

28. The Book Of Oaths (*Qasâmah*),  
*Muhâribîn*,<sup>[1]</sup> *Qashaş* (Retaliation)  
 And *Diyât* (Blood Money)

١٣ - (المعجم ٢٨) - كتاب القسامة  
 والمحارِبين والقصاص والديات  
 (التحفة ١٧ - الحدود)

Chapter 1. *Qasâmah* (Oaths)

(المعجم ١) - (بَابُ الْقِسَامَةِ) (التحفة ١)

[4342] 1 - (1669) It was narrated from Sahl bin Abî Ḥaṭṭmah - Yaḥyâ said: "I think he said: 'And from Râfi' bin Khadîj'" - that they said: "‘Abdullâh bin Sahl bin Zaid and Muḥaişah bin Mas‘ûd bin Zaid went out, and when they were in Khaibar they parted. Then Muḥaişah found ‘Abdullâh bin Sahl slain, so he buried him. Then he came to the Messenger of Allâh ﷺ along with Ḥuwaişah bin Mas‘ûd and ‘Abdur-Raḥmân bin Sahl, who was the youngest of the people. ‘Abdur-Raḥmân began to speak before his two companions, and the Messenger of Allâh ﷺ said to him: ‘Let the eldest speak.’ So he fell silent and his two companions spoke, and he spoke with them. They told the Messenger of Allâh ﷺ about the killing of ‘Abdullâh bin

[٤٣٤٢] ١ - (١٦٦٩) وَحَدَّثَنَا قُتَيْبَةُ  
 ابْنُ سَعِيدٍ: حَدَّثَنَا لَيْثٌ عَنْ يَحْيَى - وَهُوَ  
 ابْنُ سَعِيدٍ - عَنْ بُسَيْرِ بْنِ يَسَارٍ، عَنْ  
 سَهْلِ بْنِ أَبِي حَنَمَةَ - قَالَ يَحْيَى:  
 وَحَسِبْتُ قَالَ - وَعَنْ رَافِعِ بْنِ خَدِيجٍ  
 أَنَّهُمَا قَالَا: خَرَجَ عَبْدُ اللَّهِ ابْنُ سَهْلِ بْنِ  
 زَيْدٍ، وَمُحَيِّصَةُ بِنْتُ مَسْعُودِ بْنِ زَيْدٍ، حَتَّى  
 إِذَا كَانَا بِخَيْبَرَ تَفَرَّقَا فِي بَعْضِ مَا هُنَالِكَ،  
 ثُمَّ إِذَا مُحَيِّصَةُ يَجِدُ عَبْدُ اللَّهِ ابْنَ سَهْلِ  
 قَتِيلًا، فَدَفَنَهُ، ثُمَّ أَقْبَلَ إِلَى رَسُولِ اللَّهِ ﷺ  
 هُوَ وَحَوِيصَةُ بِنْتُ مَسْعُودٍ وَعَبْدُ الرَّحْمَنِ  
 ابْنُ سَهْلِ، وَكَانَ أَضْعَرَ الْقَوْمِ، فَذَهَبَ  
 عَبْدُ الرَّحْمَنِ لِيَتَكَلَّمَ قَبْلَ صَاحِبِيهِ، فَقَالَ  
 لَهُ رَسُولُ اللَّهِ ﷺ: «كَبْرٌ» - الْكَبْرُ فِي  
 السِّنِّ - فَصَمَّتْ، وَتَكَلَّمَ صَاحِبَاهُ،

[1] *Muhâribîn*: These are aggressors who transgress against society or the legitimate state, as mentioned in the Verse: "The recompense of those who wage war against Allâh and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off from opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter" [Al-Mâ'idah 5:33]

Sahl, and he said to them: 'Will you swear fifty times so that you may be entitled to (blood money) for your companion?' They said: 'How can we swear when we did not witness (what happened)?' He said: 'Then let the Jews swear fifty oaths that they are innocent.' They said: 'How can we accept the oaths of a disbelieving people?' When the Messenger of Allāh ﷺ saw that, he paid the blood money himself."

[4343] 2 - (...) It was narrated from Sahl bin Mas'ūd and Rāfi' bin Khadīj, that Muḥaiṣah bin Mas'ūd and 'Abdullāh bin Sahl went to Khaibar, where they parted among the palm trees. 'Abdullāh bin Sahl was killed, and they accused the Jews. His brother 'Abdur-Raḥmān and his two cousins Ḥuwaiṣah, and Muḥaiṣah, came to the Prophet ﷺ and 'Abdur-Raḥmān began to speak about his brother, but he was the youngest of them, so the Messenger of Allāh ﷺ said: "Let the eldest speak" or he ﷺ said "Let the eldest speak first." So they spoke about their companion's case, and the Messenger of Allāh ﷺ said: "Let fifty of you swear against one of them, then he will be handed over to you." They said: "It is something that we did not witness; how can we swear?" He said: "Then let the Jews swear fifty oaths that they are innocent."

وَتَكَلَّمَ مَعَهُمَا، فَذَكَرُوا لِرَسُولِ اللَّهِ ﷺ مَقْتَلَ عَبْدِ اللَّهِ بْنِ سَهْلٍ، فَقَالَ لَهُمْ: «أَتَحْلِفُونَ خَمْسِينَ يَمِينًا فَتَسْتَحِقُّونَ صَاحِبَكُمْ؟» - أَوْ قَاتِلَكُمْ - قَالُوا: وَكَيْفَ نَحْلِفُ وَلَمْ نَشْهَدْ؟ قَالَ: «فَتُبْرئُكُمْ يَهُودُ بِخَمْسِينَ يَمِينًا؟» قَالُوا: وَكَيْفَ نَقْبَلُ أَيْمَانَ قَوْمٍ كُفَّارٍ؟ فَلَمَّا رَأَى ذَلِكَ رَسُولُ اللَّهِ ﷺ أَعْطَى عَقْلَهُ.

[٤٣٤٣] ٢- (...). وَحَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ الْقَوَارِيرِيُّ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ بُشَيْرِ بْنِ يَسَارٍ، عَنْ سَهْلِ بْنِ أَبِي حَثْمَةَ وَرَافِعِ بْنِ خَدِيجٍ: أَنَّ مُحَيْصَةَ بْنَ مَسْعُودٍ وَعَبْدَ اللَّهِ ابْنَ سَهْلٍ انْطَلَقَا قِبَلَ حَبِيبٍ، فَتَفَرَّقَا فِي النَّحْلِ، فَقَتَلَ عَبْدُ اللَّهِ بْنُ سَهْلٍ، فَاتَّهَمُوا الْيَهُودَ، فَجَاءَ أَخُوهُ عَبْدُ الرَّحْمَنِ وَابْنَا عَمِّهِ حُوَيْصَةُ وَمُحَيْصَةُ إِلَى النَّبِيِّ ﷺ فَتَكَلَّمَ عَبْدُ الرَّحْمَنِ فِي أَمْرِ أَخِيهِ، وَهُوَ أَضْعَرُّ مِنْهُمْ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «كَبِّرِ الْكُبْرَ» أَوْ قَالَ: «لِيَبْدَأَ الْأَكْبَرُ» فَتَكَلَّمَا فِي أَمْرِ صَاحِبِهِمَا، فَقَالَ رَسُولُ اللَّهِ ﷺ: «يُقْسِمُ خَمْسُونَ مِنْكُمْ عَلَى رَجُلٍ مِنْهُمْ فَيُدْفَعُ بِرُمَّتِهِ؟» قَالُوا: أَمْرٌ لَمْ نَشْهَدْهُ كَيْفَ نَحْلِفُ؟ قَالَ: «فَتُبْرئُكُمْ يَهُودُ بِأَيْمَانِ

They said: "O Messenger of Allāh, they are a disbelieving people." So the Messenger of Allāh ﷺ paid the blood money himself.

Sahl said: "I entered a *Mirbad* (camel pen) of theirs one day, and a she-camel among those camels (that were given as blood money) kicked me."

[4344] (...) A similar report (as no. 4343) was narrated from Sahl bin Abî Ḥaṭmah from the Prophet ﷺ, and in his *Hadīth* he said: "The Messenger of Allāh ﷺ paid the blood money himself," but he did not say in his *Hadīth*: "A she-camel kicked me."

[4345] (...) A *Hadīth* similar to theirs (no. 4343) was narrated from Sahl bin Abî Ḥaṭmah.

[4346] 3 - (...) It was narrated from Buṣḥair bin Yasār that 'Abdullāh bin Sahl bin Zaid and Muḥaiṣah bin Mas'ūd bin Zaid, two *Anṣārī* men from the tribe of Banū Ḥārithah, went out to Khaibar during the time of the Messenger of Allāh ﷺ. At that time there was a peace treaty, and its people were Jews. They parted to go about

خَمْسِينَ مِنْهُمْ؟» قَالُوا: يَا رَسُولَ اللَّهِ! قَوْمٌ كَفَّارٌ، [قَالَ]: فَوَدَاهُ رَسُولُ اللَّهِ ﷺ مِنْ قَبْلِهِ.

قَالَ سَهْلٌ: فَدَخَلْتُ مِرْبَدًا لَهُمْ يَوْمًا، فَرَكَضْتَنِي نَاقَةٌ مِنْ تِلْكَ الْإِبِلِ رَكْضَةً بِرِجْلِهَا، قَالَ حَمَّادٌ: هَذَا أَوْ نَحْوَهُ.

[٤٣٤٤] (...) وَحَدَّثَنَا الْقَوَارِيرِيُّ: حَدَّثَنَا بِشْرُ بْنُ الْمُفْضَلِ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ بُشَيْرِ بْنِ يَسَارٍ، عَنْ سَهْلِ بْنِ أَبِي حَتْمَةَ عَنِ النَّبِيِّ ﷺ بِنَحْوِهِ، وَقَالَ فِي حَدِيثِهِ: فَعَقَلَهُ رَسُولُ اللَّهِ ﷺ مِنْ عِنْدِهِ، وَلَمْ يَقُلْ فِي حَدِيثِهِ: فَرَكَضْتَنِي نَاقَةٌ.

[٤٣٤٥] (...) وَحَدَّثَنَا عَمْرُو النَّاقِدُ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، وَحَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا عَبْدُ الْوَهَّابِ [يَعْنِي] الثَّقَفِيُّ، جَمِيعًا، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ بُشَيْرِ بْنِ يَسَارٍ، عَنْ سَهْلِ بْنِ أَبِي حَتْمَةَ بِنَحْوِ حَدِيثِهِمْ.

[٤٣٤٦] ٣- (...) حَدَّثَنَا عَبْدُ اللَّهِ ابْنُ مَسْلَمَةَ بْنِ قَعْنَبٍ: حَدَّثَنَا سُلَيْمَانُ بْنُ بِلَالٍ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ بُشَيْرِ بْنِ يَسَارٍ: أَنَّ عَبْدَ اللَّهِ بْنَ سَهْلِ بْنِ زَيْدٍ، وَمُحَيِّصَةَ بْنَ مَسْعُودِ بْنِ زَيْدِ الْأَنْصَارِيِّينَ، ثُمَّ مِنْ بَنِي حَارِثَةَ، خَرَجَا إِلَى خَيْبَرَ فِي

their business, and ‘Abdullâh bin Sahl was killed. He was found slain in a water tank. His companion buried him, then he came to Al-Madīnah. The brother of the slain man, ‘Abdur-Raḥmân bin Sahl, along with Muḥaiṣah and Ḥuwaṣah, went and told the Messenger of Allâh ﷺ about ‘Abdullâh, and where he was killed. Bushair, who narrated this *Hadīth* from one of the Companions of the Messenger of Allâh ﷺ whom he met, said that he (ﷺ) said to them: “Will you swear fifty oaths so that you will be entitled to the blood money?” They said: “O Messenger of Allâh, we did not witness anything and we were not present.” And he said, that he (ﷺ) said: “Will you let the Jews swear fifty times that they are innocent?” They said: “O Messenger of Allâh, how can we accept the oaths of a disbelieving people?” Bushair said that the Messenger of Allâh ﷺ paid the blood money himself.

[4347] 4 - (...) It was narrated from Bushair bin Yasâr, that an *Anṣârî* man from Banû Ḥārithah who was called ‘Abdullâh bin Sahl bin Zaid, went with a cousin of his who was called Muḥaiṣah bin Mas‘ûd bin Zaid... and he quoted a *Hadīth* like that of Al-Laiṭh, up to the words: “And the Messenger of Allâh ﷺ paid the blood money himself.”

زَمَانَ رَسُولِ اللَّهِ ﷺ، وَهِيَ يَوْمَئِذٍ صَلْحٌ،  
وَأَهْلُهَا يَهُودٌ، فَتَفَرَّقَا لِحَاجَتِهِمَا، فَقَتِلَ  
عَبْدُ اللَّهِ بْنُ سَهْلٍ، فَوُجِدَ فِي شَرَبَةٍ  
مَقْتُولًا، فَذَفَنَهُ صَاحِبُهُ، ثُمَّ أَقْبَلَ إِلَى  
الْمَدِينَةِ، فَمَشَى أَخُو الْمَقْتُولِ، عَبْدُ  
الرَّحْمَنِ بْنُ سَهْلٍ وَمُحَيِّصَةُ وَحَوَيْصَةُ،  
فَذَكَرُوا لِرَسُولِ اللَّهِ ﷺ شَأْنَ عَبْدِ اللَّهِ،  
وَحَيْثُ قُتِلَ، فَرَعَمَ بُشَيْرٌ وَهُوَ يُحَدِّثُ  
عَمَّنْ أَدْرَكَ مِنْ أَصْحَابِ رَسُولِ اللَّهِ ﷺ،  
أَنَّهُ قَالَ لَهُمْ: «تَحْلِفُونَ خَمْسِينَ يَمِينًا  
وَتَسْتَحِقُّونَ قَاتِلَكُمْ؟» - أَوْ صَاحِبَكُمْ -  
قَالُوا: يَا رَسُولَ اللَّهِ! مَا شَهِدْنَا وَلَا  
حَضَرْنَا، فَرَعَمَ أَنَّهُ قَالَ: «فَتَبَرُّوكُمُ يَهُودٌ  
بِحَمْسِينَ؟» فَقَالُوا: يَا رَسُولَ اللَّهِ! كَيْفَ  
نَقْبُلُ أَيْمَانَ قَوْمٍ كُفَّارٍ؟ فَرَعَمَ بُشَيْرٌ أَنَّ  
رَسُولَ اللَّهِ ﷺ عَقَلَهُ مِنْ عِنْدِهِ.

[٤٣٤٧] ٤ - (...) وَحَدَّثَنَا يَحْيَى بْنُ  
يَحْيَى: أَخْبَرَنَا هُشَيْمٌ عَنْ يَحْيَى بْنِ  
سَعِيدٍ، عَنْ بُشَيْرِ بْنِ يَسَارٍ أَنَّ رَجُلًا مِنَ  
الْأَنْصَارِ مِنْ بَنِي حَارِثَةَ، يُقَالُ لَهُ: عَبْدُ  
اللَّهِ بْنُ سَهْلٍ بْنُ زَيْدٍ، انْطَلَقَ هُوَ وَابْنُ عَمِّ  
لَهُ يُقَالُ لَهُ: مُحَيِّصَةُ ابْنُ مَسْعُودِ بْنِ زَيْدٍ،  
وَسَاقَ الْحَدِيثِ يَنْحُو حَدِيثَ اللَّيْثِ، إِلَى  
قَوْلِهِ: فَوَدَّاهُ رَسُولُ اللَّهِ ﷺ مِنْ عِنْدِهِ.

Yaḥyâ said: "Bushair bin Yasâr told me: 'Sahl bin Abî Ḥaṭḥmah told me: One of those camels (that were given as blood money) kicked me in the *Mirbad* (camel pen).'"

[4348] 5 - (...) It was narrated from Sahl bin Abî Ḥaṭḥmah Al-Anṣârî that some of them went to Khaibar, where they parted, and they found one of their number slain. He quoted the *Ḥadīth* (a *Ḥadīth* similar to no. 4346), in which he said: "The Messenger of Allāh ﷺ did not want his blood to have been shed in vain, so he paid one hundred camels from the *Zakâh* as blood money."

[4349] 6 - (...) It was narrated from Sahl bin Abî Ḥaṭḥmah that some of the elders of his people told him, that 'Abdullâh bin Sahl and Muḥaiṣah went out to Khaibar, because of some problem. Then Muḥaiṣah came and said that 'Abdullâh bin Sahl had been killed and thrown into a shallow well or ditch. He went to the Jews and said: "You killed him, by Allāh." They said: "By Allāh, we did not kill him." Then he went to his people and told them about that. Then he came with his brother Ḥuwaiṣah, who was older than him, and 'Abdur-Raḥmân bin Sahl. Muḥaiṣah

قَالَ يَحْيَى: فَحَدَّثَنِي بُشَيْرُ بْنُ يَسَارٍ قَالَ: أَخْبَرَنِي سَهْلُ بْنُ أَبِي حَتْمَةَ قَالَ: لَقَدْ رَكَضْتَنِي فَرِيضَةً مِنْ تِلْكَ الْفَرَائِضِ بِالْمَرْبِدِ.

[٤٣٤٨] ٥ - (...) حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ: حَدَّثَنَا أَبِي: حَدَّثَنَا سَعِيدُ بْنُ عُبَيْدٍ: حَدَّثَنَا بُشَيْرُ بْنُ يَسَارٍ الْأَنْصَارِيُّ عَنْ سَهْلِ بْنِ أَبِي حَتْمَةَ الْأَنْصَارِيِّ، أَنَّهُ أَخْبَرَهُ: أَنَّ نَفَرًا مِنْهُمْ انْطَلَقُوا إِلَى خَيْبَرَ، فَتَفَرَّقُوا فِيهَا، فَوَجَدُوا أَحَدَهُمْ قَتِيلًا، وَسَاقَ الْحَدِيثَ، وَقَالَ فِيهِ: فَكَّرَهُ رَسُولُ اللَّهِ ﷺ أَنْ يُبْطِلَ دَمَهُ، فَوَدَّاهُ مِائَةً مِنْ إِبِلِ الصَّدَقَةِ.

[٤٣٤٩] ٦ - (...) حَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ: أَخْبَرَنَا بِشْرُ بْنُ عُمَرَ قَالَ: سَمِعْتُ مَالِكَ بْنَ أَنَسٍ يَقُولُ: حَدَّثَنِي أَبُو لَيْلَى بْنُ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ سَهْلِ، عَنْ سَهْلِ بْنِ أَبِي حَتْمَةَ، أَنَّهُ أَخْبَرَهُ عَنْ رِجَالٍ مِنْ كُبْرَاءِ قَوْمِهِ، أَنَّ عَبْدَ اللَّهِ بْنَ سَهْلِ وَمُحَيِّصَةَ خَرَجَا إِلَى خَيْبَرَ، مِنْ جِهْدِ أَصَابِهِمْ، فَأَتَى مُحَيِّصَةُ فَأَخْبَرَ أَنَّ عَبْدَ اللَّهِ ابْنَ سَهْلِ قَدْ قُتِلَ، وَطُرِحَ فِي عَيْنٍ أَوْ فَقِيرٍ، فَأَتَى يَهُودَ فَقَالَ: أَنْتُمْ، وَاللَّهِ! قَتَلْتُمُوهُ، قَالُوا: وَاللَّهِ! مَا قَتَلْنَا،

began to speak, as he was the one who had been in Khaibar, but the Messenger of Allāh ﷺ said to Muḥaiṣah: “Let the oldest speak.” So Ḥuwaiṣah spoke, then Muḥaiṣah spoke, and the Messenger of Allāh ﷺ said: “They should pay the *Diyah* for your companion or else expect war.” The Messenger of Allāh ﷺ wrote to them about that, and they wrote back (saying): “By Allāh we did not kill him.” The Messenger of Allāh ﷺ said to Ḥuwaiṣah, Muḥaiṣah, and ‘Abdur-Raḥmân: “Will you swear, so that you will be entitled to *Diyah* for the blood of your companion?” They said: “No.” He said: “Then should the Jews swear for you?” They said: “They are not Muslims.” So the Messenger of Allāh ﷺ paid the blood money for him, and sent one hundred camels to them.

Sahl said: “A red she-camel among them kicked me.”

[4350] 7 - (1670) Abû Salamah bin ‘Abdur-Raḥmân and Sulaimân bin Yasâr, the freed slave of Maimûnah, the wife of the Prophet ﷺ, narrated from an *Anṣârî* man among the Companions of the Messenger of Allāh ﷺ, that the Messenger of Allāh ﷺ confirmed

ثُمَّ أَقْبَلَ حَتَّى قَدِمَ عَلَى قَوْمِهِ، فَذَكَرَ لَهُمْ ذَلِكَ، ثُمَّ أَقْبَلَ هُوَ وَأَخُوهُ حُوَيْصَةُ - وَهُوَ أَكْبَرُ مِنْهُ - وَعَبْدُ الرَّحْمَنِ بْنِ سَهْلِ، فَذَهَبَ مُحَيِّصَةُ لِيَتَكَلَّمَ، وَهُوَ الَّذِي كَانَ بِخَيْبَرَ، فَقَالَ رَسُولُ اللَّهِ ﷺ لِمُحَيِّصَةَ: «كَبِّرْ. كَبِّرْ» - يُرِيدُ السَّنَّ - فَتَكَلَّمَ حُوَيْصَةُ، ثُمَّ تَكَلَّمَ مُحَيِّصَةُ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّمَا أَنْ يَدُوا صَاحِبَكُمْ وَإِنَّمَا أَنْ يُؤْذِنُوا بِحَرْبٍ؟» فَكَتَبَ رَسُولُ اللَّهِ ﷺ إِلَيْهِمْ فِي ذَلِكَ، فَكَتَبُوا: إِنَّا وَاللَّهِ! مَا قَتَلْنَا، فَقَالَ رَسُولُ اللَّهِ ﷺ لِحُوَيْصَةَ وَمُحَيِّصَةَ وَعَبْدِ الرَّحْمَنِ: «أَتَحْلِفُونَ وَتَسْتَحِقُّونَ دَمَ صَاحِبِكُمْ؟» قَالُوا: لَا، قَالَ: «فَتَحْلِفُ لَكُمْ يَهُودُ؟» قَالُوا: لَيْسُوا مُسْلِمِينَ، فَوَدَّاهُ رَسُولُ اللَّهِ ﷺ مِنْ عِنْدِهِ، فَبَعَثَ إِلَيْهِمْ رَسُولُ اللَّهِ ﷺ مِائَةَ نَاقَةٍ حَتَّى أُدْخِلَتْ عَلَيْهِمُ الدَّارَ.

فَقَالَ سَهْلٌ: فَلَقَدْ رَكَضَنِي مِنْهَا نَاقَةٌ حَمْرَاءَ.

[٤٣٥٠] ٧ - (١٦٧٠) حَدَّثَنِي أَبُو الطَّاهِرِ وَحَرَمَلَةُ بْنُ يَحْيَى - قَالَ أَبُو الطَّاهِرِ: حَدَّثَنَا، وَقَالَ حَرَمَلَةُ: أَخْبَرَنَا - ابْنُ وَهْبٍ: أَخْبَرَنِي يُونُسُ عَنِ ابْنِ شِهَابٍ: أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ

*Qasâmah* as it had been during the *Jâhiliyyah*.

[4351] 8 - (...) Ibn Shihâb narrated a similar report (as no. 4350) with this chain, and he added: "The Messenger of Allâh ﷺ passed a judgment among some of the *Anṣâr*, concerning a slain man whom they claimed had been killed by the Jews."

[4352] (...) It was narrated from Ibn Shihâb that Abû Salamah bin 'Abdur-Raḥmân and Sulaimân bin Yaṣâr told him from some of the *Anṣâr*, from the Prophet ﷺ - a *Hadîth* like that of Ibn Juraij (no. 4351).

## Chapter 2. The Ruling On *Muhâribîn* And Apostates

[4353] 9 - (1671) It was narrated from Anas bin Mâlik that some people from 'Uraynah came to the Messenger of Allâh ﷺ in Al-Madînah, but they found that the climate did not suit them

الرَّحْمَنِ، وَسَلِيمَانَ بْنِ يَسَارٍ مَوْلَى مَمُونَةَ رَوْحِ النَّبِيِّ ﷺ، عَنْ رَجُلٍ مِنْ أَصْحَابِ رَسُولِ اللَّهِ ﷺ مِنَ الْأَنْصَارِ؛ أَنَّ رَسُولَ اللَّهِ ﷺ: أَقَرَّ الْقَسَامَةَ عَلَيَّ مَا كَانَتْ عَلَيْهِ فِي الْجَاهِلِيَّةِ.

[٤٣٥١] ٨ - (...) وَحَدَّثَنَا مُحَمَّدُ ابْنُ رَافِعٍ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ قَالَ: أَخْبَرَنَا ابْنُ جُرَيْجٍ: حَدَّثَنِي ابْنُ شِهَابٍ بِهَذَا الْإِسْنَادِ مِثْلَهُ، وَزَادَ: وَقَضَى بِهَا رَسُولُ اللَّهِ ﷺ بَيْنَ نَاسٍ مِنَ الْأَنْصَارِ، فِي قَتِيلِ ادَّعَوْهُ عَلَى الْيَهُودِ.

[٤٣٥٢] (...) وَحَدَّثَنَا حَسَنُ بْنُ عَلِيٍّ الْحُلَوَانِيُّ: حَدَّثَنَا يَعْقُوبُ وَهُوَ ابْنُ إِبْرَاهِيمَ بْنِ سَعْدٍ: حَدَّثَنَا أَبِي عَنْ صَالِحِ، عَنِ ابْنِ شِهَابٍ؛ أَنَّ أَبَا سَلَمَةَ ابْنَ عَبْدِ الرَّحْمَنِ وَسَلِيمَانَ بْنَ يَسَارٍ أَخْبَرَاهُ عَنْ نَاسٍ مِنَ الْأَنْصَارِ، عَنِ النَّبِيِّ ﷺ، بِمِثْلِ حَدِيثِ ابْنِ جُرَيْجٍ.

(المعجم ٢) - (بَابُ حُكْمِ الْمُحَارِبِينَ وَالْمُرْتَدِينَ) (التحفة ٢)

[٤٣٥٣] ٩ - (١٦٧١) وَحَدَّثَنَا يَحْيَى ابْنُ يَحْيَى التَّمِيمِيُّ وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، كِلَاهُمَا عَنْ هُشَيْمٍ، - وَاللَّفْظُ لِيَحْيَى - قَالَ: أَخْبَرَنَا هُشَيْمٌ، عَنْ عَبْدِ

(and they fell sick). The Messenger of Allāh ﷺ said to them: "If you wish, you may go out to the camels from *Ṣadaqah* and drink their milk and urine." So they did that and got better. Then they went to the herdsmen and killed them, and apostatized from Islam, and drove off the camels of the Messenger of Allāh ﷺ. News of that reached the Prophet ﷺ and he sent men after them. They were brought, and he had their hands and feet cut off, and their eyes poked out, and he left them in Al-Harrah until they died.

[4354] 10 - (...) It was narrated from Abû Qilâbah: "Anas told me that eight men from 'Ukl came to the Messenger of Allāh ﷺ, and they swore allegiance as Muslims, but they found that the land (i.e., the climate) did not suit them and they fell sick. They complained about that to the Messenger of Allāh ﷺ, and he said: 'Why don't you go out with our herdsmen to the camels and get some of their milk and urine?' They said: 'Yes.' So they went out and drank some of their milk and urine, and they got better. Then they killed the herdsmen and drove away the camels. News of that reached the Messenger of Allāh ﷺ, and he

العَرَبِيزِ بْنِ صُهَيْبٍ وَحُمَيْدٍ، عَنِ أَنَسِ بْنِ مَالِكٍ؛ أَنَّ نَاسًا مِنْ عُرَيْتَةَ قَدِمُوا عَلَى رَسُولِ اللَّهِ ﷺ الْمَدِينَةَ، فَاجْتَوَوْهَا، فَقَالَ لَهُمْ رَسُولُ اللَّهِ ﷺ: «إِنْ شِئْتُمْ أَنْ تَخْرُجُوا إِلَى إِبِلِ الصَّدَقَةِ فَتَشْرَبُوا مِنْ أَلْبَانِهَا وَأَبْوَالِهَا» فَفَعَلُوا، فَصَحُّوا، ثُمَّ مَالُوا عَلَى الرِّعَاءِ فَتَقْتَلُوهُمْ، وَارْتَدُّوا عَنِ الْإِسْلَامِ، وَسَاقُوا ذَوْدَ رَسُولِ اللَّهِ ﷺ، فَبَلَغَ ذَلِكَ النَّبِيَّ ﷺ، فَبَعَثَ فِي أَرْهَمِ قَاتِي بِيَهُمْ، فَفَطَعَ أَيْدِيَهُمْ وَأَرْجُلَهُمْ، وَسَمَلَ أَعْيُنَهُمْ، وَتَرَكَهُمْ فِي الْحَرَّةِ حَتَّى مَاتُوا.

[٤٣٥٤] ١٠ - (...) وَحَدَّثَنَا أَبُو جَعْفَرٍ مُحَمَّدُ بْنُ الصَّبَّاحِ وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ - وَاللَّفْظُ لِأَبِي بَكْرٍ - قَالَ: حَدَّثَنَا ابْنُ عُثْمَانَ عَنْ حَجَّاجِ ابْنِ أَبِي عُمَانَ: حَدَّثَنِي أَبُو رَجَاءٍ مَوْلَى أَبِي قِلَابَةَ، عَنْ أَبِي قِلَابَةَ: حَدَّثَنِي أَنَسٌ؛ أَنَّ نَفَرًا مِنْ عُكْلٍ، ثَمَانِيَّةً، قَدِمُوا عَلَى رَسُولِ اللَّهِ ﷺ، فَبَايَعُوهُ عَلَى الْإِسْلَامِ، فَاسْتَوْحَمُوا الْأَرْضَ، وَسَقَمَتْ أَجْسَامُهُمْ، فَشَكُوا ذَلِكَ إِلَى رَسُولِ اللَّهِ ﷺ، فَقَالَ: «أَلَا تَخْرُجُونَ مَعَ رَاعِينَا فِي إِبِلِهِ فَتَصِيبُونَ مِنْ أَبْوَالِهَا وَأَلْبَانِهَا؟»

sent men after them. They were caught and brought, and he ordered that their hands and feet be cut off and their eyes be branded, then they were left in the sun until they died."

فَقَالُوا: بَلَى، فَخَرَجُوا فَشَرِبُوا مِنْ أَبْوَالِهَا  
وَأَلْبَانِهَا، فَصَضُّوا، فَفَقْتَلُوا الرَّاعِيَّ وَطَرَدُوا  
الْإِبِلَ، فَبَلَغَ ذَلِكَ رَسُولَ اللَّهِ ﷺ، فَبَعَثَ فِي  
آثَارِهِمْ، فَأَذْرَكُوا، فَجِيءَ بِهِمْ، فَأَمَرَ بِهِمْ  
فَقَطَّعَتْ أَيْدِيَهُمْ وَأَرْجُلَهُمْ وَسَمِرَ أَعْيُنَهُمْ، ثُمَّ  
نُبِدُوا فِي الشَّمْسِ حَتَّى مَاتُوا.

وَقَالَ ابْنُ الصَّبَّاحِ فِي رِوَايَتِهِ:  
وَاطْرَدُوا النَّعَمَ، وَقَالَ: وَسَمِرَتْ أَعْيُنُهُمْ.

[4355] 11 - (...) (٤٣٥٥) [١١- (...)] وَحَدَّثَنَا هَرُونَ

[4355] 11 - (...) Anas bin Mâlik narrated: "Some people from 'Ukl or 'Uraynah came to the Messenger of Allâh ﷺ, but Al-Madīnah did not suit them (and they fell sick), so the Messenger of Allâh ﷺ told them to go to some milch camels and drink their milk and urine..." a *Hadīth* like that of Hajjāj bin Abī 'Uthmān (no. 4354).

He said: "Their eyes were branded and they were left in Al-Harrah, asking for water, but they were not given any water."

ابْنُ عَبْدِ اللَّهِ: حَدَّثَنَا سُلَيْمَانُ بْنُ حَرْبٍ:  
حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ أَبِي  
رَجَاءٍ مَوْلَى أَبِي قِلَابَةَ قَالَ أَبُو قِلَابَةَ:  
حَدَّثَنَا أَنَسُ بْنُ مَالِكٍ قَالَ: قَدِمَ عَلَيَّ  
رَسُولُ اللَّهِ ﷺ قَوْمٌ مِنْ عُكْلٍ أَوْ عَرَيْتَةَ،  
فَاجْتَوَوْا الْمَدِينَةَ، فَأَمَرَ لَهُمْ رَسُولُ  
اللَّهِ ﷺ بِلِقَاحِ، وَأَمَرَهُمْ أَنْ يَشْرَبُوا مِنْ  
أَبْوَالِهَا وَأَلْبَانِهَا، بِمَعْنَى حَدِيثِ حَجَّاجِ  
ابْنِ أَبِي عُثْمَانَ.

وَقَالَ: وَسَمِرَتْ أَعْيُنُهُمْ، وَأَلْقُوا فِي  
الْحَرَّةِ يَسْتَسْقُونَ فَلَا يُسْقَوْنَ.

[4356] 12 - (...) (٤٣٥٦) [١٢- (...)] وَحَدَّثَنَا مُحَمَّدُ

[4356] 12 - (...) It was narrated that Abū Qilābah said: "I was sitting behind 'Umar bin 'Abdul-'Azīz, and he said to the people: 'What do you say about *Qasamah*?' 'Anbasah said: 'Anas bin Mâlik told us such-and-such.' I said: 'Anas told

ابْنُ الْمُثَنَّى: حَدَّثَنَا مُعَاذُ بْنُ مُعَاذٍ، وَحَدَّثَنَا  
أَحْمَدُ بْنُ عُثْمَانَ التَّوْقَلِيُّ: حَدَّثَنَا أَزْهَرُ  
السَّمَّانُ قَالَ: حَدَّثَنَا ابْنُ عَوْنٍ: حَدَّثَنَا

me that some people came to the Prophet ﷺ...” and he quoted a *Hadith* like that of Ayyûb and Ḥajjâj (no. 4354 and 4355). Abû Qilâbah said: “When I had finished, ‘Anbasah said: ‘*Subhân Allâh!*’ Abû Qilâbah said: “I said: ‘Are you suspecting me (of lying), O ‘Anbasah?’ He said: ‘No, this is what Anas bin Mâlik told us.’ You will still be fine, O people of *Ash-Shâm*, so long as this man, or one like him, is among you.”

[4357] (...) It was narrated from Abû Qilâbah, that Anas bin Mâlik said: “Eight men from ‘Ukl came to the Messenger of Allâh ﷺ...” a *Hadith* like theirs (i.e., Ayyûb and Ḥajjâj, no. 4354, 4355) and he added: “And he did not cauterize them.”

[4358] 13 - (...) It was narrated that Anas bin Mâlik said: “Some

أَبُو رَجَاءٍ مَوْلَى أَبِي قِلَابَةَ، عَنْ أَبِي قِلَابَةَ قَالَ: كُنْتُ جَالِسًا خَلْفَ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ، فَقَالَ لِلنَّاسِ: مَا تَقُولُونَ فِي الْقَسَامَةِ؟ فَقَالَ عُبَيْسَةُ: قَدْ حَدَّثَنَا أَنَسُ بْنُ مَالِكٍ كَذَا وَكَذَا، فَقُلْتُ: إِيَّايَ حَدَّثَ أَنَسٌ: قَدِمَ عَلَيَّ النَّبِيُّ ﷺ قَوْمًا، وَسَاقَ الْحَدِيثَ بِنَحْوِ حَدِيثِ أَيُّوبَ وَحَجَّاجٍ، قَالَ أَبُو قِلَابَةَ: فَلَمَّا فَرَغْتُ، قَالَ عُبَيْسَةُ: سُبْحَانَ اللَّهِ! قَالَ أَبُو قِلَابَةَ: فَقُلْتُ: أَتَتَّهَمُنِي يَا عُبَيْسَةُ؟ قَالَ: لَا، هَكَذَا حَدَّثَنَا أَنَسُ [بُنُ مَالِكٍ]، لَنْ تَزَالُوا بِخَيْرٍ، يَا أَهْلَ الشَّامِ، مَا دَامَ فِيكُمْ هَذَا أَوْ مِثْلُ هَذَا.

[٤٣٥٧] (...) وَحَدَّثَنَا الْحَسَنُ بْنُ أَبِي شُعَيْبٍ الْحَرَّانِيُّ: حَدَّثَنَا مَسْكِينٌ - وَهُوَ ابْنُ بُكَيْرٍ - الْحَرَّانِيُّ: أَخْبَرَنَا الْأَوْزَاعِيُّ؛ وَحَدَّثَنَا عَبْدُ اللَّهِ بْنُ عَبْدِ الرَّحْمَنِ الدَّارِمِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ عَنِ الْأَوْزَاعِيِّ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي قِلَابَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: قَدِمَ عَلَيَّ رَسُولُ اللَّهِ ﷺ ثَمَانِيَةَ نَفَرٍ مِنْ عُكْلٍ، بِنَحْوِ حَدِيثِهِمْ، وَزَادَ فِي الْحَدِيثِ: وَلَمْ يَحْسِمُهُمْ.

[٤٣٥٨] ١٣ - (...) وَحَدَّثَنَا

people from ‘Uraynah came to the Messenger of Allâh ﷺ, and they become Muslim and swore allegiance to him. Then Al-Madînah was stricken with *Al-Mûm* - and it is pleurisy -...” and he mentioned a *Hadîth* like theirs (no. 4354, 4355), and added: “There were twenty young men of the *Anşâr* with him, so he sent them to them, and he sent with them a tracker to follow their tracks.”

[4359] (...) It was narrated from Anas, and in the *Hadîth* of Hammâm (a sub-narrator it says: “Some people from ‘Uraynah came to the Prophet ﷺ...” In the *Hadîth* of Sa‘eed it says: “From ‘Ukl and ‘Uraynah,” a similar *Hadîth* (as no. 4358).

[4360] 14 - (...) It was narrated that Anas said: “The Prophet ﷺ had the eyes of those people poked out because they had poked out the eyes of the herdsmen.”

هَرُونَ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا مَالِكُ بْنُ إِسْمَاعِيلَ: حَدَّثَنَا زُهَيْرٌ: حَدَّثَنَا سِمَاكُ بْنُ حَرْبٍ، عَنْ مُعَاوِيَةَ بْنِ قُرَّةَ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: أَتَى رَسُولَ اللَّهِ ﷺ نَفَرٌ مِنْ عُرَيْنَةَ، فَأَسْلَمُوا وَيَأْبَعُوهُ، وَقَدْ وَقَعَ بِالْمَدِينَةِ الْمُؤْمُ - وَهُوَ الْبِرْسَامُ - ثُمَّ ذَكَرَ نَحْوَ حَدِيثِهِمْ، وَزَادَ: وَعِنْدَهُ شَبَابٌ مِنَ الْأَنْصَارِ قَرِيبٌ مِنْ عِشْرِينَ، فَأَرْسَلَهُمْ إِلَيْهِمْ، وَبَعَثَ مَعَهُمْ قَائِمًا يَقْتَصُ أَثَرَهُمْ.

[٤٣٥٩] (...) وَحَدَّثَنَا هَدَّابُ بْنُ خَالِدٍ: حَدَّثَنَا هَمَّامٌ: حَدَّثَنَا قَتَادَةُ عَنْ أَنَسٍ؛ وَحَدَّثَنَا ابْنُ الْمُثَنَّى: حَدَّثَنَا عَبْدُ الْأَعْلَى: حَدَّثَنَا سَعِيدٌ عَنْ قَتَادَةَ، عَنْ أَنَسٍ وَفِي حَدِيثِ هَمَّامٍ: قَدِمَ عَلَيَّ النَّبِيُّ ﷺ رَهْطٌ مِنْ عُرَيْنَةَ، وَفِي حَدِيثِ سَعِيدٍ: مِنْ عُكْلٍ وَعُرَيْنَةَ، نَحْوَ حَدِيثِهِمْ.

[٤٣٦٠] ١٤ - (...) وَحَدَّثَنِي الْفَضْلُ بْنُ سَهْلٍ الْأَعْرَجُ: حَدَّثَنَا يَحْيَى بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ، عَنْ سُلَيْمَانَ التَّمِيمِيِّ، عَنْ أَنَسٍ قَالَ: إِنَّمَا سَمَلَ النَّبِيُّ ﷺ أَعْيُنَ أَوْلِيكَ، لِأَنَّهُمْ سَمَلُوا أَعْيُنَ الرَّعَاءِ.

**Chapter 3. Confirmation Of Qisas In The Case Of Killing With A Rock and Other Sharp Or Heavy Objects, And The Killing Of A Man For A Woman**

[4361] 15 - (1672) It was narrated from Anas bin Mâlik that a Jew killed a girl for her silver ornaments, and he killed her with a rock. She was brought to the Prophet ﷺ when there was still some life in her, and he said to her: "Did so-and-so kill you?" She gestured with her head saying no. He asked her again and she gestured with her head saying no. Then he asked her a third time and she said: Yes, gesturing with her head, so the Messenger of Allâh ﷺ had him killed between two rocks.

[4362] (...) A similar report (as *Hadîth* no. 4361) was narrated from *Shu'bah* with this chain. In the *Hadîth* of *Idrîs* (a sub-narrator) it says that his head was crushed between two rocks.

[4363] 16 - (...) It was narrated from Anas that a Jewish man killed an *Anṣârî* girl for her

(المعجم ٣) - (بَابُ ثُبُوتِ الْقِصَاصِ فِي الْقَتْلِ بِالْحَجَرِ وَغَيْرِهِ، مِنَ الْمَحْدَدَاتِ وَالْمَثْقَلَاتِ، وَقَتْلِ الرَّجُلِ بِالْمَرْأَةِ) (التحفة ٣)

[٤٣٦١] ١٥ - (١٦٧٢) حَدَّثَنَا مُحَمَّدُ ابْنُ الْمُثَنَّى وَمُحَمَّدُ بْنُ بَشَّارٍ - وَاللَّفْظُ لِابْنِ الْمُثَنَّى - قَالَ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ هِشَامِ بْنِ زَيْدٍ، عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ، يَهُودِيًّا قَتَلَ جَارِيَةً عَلَى أَوْضَاحِ لَهَا، فَقَتَلَهَا بِحَجَرٍ، قَالَ: فَجِيءَ بِهَا إِلَى النَّبِيِّ ﷺ، وَبِهَا رَمَقٌ، فَقَالَ لَهَا: «أَقْتَلِكِ فُلَانٌ؟» فَأَشَارَتْ بِرَأْسِهَا أَنْ لَا، ثُمَّ قَالَ لَهَا الثَّانِيَةَ، فَأَشَارَتْ بِرَأْسِهَا أَنْ لَا، ثُمَّ سَأَلَهَا الثَّلَاثَةَ، فَقَالَتْ: نَعَمْ، وَأَشَارَتْ بِرَأْسِهَا، فَقَتَلَهُ رَسُولُ اللَّهِ ﷺ بَيْنَ حَجَرَيْنِ.

[٤٣٦٢] (...) حَدَّثَنِي يَحْيَى بْنُ حَبِيبِ الْحَارِثِيِّ: حَدَّثَنَا خَالِدٌ يَعْنِي ابْنَ الْحَارِثِ؛ وَحَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا ابْنُ إِدْرِيسَ، كِلَاهُمَا عَنْ شُعْبَةَ بِهَذَا الْإِسْنَادِ نَحْوَهُ، وَفِي حَدِيثِ ابْنِ إِدْرِيسَ: فَرَضَ رَأْسَهُ بَيْنَ حَجَرَيْنِ.

[٤٣٦٣] ١٦ - (...) وَحَدَّثَنَا عَبْدُ ابْنِ حُمَيْدٍ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا

jewelry, then he threw her into a well and crushed her head with rocks. He was caught and brought to the Messenger of Allâh ﷺ, who ordered that he be stoned to death, so he was stoned to death.

[4364] (...) A similar report (as *Hadith* no. 4361) was narrated from Ayyûb with this chain.

[4365] 17 - (...) It was narrated from Anas bin Mâlik that a girl was found with her head crushed between two rocks. They asked her: "Who did this to you? Was it so-and-so? Was it so-and-so?" Until they mentioned that Jew, and she nodded her head. The Jew was caught and he admitted it, so the Messenger of Allâh ﷺ ordered that his head be struck with rocks.

**Chapter 4. If A Person Attacks Another Person's Life And Limb, And The Other Defends Himself And Kills Him Or Injures Him, There Is No Penalty On Him**

[4366] 18 - (1673) It was narrated that 'Imrân bin Ḥuṣayn said: "Ya'la bin Muniyah or Ibn

مَعْمَرٌ، عَنْ أَيُّوبَ، عَنْ أَبِي قَلَابَةَ، عَنْ أَنَسٍ؛ أَنَّ رَجُلًا مِنَ الْيَهُودِ قَتَلَ جَارِيَةً مِنَ الْأَنْصَارِ عَلَى حُلِيِّ لَهَا، ثُمَّ أَلْقَاهَا فِي الْقَلْبِ، وَرَضَخَ رَأْسَهَا بِالْحِجَارَةِ، فَأَخَذَ فَأَتَى بِهِ رَسُولَ اللَّهِ ﷺ، فَأَمَرَ بِهِ أَنْ يُرْجَمَ، حَتَّى يَمُوتَ، فَرُجِمَ حَتَّى مَاتَ.

[٤٣٦٤] (...) وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ: أَخْبَرَنَا مُحَمَّدُ بْنُ بَكْرٍ: أَخْبَرَنَا ابْنُ جُرَيْجٍ: أَخْبَرَنِي مَعْمَرٌ، عَنْ أَيُّوبَ بِهَذَا الْإِسْنَادِ، مِثْلَهُ.

[٤٣٦٥] ١٧ - (...) حَدَّثَنَا هَدَّابُ ابْنُ خَالِدٍ: حَدَّثَنَا هَمَّامٌ: حَدَّثَنَا قَتَادَةُ، عَنْ أَنَسِ بْنِ مَالِكٍ؛ أَنَّ جَارِيَةً وَجِدَ رَأْسُهَا قَدْ رُضَّ بَيْنَ حَجْرَيْنِ، فَسَأَلُوهَا: مَنْ صَنَعَ هَذَا بِكَ؟ فُلَانٌ؟ فُلَانٌ؟ حَتَّى ذَكَرُوا الْيَهُودِيَّ، فَأَوَمَّتْ بِرَأْسِهَا، فَأَخَذَ الْيَهُودِيُّ فَأَقْرَّ، فَأَمَرَ بِهِ رَسُولُ اللَّهِ ﷺ أَنْ يُرَضَّ رَأْسُهُ بِالْحِجَارَةِ.

(المعجم ٤) - (باب الصائل على نفس الإنسان وعضوه، إذا دفعه المصول عليه، فأتلف نفسه أو عضوه، لا ضمان عليه) (التحفة ٤)

[٤٣٦٦] ١٨ - (١٦٧٣) حَدَّثَنَا مُحَمَّدُ ابْنُ الْمُثَنَّى وَابْنُ بَشَّارٍ قَالَا: حَدَّثَنَا مُحَمَّدُ

Umayyah fought a man. One of them bit the other, and he tried to pull his hand away from his mouth, and his incisor fell out - Ibn Al-Muthannah said that two incisors fell out. They referred their dispute to the Prophet ﷺ and he said: "Would one of you bite as a male camel bites?" There is no *Diyah* for him."

ابْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ قَتَادَةَ، عَنْ زُرَّارَةَ، عَنْ عِمْرَانَ بْنِ حُصَيْنٍ قَالَ: قَاتَلَ يَعْلى بْنُ مُنْبَةَ أَوْ ابْنُ أُمَيَّةَ رَجُلًا، فَعَضَّ أَحَدُهُمَا صَاحِبَهُ، فَانْتَرَعَ يَدَهُ مِنْ فِيهِ، فَتَرَخَ نَيْبَتَهُ، - وَقَالَ ابْنُ الْمُثَنَّى: نَيْبَتِهِ - فَاحْتَصَمَا إِلَى النَّبِيِّ ﷺ، فَقَالَ: «أَيَعْضُ أَحَدُكُمْ كَمَا يَعَضُّ الْفَحْلُ؟ لَا دِيَّةَ لَهُ» [انظر: ٤٣٧٠]

[4367] (...) A similar report (as no. 4366) was narrated from Ya'la, from the Prophet ﷺ.

[٤٣٦٧] (...) وَحَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى وَابْنُ بَشَّارٍ قَالَا: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ قَتَادَةَ، عَنْ عَطَاءٍ، عَنْ ابْنِ يَعْلى، عَنْ يَعْلى عَنِ النَّبِيِّ ﷺ بِمِثْلِهِ.

[4368] 19 - (...) It was narrated from 'Imrân bin Ḥuṣain that a man bit the arm of another man, who pulled it away and his incisor fell out. The matter was referred to the Prophet ﷺ who dismissed the claim and said: "Did you want to eat his flesh?"

[٤٣٦٨] ١٩- (...) وَحَدَّثَنِي أَبُو غَسَّانَ الْمُسَمَعِيُّ، حَدَّثَنَا مُعَاذٌ يَعْنِي ابْنَ هِشَامٍ، حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنْ زُرَّارَةَ ابْنِ أَوْفَى، عَنْ عِمْرَانَ بْنِ حُصَيْنٍ: أَنَّ رَجُلًا عَضَّ ذِرَاعَ رَجُلٍ، فَجَذَبَهُ فَسَقَطَتْ نَيْبَتُهُ، فَرَفَعَ إِلَى النَّبِيِّ ﷺ فَأَبْطَلَهُ، وَقَالَ: «أَرَدْتَ أَنْ تَأْكُلَ لَحْمَهُ؟».

[4369] 20 - (1674) It was narrated from Ṣafwân bin Ya'la that a servant of Ya'la bin Munyah bit another man on the arm, and he pulled it away and his incisor fell out. The matter was referred to the Prophet ﷺ

[٤٣٦٩] ٢٠- (١٦٧٤) وَحَدَّثَنِي أَبُو غَسَّانَ الْمُسَمَعِيُّ: حَدَّثَنَا مُعَاذٌ [يَعْنِي ابْنَ هِشَامٍ]: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنْ بُدَيْلٍ، عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ، عَنْ

who dismissed the claim and said: "Did you want to bite him as a male camel bites?"

[4370] 21 - (1673) It was narrated from 'Imrân bin Ḥuṣain that a man bit the hand of another man, who pulled his hand away and one or more of his incisors fell out. He referred the matter to the Messenger of Allāh ﷺ and the Messenger of Allāh ﷺ said: "What do you want me to do? Do you want me to order him to put his hand in your mouth so that you can bite it like a male camel? Give him your hand so that he can bite it, then you can pull it away"

[4371] 22 - (1674) It was narrated from Ṣafwân bin Ya'la bin Munyah that his father said: "A man came to the Prophet ﷺ. He had bitten a man's hand, who had pulled his hand away and his incisors had fallen out." He said: "The Prophet ﷺ dismissed the claim and said: 'Did you want to bite him as a camel bites?'"

[4372] 23 - (...) Ṣafwân bin Ya'la bin Umayyah narrated that his father said: "I went out with

صَفْوَانَ بْنِ يَعْلَى أَنَّ أَجِيرًا لِيَعْلَى بْنِ مُئَيَّةَ، عَضَّ رَجُلًا ذِرَاعَهُ، فَجَذَبَهَا فَسَقَطَتْ نَيْبَتُهُ، فَرَفِعَ إِلَى النَّبِيِّ ﷺ فَأَبْطَلَهَا وَقَالَ: «أَرَدْتَ أَنْ تَقْضِمَهَا كَمَا يَقْضِمُ الْفَحْلُ؟». [انظر: ٤٣٧١]

[٤٣٧٠] ٢١ - (١٦٧٣) حَدَّثَنَا أَحْمَدُ بْنُ عُثْمَانَ التَّوْفَلِيُّ: حَدَّثَنَا قُرَيْشُ بْنُ أَنَسٍ، عَنِ ابْنِ عَوْنٍ، عَنْ [مُحَمَّدِ] بْنِ سِيرِينَ، عَنْ عِمْرَانَ بْنِ حُصَيْنٍ؛ أَنَّ رَجُلًا عَضَّ يَدَ رَجُلٍ، فَانْتَزَعَ يَدَهُ فَسَقَطَتْ نَيْبَتُهُ أَوْ ثَنَائِيَاهُ، فَاسْتَعْدَى رَسُولَ اللَّهِ ﷺ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «مَا تَأْمُرُنِي؟ تَأْمُرُنِي أَنْ أَمُرَهُ أَنْ يَدَعَ يَدَهُ فِي فَيْكِ تَقْضِمُهَا كَمَا يَقْضِمُ الْفَحْلُ؟ اذْفَعْ يَدَكَ حَتَّى يَعْضَهَا ثُمَّ انْتَرِعْهَا». [راجع: ٤٣٦٦]

[٤٣٧١] ٢٢ - (١٦٧٤) حَدَّثَنَا شَيْبَانُ ابْنُ فَرُوحٍ: حَدَّثَنَا هَمَّامٌ: حَدَّثَنَا عَطَاءٌ عَنْ صَفْوَانَ بْنِ يَعْلَى ابْنِ مُئَيَّةَ، عَنْ أَبِيهِ قَالَ: أَتَى النَّبِيَّ ﷺ رَجُلٌ، وَقَدْ عَضَّ يَدَ رَجُلٍ، فَانْتَزَعَ يَدَهُ فَسَقَطَتْ نَيْبَتُهُ يَعْنِي الَّذِي عَضَّهُ قَالَ: فَأَبْطَلَهَا النَّبِيُّ ﷺ، وَقَالَ: «أَرَدْتَ أَنْ تَقْضِمَهُ كَمَا يَقْضِمُ الْفَحْلُ؟». [راجع: ٤٣٦٩]

[٤٣٧٢] ٢٣ - (...) حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا أَبُو أُسَامَةَ: أَخْبَرَنَا

the Prophet ﷺ on the campaign to Tâbûk. He said: ‘Ya’la used to say: “That campaign was the best of my deeds, in my view.”’ ‘Aṭâ’ said: “Şafwân said: ‘Ya’la said: “I had a servant who fought with another man and one of them bit the hand of the other” - Şafwân said: “He told me which of them bit the other - the one who was bit pulled his hand away from the one who bit him, and pulled out one of his incisors. They came to the Prophet ﷺ, who dismissed his claim for his tooth.”

[4373] (...) Ibn Juraij narrated a similar report (as no. 4372) with this chain.

### Chapter 5. The Validity Of Qisâs For Teeth And The Like

[4374] 24 - (1675) It was narrated from Anas that the sister of Ar-Ruba’î Umm Hâriṭhah, injured a person. They referred the dispute to the Prophet ﷺ and the Messenger of Allâh ﷺ said: “Qisâs, Qisâs.” Umm Ar-Rabî’ said: “O Messenger of Allâh, will Qisâs be taken from So-and-so? By Allâh, no Qisâs will be taken from her!” The Prophet ﷺ said: “Subhân-Allâh, O Umm Ar-Rabî’! Qisâs is a command in the Book of

ابن جُرَيْجٍ: أَخْبَرَنِي عَطَاءٌ: أَخْبَرَنِي صَفْوَانُ بْنُ يَعْلَى بْنِ أُمَيَّةَ عَنْ أَبِيهِ قَالَ: غَزَوْتُ مَعَ النَّبِيِّ ﷺ غَزْوَةَ تَبُوكَ، قَالَ: وَكَانَ يَعْلى يَقُولُ: تِلْكَ الْعَزْوَةُ أَوْتُقُ عَمَلِي عِنْدِي، فَقَالَ عَطَاءٌ: قَالَ صَفْوَانُ: قَالَ يَعْلى: كَانَ لِي أَجِيرٌ، فَقَاتَلَ إِنْسَانًا فَغَضَّ أَحَدُهُمَا يَدَ الْآخَرَ - قَالَ: لَقَدْ أَخْبَرَنِي صَفْوَانُ أَبِيهِمَا عَضَّ الْآخَرَ - فَانْتَزَعَ الْمَعْضُوضُ يَدَهُ مِنْ فِي الْعَاضِ، فَانْتَزَعَ إِحْدَى نَيْبَتَيْهِ، فَأَتَى النَّبِيَّ ﷺ، فَأَهْدَرَ نَيْبَتَهُ.

[٤٣٧٣] (...) وَحَدَّثَنَا عَمْرُو بْنُ زُرَّارَةَ، أَخْبَرَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: أَخْبَرَنَا ابْنُ جُرَيْجٍ بِهَذَا الْإِسْنَادِ، نَحْوَهُ.

(المعجم ٥) - (بَابُ إِثْبَاتِ الْقِصَاصِ فِي الْأَسْنَانِ وَمَا فِي مَعْنَاهَا) (التحفة ٥)

[٤٣٧٤] [٢٤- (١٦٧٥)] وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا عَفَّانُ [ابْنُ مُسْلِمٍ]: حَدَّثَنَا حَمَّادٌ: أَخْبَرَنَا ثَابِتٌ، عَنْ أَنَسٍ، أَنَّ أُخْتِ الرَّبِيعِ أُمَّ حَارِثَةَ، جَرَحَتْ إِنْسَانًا، فَاخْتَصَمُوا إِلَى النَّبِيِّ ﷺ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «الْقِصَاصُ، الْقِصَاصُ» فَقَالَتْ أُمُّ الرَّبِيعِ: يَا رَسُولَ اللَّهِ! أَيَقْتَصُّ مِنْ فُلَانَةٍ؟ وَاللَّهِ!

Allâh.” She said: “No, by Allâh, no *Qisâs* will ever be taken from her.” She kept saying it until they accepted the *Diyah*. The Messenger of Allâh ﷺ said: “Among the slaves of Allâh are those who, if they swear by Allâh that something will happen or not happen, then their oaths will be fulfilled.”

لَا يُقْتَصُّ مِنْهَا، فَقَالَ النَّبِيُّ ﷺ: «سُبْحَانَ اللَّهِ! يَا أُمَّ الرَّبِيعِ! الْفِصَاصُ كِتَابُ اللَّهِ» قَالَتْ: لَا، وَاللَّهِ! لَا يُقْتَصُّ مِنْهَا أَبَدًا، قَالَ: فَمَا زَالَتْ حَتَّى قَبِلُوا الدِّيَةَ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ مِنْ عِبَادِ اللَّهِ مَنْ لَوْ أَقْسَمَ عَلَى اللَّهِ لَأَبْرَهُ».

### Chapter 6. When It Is Permissible To Shed The Blood Of A Muslim

(المعجم ٦) - (بَابُ مَا يَبَاحُ بِهِ دَمُ الْمُسْلِمِ) (التحفة ٦)

[4375] 25 - (1676) It was narrated that ‘Abdullâh said: “The Messenger of Allâh ﷺ said: ‘It is not permissible to shed the blood of a Muslim who testifies that none has the right to be worshiped but Allâh and that I am the Messenger of Allâh, except in one of three cases: A married (or previously married) adulterer, a life for a life, or one who forsakes his religion leaving the *Jamâ’ah* (the congregation of Muslims).’”

[٤٣٧٥] ٢٥ - (١٦٧٦) حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ وَأَبُو مُعَاوِيَةَ وَوَكَيْعٌ، عَنِ الْأَعْمَشِ، عَنْ عَبْدِ اللَّهِ بْنِ مَرْثَةَ، عَنْ سُرُوقٍ، عَنْ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَجِلُّ دَمُ امْرِئٍ مُسْلِمٍ، يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ، وَأَنِّي رَسُولُ اللَّهِ، إِلَّا بِإِحْدَى ثَلَاثٍ: الثَّيِّبُ الزَّانِ، وَالنَّفْسُ بِالنَّفْسِ، وَالتَّارِكُ لِدِينِهِ الْمُفَارِقُ لِلْجَمَاعَةِ».

[4376] (...) A similar report (as *Hadîth* no. 4375) was narrated from Al-A‘*mash* with this chain.

[٤٣٧٦] (...) حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ وَعَلِيُّ بْنُ خَشْرَمٍ قَالَا: أَخْبَرَنَا عَيْسَى بْنُ يُونُسَ، كُلُّهُمُ عَنِ الْأَعْمَشِ بِهَذَا الْإِسْنَادِ. مِثْلُهُ.

[4377] 26 - (...) It was narrated that ‘Abdullâh said: “The Messenger of Allâh ﷺ stood up among us and said: ‘By the One besides Whom none has the right to be worshiped! It is not permissible to shed the blood of a Muslim man who testifies that none has the right to be worshiped but Allâh and that I am the Messenger of Allâh, except in three cases: One who leaves Islam abandoning the *Jamâ’ah* (the congregation of Muslims), a married (or previously married) adulterer, and a life for a life.”

Al-A’mash said: I narrated it to Ibrâhîm, and he narrated a similar report from Al-Aswad, from ‘Aishah.

[4378] (...) A *Hadîth* like that of Sufyân (no. 4377) was narrated from Al-A’mash with both chains, but he did not mention in his *Hadîth* the words: “By the One besides Whom none has the right to be worshiped.”

### Chapter 7. The Sin Of The One Who Set The Precedent Of Killing

[4379] 27 - (1677) It was narrated that ‘Abdullâh said: The Messenger of Allâh ﷺ said: ‘No

[٤٣٧٧] ٢٦ - (...) حَدَّثَنَا أَحْمَدُ بْنُ حَبِيبٍ وَمُحَمَّدُ بْنُ الْمُثَنَّى - وَاللَّفْظُ لِأَحْمَدَ - قَالَ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ عَنْ سُفْيَانَ، عَنِ الْأَعْمَشِ، عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ، عَنْ مَسْرُوقٍ، عَنْ عَبْدِ اللَّهِ قَالَ: قَامَ فِينَا رَسُولُ اللَّهِ ﷺ فَقَالَ: «وَالَّذِي لَا إِلَهَ غَيْرُهُ لَا يَحِلُّ دَمَ رَجُلٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ، وَأَنِّي رَسُولُ اللَّهِ، إِلَّا ثَلَاثَةً نَفَرٍ: التَّارِكُ لِلْإِسْلَامِ، الْمُفَارِقُ لِلْجَمَاعَةِ أَوْ الْجَمَاعَةِ، - شَكَّ فِيهِ أَحْمَدُ - وَالتَّيِّبُ الرَّائِي، وَالنَّفْسُ بِالنَّفْسِ».

قَالَ الْأَعْمَشُ: فَحَدَّثْتُ بِهِ إِبْرَاهِيمَ، فَحَدَّثَنِي عَنِ الْأَسْوَدِ، عَنْ عَائِشَةَ. بِمِثْلِهِ. [٤٣٧٨] (...) وَحَدَّثَنِي حَجَّاجُ بْنُ الشَّاعِرِ وَالْقَاسِمُ بْنُ زَكَرِيَّا، قَالَا: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُوسَى، عَنْ شَيْبَانَ، عَنِ الْأَعْمَشِ بِالْإِسْنَادَيْنِ جَمِيعًا، نَحْوَ حَدِيثِ سُفْيَانَ، وَلَمْ يَذْكُرْ فِي الْحَدِيثِ قَوْلَهُ: «وَالَّذِي لَا إِلَهَ غَيْرُهُ!».

(المعجم ٧) - (باب بيان إثم من سنّ القتل) (التحفة ٧)

[٤٣٧٩] ٢٧ - (١٦٧٧) حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَمُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ

soul is killed unlawfully, but there is a share of the sin on the first son of Âdam, because he was the first one to set the precedent of killing.”

[4380] (...) It was narrated from Al-A'mash with this chain (a *Hadith* similar as no. 4379). In the *Hadith* of Jarîr and “Eisa bin Yûnus (sub-narrators): “because he killed” and it does not say “the first one.”

### Chapter 8. The Punishment For Bloodshed In The Hereafter, And Bloodshed Will Be The First Thing Concerning Which Judgment Is Passed Among The People On The Day Of Resurrection

[4381] 28 - (1678) It was narrated that ‘Abdullâh said: “The Messenger of Allâh ﷺ said: ‘The first thing concerning which judgment will be passed among the people on the Day of Resurrection will be bloodshed.’”

نُمَيْرٍ - وَاللَّفْظُ لِابْنِ أَبِي شَيْبَةَ - قَالَ : حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ ، عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ ، عَنْ مَسْرُوقٍ ، عَنْ عَبْدِ اللَّهِ قَالَ : قَالَ رَسُولُ اللَّهِ ﷺ : « لَا تُقْتَلُ نَفْسٌ ظُلْمًا ، إِلَّا كَانَ عَلَى ابْنِ آدَمَ الْأَوَّلِ كِفْلٌ مِنْ دِمَهِهَا ، لِأَنَّهُ كَانَ أَوَّلَ مَنْ سَنَّ الْقَتْلَ » .

[٤٣٨٠] (...) وَحَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ : حَدَّثَنَا جَرِيرٌ ؛ وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ : أَخْبَرَنَا جَرِيرٌ وَعِيسَى بْنُ يُونُسَ ؛ وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ : حَدَّثَنَا سُفْيَانُ ، كُلُّهُمْ عَنِ الْأَعْمَشِ بِهَذَا الْإِسْنَادِ ، وَفِي حَدِيثِ جَرِيرٍ وَعِيسَى [بْنِ يُونُسَ] : « لِأَنَّهُ سَنَّ الْقَتْلَ » لَمْ يَذْكُرَا : أَوَّلَ .

(المعجم ٨) - (بَابُ الْمَجَازَاةِ بِالْدِمَاءِ فِي الْآخِرَةِ ، وَأَنَّهَا أَوَّلُ مَا يَقْضَى فِيهِ بَيْنَ النَّاسِ يَوْمَ الْقِيَامَةِ) (التحفة ٨)

[٤٣٨١] ٢٨- (١٦٧٨) حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ وَمُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ ، جَمِيعًا عَنْ وَكِيعٍ ، عَنِ الْأَعْمَشِ ؛ وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ : حَدَّثَنَا عَبْدَةُ بْنُ سُلَيْمَانَ وَوَكِيعٌ عَنِ

الأَعْمَشِ؛ عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «أَوَّلُ مَا يُقْضَى بَيْنَ النَّاسِ يَوْمَ الْقِيَامَةِ، فِي الدَّمَاءِ».

[4382] (...) A similar report (as no. 4381) was narrated from 'Abdullāh from the Prophet ﷺ.

[٤٣٨٢] (...) وَحَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ مُعَاذٍ: حَدَّثَنَا أَبِي؛ وَحَدَّثَنِي يَحْيَى بْنُ حَبِيبٍ: حَدَّثَنَا خَالِدٌ: - يَعْنِي ابْنَ الْحَارِثِ -؛ وَحَدَّثَنِي بَشْرُ بْنُ خَالِدٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ؛ وَحَدَّثَنَا ابْنُ الْمُثَنَّى وَابْنُ بَشَّارٍ قَالَا: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ، كُلُّهُمُ عَنْ شُعْبَةَ، عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللَّهِ عَنِ النَّبِيِّ ﷺ بِمِثْلِهِ، غَيْرَ أَنَّ بَعْضَهُمْ قَالَ عَنْ شُعْبَةَ: «يُقْضَى»، وَبَعْضُهُمْ قَالَ: «يُحْكَمُ بَيْنَ النَّاسِ».

### Chapter 9. Emphasis On The Sanctity Of Blood, Honor And Wealth

[4383] 29 - (1679) It was narrated from Abū Bakrah that the Prophet ﷺ said: "Time has returned to its original order as it was on the day when Allāh created the heavens and the earth. The year is twelve months, of which four are sacred: Three consecutive months; Dhul-Qa'dah, Dhul-Hijjah and Muḥarram - and Rajab, the month of Muḍar, which comes

(المعجم ٩) - (بَابُ تَغْلِيظِ تَحْرِيمِ الدَّمَاءِ وَالْأَعْرَاضِ وَالْأَمْوَالِ) (التحفة ٩)

[٤٣٨٣] ٢٩ - (١٦٧٩) وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَيَحْيَى بْنُ حَبِيبٍ الْحَارِثِيُّ - وَتَقَارَبَا فِي اللَّفْظِ - قَالَا: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ أَيُّوبَ، عَنِ ابْنِ سِيرِينَ، عَنِ ابْنِ أَبِي بَكْرَةَ، عَنْ أَبِي بَكْرَةَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «إِنَّ الرَّمَانَ قَدْ اسْتَدَارَ كَهَيْئَتِهِ يَوْمَ خَلَقَ اللَّهُ

between Jumâda and Sha'bân." Then he said: "What month is this?" We said: "Allâh and His Messenger know best." He remained silent until we thought that he was going to call it by another name. He said: "Is it not Dhul-Hijjah?" We said: "Yes indeed." He said: "What land is this?" We said: "Allâh and His Messenger know best." He remained silent until we thought that he was going to call it by another name. He said: "Is it not Al-Baldah (the city of Makkah)?" We said: "Yes indeed." He said: "What day is this?" We said: "Allâh and His Messenger know best." He remained silent until we thought that he was going to call it by another name. He said: "Is it not the Day of Sacrifice?" We said: "Yes indeed, O Messenger of Allâh." He said: "Your blood and your wealth" - Muḥammad (a narrator) said: "and I think he said: 'your honor' - "are sacred to you, as sacred as this day of yours, in this land of yours, in this month of yours. You will meet your Lord, and He will ask you about your deeds, so do not turn back misguided after I am gone, striking one another's necks. Let those who are present convey it to those who are absent; perhaps some of those to whom it is conveyed will understand it better than some of those who hear it." Then he said: "Have I not conveyed (the message)?"

السَّمَاوَاتِ وَالْأَرْضِ، السَّنَةُ اثْنَا عَشَرَ شَهْرًا، مِنْهَا أَرْبَعَةٌ حُرْمٌ، ثَلَاثَةٌ مَتَوَالِيَاتٌ: ذُو الْقَعْدَةِ وَذُو الْحِجَّةِ وَالْمَحْرَمِ، وَرَجَبٌ، شَهْرٌ مُضَرٌّ، الَّذِي بَيْنَ جُمَادَى وَشَعْبَانَ، ثُمَّ قَالَ: «أَيُّ شَهْرٍ هَذَا؟» قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، قَالَ: فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيَسْمِيهِ بغيرِ اسْمِهِ، قَالَ: «أَلَيْسَ ذَا الْحِجَّةِ؟» قُلْنَا: بَلَى، قَالَ: «فَأَيُّ بَلَدٍ هَذَا؟» قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، قَالَ: فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيَسْمِيهِ بغيرِ اسْمِهِ، قَالَ: «أَلَيْسَ الْبَلَدَةَ؟» قُلْنَا: بَلَى، قَالَ: «فَأَيُّ يَوْمٍ هَذَا؟» قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، قَالَ: فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيَسْمِيهِ بغيرِ اسْمِهِ، قَالَ: «أَلَيْسَ يَوْمَ النَّحْرِ؟» قُلْنَا: بَلَى، يَا رَسُولَ اللَّهِ! قَالَ: «فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ - قَالَ مُحَمَّدٌ: وَأَحْسِبُهُ قَالَ - وَأَعْرَاضَكُمْ حَرَامٌ عَلَيْكُمْ، كَحُرْمَةِ يَوْمِكُمْ هَذَا، فِي بَلَدِكُمْ هَذَا، فِي شَهْرِكُمْ هَذَا، وَسَتَلْقَوْنَ رَبَّكُمْ فَيَسْأَلُكُمْ عَنْ أَعْمَالِكُمْ، فَلَا تَرْجِعَنَّ بَعْدِي ضَلَالًا يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ، أَلَا لِيُبَلِّغَ الشَّاهِدُ الْغَائِبَ، فَلَعَلَّ بَعْضٌ مَن يُبَلِّغُهُ يَكُونُ أَوْعَى لَهُ مِنْ بَعْضٍ مَن سَمِعَهُ»، ثُمَّ قَالَ: «أَلَا هَلْ بَلَغْتُمْ؟» .

Ibn Ḥabīb said in his report: "And Rajab of Muḍar."

Abî Bakr (a narrator) said: "Do not turn back after me."

[4384] 30 - (...) It was narrated from 'Abdur-Raḥmān bin Abî Bakrah that his father said: "On that day, he (ﷺ) sat on his camel and someone took hold of its nose-ring, and he said: 'Do you know what day this is?' They said: 'Allāh and His Messenger know best,' until we thought that he was going to call it by another name. He said: 'Is it not the Day of Sacrifice?' We said: 'Yes indeed, O Messenger of Allāh.' He said: 'What month is this?' We said: 'Allāh and His Messenger know best.' He said: 'Is it not Dhul-Hijjah?' We said: 'Yes indeed, O Messenger of Allāh.' He said: 'What land is this?' We said: 'Allāh and His Messenger know best,' until we thought that he was going to call it by another name. He said: 'Is it not Al-Baldah (the city of Makka). We said: 'Yes indeed, O Messenger of Allāh.' He said: 'Your blood, your wealth and your honor are sacred to you, as sacred as this day of yours, in this month of yours, in this land of yours. Let those who are present convey it to those who are absent.' Then he turned towards two speckled black and white rams and sacrificed them, and to a flock of

قَالَ ابْنُ حَبِيبٍ فِي رِوَايَتِهِ: «وَرَجَبُ مُضَرَ»، وَفِي رِوَايَةِ أَبِي بَكْرٍ: «فَلَا تَرْجِعُوا بَعْدِي».

[٤٣٨٤] ٣٠ - (...) حَدَّثَنَا نَضْرُ بْنُ عَلِيٍّ الْجَهْضِيُّ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ عَوْنٍ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرَةَ، عَنْ أَبِيهِ قَالَ: لَمَّا كَانَ ذَلِكَ الْيَوْمَ، قَعَدَ عَلِيٌّ بَعِيرِهِ وَأَخَذَ إِنْسَانٌ بِخِطَامِهِ، فَقَالَ: «أَتَدْرُونَ أَيَّ يَوْمٍ هَذَا؟» قَالُوا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، حَتَّى ظَنَنَّا أَنَّهُ سَيَسْمِيهِ سِوَى اسْمِهِ، فَقَالَ: «أَلَيْسَ بِيَوْمِ التَّحْرِيقِ؟» قُلْنَا: بَلَى، يَا رَسُولَ اللَّهِ! قَالَ: «فَأَيُّ شَهْرٍ هَذَا؟» قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، قَالَ: «أَلَيْسَ بِذِي الْحِجَّةِ؟» قُلْنَا: بَلَى، يَا رَسُولَ اللَّهِ! قَالَ: «فَأَيُّ بَلَدٍ هَذَا؟» قُلْنَا: اللَّهُ وَرَسُولُهُ أَعْلَمُ، قَالَ: حَتَّى ظَنَنَّا أَنَّهُ سَيَسْمِيهِ سِوَى اسْمِهِ، قَالَ: «أَلَيْسَ بِالْبَلَدَةِ؟» قُلْنَا: بَلَى، يَا رَسُولَ اللَّهِ! قَالَ: «فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ عَلَيْكُمْ حَرَامٌ، كَحُرْمَةِ يَوْمِكُمْ هَذَا، فِي شَهْرِكُمْ هَذَا، فِي بَلَدِكُمْ هَذَا، فَلْيُبَلِّغِ الشَّاهِدُ الْغَائِبَ».

قَالَ: ثُمَّ انْكَفَأَ إِلَى كَبَشَيْنِ أَمْلَحَيْنِ فَلَذَبَحَهُمَا، وَإِلَى جُرَيْعَةٍ مِنَ الْعَنَمِ فَفَسَمَهَا بَيْنَنَا.

sheep which he distributed amongst us.

[4385] (...) 'Abdur-Rahmân bin Abî Bakrah narrated that his father said: "When that day came, the Prophet ﷺ sat on a camel and a man was holding on to its rope or reins..." and he mentioned a *Hadîth* like that of Yazîd bin Zurai' (no 4384).

[4386] 31 - (...) It was narrated that Abî Bakrah said: "The Messenger of Allâh ﷺ addressed us on the Day of Sacrifice and said: 'What day is this?'"... they quoted a *Hadîth* like that of Ibn 'Awn (no. 4385), except that he did not mention: "Your honor" and he did not mention: "Then he turned towards two speckled black and white rams," etc. And in his *Hadîth* he said: "As sacred as this day of yours, in this month of yours, in this land of yours, until the Day you meet your Lord. Have I not conveyed (the message)?" They said: "Yes." He said: "O Allâh, bear witness."

[٤٣٨٥] (...) وَحَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا حَمَّادُ بْنُ مَسْعَدَةَ، عَنِ ابْنِ عَوْنٍ، قَالَ: قَالَ مُحَمَّدٌ: قَالَ عَبْدُ الرَّحْمَنِ بْنُ أَبِي بَكْرَةَ، عَنْ أَبِيهِ قَالَ: لَمَّا كَانَ ذَلِكَ الْيَوْمَ جَلَسَ النَّبِيُّ ﷺ عَلَى بَعِيرٍ، قَالَ: وَرَجُلٌ آخِذٌ بِرِمَامِهِ - أَوْ قَالَ: بِخَطَامِهِ -، فَذَكَرَ نَحْوَ حَدِيثِ يَزِيدِ ابْنِ زُرَيْعٍ.

[٤٣٨٦] ٣١ - (...) وَحَدَّثَنِي مُحَمَّدُ ابْنُ حَاتِمٍ بْنُ مَيْمُونٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا قُرَّةُ بْنُ خَالِدٍ: حَدَّثَنَا مُحَمَّدُ بْنُ سِيرِينَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرَةَ، وَعَنْ رَجُلٍ آخَرَ هُوَ فِي نَفْسِي أَفْضَلُ مِنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرَةَ؛ وَحَدَّثَنَا مُحَمَّدُ بْنُ عَمْرٍو بْنُ جَبَلَةَ وَأَحْمَدُ ابْنُ خِرَاشٍ،: حَدَّثَنَا أَبُو عَامِرٍ عَبْدُ الْمَلِكِ بْنُ عَمْرٍو: حَدَّثَنَا قُرَّةُ بِإِسْنَادِ يَحْيَى بْنِ سَعِيدٍ - وَسَمَى الرَّجُلَ حُمَيْدَ ابْنِ عَبْدِ الرَّحْمَنِ - عَنْ أَبِي بَكْرَةَ قَالَ: حَطَبْنَا رَسُولُ اللَّهِ ﷺ يَوْمَ النَّحْرِ، فَقَالَ: «أَيُّ يَوْمٍ هَذَا؟» وَسَاقُوا الْحَدِيثَ بِمِثْلِ حَدِيثِ ابْنِ عَوْنٍ، غَيْرَ أَنَّهُ لَا يَذْكُرُ: «وَأَغْرَضَكُمْ» وَلَا يَذْكُرُ: ثُمَّ انْكَفَأَ إِلَى

كَبِشِينَ وَمَا بَعْدَهُ، وَقَالَ فِي الْحَدِيثِ:  
«كَحْرَمَةِ يَوْمِكُمْ هَذَا، فِي شَهْرِكُمْ هَذَا،  
فِي بَلَدِكُمْ هَذَا إِلَى يَوْمِ تَلْقَوْنَ رَبَّكُمْ،  
أَلَا هَلْ بَلَّغْتُ؟» قَالُوا: نَعَمْ، قَالَ:  
«اللَّهُمَّ اشْهَدْ».

**Chapter 10. A Confession To Murder Is Valid And The Heir Of The Victim Is Entitled To Qisās, But It Is Recommended To Ask Him To Let Him Go**

(المعجم ١٠) - (بَابُ صِحَّةِ الْإِقْرَارِ  
بِالْقَتْلِ وَتَمَكِينِ وَلِيِّ الْقَتِيلِ مِنْ  
الْقِصَاصِ، وَاسْتِحْبَابِ طَلْبِ الْعَفْوِ  
مِنْهُ) (التحفة ١٠)

[4387] 32 - (1680) It was narrated that ‘Alqamah bin Wâ’il narrated that his father told him: “I was sitting with the Prophet ﷺ when a man came leading another on a rope. He said: ‘O Messenger of Allâh, this man killed my brother.’ The Messenger of Allâh ﷺ said: ‘Did you kill him?’ He said: ‘If he does not admit it, I will establish proof against him.’ He said: ‘Yes, I killed him.’ He said: ‘How did you kill him?’ He said: ‘He and I were striking leaves from a tree, and he insulted me so I got angry and struck him with the axe on the side of his head and killed him.’ The Prophet ﷺ said to him: ‘Do you have anything with which to pay the *Diyah* for yourself?’ He said: ‘I have no property except my cloak and my axe.’ He said: ‘Perhaps your

[٤٣٨٧] ٣٢ - (١٦٨٠) وَحَدَّثَنَا عُيَيْدُ  
اللَّهُ بْنُ مُعَاذِ الْعَبْرِيِّ: حَدَّثَنَا أَبِي: حَدَّثَنَا  
أَبُو يُونُسَ، عَنْ سِمَاكِ بْنِ حَرْبٍ عَنْ  
عَلْقَمَةَ بْنِ وَاثِلٍ حَدَّثَهُ أَنَّ أَبَاهُ حَدَّثَهُ قَالَ:  
إِنِّي لَقَاعِدٌ مَعَ النَّبِيِّ ﷺ إِذْ جَاءَ رَجُلٌ  
يَقُودُ آخَرَ بِنِسْعِهِ، فَقَالَ: يَا رَسُولَ اللَّهِ!  
هَذَا قَتَلَ أَخِي، فَقَالَ رَسُولُ اللَّهِ ﷺ:  
«أَقْتَلْتَهُ؟» - فَقَالَ: إِنَّهُ لَوْ لَمْ يَعْتَرِفْ أَقَمْتُ  
عَلَيْهِ الْبَيْتَةَ - قَالَ: نَعَمْ قَتَلْتُهُ، قَالَ:  
«كَيْفَ قَتَلْتَهُ؟» قَالَ: كُنْتُ أَنَا وَهُوَ نَخْتَبِطُ  
مِنْ شَجَرَةٍ، فَسَبَبَنِي فَأَغْضَبَنِي، فَضَرَبْتُهُ  
بِالْفَأْسِ عَلَى قَرْبِهِ فَقَتَلْتُهُ، فَقَالَ لَهُ  
النَّبِيُّ ﷺ: «هَلْ لَكَ مِنْ شَيْءٍ تُؤَدِّيهِ عَن  
نَفْسِكَ؟» قَالَ: مَا لِي مَالٌ إِلَّا كِسَائِي  
وَفَأْسِي، قَالَ: «فَتَرَى قَوْمَكَ يَشْتَرُونَكَ؟»

people will pay your ransom?' He said: 'I am too insignificant among my people for that.' He threw the rope to him and said: 'Take your companion away.' The man took him away, and when he turned away, the Messenger of Allāh ﷺ said: 'If he kills him he will be like him.' He came back and said: 'O Messenger of Allāh, I have heard that what you said: "If he kills him he will be like him," but I took him at your command.' The Messenger of Allāh ﷺ said: 'Don't you want him to carry your sin and the sin of your companion?' He said: 'O Prophet of Allāh, yes.' He said: 'If so, then let it be,' and he threw the rope down and let him go."

[4388] 33 - (...) It was narrated from 'Alqamah bin Wâ'il that his father said: "A man who had killed another man was brought to the Messenger of Allāh ﷺ by the heir of the one who had been killed, and (the Messenger of Allāh ﷺ gave the heir the right to retaliate). He took him away with a rope around his neck by which he was leading him. When he left, the Messenger of Allāh ﷺ said: 'The killer and the slain are both in Hell.' A man went to that man and told him what the Messenger of Allāh ﷺ had said, so he let him go."

Ismâ'il bin Sâlim said: "I mentioned that to Ḥabîb bin Abî Thâbit and he said: 'Ibn Ashwa'

قَالَ: أَنَا أَهْوَنُ عَلَى قَوْمِي مِنْ ذَلِكَ، فَرَمَى إِلَيْهِ بِنَسْعَتِهِ، وَقَالَ: «دُونَكَ صَاحِبِكَ»، فَأَنْطَلَقَ بِهِ الرَّجُلُ، فَلَمَّا وَلَّى قَالَ رَسُولُ اللَّهِ ﷺ: «إِنْ قَتَلَهُ فَهُوَ مِثْلُهُ» فَرَجَعَ، فَقَالَ: يَا رَسُولَ اللَّهِ! [إِنَّهُ] بَلَّغَنِي أَنَّكَ قُلْتَ: «إِنْ قَتَلَهُ فَهُوَ مِثْلُهُ» وَأَخَذْتُهُ بِأَمْرِكَ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَمَا تُرِيدُ أَنْ يُوَءَ بِأَثْمِكَ وَإِنَّهُمْ صَاحِبِكَ؟» قَالَ: يَا نَبِيَّ اللَّهِ - لَعَلَّهُ قَالَ - بَلَى، قَالَ: «فَإِنَّ ذَلِكَ كَذَلِكَ»، قَالَ: فَرَمَى بِنَسْعَتِهِ وَخَلَّى سَبِيلَهُ.

[٤٣٨٨] ٣٣ - (...) وَحَدَّثَنِي مُحَمَّدُ ابْنُ حَاتِمٍ: حَدَّثَنَا سَعِيدُ بْنُ سُلَيْمَانَ: حَدَّثَنَا هُشَيْمٌ: أَخْبَرَنَا إِسْمَاعِيلُ بْنُ سَالِمٍ، عَنْ عَلْقَمَةَ بْنِ وَاثِلٍ، عَنْ أَبِيهِ قَالَ: أَتَيْتِ رَسُولَ اللَّهِ ﷺ بِرَجُلٍ قَتَلَ رَجُلًا، فَأَقَادَ وَلِيَّ الْمَقْتُولِ مِنْهُ، فَأَنْطَلَقَ بِهِ وَفِي عُنُقِهِ نَسْعَةٌ يَجْرُهَا، فَلَمَّا أَذْبَرَ قَالَ رَسُولُ اللَّهِ ﷺ: «الْقَاتِلُ وَالْمَقْتُولُ فِي النَّارِ» فَأَتَى رَجُلٌ الرَّجُلَ فَقَالَ لَهُ مَقَالَةُ رَسُولِ اللَّهِ ﷺ: فَخَلَّى عَنْهُ.

قَالَ إِسْمَاعِيلُ بْنُ سَالِمٍ: فَذَكَرْتُ ذَلِكَ لِحَبِيبِ بْنِ أَبِي ثَابِتٍ فَقَالَ: حَدَّثَنِي ابْنُ

told me that the Prophet ﷺ asked him to let him go and he refused.”

أَشْوَعٌ: أَنَّ النَّبِيَّ ﷺ إِنَّمَا سَأَلَهُ أَنْ يُعْفُو عَنْهُ فَأَبَى.

**Chapter 11. The *Diyah* For A Fetus ; And The *Diyah* For Accidental Killing And The Ambiguous Killing Must Be Paid By The *‘Aqilah*<sup>[1]</sup> Of The Killer**

(المعجم ١١) - (بَابُ دِيَةِ الْجَنِينِ،  
ووجوب الدية في قتل الخطأ وشبه  
العمد على عاقلة الجاني) (التحفة ١١)

[4389] 34 - (1681) It was narrated from Abû Hurairah that there were two women from Hudhail, one of whom threw a stone at the other and caused her to miscarry. The Prophet ﷺ ordered that a slave, male or female, be given as *Diyah*.

[٤٣٨٩] ٣٤ - (١٦٨١) حَدَّثَنَا يَحْيَى  
ابْنُ يَحْيَى قَالَ: قَرَأْتُ عَلَى مَالِكٍ، عَنِ  
ابْنِ شَهَابٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي  
هُرَيْرَةَ: أَنَّ امْرَأَتَيْنِ مِنْ هُدَيْلٍ، رَمَتْ  
إِحْدَاهُمَا الْأُخْرَى، فَطَرَحَتْ جَنِينَهَا،  
فَقَضَى فِيهِ النَّبِيُّ ﷺ، بِعُرَّةٍ أَوْ أَمَةٍ.

[4390] 35 - (...) It was narrated that Abû Hurairah said: “The Messenger of Allâh ﷺ ruled that a slave, male or female, be given as *Diyah* for the fetus of a woman from Banû Liḥyân who was miscarried and born dead. Then the woman who was ordered to give the slave had died, and the Messenger of Allâh ﷺ ruled that her estate be given to her sons and husband, and that the *Diyah* be paid by her *‘Aṣabah*.<sup>[2]</sup>

[٤٣٩٠] ٣٥ - (...) وَحَدَّثَنَا قُتَيْبَةُ بْنُ  
سَعِيدٍ: حَدَّثَنَا لَيْثٌ، عَنِ ابْنِ شَهَابٍ، عَنِ  
ابْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ أَنَّهُ قَالَ: قَضَى  
رَسُولُ اللَّهِ ﷺ فِي جَنِينِ امْرَأَةٍ مِنْ بَنِي  
لَحْيَانَ سَقَطَ مَيِّتًا، بِعُرَّةٍ أَوْ أَمَةٍ، ثُمَّ إِنَّ  
الْمَرْأَةَ الَّتِي قَضَى عَلَيْهَا بِالْعُرَّةِ تُوُفِّيتُ،  
فَقَضَى رَسُولُ اللَّهِ ﷺ بِأَنَّ: مِيرَاثَهَا لِبَنِيهَا  
وَزَوْجِهَا، وَأَنَّ: الْعَقْلَ عَلَى عَصَبَتِهَا.

[4391] 36 - (...) Abû Hurairah said: “Two women from Hudhail fought and one of them threw a

[٤٣٩١] ٣٦ - (...) وَحَدَّثَنِي أَبُو  
الطَّاهِرِ: حَدَّثَنَا ابْنُ وَهْبٍ؛ وَحَدَّثَنَا حَرْمَلَةُ

[1] *‘Aqilah*: The relatives who must pay the *Aql* or *Diyah* (blood money), meaning, the male relatives on the father’s side.

[2] *‘Aṣabah*: The male relatives on the father’s side.

rock at the other and killed her and the child in her womb. They referred the matter to the Messenger of Allâh ﷺ, and the Messenger of Allâh ﷺ ruled that the *Diyah* for her fetus was a slave, male or female, and he ruled that the *Diyah* for the woman be paid by her (the killer's) 'Āqilah, and that her children and those who were with her would inherit her estate. Ḥamal bin An-Nâbighah Al-Hudhalî said: 'O Messenger of Allâh, how can a penalty be paid for one who did not drink or eat, or speak or make any sound (he said so rhyming the words in a poetic way)? Such a one should be overlooked.' The Messenger of Allâh ﷺ said: 'This man is one of the brothers of the soothsayers,' because of the rhymed speech with which he spoke."

[4392] (...) It was narrated that Abû Hurairah said: "Two women fought..." and he quoted the *Hadith* (as no. 4390), but he did not mention: "Her children and those who were with her would inherit her estate." And he said: "Someone said: 'Why should we pay the *Diyah*?'?" But he did not mention Ḥamal bin Mâlik by name.

[4393] 37 - (1682) It was narrated that Al-Mughîrah bin Shu'bah said: "A woman struck

ابْنُ يَحْيَى التُّحَيْبِيُّ: أَخْبَرَنَا ابْنُ وَهْبٍ:  
أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شَهَابٍ، عَنِ ابْنِ  
الْمُسَيَّبِ وَأَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ أَنَّ  
أَبَا هُرَيْرَةَ قَالَ: اقْتَتَلَتِ امْرَأَتَانِ مِنْ  
هُذَيْلٍ، فَرَمَتِ إِحْدَاهُمَا الْأُخْرَى بِحَجَرٍ  
فَقَتَلَتْهَا وَمَا فِي بَطْنِهَا، فَأَخْتَصَمُوا إِلَى  
رَسُولِ اللَّهِ ﷺ، فَقَضَى رَسُولُ اللَّهِ ﷺ  
أَنَّ: دِيَّةَ جَنِينِهَا غُرَّةٌ: عَبْدٌ أَوْ وَلِيدَةٌ،  
وَقَضَى بِدِيَّةِ الْمَرْأَةِ عَلَى عَاقِلَتِهَا، وَوَرَّثَهَا  
وَلَدَهَا وَمَنْ مَعَهُمْ، فَقَالَ حَمَلُ بْنُ النَّبِغَةِ  
الْهُذَلِيُّ: يَا رَسُولَ اللَّهِ! كَيْفَ أَعْرَمُ مَنْ لَا  
شَرِبَ وَلَا أَكَلَ، وَلَا نَطَقَ وَلَا اسْتَهَلَ؟  
فَمِثْلُ ذَلِكَ يُطَلُّ، فَقَالَ رَسُولُ اللَّهِ ﷺ:  
«إِنَّمَا هَذَا مِنْ إِخْوَانِ الْكُهَّانِ» مِنْ أَجْلِ  
سَجْعِهِ الَّذِي سَجَعَ.

[٤٣٩٢] (...) وَحَدَّثَنَا عَبْدُ بْنُ  
حُمَيْدٍ: أَخْبَرَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا  
مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ، عَنْ  
أَبِي هُرَيْرَةَ قَالَ: اقْتَتَلَتِ امْرَأَتَانِ، وَسَاقَ  
الْحَدِيثَ بِقِصَّتِهِ، وَلَمْ يَذْكُرْ: وَوَرَّثَهَا  
وَلَدَهَا وَمَنْ مَعَهُمْ، وَقَالَ: فَقَالَ قَائِلٌ:  
كَيْفَ نَعْقِلُ؟ وَلَمْ يُسَمِّ حَمَلُ بْنُ مَالِكٍ.

[٤٣٩٣] ٣٧ - (١٦٨٢) وَحَدَّثَنَا  
إِسْحَاقُ بْنُ إِبْرَاهِيمَ الْحَنْظَلِيُّ: أَخْبَرَنَا

pregnant co-wife with a tent pole, killing her. One of the women was from the tribe of Lihyân. The Messenger of Allâh ﷺ ruled that the *Diyah* for the one who had been killed was to be paid by the *‘Ashabah* of the killer, and a slave, male or female, should be given (as *Diyah*) for the fetus in her womb. A man from the *‘Ashabah* of the killer said: ‘Should we pay the *Diyah* for one who did not eat or drink or make any sound? Such a one should be overlooked.’ The Messenger of Allâh ﷺ said: ‘Is this rhymed speech like that of the Bedouin?’”

He said: “And he (ﷺ) imposed the *Diyah* on them.”

[4394] 38 - (...) It was narrated that Al-Mughîrah bin Shu‘bah said: “A woman killed her co-wife with a tent pole. Her case was brought to the Messenger of Allâh ﷺ and he ruled that her *‘Aqilah* should pay the *Diyah*. She was pregnant, so he also ruled that a slave be given as *Diyah* for the fetus. One of her *‘Ashabah* said: ‘Should we pay *Diyah* for one who did not eat or drink or cry or make any sound? Such a one should be overlooked.’ He said: ‘Is this rhymed speech like that of the Bedouin?’”

جَرِيرٌ عَنِ مَنصُورٍ، عَنِ إِبْرَاهِيمَ، عَنِ عُبَيْدِ بْنِ نُسَيْبَةَ الْخَزَاعِيِّ، عَنِ الْمُغِيرَةَ بْنِ شُعْبَةَ قَالَ: ضَرَبَتْ امْرَأَةً ضَرَبَتْهَا بَعْمُودٍ فَسَطَّاطٍ وَهِيَ حُبْلَى فَقَتَلْتَهَا، قَالَ: وَإِخْدَاهُمَا لِحَيَاتِيَّ، قَالَ: فَجَعَلَ رَسُولُ اللَّهِ ﷺ دِيَةَ الْمَقْتُولَةِ عَلَى عَصَبَةِ الْقَاتِلَةِ، وَغُرَّةٌ لِمَا فِي بَطْنِهَا، فَقَالَ رَجُلٌ مِنْ عَصَبَةِ الْقَاتِلَةِ: أَنْعَرُمُ دِيَةَ مَنْ لَا أَكَلَ وَلَا شَرِبَ وَلَا اسْتَهَلَّ؟ فَمِثْلُ ذَلِكَ يُطَلُّ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَسَجْعُ كَسَجْعِ الْأَعْرَابِ؟».

قَالَ: وَجَعَلَ عَلَيْهِمُ الدِّيَةَ.

[٤٣٩٤] ٣٨- (...) وَحَدَّثَنِي مُحَمَّدُ ابْنُ رَافِعٍ: حَدَّثَنَا يَحْيَى بْنُ آدَمَ: حَدَّثَنَا مَفْضَلٌ عَنْ مَنصُورٍ، عَنِ إِبْرَاهِيمَ، عَنِ عُبَيْدِ بْنِ نُسَيْبَةَ، عَنِ الْمُغِيرَةَ بْنِ شُعْبَةَ قَالَ: أَنَّ امْرَأَةً قَتَلَتْ ضَرَبَتْهَا بَعْمُودٍ فَسَطَّاطٍ، فَأَتَيْتُ فِيهِ رَسُولُ اللَّهِ ﷺ، فَقَضَى عَلَيَّ عَاقِلَتَهَا بِالْذِّيَّةِ، وَكَانَتْ حَامِلًا، فَقَضَى فِي الْجَنِينِ بِغُرَّةٍ، فَقَالَ بَعْضُ عَصَبَتَيْهَا: أُنْدِي مَنْ لَا طَعِمَ وَلَا شَرِبَ وَلَا صَاحَ فَاسْتَهَلَّ؟ وَمِثْلُ ذَلِكَ يُطَلُّ؟ [قَالَ]: «سَجْعُ كَسَجْعِ الْأَعْرَابِ؟».

[4395] (...) A *Hadith* like that of Jarir and Mufaddal (no. 4393, 4394) was narrated from Manṣūr with this chain.

[٤٣٩٥] (...) وَحَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ وَمُحَمَّدُ بْنُ بَشَّارٍ، قَالَ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ، عَنْ سُفْيَانَ، عَنْ مَنْصُورٍ بِهَذَا الْإِسْنَادِ، مِثْلَ مَعْنَى حَدِيثِ جَرِيرٍ وَمُفَضَّلٍ.

[4396] (...) This *Hadith* was narrated from Manṣūr with their chain, except that it says: “She miscarried, and the matter was referred to the Prophet ﷺ who ruled that a slave be given (as *Diyah*). And he imposed that on the relatives of the woman; but in this *Hadith* it does not mention the *Diyah* for the woman.

[٤٣٩٦] (...) وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَمُحَمَّدُ بْنُ الْمُثَنَّى وَابْنُ بَشَّارٍ قَالُوا: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ شُعْبَةَ، عَنْ مَنْصُورٍ بِإِسْنَادِهِمُ الْحَدِيثَ بِقِصَّتِهِ، غَيْرَ أَنَّ فِيهِ: فَاسْقَطْتُ، فَرَفَعَ ذَلِكَ إِلَى النَّبِيِّ ﷺ فَقَضَى فِيهِ بِغُرَّةٍ، وَجَعَلَهُ عَلَى أَوْلِيَاءِ الْمَرْأَةِ، وَلَمْ يَذْكَرْ فِي الْحَدِيثِ: دِيَةَ الْمَرْأَةِ.

[4397] 39 - (1683) It was narrated that Al-Miswar bin Makhramah said: “Umar bin Al-Khaṭṭāb consulted the people about *Diyah* for a woman’s miscarriage. Al-Mughīrah bin Shu’bah said: ‘I saw the Prophet ﷺ ruling that a slave, male or female, should be given.’ Umar said: ‘Bring me someone who can testify with you.’ He (the narrator) said: ‘Muḥammad bin Maslamah testified with him.’”

[٤٣٩٧] ٣٩ - (١٦٨٣) وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَأَبُو كُرَيْبٍ وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ - وَاللَّفْظُ لِأَبِي بَكْرٍ - قَالَ إِسْحَاقُ: أَخْبَرَنَا، وَقَالَ الْأَخْرَانِ: حَدَّثَنَا - وَكَيْعٌ عَنْ هِشَامِ بْنِ غُرْوَةَ، عَنْ أَبِيهِ، عَنِ الْمَسْوَرِ بْنِ مَخْرَمَةَ قَالَ: اسْتَشَارَ عُمَرُ ابْنَ الْخَطَّابِ النَّاسَ فِي مِلَاصِ الْمَرْأَةِ، فَقَالَ الْمُغِيرَةُ بْنُ شُعْبَةَ: شَهِدْتُ النَّبِيَّ ﷺ قَضَى فِيهِ بِغُرَّةٍ: عَبْدٌ أَوْ أَمَةٌ، قَالَ: فَقَالَ عُمَرُ: إِنِّي بِيَمَنِ يَشْهَدُ مَعَكَ. قَالَ: فَشَهِدَ لَهُ مُحَمَّدُ بْنُ مَسْلَمَةَ.