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Ibn Majah Al-Qazwînî
Volume-3
From Hadith No. 01 to 802
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Contents

The Chapters Regarding Zakât

Chapter 1. The Obligation Of Zakât .......................................................... 17
Chapter 2. What Was Narrated Concerning Withholding Zakât ..................... 18
Chapter 4. Zakât on Silver and Gold ....................................................... 22
Chapter 5. One Who Acquires Wealth..................................................... 23
Chapter 6. Wealth On Which Zakât Is Required ....................................... 24
Chapter 7. Paying Zakât Before It Is Due ................................................ 25
Chapter 9. Sadaqah Due On Camels ....................................................... 26
Chapter 10. When The Zakât Collector Receives An Animal That Is One Year Younger Or One Year Older Than Required .......................................................... 29
Chapter 11. What Kind Of Camels Should Be Taken .................................. 30
Chapter 12. Sadaqah Due On Cattle ......................................................... 32
Chapter 13. Sadaqah Due On Sheep ....................................................... 33
Chapter 14. What Was Narrated Concerning The Collectors Of Zakât ........... 35
Chapter 15. Sadaqah Due On Horses And Slaves ..................................... 37
Chapter 16. Wealth On Which Zakât Is Due ............................................ 38
Chapter 17. Sadaqah Due On Crops And Fruits ....................................... 39
Chapter 18. Assessment Of Date-Palms And Grapevines ............................ 40
Chapter 19. Prohibition Of Giving The Worst Of One’s Wealth As Sadaqah .... 42
Chapter 20. Zakât Due On Honey ............................................................ 44
Chapter 21. Sadaqatul-Fitr .................................................................. 45
Chapter 22. ‘Usr And Kharâj ................................................................. 48
Chapter 23. A Wâsâm Is Sixty Sâ’ ............................................................ 49
Chapter 24. Giving Charity To Relatives .................................................. 50
Chapter 25. Begging Is Disliked ............................................................. 51
Chapter 26. One Who Asks When He Is Not In Need ................................ 52
Chapter 27. For Whom Is Charity Permissible? ........................................ 54
Chapter 28. The Virtue Of Charity .............................................................. 54

The Chapters On Marriage

Chapter 1. What Was Narrated Concerning The Virtue Of Marriage .......... 57
Chapter 2. Prohibition Of Celibacy .......................................................... 59
Chapter 3. The Wife’s Rights Over The Husband ....................................... 60
Chapter 4. The Husband’s Rights Over His Wife ....................................... 62
Chapter 5. The Best Of Women ............................................................... 64
Chapter 6. Marrying A Religious Woman ............................................... 66
Chapter 7. Marrying Virgins ................................................................ 67
Chapter 8. Marrying Free Women Who Are Fertile................................. 68
Chapter 9. Looking At A Woman When Wanting To Marry Her............... 69
Chapter 10. A Man Should Not Propose Marriage To A Woman To Whom His Brother Has Already Proposed........................................... 71
Chapter 11. Seeking The Consent Of Virgins And Previously-Married Women 73
Chapter 12. One Who Arranges His Daughter’s Marriage When She Is Unwilling................................................................. 74
Chapter 13. Marriage Of Minor Girls Arranged By Their Fathers ................ 76
Chapter 14. Marriage Of Minor Girls Arranged By Someone Other Than Their Fathers................................................................. 77
Chapter 15. No Marriage Except With A Guardian.................................. 78
Chapter 16. Prohibition Of Shighar...................................................... 80
Chapter 17. Dowries Of Women.......................................................... 81
Chapter 18. A Man Who Gets Married Without Stipulating The Dowry And Then Dies ................................................................. 84
Chapter 19. Sermon Of Marriage.......................................................... 85
Chapter 20. Announcing Marriages....................................................... 88
Chapter 21. Singing And (Beating) The Duff......................................... 89
Chapter 22. Effeminate Men................................................................. 92
Chapter 23. Offering Congratulations On The Occasion Of Marriage........ 93
Chapter 24. The Walimah (Wedding Feast).......................................... 94
Chapter 25. Accepting Invitations........................................................ 97
Chapter 26. Staying With A Virgin And A Previously-Married Woman .... 98
Chapter 27. What The Man Should Say When His Bride Comes In To Him .. 100
Chapter 28. Covering Oneself When Having Intercourse....................... 101
Chapter 29. Prohibition Of Having Intercourse With Women In The Buttocks 102
Chapter 30. Coitus Interruptus............................................................. 104
Chapter 31. A Man Should Not Be Married To A Woman Along With Her Paternal or Maternal Aunt At The Same Time ............................ 105
Chapter 32. A Man Divorces His Wife Thrice, Then Another Man Marries Her And Divorces Her Before Consummating The Marriage. Can She Go Back To The First Man? .................................................. 106
Chapter 33. The Muhallil And The Muhallal Lahu.................................. 108
Chapter 34. What Is Unlawful Due To Lineage Is Unlawful Due To Breastfeeding.......................................................... 109
Chapter 35. Suckling Once Or Twice Does Not Make (Marriage) Unlawful ... 111
Chapter 36. Breastfeeding An Adult..................................................... 113
Chapter 37. There Is No Breastfeeding After Weaning.......................... 114
Chapter 38. The Breast Milk Belongs To The Sire.................................. 116
Chapter 39. A Man Became Muslim And He Has (i.e., Is Married To) Two Sisters............................................................... 117
Chapter 40. A Man Became Muslim And He Has More Than Four Wives.... 118
Chapter 41. Conditions In Marriage..................................................... 118
Chapter 42. A Man Setting Free His Slave Woman Then Marrying Her...... 119
Chapter 43. A Slave Marrying Without His Master’s Permission.............. 121
Chapter 44. Prohibition Of Temporary Marriage (Mut’ah).......................... 122
Chapter 45. Marriage Of A Muhrim ........................................................................ 124
Chapter 46. Compatibility ...................................................................................... 125
Chapter 47. Dividing One's Time Among Wives ..................................................... 127
Chapter 48. A Woman Giving Her Day To Her Co-Wife .......................................... 128
Chapter 49. Intercession Concerning Marriage ....................................................... 130
Chapter 50. Good Treatment Of Women .................................................................. 131
Chapter 51. Hitting Women .................................................................................... 133
Chapter 52. Those Who Put Extensions In Hair And Those Who Make Tattoos .......... 135
Chapter 53. Recommended Time For Consummating Marriage ............................... 138
Chapter 54. A Man Consummating The Marriage With His Wife Before Giving Her Anything ........................................................................................................... 139
Chapter 55. Omens And Good Fortune .................................................................... 139
Chapter 56. Jealousy .............................................................................................. 140
Chapter 57. The Woman Who Offered Herself (In Marriage) To The Prophet .......................... 143
Chapter 58. A Man Who Has Doubts Concerning His Child ..................................... 144
Chapter 59. The Child Is For The Bed And The Fornicator Gets Nothing .................. 146
Chapter 60. When One Spouse Becomes Muslim Before The Other ......................... 148
Chapter 61. Intercourse With A Nursing Mother..................................................... 149
Chapter 63. What Is Harām Does Not Make What Is Halāl A Harām ....................... 151

The Chapters On Divorce

Chapter 1. Suwayd bin Sa’d told us ........................................................................... 153
Chapter 2. Divorce According To The Sunnah .......................................................... 154
Chapter 3. How A Pregnant Woman Is To Be Divorced ............................................ 157
Chapter 4. One Who Divorces His Wife Three Times In One Sitting ......................... 157
Chapter 5. Taking One's Wife Back .......................................................................... 158
Chapter 6. When A Divorced Pregnant Woman Gives Birth, The Divorce Becomes Irrevocable ........................................................................................................ 158
Chapter 7. When A Pregnant Widow Gives Birth, It Is Permissible For Her To Remarry ............................................................................................................. 159
Chapter 8. Where Should The Woman Whose Husband Died Observe Her Waiting Period? ............................................................................................................. 162
Chapter 9. Can A Woman Go Out During Her Waiting Period? ................................. 163
Chapter 10. Does A Woman Who Has Been Divorced Three Times Have The Right To Accommodation And Maintenance? .................................................. 165
Chapter 11. Giving A Gift In The Event Of Divorce ................................................... 166
Chapter 13. One Who Divorces, Marries Or Takes Back His Wife In Jest .................... 167
Chapter 14. One Who Divorces His Wife To Himself, But Did Not Speak The Words Out Loud ........................................................................................................ 167
Chapter 15. Divorce Of One Who Is Insane, A Minor And One Who Is Sleeping ........ 168
Chapter 17. No Divorce Before Marriage .................................................................. 171
Chapter 18. (Words) By Which Divorce Takes Place ........................................ 172
Chapter 19. Irrevocable Divorce................................................................. 173
Chapter 20. A Man Giving His Wife The Choice ......................................... 173
Chapter 21. That Khul' Is Undesirble For The Women ............................... 175
Chapter 22. The Man Whose Wife (Seeks) Khul' Takes What He Had Given To Her ................................................................................. 176
Chapter 23. The Waiting Period Of A Woman Granted Khul' ....................... 177
Chapter 24. Swearing To Forego Marital Relations With One's Wife ............ 178
Chapter 25. Zighr.................................................................................. 179
Chapter 26. A Man Who Declared Zighr Upon His Wife, Having Intercourse With Her Before Offering Expiation ..................................... 182
Chapter 27. The Li'ān ............................................................................ 183
Chapter 28. Declaring A Woman As Unlawful For Oneself ......................... 188
Chapter 29. Giving A Slave Woman The Choice When She Is Freed .......... 189
Chapter 30. Divorce And Waiting Period Of A Slave Woman ..................... 192
Chapter 31. The Divorce Performed By A Slave......................................... 193
Chapter 32. One Who Divorces A Slave Woman With Two Divorces, Then Buys Her ............................................................................. 194
Chapter 33. The Waiting Period Of An Umm Walad .................................. 195
Chapter 34. It Is Disliked For A Recently Widowed Woman To Adorn Herself 195
Chapter 35. Can A Woman Mourn For Anyone Other Than Her Husband? 196
Chapter 36. A Man Whose Father Orders Him To Divorce His Wife ........... 198

The Chapters On Expiation

Chapter 1. The Swearing Of The Messenger Of Allāh (By Which He Would Take An Oath) ...................................................................... 200
Chapter 2. Prohibition Of Making An Oath By Other Than Allāh ................. 201
Chapter 3. One Who Takes An Oath To Follow A Religion Other Than Islam 203
Chapter 4. The Person For Whom An Oath Is Sworn By Allāh Should Accept What Is Said .............................................................. 204
Chapter 5. Swearing Is (i.e., Leads To) Sin Or Regret .................................... 205
Chapter 6. Uttering The Exception When Swearing .................................... 206
Chapter 7. One Who Swears An Oath And Then Sees That Something Else Is Better .............................................................................. 207
Chapter 8. Those Who Say That The Expiation Is To Not Fulfill It ................. 209
Chapter 9. How Much Food Should Be Given When Atoning For What One Swore About? ............................................................... 210
Chapter 10. (Expiation Should Be) With (The Average) Food That You Feed Your Families ................................................................. 211
Chapter 11. Prohibition Of Man Insisting On What He Swore About, And Not Offering Expiation ............................................................ 211
Chapter 12. Helping Others Fulfill Their Oaths .......................................... 212
Chapter 13. Prohibition On Saying: "What Allāh Wills And You Will" .......... 214
Chapter 14. One Who Uses Ambiguous Words In His Oath ......................... 215
Chapter 15. The Prohibition Of Vows .......................................................... 216
Chapter 16. Vows For Disobedience ............................................................ 217
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>One Who Makes A Vow But Does Not State It Specifically</td>
<td>219</td>
</tr>
<tr>
<td>18</td>
<td>Fulfilling Vows</td>
<td>219</td>
</tr>
<tr>
<td>19</td>
<td>One Who Dies With A Vow Left To Fulfill</td>
<td>221</td>
</tr>
<tr>
<td>20</td>
<td>One Who Vows To Go For Hajj Walking</td>
<td>222</td>
</tr>
<tr>
<td>21</td>
<td>One Who Mixes Obedience And Sin In His Vow</td>
<td>223</td>
</tr>
<tr>
<td>1</td>
<td>Encouragement To Earn A Living</td>
<td>224</td>
</tr>
<tr>
<td>2</td>
<td>Moderation In Seeking To Earn A Living</td>
<td>227</td>
</tr>
<tr>
<td>3</td>
<td>Fearing Allah In Business</td>
<td>228</td>
</tr>
<tr>
<td>4</td>
<td>If A Man Finds A Way Of Earning A Living, Let Him Stick With It</td>
<td>230</td>
</tr>
<tr>
<td>5</td>
<td>Occupations</td>
<td>231</td>
</tr>
<tr>
<td>6</td>
<td>Hoarding And Importing</td>
<td>232</td>
</tr>
<tr>
<td>7</td>
<td>The Wages Of The Râqi</td>
<td>234</td>
</tr>
<tr>
<td>8</td>
<td>Wages For Teaching Qur’ân</td>
<td>235</td>
</tr>
<tr>
<td>9</td>
<td>Prohibition Of The Price Of A Dog, The Payment (Given) To A</td>
<td>237</td>
</tr>
<tr>
<td></td>
<td>Prostitute, The Payment Made To A Soothsayer And Studding A Stallion</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Earnings Of A Cupper</td>
<td>238</td>
</tr>
<tr>
<td>11</td>
<td>What It Is Not Permissible To Sell</td>
<td>240</td>
</tr>
<tr>
<td>12</td>
<td>What Was Narrated Concerning The Prohibition Of Munâbadhah And</td>
<td>242</td>
</tr>
<tr>
<td></td>
<td>Mūlānasah</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>“A Man Is Not To Undersell The Sale Of His Brother, Nor Is He</td>
<td>243</td>
</tr>
<tr>
<td></td>
<td>To Try To Out-Haggle His Brother.”</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>What Was Narrated Concerning The Prohibition Of Najsh</td>
<td>244</td>
</tr>
<tr>
<td>15</td>
<td>Prohibition Of A City-Dweller Selling On Behalf Of A Bedouin</td>
<td>244</td>
</tr>
<tr>
<td>16</td>
<td>Prohibition Of Meeting Traders On The Way</td>
<td>245</td>
</tr>
<tr>
<td>17</td>
<td>The Two Parties To A Transaction Have The Choice (Of Annulling It)</td>
<td>247</td>
</tr>
<tr>
<td></td>
<td>So Long As They Have Not Yet Parted</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>A Transaction With The Option To Cancel</td>
<td>248</td>
</tr>
<tr>
<td>19</td>
<td>Parties To A Transaction Who Differ With One Another</td>
<td>249</td>
</tr>
<tr>
<td>20</td>
<td>The Prohibition Of Selling What Is Not With You, And From</td>
<td>250</td>
</tr>
<tr>
<td></td>
<td>Profiting On What You Do Not Possess</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>If Two Authorized Persons Make A Sale, Then The First Transaction</td>
<td>252</td>
</tr>
<tr>
<td></td>
<td>Is The One That Is Valid</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Prohibition On Earnest Money</td>
<td>253</td>
</tr>
<tr>
<td>23</td>
<td>Prohibition Of Hasîth And Gharîr Transactions</td>
<td>254</td>
</tr>
<tr>
<td>24</td>
<td>Prohibition Of Buying What Is In The Wombs And Udders Of Cattle, And</td>
<td>255</td>
</tr>
<tr>
<td></td>
<td>Whatever A Diver Is Going To Bring Up</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>Auctions</td>
<td>256</td>
</tr>
<tr>
<td>26</td>
<td>Letting Someone Off</td>
<td>258</td>
</tr>
<tr>
<td>27</td>
<td>Whoever Does Not Like To Fix Prices</td>
<td>258</td>
</tr>
<tr>
<td>28</td>
<td>Being Lenient During Transactions</td>
<td>260</td>
</tr>
<tr>
<td>29</td>
<td>Haggling</td>
<td>261</td>
</tr>
</tbody>
</table>
Chapter 30. What Was Narrated About It Being Disliked To Swear Oaths When Buying And Selling .................................................. 263
Chapter 31. What Was Narrated Concerning One Who Sells A Pollinated Palm Tree Or A Slave Who Has Wealth .................. 265
Chapter 32. Prohibition Of Selling Fruits Before They Have Ripened ................................................................. 267
Chapter 33. Selling Fruits For Many Years Ahead And Crop Failure .................................................. 269
Chapter 34. Allowing More When Weighing Goods For Sale ........................................................................ 270
Chapter 35. Being Cautious With Regard To Weights And Measures ................................................................. 271
Chapter 36. Prohibition Of Cheating .................................................................................................................. 272
Chapter 37. The Prohibition Of Selling Food Before Taking Possession Of It ............................................................. 273
Chapter 38. Chapter Sales Involving Risk (Due To Its Amount Being Unknown) .................................................. 274
Chapter 39. The Blessing That Is Hoped For When Measuring Food .................................................................. 275
Chapter 40. Marketplaces And Entering Them ................................................................................................. 276
Chapter 41. The Blessing That Is Hoped For When Starting One's Day Early .................................................... 278
Chapter 42. Selling The Musarrāh .................................................................................................................. 279
Chapter 43. A Slave's Earnings Belong To His Guarantor .................................................................................. 281
Chapter 44. Contractual Obligation Regarding A Slave .................................................................................. 282
Chapter 45. One Who Sells Defective Goods Should Point Out The Defect ...................................................... 283
Chapter 46. Prohibition Of Separating Captives .............................................................................................. 284
Chapter 47. Buying Slaves .................................................................................................................................. 285
Chapter 48. Bartering And Excesses Not Permitted In Hand-To-Hand Exchange ..................................................... 286
Chapter 49. One Who Says That There Is No Usury Except In Credit ................................................................ 289
Chapter 50. Exchanging Gold For Silver ........................................................................................................... 291
Chapter 51. Exchanging Gold For Silver And Silver For Gold ........................................................................... 292
Chapter 52. Prohibition Of Breaking Dirham And Dinār ............................................................................... 293
Chapter 53. Selling Fresh Dates For Dried Dates .............................................................................................. 294
Chapter 54. The Muzābānah And The Muhāqalah .............................................................................................. 295
Chapter 55. The Sale ‘Arāyāh By Estimating Its Amount For Dry Dates ......................................................... 296
Chapter 56. Selling Animals For Animals On Credit ....................................................................................... 297
Chapter 57. Selling Animals For Animals, Of Different Kinds, Hand To Hand .................................................. 298
Chapter 58. Emphatic Prohibition Of Usury ........................................................................................................ 299
Chapter 59. Payment In Advance For A Known Amount Or A Known Weight To Be Delivered At A Known Time ................................................................................................................. 302
Chapter 60. The One Who Has Paid In Advance For Something Should Not Exchange It For Something Else ........ .................................................. 304
Chapter 61. If One Pays In Advance For A Specific Date Palm And It Does Not Yield Anything .................. 305
Chapter 62. Paying For Animals In Advance ...................................................................................................... 306
Chapter 63. Partnership And Profit Sharing .................................................................................................. 307
Chapter 64. What A Man Is Entitled To Of His Son's Property ........................................................................... 308
Chapter 65. What A Woman Is Entitled To Of Her Husband's Wealth .............................................................. 309
Chapter 66. What A Slave May Give Away And Give In Charity ........................................................................... 311
Chapter 67. One Who Passes By The Livestock (Of Some People) Or A
Contents

Chapter 68. The Prohibition Of Taking Something Without The Permission Of The Owner ........................................ 315
Chapter 69. Keeping Livestock .................................................................................................................................. 316

The Chapters On Rulings

Chapter 1. Mention Of Judges ............................................................................................................................................ 319
Chapter 2. Emphatic Prohibition Against Injustice And Bribery .......................................................................................... 320
Chapter 3. When The Judge Does His Best (To Reach A Verdict) And Gets It Right ......................................................... 322
Chapter 4. The Judge Should Not Pass A Judgement When He Is Angry .................................................................................. 323
Chapter 5. The Ruling Of A Judge Does Not Make What Is Forbidden Permissible Nor What Is Permissible Forbidden .......................................................... 324
Chapter 6. One Who Claims Something That Does Not Belong To Him And Disputes About It ........................................ 325
Chapter 7. The Burden Of Proof Rests With The Plaintiff And An Oath Is Required From The One The Claim Is Made Against ............................................ 326
Chapter 8. One Who Swears A False Oath In Order To Seize Wealth Unlawfully .................................................................................................................................................. 328
Chapter 9. Swearing An Oath At The Time Of Usurping People’s Rights .................................................................................. 329
Chapter 10. What The People Of The Book Should Be Asked To Swear By .............................................................................. 330
Chapter 11. When Two Men Claim Some Goods And Neither Of Them Has Any Proof .................................................................................................................................................................. 331
Chapter 12. A Person Who Has Something Stolen, And He Finds It In The Possession Of A Man Who Bought It ...................... 332
Chapter 13. Ruling On Property Damaged By Livestock ........................................................................................................ 332
Chapter 14. Ruling Concerning One Who Breaks Something ................................................................................................. 333
Chapter 15. A Man Fixing Wood To The Wall Of His Neighbor ............................................................................................... 335
Chapter 16. When There Is A Dispute As To How Wide A Road Or Path Should Be .................................................................................................................................................................. 336
Chapter 17. One Who Builds Something On His Own Property That Harms His Neighbor ................................................................. 337
Chapter 18. Two Men Who Lay Claim To A Hut .......................................................................................................................... 338
Chapter 19. One Who Stipulates The Condition Of Khalāṣ .................................................................................................. 339
Chapter 20. Passing Judgment By Casting Lots ..................................................................................................................... 340
Chapter 21. Those Who Detect A Family Likeness ................................................................................................................. 342
Chapter 22. Giving A Child The Choice Between His Parents .................................................................................................. 344
Chapter 23. Reconciliation .......................................................................................................................................................... 345
Chapter 24. Preventing One Who Will Mishandle His Wealth ................................................................................................. 346
Chapter 25. Bankruptcy Of A Poor Man, And Selling His Assets To Pay Off His Creditors .................................................................................................................................................................. 347
Chapter 26. One Who Finds His Exact Property With A Man Who Has Become Bankrupt .......................................................................................................................................................... 348
The Chapters On Testimonies

Chapter 27. To Give Testimony When One Has Not Been Asked To Do So Is Disliked .......................................................... 352
Chapter 28. A Man Who Has Testimony To Give, When The Person To Whom It Pertains Is Unaware Of That ......................... 354
Chapter 29. Witnessing Loans ........................................................................................................................................... 354
Chapter 30. The One Whose Testimony Is Not Permitted .................................................................................................. 355
Chapter 31. Passing Judgment On The Basis Of A Witness And An Oath ........................................................................... 356
Chapter 32. False Witness ..................................................................................................................................................... 358
Chapter 33. The Testimony Of The People Of The Book Against One Another ................................................................. 359

The Chapters On Gifts

Chapter 1. A Man Giving A Gift To His Son ......................................................................................................................... 360
Chapter 2. One Who Gives His Child A Gift Then Takes It Back ................................................................................................. 361
Chapter 3. Lifelong Grant ....................................................................................................................................................... 362
Chapter 4. The Ruqba ............................................................................................................................................................ 363
Chapter 5. Taking Back A Gift ............................................................................................................................................. 364
Chapter 6. One Who Gives A Gift Hoping To Get Something Back In Return .................................................................... 365
Chapter 7. A Woman Giving Something Without Her Husband’s Permission ............................................................................ 366

The Chapters On Charity

Chapter 1. Taking Back One’s Charity ....................................................................................................................................... 368
Chapter 2. One Who Gives Charity Then Finds His Gift Being Sold — Should He Buy It? ........................................................ 369
Chapter 3. One Who Gives Something In Charity Then Inherits It ............................................................................................. 370
Chapter 4. One Who Establishes A Waqf (An Endowment) .................................................................................................. 371
Chapter 5. Borrowed Items ................................................................................................................................................... 372
Chapter 6. Items Placed In Trust ........................................................................................................................................ 373
Chapter 7. When The One Who Is Entrusted With Something Engages In Trade With It And Makes A Profit ................. 374
Chapter 8. Transferring Debt .................................................................................................................................................. 375
Chapter 10. One Who Takes A Loan With The Intention Of Repaying It .................................................................................... 378
Chapter 11. One Who Takes A Loan With No Intention Of Repaying It ................................................................................ 379
Chapter 12. Stern Warning Concerning Debt ....................................................................................................................... 380
Chapter 13. If A Man Leaves Behind A Debt Or Children, Then Allah And His Messenger Are Responsible For Them ........ 382
Chapter 14. Giving Respite To One Who Is In Difficulty .................................................................................................... 383
Chapter 15. Asking In A Polite Manner And Taking One’s Rights Without Behaving In An Indecent Manner .................. 385
Chapter 16. Paying Off Debts In A Good Manner .................................................................................................................. 386
Chapter 17. The One Who Has A Right Has Authority (Over The Debtor) ............................................................................. 387
Chapter 18. Imprisonment Because Of Debts And Pursuing Debtors ........................................................................................ 389
Chapter 19. Lending .................................................................................................................................................................. 391
Chapter 20. Paying A Debt On Behalf Of The Deceased ........................................................................................................... 393
Chapter 21. Three Things Which, If A Person Takes Out A Loan Because Of Them, Allah Will Pay It Off For Him .................................................. 395

The Chapters On Pawning

Chapter 1. [Abu Bakr Bin Abi Shaibah Narrated To Us] ...................... 396
Chapter 2. The Pawned Animal May Be Ridden And Milked ............... 397
Chapter 3. Pawned Items Are Not To Be Forfeited ............................. 398
Chapter 4. Wages Of Workers .......................................................... 398
Chapter 5. Hiring A Worker In Return For Food ............................... 399
Chapter 6. A Man Who Draws A Bucket Of Water In Return For A Date And Stipulates That They Must Be Good Quality Dried Dates .... 401
Chapter 7. Lending Land In Return For One Third Or One Quarter (Of The Crop) ................................................................. 402
Chapter 8. Leasing Out Land ............................................................ 404
Chapter 9. Concession Allowing Leasing Out Barren Land For Gold And Silver ................................................................. 406
Chapter 10. Kinds Of Cultivation That Are Disliked ............................. 407
Chapter 11. Concession Allowing Cultivation For One Third And One Quarter (Of The Crop) ................................................................. 409
Chapter 12. Renting Out Land In Return For Food .............................. 410
Chapter 13. Whoever Cultivates People's Land Without Their Permission ................................................................. 411
Chapter 14. Dealing With People Who Have Date-Palm Trees And Grape Vines ................................................................. 411
Chapter 15. Pollinating Palm Trees .................................................... 413
Chapter 16. The Muslims Are Partners In Three Things ....................... 414
Chapter 17. Giving Rivers And Springs To People ............................. 416
Chapter 18. The Prohibition Of Selling Water .................................... 417
Chapter 19. The Prohibition Of Withholding Surplus Water From Common Pastureland ................................................................. 418
Chapter 20. Irrigation From Rivers And How Much Water May Be Retained ................................................................. 419
Chapter 21. Distribution Of Water .................................................... 421
Chapter 22. The Land Around A Well (Which Belongs Only To The Well Owner) ................................................................. 422
Chapter 23. The Precincts Of Trees .................................................... 423
Chapter 24. One Who Sells Property And Does Not Use The Money For Something Similar ................................................................. 424

The Chapters On Preemption

Chapter 1. One Who Sells A Property Should Notify His Partner (Of His Intention) ................................................................. 426
Chapter 2. Preemption By Virtue Of Being Neighbors ........................ 427
Chapter 3. If The Boundaries Have Been Fixed Then There Is No Preemption ................................................................. 428
Chapter 4. Requesting Preemption .................................................... 429
The Chapters On Lost Property

Chapter 1. Lost Camels, Cattle And Sheep ........................................ 431
Chapter 2. Lost Property ................................................................. 433
Chapter 3. Picking Up What A Rat Brings Out ............................... 435
Chapter 4. One Who Finds Buried Treasure .................................... 436

The Chapters On Manumission (Of Slaves)

Chapter 1. The Mudabbar ............................................................... 438
Chapter 2. Umahātul-Awlâd ............................................................. 439
Chapter 3. The Mukātab ................................................................. 441
Chapter 4. Manumission ................................................................. 443
Chapter 5. If A Person Becomes The Master Of A Mahram, Then He Becomes Free ............................................................ 445
Chapter 7. Whoever Frees His Share Of A Slave .............................. 446
Chapter 8. One Who Frees A Slave Who Has Some Wealth ............. 448
Chapter 9. Freeing Illegitimate Children .......................................... 449
Chapter 10. If One Wants To Free A Man Along With His Wife, He Should Start With The Man .................................................. 449

The Chapters On Legal Punishments

Chapter 1. It Is Not Lawful To Shed The Blood Of A Muslim Except In Three Cases ................................................................. 451
Chapter 2. The Apostate Who Leaves His Religion ............................. 453
Chapter 3. Carrying Out The Hudud .................................................. 453
Chapter 4. One Who May Be Exempt From The Legal Punishment .... 456
Chapter 5. Covering (The Sin Of) The Believer And Warding Off Legal Punishments In The Case Of Doubt ................................. 457
Chapter 6. Intercession Concerning Legal Punishments .................... 459
Chapter 7. The Legal Punishment For Adultery .................................. 461
Chapter 8. One Who Has Intercourse With The Slave Woman Of His Wife ............................................................... 463
Chapter 9. Stoning ........................................................................... 464
Chapter 10. Stoning A Jewish Man And Jewish Woman ..................... 466
Chapter 11. One Who Commits Immoral Actions Openly ................... 467
Chapter 12. Those Who Do The Action Of The People Of Lut ............. 469
Chapter 13. One Who Has Intercourse With A Mahram Relative And One Who Has Intercourse With An Animal ............................ 470
Chapter 15. The Legal Punishment For Slander .................................. 472
Chapter 16. The Legal Punishment For Drunkenness ......................... 473
Chapter 17. One Who Drinks Wine Repeatedly .................................... 475
Chapter 18. The Legal Punishment Must Be Carried Out On The Old And The Sick (When They Desire It) ................................. 476
Chapter 19. One Who Brandishes His Weapon ................................... 477
Chapter 20. Those Who Engage In Banditry And Spread Mischief In The Land
Chapter 21. One Who Is Killed Defending His Property Is A Martyr
Chapter 22. The Legal Punishment For The Thief
Chapter 23. Hanging The Hand From The Neck
Chapter 24. A Thief Who Confesses
Chapter 25. A Slave Who Steals
Chapter 26. Those Who Betray Trusts, Robbers and Pilferers
Chapter 27. The Hand Is Not To Be Cut Off For (Stealing) Produce Or The Spadix (Marrow) Of Palm Trees
Chapter 28. One Who Steals Something That Is Guarded
Chapter 29. Prompting A Thief
Chapter 30. One Who Is Coerced
Chapter 31. Prohibition Of Carrying Out The Legal Punishments In The Mosques
Chapter 32. Penalty Or Discretionary Punishments (Decided by The Judge)
Chapter 33. The Legal Punishment Is Expiation
Chapter 34. A Man Who Finds Another Man With His Wife
Chapter 35. One Who Marries His Father’s Wife After He Dies
Chapter 36. One Who Claims To Belong To Someone Other Than His Father, Or (A Slave) Who Claims To Belong To Someone Other Than His Master
Chapter 37. One Who Says That A Man Does Not Belong To His Tribe
Chapter 38. Effeminate Men

The Chapters On Blood Money

Chapter 1. The Severity Of Killing A Muslim
Chapter 2. Can The One Who Kills A Believer Repent?
Chapter 3. If A Person’s Relative Is Killed, He Has The Choice Of Three Things
Chapter 4. One Who Is Killed Deliberately And His Heirs Accept The Blood Money
Chapter 5. The Blood Money For What Appears To Be Intentional Due To Its Harshness
Chapter 6. The Blood Money For Killing By Mistake
Chapter 7. The Blood Money Must Be Paid By The ‘Aqilah; If there Is No ‘Aqilah, Then It Must Be Paid From The Treasury
Chapter 8. One Who Prevents The Next Of Kin Of The Slain From Exacting Retaliation Or Taking The Blood Money
Chapter 9. Actions For Which There Is No Retaliation
Chapter 10. One Who Inflicts A Wound May Ransom Himself By Paying The Compensatory Money
Chapter 11. The Blood Money For A Fetus
Chapter 12. Inheritance From The Blood Money
Chapter 13. The Blood Money Of A Disbeliever
Chapter 14. The Killer Does Not Inherit
Chapter 15. The Blood Money Of A Woman (Who Kills Someone) Must Be Paid By Her Male Relatives On Her Father's Side, And Her Inheritance Goes To Her Children ............................................. 522
Chapter 16. The Retaliation For A Tooth .................................................. 523
Chapter 17. The Compensatory Money For Teeth ........................................... 524
Chapter 18. The Compensatory Money For Fingers ......................................... 525
Chapter 19. A Wound That Exposes The Bone ............................................... 526
Chapter 20. If A Person Bites A Man And He Pulls Away His Hand And His Tooth Comes Out................................................................. 526
Chapter 21. A Muslim Should Not Be Killed For A Disbeliever .................... 528
Chapter 22. A Father Should Not Be Killed For His Son ................................. 529
Chapter 23. Can A Free Person Be Killed For A Slave? ................................. 530
Chapter 24. Retaliation Upon The Killer Will Be Carried Out In The Same Manner As He Killed (His Victim) .................................................. 531
Chapter 25. There Is No Retaliation Except With The Sword ....................... 532
Chapter 26. No Criminal Can Bring Punishment Upon Anyone Else (For His Crime) ................................................................................. 532
Chapter 27. Offences For Which There Is No Liability .................................... 534
Chapter 28. Oaths ......................................................................................... 535
Chapter 29. Whoever Mutilates His Slave, Then He (The Slave) Is Free .......... 538
Chapter 30. The Most Decent People In Killing Are The People Of Faith ........ 539
Chapter 31. The Lives Of All Muslims Are Equal In Value ............................. 539
Chapter 32. One Who Kills A Mu’āhid ............................................................ 541
Chapter 33. One Who Offers Protection To A Man Then Kills Him ............... 542
Chapter 34. Pardoning The Killer .................................................................. 543
Chapter 35. Pardoning In Cases Of Retaliation .............................................. 545
Chapter 36. A Pregnant Woman Deserving Retaliation ................................. 545

The Chapters On Wills

Chapter 1. Did The Messenger Of Allāh ﷺ Make A Will? ................................. 547
Chapter 2. Exhortation To Make A Will ............................................................ 550
Chapter 3. Injustice In Wills .......................................................................... 551
Chapter 4. The Prohibition Of Withholding While Alive, Only To Squander Upon One’s Death ....................................................................... 553
Chapter 5. Making A Will For One Third .......................................................... 555
Chapter 6. There Is No Bequest For An Heir ..................................................... 557
Chapter 7. Debts Before The Will .................................................................... 559
Chapter 8. If A Person Dies Without Having Made A Will, Can Charity Be Given On His Behalf? ................................................................. 560
Chapter 9. Allāh’s Saying: “But if he is poor, let him have for himself what is just and reasonable.” ......................................................... 561
In the Name of Allāh, the Most Beneficent, the Most Merciful

8. The Chapters Regarding Zakāt

Comments:
a. The word Zakāt indicates literally ‘increase and growth’.

The noble jurists of Islamic law explained Zakāt by various definitions; one of these is: “It is an obligatory duty for a group possessing a specific amount of wealth at a specific time.”
b. Zakāt was declared as an obligatory duty in the 2nd year of Hijrah in the month of Shawwal.
c. The kinds of wealth on which Zakāt is due: Gold, silver, cash, commodities for trade, grains, fruits, (which can be stored like dates, raisin etc), minerals, cattle. Things other than these like: household utensils; vegetables are not subject to Zakāt, and nor are modes of transport such as horses, cars, etc.
d. The following are the recipients of Zakāt: The poor, the needy, the collectors of it, those whose hearts are to be reconciled, to free the captives, in the debtors, the cause of Allāh and the wayfarer.

Chapter 1. The Obligation Of Zakāt

1783. It was narrated from Ibn ‘Abbās that the Prophet said to Mu‘ādh to Yemen, and said: “You are going to some people among the People of the Book. Call them to bear witness that none has the right to be worshiped but Allāh, and that I am the Messenger of Allāh. If they obey that, then tell them that Allāh has enjoined upon them five prayers every day and night. If they obey that, then tell them that Allāh has enjoined upon them charity (Zakāt) from their wealth, to be taken from their rich and given to their poor.
If they obey that, then beware of (taking) the best of their wealth. And beware of the supplication of the oppressed, for there is no barrier between it and Allâh." (Sahih)

تخريج: أخرجه البخاري، المطالم، باب الإفراز والحر، من دعوة المظلوم، ح: 4488 مختصراً من حديث وكيع، وانظر، ح: 1395 وغيره، وصلم، الإيمان، باب الدعاء إلى الشهادتين وشروط الإسلام، ح: 19 من حديث وكيع به.

Comments:

a. Mu‘âdhdh was appointed as a governor of Yemen in the 10th year of Hijrah before the Farewell Hajj. One part of Yemen was under the governorship of Mu‘âdhdh bin Jabal and the other was under the governorship of Abu Musa Ash’âri.

b. ‘Among the People of Book’ means Jews. The larger population of Yemen at that time was Jewish.

c. Zakât is due only from Muslims; as for non-Muslims they pay a tax instead of Zakât which is a fixed, more or less amount, according to the financial condition of each individual, and this tax is called Jizyah.

d. Zakât is distributed only among the Muslim beneficiaries. From among the non-Muslims, only that non-Muslim may be given some from Zakât if there is a hope that he/she comes close to the Muslims, will have interests in Islam, and eventually will embrace Islam, such people are called “those whose hearts are to be reconciled.”

Chapter 2. What Was Narrated Concerning Withholding Zakât

1784. It was narrated from ‘Abdullâh bin Mas‘ûd that the Messenger of Allâh said: “There is no one who does not pay Zakât on his wealth, but a bald-headed snake[1] will be made to appear to him on the Day of Resurrection, until it

[1] Hydra or serpent, they say it means a male snake that is either bald, or white headed due to its poison.
encircles his neck.” Then the Messenger of Allâh recited the following Verse to us confirming that from the Book of Allâh the Most High: “And let not those who covetously withhold of that which Allâh has bestowed on them of His Bounty (wealth) think that it is good for them.”

(Sahih)

Comments:
a. A sinful person will be inflicted punishment on the Day of Judgement before entering Hell.
b. If there is a benefit in a worldly matter which is contrary to the Shari'ah, then one should reflect upon the loss of the Hereafter, so that the worldly benefit seems despicable, and due to this reflection, practising the Shari'ah becomes easier.

1785. It was narrated from Abu Dharr that the Messenger of Allâh said: “There is no owner of camels, sheep or cattle who does not pay Zakât on them, but they will come to him on the Day of Resurrection as big and as fat as they ever were, butting him with their horns and trampling him with their hooves. Every time the last of them has passed, the first of them will come back to him, until judgement is passed upon the people.”

(Sahih)

Comments:
a. Not paying Zakāt is a very big sin.
b. The cattle are also subject to Zakāt; its elaborated description is coming in the following chapter.

1786. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: "The camels on which the dues (i.e., Zakāt) were not paid will come, trampling their owners with their hooves. And cattle and sheep will come and trample their owners with their hooves and butt them with their horns. And hoarded treasure will come in the form of a bald-headed snake, and will meet its owner on the Day of Resurrection. Its owner will flee from it two times, then it will come to him and he will flee again, and will say: ‘What do I have to do with you?’ and it will say: ‘I am your hoarded treasure, I am your hoarded treasure.’ He will try to shield himself with his hand and it will devour it." (Sahih)

Comments:

a. Hoarded treasure means gold and silver etc., on which the owner failed to pay Zakāt.
b. A person takes wealth with his hand but does not give away with the same hand in the path of Allāh; therefore this hand will be punished such that his/her wealth turns into a snake which will bite this very hand. May Allāh keep us in His refuge!

Chapter 3. Wealth On Which Zakāt Is Paid Is Not ‘Hoarded Treasure’

1787. Khālid bin Aslam, the freed slave of ‘Umar bin Khattāb, said: “I went out with ‘Abdullāh bin
'Umar, and a Bedouin met him and recited to him the words of Allâh: 'And those who hoard up gold and silver (the money, the Zakât of which has not been paid) and spend them not in the way of Allâh.'[1] Ibn 'Umar said to him: 'The one who hoards it and does not pay the Zakât due on it, woe to him. But this was before the (ruling on) Zakât was revealed. When it was revealed, Allâh made it a purification of wealth.' Then he turned away and said: 'I do not mind if I have (the equivalent of) Uhud in gold, provided that I know how much it is and I pay Zakât on it, and I use it in obedience of Allâh, the Mighty and Sublime.'" (Sahih)

Comments:

a. Giving away as a charity in the path of virtue, other than paying Zakât and spending for other compulsory expenses, is a voluntary worship.

b. Payment of Zakât purifies the rest of the wealth, otherwise all wealth remains impure.

1788. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "When you pay Zakât on your wealth, then you have done what is required of you." (Hasan)

1789. It was narrated from Fātimah bint Qais that she heard him, meaning the Prophet ﷺ say:
“There is nothing due on wealth other than Zakāt.” (Da’if)

Chapter 4. Zakāt on Silver and Gold

1790. It was narrated from ‘Ali that the Messenger of Allāh ﷺ said: “I have exempted you from having to pay Zakāt on horses and slaves, but bring one quarter of one-tenth of every forty Dirham: one Dirham.” (Da’if)

1791. It was narrated from Ibn ‘Umar and ‘Aishah that from every twenty Dirār or more, the Prophet ﷺ used to take half a
Dinar, and from forty Dinâr, one
Dinâr. *(Hasan)*

Comments:

a. The horses kept for work, and the slaves for the service are not subject to *Zakât*. But if a person trades in horses and slaves, then he should pay *Zakât* after estimating their current value like other goods for trade.

b. The quantity of gold on which *Zakât* is levied is twenty Dinâr, which is equal to 92 grams (as said by Shaîkh Ibn Bâz, *Majmu‘ah Fatâwa*, vol: 14, page: 99).

c. The rates of *Zakât* levied on gold and silver is one fortieth. For example: If a person owns 100 grams of gold, he must pay two and a half grams of gold or its value in *Zakât*.

d. The amount of cash money on which *Zakât* is levied is equal to that of gold, because the current system of currency is based on gold.

Chapter 5. One Who Acquires Wealth

1792. It was narrated that ‘Aishah said: “I heard the Messenger of Allah ﷺ say: ‘There is no *Zakât* on wealth until *Hawl* (one year) has passed.’” *(Hasan)*

Comments:

a. *Zakât* is due from a person who owns gold and silver etc, (equal to the *Nisâb* or more on which *Zakât* is levied) and the period of one whole year has passed.

b. As for agricultural produce, *Zakât* becomes compulsory on it when the produce of a garden or field are harvested, and the elapse of a year is not a condition for it.
Chapter 6. Wealth On Which Zakât Is Required

1793. It was narrated from Abu Sa‘eed Al-Khudri that he heard the Prophet ﷺ say: "There is no Sadaqah on anything less than five Awsâq\(^1\) of dates, five Awâq\(^2\) of silver and five camels." (Sahih)

Comments:

a. When the date fruits become dry and can be stored, then if their weight is equal to five Wasq, Zakât must be levied. One Wasq is equal to sixty Sâţ, and Sâţ is a measurement. Five Wasq is equal to 750 Kilos.

b. Five Uqiyyah is equal to two hundred Dirham, which means the amount of silver on which Zakât is levied is two hundred Dirham.

c. If one has less than five camels they are not subject to Zakât. One goat is due for Zakât in the case of five camels. Further details of Zakât on camels will come in chapter 9.

1794. It was narrated from Jâbir bin ‘Abdullâh that the Messenger of Allâh ﷺ said: 'There is no Sadaqah on less than five camels; there is no Sadaqah on less than five Awâq; and there is no Sadaqah on less than five Awsâq.'” (Sahih)

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\(^1\) Awsâq is plural of Wasq: a volume measurement equal to sixty Sâţ. (Sindi).

\(^2\) Awâq is plural of Uqiyyah and they also say: waqîyyah. It is forty Dirham, and five Awâq is equal to two hundred Dirham. (Sindi).
Chapter 7. Paying Zakât Before It Is Due

1795. It was narrated from ʿAli bin Abu Ṭālib that ʿAbd b. ʿAbd Allâh bin Qubays asked the Prophet  about paying his Sadaqah before it is due, and he granted him permission to do that. (Daʿif)

Comments:

Paying Zakât in advance means to pay before the completion of year; the fluctuation of the right amount of Zakât will be sorted out at its due time.

Paying Zakât in advance is permissible.

Chapter 8. What Is To Be Said When Zakât Is Paid

1796. ʿAbdullâh bin Abu Awfa said: “Whenever a man brought Sadaqah to the Messenger of Allâh  he would bless him. I brought him the Sadaqah of my wealth and he said: ‘Allâhumma, salli ʿala ʿli Abî Awfa (O Allâh! Send blessing upon the family of Abu Awfa).’” (Sahih)

1797. It was narrated from Abu Hurairah that the Messenger of Allâh  said...
Allah said: "When you give Zakat, do not forget its reward, and say, 'Allahumma al-ha maghnaman wa la taj-alha maghrama (O Allah! Make it a gain and do not make it a loss).’ (Maudu')

Comments:

a. A person possessing Nisab of gold, silver and cash money, should personally make payment of the amount of Zakat at the local collecting place. As for the Zakat due on grain, crops and cattle, an appointed collecting officer of Islamic government will visit the person possessing the Nisab and collect it.

b. The relationship between public and government is of love and respect in an Islamic society. The Zakat collector should thank the person paying Zakat and pray for him.

Chapter 9. Sadaqah Due On Camels

1798. Ibn Shihab narrated from Sallam bin ‘Abdullah, from his father, from the Prophet. He (Ibn Shihab) said: “Sallam read to me a letter that the Messenger of Allah had written concerning Sadaqat, before Allah caused him to pass away, in which it was said: ‘For five camels one sheep; for ten, two sheep; for fifteen, three sheep; for twenty, four sheep. For twenty-five, a Bint Makhad (a one-year-old she-camel), up to thirty-five; if there is no Bint Makhad, then a Bin Labun (a two-year-old male camel). If there are more than thirty-five, even one, then a Bint Labun (a two-year-old she-camel) must be
given, up to forty-five. If there are more than forty-five, even one, then a Hiqqah (a three-year-old she-camel), up to sixty camels. If there are more than sixty, even one more, then a Jadhah (a four-year-old she-camel) must be given, up to seventy-five. If there are more than seventy-five, even one more, then two Bint Labun must be given, up to ninety. If there are more than ninety, even one more, then two Hiqqah must be given, up to one hundred and twenty. If there are many camels, then for each fifty, one Hiqqah must be given and for each forty a Bint Labun.'” (Hasan)

**1799.** It was narrated that Abu Sa’eed Al-Khudri said: “The Messenger of Allah ﷺ said: ‘There is no Sadaqah on any less than five camels, or for four. If the number of camels reaches five then one sheep must be given, up to nine. If the number reaches ten, then two sheep must be given, up to fourteen. If the number reaches fifteen, then three sheep must be given, up to nineteen. If the number reaches twenty, then four sheep must be given, up to twenty-four. If the number reaches twenty-five, then a Bint Makhäd (a one-year-old she-camel), up to thirty-five; if there is no Bint Makhäd, then a Bin Labun

**1799.** It was narrated that Abu Sa’eed Al-Khudri said: “The Messenger of Allah ﷺ said: ‘There is no Sadaqah on any less than five camels, or for four. If the number of camels reaches five then one sheep must be given, up to nine. If the number reaches ten, then two sheep must be given, up to fourteen. If the number reaches fifteen, then three sheep must be given, up to nineteen. If the number reaches twenty, then four sheep must be given, up to twenty-four. If the number reaches twenty-five, then a Bint Makhäd (a one-year-old she-camel), up to thirty-five; if there is no Bint Makhäd, then a Bin Labun
The Chapters Regarding Zakât

(a two-year-old male camel). If there are more camels, then a bint Labun (two-year-old she-camel) up to forty-five. If there are more camels, then a Hiqqah (a three-year-old she-camel) must be given, up to sixty. If there are more camels, then a Jadha’ah (a five-year-old she-camel) must be given, up to seventy-five. If there are more camels, then two Bint Labun must be given, up to ninety. If there are more camels, then two Hiqqah should be given, up to one hundred and twenty. Then for each fifty, one Hiqqah, and for each forty, a Bint Labun.”

(Hasan)

Comments:

a. Only female camels should be given and taken as Zakât on camels; a two-year-old male camel is allowed to be taken as Zakât if a female camel of one year of age does not exist in the herd, although the real due is a one year-old-female camel.

b. In the case of possessing over one hundred and twenty camels, the camels will be divided into groups of either 40 or 50 and then accordingly two-year-old female camels and three-year-old female camels will be taken as Zakât. A two-year-old female camel is due for a group of 40 camels, and a three-year-old female camel for a group of 50 camels. For example: A herd of 130 camels would be divided into two groups of 40 camels and one group of fifty camels, 130=40+40+50. So one female camel of two years of age is due for each group of forty camels, and one female camel of three years of age is due for the fifty.

Similarly, one hundred and forty camels will be divided into three groups as follows; 140=40+50+50; so one two-year-old female camel is due for the forty camels and two three-year-olds are due for the two groups of fifty camels. As one three year old female camel is due for fifty camels, there will be three female camels of three years of age due for possessing one hundred and fifty (50+50+50) camels. Four two-year-old female camels are due in Zakât for one hundred and sixty camels (40+40+40+40), respectively one three years old female is due if the camels are increased by ten (40+10) and
became a group of 50.
If the number reaches two hundred, then the owner may give four female camels of three years of age, or five female camels of two years of age.

Chapter 10. When The Zakât Collector Receives An Animal That Is One Year Younger Or One Year Older Than Required

1800. Anas bin Mâlik narrated that Abu Bakr Siddiq wrote to him: "In the Name of Allâh, the Most Gracious, the Most Merciful. This is the obligation of Sadaqah which the Messenger of Allâh  envioned upon the Muslims, as Allâh commanded the Messenger of Allâh . The ages of camels to be given (in Zakât) may be made up in sheep. So if a man has camels on which the Sadaqah is a Jadha’ah (a four-year-old she-camel), and he does not have a Jadha’ah but he has a Hiqqah (a three-year-old she-camel), then the Hiqqah should be accepted from him, and two sheep should be given (in addition), if they are readily available, or twenty Dirham. If a man has camels on which the Sadaqah is a Hiqqah, and he only has a Bint Labun (a two-year-old she-camel), then the Bint Labun should be accepted from him, along with two sheep or twenty Dirhams. If a man has camels on which the Sadaqah is a Bint Labun, and he does not have one, but he has a Hiqqah, then it should be accepted from him, and the Zakât collector should give
him back twenty Dirham or two sheep. If a man has camels on which the Sadaqah is a Bint Labun, and he does not have one, but he has a Bint Makhād (a one-year-old she-camel), then the Bint Makhād should be accepted from him, along with twenty Dirham or two sheep. If a man has camels on which the Sadaqah is a Bint Makhād, and he does not have one, but he has a Bint Labun, then the Bint Labun should be accepted from him, and the Zakāt collector should give him back twenty Dirhams or two sheep. Whoever does not have a Bint Makhād, but he has a Bin Labun (a two-year-old male camel), then it should be accepted from him and nothing else need be given along with it." (Sahih)

Comments:
a. The ages of female camels given in Zakāt due on camels are of the following: (a): Bint Makhād, i.e., one-year-old; (b): Bint Labun, i.e., two-year-old; (c): Ḥiqah, i.e., three-year-old and (d): Jadh'ah, i.e., four-year-old.
b. Only female camels are accepted for Zakāt; however a two year old male camel may be taken in Zakāt in replacement of a one-year-old female camel if such is not available.

Chapter 11. What Kind Of Camels Should Be Taken

1801. It was narrated that Suwaid bin Ghafalah said: "The Zakāt collector of the Prophet came to us, and I took him by the hand and read in his order: 'Do not gather separate herds and do not separate a single herd for fear
of Sadaqah.' A man brought him a huge, fat she-camel, but he refused to accept it. So he brought him another of lower quality and he accepted it. He said: 'What land would shelter me and what heaven would shade me, if I came to the Messenger of Allâh, having taken the best of a Muslim man's camels?" (Da'if)

Comments:

a. A moderate type of animal should be taken or given in Zakât; neither the best animal should be taken in Zakât, which will cause harm to the owner, nor should a useless animal be taken in Zakât that will not benefit a needy.
b. The noble Companions used to be extremely careful when appointed for an official duty.
c. Separate herds should not be brought together and the joint herds should not be separated for the fear of Zakât; its explanation will come in the following chapter, Hadith 1805 and see the comments on it.

1802. It was narrated from Jarir bin 'Abdullâh that the Messenger of Allâh said: 'The Zakât collector should not come back unless the people are pleased with him.'[1] (Sahih)

Comments:

It guides that people should welcome the Zakât collector; they should cooperate with him for discharge of his duties and pay their Zakât willingly.

[1] Meaning, welcomed by those who he collects from, and paid the Zakât willingly.
Chapter 12. Sadaqah Due On Cattle

1803. It was narrated that Mu‘âdh bin Jabal said: “The Messenger of Allâh ﷺ sent me to Yemen and commanded me; for every forty cows, to take a Musinnah,[1] and for every thirty, a Tabi‘[2] or Tabi‘ah.” (Da‘if)

1804. It was narrated from ‘Abdullâh that the Prophet ﷺ said: “For every thirty cattle, a Tabi‘ or Tabi‘ah, and for every forty a Musinnah.” (Da‘if)

Comments:

a. Less than thirty cows and bulls are not subject to Zakât.

b. A two-year-old cow is called Musinnah, which has broken two front teeth.

c. When making account of Zakât for cows and bulls, they should be divided into groups of thirty or forty, then accordingly one-year-old or two-year-old calves should be taken as Zakât, i.e., one-year-old for groups of thirty and two-year-olds for groups of forty is compulsory. Thereafter, the following are to be given as Zakât: two one-year-old calves for sixty; a one-year-old calf and a one two-year-old calf for seventy; two calves of two years of age for eighty; three one-year-old calves for ninety; one calf of two years of age, and two calves that are one-year-old for a group of one hundred.

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[1] A female cow that has entered its third year.

[2] A male cow that has entered its second year, and Tabi‘ah is the female.
Chapter 13. Sadaqah Due On Sheep

1805. It was narrated from Ibn Shihâb, from Sâlim bin ‘Abdullâh, from his father, from the Messenger of Allâh ﷺ. He (Sâlim) said: "My father read to me a letter that the Messenger of Allâh ﷺ had written about Sadaqât before Allâh caused him to pass away. I read in it: ‘For forty sheep, one sheep, up to one hundred and twenty. If there is more than that — even one — then two sheep, up to two hundred. If there is one more than that — even one — then three sheep, up to three hundred. If there are many sheep, then for each hundred, one sheep.’ And I read in it: ‘Separate flocks should not be combined, and a combined flock should not be separated.’ And I read in it: ‘And a male goat should not be taken for Sadaqah, nor a decrepit nor defective animal.’"[1] (Hasan)

Comments:

a. Only one goat as Zakât is due on anyone possessing between forty and one hundred and twenty goats.

b. Two goats as Zakât are compulsory on a flock between a hundred and twenty one, and two hundred goats.

c. Only three goats are due in Zakât from a flock between two hundred and one and three hundred and ninety-nine; when this number becomes a complete four hundred, then four goats will be given for Zakât.

d. After four hundred, one goat is given in Zakât for each hundred goats; there is no Zakât on goats which are left over after hundreds.

The Chapters Regarding Zakât

e. A male goat is a special goat and is kept in the flock for breeding purposes; it has such importance because of it being dearer in price to the owner. Similarly, if an old animal with defects is given to the needy; it will affect the right of the recipient because he/she will not get full benefits from it. The principle is laid so that both the payer of Zakât and the beneficiary should not lose out.

1806. It was narrated from Ibn 'Umar that the Messenger of Allah [安宁] said: 'The Sadaqât of the Muslims should be taken at their watering places.' (Hasan)

1807. It was narrated from Ibn 'Umar, from that the Prophet [安宁] said: "For forty sheep, one sheep, up to one hundred and twenty. If there is one more, then two sheep, up to two hundred. If there is one more, then three sheep, up to three hundred. If there are more than that, then for every hundred one sheep. Do not separate a combined flock and do not combine separate flocks for fear of Sadaqah. Each partner (who has a share in a combined flock) should pay in proportion to his shares.

Comments:
The Hadith legislates a rule that, for the collection of Zakât, a collector himself should go to places where people's herds of animals graze and pasture; and the people upon whom Zakât is due are not commanded to bring their animals to the collecting officer to pay the Zakât.
And the Zakāt collector should not accept any decrepit or defective animal, nor any male goat, unless he wishes to." (Hasan)

Comments:

a. Two persons joining their goats together as one flock will be considered reliable only if the shepherd of both of the flocks, their resting place, watering arrangement and male goat for breeding are shared. (Muswatta Mālik: 1/242)

b. If person paying Zakāt is willing to give a better animal or big male (i.e., male goat or stallion) then it will be accepted otherwise the collector himself should not ask for it.

Chapter 14. What Was Narrated Concerning The Collectors Of Zakāt

1808. It was narrated from Anas bin Mālik that the Messenger of Allāh ﷺ said: ‘The one who is unjust in Sadaqah is like one who withholds it.’’’ (Hasan)

Comments:

a. This type of collector is given resemblance to that of a person who evades Zakāt because this collector’s injustice urges people not to pay Zakāt, and subsequently they stop paying Zakāt by making excuses.

b. An unjust person in matters of Zakāt also can be the one who distributes Zakāt and charity among those who are not rightful beneficiaries.

1809. It was narrated that Rāfī’ bin Khadij said: “I heard the Messenger of Allāh ﷺ say: ‘The person who is appointed to collect
the Sadaqah — who does so with sincerity and fairness is like one who goes out to fight for the sake of Allâh, until he returns to his house.’” (Hasan)

Comments:
Collecting Zakât with full rights means the collector should take as much amount as compulsory according to Shari’ah; he should not ask for any extra beyond the fixed amount which would oppress those paying neither should he take any less than the amount due which will violate the right of the recipients.

1810. ‘Abdullâh bin Unais said that he and ’Umar bin Khattâb were speaking about Sadaqah one day, and ’Umar said: “Did you not hear the Messenger of Allâh ﷺ when he mentioned Ghulûl[1] with the Sadaqah (and said): ‘Whoever steals a camel or a sheep from it, he will be brought carrying it on the Day of Resurrection?’” ‘Abdullâh bin Unais said: “Yes.” (Hasan)

Comments:
a. Dishonesty is a very big crime in collective matters. Those who are responsible for financial matters of mosques, Islamic schools, province and

[1] Normally used to refer to goods pilfered from the spoils of war.
state must be mindful of this warning.
b. Dishonesty in Zakāt may also mean that the owner of property does not disclose all his wealth, and thus he pays less than the compulsory amount due.

1811. Ibrāhīm bin ‘Atā’, the freed slave of ‘Imrān bin Husain, said:
"My father told me that ‘Imrān bin Husain was appointed to collect the Sadaqah. When he came back, it was said to him: ‘Where is the wealth?’ He said: ‘Was it for wealth that you sent me? We took it from where we used to take it at the time of the Messenger of Allāh ﷺ, and we distributed it where we used to distribute it.’” (Hasan)

Comments:
a. This conversation of ‘Imrān bin Husain ﷺ was with ‘Umar ﷺ; it was upon ‘Umar’s order that Imrān went to Basrah to collect Zakāt.
b. The poor people of the area from where the Zakāt is being collected have more right to Zakāt.
c. The noble Companions ﷺ were very strict in following the Sunnah of the noble Prophet ﷺ.

Chapter 15. Sadaqah Due On Horses And Slaves

1812. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: “The Muslim is not obliged to pay Sadaqah on his slave nor his horse.” (Sahih)

تخريج: [إسناده حسن] أخرجه أبو داود، الزكاة، باب: في الزكاة هل تحمل من بلد إلى بلد، ح: 1256 من حديث إبراهيم بن عطاء به.

(المعجم) - باب صدقة الحِيْلِ والرَّهيْلِ (التحفة) 15

تخريج: أخرجه البخاري، الزكاة، باب: ليس على المسلم في فرصة صدقة.

1813. It was narrated from ‘Ali that the Prophet ﷺ said: “I have exempted you from having to pay Sadaqah on horses and slaves.” (Hasan)

Comments:
This forgiveness is from Allāh, and the Prophet ﷺ transmitted this commandment being a ruler.

Chapter 16. Wealth On Which Zakāt Is Due

1814. It was narrated from Mu‘ādh bin Jabal that the Messenger of Allāh ﷺ sent him to Yemen and said to him, “Take grains from grains, sheep from sheep, camels from camels and cows from cows.” (Da‘īf)

Comments:
[Explanations and commentaries provided here]

1815. It was narrated from ‘Amr bin Shu‘aib, from his father, that his grandfather said: “The Messenger of Allāh ﷺ only prescribed Zakāt on these five things: wheat, barley, dates, raisins and corn.” (Da‘īf)

Comments:
[Explanations and commentaries provided here]
The Chapters Regarding Zakât

Comments:
a. Agricultural produce (i.e., grain crops and fruits) on which Zakât is levied is five Wasq. (See Hadith 1794)
b. Wheat and barley will be weighed after being separated from the husk, then if the weight is equal to five Wasq or more, Zakât becomes compulsory.
c. When the dates and raisins become dry and are able to be stored they should be measured and weighed.
d. The Zakât due on these crops is mentioned in the following chapter.

Chapter 17. Sadaqah Due On Crops And Fruits

1816. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: ‘For crops that are irrigated by the sky (i.e., rain) and springs, one-tenth. For those that are irrigated by watering, one half of one-tenth.’” (Hasan)

Comments:
a. Ten percent as Zakât is due on the produce of land watered by rainfall.
b. Twenty percent as Zakât is due on crops irrigated by water wells and tube wells. As for the areas that have a canal system for irrigation and they pay seasonal water tax for it; they shall pay one twentieth in Zakât on produce of land irrigated by a canal system if the quantity of produce reaches five Wasq or more, [which is nearly a little above 750 kilos]. Allâh knew best!

1817. It was narrated from Sâlim that his father said: “I heard the Messenger of Allâh ﷺ say: ‘For whatever is irrigated by the sky, rivers and springs, or draws up water from deep roots, one-tenth. For whatever is irrigated by animals (i.e., by artificial means) one half of one-tenth.’” (Sahih)
The Chapters Regarding Zakât

1818. It was narrated that Mu‘âdh bin Jabal said: “The Messenger of Allâh ﷺ sent me to Yemen and commanded me to take one-tenth of that which was irrigated from the sky and that which was irrigated by deep roots, and to take one half of one-tenth of that which was irrigated by means of buckets.” (Da‘îf)

Yahyâ bin Ādâm said: The Ba‘l and ‘Athari and ‘Adhyu are (crops) irrigated by rain. ‘Athari is the crop irrigated by the clouds and rain especially. It is only watered by rain. Ba‘l is the garden (grapevine) whose roots have gone down in to the earth to the water. Hence it does not need irrigation, even if it is not watered for five or six years. This is Ba‘l. Sail is the water of the valley when it flows (freely) and Châil is a lesser Sail.

Chapter 18. Assessment Of Date-Palms And Grapevines

1819. It was narrated from ‘Attâb...
bin Asid that the Prophet used to send to the people one who would assess their vineyards and fruits. (*Daʿif*)

1820. It was narrated from Ibn ʿAbbās that when the Prophet conquered Khaibar, he stipulated that the land, and all the yellow and white, meaning gold and silver, belonged to him. The people of Khaibar said to him: “We know the land better, so give it to us so that we may work the land, and you will have half of its produce and we will have half.” He maintained that, he gave it to them on that basis. When the time for the date harvest came, he sent Ibn Rawāḥah to them. He assessed the date palms, and he said: “For this tree, such and such (amount).” They said: “You are demanding too much of us, O Ibn Rawāḥah!” He said: “This is my assessment, and I will give you half of what I say.” They said: “This is fair, and fairness is what heaven and earth are based on.” They said: “We agree to take (accept) what you say.” (*Hasan*)

The Chapters Regarding Zakāt

ابواب الزكاة

السماح، وَ النَّيْبِيَّ بنُ يَكْرَأ. قالا: حَدَّثَنَا
ابنُ نافع، حَدَّثَنَا مَعْطَى بنُ صَلَاحٍ النَّمَارُ،
عَنْ النَّهْجِي، عَنْ ثَعَيْبٍ بنُ أيْضَب، عَنْ
عَمَّانِي بنُ أَسْيَدَ أنَّ النبيَّ ﷺ كان يَطْهِرُ عَلَى
الناسِ مِنْ يَحْرَصُ عَلَيْهِمْ قُروْنَهُمْ وَبَيْدَارَهُمْ.

تَخْرِيجَ: [إِسْتَادَهُ ضَعِيفٍ] أَخْرَجهَ أَبُو داودُ، الْزَكْوَةُ، بَابٌ: في خَرْصِ العَبْ، ح: ١٢٤٠، وَصِحْحُهُ
ابن خزيمة، وَابن حبان، وَقَالُ الْمُتْنِرِيُّ: انْقَطَاعُهُ ظَاهَرَ ... إِنَّ}

١٨٢٠. حَدَّثَنَا مُوسَى بنُ مُرْوَانَ الرَّقَفِيُّ،
حَدَّثَنَا عَمْرُ بنُ أَبِي رَقَانُ، عَنْ مُعْطَى بنُ مَيْهْرَانُ، عَنْ مَقْسَمٍ عَنْ بْنِ عَذِيْبِ،
عَنْ يَعْمَانِيُّ أنَّ النَّبِيَّ ﷺ، جَعَلَ اسْتِرْطَاطٍ عَلَيْهِمْ أَنْ لَهُ الأَرْضُ، وَكَلَّمَ صَفْرَاءٍ
وَيَيْضَاءٍ. بَعَضُ الْدِّجْهَاتِ وَالْفَضّةِ. وَقَالَ لَهُ أَهْلُ
هَيْبَةٍ: نُحْنَ أَعْلَمُ بِالأَرْضِ. فَأَعْطَيْتُهُمْ عَلَى
أَنْ يَتَعَمَّلُوا وَيَكُونُ لَهُمْ نَصْفُ الْثَّمْرَةِ وَلَنْ نَقْضُهُمْ.
فَرَّضَ بِهِمْ أَعْطَاهُمْ عَلَى ذَلِكَ. فَلَمْ
كَانَ جَعَلَ بِهِمْ الْرَّوَاحَةَ. فَفَخَّرَ الْنَّخَالُ. وَهُوَ الَّذِي يَذْهَبُونَ،
أَهْلُ النَّبِيَّةِ، الْخَرْصُ قَالَ: فِي ذَٰلِكَ، كَذَا
وَكَذَا. قَالُوا: أَكُثَرْتُ عَلَيْنَا بِالْحُجَجِ رَوَايَةً
قَالُوا: أُخْرِجْ الْنَّخَالَ وَأَطْلَعْهُمْ يِضْفِنَ
الْأَلسُّنَةِ، فَقَالُوا: هُذَا الْحُجَجُ. وَةَيْهُ
تُقْرِيمُ السَّمَاهِ الأَرْضِ. فَقَالُوا: فَدِ رَضِيَّاً أَنْ
تَأْخُذَ الْيَدِي فَلْتَ.
The Chapters Regarding Zakât

Comments:
a. The land captured during a war against disbelievers is the property of the Islamic state. A Muslim ruler has sole right to use the produce of this land for the benefit of the state and the people.
b. Leasing out land on condition of sharing the produce; for example: instead of cultivating by himself the landlord gives the land to someone on contract that the produce of land will be shared between the landlord and the cultivator, fifty percent for each, or, less or more according to the agreed percentage.
c. The aforementioned contract is allowed for date-palm orchards and vineyards.
d. Trading deals and relations with a Dhimi (a non-Muslim who lives in a Muslim country and pays tax) and other non-Muslims, is allowed, provided no trading deal takes place contrary to Islamic law.
e. The yield of fruits that are used fresh before being dried is estimated while the fruit is on the trees and plants; so after the fruits becomes dry the estimated amount of Zakât will be taken.
f. Jews accused Ibn Rawâhâh of over estimating with the intention of bribing him to reduce the estimate, but he denied giving up honesty.

Chapter 19. Prohibition Of Giving The Worst Of One’s Wealth As Sadaqah

1821. It was narrated that ‘Awf bin Mâlik Al-Ashja‘î said: “The Messenger of Allâh ﷺ went out, and a man had hung up one or more bunches of dates. He (the Prophet ﷺ) had a stick in his hand and he started hitting that bunch of dates repeatedly, saying: ‘If the owner of these dates wanted to give in charity, he should have given something better than these. The owner of this charity will eat rotten and shriveled dates on the Day of Resurrection.’”’ (Hasan)

تخريج: [إسناده حسن] أخرجه أبو داود الزكّوّة، باب ما لا يجوز من الأمرة في الصدقة، ح:168:3 من حديث يحيى بن سعيد، وصححه ابن حزم، وابن حبان، والحاكم، والذهبي.
The Chapters Regarding Zakât

Comments:

a. A rope was tied between two pillars of the Prophet’s Mosque, and the people would hang bunches of date fruit on it; whoever was in need might eat as wished. The following Hadith is clear about it.

b. It is not necessary that the charity be given in the hand of the needy, rather it may be placed somewhere in such a way that everyone is allowed to benefit from it.

c. The owner who does not have something of better quality may give something of low quality in charity.

1822. It was narrated that Barâ’ bin ‘Âzib said concerning the Verse: “And of that which We have produced from the earth for you, and do not aim at that which is bad to spend from it.”[1] “This was revealed concerning the Ansâr. At the time of the new date-palm harvest, they would take a bunch of dates that were beginning to ripen and hang it on a rope between two of the pillars in the mosque of the Messenger of Allah ﷺ, and the poor Emigrants would eat from it. One of them deliberately mixed a bunch containing rotten and shriveled dates, and thought that this was permissible because of the large number of dates that had been put there. So the following was revealed about the one who did that: ‘...and do not aim at that which is bad to spend from it’. Meaning do not seek out the rotten and shriveled dates to give in charity: ‘...(though) you would not accept it save if you close your eyes and tolerate therein.’

as a gift you would only accept it because you felt embarrassed, and you would be angry that he had sent you something of which you have no need. And know that Allâh has no need of your charity.” (Hasan)

Comments:
a. When fruit is plucked from the orchards, some of it should be given to the poor.
b. A good quality thing, according to the best of one’s ability, should be given in charity.
c. Allâh is not in need of charity and alms; it is His favor that we give to our own friends and relatives, but Allâh counts it for Himself and bestows immense reward for it upon us.

Chapter 20. Zakâh Due On Honey

1823. It was narrated that Abu Sayyârah Al-Muta’i said: “I said: ‘O Messenger of Allâh! I have bees.’ He said: ‘Give one-tenth.’ I said: ‘O Messenger of Allâh! Protect it for me.’ And he protected it for me.” [1] (Hasan)
Comments:
a. The Companion had honeybees, means that the honeybees would make hives in some of his trees.
b. Protected means that he was allotted those hives and that none should take honey from the hives in his trees without his permission.
c. One may collect honey from the beehives in the trees belonging to no one.
d. Ten percent for Zakât is due on honey. If one has ten containers of honey he should give one container in Zakât.

1824. It was narrated from 'Abdullâh bin 'Amr that the Prophet took one-tenth of honey (as Zakât). (Hasan)

1825. It was narrated from Ibn 'Umar that the Messenger of Allâh enjoined Zakâtul-Fitr, one Sâ of dates or one Sâ of barley.

Abdullâh said: The people made two Mudd (equal to half of a Sâ) of wheat as its equivalent. (Sahih)

Comments:
a. Sâ is a weight volume measurement. People's usual daily food should be given in Sadaqatul-Fitr by measuring a Sâ.
b. A Sâ is approximately equal to two and a half kilos.
c. 'Abdullâh bin 'Umar did not agree to the juristic opinion that half a Sâ of wheat is equal to a Sâ of dry dates.
The Chapters Regarding Zakāt

1826. It was narrated that Ibn ʿUmar said: “The Messenger of Allāh ﷺ enjoined Sadaqatul-Fitr, one Ṣâ‘ of barley or one Ṣâ‘ of dates for every Muslim, free or slave, male or female.” (Sahih)

Comments:
a. The usual daily food of the inhabitants of Al-Madinah was barley and dates; that is why only these two are mentioned.
b. One Ṣâ‘ as Sadaqatul-Fitr is paid for each member of the family.
c. Some scholars adopted the view of paying cash equal to the value of one Ṣâ‘ of food as Sadaqatul-Fitr, but the Prophetic sayings and good practice of the Companions tell us that Sadaqatul-Fitr should be the type of usual food of the family; for example: wheat, rice, dates etc.

1827. It was narrated that Ibn ʿAbbās said: “The Messenger of Allāh ﷺ enjoined Zakātul-Fitr as a purification for the fasting person from idle talk and obscenities, and to feed the poor. Whoever pays it before the (ʿEid) prayer, it is an accepted Zakāh, and whoever pays it after the prayer, it is (ordinary) charity.” (Hasan)
Comments:

Paying Sadaqatul-Fitr just before the 'Eid prayer is the last time for its payment. Paying it before the day of 'Eid is also correct. Nāfi’, may Allāh have mercy on him, said: ‘The noble Companions used to give Sadaqatul-Fitr one or two days prior to 'Eid.' (Sahih Al-Bukhārī: 1511) If Sadaqatul-Fitr could not be paid prior to the 'Eid prayer then it should be paid even after the 'Eid prayer; although it would not have the same particular reward for it, yet the reward for normal charity will be there, and thus the deprivation of reward for Sadaqatul-Fitr may be made up to a certain extant.

1828. It was narrated that Qais bin Sa’d said: “The Messenger of Allāh ﷺ enjoined Sadaqatul-Fitr upon us before (the command of) Zakāt was revealed. When (the command of) Zakāt was revealed, he neither ordered us (to pay) nor forbade us (from paying it), so we did it.” (Sahih)

Comments:

This Hadith apparently shows that giving Sadaqatul-Fitr is not obligatory; however, the collection of Sadaqatul-Fitr by Messenger of Allāh ﷺ and its distribution among the poor give emphasis that the legislation of rules of Zakāt did not abrogate the obligation of Sadaqatul-Fitr.

1829. It was narrated that Abu Sa‘eed Al-Khudri said: “We used to pay Zakātul-Fitr when the Messenger of Allāh ﷺ was among us, one Sā‘ of food, one Sā‘ of dates, one Sā‘ of barley, one Sā‘ of sun-baked cottage cheese, one Sā‘ of raisins. We continued to do that until Mu‘āwiyyah came to us in Al-Madinah. One of the things he said to the people was: ‘I think that two Mudd wheat from Shām is equivalent to one Sā‘ of this..."
(i.e., dates). So the people followed that.

Abu Sa‘eed said: “I will continue to pay it as I used to pay it at the time of the Messenger of Allāh ﷺ, for as long as I live.” (Sahih)

Comments:

As Abu Sa‘eed did not agree with Mu‘āwiyyah, likewise Abdullah bin ‘Umar disagreed with Mu‘āwiyyah as mentioned in Ḥadīth 1825.

1830. It was narrated from ‘Ammār bin Sa‘eed, the Mu‘adh-dhin of the Messenger of Allāh ﷺ, from his father, that the Messenger of Allāh ﷺ enjoined Sadaqatul-Fitr, one Sā‘ of dates, one Sā‘ of barley, or one Sā‘ of Sul (a kind of barley without skin on it, resembling wheat). (Sahih)

Chapter 22. ‘Us.hr And Ḵh.rāį (المعجم 22 - باب العصر والخرج)

1831. It was narrated that ‘Ala‘ bin Hadrami said: “The Messenger of Allāh ﷺ sent me to Bahrain or Hajar. I used to go to a garden that was shared by some brothers, one of whom had become Muslim. I would take the
The Chapters Regarding Zakât

Abwob az-Zakâta

"Usdr (one-tenth of the harvest) from the Muslim, and the Kharâj from the Mushrik." (Da‘if)

الْبَخْرَيْنِ أَوْ إِلَىٰ هَمْجِر. فَقَتَّلَتْ آبَى الْحَافِظِ بِكُونِهِ بِبَيْنِ الإِلْخَوَةِ. يُسْلِمُ أَهْدَمُهُمْ. فَأَخْذُ مِنِّ الْمُسْلِمِ

التخريج: [إسناده ضعيف] أخرجه أحمد: 5/52، والطبراني (الكبر: 97/18، ح: 174) من حديث عتاب به، وقال البصري: إسناده ضعيف، لأن مخبرة الأزدي، ومحمد بن زيد مجهولان، وحيان الأخرج وإن وثقه ابن معين، وعده ابن حبان في الثقات، فإن روايته عن العلاء مرسلة، قاله المزري في التهذيب.

Chapter 23. A Wasq Is Sixty Sâ'

(المعجم 23 - باب الوسق ستون) ضاعع (التحفة 13)

1832. It was narrated from Abu Sa‘eed and attributed to the Prophet ﷺ: "A Wasq is sixty Sâ‘." (Da‘if)

جَبَرْبِنِآبُدَلْهَوَروهَر،بَابَماَنَجِبَفِهِ الزَّكَوَة، ح: 1559، وقال: أبو البصري لم يسمع من أبي سعيد، وشك ابن خزيمة في صحته، وفعلياً زيدا عن أبي سعيد، وعده ابن حبان في الثقات، فإن روايته عن العلاء مرسلة، قاله: 2485.

تخريج: [إسناده ضعيف لانقطعه] أخرجه أبو داود، الزكوة، باب ما نجب فيه الزكوة، ح: 1559، وقال: أبو البصري لم يسمع من أبي سعيد، وشك ابن خزيمة في صحته، وفعلياً زيدا عن أبي سعيد، وعده ابن حبان في الثقات، فإن روايته عن العلاء مرسلة، قاله: 2485.

Comments:

According to modern measurements, one Wasq of Hijâz (Makkah, Al-Madinah and Tâif) is approximately equal to 180 kilos (as Ibn Bâz said in his Fatâwa) and 629.856 kilograms (according to the research of Shaikh Fâruq Asghar Sâram Pakistani); and according to modern measurements, one Iraqi Wasq is equal to 189 kilograms (said by Shaikh Fâruq Sâram; and it is much bigger according to Ibn Bâz).

1833. It was narrated that Jâbir bin ‘Abdullâh said: “The Messenger of Allâh ﷺ said: ‘A Wasq is sixty Sâ’.” (Da‘if)

Chapter 24. Giving Charity To Relatives

1834. It was narrated that Zainab the wife of 'Abdullāh said: “I asked the Messenger of Allāh ﷺ: ‘Will it be accepted as charity on my part if I spend on my husband and the orphans in my care?’ The Messenger of Allāh ﷺ said: ‘She will have two rewards, the reward for charity and the reward for upholding the ties of kinship.’’” (Sahih)

Another chain from Zainab the wife of 'Abdullāh, from the Prophet ﷺ, with similar wording.

1835. It was narrated that Umm Salamah said: “The Messenger of Allāh ﷺ enjoined charity upon us. Zainab, the wife of ‘Abdullāh, said: ‘Will it be accepted as charity on my part if I give charity to my husband who is poor, and to the children of a brother of mine who are orphans, spending such and such on them, and in all circumstances?’ He said: ‘Yes.’” (Sahih)

One of the narrators said: “She ...
used to prepare handicraft articles.”

Comments:

a. A husband is responsible for the expenses of his wife and children, whereas a wife does not bear responsibility for the expenses of her husband and children. Therefore the spending of a husband for his wife and children cannot be considered as Zakāt, but the spending of a wife on her husband and on her children will be Sadaqah (charity).

b. Giving financial support to the close relatives, if they deserve financial help, has more reward than giving in charity to others.

Chapter 25. Begging Is Disliked

1836. It was narrated from Hishām bin ‘Urwhah, from his father, that his grandfather said: “The Messenger of Allāh ﷺ said: ‘If one of you were to take his rope (or ropes) and go to the mountains, and bring a bundle of firewood on his back to sell, and thus become independent of means, that would be better for him than begging from people who may either give him something or not give him anything.’” (Sahih)

Comments:

a. Begging is abhorrent in the sight of Islam.

b. If a person is unable to find such a profession that is considered decent in the society, then one should not mind doing labor work.

1837. It was narrated from ‘Abdur-Rahmān bin Yazid, that Thawbān said: “The Messenger of

\[\text{ii} \] Meaning, she worked, and that is why she had wealth to give.
Allāh ﷺ said: ‘Who will commit himself to one thing, I will guarantee him Paradise?’ I said: ‘I will.’ He said: ‘Do not ask people for anything.’ So Thawbân would drop his whip while he was on his mount, and he would not say to anyone: ‘Get that for me’ rather he would dismount and grab it.’  

(Sahih)

Ch. 26. One Who Asks When He Is Not In Need

1838. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: “Whoever begs from people so as to accumulate more riches, he is asking for a live coal from Hell, so let him ask for a lot or a little.”  

(Sahih)

Comments:

a. Begging without a dire and real need is such a big sin, that a person thus entitles himself to the burning coals of Hell.

b. Avoiding unlawful earning is compulsory.
for one who is strong and healthy." (Sahih)

Comments:

a. 'A rich person,' means he who has enough resources to make do with. One being unable to have a lavish lifestyle does not entitle him to take Zakàt or to declare him/her poor.

b. A healthy person means someone who does not have such a physical disease or disability that he/she is unable to earn a livelihood.

1840. It was narrated from 'Abdullâh bin Mas'ûd that the Messenger of Allâh ﷺ said: "Whoever begs when he has enough to suffice him, his begging will come on the Day of Resurrection like lacerations on his face." It was said: "O Messenger of Allâh, what is sufficient for him?" He said: "Fifty Dirham, or their value in gold." (Da'îf)

Another chain of narrators for the Hadîth has been discussed by Suîyân (one of the narrators).

Comments:

a. If one possesses a reasonable amount of resources then one should avoid begging.

b. A rich person is allowed to ask for financial help (Zakât & charity) in some circumstances, these conditions are coming in the following chapter.
Chapter 27. For Whom Is Charity Permissible?

1841. It was narrated from Abu Sa‘eed Al-Khudri that the Messenger of Allah ﷺ said: “Charity is not permissible for a rich man except in five cases: One who is appointed to collect it, a warrior fighting in the cause of Allah, a rich man who buys it with his own money, a poor man who receives the charity and gives it as a gift to a rich man, and a debtor.” (Sahih)

Comments:

a. When wealth of Zakāt or charity is given away, and has been handed over to a valid recipient, its status of being charity changes.

b. If a poor person offers something to someone rich as a gift, there is no need to find out if the poor got it by means of Sadaqah/charity or by another means. It is not a charity for the one who accepts it as a gift, so there is no harm in accepting it.

Chapter 28. The Virtue Of Charity

1842. It was narrated from Sa‘eed bin Yasser that he heard Abu Hurairah say: “The Messenger of Allah ﷺ said: ‘No one gives charity from good sources – for Allah does not accept anything but that which is good – but the Most Merciful takes it in His Right Hand, even if it is a date, and it flourishes in the Hand of the Most Merciful until it...”
becomes bigger than a mountain, and He tends it as anyone of you would tend to his colt (i.e., young pony) or his young (weaned) camel." (Sahih)

**Comments:**

a. Sincerity near Allâh is more important than the quantity.

b. A little amount of charity given out of sincerity is also a source of immense reward.

**1843.** It was narrated from 'Adi bin Hâtîm that the Messenger of Allâh ﷺ said: “Each one of you will be spoken to by His Lord, with no mediator between them. He will look in front of him and the Fire will be facing him. He will look to his right and will not see anything but something that he had sent on before. He will look to his left and will not see anything but something that he had sent on before. Whoever among you can save himself from the Fire, even with half a date, let him do so.” (Sahih)

**Comments:**

a. Allâh Himself will judge every person on the Day of Reckoning. Speech is one of Allâh’s Attributes, the reality and condition of Allâh’s Speech is not known to us; however, it must not be given resemblance with the speech attributes of any creature. One should abstain from giving a metaphorical meaning to such Attributes of Allâh.

b. Small good deeds should not be ignored on account of their being small. It is unknown if one will have an opportunity for a great good or not; and if a great good deed has been done, how much is the shortfall in it!!! Only Allâh knows whether it is worth being accepted or not!

**1844.** It was narrated from Salmân bin ‘Amîr Dabbi that the Messenger of Allâh ﷺ said: "Charity given to the poor is..."
charity, and that given to a relative is two things: charity and upholding the ties of kinship." (Sahih)

Comments:

a. One’s close relatives and friends should be given more importance when giving charity.

b. A person giving Sadaqah/charity; if he has a religious obligation to spend on dependents, spending on them is not that of Zakāt and Sadaqah/charity, rather he should give Zakāt and charity to those needy relatives who are not his dependents.
9. The Chapters On Marriage

Comments:

a. *Nikāh* linguistically means (to unite and to bring together). The real literal meaning of *Nikāh* is 'to have sexual intercourse'; and the metaphorical meaning of *Nikāh* is 'the bond of marriage'.

b. The noble jurists defined *Nikāh* through various definitions, and one of these is: "*Nikāh* is such a bond from which the act of sexual intercourse becomes lawful, and the bond of marriage takes place with the words like: *inkāh* or *Tazwij* or other words derived from these roots."

c. *Nikāh* is the *Sunnah* of our Noble Prophet ﷺ, as well as of the previous Noble Prophets ١. As the statement of Allāh, the Originator, the High is: "Indeed We sent Messengers before you (O Muhammad ﷺ) and made for them wives and offspring." (Ar-Ra'd: 13:38)

d. *Nikāh* is a compulsory duty for a person who is physically healthy and can afford the expenses of marriage and the living expenses of a wife; and also if he has the risk of indulging in adultery and other lustful desires which he is unable to get rid of even if he observes fasting.

e. It is unlawful for such a person to marry who is physically unfit for marriage, or unable to afford the matrimonial expenses; or for he who wants to have a second marriage with the intention to oppress his first wife.

f. If a person is naturally harsh and fears that he will be unjust with the wife after marriage; then marriage is disliked for such a person.

g. The *Nikāh* is desirable for a person who is of moderate personality, he has no fear of indulging in adultery or other lustful desires, and he can afford matrimonial expenses.

Chapter 1. What Was Narrated Concerning The Virtue Of Marriage

1845. It was narrated that 'Alqamah bin Qais said: "I was with 'Abdullāh bin Mās'ud in Mina, and 'Uthmān took him aside. I was sitting near him. 'Uthmān said to him: 'Would you..."
like that I marry you to a young virgin who will remind you of how you were in the past?' When 'Abdullâh saw that he did not want to say anything to him apart from that, he gestured to me, so I came and he said: 'As you say that, the Messenger of Allâh ﷺ said: "O young men, whoever among you can afford it, let him get married, for it is more effective in lowering the gaze and guarding one's chastity. Whoever cannot afford it, let him fast, for it will diminish his desire." (Sahîh)

Comments:

a. The greatest benefit of marriage is protection against a sinful life and the fulfillment of sexual desire through lawful means. This great benefit is the main objective of marriage and should be focused upon at the time of marriage; other benefits will then be achieved thereafter.

b. A person can control evil thoughts and temptations with the observance of fasting, and thus the natural desire of sex does not get out of control. Therefore if the marriage of a young man or woman is delayed for any reason, he/she should observe fasts frequently; and they must also avoid the atmosphere that incites temptations, such as the study of certain literature and magazines, inciting songs, movies, films and other such seducing activities; so that the warmth of youth should not force one to commit sin.

1846. It was narrated from 'Âishah that the Messenger of Allâh ﷺ said: "Marriage is part of my Sunnah, and whoever does not follow my Sunnah has nothing to do with me. Get married, for I will boast of your great numbers before the nations. Whoever has the means, let him get married, and whoever does not, then he
should fast, for it will diminish his desire.” *(Hasan)*

**Comments:**

a. The abundance of children from Muslims is a religious demand. Therefore, to strive for it, through getting married and keeping the matrimonial relationship established is also religiously recommended.

b. Marriage is not a hindrance for spiritual betterment.

1847. It was narrated from Ibn ʻAbbâs that the Messenger of Allâh ﷺ said: “There is nothing like marriage for two who love one another.” *(Hasan)*

**Comments:**

a. Uthman bin Maz’un was a very dedicated worshiper and was fond of it. He thought that due to the busy commitments with a wife and children after getting married, the opportunities of voluntary worship, i.e., observing voluntary fasts will be little. So it is better not to marry, but the Messenger of Allâh ﷺ did not allow him to live a life without marriage.
b. Seeking nearness to Allāh does not mean that one should avoid even lawful things like the Hindu and Christian monks; rather closeness to Allāh is earned by practising the guidance of Shari'ah in eating, drinking and through living the daily life. Depriving someone from sexual ability and desire, or to try to deprive oneself from this ability, is prohibited in accordance with the Shari'ah.

1849. It was narrated from Samurah that the Messenger of Allāh forbade celibacy.

Zaid bin Akhzam added: “And Qatādah recited: ‘And indeed We sent Messengers before you (O Muhammad), and made for them wives and offspring.” [1]

(Sahih)

Comments:
a. It is certainly wrong to regard celibacy a good deed; whether it is performed in the name of Sufism, monasticism or in any other name.
b. Nikāh (marriage) is a Sunnah of all the Prophets.
c. The noble Prophets were not the beings created from light, but they were human beings, and the best of the creatures, and they married, and they had offspring too.

Chapter 3. The Wife’s Rights Over The Husband

1850. It was narrated from Hakim bin Mu‘āwiyah, from his father, that a man asked the Prophet: “What are the rights of the woman over her husband?” He said: “That he should feed her as he feeds himself and clothe her as he clothes himself; he should

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not strike her on the face nor disfigure her, and he should not abandon her except in the house (as a form of discipline).” (Hasan)

تخريج: [إسناده حسن] آخره أبو داود، النكاح، باب: في حق المرأة على زوجها، ح 2142 من حديث أبي قزعة به.

Comments:

a. It is the obligation of the husband to provide the daily and essential needs of the wife such as: food, clothes and accommodation.

b. A husband has the authority to give an appropriate admonishment to the wife for her mistakes.

c. If an ordinary admonishment is not affective, a light physical punishment may also be given, but hitting on the face is forbidden.

d. It is permissible to stop talking to her temporarily in order to express anger as an admonishment, but to get her out of the house or the husband leaving the house for several days is not right. The presence of them both being at home together gives hope to getting rid of anger sooner.

1851. It was narrated that Sulaiman bin 'Amr bin Ahwas said: “My father told me that he was present on the Farewell pilgrimage with the Messenger of Allah ﷺ. He praised and glorified Allah, and reminded and exhorted (the people). Then he said: ‘I enjoin good treatment of women, for they are prisoners with you, and you have no right to treat them otherwise, unless they commit clear indecency. If they do that, then forsake them in their beds and hit them, but without causing injury or leaving a mark. If they obey you, then do not seek means of annoyance against them. You have rights over your women and your women have rights over you. Your rights over your women are that they are not to allow anyone...
The Chapters On Marriage

whom you dislike to tread on your bedding (furniture),[1] nor allow anyone whom you dislike to enter your houses. And their rights over you are that you should treat them kindly with regard to their clothing and food.” (Sahih)

Comments:

a. The husband should supervise the manners and character of the wife, but being suspicious and doubtful for no reason is not right if there is no clear sign to cause doubt.

b. Clear indecency means such activities which may increase the chance of committing adultery if they are not challenged and prevented. In case of adultery, there are other regulations which are mentioned in the Qur’ān and Hadith.

c. Being respectful of guests is necessary, but if a person visits whom the husband, does not like, then the wife should care for the sentiments of her husband, and should make her apologies and not let the person in, or she should say that the men are not at home so come another time.

Chapter 4. The Husband’s Rights Over His Wife

1852. It was narrated from ’Āishah that the Messenger of Allah ﷺ said: “If I were to command anyone to prostrate to anyone else, I would have commanded women to prostrate to their husbands. If a man were to command his wife to move (something) from a red mountain to a black mountain, and from a black mountain to a red mountain, her duty is to obey him.” (Da’if)

[1] Meaning, that they are not to let anyone you dislike in your home, as mentioned in the following statement. See Tuhfatul-Ahwadhi (no. 1162) and explanation by Sindi.
1853. It was narrated that ‘Abdullāh bin Abu Awfa said: "When Mu‘ādh bin Jabal came from Shām, he prostrated to the Prophet ﷺ, who said: 'What is this, O Mu‘ādh?' He said: 'I went to Shām and saw them prostrating to their bishops and patricians (i.e. aristocrats), and I wanted to do that for you.' The Messenger of Allāh ﷺ said: 'Do not do that. If I were to command anyone to prostrate to anyone other than Allāh, I would have commanded women to prostrate to their husbands. By the One in Whose Hand is the soul of Muhammad! No woman can fulfill her duty towards Allāh until she fulfills her duty towards her husband. If he asks her (for intimacy) even if she is on her camel saddle, she should not refuse.'" (Hasan)

Comments:

a. Making prostration in worship to any of the creatures is disbelief; the prostration of respect was allowed in the previous religions, but in our Shari‘ah this is forbidden too.

b. Some people say we do not prostrate to the saints but kiss their feet, or fall down on their feet to please them; this is also prostration. Unlawful acts do not become lawful by changing their name.

c. A great objective of marriage is the protection of honor and chastity; therefore, the wife must not ignore the obligation of fulfilling the sexual desires of the husband. Also the husband should equally fulfill the desire of the wife as he feels that she desires it. The mention of the woman in the Hadith is mostly made, because the refusal of matrimonial relations is usually from woman and vice versa is very rare.
d. The wife should take care of the honor of the husband.

1854. It was narrated from Musâwir Al-Himyari from his mother that she heard Umm Salamah say: "I heard the Messenger of Allâh ﷺ say: 'Any woman who dies when her husband is pleased with her, will enter Paradise.'" (Hasan)

Chapter 5. The Best Of Women

1855. It was narrated from ‘Abdullâh bin ‘Amr that the Messenger of Allâh ﷺ said: "This world is but provisions, and there is no provision in this world better than a righteous wife." (Sahîh)

Comments:
a. The righteous wife is a great favor, because she proves to be a good advisor in worldly matters; she is a good life partner and she assists her husband in matters of the Hereafter; thus both achieve high ranks.
b. The righteous husband is a great favor for the wife too.

1856. It was narrated that Thawbân said: "When the Verse..."
concerning silver and gold was revealed, they said: 'What kind of wealth should we acquire?' 'Umar said: 'I will tell you about that.' So he rode on his camel and caught up with the Prophet ﷺ, and I followed him. He said: 'O Messenger of Allah, what kind of wealth should we acquire?' He said: 'Let one of you acquire a thankful heart, a tongue that remembers Allah and a believing wife who will help him with regard to the Hereafter.'" (Hasan)

Comments:

a. The severe rule revealed in regard to gold and silver is this: "And those who hoard up gold and silver and spend them not in the way of Allah, announce unto them a painful torment." At-Taubah 9:34.

b. The woman who has faith in her heart, she herself would reflect upon the Hereafter, and she will also assist her husband to adopt the way of righteousness. Therefore, such a virtuous woman is a great favor of Allah. Any Muslim man should value a woman like this.

1857. It was narrated from Abu Umâmah that the Prophet ﷺ used to say: "Nothing is of more benefit to the believer after Taqwa of Allah than a righteous wife whom, if he commands her she obeys him, if he looks at her he is pleased, if he swears an oath concerning her she fulfills it, and when he is away from her she is sincere towards him with regard
to herself and his wealth.” (Da’if)

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Chapter 6. Marrying A Religious Woman

1858. It was narrated from Abu Hurairah that the Messenger of Allah said: “A woman may be married for four things: Her wealth, her lineage, her beauty or for her religion. Choose the religious, may your hands be rubbed with dust (i.e., may you prosper).” (Sahih)

Comments:
a. The desire of having a good wife or good husband is a good and correct desire, so the procedure of choosing the spouses should be correct.
b. The real reliable standard and procedure is righteousness and fear of Allah. The righteous wife remains the symbol of honor even in poverty, and in the time of prosperity she does not become arrogant and disrespectful to the husband; the woman from a family of high status is sometimes known to have the bad habit of pride and arrogance.
c. The Hereafter gets better too, because of a righteous wife, and the husband will be better off from all aspects.

1859. It was narrated from ‘Abdullāh bin ‘Amr that the Messenger of Allah said: ‘Do not marry women for their beauty, for it may lead to their doom.[3] Do not marry them for their wealth, for it may lead them to fall into sin. Rather, marry them for their religion. A black slave woman with piercings who

is religious is better.’” (Da‘if)

Chapter 7. Marrying Virgins

1860. It was narrated that Jābir bin `Abdullāh said: “I married a woman during the time of the Messenger of Allāh ﷺ, then I met the Messenger of Allāh ﷺ and he said: ‘Have you got married, O Jābir?’ I said: ‘Yes.’ He said: ‘To a virgin or to a previously-married woman?’ I said: ‘A previously-married woman.’ He said: ‘Why not a virgin so you could play with her?’ I said: ‘I have sisters and I did not want her to create trouble between them and me.’ He said: ‘That is better then.’” (Sahih)

Comments:

a. The gathering of all the friends and relatives at the time of marriage ceremony is not necessary.

b. It is not a bad thing to marry a widow or a divorcee. The word ‘Thayyib’ in the Hadith is used for both the widow and a divorced woman.

c. The marriage of a young man with a young woman is better, because in such there is hope for more mutual understanding.

1861. It was narrated from `Abdur-Rahmān bin Sālim bin ‘Utbah bin `Uwaim bin Sā‘īdah Al-Ansāri, from his father, that his grandfather said: “The Messenger of Allāh ﷺ said: ‘You should
marry virgins, for their mouths are sweeter; their wombs are more prolific and they are satisfied with less.” (Da‘if).

Comments:

a. Widows and divorced women should also be married; but if the hand of a widow and that of a woman who has never been married is available, the one who has never been married should be given preference; particularly, when the man is young.

b. ‘Sweet mouth’ means those who have not previously been married are more bashful; they try more to keep their husbands happy, and they avoid harshness in conversation.

c. Contentment is a good quality, and the woman who has this quality will prove to be a good wife.

Chapter 8. Marrying Free Women: Who Are Fertile

1862. It was narrated that Anas bin Malik said: “I heard the Messenger of Allâh ﷺ say: ‘Whoever wants to meet Allâh pure and purified, let him marry free women.’” (Da‘if)

Comments:

a. Nikâh is from among the important Commandments of Islam; therefore it is not right to remain single without any valid reason.

b. The abundance of children is a demand of the Shari‘ah because this pleases the Messenger of Allâh ﷺ.
The Chapters On Marriage

Chapter 9. Looking At A Woman When Wanting To Marry Her

1864. It was narrated that Muhammad bin Salamah said: "I proposed marriage to a woman, then I hid and waited to see her until I saw her among some date palm trees that belonged to her." It was said to him: "Do you do such a thing when you are a Companion of the Messenger of Allah؟" He said: "I heard the Messenger of Allah saying: 'When Allah causes a man to propose to a woman, there is nothing wrong with him looking at her.'" (Da'if)

Comments:

a. It is permissible to look at a woman whom one wants to marry.

b. The woman is also allowed to see the man.
1865. It was narrated from Anas bin Malik that Mughirah bin Shu‘bah wanted to marry a woman. The Prophet ﷺ said to him: “Go and look at her, for that is more likely to create love between you.” So he did that, and he married her, and mentioned how well he got along with her. (Sahih)

Comments:
Only one look is allowed; meeting each other in seclusion and to have long conversations, or to go together for a leisurely walk or on holidays, etc., are all contrary to the Islamic etiquettes of life. This Hadith does not allow the permission of such things.

1866. It was narrated that Mughirah bin Shu‘bah said: “I came to the Prophet ﷺ and told him of a woman to whom I had to propose marriage. He said: ‘Go and look at her, for that is more likely to create love between you.’ So I went to a woman among the Ansâr and proposed marriage through her parents. I told them what the Prophet ﷺ had said, and it was as if they did not like that. Then I heard that woman, behind her curtain, say: ‘If the Messenger of Allâh ﷺ has told you to do that, then do it, otherwise I adjure you by Allâh (not to do so)’. And it was as if she regarded that as a serious matter. So I looked at her and married her.” And he mentioned
how well he got along with her. (Sahih)

The boy should look only at that girl whom he is really interested in marrying. Using this excuse unfairly in order to keep looking at the daughters of people in vain is a very bad habit. Allâh ﷺ is aware of the thoughts of the heart; no one’s treachery is hidden from Him.

Chapter 10. A Man Should Not Propose Marriage To A Woman To Whom His Brother Has Already Proposed

1867. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “A man should not propose marriage to a woman to whom his brother has already proposed.” (Sahih)

Comments:

If it is realised that the woman did not yet decide to accept the man, and she is not clearly inclined to him, then the second person may send the
proposals of marriage; so that the woman would be able to decide which of the two men is more suitable for her, and her guardians will also have a better chance to think about the matter.

1869. It was narrated that Abu Bakr bin Abu Jahm bin Sukhair Al-Adawi said: “I heard Fátimah bint Qais say: ‘The Messenger of Allâh ﷺ said to me: “When you become lawful, tell me.” So I told him.’ Then Mu’awiyah, Abu Jahm bin Sukhair and Usâmah bin Zaid proposed marriage to her. The Messenger of Allâh ﷺ said: ‘As for Mu’awiyah, he is a poor man who has no money. As for Abu Jahm, he is a man who habitually beats woman. But Usâmah (is good).’ She gestured with her hand, saying: ‘Usâmah, Usâmah!’ The Messenger of Allâh ﷺ said to her: ‘Obedience to Allâh and obedience to His Messenger is better for you.’ She said: ‘So I married him and I was pleased with him.’” (Sahih)

Comments:
a. If concealing the defect of someone puts another Muslim at risk of loss, then the demand of sincerity is that the defect should be disclosed. This type of disclosure will not be regarded as prohibited backbiting. The criticism about the narrators of the Hadith also has the same rationale, that a rule which is not proven from the Messenger of Allâh ﷺ should not be regarded a religious rule mistakenly. Therefore this type of criticism is also allowed.
b. When a slave is freed, his status and position should not be less than those of other free individuals.
c. The interpretation of Fátimah’s indication was to express the disagreement; because Zaid ﷺ, the father of Usâmah, had been a slave for sometime.

Chapter 11. Seeking The Consent Of Virgins And Previously-Married Women

1870. It was narrated from Ibn ‘Abbās that, the Messenger of Allāh ﷺ said: “A widow has more right (to decide) concerning herself than her guardian, and a virgin should be consulted.” It was said: “O Messenger of Allāh, a virgin may be too shy to speak.” He said: “Her consent is her silence.” (Sahih).

Comments:
a. The consent of the girl must also be regarded in matters of her marriage, and at the same time, the permission of the guardian is necessary too.
b. The virgin girl, if she does not express her consent verbally out of bashfulness, her silence will be regarded as her approval, provided that her silence was not because of anger.

1871. It was narrated from Abu Hurairah that the Prophet ﷺ said: “A previously-married woman should not be married until she is consulted, and a virgin should not be married until her consent is sought, and her consent is her silence.” (Sahih)

1872. It was narrated from ‘Adi bin ‘Adi Al-Kindi that his father said: “The Messenger of Allāh ﷺ said: ‘A previously-married woman should not be married until she is consulted, and a virgin should not be married until her consent is sought, and her consent is her silence.”
woman can speak for herself, and the consent of a virgin is her silence.'"

Comments:
The woman is not allowed to conduct her marriage herself. Her marriage will be conducted by her guardian; however, her opinion will also be given importance. The marriage bond takes place with the consent of both.

Chapter 12. One Who Arranges His Daughter’s Marriage When She Is Unwilling

1873. ‘Abdur-Rahmān bin Yazid Al-Ansārī and Mujamma’ bin Yazid Al-Ansārī said that a man among them who was called Khidām arranged a marriage for his daughter, and she did not like the marriage arranged by her father. She went to the Messenger of Allāh ṣallāt ʿalayhi wa sallam and told him about that, and he annulled the marriage arranged by her father. Then she married Abu Lubābah bin ‘Abdul-Mundhir. (Sahih)

(One of the narrators) Yahya mentioned that she was a previously-married woman.

Comments:
a. If the marriage of a previously-married woman is conducted against her consent, the marriage does take place; but she has the right to dissolve this marriage through the court.
b. To avoid this unpleasant consequence, it is better to reach an agreed compromise beforehand. So the marriage should take place where the girl is happy, as well as the guardian having no objection.
1874. It was narrated from Ibn Buraidah that his father said: "A girl came to the Prophet and said: 'My father married me to his brother’s son so that he might raise his status thereby.' The Prophet gave her the choice, and she said: 'I approve of what my father did, but I wanted women to know that their fathers have no right to do that.'" *(Sahih)*

**Comments:**

'So that he might raise his status thereby'; this phrase gives two meanings:

- My father is poor and his nephew is well-off, so he wants to gain financial benefit because of this relation; and another possible meaning is that his nephew is poor and my father wants to elevate his status with the relation of my marriage.

1875. It was narrated from 'Abbās that a virgin girl came to the Prophet and told him that her father had arranged a marriage that she did not like, and the Prophet gave her the choice. *(Sahih)*

Another chain of narrators with similar wording.

**تخريج:** [هنا نذكر التحية والتحية] وقال البوصيري: إنها صحيح; والحديث الأثني شاهد له.

**تخريج:** [هنا نذكر التحية والتحية] وقال البوصيري: إنها صحيح; والحديث الأثني شاهد له.

**تخريج:** [هنا نذكر التحية والتحية] وقال البوصيري: إنها صحيح; والحديث الأثني شاهد له.
Chapter 13. Marriage Of Minor Girls Arranged By Their Fathers

1876. It was narrated that 'Aishah said: "The Messenger of Allah [pbuh] married me when I was six years old. Then we came to Al-Madinah and settled among Banu Hārith bin Khazraj. I became ill and my hair fell out, then it grew back and became abundant. My mother 'Umm Rumān came to me while I was on an 'Urjah [11] with some of my friends, and called for me. I went to her, and I did not know what she wanted. She took me by the hand and made me stand at the door of the house, and I was panting. When I got my breath back, she took some water and wiped my face and head, and led me into the house. There were some woman of the Ansār inside the house, and they said: 'With the blessings and good fortune (from Allah).' (My mother) handed me over to them and they tidied me up. And suddenly I saw the Messenger of Allah [pbuh] in the morning. And she handed me over to him and I was at that time, nine years old." (Sahih)

[1] A word used to refer to both a swing, and a seesaw.
The marriage bond of a girl who is not yet adult (has not reached the age of puberty) is perfectly valid in Islam.

Urajuh refers to both a swing and a seesaw; it is a long piece of wood, its middle is placed at a high place and the children sit on both ends, when its one side goes down the other side goes up; it is called a seesaw in English.

It is recommended to beautify the bride when she leaves for her husband's home.

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Chapter 14. Marriage Of Minor Girls Arranged By Someone Other Than Their Fathers

It was narrated that `Abdullah said: "The Prophet married `Aishah when she was seven years old, and consummated the marriage with her when she was nine, and he passed away when she was eighteen." (Sahih)

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Chapter 14. Marriage Of Minor Girls Arranged By Someone Other Than Their Fathers

It was narrated from Ibn `Umar that when `Uthman bin Maz'un died, he left behind a daughter. Ibn `Umar said: "My maternal uncle Qudamah, who was her paternal uncle, married her, but he did not consult her. That was after her father had died. She did not like this marriage, and the girl wanted to marry Mughirah bin Shu'bah, so she married him." (Sahih)
Comments:

a. The compiler indicated by classifying the title of this chapter that a father is allowed to conduct the marriage of his daughter, without her consent, who is not yet adult; any other guardian like maternal or paternal uncle etc., cannot do so.

b. In case of her being adult, her consent is compulsory; because the first marriage took place without her consent being sought, therefore, it was dissolved. Apparently, it looks as if she was adult when her first marriage took place.

Chapter 15. No Marriage Except With A Guardian

It was narrated from 'Aishah that the Messenger of Allah said: "Any woman whose marriage is not arranged by her guardian, her marriage is invalid, her marriage is invalid, her marriage is invalid. If (the man) has had intercourse with her, then the Mahr belongs to her in return for his intimacy with her. And if there is any dispute then the ruler is the guardian of the one who does not have a guardian." (Sahih)
1880. It was narrated that ʿAishah and Ibn ʿAbbās said: “The Messenger of Allāh ﷺ said: ‘There is no marriage except with a guardian.’”

According to the Hadith of ʿAishah: “And the ruler is the guardian of the one who does not have a guardian.” (Sahih)

1881. It was narrated from Abu Musa that the Messenger of Allāh ﷺ said: “There is no marriage except with a guardian.” (Sahih)

1882. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: ‘No woman should arrange the marriage of another woman, and no woman should arrange her own marriage. The adulteress is the one who arranges her own marriage.” (Sahih)

Comments:

a. A woman cannot be a guardian for marriage.

b. The marriage of a woman does not take place without the guardian.
Chapter 16. Prohibition Of Shighår

1883. It was narrated that Ibn 'Umar said: "The Messenger of Allâh forbade Shighår. Shighår is when a man says to another man: 'Marry your daughter or sister to me, on condition that I will marry your daughter or sister to you,' and they do not give any dower (i.e., neither of them give the other the dower)." (Sahih)

Comments:

a. Nikâh Shighår or "Exchange Marriages" are the same thing, which are known in parts of Pakistan by the name of 'Watta-Satta'; its explanation has been mentioned in the narration.

b. In the pre-Islamic period, the dowry was not fixed in case of Nikâh Shighår, neither was it paid equal to the dowry of other women. In fact a woman was exchanged for a woman. In these days, although the dowry is fixed, but the flaws and defects of the ancient system still remain; the revenge of mistreatment by a man is often incorrectly taken by mistreating his daughter or sister.

1884. It was narrated that Abu Hurairah said: "The Messenger of Allâh forbade Shighår." (Sahih)

1885. It was narrated from Anas bin Mâlik that the Messenger of Allâh said: 'There is no Shighår in Islam.' (Sahih)
The Chapters On Marriage

Comments:
It means it is a custom of non-Muslims. Muslims must abandon it because it is an un-Islamic custom.

Chapter 17. Dowries Of Women

1886. It was narrated that Abu Salamah said: "I asked 'Aishah: 'How much was the dowry of the wives of the Prophet?' She said: 'The dowry he gave to his wives was twelve 'Uqiyah and a 'Nash (of Silver). Do you know what a 'Nash is? It is one half of an 'Uqiyah. And that is equal to five hundred Dirham.' "[3] (Sahih)

Comments:

a. The dowry fixed should not be excessive, such that it is difficult for a husband to pay, and it should also be not very little, such that it has no importance in the sight of a husband.

b. If the husband is poor, the dowry fixed may be less; maybe an iron ring.
(See Hadith: 1889).

c. Five hundred Dirham are equal to one and three quarters of a kilo approximately.

1887. It was narrated that Abu 'Ajfa As-Sulami said: "Umar bin Khattab said: 'Do not go to extremes with regard to the-

[1] They say that 'Nash is twenty Dirham and it is also used to refer to half of something as in this case, half of an 'Uqiyah.
dowries of women, for if that were a sign of honor and dignity in this world or a sign of Taqwa before Allâh, then Muhammad would have done that before you. But he did not give any of his wives and none of his daughters were given more than twelve Uqiyyah. A man may increase the dowry until he feels resentment against her and says: “You cost me everything I own,” or, “You caused me a great deal of hardship.” (Hasan)

And I was a man born among the Arabs, but I do not know the meaning of ‘Alaqul-Qirbah or ‘Araqul-Qirbah.”

Comments:
a. The consequence of appointing a dowry more than one’s ability is not good. A man works hard to pay it, and if he is unable to pay, it creates hatred in the heart. The man says to himself “I am trapped in difficulty because of this woman.” Whereas a reasonable dowry is paid easily and thus the mutual love between husband and wife increases, which is a religious objective.

1888. It was narrated from ‘Abdullâh bin ‘Amir bin Rabî’ah, from his father, that a man from

[1] In Musnad Al-Humaidi (23) it is: “And I was a young man.”
[2] Meaning due to the ambiguity of the expressions: ‘Alaqul-Qirbah and ‘Araqul-Qirbah. A Qirbah is a very large water skin that only a very strong man could carry. So the meaning is that I gave you everything until I even carried a giant water skin to your family, or, did so much that I even sweated enough to fill such a water skin. In Al-Tal wal-Matrûfatur-Rijal (no. 95), Ahmad reported regarding this, from Sufyân, who is one of those who narrated this Hadîth as recorded by others: “Until I carried a Qirbah from far away.”
among Banu Fazārah got married for a pair of sandals, and the Prophet permitted his marriage. *(Da‘if)*

1889. It was narrated that Sahl bin Sa‘d said: “A woman came to the Prophet and he said: ‘Who will marry her?’ A man said: ‘I will.’ The Prophet said: ‘Give her something, even if it is an iron ring.’ He said: ‘I do not have one.’ He said: ‘I marry her to you for what you know of the Qur‘ān.’” *(Sahih)*

1890. It was narrated from Abu Sa‘eed Al-Khudri that the Prophet married ‘Aishah with household goods the value of which was fifty Dirham. *(Da‘if)*
Chapter 18. A Man Who Gets Married Without Stipulating The Dowry And Then Dies

It was narrated from Masruq, that `Abdullah was asked about a man who married a woman and died without having consummated the marriage with her, nor stipulating the dowry. Abdullah said: "The dowry is hers, and the inheritance is hers, and she has to observe the waiting period." Ma`qil bin Sinan Al-Ashja`i said: "I saw the Messenger of Allah pass a similar ruling concerning Birwa bint W ashik. (Sahih)"

Another chain from `Aqlamaah, from `Abdullah, with similar wording.

Comments:

a. The husband and wife get a share from the inheritance of each other provided the marriage bond has taken place, even though they did not consummate the marriage.

b. The wife will necessarily spend her waiting period, four months and ten days after the death of husband, whether they had consummated the wedding or not. But if the divorce takes place before the consummation of the marriage, the woman will not be required to wait for any period (Ahzab 33: 49); and in this case the amount of dowry will be specified in the light of the dowry of other women of her family.

c. If the dowry is not specified at the time of the marriage, the marriage bond (Nikah) is still valid; but it is better to specify it at the same time.
Chapter 19. Sermon Of Marriage

1892. It was narrated that 'Abdullâh bin Mas'ûd said: "The Messenger of Allâh ﷺ was granted a combination of all manner of goodness, as well as its seal," or he said: "The opening (of the way to) all good. He taught us the Khutbah of prayer and Khutbah of need. "The Khutbah of prayer is:

At-tahiyyatu lillahi was-salawitu wa-taâyyibit. As-salimu 'alaikn ayyuhaan-Nabiyyu wa-râhmaf-ulliki wa-barakituhu. As-salimu 'ala ayyuhaan-Nabiyyu wa-râhmaf-ulliki wa-barakituhu. Ashhadu ann-ilâ ilâ ilâ was-salamu wa-an-nisâ ba'd ash-shâb li-ha sâlihun. Al-hârdhâ lillihin nahmnduhu wa-nasta'inuhu wa-nsa'îghrînu, wa na'udhuhu min skûrûna anfusini wa min sayî'îna a'mâlinâ. Man yâhdiillahu fâlã mu'dillahu lahu, wa man yudâlîn fâlã hâdiya lahu. Wa ashhadu an lâ ilâha illallâhu wahdahu lâ sharika lahu, wa ashhadu anna Muhammadan 'abdhu wa-rasuluhu (Praise is to Allâh, we praise Him and we seek
His help and His forgiveness. We seek refuge with Allāh from the evil of our own souls and from our bad deeds. Whomsoever Allāh guides, will never be led astray; and whomsoever is led astray, no one can guide. I bear witness that there is none worthy of worship but Allāh, alone with no partner or associate, and I bear witness that Muhammad is His slave and His Messenger). Then add to your Khutbah the following three Verses: 'O you who believe! Fear Allāh as He should be feared, and die not except in the state of Islam (as Muslims) with complete submission to Allāh.'[1]

And: 'O mankind! Be dutiful to your Lord, Who created you from a single person, and from him He created his wife, and from them both He created many men and women, and fear Allāh through Whom you demand your mutual (rights), and (do not cut the relations of) the wombs (kinship) Surely, Allāh is Ever an All-Watcher over you.'[2]

And: 'O you who believe! Keep your duty to Allāh and fear Him, and speak (always) the truth. He will direct you to do righteous good deeds and will forgive you your sins...'[3] until the end of the Verse.” (Da‘if)

تخريج: [إسناده ضعيف] أخرج أبو عاود، النكاف، باب في خطة النكاف، ح: 2118 من

The Chapters On Marriage

Thw chapters on marriage begin with the attributes of Allah, the beauty, the almighty, and the merciful. As mentioned in the text, after the first supplications are given, the Khutbah of prayer means the recitation through which a devotee speaks to his Lord. Khutbah of need are the words which the Messenger of Allah read out before he would begin the speech at every important occasion. These words are also read in the Friday sermon.

These Qununnic Verses consist of the fundamental teachings regarding the family and social life. The scholars should give brief and precise advice to the attendees in accordance with the Sunnah.

It indicates that the Khutbah should be recited first, and then the acceptance of the marriage bond is to be declared.

1893. It was narrated from Ib~n 'Abba~s that the Prophet said: "Al-hamdu lillahi nahmadahu wa nasta'innu wa na'udhu billahi min shururi anfusin~ wa min sayi'atii a'malin~. Man yahdihillahu fala mudiilla lahu, wa man yudil falal h~diya lahu. Wa ashhiudun la ilaha illallahu wahdahu l~ sharika lahu, wa anna Muhammadan 'abduhu was rasuluhu. Amn~ ba'd: (Praise is to Allah, we praise Him and we seek His help. We seek refuge with Allah from the evil of our own souls and from our bad deeds; Whomsoever Allah guides will never be led astray; and whomsoever is led astray, no one can guide. I bear witness that none has the right to be worshiped but Allah, alone with no partner or associate, and that Muhammad is His slave and His Messenger. To proceed:).” (Sahih)

Comments:

1. It is desirable to commence a good conversation with the Praise of Allah.
b. Seeking Allah's help in every matter and to seek ability only from Him is part of Tauhid.

1894. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: "Every important matter that does not start with praise of Allah, is devoid of blessings." (Da’if)

1895. It was narrated from 'Aishah that the Prophet ﷺ said: "Announce this marriage, and beat the sieve for it."[1] (Da’if).

Comments:
Announcing a marriage bond means the acceptance should be declared in the gathering of Muslims, and the wedding feast (Walima) should be arranged so that the people in general would know that so-and-so man is married to so-and-so lady. Thus the way to illegal affairs will be closed.

1896. It was narrated from Muhammad bin Hâtib that the

[1] "Meaning with the Daff. He used a Ghirbâl (sieve) for it, because it resembles it in its roundness (and shape)." (Sindi).
The Chapters On Marriage

Messenger of Allâh ﷺ said:
"What differentiates between the lawful and the unlawful is (beating) the Daff and raising the voices (in song) at the time of marriage." (Hasan)

Comments:

Beating a Daff on the occasion of weddings serves the purpose that all the people will know about the marriage. Songs, poetry etc., may also be sung at this occasion so long as its wording is not contrary to the teachings of the Shari'ah; and only the young girls, who are not adult, are allowed to do so.

This type of entertainment is allowed during the ‘Eid days too.

Chapter 21. Singing And (Beating) The Daff

1897. It was narrated that Abu Husain, whose name was Khâlid Al-Madani, said: “We were in Al-Madinah on the Day of ‘Ashurâ’, and the girls were beating the Daff and singing. We entered upon Rubâ’î bint Mu’awwidh and mentioned that to her. She said: ‘The Messenger of Allâh ﷺ entered upon me on the morning of my wedding, and there were two girls with me who were singing and mentioning the qualities of my forefathers who were killed on the Day of Badr. One of the things they were saying was: “Among us there is a Prophet who knows what will happen tomorrow.” He ﷺ said: “Do not say this, for no one knows what will happen tomorrow except Allâh.” (Sahih)
The Chapters On Marriage

Comments:

a. Young girls, who are not adult yet, are allowed to sing and beat the Daff at weddings.

b. The elderly people should allow the young children to enjoy the rejoicing activities at occasions of happiness, but if the children do something which is impermissible, their attention should be drawn to the fact that it is not a good thing.

c. Praise and singing the attributes of the Messenger of Allah ﷺ is a blessed deed, but the exaggeration of it is not allowed. It is permissible to express the qualities of the righteous people which they in fact possess, and exaggeration must be avoided.

d. The Prophet ﷺ did not have the knowledge of unseen.

1898. It was narrated that 'Aishah said: “Abu Bakr entered upon me, and there were two girls from the Ansâr with me, singing about what the Ansâr used to sing about the Day of Bu‘âth.”[1] She said: “And they were not really singers. Abu Bakr said: ‘The wind instruments of Satan in the house of the Prophet ﷺ?’ That was on the day of ‘Eid (Al-Fitr). But the Prophet ﷺ said: ‘O Abu Bakr, every people has its festival and this is our festival.’” (Sahih)

Comments:

a. To read and say the poetry is allowed as long as it is within the limits of the Shari‘ah.

b. Adopting the profession of singing is regarded a condemned act in the Islamic society, and such people are not regarded respectable, instead these individuals are detested.

c. Entertaining programs are allowed at wedding and ‘Eid celebrations,

[1] Bu‘âth was a place about two miles from Al-Madînah where on that day before Islam a battle took place between the Ansâr tribes of Aus and Khazraj.
provided no such act is performed which is contrary to the teachings of the Shariah. However it is absolutely wrong to take this reasonable permission as proof for music with singing, indecent songs, and for the proof of mixed gatherings (male and female).

1899. It was narrated from Anas bin Malik that the Prophet ﷺ passed by some part of Al-Madinah and saw some girls beating their Daff and singing, saying:

“We are girls from Banu Najjar.
What an excellent neighbor is Muhammad.”

The Prophet ﷺ said: “Allah knows that you are dear to me.”
(Sahih)

Comments:

a. Respected elderly people may say suitable friendly and kind words to the young girls, so long as there is no risk of misunderstanding.

b. The words ‘Allah knows’ are regarded as an oath in this case. Speaking words of an oath for emphasis is permissible even though there is no doubt which has arisen.

c. The Messenger of Allah ﷺ liked the Ansar because they offered lots of sacrifices for Islam; the love for the Ansar by the believers is a requisite of their belief.

1900. It was narrated that Ibn ‘Abbás said: ‘Aishah arranged a marriage for a female relative of hers among the Ansar, and the Messenger of Allah ﷺ came and said: Have you taken the girl (to her husband’s house)?” They said: “Yes.” He said: “Have you sent someone with her to sing?” She said: “No.” The Messenger of Allah ﷺ said: “The Ansar are people with romantic feelings. Why don’t you send someone with her to say: We have come to you we have come to you, may
Allāh bless you and us?" (Da‘if)

1901. It was narrated that Mujaḥid said: "I was with ‘Ībān ‘Umar, and he heard the sound of a drum, so he put his fingers in his ears and turned away. He did that three times, then he said: 'This is what I saw the Messenger of Allāh ﷺ do.'" (Da‘if)

1902. It was narrated from ʿUmm Salāmah that the Prophet ﷺ entered upon her, and he heard an effeminate man say to ʿAbdullāh bin Abu ʿUmayyah: "If Allāh enables you to conquer Tā‘if tomorrow, I will show you a woman who comes in on four (rolls of fat) and goes out on eight." The Messenger of Allāh ﷺ said: "Throw them out of your houses." (Sahih)

Comments:

a. The person who is born male, but wears the dress of women and adopts feminine behavior and imitation, should not be allowed to enter the home. Being a man who is imitating women is a type of curse.

b. A stranger (who is not an immediate blood relative) or a hermaphrodite
should not go to women freely, if it does happen the women should veil themselves.

1903. It was narrated from Abu Hurairah that the Messenger of Allah cursed women who imitate men and men who imitate women. (Sahih)

1904. It was narrated from Ibn 'Abbas that the Prophet cursed men who imitate women and women who imitate men. (Sahih)

Comments:
a. The curse clarifies that it is a major sin.
b. The imitation can be in dress, in matters of applying make up, and in the manners of walking and talking too. To practice such imitation, intentionally, is prohibited.

Chapter 23. Offering Congratulations On The Occasion Of Marriage

1905. It was narrated from Abu Hurairah that the Prophet used to say, when offering congratulations on the occasion of marriage: "Bârak Allâhu lakum, wa bârak 'alaikum, wa jama'a bainakumâ fi khair (May Allâh bless you and bestow blessings upon you, and bring you together in harmony)." (Sahih)
1906. It was narrated from 'Aqil bin Abu Talib that he married a woman from Banu Jusham, and they said: "May you live in harmony and have many sons." He said: "Do not say that, rather say what the Messenger of Allah ﷺ said: 'Allahumma bârik lahum wa bârik alaînîm (O Allah, bless them and bestow blessings upon them.)"" (Hasan)

Comments:
a. Congratulating the bridegroom, and the bride of marriage, and making supplication of good for them, is in accordance with the Sunnah.
b. The best way to congratulate and supplicate is to say the blessed words which the noble Prophet ﷺ uttered with his blessed tongue.

Chapter 24. The Walimah (Wedding Feast)

1907. It was narrated from Anas bin Malik that the Prophet ﷺ saw traces of yellow perfume on 'Abdur-Rahman bin 'Awf, and he asked him: "What is this?" He said: "O Messenger of Allah, I married a woman for the weight of a Nawâh (Stone) of gold." He said: "May Allah bless you. Give a feast even if it is only with one sheep." (Sahih)
The Chapters On Marriage

Comments:

a. The Messenger of Allâh noticed a mark of the fragrance of women on the dress of the Companion, so he asked him the reason for using the fragrance of women. In this is a warning that the use of it for you is improper, and it also indicated that if there was a valid excuse, it should be explained.

b. Stone means the date-stone. It was a known weight at the time; it is mentioned to be equal to five Dirham (approximately 15-16 grams). (Mirâq Sharh Mishkât: 3210)

1908. It was narrated that Anas bin Mâlik said: “I never saw the Messenger of Allâh give a wedding feast for any of his wives like the feast he gave for Zainab, for which he slaughtered a sheep.” (Sahîh)

Comments:

a. Zainab the daughter of Jahsh, the Mother of the Believers, was the daughter of the paternal aunt of Allâh’s Messenger; her mother was Umâmah the daughter of Abdul-Muttalib. The Messenger of Allâh married her to his freed slave Zaid bin Hârîthah. But they could not get on, and the divorce took place. Allâh Himself married her to the Messenger through the revelation after the waiting period had passed.

b. Taking a loan for the Walimah (wedding feast) and to bear the burden of debt for no reason is not right; one should make affordable arrangement for the Walimah.

c. No Hadîth shows the mention of a gathering for the feast to take place at the bride’s residence, or for any arrangement of food by the family of the bride; it is merely a custom, which has no relation with the Shari’ah and religious teachings.

1909. It was narrated from Anas bin Mâlik that the Prophet offered Sawiq[1] and dates as a kind of barley mash.

null
picked with our own hands. Then we offered dates and raisins to eat, and sweet water to drink. We went and got some wood and set it up at the side of the room, to hang clothes and water skins on. And we never saw any wedding better than the wedding of Fātimah." (Daʿīf)

1912. It was narrated that Sahl bin Saʿd As-Sāʿūdī said: "Abu Usaid As-Sāʿūdī invited the Messenger of Allāh ﷺ to his wedding, and the bride herself served them. She said: 'Do you know what I gave the Messenger of Allāh ﷺ to drink? I had soaked some dates the night before, then in the morning I strained them and gave him that water to drink.'" (Sahih)

Comments:
a. Everybody’s invitation should be accepted, whether one is poor or rich.
b. A woman is allowed to serve the guests even if they are not immediate blood relatives, as long as she observes the veil in accordance with the Shari'ah.

Chapter 25. Accepting Invitations

1913. It was narrated that Abu Hurairah said: "The worst of food is food of a wedding feast to which the rich are invited and the
The Chapters On Marriage

poor are not. Whoever does not accept an invitation has disobeyed Allâh and His Messenger.” (Sahih)

1914. It was narrated from Ibn ‘Umar that the Messenger of Allâh said: “If anyone of you is invited to a wedding feast, let him accept.” (Sahih)

Comments:
a. Marriage is an important social celebration of Muslims; therefore attending the wedding feast is very important and useful for the establishment of social relations.
b. One should not refuse to accept the invitation of a wedding feast without a genuine excuse.

1915. It was narrated from Abu Hurairah that the Messenger of Allâh said: “The wedding feast on the first day is an obligation, on the second day is a custom and on the third day is showing off.” (Da’îf)

Chapter 26. Staying With A Virgin And A Previously-Married Woman

1916. It was narrated from Anas
that the Messenger of Allâh ﷺ said: “Three days for a previously-married woman and seven days for a virgin.” (Hasan)

**Comments:**

After passing this time, the new wife will have the same rights as the wives before her. The new wife will have her turn as other wives have their turns. The husband will treat her equally in expenses and spending nights with her, just like the other wives. He will spend the night with her when she has her turn.

1917. It was narrated from Al-Hârith from his father that when the Messenger of Allâh ﷺ married Umm Salamah, he stayed with her for three days, then he said: “You are not insignificant in your husband’s eyes. If you wish, I will stay with you for seven days, but then I will stay with my other wives for seven days too.” (Sahih)

**Comments:**

a. If the bride is divorced or a widow, the husband is allowed to be with her for up to seven days; but in this case the husband will then spend seven days with each of his wives, and then he will begin the turns.

b. In response to this offer of the Messenger of Allâh ﷺ, Umm Salamah, the Mother of the Believers, chose the period of three days. (Sahih Muslim: 1460). The most probable reason of it was the hope that her turn would then come sooner.
Chapter 27. What The Man Should Say When His Bride Comes In To Him

1918. It was narrated from 'Abdullāh bin 'Amr that the Prophet ﷺ said: “When anyone of you gets a new wife, a servant, or an animal, let him take hold of the forelock and say: ‘Allāhumma inni as'ātku min khayriha wa khayri ma jubilat 'alaihi, wa 'audhu bika min sharriha wa sharri ma jubilat 'alaih (O Allāh, I ask You for the goodness within her and the goodness that she is inclined towards, and I seek refuge with You from the evil within her and the evil to which she is inclined).’” (Hasan)

1919. It was narrated from Ibn 'Abbās that the Prophet ﷺ said: “When anyone of you has intercourse with his wife, let him say: ‘Allāhumma jannibnish-Shaitān wa jannibnish-Shaitān ma razaqlani (O Allāh, keep Satan away from me and keep Satan away from that with which You know best!’”

Comments:

a. The wife, female slave, cow, buffalo and horse etc., are all the favors of Allāh to a man; but they may have such habits which can cause perpetual concerns. Therefore, one should invoke Allāh to have good from them, and for no harm to be inflicted.

b. The head of a human or an animal is the most important part of the body, the objective of making supplication by placing the hand on the head of the human or an animal is that Allāh may make them useful for us. Allāh knows best!
bless me).’ Then if they have a child, Allāh will never allow Satan to gain control over him or he will never harm him.” (Sahih)

Comments:
a. It is better to read the mentioned supplication before taking off the clothes.
b. The benefit of this supplication is that due to its blessing, Satan keeps away when having intercourse; therefore, the risk of the effects of Satan on the children becomes less, and it is protection against some certain diseases also.

Chapter 28. Covering Oneself
When Having Intercourse

1920. Bahz bin Hakim narrated from his father that his grandfather said: “I said: ‘O Messenger of Allāh, with regard to our ‘Awrah, what may we uncover of it and what must we conceal?’ He said: ‘Cover your ‘Awrah except from your wife and those whom your right hand possesses.’ I said: ‘O Messenger of Allāh, what if the people live close together?’ He said: ‘If you can make sure that no one sees it, then do not let anyone see it.’ I said: ‘O Messenger of Allāh, what if one of us is alone?’ He said: ‘Allāh is more deserving that you should feel shy before Him than people.’” (Hasan)

Comments:
a. To keep the private parts preserved from anyone else, other than the wife and female slave, means to abstain from illegal affairs and adultery.
b. This Hadith also indicates that if a husband and wife see each other’s
private parts, it is not sinful. The following Ahādīth prohibited it but both narrations are Weak.

1921. It was narrated from 'Utbah bin 'Abd Sulami that the Messenger of Allāh ﷺ said: “When anyone of you has intercourse with his wife, let him cover himself and not be naked like donkeys.” (Da’īf)

Chapter 29. Prohibition Of Having Intercourse With Women In The Buttocks

1922. It was narrated from a freed slave of 'Āishah that 'Āishah said: “I never looked at or I never saw the private part of the Messenger of Allāh ﷺ.” (Da’īf)

(One of the narrators) Abu Bakr (Ibn Abu Shaibah) said: “Abu Nu’aim said: ‘From a freed female slave of 'Āishah.’”

Chapter 29. Prohibition Of Having Intercourse With Women In The Buttocks

1923. It was narrated from Abu Hurairah that the Prophet ﷺ said: “Allāh will not look at a man who has intercourse with his wife in her buttocks.” (Sahih)
The Chapters On Marriage 103

 أبواب التكاح

تخريج: [صحيح] أخرجه أبو داود، التكاح، باب: في جامع التكاح، ح: 2124 من حديث

سحيل بن إسحاد حسن، وصحبه البصري، وله شواهد صحيحة، وهو من الأحاديث الحنافية.

Comments:

‘Allah will not look towards him’; it means Allah will not cast a glance of mercy at him and his offence will not be forgiven on the Day of Judgement. It shows the prohibition of this act; another Hadith narrates that the perpetrator of this act is cursed too. The Prophetic statement is, ‘He who has intercourse with a woman from her backside (anus) is cursed.’ (Sunan Abu Dawud: 2162)

1924. It was narrated from Khuzaimah bin Thabit that the Messenger of Allah said: “Allah is not too shy to tell the truth,” three times. “Do not have intercourse with women in their buttocks.” (Sahih)

Comments:
The anus is a place of filth; therefore, a believer avoids it. Naturally, this is not the function and purpose of this place; and medically it has many affects and dark sides, one of these has recently appeared in the form of ‘AIDS Disease’. The legal place of intercourse, the vagina, is even forbidden during the days of impurity; so how can the place which is just for filth be allowed!

1925. It was narrated from Muhammad bin Munkadir that he heard Jâbir bin ‘Abdullâh say: “The Jews used to say that if a man has intercourse with a woman in her vagina from the back, the child would have a squint. Then Allah, Glorious is He, revealed: ‘Your wives are a tilth for you, so go to your tilth, when or how you will.’”[1] (Sahih)

The husband and wife are allowed to enjoy each other by all means, whether the woman is lying on her back, on the stomach or on the side. But the necessary thing is that only the legal and natural way according to Shari‘ah should be used for intercourse.

Chapter 30. Coitus Interruptus

1926. It was narrated that Abu Sa‘eed Al-Khudri said: “A man asked the Messenger of Allāh ﷺ about coitus interruptus. He said: ‘Do you do that? If you do not do so, it will not harm; for there is no soul that Allāh has decreed will exist but it will come into being.’” (Sahih)

Comments:

a. Coitus interruptus is, when having intercourse, to withdraw the penis before emission of semen to avoid the risk of conception.

b. ‘If you do not do so, it will not harm; it indicates that not doing coitus interruptus is better, but it is not forbidden strictly. Therefore, if woman is unable to bear the difficulty of pregnancy and childbirth due to sickness or weakness, then coitus interruptus may be practised.

1927. It was narrated that Jābir said: “We used to practice coitus interruptus during the time of the Messenger of Allāh ﷺ when the Qur’ān was being revealed.” (Sahih)

Comments:

[continues on the next page]
Comments:

Its definite prohibition was not revealed during the period of revelation, which proves the permissibility of this action.

1928. It was narrated that 'Umar bin Khattab said: “The Messenger of Allah forbid practicing coitus interruptus with a free woman except with her consent.” (Da‘if)

Chapter 31. A Man Should Not Be Married To A Woman Along With Her Paternal or Maternal Aunt At The Same Time

1929. It was narrated from Abu Hurairah that the Prophet said: “A woman should not be married to a man who is married to her paternal aunt or maternal aunt (at the same time).” (Sahih)

1930. It was narrated that Abu Sa‘eed Al-Khudri said: “I heard the Messenger of Allah forbid two types of marriage: For a man to be married to a woman and her paternal aunt (at the same time), and to a woman and her maternal aunt (at the same time).” (Sahih)
1931. Abu Bakr bin Abu Musa narrated that his father said: “The Messenger of Allah ﷺ said: “A man should not be married to a woman and her paternal aunt or maternal aunt at the same time.” (Sahih)

Comments:

After the death of a wife or after her divorce, her maternal aunt or the daughter of her sister, and her paternal aunt or the daughter of her brother, are permissible for the man to take as brides. Similarly, two sisters at one time cannot be in the marriage bond of one man; but after the divorce or death of the first sister, the marriage of the second sister is allowed with the same man. (An-Nisā 4:23)

Chapter 32. A Man Divorces His Wife Thrice, Then Another Man Marries Her And Divorces Her Before Consummating The Marriage. Can She Go Back To The First Man?

1932. It was narrated from ‘Aishah that the wife of Rifā‘ah Al-Qurazi came to the Messenger of Allah ﷺ and said: “I was married to Rifā‘ah, and he divorced me and made it irrevocable. Then I married ‘Abdur-Rahmān bin Zubair, and what he has is like the fringe of a garment.” The Prophet ﷺ smiled and said: “Do you want to go back to Rifā‘ah? No, not until you taste his (‘Abdur-Rahmān’s) sweetness and he tastes your sweetness.” (Sahih)
Comments:

a. The permission of marrying the first man (who gave her final divorce) is with the condition that the second husband divorced her after having intercourse. If the second husband divorced her before having sexual intercourse, then remarrying the former husband is not yet permissible; but she may marry a third person.

b. The third divorce is an absolute or final divorce after which the right of revocation is void. If a woman is divorced after the marriage ceremony without consummating the marriage, then this first divorce will be regarded as absolute and final. If one is married to a female slave, then the second divorce will be the absolute one. Any other case has the right to three divorces and the third divorce will be the last one.

1933. It was narrated from Ibn 'Umar, from the Prophet ﷺ, concerning a man who had a wife then divorced her, then another man married her but divorced her before consummating the marriage. Could she go back to the first man? He said: “No, not until he tastes her sweetness.” (Sahih)

Comments:

'Taste' means the performance of intercourse, as has been mentioned previously.
Chapter 33. The Muhallil
And The Muhallal Lahu

1934. It was narrated that Ibn 'Abbás said: "The Messenger of Allâh cursed the Muhallil and the Muhallal lahu." (Sahîh)

1935. It was narrated that 'Ali said: "The Messenger of Allâh cursed the Muhallil and the Muhallal lahu." (Da‘îf)

1936. 'Uqbah bin 'Amir narrated that the Messenger of Allâh said: 'Shall I not tell you of a borrowed billy goat?' They said: "Yes, O Messenger of Allâh!" He said: 'He is Muhallil. May Allâh curse the Muhallil and the Muhallal lahu.'" (Hasan)

Muhallil is the man who marries a woman in order to divorce her, so that she can go back to her first husband. Muhallal lahu is the first husband for whom this is done.
The Chapters On Marriage

Comments:
a. If a woman is divorced three times (the three divorces in accordance with the Shari‘ah) and her husband wants to take her back, it is not allowed. If a second man marries her, and he has no intention to live a matrimonial or family life with her permanently; rather he intends to divorce her after marriage, and having sexual intercourse and this marriage is a trick, so that the former husband can remarry her, thus which was unlawful for the former husband will become lawful, this type of temporary marriage is called Halâlah, it is declared a cursed deed in this Hadith.
b. The curse proves the prohibition of Halâlah, because a permissible deed never causes a curse.
c. The person who performs Halâlah is named, in the Hadith, a billy goat or a male goat, which stresses the gravity of evil in this act.

Chapter 34. What Is Unlawful

Due To Lineage Is Unlawful

Due To Breastfeeding

1937. It was narrated from ‘Aishah that the Messenger of Allâh ﷺ said: ‘Breastfeeding makes unlawful (for marriage) the same things that blood ties make unlawful.’” (Sahih)

Comments:

The details of the women who are prohibited for marriage due to fosterage (suckling a baby) are the following:
a. Foster Mother: Who suckled you during the foster period (first two years of infancy).
b. Foster Sister: Your real or foster mother suckled her, along with you, before you or after you; or a woman whose real or foster mother suckled you; i.e., all blood related children and the foster children of a woman will become brothers and sisters of the suckling child.
c. Foster maternal aunt: The sisters of the foster mother will become maternal aunts of the suckling child.
d. Foster paternal aunt: The husband of the foster mother will be the father of
the suckling child; therefore, the sisters of the foster father will become
paternal aunts and his brothers will be the paternal uncles of the suckling
child.

Other real brothers and sisters of the suckling child, who did not suckle
the same foster mother, will not have any foster relation with the woman and
her children.

1938. It was narrated from Ibn 'Abbās that the Messenger of Allah ﷺ was offered the daughter of Hamzah bin 'Abdul-Muttalib in marriage, and he said: "She is the daughter of my brother through breastfeeding, and breastfeeding makes unlawful (for marriage) the same things that blood ties make unlawful."

(Sahih)

Comments:

a. The chief of the martyrs, Hamzah ﷺ was the real paternal uncle of Allah’s Messenger ﷺ. Therefore, the marriage of his daughter should have been legal with the Prophet ﷺ. But the Messenger of Allah ﷺ made it clear that it was possible because of the family lineage relation, but it was impossible due to the prohibition of fosterage.

b. Thuwaibah, the female slave of Abu Lahab, suckled Hamzah ﷺ; she also suckled the Messenger of Allah ﷺ for a few days. (Lama‘at Sharh Mishkât, Book of Nikāh, chapter: The women prohibited for marriage)

1939. It was narrated from 'Urwah bin Zubair that Zainab bint Abi Salama told him that Umm Habibah told her that she said to the Messenger of Allah ﷺ: "Marry my sister 'Azzah." The Messenger of Allah ﷺ said: "Would you like that?" She said: "Yes, O Messenger of Allah. I am not the only one living with you and the one who most deserves to
share good things with me is my sister." The Messenger of Allâh ﷺ said: "But that is not permissible for me." She said: "But we thought that you wanted to marry Durrah bint Abi Salamah." The Messenger of Allâh ﷺ said: "The daughter of Umm Salamah?" She said: "Yes." The Messenger of Allâh ﷺ said: "Even if she were not my step-daughter who is under my care, she would not be permissible for me, because she is the daughter of my brother through breastfeeding. Thuwaibah breastfed both her father and I. So do not offer your sisters and daughters to me for marriage." (Sahih)

Another chain of narrator with similar wording.

Comments:

a. Two sisters at one time are not allowed in the marriage bond with the same man.

b. Marriage with the step daughter is not allowed.

c. The marriage with a foster niece is as prohibited as with the real niece.

d. The relations of fosterage must be kept identified lest the marriage mistakenly take place with such a woman that it is not allowed.

Chapter 35. Suckling Once
Or Twice Does Not Make
(Marriage) Unlawful

1940. It was narrated that Umm Fadl said that the Messenger of Allâh ﷺ said: "Breastfeeding once or twice, or suckling once or
twice, does not make (marriage) unlawful.” (Sahih)

Comments:

Some of the scholars understood from this Hadith that three cases of suckling establish the rules of fosterage, i.e. the relationship of fosterage is established. But the truth is that the fosterage is proven by suckling five times. As the saying of 'Aishah is narrated in Sahih Muslim that the first rule of suckling regarding the prohibition of marriage, revealed in the Qur'an, was of suckling ten times; later it was abrogated and the rule of fosterage prohibition due to suckling five times was revealed.

1941. It was narrated from 'Aishah that the Prophet said: “Suckling once or twice does not make (marriage) unlawful.” (Sahih)

1942. It was narrated that 'Aishah said: “One of the things that Allah revealed in the Qur'an and then abrogated was that nothing makes marriage prohibited except ten breastfeedings or five well-known (breastfeedings).” (Sahih)

Comments:

This narration has uncertainty regarding the revealed rule if it was ten times or five times; but the aforementioned narration of Sahih Muslim made it clear that the rule was revealed for five times.
Chapter 36. Breastfeeding An Adult

1943. It was narrated that ‘Aishah said: “Sahlah bint Suhail came to the Prophet and said: ‘O Messenger of Allâh, I see signs of displeasure on the face of Abu Hudhaifah when Sâlim enters upon me.’ The Prophet said: ‘Breastfeed him.’ She said: ‘How can I breastfeed him when he is a grown man?’ The Messenger of Allâh smiled and said: ‘I know that he is a grown man.’ So she did that, then she came to the Prophet and said: ‘I have never seen any signs of displeasure on the face of Abu Hudhayfah after that.’ And he was present at (the battle of) Badr.” (Sahih)

Comments:
Due to this Hadîth, ‘Aishah had the opinion that the milk, in whatever age it is suckled, will prove the prohibition of fosterage. But other Mothers of the Believers did not agree with her; as appears in the following chapter. (See Hadîth: 1947)

1944. It was narrated that ‘Aishah said: “The Verse of stoning and of breastfeeding an adult ten times was revealed, and the paper was with me under my

31 Nearly all of the scholars hold the view of the rest of the wives of the Prophet, as recorded by Muslim and others (similar here under no. 1947), that Umm Salamah, the wife of the Prophet would say: “The rest of the wives of the Prophet refused to have anyone enter upon them based upon such suckling. They said to ‘Aishah: ‘By Allâh! We see that this is but an allowance that Allâh’s Messenger granted to Sâlim specifically. So no one enters upon us based on this suckling, nor sees us.’” And regarding the suckling itself, Nawawi mentioned that Qâdi ‘Iyâd said: “Perhaps she expressed the milk, then he drank it without touching.”
pillow. When the Messenger of Allah ﷺ died, we were preoccupied with his death, and a tame sheep came in and ate it.” (Hasan)

Comments:
a. These are such Verses that their recitation has been abrogated, while the rule remained in force; therefore, the Companions did not write it in the copy of the Qur’an.
b. It is proven from other Ahadith that the latest rule regarding the prohibition of fosterage is for sucking five times, and this is the preferred view.

Chapter 37. There Is No Breastfeeding After Weaning

1945. It was narrated from ‘A‘ishah that the Prophet ﷺ entered upon her and there was a man with her. He said: “Who is this?” She said: “This is my brother.” He said: “Look at whom you allow to enter upon you, because the breastfeeding (that makes a person Mahram) is that which satisfies hunger.” (Sahih)

Comments:
The prohibited relation due to fosterage will come about if the child is fostered in the first two years of age; and the child sucked milk five times to the fill; if a child is fostered after the first two years, then this suckling will
not be regarded as a prohibitive one, and it will not establish the relation of
fosterage; except for in extreme circumstances.

1946. It was narrated from 'Abdullah bin Zubair that the Messenger of Allah ﷺ said:
"There is no breastfeeding except that which fills the stomach." (Sahih)

Comments:

The meaning of the Hadith is, only that suckling will be taken into
consideration in such early age of the baby when the milk of the mother
serves the purpose of food for the baby. In normal circumstances, suckling
an older child will not establish the relation of fosterage.

1947. It was narrated from Zainab bint Abi Salamah that the
wives of the Prophet ﷺ all differed with 'Aishah and refused
to allow anyone with ties of
breastfeeding like Sâlim, the freed
slave of Abu Hudhaifah, to enter
upon them. They said: "How do
we know? That may be a
concession granted only to
Sâlim." (Sahih)

Comments:

The same opinion of the Pure Wives of Prophet ﷺ is that of the majority
scholars. Imam Bukhâri preferred it too; as mentioned in the comments of the
previous Ahâdith. However some people are also in favor of effectiveness of
suckling a grown up man; which may be practised in extreme circumstances.
For further elaboration one may see in the appendix of Tafsir Ahsanul-Bayîn,
Chapter 38. The Breast Milk Belongs To The Sire

1948. It was narrated that ‘Aishah said: “My paternal uncle through breastfeeding, Aflah bin Abu Qu’ais, came and asked permission to visit me, after the ruling on veiling had been enjoined, and I refused to let him in, until the Prophet came in and said: ‘He is your paternal uncle; let him in.’ I said: ‘But it is the woman who breastfed me; the man did not breastfeed me.’ He said: ‘May your hands be rubbed with dust’, or: ‘May your right hand be rubbed with dust!’” (Sahih)

Comments:
Foster relations are established from both sides, that of the foster mother and the foster father; resulting in foster maternal uncles and aunts etc. The husband of the suckling woman becomes the father of the foster child; so...
his brothers and sisters will be child’s foster paternal uncles and aunts etc.

Chapter 39. A Man Became Muslim And He Has (i.e., Is Married To) Two Sisters

1950. It was narrated that Dailami said: “I came to the Messenger of Allah and I was married to two sisters whom I had married during the Ignorance period. He said: ‘When you go back, divorce one of them.’” (Hasan)

1951. Daḥḥāk bin Fairuz Dailami narrated that his father said: “I came to the Prophet and said: ‘O Messenger of Allah! I have become Muslim and I am married to two sisters.’ The Messenger of Allah said: ‘Divorce whichever of them you want.’” (Hasan)

Comments:

a. If a person is already married in accordance with his religion, before embracing Islam, and then the wife and husband become Muslims, their first marriage bond will be valid; they are not required to remarry.

b. If a man is married, before embracing Islam, to such a woman with whom his marriage is unlawful according to Islam, then after embracing Islam he will have to separate from her.

c. Before embracing Islam, the children born from this sort of marriage will be regarded lawful, and they will share the inheritance of the father.
Chapter 40. A Man Became Muslim And He Has More Than Four Wives

1952. It was narrated that Qais bin Háirah said: “I became Muslim and I had eight wives. I went to the Prophet ﷺ and told him about that. He said: ‘Choose four of them.’” (Da‘if)

Comments:

a. If a person is married to more than four women before embracing Islam, after embracing Islam he has the right to keep only four women in marriage, and he will necessarily divorce the rest.

b. A person married to more than four women has the privilege to choose any four of them to keep in marriage bond, and there is no condition of choosing the first four or the last four.

Chapter 41. Conditions In Marriage

1953. It was narrated that Ibn 'Umar said: “Ghailán bin Salamah became Muslim and he had ten wives. The Prophet ﷺ said to him: ‘Choose four of them.’” (Da‘if)

Comments:

a. If a person is married to more than four women before embracing Islam, after embracing Islam he has the right to keep only four women in marriage, and he will necessarily divorce the rest.

b. A person married to more than four women has the privilege to choose any four of them to keep in marriage bond, and there is no condition of choosing the first four or the last four.
Chapter 119

Culwi said: "The conditions most deserving to be fulfilled are those by means of which the private parts become permissible for you." (Sahih)

Comments:

a. Marriage is a contract between a man and woman; both have rights and obligations to discharge. A man and woman both should take care of their obligations.

b. According to the circumstances, more conditions may be stipulated at the time of marriage.

1955. It was narrated from 'Amr bin Shu'aib, from his father, that his grandfather said: "The Messenger of Allâh said: 'Whatever is given as a dowry or gift before the marriage, it belongs to her. Whatever is given after the marriage belongs to the one to whom it was given. And the most deserving matter for which a man is honored is (the marriage of) his daughter or sister.'" (Hasan)

1956. It was narrated from Abu Musa that the Messenger of Allâh said: "Whoever has a slave woman and teaches her good

Chapter 42. A Man Setting Free His Slave Woman Then Marrying Her

It was narrated from Abu Musa that the Messenger of Allâh said: "Whoever has a slave woman and teaches her good
manners and educates her, then sets her free and marries her, will have two rewards. Any man from among the People of the Book who believed in his Prophet and believed in Muhammad will have two rewards. Any slave who does his duty towards Allāh and towards his masters will have two rewards.” (Sahih)

(Orie of the narrators) Sālih said: “Sha’bī said: I have given this (Hadith) to you for little effort on your part. A rider would travel to Al-Madīnah for less than this.””

Comments:
a. Male and female slaves are bought for service; the arrangement of their education and professional training is a great favor to them; and then setting the female slave free is another favor unto her. Thereafter, she should not be ignored for marriage just because she was a slave in the past; it will be the negation of her freedom. Instead, it will be the perfection of favor that a freed female slave acquires the rights of a free wife.

b. If a Jew remaining firm on Tauhid believes in Musa ﷺ, or a Christian believes in ‘Eisa ﷺ (Jesus), so long as he is unaware of the prophethood of Muhammad ﷺ, he (Jew or Christian) is correct. Whenever he knows about the advent of the Prophet ﷺ and believes in him, thus he secures a double reward, as is the story of Najāshī.

1957. It was narrated that Anas said: “Safiyyah was given to Dihyah Al-Kalbi (as his share of the war booty), then she was given to the Messenger of Allāh ﷺ after that. He married her, and made her ransom (i.e., freedom from slavery) her dowry.” (Sahih)

Hammād said: “Abdul-‘Aziz said to Thābit: ‘O Abu Muhammad! Did you ask Anas
what her bridal-money was?" He said: 'Her bridal-money was her freedom.'

Comments:
a. Safiyyah became a war prisoner when the Muslims attacked Banu Nadir, a tribe of Jews. For further details see Hadith: 1909 and its comments.
b. The freedom of a female slave can be declared as her dowry.

1958. It was narrated from 'Aishah that the Messenger of Allâh (N.B. set Safiyyah free, and made her ransom her dowry, and he married her. (Sahih)

Comments:
As it is Islamically forbidden for a woman to marry without the permission of her father or Wali (the guardian), likewise a slave is not allowed to marry without the permission of the master. The logic of it is that, after marriage, the slave will have to look after his wife and children, and it will undermine the service to his master; but if the master, with a goodwill gesture, is prepared to decrease his duties then the slave should marry, otherwise he should observe patience. Morally, the master should allow the slave to marry so that he can protect his chastity.

Chapter 43. A Slave Marrying Without His Master's Permission

1959. It was narrated from Ibn 'Umar that the Messenger of Allâh (N.B. said: "If a slave gets married without his master's permission, he is a fornicator." (Da'if)
Chapter 44. Prohibition Of Temporary Marriage (Mut'ah)

1960. It was narrated from Ibn 'Umar that the Messenger of Allâh ﷺ said: "Any slave who gets married without his master’s permission, is a fornicator." (Da’îf)

Chapter 44. Prohibition Of Temporary Marriage (Mut'ah)

1961. It was narrated from 'Ali bin Abu Talib that the Messenger of Allâh ﷺ forbade on the Day of Khaibar, the temporary marriage of women and (he forbade) the flesh of domestic donkeys. (Sahih)

Comments:

a. In a temporary or short-term marriage, a man and a woman agree to live together as wife and husband for a temporary appointed term; and as soon as this term comes to end, the marriage ends too. This kind of marriage was permissible, later it was forbidden, and now it is absolutely unlawful.

b. The Islamic bond of marriage is a contract between man and woman to live together for their whole life. Because the objective of the temporary marriage is not to live together permanently, therefore it is prohibited too.

c. Domestic donkey is unlawful (to eat); an animal very similar to a donkey is found in the jungle, and it is called a wild ass in Arabic.
1962. It was narrated from Rabi' bin Sabrah that his father said: "We went out with the Messenger of Allāh ﷺ on the Farewell pilgrimage, and they said: 'O Messenger of Allāh, celibacy has become too difficult for us.' He said: 'Then make temporary marriages with these women.' So we went to them, but they insisted on setting a fixed time between us and them. They mentioned that to the Prophet ﷺ and he said: 'Set a fixed time between you and them.' So I went out with a cousin of mine. He had a cloak and I had a cloak, but his cloak was finer than mine, and I was younger than him. We came to a woman and she said: 'One cloak is like another.' So I married her and stayed with her that night. Then the next day I saw the Messenger of Allāh ﷺ standing between the Rukn (corner) and the door (of the Ka'bah), saying: 'O people, I had permitted temporary marriage for you, but Allāh has forbidden it until the Day of Resurrection. Whoever had any temporary wives, he should let them go, and do not take back anything that you had given to them.'" (Sahih)

Comments:

a. Shaikh Albānī said: This Hadith is authentic but the mention of the Farewell pilgrimage in it is incorrect. The truth is that it was made unlawful forever at the conquest of Makkah; as mentioned in Sahih Muslim: 1406.

b. The temporary marriage was allowed during a limited time for certain
circumstances and thereafter it was declared unlawful forever.

1963. It was narrated that Ibn 'Umar said: "When 'Umar bin Khattab was appointed caliph, he addressed the people and said: 'The Messenger of Allâh [¶] permitted temporary marriage for us three times, then he forbade it. By Allâh, if I hear of any married person entering a temporary marriage, I will stone him to death, unless he can bring me four witnesses who will testify that the Messenger of Allâh [¶] allowed it after he forbade it.'"

(Hasan)

Comments:

a. 'Umar did not deny the fact that temporary marriage was lawful at some time; instead he made it clear that the final verdict of the Messenger of Allâh [¶] regarding it was absolute prohibition forever.

b. The marriage bonds that were regarded lawful in the pre-Islamic era, and then were prohibited in Islam, have no legal status in Islamic Shari'ah. Now if someone does this kind of marriage, it will not be regarded as marriage, rather it will be an act of adultery; and this individual will be declared a criminal and will be given the prescribed punishment.

Chapter 45. Marriage Of A Multirrim

1964. Maimunah bint Hârith narrated that the Messenger of Allâh [¶] married her when he was Hâlid (not in Ibrîm). (Sahih)

He (one of the narrators—Yazid) said: "And she was my maternal aunt and the maternal aunt of Ibn 'Abbâs also."
The Chapters On Marriage 125

Comments:

Imam Albâni stated this narration as Contradictory (Shadhîh). The truth is that the Prophet was not in the state of Ihrâm at the time of the marriage.

1965. It was narrated from Ibn 'Abbâs that the Prophet got married while he was a Muhrim (in Ihrâm). (Sahih)

1966. It was narrated from Abân bin 'Uthmân bin 'Affân that his father said: "The Messenger of Allah said: 'The one in Ihrâm should not get married, nor arrange a marriage for anyone else, nor propose marriage.'" (Sahih)

Comments:

- Getting married or making a marriage contract whilst in the state of Ihrâm is not allowed.
- The person in Ihrâm cannot marry himself, neither can he be an attorney for someone’s marriage, nor can he act as a guardian for the marriage of his daughter or sister etc.
- A woman in Ihrâm also cannot be married, nor should a proposal be sent to her.

Chapter 46. Compatibility

1967. It was narrated from Abu Hurairah that the Messenger of Allah said: "If there comes to
you one with whose character and religious commitment you are pleased, then marry (your daughter or female relative under your care) to him, for if you do not do that there will be Fitnah in the land and widespread corruption.’’ (Da‘if)

Comments:
a. The manners, good conduct and religion should be given preference when looking for a spouse. This is the meaning of the compatibility of the spouses.

b. Many righteous girls will remain without marriage if the family status and wealth etc., is given precedence to religion; and this will cause them suffering and hardship.
Chapter 47. Dividing One's Time Among Wives

1969. It was narrated from Abu Hurairah that the Messenger of Allah said: “Whoever has two wives and favors one of them over the other, he will come on the Day of Resurrection with one of his sides leaning.” (Da’if)

Comments:

a. If one has two or more wives, it is possible that the inclination of the heart is towards just one, but this inclination must not cause injustice.

b. In matters of matrimonial desire, there can be lack of interest in cohabitation according to love and desire, but it is unlawful to ignore the fulfillment of matrimonial desire of any of them.

1970. It was narrated from 'Aishah that whenever the Messenger of Allah was to travel, he would cast lots among his wives. (Sahih)

Comments:

a. In matters of wives, equality and justice must be observed to the maximum possibility.

b. If more than one individual has a right to something, and the thing cannot be divided into shares, then the decision can be made by drawing lots.

1971. It was narrated that 'Aishah said: “The Messenger of Allah used to divide his time...”
equally among his wives, then he would ‘O Allāh, this is what I am doing with regard to that which is within my control, so do not hold me accountable for that which is under Your control and is beyond my control.’” (Sahih)

Chapter 48. A Woman Giving Her Day To Her Co-Wife

1972. ‘Urwah narrated from ‘Aishah that when Saudah bint Zam’ah grew old, she gave her day to ‘Aishah, and the Messenger of Allāh ﷺ went to ‘Aishah on Saudah’s day. (Sahih)

Comments:

a. It is right of the wife that according to the turn, the husband spends the right with her. She may withdraw from her right, and she is also allowed to give her right to any of her co-wives.

b. The Messenger of Allāh ﷺ was not obliged to stay with his wives according to their turns. Allāh says: “You (O Muhammad) can postpone (the turn of) whom you will of them (your wives), and you may receive whom you will. And whomsoever you desire of those whom you have set aside (her turn temporarily), it is no sin on you (to receive her again).” (Al-Ahzāb 33:51). Despite that the Prophet ﷺ would take a great care of their turns; it was the highness of his best manners.
1973. It was narrated from 'Aishah that the Messenger of Allah ﷺ became angry with Safiyyah bint Huyai for something, and Safiyyah said: "O 'Aishah, can you make the Messenger of Allah ﷺ be pleased with me, and I will give you my day?" She said: "Yes." So she took a headcover of hers that was dyed with saffron, and sprinkled it with water so that its fragrance would become stronger, then she sat beside the Messenger of Allah ﷺ. The Prophet ﷺ said: "O 'Aishah, go away, because it is not your day." She said: "That is the Grace of Allah which He bestows on whom He pleases."[1]

Then she told him about that matter and he was pleased with her. (Sahih)

تاريخ: [إسناد صحيح] أخرجه أحمد (145/6 وغيره) عن عفان وغيره بعنه، أخرجه مرة أخرى: 131/6 عن عفان، وقال: شمسة وفيه: قالت: فيما أنا يومًا يصف النهار إذا أنا بظل رسول الله ﷺ مقبل # سمية (شمسة) وثقها ابن معين (النظر الجرح والتعديل) وروى عنها شعبة، وهو لا بروي إلا عن ثقة عنه.

1974. It was narrated that 'Aishah said: "This Verse 'And making peace is better.'[2] was revealed concerning a man who had been married to a woman for a long time, and she had given birth to his children and he wanted to exchange her (for a new wife). She agreed that he would stay with her (the new wife) and would not give her (the

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Chapter 49. Intercession Concerning Marriage

1975. It was narrated that Abu Ruhm said: "The Messenger of Allah said: 'One of the best kinds of intercession is interceding between two people concerning marriage.'" (Da'if)

1976. It was narrated that 'Aishah said: "Usamah stumbled at the threshold of the door and cut his face. The Messenger of Allah said: 'Remove the harm (the blood) from him,' but I was repulsed by that. He started to suck the blood and remove it from his face, then he said: 'If Usamah were a girl, I would have adorned him and dressed him until I married him off.'" (Da'if)

Comments:

It is permissible to adorn girls with jewelry and nice clothes. But this should not be a frequent habit, so they have the inclination to simplicity as well.
course, there is no harm in dressing up nicely for weddings and 'Eid celebrations etc., and to use the relevant adornment up to a certain limit.

Chapter 50. Good Treatment Of Women

1977. It was narrated from Ibn 'Abbās that the Prophet said: "The best of you is the one who is best to his wife, and I am the best of you to my wives." (Hasan)

Comments:
Due to the good relationship between husband and wife, the children also learn and adopt good manners and habits. Once they are grown up, they prove to be a mercy for themselves as well as for their parents; but if the husband and wife have an unpleasant relationship, the children are affected too, and by learning bad habits, they cause hardships and worry to the parents as well. They also cause mischief and trouble in the society.

1978. It was narrated from 'Abdullāh bin 'Amr that the Messenger of Allāh said: "The best of you are those who are best to their womenfolk." (Sahih)

1979. It was narrated that 'Aishah said: "The Prophet raced with me and I beat him." (Sahih)
Comments:

a. When 'Aishah was honored with the kind company of Allâh’s Messenger, she was then very young. The Messenger of Allâh would take great care of her young age, he would avail her occasions of amusement.

b. It is not appropriate to keep the household atmosphere formal and strict all the time; having a good sense of humor with the wife and children, and trying to amuse them, is not contrary to the status of righteousness.

1980. It was narrated that 'Aishah said: “When the Messenger of Allâh came to Al-Madinah, he had just married Safiyyah bint Huyai, and the women of the Ansâr came and told us about that. My expression changed and I covered my face and went away. The Messenger of Allâh looked at my eyes and recognized me. I turned away and walked quickly, but he caught up with me and put his arm around me and said: ‘What did you see?’ I said: ‘Let me go, (I saw) a Jewish woman among other Jewish women.’” (Da’if)

1981. ‘Urwa b. Zubair narrated that ‘Aishah said: “I did not know until Zainab burst in on me without permission, and she was angry. Then she said: ‘O Messenger of Allâh, is it enough for you that the young daughter of Abu Bakr waves her hands in front of you?’ Then she turned to me, but I ignored her until the Prophet said: ‘You should say something to defend yourself.’ So I turned on her, (and replied to

تخريج: [صحح] أخرجه أحمد: 329/1 عن سفيان به مطولًا، وصححه ابن حيان (موارد)، ح: 1320، وللحديث طرق كثيرة عند أبي داود، ح: 258 وغيره.
her) until I saw that her mouth had become dry, and she did not say anything back to me. And I saw the Prophet with his face shining.” (Hasan)

Comments:
a. The expression of anger by Zainab against 'Aishah was because of natural sentiment, which is normal among co-wives.
b. This permission to 'Aishah by the Messenger of Allâh was on the basis of justice; so 'Aishah made Zainab quiet and the Prophet became pleased.

1982. It was narrated that 'Aishah said: “I used to play with dolls when I was with the Messenger of Allâh, and he used to bring my friends to me to play with me.” (Sahîh)

Chapter 51. Hitting Women

(المعجم 51) - باب ضرب النساء

1983. It was narrated that 'Abdullâh bin Zam'ah said: “The Prophet delivered a sermon then he made mention of women, and exhorted (the men) concerning them. Then he said: ‘How long will one of you whip his wife like a slave, then lie with her at the end of the day?’” (Sahîh)

Comments: أخرجه البخاري، التفسير، سورة (النسمة وضعفها) ح: 494, ح: 1077.

وغيرهما من حديث هشام، ومسلم، النجاة وصفه نعيمها، باب: النار يدخلها الجبرون والجنة.
Comments:
The rebuke to women for a mistake is necessary but it should be only verbal; if she is very careless and defiantly disobedient, then the husband should get angry; this punishment is enough. Physical light punishment is allowed only at a certain stage when there is no alternative.

1984. It was narrated that 'Aishah said: “The Messenger of Allah never beat any of his servants, or wives, and his hand never hit anything.” (Sahih)

1985. It was narrated that Iyās bin 'Abdullāh bin Abu Dhubāb said: “The Prophet said: ‘Do not beat the female slaves of Allah.’ Then 'Umar came to the Prophet and said: ‘O Messenger of Allah, the woman have become bold towards their husbands? So order the beating of them,’ and they were beaten. Then many women went around to the family of Muhammad. The next day he said: ‘Last night seventy women came to the family of Muhammad, each woman complaining about her husband. You will not find that those are the best of you.’” (Sahih)

Comments:
a. Kindness and compassion are admirable qualities.
b. The physical punishment to the wife, children and servants should be avoided to the maximum possibility.
1986. It was narrated that Ash’ath bin Qais said: "I was a guest (at the home) of ‘Umar one night, and in the middle of the night he went and hit his wife, and I separated them. When he went to bed he said to me: ‘O Ash’ath, learn from me something that I heard from the Messenger of Allâh ﷺ: ‘A man should not be asked why he beats his wife, and do not go to sleep until you have prayed the Witr.’' And I forgot the third thing." (Hasan)

Another chain with similar wording.

Chapter 52. Those Who Put Extensions In Hair And Those Who Make Tattoos

1987. It was narrated from Ibn ‘Umar that the Prophet ﷺ cursed the woman who does hair extensions and the one who has that done, and the woman who does tattoos and the one who has that done. (Sahîh)
Comments:
a. The woman is recommended to adorn herself for the pleasure of her husband; but must be careful about what is lawful and unlawful.
b. If a woman has less hair, she should not add artificial hair to show more; and also the men should avoid wearing a wig to hide baldness. For this purpose one may wear a cap, hat or turban etc.
c. As for the art of making tattoos on the body; the print of tattoos remain permanent on the body and do not get deleted; the Arab women used to practise this fashion; but having tattoos and making tattoos are prevented alike.

1988. It was narrated that Asmâ’ said: “A woman came to the Prophet and said: ‘My daughter is going to get married, and she had the measles and her hair has fallen out. Can I put extensions in her hair?’ The Messenger of Allâh said: ‘Allâh has cursed the one who does hair extensions and the one who has that done.’” (Sahîh)

1989. It was narrated that ’Abdullâh said: “The Messenger of Allâh cursed the woman who does tattoos and the one who has them done, and those who pluck their eyebrows and file their teeth for the purpose of beautification, and those who change the creation of Allâh.” News of that reached a woman of Banu Asad who was called Umm Ya’qub. She came to him and
said: “I have heard that you said such and such.” He said: “Why should I not curse those whom the Messenger of Allâh cursed? And it is in the Book of Allâh.” She said: “I read what is between its two covers and I have not found that.” He said: “If you read it properly you would have found it. Have you not read the words: ‘And whatsoever the Messenger (Muhammad) gives you, take it; and whatsoever he forbids you, abstain (from it).’”[1] She said: “Of course.” He said: ‘The Messenger of Allâh forbade that.” She said: “I think that your wife does it.’ He said: “Go and look.” So she went and looked and she did not see what she wanted. She said: “I have not seen anything.” ‘Abdullâh said: “If she was as you say, I would not have kept her with me.” (Sahih)

Comments:
a. Removing and plucking hair is about the facial hair, which does not look good on the faces of women; plucking, removing them is not allowed Islamically. But some sort of color may be used that they do not look outstanding.

b. Some people have their eyebrows naturally join together and they create a gap between them by shaving; or some women make their eyebrows thinner by using different techniques; these are all forbidden and part of this prohibition.

c. This custom also used to be that it was regarded as a sign of beauty if the front teeth were not joined together; and for this purpose women would make artificial spaces in between the teeth filing them. This is not allowed.

Chapter 53. Recommended Time For Consummating Marriage

1990. It was narrated that 'Aishah said: "The Prophet ﷺ married me in Shawwāl, and he consummated the marriage with me in Shawwāl, and which of his wives was more favored to him than I." 'Aishah used to like marriage to be consummated with her female relatives in Shawwāl. (Sahih)

Comments:
In the pre-Islamic era, the month of Shawwāl used to be considered unblessed; therefore the people would avoid marrying in it. 'Aishah ﷺ refuted this wrong belief by giving her own example.

1991. It was narrated from 'Abdul-Malik bin Hārith bin Hishām, from his father, that the Prophet ﷺ married Umm Salamah in Shawwāl, and consummated the marriage with her in Shawwāl. (Da‘if)
Chapter 54. A Man
Consummating The Marriage
With His Wife Before Giving
Her Anything

1992. It was narrated from 'Aishah that the Messenger of Allah ﷺ told her to take a woman to her husband before he had given her anything (i.e., bridalmoney). (Da‘if)

Chapter 55. Omens And
Good Fortune

1993. It was narrated from Hakim bin Mu‘awiyah that his paternal uncle Mikhmar bin Mu‘awiyah said: "I heard the Messenger of Allah ﷺ say: 'Do not believe in omens, and good fortune is only to be found in three things: A woman, a horse and a house.'" (Hasan)

Comments:
'Omens and good fortune' is the trouble or harmony caused by something or by a person. For example: a woman, if she is of good conduct, obedient and well-mannered, then it is a mercy and blessing; but if she is abusive, disobedient and ill-mannered, then it is ominousness. Similarly if the horse (ride) is healthy, fast and obedient to the master, then it is a blessing but if it is stubborn and ungovernable, it will be a problem. A big and wide house and a good neighbor are a blessing.
1994. It was narrated from Sahl bin Sa'd that the Messenger of Allâh ﷺ said: "If it exists, it is in three things: a horse, and woman and a house," meaning omens. *(Sahih)*

1995. It was narrated from Sâlim, from his father, that the Messenger of Allâh ﷺ said: "Omens are only to be found in three things: a horse, a woman and a house." *(Sahih)*

(One of the narrators) Az-Zuhri said: "Abu 'Ubaidah bin 'Abdullâh bin Zam'ah said that his mother, Zainab, narrated to him, from Umm Salamah, that she used to list these three, and add to them "the sword."
that which He hates, it is protective jealousy when there are no grounds for suspicion.'”

(Sahih)

Comments:

a. If the conduct of wife looks doubtful, she should be given proper admonishment, in order to prevent her from stepping forward into bad conduct.
b. One should not have doubts in his chaste and bashful wife just by hearing nonsense from irresponsible individuals; it is possible that out of jealousy, grudge and enmity, they want to spoil his family.

1997. It was narrated that 'Âishah said: “I never felt as jealous of any woman as I did of Khadijah, because I saw how the Messenger of Allâh remembered her, and his Lord had told him to give her the glad tidings of a house in Paradise made of Qasab.”"[1] (Sahih)

Meaning of gold; Ibn Mâjah said that.

Comments:

a. It means the jealousy for good, which a woman normally has about the co-wife. This is a natural sentiment among women, and it expresses their love for the husband; so it should be tolerated so long as no wrong doing happens because of it.
b. This Hadith shows the virtuousness and high status of Khadijah.

1998. It was narrated that...

[1] Qasab refers to thread, cane, or reed. In other narrations it is mentioned that it is made of hollow pearl.
Mishwar bin Makhramah said: "I heard the Messenger of Allāh ﷺ, when he was on the pulpit, say: ‘Banu Hishām bin Mughirah asked me for permission to marry their daughter to ‘Ali bin Abu Tālib, but I will not give them permission, and I will not give them permission, and I will not give them permission, unless ‘Ali bin Abu Tālib wants to divorce my daughter and marry their daughter, for she is a part of me, and what bothers her bothers me, and what upsets her upsets me.’"

(Sahih)

Comments:

a. It is not allowed to worry the noble Prophet ﷺ by any means even though the concern may be about what is lawful; but perhaps it would be displeasing to the Messenger of Allāh ﷺ for a certain reason.

b. The Messenger of Allāh ﷺ prohibited ‘Ali ﷺ from marrying the daughter of Abu Jahl because it would be troublesome for Fātīmah ﷺ, and it would hurt the Prophet ﷺ too; consequently ‘Ali ﷺ would earn the displeasure of Allāh ﷺ for bothering the Prophet ﷺ. This prohibition, in fact, was a means of kindness towards ‘Ali ﷺ.

1999. ‘Ali bin Husain said that Miswar bin Makhramah told him that ‘Ali bin Abu Tālib proposed to the daughter of Abu Jahl, when he was married to Fātīmah the daughter of the Prophet ﷺ. When Fātīmah heard of that she went to the Prophet ﷺ and said: “Your people are saying that you do not feel angry for your daughters. This ‘Ali is going to marry the daughter of Abu Jahl.” Miswar
said: "The Prophet stood up, and I heard him when he bore witness (i.e., said the Shahadah), then he said: 'I married my daughter (Zainab) to Abul-As bin Rabi', and he spoke to me and was speaking the truth. Fátimah bint Muhammad is a part of me, and I hate to see her faced with troubles. By Allah, the daughter of the Messenger of Allah and the daughter of the enemy of Allah will never be joined together in marriage to one man.'"

He said: So, 'Ali abandoned the marriage proposal. (Sahih)

Chapter 57. The Woman Who Offered Herself (In Marriage) To The Prophet

2000. It was narrated from Hisham bin 'Urwah, from his father that 'Aishah used to say: "Wouldn't a woman feel too shy to offer herself to the Prophet?" Until Allah revealed: "You (O Muhammad) can postpone (the turn of) whom you will of them (your wives), and you may receive whom you will."[II] She said: "Then I said: 'Your Lord is quick to make things easy for you.'" (Sahih)

Comments:
It is not regarded a good thing in an Islamic society that a woman offers herself to a man for marriage; the right procedure is that this offer should be made by the guardian of woman. The distinctive highness of Allâh's Messenger ﷺ looked strange to 'Aishah ﷺ, that the women themselves would request the Messenger of Allâh ﷺ to marry with them.

2001. Thâbit said: "We were sitting with Anas bin Mâlik, and a daughter of his was with him. Anas said: 'A woman came to the Prophet ﷺ and offered herself to him. She said: 'O Messenger of Allâh, do you have any need of me?'" His daughter said: 'How little modesty she had!' He said: 'She was better than you, because she wanted (to marry) the Messenger of Allâh ﷺ, and she offered herself to him.'" (Sahih)

Comments:
Men and women alike may attend a gathering (or circle) of knowledge, but the women should have their place separate, and the mixing of men and women is not allowed apart from immediate blood relatives.

Chapter 58. A Man Who Has Doubts Concerning His Child

2002. It was narrated that Abu Hurairah said: "A man from Banu Fazârah came to the Messenger of Allâh ﷺ and said: 'O Messenger of Allâh, my wife has given birth to a black boy.' The Messenger of Allâh ﷺ said: 'Do you have camels?' He said: 'Yes.' He said: 'What color are they?' He said:
'Red.' He said: 'Are there any grey ones among them?' He said: 'Yes, there are some grey ones among them.' He said: 'Where does that come from?' He said: 'Perhaps it is hereditary.' He said: 'Likewise, perhaps this is hereditary.'” (Sahih)

Comments:

'Perhaps it is hereditary' means the child took the resemblance of a maternal or paternal ancestor, i.e., genes transmitted from a paternal grandfather and grandmother, maternal grandfather and grandmother or any of the ancestors.

2003. It was narrated from Ibn 'Umar that a man from the desert people came to the Prophet ﷺ and said: "O Messenger of Allâh, my wife has given birth on my bed to a black boy, and there are no black people among my family.” He said: “Do you have camels?” He said: “Yes.” He asked: “What color are they?” He said: "Red." He said: "Are there any black ones among them?” He said, “No.” He said: "Are there any grey ones among them?” He said: "Yes." He said: "How is that?” He said: "Perhaps it is hereditary.” He said: "Perhaps (the color of) this son of yours is also hereditary.” (Hasan)

تخريج: أخرجه مسلم، اللعان، ح: 1500 عن ابن أبي شيبة وغيره من أخرجه البخاري، الطلاق، باب: إذا عرض بنف وهي برهان، ح: 62847 و62850، ومسلم وغيرهما من طرق عن الزهري ﷺ به.

ابنُ كَلَبَ السَّبَيعِ، أَبُو عَفَانٍ، عِنْ جَوْرَيْةٍ ابنُ أَمْسَأَة، عِنْ كَافِيفٍ، عِنْ أَبِي عَمَّرَ أَنْ رَجَلَةَ مِنْ أُهْلِ الْبَادِيَةِ أَنْيَ بَنَيَّتي. قَالَ: يَا رَسُولَ اللَّهِ إِنِّي أَمْرَأَتِي وَدَّتَ عَلَى فِرَاشِيَ غُلَاةَ أَشْوَدَةٍ. وَإِنِّي أَحْلُ بَيْبَ، لَمْ يَكُنِّي فِيْهَا أَشْوَدَةً فَقَالَ: "هَلْ لَكَ مِنْ إِلَيْهِ؟" قَالَ: نَعْمَ. قَالَ: فَمَا أَلْوَانُهَا؟ قَالَ: لَאَ. قَالَ: "هَلْ لَيْنِي أَشْوَدَةٍ؟" قَالَ: نَعْمَ. قَالَ: فَأَلْتُ كَانَ ذَلِكَ؟ قَالَ: عَامِنَ أَنْ يَكُونَ ثَرَعُهُ عِرْقٌ. قَالَ: فَقَلَّلَ أَنْتُ هَذَا ثَرَعُهُ عِرْقٍ.
Chapter 59. The Child Is For The Bed And The Fornicator Gets Nothing

2004. It was narrated that 'Aishah said: Ibn Zam'ah and Sa’d (Ibn Abu Waqqâs) referred a dispute to the Prophet concerning the son of Zam’ah’s slave woman. Sa’d said: “O Messenger of Allâh, my brother (Utbah bin Abu Waqqâs) left instructions in his will that when I come to Makkah, I should look for the son of the slave woman of Zam’ah and take him into my care.” ‘Abd bin Zam’ah said: “He is my brother and the son of the slave woman of my father; he was born on my father’s bed.” The Prophet saw that he resembled Utbah, and said: “He belongs to you, O ‘Abd bin Zam’ah. The child is for the bed.”[1] Observe Hijâb before him, O Saudah.” (Sahih)

Comments:

a. In the pre-Islamic period, a child born because of illegal affairs used to be considered of the same man due to whose affairs it was born. Following the same custom of pre-Islamic Ignorance, Sa’d bin Abu Waqqâs wanted to have the guardianship of the child born to a female slave of Zam’ah a legal child of his brother.

b. Abd bin Zam’ah had the opinion that legally the child was his brother, regardless who the child’s real father should be, because he (the child) was a son of the female slave of his father.

c. The apparent look and facial features showed that the child was born of

[1] ‘The child is for the bed’ means that the child is attributed to the husband or the man who owns the slave women who gave birth to that child, even if the child resembles someone else.
Sa’d’s brother; but legally, according to the Islamic Shari’ah, he was regarded the brother of Abd bin Zam’ah.

d. It looked clear that the child being a legal brother of Saudah was not yet her real blood brother, so the Messenger of Allâh  asked the mother of the Believers ‘Saudah’ to observe Hijâb before him.

2005. It was narrated from ‘Umar that the Messenger of Allâh  ruled that the child belonged to the bed. (Saheeh)

2006. It was narrated from Abu Hurairah that the Prophet  said: “The child is for the bed (i.e., belongs to the husband) and the fornicator gets nothing.” (Saheeh)

2007. Shurahbil bin Muslim said:
"I heard Abu Umamah Al-Bahili say: 'I heard the Messenger of Allâh  say: ‘The child is for the bed and the fornicator gets nothing.’" (Hasan)
Chapter 60. When One Spouse Becomes Muslim Before The Other

2008. It was narrated from Ibn 'Abbâs that a woman came to the Prophet ﷺ and became Muslim, and a man married her. Then her first husband came and said: "O Messenger of Allâh, I became Muslim with her, and she knew that I was Muslim." So the Messenger of Allâh ﷺ took her away from her second husband and returned her to her first husband. (Da'îf)

Comments:

a. If a wife embraces Islam before her husband, she is not allowed to have matrimonial relationship with him anymore. After passing one menstruation cycle as her waiting period, she is allowed to marry another man. (Sahih Al-Bukhârî: 5286).

b. If she does not marry another man, and waits for her husband to embrace Islam, then this is allowed. Even if the husband embraces a long time after, they are still allowed to live a spouses' life under the previous marriage bond. But Imam Bukhârî quoted the verdicts of some Companions and the Successors that if a woman becomes Muslim first and then the husband embraces Islam, even though the waiting period has not yet finished, the new marriage contract is still necessary.

2009. It was narrated from Ibn 'Abbâs that the Messenger of Allâh ﷺ returned his daughter to Abul-'As bin Rabi' after two years, on the basis of the first marriage contract. (Da'îf)
Chapter 61. Intercourse With A Nursing Mother

2011. It was narrated that Judámah bint Wahb Al-Asadiyyah said: “I heard the Messenger of Allâh ﷺ say: ‘I wanted to forbid intercourse with a nursing mother, but then (I saw that) the Persians and the Romans do this, and it does not kill their children.’ And I heard him say, when he was asked about coitus interruptus: ‘It is the disguised form of burying children alive.’” (Sahîh)

Comments:

Having sexual intercourse during the breastfeeding period carries the risk of conception; and due to it, the milk of the mother decreases, and the child
who is already breastfeeding would get weak for not having proper nutrition.

2012. It was narrated from Muhajir bin Abu Muslim, from Asma' bint Yazid bin Sakar, who was his freed slave woman, that she heard the Messenger of Allah ﷺ say: “Do not kill your children secretly, for by the One in Whose Hand is my soul, intercourse with a breastfeeding woman catches up with people when they are riding their horses (in battle) and wrestles them to the ground.” 

(Da'if)

Comments:
‘Wrestles them to the ground’ means the affect of weakness caused by intercourse with a breastfeeding woman remains affective for the whole life, even if such a child becomes a good horse rider after having grown up, he will not yet be able to compete with a child without such history. However this Hadith is Weak; therefore such concern is not necessary.

Chapter 62. A Woman Who Annoys Her Husband

2013. It was narrated that Abu Umama said: “A woman came to the Prophet ﷺ with two of her children, carrying one and leading the other. The Messenger of Allah ﷺ said: ‘They carry children and give birth to them and are compassionate. If they do not annoy their husbands, those among them who perform prayer will enter Paradise.’” (Da'if)
151 Chapters On Marriage

2014. It was narrated from Mu'adh bin Jabal that the Messenger of Allah ﷺ said: "No woman annoys her husband but his wife among houris (of Paradise) says: 'Do not annoy him, may Allah destroy you, for he is just a temporary guest with you and soon he will leave you and join us.'” (Hasan)

Comments:

a. Not to obey the correct orders of the husband is a major sin.

b. If a woman annoys her good husband, this annoys the maids of Paradise.

c. Houri literally means the woman of white color and beautiful black eyes. They are the women whom Allah created in Paradise for the men of Paradise. The righteous Muslim women, who lives their live according to the commandments of Allah, their status in Paradise will be higher than that of the maids of Paradise.

Chapter 63. What Is Harâm Does Not Make What Is Halâl A Harâm

2015. It was narrated from Ibn 'Umar that the Prophet ﷺ said: "What is Harâm does not make what is Halâl into what is Harâm.”¹⁰¹

¹⁰¹ Meaning either: If one prohibits something for himself, it does not make the thing unlawful, or the commission of an unlawful act will not, by itself, makes something else unlawful.
Comments:
According to the majority of the scholars, if a man committed adultery with a woman, his marriage with this woman will not be unlawful because of the illegal sex; neither the mother of this woman will be unlawful as mother-in-law for the man, nor the daughter of this woman will be unlawful like the stepdaughter. Similarly, if a man commits adultery with his mother-in-law or stepdaughter, then due to this, his wife will not become unlawful for him; because this relation, legally, is not a relationship of wife and husband. The mentioned commandments are related to the wife. The sin of adultery and the entitlement to its punishment is one thing, and it being prohibited is another thing. (For further information see: Tafsir Ahsanul-Bayān by Hāfiz Salāh-uddin Yusuf, Surah: An-Nisā' 4: 23)
10. The Chapters On Divorce

Comments:
The following are three types of divorce:

a. Divorce in accordance with the Sunnah: Such a divorce given to a wife during her purity period (the days other than her menses) and on the basis that he has not had intercourse with her during her purity. A husband should divorce her by saying 'I divorce you' or 'You are divorced' and thereafter he maintains her living expenses; and he keeps her in his house for the waiting period (which is three menses or three months) and they should separate after the waiting period is over. This is the best way to divorce. Restoring one's wife after issuing such a divorce is consensually correct, and establishing a new bond of marriage after the waiting time has elapsed is also permissible.

b. Divorce contrary to Sunnah: Divorce issued to a woman during her menses or during her purity, in which the husband has had intercourse with her, or pronouncing divorce three times in the same session is contrary to the Sunnah.

c. False or Ineffective Divorce: Divorce issued by a person being forced to do so, divorcing before establishing a bond of marriage, divorce of a child, divorce of an insane person, or the divorce of an unconscious person are all ineffective.

Chapter 1. Suwayd bin Sa’eed told us

2016. It was narrated from ‘Umar bin Khattāb that the Messenger of Allāh ﷺ divorced Hafsah then took her back. (Sahih)

Comments:
a. Giving divorce is permissible but one should avoid doing so without any valid reason.
b. Restoration of the wife after divorce grants her all the rights that she had before divorce.

2017. It was narrated from Abu Musa that the Messenger of Allâh ﷺ said: What is wrong with people who play with the limits imposed by Allâh, and one of them says: “I divorce you, I take you back, I divorce you?” (Da’if)

2018. It was narrated from ‘Abdullâh bin ‘Umar that the Messenger of Allâh ﷺ said: “The most hated of permissible things to Allâh is divorce.” (Sahîh)

Chapter 2. Divorce According To The Sunnah

2019. It was narrated that Ibn ‘Umar said: “I divorced my wife when she was menstruating. ‘Umar mentioned that to the Messenger of Allâh ﷺ and he said: ‘Tell him to take her back until she becomes pure (i.e., her period ends), then she has her period (again), then she becomes pure
(again), then if he wishes he may divorce her before having sexual relations with her, and if he wishes he may keep her. This is the waiting period that Allâh has enjoined." (Sahih)

**Comments:**
Issuing divorce during menses, or during the pure days in which the husband has had intercourse, is an illegal way of divorce. This divorce has the controversial status of it being effective or ineffective. It will take place according to many scholars (like Imam Bukhârî), and they said the person giving divorce in such a way will be sinful. Some other scholars said this type of divorce cannot take place at all because it is not in accordance with the Sunnah. Imam Ibn Hazm and Imam Ibn Taimiyyah and others, may Allâh have mercy on them, hold this opinion.

2020. It was narrated that 'Abdullâh said: "Divorce according to the Sunnah means divorcing her when she is pure, (i.e., not menstruating) and without having had intercourse with her (during that cycle)."

(Hasan)


وللحديث شواهد عند ابن أبي شيبة، كتاب الطلاق، باب: 16 وغيرها.

2021. It was narrated that 'Abdullâh said: "Divorce according to the Sunnah means divorcing her with one divorce in each cycle when she is pure, then when she becomes pure the third time, then he pronounces divorce again, and after that she must wait one more menstrual cycle."

(Hasan)
Comments:

a. This is in such a case when the husband is determined for permanent separation and thus a third, final and irrevocable divorce will take place, after which returning the wife into a bond of marriage becomes impossible. It is better to let the waiting period pass after one divorce, if the husband has no intention to return to her, and thus the woman will come out of the bond of marriage, and thereafter, if there is a chance of reconciliation, they may live together as wife and husband after renewing the bond of marriage (after a new marriage contract.)

b. If a wife is returned after the first divorce, and then the second divorce is issued, the waiting time for the second divorce is also three menstruation periods; the return of a wife, during this waiting time, without a new bond of marriage is allowed.

2022. It was narrated that Yunus bin Jubair, Abu Ghallâb, said: “I asked Ibn ‘Umar about a man who divorced his wife when she was menstruating. He said: ‘Do you know ‘Abdullâh bin ‘Umar?’ He divorced his wife when she was menstruating then ‘Umar came to the Prophet (and told him what had happened). He ordered him to take her back.’ I said: ‘Will that be counted (as a divorce)?’ He said: ‘Do you think he was helpless and behaving foolishly? [i.e., yes, it counts (as a divorce)].’” (Sahih)

Comments:

The Prophet ordered him to take her back. The wording ‘to take her back’ is a proof that the divorce had taken place because returning (taking a wife back) only happens after divorce. Those scholars who are not in favor of the effectiveness of this divorce, they say the wording ‘to take her back’ means to establish normal spouses’ relation as it was before divorce. (I say: This divorce is affective, as quoted earlier in the view of Imam Bukhâri. — Usmani)
Chapter 3. How A Pregnant Woman Is To Be Divorced

2023. It was narrated from Ibn 'Umar that he divorced his wife when she was menstruating, and 'Umar mentioned that to the Prophet ﷺ. He said: “Tell him to take her back then divorce her when she is pure (not menstruating) or pregnant.” (Sahih)

Comments:
Divorce can be given as the pregnancy is confirmed; there is no need for waiting until the delivery, because the confirmation of pregnancy leaves no doubt for establishing a family lineage. In this condition, the waiting time for a woman is until the delivery of the baby, during which the husband is allowed to take her back.

Chapter 4. One Who Divorces His Wife Three Times In One Sitting

2024. It was narrated that 'Amir Sha’bi said: “I said to Fātimah bint Qais: ‘Tell me about your divorce.’ She said: ‘My husband divorced me three times when he was leaving for Yemen, and the Messenger of Allāh ﷺ allowed that.’” (Da’if)

Comments:
a. The narration of Sahih Muslim clarifies that Abu ‘Amr bin Hafs bin Mughirah Makhzumi, the husband of Fātimah, the daughter of Qais, had already divorced her twice, and he sent her the third and the final divorce
from Yemen, through 'Aiyash bin Abu Rabi'ah. He did not divorce her with three pronouncements at a time in one session. (Sahih Muslim: 1480).

b. As divorce can be given directly to the wife, likewise the message of divorce may also be sent through a reliable person, and may be sent as a written divorce; divorce can take place in any mentioned form.

Chapter 5. Taking One’s Wife Back

2025. 'Imran bin Husain was asked about a man who divorced his wife then had intercourse with her, and there were no witnesses to his divorcing her or his taking her back. 'Imran said: “You have divorced (her) in a manner that is not according to the Sunnah, and you have taken her back in a manner that is not according to the Sunnah. Bring people to witness your divorcing her and taking her back.” (Sahih)

Comments:
As the witnesses are required for the marriage bond, similarly the divorce and return should be in the presence of witnesses. (Although the presence of witnesses is not required compulsorily for divorce and return as it is in the case of marriage. — Usmani)

Chapter 6. When A Divorced Pregnant Woman Gives Birth, The Divorce Becomes Irrevocable

2026. It was narrated from Zubair bin 'Awwam that he was married to Umm Kulthum bint 'Uqbah, and she said to him when she was pregnant: “I will accept one divorce.” So he divorced her once. Then he went out for prayer, and when he came back
she had given birth. He said: "What is wrong with her? She misled me, may Allāh mislead her!" Then he came to the Prophet ﷺ, who said: "Her waiting period is over (and she is divorced); propose marriage anew to her." (Da'if)

Comments:

a. Zubair ﺪ divorced her once with the intention to take her back, but he did not know that the delivery of the baby was near to this extent.

b. If the waiting time for the divorce of revocation elapses, then just the verbal action of taking the wife back is not enough, rather they should marry anew.

c. Asking the hand of an ex-wife for marriage again, means if she likes, she may remarry her ex-husband, otherwise there is no enforcement.

d. The birth of a baby terminates the waiting period of divorce, as well as the waiting period after a husband's death.

Chapter 7. When A Pregnant Widow Gives Birth, It Is Permissible For Her To Remarry

2027. It was narrated that Abu Sanābil said: "Subai‘ah Aslamiyah bint Ḥārith gave birth twenty-odd days after her husband died. When her postnatal bleeding ended, she adorned herself, and was criticized for doing that. Her case was mentioned to the Prophet ﷺ, and he said: 'If she does that, then her waiting period is over.'" (Hasan)
Comments:

a. The waiting period for a pregnant woman is up to delivery. This issue has also been mentioned in the Noble Qur’ân, as the Divine statement is: "...and those who are pregnant, their waiting period shall be until they deliver their pregnancy." (Al-Talâq 65: 4).

b. The intention of Suba‘îth to marry after she had delivered the child was objected to by Abu Sanâbîl himself, who thought if the birth takes place before the end of the waiting period (four months and ten days) then the widow should wait for the full prescribed waiting period of four months and ten days. The period of waiting until the delivery shall be only if the delivery takes longer than four months and ten days, as mentioned in the following Hadîth.

c. In the beginning Suba‘îth also believed that the opinion of Abu Sanâbîl was true; but it became clear after having been asked from the Prophet (s) that the waiting period will come to end soon after the birth of child. (See Hadîth: 2028).

2028. It was narrated that Masruq and ‘Amr bin ‘Utibah wrote to Suba‘îth bint Hârîth, asking about her case. She wrote to them saying that she gave birth twenty-five days after her husband died. Then she prepared herself, seeking to remarry. Abu Sanâbîl bin Ba‘kak passed by her and said: “You are in a hurry; observe waiting period for the longer period, four months and ten days.” “So I went to the Prophet (s) and said: ‘O Messenger of Allâh, pray for forgiveness for me.’ He said: ‘Why is that?’ I told him (what had happened). He said: ‘If you find a righteous husband then marry him.’” (Sahih)
Comments:

a. Preparing for marriage means she replaced the simple dress, which is worn for the waiting period, with a good looking dress, and she also applied the relevant adornment.

b. Requesting for the supplication of forgiveness means she was remorseful about the mistake of lifting the restrictions of the waiting period before its due time. The prophetic statement clarifies that her waiting period had come to end, therefore, she did not make any mistake and should not worry about this matter.

2029. It was narrated from Miswar bin Makhrumah that the Prophet ﷺ told Subai’ah to get married, when her postnatal bleeding ended. (Sahih)


2030. It was narrated that ‘Abdullâh bin Mas‘ud said: “By Allah, for those who would like to go through the process of praying for Allah’s curse to be upon the one who is wrong, the shorter Surah concerning women[1] was revealed after (the Verses[2] which speak of the waiting period of) four months and ten (days).”

تخريج: [صحيح] أخرجه أبوداود، الطلاق، باب في عدة الحال، ح: 1277 من حديث أبي معاوية به، انظر، ح: 178 لعله، وللحديث طرق كثيرة ولكنها معلولة بنثني الرواة، وغيره صحيح بالشواهد.

Comments:

a. The Verse of Surat Al-Talâq legislates that the waiting period for a pregnant women shall be till delivery. This is the last rule in the chronological order

of revelation; and the Verse (234) of Surat Al-Baqarah that the waiting period for a widow is four months and ten days was revealed earlier. Therefore, if a pregnant woman’s husband dies her waiting period will not be four months and ten days, rather it will be till delivery, regardless if the time for delivery is longer or shorter, and this is the correct rule.

b. A woman who is not pregnant and her husband dies, she will spend her waiting period according to Surat Al-Baqarah, which is four months and ten days, regardless if she has consummated the marriage or not.

Chapter 8. Where Should The Woman Whose Husband Died Observe Her Waiting Period?

2031. It was narrated from Zainab bint Ka’b bin ‘Ujrah, who was married to Abu Saeed Al-Khudri, that his sister Furai’ah bint Mâlik said: “My husband went out to pursue some slaves of his. He caught up with them at the edge of Qadum[1] and they killed him. News of his death reached me when I was in one of the houses of the Ansâr, far away from the house of my family and my brothers. I went to the Prophet ﷺ and said: ‘O Messenger of Allâh, there has come to me news of my husband’s death and I am in a house far away from the house of my people and the house of my brothers. He did not leave any money that could be spent on me, or any inheritance, or any house I may take possession of. If you think that you could give me permission to join my family and my brothers, then that is what I prefer and is better for me in

some ways.' He said: 'Do that if you wish.' Then I went out, feeling happy with the ruling of Allāh given upon the lips of the Messenger of Allāh until, when I was in the mosque, or, in one of the apartments, he called me and said: 'What did you say?' I told him the story, and he said: 'Stay in the house in which the news of your husband’s death came to you, until your waiting period is over.'” She said: “So I observed the waiting period there for four months and ten (days).” (Sahih)

Comments:

a. A widow should spend her waiting period at the same place where she lived with her husband.

b. The waiting period for a widow who is not pregnant is four months and ten days.

Chapter 9. Can A Woman Go Out During Her Waiting Period?

2032. It was narrated from Hīshām bin ‘Urwah that his father said: “I entered upon Marwān and said to him: ‘A woman from your family has been divorced. I passed by her and she was moving. She said: ‘Fātīmah bint Qays told us to do that, and she told us that the Messenger of Allāh told her to move.’ Marwān said: ‘She told them to do that.’” ‘Urwah said: “I said: ‘By Allāh, ‘Āishah did not like that, and said: ‘Fātīmah was
living in a deserted house and it was feared for her (safety and well being), so the Messenger of Allah  granted a concession to her." (Hasan)

تخريج: [إسناده حسن] أخرجه أبو داود، الطلاق، باب من أنكر ذلك على فاطمة بنت قيس، ح: 2747 من حديث عبدالله بن أبي الزناد به، وعلقه البخاري في صحيحه، ح: 5276.

Comments:
a. The waiting period after divorce should also be spent at the husband's home.
b. It is permissible for the accommodation to be changed due to extreme reasons (like insecurity).

2033. It was narrated that `Aishah said: "Fathimah bint Qais said: ‘O Messenger of Allah, I am afraid that someone may enter upon me by force.’ So he told her to move." (Sahih)


2034. It was narrated that Jabir bin `Abdullah said: “My maternal aunt was divorced, and she wanted to collect the harvest from her date-palm trees. A man rebuked her for going out to the trees. She went to the Prophet , who said: ‘No, go and collect the harvest from your trees, for perhaps you will give some in charity or do a good deed with it.’” (Sahih)

تخريج: أخرجه مسلم، الطلاق، باب جواز خروج المعة البائنة والمتوفى عنها زوجها في النهار لحاجتها، ح: 1483 من حديث حجاج وغيره به.
The Chapters On Divorce

Comments:
a. A woman is allowed to go out of her house during her waiting period if there is a dire and extreme need for her to do so.
b. Had Jābir’s maternal aunt not been allowed to pick fruit from her orchard, it would had gone to waste. Therefore, she had to step out of her house for the safety of the seasonal harvest.
c. It is inappropriate to step outside of the home for minor things. Likewise she should not go to visit a relative or to attend a wedding or any occasions of grief, because these things are not of extreme necessity.

Chapter 10. Does A Woman Who Has Been Divorced Three Times Have The Right To Accommodation And Maintenance?

2035. It was narrated that Abu Bakr bin Abu Jahm bin Sukhair Al-‘Adawi said: “I heard Fātimah bint Qais say that her husband divorced her three times, and the Messenger of Allāh ﷺ did not say that she was entitled to accommodation and maintenance.” (Sahih)

Comments:
a. A husband is not responsible for a woman’s living expenses for the waiting period after the final divorce.
b. If a woman is pregnant, then the husband is responsible for the expense of her waiting period, even after the final divorce. The statement of Allāh Almighty is: “And if they are pregnant then spend for them till they deliver their pregnancy.” (At-Talāq 65: 6)

2036. It was narrated that Sha’bi said: Fātimah bint Qais said: “My husband divorced me at the time of the Messenger of Allāh ﷺ three times. The Messenger of Allāh ﷺ said: ‘You have no right to accommodation or to maintenance.’” (Sahih)
Chapter 11. Giving A Gift In The Event Of Divorce

2037. It was narrated from ‘Aishah that ‘Amrah bint Jawn sought refuge with Allâh from the Messenger of Allâh when she was brought to him (as a bride). He said: “You have sought refuge with Him in Whom refuge is sought.” So he divorced her and told Usâmah or Anas to give her a gift of three garments of white flax. (Maudû’)

Comments:
a. Imam Albâni said: Quoting Usâmah and Anas in this narration is Munkar (Denounced); and he said the correct wording is: “The Prophet ordered Abu Usaid to make her ready in order to send her to her parents’ home, and also to give her two cotton cloths as compensation.”
b. ‘Amrah the daughter of Jawn, said these inappropriate words because of a misunderstanding.
c. If a divorce is issued after a marriage contract that had its dower fixed, and the marriage was not consummated, then half of the dower is due (Al-Baqarah 2: 237) and if the dower is not fixed, then a pair of clothes or what is reasonable according to the circumstances should be given to the woman in compensation.

Chapter 12: When The Man Denies The Divorce

2038. It was narrated from ‘Amr bin Shu’aib, from his father, from his grandfather, that the Prophet said: “If a woman claims that her husband has divorced her, and she brings a witness of good
character (to testify) to that, her husband should be asked to swear an oath. If he swears, that will invalidate the testimony of the witness, but if he refuses then that will be equivalent to a second witness, and the divorce will take effect.” *(Da‘if)*

Chapter 13. One Who Divorces, Marries Or Takes Back His Wife In Jest

2039. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “There are three matters in which seriousness is serious and joking is serious: marriage, divorce and taking back (one’s wife).” *(Hasan)*

Comments:

a. The relationship of marriage is extremely important due to which a man and woman become lawful for each other and they accept its responsibilities; and it is also because of the marriage bond that their children are legal. Therefore, many rules were Divinely legislated to keep the sanctity of this relationship upright.

b. When accepting a religious responsibility, or withdrawing from it, one should carefully reflect upon its consequences, so that one will not have to face regret and worry later.

Chapter 14. One Who Divorces His Wife To Himself, But Did Not Speak The Words Out Loud

2040. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “There are three matters in which seriousness is serious and joking is serious: marriage, divorce and taking back (one’s wife).” *(Hasan)*
Allāh ﷺ said: “Allāh has forgiven my nation for what they think of to themselves, so long as they do not act upon it or speak of it.” (Sahih)

Comments:

a. Many thoughts rise in a human’s mind, of which some are good and some are bad. There is no accountability in respect to them, as long as they remain just thoughts and are not uttered or practiced.

b. Some deeds are concerned just with the heart like: love, hate and fear etc., when one of these gets determinedly absorbed in one’s mind, it can affect other deeds that will be recompensed good or bad accordingly. For example: love for Allāh, love for Allāh’s Messenger ﷺ, respect of the Noble Qur’ān, to hate good work or to have a grudge against a good person etc.; belief, disbelief, sincerity and hypocrisy are also from this type.

Chapter 15. Divorce Of One Who Is Insane, A Minor And One Who Is Sleeping

2041. It was narrated from ‘Aishah that the Messenger of Allāh ﷺ said: “The Pen has been lifted from three: from the sleeping person until he awakens, from the minor until he grows up, and from the insane person until he comes to his senses.” (Hasan)

In his narration, (one of the narrators) Abu Bakr (Ibn Abu Shaibah) said: “And from the afflicted person, until he
Comments:

a. 'The Pen has been lifted' means: Bad deeds are not recorded against these people.

b. Any act done by the people mentioned in the Hadith has no legal effective status, and will be regarded unperformed.

c. If a sleeping person says the word of 'divorce', this divorce will be ineffective, because he did not have the intention to divorce nor did he know that he has divorced.

Chapter 16. Divorce Of One Who Is Compelled, And Of One Who Is Forgetful

2043. It was narrated from Abu Dharr Al-Ghifari that the Messenger of Allah ﷺ said: "Allah has forgiven for me my nation their mistakes and forgetfulness, and what they are forced to do." (Sahih)
Comments:

a. 'Mistake' means that a person wanted to do something but unintentionally it went wrong, in that case he will not be sinful. However, that wrongly performed act, somehow, must be corrected and compensated appropriately.

b. If one is forced to do something illegal, being threatened to be killed or forced to do something by threat of unbearable loss, then the forced person will not be sinful (provided he is not forced to take someone's life).

2044. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “Allâh has forgiven my nation for the evil suggestions of their hearts, so long as they do not act upon it or speak of it, and for what they are forced to do.” (Sahih)

2045. It was narrated from Ibn ‘Abbâs that the Prophet ﷺ said: “Allâh has forgiven my nation for mistakes and forgetfulness, and what they are forced to do.” (Sahih)

2046. It was narrated that Safiyyah bint Shaibah said: “Aîshah told me that the
Messenger of Allâh ﷺ said: ‘There is no divorce and no manumission at the time of coercion.’” (Hasan)

Chapter 17. No Divorce Before Marriage

2047. It was narrated from ‘Amr bin Shu‘aib, from his father, from his grandfather, that the Messenger of Allâh ﷺ said: “There is no divorce regarding that which one does not possess.” (Hasan)

2048. It was narrated from Miswar bin Makhrûmah that the Prophet ﷺ said: “There is no divorce before marriage, and no manumission before taking possession.” (Hasan)
2049. It was narrated from ‘Ali bin Abu Tâlib that the Prophet narrated: “There is no divorce before marriage.” (Hasan)

Comments:
If a person says: ‘If I marry so-and-so woman and then I will divorce her.’ This is vain talk, which is ineffective, because he spoke of divorcing her when she was not even his wife, as long as he does not divorce her after the bond of marriage.

Chapter 18. (Words) By Which Divorce Takes Place

2050. Awzâ‘î said: “I asked Zuhri: ‘Which of the wives of the Prophet sought refuge with Allâh from him?’ He said: “Urwah told me, (narrating) from ‘Âîshah, that when the daughter of Jawn entered upon the Messenger of Allâh and he came close to her, she said: "I seek refuge with Allâh from you." The Messenger of Allâh said: "You have sought refuge in the Almighty; go to your family."” (Sahih)

Comments:
a. Some words used for divorce are very clear and manifest, and give clear message of divorce; for example: ‘I divorce you.’ These words consensually make the divorce effective.

b. There are some words that have both meanings: divorce or any other meaning which is called “connotation.” The clear and manifest meanings of these words rely on the intention of the person. If one uttered them with the
intention of divorce, then the divorce would be effective, otherwise not.

Chapter 19. Irrevocable Divorce

2051. It was narrated from 'Abdullâh bin 'Ali bin Yazid bin Rukânâh, from his father, from his grandfather, that he divorced his wife irrevocably, then he came to the Messenger of Allâh ﷺ and asked him. He said: "What did you mean by that?" He said: "One (divorce)." He said: "By Allâh, did you only mean one (divorce) thereby?" He said: "By Allâh, I meant one." Then he sent her back to him. (Da'îf)

Muhammad bin Mâjah said: I heard Abul-Hasan 'Ali bin Muhammad Tânîfisi saying: "How noble is this Hadîth!"

Ibn Mâjah said: 'Abu 'Ubaîd left it (i.e., did not accept its narration) and Ahmad was fearful of it (i.e., of narrating it)."

صحيح

Chapter 20. A Man Giving His Wife The Choice

2052. It was narrated that 'Aishah said: "The Messenger of Allâh ﷺ gave us the choice, and we chose him, and he did not consider it as something (i.e., an effective divorce)." (Sahîth)
Comments:

a. The background of this incident is that as the economic position of Muslims became better, as a result of conquests; the mothers of the Believers 'the wives of the Prophet' saw the well-off position of the women of Ansār and immigrants, upon which the wives of the Prophet also requested him to increase their living expenses.

b. A choice of divorce given to a wife by a husband is not a divorce, however if the wife takes advantage of the choice and decides for separation, then it will be considered one revocable divorce.

2053. It was narrated that 'Āishah said: "When the following was revealed: 'But if you desire Allāh and His Messenger,'[1] the Messenger of Allāh entered upon me and said: 'O 'Āishah! I want to say something to you, and you do not have to hasten (in making a decision) until you have consulted your parents."' She said: "He knew, by Allāh, that my parents would never tell me to leave him." She said: "Then he recited to me: 'O Prophet (Muhammad)! Say to your wives: "If you desire the life of this world, and its glitter."' I said: 'Do I need to consult my parents about this? I choose Allāh and His Messenger.'" (Sahih)
Comments:

a. This Hadith signifies the virtue of 'Aishah ﷺ, that the Messenger of Allāh ﷺ conveyed Allāh’s Message first of all to her.

b. The Messenger of Allāh ﷺ did not want the Mother of the Believers to make any wrong or sentimental decision because of her young age, therefore, he instructed her to seek the consent of her parents.


2054. It was narrated from Ibn 'Abbās that the Prophet ﷺ said: "No woman asks for divorce when it is not absolutely necessary, but she will never smell the fragrance of Paradise, although its fragrance can be detected from a distance of forty years' travel." (Hasan)

2055. It was narrated from Thawbān that the Messenger of Allāh ﷺ said: "Any woman who asks her husband for a divorce when it is not absolutely necessary, the fragrance of Paradise will be forbidden to her.'" (Sahih)

[^1]: Khul' is a kind of annulment in which a wife seeks divorce from her husband by giving him a certain compensation, or returning back the Mahr (bridal-money) which he gave her.
to get an annulment of the marriage. A husband is not allowed to demand all what he has spent on her, or to demand more than the fixed dowry.

b. *Khul'* is legal if a woman does not want to live with her husband while the husband wants to live with her. If a person deliberately troubles his wife in order to force her to eventually demand a *Khul'*, then the husband is guilty of oppression.

Chapter 22. The Man Whose Wife (Seeks) *Khul'* Takes What He Had Given To Her

2056. It was narrated from Ibn 'Abbás that Jamilah bint Salul came to the Prophet ﷺ and said: "By Allâh, I do not find any fault with Thâbit regarding his religion nor his behavior, but I hate disbelief after becoming Muslim and I cannot stand him." The Prophet ﷺ said to her: "Will you give him back his garden?" She said: "Yes." So the Messenger of Allâh ﷺ told him to take back his garden from her and no more than that. (Sahih)

**Comments:**
a. When a woman feels that she cannot live with her husband, and it will be hard for her to discharge matrimonial obligations, then she may ask for divorce.

b. In this situation, if a husband divorces her without taking anything back, it is also correct, and it will be considered divorce but not *Khul’*.

c. When a woman returns the whole dowry or some of it to separate from her husband, it is called *Khul’* and it is legal.

2057. It was narrated from 'Amr bint Shu'aib, from his father, that his grandfather said: "Habibah bint Sahl was married to Thâbit bin Qais bin Shammâs, who was
The Chapters On Divorce

an ugly man. She said: 'O Messenger of Allâh, by Allâh, were it not for fear of Allâh, when he enters upon me I would spit in his face.' The Messenger of Allâh ﷺ said: 'Will you give him back his garden?' She said: 'Yes.' So she gave him back his garden and the Messenger of Allâh ﷺ separated them. (Da‘if)

Chapter 23. The Waiting Period Of A Woman Granted Khul‘

2058. It was narrated from Ubâdah bin Sâmît from Rubâ‘ bint Mu‘awwidh bin ‘Afrâ’. He said: ‘I said to her: ‘Tell me your Hadith.’ She said: ‘I got Khul‘ from my husband, then I came to ‘Uthmân and asked him: ‘What waiting period do I have to observe?’ He said: ‘You do not have to observe any waiting period, unless you had intercourse with him recently, in which case you should stay with him until you have menstruated.” In that he was following the ruling of the Messenger of Allâh ﷺ concerning Maryam Maghâliyyah, who was married to Thâbit bin Qais and she got Khul‘ from him.’’ (Hasan)

Comments:

a. Although Khul‘ is apparently like a divorce where a husband lets his wife go based upon her demand to do so, however, in real terms it is irrevocable
The Chapters On Divorce

separation; therefore its waiting period is not three menstruation periods, rather just the one menstruation cycle.

b. Waiting for one menstruation period after Khul' is to verify that the womb is empty to confirm that she is not pregnant; and one menstruation cycle clarifies the position of pregnancy. If a menstruation cycle does not begin, then it could mean she is pregnant; in that case, she is not allowed to marry another man until delivery.

Chapter 24. Swearing To Forego Marital Relations With One’s Wife

2059. It was narrated that 'Aishah said: “The Messenger of Allâh ﷺ swore that he would not enter upon his wives for a month, and he stayed for twenty-nine days until, on the eve of the thirtieth, he entered upon me. I said: ‘You swore not to enter upon us for a month.’ He said: ‘The month may be like this,’ and he held up his (ten) fingers three times; ‘or the month may be like this,’ and he held up his fingers three times, keeping one finger down on the third time.’” (Hasan)

Comments:

a. If a husband gets angry with his wife for a valid reason, and he swears by the Name of Allâh that he would not have sexual intercourse with her for sometime, it is allowed, and it is called Iyla’.

b. The maximum period of Iyla’ is four months. If he has sworn for an unspecified period, and the period of four months has come to end, she is allowed to sue him in court and the court would order him either to divorce her or to establish full matrimonial relations with her. (Al-Baqarah: 226 - 227)

c. If a husband swore for four months, or for a period less than that, but still had intercourse with her before the end of the sworn period, then he would
have to pay expiation of oath; and there is no expiation if he stood by his oath until the sworn period, nor would any divorce occur.

2060. It was narrated from 'Aishah that the Messenger of Allâh ﷺ swore to keep away from his wives, because Zainab had sent back his gift and 'Aishah said: "She has disgraced you." He became angry and swore to keep away from them. (Da‘if)

2061. It was narrated from Umm Salamah that the Messenger of Allâh ﷺ swore to keep away from some of his wives for a month. On the twenty-ninth day, in the evening or the morning, it was said: "O Messenger of Allâh, only twenty-nine days have passed." He said: "The month is twenty-nine days." (Sahih)

Comments:
'The month is twenty-nine days' means that this month is twenty-nine days; if it was of thirty days I would stay away for one more day.

Chapter 25. Zihâr

2062. It was narrated that Safamah bin Sakhr Al-Bayâdi said: "I was a man who had a lot of desire for women, and I do not think there was any man who had as great a share of that as me. When Ramadân began, I declared
Zihār upon my wife (to last) until Ramadān ended. While she was talking to me one night, part of her body became uncovered. I jumped on her and had intercourse with her. The next morning I went to my people and told them, and said to them: 'Ask the Messenger of Allāh ﷺ for me.' They said: 'We will not do that, lest Allāh reveal Qur'ān concerning us or the Messenger of Allāh ﷺ says something about us, and it will be a lasting source of disgrace for us. Rather we will leave you to deal with it yourself. Go yourself and tell the Messenger of Allāh ﷺ about your problem.' So I went out and when I came to him, I told him what happened. The Messenger of Allāh ﷺ said: 'Did you really do that?' I said: 'I really did that, and here I am. O Messenger of Allāh, I will bear Allāh's ruling on me with patience.' He said: 'Free a slave.' I said: 'By the One Who sent you with the truth, I do not own anything but myself.' He said: 'Fast for two consecutive months.' I said: 'O Messenger of Allāh, the thing that happened to me was only because of fasting.' He said: 'Then give charity, or feed sixty poor persons.' I said: 'By the One Who sent you with the truth, we spent last night with no dinner.' He said: 'Then go to the collector of charity of Banu Zuraq, and tell him to give you something, then feed sixty poor persons, and benefit from the rest.'" (Da'īf)
Comments:

a. **Zihār** is that a person says to his wife, 'you are for me just like the back of my mother', which means 'you are unlawful for me just like relations with my mother are unlawful for me.'

b. Doing **Zihār** is a sin but it does not break the marriage bond. In **Zihār** only sexual intercourse is forbidden until the expiation is made.

c. There is no expiation to be made if **Zihār** is acted upon for a fixed period and matrimonial relations do not occur during it.

d. If the time limit for **Zihār** is not specified, then expiation should be made before having intercourse.

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2063. It was narrated from 'Urwah bin Zubair, that 'Āishah said: "Blessed is the One Whose hearing encompasses all things. I heard some of the words of Khawlah bint Tha‘labah, but some of her words were not clear to me, when she complained to the Messenger of Allāh ﷺ about her husband, and said: 'O Messenger of Allāh, he has consumed my youth and I split my belly for him (i.e., bore him many children), but when I grew old and could no longer bear children, he declared **Zihār** upon me; O Allāh, I complain to You.' She continued to complain until Jibra'il brought down these Verses: 'Indeed Allāh has heard the statement of she who pleads with you (O Muhammad) concerning her husband, and complains to Allāh.'"[1] (Sahih)
The Chapters On Divorce

Comments:

a. Allâh ﷺ has the Attribute of Hearing, and His Hearing is not limited like His creatures, rather it is limitless.

b. Khawlah ﷺ made mention of her old age, that had she been young, it would have been easier for her to marry another person; or someone would marry her because of her young age with the hope of bearing children from her and thus looking after the children would become easier for her.

Chapter 26. A Man Who Declared Zihâr Upon His Wife, Having Intercourse With Her Before Offering Expiation

2064. It was narrated from Salamah b. Sakh Al-Bayådî that the Prophet ﷺ said concerning a man who declared Zihâr upon his wife having intercourse with her before compensation: “Let him offer one expiation.” (Da’îf)

2065. It was narrated from Ibn ‘Abbâs that a man declared Zihâr upon his wife, then he had intercourse with her before offering expiation. He came to the Prophet ﷺ and told him about that. He said: “What made you do that?” He said: “I saw her ankles in the moonlight, and I could not control myself, and I had intercourse with her.” The Messenger of Allâh ﷺ smiled and told him not to go near her until he had offered expiation. (Hasan)

Comments:

a. A person who has done Zihâr should keep away from his wife until the expiation is performed.
b. If he has had intercourse mistakenly before making expiation, then he would not have to make two expiations; and just one expiation is enough, and he should beg Allâh’s pardon and seek forgiveness.

Chapter 27. The Li‘ân[1]

2066. It was narrated that Sahl bin Sa‘d As-Sâ‘idi said: “Uwaimir came to ‘Âsim bin ‘Adi and said: ‘Ask the Messenger of Allâh ﷺ for me: “Do you think that if a man finds another man with his wife and kills him, he should be killed in retaliation, or what should he do?” ‘Âsim asked the Messenger of Allâh ﷺ about that, and the Messenger of Allâh ﷺ disapproved of the question. Then ‘Uwaimir met him (‘Âsim) and asked him about that, saying: ‘What did you do?’ He said: ‘I did that and you have not brought me any good. I asked the Messenger of Allâh ﷺ and he disapproved of the question.’ ‘Uwaimir said: ‘By Allâh, I will go to the Messenger of Allâh ﷺ myself and ask him.’ So he went to the Messenger of Allâh ﷺ and found that Qur‘ân had been revealed concerning them, and the Prophet ﷺ told them to go through the procedure of Li‘ân. ‘Uwaimir said: ‘O Messenger of Allâh, by Allâh if I take her back, I would have been telling lies about her.’ So he left her before the Messenger of Allâh ﷺ told him to do so, and that became the Sunnah for two who engage in the

(1) An oath which is taken by both the wife and the husband when he accuses his wife of committing illegal sexual intercourse. See Surat An-Nur (24:6-9).
procedure of *Li'ān*. Then the Prophet ﷺ said: 'Wait and see. If she gives birth to a child who is black in color with widely-spaced dark eyes and large buttocks, then I think that he was telling the truth about her, but if she gives birth to a child with a red complexion like a *Wahrāh*,[1] then I think that he was lying.' Then she gave birth to a child with features resembling those of the man concerning whom she was accused.” *(Sahih)*

Comments:

a. The characteristic of self-esteem in a man is a good quality, but killing someone because of self-esteem is illegal. If one has strong doubt in the character of one's wife, then one should divorce her.

b. The Messenger of Allah ﷺ disliked this question, because according to his knowledge, this type of incident had not happened, and it was impossible to inflict punishment based purely on doubt.

c. If a husband accuses his wife of committing adultery, then the woman should be questioned, and if she admits to it, she should be stoned, and the husband will not be entitled to any punishment. Likewise, if four witnesses bear witness against her, then this woman and her fornicator mate will deserve punishment.

d. If a woman does not admit her sexual offence, then the man should be told that the accusation is a crime and should be asked to repent. If he admits that he accused her wrongly, then he will be inflicted with the punishment of accusation, which is eighty lashes, and the woman will have no punishment.

2067. It was narrated from Ibn 'Abbās that Hilāl bin Umayyah accused his wife in the presence of the Prophet ﷺ of (committing adultery) with Sharik bin Sahmā'. The Prophet ﷺ said: “Bring proof

[1] They say it is a kind of gecko (lizard) or small red crawling animal or reptile.
The Chapters On Divorce

or you will feel the Hadd (punishment) on your back.”

Hilal bin Umayyah said: “By the One Who sent you with the truth, I am telling the truth, and Allah will send down revelation concerning my situation which will spare my back.” Then the following was revealed: “And for those who accuse their wives, but have no witnesses except themselves, let the testimony of one of them be four testimonies (i.e., testifies four times) by Allah that he is one of those who speak the truth. And the fifth (testimony should be) the invoking of the curse of Allah on him if he be of those who tell a lie (against her). But it shall avert the punishment (of stoning to death) from her, if she bears witness four times by Allah, that he (her husband) is telling a lie. And the fifth (testimony should be that) the wrath of Allah be upon her if he (her husband) speaks the truth.”[1] The Prophet turned and sent for them, and they came. Hilal bin Umayyah stood up and bore witness, and the Prophet said: “Allah knows that one of you is lying. Will either of you repent?” Then she stood up and affirmed her innocence. On the fifth time, meaning that the wrath of Allah be upon her if he (her husband) speaks the truth, they said to her: “It will invoke the wrath of Allah.” Ibn ‘Abbás said:

“She hesitated and backed up, until we thought that she was going to recant. Then she said: ‘By Allâh, I cannot dishonor my people for ever.’ Then the Prophet ﷺ said: ‘Wait and see. If she gives birth to a child with black eyes, fleshy buttocks and big calves, then he is the son of Sharik bin Sahmâ.’ And she gave birth to such a child. Then the Prophet ﷺ said: ‘Had not the matter been settled by the Book of Allâh, I would have punished her severely.’” (Sahih)

Comments:

a. Hîlîl bin Umayyah ﷺ trusted Allâh, and left his matter with Allâh, and Allâh cleared him.

b. The wording of the fifth witnessing is different than the first four; which is to awaken the conscious that whoever is in the wrong from the two parties should admit their mistake, and should accept a worldly punishment in order to escape the punishment of the Hereafter.

c. The statement of Allâh’s Messenger ﷺ: ‘Had not the matter been settled by the Book of Allâh, I would have punished her severely’ means the crime of the woman was certain, but to inflict punishment after Li’în (having invoked the curse) was not allowed, so he ﷺ let her go, otherwise she would have had to be stoned.

2068. It was narrated that ‘Abdullâh said: “We were in the mosque one Friday night when a man said: ‘If a man finds a man with his wife and kills him, will you kill him, and if he speaks,[1] will you flog him. By Allâh I will mention that to the Prophet ﷺ.’

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So he mentioned that to the Prophet ﷺ, and Allâh revealed the Verses of Li‘lân. Then after that the man came and accused his wife, so the Prophet ﷺ told them to go through the procedure of Li‘lân and he said: ‘Perhaps she will give birth to a black child.’ Then she gave birth to a black child with curly hair.” (Sahih)

Comments:
This incident most probably is the same as the one mentioned in the previous Hadîth. It seems as if he had doubt in his wife’s character but he did not see that she had committed the offense with his own eyes. As he saw with his own eyes, Allâh then revealed the Verses of the Qur‘ân about invoking curses.

2069. It was narrated from Ibn ’Umar that a man invoked curses on his wife, and refused to accept her child. The Messenger of Allâh ﷺ separated them, and left the child with the woman. (Sahih)

Comments:
a. Li‘lân (invoking curses) is an irrevocable separation, after which a man (who invokes curses) can never remarry the woman.
b. The child of a woman involved in invoking the curse will not be a part of the lineage of the husband who invokes the curse, and also the child will not be an heir of that man. However, the woman is doubtlessly the mother of the child. Therefore the child will be the heir of the mother, and other maternal relatives, and they will be the child’s heir.

2070. It was narrated that Ibn ’Abbâs said: “A man from among the Ansâr married a woman from Bal‘îjlân. He entered upon her and..."
spent the night with her, then in the morning he said: 'I did not find her to be a virgin.' Her case was taken to the Prophet ﷺ, and he called the girl and asked her. She said: 'No, I was a virgin.' So he told them to go through the procedure of Li'ān, and gave her the bridal-money." (Da'īf)

2071. It was narrated from 'Amr bin Shu'āib, from his father, from his grandfather, that the Prophet ﷺ said: "There are four kinds of women for whom there is no Li'ān: a Christian woman married to a Muslim, a Jewish woman married to a Muslim, a free woman married to a slave, and a slave woman married to a free man." (Da'īf)

Chapter 28. Declaring A Woman As Unlawful For Oneself

2072. It was narrated that 'Aīshah said: "The Messenger of Allāh ﷺ swore to keep away from his wives and declared them as unlawful for him, so he made something permissible forbidden,
and he offered expiation for having sworn to do so." (Da‘if)

تخريج: [إسناده ضعيف] آخرجه الترمذي، الطلاق، باب ماجاه في الإبلاء، ح: 1201 عن الحسن بن قرة به مسلمة صدوق لكنه روى عن داود بن أبي هند أحاديث متذكر، عند الجمهور، وخالقه علي بن مسهر (ثقة) وغيره، فرووه عن داود عن الشهاب به مرسل شهاب وهو المحفوظ.

Comments:

The Statement of Allâh Almighty with respect to oath is: “Its expiation is to feed ten poor persons, on a scale of that with which you would feed your own families, or to clothe them, or to set free a slave. But whosoever cannot afford (that), then he should fast for three days.” (Al-Mâ'idah: 89).

2073. It was narrated from Sa‘eed bin Jubair that Ibn ‘Abbâs said: “For the one who makes unlawful is the swearing.”[1] (Sahih)

And Ibn ‘Abbâs used to say: “You had the best example in the Messenger of Allâh.”[2]

وكان ابن عباسي يقول: لقد كان نكح في رموع الله اسرعت حسنٌ

تخريج: آخرجه البخاري، التفسير، (سورة التحرير)، باب ياهي التي لم تحرم ما أحل الله ذلك، ح: 4911، وسلم، الطلاق، باب وجوب الکفارة علی من حرم امرئه ولم ينو الطلاق.

Comments:

The statement of Abdullâh bin Abbâs is that if one declares something that is lawful as unlawful, he should carry out the expiation of it (as an expiation of oath). The same narration is mentioned in Sahih Al-Bukhari with the following wording: Narrated from Sa‘eed bin Jubair that Ibn Abbâs said with regard to making things unlawful: “He must make an expiation.”

Chapter 29. Giving A Slave
Woman The Choice When
She Is Freed

2074. It was narrated from

[1] That is, in the case of who makes his wife unlawful for himself, he is to atone the same as the one who had to atone for swearing about something. See Sahih Al-Bukhârî, no. 4911.

A'ishah that she freed Barirah and the Messenger of Allâh ﷺ gave her the choice, and she (Barirah) had a free husband.  

(Đa’îf)

Her husband is not free, she is free, and she has no choice. And Allâh ﷺ, May He be Exalted, has said:

**Happy are those who believe in their Lord’s mercy.**

And He has said:

**Be not of those who say, Our Lord! Give us a mate and a child!**

And He has said:

**Your Lord knows best those who lead astray and those who guide to truth.**

The Messenger of Allâh ﷺ said about her (Barirah): She is one of those who pardon and overlook, and her husband is one of those who orate (praises) and remember, and her child is one of those who give, and her husband’s paternal grandmother is one of those who give, and the Lord of the heavens and the earth is one of those who give.

**Comments:**

Shaikh Albânî Ḥ时效 said, “It is untrue in this narration that her husband was a free man; the truth is that he was a slave, as comes in the following two narrations.”

2075. It was narrated that Ibn ʻAbbâs said: “The husband of Barirah was a slave called Mughith. It is as if I can see him now, walking behind her and weeping, with tears running down his cheeks. The Prophet ﷺ said to ʻAbbâs: ‘O ʻAbbâs, are you not amazed by the love of Mughith for Barirah, and the hatred of Barirah for Mughith?’ And the Prophet ﷺ said to her: ‘Why don’t you take him back, for he is the father of your child?’ She said: ‘O Messenger of Allâh, are you commanding me (to do so)?’ He said: ‘No, rather I am interceding.’ She said: ‘I have no need of him.’” (Ṣaḥîh)
Comments:
a. If husband and wife both are slaves; and the wife is set free, she has the choice to live with her husband or to separate from him.
b. The decision of separation will break the marriage contract, but they are allowed to reunite after remarriage. Allāh’s Messenger ﷺ advised Barirah to go back to her husband, which was an advice to remarry.
c. If the husband is set free before the wife, then the wife does not have a choice of separation.

2076. It was narrated that ‘Āishah said: “Three Sunan were established because of Barirah: She was given the choice (of whether to remain married) when she was freed, and her husband was a slave; they used to give her charity and she used to give it as a gift to the Prophet ﷺ, and he would say: ‘It is charity for her and a gift for us,’ and he said, the ‘Walā’ is for the one who set the slave free.’” (Sahih)

Comments:
a. The right of ownership changes the status of an object. If a poor person gets something in charity, and he offers it to a rich person as a present, or a rich person buys it from him, it will not have the status of charity for the rich person.
b. Walā’ is a relation between the emancipator and the emancipated slave which is established due to emancipation. Due to this relation, an emancipated slave is considered the member of the emancipator’s family. If the emancipated slave leaves no heir, then the emancipator will be the heir which is called the right of Walā’.

2077. It was narrated that ‘Āishah said: “Barirah was told to observe the waiting period for three menstrual cycles.” (Hasan)
two menstrual cycles.

The divorce of a slave woman is twice and her husband has three years to marry her after she is separated from him. After three years, if he has not married her, she becomes free.

Chapter 30. Divorce and Separation

According to the Prophet, if a man gives his hand in marriage, the woman is free to choose between three menstrual cycles as her waiting period. She will then spend these menstrual cycles as her waiting period, and if she chooses to separate from her husband, she will be free. The choice is hers, and she has the freedom to choose whether to stay or leave. This is a significant liberty given to women in Islamic law.
Abu ‘Āsim said: “I mentioned this to Muzāhir and said: ‘Tell me what you told Ibn Juraij.’ So he told me, narrating from Qāsim from ‘Āishah, that the Prophet said: ‘The divorce of a slave woman is twice, and her (waiting) period is two menstrual cycles.’” (Da’if)

The Chapters On Divorce

Comments:

In Muwatta, Imam Mālik quoted the verdicts of Uthmān, Zaid bin Thābit and ‘Abdullāh bin ‘Umar, that a male slave has the right to divorce two times only, and the waiting period of a female slave will be two menstruation cycles. It means divorce relies on the husband’s status of him being free or a slave, while the waiting period depends on the woman’s status of her being free or a slave. (Muwatta Imam Mālik: 2/118)

Chapter 31. The Divorce Performed By A Slave

2081. It was narrated that Ibn ‘Abbās said: “A man came to the Prophet and said: ‘O Messenger of Allāh, my master married me to his slave woman, and now he wants to separate me and her.’ The Messenger of Allāh ascended the pulpit and said: ‘O people, what is the matter with one of you who marries his slave to his slave woman, then wants to separate them? Divorce belongs to the one who takes hold of the calf (i.e., her husband).’” (Da’if)
The Chapters On Divorce

I

The Chapters On Divorce

194

أبواب الطلاق

3003, ح: ١٤٨٠٠، وغيرهما، ولم يصح منها شيء، وفي القرآن غيبة عن هذا الحديث

 وغيره، راجع التعليق المغني على سنده الدارقطني: ٤١٢٧٣، وله شواهد مؤكدة، ومروعة، والقرآن

يعضده.

Comments:

a. A slave needs his master’s permission to get married, but once a slave is

married, the master has no authority to cancel the marriage.

b. Divorcing is a husband’s right, whether he is free or is a slave. None has the

right to force him to separate from his wife.

Chapter 32. One Who

Divorces A Slave Woman

With Two Divorces, Then

Buys Her

2082. It was narrated that Abul

Hasan, the freed slave of Banu

Nawfal, said: “Ibn ‘Abbâs was

asked about a slave who divorces

his wife twice, then (they are

freed). Can he marry her? He

said: ‘Yes.’ It was said to him: ‘On

what basis?’ He said: ‘The

Messenger of Allâh passed

such a judgement.’” (Da‘îf)

(One of the narrators) ‘Abdur-

Razzâq said: “Abdullâh bin Al-

Mubârak said: ‘This Abul-Hasan

loaded a tremendous boulder

upon his neck.’”[1]

Comments:

‘Loaded a tremendous boulder upon his neck’ means he bore a burden of
great responsibility by narrating this narration. (Imam Albâni declared this
Hadith as Weak in Ibn Mâjah and Abu Dawud. Also there are some
narrations in Ibn Mâjah that have not been classified.)

[1] Referring to the gravity of the matter, for it is not acted upon by most.
Chapter 33. The Waiting Period Of An Umm Walad

2083. It was narrated that 'Amr bin 'Ās said: "Do not corrupt the Sunnah of our Prophet Muhammad ﷺ. The waiting period of an Umm Walad is four months and ten (days)." (Da'if)

Comments:

a. Umm Walad is female slave who gives birth to a child by her master.

b. Umar ﷺ said, 'the female slave who gives birth to a child by her master, she should not be sold, gifted, nor be inherited. The master may benefit from her in his life, and she is a free woman after her master's death.' (Muwatta Imam Malik: 2/291).

c. An Umm Walad becomes free after the death of her master, therefore, her waiting period will be that of a free woman.

Chapter 34. It Is Disliked For A Recently Widowed Woman To Adorn Herself

2084. It was narrated from Humaid bin Nāfi' that he heard Zainab the daughter of Umm Salamah narrating that she heard Umm Salamah and Umm Habibah mention that a woman came to the Prophet ﷺ and said that her daughter's husband had died, and she was suffering from an eye disease, and she wanted to apply kohl to her eyes (as a remedy). The Messenger of Allâh ﷺ said "One of you would..."
throw a she-camel’s dropping when a year had passed (since the
death of her husband).[1] Rather
it is four months and ten (days).”
(Sahih)

Comments:

a. Wearing jewelry and applying things of adornment should be avoided
during the waiting period, rather a simple dress should be worn.
b. Things that are used for beauty like makeup are not allowed, even for
treatment during the waiting period, like: applying kohl or henna etc. Other
alternatives should be used for treatment during this period.
c. The waiting period after a husband’s death is four months and ten days.
But if a woman is pregnant, her waiting period will be till the birth of child,
regardless if her child is born before the period of four months and ten days
or after it. (Sunan Ibn Mâjah; 2027-2030)

Chapter 35. Can A Woman
Mourn For Anyone Other
Than Her Husband?

2085. It was narrated from
‘Aishah that the Prophet saw said:
“It is not permissible for a woman
to mourn for any deceased person
for more than three days, except
for her husband.” (Sahih)

Comments:

a. Besides the death of a husband, it is also correct not to adorn oneself to
express sorrow for the death of other close relatives.
b. Things of adornment and attraction should be avoided only for three days
upon the death of relatives.
c. As for the waiting period after a husband’s death, she should avoid
applying or using anything like pretty adornment, kohl, perfumes, etc.,
during the whole waiting period.

[1] A description of the widow’s behavior during the period of Ignorance.
It was narrated from Hafsah the wife of the Prophet ـ that the Messenger of Allāh ـ said: “It is not permissible for a woman who believes in Allāh and the Last Day to mourn for any deceased person for more than three days, except for her husband.” (Sahih)

Comments:

a. ‘Asb is a specific cloth made in Yemen. Spun cotton thread with knots was dyed and the color would not affect the inner side of knot. So when the knot was undone, some thread would remain uncolored and some colored. The cloth made of this thread would have whiteness and color patterns; this type of cloth used to be called ‘Asb, which means some white and some colored cloth.

b. This type of cloth is allowed to be worn during the waiting period because the white color prevails and the cloth does not remain attractive.

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[1] Meaning after her menstrual period when she becomes clean.

[2] Nawawi said: “Qust and Azfar are two popular types of incense. They were permitted to remove offensive odor and not to use as a perfume.”
Chapter 36. A Man Whose Father Orders Him To Divorce His Wife

2088. It was narrated that 'Abdullāh bin 'Umar said: “I had a wife whom I loved, but my father hated her. ‘Umar mentioned that to the Prophet, and he ordered me to divorce her, so I divorced her.” (Hasan)

Comments:
a. The parents often give preference to the pleasure of children, and sometimes they tolerate unreasonable and un-Islamic things just for the sake of children. In this situation if the parents are unhappy with the daughter-in-law, there must be a valid reason for it. Particularly, a father cannot order his son to divorce his wife.

b. Giving precedence to parents’ pleasure over one’s own, is part of being dutiful and good to parents.

2089. It was narrated from ‘Abdur-Rahmān that a man’s father or mother — Shu’bah (one of the narrators) was not sure — ordered him to divorce his wife, and he made a vow that he would free one hundred slaves if he did that. He came to Abu Dardā’ while he was praying the Duha, and he was making his prayer lengthy, and he prayed between Zuhr and ‘Asr. Then he asked him, and Abu Dardā’ said: “Fulfill your vow and honor your parents.” Abu Ad-Dardā’ said: “I
heard the Messenger of Allâh ﷺ say: ‘(Honoring) one’s father may lead one to enter through the best of the gates of Paradise; so take care of your parents, (it is so, whether you take care of them) or not.” (Hasan)

Comments:

a. Service and obedience to parents is a means to enter Paradise.

b. If the parents command the child to do something which is Islamically permissible, it should be done even though the heart dislikes it. The parents, in the same way, should also care for the rights, needs and demands of the children.
In the Name of Allah, the Most Beneficent, the Most Merciful

11. The Chapters On Expiation

Chapter 1. The Swearing Of An Oath

By Which He Would Take

2090. It was narrated that Rifā‘ah Al-Juhani said: “When the Prophet took an oath, he would say: ‘By the One in Whose Hand is the soul of Muhammad.’” (Sahih)

2091. It was narrated that Rifā‘ah bin ‘Arābah Al-Juhani said: “The swearing of the Messenger of Allah, when he took an oath; and I bear witness before Allah was: ‘By the One in Whose Hand is my soul.’” (Sahih)

Comments:
The meaning of oath is that a person makes Allah witness to such and such matter being thus. Now if that testimony is false, then to use the Name of Allah for it will be a grave sin, because Allah is never a false witness.
2092. It was narrated from Sālim that his father said: “The swearing most frequently sworn by the Messenger of Allāh ﷺ was: ‘No, by the Controller of the hearts.’” (Da‘īf)

2093. It was narrated that Abu Hurairah said: “The swearing of the Messenger of Allāh ﷺ was: ‘No, and I ask Allāh for forgiveness.’” (Da‘īf)

Chapter 2. Prohibition Of Making An Oath By Other Than Allāh

2094. It was narrated from Sālim bin ‘Abdullāh bin ‘Umar, from his father, from ‘Umar, that the Messenger of Allāh ﷺ heard him swearing by his father. The Messenger of Allāh ﷺ said: “Allāh forbids you from making oaths by your forefathers.” ‘Umar said: “I never took an oath by them (i.e., my forefathers) myself.
nor narrating such words from anyone else." (Sahih)


Comments:
It is impermissible to swear by anyone other than Allah, regardless of whether it is a father, grandfather, shaikh, saint, religious leader, highly virtuous person or a Prophet. As some people take an oath by ‘Ali or by five pure personalities, it is all prohibited.

2095. It was narrated from ‘Abdur-Rahmân bin Samurah that the Messenger of Allah سل الله عليه وسلم said: 'Do not take oaths by idols nor by your forefathers.” (Sahih)

تخريج: أخرج مسلم, الأئمان, باب من حلف باللائات والعزرى فقيل: لا إله إلا الله, ح: 1248 عن أبي بكر بن أبي شيبة به.

Comments:
Taking an oath by an idol is, in fact, an oath by a person because of his importance or honor, due to which that person's statue was made. Thus this type of oath is also taken by saints and virtuous peoples; and taking an oath by other than Allah is prohibited.

2096. It was narrated from Abu Hurairah that the Messenger of Allah سل الله عليه وسلم said: "Whoever takes an oath, and swears, saying: 'By Al-Lät and Al-‘Uzza,' let him say: 'La ilâha illallâh.'" (Sahih)

تخريج: أخرج البخاري, الأدب, باب من لم ير إكافار من قال ذلك متأولاً أو جاهلاً, ح: 1107, وسالم, الأئمان, باب السابق, ح: 1247(ب) من حديث الأوزاعي به, وللحديث طريق أخري عن الزهري به.

Comments:
A new Muslim who, in a state of disbelief, had a habit of swearing by other than Allah, might utter these polytheistic words because of a previous habit. When he/she realises the mistake, the person should then declare the
The word of *Tauhid* 'La ilāha illāl-lāh' (none has the right to be worshiped but Allāh); the wording of *Tauhid* would be an expiation for the polytheistic words. However a person does not become an apostate because of making a mistake like this.

2097. It was narrated that Sa’d said: “I took an oath by Lāt and ’Uzza. The Messenger of Allāh ﷺ said: ‘Say: ‘La ilāha illāl-lāh wahdahhu lā sharika lahu’’ (None has the right to be worshipped but Allāh alone, with no partner or associate),’” then spit toward your left three times, and seek refuge with Allāh, and do not do that again.’” *(Sahih)*

Chapter 3. One Who Takes An Oath To Follow A Religion Other Than Islam

2098. It was narrated that Thābit bin Ad-Dahhāk said: “The Messenger of Allāh ﷺ said: ‘Whoever takes an oath to follow a religion other than Islam, telling a deliberate lie, he will be as he said.’” *(Sahih)*

Comments:

a. Swearing by another religion is when a person says: ‘If I have done such and such a thing I shall be a Jew’ or he says: ‘If I tell a lie I shall be an infidel’; one must avoid this type of oath.

b. At the time of taking an oath, if a person has the intention that by doing such and such thing, he will then choose the path of disbelief; in that case he immediately becomes a disbeliever. But if he meant to remain steadfast on the religion of Islam and was determined never to adopt the way of disbelief, he would not become a disbeliever, but he was wrong in doing so.
2099. It was narrated from Anas that the Messenger of Allâh (صلى الله عليه وسلم) heard a man say: “If that happens, I will be a Jew.” The Messenger of Allâh (صلى الله عليه وسلم) said: ‘That is guaranteed.’ (Da‘if)

Comment:
- It is strictly forbidden to take an oath like this.
- This type of carelessness shows disrespect to Islam, whereas Islam is invaluable in the sight of a true Muslim, for which he is prepared to give his life. Whoever has this type of disrespect for Islam such that he utters words rejecting Islam for minor issues, he shows how little and insufficient his Faith is!

Chapter 4. The Person For Whom An Oath Is Sworn By Allâh Should Accept What Is Said

2100. It was narrated from ‘Abdullâh bin Buraidah that his father told that the Messenger of Allâh (صلى الله عليه وسلم) said: “Whoever says: ‘I have nothing to do with Islam,’ if he is lying then he is as he said, and if he is telling the truth, his Islam will not be sound.” (Hasan)

Comment:
- It is strictly forbidden to take an oath like this.
- This type of carelessness shows disrespect to Islam, whereas Islam is invaluable in the sight of a true Muslim, for which he is prepared to give his life. Whoever has this type of disrespect for Islam such that he utters words rejecting Islam for minor issues, he shows how little and insufficient his Faith is!
205

The Chapters On Expiation

oath, and if an oath is sworn for a person by Allâh, let him accept it. Whoever is not content with Allâh has nothing to do with Allâh.” (Da‘îf)

تخريج: [إسناده ضعيف] أخرجه البهتي: 100/10 من حديث أساطٍ به، وصحبه البوصيري، وأنصار ح: 197 هلعله، قلت وحديث: لا تحلقا بآبانكم صحيح متفق عليه من حديث عبدالله بن دينار عن ابن عمر به.

Comments:

a. The objective of demanding someone to take an oath is that if a person takes an oath on a matter, then that person is to be trusted on the matter. Now if the person takes an oath but he who demands it is still not satisfied, it means the oath has no respect and value in his sight. If this is the case, then the demand of an oath is totally wrong; it should either be accepted, or not be sought.

b. Telling a lie by taking oath is a very grave sin.

c. One should swear and adjure by Allâh only.

2102. It was narrated from Abu Hurairah that the Prophet said: “Eisa bin Maryam saw a man stealing and said: ‘Did you steal?’ He said: ‘No, by the One besides Whom there is no other God.’ ‘Eisa said: ‘I believe in Allâh, and I do not believe what my eyes see.’” (Sahih)

تخريج: [صحيح] وروى نحوه همام بن منبه في صحيحه، ح: 42 عن أبي هريرة رضي الله عنه، ومن طريق أخرجه البخاري، ومسلم وغيرهما.

Comments:

This is an example of trusting a believer’s oath that ‘Eisa believed a thing seen by his own eyes by trusting an oath. That thing perhaps belonged to the same person who took it, but he took it secretly most certainly, maybe because of a certain reason.

Chapter 5. Swearing Is (i.e., Leads To) Sin Or Regret

2103. It was narrated from Ibn ‘Umar that the Messenger of Allah said: ‘If a believer swears on something, or something is sworn on his behalf, it is equivalent to a sin or a regret.’
Allāh ﷺ said: “An oath (leads to) either sin or regret.” (Da’if)

The meaning of the Hadith is that a person often takes an oath in anger, declaring that he will not do such and such; but sometimes the situation takes such a turn that he has to do contrary to the oath. Now it will be problematic if he does not break the oath; but if he breaks it, he will have to make expiation, which seems a penalty for nothing. Therefore this type of oaths should be avoided to the best of one’s ability.

Chapter 6. Uttering The Exception When Swearing

2104. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: ‘Whoever swears an oath and says In shā’ Allāh, he will have made an exception.”[2]

(Sahih)
Allāh with respect to the matters of the future is unknown to humans. So by saying ‘In shā’ Allāh’ there is a negation of total self dependence without the Will of Allāh, and it involves uncertainty that I shall most certainly do this or might not.

2105. It was narrated from Ibn ‘Umar that the Messenger of Allāh ﷺ said: “Whoever swears an oath and says In shā’ Allāh, if he wishes he may go ahead and if he wishes he may not, without having broken his oath.” (Sahih)

تخريج: [إسناده صحيح] أخرجه أبو داود، الآية المنذور، باب الاستثناء في الشهاد.

2106. It was narrated from Ibn ‘Umar: “Whoever swears an oath and says In shā’ Allāh, will never break his oath.” (Sahih)

تخريج: [صحيح] انظر الحديث السابق.

Comments:
The meaning of saying In shā’ Allāh along with an oath is that ‘I am certainly determined to do such and such, but if Allāh’s decision is otherwise and I face a hindrance, then it will not be done.’

Chapter 7. One Who Swears An Oath And Then Sees That Something Else Is Better

2107. It was narrated from Abu Burdah that his father Abu Musa said: “I came to the Messenger of Allāh ﷺ with a group of Asharites and asked him to give us animals to ride. He said: ‘By Allāh, I cannot give you anything to ride, and I have nothing to give you to ride.’ We stayed as long as
Allāh willed, then some camels were brought to him. He ordered that we be given three she-camels with fine humps. When we left, we said to one another: 'We came to the Messenger of Allāh ṣallallāhū wa sallam to ask him for animals to ride, and he swore by Allāh that he would not give us anything to ride, then he gave us something. Let us go back.' So we went to him and we said: 'O Messenger of Allāh! We came to you seeking mounts, and you took an oath that you would not give us mounts, then you gave us some mounts.' He said: 'By Allāh, I did not give you animals to ride, rather Allāh gave you them to ride. I, by Allāh, if Allāh wills, do not swear and then see something better than it, but I offer expiation for what I swore about, and do that which is better.' Or he said: 'I do that which is better and offer expiation for what I swore about.'” (Sahīh

Comments:
a. The oath has three categories, and these are as follows:

1. Ḭaghw: It is an oath that is spoken by tongue without the intention of swearing. As some people habitually speak words of swearing unintentionally, this type of oath will not be counted against the person but it should be avoided.

2. Ḫamūs: It is a false oath sworn to deceive someone. It is a major sin. One should seek forgiveness and should avoid such in the future, but the expiation for it is not obligatory.

3. Mu’aqqaḍah: It is an oath that a person swears to express his determination and definite intention to do something in the future. The expiation becomes obligatory for breaking this oath. The expiation for this oath is to feed ten
poor people, or to clothe them or to set a slave free. (Al-Mā‘idah 5:89)

12108. It was narrated from ‘Adi bin Hātim that the Messenger of Allāh عَلَيْهِ السَّمَاعُ said: “Whoever swears an oath then sees that something else is better that it, let him do that which is better and offer expiation for what he swore about.” (Sahih)

12109. It was narrated from Abul-Ahwās ʿAww bin Mālik Al-Jushami that his father said: “I said: ‘O Messenger of Allāh, my cousin comes to me and I swear that I will not give him anything or uphold the ties of kinship with him.’ He said: ‘Offer expiation for what you swore about.’” (Sahih)

Chapter 8. Those Who Say That The Expiation Is To Not Fulfill It

2110. It was narrated from ʿAishah that the Messenger of Allāh ﷺ said: “Whoever takes an oath to cut off the ties of kinship, or to do something that is not right, the fulfillment of his vow is not to do that.” (Daʿīf)
2111. It was narrated from ‘Amr bin Shu‘aib, from his father, that his grandfather said that the Prophet ﷺ said: “Whoever swears an oath then sees that something else is better than it, let him not do it, and his leaving it is the expiation for it.” (Hasan)

Comments:
It means that if one is unable to make expiation, he should then at least avoid the sin that he was determined to do, because avoiding a sin is also a good deed.

Chapter 9. How Much Food Should Be Given When Atoning For What One Swore About?

2112. It was narrated that Ibn ‘Abbâs said: “The Messenger of Allâh ﷺ offered expiation of a Sâ‘ of dates, and he enjoined the people to do likewise. Whoever does not have that (must give) half a Sâ‘ of wheat.” (Da‘îf)


تخريج: (حسن) أخرجه أبو داود، الأعيان والذمار، باب اليمين في قطعة الرحم، ح: 3274 من طريق آخر عن عمر بن شعبة به مطلقاً.

Chapter 10. (Expiation Should Be) With The Average Food That You Feed Your Families

2113. It was narrated that Ibn ‘Abbás said: "A man would give his family food that was abundant and another would give his family food that was barely sufficient, then the following was revealed: 'With the Azūsaret with which you feed your families...""[2] (Da‘if)

Comments:
The food for expiation should not be prepared painstakingly of high standard, like the preparation for guests, nor should it be of low quality, as sometimes people do just with pickles, sauce or salad etc., rather the food provided for expiation should be of normal standard as a person often prepares for himself. Allāh knows best!

Chapter 11. Prohibition Of Man Insisting On What He Swore About, And Not Offering Expiation

2114. It was narrated that Hammâm heard Abu Hurairah saying that ‘Abul-Qāsim said: "If anyone of you insists on fulfilling what he swore to (after learning that it is wrong) then it is..."
more sinful before Allâh than (breaking the oath for which) the expiation that has been enjoined upon him."

(Sahih)

Another chain with similar wording.

Comments:

a. Insistence upon an oath means to be determined to fulfill an oath, sometimes to do something sinful or prohibited. It is better to make expiation for breaking such an oath.

b. Remaining firm upon an oath for a bad thing is also a sin. So it is better to break the mistaken oath, because this will be forgiven by making expiation; whereas remaining firm on the mistake will only increase the sin.

Chapter 12. Helping Others

Fulfill Their Oaths

2115. It was narrated that Barâ’ bin ’Ázib said: “The Messenger of Allâh ﷺ commanded us to help fulfill the oath.” (Sahih)
Comments:

a. It is an obligation upon a Muslim to help other Muslims, particularly when his help is sought. Adjourning is also a type of request for help, and it has extra emphasis in which the request is made by using the Name of Allāh; therefore it should certainly be fulfilled.

b. If an oath is imposed to do something illegal, then it should not be fulfilled.

2116. It was narrated from Mūjahīd, that ‘Abdūr-Rahmān bin Saftwān, or Saftwān bin ‘Abdūr-Rahmān Al-Qurashi said: “On the Day of the conquest of Makkah, he came with his father and he said: ‘O Messenger of Allāh, give my father a share of Hijrah.’ He said: ‘There is no Hijrah.’ Then he went away and entered upon ‘Abbās and said: ‘Do you know who I am?’ He said: ‘Yes.’ Then ‘Abbās went out, wearing a shirt and no upper wrap, and said: ‘O Messenger of Allāh, do you know so-and-so with whom we have friendly ties? He brought his father to swear an oath of allegiance (i.e., promise) to emigrate.’ The Prophet ﷺ said: ‘There is no Hijrah.’” ‘Abbās said: ‘I adjure you to do it.’ The Prophet ﷺ stretched forth his hand and touched his hand, and said: ‘I have fulfilled the oath of my uncle, but there is no Hijrah.’” (Da’if)

Another chain with similar wording. Yazid bin Abū Ziyād said: “Meaning: There is no Hijrah from a land whose people have accepted Islam.”

Chapter 13. Prohibition On Saying: “What Allâh Wills And You Will”

2117. It was narrated from Ibn ‘Abîbâs that the Messenger of Allâh ﷺ said: ‘When anyone of you swears an oath, let him not say: ‘What Allâh wills and what you will.’ Rather let him say: ‘What Allâh wills and then what you will.’ (Hasan)

Another chain from Tufail bin Sakhbarah, the brother of ‘Aishah by her mother, from the Prophet ﷺ, with similar wording. (Da‘if)

2118. It was narrated from Hudhaifah bin Yamân that a Muslim man saw in a dream that he met a man from among the People of the Book, who said: “What good people you would be if only you were not committing Shirk. For you say: ‘What Allâh wills and Muhammad wills.’” He mentioned that to the Prophet ﷺ and he said: “By Allâh, I am aware of that. Say: ‘What Allâh wills then what Muhammad wills.’” (Da‘if)
Chapter 14. One Who Uses Ambiguous Words In His Oath

2119. It was narrated that Suwaid bin Hanzalah said: “We went out looking for the Messenger of Allāh ﷺ, and Wā’il bin Hujr was with us. An enemy of his seized him and the people were reluctant to swear an oath, but I swore that he was my brother, so they set him free. We came to the Messenger of Allāh ﷺ and I told him that the people had been reluctant to swear an oath, but I had sworn that he was my brother. He said: ‘You told the truth. The Muslim is the brother of his fellow Muslim.’” (Hasan)

Comments:
a. Ambiguity is to say something that has two meanings. The listener understands some other meaning, and the person talking means something different, in order to avoid telling a lie and to escape with his life.
b. When life, property or honor is in danger a then ambiguous behavior to get away from enemies is allowed.
c. Ambiguity is also allowed to save the life of another Muslim.
2120. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “The oath is only according to the intention of the one who requests the oath to be taken.’” (Sahih)

Comments:

a. It means ambiguity is not allowed in the case of an oath and using it in an oath will be considered a lie as well.

b. The previous Hadith is apparently contradictory to this Hadith, but the meaning of the previous Hadith applies when a Muslim’s life, property or honor is in danger, and this Hadith (2120) is about daily matters.

2121. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “Your oath is as your companion understands it to be.” (Sahih)

Comments:

It means if one swore and said something that has two meanings, and he meant such a meaning which was true, but the listener did not understand the same meaning; and according to the listener’s understanding of the meaning that oath was false, then this oath would be counted as false one. Only that purpose and meaning of oath will be relied for which it was required.

Chapter 15. The Prohibition Of Vows

2122. It was narrated that ‘Abdullāh bin ‘Umar said: “The Messenger of Allah ﷺ forbade vows and said: ‘They are just a means of taking wealth from the miserly.’” (Sahih)
2123. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: "Vows do not bring the son of Adam anything unless it has been decreed for him. But he is dominated by Divine preordainment, and will get what is decreed for him. And (vows) are a means of making the miser give something, so what he desires becomes obtainable for him, which was not obtainable before his vow. And Allah ﷺ says: 'Spend, I will spend on you.' (Sahih)

Comments:

a. A generous person always spends in the path of Allah. He does not need to make a vow for conditional spending.

b. Making a conditional vow is a habit of miserly people. A person making a vow says: "If such and such work gets done or such and such calamity is warded off, I shall give such and such money in charity," it is as if he is saying if such and such work is not done I shall not give in charity. Therefore, making a vow according to this mentality is disliked.

Chapter 16. Vows For Disobedience

2124. It was narrated from 'Imrân bin Husain that the Messenger of Allah ﷺ said: "[There is no vow to commit disobedience and] no vow concerning that which the son of Adam does not possess." (Sahih)
**Comments:**

a. A vow is made to please Allâh, therefore, if a person makes such a vow that is sinful, then this vow is next to nothing. It is illegal to fulfill it; for example: a person vows that I shall give to so-and-so son of mine more than other sons, or vows for something which is not worthy of reward according to Shari'ah; for example: making a vow to keep standing in the sun. One should not fulfill this vow, rather one should carry out expiation.

b. Making a vow for something which one does not own; for example: vowing to slaughter someone’s animal is incorrect. However if he thinks of buying that animal, and hopes that the owner will sell it, then he should slaughter it after owning it.

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**2125.** It was narrated from 'Âishah that the Messenger of Allâh ﷺ said: “There is no vow to commit disobedience, and the expiation (for such a vow) is the expiation for breaking an oath.” (Sahih)

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**2126.** It was narrated from 'Âishah that the Messenger of Allâh ﷺ said: “Whoever vows to obey Allâh, let him obey Him, and whoever vows to disobey Allâh, let him not disobey Him.” (Sahih)

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Chapter 17. One Who Makes A Vow But Does Not State It Specifically

2127. It was narrated from 'Uqbah bin 'Amir Al-Juhani that the Messenger of Allâh ﷺ said: "Whoever makes a vow and does not state it specifically, the expiation (for such a vow) is the expiation for breaking an oath." (Hasan)

Comments:
An unspecified and unnamed vow is if a person says: 'I vow for Allâh.'

2128. It was narrated from Ibn 'Abbâs that the Prophet ﷺ said: "Whoever makes a vow and does not state it specifically, the expiation (for such a vow) is the expiation for breaking an oath. Whoever makes a vow and is not able to fulfill it, the expiation for that is the expiation for breaking an oath. Whoever makes a vow and is able to fulfill it, let him do so." (Hasan)

Chapter 18. Fulfilling Vows

2129. It was narrated that 'Umar bin Khattâb said: "I made a vow during the Ignorance period and I asked the Prophet ﷺ (about it) after I became Muslim. He told me to fulfill my vow." (Sahih)
The Chapters On Expiation

Comments:
a. Vowing is a type of worship, and is a good deed, because 'Umar made a determined vow to do good before embracing Islam, therefore, the noble Prophet ﷺ ordered him to fulfill the vow to do the good deed.
b. If a vow is made in the state of disbelief to do something which is a good deed in Islam as well, then this vow must be fulfilled after embracing Islam.

2130. It was narrated from Ibn 'Abbās that a man came to the Prophet ﷺ and said: "O Messenger of Allah, I vowed to offer a sacrifice at Buwānah." He said: "Do you intend any action of Ignorance period?" He said: "No." He said: "Then fulfill your vow." (Hasan)

Comments:
a. Having something from the pre-Islamic ignorance period in the heart, means for example, if he still specified a place because it used to be considered holy for some reason in the time of ignorance, and he had vowed to slaughter a camel there following the same assumed holiness.
b. Buwānah is a sand-hill near the seashore situated beyond Yanbu.

2131. It was narrated from Maimunah bint Kardam Al-Yasāriyyah that her father met the Prophet ﷺ when she was riding behind him. He said: "I vowed to offer a sacrifice at Buwānah." The Messenger of Allah ﷺ said: "Is there any idol there?" He said: "No." He said: "Fulfill your vow."


vow.” (Hasan)

Another chain with similar wording.

Comments:

a. Fulfilling a vow is compulsory.
b. If someone vowed and died without fulfilling it, the vow related to wealth should be fulfilled from the deceased’s wealth, just as one’s debt is paid after death from the wealth, and then the inheritance is divided.
c. A vow related to physical worship should be fulfilled by a close heir.
d. The offspring has more responsibility for fulfilling the parents’ vow.

Chapter 19. One Who Dies With A Vow Left To Fulfill

2132. It was narrated from Ibn ‘Abbâs that Sa’d bin ‘Ubâdah asked the Messenger of Allâh ﷺ about a vow which his mother had made, but she had died without fulfilling it. The Messenger of Allâh ﷺ said: “Fulfill it on her behalf.” (Sahîh)

2133. It was narrated from Jâbir bin ‘Abdullâh that a woman came to the Messenger of Allâh ﷺ and said: “My mother has died, and she had made a vow to fast, but
she died before she could fulfill it.
The Messenger of Allâh ﷺ said: ‘Let her guardian fast on her behalf.” (Da’if)

Chapter 20. One Who Vows To Go For Hajj Walking

2134. It was narrated from Abu Sa’eed Ar-Ru’aini that ‘Abdullâh bin Mâlik told him, that ‘Uqbah bin ‘Amir told him, that his sister vowed to walk, barefoot and bareheaded, and he mentioned that to the Messenger of Allâh ﷺ. He said: “Order her to ride and to cover her head, and to fast for three days.”’ (Da’if)

2135. It was narrated that Abu Hurairah said: “The Prophet ﷺ saw an old man walking between his two sons, and he said: ‘What is the matter with him?’ His sons said: ‘A vow, O Messenger of Allâh.’ He said: ‘Let this old man ride, for Allâh has no need of you or your vow.’” (Sahih)
Comments:

a. One should not make such a vow that is extremely and exceedingly hard to fulfill.

b. If one feels that fulfilling a vow is getting out of reach, then one should break the vow, and carry out the expiation.

Chapter 21. One Who Mixes Obedience And Sin In His Vow

2136. It was narrated from Ibn 'Abbās that the Messenger of Allah passed by a man in Makkah who was standing in the sun. He said: “What is this?” They said: “He vowed to fast and not to seek shade until night comes, and not to speak, and to remain standing.” He said: “Let him speak and seek shade, and let him sit down, but let him complete his fast.” (Sahih)

Another chain from Ibn 'Abbās, from the Prophet, with similar wording.

Comments:

If the vow is of such a type, which includes legal and illegal things, then one should give up the illegal things and fulfill the vow of doing the legal ones. Because making a vow to avoid speaking, sitting and keeping away from shade was incorrect, so these things were prohibited, and observing fast is a permissible worship, therefore it was ordered to be fulfilled.
12. The Chapters On Business Transactions

Comments:
Linguistically *Bai'* means 'exchanging a commodity for another commodity'. The term *Bai'* is identified thus: 'It is to exchange property with mutual agreement.'

A transaction relating to sales and business has the following four principle factors:

1: The Seller: It is essential that the seller owns the commodity, understands the matter in hand and he/she is sane.

2: The Buyer: It is essential for the buyer too that he/she has the ability to make and exercise a deal.

3: The Commodity: The commodity being sold should be permissible and the commodity taken as price should also be permissible.

4: Words of Striking a Deal: Acceptance and liability, for example: a person says 'I sell this in exchange for such and such price,' and the buyer should say 'I buy it.'

Chapter 1. Encouragement To Earn A Living

2137. It was narrated from `Āishah that the Messenger of Allāh ﷺ said: 'The best (most pure) food a man consumes is that which he has earned himself, and his child (and his child’s wealth) is part of his earnings.'
(Sahih)
Comments:

a. Livelihood earned with hard work is lawful earning, provided it was earned according to Islamic law. This hard work can be physical, technical, professional, handicraft, intellectual and academic.

b. Parents are allowed to take from their children’s wealth, as needed, however they should not disregard their children’s lawful and reasonable needs and facilities.

2138. It was narrated from Miqdâm bin Ma’dikarib (Az-Zubaidi) that the Messenger of Allâh ﷺ said: “No man earns anything better than that which he earns with his own hands, and what a man spends on himself, his wife, his child and his servant, then it is charity.” (Hasan)

Comments:

a. The best earning is earned by hard work.

b. To avoid spending on one’s wife and children is miserliness and stinginess which is condemnable. But to keep fulfilling unreasonable legal and illegal needs of the family is also extravagance and squandering, which are both disliked.

2139. It was narrated from Ibn ‘Umar that the Messenger of Allâh ﷺ said: ‘The trustworthy, honest Muslim merchant will be with the martyrs on the Day of Resurrection.’” (Da’îf)

Comments:

This is narrated in Jâmi’ At-Tirmidhi by Abu Sa’eed. Imam Tirmidhi declared this Hadîth as Hasan (Good). (Jâmi’ At-Tirmidhi, Hadîth: 1209)
2140. It was narrated from Abu Hurairah that the Prophet ᾶ said:
"The one who strives to support the widow and the poor is like a
Mujāhid who fights in the cause of Allāh, and like one who stands in
the night (in voluntary prayer) and fasts by day." (Sahih)

Comments:
The best source of looking after a widow is to arrange her marriage, thus
her honor will be protected as well, and also it will be a permanent
arrangement for her and her children to be looked after, and to have a good
upbringing. However, if her marriage seems impossible for some reason,
then it is an obligation upon the Muslims to fulfill her and her children's
lawful and reasonable needs in order to make them useful, responsible and
positive members of the society.

2141. It was narrated from
Mu‘ādh bin ‘Abdullāh bin
Khubaib, from his father, that his
paternal uncle said: "We were
sitting in a gathering, and the
Prophet ᾶ came with traces of
water on his head. One of us said
to him: 'We see that you are of
good cheer today.' He said: 'Yes,
praise is to Allāh.' Then he spoke
to the people about being rich. He
said: 'There is nothing wrong
with being rich for one who has
piety, but good health, for one
who has piety is better than
riches, and being of good cheer is
a blessing.'" (Sahih)
Comments:

a. A righteous person having fear of Allâh ﷻ earns his livelihood through lawful ways, and spends it in good causes, and in fulfilling lawful and reasonable needs, thus he earns reward in earning and in spending. The wealth is a great favor for such a person.

b. A bad person does not distinguish between lawful and unlawful in earning a livelihood. He spends with pride, to show off, and he uses wealth for an unreasonable lavish lifestyle. Thus the gain of this wealth becomes a source of sin for him, and the spending of it multiplies his sins even more. The wealth is a test and a cause of destruction for such a person. May Allâh keep us safe! Amen.

c. Health is a greater favor than wealth. Being in a state of good health, despite being less fortunate in respect to wealth, certainly allows more good deeds to be performed.

Chapter 2. Moderation In Seeking To Earn A Living

2142. It was narrated from Abu Humaid As-Sâ‘idi that the Messenger of Allâh ﷻ said: "Be moderate in seeking worldly things, for everyone will be facilitated for which he was created." (Sahih)

Comments:

‘Be moderate in seeking worldly things’ means to strive for earning lawful and one should not engage oneself fully in the earning that his/her attention for the Hereafter is driven away. It means to adopt a moderate manner of earning the worldly gain.

2143. It was narrated from Anas bin Mâlik that the Messenger of Allâh ﷻ said: ‘The one who has the most concerns is the believer who is concerned about both his worldly affairs and his Hereafter.’” (Da‘îf)
Abu 'Abdullah said: "This Hadith is Gharib' Ismā'il, alone, has narrated it."

2144. It was narrated from Jābir bin 'Abdullāh that the Messenger of Allāh ﷺ said: "O people, fear Allāh and be moderate in seeking a living, for no soul will die until it has received all its provision, even if it is slow in coming. So fear Allāh and be moderate in seeking provision; take that which is permissible and leave that which is forbidden." (Sahih)

Comments:

a. A person caring for a lawful earning is never deprived of livelihood.

b. Putting trust in Allāh, unlawful livelihood must be avoided.

c. As the term of worldly life is appointed, which will not be increased or decreased; likewise livelihood is also fixed and specified. But the human earns reward or chastisement for its right or wrong strive.
was better than that. He said: ‘O merchants, selling involves (false) oaths and idle talk, so mix some charity with it.’” (Sahih)

Comments:
This Hadith expresses the permissibility of a broker and commissioning agent, whereas the Ahādīth (2175-2177) are contrary to it. These Ahādīth can be reconciled thus; that helping a brother, out of sincerity without taking commission, in buying and selling the commodity is better, but receiving a salary or commission for it is disliked. Ibn Sirīn, ‘Atā, Ḥabībīn and Ḥasan, may Allāh have mercy on them, see no harm in the salary of an agent. Ibn Abbās said: “There is no harm in saying, ‘sell this clothe, and whatever is gained over such and such price is yours.’” Ibn Sirīn said: “Sell this commodity for such and such, whatever the profit will be is yours. Or the profit will be divided between you and me.” There is no harm in it.” The Prophet said: “The Muslims are bound to their conditions.” (Sahih Al-Bukhārī: The Book of Hiring (37) Chapter: 14 The wages of a broker)

2146. It was narrated from ʿIsmā‘īl bin ‘Ubayd bin Ṭūbāh, from his father, that his grandfather Ṭūbāh said: “We went out with the Messenger of Allāh, and the people were trading early in the morning. He called them: ‘O merchants!’ and when they looked up and craned their necks, he said: ‘The merchants will be raised on the Day of Resurrection as immoral people, apart from those who fear Allāh and act righteously and speak the truth (i.e. those who are honest).’” (Hasan)

تخريج: [إسناده حسن] أخرجه الترمذي، البيجو، باب ماجاه في التجار ونسبة النبي إياهم، ح: 1210 من حديث ابن خنينم به، وقال: هذا حديث حسن صحيح، وصححه ابن
Chapter 4. If A Man Finds A Way Of Earning A Living, Let Him Stick With It

2147. It was narrated from Anas bin Mâlik that the Messenger of Allâh ﷺ said: 'Whoever achieves at something, let him stick with it.' (Da‘îf)

2148. It was narrated that Nâfî’ said: I used to send trade goods to Shâm and Egypt, then I prepared to send trade goods to ‘Irâq. I went to ‘Âishah, the Mother of the Believers, and said to her: "O Mother of the Believers! I used to send trade goods to Shâm and I am preparing to send trade goods to ‘Irâq." She said: "Do not do that. What is wrong with the way you have been doing it? I heard the Messenger of Allâh ﷺ say: 'If Allâh causes provision to come to one of you through a certain means, he should not leave it unless it changes or deteriorates." (Da‘îf)
Chapter 5. Occupations

2149. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “Allah has not sent any Prophet but he was a shepherd.” His Companions said to him: “Even you, O Messenger of Allah?” He said: “Even me. I used to tend the sheep of the people of Makkah for a few Qirāts.” (Sahih)

(One of the narrators) Suwaid said: “Meaning one Qirāt for every sheep.”

Comments:

a. Physical work and labor is a lawful profession, provided a worker works honestly and he is not given work to do which is religiously unlawful.

b. Work should not be started until the labor and salary is determined.

c. Tending to goats and sheep was a profession of the Prophet ﷺ.

d. Qirāt is a type of currency, which is a twentieth or twenty-fourth of a Dinār.

(See: An-Nihayah of Ibn Athir, root word Qirāt).

2150. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “Zakariyyā was a carpenter.” (Sahih)

Comments:

a. Carpentry and woodwork is a good profession, through which a believer can earn lawful livelihood with his hands. Prophet Nuh (Noah) also built a wooden ark with Allah’s command. (Surah Hud 11: 37-38).

b. No profession should be disregarded. Disregard is that a person chooses
unlawful means to earn a livelihood or he/she adopts a profession which is unlawful according to Shari‘ah.

2151. It was narrated from ‘Āishah that the Messenger of Allâh ﷺ said: “The image-makers will be punished on the Day of Resurrection and will be told: ‘Give life to that which you have created.’” (Sahih)

Comments:

a. Drawing pictures of living animals is prohibited, regardless if it is drawn on paper, a wall or a piece of cloth, or a statue made of clay, stone, porcelain or plastic etc.

b. The commandment of blowing life will be given to the artists just for the sake of making them ashamed, and to make clear the gravity of their crime, thus this commandment will in fact be a form of chastisement.

2152. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “The most dishonest of people are the dyers and the goldsmiths.”[1] (Da‘if)

Chapter 6. Hoarding And Importing

2153. It was narrated from ‘Umar bin Khattâb that the Messenger of Allâh ﷺ said: “The importer is

[1] These two occupations are characterized as dishonest because they often tell people that their goods will be ready at a certain time then break that promise. The words translated as ‘dyers and goldsmiths’ may also refer to those who tell lies and invent fabrications. See explanation by Sindi.
blessed with provision and the hoarder is cursed." (Da‘if)

ابن سالِم بن تُوبةُ، عن علي بن زيد بن جَذَّعَانَ، عن مَجِير بن الْمُسْبِهِ، عن عمّ رَبِّي
ابن الخطاب قال: قال رسول الله ﷺ:
"الأجـلِبُ مُورِّقَ وَالْمَخْتَرُ مِلْمَهُنَّ.


2154. It was narrated from Ma‘mar bin ‘Abdullāh bin Nadlah that the Messenger of Allāh ﷺ said: "No one hoards but a sinner." (Sahīh)

2155. It was narrated that ‘Umar bin Khattāb said: "I heard the Messenger of Allāh ﷺ say: ‘Whoever hoards food (and keeps it from) the Muslims, Allāh will afflict him with leprosy and bankruptcy.’" (Hasan)
Chapter 7. The Wages Of The Rāqi\(^{[1]}\)

2156. It was narrated that Abu Sa‘eed Al-Khudri said: “The Messenger of Allāh ﷺ sent us, thirty horsemen, on a military campaign. We camped near some people and asked them for hospitality but they refused. Then their leader was stung by a scorpion, and they said: ‘Is there anyone among you who can recite Ruqyah for a scorpion sting?’ I said: ‘Yes, I can, but I will not recite Ruqyah for him until you give us some sheep.’ They said: ‘We will give you thirty sheep.’

So we accepted them, and I recited Al-Hamd (i.e. Al-Fātiḥah) over him seven times. Then he recovered, and I took the sheep. Then some doubts occurred within ourselves. Then we said: ‘Let us not hasten (to make a decision concerning the sheep) until we come to the Prophet ﷺ.’

So when we came back: ‘I told him what I had done. He said: ‘How did you know that it is a Ruqyah? Divide them up and give me a share as well.’’” (Sahih)

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\(^{[1]}\) The one who administers Ruqyah (recitation of Qur’ānic Verses as a means of curing disease).
Other chains with similar wording.

 Comments:
 a. Ruqyah (incantation) is to read Qur'anic Verses or supplications narrated from the Prophet ﷺ, and then to blow over a patient in order to seek cure through its blessing with the permission of Allâh ﷻ. It is called Damm in Urdu.

 b. Companions of the Prophet ﷺ would avoid a doubtful livelihood, which is requisition of Allâh’s fear (Taqwa).

 c. If there is a doubt concerning an issue, it should be clarified from a religious scholar who is known to follow the Sunnah.

 d. Allâh’s Messenger ﷺ asked that his share be reserved in order to satisfy his noble Companions ﷺ, and to terminate their uncertainty.

 Chapter 8. Wages For Teaching Qur'ân

 2157. It was narrated that 'Ubaadhah bin Sa’miteh said: “I taught people from Ahlus-Suffah[1] the Qur'ân and how to write, and one of them gave me a bow. I said: ‘It

[1] “They were the poor among the Muhâjirin, and those who did not have a house to live in. So they would stay in a shady place in the mosque in Al-Madinah, where they resided.” (An-Nihâyah). Suff means ledge, or molding.
is not money, and I can shoot (with it) for the sake of Allâh.' I asked the Messenger of Allâh ﷺ about it and he said: 'If it would please you to have a necklace of fire placed around your neck, then accept it.'' (Hasan)
Chapter 9. Prohibition Of The Price Of A Dog, The Payment (Given) to A Prostitute, The Payment Made To A Soothsayer And Studding A Stallion[1]

2159. It was narrated from Abu Mas‘ud that the Prophet forbade the price of a dog, the payment (given to a prostitute) and the payment made to a soothsayer. (Sahih)

Comments:
a. The trade of prohibited things is also prohibited.
b. A Kāhin is a person who foretells about future events and claims to tell about the Unseen; fortune-tellers, palmists, astrologers, those making amulets and charms, those who open the book of omens, those who use parrots to choose a card of fortune, and other fortune card readers, all come under the term Kāhin.

c. Some people (in the time of Ignorance) used to make their female slaves work as prostitutes and took it a source of income. Adultery (sexual relations out of marriage) is prohibited in Islam; whether this performed by paying money or in the name of love and friendship by mutual consent.

d. Some people allowed trading in hunting dogs because of the permissibility of keeping them at home. According to this view, the trade in dogs, other than those for hunting is forbidden, because keeping them is impermissible. However, trade in any type of dogs should be avoided as precautionary measures and must not be practiced. Allāh knows best!

2160. It was narrated that Abu Hurairah said: “The Messenger of Allāh forbade the price of a dog and studding a stallion.” (Sahih)

[1] This refers to when the owner of a stallion rents it out to others to impregnate mares, and it applies to camels as well as horses. See explanation by Sindi.
Cows, buffalos and goats etc., are taken to male counterparts for breeding purposes and the owner of the male animal (i.e., stallion) charges something for the female animal to mate with his male animal; these charges are incorrect. It should be for the sake of Allāh. But if the owner of a female animal offers something with his own goodwill, then it is allowed to be taken. (See Ḥāmi’ al-Ṭarnidhi: 1274)

2161. It was narrated from Abu Az-Zubair that Jābir said: “The Messenger of Allāh forbade the price of a cat.” (Sahih)

Comments:
A cat is not as benefiting as a dog so its trade is unlawful, and the scholars who hold the view that the selling and buying of any dogs is forbidden also hold the view that the trade of cats is forbidden.

Chapter 10. Earnings Of A Cupper

2162. It was narrated from Ibn ‘Abbās that the Prophet was treated with cupping and he gave him (the cupper) his wages. (Sahih)

Ibn Abu ‘Umar was alone in
narrating it. That was said by Ibn Mājah.\[^{11}\]

Comments:

a. The Companion who cupped the Prophet was Abu Taibah. (Sahih Al-Bukhārī: 2102). His name was Nāfi'. (Al-Akmāl see Asnā Al-Rijāl by the compiler of Mishkātul-Masābih). He was a slave of the Banu Bayādah tribe. The Messenger of Allāh gave him a decent wage and he did him a further favor by telling his masters to decrease his Kharāj. Kharāj is a fixed amount of his earnings that he is required to give to his masters. (Sahih Bukhārī aforementioned reference)

b. Cupping and being cupped is lawful and therefore its earning is lawful too.

2163. It was narrated that ‘Ali said: “The Messenger of Allāh was treated with cupping and he told me to give the cupper his wages.” (Sahih)

2164. It was narrated from Anas bin Mālik that the Prophet was treated with cupping and gave the cupper his wages. (Sahih)

\[^{11}\text{That is, Muhammad bin Abu 'Umar Al-'Adani, from whom Ibn Mājah heard the narration.}\]
2165. It was narrated that Abu Mas'ud, 'Uqbah bin 'Amr, said: "The Messenger of Allâh ﷺ forbade the earnings of a cupper." (Sahih)

2166. It was narrated from Harâm bin Muhayyisah that his father asked the Prophet ﷺ about the earnings of a cupper and he forbade him from that. Then he mentioned his need and he said: "Spend it on feeding your she-camels that draw water." (Sahih)

Comments:

a. Cupping is a type of treatment; it is a special technique from which extra blood from the body is drained out.

b. Earning by the practice of cupping is not unlawful, otherwise the Messenger of Allâh ﷺ would not have paid Abu Taibah ﷺ for cupping. But it can be classified as disliked because of the Prophet's forbiddance. Also it is known from the command of feeding it to the camels that this earning is not unlawful rather it is disliked.

Chapter 11. What It Is Not Permissible To Sell

2167. 'Atâ' bin Abu Rabâh said: "It was narrated that Mas'ud, 'Uqbah bin 'Amr, said: "The Messenger of Allâh ﷺ forbade the earnings of a cupper."
heard Jābir bin 'Abdullāh say: “In the Year of the Conquest, while he was in Makkah, the Messenger of Allāh  said: ‘Allāh and His Messenger have forbidden the sale of wines, meat of dead animals, pigs and idols.’ It was said to him: ‘O Messenger of Allāh, what do you think of the fat of dead animals, for it is used to caulk ships, it is daubed on animal skins and people use it to light their lamps?’ He said: ‘No, it is unlawful.’ Then the Messenger of Allāh  said: ‘May Allāh curse the Jews, for He forbade them the fat (of animals) but they rendered it, (i.e. melted it) sold it and consumed its price.’” (Sahih)

Comments:
a. As alcohol, dead animals and swine are forbidden to eat; similarly other use of these is also prohibited.
b. Selling the prohibited things is unlawful as well as their revenue.
c. Earning through false tricks and excuses does not make unlawful earning lawful; rather it makes the sin more evil and grave. (As many Muslims, particularly in the West, try to justify unlawful business of alcohol and intoxicants with silly excuses).

2168. It was narrated that Abu Umāmah said: “The Messenger of Allāh forbade selling or buying singing girls, and their wages, and consuming their price.” (Da‘if)
The Chapters On Business.... 242

Comments:
a. Some Arabs disliked music and singing even in the pre-Islamic period. So the ladies of the respected families used to avoid it, but the female slaves would sing to entertain their masters or their friends, and they would also make musical presentations to gain prizes.

b. Singing and musical presentations are conducted in the name of art and profession, and are taken a source of income. It is unlawful from a religious perspective. Playing indecent roles in movies and the profession of modeling is also relevant to this prohibited category.

Chapter 12. What Was Narrated Concerning The Prohibition Of Munaibadhah And Mulamasah

2169. It was narrated that Abu Hurairah said: “The Messenger of Allâh forbade two kinds of transactions: Mulamasah and Munaibadhah. (Sahih)

2170. It was narrated from Abu Sa’eed Al-Khudri that the Messenger of Allâh forbade Mulamasah and Munaibadhah. (Sahih)

Sahl added: “Suîfîân said: ‘Mulamasah means when a man touches something with his hand without seeing it, and Munaibadhah means when he says: “Toss me what you have, and I will toss you what I have.”
Comments:

a. The buyer has every right to check and try the commodity prior to purchase, in order to know the quality, be it good or bad, and to see if it has any defects or not; and the consumer will decide accordingly, if he should purchase it for such and such a reasonable price.

b. The transaction that affects this statutory right of the purchaser is an unlawful transaction and illegal.

c. Lottery and these types of other prize drawing schemes, which have an uncertainty in the outcome, are all unlawful.

Chapter 13. "A Man Is Not To Undersell The Sale Of His Brother, Nor Is He To Try To Out-Haggle His Brother."

2171. It was narrated from Ibn 'Umar that the Messenger of Allah ﷺ said: "Let one of you not undersell another." \(\text{(Sahih)}\)

Requesting to cancel an already done deal is forbidden. It could be that a seller urges a buyer to return an item bought from another seller, so that he can then sell his own item to the buyer for a lesser price. Or a buyer urges a seller to cancel a deal that he has with another buyer for an item, so that he can purchase it, and is willing to pay a higher price than the former buyer. Both tricks are forbidden because such things cause quarrel and mischief.

2172. It was narrated from Abu Hurairah that the Prophet ﷺ said: "A man is not to undersell his brother, nor is he to try to out-haggle his brother." \(\text{(Sahih)}\)

\(^{[1]}\) Meaning: "Do not urge someone to cancel a sale already agreed upon so as to sell him your own goods."
Chapter 14. What Was Narrated Concerning The Prohibition Of Najsh[^1]

2173. It was narrated from Ibn ‘Umar that the Prophet forbade the Najsh. (Sahih)

2174. It was narrated from Abu Hurairah that the Prophet said: "Do not practice Najsh." (Sahih)

Comments:

a. *Najsh* is that a person does not intend to buy the goods, but he offers a bid merely to incite another needy buyer into paying a higher price.

b. It is forbidden because it is cheating and is a loss for the buyer.

c. Selling goods through bidding and auction is lawful.

[^1]: When a person praises merchandise in a manner intended to inflate the value, or he offers a high price for it in order to encourage a customer to outbid him for it.
Allâh  said: "A city-dweller should not sell for a Bedouin."  
(Sahih)

خِرَيج: اقتصر الحديث السابق، وأخرجه مسلم، البيوع، باب تحريم بيع الحاضر للبادي، ح: 1520، عن أبي بكر بن أبي شيبة.

2176. It was narrated from Jâbir bin 'Abdullâh that the Prophet  said: "A city-dweller should not sell for a Bedouin. Leave people to (engage in trade) and Allâh will grant them provision through one another."  (Sahih)

خِرَيج: [صحيح] أخرجه مسلم، البيوع، باب تحريم بيع الحاضر للبادي، ح: 1522

2177. Ibn Tâwus narrated from his father that Ibn 'Abbâs said: "The Messenger of Allâh  forbade a city-dweller to sell for a Bedouin."  (Sahih)

I (Tâwus) said to Ibn 'Abbâs: "What is meant by the words: 'A city-dweller selling for a Bedouin?' He said: "He should not be a broker for him."

خِرَيج: أخرجه البخاري، البيوع، باب: هل بيع حاضر لبادي غير أجر؟ ح: 2158 وغيره

من حديث عبدالرزاق به، وسلم، البيوع، الباب السابق، ح: 1521 من حديث م عمر به.

Comments:
See the comments of Hadith 2145.

Chapter 16. Prohibition Of Meeting Traders On The Way

2178. It was narrated from Abu Hurairah that the Prophet  said: "Do not meet the traders on the way, and whoever meets any of them and buys from him, the
vendor has the choice of annulling the transaction when he comes to the marketplace.’’

(Sahih)

Comments:
a. The caravans with goods coming to town do not know the condition of the market. Townsmen go out of the town to meet the caravans and buy the goods from the owner at a cheap price. It is forbidden.
b. The logic behind its prohibition is that if the owner from the caravan would come to the market and discover a higher market value for his goods, he would feel regret for his loss. Another logic of its prohibition is that the owner of the goods would sell his items at the going rate as he is willing to offload the goods, whereas a townsman may have the intention of hoarding the goods to drive up the market value, and then sell them at an inflated price; this would create a loss to the public.

2179. It was narrated that Ibn 'Umar said: “The Messenger of Allah forbade meeting traders on the way.” (Sahih)

2180. It was narrated that 'Abdullah bin Mas'ud said: “The Messenger of Allah forbade meeting the owners of goods (away from the market).” (Sahih)
Chapter 17. The Two Parties
To A Transaction Have The
Choice (Of Annulling It) So
Long As They Have Not Yet
Parted

2181. It was narrated from 'Abdullāh bin 'Umar that the
Messenger of Allāh said: "When
two men enter into a transaction,
each of them has the choice (of
annulling it) so long as they have
not yet parted and are still
together, or one of them has given
the option or choice to the other.
Once he has accepted the terms of
the other, then the transaction is
binding. If they part after
concluding the transaction and
neither of them has rescinded the
transaction, then the transaction is
binding."

Comments:

a. As the deal is done and the goods are received once the price has been
paid, the transaction is complete. But it is possible that the buyer, later on,
feels that the purchase should not have been made at the previously agreed
price, and he now wants to return the goods; or the seller realises that he
should not have sold the goods, and he now wants them back. In this
condition it is better for both parties to cancel the deal and exchange the
goods and payment.

b. There is a great reward for accepting the refund of the sold goods. (See
Hadith: 2199).

c. The right to return the goods or to cancel the deal is standing whilst the
seller and the buyer are together in the same transactional meeting, (or one
of them gives a choice to the other to cancel the deal until a certain period).

2182. It was narrated from Abu
Barzah Al-Aslami that the
Messenger of Allāh said: "The
two parties to a transaction have the choice (of annulling it) so long as they have not yet parted.’’

(Sahih)


2183. It was narrated from Samurah that the Messenger of Allâh ﷺ said: ‘The two parties to a transaction have the choice (of annulling it) so long as they have not yet parted.’’ (Hasan)

 تخريج: [إسناده حسن] أخرجه النسائي: 2/1487، ح: 169 من حديث قادة به

الحسن عن سمرة كتب قاله النسائي (عون المعيب: 192 وآخره) ويهز بن أسد وبحي القطان وغيرهم وذلك لا يقتضي الانقطاع (تهذيب التهذيب: 2/242، جامع التحصيل، ص: 160) لأن الرواية من كتاب إما إجازة وإما مقتلولا وكلاهما صحيح، وللتصغير انظر نبل المقصود في التعليق على سنن أبي داود، ح: 364 يسر الله لنا طبعه.

Chapter 18. A Transaction
With The Option To Cancel

(المعجم 18) - باب تبع الخيار

(التحفة 18)

2184. It was narrated that Jâbir bin ‘Abdullâh said: ‘The Messenger of Allâh ﷺ bought a load of fodder from a Bedouin man. When the transaction was concluded, the Messenger of Allâh ﷺ said: ‘Choose (either to go ahead or to cancel the transaction).’ The Bedouin said: ‘May Allâh grant you a long life of good transaction!’’ (Da’if)

Comments:

a. Selling and buying a heap or a bundle of something without it being measured or weighed is allowed; because the estimate of the weight and quantity can be determined by observation.

b. As the buyer has a statutory right to cancel the deal in the same transactional meeting, likewise the seller has the same right too.

c. Advising for one’s benefit is part of a Muslim’s sincerity, particularly when a person does not know about the matter.

2185. It was narrated from Dawud bin Salih Al-Madani that his father said: I heard Abu Sa’eed Al-Khudri say: “The Messenger of Allah ﷺ said: ‘Transactions may only be done by mutual consent.’” (Sahih)

تخريج: [إسناد], صحيح، أخرجه البخاري: 2/16 من حديث عبدالعزيز الدواويني به مطولاً.

Comments:

If the seller or the buyer is forced into a transaction, but does not agree with it in his heart, then this transaction may be annulled.

Chapter 19. Parties To A Transaction Who Differ With One Another

2186. It was narrated from Qasim bin ‘Abdur-Rahman from his father that ‘Abdullah bin Mas’ud sold one of the slaves from the state[1] to Ash’ath bin Qais, and they differed concerning the price. Ibn Mas’ud said: “I sold him to you for twenty thousand,” but Ash’ath bin Qais said: “I bought him from you for ten thousand.” ‘Abdullah said: “If you want, I will tell you a Hadith which I heard from the Messenger of Allah ﷺ.” He said:

[1] Imārah. In the narration recorded by Abu Dawud (no. 3512) it is ‘from the Khums (one-fifth of the spoils of war).’
"Tell me it." He said: "I heard the Messenger of Allâh ﷺ say: 'If two parties to a transaction differ, and they have no proof, and the sale item remains (unredeemed), then what the seller says is valid. Or they may cancel the transaction.' He said: "I want to cancel the transaction." And he cancelled it.

(Hasan)


Comments:

a. Selling and buying for (interest free) credit is allowed. The dispute mentioned in the Hadith occurs when the commodity is received in advance, and the price is meant to be paid later.

b. The matter regarding the dispute should be settled depending on the witnesses if available.

c. If there is no witness, and it is possible to return the purchased commodity, either the seller’s claim is to be accepted, or the deal is to be cancelled, and the commodity will be returned; both solutions are lawful.

Chapter 20. The Prohibition
Of Selling What Is Not With You, And From Profiting On What You Do Not Possess

2187. It was narrated that Hakim bin Hizâm said: "I said: 'O Messenger of Allâh, a man is asking me to sell him something that I do not possess. Shall I sell it to him?' He said: 'Do not sell what is not with you.'" (Hasan)

Comments:

a. The explanation of the prohibited form is if the seller does not have the
commodity but he receives a fixed price in advance, and promises that when he will have the commodity available he will give it to the buyer. It is unknown if he will have that commodity, and even if he does, the buyer may not like it; or perhaps the commodity is of a low quality compared to the price the buyer has paid in advance. It will cause a dispute and argument between the two parties, so this form of transaction is unlawful.

b. The purchase of an unspecified thing is also included in the aforementioned unlawful trade; for example: a person says, before throwing a net into the river; “Whatever number of fish get trapped in the net, I shall sell them to you for such and such a price.” Despite the fact that it is unknown whether there will be many or few fish in the net, or if they will be small or large. Therefore, the deal can only be made once the fish are out of water. The uncertainty of the deal makes it unlawful. (See: Ahādith: 2194-2195)

c. If the type, quantity and quality of the commodity is determined, and the time of delivery is appointed, then to pay a price in advance and to collect the commodity later at the appointed time is permissible. It is called Salam or Salaf (absolute interest free credit). (See Ahādith: 2280-2282)

2188. It was narrated from 'Amr bin Shu'aib, from his father, that his grandfather said: “The Messenger of Allāh ﷺ said: ‘It is not permissible to sell something that is not with you, nor to profit from what you do not possess.’” (Sahih)

2189. It was narrated from 'Atâ' that 'Attâb bin Asid said that
when the Messenger of Allâh ﷺ sent him to Makkah, he forbade him from profiting off of what he did not possess. (Da‘if)


Chapter 21. If Two Authorized Persons Make A Sale, Then The First Transaction Is The One That Is Valid

2190. It was narrated from Uqbah bin 'Amir or Samurah bin Jundab that the Messenger of Allâh ﷺ said: “Any man who sells to two men, it is for the one who was first.” [1] (Hasan)


2191. It was narrated from Samurah that the Messenger of Allâh ﷺ said: “If two (separate) authorized persons make a sale (of the same thing), then the first transaction is the one that is valid.” (Hasan)

تخريج: [حسن] انظر الحديث السابق.

Comments:
The example of a transaction made by two persons is that an item belongs to two partners. Each of the two sold it to different people without telling the other. Or the agent sold it, and the owner also sold the same thing to

[1] "What was sold, or, for the first of the two purchasers." (Sindi) This is how they explain it, although it has a slightly different meaning than the following Hadîth, and the chapter heading.
someone without informing the agent; in this case whoever made the deal first, his deal will be correct and the other’s deal will be annulled. Allâh knows best!

Chapter 22 Prohibition On Earnest Money

2192. It was narrated from ‘Amr bin Shu‘aib, from his father, from his grandfather that the Prophet ﷺ forbade the deal involving earnest money. (Hasan)

2193. It was narrated from ‘Amr bin Shu‘aib, from his father, from his grandfather that the Prophet ﷺ forbade the deal involving earnest money. (Hasan)

Abu ‘Abdullâh said: Earnest-money refers to when a man buys an animal for one hundred Dinâr, then he gives the seller two Dinâr in advance and says: “If I do not buy the animal, then the two Dinâr are yours.”

And it was said that it refers, and Allâh knows best, to when a man buys something, and gives the seller a Dirham or less or more, and says: “If I take it (all well and good), and if I do not, then the Dirham is yours.”

Earnest money: A kind of down payment which is counted towards the cost of the goods if the transaction is completed, and which is kept by the seller if the transaction is cancelled. This is commonly referred to as a non-refundable ‘deposit’ or ‘down payment’. 
Comments:
‘Amir San‘âni said in Subulus-Salâm Sharh Bulughul-Marâm: “The jurists are at variance regarding the permissibility of this transaction. Imam Mâlik and Shâ‘î declared it illegal due to the Hadith prohibiting it. They declared it illegal due to another reason as well; because it involves an unreasonable condition, it is cheating as well. It also involves a trick to consume others’ wealth through unlawful means.” This opinion seems to be correct; because the seller does not give anything or any benefit to the buyer in exchange for the deposit he receives from the buyer; and taking one’s property without exchange is impermissible. Besides this, accepting the sold item back is rewarding. (See Hadith: 2199). The condition of deposit is made lest the purchaser return the bought merchandise. It is an act which keeps one away from doing a good deed, which cannot be appreciated.

Chapter 23. Prohibition Of Hasâh And Gharar Transactions[1]

2194. It was narrated that Abu Hurairah said: “The Messenger of Allah forbade Gharar transactions and Hasâh transactions.” (Sahih)

2195. It was narrated that Ibn ‘Abbâs said: “The Messenger of Allah forbade Gharar transactions.” (Sahih)

[1] Hasâh: A transaction involving throwing pebbles, which may be understood in three ways: (i) the seller throws pebbles onto the goods and gives the buyer whatever the pebbles land on; (ii) the seller sells land then tells the purchaser that he will get the land as far as a pebble thrown by the seller reaches; (iii) the seller tells the purchaser that he has the option to change his mind until he (the seller) throws a pebble, at which point the transaction becomes binding.

Gharar: Selling goods which appear sound but contain some hidden fault, or concerning which something is unclear.
Comments:

a. All forms of transactions in which the quantity of the commodity being sold and bought cannot be estimated, are the transactions which involve uncertainty and cheating. For example: the sale of fish in water, or the sale of an unborn baby animal which is still in the female’s womb. The transaction of uncertainty and cheating also includes the things which are impossible to handover to the buyer, like the sale of a lost animal.

b. The deal of transaction done by throwing a pebble is a type of lottery, which was in vogue during the pre-Islamic period. For example: The seller would ask the customer to throw a pebble; and then whichever item amongst many got hit by the pebble would be sold for one hundred pounds; whilst those items varied in quantity, quality, value and price. Many modern forms of lottery are practised these days; as some companies introduce prize drawing schemes to increase the sale of their product. These all are under the rule of ‘Transaction done by throwing a pebble’.

Chapter 24. Prohibition Of Buying What Is In The Wombs And Udders Of Cattle, And Whatever A Diver Is Going To Bring Up

2196. It was narrated that Abu Sa’eed Al-Khudri said: “The Messenger of Allâh ﷺ forbade selling what is in the wombs of cattle until they give birth, and selling what is in their udders unless it is measured out, and selling a slave who has fled, and selling spoils of war until it has been distributed, and selling Sadaqah until it has been received, and what a diver is going to bring up.” (Hasan)

[1] The An’âm are domesticated grazing animals including camels as well as cows and sheep.
The Chapters On Business

Comments:

This Hadith is Weak; but the issue mentioned in it is authentic because the forms of sale mentioned in it are all transactions of uncertainty and cheating. However if milk is bought after measuring it, then it does not involve cheating, so it is a lawful sale.

2197. It was narrated from Ibn 'Umar that the Prophet forbade selling Hablul-Habalah.

(Sahih)

Comments:

a. Habalul-Habalah is to sell and buy a baby of an animal before its birth, which is illegal; because it involves uncertainty and cheating. It is unknown whether the baby will be male or female, physically fit or defective.

b. Payment of a loan should have a clear appointed time. Then if the debtor could not pay back at the appointed time, and asked for more time, or the deadline is not set at all; and then the debtor pays back according to the flexible ability; granting this type of flexibility to the debtor is a highly virtuous deed.

Chapter 25. Auctions

2198. It was narrated from Anas bin Mâlik that a man from among the Ansâr came to the Prophet and begged from him. He said, “Do you have anything in your house?” He said: “Yes, a blanket, part of which we cover ourselves with and part we spread beneath us, and a bowl from which we drink water.” He said: “Give them to me.” So he brought them to him, and the Messenger of
Allāh ﷺ took them in his hand and said, “Who will buy these two things?” A man said: “I will buy them for one Dirham.” He said: “Who will offer more than a Dirham?” two or three times. A man said: “I will buy them for two Dirham.” So he gave them to him and took the two Dirhans which he gave to the Ansārī and said: “Buy food with one of them and give it to your family, and buy an axe with the other and bring it to me.” So he did that, and the Messenger of Allāh ﷺ took it and fixed a handle to it, and said: “Go and gather firewood, and I do not want to see you for fifteen days.” So he went and gathered firewood and sold it, then he came back, and he had earned ten Dirhams. (The Prophet ﷺ) said: “Buy food with some of it and clothes with some.” Then he said: “This is better for you than coming with begging (appearing) as a spot on your face on the Day of Resurrection. Begging is only appropriate for one who is extremely poor or who is in severe debt, or one who must pay painful blood money.”1)

1. Painful blood money i.e., if the blood money is not paid, the killer will be executed and his family will suffer his loss.
Comments:
A calamity stricken person is allowed to make an appeal of financial support but taking begging as a profession is unlawful. The Messenger of Allâh ﷺ said: “Begging is only allowed for three type of people: a person who took a loan (to set right someone else’s matters and the loan was more than his financial capability) is allowed to make an appeal until he gets the required amount of money and then he should stop; the second person allowed to make financial appeal is the one who is afflicted by a calamity and all his property got ruined. He is allowed to do so until he finds means to fulfill the needs of his daily life. The third person having this is the one who is suffering from starvation; three wise and reliable individuals from among his people should certify the case that so-and-so is really suffering from starvation. (Sahih Muslim: 1044)

Chapter 26. Letting Someone Off

2199. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “Whoever agrees with a Muslim to cancel a transaction, Allâh will forgive his sins on the Day of Resurrection.” (Da‘if)

Comments:
a. If one is given a choice at the time of making the deal to annul the sale; for example: a person says to the other that you are allowed to cancel the deal within such and such time, then the person given the choice may use this right to cancel the sale within the fixed time.
b. But if the condition of choice does not exist, and the buyer wants to return the bought commodity; or the seller wants it back for the exchange of the same price, then either of the two parties should accept the request of the other, and should exchange the commodity and price. It is a deed of great reward. It will be seen as a moral duty but not a legal responsibility.

Chapter 27. Whoever Does Not Like To Fix Prices

2200. It was narrated that Anas bin Mâlik said: “Prices rose
during the time of the Messenger of Allâh ﷺ, and they said: 'O Messenger of Allâh, prices have risen, so fix the prices for us.' He said: 'Indeed Allâh is the Musa’ir,[1] the Qâbid, (Restrainer) the Bâsit,[2] the Râzâq (Provider).

And I am hopeful that I meet my Lord and none of you are seeking (recompense from) me for an injustice involving blood or wealth.'” (Sahih)

2201. It was narrated that Abu Sa’eed said: “Prices rose at the time of the Messenger of Allâh ﷺ, and they said: ‘Why do you not fix the food prices, O Messenger of Allâh?’ He said: ‘I hope that when I leave you, no one among you will be demanding restitution for a wrong that I have done to him.’” (Sahih)

Comments:
a. The affairs of trade should operate according to the economic law of demand and consumption, and import and export, which is better for the economy of the country; and the government should avoid interfering in it.

b. If the traders do not take care of the needs of the public, due to the greed of excessive profit, then the government can get rid of the artificial inflation and shortage by providing the food stuff from the official stores for cheaper rates.

[1] “In An-Nihâyah he said: ‘It is that He is the One who makes things inexpensive and expensive, He can not be opposed by anyone. So because of that it is not allowed to fix prices.’” (Tuhfatul-Ahwadhi)

[2] “Meaning: He restricts sustenance and other than that from whom He wills, regarding what He wills, and how He wills, and He makes it unrestricted.” (Tuhfatul-Ahwadhi)
Chapter 28. Being Lenient During Transactions

2202. ‘Uthmân bin ‘Affân narrated that the Messenger of Allah ﷺ said: “Allâh will admit to Paradise a man who was lenient when he sold and when he bought.” (Sahih)

Comment:
a. Easiness and flexibility in sale is to give appropriate concession in price, and to give respite to the debtor; and if a buyer asks for an unreasonable concession, then the seller should excuse himself instead of making an argument. If a buyer wants to return the bought commodity, it should be taken back.

b. Easiness in buying is that the buyer should not ask for an unreasonable reduction in price; and if there is a minor defect in the commodity, it should be overlooked. The price should be paid immediately according to the best ability. If seller misbehaves and shows harshness in sale, the buyer should not pay with the same token.
Chapter 29. Haggling

2204. It was narrated that Qailah Umm Bani Anmâr said: “I came to the Messenger of Allâh ﷺ during one of his ‘Umrah at Marwah and said: ‘O Messenger of Allâh, I am a woman who buys and sells. When I want to buy something, I state a price less than I want to pay, then I raise it gradually until it reaches the price I want to pay. And when I want to sell something, I state a price more than I want, then I lower it until it reaches the price I want.’ The Messenger of Allâh ﷺ said: ‘Do not do that, O Qailah. When you want to buy something, state the price you want, whether it is given or not. And when you want to sell something, state the price you want, whether it is given or not.’” (Da’îf)

### Arabic Text

2204 - حدثنا يحيى بن سعيد بن كعب: حدثنا يحيى بن سعيد, عن عبيد الله بن عمرو بن الحكم, عن فيلقيلة أم تبي أنثى قالت: أتبت رسول الله ﷺ في بضعة عمراً عند المروة. فقلت: يا رسول الله إني أمرأة أبيع وأشترى. فإذا أردت أن أبيعABLEGGY, سمعت به أقول ما أريد. ثم رددت، ثم رددت حتى بلغ النبي ﷺ أريد. وإذا أردت أن أبيع ABLEGGY, سمعت به أكثر من النبي ﷺ أريد. ثم وضعتم حتى بلغ النبي ﷺ أريد. قال: “أعطيني أو معين.” قال: “إذا أردت أن أعطيني شياً فاستمعي به الذي تريد. أعطيني أو معين.”

### Translation

2204. It was narrated that Jâbir bin ‘Abdullâh said: “I was with the Prophet ﷺ on a military campaign, and he said to me: ‘Will you sell this camel of yours for a Dinâr?’ I said: ‘O Messenger of Allâh, it is yours when I get to Al-Madinah.’ He said: ‘Then sell it for two Dinârs, may Allâh forgive you.’ And he kept increasing the price for me, saying: ‘May Allâh forgive you,’ each time, until the

*Note: The Arabic text contains a mistake in the narrative, indicating that the Prophet ﷺ increased the price for the camel, which is unusual for a haggling scenario.*
amount reached twenty Dinār. When I came to Al-Madinah, I took hold of the camel’s head and brought it to the Prophet ﷺ and he said: ‘O Bilāl, give him twenty Dinār from the spoils of war.’ And he said: ‘Take your camel away and go to your people with it.’” (Sahīhi)

Comments:

a. To receive the price first and then to give the commodity to the buyer, is lawful; even though at that time the commodity is with the seller. But in this situation the mutual consent of seller and buyer is necessary.

b. When doing a favor for a person in any sort of deal, it should be done in such a way that it looks like a normal business deal, and the person receiving the favor does not feel ashamed, as this is a matter of great courage, highness, generosity and dignity.

2206. It was narrated that ‘Ali said: “The Messenger of Allāh ﷺ forbade haggling before sunrise, and (he forbade) slaughtering animals that yield milk.”” (Da’if)

Comments:

The purpose of slaughtering is for the use of the meat, and this purpose can be achieved by slaughtering an animal that does not give milk. Therefore, it is inappropriate to be deprived from the favor of milk.
Chapter 30. What Was Narrated About It Being Disliked To Swear Oaths When Buying And Selling

2207. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “There are three to whom Allah will not speak on the Day of Resurrection, nor will He look at them or purify them, and theirs will be a painful torment: A man who has surplus water in the desert but refuses to give any to a wayfarer; a man who sells a product to a man after ‘Asr and swears by Allah that he bought it for such and such amount, and he believes him, when that is not the case; and a man who swears allegiance to a ruler, and only does so for worldly gains, so if he gives him some of (these worldly benefits) he fulfills his oath of allegiance, and if he is not given anything, he does not uphold his oath of allegiance.” (Sahih)

Comments:

a. ‘Neither speaking to nor looking at’ means the talk of mercy and the look of kindness; otherwise Allah will judge every action, good and bad; and nothing can be hidden before Him.
b. ‘Not to purify’ means not to forgive sins.
c. Giving water to the thirsty is a deed of great reward. Particularly, giving drinking water to the people at a place where it is not available easily is a source of high reward.
d. A water spring in the desert is a grace of Allah ﷺ. Occupying that spring water illegally and not letting the needy drink from it is mean spirited.
e. Bearing false oath is a sin. Swearing a false oath after ‘Asr prayer is an even worse sin; and such a grave sin is committed just for the assumed benefit of
a small amount of money!!! Because there is no certainty that the customer will definitely buy something with the impression of his false oath. A false oath for this type of objective is an extremely indecent act; therefore, its punishment is severe too.

2208. It was narrated from Abu Dharr that the Prophet ﷺ said: “There are three to whom Allāh will not speak on the Day of Resurrection, nor will He look at them or purify them, and theirs will be a painful torment.” I said: “Who are they, O Messenger of Allāh? For they are indeed losers.” He said: “The one who lets his garment hang beneath his ankles, the one who reminds another of what he has given him, and the one who sells his product by means of false oaths.” (Sahih)

Comments:

a. It is forbidden for a man to lower his garment, trousers and pants below the ankles. A man must have the garment, trousers and pants above the ankles, which will leave the ankles uncovered. Declaring an act, that deserves such a severe punishment, to be merely disliked is incorrect.

b. Swearing a false oath in the Name of Allāh is contrary to the regard of Allāh’s Blessed Name, and disregarding Allāh’s Name is a major sin.

2209. It was narrated from Abu Qatādah that the Messenger of Allāh ﷺ said: “Beware of swearing oaths when selling, for it may help you to make a sale but it destroys the blessing.”” (Sahih)

تخريج: أخرج حسن مسلم، الإيمان، الأبواب السابعة، ح: 106 عن حديث علي بن مدرك عليه.
The Chapters On Business

Comments:
It is best that oaths be used rarely. It is not a good habit to keep swearing unnecessarily to sell goods.

Chapter 31. What Was Narrated Concerning One Who Sells A Pollinated Palm Tree Or A Slave Who Has Wealth

2210. It was narrated from Ibn 'Umar that the Messenger of Allâh ﷺ said: “Whoever buys a palm tree that has been pollinated, its fruits belong to the seller, unless the purchaser stipulated a condition.” (Sahih)

Another chain from Ibn 'Umar, from the Prophet ﷺ, with similar wording.

Comments:

a. Male and female flowers of date trees grow on separate trees; if wind, flies and insects are the only means for the transfer of pollination of male and female flowers, then the yield of fruits gets reduced. Therefore the flowers of the male tree are taken and spread over the female tree and thus the trees bear more fruits. It is called artificial pollination.

b. Artificial pollination is hard work, and the quantity of the produce depends on it. So if a tree is sold after artificial pollination is done, the hard work of the seller will go vain, therefore, it should be made clear at the time of transaction whether it is only the tree that is being sold or its fruit as well. If it is not cleared beforehand, then only the tree will be sold, and its fruit will legally belong to the seller. However, in the following years if a buyer does artificial pollination he will be the owner of the fruit as well.

2211. It was narrated from Sâlim bin 'Abdullâh bin 'Umar, from
Ibn 'Umar, that the Messenger of Allah ﷺ said: "Whoever sells a palm tree that has been pollinated, its fruits belong to the seller, unless the purchaser stipulated a condition. And whoever buys a slave who has wealth, his wealth belongs to the seller, unless the purchaser stipulated a condition." (Sahih)

Comments:
a. A slave sometimes needs wealth to fulfill his duties and the master gives him a reasonable amount of money to spend; or the master may be pleased with the service of his slave and give him some jewelry to wear for encouragement. In such cases, this wealth still belongs to the master, and it will not go with the slave if he is sold.

b. If a buyer makes it clear that he is buying the slave along with the wealth; or trees along with the fruits; it is then apparent that the price will increase accordingly. In this case, according to the condition, the wealth or fruit will belong to the buyer.

2212. It was narrated from Nâfî‘ from Ibn 'Umar that the Prophet ﷺ said: "Whoever sells a palm tree and sells a slave." Mentioning both of them together. [1]

[1] This narration is reported by Shu’bah, from ‘Abd Rabbihi bin Sa‘eed, from Nâfî‘. In Al-Kubra (the Book of Freeing Slaves: Mention of a slave being freed while he has wealth) by Nasâ‘i, after narrating it, Shu’bah said: "I narrated to him ('Abd Rabbihi) the narration of Ayyub, from Nâfî‘, that he narrated it to me with 'palm tree' from the Prophet ﷺ, and 'slave' from 'Umar. So 'Abd Rabbihi said: 'I do not know of the two of them together except from the Prophet ﷺ.' Then, another time he narrated it from the Prophet ﷺ, without any rebuke about it." So in this narration of Ibn Majah, from Shu’bah, from ‘Abd Rabbihi, the statement: "Both of them together" is from the explanation of Shu’bah, and Allah knows best.
Chapter 32. Prohibition Of Selling Fruits Before They Have Ripened

2213. It was narrated that 'Ubadah bin Sämit said: "The Messenger of Allâh ﷺ ruled that the fruit of a palm tree belongs to the one who pollinated it, and that the wealth of a slave belongs to the one who sold him, unless the purchaser stipulated a condition." (Da’îf)

Comment:

a. Selling and buying the fruit which is still on the trees is allowed.

b. When trees get flowers, it looks as if the fruit will be enormous but lots of flowers just fall down. A lot of small fruit in its early age of growth falls down because of winds; and then sometimes it goes to waste because of unexpected rain. The fruit which is safe after all of these misfortunes is the real fruit that benefits the buyer. Therefore, the fruit of an orchard should be sold after passing these stages and a clear estimate is made regarding the quantity of fruit that is expected. This is interpreted in the Hadith by ‘until they have ripened’ as ‘until the fruits are clearly in good condition’.
2215. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: "Do not sell fruits until they have ripened." (Sahih)

2216. It was narrated from Jābir that the Prophet ﷺ forbade selling fruits until they have ripened. (Sahih)

2217. It was narrated from Anas bin Mālik that the Messenger of Allah ﷺ forbade selling fruits until they have changed the color, and selling grapes until they have turned black, and selling grains until they have hardened. (Da’īf)

Comments:

a. Different crops, grains, and fruits have different ways to be judged before they are sold.

b. The raw fruit of an orchard is green and later its real color begins to appear gradually. At this time, the danger of waste is little, and to sell them is safe and lawful. The real objective of changing the color is to let them grow big enough until they are out of climatic danger.
Chapter 33. Selling Fruits For Many Years Ahead[1] And Crop Failure

2218. It was narrated from Jăbir bin ʿAbdullāh that the Messenger of Allāh ﷺ forbade selling for many years ahead. (Sahih)

Comments:

a. ‘Selling for many years ahead’ is, for example: to sell the fruits due for the next two or three years and to receive a price in advance; this is prohibited.

b. The logic of its prohibition is that the situation of the produce in the following years is unknown; as well as whether there will be produce or not. It is also possible that the fruit will go to waste after the appearance and the buyer’s money is then wasted as well. From this prospect, it is a sale of uncertainty and cheating.

c. See Ahādīth 2194-2197 for detailed information about the sale which involves uncertainty and cheating.

2219. It was narrated from Jăbir bin ʿAbdullāh that the Messenger of Allāh ﷺ said: “Whoever sells fruits then the crop fails, should not take any of his brother’s money. Why would any of you take the money of his Muslim brother?” (Sahih)

Comments:

The money is exchanged for merchandise; when the fruit of the orchard was sold it was not able to be used, which means the buyer did not collect

[1] Meaning, to take money in advance against the next two or three years of produce, prior to the existence of the produce. See explanation by Sindi.
it. It was merely a promise of giving fruit to the buyer; and as the fruit went to waste and the buyer did not get anything, but has paid the price in advance, or has promised to pay; thus he would pay the price and would not receive anything in exchange; therefore this type of sale is unlawful.

Chapter 34. Allowing More When Weighing Goods For Sale

2220. It was narrated that Suwaid bin Qais said: “Makhrafah Al-‘Abdi and I brought linens from Hajar.[1] The Messenger of Allâh ﷺ came to us to bargain with us with some trousers. There was someone with me who weighed (the goods) in exchange for a wage. So the Prophet ﷺ said to the one weighing: ‘Weigh and add more.’” (Sahih)

Comments:
a. The business of cloths is religiously lawful.
b. Business of import and export is permissible.
c. Shalwâr (a loose Punjabi style trouser) is a good and decent dress.
d. Taking a wage for weighing and measuring is allowed, as well as taking a wage for any work that involves physical labor.
e. To keep the measuring part of a scale a little lower is good manners. But giving short measure in weight and measurement is dishonesty; and it is a major sin.

2221. It was narrated that Simâk bin Harb said: “I heard Malik, Abu Safwân bin ‘Umairah, say: ‘I bought a pair of trousers from the Messenger of Allâh ﷺ before the

[1] There are many places with this name, one of which is a village close to Al-Madinah.
Hijrah, and he weighed it for me and allowed more.” (Sahih)

The Chapters On Business

Comments:
The translation of Sarāwil: Loose Punjabi trouser, pyjama and pants is correct. Its name may vary depending upon various locations, designs and styles.

2222. It was narrated from Jābir bin ‘Abdullāh that the Messenger of Allāh ﷺ said: “When you weigh, allow more.” (Sahih)

Chapter 35. Being Cautious With Regard To Weights And Measures

2223. It was narrated that Ibn ‘Abbās said: “When the Prophet ﷺ came to Al-Madinah, they were the worst people in weights and measures. Then Allāh, Glorious is He, revealed: “Woe to the Mutaffifun (those who give less in measure and weight),[1] and they were fair in weights and measures after that. (Hasan)


تخريج: [إسناده حسن] أخرجه النسائي في الكبرى، النسخ، سورة المطففين، ح: 11590.
Chapter 36. Prohibition Of Cheating

2224. It was narrated that Abu Hurairah said: "The Messenger of Allah passed by a man who was selling food. He put his hand in it and saw that there was something wrong with it. The Messenger of Allah said, 'He is not one of us who cheats.'" (Sahih)

Comments:

a. The cheating involved in the grains was that some of the grains became wet because of the rain. The seller put the dry grains at the top and thus the wet grains got covered beneath. (Sahih Muslim: 101)

b. There are many forms of cheating, all of which are unlawful. For example:
   Trying to prove a lie as a truth with plausible conversation, presenting falsehood in the way of truth, not to disclose a defect in the goods, adulterating low quality products with that of fine quality; and then to sell it for the price of the finer quality.

c. Using illegal means in exams like copying; or the examiner gives more marks to the student than what he/she deserves, are also a form of deception and cheating. It deprives the rightful people from their true right.

2225. It was narrated that Abu Hamrâ' said: "I saw the Messenger of Allah pass by a man having food in a vessel. He put his hand in it and said: 'Perhaps you are cheating. Whoever cheats us is not one of us.'" (Da'if)
Chapter 37. The Prohibition Of Selling Food Before Taking Possession Of It

2226. It was narrated from Ibn 'Umar that the Prophet ﷺ said: "Whoever buys food, let him not sell it until he has taken full possession of it.” (Sahih)

2227. It was narrated that Ibn 'Abbās said: "The Messenger of Allāh ﷺ said: ‘Whoever buys food, let him not sell it until he has taken full possession of it.’” (Sahih)

In his narration, (one of the narrators) Abu 'Awânah said: "Ibn 'Abbās said: ‘I think everything is like food.’”

2228. It was narrated that Jābir said: "The Messenger of Allāh ﷺ forbade selling food bought by measure until two Sā’ have been measured – the Sā’ of the seller

المجمّع (37) - باب التّّنفّق بِن يَبِع الطّعَام قبلَ ما لم يُقبَض (التحفة 37)

2226 - حدّثنا سُوْيَدُ بْن سُعْيَة: حدّثنا مالك بن أبينسى، عن نافع، عن ابن عمر أنّ الالهي قال: أمّي إباع طعاماً فلّا يبيعه، حتى يسكنفه.


تخرّج: أخرجه البخاري، البيوع. باب بيع الطعام قبل أن يقبض وبيع ما ليس عندك، ح: 2136، ومسلم، البيوع، باب بيع الطعام قبل القبض، ح: 1525 من حديث عمر بن دينار بألفاظ مقاربة.

2228 - حدّثنا علي بن مَحْمَد: حدّثنا وعَيْبَع عَنْ ابن أبي ليلى، عن أبي الزرّاح، عن جابر، قال: نهى رسول الله ﷺ عن يبيع الطعام.
and the Sā' of the buyer." [1]

(Da'if)

Comments:

a. Selling and buying without looking at the goods is a trade of such people who do not need the goods for themselves; and they make a profit without hard work. Thus the goods reach the consumers with expensive rates; and the real producers (like farmers) get a very low price.

b. Measuring by two measures, means that it should be measured or weighed after the purchase, and then it should be handed over to the new buyer after measuring it again. The goods which are to be weighed should be weighed; and the goods which are to be counted should be counted before collection and they should be counted again before being handing over to the customer, so that no one is deceived at any point.

Chapter 38. Chapter Sales Involving Risk (Due To Its Amount Being Unknown)

2229. It was narrated that Ibn 'Umar said: "We used to buy food from troops of riders (i.e., the caravans) without knowing the amount, but the Messenger of Allâh ṣṣ forbade us to sell it until it had been delivered to us."

(Sahîh)

Comments:

a. It is known from this Hadîth that buying grains with an estimate, without measuring or weighing, is correct but measuring and weighing is better to avoid any uncertainty.

b. After making the deal, the goods should be taken to one's control and transferred from there; and thereafter should be sold.

[1] When someone purchases food that was measured for him, he can not sell it until he has measured it again for his customer. See no. 2230.
2230. It was narrated that 'Uthmân bin ‘Affân said: “I used to sell dates in the marketplace, and I would say: ‘This was such and such an amount (when I bought it).’ I would give the purchaser a specific amount of dates according to the way it had been measured for me, and take my profit. Then I began to have some doubts about that, so I asked the Messenger of Allâh ﷺ, and he said: ‘When you name the amount, measure it in front of the purchaser.’” (Hasan)

Comments:

a. The commodity bought as a measure should be measured again at the time of sale in order to avoid doubt and uncertainty and so that the customer will be satisfied.

b. If there is doubt in any issue of lawfulness or unlawfulness, it should be clarified by a scholar.

Chapter 39. The Blessing That Is Hoped For When Measuring Food

2231. It was narrated that ‘Abdullâh bin Busr Al-Mâzînî said: “I heard the Messenger of Allâh ﷺ say: ‘Measure your food, may you be blessed therein.’” (Sahih)
2232. It was narrated from Abu Ayyub that the Prophet ﷺ said: "Measure your food, may you be blessed therein." (Sahih)

Chapter 40. Marketplaces And Entering Them

2233. It was narrated that Abu Usaid said that the Messenger of Allâh ﷺ went to the market of Nabît, and looked at it, and said: "This is not a market for you." Then we went to another market and looked at it, and said: "This is not a market for you." Then he came back to this market and walked around in it, then he said: "This is your market. It will always be your market and no duty will be levied on it." (Da’îf)
2234. It was narrated that Salmân said: "I heard the Messenger of Allâh ﷺ saying: ‘Whoever goes to the Morning prayer first thing in the morning, he goes out with the banner of faith, but whoever goes out to the marketplace first thing in the morning, he goes out under the banner of Iblîs (Satan).’" (Da‘îf)

2235. It was narrated from Sâlim bin ‘Abdullâh bin ‘Umar, from his father, that his grandfather told that the Messenger of Allâh ﷺ said: “Whoever says, when he enters the marketplace: ‘Lâ ilâh illallâh wahdahu là sharika lahu, lahul-mulk wa lahul-hamdu, yuhyi wa yumitu, wa Huwa hayyûn la yamutu, bi yadikil-khairu kulluku, wa Huwa ‘ala kulli shay’in Qadir (None has the right to be worshiped but Allâh alone, with no partner, to Him belongs all sovereignty and to Him is the praise, He gives life and gives death, and He is Ever-Living and does not die; in His Hand is all goodness and He is Able to do all things),’ Allâh will record for him one million good deeds, and will erase from him one million bad deeds, and will build for him a house in Paradise.” (Da‘îf)


Comments:

a. Going to the market for lawful needs is allowed.
b. Remembering Allāh at a place where the atmosphere is unmindful of Allāh is a matter of enormous reward.
c. A good deed performed according to the Sunnah, which apparently looks small, has a high status before Allāh.
d. Only those words and supplications should be chanted and remembered which are authentically reported from the Prophet; self made and self introduced remembrances must be avoided.

Chapter 41. The Blessing That Is Hoped For When Starting One’s Day Early

It was narrated from Sakhr Al-Ghāmīdī that the Messenger of Allāh (ﷺ) said: “O Allāh, bless my nation in their early mornings (i.e., what they do early in the morning).” (Hasan)

He said: “When he sent out a raiding party or an army, he would send them at the beginning of the day.”

He said: “Sakhr was a man engaged in trade, and he used to send his goods out at the beginning of the day, and his wealth grew and increased.”

Comments:

a. Morning time is a blessed time; therefore it should be spent in good work. It should not get wasted in negligence and sleep.
b. Opening a shop early in the morning is a source of blessing for the shopkeeper.
2237. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: "O Allah, bless my nation early in the morning of Thursday.’’ (Sahih)

2238. It was narrated from Ibn 'Umar that the Prophet ﷺ said: "O Allah, bless my nation in their early mornings." (Sahih)

Chapter 42. Selling The Musarrāḥ[1]

2239. It was narrated from Abu Hurairah that the Prophet ﷺ said: "Whoever buys a Musarrāḥ, he has the choice (of annulling the deal) for three days. If he returns

[1] A Musarrāḥ is a sheep or she-camel that is not milked for one or two days, to increase the amount of milk in its udder, so that it can then be sold for a higher price. This kind of deception and cheating is forbidden in Islam.
it, then he must also give a Sā' of dates, not Samrā'." Meaning wheat. *(Sahih)*

**Comments:**

a. When people want to sell a milch animal (like: a cow, buffalo, goat or sheep etc.), they stop milking it two or three days in advance; due to which the udders become quite full with milk. Looking at the big udders, the buyer thinks that this cow, buffalo, goat or camel will give a good amount of milk; thus he buys it and pays a good price. It is a kind of deception, and deceiving someone is unlawful.

b. Three days deadline is fixed to cancel this transaction. Because the first day’s milking does not disclose the secret of cheating; as for the second day, the buyer may think that the milk was less probably because of the change of atmosphere, or because of less or more fodder; but if the milk is less on the third day as well, then it means the milk was definitely stopped by the seller from being milked, and this is how the deception was committed.

c. Paying a Sā' of dates to the owner at the time of returning the animal is ordered on moral ground; because if the owner feels anger due to the cancellation of transaction, it may soothe the anger to some limit. It is not the price of the milk used for three days. If the buyer benefits from milk, he feeds the animal and looked after its necessary needs as well.

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2240. 'Abdullāh bin 'Umar said: "The Messenger of Allāh ﷺ said: 'Whoever buys a Muhaffalah,' he has the choice (of annulling the deal) for three days. If he returns it, then he must also give wheat equal to twice the amount of its milk, or equal to the amount of its milk.'" *(Da‘if)*
2241. It was narrated that 'Abdullāh bin Mas‘ud said: “I bear witness that the true and truly inspired one Abūl-Qāsim told us: ‘Selling a Muhaffalah is Khilābah, and Khilābah is not lawful for the Muslim.'” (Ibn Mājah said: “Meaning: ‘Deception.’”) (Da‘if)

2242. It was narrated from 'Āishah that the Messenger of Allāh ruled that what a slave earns belongs to his guarantor. (Hasan)

Chapter 43. A Slave’s Earnings Belong To His Guarantor[1]

2243. It was narrated from 'Āishah that a man bought a slave and put him to work, then he found some defect in him, so he returned him. He (the seller) said: “O Messenger of Allāh, he put my slave to work.” The Messenger of

[1] i.e., his master who put him to work at the time he earned that income.
Allâh ﷲ said: "A slave’s earnings belong to his guarantor." (Da’îf)

Allâh ﷲ said: "A slave’s earnings belong to his guarantor." (Da’îf)

Comments:

a. If something is bought which brings in income, and then it is returned, the buyer will not give anything in return to the seller along with the commodity for the number of days he kept it and benefited from it. Only the milking animal is exempt from this rule; a Sa’ of dates will be given in return along with the animal.

b. If the animal dies while in the charge of the buyer; or anything else goes to waste or is destroyed, then the buyer will bear this loss. If the buyer gets an income from it, he deserves it. The buyer will not return the income earned from that item when returning it to the seller.

Chapter 44. Contractual Obligation Regarding A Slave

2244. It was narrated from Samurah bin Jundab that the Messenger of Allâh ﷲ said: "The contractual obligation regarding a slave lasts for three days."[1] (Da’îf)

2245. It was narrated from ‘Uqbah bin ‘Amîr that the Messenger of Allâh ﷲ said: "There is no contractual obligation after four days." (Da’îf)

[1] Meaning, the seller is responsible for any defect found in the slave during that time.
The meaning of the Hadith is when one buys a slave and then later finds a defect in him. If the buyer comes across the defect within three days and he wants to return him, then he may do so. He is not allowed to do so after three days. But this Hadith is Weak. It is a moral and religious duty of every seller to disclose, very clearly, the defect in whatever he sells.

Chapter 45. One Who Sells Defective Goods Should Point Out The Defect

2246. It was narrated that ‘Uqbah bin ‘Amir said: “I heard the Messenger of Allah ﷺ say: ‘The Muslim is the brother of another Muslim, and it is not permissible for a Muslim to sell his brother goods in which there is a defect, without pointing that out to him.’” (Sahih)

Comments:

a. Every Muslim should be a well-wisher of other Muslims.

b. Any defect and shortcoming in the commodity on sale should be disclosed; because it may be that the defect does not have any bearing for the objective for which the buyer requires.

c. The price of a fine quality item should not be set upon one of lower quality.

d. Disclosing a defect of any commodity is honesty, and honesty is an important quality of a Muslim.

2247. It was narrated that Wâthilah bin Asqâ said: “I heard the Messenger of Allah ﷺ say: ‘Whoever sells defective goods without pointing it out, he will remain subject to the wrath of Allah, and the angels will continue to curse him.’” (Da’if)
Chapter 46. Prohibition Of Separating Captives

2248. It was narrated that 'Abdullâh bin Mas'ûd said: "When captives were brought to him, the Prophet ﷺ would give the members of one family together (to one person), not wanting to separate them." (Da'îf)

2249. It was narrated that 'Ali said: "The Messenger of Allâh ﷺ gave me two slaves who were brothers, and I sold one of them. He said: 'What happened with the two slaves?' I said: 'I sold one of them.' He said: 'Take him back.'" (Da'îf)

2250. It was narrated that Abu Musa said: "The Messenger of Allâh ﷺ cursed the one who separates a mother and her child, or a brother from his brother." (Da'îf)
Chapter 47. Buying Slaves

2251. It was narrated that 'Abdul-Majid bin Wahb said: "Addā' bin Khâlid bin Hawdhah said to me: 'Shall I not read to you a letter that the Messenger of Allâh wrote to me?' I said: 'Yes.' So he took out a letter. In it was: 'This is what 'Addā' bin Khâlid bin Hawdhah bought [from] Muhammad the Messenger of Allâh. He bought from him a slave' - or - 'a female slave, having no ailments, nor being a runaway, nor having any malicious behavior. Sold by a Muslim to a Muslim.'" (Hasan)

Comments:

a. A document should be composed when selling and buying something precious.

b. 'Bought a male or a female slave', i.e., the document has the word written 'male slave' or 'female slave'; this doubt is from 'Abbâd bin Laith, who is a teacher of Imam Ibn Mâjah’s teacher.

c. The word Ghâ'ilah is explained through various meanings: i.e. she does not have a habit of running away, stealing or committing adultery or any other bad habit; this word also means she is not stolen property; and the third meaning is that the seller is not hiding any defect in the slave.
2252. It was narrated from ‘Amr bin Shu’aib from his father that his grandfather told that the Messenger of Allâh (ﷺ) said: “When anyone of you buys a slave woman let him say: ‘Allâhumma inni as’aluka khairat wa harra mâ jabaltah ‘alaihi, wa a’udhu bika min sharriha wa sharri mâ jabaltah ‘alaihi (O Allâh, I ask You for the goodness within her and the goodness that You have made her inclined towards, and I seek refuge with You from the evil within her and the evil that You have made her inclined towards).’ And he should pray for blessing. And if anyone of you buys a camel then he should take hold of its hump and pray for blessing and say similar words.” (Hasan)

Chapter 48. Bartering And Excesses Not Permitted In Hand-To-Hand Exchange

2253. It was narrated that Malik bin Aws bin Hadathân Nasri said: “I heard ‘Umar bin Al-Khattâb say: ‘The Messenger of Allâh (ﷺ) said: ‘Exchanging gold for gold is usury, unless it is done on the spot. (Exchanging) wheat for wheat is usury, unless it is done on the spot. (Exchanging) barley for barley is usury unless it is done on the spot. (Exchanging) dates for dates is usury, unless it is done on the spot.”’ (Sahîh)
Comments:

a. If the category of foodstuff is the same but the kinds are different, then it is lawful to exchange them for each other with two conditions; A): The quantity from both sides should be equal, for example: a سُحُر of a certain type of dates may be exchanged for a سُحُر of another kind of dates. But taking or giving two سُحُر of dates in exchange for one سُحُر of dates is unlawful. B) To exchange foodstuff with immediate payment that both parties exchange things in the same meeting.

b. Gold and silver have the same rule. Gold for gold should be exchanged with the payment on the spot, and equal weight.

c. But if the class is different, then it is allowed to decrease and increase the weight and quantity; for example: Barley in exchange for wheat, or silver for gold, the equality of quantity is not necessary in this form. But the exchange should be made with immediate payment from both sides.

d. If a person owns a low quality wheat and he wants to buy a better quality; the lawful method to do so is that he should sell his wheat for cash and then should buy the required wheat with money.

2254. Muslim bin Yasâr and 'Abdullâh bin 'Ubâid said: 
"Ubâdah bin Sâmit and Mu'âwiyyah happened to meet, either in a church or in a synagogue. 'Ubâdah bin Sâmit narrated to them and said: 'The Messenger of Allâh forbade us from selling silver for silver, gold for gold, wheat for wheat, barley for barley, and dates for dates.' "
- one of them said: "And salt for salt," but the other did not say it.
- "And he commanded us to sell wheat for barley, or barley for wheat, hand-to-hand, however we wished." (Sahih)
The Chapters On Business

٢٨٨

أتمنى أن تبيع البر بالشعير، والشعير بالبر.

يبدأ بديل، كييف شئنا.

تاريخ: [إسلامه صحيح] أخرجه النسائي، ٢٧٥٠، البوع، بيع البر بالبر.

ح: ٤٥٦٥، ٤٤٤ من حديث يزيد وإسماعيل به، وللتحديث طريق آخر عند مسلم وغيره.

Comments:

According to some scholars this rule applies only to the following things: Gold, silver, wheat, barley, dates and salt. In the opinion of other scholars the same rule applies to all other things also, which are not mentioned in the Hadith; that it is impermissible to exchange good quality things for lower quality or vice versa, or with an amount that is less or more.

2255. It was narrated from Abu Hurairah that the Prophet ﷺ said:

"(Sell) silver for silver, gold for gold, barley for barley, wheat for wheat, like for like." (Sahih)

2256. It was narrated that Abu Sa'eed said: "The Prophet ﷺ used to give us dates from the collection (mixed)١ dates, and we would exchange them for dates that were better, and we add to the price.٢ The Messenger of Allah ﷺ said: 'It is not right to give one Sâ of dates for two Sâ', nor one Dirham for two Dirham. A Dirham for a Dirham and a Dinâr for a Dinâr is allowed; the only difference

١ "It is said that every type of date whose name is not known is called jam'; and it is said that the jam' refers to a mixture of dates comprised of various types, none of which are most desirable, and not mixed except due to their inferiority." (Sindi).

٢ Meaning that they would give more, or twice as much as this for that.
between them is in weight (i.e., the weight must be equal.’’
(Sahih)

Comments:

a. When exchanging dates for dates, the weight should be equal, less or more weight is not allowed. The same is the case of other things; it is unlawful to exchange the same class foodstuff for less or more weight.

b. The exchange of new currency notes for old ones, or the exchange of big notes for small ones should be on the basis of equality in numbers. Giving one hundred and ten old notes for exchange of one hundred new notes; or to belittle the value of coins in exchange for a note of one hundred is unlawful. Because the currency market makes no difference between the value of new notes and old ones, or in the value of coins.

Chapter 49. One Who Says That There Is No Usury Except In Credit

2257. It was narrated that Abu Hurairah said: “I heard Abu Sa’eed Al-Khudri say: ‘A Dirham for a Dirham and a Dinar for a Dinar.’” So I said: ‘I heard Ibn ‘Abbás say something other than that.’ He said: ‘But I met Ibn ‘Abbás and said: ‘Tell me about what you say concerning exchange – is it something that you heard from the Messenger of Allah ﷺ or something that you found in the Book of Allah?’” He said: “I did not find it in the Book of Allah, and I did not hear it from the Messenger of Allah; rather Usâmah bin Zaid told me that the Messenger of Allah ﷺ said: “Usury is only in credit.”[1]

[1] Meaning on credit, when the payment is deferred.
Comments:
a. Exchange of gold for silver or silver for gold should be with the payment on the spot.
b. The currency of different countries should be exchanged according to the current rate with immediate payment. If one has American dollars and he wants to exchange them for Saudi riyals; or a person says, 'you give me the dollars and I shall pay you tomorrow such and such amount of riyals'; it is not allowed.

c. 'Interest involves only when the payment is made later' this is if the exchanged items are of a different class; for example: gold for silver, or if wheat for dates are exchanged. It is allowed to exchange them for different amounts, so the exchange of one gram of gold for ten or fifteen grams of silver, or the exchange of forty kilograms of wheat for eighty kilograms of barley is allowed, provided the payment is made on the spot from both parties. The exchange of the same class for more or less amount is not allowed, even if the payment is made on the spot. It is also unlawful to exchange forty kilograms of good quality wheat for eighty kilograms of lower quality, even though the payment is made immediately from both sides.

2258. It was narrated that Abu Jawzâ’ said: "I heard him - meaning Ibn 'Abbâs - allowing exchange (of Dirhams for Dirham etc., if extra was given) and that was narrated from him. Then I heard that he has taken back this opinion. I met him in Makkah and said: 'I heard that you had taken back (your opinion).’ He said: 'Yes. That was just my own opinion, but Abu Sa’eed narrated from the Messenger of Allâh ﷺ that he forbade exchange (of like items if extra is given).'” (Sahih)

Comments:
a. *Bai’ Sarf* is to exchange gold for silver or silver for gold, or the exchange of one country’s currency with the currency of other country.
b. Currency of a country is one class, and the currency of another country is a
different class, although their name is same; for example: As Pakistani rupee and the Indian rupee are two different classes.
c. It is an agreed view that the exchange of different classes of currency will be unlawful if one party pays cash on the spot and the other party promises to pay later; because the immediate payment from both sides is a condition. Another condition is that if the currency is of the same class, then the increase or decrease in the amount given and taken must not be practiced.

Chapter 50. Exchanging Gold For Silver

2259. It was narrated that Zuhri heard Mālik bin Aws bin Hadathān say: "I heard 'Umar say: "The Messenger of Allāh ﷺ said: 'Gold for silver is usury, unless it is exchanged on the spot.'" (Sahih)

Abu Bakr bin Abu-Shaibah said: "I heard sufyān saying: 'Gold for silver.'" memorize (this).

Comments:
a. The exchange of gold and silver is permissible provided the payment from both sides is made on the spot.
b. If this condition does not exist, then the exchange of gold and silver is Islamically prohibited.

2260. It was narrated that Mālik bin Aws bin Hadathān said: "I came saying, 'Who will exchange Dirham?' Talhah bin 'Ubaidullāh, who was with 'Umar bin Khattāb, said: 'Show us your gold, then come to us; when our treasure comes, we will give you your silver.' 'Umar said: 'No, by Allāh, you will give him silver (now), or give him back his gold, for the Messenger of Allāh ﷺ said: "Silver for gold is usury, unless it is exchanged on the spot.'" (Sahih)
Comments:

Talhah bin ’Ubaidullah is one of the ten noble Companions who were given the good news of Paradise in their life. Despite this great honor, he did not know this issue until ’Umar gave the explanation. Therefore, being a great scholar does not mean that there is not any issue which he does not know; or that it is impossible for him to make any mistake and in any issue.

2261. It was narrated from ’Umar bin Muhammad bin ’Ali bin Abi Tâlib, from his father, that his grandfather said: “The Messenger of Allâh said: ‘Dinâr for Dinar, Dirham for Dirham, with no increase between them. Whoever has need of silver, let him trade gold for it, and whoever has need of gold, let him trade silver for it, and let the transaction be done on the spot.’” (Da’îf)

Chapter 51. Exchanging Gold For Silver And Silver For Gold

2262. It was narrated that Ibn ’Umar said: “I used to sell camels, and I used to buy gold for silver and silver for gold, Dinâr for Dirham and Dirham for Dinâr. I asked the Prophet about that, and he said: ‘If you take one of them and give the other, then you and your companion should not separate until everything is clear (i.e., the exchange is completed).’” (Hasan)
Another chain with similar wording.

The meaning of the Hadith is that the coin of gold or silver which is official, since the coins were minted from silver and gold, they used to give a portion of them for some payments.
and is in circulation in the currency market, and also used for trade; it is unlawful to turn it into just normal gold or silver, because it disturbs the system that fulfills the needs of Muslims and the general public. However, if there is a genuine need to do so, for example, if the coin is unusable, in that case it might be dissolved into gold or silver.

Chapter 53. Selling Fresh Dates For Dried Dates

2264. It was narrated from 'Abdullāh bin Yazid, the freed slave of Al-Aswad bin Sufyān, that Zaid, Abu 'Ayyāsh, the freed slave of Bani Zuhrah, told him that he asked Sa’d bin Abu Waqqās about buying wheat with barley. Sa’d said to him: “Which of them is better?” He said: “Wheat.” He told him not to do that and said: “I heard the Messenger of Allāh ﷺ being asked about buying fresh dates with dried dates, and he said: ‘Do fresh dates decrease in weight when they become dry?’ They said: ‘Yes.’ So he told them not to do that.” (Hasan)

Comments:

a. *Sult* is a type of barley without any skin on it. It resembles wheat because of not having any skin; but its natural consumption quality is like barley. Anyhow it is counted from among the kinds of barley.

b. The exchange of fresh and dry dates for each other is forbidden even though the payment is made on the spot.

c. The dry and fresh dates apparently are the same class, and exchanging them for each other should be lawful, but this is not the case, and the reason of its prohibition is that they are not really equal in weight; despite their apparent look of equality in weight; because the fresh dates lose weight when they are dried.
Chapter 54. The Muzābanah and The Muhāqalah

2265. It was narrated that 'Abdullāh bin 'Umar said: "The Messenger of Allāh forbade the Muzābanah. The Muzābanah means when a man sells the dates of his grove when they are still on the tree, for a measure of dry dates; or, if it is grapes, he sells them when they are still on the vine, for a measure of raisins; or if it is a crop, he sells it for food, estimating the amount (of the crop in the field). He forbade all of these things." (Sahih)

Comments:
The Muzābanah transaction is when a person buys the fruits from an orchard of dates and pays a fixed amount of dry dates for it as price; or for example: he says: "I will buy all the crops about to ripen, of such and such field, for two thousand kilograms of wheat. It is unlawful because of the uncertainty of the produce of wheat in the field, if it is more than two thousand kilograms or less than that. This type of sale regarding the crops of field is called Muhāqalah; and the same type of transaction of the fruits of an orchard is called Muzābanah.

2266. It was narrated from Jābir bin 'Abdullāh that the Messenger of Allāh forbade the Muhāqalah and the Muzābanah. (Sahih)

1 The Muzābanah: Selling fruit that is still on the tree for a measured amount of the dried fruit. The Muhāqalah: Selling crops that have not yet ripened for food that has already been harvested.

2 Estimating the amount of dates on the tree.
2267. It was narrated that Râfi' bin Khadij said: "The Messenger of Allâh ﷺ forbade the Muhâqalah and the Muzâbanah." (Hasan)

2268. It was narrated from Sâlim from his father: "Zaid bin Thâbit narrated to me that the Messenger of Allâh ﷺ gave a concession regarding the sale of 'Arâyâ." (Sahih)

2269. It was narrated from 'Abdullâh bin 'Umar that he said: "Zaid bin Thâbit told me that the Messenger of Allâh ﷺ gave a concession regarding the sale of the estimated harvest of 'Arâyâ in return for dried dates." (Sahih)

Yahya (one of the narrators) said: "The 'Arâyâ is when a man purchases dates on the trees for

Chapter 55. The Sale

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[1] 'Arâyâ refers to trees of the coming harvest which are given as a gift, but the giver will be troubled by the recipient's coming to his grove to collect the dates, so he offers to sell him dried, measured dates in return for the coming harvest. This is the definition of Imâm Mâlik, see the definition after no. 2269 which follows, and those listed in Sahih Al-Bukhârî under chapter no. 84 in the Book of Sales.
food that his family has that is ripe, by estimating them (the dates)."

Comments:

It is a general rule that the exchange of dates for dates should be equal in weight and paid on the spot from both sides, but the issue of Arāyā is exempt from this rule. The definition of Arāyā according to Imām Mālik is that a person offers a tree of fresh dates to another person so that his household may benefit from fresh dates, but the frequency of the person into the orchard disturbs the owner, in this case the owner is allowed to buy the fruit of the gifted tree for dry dates. Another explanation mentioned (in Sahih Al-Bukhārī, Hadith: 2192) is that the fresh fruit of the tree will be estimated according to the weight it will have when it dries up, and then the tree will be taken back by paying that amount of dry dates. Thus the fresh dates still on the tree are bought for the dry dates, and the dry dates are paid in measure. It is to be known that the quantity of dates involved in this transaction must be less than five Wasq.

Chapter 56. Selling Animals For Animals On Credit

2270. It was narrated from Samurah bin Jundub that the Messenger of Allāh forbade selling animals for animals on credit. (Sahih)

2271. It was narrated from Jābir that the Messenger of Allāh said: "There is nothing wrong with selling animals, one for two, hand to hand," but he disliked selling them on credit. (Da’if)
The Chapters On Business

اُبَوْاب الْتَجَارَات

قال: «لا يُأْسِس الْحِيَوَانُ، وَاجْنَبَا الْيَهْبَةَ، يُذَّا
بِهَا»، وَكَرِهَةُ نَسْبِهَا.

تخريج: [إِسْنَادهُ صَحِيحٌ] أَخْرَجَهُ الرَّمَيْيُ، البَيْعُ، بَابُ مَا جَاءَ فِي كَرَاهةٍ بِعَلَّمِ الْحِيَوَانِ
بَالْحِيَوَانِ نَسْبِيَّةً، ح: 128، 129 من حديث حجاج بن أرطاة، وقال: هذا حديث حسنٌ، والحديث
السابق يغني عنه.

Comments:

a. Exchange of an animal for an animal is allowed.

b. The exchange of animals by both parties should be made immediately when exchanging an animal for an animal.

c. The equality of numbers is not necessary when exchanging an animal for an animal, for example, two cows of a lower category can be given in exchange for one cow of a higher category. Or two goats of a lower breed can be given in exchange for one goat of good breed.

Chapter 57. Selling Animals

١٥٧٠ - بَابُ الْحِيَوَانِ بَالْحِيَوَانِ

Debejaba بَيْدُ (الْحَجَةٍ ١٥٧)

For Animals, Of Different Kinds, Hand To Hand

٢٢٧٢. It was narrated from Anas that the Prophet ﷺ bought Safiyyah for seven slaves. (Sahih)

(One of the narrators) ‘Abdur-Rahmân said: “From Dihyah Kalbi.”

Comments:

a. Safiyyah was the daughter of the chief of her tribe. She was under the control of the Muslims because of her being a prisoner of war. She was given to Dihyah Kalbi as his share from the distribution of the war booty. The Messenger of Allâh ﷺ requested that, as she was a daughter of a chief, it is better if she was with him. So the Messenger of Allâh ﷺ bought her from Dihyah.

b. The trade of male and female slaves was allowed, which Islam gradually brought to an end.

c. There is a great reward for setting free male and female slaves alike; particularly when they are Muslims and good in conduct.
Chapter 58. Emphatic Prohibition Of Usury

2273. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "On the night in which I was taken on the Night Journey (Al-Isra’), I came to people whose stomachs were like houses, in which there were snakes that could be seen from outside their stomachs. I said: 'Who are these, O Jibrâ’il?' He said: 'They are the ones who consumed usury.'" (Da’if)

2274. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "There are seventy degrees of usury, the least of which is equivalent to a man having intercourse with his mother." (Hasan)

Comments:

a. Interest (or usury alike) is a great factor behind the destruction of a society. It has enormous aspects of economic and social damages and losses; that is why one single sin of interest or usury has been declared equal to seventy types of sins. This Hadith also shows that the sins are of different degrees.

b. If the least sin is so huge and detestable, then what about the rest of the sixty-nine types of sins, how horrible they will be?!!

c. The most distinctive quality of an Islamic society is sympathy and sincerity to others, while the theory of interest (or usury alike) is totally contrary to it.
said: "There are seventy-three degrees of usury." (Hasan)

Comments:

a. There are various types of interest. Therefore, extraordinary precautionary measures should be taken in business, lest any dealing of interest gets involved.

b. Islamic scholars should carefully examine the current categories of business according to the teachings of the Shari'ah and should guide the Muslim nation accordingly; so that they do not, unknowingly, commit the offence of consuming interest.

2276. It was narrated that 'Umar bin Khattab said: "The last thing to be revealed was the Verse on usury, but the Messenger of Allah died before he had explained it to us. So give up usury (interest) and doubtful things." (Da'if)

Comments:

a. The regulations of interest were the latest in revelation among the issues of lawful and unlawful.

b. The Messenger of Allah explained the interest properly, and he prohibited its contemporary various forms clearly. Despite that, there can be some forms of it which will be invented and introduced later, and the scholars will have to strive to clarify them through analogy. Therefore, the scholars should issue clear religious verdicts after scrutinizing these matters.

2277. It was narrated from 'Abdullâh bin Mas'ûd that the Messenger of Allah cursed the one who consumes usury, the one...
who pays it, those who witness it and the one who writes it down. 
(Hasan)


2278. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "There will come a time when there will be no one left who does not consume usury (interest), and whoever does not consume it will nevertheless be affected by it." (Daʿīf)


Comments:

a. All forms of interest are unlawful, and cause the curse of Allâh.

b. As taking interest is a major sin, likewise paying interest is a major sin too. Therefore, taking a loan on the basis of interest is unlawful; whether this interest-based loan is taken from banks or from business individuals.

c. Helping in any unlawful cause in anyway is prohibited, and the helper will be as equally sinful as the doer.

2279. It was narrated from Ibn Masʿūd that the Prophet ﷺ said: "There is no one who deals in usury a great deal (to increase his wealth) but he will end up with little (i.e., his wealth will be decreased)." (Ṣaḥîh)

خريج: [إسناده صحيح] أخرجه الحاكم: 37/2 من حديث عمر بن عون به، وصححه.
Chapter 59. Payment In Advance For A Known Amount Or A Known Weight To Be Delivered At A Known Time

2280. It was narrated that Ibn 'Abbás said: “When the Prophet ﷺ came (to Al-Madinah), they used to pay in advance for dates, two or three years in advance. He said: ‘Whoever pays in advance for dates, let him pay for a known amount or a known weight, to be delivered at a known time.’” (Sahih)

Comments:
a. Receiving the price of goods in advance and to deliver the goods later at a fixed time is called Bai‘us-Salam or Bai‘us-Salaf.
b. It is necessary for the permissibility of this transaction that the commodity being sold and bought, its quantity, quality, delivery, time of collection and other such matters, conditions and terms, should be discussed and specified beforehand, which later can be the cause of dispute.

2281. It was narrated from Muhammad bin Hamzah bin Yusuf bin ‘Abdullâh bin Salâm, from his father, that his grandfather ‘Abdullâh bin Salâm said: “A man came to the Prophet ﷺ and said, ‘The tribe of Banu so-and-so, who were descended from the Jews, have become Muslim, and they are starving, and I am afraid that they may
The Prophet ﷺ said: ‘Who has something with him?’ A Jewish man said: ‘I have such and such, and he named it, and I think he said three hundred Dinār for such and such an amount (of produce) from the garden of the tribe of Banu so-and-so.’ The Messenger of Allāh ﷺ said: ‘For such and such a price at such and such a time, but not from the garden of the tribe of Banu so-and-so.’” (Da‘if)

2282. It was narrated that Abu Mujālid said: “Abdullāh bin Shaddād and Abu Barzah had a dispute about paying in advance. They sent me to ‘Abdullāh bin Abu Awfa to ask him about it. He said: ‘We used to make payments in advance at the time of the Messenger of Allāh ﷺ and the time of Abu Bakr and ‘Umar, for wheat, barley, raisins and dates, to people who did not yet possess those things.’ I asked Ibn Abzā, and he said something similar.’” (Sahih)

Comments:
Bai‘us-Salam and Bai‘us-Salaf are two names of the same thing. Bai‘us-Salam is allowed. [This is a sale of something on interest-free credit according to Islamic terms and conditions. — Usmani]
Chapter 60. The One Who Has Paid In Advance For Something Should Not Exchange It For Something Else

2283. It was narrated from Abu Sa‘eed that the Messenger of Allah ﷺ said: “When you have paid in advance for something, do not exchange it for something else.” (Da‘if)

Another chain with similar wording.

Chapter 61. If One Pays In Advance For A Specific Date Palm And It Does Not Yield Anything

2284. It was narrated that Najrānī said: “I said to ‘Abdullāh bin ‘Umar: ‘Can I pay in advance for a date palm before it bears fruit?’ He said: ‘No.’ I said: ‘Why not?’ He said: ‘A man paid in advance for a grove of trees during the time of the Messenger of Allah ﷺ, before they had produced any fruit, and they did not bear anything that year. The purchaser said: ‘They belong to me until they produce,’ but the
seller said: ‘I only sold the trees to you for this year.’ They referred their dispute to the Messenger of Allah ﷺ, who said to the seller: ‘Did he take anything from your date palms?’ He said: ‘No.’ He said: ‘Then why do you regard his wealth as lawful for you? Give back what you took from him, and do not take payment in advance for date palms until their usefulness appears.’” (Da’îf)

**Chapter 62. Paying For Animals In Advance**

2285. It was narrated from Abu Râfi’ that the Prophet ﷺ asked a man to give as a loan a young camel and said: “When the camels of the Sadaqah come, we will pay you back.” When the camels came, he said: “O Abu Râfi’, pay this man back for his young camel.” But all I could find was a seven-year-old camel or that which is better. I told the Prophet ﷺ and he said: “Give it to him, for the best of people are those who are best in repaying.” (Sahih)

**Comments:**

a. Selling and buying on absolute interest free credit (according to Islamic terms and conditions) is allowed.
b. Returning a better animal than the one taken is allowed; provided it is not conditioned before, and the payer is giving with his own pleasure, and the recipient does not ask for.

c. As for the cash, the borrowed amount is to be returned only; no increase in it is allowed.

2286. Sa'eed bin Hâni' said: “I heard 'Irbdâd bin Sâriyah say: 'I was with the Prophet and a Bedouin said: 'Pay me back for my young camel, and he gave him an older (i.e., better) camel.' He said: 'O Messenger of Allâh! It is older (i.e., better) than my camel.' The Messenger of Allâh said: 'The best of people are those who are best in repaying.'" (Sahih)

Chapter 63. Partnership And Profit Sharing

2287. It was narrated that Sâ'îb said to the Prophet: “You were my partner during the Ignorance period and you were the best of partners, you did not contend or dispute.” (Da'if)
Comments:

a. The partnership in business is allowed.

b. Only those forms of trade of the pre-Islamic time, which the Messenger of Allah ﷺ forbade are forbidden and the rest of them are allowed.

c. The Messenger of Allah ﷺ had attributes of good manners and characteristics before his mission of prophethood as well.

2288. It was narrated that 'Abdullāh said: “Sa’d, ‘Ammār and I entered into a partnership on the day of Badr, (agreeing to share) whatever was allotted to us. ‘Ammār and I did not get anything, but Sa’d got two men (slaves).” (Da‘īf)

2289. It was narrated from Sālih bin Suhaib that his father said: “The Messenger of Allah ﷺ said: ‘There are three things in which there is blessing: A sale with deferred payment; Muqāradhah (profit sharing), and mixing wheat with barley for one’s house, but not for sale.’” (Da‘īf)

Comments:

Muqāradhah has two explanations: a): To lend money or something to someone. b): To be a partner, i.e., one person invests money and the other does practical work, and the profit is divided between both according to the agreed percentage. This type of business is allowed.
Chapter 64. What A Man Is Entitled To Of His Son’s Property

2290. It was narrated from 'Ā'ishah that the Messenger of Allāh ﷺ said: “The best of your provision is what you earn, and your children are part of what you earn.” (Sahih)

2291. It was narrated from Jābir bin 'Abdullāh that a man said: “O Messenger of Allāh, I have wealth and a son, and my father wants to take all my wealth.” He said: “You and your wealth belong to your father.” (Sahih)

2292. It was narrated from 'Amr bin Shu'ail, from his father, that his grandfather said: “A man came to the Messenger of Allāh ﷺ and said: ‘My father is taking all my wealth.’ He said: ‘You and your wealth belong to your father.’ And the Messenger of Allāh ﷺ said: ‘Your children are among the best of your earnings,’
so eat from your wealth.'”
(Sahih)

Chapter 65. What A Woman Is Entitled To Of Her Husband’s Wealth

2293. It was narrated that ’Aishah said: “Hind came to the Prophet ﷺ and said: ‘O Messenger of Allâh, Abu Suﬁyân is a stingy man and he does not give me enough for me and my child, except for what I take from his wealth without him realizing.’

He said: ‘Take what is sufficient for you and your child, on a reasonable basis.’” (Sahih)

Comments:
a. It is the responsibility of a husband to fulfill the genuine necessities of his wife and children.
b. It is not counted as backbiting, if someone’s fault is disclosed just for the sake of seeking clear guidelines from Islamic prospects.
c. A reasonable amount of a husband’s wealth may be used without seeking his permission to fulfill the genuine daily needs.
d. ‘What is sufficient’ will be specified depending upon the circumstances, atmosphere, financial condition of the husband and the type of need.

2294. It was narrated from ’Aishah that the Messenger of Allâh ﷺ said: “When a woman spends” – and my father said:

[1] The speaker is Muhammad bin ’Abdullâh bin Numair, the Shaikh of Ibn Mâjah in this narration. Muhammad narrated the Hadith from his father, and from Abu Mu’âwiyyah.
- "When a woman feeds (the poor) from her husband’s house, without spending too much, she will have her reward, and he will be rewarded likewise because he earned it, and she will be rewarded for what she spent. The same applies to the storekeeper, without anything being detracted from their rewards." (Sahih)

**Comments:**

a. It is man’s responsibility to bring home the livelihood.

b. Although the livelihood is earned by the husband, the wife has full equal right to spend it.

c. When spending, the wife must bear in mind that the wealth should not be squandered; it should not be spent for unlawful things; and should not be spent on that which the husband does not like. This is because such practice affects the financial condition of the household and the mutual relations will turn unpalatable.

d. *Khāzin* (translated as storekeeper) is a person who spends for the needs of the household with the permission of the master; he may be an employee or a member of the family, like a younger brother or son etc.

**2295.** Shurahbil bin Muslim Al-Khawlānī said: I heard Abu Umāmah Al-Bāhili say: I heard the Messenger of Allāh ﷺ say: "No woman should spend anything from her house without her husband’s permission." They said: "O Messenger of Allāh, not even food?" He said: "That is among the best of our wealth." (Hasan)
Comments:

a. The wife should seek her husband's permission for spending in charity.

b. Foodstuff also means ready meals, chapatti, bread, curry, sausages, etc.; and other foodstuff like: wheat, barley, rice, etc., too.

c. If the wife is certain, and has confidence in her husband's habit and circumstances, that the husband will not get angry for giving such and such charity, or helping the needy, then seeking his permission is not necessary. But if she suspects that the husband may not like such spending, then she should definitely seek his permission; for example: she wants to give jewelry in charity or a large amount of something, then she should certainly ask his permission.

Chapter 66. What A Slave May Give Away And Give In Charity

2296. It was narrated from Muslim Al-Mulâ’i that he heard Anas bin Mâlik say: “The Messenger of Allâh ﷺ used to accept the invitation of a slave.” (Da’îf)

Comments:

This is a part of another Hadith, for the complete text see Hadith: 4178.

2297. It was narrated that ‘Umair, the freed slave of Aabi Lahm, said: “My master used to give me, food and I would feed others from it, then he stopped me,” - or he said: “He beat me. So I asked the Prophet ﷺ, - or - “he asked him and I said: ‘I will not stop.’ He said: ‘Both of you will be rewarded.’” (Sahîh)
Comments:

a. The noble Companions used to look after their slaves as the children are looked after; and Aabi Lahm would give his slave good and healthy food to eat.

b. Aabi Lahm, out of kindness, prevented his slave from giving this away in charity; because he wanted his slave to eat what was given to him.

c. 'Umair would give the things in charity to others, which were given for himself. The Messenger of Allâh liked this behavior on his behalf.

d. The partnership in reward was due to the fact that the charity was done by 'Umair while the property in fact belonged to Aabi Lahm; this is how the master and slave shared the reward together.

Chapter 67. One Who Passes By The Livestock (Of Some People) Or A Garden — Can He Take Something From That?

2298. It was narrated that Abu Bishr Ja'far bin Abu Iyâs said: "I heard 'Abbaâd bin Shurahbil, a man from Banu Ghubar, say: 'We suffered a year of famine, and I came to Al-Madinah. I came to one of its gardens and took an ear of corn, I rubbed it, ate some and put the rest in my garment. The owner of the garden came and beat me and took my garment. I came to the Prophet and told him (what had happened). He said to the man: "You did not feed him when he was hungry and you did not teach him when he was ignorant."' Then the Prophet told him to give back his garment and ordered that a Wusq or half a Wusq of food be brought to him." (Sahîh)
Comments:
a. A needy person may take something to fulfill his need from someone's field or garden; but he is not allowed to carry anything away with him.
b. The person who committed a mistake should be treated well after discovering his circumstances and dealing with his mistake.
c. The noble Prophet did not punish the owner of the field because he was right; but he showed that his way of dealing was wrong.

2299. It was narrated that Râfi' bin 'Amr Al-Chifârî said: "When I was a boy, I used to throw stones at our date-palm trees"[1] - or he said: "the date-palm trees of the Ansâr." I was brought to the Prophet and he said: 'O boy!' - (one of the narrators) Ibn Kâsîb said: He said: 'O my son - why are you throwing stones at the date-palm trees?' I said: 'So I can eat.' He said: 'Do not throw stones at the date-palm trees. Eat from what falls to the ground from them.' Then he patted me on the head and said: 'O Allâh, give him enough to eat.'" (Da'îf)

تخريج: [إسناده ضعيف] أخرجه أبو داود، الجهاد، باب من قال إنه يأكل مما سقط، ح2/188: # ابن أبي الحكم لم يوثقه غير الترمذي وله منيف. كما قال صاحب الترقيم.

2300. It was narrated from Abu Sa'îd that the Prophet said: "When you come to a shepherd, call him three times. If he answers (all well and good), otherwise drink (milk from the flock) without taking advantage. And when you come to a garden, call the owner of the garden three times. If he answers (all well and good), otherwise eat (from the

[1] To knock some dates down to eat.
produce of the garden) without taking advantage." (Da‘if)

Comments:

a. It is not allowed to use anything from someone’s field, orchard or herd without securing the permission of the owner.

b. If the owner is not present, then one should try his best to call out loud for the owner to seek his/her permission.

c. If the owner is not found, despite calling loud three times; then the fruit or milk may be used without the permission of the owner in extreme circumstances.

d. This permission is limited; this permission may be taken as an advantage only to meet the current need. The advantage of this limited permission is to be used only when getting food through other legal means becomes almost impossible.

2301. It was narrated from Ibn ‘Umar that the Messenger of Allah ﷺ said: “When anyone of you passes by a garden, let him eat therefrom, but he should not carry any away in his garment.’’ (Da‘if)

Comments:
a. The fruit from the orchard of someone may be eaten during hard times only to ward off hunger.
b. Picking more than one’s need from the fruit of someone’s garden and to carry some away after eating it is not allowed, rather it will be an act of stealing.
c. If the value of the stolen property is equal to a quarter of a Dinár (approximately one gram gold), then the hand of the thief is to be cut off. (See Hadith: 2585)

Chapter 68. The Prohibition Of Taking Something Without The Permission Of The Owner

2302. It was narrated from ‘Abdullāh bin ‘Umar that the Messenger of Allāh ﷺ stood up and said: “No one of you should milk from the livestock of another man without his permission. Would anyone of you like someone to break into his storeroom and take his food? The udders of their livestock store food for them, so none of you should milk the livestock of another man without his permission.” (Sahih)

Comments:
a. The important matters of daily life should be explained in the sermon.
b. The sermon should be delivered while standing.
c. The examples should be given for the explanation of the issue. It is prohibited to milk an animal without the permission of its owner.

2303. Abu Hurairah said: “While we were with the Messenger of Allāh ﷺ on a journey, we saw some camels with their udders tied, among some thorny trees. We rushed towards it, but the
The Chapters On Business…

Messenger of Allâh ﷺ called us and we came back to him. He said: ‘These camels belong to a family of Muslims, and this is their support (and blessing) after Allâh. Would you be happy if you went back to your vessels and found that what was in them had been taken away? Do you think that is fair?’ They said: ‘No.’ He said: ‘This is like that.’ We said: ‘What do you think if we are in need of food and drink?’ He said: ‘Eat but do not carry any away; drink but do not carry any away.’” (Da’îf)

Chapter 69. Keeping Livestock

2304. It was narrated from Umm Hâni’ that the Prophet ﷺ said to her: “Keep sheep, for in them is blessing.” (Sahih)

2305. It was narrated that ‘Urwah Al-Bâriqi said in a Marfu’[1] report: “Camels are the pride of their owners, and sheep are a blessing, and goodness is tied to the forelocks of horses until the Day of Resurrection.” (Sahih)

The Chapters On Business....

Comments:

a. There are enormous benefits of a camel. It is still highly important, particularly in the desert territories.

b. The goats bear more kids and the kids grow faster; and also they eat any type of fodder and tree leaves, etc. Therefore, they prove to be the source of blessing.

c. The blessing of horses is interpreted with 'reward and war spoils' in another Hadith; i.e. they work for jihâd. (See Sahih Al-Bukhâri: 2852).

d. Breeding and keeping animals is a source of lawful earning.

2306. It was narrated from Ibn ‘Umar that the Messenger of Allah ﷺ said: “Sheep are among the animals of Paradise.” (Da’if)

Comments:

a. It means it is a lawful animal. Its meat and milk is benefiting. Therefore, the goats should be bred and kept as livestock, and their meat and milk should be consumed.

b. It may also mean that some of these animals are slaughtered and offered in the Name of Allah and sacrificed at the occasion of ‘Eid; and these actions become a source of achieving Paradise.

c. One narrator in the chain of this Hadith, Zarbi bin ‘Abdullâh, is Weak, and Imam Albânî did not mention this Hadith in Da’if Ibn Mâjah. Therefore, its benefits have been mentioned. [I would like to say: This Hadith is authentic; therefore Shaikh Albânî did not mention it in Da’if Ibn Mâjah; but he mentioned it to be authentic in Sahîhul-Jâmi As-Saghîr wa Ziyâdatuh: 3619 and also in Silsilatul-Ahâdiîhus As-Sahîhah: 1128 — Usmani]

تخريج: أخرجه البخاري، الجهاد والسيرة، باب الخيل معقود في نواصيها الخير إلى يوم القيامة، ج: 3119، وغيرهما، وسلم، الإمارة، باب فضيلة الخيل وأن الخير معقود بنواصيها، ح: 1873 عن محمد بن عبادة بن نمير بن نمير، وقال البصري: هذا إسناد صحيح على شرط الشيخين فقد احتاجا بجميع رواته.


تخريج: أخرجه البخاري، الجهاد والسيرة، باب الخيل معقود في نواصيها الخير إلى يوم القيامة، ج: 3119، وغيرهما، وسلم، الإمارة، باب فضيلة الخيل وأن الخير معقود بنواصيها، ح: 1873 عن محمد بن عبادة بن نمير بن نمير، وقال البصري: هذا إسناد صحيح على شرط الشيخين فقد احتاجا بجميع رواته.


2307. It was narrated that Abu Hurairah said: "The Messenger of Allah commanded the rich to keep sheep, and he commanded the poor to keep chickens, and he said: 'When the rich keep chickens, then Allah will give permission for the town to be destroyed.'" *(Maudu')*
The Chapters On Rulings

Chapter 1. Mention Of Judges

2308. It was narrated from Abu Hurairah that the Prophet ﷺ said: “Whoever is appointed judge between the people, he has been slaughtered without a knife.” (Hasan)

Comments:

a. Judging people’s disputes and making the right decisions is an important responsibility, yet it is a very sensitive one. The right decisions are a guarantor for permanent peace and tranquility in society, whereas the consequences of wrong decisions appear in the form of anarchy and mischief.

b. ‘Has been slaughtered without a knife’ is an indication towards the sensitivity of its post, and the difficulties in the performance of this duty. Despite this, the presence of this system and the position of a judge in the society are necessary. Therefore he who has this ability, should accept this responsibility and should discharge this duty with justice as required.

2309. It was narrated from Anas bin Mâlik that the Messenger of Allâh ﷺ said: “Whoever asks to be appointed a judge, will be entrusted to himself, but whoever is forced to accept the position, an
angel will come down to him and guide him.’” (Da‘if)

"مَنْ سَأَلَ الْقَضَاءَ وَكَلَّمَ إِلَيْهِ نُفِيَهُ. وَمَنْ جَعَلَ عَلَىٰ نَزْلَهُ إِلَيْهِ مُكَاَشِكَةً.


2310. It was narrated that ‘Ali said: “The Messenger of Allâh ﷺ sent me to Yemen. I said: ‘O Messenger of Allâh, you are sending me to judge between them while I am a young man, and I do not know how to judge.’ He struck me on the chest with his hand and said: ‘O Allâh, guide his heart and make his tongue steadfast.’ And after that I never doubted in passing judgment between two people.” (Da‘if)

تخريج: [إسناده ضعيف] أبو البخترى سعيد بن فيروز لم يسمع من علي، ولم يدرك قاله أبوحاتم الرزاز، فانسلط مقطع، وله شهاد عند أبي داود، ح: 528، حسن الترمذي، ح: 1331، وصححه الحاكم، والذهبى و فيه حسن المعتمر ضعفه الجمهور.

Comments:

a. If an individual feels that he/she does not have the ability to discharge these obligations which are being assigned to him/her, then the person has the right to refuse the acceptance of the post.

b. It will not be regarded as disobedience, to tell about one’s weakness or difficulties, to one’s elderly peer or to a person in charge.

Chapter 2. Emphatic
Prohibition Against Injustice
And Bribery

2311. It was narrated that ‘Abdullâh said: “The Messenger of Allâh ﷺ said: ‘There is no judge who judges between the people but on the Day of Resurrection an angel will come
and take hold of the back of his head and raise his head towards the sky and if it said: "Throw him," he will throw him into an abyss the depth of forty autumns (years)."  

(Da'if)

تخريج: [إسناه ضعيف] أخرجه أحمد: 420 عن يحيى به، ونظر، ح:11 لعله، وضعه البصيري.

2312. It was narrated from 'Abdullâh bin Abu Awfa that the Messenger of Allâh ﷺ said: "Allâh is with the judge so long as he is not unjust, but if he rules unjustly, He entrusts him to himself."  

(Hasan)


Comments:

If a person has the intention of performing good work, he gets help and power from Allâh. Similarly, if a judge wants to make a correct decision, then Allâh guides him, and it becomes easy for him to find the truth. Despite having a good intention, if a mistake occurs then this mistake is forgiven.

2313. It was narrated from 'Abdullâh bin 'Amr that the Messenger of Allâh ﷺ said: "The curse of Allâh is upon the one who offers a bribe and the one who takes it."  

(Hasan)

تخريج: [إسناده حسن] أخرجه أبو داود، الفراء، باب: في كراهية الرشوة، ح:358 من
The dishonesty of bribery occurs when a person despite being wrong, wants the decision to be made in his favor; thus the one who bribes, deprives a rightful person of his right and also makes the judge sinful. This twofold sin deprives him of the mercy of Allāh.

Chapter 3. When The Judge Does His Best (To Reach A Verdict) And Gets It Right

2314. It was narrated from ‘Amr bin ‘Ās that he heard the Messenger of Allāh say: “When the judge passes a judgment and does his best and gets it right, he will have two rewards, and if he passes a judgement and does his best and gets it wrong, he will have one reward.” (Sahih)

Yazid (one of the narrators) said: “So I narrated it to Abu Bakr bin ‘Amr bin Hazm. He said: ‘This is how it was narrated to me by Abu Salamah from Abu Hurairah.’”

Comments:

a. Literally ḥijāḍ means to strive hard, and in this context it is to pay full due attention and strive hard with the utmost sincerity, in the light of the proofs and evidences, for giving the correct decision concerning the issue brought forward. It is the duty of the person who will make the decision that he tries his best to make the correct decision.

b. If the later generation comes across a mistake that a scholar may have made in adopting a view about an issue, then they should act according to their own research; and they should have a good opinion about the scholar who made the mistake, that he did not intentionally judge the issue incorrectly.
2315. Abu Hāshim said: “Were it not for the Hadith of Ibn Buraidah from his father, from the Prophet who said: ‘Judges are of three types, two of whom will be in Hell and one will be in Paradise. The man who knows the truth and rules in accordance with it will be in Paradise. The man who passes judgment on the people in ignorance will be in Hell, and the man who is unjust in judgment will be in Hell’ — we would have said that if the judge does his best he will be in Paradise.” (Da'if)

Comments:

a. It is incorrect to give a decision after a minor hearing without the proper investigation in order to verify the truth.

b. When it is certain that such and such party is in the right, then giving a decision in favor of the other party is injustice. Its chastisement is Hell. This injustice may sometimes give a temporary, worldly benefit and this type of benefit is a part of bribery, which results in a curse. (See Hadith: 2313)

Chapter 4. The Judge Should Not Pass A Judgement When He Is Angry

2316. It was narrated from 'Abdul-Malik bin 'Umair that he heard 'Abdur-Rahmân bin Abu Bakrah (narrate) from his father that the Messenger of Allah said: “Let the judge (Qādi) not pass a judgment when he is angry.” (Sahih)

In his narration, (one of the narrators) Hishâm said: “The judge (ruler) should not judge between two people when he is angry.”
The intellectual faculty of a person does not remain stable in a state of anger; and due to sentimental factors, the reflection upon all aspects of the matter becomes almost impossible. So it is a risk, that the decision given in the state of anger may be incorrect.

Chapter 5. The Ruling Of A Judge Does Not Make What Is Forbidden Permissible Nor What Is Permissible Forbidden

2317. It was narrated from Umm Salamah that the Messenger of Allah ﷺ said: “You refer your disputes to me and I am only human. Perhaps some of you may be more eloquent in presenting your case than others, so I rule in your favor because of what I hear from you. If I pass a judgment in favor of one of you that detracts from his brother’s rights, then he should not take it, because it is a piece of fire that is given to him which he will bring forth on the Day of Resurrection.” (Sahih)

Comments:
In the light of this Hadith the scholars formed a rule that: “the decision of a judge has an apparent implication, but does not change any true reality which is not visible”; so the decision of a judge does not make someone’s thing lawful for another person. For example: If a person proves with the help of false witnesses, that his marriage took place with so-and-so woman; while in fact this was not the case, then the matrimonial relations of both man and woman will be unlawful. If he does so, he will be committing

Comments:

An interpretation of the Prophet's words: ‘Judge by reason of his knowledge, and be not afraid of his anger, for at times he may consider an affair from a wrong angle, and may judge wrongly. Indeed what he says in anger does not stand, for the speech of anger is the speech of the devil. Allah has forbidden it. But if you consider an affair justly, it will be better for you; for whatever you judge will be a pittance of fire for you to be brought forth on the Day of Resurrection. If you speak justly, it will be better for you. And whatever you judge wrongly, it will be better for you that you give it up. And whatever you speak justly, it is not on account of you, but for your Lord, who isBenefit. A man was not the case, then the matrimonial relations of both man and woman will be unlawful. If he does so, he will be committing...
adultery and will get punished for it on the Day of Judgement. Likewise, if a judge gives a decision that so-and-so woman is divorced; but in reality the husband did not divorce her, then the husband will not be sinful in the sight of Allah for having matrimonial relations with his wife.

2318. It was narrated from Abu Hurairah that the Messenger of Allah said: "I am only human, and some of you may be more eloquent in presenting your case than others. If I pass a judgment in his favor that detracts from his brother’s rights, I am giving him a piece of fire." (Hasan)

Comments:

a. Even the Messenger of Allah had the duty to act and give a decision according to the Shari’ah.

b. 'That detracts from his brother’s rights' means that a party was not given its full and deserved right, but rather some extra share mistakenly was given to the other party.

Chapter 6. One Who Claims Something That Does Not Belong To Him And Disputes About It

2319. It was narrated from Abu Dharr that he heard the Messenger of Allah say: "Whoever claims something that does not belong to him; he is not one of us, so let him take his place in Hell." (Sahih)

Comments:


Chapter 6 - ياقوت: ...
Comments:

'Let him take his place in Hell' means that the person should be certain to go to Hell. Therefore, to avoid the chastisement of Hell, he should avoid committing this sin; and if this mistake has taken place, then he should escape Hell by restoring the right of the rightful person and by seeking sincere forgiveness.

2320. It was narrated from Ibn ‘Umar that the Messenger of Allâh ῶ said: “Whoever takes the wrongdoer’s side in a dispute or supports wrongdoing, he will remain subject to the wrath of Allâh until he gives it up.” (Hasan)

Chapter 7. The Burden Of Proof Rests With The Plaintiff And An Oath Is Required From The One The Claim Is Made Against

2321. It was narrated from Ibn ‘Abbâs that the Messenger of Allâh ῶ said: “If the people were given what they claimed, some would have claimed the lives and property of men. But the one the claim is made against is obliged to swear an oath.” (Sahih)

Comments:

When the plaintiff is unable to bring the witnesses regarding a case, then the defendant will be asked to take the oath; and he will testify by swearing
in the Name of Allâh to prove his claim to be true.

b. The decision cannot be made upon the oath of the plaintiff only rather he is first required to bring a witnesses.

2322. It was narrated that Ash’ath bin Qais said: "There was a dispute between myself and a Jewish man concerning some land, and he denied me my rights so I brought him to the Prophet ﷺ. The Messenger of Allâh ﷺ said to me: 'Do you have proof?' I said: 'No.' He said to the Jews, 'Swear an oath.' I said: 'If he swears an oath he will take my property.' Then Allâh, Glorious is He, revealed: 'Verily, those who purchase a small gain at the cost of Allâh’s covenant and their oaths, they shall have no portion in the Hereafter (Paradise). Neither will Allâh speak to them nor look at them on the Day of Resurrection nor will He purify them, and they shall have a painful torment.'”[1] (Sahih)

Comments:

a. The judge is responsible to give a decision according to his best understanding of the dispute, on the basis of witnesses and evidences; he will not be sinful if he tried his best to give the right decision in the light of the Qur’ân and Hadîth, even though the decision, mistakenly, happened to be incorrect. But if the claimant knew that the claim was false, he was then not allowed to take the other’s right, although the decision had been made in his favor.

b. ‘Neither will Allâh speak to them’ means He will not address him with mercy and pleasure, rather He will reckon him with anger, rebuke and admonition.

Chapter 8. One Who Swears
A False Oath In Order To
Seize Wealth Unlawfully

2323. It was narrated from 'Abdullāh bin Mas'ūd that the Messenger of Allāh ﷺ said: "Whoever swears a false oath in order to seize the wealth of a Muslim unlawfully, he will meet Allāh when He is angry with him." (Sahih)

Comments:

a. False oath is a major sin, particularly when its purpose is to wrongfully take the property of another person.

b. Taking the property of a non-Muslim wrongfully is also a crime, but a Muslim taking the property of another Muslim by unlawful means is an even worst sin and offence.

2324. Abu Umāmah Al-Hārithi narrated that he heard the Messenger of Allāh ﷺ say: "No man seizes the wealth of a Muslim unlawfully by means of his (false) oath, but Allāh will deny Paradise to him and will doom him to Hell." A man among the people said: "O Messenger of Allāh, even if it is something small?" He said: "Even if it is a twig of an Arīk tree." (Sahih)

Comments:

The fulfillment of human rights is also obligatory along with the fulfillment of the Rights of Allāh. Alongside Shīrkh (associating partners with Allāh) there are other sins for which Hell is prescribed for the perpetrator. He may be released after bearing sufficient punishment; and if he has good deeds
greater than the sin, he may be delivered because of it. Allah may also forgive him with His special kindness. But the punishment for major Shirk and other such blasphemous deeds that brand one out of the fold of Islam is everlasting.

Chapter 9. Swearing An Oath At The Time Of Usurping People’s Rights

2325. It was narrated from Jābir bin ‘Abdullāh that the Messenger of Allah ﷺ said: ‘Whoever swears a false oath near this pulpit of mine, let him take his place in Hell, even if it is for a green twig.” (Sahih)

Comments:

a. Taking an oath and demanding an oath is allowed for solving mutual disputes and differences, providing the oath is true, and the sin is only involved if the oath is false.

b. Committing an offence or sin at an honored and holy place, is worse in gravity than doing so at an ordinary place, and the punishment for it will be more severe.

c. The place in the mosque around the pulpit is more respected and regarded holier. The Prophet ﷺ said: “Between my house (the room of ‘Aishah ﷺ) and my pulpit is a garden from the Gardens of Paradise.” [Sahih Al-Bukhārī (1195) and Sahih Muslim (1390)]

2326. Muhammad bin Yahya, who is Abu Yunus Al-Qawi, said: I heard Abu Salamah say: I heard Abu Hurairah say: “The Messenger of Allah ﷺ said: ‘No man or woman swears a false oath beside this pulpit, even if it is for a fresh twig, but he will be
The Chapters On Rulings

Chapter 10. What The People Of The Book Should Be Asked To Swear By

2327. It was narrated from Barâ’ bin ‘Azib that the Messenger of Allâh ﷺ called one of the Jewish scholars and said: “Swear by the One Who sent the Torah (Tawrâh) down to Musa.” (Sahih)

2328. It was narrated from Jâbir bin ‘Abdullâh that the Messenger of Allâh ﷺ said to two Jews: “Swear by Allâh Who sent the Tawrâh down to Musa, peace be upon him.” (Da’îf)

Comments:

a. The false oath is also forbidden in the religion of Jews and Christians. Therefore they can be asked to take an oath when needed.

b. The non-Muslims should also be asked to swear only by Allâh ﷺ.

c. The Jews respect the Torah and claim to have faith in it; the oath can be demanded from them according to their faith, but by using only such words that are not contrary to Islamic faith.
Chapter 11. When Two Men Claim Some Goods And Neither Of Them Has Any Proof

2329. It was narrated from Abu Hurairah that he said that two men laid claim to an animal, and neither of them had any proof, so the Prophet commanded them to cast lots as to which of them should swear an oath. (Da’if)

Comments:

a. Islamic law stipulates that the claimant should bring forward the witnesses, otherwise the defendant will take an oath.

b. In the mentioned form in the Hadith, both parties are plaintiffs as well as defendants. Both parties have the right to swear in a situation like this. Therefore drawing lots will decide who should swear.

2330. It was narrated from Abu Musa that two men referred a dispute to the Messenger of Allâh concerning an animal, and neither of them had proof, so he ruled that it should be divided in half. (Hasan)

Comments:

تخريج: [استناد ضعيف] أخرجه أبو داود، الأفقي، باب الرجلين يدعيان شيكا وليس بينهما بينة، ح: 3616 من حديث سعيد بن أبي شيبة، 429/175 م، رضي الله عنه.
Chapter 12. A Person Who Has Something Stolen, And He Finds It In The Possession Of A Man Who Bought It

2331. It was narrated from Samurah bin Jundub that the Messenger of Allâh ﷺ said: "If a man loses something, or it is stolen from him, and he finds it in the possession of a man who bought it, then he has more right to it, and the one who bought it should ask for his money back from the one who sold it to him." (Da‘if)

Chapter 13. Ruling On Property Damaged By Livestock

2332. It was narrated from Ibn Shihâb that Ibn Mu‘ayyisah Al-Ansârî told him that a she-camel belonging to Barâ‘ used to wander free. It entered a garden belonging to some people and caused some damage. The Messenger of Allâh ﷺ was told of that, and he ruled that property was to be protected by its owners during the day, but the owners of livestock were responsible for any damage caused by their animals during the night. (Da‘if)

Another chain from Harâm bin Muhayyisah, from Barâ‘ bin ‘Âzib, that a she-camel belonging to the family of Barâ‘ damaged
something, and the Messenger of Allāh ﷺ issued a similar ruling.

Comments:
The night is for rest, and during the night the animals are kept in enclosures. Therefore, if an animal enters into the field or garden of someone during night, it will be the negligence and fault of the owner of the animal. So he will be responsible to pay for the damage. Contrary to the night, if any damage is done during the day, it will be the fault of the owner of the garden or of the farmer; and the owner of the animal will not be responsible.

Chapter 14. Ruling
Concerning One Who Breaks Something

2333. It was narrated that a man from Banu Suwā’ah said: “I said to ‘Āishah: ‘Tell me about the character of the Messenger of Allāh ﷺ.’ She said: ‘Have you not read the Qur’ān: “And verily, you (O Muhammad) are on an exalted (standard of) character?”’[1] She said: ‘The Messenger of Allāh ﷺ was with his Companions, and I made some food for him, and Hafsah made some food for him, but Hafsah got there before me. So I said to the slave girl: “Overturn her bowl.” She went and caught up with her, and she was about to put (the bowl) in front of the Messenger of Allāh ﷺ. She overturned it and the bowl broke, scattering the food. The Messenger of Allāh ﷺ...

gathered the pieces and the food on the leather mat, and they ate. Then he sent for my bowl and gave it to Hafsah, and said: “Take this pot in place of your pot, and eat what is in it.” And I did not see any expression of anger on the face of the Messenger of Allah.’” (Da‘if)

2334. It was narrated that Anas bin Mālik said: “The Prophet was with one of the Mothers of the Believers (his wives) and another (wife) sent a bowl containing food. She (the first wife) struck the hand of the Messenger and the bowl fell and broke. The Messenger of Allah took the two pieces and put them back together, then he started gathering up the food and putting it in (the bowl). He said: ‘Your mother was jealous. Eat.’ So they ate, and she (the wife who broke the bowl) brought the bowl that was in her house and gave the intact bowl to the Messenger, who left the broken bowl in the house of the one who broke it.” (Sahih)
Chapter 15. A Man Fixing Wood To The Wall Of His Neighbor

2335. It was narrated that 'Abdur-Rahman Al-'Araj said: "I heard Abu Hurairah narrating that the Prophet ﷺ said: 'When anyone of you asks his neighbor for permission to fix a piece of wood to his wall, he should not refuse him.' When Abu Hurairah told them this, they lowered their heads, and when he saw them he said: 'Why do I see you turning away from it? By Allâh, I will force you to accept it.'" (Sahih)

Comments:

a. Thrusting wood into the wall means, either to fix a peg, or to place a beam etc., on the wall to put a roof on it.

b. Linguistically the Arabic text translates as: 'Keep hitting it on the shoulders' and it means whether you like it or not I shall keep telling you the rule of Shari'ah and you will have to act upon it.

2336. 'Ikrimah bin Salamah narrated that there were two brothers from among the sons of Mughirah. One of them swore an oath to set a slave free if the other one fixed a piece of wood to his wall. Mujammi' bin Yazid and many men from among the Ansâr came and said: "We bear witness that the Messenger of Allâh ﷺ said: 'None of you should refuse to let his neighbor fix a piece of wood to his wall.'" He said: 'O my brother, judgment has been
passed in your favor against me, but I have sworn an oath.' So go ahead and fix your wood to my wall.”

Comments:
a. Taking a conditional oath about one's own thing is permissible; for example: "If I do such and such work then my slave is free.”
b. The Companions and the Tābi‘in (the successors) would end their dispute by listening to a Hadith, and would act in the light of Hadith; even if the decision was against them.
c. One who has taken an oath, should not be forced to break it, but rather encouraged to fulfill it.

2337. It was narrated from Ibn 'Abbas that the Prophet ﷺ said: “No one of you should refuse to let his neighbor fix a piece of wood to his wall.” (Sahih)

Chapter 16. When There Is A Dispute As To How Wide A Road Or Path Should Be

2338. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: “Make the path seven forearms length wide.” (Sahih)
2339. It was narrated from Ibn ‘Abbas that the Messenger of Allāh ﷺ said: “When you dispute concerning a path, make it seven forearms length wide.” (Sahih)

Comments:

a. A forearm’s length means the length from finger tips to the elbow, which is equal to one and half foot. The measure of seven forearms is equal to three yards or ten and half a feet.

b. The current era is of cars, buses, trucks and other vehicles; therefore a suitable width of streets, roads and footpaths should be designed. At the time of drawing architectural plans for new settlements, the width of streets and roads must not be less than that mentioned in the Hadith.

Chapter 17. One Who Builds Something On His Own Property That Harms His Neighbor

2340. It was narrated from ‘Ubādah bin Sāmit that the Messenger of Allāh ﷺ ruled: “There should be neither harming nor reciprocating harm.” (Da’if)

Comments:

a. If someone tries to cause loss, hurt or annoyance, it is incorrect to retaliate with loss and annoyance, rather the arbitration of the wise and elderly, the council of arbitrators, or a religious court should be used as sources to fulfill...
true rights, and to stop the person from making trouble.
b. Many such issues that appeared after the noble Prophet ﷺ should be
resolved in the light of these rules; if something causes loss to an individual,
or it is a collective loss, or the public gets hurt, then this must be eliminated.

2341. It was narrated from Ibn 'Abbās that the Messenger of
Allāh ﷺ said: “There should be
neither harming nor reciprocating
harm.” (Da‘if)

2342. It was narrated from Abu
Sirmah that the Messenger of
Allāh ﷺ said: “Whoever harms
others, Allāh will harm him; and
whoever causes hardship to
others Allāh will cause hardship
to him.” (Da‘if)

Comments:
a. Muslims must care for each other’s rest and peace, and must not try to
hurt anyone.
b. ‘Allāh will cause hardship to him’ also means He will punish him on
Judgment Day and reckon him strictly. Another possible meaning is that he
will get punishment for it in this life, and he will be swamped in difficulties
from Allāh, and will bear losses.

Chapter 18. Two Men Who
Lay Claim To A Hut

2343. It was narrated from
Nimrān bin Jāriyah, from his
father, that some people referred a
dispute to the Prophet ﷺ about a
hut, so that he could judge
between them. He sent Hudhaifah
to judge between them, and he ruled in favor of those who had the rope (with which the hut was bound together). When he went back to the Prophet he told him (what he had done) and he said: "You did the right thing, and you did well." (Da'if)

Comments:
Shaikh Zuhair Shâ'waish said in the footnotes of Da'if ibn Mâjah: 'Khuss is a hut made of reeds (a type of wild plant). The soft end of the reeds is on the same side of threads and strings. The leaves of the date tree and the skin are on the side of the owner and the hard and rough end is on the other side. This description tells that the claimant was wrong in claiming the ownership of the hut, because his beams were on the side of the hard and rough end.'

Chapter 19. One Who Stipulates The Condition Of Khalâs

2344. It was narrated from ('Uqbah bin 'Âmir or) Samurah bin Jundub that the Messenger of Allâh ﷺ said: "If a product is sold to two men, it is for the one who was first."[2] (Da'if)

(One of the narrators) Abu Al-Walid said: "This Hadith shows that Khalâs is invalid."

[1] Khalâs: A condition stipulating that the seller will deliver the product when it comes into his possession.

[2] "What was sold, or, for the first of the two purchasers." (Sindi). See no. 2190 where it preceded.
The meaning of the Hadith is that if a person sells an item to someone; then the seller finds another customer who is willing to pay more, and asks the seller to take the item back somehow, and sell it to the new customer; this condition is wrong, as is the second transaction. Only the first sale is correct and legally lawful.

Chapter 20. Passing Judgment

**By Casting Lots**

2345. It was narrated from 'Imrân bin Husain that a man had six slaves, and he did not have any other wealth apart from them, and he set them free when he died. The Messenger of Allâh divided them into groups, set two free and left four as slaves. *(Sahih)*

**Comments:**

a. It is unlawful to give all of one’s wealth in charity at the point of death. Just one third, maximum, of the whole inheritance may be given in charity; and donating less than one third is better. (See Hadith: 2708).

b. This Companion set free all the slaves while he had the right to set free only two of them. Now every slave had the right to be counted among the two who were set free. It is known from the decision of the Prophet that when more than one claimant has an equal right of something, then the decision will be made by drawing lots.

2346. It was narrated from Abu Hurairah that two men disputed concerning a transaction, and neither of them had proof. The Messenger of Allâh commanded them to draw lots as to which of them should swear an oath, whether they liked it or not. *(Da‘if)*
Comments:

a. When the claimant is unable to bring the witness or his witnesses are unacceptable, then the defendant will be asked to take an oath.

b. Both parties can be the claimants in the case mentioned in the Hadith; and both can be considered defendants as well. Now who will be the defendant and take an oath will be judged by drawing lots.

2347. It was narrated from 'Āishah that when the Prophet ﷺ traveled, he would cast lots among his wives (to decide which one would accompany him). (Sahih)

Comments:

Allāh granted special permission to the noble Prophet ﷺ, therefore, it was not compulsory for the Prophet ﷺ to appoint turns among his wives. (See Al-Ahzāb 33: 51), despite that, the Prophet ﷺ would fulfill justice with them. There is a lesson in it for the nation to take the utmost care of justice among wives and children.

2348. It was narrated that Zaid bin Arqam said: “A case was brought to ‘Ali bin Abu Tâlib when he was in Yemen, concerning three men who had had intercourse with a woman during one period of being free from menses. He asked two of them: “Do you affirm that this child belongs to (the third man)?” And they said: “No.” He asked another two of them: “Do you affirm that this child belongs to (the third man)?” And they said: “No.” Every time he asked two of them whether they affirmed that the child belonged to the third, they would say no. So he cast lots between them, and attributed the child to the one whose name was
chosen in this manner, and obliged him to pay two thirds of the Diyah.\[1\] The Prophet was told of this, and he smiled so broadly that his back teeth became visible. (Du’af)

Comments:

a. A free human cannot be sold at all; therefore, the human cannot be priced. But in case of a mistaken killing, etc., the blood money is fixed at one hundred camels. ‘Ali proved this amount as a price of the victim.

b. If a case were to come about for which there is no exact and precise information in the Qur’an and Hadith, then the decision should be made in the light of dedicated jurisprudence and analogy. But following the juristic and analogical opinion, in the presence of clear and precise wording of the Shari’ah, is unlawful.

c. Although the habit of laughing a lot is disliked, if a matter of happiness or surprise occurs, then laughing for it is not contrary to the virtue of a scholar or an elderly person.

Chapter 21. Those Who Detect A Family Likeness

2349. It was narrated that ‘Aishah said: ”The Messenger of Allâh came in one day looking happy, and said: ‘O ‘Aishah, did you not see that Mujazziz Al-Mudliji entered upon me and saw Usâmah and Zaid. There was a blanket over them and their faces were covered but their feet were exposed, and he said: ‘These feet belong to one another.”‘" (Sahîh)
The Chapters On Rulings

Comments:

a. *Qā'if* (physiognomist) is a person who is well versed in the science of physiognomy; physiognomy is an art of judging a man’s nature. A person with the art of physiognomy reads the facial features and apparent physical characteristics and thus he judges the nature of things. Particularly, a physiognomist tries to express his view regarding the lineage relationship between two individuals. In these days some expert human trackers (modern: detectives) who, in search for thieves, are able to recognise a suspicious person with the help of their footprints; are also a kind of physiognomists.

b. In the time of Ignorance (the pre-Islamic period), if the people had a dispute about who a child belonged to, then they would ask the physiognomist (*Qā'if*) to express his judgement with regard to the lineage of the child. This *Hadith* is a proof that their assistance still can be sought in these days. [I say: This *Hadith* is a fundamental rule for using modern detective devices and other trusted scientific and technical methods; like DNA, drug probes, fingerprints and other methods used to track criminals etc. Islam is a religion that deals with all types of problems, and Islam has always been modern, and a pioneer until the Day of Judgment. – Usmani]

c. Zaid ً، who was the adopted son of the Prophet ً، had a white complexion, but his son Usâmah had a brown complexion; about which some of the hypocrites made inappropriate comments. When an Arab expert physiognomist said that these two individuals have the same family lineage, i.e., they are father and son; it uprooted the false propaganda of the hypocrites. So the Prophet ً was very much pleased.

2350. It was narrated from Ibn ‘Abbâs that the Quraish went to a sorceress and they said to her: "Tell us whose footprints most resemble those of the owner of Al-Maqâm (the station of Ibrâhîm)." She said: "If you spread a piece of cloth over this soft earth and walk over it, I will tell you." So they spread out a piece of cloth and the people walked over it. She saw the footprints of the Messenger of Allâh ً and said: "This one most closely resembles him among you." After that twenty years passed, or as long as
Allâh willed, then Allâh sent Muhammad (i.e., missioned him as the Prophet). (Da'if)

Chapter 22. Giving A Child
The Choice Between His Parents

2351. It was narrated from Abu Hurairah that the Prophet ﷺ gave a child the choice between his father and his mother (i.e., which parent to live with). He said: “O boy, this is your mother and this is your father.” (Sahih)

2352. It was narrated from 'Abdur-Rahman bin Salamah, from his father, from his grandfather, that his parents referred their dispute to the Prophet ﷺ, and one of them was a disbeliever while the other a Muslim. He gave him the choice and he turned towards the disbeliever. He (the Prophet ﷺ) said: “O Allâh, guide him,” and he turned towards the Muslim, and he ruled that he should go with that parent. (Hasan)

The Chapters On Rulings

Chapter 22: Giving A Child

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Comments:

a. If the husband or wife embraces Islam, and the other spouse persists in disbelief, then they will be separated; and the wife has the right to marry another man after passing the waiting period.

b. If the wife waits for her husband to become a Muslim instead of marrying another man, they will be allowed to establish matrimonial relations again, whenever he embraces Islam, without a new marriage bond. (See Hadith: 2009)

c. If a husband and wife get separated for some reason; maybe because of divorce or the cancellation of the marriage bond; in this case the child will be given the choice to go with whoever the child pleases. Or the judge will look at the circumstances, to determine who will be better for the child, and then will decide accordingly.

Chapter 23. Reconciliation

Chapter 23 - لابكت (التحفة.32)

2353. Kathir bin ‘Abdullâh bin ‘Amr bin ‘Awf narrated from his father that his grandfather said: “I heard the Messenger of Allah نبأ السبح say: ‘Reconciling between Muslims is permissible, except reconciliation that forbids something that is allowed, or allows something that is forbidden.’” (Sahih)

Comments:

a. If there is a dispute among two individuals or two parties, the responsible people should not let it get worse; and they should try to make reconciliation as soon as possible.

b. The reconciliation means that one of them accepts his right, maybe even less than the due, just for the sake of ending the dispute. It is a deed of enormous reward.
c. Any condition which is contrary to the clear rules of the Shari'ah cannot be allowed; stipulating such a condition or acting upon it is prohibited.

Chapter 24. Preventing One Who Will Mishandle His Wealth

2354. It was narrated from Anas bin Malik that there was a man at the time of the Messenger of Allâh ﷺ whose mental faculties were lacking, and he used to buy and sell. His family came to the Prophet ﷺ and said, “O Messenger of Allâh, stop him.” So the Prophet ﷺ called him, and told him not to do that. He said: “O Messenger of Allâh, I cannot bear to be away from business.” He said, “If you engage in a transaction, then say: ‘Take it (i.e. the goods) and don’t cheat (me).’”[2] (Sahîh)

Comments:

a. ‘And don’t cheat’ means if you deceive me in this transaction, and later I find out, then I have the right to cancel the transaction.

b. Once he was hit in the head and his brain was affected, and that was the reason for him being deceived.

c. The person who is mentally unstable can be banned from conducting business deals, and any transaction made by him may be annulled. After having been banned from doing so, whoever makes a business deal with him, will be responsible himself, because his relatives have the right to prove the deal, void.

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[1] The Prophet ﷺ told him to do that so that people would realize that he was not very smart, so they would be kind to him and treat him fairly, as people at that time were like brothers, and cared for others more than they cared for themselves.
2355. It was narrated that Muhammad bin Yahya bin Habbân said: “My grandfather was Munqíd bin ’Amr. He was a man who had suffered a head wound and lost the power of speech, but that did not stop him from engaging in trade. He was always being cheated, so he went to the Prophet ﷺ and told him about that. He said to him: ‘When you buy something, say: “There should be no intention of cheating,” and for every product you buy, you have the choice for three nights. If you are pleased with it, keep it, and if you are displeased then return it.’” (Hasan)


Comments:
A less wise person is allowed to buy and sell; however an officer appointed by the Islamic government has the authority to ban him from doing so.

Chapter 25. Bankruptcy Of A Poor Man, And Selling His Assets To Pay Off His Creditors

2356. It was narrated that Abu Sa’eed Al-Khudri said: “At the time of the Messenger of Allâh ﷺ, a man suffered loss of some fruit that he had purchased, and his debts increased. The Messenger of Allâh ﷺ said: ‘Give him charity.’ So the people gave him charity, but that was not enough to pay
off his debts. The Messenger of Allah ﷺ said: ‘Take what you find, but you have no right to more than that,’ meaning his creditors.” (Sahih)

Comments:

a. The person who has an enormous amount of debt due from him, and is unable to repay it, should be helped with charity, and he is also entitled to receive Zakāt.

b. If the debt is huge, and the amount collected from the people is not enough to repay the debt, then whatever is available should be divided among the creditors according to the percentage of their debts; for example: if a debtor has an amount equal to half of the debt, then every creditor will receive half of his credit.

c. When a possible amount has been repaid and the debtor has been declared bankrupt; thereafter, the creditors cannot demand more.

2357. It was narrated from Jābir bin ‘Abdullāh that the Messenger of Allah ﷺ rid Mu‘ādh bin Jabal of his creditors, then he appointed him governor of Yemen. Mu‘ādh said: “The Messenger of Allah ﷺ settled my debts with my creditors using what wealth I had, then he appointed me as governor.” (Da‘īf)

Chapter 26. One Who Finds His Exact Property With A Man Who Has Become Bankrupt

2358. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “Whoever finds his
exact property with a man who has become bankrupt, then he has more right to it than anyone else.” (Sahih)

It was narrated from Abu Hurairah that the Prophet \(\text{ﷺ}\) said: “Any man who sells a product, then he finds the exact product with the man who has become bankrupt, and he has not taken any of its price, it belongs to him, but if he had taken any of its price, then he is like any other creditor.” (Sahih)

Comments:

a. If a person under such an enormous amount of debt, is unable to repay it; it is allowed to declare him bankrupt.

b. Extra merchandise of the bankrupt person will be sold to repay the debt to the lenders.

c. If an item belonging to a creditor is still present with the bankrupt (debtor); then this case has two aspects: A): If the bankrupt debtor did not pay anything towards the item at all, then the creditor will take the thing back; it will be considered as if nothing was sold and bought. B): If the bankrupt debtor has paid something, or the whole price for the item, then now it belongs to the debtor. Now when the households are shared by the creditors, if this thing falls into the share of the creditor, who was the real owner, then
this is fair enough, otherwise in whoever's share it falls, he will take it, and the creditor who initially owned it does not have any right upon it.

2360. It was narrated that Ibn Khaldah, who was a judge in Al-Madinah, said: We came to Abu Hurairah and asked him about a companion of ours who had become bankrupt. He said: "This is what the Prophet ruled: 'Any man who dies or becomes bankrupt, the owner of the product has more right to it, if he finds the exact thing.'" (Hasan)

2361. It was narrated from Abu Hurairah that the Messenger of Allâh said: "Any man who dies and has the property of another man, whether he paid something towards it or not, (the owner of those goods) is like any other creditor." (Hasan)

Comments:

If a person borrowed some cash from someone, and the borrower dies before using the cash; the lender cannot claim the whole amount of cash to be repaid to him only; for example: he claims that these are the same notes borrowed from him. This creditor will be just like the other creditors. If the other creditors are repaid fully then he will be repaid fully; otherwise if the
debtor's inheritance, the lender of cash will be paid a lesser amount in proportion to the amount paid to the other creditors. So, in this matter, the cash and other things are not treated equally; as in the case of goods, the creditor may take his goods back. As mentioned in Hadith 2359, comment c.
The Chapters On Testimonies

Comments:
Testimony is that a person tells an account about something accurately as he/she sees and hears.
* Only those things should be informed of as testimony which have been seen by the eyes or heard by the ears. Uncertain testimony must not be given.
* Two trustworthy persons should testify to the honesty and trustworthiness of the witness.
* A false witness should be given some sort of punishment in order to make an example of him for other people in the future.

Chapter 27. To Give Testimony When One Has Not Been Asked To Do So Is Disliked

2362. ‘Abdullāh bin Mas’ud said: “The Messenger of Allāh ﷺ was asked, ‘Which of the people are best?’ He said: ‘My generation, then those that follow them, then those that follow them. Then there will come people whose testimony precedes their oath and whose oath precedes their testimony.’” (Sahih)

Comments:
a. Qarn means the people of an era; i.e., people of a generation. Here the first Qarn (era) means the first generation of Islam, who were the noble Companions of the noble Prophet ﷺ, and those who succeeded them are the Tābi‘īn (the successors) and those who succeeded the Tābi‘īn are the Taba’ Tābi‘īn (the successor of the successors); (i.e., first, second and third generations of Islam).
b. The noble Companions are the most virtuous generation of the Muslim
Nation; a Companion who is smallest in status is more virtuous than the most righteous Tābi‘i (successor).

2363. It was narrated that Jābir bin Samurah said: ‘Umar bin Khattāb addressed us at Jabiyah and said: “The Messenger of Allāh ﷺ stood up among us as I stand among you, and said: ‘Honor my Companions for my sake, then those who come after them, then those who come after them. Then lying will prevail until a man will give testimony without being asked to do so, and he will swear an oath without being asked to do so.’” (Sahih)

Comments:

a. In the time of Companions, Tābi‘in and the Tabā‘ Tābi‘in, in the society, good was overwhelming, whereas the evil was overwhelmed. The general people did not have the moral and behavioural corruption which appeared later; the mistakes that occurred in the earlier era were not that severe and damaging as ones those occurring among the later generations.

b. The meaning of an oath not to be demanded, is that the witness will be determined to bear witness, but due to corruption and weakness of morality they will be unreliable; therefore they will not be accepted as a witness, and even their oaths will be regarded unreliable.
Chapter 28. A Man Who Has Testimony To Give, When The Person To Whom It Pertains Is Unaware Of That

2364. Zaid bin Khālid Al-Juhani said that he heard the Messenger of Allāh ﷺ say: “The best of witnesses is the one who gives his testimony before he is asked for it.” (Sahih)

Comments:
It means a true witness, if he does not testify, then someone’s right is at risk; this is because perhaps there are no other witnesses, or there is a witness, but he is unreliable.

Chapter 29. Witnessing Loans

2365. It was narrated that Abu Sa’eed Al-Khudri recited this Verse: “O you who believe! When you contract a debt for a fixed period...” until: “then if one of you entrusts the other.”[1] Then

he said: "This abrogates what came before."[1] (Hasan)

Comments:

This 'abrogation' does not mean the Terminological Abrogation. It is a partial abrogation that the first Verse commands for documenting any type of loan.

Chapter 30. The One Whose Testimony Is Not Permitted

2366. It was narrated from 'Amr bin Shu'aib from his father that his grandfather said that the Messenger of Allah ﷺ said: "The testimony of a man or woman who is treacherous, or of one who has been subjected to one of the Hadd punishments of Islam, or of one who bears a grudge against his brother, is not permissible." (Da'if)

[1] Ibn Kathir said: “Abu Sa'eed, Sha'bi, Rabi' bin Anas, Hasan, Ibn Juraij, and Ibn Zaid said that recording such transactions was necessary before, but was then abrogated by Allâh’s Statement;” and he cited this portion of Al-Baqarah 2:283. See the Tafsir of Ibn Kathir, Al-Baqarah 2:283.
The Chapters On Testimonies  356

Comments:

a. A person behaving treacherously with a trust is not reliable. So, his testimony is unacceptable in the court.

b. If it is proven that the witness already has unpleasant terms against whom he is testifying, it makes the testimony doubtful. It is possible that due to enmity, he wants to take revenge by testifying against the opponent.

2367. It was narrated from Abu Hurairah that he heard the Messenger of Allah ﷺ say: “The testimony of a Bedouin against a town-dweller is not permissible.”   
(Sahih)

Comments:

a. The fact of it is that the Bedouins are generally at a low level in religion, morals and character; because they do not have the opportunity to sit in the company of the scholars and to learn about the religion. Therefore, there is more possibility they will not testify accurately.

b. It is necessary that the witness is a trustworthy person.

Chapter 31. Passing Judgment
On The Basis Of A Witness
And An Oath

2368. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ passed judgment on the basis of an oath (from the claimant) along with a (single) witness. [This is in the absence of two witnesses.]   
(Sahih)
2369. It was narrated from Jābir that the Prophet passed judgment on the basis of an oath (from the claimant) along with a (single) witness. (Sahih)

2370. It was narrated that Ibn 'Abbās said: “The Messenger of Allāh passed judgment on the basis of a witness along with an oath (by the claimant).” (Sahih)

Comments:

a. Two trustworthy witnesses are compulsory to prove a claim to be true.

b. If the claimant has one witness only, he will then take one oath along with the witness, and thus the claim of the claimant will be proven.
Chapter 32. False Witness

2372. It was narrated that Khuraim bin Fātik Al-Asadi said that the Prophet ﷺ prayed the Morning prayer, and when he had finished, he stood up and said: “Bearing false witness is equivalent to associating others with Allāh,” three times. Then he recited this Verse: “And shun lying speech (false statements), Hunafā’ Lillāh (i.e., worshiping none but Allāh), not associating partners (in worship) to Him.”[1] (Da‘if)

 comentarios: Bearing false witness is a major sin. There are several authentic Ahādīth concerning this issue. The three sins that the noble Prophet ﷺ declared ‘the worst of the major sins’ are: “Associating partners with Allāh, disobeying parents and bearing false witness.” (See Sahih Al-Bukhārī, The Testimonies, Chapter: What is mentioned concerning the false oath)

2373. It was narrated from Ibn ‘Umar that the Messenger of Allāh ﷺ said: ‘The one who bears false witness will not move away (on the Day of Resurrection) until Allāh condemns him to Hell.’” (Da‘if)

Chapter 33. The Testimony Of The People Of The Book Against One Another

2374. It was narrated from Jâbir bin ʿAbdullâh that the Messenger of Allâh ﷺ allowed the People of the Book to testify against one another. (Daʿîf)
14. The Chapters On Gifts

_Hibah_ is that a person, willingly, gives his wealth or property to someone as a gift without asking for anything in exchange. Religiously, giving a gift is desirable, because it is such a good deed that Allāh urged His slaves for it.

If a father wants to give something to his children, he should necessarily treat all his children equally.

It is _Harām_ (illegal) to take the gift back.

A father is allowed to take his gift back.

It is wrong even to hope for an exchange for a gift.

Chapter 1. A Man Giving A Gift To His Son

2375. It was narrated that Nu‘mān bin Bashīr said that his father took him to the Prophet ﷺ and said: “Bear witness that I have given Nu‘mān such and such from my wealth.” He said: “Have you given all your children something like that which you have given to Nu‘mān?” He said: “No.” He said: “Then let someone other than me bear witness to that.” And he said: “Would you not like all your children to honor you equally?” He said: “Of course.” He said: “Then do not do this.” (Sahih)
2376. It was narrated from Nu‘mān bin Bashir that his father gave him a gift of a slave, and he came to the Prophet ﷺ so that he could witness the gift. He said: “Have you given something to all of your children?” He said: “No.” He said: “Then take back (your gift).” (Sahih)

Comments:

a. Children should be treated equally. Equal treatment in daily needs is that everybody should be given according to one’s needs, for example: if a child needs clothes, he should be provided with the clothes; whoever needs medical treatment he/she should be provided with it; moreover, the equality of giving gifts to children is also necessary.

b. The parents may take back the gift given to the children.

Chapter 2. One Who Gives His Child A Gift Then Takes It Back

2377. It was narrated from Ibn ‘Abbās and Ibn ‘Umar, who attributed the Hadith to the Prophet ﷺ, that he said: “It is not permissible for a man to give a gift then take it back, except what a father gives to his child.” (Sahih)
2378. It was narrated from ‘Amr bin Shu’aib, from his father, from his grandfather, that the Prophet of Allâh ﷺ said: “None of you should take back his gift, except a father (taking it back) from his son.” (Sahîh)

Comments:

a. It is not right to take back something given to someone as gift, whether the gift is something ordinary or precious.

b. A father may take back something that he has given to his children.

c. The same rule of taking a gift back from a child applies to the mother as well.

d. Some scholars even included the maternal grandfather and grandmother, paternal grandfather and grandmother in the same rule.

Chapter 3. Lifelong Grant

2379. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "There is no lifelong grant. Whoever is given something as a lifelong grant, it is his.'" (Hasan)

Comments:

a. The Arab would sometimes say when doing a favor to someone: ‘I give you the permission to reside in my house for your whole life.’ It means ‘this house will be mine or it will be inherited by my heirs after your death,’ it is called ‘Umrâ.

b. The Messenger of Allâh ﷺ stated the ‘Umrâ as a general charity. Now according to the Shari‘ah, something given to someone as ‘Umrâ will belong to whom it is given. It is wrong to stipulate the condition that ‘it will come back to me after your death.’
2380. It was narrated that Jâbir said: “I heard the Messenger of Allâh ﷺ say: ‘Whoever gives a lifelong grant to a man, it belongs to him (the recipient) and to his heirs. His (the giver’s) words put an end to his right to it, and it belongs to the one to whom it was given for life and to his heirs.’” (Sahih)

Comments:
Whatever is given to someone for one’s whole life, after the recipient’s death, it will not be returned to the giver; instead it will be shared by the deceased’s heirs, just like his/her remaining inheritance is divided among the heirs, according to their shares, because it has the status of Hibbah according to the Islamic law. Therefore it will be regarded legal property of the recipient.

2381. It was narrated from Zaid bin Thâbit that the Prophet ﷺ ruled that a gift given for life belongs to the heirs (of the recipient). (Sahih)

Chapter 4. The Ruqba

2382. It was narrated from Ibn ‘Umar that the Messenger of Allâh ﷺ said: “There is no Ruqba. Whoever is given a gift on the basis of Ruqba, it belongs to him, whether he lives or dies.” (Sahih)

He (the narrator) said: “Ruqba is when one man says to another: ‘When either of us dies.’”
It was narrated from Jâbir bin 'Abdullâh that the Messenger of Allâh ﷺ said: “‘Umra belongs to the one to whom it is given, and Ruqba belongs to the one to whom it is given.” (Sahih)

Comments:

a. The difference between ‘Umra and Ruqba is that in the matter of ‘Umra, the life of the recipient is considered, he will reside in the house as long he is alive, whether he dies before the giver or after. Whenever the recipient dies, the house is reversed to the giver or to his heirs. But Ruqba has a condition that the giver will take it back only if the recipient dies before; if the giver dies before the recipient, then the house will belong to the recipient.

b. If someone wants to help a poor person, and he also wants the house to remain the property of the owner, he should then lend the house to the poor for a certain period; this period may be extended at the end of the previous period if the need is realized.

Chapter 5. Taking Back A Gift

It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “The likeness of one who takes back his gift is that of a dog that eats until it is full and vomits; then it goes back to its vomit and eats it again.” (Sahih)
The Chapters On Gifts

2385. It was narrated from Ibn ‘Abbás that the Messenger of Allāh ﷺ said: “The one who takes back his gift is like the one who goes back to his vomit.” (Sahih)

2386. It was narrated from Ibn ‘Umar that the Prophet ﷺ said: “The one who takes back his gift is like the dog that goes back to its vomit.” (Sahih)

Comments:

**Hibah** is to give something to someone without any exchange for it. Its objective is only and solely to gain Allāh’s pleasure, and fair treatment to a believer. So taking it back is to spoil one’s good deed, and it is a very bad habit to spoil a good deed deliberately.

Chapter 6. One Who Gives A Gift Hoping To Get Something Back In Return

2387. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: “A man has more right to his gift so long as he has
Chapter 7. A Woman Giving Something Without Her Husband’s Permission

2388. It was narrated from ‘Amr bin Shu‘aib, from his father, from his grandfather, that the Messenger of Allāh ﷺ said, in a sermon that he delivered: “It is not permissible for a woman to dispose of her wealth except with her husband’s permission, once he has married her.” (Sahih)

2389. It was narrated from ‘Abdullāh bin Yahya, one of the sons of Ka‘b bin Mālik, from his father, from his grandfather, that his grandmother Khairah, the wife of Ka‘b bin Mālik, came to the Messenger of Allāh ﷺ with some jewelry belonging to her, and said, I am giving this in charity. The Messenger of Allāh ﷺ said to her: “It is not permissible for a woman to dispose of her wealth without her husband’s permission. Did you not gotten something in return for it.” (Sahih)
ask Ka‘b’s permission?” She said: “Yes.” So the Messenger of Allâh ﷺ sent for Ka‘b bin Mâlik, her husband, and said, “Did you give Khairah permission to give her jewelery in charity?” He said: “Yes.” So the Messenger of Allâh ﷺ accepted it from her. (Da‘if)

Comments:
a. If a woman intends to give charity from her own wealth, it is better to ask the husband’s permission.
b. Imâm Bukhârî said that if a woman is wise enough, she may give charity to someone, even if her husband is at home, but this permission applies when a woman knows that her husband will have no objection against her giving it away, or he will not object for such and such amount; and she normally gives away the amount which her husband has no objection too.
15. The Chapters On Charity

Chapter 1. Taking Back One's Charity

2390. It was narrated from 'Umar bin Khattab that the Messenger of Allah ﷺ said: “Do not take back your charity.” (Sahih)

2391. 'Abdullâh bin 'Abbâs narrated that the Messenger of Allah ﷺ said: “The likeness of the one who gives charity then takes it back is that of a dog who vomits then goes back and eats its vomit.” (Sahih)

Comments:
Charity is a great virtuous deed. It is not good to take charity back once it is given. Taking it back is to annul the good of it. Annulling a virtuous deed is a great loss. Giving the example of a dog that vomits and eat its vomit shows that taking back charity is a most abhorrent deed and one should avoid it.
Chapter 2. One Who Gives Charity Then Finds His Gift Being Sold – Should He Buy It?

2392. It was narrated from 'Umar bin 'Abdullāh bin 'Umar, meaning, from his father, from his grandfather 'Umar, that he gave a horse in charity at the time of the Messenger of Allāh ﷺ, then he saw its owner selling it for a low price. He went to the Prophet ﷺ and asked him about that, and he said: "Do not buy what you gave in charity." (Sahih)

Comments:

To give a thing in charity, and the desire to buy it back, shows that its attachment and love is still in the heart, which is wrong and against the basic philosophy of charity. Giving a dear thing in the Name of Allāh is only to seek His pleasure and approval, and keeping a desire for that thing in the heart is to undo the virtuous deed.

2393. It was narrated from Zubair bin 'Awwām that he gave a horse called Ghamr or Ghamrah to someone, then he saw one of its colts or fillies attributed to his horse being sold, but he refrained from (buging) it.[1] (Sahih)

[1] He would not buy it because it was the offspring of what he gave in charity, this was stated in Injīḥul-Hājjah.
Chapter 3. One Who Gives Something In Charity Then Inherits It

2394. It was narrated from 'Abdullāh bin Buraidah that his father said: "A man came to the Prophet ﷺ and said: 'O Messenger of Allāh, I gave my mother a slave girl of mine, and she has died.' The Messenger of Allāh ﷺ said: 'Allāh has rewarded you, and returned to you your inheritance (without your seeking that).'" (Sahih)

2395. It was narrated from 'Amr bin Shu‘aib, from his father, that his grandfather said: "A man came to the Prophet ﷺ and said: 'I gave my mother a garden of mine, and she has died and has no other heir but me.' The Messenger of Allāh ﷺ said: 'Your charity is valid and your garden has been returned to you.'" (Sahih)

Comments:

a. Charity can be given to parents.

b. If anything is given to parents in charity, and it comes back in inheritance, it is not the same as taking back charity, it is just the share of inheritance that is the right of the heir.
c. In this situation, the reward of the virtuous deed of giving charity is not invalidated.

Chapter 4. One Who Establishes A Waqf (An Endowment)

2396. It was narrated that Ibn 'Umar said: "Umar bin Khattâb acquired some land at Khaibar, and he came to the Prophet ﷺ and consulted him. He said: 'O Messenger of Allâh, I have been given some wealth at Khaibar and I have never been given any wealth that is more precious to me than it. What do you command me to do with it?' He said: 'If you wish, you can make it an endowment and give (its produce) in charity.' So 'Umar gave it on the basis that it would not be sold, given away or inherited, and (its produce) was to be given to the poor, to relatives, for freeing slaves, in the cause of Allâh, to wayfarers and to guests; and there was nothing wrong if a person appointed to be in charge of it consumed from it on a reasonable basis or feeding a friend, without accumulating it for himself." (Sahih)

Comments:

a. Making a trust is lawful and permitted.

b. An endowment is not property of anyone, but the person who makes the endowment has the right to manage it.

c. 'Without accumulating it for himself' means not to make it a source of income for himself. The person appointed in charge can use endowment money only for his basic needs without being extravagant.
2397. It was narrated that Ibn 'Umar said: "Umar bin Khattab said: 'O Messenger of Allâh, the one hundred shares of the Khaibar I have never been given any wealth that is more beloved to me than them, and I wanted to give them in charity.' The Prophet ﷺ said: 'Make it an endowment and give its produce in the cause of Allâh.'" (Sahih)

(One of the narrators) Ibn Abu 'Umar (who narrated it from Sufyân, from 'Ubaidullâh bin 'Umar) said: "I found this Hadith in another location in my book from Sufyân, from 'Abdullâh, from Nâfi', from Ibn 'Umar who said: "Umar said.' And he mentioned similarly." (Sahih)

2398. Shurahbil bin Muslim said: I heard Abu Umâmah say: "I heard the Messenger of Allâh ﷺ say: 'Borrowed items are to be returned and an animal borrowed for milking is to be returned.'" (Hasan)

Chapter 5. Borrowed Items

2399. It was narrated that Ibn 'Umar said: "Umar bin Khattab said: 'O Messenger of Allâh, I have never been given any wealth that is more beloved to me than these hundred shares of the Khaibar, and I wanted to give them in charity.' The Prophet ﷺ said: 'Make it an endowment and give its produce in the cause of Allâh.'" (Sahih)
2399. It was narrated that Anas bin Mâlik said: "I heard the Messenger of Allâh ﷺ say: 'Borrowed items are to be returned and an animal borrowed for milking is to be returned.'" (Sahih)

2400. It was narrated from Samurah that the Messenger of Allâh ﷺ said: "The hand that takes is responsible for what it has taken until it returns it." (Da‘if)

Comments:
Debt, something borrowed, and entrusted things, must be returned after use. Their return is an obligation. Orders to return these things are there in the Noble Qur’ân and Sound Traditions. It is mentioned in the Noble Qur’ân, Surât Al-Mu‘minun, Verse 8: "Those who are faithfully true to their trusts and to their covenants." (Those are indeed successful.)

Chapter 6. Items Placed In Trust

2401. It was narrated from ‘Amr bin Shu‘aib, from his father, that his grandfather said: "The Messenger of Allâh ﷺ said:
Whoever is entrusted with an item for safekeeping, is not responsible for it (so long as he is not negligent).” (Da’if)

Comments:

a. Safeguarding an entrusted thing, and not breaking the trust, is the true character of a Muslim.

b. If an entrusted thing is damaged or lost, its same substitute should be returned, and if it is damaged or lost by some mishap, and there is no negligence or carelessness from the trustee, then there is no replacement for it.

Chapter 7. When The One Who Is Entrusted With Something Engages In Trade With It And Makes A Profit

2402. It was narrated from 'Urwh Al-Bariqi that the Prophet gave him a Dinâr to buy him a sheep, and he bought two sheep for him, then sold one of them for a Dinâr, and bought a Dinâr and a sheep to the Prophet. The Messenger of Allah prayed for blessing for him. (Sahih)

He (one of the narrators) said: “If he had bought dust, he would have made a profit from it.”

Another chain) from, 'Urwh bin Abu ja'd Al-Bariqi who said: “Some trade arrived, so the Prophet gave me a Dinâr.” And he mentioned similarly. (Hasan)
Comments:

a. Entrusted wealth can be used for personal purposes but after making it certain that it will be immediately returned on demand.

b. Doing business with the entrusted wealth is allowed, but if there is a loss in it, the trader will bear it, and the full amount of the entrusted wealth will be returned. Similarly if there is a profit in this trade, it is for the trader. The trader by his own free will can offer some money or gift to the owner of the wealth, and it is legal to accept it.

Chapter 8. Transferring Debt

2403. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: "(Wrongdoing) is when a rich man takes a long time to repay a debt, and if one of you is referred to a rich man (to collect a debt), he should accept that referral." (Sahih)

Comments:

a. If one has enough sources to return the debt, it is a sin and moral crime to make a delay in return of debt.

b. ‘Should accept that referral’ means if the debtor refers the lender to a wealthy man having good reputation to receive his money from him, he should accept this reference and contact him regarding his loan return. The lender can again make a demand from the debtor if he does not receive his money from the referred person.
The Chapters On Charity

Chapter 9. Guaranty

2405. Shurahbil bin Muslim Al-Khawlâni said: I heard Abu Umâmah Al-Bâhili say: “I heard the Messenger of Allâh ﷺ say: ‘The guarantor is responsible and the debt must be repaid.’” (Hasan) (المعجم 9 - باب الكفاية (التحفة 49)

Comments:

a. If a person act as a guarantor for guarantee to another person, saying that he will return the debt in time, or on demand, and the debtor fails to return it, the guarantor is responsible to return it. He should pay the debt from his own pocket and receive it later from the debtor.

b. Payment of a debt is a must even if the debtor dies. It should be paid from his legacy, and if the legacy is not enough to cover the amount of debt, his heirs are responsible to pay off the debt.

2406. It was narrated from Ibn 'Abbâs that during the time of the Messenger of Allâh ﷺ, a man pursued a debtor who owed him ten Dinâr, and he said: “I do not have anything to give you.” He (the creditor) said: “No, by Allâh, I will not leave you until you pay the debt or you bring me a guarantor.” Then he dragged him to the Prophet ﷺ and the Prophet ﷺ
The Chapters On Charity

377

said to him: "How long will you wait?" He said: "One month." The Messenger of Allâh ﷺ said: "I will be a guarantor for him." Then he came to him at the time the Prophet ﷺ had said, and the Prophet ﷺ said to him: "Where did you get this from?" He said: "From a mine." He said: "There is nothing good in it," and he paid the debt for him. (Hasan)

Comments:

a. A lender can press the debtor to pay back the loan taken.
b. To keep the wealth found from the mine is legal, but for him it was better to earn by working.
c. If the guarantor pays the amount of the debt on behalf of the debtor, it is requited and the debtor is free from the obligation.

2407. It was narrated that 'Uthmân bin 'Abdullâh bin Mawhâb said: "I heard 'Abdullâh bin Abu Qâtâdah narrate from his father that a corpse was brought to the Prophet ﷺ for him to offer the funeral prayer, and he said: 'Pray for your companion, for he owes a debt.' Abu Qâtâdah said: 'I will stand surety for him.' The Prophet ﷺ said: 'In full?' He said: 'In full.' And the debt he owed was eighteen or nineteen Dirham." (Sahih)

Comments:

a. The funeral prayer should be offered for a person who committed a sin; and should not be buried without the prayer.
b. Taking the responsibility on behalf of the deceased for payment of debt is legal and permitted, rather it is a favor for the deceased and his relatives.

Chapter 10. One Who Takes A Loan With The Intention Of Repaying It

2408. It was narrated that the Mother of the Believers Maimunah used to take out loans frequently, and some of her family said: “Do not do that,” and they denounced her for that. She said: “No, I heard my Prophet and my close friend say: ‘There is no Muslim who takes out a loan and Allâh knows that he intends to pay it back, but Allâh will pay it back for him in this world.’” (Hasan)

Comments:

a. To borrow at the time of need is allowed and legal but it is better to avoid it.

b. At the time of borrowing it should be the sincere intention to pay back the loan as soon as possible.

c. Allâh helps those who sincerely intend and try to repay the debt.

2409. It was narrated from 'Abdullâh bin Ja'far that the Messenger of Allâh peace be upon him said: “Allâh will be with the borrower until he pays off his debt, so long as it (the loan) is not for something that Allâh dislikes.” (Hasan)

He (the narrator) said: “Abdullâh bin Ja'far used to say to his store keeper (i.e., the one entrusted with his wealth): ‘Go and take out a loan for me, for I...’...”
would hate to spend the night without Allâh being with me, after I heard that from the Messenger of Allâh. (Hasan)"

Comments:
If there is a dire need of money for some good deed, one can borrow it, but one should not borrow for extravagant and worthless rites and customs, like un-Islamic customs in marriage and food parties after the burial etc. Such parties are innovations in Islam.

Chapter 11. One Who Takes A Loan With No Intention Of Repaying It

2410. Suhaib Al-Khair narrated that the Messenger of Allâh said: "Any man who takes out a loan, having resolved not to pay it back, will meet Allâh as a thief." (Hasan)

(المعجم 11) - باب مِن أَدَنُ دَينًا لَمْ يُعْقَدَ فِضْحٌ (التحفة 51)

4410 – حَدِيثًا: هَدَاءٌ بِنْ عَقَّارْ: حَدَّثَنَا يُوسُفُ بْنُ مَحْمَدٍ بْنِ صَبِيبَيْنِ بْنِ صَبِيبٍ الحَرَّيْنِ حَدَّثَنَا عَبْدُ الْمُحَمَّدِ بْنُ وَلَدٍ بْنِ صَبِيبَيْنِ بْنِ صَبِيبٍ بْنِ صَبِيبٍ بْنِ صَبِيبٍ، عَنْ صَبِيبٍ بْنِ صَبِيبٍ عَنْ عَبْدِ الْمُحَمَّدِ بْنِ مُحَمَّدٍ عَنْ عِبَّادِ الْمُجَابِرِي نِعْرِ غَرْفُ الْرَّسُولِ الْأَصِيَّةِ قَالَ: أَلِسَ رَجُلٌ يُدْخِلُ دَيْنًا، وَهُوَ مُجْعِعُ أَنَّ لَا يُؤْقِيَ إِيَّاهُ الْأَلَّيُّ الْأَلَّيُ الْسَّارَقُاءُ؟

تخريج: (اللف) [حسن] يُوسُفُ وَعَبْدُ الْحَمِيدِ ضَعْفُانُ كَمَا سِبْتُي، ح: 4410، وَفِي بُلُوْغِهِ غَيْرِ ابنِ حِبَانَ، وَلِلَّحَدِيثِ شَاهِدٌ حَسَنُ بَنِي بَعْدِهِ.

Another chain with similar wording. (Hasan)

4510. حَدَّثَنَا إِبْرَاهِيمُ بْنُ الْمُنِيرِ الْخُزَاعِيُّ، حَدَّثَنَا يُوسُفُ بْنُ مَحْمَدٍ بْنِ صَبِيبَيْنِ، عَنْ عِبَّادِ الْمُجَابِرِي نِعْرِ غَرْفُ الْرَّسُولِ الْأَصِيَّةِ عَنِ أَبِيهِ عَنِ الْجَعْفَرِ صَبِيبِي، عَنِ النَّبِيِّ صلى الله عليه وسلم.

تخريج: (ب) [حسن] أَخْرَجَهُ العَقِلِيُّ فِي الضعفاء: 4510، وَفِي حَدِيثِ إِبْرَاهِيمِ بْنِ الْمُنِيرِ بِالْمَنْدُرِ، وَيُوسُفُ بْنُ مَحْمَدٍ ضَعْفُهُ الْبِخَارِيُّ، وَالْعَقِلِيُّ، وَذُكِرَ الْذَّهْبِيُّ فِي دِيَوَانِ الضعفاء، وَقَالَ ابنِ حِبَانِ، وِلَبِبَانِ، وَضَعْفَهُ رَاجِحُ، وَشَيْخُهُ لِنَحْدِيْثِ كَمَا فِي التَّقْرِيبِ، وَلِلَّحَدِيثِ شَاهِدُهُ مِنْهَا أَخْرَجَهُ. 
Comments:

a. A person who borrows and purposely delays returning a debt, and desires not to pay it back, such a person, though in the eyes of law cannot be proved a thief, is an offender, and will be punished in the Hereafter.

b. Allâh is All-Knowing, and knows what is in the hearts of His slaves; therefore, Muslims should not cheat each other. It is possible to cheat each other, but it is not possible to cheat Allâh.

2411. It was narrated from Abu Hurairah that the Prophet ﷺ said:

"Whoever takes people's wealth with the intention of destroying it, Allâh will destroy him." (Sahîh)

Comments:

'TWith the intention of destroying it' means that he does not want to return it. For the lender it is destroyed because he will not get it back.

Chapter 12. Stern Warning Concerning Debt

2412. It was narrated from Thawbân, the freed slave of the Messenger of Allâh ﷺ, that the Messenger of Allâh ﷺ said:

"Anyone whose soul leaves his body and he is free of three things, will enter Paradise: Arrogance, stealing from the spoils of war, and debt." (Sahîh)
The Chapters On Charity

381

Comments:

a. Spoils of war is a common property of all the Muslims of a state prior to its distribution. As it is a mortal sin to steal it, in the same way making an embezzlement in the common property of Muslims is a mortal sin. As wealth of public treasury cannot be used for personal needs, in the same way, funds collected for mosques and religious schools, or for other welfare organizations, cannot be spent for personal needs. These funds should be used only for the purposes collected. Any officeholder of the welfare organization cannot spend it for any other purpose. Doing so is sure embezzlement.

b. Intentionally not returning the debt is a mortal sin, and it is an obligation on every Muslim to avoid such a great sin.

2413. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: “The soul of the believer is attached to his debt until it is paid off.” (Hasan)

Comments:

‘Is attached to his debt’ means that the responsibility of debt remains on the deceased until the debt is paid off, or he is not allowed to enter the Paradise until the debt is not paid off.

2414. It was narrated from Ibn 'Umar that the Messenger of Allāh ﷺ said: “Whoever dies owing a Dinār or a Dirham, it will

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نيسور بإسناد صحيح عن شعبة قال: فنيكم تدل عليه: الأعش وأبي إسحاق وقادة ومن طريقه أخرجه محمد بن طاهر المقدسي في مسألة التسمية، ص: 47، وسالم رمي بالتدليس ولا

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be paid back from his good deeds, because then there will be no Dinār or Dirham." (Sahih)

Comments:

a. If the heirs of the deceased do not pay his debt, it remains the responsibility of the dead, and this debt will be paid off from his virtues on the Day of Resurrection, and it will be a big cause of trouble for him.

b. Rights of human beings have great importance in religious affairs, and the settlements on the Day of Resurrection, regarding the dealings among the people in this world, will depend on their behavior with each other.

c. Barter of virtues and sins will settle the matters of debt on the Day of Resurrection. The lender will get the virtues of the debtor equal to his debt. If the debtor does not have enough virtues to pay the debt, the sins of the lender will be transferred to the debtor's account.

d. Rewards of virtuous deeds should be saved from being wasted. Bad deeds like oppression, tyranny, malice, doing some favor to someone, and then placing him under obligation, are negators of virtues, therefore, these should be avoided.

Chapter 13. If A Man Leaves Behind A Debt Or Children, Then Allāh And His Messenger Are Responsible For Them

2415. It was narrated from Abu Hurairah that if a believer died at the time of the Messenger of Allāh ﷺ and he had debts, the Messenger of Allāh ﷺ would ask: “Did he leave anything with which to pay off his debt?” If they said yes, then he would offer the funeral prayer for him, but if they said no, then he would say: “Pray for your companion.” When Allāh granted His Prophet the conquests, he said: “I am nearer to the believers than their own selves. Whoever dies owing a
debt, I will pay it off for him, and whoever leaves behind wealth, it will be for his heirs.” (Sahih)

Comments:

a. The Noble Prophet’s declining from offering a debtor’s funeral prayer was a sort of warning for the people and showing the gravity of this sin.

b. If someone dies as debtor and his heirs are poor and cannot pay his debt, it should be paid by the State from the public treasury.

2416. It was narrated from Jābir that the Messenger of Allâh ﷺ said: “Whoever leaves behind money, it is for his heirs, and whoever leaves behind a debt or children, I am responsible for them, and I am nearer to the believers.”[1] (Sahih)

Comments:

The Arabic word Dayâ’ includes those individuals who need care, like children, old people and the handicapped. They need someone to take care of them for survival.

Chapter 14. Giving Respite To One Who Is In Difficulty

2417. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: Whoever is easy with (a debtor) who is in difficulty, Allâh will be easy with him in this world and in the Hereafter.” (Sahih)

Comments:

[1] See no. 45.
Comments:

'Who is in difficulty' means the debtor who is poor and not in a position to pay back the debt. Such a person should be given more time to payback his debt or it should be waived.

2418. It was narrated from Buraidah Al-Aslami that the Prophet ﷺ said: “Whoever gives respite to one in difficulty, he will have (the reward of) an act of charity for each day. Whoever gives him respite after payment becomes due, will have (the reward of) an act of charity equal to (the amount of the loan) for each day.” (Sahih)

Comments:

a. Giving respite means to fix a reasonable time for the repayment that is suitable and easy for the debtor to pay back the debt.

b. After the expiry of the determined time, instead of pressing for repayment, giving more time is a good deed and brings reward from Allâh ﷻ.

2419. It was narrated from Abu Yasar, the Companion of the Prophet ﷺ that the Messenger of Allâh ﷺ said: “Whoever would like Allâh to shade him with His shade, let him give respite to one in difficulty, or waive repayment of the loan.” (Sahih)

Comments:

This hadith provides guidance on how to manage debts ethically and compassionately. It highlights the importance of compassion and leniency towards those who are unable to repay their debts, illustrating the teaching of charity in Islam.
Comments:
a. On the Day of Resurrection some people will be under the shade of Allâh’s Throne. Shade of Allâh means the shade of Allâh’s Throne.
b. Getting a place under the shade of Allâh’s Throne is a matter of great honor, as there will be no shade except the shade of Allâh’s Throne. Everyone will feel the scorching heat of the sun according to one’s sins, and comfort will only be found in the shade of Allâh’s Throne.
c. Waiving the debt is a great deed of getting reward from Allâh. If one cannot waive the debt, it is easy to give more time for the repayment of the loan.

2420. It was narrated from Hudhaifah that the Prophet ﷺ said: “A man died and it was said to him: ‘What did you do?’ Either he remembered or was reminded and said: ‘I used to be easy going in coins and cash concerning collecting debts due, and I used to give respite to (the debtor) who was in difficulty. So, Allâh forgave him.’”

Abu Mas’ud said: “I heard that from the Messenger of Allâh ﷺ.” (Sahih)

Comments:
a. Allâh loves those who are easy with the people in recovering loans.
b. Easy going in coin means not caring about the petty damages done to the coin and accepting such coins without any hesitation. People used to reject such coins at the time of the Noble Prophet ﷺ, as today people may refuse to accept currency with some damage.

Chapter 15. Asking In A Polite Manner And Taking One’s Rights Without Behaving In An Indecent Manner

2421. It was narrated from Ibn ‘Umar and ‘Âishah that the
Messenger of Allāh ﷺ said:

"Whoever demands his rights let him do so in a decent manner as much as he can." (Hasan)

[Translation of the Commentary]

الأخير: [إسناده حسن] أخرجه البهذة: 58/5 من حديث سعيد بن أبي مريم به، وصحبه

ابن حبان (مورد) ح: 113، والحاكم على شرط البخاري: 2/3، ووافقه الذهبي.

2422. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said to the one who was entitled to something: “Take your rights in a decent manner, as much as you can.” (Hasan)

[Translation of the Commentary]

الأخير: [حسن] أخرجه الحاكم: 2/33، من حديث أبي همام محمد بن محب به، وقال

البوصيري: هذا إسناد صحيح على شرط البخاري قلت: عبده الله بن يامين مجهول الحال وليس من رجال البخاري، وله شاهد عند ابن أبي شيبة: 25/7 وغيره، والحديث السابق شاهد له.

Comments:

a. It is natural to be concerned when the loan is not returned in time, even after giving more time, more than once, but to control one’s anger is a great deed before Allāh.

b. ‘Afiif (to keep away from the sin, ‘Afiif also means decent manners), in this case, means to ask the return of loan in a decent manner. One should not be hard and harsh in asking for the return of loan. The lender should receive only what is his due.

Chapter 16. Paying Off Debts
In A Good Manner

2423. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: “The best of you — or among the best of you — are those who pay off their debts in the best manner.” (Sahih)
The Chapters On Charity

The Prophet ﷺ said: "May Allah bless your family and your wealth for you. The reward for lending is repayment and words of praise." (Hasan)

Comments:

a. It is allowed and legal to borrow at the time of need.

b. Making the repayment with the best manners, means to make the repayment in time, and according to the promise.

c. Giving a better thing in repayment is a sign of decent manners, it is legal and allowed, but to decide it before taking, or giving the loan is usury, which is a great sin.

Chapter 17. The One Who Has Authority (Over The Debtor)

2425. It was narrated that Ibn ‘Abbās said: “A man came to ask...
the Prophet of Allāh ﷺ for some debt or some right, and he spoke harshly to him, and the Companions of the Messenger of Allāh ﷺ wanted to rebuke him. But the Messenger of Allāh ﷺ said: ‘Let him be, for the one who is owed something has authority over the debtor, until it is paid off.’” (Da'īf)
not be cleansed (of sin) among whom the weak cannot get their rights without trouble.”” (Hasan)

Comments:

a. A lender has the right to press the debtor for return, but it is recommended to be easy with him, and give him enough time to repay the loan. (See Ḥadīth 2417 and 2421)

b. Unversed and rough creditors should be treated kindly, and their harshness should be tolerated.

Chapter 18. Imprisonment

Because Of Debts And Pursuing Debtors

2427. It was narrated from Abū Bakr ibn Sharid that his father said that the Messenger of Allāh ﷺ said: “If one who can afford it delays repayment, his honor and punishment become permissible.” (Hasan)

(One of the narrators) ‘Ali At-Tanāfisi said: ‘Honor’ means that it is permissible to make a complaint, and ‘punishment’ means that he may be imprisoned.

Comments:

a. Repayment of the loan in time is necessary, and delay without a genuine cause must be avoided.

b. If the debtor does not return the loan on time, a complaint can be lodged
against him with a Qāżi or the ruler of the time, and it is the duty of the ruler or Qāżi to provide justice to the claimant.

2428. Hirrās bin Habīb narrated from his father that his grandfather said: "I came to the Prophet with a man who owed me money, and he said to me: ‘Keep him.’ Then he passed by me at the end of the day and said: ‘What did your prisoner do, O brother of Banū Tamīm?’” (Da‘if)

2429. It was narrated from ‘Abdullāh bin Ka‘b bin Mālik from his father that he demanded payment owed by Ibn Abī Hadrad in the mosque. Their voices became so loud that the Messenger of Allāh heard them when he was in his house. He came out and called Ka‘b who said: "Here I am, O Messenger of Allāh!" He said: "Waive this much of your loan," and gestured with his hand to indicate half. He said: "I will do that," and he said: "Get up and repay it.” (Sahih)

Comments:

a. A lender can press the debtor to repay his loan.

b. If the claimant waives a part of the loan, it is a matter of great reward from Allāh.
Chapter 19. Lending

2430. It was narrated that Qais bin Rumi said: "Sulaimân bin Udhunân lent ‘Alqamah one thousand Dirham until he got his salary. When he got his salary, he demanded that he pay him back and treated him harshly. He paid him back, and it was as if ‘Alqamah was angry. Several months passed, then he came to him and said: ‘Lend me one thousand Dirham until my salary comes.’ He said: ‘Yes, it would be an honor. O Umm ‘Utba! Bring me that sealed leather bag that you have.’ He said: ‘By Allâh, these are your Dirham that you paid back to me; I did not touch a single Dirham., ‘What made you do what you did to me (i.e., treat me so harshly)?’ He said: ‘What I heard from you.’ He said: ‘What did you hear from me?’ He said: ‘I heard you narrated from Ibn Mas’ûd that the Prophet ﷺ said: ‘There is no Muslim who lends something to another Muslim twice, but it will be like giving charity once.’

He said: ‘That is what Ibn Mas’ûd told me.’” (Sahîh)
Comments:
A reward is in store for lending to a person that is well off, but to lend a poor man and give him extra time for repayment is a cause of increase in reward. (See Chapter 14, Ahādīth 2417 to 2420)

2431. It was narrated from Anas bin Mālik that the Messenger of Allāh Ṣallallāhu 'alaihi wa sallam said: “On the night on which I was taken on the Night Journey (Isra), I saw written at the gate of Paradise: ‘Charity brings a tenfold reward and a loan brings an eighteen fold reward.’” I said: ‘O Jibril! Why is a loan better than charity?’ He said: ‘Because the beggar asks when he has something, but the one who asks for a loan does so only because he is in need.’” (Da‘īf)

2432. It was narrated that Yahya bin Abu Ishāq Al-Hunā‘ī said: “I asked Anas bin Mālik: ‘What if a man gives his brother a loan, then (the borrower) gives him a gift?’ The Messenger of Allāh Ṣallallāhu 'alaihi wa sallam said: ‘If anyone of you borrows something then he gives (the lender) a gift or gives him a ride on his riding-beast, he should not accept the gift or the ride, unless they used to treat each other in that manner beforehand.’” (Da‘īf)
Chapter 20. Paying A Debt
On Behalf Of The Deceased

2433. It was narrated from Sa‘d bin Atwal that his brother died, leaving behind three hundred Dirham and dependents. “I wanted to spend (the money) on his dependents, but pay it off for him.” He said: “O Messenger of Allâh, I have paid it off from two Dinâr, which a woman is claiming but she has no proof.” He said: “Give them to her for she is telling the truth.” (Hasan)

Comments:
a. An inheritance is distributed after paying off the debt of the deceased;
b. The woman claimed that the deceased owed her two Dinâr, and Sa‘d bin Atwal was asking for proof or for witnesses for his own satisfaction, but she had no witness or proof to produce before Sa‘d. To avoid such troublesome situations the matter of debt should be written before witnesses.
c. The Noble Prophet knew, through revelation, that the claim of the woman was genuine, therefore he ordered Sa‘d to pay her.

2434. It was narrated from Jâbir bin ‘Abdullâh that his father died owing thirty Wâsq to a Jewish man. Jâbir bin ‘Abdullâh asked him for respite but he refused. Jâbir asked the Messenger of Allâh ﷺ to intercede for him with him, so the Messenger of Allâh ﷺ
went and spoke to the Jew, asking him to accept dates in lieu of what was owed, but he refused. The Messenger of Allah spoke to him: but he refused to give respite. Then the Messenger of Allah went in among the date-palm trees and walked among them. Then he said to Jābir: “Pick (dates) for him and pay off what is owed to him in full.” So he picked thirty Wasq of dates after the Messenger of Allah came back, and there were twelve Wasq more (than what was owed). Jābir came to the Messenger of Allah to tell him what had happened, and he found that the Messenger of Allah was absent. When the Messenger of Allah came back he came to him and told him that he had paid off the debt in full, and he told him about the extra dates. The Messenger of Allah said: “Tell 'Umar bin Khattab about that.” So Jābir went to 'Umar and told him, and 'Umar said to him: “I knew when the Messenger of Allah walked amongst them that Allah would bless them for us.” (Sahih)

**Tafsīl**

أخرجه البخاري، الاستخراج، بابه: إذا قاص، أو جازه في الدين تمرا بسر أو غيره، ح: 2391 من حديث هشام بن أبي داود، ح: 2884 بين طريق شعيب به.

**Comments:**

a. Increase in food stuff is a miracle of the Noble Prophet, which occurred at different places and in various incidents.

b. 'Umar's faith was so firm that he believed that this incident will end up in such and such manner as it did. This incident also shows the greatness of 'Umar bin Khattab.

c. A Wasq is equal to sixty Sa' which equal to four Mudd of weight or about 180 kilog.
Chapter 21. Three Things Which, If A Person Takes Out A Loan Because Of Them, Allâh Will Pay It Off For Him

2435. It was narrated from 'Abdullâh bin 'Amr that the Messenger of Allâh ﷺ said: "A debt will be settled on the Day of Resurrection if the one who owes it dies, apart from three: A man who lost his strength fighting in the cause of Allâh, so he borrows in order to become strong again to fight the enemy of Allâh and his enemy. A man who sees a Muslim die and he cannot find anything with which to shroud him except by taking a loan. A man who fears Allâh if he stays single, so he gets married for fear of (losing) his religious commitment. Allâh will pay off the debt for these people on the Day of Resurrection." (Da’îf)
The act of pawning is to deposit something in pledge or as security or guaranty against a loan obtained, so that if the loan is not returned on time, the lender could make recovery of his money from that property.

The legitimacy of the pledge is proven in the Noble Qur'an and the Traditions of the Noble Prophet. In the Noble Qur'an there is: "And if you are on a journey and cannot find a scribe, then let there be a pledge taken (mortgaging)."[1] "Every person is a pledge for what he has earned."[2] It means he is a pledge against his deeds. This also applies to that thing which is surrendered to the lender as security and security of his loan.

Chapter 1. [Abu Bakr Bin Abi Shaibah Narrated To Us][3]

\[2436\] It was narrated from 'Aishah that the Prophet ﷺ bought some food from a Jew with payment to be made later, and he pawned his armor for that. (Sahih)

\[2437\] It was narrated that Anas said: "The Messenger of Allâh ﷺ pawned his armor to a Jew in Al-Madinah, and took barley for his

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[3] Indicating the beginning of the first chain of the chapter.
family in return.” (Sahih)

Chapter 2. The Pawned Animal May Be Ridden And Milked

It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “A mount may be ridden when it is pawned, and its milk may be drunk when it is pawned, but the one who rides it or milks it must pay for its upkeep.” (Sahih)

Comments:

a.Pawned animal needs to be looked after. It has to be fed, otherwise it can...
die or become sick or weak. In this way it will be a form of cruelty to the animal.

b. If a car or any kind of conveyance is pawned, whoever takes the benefit from it will bear the expenditure of maintenance and fuel etc.

Chapter 3. Pawned Items Are Not To Be Forfeited

It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: "Do not forfeit items held in pledge." (Da’if)

Chapter 4: Wages Of Workers

It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: [Allah says] "I am the opponent of three on the Day of Resurrection, and if I am someone’s opponent I will defeat him: A man who makes promises in My Name, then proves..."
Chapter 5. Hiring A Worker
In Return For Food

2444. It was narrated that: ‘Ali bin Rabâh said: “I heard ‘Utbah bin Nuddar say: ‘We were with..."
the Messenger of Allâh ﷺ and he recited Ta-Sin.[1] When he reached the story of Musa, he said: ‘Musa ﷺ hired himself out for eight years, or ten, in return for his chastity and food in his stomach.’” (Da’îf)

Comments:

‘In return for his chastity’ means the promise of marriage as it has been given in the Noble Qur’ân (An-Nur 24:32-33).

2445. Salim bin Hayyân said: I heard my father say: I heard Abu Hurairah ﷺ say: “I grew up an orphan, and I emigrated as a poor man, and I was hired by the daughter of Ghazwân in return for food and a turn riding the camel. I would gather firewood for them when they stopped to camp and urge their camels along for them by singing when they rode. Praise is to Allâh Who has caused His religion to prevail and has made Abu Hurairah an Imam.” (Sahîh)

Chapter 6. A Man Who Draws A Bucket Of Water In Return For A Date And Stipulates That They Must Be Good Quality Dried Dates

2446. It was narrated that Ibn 'Abbás said: “The Prophet of Allāh ﷺ was in need of food, and news of that reached ‘Ali. He went out seeking work so that he could earn something to give to the Messenger of Allāh ﷺ. He came to a garden belonging to a Jewish man, and he drew seventeen buckets of water for him, each bucket for a date. The Jew gave him the option to take seventeen of his ‘Ajwah dates (a high quality of dates) and he brought them to the Prophet of Allāh ﷺ.” (Da’if)

2447. It was narrated that ‘Ali said: “I used to draw water, one bucket for a date, and I stipulated that they should be good quality, dried dates.” (Da’if)

2448. It was narrated that Abu Hurairah said: “A man from among the Ansār came and said: ‘O Messenger of Allāh, why do I see that your color has changed?’ He said: ‘Hunger.’ So the Ansārī
went to his dwelling, but he did not find anything in his dwelling, so he went out looking, and he found a Jew watering his date-palm trees. The Ansâri said to the Jew: ‘Shall I water your trees?’ He said: ‘Yes.’ He said: ‘Every bucket for one date.’ And the Ansâri stipulated that he would not take any dates that were black (rotten), hard and dried out or inferior, and he would only take good quality dates. He earned nearly two Sā’s (of dates), and he brought it to the Prophet (Da’if).

**Chapter 7. Lending Land In Return For One Third Or One Quarter (Of The Crop)**

2449. It was narrated that Râfî’ bin Khadij said: “The Messenger of Allâh forbade Muhâqalah and Muzâbanah, and said: ‘Only three may cultivate: A man who has land which he cultivates; a man who was given some land and cultivates what he was given; and a man who takes land on lease for gold or silver.’” *(Hasan)*

**Comments:**

a. For the explanation of Muhâqalah and Muzâbanah see Hadith no. 2265: note b.

b. As cash can be given to help a poor man for earning his livelihood, similarly a piece of land can be given to a poor farmer for his use, to make a permanent source of lawful earnings.
c. Taking and giving a piece of land on the basis of division of produce between the cultivator and the landlord is lawful, but it is necessary to determine the terms and conditions beforehand to avoid the eruption of disputes.

d. Gold and silver are the symbols of currency, because in the times of the Noble Prophet ﷺ, gold and silver Dinār and Dirham, respectively were in use.

2450. It was narrated that 'Amr bin Dinār said: ‘I heard Ibn Umar say: ‘We used to lend land for cultivation in return for a share of the harvest, and we did not see anything wrong with that, until we heard Rāfī' bin Khadij say: ‘The Messenger of Allāh ﷺ forbade it.’ Then we stopped because of what he said.’”

(Sahih)

Comments:

*Mukhābahar* means division of produce between the cultivator and the landlord. For example the produce is divided between the two, half and half or one third and two thirds, or as agreed upon. It is lawful and permitted. But the division of the produce on the basis of particular parts of land is unlawful. It is prohibited to divide the produce such that the produce of this part of land will go to the landlord, and produce from the other part of the land will go to the tiller. (See Hadith no.2458)

2451. ‘Atā’ said: ‘I heard Jābir bin ‘Abdullāh say: Some men among us had extra land which they would rent out for one third or one quarter (of the crop). The Prophet ﷺ said: ‘Whoever has extra land, let him cultivate it (himself) or let him give it to his brother (for free, to cultivate it), and if he does not want to do that, let him keep his land.”

(Sahih)

تخريج: أخرجت البخاري، البخاري، الحديث والمزارة، باب ما كان من أصحاب النبي ﷺ، باب ما كان من أصحاب النبي ﷺ: بعضهم بعضًا في الزراعة والثمره، باب ما كان من أصحاب النبي ﷺ.
2452. It was narrated from Abu Hurairah that the Messenger of Allah said: “Whoever has land, let him cultivate it (himself) or let him give it to his brother (for free, to cultivate it), and if he does not want to do that, let him keep his land.” (Sahih)

Comments:
Let him keep his land means to let his land remain without cultivation. It is obvious that if the land remains without cultivation, it will produce nothing, and there will be no profit at all, and if it is given to someone to cultivate, it will be a great act of generosity.

Chapter 8. Leasing Out Land

2453. It was narrated from Ibn ‘Umar that he used to lease out some land that belonged to him for cultivation. Then someone came to him and told him that Rāfi‘ ibn Khadij said that the Messenger of Allah had forbidden leasing out land for cultivation. Ibn ‘Umar went, and I went with him, until he met him in Balāt, and asked him about that, and he told him that the Messenger of Allah had forbidden leasing out land for cultivation. So ‘Abdullāh stopped leasing out land. (Sahih)

Comments:

a. 'Leasing out land' means that the tiller will cultivate the land of the landlord according to a set treaty. The tiller, after collecting the produce, will give a certain agreed upon amount of money to the landlord, and will keep the rest.

b. Giving the land for free to cultivate is a better deed than leasing it out. The Noble Prophet prohibited leasing out land, only to encourage the better gesture towards Muslim brothers, otherwise leasing out the land is lawful. (See Hadith no. 2456.)

2454. It was narrated that Jābir bin 'Abdullāh said: "The Messenger of Allāh addressed us and said: 'Whoever has land, let him cultivate it or allow someone else to cultivate it, and not rent it out.'" (Sahih)

2455. It was narrated from Abu Sufyān, the freed slave of Ibn Abu Ahmad, that he told him that he heard Abu Sa‘eed Al-Khudri say: "The Messenger of Allāh forbade Muhāqalah." (Sahih)

Muhāqalah means leasing out land.

The Chapters On Pawning

Comments:

a. 'Leasing out land' means that the tiller will cultivate the land of the landlord according to a set treaty. The tiller, after collecting the produce, will give a certain agreed upon amount of money to the landlord, and will keep the rest.

b. Giving the land for free to cultivate is a better deed than leasing it out. The Noble Prophet prohibited leasing out land, only to encourage the better gesture towards Muslim brothers, otherwise leasing out the land is lawful. (See Hadith no. 2456.)

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Muhāqalah means leasing out land.

The Chapters On Pawning
Chapter 9. Concession
Allowing Leasing Out Barren Land For Gold And Silver

2456. It was narrated from Ibn 'Abbas that he heard that people were leasing out land more. He said: "Subhān-Allah, the Messenger of Allah ﷺ said: 'Why does not one of you lend it to his brother?' But he did not forbid leasing it out.'" (Sahih)

2457. It was narrated from Ibn 'Abbas that the Messenger of Allah ﷺ said: "If one of you were to lend his brother his land, it would be better for him than taking such and such rent for it."

(Sahih)

Ibn 'Abbas said: "It is Haql (i.e., leasing land for cultivation), and in the dialect of the Ansār it is called Muhāqalah."

2458. It was narrated that Hanzalah bin Qais said: "I asked Rāfi' bin Khadij and he said: 'We used to lease out land on the basis that you would have what is produced by this piece of land, and I would have what is produced by this (other) piece of

الفرقة (1) - باب التخصيص في كرامة الأرض البيضاء بالذهب والفضة

(التحفة) 406
land, and we were forbidden to lease it out on the basis of crop-sharing but he did not forbid us to rent out land for silver.'" (Sahih)

تخريج: أخرجه البخاري، الحرش والمزارعة، باب ما يكره من الشروط في المزارعة، ح: 332، ومسلم، البيوع، باب كراء الأرض بالذهب والورق، ح: 1547 من حديث سفيان بن عيينة به.

Chapter 10. Kinds Of Cultivation That Are Disliked

2459. Râfi' bin Khadi'j narrated that his paternal uncle Zuhair said: "The Messenger of Allâh (saw) forbade us from doing something that was convenient for us." I said: "What the Messenger of Allâh (saw) said is true." He said that the Messenger of Allâh (saw) said: "What do you do with your farms?" We said: "We rent them out for one third or one quarter of their yield, and a certain amount of wheat and barley." He said: "Do not do that; cultivate them or let others cultivate them." (Sahih)

تخريج: أخرجه البخاري، الحرش والمزارعة، باب ما يكره من الشروط في المزارعة، ح: 1339، ومسلم، البيوع، باب كراء الأرض بالطعام، ح: 1548 من حديث الأوزاعي به.

2460. It was narrated from Usaid bin Zuhair, the paternal nephew of Râfi' bin Khadij, that Râfi' bin Khadij said: "If one of us did not need his land, he would give it (to someone else to cultivate) in return for one third, or one quarter, or one half of the yield, and he would stipulate (that he should receive) the produce

(المحجوم 115) - باب ما يكره من المزارعة (التحفة 71)
grown on the banks of three streams, and the grains that remain in the ear after threshing, and the produce irrigated by a stream. Life at that time was hard, and he would work (the land) with iron and whatever Allâh willed, and he would benefit from it. Then Râfî' bin Khadij came to us and said: ‘The Messenger of Allâh forbid you to do something that may seem beneficial to you, but obedience to Allâh and obedience to His Messenger are more beneficial for you. The Messenger of Allâh forbade Haqî for you, and he said: “Whoever has no need of his land, let him give it to his brother (to cultivate) or let him leave it (uncultivated.” (Sahîh) Comments:

a. The narration clears the concept of leasing out the land. Leasing out the land on one half or on one quarter is prohibited only on the conditional division of the produce, on the basis of particular parts of land. Usually the landlord keeps the produce of the piece of land which is more fertile, and is more productive. Since this is not fair, therefore, this kind of division is prohibited.

b. Leasing out the land on one half or on one quarter is allowed, on the basis of the total produce gained from the land.

2461. Zaid bin Thâbit said: ‘May Allâh forgive Râfî’ bin Khadij, By Allâh! I have more knowledge of Ahâdîth than he does. Two men who had quarreled came to the Prophet and he said: ‘If this is

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Chapter 11. Concession
Allowing Cultivation For One Third And One Quarter (Of The Crop)

2462. It was narrated that ‘Amr bin Dinâr said: I said to Tâwus: “O Abu ‘Abdur-Rahmân, why do you not give up this Mukhâbarah because they claim that the Messenger of Allâh forbade it.” He said: “O ‘Amr, I help them by taking their land and cultivating it, and giving them something in return, and Mu‘âdh bin Jabal allowed people here to do that. The most knowledgeable of them — meaning Ibn ‘Abbâs — told me that the Messenger of Allâh did not forbid it, rather he said: ‘For one of you to give (land) to his brother is better for him than if he were to take a set amount in rent for it.”’ (Sahîh)

تخريج: أخرجوا من حديث عمر بن بني مسعود، وانظر، ح: 2462.

[1] Leasing land in return for a share of the crops.
The Chapters On Pawning

Comments:
a. It is the duty of the scholars to explain the issues and satisfy the common public. In support of their point of view, they can give the references of other great scholars as Tawus quoted the two Companions, Mu‘adh bin Jabal and Ibn Abbās. These kind of references prove more affective and satisfy the common man.

b. ‘Set amount’ means an agreement for a fixed amount.

2463. It was narrated from Tawus that Mu‘adh bin Jabal leased some land during the time of the Messenger of Allāh ﷺ, Abu Bakr, ‘Umar and ‘Uthmān, in return for one third or one fourth (of the yield), and he was still doing that until this day of yours.

(Da‘if)

Chapter 12. Renting Out Land In Return For Food

2465. It was narrated that Rāfī’ bin Khadij said: We used to give land in return for food at the time of the Messenger of Allāh ﷺ, and some of my paternal uncles came
The Chapters On Pawning

411

to them and said: “The Messenger of Allâh ﷺ said: ‘Whoever has land, he should not rent it out for a set amount of food.’” (Sahîh)

Comments:

‘Set amount of food’ may mean one third or one fourth of the produce, or it may mean a certain fixed quantity of food stuff, like ten or twenty mounds of grain etc. Leasing out the land against a set amount of food instead of a certain amount of money is legal, as it has been discussed in detail in a previous chapter.

Chapter 13. Whoever Cultivates People’s Land Without Their Permission

2466. It was narrated that Râfî’ bin Khadij said: “The Messenger of Allâh ﷺ said: ‘Whoever cultivates people’s land without their permission, he has no right to any of the produce, but he should be recompensed for his expenditure.’” (Da’îf)

Comments:

In the situation mentioned in the narration, the cultivator will only get the expenditure which he has spent on seeds, manure, or hiring a tractor etc., but he will not get anything for his labor of tilling. This will be his punishment for not seeking permission in advance.

Chapter 14. Dealing With People Who Have Date-Palm Trees And Grape Vines

2467. It was narrated from Ibn...
‘Umar that the Messenger of Allah ﷺ entered into a contract with the people of Khaibar for one half of the fruits or crops yielded. (Sahih)


2468. It was narrated from Ibn-‘Abbās that the Messenger of Allah ﷺ gave Khaibar to its people in return for one half of the yield of its palm trees and land. (Sahih)

تخريج: [صحيح] أخرجه أحمد: ٢٥٠ من حديث عشيم به، إسناده ضعيف لعله، وضعه البوسيري، ولكن الحديث السابق شاهد له.

2469. It was narrated that Anas bin Mālik said: “When the Messenger of Allah ﷺ conquered Khaibar, he gave it (to its people) in return for half (of its yield).” (Sahih)

تخريج: [صحيح] إسناده ضعيف لضعف مسلم الأعور ندم، ح: ٢٤٩٦، ولكن الحديث (١٤٧) شاهد له.

Comments:

a. This type of agreement regarding gardens is called *Masāqāt*. Whatever is the total produce of the garden, one half or one third, is given to the person who is taking care of the garden and the rest is for the owner. Such an agreement regarding cultivation of land is called *Muzāra‘ah*.

b. The land of a non-Muslim country that comes under the control and possession of the Muslim victorious army, becomes the property of the Muslim State. For the development and settlement of this land, a contract can be made both with Muslim subjects or non-Muslim subjects of the country, but the land remains the property of the state. The tiller, according to the contract, has to submit the produce to the government, and then he
will receive his share from the state. If the tiller is a Muslim and receives the produce for which Zakāt becomes due, he will have to pay one tenth as Zakāt.

Chapter 15. Pollinating Palm Trees

2470. It was narrated from Simāk that he heard Musa bin Talhah bin ' Ubaidullāh narrating that his father said: “I passed by some palm trees with the Messenger of Allah ﷺ and he saw some people pollinating the trees. He said: ‘What are these people doing?’ They said: ‘They are taking something from the male part (of the plant) and putting it in the female part.’ He said: ‘I do not think that this will do any good.’ News of that reached them, so they stopped doing it, and their yield declined. News of that reached the Prophet ﷺ, and he said: ‘That was only my thought. If it will do any good, then do it. I am only a human being like you, and what I think may be right or wrong. But when I tell you: “Allāh says,” I will never tell lies about Allāh.’” (Sahih)

Comments:

a. In worldly matters everything is permitted accept those things that have been prohibited, but regarding worship, only that thing is permitted which has been taught by the Prophet ﷺ. Self-made rites and customs should not be made part of worship. These self-made rites are innovations in the religion. The Prophets were also human beings, therefore, in worldly matters, they did not give any importance to things of personal opinion.

b. It is not necessary that a Prophet is always aware of the specific details of every profession, but in the matters of religion, Allāh guides His Prophets.
2471. It was narrated from 'Aishah that the Prophet ﷺ heard some sounds and said: “What is this noise?” They said: “Palm trees that are being pollinated.” He said: “If they did not do that it would be better.” So they did not pollinate them that year, and the dates did not mature properly. They mentioned that to the Prophet ﷺ and he said: “If it is one of your worldly matters then it is your affair, but if it is one of the matters of your religion, then refer to me.” (Sahih)

Chapter 16. The Muslims Are Partners In Three Things

(المعجم 16) - باب: المُسلمون

2472. It was narrated from Ibn 'Abbás that the Messenger of Allah ﷺ said: “The Muslims are partners in three things: water, pasture and fire, and their price is unlawful.” (Da’if)

Abu Sa’eed said: “This means flowing water.”

Comments:

a. Here, water means running water, like the water of a river or fountain. Everyone has the right to use the water according to his needs, and it must be unrestrained for others to use. If someone has constructed a pond or dug a well or installed a water hand pump for his personal use, it is better for him to let other people use it. It is obvious that he has the first right over its use.
b. Everyone has the right to use wild grass for his animals and other uses, and similarly, everyone can use the wood of wild plants for fuel. After cutting the wild plant the cut wood becomes the property of the cutter, so he can sell it as well.

2473. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: “Three things cannot be denied to anyone: water, pasture and fire.” (Sahih)

2474. It was narrated that 'Aishah said: “O Messenger of Allah, what are the things which are not permissible to withhold?” He said: “Water, salt and fire.” She said: “I said: ‘O Messenger of Allah, we know what water is, but what about salt and fire?’” He said: “O Humairah, whoever gives fire (to another), it is as if he has given in charity all the food that is cooked on that fire. And whoever gives salt, it is as if he has given in charity all that the salt makes good. And whoever gives a Muslim water to drink when water is available, it is as if he freed a slave; and whoever gives a Muslim water to drink when there is no water available, it is as if he brought him back to life.” (Da'if)
Chapter 17. Giving Rivers And Springs To People

2475. It was narrated from Abyad bin Hammāl that he asked for a salt flat called the salt flat of the Ma‘rib Dam to be given to him, and it was given to him. Then Aqra’ bin Hābis At-Tamīmī came to the Messenger of Allāh ﷺ and said: "O Messenger of Allāh, I used to come to the salt flat during the Ignorance period and it was in a land in which there was no water, and whoever came to it took from it. It was (plentiful) like flowing water." So the Messenger of Allāh ﷺ asked Abyad bin Hammāl to give back his share of the salt flat. He said: "I give it to you on the basis that you make it charity given by me." The Messenger of Allāh ﷺ said: "It is a charity from you, and it is like flowing water, whoever comes to it may take from it."

(One of the narrators) Faraj said: "That is how it is today, whoever comes to it takes from it."

He said: "The Prophet ﷺ gave him land and palm trees in Jurf Murad instead, when he took back the salt flat from him."

(Hasan)

Comments:

a. The head of an Islamic State can give a piece of land to any Muslim as a gift. It is known as estate.
b. A thing that is in common use by the community should not be given as an estate.
c. An endowment is not anyone's property but every member of the society has the right to take benefit from it.

Chapter 18. The Prohibition Of Selling Water

2476. It was narrated that Abu Minhâl said: "I heard Ýâs bîn 'Abd Muzâni say—when he saw people selling water: 'Do not sell water, for I heard the Messenger of Allâh forbidding selling of water.'" (Sahîh)

2477. It was narrated that Jâbir said: "The Messenger of Allâh forbade selling surplus water." (Sahîh)

Comments:

a. First come, first served is the basic principle of running water. Whose land comes first, in the way of flowing water, he has the first right to watering his fields and garden, and the water flow for use of others is made dear in chapter twenty.
b. When water is transported from one place to another place, it can be sold at a reasonable price, just as the wood of wild plants and trees can be sold.
Chapter 19. The Prohibition Of Withholding Surplus Water From Common Pastureland

2478. It was narrated from Abu Hurairah that the Prophet ﷺ said: "No one of you should withhold surplus water from common pastureland." (Sahih)

2479. It was narrated from 'Aishah that the Messenger of Allâh ﷺ said: "Surplus water should not be withheld, and neither should surplus water from a well." (Hasan)

Comments:

a. The fields and gardens which come first in the flow of water, have the first right to use the water.

b. The Prophet’s first decision gave Zubair his due right, at the same time needs of the second party were also given due consideration. It was suggested to Zubair to let the water flow for the second party’s use. This type of reconciliation is legal.

c. The second decision of the Prophet ﷺ was according to the principles of justice. The favor given to the Ansârî was taken back as punishment, and the decision was made according to the demand of justice.

d. As it is a must to obey the Qur’anic commands, similarly it is a must to obey the orders of the Prophet ﷺ.
Chapter 20. Irrigation From Rivers And How Much Water May Be Retained

2480. It was narrated from ‘Abdullāh bin Zubair that a man from among the Ansār had a dispute with Zubair in the presence of the Messenger of Allāh ﷺ concerning the streams of the Harrah with which he irrigated his palm trees. The Ansārī said: “Let the water flow,” but he refused. So they referred their dispute to the Messenger of Allāh ﷺ. The Messenger of Allāh ﷺ said: “Irrigate (your trees) O Zubair, then let the water flow to your neighbor.” The Ansārī became angry and said: “O Messenger of Allāh ﷺ, is it because he is your cousin (son of your paternal aunt)?” The expression of the Messenger of Allāh ﷺ changed, then he said: “O Zubair, irrigate (your trees) then retain the water until it reaches the walls.” Zubair said: “I think this Verse was revealed concerning that: “But no, by your Lord, they can have no Faith, until they make you (O Muhammad) judge in all disputes between them, and find in themselves no resistance against your decisions, and accept (them) with full submission.””[1] (Sahih)

2481. It was narrated that

The Chapters On Pawning

The Messenger of Allâh ﷺ ruled concerning the stream of Mahzur that the higher ground took precedence over the lower, so the higher ground should be irrigated until the water reached the ankles, then it should be released to those who were lower. (Hasan)

Comments:

'Higher ground' means where fields or gardens come first in the flow of water, and 'lower ground' means where water reaches later. The owner of the higher ground can stop the water from going to others' fields until it reaches an ankle's height in his fields, and then he must release the water for others, and has no right to stop it.

2482. It was narrated from 'Amr bin Shu'aib, from his father, from his grandfather, that the Messenger of Allâh ﷺ ruled concerning the stream of Mahzur that the water should be retained until it reached the ankles, then released. (Hasan)

2483. It was narrated from 'Ubâdah bin Sâmit that the Messenger of Allâh ﷺ ruled concerning the irrigation of palm trees from streams, that the higher
ground should be irrigated before the lower, and that the water should be allowed to reach the ankles, then released to flow the nearest lower ground, and so on, until all the fields were watered or until the water ran out. *(Da‘if)*

**Chapter 21. Distribution Of Water**

2484. It was narrated from Kathir bin ‘Abdullāh bin ‘Amr bin ‘Awf Al-Muzani, from his father, that his grandfather said: "The Messenger of Allāh ﷺ said: ‘Start with the horses on the day that you bring (the animals to drink).’" *(Da‘if)*

**Tafsīr**: [ضعف] وقال البصيري: هذا إسناد ضعيف، إسحاق بن بحى لم يدرك عبادة بن الصمّام قاله البخاري.

2485. It was narrated from Ibn ‘Abbās that the Messenger of Allāh ﷺ said: "Every division that was allocated according to (the rules of) the Ignorance days, stands as it is, and every division that was allocated according to (the rules of) Islam, stands according to the rules of Islam." *(Hasan)*

**Tafsīr**: [إسناده حسن] أخرجه أبو داود، البصري، باب فين أسلم على ميراث، ح: 1914 من حديث موسى به، وقواه ابن عبدالهادي، والضياء المقدسي، وله شواهد كثيرة جدًا.
Comments:
a. All sinful and wicked dealings regarding business and financial matters before embracing Islam are pardoned, and possession is considered legal.
b. A common property that has been distributed before accepting Islam need not be redistributed among the heirs.

Chapter 22. The Land Around A Well (Which Belongs Only To The Well Owner)

2486. It was narrated from 'Abdullâh bin Mughaffal that the Prophet said: “Whoever digs a well, is entitled to forty forearms' length surrounding it as a resting place for his flocks.” (Hasan)

Comments:
a. When camels are watered, they drink the water and sit down near the well, after a short while they drink again, that is why the adjoining place of the well is reserved for animals, and for this reason, this place is considered the property of the person who owns the well.
b. If someone digs up a well at a place which is no one's land, he is deemed to be the owner of that well, in addition to forty fore-arms' length of the surrounding area.
2487. It was narrated from Abu Sa’eed Al-Khudri that the Messenger of Allah ﷺ said: “The land around a well (that is considered to be part of it) is the length of the well rope (in all directions).” *(Da’if)*

**Translation:**

It was narrated from Abu Sa’eed Al-Khudri that the Messenger of Allah ﷺ said: “The land around a well (that is considered to be part of it) is the length of the well rope (in all directions).” *(Da’if)*

**Comments:**

‘Length of the well rope’ means the rope which is dropped down in the well for pulling up water. This length is the measure for the place around the well for his flocks. This is a Weak narration.

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Chapter 23. The Precincts Of Trees

2488. It was narrated from ‘Ubada bin Sàmit that the Messenger of Allah ﷺ ruled concerning one, two or three date palms belonging to a man among other palm trees – when they differ concerning entitlement to the surrounding land. He ruled that the land around each of those trees, as far as their leaves reach, measured from the bottom of the tree, belongs to the owner of the tree. *(Hasan)*

**Translation:**

It was narrated from ‘Ubada bin Sàmit that the Messenger of Allah ﷺ ruled concerning one, two or three date palms belonging to a man among other palm trees – when they differ concerning entitlement to the surrounding land. He ruled that the land around each of those trees, as far as their leaves reach, measured from the bottom of the tree, belongs to the owner of the tree. *(Hasan)*

**Comments:**

Hasan: [Hasan] وضعه البوصيري، وانظر، ح: 2483 لعلته، وللحديث شواهد عند أبي داود، ح: 3640 وغيره.

2489. It was narrated from Ibn ‘Umar that the Messenger of Allah ﷺ said: “The land around a date-palm tree, as far as its branches reach, belongs to the

**Translation:**

It was narrated from Ibn ‘Umar that the Messenger of Allah ﷺ said: “The land around a date-palm tree, as far as its branches reach, belongs to the...
The Chapters On Pawning

owner of the tree.” (Da‘if)

Chapter 24. One Who Sells
Property And Does Not Use
The Money For Something
Similar

2490. It was narrated that Sa‘eed
bin Hurairah said: “I heard the
Messenger of Allâh ﷺ say:
‘Whoever sells a house or
property and does not use the
money for something similar,
deserves not to be blessed
therein.’” (Da‘if)

Another chain with similar
wording.

2491. It was narrated from
Hudhairah bin Yamân that the
Messenger of Allâh ﷺ said:
“Whoever sells a house and does
not use the money for something
similar will not be blessed therein." (Da‘if)

عن أبي عبيدة بن حذافة، عن أبيه حذافة بن اليمان قال: قال رسول الله ﷺ: "فمن ينذر دارًا ولم يجعل دمها في مثلها، لم يبارك له فيها".

تخرج: [إسناده ضعيف] أخرجه البخاري في التاريخ الكبير: 328/8 من حديث مروان بن معاوية الفزاري، وضعفه البصيري من أجل يوسف بن ميمون (المخزومي)، ولكن تلقيده أبومالك البخاري أضعف منه لأنه متزوج، وانظر، ح: 1915 ولفظ يفعل به، رواه شعبة عن يزيد بن أبي خالد عن أبي عبيدة به، أخرجه البخاري في التاريخ، والبيهقي: 340/33 وغيرهما، وسنده ضعيف، انظر، ح: 1807، وفيه علة أخرى.
The Chapters On Preemption

Comments:
Preemption has been defined as the right of one partner to buy the share of the other partner or partners.
Preemption is proven in the Sunnah of the Prophet ﷺ and the consensus of the scholars of the Muslim nation. Jābir narrates the Prophet ﷺ allowed the right of preemption in an undistributed property, but when the property is distributed, and the path is separate then there is no right of preemption. All the scholars agree that the right of preemption is legal.
All the Islamic commands and principles have reason and wisdom behind them. Rights and duties of all Muslims as individuals and as a community have been fixed by Islamic law, so that people may live with love and harmony among themselves. Among these wise instructions is the right of preemption. If one of the two shareholders of a property wishes to sell his share, he must consult his co-shareholder about it and give him an offer to buy his share. This friendly gesture will create an atmosphere of understanding between them, and save them from unwanted conflict. If the other shareholder buys the property, well and good, otherwise it can be sold to a third party and it will be legal.

Chapter 1. One Who Sells A Property Should Notify His Partner (Of His Intention)

2492. It was narrated that Jābir said: "The Messenger of Allāh ﷺ said: 'Whoever has a date-palm tree or land, should not sell it until he has offered it to his partner.'" (Sahih)

EXTRACTION:

This chapter discusses the concept of preemption, a right granted to one partner to purchase the share of the other partner or partners. The Prophet ﷺ allowed the right of preemption in undistributed property but not in distributed property where the paths are separate. All scholars agree that the right of preemption is legal. The rights and duties of Muslims, both as individuals and as a community, are fixed by Islamic law to promote love and harmony.

Chapter 1: One Who Sells A Property Should Notify His Partner (Of His Intention)

2492. It was narrated that Jābir said: "The Messenger of Allāh ﷺ said: 'Whoever has a date-palm tree or land, should not sell it until he has offered it to his partner.'" (Sahih)
2493. It was narrated from Ibn ‘Abbâs that the Prophet ﷺ said: “Whoever has land and wants to sell it, let him offer it to his neighbor.” (Sahih)

Comments:
If there are two owners of a property and one of them wishes to sell his share, he must inform his co-shareholder and give him a chance to buy his share. They are supposed to cooperate each other in this matter. The neighbors also have the right of preemption, therefore, the neighbors should also be informed before any buying and selling occurs.

Chapter 2. Preemption By Virtue Of Being Neighbors

2494. It was narrated from Jâbir that the Messenger of Allâh ﷺ said: “The neighbor has more right to preemption of his neighbor, so let him wait for him even if he is absent, if they share a path.” (Da‘îf)

2495. It was narrated from Abu Râfi’ that the Prophet ﷺ said: “The neighbor has more right to property that is near.” (Sahih)
2496. It was narrated that Sharid bin Suwaid said: "I said: 'O Messenger of Allâh, (what do you think of) land owned by only one person but this land has neighbors?' He said: 'The neighbor has more right to property that is near.'" (Sahih)

Comments:

a. The neighbor who has a common path to the property has more right of preemption than others.

b. If at the time of selling a house or piece of land, the neighbor is absent or out of the town or village, the other party should wait for his arrival to give his right of preemption to him.

Chapter 3. If The Boundaries Have Been Fixed Then There Is No Preemption

2497. It was narrated from Abu Hurairah that the Messenger of Allâh ruled concerning preemption of land that has not been divided; if the boundaries have been set then there is no preemption. (Sahih)

Another chain with similar wording.

Abu 'Âsim said: (The chain of) Sa'eed bin Musayyab is Mursal (i.e., having a break after the successor Sa'eed). (The chain of) Abu Salamah from Abu Hurairah is Muttasil (i.e., unbroken & connected).
The Chapters On Preemption

2498. It was narrated from Abu Râfî' that the Messenger of Allâh ﷺ said: "The partner has more right to what is near him, so long as he is still a partner." (Sahih)

2499. It was narrated from Jâbir bin 'Abdullâh that the Messenger of Allâh ﷺ ruled that preemption takes effect in all cases where land has not been divided. But if the boundaries have been set and the roads laid out, then there is no preemption." (Sahih)

Comments:
Ahâdîth mentioned above show that only that neighbor who has a common path to the property has the right of preemption, and those neighbors who have nothing common in property have no right to preemption. It was made clear by mentioning that when property is divided and paths are separate then there is no right to preemption. Division of property and separation of paths makes them ordinary neighbors, and not allowed to enter in each other's deals.

Chapter 4. Requesting Preemption

2500. It was narrated from Ibn 'Umar that the Messenger of Allâh ﷺ said: "Preemption is like undoing the 'Iqâl."[1] (Da'îf)
2501. It was narrated from Ibn 'Umar that the Messenger of Allah said: "There is no preemption for a partner when his co-partner has beaten him to it (in another deal before), nor for a minor nor one who is absent." (Da'if)

Comments:

‘When a partner has beaten his co-partner’ means that if there are three co-sharers of a property and one of them buys the share of his co-shareholder, the third has no right to preemption. This narration is Weak.
In the Name of Allāh, the Most Beneficent, the Most Merciful

18. The Chapters On Lost Property

Chapter 1. Lost Camels, Cattle And Sheep

2502. It was narrated from Mutarrif bin ‘Abdullāh bin Shikhkhir that his father said: “The Messenger of Allāh ﷺ said: ‘The lost animal of the Muslim may lead to the burning flame of Hell.’” (Sahih)

Comments:

a. Zāllah is an animal that is separated from the herd, and lost, and its ownership is not known.

b. Inanimate or lifeless thing are called Lugatah; details of such lost and found things will be discussed in the next chapter.

2503. It was narrated that Mundhir bin Jarir said: “I was with my father in Bawāzij and the cows came back in the evening. He saw a cow and did not recognize it. He said: ‘What is this?’ He said: ‘A cow that joined the herd.’ And he issued orders that it be driven away until it disappeared from view. Then he
said: 'I heard the Messenger of Allah say: "No one gives refuge to a stray animal but one who is also astray."' (Sahih)

Comments:
This reproach is for the person who takes the animal with the intention of keeping it. But if he takes it with the intention to pronounce it and search for the owner, there is no harm in keeping it until the owner is found. In Sahih Muslim this narration is with these words: "Whoever gives refuge to a stray animal, he is also astray."

2504. It was narrated from Zaid bin Khālid that the Prophet was asked about a lost camel. He became angry and his cheeks turned red, and he said: "What does it have to do with you? It has its feet and its water supply, it can go and drink water and eat from the trees until its owner finds it." And he was asked about lost sheep, and he said: "Take it, for it will be for you or for your brother or for the wolf." And he was asked about lost property and he said: "Remember the features of its leather bag and strap, and announce it for one year, then if someone claims it, describing it to you with those features (give it to him), otherwise incorporate it into your own wealth." (Sahih)
Comments:

a. Catching a lost camel and keeping it in one’s custody is not legal because a camel needs no one to take care of it.

b. A sheep or goat cannot survive without care, so if you do not take the sheep or goat, someone else will take it, or a wolf will eat it. It is better to take it to save it from wild animals, and it is also possible that the owner will be found.

c. Lost property means those precious things that are lost by the carelessness of the owner, like a large amount of currency, gold, precious ornaments etc.

d. It is necessary to announce about the lost things up to one year, and one should try to find the owner during this period. After one year’s search, things can be used. If later on the real owner is found, his property should be returned to him, or he should be given the price of that thing.

Chapter 2. Lost Property

2505. It was narrated from ‘Iyâd bin Himâr that the Messenger of Allâh ﷺ said: “Whoever finds lost property, let him ask one or two men of good character to witness it, then he should not alter it nor conceal it. If its owner comes along, then he has more right to it, otherwise it belongs to Allâh, Who gives it to whomsoever He wills.” (Sahîh)

Comments:

Making a witness is beneficial and helpful. Later on if the claimant of the bag or thing is found, and he objects about the contents of the bag or the amount or other defalcation with his lost thing, then the witness can confute his claim.

2506. It was narrated that Suwaid bin Ghafalah said: “I went out with Zaid bin Suhân and Salmân bin Rabî’ah, and when we were at ‘Udhaib, I found a whip. They said to me:
'Throw it away,' but I refused. When we came to Al-Madinah I went to Ubayy bin Ka'b and told him about that. He said: 'You did the right thing. I found one hundred Dinâr that had been lost at the time of the Messenger of Allâh سَلَّم, and I asked him about it. He said, "Announce it for a year." So I announced it, and I did not find anyone who recognized it. I asked him (again) and he said: "Announce it," but I did not find anyone who recognized it. He said: "Remember the features of its bag and strap, and how many it contains, then announce it for a year. If someone comes who describes it with those features, (give it to him), otherwise it is like your own property."' (Sahih)

تخريج: آخرجه البخاري، كتاب في اللقطة، باب إذا أخبر رج اللقطة بالعلامة دفع إليه، ح: 2466، مسلم، اللقطة، باب: معرفة العفوص والوؤمة ... الخ، ح: 173 من حديث سلمة بن كميل به.

Comments:

a. Average precious thing needs to be announced up to one year but extra precious things should be announced for more than one year.

b. Ordinary things need not to be announced.

c. Now a days the announcement of lost things can be made on radio, TV and in newspapers. If the owner is found, claiming and receiving the expenditure of announcement from him is legal.

2507. It was narrated from Zaid bin Khâlid Al-Juhâni that the Messenger of Allâh سَلَّم was asked about lost property. He said: "Announce it for a year, then if someone describes it with its features, return it to him. If no one claims it, then remember the features of its leather bag and
strap, and consume it (use it). Then if its owner comes along, give it to him.” (Sahih)

Chapter 3. Picking Up What A Rat Brings Out

2508. It was narrated from Miqdad bin Amr that he went out one day to Al-Baqi', which is the graveyard, to relieve himself. People used to go out to relieve themselves only every two or three days, and their feces was like that of a camel (because of hunger and rough food). Then he entered a ruin and while he was squatting to relieve himself, he saw a rat bringing a Dinár out of a hole, then it went in and brought out another, until it had brought out seventeen Dinârs. Then it brought out a piece of red rag.

Miqdad said: “I picked up the rag and found another Dinár inside it, thus completing eighteen Dinârs. I took them out and brought them to the Messenger of Allah, and told him what had happened. I said, ‘Take its Sadaqah (charity), O Messenger of Allah.’ He said: ‘Take them back, for no Sadaqah is due on them. May Allah bless them for you.’ Then he said: ‘Perhaps you put your
hand in the hole?’ I said: ‘No, by the One Who has honored you with the Truth.’” (Da‘īf)

He (the narrator) said: “And they did not run out before he died.”

Chapter 4. One Who Finds Buried Treasure

2509. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “One fifth is due on buried treasure.” (Sahih)

2510. It was narrated from Ibn ‘Abbâs that the Messenger of Allâh ﷺ said: “One fifth is due on buried treasure.” (Sahih)

Comments:

Rikâz is buried treasure whose ownership and burial period is not known. Immediate payment of one fifth is due on such treasure, and the rest is the property of the founder.

2511. Sulaim bin Hayyân said: “I heard my father narrate from Abu Hurairah that the Prophet ﷺ said: ‘Among those who came before you there was a man who bought..."
some property and found therein a jar of gold. He said: “I bought land from you, but I did not buy the gold from you.” The man said: “Rather I sold you the land with whatever is in it.” They referred their case to (a third) man who said: “Do you have children?” One of them said: “I have a boy.” The other said: “I have a girl.” He said: “Marry the boy to the girl, and let them spend on themselves from it and give in charity.” (Hasan)

Comments:

a. Buried treasure is the property of the person who found it, provided its ownership is not known.

b. The total amount of the found treasure should not be used by the founder. Twenty percent of the total amount should be given as Zākāt.
19. The Chapters On Manumission (Of Slaves)

Comments:

'Al-Itq' means 'cease to be personal property and emancipation.' Imam Azhari says 'Ataqa' is derived from 'Ataqal-Fars: This phrase is used when a horse wins a race or when a young bird learns to fly and flies away. Young birds, when they learn to fly, are free to go anywhere and they are not dependent on their parents. The word 'Itq' is used for a slave who is granted freedom, and allowed to go anywhere with his own free will.

'Manumission of slaves' means to emancipate a slave and free him from the disgrace and indignity of slavery.

There are three kinds of freedom enumerated below.

1. Tadbir or Policy: If a master promises his slave that he would be free after his death it is known as Tadbir.

2. Mukatbat or Written Agreement: If a master writes an agreement with a slave to free him for a certain price, and the slave pays the agreed installments, then he is free. This known as Mukatbat.

3. Umm Walad or Mother of a Son: A master who has sexual intercourse with his slave girl, and she gives birth to a son or daughter. This is known as Umm Walad.

Chapter 1. The Mudabbar[1]

2512. It was narrated from Jâbir that the Messenger of Allâh ﷺ sold a Mudabbar. (Sahîh)

2513. It was narrated that Jâbir bin 'Abdullâh said: "A man among us promised freedom to a slave after his death, and he did not have any property other than him (this slave). So the Prophet sold him, and Ibn (Nahhâm), a man from Banu 'Adi, bought him."

2514. It was narrated from Ibn 'Umar that the Prophet said: "The Mudabbar is part of the one third of the estate." [1] (Da‘if)

Ibn Mâjah said: I heard 'Uthmân – meaning Ibn Abu Shaibah – say: "This is a mistake," meaning the Hadith: "The Mudabbar is part of the one third of the estate." Abu 'Abdullâh (Ibn Mâjah) said: "There is no basis for it."

Comments:
Mudabbar means a slave who's master promised freedom after his death (Fathul-Bari, Hadith 2230)

Chapter 2. Umâhâtul-Awlâd[2]

2515. It was narrated from Ibn

[1] One third of the estate: i.e., the one third concerning which a person may leave instructions as to how it is to be disposed of after his death.

‘Abbâs that the Messenger of Allâh ﷺ said: “Any man whose slave woman bears him a child, she will be free after he dies.”” (Da’îf)

2516. It was narrated that Ibn ‘Abbâs said: “Mention was made of the mother of Ibrâhîm in the presence of the Messenger of Allâh ﷺ, and he said: ‘Her son set her free.’”” (Da’îf)

2517. Jâbir bin ‘Abdullâh was heard to say: “We used to sell our slave women and the mothers of our children (Umahât Awlâdîna) when the Prophet ﷺ was still living among us, and we did not see anything wrong with that.”” (Sahîh)
Chapter 3. The Mukātab[1]

2518. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "There are three who are all entitled to Allâh’s help: the one who fights in the cause of Allâh; the Mukātab who wants to pay (the price of his freedom); and the one who gets married seeking chastity." (Sahih)

Comments:

a. If there is a written agreement between a slave and his master that the slave, in an agreed period, will pay the master a fixed and agreed upon price, then when this price is paid the slave becomes free.

b. fiḥād in the cause of Allâh depends on the sincerity of intention. If the Divine law is observed strictly while fighting, Allâh helps the warrior.

c. Chastity is a remarkable characteristic of Islamic society and marriage is a vital and powerful source to maintain a pious and pure society.

2519. It was narrated from ʿAmr bin Shuʿaib, from his father, from his grandfather that the Messenger of Allâh ﷺ said: “Any slave who has made a contract to buy his freedom from his master will buy his freedom for one hundred Uqiyah and pays it all except ten Uqiyah; he is still a slave.” (One Uqiyah is equal to 40 Dirham.) (Husain)

Comments:

a. If there is a written agreement between a slave and his master that the slave, in an agreed period, will pay the master a fixed and agreed upon price, then when this price is paid the slave becomes free.

b. fiḥād in the cause of Allâh depends on the sincerity of intention. If the Divine law is observed strictly while fighting, Allâh helps the warrior.

c. Chastity is a remarkable characteristic of Islamic society and marriage is a vital and powerful source to maintain a pious and pure society.

[1] A slave with a written contract of manumission, according to which he will buy his freedom from his master.
Islamic law is different for a slave and a free person. A slave who has not attained full freedom will be tried and judged under the law for slaves.

2520. It was narrated from Umm Salamah that the Prophet said: "If anyone of you (women) has a Mukātabah, and he has enough (wealth) to pay off (his contract of manumission), she must veil herself from him."

Hence, when a slave girl has attained full freedom, she must veil herself from him. If she has not made the full payment, she does not have to do so. Only having the required amount does not make it obligatory to veil herself from him.

2521. It was narrated from Hisham bin 'Urwah, from his father, about 'Āishah, the wife of the Prophet — that Barirah came to her when she was Mukātabah, and her masters had written a contract of manumission for nine Uqiyah. She ('Āishah) said: "If your masters wish I will pay them that in one sum, and the right of inheritance will belong to me."

He said: "So she went to her masters and told them about that, but they insisted that the right of inheritance should belong to...

Comments:

In a previous narration it has been mentioned that a slave does not attain the manumission until he makes the full payment. Only having the required amount does not make it obligatory to veil herself from him.
The Chapters On Manumission

Chapter 4. Manumission

2522. It was narrated that Shurahbil bin Simt said: I said to Ka‘b: O Ka‘b bin Murrah, tell us a Hadith from the Messenger of Allâh ﷺ, but be careful. He said: I heard the Messenger of Allâh ﷺ say: “Whoever frees a Muslim man, he will be his ransom from (meluggage).” (Sahih)
the Fire; each of his bones will suffice (as a ransom) for each of his bones. Whoever frees two Muslim women, they will be his ransom from the Fire; each of their two bones will suffice (as a ransom) for each of his bones."

(Da’if)

Comments:

a. Shurahbil did not remain for a long period in the presence of the Noble Prophet, so he acquired the knowledge of Ahâdîth from other Companions.
b. Manumission of a slave saves one from the Hell-fire.
c. Manumission of a slave girl is also a tremendous virtuous deed.

2523. It was narrated that Abu Dharr said: “I said: ‘O Messenger of Allâh, which slave is best?’ He said: ‘The one who is most precious to his master and most valuable in price.’” (Sahih)

Comments:

a. Giving a precious thing in the way of Allâh is most virtuous and superior deed. In the same way, manumission of a precious and valuable slave girl is one of the best deeds.
b. A precious and healthy animal given as charity brings more reward.
Chapter 5. If A Person Becomes The Master Of A Mahram, Then He Becomes Free

2524. It was narrated from Samurah bin Jundub that the Prophet ﷺ said: "Whoever becomes the master of a Mahram relative (with whom marriage is not lawful), he becomes free." (Hasan)

2525. It was narrated from Ibn 'Umar that the Messenger of Allah ﷺ said: "Whoever becomes the master of a Mahram relative, he becomes free." (Hasan)

Comments:

a. An example of a Mahram relative becoming master is explained in the following example: Suppose there were two slave brothers, one of them was freed and later on he bought his brother. The second one will be freed because he is a Mahram relative. A Mahram relative cannot become a master. The same rule applies to a mother and son, father and daughter, brother and sister, niece, nephew, parental uncle and parental aunt.

b. Right of property is through any mean - by payment, by way of gift, or inheritance - a slave or slave girl will be freed.
Chapter 6. Whoever Frees A Slave But Stipulates That He Should Serve Him

2526. It was narrated that Safinah — Abu ‘Abdur-Rahmân — said: “Umm Salamah freed me, but stipulated that I should serve the Prophet as long as he lived.” (Hasan)

Comments:

a. Apparently putting a condition is against the spirit of manumission. Manumission means free from all conditions. In this case, putting a special condition was an honor for Safinah.
b. Putting a condition on a slave at the time of his manumission to do some virtuous deed, is not against the spirit of manumission, rather it is an opportunity for him to do a righteous deed.
c. Maybe ‘stipulated’ here means only a promise taken at the time of manumission.

Chapter 7. Whoever Frees His Share Of A Slave

2527. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “Whoever frees his share of a slave or part of his share, must pay from his wealth if he has any wealth (in order to buy the rest of the slave’s freedom). If he does not have wealth, then the slave should be asked to work for the price (of his freedom), without that causing him too much hardship.’’ (Sahih)

Comments:

[Text continues on the next page]
Comments:

a. A slave can belong to more than one person. For example, a person is the father of two sons and has a slave. If he dies, the slave will be inherited by his two sons. Another example is that some persons contribute equal shares of money and buy a slave, then the slave is common property of all the shareholders.

b. If one master of a common slave frees his share, the slave will still remain a slave for the rest of the co-owners.

c. In such cases, one who frees his share should buy the shares of other co-owners with a fairly evaluated price, and free the slave to complete the manumission.

d. Another way out is that the slave should work and earn money to pay other owners to be freed.

e. A slave should not be forced to pay soon, he should be given proper time to pay the price, just as a debtor is given a chance to return the debt. It would be better if the slave is treated more sympathetically and given more time.

2528. It was narrated from Ibn 'Umar that the Messenger of Allah said: “Whoever frees his share of a slave, the price of the slave should be fairly evaluated, and he (the partner who initiated this process) should free him (in full, by giving the rest of his price to the other co-owners), if he has enough wealth to do so. Otherwise, he will have freed whatever he freed.” (Sahih)
charged, and in a case where distribution is not possible, he will be considered a slave as in the case of the Mukātab. (Allāh knows better)

Chapter 8. One Who Frees A Slave Who Has Some Wealth

2529. It was narrated from Ibn 'Umar that the Messenger of Allāh ﷺ said: “Whoever frees a slave who has some wealth, the slave’s wealth belongs to him, unless the master stipulates that it will belong to him.” (Sahih)

(One of the narrators) Ibn Lahi'ah said (in his narration): “Unless the master makes an exception for that.”

Comments:

a. Usually, the things in use of a slave belong to the master, since they were given to him for use in fulfillment of his services. When the slave is freed, all things in his use go back to his master.

b. There may be a case that a master allows his slave to work and earn money, on the condition to pay him a part of this earned money, and allows him to use the rest of it for his own needs. In this case, the saved money will belong to the slave, and if he is freed he will keep the saved money. Manumission can also be conditional, the master can ask the slave to give him all his belongings and money before his manumission takes place.

2530. It was narrated from Ishāq bin Ibrāhim, from his grandfather 'Umair, who was the freed slave of Ibn Mas'ud, that 'Abdullāh said to him: “O 'Umair, I have set you free in a good way. I heard the Messenger of Allāh ﷺ say: ‘Any man who frees a slave and
does not say anything about his (the slave's) wealth, it belongs to
(him the slave).’ So tell me, how much wealth do you have?” (Da’if)

Another chain with similar wording.

Chapter 9. Freeing Illegitimate Children

2531. It was narrated from Maimunah bint Sa’d, the freed slave woman of the Prophet ﷺ, that the Messenger of Allâh ﷺ was asked about illegitimate children. He said: “Two sandals in which I wage jihâd are better than freeing an illegitimate child.” (Da’if)

Chapter 10. If One Wants To Free A Man Along With His Wife, He Should Start With The Man

2532. It was narrated that `Aishah had a male slave and a female slave who were married. She said: “O Messenger of Allâh, I want to free them both.” The
Messenger of Allāh ﷺ said: "If you free them, then start with the man before the woman." (Hasan)
Comments:

Literal meaning of Hudud is Limits of Preventives. That is why punishments of crimes are called Hudud, because they stop perpetration of crimes, whereas the actual meaning of Hadd is standing in between two things. A thing which differentiates something from another is called Hadd, as in boundaries of land or boundaries of the house etc.

In Islamic law, punishment for transgression and violation of the orders of Allah is called Hadd. Allah has described different punishments for different crimes in the Noble Qur'an. Some of them are murder, theft, adultery and robbery.

Chapter 1. It Is Not Lawful To Shed The Blood Of A Muslim Except In Three Cases

2533. It was narrated from Abu Umamah bin Sahl bin Hunain that 'Uthman bin 'Affan looked at them and heard them when they spoke of killing. He said: "Are they threatening to kill me? Why would they kill me? I heard the Messenger of Allah say: 'It is not lawful to shed the blood of a Muslim except in one of three cases: a man who commits adultery when he is a married person, then he should be stoned; a man who kills a soul not in retaliation for murder; and a man who apostatizes after becoming Muslim.' By Allah, I never committed adultery either during Ignorance days nor in Islam, and I
have never killed a Muslim soul, and I have not apostatized since I became Muslim.” (Sahih)

Comments:
a. Murder of a Muslim without a legal reason is a major crime.
b. Other than the causes mentioned above, murder of a Muslim is unlawful. Execution of the punishment for the abovementioned crimes is the right of the Islamic state or the Islamic courts. The general public cannot execute the punishment. Adultery is a heinous crime, despite all that, if an adulterer is unmarried he cannot be stoned to death. His punishment is one hundred lashes, and if the judge determines it best, he can add the punishment of sending into exile.
c. Punishment of a married person involved in adultery is to stone him/her to death.
d. A person who apostatizes after becoming a Muslim, his punishment is death. If he is sincerely penitent, and embraces Islam again, he will be forgiven.

2534. It was narrated from 'Abdullâh, who is Ibn Mas'ud, that the Messenger of Allâh ﷺ said: “It is not lawful to shed the blood of a Muslim who bears witness that none has the right to be worshiped but Allâh, and that I am the Messenger of Allâh, except in one of the three cases: a soul for a soul; a married person who commits adultery, and one who leaves his religion and splits from the Jamâ‘ah.”[1] (Sahih)

Notes:

[1] The main body of the Muslims, and the meaning of this third case is the same as the meaning of the third case in the previous narration, i.e., he leaves the religion.
Comments:
Leaving the Janâ'ah means leaving the religion of Islam and accepting some other religion and joining disbelievers. Here Janâ'ah does not mean an organization of Muslims that is engaged in religions tasks like the missionary work of preaching. A person is a Muslim before joining such a Janâ'ah and after quitting remains a Muslim. Such a person cannot be treated a rebel because these organizations are only missionaries and cannot act as an Islamic state. Punishment of the rebel of an Islamic state is death.

Chapter 2. The Apostate Who Leaves His Religion

2535. It was narrated from Ibn 'Abbâs that the Messenger of Allâh ﷺ said: "Whoever changes his religion, execute him." (Sahîh)

2536. It was narrated from Bahz bin Hakim, from his father, from his grandfather that the Messenger of Allâh ﷺ said: "Allâh will not accept any good deed from a polytheist who committed polytheism after having become Muslim, until he leaves the polytheists and joins the Muslims." (Hasan)

Comments:

a. Change of religion mean to leave Islam and accept another religion. If a Jew converts to Christianity or a Magus becomes a Jew it does not fall under the sense of change of religion.

b. If an apostate repents sincerely, and leaves the disbelievers, and embraces Islam, then there is no death penalty for him.

Chapter 3. Carrying Out The Hudud

2537. It was narrated from Ibn
Umar that the Messenger of Allah ﷺ said: "Carrying out one of the legal punishments prescribed by Allah is better than if it were to rain for forty nights in the land of Allah, Glorified is He." (Da’if)

Comments:

a. *Hadd* means punishment ordained by Allah for specific crimes. For example, punishment of theft is cutting off the hand and punishment of murder is payment of blood money. Legally, there is increase or decrease in these punishments. Punishment for other general crimes is called *Ta’zir* - penalization. It depends on the judgment of the Qadi, he can punish according to the intensity of the crime.

b. A simile of rain has been used for the blessing of Allah. Rain is considered a very special blessing in the Arabian peninsula.

2538. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: "A legal punishment that is carried out in the land is better for the people of that land than if it were to rain for forty days." (Da’if)
2539. It was narrated from Ibn 'Abbas that the Messenger of Allah said: "Whoever denies a Verse of the Qur'an, it is permissible to strike his neck (i.e., execute him). Whoever says, "La ilaha illallahu wahdahu la sharika lah, wa anna Muhammadan 'abdulhu wa rasuluhu (None has the right to be worshiped but Allah alone, with no partner or associate, and Muhammad is His slave and Messenger), no one has any way of harming him, unless he (does something which) deserves a legal punishment, and it is carried out on him." (Da'iff)

2540. It was narrated from 'Ubada bin Sama that the Messenger of Allah said: "Carry out the legal punishments on relatives and strangers, and do not let the fear of blame stop you from carrying out the command of Allah." (Hasan)

تخريج: [إسناده ضعيف] أخرجه ابن عدي: ٢/٨٣ من حديث حفص بن عمر المدني به مختصراً والعندي لقب الفرح، وهو ضعيف كما في التقرير وغيره، والحديث ضعفه البصري من أجله.

تخريج: [حسن] أخرجه عبد الله بن سالم المخلوف: ٢/٥٤٠ حكثنا عن الله بن سالم المخلوف: حكثنا عنه بن الأسود، عن القاسم بن الوليد، عن أبي صديق، عن زيد بن ثابت، عن عبادة بن الصامت قال: قال رسول الله: "أطيعوا خليد الله في القريب والبعيد. ولا تأخذكم في الله لومة لاه!

وأورد الفضيحة في المختارة، وفيه علة قادحة، وهي عننا عبيدة بن الأسود لأنه ملل، مذكور في المربية الثالثة من طبقات المسلمين لا بحر، وله شهاد عن اليماني: ١٠٤٩/٣، فهنا متصور الخولاني، ولم أجد له ترجمة، وشيخه غيلان بن أس، وثقه ابن حبان، وللحديث شواهد كثيرة.
Comments:
a. In this narration, near and distant stand for relative and strangers. In this way all the factors like bribery, relation, post and position that save the criminals, are nullified in Islamic society.
b. While doing justice, the judge should be impartial and carry out the command of Allāh only for the pleasure of Allāh. He should not care for the blame and criticism of people.

Chapter 4. One Who May Be Exempt From The Legal Punishment

2541. It was narrated that ‘Abdul-Malik bin ‘Umair said: “I heard ‘Atiyyah Al-Qurazi say: ‘We were presented to the Messenger of Allāh ﷺ on the Day of Quraizah. Those whose pubic hair had grown were killed, and those whose pubic hair had not yet grown were let go. I was one of those whose pubic hair had not yet grown, so I was let go.’” (Sahih)

Comments:
B. About the threat of Ka’b bin Sa’d, a leader of Banu Nadir broke this treaty.

b. When the battle of Al-Khandaq was over, the Noble Prophet ﷺ besieged the quarter of Banu Quraizah.

c. Appearance of pubic hair is a mark of attaining adulthood.
d. Legal punishment is not imposed on minors but the judge can punish them according to the intensity of the crime.

2543. It was narrated that Ibn 'Umar said: "I was presented to the Messenger of Allâh ﷺ on the day of Uhud, when I was fourteen years old, but he did not permit me (to fight). I was presented to him on the Day of Khandaq when I was fifteen years old, and he permitted me (to fight).'" (Sahih)

Nâfi' said: "I narrated this Hadith to 'Umar bin 'Abdul-'Azîz during his caliphate and said: This is the dividing line between young and old."

Comments:

a. On the basis of this narration many scholars have argued that the age of fifteen is the age of puberty, and a boy at this age should be considered an adult.

b. Normally puberty is judged from other signs, like appearance of pubic hair, wet dreams, menstrual course in girls etc. If these signs do not appear at the proper time in a boy or a girl then the age of fifteen should be considered the mark of adulthood.

Chapter 5. Covering (The Sin Of) The Believer And Warding Off Legal Punishments In The Case Of Doubt

2544. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "Whoever covers (the sin of) a Muslim, Allâh will cover him (his sin) in this world and in the Hereafter." (Sahih)
The Chapters On Legal Punishments

Comments:

a. Covering means to conceal the faults of others.
b. To err is human; therefore, one should not expose the faults of others.
c. To cover in the Hereafter means forgiveness of sins.
d. Dealing with others with kindness pays in this world, as well as in the Hereafter.

2545. It was narrated from Abu Hurairah that the Messenger of Allah said: “Ward off the legal punishments as much as you can.” (Da’if)

Comments:

Legal punishment should be awarded only after having complete and definite proofs of the crime committed. In case of doubt, legal punishment cannot be given.

2546. It was narrated from Ibn ‘Abbás that the Prophet said: “Whoever conceals the (hidden) fault of his Muslim brother, Allah will conceal his faults on the Day of Resurrection. Whoever exposes the fault of his Muslim brother, Allah will expose his faults, until (so that) He shames him, due to it, in his (own) house.” (Da’if)

Comments:

Covering the nakedness of someone may mean to give him clothes to cover his body. It may also mean to conceal his faults to save him from humiliation.
Chapter 6. Intercession
Concerning Legal Punishments

2547. It was narrated from 'Aishah that Quraish became concerned about the case of the Makhzumi woman who had stolen, and they said: "Who will speak to the Messenger of Allâh concerning her?" They said: "Who would dare to do that other than Usâmah bin Zaid, the beloved of the Messenger of Allâh?" So Usâmah spoke to him, and the Messenger of Allâh said, "Are you interceding concerning one of the legal punishments of Allâh?" Then he stood up and addressed (the people) and said: "O people! Those who came before you were only destroyed because when one of their nobles stole, they let him off, but when one of the weak people among them stole, they would carry out the punishment on him. By Allâh, if Fâtîmah the daughter of Muhammad were to steal, I would cut off her hand."

(Sahîh)

(One of the narrators) Muhammad bin Rumh said: "I heard Laith bin Sa’d say: 'Allâh protected her (Fâtîmah) from stealing, and every Muslim should say this.'"
Aswad bin Abdul Asad. She was the niece of Abu Salamah who was the ex-husband of Mother of the Believers, Umm Salamah. \(\text{(Fathul-Bâri 12/108)}\)

b. Usâmah was chosen for intercession because of his young age and nearness to the Prophet ﷺ, and for the general view that if the request is not accepted, the Prophet ﷺ will not be angry with him due to his young age.

c. There is partiality of undue favor in enforcement of legal punishment.

2548. It was narrated from ʿAishah bint Masʿud bin Aswad, that her father said: “When the woman stole the Qatifah\(^1\) from the house of the Messenger of Allah ﷺ, we regarded that as a serious matter. She was a woman from Quraish. So we came to the Prophet ﷺ and spoke to him, and said: ‘We will ransom her for forty Uqiyah.’ The Messenger of Allah ﷺ said: ‘Purification is better for her.’ When we heard the Messenger of Allah ﷺ speak so kindly, we went to Usâmah and said: ‘Speak to the Messenger of Allah ﷺ.’ When the Messenger of Allah ﷺ saw that, he stood up to speak and said: ‘How much do you intercede with me concerning one of the legal punishments of Allah that has befallen one of the female slaves of Allah! By the One in Whose Hand is the soul of Muhammad, if Fātimah the daughter of the Messenger of Allah, were to do what she has done, Muhammad would cut off her hand.’” \(\text{(Daʿif)}\)

\(^1\) A garment made of velvet or a plush fabric.
Chapter 7. The Legal Punishment For Adultery

2549. It was narrated that Abu Hurairah, Zaid bin Khälîd and Shibl said: "We were with the Messenger of Allâh ﷺ and a man came to him and said: 'I adjure you by Allâh to judge between us according to the Book of Allâh.' His opponent, who was more knowledgeable than him, said: 'Judge between us according to the Book of Allâh, but let me speak first.' He said: 'Speak.' He said: 'My son was a servant of this man, and he committed adultery with his wife, and I ransomed him for one hundred sheep and a servant. I asked some men of knowledge and I was told that my son should be given one hundred lashes and exiled for a year, and that the wife of this man should be stoned.' The Messenger of Allâh ﷺ said: 'By the One in Whose Hand is my soul, I will judge between you according to the Book of Allâh. The one hundred sheep and the servant are to be returned to you, and your son is to be given one hundred lashes and exiled for a year. Go tomorrow, O Unais, to the wife of this man and if she admits it then stone her.'" (Sahih)

Hishâm said: "He went to her the following day, and she admitted it, so he stoned her."
The Chapters On Legal Punishments

Comments:

a. Here Book of Allâh means both the Qur'ân and Hadith because both of are from Allâh.

b. In cases of murder, there is a possibility and permission of reconciliation, either by payment or blood money or by forgiving the murderer, but in cases of illegal sexual intercourse, legal punishment must be implemented.

2550. It was narrated from ‘Ubâdah bin Sâmît that the Messenger of Allâh ﷺ said: "Learn from me. Allâh has ordained for them (women[1]) another way. (If) a virgin (commits illegal sexual intercourse) with a virgin, (the punishment is) one hundred lashes and exile for one year. (If) a Thayyib (commits adultery) with a Thayyib,[2] (the punishment is) one hundred lashes and stoning.”

(Sahîh)

Comments:

a. The Prophet ﷺ ordered the punishment of stoning to married adulterers. They were not given the punishment of lashes as has been mentioned in the narration no. 2549, it makes it clear that the punishment of lashes merges into stoning.

b. Punishment of an unmarried person is lashes and sending into exile for one year, so that the change in environment may bring a healthy change. Nowadays imprisonment can be an alternate of sending into exile. The environment of jails should be oriented toward character building and the reformation of criminals.

[1] This is a reference to the Verse: “And those of your women who commit illegal sexual intercourse, take the evidence of four witnesses from amongst you against them; and if they testify, confine them (i.e., women) to houses until death comes to them or Allâh ordains for them some (other) way” (An-Nisâ’ 4:15)

[2] A non-virgin who is legally married or was previously married, and has had sexual relations with another such from the other sex.
Chapter 8. One Who Has Intercourse With The Slave Woman Of His Wife

2551. It was narrated that Habib bin Salim said: "A man who had intercourse with the slave woman of his wife was brought to Nu'man bin Bashir. He said: 'I will pass no other judgement than that of the Messenger of Allah'. He said: 'If (his wife) had made her lawful for him, then I will give him one hundred lashes, but if she has not given permission, I will stone him.'" (Hasan)

2552. It was narrated from Salamah bin Muhabbiq that the case of a man who had intercourse with the slave woman of his wife was referred to the Messenger of Allah, and he did not stipulate any legal punishment for him. (Hasan)
Chapter 9. Stoning

2553. It was narrated from Ibn 'Abbās that 'Umar bin Khattāb said: "I fear that after a long time has passed, some will say: 'I do not find (the sentence of) stoning in the Book of Allāh,' and they will go astray by abandoning one of the obligations enjoined by Allāh. Rather stoning is a must if a man is married (or previously married) and proof is established, or if pregnancy results or if he admits it. I have read it (in the Qur'ān). "And if an old man and an old woman commit adultery, stone them both." The Messenger of Allāh ﷺ stoned (adulterers) and we stoned (them) after him." (Sahih)

Notes:
- If an adulterer or an adulteress is married he/she is to be killed by stoning.
- Orders of stoning the adulterer were also in previously revealed Books. The present version of Bible still contains the orders for an adulterer.
- There are some Verses of the Noble Qur'ān that have been abrogated, and their orders have also been abrogated. In the narration under discussion the Verse has been abrogated but the orders of stoning still exist.

2554. It was narrated that Abu Hurairah said: "Mā'īz bin Mālik came to the Prophet ﷺ and said: 'I have committed fornication,' and he (the Prophet ﷺ) turned away from him. He said: 'I have committed fornication,' and he turned away from him. He said: 'I have committed fornication,' and he turned away from him. Then, he said: I have committed
The Chapters On Legal Punishments

465

Fornication, and he turned away from him, until when he had confessed four times, he ordered that he should be stoned. When he was being struck with the stones, he ran away, but a man caught up with him who had a camel’s jawbone in his hand; he struck him and he fell down. The Prophet was told about how he fled when the stones hit him, and he said: ‘Why did you not let him be?'” (Hasan)

Comments:

a. The crime of fornication is confirmed by confession.

b. This incident proves the greatness of Mâ‘iz bin Mâlik, since he accepted laying his life down only for the fear of Allâh.

c. Legal punishments should be executed outside of the mosque premises. If some one confesses his crime of fornication and afterwards renounces his confession, he should not be punished. Imam Tirmidhi has inferred this conclusion form this incident. (Jâmi‘ Tirmidhi 1428)

2555. It was narrated from ‘Imrân bin Husain that a woman came to the Prophet and confessed to committing fornication. He issued orders, and her garments were tightened around her (so that her private parts would not become uncovered), then he stoned her, then he offered the funeral prayer for her. (Sahih)
The Chapters On Legal Punishments

Comments:
a. The clothes were tightened around her body to shield her from nudity.
b. One who has been given legal punishment, his funeral prayers should be offered and he should be buried in the Muslim graveyard.

Chapter 10. Stoning A Jewish Man And Jewish Woman

2556. It was narrated from Ibn 'Umar: “The Prophet ﷺ stoned two Jews, and I was among those who stoned them. I saw (the man) trying to shield (the woman) from the stones.” (Sahih)

2557. It was narrated from Jābir bin Samurah that the Prophet ﷺ stoned a Jewish man and a Jewish woman. (Sahih)

Comments:
a. The punishment of stoning was present in previously revealed texts. This punishment exists in the Torah.
b. Some Islamic legal punishments in an Islamic state are applicable even on non-Muslims.

2558. It was narrated that Barâ’ bin ‘Azib said: “The Messenger of Allâh ﷺ passed by a Jew with a blackened face who had been flogged. He called them and said: ‘Is this the punishment for the adulterer that you find in your Book?’ They said: ‘Yes.’ Then he called one of their scholars and said: ‘I adjure you by Allâh Who...”
sent down the Tawrâh (Torah) to Musa! Is this the punishment for the adulterer that you find in your Book? He said: ‘No; if you had not adjured me by Allâh, I would not have told you. The punishment for the adulterer that we find in our Book is stoning, but many of our nobles were being stoned (because of the prevalence of adultery among them), so if we caught one of our nobles (committing adultery), we would let him go; but if we caught one of the weak among us, we would carry out the punishment on him. We said: “Come, let us agree upon something that we may impose on both noble and weak alike.” So we agreed to blacken the face and whip them, instead of stoning.’ The Prophet ﷺ said: ‘O Allâh, I am the first of those who revive Your command which they had killed off,’ and he issued orders that (the man) be stoned.”

(Sahih)

Comments:
a. This is a deviation which the Jewish people strayed into; to make a law and attribute it to Allâh. Muslims are warned to restrain themselves from this wrongdoing.

b. Those customs which are in contradiction of Divine law, should be brought in confirmation of the Divine law.

c. The present version of the Bible contains the orders of death for an adulterer.

d. The law should be applied on nobles and weak alike.

Chapter 11. One Who Commits Immoral Actions Openly

2559. It was narrated from Ibn
‘Abd-Allah bin Muhammad said: “If I were to stone anyone without proof, I would have stoned so-and-so, for there is obviously doubt concerning her speech, her appearance and those who enter upon her.” (Sahih)

2560. It was narrated that Qâsim bin Muhammad said: “Ibn ‘Abbâs mentioned two people who had engaged in the process of Li‘âm. Ibn Shaddâd said to him: ‘Is this the one of whom the Messenger of Allâh ﷺ said: “If I were to stone anyone without proof I would have stoned so-and-so.’” (Sahih)

Comments:
a. Stoning to death is the severest physical punishment so it should not be executed until the validity of the crime is confirmed, or the crime is confessed.
b. Four male eyewitness are required as evidence to warrant the punishment of stoning.
c. A warning can be issued to the persons of doubtful and loose moral character. They can be tried under penalization.

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[1] See no. 2066 and those that follow it.
Chapter 12. Those Who Do The Action Of The People Of Lut

2561. It was narrated from Ibn 'Abbâs that the Messenger of Allâh ﷺ said: "Whoever you find doing the action of the people of Lut, kill the one who does it, and the one to whom it is done." (Hasan)

Comments:
a. Sodomy is one of the most immoral actions and a mortal sin. Its punishment is more severe than the punishment of illegal sexual intercourse.
b. Mostly people call male to male sexual action Liwât, in Arabic, which is totally wrong, because this word is derived from the name of a pious Prophet Lut, he used to warn his people from this mortal sin. He forbade and threatened his people with severe punishment but his people refused to listen to him.

In the Sunnah this act is called 'the act of the people of Lut.'
c. The punishment of this crime is death whether committed by married or unmarried persons.
2563. It was narrated from Jābir bin 'Abdullāh that the Messenger of Allāh ﷺ said: "The thing that I most fear for my nation is the action of the people of Lut." (Daʿīf)

Comments:
a. We as a Muslim nation should be more careful and abstain from the fears and dangers about which the Prophet ﷺ showed his concerns.
b. If anyone is tainted with this sin and his sin is still hidden from the people, he should think that till now Allāh has kept his secret, He can let it out at anytime. What will happen and how much humiliation he will have to bear if this thing were made open to all, how will he face such an ugly situation. He who is involved in this sin should sincerely repent and ask Allāh's forgiveness.

Chapter 13. One Who Has Intercourse With A Mahram Relative And One Who Has Intercourse With An Animal

2564. It was narrated from Ibn 'Abbās that the Messenger of Allāh ﷺ said: "Whoever has intercourse with a Mahram relative, kill him; and whoever has intercourse with an animal, kill him, and kill the animal." (Sahih)
Comments:

a. He who marries his step mother, his punishment is death. (See no. 2607).
This principle applies to all other relationships which fall under Mahram relatives like sister, daughter, niece, daughter of sister and so on. Mahram means close relatives with whom marriage is illegal according to Divine law.

b. One who performs sexual intercourse with an animal, his punishment is also death.

c. If the animal is not the property of the criminal, it should also be killed and its price should be paid to the owner of the animal from the bequest of the criminal.

Chapter 14. Carrying Out Legal Punishment On Slave Women

2565. It was narrated that Abu Hurairah, Zaid bin Khâlid and Shibli said: “We were with the Prophet ﷺ and a man asked him about a slave woman who commits fornication before she is married. He said: ‘Whip her, and if she commits fornication (again), whip her (again).’ Then he said, on the third or fourth time: ‘Then sell her, even if that is for a rope of hair.’” (Sahîh)
sell her even if that is for a rope.”
        (Sahih)
        And Daifr means: rope.

Comments:
a. If a slave or slave woman commits fornication, punishment of stoning to death cannot be given to them.
b. Punishment of a slave or slave woman for committing fornication is fifty lashes.
c. The reason behind the principle of not applying the punishment of death to a slave or slave woman, is to save the damages of the master because he is not involved in the crime. He/she cannot be sent on exile for the same reason. It is better to sell the slave to some other person to make a change in their environment for the purpose of saving them from sin.

Chapter 15. The Legal Punishment For Slander

2567. It was narrated that ‘Āishah said: “When my innocence was revealed, the Messenger of Allāh stood on the pulpit and mentioned that, and he recited Qur’ān. When he came down, he ordered that the legal punishment (of slandering) be carried out on two men and a woman.” (Hasan)

Comments:
a. On return from the expedition of Banu Mustaliq, which is also known as the Muraisi’ expedition, some hypocrites made an allegation of adultery against ‘Āishah, the Mother of the Believers. According to the research of Maulana Safiur-Rahmān Mubārakpuri, this incident happened on the 5th of
Sha‘bān 5 AH. (Ar-Rahiqul-Makhfum) In this connection legal punishment was passed against some true Muslims. This punishment was terminated after the Revelation and they were pardoned. The hypocrites who made the allegation against ‘Āishah  were not punished due to lack of evidence against them, but they will meet their punishment in the Hereafter.

b. The two males and one female who were given the legal punishment were Hassān bin Thābit, Mistah bin Uthāthah, and Hannah bint Jahsh.
c. The accusation of adultery against an innocent person is a great crime and its punishment is eighty lashes.

2568. It was narrated from Ibn ‘Abbās that the Prophet  said: “If one man says to another: ‘O effeminate one!’ give him twenty lashes. And if one man says to another: ‘O homosexual!’ give him twenty lashes.” (Da’if)

Comments:
a. It is mentioned in Hadīth no. 2571, with reference of ‘Āli bin Abu Ṭālib, that the Prophet  gave the punishment of forty lashes. ‘Āli did not consider it a fixed punishment. ‘Umar increased this punishment and made it eighty lashes with the consultation of other Companions. ‘Abdur Rahmān bin ‘Awf suggested this increase and others did not differ in this matter. (Sahih Muslim, 1706)

Chapter 16. The Legal Punishment For Drunkenness

2569. ‘Āli bin Abu Ṭālib said: “I would not pay the blood money (Diyyah) for those on whom I carried out the legal punishment, except for the wine-drinker. The Messenger of Allāh  did not institute anything in that case, if the person dies as a result of the legal punishment.
rather it is something that we would do."[1] (Sahih)

2570. It was narrated that Anas bin Mālik said: "The Messenger of Allāh ﷺ used to beat (offenders) for drinking wine with sandals and date-palm stalks." (Sahih)

Comments:

a. There is no fixed range of the maximum or minimum punishment for drinking wine, that is why there is the possibility of awarding a greater or lesser punishment. The range fixed by 'Umar with the consultation of the Companions is eighty lashes and there should be no change in it.

b. In other punishments the offender is whipped, but in this punishment he can be beaten with sandals or sticks.

c. The Companions of the Prophet ﷺ agreed upon the punishment of eighty lashes, so eighty lashes is the correct punishment.

2571. Hudain bin Mundhir said: "When Walid bin 'Uqbah was brought to 'Uthmān, they had testified against him. He said to

[1] The meaning of the narration is that they would not pay the blood money if someone died as a result of being administered the prescribed punishment, except in the case of the drinker who was to receive a number of lashes. If he died as a result of that punishment, then we would pay the blood money to his relatives, because his punishment was not prescribed by the Prophet ﷺ.
The Chapters On Legal Punishments

‘Ali: ‘You are close to your uncle’s son, so carry out the legal punishment on him.’ So ‘Ali whipped him. He said: ‘The Messenger of Allâh ﷺ gave forty lashes, and Abu Bakr gave forty lashes, and ‘Umar gave eighty, and all are Sunnah.’” (Sahih)

Comments:
Acting in accordance with the Rightly-Guided Caliphs is Sunnah. The Prophet ﷺ said, ‘Follow me and the Sunnah of my the Rightly-Guided caliphs.’ This can be quoted as proof. (Jaami’ Tirmidhi 2676)

Chapter 17. One Who Drinks Wine Repeatedly

2572. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “If he gets drunk, then whip him. If he does it again, then whip him. If he does it again, then whip him.” And he said concerning the fourth time: ‘If he does it again, then strike his neck (i.e., execute him).’” (Sahih)

The Chapters On Legal Punishments

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The Chapters On Legal Punishments

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2573. It was narrated from Mu‘āwiyah bin Abu Sufyān that the Messenger of Allāh ﷺ said: "If they drink wine, then whip them. If they drink (again), then whip them. If they drink (again), then whip them. If they drink (again), then kill them." (Hasan)

Comments:
According to Imām Tirmidhi the order of killing a drunkard existed, but later on it was abrogated. Imām Muhammad bin Ishāq reported from Muhammad bin Munkadîr, and he from Jābir bin Abdullāh that he said, that the Prophet ﷺ said, "Whip him and if he drinks fourth time, kill him." Afterwards a man was brought to him who had drunk a fourth time but the Prophet ﷺ did not order killing him. Zuhri also reported similarly from Qabīsh bin Zowaib from the Prophet ﷺ. Based on this account, the majority of the scholars affirm the orders of abrogation. There was no disagreement on this point among the scholars of the past and those who came after them. (Jāmi‘ Tirmidhi 1444.)

Chapter 18. The Legal Punishment Must Be Carried Out On The Old And The Sick (When They Deserve It)

2574. It was narrated that Sa‘eed bin Sa‘d bin ‘Ubādah said: “There was a man living among our dwellings who had a physical defect, and to our astonishment he was seen with one of the slave women of the dwellings, committing illegal sex with her. Sa‘d bin ‘Ubādah referred his case to the Messenger of Allāh ﷺ, who said: ‘Give him one hundred
lashes.' They said: 'O Prophet of Allâh, he is too weak to bear that. If we give him one hundred lashes he will die.' He said: 'Then take a branch with a hundred twigs and hit him once.'" (Sahih)

Another chain with similar wording.

Comments:

a. If an offender is not given the punishment of death, but only the punishment of lashes, and there is the possibility of his death while executing the punishment, it can be lessened.

b. This concession is only for old and sick people who cannot bear the severity of the punishment, or there is no hope of them surviving.

c. In the case of a person whose sickness is curable, his punishment may be delayed until he gets well.

Chapter 19. One Who Brandishes His Weapon

2575. It was narrated from Abu Hurairah that the Prophet said: "Whoever bears weapons against us is not one of us." (Sahih)
The Chapters On Legal Punishments

2576. It was narrated from Ibn 'Umar that the Messenger of Allāh ﷺ said: "Whoever bears weapons against us is not one of us."" (Sahih)

2577. It was narrated from Abu Musa Al-Ash‘ari that the Messenger of Allāh ﷺ said: "Whoever brandishes weapons against us is not one of us."" (Sahih)

Comments:

a. Frightening or threatening to kill a Muslim is a great sin.
b. To attack a Muslim or fight with him is a great sin.
c. 'Is not one of us' means that this is not an Islamic attitude or such an action is against the prestige and status of a Muslim.
Chapter 20. Those Who Engage In Banditry And Spread Mischief In The Land

2578. Anas bin Mâlik narrated that some people from (the tribe of) ‘Urainâh came to us (to Al-Madinah) during the time of the Messenger of Allâh ﷺ, but they did not want to stay in Al-Madinah because the climate did not suit them. He said: “Go out to the camels which belong to us, and drink their milk and urine.” So they did that (and recovered), then they apostatized from Islam and killed the herdsman of the Messenger of Allâh ﷺ and stole his camels. The Messenger of Allâh ﷺ sent people after them, and they were brought back. Then he cut off their hands and feet, branded their eyes and left them in Harrah[1] until they died. (Sahih)


2579. It was narrated from ‘Aishah that some people raided the she-camels of the Messenger of Allâh ﷺ, so the Prophet ﷺ cut off their hands and feet (on opposite sides) and lanced (gouged out) their eyes. (Sahih)

**Chapter 21. One Who Is Killed Defending His Property Is A Martyr**

(المحجوم 21) - يبَعُ مِنْ قُتْلِ دُونَ مَالِه
فُهُوُ شَهِيدُ (التحفة 21)

2580. It was narrated from Sa‘eed bin Zaid bin ‘Amr bin Nufail that the Prophet ﷺ said: “Whoever is killed defending his property, he is a martyr.” (Sahih)

2581. It was narrated from Ibn ‘Umar that the Messenger of Allâh ﷺ said: “If a man’s property is targeted, and he is fought and fights back and is killed, he is a martyr.” (Hasan)

Comments:
- Poor and needy Muslims can benefit from the animals of Baitul-mal.
- Urine of Halâl animals (lawful to be slaughtered and eaten), may be used for treatment.
- The punishment of an apostate is death.
- They were offenders of various crimes. They were apostates, they were involved in robbery and murder, and they gouged out the eyes of the shepherds, that is why they were treated likewise.
2582. It was narrated that Abu Hurairah said: “The Messenger of Allāh ﷺ said: ‘If a man’s property is wrongfully targeted, and he is killed, he is a martyr.’”

Comments:

a. Every one has the right to safeguard his property, his life and his honour, so to defend against the plunderer is his basic right.

b. As fighting in defence of property is lawful, similarly, defending one’s honor and life is more important, so is more recommended.

c. If someone is killed while defending himself, he is a martyr, but his status is less than the martyr who is martyred in the cause of Allāh. He should be buried after being given a bath and shrouded. A martyr of jihād is buried without giving him a bath or shrouding him.

Chapter 22. The Legal Punishment For The Thief

2583. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: “May Allāh curse the thief! He steals an egg and his hand is cut off, and he steals a rope and his hand is cut off.” (Sahih)

Comments:

a. This narration means that when a thief steals minor things like an egg or a rope and remains uncaught, he is encouraged to steal more precious things.

b. The punishment of cutting off the thief’s hand is given in the Noble Qur’ān. (See Al-Ma’idah 5: 38)
2584. It was narrated that Ibn 'Umar said: "The Prophet cut off (the hand of a thief) for a shield worth three Dirham." (Sahih)

2585. It was narrated from 'Aishah that the Messenger of Allah ﷺ said: "Do not cut off (the thief's hand) except for something worth one quarter of a Dinár or more." (Sahih)

Comments:

a. In the times of the Prophet ﷺ coins of Dirham and Dinár were in use. The silver coin was known as Dirham and the gold coin was called Dinár. One Dinár was equal to twelve Dirham. These two narrations give us the same standard for awarding punishment.

b. If the worth of the stolen thing is less than the criterion prescribed, the hand of the thief will not be cut off. The punishment of beating can be given or some fine can be imposed on him.

c. Today paper money is a substitute for gold. One quarter Dinár is equal to hundred grams of gold. The punishment of cutting off the hand should not be enforced unless the stolen item's value is equal to one hundred grams of gold.

2586. It was narrated from 'Amir bin Sa'd, from his father, that the Prophet ﷺ said: "The hand of the thief is to be cut off for the price of a shield." (Hasan)
Chapter 23. Hanging The Hand From The Neck

2587. It was narrated that Ibn Muhairiz said: "I asked Fadalah bin 'Ubaid about hanging the hand (of the thief) from his neck, and he said: 'It is Sunnah. The Messenger of Allâh cut off a man's hand then hung it from his neck.'" (Da'if)

Comments:
This narration is Weak but the matter and the standard of punishment is correct as preceded in Hadith no. 2584.

Chapter 24. A Thief Who Confesses

2588. It was narrated from 'Abdur-Rahman bin Thalabah Al-Ansari, from his father, that 'Amr bin Samurah bin Habib bin 'Abd Shams came to the Messenger of Allâh and said: "O Messenger of Allâh! I stole a camel belonging to Banu so-and-so; purify me!" The Prophet sent word to them...
and they said: "(Yes), we have lost a camel of ours." So the Prophet ﷺ ordered that his hand be cut off. Tha‘labah said: "I was looking at him when his hand fell and he said (to it): 'Praise is to Allâh Who has purified me of you; you wanted to cause my whole body to enter Hell.'" (Da‘îf)

Chapter 25. A Slave Who Steals

2589. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "If a slave steals, then sell him, even for half price." (Hasan)

2590. It was narrated from Ibn ‘Abbâs that one of the slaves of Khumus stole something from the Khumus,[1] and the matter was referred to the Prophet ﷺ, but he did not cut off his hand, and he said: 'The property of Allâh, part of it stealing another part.'" (Da‘îf)

See no. 2881 One fifth of the spoils of war.

Chapter 26. Those Who Betray Trusts, Robbers and Pilferers

2591. It was narrated from Jābir bin 'Abdullāh that the Messenger of Allah said: "The hand of the one who betrays a trust, the robber and the pilferer is not to be cut off."

2592. It was narrated from Ibrāhīm bin 'Abdur-Rahmān bin 'Awf that his father said: "I heard the Messenger of Allah say: 'The hand of the pilferer is not to be cut off.'" [1] (Sahih)

Comments:

a. The punishment of cutting off the hand is only in the case of stealing. The abovementioned crimes do not come under the definition of stealing.

b. It does not mean that they are not punished, they are punished, but under other rules for punishment.

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[1] Khāṣīn (one who betrays a trust) is a person who takes something that was entrusted to him; Muntahīb (robber) is one who forcefully takes something in public view; and Mukhāšīs is one who pilfers or loots. The wisdom behind cutting the hand of the thief and not the hand of these, is that the thief steals in a hidden manner while all of these are visible. See explanation by Sindi.
Chapter 27. The Hand Is Not To Be Cut Off For (Stealing) Produce Or The Spadix (Marrow) Of Palm Trees

2593. It was narrated from Râfi’ bin Khadij that the Messenger of Allâh ﷺ said: “The hand is not to be cut off for (stealing) produce or the spadix of palm trees.” (Sahîh)

2594. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “The hand is not to be cut off for (stealing) produce or the spadix of palm trees.” (Sahîh)

Comments:

a. Fruit means the fruit on the tree. If someone takes the fruit from the tree and eats it, his hand will not be cut off. See no. 2298.

b. The spadix of date palm is part of the palm tree which is soft and eaten by Arabs.

Chapter 28. One Who Steals Something That Is Guarded

2595. It was narrated from ‘Abdullâh bin Safwân that his father slept in the mosque, using his upper wrap as a pillow, and it was taken from beneath his head. He brought the thief to the Prophet ﷺ and the Prophet ﷺ ordered that his hand be cut off.
Safwán said: “O Messenger of Allâh, I did not want this! I give my upper wrap to him in charity.” The Messenger of Allâh ﷺ said: “Why did you not give it to him before you brought him to me?” (Hasan)

خريج: [حسن] وهو في المرأة (بيحي) : 345، وصحّحه ابن الجارود، ح: 828.

Comments:

a. The owner has the right to forgive the thief.

b. If the matter is brought in notice of the judge, it cannot be taken back. In murder cases, heirs have the right to forgive the murderer before the execution of the punishment of death.

2596. It was narrated from ‘Amr bin Shu’aib, from his father, from his grandfather, that a man from Muzainah asked the Prophet ﷺ about fruits. He said: “What is taken from the tree and carried away, its value and the like of it along with it (meaning double its price must be paid). What (is taken) from the place where dates are dried, (the penalty) is cutting off the hand if the amount taken is equal to the price of a shield. But if (the person) eats it and does not take it away, there is no penalty.” He said: “What about the sheep taken from the pasture. O Messenger of Allâh?” He said: “(The thief) must pay double its price and be punished, and if it was in the pen then his hand should be cut off, if what was taken was worth the price of a shield.” (Hasan)
Comments:

a. Though there is no punishment for this offence, it is not approved to take fruit away from someone’s garden.

b. Taking away the produce from the garden is a punishable crime.

c. If a stolen thing is less in price than the criterion fixed for the punishment, its penalty is double than its original price.

d. Punishment of lashes can be added according to the severity of the crime.

e. Punishment for a thing stolen from a secure and protected place is cutting off the hand, provided the price is one fourth of a Dinar. In this Hadith “shield” has been mentioned because in the period of the Noble Prophet the average price of a shield was one fourth of a Dinar.

Chapter 29. Prompting A Thief

2597. It was narrated from Ishâq bin Abu Talhah: “I heard Abu Mundhir, the freed slave of Abu Dharr, say that Abu Umayyah narrated to him, that a thief was brought to the Messenger of Allâh, and he admitted his crime, although the stolen goods were not found with him. The Messenger of Allâh said: ‘I do not think that you stole them.’ He said: ‘Yes I did.’ Then he said (again): ‘I do not think that you stole them,’ and he said: ‘Yes I did.’ Then he ordered that his hand be cut off. The Prophet said: ‘Say: I seek Allâh’s forgiveness and I repent to Him.’ So he (the thief) said: ‘I seek Allâh’s forgiveness and I repent to Him’ He (the Prophet said twice: ‘O Allâh! Accept his repentance.’” (Da’if)

تخرج: [إسناده ضعيف] أخرجه أبو داوود، الحدد، باب في التلقين في الجهد، ح: 4380 من حديث حماد بن أبي المنذر لا يعرف كما قال الذهبي، وأشار إليه الخطابي.
Chapter 30. One Who Is Coerced

2598. It was narrated from 'Abdul-Jabbar bin Wail that his father said: "A woman was coerced (i.e., raped) during the time of the Messenger of Allah. He waived the legal punishment for her and carried it out on the one who had attacked her, but he (the narrator) did not say that he ruled that she should be given a bridal-money." (Da'if)

Chapter 31. Prohibition Of Carrying Out The Legal Punishments In The Mosques

2599. It was narrated from Ibn 'Abbās that the Messenger of Allah said: "Do not carry out the legal punishments in the mosques." (Da'if)
grandfather, that the Messenger of Allah forbade lashing for the legal punishment in the mosques. 

**(Da’if)**

**Comments:**

a. Beating and punishing inside the mosque is not permitted. The dignity of the mosque does not allow such things to happen inside the mosque. The purpose of the mosque is to provide a tranquil atmosphere for prayers and remembrance of Allah.

b. The environment of a mosque is quite calm and serene and best for remembrance of Allah and offering prayers with all concentration. Execution of punishments inside the mosque will disturb this entire atmosphere. The spilling of blood and the hew and cry of onlookers during the execution of the punishment will also damage the dignity, cleanliness and virtuous atmosphere of the mosque.

**Chapter 32. Penalty Or Discretionary Punishments**

(Decided by The Judge)

**2601.** It was narrated from Abu Burdah bin Niyár that the Messenger of Allah used to say: “No one should be given more than ten lashes, except in the case of one of the legal punishments of Allah.” *(Sahih)*

**2602.** It was narrated from Abu Hurairah that the Messenger of Allah said: “Do not punish with more than ten whips.” *(Da’if)*
The Chapters On Legal Punishments

There are two kinds of punishments:

a. *Hudud* punishment that has been prescribed by the Divine law, like the punishment of the murder, which is life for life or blood money; or the punishment of slandering, which is eighty lashes. This punishment is fixed and cannot be increased or decreased.

b. *Ta’zir* punishment is that for which there is no fixed criterion by Divine law. This depends on the discretionary powers of the judge. A judge can punish the offender by seeing the intensity of the crime. In a discretionary punishment, while giving the punishment of lashes, a judge cannot accede more than ten lashes, but he can add other punishments according to the intensity of the crime.

Chapter 33. The Legal
Punishment Is Expiation

2603. It was narrated from 'Ubâdah bin Sâmît that the Messenger of Allah ﷺ said: "Whoever among you undergoes a *Hadd*, his punishment has been brought forward, and it is an expiation for him, otherwise his case rests with Allah." (Sahih)

Comments:

a. Any crime which has been punished in this world will be pardoned in the Hereafter.

b. There is a possibility that a person did a crime, but it always remained hidden from the people, or never was proved against him in the court, his exemption from the punishment in the Hereafter is not certain.

c. "His case rests with Allah" means Allah may forgive him in lieu of some
other great virtuous deed, or He may punish him for his crime to purify him for forgiveness.

2604. It was narrated from ‘Ali that the Messenger of Allâh ḥ ﷺ said: “Whoever commits a sin in this world and is punished for it, Allâh is too just to repeat the punishment for His slave (in the Hereafter). And whoever commits a sin in this world and Allâh conceals him, Allâh is too generous to go back to something that He has pardoned.” (Da‘îf)

Chapter 34. A Man Who Finds Another Man With His Wife

2605. It was narrated from Abu Hurairah that Sa‘îd bin ‘Ubâdah Al-Ansârî said: “O Messenger of Allâh, if a man finds another man with his wife, should he kill him?” The Messenger of Allâh ḥ ﷺ said: “No.” Sa‘îd said: “Yes he should, by the One Who honored you with the Truth!” The Messenger of Allâh ḥ ﷺ said: “Listen to what your leader says!” (Sahîh)

2606. It was narrated that Salamah bin Muhabbiq said: “When the Verse of legal
punishments was revealed, it was said to Abu Thabit, Sa’d bin Ubâdah, who was a jealous man: ‘If you found another man with your wife, what would you do?’ He said: ‘I would strike them both with the sword; do you think I should wait until I bring four (witnesses) and he has satisfied himself and gone away? Or should I say I saw such and such, and you will carry out the legal punishment punishment on me (for slander) and never accept my testimony thereafter?’ Mention of that was made to the Prophet سُعْدَةٍ and he said: ‘The sword is sufficient as a witness.’[1] Then he said: ‘No, (on second thought) I am afraid that the drunkard and the jealous would pursue that.’’’

(De‘if)

Abu ‘Abdullâh — meaning Ibn Mâjah — said: “I heard Abu Zur‘ah saying: ‘This is a Hadith of ‘Ali bin Muhammad At-Tanâfisi, I did not hear it from him.’”[2]

Comments:

a. If a person finds a couple performing sexual intercourse, and he catches them red-handed, even then he is not allowed to kill them.

b. He needs three more male persons to see them performing the action.

c. It is the right of the court to pass the judgment and punish them accordingly, stoning or whipping.

d. The wisdom behind producing witnesses is to stop the killing of innocent

[1] It means if the two bodies were found together in the bed, this would make it quite clear what had happened, namely that the husband had discovered the pair committing adultery and had taken action.

people on the basis of personal enmity. If the condition of four eye witnesses is not there, anybody may kill anyone, and say that he found him engaged in illegal sex. This will open the way to killing innocent people. If anybody finds his wife involved in illegal sexual intercourse with someone, he can choose the way of Li'ān and divorce her, but taking the law in his own hands and killing her is not proper.

e. The words of Sa'd bin 'Ubâdah show his sense of dignity and courage. The Noble Prophet praised this, but did not allow him to take the law in his own hands.

Chapter 35. One Who Marries His Father's Wife After He Dies

2607. It was narrated that Barâ' bin 'Azib said: "My maternal uncle passed by me — (one of the narrators) Hushaim named him in his narration as Hârith bin 'Amr — and the Prophet had given him a banner to carry. I said to him: ‘Where are you going?’ He said: ‘The Messenger of Allâh has sent me to a man who married his father's wife after he died, and has commanded me to strike his neck (i.e., execute him).’" (Sahih)

Comments:

a. To marry a Mahram woman is a great sin.

b. The punishment for this crime is death.

c. The punishment for illegal sexual intercourse and marrying a Mahram woman is not the same. The punishment for illegal sexual intercourse is stoning to death, and the punishment for marrying a Mahram is death.

2608. It was narrated from Mu'âwiyyah bin Qurrah that his father said: "The Messenger of Allâh sent me to a man who

[1] To indicate that he was sent on this mission by the Prophet. See 'Awnul-Ma'bud.
had married his father's wife after he died, to strike his neck (execute him) and confiscate his wealth."

(Hasan)

Comments:
Killing is a form of the Hadd, and confiscating wealth is Ta'zir. It means that the Noble Prophet ﷺ gave him both of the punishments.

Chapter 36. One Who Claims To Belong To Someone Other Than His Father, Or (A Slave) Who Claims To Belong To Someone Other Than His Master

2609. It was narrated from Ibn 'Abbás that the Messenger of Allâh ﷺ said: "Whoever claims to belong to someone other than his father, or (a freed slave) who claims that his Wala'[1] is for other than his real master, the curse of Allâh, the angels and all the people will be upon him."[2]

(Sahih)

تأخّرِهِ] [۲۶۵۶] - يَا بُنَاءً اَلْجَمِيعِ إِلَى ٍۛۛۛ عَرَفَ أَبَّ يَا تَوْلِعُ أَغْرَ مَوَالِيَهُ (الْحَجَّةُ ۳۶۵) (المُحَجَّمُ ۳۶)

ابن عَبَّاسَ قَالَ: قَالَ رَسُولُ اللَّهُ ﷺ: "فَأَنْتُسْبِل إِلَى ٍۛۛۛ عَرَفَ أَبَّ يَا تَوْلِعُ أَغْرَ مَوَالِيَهُ، فَقَلْنِ اللَّهُ الْعَلِيمُ الْمَعْلُوَّيِّنَّ الْمَلِكُ الْعَظِيمُ أَجْمَيْعِينَ".

2610. It was narrated that Abu 'Uthmân Nahdi said: "I heard Sa'd and Abu Bakrah both say that they heard directly from[3]

[1] Referring to the relationship of inheritance between the freed slave and the one who freed him. In most cases the freed slave's tribe name will be the same as that of the one who freed him.

[2] See also no. 2712.
Muhammad ﷺ saying it and memorized: ‘Whoever claims to belong to someone other than his father knowing that he is not his father, Paradise will be forbidden to him.’’’ (Sahih)

Comments:

a. Many issues and matters depend on the proof of lineage. For example: a) identification of a Ḥijāz. b) Distribution of inheritance etc. In Islamic law a great deal of importance has been given to lineage.

b. The relationship between a freed slave and the one who freed him is known as Walī‘, and some legal issues depend on it, for example issues of inheritance etc, in the absence of a legal bloodline.

2611. It was narrated from ‘Abdullāh bin ‘Amr that the Messenger of Allāh ﷺ said: “Whoever claims to belong to someone other than his father will not smell the fragrance of Paradise, even though its fragrance may be detected from a distance of five hundred years.” (Sahih)

Comments:

a. It is unlawful to claim to belong to someone other than one’s own father.

b. ‘Will not smell the fragrance of Paradise,’ means that he will not enter Paradise and he will remain far away from it.

c. This means he will go to Hell. Allāh may forgive him, as He is All-Forgiving.
Chapter 37. One Who Says That A Man Does Not Belong To His Tribe

2612. Muslim bin Haisam narrated from Ash’ath bin Qais who said: “I came to the Messenger of Allâh ﷺ with a delegation from Kindah, and they thought that I was the best of them. I said: ‘O Messenger of Allâh, are you not from among us?’ He said: ‘We are the tribe of Banu Nadr bin Kinânah, and we do not attribute ourselves to our mother and we do not deny our forefathers.’”

He said: “Ash’ath bin Qais used to say: ‘If any man is brought to me who suggests that a man from Quraish does not belong to Nadr bin Kinânah, I would carry out the legal punishment (for slander) on him.’” (Hasan)

Comments:

a. The tribe of the Noble Prophet ﷺ is the Quraish. Quraish was an appellation (title) of Fihr bin Mâlik and only the bloodline of Fihr bin Mâlik is called Quraishi. The name of the father of Mâlik or grandfather of Fihr was Nadr bin Kinânah. (See Ar-Rahiq Al-Makhtûm, p. 91)

b. When it is claimed that someone is not the son of the father who actually is his father, it means that his mother is slandered with the allegation of adultery. The slanderer should either prove it, or bear the punishment of eighty lashes.

Chapter 38. Effeminate Men

2613. Safwân bin Umayyah said:
"We were with the Messenger of Allāh ﷺ and 'Amr bin Murrah came and said: 'O Messenger of Allāh, Allāh has decreed that I be doomed, and He has not guided me to earn a living except by beating my tambourine with my hand; give me permission to sing without doing anything immoral.' The Messenger of Allāh ﷺ said: 'I will not give you permission, or honor you, nor give you what you want. You are lying, O enemy of Allāh. Allāh has granted you a good, lawful provision, but you have chosen the provision that Allāh has forbidden to you instead of that which He has permitted. If I had warned you before, I would have done such and such to you. Get away from me and repent to Allāh. If you do that again, after this warning, I will give you a painful beating and shave your head, to make an example of you, and I will banish you from among your people, and tell the young men of Al-Madinah to come and take your goods.'

'Amr stood up, suffering grief and humiliation that is known only to Allāh.

When he went away, the Prophet ﷺ said: 'Those sinners, whoever among them dies without having repented, Allāh will gather him on the Day of Resurrection just as he was in this world, effeminate and naked, with not even a piece of cloth to conceal him from the people. Every time he gets up, he...
Comments:

a. A eunuch is a person that is genderless and as man - woman, cannot lead a married life. Due to their resemblance to a male or female they can be considered either one of them accordingly.

b. In Arab culture an eunuch looks like a male, wears men's clothes and works normally outdoors.

c. Women should veil themselves from the eunuch who is particularly more interested in female matters.

d. A eunuch who is not interested in female matters and his only interest is in other household matters or foods etc., to whom the Noble Qur'ān in Surat An-Nur 24: 31 refers as “male servants who lack vigor” can be counted among those who have no potency. Women are not required to wear Hijāb before them.

2614. It was narrated from Umm Salamah that the Prophet entered upon her, and heard an effeminate man saying to ‘Abdullāh bin Abu Umayyah: “If Allāh enables us to conquer Tā’īf tomorrow, I will show you a woman who comes in on four (rolls of fat) and goes out on eight.” The Prophet said: “Throw them out of your houses.” (Sahih)
The Chapters On Blood Money

Chapter 1. The Severity Of Killing A Muslim

2615. It was narrated from 'Abdullāh that the Messenger of Allāh ﷺ said: "The first matter concerning which judgment will be passed among the people on the Day of Resurrection will be bloodshed." (Sahih)

Comments:

a. The issue of bloodshed is among the most serious and grave issues regarding the rights of human beings. On the Day of Resurrection the first thing that will be accounted for is the issue of bloodshed.

b. Prayer is the first of physical acts of worship to be questioned about on the Day of Resurrection.

c. Killing of criminals on the orders of an Islamic state as punishment is not bloodshed, it is in compliance of orders by the executioner, and performing the duty according to the Islamic punishments is a virtuous deed.

2616. It was narrated from 'Abdullāh that the Messenger of Allāh ﷺ said: "No person is killed wrongfully, but a share of responsibility for his blood will be upon the first son of Ḥūd, because he was the first one to kill." (Sahih)
Comments:
Inventing a new way of tyranny is a source of loss for the inventor, as it brings the share of punishment and responsibility to the originator when others use this newly invented way of tyranny. Those who tyrannize innocents are accountable for the crime, as well as the one who initiated such behavior.

2617. It was narrated from 'Abdullāh that the Messenger of Allāh ﷺ said: “The first matter concerning which judgment will be passed among the people on the Day of Resurrection will be bloodshed.” (Sahih)

2618. It was narrated from 'Uqbah bin 'Amīr Al-Juhani that the Messenger of Allāh ﷺ said: “Whoever meets Allāh not associating anything in worship with Him, and not having shed any blood unlawfully, will enter Paradise.” (Sahih)

Comments:
a. Whosoever associates anything in worship with Allāh, he will remain in Hell forever.
b. The crime of murder is a cause to lead one to Hell.
c. If someone wishes to enter Paradise, it is necessary for him to avoid all such crimes that lead to Hell.

2619. It was narrated from Barâ’ bin ‘Âzib that the Messenger of Allâh (ﷺ) said: “If this world were to be destroyed, that would be less significant before Allâh than the unlawful killing of a believer.”

(Hasan)

Comments:
a. A true believer is very dear to Allâh.
b. Usually the cause of murder is some worldly gain. One should not kill a believer for a small worldly gain because the life of the believer is more precious than all the treasures of the world to Allâh.

2620. It was narrated from Abu Hurairah that the Messenger of Allâh (ﷺ) said: “Whoever helps to kill a believer, even with half a word, he will meet Allâh with (the words) written between his eyes, ‘He has no hope of the mercy of Allâh.’”

(Da’îf)

Chapter 2. Can The One Who Kills A Believer Repent?

2621. It was narrated that Sâlim bin Abu Ja’d said: “Ibn ʿAbbas
was asked about one who kills a believer deliberately, then repents, believes, does righteous deeds and follows true guidance. He said: ‘Woe to him, can there be any guidance for him? I heard your Prophet ﷺ say: “The killer and his victim will be brought on the Day of Resurrection, with the slain holding onto the head of his killer, saying: ‘O Lord, ask this one, why did he kill me?’” By Allâh, Allâh the Mighty and Sublime revealed[1] it to your Prophet, then He did not abrogate it after He revealed it.’” (Sahih)

Comments:
Forgiveness for the crime of murder is possible through various ways:
a. Payment of blood money, because legal punishment purifies from the sin. (See Hadith: 2603)
b. An heir can pardon the murderer by taking blood money, or for Allâh’s sake, without taking blood money.
c. True and sincere repentance may save one from punishment. (See the next Hadith)

2622. It was narrated that Abu Sa’eed Khudri said: “Shall I not tell you what I heard directly from the Messenger of Allâh ﷺ? I heard it and memorized it: ‘A man killed ninety-nine people, then the idea of repentance occurred to him. He asked who

[1] This is a reference to the Verse: “And whoever kills a believer intentionally, his recompense is Hell to abide therein; and the wrath and the curse of Allâh are upon him, and a great punishment is prepared for him.” (An-Nisâ’ 4:93)
was the most knowledgeable of people on earth, and he was told of a man so he went to him and said: "I have killed ninety-nine people. Can I repent?" He said: "After ninety-nine people?!” He said: 'So he drew his sword and killed him, thus completing one hundred. Then the idea of repentance occurred to him (again), so he asked who was the most knowledgeable of people, and he was told of a man (so he went to him) and said: "I have killed one hundred people. Can I repent?" He said: "Woe to you, what is stopping you from repenting? Leave the evil town where you are living and go to a good town, such and such town and worship your Lord there." So he went out, heading for the good town, but death came to him on the road. The angels of mercy and the angels of punishment argued over him. Iblis (Satan) said: "I have more right to him, for he never disobeyed me for a moment." But the angels of mercy said: "He went out repenting." (One of the narrators) Hammâm said: "Humaid At-Tawil narrated to me from Bakr bin 'Abdullâh, that Abu Râfî' said: 'So Allâh sent an angel to whom they referred (the case). He said: "Look and see which of the two towns was he closer, and put him with its people."

(One of the narrators) Qatâdah said: "Hasan narrated to us: 'When death came to him he
strove and drew closer to the good town, and farther away from the evil town, so they put him with the people of the good town.’’ (Sahih)

Another chain from Hammâm, and he mentioned similarly.

Comments:
a. One who after committing a crime is afraid of Allah’s justice, he should not be disappointed by religious scholars from Allah’s mercy. They should encourage him to repent and ask Allah’s mercy. Anyone who takes undue leave of Allah’s mercy should be warned of severe punishment.
b. True and sincere repentance may induce the mercy of Allah to pardon mortal sins like bloodshed.
c. One way of improvement of character is to leave the bad and impure environment and join the company of good people.

Chapter 3. If A Person’s Relative Is Killed, He Has The Choice Of Three Things

2623. It was narrated from Abu Shuraih Al-Khuza’î that the Messenger of Allah ﷺ said:

“Whoever suffers from killing or wounding, has the choice of three things, and if he wants the fourth then restrain him. He may kill (the killer), or forgive him, or take the blood money. Whoever accepts any of these (options), then kills (the killer) after that will have the fire of Hell to abide therein forever.’’ (Da’îf)
The Chapters On Blood Money

Comments:

a. 'Whoever suffers from killing or wounding' means that one of his relatives is killed or he himself is wounded. In both situations he can either have the killer killed for killing his relative, or take the blood money for his wound and he can forgive the offender. This issue is also proven by other arguments in other Ahādith.

b. 'The fourth' means an unlawful demand, like first accepting the blood money and finishing the matter, but later on finding an opportunity and killing the killer. If he does so, he is a killer and should be punished according to the law. Doing one thing (accepting the blood money) and then doing the other (killing the killer) means the same as explained above.

2624. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: "If a person's relative is killed, he has the choice of two things: He may either have the killer killed, or he may demand the blood money." (Sahih)

Comments:

a. Killing in retaliation, and blood money, have been mentioned as identical things, as the third thing, forgiveness has been designated a higher status than the other two.

b. Blood money is better than killing in retaliation, as there is also a segment of forgiveness in it. There is also a possibility of reduction in blood money by the heirs.

c. The decision of killing or taking blood money is the right of the heirs. The court has nothing to do with this decision.

d. Killing in retaliation is a punishment only for deliberate murder. The punishment for accidental murder is only blood money.
Chapter 4. One Who Is Killed Deliberately And His Heirs Accept The Blood Money

2625. It was narrated that Ziyāḍ bin Sa'd bin Dumairah (said): "My father and my paternal uncle, who were present at Hunain with the Messenger of Allāh, narrated to me: ‘The Prophet prayed Zuhr, then he sat beneath a tree. Aqra' bin Ḥabīs, who was the chief of Khindaf, came to him arguing in defense of Muhallim bin Jaththamah. ‘Uyainah bin Ḥisn came to him demanding vengeance for ‘Amir bin Adbat, who was from the tribe of Ashja’. The Prophet said to them: ‘Will you accept the blood money?’ But they refused. Then a man from Banu Laith, whose name was Mukaital, stood up and said: ‘O Messenger of Allāh! By Allāh! This man who was killed in the early days of Islam is like sheep that come to drink but stones are thrown at them, so the last of them runs away (i.e., the murderer should be killed).’ The Prophet said: ‘You will have fifty (camels) while we are travelling and fifty (camels) when we return.’ So they accepted the blood money.” (Hasan)
Comments:

a. In the case of deliberate murder both the punishments, either taking blood money or killing in retaliation are lawful.

b. There can be reconciliation in the case of blood money. Reduction is possible only with the consent of heirs, but increase is not permitted.

c. There are only three types of situations in which a killing takes place: A) Deliberate killing. Meaning that the killer deliberately and intentionally attacks with a weapon and kills. In this situation the amount of blood money is fixed, as has been mentioned in the Hadith. B) Killing by mistake, in a manner that resembles intentionally killing. Meaning, to attack with such a weapon which usually does not kill, like a stick and rod etc. This situation is identical to deliberate killing, and the punishment is also the same. C) Killing by mistake or by accident. In this situation the intention is not to kill but it happens by accident, like one man fires at a deer and suddenly someone comes in the way and is killed, or as usually happens in road accidents. The punishment of this is blood money, which is one hundred young camels or their price. (See Hadith 2630)

2626. It was narrated from 'Amr bin Shu'aib, from his father, from his grandfather that the Messenger of Allah ﷺ said: “Whoever kills deliberately, he will be handed over to the heirs of the victim. If they want, they may kill him, or if they want, they may accept the blood money, which is thirty Hijqah, thirty Jadha’ah and forty Khalifah. This is the blood money for deliberate slaying. Whatever is settled by reconciliation belongs to them, and that is a binding covenant.” (Hasan)
Chapter 5. The Blood Money
For What Appears To Be
Intentional Due To Its
Harshness

2627. It was narrated from `Abdullāh bin `Amr that the Prophet ﷺ said: “Killing by mistake that resembles intentionally, is killing with a whip or stick, for which the blood money is one hundred camels, of which forty should be pregnant she-camels in the middle of their pregnancies, with their young in their wombs.” (Sahih)

Comments:
a. Killing by mistake that resembles intentionally killing is named so because in this killing, the purpose of the killer is not to kill but to hurt only.
b. ‘With their young in their wombs’ means pregnant she-camels. It has been repeated only for emphasis.

2628. It was narrated from Ibn `Umar that the Messenger of Allāh ﷺ stood up on the Day of the conquest of Makkah, on the
steps of the Ka'bah. He praised and glorified Allâh, then he said: “Praise is to Allâh Who has fulfilled His promise, granted victory to His slave and defeated the Confederates alone. The one who is killed by mistake is the one who is killed with a whip or a stick; for him the blood money is one hundred camels, of which forty should be pregnant she-camels with their youngs in their wombs. Every custom of Ignorance period, and every blood claim, is beneath these two feet of mine (i.e., is abolished), except for the custodianship of the Ka'bah and the provision of water for the pilgrims, which I confirm still belong to the people to whom they belonged before.” (Da'if)

Comments:

a. Allâh’s promise means the conquest of Makkah and victory of Islam which was fulfilled in the life of the Noble Prophet ﷺ.

b. Killing by mistake means the killing that resembles killing intentionally. It has been explained in this Hadîth by mentioning a stick or whip.

c. Before the conquest of Makkah different offices for public services related to the Sacred Ka'bah were with various tribes. All other offices were cancelled, but the office of the custodianship of Ka'bah and the office of provision of water for the pilgrims were not changed because there were no anti-Islamic beliefs or practices involved.

Chapter 6. The Blood Money

For Killing By Mistake

2629. It was narrated from Ibn 'Abbas that the Prophet ﷺ set the blood money at twelve thousand (Dirham). (Hasan)
It was narrated from 'Amr bin Shu'aib, from his father, from his grandfather, that the Messenger of Allah said: "Whoever is killed by mistake, his blood money in camels is thirty Bint Makhād (a one-year-old she-camel), thirty Bint Labun (a two-year-old she-camel), thirty Hiqqah (a three-year-old she-camel) and ten Bani Labun (two-year-old male camels)." The Messenger of Allah used to fix the value (of the blood money for accidental killing) among town-dwellers at four hundred Dinār or the equivalent value in silver. When he calculated the price in terms of camels (for Bedouins), it would vary from one time to another. When prices rose, the value (in Dinār) would rise; and when prices fell, the value (in Dinār) would fall. At the time of the Messenger of Allah the value was between four hundred and eight hundred Dinār, or the equivalent value in silver, eight thousand Dirham. And the Messenger of Allah ruled that if a person's blood money was paid in cattle, among those who kept cattle, the amount was two hundred cows; and if a person's...
blood money was paid in sheep, among those who kept sheep, the value was two thousand sheep.

(Hasan)

Comments:

a. Blood money is determined by the quantity of camels.
b. If it is not possible to pay in the form of camels then cows or goats can be paid.
c. Payment is also possible in cash. Judge or the government are responsible to determine the price of one hundred camels.
d. Increase or decrease in the price of the camels may affect the price in cash.

2631. It was narrated from 'Abdullah bin Mas'ud that the Messenger of Allah said: “The blood money of one who is killed by mistake is twenty Hiqah (three-year-old she-camels), twenty Jadha'ah (four-year-old she-camels), twenty Bint Makhad (one-year-old she-camel), twenty Bint Labun (two-year-old she-camels) and twenty Bani Makhad (one-year-old male camels).”

(Da'if)

2632. It was narrated from 'Ikrimah, from Ibn 'Abbas, that the Prophet set the blood money at twelve thousand (Dirham). He said: “This is what Allah says: ‘And they could not find any cause to do so except that Allah and His Messenger had enriched them of His bounty.’”

He said: “By their taking the

[1] The speaker is either 'Ikrimah, or Muhammad bin Sinân, and Allah knows best.

blood money."[1] (Hasan)

Chapter 7. The Blood Money Must Be Paid By The ‘Aqilah; If there Is No ‘Aqilah, Then It Must Be Paid From The Treasury

2633. It was narrated that Mughirah bin Shu‘bah said: “The Messenger of Allah ﷺ ruled that the blood money must be paid by the ‘Aqilah.” (Sahih)

Comments:
a. ‘Aqilah’ means the near male relatives on the father’s side who are obliged to pay the blood money on behalf of any of the clan’s members who kills a person.
b. The first responsibility of the payment of blood money is with brothers and nephews, after them, the responsibility rests upon their son. Meaning the male members of one grandfather. After this, the responsibility goes to the brothers of the grandfather.
c. Making blood money the responsibility of the ‘Aqilah is to divide the due blood money into many easy shares, to lighten the burden of payment. In this way one person or one family is not overburdened.
d. Another reason for collecting the blood money from the relatives is that they usually help each other in fights and disputes, they also understand that in case of bloodshed, they will have to pay their share of blood money, so naturally they will not allow any member of their tribe to commit this type of crime, rather they will stop him from doing such a crime.

2634. It was narrated from Miqdām Ash-Shāmi that the

[1] The last phrase appears to be from Muhammad bin Sinān, one of the narrators. And Allah knows best. And most of the narrations of this Hadith mentioning the Ayah are from ‘Ikrimah.
Messenger of Allāh ﷺ said: “I am the heir of the one who has no heir, and I will pay the blood money on his behalf and inherit from him, and the maternal uncle is the heir of the one who has no heir; he pays the blood money on his behalf and inherits from him.’” (Sahih)

Chapter 8. One Who Prevents The Next Of Kin Of The Slain From Exacting Retaliation Or Taking The Blood Money

2635. It was narrated from Ibn 'Abbās, who attributed it to the Prophet ﷺ: “Whoever kills out of folly or for tribal motives, using a rock, a whip, or a stick; he must pay the blood money for killing by mistake. Whoever kills deliberately, he is to be killed in retaliation. Whoever tries to prevent that, upon him is the
curse of Allâh, the angels and all the people, and no change nor equitable exchange will be accepted from him." [1] (Sahih)

Comments:

a. Folly or tribal motives, means that two parties fight each other and they make use of stones, sticks, clubs, and whips etc. If someone is killed in this fight, it is very difficult to determine and pinpoint the killer, so no one can be killed in retaliation. In such cases blood money is the essential punishment.

b. Killing in retaliation is a punishment fixed by Allâh in the revealed Divine law, therefore, putting up any kind of hindrances to it is a harshly censured crime.

Chapter 9. Actions For Which There Is No Retaliation

2636. Nimrân bin Jâriyah narrated from his father that a man struck another man on the wrist with his sword and severed it, not at the joint. He appealed to the Prophet ﷺ who ordered that the Diyâh be paid. The man said: “O Messenger of Allâh, I want retaliation.” He said: “Take the compensation and may Allâh bless you therein.” And he did not rule that he be allowed retaliation. (Da’îf)

[1] No Sarf – they say it means no repentance, which is changing from the state of disobedience to the state of obedience; and no ‘Adl – meaning no equity through ransoming. And it is said to be for the purpose of stressing the gravity of the wrong. See explanation by Sindi. See also no. 2712.
2637. It was narrated from ‘Abbâs bin ‘Abdul-Muttalib that the Messenger of Allâh ﷺ said: “There is no retaliation for a head wound that does not reach the brain, a spear wound that does not penetrate deeply, or a wound that dislocates a bone.” (Da’if)

Comments:

There is retaliation for cuts and wounds that cannot be made equally deep and damaging, when there is a chance of causing more damage than the damage done, so compensation is punishment which is decided according the severity of wound.

Chapter 10. One Who Inflicts A Wound May Ransom Himself By Paying The Compensatory Money

2638. It was narrated from ‘Aîshah that the Messenger of Allâh ﷺ sent Abu Jahm bin Hudhaifah to collect Sadaqah. A man disputed with him concerning his Sadaqah, and Abu Jahm struck him and wounded his head. They came to the Prophet ﷺ and said: “Compensatory money, O Messenger of Allâh!” The Prophet ﷺ said: “You will have such and such,” but they did not accept that. He said: “You will have such and such,” and they agreed. Then the Prophet ﷺ said: “I am going to address the people..."
and tell them that you agreed.” They said: “Yes.” So the Prophet addressed (the people) and said: “These people of Laith came to me seeking the compensatory money, and I have offered them such and such. Do you agree?” They said: “No.” The Emigrants wanted to attack them, but the Prophet told them not to, so they refrained. Then he called them and offered them more and said: “Do you agree?” They said: “Yes.” He said: “I am going to address the people and tell them that you agreed.” They said: “Yes.” So the Prophet addressed (the people) then said: “Do you agree?” They said: “Yes.”

(Da‘if)

Ibn Mājah said: “I heard Muhammad bin Yahyā saying: ‘Ma‘mar alone has narrated this Hadith. I don’t know anyone else that has narrated it.”

Comments:

a. Retaliation is in order for cases involving wounds.

b. Compensatory money is a better option instead of retaliation, in cases of cuts and wounds.

c. In cases where the punishment is retaliation, the choice of taking blood money rests with the claimant.

d. In the decisions made by the leader, where there is a possibility of public criticism or protest from the general public, the leader should make the decision according to the law and at the same time in a manner acceptable to the public.
Chapter 11. The Blood Money For A Fetus

2639. It was narrated that Abu Hurairah said: "The Messenger of Allah ruled concerning a fetus that (the blood money) was a slave, male or female. The one against whom this verdict was passed said: 'Should we pay blood money for one who neither ate, drank, shouted, nor cried (at the moment of birth)? One such as this should be overlooked.' The Messenger of Allah said: 'This man speaks like a poet. (But the blood money for a fetus is) a slave, male or female.'"

Comments:
a. Fetus here means fully developed embryo or simply a baby still in the mother's womb, and born later.
b. Sometimes it happens that a pregnant woman is hurt and the baby in her womb dies before birth. This is considered murder.
c. Blood money for a fetus (fully developed baby in the mother's womb) is a slave, male or female. If the mother dies as well, the killer has to pay the full blood money.

2640. It was narrated that Miswar bin Makhrurah said: "Umar bin Khattab consulted the people concerning a woman who had been caused to miscarry. Al-Mughirah bin Shubah said: 'I saw the Messenger of Allah rule that a slave, male or female, be given as blood money (for a fetus).' 'Umar said: 'Bring me someone who will testify alongside you. So he brought..."
Muhammad bin Maslamah to testify alongside him.***(Sahih)***

Comments:

‘Umar did not have any doubt about the narration of Mughirah, but he wanted to verify it because the issue was over a legal matter and it was necessary to confirm this point. The other reason behind this confirmation was to send a warning message to the general public, that if a statement of an eminent Companion can be questioned, the general public should be very careful and not quote any Hadith of the Noble Prophet **without proper proof and investigation.**

2641. It was narrated from ‘Umar bin Khattab that he asked the people about the ruling of the Prophet concerning that – concerning a fetus. Hamal bin Malik bin Nabhagah stood up and said: “I was between my two wives and one of them struck the other with a tent-pole, killing her and her fetus. The Messenger of Allah ruled that the blood money for the fetus was a slave, and that she should be killed in retaliation.” **(Sahih)**

Comments:

a. The Noble Qur’ān and the word and practices of the Noble Prophet are the basis of Islamic law.

b. If any issue is not clear for judgment, it is necessary to seek the answer from the Noble Qur’ān and from the Ahadith of the Prophet.

c. Killing a pregnant woman is a dual murder, killing of the mother and killing her baby, the punishment for killing a fully developed baby in mother’s womb is giving of a male or female slave, and the punishment for killing a mother is blood money, or killing in retaliation.
Chapter 12. Inheritance From The Blood Money

2642. It was narrated from Sa’eed bin Musayyab that ‘Umar used to say: “The blood money is for the near male relatives from the father’s side and the wife does not inherit anything from the blood money of her husband,” until Ad-Dahhâk bin Suflân wrote to him, and told him that the Prophet ruled that the wife of Ashyam bin Dibâbî should inherit from the blood money of her husband. (Sahih)

Comments:

a. Most probably ‘Umar’s opinion was based upon the principle that the blood money is to be paid by the killer’s male relatives from the father’s side, so it should be distributed among such relatives of the deceased, and the wife is not among such relatives, so she is a claimant of the blood money’s share.

b. Blood money is distributed among the heirs as the legacy is distributed among the heirs. There is no difference in the distribution of blood money and inheritance.

c. Companions can make a mistake in explaining or understanding a legal issue, similar is the position of the later scholars, they also can make a mistake in understanding or explaining an issue. The scholars of today are advised to adopt the same behavior of their predecessors.

2643. It was narrated from ‘Ubâdah bin Sâmit that the Prophet ruled that Hamal bin Mâlik Hudhali Al-Lihyâni should inherit from his wife who was killed by his other wife. (Da’if)
The blood money of a woman who is killed is also her legacy, that is why her husband gets a share from her inheritance, whereas the payment of blood money is made by killer's male relatives from her father's side, and the husband is not from the victim's such relatives, but is from her heirs whose share is fixed.

Chapter 13. The Blood Money Of A Disbeliever

2644. It was narrated from ‘Amr bin Shu‘aib, from his father, from his grandfather, that the Messenger of Allâh ﷺ ruled that the blood money for the People of the Book is half of that of the blood money for the Muslims, and they are the Jews and Christians. (Hasan)

Comments:
If a Jew or a Christian is killed, the blood money due is half the blood money of Muslim.

Chapter 14. The Killer Does Not Inherit

2645. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: “The killer does not inherit.” (Hasan)

Comments:
From Hadith the likeness of the who narrated from Abu Hurairah and Abu Humayd.
Comments:

A killer is deprived from the inheritance because many a time the intention behind the killing is to get the property of the victim. This law compels the killer to ponder over various aspects of murder. A) He will not get the share of the inheritance. B) There is a possibility of the punishment of death. C) If he escapes the sentence, he will have to pay his share of blood money. In this way he will be in a state of loss. Therefore, he may avoid committing the crime.

2646. It was narrated from 'Amr bin Shu'aib that Abu Qatādah, a man from Banū Mudlij, killed his son, and 'Umar took one hundred camels from him, thirty Ḥiqqah,[1] thirty Jadḥahāh[2] and forty Khalifah.[3] Then he said: "Where is the brother of the slain? I heard the Messenger of Allāh ṣallātū ʿalá him say: 'The killer does not inherit.'" (Hasan)

Chapter 15. The Blood Money Of A Woman (Who Kills Someone) Must Be Paid By Her Male Relatives On Her Father's Side, And Her Inheritance Goes To Her Children

2647. It was narrated from 'Amr bin Shu'aib, from his father, that his grandfather said: "The Messenger of Allāh ṣallātū ʿalá him ruled that a woman's blood money (if she kills someone) should be paid by her male relatives on her father's

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[3] Pregnant she-camels that are halfway through their pregnancy.
side, whoever they are, and they should not inherit anything from her, except what is left over after her heirs have taken their shares. If she is killed then her blood money is to be shared among her heirs, since they are the ones who may kill the one who killed her.” (Hasan)

2648. It was narrated that Jâbir said: “The Messenger of Allâh ﷺ ruled that the blood money should be paid by the near male relations from the father’s side of the killer, and the such relatives of the slain woman said: ‘O Messenger of Allâh, her legacy is for us.’ He said: ‘No, her legacy is for her husband and children.’” (Da‘îf)

Chapter 16. The Retaliation For A Tooth

2649. It was narrated that Anas said: “Rubâ‘, the paternal aunt of Anas, broke the tooth of a girl and they (her family) asked (the girl’s family) to let her off, but they refused. They offered to pay compensatory money, but they refused. So they came to the Prophet ﷺ who ordered retaliation. Anas bin Nadr said: ‘O Messenger of Allâh, will the tooth of Rubâ‘ be broken? By the One Who sent you with the Truth, it will not be broken!’ The Prophet ﷺ said: ‘O Anas, what
Allah has decreed is retaliation.' So the people accepted that and forgave her. The Messenger of Allah ﷺ said: 'There are among the slaves of Allah those who, if they swear by Allah, Allah fulfills their oath.'” (Sahih)

Comments:
a. Retaliation is due for breaking a tooth. One can forgive the offender or accept compensatory money.
b. Compensatory money for breaking a tooth is five camels.
c. Anas bin Nadr said, “It will not be broken.” This statement was not an expression of resentment against the decision, but it was an expression of strong confidence in Allah’s blessing, that the other party will accept the compensatory money, or forgive his aunt.

Chapter 17. The Compensatory Money For Teeth

2650. It was narrated from Ibn ‘Abbás that the Messenger of Allah ﷺ said: “Teeth are all the same; the incisor and the molar are the same.” (Sahih)

2651. It was narrated from Ibn ‘Abbás that the Prophet ﷺ ruled that (the compensatory money) for a tooth was five camels. (Sahih)
The Chapters On Blood Money 525

أبواب الديات

تخريج: [إسناده صحيح] وقال البصيري: هذا إسناد صحيح، رجائه ثقات.

Comments:

a. The punishment for breaking a tooth is the payment of five camels.

b. The punishment will increase according to the number of teeth broken.

Meaning five camels for every broken tooth. This punishment may go up to a maximum limit in the case of all of the teeth.

c. In compensation of tooth breaking, number of teeth broken are counted and not the utility of the tooth.

Chapter 18. The Compensatory Money For Fingers

2652. It was narrated from Ibn 'Abbás that the Prophet ﷺ said:

“This and this are the same” — meaning the pinky finger, ring finger and thumb. (Sahih)

2653. It was narrated from 'Amr bin Shu‘aib, from his father, from his grandfather, that the Messenger of Allah ﷺ said: "The fingers are all the same, and (the compensatory money) for each of them is ten camels." (Sahih)

Comments:

a. Compensatory money for cutting a finger is ten camels.
b. Compensatory money for each severed finger is ten camels.

2654. It was narrated from Abu Musa Al-Ash'ari that the Messenger of Allah ﷺ said: "The fingers are the same." (Sahih)

Chapter 19. A Wound That Exposes The Bone

2655. It was narrated from 'Abd bin Shu'aib, from his father, from his grandfather, that the Prophet ﷺ said: "For a wound that exposes the bone, is five; (the compensation) is five camels." (Hasan)

Comments:
Ibn Athir said, "Compensation of five camels is only for the wounds of the head and face, compensatory money for wounds on other parts of the body that expose the whiteness of the bone is determined by the judge, or by the government, according to the severity of the wound." (An-Nihāya).

Chapter 10. If A Person Bites A Man And He Pulls Away His Hand And His Tooth Comes Out

2656. It was narrated that Ya'la and Salamah the sons of Umayyah said: "We went out with the
Messenger of Allâh ﷺ on the military expedition of Tabuk, and with us was a friend of ours. He fought with another man while we were on the road. The man bit the hand of his opponent, who pulled away his hand and the man’s tooth fell out. He came to the Messenger of Allâh ﷺ demanding compensatory money for his tooth, and the Messenger of Allâh ﷺ said: ‘Would anyone of you go and bite his brother like a stallion, then come demanding compensatory money? There is no compensatory money for this.’’ Hence, the Messenger of Allâh invalidated it (i.e. compensatory money in such a case). (Hasan)

2657. It was narrated from ‘Imrân bin Husain that a man bit another man on his forearm; he pulled his arm away and the man’s tooth fell out. The matter was referred to the Prophet ﷺ, who invalidated it and said: ‘Would one of you bite (another) like a stallion?’’ (Sahih)

Comments:

a. Everyone has the right to defend himself.

b. If someone is hurt during an attack, the defender will not pay any penalty.
Chapter 21. A Muslim Should Not Be Killed For A Disbeliever

2658. It was narrated that Abu Juhaifah said: "I said to 'Ali bin Abu Tâlib: 'Do you have any knowledge that the people do not have?' He said: 'No, by Allâh, we only know what the people know, except that Allâh may bless a man with understanding of the Qur'ân or what is in this sheet, in which are mentioned the rulings on blood money from the Messenger of Allâh ﷺ, and it says that a Muslim should not be killed in retaliation for the murder of a disbeliever.'" (Sahih)

Comments:

a. It is falsely claimed that 'Ali bin Abu Tâlib had an extra internal secret knowledge of the metaphysical world which was additional to the existing knowledge of Shari'at (Divine law). Existing chains of Sufism or mysticism are based on this false concept. For the purification of mind and heart, whatever the Prophet ﷺ said is enough, and also available in the books of Ahâdith. There is no extra hidden knowledge.

b. 'Ilm Jafar is also attributed to 'Ali bin Abu Tâlib by which people know their past and future. This is a baseless opinion. No one knows the future except Allâh. Believing that someone has complete knowledge of future, is a form of disbelief in many Verses of the Noble Qur'ân.

c. If a Muslim kills a non-Muslim, he will not be killed in retaliation for the murder of a disbeliever. His punishment is blood money only.

2659. It was narrated from 'Amr bin Shu'aib, from his father, from his grandfather that the Messenger of Allâh ﷺ said: "A Muslim should not be killed in retaliation for the murder of a disbeliever." (Sahih)
The Chapters On Blood Money

2660. It was narrated from Ibn 'Abbâs that the Prophet ﷺ said: "A believer should not be killed in retaliation for the murder of a disbeliever, and a person who has a treaty should not be killed during the time of the treaty."

(Sahih)

Comments:
a. Security of non-Muslim minorities living in an Islamic state is the duty of the state.
b. A non-Muslim living in a Muslim state under a treaty should not be killed, until and unless he commits a crime which breaks the treaty, like dishonoring the Noble Qur'ân or disgracing the Noble Prophet ﷺ. (Allâh forbid us)

Chapter 22. A Father Should Not Be Killed For His Son

2661. It was narrated from Ibn 'Abbâs that the Messenger of Allâh ﷺ said: "A father should not be killed for his son." (Da'îf)

2662. It was narrated from 'Amr bin Shu‘âib, from his father, from his grandfather, that 'Umar bin Khattâb said: "I heard the Messenger of Allâh ﷺ say: 'A father should not be killed for his son.'" (Da'îf)
Chapter 23. Can A Free Person Be Killed For A Slave?

2663. It was narrated from Samurah bin Jundab that the Messenger of Allâh ﷺ said: "Whoever kills his slave, we will kill him, and whoever mutilates (his slave) we will mutilate him." (Hasan)

2664. It was narrated from 'Amr bin Shu'aib, from his father, that his grandfather said: "A man killed his slave deliberately and with malice aforethought, so the Messenger of Allâh ﷺ gave him one hundred lashes, banished him for one year, and cancelled his share from among the Muslims." (Da'if)

Comments:
If a son is killed by his father, he should not be killed in retaliation, he can be punished as has been mentioned in Hadith no. 2646.
Chapter 24. Retaliation Upon The Killer Will Be Carried Out In The Same Manner As He Killed (His Victim)

2665. It was narrated from Anas bin Mâlik that a Jew crushed the head of a woman between two rocks and killed her, so the Messenger of Allah ﷺ crushed his head between two rocks. (Sahîh)

2666. It was narrated from Anas bin Mâlik that a Jew killed a girl for her jewelry. He asked her (as she was dying): “Did so-and-so kill you?” and she gestured with her head to say no. Then he asked her again, and she gestured with her head to say no. He asked her a third time and she gestured with her head to say yes. So the Messenger of Allah ﷺ killed him (by crushing his head) between two rocks. (Sahîh)

Comments:
a. Killing between two rocks means putting the head on one rock and hitting it with another rock, by which she was severely wounded and died.
b. The killer should be killed in the same way as he killed.
Chapter 25. There Is No Retaliation Except With The Sword

2667. It was narrated from Nu‘mān bin Bashir that the Messenger of Allāh ﷺ said: “There is no retaliation except with the sword.” (Da‘if)

2668. It was narrated from Abu Bakrah that the Messenger of Allāh ﷺ said: “There is no retaliation except with the sword.” (Da‘if)

Chapter 26. No Criminal Can Bring Punishment Upon Anyone Else (For His Crime)

2669. It was narrated from Sulaimān bin ‘Amr bin Ahwas that his father said: I heard the Messenger of Allāh ﷺ saying during the Farewell pilgrimage: “No criminal commits a crime but he brings (the punishment for that) upon himself. No father can bring punishment upon his son by his crime, and no son can bring punishment upon his father.” (Hasan)
The Chapters On Blood Money

2670. It was narrated that Tāriq Al-Muhāribi said: “I saw the Messenger of Allāh ﷺ raising his hands until I saw the whiteness of his armpits, saying: ‘No child should be punished because of his mother’s crime, no child should be punished because of his mother’s crime.’” (Sahih)

2671. It was narrated that Khashkhāsh Al-‘Anbari said: “I came to the Prophet ﷺ and my son was with me. He said: ‘You will not be punished because of his crime and he will not be punished because of yours.’” (Sahih)

2672. It was narrated from Usāmah bin Sharīk that the Messenger of Allāh ﷺ said: “No person will be punished because of another’s crime.” (Sahih)
Comments:

a. A criminal is responsible for his crime; other relatives like the father or brother cannot be punished in his place.

b. It is unlawful to pressure or torture the relatives of fugitives and criminals.

c. A suspect can only be forced to a limit to confess his crime.

d. A criminal or a suspect can be forced to a certain limit in order to get information about his companions. The suspect can only be pressed if some circumstantial evidences are available against him. (Allâh knows better.)

Chapter 27. Offences For Which There Is No Liability

2673. It was narrated from Abu Hurairah that Allâh’s Messenger ﷺ said: “The injuries caused by the beast are without liability, and wells are without liability, and mines are without liability.”

(Sahih)

2674. Kathir bin ‘Abdullâh bin ‘Amr bin ‘Awf narrated from his father that his grandfather said: “I heard the Messenger of Allâh ﷺ say: ‘The injuries caused by the beast are without liability, and mines are without liability.’”

(Sahih)

2675. It was narrated that ‘Ubâdah bin Sâmît said: “The Messenger of Allâh ﷺ ruled that there is no liability for injuries caused by falling into a mines or a well, nor those caused by a beast.”

(Sahih)

[1] Meaning the owner of these is not liable for damages others suffer from them.
**The Chapters On Blood Money**

*Al-'Ajmūl* are grazing live-stock (such as sheep, camels, cattle, goats), and others. *Al-jubūr* is bloodshed with impunity (i.e. without liability).

2676. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: "(The injuries caused by) a fire are without liability, and by falling into a well." *(Sahih)*

**Comments:**

a. Killing by an animal warrants no blood money. Meaning, if an animal unties itself from its peg and runs away out of the barn and hurts or kills someone, responsibility of hurting or killing will not fall on its owner, and he cannot be asked to pay the blood money.

b. If a miner is killed in a mine by a cave-in or by falling rocks, the owner of the mine should not be held responsible. He is not liable to pay blood money.

c. Similarly, if someone dies by falling in the well, the owner of the well is not held responsible for that mishap.

d. Damages caused by fire are not claimable. The person who lit the fire for his needs will not be held responsible for the damages caused by the fire, because it was not his intention to hurt someone or destroy someone's property.

**Chapter 28. Oaths**

2677. It was narrated from Sahl bin Abu Hathmah from the elders of his people that 'Abdullāh bin Sahl and Muhayyisah set out for Khaibar because of some problem that had arisen. Someone came to Muhayyisah, and he told him that 'Abdullāh bin Sahl had been
killed and thrown into a pit or well in Khaibar. He came to the Jews and said: “By Allāh, you killed him.” They said: “By Allāh, we did not kill him.” Then he went back to his people and told them about that. Then he and his brother Huwayyisah, who was older than him, and ’Abdur-Rahmān bin Sahl, came (to the Prophet ﷺ). Muhayyisah, who was the one who had been at Khaibar, went and he began to speak, but the Messenger of Allāh ﷺ said: “Let the elder speak first.” So Huwayyisah spoke, then Muhayyisah spoke. The Messenger of Allāh ﷺ said: “Either (the Jews) will pay the blood money for your companion, or war will be declared on them.” The Messenger of Allāh ﷺ sent a letter to that effect (to the Jews) and they wrote back saying: “By Allāh, we did not kill him.” The Messenger of Allāh ﷺ sent to Huwayyisah, Muhayyisah and ’Abdur-Rahmān: “Will you swear an oath establishing your claim to the blood money of your companion?” They said: “No.” He said: “Should the Jews swear an oath for you?” They said: “They are not Muslims.” So the Messenger of Allāh ﷺ paid the blood money himself, and he sent one hundred she-camels to them and some of them entered the house.

Sahl said: “A red she-camel from among them kicked me.” (Sahih)
The Chapters On Blood Money

Comments:

a. If a person is killed, and it is not known who the killer is then fifty persons from the claimant tribe will swear about the suspect or suspects that they are murderers. If the claimants take an oath, the respondent will pay the blood money. If the claimant tribe does not take an oath, the defendant will swear that they have not killed him, and they are not aware of the killer, so they will be cleared from blame, and they will not have to pay the blood money, it will be paid from the public treasury. If the defendant tribe does not swear, they will have to present the murderer or pay the blood money.

b. The oath of women, children and insane persons is not acceptable. If fifty persons are not available for taking the oath, the number of persons present will suffice, but they will have to complete the number of fifty oaths.

(Footnote of Sunnan Ibn Mājah by Muhammad Fuwād Abdul-Bāqi.)

2678. It was narrated from ‘Amr bin Shu‘aib, from his father, from his grandfather, that Huwayyi‘ah and Muhayyi‘ah, the sons of Mas‘ūd, and ‘Abdullāh and ‘Abdur-Rahmān the sons of Sahl, went out to search for food in Kha‘bār. ‘Abdullāh was attacked and killed, and mention of that was made to the Messenger of Allāh ﷺ. He said: “Will you swear an oath and establish your right to blood money?” They said: “O Messenger of Allāh, how can we swear an oath when we did not witness anything?” He said: “Do you want the Jews to swear that they are innocent?” They said: “O Messenger of Allāh, then they will kill us too.” So the Messenger of Allāh ﷺ paid the blood money himself. (Sahih)
Chapter 29. Whoever Mutilates His Slave, Then He (The Slave) Is Free

2679. It was narrated from Salamah bin Rawh bin Zinbā', that his grandfather came to the Prophet ﷺ and he had castrated a slave of his. The Prophet ﷺ manumitted the slave in compensation for having been mutilated. (Sahih)

2680. 'Amr bin Shu'aib narrated from his father that his grandfather said: “A man came to the Prophet ﷺ screaming. The Messenger of Allāh ﷺ said to him: ‘What is the matter with you?’ He said: ‘My master saw me kissing a slave woman of his, so he cut off my penis.’ The Prophet ﷺ said: ‘Take me to the man.’ He was sought but could not be found, so the Messenger of Allāh ﷺ said: ‘Go, for you are free.’ He said: ‘Who will protect me, O Messenger of Allāh? What if my master enslaves me again?’ The Messenger of Allāh ﷺ said: ‘Your protection will be (incumbent upon) every believer or Muslim.’” (Hasan)


Chapter 30. The Most Decent People In Killing Are The People Of Faith

2681. ‘Abdullāh said that the Messenger of Allāh ﷺ said: “The most decent of the people in killing are the people of faith.” (Da’īf)

2682. It was narrated that ‘Abdullāh that the Messenger of Allāh ﷺ said: “The most decent of the people in killing are the people of faith.” (Da’īf)

Comments:

The Noble Prophet ﷺ said, “When you kill or when you slaughter, do it in a decent way.” Whoever kills or slaughters, he should sharpen his knife to cause less pain to the animal. (See no. 3170)

Chapter 31. The Lives Of All Muslims Are Equal In Value

2683. It was narrated from Ibn ‘Abbās that the Prophet ﷺ said: “The blood of the Muslims is equal, they are one hand against others. The asylum offered by the lowest of them in status applies to them (all), and the return is...
granted to the farthest of them.”[1] (Sahih)

Comments:

a. “The blood of Muslims is equal.” It means the killing in retaliation and blood money is equal for all Muslims. In this matter there is no difference at all between tribes, poor or rich, noble or common man, young or adult, all are equal in this regard, and the punishment is the same for everyone.

b. If the lowest of the Muslims in status gives asylum to a non-Muslim it applies to all Muslims. In other words, he is under the protection of all Muslims.

c. Whatever the quantity of booty a warrior collects, small or large, he cannot keep it in his custody. He must submit it to the leader of the army. He can claim only his share from the whole. He is bound to follow the principles of the spoils of war.

2684. It was narrated from Ma‘qil bin Yasār that the Messenger of Allāh ﷺ said: “The Muslims are one hand against others, and their blood is equal.” (Sahih)

2685. It was narrated from ‘Amr bin Shu‘aib, from his father, from his grandfather that the Messenger of Allāh ﷺ said: “The hand of the Muslims is over others, and their blood and wealth is equal in value. The (asylum granted by) the lowest of the Muslims is equal to that of the richest. They say it refers to the spoils of war, and that those captured by this army should be returned to it, or, that it deals with not discriminating between this group and that group when dividing the spoils of war. See explanation by Sindi.

[1] They say it refers to the spoils of war, and that those captured by this army should be returned to it, or, that it deals with not discriminating between this group and that group when dividing the spoils of war. See explanation by Sindi.
them applies to the Muslims, and the Muslims return (the spoils of war) to the farthest of them.”

(Hasan)

Comments:

There will be a flag on the body of the offender on the Day of Resurrection who killed an asylum-granted non-Muslim. This flag will put him to shame and humiliation.

Chapter 32. One Who Kills A Mu’āhid[1]

2686. It was narrated from ‘Abdullāh bin ‘Amr that the Messenger of Allāh  said:

“Whoever kills a Mu’āhid, will not smell the fragrance of Paradise, even though its fragrance may be detected from a distance of forty years.” (Sahih)

2687. It was narrated from Abu Hurairah that the Prophet  said:

“Whoever kills a Mu’āhid who has the protection of Allāh and the protection of His Messenger, will not smell the fragrance of Paradise, even though its fragrance may be detected from a distance of seventy years.”

(Sahih)

Comments:

a. Non-Muslim residents of an Islamic state are called Mu’āhid, meaning protected, because the state is responsible for their rights and their lives.

[1] One whom there is a covenant with.
b. They get their rights with the orders of Allâh and His Messenger ﷺ.
c. ‘Will not smell the fragrance of Paradise’ means that the offender will be away from Paradise. In the Hereafter there are only two places, Paradise and Hell. This is a warning that the offenders will enter Hell.

Chapter 33. One Who Offers Protection To A Man Then Kills Him

2688. It was narrated that Rifâ‘ah bin Shaddâd Al-Qîtâbî said: “Were it not for a word that I heard from ‘Amr bin Hamiq Khuzâ‘i, I would have separated the head of Al-Mukhtâr from his body. I heard him saying: “The Messenger of Allâh ﷺ said: ‘If a man trusts someone with his life then he kills him, he will carry a banner of treachery on the Day of Resurrection.’”” (Sahih)

Comments:
a. Killing after giving a promise of protection is a great sin.
b. Mukhtâr bin ‘Ubaid Thaqîî, after the martyrdom of Hussain ﷺ, stood up with a slogan of revenge. Through this slogan, he gained popularity and the sympathies of the people. He then claimed to be a prophet, and mislead the people. Mus’ab bin Zubair killed him and ended his mischief.

2689. It was narrated that Rifâ‘ah said: ‘I entered upon Mukhtâr in his palace and he said: ‘Jibril has just left me.’ Nothing stopped me from striking his neck (i.e., killing him) but a Hadîth that I heard from Sulaimân bin Surad, according to which the Prophet ﷺ said: ‘If a man trusts you with
his life, then do not kill him.’ That is what stopped me.” (Da’if)

Chapter 34. Pardoning The Killer

2690. It was narrated that Abu Hurairah said: “A man killed (another) during the time of the Messenger of Allâh ﷺ, and that was referred to the Prophet ﷺ. He handed him over to the victim’s next of kin, but the killer said: ‘O Messenger of Allâh, by Allâh I did not mean to kill him.’ The Messenger of Allâh ﷺ said to the next of kin: ‘If he is telling the truth and you kill him, you will go to Hell.’ So he let him go. He had been tied with a rope, and he went out dragging his rope, so he became known as Dhan-Nis’ah (the one with the rope). (Sahih)

2691. It was narrated that Anas bin Mâlik said: “A man brought the killer of his relative to the Messenger of Allâh ﷺ, and the Messenger of Allâh ﷺ said: ‘Pardon him,’ but he refused. He
said: 'Take the blood money,' but he refused. He said: 'Go and kill him, but then you will be like him.' Someone caught up with him and reminded him that the Messenger of Allâh ﷺ had said: 'Go and kill him, but then you will be like him.' So he let him go. (Sahih)

He (the killer) was seen, dragging his rope (with which he had been tied), going to his family. It was as if he had been fettered (with his hands behind his back).

(One of the narrators) Abu 'Umair said in his narration: 'Ibn Shawdhab said, narrating from 'Abdur-Rahmân bin Qâsim: 'No one has the right after the Prophet ﷺ to say: “Go and kill him, but then you will be like him.”

Ibn Mâjah said: This is the narration of the Ramliyin, and is found only with them. (Meaning, the three who narrated this to Ibn Mâjah were all from Ramla.)

Comments:

a. Killing in retaliation is not the correct decision in the case of killing by mistake. Taking blood money or forgiving is a better decision.

b. In the case of one killed by mistake, killing in retaliation is like murder, and liable to the same punishment as killing.

c. This is a narration of 'Ramliyin' means that all the narrators in this narration are of Ramla. This is not a matter of distrust, rather it shows the keen interest of scholars of Ahâdîth in investigation of narrations.
Chapter 35. Pardoning In Cases Of Retaliation

2692. It was narrated that ‘Atâ’ bin Abu Maimunah said: “I only know it from Anas bin Mâlik who said: ‘No case involving retaliation was referred to the Messenger of Allâh ﷺ but he enjoined forgiveness.’” (Sahîh)

Comments:

a. Killing in retaliation is a lawful action, but forgiving is better, and appreciated.

b. The judge can give a suggestion of reconciliation or forgiveness to the parties but he cannot compel them to accept it. It’s the right of the parties to accept or reject it.

2693. Abu Dardá’ said: “I heard the Messenger of Allâh ﷺ say: ‘There is no man who suffers some (injury) on his body and forgives (the perpetrator), but Allâh will raise him one degree in status thereby, or erase from him one sin.’

My own ears heard it and my heart memorized it.” (Da’îf)

Chapter 36. A Pregnant Woman Deserving Retaliation

2694. Mu’âdh bin Jabal, Abu
‘Ubaidah bin Jarrāḥ, ‘Ubādah bin Sāmit and Shaddād bin Aws narrated that the Messenger of Allāh ﷺ said: “If a woman kills someone deliberately, she should not be killed until she delivers what is in her womb, if she is pregnant, and until the child’s sponsorship is guaranteed. And if a woman commits illegal sex, she should not be stoned until she delivers what is in her womb and until her child’s sponsorship is guaranteed.” (Da‘if)

Comments:

Ghamidiyah happened to commit the crime of illegal sex and she appeared before the Prophet ﷺ and confessed her offence and also informed that she was pregnant. The Noble Prophet ﷺ delayed the punishment till the birth of the baby. After the birth when an Ansārī Companion took the responsibility of upbringing the child, and she was stoned to death. (Sahih Muslim: 1695)
The Chapters On Wills

In the Name of Allah, the Most Beneficent, the Most Merciful

22. The Chapters On Wills

To make a will means to take a pledge from one that he, the testator, in his life or after death will do this and this. This can be applied to another person as well.

It is carried out by appointing someone after one's death to gift one's property to someone. It can be property, wealth or anything of benefit in any shape.

The kinds of Wills are:

1. Wājib (Compulsory): This kind of will is compulsory to follow—that is carrying out the obligations like payment of debt, the return of entrusted things, expiations etc.

2. Mustahab (Desirable): Making a will for relatives other than heirs is commended.

3. Mubah (Permissible): Making a will for relatives other than heirs who are already rich is permitted.

4. Makruh Tahrimi (Undesirable to the point of being forbidden): Making a will for sinners and disbelievers in Allah is not approved. (Allah knows better.)

Chapter 1. Did The Messenger Of Allah  Make A Will?

2695. It was narrated that Aishah said: “The Messenger of Allah  did not leave behind a Dinār nor a Dirham, nor a sheep nor a camel, and he did not make a will concerning anything.” (Sahih)
Comments:

a. Allâh's Messengerﷺ said, “My heirs will not inherit a Dinâr or Dirham (i.e., money) for whatever I have, excluding adequate support of wives and wages of my employees, is to be given in charity.” (Sahih Al-Bukhârî: 2776)
b. There is an opinion that the Noble Prophetﷺ made some particular wills, especially in favor of his caliphate. This opinion is totally wrong and baseless as ‘Ali himself denied it. (See Ahâdith 2652 & 2698)

2696. It was narrated from Mâlik bin Mighwal that Talhah bin Musarrîf said: “I said to ‘Abdullâh bin Abu Awfa: ‘Did the Messenger of Allâhﷺ make a will concerning anything?’ He said: ‘No.’ I said: ‘How come he told the Muslims to make wills?’ He said: ‘He enjoined (them to adhere to) the Book of Allâh.’”
Mâlik said: “Talhah bin Musarrîf said: ‘Huzail bin Shurahbil said: “Abu Bakr was granted leadership according to the will of Allâh’s Messengerﷺ?” (Rather) Abu Bakr wished that he found a covenant (in that regard) from Allâh’s Messengerﷺ, so he could fetter his nose with a (camel’s) nose ring.”[1] (Sahîh)

Comments:

a. The question was about the will of caliphate and Ibn Abu Awfa made it clear that the Prophetﷺ never made such a will.
b. The second question was about the ambiguities as the Noble Prophetﷺ

[1] Meaning, that there was no will, and that Abu Bakr did not accept the position of leadership happily, and if the claims of the Rawâfid that there was a will ordering ‘Ali to be the leader were true, then Abu Bakr would have been pleased and ready to follow behind him. See Injîh Al-Hâjjah by ’Abdul-Ghani Dehlavi.
ordered the Muslims to make will, he must have made one particularly about the caliphate, that 'so-and-so will be the caliph after me.' The answer to this ambiguity was that the Noble Prophet ordered acting upon the complete Qur'an. There is an order in the Noble Qur'an "Obey those who are in authority."

c. The most important and foremost feature of Abu Bakr's nature was to follow the Noble Prophet. Therefore, it was impossible that if the Prophet had appointed 'Ali as his caliph, he could have dared to deny the orders of the Prophet, rather he would have loved to go to any extent to obey the caliph appointed by the Prophet.

2697. It was narrated that Anas bin Mâlik said: "What the Messenger of Allah most enjoined when he was dying and breathing his last was: The prayer; and those whom your right hands possess.'" (Da'i)f"

2698. It was narrated that 'Ali bin Abu Tâlib said: "The last words of the Prophet were: The prayer; and those whom your right hands possess.'"

Comments:

a. Prayer on time is among the most important obligations in Islam, therefore, the Noble Prophet at the time of his departure from this world, emphasized offering prayers regularly and on time.
b. Slaves belong to the most destitute class of society, but Islam gave them respect and honor, and they held highly esteemed posts in Islamic society. Kingship of Slave Dynasty, in the subcontinent is a well-known example.

c. The last word which can be deemed the last will of the Noble Prophet was “O Allāh (with) the highest companions.”

d. As we make wills regarding worldly matters, in the same way, we ought to make wills concerning duties of the faith.

e. The last words or last will of the Noble Prophet are equally concerned and relevant to this world and the Hereafter.

Chapter 2. Exhortation To Make A Will

2699. It was narrated from Ibn ‘Umar that the Messenger of Allāh said: “The Muslim man has no right to spend two nights, if he has something for which a will should be made, without having a written will with him.” (Sahih)

Comments:
a. The reward and benefits of the will begin after death, when the commands of the will are carried out.

b. No human knows the moment of his death, therefore, a will should always be kept ready. A Muslim should always be ready to welcome the moment of death.

c. One can make changes at times, according to the circumstances, in a will written earlier.

d. Written details of debt and matters entrusted to others should always be kept ready at hand.

2700. It was narrated from Anas bin Mālik that the Messenger of Allāh said: “The one who is deprived is the one who is deprived of a will.” (Da‘īf)
The sense of the narration is that one who died without making a written will, remained deprived of the benefits he could have if he had written one. For example, if he had advised in the will to give charity to pay the debt etc., he could have availed the benefits after his death. The one who does not write the will, remains deprived of such blessing.

2701. It was narrated from Jābir bin 'Abdullāh that the Messenger of Allāh ﷺ said: "Whoever dies leaving a will, he dies on the right path and Sunnah, and he dies with piety and witness, and he dies forgiven." (Da'if)

2702. It was narrated from Ibn 'Umar that the Prophet ﷺ said: "The Muslim man has no right to spend two nights, if he has something for which a will should be made, without having a written will with him." (Sahih)

Chapter 3. Injustice In Wills

2703. It was narrated from Anas
The Chapters On Wills

bin Mâlik that the Messenger of Allah ﷺ said: "Whoever tries to avoid giving his inheritance to his heirs, Allah will deprive him of his inheritance in Paradise on the Day of Resurrection." (Da‘if)

2704. It was narrated from Abu Hurairah that the Messenger of Allah ﷺ said: "A man may do the deeds of the people of goodness for seventy years, then when he makes his will, he is unjust in his will, so he ends (his life) with evil deeds and enters Hell. And a man may do the deeds of the people of evil for seventy years, then he is just in his will, so he ends (his life) with good deeds and enters Paradise."

Abu Hurairah said: "Recite, if you wish: 'These are the limits (set by) Allah' up to His saying: 'a disgraceful torment'”[1] (Hasan)

said: “Whoever makes a will as death approaches, and his will is in accordance with the Book of Allâh, it will be an expiation for whatever he did not pay of his Zakâh during his lifetime.” (Da’îf)

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Chapter 4: The Prohibition Of Withholding While Alive, Only To Squander Upon One’s Death

2706. It was narrated that Abu Hurairah said: “A man came to the Prophet ﷺ and said: ‘O Messenger of Allâh, tell me, which of the people has most right to my good companionship?’ He said: ‘Yes, by your father, you will certainly be told.’[1] He said: ‘Your mother.’ He said, ‘Then who?’ He said: ‘Then your mother.’ He said: ‘Then who?’ He said: ‘Then your mother.’ He said: ‘Then who?’ He said: ‘Then your father.’ He said: ‘Tell me, O Messenger of Allâh, about my wealth – how should I give in charity?’ He said: ‘Yes, by Allâh, you will certainly be told. You should give in charity when

[1] The commentaries say that it was either the type of statement that comes upon the tongue without intending its actual meaning, or, that this was stated prior to the narrations which forbid swearing by one’s father. And some of them said that narrations such as this prove that the prohibition for swearing by one’s father are intended to censure, not to make it absolutely prohibited. The second view appears most likely, and is the safest view, and indeed Allâh knows best.
you are still healthy and greedy for wealth, hoping for a long life and fearing poverty. Do not tarry until your soul reaches here and you say: "My wealth is for so-and-so," and "My wealth is for so-and-so," and it will be for them even though you dislike that." (Sahih)

Comments:

a. To emphasize one's point swearing by Allâh is legal.

b. Before answering the question, saying words as a start of the talk attracts the listener's attention, as the Noble Prophet ﷺ said, "Yes you will certainly be told."

c. An oath can only be taken by the Name of Allâh. It is not legal to take an oath over other than Allâh's Name, as in authentic Ahûdith it has been made clear. The Prophet ﷺ said; "Verily! Allâh forbids you to swear by your fathers. If one has to take an oath he should swear by Allâh or keep quite." (Sahih Al-Bukhâri: 6108.) In this Hadith the oath taken by the father is either before the time when it was prohibited, or just a part of Arabian culture, as a habitual custom. It was common in Arabia that during conversation some additional words or phrases without any particular intention were added.

2707. It was narrated that Busr bin Jahhâsh Al-Qurashi that the Prophet ﷺ spat in his palm then pointed to it with his index finger and said: "Allâh says: 'Do you think you can escape from My punishment, 0 son of Adam, when I have created you from something like this? When your soul reaches here' — and (the Prophet ﷺ) pointed to his throat — 'You say: I give charity.' But it is too late for charity?"' (Sahih)
Comments:
a. Allāh is the Creator of man, and has all authority and control over His creation. Man, in all his needs and requirements stands in need of Allāh and cannot do anything without His guidance.
b. This is Allāh’s mercy and favor, that He created man from a clot (a petty thing) and made him most eminent of all creation.

Chapter 5. Making A Will
For One Third

2708. It was narrated from ʿĀmir bin Saʿd that his father said: “I became sick during the year of the Conquest, and was at death’s door. The Messenger of Allāh came to visit me and I said: ‘O Messenger of Allāh, I have a great deal of wealth and no one will inherit from me apart from my daughter. Can I give two thirds of my wealth in charity?’ He said: ‘No.’ I said: ‘Then half?’ He said: ‘No.’ I said: ‘One third?’ He said: ‘One third, and one third is a lot. If you leave your heirs rich that is better than leaving them destitute and begging from people.’”’ (Sahih)

Comments:
a. Visiting a sick person is a highly appreciated deed and it is a sick man’s right that people should visit him.
b. When one feels that his time of death is approaching near, he can make a will for giving alms from his wealth, but not more than one third.
c. It is better if the will is made for less than one third. The Noble Prophet, in spite of recommending one third deemed it ‘a lot’. According to ‘Abdullāh bin Abbās, one third is a large part, and will should be for less than one third.

2709. It was narrated from Abu Hurairah that the Messenger of Allāh said: “Allāh has been
charitable with you over the disposal of one third of your wealth at the time of your death, so that you may be able to add to the record of your good deeds.” (Da’if)

Comments:

a. Divine laws of Islamic faith are equally beneficial for this world and the Hereafter.

b. A dead person gets the rewards and benefits of his will when it is carried out after his death.

2710. It was narrated from Ibn ‘Umar that the Messenger of Allâh ﷺ said: “(Allâh says:) O son of Adam! I have given you two things which you do not deserve (except by the mercy of Allâh): I allow you to dispose of a share of your wealth when you are on your deathbed, in order to cleanse and purify you, and My slaves pray for you after your life is over.” (Da’if)

Comments:

Offering of funeral prayer for Muslims is an obligation and a blessing of Allâh on his deceased slave. Muslim brothers pray for him, and Allâh forgives His slave and elevates his status by accepting the prayers. ‘Prayer’ may mean the supplication which a Muslim makes for other Muslims brothers.

2711. It was narrated that Ibn ‘Abbâs said: “I would like the people to reduce (the will) from
one third to one quarter, because the Messenger of Allâh ﷺ said: ‘One third is a lot.’” (Sahîh)

Chapter 6. There Is No Bequest For An Heir

2712. It was narrated from ‘Amr bin Khârijah: “The Prophet ﷺ addressed them when he was on his camel. His camel was chewing its cud and its saliva was dripping between my shoulders. He said: ‘Allâh has allocated for each heir his share of the inheritance, so it is not permissible (to make) a bequest for an heir. The child belongs to the bed and the adulterer gets the stone. Whoever claims to belong to someone other than his father, or (a freed slave) who claims that his Walî[1] is for other than his Mawâli, upon him will be the curse of Allâh, the angels and all the people, and no change nor equitable exchange will be accepted from him.’”[2] Or he said: “No equitable exchange nor change.” (Hasan)
Comments:

a. The share of inheritance for the relatives which has been fixed by Allâh, they must get it accordingly.

b. In the case of the share of inheritance for relatives which have not been fixed by Allâh, making an adequate will for them is commanded.

c. By making an excuse for an orphan grandson, allegations are placed on the system of Islamic inheritance. For example one man has two sons, one is alive and the other has died, but the son who has died has a son who is alive. It means the deceased has an orphan grandson who, according to the law of inheritance, is not liable to inherit anything from the property of his grandfather, because in the presence of a close relative from the father's side, a distant relative is not liable of getting any share. In such a rare and uncommon situation, making change in Divine law is a great audacity, whereas a legal way out is available in the laws of inheritance. A person, before his death, can advise giving his orphan grandson an adequate share of his wealth, or the legal heirs can give him some share from their own shares, as they think proper.

d. To make a will in favor of legal heirs is not permitted, because if this will is in accordance with the law of inheritance, there is no need for it, as they get it automatically, and if this is not in accordance with the law of inheritance, it is not legal to carry out in and it will be dismissed by itself.

e. This narration that the child belongs to the bed has already been explained in Hadîth no. 2004.

f. Bloodline relationship cannot be changed, that is why in Islam there is no concept of adoption. According to the Islamic point of view, to adopt someone as a son is a great sin.

g. The relationship of Wâlî' is also unchangeable. One who has freed a slave is his Mawâlî, and a freed slave cannot say anyone else is his Mawâlî as it is a great sin.

2713. Shurahbil bin Muslim Al-Khawlânî narrated from Abu Umâmah Al-Bâhili that the heard the Messenger of Allâh ﷺ say in his sermon, during the year of the Farewell pilgrimage: "Allâh has given each person who has rights his rights, and there is no bequest for an heir." (Hasan)

2714. It was narrated that Anas bin Mālik said: “I was under the she-camel of the Messenger of Allāh ﷺ and its saliva was dripping between my shoulders, and I heard him say: ‘Allāh has given each person who has rights his rights, but there is no bequest for an heir.’” (Sahih)

Chapter 7. Debts Before The Will

2715. It was narrated that ʿAli said: ‘The Messenger of Allāh ﷺ ruled that the debts should be paid off before the execution of the will. You recite: (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. The sons of one mother (from the same father) inherit from one another, but not the sons from different mothers (but the same father).’” (Daʿif)
Comments:

a. The issue of debt is important and serious because it remains payable in life and after death as well, whereas the will is carried out after death. On the other hand, whatever the amount of debt is, it must be paid as a will is valid only up to one third of the total amount of legacy. The amount of debt may accrue from one third of the legacy.

b. First of all, from the wealth of the deceased, expenditure of shrouding and burial rites are deducted. After making the payment of debt from the remaining property, whatever is left, one third or less than one third is paid according to the will, and then the remaining is distributed among the heirs.

c. The real brother and sister of the deceased are given priority over the step brothers and sisters.

Chapter 8. If A Person Dies Without Having Made A Will, Can Charity Be Given On His Behalf?

2716. It was narrated from Abu Hurairah that a man asked the Messenger of Allah ﷺ: “My father died and left behind wealth, but he did not make a will. Will it expiate for him if I give charity on his behalf?” He said: “Yes.” (Sahih)

2717. It was narrated from 'Aishah that a man came to the Prophet ﷺ and said: “My mother died unexpectedly and she had not made a will. I think that if she could have spoken, she would have given in charity. Will she have a reward if I give in charity on her behalf, and will I have a reward?” He said: “Yes.” (Sahih)
Comments:

a. Nowadays banquets and feast parties are arranged in the name of sending reward to the dead person, this is not a correct Islamic way to send reward to the deceased. The amount spent on such parties and food should be given to the poor and needy.

b. As deputizing is possible in life for payment of debt, or other matters relating to property or wealth, similarly another person may make a payment of debt for a dead person and release him from his obligation.

Chapter 9. Allâh’s Saying:

"But if he is poor, let him have for himself what is just and reasonable."[1]

2718. It was narrated from ‘Amr bin Shu’âib, from his father, that his grandfather said: “A man came to the Prophet and said: ‘I do not have anything and I have no wealth, but I have an orphan (under my care) who has wealth.’ He said: ‘Eat from the wealth of your orphan, without being extravagant or use it for trade.’ He (the narrator) said: ‘And I think he said: ‘Do not preserve your wealth using his instead.’’” (Hasan)

Comments:

a. If the guardian of an orphan is extremely poor and has nothing to use, he is allowed to use the wealth of the orphan, but only for basic necessities without being extravagant.

b. Preserving one’s wealth means using the wealth of the orphan instead of

using his own wealth for personal gains or needs.

c. Using wealth of an orphan is permitted for trade upon the condition of giving him his due share of the profit. It is not lawful for a guardian to keep the entire profit, or spend it extravagantly for his personal needs.