the killed one came from Al-Yemen to the Prophet^{-saww} complaining about Ali^{-asws} regarding what he^{-asws} had judged against them. They said, 'Ali^{-asws} has oppressed us and invalidated the blood (wergild) of our companion!'

فَقَالَ رَسُولُ اللَّهِ ص إِنَّ عَلِيًّا لَيْسَ بِظَلَامٍ وَ لَمْ يُخْلَقْ عَلَيًّا لِلظُّلْمِ وَ إِنَّ الْوَلَايَةَ مِنْ بَعْدِي لِعَلِيِّ وَ الْحُكْمُ حُكْمُهُ وَ الْقَوْلُ قَوْلُهُ- لَا يَزِدُّ حُكْمَهُ وَ قَوْلَهُ وَ
وَلَا يَنْتَهُ إِلَّا كَافِرٌ وَ لَا يَرْضَى بِحُكْمِهِ وَ قَوْلِهِ وَ وَلَا يَتَّبِعُهُ إِلَّا مُؤْمِنٌ

Rasool-Allah^{-saww} said: 'Ali^{-asws} isn't with injustice, and Allah^{-azwj} has not Created Ali^{-asws} for the injustice, and the Wilayah from after me^{-saww} is for Ali^{-asws}, and the (final) judgment is his^{-asws} judgment, and the (final) word is his^{-asws} word! No one will reject his^{-asws} judgment and his^{-asws} word and his^{-asws} Wilayah except a Kafir, and no one will be pleased with his^{-asws} judgment, and his^{-asws} word, and his^{-asws} Wilayah except a Momin!'

فَلَمَّا سَمِعَ الْيَمَانِيُّونَ قَوْلَ رَسُولِ اللَّهِ ص فِي عَلِيٍّ ع فَقَالُوا يَا رَسُولَ اللَّهِ رَضِينَا بِقَوْلِ عَلِيٍّ وَ حُكْمِهِ

When the Yemenis heard the words of Rasool-Allah^{-azwj} regarding Ali^{-asws}, they said, 'O Rasool-Allah^{-saww}, we are pleased with the word of Ali^{-asws} and his^{-asws} judgment!'

فَقَالَ رَسُولُ اللَّهِ ص هُوَ تَوْبَتُكُمْ مِمَّا قُلْتُمْ.

Rasool-Allah^{-saww} said: 'It is your repentance from what you had said''²⁸²

20- ع، علل الشرائع أَبِي عَنْ سَعْدِ عَنْ أَحْمَدَ وَ عَبْدِ اللَّهِ ابْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ ابْنِ مُحَمَّدِ بْنِ أَبِي عُبَيْدٍ ع قَالَ: سَأَلْتُهُ عَنْ رَجُلٍ
مُسْلِمٍ قَتَلَ رَجُلًا مُسْلِمًا عَمْدًا وَ لَمْ يَكُنْ لِلْمَقْتُولِ أَوْلِيَاءَ مِنَ الْمُسْلِمِينَ وَ لَهُ أَوْلِيَاءُ مِنْ أَهْلِ الدِّمَةِ مِنْ قَرَابَتِهِ

(The book) 'Ilal Al Sharaie' – My father, from Sa'ad, from Ahmad and Abdullah two sons of Muhammad Bin Isa, from Ibn Mahboub, from Muhammad Al Halby,

From Abu Abdullah^{-asws}, he (the narrator) said, 'I asked him^{-asws} about a Muslim man killing a Muslim man deliberately, and there do not happen to be any guardians from the Muslims for the killed one, and for him are guardians from the *Zimmy* people from his relatives.

قَالَ عَلَى الْإِمَامِ أَنْ يَعْزِزَ عَلَى قَرَابَتِهِ مِنْ أَهْلِ الدِّمَةِ الْإِسْلَامَ فَمَنْ أَسْلَمَ مِنْهُمْ دَفَعَ الْقَاتِلَ إِلَيْهِ فَإِنْ شَاءَ قَتَلَ وَ إِنْ شَاءَ عَفَا وَ إِنْ شَاءَ أَخَذَ الدِّيَةَ

He^{-asws} said: 'It is upon the Imam^{-asws} to present Al Islam to his relatives from the *Zimmy* people. The one from them who becomes a Muslim, the killer would be handed to him. If he like he can kill and if he likes he can pardon, and if he like he can take the wergild.

فَإِنْ لَمْ يُسْلَمْ مِنْ قَرَابَتِهِ أَخَذَ كَانَ الْإِمَامُ وَلِيَّ أَمْرِهِ فَإِنْ شَاءَ قَتَلَ وَ إِنْ شَاءَ أَخَذَ الدِّيَةَ فَجَعَلَهَا فِي بَيْتِ مَالِ الْمُسْلِمِينَ لِأَنَّ جِنَايَةَ الْمَقْتُولِ كَانَتْ عَلَى الْإِمَامِ
فَكَذَلِكَ تَكُونُ دِيَّتُهُ لِلْإِمَامِ.

If no one from his relatives becomes a Muslim, the Imam^{-asws} would be in charge of his matter. If he^{-asws} likes he^{-asws} can kill, and if he^{-asws} likes he^{-asws} can take the wergild and make it to be

²⁸² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 19

in the public treasury of the Muslims, because offence of the killed one was upon the Imam^{-asws}, therefore his wergild would be for the Imam^{-asws}.²⁸³

21- ب، قرب الإسناد أبو البخترى عن الصادق عن أبيه ع أَنَّ عَلِيًّا ع كَانَ يُضَمِّنُ الرَّكِبَ مَا أُوطِئَتِ الدَّابَّةُ بِبَيْدِهَا وَ رَجُلَهَا وَ يُضَمِّنُ الْقَائِدَ مَا أُوطِئَتِ الدَّابَّةُ بِبَيْدِهَا وَ يُبْرِئُهُ مِنَ الرَّجُلِ.

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

From Al-Sadiq^{-asws}, from his^{-asws} father^{-asws}: 'Ali^{-asws} held the rider responsible for whatever the animal trampled with his hands or feet, and he held the driver responsible for whatever the animal trampled with his hands, but he^{-asws} cleared him from responsibility for what was trampled by the feet!'²⁸⁴

22- ع، علل الشرائع ابن الوليد عن ابن أبنان عن الحسين بن سعيد عن محمد بن الفضل عن الكنابي عن أبي عبد الله ع قَالَ: كَانَ صَبِيًّا فِي زَمَنِ عَلِيٍّ ع يَلْعَبُونَ بِأَخْطَارٍ هُمْ فَرَمَى أَحَدُهُمْ بِخَطَرِهِ فَدَقَّ رِجْلَهُ فَصَاحَ صَاحِيهِ فَرَفَعَ ذَلِكَ إِلَى عَلِيٍّ ع فَأَقَامَ الرَّامِي النَّبِيَّةَ بِأَنَّهُ قَدْ قَالَ حَدَارٍ فَدَرَأَ عَلِيٌّ ع عَنْهُ الْفِضَاصَ وَ قَالَ قَدْ أَعْدَرَ مَنْ أَعْدَرَ.

(The book) 'Ilal Al Sharaie' – Ibn Al Waleed, from Ibn Aban, from Al-Husayn Bin Saeed, from Muhammad Bin Al Fuzeyl, from Al Kinani,

From Abu Abdullah^{-asws} having said: 'In the era of Ali^{-asws} some children were playing with slings of their. One of them pelted with his sling and struck the face of his companion. That (case) was raised to Ali^{-asws}. The pelter established the proof that he had said, 'Beware!' So Ali^{-asws} staved the retaliation from him and said: 'One who warns is excused''.²⁸⁵

23- ب، قرب الإسناد ابن رباب عن الصادق ع فِي رَجُلٍ حَمَلَ عَبْدًا لَهُ عَلَى دَابَّةٍ فَأُوطِئَتْ رَجُلًا قَالَ الْعُرْمُ عَلَى الْمَوْتَى.

(The book) 'Qurb Al Isnaad' – Ibn Riab,

From Al-Sadiq^{-asws} regarding a man who carried a slave of his upon a riding animal, and it trampled a man. He^{-asws} said: 'The penalty is upon the master'.²⁸⁶

24- مع، معاني الأخبار أبي عن سعد عن النهدي عن الحسين بن علوان عن عمرو بن خالد عن زيد بن علي عن أبيه ع قَالَ قَالَ رَسُولُ اللَّهِ ص الْعَجَمَاءُ جُبَارٌ وَ الْبَيْتُ جُبَارٌ وَ الْمَعْدُنُ جُبَارٌ وَ فِي الرِّكَازِ الْحُمْسُ وَ الْجُبَارُ الْهَدْرُ لَا دِيَّةَ فِيهِ وَ لَا قَوْدَ.

(The book) 'Ma'any Al Akhbaar' – My father, from Sa'ad, from Al Nahdy, from Al-Husayn Bin Ulwan, from Amro Bin Khalid,

From Zayd son of Ali^{-asws} (Bin Al-Husayn^{-asws}), from his forefathers^{-asws} having said: 'Rasool-Allah^{-saww} said: 'Al-Ajma' (beasts) are without liability; and the well is without liability; and the

²⁸³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 20

²⁸⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 21

²⁸⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 22

²⁸⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 23

mines are without liability; and in the buried treasure is the *Khums*; and '*Al-Jubar*' (without liability) means the void. There is neither wergild in it nor retaliation'.²⁸⁷

25 أَخْبَرَنَا أَبُو الْحُسَيْنِ مُحَمَّدُ بْنُ هَارُونَ الرَّجَزِيُّ عَنْ عَلِيِّ بْنِ عَبْدِ الْعَزِيزِ عَنِ الْقَاسِمِ بْنِ سَلَامٍ أَنَّهُ قَالَ: الْعَجْمَاءُ هِيَ الْبَهِيمَةُ وَإِنَّمَا سُمِّيَتْ عَجْمَاءَ لِأَنَّهَا لَا تَتَكَلَّمُ وَكُلُّ مَنْ لَا يَقْدِرُ عَلَى الْكَلَامِ فَهُوَ أَعْجَمٌ وَ مُسْتَعْجِمٌ - وَ مِنْهُ قَوْلُ الْحُسَيْنِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: يَقُولُ لَا تَسْمَعُ فِيهَا قِرَاءَةً

And we are informed by Abu Al-Husayn Muhammad Bin Haroun Al-Zanjani, from Ali Bin Abdul Aziz, from Al-Qasim Bin Salam, he said, 'Al-Ajma' refers to a beast, and it is called 'Ajma' because it cannot speak, for everyone who is unable to speak is called 'A'jam' or 'Mustajim'. From this comes the saying of Al-Husayn^{asws}: 'The daytime Salat is Ajma', - He^{asws} is saying that its recitation is not heard.

وَ إِنَّمَا الْجُبَارُ فَهُوَ الْهُدْرُ وَإِنَّمَا جَعَلَ جُرْحَ الْعَجْمَاءِ هَدْرًا إِذَا كَانَتْ مُنْقَلَبَةً لَيْسَ لَهَا قَائِدٌ وَ لَا سَائِقٌ وَ لَا رَاكِبٌ فَإِذَا كَانَ مَعَهَا وَاحِدٌ مِنْ هَؤُلَاءِ الثَّلَاثَةِ فَهُوَ ضَامِنٌ لِأَنَّ الْجِنَايَةَ حِينَئِذٍ لَيْسَتْ لِلْعَجْمَاءِ وَ إِنَّمَا هِيَ جِنَايَةُ صَاحِبِهَا الَّذِي أَوْطَأَهَا النَّاسَ

As for 'Al-Jubar' it means 'void' or 'without liability'. The injury caused by a beast is void only when the animal is loose, without a guide, driver, or rider. But if it has any of these three, he is liable, for in that case, the offense is not from the beast itself but from its owner who caused it to tread upon the people.

وَ إِنَّمَا قَوْلُهُ وَ الْبَيْتُ جُبَارٌ فَإِنَّ فِيهَا غَيْرَ قَوْلٍ يُقَالُ إِنَّهَا الْبَيْتُ يَسْتَأْجِرُ عَلَيْهَا صَاحِبُهَا رَجُلًا يَحْفَرُهَا فِي مَلِكِهِ فَتَنْهَارُ عَلَى الْحَافِرِ فَلَيْسَ عَلَى صَاحِبِهَا ضَمَانٌ وَ يُقَالُ إِنَّهَا الْبَيْتُ تَكُونُ فِي مَلِكِ الرَّجُلِ فَيَسْقُطُ فِيهَا إِنْسَانٌ أَوْ دَابَّةٌ فَلَا ضَمَانَ عَلَيْهِ لِأَنَّهَا فِي مَلِكِهِ

As for his^{saww} saying, 'the well is Jubar', there are different interpretations. It is said that it refers to a well whose owner hires a man to dig it on his property, and the well collapses on the digger; in that case, the owner bears no liability. It is also said that it refers to a well within a man's property into which a person or an animal falls; in that case, he is not liable because it is within his own property.

وَ قَالَ الْقَاسِمُ بْنُ سَلَامٍ هِيَ عِنْدَنَا الْبَيْتُ الْعَادِيَةُ وَ الْفَدِيمَةُ الَّتِي لَا يُعْلَمُ بِهَا حَافِرٌ وَ لَا مَالِكٌ تَكُونُ بِالْوَادِي فَيَقَعُ فِيهَا الْإِنْسَانُ أَوْ الدَّابَّةُ فَذَلِكَ هَدْرٌ بِمَنْزِلَةِ الرَّجُلِ يُوجَدُ قَتِيلًا بِفَلَاحٍ مِنَ الْأَرْضِ - لَا يُعْلَمُ لَهُ قَاتِلٌ فَلَيْسَ فِيهِ قَسَامَةٌ وَ لَا دِيَّةٌ

Al-Qasim Ibn Sallam said, 'It refers, in our view, to an ancient, abandoned well with no known digger or owner, located in a valley. If a person or animal falls into it, it is without liability, like a man found dead in a desert with no known killer, there is no oath of accusation and no wergild'.

وَ إِنَّمَا قَوْلُهُ الْمَعْدُنُ جُبَارٌ فَإِنَّ هَذِهِ الْمَعَادُنُ الَّتِي يُسْتَحْرَجُ مِنْهَا الذَّهَبُ وَ الْفِضَّةُ فَيَجِيءُ قَوْمٌ يَحْتَفِرُونَهَا هُمْ بِشَيْءٍ مُسَمًّى فَرُبَّمَا انْحَارَ الْمَعْدُنُ عَلَيْهِمْ فَيَقْتُلُهُمْ قَدِمَاؤُهُمْ هَدْرٌ لِأَنَّهُمْ إِنَّمَا عَمِلُوا بِأَجْرَةٍ

²⁸⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 24

As for his^{-saww} saying, ‘the mine is Jubar’, it refers to the mines from which gold and silver are extracted. Sometimes a group of men dig there for a fixed wage, and the mine collapses on them, killing them; their blood is without liability because they were working for pay.

وَأَمَّا قَوْلُهُ وَ فِي الرِّكَازِ الحُمْسِ فَإِنَّ أَهْلَ الْعِرَاقِ وَ أَهْلَ الْحِجَازِ اِخْتَلَفُوا فِي الرِّكَازِ فَقَالَ أَهْلُ الْعِرَاقِ الرِّكَازُ الْمَعَادِنُ كُلُّهَا وَ قَالَ أَهْلُ الْحِجَازِ الرِّكَازُ الْمَالُ الْمَدْفُونُ خَاصَّةً بِمَا كَنَزَهُ بَنُو آدَمَ قَبْلَ الْإِسْلَامِ.

And as for his^{-saww} saying: ‘In buried treasure (rikaz) there is a fifth (Khums)’, the people of Iraq and the people of Hijaz differed on its meaning. The people of Iraq said ‘rikaz’ refers to all mines, while the people of Hijaz said it refers specifically to buried wealth hidden by humans before Islam’.²⁸⁸

26- سن، المحاسن أبي و الألفظيني عن صفوان عن شعيب الحداد عن محمد بن مسلم عن أبي جعفر ع قال: إنما جعلت التميئة ليخفن بها الدماء فإذا بلع الدم فلا تميئة.

(The book) ‘Al Mahasin’ – My father and Al Yaqteeni, from Safwan, from Shueyb Al Haddad, from Muhammad Bin Muslim,

From Abu Ja’far^{-asws} having said: ‘But rather the Taqiyyah (dissimulation) has been made in order to save the bloods (lives) by it. When it reaches the bloodshed, there is no Taqiyyah’.²⁸⁹

27- سن، المحاسن حدثنا محمد بن علي عن محمد بن أسلم عن محمد بن سليمان و يونس بن عبد الرحمن عن أبي الحسن الثاني ع و الحسين بن سيف عن محمد بن سليمان عن أبي الحسن ع و حدثنا أبي و علي بن عيسى الأنصاري عن ابن سليمان الديلمي قال:

(The book) ‘Al Mahasin’ – It is narrated to us by Muhammad Bin Ali, from Muhammad Bin Aslam, from Muhammad Bin Suleyman and Yunus Bin Abdullah Rahman, from Abu Al-Hassan^{-asws} the 3rd, and Al-Husayn Bin Sayf, from Muhammad Bin Suleyman, from Abu Al-Hassan^{-asws}, and it is narrated to us by my father, and Ali Bin Isa Al Ansary, from Ibn Suleyman Al Daylami who said,

سألت أبا الحسن الثاني ع عن رجل استعاث به قوم ليقتلوه من قوم يبرون عليهم ليسببوا أموالهم و يسبوا ذراتهم و يساء لهم فخرج الرجل يغدو بسلاحه في جوف الليل ليغيثهم فمر برجل قائم على شفير بئر يستقي منها فدفعه و هو لا يعلم و لا يريد ذلك فسقط في البئر و مات و مضى الرجل فاستنقذ أموال الذين استعاثوا به

‘I asked Abu Al-Hassan^{-asws} the 2nd about a man about a man whom a group of people called upon for help to rescue them from others who were attacking them to seize their property and capture their children and women. The man set out running with his weapon in the middle of the night to assist them. As he was passing by, he encountered a man standing at the edge of a well drawing water, and he accidentally pushed him without knowing or intending it. The man fell into the well and died. The rescuer went on and saved the property of those who had sought his help.

فلما انصرف قالوا ما صنعت قال قد سلّموا و أمنوا

²⁸⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 25

²⁸⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 26

When he returned, they asked him what had happened. He said, 'They have been saved and are safe'.

قَالُوا أَشَعْرْتَ أَنَّ فُلَانًا سَقَطَ فِي الْبُئْرِ فَمَاتَ

They said, 'Do you know that so-and so fell into the well and died?'

قَالَ أَنَا وَاللَّهِ طَرَحْتُهُ حَرَجْتُ أَغْدُو بِسِلَاحِي فِي ظُلْمَةِ اللَّيْلِ لِلْعَوْتِ عَلَى الْقَوْمِ وَ أَنَا أَخَافُ الْقَوْتَ عَلَى الْقَوْمِ الَّذِينَ اسْتَعَاثُوا بِي فَمَرَزْتُ بِفُلَانٍ وَ هُوَ قَائِمٌ يَسْتَقِي مِنَ الْبُئْرِ فَرَحَمْتُهُ وَ لَمْ أَرِدْ ذَلِكَ وَ سَقَطَ فِي الْبُئْرِ فَعَلَى مَنْ دِيَهُ هَذَا

He said, 'By Allah^{-azwj}, it was I who pushed him! I went out running with my weapon in the darkness of the night to aid the people, fearing that I might be too late to help those who had called upon me. As I passed by so and- so who was standing drawing water from the well, I accidentally jostled him without intending it, and he fell into the well'. Upon whom is the vergild for this man?'

قَالَ دِيَتُهُ عَلَى الْقَوْمِ الَّذِينَ اسْتَنْجَدُوا الرَّجُلَ فَأَنْجَدَهُمْ وَ أَنْقَدَ أَمْوَالَهُمْ وَ نِسَاءَهُمْ وَ ذُرَارِيَهُمْ أَمَا لَوْ كَانَ آجَرَ نَفْسَهُ بِأَجْرٍ لَكَانَتْ الدِّيَةُ عَلَيْهِ وَ عَلَى عَاقِلِيهِ دُوْنَهُمْ

He said, 'The blood money is upon the people who sought the man's help, for he aided them and saved their wealth, their women, and their children. But if he had hired himself out for payment, then the blood money would be upon him and his male relatives, not upon them.

وَ ذَلِكَ أَنَّ سُلَيْمَانَ بْنَ دَاوُدَ عَ أَتَتْهُ امْرَأَةٌ عَجُوزٌ مُسْتَعْدِيَةٌ عَلَى الرِّيحِ فَدَعَا سُلَيْمَانَ الرِّيحَ فَقَالَ لَهَا مَا دَعَاكِ إِلَى مَا صَنَعْتَ بِهَذِهِ الْمَرْأَةِ

And that is because Suleyman Bin Dawood^{-as} was once approached by an old woman complaining against the wind. Suleyman summoned the wind and said to it: 'What caused you to do this to this woman?'

قَالَتْ إِنَّ رَبَّ الْعِزَّةِ بَعَثَنِي إِلَى سَفِينَةِ بَنِي فُلَانٍ لِأَنْقِذَهَا مِنَ الْعَرَقِ وَ كَانَتْ قَدْ أَشْرَفَتْ عَلَى الْعَرَقِ فَخَرَجْتُ فِي سُنَّتِي عَجَلِي إِلَى مَا أَمَرَنِي اللَّهُ بِهِ وَ مَرَزْتُ بِهَذِهِ الْمَرْأَةِ وَ هِيَ عَلَى سَطْحِهَا فَعَثَرْتُ بِهَا وَ لَمْ أَرِدْهَا فَسَقَطَتْ فَأَنْكَسَرَتْ بِدُهَا

The wind said, 'The Lord^{-azwj} of Might Sent me to the ship of so and so to save it from capsizing, and it was on the verge of sinking. I went swiftly in my ways hastily to what Allah^{-azwj} had Commanded me for, and I passed by this woman while she was on her rooftop, I accidentally struck her without intending it, and she fell and broke her arm!'

فَقَالَ سُلَيْمَانُ يَا رَبِّ بِمَا أَحْكُمُ عَلَى الرِّيحِ

Suleyman^{-as} said: 'O Lord^{-azwj}! What shall I^{-as} judge upon the wind?'

فَأَوْحَى اللَّهُ إِلَيْهِ يَا سُلَيْمَانُ احْكُمِ بِأَرْشِ كَسْرِ هَذِهِ الْمَرْأَةِ عَلَى أَرْبَابِ السَّفِينَةِ الَّتِي أَنْقَذْتَهَا مِنَ الرِّيحِ مِنَ الْعَرَقِ فَإِنَّهُ لَا يُظْلَمُ لَدَيْ أَحَدٍ مِنَ الْعَالَمِينَ.

Allah^{-azwj} Revealed to him^{-as}: “O Suleyman^{-as}! Judge with compensation for the broken arm of this woman upon the owners of the ship which the wind had saved from the sinking, for no one from the worlds will be wronged in My^{-azwj} Sight!”²⁹⁰

28- سن، المحاسن أبي عن هارون بن الجهم عن محمد بن مسلم قال قال أبو جعفر ع إنما ظفر قوم قتلت صبياتهم و هي نائمة انقلبت عليه فقتلته فإن عاقتها الدية من مالها خاصة إن كانت إنما ظايرت طلب العر والفخر وإن كانت إنما ظايرت من الفقر فالدية على عاقتها.

(The book) ‘Al Mahasin’ – My father, from Haroun Bin Al Jahm, from Muhammad Bin Muslim who said,

‘Abu Ja’far^{-asws} said: ‘Abu Ja’far^{-asws}, said: ‘Any wet nurse of a people who kills their child while sleeping, having turned over onto the child and killed it, must pay the blood money from her own property if she took on the nursing out of pride or for honour. But if she took it on out of need and poverty, then the blood money is upon her male relatives’.²⁹¹

29- ضا، فقه الرضا عليه السلام كل من ضرب متعمداً فتلف المضروب بذلك الضرب فهو عمد و الخطأ أن يرمي رجلاً فيصيب غيره أو يرمي بجممة أو حيواناً فيصيب رجلاً.

(The book) ‘Fiqh Al-Reza^{-asws}’, may the greeting be upon him^{-asws} – ‘Whoever strikes another intentionally, and the one struck dies as a result of that blow, it is considered intentional killing; and unintentional killing is when a man throws at one person but hits another, or when he throws at an animal or a beast but hits a man instead’.²⁹²

30- شا، الإرشاد رُفِعَ إِلَى أَمِيرِ الْمُؤْمِنِينَ ع وَ هُوَ بِالْيَمَنِ حَبْرٌ زُبَيْةٌ حُفِرَتْ لِالْأَسَدِ فَوَقَعَ فِيهَا فَعَدَا النَّاسُ يَنْظُرُونَ إِلَيْهِ فَوَقَفَ عَلَى شَفِيرِ الزُّبَيْةِ رَجُلٌ فَزَلَّتْ قَدَمُهُ فَتَعَلَّقَ بِأَخْرٍ وَ تَعَلَّقَ الْآخَرُ بِثَالِثٍ وَ تَعَلَّقَ الثَّالِثُ بِالرَّابِعِ فَوَقَعُوا فِي الزُّبَيْةِ فَدَفَنَهُمُ الْأَسَدُ وَ هَلَكُوا جَمِيعاً

(The book) ‘Al Irshad’ –

A case was raised to Amir Al-Momineen^{-asws} while he^{-asws} was at Al-Yemen, of a pit dug for the lion, so it fell into it. The people crowded to look at it. A man paused at the edge of the pit, and his feet slipped. He hung on to another, and the other hung on to a third, and the third hung on to a fourth. They (all) fell into the pit. The lion ravaged them, and they all died.

فَقَضَى ع بِأَنَّ الْأَوَّلَ فَرِسَةُ الْأَسَدِ وَ عَلَيْهِ ثُلُثُ الدِّيَةِ لِلثَّانِي وَ عَلَى الثَّانِي ثُلُثُ الدِّيَةِ لِلثَّالِثِ وَ عَلَى الثَّالِثِ الدِّيَةُ الْكَامِلَةُ لِلرَّابِعِ فَانْتَهَى الْحَبْرُ إِلَى رَسُولِ اللَّهِ ص

He^{-asws} judged that the first one was prey of the lion and upon him is a third of the wergild of the second, and upon the second is two-third of the wergild of the third, and upon the third is the complete wergild of the fourth. The news ended to Rasool-Allah^{-saww}.

فَقَالَ لَقَدْ قَضَى أَبُو الْحَسَنِ فِيهِمْ بِقَضَاءِ اللَّهِ عَزَّ وَ جَلَّ فَوْقَ عَرْشِهِ-

²⁹⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 27

²⁹¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 28

²⁹² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 29

He^{-saww} said; 'Abu Al-Hassan^{-asws} has judged among them with a Judgment of Allah^{-azwj} Mighty and Majestic above His^{-azwj} Throne!'

ثُمَّ رُفِعَ إِلَيْهِ خَبْرُ جَارِيَةٍ حَمَلَتْ عَلَى عَاتِقِهَا عَبْتًا وَ لَعِبًا فَجَاءَتْ جَارِيَةٌ أُخْرَى فَفَرَصَتِ الْحَامِلَةَ فَمَمَصَتْ لِفَرْصَتِهَا فَوَقَعَتِ الرَّكِيْبَةَ فَأَنْدَقَتْ وَ هَلَكَتْ

Then a report was brought to him about a slave girl who had carried another girl on her shoulders in play and amusement. Another girl came and pinched the one carrying, so she moved because of the pinch, and the one being carried fell, was injured, and died.

فَقَضَى عَ عَلَى الْفَارِصَةِ بِثُلْثِ الدِّيَةِ وَ عَلَى الْفَامِصَةِ بِثُلْثَيْهَا وَ أَسْقَطَ الثُّلْثَ الْبَاقِيَ لِرُكُوبِ الرَّاقِصَةِ عَبْتًا الْفَامِصَةَ

He^{-asws} judged that the one who pinched should pay one-third of the blood money, and the one who moved should pay two-thirds, and he dropped the remaining third because the one who was riding had mounted her playfully.

وَ بَلَغَ الْخَبْرُ بِذَلِكَ إِلَى رَسُولِ اللَّهِ صَ فَأَمَضَاهُ وَ شَهِدَ لَهُ بِالصَّوَابِ.

The news of that reached to Rasool-Allah^{-saww}. He^{-asws} approved of it and testified for him^{-asws} with the correctness'.²⁹³

31- شا، الإرشاد روي أن عمر كان استدعى امرأة كان يتحدث عندها الرجال فلما جاءها رسله فرعت و ارتاعت و خرجت معهم فأمنصت و وقع إلى الأرض ولدها يستهل ثم مات فبلغ عمر ذلك فجمع أصحاب رسول الله ص و سأهم عن الحكم في ذلك

(The book) 'Al Irshad' –

It is reported that It is narrated that Umar once summoned a woman with whom men used to converse. When his messengers came to her, she became frightened and alarmed. She went out with them, miscarried, and her child fell to the ground alive but then died. When this was reported to Umar, he gathered the companions of Rasool-Allah^{-saww} and asked them about the ruling regarding that.

فَقَالُوا بِأَجْمَعِهِمْ نَرَاكَ مُؤَدِّبًا وَ لَمْ نُرِدْ إِلَّا خَيْرًا وَ لَا شَيْءَ عَلَيْكَ فِي ذَلِكَ

They all said, 'We see that you acted as a disciplinarian and intended only good, and therefore there is nothing upon you regarding that!'

وَ أَمِيرُ الْمُؤْمِنِينَ عَ جَالِسًا لَا يَتَكَلَّمُ فَقَالَ لَهُ عُمَرُ مَا عِنْدَكَ فِي هَذَا يَا أَبَا الْحَسَنِ

And Amir Al-Momineen^{-asws} was seated, not talking. Umar said to him^{-asws}, 'What is with you^{-asws} regarding this, O Abu Al-Hassan^{-asws}?'

فَقَالَ قَدْ سَمِعْتَ مَا قَالُوا

²⁹³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 30

He^{-asws} said: 'I^{-asws} have heard what they said'.

قَالَ فَمَا عِنْدَكَ أَنْتَ

He said, 'So what is with you^{-asws}?'

قَالَ قَدْ قَالَ الْقَوْمُ وَ أُسْمِعْتُ

He^{-asws} said: 'The people spoke and I^{-asws} listened'.

قَالَ أَفَسَمْتُ عَلَيْكَ لِتَقُولَ مَا عِنْدَكَ

He said, 'I vow upon you^{-asws} to say what is with you^{-asws}!'

قَالَ إِنْ كَانَ الْقَوْمُ قَارِبُونَ فَقَدْ عَشُّوكَ وَ إِنْ كَانُوا أَرْتَاوًا فَقَدْ قَصَرُوا الدِّيَةَ عَلَى عَاقِلَتِكَ لِأَنَّ قَتْلَ الصَّبِيِّ خَطَأٌ تَعَلَّقَ بِكَ

He^{-asws} said: 'If the people are trying to get closer to you, they have deceived you, and if they have opined, they have fallen short. The wergild is upon your relatives because killing of the child was accidental, related with you!'

فَقَالَ أَنْتَ وَ اللَّهُ نَصَحْتَنِي مِنْ بَيْنِهِمْ وَ اللَّهُ لَا يُرْخُ حَتَّى تُجْرِيَ الدِّيَةَ عَلَى بَنِي عَدِيٍّ

He said, 'By Allah^{-azwj}, you^{-asws} have advised me from between them! By Allah^{-azwj}, you^{-asws} will not depart until you^{-asws} legalised the wergild upon the clan of Aday (Umar's clan)'.

فَفَعَلَ ذَلِكَ أَمِيرُ الْمُؤْمِنِينَ ع.

Amir Al-Momineen^{-asws} did that'.²⁹⁴

32 قب، المناقب لابن شهر آشوب روى جماعة منهم إسماعيل بن صالح عن الحسن مثله.

(The book) 'Al-Manaqib' of Ibn Shehr Ashub – It is reported by a group, from them being Ismail Bin Salih, from Al-Hassan, similar to it.²⁹⁵

33 شاء، الإرشاد روى علماء أهل السيرة أن أربعة نفر شربوا المسكر على عهد أمير المؤمنين ع فسكروا فتباعوا بالسكاكين و نال الجراح كل واحد منهم و رفع خبرهم إلى أمير المؤمنين فأمر بحبسهم حتى يفيقوا فمات في السجن منهم اثنان و بقي اثنان

(The book) 'Al Irshad' –

It is reported by scholars of the people of biographers that four persons drank the intoxicant in the era of Amir Al-Momineen^{-asws}. They got intoxicated and they attacked each other with the knives and each one of them received injuries, and their news was raised to Amir Al-

²⁹⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 31

²⁹⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 32

Momineen^{-asws}. He^{-asws} ordered with imprisoning them until they sobered up. Two of them died in the prison, and two remained.

فَجَاءَ قَوْمَ الْإِثْنَيْنِ إِلَى أَمِيرِ الْمُؤْمِنِينَ ع فَقَالُوا أَقْدَنَا يَا أَمِيرَ الْمُؤْمِنِينَ مِنْ هَذَيْنِ النَّفْسَيْنِ فَإِنَّهُمَا قَتَلَا صَاحِبَهُمَا

The people of the two came to Amir Al-Momineen^{-asws}. They said, 'Grant us retaliation from these two persons for they have killed our companions!'

فَقَالَ لَهُمْ وَ مَا عَلِمُكُمْ بِذَلِكَ وَ لَعَلَّ كُلَّ وَاحِدٍ مِنْهُمَا قَتَلَ صَاحِبَهُ

He^{-asws} said to them: 'And what is your knowledge with that, and perhaps each one of them killed his companion?'

قَالَا لَا نَدْرِي فَاحْكُمْ فِيهَا بِمَا عَلَّمَكَ اللَّهُ

They said, 'We don't know, so judge regarding it with what Allah^{-azwj} has taught you^{-asws}'.

فَقَالَ دِيَةٌ الْمُقْتُولَيْنِ عَلَى قَبَائِلِ الْأَرْبَعَةِ بَعْدَ مُقَاصَّةِ الْحَيَيْنِ مِنْهُمَا بِدِيَةِ جِرَاحِهِمَا وَ كَانَ ذَلِكَ هُوَ الْحُكْمُ الَّذِي - لَا طَرِيقَ إِلَى الْحَقِّ فِي الْقَضَاءِ سِوَاهُ أ لَا تَرَى أَنَّهُ لَا بَيِّنَةٌ عَلَى الْقَاتِلِ تُفَرِّدُهُ مِنَ الْمُقْتُولِ وَ لَا بَيِّنَةٌ عَلَى الْعَمْدِ فِي الْقَتْلِ فَلِذَلِكَ كَانَ الْقَضَاءُ فِيهِ عَلَى حُكْمِ الْخَطِئِ فِي الْقَتْلِ وَ اللَّبْسِ فِي الْقَاتِلِ دُونَ الْمُقْتُولِ -

He^{-asws} said: 'The blood money for the two killed is to be borne by the tribes of the four men, after offsetting the compensation owed to the two survivors for their wounds. This was the ruling, and there is no path to the truth in judgment except this one. Do you not see that there is no evidence identifying a specific killer distinct from the slain, nor is there proof of deliberate murder? Therefore, the judgment in this case is according to the ruling for accidental killing, since the uncertainty lies in determining the killer, not the killed'.

وَ رُوِيَ أَنَّهُ سَنَّهُ نَعْرَ نَزَلُوا الْفُرَاتَ فَتَغَاطُوا فِيهِ لِعَبَا فَعَرِقَ وَاحِدٌ مِنْهُمْ فَشَهِدَ اثْنَانِ عَلَى ثَلَاثَةٍ مِنْهُمْ أَنَّهُمْ عَرَقُوهُ وَ شَهِدَ الثَّلَاثَةُ عَلَى الْإِثْنَيْنِ أَنَّهُمَا عَرَقَاهُ

And it is reported that six persons descended into the Euphrates. They dived into it playfully and one of them drowned. Two testified upon three of them that they had drowned him, and the three testified upon the two that they had drowned him.

فَقَضَى عَلَيْهِ بِالرِّيَّةِ أَحْمَاساً عَلَى الْخُمْسَةِ نَعْرَ ثَلَاثَةٌ مِنْهَا عَلَى الْإِثْنَيْنِ بِحِسَابِ الشَّهَادَةِ عَلَيْهِمَا وَ حُمْسَانِ عَلَى الثَّلَاثَةِ بِحِسَابِ الشَّهَادَةِ أَيْضاً وَ لَمْ يَكُنْ فِي ذَلِكَ قَضِيَّةٌ أَحَقُّ بِالصَّوَابِ بِمَا قَضَى بِهِ ع.

He^{-asws} judged that the blood money be divided into fifths among the five men, three-fifths to be borne by the two, according to the testimony against them, and two-fifths by the remaining three, also in proportion to the testimony. There was no judgment more rightful with the correctness than what he^{-asws} had judged with'.²⁹⁶

²⁹⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 33

34- شي، تفسير العياشي عن زُرارة عن أبي عبد الله ع قال: الحُطَأُ أَنْ تَعْمَدَهُ وَ لَا تُرِيدَ قَتْلَهُ بِمَا لَا يُقْتَلُ مِثْلَهُ وَ الحُطَأُ لَيْسَ فِيهِ شَكٌّ أَنْ يَعْمِدَ شَيْئاً آخَرَ فَيُصِيبُهُ.

Tafseer Al Ayyashi – From Zurara,

From Abu Abdullah^{-asws} having said: ‘Accidental killing is when one acts intentionally but does not intend to kill, using something that does not usually cause death; and what is certainly accidental is when a person aims at something but strikes someone instead’.²⁹⁷

35- شي، تفسير العياشي عن عبد الرحمن بن الحجاج قال: سألتني أبو عبد الله ع عن يحيى بن سعيد هل يُخَالِفُ قَضَايَاكُمْ

Tafseer Al Ayyashi, from Abdul Rahman Bin Al Hajjaj who said,

‘Abu Abdullah^{-asws} asked me about Yahya Bin Saeed, ‘Does he oppose your judgments?’

قُلْتُ نَعَمْ أَفْتَنَلْ غُلَامَانِ بِالرَّحْبَةِ فَعَضَّ أَحَدُهُمَا عَلَى يَدِ الْآخَرَ فَرَفَعَ الْمَعْضُوضُ حَجراً فَشَجَّ يَدَ الْعَاضِ فَكَرَّرَ مِنَ الْبُرْدِ فَمَاتَ فَرُفِعَ إِلَى يَحْيَى بْنِ سَعِيدٍ فَأَقَادَ مِنَ الصَّارِبِ بِالْحَجَرِ

I said, ‘Yes. Two boys fought in Al-Rahbah. One of them bit the hand of the other, so the one who was bitten raised a stone and struck the biter’s hand, causing a wound. The biter shivered from the cold and died. The case was brought before Yahya ibn Sa’id, and he ordered retaliation from the one who struck with the stone’.

فَقَالَ ابْنُ شُبْرُمَةَ وَ ابْنُ أَبِي لَيْلَى لِعِيسَى بْنِ مُوسَى إِنَّ هَذَا أَمْرٌ لَمْ يَكُنْ عِنْدَنَا- لَا يُقَادُ عَنْهُ بِالْحَجَرِ وَ لَا بِالسَّوِطِ

Ibn Shubrumah and Ibn Abi Layla said to Isa Bin Musa: ‘This is a matter we have not known! One is not subjected to retribution for it with a stone or a whip!’

فَلَمْ يَزَالُوا حَتَّى وَدَاهُ عِيسَى بْنُ مُوسَى فَقَالَ إِنَّ مَنْ عِنْدَنَا يَبِيدُونَ بِالْوَكْرَةِ

They continued until Isa Bin Musa summoned him and said, ‘Those with us impose it through pricking’.

قُلْتُ يَزْعُمُونَ أَنَّهُ حُطَأٌ وَ أَنَّ الْعَمْدَ لَا يَكُونُ إِلَّا بِالْحَدِيدِ

I said, ‘They claim it is accidental, and that deliberate action only applies when done with iron’.

فَقَالَ إِنَّمَا الحُطَأُ أَنْ تُرِيدَ شَيْئاً فَيُصِيبَ غَيْرَهُ فَأَمَّا كُلُّ شَيْءٍ قَصَدْتَ إِلَيْهِ فَأَصَبْتَهُ فَهُوَ الْعَمْدُ.

He^{-asws} said, ‘Accidental is when one intends something but hits another instead. But whatever you aim at and hit is deliberate’.²⁹⁸

²⁹⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 34

²⁹⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 35

36- شي، تفسير العياشي عَنِ الْفَضْلِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: سَأَلْتُهُ عَنِ الْخَطِئِ الَّذِي لَا شَكَّ فِيهِ الدِّيَّةُ وَ الْكَفَّارَةُ وَ هُوَ الرَّجُلُ يَضْرِبُ الرَّجُلَ وَ لَا يَتَعَمَّدُ قَتْلَهُ

Tafseer Al Ayyashi – From Al Fazl Bin Abdul Malik,

From Abu Abdullah^{-asws}, he (the narrator) said, ‘I asked him^{-asws} about the accidental killing which there is no doubt is wergild in it and the expiation penalty, ‘And it is the man who strikes a man and did not deliberately kill him?’

قَالَ نَعَمْ

He^{-asws} said: ‘Yes’.

قُلْتُ فَإِذَا رَمَى شَيْئاً فَأَصَابَ رَجُلًا

I said, ‘When he pelts something so it hits a man’.

قَالَ ذَلِكَ الْخَطِئُ الَّذِي لَا شَكَّ فِيهِ وَ عَلَيْهِ الْكَفَّارَةُ وَ دِيَّةٌ.

He^{-asws} said: ‘That is the mistake which there is no doubt in it, and upon him is the expiation and wergild’.²⁹⁹

37- شي، تفسير العياشي عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَحَدِهِمَا ع قَالَ: كَلَّمَا أُرِيدُ بِهِ فَنِيهِ الْفَوْدُ وَ إِنَّمَا الْخَطِئُ أَنْ يُرِيدَ الشَّيْءَ فَيُصِيبَ غَيْرَهُ.

Tafseer Al Ayyashi – From Ibn Abu Umeyr, from one of his companions,

From one of the two (5th or 6th Imam^{-asws}) having said: ‘All what is intended with, there is the retaliation in it, and rather the accident is the he intends the thing but it hits someone else’.³⁰⁰

38- شي، تفسير العياشي عَنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ع قَالَ: الْعَمْدُ أَنْ تَعَمَّدَهُ فَتَقْتُلُهُ بِمَا يَمْتَلِكُهُ يُقْتَلُ.

Tafseer Al Ayyashi – From Zurara,

From Abu Abdullah^{-asws} having said: ‘Deliberate killing is when you do it intentionally and kill him with something of the kind that could kill’.³⁰¹

39- شي، تفسير العياشي مُحَمَّدُ بْنُ خَالِدِ الْبَرْقِيِّ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبِي عَبْدِ اللَّهِ ع فِي قَوْلِ اللَّهِ يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ أَ هِيَ لِمَجْمَاعَةِ الْمُسْلِمِينَ

Tafseer Al Ayyashi – Muhammad Bin Khalid Al Barqy, from one of his companions,

²⁹⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 36

³⁰⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 37

³⁰¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 38

From Abu Abdullah^{-asws} regarding Words of Allah^{-azwj}: ***O you those who are believing! The retaliation is Prescribed upon you [2:178]***, 'Is it for the community of Muslims?'

قَالَ هِيَ لِلْمُؤْمِنِينَ خَاصَّةً.

He^{-asws} said: 'It is for the Momineen in particular'.³⁰²

40- قب، المناقب لابن شهر آشوب النهائية سُئِلَ الصَّادِقُ ع عَنْ رَجُلٍ سَارِقٍ دَخَلَ عَلَى امْرَأَةٍ لَيْسَتْ بِهَا فَلَاحَ جَمَعَ الثِّيَابَ نَارَعَتْهُ نَفْسُهُ فَكَابَرَهَا عَلَى نَفْسِهَا فَوَاقَعَهَا فَتَحَرَّكَ ابْنُهَا فَقَامَ فَقَتَلَهُ بِفَأْسٍ كَانَ مَعَهُ فَلَمَّا فَرَّغَ حَمَلَ الثِّيَابَ وَ ذَهَبَ لِيُخْرِجَ فَحَمَلَتْ عَلَيْهِ بِأَفْأَسٍ فَقَتَلَتْهُ فَجَاءَ أَهْلُهُ يَطْلُبُونَ بِدَمِهِ مِنَ الْعَدُوِّ

(The book) 'Al Manaqib' of Ibn Shehr Ashub, (and) 'Al Nihaya' –

Al-Sadiq^{-asws} was asked about a thief man entered unto a woman in order to steal her belongings. When he gathers the clothes, she resisted him. He overpowered her upon herself and raped her. Her son moved, so he (thief) stood up and killed him with an axe which was with him. When he was free, he carried and clothes and went to exit. She attacked him (thief) with the axe and killed him (thief). His family members came demanding his blood wergild the next morning.

فَقَالَ أَبُو عَبْدِ اللَّهِ ع أَفْضِلْ عَلَى هَذَا كَمَا وَصَفْتُ لَكَ

Abu Abdullah^{-asws} said: 'Judge upon this (case) just as I^{-asws} am describing it to you'.

قَالَ تُضَمَّنُ مَوَالِيهِ الَّذِينَ طَلَبُوا بِدَمِهِ دِيَةَ الْعُلَامِ وَ يُضَمَّنُ السَّارِقُ فِيمَا تَرَكَ أَرْبَعَةَ آلَافِ دِرْهَمٍ لِمُكَابَرَتِهَا عَلَى فَرْجِهَا إِنَّهُ زَانٍ وَ هُوَ فِي مَالِهِ عَرَامَةٌ وَ لَيْسَ عَلَيْهَا فِي قَتْلِهَا إِيَّاهُ شَيْءٌ لِأَنَّهُ سَارِقٌ.

He^{-asws} said: 'His guardians, those who are demanding his blood wergild are responsible for wergild of the child, and the thief is responsible in what he has left behind, four thousand Dirhams for his having raped her. He is an adulterer and it is a penalty in his wealth, and there isn't anything upon her regarding her killing because he is a thief'.³⁰³

41- وَ قَالَ عَمْرُو بْنُ أَبِي الْمُقْدَامِ نَادَى رَجُلًا بِأَبِي جَعْفَرٍ يَا أَمِيرَ الْمُؤْمِنِينَ إِنَّ هَذَيْنِ الرَّجُلَيْنِ طَرَقَا أَخِي لَيْلًا فَأَخْرَجَاهُ مِنْ مَنْزِلِهِ فَلَمْ يَرْجِعْ إِلَيَّ فَوَ اللَّهُ مَا أَذْرِي مَا صَنَعَا بِهِ

And Amro Bin Abu Al Miqdam said,

'A man called out to Abu Ja'far (Al-Mansour), 'O commander of the faithful! These two men knocked (the door) of my brother at night. They brought him out from his house and he has not returned to me. By Allah^{-azwj}! I don't know what they have done with him!'

فَقَالَا يَا أَمِيرَ الْمُؤْمِنِينَ كَلَّمْنَاهُ ثُمَّ رَجَعْنَا إِلَى مَنْزِلِهِ

³⁰² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 39

³⁰³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 40

They said, 'O commander of the faithful, we (only) spoke to him, then he returned to his house!'

فَتَقَدَّمَ إِلَى الصَّادِقِ ع فَقَالَ يَا غُلَامُ اكْتُبْ بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ قَالَ رَسُولُ اللَّهِ ص كُلُّ مَنْ طَرَقَ رَجُلًا بِاللَّيْلِ فَأَخْرَجَهُ مِنْ مَنْزِلِهِ فَهُوَ لَهُ ضَامِنٌ إِلَى أَنْ يُقِيمَ الْبَيِّنَةَ أَنَّهُ قَدْ رَدَّهُ إِلَى مَنْزِلِهِ فَمَنْ يَا غُلَامُ نَحَّ هَذَا فَاضْرِبْ عُنُقَهُ

He proceeded to Al-Sadiq^{-asws}. He^{-asws} said: 'O slave, write, 'In the Name of Allah^{-azwj} Beneficent the Merciful! Rasool-Allah^{-saww} said: 'Everyone who knocks (the door of) a man at night and brings him out from his house, he is responsible for him until he can establish the proof that he had returned him to his house'. Arise, O slave! Move this one aside and strike his neck!'

فَقَالَ يَا ابْنَ رَسُولِ اللَّهِ مَا قَتَلْتُهُ وَ لَكِنْ أَمْسَكْتُهُ ثُمَّ جَاءَ هَذَا فَوَجَّأَهُ فَقَتَلَهُ

He said, 'O son^{-asws} of Rasool-Allah^{-saww}! I did not kill him, but I withheld him, then this one came and hit him and killed him!'

فَقَالَ أَنَا ابْنُ رَسُولِ اللَّهِ يَا غُلَامُ نَحَّ هَذَا فَاضْرِبْ عُنُقَ الْآخَرَ

He^{-asws} said: 'I^{-asws} am a son^{-asws} of Rasool-Allah^{-saww}! O slave, take this one aside and strike the neck of the other!'

فَقَالَ يَا ابْنَ رَسُولِ اللَّهِ وَاللَّهِ مَا عَدَّيْتُهُ وَ لَكِنْ قَتَلْتُهُ بِضَرْبَةٍ وَاحِدَةٍ

He said, 'O son^{-asws} of Rasool-Allah^{-saww}! By Allah^{-azwj} I did not torment him, but I killed him with one strike!'

فَأَمَرَ أَحَاهُ فَضْرِبَ عُنُقَهُ ثُمَّ أَمَرَ بِالْآخَرَ فَضْرِبَ جَنْبَيْهِ وَ حَبَسَهُ فِي السِّجْنِ وَ وَقَعَ عَلَى رَأْسِهِ بِحَبْسِ عُمُرِهِ وَ يُضْرَبُ كُلَّ سَنَةٍ حَمْسِينَ جَلْدَةً.

He^{-asws} ordered his^{-asws} brother, who struck his neck, then he^{-asws} ordered the other, who struck his sides and imprisoned him, and imposed on him imprisonment for the remainder of his life and fifty lashes to be inflicted each year'.³⁰⁴

42 وَ سُئِلَ أَبُو عَبْدِ اللَّهِ ع عَنْ أَرْبَعَةِ أَنْفُسٍ قَتَلُوا رَجُلًا مَمْلُوكًا وَ حُرًّا وَ حُرَّةً وَ مُكَاتَبًا قَدْ آدَى نِصْفَ مُكَاتَبَتَيْهِ

And Abu Abdullah^{-asws} was asked about four persons who killed a man - slave man, and a free man, and a free woman, and a contracted slave who had paid off half his contract.

فَقَالَ عَلَيْهِمُ الدِّيَةُ عَلَى الْحُرِّ رُبْعُ الدِّيَةِ وَ عَلَى الْحُرَّةِ رُبْعُ الدِّيَةِ وَ عَلَى الْمَمْلُوكِ أَنْ يُخَيَّرَ مَوْلَاهُ فَإِنْ شَاءَ آدَى عَنْهُ وَ إِنْ شَاءَ دَفَعَهُ بِرَقَبَتِهِ - لَا يَغْرُمُ أَهْلُهُ شَيْئاً وَ الْمُكَاتَبُ فِي مَالِهِ نِصْفُ الرُّبْعِ وَ عَلَى الَّذِي كَاتَبَهُ نِصْفُ الرُّبْعِ فَذَلِكَ الرُّبْعُ لِأَنَّهُ قَدْ أَعْتَقَ نَفْسَهُ.

He^{-asws} said: 'Upon them is the wergild. Upon the free man is quarter of the wergild; and upon the free woman is a quarter of the wergild; and upon the slave his master is given a choice. If

³⁰⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 41

he likes he can pay on his behalf and if he likes he can hand him over with his servitude, his family not being penalised anything; and the contracted slave, in his wealth is half of the quarter, and upon the one who had contracted him is half of the quarter, for that is the quarter because he had liberated himself'.³⁰⁵

43- ين، كتاب حسين بن سعيد و النوادر أحمد بن محمد بن محمد عن عبد الله بن سنان قال سمعت أبا عبد الله ع يقول في رجل قتل امرأة عمداً إن شاء أهلها أن يقتلوه و يؤدوا إلى أهله نصف الدية-

The book of Haseen Bin Saeed, and 'Al Nawadir' – Ahmad Bin Muhammad, from Abdullah Bin Sinan who said,

'I heard Abu Abdullah^{-asws} saying regarding a man who kills a woman deliberately: 'If her family like they can kill him, and half the wergild has to be paid to him family'.

و في امرأة قتلت رجلاً إن شاء أهلها قتلوها و ليس يجزي أحد على أكثر من نفسه-

And regarding a woman who kills a man: 'If his family like they can kill her, for no one is more responsible upon more than himself'.

و في رجل أراد امرأة على نفسها حراماً فرمته بحجر فأصابته منه مقتلاً قال ليس عليها شيء فيما بينها و بين الله و إن قديم إلى إمام عدل أهدر دمه.

And regarding a man who wanted a woman upon herself unlawfully, so she pelted him with a stone and hit a fatal spot from him. He^{-asws} said: 'There isn't anything upon her regarding what is between her and Allah^{-azwj}, and if it (the case) is brought to a just Imam^{-asws}, he^{-asws} would drop his blood compensation'.³⁰⁶

و عنه في رجل قتل مؤمناً متعمداً قال يُقاد منه إلا أن يرضى أولياء المقتول بالدية فإن قبلوا الدية فالدية اثنا عشر ألف درهم أو ألف دينار أو مائة من الإبل فإن كان بأرض فيها دنانير فألف دينار.

And from him^{-asws} regarding a man who kills a Momin deliberately. He^{-asws} said: 'He will be retaliated from except if guardians of the killed one are pleased with taking the wergild. If they accept the wergild, the wergild is twelve thousand Dirhams, or a thousand Dinars, or one hundred camels. If there were Dinars (as currency) in a land, then a thousand Dinars'.³⁰⁷

44- ختص، الإختصاص هشام بن سالم عن عمارة الساباطي عن أبي عبيدة قال: سألت أبا جعفر ع عن أعمى فقأ عين رجل صحيح تعمداً فقال يا أبا عبيدة إن عمداً الأعمى مثل الخطأ هذا فيه الدية من ماله فإن لم يكن له مال فدية ذلك على الإمام و لا يبطل حق مسلم.

(The book) 'Al Ikhtisas' – Hisham Bin Salim, from Ammar Al Sabaty, from Abu Ubeyda who said,

'I asked Abu Ja'far^{-asws} about a blind man having gouged out of a healthy (seeing) man deliberately. He^{-asws} said: 'O Abu Ubeyda! The deliberate act of a blind man is like the accidental. There is wergild in it from his wealth. If there does not happen to be any wealth

³⁰⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 42

³⁰⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 43 a

³⁰⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 43 b

for him, the wergild of that is upon the Imam^{-asws} and a right of a Muslim will not be nullified'.³⁰⁸

45- إِرْشَادُ الْقُلُوبِ، عَنْ مُوسَى بْنِ جَعْفَرٍ عَنْ آبَائِهِ ع قَالَ: قَالَ أَمِيرُ الْمُؤْمِنِينَ ع فِي بَيَانِ فَضْلِ النَّبِيِّ ص وَ أُمَّتِهِ وَ مِنْهَا أَنَّ الْقَاتِلَ مِنْهُمْ عَمْدًا إِنْ شَاءَ أَوْلِيَاءُ الْمَقْتُولِ أَنْ يَغْفُوا عَنْهُ فَعَلُوا وَ إِنْ شَاءُوا قَبِلُوا الدِّيَةَ وَ عَلَى أَهْلِ التَّوْرَةِ أَنْ يُقْتَلَ الْقَاتِلُ وَ لَا يُغْفَى عَنْهُ وَ لَا يُؤْخَذُ مِنْهُ دِيَةٌ قَالَ اللَّهُ عَزَّ وَ جَلَّ ذَلِكَ تَخْفِيفٌ مِنْ رَبِّكُمْ وَ رَحْمَةٌ.

(The book) 'Irshad Al Quloub' –

From Musa^{-asws} Bin Ja'far^{-asws}, from his^{-asws} forefathers^{-asws} having said: 'Amir Al-Momineen^{-asws} said, explaining the merits of the Prophet^{-saww} and his^{-saww} community: 'Among their distinctions is that if one of them commits intentional killing, the heirs of the slain may, if they wish, pardon him, or if they wish, accept the blood money. But for the people of the Torah, the killer must be executed, and no pardon or wergild is accepted from him. Allah^{-azwj} Mighty and Majestic Said: **That is a Lightening from your Lord and a Mercy [2:178]**'.³⁰⁹

46- كِتَابُ الْغَارَاتِ، لِإِبْرَاهِيمَ بْنِ مُحَمَّدٍ النَّقْفِيِّ رَفَعَهُ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ رَجُلًا بِالشَّامِ يُقَالُ لَهُ ابْنُ الْخَيْبَرِيِّ وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا فَقَتَلَهُ فَرَفَعَ ذَلِكَ إِلَى مُعَاوِيَةَ فَكَتَبَ إِلَى بَعْضِ أَصْحَابِ عَلِيٍّ يَسْأَلُهُ

(The book) 'Kitab Al Gharaat' of Ibrahim Bin Muhammad Al Saqafy raising from Saeed Bin Al Musayyib,

'There was a man in Syria called Ibn Al-Khaybari. He (alleged that he) found a man with his wife, so he killed him. That was raised to Muawiyah. He wrote to one of companions of Ali^{-asws} to ask him^{-asws}.

فَقَالَ عَلِيٌّ ع إِنَّ هَذَا شَيْءٌ مَا كَانَ قَبْلَنَا

Ali^{-asws} said: 'This is something that did not occur in our time!'

فَأَخْبَرَهُ أَنَّ مُعَاوِيَةَ كَتَبَ إِلَيْهِ فَقَالَ ع إِنَّ لَمْ يَجِيءْ بِأَرْبَعَةِ شُهَدَاءَ يَشْهَدُونَ أَقِيدَ بِهِ.

He^{-asws} was then informed that Mu'awiyah had written to him^{-asws} about it, so he^{-asws} said: 'If he does not bring four witnesses to testify, retaliation will be carried out against him'.³¹⁰

47- وَ مِنْهُ، بِإِسْنَادِهِ عَنِ الْحَسَنِ بْنِ بَكْرِ الْبَجَلِيِّ قَالَ: كُنَّا عِنْدَ عَلِيٍّ ع فِي الرَّحْبَةِ فَأَقْبَلَ رَهْطٌ فَسَلَّمُوا فَلَمَّا رَأَاهُمْ عَلِيٌّ ع أَنْكَرَهُمْ فَقَالَ مِنْ أَهْلِ الشَّامِ أَنْتُمْ أَمْ مِنْ أَهْلِ الْحِزْبَةِ

And from him, by his chain, from Al-Hassan Bin Bakr Al Bajaly who said,

³⁰⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 44

³⁰⁹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 45

³¹⁰ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 46

‘He said: We were with Ali^{-asws} in Al-Rahbah when a group of people approached and greeted him^{-asws}. When Ali^{-asws} saw them, he^{-asws}, did not acknowledge them to be (from his^{-asws} people) asked them: ‘Are you from the people of Syria or from the people of Al-Jazira?’

قَالُوا بَلْ مِنْ أَهْلِ الشَّامِ مَاتَ أَبُوْنَا وَ تَرَكَ مَالًا كَثِيرًا وَ تَرَكَ أَوْلَادًا رِجَالًا وَ نِسَاءً وَ تَرَكَ فِينَا حُنْفَى لَهُ حَيَاءٌ كَحَيَاءِ الْمَرْأَةِ وَ ذَكَرَ كَذَكَرِ الرَّجُلِ فَأَرَادَ الْمِيرَاثَ كَرَجُلٍ مِنَّا فَأَبَيْنَا عَلَيْهِ

They said: ‘We are from the people of Syria. Our father has died, leaving behind a great deal of wealth and children, both male and female. Among us there is a person who is intersex, having both the private parts of a man and those of a woman. He wishes to take his share of the inheritance as one of the men, but we refused to him’.

فَقَالَ ع فَأَيْنَ كُنْتُمْ عَنْ مُعَاوِيَةَ

He^{-asws} said: ‘Then where were you with Mu‘awiyah?’

فَقَالُوا قَدْ أَتَيْنَاهُ فَلَمْ يَرِدْ [يُدْرِ] مَا يُقْضِي بَيْنَنَا

They said, ‘We went to him, but he did not know how to judge between us’.

فَنَظَرَ عَلِيٌّ ع يَمِينًا وَ شِمَالًا وَ قَالَ لَعَنَ اللَّهُ قَوْمًا يَرْضَوْنَ بِقِصَائِنَا وَ يَطْعُنُونَ عَلَيْنَا فِي دِينِنَا أَنْطَلِقُوا بِصَاحِبِهِ فَاَنْظُرُوا إِلَى مَسِيلِ الْبَوْلِ فَإِنْ خَرَجَ مِنْ ذَكَرِهِ فَلَهُ مِيرَاثُ الرَّجُلِ وَ إِنْ خَرَجَ مِنْ غَيْرِ ذَلِكَ فَوَرَثُوهُ مَعَ النِّسَاءِ

Ali^{-asws} looked right and left and said: ‘May Allah^{-azwj} Curse a people who accept our^{-asws} judgment but revile (insult) us^{-asws} in our^{-asws} religion! Take your companion and look at where his urine flows from. If it flows from the male organ, then give him the share of a man, and if it flows from elsewhere, then make him inherit with the women’.

فَبَالَ مِنْ ذَكَرِهِ فَوَرَّثَهُ كَمِيرَاثِ الرَّجُلِ مِنْهُمْ.

He urinated from his male organ, so he^{-asws} made him inherit like inheritance of the man from them’.³¹¹

48- كِتَابُ مَقْصَدِ الرَّغِيبِ، قَضَى عَلِيٌّ ع فِي رَجُلٍ أَمْسَكَ رَجُلًا حَتَّى جَاءَ آخَرُ فَقَتَلَهُ وَ رَجُلًا يَنْظُرُ فَلَمْ يَمْنَعَهُ فَقَضَى يُقْتَلُ الْقَاتِلُ وَ يُقْتَلُ عَيْنُ الَّذِي نَظَرَ وَ لَمْ يُعْنَهُ وَ حُلِدَ الَّذِي أَمْسَكَهُ فِي الْحَبْسِ حَتَّى مَاتَ.

‘Kitab Maqsad Al Raghīb’ –

Ali^{-asws} judged regarding a man who withheld a man until another one came and killed him while a man looked on, not preventing him. He^{-asws} judged that the killer be killed, and an eye

³¹¹ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 47

of the onlooker which he looked and did not help him, be gouged out, and the one who withheld him would spend his life in the prison until he dies'.³¹²

باب 39 الجنايات على الأطراف و المنافع

CHAPTER 39 – THE FELONIES UPON THE LIMBS AND THE BENEFITS

1- سن، المحاسن ابن محبوب عن هشام بن سالم عن حبيب السجستاني قال: سألت أبا جعفر ع عن رجلٍ قطعَ يدي رجلين اليمينين فقال يُقطعُ يا حبيبُ يده اليمنى أولاً و يُقطعُ يده اليسرى للذي قطعَ يده اليمنى آخرًا لأنه قطعَ يد الأخير و يده اليمنى قصاصاً للأول

(The book) 'Al Mahasin' – Ibn Mahaboub, from Hisham Bin Salim, from Habeeb Al Sijistany who said,

'I asked Abu Ja'far^{asws} about a man who cut the right hands of two men. He^{asws} said: 'O Habeeb! His right hand was cut first, and his left hand would be cut for the right hand he had cut last, because he had cut the hand of the last one while his right hand was in retaliation for the first one.

قَالَ فَقُلْتُ تُقَطِّعُ يَدَاهُ جَمِيعًا فَلَا تُتْرَكُ لَهُ يَدٌ يَسْتَنْظِفُ بِهَا

He (the narrator) said, 'I said, 'You^{asws} will cut both of his hands and not leave a hand for him to clean himself with!'

قَالَ نَعَمْ إِنَّهَا فِي حُقُوقِ النَّاسِ فَيُقْتَصُّ فِي الْأَرْبَعِ جَمِيعًا فَلَا يُقْتَصُّ مِنْهُ إِلَّا فِي يَدٍ وَ رِجْلٍ فَإِنْ قَطَعَ يَمِينَ رَجُلٍ وَ قَدْ قُطِعَتْ يَمِينُهُ فِي الْقِصَاصِ قُطِعَتْ يَدُهُ الْيُسْرَى وَ إِنْ لَمْ يَكُنْ لَهُ يَدَانِ قُطِعَتْ رِجْلُهُ بِالْيَدِ الَّتِي تُقَطَّعُ وَ يُقْتَصُّ مِنْهُ فِي جَوَارِحِ كُلِّهَا إِذَا كَانَتْ فِي حُقُوقِ النَّاسِ.

He^{asws} said: 'Yes, for these pertain to the rights of people. Retaliation is carried out for all four limbs, but only in a hand and a foot. So, if he cuts off a man's right hand while his own right hand has already been cut off in retaliation, then his left hand is to be cut off. And if he has no hands, then his foot is to be cut off in place of the hand that was cut. Retaliation is carried out on all his limbs when it concerns the rights of people'.³¹³

2- قب، المناقب لابن شهر آشوب قضى أمير المؤمنين ع في رجلٍ ضربَ على صدره فأدعى أنه نقصَ نفسه فقال ع إن النفس يكون في المنخر الأيمن و في الأيسر ساعة فإذا طلع الفجر يكون في المنخر الأيمن إلى أن تطلع الشمس و هو ساعة

(The book) 'Al Manaqib' of Ibn Shehr Ashub –

Amir Al-Momineen^{asws} judged regarding a man who was struck upon his chest. He claimed that his breathing had been reduced. He^{asws} said: 'Breathing alternates between the right and the left nostril hour by hour. When dawn appears it is in the right nostril until the sun rises, and that is one hour'.

³¹² Bihar Al-Anwaar V 101 – The Book of Rulings – CH 38 H 48

³¹³ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 39 H 1

فَأَقْعَدَ الْمُدْعَى مِنْ حِينَ يَطْلُعُ الْفَجْرُ إِلَى طُلُوعِ الشَّمْسِ وَ عَدَّ أَنْفَاسَهُ ثُمَّ أَقْعَدَ رَجُلًا فِي سِنِّهِ يَوْمَ النَّهْيِ مِنْ وَقْتِ طُلُوعِ الْفَجْرِ إِلَى طُلُوعِ الشَّمْسِ وَ عَدَّ أَنْفَاسَهُ ثُمَّ أَعْطَى الْمُسَابِقَ بِقَدْرِ مَا نَقَصَ مِنْ نَفْسِهِ عَنِ نَفْسِ الصَّحِيحِ -

So, he seated the claimant from the time dawn began until sunrise and counted his breaths, then on the second day seated a man of his age from dawn until sunrise and counted his breaths, then gave the injured man the amount by which his breaths had decreased compared with the breathing of a healthy man.

وَ حَكَمَ عَ فِيْمَنْ ادَّعَى أَنَّهُ ذَهَبَ بَصْرُهُ أَنْ يُرْبَطَ عَيْنُهُ الصَّحِيحَةَ بَبَيْضَةٍ وَ يَدْنُو مِنْهُ رَجُلٌ فَيَبْصُرُهُ بِعَيْنِهِ الْمُسَابِقَةَ ثُمَّ يَتَنَحَّى عَنْهُ إِلَى الْمَوْضِعِ الَّذِي يَنْتَهِي بَصْرُهُ إِلَيْهِ.

And he^{asws} judged concerning one who claimed that his sight was lost that the healthy eye should be covered with a white (cloth) and a man should approach from a distance so that the injured person can try to see him with his eye, then the man should move away to the point at which the injured person's sight fails.³¹⁴

3- قب، المناقب لابن شهر آشوب قَالَ أَبُو جَعْفَرٍ ع لِعَبْدِ اللَّهِ بْنِ عَبَّاسٍ أَنْشَدَكَ اللَّهُ هَلْ فِي حُكْمِ اللَّهِ اخْتِلَافٌ

(The book) 'Al Manaqib' of Ibn Shehr Ashub –

Abu Ja'far^{asws} said to Abdullah Bin Abbas: 'I adjure you with Allah^{azwj}! Is there any contradiction in the Judgments of Allah^{azwj}?'

قَالَ لَا

He said, 'No'.

قَالَ فَمَا تَرَى فِي رَجُلٍ ضُرِبَ أَصَابِعُهُ بِالسَّيْفِ حَتَّى سَقَطَتْ فَذَهَبَ فَأَتَى رَجُلٌ آخَرَ فَأَطَارَ كَفَّ يَدَيْهِ فَأَتَى بِهِ إِلَيْكَ وَ أَنْتَ قَاضٍ كَيْفَ أَنْتَ صَانِعٌ

He^{asws} said: 'Then what is your opinion about a man whose fingers were struck with a sword until they fell off, and he went away, then another man came and cut off his palm, and both were brought before you while you are the judge, what would you do?'

قَالَ أَقُولُ لِهَذَا الْقَاطِعِ أَعْطَاهُ دِيَةَ كَفِّ وَ أَقُولُ لِهَذَا الْمَقْطُوعِ صَالِحُهُ عَلَى مَا شِئْتَ أَوْ أَبْعَثُ إِلَيْهِمَا ذَوِي عَدْلٍ

He said, 'I would tell the one who cut off the palm to pay the blood money for a palm, and I would tell the one whose palm was cut to reconcile with the other for what he wished, or I would send two just men to them (to arbitrate)'.

³¹⁴ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 39 H 2

قَالَ فَقَالَ لَهُ جَاءَ الْإِحْتِلَافُ فِي حُكْمِ اللَّهِ وَ تَقَضَّتْ الْقَوْلَ الْأَوَّلَ أَبِي اللَّهِ أَنْ يُجِدَتْ فِي خَلْقِهِ شَيْئاً مِنَ الْحُدُودِ وَ لَيْسَ تَفْسِيرُهُ فِي الْأَرْضِ أَقْطَعُ يَدَ قَاطِعِ الْكَفِّ أَوْلاً ثُمَّ أُعْطِيَهِ دِيَةَ الْأَصَابِعِ هَذَا حُكْمُ اللَّهِ.

Abu Ja'far^{-asws} said to him: 'Here comes a differing from the Judgment of Allah^{-azwj} and you have contradicted your first word. Allah^{-azwj} has Refused that there should be an innovation among His^{-azwj} creatures of anything from the legal penalties while its interpretation isn't in the earth. The correct ruling is that the one who cut off the palm has his hand cut off first, and then he is given the wergild for the fingers. This is the judgment of Allah^{-azwj}'.³¹⁵

باب 40 حكم ما تجنيه الدواب

CHAPTER 40 – RULING OF WHAT OFFENCES THE ANIMALS COMMIT

1- ص، قصص الأنبياء عليهم السلام الصُّدُوقُ عَنِ ابْنِ مُوسَى عَنِ الْأَسَدِيِّ عَنِ النَّخَعِيِّ عَنِ إِبْرَاهِيمَ بْنِ الْحَكَمِ عَنْ عَمْرٍو بْنِ جُبَيْرٍ عَنْ أَبِيهِ عَنِ الْبَاقِرِ ع قَالَ: بَعَثَ النَّبِيُّ ص عَلِيًّا ع إِلَى الْيَمَنِ فَأَنْقَلَتِ فَرَسٌ لِرَجُلٍ مِنْ أَهْلِ الْيَمَنِ فَتَفَحَّ رَجُلًا فَتَقَلَّه فَأَحَذَهُ أَوْلِيَاؤُهُ وَ رَفَعُوا إِلَى عَلِيٍّ ع فَأَقَامَ صَاحِبُ الْفَرَسِ الْبَيْئَةَ أَنَّ الْفَرَسَ أَنْقَلَتْ مِنْ دَارِهِ فَتَفَحَّ الرَّجُلَ بِرِجْلِهِ فَأَبْطَلَ عَلِيٌّ ع دَمَ الرَّجُلِ

(The book) 'Qasas Al-Anbiya^{-as}', may the greeting be upon them^{-as} – Al Sadouq, from Ibn Musa, from Al Asadi, from Al Nakhaie, from Ibrahim Bin Al Hakam, from Amro Bin Jubeyr, from his father,

From Al-Baqir^{-asws} having said: 'The Prophet^{-saww} sent Ali^{-asws} to Al-Yemen. A horse of a man from the people of Al-Yemen bolted. It trampled a man and killed him. His guardians seized him and raised it (the case) to Ali^{-asws}. The owner of the horse established the proof that the horse had bolted from his house and trampled the man with its legs, so Ali^{-asws} nullified the blood (wergild) of the man.

فَجَاءَ أَوْلِيَاؤُ الْمَقْتُولِ مِنَ الْيَمَنِ إِلَى النَّبِيِّ ص يَشْكُونَ عَلِيًّا فِيمَا حَكَمَ عَلَيْهِمْ فَقَالُوا إِنَّ عَلِيًّا ظَلَمَنَا وَ أَبْطَلَ دَمَ صَاحِبِنَا

The guardians of the killed one came from Al-Yemen to the Prophet^{-saww} complaining about Ali^{-asws} regarding what he^{-asws} had judged against them. They said, 'Ali^{-asws} has oppressed us and invalidated the blood (wergild) of our companion!'

فَقَالَ رَسُولُ اللَّهِ ص إِنَّ عَلِيًّا لَيْسَ بِظَلَّامٍ وَ لَمْ يُخْلَقْ عَلَيَّ لِلظُّلْمِ وَ إِنَّ الْوِلَايَةَ مِنْ بَعْدِي لِعَلِيِّ وَ الْحُكْمُ حُكْمُهُ وَ الْقَوْلُ قَوْلُهُ- لَا يَرُدُّ حُكْمَهُ وَ قَوْلُهُ وَ وِلَايَتُهُ إِلَّا كَافِرٌ وَ لَا يَرْضَى بِحُكْمِهِ وَ وِلَايَتِهِ إِلَّا مُؤْمِنٌ

Rasool-Allah^{-saww} said: 'Ali^{-asws} isn't with injustice and He^{-azwj} did not Create Ali^{-asws} for the injustice, and that the Wilayah from after me^{-saww} is for Ali^{-asws}, and the (final) judgment is his^{-asws} judgment, and the (final) word is his^{-asws} word! No one will reject his^{-asws} judgment and his^{-asws} word and his^{-asws} Wilayah except a Kafir, and no one will be pleased with his^{-asws} judgment and his^{-asws} Wilayah except a Momin'.

³¹⁵ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 39 H 3

فَلَمَّا سَمِعَ النَّاسُ قَوْلَ رَسُولِ اللَّهِ ص قَالُوا يَا رَسُولَ اللَّهِ رَضِينَا بِقَوْلِ عَلِيِّ وَ حُكْمِهِ

When the group heard the words of Rasool-Allah^{-saww}, they said, 'O Rasool-Allah^{-saww}! We are pleased with the words of Ali^{-asws} and his^{-asws} judgment'.

فَقَالَ رَسُولُ اللَّهِ هُوَ تَوْبَتُكُمْ بِمَا قُلْتُمْ.

Rasool-Allah^{-saww} said: 'It is your repentance of what you had said'.³¹⁶

2- شا، الإرشاد جاءت الأثر أن رجلين اختلفا إلى النبي ص في بقرة قتلت جماراً فقال أحدهما يا رسول الله بقرة هذا الرجل قتلت جماري

(The book) 'Al Irshad' –

The Ahadeeth have comes that two men brought a dispute to the Prophet^{-saww} regarding a cow which had killed a donkey. One of them said, 'O Rasool-Allah^{-saww}! A cow of this man has killed my donkey!'

فَقَالَ رَسُولُ اللَّهِ ص اذْهَبَا إِلَى أَبِي بَكْرٍ فَاسْأَلَاهُ عَنْ ذَلِكَ

Rasool-Allah^{-saww} said: 'Both of you go to Abu Bakr and ask him about that!'

فَجَاءَا إِلَى أَبِي بَكْرٍ وَ قَصَّا عَلَيْهِ قِصَّتَهُمَا قَالَ كَيْفَ تَرَكْتُمَا رَسُولَ اللَّهِ ص وَ جِئْتُمَانِي

They came to Abu Bakr and they narrated their stories to him. He said, 'How come you neglected Rasool-Allah^{-saww} and came to me?'

قَالَا هُوَ أَمَرَنَا بِذَلِكَ

They said, 'He^{-saww} instructed us with that'.

فَقَالَ بَيْمَةٌ قَتَلَتْ بَيْمَةً لَا شَيْءَ عَلَى رَبِّهَا

He said, 'An animal has killed an animal, there is nothing upon its owner'.

فَعَادَا إِلَى النَّبِيِّ ص فَأَخْبَرَاهُ بِذَلِكَ فَقَالَ لُهُمَا امْضِيَا إِلَى عُمَرَ بْنِ الْخَطَّابِ فَصِّصَا عَلَيْهِ قِصَّتَكُمَا وَ سَلَاهُ الْقَضَاءَ فِي ذَلِكَ

They returned to the Prophet^{-saww} and informed him^{-saww} of that. He^{-saww} said to them: 'Go to Umar Bin Al-Khattab and narrate your stories to him and ask him for the judgment regarding that!'

فَدَهَبَا إِلَيْهِ وَ قَصَّا عَلَيْهِ قِصَّتَهُمَا فَقَالَ لُهُمَا كَيْفَ تَرَكْتُمَا رَسُولَ اللَّهِ ص وَ جِئْتُمَانِي

³¹⁶ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 40 H 1

They went to him and narrated their stories to him. He said to them, 'How come you neglected Rasool-Allah^{-saww} and have come to me?'

فَقَالَا إِنَّهُ أَمَرَنَا

They said, 'He^{-saww} instructed us'.

فَقَالَ كَيْفَ لَمْ يَأْمُرْكُمْ بِالْمَسِيرِ إِلَى أَبِي بَكْرٍ

He said, 'How come he^{-saww} did not instruct you with the going to Abu Bakr?'

قَالَا إِنَّا قَدْ أَمَرْنَا بِذَلِكَ وَ صَبَرْنَا إِلَيْهِ

They said, 'He^{-saww} had instructed us and we did go to him!'

قَالَ فَمَا الَّذِي قَالَ لَكُمْ فِي هَذِهِ الْقِصَّةِ

He said, 'So what is that which he said to you regarding this story?'

قَالَا لَهُ كَيْتٌ وَ كَيْتٌ

They said to him, 'Such and such'.

قَالَ مَا أَرَى إِلَّا مَا رَأَى أَبُو بَكْرٍ

He said, 'I don't opine except what Abu Bakr had opined!'

فَصَارَا إِلَى النَّبِيِّ ص فَأَخْبَرَاهُ الْخَبَرَ

So, they came to the Prophet^{-saww} and informed him^{-saww} of the news. He^{-saww} said: 'Go to Ali^{-asws} Bin Abu Talib^{-asws} for him^{-asws} to judge between you two!'

فَقَالَ اذْهَبَا إِلَى عَلِيِّ بْنِ أَبِي طَالِبٍ لِيُقْضَى بَيْنَكُمَا فَذَهَبَا إِلَيْهِ فَقَصَا عَلَيْهِ قِصَّتَهُمَا فَقَالَ إِنْ كَانَتِ الْبَقْرَةُ دَخَلَتْ عَلَى الْحِمَارِ فِي مَأْمِنِهِ فَعَلَى رَبِّهَا فِيمَةُ الْحِمَارِ لِصَاحِبِهِ وَ إِنْ كَانَ الْحِمَارُ دَخَلَ عَلَى الْبَقْرَةِ فِي مَأْمِنِهَا فَقَتَلَتْهُ فَلَا عَزْمَ عَلَى صَاحِبِهَا

They went to him^{-asws} and narrated their stories to him^{-asws}. He^{-asws} said: 'If the cow had entered to the donkey in its secure place, upon its owner is the price of the donkey for its owner; and if the donkey had entered to the cow in its secure place so it killed it, there is no penalty upon its owner'.

فَعَادَا إِلَى النَّبِيِّ ص فَأَخْبَرَاهُ بِقَضِيَّتِهِ بَيْنَهُمَا فَقَالَ لَقَدْ قَضَى عَلِيُّ بْنُ أَبِي طَالِبٍ ع بَيْنَكُمَا بِقَضَاءِ اللَّهِ تَعَالَى

They returned to the Prophet^{-saww} and informed him^{-saww} of his^{-asws} judgment between them. He^{-saww} said: 'Ali^{-asws} Bin Abu Talib^{-asws} has judged between you two with a Judgment of Allah^{-azwj} the Exalted!'

ثُمَّ قَالَ الْحَمْدُ لِلَّهِ الَّذِي جَعَلَ فِينَا أَهْلَ الْبَيْتِ مَنْ يَقْضِي عَلَى سُنَنِ دَاوُدَ فِي الْقَضَاءِ.

Then he^{-saww} said: 'The Praise is for Allah^{-azwj} Who Made among us People^{-asws} of the Household, someone who can judge upon the Sunnah of Dawood^{-as} in his^{-as} judgment'.³¹⁷

3- مَقْصَدُ الرَّغِيبِ، مِثْلَهُ إِلَّا أَنْ فِيهِ ثَوْرًا قَتَلَ حِمَارًا وَ مَكَانَ مَأْمَنِهِ وَ مَأْمَنَهَا مُسْتَرَاخُهُ فِي الْمَوْضِعَيْنِ.

(The book) 'Maqsad Al Raghīb' –

Similar to it except that in it is a bull which killed a donkey, and in place of 'his secure place' and 'her secure place', it is 'its resting place' in the two places.³¹⁸

³¹⁷ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 40 H 2

³¹⁸ Bihar Al-Anwaar V 101 – The Book of Rulings – CH 40 H 3