

# الكافي

## AL-KAFI

ج 7

Volume 7

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة  
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Of the majestic narrator and the scholar, the jurist, the Sheykh  
Muhammad Bin Yaqoub Al-Kulayni

Well known as 'The trustworthy of Al-Islam Al-Kulayni'

Who died in the year 329 H

كتاب الحدود

THE BOOK OF LEGAL PENALTIES (1)

## TABLE OF CONTENTS

<b>THE BOOK OF LEGAL PENALTIES (1)</b> .....	<b>1</b>
Chapter 1 – The identification of the Penalties .....	4
Chapter 2 – The stoning and the whipping, and the ones upon whom that is Obligated .....	8
Chapter 3 – What constitutes being married and what constitutes not being married, and what does not Obligate the stoning upon the married man .....	9
Chapter 4 – The young child commits adultery with the mature woman, and the man commits adultery with the young girl not having matured yet.....	13
Chapter 5 – What Obligates the lashing .....	14
Chapter 6 – Description of the Penalty ( <i>Hadd</i> ) of the adulterer .....	17
Chapter 7 – What Obligates the stoning .....	18
Chapter 8 – Description of the stoning.....	19
Chapter 9 – Another chapter from it .....	21
Chapter 10 – The man rapes the woman of her chastity .....	26
Chapter 11 – The one who commits adultery with a <i>Mahram</i> (commits incest) .....	27
Chapter 12 – Regarding the committer of the major sins, he should be killed during the third (offence) .....	29
Chapter 13 – The insane man and the insane woman both committing adultery.....	29
Chapter 14 – Penalty ( <i>Hadd</i> ) of the woman who has a husband for her, so she married (another), or she married whilst being in her waiting period, and the man who marries a married woman .....	30
Chapter 15 – The man whom comes to a slave girl and there is a partnership with regards to her, and the man who comes to his contracted slave girl .....	33
Chapter 16 – The coerced woman.....	35
Chapter 17 – The man who commits adultery many times a day .....	36
Chapter 18 – The man who gets his slave girl married off, then falls upon her .....	36
Chapter 19 – Exiling the adulterer.....	36
Chapter 20 – Penalty ( <i>Hadd</i> ) of the boy and the girl upon both is Obligated the complete Penalty ( <i>Hadd</i> ) ...	37
Chapter 21 – The Penalty ( <i>Hadd</i> ) regarding the sodomy.....	38
Chapter 22 – Another chapter from it.....	42

**Chapter 23 – The Penalty (*Hadd*) regarding the lesbianism .....43**

**Chapter 24 – Another chapter from it .....44**

**Chapter 25 – The Penalty (*Hadd*) upon the one who goes to the animal (bestiality) .....46**

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

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

## باب التَّحْدِيدِ

### Chapter 1 – The identification of the Penalties

مُحَمَّدُ بْنُ يَعْقُوبَ قَالَ حَدَّثَنِي مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيسَى عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ حَنَانَ بْنِ سَدِيرٍ عَنْ أَبِيهِ قَالَ قَالَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) حَدُّ يُقَامُ فِي الْأَرْضِ أَزْكَى فِيهَا مِنْ مَطَرٍ أَرْبَعِينَ لَيْلَةً وَ أَيْامَهَا .

Muhammad Bin Yaqoub, from Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Muhammad Bin Isnail Bin Bazie, from Hanan Bin Sudeyr, from his father who said,

Abu Ja'far<sup>asws</sup> said: 'A Limit (*Hadd*) which is established in the earth is more purifying therein than the rain of forty nights and days'.<sup>1</sup>

أَحْمَدُ بْنُ مَهْرَانَ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ مُوسَى بْنِ سَعْدَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ عَنْ أَبِي إِبْرَاهِيمَ ( عَلَيْهِ السَّلَامُ ) فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ يُحْيِ الْأَرْضَ بَعْدَ مَوْتِهَا قَالَ لَيْسَ يُحْيِيهَا بِالْقَطْرِ وَ لَكِنْ يَبْعَثُ اللَّهُ رِجَالًا فَيُحْيُونَ الْعَدْلَ فَتُحْيَى الْأَرْضُ لِإِحْيَاءِ الْعَدْلِ وَ لِإِقَامَةِ الْحَدِّ لِلَّهِ أَنْفَعُ فِي الْأَرْضِ مِنَ الْقَطْرِ أَرْبَعِينَ صَبَاحًا .

Ahmad Bin Mahran, from Muhammad Bin Ali, from Musa Bin Sa'dan, from Abdul Rahman Bin Al Hajjaj,

(It has been narrated) from Abu Ibrahim<sup>asws</sup> (7<sup>th</sup> Imam<sup>asws</sup>) regarding the Words of Allah<sup>azwj</sup> Mighty and Majestic [57:17] (**Know that Allah**) **Revives the earth after its death**. He<sup>asws</sup> said: 'He<sup>azwj</sup> does not Revive it with the drops (of rain), but Allah<sup>azwj</sup> Sends men, so they are reviving the justice. Thus the earth gets revived with the revival of the justice, and the establishment of the Limits of Allah<sup>azwj</sup> is more beneficial in the earth than the drops (of rain) of forty days'.<sup>2</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ قَالَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) إِقَامَةُ حَدِّ خَيْرٌ مِنْ مَطَرٍ أَرْبَعِينَ صَبَاحًا .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Rasool-Allah<sup>saww</sup> said; 'Establishment of the Limit (*Hadd*) is better than the rain of forty mornings'.<sup>3</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنْ عَلِيِّ بْنِ [الْحَسَنِ بْنِ عَلِيٍّ بْنِ] رَبَاطٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ قَالَ النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) لَيْسَ مِنْ عِبَادَةِ إِنْ اللَّهُ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا وَ جَعَلَ عَلَى كُلِّ مَنْ تَعَدَّى حَدًّا مِنْ حُدُودِ اللَّهِ عَزَّ وَ جَلَّ حَدًّا وَ جَعَلَ مَا دُونَ الْأَرْبَعَةِ الشُّهُدَاءِ مَسْتَوْرًا عَلَى الْمُسْلِمِينَ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Amro Bin Usman, from Ali Bin Al Hassan Bin Ali Bin Rabat,

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

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

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

Abu Abdullah<sup>asws</sup> has said: 'The Prophet<sup>saww</sup> said to Sa'ad Bin Ubada that Allah<sup>azwj</sup> Made a Penalty (*Hadd*) for everything, and Made a Penalty (*Hadd*) to be upon everyone who transgresses a Limit (*Hadd*) from the Limits of Allah<sup>azwj</sup> Mighty and Majestic, and Made what was less than the four witnesses as a veil upon the Muslims'.<sup>4</sup>

عَنْهُ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ فِي نِصْفِ الْجَلْدَةِ وَ ثُلُثِ الْجَلْدَةِ يُؤْخَذُ  
بِنِصْفِ السَّوْطِ وَ ثُلُثِي السَّوْطِ .

From him, from Ali Bin Al Hakam, from Hisham Bin Salim,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said regarding half the Lashing, and a third of the lashing: 'He (the whipper) would grab by half (length of) the whip, and a third (length of) of the whip'.<sup>5</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيْسَى عَنْ عُثْمَانَ بْنِ عِيْسَى عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِنَّ  
لِكُلِّ شَيْءٍ حَدًّا وَ مَنْ تَعَدَّى ذَلِكَ الْحَدَّ كَانَ لَهُ حَدٌّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Usman Bin Isa, form Sama'at,

Abu Abdullah<sup>asws</sup> having said: 'For everything there is a Limit (*Hadd*), and the one who exceeds that Limit (*Hadd*), there would be a Penalty (*punishment*) upon him'.<sup>6</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ حَسَّانَ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ أَبِي جَمِيلَةَ عَنِ ابْنِ دُبَيْسِ الْكُوفِيِّ عَنْ عَمْرِو بْنِ قَيْسِ قَالَ  
قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يَا عَمْرُو بْنُ قَيْسٍ أَسْعَرْتَ أَنَّ اللَّهَ عَزَّ وَ جَلَّ أَرْسَلَ رَسُولًا وَ أَنْزَلَ عَلَيْهِ كِتَابًا وَ أَنْزَلَ فِي  
الْكِتَابِ كُلِّ مَا يُحْتَاجُ إِلَيْهِ وَ جَعَلَ لَهُ دَلِيلًا يُدَلُّ عَلَيْهِ وَ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا وَ لِمَنْ جَاوَزَ الْحَدَّ حَدًّا قَالَ قُلْتُ أَرْسَلَ رَسُولًا وَ  
أَنْزَلَ عَلَيْهِ كِتَابًا وَ أَنْزَلَ فِي الْكِتَابِ كُلِّ مَا يُحْتَاجُ إِلَيْهِ وَ جَعَلَ عَلَيْهِ دَلِيلًا وَ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا قَالَ نَعَمْ

Abu Ali Al Ashary, from Muhammad Bin Hassan, from Muhammad Bin Ali, from Abu Jameela, from Ibn Dubays Al Kufy, from Amro Bin Qays who said,

'Abu Abdullah<sup>asws</sup> said: 'O Amro Bin Qays! Are you aware that Allah<sup>azwj</sup> Mighty and Majestic Sent a Rasool<sup>saww</sup> and Revealed unto him<sup>saww</sup> a Book, and Revealed in the Book everything what is needed to it, and Made for it an evidence pointing towards it, and Made a Limit (*Hadd*) for everything, and for the one who exceeds the Limit (*Hadd*), (there is) a Penalty (*Hadd*)?' I said, 'He<sup>azwj</sup> Sent a Rasool<sup>saww</sup> and Revealed unto him<sup>saww</sup> a Book, and Revealed in the Book everything what is needed to it, and Made for it an evidence pointing towards it, and Made a Limit (*Hadd*) for everything, and for the one who exceeds the Limit (*Hadd*), (there is) a Penalty (*Hadd*)?' He<sup>asws</sup> said: 'Yes'.

قُلْتُ وَ كَيْفَ جَعَلَ لِمَنْ جَاوَزَ الْحَدَّ حَدًّا قَالَ قَالَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ حَدَّ فِي الْأَمْوَالِ أَنْ لَا تُؤْخَذَ إِلَّا مِنْ جِلِّهَا فَمَنْ أَخَذَهَا مِنْ  
غَيْرِ جِلِّهَا فَطَعَتْ يَدَهُ حَدًّا لِمُجَاوَزَةِ الْحَدِّ وَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ حَدَّ أَنْ لَا يُنْكَحَ النُّكَاحُ إِلَّا مِنْ جِلِّهِ وَ مَنْ فَعَلَ غَيْرَ ذَلِكَ إِنْ كَانَ  
عَرَبًا حَدٌّ وَ إِنْ كَانَ مُحْصَنًا رُجِمَ لِمُجَاوَزَتِهِ الْحَدَّ .

I said, 'And how did He<sup>azwj</sup> Make a Penalty (*Hadd*) to be upon the one who exceeds the Limit (*Hadd*)?' He<sup>asws</sup> said: 'Allah<sup>azwj</sup> Mighty and Majestic has a Limit (*Hadd*) in

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

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

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

the wealth and that you cannot take it except from its Permissible means. So the one who takes if from others than its Permissible means, his hands are cut, being a Penalty (*Hadd*) for exceeding the Limit (*Hadd*). And that Allah<sup>azwj</sup> Mighty and Majestic has a Penalty (*Hadd*) that you should not copulate with the copulation except by its Permissible means, and the one who does other than that, if he is a celibate, is a Penalty (*Hadd*), and if he was married, stoning, for having exceeded the Penalty (*Hadd*).<sup>7</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ حَفْصِ بْنِ عَوْنٍ رَفَعَهُ قَالَ قَالَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) سَاعَةٌ مِنْ إِمَامٍ عَدَلٍ أَفْضَلُ مِنْ عِبَادَةِ سَبْعِينَ سَنَةً وَ حَدْ يُقَامُ لِلَّهِ فِي الْأَرْضِ أَفْضَلُ مِنْ مَطَرٍ أَرْبَعِينَ صَبَاحاً .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Hafs Bin Awn, raising it, said,

‘Rasool-Allah<sup>saww</sup> said: ‘A moment from a just Imam<sup>asws</sup> is superior to worship of seventy years, and a Penalty (*Hadd*) established for the Sake of Allah<sup>azwj</sup> in the earth is superior that the rain of forty mornings’.<sup>8</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ الْأَشْعَرِيُّ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ أَبِي بَانَ بْنِ عُثْمَانَ عَنْ سُلَيْمَانَ بْنِ أَحْيَى حَسَانَ الْعَجَلِيِّ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يَقُولُ مَا خَلَقَ اللَّهُ حَلَالاً وَ لَا حَرَاماً إِلَّا وَ لَهُ حُدُودٌ كَحُدُودِ دَارِي هَذِهِ مَا كَانَ مِنَ الطَّرِيقِ فَهُوَ مِنَ الطَّرِيقِ وَ مَا كَانَ مِنَ الدَّارِ فَهُوَ مِنَ الدَّارِ حَتَّى أَرْضُ الْخَدَشِ فَمَا سِوَاهُ وَ الْجَلْدَةُ وَ نِصْفُ الْجَلْدَةِ .

Al Husayn Bin Muhammad Al Ashary, from Moala Bin Muhammad, from Aban Bin Usman, from Suleyman cousin of Hassan Al Ajaly who said,

‘I heard Abu Abdullah<sup>asws</sup> saying: ‘Allah<sup>azwj</sup> did not Create a Permissible nor a Prohibition except for it is a Limit like the limits (boundaries) of this house of mine<sup>asws</sup>. Whatever was from the road, so it is from the road, and whatever was from the house, so it is from the house, to the extent of the compensation of the scratch, and whatever is besides it, and the lashing and half of the lashing’.<sup>9</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ الرَّجْمُ حَدْ اللَّهِ الْأَكْبَرُ وَ الْجَلْدُ حَدْ اللَّهِ الْأَصْغَرَ .

Ali Bin Ibrahim, from his father, from one of his companions, from Aasim Bin Humejd,

Abu Abdullah<sup>asws</sup> having said: ‘The stoning is the bigger Penalty (*Hadd*) of Allah<sup>azwj</sup>, and the lashing is the smaller Penalty (*Hadd*) of Allah<sup>azwj</sup>.<sup>10</sup>

عَلِيُّ بْنُ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ حُسَيْنِ بْنِ الْمُنْذِرِ عَنْ عَمْرِو بْنِ قَيْسِ الْمَاصِرِ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى لَمْ يَدَعْ شَيْئاً تَحْتَاجُ إِلَيْهِ الْأُمَّةُ إِلَى يَوْمِ الْقِيَامَةِ إِلَّا أَنْزَلَهُ فِي كِتَابِهِ وَ بَيَّنَّهُ لِرَسُولِهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ جَعَلَ لِكُلِّ شَيْءٍ حِجَاباً وَ جَعَلَ عَلَيْهِ دَلِيلاً يُدَلُّ عَلَيْهِ وَ جَعَلَ عَلَى مَنْ تَعَدَّى الْحَدَّ حِجَاباً .

Ali Bin Muhammad Bin Isa, from Yunus, from Husayn Bin Al Munzar, from Amro Bin Qays Al Masir,

Abu Ja'far<sup>asws</sup> having said: ‘Allah<sup>azwj</sup> Blessed and High did not leave anything out which the community would be needy for it up to the Day of Judgement, except that He<sup>azwj</sup> has Revealed in in His<sup>azwj</sup> Book, and Clarified it for His<sup>azwj</sup> Rasool<sup>saww</sup>, and

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

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

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

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

Made a Penalty (*Hadd*) for everything, and Made an evidence over it pointing towards it, and Made a Penalty (*Hadd*) to be upon everyone who exceeds the Penalty (*Hadd*).<sup>11</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ بْنِ أَيُّوبَ عَنْ دَاوُدَ بْنِ فَرْقَدٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) يَقُولُ إِنَّ أَصْحَابَ النَّبِيِّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) قَالُوا لِسَعْدِ بْنِ عَبَادَةَ أَرَأَيْتَ لَوْ وَجَدْتَ عَلَى بَطْنِ امْرَأَتِكَ رَجُلًا مَا كُنْتَ صَانِعًا بِهِ قَالَ كُنْتُ أَضْرِبُهُ بِالسَّيْفِ

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Dawood Bin Farqad who said,

'I heard Abu Abdullah<sup>asws</sup> saying that the companions of the Prophet<sup>saww</sup> said to Sa'ad Bin Ubada, 'What is your view, if you were to find a man upon the belly of your wife, how would you deal with it?' He said, 'I would strike him with the sword'.

قَالَ فَخَرَجَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَقَالَ مَاذَا يَا سَعْدُ قَالَ سَعَدُ قَالُوا لَوْ وَجَدْتَ عَلَى بَطْنِ امْرَأَتِكَ رَجُلًا مَا كُنْتَ تَصْنَعُ بِهِ فَقُلْتُ أَضْرِبُهُ بِالسَّيْفِ فَقَالَ يَا سَعْدُ وَكَيْفَ بِالْأَرْبَعَةِ الشُّهُودِ فَقَالَ يَا رَسُولَ اللَّهِ بَعْدَ رَأْيِ عَيْنِي وَ عَلِمَ اللَّهُ أَنَّهُ قَدْ فَعَلَ قَالَ إِي وَ اللَّهُ بَعْدَ رَأْيِ عَيْنِكَ وَ عَلِمَ اللَّهُ أَنَّهُ قَدْ فَعَلَ لِأَنَّ اللَّهَ عَزَّ وَ جَلَّ قَدْ جَعَلَ لِكُلِّ شَيْءٍ حَدًّا وَ جَعَلَ لِمَنْ تَعَدَى ذَلِكَ الْحَدَّ حَدًّا .

He (the narrator) said, 'Rasool-Allah<sup>saww</sup> came out, so he<sup>saww</sup> said: 'What is (the matter), O Sa'ad?' He said, 'They are saying, if you were to find a man upon the belly of your woman, what would you have done with him?' So I said, 'I would strike him with the sword'. So he<sup>saww</sup> said: 'O Sa'ad! And how (will you get) the four witnesses?' So he said, 'O Rasool-Allah<sup>saww</sup>! After having seen with my own eyes, and Allah<sup>azwj</sup> Knows that he has done it?' He<sup>saww</sup> said: 'Yes, by Allah<sup>azwj</sup>! (Even) after having seen with your eyes and Allah<sup>azwj</sup> Knowing that he has done it, because Allah<sup>azwj</sup> Mighty and Majestic has Made a Penalty (*Hadd*) for everything, and Made upon the one who exceeds the Penalty (*Hadd*), a Penalty (*Hadd*).'<sup>12</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنِ الْحَلْبِيِّ عَنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِنَّ فِي كِتَابِ عَلِيٍّ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ كَانَ يَضْرِبُ بِالسَّوْطِ وَ بِنِصْفِ السَّوْطِ وَ بِبَعْضِهِ فِي الْحُدُودِ وَ كَانَ إِذَا أَتَى بِغُلَامٍ وَ جَارِيَةٍ لَمْ يُدْرِكَا لَا يُبْطَلُ حَدًّا مِنْ حُدُودِ اللَّهِ عَزَّ وَ جَلَّ قِيلَ لَهُ وَ كَيْفَ كَانَ يَضْرِبُ قَالَ كَانَ يَأْخُذُ السَّوْطَ بِيَدِهِ مِنْ وَسْطِهِ أَوْ مِنْ ثَلَاثِهِ ثُمَّ يَضْرِبُ بِهِ عَلَى قَدْرِ أَسْنَانِهِمْ وَ لَا يُبْطَلُ حَدًّا مِنْ حُدُودِ اللَّهِ عَزَّ وَ جَلَّ .

A number of our companions, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Al Halby,

Abu Abdullah<sup>asws</sup> having said: 'In the Book of Ali<sup>asws</sup>, he<sup>asws</sup> used to strike with the whip, and by half the whip, and part of it regarding the Penalties. And when they came with a boy and girl who had yet to mature, he<sup>asws</sup> would not invalidate a single Penalty (*Hadd*) from the Penalties of Allah<sup>azwj</sup> Mighty and Majestic'. It was said to him<sup>asws</sup>: 'And how did he<sup>asws</sup> used to whip?' He<sup>asws</sup> said: 'He<sup>asws</sup> used to take the whip with his<sup>asws</sup> hands, from its middle or from its third, then strike with it upon the measurement of their respective ages, and he<sup>asws</sup> would not invalidate a single Penalty (*Hadd*) from the Penalties of Allah<sup>azwj</sup> Mighty and Majestic'.<sup>13</sup>

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

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

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

**باب الرَّجْمِ وَالْجُلْدِ وَمَنْ يَجِبُ عَلَيْهِ ذَلِكَ**

**Chapter 2 – The stoning and the whipping, and the ones upon whom that is Obligated**

حَدَّثَنِي مُحَمَّدُ بْنُ يَحْيَى وَغَيْرُهُ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيْسَى عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُؤَيْدٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ الرَّجْمُ حَدُّ اللَّهِ الْأَكْبَرُ وَالْجُلْدُ حَدُّ اللَّهِ الْأَصْغَرُ فَإِذَا زَنَى الرَّجُلُ الْمُحْصَنُ يُرْجَمُ وَ لَمْ يُجْلَدْ .

Muhammad Bin Yahya narrated to me, and someone else, from Ahmad Bin Muhammad Bin Isa, from Al Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Aasim Bin Humeyd, from Abu Baseer,

Abu Abdullah<sup>asws</sup> has said: 'The stoning is a bigger Penalty (*Hadd*) of Allah<sup>azwj</sup> and the whipping is the smaller Penalty (*Hadd*) of Allah<sup>azwj</sup>. So when the married man commits adultery, he would be stoned and not whipped'.<sup>14</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ الْحُرُّ وَالْحُرَّةُ إِذَا زَنِيَا جُلِدَ كُلُّ وَاحِدٍ مِنْهُمَا مِائَةً جَلْدَةً فَأَمَّا الْمُحْصَنُ وَالْمُحْصَنَةُ فَعَلَيْهِمَا الرَّجْمُ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Ubeyd, from Yunus, from Sama'at,

Abu Abdullah<sup>asws</sup> has said: 'The free man and the free woman, when they commit adultery, every one of the two would be whipped with one hundred lashes. So, as for the married man and the married woman, upon the both of them is the stoning'.<sup>15</sup>

وَ بِإِسْنَادِهِ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ (عليه السلام) الرَّجْمُ فِي الْقُرْآنِ قَوْلُ اللَّهِ عَزَّ وَ جَلَّ إِذَا زَنَى السَّيِّخُ وَالسَّيِّخَةُ فَارْجُمُوهُمَا التَّبَتُّةَ فَإِنَّهُمَا قَضِيَا الشَّهْوَةَ .

And by his chain, form Yunus, from Abdullah Bin Sinan who said,

'Abu Abdullah<sup>asws</sup> said; 'The stoning is in the Quran, the Words of Allah<sup>azwj</sup> Mighty and Majestic. When the old man and the old woman commit adultery, so stone both of them regardless, (because) for these two the lustful desire has expired'.<sup>16</sup>

وَ بِإِسْنَادِهِ عَنْ يُونُسَ عَمَّنْ رَوَاهُ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ (عليه السلام) قَالَ الْمُحْصَنُ يُرْجَمُ وَ الَّذِي قَدْ أَمْلَكَ وَ لَمْ يَدْخُلْ بِهَا فَجُلْدُ مِائَةٍ وَ نَفْيُ سَنَةٍ .

And by his chain, from Yunus, from the one who reported it, from Zurara,

Abu Ja'far<sup>asws</sup> has said: 'The married man would be stoned, and the one who had a slave girl and did not copulate with her, so whip him one hundred lashes and exile him for a year'.<sup>17</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنِ يُونُسَ عَنِ أَبَانَ عَنِ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ رَجِمَ رَسُولُ اللَّهِ (صلى الله عليه وآله) وَ لَمْ يُجْلَدْ وَ ذَكَرُوا أَنَّ عَلِيًّا (عليه السلام) رَجِمَ بِالْكَوْفَةِ وَ جَلِدَ فَأَنْكَرَ ذَلِكَ أَبُو عَبْدِ اللَّهِ (عليه السلام) وَ قَالَ مَا نَعْرِفُ هَذَا أَيُّ لَمْ يَحْدُ رَجُلًا حَدِيثِينَ رَجِمَ وَ ضَرَبَ فِي ذَنْبٍ وَاحِدٍ .

<sup>14</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 1

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

<sup>16</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 3

<sup>17</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 4

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Aban, from Abu Al Abbas,

Abu Abdullah<sup>asws</sup> having said: 'Rasool-Allah<sup>saww</sup> stoned and did not whip'. And they (people) mentioned that Ali<sup>asws</sup> stoned and Al-Kufa and whipped. So Abu Abdullah<sup>asws</sup> denied that and said: 'We<sup>asws</sup> do not know this, i.e., why would he<sup>asws</sup> impose upon a man with two Penalties, stoning and whipping with regards to one sin?'<sup>18</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ الَّذِي لَمْ يُحْصَنَ يُجْلَدُ مِائَةً جَلْدَةً وَ لَا يُنْفَى وَ الَّذِي قَدْ أُمِّلِكَ وَ لَمْ يَدْخُلْ بِهَا يُجْلَدُ مِائَةً وَ يُنْفَى .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Fazalat, from Musa Bin Bakr, from Zurara,

Abu Ja'far<sup>asws</sup> has said: '(For adultery), the one who is not married, he should be whipped one hundred lashes, and he would not be exiled, and the one who has a slave girl and did not copulate with her, he would be whipped one hundred lashes and exiled'.<sup>19</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي الشَّيْخِ وَ الشَّيْخَةِ أَنْ يُجْلَدَا مِائَةً وَ قَضَى لِلْمُحْصَنِ الرَّجْمَ وَ قَضَى فِي الْبِكْرِ وَ الْبِكْرَةِ إِذَا زَنَى جَلْدَ مِائَةٍ وَ نَفَى سَنَةً فِي غَيْرِ مِصْرِهِمَا وَ هُمَا اللَّذَانِ قَدْ أُمِّلَا وَ لَمْ يَدْخُلَا بِهَا .

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

Abu Ja'far<sup>asws</sup> has said: 'Amir Al-Momineen<sup>asws</sup> judged with regards to an old man and an old woman that they should both be whipped one hundred lashes, and judged with regards to the married man for the stoning, and judged with regards to the virgin man and the virgin woman when they commit adultery, to be whipped one hundred lashes and exiled for a year in other than their own cities, and these are the ones who had slaves and did not copulate with her'.<sup>20</sup>

بَاب مَا يُحْصَنُ وَ مَا لَا يُحْصَنُ وَ مَا لَا يُوجِبُ الرَّجْمَ عَلَى الْمُحْصَنِ

### Chapter 3 – What constitutes being married and what constitutes not being married, and what does not Obligate the stoning upon the married man

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ إِذَا هُوَ زَنَى وَ عِنْدَهُ السَّرِيَّةُ وَ الْأَمَةُ يَطُوقُهَا تُحْصِنُهُ الْأَمَةُ وَ تَكُونُ عِنْدَهُ فَقَالَ نَعَمْ إِنَّمَا ذَلِكَ لِأَنَّ عِنْدَهُ مَا يُغْنِيهِ عَنِ الزَّانِي قُلْتُ فَإِنْ كَانَتْ عِنْدَهُ أَمَةٌ زَعَمَ أَنَّهُ لَا يَطُوقُهَا فَقَالَ لَا يَصَدَّقُ قُلْتُ فَإِنْ كَانَتْ عِنْدَهُ أَمْرَأَةٌ مُتَعَةً أَوْ تُحْصِنُهُ قَالَ لَا إِنَّمَا هُوَ عَلَى الشَّيْءِ الدَّائِمِ عِنْدَهُ .

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

<sup>18</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 5

<sup>19</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 2 H 6

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

'I asked Abu Ibrahim<sup>asws</sup> about a man when he commits adultery and with him is the paramour and the slave girl whom he goes to. The slave girl, he copulates with her and she is with him. So he<sup>asws</sup> said: 'Yes, but rather because with him is what makes him needless of the adultery'. I said, 'So if there was with him a slave girl, alleging that he cannot go to her?' So he<sup>asws</sup> said: 'He would not be ratified'. I said, 'So if there was a woman in temporary marriage, would he be (classified as) being married?' He<sup>asws</sup> said: 'No. But rather, it (being married) is upon the thing which is always with him'.<sup>21</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامٍ وَحَفْصِ بْنِ الْبُخْتَرِيِّ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الرَّجُلِ يَتَزَوَّجُ الْمُتَعَةَ أَوْ تُحْصِنُهُ قَالَ لَا إِنَّمَا ذَلِكَ عَلَى الشَّيْءِ الدَّائِمِ عِنْدَهُ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hisham and Hafs Bin Al Bakhtary, from the one who mentioned,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who married the temporary marriage, would he be (classified as) married?' He<sup>asws</sup> said: 'No. But rather that (being married) is upon the thing which is always with him'.<sup>22</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ رَبِيعِ الْأَصَمِّ عَنِ الْحَارِثِ بْنِ الْمُغْبِرَةِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنْ رَجُلٍ لَهُ امْرَأَةٌ بِالْعِرَاقِ فَأَصَابَ فُجُوراً وَهُوَ بِالْحِجَازِ فَقَالَ يُضْرَبُ حَدَّ الزَّانِي مِائَةَ جَلْدَةٍ وَ لَا يُرْجَمُ قُلْتُ فَإِنْ كَانَ مَعَهَا فِي بَلَدَةٍ وَاحِدَةٍ وَهُوَ مَحْبُوسٌ فِي سِجْنٍ لَا يَقْدِرُ أَنْ يَخْرُجَ إِلَيْهَا وَ لَا تَدْخُلَ هِيَ عَلَيْهِ أَرَأَيْتَ إِنْ رَزَى فِي السِّجْنِ قَالَ هُوَ بِمَنْزِلَةِ الْعَائِبِ عَنْ أَهْلِهِ يُجْلَدُ مِائَةَ جَلْدَةٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Rabie Al Asam, from Al Haris Bin Al Mugheira who said,

'I asked Abu Abdullah<sup>asws</sup> about a man, for him is a woman at Al-Iraq, so he committed immorality and he was at Al-Hijaz. So he<sup>asws</sup> said: 'He would be struck with the Penalty (*Hadd*) of the adultery, one hundred lashes, and he would not be stoned'. I said, 'So if she was with him in one city, and he is imprisoned in the prison, not being able to go out to her, nor for her to come over to him. What is your<sup>asws</sup> view, if he were to commit adultery in the prison?' He<sup>asws</sup> said, 'He is at the status of the absentee from his wife. He would be whipped one hundred lashes'.<sup>23</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ حَرِيْزِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنِ الْمُحْصَنِ قَالَ فَقَالَ الَّذِي يَزْنِي وَ عِنْدَهُ مَا يُغْنِيهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Hareyz who said,

'I asked Abu Abdullah<sup>asws</sup> about the married man, so he<sup>asws</sup> said: 'The one who commits adultery and with him is what makes him to be needless of it'.<sup>24</sup>

عَلِيُّ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يَقُولُ الْمُغْيِبُ وَ الْمُغْيِبَةُ لَيْسَ عَلَيْهِمَا رَجْمٌ إِلَّا أَنْ يَكُونَ الرَّجُلُ مَعَ الْمَرْأَةِ وَ الْمَرْأَةُ مَعَ الرَّجُلِ .

<sup>21</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 1

<sup>22</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 2

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

<sup>24</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 4

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

'I heard Abu Abdullah<sup>asws</sup> saying: 'The absent man and the absent woman, there is no stoning upon them both, except if the man happens to be with the woman, and the woman with the man'.<sup>25</sup>

عَلِيٌّ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي إِبْرَاهِيمَ ( عَلَيْهِ السَّلَامُ ) الرَّجُلُ تَكُونُ لَهُ الْجَارِيَةُ أَوْ تُحْصِنُهُ قَالَ فَقَالَ نَعَمْ إِنَّمَا هُوَ عَلَى وَجْهِ الْإِسْتِغْنَاءِ قَالَ قُلْتُ وَ الْمَرْأَةُ الْمُتَعَةَ قَالَ فَقَالَ لَا إِنَّمَا ذَلِكَ عَلَى الشَّيْءِ الدَّائِمِ قَالَ قُلْتُ فَإِنْ زَعَمَ أَنَّهُ لَمْ يَكُنْ يَطُؤُهَا قَالَ فَقَالَ لَا يُصَدَّقُ وَ إِنَّمَا يُوجِبُ ذَلِكَ عَلَيْهِ لِأَنَّهُ يَمْلِكُهَا .

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

'I said to Abu Ibrahim<sup>asws</sup> (7<sup>th</sup> Imam<sup>asws</sup>), 'The man, there happens to be a slave girl for him, would that make him as married?' So he<sup>asws</sup> said: 'Yes. But rather, he is upon an aspect of the needlessness'. I said, 'And the woman of temporary marriage?' So he<sup>asws</sup> said: 'But rather, that (being married) is upon the thing permanent'.<sup>26</sup>

عَنْهُ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ أَبِي بَصِيرٍ قَالَ لَا يَكُونُ مُحْصَنًا حَتَّى تَكُونَ عِنْدَهُ امْرَأَةٌ يُغْلِقُ عَلَيْهَا بَابَهُ .

From him, from Abu Ayoub Al Khazaz, from Abu Baseer,

He<sup>asws</sup> said: 'Being married does not happen until there happens to be a woman he can lock his door upon'.<sup>27</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ بْنِ أَيُّوبَ عَنْ رِفَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ يَزْنِي قَبْلَ أَنْ يَدْخُلَ بِأَهْلِهِ أَوْ يُرْجَمَ قَالَ لَا .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Rifa'at who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who committed adultery before he copulated with his wife, would he be stoned?' He<sup>asws</sup> said: 'No'.<sup>28</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَابٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ فِي الْعَبْدِ يَنْزَوِجُ الْحُرَّةَ ثُمَّ يُعْتَقُ فَيُصِيبُ فَاحِشَةً قَالَ فَقَالَ لَا رَجْمَ عَلَيْهِ حَتَّى يُوَاقِعَ الْحُرَّةَ بَعْدَ مَا يُعْتَقُ قُلْتُ فَلِلْحُرَّةِ عَلَيْهِ خِيَارٌ إِذَا أُعْتِقَ قَالَ لَا [قَدْ] رَضِيَتْ بِهِ وَ هُوَ مَمْلُوكٌ فَهُوَ عَلَى نِكَاحِهِ الْأَوَّلِ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said regarding the slave who is married to the free woman, then is freed, so he commits immorality. So he<sup>asws</sup> said: 'There is no stoning upon him until he falls upon the free woman after having been liberated (emancipated)'. I said, 'So for the free woman, does she have a choice

<sup>25</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 5

<sup>26</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 6

<sup>27</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 7

<sup>28</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 8

when he is emancipated?’ He<sup>asws</sup> said: ‘No. She was pleased with him when he was a slave, so he would be upon the first marriage’.<sup>29</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ ابْنِ سِنَانَ عَنْ إِسْمَاعِيلَ بْنِ جَابِرٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ قُلْتُ مَا الْمُحْصَنُ رَحِمَكَ اللَّهُ قَالَ مَنْ كَانَ لَهُ فَرْجٌ يَغْدُو عَلَيْهِ وَ يَرُوحُ فَهُوَ مُحْصَنٌ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan, from Ibn Sinan, from Ismail Bin Jabir,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, said, ‘I said, ‘What is the married man? may Allah<sup>azwj</sup> have Mercy on you<sup>asws</sup>.’ He<sup>asws</sup> said: ‘The one who has a relief (woman) for him he can go to day and night, so he is (classified as) married’.<sup>30</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ رَفَعَهُ قَالَ أَلْحَدُ فِي السَّفَرِ الَّذِي إِذَا زَنَى لَمْ يُرْجَمَ إِنْ كَانَ مُحْصَنًا قَالَ إِذَا قَصَرَ وَ أَفْطَرَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn,

(It has been narrated) that he<sup>asws</sup> said, ‘The Penalty (Hadd) during the travel for the one who commits adultery, he would not be stoned even if he was married, (a journey where he has to) shorten (the Prayer) and break the Fast’.<sup>31</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ الَّذِي لَهُ امْرَأَةٌ بِالْبَصْرَةِ فَفَجَرَ بِالْكُوفَةِ أَنْ يُدْرَأَ عَنْهُ الرَّجْمُ وَ يُضْرَبَ حَدَّ الزَّانِي

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: ‘Amir Al-Momineen<sup>asws</sup> had judged with regards to the man who had a woman for him at Al-Basra, so he committed immorality at Al-Kufa, that the stoning be staved off (eliminated) from him, and he be struck with a Penalty (Hadd) of the adultery’.

قَالَ وَ قَضَى ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ مَحْبُوسٍ فِي السَّجْنِ وَ لَهُ امْرَأَةٌ حُرَّةٌ فِي بَيْتِهِ فِي الْمِصْرِ وَ هُوَ لَا يَصِلُ إِلَيْهَا فَزَنَى فِي السَّجْنِ قَالَ عَلَيْهِ الْجُلْدُ وَ يُدْرَأُ عَنْهُ الرَّجْمُ .

He<sup>asws</sup> said: ‘And he<sup>asws</sup> judged with regards to a man who was held in the prison, and for him was a free woman in his house in the city, and he could not go to her, so he committed adultery in the prison. He<sup>asws</sup> said: ‘Upon him is the lashing, and the stoning is staved off from him’.<sup>32</sup>

عَلِيُّ عَنْ أَبِيهِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ حَمَّادٍ عَنْ عُمَرَ بْنِ يَزِيدَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَخْبِرْنِي عَنِ الْغَائِبِ عَنْ أَهْلِهِ يَزْنِي هَلْ يُرْجَمُ إِذَا كَانَتْ لَهُ زَوْجَةٌ وَ هُوَ غَائِبٌ عَنْهَا قَالَ لَا يُرْجَمُ الْغَائِبُ عَنْ أَهْلِهِ وَ لَا الْمَمْلُوكُ الَّذِي لَمْ يَبَيِّنْ بِأَهْلِهِ وَ لَا صَاحِبُ الْمُتْعَةِ قُلْتُ فَبِي أَيِّ حَدِّ سَفَرِهِ لَا يَكُونُ مُحْصَنًا قَالَ إِذَا قَصَرَ وَ أَفْطَرَ فَلَيْسَ بِمُحْصَنٍ .

Ali, from his father, form Abdul Rahman Bin Hammad, from Umar Bin Yazeed who said,

<sup>29</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 9

<sup>30</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 10

<sup>31</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 11

<sup>32</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 12

'I said to Abu Abdullah<sup>asws</sup>, 'Inform me about the absentee from his wife, he commits adultery, would he be stoned when there was a wife for him and he was absent from her?' He<sup>asws</sup> said: 'The absentee from his wife is not stoned, nor the slave who has yet to sleep with his wife, nor one with a temporary marriage'. I said, 'So in which journey a Penalty (*Hadd*) would he not happen to be (classified as) a married man?' He<sup>asws</sup> said: 'When he shortens (the Prayer) and breaks (the Fast), so he is not with the marriage'.<sup>33</sup>

#### باب الصَّبِيِّ يَزْنِي بِالْمَرْأَةِ الْمُدْرَكَةِ وَ الرَّجُلِ يَزْنِي بِالصَّبِيَّةِ غَيْرِ الْمُدْرَكَةِ

### Chapter 4 – The young child commits adultery with the mature woman, and the man commits adultery with the young girl not having matured yet

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ سُلَيْمَانَ بْنِ خَالِدٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي غُلَامٍ صَغِيرٍ لَمْ يَدْرِكْ ابْنَ عَشْرٍ سِنِينَ زَنَى بِامْرَأَةٍ قَالَ يُجْلَدُ الْغُلَامُ دُونَ الْحَدِّ وَ تُجْلَدُ الْمَرْأَةُ الْحَدَّ كَامِلاً قِيلَ لَهُ فَإِنْ كَانَتْ مُحْصَنَةً قَالَ لَا تُرْجَمُ لِأَنَّ الَّذِي نَكَحَهَا لَيْسَ بِمُدْرِكٍ وَ لَوْ كَانَ مُدْرِكاً رُجِمَتْ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Suleyman Bin Khalid, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a young boy who had not matured yet, a boy ten years of age, committed adultery with a woman. He<sup>asws</sup> said: 'The boy would be whipped less than the Penalty (*Hadd*), and the woman would be (whipped) with the complete Penalty (*Hadd*)'. It was said to him<sup>asws</sup>, 'So if she was married?' He<sup>asws</sup> said: 'She would not be stoned, because the one who copulated with her had not matured yet, and if he had been mature, she would have been stoned'.<sup>34</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي آخِرِ مَا لَقِيْتُهُ عَنْ غُلَامٍ لَمْ يَبْلُغِ الْخُلْمَ وَقَعَ عَلَى امْرَأَةٍ أَوْ فَجَرَ بِامْرَأَةٍ أَيُّ شَيْءٍ يُصْنَعُ بِهِمَا قَالَ يُضْرَبُ الْغُلَامُ دُونَ الْحَدِّ وَ يُقَامُ عَلَى الْمَرْأَةِ الْحَدُّ

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

'I asked Abu Abdullah<sup>asws</sup> at the end of having met him<sup>asws</sup>, about a boy who had not reached (the age of) bed-wetting, fell upon a woman, or was immoral with a woman, which thing should be done with both of them?' He<sup>asws</sup> said: 'The boy would be whipped less than the Penalty (*Hadd*), and the (full) Penalty (*Hadd*) would be established upon the woman'.

قُلْتُ جَارِيَةٌ لَمْ تَبْلُغْ وَجَدْتُ مَعَ رَجُلٍ يَفْجُرُ بِهَا قَالَ تُضْرَبُ الْجَارِيَةُ دُونَ الْحَدِّ وَ يُقَامُ عَلَى الرَّجُلِ الْحَدُّ [الْكَامِلُ] .

<sup>33</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 3 H 13

<sup>34</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 4 H 1

I said, 'A slave girl not having reached puberty was found with a man being immoral with her'. He<sup>asws</sup> said: 'The slave girl would be whipped less than the Penalty (*Hadd*), and the complete Penalty (*Hadd*) would be established upon the man'.<sup>35</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ لَا يُحَدُّ الصَّبِيَّ إِذَا وَقَعَ عَلَى امْرَأَةٍ وَ يُحَدُّ الرَّجُلُ إِذَا وَقَعَ عَلَى الصَّبِيَّةِ .

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

Abu Abdullah<sup>asws</sup> having said: 'The young boy would not be penalised (by the Penalty (*Hadd*)) if he were to fall upon a woman, and the man would be penalised (by the Penalty (*Hadd*)) when he falls upon the young child'.<sup>36</sup>

### باب مَا يُوجِبُ الْجُلْدَ

## Chapter 5 – What Obligates the lashing

حَدَّثَنِي عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ حَدُّ الْجُلْدِ أَنْ يُوجَدَا فِي لِحَافٍ وَاحِدٍ فَالرَّجُلَانِ يُجْلَدَانِ إِذَا أَخَذَا فِي لِحَافٍ وَاحِدٍ وَ الْمَرْأَتَانِ تُجْلَدَانِ إِذَا أَخَذَتَا فِي لِحَافٍ وَاحِدٍ الْحَدَّ .

Ali Bin Ibrahim narrated to me, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa altogether, from Ibn Abu Umeyr, from Hammad, from Al Halby,

Abu Abdullah<sup>asws</sup> having said, '(Apply) the Penalty (*Hadd*) of the lashing if you find two in one bed covering. So if there are two men having taken to be in one quilt, both would be whipped the Penalty (*Hadd*), and the two women would both be whipped the Penalty (*Hadd*) when they take to be in one quilt'.<sup>37</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُفَضَّلِ بْنِ صَالِحٍ عَنْ زَيْدِ الشَّحَّامِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الرَّجُلِ وَ الْمَرْأَةِ يُوجَدَانِ فِي لِحَافٍ وَاحِدٍ قَالَ يُجْلَدَانِ مِائَةً مِائَةً غَيْرَ سَوْطٍ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Mufazzal Bin Salih, from Zayd Al Shahaam,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man and the woman both found to be in one quilt. He<sup>asws</sup> said: 'They would both be whipped one hundred one lashes each, apart from one lash'.<sup>38</sup>

عَلِيُّ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَمِعْتُهُ يَقُولُ حَدُّ الْجُلْدِ فِي الزَّوْنَى أَنْ يُوجَدَا فِي لِحَافٍ وَاحِدٍ وَ الرَّجُلَانِ يُوجَدَانِ فِي لِحَافٍ وَاحِدٍ وَ الْمَرْأَتَانِ تُوجَدَانِ فِي لِحَافٍ وَاحِدٍ .

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

(The narrator) says, 'I heard Abu Abdullah<sup>asws</sup> saying: 'The Penalty (*Hadd*) of the whipping (is applied) in the adultery if you find two to be in one quilt, and the two

<sup>35</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 4 H 2

<sup>36</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 4 H 3

<sup>37</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 1

<sup>38</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 2

men both found to be in one quilt, and the two women both found to be in one quilt'.<sup>39</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ ابْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبِيَانَ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) إِذَا وَجِدَ الرَّجُلُ وَالْمَرْأَةَ فِي لِحَافٍ وَاحِدٍ وَ قَامَتْ عَلَيْهِمَا بِذَلِكَ بَيِّنَةٌ وَ لَمْ يُطْلَعْ مِنْهُمَا عَلَى مَا سِوَى ذَلِكَ جُلِدَ كُلُّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ .

Humejd Bin Ziyad, from Ibn Sama'at, from someone else, from Aban and Muhammad Bin Yahya Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Abdul Rahman Bin Abu Abdullah having said:

'Abu Abdullah<sup>asws</sup> said: 'When the man and the woman are both found to be in one quilt, and the proof is established upon them with that, and nothing else emerges from them both besides that, each one of them would be whipped one hundred lashes'.<sup>40</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ الرَّحْمَنِ الْحَدَّاءِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) يَقُولُ إِذَا وَجِدَ الرَّجُلُ وَالْمَرْأَةَ فِي لِحَافٍ وَاحِدٍ جُلِدَا مِائَةَ جَلْدَةٍ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Abdul Rahman Al Haza who said,

'I heard Abu Abdullah<sup>asws</sup> saying: 'When the man and the woman are found to be in one quilt, they would both be whipped a hundred lashes'.<sup>41</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ مُحَمَّدِ بْنِ الْفُضَيْلِ عَنْ أَبِي الصَّبَّاحِ الْكَنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ وَالْمَرْأَةِ يُوجَدَانِ فِي لِحَافٍ وَاحِدٍ جُلِدَا مِائَةَ مِائَةَ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man and the woman both having been found in one quilt, would both be whipped one hundred, one hundred'.<sup>42</sup>

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفُضَيْلِ بْنِ شَادَانَ عَنِ ابْنِ أَبِي عُمَيْرٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) يَقُولُ كَانَ عَلِيٌّ ( عَلَيْهِ السَّلَامُ ) إِذَا أَخَذَ الرَّجُلَيْنِ فِي لِحَافٍ وَاحِدٍ ضَرَبَهُمَا الْحَدَّ فَإِذَا أَخَذَ الْمَرَأَتَيْنِ فِي لِحَافٍ وَاحِدٍ ضَرَبَهُمَا الْحَدَّ .

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

'I heard Abu Abdullah<sup>asws</sup> saying: 'Ali<sup>asws</sup>, when he<sup>asws</sup> used to seize the two men in one quilt, would whip both of them with the Penalty (*Hadd*). So when he<sup>asws</sup> seized the two women in one quilt, would whip both of them with the Penalty (*Hadd*)'.<sup>43</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا شَهِدَ الشُّهُودُ عَلَى الزَّانِي أَنَّهُ قَدْ جَلَسَ مِنْهَا مَجْلِسَ الرَّجُلِ مِنْ امْرَأَتِهِ أَقِيمَ عَلَيْهِ الْحَدُّ

<sup>39</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 3

<sup>40</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 4

<sup>41</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 5

<sup>42</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 6

<sup>43</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 7

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Zurara,

Abu Ja'far<sup>asws</sup> has said: 'When the witnesses testify upon the adulterer that he sat upon her with the sitting of the man upon his wife, would establish the Penalty (*Hadd*) upon him'.

قَالَ وَ كَانَ عَلِيٌّ ( عليه السلام ) يَقُولُ اللَّهُمَّ إِنْ أَمْكَنْتَنِي مِنَ الْمُغَيَّرَةِ لِأَرْمِيَنَّهُ بِالْحَجَارَةِ .

He<sup>asws</sup> said: 'And Ali<sup>asws</sup> was saying: 'O Allah<sup>azwj</sup>! If You<sup>azwj</sup> were to Make me able over Al-Mugheira, I<sup>asws</sup> would enforce upon him with the stones'.<sup>44</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ [عَنْ أَبَانَ] عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ وَجَدْتِ مَعَ رَجُلٍ فِي تَوْبٍ وَاحِدٍ فَقَالَ يُجْلَدَانِ مِائَةَ جَلْدَةٍ .

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

The narrator says, 'I asked Abu Abdullah<sup>asws</sup> about a woman who was found with a man under one cloth. So he<sup>asws</sup> said: 'The would both be whipped one hundred lashes'.<sup>45</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ كَانَ عَلِيٌّ ( عليه السلام ) إِذَا وَجَدَ رَجُلَيْنِ فِي لِحَافٍ وَاحِدٍ مُجْرَدَيْنِ جُلْدَهُمَا حَذَّ الزَّانِي مِائَةَ جَلْدَةٍ كُلِّ وَاحِدٍ مِنْهُمَا وَ كَذَا الْمَرْأَتَانِ إِذَا وَجِدْنَا فِي لِحَافٍ وَاحِدٍ مُجْرَدَتَيْنِ جَلَدَ كُلِّ وَاحِدَةٍ مِنْهُمَا مِائَةَ جَلْدَةٍ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub, from Abu Ubeyda,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Ali<sup>asws</sup>, whenever he<sup>asws</sup> found two men in one quilt, naked, would whip both of them the Penalty (*Hadd*) of the adultery, one hundred lashes, each one of them, and similarly for the two women if they were both found to be in one quilt, naked, would whip each one of them one hundred lashes'.<sup>46</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ كُنْتُ عِنْدَ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) فَدَخَلَ عَلَيْهِ عَبَادُ الْبَصْرِيِّ وَمَعَهُ أَنَسٌ مِنْ أَصْحَابِهِ فَقَالَ لَهُ حَدِّثْنِي إِذَا أَخَذَ الرَّجُلَانِ فِي لِحَافٍ وَاحِدٍ فَقَالَ لَهُ كَانَ عَلِيٌّ ( عليه السلام ) إِذَا أَخَذَ الرَّجُلَيْنِ فِي لِحَافٍ وَاحِدٍ ضَرَبَهُمَا الْحَدَّ

Ali Bin Ibrahim, from his father, form Ibn Abu Umeyr, from Abdul Rahman Bin Al Hajjaj who said,

'I was in the presence of Abu Abdullah<sup>asws</sup> when Abbad Al-Basry came over and with him were some people from his companions. So he said to him<sup>asws</sup>, 'Narrate to me, if two men were to be found in one quilt: 'So he<sup>asws</sup> said to him: 'Ali<sup>asws</sup>, whenever he<sup>asws</sup> found two men in one quilt, used to whip both of them with the Penalty (*Hadd*)'.

فَقَالَ عَبَادُ إِنَّكَ قُلْتَ لِي غَيْرَ سَوِيٍّ فَأَعَادَ عَلَيْهِ ذَكَرَ الْحَدِيثِ حَتَّى أَعَادَ عَلَيْهِ ذَلِكَ مَرَارًا فَقَالَ غَيْرَ سَوِيٍّ فَكَتَبَ الْقَوْمُ الْحُضُورُ عِنْدَ ذَلِكَ الْحَدِيثِ .

<sup>44</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 8

<sup>45</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 9

<sup>46</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 10

So Abbad said, 'You<sup>asws</sup> said to me: 'Less one lash'. So he<sup>asws</sup> repeated to him the mention of the Hadeeth until he had repeated it to him<sup>asws</sup> a few times. So he<sup>asws</sup> said: 'Less one lash'. So the people present wrote down during that, the Hadeeth'.<sup>47</sup>

### باب صفة حدِّ الزَّانِي

## Chapter 6 – Description of the Penalty (*Hadd*) of the adulterer

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِيَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ يُضْرَبُ الرَّجُلُ الْحَدَّ قَائِمًا وَالْمَرْأَةُ قَاعِدَةً وَيُضْرَبُ كُلُّ عَضْوٍ وَيُنْرَكُ الرَّأْسُ وَالْمَذَاكِيرُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Zurara,

Abu Ja'far<sup>asws</sup> has said: 'The man would be whipped by the Penalty (*Hadd*) while standing, and the woman whilst seated, and every body part can be whipped except for the head and the sexual parts'.<sup>48</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ ( عليه السلام ) عَنِ الزَّانِي كَيْفَ يُجْلَدُ قَالَ أَشَدَّ الْجَلْدِ قُلْتُ فَمِنْ فَوْقِ تِيَابِهِ قَالَ بَلْ يُخْلَعُ تِيَابُهُ

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Is'gaq Bin Ammar who said,

'I asked Abu Ibrahim<sup>asws</sup> (7<sup>th</sup> Imam<sup>asws</sup>) about the adulterer, 'How should he be whipped?' He<sup>asws</sup> said: 'The most intense of the lashing'. I said, 'So, from the top of his clothes?' He<sup>asws</sup> said: 'But, his clothes (robe, shirt, vest etc.) are taken off'.

قُلْتُ فَأَلْمَفْتَرِي قَالَ يُضْرَبُ بَيْنَ الضَّرْبَيْنِ يُضْرَبُ جَسَدُهُ كُلُّهُ فَوْقَ تِيَابِهِ .

I said, 'So, for the forger (of lies)?' He<sup>asws</sup> said: 'He would be whipped between the two lashings (intense and softly). His whole body would be whipped, over his clothes'.<sup>49</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ سَأَلْتُ أَبَا إِبْرَاهِيمَ ( عليه السلام ) عَنِ الزَّانِي كَيْفَ يُجْلَدُ قَالَ أَشَدَّ الْجَلْدِ فَقُلْتُ فَوْقَ التِّيَابِ فَقَالَ بَلْ يُجْرَدُ .

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

'I asked Abu Ibrahim<sup>asws</sup> about the adulterer, how he should be whipped. He<sup>asws</sup> said: 'The most intense of the whipping'. So I said, 'Over his clothes?' He<sup>asws</sup> said: 'But, bare (back)'.<sup>50</sup>

### باب مَا يُوجِبُ الرَّجْمَ

<sup>47</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 5 H 11

<sup>48</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 6 H 1

<sup>49</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 6 H 2

<sup>50</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 6 H 3

## Chapter 7 – What Obligates the stoning

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ حَدُّ الرَّجْمِ أَنْ يَشْهَدَ أَرْبَعَةٌ رَأَوْهُ يُدْخِلُ وَ يُخْرِجُ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Abu Umeyr, from Hammad, from Al Halby,

Abu Abdullah<sup>asws</sup> having said: 'The Penalty (*Hadd*) of the stoning is applied when four testify that they have seen him go in and come out'.<sup>51</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) لَا يُرْجَمُ رَجُلٌ وَ لَا أَمْرَأَةٌ حَتَّى يَشْهَدَ عَلَيْهِ أَرْبَعَةٌ شُهِدُوا عَلَى الْإِبْلَاجِ وَ الْإِخْرَاجِ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> said: 'Neither a man nor a woman would be stoned until four witnesses testify over it, upon the penetration and the exit'.<sup>52</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلِيِّ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ لَا يَجِبُ الرَّجْمُ حَتَّى تَقُومَ الْبَيِّنَةُ الْأَرْبَعَةُ أَنَّهُمْ قَدْ رَأَوْهُ يُجَامِعُهَا .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The stoning is not Obligated until the proof is established by the four that they had seen both of them copulating'.<sup>53</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ سَمَاعَةَ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عليه السلام ) لَا يُرْجَمُ الرَّجُلُ وَ الْمَرْأَةُ حَتَّى يَشْهَدَ عَلَيْهِمَا أَرْبَعَةٌ شُهِدَا عَلَى الْجِمَاعِ وَ الْإِبْلَاجِ وَ الْإِدْخَالِ كَالْمِئِيلِ فِي الْمُكْحَلَةِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Sama'at, from Abu Baseer who said,

'Abu Abdullah<sup>asws</sup> said: 'The man and the woman would not be stoned until there testify upon both of them, four witnesses, of the copulation and the penetration and the entering, like needle (applicator) enters into the Kohl'.<sup>54</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْبَصْرِيِّ عَنْ حَمَادِ بْنِ عَيْسَى عَنْ شُعَيْبِ الْعَقْرُوفِيِّ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ حَدُّ الرَّجْمِ فِي الزَّنى أَنْ يَشْهَدَ أَرْبَعَةٌ رَأَوْهُ يُدْخِلُ وَ يُخْرِجُ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Al Hassan Al Basry, from Hammad Bin Isa, from Shuayb Al Aqarquqy, from Abu Baseer,

<sup>51</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 1

<sup>52</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 2

<sup>53</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 3

<sup>54</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 4

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The Penalty (*Hadd*) of the stoning regarding the adultery is that four should testify that they had seen him enter and exit'.<sup>55</sup>

### باب صفة الرجم

## Chapter 8 – Description of the stoning

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) تَدْفَنُ الْمَرْأَةَ إِلَى وَسْطِهَا إِذَا أَرَادُوا أَنْ يَرْجُمُوهَا وَ يَرْمِي الْإِمَامُ ثُمَّ النَّاسُ بَعْدُ بِأَحْجَارٍ صِغَارٍ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Is'haq Bin Ammar, from Abu Baseer who said,

'Abu Abdullah<sup>asws</sup> said: 'Bury the woman up to her waist when it is intended to stone her, and the Imam<sup>asws</sup> would pelt, then the people afterwards, with the small stones'.<sup>56</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عَيْسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ تَدْفَنُ الْمَرْأَةَ إِلَى وَسْطِهَا ثُمَّ يَرْمِي الْإِمَامُ ثُمَّ النَّاسُ بِأَحْجَارٍ صِغَارٍ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at Bin Mahran,

Abu Abdullah<sup>asws</sup> has said: 'The woman is buried up to her waist, then the Imam<sup>asws</sup> pelts, then the people pelt, with the small stones'.<sup>57</sup>

مُحَمَّدُ بْنُ بَحْبَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ ابْنِ فَضَّالٍ عَنْ صَفْوَانَ عَمَّنْ رَوَاهُ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا أَقْرَبَ الزَّانِي الْمُحْصَنَ كَانَ أَوَّلَ مَنْ يَرْجُمُهُ الْإِمَامُ ثُمَّ النَّاسُ فَإِذَا قَامَتْ عَلَيْهِ الْبَيِّنَةُ كَانَ أَوَّلَ مَنْ يَرْجُمُهُ الْبَيِّنَةُ ثُمَّ الْإِمَامُ ثُمَّ النَّاسُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from the one who reported it,

Abu Abdullah<sup>asws</sup> has said: 'When the married adulterer confesses, the first one to pelt him would be the Imam<sup>asws</sup>, then the people. So when the proof is established against him, the first ones to pelt him would be the 'provers' (four witnesses), then the Imam<sup>asws</sup>, then the people'.<sup>58</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ تَدْفَنُ الْمَرْأَةَ إِلَى وَسْطِهَا ثُمَّ يَرْمِي الْإِمَامُ وَ يَرْمِي النَّاسُ بِأَحْجَارٍ صِغَارٍ وَ لَا يُدْفَنُ الرَّجُلُ إِذَا رُجِمَ إِلَّا إِلَى حَقْوِيهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa Bin Ubeyd, from Yunus, from Sama'at,

Abu Abdullah<sup>asws</sup> has said: 'The woman would be buried up to her waist, then the Imam<sup>asws</sup> would pelt, and the people would pelt, with the small stones; and the man would not be buried when stoned, except up to his loins'.<sup>59</sup>

<sup>55</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 7 H 5

<sup>56</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 1

<sup>57</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 2

<sup>58</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 3

<sup>59</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 4

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنْ الْحُسَيْنِ بْنِ خَالِدٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) أَخْبِرْنِي عَنِ الْمُحْصَنِ إِذَا هُوَ هَرَبَ مِنَ الْحَفِيرَةِ هَلْ يُرَدُّ حَتَّى يُقَامَ عَلَيْهِ الْحُدُّ فَقَالَ يُرَدُّ وَ لَا يُرَدُّ فَقُلْتُ وَ كَيْفَ ذَلِكَ فَقَالَ إِذَا كَانَ هُوَ الْمُؤَرَّ عَلَى نَفْسِهِ ثُمَّ هَرَبَ مِنَ الْحَفِيرَةِ بَعْدَ مَا يُصِيبُهُ شَيْءٌ مِنَ الْحِجَارَةِ لَمْ يُرَدَّ

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Al Husayn Bin Khalid who said,

'I said to Abu Al-Hassan<sup>asws</sup>, 'Inform me about the married man when he flees from the pit, would he be returned until the Penalty (*Hadd*) (of stoning) is established upon him?' So he<sup>asws</sup> said: 'He would be returned and not returned'. So I said, 'And how is that?' So he<sup>asws</sup> said: 'If was a confessor upon himself, then he fled from the pit after something having hit him, from the stones, he would not be returned.

وَ إِنْ كَانَ إِنَّمَا قَامَتْ عَلَيْهِ الْبَيِّنَةُ وَ هُوَ يَجْحَدُ ثُمَّ هَرَبَ رُدُّ وَ هُوَ صَاحِرٌ حَتَّى يُقَامَ عَلَيْهِ الْحُدُّ وَ ذَلِكَ أَنْ مَاعِزَ بْنَ مَالِكٍ أَقْرَّ عِنْدَ رَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) بِالزَّانِي فَأَمَرَ بِهِ أَنْ يُرْجَمَ فَهَرَبَ مِنَ الْحَفِيرَةِ فَرَمَاهُ الزُّبَيْرُ بْنُ الْعَوَّامِ بِسَاقِ بَعِيرٍ فَعَقَلَهُ فَسَقَطَ فَلَحِقَهُ النَّاسُ فَقَتَلُوهُ ثُمَّ أَخْبَرُوا رَسُولَ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) بِذَلِكَ فَقَالَ لَهُمْ فَهَلَا تَرَكَمُوهُ إِذَا هَرَبَ يَذْهَبُ فَإِنَّمَا هُوَ الَّذِي أَقْرَّ عَلَى نَفْسِهِ

And if it was so that the proof was established against him, and he was arguing against it, then he flees, he would be returned and would be humiliated until the Penalty (*Hadd*) is established against him. And that is that Maiz Bin Malik accepted in the presence of Rasool-Allah<sup>saww</sup> with having committed adultery. So he<sup>saww</sup> ordered that he should be stoned, so he fled from the pit. So Al-Zubeyr Bin Al-Awwam hit him with a left of a camel, so he was injured and fell down. So the people came over and killed him. Then Rasool-Allah<sup>saww</sup> was informed of that, so he<sup>saww</sup> said to them: 'If only you would have left him alone when he fled, he would have gone. But rather, it was he who accepted it upon himself'.

وَ قَالَ لَهُمْ أَمَا لَوْ كَانَ عَلَيَّ حَاضِرًا مَعَكُمْ لَمَا ضَلَلْتُمْ

And he<sup>saww</sup> said: 'And if Ali<sup>asws</sup> had been present with you all, you would not have gone astray'.

قَالَ وَ وَدَاهُ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ .

He<sup>asws</sup> said: 'And Rasool-Allah<sup>saww</sup> paid (his wergild – the blood money) from the public treasury of the Muslims'.<sup>60</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ أَبِيَانَ عَنْ أَبِي الْعَبَّاسِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَتَى النَّبِيَّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) رَجُلٌ فَقَالَ إِنِّي زَنَيْتُ فَطَهَّرْنِي فَصَرَفَ النَّبِيُّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَجْهَهُ عَنْهُ فَأَتَاهُ مِنْ جَانِبِهِ الْأُخْرَى ثُمَّ قَالَ مِثْلَ مَا قَالَ فَصَرَفَ وَجْهَهُ عَنْهُ ثُمَّ جَاءَ الثَّلَاثَةَ فَقَالَ لَهُ يَا رَسُولَ اللَّهِ إِنِّي زَنَيْتُ وَ عَذَابُ الدُّنْيَا أَهْوَنُ لِي مِنْ عَذَابِ الْآخِرَةِ فَقَالَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أ بِصَاحِبِكُمْ بَأْسٌ يَعْزِي جَنَّةً فَقَالُوا لَا فَاقْرَ عَلَى نَفْسِهِ الرَّابِعَةَ

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Aban, from Abu Al Abbas who said,

'Abu Abdullah<sup>asws</sup> said: 'A man came over to the Prophet<sup>saww</sup> so he said, 'I have committed adultery, so purify me'. So the Prophet<sup>saww</sup> turned his<sup>saww</sup> face away from him. So he came over from his<sup>saww</sup> other side, then said similar to what he had said. So he<sup>saww</sup> turned his<sup>saww</sup> face away from him. Then he came for the third time, so he said to him<sup>saww</sup>, 'O Rasool-Allah<sup>saww</sup>! I have committed adultery, and the punishment

<sup>60</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 5

of the world is easier to me than the Punishment of the Hereafter!’ So Rasool-Allah<sup>saww</sup> said (to his<sup>saww</sup> companions): ‘Is there a problem with your companion?’ – meaning insanity. So they said, ‘No’. So he confessed upon himself for the fourth time.

فَأَمَرَ بِهِ رَسُولُ اللَّهِ (صلى الله عليه وآله) أَنْ يُرْجَمَ فَحَفَرُوا لَهُ حَفِيرَةً فَلَمَّا وَجَدَ مَسَّ الْحَجَارَةِ خَرَجَ يَسْتَدُّ فَلَاقِيَهُ الرَّبِيبُ فَرَمَاهُ بِسَاقِ بَعِيرٍ فَسَقَطَ فَعَقَلَهُ بِهِ فَأَدْرَكَهُ النَّاسُ فَتَلَّوْهُ فَأَخْبَرُوا رَسُولَ اللَّهِ (صلى الله عليه وآله) بِذَلِكَ فَقَالَ هَلَا تَرَ كُنُومَهُ ثُمَّ قَالَ لَوْ اسْتَرَّتْ ثُمَّ تَابَ كَانَ خَيْرًا لَهُ .

So Rasool-Allah<sup>saww</sup> ordered that he be stoned, so they dug out a pit for him. So when he found the touch of the stone (being pelted), he came out fleeing hurriedly. So Al-Zubayr met him, and hit him with a leg of a camel. So he fell injured by it. So the people realised, so they killed him’. So they informed Rasool-Allah<sup>saww</sup> of that, so he<sup>saww</sup> said: ‘If only you had just left him alone’. Then he<sup>saww</sup> said: ‘Had he hid himself, then repented, that would have been better for him’.<sup>61</sup>

### بَاب آخَرُ مِنْهُ

## Chapter 9 – Another chapter from it

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ أَبِي بَصِيرٍ عَنْ عِمْرَانَ بْنِ مَيْمَنٍ أَوْ صَالِحِ بْنِ مَيْمَنٍ عَنْ أَبِيهِ قَالَ أَتَتْ امْرَأَةً مُجْحِ امِيرِ الْمُؤْمِنِينَ (عليه السلام) فَقَالَتْ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فَطَهِّرْنِي طَهَّرَكَ اللَّهُ فَإِنَّ عَذَابَ الدُّنْيَا أَيْسَرُ مِنْ عَذَابِ الآخِرَةِ الَّذِي لَا يَنْقُطُ فَقَالَ لَهَا مِمَّا أَطَهَّرَكَ فَقَالَتْ إِنِّي زَنَيْتُ فَقَالَ لَهَا أَوْ ذَاتِ بَعْلِ أَنْتِ أَمْ غَيْرِ ذَلِكَ فَقَالَتْ بَلْ ذَاتِ بَعْلِ فَقَالَ لَهَا أَوْ فَحَاضِرًا كَانَ بَعْلُكَ إِذْ فَعَلْتِ مَا فَعَلْتِ أَمْ غَائِبًا كَانَ عَنْكَ فَقَالَتْ بَلْ حَاضِرًا فَقَالَ لَهَا أَنْطَلِقِي فَضَعِي مَا فِي بَطْنِكَ ثُمَّ انْتَبِي أَطَهَّرَكَ فَلَمَّا وَلَّتْ عَنْهُ الْمَرْأَةُ فَصَارَتْ حَيْثُ لَا تَسْمَعُ كَلَامَهُ قَالَ اللَّهُمَّ إِنَّهَا شَهِدَةٌ

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Ali Bin Abu Hamza, from Abu Baseer, from Imran Bin Maysam, or Salih Bin Maysam, from his father who said,

‘A woman came over to Amir Al-Momineen<sup>asws</sup>, so she said, ‘O Amir Al-Momineen<sup>asws</sup>! I have committed adultery, so purify me, may Allah<sup>azwj</sup> Purify you<sup>asws</sup>, for the punishment of the world is easier than the Punishment of the Hereafter which would not be cut off’. So he<sup>asws</sup> said to her: ‘From what should I<sup>asws</sup> purify you?’ So she said, ‘I have committed adultery’. So he<sup>asws</sup> said to her: ‘Are you with a husband or other than that?’ So she said, ‘But, I am with a husband’. So he<sup>asws</sup> said to her: ‘So, were you with your husband, being present, when you did what you did, or was he absent from you?’ So she said, ‘But, he was present’. So he<sup>asws</sup> said: ‘So go and place (give birth to) whatever is in your belly, then come to me<sup>asws</sup> and I<sup>asws</sup> shall purify you’. So when the woman turned away from him and went where she could not hear his<sup>asws</sup> speech, he<sup>asws</sup> said: ‘O Allah<sup>azwj</sup>! She has testified with one testimony’.

فَلَمْ يَلْبِثْ أَنْ أَتَتْهُ فَقَالَتْ قَدْ وَضَعْتُ فَطَهِّرْنِي قَالَ فَتَجَاهَلَ عَلَيْهَا فَقَالَ أَطَهَّرَكَ يَا أُمَّةَ اللَّهِ مِمَّا دَا فَقَالَتْ إِنِّي زَنَيْتُ فَطَهِّرْنِي فَقَالَ وَ ذَاتِ بَعْلِ إِذْ فَعَلْتِ مَا فَعَلْتِ قَالَتْ نَعَمْ قَالَ وَ كَانَ زَوْجُكَ حَاضِرًا أَمْ غَائِبًا قَالَتْ بَلْ حَاضِرًا قَالَ فَانْطَلِقِي وَ أَرْضِعِيهِ حَوْلَيْنِ كَامِلَيْنِ كَمَا أَمَرَكَ اللَّهُ قَالَ فَانْصَرَفَتْ الْمَرْأَةُ فَلَمَّا صَارَتْ مِنْ حَيْثُ لَا تَسْمَعُ كَلَامَهُ قَالَ اللَّهُمَّ إِنَّهُمَا شَهِدَاتَانِ

So it was not long before she came over and said, ‘I have placed (given birth), so purify me’. He (the narrator said), ‘He<sup>asws</sup> ignored her’. He<sup>asws</sup> said: ‘I<sup>asws</sup> should purify

<sup>61</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 8 H 6

you, O maid of Allah<sup>azwj</sup>, from what?' So she said, 'I have committed adultery, so purify me'. So he<sup>asws</sup> said: 'And that was when you were with a husband when you did what you did?' She said, 'Yes'. He<sup>asws</sup> said: 'And your husband was present or was he absent from you?' She said, 'But, he was present'. He<sup>asws</sup> said: 'So go, and breastfeed him for two years complete just as Allah<sup>azwj</sup> has Commanded you to'. So the woman went away. So when she went to where she could not hear his<sup>asws</sup> speech, he<sup>asws</sup> said: 'O Allah<sup>azwj</sup>! These are two testimonies'.

قَالَ فَلَمَّا مَضَى حَوْلَانِ أَنْتِ الْمَرْأَةُ فَقَالَتْ قَدْ أَرْضَعْتُهُ حَوْلَيْنِ فَطَهَّرْنِي يَا أَمِيرَ الْمُؤْمِنِينَ فَتَجَاهَلَ عَلَيْهَا وَ قَالَ أَطَهَّرُكَ مِمَّا ذَا  
فَقَالَتْ إِنِّي زَنَيْتُ فَطَهَّرْنِي قَالَ وَ ذَاتُ بَعْلِ أَنْتِ إِذْ فَعَلْتِ مَا فَعَلْتِ فَقَالَتْ نَعَمْ قَالَ وَ بَعْلُكَ غَائِبٌ عَنْكَ إِذْ فَعَلْتِ مَا فَعَلْتِ أَوْ  
حَاضِرٌ قَالَتْ بَلْ حَاضِرٌ قَالَ فَانْطَلِقِي فَأَكْفِيهِ حَتَّى يَعْضَلَ أَنْ يَأْكُلَ وَ يَشْرَبَ وَ لَا يَبْرُدَى مِنْ سَطْحٍ وَ لَا يَنْهَوْرَ فِي بئرٍ قَالَ  
فَانْصَرَفَتْ وَ هِيَ تَبْكِي فَلَمَّا وَ لَتْ فَصَارَتْ حَيْثُ لَا تَسْمَعُ كَلَامَهُ قَالَ اللَّهُمَّ إِنَّهَا ثَلَاثُ شَهَادَاتٍ

He (the narrator) said, 'So when two years passed by, the woman came over, so she said, 'I have breastfed him for two years, so purify me, O Amir Al-Momineen<sup>asws</sup>! So he<sup>asws</sup> ignored her and said: 'What is that which I<sup>asws</sup> should purify you from?' So she said, 'I have committed adultery, so purify me'. He<sup>asws</sup> said: 'And you were with a husband when you did what you did?' So she said, 'Yes'. He<sup>asws</sup> said: 'And being with a husband, was he absent from you when you did what you did, or was he present?' She said, 'But, present'. He<sup>asws</sup> said: 'So go and look after him (your child) until he has intellect and he eats and drinks, and would not fall off from the roof, nor fall into a well'. So she left, and she was crying. So when she left to be where she could not hear his<sup>asws</sup> speech, he<sup>asws</sup> said: 'O Allah<sup>azwj</sup>! These are three testimonies'.

قَالَ فَاسْتَفْبَلَهَا عَمْرُو بْنُ حُرَيْثِ الْمَخْزُومِيُّ فَقَالَ لَهَا مَا يُبْكِيكِ يَا أَمَةَ اللَّهِ وَ قَدْ رَأَيْتُكَ تَخْتَلِفِينَ إِلَيَّ عَلَيَّ تَسْأَلِينَهُ أَنْ يُطَهَّرَكَ  
فَقَالَتْ إِنِّي أَتَيْتُ أَمِيرَ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) فَسَأَلْتُهُ أَنْ يُطَهَّرَنِي فَقَالَ أَكْفِيهِ وَ لَدَيْكَ حَتَّى يَعْضَلَ أَنْ يَأْكُلَ وَ يَشْرَبَ وَ لَا  
يَبْرُدَى مِنْ سَطْحٍ وَ لَا يَنْهَوْرَ فِي بئرٍ وَ قَدْ خِفْتُ أَنْ يَأْتِيَ عَلَيَّ الْمَوْتُ وَ لَمْ يُطَهَّرْنِي فَقَالَ لَهَا عَمْرُو بْنُ حُرَيْثِ ارْجِعِي إِلَيْهِ  
فَأَنَا أَكْفِيهِ

He (the narrator) said, 'So Amro Bin Hureys Al-Makhzoumy met her, so he said to her, 'What makes you cry, O maid of Allah<sup>azwj</sup>, and I have seen you having followed you to Ali<sup>asws</sup>, you asked him that he<sup>asws</sup> should purify you?' So she said, 'I went over to Amir Al-Momineen<sup>asws</sup>, so I asked him<sup>asws</sup> that he should purify me. So he<sup>asws</sup> said: 'Look after your child until he has intellect of eating and drinking, and does not fall off from the roof, nor fall into a well, and I fear that death would come unto me and he<sup>asws</sup> has not purified me'. So Amro Bin Hureys said to her, 'Return to him<sup>asws</sup>, for I will look after him (the child)'.

فَرَجَعَتْ فَأَخْبَرَتْ أَمِيرَ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) بِقَوْلِ عَمْرُو فَقَالَ لَهَا أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) وَ هُوَ مُتَجَاهِلٌ عَلَيْهَا  
وَ لَمْ يَكْفُلْ عَمْرُو وَ لَدَيْكَ فَقَالَتْ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فَطَهَّرْنِي فَقَالَ وَ ذَاتُ بَعْلِ أَنْتِ إِذْ فَعَلْتِ مَا فَعَلْتِ قَالَتْ نَعَمْ قَالَ أ  
فَعَائِبًا كَانَ بَعْلُكَ إِذْ فَعَلْتِ مَا فَعَلْتِ أَمْ حَاضِرًا فَقَالَتْ بَلْ حَاضِرًا

So she returned and informed Amir Al-Momineen<sup>asws</sup> with the words of Amro. So Amir Al-Momineen<sup>asws</sup> said to her, and he<sup>asws</sup> was ignoring her: 'And why would Amro look after your child?' So she said, 'O Amir Al-Momineen<sup>asws</sup>! I have committed adultery, so purify me'. So he<sup>asws</sup> said: 'And you were with a husband when you did what you did?' She said, 'Yes'. He<sup>asws</sup> said: 'Your husband was absent when you did what you did, or present?' She said, 'But, present'.

قَالَ فَرَفَعَ رَأْسَهُ إِلَى السَّمَاءِ وَ قَالَ اللَّهُمَّ إِنَّهُ قَدْ تَبَيَّنَ لَكَ عَلَيْهَا أَرْبَعُ شَهَادَاتٍ وَ أَنْتَ قَدْ قُلْتَ لِنَبِيِّكَ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فِي مَا أَخْبَرْتَهُ بِهِ مِنْ دِينِكَ يَا مُحَمَّدُ مَنْ عَطَلَ حَدًّا مِنْ حُدُودِي فَقَدْ عَانَدَنِي وَ طَلَبَ بِذَلِكَ مُضَادَّتِي اللَّهُمَّ فَإِنِّي غَيْرُ مُعْطِلٍ حُدُودِكَ وَ لَا طَالِبٍ مُضَادَّتِكَ وَ لَا مُضَيِّعٍ لِأَحْكَامِكَ بَلْ مُطِيعٌ لَكَ وَ مُتَّبِعٌ سُنَّةَ نَبِيِّكَ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ )

He (the narrator) said, 'So he<sup>asws</sup> raised his<sup>asws</sup> head towards the sky and said: 'O Allah<sup>azwj</sup>! Four testimonies have been affirmed against her for You<sup>azwj</sup>, and You<sup>azwj</sup> have Said to Your<sup>azwj</sup> Prophet<sup>saww</sup> regarding what You<sup>azwj</sup> Informed him<sup>saww</sup> with from Your<sup>azwj</sup> Religion was: "O Muhammad<sup>saww</sup>! The one who fails any of My<sup>azwj</sup> Penalties so he has opposed Me<sup>azwj</sup> and has sought by that what is opposite to Me<sup>azwj</sup>". Therefore I<sup>asws</sup> am not failing Your<sup>azwj</sup> Penalty (*Hadd*) and I<sup>asws</sup> do not seek opposite to You<sup>azwj</sup>, nor am I<sup>asws</sup> a waster of Your<sup>azwj</sup> Judgements. But, I<sup>asws</sup> am obedient to You<sup>azwj</sup>, and obedient to the Sunnah of Your<sup>azwj</sup> Prophet<sup>saww</sup>.

قَالَ فَنَظَرَ إِلَيْهِ عَمْرُو بْنُ حُرَيْثٍ وَ كَانَتَا الرُّمَانَ يُفْقَأُ فِي وَجْهِهِ فَلَمَّا رَأَى ذَلِكَ عَمَرُو قَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي إِنَّمَا أَرَدْتُ أَكْفُلُهُ إِذْ ظَنَنْتُ أَنَّكَ تُحِبُّ ذَلِكَ فَأَمَّا إِذَا كَرِهْتَهُ فَإِنِّي لَسْتُ أَفْعَلُ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) أ بَعْدَ أَرْبَعِ شَهَادَاتٍ بِاللَّهِ لَتَكْفُلْنَهُ وَ أَنْتَ صَاغِرٌ

He (the narrator) said, 'So Amro Bin Hurays looked at him<sup>asws</sup>, and it was as if a pomegranate had been sliced upon his<sup>asws</sup> face (it was red). So when Amro saw that, said, 'O Amir Al-Momineen<sup>asws</sup>! I, but rather, I intended to look after him and thought that you<sup>asws</sup> would like that. So if you<sup>asws</sup> are disliking it, so I will not do it'. So Amir Al-Momineen<sup>asws</sup> said: 'After four testimonies with Allah<sup>azwj</sup>? You will have to look after him, and you are humiliated'.

فَصَعِدَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) الْمُنْبِرَ فَقَالَ يَا قَنْبَرُ نَادِ فِي النَّاسِ الصَّلَاةَ جَامِعَةً فَنَادَى قَنْبَرٌ فِي النَّاسِ فَاجْتَمَعُوا حَتَّى غَصَّ الْمَسْجِدُ بِأَهْلِهِ وَ قَامَ أَمِيرُ الْمُؤْمِنِينَ ( صَلَوَاتُ اللَّهِ عَلَيْهِ ) وَ أَتَتْهُ عَلَيْهِ ثُمَّ قَالَ أَيُّهَا النَّاسُ إِنَّ إِمَامَكُمْ خَارِجٌ بِهَذِهِ الْمَرْأَةِ إِلَى هَذَا الظُّهْرِ لِيُتَيَّمَّ عَلَيْهَا الْحَدُّ إِنْ شَاءَ اللَّهُ فَعَزَمَ عَلَيْكُمْ أَمِيرُ الْمُؤْمِنِينَ لَمَّا خَرَجْتُمْ وَ أَنْتُمْ مُتَنَكِّرُونَ وَ مَعَكُمْ أَحْجَارُكُمْ لَا يَتَعَرَّفُ أَحَدٌ مِنْكُمْ إِلَى أَحَدٍ حَتَّى تَنْصَرِفُوا إِلَى مَنَارِلِكُمْ إِنْ شَاءَ اللَّهُ

So Amir Al-Momineen<sup>asws</sup> ascended the Pulpit, so he<sup>asws</sup> said: 'O Qanbar! Call out among the people for the congregational Prayer'. So Qanbar called about among the people. So they gathered until the Masjid was congested with its inhabitants. And Amir Al-Momineen<sup>asws</sup> stood up, so he<sup>asws</sup> Praised Allah<sup>azwj</sup> and Extolled Him<sup>azwj</sup>, then said: 'O you people! Your Imam<sup>asws</sup> will be going out with this woman, to this backyard in order to establish the Penalty (*Hadd*) upon her, Allah<sup>azwj</sup> Willing! Therefore Amir Al-Momineen<sup>asws</sup> is instructing you that when you come out, and you should be masking yourselves, and with you should be your stones, noone should be able to recognise anyone from you until you disperse to your houses, Allah<sup>azwj</sup> Willing'.

قَالَ ثُمَّ نَزَلَ فَلَمَّا أَصْبَحَ النَّاسُ بُكْرَةً خَرَجَ بِالْمَرْأَةِ وَ خَرَجَ النَّاسُ مُتَنَكِّرِينَ مُتَلَمِّمِينَ بِعَمَائِمِهِمْ وَ بِأَرْدِيَّتِهِمْ وَ الْحِجَارَةَ فِي أَرْدِيَّتِهِمْ وَ فِي أَكْمَامِهِمْ حَتَّى انْتَهَى بِهَا وَ النَّاسُ مَعَهُ إِلَى الظُّهْرِ بِالْكَوْفَةِ فَأَمَرَ أَنْ يُحْفَرَ لَهَا حَفِيرَةٌ ثُمَّ دَفَنَهَا فِيهَا ثُمَّ رَكِبَ بَعْلَتَهُ وَ أَتَيْتَ رَجُلَيْهِ فِي عَرَزِ الرِّكَابِ ثُمَّ وَضَعَ إِصْبَعَيْهِ السَّبَابَتَيْنِ فِي أُذُنَيْهِ ثُمَّ نَادَى بِأَعْلَى صَوْتِهِ يَا أَيُّهَا النَّاسُ إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى عَهْدٌ إِلَى نَبِيِّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) عَهْدٌ عَهْدَهُ مُحَمَّدٌ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) إِلَيَّ بِأَنَّهُ لَا يُقِيمُ الْحَدَّ مِنْ اللَّهِ عَلَيْهِ حَدٌّ فَمَنْ كَانَ عَلَيْهِ حَدٌّ مِثْلُ مَا عَلَيْهَا فَلَا يُقِيمُ عَلَيْهَا الْحَدَّ

He (the narrator) said, 'Then he<sup>asws</sup> descended. So when the people woke up in the morning he<sup>asws</sup> went out with the woman, and the people went out having veiled themselves with their turbans, and their gowns, and the stones were in their garments and their sleeves, until he<sup>asws</sup> ended up with her to the back of Al-Kufa, and

the people were with him<sup>asws</sup>. So he<sup>asws</sup> instructed that they should dig a pit for her. Then he<sup>asws</sup> buried her in it, then rode upon his<sup>asws</sup> mule and affirmed his<sup>asws</sup> feet in the stirrups. Then he<sup>asws</sup> placed his<sup>asws</sup> fingers, the two forefingers in his<sup>asws</sup> ears, then called out in a high voice: 'O you people! Allah<sup>azwj</sup> Blessed and High Contracted with His<sup>azwj</sup> Prophet<sup>saww</sup> with a contract. Muhammad<sup>saww</sup> contracted it to me<sup>asws</sup> that no one should establish the Penalty (*Hadd*) of Allah<sup>azwj</sup> upon him is a Penalty (*Hadd*) due. So upon whom there is a Penalty (*Hadd*) similar to what is upon her, so he should not establish the Penalty (*Hadd*) upon her!'

قَالَ فَأَنْصَرَفَ النَّاسُ يَوْمَئِذٍ كُلُّهُمْ مَا خَلَا أَمِيرَ الْمُؤْمِنِينَ ( عليه السلام ) وَ الْحَسَنَ وَ الْحُسَيْنَ ( عليهما السلام ) فَأَقَامَ هُوَ لِأَيِّ النَّثَاةِ عَلَيْهَا الْحَدَّ يَوْمَئِذٍ وَ مَا مَعَهُمْ غَيْرُهُمْ قَالَ وَ أَنْصَرَفَ

He (the narrator) said: 'So the people dispersed on that day, all of them, except for Amir Al-Momineen<sup>asws</sup>, and Al-Hassan<sup>asws</sup>, and Al-Husayn<sup>asws</sup>. So these three established the Penalty (*Hadd*) upon her on that day, and there was no one with them<sup>asws</sup> apart from themselves<sup>asws</sup> being there'.

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ خَلْفِ بْنِ حَمَّادٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ جَاءَتْ امْرَأَةً حَامِلًا إِلَى أَمِيرِ الْمُؤْمِنِينَ ( عليه السلام ) فَقَالَتْ إِنِّي فَعَلْتُ فِطْرَتِي ثُمَّ ذَكَرْتُ نَحْوَهُ .

A number of our companions, from Ahmad Bin Muhammad, from Muhammad Bin Khalid, from Khalaf Bin Hammad,

Abu Abdullah<sup>asws</sup> has said: 'A pregnant woman came over to Amir Al-Momineen<sup>asws</sup>, so she said, 'I have committed adultery, so purify me'. Then he mentioned approximate to it (the above narration)'.<sup>62</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَمَّنْ رَوَاهُ عَنْ أَبِي جَعْفَرٍ أَوْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ أَنِّي أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) بَرَجَلٌ قَدْ أَقْرَى عَلَى نَفْسِهِ بِالْفُجُورِ فَقَالَ أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) لِأَصْحَابِهِ اغْدُوا غَدًا عَلَيَّ مُتَلَثِّمِينَ فَعَدُوا عَلَيْهِ مُتَلَثِّمِينَ فَقَالَ لَهُمْ مَنْ فَعَلَ مِثْلَ فِعْلِهِ فَلَا يَرْجُمُهُ فَلْيَنْصَرِفْ قَالَ فَأَنْصَرَفَ بَعْضُهُمْ وَ بَقِيَ بَعْضٌ فَرَجَمَهُ مَنْ بَقِيَ مِنْهُمْ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from the one who reported it,

(It has been narrated either) from Abu Ja'far or abu Abdullah<sup>asws</sup>: 'They came with a man to Amir Al-Momineen<sup>asws</sup> who had accpeted upon himself with the immorality. So Amir Al-Momineen<sup>asws</sup> said to his<sup>asws</sup> companions: 'Come to me<sup>asws</sup> tomorrow having veiled yourselves'. So they came over to him in the morning being veiled. So he<sup>asws</sup> said to them: 'The one has done similar to his deed, so he should not stone him, so let him leave'. So some of them left, and some of them remained, so they stoned him, the ones who remained from them'.<sup>63</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ رَفَعَهُ إِلَى أَمِيرِ الْمُؤْمِنِينَ ( عليه السلام ) قَالَ أَنَّهُ رَجُلٌ بِالْكُوفَةِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فِطْرَتِي قَالَ مَنْ أَنْتَ قَالَ مِنْ مَرْيَنَةَ قَالَ أَ تَقْرَأُ مِنَ الْقُرْآنِ شَيْئًا قَالَ بَلَى قَالَ فَأَقْرَأْ فَقَرَأَ فَأَجَادَ فَقَالَ أ بِكَ جِنَّةٌ قَالَ لَا قَالَ فَأَذْهَبْ حَتَّى نَسْأَلَ عَنْكَ فَذَهَبَ الرَّجُلُ

Ali Bin Ibrahim, from Ahmad Bin Muhammad Bin Khalid,

<sup>62</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 9 H 1

<sup>63</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 9 H 2

(It has been narrated) raising it to Amir Al-Momineen<sup>asws</sup>, said, 'A man came over to him<sup>asws</sup> at Al-Kufa, so he said, 'O Amir Al-Momineen<sup>asws</sup>! I had committed adultery, so purify me'. He<sup>asws</sup> said: 'From where are you (coming from)?' He said, 'From Muzeyna'. He<sup>asws</sup> said: 'Have you read anything from the Quran?' He said, 'Yes'. He<sup>asws</sup> said: 'So read'. So he read, and it was good (recitation). So he<sup>asws</sup> said: 'Are you with insanity'. He said, 'No'. He<sup>asws</sup> said: 'So go away, until we ask about you'. So the man went away.

ثُمَّ رَجَعَ إِلَيْهِ بَعْدُ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي زَنَيْتُ فَطَهِّرْنِي فَقَالَ أَلَيْكَ زَوْجَةٌ قَالَ بَلَى قَالَ فَمُؤِمِمَةٌ مَعَكَ فِي الْبَلَدِ قَالَ نَعَمْ قَالَ فَأَمَرَهُ أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) فَذَهَبَ وَ قَالَ حَتَّى نَسْأَلَ عَنْكَ فَبَعَثَ إِلَى قَوْمِهِ فَسَأَلَ عَنْ خَبْرِهِ فَقَالُوا يَا أَمِيرَ الْمُؤْمِنِينَ صَاحِبِ الْعَقْلِ

Then he returned to him<sup>asws</sup> afterwards, so he said, 'O Amir Al-Momineen<sup>asws</sup>! I have committed adultery, so purify me'. So he<sup>asws</sup> said: 'Is there a wife for you?' He said, 'Yes'. He<sup>asws</sup> said: 'Is she staying with you in the city?' He said, 'Yes'. So Amir Al-Momineen<sup>asws</sup> ordered him, 'So go away until we ask about you'. So he sent someone to his people who asked about his news. So they said, 'O Amir Al-Momineen<sup>asws</sup>! He is of correct mind'.

فَرَجَعَ إِلَيْهِ الثَّلَاثَةَ فَقَالَ لَهُ مِثْلَ مَقَالَتِهِ فَقَالَ لَهُ أَذْهَبَ حَتَّى نَسْأَلَ عَنْكَ فَرَجَعَ إِلَيْهِ الرَّابِعَةَ فَلَمَّا أَقْرَأَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) لَقَنْتُ احْتَفَظَ بِهِ ثُمَّ غَضِبَ ثُمَّ قَالَ مَا أَقْبَحَ بِالرَّجُلِ مِنْكُمْ أَنْ يَأْتِيَ بَعْضَ هَذِهِ الْفَوَاحِشِ فَيُفْضِحَ نَفْسَهُ عَلَى رُءُوسِ الْمَلَأِ أَفَلَا تَابَ فِي بَيْتِهِ فَوَ اللَّهُ لَتَوْبَتُهُ فِيمَا بَيْنَهُ وَ بَيْنَ اللَّهِ أَفْضَلُ مِنْ إِقَامَتِي عَلَيْهِ الْحَدَّ ثُمَّ أَخْرَجَهُ

So he returned to him for the third time, and he said to him similar to his words before. So he<sup>asws</sup> said to him: 'Go away until we ask about you'. So he returned to him for the fourth time. So when he confessed, Amir Al-Momineen<sup>asws</sup> said to Qanbar: 'Keep him locked up'. Then he<sup>asws</sup> got annoyed, then said: 'There is nothing more uglier with the man from you that he comes to one of these immoralities, so he disgraces himself upon the chiefs of the tribes. Why did he not repent in his own house, for by Allah<sup>azwj</sup>, his repentance between him and Allah<sup>azwj</sup> is superior than my<sup>asws</sup> establishing the Penalty (*Hadd*) upon him'.

وَ نَادَى فِي النَّاسِ يَا مَعْشَرَ الْمُسْلِمِينَ أَخْرَجُوا لِيُقَامَ عَلَى هَذَا الرَّجُلِ الْحَدُّ وَ لَا يَعْرِفَنَّ أَحَدُكُمْ صَاحِبَهُ فَأَخْرَجَهُ إِلَى الْجَبَانِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ أَنْظِرْنِي أَصَلِّي رَكْعَتَيْنِ ثُمَّ وَضَعَهُ فِي حُفْرَتِهِ وَ اسْتَقْبَلَ النَّاسَ بِوَجْهِهِ فَقَالَ يَا مَعْشَرَ الْمُسْلِمِينَ إِنَّ هَذَا حَقٌّ مِنْ حُقُوقِ اللَّهِ عَزَّ وَ جَلَّ فَمَنْ كَانَ لِلَّهِ فِي عُنُقِهِ حَقٌّ فَلْيَنْصِرِفْ وَ لَا يُؤَيِّمِ حُدُودَ اللَّهِ مَنْ فِي عُنُقِهِ لِلَّهِ حَدٌّ

And he called out among the people: 'O group of the Muslims! Come out for the establishment of the Penalty (*Hadd*) upon this man, and not one of you should be able to recognise his companion'. So he<sup>asws</sup> brought him out to the wilderness. So he said, 'Respite me, O Amir Al-Momineen<sup>asws</sup>, while I Pray two cycles'. Then he<sup>asws</sup> placed him in his pit, and the people faced him. So he<sup>asws</sup> said: 'O group of the Muslims! This is a right from the Rights of Allah<sup>azwj</sup> Mighty and Majestic! So the one whom had (such) a right upon his own neck, so let him disperse, and he should not establish the Penalties of Allah<sup>azwj</sup>, the one on whose neck is due a Penalty (*Hadd*) of Allah<sup>azwj</sup>'.

فَأَنْصَرَفَ النَّاسُ وَ بَقِيَ هُوَ وَ الْحَسَنُ وَ الْحُسَيْنُ ( عليهما السلام ) فَأَخَذَ حَجْرًا فَكَبَّرَ ثَلَاثَ تَكْبِيرَاتٍ ثُمَّ رَمَاهُ بِثَلَاثَةِ أَحْجَارٍ فِي كُلِّ حَجْرٍ ثَلَاثَ تَكْبِيرَاتٍ ثُمَّ رَمَاهُ الْحَسَنُ ( عليه السلام ) مِثْلَ مَا رَمَاهُ أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) ثُمَّ رَمَاهُ الْحُسَيْنُ ( عليه السلام ) فَمَاتَ الرَّجُلُ فَأَخْرَجَهُ أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) فَأَمَرَ فَحُورَ لَهُ وَ صَلَّى عَلَيْهِ وَ دَفَنَهُ فَقِيلَ يَا أَمِيرَ الْمُؤْمِنِينَ أَلَا تُغْسَلُهُ فَقَالَ قَدْ اغْتَسَلَ بِمَا هُوَ طَاهِرٌ إِلَى يَوْمِ الْقِيَامَةِ لَقَدْ صَبَرَ عَلَى أَمْرٍ عَظِيمٍ .

So the people dispersed and there remained himself<sup>asws</sup>, and Al-Hassan<sup>asws</sup> and Al-Husayn<sup>asws</sup>. So he<sup>asws</sup> grabbed the stones, exclaimed the Greatness of Allah<sup>azwj</sup> with three exclamations, then pelted him with three stones, during each stone, three exclamations. Then Al-Hassan<sup>asws</sup> pelted him similarly to what Amir Al-Momineen<sup>asws</sup> had pelted him. Then Al-Husayn<sup>asws</sup> pelted him<sup>asws</sup>. So the man died, and Amir Al-Momineen<sup>asws</sup> brought him out. So he<sup>asws</sup> ordered for a grave to be dug out for him, and Prayed over him, and buried him. So it was said, 'O Amir Al-Momineen<sup>asws</sup>! Will you not wash him (before burying him)?' So he<sup>asws</sup> said: 'He has been washed by what has purified him up to the Day of Judgement. He was patient upon a grievous matter'.<sup>64</sup>

### باب الرَّجُلِ يَغْتَصِبُ الْمَرْأَةَ فَرَجَّهَا

## Chapter 10 – The man rapes the woman of her chastity

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ بُرَيْدِ الْعَجَلِيِّ قَالَ سَأَلَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ اغْتَصَبَ امْرَأَةً فَرَجَّهَا قَالَ يُقْتَلُ مُحْصَنًا كَانَ أَوْ غَيْرَ مُحْصَنٍ .

Ali Bin Ibrahim, from his father and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether from Ibn Mahboub, from Abu Ayoub, from Bureyd Al ajaly who said,

'Abu Ja'far<sup>asws</sup> was asked about a man who raped a woman of her chastity. He<sup>asws</sup> said: 'He should be killed, whether he was married or without marriage'.<sup>65</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ عَلِيِّ بْنِ حَدِيدٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ غَصَبَ امْرَأَةً نَفْسَهَا قَالَ قَالَ يُضْرَبُ ضَرْبَةً بِالسَّيْفِ بَلَّغَتْ مِنْهُ مَا بَلَغَتْ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Ali Bin Hadeed, from Jameel, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding a man who raped a woman of herself. He<sup>asws</sup> said: 'He should be struck with the sword, it reaches from it what reaches (whatever may happen from it, whether he lives or dies)'.<sup>66</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ زُرَّارَةَ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) فِي رَجُلٍ غَصَبَ امْرَأَةً نَفْسَهَا قَالَ يُقْتَلُ .

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

(It has been narrated either) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>), regarding a man who raped a woman of herself. He<sup>asws</sup> said: 'He should be killed'.<sup>67</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ بُؤْسَ عَنْ أَبِي بصيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا كَابَرَ الرَّجُلُ الْمَرْأَةَ عَلَى نَفْسِهَا ضَرْبٌ ضَرْبَةً بِالسَّيْفِ مَاتَ مِنْهَا أَوْ عَاشَ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abu Baseer,

<sup>64</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 9 H 3

<sup>65</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 1

<sup>66</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 2

<sup>67</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 3

Abu Abdullah<sup>asws</sup> has said: 'When the man forces the woman upon herself, he should be struck with one stroke of the sword, either he dies from it or lives'.<sup>68</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ جَمِيلِ بْنِ دَرَّاجٍ وَ مُحَمَّدِ بْنِ حُمْرَانَ جَمِيعاً عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي جَعْفَرٍ ( عليه السلام ) الرَّجُلُ يُعْصِبُ الْمَرْأَةَ نَفْسَهَا قَالَ يُقْتَلُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Abu Najran, from Jameel Bin Darraj and Muhammad Bin Humran, altogether, from Zurara who said,

'I said to Abu Ja'far<sup>asws</sup>, 'The man rapes the woman of herself'. He<sup>asws</sup> said: 'He should be killed'.<sup>69</sup>

### بَابُ مَنْ زَنَى بِذَاتِ مَحْرَمٍ

## Chapter 11 – The one who commits adultery with a *Mahram* (commits incest)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أُتُوبٍ قَالَ سَمِعْتُ بُكَيْرَ بْنَ أَعْيَنَ يَرْوِي عَنْ أَحَدِهِمَا ( عليهما السلام ) قَالَ مَنْ زَنَى بِذَاتِ مَحْرَمٍ حَتَّى يُوَاقِعَهَا ضَرْبٌ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهُ مَا أَخَذَتْ وَ إِنْ كَانَتْ تَابِعَتْهُ ضَرْبَتْ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهَا مَا أَخَذَتْ قِيلَ لَهُ فَمَنْ يَضْرِبُهُمَا وَ لَيْسَ لَهُمَا خَصْمٌ قَالَ ذَلِكَ عَلَى الْإِمَامِ إِذَا رُفِعَا إِلَيْهِ .

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Abu Ayoub who said, 'I heard Bukeyr Bin Ayn narrating,

(It has been narrated either) from one the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) having said: 'The one who commits adultery with a *Mahram* (commits incest) until he falls upon her, would be struck with one strike of the sword, taking from him what is taken (lives or dies), and if he was obeying her, she would be struck with one strike of the sword, taking from her what it takes (lives or dies)'. It was said to him<sup>asws</sup>, 'So who would be striking them both, and there is no adversary for the two of them?' He<sup>asws</sup> said: 'That is upon the Imam<sup>asws</sup>, when it (the matter) is raised to him<sup>asws</sup>,<sup>70</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَسَنِ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنِ الْحَكَمِ بْنِ مَسْكِينٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عليه السلام ) أَيْنَ يُضْرَبُ الَّذِي يَأْتِي ذَاتَ مَحْرَمٍ بِالسَّيْفِ أَيْنَ هَذِهِ الضَّرْبَةُ قَالَ يُضْرَبُ عُنُقُهُ أَوْ قَالَ يُضْرَبُ رَقَبَتُهُ .

Ahmad Bin Muhammad, from Ali Bin Al Hassan, from Ali Bin Asbaat, from Al Hakaam Bin Muskeyn, form Jameel Bin Darraj who said,

'I said to Abu Abdullah<sup>asws</sup>, 'Where would he be struck with the sword, the one who came to his *Mahram* (committed incest), where is this strike to be?' He<sup>asws</sup> said: 'His neck would be struck', or said: 'His throat should be struck'.<sup>71</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ مِهْرَانَ عَمَّنْ ذَكَرَهُ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ وَقَعَ عَلَى أَخْتِهِ قَالَ يُضْرَبُ ضَرْبَةً بِالسَّيْفِ قُلْتُ فَإِنَّهُ يُخْلَصُ قَالَ يُحْبَسُ أَيْدَاهُ حَتَّى يَمُوتَ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from one of his companions, from Muhammad Bin Abdullah Bin Mahran, from the one who mentioned it,

<sup>68</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 4

<sup>69</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 10 H 5

<sup>70</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 1

<sup>71</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 2

(The narrator says), 'I asked Abu Abdullah<sup>asws</sup> about a man who fell upon his sister. He<sup>asws</sup> said: 'He should be struck with one strike of the sword'. I said, 'So he would be finished (from it)?' He<sup>asws</sup> said: 'He should be imprisoned forever until he dies'.<sup>72</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ أَبِيهِ عَنِ ابْنِ بُكَيْرٍ عَنْ رَجُلٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) الرَّجُلُ يَأْتِي دَاتَ مَحْرَمٍ قَالَ يُضْرَبُ ضَرْبَةً بِالسَّيْفِ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from his father, from Ibn Bukeyr, from a man who said,

'I said to Abu Abdullah<sup>asws</sup>, 'The man comes to his *Mahram*'. He<sup>asws</sup> said: 'He would be struck with one strike of the sword'.<sup>73</sup>

قَالَ ابْنُ بُكَيْرٍ حَدَّثَنِي حَرِيْزٌ عَنْ بُكَيْرٍ بِذَلِكَ .

Ibn Bukeyr said, 'Hareyz narrated to me, from Bukeyr, with that'.

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ سَالِمٍ عَنْ بَعْضِ أَصْحَابِنَا عَنِ الْحَكَمِ بْنِ مَسْكِينٍ عَنْ جَمِيلٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) الرَّجُلُ يَأْتِي دَاتَ مَحْرَمٍ أَيُّنَ يُضْرَبُ بِالسَّيْفِ قَالَ رَقَبْتُهُ .

Ali Bin Ibrahim, from Muhammad Bin Salim, from one of our companions, from Al Hakam Bin Muskeyn, from Jameel who said,

'I said to Abu Abdullah<sup>asws</sup>, 'The man comes to a *Mahram*, where should he be struck with the sword?' He<sup>asws</sup> said: 'His throat'.<sup>74</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلٍ بْنِ زِيَادٍ عَنْ عَلِيِّ بْنِ أَصْبَاطٍ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ أَبِيهِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) مَنْ أَتَى دَاتَ مَحْرَمٍ ضَرْبَ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهُ مَا أَخَذَتْ .

A number of our companions, from Sahl Bin Ziyad, from Ali Bin Asbat, from Abdullah Bin Bukeyr, from his father who said,

'Abu Abdullah<sup>asws</sup> said: 'The one who comes to a *Mahram* would be struck with a strike of the sword, taking from him what it takes (lives or dies)'.<sup>75</sup>

سَهْلٌ عَنْ عَلِيِّ بْنِ أَصْبَاطٍ عَنِ الْحَكَمِ بْنِ مَسْكِينٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَيُّنَ تُضْرَبُ هَذِهِ الضَّرْبَةُ يَعْنِي مَنْ أَتَى دَاتَ مَحْرَمٍ قَالَ يُضْرَبُ عُنُقُهُ أَوْ قَالَ رَقَبَتُهُ .

Sahl, from Ali Bin Asbat, from Al Hakam Bin Maskeyn, from Jameel Bin Darraj who said,

'I said to Abu Abdullah<sup>asws</sup>, 'Where to strike this strike, meaning the one who comes to a *Mahram*?' He<sup>asws</sup> said: 'He would strike his neck', or said: 'His throat'.<sup>76</sup>

بَابُ فِي أَنْ صَاحِبَ الْكُبَيْرَةِ يُقْتَلُ فِي الثَّلَاثَةِ

<sup>72</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 3

<sup>73</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 4

<sup>74</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 5

<sup>75</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 6

<sup>76</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 11 H 7

## Chapter 12 – Regarding the committer of the major sins, he should be killed during the third (offence)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى بْنِ عُبَيْدٍ عَنْ يُونُسَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي بَصِيرٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) الزَّانِي إِذَا زَنَى جُلِدَ ثَلَاثًا وَ يُقْتَلُ فِي الرَّابِعَةِ يَعْنِي إِذَا جُلِدَ ثَلَاثَ مَرَّاتٍ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Ubeyd, from Yunus, from Is'haq Bin Ammar, from Abu Baseer who said,

'Abu Abdullah<sup>asws</sup> said: 'The adulterer, when he commits adultery would be whipped three times (after three offences), and he would be killed during the fourth, meaning when he has (already) been whipped three times'.<sup>77</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ صَفْوَانَ عَنْ يُونُسَ عَنْ أَبِي الْحَسَنِ الْمَاضِي ( عَلَيْهِ السَّلَامُ ) قَالَ أَصْحَابُ الْكِبَائِرِ كُلُّهَا إِذَا أُقِيمَ عَلَيْهِمُ الْحُدُ مَرَّتَيْنِ قُتِلُوا فِي الثَّلَاثَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Safwan, from Yunus,

(It has been narrated) from Abu Al Hassan 'Al-Maazy' (the 7<sup>th</sup> Imam<sup>asws</sup>) having said: 'The committers of the major sins, all of them, when the Penalty (*Hadd*) is established twice upon them, they would be killed (after) the third'.<sup>78</sup>

### بَابُ الْمَجْنُونِ وَالْمَجْنُونَةِ يَزْنِيَانِ

## Chapter 13 – The insane man and the insane woman both committing adultery

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي امْرَأَةٍ مَجْنُونَةٍ زَنَتْ فَحَبِلَتْ قَالَ هِيَ مِثْلُ السَّائِبَةِ لَا تَمْلِكُ أَمْرَهَا وَ لَيْسَ عَلَيْهَا رَجْمٌ وَ لَا جُلْدٌ وَ لَا نَفْيٌ

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> said regarding an insane woman who committed adultery, so she became pregnant'. He<sup>asws</sup> said: 'She is similar to *Al-Sa'aiba* (unconditionally freed slave), having no control over her affairs, and there is neither stoning upon her, nor whipping, nor exiling'.

وَ قَالَ فِي امْرَأَةٍ أَقْرَبَتْ عَلَى نَفْسِهَا أَنَّهُ اسْتَكْرَهَهَا رَجُلٌ عَلَى نَفْسِهَا قَالَ هِيَ مِثْلُ السَّائِبَةِ لَا تَمْلِكُ نَفْسَهَا فَلَوْ شَاءَ قَتَلَهَا فَلَيْسَ عَلَيْهَا جُلْدٌ وَ لَا نَفْيٌ وَ لَا رَجْمٌ .

And he<sup>asws</sup> said regarding a woman who accepted upon herself that a man forced himself upon her. He<sup>asws</sup> said: 'She is similar to *Al-Sa'aiba* (unconditionally freed

<sup>77</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 12 H 1

<sup>78</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 12 H 2

slave), not having control over her affairs. Had he so desired to, he could have killed her. Therefore, there is neither whipping upon her, nor exiling, nor stoning'.<sup>79</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) فِي امْرَأَةٍ مَجْنُونَةٍ زَنَتْ قَالَ إِنَّهَا لَا تَمْلِكُ أَمْرَهَا وَ لَيْسَ عَلَيْهَا شَيْءٌ .

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

(It has been narrated either) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) regarding an insane woman who committed adultery. He<sup>asws</sup> said: 'She had no control over her affair, and there is nothing upon her'.<sup>80</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرٍو بْنِ عُثْمَانَ عَنْ إِبْرَاهِيمَ بْنِ الْفَضْلِ عَنْ أَبَانَ بْنِ تَعْلِبٍ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) إِذَا زَنَى الْمَجْنُونُ أَوْ الْمَعْتُوهُ جُلِدَ الْحَدَّ وَ إِنْ كَانَ مُحْصَنًا رُجِمَ قُلْتُ وَ مَا الْفَرْقُ بَيْنَ الْمَجْنُونِ وَ الْمَجْنُونَةِ وَ الْمَعْتُوهُ وَ الْمَعْتُوْهَةِ قَالَ الْمَرْأَةُ إِنَّمَا تُؤْتَى وَ الرَّجُلُ يَأْتِي وَ إِنَّمَا يَزْنِي إِذَا عَقَلَ كَيْفَ يَأْتِي اللَّذَّةَ وَ إِنْ الْمَرْأَةُ إِنَّمَا تُسْتَكْرَهُ وَ يَفْعَلُ بِهَا وَ هِيَ لَا تَعْقِلُ مَا يَفْعَلُ بِهَا .

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from Ibrahim Bin Al Fazal, from Aban Bin Taglub who said,

'Abu Abdullah<sup>asws</sup> said: 'When the insane or the feeble minded man commits adultery, he would be whipped by the Penalty (*Hadd*), and if he was married, would be stoned'. I said, 'And what is the difference between the insane man and the insane woman, and the feeble minded man and the feeble minded woman?' He<sup>asws</sup> said: 'The woman, but rather she is come to, and the man comes to her, and he rather commits adultery and realised how the pleasure comes, and the woman, rather dislikes, and she is done with, and she does not realise what is being done with her'.<sup>81</sup>

بَابُ حَدِّ الْمَرْأَةِ الَّتِي لَهَا زَوْجٌ فَتَزَوَّجَ أَوْ تَتَزَوَّجَ وَ هِيَ فِي عَدَّتِهَا وَ الرَّجُلُ الَّذِي يَتَزَوَّجُ دَاتِ زَوْجٍ

## Chapter 14 – Penalty (*Hadd*) of the woman who has a husband for her, so she married (another), or she married whilst being in her waiting period, and the man who marries a married woman

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ تَزَوَّجَتْ رَجُلًا وَ لَهَا زَوْجٌ قَالَ فَقَالَ إِنْ كَانَ زَوْجُهَا الْأَوَّلُ مُقِيمًا مَعَهَا فِي الْمَصْرِ الَّذِي هِيَ فِيهِ تَصِلُ إِلَيْهِ وَ يَصِلُ إِلَيْهَا فَإِنَّ عَلَيْهَا مَا عَلَى الزَّانِي الْمُحْصَنِ الرَّجْمَ قَالَ وَ إِنْ كَانَ زَوْجُهَا الْأَوَّلُ غَائِبًا عَنْهَا أَوْ كَانَ مُقِيمًا مَعَهَا فِي الْمَصْرِ لَا يَصِلُ إِلَيْهَا وَ لَا تَصِلُ إِلَيْهِ فَإِنَّ عَلَيْهَا مَا عَلَى الزَّانِيَةِ غَيْرِ الْمُحْصَنَةِ وَ لَا لِعَانَ بَيْنَهُمَا وَ لَا تَفْرِيقَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Jameel Bin Salih, from Abu Ubeyda,

(The narrator) says, 'I asked Abu Abdullah<sup>asws</sup> about a woman who married a man, (although) for her was a husband'. So he<sup>asws</sup> said: 'If her first husband was living with her in the city which she was in, she could go to him and he could go to her, so upon

<sup>79</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 13 H 1

<sup>80</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 13 H 2

<sup>81</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 13 H 3

her would be what is upon the married adulterer, the stoning. And if it was that her first husband was absent from her, or was staying with her in the city, not coming to her and she could not go to him, so upon her would be what is upon an unmarried adulteress, and there is no *Li'an* (cursing) between the two of them, nor any separation (to be brought about)'.<sup>82</sup>

قُلْتُ مَنْ يَرْجُمُهُمَا أَوْ يَضْرِبُهُمَا الْحَدَّ وَ زَوْجُهَا لَا يُقَدِّمُهَا إِلَى الْإِمَامِ وَلَا يُرِيدُ ذَلِكَ مِنْهَا فَقَالَ إِنَّ الْحَدَّ لَا يَزَالُ لِلَّهِ فِي بَدْنِهَا حَتَّى يَفُومَ بِهِ مَنْ قَامَ أَوْ تَلَقَّى اللَّهُ وَ هُوَ عَلَيْهَا غَضَبَانُ

I said, 'Who would be stoning the two of them, or whipping the two of them with the Penalty (*Hadd*), and her husband did not come to the Imam<sup>asws</sup>, nor does he intend that from it'. So he<sup>asws</sup> said 'The Penalty (*Hadd*) would not cease to be upon her body, for the Sake of Allah<sup>azwj</sup>, until it is established by the one who establishes it, and or she meets Allah<sup>azwj</sup> and He<sup>azwj</sup> would be Angry upon her'.

قُلْتُ فَإِنْ كَانَتْ جَاهِلَةً بِمَا صَنَعَتْ قَالَ فَقَالَ أَلَيْسَ هِيَ فِي دَارِ الْهَجْرَةِ قُلْتُ بَلَى قَالَ فَمَا مِنْ امْرَأَةٍ الْيَوْمَ مِنْ نِسَاءِ الْمُسْلِمِينَ إِلَّا وَ هِيَ تَعْلَمُ أَنَّ الْمَرْأَةَ الْمُسْلِمَةَ لَا يَجِلُّ لَهَا أَنْ تَتَزَوَّجَ زَوْجَيْنِ قَالَ وَ لَوْ أَنَّ الْمَرْأَةَ إِذَا فَجَرَتْ قَالَتْ لَمْ أَدْرِ أَوْ جَهَلْتُ أَنَّ الَّذِي فَعَلْتُ حَرَامٌ وَ لَمْ يَقُمْ عَلَيْهَا الْحَدُّ إِذَا لَتَعَطَّلَتِ الْحُدُودُ .

I said, 'So if she was ignorant with what she had done?' So he<sup>asws</sup> said: 'Is she not in the era of the emigration (Hijra)?' I said, 'Yes'. He<sup>asws</sup> said: 'So there is none from a woman today from the Muslim women except that she knows that it is not Permissible for the Muslim woman to have two husbands for her. And if the woman, when she is immoral, say that 'I did not know, or I was ignorant', of that which she has done, and the Penalty (*Hadd*) is not established upon her, then the Penalties would be disrupted'.<sup>82</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ يَزِيدِ الْكُنَاسِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ امْرَأَةٍ تَزَوَّجَتْ فِي عِدَّتِهَا قَالَ إِنْ كَانَتْ تَزَوَّجَتْ فِي عِدَّةٍ طَلَّقَ لِزَوْجِهَا عَلَيْهَا الرَّجْعَةَ فَإِنَّ عَلَيْهَا الرَّجْمَ وَ إِنْ كَانَتْ تَزَوَّجَتْ فِي عِدَّةٍ لَيْسَ لِزَوْجِهَا عَلَيْهَا الرَّجْعَةُ فَإِنَّ عَلَيْهَا حَدَّ الزَّانِي غَيْرِ الْمُحْصَنِ وَ إِنْ كَانَتْ تَزَوَّجَتْ فِي عِدَّةٍ مِنْ بَعْدِ مَوْتِ زَوْجِهَا مِنْ قَبْلِ انْقِضَاءِ الْأَرْبَعَةِ أَشْهُرٍ وَ الْعَشْرَةِ أَيَّامٍ فَلَا رَجْمَ عَلَيْهَا وَ عَلَيْهَا ضَرْبُ مِائَةِ جَلْدَةٍ

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Abu Ayoub, from Yazeed Al Kunasy who said,

'I asked Abu Ja'far<sup>asws</sup> about a woman who married whilst being in her waiting period. He<sup>asws</sup> said: 'If she has married during a waiting period of a divorce, and for her husband is the (right of) return, so upon her would be the stoning; and if she has married during a waiting period, there not being the (right of) return for husband, so upon her would be the Penalty (*Hadd*) of the unmarried adulterer; and if she has married during her waiting period from after the death of her husband, before the expiry of four months and ten days, so there would not be stoning upon her, and upon her would be one hundred lashes'.

قُلْتُ أَرَأَيْتَ إِنْ كَانَ ذَلِكَ مِنْهَا بِجَهَالَةٍ قَالَ فَقَالَ مَا مِنْ امْرَأَةٍ الْيَوْمَ مِنْ نِسَاءِ الْمُسْلِمِينَ إِلَّا وَ هِيَ تَعْلَمُ أَنَّ عَلَيْهَا عِدَّةٌ فِي طَلَاقٍ أَوْ مَوْتٍ وَ لَقَدْ كُنَّ نِسَاءً الْجَاهِلِيَّةِ يَعْرِفْنَ ذَلِكَ قُلْتُ فَإِنْ كَانَتْ تَعْلَمُ أَنَّ عَلَيْهَا عِدَّةٌ وَ لَا تَدْرِي كَمْ هِيَ قَالَ فَقَالَ إِذَا عَلِمَتْ أَنَّ عَلَيْهَا الْعِدَّةَ لِزِمْنِهَا الْحُجَّةُ فَتَسْأَلُ حَتَّى تَعْلَمَ .

<sup>82</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 1

I said, 'What is your<sup>asws</sup> view, if that was from her due to ignorance'. So he<sup>asws</sup> said: 'There is none from a woman today, from the Muslim women, except that she knows that upon her is a waiting period regarding a divorce, or death (of her husband), and the women during the pre-Islamic period used to know that'. I said, 'So if she knew that upon her is a waiting period, and she did not know how much it was?' So he<sup>asws</sup> said: 'When she knew that upon her is the waiting period, the proof was necessitated upon her, so she should have asked until she had known'.<sup>83</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ إِسْمَاعِيلَ بْنِ مَرَّارٍ عَنْ يُونُسَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ امْرَأَةٍ تَزَوَّجَهَا رَجُلٌ فَوَجَدَ لَهَا زَوْجاً قَالَ عَلَيْهِ الْجُلْدُ وَ عَلَيْهَا الرَّجْمُ لِأَنَّهُ قَدْ تَقَدَّمَ بِغَيْرِ عِلْمٍ وَ تَقَدَّمَتْ هِيَ بِعِلْمٍ وَ كَفَّارَتُهُ إِنْ لَمْ يُتَقَدَّمْ إِلَى الْإِمَامِ أَنْ يَبْصُرَ بِخَمْسَةِ أَصْوَعٍ دَقِيقٍ .

Ali Bin Ibrahim, from his father, from Ismail Bin Marrar, from Yunus, from Abu Baseer,

(The narrator) says, 'I asked Abu Abdullah<sup>asws</sup> about a woman whom a man married and he found there being a husband for her'. He<sup>asws</sup> said: 'Upon him would be the whipping and upon her is the stoning, because he has proceeded without knowledge, and she proceeded with knowledge, and his 'kufara' expiation, if he did not proceed to the Imam<sup>asws</sup>, is that he should give in charity with five Sa'a (a unit of measurement being four handfuls each) of flour'.<sup>84</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ يُونُسَ بْنِ يَعْقُوبَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ سُئِلَ عَنْ امْرَأَةٍ كَانَتْ لَهَا زَوْجٌ غَائِبٌ عَنْهَا فَتَزَوَّجَتْ زَوْجاً آخَرَ قَالَ إِنْ رُفِعَتْ إِلَى الْإِمَامِ ثُمَّ شَهِدَ عَلَيْهَا شُهُودٌ أَنَّ لَهَا زَوْجاً غَائِباً وَ أَنَّ مَاتَتْهُ وَ خَبَرَهُ بِأَيِّهَا مِنْهُ وَ أَنَّهَا تَزَوَّجَتْ زَوْجاً آخَرَ كَانَ عَلَى الْإِمَامِ أَنْ يَحْدَها وَ يُفَرِّقَ بَيْنَهُمَا وَ بَيْنَ الَّذِي تَزَوَّجَهَا

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Yunus Bin Yaqoub, from Abu Baseer,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, when 'He<sup>asws</sup> was asked about a woman who had a husband, but he was absent from her, so she married another husband'. He<sup>asws</sup> said: 'If it (the matter) is raised to the Imam<sup>asws</sup>, then four witnesses testify against her that there was a husband for her, absent, and that his materials and his news were coming to her, and that she has married another husband, it would be upon the Imam<sup>asws</sup> that he<sup>asws</sup> established the Penalty (*Hadd*) on her, and effected separation between her and the one she had married'.

قُلْتُ فَالْمَهْرُ الَّذِي أَخَذْتُ مِنْهُ كَيْفَ يُصْنَعُ بِهِ قَالَ إِنْ أَصَابَ مِنْهُ شَيْئاً فَلْيَأْخُذْهُ وَ إِنْ لَمْ يُصِيبْ مِنْهُ شَيْئاً فَإِنَّ كُلَّ مَا أَخَذْتُ مِنْهُ حَرَامٌ عَلَيْهَا مِثْلُ أَجْرِ الْفَاجِرَةِ .

I said, 'So the dower which she has taken from him, how should it be dealt with?' He<sup>asws</sup> said: 'If he can attain anything from it, so let him take it, and if he cannot attain anything from it, so everything what she has taken from it is Prohibited upon her, similar to the payment of the Immoral woman (prostitute)'.<sup>85</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) أَنَّ عَلِيّاً (عَلَيْهِ السَّلَامُ) ضَرَبَ رَجُلًا تَزَوَّجَ امْرَأَةً فِي نَفْسِهَا قَبْلَ أَنْ تَطْهَرَ الْحَدَّ .

<sup>83</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 2

<sup>84</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 3

<sup>85</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 4

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> that Ali<sup>asws</sup> struck a man with the Penalty (*Hadd*), who married a woman during her menses, before she had purified'.<sup>86</sup>

بَاب الرَّجُلِ يَأْتِي الْجَارِيَةَ وَ لِعَيْرِهِ فِيهَا شِرْكٌ وَ الرَّجُلُ يَأْتِي مُكَاتِبَتَهُ

## Chapter 15 – The man whom comes to a slave girl and there is a partnership with regards to her, and the man who comes to his contracted slave girl

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ صَالِحِ بْنِ سَعِيدٍ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَوْمٌ اشْتَرَوْا فِي شِرَاءِ جَارِيَةٍ فَأَتَمَّنُوا بَعْضُهُمْ وَ جَعَلُوا الْجَارِيَةَ عِنْدَهُ فَوَطَّنَهَا قَالَ يُجْلَدُ الْحَدَّ وَ يَذْرَأُ عَنْهُ مِنَ الْحَدِّ بِقَدْرِ مَا لَهُ فِيهَا وَ نَقُومُ الْجَارِيَةَ وَ يُعَرِّمُ نَمَنَهَا لِلشَّرَكَاءِ فَإِنْ كَانَتْ الْقِيَمَةُ فِي الْيَوْمِ الَّذِي وَطَّنَهَا أَقَلَّ مِمَّا اشْتَرَيْتَ بِهِ فَإِنَّهُ يُلْزَمُ أَكْثَرَ النَّمَنِ لِأَنَّهُ قَدْ أَفْسَدَ عَلَى شُرَكَائِهِ وَ إِنْ كَانَتْ الْقِيَمَةُ فِي الْيَوْمِ الَّذِي وَطَّى أَكْثَرَ مِمَّا اشْتَرَيْتَ بِهِ يُلْزَمُ الْأَكْثَرَ لِاسْتِفْسَادِهَا .

Ali Bin Ibrahim, from Salih Bin Saeed, from Yunus, from Abdullah Bin Sinan who said,

'I said to Abu Abdullah<sup>asws</sup>, 'A group participated in buying a slave girl, so they relied upon one of them, and made the slave girl to be with him, so he went to her'. He<sup>asws</sup> said: 'He would be whipped the Penalty (*Hadd*) and it would be staved off by the measurement of whatever (share) was for him in her, and the slave girl would be evaluated, and her price would be for the associates. So if her price during the day she had been copulated with is less than what she was bought for, so the excess of the price would be necessitated upon him, because he had spoilt upon his associates; and if it was that the price during the day which she had been copulated with is more than what she had been bought for, the excess would be necessitated for having spoilt her'.<sup>87</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ عَمْرِو بْنِ عُثْمَانَ عَنْ عِدَّةٍ مِنْ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سُئِلَ عَنْ رَجُلٍ أَصَابَ جَارِيَةَ مِنَ الْفِيءِ فَوَطَّنَهَا قَبْلَ أَنْ تُقَسَمَ قَالَ نَقُومُ الْجَارِيَةَ وَ تُدْفَعُ إِلَيْهِ بِالْقِيَمَةِ وَ يَحْطُّ لَهُ مِنْهَا مَا يُصِيبُهُ مِنْهَا مِنَ الْفِيءِ وَ يُجْلَدُ الْحَدَّ وَ يَذْرَأُ عَنْهُ مِنَ الْحَدِّ بِقَدْرِ مَا كَانَ لَهُ فِيهَا فَقُلْتُ وَ كَيْفَ صَارَتِ الْجَارِيَةُ تُدْفَعُ إِلَيْهِ هُوَ بِالْقِيَمَةِ دُونَ غَيْرِهِ قَالَ لِأَنَّهُ وَطَّنَهَا وَ لَا يُؤْمَنُ أَنْ يَكُونَ نَمَّ حَبْلٌ .

Ali Bin Ibrahim, from his father, from Amro Bin Usman, from a number of our companions,

Abu Abdullah<sup>asws</sup>, said when He<sup>asws</sup> was asked about a man who got a slave girl from *Al-Fey* (war booty). So he copulated with her before the distribution'. He<sup>asws</sup> said: 'The slave girl would be evaluated and she would be handed over to him by the price, and reduced for him from her what his share was from the war booty, and he would be whipped the Penalty (*Hadd*), and it would be staved off from him from the Penalty (*Hadd*), by the measurement of what (share) was for him with regards to her'. So I said, 'And how come the slave girl would be handed over to him, and he is with the price, besides the others?' He<sup>asws</sup> said: 'Because he has copulated with her, and there is no safety that she might happen to be pregnant'.<sup>88</sup>

<sup>86</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 14 H 5

<sup>87</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 1

<sup>88</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 2

يُونُسُ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ وَقَعَ عَلَى مُكَاتَبَتِهِ قَالَ إِنْ كَانَتْ أَدَّتِ الرَّبْعَ جُلْدٌ وَ إِنْ كَانَتْ مُحَصَّنًا رُجْمٌ وَ إِنْ لَمْ يَكُنْ أَدَّتْ شَيْئًا فَلَيْسَ عَلَيْهِ شَيْءٌ .

Yunus, from Al Halby who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who fell upon his contracted slave girl. He<sup>asws</sup> said: 'If she has paid off the quarter (of what was owed by the contract), he would be whipped; and if he was married, he would be stoned; and if she has not paid off anything, so there is nothing upon him'.<sup>89</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي وَوَلَادِ الْحَنَاطِ قَالَ سُئِلَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ جَارِيَةٍ بَيْنَ رَجُلَيْنِ أَعْتَقَ أَحَدُهُمَا نَصِيْبَهُ مِنْهَا فَلَمَّا رَأَى ذَلِكَ شَرِيْكُهُ وَثَبَ عَلَى الْجَارِيَةِ فَوَقَعَ عَلَيْهَا قَالَ فَقَالَ يُجْلَدُ الَّذِي وَقَعَ عَلَيْهَا خَمْسِينَ جَلْدَةً وَ يُطْرَحُ عَنْهُ خَمْسِينَ جَلْدَةً وَ يَكُونُ نِصْفُهَا حُرًّا وَ يُطْرَحُ عَنْهَا مِنَ النِّصْفِ الْبَاقِي الَّذِي لَمْ يُعْتَقْ وَ إِنْ كَانَتْ بَكْرًا عَشْرَ قِيَمَتِهَا وَ إِنْ كَانَتْ غَيْرَ بَكْرٍ نِصْفُ عَشْرِ قِيَمَتِهَا وَ تُسْتَسْعَى فِي الْبَاقِي .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abu Wallad Al Hanaat who said,

'Abu Abdullah<sup>asws</sup> was asked about a slave girl between two men. One of them emancipated (liberated) his share of her. So when his partner saw that, he leapt upon the slave girl and fell upon her. So he<sup>asws</sup> said: 'The one who fell upon her would be whipped with fifty lashes, and fifty lashes would be subtracted from him, and half of her happens to be free and there would be reduced from the remaining half which is not emancipated; and if she was a virgin, a tenth of her price, and if she was not a virgin, half of the tenth of her price, and she has to work with regards to the remainder'.<sup>90</sup>

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ مَالِكِ بْنِ أَعْيَنَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي أَمَةٍ بَيْنَ رَجُلَيْنِ أَعْتَقَ أَحَدُهُمَا نَصِيْبَهُ فَلَمَّا سَمِعَ ذَلِكَ مِنْهُ شَرِيْكُهُ وَثَبَ عَلَى الْجَارِيَةِ فَاقْتَضَى مِنْ يَوْمِهِ قَالَ يُضْرَبُ الَّذِي اقْتَضَى خَمْسِينَ جَلْدَةً وَ يُطْرَحُ عَنْهُ خَمْسِينَ جَلْدَةً لِحَقِّهَا مِنْهَا وَ يُعْرَمُ لِلْأَمَةِ عَشْرَ قِيَمَتِهَا لِمَوَاقِعَتِهَا بِهَا وَ تُسْتَسْعَى فِي الْبَاقِي .

Ibn Mahboub, from Hisham Bin Salim, from Malik Bin Ayn,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a slave girl between two men, one of them emancipated his share, so when his partner heard that from him, he leapt upon the slave girl and deflowered her on that very day. He<sup>asws</sup> said: 'The one who deflowered her would be whipped fifty lashes, and fifty lashes would be subtracted from him due to his right in her; and slave girl would be compensated a tenth of her price due to him falling upon her, and she has to work for the remainder'.<sup>91</sup>

أَحْمَدُ بْنُ مُحَمَّدِ بْنِ الْكُوفِيِّ عَنْ مُحَمَّدِ بْنِ أَحْمَدَ النَّهْدِيِّ عَنْ مُحَمَّدِ بْنِ الْوَلِيدِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ إِسْمَاعِيلَ بْنِ عَبْدِ الرَّحْمَنِ الْجَعْفِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي جَارِيَةٍ بَيْنَ رَجُلَيْنِ وَطَنَهَا أَحَدُهُمَا دُونَ الْآخَرِ فَأَحْبَلَهَا قَالَ يُضْرَبُ نِصْفَ الْحَدِّ وَ يُعْرَمُ نِصْفَ الْقِيَمَةِ .

Ahmad Bin Muhammad Al Kufy, from Muhammad Bin Ahmad Al Nahdy, from Muhammad Bin Al Waleed, from Aban Bin Usman, from Ismail Bin Abdul Rahman Al Ju'fy,

<sup>89</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 3

<sup>90</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 4

<sup>91</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 5

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding a slave girl between two men. One of them copulated with her besides the other (without his companion's knowledge), so he impregnated her. He<sup>asws</sup> said: 'He would be struck with half the Penalty (*Hadd*), and compensate half her price'.<sup>92</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ أَحْمَدَ بْنِ الْحَسَنِ الْمَيْمَنِيِّ عَنْ أَبَانَ عَنْ إِسْمَاعِيلَ الْجُعْفِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلَيْنِ اشْتَرَيَا جَارِيَةً فَكَحَّهَا أَحَدُهُمَا دُونَ صَاحِبِهِ قَالَ يُضْرَبُ نِصْفَ الْحَدِّ وَ يُعْرَمُ نِصْفَ الْقِيَمَةِ إِذَا أَحْبَلَ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ahmad Bin Al Hassan Al Maysami, from Aban, from Ismail Al Ju'fy,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding two men who bought a slave girl. So one of them copulated with her (without his companion's knowledge). He<sup>asws</sup> said: 'He would be struck with half the Penalty (*Hadd*), and compensate half the price, if she is pregnant'.<sup>93</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَمِعْتُ عَبَادَ الْبَصْرِيِّ يَقُولُ كَانَ جَعْفَرُ ( عَلَيْهِ السَّلَامُ ) يَقُولُ يَدْرَأُ عَنْهُ مِنَ الْحَدِّ بِقَدْرِ حِصَّتِهِ مِنْهَا وَ يُضْرَبُ مَا سِوَى ذَلِكَ يَعْنِي فِي الرَّجُلِ إِذَا وَقَعَ عَلَى جَارِيَةٍ لَهُ فِيهَا حِصَّةٌ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abdul Rahman Bin Al Hajjaj who said,

'I heard Abbad Al-Basry saying, 'Ja'far<sup>asws</sup> was saying: 'The Penalty (*Hadd*) would be staved off from him by the measurement of his share from her, and he would be struck with what is other than that, meaning regarding the man when he fell upon a slave girl, for him being a share in her'.<sup>94</sup>

### بَابُ الْمَرْأَةِ الْمُسْتَكْرَهَةِ

## Chapter 16 – The coerced woman

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ عِيْسَى وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ أَبِي عَلِيُّ ( عَلَيْهِ السَّلَامُ ) بِأَمْرَةِ مَعَ رَجُلٍ قَدْ فَجَرَ بِهَا فَقَالَتْ اسْتَكْرَهْنِي وَ اللَّهُ يَا أَمِيرَ الْمُؤْمِنِينَ قَدْرًا عَنْهَا الْحَدُّ وَ لَوْ سِئِلَ هُوَ لَأَقَالُوا لَا تُصَدِّقُ وَ قَدْ فَعَلَهُ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Abu Ayoub, from Abu Ubeyda,

Abu Ja'far<sup>asws</sup> has said: 'They came with a woman to Ali<sup>asws</sup> along with a man who had been immoral with her. So she said, 'He coerced (forced) me, By Allah<sup>azwj</sup>, O Amir Al-Momineen<sup>asws</sup>! So he<sup>asws</sup> staved off the Penalty (*Hadd*) from her, and had these (people) been asked about that, they would say, 'Do not ratify', and Amir Al-Momineen<sup>asws</sup> had done it'.<sup>95</sup>

### بَابُ الرَّجُلِ يَزْنِي فِي الْيَوْمِ مَرَاراً كَثِيرَةً

<sup>92</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 6

<sup>93</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 7

<sup>94</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 15 H 8

<sup>95</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 16 H 1

## Chapter 17 – The man who commits adultery many times a day

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ أَبِي حَمْرَةَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يَزْنِي فِي الْيَوْمِ الْوَاحِدِ مَرَاراً كَثِيرَةً قَالَ فَقَالَ إِنْ زَنَى بِأَمْرَأَةٍ وَاحِدَةً كَذَا وَ كَذَا مَرَّةً فَإِنَّمَا عَلَيْهِ حَدٌّ وَاحِدٌ وَ إِنْ هُوَ زَنَى بِنِسْوَةٍ شَتَّى فِي يَوْمٍ وَاحِدٍ وَ فِي سَاعَةٍ وَاحِدَةٍ فَإِنَّ عَلَيْهِ فِي كُلِّ أَمْرَأَةٍ فَجْرٌ بِهَا حَدًّا .

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

(The narrator) says, 'I asked Abu Ja'far<sup>asws</sup> about the man who committed adultery many times in one day. So he<sup>asws</sup> said: 'If he has committed adultery with one woman, such and such number of times, so upon him is one Penalty (*Hadd*), and if he has committed adultery with various women in one day, and in one time, so upon him would be a Penalty (*Hadd*) for each woman he had been immoral with'.<sup>96</sup>

باب الرَّجُلِ يُزَوِّجُ أُمَّتَهُ ثُمَّ يَقَعُ عَلَيْهَا

## Chapter 18 – The man who gets his slave girl married off, then falls upon her

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ زَوَّجَ أُمَّتَهُ رَجُلًا ثُمَّ وَقَعَ عَلَيْهَا قَالَ يُضْرَبُ الْحَدَّ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who got his slave girl married off to a man, then fell upon her. He<sup>asws</sup> said: 'He would be struck with the Penalty (*Hadd*)'.<sup>97</sup>

باب نَفْيِ الرَّانِي

## Chapter 19 – Exiling the adulterer

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ النَّفْيُ مِنْ بَلَدَةٍ إِلَى بَلَدَةٍ وَ قَالَ قَدْ نَفَى عَلِيٌّ ( صَلَوَاتُ اللَّهِ عَلَيْهِ ) رَجُلَيْنِ مِنَ الْكُوفَةِ إِلَى الْبَصْرَةِ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The exiling is from a city to a city'. And he<sup>asws</sup> said: 'Ali<sup>asws</sup> had exiled two men from Al-Kufa to Al-Basra'.<sup>98</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عِيْسَى عَنْ يُونُسَ عَنْ زُرْعَةَ عَنْ سَمَاعَةَ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) إِذَا زَنَى الرَّجُلُ فَجَلَدَ يَنْبَغِي لِلْإِمَامِ أَنْ يَنْفِيَهُ مِنَ الْأَرْضِ الَّتِي جَلَدَ فِيهَا إِلَى غَيْرِهَا فَإِنَّمَا عَلَى الْإِمَامِ أَنْ يُخْرِجَهُ مِنَ الْمِصْرِ الَّذِي جَلَدَ فِيهِ .

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

<sup>96</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 17 H 1

<sup>97</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 18 H 1

<sup>98</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 1

'Abu Abdullah<sup>asws</sup> said: 'When the man commits adultery, so he is whipped, it is befitting for the Imam<sup>asws</sup> that he<sup>asws</sup> exiles him from the land wherein he was whipped to other than it. But rather, it is upon the Imam<sup>asws</sup> than he exits him from the city in which he was whipped'.<sup>99</sup>

يُونُسُ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّائِي إِذَا زَنَى أَيْنَفَى قَالَ فَقَالَ نَعَمْ مِنَ الَّتِي جُلِدَ فِيهَا إِلَى غَيْرِهَا .

Yunus, from Ibn Muskan, from Abu Baseer who said,

'I asked Abu Abdullah<sup>asws</sup> about the adulterer when he commits adultery, should he be exiled?' So he<sup>asws</sup> said: 'Yes, from (the city) in which he was whipped to other than it'.<sup>100</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ مُثَنَّى الْحَنَاطِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنِ الرَّائِي إِذَا جُلِدَ أَحَدٌ قَالَ يُنْفَى مِنَ الْأَرْضِ إِلَى بَلَدَةٍ يَكُونُ فِيهَا سَنَةً .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, from Musny Al Hanaat,

(The narrator) says, 'I asked Abu Abdullah<sup>asws</sup> about the adulterer when he is whipped the Penalty (*Hadd*)'. He<sup>asws</sup> said: 'He should be exiled from the land to a city to happen to be there for a year'.<sup>101</sup>

### بَابُ حَدِّ الْغُلَامِ وَالْجَارِيَةِ اللَّذَيْنِ يَجِبُ عَلَيْهِمَا الْحَدُّ تَامًا

## Chapter 20 – Penalty (*Hadd*) of the boy and the girl upon both is Obligated the complete Penalty (*Hadd*)

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الْعَزِيزِ الْعَبْدِيِّ عَنْ حَمْرَةَ بِنِ حُمْرَانَ عَنْ حُمْرَانَ قَالَ سَأَلْتُ أَبَا جَعْفَرَ ( عَلَيْهِ السَّلَامُ ) قُلْتُ لَهُ مَتَى يَجِبُ عَلَى الْغُلَامِ أَنْ يُؤْخَذَ بِالْحُدُودِ النَّامَةِ وَتُقَامَ عَلَيْهِ وَيُؤْخَذَ بِهَا فَقَالَ إِذَا خَرَجَ عَنْهُ الْبَيْتُمْ وَأَدْرَكَ قُلْتُ فَلِذَلِكَ حَدٌّ يُعْرَفُ بِهِ فَقَالَ إِذَا احْتَلَمَ أَوْ بَلَغَ خَمْسَةَ عَشَرَ سَنَةً أَوْ أَشْعَرَ أَوْ أَنْبَتَ قَبْلَ ذَلِكَ أُقِيمَتْ عَلَيْهِ الْحُدُودُ النَّامَةُ وَأُخِذَ بِهَا وَأُحْدِثَ لَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdul Aziz Al Abady, from Hamza Bin Humran, from Humran who said,

'I asked Abu Ja'far<sup>asws</sup> saying to him<sup>asws</sup>, 'When is it Obligatory upon the boy that he should be seized with the complete Penalties, and for it to be established upon him and for him to be seized by it?' So he<sup>asws</sup> said: 'When the orphan-hood exits from him, and he attains realisation'. I said, 'So for that is a Penalty (*Hadd*) to be recognised by?' So he<sup>asws</sup> said: 'When he bed-wets, or reaches fifteen years of age, or becomes aware, or grows (pubic hair) before that, the complete Penalties would be established upon him, and he would be seized by it, and it would be taken for him'.

قُلْتُ فَالْجَارِيَةُ مَتَى تَجِبُ عَلَيْهَا الْحُدُودُ النَّامَةُ وَتُؤْخَذُ لَهَا وَيُؤْخَذُ بِهَا قَالَ إِنَّ الْجَارِيَةَ لَيْسَتْ مِثْلَ الْغُلَامِ إِنَّ الْجَارِيَةَ إِذَا تَزَوَّجَتْ وَدَخَلَ بِهَا وَلَهَا تِسْعُ سِنِينَ ذَهَبَ عَنْهَا الْبَيْتُمْ وَدُفِعَ إِلَيْهَا مَالُهَا وَجَارَ أَمْرُهَا فِي الشَّرَاءِ وَالْبَيْعِ وَ أُقِيمَتْ عَلَيْهَا

<sup>99</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 2

<sup>100</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 3

<sup>101</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 19 H 4

الْحُدُودُ النَّامَةُ وَ أَخَذَ لَهَا بِهَا قَالَ وَ الْغُلَامُ لَا يَجُوزُ أَمْرُهُ فِي الشَّرَاءِ وَ الْبَيْعِ وَ لَا يَخْرُجُ مِنَ الْيَتِيمِ حَتَّى يَبْلُغَ خَمْسَةَ عَشَرَ سَنَةً أَوْ يَحْتَلِمَ أَوْ يُشْعِرَ أَوْ يُنْبِتَ قَبْلَ ذَلِكَ .

I said, 'So, for the girl, when would the complete Penalties be Obligated upon her, and these would be taken for her, and she would be seized by it?' He<sup>asws</sup> said: 'The girl is not like the boy. The girl, when she gets married and copulated with, and for her are nine years, the orphan-hood goes away from her, and her wealth is handed over to her, and her instructions are allowed with regards to the buying and the selling, and the complete Penalties would be established upon her, and she would be seized by it. And the boy, his instructions are not allowed with regards to the buying and the selling, and he does not come out from the orphan-hood until he reaches fifteen years of age, or bed-wets, or becomes aware, or grows (pubic hair) before that'.<sup>102</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ يَزِيدَ الْكُنَاسِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ الْجَارِيَةُ إِذَا بَلَغَتْ تِسْعَ سِنِينَ ذَهَبَ عَنْهَا الْيَتِيمُ وَ زُوِّجَتْ وَ أُقِيمَتْ عَلَيْهَا الْحُدُودُ النَّامَةُ عَلَيْهَا وَ لَهَا قَالَ قُلْتُ الْغُلَامُ إِذَا زَوَّجَهُ أَبُوهُ وَ دَخَلَ بِأَهْلِهِ وَ هُوَ غَيْرُ مُدْرِكٍ أُنْقَامُ عَلَيْهِ الْحُدُودُ وَ هُوَ عَلَى تِلْكَ الْحَالِ قَالَ فَقَالَ أَمَّا الْحُدُودُ الْكَامِلَةُ الَّتِي يُؤْخَذُ بِهَا الرِّجَالُ فَلَا وَ لَكِنْ يُجْلَدُ فِي الْحُدُودِ كُلِّهَا عَلَى مَبْلَغِ سِنِّهِ فَيُؤْخَذُ بِذَلِكَ مَا بَيْنَهُ وَ بَيْنَ خَمْسَةَ عَشَرَ سَنَةً وَ لَا تَبْطُلُ حُدُودُ اللَّهِ فِي خَلْقِهِ وَ لَا تَبْطُلُ حُقُوقُ الْمُسْلِمِينَ بَيْنَهُمْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub Al Khazaz, from Yazeed Al Kunasy,

Abu Ja'far<sup>asws</sup> has said: 'The girl, when she reaches nine years of age, the orphan-hood goes away from her, and she gets married, and the complete Penalties are established upon her, and for her'. I said, 'The boy, when his father gets him married, and copulates with his wife, and he is without realisation, would the Penalties be established upon him, and he would be upon that state?' So he<sup>asws</sup> said: 'As for the complete Penalties by which the men are seized with, so no, but he would be whipped with regards to the Penalties, all of them, upon his years of age. So he would be seized by that what is between him and between fifteen years, and the Penalties of Allah<sup>azwj</sup> would not be invalidated among His<sup>azwj</sup> creatures, nor would the rights of Muslims be invalidated between them'.<sup>103</sup>

### بابُ الْحَدِّ فِي اللَّوَاطِ

## Chapter 21 – The Penalty (*Hadd*) regarding the sodomy

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنِ الْعَلَاءِ بْنِ الْفَضِيلِ قَالَ قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) حَدُّ اللَّوْطِيِّ مِثْلُ حَدِّ الزَّانِي وَ قَالَ إِنْ كَانَ قَدْ أَحْصَيْنَ رُجْمًا وَ إِلَّا جُلِدَ .

Ali Bin Ibrahi, from Muhammad Bin Isa, from Yunus, from Muhammad Bin Sinan, from Al A'ala Bin Al Fazeyl who said,

<sup>102</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 20 H 1

<sup>103</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 20 H 2

'Abu Abdullah<sup>asws</sup> said: 'The Penalty (*Hadd*) of the sodomist is like the Penalty (*Hadd*) of the adulterer'. And he<sup>asws</sup> said: 'If he was married, would be stoned, or else whipped'.<sup>104</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَادِ بْنِ عُمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) رَجُلٌ أَتَى رَجُلًا قَالَ إِنْ كَانَ مُحْصَنًا فَعَلَيْهِ الْقَتْلُ وَإِنْ لَمْ يَكُنْ مُحْصَنًا فَعَلَيْهِ الْجُلْدُ قَالَ فَقُلْتُ فَمَا عَلَى الْمُوطَأِ قَالَ عَلَيْهِ الْقَتْلُ عَلَى كُلِّ حَالٍ مُحْصَنًا كَانَ أَوْ غَيْرَ مُحْصَنٍ .

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

'I said to Abu Abdullah<sup>asws</sup>, 'A man comes to a man'. He<sup>asws</sup> said: 'If he was married, so upon him is the killing, and if does not happen to be married, so upon him is the whipping'. So I said, 'So what is upon the passive one?' He<sup>asws</sup> said: 'Upon him is the killing upon every state, whether he was married, or without marriage'.<sup>105</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ عَنِ آبَائِهِ ( عَلَيْهِمُ السَّلَامُ ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) لَوْ كَانَ يَنْبَغِي لِأَحَدٍ أَنْ يُرْجَمَ مَرَّتَيْنِ لَرُجِمَ الْوَطِيُّ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup>, from his<sup>asws</sup> forefathers<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> said: 'If it was befitting for anyone that he should be stoned twice, it would be sodomist to be stoned'.<sup>106</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ بَكْرِ بْنِ صَالِحٍ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ أَبِي بَكْرٍ الْخَضْرَمِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ أَتَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) بَرَجِلٌ وَامْرَأَةٌ قَدْ لَاطَ زَوْجَهَا بِأَبْنَيْهَا مِنْ غَيْرِهِ وَتَقَبَهُ وَشَهِدَ عَلَيْهِ بِذَلِكَ الشُّهُودُ فَأَمَرَ بِهِ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فَضَرَبَ بِالسَّيْفِ حَتَّى قُتِلَ وَضَرِبَ الْعُلَامُ دُونَ الْحَدِّ وَ قَالَ أَمَا لَوْ كُنْتُ مُدْرِكًا لَقَتَلْتُكَ لِإِمْكَانِكَ إِيَّاهُ مِنْ نَفْسِكَ بِتَقْبِكَ .

A number of our companions, from Sahl Bin Ziyad, from Bakr Bin Salih, from Muhammad Bin Sinan, from Abu Bakr Al Hazramy,

Abu Abdullah<sup>asws</sup> having said: 'They came to Amir Al-Momineen<sup>asws</sup> with a man and a woman, her husband had sodomised her son who was from other than him and had penetrated him, and witnessed had testified with that. So Amir Al-Momineen<sup>asws</sup> ordered for him to be struck with the sword until he dies, and strike the boy with less than the Penalty (*Hadd*) and said: 'But, had you been mature, I<sup>asws</sup> would have killed you because of you having made it possible for him to penetrate you'.<sup>107</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ يُونُسَ بْنِ الْحَارِثِ عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ الْعَرَزَمِيِّ عَنْ أَبِيهِ عَبْدِ الرَّحْمَنِ عَنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ أَتَى عُمَرُ بْنُ بَرَجِلٍ وَ قَدْ نَكَحَ فِي دُبُرِهِ فَهَمَّ أَنْ يَجْلِدَهُ فَقَالَ لِلشُّهُودِ رَأَيْتُمُوهُ يُدْخِلُهُ كَمَا يُدْخِلُ الْمَيْلُ فِي الْمُخْخَلَةِ فَقَالُوا نَعَمْ فَقَالَ لِعَلِيِّ ( عَلَيْهِ السَّلَامُ ) مَا تَرَى فِي هَذَا فَطَلَبَ الْقَحْلَ الَّذِي نَكَحَهُ فَلَمْ يَجِدْهُ فَقَالَ عَلِيُّ ( عَلَيْهِ السَّلَامُ ) أَرَى فِيهِ أَنْ تُضْرَبَ عُنُقُهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Yusuf Bin Al Haris, from Muhammad Bin Abdul Rahman A IArzamy, from his father Abdul Rahman,

<sup>104</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 1

<sup>105</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 2

<sup>106</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 3

<sup>107</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 4

(It has been narrated) from Abu Abdullah<sup>asws</sup>, from his<sup>asws</sup> forefathers<sup>asws</sup> having said: 'They came to Umar with a man who had been sodomised in his backside. So he understood that he should be whipped. So he said to the witnesses, 'Did you all see him to be entered into like the entering of the applicator into the Kohl?' So they said, 'Yes'. So he said to Ali<sup>asws</sup>, 'What do you<sup>asws</sup> view with regards to this?' So he<sup>asws</sup> sought the stallion who had copulated with him, but he was not found. So Ali<sup>asws</sup> said: 'I<sup>asws</sup> see with regards to him that you should strike his neck'.

قَالَ فَأَمَرَ بِهِ فَضْرِبَتْ عُنُقُهُ ثُمَّ قَالَ خُدُّوهُ فَقَدْ بَقِيَتْ لَهُ عُقُوبَةٌ أُخْرَى قَالُوا وَ مَا هِيَ قَالَ ادْعُوا بَطْنٌ مِنْ حَطْبٍ فَدَعَا بَطْنٌ مِنْ حَطْبٍ فَلَفَّ فِيهِ ثُمَّ أَخْرَجَهُ فَأَحْرَقَهُ بِالنَّارِ

He<sup>asws</sup> said: 'So he ordered for his neck to be struck off. Then he<sup>asws</sup> said: 'Hold him, for there remains for him another punishment'. They said, 'And what is it?' He<sup>asws</sup> said: 'Call for some firewood!' So he called for some firewood. So he (the body) was wrapped, then brought out and incinerated with the fire.

قَالَ ثُمَّ قَالَ إِنَّ لِلَّهِ عِبَادًا لَهُمْ فِي أَصْلَابِهِمْ أَرْحَامٌ كَأَرْحَامِ النِّسَاءِ قَالَ فَمَا لَهُمْ لَا يَحْمِلُونَ فِيهَا قَالَ لِأَنَّهَا مَنْكُوسَةٌ فِي أَدْبَارِهِمْ عُدَّةٌ كَعُدَّةِ الْبَعِيرِ فَإِذَا هَاجَتْ هَاجُوا وَإِذَا سَكَتَتْ سَكَنُوا .

He<sup>asws</sup> said: 'Then he<sup>asws</sup> said: 'Allah<sup>azwj</sup> has servants, for whom in their loins are wombs like the wombs of the women'. He said, 'So what is for them that they do not become pregnant in these?' He<sup>asws</sup> said: 'Because it is inverted in their backsides, a gland like the gland of the camel. So when it stirs, they stir, and when it is calm, they are calm'.<sup>108</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْكُوفِيِّ عَنِ الْعَبَّاسِ بْنِ غَامِرٍ عَنْ سَيْفِ بْنِ عَمِيرَةَ عَنْ عَبْدِ الرَّحْمَنِ الْعُرْزَمِيِّ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) يَقُولُ وَجَدَ رَجُلٌ مَعَ رَجُلٍ فِي إِيمَارَةِ عُمَرَ فَهَرَبَ أَحَدُهُمَا وَ أَخَذَ الْآخَرَ فَجِيءَ بِهِ إِلَى عُمَرَ فَقَالَ لِلنَّاسِ مَا تَرَوْنَ قَالَ فَقَالَ هَذَا اصْنَعْ كَذَا وَ قَالَ هَذَا اصْنَعْ كَذَا قَالَ فَقَالَ مَا تَقُولُ يَا أَبَا الْحَسَنِ قَالَ اضْرِبْ عُنُقَهُ فَضْرِبْ عُنُقَهُ

Abu Ali Al Ashary, from Al Hassan Bin Ali Al Kufy, from Al Abbas Bin Aamir, from Sayf Bin Umeyra, from Abdul Rahman Al Arzamy who said,

'I heard Abu Abdullah<sup>asws</sup> saying: 'A man was found to be with a man during the emirate of Umar. So one of them fled and the other one was seized. So they came with him to Umar. So he said to the people, 'What are you opining?' So this one said, 'Do this', and this one said, 'Do this'. So he said, 'What are you<sup>asws</sup> saying, O Abu Al Hassan<sup>asws</sup>!' He<sup>asws</sup> said: 'Strike his neck off'. So he had his neck struck off'.

قَالَ ثُمَّ أَرَادَ أَنْ يَحْمِلَهُ فَقَالَ مَهْ إِنَّهُ قَدْ بَقِيَ مِنْ خُدُودِهِ شَيْءٌ قَالَ أَيُّ شَيْءٍ بَقِيَ قَالَ ادْعُ بِحَطْبٍ قَالَ فَدَعَا عُمَرَ بِحَطْبٍ فَأَمَرَ بِهِ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) فَأَحْرَقَ بِهِ .

He<sup>asws</sup> said: 'Then he intended that he be carried away, so he<sup>asws</sup> said: 'Wait! There still remains something outstanding from his Penalty (*Hadd*)'. He<sup>asws</sup> said: 'Call for the firewood!' He<sup>asws</sup> said: 'So Umar called for the firewood, and Amir Al-Momineen<sup>asws</sup> ordered for him to be incinerated by it'.<sup>109</sup>

<sup>108</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 5

<sup>109</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 6

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ الْجَوْهَرِيِّ عَنْ عَبْدِ الصَّمَدِ بْنِ بَشِيرٍ عَنْ سُلَيْمَانَ بْنِ هِلَالٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الرَّجُلِ يَفْعَلُ بِالرَّجُلِ قَالَ فَقَالَ إِنْ كَانَ دُونَ التَّقْبِيبِ فَالْجَلْدُ وَإِنْ كَانَ تَقْبِيبًا فَمَا تَمَّ ضَرْبٌ بِالسَّيْفِ ضَرْبَةً أَخَذَ السَّيْفُ مِنْهُ مَا أَخَذَ فَقُلْتُ لَهُ هُوَ الْقَتْلُ قَالَ هُوَ ذَلِكَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Al Qasim Bin Muhammad Al Jowhary, from Abdul Samad Bin Basheer, from Suleyman Bin Hilal,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who did it with the man, so he<sup>asws</sup> said: 'If it was without the penetration, so the whipping, and if it was with the penetration, stand him up straight, then strike with the sword with one strike. The sword takes from him what it takes'. So I said to him<sup>asws</sup>, 'It is the killing'. He<sup>asws</sup> said: 'It is that'.<sup>110</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِي بَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ الْمَلُوطُ حَدُّهُ حَدُّ الزَّانِي .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Aban, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The passive sodomist, his Penalty (*Hadd*) is the Penalty (*Hadd*) of the adulterer'.<sup>111</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ يَحْيَى بْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ جَبَلَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) مَحْرَمٌ قَبْلَ غُلَامًا مِنْ شَهْوَةٍ قَالَ يُضْرَبُ مِائَةَ سَوْطٍ .

Ali Bin Ibrahim, from his father, from Yahya Bin Al Mubarak, from Abdullah Jabala, from Is'haq Bin Ammar who said,

'I said to Abu Abdullah<sup>asws</sup>, 'One in *Ihraam* kissed a boy from desire'. He<sup>asws</sup> said: 'He would be whipped one hundred lashes'.<sup>112</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ الْأَشْعَرِيُّ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيِّ بْنِ حَمَّادِ بْنِ عُمَانَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) رَجُلٌ أَتَى رَجُلًا قَالَ عَلَيْهِ إِنْ كَانَ مُحْصَنًا الْقَتْلُ وَإِنْ لَمْ يَكُنْ مُحْصَنًا فَعَلَيْهِ الْحَدُّ قَالَ قُلْتُ فَمَا عَلَى الْمُؤْتَى قَالَ عَلَيْهِ الْقَتْلُ عَلَى كُلِّ حَالٍ مُحْصَنًا كَانَ أَوْ غَيْرَ مُحْصَنٍ .

Al Husayn Bin Muhammad Al Ashary, from Moala Bin Muhammad, from Al Hassan Bin Ali, from Hammad Bin Usman who said,

'I said to Abu Abdullah<sup>asws</sup>, 'A man comes to a man'. He<sup>asws</sup> said: 'Upon him, if he was married, is the killing, and if does not happen to be married, so upon him would be the Penalty (*Hadd*)'. I said, 'So what is upon the passive one?' He<sup>asws</sup> said: 'Upon him is the killing, upon every state, be he married or without a marriage'.<sup>113</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ هَارُونَ عَنْ أَبِي يَحْيَى الْوَأَسِطِيِّ رَفَعَهُ قَالَ سَأَلْتُهُ عَنْ رَجُلَيْنِ يَتَفَاخَذَانِ قَالَ حَدُّهُمَا حَدُّ الزَّانِي فَإِنْ ادَّعَمَ أَحَدُهُمَا عَلَى صَاحِبِهِ ضَرْبٌ الدَّاعِمِ ضَرْبَةً بِالسَّيْفِ أَخَذَتْ مِنْهُ مَا أَخَذَتْ وَتَرَكَتْ مِنْهُ مَا تَرَكَتْ يُرِيدُ بِهَا مَقْتَلَهُ وَالدَّاعِمِ عَلَيْهِ يُحْرَقُ بِالنَّارِ .

<sup>110</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 7

<sup>111</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 8

<sup>112</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 9

<sup>113</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 10

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Haroun, from Abu ahya Al Wasity, raising it, said,

'I asked him<sup>asws</sup> about two men taking to each other. He<sup>asws</sup> said: 'The Penalty (Hadd) for both of them is the Penalty (*Hadd*) of the adulterer. So the active one of the two upon his companions, would be struck with one strike with the sword, it takes from him what it takes, and leave from him what it leaves, intending his being killed by it; and the passive one would be burnt in the fire'.<sup>114</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَمِعْتُهُ يَقُولُ إِنَّ فِي كِتَابِ عَلِيٍّ ( عَلَيْهِ السَّلَامُ ) إِذَا أَخَذَ الرَّجُلُ مَعَ غُلَامٍ فِي لِحَافٍ مَجْرَتَيْنِ ضَرَبَ الرَّجُلُ وَ أُدْبَ الْغُلَامُ وَ إِنْ كَانَ تَقَبَّ وَ كَانَ مُحْصَنًا رُجِمَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hisham Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I heard him<sup>asws</sup> saying that: 'In the Book of Ali<sup>asws</sup>, when the man is seized being with the boy in one quilt, both naked, the man would be struck (whipped), and the boy be disciplined. And if he has penetrated and was married, would be stoned'.<sup>115</sup>

## باب آخِرُ مِنْهُ

## Chapter 22 – Another chapter from it

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ مَحْبُوبٍ عَنِ ابْنِ رَبَائٍ عَنْ مَالِكِ بْنِ عَطِيَّةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ بَيْنَا أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي مَلَأٍ مِنْ أَصْحَابِهِ إِذْ آتَاهُ رَجُلٌ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي قَدْ أُوقِنْتُ عَلَى غُلَامٍ فَطَهَّرْنِي فَقَالَ لَهُ يَا هَذَا امْضِ إِلَى مَنْزِلِكَ لَعَلَّ مَرَارًا هَاجَ بِكَ

Ali Bin Ibrahim, from his father, from Ibn Mahboub, from Ibn Raib, from Maalik Bin Atiyah,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Whilst Amir Al-Momineen<sup>asws</sup> was among a group of his<sup>asws</sup> companions, when a man came over and said, 'O Amir Al-Momineen<sup>asws</sup>! I have gone to a boy, therefore purify me'. So he<sup>asws</sup> said: 'O you! Go to your house, perhaps your gall bladder is exciting you'.

فَلَمَّا كَانَ مِنْ عَدِّ عَادِ إِلَيْهِ فَقَالَ لَهُ يَا أَمِيرَ الْمُؤْمِنِينَ إِنِّي أُوقِنْتُ عَلَى غُلَامٍ فَطَهَّرْنِي فَقَالَ لَهُ يَا هَذَا امْضِ إِلَى مَنْزِلِكَ لَعَلَّ مَرَارًا هَاجَ بِكَ حَتَّى فَعَلَ ذَلِكَ ثَلَاثًا بَعْدَ مَرَّتِهِ الْأُولَى فَلَمَّا كَانَ فِي الرَّابِعَةِ قَالَ لَهُ يَا هَذَا إِنَّ رَسُولَ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) حَكَمَ فِي مِثْلِكَ بِثَلَاثَةِ أَحْكَامٍ فَاخْتَرُ أَبِيهِنَّ شِئْتُ قَالَ وَ مَا هُنَّ يَا أَمِيرَ الْمُؤْمِنِينَ قَالَ ضَرْبَةٌ بِالسَّيْفِ فِي عُقْكَ بِالِغَةِ مَا بَلَغَتْ أَوْ إِهْدَاءٌ مِنْ جَبَلٍ مَشْدُودِ الْيَدَيْنِ وَ الرَّجْلَيْنِ أَوْ إِحْرَاقٌ بِالنَّارِ فَقَالَ يَا أَمِيرَ الْمُؤْمِنِينَ أَيُّهُنَّ أَشَدُّ عَلَيَّ قَالَ الْإِحْرَاقُ بِالنَّارِ قَالَ فَإِنِّي قَدْ اخْتَرْتُهَا يَا أَمِيرَ الْمُؤْمِنِينَ قَالَ خُذْ لِدَلِكِ أَهْبَتَكَ فَقَالَ نَعَمْ

So when it was the next morning, he returned to him<sup>asws</sup> and said to him<sup>asws</sup>, 'O Amir Al-Momineen<sup>asws</sup>! I have gone to a boy, therefore purify me'. So he<sup>asws</sup> said to him: 'O you! Go to your house, perhaps your gall bladder is exciting you'. He did it three times after the first. So when it was during the fourth, he<sup>asws</sup> said to him: 'O you! Rasool-Allah<sup>saww</sup> had judged regarding (a case) similar to yours with three judgements, therefore choose which of these you like'. He said, 'And what are these,

<sup>114</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 11

<sup>115</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 21 H 12

O Amir Al-Momineen<sup>asws</sup>?’ He<sup>asws</sup> said: ‘A strike with the sword in your neck, it reaches what it reaches, or throwing you off the mountain with your hands and feet tied up, or burning with the fire’. So he said, ‘O Amir Al-Momineen<sup>asws</sup>! Which of these is the harshest upon me’. He<sup>asws</sup> said: ‘Burning with the fire’. He said, ‘So I have chosen it, O Amir Al-Momineen<sup>asws</sup>! He<sup>asws</sup> said: ‘Are you prepared to take that, I<sup>asws</sup> shall call for you’. So he said, ‘Yes’.

فَقَالَ فَصَلَّى رَكَعَتَيْنِ ثُمَّ جَلَسَ فِي تَشَهُدِهِ فَقَالَ اللَّهُمَّ إِنِّي قَدْ أَتَيْتُ مِنَ الذَّنْبِ مَا قَدْ عَلِمْتُهُ وَ إِنِّي تَحَوَّرْتُ مِنْ ذَلِكَ فَجِئْتُ إِلَى وَصِيِّ رَسُولِكَ وَ ابْنِ عَمِّ نَبِيِّكَ فَسَأَلْتُهُ أَنْ يُطَهِّرَنِي فَخَيَّرَنِي بَيْنَ ثَلَاثَةِ أَصْنَافٍ مِنَ الْعَذَابِ اللَّهُمَّ فَإِنِّي قَدْ اخْتَرْتُ أَشَدَّهَا اللَّهُمَّ فَإِنِّي أَسْأَلُكَ أَنْ تَجْعَلَ ذَلِكَ كَفَّارَةً لِدُنُوبِي وَ أَنْ لَا تُحْرِقَنِي بِنَارِكَ فِي آخِرَتِي

So he<sup>asws</sup> said: ‘So he (the sinner) Prayed two cycles, then sat in his *Tashahhud*, so he said: ‘O Allah<sup>azwj</sup>! I had committed from the sins which You<sup>azwj</sup> Know of, and I feared from that. So I went to the successor<sup>asws</sup> of Your<sup>azwj</sup> Rasool<sup>saww</sup>, and a cousin of Your<sup>azwj</sup> Prophet<sup>saww</sup>, so I asked him<sup>asws</sup> that he<sup>asws</sup> should purify me. So<sup>asws</sup> gave me a choice of three types of punishment. O Allah<sup>azwj</sup>! So I have chosen the harshest of these. O Allah<sup>azwj</sup>! I ask You<sup>azwj</sup> that You<sup>azwj</sup> Make that as an expiation of my sin, and that You<sup>azwj</sup> do not Burn me with Your<sup>azwj</sup> Fire in my Hereafter!’

ثُمَّ قَامَ وَ هُوَ بَاكِ حَتَّى جَلَسَ فِي الْخُفْرَةِ الَّتِي حَفَرَهَا لَهُ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) وَ هُوَ يَرَى النَّارَ تَتَأَجَّجُ حَوْلَهُ قَالَ فَبَكَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) وَ بَكَى أَصْحَابُهُ جَمِيعاً فَقَالَ لَهُ أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَام ) قُمْ يَا هَذَا فَقَدْ أَبْكَيْتَ مَلَائِكَةَ السَّمَاءِ وَ مَلَائِكَةَ الْأَرْضِ فَإِنَّ اللَّهَ قَدْ تَابَ عَلَيْكَ فُفِّمْ وَ لَا تُعَاوِدَنَّ شَيْئاً مِمَّا قَدْ فَعَلْتَ .

Then he stood up and he was crying until he sat in the pit which had been dug out for him by Amir Al-Momineen<sup>asws</sup>, and he was seeing the fire inflaming around him. So Amir Al-Momineen<sup>asws</sup> wept and his companions wept altogether. So Amir Al-Momineen<sup>asws</sup> said to him: ‘Arise, O you, for you have made the Angels of the sky and the Angels of the earth to cry, so Allah<sup>azwj</sup> has Turned towards you (with Mercy). So arise and do not repeat anything from what you have done’.<sup>116</sup>

### باب الْحَدِّ فِي السَّحْقِ

## Chapter 23 – The Penalty (*Hadd*) regarding the lesbianism

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمْرَةَ وَ هِشَامٍ وَ حَفْصِ بْنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) أَنَّهُ دَخَلَ عَلَيْهِ نِسْوَةٌ فَسَأَلَتْهُ أَمْرَاءٌ مِنْهُنَّ عَنِ السَّحْقِ فَقَالَ حَدُّهَا حَدُّ الزَّانِي فَقَالَتِ الْمَرْأَةُ مَا ذَكَرَ اللَّهُ عَزَّ وَ جَلَّ ذَلِكَ فِي الْقُرْآنِ فَقَالَ بَلَى قَالَتْ وَ أَيْنَ هُوَ قَالَ هُنَّ أَصْحَابُ الرَّسِّ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Muhammad Bin Abu Hamza and Hisham and hafs,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, some women having come over to him, so a woman from them asked him<sup>asws</sup> about the lesbianism. So he<sup>asws</sup> said: ‘The Penalty (*Hadd*) is the Penalty (*Hadd*) of the adulterer’. So the woman said, ‘Allah<sup>azwj</sup> Mighty and Majestic has not Mentioned that in the Quran?’ So he<sup>asws</sup> said: ‘Yes’. She said, ‘And where is it?’ He<sup>asws</sup> said: ‘These are **[25:38] the dwellers of the Al-Rass**’.<sup>117</sup>

<sup>116</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 22 H 1

<sup>117</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 1

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ عِيسَى عَنْ سَمَاعَةَ بْنِ مِهْرَانَ قَالَ سَأَلْتُهُ عَنِ الْمَرَاتَيْنِ تَوَجَدَانِ فِي لِحَافٍ وَاحِدٍ قَالَ تُجْلَدُ كُلُّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Usman Bin Isa, from Sama'at Bin Mahran who said,

'I asked him<sup>asws</sup> about the two women, both found in one quilt. He<sup>asws</sup> said: 'Each one of them should be whipped one hundred lashes'.<sup>118</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عِيسَى عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِي بَانَ بْنِ عُثْمَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ السَّحَاقَةُ تُجْلَدُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ali Bin Al Hakam, from Aban Bin Usman, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The lesbian would be whipped'.<sup>119</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدَ بْنِ الْحُسَيْنِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي هَاشِمٍ عَنْ أَبِي خَدِيجَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ لَيْسَ لِامْرَأَتَيْنِ أَنْ تَنِيَبَا فِي لِحَافٍ وَاحِدٍ إِلَّا أَنْ يَكُونَ بَيْنَهُمَا حَاجِزٌ فَإِنْ فَعَلْنَا نَهَيْتَا عَنْ ذَلِكَ فَإِنْ وَجِدْنَا مَعَ النَّهْيِ جُلِدَتْ كُلُّ وَاحِدَةٍ مِنْهُمَا حَدًّا حَدًّا فَإِنْ وَجِدْنَا أَيْضًا فِي لِحَافٍ جُلِدْنَا فَإِنْ وَجِدْنَا الثَّلَاثَةَ قُتِلْنَا .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Abdul Raham Bin Abu Hashim, from Abu Khadeeja,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'It is not for the two women that they should be sleeping in one quilt, except that there happens to be in between the two of them, a partition. So if they were to do that, they should be prevented from that. So if they were to be found after having been prevented, each one of them would be whipped a Penalty (*Hadd*), a Penalty (*Hadd*) (one hundred lashes each). So if they were both found again in one quilt, they would be whipped. So if they were found for the third times, they would both be killed'.<sup>120</sup>

## باب آخَرُ مِنْهُ

### Chapter 24 – Another chapter from it

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ خَالِدٍ عَنْ عَمْرٍو بْنِ عُثْمَانَ وَ عَنْ أَبِيهِ جَمِيعاً عَنْ هَارُونَ بْنِ الْجَهْمِ عَنْ مُحَمَّدَ بْنِ مُسْلِمٍ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ وَ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) يَقُولَانِ بَيْنَنَا الْحَسَنُ بْنُ عَلِيٍّ ( عَلَيْهِ السَّلَامُ ) فِي مَجْلِسِ أَمِيرِ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) إِذْ أَقْبَلَ قَوْمٌ فَقَالُوا يَا أَبَا مُحَمَّدٍ أَرَدْنَا أَمِيرَ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) قَالَ وَ مَا حَاجَتُكُمْ قَالُوا أَرَدْنَا أَنْ نَسْأَلَهُ عَنْ مَسْأَلَةٍ قَالَ وَ مَا هِيَ تُخْبِرُونَا بِهَا فَقَالُوا امْرَأَةٌ جَامِعَهَا زَوْجُهَا فَلَمَّا قَامَ عَنْهَا قَامَتْ بِحُمُوتِهَا فَوَقَعَتْ عَلَى جَارِيَةٍ بِكَرٍ فَسَاحَقْتَهَا فَأَلْقَتْ النُّطْفَةَ فِيهَا فَحَمَلَتْ فَمَا تَقُولُ فِي هَذَا

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from Amro Bin Usman, and from his father, altogether from Haroun Bin Al Jahm, from Muhammad Bin Muslim who said,

'I heard Abu Ja'far<sup>asws</sup> and Abu Abdullah<sup>asws</sup> both saying: 'Whilst Al-Hassan Bin Ali<sup>asws</sup> was in a gathering of Amir Al-Momineen<sup>asws</sup>, when a group of people came

<sup>118</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 2

<sup>119</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 3

<sup>120</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 23 H 4

over, so they said, 'O Abu Muhammad<sup>asws</sup>! We want Amir Al-Momineen<sup>asws</sup>. He<sup>asws</sup> said: 'So what is your need?' They said, 'We want to ask him a question'. He<sup>asws</sup> said: 'And what is it that you want to be informed with?' So they said, 'A woman, her husband copulated with her. So when he stood up from her, she stood up with her warmth, so she fell upon a virgin slave girl. So she performed the lesbian act with her. So the sperm fell inside her (the slave girl), so she became pregnant. So what are you<sup>asws</sup> saying with regard to this?'

فَقَالَ الْحَسَنُ ( عَلَيْهِ السَّلَامُ ) مُعْضِلَةٌ وَ أَبُو الْحَسَنِ لَهَا وَ أَقُولُ فَإِنْ أَصَبْتُ فَمِنْ اللَّهِ ثُمَّ مِنْ أَمِيرِ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) وَ إِنْ أَخْطَأْتُ فَمِنْ نَفْسِي فَارْجُو أَنْ لَا أَخْطِئَ إِنْ شَاءَ اللَّهُ يُعَمَدُ إِلَى الْمَرْأَةِ فَيُؤَخَذُ مِنْهَا مَهْرُ الْجَارِيَةِ الْبَكْرِ فِي أَوَّلِ وَهْلَةٍ لِأَنَّ الْوَلَدَ لَا يَخْرُجُ مِنْهَا حَتَّى تَشَقَّ فَيَنْدَهَبَ عَذْرُوبُهَا ثُمَّ تُرْجَمُ الْمَرْأَةُ لِأَنَّهَا مُحْصَنَةٌ ثُمَّ يُنْتَظَرُ بِالْجَارِيَةِ حَتَّى تَضَعَ مَا فِي بَطْنِهَا وَ يُرَدُّ الْوَلَدُ إِلَى أَبِيهِ صَاحِبِ النُّطْفَةِ ثُمَّ تُجَادُّ الْجَارِيَةُ الْحَدَّ

So Al-Hassan<sup>asws</sup> said: 'It is a dilemma and Abu Al-Hassan<sup>asws</sup> is (appropriate) for it, and I<sup>asws</sup> am saying, so if I<sup>asws</sup> get it right, so it is from Allah<sup>azwj</sup>, then from Amir Al-Momineen<sup>asws</sup>, and if I<sup>asws</sup> were to err, so it is from myself<sup>asws</sup>, so I<sup>asws</sup> hope that I<sup>asws</sup> shall not err, Allah<sup>azwj</sup> Willing. He should deliberate to the woman and take the dower of the virgin slave girl for her during the first opportunity, because the child would not come out from her until she is split, so her virginity would go away. Then the woman would be stoned because she is married. Then the slave girl would be awaited with until she gives birth to what is in her belly, and the child would be returned to its father, the owner of the sperm. Then the slave girl would be whipped the Penalty (Hadd)'.<sup>121</sup>

قَالَ فَانصَرَفَ الْقَوْمُ مِنْ عِنْدِ الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) فَلَقُوا أَمِيرَ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فَقَالَ مَا قُلْتُمْ لِأَبِي مُحَمَّدٍ وَ مَا قَالَ لَكُمْ فَأَخْبَرُوهُ فَقَالَ لَوْ أَنَّي الْمَسْئُولُ مَا كَانَ عِنْدِي فِيهَا أَكْثَرُ مِمَّا قَالَ ابْنِي .

He<sup>asws</sup> said: 'So the people dispersed from the presence of Al-Hassan<sup>asws</sup>, so they met up with Amir Al-Momineen<sup>asws</sup>. So they said they had said to Abu Muhammad<sup>asws</sup> and what he<sup>asws</sup> said to you all, so they informed him<sup>asws</sup>. So he<sup>asws</sup> said: 'Had it been me<sup>asws</sup> who had been questioned, there would not have been with me<sup>asws</sup> any more that what my<sup>asws</sup> son<sup>asws</sup> has said'.<sup>121</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ عَلِيِّ بْنِ أَبِي حَمْزَةَ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ دَعَانَا زِيَادٌ فَقَالَ إِنَّ أَمِيرَ الْمُؤْمِنِينَ كَتَبَ إِلَيَّ أَنْ أَسْأَلَكَ عَنْ هَذِهِ الْمَسْأَلَةِ فَقُلْتُ وَ مَا هِيَ فَقَالَ رَجُلٌ أَتَى امْرَأَةً فَاحْتَمَلَتْ مَاءَهُ فَسَاحَقَتْ بِهِ جَارِيَةً فَحَمَلَتْ لَهُ فَقُلْتُ لَهُ فَسَلْ عَنْهَا أَهْلَ الْمَدِينَةِ قَالَ فَالْقَى إِلَيَّ كِتَابًا فَإِذَا فِيهِ سَلٌ عَنْهَا جَعْفَرُ بْنُ مُحَمَّدٍ فَإِنْ أَجَبَكَ وَ إِلَّا فَاحْمِلْهُ إِلَيَّ قَالَ فَقُلْتُ لَهُ تُرْجَمُ الْمَرْأَةُ وَ تُجَادُّ الْجَارِيَةُ وَ يُلْحَقُ الْوَلَدُ بِأَبِيهِ قَالَ وَ لَا أَعْلَمُهُ إِلَّا قَالَ وَ هُوَ الَّذِي ابْتُلِيَ بِهَا .

Ali Bin Ibrahim, from his father, from Hammad Bin Isa, from Ali Bin Abu Hamza, from Is'haq Bin Ammar,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Ziyad called us and said that, 'The commander of the faithful (the caliph Mansour) has written to me that I should ask around about this question'. So I said, 'And what is it?' So he said, 'A man went to a woman so she carried his water (sperm). So she performed the lesbian act with a slave girl, so she (the slave girl) became pregnant'. So I said to him, 'So did you ask the people of Al-Medina about it'. He said, 'So he placed the letter to me and therein was, 'Ask Ja'far<sup>asws</sup> Bin Muhammad<sup>asws</sup> about it. So if he<sup>asws</sup>

<sup>121</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 24 H 1

were to answer you (fine), or else carry it back to me'. So I said to him, 'The woman would be stoned, and the slave girl would be whipped, and the child would be attached with its father'. He said, and I do not know it except that he said, 'And he (the caliph) is the one who is involved in it'.<sup>122</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي امْرَأَةٍ افْتَضَّتْ جَارِيَةً بِيَدِهَا قَالَ عَلَيْهَا مَهْرُهَا وَتُجَلَّدُ ثَمَانِينَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Najran, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a woman who deflowered a slave girl by her hand. He<sup>asws</sup> said: 'Upon her is her dower, and she would be whipped eighty lashes'.<sup>123</sup>

### بَابُ الْحَدِّ عَلَى مَنْ يَأْتِي الْبَهِيمَةَ

## Chapter 25 – The Penalty (*Hadd*) upon the one who goes to the animal (bestiality)

مُحَمَّدُ بْنُ بَحْبَيْبٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ عَيْسَى عَنْ ابْنِ مَحْبُوبٍ عَنْ إِسْحَاقَ بْنِ جَرِيرٍ عَنْ سَدِيرٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) فِي الرَّجُلِ يَأْتِي الْبَهِيمَةَ قَالَ يُحَدُّ دُونَ الْحَدِّ وَ يُغْرَمُ قِيمَةُ الْبَهِيمَةِ لِصَاحِبِهَا لِأَنَّهُ أَفْسَدَهَا عَلَيْهِ وَ تَذْبَحُ وَ تُحْرَقُ وَ تُدْفَنُ إِنْ كَانَتْ مِمَّا يُؤْكَلُ لَحْمُهُ وَ إِنْ كَانَتْ مِمَّا يُرْكَبُ ظَهْرُهُ أُغْرِمَ قِيمَتَهَا وَ جُلِدَ دُونَ الْحَدِّ وَ أُخْرِجَهَا مِنَ الْمَدِينَةِ الَّتِي فَعَلَ بِهَا فِيهَا إِلَى بِلَادٍ أُخْرَى حَيْثُ لَا تُعْرَفُ فَيَبِيعُهَا فِيهَا كَيْلًا يُعَيَّرُ بِهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Is'haq Bin Jareer, from Sudeyr,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding the man who went to the animal. He<sup>asws</sup> said: 'He would be penalised less than the (complete) Penalty (*Hadd*), and would have to compensate the price of the animal to its owner, because he has spoiled it, and it would be slaughtered, and burnt, and buried, if it was from what its flesh is eaten; and if it was from what its back is ridden upon, he would have to compensate its price, and be whipped less than the (complete) Penalty (*Hadd*), and it would be thrown out from the city in which the act had been committed with it, to another city where no one recognises it. So it would be sold therein, lest it be scoffed at'.<sup>124</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدَ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ سَمَاعَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) عَنِ الرَّجُلِ يَأْتِي بِبَهِيمَةٍ أَوْ شَاةٍ أَوْ نَاقَةٍ أَوْ بَقْرَةٍ قَالَ فَقَالَ عَلَيْهِ أَنْ يُجَلَّدَ حَدًّا غَيْرَ الْحَدِّ ثُمَّ يُنْفَى مِنْ بِلَادٍ إِلَى غَيْرِهَا وَ ذَكَرُوا أَنَّ لَحْمَ تِلْكَ الْبَهِيمَةِ مُحَرَّمٌ وَ لَبَنُهَا .

Ali Bin Ibrahim, form Muhammad Bin Isa, form Yunus, from Sama'at who said,

'I asked Abu Abdullah<sup>asws</sup> about the man who went to an animal, or a sheep, or a camel, or a cow. So he<sup>asws</sup> said: 'Upon him is that he would be whipped a Penalty (*Hadd*) less than the (complete) Penalty (*Hadd*). Then he would be exiled from the

<sup>122</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 24 H 2

<sup>123</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 24 H 3

<sup>124</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 1

city to another one'. And they<sup>asws</sup> have mentioned that the flesh of that animal is Prohibited, along with its milk'.<sup>125</sup>

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ صَالِحِ بْنِ أَبِي حَمَّادٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ يُونُسَ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) وَالْحُسَيْنِ بْنِ خَالِدٍ عَنْ أَبِي الْحَسَنِ الرِّضَا ( عَلَيْهِ السَّلَامُ ) وَصَبَّاحِ الْحَدَّاءِ عَنْ إِسْحَاقَ بْنِ عَمَّارٍ عَنْ أَبِي إِبْرَاهِيمَ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَأْتِي الْبَهِيمَةَ فَقَالُوا جَمِيعاً إِنَّ كَانَتِ الْبَهِيمَةُ لِلْفَاعِلِ ذُبِحَتْ فَإِذَا مَاتَتْ أُحْرِقَتْ بِالنَّارِ وَ لَمْ يُنْتَفَعْ بِهَا وَ ضُرِبَ هُوَ خَمْسَةً وَ عَشْرِينَ سَوْطاً رُبْعَ حَدِّ الزَّانِي وَ إِنْ لَمْ تَكُنِ الْبَهِيمَةُ لَهُ قُومَتْ فَأُخِذَ ثَمَنُهَا مِنْهُ وَ دُفِعَ إِلَى صَاحِبِهَا وَ ذُبِحَتْ وَ أُحْرِقَتْ بِالنَّارِ وَ لَمْ يُنْتَفَعْ بِهَا وَ ضُرِبَ خَمْسَةً وَ عَشْرِينَ سَوْطاً

Ali Bin Muhammad, from Salih Bin Abu Hammad, from one of his companions, from Yunus, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, and Al-Husayn Bin Khalid, from Abu Al-Hassan Al-Reza<sup>asws</sup>, and Sabbah Al-Haza'a, from Is'haq Bin Ammar from Abu Ibrahim<sup>asws</sup> (7<sup>th</sup> Imam<sup>asws</sup>), regarding the man who went to the animal. So they<sup>asws</sup> all said: 'If the animal belonged to the doer, it would be slaughtered. So when it is dead, it would be burnt with the fire and would not be benefited by (its flesh and milk), and he would be whipped with twenty five lashes, a quarter of the (complete) Penalty (*Hadd*) of the adultery. And if the animal did not belong to him, it would be evaluated, and its price would be taken from him, and it would be handed over to the owner, and it (the animal) would be slaughtered and burnt by the fire, and it would not be benefited with, and he would be whipped twenty five lashes'.

فَقُلْتُ وَ مَا ذَنْبُ الْبَهِيمَةِ فَقَالَ لَا ذَنْبَ لَهَا وَ لَكِنْ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) فَعَلَ هَذَا وَ أَمَرَ بِهِ لِكَيْلَا يَجْتَرِيَ النَّاسُ بِالْبَهَائِمِ وَ يَنْقَطِعَ النَّسْلُ .

So I said, 'And what is the sin of the animal?' So he<sup>asws</sup> said: 'There is no sin for it, but Rasool-Allah<sup>saww</sup> did this, and ordered with it, perhaps the people would be doing this with the animal and the lineages would be cut off'.<sup>126</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الَّذِي يَأْتِي الْبَهِيمَةَ فَيُولِجُ قَالَ عَلَيْهِ الْحُدُّ .

A number of our companions, from Sahl Bin Ziyad, from Muhammad Bin Isa, from Yunus, from Ibn Muskan, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the one who goes to the animals, so he penetrates. He<sup>asws</sup> said: 'Upon him is the Penalty (*Hadd*)'.<sup>127</sup>

<sup>125</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 2

<sup>126</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 3

<sup>127</sup> Al Kafi – V 7 – The Book of Legal Penalties Ch 25 H 4