

# الكافي

## AL-KAFI

ج 5

Volume 5

للمحدّث الجليل والعالم الفقيه الشيخ محمد بن يعقوب الكليني المعروف بثقة  
الإسلام الكليني المتوفى سنة 329 هجرية

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 النّكاح

THE BOOK OF MARRIAGE (3)

## TABLE OF CONTENTS

<b>THE BOOK OF MARRIAGE (3) .....</b>	<b>1</b>
<b>Chapter 48 – The copulation demolishes the immediate dower .....</b>	<b>4</b>
<b>Chapter 49 – The man who agrees the dower but does not intend its payment .....</b>	<b>5</b>
<b>Chapter 50 – The man marries the woman with a specified dower and makes something to be for her father .....</b>	<b>5</b>
<b>Chapter 51 – The woman gifts herself to the man .....</b>	<b>6</b>
<b>Chapter 52 – Differing of the husband, and the wife, and her family regarding the dower .</b>	<b>7</b>
<b>Chapter 53 – The marriage without a proof.....</b>	<b>9</b>
<b>Chapter 54 – What was Permissible for the Prophet<sup>saww</sup> from the women .....</b>	<b>10</b>
<b>Chapter 55 – The marriage without a guardian .....</b>	<b>14</b>
<b>Chapter 56 – Permission of (marriage of) the virgin and the one Obligated upon permitting her, and the one on who there is no such Obligation.....</b>	<b>16</b>
<b>Chapter 57 – The man wants to get married off, and his father wants her to get married to another man .....</b>	<b>19</b>
<b>Chapter 58 – The woman is married off by two guardians, apart from the father and the grand-father, each one to another man .....</b>	<b>21</b>
<b>Chapter 59 – The woman turn her affair to a man to get her married off to a man, but he marries her off to someone else .....</b>	<b>22</b>
<b>Chapter 60 – The young ones, when they are married off, would not be harmonising .....</b>	<b>23</b>
<b>Chapter 61 – The (age) limit which the woman can be copulated with .....</b>	<b>23</b>
<b>Chapter 62 – The man marries the woman, and his son marries her daughter .....</b>	<b>24</b>
<b>Chapter 63 – Marriage of the children.....</b>	<b>25</b>
<b>Chapter 64 – The man desires a woman, and his parents desire (him to marry) someone else .....</b>	<b>27</b>
<b>Chapter 65 – The stipulation regarding the marriage, and what is allowed from it, and what is not allowed .....</b>	<b>28</b>
<b>Chapter 66 – The deceptive woman in the marriage and what the woman can be rejected from it.....</b>	<b>32</b>
<b>Chapter 67 – The man who cheats and the impotent .....</b>	<b>39</b>

**Chapter 68 – Miscellaneous ..... 42**

**Chapter 69 – The man marries with the woman upon a stipulation that she is a virgin, so he finds her without virginity..... 43**

**Chapter 70 – The man marries the woman, so he copulates with her before he gives her anything..... 44**

**Chapter 71 – The marriage with the wages ..... 45**

**Chapter 72 – Regarding the one who gets married, then comes his news of death ..... 46**

**Chapter 73 – The man is immoral with the woman, so he marries her mother, or her daughter, or he is immoral with a mother of his wife, or her daughter ..... 46**

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

### بَابُ أَنَّ الدُّخُولَ يَهْدِمُ الْعَاجِلَ

## Chapter 48 – The copulation demolishes the immediate dower

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ صَالِحِ بْنِ أَبِي حَمَّادٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ عُيَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ دُخُولُ الرَّجُلِ عَلَى الْمَرْأَةِ يَهْدِمُ الْعَاجِلَ .

Ali Bin Muhammad, from Salih Bin Abu Hammad, from Ibn Fazzal, from Ibn Bukeyr, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Copulation of the man with the woman demolishes the immediate (dower) (i.e. renders it irrelevant)'.<sup>1</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي نَجْرَانَ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ وَ يَدْخُلُ بِهَا ثُمَّ تَدَّعِي عَلَيْهِ مَهْرَهَا فَقَالَ إِذَا دَخَلَ بِهَا فَقَدْ هَدَمَ الْعَاجِلَ .

A number of our companions, from Sahl Bin Ziyad, from Abdul Rahman Bin Abu Najran, from Al A'ala Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding the man who married the woman and copulated with her, then she claimed upon him for her dower. So he<sup>asws</sup> said: 'When he copulated with her, it demolished the immediate (dower) (i.e. rendered it irrelevant)'.<sup>2</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ عُيَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَدْخُلُ بِالْمَرْأَةِ ثُمَّ تَدَّعِي عَلَيْهِ مَهْرَهَا فَقَالَ إِذَا دَخَلَ بِهَا فَقَدْ هَدَمَ الْعَاجِلَ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who copulated with the woman, then she claimed upon him for her dower. So he<sup>asws</sup> said: 'When he copulated with her, so it demolished the immediate (dower) (i.e. rendered it irrelevant)'.<sup>3</sup>

<sup>1</sup> Al Kafi – V 5 – The Book of Marriage Ch 48 H 1

<sup>2</sup> Al Kafi – V 5 – The Book of Marriage Ch 48 H 2

<sup>3</sup> Al Kafi – V 5 – The Book of Marriage Ch 48 H 3

بَابُ مَنْ يُمَهِّرُ الْمَهْرَ وَ لَا يَنْوِي قَضَاءَهُ**Chapter 49 – The man who agrees the dower but does not intend its payment**

عَلِيُّ بْنُ مُحَمَّدٍ عَنْ صَالِحِ بْنِ أَبِي حَمَّادٍ عَنِ ابْنِ فَضَّالٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ مَنْ أَمَهَّرَ مَهْرًا ثُمَّ لَا يَنْوِي قَضَاءَهُ كَانَ بِمَنْزِلَةِ السَّارِقِ .

Ali Bin Muhammad, from Salih Bin Abu Hammad, from Ibn Fazzal, form one of our companions,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: ‘The one who agrees a dower, then he does not intend to pay it, would be at the status of the thief’.<sup>4</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ مَنْ تَزَوَّجَ الْمَرْأَةَ وَ لَا يَجْعَلُ فِي نَفْسِهِ أَنْ يُعْطِيَهَا مَهْرَهَا فَهُوَ زَنِي .

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from Al Hasan Bin Ali, from Hammad Bin Usman,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: ‘The one who marries the woman but does not make it in his self that he would be giving her dower to her, so he is an adulterer’.<sup>5</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِيهِ عَنْ خَلْفِ بْنِ حَمَّادٍ عَنْ رَبِيعِيِّ بْنِ عَبْدِ اللَّهِ عَنِ الْفَضِيلِ بْنِ يَسَارٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ وَ لَا يَجْعَلُ فِي نَفْسِهِ أَنْ يُعْطِيَهَا مَهْرَهَا فَهُوَ زَنِي .

A number of our companions, from Ahmad Bin Abu Abdullah, from his father, from Khalaf Bin Hammad, from Rabie Bin Abdullah, from Al Fuzayl Bin Yasaar,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who married the woman but did not make it within himself that he would be giving her dower to her, so he is an adulterer’.<sup>6</sup>

بَابُ الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ بِمَهْرٍ مَعْلُومٍ وَ يَجْعَلُ لِأَبِيهَا شَيْئًا**Chapter 50 – The man marries the woman with a specified dower and makes something to be for her father**

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ مُعَلَّى بْنِ مُحَمَّدٍ وَ مُحَمَّدُ بْنُ بَحْبِيِّ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعًا عَنِ الْوَشَائِ عَنِ الرُّضَا ( عَلَيْهِ السَّلَامُ ) قَالَ سَمِعْتُهُ يَقُولُ لَوْ أَنَّ رَجُلًا تَزَوَّجَ امْرَأَةً وَ جَعَلَ مَهْرَهَا عَشْرِينَ أَلْفًا وَ جَعَلَ لِأَبِيهَا عَشْرَةَ أَلْفٍ كَانَ الْمَهْرُ جَائِزًا وَ الَّذِي جَعَلَ لِأَبِيهَا فَاسِيدًا .

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, and Muhammad Bin Yahya, form Ahmad Bin Muhammad, altogether from Al Washa,

(It has been narrated) from Al-Reza<sup>asws</sup>, said, ‘I heard him<sup>asws</sup> saying: ‘If a man were to marry a woman and make her dower to be as twenty thousand, and makes ten

<sup>4</sup> Al Kafi – V 5 – The Book of Marriage Ch 49 H 1

<sup>5</sup> Al Kafi – V 5 – The Book of Marriage Ch 49 H 2

<sup>6</sup> Al Kafi – V 5 – The Book of Marriage Ch 49 H 3

thousand to be for her father, the dower would be allowed, and that which he has made to be for her father is void'.<sup>7</sup>

### بَاب الْمَرْأَةِ تَهَبُ نَفْسَهَا لِلرَّجُلِ

## Chapter 51 – The woman gifts herself to the man

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَادَانَ عَنْ صَفْوَانَ وَ مُحَمَّدِ بْنِ سِنَانَ جَمِيعاً عَنْ ابْنِ مُسْكَانَ عَنِ الْحَلْبِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الْمَرْأَةِ تَهَبُ نَفْسَهَا لِلرَّجُلِ يَنْكِحُهَا بِغَيْرِ مَهْرٍ فَقَالَ إِنَّمَا كَانَ هَذَا لِلنَّبِيِّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ أَمَا لِغَيْرِهِ فَلَا يَصْلُحُ هَذَا حَتَّى يُعَوِّضَهَا شَيْئاً يُقَدِّمُ إِلَيْهَا قَبْلَ أَنْ يَدْخُلَ بِهَا قَلَّ أَوْ كَثُرَ وَ لَوْ تَوَبَّ أَوْ دَرَّهَمٌ وَ قَالَ يُجْزَى الدَّرْهَمُ .

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

'I asked Abu Abdullah<sup>asws</sup> about the woman who gifts herself to the man who marries her without a dower. So he<sup>asws</sup> said: 'But rather, this was for the Prophet<sup>saww</sup>, and as for the others, so this is not correct until he places something for her and sends it to her before he copulates with her, be it little or more, and even if it is a garment, or one Dirham'. And he<sup>asws</sup> said: 'The Dirham suffices'.<sup>8</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ امْرَأَةٌ مُؤْمِنَةٌ إِنْ وَهَبَتْ نَفْسَهَا لِلنَّبِيِّ فَقَالَ لَا تَحِلُّ الْهَبَةُ إِلَّا لِرَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ أَمَا غَيْرُهُ فَلَا يَصْلُحُ نِكَاحٌ إِلَّا بِمَهْرٍ .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Dawood Bin Sirhan, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the Words of Allah<sup>azwj</sup> Mighty and Majestic [33:50] and a believing woman if she gave herself to the Prophet. So he<sup>asws</sup> said: 'The gifting is not Permissible except for Rasool-Allah<sup>saww</sup>, and as for others, so a marriage is not correct except with a dower'.<sup>9</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مُحَمَّدِ بْنِ الْفَضْلِ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ لَا تَحِلُّ الْهَبَةُ إِلَّا لِرَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ أَمَا غَيْرُهُ فَلَا يَصْلُحُ نِكَاحٌ إِلَّا بِمَهْرٍ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Ismail, form Muhammad Bin Al Fuzayl, from Abu Al Sabbah Al Kinani,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The gifting is not Permissible except for Rasool-Allah<sup>saww</sup>, and as for others, so a marriage is not correct except with a dower'.<sup>10</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي امْرَأَةٍ وَهَبَتْ نَفْسَهَا لِلرَّجُلِ أَوْ وَهَبَهَا لَهُ وَلَيْتَهَا فَقَالَ لَا إِنَّمَا كَانَ ذَلِكَ لِرَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ لَيْسَ لِغَيْرِهِ إِلَّا أَنْ يُعَوِّضَهَا شَيْئاً قَلَّ أَوْ كَثُرَ .

<sup>7</sup> Al Kafi – V 5 – The Book of Marriage Ch 50 H 1

<sup>8</sup> Al Kafi – V 5 – The Book of Marriage Ch 51 H 1

<sup>9</sup> Al Kafi – V 5 – The Book of Marriage Ch 51 H 2

<sup>10</sup> Al Kafi – V 5 – The Book of Marriage Ch 51 H 3

Ali Bin Ibrahim, from his father, from one of his companions, from Abdullah Bin Sinan,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a woman who gifts herself to a man, or her guardian gifts her to him. So he<sup>asws</sup> said: 'But rather, that was for Rasool-Allah<sup>saww</sup> and it is not for others except if he were to place something to be for her, be it little or more'.<sup>11</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَبِي الْقَاسِمِ الْكُوفِيِّ عَنْ عَبْدِ اللَّهِ بْنِ الْمُغْبِرَةِ عَنْ رَجُلٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي امْرَأَةٍ وَهَبَتْ نَفْسَهَا لِرَجُلٍ مِنَ الْمُسْلِمِينَ قَالَ إِنْ عَوَّضَهَا كَانَ ذَلِكَ مُسْتَقِيمًا .

A number of our companions, from Ahmad Bin Muhammad, form Abu Al Qasim Al Kufy, from Abdullah Bin Al Mugheira, from a man,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a woman who gifted herself to a man from the Muslims. He<sup>asws</sup> said: 'If he were to offset it (with a payment), so that would be straight (correct)'.<sup>12</sup>

### باب اِخْتِلَافِ الزَّوْجِ وَ الْمَرْأَةِ وَ أَهْلِهَا فِي الصَّدَاقِ

## Chapter 52 – Differing of the husband, and the wife, and her family regarding the dower

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائٍ عَنْ أَبِي عُبَيْدَةَ وَ جَمِيلِ بْنِ صَالِحٍ عَنِ الْفَضِيلِ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ تَزَوَّجَ امْرَأَةً وَ دَخَلَ بِهَا وَ أَوْلَدَهَا ثُمَّ مَاتَ عَنْهَا فَادَّعَتْ شَيْئاً مِنْ صَدَاقِهَا عَلَى وَرَثَةِ زَوْجِهَا فَجَاءَتْ تَطْلُبُهُ مِنْهُمْ وَ تَطْلُبُ الْمِيرَاثَ فَقَالَ أَمَّا الْمِيرَاثُ فَلَهَا أَنْ تَطْلُبَهُ وَ أَمَّا الصَّدَاقُ فَالَّذِي أَخَذَتْ مِنَ الزَّوْجِ قَبْلَ أَنْ يَدْخُلَ بِهَا هُوَ الَّذِي حَلَّ لِلزَّوْجِ بِهِ فَرَجُّهَا قَلِيلاً كَانَ أَوْ كَثِيراً إِذَا هِيَ قَبِضَتْهُ مِنْهُ وَ قَبِلَتْ وَ دَخَلَتْ عَلَيْهِ وَ لَا شَيْءَ لَهَا بَعْدَ ذَلِكَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, altogether from Ibn Mahboub, from Ali Bin Raib, from Abu Ubeyda, and Jameel Bin Salih, from Al Fuzayl,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding a man who married a woman and copulated with her, or made her a mother, then died from her. So she claimed something from her dower upon the inheritors of her husband. So she came over seeking from them and sought the inheritance (as well). So he<sup>asws</sup> said: 'As for the inheritance, so it is for her if she were to seek it, and as for the dower, so it is that which she took from her husband before he had copulated with her, it being that which made her to be Permissible for her husband, whether it was little or more. When she took possession of it from him, and accepted, and went over to him (to live with him), and there is nothing for her after that'.<sup>13</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْحَجَّاجِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الزَّوْجِ وَ الْمَرْأَةِ يَهْلِكَانِ جَمِيعاً فَيَأْتِي وَرَثَةَ الْمَرْأَةِ فَيَدْعُونَ عَلَى وَرَثَةِ الرَّجُلِ الصَّدَاقَ فَقَالَ وَ قَدْ هَلَكَ وَ قَسِمَ الْمِيرَاثَ فَقُلْتُ نَعَمْ فَقَالَ لَيْسَ لَهُمْ شَيْءٌ

Abu Ali Al Ashary, form Muhammad Bin Abdul Jabbar, from Safwan, from Abdul Rahma Bin Al Hajjaj who said,

<sup>11</sup> Al Kafi – V 5 – The Book of Marriage Ch 51 H 4

<sup>12</sup> Al Kafi – V 5 – The Book of Marriage Ch 51 H 5

<sup>13</sup> Al Kafi – V 5 – The Book of Marriage Ch 52 H 1

'I asked Abu Abdullah<sup>asws</sup> about the husband and the wife who both died. So the inheritors of the woman came over claiming the dower upon the inheritors of the man. So he<sup>asws</sup> said: 'They had both died and the inheritances had been distributed?' So I said, 'Yes'. So he<sup>asws</sup> said: 'There is nothing for them'.

قُلْتُ وَ إِنْ كَانَتْ الْمَرْأَةُ حَيَّةً فَجَاءَتْ بَعْدَ مَوْتِ زَوْجِهَا تَدْعِي صَدَاقَهَا فَقَالَ لَا شَيْءَ لَهَا وَ قَدْ أَقَامَتْ مَعَهُ مُقَرَّةً حَتَّى هَلَكَ زَوْجُهَا فَقُلْتُ فَإِنْ مَاتَتْ وَ هُوَ حَيٌّ فَجَاءَتْ وَ رَثَّتْهَا يُطَالِبُونَهُ بِصَدَاقِهَا فَقَالَ وَ قَدْ أَقَامَتْ مَعَهُ حَتَّى مَاتَتْ لَا تَطْلُبُهُ فَقُلْتُ نَعَمْ فَقَالَ لَا شَيْءَ لَهُمْ

I said, 'And if it was such that the woman was alive, so she goes over after the death of her husband to claim her dower?' So he<sup>asws</sup> said : 'There is nothing for her, and she had stayed with him agreeably until her husband died'. So I said, 'Supposing if she had died and he was alive, so her inheritors come over seeking her dower from him?' So he<sup>asws</sup> said: 'She had stayed with him until he dies and did not seek it?' I said, 'Yes'. So he<sup>asws</sup> said: 'There is nothing for them'.

قُلْتُ فَإِنْ طَلَّقَهَا فَجَاءَتْ تَطْلُبُ صَدَاقَهَا قَالَ وَ قَدْ أَقَامَتْ لَا تَطْلُبُهُ حَتَّى طَلَّقَهَا لَا شَيْءَ لَهَا قُلْتُ فَمَتَى حُدَّ ذَلِكَ الَّذِي إِذَا طَلَبْتُهُ كَانَ لَهَا قَالَ إِذَا أَهْدَيْتَ إِلَيْهِ وَ دَخَلَتْ بَيْنَهُ ثُمَّ طَلَبْتَ بَعْدَ ذَلِكَ فَلَا شَيْءَ لَهَا إِنَّهُ كَثِيرٌ لَهَا أَنْ تَسْتَحْلِفَ بِاللَّهِ مَا لَهَا قَبْلَهُ مِنْ صَدَاقِهَا قَلِيلٌ وَ لَا كَثِيرٌ .

I said, 'Supposing he had divorced her, so she came over seeking her dower?' He<sup>asws</sup> said: 'And she had stayed not seeking it until he divorced her, there is nothing for her'. I said, 'So until where is a limit of that which, if she were to seek it, it would be for her?' He<sup>asws</sup> said: 'If she had gifted it to him and entered his house, then she seeks it after that, so there is nothing for her. It is a lot (of time) for her if she were to make him swear an oath with Allah<sup>azwj</sup> that there is nothing for her with him from her dower, neither little nor more'.<sup>14</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ تَزَوَّجَ امْرَأَةً فَلَمْ يَدْخُلْ بِهَا فَادَّعَتْ أَنَّ صَدَاقَهَا مِائَةٌ دِينَارٍ وَ ذَكَرَ الزَّوْجُ أَنَّ صَدَاقَهَا خَمْسُونَ دِينَارًا وَ لَيْسَ بَيْنَهُمَا بَيِّنَةٌ فَقَالَ الْقَوْلُ قَوْلُ الزَّوْجِ مَعَ يَمِينِهِ .

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> regarding a man who married a woman but did not copulate with her. So she claims that her dower was of one hundred Dinars, and the husband mentions that her dower was of fifty Dinars, and there is no proof between the two of them. So he<sup>asws</sup> said: 'The (final) word is the word of the husband with a swear (of an oath)'.<sup>15</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْحَمِيدِ عَنْ أَبِي جَمِيلَةَ عَنْ الْحَسَنِ بْنِ زِيَادٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ إِذَا دَخَلَ الرَّجُلُ بِامْرَأَتِهِ ثُمَّ ادَّعَتْ الْمَهْرَ وَ قَالَ قَدْ أُعْطِينِيكَ فَعَلَيْهِ الْبَيِّنَةُ وَ عَلَيْهِ الْيَمِينُ .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Muhammad Bin Abdul Hameed, from Abu Jameela, from Al Hassan Bin Ziyad,

<sup>14</sup> Al Kafi – V 5 – The Book of Marriage Ch 52 H 2

<sup>15</sup> Al Kafi – V 5 – The Book of Marriage Ch 52 H 3

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When the man copulates with his wife, then he pays the dower and said, 'I have given you', so upon him would be the (burden of) the proof, and upon him would be the swearing (of an oath)'.<sup>16</sup>

### باب التزويج بغير بيّنة

## Chapter 53 – The marriage without a proof

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُذَيْنَةَ عَنْ زُرَّارَةَ بْنِ أَعْيَنَ قَالَ سَأَلَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) عَنِ الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ بِغَيْرِ شُهُودٍ فَقَالَ لَا بَأْسَ بِتَزْوِيجِ الْبَيْتَةِ فِيمَا بَيْنَهُ وَبَيْنَ اللَّهِ إِنَّمَا جُعِلَ الشُّهُودُ فِي تَزْوِيجِ الْبَيْتَةِ مِنْ أَجْلِ الْوَالِدِ لَوْ لَا ذَلِكَ لَمْ يَكُنْ بِهِ بَأْسٌ .

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

'Abu Abdullah<sup>asws</sup> was asked about the man who married the woman without witnesses. So he<sup>asws</sup> said: 'There is no problem with a marriage at all regarding what is between him and Allah<sup>azwj</sup>'. But rather, the witnesses have been made (necessary) regarding the marriage due to the reason of the children. Had it not been that, there would not be a problem with it'.<sup>17</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ إِنَّمَا جُعِلَتِ الْبَيِّنَاتُ لِلنَّسَبِ وَالْمَوَارِيثِ وَ فِي رِوَايَةٍ أُخْرَى وَ الْحُدُودِ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'But rather, the proofs had been made for the lineage and the inheritances'. And in another report: 'And the legal Punishments (*Hadd*)'.<sup>18</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حُصَيْنِ بْنِ الْبَخْتَرِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) فِي الرَّجُلِ يَتَزَوَّجُ بِغَيْرِ بَيِّنَةٍ قَالَ لَا بَأْسَ .

Ali Bin Ibrahim, from his father, and Muhammad Bin Ismail, from Al Fazl Bin Shazan, from Ibn Abu Umeyr, from Hafs Bin Al Bakhtary,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who married without a proof. He<sup>asws</sup> said: 'There is no problem'.<sup>19</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ دَاوُدَ النَّهْدِيِّ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ مُحَمَّدِ بْنِ الْفَضِيلِ قَالَ قَالَ أَبُو الْحَسَنِ مُوسَى (عَلَيْهِ السَّلَامُ) لِأَبِي يُوسُفَ الْقَاضِي إِنَّ اللَّهَ تَبَارَكَ وَ تَعَالَى أَمَرَ فِي كِتَابِهِ بِالطَّلَاقِ وَ أَكَّدَ فِيهِ بِشَاهِدَيْنِ وَ لَمْ يَرْضَ بِهِمَا إِلَّا عَدْلَيْنِ وَ أَمَرَ فِي كِتَابِهِ بِالتَّزْوِيجِ فَأَهْمَلَهُ بِلَا شُهُودٍ فَأَتَيْتُمُ شَاهِدَيْنِ فِيمَا أَهْمَلُ وَ أَبْطَلْتُمُ الشَّاهِدَيْنِ فِيمَا أَكَّدَ .

A number of our companions, from Sahl Bin Ziyad, from Dawood Al Nahdy, from Ibn Abu Najran, from Muhammad Bin Al Fuzayl who said,

<sup>16</sup> Al Kafi – V 5 – The Book of Marriage Ch 52 H 4

<sup>17</sup> Al Kafi – V 5 – The Book of Marriage Ch 53 H 1

<sup>18</sup> Al Kafi – V 5 – The Book of Marriage Ch 53 H 2

<sup>19</sup> Al Kafi – V 5 – The Book of Marriage Ch 53 H 3

'Abu Al-Hassan Musa<sup>asws</sup> said to Abu Yusuf, the judge, that Allah Blessed and High Commanded in His<sup>azwj</sup> Book with the divorce, and Emphasised therein with two witnesses and was not Pleased with the two except if they were just, and Commanded in His<sup>azwj</sup> Book with the marriage but Left it out without witnesses. So you (on the other hand) have affirmed the two witnesses regarding what is to be left out, and invalidated the two witnesses regarding what is Emphasised'.<sup>20</sup>

بَاب مَا أُجِلَّ لِلنَّبِيِّ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) مِنَ النِّسَاءِ

## Chapter 54 – What was Permissible for the Prophet<sup>saww</sup> from the women

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ سَأَلْتُهُ عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ يَا أَيُّهَا النَّبِيُّ إِنَّا أَحْلَلْنَا لَكَ أَزْوَاجَكَ قُلْتُ كَمْ أُجِلَّ لَهُ مِنَ النِّسَاءِ قَالَ مَا شَاءَ مِنْ شَيْءٍ

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

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the Words of Allah<sup>azwj</sup> Mighty and Majestic **[33:50] O Prophet! Surely We have Made lawful for you, your wives**, how many from the women were Permissible for him<sup>saww</sup>?' He<sup>asws</sup> said: 'Whatever he<sup>saww</sup> so desired from anything'.

قُلْتُ قَوْلُهُ لَا يَجِلُّ لَكَ النِّسَاءُ مِنْ بَعْدِ وَلَا أَنْ تَبَدَّلَ بِهِنَّ مِنْ أَزْوَاجٍ فَقَالَ لِرَسُولِ اللَّهِ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) أَنْ يَنْكِحَ مَا شَاءَ مِنْ بَنَاتِ عَمِّهِ وَ بَنَاتِ عَمَّاتِهِ وَ بَنَاتِ خَالَهِ وَ بَنَاتِ خَالَاتِهِ وَ أَزْوَاجِهِ اللَّاتِي هَاجَرْنَ مَعَهُ وَ أُجِلَّ لَهُ أَنْ يَنْكِحَ مِنْ عَرَضِ الْمُؤْمِنِينَ بِغَيْرِ مَهْرٍ وَ هِيَ الْهَبَةُ وَ لَا تَحِلُّ الْهَبَةُ إِلَّا لِرَسُولِ اللَّهِ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ)

I said, '(What about) His<sup>azwj</sup> Words **[33:52] It is not Permissible for you to take women afterwards, nor that you should change them for other wives?**' So he<sup>asws</sup> said: 'For Rasool-Allah<sup>saww</sup> is that he<sup>saww</sup> could marry from a daughter of his<sup>saww</sup> paternal uncle and a daughter of his<sup>saww</sup> paternal aunt, and a daughter of his<sup>saww</sup> maternal uncle and a daughter of his<sup>saww</sup> maternal aunt, and his<sup>saww</sup> wives who emigrated with him<sup>saww</sup>; and is was Permissible for him<sup>saww</sup> that he<sup>saww</sup> marries the ones who present themselves from the Believers without a dower, and it is the gifting, and the gifting is not Permissible except for Rasool-Allah<sup>saww</sup>.'

فَأَمَّا لِغَيْرِ رَسُولِ اللَّهِ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) فَلَا يَصْلُحُ نِكَاحٌ إِلَّا بِمَهْرٍ وَ ذَلِكَ مَعْنَى قَوْلِهِ تَعَالَى وَ امْرَأَةٌ مُؤْمِنَةٌ إِنْ وَهَبَتْ نَفْسَهَا لِلنَّبِيِّ

So as for the others than Rasool-Allah<sup>saww</sup>, so a marriage is not correct except with a dower, and that is the Meaning of the Words of the Exalted **[33:50] and a believing woman if she gave herself to the Prophet**.

قُلْتُ أَرَأَيْتَ قَوْلَهُ تُرْجِي مَنْ نَشَاءُ مِنْهُنَّ وَ تُؤْوِي إِلَيْكَ مَنْ نَشَاءُ قَالَ مَنْ أَوْى فَقَدْ نَكَحَ وَ مَنْ أَرْجَأَ فَلَمْ يَنْكِحْ

I said, 'What is your<sup>asws</sup> view of His<sup>azwj</sup> Words **[33:51] You may put off whom you please of them, and you may take to you whom you please?**' He<sup>asws</sup> said: 'The

<sup>20</sup> Al Kafi – V 5 – The Book of Marriage Ch 53 H 4

one who came forward he<sup>saww</sup> married and the one who stayed back he<sup>saww</sup> did not marry’.

قُلْتُ قَوْلُهُ لَا يَجِلُّ لَكَ النِّسَاءُ مِنْ بَعْدِ قَالٍ إِنَّمَا عَنِي بِهِ النِّسَاءُ اللَّاتِي حَرَّمَ عَلَيْهِ فِي هَذِهِ الْآيَةِ حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ إِلَى آخِرِ الْآيَةِ وَ لَوْ كَانَ الْأَمْرُ كَمَا يَقُولُونَ كَانَ قَدْ أَحَلَّ لَكُمْ مَا لَمْ يَجِلَّ لَهُ إِنَّ أَحَدَكُمْ يَسْتَبْدِلُ كُلَّمَا أَرَادَ وَ لَكِنْ لَيْسَ الْأَمْرُ كَمَا يَقُولُونَ إِنَّ اللَّهَ عَزَّ وَ جَلَّ أَحَلَّ لِنَبِيِّهِ (صلى الله عليه وآله) مَا أَرَادَ مِنَ النِّسَاءِ إِلَّا مَا حَرَّمَ عَلَيْهِ فِي هَذِهِ الْآيَةِ النَّبِيِّ فِي النِّسَاءِ .

I said, ‘(What about) His<sup>azwj</sup> Words **[33:52] It is not Permissible for you to take women afterwards?**’ But rather it Means by the women who were Prohibited unto him<sup>saww</sup> in this Verse **[4:23] Forbidden to you are your mothers and your daughters and your sisters** – up to the end of the Verse. And had the matter been as they (people) are saying it to be, it would have been Permissible for you what was not Permissible for him<sup>saww</sup> if one of you changed (wives) whenever he so wanted to. But, the matter is not as they are saying it to be. Allah<sup>azwj</sup> Mighty and Majestic Permitted for His<sup>azwj</sup> Prophet whatever he<sup>saww</sup> so wanted from the women except what was Prohibited unto him<sup>saww</sup> in this Verse which is in the women (Chapter 4 of the Holy Quran)’.<sup>21</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ (عليه السلام) عَنْ قَوْلِ اللَّهِ عَزَّ وَ جَلَّ لَا يَجِلُّ لَكَ النِّسَاءُ مِنْ بَعْدِ وَ لَا أَنْ تَبْدَلَ بِهِنَّ مِنْ أَرْوَاجٍ وَ لَوْ أَعْجَبَكَ حُسْنُهُنَّ إِلَّا مَا مَلَكَتْ يَمِينُكَ فَقَالَ أَرَأَيْتُمْ تَزْعُمُونَ أَنَّهُ يَجِلُّ لَكُمْ مَا لَمْ يَجِلَّ لِرَسُولِ اللَّهِ (صلى الله عليه وآله) وَ قَدْ أَحَلَّ اللَّهُ تَعَالَى لِرَسُولِهِ (صلى الله عليه وآله) أَنْ يَنْزَوِجَ مِنَ النِّسَاءِ مَا شَاءَ إِنَّمَا قَالٍ لَا يَجِلُّ لَكَ النِّسَاءُ مِنْ بَعْدِ الَّذِي حَرَّمَ عَلَيْكَ قَوْلُهُ حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَ بَنَاتُكُمْ إِلَى آخِرِ الْآيَةِ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, from Aasim Bin Humejd, from Abu Baseer who said,

‘I asked Abu Abdullah<sup>asws</sup> about the Words of Allah<sup>azwj</sup> Mighty and Majestic **[33:52] It is not allowed to you to take women afterwards, nor that you should change them for other wives, though their beauty be pleasing to you, except what your right hand possesses**, so he<sup>asws</sup> said: ‘I<sup>asws</sup> am seeing that you all are alleging that it is Permissible for you all whatever was Permissible for Rasool-Allah<sup>saww</sup>, and Allah<sup>azwj</sup> the Exalted had Permitted to His<sup>azwj</sup> Rasool<sup>saww</sup> that he<sup>saww</sup> could marry from the women whatever he<sup>saww</sup> so desired to. But rather, He<sup>azwj</sup> Said **[33:52] It is not Permissible for you to take women afterwards** which He<sup>azwj</sup> Prohibited upon you by His<sup>azwj</sup> Words **[4:23] Forbidden to you are your mothers and your daughters and your sisters** – up to the end of the Verse’.<sup>22</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ الْوَشَّاءِ عَنْ جَمِيلِ بْنِ دَرَّاجٍ وَ مُحَمَّدِ بْنِ حُمْرَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْنَا أَبَا عَبْدِ اللَّهِ (عليه السلام) كَمْ أَحَلَّ لِرَسُولِ اللَّهِ (صلى الله عليه وآله) مِنَ النِّسَاءِ قَالَ مَا شَاءَ يَقُولُ بِيَدِهِ هَكَذَا وَ هِيَ لَهُ حَلَالٌ يَعْنِي يَفْبِضُ يَدَهُ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup>, both said, We asked Abu Abdullah<sup>asws</sup>, ‘How many from the women were Permissible unto Rasool-Allah<sup>saww</sup>?’ He<sup>asws</sup> said:

<sup>21</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 1

<sup>22</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 2

'Whatever he<sup>saww</sup> so desired to' – gesturing with his<sup>asws</sup> hand – 'and it is Permissible for him<sup>saww</sup>' – meaning by the grasping of his<sup>asws</sup> hand'.<sup>23</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ ابْنِ أَبِي نَجْرَانَ عَنْ عَبْدِ الْكَرِيمِ بْنِ عَمْرٍو عَنْ أَبِي بَكْرٍ الْحَضْرَمِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي قَوْلِ اللَّهِ عَزَّ وَجَلَّ لِنَبِيِّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) يَا أَيُّهَا النَّبِيُّ إِنَّا أَحْلَلْنَا لَكَ أَزْوَاجَكَ كَمَا أَحَلَّ لَهُ مِنَ النِّسَاءِ قَالَ مَا شَاءَ مِنْ شَيْءٍ

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, from Abdul Kareem Bin Amro, from Abu Bakr Al Hazramy,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding the Words of Allah<sup>azwj</sup> Mighty and Majestic to His<sup>azwj</sup> Prophet<sup>saww</sup> **[33:50] O Prophet! Surely We have Made lawful for you, your wives,** how many from the women were Permissible unto him<sup>saww</sup>? He<sup>asws</sup> said: 'Whatever he<sup>saww</sup> so desired to from anything'.

قُلْتُ [قَوْلُهُ عَزَّ وَجَلَّ] وَامْرَأَةً مُؤْمِنَةً إِنْ وَهَبَتْ نَفْسَهَا لِلنَّبِيِّ فَقَالَ لَا تَحِلُّ الْهَبَةُ إِلَّا لِرَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ أَمَّا لِغَيْرِ رَسُولِ اللَّهِ فَلَا يَصْلُحُ نِكَاحٌ إِلَّا بِمَهْرٍ

I said, '(What about) the Words of the Mighty and Majestic **[33:50] and a believing woman if she gave herself to the Prophet.** So he<sup>asws</sup> said: 'The gifting is not Permissible except to Rasool-Allah<sup>saww</sup>, and as for the others than Rasool-Allah<sup>saww</sup>, so a marriage is not correct except with a dowry'.

قُلْتُ أَرَأَيْتَ قَوْلَ اللَّهِ عَزَّ وَجَلَّ لَا يَحِلُّ لَكَ النِّسَاءُ مِنْ بَعْدِ فَقَالَ إِنَّمَا عَنَى بِهِ لَا يَحِلُّ لَكَ النِّسَاءُ الَّتِي حَرَّمَ اللَّهُ فِي هَذِهِ الْآيَةِ حَرَّمَتْ عَلَيْكُمْ أُمَّهَاتِكُمْ وَبَنَاتِكُمْ وَأَخَوَاتِكُمْ وَعَمَّاتِكُمْ وَخَالَاتِكُمْ إِلَى آخِرِهَا وَ لَوْ كَانَ الْأَمْرُ كَمَا تَقُولُونَ كَانَ قَدْ أَحَلَّ لَكُمْ مَا لَمْ يَحِلَّ لَهُ لِأَنَّ أَحَدَكُمْ يَسْتَبْدِلُ كُلَّمَا أَرَادَ وَ لَكِنْ لَيْسَ الْأَمْرُ كَمَا يَقُولُونَ إِنَّ اللَّهَ عَزَّ وَجَلَّ أَحَلَّ لِنَبِيِّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أَنْ يَنْكِحَ مِنَ النِّسَاءِ مَا أَرَادَ إِلَّا مَا حَرَّمَ عَلَيْهِ فِي هَذِهِ الْآيَةِ فِي سُورَةِ النِّسَاءِ .

I said, 'What is your<sup>asws</sup> view of the Words of Allah<sup>azwj</sup> Mighty and Majestic **[33:52] It is not Permissible for you to take women afterwards?**' So he<sup>asws</sup> said: 'But rather, it Means by it, 'It is not Permissible for you<sup>saww</sup> the women which Allah<sup>azwj</sup> had Prohibited in this Verse **[4:23] [4:23] Forbidden to you are your mothers and your daughters and your sisters and your paternal aunts and your maternal aunts** – up to the end of it. And had the matter been as they (people) are saying it to be, it would have been Permissible for you what was not Permissible for him<sup>saww</sup>, because one of you are changing (wives) every times you want, but the matter is not as they are saying it to be. Allah<sup>azwj</sup> Mighty and Majestic Permitted for His<sup>azwj</sup> Prophet<sup>saww</sup> that he<sup>saww</sup> can marry from the women whatever he<sup>saww</sup> so wanted to, except what was Prohibited unto him<sup>saww</sup> in this Verse, in the *Surah Al-Nisa* (Chapter 4)'.<sup>24</sup>

وَ عَنْهُ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ أَبِي بَصِيرٍ وَ غَيْرِهِ فِي تَسْمِيَةِ نِسَاءِ النَّبِيِّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ نَسَبِيَّهِمْ وَ صِفَتِيَّهِمْ عَائِشَةُ وَ حَفْصَةُ وَ أُمُّ حَبِيبٍ بِنْتُ أَبِي سُفْيَانَ بْنِ حَرْبٍ وَ زَيْنَبُ بِنْتُ جَحْشٍ وَ سَوْدَةُ بِنْتُ زَمْعَةَ وَ مَيْمُونَةُ بِنْتُ الْحَارِثِ وَ صَوَيْبَةُ بِنْتُ حَيِّ بْنِ أَخْطَبٍ وَ أُمُّ سَلَمَةَ بِنْتُ أَبِي أُمَيَّةٍ وَ جُوَيْرِيَةُ بِنْتُ الْحَارِثِ

And from him, from Aasim Bin Humeyd, from Abu Baseer, and someone else,

'With regards to the names of the wives of the Prophet<sup>saww</sup>, and their lineages, and their description – Ayesha, and Hafsa, and Umm Habeeb Bint Abu Sufyan Bin Harb,

<sup>23</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 3

<sup>24</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 4

and Zaynab Bint Jahsh, and Sawda Bint Zam'a, and Maymouna Bint Al-Haris, and Safiyya Bint Hayy Bin Akhtab, and Umm Salma<sup>as</sup> Bint Amayya, and Juweyriya Bint Al-Haris.

وَ كَانَتْ عَائِشَةُ مِنْ تَيْمٍ وَ حَفْصَةُ مِنْ عَدِيٍّ وَ أُمُّ سَلَمَةَ مِنْ بَنِي مَخْزُومٍ وَ سَوْدَةُ مِنْ بَنِي أَسَدِ بْنِ عَبْدِ الْعَزْزِيِّ وَ زَيْنَبُ بِنْتُ جَحْشٍ مِنْ بَنِي أَسَدٍ وَ عَدَاذُهَا مِنْ بَنِي أُمَيَّةَ وَ أُمُّ حَبِيبٍ بِنْتُ أَبِي سُفْيَانَ مِنْ بَنِي أُمَيَّةَ وَ مَيْمُونَةُ بِنْتُ الْحَارِثِ مِنْ بَنِي هِلَالٍ وَ صَفِيَّةُ بِنْتُ حَيٍّ بِنِ أَخْطَبٍ مِنْ بَنِي إِسْرَائِيلَ

And Ayesha was from (Clan of) Taym, and Hafsa was from Adayy, and Umm Salma<sup>as</sup> was from the Clan of Makhzoum, and Sawda was from the Clan of Asad Bin Abdul Uzza, and Zaynab Bint Jahsh was from the Clan of Asad; and a number were from the Clan of Umayya, and Umm Habeeb Bint Abu Sufyan was from the Clan of Umayya, and Maymouna Bint Al-Haris was from the Clan of Hilal, and Safiyya Bint Hayy Bin Akhtab was from the Clan of Israil.

وَ مَاتَ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) عَنْ تِسْعِ نِسَاءٍ وَ كَانَ لَهُ سِوَاهُنَّ الَّتِي وَهَبَتْ نَفْسَهَا لِلنَّبِيِّ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) وَ خَدِيجَةُ بِنْتُ خُوَيْلِدٍ أُمُّ وُلْدِهِ وَ زَيْنَبُ بِنْتُ أَبِي الْجَوْنِ الَّتِي خُدِعَتْ وَ الْكِنْدِيَّةُ .

And he<sup>saww</sup> passed away leaving nine wives, and besides these wives were ones who had gifted themselves to the Prophet<sup>saww</sup>, and Khadeeja<sup>as</sup> Bint Khuwaylid, a mother of his<sup>saww</sup> child, and Zaynab Bint Abu Al-Jawn who was deceived, and Al-Kindiyat'.<sup>25</sup> (p.s. - This is not a Hadeeth)

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) أَنَّ رَسُولَ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) لَمْ يَنْزُوجْ عَلَى خَدِيجَةَ .

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 Rasool-Allah<sup>saww</sup> did not marry (an additional wife) upon Khadeeja<sup>as</sup>,<sup>26</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ سَلَمَةَ بْنِ الْخَطَّابِ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ يَظْفَرٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ إِبْرَاهِيمَ بْنِ أَبِي يَحْيَى عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ تَزَوَّجَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) أُمَّ سَلَمَةَ زَوْجَهَا إِيَّاهُ عَمْرُ بْنُ أَبِي سَلَمَةَ وَ هُوَ صَغِيرٌ لَمْ يَبْلُغِ الْحُلْمَ .

Muhammad Bin Yahya, from Salma Bin Al Khattab, from Al Hassan Bin Ali Bin Yaqteen, from Aasim Bin Humeyd, from Ibrahim Bin Abu Yahya,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Rasool-Allah<sup>saww</sup> married Umm Salma<sup>as</sup>. Umar Bin Abu Salma married her<sup>as</sup> to him<sup>saww</sup>, and he was young and had yet to attain puberty'.<sup>27</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ الْعَاصِمِيُّ عَنْ عَلِيِّ بْنِ الْحَسَنِ بْنِ فَضَّالٍ عَنْ عَلِيِّ بْنِ أَسْبَاطٍ عَنْ عَمِّهِ يَعْقُوبَ بْنِ سَالِمٍ عَنْ أَبِي بَصِيرٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ قُلْتُ لَهُ أَرَأَيْتَ قَوْلَ اللَّهِ عَزَّ وَجَلَّ لَا يَجِلُّ لَكَ النِّسَاءُ مِنْ بَعْدِ فَقَالَ إِنَّمَا لَمْ يَجِلْ لَهُ النِّسَاءُ الَّتِي حَرَّمَ اللَّهُ عَلَيْهِ فِي هَذِهِ الْآيَةِ حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَ بَنَاتُكُمْ فِي هَذِهِ الْآيَةِ كُلَّهَا وَ لَوْ كَانَ الْأَمْرُ كَمَا يَقُولُونَ لَكَانَ قَدْ أَحَلَّ لَكُمْ مَا لَمْ يَجِلْ لَهُ هُوَ لِأَنَّ أَحَدَكُمْ يَسْتَبْدِلُ كُلَّمَا أَرَادَ وَ لَكِنْ لَيْسَ الْأَمْرُ كَمَا يَقُولُونَ

<sup>25</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 5

<sup>26</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 6

<sup>27</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 7

Ahmad Bin Muhammad Al Aasimy, from Ali Bin Al Hassan Bin Fazzal, from Ali Bin Asbaat, from his uncle Yaqoub Bin Salim, from Abu Baseer,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I said to him, 'What is your<sup>asws</sup> view of the Words of Allah<sup>azwj</sup> Mighty and Majestic [33:52] **It is not Permissible for you to take women afterwards?**' So he<sup>asws</sup> said: 'But rather, the women who were not Permissible unto him<sup>saww</sup> were those whom Allah<sup>azwj</sup> Prohibited upon him<sup>saww</sup> in this Verse [4:23] [4:23] **Forbidden to you are your mothers and your daughters**, in this Verse, all of it. And had the matter been as they (people) are saying it to be, it would have been Permissible for you what was not Permissible for him<sup>saww</sup>. It is because one of you are changing (wives) every time you want, but the matter is not as how they are saying to be.

أَحَادِيثُ آلِي مُحَمَّدٍ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) خِلَافَ أَحَادِيثِ النَّاسِ إِنَّ اللَّهَ عَزَّ وَجَلَّ أَحَلَّ لِنَبِيِّهِ (صَلَّى اللهُ عَلَيْهِ وَآلِهِ) أَنْ يَنْكِحَ مِنَ النِّسَاءِ مَا أَرَادَ إِلَّا مَا حَرَّمَ عَلَيْهِ فِي سُورَةِ النِّسَاءِ فِي هَذِهِ الْآيَةِ .

The Ahadeeth of the Progeny<sup>asws</sup> of Muhammad<sup>saww</sup> are different from the Ahadeeth of the people. Allah<sup>azwj</sup> Mighty and Majestic Permitted for His<sup>azwj</sup> Prophet<sup>saww</sup> that he<sup>saww</sup> could marry from the women whatever he<sup>saww</sup> so wanted to except what was Prohibited unto him<sup>saww</sup> in Surah Al-Nisa (Chapter 4), in this Verse'.<sup>28</sup>

باب التزويج بغير ولي

## Chapter 55 – The marriage without a guardian

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُدْبَيْتَةَ عَنِ الْفَضْلِ بْنِ يَسَارٍ وَ مُحَمَّدِ بْنِ مُسْلِمٍ وَ زُرَّارَةَ بْنِ أَعْيَنٍ وَ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ (عَلَيْهِ السَّلَامُ) قَالَ الْمَرْأَةُ الَّتِي قَدْ مَلَكَتْ نَفْسَهَا غَيْرَ السَّفِيهِةِ وَ لَا الْمَوْلَى عَلَيْهَا إِنْ تَزَوَّجَهَا بِغَيْرِ وَلِيٍّ جَائِزٌ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Umar Bin Azina, from Al Fuzayl Bin Yasaar and Muhammad Bin Muslim and Zurara Bin Ayn and Bureyd in Muawiya,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'The woman who is in control of herself, being without foolishness, and there is no master upon her, if she were to get married without a guardian, it is allowed'.<sup>29</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) قَالَ الْجَارِيَةُ الْبِكْرُ الَّتِي لَهَا أَبٌ لَا تَتَزَوَّجُ إِلَّا بِإِذْنِ أَبِيهَا وَ قَالَ إِذَا كَانَتْ مَالِكَةً لِأَمْرٍهَا تَزَوَّجَتْ مَتَى شَاءَتْ .

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from Al Hassan Bin Ali, from Aban Bin Usman, from Abu Maryam,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The old girl who has a father for her, cannot get married without the permission of her father'. And he<sup>asws</sup> said: 'If she was in control of her affairs, she can get married whenever she so desires to'.<sup>30</sup>

<sup>28</sup> Al Kafi – V 5 – The Book of Marriage Ch 54 H 8

<sup>29</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 1

<sup>30</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 2

أَبَانٌ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ تَزَوَّجُ الْمَرْأَةُ مَنْ شَاءَتْ إِذَا كَانَتْ مَالِكَةً لِأَمْرِهَا فَإِنْ شَاءَتْ جَعَلَتْ وَلِيًّا .

Aban, from Abdul Rahman Bin Abu Abdullah,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The woman can get married to whoever she so desires to when she was in control of her affairs. So if she so desires to, she can appoint a guardian'.<sup>31</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَصَّالَةَ بْنِ أَيُّوبَ عَنْ عُمَرَ بْنِ أَبَانَ الْكَلْبِيِّ عَنْ مَيْسَرَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عليه السلام ) أَلْفَى الْمَرْأَةُ بِالْفَلَاةِ الَّتِي لَيْسَ فِيهَا أَحَدٌ فَأَقُولُ لَهَا لَكَ زَوْجٌ فَتَقُولُ لَا فَاتَزَوَّجُهَا قَالَ نَعَمْ هِيَ الْمُصَدَّقَةُ عَلَى نَفْسِهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Fazalat Bin Ayoub, from Umar Bin Aban Al Kalby, from Maysarat who said,

'I said to Abu Abdullah<sup>asws</sup>, 'I meet a woman in the wilderness wherein there is no one, so I am saying to her, 'Is there a husband for you?' So she is saying, 'No'. Can I marry her?' He<sup>asws</sup> said: 'Yes, she is the ratified one upon herself'.<sup>32</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُنْمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) أَنَّهُ قَالَ فِي الْمَرْأَةِ الَّتِي تَخْطُبُ إِلَى نَفْسِهَا قَالَ هِيَ أَمْلَكُ بِنَفْسِهَا تُؤَلِّي أَمْرَهَا مَنْ شَاءَتْ إِذَا كَانَ كَفُوراً بَعْدَ أَنْ تَكُونَ قَدْ نَكَحْتَ رَجُلًا قَبْلَهُ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said regarding the divorced or widowed woman whether she can propose herself. He<sup>asws</sup> said: 'She is in control of herself to turn her affair to whoever she so desires to, when he was a match, after it had been such that she had married a man before him'.<sup>33</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ ابْنِ مُسْكَانَ عَنِ الْحَسَنِ بْنِ زِيَادٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عليه السلام ) الْمَرْأَةُ الَّتِي تَخْطُبُ إِلَى نَفْسِهَا قَالَ هِيَ أَمْلَكُ بِنَفْسِهَا تُؤَلِّي أَمْرَهَا مَنْ شَاءَتْ إِذَا كَانَ لَا بَأْسَ بِهِ بَعْدَ أَنْ تَكُونَ قَدْ نَكَحْتَ زَوْجًا قَبْلَ ذَلِكَ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Ibn Muskan, from Al Hassan Bin Ziyad who said,

'I said to Abu Abdullah<sup>asws</sup>, 'The divorced or widowed woman proposes herself'. He<sup>asws</sup> said: 'She is control of herself, turning her affair to whoever she so desires to, when there is no problem with it after it so happened that she had married a husband before that'.<sup>34</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ الْعَزِيزِ الْعَبْدِيِّ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ سَأَلْتُهُ عَنْ مَمْلُوكَةٍ كَانَتْ بَيْتِي وَ بَيْنَ وَارِثٍ مَعِي فَأَعْتَقْنَاهَا وَ لَهَا أَحْ غَائِبٌ وَ هِيَ بَكْرٌ أَيْ جُوزٌ لِي أَنْ أَتَزَوَّجَهَا أَوْ لَا يَجُوزُ إِلَّا بِأَمْرِ أَحِبِّهَا قَالَ بَلَى يَجُوزُ ذَلِكَ أَنْ تَزَوَّجَهَا قُلْتُ أ فَاتَزَوَّجُهَا إِنْ أَرَدْتُ ذَلِكَ قَالَ نَعَمْ .

<sup>31</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 3

<sup>32</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 4

<sup>33</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 5

<sup>34</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 6

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abdul Aziz Al Abady, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a slave girl who was (shared) between me and an inheritor. So we both freed her, and for her was a brother who was absent, and she was a virgin. Is it allowed for me that I marry her, or is it not allowed without the order of her brother?' He<sup>asws</sup> said: 'Yes, that is allowed, if you were to marry her'. I said, 'So I can marry her if I so intend that?' He<sup>asws</sup> said: 'Yes'.<sup>35</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ زُرَّارَةَ بْنِ أَعْيَنَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ( عليه السلام ) يَقُولُ لَا يَنْفُضُ النِّكَاحَ إِلَّا الْأَبُ .

Ahmad Bin Muhammad, from Ibn Mahboub, form Ali Bin Raib, from Zurara Bin Ayn who said,

'I heard Abu Ja'far<sup>asws</sup> saying: 'None can revoke the marriage except for the father'.<sup>36</sup>

بَابِ اسْتِئْذَانِ الْبُكَرِ وَمَنْ يَجِبُ عَلَيْهِ اسْتِئْذَانُهَا وَمَنْ لَا يَجِبُ عَلَيْهِ

## Chapter 56 – Permission of (marriage of) the virgin and the one Obligated upon permitting her, and the one on who there is no such Obligation

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنِ عَلَاءِ بْنِ رَزِينٍ عَنِ ابْنِ أَبِي بَعْفُورٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ لَا تَزُوجُ ذَوَاتِ الْأَبَاءِ مِنَ الْأَبْكَارِ إِلَّا بِإِذْنِ آبَائِهِنَّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ala'a Bin Razeyn, from Ibn Abu Yafour,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The virgins who are with a father cannot get married except by the permission of their fathers'.<sup>37</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنِ عَلَاءِ بْنِ رَزِينٍ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عليهما السلام ) قَالَ لَا تَسْتَأْمِرُ الْجَارِيَةَ إِذَا كَانَتْ بَيْنَ أَبَوَيْهَا لَيْسَ لَهَا مَعَ الْأَبِ أَمْرٌ وَقَالَ يَسْتَأْمِرُهَا كُلُّ أَحَدٍ مَا عَدَا الْأَبَ .

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

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) having said: 'The girl cannot appoint (to get her married) when she was between the two parents, there would be no command for her'. And he<sup>asws</sup> said: 'She can appoint (a guardian from people) in the absence of the father'.<sup>38</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) فِي رَجُلٍ يُرِيدُ أَنْ يُزَوِّجَ أخته قَالَ يُؤَامِرُهَا فَإِنْ سَكَتَتْ فَهِيَ إِفْرَارُهَا وَإِنْ أَبَتْ لَمْ يُزَوِّجْهَا وَإِنْ قَالَتْ زَوِّجْنِي فَلَنَا فَلْيُزَوِّجْهَا مِمَّنْ تَرْضَى وَالتَّيْبِئَةَ فِي حِجْرِ الرَّجُلِ لَا يُزَوِّجُهَا إِلَّا بِرِضَاهَا .

<sup>35</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 7

<sup>36</sup> Al Kafi – V 5 – The Book of Marriage Ch 55 H 8

<sup>37</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 1

<sup>38</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 2

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Dawood Bin Sirham,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who wants to get his sister married off. He<sup>asws</sup> said: 'He can permit it, so if she remains silent, so it is her agreement, but if she refuses, he cannot get her married; and if she says, 'Get me married to so and so', so let him get married to the one she is pleased with; and (as for) the orphan who is in the care of the man, he cannot get her married off except by her consent'.<sup>39</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عَثْمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي الْجَارِيَةِ يُرَوِّجُهَا أَبُوهَا بِغَيْرِ رِضَا مِنْهَا قَالَ لَيْسَ لَهَا مَعَ أَبِيهَا أَمْرٌ إِذَا أَنْكَحَهَا جَارَ نِكَاحُهُ وَإِنْ كَانَتْ كَارِهَةً

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the girl getting married off by her father without her consent. He<sup>asws</sup> said: 'There is no command with her with her father. If he was to get her married off, the marriage would be allowed, even if she dislikes it'.

قَالَ وَ سُئِلَ عَنْ رَجُلٍ يُرِيدُ أَنْ يُزَوِّجَ أُخْتَهُ قَالَ يُؤَمِّرُهَا فَإِنْ سَكَتَتْ فَهِيَ إِقْرَارُهَا وَإِنْ أَبَتْ لَمْ يُرَوِّجْهَا .

He (the narrator) said, 'And he<sup>asws</sup> was asked about a man who wanted to get his sister married off. He<sup>asws</sup> said: 'He can permit her, and if she remains silent, so it is her agreement, but if she refuses, he cannot get her married'.<sup>40</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ أَبَانَ عَنْ فَضْلِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ لَا تُسْتَأْمَرُ الْجَارِيَةُ الَّتِي بَيْنَ أَبَوَيْهَا إِذَا أَرَادَ أَبُوهَا أَنْ يُرَوِّجَهَا هُوَ أَنْظَرُ لَهَا وَ أَمَّا النَّيِّبُ فَإِنَّهَا تُسْتَأْدَنُ وَ إِنْ كَانَتْ بَيْنَ أَبَوَيْهَا إِذَا أَرَادَا أَنْ يُرَوِّجَاهَا .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ja'far Bin Sama'at, from Aban, from Fazl Bin Abdul Malik,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The girl has no permission when she is between her two parents, and when her father intends to get her married, he would be considerate for her. And as for the divorced and a widow, when they (her parents) intend to get her married so her consent has to be taken, even if she was between her two parents'.<sup>41</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ عَبْدِ اللَّهِ بْنِ الصَّلْتِ قَالَ سَأَلْتُ أَبَا الْحَسَنِ الرَّضَا ( عَلَيْهِ السَّلَام ) عَنِ الْجَارِيَةِ الصَّغِيرَةِ يُرَوِّجُهَا أَبُوهَا أَلَهَا أَمْرٌ إِذَا بَلَغَتْ قَالَ لَا لَيْسَ لَهَا مَعَ أَبِيهَا أَمْرٌ

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Abdullah Bin Al Salt who said,

'I asked Abu Al-Hassan Al-Reza<sup>asws</sup> about the young girl getting married off by her father, is there a command for her when she reaches adulthood?' He<sup>asws</sup> said: 'No, there is no command for her with her father'.

<sup>39</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 3

<sup>40</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 4

<sup>41</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 5

قَالَ وَ سَأَلْتُهُ عَنِ الْبِكْرِ إِذَا بَلَغَتْ مَبْلَغَ النِّسَاءِ أَلَهَا مَعَ أَبِيهَا أَمْرٌ قَالَ لَا لَيْسَ لَهَا مَعَ أَبِيهَا أَمْرٌ مَا لَمْ تَكْبُرِ .

He (the narrator) said, 'And I asked him<sup>asws</sup> about the virgin, when she reaches the adulthood of the women, is there a command for her with her father?' He<sup>asws</sup> said: 'No, there is no command for her with her father for as long as she has not grown up'.<sup>42</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ مَهْزَبَانَ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْأَشْعَرِيِّ قَالَ كَتَبَ بَعْضُ بَنِي عَمِّي إِلَى أَبِي جَعْفَرِ الثَّانِي ( عَلَيْهِ السَّلَام ) مَا نَقُولُ فِي صَبِيَّةٍ زَوَّجَهَا عُمُهَا فَلَمَّا كَبُرَتْ أَبَتْ التَّرْوِيجَ فَكَتَبَ بِحَظِّهِ لَا تُكْرَهُ عَلَى ذَلِكَ وَ الْأَمْرُ أَمْرُهَا .

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

'One of the Clan of Umayya wrote to Abu Ja'far<sup>asws</sup> the 2<sup>nd</sup>, 'What are you<sup>asws</sup> saying regarding the young girl being married off by her uncle, so when she grows old, she refuses the marriage?' So he<sup>asws</sup> wrote by his<sup>asws</sup> own handwriting: 'She would not be compelled upon that, and the command is her command'.<sup>43</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرِ قَالَ قَالَ أَبُو الْحَسَنِ ( عَلَيْهِ السَّلَام ) فِي الْمَرْأَةِ الْبِكْرِ إِذْنُهَا صُمَاتُهَا وَ النَّيِّبُ أَمْرُهَا إِلَيْهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, form Ahmad Bin Muhammad Bin Abu Nasr who said,

'Abu Al-Hassan<sup>asws</sup> said regarding the virgin woman, her permission is her silence, and the divorced/widow, her command is in her (control)'.<sup>44</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَام ) عَنِ الصَّبِيَّةِ يُرَوِّجُهَا أَبُوهَا ثُمَّ يَمُوتُ وَ هِيَ صَغِيرَةٌ فَتَكْبُرُ قَبْلَ أَنْ يَدْخُلَ بِهَا زَوْجُهَا أَوْ يَجُوزُ عَلَيْهَا التَّرْوِيجُ أَوْ الْأَمْرُ إِلَيْهَا قَالَ يَجُوزُ عَلَيْهَا تَرْوِيجُ أَبِيهَا .

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

'I asked Abu Al-Hassan<sup>asws</sup> about the young girl getting married off by her father, then he dies and she is young. So she grows older before her husband has copulated with her. Is the marriage allowed upon her, or is the command remains with her?' He<sup>asws</sup> said: 'The marriage of her father is allowed upon her'.<sup>45</sup>

<sup>42</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 6

<sup>43</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 7

<sup>44</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 8

<sup>45</sup> Al Kafi – V 5 – The Book of Marriage Ch 56 H 9

**باب الرَّجُلِ يُرِيدُ أَنْ يُزَوِّجَ ابْنَتَهُ وَ يُرِيدُ أَبُوهُ أَنْ يُزَوِّجَهَا رَجُلًا آخَرَ**

**Chapter 57 – The man wants to get married off, and his father wants her to get married to another man**

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) ( الْجَارِيَةُ يُرِيدُ أَبُوهَا أَنْ يُزَوِّجَهَا مِنْ رَجُلٍ وَ يُرِيدُ جَدُّهَا أَنْ يُزَوِّجَهَا مِنْ رَجُلٍ آخَرَ فَقَالَ الْجَدُّ أَوْلَى بِذَلِكَ مَا لَمْ يَكُنْ مُضَارًّا إِنَّ لَمْ يَكُنْ الْأَبُ زَوَّجَهَا قَبْلَهُ وَ يَجُوزُ عَلَيْهَا تَزْوِيجُ الْأَبِ وَ الْجَدِّ .

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

'I said to Abu Abdullah<sup>asws</sup>, 'The girl, her father wants her to get married to a man, but her grandfather wants to get her married to another man'. So he<sup>asws</sup> said: 'The grandfather is higher with that for as long as there is no harm, if it has not happened that the father has got her married before him; and the marriage of the father and the grand-father is allowed upon her'.<sup>46</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عليهما السلام) قَالَ إِذَا زَوَّجَ الرَّجُلُ ابْنَتَهُ فَهُوَ جَائِزٌ عَلَى ابْنِهِ وَ لِابْنِهِ أَيْضًا أَنْ يُزَوِّجَهَا فَقُلْتُ فَإِنْ هُوَ أَبُوهَا رَجُلًا وَ جَدُّهَا رَجُلًا فَقَالَ الْجَدُّ أَوْلَى بِنِكَاحِهَا .

Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ala'a Bin Razeyn, from Muhammad Bin Muslim,

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup> having said: 'When the man gets his daughter married, so it is allowed upon his son; and for the son as well, if he was to get her married off'. So I said, 'Supposing her father desires a man, and her grand-father desires (another) man (for her)?' So he<sup>asws</sup> said: 'The grandfather is higher with getting her married'.<sup>47</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ عَنْ أَبِي الْمُعْرَاءِ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِنِّي لَأَذَاتُ يَوْمٍ عِنْدَ زِيَادِ بْنِ عُبَيْدِ اللَّهِ الْحَارِثِيِّ إِذْ جَاءَ رَجُلٌ يَسْتَعِدِّي عَلَيَّ أَبِيهِ فَقَالَ أَصْلَحَ اللَّهُ الْأَمِيرَ إِنَّ أَبِي زَوَّجَ ابْنَتِي بِغَيْرِ إِذْنِي فَقَالَ زِيَادٌ لِحُجْسَانِهِ الَّذِينَ عِنْدَهُ مَا تَقُولُونَ فِيمَا يَقُولُ هَذَا الرَّجُلُ قَالُوا نِكَاحُهُ بَاطِلٌ

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Abu Al Magra'a, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'One day I<sup>asws</sup> was in the presence of Ziyad Bin Ubeydullah Al-Harisy, when a man came over claiming upon his father, saying, 'May Allah<sup>azwj</sup> Keep the commander well. My father got my daughter married off without my permission. So Ziyad said to his gathered ones who were with him, 'What are you all saying regarding what this man is saying?' They said, 'His giving in marriage is invalid'.

قَالَ ثُمَّ أَقْبَلَ عَلَيَّ فَقَالَ مَا تَقُولُ يَا أَبَا عَبْدِ اللَّهِ فَلَمَّا سَأَلَنِي أَقْبَلْتُ عَلَى الَّذِينَ أَجَابُوهُ فَقُلْتُ لَهُمْ أَلَيْسَ فِيمَا تَرَوُونَ أَنْتُمْ عَنْ رَسُولِ اللَّهِ (صلى الله عليه وآله) أَنَّ رَجُلًا جَاءَ يَسْتَعِدِّي عَلَيَّ أَبِيهِ فِي مِثْلِ هَذَا فَقَالَ لَهُ رَسُولُ اللَّهِ (صلى الله عليه وآله) أَنْتَ وَ مَالِكَ لِأَبْنِكَ قَالُوا بَلَى فَقُلْتُ لَهُمْ فَكَيْفَ يَكُونُ هَذَا وَ هُوَ وَ مَالَهُ لِأَبِيهِ وَ لَا يَجُوزُ نِكَاحُهُ [عَلَيْهِ]

<sup>46</sup> Al Kafi – V 5 – The Book of Marriage Ch 57 H 1

<sup>47</sup> Al Kafi – V 5 – The Book of Marriage Ch 57 H 2

He<sup>asws</sup> said: 'Then he turned towards me<sup>asws</sup>, so he said, 'What are you<sup>asws</sup> saying, O Abu Abdullah<sup>asws</sup>?' So when he asked me<sup>asws</sup>, I<sup>asws</sup> turned towards the ones who had answered him, so I<sup>asws</sup> said to them: 'Is it not among what you are reporting from Rasool-Allah<sup>saww</sup>, that a man came over to him<sup>saww</sup> claiming upon his father, in a situation similar to this, so Rasool-Allah<sup>saww</sup> said to him: 'You and your wealth are for your father?' They said, 'Yes'. So I<sup>asws</sup> said to them: 'So how can this be and he as well as his wealth is for his father, and his (grand-father's) marriage is not allowed upon him?'

قَالَ فَأَخَذَ بِقَوْلِهِمْ وَتَرَكَ قَوْلِي .

He<sup>asws</sup> said: 'But, he took to their words, and neglected my<sup>asws</sup> words'.<sup>48</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ [جَمِيعًا] عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ وَ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِذَا زَوَّجَ الْأَبُ وَ الْجَدُّ كَانَ التَّرْوِيجُ لِلأَوَّلِ فَإِنْ كَانَ جَمِيعًا فِي حَالٍ وَاحِدَةٍ فَالْجَدُّ أَوْلَى .

Ali Bin Ibrahim, from his father, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Ibn Abu Umeyr, form Hisham Bin Salim, and Muhammad Bin Hakeym,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When the father and the grand-father gives in marriage, the (valid) marriage would be of the first one. So if it was together, in one situation, so the grand-father is higher'.<sup>49</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ أَبَانَ عَنِ الْفَضْلِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِذَا زَوَّجَ ابْنَةُ أَبِيهِ وَ كَانَ أَبُوهَا حَيًّا وَ كَانَ الْجَدُّ مَرْضِيًّا جَازَ قُلْنَا فَإِنْ هُوَ أَبُو الْجَارِيَةِ هُوَ وَ هُوَ الْجَدُّ هُوَ وَ هُمَا سَوَاءٌ فِي الْعَدْلِ وَ الرِّضَا قَالَ أَحَبُّ إِلَيَّ أَنْ تَرْضَى بِقَوْلِ الْجَدِّ .

Humeyd Bin Ziyad, form Al Hassan Bin Muhammad Bin Sama'at, from Ja'far Bin Sama'at, from Aban, from Al Fazl Bin Abdul Malik,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'The grand-father, when he gets the daughter of his son married, and her father was alive, and the grand-father was sick, it is allowed'. We said, 'Supposing the father of the girl desires (one man) and the grand-father desires (another man), and they are both equal in the justice, and the consent?' He<sup>asws</sup> said: 'It would be more beloved to me<sup>asws</sup> if she was pleased with the word of the grand-father'.<sup>50</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرٍ عَنْ دَاوُدَ بْنِ الْحُصَيْنِ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ إِذَا زَوَّجَ الرَّجُلُ فَأَبَى ذَلِكَ وَ الْوَالِدُ فَإِنَّ تَرْوِيجَ الْأَبِ جَائِزٌ وَ إِنْ كَرِهَ الْجَدُّ لَيْسَ هَذَا مِثْلَ الَّذِي يَفْعَلُهُ الْجَدُّ نَمَّ يَرِيدُ الْأَبُ أَنْ يَرُدَّهُ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'If the man gets (his daughter) married, but his father refuses that, so the marriage of the father is

<sup>48</sup> Al Kafi – V 5 – The Book of Marriage Ch 57 H 3

<sup>49</sup> Al Kafi – V 5 – The Book of Marriage Ch 57 H 4

<sup>50</sup> Al Kafi – V 5 – The Book of Marriage Ch 57 H 5

allowed, even if the grand-father dislikes it. This is not like which the grand-father does, then the father wants to reject it'.<sup>51</sup>

### بَاب الْمَرْأَةِ يُرْوَجُّهَا وَلِيَانِ غَيْرِ الْأَبِ وَالْجَدِّ كُلِّ وَاحِدٍ مِنْ رَجُلٍ آخَرَ

## Chapter 58 – The woman is married off by two guardians, apart from the father and the grand-father, each one to another man

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ نَجْرَانَ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي امْرَأَةٍ أَنْكَحَهَا أَخُوهَا رَجُلًا ثُمَّ أَنْكَحَهَا أُمُّهَا بَعْدَ ذَلِكَ رَجُلًا وَخَالَهَا أَوْ أَخًا لَهَا صَغِيرًا فَدَخَلَ بِهَا فَحَبَلَتْ فَاحْتَكَمَا فِيهَا فَأَقَامَ الْأَوَّلُ الشُّهُودَ فَالْحَقَّهَا بِالْأَوَّلِ وَجَعَلَ لَهَا الصَّدَاقَيْنِ جَمِيعًا وَ مَنَعَ زَوْجَهَا الَّذِي حَقَّتْ لَهُ أَنْ يَدْخَلَ بِهَا حَتَّى تَضَعَ حَمْلَهَا ثُمَّ أَلْحَقَ الْوَلَدَ بِأَبِيهِ .

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> judged regarding a woman whose brother got her married to a man, then her mother got her married after that to a (another) man, and her maternal uncle, or a brother of her's was young. So he (the second husband) copulated with her, and she fell pregnant. So he<sup>asws</sup> judged between the two of them. So the first one established witnesses, so he<sup>asws</sup> attached her with the first one, and made two dowers to be for her, altogether, and forbade her husband who justified it that he should copulate with her until she places her burden (gives birth). Then he<sup>asws</sup> attached the child with its father'.<sup>52</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعًا عَنْ صَفْوَانَ عَنِ ابْنِ مُسْكَانَ عَنْ وَلِيِّدِ بْنِ أَبِي الْأَسْفَاطِ قَالَ سَأَلَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) وَ أَنَا عِنْدَهُ عَنْ جَارِيَةٍ كَانَ لَهَا أَخَوَانِ زَوَّجَهَا الْأَكْبَرُ بِالْكَوْفَةِ وَ زَوَّجَهَا الْأَصْغَرَ بِأَرْضِ أُخْرَى قَالَ الْأَوَّلُ بِهَا أَوْلَى إِلَّا أَنْ يَكُونَ الْآخَرُ قَدْ دَخَلَ بِهَا فَإِنْ دَخَلَ بِهَا فَهِيَ امْرَأَتُهُ وَ نِكَاحُهُ جَائِزٌ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan altogether, from Safwan, from Ibn Muskan, from Waleed Baya Al Asfaat who said,

'Abu Abdullah<sup>asws</sup> was asked and I was in his<sup>asws</sup> presence, about a girl who had brothers, and the elder one got her married in Al-Kufa, and the younger one got her married in another land. He<sup>asws</sup> said: 'The first is one who is higher with her, except if it so happened that the later one had copulated with her. So if he had copulated with her, so she is his wife, and his marriage is allowed'.<sup>53</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَرِيعٍ قَالَ سَأَلَهُ رَجُلٌ عَنْ رَجُلٍ مَاتَ وَ تَرَكَ أَخَوَيْنِ وَ الْبَيْتَ وَ الْإِبْنَةَ صَغِيرَةً فَعَمَدَ أَحَدُ الْأَخَوَيْنِ الْوَصِيَّ فَزَوَّجَ الْإِبْنَةَ مِنْ ابْنِهِ ثُمَّ مَاتَ أَبُو الْإِبْنِ الْمَرْوَجِ فَلَمَّا أَنْ مَاتَ قَالَ الْآخَرُ أَخِي لَمْ يُزَوَّجْ ابْنَةُ فَزَوَّجَ الْجَارِيَةَ مِنْ ابْنِهِ فَقِيلَ لِلْجَارِيَةِ أَيُّ الرَّوَجَيْنِ أَحَبُّ إِلَيْكَ الْأَوَّلُ أَوْ الْآخَرُ قَالَتْ الْآخَرُ ثُمَّ إِنَّ الْآخَرَ الثَّانِي مَاتَ وَ لِلْأَخِ الْأَوَّلِ ابْنٌ أَكْبَرُ مِنَ الْإِبْنِ الْمَرْوَجِ فَقَالَ لِلْجَارِيَةِ اخْتَارِي أَيُّهُمَا أَحَبُّ إِلَيْكَ الرَّوَجِ الْأَوَّلُ أَوْ الرَّوَجِ الْآخَرُ

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

<sup>51</sup> Al Kafi – V 5 – The Book of Marriage Ch 57 H 6

<sup>52</sup> Al Kafi – V 5 – The Book of Marriage Ch 58 H 1

<sup>53</sup> Al Kafi – V 5 – The Book of Marriage Ch 58 H 2

'A man asked him<sup>asws</sup> about a man who died and left two brothers and the daughter, and the daughter was young. So one of the brothers was the executor of the will, so he got the daughter married to his own son. Then the father who got the son married, died. So when he died, the other brother said, 'He did not get his son married, so he got the girl married to his own son. So it was said to the girl, which of the two husbands is more beloved to you, the former or the later?' She said, 'The later'. Then the second brother died, and for the first brother was son older than the son of the one who had given in marriage. So he said to the girl, 'Choose which of the two is more beloved to you, the first husband or the last?'

فَقَالَ الرَّوَايَةُ فِيهَا أَنَّهَا لِلزَّوْجِ الْأَخِيرِ وَ ذَلِكَ أَنَّهَا [تَكُونُ] قَدْ كَانَتْ أَدْرَكَتْ حِينَ زَوْجِهَا وَ لَيْسَ لَهَا أَنْ تَنْقُضَ مَا عَقَدْتُهُ بَعْدَ إِدْرَاكِهَا .

So he (the narrator) said, 'The report has in it that she is for the later husband, and that is because she had happened to have reached adulthood when she was married off, and it is not for her that she breaks what she had bonded to, after her adulthood'.<sup>54</sup> (p.s. – This is not a Hadeeth)

#### باب الْمَرْأَةِ تُوَلَّى أَمْرَهَا رَجُلًا لِيُزَوِّجَهَا مِنْ رَجُلٍ فَرَزَّوَجَهَا مِنْ غَيْرِهِ

### **Chapter 59 – The woman turn her affair to a man to get her married off to a man, but he marries her off to someone else**

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي امْرَأَةٍ وَ لَتْ أَمْرَهَا رَجُلًا فَقَالَتْ زَوِّجْنِي فَلَانًا فَقَالَ إِنِّي لَا أَرْوِّجُكَ حَتَّى تُشْهَدِي لِي أَنَّ أَمْرَكَ بِيَدِي فَأَشْهَدَتْ لَهُ فَقَالَ عِنْدَ التَّرْوِيجِ لِلَّذِي يَخْطُبُهَا يَا فَلَانُ عَلَيْكَ كَذَا وَ كَذَا قَالَ نَعَمْ فَقَالَ هُوَ لِلْقَوْمِ اشْهَدُوا أَنَّ ذَلِكَ لَهَا عِنْدِي وَ قَدْ زَوَّجْتُهَا نَفْسِي فَقَالَتِ الْمَرْأَةُ لَا وَ لَا كَرَامَةَ وَ مَا أَمْرِي إِلَّا بِيَدِي وَ مَا وَلَيْتُكَ أَمْرِي إِلَّا حَيَاءً مِنَ الْكَلَامِ قَالَ تَنْزَعُ مِنْهُ وَ تُوجِعُ رَأْسَهُ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a woman who authorised her matter to a man, so she said, 'Get me married to so and so'. So he said, 'I will not get you married until you bear witness for me that your matter is in my hands'. So she bore witness for him. So he said during the marriage to the one who had proposed to her, 'O so and so, upon you is such and such (a debt)'. He said, 'Yes'. So he said to the group of people who were present, 'That is present for her with me, and that I have married her myself'. So the woman said, 'No, and there is no prestige, and my command is not except in my own hands, and I had not authorised my command to you except due to embarrassment from the speaking (myself)'. He<sup>asws</sup> said: 'She would be snatched away from him, and he should be given a (knock on the) head (to be shamed)'.<sup>54</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ النُّعْمَانَ عَنْ أَبِي الصَّبَّاحِ الْكِنَانِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) مِثْلَهُ .

<sup>54</sup> Al Kafi – V 5 – The Book of Marriage Ch 58 H 3

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Numan, from Abu Al Sabbah Al Kinany, from Abu Abdullah<sup>asws</sup> – similar to it.<sup>55</sup>

### بَابُ أَنَّ الصَّغَارَ إِذَا زُوِّجُوا لَمْ يَأْتِلُفُوا

## Chapter 60 – The young ones, when they are married off, would not be harmonising

مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ هِشَامِ بْنِ الْحَكَمِ عَنِ أَبِي عَبْدِ اللَّهِ أَوْ أَبِي الْحَسَنِ ( عليه السلام ) قَالَ قِيلَ لَهُ إِنَّا نَزُوجُ صِبْيَانَنَا وَ هُمْ صِغَارٌ قَالَ إِذَا زُوِّجُوا وَ هُمْ صِغَارٌ لَمْ يَكُونُوا يَأْتِلُفُوا .

Muhammad Bin Ismail, from Al Fazl Bin Shazaan, and Ali Bin Ibrahim, from his father, altogether, from Ibn Abu Umeyr, form Hisham Bin Al Hakam,

(It has been narrated) from Abu Abdullah<sup>asws</sup> or Abu Al Hassan<sup>asws</sup>, said, 'It was said to him<sup>asws</sup> (by the narrator that) 'We tend to get our your children married when they are young'. So he<sup>asws</sup> said: 'When they are married and they are small, they fail to develop good relationship'.<sup>56</sup>

### بَابُ الْحَدِّ الَّذِي يُدْخَلُ بِالْمَرْأَةِ فِيهِ

## Chapter 61 – The (age) limit which the woman can be copulated with

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرِ عَنْ عَبْدِ الْكَرِيمِ بْنِ عَمْرٍو عَنْ أَبِي بَصِيرٍ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ لَا يُدْخَلُ بِالْجَارِيَةِ حَتَّى يَأْتِيَ لَهَا تِسْعُ سِنِينَ أَوْ عَشْرُ سِنِينَ .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'One cannot copulate with the girl until there come to her nine years or ten years'.<sup>57</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنِ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنِ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ ابْنِ أَبِي عُمَيْرٍ عَنِ حَمَادِ عَنِ الْحَلْبِيِّ عَنِ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ إِذَا تَزَوَّجَ الرَّجُلُ الْجَارِيَةَ وَ هِيَ صَغِيرَةٌ فَلَا يُدْخَلُ بِهَا حَتَّى يَأْتِيَ لَهَا تِسْعُ سِنِينَ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'When the man gets married to the girl and she is young, so he should not copulated with her until there come to her nine years'.<sup>58</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ لَا يُدْخَلُ بِالْجَارِيَةِ حَتَّى يَأْتِيَ لَهَا تِسْعُ سِنِينَ أَوْ عَشْرُ سِنِينَ .

<sup>55</sup> Al Kafi – V 5 – The Book of Marriage Ch 59 H 1

<sup>56</sup> Al Kafi – V 5 – The Book of Marriage Ch 60 H 1

<sup>57</sup> Al Kafi – V 5 – The Book of Marriage Ch 61 H 1

<sup>58</sup> Al Kafi – V 5 – The Book of Marriage Ch 61 H 2

Humejd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Safwan Bin Yahya, from Musa Bin Bakr, from Zurara,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said: 'One cannot copulated with the girl until there come to her nine years, or ten years'.<sup>59</sup>

عَنْهُ عَنْ زَكَرِيَّا الْمُؤْمِنِ أَوْ بَيْنَهُ وَ بَيْنَهُ رَجُلٌ وَ لَا أَعْلَمُهُ إِلَّا حَدَّثَنِي عَنْ عَمَّارِ السَّجِسْتَانِيِّ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) يَقُولُ لِمَوْلَى لَهُ أَنْطَلِقْ فَقُلْ لِلْقَاضِي قَالَ رَسُولُ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) حَدُّ الْمَرْأَةِ أَنْ يُدْخَلَ بِهَا عَلَى زَوْجِهَا ابْنَةُ تِسْعِ سِنِينَ .

From him, from Zakariyya Al Momin, or between him and a man and I do not know except that he narrated to me from Ammar Al Sajistany who said,

'I heard Abu Abdullah<sup>asws</sup> saying to a slave of his<sup>asws</sup>, 'Go and say to the judge: 'Rasool-Allah<sup>saww</sup> said: 'A limit of the woman that she can be copulated with by her husband, is a girl of nine years'.<sup>60</sup>

### باب الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ وَ يَتَزَوَّجُ ابْنَةُ ابْنَتِهَا

## Chapter 62 – The man marries the woman, and his son marries her daughter

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عِيصِ بْنِ الْقَاسِمِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنِ الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ ثُمَّ خَلَفَ عَلَيْهَا رَجُلٌ بَعْدَ فَوَلَدَتْ لِلْآخِرِ هَلْ يَجِلُّ وَلَدُهَا مِنَ الْآخِرِ لَوْلَدِ الْأَوَّلِ مِنْ غَيْرِهَا قَالَ نَعَمْ

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

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about the man who divorced his wife, then she was married by a man afterwards, so she gave birth for the later one. Are her children from the later one Permissible unto the children of the former one, from other than herself?' He<sup>asws</sup> said: 'Yes'.

قَالَ وَ سَأَلْتُهُ عَنْ رَجُلٍ أَعْتَقَ سُرْبِيَّةً لَهُ ثُمَّ خَلَفَ عَلَيْهَا رَجُلٌ بَعْدَهُ ثُمَّ وَلَدَتْ لِلْآخِرِ هَلْ يَجِلُّ وَلَدُهَا لَوْلَدِ الَّذِي أَعْتَقَهَا قَالَ نَعَمْ .

He (the narrator) said, 'And I asked him<sup>asws</sup> about a man who freed a concubine of his, then she was married by a man afterwards, then she gave birth for the later one. Are her children Permissible for the one who freed her?' He<sup>asws</sup> said: 'Yes'.<sup>61</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ صَفْوَانَ وَ أَحْمَدُ بْنُ مُحَمَّدِ بْنِ الْعَاصِمِيِّ عَنْ عَلِيِّ بْنِ الْحَسَنِ بْنِ فَضَّالٍ عَنِ الْعَبَّاسِ بْنِ عَامِرٍ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ شُعَيْبِ بْنِ الْعَقْرِفُوفِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يَكُونُ لَهُ الْجَارِيَّةُ يَقَعُ عَلَيْهَا بِطَلَبٍ وَ لَدَهَا فَلَمْ يُرْزَقْ مِنْهَا وَ لَدَّأَ فَوَهَبَهَا لِأَخِيهِ أَوْ بَاعَهَا فَوَلَدَتْ لَهُ أَوْ لَدَّأَ أَوْ يَزُوجُ وَ لَدَّ مِنْ غَيْرِهَا وَ لَدَّ أَخِيهِ مِنْهَا فَقَالَ أَعَدَّ عَلِيٌّ فَأَعَدْتُ عَلَيْهِ فَقَالَ لَا بَأْسَ بِهِ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Safwa, and Ahmad Bin Muhammad Al Asimy, form Ali Bin Al Hassan Bin Fazzal, from Al Abbas Bin Aamir, from Safwan Bin Yahya, from Shuayb Al Aqarquy who said,

<sup>59</sup> Al Kafi – V 5 – The Book of Marriage Ch 61 H 3

<sup>60</sup> Al Kafi – V 5 – The Book of Marriage Ch 61 H 4

<sup>61</sup> Al Kafi – V 5 – The Book of Marriage Ch 62 H 1

'I asked Abu Abdullah<sup>asws</sup> about the man who happened to have the slave girl for him. He fell upon her seeking her child, but was not Graced with a child from her. So he gifted her to his brother, or sold her, so she gave birth to children for him. Can his children from other than her marry the children of his brother from her?' So he<sup>asws</sup> said: 'He<sup>asws</sup> told me to repeat it, so I repeated it to him<sup>asws</sup>. So he<sup>asws</sup> said : 'There is no problem with it'.<sup>62</sup>

وَ عَنْهُ عَنِ الْحُسَيْنِ بْنِ خَالِدِ الصَّيْرَفِيِّ قَالَ سَأَلْتُ أَبَا الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) عَنْ هَذِهِ الْمَسْأَلَةِ فَقَالَ كَرَّرَهَا عَلَيَّ قُلْتُ لَهُ إِنَّهُ كَانَتْ لِي جَارِيَةٌ فَلَمْ تُرْزَقْ مِنِّي وَلِدًا فَبِعْتُهَا فَوَلَدَتْ مِنْ غَيْرِي وَلِدًا وَ لِي وَلَدٌ مِنْ غَيْرِهَا فَارْتَوَجُّ وَلَدِي مِنْ غَيْرِهَا وَلَدَهَا قَالَ تُرْتَوَجُّ مَا كَانَ لَهَا مِنْ وَلَدٍ قَبْلَكَ يَقُولُ قَبْلَ أَنْ يَكُونَ لَكَ

And from him, from Al Husayn Bin Khalid Al Sayrafi who said,

'I asked Abu Al-Hassan<sup>asws</sup> about this problem, so he<sup>asws</sup> said: 'Repeat it to me<sup>asws</sup>'. I said to him<sup>asws</sup>, 'There used to be a slave girl for me, but she was not Graced with a child from me. So I sold her, and she gave birth to children from someone else, and for me are children from other than her. So, can I give my children from other than her in marriage to her children?' He<sup>asws</sup> said: 'You can give in marriage to what was for her from the children before you, before she came to be for you'.<sup>63</sup>

وَ عَنْهُ عَنِ زَيْدِ بْنِ جُهَيْمِ الْهَلَالِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ وَ يُرْوَجُّ ابْنَهُ ابْنَتَهَا فَقَالَ إِنْ كَانَتْ الْإِبْنَةُ لَهَا قَبْلَ أَنْ يَتَزَوَّجَ بِهَا فَلَا بَأْسَ .

And from him, from Zayd Bin Al Juhaym Al Hilaly who said,

'I asked Abu Abdullah<sup>asws</sup> about the man who married the woman, and his son married her daughter. So he<sup>asws</sup> said: 'If the daughter was for her before he married her, so there is no problem'.<sup>64</sup>

### باب تَرْوِيجِ الصِّبْيَانِ

## Chapter 63 – Marriage of the children

مُحَمَّدُ بْنُ يَحْيَى عَنِ عَبْدِ اللَّهِ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنْ أَبِي بَانَ بْنِ عُمَانَ عَنِ الْفَضْلِ بْنِ عَبْدِ الْمَلِكِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يُرْوَجُّ ابْنَهُ وَ هُوَ صَغِيرٌ قَالَ لَا بَأْسَ قُلْتُ يَجُوزُ طَلَاقُ الْأَبِ قَالَ لَا قُلْتُ عَلَى مَنْ الصَّدَاقُ قَالَ عَلَى الْأَبِ إِنْ كَانَ ضَمِنَهُ لَهُمْ وَ إِنْ لَمْ يَكُنْ ضَمِنَهُ فَهُوَ عَلَى الْعُلَامِ إِلَّا أَنْ لَا يَكُونَ لِلْعُلَامِ مَالٌ فَهُوَ ضَامِنٌ لَهُ وَ إِنْ لَمْ يَكُنْ ضَمِنَ وَ قَالَ إِذَا زَوَّجَ الرَّجُلُ ابْنَهُ فَذَلِكَ إِلَى أَبِيهِ وَ إِذَا زَوَّجَ الْإِبْنَةَ جَارًا .

Muhammad Bin Yahya, form Abdullah Bin Muhammad, from Ali Bin Al hakam, from Aban Bin Usman, from Al Fazl Bin Abdul Malik who said,

'I asked Abu Abdullah<sup>asws</sup> about the man who got his son married and he was young. He<sup>asws</sup> said: 'There is no problem'. I said, 'Is a divorce of the father allowed?' He<sup>asws</sup> said: 'No'. I said, 'Upon whom is the dower?' He<sup>asws</sup> said: 'Upon the father, if he was responsible for him to them, and if he did not happen to be any wealth for the boy, so he would be upon the boy, unless there does not happen to be any wealth for the boy, so he would be responsible for it, even if he did not take responsibility for it (the

<sup>62</sup> Al Kafi – V 5 – The Book of Marriage Ch 62 H 2

<sup>63</sup> Al Kafi – V 5 – The Book of Marriage Ch 62 H 3

<sup>64</sup> Al Kafi – V 5 – The Book of Marriage Ch 62 H 4

marriage)'. And he<sup>asws</sup> said: 'When the man gets his son married, so that is up to him (the son), and when he gets his daughter married, so it is allowed'.<sup>65</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ فَضَّالٍ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ عُبَيْدِ بْنِ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يُرَوِّجُ ابْنَهُ وَهُوَ صَغِيرٌ قَالَ إِنْ كَانَ لِابْنِهِ مَالٌ فَعَلَيْهِ الْمَهْرُ وَإِنْ لَمْ يَكُنْ لِابْنِهِ مَالٌ فَلِأَبٍ ضَامِنٌ الْمَهْرِ ضَمِينَ أَوْ لَمْ يَضْمَنْ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali Bin Fazzal, from Abdullah Bin Bukeyr, form Ubeyd Bin Zurara who said,

'I asked Abu Abdullah<sup>asws</sup> about the man who got his son married and he was young. He<sup>asws</sup> said: 'If there was wealth for his son, so the dower is upon him, and there did not happen to be any wealth for the son, so the father is responsible for the dower, whether he undertakes the responsibility or does not undertake the responsibility'.<sup>66</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ كَانَ لَهُ وَلَدٌ فَزَوَّجَ مِنْهُمْ اثْنَيْنِ وَفَرَضَ الصَّدَاقَ ثُمَّ مَاتَ مِنْ أَيْنٍ يُحْسَبُ الصَّدَاقُ مِنْ جُمْلَةِ الْمَالِ أَوْ مِنْ حِصَّتَيْهِمَا قَالَ مِنْ جَمِيعِ الْمَالِ إِنَّمَا هُوَ بِمَنْزِلَةِ الدَّيْنِ .

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

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>), said, 'I asked him<sup>asws</sup> about a man who has children for him, so he got them married, and the dower was necessitated. Then he died. So, from where would the dower be reckoned to be from, the entirety of the wealth, or from their respective shares?' He<sup>asws</sup> said: 'From the entirety of the wealth. But rather, it is at the status of the debts'.<sup>67</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ ابْنِ رَبَائِعٍ عَنْ أَبِي عُبَيْدَةَ الْحَدَّاءِ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ غُلَامٍ وَ جَارِيَةٍ زَوَّجَهُمَا وَلِيَانٍ لِهَمَا وَ هُمَا غَيْرُ مُدْرَكَيْنِ فَقَالَ النِّكَاحُ جَائِزٌ وَ أَيُّهُمَا أَدْرَكَ كَانَ لَهُ الْخِيَارُ وَ إِنْ مَاتَا قَبْلَ أَنْ يُدْرِكََا فَلَا مِيرَاثَ بَيْنَهُمَا وَ لَا مَهْرَ إِلَّا أَنْ يَكُونَا قَدْ أَدْرَكََا وَ رَضِيَا

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

'I asked Abu Ja'far<sup>asws</sup> about a boy and a girl who were both married by their guardians, and both of them were without adulthood. So he<sup>asws</sup> said: 'The marriage is valid, and whichever of the two matures, would have the choice for it, and if they were to die before they mature, so there would be no inheritance between the two, nor any dower, except if both had matured and were both pleased (with the marriage)'.<sup>68</sup>

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

<sup>65</sup> Al Kafi – V 5 – The Book of Marriage Ch 63 H 1

<sup>66</sup> Al Kafi – V 5 – The Book of Marriage Ch 63 H 2

<sup>67</sup> Al Kafi – V 5 – The Book of Marriage Ch 63 H 3

I said, 'Supposing one of the matures before the other?' He<sup>asws</sup> said: 'That (marriage) would be allowed upon him if he was pleased'. I said, 'Supposing the man who had matured before the girl, and was pleased with the marriage, then he died before the girl had matured, would she inherit him?' He<sup>asws</sup> said: 'Yes, her inheritance from him would be isolated until she matures. So she would have to swear an oath by Allah<sup>azwj</sup>, what she is claiming for to take the inheritance (will only be given to her upon) her agreement with the marriage. Then the inheritance would be handed over to her, and half the dower'.

قُلْتُ فَإِنْ مَاتَتِ الْجَارِيَةُ وَ لَمْ تَكُنْ أَدْرَكَتْ أَيْ بَرِئْتَهَا الرَّوْحُ الْمُدْرِكُ قَالَ لَا لِأَنَّ لَهَا الْخِيَارَ إِذَا أَدْرَكَتْ قُلْتُ فَإِنْ كَانَ أَبُوهَا هُوَ الَّذِي زَوَّجَهَا قَبْلَ أَنْ تُدْرِكَ قَالَ يَجُوزُ عَلَيْهَا تَرْوِيحُ الْأَبِ وَ يَجُوزُ عَلَى الْغُلَامِ وَ الْمَهْرُ عَلَى الْأَبِ لِلْجَارِيَةِ .

I said, 'Supposing the girl died and she had not matured yet, would the mature husband inherit her?' He<sup>asws</sup> said: 'No, because for her was the choice when she matured'. I said, 'Supposing her father was the one who had got her married before she had matured?' He<sup>asws</sup> said: 'The married of the father would be allowed upon her, and it would be allowed upon the boy, and the dower would be upon the father for the girl'.<sup>68</sup>

#### باب الرَّجُلِ يَهْوَى امْرَأَةً وَ يَهْوَى أَبْوَاهُ غَيْرَهَا

### Chapter 64 – The man desires a woman, and his parents desire (him to marry) someone else

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عَلِيِّ بْنِ الْحَسَنِ بْنِ رِبَاطٍ عَنْ حَبِيبِ الْخُثَعَمِيِّ عَنِ ابْنِ أَبِي يَعْفُورٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ قُلْتُ لَهُ إِنِّي أُرِيدُ أَنْ أَتَزَوَّجَ امْرَأَةً وَ إِنَّ أَبِي أَرَادَ أَنْ يَتَزَوَّجَ الْوَأْتِي هَوَيْتُ وَ دَعَا الْوَأْتِي يَهْوَى أَبْوَاهُ .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from Ali Bin Al Hassan Bin Rabaat, from Habeeb Al Khash'amy, from Ibn Abu Yafour,

Abu Abdullah<sup>asws</sup>, said, 'I said to him<sup>asws</sup>, 'I want to marry a woman, and my parents want someone else'. He<sup>asws</sup> said: 'Marry the one who (you) desire and leave the one whom your parents desire'.<sup>69</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ إِسْمَاعِيلَ بْنِ سَهْلٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ الْحَضْرَمِيِّ عَنِ الْكَاهِلِيِّ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنِ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ سُئِلَ عَنْ رَجُلٍ زَوَّجَتْهُ أُمُّهُ وَ هُوَ غَائِبٌ قَالَ النِّكَاحُ جَائِزٌ إِنْ شَاءَ الْمُنْزَوَّجُ قَبْلَ وَ إِنْ شَاءَ تَرَكَ فَإِنْ تَرَكَ الْمُنْزَوَّجُ تَرْوِيحُهُ فَالْمَهْرُ لِأُمِّهِ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Ismail Bin Sahl, from Al Hassan Bin Muhammad Al Hazramy, from Al Kahily, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far<sup>asws</sup> having been asked about a man whose mother got him married and he was absent. He<sup>asws</sup> said : 'The marriage is allowed. If he so desires to, the married one can accept, but if he so desires to he leaves. So, if

<sup>68</sup> Al Kafi – V 5 – The Book of Marriage Ch 63 H 4

<sup>69</sup> Al Kafi – V 5 – The Book of Marriage Ch 64 H 1

the married one were to leave his marriage, so the dower would be necessitated upon his mother'.<sup>70</sup>

### باب الشَّرْطِ فِي النِّكَاحِ وَ مَا يَجُوزُ مِنْهُ وَ مَا لَا يَجُوزُ

## Chapter 65 – The stipulation regarding the marriage, and what is allowed from it, and what is not allowed

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ أَبِي نَجْرَانَ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ عَاصِمِ بْنِ حُمَيْدٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ إِلَى أَجَلٍ مُسَمًّى فَإِنْ جَاءَ بِصَدَاقِهَا إِلَى أَجَلٍ مُسَمًّى فَهِيَ أَمْرَانُ وَإِنْ لَمْ يَأْتِ بِصَدَاقِهَا إِلَى الْأَجَلِ فَلَيْسَ لَهُ عَلَيْهَا سَبِيلٌ وَ ذَلِكَ شَرْطُهُمْ بَيْنَهُمْ حِينَ أَنْكَحُوهُ فَقَضَى لِلرَّجُلِ أَنْ يَبْدَهُ بَضْعَ أَمْرَانِهِ وَ أَحْبَطَ شَرْطُهُمْ .

A number of our companions, from Sahl Bin Ziyad, from Ibn Abu Najran, from Ahmad Bin Muhammad Bin Abu Nasr, from Aasim Bin Humeyd, from Muhammad Bin Qays,

(It has been narrated) from Abu Ja'far<sup>asws</sup> regarding the man who married the woman to a specified term, so if he were to come with her dower to the specified term, so she is his wife, but if he does not give her dower to a specified term, so there is no way for him upon her, and that is their stipulation between them when they got married. So he<sup>asws</sup> judged for the man that in his hand is his wife, and their stipulation falls (void)'.<sup>71</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ وَ عَبْدِ اللَّهِ ابْنِ مُحَمَّدِ بْنِ عَيْسَى عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ أَبِي الْعَبَّاسِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ وَ يَشْتَرِطُ لَهَا أَنْ لَا يُخْرِجَهَا مِنْ بَلَدِهَا قَالَ يَقِي لَهَا بِذَلِكَ أَوْ قَالَ يَلْزَمُهُ ذَلِكَ .

Muhammad Bin Yahya, from Ahmad and Abdullah, two sons of Muhammad Bin Isa, from Ibn Abu Umeyr, from Hisham Bin Sali, from Abu Al Abbas,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding the man who married the woman and he stipulated to her that he would not be taking her out from her city. He<sup>asws</sup> said: 'He has to fulfil with that to her', or said: 'That would be necessitated upon him'.<sup>72</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبِيانَ بْنِ عُثْمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً وَ شَرَطَ عَلَيْهَا أَنْ يَأْتِيَهَا إِذَا شَاءَ وَ يُنْفِقَ عَلَيْهَا شَيْئاً مُسَمًّى كُلَّ شَهْرٍ قَالَ لَا بَأْسَ بِهِ .

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from Al Hassan Bin Ali, from Aban Bin Usman, from Abdul Rahman Bin Abu Abdullah,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who married a woman and stipulated upon her that he would be coming to her whenever

<sup>70</sup> Al Kafi – V 5 – The Book of Marriage Ch 64 H 2

<sup>71</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 1

<sup>72</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 2

he so desires to, and he would be spending upon her a specified amount every month. He<sup>asws</sup> said: 'There is no problem'.<sup>73</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ قَالَ سَأَلَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ الْمَهَارِبَةِ يَسْتَرْطُ عَلَيْهَا عِنْدَ عُقْدَةِ النِّكَاحِ أَنْ يَأْتِيَهَا مَتَى شَاءَ كُلَّ شَهْرٍ وَ كُلَّ جُمُعَةٍ يَوْمًا وَ مِنَ النَّفَقَةِ كَذَا وَ كَذَا قَالَ لَيْسَ ذَلِكَ الشَّرْطُ بِشَيْءٍ وَ مَنْ تَزَوَّجَ امْرَأَةً فَلَهَا مَا لِلْمَرْأَةِ مِنَ النَّفَقَةِ وَ الْقِسْمَةِ وَ لَكِنَّهُ إِذَا تَزَوَّجَ امْرَأَةً فَخَافَتْ مِنْهُ نُسُوزًا أَوْ خَافَتْ أَنْ يَتَزَوَّجَ عَلَيْهَا أَوْ يُطَلِّقَهَا فَصَالِحُهُ مِنْ حَقِّهَا عَلَى شَيْءٍ مِنْ نَفَقَتِهَا أَوْ قِسْمَتِهَا فَإِنَّ ذَلِكَ جَائِزٌ لَا بَأْسَ بِهِ .

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

'Abu Ja'far<sup>asws</sup> was asked about the skilful woman who is stipulated upon during the marriage tie and he would be coming to her whenever he so desires to, and every Friday during the day, and from the expenses would be such and such for her'. He<sup>asws</sup> said: 'That stipulation is not with anything valid, and the one who marries a woman, so for her is whatever is for the women from the expenses, and the share (of her time), but when a woman gets married, so she fears ill-conduct from him, or she fears that he might marry (an additional wife) upon her, or he would divorce her, so she reconciles with him from her rights upon something from her expenses, or her share (of her time), so that would be allowed, there being no problem with it'.<sup>74</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ صَفْوَانَ عَنْ عَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) فِي الرَّجُلِ يَقُولُ لِعَبْدِهِ أُعْتِقَكَ عَلَى أَنْ أُرَوِّجَكَ ابْنَتِي فَإِنْ تَزَوَّجَتْ أَوْ تَسَرَّيْتَ عَلَيْهَا فَعَلَيْكَ مِائَةٌ دِينَارٍ فَأَعْتَقَهُ عَلَى ذَلِكَ وَ تَسَرَّى أَوْ تَزَوَّجَ قَالَ عَلَيْهِ شَرْطُهُ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Safwan, from Ala'a Bin Razeyn, form Muhammad Bin Muslim,

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) regarding the man who is saying to his slave, 'I will free you upon a stipulation that I would get you married to my daughter. So if you were to marry (an additional wife) or a concubine upon her, so upon you would be one hundred Dinars (to pay)'. So he frees him upon that, and he either keeps a concubime or marries (an additional wife)?' He<sup>asws</sup> said: 'Upon him is his stipulation'.<sup>75</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ مُوسَى بْنِ بَكْرِ عَنْ زُرَّارَةَ أَنَّ ضُرَيْسًا كَانَتْ تَحْتَهُ بِنْتُ حُمْرَانَ فَجَعَلَ لَهَا أَنْ لَا يَتَزَوَّجَ عَلَيْهَا وَ أَنْ لَا يَتَسَرَّى أَبَدًا فِي حَيَاتِهَا وَ لَا بَعْدَ مَوْتِهَا عَلَى أَنْ جَعَلَتْ لَهُ هِيَ أَنْ لَا تَتَزَوَّجَ بَعْدَهُ وَ جَعَلَ عَلَيْهِمَا مِنَ الْهَدْيِ وَ الْحَجِّ وَ النُّبْدِ وَ كُلِّ مَالِهِمَا فِي الْمَسَاكِينِ إِنْ لَمْ يَفِ كُلُّ وَاحِدٍ مِنْهُمَا لِصَاحِبِهِ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Muhsa Bin Bakr, from Zurara that,

'Under Zureys (as a wife) was a daughter of Humran, so he made it for her that he would not marry (an additional wife) upon her, and that he would not keep a concubine, ever, during her lifetime, nor after her death, upon a stipulation that she would make it for him that she would neither marry after him, and they both made it

<sup>73</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 3

<sup>74</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 4

<sup>75</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 5

upon themselves, from the sacrifice, and the Hajj, and the sacrificial animal, and every wealth of his/hers to be for the poor, if one of them was not loyal to the other.

ثُمَّ إِنَّهُ أَتَى أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فَذَكَرَ ذَلِكَ لَهُ فَقَالَ إِنَّ لِبِنْتِ حُمْرَانَ لِحَقًّا وَ لَنْ يَحْمِلَنَا ذَلِكَ عَلَى أَنْ لَا نَقُولَ لَكَ الْحَقَّ أَذْهَبَ وَ تَزَوَّجَ وَ تَسَرََّ فَإِنَّ ذَلِكَ لَيْسَ بِشَيْءٍ وَ لَيْسَ عَلَيْكَ وَ لَا عَلَيْهَا وَ لَيْسَ ذَلِكَ الَّذِي صَنَعْنَا بِشَيْءٍ فَجَاءَ فَتَسَرََّى وَ وُلِدَ لَهُ بَعْدَ ذَلِكَ أَوْلَادٌ .

Then he went over to Abu Abdullah<sup>asws</sup>, so he mentioned that to him<sup>asws</sup>. So he<sup>asws</sup> said: 'For the daughter of Humran are rights, and we<sup>asws</sup> would never burden that upon a stipulation that we<sup>asws</sup> would not be speaking. For you are rights. Go and marry, and keep a concubine, for that (stipulation of hers) is not with anything (valid) upon you, nor upon her, and that which the two of you have done, is not with anything'. So he went, and kept a concubine, and the children were born for him after that'.<sup>76</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ فَضَّالٍ عَنْ ابْنِ بُكَيْرٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي امْرَأَةٍ نَكَحَهَا رَجُلٌ فَأَصْدَقْتُهُ الْمَرْأَةَ وَ شَرَطْتُ عَلَيْهِ أَنْ يَبِيدَ الْجِمَاعَ وَ الطَّلَاقَ فَقَالَ خَالَفَ السُّنَّةَ وَ وَلَى الْحَقُّ مَنْ لَيْسَ أَهْلُهُ وَ قَضَى أَنْ عَلَى الرَّجُلِ الصَّدَاقَ وَ أَنْ يَبِيدَ الْجِمَاعَ وَ الطَّلَاقَ وَ تِلْكَ السُّنَّةُ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a woman who got married to a man, so the woman kept a dower and stipulated upon him that the copulation and the divorce would be in her hands'. So he<sup>asws</sup> said: 'He would be opposing the Sunnah and he has placed the right upon the one who is not rightful for it, and the judgement is that upon the man is the dower, and that in his hand would be the copulation and the divorce, and that is the Sunnah'.<sup>77</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ بْنِ بَزِيْعٍ عَنْ مَنْصُورِ بْنِ بُرْزَجٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ مُوسَى ( عَلَيْهِ السَّلَامُ ) وَ أَنَا قَائِمٌ جَعَلَنِي اللَّهُ فِدَاكَ إِنَّ شَرِيكَاً لِي كَانَتْ تَحْتَهُ امْرَأَةٌ فَطَلَّقَهَا فَبَانَتْ مِنْهُ فَأَرَادَ مُرَاجَعَتَهَا وَ قَالَتْ الْمَرْأَةُ لَا وَ اللَّهِ لَا أَتَزَوَّجُكَ أَبَدًا حَتَّى تَجْعَلَ اللَّهُ لِي عَلَيْكَ أَلَّا تُطَلِّقَنِي وَ لَا تَزَوَّجَ عَلَيَّ قَالَ وَ فَعَلَ قُلْتُ نَعَمْ قَدْ فَعَلَ جَعَلَنِي اللَّهُ فِدَاكَ

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Ismail Bin Bazie, from Mansour Bin Buzurj who said,

'I said to Abu Al-Hassan Musa<sup>asws</sup>, and I was standing, 'May Allah<sup>azwj</sup> Make me to be sacrificed for you<sup>asws</sup>! A partner of mine had a wife under him, so he divorced her. She became irrevocably divorced from him. Then he wanted to return to her, and the woman said, 'No, by Allah<sup>azwj</sup>, I will not marry you ever until you Make Allah<sup>azwj</sup> to be upon you that you will not divorce me, nor will you marry (an additional wife) upon me'. He<sup>asws</sup> said: 'And he did so?' I said, 'Yes, has done it, may Allah<sup>azwj</sup> Make me to be sacrificed for you<sup>asws</sup>!'

قَالَ بِنْسَ مَا صَنَعَ وَ مَا كَانَ يُدْرِيهِ مَا وَقَعَ فِي قَلْبِهِ فِي جَوْفِ اللَّيْلِ أَوْ النَّهَارِ ثُمَّ قَالَ لَهُ أَمَا الْآنَ فَقُلْ لَهُ فَلَبِثَ لِلْمَرْأَةِ شَرْطَهَا فَإِنَّ رَسُولَ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) قَالَ الْمُسْلِمُونَ عِنْدَ شُرُوطِهِمْ قُلْتُ جَعَلْتُ فِدَاكَ إِنِّي أَشْكُ فِي حَرْفٍ فَقَالَ هُوَ عِمْرَانُ يَمُرُّ بِكَ أَلَيْسَ هُوَ مَعَكَ بِالْمَدِينَةِ فَقُلْتُ بَلَى قَالَ فَقُلْ لَهُ فَلْيَكْتُبْهَا وَ لِيُبْعَثْ بِهَا إِلَيَّ

<sup>76</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 6

<sup>77</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 7

He<sup>asws</sup> said: 'Evil is what he has done, and he does not know what may occur in his heart in the middle of the night or the day'. Then he<sup>asws</sup> said: 'As for not, so say to him: 'Complete for the woman, her stipulation, for Rasool-Allah<sup>saww</sup> said: 'The Muslims are (bound) by their stipulations'. I said, 'May I be sacrificed for you<sup>asws</sup>, I have doubts regarding the distortions'. So he<sup>asws</sup> said: 'Is it not Imran who passes by you, is he not with you in Al-Medina?' So I said, 'Yes'. He<sup>asws</sup> said: 'So tell him to write with it, and let him send it to me<sup>asws</sup>'.

فَجَاءَنَا عُمَرَانُ بَعْدَ ذَلِكَ فَكَتَبْنَا لَهُ وَ لَمْ يَكُنْ فِيهَا زِيَادَةٌ وَ لَا نُقْصَانٌ فَرَجَعَ بَعْدَ ذَلِكَ فَلَقِينِي فِي سُوقِ الْحَنَاطِينِ فَحَكَ مَنكِبَهُ بِمَنكِبِي فَقَالَ يُقْرِنُكَ السَّلَامَ وَ يَقُولُ لَكَ قُلْ لِلرَّجُلِ يَفِي بِشَرْطِهِ .

So Imran came over to us after than, so we wrote it for him, and there was neither any increase of reduction. So he returned after that and met me in the flour market, so I bumped his shoulder with my shoulder, so he said, 'He<sup>asws</sup> conveys the greetings, and he<sup>asws</sup> is saying to you: 'Tell the man to be loyal to his stipulation'.<sup>78</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رِثَابٍ عَنْ أَبِي الْحَسَنِ مُوسَى ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُ وَ أَنَا حَاضِرٌ عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً عَلَى مِائَةِ دِينَارٍ عَلَى أَنْ تَخْرُجَ مَعَهُ إِلَى بِلَادِهِ فَإِنْ لَمْ تَخْرُجْ مَعَهُ فَإِنَّ مَهْرَهَا خَمْسُونَ دِينَاراً إِنْ أَبَتْ أَنْ تَخْرُجَ مَعَهُ إِلَى بِلَادِهِ

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, altogether, from Ibn Mahboub, from Ali Bin Raib,

(It has been narrated) from Abu Al-Hassan Musa<sup>asws</sup>, said, 'He<sup>asws</sup> was asked and I was present, about a man who married a woman upon one (a dower of) hundred Dinars upon a stipulation that she would be going out with him to his city. So if she were not to go out, her dower would be fifty Dinars, if she refuses to go out with him to his city.

قَالَ فَقَالَ إِنْ أَرَادَ أَنْ يَخْرُجَ بِهَا إِلَى بِلَادِ الشِّرْكِ فَلَا شَرْطَ لَهُ عَلَيْهَا فِي ذَلِكَ وَ لَهَا مِائَةُ دِينَارٍ الَّتِي أَصَدَقَهَا بِهَا وَ إِنْ أَرَادَ أَنْ يَخْرُجَ بِهَا إِلَى بِلَادِ الْمُسْلِمِينَ وَ دَارِ الْإِسْلَامِ فَلَهُ مَا اسْتَرَطَ عَلَيْهَا وَ الْمُسْلِمُونَ عِنْدَ شُرُوطِهِمْ وَ لَيْسَ لَهُ أَنْ يَخْرُجَ بِهَا إِلَى بِلَادِهِ حَتَّى يُؤَدِّيَ إِلَيْهَا صَدَاقَهَا أَوْ تَرْضَى مِنْهُ مِنْ ذَلِكَ بِمَا رَضِيَتْ وَ هُوَ جَائِزٌ لَهُ .

The (narrator) said, 'So he<sup>asws</sup> said: 'If he intends to go out with her to a city of the Polytheism, so there is no (valid) stipulation for him upon her regarding that, and for her would be one hundred Dinars which he had dowered for her; but if he intends to go out with her to a city of the Muslims and a house of Al-Islam, so for him would be whatever he stipulated upon her; and the Muslims are (bound) by their stipulations, and it would not be for him that he goes out with her to his city until he pays here dower to her, or she is pleased from him from that with whatever she is pleased with, and it would be allowed for him'.<sup>79</sup>

<sup>78</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 8

<sup>79</sup> Al Kafi – V 5 – The Book of Marriage Ch 65 H 9

بَابُ الْمُدَالَسَةِ فِي النِّكَاحِ وَ مَا تُرَدُّ مِنْهُ الْمَرْأَةُ

## Chapter 66 – The deceptive woman in the marriage and what the woman can be rejected from it

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنِ الْعَبَّاسِ بْنِ الْوَلِيدِ عَنِ الْوَلِيدِ بْنِ صَبِيحٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ تَزَوَّجَ امْرَأَةً حُرَّةً فَوَجَدَهَا أَمَةً قَدْ دَلَسَتْ نَفْسَهَا لَهُ قَالَ إِنْ كَانَ الَّذِي زَوَّجَهَا إِيَّاهُ مِنْ غَيْرِ مَوَالِيهَا فَالنِّكَاحُ فَاسِدٌ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether, from Ibn Mahboub, from Al Abbas Bin Al waleed, from Al Waleed Bin Sabeeh,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who married a free woman, so he found her to be a slave who had concealed herself to him. He<sup>asws</sup> said: 'If she had married him from without her master, so the marriage is invalidated'.

قُلْتُ فَكَيْفَ يَصْنَعُ بِالْمَهْرِ الَّذِي أَخَذَتْ مِنْهُ قَالَ إِنْ وَجَدَ مِمَّا أَعْطَاهَا شَيْئاً فَلْيَأْخُذْهُ وَ إِنْ لَمْ يَجِدْ شَيْئاً فَلَا شَيْءَ لَهُ عَلَيْهَا وَ إِنْ كَانَ زَوْجَهَا إِيَّاهُ وَ لِيٍّ لَهَا ارْتَجَعَ عَلَيَّ وَ لِيَّهَا بِمَا أَخَذَتْ مِنْهُ وَ لِمَوَالِيهَا عَلَيْهِ عَشْرٌ ثَمَنُهَا إِنْ كَانَتْ بَكْرًا وَ إِنْ كَانَتْ غَيْرَ بَكْرٍ فَنِصْفُ عَشْرٍ فِيمَتِهَا بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا قَالَ وَ تَعُدُّ مِنْهُ عِدَّةَ الْأَمَةِ

I said, 'So how would the dower be dealt with, which she had taken from him?' He<sup>asws</sup> said: 'If he can find anything from what he had given her, so let him take it, and if he does not find anything, so there is nothing for him upon her; and if it was such that her master had married her to him, he would have recourse to her master with what was taken from him, and for her master, upon him, would be a tenth of her price if she was a virgin, and if she was not a virgin, so it would be half of the tenth of her price due to what she has permitted from her private parts'. He<sup>asws</sup> said: 'And she would observe the waiting period of the slave girl'.

قُلْتُ فَإِنْ جَاءَتْ بِوَلَدٍ قَالَ أَوْلَادُهَا مِنْهُ أَحْرَارٌ إِذَا كَانَ النِّكَاحُ بِغَيْرِ إِذْنِ الْمَوَالِي .

I said, 'Supposing she were to come with a child?' He<sup>asws</sup> said: 'Her children from him are free ones, when the marriage was without the permission of the master'.<sup>80</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ عَنِ سَمَاعَةَ قَالَ سَأَلْتُهُ عَنْ مَمْلُوكَةٍ قَوْمِ أَنْتَ قَبِيلَةٌ غَيْرَ قَبِيلَتِهَا وَ أَخْبَرْتُهُمْ أَنَّهَا حُرَّةٌ فَتَزَوَّجَهَا رَجُلٌ مِنْهُمْ فَوَلَدَتْ لَهُ قَالَ وَ لُدَّهُ مَمْلُوكُونَ إِلَّا أَنْ يُقِيمَ الْبَيِّنَةَ أَنَّهُ شَهِدَ لَهَا شَاهِدٌ أَنَّهَا حُرَّةٌ فَلَا تُمْلِكُ وَ لُدُّهُ وَ يَكُونُونَ أَحْرَارًا .

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

'I asked him<sup>asws</sup> about a slave girl of a group who goes to a tribe which is other than her own tribe and informs them that she is a free woman. So a man from them marries her, and she gives birth for him. He<sup>asws</sup> said: 'His children are slaves except if the proof is established that a witness had testified for her that she was a free woman, so her children would not be owned and they would be free ones'.<sup>81</sup>

<sup>80</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 1

<sup>81</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 2

أَحْمَدُ بْنُ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ عَبْدِ اللَّهِ بْنِ بَحْرٍ عَنْ حَرِيْزٍ عَنْ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أُمَةٌ أَبَقْتُ مِنْ مَوَالِيهَا فَأَتَتْ قَبِيلَةَ غَيْرِ قَبِيلَتِهَا فَادَّعَتْ أَنَّهَا حُرَّةٌ فَوَتَّبَ عَلَيْهَا رَجُلٌ فَتَزَوَّجَهَا فَطَفَرَ بِهَا مَوْلَاهَا بَعْدَ ذَلِكَ وَ قَدْ وُلِدَتْ أَوْلَادًا فَقَالَ إِنْ أَقَامَ الْبَيِّنَةُ الزَّوْجُ عَلَيَّ أَنَّهُ تَزَوَّجَهَا عَلَيَّ أَنَّهَا حُرَّةٌ أَعْتَقَ وُلْدَهَا وَ ذَهَبَ الْقَوْمُ بِأُمَّتِهِمْ فَإِنْ لَمْ يَقُمْ الْبَيِّنَةُ أَوْجَعَ ظَهْرَهُ وَ اسْتَرْقَى وُلْدَهُ .

Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from Abdullah Bin Bahr, from Hareyz, from Zurara who said,

'I said to Abu Abdullah<sup>asws</sup>, 'A slave girl absconded from her master, so she went over to a tribe other than her own tribe, and she claimed that she was a free woman. So a man leapt upon her and married her. So her master appeared after that and she had given birth to children'. So he<sup>asws</sup> said: 'If the husband can establish the proof that he had married her upon a stipulation that she was a free woman, her children would be free, and the people would go with their slave girl. So if he were not to establish the proof, his back would be pained, and his children would be enslaved'.<sup>82</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ عَبْدِ الْحَمِيدِ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ خَطَبَ إِلَى رَجُلٍ ابْنَةً لَهُ مِنْ مَهْيَرَةٍ فَلَمَّا كَانَ لَيْلَةَ دُخُولِهَا عَلَيَّ زَوْجَهَا أَدْخَلَ عَلَيْهِ ابْنَةً لَهُ أُخْرَى مِنْ أُمَةٍ قَالَ تُرِدُّ عَلَيَّ أَبِيهَا وَ تُرِدُّ إِلَيْهِ أُمَّرَأَتَهُ وَ يَكُونُ مَهْرُهَا عَلَيَّ أَبِيهَا .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Muhammad Bin Sama'at, from Abdul Hameed, from Muhammad Bin Muslim,

(It has been narrated) from Abu Ja'far<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who proposed to a man for a daughter of his from a free ones. So when it was the night when she was supposed to enter upon her husband, he made another daughter of his from the slave girl to go over to him instead'. He<sup>asws</sup> said : 'She would be returned to her father, and his wife would be returned to him, and her dower would be upon her father'.<sup>83</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ حَمَّادِ بْنِ عَيْسَى عَنْ حَرِيْزٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يَخْطُبُ إِلَى الرَّجُلِ ابْنَتَهُ مِنْ مَهْيَرَةٍ فَأَتَاهُ بِغَيْرِهَا قَالَ تُرِدُّ إِلَيْهِ الَّتِي سُمِّيَتْ لَهُ بِمَهْرٍ آخَرَ مِنْ عِنْدِ أَبِيهَا وَ الْمَهْرُ الْأَوَّلُ لِلَّتِي دَخَلَ بِهَا .

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

'I asked Abu Abdullah<sup>asws</sup> about the man who proposed to a man for a daughter of his from the free ones, so he came to him with another one. He<sup>asws</sup> said: 'She would be returned to him, the one whom he had named with a dower from her father, and the dower is for the first one who he had copulated with'.<sup>84</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُثْمَانَ عَنِ الْحَلْبِيِّ عَنِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ تَزَوَّجَ إِلَى قَوْمٍ فَإِذَا أُمَّرَأَتُهُ عَوْرَاءٌ وَ لَمْ يَبَيِّنُوا لَهُ قَالَ يُرَدُّ النِّكَاحُ مِنَ الْبَرِصِ وَ الْجُدَامِ وَ الْجُنُونِ وَ الْعَقْلِ .

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

<sup>82</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 3

<sup>83</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 4

<sup>84</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 5

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who married to a people, so his wife turned out to have blindness, and it had not been indicated to him. He<sup>asws</sup> said: 'The marriage would be repudiated, from the vitiligo, and the leprosy, and the insanity, and *Al-Afl* (Inability to copulate)'.<sup>85</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بْنِ فَضَّالٍ عَنْ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ بِهَا الْجُنُونُ وَالْبَرَصُ وَ شَيْبُهُ ذَلِكَ قَالَ هُوَ ضَامِنٌ لِلْمَهْرِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Ali Bin Fazzal, from Abdullah Bin Bukeyr, from one of his companions who said,

'I asked Abu Abdullah<sup>asws</sup> about the man who married the woman who had insanity with her, and the vitiligo, and such like. He<sup>asws</sup> said: 'He is responsible for the dower'.<sup>86</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدَ بْنِ أَبِي نَصْرٍ عَنْ أَبِي جَمِيلَةَ عَنْ زَيْدِ الشَّحَامِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ تَرُدُّ الْبَرِصَاءَ وَالْمَجْنُونَةَ وَالْمَجْدُومَةَ فَلْتُ الْعَوْرَاءُ قَالَ لَا .

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Abu Jameela, from Zayd Al Shahaam,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'She can be returned, the woman with vitiligo, and the insanity, and the leprosy'. I said, 'The blind?' He<sup>asws</sup> said: 'No'.<sup>87</sup>

سَهْلٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ رِفَاعَةَ بْنِ مُوسَى قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) الْمَخْدُودُ وَالْمَخْدُودَةُ هَلْ تَرُدُّ مِنَ النِّكَاحِ قَالَ لَا

Sahl, from Ahmad Bin Muhammad, from Rafa'at Bin Musa who said,

'I asked Abu Abdullah<sup>asws</sup>, 'The (physically) restricted man and the (physically) restricted woman, would they be repudiated from the marriage?' He<sup>asws</sup> said: 'No'.

قَالَ رِفَاعَةُ وَ سَأَلْتُهُ عَنِ الْبَرِصَاءِ فَقَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي امْرَأَةٍ زَوَّجَهَا وَلِيَّهَا وَ هِيَ بِرِصَاءٍ أَنَّ لَهَا الْمَهْرَ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا وَ أَنَّ الْمَهْرَ عَلَى الَّذِي زَوَّجَهَا وَ إِنَّمَا صَارَ الْمَهْرُ عَلَيْهِ لِأَنَّهُ دَلَّسَهَا وَ لَوْ أَنَّ رَجُلًا تَزَوَّجَ امْرَأَةً وَ زَوَّجَهَا رَجُلٌ لَا يَعْرِفُ دَخِيلَةَ امْرِئِهَا لَمْ يَكُنْ عَلَيْهِ شَيْءٌ وَ كَانَ الْمَهْرُ يَأْخُذُ مِنْهَا .

Rafa'at (the narrator) said, 'And I asked him<sup>asws</sup> about the ones with vitiligo. So he<sup>asws</sup> said: 'Amir Al-Momineen<sup>asws</sup> judged regarding a woman whose guardian got her married and she was with vitiligo that, there shall be a dower for her due to what she had permitted from her private parts, and that the dower is upon the one who got her married; but rather, the dower came to be upon him because he had cheated with her, and had a man married a woman and a man who had got her married off did not know the interior of her matter, there would not be anything upon him, and the dower would be taken back from her'.<sup>88</sup>

<sup>85</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 6

<sup>86</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 7

<sup>87</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 8

<sup>88</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 9

سَهْلٌ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ دَاوُدَ بْنِ سِرْحَانَ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ الْحَلْبِيِّ جَمِيعاً عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي رَجُلٍ وَلَّتْهُ امْرَأَةٌ أَمْرَهَا أَوْ دَاتِ قَرَابَةٍ أَوْ جَارٍ لَهَا لَا يَعْلَمُ دَخِيلَةَ امْرَأَتِهَا فَوَجَدَهَا قَدْ دَلَسَتْ عَيْباً هُوَ بِهَا قَالَ يُؤْخَذُ الْمَهْرُ مِنْهَا وَلَا يَكُونُ عَلَى الَّذِي رَوَّجَهَا شَيْءٌ .

Sahl, from Ahmad Bin Muhammad, from Dawood Bin Sirhan, and Ali Bin Ibrahim, from his father, from IBn Abu Umeyr, from Hammad, from Al Halby altogether,

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man to whom a woman had authorised her command, or a near relative of hers, of a neighbour of her who did not know of the interior matter, so he was found to have cheated over a fault which was with her. He<sup>asws</sup> said: 'The dower would be taken from her, and there would not be anything upon the one who got her married off'.<sup>89</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيٍّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ بَعْضِ أَصْحَابِ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فِي أُخْتَيْنِ أُهْدِيَتَا إِلَى أُخُوَيْنِ فِي لَيْلَةٍ فَأَدْخَلَتْ امْرَأَةٌ هَذَا عَلَى هَذَا وَ ادْخَلَتْ امْرَأَةٌ هَذَا عَلَى هَذَا قَالَ لِكُلِّ وَاحِدٍ مِنْهُمَا الصَّدَاقُ بِالْعَشْيَانِ وَ إِنْ كَانَ وَلِيَّهُمَا تَعَمَّدَ ذَلِكَ أُغْرِمَ الصَّدَاقَ وَ لَا يَقْرَبُ وَاحِدٌ مِنْهُمَا امْرَأَتَهُ حَتَّى تَنْقَضِيَ الْعِدَّةُ فَإِذَا انْقَضَتِ الْعِدَّةُ صَارَتْ كُلُّ وَاحِدَةٍ مِنْهُمَا إِلَى زَوْجِهَا بِالنِّكَاحِ الْأَوَّلِ

Muhammad Bin Yahy, from Ahmad Bin Muhammad, and Ali Bin Ibrahim, from his father, altogether from Al Hassan Bin Mahboub, from Jameel Bin Salih,

(It has been narrated) from one of the companions of Abu Abdullah<sup>asws</sup> regarding two sisters gifted to two brothers during one night. So the wife of this one went over to that one, and the wife of that one went over to this one. He<sup>asws</sup> said: 'For each of the two is the dower with the copulations, and if it was such that their guardian had deliberated that, would be fined the dower, and each of the two would not go near his wife until the waiting period has expired. So when the waiting period has expired, each one would come to be to her husband with the former marriage'.

قِيلَ لَهُ فَإِنْ مَاتَا قَبْلَ انْقِضَاءِ الْعِدَّةِ قَالَ فَقَالَ بَرَجِعُ الزَّوْجَانِ بِنِصْفِ الصَّدَاقِ عَلَى وَرَثَتَيْهِمَا وَ بَرَثَاتَيْهِمَا الرَّجُلَانِ قِيلَ فَإِنْ مَاتَ الرَّجُلَانِ وَ هُمَا فِي الْعِدَّةِ قَالَ تَرْتَانِيهِمَا وَ لَهُمَا نِصْفُ الْمَهْرِ الْمُسَمَّى وَ عَلَيْهِمَا الْعِدَّةُ بَعْدَ مَا تَفَرَّغَا مِنَ الْعِدَّةِ الْأُولَى تَعْتَدَانِ عِدَّةَ الْمُتَوَفَى عَنْهَا زَوْجَهَا .

It was said to him<sup>asws</sup>, 'Supposing both of them were to die before they have completed the waiting period?' He<sup>asws</sup> said: 'Half the dower would be returned to the two husbands, and they (wives) would both inherit and the two men would both inherit'. It was said, 'Supposing both the men had died and they were both in the waiting period?' He<sup>asws</sup> said: 'They would both inherit them both, and for both of them would be half the specified dower, and there would be a waiting period upon them both after they are free from the first waiting period. They would both be observing the waiting period of the one widowed from her husband'.<sup>90</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ بْنِ سَمَاعَةَ عَنْ غَيْرِ وَاحِدٍ عَنْ أَبِيَانَ بْنِ عُثْمَانَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ قَالَ فِي الرَّجُلِ إِذَا تَزَوَّجَ الْمَرْأَةَ فَوَجَدَ بِهَا قَرْنًا وَ هُوَ الْعَقْلُ أَوْ بَيَاضًا أَوْ جَدَامًا إِنَّهُ يَرُدُّهَا مَا لَمْ يَدْخُلْ بِهَا .

Humeyd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama'at, from someone else, from Aban Bin Usman, from Abdul Rahman Bin Abu Abdullah,

<sup>89</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 10

<sup>90</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 11

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said regarding the man who had married the woman, so he found uterine horns with her, and it is *Al Afa* (inability to copulate due to uterine horns), or vitiligo, or leprosy, that he can return her for as long as he has not copulated with her'.<sup>91</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ سِنَانَ عَنْ إِسْمَاعِيلَ بْنِ جَابِرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ نَظَرَ إِلَى امْرَأَةٍ فَأَعْجَبَتْهُ فَسَأَلَ عَنْهَا فَوَقِيلَ هِيَ ابْنَةُ فَلَانٍ فَأَتَى أَبَاهَا فَقَالَ زَوِّجْنِي ابْنَتَكَ فَرَوَّجَهُ غَيْرَهَا فَوَلَدَتْ مِنْهُ فَعَلِمَ أَنَّهَا غَيْرُ ابْنَتِهِ وَ أَنَّهَا أُمَةٌ فَقَالَ يَرُدُّ الْوَالِدَةَ عَلَى مَوْلَاهَا وَ الْوَالِدَ لِلرَّجُلِ وَ عَلَى الَّذِي زَوَّجَهُ قِيمَهُ ثَمَنَ الْوَالِدِ يُعْطِيهِ مَوْلَى الْوَالِدَةِ كَمَا غَرَّ الرَّجُلُ وَ خَدَعَهُ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Sinan, from Ismail Bin Jabir who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who looked at a woman, so she fascinated him. So he asked about her, and it was said that she is the daughter of so and so. So he went over to her father and said, 'Get your daughter married to me'. But, he married someone else to him, and she gave birth from him. So he came to know that it was other than his daughter, and that she is a slave'. So he<sup>asws</sup> said: 'The mother would be returned to her master, and the child for the man, and upon the one who gave her in marriage would be the price of the child to be given to the master of the mother, as he had deceived the man and cheated him'.<sup>92</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ أَبِي عُبَيْدَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) قَالَ فِي رَجُلٍ تَزَوَّجَ امْرَأَةً مِنْ وَلِيِّهَا فَوَجَدَ بِهَا عَيْباً بَعْدَ مَا دَخَلَ بِهَا قَالَ فَقَالَ إِذَا دَلَسْتَ الْعَفْلَاءَ وَ الْبَرِصَاءَ وَ الْمَجْنُونَةَ وَ الْمُفْضَاةَ وَ مَنْ كَانَ بِهَا زَمَانَةٌ ظَاهِرَةً فَإِنَّهَا تُرَدُّ عَلَى أَهْلِهَا مِنْ غَيْرِ طَلَاقٍ وَ يَأْخُذُ الزَّوْجُ الْمَهْرَ مِنْ وَلِيِّهَا الَّذِي كَانَ دَلَسَهَا فَإِنْ لَمْ يَكُنْ وَلِيُّهَا عِلْمَ بَشِيءٍ مِنْ ذَلِكَ فَلَا شَيْءَ عَلَيْهِ وَ تُرَدُّ إِلَى أَهْلِهَا

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said regarding a man who married a woman from her guardian, and he found a fault with her after he had copulated with her. So he<sup>asws</sup> said: 'When it is cheated with a woman with *Al Afi* (inability to copulate due to uterine horns), and the one with vitiligo, and the insanity, and the deflowering, and the one with whom is an apparent disability, so she would be returned back to her family without a divorce, and the husband would take back the dower from her guardian who had cheated him. So if it so happened that her guardian did not know of anything from that, so there is nothing upon him, and she would be returned to her family'.

قَالَ وَ إِنْ أَصَابَ الزَّوْجُ شَيْئاً مِمَّا أَخَذَتْ مِنْهُ فَهُوَ لَهُ وَ إِنْ لَمْ يُصِبْ شَيْئاً فَلَا شَيْءَ لَهُ قَالَ وَ تَعْنُدُ مِنْهُ عِدَّةَ الْمُطَلَّاقَةِ إِنْ كَانَ دَخَلَ بِهَا وَ إِنْ لَمْ يَكُنْ دَخَلَ بِهَا فَلَا عِدَّةَ لَهَا وَ لَا مَهْرَ لَهَا .

He<sup>asws</sup> said: 'And anything that the husband gets from what was taken from him, so it is for him, and if he does not get anything, so there is nothing for him, and she would observe the waiting period of the divorced woman from him, if he had copulated with

<sup>91</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 12

<sup>92</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 13

her, and if he had not copulated with her, so there is no waiting period for her, and there would be no dower for her'.<sup>93</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ عَنِ الْمَرْأَةِ تَلَدُ مِنَ الزَّوْنِ وَلَا يَعْلَمُ بِذَلِكَ أَحَدٌ إِلَّا وَوَلِيَّهَا أَوْ يَصْلُحُ لَهُ أَنْ يُرَوِّجَهَا وَ يَسْكُتَ عَلَى ذَلِكَ إِذَا كَانَ قَدْ رَأَى مِنْهَا تَوْبَةً أَوْ مَعْرُوفًا فَقَالَ إِنْ لَمْ يَذْكُرْ ذَلِكَ لِزَوْجِهَا نَمَّ عَلِمَ بَعْدَ ذَلِكَ فَشَاءَ أَنْ يَأْخُذَ صَدَاقَهَا مِنْ وَوَلِيَّهَا بِمَا دَلَسَ عَلَيْهِ كَانَ لَهُ ذَلِكَ عَلَى وَوَلِيَّهَا وَ كَانَ الصَّدَاقُ الَّذِي أَخَذَتْ لَهَا لَا سَبِيلَ عَلَيْهَا فِيهِ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا وَ إِنْ شَاءَ زَوْجُهَا أَنْ يُمَسِّكَهَا فَلَا بَأْسَ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said about the woman who gave birth from the adultery, and no one knew about that except for her guardian. Is it correct for him that he gets her married and maintains silence upon that when he has seen the repentance from her, or she is known for it? So he<sup>asws</sup> said: 'If he does not mentioned that to her husband, then he comes to know after that, so if he so desires to, he takes her dower from her guardian with whatever was cheated upon him, that being for him upon her guardian (to pay), and the dower which was taken for her, he would not have a way upon her with regards to it due to what she had permitted from her private parts; and if he so desires to he can marry her and keep her, so there is no problem'.<sup>94</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ الْمَرْأَةُ تُرَدُّ مِنْ أَرْبَعَةِ أَشْيَاءَ مِنَ الْبُرْصِ وَ الْجُدَامِ وَ الْجُنُونِ وَ الْقَرْنِ وَ هُوَ الْعَقْلُ مَا لَمْ يَقَعْ عَلَيْهَا فَإِذَا وَقَعَ عَلَيْهَا فَلَا .

Abu Ali Al Ashary, from Muhamma Bin Abdul Jabbar, from Safwan Bin yahya, from Abdul Rahman Bin Abu Abdullah,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, having said: 'The woman would be returned from four things – from the vitiligo, and the leprosy, and the insanity, and the uterine horns, and it is *Al Afal* (inability to copulate due to uterine horns), for as long as he has not fallen upon her. So when he falls upon her, so no'.<sup>95</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ ابْنِ مَحْبُوبٍ عَنِ الْحَسَنِ بْنِ صَالِحٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً فَوَجَدَ بِهَا قَرْنًا قَالَ هَذِهِ لَا تَحْبِلُ [تُرَدُّ عَلَى أَهْلِهَا مَنْ] يَنْقَبِضُ زَوْجُهَا عَنْ مُجَامَعَتِهَا تُرَدُّ عَلَى أَهْلِهَا

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

'I asked Abu Abdullah<sup>asws</sup> about a man who married a woman, so he found uterine horns to be with her. He<sup>asws</sup> said: 'This one will not get pregnant. She would be returned to her family, the husband would have to abstain from copulating with her to be returned to her family'.

قُلْتُ فَإِنْ كَانَ دَخَلَ بِهَا قَالَ إِنْ كَانَ عَلِمَ بِهَا قَبْلَ أَنْ يُجَامِعَهَا نَمَّ جَامِعَهَا فَقَدْ رَضِيَ بِهَا وَ إِنْ لَمْ يَعْلَمْ إِلَّا بَعْدَ مَا جَامَعَهَا فَإِنْ شَاءَ بَعْدَ امْسِكِهَا وَ إِنْ شَاءَ سَرَّحَهَا إِلَى أَهْلِهَا وَ لَهَا مَا أَخَذَتْ مِنْهُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا.

<sup>93</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 14

<sup>94</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 15

<sup>95</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 16

I said, 'Supposing he had copulated with her?' He<sup>asws</sup> said: 'If he knew of it before he copulated with her, so he was pleased with it, and if he did not know except after having copulated with her, so if he so desires to afterwards, he keeps her, and if he so desires to, he hastens her to her family, and for her would be whatever she had taken from it with what she had permitted from her private parts'.<sup>96</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ أَبِي الصَّبَّاحِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً فَوَجَدَ بِهَا قَرْنًا قَالَ فَقَالَ هَذِهِ لَا تَحْبَلُ وَلَا يُفْدِرُ زَوْجَهَا عَلَى مُجَامَعَتِهَا يَرُدُّهَا عَلَى أَهْلِهَا صَاغِرَةً وَلَا مَهْرَ لَهَا

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Abu Ayoub, from Abu Al Sabbah who said,

'I asked Abu Abdullah<sup>asws</sup> about a man who married a woman, so he found uterine horns to be with her. So he<sup>asws</sup> said: 'This one would not get pregnant nor would her husband be able upon copulating with her. He can return her to her family, belittled, and they would be no dower for her'.

قُلْتُ فَإِنْ كَانَ دَخَلَ بِهَا قَالَ إِنْ كَانَ عِلْمٌ بِذَلِكَ قَبْلَ أَنْ يَنْكِحَهَا يَعْنِي الْمُجَامَعَةَ ثُمَّ جَامَعَهَا فَقَدْ رَضِيَ بِهَا وَإِنْ لَمْ يَعْلَمْ إِلَّا بَعْدَ مَا جَامَعَهَا فَإِنْ شَاءَ بَعْدَ أَمْسَاكَ وَإِنْ شَاءَ طَلَّقَ .

I said, 'Supposing he had copulated with her?' He<sup>asws</sup> said: 'If he knew of that before he married her, meaning the copulation, then he copulated with her, so he was pleased with it, but if he did not know except after having copulated with her, so if he so desires to afterwards, he keeps her, and if he so desires to, he divorces'.<sup>97</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ بُرَيْدِ الْعَجَلِيِّ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ تَزَوَّجَ امْرَأَةً فَرَفَعَتْ إِلَيْهِ أُخْتَهَا وَكَانَتْ أَكْبَرَ مِنْهَا فَأَدْخَلَتْ مَنْزِلَ زَوْجِهَا لَيْلًا فَعَمَدَتْ إِلَى ثِيَابِ امْرَأَتِهِ فَزَعَتْهَا مِنْهَا وَلَبِسَتْهَا ثُمَّ قَعَدَتْ فِي حَجَلَةِ أُخْتِهَا وَنَحَتِ امْرَأَتَهُ وَأَطْفَتِ الْمَصْبَاحَ وَاسْتَحْيَتِ الْجَارِيَةَ أَنْ تَتَكَلَّمَ

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Hisham Bin Salim, from Bureyd Al Ijaly who said,

'I asked Abu Ja'far<sup>asws</sup> about a man who married a woman, so her sister impersonated her, and she was older than her. So she entered the house of her (sister's) husband at night, deliberating to (wearing) the clothes of his wife, snatched them from her and wore them. Then she sat in the room of her sister and pretended to be his wife, and extinguished the lantern, and the girl was too embarrassed to speak.

فَدَخَلَ الزَّوْجُ الْحَجَلَةَ فَوَاقَعَهَا وَهُوَ يَظُنُّ أَنَّهَا امْرَأَتُهُ الَّتِي تَزَوَّجَهَا فَلَمَّا أَصْبَحَ الرَّجُلُ قَامَتْ إِلَيْهِ امْرَأَتُهُ فَقَالَتْ لَهُ أَنَا امْرَأَتُكَ فَلَانْتَهُ الَّتِي تَزَوَّجْتَ وَإِنِّي أُخْتِي مَكَرَتْ بِي فَأَخَذْتُ ثِيَابِي فَلَبِسْتُهَا وَقَعَدْتُ فِي الْحَجَلَةِ وَنَحْتِي فَظَنَّ الرَّجُلُ فِي ذَلِكَ فَوَجَدَ كَمَا ذَكَرْتُ

So the husband entered the room and fell upon her, and he thought that she was his wife which he had married. So when it was the morning for the husband, his wife stood up to him and said to him, 'I am your so and so wife whom you married, and my sister plotted against me, so she took my clothes and wore them, and she sat in

<sup>96</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 17

<sup>97</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 18

the room, and she prevented me'. So the man looked into that, so he found as she had mentioned.

فَقَالَ أَرَى أَنْ لَا مَهْرَ لِلَّتِي دَلَسَتْ نَفْسَهَا وَ أَرَى عَلَيْهَا الْحَدَّ لِمَا فَعَلَتْ حَدَّ الزَّانِي غَيْرَ مُحْصَنٍ وَ لَا يَقْرِبُ الزَّوْجُ امْرَأَتَهُ الَّتِي تَزَوَّجَ حَتَّى تَنْقُضِي عِدَّةَ الَّتِي دَلَسَتْ نَفْسَهَا فَإِذَا انْقَضَتْ عِدَّتُهَا صَمَّ إِلَيْهِ امْرَأَتُهُ .

So he<sup>asws</sup> said: 'I<sup>asws</sup> view that there is no dower for the one who cheated, and I<sup>asws</sup> view the legal Punishment (*Hadd*) to be upon her due to what she did, a legal Punishment (*Hadd*) of the unmarried adulteress, and the husband should not go near his wife which he had married until the one who had deceived has observed her waiting period. So when her waiting period expires, his wife would be joined to him'.<sup>98</sup>

### بَاب الرَّجُلِ يُدَلِّسُ نَفْسَهُ وَ الْعَيْنِ

## Chapter 67 – The man who cheats and the impotent

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 امْرَأَةٍ حُرَّةٍ دَلَسَ لَهَا عَبْدٌ فَتَكَحَّهَا وَ لَمْ تَعْلَمْ إِلَّا أَنَّهُ حُرٌّ قَالَ يُفَرِّقُ بَيْنَهُمَا إِنْ شَاءَتِ الْمَرْأَةُ .

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> judged regarding a free woman, a slave cheated her, so he married her and she did not know except that he was a free man. He<sup>asws</sup> said: 'Separation would be effected between the two of them if the woman so desires it'.<sup>99</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ امْرَأَةٍ حُرَّةٍ تَزَوَّجَتْ مَمْلُوكًا عَلَى أَنَّهُ حُرٌّ فَعَلِمَتْ بَعْدَ أَنَّهُ مَمْلُوكٌ قَالَ هِيَ أَمْلَكُ بِنَفْسِهَا إِنْ شَاءَتْ أَفْرَتُ مَعَهُ وَ إِنْ شَاءَتْ فَلَا فَإِنْ كَانَ دَخَلَ بِهَا الصَّدَاقُ وَ إِنْ لَمْ يَكُنْ دَخَلَ بِهَا فَلَيْسَ لَهَا شَيْءٌ فَإِنْ هُوَ دَخَلَ بِهَا بَعْدَ مَا عَلِمَتْ أَنَّهُ مَمْلُوكٌ وَ أَفْرَتُ بِذَلِكَ فَهُوَ أَمْلَكُ بِهَا .

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

'I asked Abu Ja'far<sup>asws</sup> about a free woman who married a slave upon a stipulation that he was a free man. So she came to know afterwards that he was a slave. He<sup>asws</sup> said: 'She is in control of herself. If she so desires to, she can stay with him, and if she so desires it, so no. So if he had copulated with her, then for her would be the dower, and if he had not happened to have copulated with her, so there would be nothing for her. So, if he were to copulated with her after she had come to know that he was a slave, and she was in agreement with that, so he would be more in control over her'.<sup>100</sup>

<sup>98</sup> Al Kafi – V 5 – The Book of Marriage Ch 66 H 19

<sup>99</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 1

<sup>100</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 2

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِعٍ عَنِ ابْنِ بُكَيْرٍ عَنْ أَبِيهِ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَامُ ) فِي خَصِيٍّ دَلَسَ نَفْسَهُ لِامْرَأَةٍ مُسْلِمَةٍ فَتَزَوَّجَهَا قَالَ فَقَالَ يُفَرِّقُ بَيْنَهُمَا إِنْ شَاءَتِ الْمَرْأَةُ وَ يُوجِعُ رَأْسَهُ وَ إِنْ رَضِيَتْ بِهِ وَ أَقَامَتْ مَعَهُ لَمْ يَكُنْ لَهَا بَعْدَ رِضَاهَا بِهِ أَنْ تَبَاهُ .

A number of our companions, from Sahl Bin Ziyad and Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al Hassan Bin Mahboub, form Ali Bin Raib, from Ibn Bukeyr, from his father,

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) regarding a eunuch who deceived a Muslim woman, so she married him. So he<sup>asws</sup> said: 'Separation would be effected between the two of them if the woman so desires it, and his head would be pained, and if she is pleased with it and stays with him, it would not be for her, after her agreement with it, that she refuses him'.<sup>101</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ أَبَانَ عَنْ عَبَّادِ الصَّبَبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) قَالَ فِي الْعَيْنِ إِذَا عَلِمَ أَنَّهُ عَيْنٌ لَا يَأْتِي النِّسَاءَ فُرِّقَ بَيْنَهُمَا وَإِذَا وَقَعَ عَلَيْهَا وَقَعَهُ وَاحِدَةً لَمْ يُفَرِّقْ بَيْنَهُمَا وَ الرَّجُلُ لَا يُرَدُّ مِنْ عَيْبٍ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, from Safwan Bin Yahya, from Aban, from Abbad Al Zabby,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Regarding the impotent, when it is known that he is impotent, not coming to the women, separation would be effected between the two, and when he has fallen upon her with one falling, there would not be a separation between the two, and the man would not be rejected from a fault'.<sup>102</sup>

عَنْهُ عَنْ صَفْوَانَ بْنِ يَحْيَى عَنِ ابْنِ مُسْكَانَ عَنْ أَبِي بَصِيرٍ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) عَنِ امْرَأَةٍ ابْتُلِيَ زَوْجُهَا فَلَا يَفْدِرُ عَلَى الْجِمَاعِ أَ تَفَارِقُهُ قَالَ نَعَمْ إِنْ شَاءَتْ

From him, from Safwan Bin Yahya, from Ibn Muskan, from Abu Baseer who said,

'I asked Abu Abdullah<sup>asws</sup> about a woman who tried her husband, but he was not able upon the copulation, can she separate from him?' He<sup>asws</sup> said: 'Yes, if she so desires it'.

قَالَ ابْنُ مُسْكَانَ وَ فِي حَدِيثٍ آخَرَ تَنْتَظِرُ سَنَةً فَإِنْ أَتَاهَا وَ إِلَّا فَارَقَتْهُ فَإِنْ أَحَبَّتْ أَنْ تُقِيمَ مَعَهُ فَلْتَقِمِ .

Ibn Muskan (the narrator) said, 'And in another Hadeeth, '(He<sup>asws</sup> said): 'She would wait for a year. So if he comes to her, or else she separates from him. But, if she loves to stay with him, so let her stay'.<sup>103</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ أَخِيهِ الْحَسَنِ عَنْ زُرْعَةَ بْنِ مُحَمَّدٍ عَنْ سَمَاعَةَ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَنَّ خَصِيًّا دَلَسَ نَفْسَهُ لِامْرَأَةٍ قَالَ يُفَرِّقُ بَيْنَهُمَا وَ تَأْخُذُ الْمَرْأَةُ مِنْهُ صَدَاقَهَا وَ يُوجِعُ ظَهْرَهُ كَمَا دَلَسَ نَفْسَهُ .

A number of our companions, from Ahmad Bin Muhammad, from Al Husayn Bin Saeed, from his brother Al Hassan, from Zur'at Bin Muhammad, from Sama'at,

<sup>101</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 3

<sup>102</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 4

<sup>103</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 5

(It has been narrated) from Abu Abdullah<sup>asws</sup> if a eunuch deceived the woman. He<sup>asws</sup> said: 'Separation would be effected between the two, and the woman would take her dower from him, and his back would be pained just as he had deceived himself'.<sup>104</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ مُحَمَّدِ بْنِ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنِ الْحَسَنِ بْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ أَبِي حَمْرَةَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) يَقُولُ إِذَا تَزَوَّجَ الرَّجُلُ الْمَرْأَةَ النَّبِيْبَ الَّتِي قَدْ تَزَوَّجَتْ زَوْجاً غَيْرَهُ فَرَعَمَتْ أَنَّهُ لَمْ يَفْرَبْهَا مِنْذُ دَخَلَ بِهَا فَإِنَّ الْقَوْلَ فِي ذَلِكَ قَوْلُ الرَّجُلِ وَ عَلَيْهِ أَنْ يَحْلِفَ بِاللَّهِ لَقَدْ جَامَعَهَا لِأَنَّهَا الْمُدْعِيَةُ

A number of our companions, from Sahl Bin Ziyad, and Muhammad Bin yahya, from Ahmad Bin Muhammad altogether, from Al Hassan Bin Mahboub, from Ali Bin Raib, from Abu Hamza who said,

'I heard Abu Ja'far<sup>asws</sup> saying: 'When the man marries the divorced/widowed woman who had married a husband other than him, so she alleges that he did not come near her since she had copulated beforehand. So the (final) word regarding that would be the word of the man, and upon him is that he swears an oath by Allah<sup>azwj</sup> that he has copulated with her, because she is the plaintiff'.

قَالَ فَإِنْ تَزَوَّجَهَا وَ هِيَ بَكْرٌ فَرَعَمَتْ أَنَّهُ لَمْ يَصِلْ إِلَيْهَا فَإِنَّ مِثْلَ هَذَا يَعْرِفُ النِّسَاءُ فَلْيَنْظُرْ إِلَيْهَا مَنْ يُوثِقُ بِهِ مِنْهُنَّ فَإِذَا ذَكَرَتْ أَنَّهَا عَذْرَاءٌ فَعَلَى الْإِمَامِ أَنْ يُؤَجِّلَهُ سَنَةً فَإِنْ وَصَلَ إِلَيْهَا وَ إِلَّا فَرَّقَ بَيْنَهُمَا وَ أُعْطِيَتْ نِصْفَ الصَّدَاقِ وَ لَا عِدَّةَ عَلَيْهَا .

He<sup>asws</sup> said: 'So if he had married her and she was a virgin, and she claims that he has not arrived to her, so in an situation like this are the good women, so let her be examined by the one who is reliable with it from them. So when she mentions that she is (still) a virgin, so it is upon the Imam<sup>asws</sup> that he respites her for a year. So if he arrives to her, or else there would be a separation between the two, and she would be given half the dower, and there would be no waiting period upon her'.<sup>105</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ خَالِدٍ عَنْ أَبِيهِ عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ الْهَاشِمِيِّ عَنْ بَعْضِ مَشِيخَتِهِ قَالَ قَالَتْ امْرَأَةٌ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) وَ سَأَلَتْهُ رَجُلٌ عَنْ رَجُلٍ تَدَّعَى عَلَيْهِ امْرَأَتُهُ أَنَّهُ عَنِينٌ وَ يُكْرَهُ الرَّجُلُ قَالَ تَحْشَوْهَا الْقَابِلَةَ بِالْخَلُوقِ وَ لَا تُعْلِمِ الرَّجُلَ وَ يَدْخُلُ عَلَيْهَا الرَّجُلُ فَإِنْ خَرَجَ وَ عَلَى ذِكْرِهِ الْخَلُوقِ صَدَقَ وَ كَذَبَتْ وَ إِلَّا صَدَقَتْ وَ كَذَبَ .

A number of our companions, from Ahmad Bin Muhammad Bin Khalid, from his father, from Abdullah Bin Al Fazl Al Hashimy, from one of his elders who said,

'A woman said to Abu Abdullah<sup>asws</sup>, and a man had asked about a man whose wife had claimed upon him that he is impotent, and the man denied it. He<sup>asws</sup> said: 'The midwife would apply *Al Kahlouq* (a perfume) on her and not let the man know, and the man would go over to her. So if he comes out, and *Al Khalouq* is upon his manhood, he would be ratified, and she would be belied, or else she would be ratified, and he would be belied'.<sup>106</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ أَحْمَدَ بْنِ الْحَسَنِ عَنْ عَمْرِو بْنِ سَعِيدٍ عَنْ مُصَدِّقِ بْنِ صَدَقَةَ عَنْ عَمَّارِ بْنِ مُوسَى عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ سُئِلَ عَنْ رَجُلٍ أَخَذَ عَنْ امْرَأَتِهِ فَلَا يَقْدِرُ عَلَى إِيْتَانِهَا فَقَالَ إِنْ كَانَ لَا يَقْدِرُ عَلَى إِيْتَانِ غَيْرِهَا مِنَ النِّسَاءِ فَلَا يُمَسِّكُهَا إِلَّا بِرِضَاهَا بِذَلِكَ وَ إِنْ كَانَ يَقْدِرُ عَلَى غَيْرِهَا فَلَا بَأْسَ بِإِمْسَاكِهَا .

<sup>104</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 6

<sup>105</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 7

<sup>106</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 8

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ahmad Bin Al Hassan, from Amro Bin Saeed, from Musaddaq Bin Sadaqa, form Ammar Bin Musa,

(It has been narrated) from Abu Abdullah<sup>asws</sup> having been asked about a man who is seized from his wife, so he is not able upon going to her. So he<sup>asws</sup> said: 'If it was such that he was not able upon going to other than her from the women, so he should not keep her except with her agreement with that; and if it was such that he was able upon other than her, so there is no problem with keeping her'.<sup>107</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ قَالَ أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) مَنْ أَتَى امْرَأَتَهُ مَرَّةً وَاحِدَةً ثُمَّ أَخَذَ عَنْهَا فَلَا خِيَارَ لَهَا .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'Amir Al-Momineen<sup>asws</sup> said: 'The one who goes to his wife once, then he is seized from it, so there is no choice for her'.<sup>108</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ حَمْدَانَ الْقَلَابِيسِيِّ عَنْ إِسْحَاقَ بْنِ بُنَانَ عَنِ ابْنِ بَقَّاحٍ عَنْ غِيَاثِ بْنِ إِبْرَاهِيمَ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ ادَّعَتْ امْرَأَةٌ عَلَى زَوْجِهَا عَلَى عَهْدِ أَمِيرِ الْمُؤْمِنِينَ صَلَّى اللَّهُ عَلَيْهِ أَنَّهُ لَا يُجَامِعُهَا وَادَّعَى أَنَّهُ يُجَامِعُهَا فَأَمَرَهَا أَمِيرُ الْمُؤْمِنِينَ ( عليه السلام ) أَنْ تَسْتَذِفِرَ بِالزَّعْفَرَانِ ثُمَّ يَغْسِلَ ذَكَرَهُ فَإِنْ خَرَجَ الْمَاءُ أَصْفَرَ صَدَّقَهُ وَإِلَّا أَمَرَهُ بِطَلَاقِهَا .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: 'A woman claimed upon her husband, in the era of Amir Al-Momineen<sup>asws</sup> that he does not copulate with her, but he denied it. So Amir Al-Momineen<sup>asws</sup> ordered her that she should apply herself with saffron, then he should wash his manhood, so if the water comes to be yellow, he would be ratified, or else he<sup>asws</sup> ordered with divorcing her'.<sup>109</sup>

**باب نَادِرٌ**

## Chapter 68 – Miscellaneous

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ ابْنِ مَحْبُوبٍ عَنْ جَمِيلِ بْنِ صَالِحٍ عَنْ أَبِي عُبَيْدَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عليه السلام ) عَنْ رَجُلٍ كَانَتْ لَهُ ثَلَاثُ بَنَاتٍ أَبْكَارَ فَرَزَّجَ وَاحِدَةً مِنْهُنَّ رَجُلًا وَ لَمْ يَسْمَ الَّذِي زَوَّجَ لِلزَّوْجِ وَ لَا لِلشُّهُودِ وَ قَدْ كَانَ الزَّوْجُ فَرَضَ لَهَا صَدَاقَهَا فَلَمَّا بَلَغَ إِدْخَالَهَا عَلَى الزَّوْجِ بَلَغَ الرَّجُلُ أَنَّهَا الْكُبْرَى مِنَ الثَّلَاثَةِ فَقَالَ الزَّوْجُ لِأَبِيهَا إِنَّمَا تَزَوَّجْتُ مِنْكَ الصُّغْرَى مِنْ بَنَاتِكَ

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

'I asked Abu Ja'far<sup>asws</sup> about a man who had three virgin daughter for him. So he got one of them married to a man and did not specify which one he married to the husband, nor to the witnesses, and the husband had necessitated her dower for her.

<sup>107</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 9

<sup>108</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 10

<sup>109</sup> Al Kafi – V 5 – The Book of Marriage Ch 67 H 11

So when it reached the time upon entering her upon the husband, it reached the man that she is the eldest one from the three. So the husband said to her father, 'But rather, I married from you the youngest one of your daughters'.

قَالَ فَقَالَ أَبُو جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) إِنْ كَانَ الرَّوْجُ رَأَى كُلَّهُمْ وَ لَمْ يُسَمِّ لَهُ وَاحِدَةً مِنْهُمْ فَقَالَ فِي ذَلِكَ قَوْلُ الْأَبِ وَ عَلَى الْأَبِ فِيمَا بَيْنَهُ وَ بَيْنَ اللَّهِ أَنْ يَدْفَعَ إِلَى الرَّوْجِ الْجَارِيَةَ الَّتِي كَانَ نَوَى أَنْ يُزَوِّجَهَا إِيَّاهُ عِنْدَ عُقْدَةِ النِّكَاحِ وَ إِنْ كَانَ الرَّوْجُ لَمْ يَرَهُنَّ كُلَّهُنَّ وَ لَمْ يُسَمِّ وَاحِدَةً عِنْدَ عُقْدَةِ النِّكَاحِ فَالنِّكَاحُ بَاطِلٌ .

He (the narrator) said, 'So Abu Ja'far<sup>asws</sup> said: 'If it was such that the husband had seen all of them and did not specify one of them, so the (final) word regarding that would be the word of the father, and it would be upon the father regarding what is between him and Allah<sup>azwj</sup> that he hands over to the husband, the girl which he had intended to get married to him during the tie of marriage; and if it was such that the husband had not seen all of them and had not specified one during the marriage tie, so the marriage is invalidated'.<sup>110</sup>

#### باب الرَّجُلِ يَتَزَوَّجُ بِالْمَرْأَةِ عَلَى أَنَّهَا بَكَرٌ فَيَجِدُهَا غَيْرَ عَدْرَاءَ

### Chapter 69 – The man marries with the woman upon a stipulation that she is a virgin, so he finds her without virginity

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ خَالِدٍ عَنْ سَعْدِ بْنِ سَعْدٍ عَنْ مُحَمَّدِ بْنِ الْقَاسِمِ بْنِ فَضَيْلٍ عَنْ أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ عَلَى أَنَّهَا بَكَرٌ فَيَجِدُهَا تَيَّبًا أَوْ يَجُوزُ لَهُ أَنْ يُقِيمَ عَلَيْهَا قَالَ فَقَالَ قَدْ تَفْتَقَرُ الْبِكْرُ مِنَ الْمَرْكَبِ وَ مِنَ النَّزْوَةِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Muhammad Bin Khalid, from Sa'ad Bin Sa'ad, from Muhammad Bin Al Qasim Bin Fuzayl,

(It has been narrated) from Abu Al-Hassan<sup>asws</sup> regarding the man who married the woman upon a stipulation that she was a virgin, so he found her as having been married before. Is it allowed for him that he resides with her?' He<sup>asws</sup> said: 'The virginity can be torn from the riding and from the jumping'.<sup>111</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ جَعْفَرٍ عَنْ مُحَمَّدِ بْنِ جَزْأَيْ قَالَ كَتَبْتُ إِلَى أَبِي الْحَسَنِ ( عَلَيْهِ السَّلَامُ ) أَسْأَلُهُ عَنْ رَجُلٍ تَزَوَّجَ جَارِيَةً بَكَرًا فَوَجَدَهَا تَيَّبًا هَلْ يَجِبُ لَهَا الصَّدَاقُ وَ إِيَّاهُ أَمْ يُنْتَقَصُ قَالَ يُنْتَقَصُ .

Muhammad Bin Yahya, from Abdullah Bin Ja'far, from Muhammad Bin Jazzaki who said,

'I wrote to Abu Al-Hassan<sup>asws</sup> asking him<sup>asws</sup> about a man who married a virgin girl, so he found her as having been married before, and for her is the dower. Should he be loyal (to the dower) or reduced (amount)?' He<sup>asws</sup> said: 'Reduced'.<sup>112</sup>

<sup>110</sup> Al Kafi – V 5 – The Book of Marriage Ch 68 H 1

<sup>111</sup> Al Kafi – V 5 – The Book of Marriage Ch 69 H 1

<sup>112</sup> Al Kafi – V 5 – The Book of Marriage Ch 69 H 2

**باب الرَّجُلِ يَنْزَوِجُ الْمَرْأَةَ فَيَدْخُلُ بِهَا قَبْلَ أَنْ يُعْطِيَهَا شَيْئاً**

**Chapter 70 – The man marries the woman, so he copulates with her before he gives her anything**

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ الْحُسَيْنِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ مَنْصُورِ بْنِ يُونُسَ عَنْ عَبْدِ الْحَمِيدِ بْنِ عَوَاضٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عليه السلام ) أَتَزَوِّجُ الْمَرْأَةَ أَوْ أَدْخُلُ بِهَا قَبْلَ أَنْ أُعْطِيَ شَيْئاً قَالَ نَعَمْ إِنَّمَا هُوَ دَيْنٌ عَلَيْكَ .

Muhammad Bin Yahya, from Muhammad Bin Al Husayn, from Muhammad Bin Ismail, from Mansour Bin Yunus, from Abdul Hameed Bin Awwaz who said,

'I said to Abu Abdullah<sup>asws</sup>, 'I marry the woman, would it be correct for me that I fall upon her and I have not given her anything from her dower?' He<sup>asws</sup> said: 'Yes. But rather, it is a debt upon you'.<sup>113</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ أَبِي نَصْرٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ ( عليه السلام ) الرَّجُلُ يَنْزَوِجُ الْمَرْأَةَ عَلَى الصَّدَاقِ الْمَعْلُومِ يَدْخُلُ بِهَا قَبْلَ أَنْ يُعْطِيَهَا قَالَ يُقَدِّمُ إِلَيْهَا مَا قَلَّ أَوْ كَثُرَ إِلَّا أَنْ يَكُونَ لَهُ وَقَاءٌ مِنْ عَرَضٍ إِنْ حَدَثَ بِهِ حَدَثٌ أَدَّى عَنْهُ فَلَا بَأْسَ .

A number of our companions, from Sahl Bin Ziyad, and Ali Bin Ibrahim, from his father, altogether from Ahmad Bin Muhammad Bin Abu Nasr who said,

'I said to Abu Al-Hassan<sup>asws</sup>, 'The man marries the woman upon the known dower. He copulates with her before he gives it to her'. He<sup>asws</sup> said: 'He should forward to her whatever little or more unless if there happens to be for him a fulfilment from an asset if there occurs with him an even (death) so it can be paid from it, so there is no problem'.<sup>114</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ عَبْدِ الْحَمِيدِ الطَّائِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ قُلْتُ لَهُ أَتَزَوِّجُ الْمَرْأَةَ وَأَدْخُلُ بِهَا وَ لَا أُعْطِيهَا شَيْئاً قَالَ نَعَمْ يَكُونُ دَيْناً لَهَا عَلَيْكَ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from one of his companions, from Abdul Hameed Al Taiy,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I said to him<sup>asws</sup>, 'Can I marry the woman and copulated with her, and not give her anything?' He<sup>asws</sup> said: 'Yes, there would happen to be a debt for her, upon you'.<sup>115</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ عَبْدِ الْحَمِيدِ بْنِ عَوَاضٍ الطَّائِيِّ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عليه السلام ) عَنِ الرَّجُلِ يَنْزَوِجُ الْمَرْأَةَ فَلَا يَكُونُ عِنْدَهُ مَا يُعْطِيهَا فَيَدْخُلُ بِهَا قَالَ لَا بَأْسَ إِنَّمَا هُوَ دَيْنٌ لَهَا عَلَيْهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from Abdul Hameed Bin Awwaz Al Taiy who said,

'I asked Abu Abdullah<sup>asws</sup> about the man who married the woman, so there did not happen to be with him what he could give her, but he copulated with her. He<sup>asws</sup> said: 'There is a problem. But rather, it is a debt for her, upon him'.<sup>116</sup>

<sup>113</sup> Al Kafi – V 5 – The Book of Marriage Ch 70 H 1

<sup>114</sup> Al Kafi – V 5 – The Book of Marriage Ch 70 H 2

<sup>115</sup> Al Kafi – V 5 – The Book of Marriage Ch 70 H 3

## Chapter 71 – The marriage with the wages

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعاً عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرٍ قَالَ قُلْتُ لِأَبِي الْحَسَنِ ( عَلَيْهِ السَّلَام ) قَوْلُ شُعَيْبٍ ( عَلَيْهِ السَّلَام ) إِنِّي أُرِيدُ أَنْ أُكْحِكَ إِحْدَى ابْنَتَيْ هَاتَيْنِ عَلَيَّ أَنْ تَأْجُرَنِي ثَمَانِي حَجَجٍ فَإِنْ أَتَمَمْتَ عَشْرًا فَمِنْ عِنْدِكَ أَيُّ الْأَجَلَيْنِ قَضَى قَالَ الْوَفَاءُ مِنْهُمَا أَبَعْدَهُمَا عَشْرُ سِنِينَ قُلْتُ فَدَخَلَ بِهَا قَبْلَ أَنْ يَنْقَضِيَ الشَّرْطُ أَوْ بَعْدَ انْقِضَائِهِ قَالَ قَبْلَ أَنْ يَنْقَضِيَ

A number of our companions, from Sahl Bin Ziyad and Ali Bin Ibrahim, from his father, altogether from Ahmad Bin Muhammad Bin Abu Nsr who said,

‘I said to Abu Al-Hassan<sup>asws</sup>, ‘(What about) the words of Shuayb<sup>as</sup> [28:27] He said: I would like to marry one of these two daughters of mine to you on condition that you should serve me for eight years; but if you complete ten, it will be of your own free will whichever of the two terms you<sup>as</sup> fulfill?’ He<sup>asws</sup> said: ‘The completion from these two was the furthest of the two, ten years’. I said, ‘So he<sup>as</sup> went to her before he<sup>as</sup> fulfilled the condition, or after fulfilling it?’ He<sup>asws</sup> said: ‘Before he fulfilled it’.

قُلْتُ لَهُ فَالرَّجُلُ يَنْزُوجُ الْمَرْأَةَ وَ يَشْتَرِطُ لِأَبِيهَا إِجَارَةَ شَهْرَيْنِ بِجُورٍ ذَلِكَ فَقَالَ إِنَّ مُوسَى ( عَلَيْهِ السَّلَام ) قَدْ عَلِمَ أَنَّهُ سَيَبْقَى لَهُ شَرْطُهُ فَكَيْفَ لِهَذَا بِأَنْ يَعْلَمَ أَنَّهُ سَيَبْقَى حَتَّى يَفِي لَهُ وَ قَدْ كَانَ الرَّجُلُ عَلَى عَهْدِ رَسُولِ اللَّهِ ( صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ ) يَنْزُوجُ الْمَرْأَةَ عَلَى السُّورَةِ مِنَ الْقُرْآنِ وَ عَلَى الدَّرْهِمِ وَ عَلَى الْقُبْضَةِ مِنَ الْحِنْطَةِ .

I said to him<sup>asws</sup>, ‘So the man marries the woman, and stipulates to her father the wages of two months, would that be allowed?’ So he<sup>asws</sup> said: ‘Musa<sup>as</sup> knew that he<sup>as</sup> complete his<sup>as</sup> stipulation for him<sup>as</sup>, but how can it be for this one that he would know that he would remain (alive) until he can fulfil for him? And the man upon the era of Rasool-Allah<sup>saww</sup> used to get married to the woman upon the Chapter from the Quran, and upon the Dirham, and upon the handful of the wheat’.<sup>117</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ النَّوْفَلِيِّ عَنِ السَّكُونِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ لَا يَجِلُّ النِّكَاحُ الْيَوْمَ فِي الْإِسْلَامِ بِإِجَارَةٍ أَنْ يَقُولَ أَعْمَلُ عِنْدَكَ كَذَا وَ كَذَا سَنَةً عَلَيَّ أَنْ تُرَوِّجَنِي ابْنَتَكَ أَوْ أُخْتَكَ قَالَ حَرَامٌ لِأَنَّهُ تَمَنُّ رَقَبَتِهَا وَ هِيَ أَحَقُّ بِمَهْرِهَا.

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> having said: ‘The marriage is not Permissible today in Al-Islam with wages, if he is saying, ‘I will work with you for such and such years upon a stipulation that you would marry your daughter, or your sister to me’. It is Prohibited because it would be a price for her neck, and she is more rightful with her dower’.<sup>118</sup>

<sup>116</sup> Al Kafi – V 5 – The Book of Marriage Ch 70 H 4

<sup>117</sup> Al Kafi – V 5 – The Book of Marriage Ch 71 H 1

<sup>118</sup> Al Kafi – V 5 – The Book of Marriage Ch 71 H 2

**باب فِيْمَنْ زُوِّجَ ثُمَّ جَاءَ نَعِيَهُ****Chapter 72 – Regarding the one who gets married, then comes his news of death**

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنِ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) فِي رَجُلٍ أُرْسِلَ يَخْطُبُ إِلَيْهِ امْرَأَةً وَهُوَ غَائِبٌ فَأَنْكَحُوا الْغَائِبَ وَفُرِضَ الصَّدَاقُ ثُمَّ جَاءَ خَبْرُهُ بَعْدَ أَنْهُ تُوْفِيَ بَعْدَ مَا سَبَقَ الصَّدَاقُ فَقَالَ إِنْ كَانَ أُمَّلِكَ بَعْدَ مَا تُوْفِيَ فَلَيْسَ لَهَا صَدَاقٌ وَ لَا مِيرَاثٌ وَ إِنْ كَانَ أُمَّلِكَ قَبْلَ أَنْ يُتُوْفَى فَلَهَا نِصْفُ الصَّدَاقِ وَ هِيَ وَارِثُهُ وَ عَلَيْهَا الْعِدَّةُ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man who sent a proposal of his to a woman, and he was absent. So he married her in absence, and necessitated the dower. Then came the news of his death afterwards that he had died, after the dower had been sent. So he<sup>asws</sup> said: 'If the possession is after his death, so there is no dower for her, nor an inheritance, but if it was such that the possession was before his death, so for her would be half the dower, and she would inherit him, and upon her is the waiting period'.<sup>119</sup>

**باب الرَّجُلِ يَفْجُرُ بِالْمَرْأَةِ فَيَتَزَوَّجُ أُمَّهَا أَوْ ابْنَتَهَا أَوْ يَفْجُرُ بِأَمِّ امْرَأَتِهِ أَوْ ابْنَتِهَا****Chapter 73 – The man is immoral with the woman, so he marries her mother, or her daughter, or he is immoral with a mother of his wife, or her daughter**

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينٍ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عليهما السلام ) أَنَّهُ سُئِلَ عَنِ الرَّجُلِ يَفْجُرُ بِالْمَرْأَةِ أَوْ ابْنَتِهَا قَالَ لَا وَ لَكِنْ إِنْ كَانَتْ عِنْدَهُ امْرَأَةٌ ثُمَّ فَجَرَ بِأُمَّهَا أَوْ ابْنَتِهَا أَوْ أُخْتِهَا لَمْ تَحْرَمْ عَلَيْهِ امْرَأَتُهُ إِنْ الْحَرَامَ لَا يُفْسِدُ الْحَلَالَ .

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

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>) having been asked about the man who was immoral with the woman, can he marry her daughter?' He<sup>asws</sup> said: 'No, but if the woman was with him (as his wife), then he was immoral with her mother, or her daughter, or her sister, his wife would not be Prohibited unto him. The Prohibited does not spoil the Permissible'.<sup>120</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ جَمِيعاً عَنْ صَفْوَانَ بْنِ يَحْيَى عَنْ عِيصِ بْنِ الْقَاسِمِ قَالَ سَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عليه السلام ) عَنْ رَجُلٍ بَاشَرَ امْرَأَةً وَ قَبِلَ غَيْرَ أَنَّهُ لَمْ يُفْضِ إِلَيْهَا ثُمَّ تَزَوَّجَ ابْنَتَهَا قَالَ إِذَا لَمْ يَكُنْ أَفْضَى إِلَى الْأُمِّ فَلَا بَأْسَ وَ إِنْ كَانَ أَفْضَى إِلَيْهَا فَلَا يَتَزَوَّجُ ابْنَتَهَا .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ismail, from Al Fazl Bin Shazan, altogether from Safwan Bin Yahya, from Ays Bin Al Qasim who said,

<sup>119</sup> Al Kafi – V 5 – The Book of Marriage Ch 72 H 1

<sup>120</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 1

'I asked Abu Abdullah<sup>asws</sup> about a man who spent time with a woman and kissed, apart from it that he did not copulate with her. Then he married her daughter. He<sup>asws</sup> said: 'When he did not happen to have copulated with the mother, so there is no problem, but if it was such that he had copulated with her, so she cannot marry her daughter'.<sup>121</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادٍ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ تَزَوَّجَ جَارِيَةً فَدَخَلَ بِهَا ثُمَّ ابْتَلَى بِهَا فَفَجَرَ بِأُمَّهَا أَوْ تَحْرُمُ عَلَيْهِ امْرَأَتُهُ فَقَالَ لَا إِنَّهُ لَا يُحْرَمُ الْحَلَالَ الْحَرَامُ .

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> regarding a man who married a girl, so he went to bed with her. Then due to wickedness he goes to bed with her mother. Would his wife be prohibited unto him?' So he<sup>asws</sup> said: 'No. The Permissible cannot be Prohibited by the Prohibition'.<sup>122</sup>

عَلِيُّ بْنُ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أُدَيْنَةَ عَنْ زُرَّارَةَ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) أَنَّهُ قَالَ فِي رَجُلٍ زَنَى بِأُمَّ امْرَأَتِهِ أَوْ بِابْنَتِهَا أَوْ بِأَخِيَّتِهَا فَقَالَ لَا يُحْرَمُ ذَلِكَ عَلَيْهِ امْرَأَتُهُ ثُمَّ قَالَ مَا حَرَّمَ حَرَامًا قَطُّ حَلَالًا .

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

(It has been narrated) from Abu Ja'far<sup>asws</sup> having said regarding a man who committed adultery with the mother of his wife, or with her daughter, or with her sister. So he<sup>asws</sup> said: 'They would not make his wife to be Prohibited unto him'. Then he<sup>asws</sup> said: 'A Prohibition cannot Prohibit a Permissible at all'.<sup>123</sup>

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ عَنْ صَفْوَانَ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ كَانَ بَيْنَهُ وَبَيْنَ امْرَأَةٍ فُجُورٌ فَهَلْ يَنْزَوِّجُ ابْنَتَهَا فَقَالَ إِنْ كَانَ مِنْ قُبْلَةٍ أَوْ شِبْهَهَا فَلْيَنْزَوِّجْ ابْنَتَهَا وَ إِنْ كَانَ جَمَاعًا فَلَا يَنْزَوِّجْ ابْنَتَهَا وَ لْيَنْزَوِّجْهَا هِيَ إِنْ شَاءَ .

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

(It has been narrated) from Abu Abdullah<sup>asws</sup> regarding a man between him and a woman was an immorality, so can he marry her daughter?' So he<sup>asws</sup> said: 'If it was from kissing or such like, so let him marry his daughter, and if it was copulation, so he cannot marry her daughter, and let him marry her (the mother) if he so desires to'.<sup>124</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ زُرَّارَةَ قَالَ سَأَلْتُ أَبَا جَعْفَرٍ ( عَلَيْهِ السَّلَامُ ) عَنْ رَجُلٍ زَنَى بِأُمَّ امْرَأَتِهِ أَوْ بِأَخِيَّتِهَا فَقَالَ لَا يُحْرَمُ ذَلِكَ عَلَيْهِ امْرَأَتُهُ إِنْ الْحَرَامُ لَا يُفْسِدُ الْحَلَالَ وَ لَا يُحْرِمُهُ .

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

<sup>121</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 2

<sup>122</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 3

<sup>123</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 4

<sup>124</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 5

'I asked Abu Ja'far<sup>asws</sup> about a man who committed adultery with the mother of his wife, or with her sister. So he<sup>asws</sup> said: 'That would not make his wife to be Prohibited unto him. The Prohibited does not spoil the permissible, nor does it Prohibit it'.<sup>125</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ مَنْصُورِ بْنِ حَازِمٍ عَنْ أَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ كَانَ بَيْنَهُ وَبَيْنَ امْرَأَةٍ فُجُورٌ فَقَالَ إِنْ كَانَ فُبْلَةً أَوْ شِبْهَهَا فَلْيَتَزَوَّجِ ابْنَتَهَا إِنْ شَاءَ وَإِنْ كَانَ جَمَاعًا فَلَا يَتَزَوَّجِ ابْنَتَهَا وَلْيَتَزَوَّجِهَا .

Al Husayn Bin Muhammad, from Moalla Bin Muhammad, from one of his companions, from Aban Bin Usman, from Mansour Bin Hazim,

(It has been narrated) from Abu Abdullah<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man between him and a woman was immorality. So he<sup>asws</sup> said: 'If it was kissing or such like, so let him marry her daughter if he so desires to, but if it was copulation, so he cannot marry her daughter, and let him marry her (the mother)'.<sup>126</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينِ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا ( عَلَيْهِمَا السَّلَام ) قَالَ سَأَلْتُهُ عَنْ رَجُلٍ فَجَرَ بِامْرَأَةٍ أَيْتَزَوَّجُ أُمَّهَا مِنَ الرِّضَاعَةِ أَوْ ابْنَتَهَا قَالَ لَا .

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

(It has been narrated) from one of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>asws</sup>, said, 'I asked him<sup>asws</sup> about a man who was immoral with a woman, can he marry her mother from the breastfeeding, or her daughter?' He<sup>asws</sup> said: 'No'.

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنِ الْعَلَاءِ بْنِ رَزِينِ عَنِ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) مِثْلَهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Mahboub, from Al A'ala Bin Razeyn, form Muhammad Bin Muslim, from Abu Ja'far<sup>asws</sup> – similar to it.<sup>127</sup>

ابْنُ مَحْبُوبٍ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ يَزِيدَ الْكُنَاسِيِّ قَالَ إِنْ رَجُلًا مِنْ أَصْحَابِنَا تَزَوَّجَ امْرَأَةً فَقَالَ لِي أُحِبُّ أَنْ تَسْأَلَ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) وَتَقُولَ لَهُ إِنْ رَجُلًا مِنْ أَصْحَابِنَا تَزَوَّجَ امْرَأَةً قَدْ زَعَمَ أَنَّهُ كَانَ يَلَاعِبُ أُمَّهَا وَبُقْبَلَهَا مِنْ غَيْرِ أَنْ يَكُونَ أَفْضَى إِلَيْهَا قَالَ فَسَأَلْتُ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فَقَالَ لِي كَذَبَ مُرُهُ فَلْيَفَارِقْهَا

Ibn Mahboub, from Hisham Bin Salim, from Yazeed Al Kunasy who said,

'A man from our companions married a woman. So he said to me, 'I would love it if you could ask Abu Abdullah<sup>asws</sup> and say to him, 'A man from our companion married a woman, and he is claiming that he had played with her mother, and kissed her from without copulation taking place with her'. So I asked Abu Abdullah<sup>asws</sup>, and he<sup>asws</sup> said to me: 'He has lied! Let him separate her'.

قَالَ فَرَجَعْتُ مِنْ سَفَرِي فَأَخْبَرْتُ الرَّجُلَ بِمَا قَالَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) فَوَاللَّهِ مَا دَفَعْتُ ذَلِكَ عَنْ نَفْسِي وَخَلَى سَبِيلَهَا .

<sup>125</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 6

<sup>126</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 7

<sup>127</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 8

He said, 'So I returned from my journey and informed the man with was Abu Abdullah<sup>asws</sup> had said. By Allah<sup>azwj</sup>, he did not defend that from himself, and freed her way (divorced her)'.<sup>128</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ أَبِي أَيُّوبَ الْخَزَّازِ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ قَالَ سَأَلَ رَجُلٌ أَبَا عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) وَ أَنَا جَالِسٌ عَنْ رَجُلٍ نَالَ مِنْ خَالَتِهِ فِي شَبَابِهِ ثُمَّ ارْتَدَعَ أَيْتَرَوُجُ ابْنَتَهَا فَقَالَ لَا قُلْتُ إِنَّهُ لَمْ يَكُنْ أَفْضَى إِلَيْهَا إِنَّمَا كَانَ شَيْءٌ دُونَ شَيْءٍ فَقَالَ لَا يُصَدَّقُ وَلَا كَرَامَةٌ.

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

'A man asked Abu Abdullah<sup>asws</sup>, and I was seated, about a man who had attained from his maternal aunt during his youth. Then he restrained. Can he marry her daughter?' So he<sup>asws</sup> said: 'No'. I said, 'He did not happen to have copulated with her. But rather, something less than a thing'. So he<sup>asws</sup> said: 'No, his words are not accepted, and it is not honourable'.<sup>129</sup>

<sup>128</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 9

<sup>129</sup> Al Kafi – V 5 – The Book of Marriage Ch 73 H 10