

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allâh, the Most Beneficent, the Most Merciful

19. The Chapters On Manumission (Of Slaves)

(المعجم ١٩) أَبْوَابُ الْعِتْقِ
(التحفة ...)

Comments:

'*Al-Itq'* means 'cease to be personal property and emancipation.' Imâm Azhari says '*Ataqa'* is derived from '*Ataqal-Fars*: This phrase is used when a horse wins a race or when a young bird learns to fly and flies away. Young birds, when they learn to fly, are free to go anywhere and they are not dependent on their parents. The word '*Itq'* is used for a slave who is granted freedom, and allowed to go any where with his own free will.

'Manumission of slaves' means to emancipate a slave and free him from the disgrace and indignity of slavery.

There are three kinds of freedom enumerated below.

1. *Tadbir* or Policy: If a master promises his slave that he would be free after his death it is known as *Tadbir*.
2. *Mukâtabat* or Written Agreement: If a master writes an agreement with a slave to free him for a certain price, and the slave pays the agreed installments, then he is free. This known as *Mukâtabât*.
3. *Umm Walad* or Mother of a Son: A master who has sexual intercourse with his slave girl, and she gives birth to a son or daughter. This is known as *Umm Walad*.

Chapter 1. The *Mudabbar*^[1]

(المعجم ١) - بَابُ الْمُدَبَّرِ (التحفة ٩٤)

2512. It was narrated from Jâbir that the Messenger of Allâh ﷺ sold a *Mudabbar*. (*Sahih*)

٢٥١٢ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ، وَعَلِيُّ بْنُ مُحَمَّدٍ، قَالَا: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ أَبِي خَالِدٍ، عَنْ سَلْمَةَ بْنِ كُهَيْلٍ، عَنْ عَطَاءٍ، عَنْ جَابِرٍ أَنَّ رَسُولَ اللَّهِ ﷺ بَاعَ الْمُدَبَّرَ.

تخريج: أخرجه البخاري، البيهقي، باب بيع المدبر، ح: ٢٢٣٠ عن عبدالله بن نمير به.

[1] A slave promised his freedom after his master's death.

2513. It was narrated that Jâbir bin 'Abdullâh said: "A man among us promised freedom to a slave after his death, and he did not have any property other than him (this slave). So the Prophet ﷺ sold him, and Ibn (Nahhâm), a man from Banu 'Adi, bought him."

٢٥١٣ - حَدَّثَنَا هِشَامُ بْنُ عَمَّارٍ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: دَبَّرَ رَجُلٌ مِنَّا غُلَامًا. وَلَمْ يَكُنْ لَهُ مَالٌ غَيْرُهُ. فَبَاعَهُ النَّبِيُّ ﷺ. فَاشْتَرَاهُ ابْنُ [النَّحَامِ] رَجُلٌ مِنْ بَنِي عَدِي.

تخریج: أخرجه البخاري، البيهقي، باب بيع المدبر، ح: ٢٢٣١، ومسلم، الأيمان، باب جواز بيع المدبر، ح: ٩٩٧، بعد، ح: ١٦٦٨ من حديث سفیان به.

Comments:

Mudabbar means a slave who's master promised freedom after his death (*Fathul-Bari, Hadith 2230*)

2514. It was narrated from Ibn 'Umar that the Prophet ﷺ said: "The *Mudabbar* is part of the one third of the estate."^[1] (*Da'if*)

Ibn Mâjah said: I heard 'Uthmân — meaning Ibn Abu Shaibah — say: "This is a mistake," meaning the *Hadith*: "The *Mudabbar* is part of the one third of the estate." Abu 'Abdullâh (Ibn Mâjah) said: "There is no basis for it."

٢٥١٤ - حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا عَلِيُّ بْنُ ظَبْيَانَ، عَنْ عُثَيْدِ اللَّهِ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ أَنَّ النَّبِيَّ ﷺ قَالَ: «الْمُدَبَّرُ مِنَ الثُّلُثِ».

قَالَ ابْنُ مَاجَةَ: سَمِعْتُ عُثْمَانَ، يَعْنِي ابْنَ أَبِي شَيْبَةَ، يَقُولُ: هَذَا خَطَأٌ. يَعْنِي حَدِيثَ: «الْمُدَبَّرُ مِنَ الثُّلُثِ».

قَالَ أَبُو عَبْدِ اللَّهِ: لَيْسَ لَهُ أَصْلٌ.

تخریج: [إسناده ضعيف جدًا] أخرجه البيهقي: ٣١٤/١٠ من طريق علي بن ظبيان به، وهو ضعيف كما في التقريب وغيره ورجع عن رفعه في رواية الشافعي، والموقوف هو الصحيح، وللمرفوع شاهد ضعيف جدًا عند البيهقي وغيره، وله شاهد مرسل ضعيف أيضًا.

Chapter 2. Umahâtul-Awlâd^[2]

(المعجم ٢) - بَابُ أُمَّهَاتِ الْأَوْلَادِ

(التحفة ٩٥)

2515. It was narrated from Ibn

٢٥١٥ - حَدَّثَنَا عَلِيُّ بْنُ مُحَمَّدٍ وَ مُحَمَّدٌ بْنُ

[1] One third of the estate: i.e., the one third concerning which a person may leave instructions as to how it is to be disposed of after his death.

[2] *Umahâtul-Awlâd* (sing. *Umm Walad*): literally means 'mothers of children.' Slave women who bore their masters children.

'Abbâs that the Messenger of Allâh ﷺ said: "Any man whose slave woman bears him a child, she will be free after he dies." (Da'if)

إِسْمَاعِيلَ، قَالَ: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا شَرِيكٌ، عَنْ حُسَيْنِ بْنِ عَبْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ ابْنِ عَبَّاسٍ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «أَيُّمَا رَجُلٍ وَلَدَتْ أُمَّتُهُ مِنْهُ، فَهِيَ مُعْتَقَةٌ عَنْ دُبُرِ مِنْهُ».

تخریج: [إسناده ضعيف] أخرجه ابن أبي شيبة: ٤٣٦/٦ عن شريك به، وضعفه البوصيري، وانظر، ح: ١٦٢٨.

2516. It was narrated that Ibn 'Abbâs said: "Mention was made of the mother of Ibrâhim in the presence of the Messenger of Allâh ﷺ, and he said: 'Her son set her free.'" (Da'if)

٢٥١٦ - حَدَّثَنَا أَحْمَدُ بْنُ يُونُسَ: حَدَّثَنَا أَبُو عَاصِمٍ: حَدَّثَنَا أَبُو بَكْرِ، يَعْنِي النَّهْشَلِيَّ، عَنْ الْحُسَيْنِ بْنِ عَبْدِ اللَّهِ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: ذَكَرْتُ أُمَّ إِبْرَاهِيمَ عِنْدَ رَسُولِ اللَّهِ ﷺ. فَقَالَ: «أَعْتَقَهَا وَلَدَهَا».

تخریج: [إسناده ضعيف] أخرجه البيهقي: ٣٤٦/١٠ من طريق ابن أبي سبرة به، وقال: أبو بكر بن أبي سبرة ضعيف لا يحتج به، إلا أنه قد روى عن غيره عن حسين بهذا اللفظ، وأخرجه ابن سعد: ٢١٥/٨، والبيهقي وغيرهما من طرق عن حسين به، وانظر، ح: ١٦٢٨ لحاله، وللحديث طريق آخر ضعيف، وأخطأ من صححه.

2517. Jâbir bin 'Abdullâh was heard to say: "We used to sell our slave women and the mothers of our children (Umahât Awlâdina) when the Prophet ﷺ was still living among us, and we did not see anything wrong with that." (Sahih)

٢٥١٧ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى وَ إِسْحَاقُ ابْنُ مَنصُورٍ، قَالَ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ عَنِ ابْنِ جُرَيْجٍ: أَخْبَرَنِي أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ ابْنَ عَبْدِ اللَّهِ يَقُولُ: كُنَّا نَبِيعُ سَرَارِنَا وَأُمَّهَاتِ أَوْلَادِنَا، وَالنَّبِيُّ ﷺ فِينَا حَيًّا. لَا نَرَى بِذَلِكَ بَأْسًا.

تخریج: [إسناده صحيح] أخرجه أحمد: ٣٢١/٣ عن عبد الرزاق به، وتابعه عبد المجيد عند الشافعي (السنن المأثورة: ٢٩٣، ح: ٢٨٦)، وصححه البوصيري، وله شاهد عند الحاكم: ٢/١٨، ١٩، وصححه على شرط مسلم، ووافقه الذهبي.

Comments:

When the master copulates with his slave girl, a baby born as result of this copulation is free.

Chapter 3. The *Mukâtab*^[1]

2518. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "There are three who are all entitled to Allâh's help: the one who fights in the cause of Allâh; the *Mukâtab* who wants to pay (the price of his freedom); and the one who gets married seeking chastity." (*Sahih*)

(المعجم ٣) - يَابُ الْمَكَاتِبِ (التحفة ٩٦)

٢٥١٨ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَ عَبْدِ اللَّهِ بْنُ سَعِيدٍ، قَالَا: حَدَّثَنَا أَبُو خَالِدٍ الْأَحْمَرُ، عَنِ ابْنِ عَجَلَانَ، عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «ثَلَاثَةٌ كُلُّهُمْ حَقٌّ عَلَى اللَّهِ عَوْنُهُ: الْغَازِي فِي سَبِيلِ اللَّهِ. وَالْمَكَاتِبُ الَّتِي يُرِيدُ الْأَدَاءَ. وَالنَّكَاحُ الَّذِي يُرِيدُ التَّعَفُّفَ».

تخریج: [إسناده صحيح] أخرجه الترمذي، فضائل الجهاد، باب ماجاء في المجاهد والناكح والمكاتب وعون الله إياهم، ح: ١٦٥٥ من حديث ابن عجلان به، وقال: حديث حسن، وأخرجه أحمد: ٤٣٧/٢ عن يحيى (القطان) عن ابن عجلان قال: حدثني سعيد عن أبي هريرة به... الخ.

Comments:

- If there is a written agreement between a slave and his master that the slave, in an agreed period, will pay the master a fixed and agreed upon price, then when this price is paid the slave becomes free.
- Jihād* in the cause of Allâh depends on the sincerity of intention. If the Divine law is observed strictly while fighting, Allâh helps the warrior.
- Chastity is a remarkable characteristic of Islamic society and marriage is a vital and powerful source to maintain a pious and pure society.

2519. It was narrated from 'Amr bin Shu'aib, from his father, from his grandfather that the Messenger of Allâh ﷺ said: "Any slave who has made a contract to buy his freedom for one hundred *Uqdiyyah* and pays it all except ten *Uqdiyyah*; he is still a slave." (One *Uqdiyyah* is equal to 40 Dirham.) (*Hasan*)

٢٥١٩ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا عَبْدُ اللَّهِ ابْنُ نُمَيْرٍ وَ مُحَمَّدُ بْنُ فَضِيلٍ عَنْ حَجَّاجٍ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «أَيُّمَا عَبْدٍ كُوتِبَ عَلَى مِائَةِ أُوقِيَّةٍ، فَأَدَاَهَا إِلَّا عَشْرَ أُوقِيَّاتٍ، فَهُوَ رَقِيقٌ».

تخریج: [حسن] أخرجه أحمد: ١٧٨/٢ عن عبدالله بن نمير به، وضعفه البوصيري * الحجاج بن أرتاة لم ينفرد به، تابعه عباس الجريدي عند أبي داود، ح: ٣٩٢٧، والبيهقي: ١٠/

^[1] A slave with a written contract of manumission, according to which he will buy his freedom from his master.

٣٢٣ في رواية التفتين، أو العلاء، الأول ثقة وهو الراجح والثاني مجهول، وللحديث شواهد حسنة عند أبي داود، ح: ٣٩٢٦، ٣٩٢٨ وغيره، فالحديث حسن، انظر الحديث الآتي.

Comments:

Islamic law is different for a slave and a free person. A slave who has not attained full freedom will be tried and judged under the law for slaves.

2520. It was narrated from Umm Salamah that the Prophet ﷺ said: "If anyone of you (women) has a *Mukâtab*, and he has enough (wealth) to pay off (his contract of manumission), she must veil herself from him." (*Hasan*)

٢٥٢٠ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنْ نَبْهَانَ، مَوْلَى أُمِّ سَلَمَةَ، عَنْ أُمِّ سَلَمَةَ أَنَّهَا أَخْبَرَتْ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «إِذَا كَانَ لِإِحْدَاكِنَّ مَكَاتِبٌ، وَكَانَ عِنْدَهُ مَا يُؤَدِّي، فَلْتَحْتَجِبْ مِنْهُ».

تخريج: [إسناده حسن] أخرجه أبو داود، العتق، باب في المكاتب يؤدي بعض كتابته فيعجز أو يموت، ح: ٣٩٢٨ من حديث سفیان بن عیینة به، وصححه الترمذي، ح: ١٢٦١، وابن حبان، والحاكم: ٢١٩/٢، والذهبي، قلت: نبهان وثقة الذهبي في الكاشف، والترمذي، وابن حبان، والجمهور، فحديثه لا ينزل عن درجة الحسن * والزهري صرح بالسماع.

Comments:

In a previous narration it has been mentioned that a slave does not attain the manumission until he makes the full payment. Only having the required amount does not make it obligatory to veil herself from him.

2521. It was narrated from Hishâm bin 'Urwah, from his father, about 'Aishah, the wife of the Prophet ﷺ - that Barirah came to her when she was *Mukâtabah*, and her masters had written a contract of manumission for nine *Uqiyyah*. She ('Aishah) said: "If your masters wish I will pay them that in one sum, and the right of inheritance will belong to me."

He said: "So she went to her masters and told them about that, but they insisted that the right of inheritance should belong to

٢٥٢١ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَعَلِيُّ ابْنُ مُحَمَّدٍ قَالَا: حَدَّثَنَا وَكَيْعٌ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، زَوْجِ النَّبِيِّ ﷺ أَنَّ بَرِيرَةَ أَتَتْهَا وَهِيَ مَكَاتِبَةٌ، فَذَكَرَتْهَا أَهْلُهَا عَلَى تَيْشَعِ أَوْاقٍ. فَقَالَتْ لَهَا: إِنْ شَاءَ أَهْلُكَ عَدَدْتُ لَهُمْ عَدَّةً وَاحِدَةً، وَكَانَ الْوَلَاءُ لِي. قَالَ: فَأَتَتْ أَهْلَهَا. فَذَكَرَتْ ذَلِكَ لَهُمْ. فَأَبَوْا إِلَّا أَنْ تَشْتَرِيَ الْوَلَاءَ لَهُمْ. فَذَكَرَتْ عَائِشَةَ ذَلِكَ لِلنَّبِيِّ ﷺ. فَقَالَ: «أَفْعَلِي» قَالَ: فَقَامَ النَّبِيُّ ﷺ فَخَطَبَ النَّاسَ. فَحَمِدَ اللَّهَ وَأَثْنَى

them. ‘Āishah mentioned that to the Prophet ﷺ and he said: ‘Do it.’ Then the Prophet ﷺ stood up and addressed the people. He praised and glorified Allāh, then he said: ‘What is the matter with some people who stipulated conditions that are not in the Book of Allāh? Every condition that is not in the Book of Allāh is invalid, even if there are one hundred conditions. The Book of Allāh is more deserving of being followed and the conditions of Allāh are more binding. And the *Walā’* belongs to the one who manumits (the slave).’” (*Sahih*)

عَلَيْهِ. ثُمَّ قَالَ: «مَا بَالُ رِجَالٍ يَشْتَرِطُونَ شُرُوطًا لَيْسَتْ فِي كِتَابِ اللَّهِ. كُلُّ شَرْطٍ لَيْسَ فِي كِتَابِ اللَّهِ فَهُوَ بَاطِلٌ، وَإِنْ كَانَ مِائَةً شَرْطٍ. كِتَابُ اللَّهِ أَحَقُّ. وَشَرَطَ اللَّهُ أَوْتَقَى. وَالْوَلَاءُ لِمَنْ أَعْتَقَ».

تخريج: أخرجه مسلم، العتق، باب بيان أن الولاء لمن أعتق، ح: ١٥٠٤ من حديث هشام

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Comments:

- The Noble Prophet ﷺ asked ‘Āishah to accept their illegal and undue conditions, so that they may not back out of their promise of manumission.
- Even if the parties agree upon illegal terms the deal remains unlawful.
- Here the Book of Allāh means the orders revealed by Allāh. It includes the orders of the Noble Qur’ān and the orders prescribed by the Noble Prophet ﷺ based on revelation.
- ‘*Walā’*’ is the relationship between a slave and the one who manumits. By this relationship, the freed-slave is considered the family member of the one who freed them. If he dies without having any legal heir, his property goes to one who freed him.

Chapter 4. Manumission

(المعجم ٤) - بَابُ الْعِتْقِ (التحفة ٩٧)

2522. It was narrated that Shurahbil bin Simt said: I said to Ka’b: O Ka’b bin Murrah, tell us a *Hadith* from the Messenger of Allāh ﷺ, but be careful. He said: I heard the Messenger of Allāh ﷺ say: “Whoever frees a Muslim man, he will be his ransom from

٢٥٢٢ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ عَمْرِو بْنِ مُرَّةَ، عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ، عَنْ شَرْحِبِيلِ بْنِ السَّمْطِ قَالَ: قُلْتُ لِكَعْبٍ: يَا كَعْبُ بْنُ مُرَّةَ حَدَّثْنَا عَنْ رَسُولِ اللَّهِ ﷺ وَاحْذَرْ. قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «مَنْ أَعْتَقَ

the Fire; each of his bones will suffice (as a ransom) for each of his bones. Whoever frees two Muslim women, they will be his ransom from the Fire; each of their two bones will suffice (as a ransom) for each of his bones.”
(*Da'if*)

امْرَأَةً مُسْلِمًا كَانَ فِكَاهَهُ مِنَ النَّارِ. يُجْزَىءُ
كُلُّ عَظْمٍ مِنْهُ بِكُلِّ عَظْمٍ مِنْهُ. وَمَنْ أَعْتَقَ
امْرَأَتَيْنِ مُسْلِمَتَيْنِ، كَانَتْما فِكَاهَهُ مِنَ النَّارِ.
يُجْزَىءُ بِكُلِّ عَظْمَيْنِ مِنْهُمَا عَظْمٌ مِنْهُ.

تخريج: [إسناده ضعيف] أخرجه النسائي، الجهاد، . ثواب من رمى بسهم في سبيل الله عزوجل، ح: ٣١٤٦ من حديث أبي معاوية به، وأخرجه أبو داود، ح: ٣٩٦٧ من طريق آخر عن عمرو به، وقال: سالم لم يسمع من شرحبيل، ولبعض الحديث شواهد صحيحة عند مسلم، ح: ١٥٠٩، والحميدي (ح: ٧٦٧ بتحقيقي) وغيرهما.

Comments:

- a. Shurahbil did not remain for a long period in the presence of the Noble Prophet ﷺ, so he acquired the knowledge of *Ahādīth* from other Companions.
- b. Manumission of a slave saves one from the Hell-fire.
- c. Manumission of a slave girl is also a tremendous virtuous deed.

2523. It was narrated that Abu Dharr said: “I said: ‘O Messenger of Allāh, which slave is best?’ He said: ‘The one who is most precious to his master and most valuable in price.’” (*Sahih*)

٢٥٢٣ - حَدَّثَنَا أَحْمَدُ بْنُ سِنَانَ: حَدَّثَنَا أَبُو
مُعَاوِيَةَ: حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ، عَنْ أَبِيهِ،
عَنْ أَبِي مُرَاوِحٍ، عَنْ أَبِي ذَرٍّ قَالَ: قُلْتُ: يَا
رَسُولَ اللَّهِ! أَيُّ الرِّقَابِ أَفْضَلُ؟ قَالَ:
«أَنْفُسُهَا عِنْدَ أَهْلِهَا، وَأَعْلَاهَا ثَمَنًا».

تخريج: أخرجه البخاري، العتق، باب أي الرقاب أفضل، ح: ٢٥١٨، ومسلم، الإيمان، باب بيان كون الإيمان بالله تعالى أفضل الأعمال، ح: ٨٤ من حديث هشام مطولاً.

Comments:

- a. Giving a precious thing in the way of Allāh is most virtuous and superior deed. In the same way, manumission of a precious and valuable slave girl is one of the best deeds.
- b. A precious and healthy animal given as charity brings more reward.

Chapter 5. If A Person Becomes The Master Of A Mahram, Then He Becomes Free

(المعجم ٥) - بَابُ مَنْ مَلَكَ ذَا رَحِمٍ
مَحْرَمٍ فَهُوَ حُرٌّ (التحفة ٩٨)

2524. It was narrated from Samurah bin Jundub that the Prophet ﷺ said: "Whoever becomes the master of a Mahram relative (with whom marriage is not lawful), he becomes free." (Hasan)

٢٥٢٤ - حَدَّثَنَا عُقْبَةُ بْنُ مُكْرَمٍ وَاسْحَاقُ بْنُ مَنْصُورٍ، قَالَا: حَدَّثَنَا مُحَمَّدُ بْنُ بَكْرٍ الْبُرْسَانِيُّ عَنْ حَمَادِ بْنِ سَلَمَةَ، عَنْ فَكَّادَةَ وَغَاصِمِ، عَنِ الْحَسَنِ، عَنْ سَمْرَةَ بْنِ جُنْدُبٍ، عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ، فَهُوَ حُرٌّ».

تخريج: [حسن] أخرجه الترمذي، الأحكام، باب ماجاء فيمن ملك ذا رحم محرم، ح: ١٣٦٥ عن عقبة بن مكرم به، وصححه ابن الجارود، ح: ٩٧٣، والحاكم: ٢/٢١٤، والذهبي كما في نيل المقصود، ح: ٣٩٤٩، وانظر، ح: ٢١٨٣.

2525. It was narrated from Ibn 'Umar that the Messenger of Allâh ﷺ said: "Whoever becomes the master of a Mahram relative, he becomes free." (Hasan)

٢٥٢٥ - حَدَّثَنَا زَائِدُ بْنُ سَعِيدٍ الرَّمْلِيُّ وَعَبِيدُ اللَّهِ بْنُ الْجَهْمِ الْأَنْمَاطِيُّ قَالَا: حَدَّثَنَا ضَمْرَةُ بْنُ رَبِيعَةَ عَنْ سُفْيَانَ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ فَهُوَ حُرٌّ».

تخريج: [حسن] أخرجه الترمذي، الأحكام، الباب السابق، ح: ١٣٦٥ بغير سند عن ضمرة به، وقال: ولا يتابع ضمرة على هذا الحديث. وهو حديث خطأ عند أهل الحديث، والحديث السابق شاهد له.

Comments:

- a. An example of a Mahram relative becoming master is explained in the following example: Suppose there were two slave brothers, one of them was freed and later on he bought his brother. The second one will be freed because he is a Mahram relative. A Mahram relative cannot become a master. The same rule applies to a mother and son, father and daughter, brother and sister, niece, nephew, parental uncle and parental aunt.
- b. Right of property is through any mean - by payment, by way of gift, or inheritance - a slave or slave girl will be freed.

Chapter 6. Whoever Frees A Slave But Stipulates That He Should Serve Him

(المعجم ٦) - بَابُ مَنْ أَعْتَقَ عَبْدًا
وَاشْتَرَطَ خِدْمَتَهُ (التحفة ٩٩)

2526. It was narrated that Safinah – Abu 'Abdur-Rahmân – said: "Umm Salamah freed me, but stipulated that I should serve the Prophet ﷺ as long as he lived." (*Hasan*)

٢٥٢٦ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُعَاوِيَةَ الْجَمْعِيُّ: حَدَّثَنَا حَمَادُ بْنُ سَلَمَةَ عَنْ سَعِيدِ ابْنِ [جُمَهَانَ]، عَنْ سَفِينَةَ، أَبِي عَبْدِ الرَّحْمَنِ قَالَ: أَعْتَقْتَنِي أُمُّ سَلَمَةَ وَاشْتَرَطَتْ عَلَيَّ أَنْ أُحْدِمَ النَّبِيَّ ﷺ، مَا عَاشَ.

تخريج: [إسناده حسن] أخرجه أبو داود، العتق، باب: في العتق على شرط، ح: ٣٩٣٢ من حديث سعيد به، وصححه ابن الجارود، ح: ٩٧٦، والحاكم: ٢/٢١٣، ٢١٤، والذهبي.

Comments:

- Apparently putting a condition is against the spirit of manumission. Manumission means free from all conditions. In this case, putting a special condition was an honor for Safinah.
- Putting a condition on a slave at the time of his manumission to do some virtuous deed, is not against the spirit of manumission, rather it is an opportunity for him to do a righteous deed.
- Maybe 'stipulated' here means only a promise taken at the time of manumission.

Chapter 7. Whoever Frees His Share Of A Slave

(المعجم ٧) - بَابُ مَنْ أَعْتَقَ شِرْكَاءَ لَهُ
فِي عَبْدٍ (التحفة ١٠٠)

2527. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "Whoever frees his share of a slave or part of his share, must pay from his wealth if he has any wealth (in order to buy the rest of the slave's freedom). If he does not have wealth, then the slave should be asked to work for the price (of his freedom), without that causing him too much hardship." (*Sahih*)

٢٥٢٧ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ وَ مُحَمَّدُ بْنُ بَشِيرٍ عَنْ سَعِيدِ بْنِ أَبِي عُرْوَةَ، عَنْ قَتَادَةَ، عَنِ النَّضْرِ بْنِ أَنَسٍ، عَنْ بَشِيرِ بْنِ نَهْيِكٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ أَعْتَقَ نَصِيبًا لَهُ فِي مَمْلُوكٍ، أَوْ شِقْصًا، فَعَلَيْهِ خَلَاصُهُ مِنْ مَالِهِ، إِنْ كَانَ لَهُ مَالٌ. فَإِنْ لَمْ يَكُنْ لَهُ مَالٌ، اسْتُسْعِيَ الْعَبْدُ فِي قِيَمَتِهِ، غَيْرَ مَشْقُوقٍ عَلَيْهِ».

تخريج: أخرجه البخاري، الشركة، باب تقويم الأشياء بين الشركاء بقيمة عدل، ح: ٢٤٩٢، ٢٥٢٧، ومسلم، العتق، باب ذكر سعاية العبد، ح: ١٥٠٣ من حديث سعيد بن أبي عروبة به.

Comments:

- A slave can belong to more than one person. For example, a person is the father of two sons and has a slave. If he dies, the slave will be inherited by his two sons. Another example is that some persons contribute equal shares of money and buy a slave, then the slave is common property of all the shareholders.
- If one master of a common slave frees his share, the slave will still remain a slave for the rest of the co-owners.
- In such cases, one who frees his share should buy the shares of other co-owners with a fairly evaluated price, and free the slave to complete the manumission.
- Another way out is that the slave should work and earn money to pay other owners to be freed.
- A slave should not be forced to pay soon, he should be given proper time to pay the price, just as a debtor is given a chance to return the debt. It would be better if the slave is treated more sympathetically and given more time.

2528. It was narrated from Ibn 'Umar that the Messenger of Allāh ﷺ said: "Whoever frees his share of a slave, the price of the slave should be fairly evaluated, and he (the partner who initiated this process) should free him (in full, by giving the rest of his price to the other co-owners), if he has enough wealth to do so. Otherwise, he will have freed whatever he freed." (*Sahih*)

٢٥٢٨ - حَدَّثَنَا يَحْيَى بْنُ حَكِيمٍ: حَدَّثَنَا
عُثْمَانُ بْنُ عُمَرَ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ، عَنْ
نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ
ﷺ: «مَنْ أَعْتَقَ شُرْكَاءَ لَهُ فِي عَبْدٍ، أُقِيمَ عَلَيْهِ
بِقِيمَةِ عَدْلٍ. فَأَعْطَى شُرْكَاءَهُ حِصَصَهُمْ إِنْ
كَانَ لَهُ مِنَ الْمَالِ مَا يَبْلُغُ ثَمَنَهُ، وَعَتَقَ عَلَيْهِ
الْعَبْدُ. وَإِلَّا، فَقَدْ عَتَقَ مِنْهُ مَا عَتَقَ.»

تخريج: أخرجه البخاري، العتق، باب: إذا أعتق عبداً بين اثنين أو أمةً بين الشركاء، ح: ٢٥٢٢، ومسلم، العتق، باب من أعتق شركاً له في عبد، ح: ١٥٠١ من حديث مالك به، وهو في الموطأ (يحيى) ٧٧٢/٢.

Comments:

- 'Fair evaluation' means that the price of a slave should be evaluated according to the local customs and circumstances. For instance, if one person is a master of half a share viz., 1/2, and the price is evaluated as one hundred Dinâr, he should pay fifty Dinâr to his co-owner/owners and buy the second half and free him.
- In the foregoing example, if one, who frees his share of a slave does not have the ability to pay the co-owners their share, in this situation the slave will be considered half free. If he is murdered, the blood money to be paid for him will be half, and half a share of the price of the slave will also be

charged, and in a case where distribution is not possible, he will be considered a slave as in the case of the *Mukâtab*. (Allâh knows better)

Chapter 8. One Who Frees A Slave Who Has Some Wealth

(المعجم ٨) - بَابُ مَنْ أَعْتَقَ عَبْدًا وَلَهُ مَالٌ (التحفة ١٠١)

2529. It was narrated from Ibn 'Umar that the Messenger of Allâh ﷺ said: "Whoever frees a slave who has some wealth, the slave's wealth belongs to him, unless the master stipulates that it will belong to him." (*Sahih*)

(One of the narrators) Ibn Lahî'ah said (in his narration): "Unless the master makes an exception for that."

٢٥٢٩ - حَدَّثَنَا حَرْمَلَةُ بْنُ يَحْيَى: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ وَهَبٍ: أَخْبَرَنِي ابْنُ لَهَيْعَةَ. ح: وَحَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى: حَدَّثَنَا سَعِيدُ بْنُ أَبِي مَرْيَمَ: أَنَّ بَنَاتَا اللَّيْثِ بْنِ سَعْدٍ، جَمِيعًا، عَنْ عُمَيْرِ بْنِ عَبْدِ اللَّهِ بْنِ أَبِي جَعْفَرٍ، عَنْ بُكَيْرِ بْنِ الْأَشَّجِ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ أَعْتَقَ عَبْدًا وَلَهُ مَالٌ، فَمَالُ الْعَبْدِ لَهُ. إِلَّا أَنْ يَشْتَرِطَ السَّيِّدُ مَالَهُ، فَيَكُونَ لَهُ».

وَقَالَ ابْنُ لَهَيْعَةَ: إِلَّا أَنْ يَسْتَشِينَهُ السَّيِّدُ.

تخریج: [إسناده صحيح] أخرجه أبو داود، العتق، فممن أعتق عبداً وله مال، ح: ٣٩٦٢ من حديث ابن وهب به.

Comments:

- a. Usually, the things in use of a slave belong to the master, since they were given to him for use in fulfillment of his services. When the slave is freed, all things in his use go back to his master.
- b. There may be a case that a master allows his slave to work and earn money, on the condition to pay him a part of this earned money, and allows him to use the rest of it for his own needs. In this case, the saved money will belong to the slave, and if he is freed he will keep the saved money. Manumission can also be conditional, the master can ask the slave to give him all his belongings and money before his manumission takes place.

2530. It was narrated from Ishâq bin Ibrâhim, from his grandfather 'Umar, who was the freed slave of Ibn Mas'ud, that 'Abdullâh said to him: "O 'Umar, I have set you free in a good way. I heard the Messenger of Allâh ﷺ say: 'Any man who frees a slave and

٢٥٣٠ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى: حَدَّثَنَا سَعِيدُ بْنُ مُحَمَّدٍ الْجَرْمِيُّ: حَدَّثَنَا الْمُطَّلِبُ بْنُ زِيَادٍ، عَنْ إِسْحَاقَ بْنِ إِبْرَاهِيمَ، عَنْ جَدِّهِ عُمَيْرٍ وَهُوَ مَوْلَى ابْنِ مَسْعُودٍ أَنَّ عَبْدَ اللَّهِ قَالَ لَهُ: يَا عُمَيْرُ! إِنِّي أَعْتَقْتُكَ عِتْقًا هَيِّئًا. إِنِّي

does not say anything about his (the slave's) wealth, it belongs to him (the slave).' So tell me, how much wealth do you have?" (Da'if)

Another chain with similar wording.

سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «أَيُّمَا رَجُلٍ أَعْتَقَ غُلَامًا، وَلَمْ يَسْمَ مَالَهُ، فَأَلْمَأَلْ لَهُ. فَأَخْبِرْنِي مَا مَالُكَ؟

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ: حَدَّثَنَا الْمُطَّلِبُ بْنُ زِيَادٍ عَنْ إِسْحَاقَ بْنِ إِبْرَاهِيمَ قَالَ: قَالَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ لِعَجْدِي. فَذَكَرَ نَحْوَهُ.

تخريج: [إسناده ضعيف] * إسحاق بن إبراهيم بن عمير وجده مجهولان كما في التقريب، لم يوثقهما غير ابن حبان، وتوثيق مسلمة لا شيء لأن مسلمة مجروح في نفسه، والأول ضعفه ابن الجارود وغيره.

Chapter 9. Freeing Illegitimate Children

(المعجم ٩) - بَابُ عِتْقِ وَلَدِ الزَّانَا

(التحفة ١٠٢)

2531. It was narrated from Maimunah bint Sa'd, the freed slave woman of the Prophet ﷺ, that the Messenger of Allāh ﷺ was asked about illegitimate children. He said: "Two sandals in which I wage *jihād* are better than freeing an illegitimate child." (Da'if)

٢٥٣١ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا الْفَضْلُ بْنُ دُكَيْنٍ: حَدَّثَنَا إِسْرَائِيلُ عَنْ زَيْدِ بْنِ جُبَيْرٍ، عَنْ أَبِي يَزِيدَ الضَّنِّيِّ، عَنْ مَيْمُونَةَ بِنْتِ سَعْدٍ، مَوْلَاةِ النَّبِيِّ ﷺ أَنَّ رَسُولَ اللَّهِ ﷺ سُئِلَ عَنْ وَلَدِ الزَّانَا. فَقَالَ: «نَعْلَانِ أَجَاهِدُ فِيهِمَا، خَيْرٌ مِنْ أَنْ أَعْتِقَ وَلَدَ الزَّانَا».

تخريج: [إسناده ضعيف] أخرجه الحاكم: ٤/٤١ من حديث إسرائيل به، وقال البوصيري: هذا إسناد ضعيف * أبو يزيد الضني مجهول كما في التقريب وغيره، وقال عبدالغني بن سعيد: منكر الحديث .

Chapter 10. If One Wants To Free A Man Along With His Wife, He Should Start With The Man

(المعجم ١٠) - بَابُ مَنْ أَرَادَ عِتْقَ رَجُلٍ وَأَمْرَأَتِهِ فَلْيَبْدَأْ بِالرَّجُلِ (التحفة ١٠٣)

2532. It was narrated that 'Aishah had a male slave and a female slave who were married. She said: "O Messenger of Allāh, I want to free them both." The

٢٥٣٢ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا حَمَّادُ بْنُ مَسْعَدَةَ، ح وَحَدَّثَنَا مُحَمَّدُ بْنُ حَلْفٍ الْعَسْقَلَانِيُّ وَاسْحَاقُ بْنُ مَنْصُورٍ قَالَا: حَدَّثَنَا

Messenger of Allāh ﷺ said: “If you free them, then start with the man before the woman.” (Hasan)

عَبِيدُ اللَّهِ بْنُ عَبْدِ الْمَجِيدِ: حَدَّثَنَا عَبِيدُ اللَّهِ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَبْدِ اللَّهِ بْنِ مَوْهَبٍ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ أَنَّهَا كَانَ لَهَا غُلامٌ وَجَارِيَةٌ، زَوْجٌ. فَقَالَتْ: يَا رَسُولَ اللَّهِ! إِنِّي أُرِيدُ أَنْ أُعْتِقَهُمَا. فَقَالَ رَسُولُ اللَّهِ ﷺ: «إِنْ أَعْتَقْتَهُمَا، فَأَبْدِي بِالرَّجُلِ قَبْلَ الْمَرْأَةِ».

تخريج: [إسناده حسن] أخرجه أبو داود، الطلاق، باب: في المملوكين يعتقان معاً هل تخير امرأته؟، ح: ٢٢٣٧ من حديث عبيد الله به * عبيد الله بن عبد الرحمن وثقه الجمهور، وقال ابن عدي: حسن الحديث يكتب حديثه .