

## 8. THE BOOK OF MARRIAGE

### ٨ - كِتَابُ النِّكَاحِ

824. Narrated 'Abdullāh bin Mas'ūd ؓ: Allāh's Messenger ﷺ said to us, "O young men, those of you who can support a wife should marry,<sup>[1]</sup> for it (marriage) controls the gaze and preserves one from immorality. And whoever cannot (marry) should fast, for it is a means of reducing the sexual desire." [Agreed upon].

825. Narrated Anas bin Mālik ؓ: The Prophet ﷺ praised Allāh, extolled Him and said, "Yet I pray<sup>[2]</sup> and sleep; I fast and break my fast; and I marry women. He who is displeased with my *Sunnah* (practices) is not my follower." [Agreed upon].

826. Narrated (Anas bin Mālik) ؓ: 'Allāh's Messenger ﷺ used to command us to marry and sternly forbid celibacy<sup>[3]</sup> and say, "Marry women who are beloved (due to their good characteristics), prolific in bearing children, for I shall outnumber the Prophets by you on the Day of Resurrection." [Reported by Ahmad and Ibn Hibbān graded it *Sahib* (authentic)]. The aforesaid *Hadīth* has a supporting narration reported by Abū Dā'ud, An-Nasā'i and Ibn Hibbān from Ma'qal bin Yasār's *Hadīth*.

827. Narrated Abū Huraira ؓ: The

(٨٢٤) عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: قَالَ لَنَا رَسُولُ اللَّهِ ﷺ: «يَا مَعْشَرَ الشَّبَابِ! مَنْ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ أَغْضُ لِلْبَصَرِ، وَأَحْصَنُ لِلْفَرْجِ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ، فَإِنَّهُ لَهُ وَجَاءٌ». مُتَّفَقٌ عَلَيْهِ.

(٨٢٥) وَعَنْ أَنَسِ بْنِ مَالِكٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، أَنَّ النَّبِيَّ ﷺ حَمِدَ اللَّهَ، وَأَثْنَى عَلَيْهِ، وَقَالَ: «لِكُنِّي أَنَا أُصَلِّي، وَأَتَامُ، وَأُصُومُ، وَأُفْطِرُ، وَأَتَزَوَّجُ النِّسَاءَ، فَمَنْ رَغِبَ عَن سُنَّتِي فَلَيْسَ مِنِّي». مُتَّفَقٌ عَلَيْهِ.

(٨٢٦) وَعَنْهُ قَالَ: كَانَ رَسُولُ اللَّهِ ﷺ يَأْمُرُ بِالْبَاءَةِ، وَيَنْهَى عَنِ التَّبَتُّلِ نَهْيًا شَدِيدًا، وَيَقُولُ: «تَزَوَّجُوا الْوَلُودَ الْوُدُودَ، فَإِنِّي مَكَايِرُ بِكُمْ الْأَنْبِيَاءَ يَوْمَ الْقِيَامَةِ». رَوَاهُ أَحْمَدُ، وَصَحَّحَهُ ابْنُ جِبَّانَ، وَلَهُ شَاهِدٌ عِنْدَ أَبِي دَاوُدَ وَالنَّسَائِيِّ وَابْنِ جِبَّانَ أَيْضًا مِنْ حَدِيثِ مَعْقِلِ بْنِ يَسَارٍ.

(٨٢٧) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ،

[1] It means that if one has enough power (physical and financial) for *Nikāh* (marriage), he should do it. Some of the scholars consider it obligatory and some others regard it only desirable.

[2] It means exaggeration in supererogatory worship is unlawful. It makes a man tired and he even fails to perform obligatory worship. A man becomes goes out of Islam if he starts thinking that his way of worship is better than the way of the Prophet ﷺ.

[3] *Tabattul* (التبتل) means not to marry, thinking that avoiding marriage is a form of worship, and thinking that engaging in marriage is a hindrance to worship. It is agreed by all that *Tabattul* is an unlawful action. However, not marrying due to some unavoidable circumstances or some other reasons is quite a different matter.

Prophet ﷺ said, “A woman is married for four qualities,<sup>[1]</sup> for her wealth, her family status, her beauty and her religion; so get the religious one and prosper.” [Agreed upon, with the rest of *As-Sab'a*].

عَنْ النَّبِيِّ ﷺ قَالَ: «تُنكَحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا، وَلِحَسَبِهَا، وَلِجَمَالِهَا، وَلِدِينِهَا، فَاطْفَرْ بِذَاتِ الدِّينِ، تَرَبَّتْ بِدَاك». مُتَّفَقٌ عَلَيْهِ مَعَ بَقِيَّةِ السَّبْعَةِ.

828. Narrated (Abū Huraira) ؓ: When the Prophet ﷺ congratulated a man on his marriage he would say,<sup>[2]</sup> “Allāh bless for you (your spouse), grant you blessing, and join you together in goodness.” [Reported by Ahmad and *Al-Arba'a*. At-Tirmidhi, Ibn Khuzaima and Ibn Hibbān graded it *Sahih* (authentic)].

(٨٢٨) وَعَنْهُ أَنَّ النَّبِيَّ ﷺ كَانَ إِذَا رَفَأَ إِنْسَانًا، إِذَا تَزَوَّجَ، قَالَ: «بَارَكَ اللَّهُ لَكَ، وَبَارَكَ عَلَيْكَ، وَجَمَعَ بَيْنَكُمَا فِي خَيْرٍ». رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ، وَصَحَّحَهُ التِّرْمِذِيُّ وَابْنُ خُرَيْمَةَ وَابْنُ جِبَانَ.

829. Narrated 'Abdullāh bin Mas'ūd ؓ: Allāh's Messenger ﷺ taught us *At-Tashabbud* in case of some need, which is:<sup>[3]</sup> “Praise is due to Allāh, Whom we praise and from Whom we ask help and forgiveness. We seek refuge in Allāh from the evils of ourselves. He whom Allāh guides has no one who can lead him astray, and he whom He leads astray has no one to guide him. I testify that there is nothing deserving of worship except Allāh, and I testify that Muhammad is His slave and Messenger.” He (then) recites three Verses. [Reported by Ahmad and *Al-Arba'a*. At-Tirmidhi and Al-Hākim graded it *Hasan* (good)].

(٨٢٩) وَعَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: عَلَّمَنَا رَسُولُ اللَّهِ ﷺ التَّشَبُّدَ فِي الْحَاجَةِ «إِنَّ الْحَمْدَ لِلَّهِ، نَحْمَدُهُ، وَنَسْتَعِينُهُ، وَنَسْتَغْفِرُهُ، وَنَعُوذُ بِاللَّهِ مِنْ شُرُورِ أَنْفُسِنَا، مَنْ يَهْدِهِ اللَّهُ فَلَا مُضِلَّ لَهُ، وَمَنْ يَضِلَّ فَلَا هَادِيَ لَهُ، وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ، وَيَقْرَأُ ثَلَاثَ آيَاتٍ». رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ، وَحَسَّنَهُ التِّرْمِذِيُّ وَالْحَاكِمُ.

830. Narrated Jābir ؓ: Allāh's Messenger ﷺ said, “When one of you proposes (marriage) to a woman, if he is able to look at what will induce him

(٨٣٠) وَعَنْ جَابِرِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِذَا خَطَبَ أَحَدُكُمْ الْمَرْأَةَ فَإِنَّ اسْتِطَاعَ أَنْ يَنْظُرَ مِنْهَا إِلَى مَا يَدْعُوهُ إِلَى

[1] The Prophet ﷺ said that there are four qualities for which a man might marry a woman. From these a Muslim should prefer a religious woman for marriage because the company one keeps affects a person. If a woman is married for another quality, there is possibility of man's going astray and leaving the religion. Another reason for choosing a religious woman is that she is the first teacher of children, and she can lead the children, the way she wants – right or wrong.

[2] The Prophet ﷺ used to ask Allāh's blessing, unity, harmony and love for the newly married couple in these words.

[3] The Prophet ﷺ taught this supplication for the fulfillment of every need.

to marry her,<sup>[1]</sup> he should do so.” [Reported by Ahmad and Abū Dā’ud. Its narrators are *Thiqā* (reliable) and Al-Hākīm declared it to be *Sabīh* (authentic)]. The aforesaid *Hadīth* has a supporting narration reported by At-Tirmidhi and An-Nasā’i from Al-Mughira. It also has a supporting narration reported by Ibn Mājah and Ibn Hibbān from the *Hadīth* of Muhammad bin Maslama.<sup>[2]</sup>

نَكَاحَهَا فَلْيُفْعَلْ». رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ، وَرِجَالُهُ يَثِقَاتُ، وَصَحَّحَهُ الْحَاكِمُ. وَكَهْ شَاهِدٌ عِنْدَ التِّرْمِذِيِّ وَالنَّسَائِيِّ عَنِ الْمُغِيرَةِ، وَعِنْدَ ابْنِ مَاجَةَ وَابْنِ حِبَّانَ مِنْ حَدِيثِ مُحَمَّدِ بْنِ مَسْلَمَةَ.

831. Muslim reported from Abū Huraira ؓ: The Prophet ﷺ asked a man who had intended to marry a woman, “Have you looked at her?” He replied, “No.” He said, “Go and look at her.”

(٨٣١) وَلِمُسْلِمٍ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، أَنَّ النَّبِيَّ ﷺ قَالَ لِرَجُلٍ تَزَوَّجَ امْرَأَةً: «أَنْظَرْتَ إِلَيْهَا؟» قَالَ: لَا، قَالَ: «أَذْهَبْ فَانظُرْ إِلَيْهَا».

832. Narrated Ibn ‘Umar ؓ: Allāh’s Messenger ﷺ said, “No one of you should ask a woman in marriage when his brother has done so already,<sup>[3]</sup> until the one who has proposed (to her) before him gives her up, or gives him permission.” [Agreed upon. The wording is Al-Bukhārī’s].

(٨٣٢) وَعَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَحْطُبُ أَحَدُكُمْ عَلَى خِطْبَةِ أَخِيهِ، حَتَّى يَتْرَكَ الْخَاطِبُ قَبْلَهُ، أَوْ يَأْذَنَ لَهُ الْخَاطِبُ». مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِلْبُخَارِيِّ.

833. Narrated Sahl bin Sa’d As-Sā’idi ؓ: A woman came to Allāh’s Messenger ﷺ and said, “O Allāh’s Messenger, I came to offer myself to you (in marriage).” Allāh’s Messenger ﷺ looked her up and down (carefully), and then Allāh’s Messenger ﷺ lowed his head. When the woman saw that he had not made any decision regarding her she sat down. A man of his companions then stood up and said, “O Allāh’s Messenger, if you have no need for her, marry her to me.” He asked, “Do you

(٨٣٣) وَعَنْ سَهْلِ بْنِ سَعْدٍ السَّاعِدِيِّ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: جَاءَتْ امْرَأَةٌ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ! جِئْتُ أَهَبُ لَكَ نَفْسِي، فَانظُرْ إِلَيْهَا رَسُولُ اللَّهِ ﷺ، فَصَعَّدَ النَّظَرَ فِيهَا وَصَوَّبَهُ، ثُمَّ طَاطَأَ رَسُولُ اللَّهِ ﷺ رَأْسَهُ، فَلَمَّا رَأَتْ الْمَرْأَةُ أَنَّهُ لَمْ يَقْضِ فِيهَا شَيْئًا جَلَسَتْ، فَقَامَ رَجُلٌ مِنْ أَصْحَابِهِ، فَقَالَ: يَا رَسُولَ اللَّهِ! إِنْ لَمْ تَكُنْ لَكَ بِهَا حَاجَةٌ فَزَوِّجْنِيهَا، قَالَ: «فَهَلْ عِنْدَكَ مِنْ شَيْءٍ؟»

[1] i.e. her external features like the height, face, hands and the like.

[2] He was an Ansāri, a Hārithi and among the virtuous *Sabāba*. He witnessed all the major battles except Tabuk. He became a Muslim through the efforts of Mus’ab bin ‘Umair and died in 43 H. at the age of 77 years.

[3] This prohibition is to evade an already settled betrothal (engagement to marry). If a girl is already promised to someone, the second person should not make a proposal. However, if the first is cancelled, than it is permitted to make a proposal.

have anything (to give her as dowry)?” He replied, “No, I swear by Allāh, O Allāh’s Messenger.” He thereupon said, “Go to your family and see if you can find something.” He went and then returned and said, “No, I swear by Allāh I found nothing.” Allāh’s Messenger ﷺ then said, “Look for something, even if it should be an iron ring.” He went and then returned and said, “No, I swear by Allāh, O Allāh’s Messenger, not even an iron ring; but I have only this lower garment of mine – [Sahl said, ‘He had no upper garment’] – and I shall give her half of it.” Allāh’s Messenger ﷺ then said, “What will she do with your lower garment? For if you wear it, there would be nothing of it on her, and if she wears it, there would be nothing of it on you.” The man then sat down and when he had sit for a long time he stood up and Allāh’s Messenger ﷺ saw him departing, so he commanded him and he was called back. When he came back, he said, “What do you have (i.e. memorized) from the Qur’ān?” He replied, “I have *Sūrat* such and such and *Sūrat* such and such,” he counted them. He then asked “Can you recite them by heart?” He replied, “Yes”. He said, “Go, for I have given her to you in marriage for the part of the Qur’ān which you know.”<sup>[1]</sup> [Agreed upon; the wording is Muslim’s]. Another narration has: “Go for I have given her to you in marriage, so teach her some of the Qur’ān.” A narration by Al-Bukhāri has: “I have married her to you for the part of the Qur’ān which you know.”

Abū Dā’ud has a narration from Abū

فَقَالَ: لَا، وَاللَّهِ يَا رَسُولَ اللَّهِ! فَقَالَ: «أَذْهَبَ إِلَى أَهْلِكَ، فَانظُرْ هَلْ تَجِدُ شَيْئًا؟» فَذَهَبَ، ثُمَّ رَجَعَ، فَقَالَ: لَا وَاللَّهِ، مَا وَجَدْتُ شَيْئًا. فَقَالَ رَسُولُ اللَّهِ ﷺ: «انظُرْ وَلَوْ خَاتَمًا مِنْ حَدِيدٍ، فَذَهَبَ ثُمَّ رَجَعَ، فَقَالَ: لَا وَاللَّهِ يَا رَسُولَ اللَّهِ! وَلَا خَاتَمًا مِنْ حَدِيدٍ، وَلَكِنْ هَذَا إِزَارِي (-) قَالَ سَهْلٌ: (-) مَا لَهُ رِدَاءٌ (-) فَلَهَا نِصْفُهُ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «مَا تَصْنَعُ بِإِزَارِكَ؟ إِنْ لَبِسْتَهُ لَمْ يَكُنْ عَلَيْهَا مِنْهُ شَيْءٌ، وَإِنْ لَبِسْتَهُ لَمْ يَكُنْ عَلَيْكَ مِنْهُ شَيْءٌ»، فَجَلَسَ الرَّجُلُ، حَتَّى إِذَا طَالَ مَجْلِسُهُ قَامَ، فَرَأَاهُ رَسُولُ اللَّهِ ﷺ مُوَلِّيًا فَأَمَرَ بِهِ فَدَعِيَ بِهِ، فَلَمَّا جَاءَ، قَالَ: «مَاذَا مَعَكَ مِنَ الْقُرْآنِ؟» قَالَ: مَعِيَ سُورَةٌ كَذَا، وَسُورَةٌ كَذَا، عَدَدَهَا، فَقَالَ: «تَقْرَأُهَا عَنْ ظَهْرِ قَلْبِكَ؟» قَالَ: نَعَمْ، قَالَ: «أَذْهَبَ فَقَدْ مَلَكَتْهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ». مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِمُسْلِمٍ. وَفِي رِوَايَةٍ لَهُ: «انظُرْ فَقَدْ زَوَّجْتُكَهَا فَعَلْنَاهَا مِنَ الْقُرْآنِ». وَفِي رِوَايَةٍ لِلْبُخَارِيِّ: «أَمَلَكْنَاكَهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ».

وَلِأَبِي دَاوُدَ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى

[1] This *Hadīth* clarifies many issues, among them one is that teaching Qur’ān can also be a marriage dowry. Another thing made clear is that the amount of the dowry is not fixed. Some people bring a *Hadīth* as a proof that the minimum amount is ten Dirhams. This is not correct and this *Hadīth* has no base.

Huraira ؓ: He asked, "What have you memorized?" He replied, "Sūrat Al-Baqarab and the one that follows it." He then said, "Get up and teach her twenty Verses."

834. Narrated 'Aamir bin 'Abdullāh<sup>[1]</sup> bin Az-Zubair on the authority of his father: Allāh's Messenger ﷺ said, "Make marriage publicly known."<sup>[2]</sup> [Reported by Ahmad and Al-Hākim graded it *Sahib* (authentic)].

835. Narrated Abū Burda bin Abū Mūsa on the authority of his father; Allāh's Messenger ﷺ said, "There is no marriage without a guardian."<sup>[3]</sup> [Ahmad and *Al-Arba'a* reported it. Ibn Al-Madīnī, At-Tirmidhi and Ibn Hibbān graded it *Sahib* (authentic), but it was regarded defective for being *Mursal* (missing link after the *Tābi'i*)].

Imām Ahmad reported from Al-Hasan from 'Imrān bin Al-Husain as *Marfu'* (attributed to the Prophet): "There is no marriage without a guardian and two witnesses."

836. Narrated 'Aisha ؓ: Allāh's Messenger ﷺ said, "If any woman marries without the consent of her guardian, her marriage is invalid. If there is cohabitation, she is entitled to the

عَنْهُ قَالَ: مَا تَحْفَظُ؟ قَالَ: سُورَةَ الْبَقَرَةِ وَالَّتِي تَلِيهَا، قَالَ: «فَقَمِّمْ، فَعَلَمَهَا عِشْرِينَ آيَةً».

(٨٣٤) وَعَنْ عَامِرِ بْنِ عَبْدِ اللَّهِ بْنِ الزُّبَيْرِ، عَنْ أَبِيهِ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «أَعْلِنُوا النِّكَاحَ». رَوَاهُ أَحْمَدُ، وَصَحَّحَهُ الْحَاكِمُ.

(٨٣٥) وَعَنْ أَبِي بُرْدَةَ عَنْ أَبِي مُوسَى، عَنْ أَبِيهِ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا نِكَاحَ إِلَّا بِوَالِيٍّ». رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ، وَصَحَّحَهُ ابْنُ الْمَدِينِيِّ وَالْتِّرْمِذِيُّ وَابْنُ حِبَّانَ، وَأَعْلَلَ بِالْإِسْنَادِ.

[وَرَوَى الْإِمَامُ أَحْمَدُ، عَنْ الْحَسَنِ، عَنْ عِمْرَانَ بْنِ الْحُصَيْنِ مَرْفُوعًا: لَا نِكَاحَ إِلَّا بِوَالِيٍّ وَشَاهِدَيْنِ].

(٨٣٦) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا قَالَتْ: قَالَ رَسُولُ اللَّهِ ﷺ: «أَيُّمَا امْرَأَةٍ نَكَحَتْ بِغَيْرِ إِذْنٍ وَلِيِّهَا فَنِكَاحُهَا بَاطِلٌ، فَإِنْ دَخَلَ بِهَا

<sup>[1]</sup> He is 'Aamir bin 'Abdullāh bin Az-Zubair bin Al-'Awwam Al-Asadi Al-Qurashi Al-Madani. He was a *Tābi'i* and heard *Abadith* from his father and others. He was reliable and pious, and died in 124 H.

<sup>[2]</sup> After the matrimonial ceremony, its announcement is essential to avoid the disgrace and unnecessary criticism of people and for many other reasons. There are many forms of this announcement. Witnesses at the time of matrimonial rites are also a form of announcement. To announce in the assembly of people is another form. It can also be announced by playing *Duff* (small tambourine) but a musical band or fireworks are not allowed.

<sup>[3]</sup> This *Hadith* has been reported by about thirty Companions of the Prophet ﷺ. Some of its chains of narrators are authentic. The first guardian is the father and the grandfather, then the brothers, and afterwards the uncles. If there is a difference of opinion among two guardians, whoever is nearer, his opinion will be preferred, and if both of them are equally near in relation as brothers and uncles, then the present ruler will be the guardian and authority to decide. If two guardians of equal status marry a woman separately, then the first marriage will be legal and the later will be considered invalid. If the married woman agrees to one guardian and differs with the other, than the opinion of the woman will be preferred.

dowry, due to the sexual intercourse made lawful with her. If there is a dispute (between her guardians), the ruler is the guardian of one who has no guardian.” [Reported by *Al-Arba'a* except An-Nasā'i. Abū 'Awāna, Ibn Hibbān and Al-Hākim graded it *Sahib* (authentic)].

837. Narrated Abū Huraira ؓ: Allāh's Messenger ﷺ said, “A previously married woman must not be married till she is consulted, and a virgin must not be married till her consent is asked.”<sup>[1]</sup> They asked, “O Allāh's Messenger, how is her consent indicated?” He replied, “It is by her silence.” [Agreed upon].

838. Narrated Ibn 'Abbās ؓ: The Prophet ﷺ said, “A woman who has been previously married has more right over her person than her guardian,<sup>[2]</sup> and a virgin must be consulted, and her consent is her silence.” [Reported by Muslim].

Another narration has: “A guardian has no authority over a woman who has been previously married; and an orphan girl must be consulted.” [Reported by Abū Dā'ud and An-Nasā'i; Ibn Hibbān graded it *Sahib* (authentic)].

839. Narrated Abū Huraira ؓ: Allāh's Messenger ﷺ said, “A woman may not

فَلَهَا الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا، فَإِنْ اشْتَجَرُوا فَالْشُّطْرَانُ وَلِيٌّ مَنْ لَا وَلِيَّ لَهُ. أَخْرَجَهُ الْأَرْبَعَةُ إِلَّا النَّسَائِيَّ، وَصَحَّحَهُ أَبُو عَوَانَةَ وَابْنُ جِبَانَ وَالْحَاكِمُ.

(٨٣٧) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَا تُنْكَحُ الْأَيُّمُ حَتَّى تُسْتَأْمَرَ، وَلَا تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ»، قَالُوا: يَا رَسُولَ اللَّهِ! وَكَيْفَ إِذْنُهَا؟ قَالَ: «أَنْ تَسْكُتَ». مُتَّفَقٌ عَلَيْهِ.

(٨٣٨) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، أَنَّ النَّبِيَّ ﷺ قَالَ: «الْتَّيْبُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْمَرُ، وَإِذْنُهَا سَكُوتُهَا». رَوَاهُ مُسْلِمٌ.

وَفِي لَفْظٍ: «لَيْسَ لِلْوَلِيِّ مَعَ التَّيْبِ أَمْرٌ وَالتَّيْبَةُ تُسْتَأْمَرُ». رَوَاهُ أَبُو دَاوُدَ وَالنَّسَائِيُّ وَصَحَّحَهُ ابْنُ جِبَانَ.

(٨٣٩) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا تَزُوجُ الْمَرْأَةَ

<sup>[1]</sup> Consent of the woman is essential for marriage. If a guardian, even the father marries his daughter without her consent, she has got the right to cancel it.

*Aiyim* is the word in Arabic for a woman who already has sexual experience, she may be widowed or divorced. An unmarried adulteress in reality is an *Aiyim*, but under the orders of *Shari'a*, she is not *Aiyim*. *Aiyim* must give her consent by word for her marriage otherwise the marriage is not legal. As for a virgin who has not reached puberty, then her consent is not necessary, only the permission of the *Wali* is sufficient.

<sup>[2]</sup> It only means that an *Aiyim* cannot be married without her consent, but it does not mean that she can marry without a guardian. If there is a difference of opinion among *Aiyim* and her guardian on the choice of spouse, and the woman's choice is from her kin and she has no illicit relation with him, then the guardian will be compelled to agree with *Aiyim*, and if he does not agree, she can ask the permission of the ruler and marry. *Dbul Arbām* (relatives on the maternal side) can not be *Wali* (guardian).

give a woman in marriage, nor may she give herself in marriage.”<sup>[1]</sup> [Reported by Ibn Mājah and Ad-Dāraquṭni. Its narrators are reliable (*thiqab*)].

840. Narrated Nāfi' from Ibn 'Umar ؓ: Allāh's Messenger ﷺ prohibited *Sbighār*, which means that a man gives his daughter in marriage on condition that the other gives his daughter to him in marriage [in exchange] without any dowry being paid by either. [Agreed upon]. And they both agreed that the explanation of the meaning of *Sbighār* is the saying of Nāfi'.

841. Narrated Ibn 'Abbās ؓ: A virgin girl came to the Prophet ﷺ and mentioned that her father had married her against her will, so Allāh's Messenger ﷺ allowed her to exercise her choice.<sup>[2]</sup> [Reported by Ahmad, Abū Dā'ud and Ibn Mājah. If it is considered defective for being *Mursal* (missing link in the chain after the *Tabi'ī*)].

842. Narrated Al-Hasan from Samura ؓ: The Prophet ﷺ said, “If two guardians have given a woman in marriage, she marries the man she was first married to.”<sup>[3]</sup> [Reported by Ahmad and *Al-Arba'a*. At Tirmidhi graded it *Hasan* (good)].

843. Narrated Jābir ؓ: Allāh's Messenger ﷺ said, “Any slave<sup>[4]</sup> who marries without the permission of his

الْمَرْأَةِ، وَلَا تُزَوِّجُ الْمَرْأَةَ نَفْسَهَا». رَوَاهُ ابْنُ مَاجَةَ وَالذَّارِقُطْنِيُّ، وَرِجَالُهُ ثِقَاتٌ.

(٨٤٠) وَعَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنِ السَّبْغَارِ، وَالسَّبْغَارُ أَنْ يُزَوِّجَ الرَّجُلُ ابْنَتَهُ عَلَى أَنْ يُزَوِّجَهُ الْآخَرُ ابْنَتَهُ، وَلَيْسَ بَيْنَهُمَا صَدَاقٌ. مُتَّفَقٌ عَلَيْهِ، وَاتَّفَقَا مِنْ وَجْهِ آخَرَ عَلَى أَنَّ تَفْسِيرَ السَّبْغَارِ مِنْ كَلَامِ نَافِعٍ.

(٨٤١) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا أَنَّ جَارِيَةَ بَكَرًا أَتَتْ النَّبِيَّ ﷺ، فَذَكَرَتْ أَنَّ أَبَاهَا زَوَّجَهَا وَهِيَ كَارِهَةٌ، فَخَيَّرَهَا رَسُولُ اللَّهِ ﷺ. رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَابْنُ مَاجَةَ، وَأَعْلَى بِالْإِسْمَالِ.

(٨٤٢) وَعَنْ الْحَسَنِ، عَنْ سَمُرَةَ، عَنِ النَّبِيِّ ﷺ قَالَ: «أَيُّمَا امْرَأَةٍ زَوَّجَهَا وَلِيَانٍ فَهِيَ لِلْأَوَّلِ مِنْهُمَا». رَوَاهُ أَحْمَدُ وَالْأَزْبَعِيُّ، وَحَسَنَةُ التِّرْمِذِيُّ.

(٨٤٣) وَعَنْ جَابِرِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ «أَيُّمَا عَبْدٍ زَوَّجَ بِغَيْرِ إِذْنِ

[1] It means that regarding marriage, a woman cannot be a guardian. She cannot marry herself of her own and she cannot permit the marriage of another woman. She is also not allowed to become attorney concerning marriage.

[2] It means that without the consent of woman, virgin or *Aiyim*, she cannot be married. If she is married without her consent, she has the right to cancel it or confirm it, even if her father or brother arranged this marriage.

[3] It means that if two guardians marry a woman to two different men, the first marriage is lawful and the second is unlawful. If the two marriages take place at the same time, then both are unlawful. And there is no difference of opinion in it.

[4] It means that for the marriage of a slave the permission of his master is essential. Without the permission of master, marriage is not accomplished. If the slave is unaware of the fact

masters or owners is (like) a fornicator.” [Reported by Ahmad, Abū Dā’ud, An-Nasa’i and At-Tirmidhi; the later graded it *Sabīh* (authentic), as did Ibn Hibbān].

844. Narrated Abū Huraira رضي الله عنه: Allāh’s Messenger ﷺ said, “A man must not join together (in marriage to him) a woman and her paternal aunt, or a woman and her maternal aunt.” [Agreed upon].

845. Narrated ‘Uthmān رضي الله عنه: Allāh’s Messenger ﷺ said, “One who is in *Ibrām*<sup>[1]</sup> may not marry, or be given in marriage.” [Reported by Muslim]. In another narration by him it says: “He should not ask someone’s hand in marriage.” Ibn Hibbān added: “nor give someone in engagement (to be married).”

846. Narrated Ibn ‘Abbās رضي الله عنه: The Prophet ﷺ married Maimūna رضي الله عنها when he was in the state of *Ibrām* (during pilgrimage). [Agreed upon]. Muslim reported from Maimūna رضي الله عنها herself: “The Prophet ﷺ married her when he was not in the state of *Ibrām*.”

847. Narrated ‘Uqba bin ‘Aamir رضي الله عنه: Allāh’s Messenger ﷺ said, “The most worthy conditions to be fulfilled<sup>[2]</sup> are those by which you make sexual intercourse lawful for yourselves (in marriage).” [Agreed upon].

848. Narrated Salama bin Al-Akwa’ رضي الله عنه: In the year of Autās, Allāh’s Messenger ﷺ permitted *Mut’a* (temporary

مَوَالِيهِ وَأَهْلِيهِ فَهَوَّ عَاهِرٌ». رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَالتِّرْمِذِيُّ، وَصَحَّحَهُ، وَكَذَلِكَ ابْنُ حِبَّانَ.

(٨٤٤) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَا يُجْمَعُ بَيْنَ الْمَرْأَةِ وَعَمَّتَيْهَا، وَلَا بَيْنَ الْمَرْأَةِ وَخَالَاتِهَا». مُتَّفَقٌ عَلَيْهِ.

(٨٤٥) وَعَنْ عُثْمَانَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَنْكِحُ الْمُحْرِمُ، وَلَا يُنْكَحُ». رَوَاهُ مُسْلِمٌ. وَفِي رِوَايَةٍ لَهُ: «وَلَا يَخْطُبُ». زَادَ ابْنُ حِبَّانَ: «وَلَا يُخْطَبُ عَلَيْهِ».

(٨٤٦) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: تَزَوَّجَ النَّبِيُّ ﷺ مَيْمُونَةَ وَهُوَ مُحْرِمٌ مُتَّفَقٌ عَلَيْهِ. وَلِمُسْلِمٍ عَنْ مَيْمُونَةَ نَفْسِهَا: أَنَّ النَّبِيَّ ﷺ تَزَوَّجَهَا وَهُوَ حَالًا.

(٨٤٧) وَعَنْ عُقْبَةَ بْنِ عَامِرٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِنْ أَحَقَّ الشَّرْطُ أَنْ يُؤْفَى بِهِ، مَا اسْتَحْلَلْتُمْ بِهِ الْفُرُوجَ». مُتَّفَقٌ عَلَيْهِ.

(٨٤٨) وَعَنْ سَلَمَةَ بْنِ الْأَخْوَعِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: رَخَّصَ رَسُولُ اللَّهِ ﷺ عَامَ

that the permission of master is essential, and he performs the sexual intercourse, then he will not be punished for it, but if he knows it, he will be punished.

[1] While in the state of *Ibrām*, taking part in engagement to marry or marriage of one’s ownself or of someone else, is not permitted, according to most scholars. As regards the next *Hadīth* reported by Ibn ‘Abbās رضي الله عنهما, its chain of narrators is correct, but he was mistaken that the Prophet ﷺ married Maimūna رضي الله عنها while he was in *Ibrām*. Maimūna herself has contradicted this in the *Hadīth* coming after it.

[2] It means that the payment of a dowry is essential.



marriage)<sup>[1]</sup> for three nights, then he prohibited it (afterwards). [Reported by Muslim].

أَوْطَأَسِرَ فِي الْمُتَعَةِ ثَلَاثَةَ أَيَّامٍ، ثُمَّ نَهَى عَنْهَا. رَوَاهُ مُسْلِمٌ.

849. Narrated 'Ali ؑ: Allāh's Messenger ﷺ forbade *Mut'a* (temporary marriage) in the year of Khaibar. [Agreed upon].

(٨٤٩) وَعَنْ عَلِيِّ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنِ الْمُتَعَةِ عَامَ خَيْبَرَ. مُتَّفَقٌ عَلَيْهِ.

850. Narrated ('Ali) ؑ: On the Day (Battle) of Khaibar, the Prophet ﷺ forbade the temporary marriage (i.e. *Mut'a*) of women, and eating the flesh of domestic donkeys. [*As-Sab'a* except Abū Dā'ud reported it].

(٨٥٠) وَعَنْهُ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْمُتَعَةِ وَالسَّاءِ، وَعَنْ أَكْلِ لَحْمِ الضَّمَرِ الْأَهْلِيِّ يَوْمَ خَيْبَرَ. أَخْرَجَهُ السَّبْعَةُ إِلَّا أَبَا دَاوُدَ.

851. Narrated Rabī bin Sabra<sup>[2]</sup> on the authority of his father: Allāh's Messenger ﷺ said, "I had permitted to you the temporary marriage of women, but Allāh has (now) prohibited you from that till the Day of Resurrection. So, if anyone has any of these woman (in temporary marriage), he should let her go; and do not take back anything of what you have given them." [Reported by Muslim, Abū Dā'ud, An-Nasā'i, Ibn Mājah, Ahmad and Ibn Hibbān].

(٨٥١) وَعَنْ رَبِيعِ بْنِ سَبْرَةَ، عَنْ أَبِيهِ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «إِنِّي كُنْتُ أَذِنْتُ لَكُمْ فِي الْأَسْتِمْتَاعِ مِنَ النِّسَاءِ، وَإِنَّ اللَّهَ قَدْ حَرَّمَ ذَلِكَ إِلَى يَوْمِ الْقِيَامَةِ، فَمَنْ كَانَ عِنْدَهُ مِنْهُنَّ سَيِّءٌ فَلْيُخَلِّ سَبِيلَهَا، وَلَا تَأْخُذُوا بِمَا آتَيْتُمُوهُنَّ شَيْئًا». أَخْرَجَهُ مُسْلِمٌ وَأَبُو دَاوُدَ وَالنَّسَائِيُّ وَابْنُ مَاجَةَ وَأَحْمَدُ وَابْنُ حِبَّانَ.

852. Narrated Ibn Mas'ūd ؑ: Allāh's Messenger ﷺ cursed the man who made a woman lawful for her first husband and the one for whom she was made lawful (the men involved in *Halāla*).<sup>[3]</sup> [Reported by Ahmad, An-Nasā'i and At-Tirmidhi; the latter declared it to be *Sabih* (authentic)]. *Al-Arba'a* except An-Nasā'i reported

(٨٥٢) وَعَنْ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: لَعَنَ رَسُولُ اللَّهِ ﷺ الْمُحَلَّلَ وَالْمُحَلَّلَةَ لَمْ يَكُنْ لَهَا زَوْجٌ قَبْلُ، وَصَحَّحَهُ، وَفِي الْبَابِ عَنْ عَلِيٍّ، أَخْرَجَهُ الْأَرْبَعَةُ إِلَّا النَّسَائِيَّ.

[1] *Mut'a* (المتعة) is a marriage for a stipulated period only. This form of marriage was customary among the Arabs in the past. Islam at times put restrictions on it and at times permitted it under specific conditions, and at last it was declared unlawful forever at *Hajjatul-Wada'* (Farewell *Hajj* of the Prophet ﷺ).

[2] Rabī bin Sabra bin Ma'bad Al-Juhani Al-Madani was verified to be reliable by An-Nasā'i and Al-'Ajli.

[3] *Halāla* (حلاله) means to marry a divorced woman temporarily, with the intention of making her remarriage to her former husband lawful. This act is unlawful. Marriage based on intended divorce is unlawful, whether its period is prescribed or not.

something related to this matter, on the authority of 'Ali ؑ.

853. Narrated Abū Huraira ؑ: Allāh's Messenger ﷺ said, "A man guilty of fornication, who has been flogged (for it), should not marry any but a woman like him (similarly guilty)."<sup>[1]</sup> [Reported by Ahmad and Abū Dā'ud, and its narrators are reliable (*thiqab*)].

854. Narrated 'Aisha ؑ: A man divorced his wife by three pronouncements and another man married her and divorced her before cohabiting with her. Then, her first husband intended to remarry her and asked Allāh's Messenger ﷺ about that. He said, "No, until the other one (second husband) has enjoyed sexual intercourse<sup>[2]</sup> with her as the first (husband) had." [Agreed upon; the wording is Muslim's].

(٨٥٣) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَنْكِحُ الزَّانِي الْمَجْلُودَ إِلَّا مِثْلَهُ». رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ، وَرِجَالُهُ ثِقَاتٌ.

(٨٥٤) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا قَالَتْ: طَلَّقَ رَجُلٌ امْرَأَتَهُ ثَلَاثًا، فَتَزَوَّجَهَا رَجُلٌ، ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا. فَأَرَادَ زَوْجُهَا الْأَوَّلُ أَنْ يَتَزَوَّجَهَا، فَسَأَلَ رَسُولَ اللَّهِ ﷺ عَنْ ذَلِكَ، فَقَالَ: «لَا حَتَّى يَدْوَقَ الْآخِرُ مِنْ عَسِيَلَتِهَا مَا ذَاقَ الْأَوَّلُ». مُتَّفَقٌ عَلَيْهِ. وَاللَّفْظُ لِمُسْلِمٍ.

## Chapter 1

### EQUALITY IN MARRIAGE<sup>[3]</sup> AND RIGHT OF CHOICE

### ١ - بَابُ الْكِفَاءَةِ وَالْخِيَارِ

855. Narrated Ibn 'Umar ؑ: Allāh's Messenger ﷺ said, "The Arabs are equal to one another and the *Mawālī*<sup>[4]</sup> are equal to one another;<sup>[5]</sup> except a weaver or a cupper." [Reported by Al-Hākim, but there is a nameless narrator

(٨٥٥) عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «الْعَرَبُ بَعْضُهُمْ أَكْفَاءُ بَعْضٍ، وَالْمَوَالِيُّ بَعْضُهُمْ أَكْفَاءُ بَعْضٍ، إِلَّا حَارِبًا أَوْ حَجَّامًا». رَوَاهُ الْحَاكِمُ، وَفِي

[1] It means that a pious man should not marry a woman guilty of adultery or fornication, and a pious woman should not marry a man guilty of adultery or fornication.

[2] It means that an irrevocably [three times] divorced woman, if remarried to another man, and after having sexual relations with him is divorced again, or her husband dies, then she is allowed to marry her first husband. However, if she has not had sexual relations with the second husband, she is not allowed to marry her first husband.

[3] In Arabic *Kufu* (كفو) means to be similar or resembling or peer. Similarity or equality in four things – religion, lineage, profession and freedom is regarded reliable. Among these four, religion is agreed upon. The others are disputed. To marry other than *Kufu*, is not prohibited but it is better to marry in *Kufu* for many reasons.

[4] Non-Arabs, and originally former slaves.

[5] It means that the *Shari'a* has kept the profession in view merely to make the social life easy. Otherwise, it has no consideration for marriage purposes. Fatima bint Qais Qurashiyah was asked to marry Usāma (son of freed slave). It means that lineage has no special prestige in Islam.

in its chain of narrators; Abū Hātim graded it *Munkar* (rejected). It has a supporting narration reported by Al-Bazzār from Mu'adh bin Jabal with a *Munqati'* (broken) chain].

856. Narrated Fatima ؓ, daughter of Qais: The Prophet ﷺ told her, "Marry Usāma."<sup>[1]</sup> [Reported by Muslim].

857. Narrated Abū Huraira ؓ: The Prophet ﷺ said, "O sons of Bayada', marry to Abu Hind<sup>[2]</sup> (someone of your women) and marry from his women (i.e. his daughters)," (even though) he was a cupper. [Abū Dā'ud and Al-Hākim reported it with a *Hasan* (good) chain of narrators].

858. Narrated 'Aisha ؓ: Barira was given her choice regarding her husband [to remain with him or separate] when she was freed. [Agreed upon; it is a part of a long *Hadīth*].

Muslim has from 'Aisha ؓ: "Her husband was a slave." Another narration from her has: "He was a free man." The first (narration) is more well established. It has been authentically reported from Ibn 'Abbās ؓ by Al-Bukhāri: "...that he was a slave."

859. Narrated Ad-Dahhāk<sup>[3]</sup> bin Fairūz Ad-Dailami on the authority of his father<sup>[4]</sup> ؓ: I said, "O Allāh's Messenger,

إِسْنَادُهُ رَأَى لَمْ يُسَمِّ، وَاسْتَنْكَرَهُ أَبُو حَاتِمٍ، وَلَهُ شَاهِدٌ عِنْدَ الْبَزَّازِ عَنْ مُعَاذِ بْنِ جَبَلٍ بِسَنَدٍ مُنْقَطِعٍ.

(٨٥٦) وَعَنْ فَاطِمَةَ بِنْتِ قَيْسِ رَضِيَ اللَّهُ تَعَالَى عَنْهَا، أَنَّ النَّبِيَّ ﷺ قَالَ لَهَا: «اتَّكِحِي أُسَامَةَ». رَوَاهُ مُسْلِمٌ.

(٨٥٧) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، أَنَّ النَّبِيَّ ﷺ قَالَ: «يَا بَنِي بَيَاضَةَ اتَّكِحُوا أَبَا هِنْدٍ وَاتَّكِحُوا إِلَيْهِ، وَكَانَ حَجَامًا». رَوَاهُ أَبُو دَاوُدَ وَالْحَاكِمُ بِسَنَدٍ جَيِّدٍ.

(٨٥٨) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا قَالَتْ: خُيِّرْتُ بَرِيرَةَ عَلَى زَوْجِهَا حِينَ عَقَّقْتُ. مُتَّفَقٌ عَلَيْهِ فِي حَدِيثٍ طَوِيلٍ.

وَلِمُسْلِمٍ عَنْهَا: (أَنَّ زَوْجَهَا كَانَ عَبْدًا)، وَفِي رِوَايَةٍ عَنْهَا: (كَانَ حُرًّا)، وَالْأَوَّلُ أَثْبَتٌ، وَصَحَّ عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا عِنْدَ الْبُخَارِيِّ: (أَنَّهُ كَانَ عَبْدًا).

(٨٥٩) وَعَنْ الصَّحَّاحِ بْنِ فَيْرُوزَ الدَّيْلَمِيِّ، عَنْ أَبِيهِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، قَالَ: قُلْتُ: يَا

[1] Usamah's father was a former slave.

[2] His name was Yasār or Sālim bin Abū Sālim or 'Abdullāh bin Hind, and he used to cup the Prophet ﷺ. He was a slave of Banu Bayada'. Ibn 'Abbās, Abū Huraira, Jābir and Khālid narrated *Abadīth* from him.

[3] Ad-Dahhāk bin Fairuz Ad-Dailami – Ad-Dailam being a famous mountain in Persia – was a renowned *Tābi'i* whose reliability has been verified by Ibn Hibbān. He narrated *Abadīth* from his father, and his *Abadīth* have been mastered by the people of Basra.

[4] He is Abū 'Abdullāh Fairuz Ad-Dailami or Al-Himyari – for selling at Himyar – was a Persian from San'ā and among those who visited the Prophet ﷺ. He fought Al-'Ansi 'the impostor' who claimed prophethood in Yemen, whom he managed to kill towards the last days of the life of Allāh's Messenger ﷺ who received the news during the illness in which he died. Fairuz died during the caliphate of 'Uthmān.

I have accepted Islam and I am married to two sisters.” Allāh’s Messenger ﷺ then said, “Divorce whichever of them you wish.”<sup>[1]</sup> [Reported by Ahmad and *Al-Arba’ā*, except An-Nasā’i. Ibn Hibbān, Ad-Daraqutni and Al-Baihaqi graded it *Sabih* (authentic) but Al-Bukhāri considered it defective].

رَسُولَ اللَّهِ! إِنِّي أَسْلَمْتُ، وَتَخَيَّي أَخْتَانِ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «طَلَّقْ أَيَّتَهُمَا شِئْتَ». رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ إِلَّا النَّسَائِيَّ، وَصَحَّحَهُ ابْنُ حِبَّانَ وَالذَّارِقُطْنِيُّ وَالْبَيْهَقِيُّ، وَأَعْلَهُ الْبُخَارِيُّ.

860. Narrated Sālim on the authority of his father: Ghailān bin Salama<sup>[2]</sup> accepted Islam and he had ten wives who accepted Islam along with him. So, the Prophet ﷺ commanded him to, “Choose four of them.”<sup>[3]</sup> [Reported by Ahmad and At-Tirmidhi. Ibn Hibbān and Al-Hākim graded it *Sabih* (authentic); but Al-Bukhāri, Abū Zur‘a and Abū Hātim considered it defective].

(٨٦٠) وَعَنْ سَالِمٍ، عَنْ أَبِيهِ، أَنَّ غَيْلَانَ بْنَ سَلَمَةَ أَسْلَمَ، وَلَهُ عَشْرُ نِسْوَةٍ، فَأَسْلَمْنَ مَعَهُ، فَأَمَرَهُ النَّبِيُّ ﷺ أَنْ يَتَخَيَّرَ مِنْهُنَّ أَرْبَعًا. رَوَاهُ أَحْمَدُ وَالتِّرْمِذِيُّ، وَصَحَّحَهُ ابْنُ حِبَّانَ وَالْحَاكِمُ، وَأَعْلَهُ الْبُخَارِيُّ وَأَبُو زُرْعَةَ وَأَبُو حَاتِمٍ.

861. Narrated Ibn ‘Abbās ؓ: The Prophet ﷺ returned his daughter Zainab (ؓ) to [her husband] Abul-‘Aas bin Ar-Rabi’ (ؓ) based upon the first marriage, after six years [of separation],<sup>[4]</sup> and he did not perform a new marriage. [Reported by Ahmad and *Al-Arba’ā* except An-Nasā’i. Ahmad and Al-Hākim graded it *Sabih* (authentic)].

(٨٦١) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: رَدَّ النَّبِيُّ ﷺ ابْنَتَهُ زَيْنَبَ عَلَى أَبِي الْعَاصِ بْنِ الرَّبِيعِ بَعْدَ سِتِّ سِنِينَ بِالنِّكَاحِ الْأَوَّلِ، وَلَمْ يُحْدِثْ نِكَاحًا. رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ إِلَّا النَّسَائِيَّ، وَصَحَّحَهُ أَحْمَدُ وَالْحَاكِمُ.

[1] This *Hadīth* makes clear two things: One is that, if two real sisters are married to one man, he must divorce one of them; and second that, the marriages performed before Islam are accepted by Islam though they were not in accordance with Islamic way. In any case, a woman cannot be free from this marriage without divorce. This *Hadīth* also clarifies that if a married couple accepts Islam, they have no need to marry again, since their first marriage is considered legal in Islam.

[2] Ghailān bin Salama Ath-Thaqafi was one of the elders of Thaqif. He became a Muslim after the conquest of Ta’if and did not migrate to Al-Madinah. He was a poet with a nice voice. He died during ‘Umar’s Caliphate.

[3] Having more than four wives in marriage at one time is unlawful and there is no difference of opinion in this regard. Having nine wives by the Prophet ﷺ at one time was exclusively for him.

[4] If the woman accepts Islam and her husband remains infidel, according to most of the scholars, their marriage is cancelled and after the completion of *Iddah* (period during which a widow or a divorcee may not remarry) she will be deemed free from the bond of marriage. The story of Zainab ؓ has many explanations, and actually marriage is not cancelled in such a case, but marrying afresh is better.

862. Narrated 'Amr bin Shu'aib on his father's authority from his grandfather: The Prophet ﷺ returned his daughter Zainab<sup>[1]</sup> (رضي الله عنها) to [her husband] Abū-'Aas<sup>[2]</sup> (رضي الله عنه) by a new marriage. [At-Tirmidhi said, "The *Hadīth* of Ibn 'Abbās (رضي الله عنه) is better than 'Amr's *Hadīth* in consideration of the chains of narrators. However, that which is being observed in practice is 'Amr bin Shu'aib's *Hadīth*"].

(٨٦٢) وَعَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ رَدَّ ابْنَتَهُ زَيْنَبَ عَلَى أَبِي الْعَاصِ بْنِ كَعْبٍ جَدِيدًا. قَالَ التِّرْمِذِيُّ: حَدِيثُ ابْنِ عَبَّاسٍ أَجْوَدُ إِسْنَادًا، وَالْعَمَلُ عَلَى حَدِيثِ عَمْرِو بْنِ شُعَيْبٍ.

863. Narrated Ibn 'Abbās (رضي الله عنه): A woman had accepted Islam and then remarried, so her (previous) husband came and said, "O Allāh's Messenger, I had accepted Islam and she knew that I had done so." So Allāh's Messenger ﷺ took her away from her second husband and returned her to her first one.<sup>[3]</sup> [Reported by Ahmad, Abū Dā'ud and Ibn Mājah. Ibn Hibbān and Al-Hākim graded it *Sahib* (authentic)].

(٨٦٣) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: أَسْلَمَتِ امْرَأَةٌ، فَتَزَوَّجْتُ، فَجَاءَ زَوْجُهَا، فَقَالَ: يَا رَسُولَ اللَّهِ! إِنِّي كُنْتُ أَسْلَمْتُ، وَعَلِمْتُ بِإِسْلَامِي، فَأَنْتَزَعَهَا رَسُولُ اللَّهِ ﷺ مِنْ زَوْجِهَا الْآخِرِ، وَرَدَّهَا إِلَى زَوْجِهَا الْأَوَّلِ. رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَابْنُ مَاجَةَ، وَصَحَّحَهُ ابْنُ جِبَانَ وَالْحَاكِمُ.

864. Narrated Zaid bin Ka'b bin 'Ujra<sup>[4]</sup> (رضي الله عنه) on his father's authority: 'Allāh's Messenger ﷺ married Al-'Aaliya<sup>[5]</sup> of Banu Ghifār. When she

(٨٦٤) وَعَنْ زَيْدِ بْنِ كَعْبٍ بْنِ عَجْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، عَنْ أَبِيهِ، قَالَ: تَزَوَّجَ رَسُولُ اللَّهِ ﷺ الْعَالِيَةَ مِنْ بَنِي غِفَارٍ، فَلَمَّا دَخَلَتْ

[1] She was the eldest of Allāh's Messenger's daughters, and her mother was *Ummul-Mu'minin* Khadija Al-Kubra (رضي الله عنها). She was married to her maternal aunt's son Abul 'Aas bin Ar-Rabi' and she bore him 'Ali, but he died as a grown-up child. Abū 'Aas rode on the back seat of the Prophet's camel on the day of *Al-Fath*. Zainab also bore Umama to Abū 'Aas. She migrated after the battle of Badr and died in 8 H. The Prophet ﷺ entered her grave in the process of burying her.

[2] He is called Miqsam bin Ar-Rabi' bin 'Abdul-'Uzza. It is also said that he was called Laqit. He was the son-in-law of the Prophet ﷺ and the husband of his daughter Zainab. He was captured during the battle of Badr as a *Kafir*, but was set free without ransom on condition that he bring Zainab to Al-Madinah and he did so. He later migrated to Al-Madinah himself and took the Prophet ﷺ as his Muslim brother and his confidant. He was martyred during the battle of Yamama.

[3] It means that if the separation is due to the difference of religion, and during *Iddah* the man also accepts Islam, and the woman comes to know, then she cannot marry another person. If she marries unknowingly, her marriage will be cancelled, but her having had sexual relations during this period will not be a punishable act according to *Sbari'a*.

[4] It is said that he was from Banu Sālim bin 'Auf or Banu Sālim bin Bali and was an ally of Al-Khazraj. Adh-Dhahabi mentioned in *Talkhis Al-Mustadrak* that Ibn Ma'in said, "He is not reliable", but Ibn Ma'in actually said that regarding Jamil bin Zaid.

[5] It was said that she was from Banu Bakr bin Kilāb and she is Al-'Aaliya bint Zubyān. It was also said that this Al-'Aaliya was not from Banu Kilāb. Some reporters said that he kept her

had entered in his presence and removed her clothes, he saw whiteness (of leprosy) around her waist area <sup>[1]</sup> and the Prophet ﷺ said, "Put on your clothes and return to your family." He ordered her dowry to be given to her. [Reported by Al-Hākim]. In its chain of narrators, is Jamil bin Zaid<sup>[2]</sup>, who is *Majbūl* (an unaccredited narrator). There is also a great difference of opinion as to who was his *Shaykh*.

865. Narrated Sa'īd bin Al-Musaiyab: 'Umar bin Al-Khattāb ؓ said, "If any man marries a woman and after sleeping with her finds that she is affected with leprosy or insane, she gets her dowry (if he divorces her) for having intercourse with her, and it is returned to him from the one who has deceived him<sup>[3]</sup> with her." [Sa'īd bin Mansūr, Mālik and Ibn Abū Shaiba reported it. Its narrators are reliable (*thiqah*)].

Sa'īd (bin Mansur) also reported something similar from 'Ali (ؓ) and added: "And (if she has something like a horn (*Qarn*) (coming out of her vagina), her husband then has the right to divorce her or keep her. And if he had intercourse with her, she gets her dowry for the intercourse her husband has had."

866. Narrated Sa'īd bin Al-Musaiyab this *Hadīth* also: 'Umar ؓ gave a decree regarding a husband who is impotent that he must be given delay for one year.<sup>[4]</sup> [Its narrators are reliable].

for some time and then divorced her.

[1] It means that if the guardians of a woman, by cheating, marry a physically deformed, permanently sick, insane or woman afflicted with leprosy etc., the marriage is cancelled due to their fraud. Similarly, if a woman is married by cheating to a defective or an abnormal man, she has the right to end it. If both man and woman agree, the marriage is valid.

[2] He was from the Tā'i tribe and Ibn Ma'in and An-Nasā'i said, "He is not reliable." Al-Bukhārī also said, "His *Hadīth* is not authentic." The *Imāms* of *Hadīth* verified him as weak.

[3] It means that if man does not want to keep such a woman, the dowry is an unjust burden on him.

[4] It means that according to *Shari'a*, an impotent man is he who lacks sufficient strength to insert his penis into the vagina. If he inserts it even one time, he will not be regarded impotent.

عَلَيْهِ، وَوَضَعَتْ يَتَابَهَا، رَأَى بِكَشْحِهَا بَيَاضاً، فَقَالَ النَّبِيُّ ﷺ: «الْبَيْسِيُّ يَتَابِكِ، وَالْحَقِي بِأَهْلِكَ» وَأَمَرَ لَهَا بِالصَّدَاقِ. رَوَاهُ الْحَاكِمُ، وَفِي إِسْنَادِهِ جَمِيلُ بْنُ يَزِيدَ، وَهُوَ مَجْهُولٌ، وَاخْتَلَفَ عَلَيْهِ فِي شَيْخِهِ اخْتِلَافاً كَثِيراً.

(٨٦٥) وَعَنْ سَعِيدِ بْنِ الْمُسَيْبِ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: أَيُّمَا رَجُلٍ تَزَوَّجَ امْرَأَةً، فَدَخَلَ بِهَا، فَوَجَدَهَا بَرِصَاءً، أَوْ مَجْنُونَةً، أَوْ مَجْدُومَةً، فَلَهَا الصَّدَاقُ بِمِيسِيهِ إِيَّاهَا، وَهُوَ لَهُ عَلَى مَنْ عَرَّهَ مِنْهَا. أَخْرَجَهُ سَعِيدُ بْنُ مَنْصُورٍ وَمَالِكٌ وَابْنُ أَبِي شَيْبَةَ. وَرِجَالُهُ ثِقَاتٌ.

وَرَوَى سَعِيدٌ أَيْضاً عَنْ عَلِيِّ نَحْوَهُ، وَزَادَ: «وَبِهَا قَرْنٌ، فَزَوَّجَهَا بِالْخِيَارِ، فَإِنْ مَسَّهَا فَلَهَا الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا».

(٨٦٦) وَمِنْ طَرِيقِ سَعِيدِ بْنِ الْمُسَيْبِ أَيْضاً قَالَ: قَضَى بِهِ عُمَرُ رَضِيَ اللَّهُ تَعَالَى عَنْهُ فِي الْعَيْنِ أَنْ يُؤَجَّلَ سَنَةً. وَرِجَالُهُ ثِقَاتٌ.