

except after marriage, and no freeing (of a slave) till one has possession (of one).”^[1] [Reported by Abū Ya‘la and Al-Hākim graded it *Sabih* (authentic), but it is *Ma‘lul* (containing a hidden defective). Ibn Majah reported a similar narration, on the authority of Al-Miswar bin Makhrama, and its chain of narrators is (or appears to be) *Hasan* (good), but it is also *Ma‘lul* (hidden defect)].

926. Narrated ‘Amr bin Shu‘aib on his father’s authority from his grandfather: Allāh’s Messenger ﷺ said, “No descendant of Adam may make a vow concerning something he does not possess, or set free (a slave) that he does not possess, or divorce (a woman) whom he does not possess (in marriage).” [Abū Dā‘ud and At-Tirmidhi reported it; the latter graded it *Sabih* (authentic), and transmitted from Al-Bukhārī his statement that it is the most authentic *Hadīth* on this subject].

927. Narrated ‘Aisha ؓ: The Prophet ﷺ said, “There are three people whose actions are not recorded:^[2] a sleeping person till he awakes, a child till he is a grown up, and an insane person till he is restored to reason or recovers his senses.” [Reported by Ahmad and *Al-Arba‘a*, except At-Tirmidhi. Al-Hākim graded it *Sabih* (authentic)].

Chapter 8

AR-RAJ‘A (TAKING BACK A WIFE AFTER A DIVORCE WHICH IS NOT FINAL)

928. Narrated ‘Imrān bin Husain ؓ: He was asked about a man who divorces

قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا طَلَاقَ إِلَّا بَعْدَ نِكَاحٍ، وَلَا عِتْقَ إِلَّا بَعْدَ مِلْكٍ». رَوَاهُ أَبُو يَعْلَى، وَصَحَّحَهُ الْحَاكِمُ، وَهُوَ مَعْلُولٌ، وَأَخْرَجَهُ ابْنُ مَاجَةَ عَنِ الْمِسْوَرِ بْنِ مَخْرَمَةَ مِثْلَهُ، وَإِسْنَادُهُ حَسَنٌ، لَكِنَّهُ مَعْلُولٌ أَيْضًا.

(٩٢٦) وَعَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا نَذَرَ لِابْنِ آدَمَ فِيمَا لَا يَمْلِكُ، وَلَا عِتْقَ لَهُ فِيمَا لَا يَمْلِكُ، وَلَا طَلَاقَ لَهُ فِيمَا لَا يَمْلِكُ». أَخْرَجَهُ أَبُو دَاوُدَ وَالتِّرْمِذِيُّ، وَصَحَّحَهُ، وَنَقَلَ عَنِ الْبُخَارِيِّ أَنَّهُ أَصَحُّ مَا وَرَدَ فِيهِ.

(٩٢٧) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا، عَنِ النَّبِيِّ ﷺ قَالَ: «رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ: عَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ، وَعَنِ الصَّغِيرِ حَتَّى يَكْبُرَ، وَعَنِ الْمَجْنُونِ حَتَّى يَعْقِلَ، أَوْ يُبَيِّنَ». رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ إِلَّا التِّرْمِذِيُّ، وَصَحَّحَهُ الْحَاكِمُ وَأَخْرَجَهُ ابْنُ جِبَانَ.

٨ - بَابُ الرَّجْعَةِ

[1] It means that one can only divorce that woman who is married to him.

[2] It means that if anybody divorces during sleep, it will not be regarded a divorce. If a minor divorces, it will not be considered divorce. Similarly, if an insane person divorces, it will not be counted as divorce.

his wife, then takes her back without taking witnesses (on either). So he replied, "Get witnesses on her divorce, and on her return."^[1] [Abū Dā'ud reported it *Mawqūf* (saying of a Companion), and its chain of narrators is *Sahib* (authentic)]. Al-Baihaiqi reported the aforesaid *Hadīth* with this wording: 'Imrān bin Husain ؓ was asked about someone who takes his wife back (after a divorce that is not final), but he does not take witnesses. So, he replied, "It is not *Sunnah*, and he should get witnesses now." At-Tabarāni added in a narration: "and he should ask Allāh's forgiveness."

929. Narrated Ibn 'Umar ؓ: When he divorced his wife the Prophet ﷺ said to 'Umar, "Command him to take her back." [Agreed upon].

تَعَالَى عَنْهُمَا، أَنَّهُ سُئِلَ عَنِ الرَّجُلِ يُطَلِّقُ، ثُمَّ يَرْجِعُ، وَلَا يُشْهَدُ، فَقَالَ: أَشْهَدُ عَلَى طَلْقِهَا، وَعَلَى رَجْعَتِهَا. رَوَاهُ أَبُو دَاوُدَ هَكَذَا مُوقُوفًا، وَسَنَدُهُ صَحِيحٌ وَأَخْرَجَهُ الْبَيْهَقِيُّ بِلَفْظٍ: (أَنَّ عِمْرَانَ بْنَ حُصَيْنٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا سُئِلَ عَمَّنْ رَاجَعَ امْرَأَتَهُ وَلَمْ يُشْهَدِ، فَقَالَ: فِي غَيْرِ سُنَّةٍ؟ فَأُشْهِدُ الْآنَ) وَزَادَ الطَّبْرَانِيُّ فِي رِوَايَةٍ (وَيَسْتَغْفِرُ اللَّهَ).

(٩٢٩) وَعَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، أَنَّهُ لَمَّا طَلَّقَ امْرَأَتَهُ، قَالَ النَّبِيُّ ﷺ لِعُمَرَ: «مُرُهُ، فَلْيَرْجِعْهَا». مُتَّفَقٌ عَلَيْهِ.

Chapter 9

AL-'IYLA',^[2] AZ-ZIHĀR^[3]

AND AL-KAFFĀRAH^[4]

٩ - بَابُ الْإِيْلَاءِ وَالظَّهَارِ وَالْكَفَّارَةِ

930. Narrated 'Aisha ؓ: Allāh's Messenger ﷺ swore that he would stay away from his wives for a period. He made

(٩٣٠) عَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا قَالَتْ: آلَى رَسُولُ اللَّهِ ﷺ مِنْ نِسَائِهِ، وَحَرَمَ،

^[1] It means that for *Talāq* (divorce) and *Raj'a* (revocation of divorce), two witnesses should be present. If there are no witnesses, the man or woman can go back on one's word for some of their interests and it cause many evils. To call for witnesses is either obligatory or desirable. Consensus is that it is desirable, but actually it is obligatory.

^[2] 'Iyā' (الإيلاء) means to make a vow that one is not going to maintain sexual relations with his wife; or to say to her directly – swearing by Allāh – that no sexual relationship will be maintained with her in the future. Allāh has prescribed a four months period to restore the relationship. It is better to revive the relationship, by paying expiation for the oath within the prescribed period. Otherwise, divorce will become effective by itself; or according to others, the man will be compelled to divorce her or bring back the relationship to normal again.

^[3] *Zihār* (الظهار) is derived from the word *Zahr* (الظهر) meaning back, making resemblance between one's wife and the mother's back. This is a figure of speech in Arabic language which means that you are like my mother and unlawful for me for marriage. According to *Sbari'a* terminology, *Zihār* means comparing one's wife and to one's mother, and making her unlawful for oneself. It is not considered a divorce in *Sbari'a* but one has to expiate for it before returning to his wife. Its expiation is to free a slave or to fast for sixty days consecutively or to feed sixty poor persons. It is compulsory to bear one of these punishments.

^[4] *Kaffarah* (الكفارة) means making atonement (for either of the above two cases).

something unlawful (for himself) (i.e. something not in itself unlawful). So, he made the lawful unlawful, and he made atonement for breaking an oath. [Reported by At-Tirmidhi, and its narrators are reliable (*thiqab*)].

فَجَعَلَ الْحَلَالَ حَرَامًا، وَجَعَلَ لِلْيَمِينِ كَفَّارَةً.
رَوَاهُ التِّرْمِذِيُّ، وَرَوَاهُ ثِقَاتٌ.

931. Narrated Ibn 'Umar ؓ: When a period of four months elapses, the one who swears to stay away from his wife must be made to return to her or divorce her, and the divorce is not valid till the husband himself pronounces it.^[1] [Al-Bukhāri reported it].

(٩٣١) وَعَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، قَالَ: إِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ وَقَفَ الْمَوْلَى، حَتَّى يُطَلَّقَ، وَلَا يَقَعُ عَلَيْهِ الطَّلَاقُ حَتَّى يُطَلَّقَ. أَخْرَجَهُ الْبُخَارِيُّ.

932. Narrated Sulaimān bin Yasār^[2] (ؓ): I met thirteen or more of the Companions of Allāh's Messenger ﷺ, all of them made the one who swears to stay away from his wife, return to her or divorce her (at the end of the period). [Reported by Ash-Shāfi'ī].

(٩٣٢) وَعَنْ سُلَيْمَانَ بْنِ يَسَارٍ قَالَ: أَدْرَكْتُ بِضْعَةَ عَشَرَ رَجُلًا مِنْ أَصْحَابِ رَسُولِ اللَّهِ ﷺ، كُلُّهُمْ يَقِفُونَ الْمَوْلَى. رَوَاهُ الشَّافِعِيُّ.

933. Narrated Ibn 'Abbās ؓ: The swearing to stay away from one's wife in *Al-Jābiliya* era^[3] was for one or two years. Then, Allāh appointed a period of four months for it. So, if it is less than four months, it is not swearing to stay away from one's wife.^[4] [Al-Baihaqi reported it].

(٩٣٣) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: كَانَ إِبْلَاءُ الْجَاهِلِيَّةِ السَّنَةِ وَالسَّنَتَيْنِ، فَوَقَّتَ اللَّهُ أَرْبَعَةَ أَشْهُرٍ، فَإِنْ كَانَ أَقَلَّ مِنْ أَرْبَعَةِ أَشْهُرٍ فَلَيْسَ بِإِبْلَاءٍ. أَخْرَجَهُ الْبَيْهَقِيُّ.

934. Narrated (Ibn 'Abbās) ؓ: A man had vowed to make his wife like his mother (i.e. forbidden for him). Then

(٩٣٤) وَعَنْهُ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، أَنَّ رَجُلًا ظَاهَرَ مِنْ أَمْرَاتِهِ، ثُمَّ وَقَعَ عَلَيْهَا، فَاتَى

^[1] In case of *Tylā* the man should be asked either to divorce or restore the relationship, after the passing of four months. If he is not willing in either case, then she can get her marriage cancelled with the permission of the ruler, and after passing her *Iddab* period, she is allowed to marry.

^[2] He is Abū Ayub Sulaimān bin Yasār, the manumitted slave of 'Ummul-Mū'minin Maimuna ؓ. He was one of the seven *Fiqh 'Ulamā* of the elder *Tabi'in* in Al-Madīnah. He was reliable, virtuous, pious and knowledgeable. He died in the year 107 H at the age of 73 years.

^[3] In the Period of Ignorance the woman was very unfortunate. Sometimes, for years she stood in the middle of nowhere, neither married nor divorced, hanging in between. Also, she was not allowed to remarry after passing her *Iddab* period. Sometimes, severance of relations is necessary for the purpose of teaching her a lesson. However, separation for years at a time is injustice to her, so Allāh fixed the period as four months.

^[4] This *Hadīth* makes it clear that if the relations are re-established within the period of four months, then it is not *Tylā* and there is no penalty for it.

he had intercourse with her, so he went to the Prophet ﷺ and said, "I had intercourse with her before making the atonement." He replied, "Do not go near her till you do what Allāh has commanded you to do." [Reported by *Al-Arba'a*. At-Tirmidhi graded it *Sahih* (authentic) but An-Nasā'i held that the stronger view is that it is *Mursal* (missing link after the *Tābi'i*)]. Al-Bazzār reported it through another chain, from Ibn 'Abbās (رضي الله عنه) and he added: "Make an atonement and do not repeat it."

935. Narrated Salama bin Sakhr^[1] رضي الله عنه. When the month of Ramadān came, I feared lest I would have intercourse with my wife. So, I vowed *Az-Zibar* (that she was like my mother). Then, one night something of her was uncovered to me and I had intercourse with her. Allāh's Messenger ﷺ afterwards said to me, "Set a slave free," and I replied, "I do not possess one (that I can free)." He said, "Then fast two consecutive months." I replied, "Have I fallen into that which I have fallen into except due to fasting!?" He said, "Feed sixty poor people with an *'Araq* (basket) of dates." [Reported by Ahmad and *Al-Arba'a* except An-Nasā'i. Ibn Khuzaima and Ibn Al-Jārūd graded it *Sahih* (authentic)].

النَّبِيِّ ﷺ، فَقَالَ: إِنِّي وَقَعْتُ عَلَيْهَا قَبْلَ أَنْ أَكْفُرَ، قَالَ: «فَلَا تَقْرُبْهَا، حَتَّى تَفْعَلَ مَا أَمَرَكَ اللَّهُ تَعَالَى بِهِ». رَوَاهُ الْأَرْبَعَةُ، وَصَحَّحَهُ التِّرْمِذِيُّ، وَرَجَّحَ النَّسَائِيُّ إِسْرَافَهُ، وَرَوَاهُ الْبَرَاءُ مِنْ وَجْهِ آخَرَ عَنِ ابْنِ عَبَّاسٍ، وَزَادَ فِيهِ: «كَفَّرَ وَلَا تَعُدُّ».

(٩٣٥) وَعَنْ سَلَمَةَ بْنِ سَكْرٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: دَخَلْتُ رَمَضَانَ، فَخَفْتُ أَنْ أُصِيبَ امْرَأَتِي، فَظَاهَرْتُ مِنْهَا، فَأَنْكَشَفَ لِي شَيْءٌ مِنْهَا لَيْلَةً، فَوَقَعْتُ عَلَيْهَا فَقَالَ لِي رَسُولُ اللَّهِ ﷺ: «حَرِّزْ رَقِيبَةً». فَقُلْتُ: مَا أَمْلِكُ إِلَّا رَقِيبَتِي. قَالَ: «فَصُمْ شَهْرَيْنِ مُتَتَابِعَيْنِ»، قُلْتُ: وَهَلْ أَصَبْتُ الَّذِي أَصَبْتُ إِلَّا مِنْ الصِّيَامِ، قَالَ: «أَطْعِمْ عَرَقًا مِنْ تَمْرٍ سِتِّينَ مَسْكِينًا». أَخْرَجَهُ أَحْمَدُ وَالْأَرْبَعَةُ إِلَّا النَّسَائِيَّ، وَصَحَّحَهُ ابْنُ خُزَيْمَةَ وَابْنُ الْجَارُودِ.

Chapter 10

AL-LI'ĀN^[2]

(INVOKING CURSES)

١٠ - بَابُ اللَّعَانِ

936. Narrated Ibn 'Umar رضي الله عنهما: So-and-so asked and said, "O Allāh's Messenger, what you think if one of us finds his

(٩٣٦) عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: سَأَلَ فُلَانٌ فَقَالَ: يَا رَسُولَ اللَّهِ! أَرَأَيْتَ

[1] He is Salama bin Sakhr bin Sulaimān bin As-Samma Al-Bayādi – a descendant of Banu Bayād, a clan of Al-Khazraj – was one of the *Al-Bukā'un* (the wailers) among the *Sahāba*.

[2] *Li'ān* (اللعان) means to accuse one's wife of adultery, without any solid proof in hand. In case the woman denies the allegation, the man has to swear four times repeating the allegation and for the fifth time he would say: May Allāh's Wrath fall on me if I am a liar. If

wife committing adultery, how should he act? If he talks he would talk about a grievous affair, and if he keeps silent he would keep silent about something similar (a grievous affair).” He gave no answer. Afterwards he came to him (ﷺ) and said, “I have been afflicted with the very problem which I had asked you about.” Then Allāh revealed the verses of *Surāt An-Nur* (the Light). He then recited them to him and exhorted, admonished and informed him that the punishment of this world is easier than that of the Hereafter. He said, “No, by Him Who sent you with the Truth, I have not lied against her.” He then summoned the woman and exhorted her in the same way. She said, “No, by Him Who sent you with the Truth, he is a liar.” He began with the man; and he (the man) bore witness four times with an oath by Allāh; he then did the same with the woman, then he separated them. [Reported by Muslim].

937. Narrated (Ibn ‘Umar) ﷺ: Allāh’s Messenger ﷺ said to the two who were invoking curses regarding one another, “Your reckoning is in Allāh’s Hands^[1] for one of you is lying. You cannot remarry her.” He (the man) said, “O Allāh’s Messenger, what about my property (dowry)?” He replied, “If you have spoken the truth, it is the price of your having had the right of intercourse with her;^[2] and if you have lied against her, it is even more remote for you (to get it back) from her.” [Agreed upon].

أَنْ لَوْ وَجَدَ أَحَدُنَا أَمْرًا عَلَى فَاجِسَةٍ كَيْفَ يَصْنَعُ؟ إِنْ تَكَلَّمَ تَكَلَّمْتَ بِأَمْرٍ عَظِيمٍ، وَإِنْ سَكَتَ سَكَتَ عَلَى مِثْلِ ذَلِكَ. فَلَمْ يُجِبْهُ، فَلَمَّا كَانَ بَعْدَ ذَلِكَ أَتَاهُ، فَقَالَ: «إِنَّ الَّذِي سَأَلْتُكَ عَنْهُ قَدْ ابْتَلَيْتُ بِهِ، فَأَنْزَلَ اللَّهُ الْآيَاتِ فِي سُورَةِ النُّورِ، فَتَلَاهُنَّ عَلَيْهِ وَوَعظَهُ، وَذَكَرَهُ، وَأَخْبَرَهُ أَنَّ عَذَابَ الدُّنْيَا أَهْوَنُ مِنْ عَذَابِ الْآخِرَةِ»، قَالَ: لَا، وَالَّذِي بَعَثَكَ بِالْحَقِّ، مَا كَذَبْتُ عَلَيْهَا، ثُمَّ دَعَاهَا فَوَعظَهَا كَذَلِكَ، قَالَتْ: لَا، وَالَّذِي بَعَثَكَ بِالْحَقِّ، إِنَّهُ لَكَاذِبٌ، فَبَدَأَ بِالرَّجُلِ، فَشَهِدَ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ، ثُمَّ نَتَى بِالْمَرْأَةِ، ثُمَّ فَرَّقَ بَيْنَهُمَا. رَوَاهُ مُسْلِمٌ.

(٩٣٧) وَعَنْهُ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ لِلْمَتَلَاعِيَيْنِ: «حِسَابُكُمْمَا عَلَى اللَّهِ، أَحَدُكُمْمَا كَاذِبٌ، لَا سَبِيلَ لَكَ عَلَيْهَا»، قَالَ: يَا رَسُولَ اللَّهِ! مَا لِي؟ فَقَالَ: «إِنْ كُنْتَ صَدَقْتَ عَلَيْهَا، فَهُوَ بِمَا اسْتَحَلَلْتَ مِنْ فَرْجِهَا، وَإِنْ كُنْتَ كَذَبْتَ عَلَيْهَا، فَذَلِكَ أَبْعَدُ لَكَ مِنْهَا». مَتَّقْ عَلَيْهِ.

the woman keeps silent, she will be punished. However, if she denies the allegation, she will have to swear four times denying the allegation and the fifth time she would say: If he is speaking the truth, may Allāh’s Curse fall on me. Since Allāh’s Curse is invoked in this matter, it is referred to as *Li’ān*. *Li’ān* makes a separation between a man and his wife automatically, and there is no way for them to remarry.

[1] In this *Hadīth* attention is called to repentance for sins.

[2] It relates that dowry cannot be taken back from the woman. It is a unanimous issue.

938. Narrated Anas ؓ: The Prophet ﷺ said, "Observe her, and if she gives birth to a child which is white complexioned with dark hair, her husband would be its father. But if she gives birth to a child with eyes looking as if they have antimony (*Kubl*) in them and curled hair, the man whom her husband charged her with committing adultery is its father."^[1] [Agreed upon].

(٩٣٨) وَعَنْ أَنَسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، أَنَّ النَّبِيَّ ﷺ قَالَ: «أَبْصُرُوهَا، فَإِنْ جَاءَتْ بِهٍ أَبْيَضَ، سَبِطًا، فَهُوَ لِرِزْوَجِهَا، وَإِنْ جَاءَتْ بِهٍ أَحْمَلَ، جَعْدًا، فَهُوَ لِلَّذِي رَمَاهَا بِهِ». مُتَّفَقٌ عَلَيْهِ.

939. Narrated Ibn 'Abbās ؓ: Allāh's Messenger ﷺ ordered a man to put his hand on his mouth^[2] when he came to the fifth pronouncement and said, "It would be the deciding one." [Reported by Abū Dā'ud and An-Nasā'i. Its narrators are reliable].

(٩٣٩) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، أَنَّ رَسُولَ اللَّهِ ﷺ أَمَرَ رَجُلًا أَنْ يَضَعَ يَدَهُ عِنْدَ الْخَامِسَةِ عَلَى فِيهِ، وَقَالَ: «إِنَّهَا مُوجِبَةٌ». رَوَاهُ أَبُو دَاوُدَ وَالتَّنْسَائِيُّ، وَرِجَالُهُ ثِقَاتٌ.

940. Narrated Sahl bin Sa'd ؓ concerning the story of the two (husband and wife) who invoked curses regarding one another: When they finished invoking curses regarding one another the man said, "I shall have lied against her, O Allāh's Messenger, if I keep her (as a wife)." He, then, pronounced her divorce three times,^[3] even before Allāh's Messenger ﷺ commanded him to do so. [Agreed upon].

(٩٤٠) وَعَنْ سَهْلِ بْنِ سَعْدٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا - فِي قِصَّةِ الْمُتَلَاعِنِينَ - قَالَ: فَلَمَّا فَرَغَا مِنْ تَلَاغُمِهِمَا، قَالَ: كَذَبْتُ عَلَيْهَا يَا رَسُولَ اللَّهِ! إِنْ أَمْسَكْتُهَا، فَطَلَقْتُهَا ثَلَاثًا قَبْلَ أَنْ يَأْمُرَهُ رَسُولُ اللَّهِ ﷺ. مُتَّفَقٌ عَلَيْهِ.

941. Narrated Ibn 'Abbās ؓ: A man came to the Prophet ﷺ and said, "My wife rejects no hand of a man who wishes to touch her"^[4]. He said,

(٩٤١) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، أَنَّ رَجُلًا جَاءَ إِلَى النَّبِيِّ ﷺ، فَقَالَ: «إِنَّ امْرَأَتِي لَا تَرُدُّ يَدَ لَأَمْسٍ، قَالَ: «غَرَّبْتُهَا».

[1] This *Hadīth* relates three points: First, about the things not made clear by Revelation, the Prophet ﷺ exercised his judgement in them. Second, if the primary sources for decision making are not available, making decision by conjecture is allowed. Third, in case of *Li'ān*, even if the conjecture is correct, the woman is not punished for adultery.

[2] Putting the hand on the mouth is a sign to be heedful and conscious on the last pronouncement; after it one has to bear the consequences in this world or in the Hereafter. If the man stops for the fifth time he will be punished for slandering. Woman has also the right of *Li'ān* if she wishes.

[3] After *Li'ān* there is no need of divorce, it automatically befalls. After *Li'ān* woman is not entitled to receive any maintenance allowance or lodging.

[4] It has various meanings: Firstly, she is of loose character with strangers. Seconding, she is

944. Narrated Abū Huraira رضي الله عنه: A man said, "O Allāh's Messenger, my wife has given birth to a black son." He asked, "Have you any camels." He replied, "Yes." He asked, "What is their color?" He replied, "They are red." He asked, "Is there a dusky (dark) one among them?" He replied, "Yes." He asked, "How has that come about?" He replied, "It is perhaps a strain to which it has reverted (i.e. heredity)." He said, "It is perhaps a strain to which this son of yours has reverted." [Agreed upon]. A narration by Muslim has: "he was intending to disown him." Muslim concluded the *Hadīth* as follows: "He did not permit him to disown him."

(٩٤٤) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، أَنَّ رَجُلًا قَالَ: يَا رَسُولَ اللَّهِ! إِنَّ أَمْرَأَتِي وَوَلَدَتْ غُلَامًا أَسْوَدًا، قَالَ: «هَلْ لَكَ مِنْ إِبِلٍ؟» قَالَ: نَعَمْ، قَالَ: «فَمَا أَلْوَانُهَا؟» قَالَ: حُمْرٌ، قَالَ: «هَلْ فِيهَا مِنْ أَوْزُقٍ؟» قَالَ: نَعَمْ، قَالَ: «فَأَنَّى ذَلِكَ؟» قَالَ: لَعَلَّهُ نَزَعَهُ عِزْقٌ، قَالَ: «فَلَعَلَّ ابْنَكَ هَذَا نَزَعَهُ عِزْقٌ». مُتَّفَقٌ عَلَيْهِ. وَفِي رِوَايَةِ مُسْلِمٍ: «هُوَ يُعْرَضُ بِأَنْ يَنْفِيهِ» وَقَالَ فِي آخِرِهِ: «وَلَمْ يُرَخِّصْ لَهُ فِي آلَانِيَاءٍ مِنْهُ».

Chapter 11

AL-'IDDAH^[1], AL-IHDĀD^[2], AL-ISTIBRA^[3], AND OTHER PERTINENT MATTERS

١١ - بَابُ الْعِدَّةِ وَالْإِحْدَادِ وَالْإِسْتِبْرَاءِ وَعَبْرَ ذَلِكَ

945. Narrated Al-Miswar bin Makhrama (رضي الله عنه): Some nights after her husband's death, Subai'a Al-Aslamiya^[4] رضي الله عنها gave birth to a child. Then she went to the Prophet ﷺ and asked permission to marry. He gave her permission and she married. [Reported by Al-Bukhāri]. Its basic meaning is found in the two *Sahib* books of Al-Bukhāri and Muslim.

(٩٤٥) عَنِ الْمِسْوَرِ بْنِ مَخْرَمَةَ، أَنَّ سُبَيْمَةَ الْأَسْلَمِيَّةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا نَفِسَتْ بَعْدَ وَفَاةِ زَوْجِهَا بِلَيْالٍ، فَجَاءَتْ إِلَى النَّبِيِّ ﷺ، فَاسْتَأْذَنَتْهُ أَنْ تَنْكِحَ، فَأْذِنَ لَهَا، فَتَكَحَّتْ. رَوَاهُ الْبُخَارِيُّ، وَأَصْلُهُ فِي الصَّحِيحَيْنِ. وَفِي لَفْظٍ: «أَنَّهَا وَضَعَتْ بَعْدَ وَفَاةِ زَوْجِهَا بِأَرْبَعِينَ لَيْلَةً».

[1] 'Iddah (العدة) is a period of waiting in which a woman is not allowed to remarry, after the death of her husband or divorce. There are three kinds of 'Iddah: 1) 'Iddah of Birth 2) 'Iddah of Menses and 3) 'Iddah of Months. For a pregnant woman, in either case – death of the husband or divorce – her 'Iddah is up to the birth of the child. For example, she is divorced or her husband dies today, and the next day she gives birth to a child. Her 'Iddah ends with the birth of child. She is allowed to marry at anytime, but as long as she is not free from the post-childbirth bleeding, it is not proper to have a sexual intercourse with her.

[2] Ihdād (الإحداد) is the observing of mourning, by a woman, for her husband who has died.

[3] Istibra' (الاستبراء) is the time of waiting, till one menstruation period has passed, in the case of a newly purchased slave-girl.

[4] Subai'a, daughter of Al-Hārith Al-Aslamiya of Banu Aslam was a *Sahābiya* and Ibn Sa'd mentioned that she was among the *Muhajirāt*. She was married to Sa'd bin Khawla, who died in Makkah during the *Hajjatul-Wadā'*, then she was married by a young man from her people. They also mentioned that she married Abū Sanābil.