

87 - THE BOOK OF AD-DIYĀT  
(BLOOD-MONEY)  
[Payment for Bloodshed]

٨٧ - كتاب الديات

(1) CHAPTER. The Statement of Allāh تعالى :  
“...And whoever kills a believer  
in ententionally, his recompense is Hell...”  
(4:93)

6861. Narrated ‘Abdullāh رَضِيَ اللهُ عَنْهُ : A man said, “O Allāh’s Messenger! Which sin is the greatest in Allāh’s consideration?” The Prophet ﷺ said, “To set up a rival unto Allāh, though, He Alone created you.” The man asked, “What is (the) next (greatest sin)?” The Prophet ﷺ said, “To kill your son, lest he should share your food with you.” The man said, “What is (the) next (greatest sin)?” The Prophet ﷺ said, “To commit illegal sexual intercourse with the wife of your neighbour.” So Allāh عزَّ وجلَّ revealed in confirmation of this narration :

“And those who invoke not any other *ilāh* (god) along with Allāh nor kill such person as Allāh has forbidden, except for just cause, nor commit illegal sexual intercourse – and whoever does this shall receive the punishment.” (V.25 :68)

6862. Narrated Ibn ‘Umar رَضِيَ اللهُ عَنْهُمَا : Allāh’s Messenger ﷺ said, “A faithful believer remains at liberty regarding his religion unless he kills somebody unlawfully.”

6863. Narrated ‘Abdullāh bin ‘Umar رَضِيَ اللهُ عَنْهُمَا : One of the evil deeds with bad

(١) بَابُ قَوْلِ اللَّهِ تَعَالَى : ﴿وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ﴾ [النساء : ٩٣]

٦٨٦١ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ : حَدَّثَنَا جَرِيرٌ، عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَمْرِو بْنِ شُرْحَبِيلٍ قَالَ : قَالَ عَبْدُ اللَّهِ : قَالَ رَجُلٌ : يَا رَسُولَ اللَّهِ، أَيُّ الذَّنْبِ أَكْبَرُ عِنْدَ اللَّهِ؟ قَالَ : «أَنْ تَدْعُوَ لِلَّهِ نِدَاءً وَهُوَ خَلَقَكَ». قَالَ : ثُمَّ أَيُّ؟ قَالَ : «ثُمَّ أَنْ تَقْتُلَ وَلَدَكَ حَسِيَّةً أَنْ يَطْعَمَ مَعَكَ». قَالَ : ثُمَّ أَيُّ؟ قَالَ : «ثُمَّ أَنْ تُزَانِيَ بِحَلِيلَةٍ جَارِكَ». فَأَنْزَلَ اللَّهُ عَزَّ وَجَلَّ تَصْدِيقَهَا ﴿وَالَّذِينَ لَا يَدْعُونَ مَعَ اللَّهِ إِلَهًا آخَرَ وَلَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَلَا يَزْنُونَ وَمَنْ يَفْعَلْ ذَلِكَ يَلْقَ أَثَامًا﴾

الآية [الفرقان : ٦٨]. [راجع : ٤٤٧٧]

٦٨٦٢ - حَدَّثَنَا عَلِيُّ بْنُ حَزَنَةَ : حَدَّثَنَا إِسْحَاقُ بْنُ سَعِيدٍ : حَدَّثَنَا عَمْرِو بْنُ سَعِيدٍ : حَدَّثَنَا جَرِيرٌ، عَنْ أَبِيهِ، عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : قَالَ رَسُولُ اللَّهِ ﷺ : «لَا يَزَالُ الْمُؤْمِنُ فِي فُسْحَةٍ مِنْ دِينِهِ مَا لَمْ يُصِبْ دَمًا حَرَامًا».

[انظر : ٦٨٦٣]

٦٨٦٣ - حَدَّثَنِي أَحْمَدُ بْنُ

consequence from which there is no escape, for the one who is involved in it, is to kill someone unlawfully.

**6864.** Narrated ‘Abdullāh رضي الله عنه: The Prophet ﷺ said, “The first cases to be decided among the people (on the Day of Resurrection) will be those of bloodshed.”

**6865.** Narrated Al-Miqdād bin ‘Amr Al-Kindi, an ally of Banī Zuhra who took part in the battle of Badr with the Prophet ﷺ, that he said, “O Allāh’s Messenger! If I meet a disbeliever and we have a fight, and he strikes my hand with the sword and cuts it off, and then takes refuge from me under a tree, and says, ‘I have surrendered to Allāh (i.e., embraced Islām),’ should I kill him after he has said so?” Allāh’s Messenger ﷺ said, “Do not kill him.” Al-Miqdād said, “O Allāh’s Messenger! He had chopped off one of my hands and he said that after he had cut it off. Should I kill him?” The Prophet ﷺ said, “Do not kill him, for if you kill him, he would be in the position in which you had been before you kill him (a believer), and you would be in the position in which he was before he said the sentence (a disbeliever).”

**6866.** Narrated Ibn ‘Abbās رضي الله عنه: The Prophet ﷺ said to Al-Miqdād, “If a faithful

يَغُفُّوبُ: أَخْبَرَنَا إِسْحَاقُ بْنُ سَعِيدٍ: سَمِعْتُ أَبِي يُحَدِّثُ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: إِنَّ مِنْ وَرَطَاتِ الْأُمُورِ الَّتِي لَا مَخْرَجَ لِمَنْ أَوْقَعَ نَفْسَهُ فِيهَا: سَفَكَ الدَّمَ الْحَرَامَ بِغَيْرِ حِلٍّ.

[راجع: ٦٨٦٢]

**٦٨٦٤ -** حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ مُوسَى، عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللَّهِ، قَالَ: قَالَ النَّبِيُّ ﷺ: «أَوَّلُ مَا يُقْضَى بَيْنَ النَّاسِ فِي الدِّمَاءِ». [راجع: ٦٥٣٣]

**٦٨٦٥ -** حَدَّثَنَا عَبْدَانُ: أَخْبَرَنَا عَبْدُ اللَّهِ: أَخْبَرَنَا يُونُسُ، عَنِ الزُّهْرِيِّ: حَدَّثَنِي عَطَاءُ بْنُ يَزِيدَ: أَنَّ عُبَيْدَ اللَّهِ بْنَ عَدِيٍّ حَدَّثَهُ: أَنَّ الْمِقْدَادَ بْنَ عَمْرٍو الْكِنْدِيَّ حَلِيفَ بَنِي زُهْرَةَ حَدَّثَهُ، وَكَانَ شَهِدَ بَدْرًا مَعَ النَّبِيِّ ﷺ أَنَّهُ قَالَ: يَا رَسُولَ اللَّهِ، إِنْ لَقِيتُ كَافِرًا فَأَقْتَلْتُنَا فَضَرَبَ يَدَيَّ بِالسَّيْفِ فَقَطَعَهَا ثُمَّ لَدَى بَشَجَرَةٍ وَقَالَ: أَسْلَمْتُ لِلَّهِ. أَقْتُلْهُ بَعْدَ أَنْ قَالَهَا؟ قَالَ رَسُولُ اللَّهِ ﷺ: «لَا تَقْتُلْهُ»، قَالَ: يَا رَسُولَ اللَّهِ، فَإِنَّهُ طَرَحَ إْحْدَى يَدَيَّ، ثُمَّ قَالَ ذَلِكَ بَعْدَمَا قَطَعَهَا، أَقْتُلْهُ؟ قَالَ: «لَا تَقْتُلْهُ، فَإِنْ قَتَلْتَهُ فَإِنَّهُ بِمَنْزِلِكَ قَبْلَ أَنْ تَقْتُلْهُ، وَأَنْتَ بِمَنْزِلَتِهِ قَبْلَ أَنْ يَقُولَ كَلِمَتَهُ الَّتِي قَالَ». [راجع: ٤٠١٩]

**٦٨٦٦ -** وَقَالَ حَبِيبُ بْنُ أَبِي

believer conceals his Faith (Islām) from the disbelievers, and then when he declares his Islām, you kill him, (you will be sinful). Remember that you were also concealing your Faith (Islām) at Makkah before.”

(2) CHAPTER. The Statement of Allāh تعالى: “And if anyone saved a life ...” (V.5:32)

Ibn ‘Abbās said, “Anyone who regards killing as prohibited except for a just cause (then it would be as if) he saved the life of all mankind.”

6867. Narrated Abdullāh رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ said, “None (no human being) is killed or murdered (unjustly), but a part of responsibility for the crime is laid on the first son of Ādam who started the first killing (murdering) on the earth. (It is said that he was Qābil).”

6868. Narrated ‘Abdullāh bin ‘Umar رَضِيَ اللهُ عَنْهُمَا: The Prophet ﷺ said, “After me (i.e., after my death), do not become disbelievers by striking (cutting) the necks of one another.”

6869. Narrated Abū Zur‘a bin ‘Amr bin Jarīr: The Prophet ﷺ said during *Hajjat-ul-Wadā’*, “Let the people be quiet and listen to me. After me (i.e., after my death), do not become disbelievers by striking (cutting) the necks of one another.”

عَمْرَةَ، عَنْ سَعِيدٍ، عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ النَّبِيُّ ﷺ لِلْمُقَدَّادِ: «إِذَا كَانَ رَجُلٌ مِمَّنْ يُخْفِي إِيمَانَهُ مَعَ قَوْمٍ كُفَّارٍ فَاطْهَرَ إِيمَانَهُ فَقَتَلْتَهُ، فَكَذَلِكَ كُنْتَ أَنْتَ تُخْفِي إِيمَانَكَ بِمَكَّةَ مِنْ قَبْلُ».

(٢) بَابُ: «وَمَنْ أَحْيَاهَا» [المائدة: ٣٢]

قَالَ ابْنُ عَبَّاسٍ: مَنْ حَرَّمَ قَتْلَهَا إِلَّا بِحَقٍّ «فَكَانَ أَحْيَاهَا النَّاسَ جَمِيعًا» [المائدة: ٣٢].

٦٨٦٧ - حَدَّثَنَا قَبِيصَةُ: حَدَّثَنَا سُفْيَانُ، عَنِ الْأَعْمَشِ، عَنْ عَبْدِ اللَّهِ بْنِ مَرْثَةَ، عَنْ مَسْرُوقٍ، عَنْ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا تُقْتَلُ نَفْسٌ إِلَّا كَانَ عَلَى ابْنِ آدَمَ الْأَوَّلِ كِفْلٌ مِنْهَا». [راجع: ٣٣٣٥]

٦٨٦٨ - حَدَّثَنَا أَبُو الْوَلِيدِ: حَدَّثَنَا شُعْبَةُ قَالَ: وَقَدْ بُوِيَ عَبْدُ اللَّهِ أَخْبَرَنِي، عَنْ أَبِيهِ: سَمِعَ عَبْدَ اللَّهِ بْنَ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا تَرْجِعُوا بَعْدِي كُفَّارًا يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ». [راجع: ١٧٤٢]

٦٨٦٩ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا غُنْدَرٌ: حَدَّثَنَا شُعْبَةُ، عَنْ عَلِيِّ بْنِ مُذَرِّجٍ قَالَ: سَمِعْتُ أَبَا زُرْعَةَ بْنَ عَمْرِو بْنِ جَرِيرٍ، عَنْ جَرِيرٍ قَالَ: قَالَ لِيَ النَّبِيُّ ﷺ فِي حَجَّةِ الْوَدَاعِ:

«اسْتَنْصِتِ النَّاسَ، لَا تَرْجِعُوا بَعْدِي  
كُفَّارًا يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ».

[راجع: ١٢١]

رَوَاهُ أَبُو بَكْرَةَ وَابْنُ عَبَّاسٍ عَنِ  
النَّبِيِّ ﷺ.

٦٨٧٠ - حَدَّثَنِي مُحَمَّدُ بْنُ  
بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا  
شُعْبَةُ، عَنْ فِرَاسٍ، عَنِ الشَّعْبِيِّ، عَنْ  
عَبْدِ اللَّهِ بْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ قَالَ:  
«الْكِبَايِرُ: الْإِشْرَاكُ بِاللَّهِ، وَغُفُوقُ  
الْوَالِدَيْنِ - أَوْ قَالَ: الْيَمِينِ  
الْعَمُوسُ، شَكَّ شُعْبَةُ -». وَقَالَ  
مُعَاذٌ: حَدَّثَنَا شُعْبَةُ قَالَ: «الْكِبَايِرُ:  
الْإِشْرَاكُ بِاللَّهِ، وَالْيَمِينُ الْعَمُوسُ،  
وَعُفُوقُ الْوَالِدَيْنِ، أَوْ قَالَ: وَقَتْلُ  
النَّفْسِ». [راجع: ٦٦٧٥]

٦٨٧١ - حَدَّثَنَا إِسْحَاقُ بْنُ  
مَنْصُورٍ: حَدَّثَنَا عَبْدُ الصَّمَدِ: حَدَّثَنَا  
شُعْبَةُ: حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ أَبِي بَكْرٍ:  
سَمِعَ أَنَسًا رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ  
ﷺ قَالَ: «الْكِبَايِرُ». وَحَدَّثَنَا عَمْرٍو:  
حَدَّثَنَا شُعْبَةُ، عَنِ ابْنِ أَبِي بَكْرٍ، عَنْ  
أَنَسِ بْنِ مَالِكٍ عَنِ النَّبِيِّ ﷺ قَالَ:  
«أَكْبَرُ الْكِبَايِرِ: الْإِشْرَاكُ بِاللَّهِ، وَقَتْلُ  
النَّفْسِ، وَغُفُوقُ الْوَالِدَيْنِ، وَقَوْلُ  
الرُّوْرِ، أَوْ قَالَ: وَشَهَادَةُ الرُّوْرِ».

٦٨٧٢ - حَدَّثَنَا عَمْرٍو بْنُ زُرَّارَةَ:  
حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا حُصَيْنٌ: حَدَّثَنَا

٦٨٧٠. Narrated ‘Abdullāh bin ‘Amr رَضِيَ اللَّهُ عَنْهُ: The Prophet ﷺ said, “*Al-Kabā’ir* (the biggest sins) are: To join others (as partners) in worship with Allāh, to be undutiful to one’s parents,” or said, “to take a false oath.” (The subnarrator, Shu’ba is not sure as to the correct expression the Prophet ﷺ used).

Mu’ādh said: Shu’ba said, “*Al-Kabā’ir* (the biggest sins) are: (1) Joining others (as partners) in worship with Allāh, (2) to take a false oath (3) and to be undutiful to one’s parents,” or said, “to murder (someone unlawfully).”

٦٨٧١. Narrated Anas bin Mālik رَضِيَ اللَّهُ عَنْهُ: The Prophet ﷺ said, “The biggest of *Al-Kabā’ir* (the great sins) are: (1) To join others (as partners) in worship with Allāh, (2) to murder a human being, (3) to be undutiful to one’s parents, (4) and to make a false statement,” or said, “to give a false witness.”

٦٨٧٢. Narrated Usāma bin Zaid bin Hāritha رَضِيَ اللَّهُ عَنْهُمَا: Allāh’s Messenger ﷺ sent us (to fight) against Al-Ḥuraqa (one of

the subtribes) of Juhaina. We reached those people in the morning and defeated them. A man from the *Anṣār* and I chased one of their men and when we attacked him, he said, "*Lā ilāha illallāh*" (none has the right to be worshipped but Allāh). The *Anṣārī* refrained from killing him but I stabbed him with my spear till I killed him. When we reached (Al-Madīna), this news reached the Prophet ﷺ. He said to me, "O Usāma! You killed him after he had said, '*Lā ilāha illallāh*?' " I said, "O Allāh's Messenger! He said so in order to save himself." The Prophet said, "You killed him after he had said, '*Lā ilāha illallāh*' (None has the right to be worshipped but Allāh)." The Prophet ﷺ kept on repeating that statement till I wished I had not been a Muslim before that day.

6873. Narrated 'Ubāda bin Aṣ-Ṣāmit رضي الله عنه: I was among those *Naqīb* (selected leaders) who gave the *Bai'a* (pledge) to Allāh's Messenger ﷺ. We gave the *Bai'a* (pledge) that we would not join partners in worship to Allāh, would not steal, would not commit illegal sexual intercourse, would not kill a life which Allāh has forbidden, would not commit robbery, would not disobey (Allāh and His Messenger), and if we fulfilled this pledge we would have Paradise, but if we committed anyone of these (sins), then our case will be decided by Allāh.

أَبُو ظَبْيَانَ قَالَ: سَمِعْتُ أُسَامَةَ بْنَ زَيْدِ بْنِ حَارِثَةَ رَضِيَ اللَّهُ عَنْهُمَا يُحَدِّثُ قَالَ: بَعَثَنَا رَسُولُ اللَّهِ ﷺ إِلَى الْحَرَقَةِ مِنْ جُهَيْنَةَ، قَالَ: فَصَبَّحْنَا الْقَوْمَ فَهَرَمْنَاهُمْ، قَالَ: وَلَحِقْتُ أَنَا وَرَجُلٌ مِنَ الْأَنْصَارِ رَجُلًا مِنْهُمْ، قَالَ: فَلَمَّا غَشِينَاهُ قَالَ: لَا إِلَهَ إِلَّا اللَّهُ، قَالَ: فَكَفَّ عَنْهُ الْأَنْصَارِيُّ وَطَعَنَتْهُ بِرُمْحِي حَتَّى قَتَلْتُهُ. قَالَ: فَلَمَّا قَدِمْنَا بَلَغَ ذَلِكَ النَّبِيُّ ﷺ قَالَ: فَقَالَ لِي: «يَا أُسَامَةُ، أَقَتَلْتَهُ بَعْدَمَا قَالَ: لَا إِلَهَ إِلَّا اللَّهُ؟» قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ، إِنَّمَا كَانَ مُتَعَوِّذًا، قَالَ: «أَقَتَلْتَهُ بَعْدَ مَا قَالَ: لَا إِلَهَ إِلَّا اللَّهُ؟» قَالَ: فَمَا زَالَ يُكْرِرُهَا عَلَيَّ حَتَّى تَمَيَّنْتُ أَنِّي لَمْ أَكُنْ أَسْلَمْتُ قَبْلَ ذَلِكَ الْيَوْمِ. [راجع: ٤٢٦٩]

٦٨٧٣ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: حَدَّثَنِي اللَّيْثُ: حَدَّثَنِي يَزِيدُ، عَنْ أَبِي الْخَيْرِ، عَنِ الصَّنَابِغِيِّ، عَنْ عَبْدِ اللَّهِ بْنِ الصَّامِتِ رَضِيَ اللَّهُ عَنْهُ قَالَ: إِنِّي مِنَ الْقُتَبَاءِ الَّذِينَ بَايَعُوا رَسُولَ اللَّهِ ﷺ. بَايَعْنَاهُ عَلَى أَنْ لَا نُشْرِكَ بِاللَّهِ شَيْئًا، وَلَا نَزْنِي، وَلَا نَسْرِقَ، وَلَا نَقْتُلَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ، وَلَا نَنْهَبَ، وَلَا نَعْصِي، بِالْجَنَّةِ إِنْ غَشِينَا، فَإِنْ غَشِينَا مِنْ ذَلِكَ شَيْئًا كَانَ قَضَاءُ ذَلِكَ إِلَيَّ

الله. [راجع: ١٨]

6874. Narrated 'Abdullāh عنه رضي الله عنه: The Prophet ﷺ said, "Whoever carries arms against us, is not from us."

6875. Narrated Al-Aḥnaf bin Qais: I went to help that man (i.e., 'Alī), and on the way I met Abū Bakra who asked me, "Where are you going?" I replied, "I am going to help that man." He said, "Go back, for I heard Allāh's Messenger ﷺ saying, 'If two Muslims meet each other with their swords, then (both) the killer and the killed one are in the (Hell) Fire.' I said, 'O Allāh's Messenger! It is alright for the killer, but what about the killed one?' He said, 'The killed one was eager to kill his opponent.'"

(3) CHAPTER. The Statement of Allāh تعالى: "O you who believe! *Al-Qiṣāṣ* (the Law of Equality in punishment) is prescribed for you in case of murder: The free for the free, the slave for the slave, and the female for the female. But if the killer is forgiven by the brother (or the relatives) of the killed against blood-money, then adhering to it with fairness and payment of the blood-money to the heir should be made in fairness. This is an alleviation and a mercy from your Lord. So after this, whoever transgresses the limits, (i.e., kills the killer after taking the blood-money), he shall have a painful torment." (V.2:178)

٦٨٧٤ - حَدَّثَنَا مُوسَى بْنُ إِسْمَاعِيلَ: حَدَّثَنَا جُوَيْرِيَّةُ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: مَنْ حَمَلَ عَلَيْنَا السِّلَاحَ فَلَيْسَ مِنَّا. [انظر: ٧٠٧٠]  
رَوَاهُ أَبُو مُوسَى عَنِ النَّبِيِّ ﷺ.

٦٨٧٥ - حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ الْمُبَارَكِ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ: حَدَّثَنَا أَيُّوبُ وَيُونُسُ عَنِ الْحَسَنِ، عَنِ الْأَحْنَفِ بْنِ قَيْسٍ قَالَ: ذَهَبْتُ لِأَنْصُرَ هَذَا الرَّجُلَ، فَلَقِينِي أَبُو بَكْرَةَ، فَقَالَ: أَيْنَ تُرِيدُ؟ قُلْتُ: أَنْصُرَ هَذَا الرَّجُلَ. قَالَ: ارْجِعْ فَإِنِّي سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «إِذَا التَقَى الْمُسْلِمَانِ بِسَيفَيْهِمَا فَالْقَاتِلُ وَالْمَقْتُولُ فِي النَّارِ»، قُلْتُ: يَا رَسُولَ اللَّهِ، هَذَا الْقَاتِلُ فَمَا بَالُ الْمَقْتُولِ؟ قَالَ: «إِنَّهُ كَانَ حَرِيصًا عَلَى قَتْلِ صَاحِبِهِ». [راجع: ٣١]

(٣) بَابُ قَوْلِ اللَّهِ تَعَالَى: ﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ﴾  
الآية. [البقرة: ١٧٨]

(4) CHAPTER. To question the killer till he confesses; and confession in cases where Divinely prescribed punishments are imperative.

6876. Narrated Anas bin Mālik رَضِيَ اللهُ عَنْهُ: A Jew crushed the head of a girl between two stones, and the girl was asked, "Who has done that to you, so-and-so or so-and-so?" (Some names were mentioned for her) till the name of that Jew was mentioned (whereupon she nodded in agreement). The Jew was brought to the Prophet and the Prophet ﷺ kept on questioning him till he confessed, whereupon his head was crushed with stones.

(5) CHAPTER. If someone kills (somebody) with a stone or with a stick.

6877. Narrated Anas bin Mālik رَضِيَ اللهُ عَنْهُ: A girl wearing ornaments, went out at Al-Madīna. Somebody struck her with a stone. She was brought to the Prophet ﷺ while she was still alive. Allāh's Messenger ﷺ asked her, "Did such and such a person strike you?" She raised her head, denying that. He asked her a second time, saying, "Did so-and-so strike you?" She raised her head, denying that. He said for the third time, "Did so-and-so strike you?" She lowered her head, agreeing. Allāh's Messenger ﷺ then sent for the killer and killed him between two stones.

(6) CHAPTER. The Statement of Allāh تعالى: " (And We ordained therein for them :) 'Life

(٤) بَابُ سُؤَالِ الْقَاتِلِ حَتَّى يَقْرَأَ،  
وَالْإِقْرَارِ فِي الْحُدُودِ

٦٨٧٦ - حَدَّثَنَا حَجَّاجُ بْنُ مِنْهَالٍ: حَدَّثَنَا هَمَّامٌ، عَنْ قَتَادَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ: أَنَّ يَهُودِيًّا رَضَّ رَأْسَ جَارِيَةٍ بَيْنَ حَجَرَيْنِ فَقِيلَ لَهَا: مَنْ فَعَلَ بِكَ هَذَا؟ أَفُلَانٌ أَوْ فُلَانٌ؟ حَتَّى سُمِّيَ الْيَهُودِيُّ، فَأَتَى بِهِ النَّبِيُّ ﷺ فَلَمْ يَزَلْ بِهِ حَتَّى أَقْرَأَ فَرَضَ رَأْسَهُ بِالْحِجَارَةِ. [راجع: ٢٤١٣]

(٥) بَابُ: إِذَا قَتَلَ بِحَجَرٍ أَوْ بِعَصَا

٦٨٧٧ - حَدَّثَنَا مُحَمَّدٌ: قَالَ أَخْبَرَنَا عَبْدُ اللَّهِ بْنُ إِدْرِيسَ، عَنْ شُعْبَةَ، عَنْ هِشَامِ بْنِ زَيْدٍ بْنِ أَنَسٍ، عَنْ جَدِّهِ أَنَسِ بْنِ مَالِكٍ قَالَ: خَرَجَتْ جَارِيَةٌ عَلَيْهَا أَوْضَاحٌ بِالْمَدِينَةِ، قَالَ: فَرَمَاهَا يَهُودِيٌّ بِحَجَرٍ، قَالَ: فَجِئَ بِهَا إِلَى النَّبِيِّ ﷺ وَبِهَا رَمَقٌ، فَقَالَ لَهَا رَسُولُ اللَّهِ ﷺ: «فُلَانٌ قَتَلَكَ؟» فَرَفَعَتْ رَأْسَهَا، فَأَعَادَ عَلَيْهَا، قَالَ: «فُلَانٌ قَتَلَكَ؟» فَرَفَعَتْ رَأْسَهَا، فَقَالَ لَهَا فِي الثَّلَاثَةِ: «فُلَانٌ قَتَلَكَ؟» فَخَفَضَتْ رَأْسَهَا، فَدَعَا بِهِ رَسُولُ اللَّهِ ﷺ فَقَتَلَهُ بَيْنَ الْحَجَرَيْنِ. [راجع: ٢٤١٣]

(٦) بَابُ قَوْلِ اللَّهِ تَعَالَى: ﴿وَأَنَّ

for life, eye for eye, nose for nose, ear for ear, tooth for tooth and wounds equal for equal.' But if anyone remits the retaliation by way of charity, it shall be for him an expiation. And whosoever does not judge by that which Allāh has revealed, such are *Az-Zālimūn* (polytheists, oppressors and wrongdoers - of a lesser degree).” (V.5:45)

النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ  
[المائدة: ٤٥].

6878. Narrated ‘Abdullāh عنه رضي الله عنه: Allāh’s Messenger ﷺ said, “The blood of a Muslim who confesses that *Lā ilāha illallāh* (none has the right to be worshipped but Allāh) and that I am the Messenger of Allāh, cannot be shed except in three cases: (1) Life for life, (in cases of intentional murders without right, i.e., in *Qisās* - Law of Equality in punishment); (2) a married person who commits illegal sexual intercourse, and (3) the one who turns renegade from Islām (apostate) and leaves the group of Muslims (by innovating heresy, new ideas and new things, etc. in the Islāmic religion).”

[See *Fath-Al-Bārī* for details].

(7) CHAPTER. Whoever punished (a killer) with a stone (in retaliation).

6879. Narrated Anas عنه رضي الله عنه: A Jew killed a girl so that he may steal her ornaments. He struck her with a stone, and she was brought to the Prophet ﷺ while she was still alive. The Prophet ﷺ asked her, “Did such and such person strike you?” She gestured with her head, expressing denial. He asked her (naming such and such a person) for the second time, and she again gestured with her head, expressing denial. When he asked her for the third time, (naming such and such a person) she beckoned with her in the affirmative, as saying, “Yes.” So the Prophet ﷺ killed him

٦٨٧٨ - حَدَّثَنَا عُمَرُ بْنُ حَفْصٍ: حَدَّثَنَا أَبِي: حَدَّثَنَا الْأَعْمَشُ، عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ، عَنْ مَسْرُوقٍ، عَنْ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ، وَأَنِّي رَسُولُ اللَّهِ إِلَّا بِإِحْدَى ثَلَاثٍ: النَّفْسُ بِالنَّفْسِ، وَالثَّبِّبُ الزَّانِي، وَالْمُفَارِقُ لِدِينِهِ التَّارِكُ لِلْجَمَاعَةِ».

(٧) بَابٌ مَن أَقَادَ بِالْحَجَرِ

٦٨٧٩ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ، عَنْ هِشَامِ بْنِ زَيْدٍ، عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ: أَنَّ يَهُودِيًّا قَتَلَ جَارِيَّةً عَلَى أَوْصَاحٍ لَهَا فَقَتَلَهَا بِحَجَرٍ فَجَاءَ بِهَا إِلَى النَّبِيِّ ﷺ وَبِهَا رَمَقٌ فَقَالَ: «أَقْتَلَكِ؟» فَأَشَارَتْ بِرَأْسِهَا أَنْ لَا، ثُمَّ قَالَ فِي الثَّانِيَةِ فَأَشَارَتْ بِرَأْسِهَا أَنْ لَا، ثُمَّ سَأَلَهَا الثَّالِثَةَ فَأَشَارَتْ بِرَأْسِهَا



(the Jew) with two stones.

(8) CHAPTER. The relative of the killed person has the right to choose one of two compensations (i.e., to have the killer killed, or to accept blood-money).

6880. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: In the year of the conquest of Makkah, the tribe of Khuzā'a killed a man from the tribe of Banī Laith in revenge for a killed person belonging to them in the Pre-Islāmic Period of Ignorance. So Allāh's Messenger ﷺ got up saying, "Allāh held back the (army having) elephants from Makkah, but He let His Messenger and the believers overpower the infidels (of Makkah). Beware! (Makkah is a sanctuary)! Verily! Fighting in Makkah was not permitted for anybody before me, nor will it be permitted for anybody after me. It was permitted for me only for a while (an hour or so) of that day. No doubt! It is at this moment a sanctuary; its thorny shrubs should not be uprooted; its trees should not be cut down; and its *Luqaṭa* (fallen things) should not be picked up except by the one who would look for its owner. And if somebody is killed, his closest relative has the right to choose one of two things, i.e., either the blood-money or retaliation by having the killer killed." Then a man from Yemen, called Abū Shāh, stood up and said, "Write (that) for me, O Allāh's Messenger!" Allāh's Messenger ﷺ said (to his Companions), "Write that for Abū Shāh." Then another man from Quraish got up, saying, "O Allāh's Messenger! Except *Al-Idhkhir* (a special kind of grass) as we use it in our houses and for graves." Allāh's Messenger ﷺ said, "Except *Al-Idhkhir*." (1)

أَي نَعَمْ. فَقَتَلَهُ النَّبِيُّ ﷺ بِحَجَرَيْنِ.

[راجع: ٢٤١٣]

(٨) بَابٌ مَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخِيَرِ النَّظَرَيْنِ

٦٨٨٠ - حَدَّثَنَا أَبُو نَعِيمٍ: حَدَّثَنَا شَيْبَانُ، عَنْ يَحْيَى، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ خُزَاعَةَ قَتَلُوا رَجُلًا. وَقَالَ عَبْدُ اللَّهِ بْنُ رَجَاءٍ: حَدَّثَنَا حَرْبٌ، عَنْ يَحْيَى: حَدَّثَنَا أَبُو سَلَمَةَ: حَدَّثَنَا أَبُو هُرَيْرَةَ: أَنَّهُ عَامَ فَتْحِ مَكَّةَ قَتَلَتْ خُزَاعَةُ رَجُلًا مِنْ بَنِي لَيْثٍ بِقَتِيلٍ لَهُمْ فِي الْجَاهِلِيَّةِ، فَقَامَ رَسُولُ اللَّهِ ﷺ فَقَالَ: «إِنَّ اللَّهَ حَبَسَ عَنْ مَكَّةَ الْفِيلَ وَسَلَّطَ عَلَيْهِمْ رَسُولَهُ وَالْمُؤْمِنِينَ، أَلَا وَإِنَّهَا لَمْ تَحِلَّ لِأَحَدٍ قَبْلِي، وَلَا تَحِلُّ لِأَحَدٍ بَعْدِي أَلَا وَإِنَّمَا أُحِلَّتْ لِي سَاعَةٌ مِنْ نَهَارٍ، أَلَا وَإِنَّهَا سَاعَتِي هَذِهِ حَرَامٌ، لَا يُخْتَلَى شَوْكُهَا وَلَا يُعْصَدُ شَجَرُهَا وَلَا يُلْتَقَطُ سَاقِطَتُهَا إِلَّا مُنْشِدٌ. وَمَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخِيَرِ النَّظَرَيْنِ، إِمَّا يُودَى وَإِمَّا يُقَادُ». فَقَامَ رَجُلٌ مِنْ أَهْلِ الْيَمَنِ يُقَالُ لَهُ: أَبُو شَاءٍ، فَقَالَ: أَكْتُبْ لِي يَا رَسُولَ اللَّهِ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «اكْتُبُوا لِأَبِي شَاءٍ». ثُمَّ قَامَ رَجُلٌ مِنْ قُرَيْشٍ فَقَالَ: يَا رَسُولَ اللَّهِ، إِلَّا

(1) (H. 6880) *Al-Idhkhir* is permitted to be cut in Makkah.

إِلَّا ذَخِرَ فَإِنَّمَا نَجْعَلُهُ فِي بُيُوتِنَا  
وَقُبُورِنَا. فَقَالَ رَسُولُ اللَّهِ ﷺ: «إِلَّا  
إِلَّا ذَخِرَ».

وَتَابَعَهُ عُيَيْدُ اللَّهِ عَنْ شَيْبَانَ فِي  
«الْفِيلِ». وَقَالَ بَعْضُهُمْ عَنْ أَبِي  
نُعَيْمٍ: «الْقَتْلُ»، وَقَالَ عُيَيْدُ اللَّهِ «إِمَّا  
أَنْ يُقَادَ أَهْلُ الْقَتِيلِ». [راجع: ١١٢]

6881. Narrated Ibn 'Abbās رَضِيَ اللَّهُ عَنْهُمَا:  
For the Children of Isrā'el, the punishment  
for crime was *Al-Qiṣās* only (i.e., the Law of  
Equality in punishment) and the payment of  
blood-money was not permitted as an  
alternate. But Allāh said to this nation  
(Muslims):

'O you who believe! *Al-Qiṣās*<sup>(1)</sup> (the Law  
of Equility in punishment) is prescribed for  
you in case of murder, .. (up to)... But if the  
killer is forgiven by the brother (or the  
relatives) of the killed against blood-  
money..." (V.2:178)

Ibn 'Abbās added: Forgiveness in this  
Verse, means to accept the blood-money in  
an intentional murder. Ibn 'Abbās added:  
The Verse:

"... (Then adhering to it) with fairness  
and payment of the blood-money to the heir  
should be made in fairness..." (V.2:178)

means that the demand should be  
reasonable and it is to be paid to the heir in  
fairness.

(9) CHAPTER. Whoever seeks to shed  
somebody's blood without any right.

6882. Narrated Ibn 'Abbās رَضِيَ اللَّهُ عَنْهُمَا:  
The Prophet ﷺ said, "The most hated  
persons to Allāh are three: (1) A person

٦٨٨١ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ:  
حَدَّثَنَا سُفْيَانُ، عَنْ عَمْرِو، عَنْ  
مُجَاهِدٍ، عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ  
عَنْهُمَا قَالَ: كَانَتْ فِي بَنِي إِسْرَائِيلَ  
قِصَاصٌ وَلَمْ تَكُنْ فِيهِمُ الدِّيَّةُ، فَقَالَ  
اللَّهُ لِهَذِهِ الْأُمَّةِ ﴿كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي  
الْقَتْلِ﴾ إِلَى هَذِهِ الْآيَةِ ﴿فَمَنْ عَفَى لَمْ يَنْ  
أَجِدْ سَقً﴾ قَالَ ابْنُ عَبَّاسٍ: فَالْعَفْوُ  
أَنْ يَقْبَلَ الدِّيَّةُ فِي الْعَمْدِ، قَالَ:  
﴿فَأَيُّهَا بِالْمَعْرُوفِ﴾ أَنْ يَطْلَبَ بِمَعْرُوفٍ  
وَيُؤَدَّى بِإِحْسَانٍ. [راجع: ٤٤٩٨]

(٩) بَابُ مَنْ طَلَبَ دَمَ امْرِئٍ بِغَيْرِ  
حَقٍّ

٦٨٨٢ - حَدَّثَنَا أَبُو الْيَمَانِ:  
أَخْبَرَنَا شُعَيْبٌ، عَنْ عَبْدِ اللَّهِ بْنِ أَبِي

(1) (H. 6881) See the glossary.

who deviates from the right conduct (i.e., an evil-doer) in the *Haram* (sanctuaries of Makkah and Al-Madina); (2) a person who wants that the traditions of the Pre-Islamic Period of Ignorance should remain in Islām; (3) and a person who seeks to shed somebody's blood without any right."

**(10) CHAPTER. Excusing somebody who killed another by mistake.**

6883. Narrated 'Āishah رَضِيَ اللَّهُ عَنْهَا: *Al-Mushrikūn* were defeated on the day (of the battle) of Uḥud. "

Satan shouted among the people on the day of Uḥud, 'O Allāh's worshippers! Beware of what is behind you!' So, the front file of the army attacked the back files (mistaking them for the enemy) till they killed Al-Yamān. Hudhaifa (bin Al-Yamān) shouted, 'My father! My father!' But they killed him. Hudhaifa said, 'May Allāh forgive you.' " (The subnarrator added: Some of the defeated *Mushrikūn* fled till they reached Tā'if).

**(11) CHAPTER. The Statement of Allāh تعالى:**  
"It is not for a believer to kill a believer except (that it be) by mistake, and whosoever kills a believer by mistake, (it is ordained that) he must set free a believing slave and a compensation (blood-money i.e., *Diya*) be given to the deceased's family, unless they remit it. If the deceased belonged to a people

حُسَيْن: حَدَّثَنَا نَافِعُ بْنُ جُبَيْرٍ، عَنْ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «أَبْغَضُ النَّاسِ إِلَى اللَّهِ ثَلَاثَةٌ: مُلْحِدٌ فِي الْحَرَمِ، وَمُبْتَغٍ فِي الْإِسْلَامِ سَنَةً الْجَاهِلِيَّةِ، وَمُطْلَبٌ دَمَ امْرِئٍ يَغِيرُ حَقَّ لِيُهِرِقَ دَمَهُ».

**(١٠) بَابُ الْعُفْوِ فِي الْخَطَأِ بَعْدَ الْمَوْتِ**

٦٨٨٣ - حَدَّثَنَا فَرْوَةُ: حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ: هُزِمَ الْمُشْرِكُونَ يَوْمَ أُحُدٍ. وَحَدَّثَنِي مُحَمَّدُ بْنُ حَرْبٍ: حَدَّثَنَا أَبُو مَرْوَانَ يَحْيَى بْنُ أَبِي زَكَرِيَّا، عَنْ هِشَامٍ، عَنْ غُرُورَةَ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: صَرَخَ إِبْلِيسُ يَوْمَ أُحُدٍ فِي النَّاسِ: يَا عِبَادَ اللَّهِ أَخْرَاكُمْ. فَرَجَعَتْ أُولَاهُمْ عَلَى أَخْرَاهُمْ حَتَّى قَتَلُوا الْيَمَانَ. فَقَالَ حُذَيْفَةُ: أَبِي أَبِي، فَقَتَلُوهُ، فَقَالَ حُذَيْفَةُ: غَفَرَ اللَّهُ لَكُمْ. قَالَ: وَقَدْ كَانَ انْهَزَمَ مِنْهُمْ قَوْمٌ حَتَّى لَحِقُوا بِالطَّائِفِ. [راجع: ٣٢٩٠]

**(١١) بَابُ قَوْلِ اللَّهِ تَعَالَى: ﴿وَمَا كَانَ لِلْمُؤْمِنِ أَنْ يَقْتُلَ مُؤْمِنًا إِلَّا خَطَاً﴾ [الأنعام: ٩٢]**

at war with you and he was a believer; the freeing of a believing slave (is prescribed), and if he belonged to a people with whom you have a treaty of mutual alliance, compensation must be paid to his family, and a believing slave must be freed. And whoso finds this (the penance of freeing a slave) beyond his means, he must observe fast for two consecutive months in order to seek repentance from Allāh. And Allāh is ever All-Knowing, All-Wise.” (V.4:92)

(12) CHAPTER. If a killer confesses once, he should be killed.

6884. Narrated Anas bin Mālik رَضِيَ اللهُ عَنْهُ: A Jew crushed the head of a girl between two stones. It was said to her, “Who has done this to you, such and such person, such and such person?” When the name of the Jew was mentioned, she nodded with her head, agreeing. So the Jew was brought and he confessed. The Prophet ﷺ ordered that his head be crushed with the stones. (Hammām said, “with two stones”).

(13) CHAPTER. Killing a man for having killed a woman.

6885. Narrated Anas bin Mālik رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ killed a Jew for killing a girl in order to take her ornaments.

(١٢) بَابُ: إِذَا أَقَرَّ بِالْقَتْلِ مَرَّةً قُتِلَ بِهِ

٦٨٨٤ - حَدَّثَنَا إِسْحَاقُ: أَخْبَرَنَا حَبَّانُ: حَدَّثَنَا هَمَّامٌ: حَدَّثَنَا قَتَادَةُ: حَدَّثَنَا أَنَسُ بْنُ مَالِكٍ أَنَّ يَهُودِيًّا رَضَّ رَأْسَ جَارِيَةٍ بَيْنَ حَجَرَيْنِ، فَقِيلَ لَهَا: مَنْ فَعَلَ بِكَ هَذَا: أَفُلَانُ؟ أَفُلَانُ؟ حَتَّى سُمِّيَ الْيَهُودِيُّ فَأَوْمَأَتْ بِرَأْسِهَا، فَجِئَءَ بِالْيَهُودِيِّ فَأَعْتَرَفَ فَأَمَرَ بِهِ النَّبِيُّ ﷺ قَرْصَ رَأْسِهِ بِالْحِجَارَةِ. وَقَدْ قَالَ هَمَّامٌ: بِحَجَرَيْنِ.

[راجع: ٢٤١٣]

(١٣) بَابُ قَتْلِ الرَّجُلِ بِالْمَرْأَةِ

٦٨٨٥ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ: حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ رَضِيَ اللهُ عَنْهُ: أَنَّ النَّبِيَّ ﷺ قَتَلَ يَهُودِيًّا بِجَارِيَةٍ، قَتَلَهَا عَلَى أَوْصَاحِ لَهَا.

[راجع: ٢٤١٣]

**(14) CHAPTER. *Al-Qiṣās* (Law of Equality in punishment) in cases of injury among men and women.**

And religious learned people said, "A man should be killed if he has killed a woman."

It is related that 'Umar said, "A man should be punished with the law of *Al-Qiṣās* for intentionally inflicting a woman with a wound or injury. Punishment may be the loss of his life or the receiving of similar wounds."

'Umar bin 'Abdul-'Azīz, Ibrāhīm, and Abū Az-Zinād agreed to that. The sister of Ar-Rubaī' wounded somebody whereupon the Prophet ﷺ gave the judgement of *Al-Qiṣās*.

6886. Narrated 'Āishah رَضِيَ اللَّهُ عَنْهَا: We poured medicine into the mouth of the Prophet ﷺ during his ailment. He said, "Don't pour medicine into my mouth." (We thought he said that) out of the aversion a patient usually has for medicines. When he improved and felt better he said, "There is none of you but will be forced to drink medicine, except Al-'Abbās, for he did not witness your deed."

**(15) CHAPTER. Whoever took his right or retaliation from somebody without submitting the case to the ruler.**

6887. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ saying, that he heard Allāh's Messenger ﷺ saying, "We (Muslims) are the last (to come) but (will be) the foremost (on the Day of Resurrection)."

**(١٤) بَابُ الْقِصَاصِ بَيْنَ الرِّجَالِ وَالنِّسَاءِ فِي الْجَرَاحَاتِ،**

وَقَالَ أَهْلُ الْعِلْمِ: يُقْتَلُ الرَّجُلُ بِالْمَرْأَةِ. وَيُذَكَّرُ عَنْ عُمَرَ: تُقَادُ الْمَرْأَةُ مِنَ الرَّجُلِ فِي كُلِّ عَمْدٍ يُلْغُ نَفْسَهُ فَمَا دُونَهَا مِنَ الْجَرَاحِ، وَبِهِ قَالَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ، وَإِبْرَاهِيمُ، وَأَبُو الزِّنَادِ عَنْ أَصْحَابِهِ. وَجَرَحَتْ أُخْتُ الرُّبَيْعِ إِنْسَانًا، فَقَالَ النَّبِيُّ ﷺ: «الْقِصَاصُ».

٦٨٨٦ - حَدَّثَنَا عَمْرُو بْنُ عَلِيٍّ: حَدَّثَنَا يَحْيَى: حَدَّثَنَا سُفْيَانُ: حَدَّثَنَا مُوسَى بْنُ أَبِي عَائِشَةَ، عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: لَدَدْنَا النَّبِيَّ ﷺ فِي مَرَضِهِ فَقَالَ: «لَا تَلْدُونِي»، فَقُلْنَا: كَرَاهِيَةُ الْمَرِيضِ لِلدَّوَاءِ، فَلَمَّا أَفَاقَ قَالَ: «لَا يَبْقَى أَحَدٌ مِنْكُمْ إِلَّا لَدَّ غَيْرَ الْعَبَّاسِ فَإِنَّهُ لَمْ يَشْهَدْكُمْ». [راجع: ٤٤٥٨]

**(١٥) بَابُ مَنْ أَخَذَ حَقَّهُ أَوْ اقْتَصَصَ دُونَ السُّلْطَانِ**

٦٨٨٧ - حَدَّثَنَا أَبُو الْيَمَانِ: أَخْبَرَنَا شُعَيْبٌ: حَدَّثَنَا أَبُو الزِّنَادِ أَنَّ الْأَعْرَجَ حَدَّثَهُ: أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ: إِنَّهُ سَمِعَ رَسُولَ اللَّهِ ﷺ يَقُولُ: «نَحْنُ الْآخِرُونَ السَّابِقُونَ يَوْمَ الْقِيَامَةِ». [راجع: ٢٣٨]

**6888.** [H. 6887 contd.] Abu Hurairah added, "If someone is peeping (looking secretly) into your house without your permission, and you throw a stone at him and destroy his eyes, there will be no sin on you." (See H. 6902)

**6889.** Narrated Yahyā : Humaid said, "A man peeped into the house of the Prophet ﷺ and the Prophet ﷺ aimed an arrow head at him to hit him." I asked, "Who told you that?" He said, "Anas bin Mālik."

[See *Hadīth* No.6241 and 6242].

**(16) CHAPTER. If someone dies or is killed in a big crowd.**

**6890.** Narrated 'Āishah رَضِيَ اللَّهُ عَنْهَا: When it was the day of (the battle of) Uhud, *Al-Mushrikūn* were defeated. Then Satan shouted, "O Allāh's worshippers! Beware of what is behind you!" So, the front files attacked the back files of the army. Hudhaifa looked, and behold, there was his father, Al-Yamān (being attacked)! He shouted (to his companions), "O Allāh's worshippers! My father! My father!" But by Allāh, they did not stop till they killed him (i.e., Hudhaifa's father). Hudhaifa said, "May Allāh forgive you." Urwa said, "Hudhaifa continued asking Allāh's forgiveness for the killer of his father till he died."

**(17) CHAPTER. If someone kills himself by mistake then there is no *Diya* (blood-money) for him.**

**6891.** Narrated Salama : We went out with the Prophet ﷺ to Khaibar. A man (from the Companions) said, "O 'Āmir! Let us hear

٦٨٨٨ - وَيَأْسِنَادُهُ: «لَوْ أَطْلَعَ فِي بَيْتِكَ أَحَدٌ وَلَمْ تَأْذُنْ لَهُ، خَذَفْتُهُ بِحَصَاةٍ فَفَقَأَتْ عَيْنَهُ مَا كَانَ عَلَيْكَ مِنْ جُنَاحٍ». [انظر: ٦٩٠٢]

٦٨٨٩ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا يَحْيَى، عَنْ حُمَيْدٍ أَنَّ رَجُلًا أَطْلَعَ فِي بَيْتِ النَّبِيِّ ﷺ فَسَدَدَ إِلَيْهِ وَمَشَقَّصًا، فَقُلْتُ: مَنْ حَدَّثَكَ؟ قَالَ: أَنَسُ بْنُ مَالِكٍ. [راجع: ٦٢٤٢]

**(١٦) بَابُ: إِذَا مَاتَ فِي الزَّحَامِ أَوْ قُتِلَ بِهِ**

٦٨٩٠ - حَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ: أَخْبَرَنَا أَبُو أُسَامَةَ قَالَ: هِشَامٌ أَخْبَرَنَا عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: لَمَّا كَانَ يَوْمُ أُحُدٍ هُزِمَ الْمُشْرِكُونَ فَصَاحَ إِبْلِيسُ: أَيُّ عِبَادِ اللَّهِ، أَخْرَأَكُمْ، فَرَجَعْتَ أَوْلَاهُمْ فَاجْتَلَدَتْ هِيَ وَأَخْرَأَهُمْ فَظَنَرُ حُدَيْفَةَ فَإِذَا هُوَ بِأَبِيهِ الْيَمَانِ، فَقَالَ: أَيُّ عِبَادِ اللَّهِ، أَبِي أَبِي، قَالَتْ: فَوَاللَّهِ مَا اخْتَجَزُوا حَتَّى قَتَلُوهُ، قَالَ حُدَيْفَةُ: غَفَرَ اللَّهُ لَكُمْ. قَالَ عُرْوَةُ: فَمَا زَالَتْ فِي حُدَيْفَةَ مِنْهُ بَقِيَّةٌ حَتَّى لَحِقَ بِاللَّهِ.

[راجع: ٣٢٩٠]

**(١٧) بَابُ: إِذَا قَتَلَ نَفْسَهُ خَطَأً فَلَا دِيَّةَ لَهُ**

٦٨٩١ - حَدَّثَنَا الْمَكِّيُّ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا يَزِيدُ بْنُ أَبِي عُبَيْدٍ،

some of your *Hudā* (camel-driving songs)". So he sang some of them (i.e., a lyric in harmony with the camels' footsteps). The Prophet ﷺ said, "Who is the driver (of these camels)?" They said, "‘Āmir." The Prophet ﷺ said, "May Allāh bestow His Mercy on him!"<sup>(1)</sup> The people said, "O Allāh's Messenger! Would that you let us enjoy his company longer!" Then ‘Āmir was killed the following morning. The people said, "The good deeds of ‘Āmir are lost as he has killed himself."<sup>(2)</sup> I returned at the time while they were talking about that. I went to the Prophet ﷺ and said, "O Allāh's Prophet! Let my father be sacrificed for you! The people claim that ‘Āmir's good deeds are lost." The Prophet ﷺ said, "Whoever says so is a liar, for ‘Āmir will have a double reward as he exerted himself to obey Allāh and fought in Allāh's Cause. No other way of killing would have granted him greater reward."

**(18) CHAPTER. If somebody bites a man and has his one tooth broken.**

**6892.** Narrated ‘Imrān bin Ḥuṣayn : A man bit another man's hand and the latter pulled his hand out of his mouth by force, causing two of his incisors (teeth) to fall out. They submitted their case to the Prophet ﷺ, who said, "One of you bit his brother as a male camel bites. (Go away), there is no *Diya* (blood-money) for you."

**6893.** Narrated Ya'la : I went out in one of

عَنْ سَلَمَةَ قَالَ: خَرَجْنَا مَعَ النَّبِيِّ ﷺ إِلَى خَيْبَرَ فَقَالَ رَجُلٌ مِنْهُمْ: أَسْمِعْنَا يَا عَامِرُ مِنْ هُنَيَاتِكَ، فَحَدَّثَ بِهِمْ. فَقَالَ النَّبِيُّ ﷺ: «مَنْ السَّائِقُ؟» قَالُوا: عَامِرٌ، فَقَالَ: «رَحِمَهُ اللَّهُ»، فَقَالُوا: يَا رَسُولَ اللَّهِ، هَلَّا أَمْتَعْتَنَا بِهِ؟ فَأَصِيبَ صَبِيحَةَ لَيْلَتِهِ، فَقَالَ الْقَوْمُ: حَبِطَ عَمَلُهُ، قَتَلَ نَفْسَهُ. فَلَمَّا رَجَعْتُ وَهُمْ يَتَحَدَّثُونَ أَنَّ عَامِرًا حَبِطَ عَمَلُهُ فَجِئْتُ إِلَى النَّبِيِّ ﷺ فَقُلْتُ: يَا نَبِيَّ اللَّهِ، فِدَاكَ أَبِي وَأُمِّي، زَعَمُوا أَنَّ عَامِرًا حَبِطَ عَمَلُهُ. فَقَالَ: «كَذَبَ مَنْ قَالَهَا، إِنَّ لَهُ لَأَجْرَيْنِ اثْنَيْنِ: إِنَّهُ لَجَاهِدٌ مُجَاهِدٌ، وَأَيُّ قَتْلِ بَرِيدُهُ عَلَيْهِ». [راجع: ٢٤٧٧]

**(١٨) بَاب إِذَا عَضَّ رَجُلًا فَوَقَعَتْ ثَنَائِيَا**

**٦٨٩٢ -** حَدَّثَنَا آدَمُ: حَدَّثَنَا شُعْبَةُ: حَدَّثَنَا قَتَادَةُ قَالَ: سَمِعْتُ زُرَّارَةَ بْنَ أَوْفَى عَنْ عِمْرَانَ بْنِ حُصَيْنٍ: أَنَّ رَجُلًا عَضَّ يَدَ رَجُلٍ فَفَرَعَ يَدَهُ مِنْ فَمِهِ فَوَقَعَتْ ثَنَائِيَا. فَأَخْتَصَمُوا إِلَى النَّبِيِّ ﷺ فَقَالَ: «بَعْضُ أَحَدِكُمْ أَخَاهُ كَمَا يَعْضُ الْفَحْلُ! لَا دِيَّةَ لَهُ».

**٦٨٩٣ -** حَدَّثَنَا أَبُو عَاصِمٍ، عَنْ

(1) (H.6891) The Prophet ﷺ anticipated ‘Āmir's martyrdom.

(2) (H.6891) ‘Āmir tried to hit a Jew with his sword, but the sword accidentally turned towards himself and killed him, so he killed himself accidentally.

the *Ghazwa*<sup>(1)</sup> and a man bit another man and as a result, an incisor tooth of the former was pulled out. The Prophet ﷺ cancelled the case.

(19) CHAPTER. Tooth for tooth.

6894. Narrated Anas رَضِيَ اللهُ عَنْهُ: The daughter of An-Naḍr slapped a girl and broke her incisor tooth. They (the relatives of that girl), came to the Prophet ﷺ and he gave the order of *Al-Qiṣāṣ* (equality in punishment).

(20) CHAPTER. The *Diya* for (cutting) fingers.

6895. Narrated Ibn 'Abbās رَضِيَ اللهُ عَنْهُمَا: The Prophet ﷺ said, "This and this are the same." He meant the little finger and the thumb.<sup>(2)</sup>

Narrated Ibn 'Abbās رَضِيَ اللهُ عَنْهُمَا: I heard the Prophet ﷺ (saying the same as above).

(21) CHAPTER. If a group of people have killed or injured one man, will all of them have to give the *Diya* or be punished with the law of *Al-Qiṣāṣ* (equality in punishment)?

Narrated Muṭarrif from Ash-Sha'bī: Two men bore witness against a man whom they

أَبْنِ جُرَيْجٍ، عَنْ عَطَاءٍ، عَنْ صَفْوَانَ بْنِ يَعْلَى، عَنْ أَبِيهِ قَالَ: خَرَجْتُ فِي غَزْوَةٍ فَعَصَّ رَجُلٌ فَأَنْتَرَعَ ثِيْبَتَهُ فَأَبْطَلَهَا النَّبِيُّ ﷺ. [راجع: ١٨٤٧]

(١٩) بَابُ: «وَالْيَسَنُ بِالْيَسَنِ» [المائدة: ٤٥]

٦٨٩٤ - حَدَّثَنَا الْأَنْصَارِيُّ: حَدَّثَنَا حُمَيْدٌ، عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ ابْنَةَ النَّضْرِ لَطَمَتْ جَارِيَةً فَكَسَرَتْ ثِيْبَتَهَا، فَأَتُوا النَّبِيَّ ﷺ فَأَمَرَ بِالْقِصَاصِ.

(٢٠) بَابُ دِيَةِ الْأَصَابِعِ

٦٨٩٥ - حَدَّثَنَا آدَمُ: حَدَّثَنَا شُعْبَةُ، عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «هَذِهِ وَهَذِهِ سَوَاءٌ»، يَعْنِي الْخِنْصَرَ وَالْإِبْهَامَ.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو عَدِيٍّ، عَنْ شُعْبَةَ، عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ نَحْوَهُ.

(٢١) بَابُ: إِذَا أَصَابَ قَوْمٌ مِنْ رَجُلٍ: هَلْ يُعَاقَبُ أَوْ يَقْتَصُّ مِنْهُمْ كُلُّهُمْ؟

وَقَالَ مُطَرِّفٌ عَنِ الشَّعْبِيِّ فِي رَجُلَيْنِ شَهِدَا عَلَى رَجُلٍ أَنَّهُ سَرَقَ

(1) (H.6893) *Ghazwa*: A holy battle led by the Prophet ﷺ.

(2) (H.6895) The *Diya* (blood-money) is the same for each finger.



accused of theft. 'Alī cut off his hand. Then they brought another man and said (to 'Alī), "We have committed a mistake (by accusing the first man)." 'Alī regarded their former witness as invalid and took from them the *Diya* for being the cause of cutting off the hand of the first man, and said, "If I were of the opinion that you have intentionally given a false witness, I would cut off your hands."

**6896.** Ibn 'Umar said: A boy was assassinated. 'Umar said, "If all the people of Ṣan'a'<sup>(1)</sup> took part in the assassination I would kill them all."

Al-Mughīra bin Ḥakīm said that his father said, "Four persons killed a boy, and 'Umar said (as above)."

Abū Bakr, Ibn Az-Zubair, 'Alī and Suwaid bin Muqarrin gave the judgement of *Al-Qiṣāṣ* (equality in punishment) in cases of slapping. And 'Umar carried out *Al-Qiṣāṣ* for a strike with a stick. And 'Alī carried out *Al-Qiṣāṣ* for three lashes with a whip. And *Shuraiḥ* carried out for one lash and for scratching.

**6897.** Narrated 'Āishah رَضِيَ اللهُ عَنْهَا: We poured medicine into the mouth of Allāh's Messenger ﷺ during his illness, and he pointed out to us intending to say, "Don't pour medicine into my mouth." We thought that his refusal was out of the aversion a patient usually has for medicine. When he improved and felt a bit better, he said (to us), "Didn't I forbid you to pour medicine into my mouth?" We said, "We thought (you did so) because of the aversion one usually has for medicine." Allāh's Messenger ﷺ said,

فَقَطَعَهُ عَلَيَّ، ثُمَّ جَاءَ بِآخَرَ وَقَالَا: أخطأنا. فَأَبْطَلْ شَهَادَتَهُمَا وَأَخَذْ بِدِيَةِ الْأَوَّلِ. وَقَالَ: لَوْ عَلِمْتُ أَنَّكُمَا تَعَمَّدْتُمَا لَقَطَعْتُكُمَا.

٦٨٩٦ - رَقَالَ لِي ابْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى، عَنْ عُبَيْدِ اللَّهِ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ غُلَامًا قُتِلَ غِيلَةً، فَقَالَ عُمَرُ: لَوْ اشْتَرَكَ فِيهَا أَهْلُ صَنْعَاءَ لَقَتَلْتُهُمْ.

وَقَالَ مُغِيرَةُ بْنُ حَكِيمٍ، عَنْ أَبِيهِ: إِنَّ أَرْبَعَةً قَتَلُوا صَبِيًّا فَقَالَ عُمَرُ... مِثْلُهُ.

وَأَفَادَ أَبُو بَكْرٍ، وَابْنُ الزُّبَيْرِ، وَعَلِيٌّ، وَسُوَيْدُ بْنُ مَقْرَرٍ مِنْ لَطْمَةٍ. وَأَفَادَ عُمَرُ مِنْ ضَرْبَةٍ بِالْدَّرَّةِ. وَأَفَادَ عَلِيٌّ مِنْ ثَلَاثَةِ أَصْوَابٍ. وَاقْتَصَّ شُرَيْحٌ مِنْ سَوْطٍ وَخُمُوشٍ.

٦٨٩٧ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا يَحْيَى، عَنْ سُفْيَانَ: حَدَّثَنَا مُوسَى بْنُ أَبِي عَائِشَةَ، عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ قَالَ: قَالَتْ عَائِشَةُ: لَدَدْنَا رَسُولَ اللَّهِ ﷺ فِي مَرَضِهِ وَجَعَلَ يُبِيرُ إِلَيْنَا: «لَا تَلْدُونِي»، قَالَ: فَقُلْنَا: كَرَاهِيَةً الْمَرِيضِ بِالْذَوَاءِ، فَلَمَّا أَفَاقَ قَالَ: «أَلَمْ أَنْهَكُنَّ أَنْ تَلْدُونِي؟» قَالَ: قُلْنَا:

(1) (H. 6896) The capital of Yemen.

“There is none of you but will be forced to drink medicine, and I will watch you, except Al-‘Abbās, for he did not witness this act of yours.”

**(22) CHAPTER. *Al-Qasāma* [the oath taken by fifty people (of the defendant) regarding a murder case when no evidence is available].**

Al-Ash‘ath bin Qaiṣ said: The Prophet ﷺ said (to a plaintiff), “You should bring two witnesses, otherwise the defendant will be asked to take an oath (in case of denial).”

Ibn Abī Mulaika said: Mu‘āwiya didn’t carry out the penalty of *Al-Qiṣāṣ*<sup>(1)</sup> (equality in punishment) according to *Al-Qasāma*.

‘Umar bin ‘Abdul-‘Azīz wrote to ‘Adī bin Arṭāh whom he had appointed governor of Al-Baṣrah, regarding a person who has been found (murdered) near one of the houses of the oil merchants: “If the relatives of the deceased proved their claim (by presenting witnesses), (then kill the killer); otherwise, do not oppress (wrong) the people, as this case may remain pending till the Day of Resurrection.”

**6898.** Narrated Sahl bin Abī Ḥathma (a man from the *Anṣār*) that a number of people from his tribe went to Khaibar and dispersed, and then they found one of them murdered. They said to the people with whom the corpse had been found, “You have killed our companion!” Those people said, “Neither have we killed him nor do we know his killer.” The bereaved group went to the Prophet ﷺ and said, “O Allāh’s Messenger! We went to Khaibar and found one of us murdered.” The Prophet ﷺ said, “Let the older among you come forward and speak.” Then the Prophet ﷺ said to them, “Bring

كِرَاهِيَةً لِلدَّوَاءِ. فَقَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَبْقَى مِنْكُمْ أَحَدٌ إِلَّا لُدَّ، وَأَنَا أَنْظُرُ إِلَّا الْعَبَّاسَ فَإِنَّهُ لَمْ يَشْهَدْكُمْ».

[راجع: ٤٤٥٨]

**(٢٢) بَابُ الْقَسَامَةِ،**

وَقَالَ الْأَشْعَثُ بْنُ قَيْسٍ: قَالَ النَّبِيُّ ﷺ: «شَاهِدَاكَ أَوْ يَمِينُهُ».

وَقَالَ ابْنُ أَبِي مُلَيْكَةَ: لَمْ يَقَدْ بِهَا مُعَاوِيَةُ.

وَكَتَبَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ إِلَى عَدِيِّ بْنِ أَرْطَاةَ، وَكَانَ أَمْرُهُ عَلَى الْبَصْرَةِ، فِي قَتِيلٍ وَجَدَ عِنْدَ بَيْتٍ مِنْ بُيُوتِ السَّمَانِينَ: إِنَّ وَجَدَ أَصْحَابُهُ بَيِّنَةً وَإِلَّا فَلَا تَطْلِمِ النَّاسَ، فَإِنَّ هَذَا لَا يُقْضَى فِيهِ إِلَى يَوْمِ الْقِيَامَةِ.

٦٨٩٨ - حَدَّثَنَا أَبُو نَعِيمٍ: حَدَّثَنَا

سَعِيدُ بْنُ عُبَيْدٍ، عَنْ بُشَيْرِ بْنِ يَسَارٍ: رَزَعَمَ أَنَّ رَجُلًا مِنَ الْأَنْصَارِ يُقَالُ لَهُ: سَهْلُ بْنُ أَبِي حَثْمَةَ، أَخْبَرَهُ أَنَّ نَفَرًا مِنْ قَوْمِهِ انْطَلَقُوا إِلَى خَيْبَرَ فَتَفَرَّقُوا فِيهَا، فَوَجَدُوا أَحَدَهُمْ قَتِيلًا، وَقَالُوا لِلَّذِي وَجَدَ فِيهِمْ: قَدْ قَتَلْتُمْ صَاحِبَنَا، قَالُوا: مَا قَتَلْنَا وَلَا عَلِمْنَا قَاتِلًا، فَانْطَلَقُوا إِلَى رَسُولِ اللَّهِ ﷺ فَقَالُوا:

(1) (Ch.22) *Al-Qiṣāṣ*: Equality in punishment.

your proof against the killer.” They said “We have no proof.” The Prophet ﷺ said, “Then they (the defendants) will take an oath.” They said, “We do not accept the oaths of the Jews.” Allāh’s Messenger ﷺ did not like that the blood-money of the killed one be lost without compensation, so he paid one hundred camels out of the camels of *Zakāt* (to the relatives of the deceased) as *Diya* (blood-money).

**6899.** Narrated Abū Qilāba : Once ‘Umar bin ‘Abdul-‘Azīz sat on his throne in the courtyard of his house so that the people might gather before him. Then he admitted them and (when they came in), he said, “What do you think of *Al-Qasāma*?”<sup>(1)</sup> They said, “We say that it is lawful to depend on *Al-Qasāma* in *Al-Qiṣāṣ*”<sup>(2)</sup>, as the previous Muslim caliphs carried out *Al-Qiṣāṣ* depending on it.” Then he said to me, “O Abū Qilāba! What do you say about it?” He let me appear before the people and I said, “O chief of the believers! You have the chiefs of the army staff and the nobles of the Arabs. If fifty of them testified that a married man had committed illegal sexual intercourse in Damascus but they had not seen him (doing so), would you stone him?” He said, “No.” I said, “If fifty of them testified that a man had committed theft in Ḥuṣṣ, would you cut off his hand, though they did not see him?” He replied, “No.” I said, “By Allāh, Allāh’s Messenger ﷺ never killed anyone except in one of the following three situations: (1) A person who killed somebody (a case of intentional murder), is to be killed (in *Al-Qiṣāṣ*), (2) a married person who committed illegal sexual intercourse, and (3) a man who

يَا رَسُولَ اللَّهِ، انْطَلَقْنَا إِلَى خَيْرِ قَوْجَدْنَا أَحَدَنَا قَتِيلًا. فَقَالَ: «الْكُبْرُ الْكُبْرُ»، فَقَالَ لَهُمْ: «تَأْتُونَ بِالْبَيِّنَةِ عَلَى مَنْ قَتَلْتُمْ؟» قَالُوا: مَا لَنَا بَيِّنَةٌ، قَالَ: «فَيَحْلِفُونَ»، قَالُوا: لَا نَرْضَى بِإِيمَانِ الْيَهُودِ، فَكَرِهَ رَسُولُ اللَّهِ ﷺ أَنْ يُظَلَّ دَمُهُ، قَوْدَاهُ مِائَةٌ مِنْ إِبِلِ الصَّدَقَةِ. [راجع: ٢٧٠٢]

٦٨٩٩ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا أَبُو بَشِيرٍ إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ الْأَسَدِيُّ: حَدَّثَنَا الْحَجَّاجُ بْنُ أَبِي عُثْمَانَ: حَدَّثَنِي أَبُو رَجَاءٍ مِنْ آلِ أَبِي قِلَابَةَ: حَدَّثَنِي أَبُو قِلَابَةَ: أَنَّ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ أَبْرَزَ سَرِيرَهُ يَوْمًا لِلنَّاسِ ثُمَّ أَذِنَ لَهُمْ فَدَخَلُوا. فَقَالَ: مَا تَقُولُونَ فِي الْقَسَامَةِ؟ قَالُوا: نَقُولُ: الْقَسَامَةُ الْقَوْدُ بِهَا حَقٌّ، وَقَدْ أَقَادَتْ بِهَا الْخُلَفَاءُ. قَالَ لِي: مَا تَقُولُ يَا أَبَا قِلَابَةَ؟ وَنَضَبَنِي لِلنَّاسِ، فَقُلْتُ: يَا أَمِيرَ الْمُؤْمِنِينَ، عِنْدَكَ رُؤُسُ الْأَجْنَادِ وَأَشْرَافِ الْعَرَبِ، أَرَأَيْتَ لَوْ أَنَّ خَمْسِينَ مِنْهُمْ شَهِدُوا عَلَى رَجُلٍ مُحْصَنٍ بِدِمَشْقٍ أَنَّهُ قَدْ زَنَى، لَمْ يَرَوْهُ، أَكُنْتُ تَرَجُمُهُ؟ قَالَ: لَا. قُلْتُ: أَرَأَيْتَ لَوْ أَنَّ خَمْسِينَ مِنْهُمْ شَهِدُوا عَلَى رَجُلٍ بِحِمَصٍ أَنَّهُ سَرَقَ، أَكُنْتُ تَقْطَعُهُ وَلَمْ يَرَوْهُ؟ قَالَ: لَا.

(1) (H. 6899) *Al-Qasāma* : See the glossary.

(2) (H. 6899) *Al-Qiṣāṣ* : Equality in punishment.

fought against Allāh and His Messenger and deserted Islām and became an apostate.” Then the people said, “Didn’t Anas bin Mālīk narrate that Allāh’s Messenger ﷺ cut off the hands of the thieves, branded their eyes and then threw them in the sun (to die)?” I said, “I shall tell you the narration of Anas. Anas said: “Eight persons from the tribe of ‘Ukl came to Allāh’s Messenger ﷺ and gave the *Bai’a* (pledge) for Islām (became Muslim). The climate of the place (Al-Madīna) did not suit them, so they became sick and complained about that to Allāh’s Messenger ﷺ. He said (to them), “Won’t you go out with the shepherd of our camels and drink of the camels’ milk and urine (as medicine)?” They said, “Yes.” So they went out and drank the camels’ milk and urine, and after they became healthy, they killed the shepherd of Allāh’s Messenger ﷺ and took away all the camels. This news reached Allāh’s Messenger ﷺ, so he sent (men) to follow their traces and they were captured and brought (to the Prophet ﷺ). He then ordered to cut their hands and feet, and their eyes were branded with heated pieces of iron, and then he threw them in the sun till they died.” I said, “What can be worse than what those people did? They deserted Islām, committed murder and theft.” Then ‘Anbasa bin Sa’īd said, “By Allāh, I never heard a narration like this of today.” I said, “O ‘Anbasa! You deny my narration?” ‘Anbasa said, “No, but you have related the narration in the way it should be related. By Allāh, these people are in welfare as long as this *Sheikh* (Abū Qilāba) is among them.” I added, “Indeed in this event there has been a *Sunna* (legal way) set by Allāh’s Messenger ﷺ.”

The narrator added: Some *Anṣārī* people came to the Prophet ﷺ and discussed some

قُلْتُ: فَأَوَّلَهُ مَا قَتَلَ رَسُولُ اللَّهِ ﷺ أَحَدًا قَطُّ إِلَّا فِي إِحْدَى ثَلَاثِ خِصَالٍ: رَجُلٌ قَتَلَ بِجَرِيرَةٍ نَفْسِهِ فَقَتِلَ، أَوْ رَجُلٌ زَنَى بَعْدَ إِخْصَانٍ، أَوْ رَجُلٌ حَارَبَ اللَّهَ وَرَسُولَهُ وَارْتَدَّ عَنِ الْإِسْلَامِ. فَقَالَ الْقَوْمُ: أَوْ لَيْسَ قَدْ حَدَّثَ أَنَسُ بْنُ مَالِكٍ أَنَّ رَسُولَ اللَّهِ ﷺ قَطَعَ فِي السَّرَقِ وَسَمَرَ الْأَعْيُنِ ثُمَّ نَبَذَهُمْ فِي الشَّمْسِ؟ فَقُلْتُ: أَنَا أَخَذْتُكُمْ حَدِيثَ أَنَسٍ: حَدَّثَنِي أَنَسٌ أَنَّ نَفَرًا مِنْ عُكْلٍ ثَمَانِيَّةٌ قَدِمُوا عَلَى رَسُولِ اللَّهِ ﷺ فَبَايَعُوهُ عَلَى الْإِسْلَامِ، فَاسْتَوَحَّمُوا الْأَرْضَ فَسَقِمَتْ أَجْسَامُهُمْ، فَشَكُوا ذَلِكَ إِلَى رَسُولِ اللَّهِ ﷺ، قَالَ: «أَفَلَا تَخْرُجُونَ مَعَ رَاعِيْنَا فِي إِبِلِهِ فَتَقْصِيوْنَ مِنْ أَلْبَانِهَا وَأَبْوَالِهَا؟» قَالُوا: بَلَى، فَخَرَجُوا فَشَرَبُوا مِنْ أَلْبَانِهَا وَأَبْوَالِهَا فَصَحُّوا، فَقَتَلُوا رَاعِي رَسُولِ اللَّهِ ﷺ وَأَطْرَدُوا النَّعَمَ، فَبَلَغَ ذَلِكَ رَسُولَ اللَّهِ ﷺ فَأَرْسَلَ فِي آثَارِهِمْ فَأَذْرَكُوا فَجِءَ بِهِمْ فَأَمَرَ بِهِمْ فَقَطَّعَتْ أَيْدِيَهُمْ وَأَرْجُلُهُمْ وَسَمَرَ أَعْيُنَهُمْ ثُمَّ نَبَذَهُمْ فِي الشَّمْسِ حَتَّى مَاتُوا. قُلْتُ: وَأَيُّ شَيْءٍ أَشَدُّ مِمَّا صَنَعَ هَؤُلَاءِ؟ ارْتَدُّوا عَنِ الْإِسْلَامِ، وَقَتَلُوا وَسَرَقُوا. فَقَالَ عَبْسَةُ بْنُ سَعِيدٍ: وَاللَّهِ إِنْ سَمِعْتُ كَالْيَوْمِ قَطُّ. فَقُلْتُ: أَرْتَدُّ عَلَى

matters with him, a man from amongst them went out and was murdered. Those people went out after him, and behold, their companion was lying in a pool of blood. They returned to Allāh's Messenger ﷺ and said to him, "O Allāh's Messenger, we have found our companion who had talked with us and gone out before us, swimming in blood (killed)." Allāh's Messenger ﷺ went out and asked them, "Whom do you suspect, or whom do you think has killed him?" They said, "We think that the Jews have killed him." The Prophet ﷺ sent for the Jews and asked them, "Did you kill this (person)?" They replied, "No." He asked the *Al-Anṣār*, "Do you agree that I let fifty Jews take an oath that they have not killed him?" They said, "It matters little for the Jews to kill us all and then take false oaths." He said, "Then would you like to receive the *Diya* after fifty of you have taken an oath (that the Jews have killed your man)?" They said, "We will not take the oath." Then the Prophet ﷺ himself paid them the *Diya* (blood-money)."

The narrator added, "The tribe of Hudhail repudiated one of their men (for his evil conduct) in the Pre-Islāmic Period of Ignorance. Then at a place called *Al-Baṭḥā'* (near Makkah), the man attacked a Yemenite family at night to steal from them, but a man from the family noticed him and struck him with his sword and killed him. The tribe of Hudhail came and captured the Yemenite and brought him to 'Umar, during the *Hajj* season and said, "He has killed our companion." The Yemenite said, "But these people had repudiated him (i.e., their companion)." 'Umar said, "Let fifty persons of Hudhail (tribe) swear that they had not repudiated him." So forty-nine of them took the oath and then a person belonging to them came from *Shām* and

حَدِيثِي يَا عَبَسَةَ؟ قَالَ: لَا، وَلَكِنْ جِئْتُ بِالْحَدِيثِ عَلَى وَجْهِهِ، وَاللَّهِ لَا يَزَالُ هَذَا الْجُنْدُ بِخَيْرٍ مَا عَاشَ هَذَا الشَّيْخُ بَيْنَ أَظْهَرِهِمْ.

قُلْتُ: وَقَدْ كَانَ فِي هَذَا سُنَّةٌ مِنْ رَسُولِ اللَّهِ ﷺ، دَخَلَ عَلَيْهِ نَفَرٌ مِنَ الْأَنْصَارِ فَتَحَدَّثُوا عَنْهُ. فَخَرَجَ رَجُلٌ مِنْهُمْ بَيْنَ أَيْدِيهِمْ فَقَتِلَ، فَخَرَجُوا بَعْدَهُ، فَإِذَا هُمْ بِصَاحِبِهِمْ يَتَسَحَّطُ فِي دَمِهِ، فَرَجَعُوا إِلَى رَسُولِ اللَّهِ ﷺ فَقَالُوا: يَا رَسُولَ اللَّهِ، صَاحِبُنَا كَانَ يَتَحَدَّثُ مَعَنَا، فَخَرَجَ بَيْنَ أَيْدِينَا فَإِذَا نَحْنُ بِهِ يَتَسَحَّطُ فِي الدَّمِ، فَخَرَجَ رَسُولُ اللَّهِ ﷺ فَقَالَ: «بِمَنْ تَظُنُّونَ أَوْ تَرَوْنَ قَتَلَهُ؟» قَالُوا: نَرَى أَنَّ الْيَهُودَ قَتَلَتْهُ، فَأَرْسَلَ إِلَى الْيَهُودِ فَدَعَاهُمْ، فَقَالَ: «أَنْتُمْ قَتَلْتُمْ هَذَا؟» قَالُوا: لَا، قَالَ: «أَتَرْضَوْنَ نَفْلَ خَمْسِينَ مِنَ الْيَهُودِ مَا قَتَلُوهُ؟» فَقَالُوا: مَا يَأْلُونَ أَنْ يَقْتُلُونَا أَجْمَعِينَ، ثُمَّ يُقْبَلُونَ قَالَ: أَفَتَسْتَحِقُّونَ الدِّيَةَ بِإِيمَانِ خَمْسِينَ مِنْكُمْ؟ قَالُوا: مَا كُنَّا لِنُحْلِفَ، فَوَدَّاهُ مِنْ عِنْدِهِ.

قُلْتُ: وَقَدْ كَانَتْ هَذِهِ حَلَعُوا خَلِيعًا لَهُمْ فِي الْجَاهِلِيَّةِ، فَطَرَّقَ أَهْلَ بَيْتٍ مِنَ الْيَمَنِ بِالْبَطْحَاءِ فَاتَّبَعَهُ لَهُ رَجُلٌ مِنْهُمْ، فَحَذَفَهُ بِالسَّيْفِ فَقَتَلَهُ، فَجَاءَتْ هَذِهِ، فَأَخَذُوا الْيَمَانِيَّ

they requested him to swear similarly, but he paid one thousand Dirhams instead of taking the oath. They called another man instead of him and the new man shook hands with the brother of the deceased. Some people said, "We and those fifty men who had taken false oaths (*Al-Qasāma*) set out, and when they reached a place called Nakhlah, it started raining so they entered a cave in the mountain, and the cave collapsed on those fifty men who took the false oath, and all of them died except the two persons who had shaken hands with each other. They escaped death but a stone fell on the leg of the brother of the deceased and broke it, whereupon he survived for one year and then died."

(The narrator) further said, " 'Abdul Mālik bin Marwān sentenced a man to death in *Al-Qiṣāṣ* (equality in punishment) for murder, basing his judgement on *Al-Qasāma*, but later on he regretted that judgement and ordered that the names of the fifty persons who had taken the oath (*Al-Qasāma*), be erased from the register, and he exiled them in *Shām*."

(23) CHAPTER. If somebody peeps into the house of some people whereupon they poked his eye; he has no right to claim blood-money.

6900. Narrated Anas رَضِيَ اللهُ عَنْهُ: A man peeped into one of the dwelling places of the Prophet ﷺ. The Prophet ﷺ got up and aimed a sharp-edged arrow head (or wooden stick) at him to poke him stealthily.

فَرَفَعُوهُ إِلَى عُمَرَ بِالْمُوسِمِ وَقَالُوا: قَتَلَ صَاحِبَنَا. فَقَالَ: إِنَّهُمْ قَدْ خَلَعُوهُ، فَقَالَ: يُقْسِمُ خَمْسُونَ مِنْ هَذِهِ مَا خَلَعُوهُ، قَالَ: فَأَقْسَمَ مِنْهُمْ تِسْعَةً وَأَرْبَعُونَ رَجُلًا. وَقَدِمَ رَجُلٌ مِنْهُمْ مِنَ الشَّامِ، فَسَأَلُوهُ أَنْ يُقْسِمَ، فَافْتَدَى يَمِينَهُ مِنْهُمْ بِأَلْفِ دِرْهَمٍ، فَأَدْخَلُوا مَكَانَهُ رَجُلًا آخَرَ، فَدَفَعَهُ إِلَى أَخِي الْمَقْتُولِ، فَقَرَنْتَ يَدُهُ بِيَدِهِ، قَالُوا: فَأَنْطَلَقْنَا وَالْخَمْسُونَ الَّذِينَ أَقْسَمُوا، حَتَّى إِذَا كَانُوا بِنَخْلَةٍ، أَخَذَتْهُمْ السَّمَاءُ، فَدَخَلُوا فِي غَارٍ فِي الْجَبَلِ فَأَنْهَجَمَ الْغَارُ عَلَى الْخَمْسِينَ الَّذِينَ أَقْسَمُوا فَمَاتُوا جَمِيعًا وَأُفْلِتَ الْقَرِينَانِ وَاتَّبَعَهُمَا حَجَرٌ فَكَسَرَ رَجُلًا أَخِي الْمَقْتُولِ، فَعَاشَ حَوْلًا ثُمَّ مَاتَ.

قُلْتُ: وَقَدْ كَانَ عَبْدُ الْمَلِكِ بْنُ مَرْوَانَ أَقَادَ رَجُلًا بِالْقَسَامَةِ ثُمَّ نَدِمَ بَعْدَمَا صَنَعَ، فَأَمَرَ بِالْخَمْسِينَ الَّذِينَ أَقْسَمُوا فَمُحُوا مِنَ الدِّيَوَانِ وَسَيَّرَهُمْ إِلَى الشَّامِ. [راجع: ٢٣٣]

(٢٣) بَابُ مَنْ أَطْلَعَ فِي بَيْتِ قَوْمٍ فَفَقَّوْا عَيْنَهُ فَلَا دِيَّةَ لَهُ

٦٩٠٠ - حَدَّثَنَا أَبُو الْيَمَانِ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ، عَنْ عُيَيْدِ اللَّهِ بْنِ أَبِي بَكْرٍ بْنِ أَنَسٍ، عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ: أَنَّ رَجُلًا أَطْلَعَ مِنْ حُجْرٍ فِي

بَعْضِ حَجَرِ النَّبِيِّ ﷺ فَقَامَ إِلَيْهِ  
بِمَشْقَصٍ أَوْ مَشَاقِصَ وَجَعَلَ يَخْتَلُهُ  
لِيُطْعَمَهُ. [راجع: ٦٢٤٢]

**6901.** Narrated Sahl bin Sa'd As-Sa'idī: A man peeped through a hole in the door of Allāh's Messenger's house, and at that time Allāh's Messenger ﷺ had a *Midrā* (an iron comb or bar) with which he was rubbing his head. So when Allāh's Messenger ﷺ saw him, he said (to him), "If I had been sure that you were looking at me (through the door), I would have poked your eye with this (sharp iron bar)." Allāh's Messenger ﷺ added, "The asking for permission to enter has been enjoined so that one may not look unlawfully (at what there is in the house without the permission of its people)."

٦٩٠١ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ:  
حَدَّثَنَا لَيْثٌ، عَنْ ابْنِ شِهَابٍ: أَنَّ  
سَهْلَ بْنَ سَعْدٍ السَّاعِدِيَّ أَخْبَرَهُ أَنَّ  
رَجُلًا أَطْلَعَ فِي جُحْرِ فِي بَابِ رَسُولِ  
الله ﷺ وَمَعَ رَسُولُ اللهِ ﷺ مِذْرَى  
يُحْكُ بِهِ رَأْسَهُ، فَلَمَّا رَأَى رَسُولُ اللهِ  
ﷺ قَالَ: «لَوْ أَعْلَمْتُ أَنَّكَ تَنْتَظِرُنِي  
لَطَعْتُ بِهٖ فِي عَيْنِكَ». قَالَ رَسُولُ اللهِ  
ﷺ: «إِنَّمَا جُعِلَ الْإِذْنُ مِنْ قِبَلِ  
الْبَصَرِ». [راجع: ٥٩٢٤]

**6902.** Narrated Abū Hurairah رَضِيَ اللهُ عَنْهُ: Abūl-Qāsim (the Prophet ﷺ) said, "If any person peeps at you without your permission and you poke him with a stick and injure his eye, there will be no sin on you."

٦٩٠٢ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ  
الله: حَدَّثَنَا سُفْيَانُ: حَدَّثَنَا أَبُو  
الزَّنَادِ، عَنِ الْأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ  
قَالَ: قَالَ أَبُو الْقَاسِمِ ﷺ: «لَوْ أَنَّ  
امْرَأًا أَطْلَعَ عَلَيْكَ بِغَيْرِ إِذْنٍ فَحَدَفْتَهُ  
بِحَصَاةٍ فَفَقَاتَ عَيْنَهُ لَمْ يَكُنْ عَلَيْكَ  
جُنَاحٌ». [راجع: ٦٨٨٨]

**(24) CHAPTER. Al-'Āqila (the relatives from the father's side) who pay the Diya (blood-money).**

**6903.** Narrated Ash-Sha'bī: I heard Abū Juhaifa saying, "I asked 'Alī رَضِيَ اللهُ عَنْهُ, 'Have you got any Divine literature apart from the Qur'ān?' (Once he said '... apart from what the people have?') 'Alī replied, 'By Him Who made the grain split (germinate) and created the soul, we have nothing except what is in the Qur'ān and the ability (gift) of understanding Allāh's Book which He may

**(٢٤) بَابُ الْعَاقِلَةِ**

٦٩٠٣ - حَدَّثَنَا صَدَقَةُ بْنُ  
الْفَضْلِ: أَخْبَرَنَا ابْنُ عُيَيْنَةَ: حَدَّثَنَا  
مُطَرِّفٌ قَالَ: سَمِعْتُ الشَّعْبِيَّ قَالَ:  
سَمِعْتُ أَبَا جُحَيْفَةَ قَالَ: «سَأَلْتُ عَلِيًّا  
رَضِيَ اللهُ عَنْهُ: هَلْ عِنْدَكُمْ شَيْءٌ مَا  
لَيْسَ فِي الْقُرْآنِ؟ وَقَالَ مَرَّةً: مَا لَيْسَ

endow a man with, and we have what is written in this sheet of paper.' I asked, 'What is written in this paper?' He replied, 'Al-'Aql (the legal rules and regulations about *Diya*), about the ransom of captives, and the judgement that a Muslim should not be killed in *Qisās* (equality in punishment) for killing a disbeliever.' [See Vol. 4, *Hadith* No.3047.]

(25) CHAPTER. The foetus (that is inside the uterus) of a (pregnant) woman.

6904. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: Two women from the tribe of Hudhail (fought with each other) and one of them threw (a stone at) the other, causing her to have a miscarriage; and Allāh's Messenger ﷺ gave his verdict that the killer (of the foetus) should give a male or female slave (as a *Diya*).

6905. Narrated Hishām's father: Al-Mughīra bin Shu'ba said: 'Umar رَضِيَ اللَّهُ عَنْهُ consulted the companions about the case of a woman's abortion (caused by somebody else). Al-Mughīra said, "The Prophet ﷺ gave the verdict that a male or female slave should be given (as a *Diya*)."

6906. [H. 6905 contd.] Umar said, "Present a witness to testify your statement, then Muḥammad bin Maslama testified that he had witnessed the Prophet ﷺ giving such a verdict."

عِنْدَ النَّاسِ؟ فَقَالَ: وَالَّذِي فَلَقَ الْحَبَّ وَبَرَأَ النَّسَمَةَ مَا عِنْدَنَا إِلَّا مَا فِي الْقُرْآنِ إِلَّا فَهَمَّا يُعْطَى رَجُلٌ فِي كِتَابِهِ وَمَا فِي الصَّحِيفَةِ، قُلْتُ: وَمَا فِي الصَّحِيفَةِ؟ قَالَ: الْعَقْلُ وَفَكَأُ الْأَسِيرِ، وَأَنْ لَا يُقْتَلَ مُسْلِمٌ بِكَافِرٍ. [راجع: ١١١]

(٢٥) بَابُ جَنِينِ الْمَرْأَةِ

٦٩٠٤ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: أَخْبَرَنَا مَالُكٌ ح. وَحَدَّثَنَا إِسْمَاعِيلُ: حَدَّثَنَا مَالُكٌ، عَنْ ابْنِ شِهَابٍ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ: أَنَّ امْرَأَتَيْنِ مِنْ هَذِيلٍ رَمَتْ أَحَدَهُمَا الْأُخْرَى فَطَرَحَتْ جَنِينَهَا فَقَضَى رَسُولُ اللَّهِ ﷺ فِيهَا بَغْرَةً عَبْدٍ أَوْ أَمَةٍ. [راجع: ٥٧٥٨]

٦٩٠٥ - حَدَّثَنَا مُوسَى بْنُ إِسْمَاعِيلَ: حَدَّثَنَا وَهَيْبٌ: حَدَّثَنَا هِشَامٌ، عَنْ أَبِيهِ، عَنْ الْمُغِيرَةِ بْنِ شُعْبَةَ، عَنْ عُمَرَ رَضِيَ اللَّهُ عَنْهُ: أَنَّهُ اسْتَشَارَهُمْ فِي إِمْلَاصِ الْمَرْأَةِ فَقَالَ الْمُغِيرَةُ: قَضَى النَّبِيُّ ﷺ بِالْغَرَةِ عَبْدٌ أَوْ أَمَةٌ. [انظر: ٦٩٠٧، ٦٩٠٨، ٧٣١٧]

٦٩٠٦ - قَالَ: ائْتِ مَنْ يَشْهَدُ مَعَكَ، فَشَهِدَ مُحَمَّدُ بْنُ مَسْلَمَةَ أَنَّهُ شَهِدَ النَّبِيَّ ﷺ قَضَى بِهِ. [انظر:



**6907.** Narrated Hishām's father: 'Umar asked the people, "Who heard the Prophet ﷺ giving his verdict regarding abortions?" Al-Mughīra said, "I heard him judging that a male or female slave should be given (as a *Diya*)."

**6908.** [H. 6907 contd.] 'Umar said, "Present a witness to testify your statement." Muḥammad bin Maslama said, "I testify that the Prophet ﷺ gave such a judgement."

**6908 (R).** Narrated 'Urwa: I heard Al-Mughīra bin Shu'ba narrating that 'Umar had consulted them about the case of abortion (similarly as narrated in *Hadīth* No.6905, 6906, 6907).

**(26) CHAPTER. The foetus of a woman. The *Diya* for the killed one is to be collected from the father of the killer, and his 'Aṣaba (near relatives from the father's side) but not from the killer's children.**

**6909.** Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: Allāh's Messenger ﷺ gave a verdict regarding an aborted foetus of a woman from Banī Liḥyān that the killer (of the foetus) should give a male or female slave (as a *Diya*). But the woman who was required to give the slave, died, so Allāh's Messenger ﷺ gave the verdict that her inheritance be given to her children and her husband and the *Diya* be paid by her 'Aṣaba<sup>(1)</sup>.

٦٩٠٧ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُوسَى، عَنْ هِشَامٍ، عَنْ أَبِيهِ: أَنَّ عُمَرَ نَشَدَ النَّاسَ: مَنْ سَمِعَ النَّبِيَّ ﷺ قَضَى فِي السَّقَطِ؟ فَقَالَ الْمُغِيرَةُ: أَنَا سَمِعْتُهُ قَضَى فِيهِ بِغُرَّةٍ عَبْدٍ أَوْ أَمَةٍ. [راجع: ٦٩٠٥]

٦٩٠٨ - قَالَ: اثْبِتْ مَنْ يَشْهَدُ مَعَكَ عَلَى هَذَا. فَقَالَ مُحَمَّدُ بْنُ مُسْلَمَةَ: أَنَا أَشْهَدُ عَلَى النَّبِيِّ ﷺ بِمِثْلِي هَذَا. [راجع: ٦٩٠٦]

٦٩٠٨ م - حَدَّثَنِي مُحَمَّدُ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا مُحَمَّدُ بْنُ سَابِقٍ: حَدَّثَنَا زَائِدَةُ: حَدَّثَنَا هِشَامُ بْنُ عُزْوَةَ، عَنْ أَبِيهِ أَنَّهُ سَمِعَ الْمُغِيرَةَ بْنَ شُعْبَةَ يُحَدِّثُ عَنْ عُمَرَ أَنَّهُ اسْتَشَارَهُمْ فِي إِمْلَاصِ الْمَرْأَةِ، مِثْلَهُ. [راجع: ٦٩٠٥]

**(٢٦) بَابُ جَنِينِ الْمَرْأَةِ، وَأَنَّ الْعَقْلَ عَلَى الْوَالِدِ وَعَصَبَةِ الْوَالِدِ لَا عَلَى الْوَلَدِ**

٦٩٠٩ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: حَدَّثَنَا اللَّيْثُ، عَنْ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللَّهِ ﷺ قَضَى فِي جَنِينِ امْرَأَةٍ مِنْ بَنِي لَحْيَانَ بِغُرَّةٍ عَبْدٍ أَوْ أَمَةٍ. ثُمَّ إِنَّ الْمَرْأَةَ الَّتِي قَضَى عَلَيْهَا بِالْغُرَّةِ تُوُفِّيَتْ فَقَضَى رَسُولُ اللَّهِ

(1) (H.6909) 'Aṣaba: Relatives from the father's side.

ﷺ أَنَّ مِيرَاثَهَا لِنِسْهَا وَزَوْجِهَا، وَأَنَّ  
العَقْلَ عَلَى عَصَبَتِهَا. [راجع: ٥٧٥٨]

**6910.** Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: Two women from Hudhail fought with each other and one of them hit the other with a stone that killed her and what was in her womb (the foetus). The relatives of the killer and the relatives of the victim submitted their case to the Prophet ﷺ who judged that the *Diya* for the foetus was a male or female slave, and the *Diya* for the killed woman was to be paid by the *Aṣaba* of the killer.

٦٩١٠ - حَدَّثَنَا أَحْمَدُ بْنُ صَالِحٍ:  
حَدَّثَنَا ابْنُ وَهْبٍ: حَدَّثَنَا يُونُسُ عَنْ  
ابْنِ شِهَابٍ، عَنْ ابْنِ الْمُسَيَّبِ وَأَبِي  
سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ: أَنَّ أَبَا هُرَيْرَةَ  
رَضِيَ اللَّهُ عَنْهُ قَالَ: اقْتَلَتِ امْرَأَتَانِ مِنْ  
هُذَيْلٍ فَرَمَتْ إِحْدَاهُمَا الْأُخْرَى بِحَجَرٍ  
فَقَتَلَتْهَا وَمَا فِي بَطْنِهَا. فَاخْتَصَمُوا إِلَى  
النَّبِيِّ ﷺ فَقَضَى أَنَّ دِيَةَ جَنِينِهَا غُرَّةُ  
عَبْدٍ أَوْ وَلِيدَةٍ، وَقَضَى أَنَّ دِيَةَ الْمَرْأَةِ  
عَلَى عَاقِلَتِهَا. [راجع: ٥٧٥٨]

**(27) CHAPTER. Whoever sought the help of a slave or a boy.**

It is said that Umm Salama sent (a message) to the teacher of the school (saying), "Send me some boys to brush the wool, but do not send me a free boy."

**6911.** Narrated 'Abdul-'Azīz: Anas said, "When Allāh's Messenger ﷺ arrived at Al-Madīna, Abū Ṭalḥa took hold of my hand and brought me to Allāh's Messenger ﷺ and said, "O Allāh's Messenger! Anas is an intelligent boy, so let him serve you." Anas added, "So I served the Prophet ﷺ at home and on journeys; by Allāh, he never said to me for anything which I did: 'Why have you done this like this?' or, for anything which I did not do: 'Why have you not done this like this?'"

**(٢٧) بَابُ مَنْ اسْتَعَانَ عَبْدًا أَوْ صَبِيًّا،**

وَيُذَكِّرُ أَنَّ أُمَّ سُلَيْمٍ بَعَثَتْ إِلَى  
مُعَلِّمِ الْكِتَابِ: ابْعَثْ إِلَيَّ غِلْمَانًا  
يَنْشُشُونَ صُوفًا وَلَا تَبْعَثْ إِلَيَّ حُرًّا.

٦٩١١ - حَدَّثَنِي عُمَرُو بْنُ  
زُرَّارَةَ: أَخْبَرَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ،  
عَنْ عَبْدِ الْعَزِيزِ، عَنْ أَنَسٍ قَالَ: لَمَّا  
قَدِمَ رَسُولُ اللَّهِ ﷺ الْمَدِينَةَ أَخَذَ أَبُو  
طَلْحَةَ بِيَدِي فَانْطَلَقَ بِي إِلَى رَسُولِ اللَّهِ  
ﷺ فَقَالَ: يَا رَسُولَ اللَّهِ، إِنَّ أَنَسًا  
غُلَامٌ كَيِّسٌ فَلْيَخْدَمْكَ. قَالَ: فَخَدَمْتُهُ  
فِي الْحَضَرِ وَالسَّفَرِ، فَوَاللَّهِ مَا قَالَ لِي  
لِشَيْءٍ صَنَعْتُهُ: لِمَ صَنَعْتَ هَذَا هَكَذَا؟  
وَلَا لِشَيْءٍ لَمْ أَصْنَعْهُ: لِمَ لَمْ تَصْنَعْ  
هَذَا هَكَذَا؟. [راجع: ٢٧٦٨]

**(28) CHAPTER. No *Diya* (blood-money) is to be paid in cases of mines and wells.**

**6912.** Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ : Allāh's Messenger ﷺ said, "There is no *Diya* for persons killed by animals or for the one who has been killed accidentally by falling into a well; or for the one killed in a mine. And one-fifth of *Ar-Rikāz* (treasures buried before the Islāmic era) is to be given to the state."

**(٢٨) بَابُ: الْمَعْدِنُ جُبَارٌ وَالْبُئْرُ جُبَارٌ**

٦٩١٢ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: حَدَّثَنَا اللَّيْثُ: حَدَّثَنَا ابْنُ شِهَابٍ، عَنْ سَعِيدِ ابْنِ الْمُسَيَّبِ، وَأَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «الْعَجْمَاءُ جُرْحُهَا جُبَارٌ، وَالْبُئْرُ جُبَارٌ، وَالْمَعْدِنُ جُبَارٌ، وَفِي الرِّكَازِ الْخُمْسُ». [راجع: ١٤٩٩]

**(29) CHAPTER. There is no *Diya* (blood-money) for the one killed by an animal unaccompanied by somebody to control it.**

Ibn Sirīn said: They used not to guarantee any compensation for any damage caused by an animal's kick, but if the rider of the animal pulled the rein (causing the animal to turn and damage something with its feet), the rider is responsible.

Hammād said: There is no compensation for the damage caused by an animal's kick, unless somebody has kicked (and startled) the animal.

Shuraih said: There is no compensation for damage or injury inflicted by an animal on somebody who hits it whereupon it kicks him.

And Al-Hakam and Hammād said: If a hirer of mounts drives a donkey mounted by a woman, and the woman falls down, then he is not charged any compensation.

And Ash-Sha'bī said: If someone drives an animal and makes it tired by driving it fast, then he is responsible for any damage it might cause; and if he drives it slowly, he is not responsible.

**(٢٩) بَابُ: الْعَجْمَاءُ جُبَارٌ،**

وَقَالَ ابْنُ سِيرِينَ: كَانُوا لَا يُضَمُّونَ مِنَ التَّفْحَةِ، وَيُضَمُّونَ مِنْ رَدِّ الْعِنَانِ. وَقَالَ حَمَّادٌ: لَا تُضْمَنُ التَّفْحَةُ إِلَّا أَنْ يَنْخُسَ إِنْسَانٌ الدَّابَّةَ. وَقَالَ شُرَيْحٌ: لَا يُضْمَنُ، مَا عَاقَبَتْ أَنْ يَضْرِبَهَا فَتَضْرِبَ بِرِجْلِهَا. وَقَالَ الْحَكَمُ وَحَمَّادٌ: إِذَا سَاقَ الْمُكَارِي جِمَارًا، عَلَيْهِ امْرَأَةٌ فَتَخْرُ: لَا شَيْءَ عَلَيْهِ. وَقَالَ الشَّعْبِيُّ: إِذَا سَاقَ دَابَّةً فَاتَّبَعَهَا فَهُوَ ضَامِنٌ لِمَا أَصَابَتْ، وَإِنْ كَانَ خَلْفَهَا مَتْرَسًا لَمْ يُضْمَنَ.

**6913.** Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ : The Prophet ﷺ said, "There is no *Diya* for a

٦٩١٣ - حَدَّثَنَا مُسْلِمٌ: حَدَّثَنَا

person injured or killed by an animal (going about without somebody to control it) and similarly, there is no *Diya* for the one who falls and dies in a well, and also the one who dies in a mine. As regards the *Ar-Rikāz* (buried wealth), one-fifth thereof is for the state."

(30) CHAPTER. The sin of a person who killed an innocent *Dhimī* (a non-Muslim living in a Muslim state and enjoying the protection of Muslims).

6914. Narrated 'Abdullāh bin 'Amr رَضِيَ اللَّهُ عَنْهُ: The Prophet ﷺ said, "Whoever killed a *Mu'ahid* (a person who is granted the pledge of protection by the Muslims) shall not smell the fragrance of Paradise though its fragrance can be smelt at a distance of forty years (of travelling)."

(31) CHAPTER. A Muslim should not be killed for killing a *Kāfir* (disbeliever).

6915. Narrated Abū Juhaifa: I asked 'Alī رَضِيَ اللَّهُ عَنْهُ, "Do you have anything Divine literature besides what is in the Qur'ān?" Or, as Uyaina once said, "Apart from what the people have?" 'Alī said, "By Him Who made the grain split (germinate) and created the soul, we have nothing except what is in the Qur'ān and the ability (gift) of understanding Allāh's Book which He may endow a man with, and we have what is written in this sheet of paper." I asked, "What is (written) on this paper?" He replied, "*Al-'Aql* (the legal rules and regulations of *Diya* and the (ransom for) releasing of the captives, and the judgement that no Muslim should be killed in *Al-Qiṣās* (equality in punishment) for killing a *Kāfir* (disbeliever))."

شُعْبَةُ، عَنْ مُحَمَّدِ بْنِ زَيْدٍ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: «الْعَجَمَاءُ عَقَلُهَا جُبَارٌ، وَالْبَنُرُ جُبَارٌ، وَالْمَعْدِنُ جُبَارٌ، وَفِي الرِّكَازِ الْخُمْسُ». [راجع: ١٤٩٩]

(٣٠) بَابٌ: إِنْ مَن قَتَلَ ذِمِّيًّا بِغَيْرِ جُزْمٍ

٦٩١٤ - حَدَّثَنَا قَيْسُ بْنُ حَفْصٍ: حَدَّثَنَا عَبْدُ الْوَاحِدِ: حَدَّثَنَا الْحَسَنُ: حَدَّثَنَا مُجَاهِدٌ، عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو عَنْ النَّبِيِّ ﷺ قَالَ: «مَنْ قَتَلَ نَفْسًا مُّعَاهَدًا لَمْ يُرَخَّ رَائِحَةُ الْجَنَّةِ، وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ مَسِيرَةِ أَرْبَعِينَ عَامًا». [راجع: ٣١٦٦]

(٣١) بَابٌ لَا يُقْتَلُ الْمُسْلِمُ بِالْكَافِرِ

٦٩١٥ - حَدَّثَنَا صَدَقَةُ بْنُ الْفَضْلِ: أَخْبَرَنَا ابْنُ عُيَيْنَةَ: حَدَّثَنَا مُطَرِّفٌ - سَمِعْتُ الشَّعْبِيَّ يُحَدِّثُ قَالَ: سَمِعْتُ أَبَا جَحِيفَةَ قَالَ: سَأَلْتُ عَلِيًّا رَضِيَ اللَّهُ عَنْهُ: هَلْ عِنْدَكُمْ شَيْءٌ مِمَّا لَيْسَ فِي الْقُرْآنِ؟ وَقَالَ ابْنُ عُيَيْنَةَ مَرَّةً: مَا لَيْسَ عِنْدَ النَّاسِ، فَقَالَ: وَالَّذِي فَلَقَ الْحَبَّةَ وَبَرَأَ النَّسَمَةَ مَا عِنْدَنَا إِلَّا مَا فِي الْقُرْآنِ، إِلَّا فَهَمًّا يُعْطَى رَجُلٌ فِي كِتَابِهِ، وَمَا فِي الصَّحِيفَةِ. قُلْتُ: وَمَا فِي الصَّحِيفَةِ؟ قَالَ: الْعَقْلُ،

(32) CHAPTER. If a Muslim, being furious, slaps a Jew, (no compensation is required).

Abū Hurairah narrated this from the Prophet ﷺ.

6916. Narrated Abū Sa'īd رَضِيَ اللَّهُ عَنْهُ: The Prophet ﷺ said, "Do not prefer some Prophets to others."

6917. Narrated Abū Sa'īd Al-Khudrī رَضِيَ اللَّهُ عَنْهُ: A Jew, whose face had been slapped (by someone), came to the Prophet ﷺ and said, "O Muḥammad (ﷺ)! A man from your *Anṣārī* companions slapped me." The Prophet ﷺ said, "Call him". They called him and the Prophet ﷺ asked him, "Why did you slap his face?" He said, "O Allāh's Messenger! While I was passing by the Jews, I heard him saying, 'By Him Who chose Mūsa (Moses) above all the human beings.' I said (protestingly), 'Even above Muḥammad (ﷺ)?' So I became furious and slapped him." The Prophet ﷺ said, "Do not give me preference to other Prophets, for the people will become unconscious on the Day of Resurrection and I will be the first to regain conscious, and behold, I will find Mūsa holding one of the pillars of the Throne (of Allāh). Then I will not know whether he has become conscious before me or he has been exempted because of his unconsciousness at the mountain (during his worldly life) which he received."

وَفِكَاكَ الْأَسِيرِ، وَأَنْ لَا يُقْتَلَ مُسْلِمٌ

بِكَافِرٍ. [راجع: ١١١]

(٣٢) بَابُ إِذَا لَطَمَ الْمُسْلِمُ يَهُودِيًّا

عِنْدَ الْقَضَبِ،

رَوَاهُ أَبُو هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

٦٩١٦ - حَدَّثَنَا أَبُو نَعِيمٍ: حَدَّثَنَا

سُفْيَانُ، عَنْ عَمْرِو بْنِ يَحْيَى، عَنْ

أَبِيهِ، عَنْ أَبِي سَعِيدٍ عَنِ النَّبِيِّ ﷺ

قَالَ: «لَا تُخَيِّرُوا بَيْنَ الْأَنْبِيَاءِ».

[راجع: ٢٤١٢]

٦٩١٧ - وَحَدَّثَنَا مُحَمَّدٌ بْنُ

يُوسُفَ: حَدَّثَنَا سُفْيَانُ، عَنْ عَمْرِو بْنِ

يَحْيَى الْمَازِنِيِّ، عَنْ أَبِيهِ، عَنْ أَبِي

سَعِيدٍ الْخُدْرِيِّ قَالَ: جَاءَ رَجُلٌ مِنَ

الْيَهُودِ إِلَى رَسُولِ اللَّهِ ﷺ قَدْ لَطَمَ

وَجْهَهُ فَقَالَ: يَا مُحَمَّدُ، إِنَّ رَجُلًا مِنْ

أَصْحَابِكَ مِنَ الْأَنْصَارِ قَدْ لَطَمَ فِي

وَجْهِهِ، قَالَ: «ادْعُوهُ» فَدَعَوُهُ، فَقَالَ:

«أَلَطَمْتُ وَجْهَهُ؟» قَالَ: يَا رَسُولَ اللَّهِ،

إِنِّي مَرَرْتُ بِالْيَهُودِ فَسَمِعْتُهُ يَقُولُ:

وَالَّذِي اضْطَلَفَى مُوسَى عَلَى الْبَشَرِ،

قَالَ: قُلْتُ: أَعَلَى مُحَمَّدٍ ﷺ؟ قَالَ:

فَأَخَذَنِي غَضَبَةٌ فَلَطَمْتُهُ. قَالَ: «لَا

تُخَيِّرُونِي مِنْ بَيْنِ الْأَنْبِيَاءِ فَإِنَّ النَّاسَ

يَضَعِفُونَ يَوْمَ الْقِيَامَةِ، فَأَكُونُ أَوَّلَ مَنْ

يُفِيقُ، فَإِذَا أَنَا بِمُوسَى آخِذٌ بِقَائِمَةٍ مِنْ

قَوَائِمِ الْعَرْشِ، فَلَا أَذْرِي أَفَاقَ قَبْلِي أَمْ

جُوزِي بِضَغْفَةِ الطُّورِ». [راجع: ٢٤١٢]