

47 - THE BOOK OF PARTNERSHIP

٤٧ - كتاب الشركة

(1) CHAPTER. About (sharing) meals and the *Nahd* (i.e., sharing the expenses of a journey or putting the journey food of the travellers together to be distributed among them in equal shares) and '*Urūd* (i.e., sharing other goods).

And how to divide what can be measured or weighed i.e., without measuring or weighing it; or by measuring or weighing it.

Muslims see no harm in practising *Nahd* by which some (the partners) may eat so much, and some may eat so much of the food (without measuring or weighing it). And what about distributing gold and silver without weighing them, and about eating two dates at a time (when sharing a meal).

2483. Narrated Jābir bin 'Abdullāh رَضِيَ اللهُ عَنْهُمَا: "Allāh's Messenger ﷺ sent an army towards the sea coast and appointed Abū 'Ubaida bin Al-Jarrāh as their chief, and the army consisted of three hundred men including myself. We marched on till we reached a place where our food was about to finish. Abū 'Ubaida ordered us to collect all the journey food and it was collected. My (our) journey food was dates. Abū 'Ubaida kept on giving us our daily ration in small amounts from it, till it was exhausted. The share of everyone of us used to be one date only." I said, "How could one date benefit you?" Jābir replied, "We came to know its value when even that too finished." Jābir added, "When we reached the sea-shore, we saw a huge fish which was like a small mountain. The army ate from it for eighteen days. Then Abū 'Ubaida ordered that two of its ribs be fixed and they were fixed in the ground. Then he ordered that a she-camel be ridden and it passed under the

(١) بَابُ الشَّرِكَةِ فِي الطَّعَامِ وَالتَّهْدِ وَالْعُرُوضِ، وَكَيْفَ قِسْمَةُ مَا يُكَالُ وَيُوزَنُ مُجَارَفَةً، أَوْ قَبْضَةً قَبْضَةً لِمَا لَمْ يَرِ الْمُسْلِمُونَ فِي التَّهْدِ بِأَسَا أَنْ يَأْكُلَ هَذَا بَعْضًا وَهَذَا بَعْضًا، وَكَذَلِكَ مُجَارَفَةَ الذَّهَبِ وَالْفِضَّةِ، وَالْقِرَانُ فِي التَّمْرِ

٢٤٨٣ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: أَخْبَرَنَا مَالِكٌ، عَنْ وَهْبِ بْنِ كَيْسَانَ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ قَالَ: بَعَثَ رَسُولُ اللَّهِ ﷺ بَعْنَا قَبْلَ السَّاحِلِ، فَأَمَرَ عَلَيْهِمْ أَبَا عُبَيْدَةَ بْنَ الْجَرَّاحِ وَهُمْ ثَلَاثُمِائَةٍ وَأَنَا فِيهِمْ، فَحَرَجْنَا حَتَّى إِذَا كُنَّا بِبَعْضِ الطَّرِيقِ فِينِي الرَّأْدُ. فَأَمَرَ أَبُو عُبَيْدَةَ بِأَزْوَادِ ذَلِكَ الْجَيْشِ فَجُمِعَ ذَلِكَ كُلُّهُ، فَكَانَ مِرْوَدِي تَمْرٍ. فَكَانَ يُؤْتِنَا كُلَّ يَوْمٍ قَلِيلًا قَلِيلًا حَتَّى فَنِي، فَلَمْ يَكُنْ يُصِيبُنَا إِلَّا تَمْرَةٌ تَمْرَةٌ، فَقُلْتُ: وَمَا تُعْنِي تَمْرَةٌ؟ فَقَالَ: لَقَدْ وَجَدْنَا فَقْدَهَا جَيْنَ فَيْثٍ. قَالَ: ثُمَّ أَنْتَهِنَا إِلَى الْبَحْرِ فَإِذَا حُوتٌ مِثْلُ الطَّرْبِ

two ribs (forming an arch) without touching them.”

فَأَكَلَ مِنْهُ ذَلِكَ الْجَيْشُ ثَمَانِي عَشْرَةَ لَيْلَةً ثُمَّ أَمَرَ أَبُو عُبَيْدَةَ بِضَلْعَيْنِ مِنْ أَضْلَاعِهِ فَنَصَبَا ثُمَّ أَمَرَ بِرَاحِلَةٍ فَرَحَلَتْ ثُمَّ مَرَّتْ تَحْتَهُمَا فَلَمْ تُصِبْهُمَا .
[٢٩٨٣، ٤٣٦٠ - ٤٣٦٢، ٥٤٩٣، ٥٤٩٤]

2484. Narrated Salama رضي الله عنه: Once the journey-food diminished and the people were reduced to poverty. They went to the Prophet ﷺ and asked his permission to slaughter their camels, and he permitted them. Umar رضي الله عنه met them and they told him about it, and he said, “How would you survive after slaughtering your camels?” Then he went to the Prophet ﷺ and said, “O Allāh’s Messenger! How would they survive after slaughtering their camels?” Allāh’s Messenger ﷺ ordered ‘Umar, “Call upon the people to bring what has remained of their food.” A leather sheet was spread and all the journey food was collected and heaped over it. Allāh’s Messenger ﷺ stood up and invoked Allāh to bless it, and then directed all the people to come with their utensils, and they started taking from it till all of them got what was sufficient for them. Allāh’s Messenger ﷺ then said: I testify that “*Lā ilaha illallāh* (none has the right to be worshipped but Allāh), and I am the Messenger of Allāh.”

٢٤٨٤ - حَدَّثَنَا بِشْرُ بْنُ مَرْحُومٍ : حَدَّثَنَا حَاتِمُ بْنُ إِسْمَاعِيلَ، عَنْ يَزِيدَ بْنِ أَبِي عُبَيْدٍ، عَنْ سَلَمَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ: خَفَّتْ أَزْوَادُ الْقَوْمِ وَأَمْلَقُوا فَاتُوا النَّبِيَّ ﷺ فِي نَحْرِ إِبِلِهِمْ فَأَذِنَ لَهُمْ، فَلَقِيَهُمْ عُمَرُ فَأَخْبَرُوهُ فَقَالَ: مَا بَقَاؤُكُمْ بَعْدَ إِبِلِكُمْ؟ فَدَخَلَ عَلَى النَّبِيِّ ﷺ فَقَالَ: يَا رَسُولَ اللَّهِ، مَا بَقَاؤُهُمْ بَعْدَ إِبِلِهِمْ؟ فَقَالَ رَسُولُ اللَّهِ ﷺ: «نَادِ فِي النَّاسِ يَا تُونَ بِفَضْلِ أَزْوَادِهِمْ». فَبَسِطَ لِذَلِكَ نِطْعًا وَجَعَلُوهُ عَلَى النَّطْعِ فَقَامَ رَسُولُ اللَّهِ ﷺ فَدَعَا وَبَرَكَ عَلَيْهِ، ثُمَّ دَعَاهُمْ بِأَوْعِيَّتِهِمْ فَاحْتَسَى النَّاسُ حَتَّى فَرَعُوا ثُمَّ قَالَ رَسُولُ اللَّهِ ﷺ: «أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنِّي رَسُولُ اللَّهِ». [انظر: ٢٩٨٢]

2485. Narrated Rāfi' bin Khadij رضي الله عنه: We used to offer the *Aṣr* prayer with the Prophet ﷺ and slaughter a camel, the meat of which would be divided in ten parts and we would eat the cooked meat before sunset.

٢٤٨٥ - حَدَّثَنَا مُحَمَّدُ بْنُ يُونُسَ: حَدَّثَنَا الْأَوْزَاعِيُّ: حَدَّثَنَا أَبُو النَّجَّاشِيِّ قَالَ: سَمِعْتُ رَافِعَ بْنَ خَدِيجٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: «كُنَّا نُصَلِّي مَعَ النَّبِيِّ ﷺ الْعَصْرَ فَتَنَحَّرُ جُزُورًا. فَتُقَسَّمُ عَشْرَ قِسْمٍ، فَنَأْكُلُ لَحْمًا نَضِيجًا قَبْلَ أَنْ تَغْرُبَ الشَّمْسُ».

2486. Narrated Abū Mūsa رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ said, "When the people of Ash'arī tribe ran short of food during the holy battles, or the food of their families in Al-Madīna ran short, they would collect all their remaining food in one sheet and then distribute it among themselves equally by measuring it with a bowl. So, these people are from me, and I am from them."

٢٤٨٦ - حَدَّثَنَا مُحَمَّدُ بْنُ الْعَلَاءِ: حَدَّثَنَا حَمَادُ بْنُ أَسَامَةَ، عَنْ بُرَيْدٍ، عَنْ أَبِي بُرْدَةَ، عَنْ أَبِي مُوسَى قَالَ: قَالَ النَّبِيُّ ﷺ: «إِنَّ الْأَشْعَرِيِّينَ إِذَا أَرْمَلُوا فِي الْعَزْوِ أَوْ قَلَّ طَعَامُ عِيَالِهِمْ بِالْمَدِينَةِ جَمَعُوا مَا كَانَ عِنْدَهُمْ فِي ثَوْبٍ وَاحِدٍ ثُمَّ اقْتَسَمُوهُ بَيْنَهُمْ فِي إِنَاءٍ وَاحِدٍ بِالسَّوِيَّةِ، فَهُمْ مِنِّي وَأَنَا مِنْهُمْ».

(2) CHAPTER. Partners possessing joint property (sheep) have to pay its *Zakāt* equally.⁽¹⁾

2487. Narrated Anas that Abū Bakr Aṣ-Ṣiddīq wrote to him the law of *Zakāt* which was made obligatory by Allāh's Messenger ﷺ. He wrote: Partners possessing joint property (sheep) have to pay its *Zakāt* equally.

(٢) بَابُ مَا كَانَ مِنْ خَلِيطَيْنِ فَإِنَّهُمَا يَتَرَاجَعَانِ بَيْنَهُمَا بِالسَّوِيَّةِ فِي الصَّدَقَةِ

٢٤٨٧ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ ابْنِ الْمُثَنَّى قَالَ: حَدَّثَنِي أَبِي قَالَ: حَدَّثَنِي ثُمَامَةُ ابْنُ عَبْدِ اللَّهِ بْنِ أَنَسٍ: أَنَّ أَنَسًا حَدَّثَهُ: أَنَّ أَبَا بَكْرٍ الصِّدِّيقَ رَضِيَ اللَّهُ عَنْهُ كَتَبَ لَهُ فَرِيضَةَ الصَّدَقَةِ الَّتِي فَرَضَ رَسُولُ اللَّهِ ﷺ قَالَ: «وَمَا كَانَ مِنْ خَلِيطَيْنِ فَإِنَّهُمَا يَتَرَاجَعَانِ بَيْنَهُمَا بِالسَّوِيَّةِ».

[راجع: ١٤٤٨]

(3) CHAPTER. Division of sheep.

2488. Narrated 'Abāya bin Rifā'a bin Rāfi' bin Khadij: My grandfather said, "We were in the company of the Prophet ﷺ at Dhul-Hulaifa. The people were struck with hunger and captured some camels and sheep (as booty). The Prophet ﷺ was behind the people. They hurried and slaughtered the animals and put their meat in pots and started cooking it. (When the Prophet ﷺ

(٣) بَابُ قِسْمَةِ الْغَنَمِ

٢٤٨٨ - حَدَّثَنَا عَلِيُّ بْنُ الْحَكَمِ الْأَنْصَارِيُّ: حَدَّثَنَا أَبُو عَوَانَةَ، عَنْ سَعِيدِ ابْنِ مَسْرُوقٍ، عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ، عَنْ جَدِّهِ قَالَ: كُنَّا مَعَ النَّبِيِّ ﷺ بِذِي الْحُلَيْفَةِ. فَأَصَابَ النَّاسَ جُوعٌ فَأَصَابُوا إِبِلًا

(1) (Ch. 2) Equally means: As one owner (of sheep) as regards the *Zakāt* .

came) he ordered the pots to be upset⁽¹⁾ and then he distributed the animals (of the booty), regarding ten sheep as equal to one camel. One of the camels fled and the people ran after it till they were exhausted. At that time there were few horses. A man threw an arrow at the camel, and Allāh stopped the camel with it. The Prophet ﷺ said, 'Some of these animals are like wild animals, so if you lose control over one of these animals, treat it in this way (i.e., shoot it with an arrow)'."

My grandfather added, "We were afraid that we may meet the enemies in the future and have no knives; [we asked the Prophet ﷺ], 'can we slaughter the animals with reeds?'" The Prophet ﷺ said, "Use whatever causes blood to flow, and eat the animals if the Name of Allāh has been mentioned on slaughtering them. Do not slaughter with teeth or fingernails and I will tell you why: It is because teeth are bones (i.e., cannot cut properly) and fingernails are the tools used by the Ethiopians (whom we should not imitate for they are infidels)."

وَعَنَّمَا. قَالَ: وَكَانَ النَّبِيُّ ﷺ فِي أُخْرِيَاتِ الْقَوْمِ فَعَجَلُوا وَذَبَحُوا وَنَصَبُوا الْقُدُورَ، فَأَمَرَ النَّبِيُّ ﷺ بِالْقُدُورِ فَأُكْفِئَتْ. ثُمَّ قَسَمَ فَعَدَلَ عَشْرَةَ مِنَ الْغَنَمِ بِبَعِيرٍ فَدَدَّ مِنْهَا بَعِيرٌ فَطَلَبُوهُ فَأَعْيَاهُمْ. وَكَانَ فِي الْقَوْمِ خَيْلٌ يَسِيرَةٌ فَأَهْوَى رَجُلٌ مِنْهُمْ بِسَهْمٍ فَحَبَسَهُ اللَّهُ. ثُمَّ قَالَ: «إِنَّ لَهُذِهِ الْبَهَائِمِ أَوْابِدَ كَأَوْابِدِ الْوَحْشِ فَمَا غَلَبَكُمْ مِنْهَا فَاصْطَوْا بِهِ هَكَذَا»، فَقَالَ جَدِّي: إِنَّا نَرُجُو - أَوْ نَخَافُ - الْعَدُوَّ غَدًا وَلَيْسَتْ مَعَنَا مَدَى، أَفَنَذْبِحُ بِالْقَصَبِ؟ قَالَ: «مَا أَنْهَرَ الدَّمَ، وَذَكَرَ اسْمُ اللَّهِ عَلَيْهِ فُكُلُوهُ، لَيْسَ السِّنُّ وَالظَّفْرُ، وَسَأُحَدِّثُكُمْ عَنْ ذَلِكَ: أَمَّا السِّنُّ فَعَظْمٌ وَأَمَّا الظَّفْرُ فَمَدَى الْحَبَسَةِ».

[انظر: ٢٥٠٧، ٣٠٧٥، ٥٤٩٨، ٥٥٠٣،

٥٥٠٦، ٥٥٤٣، ٥٥٤٤]

(4) CHAPTER. A partner sharing a meal should not eat two dates at a time unless he gets the permission of his partner.

2489. Narrated Ibn 'Umar رضي الله عنهما: The Prophet ﷺ decreed that one should not eat two dates together at a time unless he gets the permission from his companions (sharing the meal with him).

(٤) بَابُ الْقِرَانِ فِي التَّمْرِ بَيْنَ الشُّرَكَاءِ حَتَّى يَسْتَأْذِنَ أَصْحَابَهُ

٢٤٨٩ - حَدَّثَنَا خَلَادُ بْنُ يَحْيَى: حَدَّثَنَا سُفْيَانُ: حَدَّثَنَا جَبَلَةُ بْنُ سَحِيمٍ قَالَ: سَمِعْتُ ابْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا يَقُولُ: نَهَى النَّبِيُّ ﷺ أَنْ يَقْرَنَ الرَّجُلُ بَيْنَ التَّمْرَتَيْنِ جَمِيعًا حَتَّى يَسْتَأْذِنَ أَصْحَابَهُ. [راجع: ٢٤٥٥]

2490. Narrated Jabala: While at Al-

٢٤٩٠ - حَدَّثَنَا أَبُو الْوَلِيدِ:

(1) (H. 2488) The Prophet ﷺ did not agree to their slaughtering the animals of the booty before distributing them among the soldiers.

Madina we were struck with famine. Ibn Az-Zubair used to provide us with dates as our food. Ibn 'Umar used to pass by us and say, "Don't eat two dates together at a time as the Prophet ﷺ has forbidden eating two dates together at a time (in a gathering) unless one takes the permission of one's companion brother."

(5) CHAPTER. To get a joint property evaluated with an adequate price.

2491. Narrated Nāfi': Ibn 'Umar رضي الله عنهما said, "Allāh's Messenger ﷺ said, 'If one manumits his share of a jointly possessed slave, and can afford the price of the other share according to the adequate price of the slave, the slave will be completely manumitted; otherwise he will be partially manumitted.'"

(Ayyūb, a subnarrator is not sure whether the saying "... otherwise he will be partially manumitted" was said by Nāfi' or the Prophet ﷺ).

2492. Narrated Abū Hurairah رضي الله عنه: The Prophet ﷺ said, "Whoever manumits his share of a jointly possessed slave, it is imperative for him to get that slave manumitted completely by paying the remaining price, and if he does not have sufficient money to manumit him, then the price of the slave should be estimated justly, and he (the slave) is to be allowed to work and earn the amount that will manumit him (without overburdening him)".

حَدَّثَنَا شُعْبَةُ عَنْ جَبَلَةَ قَالَتْ: كُنَّا بِالْمَدِينَةِ فَأَصَابَتْنا سَنَةٌ فَكَانَ ابْنُ الزُّبَيْرِ يَرْزُقُنَا التَّمْرَ. وَكَانَ ابْنُ عُمَرَ يَمُرُّ بِنَا فَيَقُولُ: لَا تَقْرِنُوا فَإِنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْأَقْرَانِ إِلَّا أَنْ يَسْتَأْذِنَ الرَّجُلُ مِنْكُمْ أَحَاهُ. [راجع: ٢٤٥٥]

(٥) بَابُ تَقْوِيمِ الْأَشْيَاءِ بَيْنَ الشَّرَكَاءِ بِقِيَمَةِ عَدْلِ

٢٤٩١ - حَدَّثَنَا عِمْرَانُ بْنُ مَيْسَرَةَ: حَدَّثَنَا عَبْدُ الْوَارِثِ: حَدَّثَنَا أَيُّوبُ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ أَعْتَقَ شَقِصًا لَهُ مِنْ عَبْدٍ - أَوْ شِرْكَ أَوْ قَالَ: نَصِيبًا - وَكَانَ لَهُ مَا يَبْلُغُ ثَمَنَهُ بِقِيَمَةِ الْعَدْلِ فَهُوَ عَتِيقٌ وَإِلَّا فَقَدْ عَتَقَ مِنْهُ مَا عَتَقَ». قَالَ: لَا أَدْرِي قَوْلُهُ: «عَتَقَ مِنْهُ مَا عَتَقَ» قَوْلٌ مِنْ نَافِعٍ أَوْ فِي الْحَدِيثِ عَنِ النَّبِيِّ ﷺ؟. [انظر: ٢٥٠٣، ٢٥٢١ -

[٢٥٢٥

٢٤٩٢ - حَدَّثَنَا بَشْرُ بْنُ مُحَمَّدٍ: أَخْبَرَنَا عَبْدُ اللَّهِ: أَخْبَرَنَا سَعِيدُ بْنُ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنِ النَّضْرِ بْنِ أَنَسٍ، عَنْ بَشِيرِ بْنِ نَهْيكٍ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ أَعْتَقَ شَقِصًا مِنْ مَمْلُوكِهِ فَعَلَيْهِ خَلَاصُهُ فِي مَالِهِ. فَإِنْ لَمْ يَكُنْ لَهُ مَالٌ فَوَمَّ الْمَمْلُوكُ قِيَمَةَ عَدْلِ، ثُمَّ

اسْتُسْعِيَ غَيْرَ مَشْفُوقٍ عَلَيْهِ». [انظر:

[٢٥٠٤، ٢٥٢٦، ٢٥٢٧]

(6) CHAPTER. Can one draw lots for divisions and shares?

2493. Narrated An-Nu'mān bin Bashīr رضي الله عنهم: The Prophet ﷺ said, "The example of the person abiding by Allāh's Orders and Restrictions in comparison to those who violate them is like the example of those persons who drew lots for their seats in a ship. Some of them got seats in the upper part, and the others in the lower. When the latter needed water, they had to go up to bring water (and that troubled the others), so they said, 'Let us make a hole in our share of the ship (and get water) saving those who are above us from trouble. So, if the people in the upper part left the others do what they had intended, all of them would be perished, but if they prevented them (from doing so), both parties would be saved."

(٦) بَابٌ: هَلْ يُفْرَعُ فِي الْقِسْمَةِ وَالِاسْتِهَامِ فِيهِ؟

٢٤٩٣ - حَدَّثَنَا أَبُو نُعَيْمٍ: حَدَّثَنَا زَكَرِيَّا قَالَ: سَمِعْتُ عَامراً يَقُولُ: سَمِعْتُ التُّعْمَانَ ابْنَ بَشِيرٍ رَضِيَ اللَّهُ عَنْهُمَا عَنِ النَّبِيِّ ﷺ قَالَ: «مَثَلُ الْقَائِمِ عَلَى حُدُودِ اللَّهِ وَالْوَاقِعِ فِيهَا كَمَثَلِ قَوْمٍ اسْتَهَمُوا عَلَى سَفِينَةٍ، فَأَصَابَ بَعْضُهُمْ أَعْلَاهَا وَبَعْضُهُمْ أَسْفَلَهَا، فَكَانَ الَّذِينَ فِي أَسْفَلِهَا إِذَا اسْتَقَمُوا مِنَ الْمَاءِ مَرُّوا عَلَى مَنْ فَوْقَهُمْ فَقَالُوا: لَوْ أَنَا حَرَفْنَا فِي نَصِيبِنَا حَرْفًا وَلَمْ نُؤْذِ مَنْ فَوْقَنَا، فَإِنْ يَتْرَكُوهُمْ وَمَا أَرَادُوا هَلَكُوا جَمِيعاً، وَإِنْ أَخَذُوا عَلَى أَيْدِيهِمْ نَجَوْا وَنَجَّوْا جَمِيعاً».

[انظر: ٢٦٨٦]

(7) CHAPTER. The partnership of orphans and other inheritors.

2494. Narrated 'Urwa bin Az-Zubair that he had asked رضي الله عنها 'Aishah about the meaning of the Statement of Allāh تعالى:

"And if you fear that you shall not be able to deal justly... (up to)... or four..." (V.4:3)

She said, "O my nephew! This is about the orphan girl who lives with her guardian and shares his property. Her wealth and beauty may tempt him to marry her without giving her an adequate *Mahr* (bridal-money) which might have been given by another suitor. So, such guardians were forbidden to marry such

(٧) بَابُ شَرِكَةِ الْيَتِيمِ وَأَهْلِ الْمِيرَاثِ

٢٤٩٤ - حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ عَبْدِ اللَّهِ الْعَامِرِيُّ الْأَوْسِيُّ: حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنْ صَالِحٍ، عَنْ ابْنِ شِهَابٍ قَالَ: أَخْبَرَنِي عُرْوَةُ أَنَّهَا سَأَلَتْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا. وَقَالَ اللَّيْثُ: حَدَّثَنِي يُونُسُ عَنْ ابْنِ شِهَابٍ قَالَ: أَخْبَرَنِي عُرْوَةُ بْنُ الزُّبَيْرِ أَنَّهَا سَأَلَتْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا عَنْ قَوْلِ اللَّهِ

orphan girls unless they treated them justly and gave them the most suitable *Mahr* ; otherwise they were ordered to marry any other woman.” ‘Aishah further said, “After that Verse the people again asked the Prophet ﷺ (about the marriage with orphan girls), so Allāh تعالى revealed the following Verses :

‘They ask your legal instruction concerning women... (up to)... and yet whom you desire to marry...’ (V.4:127)

What is meant by Allāh’s Saying :

‘And about what is recited unto you’ is the former Verse which goes :

‘And if you fear that you shall not be able to deal justly with the orphan girls, then marry (other) women of your choice...’

‘Aishah رضي الله عنها said, “Allāh’s Saying in the other Verse :

‘...Yet whom you desire to marry...’ means the desire of the guardian to marry an orphan girl under his supervision when she has not much property or beauty (in which case he should treat her justly). The guardians were forbidden to marry the orphan girls under their care possessing property and beauty without being just to them, as they generally refrain from marrying them (when they are neither beautiful nor wealthy).”

تعالى : ﴿وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا﴾ إلى قوله : ﴿وَرَبِّعْ﴾ [النساء : ٣] فقالت : يا ابن أختي، هي اليتيمة تكون في حجرٍ ولها تُشاركه في مالٍ فيعجبهُ مالها وجمالها فيريدُ ولها أن يتزوجها بغير أن يقسط في صداقها فيعطيا مثل ما يعطيها غيره، فهوا أن ينكحوهنَّ إلا أن يقسطوا لهنَّ ويبلغوا بهنَّ أعلى سنتيهنَّ من الصداق، وأمروا أن ينكحوا ما طاب لهم من النساء سواهنَّ. قال عروة : قالت عائشة : ثم إن الناس استفتوا رسول الله ﷺ بعد هذه الآية فأُنزل الله : ﴿وَسَنَفْتُوكَ فِي النِّسَاءِ﴾ إلى قوله : ﴿وَرَبِّعُونَ أَنْ تَنكِحُوهُنَّ﴾ [النساء : ١٢٧] والذي ذكر الله أنه يُثلى عليكم في الكتابِ الآية الأولى التي قال فيها : ﴿وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَى فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ﴾ قالت عائشة : وقول الله في الآية الأخرى : ﴿وَرَبِّعُونَ أَنْ تَنكِحُوهُنَّ﴾ هي رغبة أحدكم يتيمته التي تكون في حجره حين تكون قليلة المال والجمال، فهوا أن ينكحوا ما رغبوا في مالها وجمالها من يتامى النساء إلا بالقسط من أجل رغبتهنَّ عنهنَّ. [انظر : ٢٧٦٣، ٤٥٧٣، ٤٥٧٤، ٤٦٠٠، ٥٠٩٢، ٥٠٦٤، ٥٠٩٨، ٥١٢٨،

(8) CHAPTER. Sharing land, etc.

2495. Narrated Jābir bin ‘Abdullāh رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ established the right of *Shuf'a* (i.e., pre-emption) in joint properties; but when the land is divided and the ways are demarcated, then there is no pre-emption.

(9) CHAPTER. If partners divide the houses, etc., none of them has the right of backing out or the right of pre-emption.

2496. Narrated Jābir bin ‘Abdullāh رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ said, “The right of pre-emption is valid in every joint property, but when the land is divided and the way is demarcated, then there is no right of pre-emption.”

(10) CHAPTER. Sharing gold, silver and other articles used in money exchange.

2497, 2498. Narrated Sulaimān bin Abū Muslim: I asked Abū Mīnhāl about money exchange from hand to hand. He said, “I and a partner of mine bought something partly in cash and partly on credit.” Al-Barā’ bin ‘Āzib passed by us and we asked about it. He replied, “I and my partner Zaid bin Al-Arqam did the same and then went to the Prophet ﷺ and asked him about it. He ﷺ said, ‘Take what was from hand to hand and leave what was on credit.’”

(٨) بَابُ الشَّرْكََةِ فِي الْأَرْضَيْنِ وَغَيْرِهَا

٢٤٩٥ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ: حَدَّثَنَا هِشَامٌ: أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُمَا، قَالَ: إِنَّمَا جَعَلَ النَّبِيُّ ﷺ الشُّفْعَةَ فِي كُلِّ مَا لَمْ يُقَسَّمْ. فَإِذَا وَقَعَتِ الْحُدُودُ وَضُرِّقَتِ الطَّرِيقُ فَلَا شُفْعَةَ.

[راجع: ٢٢١٣]

(٩) بَابُ إِذَا قَسَمَ الشُّرَكَاءُ الدُّورَ وَغَيْرَهَا فَلَيْسَ لَهُمْ رُجُوعٌ وَلَا شُفْعَةٌ

٢٤٩٦ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا عَبْدُ الْوَاحِدِ: حَدَّثَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: قَضَى النَّبِيُّ ﷺ بِالشُّفْعَةِ فِي كُلِّ مَا لَمْ يُقَسَّمْ، فَإِذَا وَقَعَتِ الْحُدُودُ وَضُرِّقَتِ الطَّرِيقُ فَلَا شُفْعَةَ. [راجع: ٢٢١٣]

(١٠) بَابُ الْإِشْتِرَاكِ فِي الذَّهَبِ وَالْفِضَّةِ وَمَا يَكُونُ فِيهِ الصَّرْفُ

٢٤٩٧، ٢٤٩٨ - حَدَّثَنِي عَمْرُو بْنُ عَلِيٍّ: حَدَّثَنَا أَبُو عَاصِمٍ، عَنْ عَثْمَانَ يَعْنِي ابْنَ الْأَسْوَدِ قَالَ: أَخْبَرَنِي سُلَيْمَانُ بْنُ أَبِي مُسْلِمٍ قَالَ: سَأَلْتُ أَبَا الْإِمْهَالِ عَنِ الصَّرْفِ يَدًا بِيَدٍ فَقَالَ: اشْتَرَيْتُ أَنَا وَشَرِيكَ لِي شَيْئًا يَدًا بِيَدٍ وَنَسِيئَةً، فَجَاءَنَا الْبَرَاءُ بْنُ

عازِبٍ فَسَأَلْنَاهُ فَقَالَ: فَعَلْتُ أَنَا
وَشَرِيكِي زَيْدُ بْنُ أَرْقَمَ وَسَأَلْنَا النَّبِيَّ
ﷺ عَنْ ذَلِكَ، فَقَالَ: «مَا كَانَ يَدًا
يَبِيدُ فُحْدُوهُ، وَمَا كَانَ نَسِيئَةً فَرُدُّوهُ».

[راجع: ٢٠٦٠، ٢٠٦١]

(11) CHAPTER. Partnership with a *Dhimmi*
(A Jew or a Christian under the protection of
a Muslim Government and *Al-Mushirkun*
(polytheists, idolaters, pagans) in share-
cropping.

(١١) بَابُ مُشَارَكَةِ الدِّمِيِّ
والمُشْرِكِينَ فِي المَرْاعَةِ

2499. Narrated 'Abdullah رَضِيَ اللهُ عَنْهُ
Allāh's Messenger ﷺ rented the land of
Khaibar to the Jews on the condition that
they would work on it and cultivate it and
take half of its yield.

٢٤٩٩ - حَدَّثَنَا مُوسَى بْنُ
إِسْمَاعِيلَ: حَدَّثَنَا جُوَيْرِيَةُ بْنُ أَسْمَاءَ،
عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ رَضِيَ اللهُ عَنْهُ
قَالَ: أُعْطِيَ رَسُولُ اللهِ ﷺ خَيْرَ
الْيَهُودِ أَنْ يَعْمَلُوهَا وَيَزْرَعُوهَا وَلَهُمْ
شَطْرُ مَا يَخْرُجُ مِنْهَا. [راجع: ٢٢٨٥]

(12) CHAPTER. Distribution of sheep and
dividing them justly.

(١٢) بَابُ قِسْمَةِ الغَنَمِ وَالْعَدْلِ فِيهَا

2500. Narrated 'Uqba bin 'Amir رَضِيَ اللهُ عَنْهُ
that Allāh's Messenger ﷺ gave him some
sheep to distribute among his companions in
order to sacrifice them and a kid was left. He
told the Prophet ﷺ about it and the Prophet
ﷺ said to him, "Sacrifice it on your behalf."

٢٥٠٠ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ:
حَدَّثَنَا اللَّيْثُ، عَنْ يَزِيدَ بْنِ أَبِي
حَبِيبٍ، عَنْ أَبِي الْحَيْرِ، عَنْ عُقْبَةَ بْنِ
عَامِرٍ رَضِيَ اللهُ عَنْهُ: أَنَّ رَسُولَ اللهِ
ﷺ أَعْطَاهُ غَنَمًا يَقْسِمُهَا عَلَى صَحَابَتِهِ
صَحَابِيًا فَبَقِيَ عَتُودٌ فَذَكَرَهُ لِرَسُولِ اللهِ
ﷺ فَقَالَ: «صَحِّحْ بِهِ أَنْتَ».

[راجع: ٢٣٠٠]

(13) CHAPTER. The sharing of food, etc.

(١٣) بَابُ الشَّرِكَةِ فِي الطَّعَامِ وَغَيْرِهِ
وَيُذَكَّرُ أَنَّ رَجُلًا سَاوَمَ شَيْئًا فَعَمَّرَهُ
آخَرُ فَرَأَى عُمَرُ أَنَّ لَهُ شَرِكَةً.

It is said that a man offered some price for
something and another man signalled him to
buy it. When 'Umar noticed that, he

considered the second man as a partner of the first.

2501, 2502. Narrated ‘Abdullāh bin Hishām, that his mother Zainab bint Ḥumaid took him to the Prophet ﷺ and said, “O Allāh’s Messenger! Take the *Bai’a* (pledge) from him.” But he said, “He is still too young for the pledge,” and passed his hand on his (i.e., ‘Abdullāh’s) head and invoked for Allāh’s Blessing for him. Zuhra bin Ma’bad stated that he used to go with his grandfather, ‘Abdullāh bin Hishām, to the market to buy foodstuff. Ibn ‘Umar and Ibn Az-Zubair would meet him and say to him, “Be our partner, as the Prophet ﷺ invoked Allāh to bless you.” So, he would be their partner, and very often he would win a camel’s load and send it home.

٢٥٠١، ٢٥٠٢ - حَدَّثَنَا أَصْبَغُ
بْنُ الْفَرَجِ قَالَ: أَخْبَرَنِي عَبْدُ اللَّهِ بْنُ
وَهْبٍ قَالَ: أَخْبَرَنِي سَعِيدٌ، عَنْ زُهْرَةَ
بِنِ مَعْبِدٍ، عَنْ جَدِّهِ عَبْدِ اللَّهِ بْنِ هِشَامٍ
وَكَانَ قَدْ أَدْرَكَ النَّبِيَّ ﷺ وَذَهَبَتْ بِهِ
أُمُّهُ زَيْنَبُ بِنْتُ حُمَيْدٍ إِلَى رَسُولِ اللَّهِ
ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، بَايِعْهُ،
فَقَالَ: «هُوَ صَغِيرٌ»، فَمَسَحَ رَأْسَهُ
وَدَعَا لَهُ. وَعَنْ زُهْرَةَ بِنِ مَعْبِدٍ أَنَّهُ كَانَ
يَخْرُجُ بِهِ جَدُّهُ عَبْدُ اللَّهِ بْنُ هِشَامٍ إِلَى
السُّوقِ فَيَسْتَرِي الطَّعَامَ فَيَلْقَاهُ ابْنُ عُمَرَ
وَابْنُ الزُّبَيْرِ فَيَقُولَانِ لَهُ: أَشْرَكْنَا، فَإِنَّ
النَّبِيَّ ﷺ قَدْ دَعَا لَكَ بِالْبَرَكَةِ
فَيَسْرِكُهُمْ، فَرَبَّمَا أَصَابَ الرَّاحِلَةَ كَمَا
هِيَ فَيَبِعْتُ بِهَا إِلَى الْمَنْزِلِ. [الحديث:
٢٥٠١، انظر: ٧٢١٠]؛ [الحديث:

٢٥٠٢، انظر: ٦٣٥٣]

(14) CHAPTER. Sharing the slaves.

2503. Narrated Ibn ‘Umar رضي الله عنهما: The Prophet ﷺ said, “Whoever manumits his share of a jointly possessed slave, it is imperative on him to manumit the slave completely if he has sufficient money to pay the rest of its price which is to be estimated justly. He should pay his partners their shares and release him.”

(١٤) بَابُ الشَّرِكَةِ فِي الرِّقِيِّ
٢٥٠٣ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا
جُوَيْرِيَةُ بِنُ أَسْمَاءَ، عَنْ نَافِعٍ، عَنِ
ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا عَنِ النَّبِيِّ
ﷺ قَالَ: «مَنْ أَعْتَقَ شُرَكَاءَ لَهُ فِي
مَمْلُوكٍ وَجَبَ عَلَيْهِ أَنْ يُعْتِقَ كُلَّهُ إِنْ
كَانَ لَهُ مَالٌ قَدَّرَ ثَمَنَهُ يُقَامُ قِيمَةً عَدْلٍ،
وَيُعْطَى شُرَكَاءُوهُ حِصَّتَهُمْ وَيُخَلَّى سَبِيلُ
الْمُعْتَقِ». [راجع: ٢٤٩١]

2504. Narrated Abū Hurairah رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ said, "Whoever manumits his share of a jointly possessed slave, it is essential for him to manumit the slave completely if he has sufficient money. Otherwise he should look for some work for the slave (to earn what would enable him to emancipate himself), without overburdening him with work."

٢٥٠٤ - حَدَّثَنَا أَبُو التُّعْمَانِ: حَدَّثَنَا جَرِيرُ بْنُ حَارِظٍ، عَنْ قَتَادَةَ، عَنِ النَّصْرِ بْنِ أَنَسٍ، عَنْ بَشِيرِ بْنِ نَهْيِكَ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ أَعْتَقَ شِقْصًا فِي عَبْدٍ أَعْتَقَ كُلَّهُ إِنْ كَانَ لَهُ مَالٌ وَإِلَّا يُسْتَسَعَّ غَيْرَ مَشْقُوقٍ عَلَيْهِ».

[راجع: ٢٤٩٢]

(15) CHAPTER. Sharing the *Hady* and *Budn*. (Is it permissible for one) to share the *Hady* with somebody else after it has been slaughtered?

(١٥) بَابُ الْأَشْتِرَاكِ فِي الْهَدْيِ وَالْبُدْنِ، وَإِذَا اشْرَكَ الرَّجُلُ رَجُلًا فِي هَدْيِهِ بَعْدَ مَا أَهْدَى

2505, 2506. Narrated Ibn 'Abbās رَضِيَ اللهُ عَنْهُمَا: The Prophet ﷺ (along with his companions) reached Makkah in the morning of the fourth of Dhul-Hijjah assuming *Ihrām* for *Hajj* only. So when we arrived at Makkah, the Prophet ﷺ ordered us to change our intentions of the *Ihrām* for 'Umra and that we could finish our *Ihrām* after performing the 'Umra and could go to our wives (for sexual intercourse). The people began talking about that⁽¹⁾. Jābir said surprisingly, "Shall we go to Mina while semen is dribbling from our male organs?"⁽²⁾ Jābir moved his hand while saying so. When this news reached the Prophet ﷺ he delivered a *Khuṭba* (religious talk) and said, "I have been informed that some people were saying so-and-so. By Allāh I fear Allāh more than you do, and am more obedient to Him than you. If I had known what I know now, I would not have brought

٢٥٠٥، ٢٥٠٦ - حَدَّثَنَا أَبُو التُّعْمَانِ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ: أَخْبَرَنَا عَبْدُ الْمَلِكِ بْنُ جُرَيْجٍ، عَنْ عَطَاءٍ، عَنْ جَابِرٍ وَعَنْ طَاوُسٍ، عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللهُ عَنْهُمَا قَالَا: قَدِمَ النَّبِيُّ ﷺ صُبْحَ رَابِعَةِ مِنْ ذِي الْحِجَّةِ مُهْلِينَ بِالصَّحْحِ لَا يَخْلِطُهُمْ شَيْءٌ، فَلَمَّا قَدِمْنَا أَمَرْنَا فَجَعَلْنَاهَا عُمْرَةً وَأَنْ نَجَلَّ إِلَى نِسَائِنَا، فَفَشَّتْ فِي ذَلِكَ الْقَائِلَةِ. - قَالَ عَطَاءٌ فَقَالَ جَابِرٌ-: فَيَرُوحُ أَحَدُنَا إِلَى مِنَى وَذَكَرَهُ يَقْطُرُ مَنِيًّا، - فَقَالَ جَابِرٌ بِكَفِّهِ - بَلَغَ ذَلِكَ النَّبِيَّ ﷺ فَقَامَ حَظِييًّا فَقَالَ: «بَلَغَنِي أَنْ أَقْوَامًا يَقُولُونَ كَذَا وَكَذَا،

(1) (H. 2505) People thought that it was sinful to perform 'Umra during the months of Hajj, so when the Prophet ﷺ ordered them to perform 'Umra with Hajj (i.e., Hajj-at-Tamattu'), they were astonished.

(2) (H. 2505) Jābir thought that it would be inconvenient to assume *Ihrām* for *Hajj* and go to Mina shortly after having had sexual relation with one's wife.

the *Hady* (sacrifice) with me and had the *Hady* not been with me, I would have finished the *Ihrām*." At that, Surāqa bin Mālik stood up and asked, "O Allāh's Messenger! Is this permission for us only or is it forever?" The Prophet ﷺ replied, "It is forever." In the meantime 'Alī bin Abī Ṭālib came from Yemen and was saying *Labbaik* for what the Prophet ﷺ has intended. (According to another man, 'Alī was saying *Labbaik* for *Hajj* similar to Allāh's Messenger ﷺ). The Prophet ﷺ told him to keep on the *Ihrām* and let him share the *Hady* with him.

والله لأننا أبرُّ وأتقى لله منهم، ولو أني استقبلت من أمري ما استدبرت، ما أهديت ولولا أن معي الهدى لأحلت. فقام سراقَةُ بن مالك بن جُعشم فقال: يا رسول الله، هي لنا أو للأبد؟ فقال: «لا، بل للأبد». قال: وجاء علي بن أبي طالب فقال: أحدهما يقول: لبيك بما أهلَّ به رسول الله ﷺ، وقال الآخر: لبيك بحجة رسول الله ﷺ، فأمر النبي ﷺ أن يُقيم على إحرامه وأشركه في الهدى. [راجع: ١٠٨٥،

[١٥٥٧]

(16) CHAPTER. Whoever regarded ten sheep as equal to one camel in distribution.

2507. Narrated 'Abāya bin Rifā'a: My grandfather, Rāfi' bin Khadīj عنه الله said, "We were in the valley of Dhul-Hulaifa of Tihāma in the company of the Prophet ﷺ and had some camels and sheep (of the booty). The people hurried (in slaughtering the animals) and put their meat in the pots and started cooking. Allāh's Messenger ﷺ came and ordered them to upset the pots, and distributed the booty considering one camel as equal to ten sheep. One of the camels fled and the people had only a few horses, so they got worried. (The camel was chased and) a man stopped the camel by throwing an arrow at it. Allāh's Messenger ﷺ said, 'Some of these animals are untamed like wild animals, so if anyone of them went out of your control, then you should treat it as you have done now.'" My grandfather said, "O Allāh's Messenger! We fear that we

(١٦) بَابُ مَنْ عَدَلَ عَشْرَةَ مِنَ الْغَنَمِ بِحِزْوٍ فِي الْقِسْمِ

٢٥٠٧ - حَدَّثَنِي مُحَمَّدٌ: أَخْبَرَنَا وَكَيْعٌ، عَنْ سُفْيَانَ، عَنْ أَبِيهِ، عَنْ عُبَايَةَ ابْنِ رِفَاعَةَ، عَنْ جَدِّهِ رَافِعِ بْنِ خَدِيجِ رَضِيَ اللَّهُ عَنْهُ قَالَ: كُنَّا مَعَ النَّبِيِّ ﷺ بِبَيْتِ الْحَلِيفَةِ مِنْ تِهَامَةَ فَأَصَبْنَا غَنَمًا وَإِبِلًا فَعَجَلِ الْقَوْمِ فَأَعْلَوْا بِهَا الْقُدُورَ، فَجَاءَ رَسُولُ اللَّهِ ﷺ فَأَمَرَ بِهَا فَأُكْفِئَتْ ثُمَّ عَدَلَ عَشْرَةَ مِنَ الْغَنَمِ بِحِزْوٍ. ثُمَّ إِنَّ بَعِيرًا مِنْهَا نَدَّ وَلَيْسَ فِي الْقَوْمِ إِلَّا خَيْلٌ يَسِيرَةٌ، فَرَمَاهُ رَجُلٌ فَحَبَسَهُ بِسَهْمٍ فَقَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ لَهُدْيَهُ الْبَهَائِمِ أَوْابِدَ كَأَوْابِدِ الْوَحْشِ. فَمَا غَلَبَكُمْ مِنْهَا

may meet our enemy tomorrow and we have no knives, could we slaughter the animals with reeds?" The Prophet ﷺ said, "Yes, or you can use what would make blood flow (slaughter) and you can eat what is slaughtered and the Name of Allāh is mentioned at the time of slaughtering. But don't use teeth or fingernails (in slaughtering). I will tell you why, as for teeth, they are bones, and fingernails are used by Ethiopians for slaughtering."

[See *Ḥadīth* No. 2488]

فاصْنَعُوا بِهِ هَكَذَا، قَالَ: قَالَ جَدِّي: يَا رَسُولَ اللَّهِ، إِنَّا نَرْجُو وَنَخَافُ أَنْ نَلْقَى الْعَدُوَّ عَدَاً وَلَيْسَ مَعَنَا مُدَى، أَفَنْدَبِحُ بِالْقَصَبِ؟ قَالَ: «اعْمَلْ أَوْ أَرْنِي مَا أَنْهَرَ الدَّمَ وَذَكَرَ اسْمَ اللَّهِ عَلَيْهِ فَكُلُوا، لَيْسَ السِّنُّ وَالظُّفْرُ. وَسَأُحَدِّثُكُمْ عَنْ ذَلِكَ، أَمَّا السِّنُّ فَعَظْمٌ، وَأَمَّا الظُّفْرُ فَمُدَى الْحَبَسَةِ».

[راجع: ٢٤٨٨]