

In the Name of Allāh,
the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

14. The Chapters On Blood-Money From The Messenger Of Allāh ﷺ

(المعجم ١٤) - أَبْوَابُ الدِّيَاتِ
عَنْ رَسُولِ اللَّهِ ﷺ (التحفة ١٢)

Chapter 1. What Has Been Related About Blood Money, How Many Camels Is It?

(المعجم ١) - بَابُ مَا جَاءَ فِي الدِّيَةِ
كَمْ هِيَ مِنَ الْإِبِلِ (التحفة ١)

1386. Ibn Mas‘ūd narrated: “The Messenger of Allāh ﷺ judged for the accidental blood-money: Twenty *Bint Makhād*, twenty male *Ibn Makhād*, twenty *Bint Labūn*, twenty *Jadhā‘ah*, and twenty *Hiqqah*.”^[1]

١٣٨٦ - حَدَّثَنَا عَلِيُّ بْنُ سَعِيدٍ الْكِنْدِيُّ
الْكُوفِيُّ: أَخْبَرَنَا ابْنُ أَبِي زَائِدَةَ عَنِ الْحَجَّاجِ،
عَنْ زَيْدِ بْنِ جُبَيْرٍ، عَنْ خَشْفِ بْنِ مَالِكٍ قَالَ:
سَمِعْتُ ابْنَ مَسْعُودٍ قَالَ: قَضَى رَسُولُ اللَّهِ
ﷺ فِي دِيَةِ الْحَطَلِ عِشْرِينَ ابْنَةً مَخَاضٍ،
وَعِشْرِينَ بَنِي مَخَاضٍ ذُكُورًا، وَعِشْرِينَ بِنْتِ
لَبُونٍ وَعِشْرِينَ جَذَعَةَ وَعِشْرِينَ حِقَّةً.

There is something on this topic from ‘Abdullāh bin ‘Amr.

(Another chain) with similar meaning.

[Abū ‘Eīsā said:] We do not know of the *Hadīth* of Ibn Mas‘ūd to be *Marfū‘* except from this route, and it has been reported from ‘Abdullāh in *Mawqūf* form.

وَفِي الْبَابِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو
حَدَّثَنَا أَبُو هِشَامٍ الرَّفَاعِيُّ: حَدَّثَنَا ابْنُ أَبِي
زَائِدَةَ وَأَبُو خَالِدٍ الْأَحْمَرُ عَنِ الْحَجَّاجِ بْنِ
أَرْطَاءَةَ نَحْوَهُ.

Some of the people of knowledge have followed this, it is the view of Aḥmad and Ishāq.

The people of knowledge have agreed that the blood-money is taken in three years, each year a third of the blood-money (is paid). They held the view that the blood-money for accidental killing is due from the *‘Aqilah*, and some of them held the view that the *‘Aqilah* are

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ مَسْعُودٍ لَا
تَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ هَذَا الْوَجْهِ. وَقَدْ رُوِيَ
عَنْ عَبْدِ اللَّهِ مَوْفُوعًا. وَقَدْ ذَهَبَ بَعْضُ أَهْلِ
الْعِلْمِ إِلَى هَذَا. وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ،
وَقَدْ أَجْمَعَ أَهْلُ الْعِلْمِ عَلَى أَنَّ الدِّيَةَ تُؤْخَذُ
فِي ثَلَاثِ سِنِينَ فِي كُلِّ سَنَةٍ ثُلُثُ الدِّيَةِ،
وَرَأَوْا أَنَّ دِيَةَ الْحَطَلِ عَلَى الْعَاقِلَةِ وَرَأَى

^[1] See no. 621.

the near relatives of a man, on the side of his father. This is the view of Mālik and Ash-Shāfi'ī. Some of them said the blood-money is due from men, not women or children of a tribe. Each man among them pays a quarter of a Dīnār – and some of them said half a Dīnār – to complete the blood-money. Otherwise the nearest of them in relation are required to pay it.

بَعْضُهُمْ أَنَّ الْعَاقِلَةَ قَرَابَةُ الرَّجُلِ مِنْ قَبْلِ أَبِيهِ وَهُوَ قَوْلُ مَالِكٍ وَالشَّافِعِيِّ وَقَالَ بَعْضُهُمْ: إِنَّمَا الدِّيَةُ عَلَى الرَّجَالِ دُونَ النِّسَاءِ وَالصَّبِيَّانِ مِنَ الْعَصَبَةِ وَيَحْمَلُ كُلُّ رَجُلٍ مِنْهُمْ رُبْعَ دِينَارٍ وَقَدْ قَالَ بَعْضُهُمْ إِلَى نِصْفِ دِينَارٍ فَإِنْ تَمَّتِ الدِّيَةُ وَالْأَنْظَرُ إِلَى أَقْرَبِ الْقَبَائِلِ مِنْهُمْ فَأَلْزَمُوا ذَلِكَ.

تخریج: [إسناده ضعيف] وأخرجه النسائي: ٤٤، ٤٣/٨، ح: ٤٨٠٦ (القسامة، باب ذكر أسنان دية الخطأ) عن علي بن سعيد وأبوداود، ح: ٤٥٤٥، وابن ماجه، ح: ٢٦٣١ من حديث الحجاج بن أرطاة به وهو مدلس وضعيف وعنن، انظر نيل المقصود، ح: ٥٤٤١١ وفي الباب عن عبدالله بن عمرو [يأتي: ١٣٨٧]

Comments:

'*Āqil*' means blood money and '*Āqilah*' means the one who bears blood-money or who pays the blood money. '*Āqil*' also means to stop or defend and safeguard. As *Āqilah* defends the murderer and pays on his behalf that is why the one who pays blood-money is called *Āqilah*. (For more details see *Al-Mughnī* v. 12. p. 39-41.) according to Imām Abū Ḥanīfah, for a deliberate murder, blood money must be paid within three years. *Al-Mughnī*. v. 12 p. 13.)

1387. 'Amr bin Shu'aib narrated from his father, from his grandfather that the Prophet ﷺ said: "Whoever kills [a believer] deliberately, he is handed over to the guardians of the one killed. If they wish to, they have him killed, and if they wish to, they take the blood-money. That is thirty *Hiqqah*, thirty *Jadha'ahs* and forty pregnant camels.

١٣٨٧ - حَدَّثَنَا أَحْمَدُ بْنُ سَعِيدٍ الدَّارِمِيُّ: حَدَّثَنَا حَبَّانُ [وَهُوَ ابْنُ هَلَالٍ]: حَدَّثَنَا مُحَمَّدُ بْنُ رَاشِدٍ: حَدَّثَنَا سُلَيْمَانُ بْنُ مُوسَى عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ قَالَ: «مَنْ قَتَلَ [مُؤْمِنًا] مُتَعَمِّدًا دَفَعَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ، فَإِنْ شَاءُوا قَتَلُوا وَإِنْ شَاءُوا أَخَذُوا الدِّيَةَ وَهِيَ ثَلَاثُونَ حِقَّةً وَثَلَاثُونَ جَذَعَةً وَأَرْبَعُونَ خَلْفَةً وَمَا صَالِحُوا عَلَيْهِ فَهُوَ لَهُمْ». وَذَلِكَ لِتَشْدِيدِ الْعَقْلِ.

Whatever (amount more) they require from him, than that is for them (if they choose)." That is because of the severity of the blood-money. (*Hasan*)

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللَّهِ بْنِ عَمْرٍو حَدِيثٌ حَسَنٌ غَرِيبٌ.

[Abū 'Eisā said:] The *Hadīth* of 'Abdullāh bin 'Amr is a *Hasan Gharīb Hadīth*.

تخريج: [إسناده حسن] وأخرجه أبو داود، الديات، باب ولي العمد يأخذ الدية، ح: ٤٥٠٦ وابن ماجه، ح: ٢٦٢٦ من حديث محمد بن راشد به.

Comments:

There is a difference of opinion in the blood-money of a deliberate murder. According to ‘Abdullāh bin ‘Amr the blood-money of killing on purpose is thirty *Hiqqah*, thirty *Jadhā’ah* and forty pregnant she camels. Imām *Shafi’i*, Imām Muḥammad bin Al-Ḥasan, ‘Aṭā, ‘Umar, Zaid, Abū Mūsā and Muḡhīrah have the same opinion. Imām Aḡmad’s one opinion is also the same as mentioned above. Imām Zuhri, Rabī’ah, Imām Mālik, Imām Abū Ḥanīfah and others have a different opinion. According to them blood-money of murder on purpose is twenty-five *Bint Mukḡad*, twenty-five *Bint Labūn*, twenty five *Hiqqah*, and twenty five *Jādhī’ah*. (*Al-Mughni* v.12. p. 13.) This is also a notable second opinion of Imām Aḡmad.

Chapter 2. What Has Been Related About Blood-Money, How Many Dirham Is It?

(المعجم ٢) - بَابُ مَا جَاءَ فِي الدِّيَةِ
كَمْ هِيَ مِنَ الدَّرَاهِمِ (التحفة ٢)

1388. ‘Ikrimah narrated from Ibn ‘Abbās that the Prophet ﷺ made the blood-money twelve thousand. (*Hasan*)

١٣٨٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هَانِئٍ: حَدَّثَنَا مُحَمَّدُ بْنُ مُسْلِمٍ - هُوَ الطَّائِفِيُّ - عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ جَعَلَ الدِّيَةَ اثْنَيْ عَشَرَ أَلْفًا.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، الديات، باب دية الخطأ، ح: ٢٦٢٩ عن محمد ابن بشار به وضعفه النسائي.

1389. (Another chain) from ‘Ikrimah from the Prophet ﷺ and it is similar but he did not mention “from Ibn ‘Abbās” in it. (*Hasan*)

١٣٨٩ - حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمَنِ الْمَخْزُومِيُّ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو ابْنِ دِينَارٍ، عَنْ عِكْرِمَةَ عَنِ النَّبِيِّ ﷺ نَحْوَهُ وَلَمْ يَذْكُرْ فِيهِ عَنِ ابْنِ عَبَّاسٍ. وَفِي حَدِيثِ ابْنِ عُيَيْنَةَ كَلَامٌ أَكْثَرُ مِنْ هَذَا.

There is much more criticism than this for (this) narration of Ibn ‘Uyainah.

[Abū ‘Eīsā said:] We do not know anyone who mentioned “from Ibn ‘Abbās” in this narration except for Muḡammad bin Muslim.

[قَالَ أَبُو عِيسَى]: وَلَا نَعْلَمُ أَحَدًا يَذْكُرُ [فِي] هَذَا الْحَدِيثِ، عَنِ ابْنِ عَبَّاسٍ غَيْرَ مُحَمَّدِ بْنِ مُسْلِمٍ وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ وَهُوَ قَوْلُ أَحْمَدَ

This *Hadith* is acted upon according to some of the people of

knowledge. It is the view of Aḥmad and Ishāq. Some of the people of knowledge held the view that blood-money is ten thousand, and this is the view of Sufyān Ath-Thawrī and the people of Al-Kūfah. Ash-Shāfi‘ī said: “I do not know of blood-money except from camels, and it is one hundred camels [or their value].”

وإِسْحَاقَ. وَرَأَى بَعْضُ أَهْلِ الْعِلْمِ الدِّيَةَ عَشْرَةَ آلَافٍ وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَأَهْلِ الْكُوفَةِ. وَقَالَ الشَّافِعِيُّ: لَا أَعْرِفُ الدِّيَةَ إِلَّا مِنَ الْإِبِلِ، وَهِيَ مِائَةٌ مِنَ الْإِبِلِ [أَوْ قِيمَتُهَا].

تخریج: [حسن] وأخرجه أبو داود، الديات، باب الدية كم هي؟، ح: ٤٥٤٦ (ب) من حديث سفيان بن عيينة به.

Comments:

According to the opinion of Imām Shāfi‘ī, Tāwūs and Ibn Mundhir blood-money is only in the form of camels. One opinion of Imām Aḥmad is the same. According to Imām Ath-Thawrī, Imām Abū Ḥanīfah and others the blood-money is twelve thousand Dirham. One opinion of Imām Shāfi‘ī is the same. (*Al-Mughnī* v. 2 p. 6-8.)

Chapter 3. What Has Been Related About the *Mawāḍih*^[1]

(المعجم ٣) - بَابُ مَا جَاءَ فِي الْمَوْضِحَةِ (التحفة ٣)

1390. ‘Amr bin Shu‘aib narrated from his father, from his grandfather that the Prophet ﷺ said: “Regarding the *Mawāḍih*; five, five.”^[2] (*Ḥasan*)

١٣٩٠ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ: حَدَّثَنَا حُسَيْنُ الْمُعَلَّمِ عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ قَالَ: «فِي الْمَوْضِحِ خَمْسٌ خَمْسٌ».

[Abū ‘Eisā said:] This *Hadīth* is *Ḥasan Ṣaḥīh*. This is acted upon according to the people of knowledge. This is the view of Sufyān Ath-Thawrī, Ash-Shāfi‘ī, Aḥmad and Ishāq: Five camels are due in the case of a bone-exposing wound.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَالشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ أَنَّ فِي الْمَوْضِحَةِ خَمْسًا مِنَ الْإِبِلِ.

تخریج: [إسناده حسن] وأخرجه أبو داود، الديات، باب ديات الأعضاء، ح: ٤٥٦٦ والنسائي، ح: ٤٨٥٦ من حديث حسين المعلم به و صححه ابن الجارود، ح: ٧٨٥.

[1] Wounds that expose a bone.

[2] “That is, five camels for every one of them.” (*Tuḥfat Al-Aḥwadhī*)

Comments:

The blood-money for a wound by which the whiteness of the bone is exposed is five camels. It is agreed upon provided the wounded person is a male. The blood money of a female's wound is half. This is the view of Imām Shāfi'ī.

Chapter 4. What Has Been Related About Blood-Money For Fingers

(المعجم ٤) - بَابُ مَا جَاءَ فِي دِيَّةِ الْأَصَابِعِ (التحفة ٤)

1391. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "The blood-money for the fingers on the hands and (the toes of) the feet is the same: Ten camels for each finger." (*Ṣaḥīḥ*)

[Abū 'Eisā said:] There are narrations on this topic from Abū Mūsā and 'Abdullāh bin 'Amr.

[Abū 'Eisā said:] The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth* from this route. This is acted upon according to the people of knowledge, and it is the view of Sufyān Ath-Thawrī, Ash-Shāfi'ī, Aḥmad, and Ishāq.

١٣٩١ - حَدَّثَنَا أَبُو عَمَارٍ: حَدَّثَنَا الْفَضْلُ ابْنُ مُوسَى عَنِ الْحُسَيْنِ بْنِ وَاقِدٍ، عَنْ يَزِيدَ [بْنِ عَمْرٍو] النَّحْوِيِّ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «دِيَّةُ أَصَابِعِ الْيَدَيْنِ وَالرِّجْلَيْنِ سَوَاءٌ عَشْرَةٌ مِنَ الْإِبِلِ لِكُلِّ أُصْبَعٍ».

[قَالَ أَبُو عِيْسَى:] وَفِي الْبَابِ عَنْ أَبِي مُوسَى وَعَبْدِ اللَّهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هَذَا الْوَجْهِ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ وَبِهِ يَقُولُ سُفْيَانُ الثَّوْرِيُّ وَالشَّافِعِيُّ وَأَحْمَدُ وَإِسْحَاقُ.

تخريج: [إسناده صحيح] وأخرجه أبو داود (أيضاً)، ح: ٤٥٦٠، ٤٥٦١ من حديث يزيد النحوي به مختصراً، وصححه ابن حبان، ح: ١٥٢٨ * وفي الباب عن أبي موسى [أبو داود، ح: ٤٥٥٦] وعبدالله بن عمرو [أبو داود، ح: ٤٥٦٢].

1392. Ibn 'Abbās narrated that the Prophet ﷺ said: "These and these are the same," referring to the little finger and the thumb. (*Ṣaḥīḥ*)

[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣٩٢ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ وَمُحَمَّدُ بْنُ جَعْفَرٍ قَالَا: حَدَّثَنَا شُعْبَةُ عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «هَذِهِ وَهَذِهِ سَوَاءٌ». يُعْنِي الْخِنْصَرَ وَالْإِبْهَامَ.

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الدييات، باب دية الأصابع، ح: ٢٦٥٢ عن محمد بن بشار، والبخاري، ح: ٦٨٩٥ من حديث شعبة به.

Comments:

The blood-money for a finger or a toe is ten camels. One hundred camels is the blood-money for ten fingers or ten toes. When a fingertip is cut, a third of the blood-money of a finger is paid except with the fingertip of the thumb. This is because it has only two parts, and as such, a half is paid. There is no difference between the fingers (of the hand) and the toes (of the feet). (*Tuhfat Al-Ahwadhī*).

Chapter 5. What Has Been Related About Pardoning

(المعجم ٥) - بَابُ مَا جَاءَ فِي الْعَفْوِ

(التحفة ٥)

1393. Abū As-Safar said: "A man from the Quraish broke a tooth of a man from the *Anṣār*. So he appealed to Mu'āwiyah against him. He said to Mu'āwiyah: 'O Commander of the Believers! This person broke one of my teeth.' Mu'āwiyah said: 'We will try to get satisfaction for you.' And the other person insisted that Mu'āwiyah get him to agree [but he was not satisfied]. So Mu'āwiyah said to him: 'It is up to your companion.' Abū Ad-Dardā' was sitting with him, so Abū Ad-Dardā' said: 'I heard the Messenger of Allāh ﷺ saying [he said: 'My ears heard and my heart remembered]: "There is no man who is struck in his body and he forgives for it, except that Allāh raises him a level and removes a sin from him."' The *Anṣārī* said: 'Did you hear that from the Messenger of Allāh ﷺ?' He said: "My ears heard it and my heart remembered it.' He said: 'Then I will leave it for him.' Mu'āwiyah said: 'Surely you should not suffer.' So he ordered that he be given some wealth." (*Da'if*)

[Abū 'Eisā said:] This *Hadīth* is

١٣٩٣ - حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ: حَدَّثَنَا يُونُسُ بْنُ أَبِي إِسْحَاقَ: حَدَّثَنَا أَبُو السَّمَرِ قَالَ: دَقَّ رَجُلٌ مِنْ فُرَيْشٍ سِنَّ رَجُلٍ مِنَ الْأَنْصَارِ فَاسْتَعَدَى عَلَيْهِ مُعَاوِيَةَ فَقَالَ لِمُعَاوِيَةَ: يَا أَمِيرَ الْمُؤْمِنِينَ! إِنَّ هَذَا دَقَّ سِنِّي. فَقَالَ مُعَاوِيَةُ: إِنَّا سَتْرُضِيكَ، وَالْحَاحُ الْآخِرُ عَلَى مُعَاوِيَةَ فَأَبْرَمَهُ [فَلَمْ يَرْضَهُ]، فَقَالَ لَهُ مُعَاوِيَةُ: شَأْنُكَ بِصَاحِبِكَ - وَأَبُو الدَّرْدَاءِ جَالِسٌ عِنْدَهُ - فَقَالَ أَبُو الدَّرْدَاءِ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ [سَمِعْتُهُ أُذُنَايَ وَوَعَاهُ قَلْبِي] يَقُولُ: «مَا مِنْ رَجُلٍ يُصَابُ بِشَيْءٍ فِي جَسَدِهِ فَيَتَصَدَّقُ بِهِ إِلَّا رَفَعَهُ اللَّهُ بِهِ دَرَجَةً وَحَطَّ عَنْهُ بِهِ خَطِيئَةٌ». فَقَالَ الْأَنْصَارِيُّ: [أ] أَنْتَ سَمِعْتَهُ مِنْ رَسُولِ اللَّهِ ﷺ؟ قَالَ: سَمِعْتُهُ أُذُنَايَ وَوَعَاهُ قَلْبِي. قَالَ: فَإِنِّي أَذْرَاهَا لَهُ. قَالَ مُعَاوِيَةُ: لَا جَرَمَ لَا أُحْبِبُكَ. فَأَمَرَ لَهُ بِمَالٍ.

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هَذَا الْوَجْهِ وَلَا أَعْرِفُ لِأَبِي السَّمَرِ سَمَاعًا مِنْ أَبِي الدَّرْدَاءِ. وَأَبُو السَّمَرِ

Gharīb, we do not know of it except from this route. And I do not know that Abū As-Safar heard from Abū Ad-Dardā'. Abū As-Safar's name is Sa'eed bin Aḥmad, and they say Ibn Yuhmid Ath-Thawrī.

اسْمُهُ سَعِيدُ بْنُ أَحْمَدَ. وَيُقَالُ ابْنُ يُحْمِدَ النَّوْرِيِّ.

تخريج: [إسناده ضعيف] لانقطاعه، وأخرجه ابن ماجه، الديات، باب العفو في القصاص، ح: ٢٦٩٣ من حديث يونس به * أبو السفر سعيد بن يحمد ثقة لكنه أرسل عن أبي الدرداء كما في التهذيب وغيره.

Comments:

A wounded person has the right of taking blood-money, compensation, retaliation in kind or forgiving. Forgiving someone is a deed of great reward, and the *Ansārī* pardoned for the sake of a better reward from Allāh.

Chapter 6. What Has Been Related About One Whose Head Was Fractured With A Rock

(المعجم ٦) - بَابُ مَا جَاءَ فِيْمَنْ رُضِخَ رَأْسُهُ بِصَخْرَةٍ (التحفة ٦)

1394. Anas narrated that a girl went out in Al-Madīnah wearing some silver ornaments. A Jew grabbed her and fractured her head with a stone, and he took the jewelry she had on. He said: "She was found with some spark of life in her, and was brought to the Prophet ﷺ and he said: 'Did such and such person strike you?' She nodded 'no' with her head. He said: 'Such and such?' until he named the Jew and she nodded 'yes' with her head." He said: "He was brought and recognized so the Messenger of Allāh ﷺ ordered that his head be crushed between two stones." (*Ṣaḥīḥ*)

١٣٩٤ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا هَمَّامٌ عَنْ قَتَادَةَ، عَنْ أَنَسٍ. قَالَ: خَرَجَتْ جَارِيَةٌ عَلَيْهَا أَوْصَاحُ فَأَخَذَهَا يَهُودِيٌّ فَرَضَخَ رَأْسَهَا بِحَجَرٍ وَأَخَذَ مَا عَلَيْهَا مِنَ الْحُلِيِّ قَالَ: فَأَدْرِكْتُ وَبِهَا رَمَقٌ فَأَتَيْتُ بِهَا النَّبِيَّ ﷺ فَقَالَ: «مَنْ قَتَلَكَ أَفْلَانُ؟» فَقَالَتْ بِرَأْسِهَا لَا. قَالَ: «فَقُلَانُ؟» حَتَّى سَمِعَتِ الْيَهُودِيَّ فَقَالَتْ بِرَأْسِهَا أَيْ نَعَمْ. قَالَ: فَأُجِدَ فَاعْتَرَفَ فَأَمَرَ بِهِ رَسُولُ اللَّهِ ﷺ فَرَضِخَ رَأْسَهُ بَيْنَ حَجَرَيْنِ.

[Abū 'Eīsā said:] This *Hadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to some of the people of knowledge. It is the view of Aḥmad and Ishāq. Some of the people of

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَا قَوْلَ إِلَّا بِالسَّيْفِ.

knowledge said that there is no retaliation except with the sword.

تخریج: متفق عليه، وأخرجه البخاري، الخصومات، باب ما يذكر في الإشخاص والخصومة بين المسلم واليهود، ح: ٢٤١٣، ومسلم، ح: ١٦٧٢ من حديث همام به.

Comments:

In the view of most of the *A'imma* a murderer should be killed with the same weapon by which he killed. This is an accepted and correct view. According to Imām Abū Ḥanīfah, and the scholars of Al-Kūfah, killing in retaliation is only with a sword or anything which kills instantly. (*Tuhfat Al-Ahwadhī* v. 2. p. 305.307.)

Chapter 7. What Has Been Related About The Gravity Of Killing A Believer

1395. 'Abdullāh bin 'Amr narrated that the Prophet ﷺ said: "The world ceases to exist is less significant to Allāh than killing a Muslim man." (*Ḥasan*)

(Another chain) from 'Abdullāh bin 'Amr, and it is similar but he did not narrate it in *Marfū'* form.

[Abū 'Eīsā said:] This is more correct than the narration of Ibn Abī 'Adī (a narrator in no. 1395).

[He said:] There are narrations on this topic from Sa'eed, Ibn 'Abbās, Abū Sa'eed, Abū Hurairah, 'Uqbah bin 'Āmir, [Ibn Mas'ūd] and Buraidah.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Abdullāh bin 'Amr was reported like this by Ibn Abī 'Adī from Shu'bah, from Ya'lā bin 'Aṭā' [from his father, from 'Abdullāh bin 'Amr, from the Prophet ﷺ. And Muḥammad bin Ja'far as well as others, reported it from Shu'bah, from Ya'lā bin 'Aṭā'], so he did not narrate it in *Marfū'* form. Similarly,

(المعجم ٧) - بَابُ مَا جَاءَ فِي تَشْدِيدِ قَتْلِ الْمُؤْمِنِ (التحفة ٧)

١٣٩٥ - حَدَّثَنَا أَبُو سَلَمَةَ يَحْيَى بْنُ خَلْفٍ وَمُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ بَرِيحٍ قَالَا: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو أَنَّ النَّبِيَّ ﷺ قَالَ: «لَرَوَالِ الدُّنْيَا أَهْوَنُ عَلَى اللَّهِ مِنْ قَتْلِ رَجُلٍ مُسْلِمٍ».

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ يَعْلَى بْنِ عَطَاءٍ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو نَحْوَهُ وَلَمْ يَرْفَعُهُ.

[قَالَ أَبُو عِيْسَى:] وَهَذَا أَصَحُّ مِنْ حَدِيثِ ابْنِ أَبِي عَدِيٍّ [قَالَ:] وَفِي الْبَابِ عَنْ سَعْدِ وَابْنِ عَبَّاسٍ وَأَبِي سَعِيدٍ وَأَبِي هُرَيْرَةَ وَعُقْبَةَ بْنِ عَامِرٍ [وَأَبِي مَسْعُودٍ] وَبُرَيْدَةَ.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ عَبْدِ اللَّهِ بْنِ عَمْرٍو، هَكَذَا رَوَاهُ ابْنُ أَبِي عَدِيٍّ عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ [عَنْ أَبِيهِ، عَنْ عَبْدِ اللَّهِ بْنِ

Sufyān Ath-Thawrī reported it from Ya'lā bin 'Atā' in *Mawqūf* form. This is more correct than the *Marfū'* Hadīth.

عَمَرُو عَنِ النَّبِيِّ ﷺ وَرَوَى مُحَمَّدُ بْنُ جَعْفَرٍ وَغَيْرُ وَاحِدٍ، عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ [فَلَمْ يَرْفَعُهُ وَهَكَذَا رَوَى سُفْيَانُ الثَّوْرِيُّ عَنْ يَعْلَى بْنِ عَطَاءٍ مَوْقُوفًا. وَهَذَا أَصَحُّ مِنَ الْحَدِيثِ الْمَرْفُوعِ.]

تخریج: [حسن] وأخرجه النسائي، تحريم الدم، باب تعظيم الدم، ح: ٣٩٩٢ من حديث محمد بن أبي عدي به * وفي الباب عن سعد [ابن ماجه، ح: ٣٩٤١] وابن عباس [يأتي: ٣٠٢٩] وابن ماجه، ح: [٢٦٢١] وأبي سعيد [يأتي: ١٣٩٨] وأبي هريرة [يأتي: ١٣٩٨] وعقبة بن عامر [ابن ماجه، ح: ٢٦١٨] وابن مسعود [يأتي: ١٩٨٣، ٢٦٣٥] وبريدة [النسائي، ح: ٤٧٣٥].

Comments:

Allāh created, this world as a test and trial for humans. Murder of a human being is actually a denial of the reality.

Chapter 8. Judgements For Cases Involving Bloodshed

(المعجم ٨) - بَابُ الْحُكْمِ فِي الدِّمَاءِ (التحفة ٨)

1396. 'Abdullāh narrated that the Messenger of Allāh ﷺ said: "Indeed the first cases to be judged between the people are those of bloodshed." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] The *Hadīth* of 'Abdullāh is a *Ḥasan Ṣaḥīḥ Hadīth*. This is how it was reported by more than one narrator, from Al-A'mash in *Marfū'* form. Some of them reported it from Al-A'mash without narrating it *Marfū'*.

(Another chain) from 'Abdullāh who narrated that the Messenger of Allāh ﷺ said: "Indeed the first cases to be judged between the worshippers are those of bloodshed."

١٣٩٦ - حَدَّثَنَا مُحَمَّدُ بْنُ عِيْلَانَ: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ: حَدَّثَنَا شُعْبَةُ عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ أَوَّلَ مَا يُحْكَمُ بَيْنَ الْعِبَادِ فِي الدِّمَاءِ».

[قَالَ أَبُو عِيْسَى:] حَدِيثُ عَبْدِ اللَّهِ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَهَكَذَا رَوَى غَيْرُ وَاحِدٍ عَنِ الْأَعْمَشِ مَرْفُوعًا وَرَوَى بَعْضُهُمْ عَنِ الْأَعْمَشِ وَلَمْ يَرْفَعُوهُ.

حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكَيْعٌ عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ أَوَّلَ مَا يُحْكَمُ بَيْنَ الْعِبَادِ فِي الدِّمَاءِ»

تخریج: متفق عليه، ومسلم، القسامة والمحاربين، باب المجازاة بالدماء في الآخرة... إلخ، ح: ١٦٧٨ من حديث شعبة، البخاري، ح: ٦٥٣٣ من حديث الأعمش به.

1397. ‘Abdullāh narrated that the Messenger of Allāh ﷺ said: “Indeed the first cases to be decided between the worshippers are those of bloodshed.” (*Ṣaḥīḥ*)

١٣٩٧ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكَيْعٌ عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ أَوَّلَ مَا يُقْضَى بَيْنَ الْعِبَادِ فِي الدِّمَاءِ».

تخریج: متفق عليه، انظر الحديث السابق، ورواه مسلم من حديث وكيع به.

Comments:

On the Day of Judgement, the first thing from the rights of Allāh, performance of the obligatory prayers, will be accounted for, and from the rights of human beings murder will be the first.

1398. Abul-Ḥakam Al-Bajalī said: “I heard Abū Sa‘eed Al-*Khudrī* and Abū Hurairah mentioning from the Messenger of Allāh ﷺ that he said: ‘If the inhabitants of the heavens and the inhabitants of the earth all took part in shedding the blood of a believer, then Allāh would cast them (all) in the Fire.’” (*Da‘if*)

١٣٩٨ - حَدَّثَنَا الْحُسَيْنُ بْنُ حُرَيْثٍ: حَدَّثَنَا الْفَضْلُ بْنُ مُوسَى عَنِ الْحُسَيْنِ بْنِ وَاقِدٍ، عَنْ يَزِيدَ الرَّقَاشِيِّ: حَدَّثَنَا أَبُو الْحَكَمِ الْبَجَلِيُّ قَالَ: سَمِعْتُ أَبَا سَعِيدٍ الْخُدْرِيَّ وَأَبَا هُرَيْرَةَ يَذْكُرَانِ عَنْ رَسُولِ اللَّهِ ﷺ قَالَ: «لَوْ أَنَّ أَهْلَ السَّمَاءِ وَأَهْلَ الْأَرْضِ اشْتَرَكُوا فِي دَمِ مُؤْمِنٍ لَأَكْبَهُمُ اللَّهُ فِي النَّارِ».

[Abū ‘Eisā said:] This *Ḥadīth* is *Gharīb*. [Abul-Ḥakam Al-Bajalī is ‘Abdur-Raḥmān bin Abī Nu‘aym Al-Kūfī].

[قَالَ أَبُو عِيْسَى]: هَذَا حَدِيثٌ غَرِيبٌ. [وَأَبُو الْحَكَمِ الْبَجَلِيُّ هُوَ عَبْدُ الرَّحْمَنِ بْنُ أَبِي نُعْمِ الْكُوفِيِّ].

تخریج: [ضعيف] * يزيد الرقاشي ضعيف وله شواهد ضعيفة عند البيهقي ٢٢/٨ وغيره.

Comments:

Murder of a Muslim is so great a sin that if a group of people commit a murder, the whole group will be punished. Each one of them will pay the full blood-money or all of them will be killed in retaliation.

Chapter 9. What Has Been Related About A Man Who Kills His Son: Is He To Suffer Requit For Him Or Not?

(المعجم ٩) - بَابُ مَا جَاءَ فِي الرَّجْلِ يَقْتُلُ ابْنَهُ يُقَادُ مِنْهُ أَمْ لَا؟ (التحفة ٩)

1399. Surāqah bin Mālik bin [Ju‘shum] narrated: “The Messenger of Allāh ﷺ judged that the son is to suffer retaliation for

١٣٩٩ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عِيَّاشٍ: حَدَّثَنَا الْمُثَنَّى بْنُ الصَّبَّاحِ عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ

[killing] his father, but the father is not to suffer retaliation for [killing] his son.” (*Da'if*)

[Abū 'Eisā said:] We do not know of this *Hadīth* as a narration of Surāqah except from this route. Its chain is not correct. Ismā'il bin 'Ayyāsh reported it from Al-Muthanna bin Aṣ-Ṣabbāḥ, and Al-Muthanna bin Aṣ-Ṣabbāḥ has been graded weak in *Hadīth*. Abū Khālid bin Al-Aḥmar reported this *Hadīth* from Al-Ḥajjāj [bin Arṭāh], from 'Amr bin Shu'bah, from his father, from his grandfather, from 'Umar, from the Prophet ﷺ. This *Hadīth* has also been reported from Shu'bah in *Mursal* form. There is confusion (*Idṭirāb*) in the narration of this *Hadīth*.

This is acted upon according to the people of knowledge; the father is not to be killed for killing his son, and when he falsely accuses his son, he is not punished legally.

جَدُّهُ، عَنْ سُرَاقَةَ بْنِ مَالِكِ بْنِ جُعْشَمٍ [قَالَ: حَضَرْتُ رَسُولَ اللَّهِ ﷺ يُقِيدُ الْأَبَ مِنْ ابْنِهِ وَلَا يُقِيدُ الْابْنَ مِنْ أَبِيهِ.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ لَا نَعْرِفُهُ مِنْ حَدِيثِ سُرَاقَةَ إِلَّا مِنْ هَذَا الْوَجْهِ وَلَيْسَ إِسْنَادُهُ بِصَحِيحٍ رَوَاهُ إِسْمَاعِيلُ بْنُ عِيَّاشٍ عَنِ الْمُثَنَّى بْنِ الصَّبَّاحِ وَالْمُثَنَّى بْنُ الصَّبَّاحِ يُضَعَّفُ فِي الْحَدِيثِ وَقَدْ رَوَى هَذَا الْحَدِيثَ أَبُو خَالِدٍ الْأَحْمَرُ عَنِ الْحَجَّاجِ [بْنِ أَرْطَاةَ]، عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، عَنْ عُمَرَ عَنِ النَّبِيِّ ﷺ وَقَدْ رُوِيَ هَذَا الْحَدِيثُ عَنْ عَمْرٍو بْنِ شُعَيْبٍ مُرْسَلًا، وَهَذَا حَدِيثٌ فِيهِ اضْطِرَابٌ وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ أَنَّ الْأَبَ إِذَا قَتَلَ ابْنَهُ لَا يُقْتَلُ بِهِ. وَإِذَا قَدَفَ ابْنَهُ لَا يُحَدُّ.

تخریج: [إسناده ضعيف] * المثني والحجاج ضعيفان.

Comments:

Apparently the father is a cause of a son's existence in this world; therefore, the son should not become the reason of the father's demise. Imām Rabī'ah, Ath-Thawrī, Al-Awzā'ī, Ash-Shāfi'ī, Aḥmad, Ishāq, and Abū Ḥanīfah all have the same point of view. (*Al-Mughnī* v. 1 p. 483.)

1400. 'Umar bin Al-Khaṭṭāb narrated that the Messenger of Allāh ﷺ said: "The father does not suffer retaliation for [killing] the son." (*Da'if*)

١٤٠٠ - حَدَّثَنَا أَبُو سَعِيدٍ الْأَشْجِيُّ: حَدَّثَنَا أَبُو خَالِدٍ الْأَحْمَرُ عَنِ الْحَجَّاجِ بْنِ أَرْطَاةَ، عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، عَنْ عُمَرَ بْنِ الْخَطَّابِ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «لَا يُقَادُ الْوَالِدُ بِالْوَالِدِ».

تخریج: [إسناده ضعيف] وأخرجه ابن ماجه، والديات، باب: لا يقتل الوالد بولده،

ح: ٢٦٦٢ من حديث أبي خالد الأحمر به، ورواه محمد بن عجلان عن عمرو بن شعيب به وللحديث شواهد كثيرة.

1401. Ibn ‘Abbās narrated that the Prophet ﷺ said: “The *Hudūd* are not carried in the *Masjid*, and the father is not killed for the son.” (*Da‘īf*)

[Abū ‘Eīsā said:] We do not know of this *Hādīth* to be *Marfū‘* except through the narration of Ismā‘īl bin Muslim. Some of the people of knowledge have criticized Ismā‘īl bin Muslim due to his memory.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، أيضًا، ح: ٢٦٦١ من حديث إسماعيل بن مسلم به وهو ضعيف وللحديث شواهد ضعيفة، انظر الحديث السابق.

Comments:

This narration, according to its chain is a weak narration, but its subject is correct and is in accordance with the Islamic Law. The purpose of killing in retaliation is to make a lesson for others so that nobody should dare to commit such a heinous crime. If the love and relationship of being a father did not stop him from murdering then even killing in retaliation will not work.

Chapter 10. What Has Been Related About ‘The Blood Of A Muslim Man Is Not Lawful Except For One Of Three Cases’

1402. ‘Abdullāh bin Mas‘ūd narrated that the Messenger of Allāh ﷺ said: “The blood of a Muslim man, who testifies that none has the right to be worshipped but Allāh, and that I am the Messenger of Allāh, is not lawful except for one of three cases: The (previously married or) married adulterer, a life for a life, and the one who leaves his religion and parts from the *Jamā‘ah* (the

١٤٠١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ إِسْمَاعِيلَ بْنِ مُسْلِمٍ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ طَاوُسٍ، عَنْ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا تَقَامُ الْحُدُودُ فِي الْمَسَاجِدِ وَلَا يُقْتَلُ الْوَالِدُ بِالْوَالِدِ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ لَا نَعْرِفُهُ بِهَذَا الْإِسْنَادِ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ إِسْمَاعِيلَ ابْنِ مُسْلِمٍ. وَإِسْمَاعِيلُ بْنُ مُسْلِمٍ الْمَكِّيُّ [قَدْ تَكَلَّمَ فِيهِ بَعْضُ أَهْلِ الْعِلْمِ مِنْ قَبْلِ حِفْظِهِ.

(المعجم ١٠) - بَابُ مَا جَاءَ لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ إِلَّا بِأَحَدِي ثَلَاثٍ (التحفة ١٠)

١٤٠٢ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ عَبْدِ اللَّهِ بْنِ مَرْثَةَ عَنْ مَسْرُوقٍ، عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّي رَسُولُ اللَّهِ إِلَّا بِأَحَدِي ثَلَاثٍ: الثَّيْبُ الزَّانِي وَالنَّفْسُ بِالنَّفْسِ وَالتَّارِكُ لِدِينِهِ الْمُفَارِقُ لِلْجَمَاعَةِ» [قَالَ:] وَفِي الْبَابِ عَنْ عُمَانَ وَعَائِشَةَ وَابْنِ عَبَّاسٍ.

community of Muslims).” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from ‘Uthmān, ‘Āishah and Ibn ‘Abbās.

[Abū ‘Eīsā said:] The *Ḥadīth* of Ibn Mas‘ūd is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

تخریج: متفق علیه، وأخرجه مسلم، القسامة والمحاربين، باب ما يباح به دم المسلم، ح: ١٦٧٦ من حديث أبي معاوية الضرير والبخاري، ح: ٦٨٧٨ من حديث الأعمش به * وفي الباب عن عثمان [يأتي: ٢١٥٨] وعائشة [أبو داود، ح: ٤٣٥٣] وابن عباس [ابن ماجه، ح: ٢٥٣٩].

Comments:

According to the Qur’ān and various narrations of the Prophet ﷺ, and the consensus of the Muslim *Ummah*, killing a Muslim brother is one of the greatest sins. There are only three conditions which allow the killing of a Muslim. These three conditions have been mentioned in this narration. (*Al-Mughnī*, v. 11, p.443-444.)

Chapter 11. What Has Been Related About One Who Kills A *Mu‘āhid*^[1]

(المعجم ١١) - بَابُ مَا جَاءَ فِيْمَنْ يَقْتُلُ نَفْسًا مُعَاهِدًا (التحفة ١١)

1403. Abū Hurairah narrated that the Prophet ﷺ said: “Indeed, whoever kills a *Mu‘āhid* that has a covenant from Allāh and a covenant from His Messenger ﷺ, then he has violated the covenant with Allāh and the covenant of His Messenger, so he shall not smell the fragrance of Paradise; even though its fragrance can be sensed from the distance of seventy autumns.” (*Ṣaḥīḥ*)

١٤٠٣ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا [مَعْدِيُّ] بْنُ سُلَيْمَانَ [هُوَ الْبَصْرِيُّ] عَنِ ابْنِ عَجْلَانَ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «أَلَا مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً لَهُ ذِمَّةُ اللَّهِ وَذِمَّةُ رَسُولِهِ فَقَدْ أَخْفَرَ بِذِمَّةِ اللَّهِ فَلَا يَرِيحُ رَائِحَةَ الْجَنَّةِ، وَإِنَّ رِيحَهَا لَتُوجَدُ مِنْ مَسِيرَةِ سَبْعِينَ خَرِيفًا».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي بَكْرَةَ.

[He said:] There are narrations on this topic from Abū Bakrah.

[Abū ‘Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*, it has been reported through

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ

[1] “One who has a treaty with the *Imām* to not fight, whether he is a *Dhimmi* or not.” *Tuḥfat Al-Aḥwadhī*.

more than one route from Abū Hurairah, from the Prophet ﷺ.

تخريج: [صحيح] وأخرجه ابن ماجه، الديات، باب من قتل معاهدًا، ح: ٢٦٨٧ عن محمد ابن بشار به وسنده ضعيف وللحديث شواهد عند البخاري، ح: ٣١٦٦، ٦٩١٤ وغيره * وفي الباب عن أبي بكر [أبو داود، ح: ٢٧٦٠].

Comments:

The fragrance of the Paradise will be sensed by the people in proportion of their good deeds done in this world, and according to their status in the Hereafter. The least distance from where it could be sensed is forty years, and the maximum one thousand years. (*Tuhfat Al-Ahwadhī* v. 2. p.308.)

Chapter 12.

(المعجم ١٢) - بَابُ: (التحفة ١٢)

1404. Ibn ‘Abbās narrated: “The Prophet ﷺ assigned the same blood-money for the two ‘Āmiris^[1] as that of the Muslims, and they had a covenant from the Messenger of Allāh ﷺ.” (*Da‘īf*)

[Abū ‘Eisā said:] This *Hadīth* is *Gharīb*, we do not know of it except from this route, and [one of the narrators] Abū Sa‘d al-Baqqāl’s name is Sa‘eed bin Al-Marzubān.

١٤٠٤ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا يَحْيَى
ابْنُ آدَمَ عَنْ أَبِي بَكْرِ بْنِ عِيَّاشٍ، عَنْ أَبِي
سَعْدٍ، عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ
ﷺ وَدَى الْعَامِرِيِّينَ بِدِيَةِ الْمُسْلِمِينَ وَكَانَ لَهُمَا
عَهْدٌ مِنْ رَسُولِ اللَّهِ ﷺ.
[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ غَرِيبٌ لَا
نَعْرِفُهُ إِلَّا مِنْ هَذَا الْوَجْهِ وَأَبُو سَعْدٍ الْبَقَّالُ
اسْمُهُ سَعِيدُ بْنُ الْمَرْزُبَانَ.

تخريج: [إسناده ضعيف] وأخرجه البيهقي: ١٠٢/٨ من حديث أبي بكر بن عياش به نحو المعنى وقال: "البقال لا يحتج به" أبو سعد البقال ضعيف مدلس وأبو بكر بن عياش ضعيف من جهة حفظه.

Comments:

There is no killing in retaliation of the murder of a disbeliever; but the blood-money is to be paid.

[1] The two people killed by ‘Amr bin ‘Umayyah Al-Damrī. He was not aware of their covenant with the Messenger ﷺ. (*Tuhfat Al-Ahwadhī*).

Chapter 13. What Has Been Related About The Guardian Of One Who Was Killed Deciding Between *Qiyās* or Pardon

1405. Abū Hurairah narrated: “When Allāh granted His Messenger ﷺ victory over Makkah, he stood (to deliver an address) among the people. He thanked and praised Allāh, then he said: ‘And for whomever (one of his relatives) was killed, then he has two options to choose from: Either to pardon or that he be killed.’” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Wā'il bin Ḥujr, Anas, Abū Shuraiḥ, and Khuwailid bin 'Amr.

(المعجم ١٣) - بَابُ مَا جَاءَ فِي حُكْمِ
وَلِيِّ الْقَتِيلِ فِي الْقِصَاصِ وَالْعَفْوِ
(التحفة ١٣)

١٤٠٥ - حَدَّثَنَا مُحَمَّدُ بْنُ غَيْلَانَ وَيَحْيَى
ابْنُ مُوسَى قَالَا: حَدَّثَنَا الْوَلِيدُ بْنُ مُسْلِمٍ:
حَدَّثَنَا الْأَوْزَاعِيُّ: حَدَّثَنِي يَحْيَى بْنُ أَبِي
كَثِيرٍ: حَدَّثَنِي أَبُو سَلَمَةَ قَالَ: حَدَّثَنِي أَبُو
هُرَيْرَةَ قَالَ: لَمَّا فَتَحَ اللَّهُ عَلَى رَسُولِهِ مَكَّةَ قَامَ
فِي النَّاسِ فَحَمِدَ اللَّهَ وَأَثْنَى عَلَيْهِ ثُمَّ قَالَ:
«وَمَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخَيْرِ النَّظَرَيْنِ إِمَّا أَنْ
يَعْفُو وَإِمَّا أَنْ يَقْتُلَ» [قَالَ:] وَفِي الْبَابِ عَنْ
وَائِلِ بْنِ حُجْرٍ وَأَنْسٍ وَأَبِي شُرَيْحٍ خُوَيْلِدِ بْنِ
عَمْرِو.

تخریج: متفق عليه، وأخرجه البخاري، كتاب في اللقطة، باب: كيف تعرف لقطه أهل مكة؟، ح: ٢٤٣٤ عن يحيى بن موسى ومسلم، ح: ١٣٥٥ من حديث الوليد به * وفي الباب عن وائل بن حجر [مسلم، ح: ١٦٨٠] وأنس [ابن ماجه، ح: ٢٦٩١] وأبي شريح خويلد بن عمرو [يأتي: ١٤٠٦].

Comments:

In this narration, pardon means accepting blood-money instead of killing in retaliation. Sparing the murderer from death and accepting the blood-money is a kind of pardon.

1406. Abū Shuraiḥ Al-Ka'bī narrated that the Messenger of Allāh ﷺ said: “Indeed Allāh made Makkah sacred, it was not made sacred by the people. Whoever believes in Allāh and the Last Day, then let them not shed blood in it, nor cut down any of its trees. If one tries to make an excuse by saying: ‘It was made lawful for the Messenger of Allāh ﷺ’ then indeed Allāh made it lawful for me

١٤٠٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا
يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا ابْنُ أَبِي ذَثْبٍ:
حَدَّثَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ الْمُسَبَّرِيُّ عَنْ
أَبِي شُرَيْحٍ الْكَعْبِيِّ: أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ:
«إِنَّ اللَّهَ حَرَّمَ مَكَّةَ وَلَمْ يُحَرِّمْهَا النَّاسُ. مَنْ
كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ فَلَا يَسْفِكَنَّ فِيهَا
دَمًا وَلَا يَعْصِدَنَّ فِيهَا شَجَرًا فَإِنْ تَرَخَّصَ
مُتَرَخَّصٌ. فَقَالَ أُحِلَّتْ لِرَسُولِ اللَّهِ ﷺ فَإِنَّ

but He did not make it lawful for the people, and it was only made lawful for me for an hour of a day. Then it is returned to being sacred until the Day of Judgement. Then, to you people of Khuzā'ah who killed this man from Hudhail: I am his ‘Aqil, so for whomever (one of his relatives) is killed after today, then his people have two options; either they have him killed, or they take the blood-money from him.” (Saḥīḥ)

[Abū ‘Eīsā said:] This *Hadīth* is *Hasan Saḥīḥ*. It was also reported by Shaybān from Yahya bin Abī Kathīr and it is similar to this, and it was reported by Abū Shuraiḥ Al-Khuzā’ī from the Prophet ﷺ. But he said: “And for whomever (one of his relatives) was killed, then he may have him killed, or pardon him, or take the blood-money.”

Some of the people of knowledge followed this, and it is the view of Aḥmad and Ishāq.

تخریج: [إسناده صحيح] وأخرجه أبو داود، الديات، باب ولي العمد يأخذ الدية، ح: ٤٥٠٤ من حديث يحيى القطان به ورواه البخاري، ح: ١٠٤ ومسلم، ح: ١٣٥٤ من حديث سعيد المقبري.

Comments:

This narration proves that the right of pardon, killing in retaliation or accepting the payment of blood-money is with the heirs. If one of them forgives the offender then killing in retaliation is cancelled, only blood-money will be taken.

1407. Abū Hurairah narrated: “A man was killed during the time of the Messenger of Allāh ﷺ, so the killer was brought to the man’s guardian. The killer said: ‘O Messenger of Allāh! By Allāh! I did not mean to kill him. So the

الله أحلّها لي ولم يجعلها للناس وإنما أحلّت لي ساعة من نهار ثم هي حرام إلى يوم القيامة ثم إنكم معشر خزاعة قتلتم هذا الرجل من هذيل وإني عاقله فمن قتل له قتل بعد اليوم فأهله بين خيرتين. إما أن يقتلوا أو يأخذوا العقل».

[قال أبو عيسى:] هذا حديث حسن صحيح. وحديث أبي هريرة حديث حسن صحيح. ورواه شيبان أيضا عن يحيى بن أبي كثير مثل هذا وروي عن أبي شريح الخزاعي عن النبي ﷺ قال: «من قتل له قتل فله أن يقتل أو يعفو أو يأخذ الدية». وذهب إلى هذا بعض أهل العلم وهو قول أحمد وإسحاق.

١٤٠٧ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قُتِلَ رَجُلٌ عَلَى عَهْدِ رَسُولِ اللَّهِ ﷺ فَدَفِعَ الْقَاتِلُ إِلَى وَلِيِّهِ فَقَالَ الْقَاتِلُ يَا رَسُولَ اللَّهِ! وَاللَّهِ مَا أَرَدْتُ قَتْلَهُ فَقَالَ رَسُولُ

Messenger of Allāh ﷺ said: ‘Then if what he is saying is true, and you kill him, you would enter the Fire.’ So he let the man go.” He said: “His hands were bound behind him with a *Nis’ah*.” He said: “So he left, dragging his *Nis’ah*.” [He said:] “So he was called ‘*Dhan-Nis’ah*’.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] This *Hadīth* is *Ḥasan Ṣaḥīḥ*. [And *An-Nis’ah* is a rope.]

الله ﷺ: «أَمَا إِنَّهُ إِنْ كَانَ [قَوْلُهُ] صَادِقًا فَتَقَاتَلْتُمْ دَخَلْتُمُ النَّارَ» فَخَلَّى عَنْهُ الرَّجُلُ قَالَ: وَكَانَ مَكْتُوفًا بِنِسْعَةٍ قَالَ: فَخَرَجَ يَجْرُ نِسْعَتَهُ [قَالَ:] فَكَانَ يُسَمَّى ذَا النَّسْعَةِ.
[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. [وَالنَّسْعَةُ حَبْلٌ].

تخريج: [صحيح] وأخرجه أبو داود، الديات، باب الإمام يأمر بالعمو في الدم، ح: ٤٤٩٨ والنسائي، ح: ٤٧٢٦ وابن ماجه، ح: ٢٦٩٠ من حديث أبي معاوية الضرير به وله شواهد عند مسلم وأبي داود، ح: ٤٤٩٩-٤٥٠١ وغيرهما.

Comments:

If someone is killed and the intention of the killer was not to kill him but just to punish him physically, then it will be considered a killing by mistake. In case of killing by mistake, the punishment of killing in retaliation is unlawful. In this case, the heir of the murdered let the killer go.

Chapter 14. What Has Been Related About The Prohibition Of Mutilation

1408. Buraidah narrated from his father who said: “Whenever the Messenger of Allāh ﷺ dispatched a commander of an army he would exhort him personally; that he should have *Taqwā* of Allāh, and regarding those of the Muslims who are with him; that he should be good to them. He would say: ‘Fight in the Name of Allāh and in Allāh’s cause. Fight those who disbelieve in Allāh, and fight, do not be treacherous, nor mutilate, nor kill a child.’” (*Ṣaḥīḥ*)

The *Hadīth* is longer than this. [He said:] There are narrations on

(المعجم ١٤) - بَابُ مَا جَاءَ فِي النِّهْيِ عَنِ الْمَثَلَةِ (التحفة ١٤)

١٤٠٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ عَلْقَمَةَ بْنِ مَرْثَدٍ، عَنْ سُلَيْمَانَ بْنِ بُرَيْدَةَ، عَنْ أَبِيهِ قَالَ: كَانَ رَسُولُ اللَّهِ ﷺ إِذَا بَعَثَ أَمِيرًا عَلَى جَيْشٍ أَوْصَاهُ فِي خَاصَّةِ نَفْسِهِ بِتَقْوَى اللَّهِ وَمَنْ مَعَهُ مِنَ الْمُسْلِمِينَ خَيْرًا فَقَالَ: «اغْرُؤُوا بِسْمِ اللَّهِ وَفِي سَبِيلِ اللَّهِ قَاتِلُوا مَنْ كَفَرَ بِاللَّهِ، اغْرُؤُوا وَلَا تَغْلُوا وَلَا تَغْدِرُوا وَلَا تَمْثِلُوا وَلَا تَقْتُلُوا وَلِيدًا». وَفِي الْحَدِيثِ قِصَّةٌ [قَالَ:] وَفِي الْأَبِّ عَنْ [عَبْدِ اللَّهِ] بْنِ مَسْعُودٍ وَشَدَّادِ

this topic from [‘Abdullāh] bin Mas‘ūd, Shaddād bin Aws, [‘Imrān bin Huṣāin, Anas] Samurah, Al-Mughīrah, Ya‘lā bin Murrah, and Abū Ayyūb.

[Abū ‘Eīsā said:] The *Hadīth* of Buraidah is a *Hasan Ṣaḥīḥ Hadīth*. The people of knowledge dislike mutilation.

ابْنِ أَوْسٍ [وَعِمْرَانَ بْنِ حُصَيْنٍ وَأَنْسٍ] وَسَمْرَةَ وَالْمُغِيرَةَ وَيَعْلَى بْنَ مُرَّةٍ وَأَبِي أَيُّوبَ .

[قَالَ أَبُو عِيسَى:] حَدِيثُ بُرَيْدَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ . وَكَرِهَ أَهْلُ الْعِلْمِ الْمُثَلَّةَ .

تخریج: وأخرجه مسلم، الجهاد، باب تأمير الإمام الأمراء على البعوث ... إلخ، ح: ۱۷۳۱ من حديث عبدالرحمن بن مهدي به، وسيأتي: ۱۶۱۷ * وفي الباب عن عبدالله بن مسعود [أبو داود، ح: ۲۶۶۶] وشداد بن أوس [يأتي: ۱۴۰۹] وعمران بن حصين [أبو داود، ح: ۲۶۶۷] وأنس [البخاري، ح: ۵۵۱۳] ومسلم، ح: ۱۹۵۶] وسمره [أبو داود، ح: ۲۶۶۷] والمغيرة [أحمد: ۲/۲۴۶، والطحاوي في معاني الآثار: ۳/۱۸۳] ويعلى بن مرة [أحمد: ۴/۱۷۱، ۱۷۳] وأبي أيوب [الطحاوي في معاني الآثار: ۳/۱۸۲].

Comments:

The purpose of *Jihād* is not the expansion of the Islamic State or creating some disturbance in the world. Creating any trouble in this world is against the spirit of Islam. *Jihād* is only to raise the Word of Allāh, and for subsiding the disturbances for the greater cause of society. So, the head of the army is required to work within the limits imposed by Allāh.

1409. Shaddād bin Aws narrated that the Prophet ﷺ said: “Indeed Allāh has decreed *Ihsān* in everything. So when you kill, then do the killing well, and when you slaughter, then do the slaughtering well. Let one of you sharpen his blade, and let him comfort his animal (before slaughtering).” (*Ṣaḥīḥ*)

[He said:] This *Hadīth* is *Ḥasan Ṣaḥīḥ*, Abū Al-Ash‘ath’s name is [Shurahīl] bin Ādah.

۱۴۰۹ - حَدَّثَنَا أَحْمَدُ بْنُ مَيْعٍ: حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا خَالِدٌ عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي الْأَشْعَثِ الصَّنَعَائِيِّ، عَنْ شَدَادِ بْنِ أَوْسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «إِنَّ اللَّهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ فَإِذَا قَتَلْتُمْ فَأَحْسِنُوا الْقِتْلَةَ وَإِذَا ذَبَحْتُمْ فَأَحْسِنُوا الذَّبْحَةَ وَلْيُجِدَّ أَعْنَاقُكُمْ شَفْرَتَهُ وَلْيُرِخْ ذَبِيحَتَهُ» .

[قَالَ:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ . أَبُو الْأَشْعَثِ اسْمُهُ [شُرَاحِيلُ] بْنُ أَدَةَ .

تخریج: وأخرجه مسلم، الصيد والذبائح، باب الأمر بإحسان الذبح والقتل، تحديد الشفرة، ح: ۱۹۵۵ من حديث خالد الحذاء به.

Comments:

If Islām could command its adherents to show such great compassion to even animals when they are being lawfully slaughtered, one could then imagine how compassionate it would be with human lives.

Chapter 15. What Has Been Related About The Blood-Money For The Fetus

(المعجم ١٥) - بَابُ مَا جَاءَ فِي دِيَةِ
الْجَنِينِ (التحفة ١٥)

1410. Abū Hurairah narrated: "The Messenger of Allāh ﷺ judged that a *Ghurrah* male slave or female slave be given in the case of a fetus. The one the judgement was made against said: 'Should we give something for one who did not drink, nor eat, nor cry out to shed a tear, the likes of which is useless?' So the Prophet ﷺ said: 'This is the speech of a poet. Rather it requires a *Ghurrah*: a male slave or a female slave.'" (*Ṣaḥīḥ*)

There are narrations on this topic from [Hamal] bin Mālik bin An-Nābighah [and Al-Mughīrah bin Shu'bah].

[Abū 'Eisā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. Some of them said that *Al-Ghurrah* is a male or female slave, or five hundred Dirham. Some of them said it could also be a horse or a mule.

١٤١٠ - حَدَّثَنَا عَلِيُّ بْنُ سَعِيدٍ الْكِنْدِيُّ
[الْكُوفِيُّ]: حَدَّثَنَا ابْنُ أَبِي زَائِدَةَ عَنْ مُحَمَّدِ
ابْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ
قَالَ: قَضَى رَسُولُ اللَّهِ ﷺ فِي الْجَنِينِ بِعُرَّةٍ
عَبْدٍ أَوْ أَمَةٍ فَقَالَ الَّذِي قَضَى عَلَيْهِ أَنْعُطِي مَنْ
لَا شَرِبَ وَلَا أَكَلَ وَلَا صَاحَ فَاسْتَهَلَ فَمِثْلُ
ذَلِكَ يُطَلُّ. فَقَالَ النَّبِيُّ ﷺ: «إِنَّ هَذَا لَيَقُولُ
بِقَوْلِ الشَّاعِرِ، بَلَى فِيهِ عُرَّةٌ: عَبْدٌ أَوْ أَمَةٌ».

وَفِي الْبَابِ عَنْ [حَمَلٍ] بْنِ مَالِكِ بْنِ
النَّابِغَةِ [وَالْمُغِيرَةَ بْنِ شُعْبَةَ].

[قَالَ أَبُو عِيْسَى]: حَدِيثُ أَبِي هُرَيْرَةَ
حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ
أَهْلِ الْعِلْمِ. وَقَالَ بَعْضُهُمْ: الْعُرَّةُ عَبْدٌ أَوْ أَمَةٌ
أَوْ خَمْسُمِائَةِ دِرْهَمٍ. وَقَالَ بَعْضُهُمْ: أَوْ فَرَسٌ
أَوْ بَعْلٌ.

تخریج: [صحيح] وأخرجه أبو داود، الديات، باب دية الجنين، ح: ٤٥٧٩ وابن ماجه، ح: ٢٦٣٩ من حديث محمد بن عمرو به وسنده حسن ورواه البخاري، ح: ٥٧٥٨ ومسلم، ح: ١٦٨١ من حديث أبي سلمة * وفي الباب عن حمل بن مالك [أبو داود، ح: ٤٥٧٢] والمغيرة ابن شعبة [يأتي: ١٤١١].

Comments:

The word '*Ghurrah*' is used for every nice thing. The literal meaning of *Ghurrah* is 'white spot on the forehead of a horse' here it means a male or female slave. This word is usually used for horses and mules but here it means to free a slave or a slave woman as the punishment of purposeful abortion.

1411. Al-Mughīrah bin Shu‘bah narrated: “Two women co-wives, (were fighting), and one of them hit the other with a stone or a tent post, causing her to have a miscarriage. the Messenger of Allāh ﷺ judged that a *Ghurrah* male or female slave should be given for the fetus, and he required it from the ‘*Aṣabah*’^[1] of the woman.” (*Ṣaḥīḥ*)

(Another chain) for this *Hadīth* [and it is similar to this. He said:] This *Hadīth* is *Ḥasan Ṣaḥīḥ*.

١٤١١ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ: حَدَّثَنَا شُعْبَةُ عَنْ مَنْصُورٍ، عَنْ إِبْرَاهِيمَ، عَنْ عُبَيْدِ بْنِ نَضْلَةَ، عَنِ الْمُعْبِرَةِ بْنِ شُعْبَةَ أَنَّ امْرَأَتَيْنِ كَانَتَا صَرَّتَيْنِ فَرَمَتِ إِحْدَاهُمَا الْأُخْرَى بِحَجَرٍ أَوْ عُمُودٍ فَسَطِطُ فَالْقَتَّ جَنِينَهَا فَقَضَى رَسُولُ اللَّهِ ﷺ فِي الْجَنِينِ عُرَّةً عَبْدًا أَوْ أُمَّةً وَجَعَلَهُ عَلَى عَصَبَةِ الْمَرْأَةِ. قَالَ الْحَسَنُ وَحَدَّثَنَا زَيْدُ بْنُ حُبَابٍ عَنْ سُفْيَانَ، عَنْ مَنْصُورٍ بِهَذَا الْحَدِيثِ [نَحْوَهُ وَقَالَ]: هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، القسامة والمحاررين، باب دية الجنين، ووجوب الدية في قتل الخطأ... إلخ، ح: ١٦٨٢ من حديث شعبة به.

Comments:

These two ladies were the wives of Ḥamal bin Maḥlik bin Nābighah. Umm Afif hit Malkiyah with a stone or with a tent post, causing her to miscarriage. The Prophet ﷺ ordered the relatives from her father’s side to pay a slave or a slave woman as compensation to Afif. (For details see *Fawa'id Muslim*)

Chapter 16. What Has Been Related About: The Muslim Is Not Killed For The Disbeliever

(المعجم ١٦) - بَابُ مَا جَاءَ لَا يُقْتَلُ مُسْلِمٌ بِكَافِرٍ (التحفة ١٦)

1412. Abū Juḥaifah said: “I said to ‘Alī: O Commander of the Believers! Do you have anything written that is not in Allāh’s Book?” He said: ‘By the One Who splits the seed and creates the soul, I have not learned from it except what understanding of the Qur’ān Allāh gives to a man, and what is in this sheet of paper.’ I said: ‘What is in the paper?’ He said: ‘In it is the ‘*Aql*’^[2] the (ransom for)

١٤١٢ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا مُطَرِّفٌ عَنِ الشَّعْبِيِّ: حَدَّثَنَا أَبُو جَحِيْفَةَ قَالَ: قُلْتُ لِعَلِيِّ: يَا أَمِيرَ الْمُؤْمِنِينَ! هَلْ عِنْدَكُمْ سُودَاءٌ فِي بَيْضَاءِ لَيْسَ فِي كِتَابِ اللَّهِ؟ قَالَ: وَالَّذِي فَلَقَ الْحَبَّةَ وَبَرَأَ النَّسَمَةَ مَا عَلِمْتُهُ إِلَّا فَهَمًا يُعْطِيهِ اللَّهُ رَجُلًا فِي الْقُرْآنِ وَمَا فِي الصَّحِيفَةِ. قُلْتُ: وَمَا فِي الصَّحِيفَةِ؟ قَالَ: فِيهَا الْعَقْلُ وَفِكَالُ الْأَسِيرِ وَأَنْ لَا يُقْتَلَ

[1] The relatives from her father’s side of the family.

[2] Meaning the regulations regarding blood-money.

release of captives, and the judgement that no believer is killed for a disbeliever.” (*Ṣaḥīḥ*)

[He said:] There is something on this topic from ‘Abdullāh bin ‘Amr.

[Abū ‘Eisā said:] The *Ḥadīth* of ‘Alī is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge. It is the view of Sufyān Ath-Thawrī, Mālik bin Anas, Ash-Shāfi‘ī, Aḥmad, and Ishāq. They said that the believer is not killed for the disbeliever. Some of the people of knowledge said that the Muslim may be killed for the *Mu‘āhid*. But the first view is more correct.

تخریج: وأخرجه البخاري، الديات، باب العاقلة، ح: ٦٩٠٣ من حديث مطرف به * وفي الباب عن عبدالله ابن عمرو [يأتي: ١٤١٣].

Chapter (...) What Has Been Related About The Blood-Money For A Disbeliever

1413. ‘Amr bin Shu‘aib narrated from his father, from his grandfather that the Messenger of Allāh ﷺ said: “The Muslim is not killed for the disbeliever.” (*Ḥasan*)

And with this chain, it has been narrated that the Prophet ﷺ said: “The blood-money paid for the disbeliever is half of the blood-money paid for a believer.”

[Abū ‘Eisā said:] The *Ḥadīth* of ‘Abdullāh bin ‘Amr on this topic is a *Ḥasan Ḥadīth*.

The people of knowledge disagree about the blood-money of the Jew and the Christian. Some of them followed what was reported from the Prophet ﷺ [about the Jews and

مُؤْمِنٌ بِكَافِرٍ. [قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيسَى:] وَحَدِيثُ عَلِيِّ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَمَالِكِ بْنِ أَنَسٍ وَالشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ قَالُوا: لَا يُقْتَلُ مُؤْمِنٌ بِكَافِرٍ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: يُقْتَلُ الْمُسْلِمُ بِالْمُعَاهِدِ. وَالْقَوْلُ الْأَوَّلُ أَصَحُّ.

(المعجم ...) [بَابُ مَا جَاءَ فِي دِيَّةِ الْكُفَّارِ] (التحفة ١٧)

١٤١٣ - حَدَّثَنَا عِيسَى بْنُ أَحْمَدَ: حَدَّثَنَا ابْنُ وَهْبٍ عَنْ أُسَامَةَ بْنِ زَيْدٍ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَا يُقْتَلُ مُسْلِمٌ بِكَافِرٍ» وَبِهَذَا الْإِسْنَادِ عَنِ النَّبِيِّ ﷺ قَالَ: «دِيَّةُ عَقْلِ الْكَافِرِ نِصْفُ دِيَّةِ عَقْلِ الْمُؤْمِنِ».

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللَّهِ بْنِ عَمْرٍو فِي هَذَا الْبَابِ حَدِيثٌ حَسَنٌ. وَاخْتَلَفَ أَهْلُ الْعِلْمِ [فِي دِيَّةِ الْيَهُودِيِّ وَالنَّصْرَانِيِّ فَدَهَبَ بَعْضُ أَهْلِ الْعِلْمِ [فِي دِيَّةِ الْيَهُودِيِّ وَالنَّصْرَانِيِّ] إِلَى مَا رَوَى عَنِ النَّبِيِّ ﷺ. وَقَالَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ: دِيَّةُ الْيَهُودِيِّ

the Christians]. ‘Umar bin ‘Abdul-‘Azīz said: “The blood-money of a Jew and a Christian is half of the blood-money of a Muslim.” This is the view of Ahmad bin Hanbal. It has been reported that ‘Umar bin Al-Khaṭṭāb said: “The blood-money of a Jew and a Christian is four thousand [Dirham]. The blood-money of a Zoroastrian is eight-hundred [Dirham].” This is the view of Mālik [bin Anas], Ash-Shāfi‘ī, and Ishāq. Some of the people of knowledge said that the blood-money of a Jew and a Christian is the same as the blood-money of a Muslim. This is the view of Sufyān Ath-Thawrī and the people of Al-Kūfah.

وَالنَّصْرَانِيَّ نِصْفُ دِيَّةِ الْمُسْلِمِ. وَبِهَذَا يَقُولُ أَحْمَدُ بْنُ حَنْبَلٍ. وَرَوَى عَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ قَالَ: دِيَّةُ الْيَهُودِيِّ وَالنَّصْرَانِيَّ أَرْبَعَةُ آلَافٍ [دِرْهَمٍ] وَدِيَّةُ الْمَجُوسِيِّ ثَمَانِمِائَةٌ [دِرْهَمٍ]. وَبِهَذَا يَقُولُ مَالِكُ [بْنُ أَنَسٍ] وَالشَّافِعِيُّ وَإِسْحَاقُ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: دِيَّةُ الْيَهُودِيِّ وَالنَّصْرَانِيَّ مِثْلُ دِيَّةِ الْمُسْلِمِ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَأَهْلِ الْكُوفَةِ.

تخريج: [إسناده حسن] وأخرجه النسائي: ٤٥/٨، ح: ٤٨١١ (القسامة، باب: كم دية الكافر) من حديث ابن وهب به الحديث الأول، ورواه أبو داود، ح: ٤٥٨٣ وابن ماجه، ح: ٢٦٤٤ الحديث الثاني، وللحديث شواهد.

Comments:

During the lifetime of the Prophet ﷺ, blood-money was eight hundred Dīnār or eight thousand Dirham. Accordingly, the blood-money of a non-Muslim is four thousand Dirham. In the view of Imām Ibn Qudamah, ‘Umar bin ‘Abdul-‘Aziz, ‘Urwah, Mālik and ‘Amr bin Shu‘aib, the blood-money of a Jew or a Christian is half of the blood-money of a Muslim. According to the point of view of ‘Umar, ‘Uthmān, Sa‘eed bin Musayyab, ‘Aṭā, Ikrimah, ‘Amr bin Dīnār, Shāfi‘ī and Ishāq, it is four thousand Dirham. According to ‘Alqamah, Mujāhid, Ash-Sha‘bī, Ath-Thawrī, and Abū Hanīfah, the blood-money of a Jew or Christian is equal to that of a Muslim.

Chapter 17. What Has Been Related About A Man Who Killed His Slave

(المعجم ١٧) - بَابُ مَا جَاءَ فِي الرَّجُلِ يَقْتُلُ عَبْدَهُ (التحفة ١٨)

1414. Samurah narrated that the Messenger of Allāh ﷺ said: “Whoever kills his slave, then we will kill him, and whoever maims his slave, then we will maim him.” (Hasan)

١٤١٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ قَتَلَ عَبْدَهُ قَتَلْنَاهُ وَمَنْ جَدَعَ عَبْدَهُ جَدَعْنَاهُ».

[Abū 'Eisā said:] This *Hadīth* is *Hasan Gharīb*.

Some of the people of knowledge among the *Tābi'in* followed this, among them is Ibrāhīm An-Nakha'ī. Some of the people of knowledge – among them Al-Ḥasan Al-Baṣrī, 'Aṭā' bin Abī Rabāḥ – said: “There is no retaliation between the free and the slave in cases of murder, or in cases less than murder.” This is the view of Aḥmad and Ishāq. Some of them said: When a person kills his slave he is not killed for that, and when he kills the slave of someone else, then he is killed for that. This is the saying of Sufyān Ath-Thawrī [and the people of Al-Kūfah].

ح: ٤٧٤٢ (القسامة، باب القود من السيد للمولى) عن قتيبة به وصححه الحاكم على شرط داود، ح: ٤٥١٥ وغيره من حديث قتادة به. [حسن] وأخرجه النسائي: ٢١/٨، البخاري: ٣٦٧/٤ ووافقه الذهبي، ورواه أبو

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ مِنَ التَّابِعِينَ مِنْهُمْ إِبْرَاهِيمُ النَّخَعِيُّ إِلَى هَذَا: وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْهُمْ الْحَسَنُ الْبَصْرِيُّ وَعَطَاءُ بْنُ أَبِي رَبَاحٍ: لَيْسَ بَيْنَ الْحُرِّ وَالْعَبْدِ قِصَاصٌ فِي النَّفْسِ وَلَا فِي مَا دُونَ النَّفْسِ. وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ. وَقَالَ بَعْضُهُمْ: إِذَا قَتَلَ عَبْدَهُ لَا يُقْتَلُ بِهِ وَإِذَا قَتَلَ عَبْدَ غَيْرِهِ قُتِلَ بِهِ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ [وَأَهْلِ الْكُوفَةِ].

Chapter 18. What Has Been Related About The Woman: Does She Inherit What Is Due Of Her Husband's Blood-Money?

1415. Sa'eed bin Al-Musayyab narrated that 'Umar would say: “The blood-money upon the tribe, and the wife does not inherit any of her husband's blood-money.” Until Aḍ-Ḍaḥḥāk bin Sufyān Al-Kulābī informed him that the Messenger of Allāh ﷺ wrote to me, that Ashaim Ad-Dibābī's wife inherited the blood-money of her husband. (*Ṣaḥīḥ*)

[Abū 'Eisā said:] This *Hadīth* is *Hasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge.

(المعجم ١٨) - بَابُ مَا جَاءَ فِي الْمَرْأَةِ [أَهْلٌ] تَرِثُ مِنْ دِيَّةِ زَوْجِهَا (التحفة ١٩)

١٤١٥ - حَدَّثَنَا قُتَيْبَةُ [وَأَحْمَدُ بْنُ مَنِيعٍ] وَأَبُو عَمَّارٍ وَعَبْدُ وَاحِدٍ قَالُوا: حَدَّثَنَا سُفْيَانُ ابْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ عُمَرَ كَانَ يَقُولُ: الدِّيَّةُ عَلَى الْعَاقِلَةِ وَلَا تَرِثُ الْمَرْأَةُ مِنْ دِيَّةِ زَوْجِهَا شَيْئًا. حَتَّى أَخْبَرَهُ الصَّحَّاحُ بْنُ سُفْيَانَ الْكَلَابِيِّ: أَنَّ رَسُولَ اللَّهِ ﷺ كَتَبَ إِلَيْهِ أَنْ: وَرِثَ امْرَأَةٌ أَشِيمَ الضَّبَابِيِّ مِنْ دِيَّةِ زَوْجِهَا.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ

صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ.

تخريج: [صحيح] وأخرجه أبو داود، الفرائض، باب: في المرأة تترث من دية زوجها، ح: ٢٩٢٧ وابن ماجه، ح: ٢٦٤٢ وأحمد: ٤٥٢/٣ عنه من حديث سفيان بن عيينة به وصححه ابن الجارود، ح: ٩٦٦ وله شاهد عند الطبراني: ٥/٢٧٦، ح: ٥٣/٥ ورجاله ثقات.

Comments:

According to most of the people of knowledge, the blood-money belongs to the deceased; therefore, it should be distributed among his heirs. (*Tuhfat-Al-Ahwadhī* v. 2. p. 314)

Chapter 19. What Has Been Related About *Qisās*

(المعجم ١٩) - بَابُ مَا جَاءَ فِي

الْقِصَاصِ (التحفة ٢٠)

1416. ‘Imrān bin Ḥuṣain narrated: “A man bit the hand of another man. The man who was bitten pulled his hand out, causing two of his incisors (teeth) to fall out. They brought their case to the Prophet ﷺ. So he said: “One of you bites his brother like the stallion bites? There is no blood-money for you.’ So Allāh Most High revealed: Wounds, equal for equal.”^[1] (*Ṣaḥīḥ*)

١٤١٦ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عَيْسَى بْنُ يُونُسَ عَنْ شُعْبَةَ، عَنْ قَتَادَةَ قَالَ: سَمِعْتُ زُرَّارَةَ بْنَ أَوْفَى يُحَدِّثُ عَنْ عِمْرَانَ بْنِ حُصَيْنٍ: أَنَّ رَجُلًا عَضَّ يَدَ رَجُلٍ فَتَنَزَعَ يَدَهُ فَوَقَعَتْ تَنِيَّتَاهُ فَاخْتَصَمُوا إِلَى النَّبِيِّ ﷺ فَقَالَ: «يَعَضُّ أَحَدُكُمْ أَخَاهُ كَمَا يَعَضُّ الْفَحْلُ لَا دِيَّةَ لَكَ» فَأَنْزَلَ اللَّهُ تَعَالَى ﴿وَالْجُرُوحُ قِصَاصٌ﴾ [المائدة: ٤٥] [قَالَ:] وَفِي الْبَابِ عَنْ يَعْلَى بْنِ أُمَيَّةَ وَسَلَمَةَ بْنِ أُمَيَّةَ وَهَمَّا أَخْوَانِ. [قَالَ أَبُو عَيْسَى:] حَدِيثُ عِمْرَانَ بْنِ حُصَيْنٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

[He said:] There are narrations on this topic from Ya‘lā bin Umayyah and Salamah bin Umayyah who are brothers.

[Abū ‘Eisā said:] The *Ḥadīth* of ‘Imrān bin Ḥuṣain is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

تخريج: متفق عليه، وأخرجه البخاري، الدييات، باب: إذا عض رجلاً فوقت ثناياه، ح: ٦٨٩٢ ومسلم، ح: ١٦٧٣ من حديث شعبة به * وفي الباب عن يعلى بن أمية [البخاري، ح: ١٨٤٧، ٢٢٦٥، ٢٢٦٥] ومسلم، ح: ١٦٧٤ وسلمة بن أمية [ابن ماجه، ح: ٢٦٥٦].

Comments:

This narration proves that there is no blood-money if an assailant is hurt during his assault. If someone is defending himself, and the assailant is hurt, there is no blood-money for him.

[1] *Al-Mā‘idah* 5:45.

Chapter 20. What Has Been Related About Imprisoning For An Accusation

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي الْحَبْسِ فِي التُّهْمَةِ (التحفة ٢١)

1417. Bahz bin Ḥakīm narrated from his father, from his grandfather, that the Prophet ﷺ imprisoned a man for an accusation, then he let him go. (*Ḥasan*)

١٤١٧ - حَدَّثَنَا عَلِيُّ بْنُ سَعِيدٍ الْكِنْدِيُّ: حَدَّثَنَا ابْنُ الْمُبَارَكِ عَنْ مَعْمَرٍ، عَنْ بَهْزِ بْنِ حَكِيمٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ حَبَسَ رَجُلًا فِي تُّهْمَةٍ ثُمَّ خَلَّى عَنْهُ. قَالَ: وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

He said: There is something on this topic from Abū Hurairah.

[Abū ‘Eisā said:] The *Ḥadīth* of Bahz from his father, from his grandfather is a *Ḥasan Ḥadīth*. Ismā‘īl bin Ibrāhīm reported this *Ḥadīth* from Bahz bin Ḥakīm, but it was more complete than this and longer.

[قَالَ أَبُو عِيسَى:] حَدِيثُ بَهْزِ بْنِ حَكِيمٍ، عَنْ جَدِّهِ حَدِيثٌ حَسَنٌ. وَقَدْ رَوَى إِسْمَاعِيلُ ابْنُ إِبْرَاهِيمَ، عَنْ بَهْزِ بْنِ حَكِيمٍ هَذَا الْحَدِيثَ أَتَمَّ مِنْ هَذَا وَأَطْوَلَ.

تخریج: [إسناده حسن] وأخرجه النسائي: ٦٧/٧، ح: ٤٨٨٠ (قطع السارق، باب امتحان السارق بالضرب والحبس) عن علي بن سعيد الكندي به ورواه أبو داود، ح: ٣٦٣٠ من حديث معمر به * وفي الباب عن أبي هريرة [الحاكم: ١٠٢/٤].

Comments:

This narration is proof that an accused person can be imprisoned for the purpose of investigation, and if the charges against him are not proven, he should be immediately freed from prison.

Chapter 21. What Has Been Related About: Whoever Is Killed Over His Wealth, Then He Is A Martyr

(المعجم ٢١) - بَابُ مَا جَاءَ [فِي] مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ (التحفة ٢٢)

1418. Sa‘eed bin Zaid bin ‘Amr bin Nufail narrated that the Prophet ﷺ said: “Whoever is killed over his wealth then he is a martyr. [And whoever steals a hand-span of land, he will bear seven earths on the Day of Resurrection.]” (*Ṣaḥīh*)

١٤١٨ - حَدَّثَنَا سَلَمَةُ بْنُ شَيْبٍ، وَحَاثِمُ ابْنُ سَيَّاهِ الْمَرْوَزِيُّ وَغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا عَبْدُ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنِ الرَّهْرِيِّ، عَنْ طَلْحَةَ بْنِ عَبْدِ اللَّهِ بْنِ عَوْفٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو بْنِ سَهْلٍ، عَنْ سَعِيدِ بْنِ زَيْدِ بْنِ عَمْرٍو بْنِ نُفَيْلٍ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ [وَمَنْ سَرَقَ مِنْ

Hātim bin Siyāh Al-Marwazī narrated an addition in this *Ḥadīth*. Ma‘mar said: “It was conveyed to me by Az-Zuhri” and he did not

hear him adding to this *Hadīth*: “Whoever is killed over his wealth then he is a martyr.” This is how Shu‘aib bin Abī Hamzah narrated this *Hadīth* from Az-Zuhri, from Talhah bin ‘Abdullāh, from ‘Abdur-Rahmān bin ‘Amr bin Sahl, from Sa‘eed bin Zaid, from the Prophet ﷺ. Sufyān bin ‘Uyainah narrated it from Az-Zuhri, from Talhah bin ‘Abdullāh, from Sa‘eed bin Zaid from the Prophet ﷺ. Sufyān did not mention in it: “From ‘Abdur-Rahmān bin ‘Amr bin Sahl.”]

This *Hadīth* is *Hasan Sahīh*.

الأَرْضِ شَيْئًا طَوَّقَهُ يَوْمَ الْقِيَامَةِ مِنْ سَبْعِ
أَرْضِينَ وَزَادَ حَاتِمُ بْنُ سِبَاةٍ الْمُرُوزِيُّ فِي هَذَا
الْحَدِيثِ. قَالَ مَعْمَرٌ: بَلَغَنِي عَنِ الزُّهْرِيِّ وَلَمْ
أَسْمَعْ مِنْهُ زَادَ فِي هَذَا الْحَدِيثِ: مَنْ قُتِلَ
دُونَ مَالِهِ فَهُوَ شَهِيدٌ. وَهَكَذَا رَوَى شُعَيْبُ بْنُ
أَبِي حَمْرَةَ هَذَا الْحَدِيثَ عَنِ الزُّهْرِيِّ، عَنْ
طَلْحَةَ بْنِ عَبْدِ اللَّهِ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو
ابْنِ سَهْلٍ، عَنْ سَعِيدِ بْنِ زَيْدٍ عَنِ النَّبِيِّ ﷺ
وَرَوَى سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ
طَلْحَةَ بْنِ عَبْدِ اللَّهِ، عَنْ سَعِيدِ بْنِ زَيْدٍ عَنِ
النَّبِيِّ ﷺ وَلَمْ يَذْكُرْ فِيهِ سُفْيَانُ، عَنْ
عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو بْنِ سَهْلٍ].

وهذا حديث حسن صحيح.

تخريج: [صحيح] وأخرجه ابن حبان (الإحسان): ٣١٨٥ من حديث عبدالرزاق به ورواه أبو داود، ح: ٤٧٧٢ وابن ماجه، ح: ٢٥٨٠ والنسائي، ح: ٤٠٩٩ وللحديث شواهد وحديث شعيب عند (البخاري، ح: ٢٤٥٢) وغيره، وحديث سفيان بن عيينة عند أبي داود، ح: ٤٧٧٢ وغيره.

1419. ‘Abdullāh bin ‘Amr narrated that the Prophet ﷺ said: “Whoever is killed over his wealth, then he is a martyr.” (*Sahīh*)

[He said:] There are narrations on this topic from ‘Alī, Sa‘eed bin Zaid, Abū Hurairah, Ibn ‘Umar, Ibn ‘Abbās, and Jābir.

[Abū ‘Eisā said:] The *Hadīth* of ‘Abdullāh bin ‘Amr is a *Hasan Hadīth*, and it has been reported from him through other routes. Some of the people of knowledge have made an exception in cases where a man kills to protect himself and his wealth. Ibn Al-Mubāarak said that he may kill to

١٤١٩ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا
أَبُو عَامِرٍ الْعَقَدِيُّ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ
الْمُطَّلِبِ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ، عَنْ
إِبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ طَلْحَةَ، عَنْ عَبْدِ اللَّهِ
ابْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ قُتِلَ دُونَ
مَالِهِ فَهُوَ شَهِيدٌ» [قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ
وَسَعِيدِ بْنِ زَيْدٍ، وَأَبِي هُرَيْرَةَ، وَابْنِ عَمْرٍو
وَابْنِ عَبَّاسٍ وَجَابِرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللَّهِ بْنِ
عَمْرٍو حَدِيثٌ حَسَنٌ. وَقَدْ رُوِيَ عَنْهُ مِنْ غَيْرِ
وَجِهٍ. وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ لِلرَّجُلِ

defend his wealth, even if it is only two Dirham.

أَنْ يُقَاتِلَ عَنْ نَفْسِهِ وَمَالِهِ. وَقَالَ ابْنُ الْمُبَارَكِ: يُقَاتِلُ عَنْ مَالِهِ وَلَوْ ذِرْهَمَيْنِ.

تخریج: [إسناده صحيح] وأخرجه أبو داود، السنة، باب: في قتال اللصوص، ح: ٤٧٧١ من حديث عبدالله بن الحسن به وللحديث طرق كثيرة * وفي الباب عن علي [أحمد: ٧٨/١] وسعيد بن زيد [تقدم: ١٤١٨] وأبي هريرة [مسلم، ح: ١٤٠] وابن عمر [ابن ماجه، ح: ٢٥٨١] وابن عباس [أحمد: ٣٠٥/١] وجابر [أبو نعيم في أخبار أصبهان: ٢٣٥/١].

Comments:

The religion of Islam gives extreme importance to the Muslim’s faith, life, honor, and property. No one is allowed to rob or steal the property of others. Defending one’s property is the duty of every Muslim, and according to most of the scholars, every Muslim has the right to defend his life and property even if he has to fight for it and kill the robber.

1420. ‘Abdullāh bin ‘Amr narrated that the Messenger of Allāh ﷺ said: “If someone tries to get another’s wealth without right, and he fights and is killed, then he is a martyr.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

(Another chain of narration) from ‘Abdullāh bin ‘Amr, from the Prophet ﷺ, with similar meaning.

١٤٢٠ - حَدَّثَنَا هَارُونُ بْنُ إِسْحَاقَ الْهَمْدَانِيُّ قَالَ: حَدَّثَنِي مُحَمَّدُ بْنُ عَبْدِ الْوَهَّابِ [الْكُوفِيُّ شَيْخُ ثِقَةٍ] عَنْ سُفْيَانَ الثَّوْرِيِّ، عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ، [عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ] حَدَّثَنِي إِبْرَاهِيمُ بْنُ مُحَمَّدِ بْنِ طَلْحَةَ. قَالَ سُفْيَانُ وَأَنْتَى عَلَيْهِ خَيْرًا قَالَ: سَمِعْتُ عَبْدَ اللَّهِ ابْنَ عَمْرٍو يَقُولُ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ أَرِيدَ مَالَهُ بِغَيْرِ حَقٍّ فَقَاتَلَ فَقُتِلَ فَهُوَ شَهِيدٌ». [قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ ابْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ، عَنْ إِبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ طَلْحَةَ، عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

تخریج: [إسناده صحيح] وأخرجه أبو داود، أيضًا، ح: ٤٧٧١ من حديث سفيان الثوري به وصرح بالسماع.

1421. Zaid narrated that he heard the Messenger of Allāh ﷺ saying: “Whoever is killed over his wealth then he is a martyr, and whoever is killed over his religion, then he is a

١٤٢١ - حَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ قَالَ: أَخْبَرَنِي يَعْقُوبُ بْنُ إِبْرَاهِيمَ بْنِ سَعْدٍ: حَدَّثَنِي أَبِي عَنْ أَبِيهِ، عَنْ أَبِي عُبَيْدَةَ بْنِ مُحَمَّدِ بْنِ

martyr, and whoever is killed over his blood, then he is a martyr, and whoever is killed over his family, then he is a martyr.” (*Ṣaḥīḥ*)

[He said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, and this is how it was reported by more than one narrator from Ibrāhīm bin Sa’d, and it is similar to this. Ya’qūb (one of the narrators) is Ibn Ibrāhīm bin Sa’d bin Ibrāhīm bin ‘Abdur-Raḥmān bin ‘Awf Az-Zuhrī.

عَمَّارُ بْنُ يَاسِرٍ، عَنْ طَلْحَةَ بْنِ عَبْدِ اللَّهِ بْنِ عَوْفٍ، عَنْ سَعِيدِ بْنِ زَيْدٍ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ، وَمَنْ قُتِلَ دُونَ دِينِهِ فَهُوَ شَهِيدٌ، وَمَنْ قُتِلَ دُونَ دَمِهِ فَهُوَ شَهِيدٌ، وَمَنْ قُتِلَ دُونَ أَهْلِهِ فَهُوَ شَهِيدٌ» [قَالَ:]: هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَهَكَذَا رَوَى غَيْرُ وَاحِدٍ، عَنْ إِبْرَاهِيمَ بْنِ سَعْدِ بْنِ نَحْوِ هَذَا، وَيَعْقُوبُ هُوَ ابْنُ إِبْرَاهِيمَ بْنِ سَعْدِ بْنِ إِبْرَاهِيمَ بْنِ عَبْدِ الرَّحْمَنِ ابْنِ عَوْفِ الزُّهْرِيِّ.

تخریج: [إسناده صحيح] وأخرجه النسائي: ۱۱۶/۷ ح: ۴۰۹۹ (تحريم الدم، باب من قاتل دون أهله) من حديث أبي عبيدة بن محمد بن عمار به رواه أبو داود، ح: ۴۷۷۲ وابن ماجه، ح: ۲۵۸۰ من حديث طلحة بن عبدالله بن عوف، وللحديث شواهد كثيرة منها الحديث المتقدم: ۱۴۱۸.

Chapter 22. What Has Been Related About *Al-Qasamah*^[1]

(المعجم ۲۲) - بَابُ مَا جَاءَ فِي

الْقَسَامَةِ (التحفة ۲۳)

1422. Sahl bin Abī Ḥaṭmah narrated – Yaḥya (one of the narrators) said: And I think it was from Rāfi‘ bin *Khādīj* – that ‘Abdullāh bin Sahl bin Zaid and Muḥaiyṣah bin Mas‘ūd bin Zaid went out and when they reached *Khaibar* they separated while there. Then Muḥaiyṣah found ‘Abdullāh bin Sahl murdered [so he buried him]. Then he went to the Messenger of Allāh ﷺ along with Ḥuwayyṣah bin Mas‘ūd and ‘Abdur-Raḥmān bin Sahl. The youngest of the people, ‘Abdur-

۱۴۲۲ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ [بْنُ سَعْدٍ] عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ بُشَيْرِ بْنِ يَسَارٍ، عَنْ سَهْلِ بْنِ أَبِي حَتَمَةَ قَالَ يَحْيَى: وَحَسِبْتُ، عَنْ رَافِعِ بْنِ خَدِيجٍ أَنَّهُمَا قَالَا: خَرَجَ عَبْدُ اللَّهِ بْنُ سَهْلِ بْنِ زَيْدٍ وَمُحَيِّصَةُ بْنُ مَسْعُودِ بْنِ زَيْدٍ حَتَّى إِذَا كَانَ بِخَبِيرٍ تَقَرَّفَا فِي بَعْضِ مَا هُنَاكَ ثُمَّ إِنَّ مُحَيِّصَةَ وَجَدَ عَبْدَ اللَّهِ ابْنَ سَهْلِ قَتِيلًا قَدْ قُتِلَ [فَدَفَنَهُ]، ثُمَّ أَقْبَلَ إِلَى رَسُولِ اللَّهِ ﷺ هُوَ وَحُوَيْصَةُ بْنُ مَسْعُودٍ وَعَبْدُ الرَّحْمَنِ بْنُ سَهْلِ وَكَانَ أَصْغَرَ الْقَوْمِ ذَهَبَ

[1] It refers to the oath taken by a group of people about one of them who was killed, or it refers to the group of people who take the oath. See *Tuḥfat Al-Aḥwadhī*.

Rahmān, went to speak ahead of his companions. The Messenger of Allāh ﷺ said to him: "Let the eldest of you speak." So he was silent and his two companions spoke. So he conversed with them and they mentioned to the Messenger of Allāh ﷺ about the murder of 'Abdullāh bin Sahl. He said to them: "If fifty of you can swear an oath then you will have the right against the muderer." They said: "How can we take an oath when we did not witness it?" He said: "Then fifty of the Jews can swear to clear the charge with you?" They said: "How could we accept the oaths of a disbelieving people?" So when he saw that, the Messenger of Allāh ﷺ paid the blood-money." (*Ṣaḥīḥ*)

(Another chain) from Sahl bin Abī Ḥathmah and Rāfi' bin Khadij, and the meaning is similar to this *Hadīth*.

[Abū 'Eisā said:] This *Hadīth* is *Ḥasan Ṣaḥīḥ*.

This *Hadīth* is acted upon in cases of *Al-Qasāmah* according to the people of knowledge. Some of the *Fuqahā'* of Al-Madinah held the view that retaliation could be based upon *Al-Qasāmah*. Some of the people of knowledge among the people of Al-Kūfah and others said that there is no retaliation in *Al-Qasāmah* rather only blood-money.

عَبْدُ الرَّحْمَنِ لِيَتَكَلَّمَ قَبْلَ صَاحِبَيْهِ. قَالَ لَهُ رَسُولُ اللَّهِ ﷺ: «كَبِيرُ الْكُبَيْرِ» فَصَمَتَ وَتَكَلَّمَ صَاحِبَاهُ، ثُمَّ تَكَلَّمَ مَعَهُمَا فَذَكَرُوا لِرَسُولِ اللَّهِ ﷺ مَقْتَلَ عَبْدِ اللَّهِ بْنِ سَهْلٍ فَقَالَ لَهُمْ: «أَتَحْلِفُونَ خَمْسِينَ يَمِينًا فَتَسْتَحِقُّونَ صَاحِبَكُمْ أَوْ قَاتِلَكُمْ» قَالُوا: كَيْفَ نَحْلِفُ وَلَمْ نَشْهَدْ؟ قَالَ: «فَتَبْرِئُكُمْ يَهُودُ بِخَمْسِينَ يَمِينًا؟» قَالُوا: وَكَيْفَ نَقْبَلُ أَيْمَانَ قَوْمِ كُفَّارٍ؟ فَلَمَّا رَأَى ذَلِكَ رَسُولُ اللَّهِ ﷺ أَعْطَى عَقْلَهُ.

حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ بُشَيْرِ بْنِ يَسَارٍ، عَنْ سَهْلِ بْنِ أَبِي حَثْمَةَ وَرَافِعِ بْنِ خَدِيجٍ نَحْوَ هَذَا الْحَدِيثِ بِمَعْنَاهُ.

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا [الْحَدِيثِ] عِنْدَ أَهْلِ الْعِلْمِ فِي الْقَسَامَةِ. وَقَدْ رَأَى بَعْضُ فُقَهَاءِ الْمَدِينَةِ الْقَوَدَ بِالْقَسَامَةِ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَهْلِ الْكُوفَةِ وَغَيْرِهِمْ: إِنَّ الْقَسَامَةَ لَا تُوجِبُ الْقَوَدَ وَإِنَّمَا تُوجِبُ الدِّيَةَ.

تخریج: متفق علیه، وأخرجه مسلم، القسامة والمحاربين، باب القسامة، ح: ١٦٦٩ عن قتيبة والبخاري، ح: ٣١٧٣ من حديث يحيى بن سعيد الأنصاري به.

Comments:

If there is a murder in an area or a village, and the people of that area or village have no enmity or dispute with the victim for which they could be charged, or a law-suit could be filed against them that they had committed the murder, in such circumstances the claimants have to produce some proof or witnesses against the people of that area, or fifty people from the defendants will swear an oath and the case will be decided accordingly.