

AL-MUHALLA

# كِتَابُ الْحَجِّ

# The Book of Pilgrimage (Hajj)

Abu Muhammed Ali Ibn Hazm Al-Andalusi · Arabic–English parallel edition

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## The Chapter on the Hajj

811 – Issue:

[Abū Muḥammad said]: Hajj to Mecca and Umrah to Mecca are two obligations incumbent upon every believing Muslim—sane, adult, male or female, virgin or married. Free men and slaves, free women and female slaves—all are equally obligated in this matter, once in a lifetime, provided they possess the means we have mentioned to reach it. These obligations are also incumbent upon disbelievers, except that these obligations are not accepted from them unless after embracing Islam, nor are they permitted to enter the Sacred Sanctuary until they believe.

As for our statement regarding the obligation of Hajj—upon the believing, sane, adult free man, and the free woman who has a husband or a mahram to accompany her in performing Hajj once in a lifetime—this constitutes a definitively established consensus. Scholars have differed concerning the woman who has neither a husband nor a mahram, the female slave, the male slave, and concerning *ʿUmrah*. The proof for the validity of our position is the statement of Allah, the Exalted: {And due to Allah upon the people is [to make] Hajj to the House—whoever is able to find a way to it} [Āl ʿImrān:97]. Thus, He, the Exalted, generalized and did not specify.[1]

The Almighty and Majestic said: "Fulfill the Ḥajj and ʿUmrah for Allah" [al-Baqarah: 196].[2]

A group said: "'Umrah is not obligatory," and they cited as evidence what we narrated through the chain of Al-Ḥajjāj ibn Arṭā'ah from Ibn al-Munkadir from Jābir: "The Messenger of Allah (peace be upon him) was asked about 'Umrah, 'Is it an obligation?' He replied: 'No, but to perform 'Umrah is better for you.'"

It has been narrated to us from Mu'awiyah ibn Ishaq, through Abu Salih

[1] **Qur'an references (L12405):** Qur'an 3:97 (Ali 'Imran).
[2] **Qur'an references (L12406):** Qur'an 2:196 (Al-Baqarah).

## [كِتَابُ الْحَجِّ]

٨١١ - مَسْأَلَةٌ:

[قَالَ أَبُو مُحَمَّدٍ] : الْحَجُّ إلَى مَكَّةَ، وَالْعُمْرَةُ [إلَيْهَا] فَرْضَانِ عَلَى كُلِّ مُؤْمِنٍ، عَاقِلٍ، بَالِغٍ، ذَكَرٍ، أَوْ أُنْثَى، بِكْرٍ، أَوْ ذَاتِ زَوْجٍ. الْحُرُّ وَالْعَبْدُ، وَالْحُرَّةُ وَالْأَمَةُ، فِي كُلِّ ذَلِكَ سَوَاءٌ، مَرَّةً فِي الْعُمْرِ إذَا وَجَدَ مَنْ ذَكَرْنَا إلَيْهَا سَبِيلًا، وَهُمَا أَيْضًا عَلَى أَهْلِ الْكُفْرِ إلَّا أَنَّهُ لَا يُقْبَلُ مِنْهُمْ إلَّا بَعْدَ - الْإِسْلَامِ، وَلَا يُتْرَكُونَ وَدُخُولَ الْحَرَمِ حَتَّى يُؤْمِنُوا.

أَمَّا قَوْلُنَا بِوُجُوبِ الْحَجِّ - عَلَى الْمُؤْمِنِ الْعَاقِلِ الْبَالِغِ الْحُرِّ، وَالْحُرَّةِ الَّتِي لَهَا زَوْجٌ أَوْ ذُو مَحْرَمٍ يَحُجُّ مَعَهَا مَرَّةً فِي الْعُمْرِ - فَإِجْمَاعٌ مُتَيَقَّنٌ، وَاخْتَلَفُوا فِي الْمَرْأَةِ، لَا زَوْجَ لَهَا وَلَا ذَا مَحْرَمٍ، وَفِي الْأَمَةِ وَالْعَبْدِ، وَفِي الْعُمْرَةِ -: بُرْهَانُ صِحَّةِ قَوْلِنَا -: قَوْلُ اللَّهِ تَعَالَى: {وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] فَعَمَّ تَعَالَى وَلَمْ يَخُصَّ.

وَقَالَ عَزَّ وَجَلَّ: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] .

وَقَالَ قَوْمٌ: الْعُمْرَةُ لَيْسَتْ فَرْضًا وَاحْتَجُّوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ الْحَجَّاجِ بْنِ أَرْطَاةَ عَنْ ابْنِ الْمُنْكَدِرِ عَنْ جَابِرٍ «سُئِلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْعُمْرَةِ أَفَرِيضَةٌ هِيَ؟ قَالَ: لَا، وَأَنْ تَعْتَمِرَ خَيْرٌ لَكَ» .

وَبِمَا رُوِّينَاهُ عَنْ مُعَاوِيَةَ بْنِ إِسْحَاقَ عَنْ أَبِي صَالِحٍ مَاهَانَ الْحَنَفِيِّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «الْحَجُّ جِهَادٌ وَالْعُمْرَةُ تَطَوُّعٌ» .

Mahan al-Hanafi, that the Prophet (peace be upon him) said: “Hajj is jihad, and Umrah is a supererogatory act.”

L12410 And through the narration of Yaḥyā ibn Ayyūb from ʿAbd Allāh ibn ʿUmar from Abī al-Zubayr from Jābir: “I said: O Messenger of Allah, is ʿUmrah an obligation like the Ḥajj? He said: No, but performing ʿUmrah is better for you.”

وَمِنْ طَرِيقِ يَحْيَى بْنِ أَيُّوبَ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ «قُلْتُ: يَا رَسُولَ اللَّهِ الْعُمْرَةُ فَرِيضَةٌ كَالْحَجِّ؟ قَالَ: لَا، وَأَنْ تَعْتَمِرَ خَيْرٌ لَكَ» .

L12411 From the chain of Hafs ibn Ghaylan, from Makhul, from Abu Umamah al-Bahili, from the Prophet—peace and blessings of Allah be upon him—: “Whoever walks to an obligatory prayer, it is like Hajj, and whoever walks to a voluntary prayer, it is like a complete Umrah.”

وَمِنْ طَرِيقِ حَفْصِ بْنِ غَيْلَانَ عَنْ مَكْحُولٍ عَنْ أَبِي أُمَامَةَ الْبَاهِلِيِّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَنْ مَشَى إِلَى صَلَاةٍ مَكْتُوبَةٍ فَهِيَ كَحَجَّةٍ، وَمَنْ مَشَى إِلَى صَلَاةِ تَطَوُّعٍ فَهِيَ كَعُمْرَةٍ تَامَّةٍ» .

L12412–12413 From the narration of Yaḥyā ibn al-Ḥārith from al-Qāsim Abū ʿAbd al-Raḥmān from Abū Umāmah from the Prophet (peace be upon him): “Whoever walks to a prescribed prayer, his reward is equivalent to that of a pilgrim, and whoever walks to glorification in the forenoon, his reward is equivalent to that of one performing ʿUmrah.”

وَمِنْ طَرِيقِ يَحْيَى بْنِ الْحَارِثِ عَنْ الْقَاسِمِ أَبِي عَبْدِ الرَّحْمَنِ عَنْ أَبِي أُمَامَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَنْ مَشَى إِلَى مَكْتُوبَةٍ فَأَجْرُهُ كَأَجْرِ الْحَاجِّ، وَمَنْ مَشَى إِلَى تَسْبِيحِ الضُّحَى فَأَجْرُهُ كَأَجْرِ الْمُعْتَمِرِ» .

L12414 From the narration of Muḥāḍir ibn al-Muwarriʿ from al-Aḥwaṣ ibn Ḥakīm from ʿAbd Allāh ibn Ḥakīm from ʿAbd Allāh ibn ʿĀbir al-Alhānī from ʿUtbah ibn ʿAbd al-Sulamī and Abū Umāmah al-Bāhilī—both narrating from the Messenger of Allāh (peace and blessings be upon him): “Whoever prays in a mosque in congregation and then remains in it to perform the supererogatory prayer of Duḥā will have a reward like that of a Ḥajj pilgrim and one who performs ʿUmrah.”

وَمِنْ طَرِيقِ مُحَاضِرِ بْنِ الْمُوَرِّعِ عَنْ الْأَحْوَصِ بْنِ حَكِيمٍ عَنْ عَبْدِ اللَّهِ بْنِ حَكِيمٍ عَنْ عَبْدِ اللَّهِ بْنِ عَابِرٍ الْأَهْلَانِيِّ عَنْ عُتْبَةَ بْنِ عَبْدٍ السُّلَمِيِّ، وَعَنْ أَبِي أُمَامَةَ الْبَاهِلِيِّ كِلَاهُمَا عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَنْ صَلَّى فِي مَسْجِدٍ جَمَاعَةً ثُمَّ ثَبَتَ فِيهِ سُبْحَةَ الضُّحَى كَانَ كَأَجْرِ حَاجٍّ وَمُعْتَمِرٍ» .

L12415 And from the chain of Abd al-Baqi ibn Qaniʿ: a hadith in which Umar ibn Qays narrates from Talhah ibn Musa, from his paternal uncle Ishaq ibn Talhah, from his father, that he heard the Prophet—may Allah’s peace and blessings be upon him—say: “Hajj is jihad, and Umrah is a supererogatory act.”

وَمِنْ طَرِيقِ عَبْدِ الْبَاقِي بْنِ قَانِعٍ حَدِيثًا فِيهِ عُمَرُ بْنُ قَيْسٍ عَنْ طَلْحَةَ بْنِ مُوسَى، عَنْ عَمِّهِ إِسْحَاقَ بْنِ طَلْحَةَ عَنْ أَبِيهِ أَنَّهُ سَمِعَ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُ: «الْحَجُّ جِهَادٌ وَالْعُمْرَةُ تَطَوُّعٌ» .

L12416 From the path of Ibn Qāniʿ from Aḥmad ibn Muḥammad ibn Baḥīr al-ʿAṭṭār from Muḥammad ibn Bakkār from Muḥammad ibn al-Faḍl ibn ʿUlayyah

from Sālim al-Afṭas from Saʿīd ibn Jubayr from Ibn ʿAbbās from the Prophet (peace be upon him): “Ḥajj is a struggle, and ʿUmrah is a voluntary act.”

وَمِنْ طَرِيقِ ابْنِ قَانِعٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدِ بْنِ بَحِيرٍ الْعَطَّارِ عَنْ مُحَمَّدِ بْنِ بَكَّارَ عَنْ مُحَمَّدِ بْنِ الْفَضْلِ ابْنِ عُلَيَّةَ عَنْ سَالِمٍ الْأَفْطَسِ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «الْحَجُّ جِهَادٌ وَالْعُمْرَةُ تَطَوُّعٌ» .

L12417 And through the chain of Abd al-Baqi ibn Qani’, who narrated to us Bishr ibn Musa, who narrated to us Ibn al-Isfahani, who narrated to us Jarir and Abu al-Ahwas from Mu’awiyah ibn Ishaq from Abu Salih from Abu Hurairah from the Prophet - peace and blessings of Allah be upon him -: “Hajj is jihad, and Umrah is a voluntary act.”

وَمِنْ طَرِيقِ عَبْدِ الْبَاقِي بْنِ قَانِعٍ نا بِشْرُ بْنُ مُوسَى نا ابْنُ الْأَصْبَهَانِيِّ نا جَرِيرٌ وَأَبُو الْأَحْوَصِ عَنْ مُعَاوِيَةَ بْنِ إِسْحَاقَ عَنْ أَبِي صَالِحٍ عَنْ أَبِي هُرَيْرَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «الْحَجُّ جِهَادٌ وَالْعُمْرَةُ تَطَوُّعٌ» .

L12418–12419 They said: It has been authentically reported from the Prophet (peace and blessings of Allah be upon him) that he said: “‘Umrah has entered into Hajj until the Day of Resurrection.”

وَقَالُوا: قَدْ صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إلَى يَوْمِ الْقِيَامَةِ» .

L12420 Abu Dawud reported via Zuhayr ibn Harb and Uthman ibn Abi Shaybah, who both said: Zayd ibn Harun reported to us from Sufyan ibn Husayn, from al-Zuhri, from Abu Sinan, from Ibn Abbas that al-Aqraʿ ibn Habis said: “O Messenger of Allah, is Hajj every year or only once?” He replied: “Rather, once. Whatever exceeds that is supererogatory.” They said: It has been established that only one Hajj is obligatory. As for Umrah, it is supererogatory due to its inclusion within Hajj. They said: Allah’s statement, {And complete Hajj and Umrah} (Al-Baqarah 2:196), does not mandate their obligation, but rather mandates their completion for those who have entered into them - not their initial undertaking. This is akin to saying, “Complete the supererogatory prayer” or “Complete the supererogatory fast.”[3]

وَرَوَى أَبُو دَاوُد نا زُهَيْرُ بْنُ حَرْبٍ وَعُثْمَانُ بْنُ أَبِي شَيْبَةَ قَالَا: نا زَيْدُ بْنُ هَارُونَ عَنْ سُفْيَانَ بْنِ حُسَيْنٍ عَنْ الزُّهْرِيِّ عَنْ أَبِي سِنَانٍ عَنْ ابْنِ عَبَّاسٍ أَنَّ الْأَقْرَعَ بْنَ حَابِسٍ قَالَ: «يَا رَسُولَ اللَّهِ الْحَجُّ فِي كُلِّ عَامٍ أَمْ مَرَّةً وَاحِدَةً؟ قَالَ: بَلْ مَرَّةً وَاحِدَةً فَمَا زَادَ فَتَطَوُّعٌ» قَالُوا: فَقَدْ صَحَّ أَنَّهُ لَا يَلْزَمُ إلَّا حَجَّةٌ وَاحِدَةٌ، فَالْعُمْرَةُ تَطَوُّعٌ لِدُخُولِهَا فِي الْحَجِّ، وَقَالُوا: قَوْلُ اللَّهِ تَعَالَى: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ} [البقرة: ١٩٦] لَا يُوجِبُ كَوْنَهَا فَرْضًا، وَإِنَّمَا يُوجِبُ إتْمَامَهَا عَلَى مَنْ دَخَلَ فِيهَا لَا ابْتِدَاءَهَا، لَكِنْ كَمَا تَقُولُ: أَتِمَّ الصَّلَاةَ التَّطَوُّعَ، وَالصَّوْمَ التَّطَوُّعَ.

L12421 They said: Since the Umrah is not tied to a specific time, it must not be obligatory: and it has been reported to us from Ibrāhīm al-Nakhaʿī and al-Shaʿbī that it is voluntary? Abū Muḥammad said: This is all they have used to obscure the matter, and all of it is invalid. As for the ḥadīths they

وَقَالُوا: لَمَّا كَانَتْ الْعُمْرَةُ غَيْرَ مُرْتَبِطَةٍ بِوَقْتٍ وَجَبَ أَنْ لَا تَكُونَ فَرْضًا -: وَرُوِّينَا عَنْ إبْرَاهِيمَ النَّخَعِيِّ، وَالشَّعْبِيِّ: أَنَّهَا تَطَوُّعٌ؟ قَالَ أَبُو مُحَمَّدٍ: هَذَا كُلُّ مَا مَوَّهُوا بِهِ وَكُلُّهُ بَاطِلٌ،

[3] **Qur’an references (L12420):** Qur’an 2:196 (Al-Baqarah).

mentioned, they are entirely fabricated; as for Jabir's ḥadīth, al-Ḥajjāj ibn Arṭāʿah is discarded – his narrations cannot be used as proof.

أَمَّا الْأَحَادِيثُ الَّتِي ذَكَرُوا فَمَكْذُوبَةٌ كُلُّهَا، أَمَّا حَدِيثُ جَابِرٍ فَالْحَجَّاجُ بْنُ أَرْطَاةَ سَاقِطٌ لَا يُحْتَجُّ بِهِ.

L12422 The other chain of narrators is discarded and weaker because it is transmitted via Yahya ibn Ayyub – who is weak – from al-ʻUmari the Younger – who is also weak.

وَالطَّرِيقُ الْأُخْرَى أَسْقَطُ وَأَوْهَنُ، لِأَنَّهَا مِنْ طَرِيقِ يَحْيَى بْنِ أَيُّوبَ - وَهُوَ ضَعِيفٌ عَنْ الْعُمَرِيِّ الصَّغِيرِ - وَهُوَ ضَعِيفٌ.

L12423 As for the ḥadīth of Abū Ṣāliḥ, Māhan al-Ḥanafī, it is mursal, and this Māhan is weak, a Kūfī.

وَأَمَّا حَدِيثُ أَبِي صَالِحٍ مَاهَانَ الْحَنَفِيِّ فَهُوَ مُرْسَلٌ - وَمَاهَانُ هَذَا ضَعِيفٌ كُوفِيٌّ.

L12424–12425 As for the ḥadīth of Abū Umāmah, one of its chains of transmission is reported through Ḥafṣ ibn Ghaylān (who is an unknown narrator) from Makḥūl, who is reported from Abū Umāmah, though Makḥūl did not hear anything from Abū Umāmah.

وَأَمَّا حَدِيثُ أَبِي أُمَامَةَ فَأَحَدُ طُرُقِهِ عَنْ حَفْصِ بْنِ غَيْلَانَ - وَهُوَ مَجْهُولٌ عَنْ مَكْحُولٍ عَنْ أَبِي أُمَامَةَ وَلَمْ يَسْمَعْ مَكْحُولٌ مِنْ أَبِي أُمَامَةَ شَيْئًا.

L12426 The second narration is through the chain of al-Qāsim Abī ʿAbd al-Raḥmān—and he is weak. The third narration is through the chain of Ibn al-Muwarriʿ—and he is weak—from al-Aḥwaṣ ibn Ḥakīm—and he is discarded—from ʿAbd Allāh ibn ʿĀbir—and he is unknown. It is a denounced ḥadīth, blatantly fabricated, because if the reward for ʿUmrah were equivalent to the reward of one who walks to a voluntary prayer, there would be no point in the Prophet's—peace and blessings of Allah be upon him—deliberate undertaking to perform ʿUmrah in Mecca after departing from Medina; it would have been futile—and we seek refuge in Allah from this.

وَالْأُخْرَى مِنْ طَرِيقِ الْقَاسِمِ أَبِي عَبْدِ الرَّحْمَنِ - وَهُوَ ضَعِيفٌ. وَالثَّالِثَةُ - مِنْ طَرِيقِ ابْنِ الْمُوَرِّعِ وَهُوَ ضَعِيفٌ عَنْ الْأَحْوَصِ بْنِ حَكِيمٍ وَهُوَ سَاقِطٌ عَنْ عَبْدِ اللَّهِ بْنِ عَابِرٍ، وَهُوَ مَجْهُولٌ، وَهُوَ حَدِيثٌ مُنْكَرٌ ظَاهِرُ الْكَذِبِ، لِأَنَّهُ لَوْ كَانَ أَجْرُ الْعُمْرَةِ كَأَجْرِ مَنْ مَشَى إِلَى صَلَاةِ تَطَوُّعٍ لَمَا كَانَ - لِمَا تَكَلَّفَهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ الْقَصْدِ إِلَى الْعُمْرَةِ إِلَى مَكَّةَ مِنْ الْمَدِينَةِ - مَعْنًى، وَلَكَانَ فَارِغًا - وَنَعُوذُ بِاَللَّهِ مِنْ هَذَا.

L12427 As for the ḥadīth of Ṭalḥah, it is transmitted through the chain of ʿAbd al-Bāqī ibn Qāniʿ. The ḥadīth scholars have unanimously agreed to disregard his narrations, for he is the narrator of every baseless tale and fabrication. Moreover, in its chain of transmission is ʿUmar ibn Qays Sandal, who is weak.

وَأَمَّا حَدِيثُ طَلْحَةَ فَمِنْ طَرِيقِ عَبْدِ الْبَاقِي بْنِ قَانِعٍ، وَقَدْ أَصْفَقَ أَصْحَابُ الْحَدِيثِ عَلَى تَرْكِهِ، وَهُوَ رَاوِي كُلِّ بَلِيَّةٍ وَكَذِبَةٍ، ثُمَّ فِيهِ عُمَرُ بْنُ قَيْسٍ سندل وَهُوَ ضَعِيفٌ.

L12428 As for the ḥadīth of Ibn ʾAbbās, it is transmitted through ʾAbd al-Bāqī ibn Qāniʾ, and that suffices; moreover, it comes via three unknown narrators in an uninterrupted chain of unknown individuals whose identities remain undetermined.

وَأَمَّا حَدِيثُ ابْنِ عَبَّاسٍ فَمِنْ طَرِيقِ عَبْدِ الْبَاقِي بْنِ قَانِعٍ وَيَكْفِي، ثُمَّ هُوَ عَنْ ثَلَاثَةٍ مَجْهُولِينَ فِي نَسَقٍ لَا يُدْرَى مَنْ هُمْ.

L12429 As for the ḥadīth of Abū Hurayrah, it is an absolute fabrication from the calamities introduced by ʿAbd al-Bāqī ibn Qāniʿ, which he alone narrated, while others transmitted it as mursal through the chain of Abū Ṣāliḥ Māhān as we previously mentioned. Yet he inserted Abū Hurayrah into it, misleadingly implying it was from Ṣāliḥ al-Sammān. Thus all these narrations have been invalidated, and all praise belongs to Allah.

وَأَمَّا حَدِيثُ أَبِي هُرَيْرَةَ فَكَذِبٌ بَحْتٌ مِنْ بَلَايَا عَبْدِ الْبَاقِي بْنِ قَانِعٍ الَّتِي انْفَرَدَ بِهَا وَالنَّاسُ رَوَوْهُ مُرْسَلًا مِنْ طَرِيقِ أَبِي صَالِحٍ مَاهَانَ كَمَا أَوْرَدْنَا قَبْلُ فَزَادَ فِيهِ أَبَا هُرَيْرَةَ، وَأَوْهَمَ أَنَّهُ صَالِحٌ السَّمَّانُ - فَسَقَطَتْ كُلُّهَا وَلِلَّهِ الْحَمْدُ.

L12430 If we had willed, we could have countered them with what we narrated through Ibn Lahīʿah's chain from ʿAṭāʾ from Jābir from the Prophet—peace and blessings of Allah be upon him—that he said: "Ḥajj and ʿUmrah are two obligatory and mandated rites." But Allah—Exalted and Glorified—grants us refuge, and I seek refuge with Allah and the Sacred Month from citing what is not a valid proof. Yet when Ibn Lahīʿah narrates what aligns with their views, he becomes reliable, but when he narrates what contradicts them, he is deemed weak. By Allah, is this the act of one who is certain he will be held accountable for his statements regarding Allah's religion? Abū Muḥammad said: We know them to say: "When a Companion narrates a report but neglects it, this serves as evidence of that report's weakness."

وَلَوْ شِئْنَا لَعَارَضْنَاهُمْ بِمَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ لَهِيعَةَ عَنْ عَطَاءٍ عَنْ جَابِرٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: «الْحَجُّ وَالْعُمْرَةُ: فَرِيضَتَانِ وَاجِبَتَانِ» وَلَكِنْ يُعِيذُنَا اللَّهُ عَزَّ وَجَلَّ، وَمَعَاذَ اللَّهِ وَالشَّهْرِ الْحَرَامِ مِنْ أَنْ نَحْتَجَّ بِمَا لَيْسَ حُجَّةً، وَلَكِنَّ ابْنَ لَهِيعَةَ إذَا رَوَى مَا يُوَافِقُهُمْ صَارَ ثِقَةً وَإِذَا رَوَى مَا يُخَالِفُهُمْ صَارَ ضَعِيفًا، وَاَللَّهِ مَا هَذَا فِعْلُ مَنْ يُوقِنُ أَنَّهُ مُحَاسَبٌ بِكَلَامِهِ فِي دِينِ اللَّهِ تَعَالَى؟ قَالَ أَبُو مُحَمَّدٍ: وَعَهْدُنَا بِهِمْ يَقُولُونَ: إنَّ الصَّاحِبَ إذَا رَوَى خَبَرًا وَتَرَكَهُ كَانَ ذَلِكَ دَلِيلًا عَلَى ضَعْفِ ذَلِكَ الْخَبَرِ.

L12431–12432 From Aḥmad ibn Muḥammad al-Ṭalamankī, from Ibn Mufarrij, from Ibrāhīm ibn Aḥmad ibn Firās, from Muḥammad ibn ʿAlī ibn Zayd al-Ṣāʾigh, from Saʿīd ibn Manṣūr, from Sufyān—that is, Ibn ʿUyaynah—from ʿAbd Allāh ibn Ṭāwūs, from his father, from Ibn ʿAbbās, that he said: "Ḥajj and ʿUmrah are two obligations."

وَقَدْ حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ الطَّلَمَنْكِيُّ نا ابْنُ مُفَرِّجٍ نا إبْرَاهِيمُ بْنُ أَحْمَدَ بْنِ فِرَاسٍ نا مُحَمَّدُ بْنُ عَلِيِّ بْنِ زَيْدٍ الصَّائِغُ نا سَعِيدُ بْنُ مَنْصُورٍ نا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: «الْحَجُّ وَالْعُمْرَةُ وَاجِبَتَانِ» .

L12433 He transmitted textually to Sufyān from ʿAmr ibn Dīnār from Ṭāwūs from Ibn ʿAbbās that he said regarding Ḥajj and ʿUmrah: "She (ʿUmrah) is indeed her companion (Ḥajj's) in the Book of Allah." This is narrated from Ibn ʿAbbās through chains of the highest authenticity, affirming that it (ʿUmrah) is obligatory like the obligation of Ḥajj.

وَبِهِ نَصًّا إلَى سُفْيَانَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ فِي الْحَجِّ وَالْعُمْرَةِ: إنَّهَا لَقَرِينَتُهَا فِي كِتَابِ اللَّهِ وَهَذَا عَنْ ابْنِ عَبَّاسٍ مِنْ طُرُقٍ فِي غَايَةِ الصِّحَّةِ أَنَّهَا وَاجِبَةٌ كَوُجُوبِ الْحَجِّ.

L12434 Aḥmad ibn ʿUmar ibn Anas informed us: ʿAbdullāh ibn al-Ḥusayn ibn ʿIqāl informed us, from Ibrāhīm ibn Muḥammad al-Dīnawarī, from Muḥammad ibn Aḥmad ibn al-Jahm, from Abū Qilābah, from al-Anṣārī—who is Muḥammad ibn ʿAbdillāh the Judge—stating: "I am Ibn Jurayj; Abū al-Zubayr informed me that he heard Jābir ibn ʿAbdillāh say: 'No Muslim is exempted

وَنا أَحْمَدُ بْنُ عُمَرَ بْنِ أَنَسٍ نا عَبْدُ اللَّهِ بْنِ الْحُسَيْنِ بْنِ عِقَالٍ نا إبْرَاهِيمُ بْنُ مُحَمَّدٍ الدِّينَوَرِيُّ نا مُحَمَّدُ بْنُ أَحْمَدَ بْنِ الْجَهْمِ نا أَبُو قِلَابَةَ نا الْأَنْصَارِيُّ هُوَ مُحَمَّدُ بْنُ عَبْدِ اللَّهِ الْقَاضِي - أَنَا

from performing a Ḥajj and an ʿUmrah—[as per] "whoever is able to undertake the journey" [Quran 3:97]."[4]

L12435 Abu Muhammad said: If the fabricated lies they narrated were authentic, it would necessitate—by their vile, baselessly invented principles—the rejection of all such reports, since they claim Ibn Abbas and Jabir transmitted those narrations while authentic contrary reports are established from them. But these people are deceivers, as you see, and we seek refuge in Allah from abandonment.

L12436 Abu Muhammad said: Then even if all of them were valid—and Allah forbid that falsehood and lies be validated—they would have no valid argument in any of those matters.

L12437 As for what was narrated to us by Abdullah ibn Rabi': Muhammad ibn Mu'awiyah from Ahmad ibn Shu'ayb from Muhammad ibn Abd al-A'la al-San'ani from Khalid ibn al-Harith from Shu'bah, who said: I heard al-Nu'man ibn Salim say: I heard Amr ibn Awsa narrate from Abu Razin al-Uqayli that he said: «O Messenger of Allah, my father is a venerable elder unable to perform Hajj, Umrah, or travel by mount.» He replied: «Perform Hajj and Umrah on behalf of your father.»

L12438–12440 So this is the command of Allah's Messenger - peace and blessings be upon him - regarding the fulfillment of the obligatory Hajj and Umrah on behalf of those unable to perform them; thus this is the ruling. An additional [consideration] and a prescribed law; those narrations were in accordance with the established principle, for Hajj and Umrah were undoubtedly voluntary acts, not obligations. When Allah the Exalted and His Messenger (peace be upon him) commanded them, their voluntary status was unequivocally nullified, and they became two obligations. Whoever claims the invalidity of this ruling and the revival of the abrogated has lied, spoken falsely, and fabricated—pursuing what he has no knowledge of. Thus, every forged report they falsified is invalid—even if they were authentic, how much more so when all

ابْنُ جُرَيْجٍ أَخْبَرَنِي أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: لَيْسَ مُسْلِمٌ إِلَّا عَلَيْهِ حَجَّةٌ وَعُمْرَةٌ {مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] .

قَالَ أَبُو مُحَمَّدٍ: فَلَوْ صَحَّ مَا رَوَوْا مِنَ الْكَذِبِ الْمُلَفَّقِ لَوَجَبَ عَلَى أُصُولِهِمُ الْخَبِيثَةِ الْمُفْتَرَاةِ إِسْقَاطُ كُلِّ ذَلِكَ إِذَا كَانَ ابْنُ عَبَّاسٍ وَجَابِرٌ رَوَيَا تِلْكَ الْأَخْبَارَ بِزَعْمِهِمْ قَدْ صَحَّ عَنْهُمَا خِلَافُهَا، وَلَكِنَّ الْقَوْمَ مُتَلَاعِبُونَ كَمَا تَرَوْنَ، وَنَعُوذُ بِاللَّهِ مِنَ الْخِذْلَانِ.

قَالَ أَبُو مُحَمَّدٍ: ثُمَّ لَوْ صَحَّتْ كُلُّهَا - وَمَعَاذَ اللَّهِ مِنْ أَنْ يَصِحَّ الْبَاطِلُ وَالْكَذِبُ - لَمَا كَانَتْ لَهُمْ فِي شَيْءٍ مِنْهَا حُجَّةٌ -.

لِمَا حَدَّثَنَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نا مُحَمَّدُ بْنُ مُعَاوِيَةَ نا أَحْمَدُ بْنُ شُعَيْبٍ نَا مُحَمَّدُ بْنُ عَبْدِ الْأَعْلَى الصَّنْعَانِيُّ نا خَالِدٌ هُوَ ابْنُ الْحَارِثِ - نا شُعْبَةَ قَالَ: سَمِعْتُ النُّعْمَانَ بْنَ سَالِمٍ قَالَ: سَمِعْتُ عَمْرَو بْنَ أَوْسٍ يُحَدِّثُ عَنْ «أَبِي رَزِينٍ الْعُقَيْلِيِّ أَنَّهُ قَالَ: يَا رَسُولَ اللَّهِ إِنَّ أَبِي شَيْخٌ كَبِيرٌ لَا يَسْتَطِيعُ الْحَجَّ وَلَا الْعُمْرَةَ وَلَا الظَّعْنَ قَالَ: فَحُجَّ عَنْ أَبِيكَ وَاعْتَمِرْ» .

فَهَذَا أَمْرُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِأَدَاءِ فَرْضِ الْحَجِّ وَالْعُمْرَةِ عَمَّنْ لَا يُطِيقُهُمَا، فَهَذَا حُكْمٌ زَائِدٌ وَشَرْعٌ وَارِدٌ، وَكَانَتْ تَكُونُ تِلْكَ الْأَحَادِيثُ مُوَافِقَةً لِمَعْهُودِ الْأَصْلِ فَإِنَّ الْحَجَّ وَالْعُمْرَةَ قَدْ كَانَا بِلَا شَكٍّ تَطَوُّعًا لَا فَرْضًا فَإِذَا أَمَرَ بِهِمَا اللَّهُ تَعَالَى وَرَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَدْ بَطَلَ كَوْنُهُمَا تَطَوُّعًا بِلَا شَكٍّ وَصَارَا فَرْضَيْنِ، فَمَنِ ادَّعَى بُطْلَانَ هَذَا الْحُكْمِ وَعَوْدَةَ الْمَنْسُوخِ فَقَدْ كَذَبَ وَأَفِكَ وَافْتَرَى، وَقَفَا مَا لَيْسَ لَهُ بِهِ عِلْمٌ، فَبَطَلَ كُلُّ خَبَرٍ مَكْذُوبٍ مَوَّهُوا بِهِ لَوْ صَحَّ فَكَيْفَ وَكُلُّهَا بَاطِلٌ؟ وَأَمَّا قَوْلُ مَنْ قَالَ: إِنَّ إِخْبَارَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِدُخُولِ الْعُمْرَةِ فِي الْحَجِّ، وَبِأَنَّهُ لَيْسَ

[4]**Qur'an references (L12434):** Qur'an 3:97 (Ali 'Imran).

are invalid? As for those who say: "The Prophet's (peace be upon him) report that Umrah is incorporated into Hajj, and that one is only required to perform Hajj once, indicates Umrah is not obligatory"—this is an irrational assertion. Rather, it constitutes clear evidence that Umrah is obligatory, for he (peace be upon him) declared its incorporation into Hajj. No rational person doubts that Umrah has not become equivalent to Hajj. Therefore, its incorporation into Hajj must derive from only two aspects: The first is:

L12441 That a single deed is rewarded to both of them in the Qur'an.

L12442 The second [point] is its inclusion among obligations, like Hajj. If they argue: "It has been reported that it is the lesser Hajj?" We reply: Had this been authentic, it would support our position—for the Qiran entails the obligation of Hajj. Thus, it would then constitute an obligation by the explicit text of Allah's words, the Exalted: {It is a duty to Allah for people to perform Hajj to the House—for those able to do so} [3:97]. However, we do not resort to obscuring with unverified claims, particularly since the narration they cite from Ibn Abbas provides no valid evidence for them. Its narrator, Abu Sinan al-Du'ali, was described by 'Uqayl as "Sinan—unknown and unrecognized." Moreover, they fabricated the narration, distorted it, and falsely implied that it contains the Prophet's statement—peace be upon him—"One is only obligated to perform Hajj once." This has absolutely no basis in that narration whatsoever. It merely states that Hajj is performed once, which does not negate the obligation of Umrah—whether combined with Hajj as Qiran or performed alongside it in the same year. Thus, this [ruling] becomes evidence in our favor against them.[5]

L12443–12444 As for their claim that Allah, the Exalted, only commanded those who have entered them to complete them rather than initiate them, and that some people recited *al-ʿumratu lillāhi* (in the nominative case) instead of the accusative – this is an entirely false assertion, for it is baseless. The statement of the Exalted: "And complete the Ḥajj and 'Umrah for Allah" [al-Baqarah 2:196] does not entail what they claim. Rather, it necessitates the obligation to fulfill both rites in their complete form. Even if their claim were valid,

عَلَى الْمَرْءِ إِلَّا حَجَّةٌ وَاحِدَةٌ دَلِيلٌ عَلَى أَنَّهَا لَيْسَتْ فَرْضًا فَهَذَيَانٌ لَا يُعْقَلُ، بَلْ هَذَا بُرْهَانٌ وَاضِحٌ فِي كَوْنِ الْعُمْرَةِ فَرْضًا، لِأَنَّهُ - عَلَيْهِ السَّلَامُ - أَخْبَرَ بِأَنَّهَا دَخَلَتْ فِي الْحَجِّ، وَلَا يَشُكُّ ذُو عَقْلٍ فِي أَنَّهَا لَمْ تَصِرْ حَجَّةً، فَوَجَبَ أَنَّ دُخُولَهَا فِي الْحَجِّ إِنَّمَا هُوَ مِنْ وَجْهَيْنِ فَقَطْ -: أَحَدُهُمَا:

أَنَّهُ يُجْزَى لَهُمَا عَمَلٌ وَاحِدٌ فِي الْقِرَانِ.

وَالثَّانِي: دُخُولُهَا فِي أَنَّهَا فَرْضٌ كَالْحَجِّ. فَإِنْ قَالُوا: قَدْ جَاءَ أَنَّهَا الْحَجُّ الْأَصْغَرُ؟ قُلْنَا لَوْ صَحَّ هَذَا لَكَانَ حُجَّةً لَنَا، لِأَنَّ الْقِرَانَ [قَدْ] جَاءَ بِإِيجَابِ الْحَجِّ فَكَانَتْ حِينَئِذٍ تَكُونُ فَرْضًا بِنَصِّ قَوْلِه تَعَالَى {وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] لَكِنَّا لَا نَسْتَحِلُّ التَّمْوِيهَ بِمَا لَا يَصِحُّ، مَعَ أَنَّ الْخَبَرَ الَّذِي ذَكَرُوا عَنِ ابْنِ عَبَّاسٍ لَا حُجَّةَ لَهُمْ فِيهِ، لِأَنَّ رَاوِيَهُ أَبُو سِنَانٍ الدُّؤَلِيُّ وَقَدْ قَالَ فِيهِ عُقَيْلٌ: سِنَانٌ هُوَ مَجْهُولٌ غَيْرُ مَعْرُوفٍ، وَأَيْضًا: فَإِنَّهُمْ كَذَبُوا فِيهِ وَحَرَّفُوهُ وَأَوْهَمُوا أَنَّ فِيهِ مِنْ لَفْظِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ «لَيْسَ عَلَى الْمَرْءِ إِلَّا حَجَّةٌ وَاحِدَةٌ» لَيْسَ هَذَا فِي ذَلِكَ الْخَبَرِ أَصْلًا وَإِنَّمَا فِيهِ أَنَّ الْحَجَّ مَرَّةٌ وَاحِدَةٌ وَهَذَا لَا يَمْنَعُ مِنْ وُجُوبِ الْعُمْرَةِ: إِمَّا مَعَ الْحَجِّ مَقْرُونَةً، وَإِمَّا مَعَهُ فِي عَامٍ وَاحِدٍ، فَصَارَ حُجَّةً لَنَا عَلَيْهِمْ.

وَأَمَّا قَوْلُهُمْ: إِنَّ اللَّهَ تَعَالَى إِنَّمَا أَمَرَ بِإِتْمَامِهَا مَنْ دَخَلَ فِيهَا لَا بِابْتِدَائِهَا، وَأَنَّ بَعْضَ النَّاسِ قَرَأَ: {وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] بِالرَّفْعِ فَقَوْلٌ كُلُّهُ بَاطِلٌ، لِأَنَّهَا دَعْوَى بِلَا بُرْهَانٍ وَقَوْلِه تَعَالَى: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] لَا يَقْتَضِي مَا قَالُوا وَإِنَّمَا يَقْتَضِي وُجُوبَ الْمَجِيءِ بِهِمَا تَامَّيْنِ وَحَتَّى لَوْ صَحَّ مَا قَالُوهُ لَكَانَ حُجَّةً عَلَيْهِمْ، لِأَنَّهُ إِذَا كَانَ

[5] **Qur'an references (L12442):** Qur'an 3:97 (Ali 'Imran).

it would constitute proof against them, for if those who enter into these rites are commanded to complete them, they become an obligatory duty commanded to be fulfilled. This is our position, not their corrupt and self-contradictory assertion. Ibn Abbas is an authority in the Arabic language.[6]

L12445 We have been narrated through the chain of ʿAbd al-Razzāq from Sufyān ibn ʿUyaynah from ʿAmr ibn Dīnār from Ṭāwūs, who said: I heard Ibn ʿAbbās say: "By Allah, it is indeed its equivalent in the Book of Allah, the Almighty and Majestic: *'And complete the Ḥajj and ʿUmrah for Allah'* [Al-Baqarah: 196]." Thus, Ibn ʿAbbās considered this text as necessitating that ʿUmrah is an obligation like Ḥajj, contrary to the shrewd linguistic analysis of these experts who hold the opposite view. This is the proof cited by Masrūq, Saʿīd ibn al-Musayyib, ʿAlī ibn al-Ḥusayn, and Nāfiʿ; and Masrūq and Saʿīd are linguistic authorities.[7]

L12446 If they say: "Do you hold this opinion regarding voluntary Hajj and voluntary Umrah?" We respond: No. Rather, both are entirely non-obligatory voluntary acts. If one dedicates themselves to them, they will be rewarded; otherwise, there is no blame. Were it otherwise, Hajj's obligation would recur multiple times, and this would contradict Allah Almighty's decree that it is not binding except once in one's lifetime.

L12447 If they say: "Do you assert the completion of vows and the completion of compensatory fasting for voluntary fasts upon one who broke them?" We respond: Yes, for all of that becomes an additional obligation by the command of Allah the Exalted concerning these matters and the command of His Messenger (peace and blessings be upon him). Verily, Hajj is obligatory only once upon those who did not vow it, not upon those who vowed it; rather, for those who vowed it, it becomes another obligation. We do not set the commands of Allah the Exalted against one another; rather, we combine them with one another and act upon all of them.

L12448–12450 As for the recitation {wal-ʿumrata lillāh} [Al-Baqarah: 196] with the accusative case, it is a rejected recitation impermissible for anyone to recite.

الدَّاخِلُ فِيهَا مَأْمُورًا بِإِتْمَامِهَا فَقَدْ صَارَتْ فَرْضًا مَأْمُورًا بِهِ، وَهَذَا قَوْلُنَا لَا قَوْلُهُمْ الْفَاسِدُ الْمُتَخَاذِلُ - وَابْنُ عَبَّاسٍ حُجَّةٌ فِي اللُّغَةِ.

وَقَدْ رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ طَاوُسٍ قَالَ: سَمِعْتُ ابْنَ عَبَّاسٍ يَقُولُ: وَاَللَّهِ إنَّهَا لَقَرِينَتُهَا فِي كِتَابِ اللَّهِ عَزَّ وَجَلَّ: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] فَابْنُ عَبَّاسٍ يَرَى هَذَا النَّصَّ مُوجِبًا لِكَوْنِهَا فَرْضًا كَالْحَجِّ بِخِلَافِ كَيْسِ هَؤُلَاءِ الْحُذَّاقِ بِاللُّغَةِ بِالضِّدِّ، وَبِهَذَا احْتَجَّ مَسْرُوقٌ، وَسَعِيدُ بْنُ الْمُسَيِّبِ، وَعَلِيُّ بْنُ الْحُسَيْنِ، وَنَافِعٌ فِي إيجَابِهَا؛ وَمَسْرُوقٌ، وَسَعِيدٌ حُجَّةٌ فِي اللُّغَةِ.

فَإِنْ قَالُوا: أَنْتُمْ تَقُولُونَ: بِهَذَا فِي الْحَجِّ التَّطَوُّعِ، وَالْعُمْرَةِ التَّطَوُّعِ؟ قُلْنَا: لَا بَلْ هُمَا تَطَوُّعٌ غَيْرُ لَازِمٍ جُمْلَةً إنْ تَمَادَى فِيهِمَا أُجِرَ، وَإِلَّا فَلَا حَرَجَ وَلَوْ كَانَ غَيْرَ هَذَا لَكَانَ الْحَجُّ يَتَكَرَّرُ فَرْضُهُ مَرَّاتٍ، وَهَذَا خِلَافُ حُكْمِ اللَّهِ تَعَالَى فِي أَنَّهُ لَا يَلْزَمُ إلَّا مَرَّةً وَاحِدَةً فِي الدَّهْرِ.

فَإِنْ قَالُوا: فَإِنَّكُمْ تَقُولُونَ: بِإِتْمَامِ النَّذْرِ، وَإِتْمَامِ قَضَاءِ صَوْمِ التَّطَوُّعِ عَلَى مَنْ أَفْطَرَ فِيهِ؟ قُلْنَا: نَعَمْ، لِأَنَّ كُلَّ ذَلِكَ صَارَ فَرْضًا زَائِدًا بِأَمْرِ اللَّهِ تَعَالَى بِذَلِكَ وَأَمْرِ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَإِنَّمَا الْحَجُّ فَرْضُ مَرَّةٍ وَاحِدَةً عَلَى مَنْ لَمْ يَنْذِرْهُ لَا عَلَى مَنْ نَذَرَهُ، بَلْ هُوَ عَلَى مَنْ نَذَرَهُ فَرْضٌ آخَرُ لَا نَضْرِبُ أَوَامِرَ اللَّهِ تَعَالَى بَعْضَهَا بِبَعْضٍ بَلْ نَضُمُّ بَعْضَهَا إلَى بَعْضٍ وَنَأْخُذُ بِجَمِيعِهَا.

وَأَمَّا الْقِرَاءَةُ {وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] بِالرَّفْعِ فَقِرَاءَةٌ مُنْكَرَةٌ لَا يَحِلُّ لِأَحَدٍ أَنْ يَقْرَأَ بِهَا، وَسُبْحَانَ مَنْ جَعَلَهُمْ يَلْجَئُونَ إلَى تَبْدِيلِ الْقُرْآنِ فَيَحْتَجُّونَ بِهِ؟ وَأَمَّا قَوْلُهُمْ: لَوْ كَانَتْ

[6] **Qur'an references (L12444):** Qur'an 2:196 (Al-Baqarah).
[7] **Qur'an references (L12445):** Qur'an 2:196 (Al-Baqarah).

فَرْضًا لَكَانَتْ مُرْتَبِطَةً بِوَقْتٍ؟ فَكَلَامٌ سَخِيفٌ لَمْ يَأْتِ بِهِ قَطُّ قُرْآنٌ وَلَا سُنَّةٌ صَحِيحَةٌ وَلَا رِوَايَةٌ سَقِيمَةٌ وَلَا قَوْلُ صَاحِبٍ وَلَا إِجْمَاعٌ وَلَا قِيَاسٌ يُعْقَلُ، وَهُمْ مُوَافِقُونَ لَنَا عَلَى أَنَّ الصَّلَاةَ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَرْضٌ وَلَوْ مَرَّةً فِي الدَّهْرِ وَلَيْسَتْ مُرْتَبِطَةً بِوَقْتٍ، وَأَنَّ النَّذْرَ فَرْضٌ وَلَيْسَ مُرْتَبِطًا بِوَقْتٍ، وَأَنَّ قَضَاءَ رَمَضَانَ فَرْضٌ وَلَيْسَ مُرْتَبِطًا بِوَقْتٍ، وَالْإِحْرَامُ لِلْحَجِّ عِنْدَهُمْ فَرْضٌ وَلَيْسَ عِنْدَهُمْ مُرْتَبِطًا بِوَقْتٍ، فَظَهَرَ هَوَسُ مَا يَأْتُونَ بِهِ؟ قَالَ أَبُو مُحَمَّدٍ: رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا عَبْدُ الْوَهَّابِ هُوَ ابْنُ عَبْدِ الْمَجِيدِ الثَّقَفِيُّ - عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنِ ابْنِ سِيرِينَ عَنْ ثَابِتٍ قَالَ فِيمَنْ يَعْتَمِرُ قَبْلَ أَنْ يَحُجَّ: نُسُكَانِ لِلَّهِ عَلَيْكَ لَا يَضُرُّكَ بِأَيِّهِمَا بَدَأْتَ.

Glory be to the One who compelled them to resort to altering the Quran, only to then cite it as evidence! As for their claim—"If it were obligatory, it would be tied to a specific time?"—this is preposterous speech unsupported by any Quranic verse, authentic Sunnah, unsound narration, Companion's statement, consensus, or rational analogy. Yet they concede to us that invoking blessings upon the Messenger of Allah—peace and blessings be upon him—is obligatory, even once in a lifetime, without being tied to a specific time. Some acts are tied to a time, while the vow is obligatory and not tied to a time, making up Ramadan fasts is obligatory and not tied to a time, and entering *Ihram* for *Hajj* is—according to them—obligatory though not tied to a time. What then is the obsession in what they uphold? Abū Muḥammad said: We were narrated through Ibn Abī Shaybah, who received from ʿAbd al-Wahhāb—that is Ibn ʿAbd al-Majīd al-Thaqafī—from Ayyūb al-Sikhtiyānī, from Ibn Sīrīn, from Thābit, who said regarding one performing ʿUmrah before Ḥajj: "Two rituals are owed to God upon you; it does not harm whichever of them you begin with."[8]

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نا ابْنُ جُرَيْجٍ أَخْبَرَنِي نَافِعٌ مَوْلَى ابْنِ عُمَرَ أَنَّهُ سَمِعَ عَبْدَ اللَّهِ بْنَ عُمَرَ يَقُولُ: لَيْسَ مِنْ خَلْقِ اللَّهِ أَحَدٌ إِلَّا وَعَلَيْهِ حَجَّةٌ وَعُمْرَةٌ وَاجِبَتَانِ مَنْ اسْتَطَاعَ إِلَى ذَلِكَ سَبِيلًا وَمَنْ زَادَ بَعْدَهُمَا شَيْئًا فَهُوَ خَيْرٌ وَتَطَوُّعٌ.

L12451 From the narration chain of ʿAbd al-Razzāq: Ibn Jurayj narrated to us, informing me that Nāfiʿ—the client of Ibn ʿUmar—heard ʿAbdullāh ibn ʿUmar saying: "There is no one among Allah's creation except that upon him are two obligatory duties: Ḥajj and ʿUmrah, for whoever can afford the means to them. Whoever adds anything beyond them, it is good and a supererogatory act."

وَمِنْ طَرِيقِ أَبِي إِسْحَاقَ عَنْ مَسْرُوقٍ عَنِ ابْنِ مَسْعُودٍ قَالَ: أُمِرْتُمْ بِإِقَامَةِ الصَّلَاةِ، وَالْعُمْرَةِ إِلَى الْبَيْتِ؛ وَقَدْ ذَكَرْنَاهُ آنِفًا عَنْ جَابِرٍ، وَابْنِ عَبَّاسٍ.

L12452 And through the narration of Abu Ishaq from Masruq from Ibn Masʿud, who said: "You have been commanded to establish the Salah and perform Umrah to the House." We have previously cited this on the authority of Jabir and Ibn Abbas.

وَمِنْ طَرِيقِ قَتَادَةَ قَالَ عُمَرُ بْنُ الْخَطَّابِ: يَا أَيُّهَا النَّاسُ كُتِبَتْ عَلَيْكُمُ الْعُمْرَةُ.

L12453 And through the chain of Qatadah, ʿUmar ibn al-Khaṭṭāb said: "O people, ʿUmrah has been prescribed for you."

وَعَنْ أَشْعَثَ عَنِ ابْنِ سِيرِينَ قَالَ: كَانُوا لَا يَخْتَلِفُونَ أَنَّ الْعُمْرَةَ فَرِيضَةٌ، وَابْنُ سِيرِينَ أَدْرَكَ الصَّحَابَةَ وَأَكَابِرَ التَّابِعِينَ.

L12454 On the authority of Ashʿath from Ibn Sirin, who said: They did not differ that the Umrah is an obligation, and Ibn Sirin met the Companions and the eminent Followers.

[8] **Qur'an references (L12448):** Qur'an 2:196 (Al-Baqarah).

L12455 And on the authority of Ma’mar, on the authority of Qatādah, who said: “Umrah is obligatory.”

وَعَنْ مَعْمَرٍ عَنْ قَتَادَةَ قَالَ: الْعُمْرَةُ وَاجِبَةٌ.

L12456 From the chain of Sufyan al-Thawrī, and from Ma‘mar, from Dāwūd ibn Abī Hind: I asked ‘Aṭā’, “Is the Umrah obligatory upon us like the Ḥajj?” He replied, “Yes.”

وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ، وَمَعْمَرٍ عَنْ دَاوُد بْنِ أَبِي هِنْدٍ قُلْت لِعَطَاءٍ: الْعُمْرَةُ عَلَيْنَا فَرِيضَةٌ كَالْحَجِّ؟ قَالَ: نَعَمْ.

L12457 Yunus ibn ‘Ubayd reported from al-Hasan and Ibn Sirin collectively: “Umrah is obligatory”—and from Tawus: “Umrah is obligatory.”

وَعَنْ يُونُسَ بْنِ عُبَيْدٍ عَنْ الْحَسَنِ، وَابْنِ سِيرِينَ جَمِيعًا الْعُمْرَةُ وَاجِبَةٌ - وَعَنْ طَاوُسٍ الْعُمْرَةُ وَاجِبَةٌ.

L12458 It is reported from Sa’id ibn Jubayr: “‘Umrah is obligatory.” It was said to him: “So-and-so says it is not obligatory.” He replied: “He lied. Allah the Exalted says: *‘Complete the Hajj and ‘Umrah for Allah’* [2:196].”[9]

وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ الْعُمْرَةُ وَاجِبَةٌ، فَقِيلَ لَهُ: إنَّ فُلَانًا يَقُولُ: لَيْسَتْ وَاجِبَةً، فَقَالَ: كَذَبَ إنَّ اللَّهَ تَعَالَى يَقُولُ: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] .

L12459–12461 Through the chain of ʿAbd al-Razzāq from Sufyān al-Thawrī from Abū Isḥāq al-Sabīʿī, who said, “I heard...” Masrūq said: “You have been commanded in the Quran to establish four: Prayer, Zakāt, Hajj, and Umrah.” Abū Isḥāq said: I heard ‘Abdullāh ibn Shaddād say: “The Umrah is the lesser Hajj.” From Saʿīd ibn al-Musayyib: “Only one Umrah and one Hajj have been made obligatory upon me.” From Mujāhid: “Hajj and Umrah are two obligations.” From Manṣūr, from Mujāhid: “The Umrah is the lesser Hajj.” From ‘Alī ibn al-Ḥusayn, who was asked about the Umrah: “We know it only as obligatory: {And complete Hajj and Umrah for Allah} [al-Baqarah 2:196].” From Ḥammād ibn Zayd, from ‘Abd al-Raḥmān ibn al-Sarrāj, who said: “I asked Hishām ibn ‘Urwah and Nāfiʿ, the freedman of Ibn ‘Umar, whether the Umrah is obligatory.” Both recited: {And complete Hajj and Umrah for Allah} [al-Baqarah 2:196].“[10]

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي إِسْحَاقَ السَّبِيعِيِّ قَالَ: سَمِعْتُ مَسْرُوقًا يَقُولُ أُمِرْتُمْ فِي الْقُرْآنِ بِإِقَامَةِ أَرْبَعٍ: الصَّلَاةُ، وَالزَّكَاةُ، وَالْحَجُّ، وَالْعُمْرَةُ - قَالَ أَبُو إِسْحَاقَ: وَسَمِعْتُ عَبْدَ اللَّهِ بْنَ شَدَّادٍ يَقُولُ: الْعُمْرَةُ الْحَجُّ الْأَصْغَرُ. وَعَنْ سَعِيدِ بْنِ الْمُسَيِّبِ إنَّمَا كُتِبَتْ عَلَيَّ عُمْرَةٌ، وَحَجَّةٌ. وَعَنْ مُجَاهِدٍ: الْحَجُّ وَالْعُمْرَةُ فَرِيضَتَانِ، وَعَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ الْعُمْرَةُ الْحَجَّةُ الصُّغْرَى، وَعَنْ عَلِيِّ بْنِ الْحُسَيْنِ أَنَّهُ سُئِلَ عَنْ الْعُمْرَةِ؟ فَقَالَ: مَا نَعْلَمُهَا إلَّا وَاجِبَةً {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] . وَعَنْ حَمَّادِ بْنِ زَيْدٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ السَّرَّاجِ قَالَ: سَأَلْتُ هِشَامَ بْنَ عُرْوَةَ، وَنَافِعًا مَوْلَى ابْنِ عُمَرَ عَنْ الْعُمْرَةِ أَوَاجِبَةٌ هِيَ؟ - فَقَرَأَ جَمِيعًا: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] .

L12462 From the transmission of Saʿīd ibn Manṣūr: Hushaym narrated to us: Mughīrah—he is ibn Maqsam—narrated to us from al-Shaʿbī, who said re-

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا هُشَيْمٌ نا مُغِيرَةُ هُوَ ابْنُ مِقْسَمٍ - عَنْ الشَّعْبِيِّ أَنَّهُ قَالَ فِي الْعُمْرَةِ: هِيَ وَاجِبَةٌ - وَعَنْ شُعْبَةَ عَنْ الْحَكَمِ قَالَ: الْعُمْرَةُ وَاجِبَةٌ.

[9] **Qur’an references (L12458):** Qur’an 2:196 (Al-Baqarah).
[10] **Qur’an references (L12459):** Qur’an 2:196 (Al-Baqarah).

garding the ʿUmrah: “It is obligatory.” And from Shuʿbah, from al-Ḥakam, who said: “The ʿUmrah is obligatory.”

قَالَ أَبُو مُحَمَّد: وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، وَالْأَوْزَاعِيِّ، وَالشَّافِعِيِّ، وَأَحْمَدَ، وَإِسْحَاقَ، وَأَبِي سُلَيْمَانَ، وَجَمِيعِ أَصْحَابِهِمْ.

L12463 Abu Muhammad said: This is the opinion of Sufyan al-Thawri, al-Awza’i, al-Shafi’i, Ahmad, Ishaq, Abu Sulayman, and all their followers.

وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: لَيْسَتْ فَرْضًا، وَالْقَوْمُ يُعَظِّمُونَ خِلَافَ الصَّاحِبِ الَّذِي لَا يُعْرَفُ لَهُ مُخَالِفٌ، وَهُمْ قَدْ خَالَفُوا هَاهُنَا عُمَرَ بْنَ الْخَطَّابِ، وَابْنَهُ عَبْدَ اللَّهِ، وَابْنَ عَبَّاسٍ، وَجَابِرَ بْنَ عَبْدِ اللَّهِ، وَابْنَ مَسْعُودٍ، وَزَيْدَ بْنَ ثَابِتٍ، وَلَا يَصِحُّ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ خِلَافٌ لَهُمْ فِي هَذَا إلَّا رِوَايَةً سَاقِطَةً مِنْ طَرِيقِ أَبِي مَعْشَرٍ عَنْ إبْرَاهِيمَ أَنَّ عَبْدَ اللَّهِ قَالَ: الْعُمْرَةُ تَطَوُّعٌ، وَالصَّحِيحُ عَنْهُ خِلَافُ هَذَا كَمَا ذَكَرْنَا.

L12464 Abu Hanifa and Malik held that it is not obligatory. They strongly emphasize the solitary opinion of a Companion with no known dissenters, yet here they opposed the positions of Umar ibn al-Khattab, his son Abdullah, Ibn Abbas, Jabir ibn Abdullah, Abdullah ibn Masud, and Zayd ibn Thabit. No authentic report from any Companion contradicts their view in this matter except a rejected narration through Abu Ma’shar from Ibrahim, claiming that Abdullah ibn Umar said: “Umrah is voluntary.” The authentic report from him contradicts this, as we have previously stated.

وَعَهْدُنَا بِهِمْ يُعَظِّمُونَ خِلَافَ الْجُمْهُورِ، وَقَدْ خَالَفُوا [هَاهُنَا] عَطَاءً، وَطَاوُسًا، وَمُجَاهِدًا، وَسَعِيدَ بْنَ جُبَيْرٍ، وَالْحَسَنَ، وَابْنَ سِيرِينَ، وَمَسْرُوقًا، وَعَلِيَّ بْنَ الْحُسَيْنِ، وَنَافِعًا مَوْلَى ابْنِ عُمَرَ، وَهِشَامَ بْنَ عُرْوَةَ، وَالْحَكَمَ بْنَ عُتَيْبَةَ، وَسَعِيدَ بْنَ الْمُسَيِّبِ، وَالشَّعْبِيَّ، وَقَتَادَةَ وَمَا نَعْلَمُ لِمَنْ قَالَ: لَيْسَتْ وَاجِبَةً سَلَفًا، مِنْ التَّابِعِينَ إلَّا إبْرَاهِيمَ النَّخَعِيَّ وَحْدَهُ؛ وَرِوَايَةً عَنْ الشَّعْبِيِّ قَدْ صَحَّ عَنْهُ خِلَافُهَا كَمَا ذَكَرْنَا - وَتَوَقَّفَ فِي ذَلِكَ حَمَّادُ بْنُ أَبِي سُلَيْمَانَ.

L12465–12467 We know that they attach great significance to opposing the majority scholarly consensus, yet [here] they have contradicted ʻAṭāʼ, Ṭāwūs, Mujāhid, Saʻīd ibn Jubayr, al-Ḥasan, Ibn Sīrīn, Masrūq, ʻAlī ibn al-Ḥusayn, Nāfiʻ the client of Ibn ʻUmar, Hishām ibn ʻUrwah, al-Ḥakam ibn ʻUtaybah, Saʻīd ibn al-Musayyib, al-Shaʻbī, and Qatādah. We know of no predecessor among the Followers who said “It is not obligatory” except Ibrāhīm Nakhaʻī. solely; and a narration from Al-Shaʻbi—though a sound narration established from him contradicts it, as we mentioned—and Hammad ibn Abi Sulayman withheld judgment on that.

قَالَ أَبُو مُحَمَّد: وَمَوَّهَ بَعْضُهُمْ بِحَدِيثَيْنِ هُمَا مِنْ أَعْظَمِ الْحُجَّةِ عَلَيْهِمْ -: أَحَدُهُمَا: الْخَبَرُ الثَّابِتُ فِي الَّذِي سَأَلَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْإِسْلَامِ؟ فَأَخْبَرَهُ بِالصَّلَاةِ، وَالزَّكَاةِ، وَالصِّيَامِ، وَالْحَجِّ، فَقَالَ: هَلْ عَلَيَّ غَيْرُهَا يَا رَسُولَ اللَّهِ؟ قَالَ: لَا إلَّا أَنْ تَطَوَّعَ. وَالثَّانِي:

L12468 Abū Muḥammad said: Some of them resorted to sophistry using two narrations that are among the greatest proofs against them. The first is the authentically established report concerning the man who asked the Messenger of Allāh (peace be upon him) about Islam. He informed him of prayer, almsgiving, fasting, and pilgrimage. The man said: “Is there anything else obligatory upon me, O Messenger of Allāh?” He replied: “No, unless you perform voluntary acts.” The second narration:...

L12469 The narration of Ibn ʻUmar: “Islam is built upon five pillars,” and he men-

tioned the testimony of Tawhid (Shahada), Prayer (Salat), Almsgiving (Zakat), Fasting (Sawm), and Pilgrimage (Hajj).

L12470 Abu Muhammad said: And these two—the strongest of our arguments against them—are due to the authenticity of the statement of the Messenger of Allah, peace and blessings be upon him: "The 'Umrah has been incorporated into Hajj until the Day of Resurrection." Thus, it is established that it is obligatory by virtue of Hajj's obligation, and that its prescribed duty is encompassed within the obligation of Hajj.

L12471 Moreover, even if this report had not come, the command of the Prophet (peace and blessings of Allah be upon him) and the Qur'an's mention of these matters would still constitute additional legislation and a prescribed obligation added to the other mentioned religious laws. They all regard vows as obligatory, jihad when it befalls the Muslims as obligatory, the post-impurity bath as obligatory, and ablution as obligatory—despite none of these being mentioned in the two hadiths. They never considered the two hadiths as evidence to negate the obligation of what we have listed. Thus, their contradiction and the invalidity of their doctrine in this matter became clear—and all praise belongs to Allah, Lord of the worlds.

L12472 **Issue: Hajj for Male and Female Servants**

L12473 Legal Question 812:

L12474 As for the Hajj of a male slave and a female slave, Abū Ḥanīfah, Mālik, and al-Shāfiʿī said: There is no Hajj required of him/her. If he/she performs Hajj, it does not suffice him/her for the obligatory Hajj mandated by Islam.

L12475 Ahmad ibn Hanbal said: If a slave is emancipated at Arafah, that Hajj is sufficient for him. Some of our companions stated: He must perform Hajj like a free person. We previously mentioned the narrations from Jabir and Ibn Umar. One of them said: "There is no Muslim," while the other said: "There is no one among Allah's creation except that they are obligated to perform Umrah and Hajj." Thus, they made a comprehensive generalization without

خَبَرُ ابْنِ عُمَرَ «بُنِيَ الْإِسْلَامُ عَلَى خَمْسٍ» فَذَكَرَ شَهَادَةَ التَّوْحِيدِ، وَالصَّلَاةَ، وَالزَّكَاةَ، وَالصِّيَامَ، وَالْحَجَّ.

قَالَ أَبُو مُحَمَّدٍ: وَهُمَا - أَقْوَى، حُجَجِنَا عَلَيْهِمْ لِصِحَّةِ قَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إلَى يَوْمِ الْقِيَامَةِ» فَصَحَّ أَنَّهَا وَاجِبَةٌ بِوُجُوبِ الْحَجِّ، وَأَنَّ فَرْضَهَا دَخَلَ فِي فَرْضِ الْحَجِّ.

وَأَيْضًا: فَحَتَّى لَوْ لَمْ يَأْتِ هَذَا الْخَبَرُ لَكَانَ أَمْرُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَوُرُودُ الْقُرْآنِ بِهَا شَرْعًا زَائِدًا وَفَرْضًا وَارِدًا مُضَافًا إلَى سَائِرِ الشَّرَائِعِ الْمَذْكُورَةِ، وَكُلُّهُمْ يَرَى النَّذْرَ فَرْضًا، وَالْجِهَادَ إذَا نَزَلَ بِالْمُسْلِمِينَ فَرْضًا، وَغُسْلَ الْجَنَابَةِ فَرْضًا، وَالْوُضُوءَ فَرْضًا، وَلَيْسَ ذَلِكَ مَذْكُورًا فِي الْحَدِيثَيْنِ الْمَذْكُورَيْنِ وَلَمْ يَرَوْا الْحَدِيثَيْنِ الْمَذْكُورَيْنِ حُجَّةً فِي سُقُوطِ فَرْضِ كُلِّ مَا ذَكَرْنَا، فَوَضَحَ تَنَاقُضُهُمْ وَفَسَادُ مَذْهَبِهِمْ فِي ذَلِكَ - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

## [مَسْأَلَةٌ حَجُّ الْعَبْدِ وَالْأَمَةِ]

٨١٢ - مَسْأَلَةٌ:

وَأَمَّا حَجُّ الْعَبْدِ، وَالْأَمَةِ، فَإِنَّ أَبَا حَنِيفَةَ، وَمَالِكًا، وَالشَّافِعِيَّ قَالُوا: لَا حَجَّ عَلَيْهِ فَإِنْ حَجَّ لَمْ يُجْزِهِ ذَلِكَ مِنْ حَجَّةِ الْإِسْلَامِ.

وَقَالَ أَحْمَدُ بْنُ حَنْبَلٍ: إذَا عَتَقَ بِعَرَفَةَ أَجْزَأَتْهُ تِلْكَ الْحَجَّةُ، وَقَالَ بَعْضُ أَصْحَابِنَا: عَلَيْهِ الْحَجُّ كَالْحُرِّ، وَقَدْ ذَكَرْنَا آنِفًا عَنْ جَابِرٍ، وَابْنِ عُمَرَ قَالَ أَحَدُهُمَا: مَا مِنْ مُسْلِمٍ، وَقَالَ الْآخَرُ: مَا مِنْ أَحَدٍ مِنْ خَلْقِ اللَّهِ إلَّا عَلَيْهِ عُمْرَةٌ وَحَجَّةٌ، فَقَطَعَا وَعَمَّا وَلَمْ يَخُصَّا إنْسِيًّا مِنْ جِنِّيٍّ،

وَلَا حُرًّا مِنْ عَبْدٍ، وَلَا حُرَّةً مِنْ أَمَةٍ، وَمَنْ ادَّعَى عَلَيْهِمَا تَخْصِيصَ الْحُرِّ، وَالْحُرَّةِ؛ فَقَدْ كَذَبَ عَلَيْهِمَا، وَلَا أَقَلَّ حَيَاءً مِمَّنْ يَجْعَلُ قَوْلَ ابْنِ عُمَرَ «بُنِيَ الْإِسْلَامُ عَلَى خَمْسٍ» حُجَّةً فِي إِسْقَاطِ فَرْضِ الْعُمْرَةِ - وَهُوَ حُجَّةٌ فِي وُجُوبِ فَرْضِهَا كَمَا ذَكَرْنَا - وَلَا يَجْعَلُ قَوْلَهُ: مَا مِنْ أَحَدٍ مِنْ خَلْقِ اللَّهِ إِلَّا عَلَيْهِ: حَجَّةٌ، وَعُمْرَةٌ -: حُجَّةً فِي وُجُوبِ الْحَجِّ عَلَى الْعَبْدِ.

exception, neither differentiating between a human and a jinn, nor a free person from a slave, nor a free woman from a female slave. Whoever claims they restricted this obligation to free men and women has fabricated lies against them. None is more shameless than one who cites Ibn Umar's statement, "Islam is built upon five pillars," as evidence to negate the obligatory status of Umrah—while it actually confirms its obligation, as we explained—yet refuses to treat his statement, "There is no one among Allah's creation except that they are obligated to perform Hajj and Umrah," as proof for the slave's obligation to perform Hajj.

فَإِنْ قِيلَ: لَعَلَّهُمَا أَرَادَا إِلَّا الْعَبْدَ؟ قِيلَ: هَذَا هُوَ الْكَذِبُ بِعَيْنِهِ أَنْ يُرِيدَا إِلَّا الْعَبْدَ ثُمَّ لَا يُبَيِّنَانِهِ، وَأَيْضًا: فَلَعَلَّهُمَا أَرَادَا إِلَّا الْمُقْعَدَ، وَإِلَّا الْأَعْمَى، وَإِلَّا الْأَعْوَرَ، وَإِلَّا بَنِي تَمِيمٍ، وَإِلَّا أَهْلَ إِفْرِيقِيَةَ، وَهَذَا حَقٌّ لَا خَفَاءَ بِهِ، وَلَا يَصِحُّ مَعَ هَذِهِ الدَّعْوَى قَوْلَةٌ لِأَحَدٍ أَبَدًا.

L12476–12477 If it is said: "Perhaps they intended to exclude the slave?" It is replied: "This is the lie itself—that they intended to exclude the slave but then did not clarify it. Moreover, perhaps they intended to exclude the bedridden, the blind, the one-eyed, Banu Tamim, or the people of Ifriqiyah. This is an evident truth, and with such a claim, no one's statement can ever hold validity."

وَلَعَلَّ كُلَّ مَا أَخَذُوا بِهِ مِنْ قَوْلِ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ، لَيْسَ عَلَى عُمُومِهِ، وَلَكِنَّهُمْ أَرَادُوا تَخْصِيصًا لَمْ يُبَيِّنُوهُ وَهَذِهِ طَرِيقُ السُّوفُسْطَائِيَّةِ نَفْسِهَا، وَلَا يَجُوزُ أَنْ يَقُولَ أَحَدٌ مَا لَمْ يَقُلْ إِلَّا بِبَيَانٍ وَارِدٍ مُتَيَقَّنٍ يُنْبِئُ بِأَنَّهُ أَرَادَ غَيْرَ مُقْتَضَى قَوْلِهِ.

L12478 Perhaps all that they have adopted from the statements of Abū Ḥanīfah, Mālik, and al-Shāfiʿī is not in their general sense. Rather, they intended a specification they did not elucidate, and this is the very method of the Sophists themselves. It is impermissible for anyone to assert what was not stated unless there exists a certain, presented indication revealing that the speaker intended other than what his words necessitate.

وَقَدْ ذَكَرُوا هَاهُنَا قَوْلَ اللَّهِ تَعَالَى: {تُدَمِّرُ كُلَّ شَيْءٍ بِأَمْرِ رَبِّهَا} [الأحقاف: ٢٥] .

L12479 And they have mentioned here the words of Allah, Exalted is He: {It destroys everything by the command of its Lord} [Al-Ahqaf: 25].[11]

{وَأُوتِيَتْ مِنْ كُلِّ شَيْءٍ} [النمل: ٢٣] .

L12480 "And she was given from all things" [Surah An-Naml 27:23].[12]

وَ {مَا تَذَرُ مِنْ شَيْءٍ أَتَتْ عَلَيْهِ إِلا جَعَلَتْهُ كَالرَّمِيمِ} [الذاريات: ٤٢] .

L12481 *"It leaves nothing it comes upon but reduces it to decayed debris"* [adh-Dhāriyāt 51:42].[13]

وَكُلُّ هَذَا لَا حُجَّةَ لَهُمْ فِيهِ، لِأَنَّهَا إِنَّمَا دَمَّرَتْ بِنَصِّ الْآيَةِ كُلَّ شَيْءٍ بِأَمْرِ رَبِّهَا فَدَمَّرَتْ مَا أَمَرَهَا رَبُّهَا بِتَدْمِيرِهِ لَا مَا لَمْ يَأْمُرْهَا.

L12482 All of this contains no valid argument for them within it; for according to the

[11] **Qur'an references (L12479):** Qur'an 46:25 (Al-Ahqaf).
[12] **Qur'an references (L12480):** Qur'an 27:23 (An-Naml).
[13] **Qur'an references (L12481):** Qur'an 51:42 (Adh-Dhariyat).

explicit text of the verse, she destroyed everything by her Lord's command alone. Thus, she destroyed only what her Lord commanded her to destroy, not what He did not command.

وَمَا تَذَرُ مِنْ شَيْءٍ أَتَتْ عَلَيْهِ، فَإِنَّمَا جَعَلَتْ كَالرَّمِيمِ مَا أَتَتْ عَلَيْهِ لَا مَا لَمْ تَأْتِ عَلَيْهِ بِنَصِّ الْآيَةِ.

L12483 And it leaves nothing of what it overtakes; rather, it renders whatever it affects into decayed remnants—not what it has not overtaken—by the explicit wording of the verse.

وَأُوتِيَتْ مِنْ كُلِّ شَيْءٍ: لَا يَقْتَضِي إِلَّا بَعْضَ الْأَشْيَاءِ، لِأَنَّ " مِنْ " لِلتَّبْعِيضِ، فَمَنْ آتَاهُ اللَّهُ شَيْئًا مَا قَلَّ أَوْ كَثُرَ فَقَدْ آتَاهُ مِنْ كُلِّ شَيْءٍ، لِأَنَّ كُلَّ شَيْءٍ هُوَ الْعَالَمُ كُلُّهُ، فَمَنْ أُوتِيَ شَيْئًا فَقَدْ أُوتِيَ مِنْ الْعَالَمِ كُلِّهِ - وَهَذَا بَيِّنٌ وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L12484 It was given a portion of everything; this implies only some things, for "from" denotes partitivity. Thus, whoever Allah grants something—whether small or great—He has granted them a portion of everything, since "everything" is the entire world. Therefore, whoever is granted something has been granted a portion of the entire world—and this is evident. Success is with Allah, the Most High.

وَكَتَبَ إِلَيَّ أَبُو الْمَرْجِيِّ الْحُسَيْنُ بْنُ عَبْدِ اللَّهِ بْنِ زِرٍّ الْمَصْرِيُّ قَالَ: نا أَبُو الْحَسَنِ الرَّحَبِيُّ -: نا أَبُو مُسْلِمٍ الْكَاتِبُ نا أَبُو الْحَسَنِ عَبْدُ اللَّهِ بْنُ أَحْمَدَ بْنِ المغلس نا عَبْدُ اللَّهِ بْنُ أَحْمَدَ بْنِ حَنْبَلٍ نا أَبِي نا زَيْدُ بْنُ الْحُبَابِ الْعُكْلِيُّ نا ابْنُ لَهِيعَةَ عَنْ بُكَيْرِ بْنِ عَبْدِ اللَّهِ بْنِ الْأَشَجِّ قَالَ: سَأَلْتُ الْقَاسِمَ بْنَ مُحَمَّدٍ، وَسُلَيْمَانَ بْنَ يَسَارٍ عَنْ الْعَبْدِ إِذَا حَجَّ بِإِذْنِ سَيِّدِهِ؟ فَقَالَا جَمِيعًا: تُجْزِئُ عَنْهُ مِنْ حَجَّةِ الْإِسْلَامِ فَإِذَا حَجَّ بِغَيْرِ إِذْنِ سَيِّدِهِ لَمْ تُجْزِهِ، وَبِهِ إِلَى زَيْدِ بْنِ الْحُبَابِ أَنَا إِبْرَاهِيمُ بْنُ نَافِعٍ عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ مُجَاهِدٍ قَالَ: إِذَا حَجَّ الْعَبْدُ وَهُوَ مُخَلًّى فَقَدْ أَجْزَأَتْ عَنْهُ حَجَّةُ الْإِسْلَامِ.

L12485 Abū al-Marjī al-Ḥusayn ibn ʿAbd Allāh ibn Zirr al-Miṣrī wrote to me, saying: Abū al-Ḥasan al-Raḥabī [...] narrated to us: Abū Muslim al-Kātib narrated to us: Abū al-Ḥasan ʿAbd Allāh ibn Aḥmad ibn al-Mughallis narrated to us: ʿAbd Allāh ibn Aḥmad ibn Ḥanbal narrated to us: My father narrated to us: Zayd ibn al-Ḥubāb al-ʿUklī narrated to us: Ibn Lahīʿah narrated from Bukayr ibn ʿAbd Allāh ibn al-Ashajj, who said: I asked al-Qāsim ibn Muḥammad and Sulaymān ibn Yasār about the slave performing Hajj with his master's permission. They both said: "It suffices for him as part of the Hajj of Islam. But if he performs Hajj without his master's permission, it does not suffice for him." And via the same chain up to Zayd ibn al-Ḥubāb: Ibrāhīm ibn Nāfiʿ narrated from Ibn Abī Najīḥ, who narrated from Mujāhid, who said: "If the slave performs Hajj while permitted, it suffices for him as the Hajj of Islam."

قَالَ أَبُو مُحَمَّدٍ: وَاحْتَجَّ مَنْ لَمْ يَرَ لِلْعَبْدِ حَجًّا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا وَكِيعٌ عَنْ يُونُسَ بْنِ أَبِي إِسْحَاقَ قَالَ: سَمِعْتُ شَيْخًا يُحَدِّثُ أَبَا إِسْحَاقَ عَنْ مُحَمَّدِ بْنِ كَعْبٍ الْقُرَظِيِّ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «أَيُّمَا صَبِيٍّ حَجَّ بِهِ أَهْلُهُ ثُمَّ مَاتَ أَجْزَأَ

L12486–12488 Abu Muhammad said: Those who do not hold that Hajj is required of slaves cited as evidence what we narrated through the chain of Ibn Abi Shaybah (نا). Waki' reported from Yunus ibn Abī Isḥāq, who said: I heard a shaykh narrating to Abū Isḥāq from Muḥammad ibn Ka'b al-Qurazī from the Messenger of Allah (peace and blessings of Allah be upon him): "If any child's guardians perform Hajj on his behalf and he subsequently dies, it suffices for him. And if he comes of age, Hajj becomes obligatory upon him. And if any

slave's owner performs Hajj on his behalf and he subsequently dies, it suffices for him. And if he is emancipated, Hajj becomes obligatory upon him."

عَنْهُ وَإِنْ أَدْرَكَ فَعَلَيْهِ الْحَجُّ، وَأَيُّمَا مَمْلُوكٍ حَجَّ بِهِ أَهْلُهُ ثُمَّ مَاتَ أَجْزَأَ عَنْهُ وَإِنْ عَتَقَ فَعَلَيْهِ الْحَجُّ» .

L12489 Abu Muhammad said: This is a mursal, narrated from a shaykh whose name is unknown, nor who he is.

قَالَ أَبُو مُحَمَّدٍ: هَذَا مُرْسَلٌ، وَعَنْ شَيْخٍ لَا يُدْرَى اسْمُهُ وَلَا مَنْ هُوَ.

L12490 They also cited as evidence a report we transmitted through the chain of ʿUthmān ibn Khirazād al-Anṭākī, narrated via Muḥammad ibn al-Minḥāl al-Ḍarīr, on the authority of Yazīd ibn Zurayʿ, on the authority of Shuʿbah from al-Aʿmash from Abū Ẓabiyān from Ibn ʿAbbās, who said: The Messenger of Allāh—peace and blessings of Allāh be upon him—said: "Any minor who performs Ḥajj before reaching puberty is obligated to perform Hajj again, and any slave who performs Ḥajj then is emancipated is obligated to perform Hajj again."

وَاحْتَجُّوا أَيْضًا بِخَبَرٍ رُوِّينَاهُ مِنْ طَرِيقِ عُثْمَانَ بْنِ خِرْزَادٍ الْأَنْطَاكِيِّ نا مُحَمَّدُ بْنُ الْمِنْهَالِ الضَّرِيرِ نا يَزِيدُ بْنُ زُرَيْعٍ نا شُعْبَةُ عَنْ الْأَعْمَشِ عَنْ أَبِي ظَبْيَانَ عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «أَيُّمَا صَبِيٍّ حَجَّ لَمْ يَبْلُغْ الْحِنْثَ فَعَلَيْهِ حَجَّةٌ أُخْرَى، وَأَيُّمَا عَبْدٍ حَجَّ ثُمَّ أُعْتِقَ فَعَلَيْهِ أَنْ يَحُجَّ حَجَّةً أُخْرَى» .

L12491 Ali said: This is a report narrated by someone more reliable than Uthman ibn Kharrāzādh from Muhammad ibn al-Minhāl from Yazīd ibn Zuraiʿ from Shuʿbah, and by someone comparable to Yazīd ibn Zuraiʿ (if not superior) from Shuʿbah. One of them stopped the chain at Ibn Abbas, while the other supported it with an addition through a chain: Muhammad ibn Saʿīd ibn Nubāt narrated to us, Ahmad ibn ʿAwn Allāh narrated to us, Qāsim ibn Aṣbagh narrated to us, Muhammad ibn ʿAbd al-Salām al-Khushanī narrated to us, Muhammad ibn Bashshār narrated to us, Muhammad ibn Abī ʿAdī and Muhammad ibn al-Minhāl narrated to us. Ibn al-Minhāl said: Yazīd ibn Zuraiʿ narrated to us from Shuʿbah. Ibn Abī ʿAdī said: Shuʿbah narrated to us. Then they both concurred from Shuʿbah from al-Aʿmash from Umm Ẓabyān from Ibn Abbas. Yazīd ibn Zuraiʿ said: From the Messenger of Allah - peace and blessings be upon him - who said: "If Hajj is performed on behalf of a child, it remains a child's Hajj until he reaches the age of reason. When he reaches the age of reason, he must perform another Hajj. If a Bedouin performs Hajj, it remains a Bedouin's Hajj. When he migrates, he must perform another Hajj."

قَالَ عَلِيٌّ: وَهَذَا خَبَرٌ رَوَاهُ مَنْ هُوَ أَوْثَقُ مِنْ عُثْمَانَ بْنِ خَرَّزَاذٍ عَنْ مُحَمَّدِ بْنِ الْمِنْهَالِ عَنْ يَزِيدَ بْنِ زُرَيْعٍ عَنْ شُعْبَةَ، وَمَنْ هُوَ إنْ لَمْ يَكُنْ فَوْقَ يَزِيدَ بْنِ زُرَيْعٍ لَمْ يَكُنْ دُونَهُ عَنْ شُعْبَةَ فَأَوْقَفَهُ أَحَدُهُمَا عَلَى ابْنِ عَبَّاسٍ، وَأَسْنَدَهُ الْآخَرُ بِزِيَادَةٍ: نا مُحَمَّدُ بْنُ سَعِيدِ بْنِ نُبَاتٍ نا أَحْمَدُ بْنُ عَوْنِ اللَّهِ نا قَاسِمُ بْنُ أَصْبَغَ نا مُحَمَّدُ بْنُ عَبْدِ السَّلَامِ الْخُشَنِيُّ نا مُحَمَّدُ بْنُ بَشَّارٍ نا مُحَمَّدُ بْنُ أَبِي عَدِيٍّ وَمُحَمَّدُ بْنُ الْمِنْهَالِ، قَالَ ابْنُ الْمِنْهَالِ: نا يَزِيدُ بْنُ زُرَيْعٍ نا شُعْبَةُ، وَقَالَ ابْنُ أَبِي عَدِيٍّ: نا شُعْبَةُ، ثُمَّ اتَّفَقَا عَنْ شُعْبَةَ عَنْ الْأَعْمَشِ عَنْ أُمِّ ظَبْيَانَ عَنْ ابْنِ عَبَّاسٍ قَالَ يَزِيدُ بْنُ زُرَيْعٍ: عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «إذَا حَجَّ الصَّبِيُّ لَهُ فَهِيَ حَجَّةُ صَبِيٍّ حَتَّى يَعْقِلَ، فَإِذَا عَقَلَ فَعَلَيْهِ حَجَّةٌ أُخْرَى، وَإِذَا حَجَّ الْأَعْرَابِيُّ فَهِيَ لَهُ حَجَّةُ أَعْرَابِيٍّ، فَإِذَا هَاجَرَ فَعَلَيْهِ حَجَّةٌ أُخْرَى» .

L12492 Ibn Abī ʿAdiyy ascribed it as a statement of Ibn ʿAbbās, and Sufyān al-Thawrī

likewise ascribed it as a statement of Ibn ʿAbbās via the chain: al-Aʿmash → Abū Ẓabyān → Ibn ʿAbbās.

وَأَوْقَفَهُ ابْنُ أَبِي عَدِيٍّ عَلَى ابْنِ عَبَّاسٍ مِنْ قَوْلِهِ - وَأَوْقَفَهُ أَيْضًا: سُفْيَانُ الثَّوْرِيُّ عَنْ الْأَعْمَشِ عَنْ أَبِي ظَبْيَانَ عَنْ ابْنِ عَبَّاسٍ مِنْ قَوْلِهِ.

L12493 Also, Abū al-Safar, ʻUbayd (the owner of the ornaments), and Qatādah stopped it at Ibn Abbas as mawqūf.

وَأَوْقَفَهُ أَيْضًا: أَبُو السَّفَرِ، وَعُبَيْدٌ صَاحِبُ الْحُلَى، وَقَتَادَةُ عَلَى ابْنِ عَبَّاسٍ.

L12494 And Abu Muhammad said: If this narration is proof that the slave's pilgrimage does not suffice, then it is equally proof that the Bedouin's pilgrimage does not suffice, for there is no distinction; this is the position of Ibn Abbas, firmly established from him, as we have mentioned.

وَقَالَ أَبُو مُحَمَّدٍ: إنْ كَانَ هَذَا الْخَبَرُ حُجَّةً فِي أَنْ لَا يُجْزِئَ الْعَبْدَ حَجُّهُ فَهُوَ حُجَّةٌ فِي أَنْ لَا يُجْزِئَ الْأَعْرَابِيَّ حَجُّهُ وَلَا فَرْقَ؛ وَهُوَ قَوْلُ ابْنِ عَبَّاسٍ الثَّابِتُ عَنْهُ كَمَا أَوْرَدْنَا.

L12495–12497 And likewise, we have also narrated it through the route of Abu Muʻawiyah and Sufyan al-Thawri from al-Aʻmash, from... From Abū Ẓabyān, on the authority of Ibn ʿAbbās, regarding his statement about the obligation to repeat the Ḥajj for a boy upon reaching puberty, for a slave upon emancipation, and for a Bedouin upon emigration, which is the opinion of al-Ḥasan.

وَكَذَلِكَ أَيْضًا رُوِّينَاهُ مِنْ طَرِيقِ أَبِي مُعَاوِيَةَ، وَسُفْيَانَ الثَّوْرِيِّ عَنْ الْأَعْمَشِ عَنْ أَبِي ظَبْيَانَ عَنْ ابْنِ عَبَّاسٍ مِنْ قَوْلِهِ فِي إعَادَةِ الْحَجِّ عَلَى الصَّبِيِّ إذَا احْتَلَمَ، وَعَلَى الْعَبْدِ إذَا عَتَقَ، وَعَلَى الْأَعْرَابِيِّ إذَا هَاجَرَ - وَهُوَ قَوْلُ الْحَسَنِ.

L12498 As narrated to us by Ibn Abi Shaybah from Ali ibn Hashim from Ismail from Al-Hasan Al-Basri, who said: If a minor performs Hajj, a slave performs Hajj, or a Bedouin performs Hajj—then if the Bedouin migrates [to a Muslim community], the minor reaches puberty (by experiencing a wet dream), and the slave is emancipated, Hajj becomes obligatory upon them.

كَمَا رُوِّينَا عَنْ ابْنِ أَبِي شَيْبَةَ عَنْ عَلِيِّ بْنِ هَاشِمٍ عَنْ إسْمَاعِيلَ عَنْ الْحَسَنِ الْبَصْرِيِّ قَالَ: الصَّبِيُّ إنْ حَجَّ، وَالْمَمْلُوكُ إنْ حَجَّ، وَالْأَعْرَابِيُّ إنْ حَجَّ، ثُمَّ هَاجَرَ الْأَعْرَابِيُّ، وَاحْتَلَمَ الصَّبِيُّ، وَعَتَقَ الْعَبْدُ فَعَلَيْهِمْ الْحَجُّ.

L12499 Aṭā said: As for the nomadic Arab (Bedouin), his Hajj suffices for his obligation. As for the minor and the slave, Hajj is obligatory for both of them.

وَقَالَ عَطَاءٌ: أَمَّا الْأَعْرَابِيُّ فَيُجْزِئُهُ حَجُّهُ، وَأَمَّا الصَّبِيُّ، وَالْمَمْلُوكُ فَعَلَيْهِمَا الْحَجُّ.

L12500 Ibrahim al-Nakha'i said: If a slave is emancipated, his Hajj does not suffice him, and he is required to perform another Hajj. As for the Bedouin, his Hajj suffices him.

وَقَالَ إِبْرَاهِيمُ النَّخَعِيُّ: لَا يُجْزِئُ الْعَبْدَ حَجُّهُ إِذَا أُعْتِقَ، وَعَلَيْهِ حَجَّةٌ أُخْرَى، وَأَمَّا الْأَعْرَابِيُّ فَيُجْزِئُهُ حَجُّهُ.

L12501 We have also had similar to this narrated to us from Al-Ḥasan, Al-Zuhrī, and Ṭāwūs. We do not know of any Successor from whom anything has been narrated in this chapter other than what we have mentioned, nor from the Companions other than what we have cited.

وَقَدْ رُوِّينَا أَيْضًا مِثْلَ هَذَا عَنِ الْحَسَنِ، وَعَنِ الزُّهْرِيِّ، وَطَاوُسٍ، وَمَا نَعْلَمُ أَحَدًا مِنَ التَّابِعِينَ رُوِيَ عَنْهُ فِي هَذَا الْبَابِ شَيْءٌ غَيْرُ مَا ذَكَرْنَاهُ، وَلَا عَنِ الصَّحَابَةِ غَيْرَ مَا أَوْرَدْنَا.

L12502 Abu Muhammad said: Who is more astonishing in situation than one who claims consensus in this matter while having only five Followers with him in this—one of whom is subject to disagreement regarding his position—when we have transmitted reports corresponding to our view from three Followers and two Companions (may Allah be pleased with them)? And they indeed have opposed in this issue every opinion reported from the Companions (may Allah be pleased with them). They magnify such a stance when it aligns with their adherence (taqlīd), yet they do not regard as consensus what has been narrated from six Companions and fourteen Followers affirming that Umrah is obligatory—though no valid disagreement is recorded from any Companion on this matter, nor from any Follower except from one with a disagreement—and they do not consider this consensus.

قَالَ أَبُو مُحَمَّدٍ: فَمَنْ أَعْجَبُ شَأْنًا مِمَّنْ يَدَّعِي الْإِجْمَاعَ فِي هَذَا وَلَيْسَ مَعَهُ فِيهِ إِلَّا خَمْسَةٌ مِنَ التَّابِعِينَ، أَحَدُهُمْ مُخْتَلَفٌ عَنْهُ فِي ذَلِكَ، وَقَدْ رُوِّينَا مِثْلَ قَوْلِنَا عَنْ ثَلَاثَةٍ مِنَ التَّابِعِينَ، وَعَنِ اثْنَيْنِ مِنَ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - وَهُمْ قَدْ خَالَفُوا فِي هَذِهِ الْمَسْأَلَةِ كُلَّ قَوْلٍ جَاءَ فِي ذَلِكَ عَنِ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَهُمْ يُعَظِّمُونَ مِثْلَ هَذَا إِذَا وَافَقَ تَقْلِيدَهُمْ فَلَمْ يَجْعَلُوا مَا رُوِيَ عَنْ سِتَّةٍ مِنَ الصَّحَابَةِ وَأَرْبَعَةَ عَشَرَ مِنَ التَّابِعِينَ فِي أَنَّ الْعُمْرَةَ فَرْضٌ، وَلَا يَصِحُّ عَنْ أَحَدٍ مِنَ الصَّحَابَةِ فِي ذَلِكَ خِلَافٌ وَلَا عَنْ أَحَدٍ مِنَ التَّابِعِينَ إِلَّا عَنْ وَاحِدٍ بِاخْتِلَافٍ فَلَمْ يَجْعَلُوهُ إِجْمَاعًا.

L12503 Abu Muhammad said: The narration of Uthman ibn Kharrazadh and Muhammad ibn Bashshār from Muhammad ibn al-Minhāl from Yazīd ibn Zurayʿ can only be either authentic or inauthentic. If it is inauthentic, we are relieved of the effort regarding it. If it is authentic—and this is the more evident possibility in it, since its narrators are reliable—then it is unquestionably an abrogated report.

قَالَ أَبُو مُحَمَّدٍ: لَا تَخْلُو رِوَايَةُ عُثْمَانَ بْنِ خَرَّزَاذٍ، وَمُحَمَّدِ بْنِ بَشَّارٍ عَنْ مُحَمَّدِ بْنِ الْمِنْهَالِ عَنْ يَزِيدَ بْنِ زُرَيْعٍ مِنْ أَنْ تَكُونَ صَحِيحَةً أَوْ غَيْرَ صَحِيحَةٍ فَإِنْ كَانَتْ غَيْرَ صَحِيحَةٍ فَقَدْ كُفِينَا الْمُؤْنَةَ فِيهَا، وَإِنْ كَانَتْ صَحِيحَةً وَهُوَ الْأَظْهَرُ فِيهَا -؛ لِأَنَّ رُوَاتَهَا ثِقَاتٌ - فَإِنَّهُ خَبَرٌ مَنْسُوخٌ بِلَا شَكٍّ.

L12504–12506 The proof of this is that this report undoubtedly dates to before the Conquest of Mecca, for it contains the requirement for Bedouins who performed Hajj before his Hijrah to repeat it. The chain of transmission is: Abdullah ibn Yusuf narrated to us: Ahmad ibn Fath narrated to us: Abd al-Wahhab ibn Isa narrated to us: Ahmad ibn Muhammad narrated to us: Ahmad ibn Ali

بُرْهَانُ ذَلِكَ -: أَنَّ هَذَا الْخَبَرَ بِلَا شَكٍّ كَانَ قَبْلَ فَتْحِ مَكَّةَ؛ لِأَنَّ فِيهِ إِعَادَةَ الْحَجِّ عَلَى مَنْ حَجَّ مِنَ الْأَعْرَابِ قَبْلَ هِجْرَتِهِ، وَقَدْ حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ نا أَحْمَدُ بْنُ فَتْحٍ نا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نا أَحْمَدُ بْنُ مُحَمَّدٍ نا أَحْمَدُ بْنُ عَلِيٍّ نا مُسْلِمُ بْنُ الْحَجَّاجِ نا مُحَمَّدُ بْنُ

narrated to us: Muslim ibn al-Hajjaj narrated to us. Muhammad ibn Abdullah ibn Numayr narrated to us: Ubayy narrated to us: Abdullah ibn Habib ibn Abi Thabit narrated to us, from Abdullah ibn Abd al-Rahman ibn Abi Husayn, from Ata, from Aisha, the Mother of the Believers, who said: "The Messenger of Allah (peace and blessings be upon him) was asked about emigration. He said: 'There is no emigration after the Conquest, but jihad and sincere intention. So when you are summoned to march forth, then march forth.'"

عَبْدِ اللَّهِ بْنِ نُمَيْرٍ نا أُبَيٌّ نا عَبْدُ اللَّهِ بْنُ حَبِيبِ بْنِ أَبِي ثَابِتٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي حُسَيْنٍ عَنْ عَطَاءٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ «سُئِلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْهِجْرَةِ فَقَالَ: لَا هِجْرَةَ بَعْدَ الْفَتْحِ وَلَكِنْ جِهَادٌ وَنِيَّةٌ فَإِذَا اُسْتُنْفِرْتُمْ فَانْفِرُوا» .

L12507 And through him [the previous narrator] to Muslim: Yahya and Ishaq ibn Ibrahim—who is Ibn Rahawayh—both said together: "I am Jarir reporting from Mansur from Mujahid from Tawus from Ibn Abbas, who said: 'Allah's Messenger—peace and blessings be upon him—said on the day of the conquest of Mecca: "There is no Hijrah, but Jihad and intention. When you are summoned to march forth, then march forth."'"

وَبِهِ إلَى مُسْلِمٍ نا يَحْيَى وَإِسْحَاقُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - قَالَا جَمِيعًا أَنَا جَرِيرٌ عَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: «قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَوْمَ فَتْحِ مَكَّةَ لَا هِجْرَةَ وَلَكِنْ جِهَادٌ وَنِيَّةٌ إذَا اُسْتُنْفِرْتُمْ فَانْفِرُوا» .

L12508 We have also narrated it through a reliable chain from Mujāshiʿ and Mujālid, the two sons of Masʿūd al-Silmī, from the Messenger of Allah—peace and blessings be upon him. Since it has been confirmed without doubt that this report predates the Conquest [of Mecca], it has been abrogated by what we have narrated through the aforementioned chain in Muslim: Zuḥayr ibn Ḥarb reported to us, Yazīd ibn Hārūn reported to us, al-Rabīʿ ibn Muslim al-Qurashī reported to us, from Muḥammad ibn Ziyād, from Abū Hurayrah, who said: "The Messenger of Allah—peace and blessings be upon him—addressed us and said, 'O people, Allah has made Hajj obligatory upon you, so perform Hajj.' A man asked, 'Every year, O Messenger of Allah?' He remained silent until the man repeated it three times. Then the Prophet—peace be upon him—said, 'If I had said yes, it would have become obligatory, and you would not have been able to fulfill it. Hold fast to what I have left you. Those before you were destroyed only because they asked too many questions and disputed their prophets. When I command you to do something, do as much of it as you can, and when I forbid you from something, refrain from it.'"[1]

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقٍ ثَابِتَةٍ عَنْ مُجَاشِعٍ، وَمُجَالِدٍ: ابْنَيْ مَسْعُودٍ السِّلْمِيَّيْنِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَإِذْ قَدْ صَحَّ بِلَا شَكٍّ أَنَّ هَذَا الْخَبَرَ كَانَ قَبْلَ الْفَتْحِ فَقَدْ نَسَخَهُ مَا رُوِّينَا بِالسَّنَدِ الْمَذْكُورِ إلَى مُسْلِمٍ -: نا زُهَيْرُ بْنُ حَرْبٍ نا يَزِيدُ بْنُ هَارُونَ نا الرَّبِيعُ بْنُ مُسْلِمٍ الْقُرَشِيُّ عَنْ مُحَمَّدِ بْنِ زِيَادٍ عَنْ أَبِي هُرَيْرَةَ قَالَ «خَطَبَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: أَيُّهَا النَّاسُ إنَّ اللَّهَ قَدْ فَرَضَ عَلَيْكُمْ الْحَجَّ فَحُجُّوا، فَقَالَ رَجُلٌ: أَكُلَّ عَامٍ يَا رَسُولَ اللَّهِ؟ فَسَكَتَ حَتَّى قَالَهَا ثَلَاثًا فَقَالَ - عَلَيْهِ السَّلَامُ -: لَوْ قُلْتُ: نَعَمْ، لَوَجَبَتْ وَلَمَا اسْتَطَعْتُمْ، ذَرُونِي مَا تَرَكْتُكُمْ، فَإِنَّمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ بِكَثْرَةِ سُؤَالِهِمْ وَاخْتِلَافِهِمْ عَلَى أَنْبِيَائِهِمْ، فَإِذَا أَمَرْتُكُمْ بِشَيْءٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ، وَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَدَعُوهُ» .

L12509–12511 Abu Muhammad said: This occurred during the Farewell Pilgrimage, thereby establishing a universal ruling applicable to every free person, slave, Bedouin,

قَالَ أَبُو مُحَمَّدٍ: كَانَ هَذَا فِي حَجَّةِ الْوَدَاعِ فَصَارَ عُمُومًا لِكُلِّ حُرٍّ، وَعَبْدٍ، وَأَعْرَابِيٍّ، وَعَجَمِيٍّ [وَبِلَا شَكٍّ وَلَا مِرْيَةٍ] أَنَّ الْعَبْدَ قَدْ كَانَ غَيْرَ مُخَاطَبٍ بِالْحَجِّ فِي صَدْرِ الْإِسْلَامِ وَلَا

[1] **Hadith references (L12508):** Riyad as-Salihin 1272.

الْحُرُّ أَيْضًا، فَكَانَ خَبَرُ يَزِيدَ بْنِ زُرَيْعٍ فِي أَنَّ عَلَيْهِ وَعَلَى الْأَعْرَابِيِّ حَجَّةَ الْإِسْلَامِ إِذَا عَتَقَ الْعَبْدُ، وَهَاجَرَ الْأَعْرَابِيُّ، مُوَافِقًا لِلْحَالَةِ الْأُولَى وَبَقِيَا عَلَى أَنَّهُمَا غَيْرُ مُخَاطَبَيْنِ كَمَا كَانَا، وَجَاءَ هَذَا الْخَبَرُ فَدَخَلَ فِي نَصِّهِ فِي الْخِطَابِ بِالْحَجِّ: الْعَبْدُ، وَالْأَعْرَابِيُّ؛ لِأَنَّهُمَا مِنْ النَّاسِ فَكَانَ بِلَا شَكٍّ نَاسِخًا لِلْحَالَةِ الْأُولَى وَمُدْخِلًا لَهُمَا فِي الْخِطَابِ بِالْحَجِّ ضَرُورَةً وَلَا بُدَّ.

and non-Arab, without doubt or hesitation, since the slave was not originally addressed with the obligation of Hajj in the early era of Islam, nor was the free person. Consequently, the report of Yazid ibn Zurai' states that the Hajj of Islam becomes obligatory upon the slave and the Bedouin once the slave is emancipated and the Bedouin migrates. This aligns with the original ruling, while both remain unbound by the obligation, just as... They were both [such], but when this report came, it included in its text the injunction concerning Hajj to address the slave and the Bedouin, since they are among the people. Thus, it undeniably abrogated the initial state and necessarily and unavoidably brought them under the scope of the Hajj injunction.

L12512 وَرَأَيْت بَعْضَهُمْ قَدْ احْتَجَّ فَقَالَ: حَجَّ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِأَزْوَاجِهِ، وَلَمْ يَحُجَّ بِأُمِّ وَلَدِهِ؟ قَالَ عَلِيٌّ: وَهَذِهِ كِذْبَةٌ شَنِيعَةٌ لَا نَجِدُهَا فِي شَيْءٍ مِنْ الْآثَارِ أَبَدًا وَإِنَّ التَّسَهُّلَ فِي مِثْلِ هَذَا لَعَظِيمٌ جِدًّا -: قَالَ أَبُو مُحَمَّدٍ: عَهْدُنَا بِهِمْ يَقُولُونَ فِي النَّفْيِ فِي الزِّنَا، وَفِي كَثِيرٍ مِنْ السُّنَنِ مِثْلَ: لَا تُحَرِّمُ الرَّضْعَةُ وَلَا الرَّضْعَتَانِ، وَفِي خَبَرِ الْيَمِينِ مَعَ الشَّاهِدِ، هَذَا زِيَادَةٌ عَلَى مَا فِي الْقُرْآنِ، وَهَذَا تَخْصِيصٌ لِلْقُرْآنِ، وَهَذَا خِلَافُ مَا فِي الْقُرْآنِ، وَكَذَبُوا فِي كُلِّ ذَلِكَ، ثُمَّ لَمْ يَقُولُوا فِي هَذَا الْخَبَرِ: هَذَا تَخْصِيصٌ لِلْقُرْآنِ، وَهَذَا زِيَادَةٌ عَلَى مَا فِي الْقُرْآنِ، وَهَذَا خِلَافٌ لِمَا فِي الْقُرْآنِ.

I saw some of them argue by saying: "The Prophet (may Allah bless him and grant him peace) performed Hajj with his wives, but did not perform Hajj with his umm walad?" ʿAlī said: "This is a heinous lie we have never encountered in any of the narrations whatsoever, and indeed such laxity in matters of this nature is profoundly grave." Abū Muḥammad said: "Our knowledge of them is that they assert negation concerning adultery and many Sunnahs, such as their claim: 'One breastfeeding or two do not establish prohibition,' and regarding the report about the oath with a witness. They say: 'This is an addition to the Quran,' 'This specifies the Quran,' and 'This contradicts the Quran' – yet they lied in all of that. Then they did not say about this report: 'This specifies the Quran,' 'This is an addition to the Quran,' or 'This contradicts the Quran.'"

L12513 وَعَهْدُنَا بِهِمْ يَرُدُّونَ السُّنَنَ الثَّابِتَةَ بِدَعْوَى الِاضْطِرَابِ: كَخَبَرِ الْقَطْعِ فِي رُبْعِ دِينَارٍ، وَخَبَرِ ابْنِ عُمَرَ فِي الزَّكَاةِ وَغَيْرِ ذَلِكَ، وَكَذَبُوا فِي ذَلِكَ، ثُمَّ احْتَجُّوا (فِي ذَلِكَ) بِهَذَا الْخَبَرِ الَّذِي لَا نَعْلَمُ خَبَرًا أَشَدَّ اضْطِرَابًا مِنْهُ.

We know them to reject the established Sunnahs on the claim of inconsistency—such as the report on amputation for theft involving a quarter dinar, the report of Ibn 'Umar regarding *zakāh*, and others—and they have lied in that. Then they argued regarding that with this report, for we know of no narration more inconsistent than it.

L12514–12516 وَهُمْ يَتْرُكُونَ السُّنَنَ لِلْقِيَاسِ: كَخَبَرِ الْمُصَرَّاةِ، وَخَبَرِ الْقُرْعَةِ فِي السِّتَّةِ الْأَعْبُدِ، وَهُمْ هَاهُنَا قَدْ تَرَكُوا الْقِيَاسَ؛ لِأَنَّهُمْ لَا يَخْتَلِفُونَ أَنَّ الْعَبْدَ مُخَاطَبٌ بِالْإِسْلَامِ وَبِالصَّلَاةِ، وَالصِّيَامِ، فَمَا الَّذِي مَنَعَ (مِنْ) أَنْ يُخَاطَبَ بِالْحَجِّ، وَالْعُمْرَةِ؛ ثُمَّ يَقُولُونَ: الْعَبْدُ لَيْسَ هُوَ مِنْ أَهْلِ

They abandon the Sunnah for analogy—such as the report of the milk-retained animal and the report of the lottery among the six slaves—yet here they have abandoned analogy. For they do not dispute that the slave is obligated by Islam, prayer, and fasting. What then prevents him from being obligated by Hajj and Umrah? They argue: "The slave is not among those

الْجُمُعَةِ فَإِذَا حَضَرَهَا صَارَ مِنْ أَهْلِهَا وَأَجْزَأَتْهُ، فَهُمْ قَالُوا هَاهُنَا: إِنَّ الْعَبْدَ وَإِنْ لَمْ يَكُنْ مِنْ أَهْلِ الْحَجِّ فَإِنَّهُ إِذَا حَضَرَهُ صَارَ مِنْ أَهْلِهِ وَأَجْزَأَهُ وَأَكْثَرُهُمْ يَقُولُ: مَنْ نَوَى تَطَوُّعًا بِحَجِّهِ أَجْزَأَهُ عَنْ الْفَرْضِ، وَأَقَلُّ حَالِ حَجِّ الْعَبْدِ: أَنْ يَكُونَ تَطَوُّعًا فَهَلَّا أَجْزَأَهُ عِنْدَهُمْ؟ فَإِنْ قَالُوا: هُوَ غَيْرُ مُخَاطَبٍ؟ قُلْنَا: قَدْ جَمَعْتُمْ فِي هَذَا الْقَوْلِ الْكَذِبَ وَخِلَافَ الْقُرْآنِ إِذْ لَمْ يَخُصَّ اللَّهُ تَعَالَى عَبْدًا مِنْ حُرٍّ، وَالتَّنَاقُضَ؛ لِأَنَّهُ إِنْ لَمْ يَكُنْ مُخَاطَبًا بِهِ فَلَا يَحِلُّ لَهُ أَنْ يَتَكَلَّفَ وَلَا يَلْزَمُهُ إِحْرَامٌ وَلَا شَيْءٌ مِنْ جَزَاءِ صَيْدٍ وَلَا فِدْيَةِ أَذًى وَلَا غَيْرِ ذَلِكَ كَمَا لَا يَلْزَمُ الْحَائِضَ شَيْءٌ مِنْ أَحْكَامِ الصَّلَاةِ وَالصِّيَامِ، إِذْ لَيْسَتْ مُخَاطَبَةً بِهِ، وَكَالصَّبِيِّ الَّذِي لَا يَلْزَمُهُ شَيْءٌ مِنْ أُمُورِ الْحَجِّ فَإِنْ فَعَلَهُمَا أَوْ فَعَلَ بِهِ كَانَ لَهُ أَجْرٌ وَكَانَ لَهُ حَجٌّ لِلْأَثَرِ فِي ذَلِكَ لَا لِغَيْرِهِ.

obligated for Jumuʿah, but if he attends it, he becomes one of its obligated people and it suffices him." Here they argue: "Even if the slave is not among those obligated for Hajj, if he performs it, he becomes one of its obligated people and it suffices him." Most of them say: "Whoever intends voluntary worship through his Hajj, it suffices him for the obligation." The least possible standing of a slave's Hajj is that it count as voluntary—so why does it not suffice according to them? If they say: "He is not obligated," we reply: "You have combined in this statement falsehood, opposition to the Quran—since Allah the Exalted makes no distinction between slave and free—and contradiction. For if he were not obligated by it, it would neither be permissible for him to undertake it, nor would the ihram be binding upon him, nor..." A menstruating woman is not liable for any compensation for hunting, nor expiation for harm, nor other such obligations, just as she is not bound by any rulings of prayer and fasting, since she is not legally addressed by them. This is akin to a minor who is not bound by any obligations of pilgrimage. If he performs both of them or has them performed on his behalf, he receives reward, and his pilgrimage is valid due to the narrations (Athar) regarding that, not for any other reason.

فَهَذَا مِمَّا خَالَفُوا فِيهِ الْقُرْآنَ وَالسُّنَنَ الثَّابِتَةَ وَقَوْلَ طَائِفَةٍ مِنْ الصَّحَابَةِ لَا يُعْرَفُ لَهُمْ مِنْهُمْ مُخَالِفٌ وَالْقِيَاسُ: نَعَمْ، وَالْخَبَرُ الَّذِي بِهِ احْتَجُّوا؛ لِأَنَّهُمْ خَالَفُوا مَا فِيهِ مِنْ حُكْمِ الْأَعْرَابِيِّ فِي الْحَجِّ وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L12517 This is among the matters in which they opposed the Qur'an, the established Sunnahs, the statement of a group of the Companions (with no dissenter known among them), and analogy. And as for analogy: yes, and the report they invoked as evidence—for they contradicted what it contained of the ruling of the Bedouin in Hajj. And success is from Allah, the Exalted.

## [مَسْأَلَةٌ الْمَرْأَةُ الَّتِي لَا زَوْجَ لَهَا وَلَا ذَا مَحْرَمٍ يَحُجُّ مَعَهَا تَحُجُّ]

## Issue: Is it permissible for a woman who has neither a husband nor a *mahram* to perform Hajj with her to perform Hajj?

٨١٣ - مَسْأَلَةٌ: وَأَمَّا الْمَرْأَةُ الَّتِي لَا زَوْجَ لَهَا وَلَا ذَا مَحْرَمٍ يَحُجُّ مَعَهَا فَإِنَّهَا تَحُجُّ وَلَا شَيْءَ عَلَيْهَا، فَإِنْ كَانَ لَهَا زَوْجٌ فَفَرْضٌ عَلَيْهِ أَنْ يَحُجَّ مَعَهَا فَإِنْ لَمْ يَفْعَلْ فَهُوَ عَاصٍ لِلَّهِ تَعَالَى وَتَحُجُّ هِيَ دُونَهُ وَلَيْسَ لَهُ مَنْعُهَا مِنْ حَجِّ التَّطَوُّعِ.

L12518 L12519 Issue 813: As for a woman who has neither a husband nor a mahram to accompany her on Hajj, she may perform Hajj and there is no sin upon her. If she has a husband, it is obligatory upon him to perform Hajj with her. If he fails to do so, he is disobedient to Allah the Exalted, and she may perform Hajj independently of him. He has no right to prevent her from performing voluntary Hajj.

L12520 It has been reported to us from Ibrāhīm, Ṭāwūs, al-Shaʿbī, and al-Ḥasan: "A woman may not perform *Ḥajj* unless accompanied by her husband or a *maḥram*," and this is the statement of al-Ḥasan ibn Ḥayy.

وَرُوِّينَا عَنْ إِبْرَاهِيمَ، وَطَاوُسٍ، وَالشَّعْبِيِّ، وَالْحَسَنِ: لَا تَحُجَّ الْمَرْأَةُ إِلَّا مَعَ زَوْجٍ أَوْ مَحْرَمٍ، وَهُوَ قَوْلُ الْحَسَنِ بْنِ حَيٍّ.

L12521 It has been reported to us from Abū Ḥanīfah and Sufyān: If a woman is at a distance from Makkah requiring less than three nights' journey, she may perform Hajj without being accompanied by her husband or a *mahram*. If the distance requires three nights' journey or more, she may not perform Hajj except with her husband or a *mahram* from among her male relatives.

وَرُوِّينَا عَنْ أَبِي حَنِيفَةَ، وَسُفْيَانَ: إِنْ كَانَتْ مِنْ مَكَّةَ عَلَى أَقَلَّ مِنْ لَيَالٍ ثَلَاثٍ فَلَهَا أَنْ تَحُجَّ مَعَ غَيْرِ زَوْجٍ، وَغَيْرِ ذِي مَحْرَمٍ، وَإِنْ كَانَتْ عَلَى ثَلَاثٍ فَصَاعِدًا فَلَيْسَ لَهَا أَنْ تَحُجَّ إِلَّا مَعَ زَوْجٍ، أَوْ ذِي مَحْرَمٍ مِنْ رِجَالِهَا.

L12522 A woman may not travel for more than three nights except with a mahram.

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ عُمَرَ لَا تُسَافِرْ امْرَأَةٌ فَوْقَ ثَلَاثِ لَيَالٍ إِلَّا مَعَ ذِي مَحْرَمٍ.

L12523 It was narrated through the chain of Abu Bakr ibn Abi Shaybah from Humaid from al-Hasan ibn Ḥayy from Ali ibn Abd al-A'la that Ikrimah was asked about a woman performing Hajj without a mahram or her husband. He said: "The Messenger of Allah (peace be upon him) forbade a woman from traveling more than three days except with a mahram."

وَرُوِّينَا مِنْ طَرِيقِ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ عَنْ حُمَيْدٍ عَنْ الْحَسَنِ بْنِ حَيٍّ عَنْ عَلِيِّ بْنُ عَبْدِ الْأَعْلَى: أَنَّ عِكْرِمَةَ سُئِلَ عَنْ الْمَرْأَةِ تَحُجُّ مَعَ غَيْرِ ذِي مَحْرَمٍ أَوْ زَوْجٍ؟ فَقَالَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ تُسَافِرَ الْمَرْأَةُ فَوْقَ ثَلَاثٍ إِلَّا مَعَ ذِي مَحْرَمٍ» .

L12524 A group held that a woman may perform Hajj in a secure group even if she has no husband or *mahram* accompanying her—as we narrated through the chain of Ibn Abi Shaybah: he reported to us from Wakiʿ, from Yunus (who is Ibn Yazid), from al-Zuhri, who said: "It was mentioned in the presence of ʿAisha, the Mother of the Believers: 'Should a woman not travel except with a *mahram*?' She replied: 'Not every woman can find a *mahram*.'"

وَقَالَتْ طَائِفَةٌ: تَحُجُّ فِي رُفْقَةٍ مَأْمُونَةٍ وَإِنْ لَمْ يَكُنْ لَهَا زَوْجٌ وَلَا كَانَ مَعَهَا ذُو مَحْرَمٍ -: كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا وَكِيعٌ عَنْ يُونُسَ هُوَ ابْنُ يَزِيدَ - عَنْ الزُّهْرِيِّ قَالَ: ذُكِرَ عِنْدَ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ الْمَرْأَةُ لَا تُسَافِرُ إِلَّا مَعَ ذِي مَحْرَمٍ؟ قَالَتْ عَائِشَةُ: لَيْسَ كُلُّ النِّسَاءِ تَجِدُ مَحْرَمًا.

L12525–12526 From the transmission of Saʿīd ibn Manṣūr: Ibn Wahb narrated to us from ʿAmr ibn al-Ḥārith, from Bukayr ibn al-Ashajj, from Nāfiʿ, the freed slave of Ibn ʿUmar, who said: "'Abdullāh ibn ʿUmar would travel with [his] female freed slaves lacking a maḥram escort." This is the opinion of Ibn Sīrīn and ʿAṭāʾ, as well as the apparent position of the statements of al-Zuhrī, Qatādah, and al-Ḥakam ibn ʿUtaybah. It is also the view of al-Awzāʿī, Mālik, al-Shāfiʿī, Abū Sulaymān, and all their companions.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا ابْنُ وَهْبٍ عَنْ عَمْرِو بْنِ الْحَارِثِ عَنْ بُكَيْرِ بْنِ الْأَشَجِّ عَنْ نَافِعٍ مَوْلَى ابْنِ عُمَرَ قَالَ: كَانَ يُسَافِرُ مَعَ عَبْدِ اللَّهِ بْنِ عُمَرَ مَوْلَيَاتٌ (لَهُ) لَيْسَ مَعَهُنَّ مَحْرَمٌ، وَهُوَ قَوْلُ ابْنِ سِيرِينَ وَعَطَاءٍ، وَهُوَ ظَاهِرُ قَوْلِ الزُّهْرِيِّ، وَقَتَادَةَ، وَالْحَكَمِ بْنِ عُتَيْبَةَ - وَهُوَ قَوْلُ الْأَوْزَاعِيِّ، وَمَالِكٍ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَجَمِيعِ أَصْحَابِهِمْ.

L12527 Abu Muhammad said: As for Abu Hanifah's statement regarding the afore-

mentioned specification, we do not know of any predecessor from the Companions who established it.

قَالَ أَبُو مُحَمَّدٍ: أَمَّا قَوْلُ أَبِي حَنِيفَةَ فِي التَّحْدِيدِ الَّذِي ذُكِرَ فَلَا نَعْلَمُ لَهُ سَلَفًا فِيهِ مِنْ الصَّحَابَةِ.

L12528 Nor from the Followers—may Allah be pleased with them—for we know none who held this view before them. Yet they greatly respect a Companion's differing opinion when it aligns with their adherence to legal precedent, declaring: "The *mursal* narration equates to the *musnad*." What we cited has been authentically transmitted from Ibn Umar, while a narration from the Mother of the Believers is reported through the finest *mursal* chain that can exist. No opposing view from the Companions—may Allah be pleased with them—is known against both of them in this matter. Yet the followers of Abu Hanifah have opposed both of them—is this not a gross contradiction? Abu Muhammad said: We then scrutinized the proofs each faction cited for their position and found Abu Hanifah's followers justifying their stance with the Prophet's report—peace and blessings be upon him: "A woman must not travel three days unless accompanied by her husband or a *mahram*."

وَلَا مِنْ التَّابِعِينَ - رَضِيَ اللَّهُ عَنْهُمْ -؛ بَلْ مَا نَعْلَمُ أَحَدًا قَالَهُ قَبْلَهُمْ، وَهُمْ يُعَظِّمُونَ خِلَافَ الصَّاحِبِ إذَا وَافَقَ تَقْلِيدَهُمْ، وَيَقُولُونَ: إنَّ الْمُرْسَلَ كَالْمُسْنَدِ، وَقَدْ صَحَّ عَنْ ابْنِ عُمَرَ مَا ذَكَرْنَا؛ وَرُوِيَ عَنْ أُمِّ الْمُؤْمِنِينَ بِأَحْسَنِ مُرْسَلٍ يُمْكِنُ وُجُودُ مِثْلِهِ، وَلَا يُعْرَفُ لَهُمَا فِي ذَلِكَ مُخَالِفٌ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَقَدْ خَالَفَهُمَا أَصْحَابُ أَبِي حَنِيفَةَ، وَهَذَا تَنَاقُضٌ فَاحِشٌ؟ قَالَ أَبُو مُحَمَّدٍ: ثُمَّ نَظَرْنَا فِيمَا احْتَجَّتْ بِهِ كُلُّ طَائِفَةٍ لِقَوْلِهَا فَوَجَدْنَا أَصْحَابَ أَبِي حَنِيفَةَ يَحْتَجُّونَ لِقَوْلِهِمْ بِالْخَبَرِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «لَا تُسَافِرُ امْرَأَةٌ ثَلَاثًا إلَّا مَعَ زَوْجٍ أَوْ ذِي مَحْرَمٍ» .

L12529–12530 They said: It has also been reported as "two nights," "a day and a night," "a day," and "a barid (a day's journey)." They said: We are certain about the prohibition of her traveling for three days and doubtful regarding its prohibition for less than that, because the mention of three days might appear earlier or later in the transmitted reports. In any case, her travel is prohibited for three days except with a husband or a mahram relative. Thus, we act upon what is certain and abandon what is doubtful. They have no valid argument whatsoever beyond this at all.

وَقَالُوا: قَدْ رُوِيَ أَيْضًا " لَيْلَتَيْنِ " وَرُوِيَ " يَوْمًا وَلَيْلَةً " وَرُوِيَ " يَوْمًا " وَرُوِيَ " بَرِيدًا " قَالُوا: وَنَحْنُ عَلَى يَقِينٍ مِنْ تَحْرِيمِ سَفَرِهَا ثَلَاثًا وَعَلَى شَكٍّ مِنْ تَحْرِيمِ سَفَرِهَا أَقَلَّ مِنْ ذَلِكَ، لِأَنَّهُ قَدْ يَكُونُ ذِكْرُ الثَّلَاثِ مُتَقَدِّمًا وَيَكُونُ مُتَأَخِّرًا فَالثَّلَاثُ عَلَى كُلِّ حَالٍ مُحَرَّمٌ عَلَيْهَا سَفَرُهَا إلَّا مَعَ زَوْجٍ أَوْ ذِي مَحْرَمٍ فَنَأْخُذُ مَا لَا شَكَّ فِيهِ وَنَدَعُ مَا فِيهِ الشَّكُّ لَا حُجَّةَ لَهُمْ غَيْرَ هَذَا أَصْلًا.

L12531–12533 Ali said: "And this is upon them, not for them, for two aspects—:" One of them is that the validity of the practice is not as they asserted, for whether the narration concerning three days is earlier or later, it does not nullify the prohibition against her traveling for less than three days. Rather, it constitutes part of what exists in other narrations, while the remaining narrations supplement it. This is not a context for abrogation at all. Rather, all those

قَالَ عَلِيٌّ: وَهَذَا عَلَيْهِمْ لَا لَهُمْ لِوَجْهَيْنِ -: أَحَدُهُمَا: أَنَّهُ لَيْسَ صَوَابُ الْعَمَلِ مَا ذَكَرُوا، لِأَنَّهُ إنْ كَانَ خَبَرُ الثَّلَاثِ مُتَقَدِّمًا أَوْ مُتَأَخِّرًا فَلَيْسَ فِيهِ إنْ تَقَدَّمَ إبْطَالٌ لِحُكْمِ النَّهْيِ عَنْ سَفَرِهَا أَقَلَّ مِنْ ثَلَاثٍ لَكِنَّهُ بَعْضُ مَا فِي سَائِرِ الرِّوَايَاتِ، وَسَائِرُ الرِّوَايَاتِ زَائِدَةٌ عَلَيْهِ،

narrations are authentic, all are binding, and none of them are inherently contradictory.

وَلَيْسَ هَذَا مَكَانَ نَسْخٍ أَصْلًا؛ بَلْ كُلُّ (تِلْكَ) الْأَخْبَارِ حَقٌّ وَكُلُّهَا يَجِبُ اسْتِعْمَالُهَا وَلَيْسَ بَعْضُهَا مُخَالِفًا لِبَعْضٍ أَصْلًا.

L12534 And it is said to them: The narration of Ibn Abbas from the Prophet—peace and blessings of Allah be upon him—"A woman must not travel except with a *mahram*" is comprehensive for all types of travel. Thus, we are certain of the prohibition of every journey for her unless accompanied by a husband or *mahram*. However, we do not know whether this ruling has been abrogated or not. Therefore, we adhere to certainty and discard doubt. This contradicts their argument in addition to what we have already established.

وَيُقَالُ لَهُمْ: خَبَرُ ابْنِ عَبَّاسٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «لَا تُسَافِرْ امْرَأَةٌ إلَّا مَعَ ذِي مَحْرَمٍ» جَامِعٌ لِكُلِّ سَفَرٍ فَنَحْنُ عَلَى يَقِينٍ مِنْ تَحْرِيمِ كُلِّ سَفَرٍ عَلَيْهَا إلَّا مَعَ زَوْجٍ أَوْ ذِي مَحْرَمٍ، ثُمَّ لَا نَدْرِي أَبَطَلَ هَذَا الْحُكْمُ أَمْ لَا؟ فَنَأْخُذُ بِالْيَقِينِ وَنُلْغِي الشَّكَّ؛ فَهَذَا مُعَارِضٌ لِاحْتِجَاجِهِمْ مَعَ مَا قَدَّمْنَا.

L12535 They are told: Our covenant with you is that you criticize narrations due to inconsistency, yet this is a narration transmitted by Abu Sa'id, Abu Hurayrah, Ibn 'Umar, and Ibn 'Abbas. There was no inconsistency whatsoever in the narration from Ibn 'Abbas, while contradictions occurred in transmissions from the others. It was narrated from Ibn 'Umar: "Do not travel for three days"; another narration states: "Do not travel beyond three days." From Abu Sa'id, it was narrated: "Do not travel beyond three days"; yet another narration states: "Do not travel two days." From Abu Hurayrah, narrations include: "Do not travel three days"; "Do not travel beyond three days"; "Do not travel a day and a night"; "Do not travel a day"; and "Do not travel a buraid." By your own principle, you must abandon narrations from those contradicted in transmissions or showing inconsistency, since none of the narrations from any individual is more deserving of acceptance than the others narrated from him. Instead, adopt the narration of one from whom no contradictions are reported and whose transmissions remain consistent—namely Ibn 'Abbas. This aligns more closely with sound reasoning than your mode of deduction. The second perspective:

وَيُقَالُ لَهُمْ: عَهْدُنَا بِكُمْ تَذُمُّونَ الْأَخْبَارَ بِالِاضْطِرَابِ، وَهَذَا خَبَرٌ رَوَاهُ أَبُو سَعِيدٍ، وَأَبُو هُرَيْرَةَ، وَابْنُ عُمَرَ، وَابْنُ عَبَّاسٍ، فَلَمْ يَضْطَرِبْ عَنْ ابْنِ عَبَّاسٍ أَصْلًا وَاضْطَرَبَ عَنْ سَائِرِهِمْ -: فَرُوِيَ عَنْ ابْنِ عُمَرَ: «لَا تُسَافِرْ ثَلَاثًا» ؛ وَرُوِيَ عَنْهُ: «لَا تُسَافِرْ فَوْقَ ثَلَاثٍ» ؛ وَرُوِيَ عَنْ أَبِي سَعِيدٍ: «لَا تُسَافِرْ فَوْقَ ثَلَاثٍ» ؛ وَرُوِيَ عَنْهُ «لَا تُسَافِرْ يَوْمَيْنِ» ؛ وَرُوِيَ عَنْ أَبِي هُرَيْرَةَ: «لَا تُسَافِرْ ثَلَاثًا» ؛ وَرُوِيَ عَنْهُ: «لَا تُسَافِرْ فَوْقَ ثَلَاثٍ» ؛ وَرُوِيَ عَنْهُ: «لَا تُسَافِرْ يَوْمًا وَلَيْلَةً» ؛ وَرُوِيَ عَنْهُ: «لَا تُسَافِرْ يَوْمًا» ؛ وَرُوِيَ عَنْهُ: «لَا تُسَافِرْ بَرِيدًا» ؛ فَعَلَى أَصْلِكُمْ دَعُوا رِوَايَةَ مَنْ اُخْتُلِفَ عَلَيْهِ وَاضْطَرَبَ عَنْهُ إذْ لَيْسَ بَعْضُ مَا رُوِيَ عَنْ كُلِّ وَاحِدٍ أَوْلَى مِنْ سَائِرِ مَا رُوِيَ عَنْهُ؛ وَخُذُوا بِرِوَايَةِ مَنْ لَمْ يُخْتَلَفْ عَلَيْهِ وَلَا اضْطَرَبَ عَنْهُ، وَهُوَ ابْنُ عَبَّاسٍ؛ فَهَذَا أَشْبَهُ مِنْ اسْتِدْلَالِكُمْ. وَالْوَجْهُ الثَّانِي:

L12536 It has been reported from Ibn Umar, Abu Sa'id, and Abu Hurairah – as we mentioned – that "a woman should not travel beyond three days." If you validate your corrupt reasoning by extending beyond what is mentioned in those reports, then prevent her from traveling beyond a three days' journey, as that

أَنَّهُ قَدْ رُوِيَ عَنْ ابْنِ عُمَرَ، وَأَبِي سَعِيدٍ، وَأَبِي هُرَيْرَةَ، كَمَا ذَكَرْنَا لَا تُسَافِرْ (الْمَرْأَةُ) فَوْقَ ثَلَاثٍ، فَإِنْ صَحَّحْتُمْ اسْتِدْلَالَكُمْ (الْفَاسِدَ) بِأَخْذِ أَكْثَرَ مِمَّا ذُكِرَ فِي تِلْكَ الْأَخْبَارِ فَامْنَعُوهَا

مِمَّا زَادَ عَلَى مَسِيرَةِ ثَلَاثٍ، لِأَنَّهُ الْيَقِينُ وَأَبِيحُوا لَهَا سَفَرَ الثَّلَاثِ، لِأَنَّهُ مَشْكُوكٌ فِيهِ كَمَا سَفَرُ الْيَوْمَيْنِ، وَالْيَوْمِ، وَالْبَرِيدِ مَشْكُوكٌ فِيهِ عِنْدَكُمْ، وَهَذَا مَا لَا مُخَلَّصَ لَهُمْ مِنْهُ، فَإِنْ ادَّعَوْا إِجْمَاعًا هَاهُنَا - فَمَا هَذَا يُنْكَرُ مِنْ إِقْدَامِهِمْ، وَأَكْذَبُهُمْ مَا رُوِّينَا مِنْ طَرِيقِ الْحُذَافِيِّ - عَنْ عَبْدِ الرَّزَّاقِ - نا عَبْدُ اللَّهِ بْنُ عُمَرَ بْنِ حَفْصٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: لَا تُسَافِرُ امْرَأَةٌ فَوْقَ ثَلَاثٍ إِلَّا مَعَ ذِي مَحْرَمٍ، وَلَا سِيَّمَا وَابْنُ عُمَرَ هُوَ رَاوِي الْحَدِيثِ الَّذِي تَعَلَّقُوا بِهِ.

is the certainty, and permit her to travel three days, since it is doubtful – just as a two-day journey, a one-day journey, or a barīd [specific distance unit] are considered doubtful in your view. This is something they cannot escape. If they claim consensus here – this audacity of theirs cannot be denied – and what most demonstrates their falsehood is what we have reported through the chain of al-Ḥudhāfī – from ʿAbd al-Razzaq – narrated by ʿAbdullah ibn ʿUmar ibn Hafs from Nāfiʿ from Ibn Umar, who said: "A woman should not travel beyond three days except with a maḥram." Especially since Ibn Umar himself is the narrator of the ḥadīth they rely upon.

وَأَكْذَبُهُمْ أَيْضًا مَا رُوِّينَا عَنْ عِكْرِمَةَ آنِفًا مِنْ مَنْعِهِ إِيَّاهَا مَا زَادَ عَلَى الثَّلَاثِ لَا مَا دُونَ ذَلِكَ.

L12537–12538 And he also deemed them liars regarding what was recently reported to us from ʿIkrimah concerning his prohibition of her exceeding three [days], not less than that.

وَالْعَجَبُ أَنَّهُمْ يَقُولُونَ فِي امْرَأَةٍ لَا تَجِدُ مَعَاشًا أَصْلًا إِلَّا عَلَى ثَلَاثٍ فَصَاعِدًا، أَنَّهَا تَخْرُجُ بِلَا زَوْجٍ وَلَا ذِي مَحْرَمٍ.

L12539 It is surprising that they rule regarding a woman who cannot secure her livelihood except in three or more cases, that she may go out without a husband or mahram.

وَيَقُولُونَ فِيمَنْ حَفَزَتْهَا فِتْنَةٌ - وَخَشِيَتْ عَلَى، نَفْسِهَا غَلَبَةَ الْكُفَّارِ، وَالْمُحَارِبِينَ، أَوْ الْفُسَّاقِ وَلَمْ تَجِدْ أَمْنًا إِلَّا عَلَى ثَلَاثٍ فَصَاعِدًا - أَنَّهَا تَخْرُجُ مَعَ غَيْرِ زَوْجٍ وَمَعَ غَيْرِ ذِي مَحْرَمٍ، وَطَاعَةُ اللَّهِ تَعَالَى فِي الْحَجِّ وَاجِبَةٌ عَلَيْهَا كَوُجُوبِ خَلَاصِ رُوحِهَا.

L12540 They say regarding a woman compelled by a trial—who fears for herself the dominance of disbelievers, combatants, or transgressors and finds no security except at a distance of three [days] or more—that she may depart without her husband and without a mahram. Obedience to Allah the Exalted in Hajj is as obligatory upon her as the obligation to secure her soul's salvation.

فَإِنْ قَالُوا: الزَّوْجُ وَالْمَحْرَمُ مِنْ السَّبِيلِ؟ قُلْنَا: عَلَيْكُمْ الدَّلِيلُ وَإِلَّا فَهِيَ دَعْوَى فَاسِدَةٌ لَمْ يَعْجِزْ عَنْ مِثْلِهَا أَحَدٌ، فَسَقَطَ هَذَا الْقَوْلُ الْفَاسِدُ جُمْلَةً - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L12541 If they say: "Are the husband and the mahram included in the permissible category?" We reply: "The burden of proof lies upon you. Otherwise, it is an invalid claim that anyone could make." Thus, this invalid claim is entirely dismissed—and success comes only from Allah, the Exalted.

ثُمَّ نَظَرْنَا فِي قَوْلِ عِكْرِمَةَ وَاحْتِجَاجِهِ بِالْخَبَرِ الَّذِي فِيهِ مَا زَادَ عَلَى الثَّلَاثِ فَوَجَدْنَاهُ لَا حُجَّةَ لَهُ فِيهِ لِمَا ذَكَرْنَا مِنْ أَنَّ سَائِرَ الْأَخْبَارِ وَرَدَتْ بِالْمَنْعِ، مِمَّا دُونَ الثَّلَاثِ، فَلَيْسَ الْخَبَرُ الَّذِي فِيهِ نَهْيُهَا عَنْ أَنْ تُسَافِرَ ثَلَاثًا أَوْ أَكْثَرَ مِنْ ثَلَاثٍ بِأَوْلَى مِنْ سَائِرِ الْأَخْبَارِ الَّتِي

L12542 Then we examined the statement of Ikrimah and his argument based on the narration containing the mention of exceeding three days, and we found he has no proof in it due to our earlier explanation that all other narrations indicate prohibition for durations shorter than three days. Thus, the narration prohibiting her from traveling three days or more is no more valid than the other narrations prohibiting her from traveling less than three days.

فِيهَا مَنْعُهَا مِنْ سَفَرٍ أَقَلَّ مِنْ ثَلَاثٍ؟ قَالَ أَبُو مُحَمَّد: فَبَطَلَ هَذَا الْقَوْلُ أَيْضًا وَلَمْ يَبْقَ إِلَّا قَوْلُنَا، أَوْ قَوْلُ النَّخَعِيِّ، وَالشَّعْبِيِّ، وَطَاوُسٍ، وَالْحَسَنِ فِي مَنْعِهَا جُمْلَةً أَوْ إِطْلَاقِهَا جُمْلَةً؛ فَوَجَدْنَا الْمَانِعِينَ يَحْتَجُّونَ بِالْأَخْبَارِ الَّتِي ذَكَرْنَا، وَهِيَ أَخْبَارٌ صِحَاحٌ لَا يَحِلُّ خِلَافُهَا إِلَّا لِنَصٍّ آخَرَ يُبَيِّنُ حُكْمَهَا إِنْ وُجِدَ.

Abu Muhammad said: Therefore, this opinion is also nullified, leaving only our opinion or the opinion of Al-Nakha'i, Al-Sha'bi, Tawus, and Al-Hasan regarding either completely prohibiting her or completely permitting her. We found those who prohibit citing the narrations we mentioned - authentic narrations that it is impermissible to contradict unless another text exists clarifying their ruling, if found.

L12543 فَنَظَرْنَا فَوَجَدْنَا مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ يُوسُفَ نا أَحْمَدُ بْنُ فَتْحٍ نا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نا أَحْمَدُ بْنُ مُحَمَّدٍ نا أَحْمَدُ بْنُ عَلِيٍّ نا مُسْلِمُ بْنُ الْحَجَّاجِ نا ابْنُ نُمَيْرٍ نا أُبَيٌّ، وَابْنُ إِدْرِيسَ قَالَا: نا عُبَيْدُ اللَّهِ هُوَ ابْنُ عُمَرَ - عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ قَالَ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «وَلَا تَمْنَعُوا إِمَاءَ اللَّهِ مَسَاجِدَ اللَّهِ» .

Then we looked and found what 'Abdullāh ibn Yūsuf narrated to us: Aḥmad ibn Fatḥ narrated to us; 'Abd al-Wahhāb ibn 'Īsā narrated to us; Aḥmad ibn Muḥammad narrated to us; Aḥmad ibn 'Alī narrated to us; Muslim ibn al-Ḥajjāj narrated to us; Ibn Numayr narrated to us; Ubayy and Ibn Idrīs narrated: 'Ubaydullāh—he is Ibn 'Umar—narrated from Nāfi' from Ibn 'Umar, who said: The Messenger of Allah, peace be upon him, said, "Do not prevent Allah's maidservants from Allah's mosques."

L12544–12546 وَبِهِ إِلَى ابْنِ نُمَيْرٍ نا أُبَيٌّ نا حَنْظَلَةُ هُوَ ابْنُ أَبِي سُفْيَانَ الْجُمَحِيُّ - قَالَ: سَمِعْتُ سَالِمًا هُوَ ابْنُ عَبْدِ اللَّهِ بْنِ عُمَرَ يَقُولُ: سَمِعْتُ ابْنَ عُمَرَ يَقُولُ: سَمِعْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُ: «إِذَا اسْتَأْذَنَكُمْ نِسَاؤُكُمْ إِلَى الْمَسَاجِدِ فَأْذَنُوا لَهُنَّ» فَأَمَرَ - عَلَيْهِ السَّلَامُ - الْأَزْوَاجَ وَغَيْرَهُمْ أَنْ لَا يَمْنَعُوا النِّسَاءَ مِنَ الْمَسَاجِدِ، وَالْمَسْجِدُ الْحَرَامُ أَجَلُّ الْمَسَاجِدِ قَدْرًا.

And through him to Ibn Numayr; Ubayy reported to us: Hanzalah—who is Ibn Abi Sufyan al-Jumahi—narrated to us. He said: I heard Salim—who is Ibn Abdullah ibn Umar—say: I heard Ibn Umar narrate: I heard the Messenger of Allah (peace be upon him) say: "When your women seek your permission to go to the mosques, then permit them." So the Prophet (peace be upon him) commanded this. Husbands and male guardians must not prevent women from going to mosques; and the Holy Mosque is the noblest of mosques in rank.

L12547 وَوَجَدْنَا اللَّهَ تَعَالَى يَقُولُ: {وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] ثُمَّ وَجَدْنَا الْأَسْفَارَ تَنْقَسِمُ قِسْمَيْنِ سَفَرًا وَاجِبًا، وَسَفَرًا غَيْرَ وَاجِبٍ؛ فَكَانَ السَّفَرُ الْوَاجِبُ بَعْضَ الْأَسْفَارِ بِلَا شَكٍّ، وَكَانَ الْحَجُّ مِنَ السَّفَرِ الْوَاجِبِ؛ فَلَمْ يَجُزْ أَخْذُ بَعْضِ الْآثَارِ دُونَ بَعْضٍ وَوَجَبَتِ الطَّاعَةُ بِجَمِيعِهَا وَلَزِمَ اسْتِعْمَالُهَا كُلُّهَا وَلَا بُدَّ: فَهَذَا هُوَ الْفَرْضُ، وَكَانَ مَنْ رَفَضَ بَعْضَهَا وَأَخَذَ بَعْضَهَا عَاصِيًا لِلَّهِ تَعَالَى، وَلَا سَبِيلَ

We find Allah the Exalted stating: {Hajj to the House is an obligation from Allah upon those who are capable of undertaking the journey} [Āl 'Imrān: 97]. We further find travels divided into two categories: obligatory travels and non-obligatory travels. Obligatory travels are undeniably a subset of all travels, and Hajj is among the obligatory travels. Thus, it is impermissible to adopt some narrations while rejecting others. Obedience to all of them is obligatory, and their comprehensive application is indispensable—this constitutes the obligation. Whoever rejects some of them while accepting others disobeys Allah the Exalted. There is no way to apply all of them except by exempting the more specific from the more general, as necessitated. The pro-

hibition against a woman traveling without her husband or a mahram applies universally to every journey. Consequently, it becomes obligatory to exempt the specific travels mandated for her by explicit textual evidence from this general prohibition. Since Hajj is an obligatory travel, it must necessarily be exempted from the general prohibition.[2]

إِلَى اسْتِعْمَالِ جَمِيعِهَا إِلَّا بِأَنْ يُسْتَثْنَى الْأَخَصُّ مِنْهَا مِنَ الْأَعَمِّ، وَلَا بُدَّ؛ فَكَانَ نَهْيُ الْمَرْأَةِ عَنِ السَّفَرِ إِلَّا مَعَ زَوْجٍ، أَوْ ذِي مَحْرَمٍ عَامًّا لِكُلِّ سَفَرٍ؛ فَوَجَبَ اسْتِثْنَاءُ مَا جَاءَ بِهِ النَّصُّ مِنْ إِيجَابِ بَعْضِ الْأَسْفَارِ عَلَيْهَا مِنْ جُمْلَةِ النَّهْيِ، وَالْحَجُّ سَفَرٌ وَاجِبٌ فَوَجَبَ اسْتِثْنَاؤُهُ مِنْ جُمْلَةِ النَّهْيِ.

L12548 If they say: Rather, the obligation of Hajj upon women is general, so that is specified by the narration prohibiting travel except with a husband or a mahram? We say: This is incorrect, because those reports only came to prohibit all travel comprehensively, not Hajj specifically. It could have been possible to oppose this argument had the prohibition explicitly stated that a woman may not perform Hajj except with a husband or a mahram. Then it would validly oppose and particularize the narrower ruling from the broader one – and this is exceedingly evident. Another proof: All these reports were directed solely toward married women and those with mahrams, for they undoubtedly permit or obligate Hajj when accompanied by a husband or mahram. It is utterly impossible and inconceivable – entirely unfeasible – that the Prophet (peace be upon him) would address women who have neither husbands nor mahrams regarding performing Hajj with a husband or mahram. Thus, women without husbands or mahrams remain obligated to perform Hajj and are exempt from that prohibition.

فَإِنْ قَالُوا: بَلْ إِيجَابُ الْحَجِّ عَلَى النِّسَاءِ عُمُومٌ فَيُخَصُّ ذَلِكَ بِحَدِيثِ النَّهْيِ عَنِ السَّفَرِ إِلَّا مَعَ زَوْجٍ أَوْ ذِي مَحْرَمٍ؟ قُلْنَا: هَذَا خَطَأٌ، لِأَنَّ تِلْكَ الْأَخْبَارَ إِنَّمَا جَاءَتْ بِالنَّهْيِ عَنْ كُلِّ سَفَرٍ جُمْلَةً لَا عَنِ الْحَجِّ خَاصَّةً، وَإِنَّمَا كَانَ يُمْكِنُ أَنْ يُعَارِضُوا بِهَذَا (أَنْ) لَوْ جَاءَتْ فِي النَّهْيِ عَنْ أَنْ تَحُجَّ الْمَرْأَةُ إِلَّا مَعَ زَوْجٍ، أَوْ ذِي مَحْرَمٍ؛ فَكَانَ يَكُونُ حِينَئِذٍ اعْتِرَاضًا صَحِيحًا وَتَخْصِيصًا لِأَقَلِّ الْحُكْمَيْنِ مِنْ أَعَمِّهِمَا وَهَذَا بَيِّنٌ جِدًّا؟ وَبُرْهَانٌ آخَرُ -: وَهُوَ أَنَّ تِلْكَ الْأَخْبَارَ كُلَّهَا إِنَّمَا خُوطِبَ بِهَا ذَوَاتُ الْأَزْوَاجِ، وَاللَّاتِي لَهُنَّ الْمَحَارِمُ؛ لِأَنَّ فِيهَا إِبَاحَةَ الْحَجِّ أَوْ إِيجَابَهُ مَعَ الزَّوْجِ، أَوْ ذِي الْمَحْرَمِ بِلَا شَكٍّ، وَمِنَ الْمُحَالِ الْمُمْتَنِعِ الَّذِي لَا يُمْكِنُ أَصْلًا أَنْ يُخَاطِبَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْحَجِّ مَعَ زَوْجٍ أَوْ ذِي مَحْرَمٍ مَنْ لَا زَوْجَ لَهَا وَلَا ذَا مَحْرَمٍ، فَبَقِيَ مَنْ لَا زَوْجَ لَهَا وَلَا مَحْرَمَ عَلَى وُجُوبِ الْحَجِّ عَلَيْهَا وَعَلَى خُرُوجِهَا عَنْ ذَلِكَ النَّهْيِ.

L12549–12551 Another proof is what Hammam narrated to us, saying: Abdullah ibn Muhammad ibn Ali al-Bājiyy narrated to us, from Ahmad ibn Khalid, who informed us from Ubayd ibn Muhammad al-Kashwariyy, from Muhammad ibn Yusuf al-Hudhāfī, from Abd al-Razzaq, from both Ibn Jurayj and Sufyan ibn Uyaynah, from Amr ibn Dinar, from Abi Ma'bad, from Ibn Abbas, who said: I heard the Messenger of Allah (peace and blessings be upon him) delivering a sermon, saying: "No man shall ever seclude himself with a woman,

وَبُرْهَانٌ آخَرُ -: وَهُوَ مَا حَدَّثَنَاهُ حُمَامٌ قَالَ: نا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ عَلِيٍّ الْبَاجِيُّ نا أَحْمَدُ بْنُ خَالِدٍ أَخْبَرَنَا عُبَيْدُ بْنُ مُحَمَّدٍ الْكَشْوَرِيُّ نا مُحَمَّدُ بْنُ يُوسُفَ الْحُذَافِيُّ نا عَبْدُ الرَّزَّاقِ نا ابْنُ جُرَيْجٍ، وَسُفْيَانُ بْنُ عُيَيْنَةَ كِلَاهُمَا عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ أَبِي مَعْبَدٍ عَنِ ابْنِ عَبَّاسٍ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَخْطُبُ يَقُولُ: «لَا يَخْلُوَنَّ رَجُلٌ

[2] **Qur'an references (L12547):** Qur'an 3:97 (Ali 'Imran).

بِامْرَأَةٍ، وَلَا تُسَافِرْ امْرَأَةٌ إِلَّا مَعَ ذِي مَحْرَمٍ، فَقَامَ رَجُلٌ فَقَالَ: يَا رَسُولَ اللَّهِ إِنَّ امْرَأَتِي خَرَجَتْ حَاجَّةً وَإِنِّي اكْتَتَبْتُ فِي غَزْوَةِ كَذَا وَكَذَا قَالَ: انْطَلِقْ فَاحْجُجْ مَعَ امْرَأَتِكَ» فَكَانَ هَذَا الْحَدِيثُ رَافِعًا لِلْإِشْكَالِ وَمُبَيِّنًا لِمَا اخْتَلَفْنَا فِيهِ مِنْ هَذِهِ الْمَسْأَلَةِ، لِأَنَّ نَهْيَهُ - عَلَيْهِ السَّلَامُ - عَنْ أَنْ تُسَافِرَ امْرَأَةٌ إِلَّا مَعَ ذِي مَحْرَمٍ وَقَعَ ثُمَّ سَأَلَهُ الرَّجُلُ عَنْ امْرَأَتِهِ الَّتِي خَرَجَتْ حَاجَّةً لَا مَعَ ذِي مَحْرَمٍ، وَلَا مَعَ زَوْجٍ فَأَمَرَهُ - عَلَيْهِ السَّلَامُ - بِأَنْ يَنْطَلِقَ فَيَحُجَّ مَعَهَا وَلَمْ يَأْمُرْ بِرَدِّهَا وَلَا عَابَ سَفَرَهَا إِلَى الْحَجِّ دُونَهُ وَدُونَ ذِي مَحْرَمٍ، وَفِي أَمْرِهِ - عَلَيْهِ السَّلَامُ - بِأَنْ يَنْطَلِقَ فَيَحُجَّ مَعَهَا بَيَانٌ صَحِيحٌ وَنَصٌّ صَرِيحٌ عَلَى أَنَّهَا كَانَتْ مُمْكِنًا إِدْرَاكُهَا بِلَا شَكٍّ فَأَقَرَّ - عَلَيْهِ السَّلَامُ - سَفَرَهَا كَمَا خَرَجَتْ فِيهِ، وَأَثْبَتَهُ وَلَمْ يُنْكِرْهُ، فَصَارَ الْفَرْضُ عَلَى الزَّوْجِ، فَإِنْ حَجَّ مَعَهَا فَقَدْ أَدَّى مَا عَلَيْهِ مِنْ صُحْبَتِهَا وَإِنْ لَمْ يَفْعَلْ فَهُوَ عَاصٍ لِلَّهِ تَعَالَى وَعَلَيْهَا التَّمَادِي فِي حَجِّهَا وَالْخُرُوجُ إِلَيْهِ دُونَهُ أَوْ مَعَهُ أَوْ دُونَ ذِي مَحْرَمٍ أَوْ مَعَهُ كَمَا أَقَرَّهَا عَلَيْهِ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَمْ يُنْكِرْهُ عَلَيْهَا، فَارْتَفَعَ الشَّغَبُ جُمْلَةً - وَلِلَّهِ الْحَمْدُ كَثِيرًا.

L12552 فَإِنْ قَالَ قَائِلٌ: فَأَيْنَ أَنْتُمْ عَمَّا رَوَيْتُمُوهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنِ ابْنِ جُرَيْجٍ عَنْ عَمْرِو بْنِ دِينَارٍ؟ قَالَ: أَخْبَرَنِي عِكْرِمَةُ، أَوْ أَبُو مَعْبَدٍ عَنِ ابْنِ عَبَّاسٍ قَالَ «جَاءَ رَجُلٌ إِلَى الْمَدِينَةِ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَيْنَ نَزَلْتَ؟ قَالَ: عَلَى فُلَانَةَ، قَالَ: أَغْلَقْتَ عَلَيْهَا بَابَكَ - مَرَّتَيْنِ - لَا تَحُجَّنَّ امْرَأَةٌ إِلَّا وَمَعَهَا ذُو مَحْرَمٍ» قَالَ عَبْدُ الرَّزَّاقِ: وَأَمَّا ابْنُ عُيَيْنَةَ فَأَخْبَرَنَاهُ عَنْ عَمْرٍو عَنْ عِكْرِمَةَ لَيْسَ فِيهِ شَكٌّ؟ قُلْنَا: هَذَا خَبَرٌ لَمْ يَحْفَظْهُ ابْنُ جُرَيْجٍ لِأَنَّهُ شَكَّ فِيهِ أَحَدَّثَهُ بِهِ عَمْرٌو عَنْ عِكْرِمَةَ مُرْسَلًا؟ أَمْ حَدَّثَهُ بِهِ عَمْرٌو عَنْ أَبِي مَعْبَدٍ مُسْنَدًا؟ فَلَمْ يُثْبِتْهُ أَصْلًا، فَبَطَلَ التَّعَلُّقُ بِهِ وَإِنَّمَا صَوَابُهُ كَمَا رَوَاهُ عَبْدُ الرَّزَّاقِ عَنْ

nor shall a woman travel." A woman is not to travel except with a mahram. A man stood up and said: "O Messenger of Allah, my wife has departed for Hajj, while I have volunteered for such-and-such military expedition." He replied: "Set out and perform Hajj with your wife." This hadith resolves the dispute and clarifies the contested aspect of this matter, for his prohibition—peace be upon him—against a woman traveling without a mahram had been established. When the man inquired about his wife who had left for Hajj without a mahram or her husband, the Prophet—may Allah's blessings and peace be upon him—commanded him to accompany her in Hajj without ordering her return or censuring her journey in the absence of himself or a mahram. His directive—peace be upon him—to join her in Hajj constitutes a valid clarification and definitive textual evidence that she could still be caught up with without doubt. Thus, he—peace be upon him—affirmed her journey as she had set out for it, upheld it, and did not disapprove of it. The obligation then fell upon the husband: if he performed Hajj with her, he fulfilled his duty of companionship; if he refused, he disobeyed Allah the Exalted. As for her, she must proceed with her Hajj and may depart for it without him, with him, without a mahram, or with one—just as the Messenger of Allah—may Allah's blessings and peace be upon him—affirmed her action without reproach. Thus, the dispute is entirely resolved, and all praise is due to Allah in abundance.

If someone were to say: Where do you stand regarding what you have narrated through the chain of ʿAbd al-Razzāq from Ibn Jurayj from ʿAmr ibn Dīnār? He [ʿAmr] said: ʿIkrimah or Abū Maʿbad informed me from Ibn ʿAbbās, who said: A man came to Medina, and the Messenger of Allah—peace and blessings be upon him—said to him: "Where have you lodged?" He replied: "With so-and-so [a woman]." He said: "Did you lock the door securely behind her?"—repeating it twice—"No woman shall perform Hajj unless accompanied by a mahram." ʿAbd al-Razzāq said: As for Ibn ʿUyaynah, he narrated to us from ʿAmr from ʿIkrimah without any doubt. We responded: This is a narration Ibn Jurayj failed to preserve accurately, for he doubted whether ʿAmr related it from ʿIkrimah as mursal or from Abū Maʿbad as musnad. Thus, he did not verify it at all, rendering any reliance

on it invalid. The correct version is as narrated by ʿAbd al-Razzāq from Sufyān and Ibn Jurayj from ʿAmr from Abū Maʿbad from Ibn ʿAbbās—as we presented earlier—which does not contain this wording.

L12553–12555 And likewise, we have transmitted it through the chain of Ḥammād ibn Zayd, as Aḥmad ibn Muḥammad al-Ṭalamankī narrated to us, who narrated from Ibn Mufarrij, who narrated from Ibrāhīm ibn Aḥmad ibn Firās, who narrated from Muḥammad ibn ʿAlī ibn Zayd al-Ṣāʾigh, who narrated from Saʿīd ibn Manṣūr, who narrated from Ḥammād ibn Zayd, from ʿAmr ibn Dīnār, from Abū Maʿbad, from Ibn ʿAbbās: that he heard the Messenger of Allah—peace and blessings be upon him—while delivering a sermon, declaring, "A woman must not travel except with a maḥram, nor may a man enter upon her unless she has a maḥram present." A man asked, "O Messenger of Allah, if I vowed to join such-and-such military campaign while my wife intends to perform Ḥajj?" He replied, "Go with her." Thus, the Prophet—peace and blessings be upon him—did not say "No." She may not go for Hajj except with you; nor was she prohibited from Hajj altogether. Rather, the husband was obligated to abandon his vow to undertake jihad and was bound to perform Hajj with her. Thus, the obligation in this matter rests upon the husband, not her.

L12556 As for the ḥadīth of ʿIkrimah, it is a mursal narration as Muḥammad ibn Saʿīd ibn Nubāt narrated to us: Ismāʿīl ibn Isḥāq al-Baṣrī narrated to us; ʿĪsā ibn Khabīb, the judge of Ushūnah, narrated to us, saying: "'Abd al-Raḥmān ibn ʿAbd Allāh ibn Muḥammad ibn ʿAbd Allāh ibn Yazīd al-Muqrī narrated to us; my grandfather Muḥammad ibn ʿAbd Allāh ibn Yazīd narrated to us; Sufyān ibn ʿUyaynah narrated to us from ʿAmr ibn Dīnār from ʿIkrimah, who said: 'A man arrived from a journey, so the Messenger of Allāh (peace and blessings of Allāh be upon him) said to him: "You lodged with so-and-so woman and locked the door upon her"—twice."'

L12557 This is—the hadith of Amr ibn Dinar from Ikrimah—which became confused for Ibn Jurayj, so he did not know whether Amr ibn Dinar had narrated it to him from Ikrimah or whether Amr had narrated it to him from Abu Maʿbad from Ibn Abbas, and he introduced into it the mention of Hajj amid doubt. A legal ruling cannot be based on a hadith report whose chain of transmission

سُفْيَانَ، وَابْنِ جُرَيْجٍ عَنْ عَمْرٍو عَنْ أَبِي مَعْبَدٍ عَنْ ابْنِ عَبَّاسٍ كَمَا أَوْرَدْنَاهُ آنِفًا لَيْسَ فِيهِ هَذِهِ اللَّفْظَةُ.

وَهَكَذَا رُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ كَمَا حَدَّثَنَا (بِهِ) أَحْمَدُ بْنُ مُحَمَّدٍ الطَّلَمَنْكِيُّ نا ابْنُ مُفَرِّجٍ نا إِبْرَاهِيمُ بْنُ أَحْمَدَ بْنِ فِرَاسٍ نا مُحَمَّدُ بْنُ عَلِيِّ بْنِ زَيْدٍ الصَّائِغُ نا سَعِيدُ بْنُ مَنْصُورٍ نا حَمَّادِ بْنِ زَيْدٍ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ أَبِي مَعْبَدٍ «عَنْ ابْنِ عَبَّاسٍ: أَنَّهُ سَمِعَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ يَخْطُبُ - يَقُولُ لَا تُسَافِرَنَّ امْرَأَةٌ إِلَّا مَعَ ذِي مَحْرَمٍ، وَلَا يَدْخُلَنَّ عَلَيْهَا رَجُلٌ إِلَّا وَمَعَهَا مَحْرَمٌ، فَقَالَ رَجُلٌ: يَا رَسُولَ اللَّهِ إِنْ نَذَرْتُ أَنْ أَخْرُجَ فِي جَيْشِ كَذَا وَكَذَا وَامْرَأَتِي تُرِيدُ الْحَجَّ؟ قَالَ: فَاخْرُجْ مَعَهَا» فَلَمْ يَقُلْ - عَلَيْهِ السَّلَامُ -: لَا تَخْرُجْ إِلَى الْحَجِّ إِلَّا مَعَكَ، وَلَا نَهَاهَا عَنْ الْحَجِّ أَصْلًا، بَلْ أَلْزَمَ الزَّوْجَ تَرْكَ نَذْرِهِ فِي الْجِهَادِ وَأَلْزَمَهُ الْحَجَّ مَعَهَا، فَالْفَرْضُ فِي ذَلِكَ عَلَى الزَّوْجِ لَا عَلَيْهَا.

وَأَمَّا حَدِيثُ عِكْرِمَةَ فَمُرْسَلٌ كَمَا حَدَّثَنَا مُحَمَّدُ بْنُ سَعِيدِ بْنِ نُبَاتٍ نا إِسْمَاعِيلُ بْنُ إِسْحَاقَ الْبَصْرِيُّ نا عِيسَى بْنُ خَبِيبٍ قَاضِي أُشُونَةَ قَالَ: نا عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ يَزِيدَ الْمُقْرِي نا جَدِّي مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ يَزِيدَ نا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ عِكْرِمَةَ قَالَ: «قَدِمَ رَجُلٌ مِنْ سَفَرٍ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ نَزَلْتَ عَلَى فُلَانَةَ فَأَغْلَقْتَ عَلَيْهَا بَابَكَ - مَرَّتَيْنِ» .

فَهَذَا هُوَ - حَدِيثُ عَمْرِو بْنِ دِينَارٍ عَنْ عِكْرِمَةَ اخْتَلَطَ عَلَى ابْنِ جُرَيْجٍ فَلَمْ يَدْرِ أَحَدَّثَهُ بِهِ عَمْرُو بْنُ دِينَارٍ عَنْ عِكْرِمَةَ أَمْ حَدَّثَهُ بِهِ عَمْرٌو عَنْ أَبِي مَعْبَدٍ عَنْ ابْنِ عَبَّاسٍ وَأَدْخَلَ

فِيهِ ذِكْرَ الْحَجِّ بِالشَّكِّ، وَلَا تَثْبُتُ الْحُجَّةُ بِخَبَرٍ مَشْكُوكٍ فِي إسْنَادِهِ أَوْ فِي إرْسَالِهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

is doubtful or whose *mursal* status is uncertain—and with Allah the Exalted lies success.

وَأَمَّا قَوْلُنَا: إنَّ لَهُ مَنْعَهَا مِنْ حَجِّ التَّطَوُّعِ فَلِأَنَّ طَاعَتَهُ فَرْضٌ عَلَيْهَا فِيمَا لَا مَعْصِيَةَ لِلَّهِ تَعَالَى فِيهِ، وَلَيْسَ فِي تَرْكِ الْحَجِّ التَّطَوُّعِ مَعْصِيَةٌ؟

L12558 As for our statement that he has the right to prevent her from performing the voluntary pilgrimage, it is because obeying him is obligatory upon her in matters that do not involve disobedience to Allah, the Exalted—and is there any disobedience in abandoning the voluntary pilgrimage?

## [مَسْأَلَةٌ أَحْرَمَتْ بِغَيْرِ إذْنِ زَوْجِهَا]

## L12559 An issue: A woman assumed ihram without her husband's permission.

٨١٤ - مَسْأَلَةٌ: فَإِنْ أَحْرَمَتْ مِنْ الْمِيقَاتِ أَوْ مِنْ مَكَانٍ يَجُوزُ الْإِحْرَامُ مِنْهُ بِغَيْرِ إذْنِ زَوْجِهَا، وَأَحْرَمَ الْعَبْدُ بِغَيْرِ إذْنِ سَيِّدِهِ؛ فَإِنْ كَانَ حَجَّ تَطَوُّعٍ - كُلُّ ذَلِكَ - فَلَهُ مَنْعُهُمَا وَإِحْلَالُهُمَا لِمَا ذَكَرْنَا وَإِنْ كَانَ حَجَّ الْفَرْضِ نَظَرَ فَإِنْ كَانَ لَا غِنَى بِهِ عَنْهَا أَوْ عَنْهُ - لِمَرَضٍ أَوْ لِضَيْعَتِهِ دُونَهُ أَوْ دُونَهَا أَوْ ضَيْعَةِ مَالِهِ - فَلَهُ إحْلَالُهُمَا لِمَا ذَكَرْنَا مِنْ قَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «الْمُسْلِمُ أَخُو الْمُسْلِمِ لَا يَظْلِمُهُ وَلَا يُسْلِمُهُ» وَإِنْ كَانَ لَا حَاجَةَ بِهِ إلَيْهِمَا لَمْ يَكُنْ لَهُ مَنْعُهُمَا أَصْلًا فَإِنْ مَنَعَهُمَا فَهُوَ عَاصٍ لِلَّهِ عَزَّ وَجَلَّ وَهُمَا فِي حُكْمِ الْمُحْصَرِ، وَكَذَلِكَ الْقَوْلُ فِي الِابْنِ وَالِابْنَةِ مَعَ الْأَبِ وَالْأُمِّ وَلَا فَرْقَ، وَطَاعَةُ اللَّهِ تَعَالَى فِي الْحَجِّ مُتَقَدِّمَةٌ لِطَاعَةِ الْأَبَوَيْنِ وَالزَّوْجِ، قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إنَّمَا الطَّاعَةُ فِي الطَّاعَةِ» .

814 - Issue: If a woman assumes pilgrimage sanctity from the miqat or a permissible location without her husband's permission, or a slave assumes it without his master's permission - in all these cases regarding a voluntary pilgrimage - the husband or master may prevent them and compel them to exit sanctity for the reasons we mentioned. If it is an obligatory pilgrimage, the matter is assessed. Should he require her presence or his slave's due to illness, his reliance on her, her reliance on him, failure to manage his property, or loss of his wealth, he may terminate their sanctity based on the saying of Allah's Messenger (peace be upon him): "A Muslim is a brother to another Muslim - he neither wrongs him nor betrays him." If he has no need for them, he holds no legitimate right to prevent them. Should he prevent them, he defies Allah, the Exalted and Majestic, and they assume the legal status of those constrained from completing pilgrimage. The same ruling applies to sons and daughters concerning their parents without distinction. Obedience to Allah the Exalted in performing pilgrimage takes precedence over obedience to parents or spouses. Allah's Messenger (peace be upon him) said: "Obedience is only required in matters of obedience."

وَقَالَ - عَلَيْهِ السَّلَامُ -: «فَإِذَا أُمِرْتَ بِمَعْصِيَةٍ فَلَا سَمْعَ وَلَا طَاعَةَ» وَتَرْكُ الْحَجِّ مَعْصِيَةٌ، وَلَا فَرْقَ بَيْنَ طَاعَةِ الْأَبَوَيْنِ وَالزَّوْجِ فِي تَرْكِ الْحَجِّ وَبَيْنَ طَاعَتِهِمْ فِي تَرْكِ الصَّلَاةِ أَوْ فِي تَرْكِ الزَّكَاةِ أَوْ فِي تَرْكِ صِيَامِ شَهْرِ رَمَضَانَ.

L12561 He (peace be upon him) said: "If you are commanded to commit a sin, there is neither hearing nor obedience." Abandoning *Hajj* is a sin, and there is no difference between obeying parents or a husband to abandon *Hajj* and obeying them to abandon prayer, *zakat*, or fasting in Ramadan.

L12562 If it is asked: Is there permissibility in its delay?

فَإِنْ قِيلَ: الْحَجُّ فِي تَأْخِيرِهِ فُسْحَةٌ؟

L12563–12564 We said: Until when? Have you considered if they never permit Hajj for children or a spouse? If they were to set a limit of one year, two years, or more, they would be wrongfully dominating religious affairs through falsehood, legislating what Allah, the Exalted, has not authorized. No one would ever advocate obeying them in wholly abandoning Hajj indefinitely. And with Allah, the Exalted, lies all enablement.

قُلْنَا: إِلَى مَتَى؟ أَفَرَأَيْت إِنْ لَمْ يُبِيحُوا الْحَجَّ لِلْأَوْلَادِ أَوْ الزَّوْجَةِ أَبَدًا؟ فَإِنْ حَدُّوا فِي ذَلِكَ سَنَةً أَوْ سَنَتَيْنِ أَوْ أَكْثَرَ كَانُوا مُتَحَكِّمِينَ فِي الدِّينِ بِالْبَاطِلِ وَشَارِعِينَ مَا لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى وَلَا يَقُولُ أَحَدٌ بِطَاعَتِهِمْ فِي تَرْكِ الْحَجِّ أَبَدًا جُمْلَةً - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L12565 It has been reported to us from Qatādah and Al-Ḥakam ibn ʿUtaybah regarding a woman who entered iḥrām without her husband's permission—whether she is in iḥrām. Al-Ḥakam said: "Until she performs ṭawāf around the House."

وَرُوِّينَا عَنْ قَتَادَةَ وَالْحَكَمِ بْنِ عُتَيْبَةَ فِي امْرَأَةٍ أَحْرَمَتْ بِغَيْرِ إذْنِ زَوْجِهَا، أَنَّهَا مُحْرِمَةٌ؟ قَالَ الْحَكَمُ: حَتَّى تَطُوفَ بِالْبَيْتِ.

## [مَسْأَلَةٌ اسْتِطَاعَةُ السَّبِيلِ الَّذِي يَجِبُ بِهِ الْحَجُّ]

## A legal issue regarding the capability of the means by which Hajj becomes obligatory.

L12567 Issue 815: The capability required for Hajj entails either: physical fitness and strength to walk along with earnings from work or trade sufficient to reach Hajj and return to his place of livelihood or family; or wealth enabling sea or land travel - and livelihood from it until reaching Mecca and returning him to his place of livelihood or family - even if he is not physically fit, except that he faces no hardship in land or sea travel; or having someone who obeys him perform Hajj and Umrah on his behalf for payment or without payment, if he cannot undertake the journey whether mounted or on foot. Whichever of these conditions enables a sane adult Muslim, Hajj and Umrah are obligatory upon him. Whoever is incapable of all of them bears no obligation for Hajj or Umrah.

٨١٥ - مَسْأَلَةٌ: وَاسْتِطَاعَةُ السَّبِيلِ الَّذِي يَجِبُ بِهِ الْحَجُّ إمَّا صِحَّةُ الْجِسْمِ وَالطَّاقَةُ عَلَى الْمَشْيِ وَالتَّكَسُّبُ مِنْ عَمَلٍ أَوْ تِجَارَةٍ مَا يَبْلُغُ بِهِ إلَى الْحَجِّ وَيَرْجِعُ إلَى مَوْضِعِ عَيْشِهِ أَوْ أَهْلِهِ، وَإِمَّا مَالٌ يُمَكِّنُهُ مِنْ رُكُوبِ الْبَحْرِ أَوْ الْبَرِّ - وَالْعَيْشِ مِنْهُ حَتَّى يَبْلُغَ مَكَّةَ وَيَرُدَّهُ - إلَى مَوْضِعِ عَيْشِهِ أَوْ أَهْلِهِ وَإِنْ لَمْ يَكُنْ صَحِيحَ الْجِسْمِ إلَّا أَنَّهُ لَا مَشَقَّةَ عَلَيْهِ فِي السَّفَرِ بَرًّا أَوْ بَحْرًا، وَإِمَّا أَنْ يَكُونَ لَهُ مَنْ يُطِيعُهُ فَيَحُجَّ عَنْهُ وَيَعْتَمِرَ بِأُجْرَةٍ أَوْ بِغَيْرِ أُجْرَةٍ إنْ كَانَ هُوَ لَا يَقْدِرُ عَلَى النُّهُوضِ لَا رَاكِبًا وَلَا رَاجِلًا؛ فَأَيُّ هَذِهِ الْوُجُوهِ أَمْكَنَتْ الْإِنْسَانَ الْمُسْلِمَ الْعَاقِلَ الْبَالِغَ؟ فَالْحَجُّ وَالْعُمْرَةُ فَرْضٌ عَلَيْهِ، وَمَنْ عَجَزَ عَنْ جَمِيعِهَا فَلَا حَجَّ عَلَيْهِ وَلَا عُمْرَةَ.

L12568 Some jurists said, "The capability consists of provisions and a riding animal."

وَقَالَ قَوْمٌ: الِاسْتِطَاعَةُ زَادٌ وَرَاحِلَةٌ.

L12569 Malik said: Capability [to perform Hajj] is physical strength or financial ability to undertake Hajj by oneself. He did not regard the availability of

someone under one's authority as capability, nor did he thereby obligate Hajj.

وَقَالَ مَالِكٌ: الِاسْتِطَاعَةُ قُوَّةُ الْجِسْمِ أَوْ الْقُوَّةُ بِالْمَالِ عَلَى الْحَجِّ بِنَفْسِهِ، وَلَمْ يَرَ وُجُودَ مَنْ يُطِيعُهُ اسْتِطَاعَةً وَلَا أَوْجَبَ بِذَلِكَ حَجًّا.

L12570 It is reported from Abu Hanifah that one paralyzed in his legs—even if he possesses ample wealth and is capable of maintaining stability upon a riding animal—has no Hajj obligation. The same applies to the blind. However, it is also reported from him that Hajj is obligatory upon him (the paralyzed) and upon the blind.

وَرُوِيَ عَنْ أَبِي حَنِيفَةَ أَنَّ الْمُقْعَدَ مِنْ رِجْلَيْهِ وَإِنْ كَانَ لَهُ مَالٌ وَاسِعٌ وَهُوَ قَادِرٌ عَلَى الثَّبَاتِ عَلَى الرَّاحِلَةِ فَلَا حَجَّ عَلَيْهِ، وَكَذَلِكَ الْأَعْمَى - وَقَدْ رُوِيَ عَنْهُ أَنَّ عَلَيْهِ الْحَجَّ وَعَلَى الْأَعْمَى.

L12571–12573 Al-Shafi'i held that the means [to perform Hajj] consist solely of possessing wealth to undertake it oneself or having someone who obeys him to perform it on his behalf. He did not regard physical strength or the ability to secure a mount as constituting the means. The evidence for those who assert, "The means are provisions and a mount," lies in narrated traditions we have transmitted. Among them: From Waki', from Ibrāhīm ibn Yazīd, from Muḥammad ibn 'Abbād ibn Ja'far al-Makhzūmī, from Ibn 'Umar, from the Messenger of Allah (peace be upon him), who was asked about the means [for Hajj]. He said: "Provisions and a riding animal." It was said: "O Messenger of Allah, what is Hajj?" He replied: "It is to be disheveled and dust-stained."

وَرَأَى الشَّافِعِيُّ: أَنَّ الِاسْتِطَاعَةَ إنَّمَا هِيَ بِمَالٍ يَحُجُّ بِهِ أَوْ مَنْ يُطِيعُهُ فَيَحُجُّ عَنْهُ فَقَطْ، وَلَمْ يَرَ قُوَّةَ الْجِسْمِ وَالْقُدْرَةَ عَلَى الرَّاحِلَةِ اسْتِطَاعَةً، وَحُجَّةُ مَنْ قَالَ: الِاسْتِطَاعَةُ زَادٌ وَرَاحِلَةٌ بِآثَارٍ رُوِّيْنَاهَا -: مِنْهَا: عَنْ وَكِيعٍ عَنْ إبْرَاهِيمَ بْنِ يَزِيدَ عَنْ مُحَمَّدِ بْنِ عَبَّادِ بْنِ جَعْفَرٍ الْمَخْزُومِيِّ عَنْ ابْنِ عُمَرَ «عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ سُئِلَ عَنْ الِاسْتِطَاعَةِ فَقَالَ: الزَّادُ وَالرَّاحِلَةُ؟ فَقِيلَ: يَا رَسُولَ اللَّهِ فَمَا الْحَجُّ؟ قَالَ: الْأَشْعَثُ التَّفِلُ» .

L12574 Through the chain of Ḥammād ibn Salamah: I [Ḥammād] narrate from Qatādah and Ḥumayd, who narrate from al-Ḥasan that a man asked: "O Messenger of Allah, what enables one to perform it [Ḥajj]?" He replied: "Sufficient provisions and a mount."

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ: أَنَا قَتَادَةُ، وَحُمَيْدٌ عَنْ الْحَسَنِ «أَنَّ رَجُلًا قَالَ: يَا رَسُولَ اللَّهِ مَا السَّبِيلُ إلَيْهِ؟ قَالَ: زَادٌ وَرَاحِلَةٌ» .

L12575 From the chain of Isma'il ibn Ishaq, from Muslim ibn Ibrahim, from Hilal ibn Abdullah (the client of Rabi'ah ibn 'Amr ibn Muslim al-Bahili), from Abu Ishaq al-Hamdani, from al-Harith, from Ali, from the Prophet (peace be upon him): "Whoever possesses provisions and a mount capable of conveying him to the House of Allah—the Almighty—yet does not perform Hajj, let him die as a Jew or a Christian, for Allah the Exalted says: {And Hajj to the House is a duty owed to Allah by those who can find a way to it. But whoever rejects it [the obligation], then Allah is free of need from the worlds} [3:97]."[3]

وَمِنْ طَرِيقِ إسْمَاعِيلَ بْنِ إسْحَاقَ عَنْ مُسْلِمِ بْنِ إبْرَاهِيمَ نا هِلَالُ بْنُ عَبْدِ اللَّهِ مَوْلَى رَبِيعَةَ بْنِ عَمْرِو بْنِ مُسْلِمٍ الْبَاهِلِيِّ نا أَبُو إسْحَاقَ الْهَمْدَانِيُّ عَنْ الْحَارِثِ عَنْ عَلِيٍّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَنْ مَلَكَ زَادًا وَرَاحِلَةً تُبَلِّغُهُ إلَى بَيْتِ اللَّهِ - عَزَّ وَجَلَّ - فَلَمْ يَحُجَّ فَلَا عَلَيْهِ أَنْ يَمُوتَ يَهُودِيًّا، أَوْ نَصْرَانِيًّا، لِأَنَّ اللَّهَ تَعَالَى يَقُولُ: {وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ الْعَالَمِينَ} [آل عمران: ٩٧] » .

[3] **Qur'an references (L12575):** Qur'an 3:97 (Ali 'Imran).

وَقَالُوا: لَمَّا قَالَ اللَّهُ تَعَالَى: {مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] عَلِمْنَا أَنَّهَا اسْتِطَاعَةٌ غَيْرُ الْقُوَّةِ بِالْجِسْمِ، إِذْ لَوْ كَانَ تَعَالَى أَرَادَ قُوَّةَ الْجِسْمِ لَمَا احْتَاجَ إِلَى ذِكْرِهَا، لِأَنَّنَا قَدْ عَلِمْنَا أَنَّ اللَّهَ تَعَالَى لَا يُكَلِّفُ نَفْسًا إِلَّا وُسْعَهَا.

L12576–12578 And they said: Since Allah the Exalted stated, "Whoever is able to find a way [to it]" (3:97), we inferred from the wording that this denotes an ability other than strength. Regarding the body; for if the Exalted had intended the strength of the body, He would not have needed to mention it, as we know that Allah, the Exalted, does not burden any soul beyond its capacity.[4]

وَقَالُوا: قَالَ اللَّهُ تَعَالَى: {إِلَى بَلَدٍ لَمْ تَكُونُوا بَالِغِيهِ إِلا بِشِقِّ الأَنْفُسِ} [النحل: ٧] فَصَحَّ أَنَّ الرِّحْلَةَ شِقُّ الْأَنْفُسِ بِالضَّرُورَةِ وَلَا يُكَلِّفُنَا اللَّهُ تَعَالَى ذَلِكَ لِقَوْلِهِ تَعَالَى: {وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ} [الحج: ٧٨] .

L12579 They said: Allah, the Exalted, stated: "To a land you could not reach except at the risk of your lives" (16:7). Thus, it is valid that the journey inherently entails great hardship, and Allah, the Exalted, does not burden us with that, as He states: "And He has not placed upon you in the religion any hardship" (22:78).[5]

وَذَكَرُوا مَا رُوِّينَا مِنْ طَرِيقِ عَطَاءٍ الْخُرَاسَانِيِّ عَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ قَالَ فِي اسْتِطَاعَةِ السَّبِيلِ إِلَى الْحَجِّ: زَادٌ وَرَاحِلَةٌ.

L12580 They mentioned what was narrated to us through ʿAṭāʾ al-Khurāsānī from ʿUmar ibn al-Khaṭṭāb, who said concerning the capability for the journey to Hajj: "Provisions and a mount."

وَمِنْ طَرِيقِ الضَّحَّاكَ عَنْ ابْنِ عَبَّاسٍ فِي ذَلِكَ أَيْضًا: زَادٌ، وَبَعِيرٌ: وَمِنْ طَرِيقِ إِسْرَائِيلَ عَنْ الْحَسَنِ عَنْ أَنَسٍ {مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] قَالَ: زَادٌ، وَرَاحِلَةٌ.

L12581 Narrated by al-Ḍaḥḥāk from Ibn ʿAbbās regarding this matter: provisions and camel. Narrated by Isrāʾīl from al-Ḥasan from Anas concerning the verse "Whoever is able to undertake the journey" [Āl ʿImrān 3:97], he said: provisions and riding camel.[6]

وَمِنْ طَرِيقِ إِسْرَائِيلَ عَنْ مُجَاهِدٍ عَنْ ابْنِ عُمَرَ قَالَ: {مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] قَالَ: مِلْءُ بَطْنِهِ، وَرَاحِلَةٌ يَرْكَبُهَا - وَهُوَ قَوْلُ الضَّحَّاكِ بْنِ مُزَاحِمٍ، وَالْحَسَنِ الْبَصْرِيِّ، وَمُجَاهِدٍ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَمُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ، وَأَيُّوبَ السِّخْتِيَانِيِّ وَأَحَدُ قَوْلَيْ عَطَاءٍ.

L12582 Through the chain of Isra'īl from Mujāhid from Ibn 'Umar, who said regarding "Whoever is able to find a way" [Āl 'Imrān 3:97]: "The filling of his stomach and a riding animal he can mount" — this being the opinion of al-Ḍaḥḥāk ibn Muzāḥim, al-Ḥasan al-Baṣrī, Mujāhid, Saʿīd ibn Jubayr, Muḥammad ibn 'Alī ibn al-Ḥusayn, Ayyūb al-Sikhtiyānī, and one of the two opinions of 'Aṭā'.[7]

قَالَ أَبُو مُحَمَّد: فَادَّعَوْا فِي هَذَا أَنَّهُ قَوْلُ طَائِفَةٍ مِنْ الصَّحَابَةِ لَا يُعْرَفُ لَهُمْ مِنْهُمْ مُخَالِفٌ وَلَيْسَ كَمَا قَالُوا أَصْلًا، لِأَنَّنَا قَدْ رُوِّينَا عَنْ وَكِيعٍ وَغَيْرِهِ عَنْ عِمْرَانَ بْنِ حُدَيْرٍ عَنْ النَّزَّالِ بْنِ عَمَّارٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: " مَنْ مَلَكَ ثَلَاثَمِائَةِ دِرْهَمٍ وَجَبَ عَلَيْهِ الْحَجُّ وَحَرُمَ عَلَيْهِ نِكَاحُ الْإِمَاءِ ".

L12583–12585 Abu Muhammad said: They claimed in this that it is the opinion of a group of the Companions with no dissenter from among them known to them, but it is not at all as they said; for it has been narrated to us from Waki' and others, from 'Imran ibn Ḥudayr, from... Al-Nazzal ibn Ammar reported

[4] **Qur'an references (L12576):** Qur'an 3:97 (Ali 'Imran).
[5] **Qur'an references (L12579):** Qur'an 16:7 (An-Nahl); Qur'an 22:78 (Al-Hajj).
[6] **Qur'an references (L12581):** Qur'an 3:97 (Ali 'Imran).
[7] **Qur'an references (L12582):** Qur'an 3:97 (Ali 'Imran).

from Ibn Abbas, who said: “Whoever owns three hundred silver dirhams, Hajj becomes obligatory upon them, and they are forbidden from marrying enslaved women.”

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنِ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ الْخُرَاسَانِيِّ عَنِ ابْنِ عَبَّاسٍ قَالَ، فِي الْحَجِّ: سَبِيلُهُ مَنْ وَجَدَ لَهُ سِعَةً، وَلَمْ يَحُلْ بَيْنَهُ وَبَيْنَهُ - وَهَذَا هُوَ قَوْلُنَا.

L12586 From the chain of Abd al-Razzaq, from Ibn Jurayj, from Ata al-Khurasani, from Ibn Abbas, who said regarding Hajj: “It is obligatory upon whoever has the financial capacity and no obstacle stands between him and it—and this is our school’s position.”

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِي عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ خَالِدِ بْنِ أَبِي كَرِيمَةَ عَنِ ابْنِ الزُّبَيْرِ قَالَ: {مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] قَالَ: عَلَى قَدْرِ الْقُوَّةِ - وَهُوَ أَحَدُ قَوْلَيْ عَطَاءٍ.

L12587 Through the chain of ʿAbd al-Raḥmān ibn Mahdī from Sufyān al-Thawrī from Khālid ibn Abī Karīmah from Ibn al-Zubayr, who said concerning “Whoever has the means to journey to it” [Āl ʿImrān:97]: “According to one’s capacity” – and this is one of two opinions of ʿAṭāʾ.[8]

قَالَ عَلِيٌّ: أَمَّا احْتِجَاجُهُمْ بِأَنَّ الِاسْتِطَاعَةَ لَوْ كَانَتْ عَلَى الْعُمُومِ لَمَا كَانَ لِذِكْرِهَا مَعْنًى فَكَلَامٌ فَاسِدٌ، وَاعْتِرَاضٌ عَلَى اللَّهِ تَعَالَى، وَإِخْرَاجٌ لِلْقُرْآنِ عَنْ ظَاهِرِهِ بِلَا بُرْهَانٍ.

L12588 Ali said: As for their argument that if capability were general, there would be no purpose in mentioning it, this is invalid speech, opposition to Allah the Exalted, and a diversion of the Quran from its plain sense without evidence.

ثُمَّ لَوْ صَحَّ هَذَا لَكَانَ حُجَّةً عَلَيْهِمْ؛ لِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَوْجَبَ الْحَجَّ عَلَى مَنْ لَا يَسْتَطِيعُهُ بِجِسْمِهِ، وَلَا بِمَالِهِ - إذَا وَجَدَ مَنْ يَحُجُّ عَنْهُ - كَمَا نَذْكُرُ بَعْدَ هَذَا إنْ شَاءَ اللَّهُ تَعَالَى؛ فَكَانَ ذَلِكَ دَاخِلًا فِي الِاسْتِطَاعَةِ بِبَيَانِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L12589 Moreover, if this were valid, it would stand as proof against them, because the Messenger of Allah—peace and blessings of Allah be upon him—made Hajj obligatory even upon those who are not capable either physically or financially, provided they find someone to perform it on their behalf, as we will mention later, if Allah the Exalted wills. Thus, this is included in the definition of capacity as clarified by the Messenger of Allah—peace and blessings of Allah be upon him.

وَأَمَّا قَوْلُهُمْ: إنَّ الرِّحْلَةَ مِنْ شِقِّ الْأَنْفُسِ وَالْحَرَجِ، وَاَللَّهُ تَعَالَى لَا يُكَلِّفُ ذَلِكَ عِبَادَهُ، فَصَحِيحٌ وَلَمْ نَقُلْ نَحْنُ: إنَّ مَنْ كَانَتْ الرِّحْلَةُ تَشُقُّ عَلَيْهِ - وَعَلَيْهِ فِيهَا حَرَجٌ - أَنَّ الْحَجَّ يَلْزَمُهُ: بَلْ الْحَجُّ عَمَّنْ هَذِهِ صِفَتُهُ سَاقِطٌ كَمَا قَالُوا، وَإِنَّمَا قُلْنَا: إنَّ مَنْ يَسْهُلُ عَلَيْهِ الْمَشْيُ وَهُوَ لَوْ كَانَتْ لَهُ فِي دُنْيَاهُ حَاجَةٌ لَاسْتَسْهَلَ الْمَشْيَ إلَيْهَا - فَالْحَجُّ يَلْزَمُهُ؛ لِأَنَّهُ مُسْتَطِيعٌ؟ وَأَمَّا الْأَخْبَارُ الَّتِي ذَكَرُوا -: فَإِنَّ فِي أَحَدِهَا -: إبْرَاهِيمَ بْنَ يَزِيدَ وَهُوَ سَاقِطٌ مَطْرَحٌ؛

L12590 As for their statement that traveling entails hardship and difficulty, and that Allah the Exalted does not impose such a burden upon His servants—this is correct. We ourselves have not asserted that Hajj is obligatory for one who finds traveling arduous and upon whom it imposes hardship. Rather, Hajj is waived for such a person, as they have stated. We only said that Hajj is obligatory for one who finds walking easy and who, if he had a worldly need, would consider the journey to fulfill it easy—for he is capable. As for the narrations they cited: one of them includes Ibrāhīm ibn Yazīd, who

[8] **Qur’an references (L12587):** Qur’an 3:97 (Ali ’Imran).

وَفِي الثَّانِي: الْحَارِثُ الْأَعْوَرُ وَهُوَ مَذْكُورٌ بِالْكَذِبِ، وَحَدِيثُ الْحَسَنِ مُرْسَلٌ وَلَا حُجَّةَ فِي مُرْسَلٍ وَالْعَجَبُ مِنْ مَالِكٍ، وَالشَّافِعِيِّ، فِي هَذِهِ الْمَسْأَلَةِ؛ فَإِنَّ الْمَالِكِيِّينَ يَقُولُونَ: الْمُرْسَلُ، وَالْمُسْنَدُ سَوَاءٌ لَا سِيَّمَا مُرْسَلُ الْحَسَنِ فَإِنَّهُمْ ادَّعَوْا أَنَّهُ كَانَ لَا يُرْسِلُ الْحَدِيثَ إِلَّا إِذَا حَدَّثَهُ بِهِ أَرْبَعَةٌ مِنْ الصَّحَابَةِ فَصَاعِدًا، ثُمَّ خَالَفُوا هَاهُنَا أَحْسَنَ مَرَاسِيلِ الْحَسَنِ؛ وَالشَّافِعِيُّونَ لَا يَقُولُونَ: إلَّا بِالْمُسْنَدِ الصَّحِيحِ وَأَخَذُوا هَاهُنَا بِالسَّاقِطِ، وَالْمُرْسَلِ.

is rejected and discarded; the second includes al-Ḥārith al-Aʿwar, who is known for lying; and the narration of al-Ḥasan is mursal, and there is no valid proof in a mursal narration. It is astonishing regarding Mālik and al-Shāfiʿī in this matter. The Mālikīs claim that mursal and musnad (narrations with complete chains) are equivalent in validity, especially the mursal narrations of al-Ḥasan, as they assert he would only report a narration if four or more Companions had narrated it to him. Yet here, they contradict even the soundest of al-Ḥasan's mursal narrations. The Shāfiʿīs, however, only accept musnad narrations with sound chains, yet here they have relied on discarded and mursal narrations.

وَأَمَّا الرِّوَايَاتُ فِي ذَلِكَ عَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - فَوَاهِيَةٌ كُلُّهَا؛ لِأَنَّهَا إمَّا مِنْ طَرِيقِ عَطَاءٍ الْخُرَاسَانِيِّ مُرْسَلَةً، وَإِمَّا مِنْ طَرِيقِ إسْرَائِيلَ، وَإِمَّا مِنْ طَرِيقِ رَجُلٍ لَمْ يُسَمَّ، وَأَحْسَنُهَا الرِّوَايَةُ عَنْ ابْنِ عَبَّاسٍ الْمُوَافِقَةُ لِقَوْلِنَا، وَأَمَّا الرِّوَايَةُ الْأُخْرَى عَنْهُ فِي الثَّلَاثِمِائَةِ دِرْهَمٍ، إلَّا أَنَّ هَذَا مِمَّا خَالَفَ فِيهِ الْمَالِكِيُّونَ جُمْهُورَ الْعُلَمَاءِ وَهُمْ يُعَظِّمُونَ ذَلِكَ.

L12591–12592 As for the narrations concerning this matter from the Companions—may Allah be pleased with them—they are all feeble, as they are either transmitted via ʿAṭāʾ al-Khurāsānī's mursal (incompletely chained) narration, through Isrāʾīl, or through an unnamed man. The best of them is the narration from Ibn ʿAbbās that aligns with our position. As for the other narration attributed to him regarding three hundred dirhams, this is among the matters in which the Mālikīs opposed the majority of scholars, and the Mālikīs attach great importance to this stance.

وَالْحَنَفِيُّونَ يُبْطِلُونَ السُّنَنَ الصِّحَاحَ -: كَنَفْيِ الزَّانِي، وَحَدِيثِ لَا تُحَرِّمُ الْمَصَّةُ وَلَا الْمَصَّتَانِ، وَحَدِيثِ رَضَاعِ سَالِمٍ، وَغَيْرِهَا؛ لِزَعْمِهِمْ: أَنَّهَا زَائِدَةٌ عَلَى مَا فِي الْقُرْآنِ، أَوْ مُخَالِفَةٌ لَهُ، وَأَخَذُوا هَاهُنَا بِأَخْبَارٍ سَاقِطَةٍ لَا يَحِلُّ الْأَخْذُ بِهَا مُخَصِّصَةً لِلْقُرْآنِ مُخَالِفَةً لَهُ، ثُمَّ خَالَفُوهَا مَعَ ذَلِكَ فِي تَخْصِيصِهِمْ الْمُقْعَدِ.

L12593 The Hanafis invalidate the authentic Sunnahs—such as the exile of the adulterer, the hadith stating "one or two sucklings do not establish prohibition," the hadith regarding Salim's breastfeeding, and others—alleging that these constitute additions to the Qur'an or contradictions to it. In doing so, they rely on rejected narrations that are impermissible to adopt—narrations that specify Qur'anic rulings while opposing them. Yet despite this, they themselves contradict those narrations in their specification of al-Muqʿad.

وَأَطْرَفُ شَيْءٍ احْتِجَاجُهُمْ فِي تَخْصِيصِ الْمُقْعَدِ بِقَوْلِ اللَّهِ تَعَالَى: {لَيْسَ عَلَى الأَعْمَى حَرَجٌ وَلا عَلَى الأَعْرَجِ حَرَجٌ وَلا عَلَى الْمَرِيضِ حَرَجٌ} [النور: ٦١] وَهُمْ يَقُولُونَ: إنَّ الْأَعْرَجَ يَلْزَمُهُ الْحَجُّ إذَا وَجَدَ زَادًا وَرَاحِلَةً وَقَدَرَ عَلَى الرُّكُوبِ، وَكَذَلِكَ الْأَعْمَى؛

L12594 The most absurd aspect of their argument in exempting the paralyzed person is their citation of God's statement: *"There is no blame upon the blind, nor upon the lame, nor upon the sick"* (24:61), while they simultaneously assert that the lame must perform Hajj if he possesses provisions, a riding animal, and the capacity to mount it—and likewise for the blind. Thus, they contradicted what is in the verse and applied its ruling to a matter not mentioned within it. ʿAlī said: When all their specious arguments were invalidated, it

became obligatory to seek proof from the Quran and authentic Sunnah. We found God Almighty stating: *"Whoever is able to find a way"* (3:97). This constitutes a general ruling encompassing all forms of capability—whether financial or physical—as necessitated by the verse's explicit wording. It is impermissible to exempt the paralyzed, the blind, or the lame from this obligation if they are capable of riding while having adequate means. This does not fall under the hardship God has lifted from them, for no constraining burden exists upon them in this matter.[9]

فَخَالَفُوا مَا فِي الْآيَةِ وَحَكَمُوا بِهَا فِيمَا لَيْسَ فِيهَا مِنْهُ شَيْءٌ؟ قَالَ عَلِيٌّ: فَلَمَّا بَطَلَ كُلُّ مَا شَغَبُوا بِهِ وَجَبَ طَلَبُ الْبُرْهَانِ مِنْ الْقُرْآنِ وَالسُّنَّةِ الصَّحِيحَةِ فَوَجَدْنَا اللَّهَ تَعَالَى قَالَ: {مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] فَكَانَ هَذَا عُمُومًا لِكُلِّ اسْتِطَاعَةٍ بِمَالٍ أَوْ جِسْمٍ هَذَا الَّذِي يُوجِبُهُ لَفْظُ الْآيَةِ ضَرُورَةً، وَلَمْ يَجُزْ أَنْ يُخَصَّ مِنْ ذَلِكَ مُقْعَدٌ وَلَا أَعْمَى وَلَا أَعْرَجُ إذَا كَانُوا مُسْتَطِيعِينَ الرُّكُوبَ وَمَعَهُمْ سِعَةٌ، وَلَيْسَ هَذَا مِنْ الْحَرَجِ الَّذِي أَسْقَطَهُ اللَّهُ تَعَالَى عَنْهُمْ؛ لِأَنَّهُ لَا حَرَجَ فِيهِ عَلَيْهِمْ.

L12595 Moreover, this verse, by the explicit text of the Quran, was revealed concerning jihad, which necessitates exertion, heightened caution, and running—all of which are clearly burdensome for the lame and the blind. As for Hajj, it involves none of that whatsoever.

وَأَيْضًا: فَإِنَّ هَذِهِ الْآيَةَ بِنَصِّ الْقُرْآنِ إنَّمَا نَزَلَتْ فِي الْجِهَادِ، وَهُوَ الَّذِي يَحْتَاجُ فِيهِ إلَى الشَّدِّ وَالتَّحَفُّظِ وَالْجَرْيِ، وَكُلُّ ذَلِكَ حَرَجٌ ظَاهِرٌ عَلَى الْأَعْرَجِ وَالْأَعْمَى؛ وَأَمَّا الْحَجُّ فَلَيْسَ فِيهِ شَيْءٌ مِنْ ذَلِكَ أَصْلًا.

L12596 There remains one who has neither wealth nor physical strength, except that he finds someone to perform Hajj on his behalf without payment or with an affordable payment. We observe that the language in which the Quran was revealed and through which God Almighty addressed us regarding all He has obligated us with shows no disagreement among its speakers concerning statements like: "The caliph is capable of conquering such-and-such land and positioning the catapult against it"—even if he is ill and bedridden—because his capability arises from his command and the people's obedience. This falls within the explicit ruling of the verse.

وَبَقِيَ مَنْ لَا مَالَ لَهُ وَلَا قُوَّةَ جِسْمٍ إلَّا أَنَّهُ يَجِدُ مَنْ يَحُجُّ عَنْهُ بِلَا أُجْرَةٍ أَوْ بِأُجْرَةٍ يَقْدِرُ عَلَيْهَا، فَوَجَدْنَا اللُّغَةَ الَّتِي بِهَا نَزَلَ الْقُرْآنُ وَبِهَا خَاطَبَنَا اللَّهُ تَعَالَى فِي كُلِّ مَا أَلْزَمَنَا إيَّاهُ لَا خِلَافَ بَيْنَ أَحَدٍ مِنْ أَهْلِهَا فِي أَنَّهُ يُقَالُ: الْخَلِيفَةُ مُسْتَطِيعٌ لِفَتْحِ بَلَدِ كَذَا، وَلِنَصْبِ الْمَنْجَنِيقِ عَلَيْهِ - وَإِنْ كَانَ مَرِيضًا مُثْبَتًا - لِأَنَّهُ مُسْتَطِيعٌ لِذَلِكَ بِأَمْرِهِ وَطَاعَةِ النَّاسِ لَهُ، وَكَانَ ذَلِكَ دَاخِلًا فِي نَصِّ الْآيَةِ.

L12597–12598 We found in the Sunnah what was narrated to us by Abdullah ibn Yusuf from Ahmad ibn Fath from Abdul-Wahhab ibn Isa from Ahmad ibn Muhammad from Ahmad ibn Ali from Muslim ibn al-Hajjaj from Ali ibn Khashram from Isa ibn Yunus from Ibn Jurayj from Ibn Shihab from Sulayman ibn Yasar from Ibn Abbas from al-Fadl ibn Abbas: "A woman from Khath'am said: 'O Messenger of Allah (peace and blessings be upon him), my father is an

وَوَجَدْنَا مِنْ السُّنَنِ -: مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ يُوسُفَ نا أَحْمَدُ بْنُ فَتْحٍ نا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نا أَحْمَدُ بْنُ مُحَمَّدٍ نا أَحْمَدُ بْنُ عَلِيٍّ نا مُسْلِمُ بْنُ الْحَجَّاجِ نا عَلِيُّ بْنُ خَشْرَمٍ عَنْ عِيسَى بْنِ يُونُسَ عَنْ ابْنِ جُرَيْجٍ عَنْ ابْنِ شِهَابٍ نا سُلَيْمَانُ بْنُ يَسَارٍ عَنْ ابْنِ عَبَّاسٍ عَنْ الْفَضْلِ بْنِ عَبَّاسٍ: «أَنَّ امْرَأَةً مِنْ خَثْعَمَ قَالَتْ: يَا رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

[9] **Qur'an references (L12594):** Qur'an 24:61 (An-Nur); Qur'an 48:17 (Al-Fath); Qur'an 3:97 (Ali 'Imran).

elderly man bound by Allah's obligation regarding Hajj, yet he cannot sit upright upon his camel.' The Prophet (peace and blessings be upon him) said to her: 'Perform Hajj for him.'"

L12599 It has also been narrated to us [through the chain] of Al-Bukhārī from ʿAbdullāh ibn Maslamah from Mālik from Ibn Shihāb from Sulaymān ibn Yasār from ʿAbdullāh ibn ʿAbbās* that the Khathʿamī woman said to the Messenger of Allah: "Allah's obligation has become incumbent upon my father - an elderly man too frail to stay upright on his riding animal. Shall I perform Hajj for him?" He said: "Yes." This occurred during the Farewell Pilgrimage.[10]

L12600–12602 Abdullah ibn Rabiʿ narrated to us: Abdullah ibn Muhammad ibn Uthman narrated to us: Ahmad ibn Khalid narrated to us: Ali ibn Abdul Aziz narrated to us: Al-Hajjaj ibn Al-Minhal narrated to us: Yazid ibn Ibrahim narrated to us from Ibn Sīrīn from Ubaidullah ibn Al-Abbas, who said: "I was mounted behind the Messenger of Allah—peace and blessings of Allah be upon him—when a man came to him and said: 'O Messenger of Allah, my mother is an elderly woman. If he binds her firmly, he fears he might kill her, but if he does not bind her, she cannot hold on.' The Prophet—peace be upon him—commanded him to perform Hajj on her behalf." Abdullah ibn Rabiʿ narrated to us: Muhammad ibn Muʿāwiyah narrated to us: Ahmad ibn Shuʿayb narrated to us: Isḥāq ibn Ibrāhīm (Ibn Rāhwayh) narrated to us: Wakīʿ ibn Al-Jarrāḥ narrated to us: Shuʿbah narrated to us from An-Nuʿmān (Ibn Sālim) from ʿAmr ibn... From Aws, from Abu Razin al-Uqayli that he said: "O Messenger of Allah, my father is an elderly man who cannot perform Hajj, Umrah, and undertake the journey for Hajj." The Messenger of Allah (peace be upon him) said to him: "Perform Hajj on behalf of your father and perform Umrah."

L12603 We have also narrated it: through the chain of Ibn al-Zubayr from the Messenger of Allah—peace and blessings of Allah be upon him. These are corroborated, mass-transmitted reports from sound chains of transmission originating from five Companions—may Allah be pleased with them: al-Faḍl,

- إِنَّ أَبِي شَيْخٌ كَبِيرٌ عَلَيْهِ فَرِيضَةُ اللَّهِ تَعَالَى فِي الْحَجِّ وَهُوَ لَا يَسْتَطِيعُ أَنْ يَسْتَوِيَ عَلَى ظَهْرِ بَعِيرِهِ فَقَالَ لَهَا النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: حُجِّي عَنْهُ» .

وَرُوِّينَاهُ (أَيْضًا) مِنْ طَرِيقِ الْبُخَارِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَسْلَمَةَ عَنْ مَالِكٍ عَنْ ابْنِ شِهَابٍ عَنْ سُلَيْمَانَ بْنِ يَسَارٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبَّاسٍ (*) أَنَّ الْخَثْعَمِيَّةَ قَالَتْ لِرَسُولِ اللَّهِ «إِنَّ فَرِيضَةَ اللَّهِ أَدْرَكَتْ أَبِي شَيْخًا كَبِيرًا لَا يَثْبُتُ عَلَى الرَّاحِلَةِ أَفَأَحُجُّ عَنْهُ؟ قَالَ: نَعَمْ، وَذَلِكَ فِي حَجَّةِ الْوَدَاعِ» .

ونا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ عُثْمَانَ نا أَحْمَدُ بْنُ خَالِدٍ نا عَلِيُّ بْنُ عَبْدِ الْعَزِيزِ نا الْحَجَّاجُ بْنُ الْمِنْهَالِ نا يَزِيدُ بْنُ إِبْرَاهِيمَ عَنِ ابْنِ سِيرِينَ عَنْ عُبَيْدِ اللَّهِ بْنِ الْعَبَّاسِ قَالَ: «كُنْتُ رَدِيفَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَأَتَاهُ رَجُلٌ فَقَالَ: يَا رَسُولَ اللَّهِ إِنَّ أُمِّي عَجُوزٌ كَبِيرَةٌ إِنْ حَزَمَهَا خَشِيَ أَنْ يَقْتُلَهَا وَإِنْ لَمْ يَحْزِمْهَا لَمْ تَسْتَمْسِكْ؟ فَأَمَرَهُ - عَلَيْهِ السَّلَامُ - أَنْ يَحُجَّ عَنْهَا» : نا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نا مُحَمَّدُ بْنُ مُعَاوِيَةَ نا أَحْمَدُ بْنُ شُعَيْبٍ نا إِسْحَاقُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - نا وَكِيعُ بْنُ الْجَرَّاحِ نا شُعْبَةُ عَنِ النُّعْمَانِ هُوَ ابْنُ سَالِمٍ - عَنْ عَمْرِو بْنِ أَوْسٍ عَنْ أَبِي رَزِينٍ الْعُقَيْلِيِّ أَنَّهُ قَالَ «يَا رَسُولَ اللَّهِ إِنَّ أَبِي شَيْخٌ كَبِيرٌ لَا يَسْتَطِيعُ الْحَجَّ وَالْعُمْرَةَ وَالظَّعْنَ؟ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: حُجَّ عَنْ أَبِيكَ وَاعْتَمِرْ» .

رُوِّينَاهُ أَيْضًا: مِنْ طَرِيقِ ابْنِ الزُّبَيْرِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهَذِهِ أَخْبَارٌ مُتَظَاهِرَةٌ مُتَوَاتِرَةٌ مِنْ طُرُقٍ صِحَاحٍ عَنْ خَمْسَةٍ مِنَ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -:

[10] **Hadith references (L12599):** Sahih al-Bukhari 1855.

ʿAbdullāh, ʿUbaydullāh ibn al-ʿAbbās ibn ʿAbd al-Muṭṭalib, Ibn al-Zubayr, and Abū Razīn al-ʿUqaylī.

الْفَضْلُ، وَعَبْدُ اللَّهِ، وَعُبَيْدُ اللَّهِ بْنُ الْعَبَّاسِ بْنِ عَبْدِ الْمُطَّلِبِ - وَابْنُ الزُّبَيْرِ، وَأَبُو رَزِينٍ الْعُقَيْلِيُّ.

L12604–12606 The aforementioned Yazeed ibn Ibrahim is Abu Sa'id al-Tustari, a Basran who resided with his family near the cemetery of Banu Sahm. He died in the year 161 AH [one hundred and sixty-one], but it is said he died in Muḥarram of 162 AH [one hundred and sixty-two]. He was trustworthy and reliable, declared trustworthy by Abu al-Walid al-Ṭayālisī and ʿAbdullah ibn Numayr. Aḥmad ibn Ḥanbal, Ibn Maʿīn, ʿAmr ibn ʿAlī, Aḥmad ibn Ṣāliḥ, and al-Nasāʾī—who is not Yazīd ibn Ibrāhīm, the one who narrates from Qatādah—that one being weak.

وَيَزِيدُ بْنُ إِبْرَاهِيمَ الْمَذْكُورُ هُوَ أَبُو سَعِيدٍ التُّسْتَرِيُّ بَصْرِيٌّ - كَانَ يَنْزِلُ بِأَهْلِهِ عِنْدَ مَقْبَرَةِ بَنِي سَهْمٍ مَاتَ سَنَةَ (١٦١ هـ) إِحْدَى وَسِتِّينَ وَمِائَةٍ، وَقِيلَ: بَلْ فِي الْمُحَرَّمِ سَنَةَ ١٦٢ هـ اثْنَتَيْنِ وَسِتِّينَ وَمِائَةٍ ثِقَةٌ ثَبْتٌ، وَثَّقَهُ أَبُو الْوَلِيدِ الطَّيَالِسِيُّ، وَعَبْدُ اللَّهِ بْنُ نُمَيْرٍ، وَأَحْمَدُ بْنُ حَنْبَلٍ، وَابْنُ مَعِينٍ، وَعَمْرُو بْنُ عَلِيٍّ، وَأَحْمَدُ بْنُ صَالِحٍ، وَالنَّسَائِيُّ وَلَيْسَ هُوَ يَزِيدَ بْنَ إِبْرَاهِيمَ الَّذِي يَرْوِي عَنْ قَتَادَةَ، ذَلِكَ لَيْسَ بِالْقَوِيِّ.

L12607 In these narrations, it is clarified that if someone has never been healthy, the obligation of Hajj persists for them if they find someone to perform Hajj on their behalf. This is because the Prophet (peace be upon him) heard the woman's statement regarding her father: "Allah's obligation overtook him while he was an elderly man unable to stay mounted on a riding animal," and he did not object to her statement, nor to Abu Razīn's similar statement about his father. Hence, it is validated that the obligation persists for these two individuals if they find someone to perform Hajj on their behalf.

فَبَيَّنَ فِي هَذِهِ الْأَخْبَارِ أَنَّ مَنْ لَمْ يَكُنْ قَطُّ صَحِيحًا فَإِنَّ فَرِيضَةَ الْحَجِّ لَازِمَةٌ لَهُ إِذَا وَجَدَ مَنْ يَحُجُّ عَنْهُ، لِأَنَّهُ - عَلَيْهِ السَّلَامُ - سَمِعَ قَوْلَ الْمَرْأَةِ عَنْ أَبِيهَا: «إِنَّ فَرِيضَةَ اللَّهِ تَعَالَى أَدْرَكَتْهُ وَهُوَ شَيْخٌ كَبِيرٌ لَا يَسْتَطِيعُ الثَّبَاتَ عَلَى الرَّاحِلَةِ» ، فَلَمْ يُنْكِرْ ذَلِكَ عَلَيْهَا، وَلَا عَلَى أَبِي رَزِينٍ مِثْلَ ذَلِكَ فِي أَبِيهِ، فَصَحَّ أَنَّ الْفَرْضَ بَاقٍ عَلَى هَذَيْنِ إِذَا وَجَدَا مَنْ يَحُجُّ عَنْهُمَا.

L12608 Al-Shafiʿī said: That obligation applies only if he has provisions and a riding animal. This is incorrect, as it is not stated in the ḥadīth of Abū Razīn that he possessed a riding animal, nor is it mentioned in the ḥadīth of ʿUbayd Allāh ibn al-ʿAbbās. This is a corrupt addition.

وَقَالَ الشَّافِعِيُّ: إِنَّمَا يَلْزَمُهُ ذَلِكَ إِذَا كَانَ لَهُ زَادٌ وَرَاحِلَةٌ - وَهَذَا خَطَأٌ لِأَنَّهُ لَيْسَ فِي حَدِيثِ أَبِي رَزِينٍ: أَنَّهُ كَانَتْ لَهُ رَاحِلَةٌ، وَلَا فِي حَدِيثِ عُبَيْدِ اللَّهِ بْنِ الْعَبَّاسِ أَيْضًا، فَهَذِهِ زِيَادَةٌ فَاسِدَةٌ.

L12609 If it is said: These hadiths came regarding a very elderly man and a very elderly woman—how then do you generalize their rulings to include anyone unable to move due to paralysis, illness, or not being elderly? We respond: Not every elderly man inherently possesses this description. Rather, this applies specifically to those overcome by frailty. The Prophet (peace be upon

فَإِنْ قِيلَ: إِنَّمَا جَاءَتْ هَذِهِ الْأَحَادِيثُ فِي شَيْخٍ كَبِيرٍ، وَعَجُوزٍ كَبِيرَةٍ، فَمِنْ أَيْنَ تَعَدَّيْتُمْ مَا فِيهَا إِلَى كُلِّ مَنْ لَا يَسْتَطِيعُ الْحَرَكَةَ بِزَمَانَةٍ، أَوْ مَرَضٍ وَلَمْ يَكُنْ شَيْخًا كَبِيرًا؟ قُلْنَا: لَيْسَ كُلُّ شَيْخٍ كَبِيرٍ تَكُونُ هَذِهِ صِفَتَهُ وَإِنَّمَا يَكُونُ بِهَذِهِ الصِّفَةِ مَنْ غَلَبَهُ الضَّعْفُ،

him) mandated this solely for those incapable of maintaining stability while seated on a riding animal. The elderly person holds no relevance whatsoever in this context.

فَإِنَّمَا أَمَرَ - عَلَيْهِ السَّلَامُ - بِذَلِكَ فِيمَنْ لَا يَسْتَطِيعُ ثَبَاتًا عَلَى الدَّابَّةِ وَلَيْسَ لِلشَّيْخِ هُنَالِكَ مَعْنًى أَصْلًا.

L12610 Moreover, there is no specific defined limit for an elderly person - one is not called "elderly" until reaching that limit. The religion of Allah the Most High must not be treated with negligence, nor based on false fabricated assumptions by which rulings are instituted without Allah the Most High's permission. If there were a ruling specific to the elderly in this matter, Allah's Messenger - peace and blessings be upon him - would have clarified the defining limit that shifts the obligation to having someone perform Hajj on their behalf, just as he established this for those unable to remain mounted on a riding animal or walk to undertake Hajj. Thus, it is confirmed that there is absolutely no ruling for the elderly in this matter - the ruling pertains solely to the inability to ride or walk. And success is by Allah the Most High. Therefore, this represents the capability for the journey, combined with physical and financial capacity.

وَأَيْضًا: فَإِنَّهُ لَيْسَ لِلشَّيْخِ حَدٌّ مَحْدُودٌ إذَا بَلَغَهُ الْمَرْءُ سُمِّيَ: شَيْخًا، وَلَمْ يُسَمَّ: شَيْخًا، حَتَّى يَبْلُغَهُ، وَدِينُ اللَّهِ تَعَالَى لَا يُتَسَامَحُ فِيهِ وَلَا يُؤْخَذُ بِالظُّنُونِ الْكَاذِبَةِ الْمُفْتَرَاةِ الْمَشْرُوعِ بِهَا مَا لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى، وَلَوْ كَانَ لِلشَّيْخِ فِي ذَلِكَ حُكْمٌ لَبَيَّنَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَدَّهُ الَّذِي بِهِ يَنْتَقِلُ حُكْمُهُ إلَى أَنْ يَحُجَّ عَنْهُ كَمَا أَثْبَتَ ذَلِكَ فِيمَنْ لَا يَسْتَطِيعُ الثَّبَاتَ عَلَى الرَّاحِلَةِ، وَلَا الْمَشْيَ إلَى الْحَجِّ؛ فَصَحَّ أَنَّهُ لَيْسَ لِلشَّيْخِ فِي ذَلِكَ حُكْمٌ أَصْلًا، وَإِنَّمَا الْحُكْمُ لِلْعَجْزِ عَنْ الرُّكُوبِ وَالْمَشْيِ فَقَطْ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ - فَكَانَ هَذَا اسْتِطَاعَةً لِلسَّبِيلِ مُضَافَةً إلَى الْقُوَّةِ بِالْجِسْمِ وَبِالْمَالِ.

L12611–12613 Abu Muhammad said: Some people made pretexts concerning these traditions using a report we transmitted through the chain of Abd al-Razzaq from... From Sufyān al-Thawrī from Abū Isḥāq al-Shaybānī from Yazīd ibn al-Aṣamm from Ibn ʿAbbās: "A man asked the Messenger of Allah (peace and blessings be upon him), 'Shall I perform Ḥajj on behalf of my father?' He replied: 'Yes. If you do not add good to him, you do not add evil to him.'"

قَالَ أَبُو مُحَمَّد: فَتَعَلَّلَ قَوْمٌ فِي هَذِهِ الْآثَارِ بِخَبَرٍ رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي إِسْحَاقَ الشَّيْبَانِيِّ عَنْ يَزِيدَ بْنِ الْأَصَمِّ عَنْ ابْنِ عَبَّاسٍ: «أَنَّ رَجُلًا سَأَلَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَأَحُجُّ عَنْ أَبِي؟ قَالَ: نَعَمْ، إنْ لَمْ تَزِدْهُ خَيْرًا لَمْ تَزِدْهُ شَرًّا» .

L12614 They said: This is evidence that it is recommended, not obligatory. Ali said: This contains no valid proof for their claim, for it does not indicate that his father was deceased, nor that he was incapable of riding or walking, nor that he had performed the obligatory Hajj. Rather, it is a general inquiry about performing Hajj on behalf of another - from those who may have already performed it for themselves or are capable of performing Hajj. The Prophet (peace be upon him) responded by permitting it. This report only establishes the permissibility of performing Hajj on behalf of any person, and nothing more - and this is our position.

قَالُوا: فَهَذَا دَلِيلٌ عَلَى أَنَّهُ نَدْبٌ لَا فَرْضٌ. قَالَ عَلِيٌّ: وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ؛ لِأَنَّهُ لَيْسَ فِيهِ أَنَّ أَبَاهُ كَانَ مَيِّتًا، وَلَا أَنَّهُ كَانَ عَاجِزًا عَنْ الرُّكُوبِ وَالْمَشْيِ وَلَا أَنَّهُ كَانَ حَجَّ الْفَرِيضَةِ، بَلْ إنَّمَا هُوَ سُؤَالٌ مُطْلَقٌ عَنْ الْحَجِّ عَنْ غَيْرِهِ مِمَّنْ هُوَ مُمْكِنٌ أَنْ يَكُونَ قَدْ حَجَّ عَنْ نَفْسِهِ، أَوْ أَنَّهُ قَادِرٌ عَلَى الْحَجِّ، فَأَجَابَهُ - عَلَيْهِ السَّلَامُ - بِإِبَاحَةِ ذَلِكَ، وَإِنَّمَا فِي هَذَا الْخَبَرِ جَوَازُ الْحَجِّ عَنْ كُلِّ أَحَدٍ وَلَا مَزِيدَ، وَهُوَ قَوْلُنَا.

وَأَمَّا تِلْكَ الْأَحَادِيثُ فَفِيهَا بَيَانٌ أَنَّهَا فِي الْحَجِّ الْفَرْضِ، وَأَيْضًا: فَلَيْسَ قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «إِنْ لَمْ تَزِدْهُ خَيْرًا لَمْ تَزِدْهُ شَرًّا» بِمُخْرِجٍ لِذَلِكَ عَنْ الْفَرْضِ إلَى التَّطَوُّعِ، لِأَنَّ هَذِهِ صِفَةُ كُلِّ عَمَلٍ مُفْتَرَضٍ أَوْ تَطَوُّعٍ إنْ لَمْ يُتَقَبَّلْ مِنْ الْمَرْءِ فَإِنَّهُ عَلَى كُلِّ حَالٍ لَا يُكْتَبُ لَهُ بِهِ سَيِّئَةٌ، فَبَطَلَ اعْتِرَاضُهُمْ بِهَذَا الْخَبَرِ؟ وَقَالُوا: قَالَ اللَّهُ تَعَالَى: {وَأَنْ لَيْسَ لِلإِنْسَانِ إِلا مَا سَعَى} [النجم: ٣٩] .

L12615 As for those ḥadīths, they demonstrate that they pertain to the obligatory Ḥajj. Furthermore, the Prophet's statement—peace be upon him—"If it does not increase him in good, it does not increase him in evil" does not shift this ruling from being obligatory to voluntary. For this description applies to every deed—whether obligatory or voluntary—in that if it is not accepted from a person, no sin is recorded against him in any case. Thus, their objection based on this report is invalidated. They argued: "Allah the Exalted says, 'And man will have nothing except what he strives for'" (Quran 53:39).[11]

قَالَ عَلِيٌّ: هَذِهِ سُورَةٌ مَكِّيَّةٌ بِلَا خِلَافٍ، وَهَذِهِ الْأَحَادِيثُ كَانَتْ فِي حَجَّةِ الْوَدَاعِ، فَصَحَّ أَنَّ اللَّهَ تَعَالَى بَعْدَ أَنْ لَمْ يَجْعَلْ لِلْإِنْسَانِ إلَّا مَا سَعَى تَفَضَّلَ عَلَى عِبَادِهِ وَجَعَلَ لَهُمْ مَا سَعَى فِيهِ غَيْرُهُمْ عَنْهُمْ بِهَذِهِ النُّصُوصِ الثَّابِتَةِ.

L12616 Ali said: "This is a Meccan surah without any disagreement, and these narrations were during the Farewell Pilgrimage. Thus, it is established that after Allah the Exalted had not ordained for man except what he strives for, He graciously bestowed upon His servants—through these firmly established texts—what others had striven for on their behalf."

وَقَالَ بَعْضُهُمْ: قَالَ اللَّهُ تَعَالَى: {وَلا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَى} [الأنعام: ١٦٤] .

L12617–12618 And some of them said: Allah, the Exalted, said, "No bearer of burdens shall bear the burden of another" [Al-An'am 6:164].[12]

قَالَ عَلِيٌّ: إذَا أَمَرَ اللَّهُ تَعَالَى أَنْ تَزِرَ وَازِرَةٌ وِزْرَ أُخْرَى لَزِمَ ذَلِكَ، وَكَانَ مَخْصُوصًا مِنْ هَذِهِ الْآيَةِ، وَقَدْ أَجْمَعُوا مَعَنَا عَلَى أَنَّ الْعَاقِلَةَ لَمْ تَقْتُلْ وَأَنَّهَا تَغْرَمُ عَنْ الْقَاتِلِ، وَلَمْ يَعْتَرِضُوا عَلَى ذَلِكَ بِهَذِهِ الْآيَةِ، وَلَيْسَ هُوَ إجْمَاعًا، فَإِنَّ عُثْمَانَ الْبَتِّيَّ لَا يَرَى حُكْمَ الْعَاقِلَةِ.

L12619 Ali said: When God, the Exalted, commands that a bearer of burdens bear another's burden, this necessarily follows and is derived from this verse [Q. 6:164]. They have agreed with us unanimously that the ʿāqilah (responsible kin group) did not kill and that they are liable to pay on behalf of the killer, nor did they object to this using the verse. This is not a consensus, for ʿUthmān al-Battī does not accept the ruling of the ʿāqilah.

وَأَيْضًا: فَإِنَّ الَّذِي أَتَانَا بِهَذَا هُوَ الَّذِي افْتَرَضَ أَنْ يُحَجَّ عَنْ الْعَاجِزِ، وَالْمَيِّتِ، وَقَدْ قَالَ تَعَالَى: {مَنْ يُطِعِ الرَّسُولَ فَقَدْ أَطَاعَ اللَّهَ} [النساء: ٨٠] وَهُمْ يُجِيزُونَ الْحَجَّ عَنْ الْمَيِّتِ إذَا أَوْصَى بِذَلِكَ، وَالصَّدَقَةَ عَنْ الْحَيِّ، وَالْمَيِّتِ، وَالْعِتْقَ عَنْهُمَا أَوْصَيَا بِذَلِكَ أَوْ لَمْ يُوصِيَا، وَلَا يَعْتَرِضُونَ فِي ذَلِكَ بِهَذِهِ الْآيَةِ.

L12620 Moreover, the One who has brought us this is the same One who made obligatory that Hajj be performed on behalf of those unable and the deceased. Allah the Exalted has said: "Whoever obeys the Messenger has indeed obeyed Allah" [An-Nisa: 80]. They permit Hajj to be performed on behalf of the deceased if he instructed it, as well as charity on behalf of the living and the deceased, and emancipation of slaves on behalf of the living and deceased,

[11] **Qur'an references (L12615):** Qur'an 53:39 (An-Najm).

[12] **Qur'an references (L12618):** Qur'an 6:164 (Al-An'am); Qur'an 17:15 (Al-Isra); Qur'an 35:18 (Fatir); Qur'an 39:7 (Az-Zumar).

whether they (both) instructed it or not, and they do not object to this using this verse.[13]

L12621 If they say: "Since he enjoined the Hajj, is it considered part of his striving?" We respond: "Then obligate by this [logic] that fasting be observed on his behalf if he enjoins it, for it is part of his striving."

L12622 If they say: "Acts of worship involving the body cannot be performed by one person on behalf of another," we reply: This is invalid and a false claim. From where did you derive this assertion? Rather, every act that the Prophet—peace be upon him—commanded that a person perform on behalf of another becomes obligatory, even if it chokes the obstinate opponent. If they say: "By analogy to the prayer?"

L12623–12624 We said: All analogy is invalid, and even if it were valid, this would be against you rather than in your favor. For you do not disagree about the permissibility of a person performing Hajj on another's behalf praying two rak'ahs at the Maqām for the one being represented in Hajj. You have permitted people to pray on each other's behalf - so analogize all bodily acts of worship to this! They said: Since Hajj involves a financial dimension through compensation by sacrificial offerings and feeding [the poor], it becomes permissible for some people to perform it on others' behalf. We said: From where do you derive this ruling - a fabricated falsehood and undoubtedly invented legislation? Moreover, you have contradicted yourselves in this matter, for fasting similarly involves a financial dimension through compensation by manumission and feeding [the poor] - with no distinction - and in the obligation of Zakāt al-Fiṭr arising from his fasting. Then by this reasoning, permit that some people perform it on others' behalf!

L12625 Abu Muhammad said: The strangest thing of all is that the Malikis permit a man to wage jihad on behalf of another for a fee, and they allow transferring the atonement liability from a woman coerced into intercourse during the daytime of Ramadan onto someone other than herself—and he is the one who coerced her. Thus, they permit all that which Allah the Exalted and His Messenger—peace be upon him—did not sanction, while prohibiting what

فَإِنْ قَالُوا: لَمَّا أَوْصَى بِالْحَجِّ كَانَ مِمَّا سَعَى؟ قُلْنَا لَهُمْ: فَأَوْجِبُوا بِذَلِكَ أَنْ يُصَامَ عَنْهُ إِذَا أَوْصَى بِذَلِكَ؛ لِأَنَّهُ مِمَّا سَعَى.

فَإِنْ قَالُوا: عَمَلُ الْأَبْدَانِ لَا يَعْمَلُهُ أَحَدٌ عَنْ أَحَدٍ؟ فَقُلْنَا: هَذَا بَاطِلٌ وَدَعْوَى كَاذِبَةٌ، وَمِنْ أَيْنَ قُلْتُمْ هَذَا؟ بَلْ كُلُّ عَمَلٍ إِذَا أَمَرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِهِ أَنْ يَعْمَلَهُ الْمَرْءُ عَنْ غَيْرِهِ وَجَبَ ذَلِكَ عَلَى رَغْمِ أَنْفِ الْمُعَانِدِ فَإِنْ قَالُوا: قِيَاسًا عَلَى الصَّلَاةِ؟

قُلْنَا: الْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَوْ صَحَّ لَكَانَ هَذَا عَلَيْكُمْ لَا لَكُمْ؛ لِأَنَّكُمْ لَا تَخْتَلِفُونَ فِي جَوَازِ أَنْ يُصَلِّيَ الْمَرْءُ الَّذِي يَحُجُّ عَنْ غَيْرِهِ رَكْعَتَيْنِ عِنْدَ الْمَقَامِ عَنْ الْمَحْجُوجِ عَنْهُ، فَقَدْ جَوَّزْتُمْ أَنْ يُصَلِّيَ النَّاسُ بَعْضُهُمْ عَنْ بَعْضٍ فَقِيسُوا عَلَى ذَلِكَ سَائِرَ أَعْمَالِ الْأَبْدَانِ؟ وَقَالُوا: لَمَّا كَانَ الْحَجُّ فِيهِ مَدْخَلٌ لِلْمَالِ فِي جَبْرِهِ بِالْهَدْيِ، وَالْإِطْعَامِ -: جَازَ أَنْ يَعْمَلَهُ بَعْضُ النَّاسِ عَنْ بَعْضٍ؟ قُلْنَا: وَمِنْ أَيْنَ لَكُمْ هَذَا الْحُكْمُ الَّذِي هُوَ كَذِبٌ مُفْتَرًى وَشَرْعٌ مَوْضُوعٌ بِلَا شَكٍّ؟ ثُمَّ قَدْ تَنَاقَضْتُمْ فِيهِ؛ لِأَنَّ الصِّيَامَ فِيهِ مَدْخَلٌ لِلْمَالِ فِي جَبْرِهِ بِالْعِتْقِ، وَالْإِطْعَامِ وَلَا فَرْقَ، وَفِي وُجُوبِ زَكَاةِ الْفِطْرِ مِنْ صَوْمِهِ، فَأَجِيزُوا لِذَلِكَ أَنْ يَعْمَلَهُ بَعْضُ النَّاسِ عَنْ بَعْضٍ.

قَالَ أَبُو مُحَمَّد: وَالْعَجَبُ كُلُّهُ أَنَّ الْمَالِكِيِّينَ يُجِيزُونَ أَنْ يُجَاهِدَ الرَّجُلُ عَنْ غَيْرِهِ بِجُعْلٍ، وَيُجِيزُونَ الْكَفَّارَةَ عَنْ الْمَرْأَةِ الْمُكْرَهَةِ عَلَى الْوَطْءِ فِي نَهَارِ رَمَضَانَ عَلَى غَيْرِهَا عَنْهَا، وَهُوَ الَّذِي أَكْرَهَهَا، فَأَجَازُوا كُلَّ ذَلِكَ حَيْثُ لَمْ يُجِزْهُ اللَّهُ تَعَالَى، وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ - وَمَنَعُوا مِنْ جَوَازِهِ حَيْثُ افْتَرَضَهُ اللَّهُ تَعَالَى وَرَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

[13] **Qur'an references (L12620):** Qur'an 4:80 (An-Nisa).

Allah the Exalted and His Messenger—may Allah bless him and grant him peace—obligated.

L12626 Ali said: If they raise doubts with what we have narrated through the chain of transmission of Ibn Abi Uwais—Muhammad ibn Abdullah ibn Karim al-Ansari narrated from Ibrahim ibn Muhammad ibn Yahya al-Adawi al-Najjari—"A woman said: 'O Messenger of Allah, my father is an elderly man.' The Messenger of Allah (peace be upon him) said: 'Perform Hajj on his behalf, and no one else has the right to do so after his death.'"

قَالَ عَلِيٌّ: فَإِنْ مَوَّهُوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي أُوَيْسٍ: نا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ كَرِيمٍ الْأَنْصَارِيُّ عَنْ إِبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ يَحْيَى الْعَدَوِيِّ النَّجَّارِيِّ «أَنَّ امْرَأَةً قَالَتْ: يَا رَسُولَ اللَّهِ إِنَّ أَبِي شَيْخٌ كَبِيرٌ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: لِتَحُجِّي عَنْهُ، وَلَيْسَ لِأَحَدٍ بَعْدَهُ» .

L12627 And by what we have narrated through the chain of ʿAbd al-Malik ibn Ḥabīb: Muṭarrif reported to me from Muḥammad ibn al-Karīr from Muḥammad ibn Ḥibbān al-Anṣārī: "A woman came to the Messenger of Allah (peace and blessings be upon him) and said: 'My father is an elderly man who cannot undertake Hajj.' He (peace be upon him) said: 'Perform Hajj on his behalf, and this is not permissible for anyone after him.'"

وَبِمَا رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ حَدَّثَنِي مُطَرِّفٌ عَنْ مُحَمَّدِ بْنِ الْكَرِيرِ عَنْ مُحَمَّدِ بْنِ حِبَّانَ الْأَنْصَارِيِّ: «أَنَّ امْرَأَةً جَاءَتْ إِلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَتْ: إِنَّ أَبِي شَيْخٌ كَبِيرٌ لَا يَقْوَى عَلَى الْحَجِّ فَقَالَ - عَلَيْهِ السَّلَامُ -: فَلْتَحُجِّي عَنْهُ، وَلَيْسَ ذَلِكَ لِأَحَدٍ بَعْدَهُ» .

L12628–12630 And from the path of Abd al-Malik ibn Habib, Harun ibn Salih al-Talhi reported to me, on the authority of [Abd...]. Al-Rahman ibn Zayd ibn Aslam from Rabi'ah from Muhammad ibn Ibrahim ibn al-Harith al-Taymi reported that the Messenger of Allah, peace and blessings be upon him, said: "No one may perform Hajj on another's behalf except a child for their parent."

وَمِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ حَدَّثَنِي هَارُونُ بْنُ صَالِحٍ الطَّلْحِيُّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ زَيْدِ بْنِ أَسْلَمَ عَنْ رَبِيعَةَ عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ بْنِ الْحَارِثِ التَّيْمِيِّ " أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «لَا يَحُجُّ أَحَدٌ عَنْ أَحَدٍ إِلَّا وَلَدٌ عَنْ وَالِدٍ» .

L12631 Ali said: These are fabrications. The first is that it is a *mursal* report, and there is no valid proof in a *mursal*. The first one contains two unknowns—who are they? They are Muḥammad ibn ʿAbd Allāh ibn Karīm and Ibrāhīm ibn Muḥammad al-ʿAdawī. The other two are through ʿAbd al-Malik ibn Ḥabīb, and that suffices. How then, when it includes al-Ṭalḥī, Muḥammad ibn al-Karīr, Muḥammad ibn Ḥibbān—whose identities are unknown—and ʿAbd al-Raḥmān ibn Zayd, who is weak (*ḍaʿīf*)? This report was distorted by ʿAbd al-Malik, for we have transmitted it through the chain of Saʿīd ibn Manṣūr, who said: ʿAbd al-Raḥmān ibn Zayd ibn Aslam narrated to us, reporting from Rabīʿah ibn ʿUthmān al-Taymī, from Muḥammad ibn Ibrāhīm al-Taymī: "A man said to the Prophet—peace and blessings be upon him: 'O Messenger

قَالَ عَلِيٌّ: فَهَذِهِ تَكَاذِيبُ، أَوَّلُ ذَلِكَ: أَنَّهَا مُرْسَلَةٌ وَلَا حُجَّةَ فِي مُرْسَلٍ: وَالْأَوَّلُ: فِيهِ مَجْهُولَانِ لَا يُدْرَى مَنْ هُمَا؟ وَهُمَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ كَرِيمٍ، وَإِبْرَاهِيمُ بْنُ مُحَمَّدٍ الْعَدَوِيُّ؟ وَالْآخَرَانِ مِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ وَكَفَى، فَكَيْفَ وَفِيهِ: الطَّلْحِيُّ، وَمُحَمَّدُ بْنُ الْكَرِيرِ، وَمُحَمَّدُ بْنُ حِبَّانَ، وَلَا يُدْرَى مَنْ هُمْ، وَعَبْدُ الرَّحْمَنِ بْنُ زَيْدٍ وَهُوَ ضَعِيفٌ، وَهَذَا خَبَرٌ حَرَّفَهُ عَبْدُ الْمَلِكِ؛ لِأَنَّنَا رُوِّينَاهُ مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ قَالَ: نا عَبْدُ الرَّحْمَنِ بْنُ

of Allāh, my father died without performing Ḥajj. Shall I perform Ḥajj on his behalf?' He replied: 'Yes, and you will receive a reward equal to his.'"

زَيْدِ بْنِ أَسْلَمَ حَدَّثَنِي رَبِيعَةُ بْنُ عُثْمَانَ التَّيْمِيُّ عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ التَّيْمِيِّ «أَنَّ رَجُلًا قَالَ لِلنَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: يَا رَسُولَ اللَّهِ، أَبِي مَاتَ وَلَمْ يَحُجَّ أَفَأَحُجُّ عَنْهُ؟ قَالَ: نَعَمْ وَلَكَ مِثْلُ أَجْرِهِ» .

L12632 And from the chain of Sa'id ibn Mansur, via Abd al-Rahman ibn Zayd, from his father: "A man said: 'O Messenger of Allah, my father died without performing the Hajj of Islam. Should I perform Hajj on his behalf?' He said: 'What would you say if your father had a debt, and you summoned his creditors to settle it? Would they accept this from you?' He said: 'Yes.' He said: 'Then perform Hajj on his behalf, for Allah will accept from your father.'"

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ زَيْدٍ عَنْ أَبِيهِ: «أَنَّ رَجُلًا قَالَ: يَا رَسُولَ اللَّهِ إِنَّ أَبِي مَاتَ وَلَمْ يَحُجَّ حَجَّةَ الْإِسْلَامِ أَفَأَحُجُّ عَنْهُ؟ قَالَ: أَرَأَيْتَ لَوْ كَانَ عَلَى أَبِيكَ دَيْنٌ فَدَعَوْتَ غُرَمَاءَهُ لِتَقْضِيَهُمْ؟ أَكَانُوا يَقْبَلُونَ ذَلِكَ مِنْكَ؟ قَالَ: نَعَمْ، قَالَ: فَحُجَّ عَنْهُ فَإِنَّ اللَّهَ قَابِلٌ مِنْ أَبِيكَ» .

L12633 Abū Muḥammad said: Be astonished at these disgraceful matters, and we seek refuge in Allāh from abandonment. Moreover, even if these narrations were authentic, they would be contradicting them, for they permit performing Ḥajj on behalf of the deceased if he bequeathed it—allowing someone other than his child to perform it—which opposes what is stated in these reports. Thus, these narrations are against them [not in their favor]. Their specification that Ḥajj is permissible only when bequeathed is not found in any textual evidence, nor is it transmitted from any of the Companions, nor does qiyās necessitate it. For a bequest is only valid for matters a person could rightfully command during his lifetime without dispute.

قَالَ أَبُو مُحَمَّد: فَاعْجَبُوا لِهَذِهِ الْفَضَائِحِ وَنَعُوذُ بِاَللَّهِ مِنْ الْخِذْلَانِ، ثُمَّ لَوْ صَحَّتْ لَكَانُوا مُخَالِفِينَ لَهَا؛ لِأَنَّهُمْ يُجِيزُونَ الْحَجَّ عَنْ الْمَيِّتِ إذَا أَوْصَى بِهِ، وَأَنْ يَحُجَّ عَنْهُ غَيْرُ وَلَدِهِ؛ وَهُوَ خِلَافٌ لِمَا فِي هَذِهِ الْآثَارِ فَهِيَ عَلَيْهِمْ [لَا لَهُمْ] وَتَخْصِيصُهُمْ جَوَازَ الْحَجِّ إذَا أَوْصَى بِهِ لَا يُوجَدُ فِي شَيْءٍ مِنْ النُّصُوصِ، وَلَا يُحْفَظُ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ، وَلَا يُوجِبُهَا قِيَاسٌ؛ لِأَنَّ الْوَصِيَّةَ لَا تَجُوزُ إلَّا فِيمَا يَجُوزُ لِلْإِنْسَانِ أَنْ يَأْمُرَ بِهِ فِي حَيَاتِهِ بِلَا خِلَافٍ؟ قَالَ أَبُو مُحَمَّد: فَإِنْ قَالُوا: قَدْ صَحَّ مِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: لَا يَصُومَنَّ أَحَدٌ عَنْ أَحَدٍ وَلَا يَحُجَّنَّ أَحَدٌ عَنْ أَحَدٍ.

Abū Muḥammad said: If they argue, "It has been authentically reported through Ḥammād ibn Zayd from Ayyūb al-Sakhtiyānī from Nāfiʿ from Ibn ʿUmar, who said: 'No one must fast on behalf of another, nor must anyone perform Ḥajj on behalf of another,'"

L12634–12636 From the narration of Waki', from Aflaḥ, from al-Qāsim ibn Muḥammad, who said: "Should no one perform Hajj on behalf of another?" We replied, "Yes." This is an authentic report from both of them, but you oppose them in this matter, for you permit it. Performing Hajj on behalf of the deceased if they have bequeathed it is contrary to the opinion of Ibn 'Umar and Al-Qāsim. We did not find their opinion attributed to any of the Companions—

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ أَفْلَحَ عَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ قَالَ: لَا يَحُجُّ أَحَدٌ عَنْ أَحَدٍ؟ قُلْنَا: نَعَمْ، هَذَا صَحِيحٌ عَنْهُمَا، وَأَنْتُمْ مُخَالِفُونَ لَهُمَا فِي ذَلِكَ؛ لِأَنَّكُمْ تُجِيزُونَ الْحَجَّ عَنْ الْمَيِّتِ

may Allah be pleased with them—while our opinion is established as sound by a group of the Salaf.

إِذَا أَوْصَى بِذَلِكَ وَهُوَ خِلَافُ قَوْلِ ابْنِ عُمَرَ، وَالْقَاسِمِ وَمَا وَجَدْنَا قَوْلَهُمْ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَصَحَّ قَوْلُنَا عَنْ طَائِفَةٍ مِنْ السَّلَفِ.

L12637 As has been narrated to us through the chain of al-Ḥajjāj ibn al-Minhāl → Shu'bah → Muslim al-Qārī, who said: I asked Ibn 'Abbās, "My mother performed Ḥajj but did not perform 'Umrah. Should I perform 'Umrah on her behalf?" He replied, "Yes;"

كَمَا رُوِّينَا مِنْ طَرِيقِ الْحَجَّاجِ بْنِ الْمِنْهَالِ عَنْ شُعْبَةَ عَنْ مُسْلِمٍ الْقَرِّيِّ قَالَ: قُلْت لِابْنِ عَبَّاسٍ: إنَّ أُمِّي حَجَّتْ وَلَمْ تَعْتَمِرْ، أَفَأَعْتَمِرُ عَنْهَا؟ قَالَ: نَعَمْ؛.

L12638 Abu Muhammad said, "Thus, this [ruling] does not apply specifically to a deceased person to the exclusion of a living one."

قَالَ أَبُو مُحَمَّدٍ فَهَذَا لَا تَخْصِيصَ فِيهِ لِمَيِّتٍ دُونَ حَيٍّ.

L12639 From the narration of Yazīd ibn Zurayʿ from Dāwūd, who said: I asked Saʿīd ibn al-Musayyab, "O Abā Muḥammad, to which of the two does the reward belong—the pilgrim or the one prevented from [Hajj]?" Saʿīd replied, "Allāh the Exalted is All-Encompassing—for both of them together."

وَمِنْ طَرِيقِ يَزِيدَ بْنِ زُرَيْعٍ عَنْ دَاوُد أَنَّهُ قَالَ، قُلْت لِسَعِيدِ بْنِ الْمُسَيِّبِ: يَا أَبَا مُحَمَّدٍ، لِأَيِّهِمَا الْأَجْرُ أَلِلْحَاجِّ أَمْ لِلْمَحْجُوجِ عَنْهُ؟ فَقَالَ سَعِيدٌ: إنَّ اللَّهَ تَعَالَى وَاسِعٌ لَهُمَا جَمِيعًا.

L12640 Abū Muḥammad said: Saʿīd was truthful (may Allāh have mercy on him).

قَالَ أَبُو مُحَمَّدٍ: صَدَقَ سَعِيدٌ - رَحِمَهُ اللَّهُ -.

L12641 From the narration of Ma'mar, from Abu Ishaq, from Umm Muhibbah: she vowed to walk to the Kaaba. She walked until she reached Aqabat al-Batn, then became unable, so she rode. She then came to Ibn Abbas and asked him. He said: "Are you able to walk to the Kaaba next year? When you reach the place where you rode, walk the distance you rode." She said: "No." He said to her: "Do you have a daughter who can walk on your behalf?" She said: "I have two daughters, but they consider themselves too dignified for that." He said: "Then seek forgiveness from Allah."

وَمِنْ طَرِيقِ مَعْمَرٍ عَنْ أَبِي إِسْحَاقَ عَنْ أُمِّ مُحِبَّةَ أَنَّهَا نَذَرَتْ أَنْ تَمْشِيَ إلَى الْكَعْبَةِ فَمَشَتْ حَتَّى إذَا بَلَغَتْ عَقَبَةَ الْبَطْنِ عَجَزَتْ فَرَكِبَتْ ثُمَّ أَتَتْ ابْنَ عَبَّاسٍ فَسَأَلَتْهُ فَقَالَ: أَتَسْتَطِيعِينَ أَنْ تَحُجِّي قَابِلًا؟ فَإِذَا انْتَهَيْت إلَى الْمَكَانِ الَّذِي رَكِبَتْ فِيهِ فَتَمْشِي مَا رَكِبْت؟ قَالَتْ: لَا، قَالَ لَهَا: فَهَلْ لَك ابْنَةٌ تَمْشِي عَنْك؟ قَالَتْ: لِي ابْنَتَانِ وَلَكِنَّهُمَا أَعْظَمُ فِي أَنْفُسِهِمَا مِنْ ذَلِكَ قَالَ: فَاسْتَغْفِرِي اللَّهَ.

L12642–12643 A similar narration has been conveyed to us via the narration of Waki', from Yunus ibn Abī Isḥāq, from his mother (the elevated one), from Ibn ʿAbbās.

وَرُوِّينَا أَيْضًا مِثْلَهُ مِنْ طَرِيقِ وَكِيعٍ عَنْ يُونُسَ بْنِ أَبِي إِسْحَاقَ عَنْ أُمِّهِ الْعَالِيَةِ عَنْ ابْنِ عَبَّاسٍ.

L12644 Abu Muhammad said: This is the narration they relied upon from Aisha - may Allah be pleased with her - concerning the matter of the slave sold by Zayd ibn Arqam to Al-Atā' for eight hundred dirhams, then she bought him from him for six hundred. They omitted Zayd ibn Arqam's action in this

قَالَ أَبُو مُحَمَّدٍ: هَذِهِ هِيَ الَّتِي عَوَّلُوا عَلَى رِوَايَتِهَا عَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - فِي أَمْرِ الْعَبْدِ الْمَبِيعِ مِنْ زَيْدِ بْنِ أَرْقَمَ إلَى الْعَطَاءِ بِثَمَانِمائَةِ دِرْهَمٍ ثُمَّ ابْتَاعَتْهُ مِنْهُ بِسِتِّمائَةٍ، وَتَرَكُوا

فِيهِ فِعْلَ زَيْدِ بْنِ أَرْقَمَ فَكَانَتْ حُجَّةً هُنَالِكَ إِذْ لَمْ تُوَافِقْ النُّصُوصَ، وَلَمْ تَكُنْ حُجَّةً عَنْ ابْنِ عَبَّاسٍ إِذْ وَافَقَتْ النُّصُوصَ.

وَمِنْ طَرِيقِ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نا حَفْصٌ هُوَ ابْنُ غِيَاثٍ - عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ أَنَّهُ قَالَ فِي الشَّيْخِ الْكَبِيرِ: أَنَّهُ يُجَهِّزُ رَجُلًا بِنَفَقَتِهِ فَيَحُجُّ عَنْهُ.

L12645 From the chain of Abū Bakr ibn Abī Shaybah who informed us from Ḥafṣ—that is Ibn Ghiyāth—from Ja‘far ibn Muḥammad, from his father, from ‘Alī ibn Abī Ṭālib, that he said regarding the elderly man: that he provides a man with his expenses so that the man performs Hajj on his behalf.

وَمِنْ طَرِيقِ إبْرَاهِيمَ بْنِ مَيْسَرَةَ قَالَ: رَمَى عَبْدُ اللَّهِ بْنُ طَاوُسٍ عَنْ أَبِيهِ الْجِمَارَ، وَطَافَ عَنْهُ طَوَافَ يَوْمِ النَّحْرِ وَكَانَ أَبُوهُ مَرِيضًا.

L12646 From the narration of Ibrāhīm ibn Maysarah: ʿAbdullāh ibn Ṭāwus performed the Ramy at the Jamarat on behalf of his father and performed the Tawaf of the Day of Sacrifice for him, as his father was ill.

وَعَنْ سُفْيَانَ عَنْ ابْنِ طَاوُسٍ فِي رَمْيِ الْجِمَارِ عَنْ أَبِيهِ بِأَمْرِ أَبِيهِ.

L12647 And from Sufyān, from Ibn Ṭāwūs concerning the throwing of pebbles at the Jamarāt, from his father by the command of his father.

وَعَنْ مُجَاهِدٍ مَنْ حَجَّ عَنْ رَجُلٍ فَلَهُ مِثْلُ أَجْرِهِ.

L12648 And it is narrated from Mujāhid: Whoever performs Hajj on behalf of a man, for him is a reward like the man’s.

وَعَنْ عَطَاءٍ فِيمَنْ نَذَرَ أَنْ يَمْشِيَ فَعَجَزَ؟ قَالَ: يَمْشِي عَنْهُ بَعْضُ أَهْلِ بَيْتِهِ، وَأَنَّهُ رَأَى الرَّمْيَ عَنْ الْمَرِيضِ لِلْجِمَارِ.

L12649 From ʿAṭāʾ regarding one who vowed to walk but became incapable: He said, “A member of his household should walk in his stead.” He further opined that the ritual stoning for the Jamarat may be performed in place of the sick person.

فَهَؤُلَاءِ: ابْنُ عَبَّاسٍ، وَعَلِيٌّ، وَعَطَاءٌ، وَطَاوُسٌ، وَمُجَاهِدٌ، وَسَعِيدُ بْنُ الْمُسَيِّبِ، وَعَبْدُ اللَّهِ بْنُ طَاوُسٍ: وَرُوِيَ أَيْضًا: عَنْ إبْرَاهِيمَ النَّخَعِيِّ، وَمَا نَعْلَمُ لِمَنْ خَالَفَنَا هَاهُنَا - فَلَمْ يُوجِبْ الْحَجَّ عَلَى مَنْ وَجَدَ مَنْ يَحُجُّ عَنْهُ وَهُوَ عَاجِزٌ، وَلَا عَنْ الْمَيِّتِ إلَّا أَنْ يُوصِيَ -: سَلَفًا أَصْلًا مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَهَذَا مِمَّا خَالَفُوا فِيهِ الْجُمْهُورَ مِنْ الْعُلَمَاءِ، وَبِمِثْلِ قَوْلِنَا يَقُولُ سُفْيَانُ الثَّوْرِيُّ، وَالْأَوْزَاعِيُّ، وَابْنُ أَبِي لَيْلَى، وَأَحْمَدُ، وَإِسْحَاقُ.

L12650 These individuals are: Ibn Abbas, Ali, Ata, Tawus, Mujahid, Sa‘id ibn al-Musayyib, and Abdullah ibn Tawus. It has also been narrated from Ibrahim al-Nakha‘i. We do not know of any foundational precedent from the Companions—may Allah be pleased with them—for those who disagree with us here and do not make Hajj obligatory on one who finds someone to perform Hajj on their behalf while they are incapacitated, nor on behalf of the deceased unless the deceased has bequeathed it. This is one of the matters in which they have opposed the majority of scholars. The following scholars hold the same opinion as us: Sufyan al-Thawri, al-Awza‘i, Ibn Abi Layla, Ahmad, and Ishaq.

## [مَسْأَلَةُ حَجَّ عَمَّنْ لَمْ يُطِقْ الرُّكُوبَ وَالْمَشْيَ ثُمَّ أَفَاقَ]

L12651 **Issue: Performing Hajj on behalf of one who could not**

**ride or walk, then recovered.**

L12652 816 – Question:

٨١٦ - مَسْأَلَةٌ:

L12653 Abu Muhammad said: If someone performs Hajj on behalf of a person who was incapable of enduring riding or walking due to illness or chronic infirmity, thereby fulfilling the obligatory Hajj, and the latter subsequently recovers, then Abu Hanifah and Al-Shafi'i maintained that he must perform Hajj. Our companions said: He is no longer obligated to perform Hajj thereafter.

قَالَ أَبُو مُحَمَّد: فَإِنْ حَجَّ عَمَّنْ لَمْ يُطِقِ الرُّكُوبَ وَالْمَشْيَ لِمَرَضٍ أَوْ زَمَانَةٍ حَجَّةَ الْإِسْلَامِ ثُمَّ أَفَاقَ، فَإِنَّ أَبَا حَنِيفَةَ، وَالشَّافِعِيَّ قَالَا: عَلَيْهِ أَنْ يَحُجَّ وَلَا بُدَّ، وَقَالَ أَصْحَابُنَا: لَيْسَ عَلَيْهِ أَنْ يَحُجَّ بَعْدُ.

L12654–12656 Abu Muhammad said: When the Prophet - peace and blessings of Allah be upon him - commanded *Hajj* on behalf of the one who cannot perform it by mount or on foot, and informed that it is a debt to Allah that must be discharged on his behalf, then indeed the debt has undoubtedly been settled and suffices for him. And without doubt, that which... The obligation has lapsed and been validly discharged; therefore, it is impermissible for the obligation to be reinstated except through explicit textual evidence. No textual evidence exists here whatsoever regarding its reinstatement - for had this been applicable, he (peace and blessings of Allah be upon him) would have clarified it, considering an elderly man might regain strength and become capable of riding. Since the Prophet (peace and blessings of Allah be upon him) did not indicate this, it is impermissible for the obligation to be reimposed on him after its valid discharge - and with Allah the Exalted lies all success. Issue 817

قَالَ أَبُو مُحَمَّد: إذَا أَمَرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْحَجِّ عَمَّنْ لَا يَسْتَطِيعُ الْحَجَّ رَاكِبًا وَلَا مَاشِيًا، وَأَخْبَرَ: أَنَّهُ دَيْنُ اللَّهِ يُقْضَى عَنْهُ، فَقَدْ تَأَدَّى الدَّيْنُ بِلَا شَكٍّ وَأَجْزَأَ عَنْهُ، وَبِلَا شَكٍّ أَنَّ مَا سَقَطَ وَتَأَدَّى، فَلَا يَجُوزُ أَنْ يَعُودَ فَرْضُهُ بِذَلِكَ، إلَّا بِنَصٍّ وَلَا نَصَّ هَاهُنَا أَصْلًا بِعَوْدَتِهِ - وَلَوْ كَانَ ذَلِكَ عَائِدًا لَبَيَّنَ - عَلَيْهِ السَّلَامُ - ذَلِكَ، إذْ قَدْ يَقْوَى الشَّيْخُ فَيُطِيقُ الرُّكُوبَ، فَإِذْ لَمْ يُخْبِرْ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِذَلِكَ فَلَا يَجُوزُ عَوْدَةُ الْفَرْضِ عَلَيْهِ بَعْدَ صِحَّةِ تَأَدِّيهِ عَنْهُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ. ٨١٧ - مَسْأَلَةٌ:

L12657 The ruling is the same whether one attains legal maturity while being incapable of walking and riding, or one attains it while having the means and then becomes incapable regarding all the modes we mentioned. Abu Sulayman said: This obligation only applies to one who was independently able to perform Hajj (even for a single year) and subsequently became incapable.

وَسَوَاءٌ مَنْ بَلَغَ وَهُوَ عَاجِزٌ عَنْ الْمَشْيِ وَالرُّكُوبِ، أَوْ مَنْ بَلَغَ مُطِيقًا ثُمَّ عَجَزَ فِي كُلِّ مَا ذَكَرْنَا، وَقَالَ أَبُو سُلَيْمَانَ: لَا يَلْزَمُ ذَلِكَ إلَّا عَمَّنْ قَدَرَ بِنَفْسِهِ عَلَى الْحَجِّ - وَلَوْ عَامًا وَاحِدًا - ثُمَّ عَجَزَ.

L12658 Ali said: This is erroneous, because the report we previously cited—concerning Allah's obligation of Hajj—became incumbent upon him when he was unable to remain mounted on a riding animal. Thus, it is established that the obligation of Hajj indeed became binding upon him, and at no point

after it became binding was he physically capable of fulfilling it. Therefore, our position is correct—and success is by Allah, the Exalted.

قَالَ عَلِيٌّ: وَهَذَا خَطَأٌ، لِأَنَّ الْخَبَرَ الَّذِي قَدَّمْنَا فِيهِ فَرِيضَةُ اللَّهِ تَعَالَى فِي الْحَجِّ أَدْرَكَتْهُ لَا يَقْدِرُ عَلَى الثَّبَاتِ عَلَى الدَّابَّةِ، فَصَحَّ أَنَّهُ قَدْ لَزِمَهُ فَرْضُ الْحَجِّ وَلَمْ يَكُنْ قَطُّ بَعْدَ لُزُومِهِ لَهُ قَادِرًا عَلَيْهِ بِجِسْمِهِ، فَصَحَّ قَوْلُنَا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## Issue: Someone died while being capable of performing Hajj.

## [مَسْأَلَةٌ مَاتَ وَهُوَ مُسْتَطِيعٌ لِلْحَجِّ]

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Whoever dies while financially and physically capable by any of the means we previously mentioned must have Hajj and Umrah performed from their estate - prioritized over settling debts owed to others if no one volunteers to perform Hajj on their behalf freely - regardless of whether they left such instructions or not. Abu Hanifah and Malik said: Hajj is not to be performed for them unless they stipulated it in a will, in which case it is fulfilled from one-third of the estate.

وَمَنْ مَاتَ وَهُوَ مُسْتَطِيعٌ بِأَحَدِ الْوُجُوهِ الَّتِي قَدَّمْنَا حُجَّ عَنْهُ مِنْ رَأْسِ مَالِهِ وَاعْتُمِرَ وَلَا بُدَّ مُقَدَّمًا عَلَى دُيُونِ النَّاسِ إنْ لَمْ يُوجَدْ مَنْ يَحُجُّ عَنْهُ تَطَوُّعًا سَوَاءٌ أَوْصَى بِذَلِكَ أَوْ لَمْ يُوصِ بِذَلِكَ - وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: لَا يُحَجُّ عَنْهُ إلَّا أَنْ يُوصِيَ بِذَلِكَ فَيَكُونُ مِنْ الثُّلُثِ.

The proof for the validity of our view is Allah's statement regarding inheritance: *{After any bequest he bequeaths or debt}* [4:11]. Thus, the Almighty encompassed all debts.

بُرْهَانُ صِحَّةِ قَوْلِنَا -: قَوْلُ اللَّهِ تَعَالَى فِي الْمَوَارِيثِ: {مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ} [النساء: ١١] فَعَمَّ عَزَّ وَجَلَّ الدُّيُونَ كُلَّهَا -: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نا مُحَمَّدُ بْنُ مُعَاوِيَةَ نا أَحْمَدُ بْنُ شُعَيْبٍ أَنَّا عِمْرَانُ بْنُ مُوسَى الْمِصْرِيُّ نا عَبْدُ الْوَارِثِ هُوَ ابْنُ سَعِيدٍ التَّنُّورِيُّ - نا أَبُو التَّيَّاحِ يَزِيدُ بْنُ حُمَيْدٍ الْبَصْرِيُّ نا مُوسَى بْنُ سَلَمَةَ الْهُذَلِيُّ: " أَنَّ ابْنَ عَبَّاسٍ قَالَ: أَمَرَتْ «امْرَأَةُ سِنَانِ بْنِ سَلَمَةَ الْجُهَنِيِّ أَنْ تَسْأَلَ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؟ أَنَّ أُمَّهَا مَاتَتْ وَلَمْ تَحُجَّ أَفَيُجْزِئُ عَنْ أُمِّهَا أَنْ تَحُجَّ عَنْهَا؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: نَعَمْ، لَوْ كَانَ عَلَى أُمِّهَا دَيْنٌ فَقَضَتْهُ عَنْهَا أَلَمْ يَكُنْ يُجْزِئُ عَنْهَا؟ فَلْتَحُجَّ عَنْ أُمِّهَا» .

Abdullah ibn Rabīʿ narrated to us: Muḥammad ibn Muʿāwiyah narrated to us: Aḥmad ibn Shuʿayb narrated to us: ʿImrān ibn Mūsā al-Miṣrī narrated to us: ʿAbd al-Wārith ibn Saʿīd al-Tannūrī narrated to us: Abū al-Tayyāḥ Yazīd ibn Ḥamīd al-Baṣrī narrated to us: Mūsā ibn Salamah al-Hudhalī narrated:

Ibn ʿAbbās said: "I instructed the wife of Sinān ibn Salamah al-Juhanī to ask the Prophet—peace and blessings of Allah be upon him—whether her mother had died without performing Hajj. Would it suffice for her mother if she performed Hajj on her behalf? The Messenger of Allah—peace and blessings of Allah be upon him—replied: 'Yes. If her mother had owed a

debt and she repaid it on her behalf, was it not sufficient? Then let her perform Hajj on behalf of her mother.'"[14][15]

L12663–12665 And from the path of Hammad ibn Zayd from Ayyub al-Sikhtiyānī from al-Zuhri from Sulayman ibn Yasar. On the authority of Ibn Abbas: "A woman asked the Messenger of Allah - peace and blessings be upon him - about her father who died without having performed Hajj. He said: 'Perform Hajj on behalf of your father.'"

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنِ الزُّهْرِيِّ عَنْ سُلَيْمَانَ بْنِ يَسَارٍ عَنِ ابْنِ عَبَّاسٍ: «أَنَّ امْرَأَةً سَأَلَتْ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ أَبِيهَا مَاتَ وَلَمْ يَحُجَّ؟ قَالَ: حُجِّي عَنْ أَبِيكِ» .

L12666 And it has also been narrated to us through the chain of 'Ikrimah from Ibn 'Abbās as a musnad narration with a connected chain.

وَرُوِّينَا أَيْضًا مِنْ طَرِيقِ عِكْرِمَةَ عَنِ ابْنِ عَبَّاسٍ مُسْنَدًا.

L12667 Muhammad ibn Sa'id ibn Nubāt narrated to us, Ahmad ibn 'Awn Allah narrated to us, Qāsim ibn Aṣbagh narrated to us, Muhammad ibn 'Abd al-Salām al-Khushanī narrated to us, Muhammad ibn Bashshār narrated to us, Muhammad ibn Ja'far narrated to us, Shu'bah narrated from Abū Bishr (he is Ja'far ibn Abī Waḥshiyyah) who said: I heard Sa'īd ibn Jubayr narrating from Ibn 'Abbās that a woman vowed to perform Ḥajj but died. Her brother came to the Prophet (peace be upon him) and asked him about it. The Messenger of Allah (peace be upon him) said: "Tell me: if your mother had owed a debt, would you have settled it?" He replied: "Yes." He said: "Then fulfill Allah's due, for He is most deserving to have it fulfilled."

نا مُحَمَّدُ بْنُ سَعِيدِ بْنِ نُبَاتٍ نا أَحْمَدُ بْنُ عَوْنِ اللَّهِ نا قَاسِمُ بْنُ أَصْبَغَ نا مُحَمَّدُ بْنُ عَبْدِ السَّلَامِ الْخُشَنِيُّ نا مُحَمَّدُ بْنُ بَشَّارٍ نا مُحَمَّدُ بْنُ جَعْفَرٍ نا شُعْبَةُ عَنْ أَبِي بِشْرٍ هُوَ جَعْفَرُ بْنُ أَبِي وَحْشِيَّةَ - قَالَ: سَمِعْتُ سَعِيدَ بْنَ جُبَيْرٍ يُحَدِّثُ عَنِ ابْنِ عَبَّاسٍ: «أَنَّ امْرَأَةً نَذَرَتْ أَنْ تَحُجَّ فَمَاتَتْ فَأَتَى أَخُوهَا النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَسَأَلَهُ عَنْ ذَلِكَ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَرَأَيْتَ لَوْ كَانَ عَلَى أُمِّكَ دَيْنٌ أَكُنْتَ قَاضِيَهُ؟ قَالَ: نَعَمْ، قَالَ: فَاقْضُوا اللَّهَ فَهُوَ أَحَقُّ بِالْوَفَاءِ» .

L12668 We also narrated it through the chain of Bukhārī from Mūsā ibn Ismā'īl from Abū 'Awānah from Abū Bishr from Sa'īd ibn Jubayr from Ibn 'Abbās from the Prophet (peace be upon him) [verbatim] concerning a woman from Juḥaynah: her mother had vowed to perform Ḥajj but died before she could perform Ḥajj.

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ الْبُخَارِيِّ عَنْ مُوسَى بْنِ إِسْمَاعِيلَ عَنْ أَبِي عَوَانَةَ عَنْ أَبِي بِشْرٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -[بِنَصِّهِ] فِي امْرَأَةٍ مِنْ جُهَيْنَةَ نَذَرَتْ أُمُّهَا أَنْ تَحُجَّ فَمَاتَتْ قَبْلَ أَنْ تَحُجَّ ".

L12669 We have also narrated it through the chain of al-Ḥajjāj ibn al-Minhāl: Abū 'Awānah narrated to us from Abū Bishr from Sa'īd ibn Jubayr from Ibn 'Abbās from the Prophet, peace be upon him, akin to al-Bukhārī's narration. It includes his statement, peace be upon him: "Perform Ḥajj on behalf of

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ الْحَجَّاجِ بْنِ الْمِنْهَالِ نا أَبُو عَوَانَةَ عَنْ أَبِي بِشْرٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِثْلَ رِوَايَةِ الْبُخَارِيِّ، وَفِيهِ قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «فَحُجِّي عَنْ أُمِّكِ، اقْضُوا اللَّهَ الَّذِي لَهُ عَلَيْكُمْ، فَاللَّهُ تَبَارَكَ وَتَعَالَى أَحَقُّ بِالْوَفَاءِ» .

[14]**Hadith references (L12662):** Sunan an-Nasai 2633.

[15]**Qur'an references (L12662):** Qur'an 4:11 (An-Nisa); Qur'an 4:12 (An-Nisa).

your mother. Fulfill Allah's right that He holds over you, for Allah, Blessed and Exalted, is most deserving of fulfillment."

فَهَذِهِ آثَارٌ فِي غَايَةِ الصِّحَّةِ لَا يَسَعُ أَحَدٌ الْخُرُوجَ عَنْهَا -: قَالَ أَبُو مُحَمَّدٍ: وَمِنْ عَجَائِبِ الدُّنْيَا احْتِجَاجُهُمْ بِهَذَا الْحَدِيثِ فِي الْقَوْلِ بِالْقِيَاسِ فِي تَحْرِيمِ التِّينِ بِالتِّينِ مُتَفَاضِلًا ثُمَّ يُخَالِفُونَهُ فِيمَا جَاءَ فِيهِ أَقْبَحُ خِلَافٍ فَيَقُولُونَ: لَا يُحَجُّ عَنْ مَيِّتٍ، وَدَيْنُ اللَّهِ لَا يُقْضَى، وَدُيُونُ النَّاسِ أَحَقُّ مِنْهُ، فَأَيُّ قَوْلٍ أَقْبَحُ مِنْ قَوْلِ مَنْ قَالَ: مَنْ أَهْرَقَ خَمْرَ الْيَهُودِيِّ، أَوْ النَّصْرَانِيِّ وَمَاتَ قُضِيَ دَيْنُ الْخَمْرِ مِنْ رَأْسِ مَالِهِ أَوْصَى بِهِ أَوْ لَمْ يُوصِ، وَلَا يُقْضَى دَيْنُ اللَّهِ تَعَالَى فِي الْحَجِّ إلَّا أَنْ يُوصَى بِهِ فَيَكُونُ مِنْ الثُّلُثِ؟ -: قَالَ أَبُو مُحَمَّدٍ: قَوْلُنَا هُوَ قَوْلُ جُمْهُورِ السَّلَفِ -: رُوِّينَا عَنْ أَبِي هُرَيْرَةَ مَنْ مَاتَ وَعَلَيْهِ نَذْرٌ أَوْ حَجٌّ فَلْيَقْضِ عَنْهُ وَلِيُّهُ.

L12670–12672 These are rigorously authentic textual evidences that no one may contravene. Abū Muḥammad said: Among the wonders of the world is their citation of this ḥadīth to justify analogy for prohibiting unequal exchange of figs for figs, then contradicting it in the most reprehensible manner regarding its explicit content by declaring: "No Hajj is performed." Regarding a deceased person, the debt owed to God is not settled, while debts owed to people take precedence over it. What assertion is more reprehensible than that of one who says: "If someone destroys the wine of a Jew or a Christian and dies, compensation for the destroyed wine must be paid from his estate whether he bequeathed it or not," yet the debt owed to God Almighty for Hajj is not settled unless it is bequeathed, thus being taken from one-third of the estate? Abū Muḥammad said: Our position aligns with that of the majority of the early scholars. It has been narrated to us from Abū Hurayrah: "If someone dies while owing a vow or Hajj, his guardian must fulfill it on his behalf."

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا أَبُو الْأَحْوَصِ عَنْ سِمَاكٍ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ: " أَنَّ امْرَأَةً أَتَتْهُ فَقَالَتْ: إنَّ أُمِّي مَاتَتْ وَعَلَيْهَا حَجَّةٌ أَفَأَحُجُّ عَنْهَا؟ فَقَالَ ابْنُ عَبَّاسٍ: هَلْ كَانَ عَلَى أُمِّك دَيْنٌ؟ قَالَتْ: نَعَمْ، قَالَ: فَمَا صَنَعْتِ؟ قَالَتْ قَضَيْته عَنْهَا قَالَ ابْنُ عَبَّاسٍ: فَاَللَّهُ خَيْرُ غُرَمَائِك، حُجِّي عَنْ أُمِّك ".

L12673 From the chain of Sa'id ibn Mansur: Abu al-Ahwas narrated to us through Simak through Ikrimah through Ibn Abbas: "A woman came to him and said: 'My mother died while Hajj was incumbent upon her—shall I perform it on her behalf?' Ibn Abbas asked: 'Did your mother have any unpaid debt?' She replied: 'Yes.' He said: 'What did you do?' She answered: 'I discharged it for her.' Ibn Abbas said: 'Then Allah is the best of creditors; perform Hajj on your mother's behalf.'"

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ مُسْلِمٍ الْقَرِّيِّ قُلْت لِابْنِ عَبَّاسٍ: إنَّ أُمِّي حَجَّتْ وَمَاتَتْ وَلَمْ تَعْتَمِرْ أَفَأَعْتَمِرُ عَنْهَا؟ قَالَ: نَعَمْ، وَمِنْ طَرِيقِ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نا أَبُو الْأَحْوَصِ عَنْ طَارِقِ بْنِ عَبْدِ الرَّحْمَنِ قَالَ: كُنْت جَالِسًا عِنْدَ سَعِيدِ بْنِ الْمُسَيِّبِ فَأَتَاهُ رَجُلٌ فَقَالَ: إنَّ أَبِي لَمْ يَحُجَّ قَطُّ أَفَأَحُجُّ عَنْهُ؟ فَقَالَ لَهُ سَعِيدٌ: إنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ كَانَ رَخَّصَ لِرَجُلٍ حَجَّ عَنْ أَبِيهِ وَهَلْ هُوَ إلَّا دَيْنٌ؟ وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا مَرْوَانُ

L12674 From the chain of Shuʿbah via Muslim al-Qarī: I said to Ibn ʿAbbās: "My mother performed Hajj and died without having performed ʿUmrah. Shall I perform ʿUmrah on her behalf?" He replied: "Yes."

From the chain of Abū Bakr ibn Abī Shaybah: Abū al-Aḥwaṣ reported from Ṭāriq ibn ʿAbd al-Raḥmān, who said: "I was seated with Saʿīd ibn al-Musayyib when a man approached him and asked: 'My father never performed Hajj. Should I perform Hajj on his behalf?' Saʿīd responded: 'The Messenger

of Allah—peace and blessings of Allah be upon him—permitted a man to perform Hajj for his father. Is this not akin to settling a debt?'"

From the chain of Ibn Abī Shaybah: Marwān ibn Muʿāwiyah al-Fazārī reported from Qudāmah ibn ʿAbd Allāh al-Ruʾāsī, who said: "I asked Saʿīd ibn Jubayr about my brother, saying: 'He died without ever performing Hajj. Should I perform Hajj for him?' He inquired: 'Did he leave any children?' I replied: 'He left an infant son.' He said: 'Perform Hajj on his behalf, for if he could find a messenger, he would send you word: "Expedite it¡" I asked: 'Shall I perform it using my funds or his?' He answered: 'Use his funds.'"

L12675 He said: And I asked Ibrāhīm al-Nakhaʿī? He replied: "Perform Ḥajj on his behalf."

L12676 He said: I asked Al-Dahhak, who replied: "Perform Hajj on his behalf using his wealth, for that is valid for him." Through the chain of Hammad ibn Salamah from Al-Hajjaj from Fudayl ibn 'Amr, who said: A woman vowed to circumambulate the House while joined together with her daughter. The mother died before she could perform the circumambulation, so her son asked Ibrahim al-Nakha'i about that. He said: "You and your sister should perform the circumambulation on behalf of your mother, but do not perform it while joined together."

L12677–12678 And from the chain of Waki', via Sufyan, via Aslam al-Munqirī, via 'Ata', who said: Hajj should be performed on behalf of the deceased even if they did not bequeath it.

L12679 From the chain of Abd al-Rahman ibn Mahdi, from Sufyan al-Thawri, from Abu Nuhayk, who said: I asked Tawus about a woman who died while having unfulfilled pilgrimage rites remaining. He replied: Her guardian must fulfill them on her behalf - Abu Nuhayk—he is al-Qasim ibn Muhammad al-Asadi. It was narrated from him by Sufyan, Mansur, and Jarir ibn Abd al-Hamid.

L12680 And via the chain of Ḥammād ibn Salamah, from Qays ibn Saʿd, from ʿAṭāʾ.

L12681 And through the chain of Hammad ibn Salamah from Ziyad al-Aʿlam from al-Hasan: ʿAta' and al-Hasan said regarding one who did not perform the

بْنُ مُعَاوِيَةَ هُوَ الْفَزَارِيّ - عَنْ قُدَامَةَ بْنِ عَبْدِ اللَّهِ الرُّؤَاسِيِّ قَالَ: سَأَلْتُ سَعِيدَ بْنَ جُبَيْرٍ عَنْ أَخِي فَقُلْتُ: مَاتَ وَلَمْ يَحُجَّ قَطُّ أَفَأَحُجُّ عَنْهُ؟ فَقَالَ: هَلْ تَرَكَ مِنْ وَلَدٍ؟ قُلْتُ: تَرَكَ صَبِيًّا صَغِيرًا، فَقَالَ: حُجَّ عَنْهُ فَإِنَّهُ لَوْ وَجَدَ رَسُولًا لَأَرْسَلَ إِلَيْك أَنْ عَجِّلْ بِهَا؟ فَقُلْتُ: أَحُجُّ عَنْهُ مِنْ مَالِي أَوْ مِنْ مَالِهِ: قَالَ: بَلْ مِنْ مَالِهِ.

قَالَ: وَسَأَلْتُ إِبْرَاهِيمَ النَّخَعِيَّ؟ فَقَالَ: حُجَّ عَنْهُ.

قَالَ: وَسَأَلْتُ الضَّحَّاكَ فَقَالَ: حُجَّ عَنْهُ مِنْ مَالِهِ؟ فَإِنَّ ذَلِكَ مُجْزِئٌ عَنْهُ، وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ الْحَجَّاجِ عَنْ فُضَيْلِ بْنِ عَمْرٍو وَقَالَ: نَذَرَتْ امْرَأَةٌ أَنْ تَطُوفَ بِالْبَيْتِ مُقْتَرِنَةً مَعَ ابْنَتِهَا فَمَاتَتْ الْأُمُّ قَبْلَ أَنْ تَطُوفَ فَسَأَلَ ابْنُهَا إِبْرَاهِيمَ النَّخَعِيَّ عَنْ ذَلِكَ؟ فَقَالَ: طُفْ أَنْتَ وَأُخْتُك عَنْ أُمِّك وَلَا تَقْتَرِنَا.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ أَسْلَمَ الْمُنْقِرِيِّ عَنْ عَطَاءٍ قَالَ: يُحَجُّ عَنْ الْمَيِّتِ وَإِنْ لَمْ يُوصِ.

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِي عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي نَهِيكٍ قَالَ: سَأَلْتُ طَاوُسًا عَنْ امْرَأَةٍ مَاتَتْ وَقَدْ بَقِيَ عَلَيْهَا مِنْ نُسُكِهَا؟ فَقَالَ: يَقْضِي عَنْهَا وَلِيُّهَا - أَبُو نَهِيكٍ هُوَ الْقَاسِمُ بْنُ مُحَمَّدٍ الْأَسَدِيُّ - رُوِيَ عَنْهُ سُفْيَانُ، وَمَنْصُورٌ، وَجَرِيرُ بْنُ عَبْدِ الْحَمِيدِ.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءٍ.

obligatory Hajj: that Hajj should be performed on his behalf from his entire estate, and the same applies to Zakat - whether he left a will or not. It has also been narrated from ʿAbd al-Rahman ibn Abi Layla.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ زِيَادٍ الْأَعْلَمِ عَنْ الْحَسَنِ: قَالَ عَطَاءٌ وَالْحَسَنُ فِيمَنْ لَمْ يَحُجَّ الْفَرِيضَةَ: أَنَّهُ يُحَجُّ عَنْهُ مِنْ جَمِيعِ الْمَالِ، وَالزَّكَاةُ مِثْلُ ذَلِكَ، أَوْصَى أَوْ لَمْ يُوصِ.
وَرُوِيَ أَيْضًا عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى.

L12682 Abū Muḥammad said: This is the opinion of al-Awzāʿī, al-Thawrī, Muḥammad ibn ʿAbd al-Raḥmān ibn Abī Laylā, al-Shāfiʿī, Abū Thawr, Aḥmad, Isḥāq, Abū Sulaymān, and their companions.

قَالَ أَبُو مُحَمَّد: وَهُوَ قَوْلُ الْأَوْزَاعِيِّ، وَالثَّوْرِيِّ، وَمُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، وَالشَّافِعِيِّ، وَأَبِي ثَوْرٍ، وَأَحْمَدَ، وَإِسْحَاقَ، وَأَبِي سُلَيْمَانَ، وَأَصْحَابِهِمْ.

L12683 Abu Muhammad said: We have previously mentioned the statement of Ibn Umar and al-Qasim ibn Muhammad, and others' disagreement with them both.

قَالَ أَبُو مُحَمَّدٍ: قَدْ ذَكَرْنَا قَبْلُ قَوْلَ ابْنِ عُمَرَ، وَالْقَاسِمِ بْنِ مُحَمَّدٍ، وَخِلَافَهُمْ لَهُمَا.

L12684 And it was narrated to us through the chain of Ḥammād ibn Zayd, who said: Ayyūb was asked, "What about bequests in Ḥajj?" He replied: "I have no knowledge of bequests in Ḥajj; a bequest is only for close relatives."

وَرُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ قَالَ: سُئِلَ أَيُّوبُ عَنْ الْوَصَايَا فِي الْحَجِّ؟ فَقَالَ: لَا أَعْرِفُ الْوَصَايَا فِي الْحَجِّ إنَّمَا الْوَصِيَّةُ فِي الْأَقْرَبِينَ.

L12685 We asked: If someone neglects to perform Hajj, should he bequeath its performance? He replied: No.

قُلْنَا: إذَا فَرَّطَ فِي الْحَجِّ أَيُوصِي بِهِ؟ قَالَ: لَا.

L12686 It has been transmitted to us from Ibrāhīm al-Nakhaʿī through Shuʿbah's chain, from al-Ḥakam ibn ʿUtaybah, from Ibrāhīm: "The Hajj is not to be performed on behalf of a deceased person."

وَقَدْ رُوِّينَا عَنْ إبْرَاهِيمَ النَّخَعِيِّ مِنْ طَرِيقِ شُعْبَةَ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ عَنْ إبْرَاهِيمَ: لَا يُقْضَى حَجٌّ عَنْ مَيِّتٍ.

L12687 From the narration of Saʿīd ibn Manṣūr via Hushaym via al-Mughīrah ibn Miqsam via Ibrāhīm: Regarding one who dies without having performed the pilgrimage, he said: They used to prefer that he bequeath in his will for a sacrificial she-camel to be slaughtered on his behalf.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ هُشَيْمٍ عَنْ الْمُغِيرَةِ بْنِ مِقْسَمٍ عَنْ إبْرَاهِيمَ: فِيمَنْ مَاتَ وَلَمْ يَحُجَّ، قَالَ: كَانُوا يُحِبُّونَ أَنْ يُوصِيَ أَنْ يُنْحَرَ عَنْهُ بَدَنَةً.

L12688 It is narrated via Sufyān, from Manṣūr, from him: No one should perform Hajj on behalf of another.

وَمِنْ طَرِيقِ سُفْيَانَ عَنْ مَنْصُورٍ عَنْهُ: لَا يَحُجُّ أَحَدٌ عَنْ أَحَدٍ.

L12689 From the narration of Shuʿbah, from Ḥammād ibn Abī Sulaymān, from Ibrāhīm: If a person stipulates in his will that Hajj be performed [on his behalf], it should be performed from his third. Otherwise, no.

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ إبْرَاهِيمَ: إنْ أَوْصَى بِالْحَجِّ، حُجَّ عَنْهُ مِنْ ثُلُثِهِ، وَإِلَّا فَلَا.

L12690–12692 Via Yaḥyā ibn Saʿīd al-Qaṭṭān, via Hishām ibn Ḥassān, via Ibn Sīrīn: When...

He bequeathed the performance of Ḥajj from [a third] of the estate. This is the view of Ḥammād ibn Abī Sulaymān, Ḥumayd al-Ṭawīl, Dāwūd ibn Abī Hind, and ʿUthmān al-Battī.

وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ هِشَامِ بْنِ حَسَّانٍ عَنْ ابْنِ سِيرِينَ: إذَا أَوْصَى بِالْحَجِّ فَمِنْ الثُّلُثِ، وَبِهَذَا يَقُولُ حَمَّادُ بْنُ أَبِي سُلَيْمَانَ، وَحُمَيْدُ الطَّوِيلُ، وَدَاوُد بْنُ أَبِي هِنْدٍ، وَعُثْمَانُ الْبَتِّيُّ.

L12693 Abu Muhammad said: We know of no proof for those who asserted this except what we have already mentioned in the preceding chapter, where we clarified that it constitutes a proof against them and that they possess no proof therein. And with Allah lies all success.

قَالَ أَبُو مُحَمَّد: مَا نَعْلَمُ لِمَنْ قَالَ؟ بِهَذَا حُجَّةً إلَّا مَا قَدْ ذَكَرْنَاهُ فِي الْبَابِ الَّذِي قَبْلَ هَذَا وَبَيَّنَّا أَنَّهُ حُجَّةٌ عَلَيْهِمْ وَأَنَّهُ لَا حُجَّةَ لَهُمْ فِيهِ - وَبِاَللَّهِ التَّوْفِيقُ.

L12694 Abu Muhammad said: When the Messenger of Allah—peace be upon him—stated, "Allah has a greater right to be fulfilled, and Allah's debt is more entitled to be repaid," it is impermissible to settle any human's debt until the religious obligations owed to Allah, the Mighty and Majestic, are fully discharged. This is the opinion of those we have mentioned, one of the two opinions of al-Shafiʿi, and the view of all scholars of our school. As for the two Malikis and the Hanafi jurists regarding what takes precedence in bequests, they hold opinions for which no valid basis whatsoever is recognized.

قَالَ أَبُو مُحَمَّد: وَإِذَا قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «فَاَللَّهُ أَحَقُّ بِالْوَفَاءِ، وَدَيْنُ اللَّهِ أَحَقُّ أَنْ يُقْضَى» فَلَا يَحِلُّ أَنْ يُقْضَى دَيْنُ آدَمِيٍّ حَتَّى تَتِمَّ دُيُونُ اللَّهِ عَزَّ وَجَلَّ، وَهُوَ قَوْلُ مَنْ ذَكَرْنَا، وَأَحَدُ قَوْلَيْ الشَّافِعِيِّ، وَقَوْلُ جَمِيعِ أَصْحَابِنَا، وَلِلْمَالِكِيَّيْنِ، وَالْحَنِيفِيِّينَ فِيمَا يَبْدَأُ بِهِ فِي الْوَصَايَا أَقْوَالٌ لَا يُعْرَفُ لَهَا وَجْهٌ أَصْلًا.

L12695 **Issue: No part of the rites of Hajj is valid except during its designated times.**

## [مَسْأَلَةٌ الْحَجُّ لَا يَجُوزُ شَيْءٌ مِنْ عَمَلِهِ إلَّا فِي أَوْقَاتِهِ]

L12696 819 – Issue:

٨١٩ - مَسْأَلَةٌ:

L12697 None of the rites of Hajj may be performed except during its prescribed times, nor is it permissible to enter Ihram for Hajj except during the months of Hajj before the time of standing at Arafat.

وَالْحَجُّ لَا يَجُوزُ شَيْءٌ مِنْ عَمَلِهِ إلَّا فِي أَوْقَاتِهِ الْمَنْصُوصَةِ وَلَا يَحِلُّ الْإِحْرَامُ بِهِ إلَّا فِي أَشْهُرِ الْحَجِّ قَبْلَ وَقْتِ الْوُقُوفِ بِعَرَفَةَ.

L12698 As for the ʿUmrah, it is permissible in every time of the year, every day of the year, and every night of its nights, excluding nothing. The proof of our statement's validity is the word of Allah, the Almighty, the Majestic: "The Hajj is [during] well-known months. Whoever undertakes Hajj therein, there shall be no sexual intimacy, no disobedience, and no disputing during Hajj" [Al-Baqarah 2:197].[16]

وَأَمَّا الْعُمْرَةُ فَهِيَ جَائِزَةٌ فِي كُلِّ وَقْتٍ مِنْ أَوْقَاتِ السَّنَةِ، وَفِي كُلِّ يَوْمٍ مِنْ أَيَّامِ السَّنَةِ، وَفِي كُلِّ لَيْلَةٍ مِنْ لَيَالِيهَا لَا تُحَاشِ شَيْئًا -: بُرْهَانُ صِحَّةِ قَوْلِنَا: - قَوْلُ اللَّهِ عَزَّ وَجَلَّ {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ فَمَنْ فَرَضَ فِيهِنَّ الْحَجَّ فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] .

[16] **Qur'an references (L12698):** Qur'an 2:197 (Al-Baqarah).

L12699 The verse states that He, the Almighty and Majestic, explicitly declares they are *“well-known months”* [Quran 2:197].[17]

L12700 And He, the Exalted, said: “Whoever transgresses the limits of Allah has certainly wronged” [At-Talaq: 1].[18]

L12701 It has been narrated to us through the chain of Abd al-Razzaq, who reported from Sufyan al-Thawri and Ibn Jurayj—both of whom reported from Abu al-Zubayr: I heard Jabir ibn Abd Allah asking, “Does anyone enter the state of ihram for Hajj before the months of Hajj?” He said: “No.”

L12702 And via the chain of ʿIkrimah from Ibn ʿAbbās, he said: It is not fitting for anyone to enter the state of Ihram for Hajj except during the months of Hajj, due to the statement of Allah, the Exalted: {So whoever undertakes Hajj therein} [Al-Baqarah: 197].[19]

L12703–12705 Via the chain of Abd al-Rahman ibn Mahdi: Sufyan al-Thawri reported to us from Abu Ishaq al-Sabi’i, who said... Amr ibn Maymun ibn Abi Nuʿm saw someone entering the sacred state of iḥrām for Hajj outside the prescribed months of Hajj and said: “If the Companions of Muḥammad had encountered him, they would have censured him.”

L12706 And through the chain of Hammad ibn Zayd from Ayyub al-Sikhtiyani, that Ikrimah said to Abu al-Hakam: “You are a man of wrongdoing, for you have opposed the Book of Allah Almighty and abandoned the Sunnah of His Prophet—peace and blessings be upon him. Allah, Blessed and Exalted, says: ’The Hajj is [observed in] specified months. So whoever has made Hajj obligatory upon himself therein’ (Quran 2:197). The Messenger of Allah—peace and blessings be upon him—set out on his journey until he arrived at al-Bayda’, where he turned so that the village was behind his back and recited the talbiyah. Yet you indeed recite the talbiyah outside the months of Hajj.”[20]

L12707 From ‘Aṭā’, Tāwus, and Mujāhid, they said, “It is not appropriate for anyone to enter *iḥrām* for Hajj outside the months of Hajj.”

الْآيَةَ، فَنَصَّ عَزَّ وَجَلَّ عَلَى أَنَّهُ {أَشْهُرٌ مَعْلُومَاتٌ} [البقرة: ١٩٧] .

وَقَالَ تَعَالَى: {وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ} [الطلاق: ١] .

وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ، وَابْنِ جُرَيْجٍ كِلَيْهِمَا عَنْ أَبِي الزُّبَيْرِ: سَمِعْتُ جَابِرَ بْنَ عَبْدِ اللَّهِ يَسْأَلُ أَيُهِلُّ أَحَدٌ بِالْحَجِّ قَبْلَ أَشْهُرِ الْحَجِّ؟ قَالَ: لَا.

وَمِنْ طَرِيقِ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: لَا يَنْبَغِي لِأَحَدٍ أَنْ يُهِلَّ بِالْحَجِّ إِلَّا فِي أَشْهُرِ الْحَجِّ لِقَوْلِ اللَّهِ تَعَالَى: {فَمَنْ فَرَضَ فِيهِنَّ الْحَجَّ} [البقرة: ١٩٧] .

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ نا سُفْيَانُ الثَّوْرِيُّ عَنْ أَبِي إِسْحَاقَ السَّبِيعِيِّ قَالَ: رَأَى عَمْرُو بْنُ مَيْمُونِ بْنِ أَبِي نُعْمٍ يُحْرِمُ بِالْحَجِّ فِي غَيْرِ أَشْهُرِ الْحَجِّ فَقَالَ: لَوْ أَنَّ أَصْحَابَ مُحَمَّدٍ أَدْرَكُوهُ رَجَمُوهُ.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ أَنَّ عِكْرِمَةَ قَالَ لِأَبِي الْحَكَمِ: أَنْتَ رَجُلُ سُوءٍ، لِأَنَّك خَالَفْتَ كِتَابَ اللَّهِ عَزَّ وَجَلَّ وَتَرَكْتَ سُنَّةَ نَبِيِّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. قَالَ اللَّهُ تَبَارَكَ وَتَعَالَى: {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ فَمَنْ فَرَضَ فِيهِنَّ الْحَجَّ} [البقرة: ١٩٧] . وَخَرَجَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَتَّى إذَا كَانَ بِالْبَيْدَاءِ، وَجَعَلَ الْقَرْيَةَ خَلْفَ ظَهْرِهِ أَهَلَّ وَإِنَّك تُهِلُّ فِي غَيْرِ أَشْهُرِ الْحَجِّ ؟ وَعَنْ عَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ قَالُوا: لَا يَنْبَغِي لِأَحَدٍ أَنْ يُحْرِمَ بِالْحَجِّ فِي غَيْرِ أَشْهُرِ الْحَجِّ.

[17] **Qur’an references (L12699):** Qur’an 2:197 (Al-Baqarah).
[18] **Qur’an references (L12700):** Qur’an 65:1 (At-Talaq).
[19] **Qur’an references (L12702):** Qur’an 2:197 (Al-Baqarah).
[20] **Qur’an references (L12706):** Qur’an 2:197 (Al-Baqarah).

وَعَنْ عَطَاءٍ، وَالشَّعْبِيِّ مِثْلُ ذَلِكَ قَالَا: فَإِنَّ أَهَلَّ بِالْحَجِّ فِي غَيْرِ أَشْهُرِ الْحَجِّ فَإِنَّهُ يُحِلُّ.

L12708 It is similarly reported from ʻAṭāʼ and al-Shaʻbī that they said: If someone declares ihram for Hajj outside the prescribed months of Hajj, they must exit ihram.

وَعَنْ عَطَاءٍ أَنَّهُ يُحِلُّ وَيَجْعَلُهَا عُمْرَةً وَأَنَّهُ لَيْسَ حَجًّا، يَقُولُ اللَّهُ تَعَالَى: {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ} [البقرة: ١٩٧] .

L12709 It is narrated from ʻAṭāʼ that he permits dissolving Ihram and converts it into Umrah, stating that it is not Hajj. Allah the Exalted says: *"Hajj occurs in well-known months"* (Al-Baqarah 2:197).[21]

وَعَنْ سَعِيدِ بْنِ مَنْصُورٍ عَنْ جَرِيرِ بْنِ عَبْدِ الْحَمِيدِ عَنْ الْمُغِيرَةِ عَنْ إبْرَاهِيمَ أَنَّهُ قَالَ: لَا يَنْبَغِي لِأَحَدٍ أَنْ يُحْرِمَ بِالْحَجِّ إلَّا فِي أَشْهُرِ الْحَجِّ، فَإِنْ فَعَلَ فَلَا يَحِلُّ حَتَّى يَقْضِيَ حَجَّهُ. .

L12710 From Saʻīd ibn Manṣūr, from Jarīr ibn ʻAbd al-Ḥamīd, from al-Mughīrah, from Ibrāhīm, that he said: It is impermissible for anyone to enter iḥrām for Hajj except during the months of Hajj. If they do so, it is not lawful for them to exit iḥrām until they complete the Hajj.

وَقَالَ الْأَوْزَاعِيُّ، وَالشَّافِعِيُّ: تَصِيرُ عُمْرَةً وَلَا بُدَّ.

L12711 Al-Awzaʻī and al-Shāfiʻī said: The Hajj ritual must inevitably become the ʻUmrah.

وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: يُكْرَهُ ذَلِكَ وَيَلْزَمُهُ إنْ أَحْرَمَ قَبْلَ أَشْهُرِ الْحَجِّ.

L12712 Abu Hanifah and Malik said: That is reprehensible, and he is bound to it if he enters into iḥrām before the months of Hajj.

قَالَ أَبُو مُحَمَّدٍ مَا نَعْلَمُ فِي هَذَا الْقَوْلِ سَلَفًا مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - وَهُوَ خِلَافُ الْقُرْآنِ وَخِلَافُ الْقِيَاسِ، وَاحْتَجَّ الشَّافِعِيُّ بِأَنَّهُ كَمَنْ أَحْرَمَ بِصَلَاةِ فَرْضٍ قَبْلَ وَقْتِهَا أَنَّهَا تَكُونُ تَطَوُّعًا.

L12713–12715 Abū Muḥammad said, "We do not know of any precedent among the Companions - may Allah be pleased with them - regarding this opinion, and it is..." This position is contrary to both the Quran and analogical reasoning. Al-Shafiʻi argued that it resembles the case of one who enters into the state of obligatory prayer before its prescribed time, thereby rendering it a supererogatory act.

قَالَ أَبُو مُحَمَّدٍ: هَذَا تَشْبِيهُ الْخَطَأِ بِالْخَطَأِ بَلْ هُوَ لَا شَيْءَ؛ لِأَنَّهُ لَمْ يَأْتِ بِالصَّلَاةِ كَمَا أُمِرَ، وَقَالَ اللَّهُ تَعَالَى: {وَمَا أُمِرُوا إِلا لِيَعْبُدُوا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ} [البينة: ٥] .

L12716 Abū Muḥammad said: This is comparing one error to another; rather, it is nothing, for he did not perform the ṣalāh as he was commanded. And Allah the Exalted said: "They were commanded only to worship Allah, sincerely devoting the religion to Him" [Al-Bayyinah: 5].[22]

وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» .

L12717 The Messenger of Allah—peace be upon him—said: "Whoever performs a deed that is not in accordance with our command, then it is rejected."[23]

فَصَحَّ أَنْ عَمَلَ الْمُحْرِمِ بِالْحَجِّ فِي غَيْرِ أَشْهُرِ الْحَجِّ عَمَلٌ لَيْسَ عَلَيْهِ أَمْرُ اللَّهِ تَعَالَى: وَلَا أَمْرُ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَصَحَّ أَنَّهُ رَدٌّ، وَلَا يَصِيرُ عُمْرَةً وَلَا هُوَ حَجٌّ.

L12718 Thus, it is established that the act of one in consecration (iḥrām) related to

[21] **Qur'an references (L12709):** Qur'an 2:197 (Al-Baqarah).
[22] **Qur'an references (L12716):** Qur'an 98:5 (Al-Bayyinah).
[23] **Hadith references (L12717):** Sahih Muslim 1718b; Riyad as-Salihin 1647; Riyad as-Salihin 169.

Ḥajj outside the months of Ḥajj is an act upon which there is no command from Allah, the Exalted: nor His Messenger—may Allah bless him and grant peace. Therefore, it is established that it is invalid, and it does not become ʿUmrah nor is it considered Ḥajj.

L12719 The astonishment is at the statement of those Ḥanafīs who argue that they have unanimously agreed upon the obligation of some form of iḥrām for him. Since it cannot be ʿUmrah, it must be Ḥajj. If he contends with one who supports him in this error, then by my life, it is binding upon him. But if he intended to imply this constitutes a [complete] consensus, he has trivialized falsehood against the entire Ummah - we seek refuge in Allah from this. ʿAlī said: We previously mentioned that Al-Shaʿbī and ʿAṭāʾ held permissibility, while the Companions - may Allah be pleased with them - entirely prohibited it. We say to the Ḥanafīs and Mālikīs: You deem reprehensible entering iḥrām for Ḥajj before the Ḥajj months while permitting it. Inform us: is this an act of righteousness containing extra reward? Why then do you deem reprehensible righteousness and an act that entails reward? This is profoundly grave, for within the religion there exists no reprehension of righteousness or acts of goodness. Or is it an act devoid of extra reward and not part of righteousness? How then do you permit it within the religion? Allah forbid such! Abū Muḥammad said: If it is a superfluous act without reward, it is undoubtedly void. The Exalted said: "That He might establish the truth and nullify falsehood" (8:8). To the Shāfiʿī: How do you invalidate his act which he undertook because it contradicted the truth, yet oblige him to an ʿUmrah he never intended, aimed for, or intended? The Messenger of Allah - peace be upon him - said: "Deeds are judged by intentions, and each person receives what they intended." This is manifestly clear. Thus both opinions are invalidated - praise be to Allah, Lord of the worlds.[24][25]

L12720–12721 The aforementioned individuals do not differ regarding the ruling that who-

وَالْعَجَبُ مِنْ قَوْلِ مَنْ يَحْتَجُّ مِنْ الْحَنِيفِيِّينَ بِأَنَّهُمْ قَدْ أَجْمَعُوا عَلَى أَنَّهُ يَلْزَمُهُ إحْرَامٌ مَا، فَإِذْ لَا يَجُوزُ أَنْ يَكُونَ عُمْرَةً فَهُوَ الْحَجُّ، وَإِنْ كَانَ إنَّمَا يُنَاظِرُ مَنْ يُسَاعِدُهُ عَلَى هَذَا الْخَطَأِ فَهُوَ لَعَمْرِي لَازِمٌ لَهُ، وَإِنْ كَانَ قَصَدَ الْإِيهَامَ بِأَنَّهُ إجْمَاعٌ [تَامٌّ] فَقَدْ اسْتَسْهَلَ الْكَذِبَ عَلَى الْأُمَّةِ كُلِّهَا - نَعُوذُ بِاَللَّهِ مِنْ ذَلِكَ؟ قَالَ عَلِيٌّ: وَقَدْ ذَكَرْنَا آنِفًا عَنْ الشَّعْبِيِّ، وَعَطَاءٍ: أَنَّهُ يَحِلُّ، وَعَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - الْمَنْعُ مِنْ ذَلِكَ [جُمْلَةً] . وَنَقُولُ لِلْحَنَفِيِّينَ، وَالْمَالِكِيِّينَ: أَنْتُمْ تَكْرَهُونَ الْإِحْرَامَ بِالْحَجِّ قَبْلَ أَشْهُرِ الْحَجِّ وَتُجِيزُونَهُ فَأَخْبِرُونَا عَنْكُمْ أَهُوَ عَمَلُ بِرٍّ وَفِيهِ أَجْرٌ زَائِدٌ؟ فَلِمَ تَكْرَهُونَ الْبِرَّ وَعَمَلًا فِيهِ - أَجْرٌ؟ هَذَا عَظِيمٌ جِدًّا وَمَا فِي الدِّينِ كَرَاهِيَةُ الْبِرِّ وَعَمَلُ الْخَيْرِ، أَمْ هُوَ عَمَلٌ لَيْسَ فِيهِ أَجْرٌ زَائِدٌ وَلَا هُوَ مِنْ الْبِرِّ؟ فَكَيْفَ أَجَزْتُمُوهُ فِي الدِّينِ وَمَعَاذَ اللَّهِ مِنْ هَذَا؟ قَالَ أَبُو مُحَمَّدٍ: إذْ هُوَ عَمَلٌ زَائِدٌ لَا أَجْرَ فِيهِ فَهُوَ بَاطِلٌ بِلَا شَكٍّ، وَقَدْ قَالَ تَعَالَى: {لِيُحِقَّ الْحَقَّ وَيُبْطِلَ الْبَاطِلَ} [الأنفال: ٨] وَيُقَالُ لِلشَّافِعِيِّ: كَيْفَ تُبْطِلُ عَمَلَهُ الَّذِي دَخَلَ فِيهِ، لِأَنَّهُ خَالَفَ الْحَقَّ، ثُمَّ تُلْزِمُهُ بِذَلِكَ الْعَمَلِ عُمْرَةً لَمْ يُرِدْهَا قَطُّ وَلَا قَصَدَهَا وَلَا نَوَاهَا؟ وَرَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُ: «إنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ وَإِنَّمَا لِكُلِّ امْرِئٍ مَا نَوَى» وَهَذَا بَيِّنٌ لَا خَفَاءَ بِهِ، فَبَطَلَ كِلَا الْقَوْلَيْنِ - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

وَلَا يَخْتَلِفُ الْمَذْكُورُونَ فِي أَنَّ مَنْ أَحْرَمَ بِصَلَاةٍ قَبْلَ وَقْتِهَا فَإِنَّهَا تَبْطُلُ وَمَنْ نَوَى صِيَامًا قَبْلَ وَقْتِهِ فَهُوَ بَاطِلٌ، وَمَنْ قَدَّمَ الْوُقُوفَ بِعَرَفَةَ قَبْلَ وَقْتِهِ فَهُوَ بَاطِلٌ، فَهَلَّا قَاسُوا الْحَجَّ

[24] **Hadith references (L12719):** Sahih al-Bukhari 1; Sunan Abi Dawud 2201; Mishkat al-Masabih 1.

[25] **Qur'an references (L12719):** Qur'an 8:8 (Al-Anfal); Qur'an 37:182 (As-Saffat).

ever begins the prayer with the opening declaration (Ihram) before its designated time invalidates it, whoever intends to fast before its designated time invalidates it, and whoever advances the standing at Arafat before its designated time invalidates it. Why then did they not analogize Hajj to these cases? Why did they not analogize some acts of Hajj to others? This would have been the most correct analogy—if analogy were valid. Yet this is among the matters in which they contradicted the Quran, the practice of the Prophet—peace and blessings of Allah be upon him—and his companions (with no dissenting opinion known from them), and analogy itself.

عَلَى ذَلِكَ؟ وَهَلَّا قَاسُوا بَعْضَ عَمَلِ الْحَجِّ عَلَى بَعْضٍ؟ فَهَذَا أَصَحُّ قِيَاسٍ لَوْ كَانَ الْقِيَاسُ حَقًّا وَهَذَا مِمَّا خَالَفُوا فِيهِ الْقُرْآنَ، وَعَمَلَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَصْحَابِهِ لَا يُعْرَفُ لَهُمْ مِنْهُمْ مُخَالِفٌ، وَالْقِيَاسُ.

L12722 And it is astonishing that the Hanafi jurists said regarding the statement of Allah's Messenger—peace and blessings be upon him—"For grazing sheep, one sheep is due for every forty sheep": "Far be it from Allah that the Messenger of Allah—peace and blessings be upon him—would deliver speech containing no benefit." Why then do they not similarly say regarding Allah's words—Exalted is He—{The Hajj is well-known months} [Al-Baqarah: 197]: "Far be it from Allah to state in the Quran something with no benefit in it"—and yet it is authentically established from the Prophet—peace and blessings be upon him—that the obligation of Zakat on sheep applies universally without specifying grazing, and no Quranic text or Sunnah has ever indicated the permissibility of prescribing Hajj outside its known months?[26]

وَالْعَجَبُ أَنَّ الْحَنِيفِيِّينَ قَالُوا فِي قَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «فِي الْغَنَمِ فِي سَائِمَتِهَا فِي كُلِّ أَرْبَعِينَ شَاةً شَاةٌ» : حَاشَا لِلَّهِ أَنْ يَأْتِيَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِكَلَامٍ لَا فَائِدَةَ فِيهِ فَهَلَّا قَالُوا: هَاهُنَا فِي قَوْلِ اللَّهِ تَعَالَى: {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ} [البقرة: ١٩٧] حَاشَا لِلَّهِ مِنْ أَنْ يَقُولَ فِي الْقُرْآنِ قَوْلًا لَا فَائِدَةَ فِيهِ هَذَا وَقَدْ صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وُجُوبُ الزَّكَاةِ فِي الْغَنَمِ جُمْلَةً دُونَ ذِكْرِ سَائِمَةٍ، وَلَمْ يَأْتِ قَطُّ فِي قُرْآنٍ وَلَا سُنَّةٍ جَوَازُ فَرْضِ الْحَجِّ فِي غَيْرِ أَشْهُرِهِ الْمَعْلُومَاتِ؟ .

L12723 If they say: "You do not accept implicit evidence, so why do you cite Allah's statement {The Hajj is [observed in] specified months} [Al-Baqarah: 197] as proof that Hajj rituals must not be extended beyond their designated period?" We reply: We only reject your claim regarding implicit evidence when you seek to use it to invalidate another general Sunnah. However, if a text establishes a ruling and no other text introduces additions to it, it is not permissible for anyone to extend that ruling beyond the text in which it was explicitly mentioned.[27]

فَإِنْ قَالُوا: أَنْتُمْ لَا تَقُولُونَ بِدَلِيلِ الْخِطَابِ فَلِمَ جَعَلْتُمْ قَوْله تَعَالَى: {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ} [البقرة: ١٩٧] حُجَّةً فِي أَنْ لَا يَتَعَدَّى بِأَعْمَالِ الْحَجِّ إلَى غَيْرِهَا؟ قُلْنَا: إنَّمَا نَمْنَعُ مِنْ دَعْوَاكُمْ فِي دَلِيلِ الْخِطَابِ إذَا أَرَدْتُمْ أَنْ تُبْطِلُوا بِهِ سُنَّةً أُخْرَى عَامَّةً، وَأَمَّا إذَا وَرَدَ نَصٌّ بِحُكْمٍ وَلَمْ يَرِدْ نَصٌّ آخَرُ بِزِيَادَةٍ عَلَيْهِ فَلَا يَحِلُّ لِأَحَدٍ أَنْ يَتَعَدَّى بِذَلِكَ الْحُكْمِ النَّصَّ الَّذِي وَرَدَ فِيهِ.

L12724 As for the ʿUmrah, there have indeed been differences of opinion concerning it:

وَأَمَّا الْعُمْرَةُ فَإِنَّ الْخِلَافَ قَدْ جَاءَ فِي ذَلِكَ -:

[26] **Qur'an references (L12722):** Qur'an 2:197 (Al-Baqarah).
[27] **Qur'an references (L12723):** Qur'an 2:197 (Al-Baqarah).

رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا أَبُو مُعَاوِيَةَ عَنْ الْأَعْمَشِ عَنْ قَيْسِ بْنِ مُسْلِمٍ عَنْ طَارِقِ بْنِ شِهَابٍ سُئِلَ ابْنُ مَسْعُودٍ عَنْ الْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ؟ فَقَالَ: الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ لَيْسَ فِيهِنَّ عُمْرَةٌ؟ وَعَنْ وَكِيعٍ عَنْ ابْنِ أَبِي رَوَّادٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: قَالَ عُمَرُ: اجْعَلُوا الْعُمْرَةَ فِي غَيْرِ أَشْهُرِ الْحَجِّ أَتَمَّ لِحَجِّكُمْ وَلِعُمْرَتِكُمْ.

L12725 It was narrated to us from Ibn Abī Shaybah, from Abū Muʿāwiyah, from al-Aʿmash, from Qays ibn Muslim, from Ṭāriq ibn Shihāb: Ibn Masʿūd was asked about performing ʿUmrah during the months of Ḥajj. He replied, "Ḥ[illegible]ajj has well-known months; there is no ʿUmrah in them." In another narration from Wakīʿ, from Ibn Abī Rawwād, from Nāfiʿ, from Ibn ʿUmar, who reported that ʿUmar said: "Perform ʿUmrah outside the months of Ḥajj, for it is more complete for your Ḥajj and your ʿUmrah."

وَرُوِّينَا مِنْ طَرِيقِ الدَّرَاوَرْدِيِّ عَنْ الْجُعَيْدِ بْنِ عَبْدِ الرَّحْمَنِ: أَنَّ السَّائِبَ بْنَ يَزِيدَ اسْتَأْذَنَ عُثْمَانَ بْنَ عَفَّانَ فِي الْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ؟ فَلَمْ يَأْذَنْ لَهُ.

L12726–12728 It was reported to us through the route of Ad-Darāwardī from al-Ju'ayd ibn ʿAbd al-Raḥmān that as-Sā'ib ibn Yazīd... A man sought permission from Uthman ibn Affan to perform Umrah during the months of Hajj, but Uthman did not permit him.

وَرُوِّينَا مِنْ طَرِيقِ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ: حَلَّتْ الْعُمْرَةُ الدَّهْرَ إلَّا ثَلَاثَةَ أَيَّامٍ: يَوْمَ النَّحْرِ، وَيَوْمَيْنِ مِنْ أَيَّامِ التَّشْرِيقِ.

L12729 And it has been reported to us through the chain of ʿĀ'ishah, the Mother of the Believers: "Umrah was permissible at all times except three days: the Day of Sacrifice, and the two days of Tashreeq."

وَمِنْ طَرِيقِ قَتَادَةَ عَنْ مُعَاذَةَ عَنْهَا.

L12730 And via the chain of Qatādah from Muʿādhah from her.

وَرُوِّينَا أَيْضًا عَنْهَا: تَمَّتْ الْعُمْرَةُ السَّنَةَ كُلَّهَا إلَّا أَرْبَعَةَ أَيَّامٍ: يَوْمَ عَرَفَةَ، وَيَوْمَ النَّحْرِ وَيَوْمَيْنِ مِنْ أَيَّامِ التَّشْرِيقِ.

L12731 It has also been narrated to us from her that Umrah is valid throughout the entire year except for four days: the Day of ʿArafah, the Day of Slaughter (Yawm al-Naḥr), and the two days of Tashrīq.

وَرُوِيَ أَيْضًا عَنْهَا إلَّا خَمْسَةَ أَيَّامٍ: يَوْمُ عَرَفَةَ، وَيَوْمُ النَّحْرِ، وَثَلَاثَةُ أَيَّامِ التَّشْرِيقِ.

L12732 It has also been narrated from her that fasting is prohibited on five days: the Day of Arafah, Eid al-Adha, and the three days of *Tashreeq*.

وَقَالَ أَبُو حَنِيفَةَ: الْعُمْرَةُ كُلُّهَا جَائِزَةٌ إلَّا خَمْسَةَ أَيَّامٍ، يَوْمُ عَرَفَةَ، وَيَوْمُ النَّحْرِ، وَثَلَاثَةُ أَيَّامِ التَّشْرِيقِ.

L12733 Abu Hanifah said: Umrah is entirely permissible except for five days: the Day of Arafah, the Day of Sacrifice, and the three Days of Tashreeq.

وَقَالَ مَالِكٌ: الْعُمْرَةُ جَائِزَةٌ فِي كُلِّ وَقْتٍ مِنْ السَّنَةِ إلَّا لِلْحَاجِّ خَاصَّةً فِي أَيَّامِ النَّحْرِ خَاصَّةً.

L12734 Malik said: Umrah is permissible at any time of the year except for the pilgrim specifically during the days of sacrifice specifically.

وَقَالَ سُفْيَانُ الثَّوْرِيُّ وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ كَمَا قُلْنَا.

L12735 And he said that Sufyan al-Thawri, al-Shafi'i, and Abu Sulayman said, as we have said.

قَالَ عَلِيٌّ: رُوِّينَا مِنْ طَرِيقِ مَالِكٍ عَنْ الزُّهْرِيِّ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ أَنَّ عُمَرَ بْنَ أَبِي سَلَمَةَ اسْتَأْذَنَ عُمَرَ بْنَ الْخَطَّابِ فِي أَنْ يَعْتَمِرَ فِي شَوَّالٍ فَأَذِنَ لَهُ فَاعْتَمَرَ.

L12736 Ali said: It was narrated to us through Mālik from al-Zuhrī from Saʿīd ibn al-Musayyib that ʿUmar ibn Abī Salamah sought permission from ʿUmar ibn al-Khaṭṭāb to perform ʿUmrah in Shawwāl, so he permitted him, and he performed ʿUmrah.

وَمِنْ طَرِيقِ ابْنِ وَهْبٍ عَنْ عَمْرِو بْنِ الْحَارِثِ عَنْ بُكَيْرِ بْنِ الْأَشَجِّ عَنْ بُسْرِ بْنِ سَعِيدٍ قَالَ: اسْتَأْذَنَتْ أُخْتِي عَبْدَ اللَّهِ بْنَ عُمَرَ بَعْدَ مَا قَضَتْ حَجَّهَا أَتَعْتَمِرُ فِي ذِي الْحِجَّةِ؟ قَالَ: نَعَمْ.

L12737 And through the chain of Ibn Wahb from ʻAmr ibn al-Ḥārith from Bukayr ibn al-Ashajj from Busr ibn Saʿīd, who said: My sister asked ʻAbdullāh ibn ʻUmar after completing her Ḥajj, “May I perform ʻUmrah in Dhū al-Ḥijjah?” He replied: Yes.

وَعَنْ طَاوُسٍ أَنَّ رَجُلًا سَأَلَهُ فَقَالَ: تَعَجَّلْتُ فِي يَوْمَيْنِ أَفَأَعْتَمِرُ؟ قَالَ: نَعَمْ.

L12738 It is narrated from Ṭāwus that a man asked him, saying: “I hastened in two days. May I perform ʿUmrah?” He replied: “Yes.”

قَالَ أَبُو مُحَمَّدٍ: لَيْسَ قَوْلُ بَعْضِهِمْ أَوْلَى مِنْ بَعْضٍ، وَلَا بَعْضُ الرِّوَايَاتِ عَنْ عَائِشَةَ أَوْلَى مِنْ غَيْرِهَا، وَقَدْ حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ الطَّلَمَنْكِيُّ نا ابْنُ مُفَرِّجٍ نا إبْرَاهِيمُ بْنُ أَحْمَدَ بْنِ فِرَاسٍ نا مُحَمَّدُ بْنُ عَلِيِّ بْنِ زَيْدٍ الصَّائِغُ نا سَعِيدُ بْنُ مَنْصُورٍ نا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - نا سُمَيٌّ هُوَ مَوْلَى أَبِي بَكْرٍ - عَنْ أَبِي صَالِحٍ عَنْ أَبِي هُرَيْرَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «الْحَجُّ الْمَبْرُورُ لَيْسَ لَهُ جَزَاءٌ إلَّا الْجَنَّةُ وَالْعُمْرَةُ إلَى الْعُمْرَةِ تَكْفِيرٌ لِمَا بَيْنَهُمَا» .

L12739 Abu Muhammad said: The opinion of some is not more deserving of consideration than others, nor are some narrations from ’Aisha more authoritative than others. Ahmad ibn Muhammad al-Talamanki narrated to us from Ibn Mufarrij, from Ibrahim ibn Ahmad ibn Firas, from Muhammad ibn ’Ali ibn Zayd al-Sa’igh, from Sa’id ibn Mansur, from Sufyan - Ibn ’Uyaynah - from Sumayy - the freed slave of Abu Bakr - from Abu Salih, from Abu Hurayrah, from the Prophet - peace and blessings of Allah be upon him - who said: “The accepted Hajj has no recompense except Paradise, and the performance of one Umrah after another serves as expiation for what occurs between them.”

قَالَ أَبُو مُحَمَّدٍ: فَحَضَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى الْعُمْرَةِ وَلَمْ يَحُدَّ لَهَا وَقْتًا مِنْ وَقْتٍ فَهِيَ مُسْتَحَبَّةٌ فِي كُلِّ وَقْتٍ، وَأَمَّا اخْتِيَارُ أَبِي حَنِيفَةَ فَفَاسِدٌ جِدًّا، لِأَنَّهُ لَا حُجَّةَ لَهُ عَلَى صِحَّتِهِ دُونَ سَائِرِ مَا رُوِيَ فِي ذَلِكَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L12740–12741 Abu Muhammad said: The Messenger of God—may God bless him and grant him peace—exhorted to perform Umrah and did not restrict it to any specific time. Thus, it is recommended in every time. As for Abu Hanifa’s preferred opinion, it is profoundly unsound, for he possesses no decisive proof validating its correctness apart from other transmitted reports on this matter—and success comes only from God, the Exalted.

## [مَسْأَلَةٌ الْحَجُّ لَا يَجُوزُ إلَّا مَرَّةً فِي السَّنَةِ]

٨٢٠ - مَسْأَلَةٌ:

## Issue: The Hajj is not permissible except once a year.

820 – Issue:

Hajj is not permissible except once a year. As for Umrah, we recommend

performing it frequently because of the merit we have mentioned for it. As for Hajj, there is no disagreement concerning it.

وَالْحَجُّ لَا يَجُوزُ إِلَّا مَرَّةً فِي السَّنَةِ، وَأَمَّا الْعُمْرَةُ فَنُحِبُّ الْإِكْثَارَ مِنْهَا لِمَا ذَكَرْنَا مِنْ فَضْلِهَا، فَأَمَّا الْحَجُّ فَلَا خِلَافَ فِيهِ.

As for ʿUmrah, it has been narrated to us through Mujāhid's chain of transmission that ʿAlī ibn Abī Ṭālib said: "There is ʿUmrah every month."

L12745

وَأَمَّا الْعُمْرَةُ فَإِنَّنَا رُوِّينَا مِنْ طَرِيقِ مُجَاهِدٍ قَالَ عَلِيُّ بْنُ أَبِي طَالِبٍ: فِي كُلِّ شَهْرٍ عُمْرَةٌ.

It is narrated from Al-Qāsim ibn Muḥammad that he considered two ʿUmrahs in a single month reprehensible (makruh).

L12746

وَعَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ أَنَّهُ كَرِهَ عُمْرَتَيْنِ فِي شَهْرٍ وَاحِدٍ.

And from Aisha, the Mother of the Believers, that she performed ʿUmrah three times in a single year.

L12747

وَعَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا اعْتَمَرَتْ ثَلَاثَ مَرَّاتٍ فِي عَامٍ وَاحِدٍ.

And from Saʿīd ibn Jubayr, al-Ḥasan al-Baṣrī, Muḥammad ibn Sīrīn, and Ibrāhīm al-Nakhaʿī: The reprehensibility of performing Umrah more than once per year; and this is the view of Mālik.

L12748

وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ، وَالْحَسَنِ الْبَصْرِيِّ، وَمُحَمَّدِ بْنِ سِيرِينَ وَإِبْرَاهِيمَ النَّخَعِيِّ: كَرَاهَةُ الْعُمْرَةِ أَكْثَرُ مِنْ مَرَّةٍ فِي السَّنَةِ، وَهُوَ قَوْلُ مَالِكٍ.

And it has been narrated to us from Tāwus that when the Days of Tashrīq have passed, perform ʿUmrah whenever you wish.

L12749

وَرُوِّينَا عَنْ طَاوُسٍ: إذَا مَضَتْ أَيَّامُ التَّشْرِيقِ فَاعْتَمِرْ مَتَى شِئْت.

And from Ikrimah: Perform Umrah whenever you are able to complete its rites, including the ritual shaving.

L12750

وَعَنْ عِكْرِمَةَ: اعْتَمِرْ مَتَى أَمْكَنَك الْمُوسَى.

And it is narrated from 'Aṭā' that he said: The validity of performing ʿUmrah twice in a single month.

L12751

وَعَنْ عَطَاءٍ إجَازَةُ الْعُمْرَةِ مَرَّتَيْنِ فِي الشَّهْرِ.

It is narrated from Ibn 'Umar that he performed *Umrah* twice in a single year: once in Rajab and once in Shawwal.

L12752

وَعَنْ ابْنِ عُمَرَ: أَنَّهُ اعْتَمَرَ مَرَّتَيْنِ فِي عَامٍ وَاحِدٍ مَرَّةً فِي رَجَبٍ، وَمَرَّةً فِي شَوَّالٍ.

From Anas ibn Mālik: that he resided for a period in Makkah, and whenever his hair became thick, he would depart to perform Umrah. This is the position of al-Shāfiʿī, Abū Ḥanīfah, and Abū Sulaymān, and we adopt this opinion because the Messenger of Allah—peace and blessings be upon him—instructed ʿĀ'ishah to perform Umrah. "Twice in a single month," and he—peace be upon him—did not deem it disliked; rather, he encouraged it and stated that it expiates what is between it and the second Umrah. Thus, performing it frequently is superior—and success comes from Allah, the Most High.

L12753–12755

وَعَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّهُ أَقَامَ مُدَّةً بِمَكَّةَ فَكُلَّمَا جَمَّ رَأْسُهُ خَرَجَ فَاعْتَمَرَ - وَهُوَ قَوْلُ الشَّافِعِيِّ، وَأَبِي حَنِيفَةَ، وَأَبِي سُلَيْمَانَ، وَبِهِ نَأْخُذُ لِأَنَّ «رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ أَعْمَرَ عَائِشَةَ مَرَّتَيْنِ فِي الشَّهْرِ الْوَاحِدِ» وَلَمْ يَكْرَهْ - عَلَيْهِ السَّلَامُ - ذَلِكَ بَلْ حَضَّ عَلَيْهَا وَأَخْبَرَ أَنَّهَا تُكَفِّرُ مَا بَيْنَهَا، وَبَيْنَ الْعُمْرَةِ الثَّانِيَةِ، فَالْإِكْثَارُ مِنْهَا أَفْضَلُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

Those who disliked that argued by saying: "The Messenger of Allah—peace

L12756

and blessings be upon him—never performed Umrah in a year except once." We responded: "There is no valid proof in this, for something is only deemed disliked if he actively urged its abandonment. Yet he—peace and blessings be upon him—did not perform Hajj after migrating except once, nor perform Umrah after migrating except three Umrahs. This would obligate you to deem Hajj beyond once in a lifetime as disliked and Umrah beyond three times in one's entire life as disliked—contrary to your own position. It has been authentically established that he—peace and blessings be upon him—would abandon deeds he loved to perform, fearing they might impose hardship on his community or become obligatory upon them."

L12757 It is astonishing that they recommend a person to fast more than half the year and pray more than a third of the night, despite it being authentically reported that the Messenger of Allah (peace and blessings be upon him) never fasted an entire month, nor more than half the year, nor performed more than thirteen rak'ahs, nor prayed beyond a third of the night. Yet they did not consider his action (peace and blessings be upon him) as evidence for the disapproval of exceeding these amounts, despite the authenticity of his prohibition against increasing the fast beyond that amount and the duration of prayer performed at night beyond that.

L12758 They took his action—peace be upon him—in not performing Umrah within a year except once, even though he emphatically encouraged undertaking Umrah and performing it frequently, as a proof for the juristic dislike of exceeding one Umrah per year. This is utterly astonishing!

L12759 ## Issue: The Months of Hajj

L12760 ٨٢١ - Legal Question:

L12761 The months of Hajj are Shawwāl, Dhū al-Qiʿdah, and Dhū al-Ḥijjah. Some have said: Shawwāl, Dhū al-Qiʿdah, and ten days of Dhū al-Ḥijjah.

L12762 We have transmitted our statement from Ibn Abbas, and it has been authen-

وَاحْتَجَّ مَنْ كَرِهَ ذَلِكَ: بِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَعْتَمِرْ فِي عَامٍ إِلَّا مَرَّةً وَاحِدَةً؟ قُلْنَا: لَا حُجَّةَ فِي هَذَا، لِأَنَّهُ إِنَّمَا يُكْرَهُ مَا حَضَّ عَلَى تَرْكِهِ وَهُوَ - عَلَيْهِ السَّلَامُ - لَمْ يَحُجَّ مُذْ هَاجَرَ إِلَّا حَجَّةً وَاحِدَةً وَلَا اعْتَمَرَ مُذْ هَاجَرَ إِلَّا ثَلَاثَ عُمَرَ فَيَلْزَمُكُمْ أَنْ تَكْرَهُوا الْحَجَّ إِلَّا مَرَّةً فِي الْعُمْرِ، وَأَنْ تَكْرَهُوا الْعُمْرَةَ إِلَّا ثَلَاثَ مَرَّاتٍ فِي الدَّهْرِ، وَهَذَا خِلَافُ قَوْلِكُمْ، وَقَدْ صَحَّ أَنَّهُ كَانَ - عَلَيْهِ السَّلَامُ - يَتْرُكُ الْعَمَلَ هُوَ يُحِبُّ أَنْ يَعْمَلَ بِهِ مَخَافَةَ أَنْ يَشُقَّ عَلَى أُمَّتِهِ أَوْ أَنْ يُفْرَضَ عَلَيْهِمْ.

وَالْعَجَبُ أَنَّهُمْ يَسْتَحِبُّونَ أَنْ يَصُومَ الْمَرْءُ أَكْثَرَ مِنْ نِصْفِ الدَّهْرِ، وَأَنْ يَقُومَ أَكْثَرَ مِنْ ثُلُثِ اللَّيْلِ، وَقَدْ صَحَّ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَصُمْ قَطُّ - شَهْرًا كَامِلًا، وَلَا أَكْثَرَ مِنْ نِصْفِ الدَّهْرِ، وَلَا قَامَ بِأَكْثَرَ مِنْ ثَلَاثَ عَشْرَةَ رَكْعَةً، وَلَا أَكْثَرَ مِنْ ثُلُثِ اللَّيْلِ، فَلَمْ يَرَوْا فِعْلَهُ - عَلَيْهِ السَّلَامُ - هَاهُنَا حُجَّةً فِي كَرَاهَةِ مَا زَادَ عَلَى صِحَّةِ نَهْيِهِ عَنْ الزِّيَادَةِ فِي الصَّوْمِ وَمِقْدَارِ مَا يُقَامُ مِنْ اللَّيْلِ عَلَى أَكْثَرَ مِنْ ذَلِكَ.

وَجَعَلُوا فِعْلَهُ - عَلَيْهِ السَّلَامُ - فِي أَنَّهُ لَمْ يَعْتَمِرْ فِي الْعَامِ إِلَّا مَرَّةً مَعَ حَضِّهِ عَلَى الْعُمْرَةِ وَالْإِكْثَارِ مِنْهَا حُجَّةً فِي كَرَاهَةِ الزِّيَادَةِ عَلَى عُمْرَةٍ مِنْ الْعَامِ وَهَذَا عَجَبٌ جِدًّا.

## [مَسْأَلَةُ أَشْهُرُ الْحَجِّ]

٨٢١ - مَسْأَلَةٌ:

وَأَشْهُرُ الْحَجِّ: شَوَّالٌ، وَذُو الْقِعْدَةِ، وَذُو الْحِجَّةِ، وَقَالَ قَوْمٌ: شَوَّالٌ، وَذُو الْقِعْدَةِ، وَعَشْرٌ مِنْ ذِي الْحِجَّةِ.

ticated from Ibn Umar through the chain of Ibn Umar → Nafiʿ → Muhammad ibn Ishaq. This is also the view of Tawus, and Ata.

L12763 It has also been narrated to us regarding the alternative view from Ibn Abbas, Ibn Mas'ud, and Ibrahim al-Nakha'i. Moreover, it has been narrated to us from al-Hasan that [the designated period comprises] Shawwal, Dhu al-Qa'dah, and the beginning of Dhu al-Hijjah.

L12764 Abu Muhammad said: The Exalted stated: {Hajj is [during] well-known months} [Al-Baqarah: 197]. The term "months" is not applied to two months and a portion of another, for "months" [implies three or more]. Moreover, the stoning of the jamarat – which is among the rites of Hajj – is performed on the thirteenth day of Dhul-Hijjah, and Tawaf al-Ifadah (the visitation circumambulation) – which is among the obligations of Hajj – is performed throughout all of Dhul-Hijjah without any disagreement among them. Thus, it is confirmed that they are three months – and success is from Allah, the Exalted.[28]

## Chapter on the Designated Boundaries for Ḥajj and ʿUmrah.

L12765–12766

L12767 Issue:

L12768 For Hajj and Umrah, there are designated places called "the Mawaqit," singularly termed "Miqat." It is impermissible for anyone to assume ihram for Hajj or Umrah before reaching them.

L12769 It is for those coming from all lands on the route toward Medina or who are residents of Medina: Dhu al-Hulayfah, located four miles from Medina and one hundred ninety-eight miles (two hundred less two) from Mecca.

L12770 And for those coming from all regions, or from the Levant, or from Egypt via the Egyptian route or via the Levantine route: Al-Juhfah—which lies between the west and north of Mecca—is eighty-two miles from it.

رُوِّينَا قَوْلَنَا عَنْ ابْنِ عَبَّاسٍ وَصَحَّ عَنْ ابْنِ عُمَرَ مِنْ طَرِيقِ مُحَمَّدِ بْنِ إِسْحَاقَ عَنْ نَافِعٍ عَنْهُ - وَهُوَ قَوْلُ طَاوُسٍ، وَعَطَاءٍ.

وَرُوِّينَا الْقَوْلَ الْآخَرَ عَنْ ابْنِ عَبَّاسٍ أَيْضًا، وَعَنْ ابْنِ مَسْعُودٍ، وَإِبْرَاهِيمَ النَّخَعِيِّ، وَرُوِّينَا عَنْ الْحَسَنِ: شَوَّالٌ، وَذُو الْقَعْدَةِ، وَصَدْرُ ذِي الْحِجَّةِ.

قَالَ أَبُو مُحَمَّدٍ: قَالَ تَعَالَى: {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ} [البقرة: ١٩٧] وَلَا يُطْلَقُ عَلَى شَهْرَيْنِ، وَبَعْضِ آخَرَ: أَشْهُرٌ، وَأَيْضًا فَإِنَّ رَمْيَ الْجِمَارِ - وَهُوَ مِنْ أَعْمَالِ الْحَجِّ - يُعْمَلُ الْيَوْمَ الثَّالِثَ عَشَرَ مِنْ ذِي الْحِجَّةِ، وَطَوَافُ الْإِفَاضَةِ - وَهُوَ مِنْ فَرَائِضِ الْحَجِّ - يُعْمَلُ فِي ذِي الْحِجَّةِ كُلِّهِ بِلَا خِلَافٍ مِنْهُمْ، فَصَحَّ أَنَّهَا ثَلَاثَةُ أَشْهُرٍ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ

## [مَسْأَلَةٌ لِلْحَجِّ وَالْعُمْرَةِ مَوَاقِيت]

مَسْأَلَةٌ:

وَلِلْحَجِّ، وَالْعُمْرَةِ مَوَاضِعُ تُسَمَّى: الْمَوَاقِيتَ، وَاحِدُهَا: مِيقَاتٌ لَا يَحِلُّ لِأَحَدٍ أَنْ يُحْرِمَ بِالْحَجِّ، وَلَا بِالْعُمْرَةِ قَبْلَهَا.

وَهِيَ لِمَنْ جَاءَ مِنْ جَمِيعِ الْبِلَادِ عَلَى طَرِيقِ الْمَدِينَةِ، أَوْ كَانَ مِنْ أَهْلِ الْمَدِينَةِ: ذُو الْحُلَيْفَةِ - وَهُوَ مِنْ الْمَدِينَةِ عَلَى أَرْبَعَةِ أَمْيَالٍ - وَهُوَ مِنْ مَكَّةَ عَلَى مِائَتَيْ مِيلٍ - غَيْرَ مِيلَيْنِ.

وَلِمَنْ جَاءَ مِنْ جَمِيعِ الْبِلَادِ، أَوْ مِنْ الشَّامِ، أَوْ مِنْ مِصْرَ عَلَى طَرِيقِ مِصْرَ، أَوْ عَلَى طَرِيقِ الشَّامِ: الْجُحْفَةُ - وَهِيَ فِيمَا بَيْنَ الْمَغْرِبِ وَالشِّمَالِ - مِنْ مَكَّةَ وَمِنْهَا إلَى مَكَّةَ اثْنَانِ وَثَمَانُونَ مِيلًا.

[28] **Qur'an references (L12764):** Qur'an 2:197 (Al-Baqarah).

L12771 For those coming via the Iraq route to Mecca, and from all regions: Dhat ‘Irq—located between the east and the north of Mecca—is forty-two miles from it.

وَلِمَنْ جَاءَ مِنْ طَرِيقِ الْعِرَاقِ مِنْهَا، وَمِنْ جَمِيعِ الْبِلَادِ: ذَاتُ عِرْقٍ - وَهُوَ بَيْنَ الْمَشْرِقِ وَالشِّمَالِ - مِنْ مَكَّةَ، وَمِنْهَا إِلَى مَكَّةَ اثْنَانِ وَأَرْبَعُونَ مِيلًا.

L12772 For those arriving via Najd’s route from all regions entirely: Qarn—east of Mecca—and from there to Mecca is forty-two miles.

وَلِمَنْ جَاءَ عَلَى طَرِيقِ نَجْدٍ مِنْ جَمِيعِ الْبِلَادِ كُلِّهَا: قَرْنٌ - وَهُوَ شَرْقِيٌّ مِنْ مَكَّةَ - وَمِنْهُ إِلَى مَكَّةَ اثْنَانِ وَأَرْبَعُونَ مِيلًا.

L12773 For those arriving via the Yemeni route—whether traveling along that path or from all regions—the miqat is Yalamlam, situated south of Mecca. It lies thirty miles from Mecca.

وَلِمَنْ جَاءَ عَلَى طَرِيقِ الْيَمَنِ مِنْهَا، أَوْ مِنْ جَمِيعِ الْبِلَادِ: يَلَمْلَمُ - وَهُوَ جَنُوبٌ مِنْ مَكَّةَ - وَمِنْهُ إِلَى مَكَّةَ ثَلَاثُونَ مِيلًا.

L12774 Every person who passes by any of these places while intending to perform Hajj or Umrah is not permitted to proceed beyond it without being in the state of Ihram. If one does not assume Ihram at it, they have no valid Ihram, Hajj, or Umrah unless they return to the Miqat they passed through, intend to assume Ihram from it, whereby their Ihram, Hajj, and Umrah are then valid.

فَكُلُّ مَنْ خَطَرَ عَلَى أَحَدِ هَذِهِ الْمَوَاضِعِ وَهُوَ يُرِيدُ الْحَجَّ، أَوْ الْعُمْرَةَ، فَلَا يَحِلُّ لَهُ أَنْ يَتَجَاوَزَهُ إِلَّا مُحْرِمًا فَإِنْ لَمْ يُحْرِمْ مِنْهُ: فَلَا إِحْرَامَ لَهُ، وَلَا حَجَّ لَهُ، وَلَا عُمْرَةَ لَهُ إِلَّا أَنْ يَرْجِعَ إِلَى الْمِيقَاتِ الَّذِي مَرَّ عَلَيْهِ فَيَنْوِيَ الْإِحْرَامَ مِنْهُ، فَيَصِحَّ حِينَئِذٍ إِحْرَامُهُ، وَحَجُّهُ، وَعُمْرَتُهُ.

L12775 If he assumes ihram before any of these designated places (mawaqit) while passing through them, he has no valid ihram, no valid Hajj, and no valid Umrah—unless he intends, upon reaching the miqat, to reassume ihram. In that case, it is permissible. His ihram at that time is complete, his Hajj is complete, and his Umrah is complete.

فَإِنْ أَحْرَمَ قَبْلَ شَيْءٍ مِنْ هَذِهِ الْمَوَاقِيتِ وَهُوَ يَمُرُّ عَلَيْهَا: فَلَا إِحْرَامَ لَهُ، وَلَا حَجَّ لَهُ، وَلَا عُمْرَةَ لَهُ إِلَّا أَنْ يَنْوِيَ إِذَا صَارَ فِي الْمِيقَاتِ تَجْدِيدَ إِحْرَامٍ فَذَلِكَ جَائِزٌ، وَإِحْرَامُهُ حِينَئِذٍ تَامٌّ، وَحَجُّهُ تَامٌّ، وَعُمْرَتُهُ تَامَّةٌ.

L12776 Whoever is from the people of Syria or Egypt, or the regions beyond them, and takes the route of Madinah while intending Hajj or Umrah, may not delay entering ihram from Dhu al-Hulayfah to enter ihram from al-Juhfah. If he does so, his Hajj, ihram, and Umrah remain invalid unless he returns to Dhu al-Hulayfah and renews his ihram from there - only then will his ihram, Hajj, and Umrah become valid.

وَمَنْ كَانَ مِنْ أَهْلِ الشَّامِ، أَوْ مِصْرَ فَمَا خَلْفَهُمَا فَأَخَذَ عَلَى طَرِيقِ الْمَدِينَةِ - وَهُوَ يُرِيدُ حَجًّا، أَوْ عُمْرَةً - فَلَا يَحِلُّ لَهُ تَأْخِيرُ الْإِحْرَامِ مِنْ ذِي الْحُلَيْفَةِ لِيُحْرِمَ مِنْ الْجُحْفَةِ، فَإِنْ فَعَلَ فَلَا حَجَّ لَهُ، وَلَا إِحْرَامَ لَهُ، وَلَا عُمْرَةَ لَهُ إِلَّا أَنْ يَرْجِعَ إِلَى ذِي الْحُلَيْفَةِ، فَيُجَدِّدَ مِنْهَا إِحْرَامًا: فَيَصِحَّ حِينَئِذٍ إِحْرَامُهُ، وَحَجُّهُ، وَعُمْرَتُهُ.

L12777–12779 So whoever passes by one of these miqat locations without intending to perform either Hajj or Umrah, there is no obligation upon him... If someone

فَمَنْ مَرَّ عَلَى أَحَدِ هَذِهِ الْمَوَاقِيتِ وَهُوَ لَا يُرِيدُ حَجًّا، وَلَا عُمْرَةً فَلَيْسَ عَلَيْهِ أَنْ يُحْرِمَ، فَإِنْ تَجَاوَزَهُ بِقَلِيلٍ، أَوْ بِكَثِيرٍ ثُمَّ بَدَا لَهُ فِي الْحَجِّ، أَوْ فِي الْعُمْرَةِ فَلْيُحْرِمْ مِنْ حَيْثُ بَدَا لَهُ فِي الْحَجِّ، أَوْ الْعُمْرَةِ، وَلَيْسَ عَلَيْهِ أَنْ يَرْجِعَ إِلَى الْمِيقَاتِ، وَلَا يَجُوزُ لَهُ الرُّجُوعُ إِلَيْهِ، وَمِيقَاتُهُ حِينَئِذٍ الْمَوْضِعُ الَّذِي بَدَا لَهُ فِي الْحَجِّ، أَوْ الْعُمْرَةِ: فَلَا يَحِلُّ لَهُ أَنْ يَتَجَاوَزَهُ إِلَّا مُحْرِمًا - فَإِنْ فَعَلَ ذَلِكَ: فَلَا إحْرَامَ لَهُ، وَلَا حَجَّ لَهُ، وَلَا عُمْرَةَ لَهُ إِلَّا أَنْ يَرْجِعَ إِلَى ذَلِكَ الْمَوْضِعِ فَيُجَدِّدَ مِنْهُ إحْرَامًا.

passes the miqāt by a short or long distance and subsequently forms the intention for Ḥajj or ʿUmrah, they must enter iḥrām from the place where the intention arises. They are not obligated to return to the miqāt, nor is it permissible for them to do so. Their miqāt at that point becomes the location where they formed the intention for Ḥajj or ʿUmrah. It is impermissible for them to proceed beyond this place without being in iḥrām. If they do so, there is no valid iḥrām, Ḥajj, or ʿUmrah for them unless they return to that specific place and renew their iḥrām anew from there.

فَمَنْ كَانَ مَنْزِلُهُ بَيْنَ الْمِيقَاتِ وَمَكَّةَ فَمِيقَاتُهُ مِنْ مَنْزِلِهِ كَمَا ذَكَرْنَا سَوَاءً سَوَاءً، أَوْ مِنْ الْمَوْضِعِ الَّذِي بَدَا لَهُ أَنْ يَحُجَّ مِنْهُ أَوْ يَعْتَمِرَ كَمَا قَدَّمْنَا.

L12780 Whoever resides between the designated *miqat* and Makkah must assume *ihram* from their residence precisely as we mentioned, or from the location where they intend to undertake Hajj or Umrah, as we have previously mentioned.

وَمَنْ كَانَ مِنْ أَهْلِ مَكَّةَ فَأَرَادَ الْحَجَّ فَمِيقَاتُهُ مَنَازِلُ مَكَّةَ، وَإِنْ أَرَادَ الْعُمْرَةَ فَلْيَخْرُجْ إِلَى الْحِلِّ فَلْيُحْرِمْ مِنْهُ وَأَدْنَى ذَلِكَ: التَّنْعِيمُ.

L12781 Whoever is from the people of Mecca and intends to perform Hajj, his Miqāt is the dwellings of Mecca. If he intends to perform Umrah, he must exit to al-Hill and enter Ihrām from there, and the closest of these [locations] is at-Tanʿīm.

وَمَنْ كَانَ طَرِيقُهُ لَا تَمُرُّ بِشَيْءٍ مِنْ هَذِهِ الْمَوَاقِيتِ فَلْيُحْرِمْ مِنْ حَيْثُ شَاءَ بَرًّا أَوْ بَحْرًا، فَإِنْ أَخْرَجَهُ قَدَرٌ بَعْدَ إحْرَامِهِ إلَى شَيْءٍ مِنْ هَذِهِ الْمَوَاقِيتِ فَفَرْضٌ عَلَيْهِ أَنْ يُجَدِّدَ مِنْهَا نِيَّةَ إحْرَامٍ وَلَا بُدَّ.

L12782 Whoever's route does not pass through any of these miqats must assume ihram from wherever they choose, whether on land or at sea. If divine decree compels them to pass through one of these miqats after assuming ihram, it becomes obligatory upon them to renew the intention (niyyah) for ihram from there.

بُرْهَانُ ذَلِكَ -: مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا عُمَرُ بْنُ مَنْصُورٍ نَا هِشَامُ بْنُ بَهْرَامَ نَا الْمَعَافِرِيُّ هُوَ ابْنُ عِمْرَانَ الْمَوْصِلِيُّ - نَا أَفْلَحُ بْنُ حُمَيْدٍ عَنْ الْقَاسِمِ بْنِ مُحَمَّدِ بْنِ أَبِي بَكْرٍ الصِّدِّيقِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَّتَ لِأَهْلِ الْمَدِينَةِ ذَا الْحُلَيْفَةِ، وَلِأَهْلِ الشَّامِ، وَمِصْرَ: الْجُحْفَةَ، وَلِأَهْلِ الْعِرَاقِ: ذَاتَ عِرْقٍ، وَلِأَهْلِ الْيَمَنِ: يَلَمْلَمَ» .

L12783 The proof of that is what was narrated to us by Abdullah ibn Rabīʿ through Muhammad ibn Muʿāwiyah through Ahmad ibn Shuʿayb through ʿUmar ibn Manṣūr through Hishām ibn Bahram through al-Maʿāfirī (who is Ibn ʿImrān al-Mawṣilī) through Aflaḥ ibn Ḥumayd through al-Qāsim ibn Muḥammad ibn Abī Bakr al-Ṣiddīq through ʿĀ'ishah the Mother of the Believers: "That the Messenger of Allah (peace and blessings of Allah be upon him) designated Dhū al-Ḥulayfah for the people of Medina; al-Juḥfah for the people of Syria

and Egypt; Dhāt ʿIrq for the people of Iraq; and Yalamlam for the people of Yemen."[29]

L12784–12786 Abu Muhammad said: Hisham ibn Bahram is trustworthy, and al-Mu'afi is trustworthy; Sufyan used to call him "the red ruby." The rest of the narrators are more renowned than that. From Abdullah ibn Yusuf, from Ahmad ibn Fath, from Abdul Wahhab ibn Isa, from Ahmad ibn Muhammad, from Ahmad ibn Ali, from Muslim ibn al-Hajjaj, from Abu Bakr ibn Abi Shaybah, from Yahya ibn Adam, from Wuhaib, who is the son of Khalid, from Abdullah ibn Tawus, from his father, from Ibn Abbas: "The Messenger of Allah—peace and blessings be upon him—designated as miqāt for the people of Medina: Dhu al-Hulayfa; for the people of Syria: al-Juhfa; for the people of Najd: Qarn al-Manazil; and for the people of Yemen: Yalamlam. He said: These are for them and for every person coming from beyond them who intends Hajj or Umrah. And whoever..." If that is not possible, one must face it from where one begins—even the people of Mecca must face it from Mecca.[30]

قَالَ أَبُو مُحَمَّدٍ: هِشَامُ بْنُ بَهْرَامَ ثِقَةٌ، وَالْمُعَافِيُّ ثِقَةٌ، كَانَ سُفْيَانُ يُسَمِّيهِ: الْيَاقُوتَةَ الْحَمْرَاءَ، وَبَاقِيهِمْ أَشْهَرُ مِنْ ذَلِكَ -: نَا عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ نَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نَا يَحْيَى بْنُ آدَمَ نَا وُهَيْبٌ هُوَ ابْنُ خَالِدٍ - نَا عَبْدُ اللَّهِ بْنُ طَاوُسٍ عَنْ أَبِيهِ عَنِ ابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَّتَ لأَهْلِ الْمَدِينَةِ: ذَا الْحُلَيْفَةِ، وَلأَهْلِ الشَّامِ: الْجُحْفَةَ، وَلأَهْلِ نَجْدٍ: قَرْنَ الْمَنَازِلِ، وَلأَهْلِ الْيَمَنِ: يَلَمْلَمَ. وَقَالَ: هُنَّ لَهُمْ وَلِكُلِّ آتٍ أَتَى عَلَيْهِنَّ مِنْ غَيْرِهِنَّ مِمَّنْ أَرَادَ الْحَجَّ وَالْعُمْرَةَ، وَمَنْ كَانَ دُونَ ذَلِكَ فَمِنْ حَيْثُ أَنْشَأَ حَتَّى أَهْلُ مَكَّةَ مِنْ مَكَّةَ» .

L12787 Abd al-Rahman ibn Abd Allah ibn Khalid narrated to us; Ibrahim ibn Ahmad al-Balkhi narrated to us; al-Farbari narrated to us; al-Bukhari narrated to us; Musaddad narrated to us; Hammad, who is Ibn Zayd, narrated to us from Amr ibn Dinar from Tawus from Ibn Abbas, who said: "The Messenger of Allah—peace and blessings be upon him—designated for the people of Medina: Dhu al-Hulayfah; for the people of Syria: al-Juhfah; for the people of Najd: Qarn al-Manazil; and for the people of Yemen: Yalamlam. These are designated for their respective people and for those who come to them from outside their regions intending Hajj or Umrah. Whoever is located closer than these points—their place of assuming ihram (ihram) is their own locality. And in the same way, even the people of Mecca enter the state of consecration (ihram) from Mecca."

نَا عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ خَالِدٍ نَا إِبْرَاهِيمُ بْنُ أَحْمَدَ الْبَلْخِيّ نَا الْفَرَبْرِيُّ نَا الْبُخَارِيُّ نَا مُسَدَّدٌ نَا حَمَّادٌ هُوَ ابْنُ زَيْدٍ - عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ طَاوُسٍ عَنِ ابْنِ عَبَّاسٍ قَالَ: «وَقَّتَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لأَهْلِ الْمَدِينَةِ: ذَا الْحُلَيْفَةِ، وَلأَهْلِ الشَّامِ: الْجُحْفَةَ، وَلأَهْلِ نَجْدٍ: قَرْنَ الْمَنَازِلِ، وَلأَهْلِ الْيَمَنِ: يَلَمْلَمَ، فَهُنَّ لأَهْلِهِنَّ وَلِمَنْ أَتَى عَلَيْهِنَّ مِنْ غَيْرِ أَهْلِهِنَّ لِمَنْ كَانَ يُرِيدُ الْحَجَّ وَالْعُمْرَةَ فَمَنْ كَانَ دُونَهُنَّ فَمُهِلُّهُ مِنْ أَهْلِهِ، وَكَذَاكَ حَتَّى أَهْلُ مَكَّةَ يُهِلُّونَ مِنْهَا» .

L12788 Abu Muhammad said: These reports are more complete than every Hadith narrated on that matter and more authentic, and they systematically encompass all that we have mentioned section by section. Abu Muhammad said:

قَالَ أَبُو مُحَمَّدٍ: فَهَذِهِ الأَخْبَارُ أَتَمُّ مِنْ كُلِّ خَبَرٍ رُوِيَ فِي ذَلِكَ وَأَصَحُّ وَهِيَ مُنْتَظِمَةٌ كُلَّ مَا ذَكَرْنَا فَصْلًا فَصْلًا -: قَالَ أَبُو مُحَمَّدٍ: وَفِي بَعْضِ مَا ذَكَرْنَا خِلَافٌ -: فَمِنْهُ أَنَّ قَوْمًا

[29] **Hadith references (L12783):** Sunan an-Nasai 2653.
[30] **Hadith references (L12784):** Sahih Muslim 1181b.

There is disagreement regarding some of what we have mentioned—among which is that some people claimed the Miqat [designated pilgrimage site] for the people of Iraq is al-ʿAqīq, and they cited a Hadith as evidence that is not authentic, because its narrator Yazīd ibn Ziyād—who is weak in reliability as a narrator—transmitted it from Muḥammad ibn ʿAlī ibn ʿAbdullāh ibn al-ʿAbbās from al-ʿAbbās.

ادَّعَوْا أَنَّ مِيقَاتَ أَهْلِ الْعِرَاقِ: الْعَقِيقُ وَاحْتَجُّوا بِخَبَرٍ لَا يَصِحُّ لِأَنَّ رَاوِيَهُ يَزِيدَ بْنِ زِيَادٍ - وَهُوَ ضَعِيفٌ - عَنْ مُحَمَّدِ بْنِ عَلِيِّ بْنِ عَبْدِ اللَّهِ بْنِ الْعَبَّاسِ عَنْ عَبَّاسٍ.

L12789 Among these rulings is that the Mālikīs said: Specifically, those from the people of Ash-Shām who pass through Medina may delay assuming iḥrām until reaching Al-Juḥfa, as it is their mīqāt, and this does not apply to others. Abū Ḥanīfah, Ash-Shāfiʿī, Abū Sulaymān, and others prohibited this, and it is the correct view, based on the statement of the Prophet - peace and blessings be upon him -: "These mīqāts are for their people and for those who pass through them from other than their people who intend to perform Ḥajj or ʿUmrah."

وَمِنْهُ أَنَّ الْمَالِكِيِّينَ قَالُوا: مَنْ مَرَّ عَلَى الْمَدِينَةِ مِنْ أَهْلِ الشَّامِ خَاصَّةً فَلَهُمْ أَنْ يَدَعُوا الْإِحْرَامَ إلَى الْجُحْفَةِ؛ لِأَنَّهُ مِيقَاتُهُمْ وَلَيْسَ ذَلِكَ لِغَيْرِهِمْ؛ وَمَنَعَ مِنْ ذَلِكَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ، وَغَيْرُهُمْ، وَهُوَ الْحَقُّ، لِقَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «هُنَّ لِأَهْلِهِنَّ وَلِمَنْ أَتَى عَلَيْهِنَّ مِنْ غَيْرِ أَهْلِهِنَّ لِمَنْ كَانَ يُرِيدُ الْحَجَّ وَالْعُمْرَةَ» .

L12790 Dhu al-Hulayfah is the miqat for a Syrian or an Egyptian when he reaches it. If he passes beyond it without entering the state of ihram, he becomes disobedient to the Messenger of Allah—peace be upon him. The miqat applies exclusively to those who pass by it, according to the explicit statement of the Prophet—peace be upon him—not to those who do not pass by it at all.

فَقَدْ صَارَ ذُو الْحُلَيْفَةِ مِيقَاتًا لِلشَّامِيِّ، وَالْمِصْرِيِّ إذَا أَتَى عَلَيْهِ وَكَانَ إنْ تَجَاوَزَهُ غَيْرَ مُحْرِمٍ عَاصِيًا لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَإِنَّمَا الْمِيقَاتُ لِمَنْ مَرَّ عَلَيْهِ بِنَصِّ كَلَامِهِ - عَلَيْهِ السَّلَامُ - لَا لِمَنْ لَمْ يَمُرَّ عَلَيْهِ فَقَطْ.

L12791–12793 If a Medinan were to pass by Al-Juhfah intending Ḥajj, but a need arose for him to go to Medina, it would not be permissible for him to delay assuming Iḥrām until Dhul-Hulayfah: It has been narrated to us through the chain of Saʿīd ibn Manṣūr: ʿAbd al-ʿAzīz narrated to us—the son of Muḥammad, al-Darāwardī—who informed me: Hishām ibn ʿUrwah reported from his father and Saʿīd ibn al-Musayyib, both of whom jointly stated: "Whoever from various regions passes through Madīnah should enter the state of iḥrām from the Prophet's iḥrām site (peace and blessings of Allāh be upon him) at Dhū al-Ḥulayfah." It has also been narrated to us from 'Aṭā' a statement identical to Mālik's. Additionally, it has been narrated to us through the chain of 'Abd al-Razzāq: from Maʿmar, from Ibn Jurayj, who informed me: Nāfiʿ reported from Ibn 'Umar that he said: "The people of Egypt and those

وَلَوْ أَنَّ مَدَنِيًّا يَمُرُّ عَلَى الْجُحْفَةِ يُرِيدُ الْحَجَّ وَعُرِضَتْ لَهُ مَعَ ذَلِكَ حَاجَةٌ إلَى الْمَدِينَةِ لَمْ يَجُزْ لَهُ أَنْ يُؤَخِّرَ الْإِحْرَامَ إلَى ذِي الْحُلَيْفَةِ -: رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا عَبْدُ الْعَزِيزِ هُوَ ابْنُ مُحَمَّدٍ الدَّرَاوَرْدِيُّ - أَخْبَرَنِي هِشَامُ بْنُ عُرْوَةَ عَنْ أَبِيهِ، وَسَعِيدُ بْنُ الْمُسَيِّبِ قَالَا جَمِيعًا: مَنْ مَرَّ مِنْ أَهْلِ الْآفَاقِ بِالْمَدِينَةِ أَهَلَّ مِنْ مُهِلِّ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ ذِي الْحُلَيْفَةِ، وَرُوِّينَا عَنْ عَطَاءٍ مِثْلَ قَوْلِ مَالِكٍ: وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي نَافِعٌ عَنْ ابْنِ عُمَرَ قَالَ: أَهْلُ مِصْرَ، وَمَنْ مَرَّ مِنْ أَهْلِ الْجَزِيرَةِ عَلَى الْمَدِينَةِ فِي الْمِيقَاتِ مِنْ أَهْلِ الشَّامِ.

passing through Madīnah from the Jazīrah region at the prescribed boundary (mīqāt) are from the people of Shām."

L12794 Abu Muhammad said: This statement of Ibn Umar obligates them to delay assuming Ihram until al-Juhfah. From his opinion also derives the ruling for those whose route lies beyond the designated Miqāts, for some people held that one must assume Ihram when parallel to the Miqat—this being the opinion of Aṭā'. They cited as evidence the narration we transmitted through Ibn Umar's chain, who reported: The people of Iraq complained to Umar about their Hajj routes, stating that "Qarn al-Manāzil" deviated from their path. He instructed them: "Determine a point parallel to it along your route," thereby designating Dhāt ʿIrq for them.

L12795 Ali said: There is no proof in this for them because the authentically transmitted report regarding the Prophet's designation of Dhāt 'Irq as the pilgrimage boundary for the people of Iraq - peace and blessings of Allah be upon him - which we previously mentioned, demonstrates that 'Umar only designated for them what the Prophet - peace and blessings of Allah be upon him - had established. Even if no valid report existed concerning this matter, the statement of anyone other than Allah's Messenger - peace and blessings of Allah be upon him - would not constitute proof. Sufficient in this regard is his statement - peace be upon him - which we mentioned earlier: "Whoever is within that boundary should begin from where they reside."

L12796 It has been authentically reported from Ibn Umar that he did not hear the Prophet—peace and blessings of Allah be upon him—specify *al-Yalamlam* as a *miqat*. Thus, is the narration of one who heard [the Prophet] and knew more complete than that of one who heard some parts and not others? Another proof is that the entire Ummah has reached definitive consensus that whoever's path does not pass by any of the *miqats* is not obligated to enter *ihram* before reaching the point opposite the *miqat*'s location.

L12797 Then they differed regarding when one reaches the location of the Miqat. One faction held: He must assume Ihrām. Others maintained: It is not obligatory, for it is impermissible to establish an obligation without textual evidence or consensus.

قَالَ أَبُو مُحَمَّد: قَوْلُ ابْنِ عُمَرَ هَذَا يُوجِبُ عَلَيْهِمْ تَأْخِيرَ الْإِحْرَامِ إِلَى الْجُحْفَةِ، وَمِنْهُ مَنْ كَانَتْ طَرِيقُهُ عَلَى غَيْرِ الْمَوَاقِيتِ فَإِنَّ قَوْمًا قَالُوا: إِذَا حَاذَى الْمِيقَاتَ لَزِمَهُ أَنْ يُحْرِمَ - وَهُوَ قَوْلُ عَطَاءٍ - وَاحْتَجُّوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ عُمَرَ قَالَ: إِنَّ أَهْلَ الْعِرَاقِ شَكَوْا إِلَى عُمَرَ فِي حَجِّهِمْ أَنَّ " قَرْنَ الْمَنَازِلِ " جَوْرٌ عَنْ طَرِيقِهِمْ، فَقَالَ لَهُمْ: انْظُرُوا حَذْوَهَا مِنْ طَرِيقِكُمْ؟ فَحَدَّ لَهُمْ " ذَاتَ عِرْقٍ ".

قَالَ عَلِيٌّ: وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّ الْخَبَرَ الْمُسْنَدَ فِي تَوْقِيتِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ذَاتَ عِرْقٍ لِأَهْلِ الْعِرَاقِ وَقَدْ ذَكَرْنَاهُ آنِفًا فَإِنَّمَا حَدَّ لَهُمْ عُمَرُ مَا حَدَّ لَهُمْ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ثُمَّ لَوْ لَمْ يَصِحَّ فِي ذَلِكَ خَبَرٌ لَمَا كَانَ فِي قَوْلِ أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حُجَّةٌ وَيَكْفِي مِنْ ذَلِكَ قَوْلُهُ - عَلَيْهِ السَّلَامُ - الَّذِي ذَكَرْنَا آنِفًا " وَمَنْ كَانَ دُونَ ذَلِكَ فَمِنْ حَيْثُ أَنْشَأَ ".

وَقَدْ صَحَّ عَنْ ابْنِ عُمَرَ أَنَّهُ لَمْ يَسْمَعْ تَوْقِيتَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَلَمْلَمَ، فَرِوَايَةُ مَنْ سَمِعَ، وَعَلِمَ: أَتَمُّ مِنْ رِوَايَةِ مَنْ سَمِعَ بَعْضًا وَلَمْ يَسْمَعْ بَعْضًا؟ وَبُرْهَانٌ آخَرُ -: وَهُوَ أَنَّ جَمِيعَ الْأُمَّةِ مُجْمِعُونَ إجْمَاعًا مُتَيَقَّنًا عَلَى أَنَّ مَنْ كَانَ طَرِيقُهُ لَا يَمُرُّ بِشَيْءٍ مِنْ الْمَوَاقِيتِ فَإِنَّهُ لَا يَلْزَمُهُ الْإِحْرَامُ قَبْلَ مُحَاذَاةِ مَوْضِعِ الْمِيقَاتِ.

ثُمَّ اخْتَلَفُوا إذَا حَاذَى مَوْضِعَ الْمِيقَاتِ، فَقَالَتْ طَائِفَةٌ: يَلْزَمُهُ أَنْ يُحْرِمَ، وَقَالَ آخَرُونَ: لَا يَلْزَمُهُ، فَلَا يَجُوزُ أَنْ يَجِبَ فَرْضٌ بِغَيْرِ نَصٍّ وَلَا إجْمَاعٍ.

وَمِنْهُ مَنْ تَجَاوَزَ الْمِيقَاتَ وَهُوَ يُرِيدُ حَجًّا أَوْ عُمْرَةً فَلَمْ يُحْرِمْ وَأَحْرَمَ بَعْدَهُ فَإِنَّ أَبَا حَنِيفَةَ قَالَ: هُوَ مُسِيءٌ وَيَرْجِعُ إِلَى مِيقَاتِهِ فَيُلَبِّي مِنْهُ وَلَا دَمَ عَلَيْهِ وَلَا شَيْءَ؛ فَإِنْ رَجَعَ إِلَى الْمِيقَاتِ وَلَمْ يُلَبِّ مِنْهُ فَعَلَيْهِ دَمُ شَاةٍ، وَكَذَلِكَ عَلَيْهِ دَمٌ إِنْ لَمْ يَرْجِعْ إِلَى الْمِيقَاتِ، وَحَجُّهُ وَعُمْرَتُهُ تَامَّانِ فِي كُلِّ ذَلِكَ.

Among them is one who passes the Miqāt intending Ḥajj or ʿUmrah without entering iḥrām, then enters iḥrām after passing it. For Abū Ḥanīfah said: He is blameworthy and must return to his Miqāt to recite the Talbiyah from it, with no sacrificial offering nor anything else. If he returns to... If he passed the designated boundary (miqāt) without reciting the talbiyah from it, he must offer a sheep as expiatory sacrifice (dam). Likewise, he must offer a sacrifice if he does not return to the miqāt, yet his Hajj and Umrah are still complete in all such circumstances.

قَالَ أَبُو مُحَمَّدٍ: مَا نَعْلَمُ أَحَدًا قَبْلَهُ قَسَّمَ هَذَا التَّقْسِيمَ [الطَّرِيفَ] مِنْ إِسْقَاطِهِ الدَّمَ بِرُجُوعِهِ إِلَى الْمِيقَاتِ وَتَلْبِيَتِهِ مِنْهُ وَإِثْبَاتِهِ الدَّمَ إِنْ لَمْ يَرْجِعْ، أَوْ إِنْ رَجَعَ إِلَى الْمِيقَاتِ وَلَمْ يُلَبِّ وَهَذَا أَمْرٌ لَا يُوجِبُهُ قُرْآنٌ، وَلَا سُنَّةٌ صَحِيحَةٌ، وَلَا رِوَايَةٌ سَقِيمَةٌ، وَلَا قَوْلُ صَاحِبٍ، وَلَا تَابِعٍ، وَلَا قِيَاسٌ، وَلَا نَظَرٌ يُعْقَلُ؟ وَقَالَ مَالِكٌ، وَسُفْيَانُ، وَالْأَوْزَاعِيُّ، وَالْحَسَنُ بْنُ حَيٍّ، وَاللَّيْثُ، وَأَبُو يُوسُفَ: إِنْ رَجَعَ إِلَى الْمِيقَاتِ فَأَحْرَمَ مِنْهُ، فَلَا شَيْءَ عَلَيْهِ، وَلَا دَمَ وَلَا غَيْرَهُ لَبَّى أَوْ لَمْ يُلَبِّ؛ وَإِنْ لَمْ يَرْجِعْ فَعَلَيْهِ دَمٌ، وَحَجُّهُ، وَعُمْرَتُهُ: صَحِيحَانِ.

Abū Muḥammad said: We do not know anyone before him who divided this novel categorization - annulling the expiation sacrifice (dam) by returning to the miqāt and uttering the talbiyah there, while affirming the dam if one does not return, or returns to the miqāt without uttering the talbiyah. Is this a ruling not mandated by the Quran, nor a sound Sunnah, nor a weak narration, nor the opinion of a Companion, nor a Successor, nor analogical reasoning, nor any rationally sound reasoning? Mālik, Sufyān, al-Awzāʿī, Ḥasan ibn Ḥayy, al-Layth, and Abū Yūsuf said: If one returns to the miqāt and enters into iḥrām from it, there is nothing incumbent upon him, neither dam nor anything else, whether he uttered the talbiyah or not. If he does not return, then the dam is required of him, and both his Ḥajj and ʿUmrah remain valid.

وَقَالَ زُفَرُ: عَلَيْهِ دَمُ شَاةٍ رَجَعَ إِلَى الْمِيقَاتِ أَوْ لَمْ يَرْجِعْ.

Zufar said: He is obligated to sacrifice a sheep, whether he returned to the mīqāt or did not return.

قَالَ أَبُو مُحَمَّدٍ: رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ قَالَ: نَا وَكِيعٌ وَابْنُ عُلَيَّةَ قَالَ وَكِيعٌ: عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ حَبِيبِ بْنِ أَبِي ثَابِتٍ؛ وَقَالَ ابْنُ عُلَيَّةَ: عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ جَابِرِ بْنِ زَيْدٍ ثُمَّ اتَّفَقَ حَبِيبٌ، وَجَابِرٌ كِلَاهُمَا عَنْ ابْنِ عَبَّاسٍ: أَنَّهُ كَانَ يَرُدُّ إِلَى الْمِيقَاتِ الَّذِينَ يَدْخُلُونَ مَكَّةَ بِغَيْرِ إِحْرَامٍ، قَالَ جَابِرٌ: رَأَيْته يَفْعَلُ ذَلِكَ، وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ مُجَاهِدٍ عَنْ أَبِيهِ عَنْ ابْنِ عَبَّاسٍ قَالَ: إذَا زَلَّ الرَّجُلُ

Abu Muhammad said: It was reported to us through the chain of Ibn Abi Shaybah, who said: Narrated to us by Waki‘ and Ibn ‘Ulayyah. Waki‘ said: From Sufyan al-Thawri from Habib ibn Abi Thabit; and Ibn ‘Ulayyah said: From Ayyub al-Sikhtiyani from ‘Amr ibn Dinar from Jabir ibn Zayd. Then the chains of Habib and Jabir concur, both narrating from Ibn ‘Abbas: that he would go to the *miqat* [to address] those who enter Mecca without *iḥrām*. Jabir said: I saw him do that. Through the chain of ‘Abd al-Razzaq from Ibn Mujahid from his father from Ibn ‘Abbas, who said: If a man misses the time [i.e., the *miqat*] while not in *iḥrām*, he must return to the *miqat*. If he fears missing Hajj, he may proceed forward and offer a compensatory sacrifice *dam*.

عَنْ الْوَقْتِ - وَهُوَ غَيْرُ مُحْرِمٍ - فَإِنَّهُ يَرْجِعُ إِلَى الْمِيقَاتِ فَإِنْ خَشِيَ أَنْ يَفُوتَهُ الْحَجُّ تَقَدَّمَ وَأَهْرَاقَ دَمًا.

L12804 From Laith, from ‘Ata’, from Ibn Abbas: If one does not assume ihram from his designated miqat, it suffices him, but he must sacrifice a dam.

وَعَنْ لَيْثٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ إِذَا لَمْ يُهِلَّ مِنْ مِيقَاتِهِ أَجْزَأَهُ وَأَرَاقَ دَمًا - وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا وَكِيعٌ عَنْ إِسْمَاعِيلَ عَنْ وَبَرَةَ: أَنَّ رَجُلًا دَخَلَ مَكَّةَ - وَعَلَيْهِ ثِيَابٌ وَقَدْ حَضَرَ الْحَجَّ وَخَافَ إِنْ رَجَعَ فَوْتَهُ - فَأَمَرَهُ ابْنُ الزُّبَيْرِ أَنْ يُهِلَّ مِنْ مَكَانِهِ فَإِذَا قَضَى الْحَجَّ خَرَجَ إِلَى الْوَقْتِ فَأَهَلَّ بِعُمْرَةٍ.

Via the chain of Ibn Abi Shaybah: Wakīʿ narrated to us from Ismāʿīl from Wabarah: A man entered Mecca wearing non-ihram garments while intending for Hajj, fearing that returning [to the miqat] would cause him to miss Hajj. Ibn al-Zubayr ordered him to assume ihram from his current location. When he completed Hajj, he departed from Mecca immediately and assumed ihram for Umrah.

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا ابْنُ عُيَيْنَةَ عَنْ أَبَانَ بْنِ تَغْلِبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَسْوَدِ عَنْ أَبِيهِ أَوْ عَمِّهِ: أَنَّ ابْنَ مَسْعُودٍ رَآهُمْ بِذَاتِ الشُّقُوقِ فَقَالَ: مَا هَؤُلَاءِ؟ أَتُجَّارٌ؟ قَالُوا: لَا، قَالَ: فَمَا يَحْبِسُهُمْ عَمَّا خَرَجُوا لَهُ؟ فَمَالُوا إِلَى أَدْنَى مَاءٍ فَاغْتَسَلُوا وَأَحْرَمُوا.

L12805 It has been narrated to us via Saʿīd ibn Manṣūr: Ibn ʿUyaynah narrated to us, from Abān ibn Taghlib, from ʿAbd al-Raḥmān ibn al-Aswad, from his father or uncle: that Ibn Masʿūd saw them at Dhāt al-Shuqūq and said, “Who are these? Are they merchants?” They said, “No.” He said, “What keeps them from fulfilling the purpose of their journey?” They then turned to the nearest water, performed *ghusl*, and assumed *iḥrām*.

قَالَ أَبُو مُحَمَّدٍ: مَا نَعْلَمُ عَنْ الصَّحَابَةِ فِي هَذَا إِلَّا مَا أَوْرَدْنَا.

L12806–12807 Abu Muhammad said: We know of nothing from the Companions regarding this matter except what we have cited.

وَرُوِيَ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ: أَنَّهُ كَانَ لَا يَرَى بَأْسًا بِتَجَاوُزِ الْمِيقَاتِ لِمَنْ أَرَادَ الْحَجَّ وَالْعُمْرَةَ.

L12808 It has been reported from Yaḥyā ibn Saʿīd al-Anṣārī that he found no objection to those intending to perform Ḥajj and ʿUmrah passing beyond the mīqāt (the predefined ritual boundary for entering iḥrām).

وَعَنْ الزُّهْرِيِّ نَحْوُ هَذَا لِمَنْ تَوَقَّعَ شَيْئًا - وَعَنْ وَكِيعٍ عَنْ سُفْيَانَ عَنْ حَبِيبٍ عَنْ إبْرَاهِيمَ النَّخَعِيِّ فِيمَنْ دَخَلَ مَكَّةَ لَا حَاجًّا وَلَا مُعْتَمِرًا وَخَشِيَ فَوَاتَ الْحَجِّ إنْ خَرَجَ إلَى الْمِيقَاتِ، قَالَ: يُهِلُّ مِنْ مَكَانِهِ.

L12809 A ruling similar to this is reported from al-Zuhri regarding one who anticipates something. From Waki’, from Sufyan, from Habib, from Ibrahim al-Nakha’i concerning someone who enters Mecca neither to perform Hajj nor Umrah, yet fears missing Hajj if he departs for the Miqat (designated boundary for assuming Ihram). He said: “He should declare his intention for Hajj from his current location.”

قَالَ حَبِيبٌ: وَلَمْ يَذْكُرْ دَمًا.

L12810 Habib said: And he did not mention blood.

وَعَنْ الْحَسَنِ، وَسَعِيدِ بْنِ جُبَيْرٍ: أَنَّهُ يَرْجِعُ إلَى الْمِيقَاتِ.

L12811 And from al-Ḥasan and Saʿīd ibn Jubayr, that one is to return to the miqāt.

وَعَنْ عَطَاءٍ قَالَ مَرَّةً: عَلَيْهِ دَمٌ، وَمَرَّةً قَالَ: لَا شَيْءَ عَلَيْهِ، رُوِّينَا ذَلِكَ مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ عَطَاءٍ قَالَ: لَيْسَ عَلَى مَنْ تَجَاوَزَ الْمِيقَاتَ غَيْرَ مُحْرِمٍ شَيْءٌ.

L12812 From ‘Ata’, it is reported that he once said: “Upon him is a sacrifice,” and another time he said: “There is no obligation upon him.” This was narrated to us through Sa‘id ibn Mansur, who narrated to us: Sufyan (Ibn ‘Uyaynah) from Ibn Abi Najih, from ‘Ata’, who said: “There is nothing incumbent upon one who passes beyond the *miqat* without entering *ihram*.”

قَالَ سُفْيَانُ: لَا يُعْجِبُنَا.

L12813 Sufyān said, “It does not please us.”

</FinalTranslation>

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا عَتَّابُ بْنُ بَشِيرٍ أَنَا خُصَيْفٌ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: مَنْ جَاوَزَ الْوَقْتَ الَّذِي وَقَّتَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَمْ يُحْرِمْ مِنْهُ فَلَنْ يُغْنِيَ عَنْهُ إنْ أَحْرَمَ شَيْئًا حَتَّى يَرْجِعَ إلَى الْوَقْتِ الَّذِي وَقَّتَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَيُحْرِمُ مِنْهُ إلَّا إنْسَانٌ أَهْلُهُ مِنْ وَرَاءِ الْوَقْتِ فَيُحْرِمُ مِنْ أَهْلِهِ.

L12814 From the narration of Sa’id ibn Mansur: ’Attab ibn Bashir narrated to us, Khusayf narrated to us from Sa’id ibn Jubayr, who said: Whoever exceeds the designated time that the Messenger of Allah - peace and blessings of Allah be upon him - specified without entering Ihram during it, nothing will avail him if he assumes Ihram at all until he returns to the time that the Prophet - peace and blessings of Allah be upon him - designated and enters Ihram during it. This excludes one whose family resides beyond the designated time, in which case he may enter Ihram from where his family resides.

قَالَ أَبُو مُحَمَّدٍ: فَأَصَحُّ الرِّوَايَاتِ عَنْ ابْنِ عَبَّاسٍ، وَهَذِهِ الرِّوَايَةُ عَنْ سَعِيدِ بْنِ جُبَيْرٍ مُوَافِقَةٌ لِقَوْلِنَا، وَأَضْعَفُ الرِّوَايَاتِ عَنْ ابْنِ عَبَّاسٍ مُوَافِقَةٌ لِقَوْلِ الْحَاضِرِينَ مِنْ مُخَالِفِينَا وَلَيْسَ بَعْضُ أَقْوَالِهِمْ - رَضِيَ اللَّهُ عَنْهُمْ - بِأَوْلَى مِنْ بَعْضٍ، الْوَاجِبُ عِنْدَ التَّنَازُعِ مَا أَوْجَبَهُ اللَّهُ تَعَالَى إذْ يَقُولُ: {فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الآخِرِ} [النساء: ٥٩] فَفَعَلْنَا - وَلِلَّهِ الْحَمْدُ - فَوَجَدْنَا اللَّهَ تَعَالَى قَدْ وَقَّتَ عَلَى لِسَانِ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَوَاقِيتَ وَحَدَّ حُدُودًا فَلَا يَحِلُّ تَعَدِّيهَا {وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ} [الطلاق: ١] .

L12815 Abū Muḥammad said: The most authentic narrations from Ibn ʿAbbās—and this narration from Saʿīd ibn Jubayr aligns with our position—while the weakest narrations from Ibn ʿAbbās conform to the statements of our present opponents. None of their statements—may Allah be pleased with them—holds greater validity than another. In cases of dispute, only what Allah the Exalted has ordained is obligatory, as He states: “If you differ regarding any matter, refer it to Allah and His Messenger, if you truly believe in Allah and the Last Day” (al-Nisāʾ 4:59). We have done so—praise be to Allah—and we found that Allah the Exalted specified times through His Messenger’s pronouncement—peace and blessings of Allah be upon him—and defined boundaries that must not be transgressed. “Whoever transgresses the boundaries set by Allah has wronged themselves” (al-Ṭalāq 65:1).[31]

وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» وَقَالَ - عَلَيْهِ السَّلَامُ -: «إنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ» فَلَمْ يَجُزْ أَنْ يُصَحِّحَ عَمَلًا عُمِلَ عَلَى خِلَافِ أَمْرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَا أَنْ يُشَرِّعَ وُجُوبَ

L12816–12818 The Messenger of Allah—peace be upon him—said, “Whoever performs an action not in accordance with our command, it is rejected.” He—peace be upon him—also said, “Your blood and wealth upon you are inviolable.”

[31] **Qur’an references (L12815):** Qur’an 4:59 (An-Nisa); Qur’an 65:1 (At-Talaq).

دَمٍ لَمْ يُوجِبْهُ اللَّهُ تَعَالَى وَلَا رَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] فَيُبِيحُ مِنْ مَالِهِ الْمُحْرِمُ مَا لَمْ يَأْتِ قُرْآنٌ وَلَا سُنَّةٌ بِإِبَاحَتِهِ، وَمَا نَعْلَمُ لِمَنْ أَوْجَبَ الدَّمَ وَأَجَازَ الْإِحْرَامَ حُجَّةً أَصْلًا.

Therefore, it is not permissible to validate any action performed contrary to the command. It is not for the Messenger of Allah (peace and blessings of Allah be upon him) to legislate the obligation of a compensatory offering that Allah the Exalted has not ordained, nor His Messenger (peace and blessings of Allah be upon him) - "And your Lord is never forgetful" [Maryam: 64]. Thus, those [who impose this ruling] permit the pilgrim to use his wealth for what no Quranic injunction or Sunnah has legitimized, and we know of no valid foundational evidence whatsoever for those who impose the compensatory offering while permitting the assumption of Ihram.[3233]

فَإِنَّ قَالُوا: إنَّ أَشْيَاءَ جَاءَ النَّصُّ فِيهَا بِوُجُوبِ دَمٍ؟ قُلْنَا: نَعَمْ، فَلَا يَجُوزُ تَعَدِّيهَا وَلَيْسَ مِنْكُمْ أَحَدٌ إلَّا وَقَدْ أَوْجَبَ الدَّمَ حَيْثُ لَمْ يُوجِبْهُ صَاحِبُهُ، وَهَذَا تَحَكُّمٌ لَا يَجُوزُ الْقَوْلُ بِهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L12819 If they say, "Are there not matters where the text specifies the obligation of a blood sacrifice?" We reply: Yes, so it is impermissible to transgress them. There is none among you who has not required a blood offering where his counterpart did not deem it obligatory—and this is arbitrary judgment; it is impermissible to uphold such a view. And success is from Allah, the Exalted.

وَمِنْهُ مَنْ أَحْرَمَ قَبْلَ الْوَقْتِ فَإِنَّ قَوْمًا اسْتَحَبُّوهُ، وَقَوْمًا كَرِهُوهُ وَأَلْزَمُوهُ إذَا وَقَعَ.

L12820 Another juristic ruling concerns one who enters *iḥrām* before its designated time. Some jurists deemed this commendable, while others disapproved of it yet nonetheless obligated him to adhere to it once undertaken.

رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ أُذَيْنَةَ بْنِ مَسْلَمَةَ الْعَبْدِيِّ عَنْ أَبِيهِ قَالَ: قُلْت لِعُمَرَ بْنِ الْخَطَّابِ: إنِّي رَكِبْت السُّفُنَ، وَالْخَيْلَ، وَالْإِبِلَ فَمِنْ أَيْنَ أُحْرِمُ، فَقَالَ: ائْتِ عَلِيًّا فَاسْأَلْهُ؟ فَسَأَلَ عَلِيًّا؟ فَقَالَ لَهُ: مِنْ حَيْثُ أَبْدَأْت أَنْ تُنْشِئَهَا مِنْ بِلَادِك، فَرَجَعَ إلَى عُمَرَ فَأَخْبَرَهُ، فَقَالَ لَهُ عُمَرُ: هُوَ كَمَا قَالَ لَك عَلِيٌّ.

L12821 It was narrated to us via the chain of ʿAbd al-Raḥmān ibn Udhaynah ibn Maslamah al-ʿAbdī from his father, who said: I said to ʿUmar ibn al-Khaṭṭāb: "I have ridden ships, horses, and camels. From where should I assume Ihrām?" He replied: "Go to ʿAlī and ask him." So he asked ʿAlī, who said to him: "From where you began to assume Ihrām in your land." He returned to ʿUmar and informed him. ʿUmar said: "It is as ʿAlī told you."

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ عَمْرِو بْنِ مُرَّةَ عَنْ عَبْدِ اللَّهِ بْنِ سَلَمَةَ أَنَّ رَجُلًا سَأَلَ عَلِيَّ بْنَ أَبِي طَالِبٍ عَنْ قَوْلِ اللَّهِ تَعَالَى: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] فَقَالَ: أَنْ تُحْرِمَ مِنْ دُوَيْرَةِ أَهْلِك.

L12822 And from the narration of Shuʿbah from ʿAmr ibn Murrah from ʿAbdullāh ibn Salamah that a man asked ʿAlī ibn Abī Ṭālib about the statement of Allah the Exalted: {And complete the Ḥajj and ʿUmrah for Allah} [Al-Baqarah: 196].

[32]**Hadith references (L12816):** Sahih Muslim 1718b; Riyad as-Salihin 1647; Riyad as-Salihin 169.

[33]**Qur'an references (L12816):** Qur'an 19:64 (Maryam).

He replied: “That you enter into iḥrām from the small dwelling of your family.”[34]

L12823 And through him to ʿAbd Allāh ibn Salamah from ʿĀ’ishah, a similar narration is related.

وَبِهِ إِلَى عَبْدِ اللَّهِ بْنِ سَلَمَةَ عَنْ عَائِشَةَ مِثْلُهُ.

L12824 And through the chain of Abd al-Rahman ibn Mahdi from Hushaym from Abu Bishr from Sallam ibn Amr from Uthman ibn Affan: Performing Umrah is complete when done on behalf of one’s family.

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ عَنْ هُشَيْمٍ عَنْ أَبِي بِشْرٍ عَنْ سَلَّامِ بْنِ عَمْرٍو عَنْ عُثْمَانَ بْنِ عَفَّانَ: الْعُمْرَةُ تَامَّةٌ مِنْ أَهْلِكَ.

L12825 From the chain of Al-Ḥammānī, from Hushaym, from some of his companions, from Ibrāhīm, from Ibn Masʿūd: “Among the integral components of perfecting the Hajj is to assume the state of Ihram at the vicinity of one’s family’s residence.”

وَمِنْ طَرِيقِ الْحِمَّانِيِّ عَنْ هُشَيْمٍ عَنْ بَعْضِ أَصْحَابِهِ عَنْ إِبْرَاهِيمَ عَنِ ابْنِ مَسْعُودٍ مِنْ تَمَامِ الْحَجِّ أَنْ يُحْرِمَ مِنْ دُوَيْرَةِ أَهْلِهِ.

L12826 Through the chain of Ibn Abī Shaybah from Wakīʿ, from ʿUyaynah ibn ʿAbd al-Raḥmān, from his father, that he saw ʿUthmān ibn Abī al-ʿĀṣ enter into *iḥrām* from Al-Manjashāniyyah near Basra.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ وَكِيعٍ عَنْ عُيَيْنَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ أَنَّهُ رَأَى عُثْمَانَ بْنَ أَبِي الْعَاصِ أَحْرَمَ مِنَ الْمَنْجَشَانِيَةِ بِقُرْبِ الْبَصْرَةِ.

L12827 It is reported from Al-Hasan that ʿImrān ibn al-Ḥuṣayn assumed ihram from Basra.

وَعَنِ الْحَسَنِ: أَنَّ عِمْرَانَ بْنَ الْحُصَيْنِ أَحْرَمَ مِنَ الْبَصْرَةِ.

L12828–12829 It has been authentically reported from Ibn ʻUmar that he assumed the state of ihrām from the Sanctuary of Bayt al-Maqdis.

وَصَحَّ عَنِ ابْنِ عُمَرَ أَنَّهُ أَحْرَمَ مِنْ بَيْتِ الْمَقْدِسِ.

L12830 From a man who was not named—that Abū Masʿūd entered the state of iḥrām from Al-Saylaḥīn. From a man—that Ibn ʿAbbās entered the state of iḥrām from Al-Shām during severe cold. Through the chain of Saʿīd ibn Manṣūr: Ḥammād ibn Zayd narrated to us from Hishām ibn Ḥassān from Ḥafṣa bint Sīrīn from Muḥammad ibn Sīrīn that he journeyed with Anas to Mecca, then entered the state of iḥrām from Al-ʿAqīq.

وَعَنْ رَجُلٍ لَمْ يُسَمَّ أَنَّ أَبَا مَسْعُودٍ أَحْرَمَ مِنَ السَّيْلَحِينِ. وَعَنْ رَجُلٍ: أَنَّ ابْنَ عَبَّاسٍ أَحْرَمَ مِنَ الشَّامِ فِي بَرْدٍ شَدِيدٍ - وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا حَمَّادُ بْنُ زَيْدٍ عَنْ هِشَامِ بْنِ حَسَّانَ عَنْ حَفْصَةَ بِنْتِ سِيرِينَ عَنْ مُحَمَّدِ بْنِ سِيرِينَ أَنَّهُ خَرَجَ مَعَ أَنَسٍ إِلَى مَكَّةَ، فَأَحْرَمَ مِنَ الْعَقِيقِ.

L12831 And from Muʿādh: that he assumed iḥrām from the Levant—and we narrated it through the chain of al-Ḥudhāfī from ʿAbd al-Razzāq: Ibn Jurayj reported to us, Yūsuf ibn Māhak reported to us: that he heard ʿAbdullāh ibn Abī ʿAmmār report that he was with Muʿādh ibn Jabal and Kaʿb al-Khayr. They both assumed iḥrām for ʿUmrah from Jerusalem, and he assumed iḥrām with

وَعَنْ مُعَاذٍ: أَنَّهُ أَحْرَمَ مِنَ الشَّامِ - وَرُوِّينَاهُ مِنْ طَرِيقِ الْحُذَافِيِّ عَنْ عَبْدِ الرَّزَّاقِ نَا ابْنُ جُرَيْجٍ أَنَا يُوسُفُ بْنُ مَاهَكَ: أَنَّهُ سَمِعَ عَبْدَ اللَّهِ بْنَ أَبِي عَمَّارٍ أَنَّهُ كَانَ مَعَ مُعَاذِ بْنِ جَبَلٍ،

[34] **Qur’an references (L12822):** Qur’an 2:196 (Al-Baqarah).

them. And through it to ʿAbd al-Razzāq: Maʿmar reported to us from al-Zuhrī from Sālim that Ibn ʿUmar assumed iḥrām for ʿUmrah from Jerusalem.

وَكَعْبِ الْخَيْرِ: فَأَحْرَمَا مِنْ بَيْتِ الْمَقْدِسِ بِعُمْرَةٍ وَأَحْرَمَ مَعَهُمَا - وَبِهِ إِلَى عَبْدِ الرَّزَّاقِ نَا مَعْمَرٌ عَنِ الزُّهْرِيِّ عَنْ سَالِمٍ أَنَّ ابْنَ عُمَرَ أَحْرَمَ بِعُمْرَةٍ مِنْ بَيْتِ الْمَقْدِسِ.

L12832 From Ibrāhīm: They deemed it preferable that the first time a man performs Ḥajj or ʿUmrah, he should assume Iḥrām from his own land from which he departs. It is reported from Saʿīd ibn Jubayr that he assumed Iḥrām from al-Kufa. It is reported from Muslim ibn Yasār that he assumed Iḥrām from Ḍariyyah.

وَعَنْ إِبْرَاهِيمَ: كَانُوا يَسْتَحِبُّونَ أَوَّلَ مَا يَحُجُّ الرَّجُلُ أَوْ يَعْتَمِرُ أَنْ يُحْرِمَ مِنْ أَرْضِهِ الَّتِي يَخْرُجُ مِنْهَا - وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ أَنَّهُ أَحْرَمَ مِنَ الْكُوفَةِ. وَعَنْ مُسْلِمِ بْنِ يَسَارٍ أَنَّهُ أَحْرَمَ مِنْ ضَرِيَّةَ.

L12833 From Al-Aswad and the companions of Ibn Masʿud: that they assumed Ihram from Al-Kufah, and from Tawus and ‘Ata’, a similar opinion.

وَعَنِ الْأَسْوَدِ، وَأَصْحَابِ ابْنِ مَسْعُودٍ: أَنَّهُمْ أَحْرَمُوا مِنَ الْكُوفَةِ - وَعَنْ طَاوُسٍ، وَعَطَاءٍ نَحْوُ هَذَا.

L12834 Those who held this opinion argued based on what we have transmitted through Abū Dāwūd’s chain: Ahmad ibn Ṣāliḥ → Ibn Abī Fudayk → ʿAbdullāh ibn ʿAbd al-Raḥmān ibn Yuḥannas → Yaḥyā ibn Abī Sufyān al-Akhnasī → his grandmother Ḥakīmah → Umm Salamah, the Mother of the Believers, who heard the Prophet—peace and blessings be upon him—say: “Whoever assumes iḥrām for Ḥajj or ʿUmrah from Al-Masjid Al-Aqṣā to Al-Masjid Al-Ḥarām will have his past and future sins forgiven, or Paradise will be guaranteed for him.” ʿAbdullāh expressed uncertainty about which of the two statements he actually pronounced.[35]

وَاحْتَجَّ مَنْ رَأَى هَذَا بِمَا رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نَا أَحْمَدُ بْنُ صَالِحٍ نَا ابْنُ أَبِي فُدَيْكٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ يُحَنَّسَ عَنْ يَحْيَى بْنِ أَبِي سُفْيَانَ الْأَخْنَسِيِّ عَنْ جَدَّتِهِ حَكِيمَةَ عَنْ أُمِّ سَلَمَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا سَمِعَتِ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: " يَقُولُ: «مَنْ أَهَلَّ بِحَجَّةٍ، أَوْ عُمْرَةٍ مِنَ الْمَسْجِدِ الْأَقْصَى إِلَى الْمَسْجِدِ الْحَرَامِ غُفِرَ لَهُ مَا تَقَدَّمَ مِنْ ذَنْبِهِ وَمَا تَأَخَّرَ أَوْ وَجَبَتْ لَهُ الْجَنَّةُ» شَكَّ عَبْدُ اللَّهِ أَيُّهُمَا قَالَ؟

L12835–12836 And through the chain of Abu Bakr ibn Abi Shaybah, from Abd al-A’la ibn Abd al-A’la, from Ibn Ishaq, from Sulayman ibn Suhaym, from Umm Hakim bint Umayyah, from Umm Salamah, that the Messenger of Allah (peace and blessings be upon him) said: “Whoever assumes ihram with Umrah from Bayt al-Maqdis will be forgiven.”[36]

وَمِنْ طَرِيقِ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نَا عَبْدُ الْأَعْلَى بْنُ عَبْدِ الْأَعْلَى عَنِ ابْنِ إِسْحَاقَ عَنْ سُلَيْمَانَ بْنِ سُحَيْمٍ عَنْ أُمِّ حَكِيمٍ بِنْتِ أُمَيَّةَ عَنْ أُمِّ سَلَمَةَ " أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «مَنْ أَهَلَّ بِعُمْرَةٍ مِنْ بَيْتِ الْمَقْدِسِ غُفِرَ لَهُ» .

L12837 Ali said: As for these two narrations, no one with the slightest knowledge of hadith would concern themselves with them, because Yahya ibn Abi Sufyan al-Akhnasi, his grandmother Hakimah, and Umm Hakim bint Umayyah—it is not known who they are among the people. It is impermissible to contradict

قَالَ عَلِيٌّ: أَمَّا هَذَانِ الْأَثَرَانِ فَلَا يَشْتَغِلُ بِهِمَا مَنْ لَهُ أَدْنَى عِلْمٍ بِالْحَدِيثِ لِأَنَّ يَحْيَى بْنَ أَبِي سُفْيَانَ الْأَخْنَسِيَّ، وَجَدَّتَهُ حَكِيمَةَ، وَأُمَّ حَكِيمٍ بِنْتِ أُمَيَّةَ لَا يُدْرَى مَنْ هُمْ مِنَ النَّاسِ؟ وَلَا يَجُوزُ مُخَالَفَةُ مَا صَحَّ بِيَقِينٍ بِمِثْلِ هَذِهِ الْمَجْهُولَاتِ الَّتِي لَمْ تَصِحَّ قَطُّ، وَاحْتَجَّ بَعْضُهُمْ

[35] **Hadith references (L12834):** Sunan Abi Dawud 1741; Mishkat al-Masabih 2532.
[36] **Hadith references (L12836):** Sunan Ibn Majah 3001.

what has been authentically established with certainty through such obscure individuals that have never been authenticated. Some of them cited as proof that Ali and Abu Musa assumed *ihram* from Yemen, and the Prophet—peace and blessings of Allah be upon him—did not censure them for this.

L12838 He said, "And likewise Ka'b ibn 'Ujrata."

L12839 Abū Muḥammad said: We do not know where this report originated from Ka'b ibn 'Ujrah. As for 'Alī and Abū Mūsā, they arrived from Yemen having entered *iḥrām* in the same manner as the Prophet's *iḥrām*—peace be upon him—so the Prophet (peace be upon him) taught them how to proceed. This narration contains absolutely no mention of the location from which they entered the state of *iḥrām*, nor does it include any indication or explicit text confirming this occurred after the Prophet's (peace be upon him) designation of the *miqāt*. Since this is entirely absent from the report, it provides no valid proof for them whatsoever. We do not dispute their assertion that prior to the Prophet's (peace be upon him) designation of the *miqāt*, it was permissible to enter *iḥrām* from any place.

L12840 As for those we previously mentioned among the Companions and Successors—may Allah be pleased with them— ()—regarding the report of Ibn Udhaynah: We have transmitted it through Waki', who said: Shu'bah narrated to us from al-Ḥakam—that is, Ibn 'Utaybah—from Yaḥyā ibn al-Jazzār, from Ibn Udhaynah, who said: I came to 'Umar ibn al-Khaṭṭāb in Makkah and asked him, "I rode camels and horses until I reached you. From where should I begin my 'Umrah?" He replied, "Go to 'Alī ibn Abī Ṭālib and ask him." I went to 'Alī and asked him. He told me, "From where you began"—meaning the miqāt of his land. I then returned to 'Umar and informed him of this. He said, "I find no ruling for you except what Ibn Abī Ṭālib has stated."

L12841–12843 Abu Muhammad said: This is as stated in the hadith itself—that is, from the miqat of his land—thus it became a decisive proof for us. If it were sound in its origin—and it was narrated to us via Yahya ibn Sa'id al-Qattan's chain: Ibn Abi 'Arubah narrated to me from al-Hasan al-Basri, who said: Imran ibn al-Husayn assumed ihram from Basra, and 'Umar ibn al-Khattab criticized him

بِأَنَّ عَلِيًّا، وَأَبَا مُوسَى: أَحْرَمَا مِنْ الْيَمَنِ فَلَمْ يُنْكِرْ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ذَلِكَ عَلَيْهِمَا.

قَالَ: وَكَذَلِكَ كَعْبُ بْنُ عُجْرَةَ.

قَالَ أَبُو مُحَمَّدٍ: وَلَا نَدْرِي أَيْنَ وَجَدَ هَذَا عَنْ كَعْبِ بْنِ عُجْرَةَ؟ وَأَمَّا عَلِيٌّ، وَأَبُو مُوسَى، فَإِنَّهُمَا قَدِمَا مِنْ الْيَمَنِ مُهِلَّيْنِ كَإِهْلَالِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَعَلَّمَهُمَا - عَلَيْهِ السَّلَامُ - كَيْفَ يَعْمَلَانِ؟ وَلَيْسَ فِي هَذَا الْخَبَرِ أَلْبَتَّةَ ذِكْرٌ لِلْمَكَانِ الَّذِي أَحْرَمَا مِنْهُ، وَلَا فِيهِ دَلِيلٌ وَلَا نَصٌّ بِأَنَّ ذَلِكَ كَانَ بَعْدَ تَوْقِيتِهِ - عَلَيْهِ السَّلَامُ - الْمَوَاقِيتَ، فَإِذْ لَيْسَ ذَلِكَ فِيهِ فَلَا حُجَّةَ لَهُمْ بِهِ أَصْلًا، وَلَا نُخَالِفُهُمْ فِي أَنَّ قَبْلَ تَوْقِيتِهِ - عَلَيْهِ السَّلَامُ - الْمَوَاقِيتَ كَانَ الْإِحْرَامُ جَائِزًا مِنْ كُلِّ مَكَانٍ.

وَأَمَّا مَنْ قَدَّمْنَا ذِكْرَهُ مِنْ الصَّحَابَةِ وَالتَّابِعِينَ - رَضِيَ اللَّهُ عَنْهُمْ - () فَأَمَّا خَبَرُ ابْنِ أُذَيْنَةَ فَإِنَّنَا رُوِّينَاهُ مِنْ طَرِيقِ وَكِيعٍ قَالَ: نَا شُعْبَةُ عَنْ الْحَكَمِ هُوَ ابْنُ عُتَيْبَةَ - عَنْ يَحْيَى بْنِ الْجَزَّارِ عَنْ ابْنِ أُذَيْنَةَ قَالَ: أَتَيْت عُمَرَ بْنَ الْخَطَّابِ بِمَكَّةَ فَقُلْت لَهُ: إنِّي رَكِبْت الْإِبِلَ، وَالْخَيْلَ حَتَّى أَتَيْتُك فَمِنْ أَيْنَ أَعْتَمِرُ؟ قَالَ: ائْتِ عَلِيَّ بْنَ أَبِي طَالِبٍ فَسَلْهُ، فَأَتَيْته فَسَأَلْته، فَقَالَ لِي عَلِيٌّ: مِنْ حَيْثُ أَبْدَأْت - يَعْنِي مِنْ مِيقَاتِ أَرْضِهِ - قَالَ: فَأَتَيْت عُمَرَ فَذَكَرْت لَهُ ذَلِكَ، فَقَالَ: مَا أَجِدُ لَك إلَّا مَا قَالَ ابْنُ أَبِي طَالِبٍ.

قَالَ أَبُو مُحَمَّدٍ: هَكَذَا فِي الْحَدِيثِ نَفْسِهِ يَعْنِي مِنْ مِيقَاتِ أَرْضِهِ، فَعَادَ حُجَّةً لَنَا عَلَيْهِمْ لَوْ صَحَّ مِنْ أَصْلِهِ - وَرُوِّينَا مِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ: حَدَّثَنِي ابْنُ أَبِي عَرُوبَةَ عَنْ الْحَسَنِ الْبَصْرِيِّ قَالَ: أَحْرَمَ عِمْرَانُ بْنُ الْحُصَيْنِ مِنْ الْبَصْرَةِ فَعَابَ ذَلِكَ عَلَيْهِ عُمَرُ بْنُ

for that, saying: “You meant for people to say, ‘A man from the Companions of the Messenger of Allah (peace and blessings be upon him) assumed ihram from a garrison city among the cities.’” ‘Ali said: “‘Umar does not criticize a recommended act containing reward and nearness to Allah the Exalted—no, nor even a permissible act. He only criticizes what he deems impermissible. This is among what cannot be supposed otherwise about him at all.”

الْخَطَّابِ وَقَالَ: أَرَدْت أَنْ يَقُولَ النَّاسُ: أَحْرَمَ رَجُلٌ مِنْ أَصْحَابِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ مِصْرٍ مِنْ الْأَمْصَارِ. قَالَ عَلِيٌّ: وَعُمَرُ لَا يَعِيبُ مُسْتَحَبًّا فِيهِ أَجْرٌ وَقُرْبَةٌ إلَى اللَّهِ تَعَالَى، نَعَمْ، وَلَا مُبَاحًا، وَإِنَّمَا يَعِيبُ مَا لَا يَجُوزُ عِنْدَهُ، هَذَا مِمَّا لَا يَجُوزُ أَنْ يُظَنَّ بِهِ غَيْرُ هَذَا أَصْلًا.

L12844 We have narrated it through the chain of Sa‘īd ibn Manṣūr: Yazeed ibn Hārūn reported to us from Sa‘īd ibn Abī ‘Arūbah from Qatādah from Al-Ḥasan: That ‘Imrān ibn Al-Ḥuṣayni entered the state of iḥrām from Al-Baṣrah. When ‘Umar was informed of this, he became angry and said, “Will it become known among the people that a man from the Companions of the Messenger of Allāh—peace and blessings of Allāh be upon him—entered iḥrām from his city?” Abū Muḥammad said: “It is absolutely impossible for ‘Umar to be angered by an act he deemed permissible.” We have also narrated through the chain of ‘Abdur-Razzāq: Ma‘mar reported to us from Ayyūb As-Sikhtiyānī from Muḥammad ibn Sīrīn, who said: “‘Abdullāh ibn ‘Āmir entered iḥrām from Ḥayrabin. When he came to ‘Uthmān ibn ‘Affān, he reproached him, saying: ’You endangered yourself and treated your pilgrimage lightly!’”

وَرُوِّينَاهُ مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا يَزِيدُ بْنُ هَارُونَ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ عَنْ قَتَادَةَ عَنْ الْحَسَنِ: أَنَّ عِمْرَانَ بْنَ الْحُصَيْنِ أَحْرَمَ مِنْ الْبَصْرَةِ، فَبَلَغَ ذَلِكَ عُمَرَ فَغَضِبَ وَقَالَ: يَتَسَامَعُ النَّاسُ: أَنَّ رَجُلًا مِنْ أَصْحَابِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَحْرَمَ مِنْ مِصْرِهِ؟ قَالَ أَبُو مُحَمَّدٍ: عُمَرُ لَا يُمْكِنُ أَلْبَتَّةَ أَنْ يَغْضَبَ مِنْ عَمَلٍ مُبَاحٍ عِنْدَهُ - وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا مَعْمَرٌ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ مُحَمَّدِ بْنِ سِيرِينَ قَالَ: أَحْرَمَ عَبْدُ اللَّهِ بْنُ عَامِرٍ مِنْ حَيْرَبٍ فَقَدِمَ عَلَى عُثْمَانَ بْنِ عَفَّانَ فَلَامَهُ فَقَالَ لَهُ: غَرَرْت وَهَانَ عَلَيْك نُسُكُك.

L12845 Abu Muhammad said: Uthman does not criticize any righteous deed he considers valid nor any permissible action. He only criticizes what he deems impermissible—especially since he has clarified that this constitutes belittlement of ritual devotion. Belittlement of ritual devotion is impermissible, for the Exalted has commanded the veneration of Hajj’s sacred rites.

قَالَ أَبُو مُحَمَّدٍ: وَعُثْمَانُ لَا يَعِيبُ عَمَلًا صَالِحًا عِنْدَهُ وَلَا مُبَاحًا وَإِنَّمَا يَعِيبُ مَا لَا يَجُوزُ عِنْدَهُ لَا سِيَّمَا وَقَدْ بَيَّنَ أَنَّهُ هَوَانٌ بِالنُّسُكِ وَالْهَوَانُ بِالنُّسُكِ لَا يَحِلُّ، وَقَدْ أَمَرَ تَعَالَى بِتَعْظِيمِ شَعَائِرِ الْحَجِّ.

L12846 It has been narrated to us through the chain of Waki‘: **From** ‘Umarah ibn Zādān, who said: I asked Ibn ‘Umar: “What about a man who assumes ihram from Samarkand, or from **the time appointed for him**, or from Basra, or from Kufah?” Ibn ‘Umar replied: “Then we would have certainly faced hardship.”

وَرُوِّينَا مِنْ طَرِيقِ وَكِيعٍ: نَا عُمَارَةُ بْنُ زَاذَانَ قَالَ: قُلْت لِابْنِ عُمَرَ: الرَّجُلُ يُحْرِمُ مِنْ سَمَرْقَنْدَ، أَوْ مِنْ الْوَقْتِ الَّذِي وُقِّتَ لَهُ، أَوْ مِنْ الْبَصْرَةِ، أَوْ مِنْ الْكُوفَةِ؟ فَقَالَ ابْنُ عُمَرَ: قَدْ شَقِينَا إذًا.

L12847 Abu Muhammad said: The statement of Ibn Umar can only mean that if initiating the state of consecration outside the prescribed time had been

قَالَ أَبُو مُحَمَّدٍ: لَا يَحْتَمِلُ قَوْلُ ابْنِ عُمَرَ إلَّا أَنَّهُ لَوْ كَانَ الْإِحْرَامُ مِنْ غَيْرِ الْوَقْتِ مُبَاحًا لَشَقِيَ الْمُحْرِمُونَ مِنْ الْوَقْتِ.

permissible, those in consecration would have faced hardship from the prescribed time.

L12848 It was narrated to us through the chain of Waki‘, on our authority from Shu‘bah, from Muslim al-Qarri, who said: I asked Ibn Abbas in Makkah, “Where should I enter the state of *ihram* for Umrah?” He replied: “From the direction from which you arrived,” meaning the *miqat* of your land.

وَرُوِّينَا مِنْ طَرِيقِ وَكِيعٍ نَا شُعْبَةُ عَنْ مُسْلِمٍ الْقَرِّيِّ قَالَ: سَأَلْت ابْنَ عَبَّاسٍ بِمَكَّةَ مِنْ أَيْنَ أَعْتَمِرُ؟ قَالَ: مِنْ وَجْهِك الَّذِي جِئْت مِنْهُ، يَعْنِي مِيقَاتَ أَرْضِهِ.

L12849–12850 Abu Muhammad said: This is stated verbatim in the ḥadīth: meaning the miqat of his land.

قَالَ أَبُو مُحَمَّدٍ: هَكَذَا فِي الْحَدِيثِ نَصًّا - يَعْنِي مِيقَاتَ أَرْضِهِ.

L12851 Ali said: Their reliance on Umar, Uthman, Ali, Ibn Abbas, and Ibn Umar is invalidated. As for the other narrations we mentioned from the Companions and the Followers, none of them indicate that they passed by the miqat. Since this detail is absent in those narrations, we likewise affirm: Whoever does not pass by the miqat must enter the state of iḥrām from wherever they choose. This aligns the reports from them with what is authentically established from the Prophet—peace and blessings of Allah be upon him. It is impermissible to discard what is authentically established from the Prophet—peace and blessings of Allah be upon him—through the narrations transmitted by Aisha, Ibn Abbas, and Ibn Umar—may Allah be pleased with them—due to false assumptions that lack evidence to validate their interpretations. These assumptions align most perfectly with compliance with the Messenger of Allah—peace and blessings of Allah be upon him—the only permissible assumption about them, which it is impermissible to assume otherwise.

قَالَ عَلِيٌّ: فَبَطَلَ تَعَلُّقُهُمْ بِعُمَرَ، وَعُثْمَانَ، وَعَلِيٍّ، وَابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ؛ وَأَمَّا سَائِرُ الرِّوَايَاتِ الَّتِي ذَكَرْنَا عَنْ الصَّحَابَةِ وَالتَّابِعِينَ فَلَيْسَ فِي شَيْءٍ مِنْهَا: أَنَّهُمْ مَرُّوا عَلَى الْمِيقَاتِ، وَإِذْ لَيْسَ هَذَا فِيهَا فَكَذَلِكَ نَقُولُ: إنَّ مَنْ لَمْ يَمُرَّ عَلَى الْمِيقَاتِ فَلْيُحْرِمْ مِنْ حَيْثُ شَاءَ، وَبِهَذَا تَتَّفِقُ الْأَخْبَارُ عَنْهُمْ مَعَ مَا صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَا يَجُوزُ أَنْ يُتْرَكَ مَا صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ طَرِيقِ عَائِشَةَ، وَابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ - رَضِيَ اللَّهُ عَنْهُمْ - لِظُنُونٍ كَاذِبَةٍ لَا دَلِيلَ عَلَى صِحَّةِ تَأْوِيلِهِمْ فِيهَا، وَهِيَ خَارِجَةٌ أَحْسَنَ خُرُوجٍ عَلَى مُوَافَقَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الَّتِي لَا يَحِلُّ أَنْ يُظَنَّ بِهِمْ غَيْرُهَا.

L12852 Abu Muhammad said: As for those who cite the report from Ibn Masʿūd—his statement, “The kiss invalidates the fast of one who is fasting”—he likely meant when it is accompanied by semen emission.

قَالَ أَبُو مُحَمَّدٍ: وَمَنْ أَتَى إلَى مَا رُوِيَ عَنْ ابْنِ مَسْعُودٍ مِنْ قَوْلِهِ: إنَّ الْقُبْلَةَ تُفْطِرُ الصَّائِمَ، فَقَالَ: لَعَلَّهُ أَرَادَ إذَا كَانَ مَعَهَا مَنِيٌّ.

L12853 And regarding the narration of ʿĀ’ishah—may Allah be pleased with her—that she did not permit those whom the wives of her brothers had breastfed to visit her, he said: “We do not know why, and perhaps it was for some reason, not because she did not consider that breastfeeding to be a cause for prohibition.” Thus, he has no right to criticize us for interpreting what is narrated from them according to its literal and apparent meaning. Rather,

وَإِلَى خَبَرِ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا -: أَنَّهَا كَانَتْ لَا تَدْخُلُ عَلَيْهَا مَنْ أَرْضَعَهُ نِسَاءُ إخْوَتِهَا، فَقَالَ: لَا نَدْرِي لِمَاذَا وَلَعَلَّهُ لِأَمْرٍ مَا، وَلَيْسَ لِأَنَّهَا كَانَتْ لَا تَرَى ذَلِكَ الرَّضَاعَ مُحَرِّمًا -: فَلَيْسَ لَهُ أَنْ يُنْكِرَ عَلَيْنَا حَمْلَ مَا رُوِيَ عَنْهُمْ عَلَى حَقِيقَتِهِ وَظَاهِرِهِ؛ بَلْ الْمَلَامَةُ كُلُّهَا عَلَى

all blame lies upon those who insert into these narrations what is absent from them—namely, that they exceeded the prescribed breastfeeding periods. Indeed, whoever said this has undoubtedly lied—and success comes from Allah, the Exalted.

L12854 Abū Muḥammad said: As for Abū Ḥanīfah, Sufyān, and al-Ḥasan ibn Ḥayyin, they deemed it recommended to hasten the iḥrām before the mīqāt. As for Mālik, he disapproved of this but held it as obligatory once it was undertaken.

L12855 As for al-Shāfiʿī, he deemed it reprehensible; as for Abū Sulaymān, he did not permit it, and this is the opinion of our companions.

L12856 As for Abū Ḥanīfah, he abandoned analogical reasoning by permitting entering the state of iḥrām before the mīqāt, while not considering valid the prayer of one who prays when a river lies between him and the imam. Moreover, he did not distinguish between entering the state of iḥrām for Ḥajj outside the prescribed place and initiating prayer outside the prescribed place.

L12857–12859 As for the Mālikīs, if they interpret these traditions as the Ḥanafīs interpreted them, they would gravely contradict their own principles, for they deemed reprehensible what the Companions considered recommended. Yet if they interpret them as we have interpreted them... Given this, how can they permit what contradicts the limits established by the Messenger of Allah (peace and blessings be upon him)? This is something from which there is no escape—and success is solely from Allah, the Most High.

L12860 **Issue: The Garments Worn by a Pilgrim in Ihram.**

L12861 823 – Issue:

L12862 When one who intends to perform Hajj or Umrah reaches any of these designated points, if he intends Umrah and is male, he must strip off his clothes. He must not wear a shirt, trousers, turban, cap, robe, hooded cloak, socks, or gloves whatsoever. However, he may drape himself in any cloth, sheet, or upper garment he chooses. He should wear a lower garment, keep his head uncovered, and wear his sandals.

مَنْ أَقْحَمَ فِي هَذِهِ الْآثَارِ مَا لَيْسَ فِيهَا مِنْ أَنَّهُمْ جَازُوا عَلَى الْمَوَاقِيتِ، بَلْ قَدْ كَذَبَ مَنْ قَالَ هَذَا بِلَا شَكٍّ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

قَالَ أَبُو مُحَمَّد: أَمَّا أَبُو حَنِيفَةَ، وَسُفْيَانُ، وَالْحَسَنُ بْنُ حَيٍّ فَاسْتَحَبُّوا تَعْجِيلَ الْإِحْرَامِ قَبْلَ الْمِيقَاتِ، وَأَمَّا مَالِكٌ فَكَرِهَهُ وَأَلْزَمَهُ إذَا وَقَعَ.

وَأَمَّا الشَّافِعِيُّ فَكَرِهَهُ، وَأَمَّا أَبُو سُلَيْمَانَ فَلَمْ يُجِزْهُ - وَهُوَ قَوْلُ أَصْحَابِنَا.

فَأَمَّا أَبُو حَنِيفَةَ فَإِنَّهُ تَرَكَ الْقِيَاسَ، إذْ أَجَازَ الْإِحْرَامَ قَبْلَ الْمِيقَاتِ وَلَمْ يُجِزْ صَلَاةَ مَنْ صَلَّى وَبَيْنَهُ وَبَيْنَ الْإِمَامِ نَهْرٌ وَلَا فَرَّقَ بَيْنَ الْإِحْرَامِ بِالْحَجِّ فِي غَيْرِ مَوْضِعِ الْإِحْرَامِ وَبَيْنَ الْإِحْرَامِ بِالصَّلَاةِ فِي غَيْرِ مَوْضِعِ الصَّلَاةِ.

وَأَمَّا الْمَالِكِيُّونَ فَإِنْ حَمَلُوا هَذِهِ الْآثَارَ عَلَى مَا حَمَلَهَا عَلَيْهِ الْحَنَفِيُّونَ فَقَدْ أَعْظَمُوا الْقَوْلَ عَلَى أُصُولِهِمْ إذْ كَرِهُوا مَا اسْتَحَبَّهُ الصَّحَابَةُ، وَإِنْ حَمَلُوهَا عَلَى مَا حَمَلْنَاهَا نَحْنُ عَلَيْهِ فَكَيْفَ يُجِيزُونَ خِلَافَ مَا حَدَّهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؟ وَهَذَا مَا لَا مُخَلِّصَ مِنْهُ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ مَا يَلْبَسُ الْمُحْرِمُ مِنْ الثِّيَابِ]

٨٢٣ - مَسْأَلَةٌ:

فَإِذَا جَاءَ مَنْ يُرِيدُ الْحَجَّ أَوْ الْعُمْرَةَ إلَى أَحَدِ هَذِهِ الْمَوَاقِيتِ فَإِنْ كَانَ يُرِيدُ الْعُمْرَةَ فَلْيَتَجَرَّدْ مِنْ ثِيَابِهِ إنْ كَانَ رَجُلًا، فَلَا يَلْبَسُ الْقَمِيصَ، وَلَا سَرَاوِيلَ، وَلَا عِمَامَةً، وَلَا قَلَنْسُوَةً، وَلَا جُبَّةً، وَلَا بُرْنُسًا، وَلَا خُفَّيْنِ، وَلَا قُفَّازَيْنِ أَلْبَتَّةَ، لَكِنْ يَلْتَحِفُ فِيمَا شَاءَ مِنْ كِسَاءٍ، أَوْ مِلْحَفَةٍ " أَوْ رِدَاءٍ، وَيَتَّزِرُ وَيَكْشِفُ رَأْسَهُ وَيَلْبَسُ نَعْلَيْهِ.

وَلَا يَحِلُّ لَهُ أَنْ يَتَّزِرَ، وَلَا أَنْ يَلْتَحِفَ فِي ثَوْبٍ صُبِغَ كُلُّهُ أَوْ بَعْضُهُ بِوَرْسٍ، أَوْ زَعْفَرَانٍ، أَوْ عُصْفُرٍ.

L12863 It is not permissible for him to wear a lower garment (izar), nor to wrap himself in a garment dyed entirely or partially with wars (a plant-based dye), saffron, or safflower (عُصْفُرٍ).

فَإِنْ كَانَ امْرَأَةً فَلْتَلْبَسْ مَا شَاءَتْ مِنْ كُلِّ مَا ذَكَرْنَا أَنَّهُ لَا يَلْبَسُهُ الرَّجُلُ وَتُغَطِّي رَأْسَهَا إِلَّا أَنَّهَا لَا تَنْتَقِبُ أَصْلًا؛ لَكِنْ إِمَّا أَنْ تَكْشِفَ وَجْهَهَا، وَإِمَّا أَنْ تَسْدُلَ عَلَيْهِ ثَوْبًا مِنْ فَوْقِ رَأْسِهَا فَذَلِكَ لَهَا إِنْ شَاءَتْ.

L12864 If it is a woman, she may wear whatever she wishes from all that we have mentioned that men do not wear, and she must cover her head, except that she does not have to wear a niqab at all. She may either leave her face uncovered or let a garment hang over it from above her head—that is up to her, if she wishes.

وَلَا يَحِلُّ لَهَا أَنْ تَلْبَسَ شَيْئًا صُبِغَ كُلُّهُ أَوْ بَعْضُهُ بِوَرْسٍ أَوْ زَعْفَرَانٍ، وَلَا أَنْ تَلْبَسَ قُفَّازَيْنِ فِي يَدَيْهَا، وَلَهَا أَنْ تَلْبَسَ الْخِفَافَ وَالْمُعَصْفَرَ.

L12865 It is not permissible for her to wear anything dyed entirely or partially with wars (a yellow dye plant) or saffron, nor to wear a pair of gloves, but she may wear khuffs and safflower-dyed.

فَإِنْ لَمْ يَجِدْ الرَّجُلُ إِزَارًا فَلْيَلْبَسْ السَّرَاوِيلَ كَمَا هِيَ وَإِنْ لَمْ يَجِدْ نَعْلَيْنِ فَلْيَقْطَعْ خُفَّيْهِ تَحْتَ الْكَعْبَيْنِ وَلَا بُدَّ وَيَلْبَسُهُمَا كَذَلِكَ.

L12866 If a man does not find an *izar*, he must wear trousers as they are. If he does not find sandals, he must cut both his khuffs above the ankles and wear them in that manner.

بُرْهَانُ ذَلِكَ -: مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ نَا يَحْيَى بْنُ يَحْيَى قَالَ: قَرَأْت عَلَى مَالِكٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ [قَالَ] «سَأَلَ رَجُلٌ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا يَلْبَسُ الْمُحْرِمُ مِنْ الثِّيَابِ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: لَا تَلْبَسُوا الْقُمُصَ، وَلَا الْعَمَائِمَ، وَلَا السَّرَاوِيلَاتِ، وَلَا الْبَرَانِسَ وَلَا الْخِفَافَ إلَّا أَحَدٌ - لَا يَجِدُ النَّعْلَيْنِ - فَلْيَلْبَسْ خُفَّيْنِ وَلْيَقْطَعْهُمَا أَسْفَلَ مِنْ الْكَعْبَيْنِ، وَلَا تَلْبَسُوا مِنْ الثِّيَابِ شَيْئًا مَسَّهُ الزَّعْفَرَانُ وَلَا الْوَرْسُ» .

L12867 The evidence for that is what was narrated to us by Abdullah ibn Yusuf, who narrated to us from Ahmad ibn Fath, who narrated to us from Abd al-Wahhab ibn Isa, who narrated to us from Ahmad ibn Muhammad, who narrated to us from Ahmad ibn Ali, who narrated to us from Muslim ibn al-Hajjaj, who narrated to us from Yahya ibn Yahya, who said: I read to Malik, from Nafi', from Ibn Umar, who said: A man asked the Messenger of Allah (peace and blessings be upon him), "What garments should a pilgrim in the state of consecration (Ihram) not wear?" The Messenger of Allah (peace and blessings be upon him) replied: "Do not wear shirts, turbans, trousers, burnouses, or leather socks (khuffs), except for one who cannot find sandals. In that case, let him wear khuffs and cut them below the ankles. And do not wear any garment dyed with saffron or wars."

وَبِهِ إلَى مُسْلِمٍ نَا مُحَمَّدُ بْنُ رَافِعٍ نَا وَهْبُ بْنُ جَرِيرِ بْنِ حَازِمٍ نَا أَبِيٌّ [قَالَ] سَمِعْت قَيْسًا هُوَ ابْنُ سَعْدٍ - يُحَدِّثُ عَنْ عَطَاءٍ عَنْ صَفْوَانَ بْنِ يَعْلَى بْنِ أُمَيَّةَ عَنْ أَبِيهِ «أَنَّ رَجُلًا

L12868–12869 And through him to Muslim: From Muhammad ibn Rafi', from Wahb ibn Jarir ibn Hazim, from his father [Jarir ibn Hazim], [who said]: I heard Qays—who is Ibn Sa'd—narrating from 'Ata' from Safwan ibn Ya'la ibn Umayyah from his father: "A man came to the Prophet (peace be upon him) while

أَتَى النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ بِالْجِعْرَانَةِ قَدْ أَهَلَّ بِالْعُمْرَةِ وَهُوَ مُصَفِّرٌ رَأْسَهُ وَلِحْيَتَهُ، وَعَلَيْهِ جُبَّةٌ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: انْزِعْ عَنْكَ الْجُبَّةَ، وَاغْسِلْ عَنْكَ الصُّفْرَةَ، وَمَا كُنْتَ صَانِعًا فِي حَجِّكَ فَاصْنَعْهُ فِي عُمْرَتِكَ» .

he was at Al-Ji'ranah, having assumed Ihram for Umrah, with his head and beard dyed with saffron (yellow) and wearing a cloak. The Messenger of Allah (peace be upon him) said to him: 'Remove the cloak from yourself, wash off the saffron dye, and whatever you intended to perform in your Hajj, then perform it in your Umrah.'"[37]

L12870 قَالَ أَبُو مُحَمَّدٍ: كُلُّ مَا جُبَّ فِيهِ مَوْضِعٌ لِإِخْرَاجِ الرَّأْسِ مِنْهُ: فَهُوَ جُبَّةٌ فِي لُغَةِ الْعَرَبِ، وَكُلُّ مَا خِيطَ أَوْ نُسِجَ فِي طَرَفَيْهِ لِيَتَمَسَّكَ عَلَى الرَّأْسِ فَهُوَ بُرْنُسٌ كَالْغِفَارَةِ وَنَحْوِهَا -: نَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ إِسْحَاقَ بْنِ السَّلِيمِ نَا ابْنُ الْأَعْرَابِيِّ نَا أَبُو دَاوُد نَا أَحْمَدُ بْنُ مُحَمَّدِ بْنِ حَنْبَلٍ نَا يَعْقُوبُ هُوَ ابْنُ إِبْرَاهِيمَ بْنِ سَعْدٍ - نَا أَبِي عَنْ مُحَمَّدُ بْنُ إِسْحَاقَ قَالَ: إنَّ نَافِعًا مَوْلَى عَبْدِ اللَّهِ بْنِ عُمَرَ " أَنَّهُ سَمِعَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «نَهَى النِّسَاءَ فِي إحْرَامِهِنَّ عَنْ الْقُفَّازَيْنِ، وَالنِّقَابِ، وَمَا مَسَّ الْوَرْسُ وَالزَّعْفَرَانُ، مِنْ الثِّيَابِ وَلْتَلْبَسْ بَعْدَ ذَلِكَ مَا أَحَبَّتْ مِنْ أَلْوَانِ الثِّيَابِ - مِنْ مُعَصْفَرٍ، أَوْ خَزٍّ، أَوْ حُلِيٍّ، أَوْ سَرَاوِيلَ، أَوْ قَمِيصٍ، أَوْ خُفٍّ» .

Abu Muhammad said: Every garment in which an opening is made for the head to emerge is called a "jubbah" in the Arabic language. Every garment stitched or woven at its edges to adhere to the head is a "burnus," such as a head veil or similar covering. Narrated to us: Abdullah ibn Rabi' narrated to us: Muhammad ibn Ishaq ibn al-Sulaym narrated to us: Ibn al-A'rabi narrated to us: Abu Dawud narrated to us: Ahmad ibn Muhammad ibn Hanbal narrated to us: Ya'qub—the son of Ibrahim ibn Sa'd—narrated to us: His father narrated from Muhammad ibn Ishaq, who said: Nafi', the freed slave of Abdullah ibn Umar, reported hearing Allah's Messenger—peace be upon him—forbid women in ihrām from wearing gloves, face-veils, and garments touched by wars or saffron. Let them wear after that any colored garments they prefer—whether safflower-dyed, silk, ornamented garments, trousers, shirts, or leather socks.

L12871 قَالَ عَلِيٌّ: وَحَدَّثَنَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ قَالَ: نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ نَا نُوحُ بْنُ حَبِيبٍ الْقُومِسِيُّ نَا يَحْيَى بْنُ سَعِيدٍ هُوَ الْقَطَّانُ - نَا ابْنُ جُرَيْجٍ نَا عَطَاءٌ عَنْ صَفْوَانَ بْنِ يَعْلَى بْنِ أُمَيَّةَ عَنْ أَبِيهِ «أَنَّ رَجُلًا أَتَى رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَدْ أَحْرَمَ فِي جُبَّةٍ مُتَضَمِّخٌ، فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَّا الْجُبَّةُ فَاخْلَعْهَا، وَأَمَّا الطِّيبُ فَاغْسِلْهُ، ثُمَّ أَحْدِثْ إحْرَامًا» .

Ali said: Abdullah ibn Rabi'ah narrated to us, saying: Muhammad ibn Mu'awiyah on the authority of Ahmad ibn Shu'ayb, on the authority of Nuh ibn Habib al-Qūmisī, on the authority of Yahya ibn Sa'eed—that is, al-Qattān—on the authority of Ibn Jurayj, on the authority of 'Ata', from Safwan ibn Ya'la ibn Umayyah, from his father: "A man came to the Messenger of Allah—peace and blessings be upon him—while in the state of iḥrām, wearing a jubbah and saturated with perfume. The Messenger of Allah—peace and blessings be upon him—said to him: 'Remove the jubbah, wash off the perfume, then renew your iḥrām.'"

L12872–12874 قَالَ أَبُو مُحَمَّدٍ: نُوحٌ ثِقَةٌ مَشْهُورٌ، فَالْأَخْذُ بِهَذِهِ الزِّيَادَةِ وَاجِبٌ، وَيَجِبُ إحْدَاثُ الْإِحْرَامِ لِمَنْ أَحْرَمَ فِي جُبَّةٍ مُتَضَمِّخًا بِصُفْرَةٍ مَعًا - وَإِنْ كَانَ جَاهِلًا - لِأَنَّ رَسُولَ اللَّهِ - صَلَّى

Abu Muhammad said: Noah is trustworthy and renowned; thus, adhering to this addition is obligatory, and instituting it is obligatory. The state of ritual consecration (Iḥrām) for one who assumes it while wearing a cloak

[37] **Hadith references (L12869):** Sahih Muslim 1180d.

and anointing himself with yellow dye simultaneously—even if he is unaware [of the ruling]—because the Messenger of Allah (peace and blessings be upon him) only commanded this for those who combined both acts. We have mentioned in the Book of Prayer the Prophet's (peace and blessings be upon him) complete prohibition against men wearing garments dyed with safflower.

اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَأْمُرْ بِذَلِكَ إِلَّا مَنْ جَمَعَهَا، وَقَدْ ذَكَرْنَا فِي كِتَابِ الصَّلَاةِ نَهْيَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الرِّجَالَ عَنْ الْمُعَصْفَرِ جُمْلَةً.

L12875 Abu Muhammad said: There is disagreement regarding some of what we have mentioned, and it is the garment dyed with wars or saffron when it is washed until no trace of it remains. A group of scholars said: Wearing it is permissible.

قَالَ أَبُو مُحَمَّد: وَفِي بَعْضِ مَا ذَكَرْنَا خِلَافٌ، وَهُوَ الثَّوْبُ الْمَصْبُوغُ بِالْوَرْسِ، أَوْ الزَّعْفَرَانِ، إذَا غُسِلَ حَتَّى لَا يَبْقَى مِنْهُ أَثَرٌ فَقَالَ قَوْمٌ: لِبَاسُهُ جَائِزٌ.

L12876 Ali said: Some people have narrated a report (athar) concerning this matter. If it is authentic, it is obligatory to abide by it, but we do not know it to be authentic. Otherwise, wearing such a garment is impermissible at all because it has come into contact with wars or saffron. It has been narrated to us through the chain of Ibn Abi Shaybah: from ʻAbd al-Samad ibn ʻAbd al-Wārith al-Tannūrī, from Ḥammād ibn Salamah, from Hishām ibn ʻUrwah, that ʻAbdullāh ibn ʻUrwah asked ʻUrwah ibn al-Zubayr about a dyed garment that had been washed until its color faded—referring to saffron used by a pilgrim in iḥrām—and he prohibited him from it.

قَالَ عَلِيٌّ: قَدْ رَوَى بَعْضُ النَّاسِ فِي هَذَا أَثَرًا فَإِنْ صَحَّ وَجَبَ الْوُقُوفُ عِنْدَهُ وَلَا نَعْلَمُهُ صَحِيحًا، وَإِلَّا فَلَا يَجُوزُ لِبَاسُهُ أَصْلًا، لِأَنَّهُ قَدْ مَسَّهُ الْوَرْسُ، أَوْ الزَّعْفَرَانُ -: رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا عَبْدُ الصَّمَدِ بْنُ عَبْدِ الْوَارِثِ التَّنُّورِيُّ عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ هِشَامِ بْنِ عُرْوَةَ: أَنَّ عَبْدَ اللَّهِ بْنَ عُرْوَةَ سَأَلَ عُرْوَةَ بْنَ الزُّبَيْرِ عَنْ الثَّوْبِ الْمَصْبُوغِ إذَا غُسِلَ حَتَّى ذَهَبَ لَوْنُهُ - يَعْنِي بِالزَّعْفَرَانِ لِلْمُحْرِمِ - فَنَهَاهُ عَنْهُ.

L12877 Through the chain of Ibn Abī Shaybah: Hushaym narrated to us from Abū Bishr, who said: I was with Saʻīd ibn al-Musayyib when a man said to him, "I intend to assume iḥrām, and I have a garment dyed with saffron, so I washed it until its color disappeared." Saʻīd asked him, "Do you have any other garment with you?" The man replied, "No." Saʻīd said, "Then assume iḥrām in it."

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا هُشَيْمٌ عَنْ أَبِي بِشْرٍ قَالَ: كُنْت عِنْدَ سَعِيدِ بْنِ الْمُسَيِّبِ فَقَالَ لَهُ رَجُلٌ: إنِّي أُرِيدُ أَنْ أُحْرِمَ وَمَعِي ثَوْبٌ مَصْبُوغًا بِالزَّعْفَرَانِ فَغَسَلْته حَتَّى ذَهَبَ لَوْنُهُ؟ فَقَالَ لَهُ سَعِيدٌ: أَمَعَك ثَوْبٌ غَيْرُهُ؟ قَالَ: لَا، قَالَ: فَأَحْرِمْ فِيهِ.

L12878 And it was reported to us through the chain of Ibrāhīm from ʿĀ'ishah, the Mother of the Believers, that assuming iḥrām in a garment is permissible if it has been washed—though Ibrāhīm's direct hearing from ʿĀ'ishah is not valid.

وَرُوِّينَا مِنْ طَرِيقِ إبْرَاهِيمَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ إبَاحَةَ الْإِحْرَامِ فِيهِ إذَا غُسِلَ - وَلَا يَصِحُّ سَمَاعُ إبْرَاهِيمَ مِنْ عَائِشَةَ.

L12879 It has been narrated to us from Saʻīd ibn Jubayr, Ibrāhīm, ʿAṭā', al-Ḥasan, and Ṭāwus regarding the permissibility of wearing it in ihrām when it has been washed—though there are weaknesses in their chains of transmission. Among these is: What should one do if they find leather socks but cannot find

وَرُوِّينَا عَنْ سَعِيدِ بْنِ جُبَيْرٍ وَإِبْرَاهِيمَ، وَعَطَاءٍ، وَالْحَسَنِ، وَطَاوُسٍ: إبَاحَةَ الْإِحْرَامِ فِيهِ إذَا غُسِلَ - وَفِي أَسَانِيدِهِمْ مَغْمَزٌ -: وَمِنْهُ: مَنْ وَجَدَ خُفَّيْنِ وَلَمْ يَجِدْ نَعْلَيْنِ؟ فَقَدْ قَالَ

sandals? Some said: They may wear them as they are without cutting them. Others said: They should slit the trousers and wear them as a lower garment. Those who permitted wearing trousers and leather socks cited as evidence the following hadith transmitted to us by ʿAbdullāh ibn Rabīʿ: ʿAbdullāh ibn Muḥammad ibn ʿUthmān narrated to us, Aḥmad ibn Khālid narrated to us, ʿAlī ibn ʿAbd al-ʿAzīz narrated to us, al-Ḥajjāj ibn al-Minhāl narrated to us, Shuʿbah ibn al-Ḥajjāj narrated to us, reporting: ʿAmr ibn Dīnār informed me that he heard Jābir ibn Zayd say: I heard Ibn ʿAbbās say, "The Messenger of Allah—peace and blessings be upon him—addressed us at ʿArafāt and said: 'Whoever cannot find sandals may wear leather socks, and whoever cannot find a lower garment may wear trousers.'"[38]

قَوْمٌ: يَلْبَسُهُمَا كَمَا هُمَا وَلَا يَقْطَعُهُمَا - وَقَالَ قَوْمٌ يَشُقُّ السَّرَاوِيلَ فَيَتَّزِرُ بِهَا - وَاحْتَجَّ مَنْ أَجَازَ لَهُ لِبَاسَ السَّرَاوِيلِ وَالْخُفَّيْنِ بِمَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ عُثْمَانَ نَا أَحْمَدُ بْنُ خَالِدٍ نَا عَلِيُّ بْنُ عَبْدِ الْعَزِيزِ نَا الْحَجَّاجُ بْنُ الْمِنْهَالِ نَا شُعْبَةُ بْنُ الْحَجَّاجِ أَخْبَرَنِي عَمْرُو بْنُ دِينَارٍ سَمِعْت جَابِرَ بْنَ زَيْدٍ قَالَ: سَمِعْت ابْنَ عَبَّاسٍ قَالَ «خَطَبَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِعَرَفَاتٍ فَقَالَ: مَنْ لَمْ يَجِدْ نَعْلَيْنِ فَلْيَلْبَسْ خُفَّيْنِ، وَمَنْ لَمْ يَجِدْ إزَارًا فَلْيَلْبَسْ سَرَاوِيلَ» .

L12880–12881 Some scholars said: Cutting the khuffayn is an act of property destruction and is prohibited.

وَقَالَ بَعْضُهُمْ: قَطْعُ الْخُفَّيْنِ إفْسَادٌ لِلْمَالِ وَقَدْ نُهِيَ عَنْهُ.

L12882 Abu Muhammad said: The hadith of the Messenger of Allah—peace and blessings be upon him—is not permissible to oppose. Thus, one must wear trousers as they are, and there is no issue in that. As for leather socks, Ibn Umar's hadith—based on Ibn Abbas's hadith—specifies additional trimming of them until they lie below the ankles. Therefore, it is impermissible to oppose this ruling or to leave the excess [portion] untrimmed.

قَالَ أَبُو مُحَمَّدٍ: حَدِيثُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَا يَحِلُّ خِلَافُهُ، فَلْيَلْبَسْ السَّرَاوِيلَ كَمَا هِيَ وَلَا شَيْءَ فِي ذَلِكَ، وَأَمَّا الْخُفَّانِ فَحَدِيثُ ابْنِ عُمَرَ فِيهِ زِيَادَةُ الْقَطْعِ حَتَّى يَكُونَا أَسْفَلَ مِنْ الْكَعْبَيْنِ عَلَى حَدِيثِ ابْنِ عَبَّاسٍ فَلَا يَحِلُّ خِلَافُهُ، وَلَا تَرْكُ الزِّيَادَةِ.

L12883 It is narrated from Ali ibn Abi Talib: "If one cannot find sandals, they may wear khuffs, and if they cannot find a loincloth, they may wear trousers." This is also authentically reported from Ibn Abbas as his own statement.

وَرُوِّينَا عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ " إذَا لَمْ يَجِدْ النَّعْلَيْنِ لَبِسَ الْخُفَّيْنِ، وَإِنْ لَمْ يَجِدْ إزَارًا فَلْيَلْبَسْ السَّرَاوِيلَ " وَصَحَّ أَيْضًا عَنْ ابْنِ عَبَّاسٍ مِنْ قَوْلِهِ.

L12884 It has been reported to us through the chain of Saʿīd ibn Manṣūr → Hushaym → ʿUbaydullāh ibn ʿUmar → Nāfiʿ → Ibn ʿUmar, who said: "If a pilgrim in iḥrām cannot find sandals, let him wear khuffs and cut them so they remain below the ankles."

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ أَنَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ نَا نَافِعٌ عَنْ ابْنِ عُمَرَ قَالَ: إذَا لَمْ يَجِدْ الْمُحْرِمُ النَّعْلَيْنِ فَلْيَلْبَسْ الْخُفَّيْنِ وَلْيَقْطَعْهُمَا حَتَّى يَكُونَا أَسْفَلَ مِنْ الْكَعْبَيْنِ.

L12885 And via the chain of Hishām ibn ʿUrwah, that his father said: If the *muḥrim* cannot find sandals, he may wear leather socks below the ankles.

وَمِنْ طَرِيقِ هِشَامِ بْنِ عُرْوَةَ أَنَّ أَبَاهُ قَالَ: إذَا لَمْ يَجِدْ الْمُحْرِمُ النَّعْلَيْنِ لَبِسَ الْخُفَّيْنِ أَسْفَلَ مِنْ الْكَعْبَيْنِ.

[38] **Hadith references (L12879):** Sahih Muslim 1179.

وَعَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ أَنَّهُ قَالَ فِي الْمُحْرِمِ لَا يَجِدُ نَعْلَيْنِ: قَالَ: يَلْبَسُ الْخُفَّيْنِ وَيَقْطَعُهُمَا حَتَّى يَكُونَا مِثْلَ النَّعْلَيْنِ؛ وَهُوَ قَوْلُ إِبْرَاهِيمَ النَّخَعِيِّ، وَسُفْيَانَ، وَقَوْلُ الشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَبِهِ نَأْخُذُ.

L12886 And from Sufyan al-Thawri, from Mansur ibn al-Mu'tamir, from Ibrahim al-Nakha'i, that he said regarding a Muhrim who cannot find two sandals: He may wear two leather socks and cut them until they become like two sandals. And this is the opinion of Ibrahim al-Nakha'i and Sufyan, and the opinion of al-Shafi'i and Abu Sulayman, and this is the position we adopt.

وَرُوِّينَا عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَالْمِسْوَرِ بْنِ مَخْرَمَةَ إِبَاحَةَ لِبَاسِ الْخُفَّيْنِ بِلَا ضَرُورَةٍ لِلْمُحْرِمِ مِنَ الرِّجَالِ.

L12887 It has been narrated to us from 'Ā'ishah, the Mother of the Believers, and al-Miswar ibn Makhramah that wearing a pair of khuffs is permissible for a male *muḥrim* without a valid necessity.

وَقَالَ أَبُو حَنِيفَةَ: إِنْ لَمْ يَجِدْ إِزَارًا لَبِسَ سَرَاوِيلَ، فَإِنْ لَبِسَهَا يَوْمًا إِلَى اللَّيْلِ فَعَلَيْهِ دَمٌ وَلَا بُدَّ.

L12888 Abu Hanifah said: If one does not find a waist-wrapper, he may wear trousers. If he wears them from day until night, he must offer a blood sacrifice without fail.

وَإِنْ لَبِسَهُ أَقَلَّ مِنْ ذَلِكَ فَعَلَيْهِ صَدَقَةٌ، وَإِنْ لَبِسَ خُفَّيْنِ لِعَدَمِ النَّعْلَيْنِ يَوْمًا إِلَى اللَّيْلِ فَعَلَيْهِ دَمٌ، وَإِنْ لَبِسَهُمَا أَقَلَّ فَصَدَقَةٌ؛ وَقَالَ مَالِكٌ: مَنْ لَمْ يَجِدْ إِزَارًا لَبِسَ سَرَاوِيلَ وَافْتَدَى، وَإِنْ لَمْ يَجِدْ نَعْلَيْنِ قَطَعَ الْخُفَّيْنِ أَسْفَلَ مِنَ الْكَعْبَيْنِ وَلَبِسَهُمَا وَلَا شَيْءَ عَلَيْهِ.

L12889 If he wears the garment for less than that duration, he must give compensatory charity. If he wears two khuffs due to the absence of sandals for a full day and night, he must offer a sacrificial animal. If he wears them for less than that period, he must give compensatory charity. Mālik said: Whoever cannot find an izar may wear trousers and pay a fidya (redemption). If he cannot find sandals, he may cut the khuffs to below the ankles and wear them, incurring no obligation.

وَقَالَ مُحَمَّدُ بْنُ الْحَسَنِ: يَشُقُّ السَّرَاوِيلَ وَيَتَّزِرُ بِهَا وَلَا شَيْءَ عَلَيْهِ.

L12890 Muhammad ibn al-Hasan said: He splits the trousers [to create a slit] and wears them as an izar, and there is no blame on him.

وَقَالَ أَبُو مُحَمَّدٍ: أَمَّا تَقْسِيمُ أَبِي حَنِيفَةَ بَيْنَ لِبَاسِ السَّرَاوِيلِ وَالْخُفَّيْنِ يَوْمًا إِلَى اللَّيْلِ، وَبَيْنَ لِبَاسِهِمَا أَقَلَّ مِنْ ذَلِكَ فَقَوْلٌ لَا يُحْفَظُ عَنْ أَحَدٍ قَبْلَهُ، وَلَيْتَ شِعْرِي مَاذَا يَقُولُونَ إِنْ لَبِسَهُمَا يَوْمًا غَيْرَ طَرْفَةِ عَيْنٍ، أَوْ غَيْرَ نِصْفِ سَاعَةٍ؟ وَهَكَذَا نَزِيدُهُمْ دَقِيقَةً دَقِيقَةً حَتَّى يَلُوحَ هَذَيَانُهُمْ، وَقَوْلُهُمْ بِالْأَضَالِيلِ فِي الدِّينِ، وَكَذَلِكَ إِيجَابُهُ الدَّمَ فِي ذَلِكَ، أَوْ الصَّدَقَةَ، لَا نَعْلَمُهُ عَنْ أَحَدٍ قَبْلَهُ فَإِنْ قَالُوا: قِسْنَا ذَلِكَ عَلَى الْفِدْيَةِ الْوَاجِبَةِ فِي حَلْقِ الرَّأْسِ؟ قُلْنَا: الْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَوْ كَانَ الْقِيَاسُ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنَ الْبَاطِلِ؛

L12891–12892 Abū Muḥammad said: As for Abū Ḥanīfah's distinction between wearing trousers and leather socks for a full day until nightfall versus wearing them for less than that, this is an opinion not reported from anyone before him. I wonder what they would say if one wore them for a day that is not even the blink of an eye or less than half an hour! Thus, we reduce it minute by minute until their absurdity becomes apparent, along with their propagation of misguidances in religion. Similarly, his ruling imposing obligatory blood sacrifice or undefined charity in this matter is unknown from anyone before him. If they argue, "We analogized this to the ransom prescribed for shaving the head," we reply: All analogy is invalid. Even if analogy were valid, this would be sheer falsehood, for the ransom for harm was given as

a choice between fasting, charity, or sacrifice, whereas you mandate here blood sacrifice without exception or undefined charity without exception—especially when you yourselves assert that atonements cannot be established through analogy. How much of this trivialization of religion will persist? As for Mālik's view, his distinction between the ruling on trousers and the ruling on wearing leather socks is erroneous, with no proof for its validity. Mālik is excused, for the ḥadīth of Ibn ʿAbbās did not reach him. The blame lies solely on those who learned it yet opposed it out of blind adherence to Mālik's opinion.

لِأَنَّ فِدْيَةَ الْأَذَى جَاءَتْ بِتَخْيِيرٍ بَيْنَ صِيَامٍ، أَوْ صَدَقَةٍ، أَوْ نُسُكٍ، وَأَنْتُمْ تَجْعَلُونَ هَاهُنَا الدَّمَ وَلَا بُدَّ، أَوْ صَدَقَةً غَيْرَ مَحْدُودَةٍ وَلَا بُدَّ، وَلَا سِيَّمَا وَأَنْتُمْ تَقُولُونَ: إنَّ الْكَفَّارَاتِ لَا يَجُوزُ أَخْذُهَا بِالْقِيَاسِ، فَكَمْ هَذَا التَّلَاعُبُ بِالدِّينِ؟ وَأَمَّا قَوْلُ مَالِكٍ فَتَقْسِيمُهُ بَيْنَ حُكْمِ السَّرَاوِيلِ وَبَيْنَ حُكْمِ لُبْسِ الْخُفَّيْنِ، خَطَأٌ لَا بُرْهَانَ عَلَى صِحَّتِهِ، وَمَالِكٌ مَعْذُورٌ، لِأَنَّهُ لَمْ يَبْلُغْهُ حَدِيثُ ابْنِ عَبَّاسٍ، وَإِنَّمَا الْمَلَامَةُ عَلَى مَنْ بَلَغَهُ وَخَالَفَهُ لِتَقْلِيدِ رَأْيِ مَالِكٍ.

L12893 As for the statement of Muḥammad ibn al-Ḥasan, it is erroneous because he supplemented through his own reasoning what the Messenger of Allah—peace and blessings be upon him—did not command—peace be upon him—and he obligated a fidyah in situations where the Prophet—peace be upon him—did not require it.

وَأَمَّا قَوْلُ مُحَمَّدِ بْنِ الْحَسَنِ فَخَطَأٌ، لِأَنَّهُ اسْتَدْرَكَ بِعَقْلِهِ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا لَمْ يَأْمُرْ بِهِ - عَلَيْهِ السَّلَامُ - وَأَوْجَبَ فِدْيَةً حَيْثُ لَمْ يُوجِبْهَا النَّبِيُّ - عَلَيْهِ السَّلَامُ -.

L12894 Abu Muhammad said: They magnify the disagreement with the Companion for whom no opponent is known. We have mentioned in this issue what was narrated from Ibn Abbas, Ibn Umar, Aisha, Ali, and Al-Miswar. We know of no statement from any Companion—may Allah be pleased with them—other than the statements we cited regarding this issue. Yet the Hanafis and Malikis opposed them. All these are corrupt opinions with absolutely no evidence to support their validity whatsoever—and success comes only from Allah, the Exalted.

قَالَ أَبُو مُحَمَّدٍ: وَهُمْ يُعَظِّمُونَ خِلَافَ الصَّاحِبِ الَّذِي لَا يُعْرَفُ لَهُ مُخَالِفٌ، وَقَدْ ذَكَرْنَا فِي هَذِهِ الْمَسْأَلَةِ مَا رُوِيَ عَنْ ابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ، وَعَائِشَةَ، وَعَلِيٍّ، وَالْمِسْوَرِ، وَلَا نَعْلَمُ لِأَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - قَوْلًا غَيْرَ الْأَقْوَالِ الَّتِي ذَكَرْنَا فِي هَذِهِ الْمَسْأَلَةِ فَخَالَفَهَا الْحَنَفِيُّونَ، وَالْمَالِكِيُّونَ كُلُّهَا آرَاءٌ فَاسِدَةٌ لَا دَلِيلَ عَلَى صِحَّتِهَا أَصْلًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L12895 And it has been narrated to us from ʿĀ'ishah, the Mother of the Believers, regarding the prohibition of a woman from wearing socks, and from ʿAlī and Ibn ʿUmar as well. This is the view of Ibrāhīm al-Nakhaʿī, al-Ḥasan, ʿAṭā', and others.

وَرُوِّينَا عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ نَهْيَ الْمَرْأَةِ عَنْ الْقُفَّازَيْنِ، وَعَنْ عَلِيٍّ، وَابْنِ عُمَرَ أَيْضًا وَهُوَ قَوْلُ إبْرَاهِيمَ، وَالْحَسَنِ، وَعَطَاءٍ، وَغَيْرِهِمْ.

L12896 And it has been narrated to us from ʿĀ'ishah, Mother of the Believers, and from Ibn ʿAbbās: the permissibility of gloves for women. This is the opinion of al-Ḥakam, Ḥammād, ʿAṭā', Makhūl, Alqama, and others besides them. The ḥadīth of the Messenger of Allah—may Allah bless him and grant him peace—which we have mentioned is the ultimate arbiter over all other opinions.

وَرُوِّينَا عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَعَنْ ابْنِ عَبَّاسٍ: إبَاحَةَ الْقُفَّازَيْنِ لِلْمَرْأَةِ، وَهُوَ قَوْلُ الْحَكَمِ، وَحَمَّادٍ، وَعَطَاءٍ، وَمَكْحُولٍ، وَعَلْقَمَةَ، وَغَيْرِهِمْ؛ وَحَدِيثُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الَّذِي ذَكَرْنَا هُوَ الْحَاكِمُ عَلَى مَا سِوَاهُ.

وَأَمَّا الْمُعَصْفَرُ فَقَدْ رُوِّينَا عَنْ عُمَرَ بْنِ الْخَطَّابِ الْمَنْعَ مِنْهُ جُمْلَةً وَلِلْمُحْرِمِ خَاصَّةً أَيْضًا عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ - وَهُوَ قَوْلُ الْحَسَنِ، وَعَطَاءٍ.

L12897–12898 As for safflower-dyed garments, it has been narrated to us that Umar ibn al-Khattab issued a general prohibition against them, and also from Aishah, the Mother of the Believers, a prohibition specifically for those in the state of Ihram. This is the view of al-Hasan, and Ata.

وَرُوِّينَا عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَابْنِ عُمَرَ، وَنَافِعِ بْنِ جُبَيْرٍ: إبَاحَتَهُ لِلْمُحْرِمِ، وَلَمْ يُجِزْهُ أَبُو حَنِيفَةَ، وَمَالِكٌ: لِلْمُحْرِمِ، وَأَبَاحَهُ الشَّافِعِيُّ.

L12899 It has been narrated to us from Jābir ibn ʿAbd Allāh, Ibn ʿUmar, and Nāfiʿ ibn Jubayr ibn Mutʿim that they each permitted it for the muḥrim. Abū Ḥanīfah and Mālik prohibited it for the muḥrim, whereas al-Shāfiʿī allowed it.

وَرُوِّينَا عَنْ ابْنِ عُمَرَ، وَابْنِ عَبَّاسٍ، وَعَلِيٍّ، وَعَقِيلِ ابْنَيْ أَبِي طَالِبٍ، وَالْقَاسِمِ بْنِ مُحَمَّدٍ، وَغَيْرِهِمْ، إبَاحَةَ الْمُوَرَّدِ لِلرَّجُلِ الْمُحْرِمِ، وَهُوَ مُبَاحٌ إذَا لَمْ يَكُنْ بِزَعْفَرَانٍ، أَوْ وَرْسٍ، أَوْ عُصْفُرٍ، لِأَنَّهُ لَمْ يَأْتِ عَنْهُ نَهْيٌ فِي قُرْآنٍ وَلَا سُنَّةٍ.

L12900 It has been narrated to us from Ibn Umar, Ibn Abbas, Ali and Aqil—the two sons of Abū Ṭālib—al-Qāsim ibn Muḥammad, and others, that the rosy-dyed garment is permissible for a man in iḥrām, and it remains permissible if it is not dyed with saffron, *wars*, or safflower. This is because no prohibition from him (the Prophet) regarding this is found in the Qur'an or the Sunnah.

## [مَسْأَلَةُ الْغُسْلِ عِنْدَ الْإِحْرَامِ]

## The ruling on the major ablution, ghusl, upon entering the state of iḥrām.

٨٢٤ - مَسْأَلَةٌ:

L12901

824. Legal Issue:

وَنَسْتَحِبُّ الْغُسْلَ عِنْدَ الْإِحْرَامِ لِلرِّجَالِ وَالنِّسَاءِ، وَلَيْسَ فَرْضًا إلَّا عَلَى النُّفَسَاءِ وَحْدَهَا: لِمَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا مُحَمَّدُ بْنُ سَلَمَةَ عَنْ ابْنِ الْقَاسِمِ حَدَّثَنِي مَالِكٌ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ عَنْ أَبِيهِ عَنْ «أَسْمَاءَ بِنْتِ عُمَيْسٍ: أَنَّهَا وَلَدَتْ مُحَمَّدَ بْنَ أَبِي بَكْرٍ بِالْبَيْدَاءِ فَذَكَرَ أَبُو بَكْرٍ ذَلِكَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: مُرْهَا فَلْتَغْتَسِلْ ثُمَّ تُهِلُّ» .

L12902 824. Legal Issue:

L12903 We recommend the ritual bath at the onset of iḥrām for both men and women, though it is obligatory only for postpartum women. This ruling derives from the narration transmitted by ʿAbdullāh ibn Rabīʿ, from Muḥammad ibn Muʿāwiyah, from Aḥmad ibn Shuʿayb, from Muḥammad ibn Salamah, from Ibn al-Qāsim, from Mālik, from ʿAbd al-Raḥmān ibn al-Qāsim, from his father, from Asmāʾ bint ʿUmays: She gave birth to Muḥammad ibn Abī Bakr at al-Bayḍāʾ. Abū Bakr informed the Messenger of Allah (peace and blessings be upon him) of this, whereupon he instructed: "Direct her to perform the ritual bath and then commence the talbiyah."

## [مَسْأَلَةُ التَّطَيُّبُ عِنْدَ الْإِحْرَامِ]

## Issue of the Application of Fragrance at the Time of Entering the State of Ihram

٨٢٥ - مَسْأَلَةٌ:

L12904

825 – Question:

L12905

وَيُسْتَحَبُّ لِلْمَرْأَةِ وَالرَّجُلِ التَّطَيُّبُ

L12906 It is recommended for both the woman and the man to perfume themselves

وَنَسْتَحِبُّ لِلْمَرْأَةِ وَالرَّجُلِ أَنْ يَتَطَيَّبَا عِنْدَ الْإِحْرَامِ بِأَطْيَبِ مَا يَجِدَانِهِ مِنَ الْغَالِيَةِ وَالْبَخُورِ بِالْعَنْبَرِ، وَغَيْرِهِ، ثُمَّ لَا يُزِيلَانِهِ عَنْ أَنْفُسِهِمَا مَا بَقِيَ عَلَيْهِمَا - وَكَرِهَ الطِّيبَ لِلْمُحْرِمِ قَوْمٌ -: رُوِّينَا مِنْ طَرِيقِ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ عَنْ أَبِيهِ قَالَ: وَجَدَ عُمَرُ بْنُ الْخَطَّابِ رِيحَ طِيبٍ بِالشَّجَرَةِ فَقَالَ: مِمَّنْ هَذِهِ؟ فَقَالَ مُعَاوِيَةُ: مِنِّي طَيَّبَتْنِي أُمُّ حَبِيبَةَ فَتَغَيَّظَ عَلَيْهِ عُمَرُ، وَقَالَ: مِنْك لَعَمْرِي أَقْسَمْت عَلَيْك لَتَرْجِعَن إلَى أُمِّ حَبِيبَةَ، فَلْتَغْسِلْهُ عَنْك كَمَا طَيَّبَتْك، وَأَنَّهُ قَالَ: إنَّمَا الْحَاجُّ الْأَشْعَثُ، الْأَدْفَرُ، الْأَشْعَرُ.

at the time of assuming *iḥrām* with the finest fragrance they possess—such as *ghāliyah* and incense blended with ambergris or other scents—and they must not remove it from themselves as long as it remains on them. A group [of scholars] disapproved of perfume for the pilgrim. It has been narrated to us through the chain of al-Zuhrī, from Sālim ibn ʿAbd Allāh, from his father, who said: ʿUmar ibn al-Khaṭṭāb detected the scent of perfume near the tree and asked, "Whose is this?" Muʿāwiyah replied, "It is mine. Umm Ḥabībah perfumed me." ʿUmar grew furious with him and said, "By my life, from you! I swear you must return to Umm Ḥabībah and have her wash it off you in the same way she applied it." He then stated, "The pilgrim should be disheveled, dusty, and unkempt."

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ سَعْدِ بْنِ إبْرَاهِيمَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ: أَنَّ عُثْمَانَ رَأَى رَجُلًا قَدْ تَطَيَّبَ عِنْدَ الْإِحْرَامِ فَأَمَرَهُ أَنْ يَغْسِلَ رَأْسَهُ بِطِينٍ.

L12907 Narrated via the chain of Shuʿbah from Saʿd ibn Ibrāhīm ibn ʿAbd al-Raḥmān, from his father: that ʿUthman saw a man who had applied perfume upon assuming *ihram*, so he ordered him to wash his head with clay.

وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ إبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ الْمُنْتَشِرِ عَنْ أَبِيهِ، قَالَ: سَمِعْت ابْنَ عُمَرَ يَقُولُ: لَأَنْ أُصْبِحَ مَطْلِيًّا بِقَطِرَانٍ أَحَبُّ إلَيَّ مِنْ أَنْ أُصْبِحَ مُحْرِمًا أَنْضَحُ طِيبًا وَهُوَ قَوْلُ عَطَاءٍ، وَالزُّهْرِيِّ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَمُحَمَّدِ بْنِ سِيرِينَ، وَمَالِكٍ، وَمُحَمَّدِ بْنِ الْحَسَنِ إلَّا أَنَّ مَالِكًا قَالَ: إنْ تَطَيَّبَ قَبْلَ إحْرَامِهِ وَقَبْلَ إفَاضَتِهِ، فَلَا شَيْءَ عَلَيْهِ - وَأَبَاحَهُ جُمْهُورُ النَّاسِ كَمَا رُوِّينَا آنِفًا عَنْ أُمِّ حَبِيبَةَ أُمِّ الْمُؤْمِنِينَ، وَمُعَاوِيَةَ - وَرُوِّينَاهُ أَيْضًا عَنْ كَثِيرِ بْنِ الصَّلْتِ.

L12908–12910 Through the chain of Sufyān al-Thawrī from Ibrāhīm ibn Muḥammad ibn al-Muntashir from his father, who said: I heard Ibn ʿUmar say: "I would rather wake up daubed with tar than be in a state of iḥrām while I apply perfume." This is the view of ʿAṭāʾ, al-Zuhrī, Saʿīd ibn Jubayr, Muḥammad ibn Sīrīn, and Mālik. And Muḥammad ibn al-Ḥasan, except that Mālik said: If one applies perfume before entering iḥrām and before ifāḍah, there is no obligation upon him. The majority of people permitted it, as we have just narrated from Umm Ḥabībah, the Mother of the Believers, and Muʿāwiyah. It has also been transmitted from Kathīr ibn al-Ṣalt.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ مُحَمَّدِ بْنِ قَيْسٍ عَنْ بَشِيرِ بْنِ يَسَارٍ الْأَنْصَارِيِّ: أَنَّ عُمَرَ وَجَدَ رِيحَ طِيبٍ فَقَالَ: مِمَّنْ هَذِهِ الرِّيحُ؟ فَقَالَ الْبَرَاءُ بْنُ عَازِبٍ: مِنِّي يَا أَمِيرَ الْمُؤْمِنِينَ، قَالَ: قَدْ عَلِمْنَا أَنَّ امْرَأَتَك عَطِرَةٌ إنَّمَا الْحَاجُّ، الْأَدْفَرُ، الْأَغْبَرُ - وَبِهِ إلَى مُحَمَّدِ بْنِ قَيْسٍ عَنْ الشَّعْبِيِّ: أَنَّهُ قَالَ: كَانَ عَبْدُ اللَّهِ بْنُ جَعْفَرٍ يَتَطَيَّبُ بِالْمِسْكِ عِنْدَ إحْرَامِهِ.

L12911 And through the chain of Waki' from Muhammad ibn Qays from Bashir ibn Yasar al-Ansari: that Umar noticed the scent of perfume and said, "Whose scent is this?" Al-Bara' ibn 'Azib replied, "It is mine, O Commander of the Faithful." He said, "We know your wife is fragrant. Rather, the pilgrim is the one who is dust-covered and dust-laden"—and through him from al-Sha'bi to Muhammad ibn Qays: that he said, "Abdullah ibn Ja'far would apply musk perfume when entering the state of his *iḥrām*."

L12912 And from the narration of Ibn Abi Shaybah through Marwan ibn Mu‘awiyah al-Fazari through Salih ibn Hayyan, who said: I saw Anas ibn Malik’s garment stained with the *khaluq* perfume used on the Kaaba while he was in the state of *Ihram*, and he did not wash it.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ مَرْوَانَ بْنِ مُعَاوِيَةَ الْفَزَارِيِّ عَنْ صَالِحِ بْنِ حَيَّانَ قَالَ: رَأَيْت أَنَسَ بْنَ مَالِكٍ أَصَابَ ثَوْبَهُ مِنْ خَلُوقِ الْكَعْبَةِ وَهُوَ مُحْرِمٌ فَلَمْ يَغْسِلْهُ.

L12913 From the narration of Sufyan, from Ayyub as-Sikhtiyani, from Aishah bint Sa‘d ibn Abi Waqqas, who said: I perfumed my father with musk and adh-dharirah for his Ihram when he assumed it, and for his release from Ihram before performing the visitation (Ziyarah) or Tawaf.

وَمِنْ طَرِيقِ سُفْيَانَ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ عَائِشَةَ بِنْتِ سَعْدِ بْنِ أَبِي وَقَّاصٍ قَالَتْ: طَيَّبْت أَبِي بِالسُّكِّ، وَالذَّرِيرَةِ لِحَرَمِهِ حِينَ أَحْرَمَ، وَلِحِلِّهِ قَبْلَ أَنْ يَزُورَ، أَوْ يَطُوفَ.

L12914 And through the chain of Ma’mar from Ayyub, from her [Aisha] and others besides him, that she asked, “What was that perfume?” She said, “The excellent al-bān and the adhesive dharīrah.”

وَمِنْ طَرِيقِ مَعْمَرٍ عَنْ أَيُّوبَ عَنْهَا وَغَيْرِهِ، أَنَّهَا سَأَلَتْ؟ مَا كَانَ ذَلِكَ الطِّيبُ؟ قَالَتْ: الْبَانُ الْجَيِّدُ، وَالذَّرِيرَةُ الْمُمَسَّكَةُ.

L12915 From the chain of Ibn Abi Shaybah, from Hammad ibn Usamah, from Umar ibn Suwayd al-Thaqafi, from Aisha bint Talha, from Aisha, the Mother of the Believers, who said: “We used to smear our foreheads with perfumed musk before entering the state of Ihram. Then we would enter Ihram while we were with the Messenger of Allah—peace and blessings be upon him—and we would sweat, and it would flow onto our faces. Yet the Prophet—peace and blessings be upon him—never forbade us from it.”

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ حَمَّادِ بْنِ أُسَامَةَ عَنْ عُمَرَ بْنِ سُوَيْدٍ الثَّقَفِيِّ عَنْ عَائِشَةَ بِنْتِ طَلْحَةَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: كُنَّا نُضَمِّخُ جِبَاهَنَا بِالْمِسْكِ الْمُطَيَّبِ قَبْلَ أَنْ نُحْرِمَ، ثُمَّ نُحْرِمَ وَنَحْنُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَنَعْرَقُ فَيَسِيلُ عَلَى وُجُوهِنَا فَلَا يَنْهَانَا عَنْهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L12916 From the narration of Ḥammād ibn Salamah: Dharrah narrated to me that she used to wrap ʿĀ’ishah’s head, the Mother of the Believers, with musk and ambergris during iḥrām.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ قَالَ حَدَّثَتْنِي ذَرَّةُ أَنَّهَا كَانَتْ تُغَلِّفُ رَأْسَ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ بِالْمِسْكِ، وَالْعَنْبَرِ عِنْدَ الْإِحْرَامِ.

L12917 And through the transmission of ʿAbd al-Raḥmān ibn al-Qāsim from his mother—the daughter of ʿAbd al-Raḥmān ibn Abī Bakr al-Ṣiddīq—who reported: I saw ʿĀ’ishah applying scented oil to her hair partings, then she would enter ihram. From Abū Saʿīd al-Khudrī: he would have ban tree resin applied to himself at the time of entering ihram.

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ عَنْ أُمِّهِ وَهِيَ بِنْتُ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرٍ الصِّدِّيقِ رَأَيْت عَائِشَةَ تَنْكُثُ فِي مَفَارِقِهَا الطِّيبَ ثُمَّ تُحْرِمُ. وَعَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ أَنَّهُ كَانَ يُدَهَّنُ بِالْبَانِ عِنْدَ الْإِحْرَامِ.

L12918–12919 And via the isnad of Waki’, from Sufyan, from ’Ammar al-Duhni, from Muslim al-Batin: al-Husayn ibn ’Ali commanded his companions to apply perfume at the time of assuming *ihram*.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ عَمَّارٍ الدُّهْنِيِّ عَنْ مُسْلِمٍ الْبَطِينِ أَنَّ الْحُسَيْنَ بْنَ عَلِيٍّ أَمَرَ أَصْحَابَهُ بِالطِّيبِ عِنْدَ الْإِحْرَامِ.

From the path of Shu’bah via al-Ash’ath ibn Sulaym via Murrah ibn Khālid al-Shaybānī, who said: We asked Abū Dhārr at al-Rabḍah, “With what may a Muḥrim be anointed?” He said: “With oil.”

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ الْأَشْعَثِ بْنِ سُلَيْمٍ عَنْ مُرَّةَ بْنِ خَالِدٍ الشَّيْبَانِيِّ قَالَ: سَأَلْنَا أَبَا ذَرٍّ بِالرَّبَذَةِ بِأَيِّ شَيْءٍ يُدَهَّنُ الْمُحْرِمُ؟ قَالَ: بِالدُّهْنِ.

And from Abū Muʿāwiyah, from al-Aʿmash, from Abū al-Ḍuḥā, who said: I saw ʿAbdullāh ibn al-Zubayr with hair on his head and beard while in the state of *iḥrām*—so much so that if a man had [hair] like it, he would consider it a capital asset.

وَعَنْ أَبِي مُعَاوِيَةَ عَنْ الْأَعْمَشِ عَنْ أَبِي الضُّحَى قَالَ: رَأَيْت عَبْدَ اللَّهِ بْنَ الزُّبَيْرِ وَفِي رَأْسِهِ وَلِحْيَتِهِ وَهُوَ مُحْرِمٌ مَا لَوْ كَانَ لِرَجُلٍ لَاتَّخَذَ مِنْهُ رَأْسَ مَالٍ.

Narrated by Waki‘ on the authority of Hishām ibn ‘Urwah, from his father, from Ibn al-Zubayr, that he would apply the new Ghāliyah (a type of perfume) upon entering Iḥrām.

وَعَنْ وَكِيعٍ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ ابْنِ الزُّبَيْرِ أَنَّهُ كَانَ يَتَطَيَّبُ بِالْغَالِيَةِ الْجَدِيدَةِ عِنْدَ إحْرَامِهِ.

And from the chain of Waki‘ via ‘Uyaynah ibn ‘Abd al-Raḥmān from his father, who said: I asked Ibn ‘Abbās about the perfume prohibited [during iḥrām]. He replied: Indeed, I massage it generously into my head before assuming iḥrām, and I love for it to remain.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ عُيَيْنَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ قَالَ: سَأَلْت ابْنَ عَبَّاسٍ عَنْ الطِّيبِ الْمُحَرَّمِ؟ فَقَالَ: إنِّي لَأُسَغْسِغُهُ فِي رَأْسِي قَبْلَ أَنْ أُحْرِمَ ثُمَّ أُحِبُّ بَقَاءَهُ.

It is narrated from Ibn Abbas that he deemed it permissible to apply perfume at the time of assuming the state of ihram and on the Day of Sacrifice (Yawm al-Nahr) before performing Tawaf al-Ziyarah.

وَعَنْ ابْنِ عَبَّاسٍ أَنَّهُ كَانَ لَا يَرَى بَأْسًا بِالطِّيبِ عِنْدَ الْإِحْرَامِ وَيَوْمَ النَّحْرِ قَبْلَ أَنْ يَزُورَ.

These are the majority of the Companions—may Allah be pleased with them: Sa‘d ibn Abī Waqqāṣ; the Mothers of the Believers, ‘Ā’ishah and Umm Ḥabībah; ‘Abdullāh ibn Ja‘far; al-Ḥusayn ibn ‘Alī; Abū Dharr; Abū Sa‘īd; al-Barā’ ibn ‘Āzib; Anas; Mu‘āwiyah; Kathīr ibn al-Ṣalt; Ibn al-Zubayr; and Ibn ‘Abbās.

فَهَؤُلَاءِ جُمْهُورُ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -: سَعْدُ بْنُ أَبِي وَقَّاصٍ، وَأُمُّ الْمُؤْمِنِينَ: عَائِشَةُ، وَأُمُّ حَبِيبَةَ، وَعَبْدُ اللَّهِ بْنُ جَعْفَرٍ، وَالْحُسَيْنُ بْنُ عَلِيٍّ، وَأَبُو ذَرٍّ، وَأَبُو سَعِيدٍ، وَالْبَرَاءُ بْنُ عَازِبٍ، وَأَنَسٌ، وَمُعَاوِيَةُ، وَكَثِيرُ بْنُ الصَّلْتِ، وَابْنُ الزُّبَيْرِ، وَابْنُ عَبَّاسٍ.

It is reported from Ibn al-Ḥanafiyyah that he would apply a good-quality perfumed oil (ghāliyah) to his head before entering iḥrām.

وَعَنْ ابْنِ الْحَنَفِيَّةِ: أَنَّهُ كَانَ يُغَلِّفُ رَأْسَهُ بِالْغَالِيَةِ الْجَيِّدَةِ قَبْلَ أَنْ يُحْرِمَ.

From Umar ibn Abd al-Aziz, it is narrated that he used to be anointed with as-Salīkha when assuming Ihram. From Uthman ibn Urwah ibn al-Zubayr, it is narrated that his father would dye his clothes red and enter Ihram in them. Uthman said: “While we were in Ihram, my father would see our beards dripping with al-Ghaliyah, yet he never objected to this.”

وَعَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ أَنَّهُ كَانَ يُدَهَّنُ بِالسَّلِيخَةِ - عِنْدَ الْإِحْرَامِ - وَعَنْ عُثْمَانَ بْنِ عُرْوَةَ بْنِ الزُّبَيْرِ: أَنَّ أَبَاهُ كَانَ يُحَمِّرُ ثِيَابَهُ، وَيُحْرِمُ فِيهَا قَالَ: وَكَانَ يَرَى لِحَانَا تَقْطُرُ مِنْ الْغَالِيَةِ وَنَحْنُ مُحْرِمُونَ فَلَا يُنْكِرُ ذَلِكَ عَلَيْنَا.

From Al-Aswad ibn Yazīd that he would enter iḥrām while the sheen of

perfume was still visible on his head and beard.

وَعَنْ الْأَسْوَدِ بْنِ يَزِيدَ أَنَّهُ كَانَ يُحْرِمُ وَوَبِيصُ الطِّيبِ يُرَى فِي رَأْسِهِ وَلِحْيَتِهِ.

L12929 From Hammad ibn Salamah, from Hisham ibn Urwah, who said: "My father would say to us: 'Apply perfume before entering Ihram (the state of consecration) and before you depart on Yawm al-Nahr (the Day of Sacrifice).'"

وَعَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ هِشَامِ بْنِ عُرْوَةَ قَالَ: كَانَ أَبِي يَقُولُ لَنَا: تَطَيَّبُوا قَبْلَ أَنْ تُحْرِمُوا وَقَبْلَ أَنْ تُفِيضُوا يَوْمَ النَّحْرِ.

L12930–12932 Through the chain of Ahmad ibn Shu'ayb: From Ayyub ibn Muhammad al-Wazzan, from Amr ibn Ayyub; Aflah ibn Humayd narrated to us from Abu Bakr—who is Ibn Abd al-Rahman ibn al-Harith ibn Hisham—that... Sulayman ibn Abd al-Malik, in the year he performed Hajj, gathered people of knowledge including Umar ibn Abd al-Aziz, Kharija ibn Zayd ibn Thabit, al-Qasim ibn Muhammad ibn Abi Bakr al-Siddiq, Salim and Abdullah, the two sons of Abdullah ibn Umar, Ibn Shihab, and Abu Bakr ibn Abd al-Rahman. He asked them about applying perfume before Ifādah. All instructed him to use perfume - no one differed from him except that Abdullah ibn Abdullah ibn Umar said: "Abdullah was earnest and rigorous. He would stone the Jamarat, slaughter his sacrifice, shave his head, mount his ride, then depart before reaching his lodging?" Salim responded: "He spoke truthfully."

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا أَيُّوبُ بْنُ مُحَمَّدٍ الْوَزَّانُ أَنَا عَمْرُو بْنُ أَيُّوبَ نَا أَفْلَحُ بْنُ حُمَيْدٍ عَنْ أَبِي بَكْرٍ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ - أَنَّ سُلَيْمَانَ بْنَ عَبْدِ الْمَلِكِ عَامَ حَجَّ جَمَعَ أُنَاسًا مِنْ أَهْلِ الْعِلْمِ فِيهِمْ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ، وَخَارِجَةُ بْنُ زَيْدِ بْنِ ثَابِتٍ، وَالْقَاسِمُ بْنُ مُحَمَّدِ بْنِ أَبِي بَكْرٍ الصِّدِّيقِ، وَسَالِمٌ، وَعَبْدُ اللَّهِ ابْنَا عَبْدِ اللَّهِ بْنِ عُمَرَ، وَابْنُ شِهَابٍ، وَأَبُو بَكْرِ بْنُ عَبْدِ الرَّحْمَنِ فَسَأَلَهُمْ عَنْ الطِّيبِ قَبْلَ الْإِفَاضَةِ فَكُلُّهُمْ أَمَرَهُ بِالطِّيبِ - فَلَمْ يَخْتَلِفْ عَلَيْهِ أَحَدٌ مِنْهُمْ إِلَّا أَنَّ عَبْدَ اللَّهِ بْنَ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ لَهُ: كَانَ عَبْدُ اللَّهِ جَادًّا مُجِدًّا وَكَانَ يَرْمِي الْجَمْرَةَ ثُمَّ يَذْبَحُ ثُمَّ يَحْلِقُ ثُمَّ يَرْكَبُ فَيُفِيضُ قَبْلَ أَنْ يَأْتِيَ مَنْزِلَهُ؟ فَقَالَ سَالِمٌ: صَدَقَ.

L12933 And through the chain of Sufyan ibn Uyaynah from Amr ibn Dinar, who said: Salim ibn Abdullah ibn Umar said: Aisha said: "I anointed with perfume the Messenger of Allah (peace be upon him), and the Sunnah of the Messenger of Allah (peace be upon him) is most deserving of being followed." This is the explicit wording of Salim in the hadith, and she did not follow what was reported from his father and grandfather regarding that matter.

وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ قَالَ: قَالَ سَالِمُ بْنُ عَبْدِ اللَّهِ بْنِ عُمَرَ: قَالَتْ عَائِشَةُ: أَنَا طَيَّبْت رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَسُنَّةُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَحَقُّ أَنْ تُتَّبَعَ، هَكَذَا نَصُّ كَلَامِ سَالِمٍ فِي الْحَدِيثِ وَلَمْ تَتَّبِعْ مَا جَاءَ عَنْ أَبِيهِ وَجَدِّهِ فِي ذَلِكَ.

L12934 We have also narrated from Ibrāhīm al-Nakhaʿī and Ibn Jurayj. Sufyān al-Thawrī considered it preferable [to apply perfume], asking: "What perfume is applied at the time of assuming iḥrām—before performing ghusl or after it?"

وَرُوِّينَاهُ أَيْضًا: عَنْ إبْرَاهِيمَ النَّخَعِيِّ، وَابْنِ جُرَيْجٍ، وَاسْتَحَبَّهُ سُفْيَانُ الثَّوْرِيُّ أَيُّ طِيبٍ كَانَ عِنْدَ الْإِحْرَامِ قَبْلَ الْغُسْلِ وَبَعْدَهُ؟ .

L12935 Abu Muhammad said: These are the majority of the Followers, the jurists of Medina, and it is the opinion of Abu Hanifah, Abu Yusuf, Zufar, and

Muhammad ibn al-Hasan in the more well-known of his two opinions, as well as the opinion of al-Shafi'i, Ahmad ibn Hanbal, Ishaq, Abu Sulaiman, and all their companions.

قَالَ أَبُو مُحَمَّد: فَهَؤُلَاءِ جُمْهُورُ التَّابِعِينَ، وَفُقَهَاءُ الْمَدِينَةِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَأَبِي يُوسُفَ، وَزُفَرَ، وَمُحَمَّدِ بْنِ الْحَسَنِ فِي أَشْهَرِ قَوْلَيْهِ، وَقَوْلُ الشَّافِعِيِّ، وَأَحْمَدَ بْنِ حَنْبَلٍ، وَإِسْحَاقَ، وَأَبِي سُلَيْمَانَ، وَجَمِيعِ أَصْحَابِهِمْ.

L12936 Abu Muhammad said: As for Umar, we previously mentioned that when he smelled perfume from Al-Bara' ibn Azib and did not forbid him from it, his dislike and disapproval of it are suspended. As for his son Abdullah, we have narrated it from him via Waki' from Uyaynah ibn Abdur-Rahman from his father, who said: I asked Ibn Umar about applying perfume at the time of entering Ihram. He replied: "I neither command it nor prohibit it."

قَالَ أَبُو مُحَمَّد: أَمَّا عُمَرُ فَقَدْ ذَكَرْنَا آنِفًا إِذْ شَمَّ الطِّيبَ مِنْ الْبَرَاءِ بْنِ عَازِبٍ وَلَمْ يَنْهَهُ عَنْهُ أَنَّهُ قَدْ تُوقِّفَ - كَرَاهِيَتُهُ وَإِنْكَارُهُ - وَأَمَّا عَبْدُ اللَّهِ ابْنُهُ فَإِنَّنَا رُوِّينَاهُ عَنْهُ مِنْ طَرِيقِ وَكِيعٍ عَنْ عُيَيْنَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ قَالَ: سَأَلْت ابْنَ عُمَرَ عَنْ الطِّيبِ عِنْدَ الْإِحْرَامِ؟ فَقَالَ: لَا آمُرُ بِهِ وَلَا أَنْهَى عَنْهُ.

L12937 It has been narrated to us via the chain of Sa'īd ibn Manṣūr: Ya'qūb ibn 'Abd al-Raḥmān narrated to us: "Mūsā ibn 'Uqbah narrated to me, from 'Abdullāh ibn 'Abdullāh ibn 'Umar, who said: 'I summoned a man while sitting beside my father and sent him to 'Ā'ishah to ask about applying perfume when entering iḥrām. Though I already knew her ruling, I wanted my father to hear it. My messenger returned and said: '"Ā'ishah says: 'There is no harm in applying perfume when entering iḥrām. Use what seems appropriate to you.'"' Then 'Abdullāh ibn 'Umar remained silent."

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا يَعْقُوبُ بْنُ عَبْدِ الرَّحْمَنِ حَدَّثَنِي مُوسَى بْنُ عُقْبَةَ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: دَعَوْت رَجُلًا وَأَنَا جَالِسٌ بِجَنْبِ أَبِي فَأَرْسَلْته إلَى عَائِشَةَ أَسْأَلُهَا عَنْ الطِّيبِ عِنْدَ الْإِحْرَامِ؟ وَقَدْ عَلِمْت قَوْلَهَا وَلَكِنْ أَحْبَبْت أَنْ يَسْمَعَهُ أَبِي فَجَاءَنِي رَسُولِي فَقَالَ: إنَّ عَائِشَةَ تَقُولُ: لَا بَأْسَ بِالطِّيبِ عِنْدَ الْإِحْرَامِ فَأَصِبْ مَا بَدَا لَك؟ فَصَمَتَ عَبْدُ اللَّهِ بْنُ عُمَرَ.

L12938–12939 Ali said: This—with the most authentic chain of transmission—is a clarification that he entirely retracted his initial disapproval and did not reject considering it acceptable (istihsan). Thus their reliance upon Umar and Abdullah ibn Umar becomes invalid, leaving them nothing except Uthman alone. It has been authentically established from him—may Allah be pleased with him—as we shall mention hereafter if Allah the Exalted wills: that he permitted one in iḥrām to cover his face, yet they opposed him. Glory be to Him Who made the jurist's statement an authoritative proof where the Prophetic precedent did not reach him, yet did not make his action a proof regarding matters undisputed among the Sunnahs. This is truly astonishing!

قَالَ عَلِيٌّ: هَذَا - بِأَصَحِّ إسْنَادٍ - بَيَانٌ فِي أَنَّهُ قَدْ رَجَعَ عَنْ كَرَاهَتِهِ جُمْلَةً وَلَمْ يُنْكِرْ اسْتِحْسَانَهُ فَسَقَطَ تَعَلُّقُهُمْ بِعُمَرَ، وَبِعَبْدِ اللَّهِ بْنِ عُمَرَ، وَلَمْ يَبْقَ لَهُمْ إلَّا عُثْمَانُ وَحْدَهُ، وَقَدْ صَحَّ عَنْهُ - رَضِيَ اللَّهُ عَنْهُمْ - مَا سَنَذْكُرُهُ بَعْدَ هَذَا إنْ شَاءَ اللَّهُ تَعَالَى - مِنْ إجَازَةِ تَغْطِيَةِ الْمُحْرِمِ وَجْهَهُ فَخَالَفُوهُ فَسُبْحَانَ مَنْ جَعَلَ قَوْلَهُ حَيْثُ لَمْ تَبْلُغْهُ السُّنَّةُ حُجَّةً، وَلَمْ يَجْعَلْ فِعْلَهُ حَيْثُ لَا خِلَافَ فِيهِ لِلسُّنَنِ حُجَّةً إنَّ هَذَا لَعَجَبٌ.

L12940 Abū Muḥammad said: When they differed, it became obligatory to revert to what Allah the Exalted has mandated to refer to from the clarifications

of Allah's Messenger (peace be upon him). We found what ʿAbd al-Raḥmān ibn ʿAbd Allāh ibn Khālid narrated to us: Ibrāhīm ibn Aḥmad al-Farabrī narrated to us: al-Bukhārī narrated to us: Muḥammad ibn Yūsuf narrated to us: Sufyān narrated from Manṣūr from Saʿīd ibn Jubayr, who said: "Ibn ʿUmar used to have oil applied [to his hair]." I mentioned this to Ibrāhīm—al-Nakhaʿī—whereupon he said: "What do you do with his statement? Al-Aswad narrated to me from ʿĀ'ishah, Mother of the Believers, who said: 'It is as if I see the gleam of perfume in the partings of Allah's Messenger (peace be upon him) while he was in iḥrām.'"

Aḥmad ibn Qāsim narrated to us: Abū Qāsim ibn Muḥammad ibn Qāsim narrated to us: My grandfather Qāsim ibn Aṣbagh narrated to us: Abū Ismāʿīl—Muḥammad ibn Ismāʿīl al-Tirmidhī—narrated to us: al-Ḥumaydī narrated to us: Sufyān ibn ʿUyaynah narrated to us: ʿAṭā' ibn al-Sā'ib narrated from Ibrāhīm al-Nakhaʿī from al-Aswad from ʿĀ'ishah, who said: "I saw the perfume in the parting of Allah's Messenger (peace be upon him) after the third [day] while he was in iḥrām."

L12941–12943 We have also narrated it through the chain of 'Alqamah and Masruq from 'Aishah: Abdullah ibn Yusuf narrated to us, Ahmad ibn Fath narrated to us, Abd al-Wahhab ibn Isa narrated to us, Ahmad ibn Muhammad narrated to us, Ahmad ibn Ali narrated to us, Muslim ibn al-Hajjaj narrated to us, Ahmad ibn Mani' and Ya'qub ad-Dawraqi both said: Hushaym narrated to us from Mansur ibn al-Mu'tamir, from Abd ar-Rahman ibn al-Qasim ibn Muhammad from his father from 'Aishah, the Mother of the Believers, who said: "I used to perfume the Messenger of Allah—peace and blessings be upon him—before he would enter Ihram, and on the Day of Sacrifice, before he would perform Tawaf around the House, with a perfume containing musk." Narrated by 'Abdullāh ibn Rabī', narrated by Muḥammad ibn Mu'āwiyah, narrated by Aḥmad ibn Shu'ayb, narrated by Muḥammad ibn Manṣūr, narrated by Sufyān, narrated by 'Uthmān ibn 'Urwah ibn Az-Zubayr from his father, who said: I said to 'Ā'ishah, "With what did you perfume the Prophet (peace be upon him)?" She said, "With the finest perfume during his Iḥrām and when he was

قَالَ أَبُو مُحَمَّدٍ: فَلَمَّا اخْتَلَفُوا وَجَبَ الرُّجُوعُ إِلَى مَا افْتَرَضَ اللَّهُ تَعَالَى الرُّجُوعَ إِلَيْهِ مِنْ بَيَانِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَوَجَدْنَا مَا حَدَّثَنَاهُ عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ خَالِدٍ نَا إِبْرَاهِيمُ بْنُ أَحْمَدَ الْفَرَبْرِيُّ نَا الْبُخَارِيُّ نَا مُحَمَّدُ بْنُ يُوسُفَ نَا سُفْيَانُ عَنْ مَنْصُورٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: كَانَ ابْنُ عُمَرَ يُدَهِّنُ بِالزَّيْتِ، فَذَكَرْته لِإِبْرَاهِيمَ هُوَ النَّخَعِيُّ - فَقَالَ: مَا تَصْنَعُ بِقَوْلِهِ: حَدَّثَنِي الْأَسْوَدُ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ كَأَنِّي أَنْظُرُ إلَى وَبِيصِ الطِّيبِ فِي مَفَارِقِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ مُحْرِمٌ؟ نَا أَحْمَدُ بْنُ قَاسِمٍ نَا أَبُو قَاسِمِ بْنُ مُحَمَّدِ بْنِ قَاسِمٍ نَا جَدِّي قَاسِمُ بْنُ أَصْبَغَ نَا أَبُو إِسْمَاعِيلَ هُوَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ التِّرْمِذِيِّ - نَا الْحُمَيْدِيُّ نَا سُفْيَانُ بْنُ عُيَيْنَةَ نَا عَطَاءُ بْنُ السَّائِبِ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ عَنْ الْأَسْوَدِ عَنْ عَائِشَةَ قَالَتْ: رَأَيْت الطِّيبَ فِي مَفْرِقِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَعْدَ ثَالِثَةٍ وَهُوَ مُحْرِمٌ.

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ عَلْقَمَةَ، وَمَسْرُوقٍ عَنْ عَائِشَةَ نَا عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ نَا أَحْمَدُ بْنُ مَنِيعٍ، وَيَعْقُوبُ الدَّوْرَقِيُّ قَالَا جَمِيعًا: نَا هُشَيْمٌ أَنَا مَنْصُورٌ هُوَ ابْنُ الْمُعْتَمِرِ - عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: كُنْت أُطَيِّبُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَبْلَ أَنْ يُحْرِمَ، وَيَوْمَ النَّحْرِ، قَبْلَ أَنْ يَطُوفَ بِالْبَيْتِ بِطِيبٍ فِيهِ مِسْكٌ -: نَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا مُحَمَّدُ بْنُ مَنْصُورٍ نَا سُفْيَانُ نَا عُثْمَانُ بْنُ عُرْوَةَ بْنِ الزُّبَيْرِ عَنْ أَبِيهِ قَالَ: قُلْت لِعَائِشَةَ:

not in Iḥrām." It was also narrated by us through the chain of transmission of ʻAmrah bint ʻAbdur-Raḥmān from her.

بِأَيِّ شَيْءٍ طَيَّبْتِ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؟ قَالَتْ: بِأَطْيَبِ الطِّيبِ عِنْدَ حِلِّهِ وَحرمِهِ ورُوِّيناهُ أَيْضًا: مِنْ طَرِيقِ عَمْرَةَ بِنْتِ عَبْدِ الرَّحْمَنِ عَنْهَا.

L12944 These are successive, mutually supportive narrations from which no one is permitted to depart; they were narrated from the Mother of the Believers by ʻUrwah, al-Qāsim, Sālim ibn ʻAbd Allāh ibn ʻUmar, ʻAbd Allāh ibn ʻAbd Allāh ibn ʻUmar, ʻAmrah, Masrūq, ʻAlqamah, and al-Aswad.

فَهَذِهِ آثَارٌ مُتَوَاتِرَةٌ مُتَظَاهِرَةٌ لَا يَحِلُّ لِأَحَدٍ أَنْ يَخْرُجَ عَنْهَا؛ رَوَاهُ عَنْ أُمِّ الْمُؤْمِنِينَ: عُرْوَةُ، وَالْقَاسِمُ، وَسَالِمُ بْنُ عَبْدِ اللَّهِ بْنِ عُمَرَ، وَعَبْدُ اللَّهِ بْنُ عَبْدِ اللَّهِ بْنِ عُمَرَ، وَعَمْرَةُ، وَمَسْرُوقٌ، وَعَلْقَمَةُ، وَالْأَسْوَدُ.

L12945 And he narrated it from these: the eminent people.

وَرَوَاهُ عَنْ هَؤُلَاءِ: النَّاسُ الْأَعْلَامُ.

L12946 Abu Muhammad said: Those who adhere to the school of Malik and Muhammad ibn al-Hasan objected to this by stating: You have narrated through the chain of Abi Umayr ibn al-Nahhas from Damrah ibn Rabi'ah from al-Awzaʻi from al-Zuhri from Urwah from ʻAishah, who said: "I applied perfume to the Messenger of Allah (peace and blessings be upon him) for his exit from Ihram and his entry into it with a perfume unlike yours," meaning it left no lasting fragrance.

قَالَ أَبُو مُحَمَّد: فَاعْتَرَضَ مَنْ قَلَّدَ مَالِكًا، وَمُحَمَّدَ بْنَ الْحَسَنِ فِي هَذَا بِأَنْ قَالُوا: قَدْ رَوَيْتُمْ مِنْ طَرِيقِ أَبِي عُمَيْرِ بْنِ النَّحَّاسِ عَنْ ضَمْرَةَ بْنِ رَبِيعَةَ عَنْ الْأَوْزَاعِيِّ عَنْ الزُّهْرِيِّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ قَالَتْ: طَيَّبْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِإِحْلَالِهِ وَلِإِحْرَامِهِ طِيبًا لَا يُشْبِهُ طِيبَكُمْ هَذَا - تَعْنِي لَيْسَ لَهُ بَقَاءٌ.

L12947 Ali said: This phrase is undoubtedly not from her speech by the explicit wording of the Hadith—it is merely a conjecture from those below her, and conjecture is the falsest of narrations. It has been authentically established from her through the chains of Masrūq, ʻAlqamah, and al-Aswad—they being the piercing stars—that she said: She saw the perfume on his hair-parting (peace be upon him) after three days. No weakness is feebler than one who rejects the narration of these stars from her—that she saw with her own eyes—as reported by Abū ʻUmayr ibn al-Naḥḥās through a conjecture that whomever Allah the Exalted wills has conjectured. O Allah, so let there not be more! This is indeed a wonder most wondrous.

قَالَ عَلِيٌّ: هَذِهِ لَفْظَةٌ لَيْسَتْ مِنْ كَلَامِهَا بِلَا شَكٍّ بِنَصِّ الْحَدِيثِ وَإِنَّمَا هُوَ ظَنٌّ مِمَّنْ دُونَهَا، وَالظَّنُّ أَكْذَبُ الْحَدِيثِ؛ وَقَدْ صَحَّ عَنْهَا مِنْ طَرِيقِ مَسْرُوقٍ، وَعَلْقَمَةَ، وَالْأَسْوَدِ - وَهُمْ النُّجُومُ الثَّوَاقِبُ - أَنَّهَا قَالَتْ: إنَّهَا رَأَتْ الطِّيبَ فِي مَفْرِقِهِ - عَلَيْهِ السَّلَامُ - بَعْدَ ثَلَاثَةِ أَيَّامٍ وَلَا ضَعْفَ أَضْعَفُ مِمَّنْ يُكَذِّبُ رِوَايَةَ هَؤُلَاءِ عَنْهَا أَنَّهَا رَأَتْ بِعَيْنِهَا بِرِوَايَةِ أَبِي عُمَيْرِ بْنِ النَّحَّاسِ بِظَنٍّ ظَنَّهُ مَنْ شَاءَ اللَّهُ تَعَالَى أَنْ يَظُنَّهُ؛ اللَّهُمَّ فَلَا أَكْثَرَ فَهَذَا عَجَبٌ عَجِيبٌ.

L12948 Some of them said: This is a particularity exclusive to him (peace be upon him).

وَقَالَ بَعْضُهُمْ: هَذَا خُصُوصٌ لَهُ - عَلَيْهِ السَّلَامُ -

L12949 Abu Muhammad said: "He who claims this has lied, for Salim ibn Abdullah ibn Umar narrated from her via the most authentic chain of transmission that she perfumed him - peace be upon him - stating: 'With my own hands.'"

قَالَ أَبُو مُحَمَّد: كَذَبَ قَائِلُ هَذَا لِأَنَّ سَالِمَ بْنَ عَبْدِ اللَّهِ بْنِ عُمَرَ رَوَى عَنْهَا بِأَصَحِّ إسْنَادٍ أَنَّهَا طَيَّبَتْهُ - عَلَيْهِ السَّلَامُ - قَالَتْ: بِيَدَيَّ.

L12950 We have reported it through the chain of Ḥammād ibn Zayd from ʿAmr ibn Dīnār from Sālim ibn ʿAbd Allāh from ʿĀ'ishah. We previously reported that they [the women] would apply musk to their foreheads, then enter the state of consecration (iḥrām). They would sweat, and it [the musk] would flow onto their faces. The Messenger of Allāh (peace and blessings be upon him) would see this and did not object to it.

L12951–12952 Then, even if all these conjectures were valid for them, this report would remain a proof against them, not in their favor under any circumstance. For it states that he—peace be upon him—applied perfume when entering *Ihram*. Thus, it would be said to them: Let it be whatever perfume he chose—it remains perfume in any case. Yet they consider perfume disliked under all circumstances. How much of this deception is meant to mislead you, while you falsely claim it supports you? Glory be to Him who makes them oppose the manifest truth with conjectures and lies! As for her statement, "This does not resemble your perfume"—if authentically attributed to her: it must be interpreted to mean his perfume was more excellent than ours. No other interpretation is permissible, given her prior statement we cited: "She perfumed him—peace be upon him—with the finest perfume."

L12953 Some meticulous scholars raised an objection to this based on the narration we transmitted through the chain of Ibrāhīm ibn Muḥammad ibn al-Muntashir from his father, that he heard ʿĀ'ishah, the Mother of the Believers, say: "I applied perfume to the Messenger of Allah (may Allah bless him and grant him peace), so he circulated among his wives, then he entered the morning in the state of iḥrām."

L12954 He said: It was confirmed from him that he performed the ritual bath, thereby removing that fragrance from him.

L12955 Abū Muḥammad said: We seek refuge with Allah from base desires and obstinate denial of truth through false conjecture. What refutes the assumption of this speculator is the narration by all those we previously mentioned from ʿĀ'isha—from those with whom Muḥammad ibn al-Muntashir cannot be equated, not even if compared to any one of them individually—how much more when their reports concur? This includes her anointing him

رُوِّينَاهُ مِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ «عَنْ عَائِشَةَ. وَرُوِّينَاهُ قَبْلُ أَنَّهُنَّ كُنَّ يُضَمِّخْنَ جِبَاهَهُنَّ بِالْمِسْكِ ثُمَّ يُحْرِمْنَ ثُمَّ يَعْرَقْنَ فَيَسِيلُ عَلَى وُجُوهِهِنَّ فَيَرَى ذَلِكَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَلَا يُنْكِرُهُ» .

ثُمَّ لَوْ صَحَّ لَهُمْ كُلُّ هَذِهِ الظُّنُونِ لَكَانَ هَذَا الْخَبَرُ حُجَّةً عَلَيْهِمْ لَا لَهُمْ عَلَى كُلِّ حَالٍ؛ لِأَنَّ فِيهِ أَنَّهُ - عَلَيْهِ السَّلَامُ - تَطَيَّبَ عِنْدَ الْإِحْرَامِ بِطِيبٍ، فَيُقَالُ لَهُمْ: لِيَكُنْ أَيَّ طِيبٍ شَاءَ، هُوَ طِيبٌ عَلَى كُلِّ حَالٍ، وَأَنَّهُمْ يَكْرَهُونَ الطِّيبَ بِكُلِّ حَالٍ، فَكَمْ هَذَا التَّمْوِيهُ بِمَا هُوَ عَلَيْكُمْ؟ وَتُوهِمُونَ أَنَّهُ لَكُمْ، فَسُبْحَانَ مَنْ جَعَلَهُمْ يُعَارِضُونَ الْحَقَّ الْبَيِّنَ بِالظُّنُونِ وَالتَّكَاذِيبِ وَالَّذِي يَجِبُ أَنْ يُحْمَلَ عَلَيْهِ قَوْلُهَا " لَا يُشْبِهُ طِيبُكُمْ هَذَا " إنْ صَحَّ عَنْهَا: عَلَى أَنَّهُ أَطْيَبُ مِنْ طِيبِنَا، لَا يَجُوزُ غَيْرُ هَذَا لِقَوْلِهَا الَّذِي أَوْرَدْنَاهُ عَنْهَا آنِفًا " أَنَّهَا طَيَّبَتْهُ - عَلَيْهِ السَّلَامُ - بِأَطْيَبِ الطِّيبِ ".

وَاعْتَرَضَ فِي ذَلِكَ مَنْ دَقَّقَ مِنْهُمْ بِمَا رُوِّينَاهُ مِنْ طَرِيقِ إبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ الْمُنْتَشِرِ عَنْ أَبِيهِ أَنَّهُ سَمِعَ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ تَقُولُ: طَيَّبْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَطَافَ فِي نِسَائِهِ ثُمَّ أَصْبَحَ مُحْرِمًا.

قَالَ: فَصَحَّ عَنْهُ أَنَّهُ اغْتَسَلَ فَزَالَ ذَلِكَ الطِّيبُ عَنْهُ.

قَالَ أَبُو مُحَمَّدٍ: نَعُوذُ بِاَللَّهِ مِنْ الْهَوَى وَمَا يُحْمَلُ عَلَيْهِ مِنْ الْمُكَابَرَةِ لِلْحَقِّ بِالظَّنِّ الْكَاذِبِ، وَيُكَذِّبُ ظَنَّ هَذَا الظَّانِّ مَا رَوَاهُ كُلُّ مَنْ ذَكَرْنَا قَبْلُ عَنْ عَائِشَةَ مِمَّنْ لَا يُعْدَلُ مُحَمَّدُ بْنُ الْمُنْتَشِرِ بِأَحَدٍ مِنْهُمْ لَوْ انْفَرَدَ، فَكَيْفَ إذَا اجْتَمَعُوا؟ مِنْ أَنَّهَا طَيَّبَتْهُ - عَلَيْهِ السَّلَامُ

(peace be upon him) with fragrance at his entering Ihram and upon exiting Ihram before circumambulating the House, as well as what those among them who narrated reported: that she observed the fragrance in his scalp partings (peace be upon him) three days after his entering Ihram.

- عِنْدَ إِحْرَامِهِ وَلِإِحْلَالِهِ قَبْلَ أَنْ يَطُوفَ بِالْبَيْتِ - وَمَا رَوَاهُ مَنْ رَوَاهُ مِنْهُمْ مِنْ أَنَّهَا رَأَتْ الطِّيبَ فِي مَفَارِقِهِ - عَلَيْهِ السَّلَامُ - بَعْدَ ثَالِثَةٍ مِنْ إحْرَامِهِ.

L12956 Moreover, it has been established with certainty, beyond any dispute, that he—peace be upon him—entered the state of consecration during that Hajj after the Dhuhr prayer. Thus, it is confirmed that the perfume mentioned in Ibn Al-Muntashir's narration refers to another perfume used the night before, during which the Prophet—peace be upon him—visited his wives in turn, then awoke the next morning as stated in Ibn Al-Muntashir's hadith. Consequently, their reliance on Ibn Al-Muntashir's narration is invalidated. Ibn Al-Muntashir was from Kufa—how astonishing for the Malikis! They persistently weaken the narrations of the people of Kufa, yet when a narration aligns with their view, they abandon the well-known narrations of the people of Medina. How is it that Ibn Al-Muntashir's narration does not contradict other narrations on the matter? They cited the hadith in which it is reported: "The Prophet—peace and blessings be upon him—was asked, 'Who is the pilgrim, O Messenger of God?' He replied, 'The disheveled, dust-covered one.'"

وَأَيْضًا: فَقَدْ صَحَّ بِيَقِينٍ لَا خِلَافَ فِيهِ أَنَّهُ - عَلَيْهِ السَّلَامُ - إنَّمَا أَحْرَمَ فِي تِلْكَ الْحَجَّةِ إثْرَ صَلَاةِ الظُّهْرِ، فَصَحَّ أَنَّ الطِّيبَ الَّذِي رَوَى ابْنُ الْمُنْتَشِرِ هُوَ طِيبٌ آخَرُ كَانَ قَبْلَ ذَلِكَ بِلَيْلَةٍ طَافَ فِيهَا - عَلَيْهِ السَّلَامُ - عَلَى نِسَائِهِ ثُمَّ أَصْبَحَ كَمَا فِي حَدِيثِ ابْنِ الْمُنْتَشِرِ، فَبَطَلَ أَنْ يَكُونَ لَهُمْ فِي حَدِيثِ ابْنِ الْمُنْتَشِرِ مُتَعَلَّقٌ، وَابْنُ الْمُنْتَشِرِ كُوفِيٌّ، فَيَا عَجَبًا لِلْمَالِكِيِّينَ لَا يَزَالُونَ يُضَعِّفُونَ رِوَايَةَ أَهْلِ الْكُوفَةِ فَإِذَا وَافَقَتْهُمْ تَرَكُوا لَهَا الْمَشْهُورَ مِنْ رِوَايَاتِ أَهْلِ الْمَدِينَةِ؟ فَكَيْفَ وَلَيْسَتْ رِوَايَةُ ابْنِ الْمُنْتَشِرِ مُخَالِفَةً لِرِوَايَةِ غَيْرِهِ فِي ذَلِكَ؟ وَاحْتَجُّوا بِالْخَبَرِ الَّذِي فِيهِ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قِيلَ: مَنْ الْحَاجُّ يَا رَسُولَ اللَّهِ؟ قَالَ: الْأَشْعَثُ التَّفِلُ» .

L12957–12958 Ali said: This was narrated by Ibrahim ibn Yazid, but he is discredited and his narration is not relied upon. Even if it were authentic, they would have no valid proof in it, because it is implausible for Ash'ath to have violated [the rules] from the first day or after two or three days. We only permitted him to use perfume at the time of entering iḥrām and upon exiting iḥrām. Is this akin to washing the head with khitmi (a fragrant plant) at that time? Some of them stirred controversy using the well-established report we narrated through Muslim's chain from Ali ibn Khashram—I am Isa ibn Yunus—from Ibn Jurayj, who narrated from Ata: "Safwan ibn Ya'la ibn Umayyah informed him that his father was with the Messenger of Allah—peace and blessings be upon him—at Ji'ranah, while the Messenger of Allah—peace and blessings be upon him—had a garment shading him, accompanied by some companions including Umar. A man wearing a woolen cloak saturated with perfume came and said: 'O Messenger of Allah, what do you think of one who entered

قَالَ عَلِيٌّ: وَهَذَا رَوَاهُ إبْرَاهِيمُ بْنُ يَزِيدَ، وَهُوَ سَاقِطٌ لَا يُحْتَجُّ بِحَدِيثِهِ، ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ لَهُمْ فِيهِ حُجَّةٌ، لِأَنَّهُ لَا يُمْكِنُ أَشْعَثَ تَفِلًا مِنْ أَوَّلِ يَوْمٍ وَلَا بَعْدَ يَوْمَيْنِ وَثَلَاثَةٍ؛ وَإِنَّمَا أَبَحْنَا لَهُ الطِّيبَ عِنْدَ الْإِحْرَامِ، وَعِنْدَ الْإِحْلَالِ كَغَسْلِ الرَّأْسِ بِالْخِطْمِيِّ حِينَئِذٍ؟ وَشَغَبَ بَعْضُهُمْ بِالْخَبَرِ الثَّابِتِ الَّذِي رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ عَنْ عَلِيِّ بْنِ خَشْرَمٍ أَنَا عِيسَى هُوَ ابْنُ يُونُسَ - عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي عَطَاءٌ: «أَنَّ صَفْوَانَ بْنَ يَعْلَى بْنِ أُمَيَّةَ أَخْبَرَهُ: أَنَّ أَبَاهُ كَانَ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْجِعْرَانَةِ وَعَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ثَوْبٌ قَدْ أَظَلَّ بِهِ عَلَيْهِ مَعَهُ نَاسٌ مِنْ أَصْحَابِهِ فِيهِمْ عُمَرُ إذْ جَاءَهُ رَجُلٌ عَلَيْهِ جُبَّةُ صُوفٍ مُتَضَمِّخٌ بِطِيبٍ فَقَالَ: يَا رَسُولَ اللَّهِ كَيْفَ تَرَى فِي رَجُلٍ أَحْرَمَ بِعُمْرَةٍ

iḥrām for Umrah in a cloak after applying perfume?' Then divine revelation came to him, and he conveyed the revelation." It states that the Messenger of Allah—peace and blessings be upon him—said: "As for the perfume on you, wash it off three times. As for the cloak, remove it. Then observe in your Umrah the same rites you would observe in your Hajj."[39]

فِي جُبَّةٍ بَعْدَمَا تَضَمَّخَ بِطِيبٍ؟ فَجَاءَهُ الْوَحْيُ فَذَكَرَ الْخَبَرَ. وَفِيهِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ أَمَّا الطِّيبُ الَّذِي بِك فَاغْسِلْهُ ثَلَاثَ مَرَّاتٍ، وَأَمَّا الْجُبَّةُ فَانْزِعْهَا ثُمَّ اصْنَعْ فِي عُمْرَتِكَ مَا تَصْنَعُ فِي حَجِّكَ» .

L12959 And in this manner, it was narrated by us through the chain of Yahya al-Qattān from Ibn Jurayj verbatim.

وَهَكَذَا رُوِّينَاهُ مِنْ طَرِيقِ يَحْيَى الْقَطَّانِ عَنْ ابْنِ جُرَيْجٍ نَصًّا.

L12960 Ali said: In their argument citing this report, there is a lesson but no valid proof for them. As for what is astonishing - was not the incident at Ji'ranah as mentioned in the hadith, and was not the Umrah of Ji'ranah immediately following the conquest of Mecca in Dhū al-Qi'dah? For the conquest of Mecca occurred in Ramadan, with Hunayn directly connected to it. Then came the Umrah of Ji'ranah upon his return - peace be upon him - from Hunayn. That same year, 'Attāb ibn Usayd performed Hajj. The following year, Abū Bakr led the people in Hajj. Then in the third year occurred the Farewell Pilgrimage. The Prophet - may Allah bless him and grant him peace - and his wives with him applied perfume during the Farewell Pilgrimage more than two years after this man's report. Who is more astonishing than one who contrasts the Prophet's final actions - peace be upon him - with his initial ones? Even if Ya'lā ibn Umayyah's narration were authentic in containing a prohibition of perfume for those in ihrām - and this is invalid according to them, for reasons we shall mention if Allah wills.

قَالَ عَلِيٌّ: فِي احْتِجَاجِهِمْ بِهَذَا الْخَبَرِ عِبْرَةٌ وَلَا حُجَّةَ لَهُمْ فِيهِ، أَمَّا الْعَجَبُ فَإِنَّهُ كَانَ فِي الْجِعْرَانَةِ كَمَا ذُكِرَ فِي الْحَدِيثِ وَعُمْرَةُ الْجِعْرَانَةِ كَانَتْ إثْرَ فَتْحِ مَكَّةَ مُتَّصِلَةً بِهِ فِي ذِي الْقَعْدَةِ؟ لِأَنَّ فَتْحَ مَكَّةَ كَانَ فِي شَهْرِ رَمَضَانَ، وَكَانَتْ حُنَيْنٌ مُتَّصِلَةً بِهِ، ثُمَّ عُمْرَةُ الْجِعْرَانَةِ مُنْصَرِفُهُ - عَلَيْهِ السَّلَامُ - مِنْ حُنَيْنٍ، ثُمَّ حَجَّ تِلْكَ السَّنَةَ عَتَّابُ بْنُ أُسَيْدٍ، ثُمَّ كَانَ عَامٌ قَابِلٌ فَحَجَّ بِالنَّاسِ أَبُو بَكْرٍ، ثُمَّ كَانَتْ حَجَّةُ الْوَدَاعِ فِي الْعَامِ الثَّالِثِ، وَكَانَ تَطَيُّبُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَزْوَاجُهُ، مَعَهُ فِي حَجَّةِ الْوَدَاعِ بَعْدَ حَدِيثِ هَذَا الرَّجُلِ بِأَزْيَدَ مِنْ عَامَيْنِ، فَمَنْ أَعْجَبُ مِمَّنْ يُعَارِضُ آخِرَ فِعْلِهِ - عَلَيْهِ السَّلَامُ - بِأَوَّلِ فِعْلِهِ هَذَا؟ لَوْ صَحَّ أَنَّ حَدِيثَ يَعْلَى بْنِ أُمَيَّةَ فِيهِ نَهْيٌ عَنْ الطِّيبِ لِلْمُحْرِمِ، وَهَذَا لَا يَصِحُّ لَهُمْ - لِمَا نَذْكُرُهُ إنْ شَاءَ اللَّهُ تَعَالَى.

L12961–12963 As for there being no proof for them in it, this report was narrated by one more reliable in memorization and more esteemed than Ibn Jurayj, and he clarified it, as narrated to us by Ḥumām: narrated to us by ʿAbd Allāh ibn Muḥammad al-Bājī; informed us by Aḥmad ibn Khālid; informed us by ʿUbayd ibn Muḥammad al-Kashwarī; informed us by Muḥammad ibn Yūsuf al-Ḥudhāfī; informed us by ʿAbd al-Razzāq; informed us by Ibn ʿUyaynah—who is Sufyān—from ʿAmr ibn Dīnār, from ʿAṭāʾ, from Ṣafwān ibn Yaʿlā, from his father: "That when the Messenger of Allah—peace and blessings be upon him—was..." At Al-Jiʿrānah, a man came to him smeared with khaluq and

وَأَمَّا كَوْنُهُ لَا حُجَّةَ لَهُمْ فِيهِ، فَإِنَّ هَذَا الْخَبَرَ رَوَاهُ مَنْ هُوَ أَحْفَظُ مِنْ ابْنِ جُرَيْجٍ وَأَجَلُّ مِنْهُ فَبَيَّنَهُ كَمَا حَدَّثَنَا حُمَامٌ ثنا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ الْبَاجِيِّ نَا أَحْمَدُ بْنُ خَالِدٍ نَا عُبَيْدُ بْنُ مُحَمَّدٍ الْكَشْوَرِيُّ نَا مُحَمَّدُ بْنُ يُوسُفَ الْحُذَافِيُّ نَا عَبْدُ الرَّزَّاقِ نَا ابْنُ عُيَيْنَةَ هُوَ سُفْيَانُ - عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ عَطَاءٍ عَنْ صَفْوَانَ بْنِ يَعْلَى عَنْ أَبِيهِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمَّا كَانَ بِالْجِعْرَانَةِ أَتَاهُ رَجُلٌ مُتَضَمِّخٌ بِخَلُوقٍ وَعَلَيْهِ مُقَطَّعَاتٌ فَقَالَ:

[39] **Hadith references (L12958):** Sahih Muslim 1180c.

wearing tattered garments. He said: “O Messenger of Allah, I have entered the state of iḥrām for ʿUmrah. What do you instruct me?” While revelation was descending upon the Messenger of Allah—peace and blessings be upon him—ʿUmar called me [the narrator], and I looked toward the Prophet. When the revelation ceased, he said: “Where is the questioner?” “Here I am, O Messenger of Allah,” [the man] replied. He asked: “What did you do during your Ḥajj?” The man said: “I removed these garments and washed this off me.” He said: “Then do in your ʿUmrah what you do in your Ḥajj.”

يَا رَسُولَ اللَّهِ إِنِّي أَهْلَلْتُ بِعُمْرَةٍ فَكَيْفَ تَأْمُرُنِي؟ وَأُنْزِلَ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَدَعَانِي عُمَرُ فَنَظَرْتُ إِلَيْهِ فَلَمَّا سُرِّيَ عَنْهُ قَالَ: أَيْنَ السَّائِلُ؟ هَا أَنَا ذَا يَا رَسُولَ اللَّهِ قَالَ: مَا كُنْتَ تَصْنَعُ فِي حَجِّكَ؟ قَالَ: أَنْزِعُ ثِيَابِي هَذِهِ وَأَغْسِلُ هَذَا عَنِّي؟ قَالَ: فَاصْنَعْ فِي عُمْرَتِكَ مِثْلَ مَا تَصْنَعُ فِي حَجَّتِكَ» .

L12964 Ali said: ‘Amr ibn Dinar, from the Successors, accompanied Jabir ibn Abdullah, Ibn Abbas, and Ibn Umar, and he clarified that that perfume was indeed khalūq.’

قَالَ عَلِيٌّ: عَمْرُو بْنُ دِينَارٍ مِنْ التَّابِعِينَ صَحِبَ جَابِرَ بْنَ عَبْدِ اللَّهِ، وَابْنَ عَبَّاسٍ، وَابْنَ عُمَرَ، فَقَدْ بَيَّنَ أَنَّ ذَلِكَ الطِّيبَ إِنَّمَا كَانَ خَلُوقًا.

L12965 And likewise, we have narrated it through the chain of Muslim who narrated to us: Muḥammad ibn Rāfiʿ narrated to us: Wahb ibn Jarīr ibn Ḥāzim narrated to us: My father said: I heard Qays—he is Ibn Saʿd—narrate from ʿAṭāʾ, from Ṣafwān ibn Yaʿlā ibn Umayyah, from his father: “A man came to the Prophet—peace and blessings be upon him—at Al-Jiʿrānah while in the state of iḥrām for ʿUmrah, having dyed his head and beard with yellow wars and wearing a jubbah cloak. He said: ’O Messenger of Allah, I have entered iḥrām for ʿUmrah in this state you see.’ He replied: ’Remove the jubbah, wash off the yellow stain, and whatever you are required to do in your Hajj, apply it to your ʿUmrah.’”[40]

وَهَكَذَا رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ رَافِعٍ نَا وَهْبُ بْنُ جَرِيرِ بْنِ حَازِمٍ نَا أَبِي قَالَ: سَمِعْت قَيْسًا هُوَ ابْنُ سَعْدٍ - يُحَدِّثُ عَنْ عَطَاءٍ عَنْ صَفْوَانَ بْنِ يَعْلَى بْنِ أُمَيَّةَ عَنْ أَبِيهِ «أَنَّ رَجُلًا أَتَى النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ بِالْجِعْرَانَةِ قَدْ أَهَلَّ بِالْعُمْرَةِ وَهُوَ مُصَفِّرٌ رَأْسَهُ وَلِحْيَتَهُ وَعَلَيْهِ جُبَّةٌ فَقَالَ: يَا رَسُولَ اللَّهِ إِنِّي أَحْرَمْتُ بِعُمْرَةٍ وَأَنَا كَمَا تَرَى؟ فَقَالَ: انْزِعْ عَنْكَ الْجُبَّةَ وَاغْسِلْ عَنْكَ الصُّفْرَةَ، وَمَا كُنْتَ صَانِعًا فِي حَجِّكَ فَاصْنَعْهُ فِي عُمْرَتِكَ» .

L12966 From the chain of Muslim: Shaybān ibn Farrūkh narrated to us, Hammām—who is Ibn Yaḥyā—narrated to us, ʿAṭāʾ—who is Ibn Abī Rabāḥ—narrated to us, from Ṣafwān ibn Yaʿlā ibn Umayyah, from his father, who said: “A man came to the Prophet—peace and blessings of Allah be upon him—at Al-Jiʿrānah, wearing a cloak and having khālūq (a saffron-based perfumed oil) on him—or he said: a trace of yellow dye. He related the incident, which states: The Messenger of Allah—peace and blessings of Allah be upon him—said to him: ’Wash off the trace of yellow dye’ (or he said, ’the trace of khālūq’), ’remove your cloak, and perform your ʿUmrah as you would your Ḥajj.’”

وَمِنْ طَرِيقِ مُسْلِمٍ نَا شَيْبَانُ بْنُ فَرُّوخَ نَا هَمَّامٌ هُوَ ابْنُ يَحْيَى - نَا عَطَاءٌ هُوَ ابْنُ أَبِي رَبَاحٍ - عَنْ صَفْوَانَ بْنِ يَعْلَى بْنِ أُمَيَّةَ عَنْ أَبِيهِ قَالَ: «جَاءَ رَجُلٌ إلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ بِالْجِعْرَانَةِ - عَلَيْهِ جُبَّةٌ وَعَلَيْهِ خَلُوقٌ أَوْ قَالَ: أَثَرُ الصُّفْرَةِ فَذَكَرَ الْخَبَرَ - وَفِيهِ -: فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - اغْسِلْ عَنْكَ أَثَرَ الصُّفْرَةِ، أَوْ قَالَ: أَثَرَ الْخَلُوقِ، وَاخْلَعْ عَنْكَ جُبَّتَكَ وَاصْنَعْ فِي عُمْرَتِكَ مَا أَنْتَ صَانِعٌ فِي حَجِّكَ» .

[40] **Hadith references (L12965):** Sahih Muslim 1180d.

فَاتَّفَقَ عَمْرُو بْنُ دِينَارٍ، وَهَمَّامُ بْنُ يَحْيَى، وَقَيْسُ بْنُ سَعْدٍ كُلُّهُمْ عَنْ عَطَاءٍ فِي هَذِهِ الْقِصَّةِ نَفْسِهَا عَنْ صَفْوَانَ بْنِ يَعْلَى بْنِ أُمَيَّةَ عَنْ أَبِيهِ أَنَّهُ كَانَ مُتَضَمِّخًا بِخَلُوقٍ.

L12967 Amr ibn Dinar, Hammam ibn Yahya, and Qays ibn Sa'd all agreed in narrating from Ata regarding this same incident, from Safwan ibn Ya'la ibn Umayyah, from his father, that he was anointed with khaluq.

وَهُوَ الصُّفْرَةُ نَفْسُهَا، وَهُوَ الزَّعْفَرَانُ - بِلَا خِلَافٍ وَهُوَ مُحْرِمٌ عَلَى الرِّجَالِ عَامَّةً فِي كُلِّ حَالٍ، وَعَلَى الْمُحْرِمِ أَيْضًا بِخِلَافِ سَائِرِ الطِّيبِ كَمَا حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ خَالِدٍ نَا إِبْرَاهِيمُ بْنُ أَحْمَدَ نَا الْفَرَبْرِيُّ نَا الْبُخَارِيُّ نَا مُسَدَّدٌ نَا عَبْدُ الْوَارِثِ عَنْ عَبْدِ الْعَزِيزِ بْنِ صُهَيْبٍ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ يَتَزَعْفَرَ الرَّجُلُ» .

L12968–12970 It is the yellowness itself, and it is saffron—without disagreement—and it is prohibited for men generally, in every situation, and for those in ritual consecration (iḥrām) as well, unlike the rest of perfumes. As narrated to us by ʿAbd al-Raḥmān ibn ʿAbd Allāh ibn Khālid, from Ibrāhīm ibn Aḥmad, from al-Firabrī, from al-Bukhārī, from Musaddad, from ʿAbd al-Wārith, from ʿAbd al-ʿAzīz ibn Ṣuhayb. The Messenger of Allah (may Allah's peace and blessings be upon him) forbade a man from using saffron dye.[41]

نَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ عُثْمَانَ نَا أَحْمَدُ بْنُ خَالِدٍ نَا عَلِيُّ بْنُ عَبْدِ الْعَزِيزِ نَا الْحَجَّاجُ بْنُ الْمِنْهَالِ نَا شُعْبَةُ نَا عَبْدُ اللَّهِ بْنُ دِينَارٍ أَنَّهُ سَمِعَ ابْنَ عُمَرَ يَقُولُ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْوَرْسِ وَالزَّعْفَرَانِ قَالَ: فَقُلْتُ: لِلْمُحْرِمِ؟ قَالَ: نَعَمْ» .

L12971 Abdullah ibn Rabiʿ narrated from Abdullah ibn Muhammad ibn Uthman, who narrated from Ahmad ibn Khalid, who narrated from Ali ibn Abd al-Aziz, who narrated from al-Hajjaj ibn al-Minhāl, who narrated from Shuʿbah, who narrated from Abdullah ibn Dinar, that he heard Ibn Umar say: "Allah's Messenger (peace be upon him) prohibited the use of waras (a type of dye plant) and saffron." Abdullah ibn Dinar asked: "For the *muhrim* (person in ritual consecration)?" Ibn Umar replied: "Yes."

فَبَطَلَ تَشْغِيبُهُمْ بِهَذَا الْخَبَرِ جُمْلَةً لِأَنَّهُ إنَّمَا فِيهِ نَهْيٌ عَنْ الصُّفْرَةِ لَا عَنْ سَائِرِ الطِّيبِ، وَلِأَنَّهُ لَوْ كَانَ فِيهِ نَهْيٌ عَنْ الطِّيبِ وَلَيْسَ ذَلِكَ فِيهِ لَكَانَ مَنْسُوخًا بِآخِرِ فِعْلِهِ - عَلَيْهِ السَّلَامُ - فِي حَجَّةِ الْوَدَاعِ.

L12972 Thus, their objection based on this report is wholly invalid, because it contains only a prohibition against saffron dye, not against other scents. Moreover, even if it had hypothetically contained a prohibition against scents (which it does not), it would have been abrogated by his final actions during the Farewell Pilgrimage, peace be upon him.

وَقَالَ بَعْضُهُمْ: وَجَدْنَا الْمُحْرِمَ مَنْهِيًّا عَنْ ابْتِدَاءِ التَّطَيُّبِ، وَعَنْ ابْتِدَاءِ الصَّيْدِ، ثُمَّ وَجَدْنَاهُ لَوْ أَحْرَمَ وَفِي يَدِهِ صَيْدٌ لَوَجَبَ عَلَيْهِ إرْسَالُهُ فَكَذَلِكَ الطِّيبُ.

L12973 Some of them said: We found that the pilgrim in ihrām is prohibited from initiating the use of perfume or beginning to hunt. Then we held that if he enters ihrām while possessing hunted game, he must relinquish it—and the same applies to perfume.

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا قِيَاسٌ وَالْقِيَاسُ فَاسِدٌ، ثُمَّ لَوْ صَحَّ لَكَانَ مِنْ الْقِيَاسِ بَاطِلًا لِأَنَّهُ لَا يَلْزَمُ مَنْ أَحْرَمَ وَفِي يَدِهِ صَيْدٌ قَدْ تَصَيَّدَهُ فِي إحْلَالِهِ أَنْ يُطْلِقَهُ فَهُوَ تَشْبِيهٌ لِلْخَطَإِ بِالْخَطَإِ.

L12974 Abu Muhammad said: This is analogy, and analogy is unsound. Moreover,

[41] **Hadith references (L12968):** Sunan an-Nasai 5256; Sahih Muslim 2101b; Mishkat al-Masabih 4434.

even if it were hypothetically valid, it would still be nullified as analogy, because one who enters iḥrām (ritual consecration) while holding game he had already hunted during his non-consecrated state is not obligated to release it. This constitutes likening one wrongful act to another.

L12975 The entire astonishment lies in the statement of this speaker: that if someone enters the state of iḥrām while holding live game in his hand and having live game in a cage at his home, he is obligated to release the one in his hand but not the one in the cage—and this is utterly astonishing. Success is solely from Allah, the Exalted. Moreover, he analogized this to one who enters iḥrām while wearing a shirt, pants, and a turban—how can this comparison hold? Abū Muḥammad countered: This analogy of theirs is contradicted by the fact that it is forbidden for a person in iḥrām to marry; if he marries and then enters iḥrām, his marriage is nullified.

L12976 So if they say, "We do not agree to this."

L12977 We said: This address is directed to us specifically by those Malikis who uphold this position. As for you, your stance is that the Muhrim is prohibited from initiating the slaughter of game and eating it, and you do not differ in holding that if someone slaughters game and then enters Ihrām, his ownership and consumption of it remain lawful for him.

## A Matter of Intention in ʿUmrah

L12978

L12979 826: Issue

L12980 Then the pilgrims say: "Labbaik [Here I am] for ʿUmrah," or the two of them mentally affirm this intention within themselves, in accordance with the statement of the Messenger of Allah (may Allah bless him and grant him peace): "Verily, actions are by intentions." We recommend that this declaration follow immediately after an obligatory prayer or a voluntary prayer.

## Issue: Touching perfume by a Muhrim.

L12981–12982

L12983 Issue:

وَالْعَجَبُ كُلُّهُ مِنْ قَوْلِ هَذَا الْقَائِلِ: إنَّ مَنْ أَحْرَمَ وَفِي يَدِهِ صَيْدٌ وَفِي قَفَصِهِ فِي مَنْزِلِهِ صَيْدٌ أَنَّهُ يَلْزَمُهُ إطْلَاقُ الَّذِي فِي يَدِهِ وَلَا يَلْزَمُهُ إطْلَاقُ الَّذِي فِي الْقَفَصِ وَهَذَا عَجَبٌ جِدًّا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ، وَقَاسَهُ أَيْضًا عَلَى مَنْ أَحْرَمَ وَعَلَيْهِ قَمِيصٌ، وَسَرَاوِيلُ، وَعِمَامَةٌ؟ قَالَ أَبُو مُحَمَّدٍ: وَيُعَارِضُ قِيَاسَهُمْ هَذَا بِأَنَّهُ لَا يَحِلُّ لِلْمُحْرِمِ أَنْ يَتَزَوَّجَ؛ فَإِنْ تَزَوَّجَ ثُمَّ أَحْرَمَ يَبْطُلُ نِكَاحُهُ.

فَإِنْ قَالُوا: لَا نُوَافِقُ عَلَى هَذَا.

قُلْنَا: إنَّمَا خَاطَبْنَا بِهَذَا مَنْ يَقُولُ بِهِ مِنْ الْمَالِكِيِّينَ، وَأَمَّا أَنْتُمْ فَإِنَّكُمْ تَقُولُونَ: [إنَّ] الْمُحْرِمَ مَمْنُوعٌ مِنْ ابْتِدَاءِ ذَبْحِ الصَّيْدِ وَأَكْلِهِ، وَلَا تَخْتَلِفُونَ فِي أَنَّ مَنْ ذَبَحَ صَيْدًا ثُمَّ أَحْرَمَ فَإِنَّ مِلْكَهُ وَأَكْلَهُ لَهُ حَلَالٌ.

## [مَسْأَلَةٌ النِّيَّة فِي الْعُمْرَة]

٨٢٦ - مَسْأَلَةٌ:

ثُمَّ يَقُولُونَ: لَبَّيْكَ بِعُمْرَةٍ، أَوْ يَنْوِيَانِ ذَلِكَ فِي أَنْفُسِهِمَا لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «إنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ» وَنَسْتَحِبُّ أَنْ يَكُونَ ذَلِكَ إثْرَ صَلَاةِ فَرْضٍ أَوْ نَافِلَةٍ.

## [مَسْأَلَةٌ مس الطِّيب لِلْمُحْرِمِ]

مَسْأَلَةٌ:

ثُمَّ يَجْتَنِبَانِ تَجْدِيدَ قَصْدٍ إلَى الطِّيبِ فَإِنْ مَسَّهُمَا مِنْ طِيبِ الْكَعْبَةِ شَيْءٌ لَمْ يَضُرَّ، أَمَّا اجْتِنَابُ الْقَصْدِ إلَى الطِّيبِ فَلَا نَعْلَمُ فِيهِ خِلَافًا، وَأَمَّا إنْ مَسَّهُ شَيْءٌ مِنْ طِيبِ الْكَعْبَةِ أَوْ غَيْرِهَا عَنْ غَيْرِ قَصْدٍ، فَلِأَنَّهُ لَمْ يَأْتِ فِيهِ نَهْيٌ.

L12984 Then the two of them must avoid renewing the intention to use perfume. If either of them is touched by any of the Ka'bah's perfume, it causes no harm. As for avoiding the intention to use perfume, we do not know of any disagreement on this matter. As for unintended contact with perfume from the Ka'bah or other than it, this is because no prohibition has been mentioned regarding it.

وَقَدْ رُوِّينَا عَنْ أَنَسٍ كَمَا ذَكَرْنَا أَنَّهُ أَصَابَهُ فَلَمْ يَغْسِلْهُ، وَبِهِ قَالَ عَطَاءٌ، وَسُئِلَ عَنْ ذَلِكَ؟ فَقَالَ: لَيْسَ عَلَيْهِ أَنْ يَغْسِلَهُ.

L12985 It has been narrated to us from Anas, as we have mentioned before, that he experienced a nocturnal emission and did not perform ghusl. ʿAṭāʾ held the same opinion. When he was asked about that matter, he said: "He is not required to perform ghusl."

## [مَسْأَلَةٌ تَغْطِيَةَ الرأس لِلْمُحْرِمِ]

L12986 **The issue of covering the head for the muḥrim (the pilgrim in iḥrām).**

٨٢٨ - مَسْأَلَةٌ:

وَلَا بَأْسَ أَنْ يُغَطِّيَ الرَّجُلُ وَجْهَهُ بِمَا هُوَ مُلْتَحِفٌ بِهِ أَوْ بِغَيْرِ ذَلِكَ وَلَا كَرَاهَةَ فِي ذَلِكَ، وَلَا بَأْسَ أَنْ تَسْدُلَ الْمَرْأَةُ الثَّوْبَ مِنْ عَلَى رَأْسِهَا عَلَى وَجْهِهَا.

L12987 828 – Question:

L12988 There is no issue if a man covers his face with the garment he is wrapped in or with another item, and there is no religious disapproval (karāhah) in this practice. Likewise, there is no objection to a woman draping her garment from her head over her face.

أَمَّا أَمْرُ الْمَرْأَةِ، فَلِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنَّمَا نَهَاهَا عَنْ النِّقَابِ، وَلَا يُسَمَّى السَّدْلُ نِقَابًا فَإِنْ كَانَ " الْبُرْقُعُ " يُسَمَّى نِقَابًا، لَمْ يَحِلَّ لَهَا لِبَاسُهُ، وَأَمَّا اللِّثَامُ فَإِنَّهُ نِقَابٌ بِلَا شَكٍّ، فَلَا يَحِلُّ لَهَا.

L12989 Regarding the ruling on women, it is because the Messenger of Allah (peace be upon him) specifically prohibited her from the niqab. The *sadl* is not called a niqab. If the *burqa* is termed a niqab, it is not permissible for her to wear it. As for the *litham*, it is unquestionably a niqab; therefore, it is not permissible for her.

وَقَدْ قَالَ اللَّهُ تَعَالَى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام: ١١٩]

L12990 Allah, the Exalted, has said: "He has made clear to you what He has forbidden to you" [Al-Anʿām 119].[42]

وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَدَعُوهُ» .

L12991 The Messenger of Allah - peace be upon him - said: "If I forbid you from something, then leave it."

L12992 And He, the Exalted, said: "And whoever transgresses the limits of Allah

[42] **Qur'an references (L12990):** Qur'an 6:119 (Al-An'am).

has wronged himself” [At-Talaq: 1]. Thus, it is established that whatever He has not explicitly prohibited for us is permissible, and whatever He has not forbidden is lawful. And by Allah, the Exalted, is success. There is sound scholarly disagreement on this matter. We were narrated through the chain of Al-Hajjaj ibn Al-Minhal that Abdul Aziz ibn Abdullah ibn Abi Salamah Al-Majishun reported from Muhammad ibn Al-Munkadir, who said: Ibn Umar saw a woman who had draped her garment over her face while she was in a state of Ihram. He said to her: “Uncover your face, for a woman’s modesty lies in her face.”[43]

وَقَالَ تَعَالَى: {وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ} [الطلاق: ١] فَصَحَّ أَنَّ مَا لَمْ يُفَصِّلْ لَنَا تَحْرِيمَهُ فَمُبَاحٌ، وَمَا لَمْ يَنْهَ عَنْهُ فَحَلَالٌ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ، وَقَدْ صَحَّ فِي ذَلِكَ خِلَافٌ -: رُوِّينَا مِنْ طَرِيقِ الْحَجَّاجِ بْنِ الْمِنْهَالِ نَا عَبْدُ الْعَزِيزِ بْنُ عَبْدِ اللَّهِ بْنِ أَبِي سَلَمَةَ الْمَاجِشُونُ عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ قَالَ: رَأَى ابْنُ عُمَرَ امْرَأَةً قَدْ سَدَلَتْ ثَوْبَهَا عَلَى وَجْهِهَا - وَهِيَ مُحْرِمَةٌ - فَقَالَ لَهَا: اكْشِفِي وَجْهَكِ فَإِنَّمَا حُرْمَةُ الْمَرْأَةِ فِي وَجْهِهَا.

L12993 An authentic contrary report to this has been transmitted from others besides the aforementioned scholar, as narrated via Ḥammād ibn Salama, Hishām ibn ʿUrwa, and Fāṭima bint al-Mundhir that Asmāʾ bint Abī Bakr al-Ṣiddīq would cover her face while in a state of iḥrām.

وَصَحَّ خِلَافُ هَذَا عَنْ غَيْرِهِ، كَمَا رُوِّينَا عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ فَاطِمَةَ بِنْتِ الْمُنْذِرِ أَنَّ أَسْمَاءَ بِنْتَ أَبِي بَكْرٍ الصِّدِّيقِ كَانَتْ تُغَطِّي وَجْهَهَا وَهِيَ مُحْرِمَةٌ.

L12994 From Waki‘, from Shu‘bah, from Yazid al-Rishk, from Mu‘adhah al-‘Adawiyyah, who said: I asked ‘A’ishah, the Mother of the Believers, “What does a woman in iḥrām wear?” She replied, “She does not wear a niqab or a litham, but she drapes the garment over her face.” The same ruling is also narrated from ‘Uthman. The ruling on this matter is based only on what the Messenger of Allah—peace and blessings be upon him—prohibited.

وَعَنْ وَكِيعٍ عَنْ شُعْبَةَ عَنْ يَزِيدَ الرِّشْكِ عَنْ مُعَاذَةَ الْعَدَوِيَّةِ قَالَتْ: سَأَلْت عَائِشَةَ أُمَّ الْمُؤْمِنِينَ مَا تَلْبَسُ الْمُحْرِمَةُ؟ فَقَالَتْ: لَا تَنْتَقِبُ، وَلَا تَلْثِمُ، وَتَسْدُلُ الثَّوْبَ عَلَى وَجْهِهَا - وَعَنْ عُثْمَانَ أَيْضًا ذَلِكَ، فَكَانَ الْمَرْجُوعُ فِي ذَلِكَ إلَى مَا مَنَعَ مِنْهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَطْ.

L12995–12997 As for the narrator: We have received narrations from Ibn Abī Shaybah, from Abū Muʿāwiyah, from Ibn Jurayj, from... Abd al-Rahman ibn al-Qasim ibn Muhammad reported from his father via al-Furāfiṣah ibn Umayr, who said: “Uthman ibn Affan, Zayd ibn Thabit, and Ibn al-Zubayr would cover their faces while they were in the state of *iḥrām*.”

وَأَمَّا الرَّجُلُ: فَإِنَّنَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَبِي مُعَاوِيَةَ عَنْ ابْنِ جُرَيْجٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ الْفُرَافِصَةِ بْنِ عُمَيْرٍ قَالَ: كَانَ عُثْمَانُ بْنُ عَفَّانَ، وَزَيْدُ بْنُ ثَابِتٍ، وَابْنُ الزُّبَيْرِ يُخَمِّرُونَ وُجُوهَهُمْ وَهُمْ مُحْرِمُونَ.

L12998 And through the chain of Maʿmar and Sufyān ibn ʿUyaynah – both transmitting from ʿAbdullāh ibn Abī Bakr ibn Muḥammad ibn ʿAmr ibn Ḥazm – who said: I heard ʿAbdullāh ibn ʿĀmir ibn Rabīʿah say: I saw ʿUthmān ibn ʿAffān covering his face with a purple-dyed quilt at al-ʿArj on a summer day while in the state of iḥrām. Narrated by Muḥammad ibn Saʿīd ibn Nubāt, narrated by Aḥmad ibn ʿAbd al-Baṣīr, narrated by Qāsim ibn Aṣbagh, narrated

وَمِنْ طَرِيقِ مَعْمَرٍ، وَسُفْيَانَ بْنِ عُيَيْنَةَ كِلَيْهِمَا عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ قَالَ: سَمِعْت عَبْدَ اللَّهِ بْنَ عَامِرِ بْنِ رَبِيعَةَ يَقُولُ: رَأَيْت عُثْمَانَ بْنَ عَفَّانَ مُخَمِّرًا وَجْهَهُ بِقَطِيفَةِ أُرْجُوَانٍ بِالْعَرْجِ فِي يَوْمٍ صَائِفٍ وَهُوَ مُحْرِمٌ -: نَا مُحَمَّدُ بْنُ سَعِيدِ بْنِ نُبَاتٍ نَا أَحْمَدُ بْنُ عَبْدِ الْبَصِيرِ نَا قَاسِمُ بْنُ أَصْبَغَ نَا مُحَمَّدُ بْنُ عَبْدِ السَّلَامِ الْخُشَنِيُّ نَا مُحَمَّدُ بْنُ

[43] **Qur’an references (L12992):** Qur’an 65:1 (At-Talaq).

by Muḥammad ibn ʿAbd al-Salām al-Khushanī, narrated by Muḥammad ibn al-Muthannā, narrated by ʿAbd al-Raḥmān ibn Mahdī, narrated by Sufyān al-Thawrī, narrated by Abū al-Zubayr, who said: I heard Jābir ibn ʿAbdullāh say: A muḥrim may cover himself from dust, cover his face when sleeping, perform ghusl (ritual bathing), and wash his garments.

L12999 And through the chain of transmission of Abd al-Razzaq, from Sufyan al-Thawri, from Abu al-Zubayr (who narrated from both Jabir ibn Abdullah and Ibn al-Zubayr) that both of them would cover their faces while in ihram.

الْمُثَنَّى نَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي الزُّبَيْرِ قَالَ: سَمِعْت جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: الْمُحْرِمُ يُغَطِّي مِنْ الْغُبَارِ وَيُغَطِّي وَجْهَهُ إذَا نَامَ وَيَغْتَسِلُ وَيَغْسِلُ ثِيَابَهُ.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَابْنِ الزُّبَيْرِ أَنَّهُمَا كَانَا يُخَمِّرَانِ وُجُوهَهُمَا وَهُمَا مُحْرِمَانِ.

L13000 And through the chain of Ḥammād ibn Salamah from Qays ibn Saʿd from ʿAṭāʾ from Ibn ʿAbbās, who said: The muḥrim may cover [the area] below the eyebrows, and the woman drapes her garment from the nape of her neck over her head.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: الْمُحْرِمُ يُغَطِّي مَا دُونَ الْحَاجِبِ وَالْمَرْأَةُ تَسْدُلُ ثَوْبَهَا مِنْ قِبَلِ قَفَاهَا عَلَى هَامَتِهَا.

L13001 And from Abd al-Rahman ibn Awf as well: the mere permissibility of a Muhrim covering his face. This is the opinion of Ata ibn Abi Rabah, Tawus ibn Kaysan, Mujahid, Alqama, Ibrahim an-Nakha'i, and al-Qasim ibn Muhammad. All of them ruled that a Muhrim may cover his face. Some of them clarified [this ruling applies] against the sun, dust, flies, and other such harms.

وَعَنْ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَيْضًا: إبَاحَةُ تَغْطِيَةِ الْمُحْرِمِ وَجْهَهُ وَهُوَ قَوْلُ عَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ، وَعَلْقَمَةَ، وَإِبْرَاهِيمَ النَّخَعِيِّ، وَالْقَاسِمِ بْنِ مُحَمَّدٍ كُلِّهِمْ أَفْتَى الْمُحْرِمَ بِتَغْطِيَةِ وَجْهِهِ وَبَيَّنَ بَعْضُهُمْ مِنْ الشَّمْسِ، وَالْغُبَارِ، وَالذُّبَابِ وَغَيْرِ ذَلِكَ.

L13002 This is the view of Sufyan al-Thawri, al-Shafi'i, Abu Sulayman, and their companions. It is narrated from Ibn Umar that the muhrim must not cover his face. Malik also held this view, but he did not consider anything required of the muhrim if he covers his face with something - neither expiation, nor charity, nor anything else - except that he merely disliked it. However, narrations from him indicate the permissibility of that.

وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَأَصْحَابِهِمْ وَرُوِيَ عَنْ ابْنِ عُمَرَ: لَا يُغَطِّي الْمُحْرِمُ وَجْهَهُ - وَقَالَ بِهِ مَالِكٌ، وَلَمْ يَرَ عَلَى الْمُحْرِمِ إنْ غَطَّى وَجْهَهُ شَيْئًا لَا فِدْيَةَ، وَلَا صَدَقَةَ، وَلَا غَيْرَ ذَلِكَ إلَّا أَنَّهُ كَرِهَهُ فَقَطْ، بَلْ قَدْ رَوَى عَنْهُ مَا يَدُلُّ عَلَى جَوَازِ ذَلِكَ.

L13003 We have been narrated through the chain of Saʿīd ibn Manṣūr: Sufyān—he is Ibn ʿUyaynah—narrated to us from ʿUbaydullāh ibn ʿUmar, from Nāfiʿ, from Ibn ʿUmar, who said: "The chin is part of the head, so do not cover it." He said: "A woman's *iḥrām* is in her face, and a man's *iḥrām* is in his head." Abū Ḥanīfah and his companions said: "A person in *iḥrām* must not cover his face. If he does so, he must offer *fidyah*."

رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: الذَّقَنُ مِنْ الرَّأْسِ فَلَا تُغَطِّهِ، وَقَالَ: إحْرَامُ الْمَرْأَةِ فِي وَجْهِهَا، وَإِحْرَامُ الرَّجُلِ فِي رَأْسِهِ - وَقَالَ أَبُو حَنِيفَةَ وَأَصْحَابُهُ: لَا يُغَطِّي الْمُحْرِمُ وَجْهَهُ فَإِنْ فَعَلَ فَعَلَيْهِ الْفِدْيَةُ.

L13004–13005 Abu Muhammad said: We know of no one who held this opinion before Abū Ḥanīfah, though they magnify dissent from the majority. Yet here they have contradicted the positions of ʿAbd al-Raḥmān ibn ʿAwf, ʿUthmān ibn ʿAffān, Zayd ibn Thābit, Jābir ibn ʿAbd Allāh, Ibn ʿAbbās, Ibn al-Zubayr, and the majority of the Successors. If they cling to Ibn ʿUmar, we have already cited in this chapter Ibn ʿUmar's prohibition against women draping cloth over their faces—yet they opposed him. We have also transmitted narrations from him indicating the permissibility of a male in Ihrām covering his face,

قَالَ أَبُو مُحَمَّد: مَا نَعْلَمُ أَحَدًا قَالَ هَذَا قَبْلَ أَبِي حَنِيفَةَ، وَهُمْ يُعَظِّمُونَ خِلَافَ الْجُمْهُورِ، وَقَدْ خَالَفُوا هَاهُنَا: عَبْدَ الرَّحْمَنِ بْنَ عَوْفٍ، وَعُثْمَانَ بْنَ عَفَّانَ وَزَيْدَ بْنَ ثَابِتٍ، وَجَابِرَ بْنَ عَبْدِ اللَّهِ، وَابْنَ عَبَّاسٍ، وَابْنَ الزُّبَيْرِ، وَجُمْهُورَ التَّابِعِينَ؛ فَإِنْ تَعَلَّقُوا بِابْنِ عُمَرَ فَقَدْ ذَكَرْنَا فِي هَذَا الْبَابِ عَنْ ابْنِ عُمَرَ نَهْيَ الْمَرْأَةِ عَنْ أَنْ تَسْدُلَ عَلَى وَجْهِهَا وَقَدْ خَالَفُوهُ، وَرُوِّينَا عَنْهُ مَا يَدُلُّ عَلَى جَوَازِ تَغْطِيَةِ الْمُحْرِمِ وَجْهَهُ كَمَا ذَكَرْنَا آنِفًا؛ فَمَرَّةً هُوَ حُجَّةٌ، وَمَرَّةً لَيْسَ

as mentioned earlier. At times they deem him an authority, at times not—Ugh! Is this how they act?

Abu Muhammad said: The height of astonishment is their claim that since a woman's Ihrām pertains to her face, a man is more deserving of this ruling because his state in Ihrām is stricter. Yet the Sunnah distinguishes between men and women in Ihrām: a man must uncover his head, while a woman need not. They concur on abstaining from gloves but differ regarding garments. From where did they derive the analogy obliging men to cover their faces based on women? This analogy is utterly baseless! Moreover, they have lied—women are not forbidden from covering their faces in Ihrām; it is permissible for them, save for wearing the niqāb. Thus the fallacy of their analogy stands exposed.

What is truly astonishing is their reliance as evidence on the rigorously authenticated report from Allah's Messenger—peace and blessings be upon him—regarding his command about a man who died in Ihrām: that his head and face not be covered. We have transmitted this through numerous chains, including the narration in Muslim: Abū Kurayb narrated to us, Wakīʿ from Sufyān from ʿAmr ibn Dīnār from Saʿīd ibn Jubayr from Ibn ʿAbbās: "A man was thrown by his mount while in Ihrām and died. Allah's Messenger—peace and blessings be upon him—said: 'Wash him with water and lotus leaves, shroud him in his two garments, and do not cover his face or head, for he will be resurrected on the Day of Judgment proclaiming the Talbiyah.'"[1]

L13006 Abū Muḥammad said: Modesty is indeed a virtue, and as the Messenger of Allah—peace and blessings of Allah be upon him—declared, it is part of faith. Yet they are the first contradictors of this Ḥadīth and the foremost disobeyers of the Messenger of Allah—peace and blessings of Allah be upon him—in this matter. They do not consider it permissible to uncover the head and face of one who dies in iḥrām; rather, they cover all of that. Then they cite this as proof that a living muḥrim must not cover his face. We seek refuge in Allah from deprivation of divine aid.

L13007–13009 They say: When a Companion narrates a narration and subsequently con-

هُوَ حُجَّةً، أُفٍّ لِهَذَا عَمَلًا؟ قَالَ أَبُو مُحَمَّدٍ: وَالْعَجَبُ كُلُّ الْعَجَبِ أَنَّهُمْ قَالُوا: لَمَّا كَانَتْ الْمَرْأَةُ إحْرَامُهَا فِي وَجْهِهَا كَانَ الرَّجُلُ بِذَلِكَ أَحَقَّ لِأَنَّهُ أَغْلَظُ حَالًا مِنْهَا فِي الْإِحْرَامِ؟ قَالَ أَبُو مُحَمَّدٍ: وَالسُّنَّةُ قَدْ فَرَّقَتْ بَيْنَ الرَّجُلِ وَالْمَرْأَةِ فِي الْإِحْرَامِ فَوَجَبَ عَلَى الرَّجُلِ فِي الْإِحْرَامِ كَشْفُ رَأْسِهِ وَلَمْ يَجِبْ عَلَى الْمَرْأَةِ، وَاتَّفَقَا فِي أَنْ لَا يَلْبَسَا قُفَّازَيْنِ وَاخْتَلَفَا فِي الثِّيَابِ، فَمِنْ أَيْنَ وَجَبَ أَنْ يُقَاسَ عَلَيْهَا فِي تَغْطِيَةِ وَجْهِهِ؟ إنَّ هَذَا الْقِيَاسَ سَخِيفٌ جِدًّا، وَأَيْضًا: فَقَدْ كَذَبُوا وَمَا نُهِيَتْ الْمَرْأَةُ عَنْ تَغْطِيَةِ وَجْهِهَا، بَلْ هُوَ مُبَاحٌ لَهَا فِي الْإِحْرَامِ - وَإِنْ نُهِيَتْ عَنْ النِّقَابِ فَقَطْ - فَظَهَرَ فَسَادُ قِيَاسِهِمْ؟ وَالْعَجَبُ أَنَّهُمْ احْتَجُّوا فِي ذَلِكَ بِالْخَبَرِ الثَّابِتِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي أَمْرِهِ فِي الَّذِي مَاتَ مُحْرِمًا أَنْ لَا يُخَمَّرَ رَأْسُهُ، وَلَا وَجْهُهُ رُوِّينَاهُ مِنْ طُرُقٍ جَمَّةٍ -: مِنْهَا مِنْ طَرِيقِ مُسْلِمٍ نَا أَبُو كُرَيْبٍ نَا وَكِيعٌ عَنْ سُفْيَانَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَجُلًا أَوْقَصَتْهُ رَاحِلَتُهُ وَهُوَ مُحْرِمٌ فَمَاتَ، فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - اغْسِلُوهُ بِمَاءٍ وَسِدْرٍ، وَكَفِّنُوهُ فِي ثَوْبَيْهِ، وَلَا تُخَمِّرُوا وَجْهَهُ وَلَا رَأْسَهُ فَإِنَّهُ يُبْعَثُ يَوْمَ الْقِيَامَةِ مُلَبِّيًا» .

قَالَ أَبُو مُحَمَّدٍ: إنَّ الْحَيَاءَ لَفَضِيلَةٌ، وَكَمَا أَخْبَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ مِنْ الْإِيمَانِ، وَهُمْ أَوَّلُ مُخَالِفٍ لِهَذَا الْحَدِيثِ، وَأَوَّلُ عَاصٍ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِيهِ فَلَا يَرَوْنَ فِيمَنْ مَاتَ مُحْرِمًا أَنْ يُكْشَفَ رَأْسُهُ وَوَجْهُهُ، بَلْ يُغَطُّونَ كُلَّ ذَلِكَ ثُمَّ يَحْتَجُّونَ بِهِ فِي أَنْ لَا يُغَطِّيَ الْحَيُّ الْمُحْرِمُ وَجْهَهُ وَنَعُوذُ بِاَللَّهِ مِنْ الْخِذْلَانِ.

[1] **Hadith references (L13005):** Sunan Ibn Majah 3084.

tradicts that narration, this constitutes evidence for the abrogation of that narration. According to them, it is. Ibn Abbas reported this tradition, and this is a juristic opinion stating that a living pilgrim in Ihram must cover his face. So where is that vile principle of yours which you cling to in rejecting the [established] traditions?

L13010 Ali said: And we say: Indeed, the living person in the state of ihram is not obligated to uncover their face; rather, they are only obligated to uncover their head. When they die, Allah the Exalted decrees an additional ruling for them—that neither their face nor their head should be covered. {He is not questioned about what He does} [Al-Anbiya: 23], Exalted is He. Analogical reasoning is misguidance, and any addition to the religion by divine law that Allah the Exalted has not permitted.[2]

L13011 Ali said: If covering the face while in the state of iḥrām were reprehensible or forbidden, the Messenger of Allah, peace be upon him, would have explicitly explained it. Since he did not prohibit this, it is permissible. And with Allah, the Most High, is success.

L13012 ## The Issue of the *Talbiyah*

L13013 ٨٢٩ – Issue:

L13014 We recommend that one should frequently recite the Talbiyah from the moment of entering the state of Ihram onwards, continuously, whether while riding, walking, dismounting, or in every circumstance. Both the man and the woman must raise their voices when reciting it, and it is an obligation—even if only once. The Talbiyah is: "At Your service, O Allah, at Your service, at Your service. Verily, all praise and blessings are Yours, and sovereignty is Yours; You have no partner."

L13015 Aḥmad ibn Muḥammad ibn al-Jasūr narrated to us: Aḥmad ibn al-Faḍl al-Dīnawarī narrated to us: Muḥammad ibn Jarīr al-Ṭabarī narrated to us: Muḥammad ibn ʿAbd Allāh ibn Saʿīd al-Wāsiṭī narrated to me: Yaʿqūb ibn Muḥammad narrated to us: Muḥammad ibn Mūsā narrated to us: Isḥāq ibn

[2] **Qur'an references (L13010):** Qur'an 21:23 (Al-Anbya).

وَيَقُولُونَ: إِنَّ الصَّاحِبَ إِذَا رَوَى خَبَرًا وَخَالَفَهُ فَهُوَ دَلِيلٌ عَلَى نَسْخِ ذَلِكَ الْخَبَرِ عِنْدَهُمْ هُوَ، وَابْنُ عَبَّاسٍ رَوَى هَذَا الْخَبَرَ وَهُوَ رَأْيٌ لِلْمُحْرِمِ الْحَيِّ أَنْ يُخَمِّرَ وَجْهَهُ، فَأَيْنَ لَك ذَلِكَ الْأَصْلُ الْخَبِيثُ الَّذِي تَعَلَّقُوا بِهِ فِي رَدِّ السُّنَنِ [الثَّابِتَةِ] .

قَالَ عَلِيٌّ: وَنَحْنُ نَقُولُ: إِنَّ الْحَيَّ الْمُحْرِمَ لَا يَلْزَمُهُ كَشْفُ وَجْهِهِ، وَإِنَّمَا يَلْزَمُهُ كَشْفُ رَأْسِهِ فَقَطْ، فَإِذَا مَاتَ أَحْدَثَ اللَّهُ تَعَالَى لَهُ حُكْمًا زَائِدًا وَهُوَ أَنْ لَا يُخَمَّرَ وَجْهُهُ وَلَا رَأْسُهُ {لا يُسْأَلُ عَمَّا يَفْعَلُ} [الأنبياء: ٢٣] تَعَالَى، وَالْقِيَاسُ ضَلَالٌ، وَزِيَادَةٌ فِي الدِّينِ شَرْعًا لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى.

قَالَ عَلِيٌّ: لَوْ كَانَ تَغْطِيَةُ الْمُحْرِمِ وَجْهَهُ مَكْرُوهًا أَوْ مُحَرَّمًا، لَبَيَّنَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَإِذَا لَمْ يَنْهَ عَنْ ذَلِكَ فَهُوَ مُبَاحٌ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةُ التَّلْبِيَةِ]

٨٢٩ - مَسْأَلَةٌ:

وَنَسْتَحِبُّ أَنْ يُكْثِرَ مِنْ التَّلْبِيَةِ مِنْ حِينِ الْإِحْرَامِ فَمَا بَعْدَهُ دَائِمًا فِي حَالِ الرُّكُوبِ، وَالْمَشْيِ، وَالنُّزُولِ، وَعَلَى كُلِّ حَالٍ، وَيَرْفَعُ الرَّجُلُ وَالْمَرْأَةُ صَوْتَهُمَا بِهَا وَلَا بُدَّ، وَهُوَ فَرْضٌ - وَلَوْ مَرَّةً - وَهِيَ: لَبَّيْكَ، اللَّهُمَّ لَبَّيْكَ، لَبَّيْكَ إِنَّ الْحَمْدَ وَالنِّعْمَةَ لَك وَالْمُلْكُ لَا شَرِيكَ لَك.

نَا أَحْمَدُ بْنُ مُحَمَّدِ بْنِ الْجَسُورِ نَا أَحْمَدُ بْنُ الْفَضْلِ الدِّينَوَرِيُّ نَا مُحَمَّدُ بْنُ جَرِيرٍ الطَّبَرِيُّ حَدَّثَنِي مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ سَعِيدٍ الْوَاسِطِيُّ نَا يَعْقُوبُ بْنُ مُحَمَّدٍ نَا مُحَمَّدُ بْنُ مُوسَى نَا إِسْحَاقُ بْنُ سَعِيدِ بْنِ جُبَيْرٍ عَنْ جَعْفَرِ بْنِ حَمْزَةَ بْنِ أَبِي دَاوُد الْمَازِنِيِّ عَنْ أَبِيهِ عَنْ جَدِّهِ

Saʿīd ibn Jubayr narrated to us from Jaʿfar ibn Ḥamzah ibn Abī Dāwūd al-Māzinī from his father from his grandfather Abī Dāwūd (a veteran of Badr) who said: “We set out with the Messenger of Allāh—peace and blessings of Allāh be upon him—for Ḥajj. When he reached Dhū al-Ḥulayfah, he prayed four rakʿahs in the mosque, then proclaimed the talbiyah immediately after concluding the prayer. He went out to the mosque’s door, where his mount stood ready. When it set off with him, he proclaimed the talbiyah, then proceeded. When he ascended al-Bayḍāʾ, he renewed the talbiyah.”

L13016–13018 Ali said: “Wherever one begins the talbiyah, it is sufficient for him, as it is an action, not a command.” Abdullah ibn Yusuf narrated to us from Ahmad ibn Fath from Abdul Wahhab ibn Isa from Ahmad ibn Muhammad from Ahmad ibn Ali from Muslim ibn al-Hajjaj; Harmalah ibn Yahya narrated to me from Ibn Wahb, who informed me from Yunus from Ibn Shihab, who said: “Salim ibn Abdullah ibn Umar informed me from his father, who said: ’I heard Allah’s Messenger - peace and blessings be upon him - recite the talbiyah, saying: ”Labbayka, O Allah, Labbayka, Labbayka, You have no partner.“” “At Your service, indeed all praise and blessing are Yours, and the dominion; You have no partner.” One should not add beyond these words.[3]

L13019 Abu Muhammad said: Others have narrated an addition. Whoever increases in mentioning Allah the Exalted, it is good, and whoever shortens to this, it is also good—all of that is good remembrance: From ʿAbdullāh ibn Rabīʿ, from Muḥammad ibn Muʿāwiyah, from Aḥmad ibn Shuʿayb, from Qutaybah ibn Saʿīd, from Ḥumayd ibn ʿAbd al-Raḥmān, from ʿAbd al-ʿAzīz ibn Abī Salamah (he is Ibn al-Mājishūn), from ʿAbdullāh ibn al-Faḍl, from al-Aʿraj, from Abū Hurayrah, who said: “Among the talbiyah of the Messenger of Allah (may Allah bless him and grant him peace) was: *Labbayk, ilāha al-ḥaqq* (Here I am, God of Truth).”

L13020 Aḥmad ibn Shuʿayb said: “We do not know anyone who narrated it with a chain except ʿAbdullāh ibn al-Faḍl - and he is trustworthy -: ʿAbdullāh ibn Rabīʿ narrated to us; Muḥammad ibn Muʿāwiyah narrated to us; Aḥmad

[3]**Hadith references (L13016):** Sunan Abi Dawud 1812; Sunan Abi Dawud 1905; Sahih al-Bukhari 1549.

أَبِي دَاوُد - وَهُوَ بَدْرِيٌّ - قَالَ «خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الْحَجِّ، فَلَمَّا كَانَ بِذِي الْحُلَيْفَةِ صَلَّى فِي الْمَسْجِدِ أَرْبَعَ رَكَعَاتٍ، ثُمَّ لَبَّى دُبُرَ الصَّلاَةِ، ثُمَّ خَرَجَ إِلَى بَابِ الْمَسْجِدِ، فَإِذَا رَاحِلَتُهُ قَائِمَةٌ فَلَمَّا انْبَعَثَتْ بِهِ أَهَلَّ ثُمَّ مَضَى، فَلَمَّا عَلاَ الْبَيْدَاءَ أَهَلَّ» .

قَالَ عَلِيٌّ: وَمِنْ حَيْثُ أَهَلَّ أَجْزَأَهُ لِأَنَّهُ فِعْلٌ لَا أَمْرٌ -: نَا عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ حَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى أَنَا ابْنُ وَهْبٍ أَخْبَرَنِي يُونُسُ عَنِ ابْنِ شِهَابٍ قَالَ: إِنَّ سَالِمَ بْنَ عَبْدِ اللَّهِ بْنِ عُمَرَ أَخْبَرَنِي عَنْ أَبِيهِ قَالَ: «سَمِعْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يُهِلُّ مُلَبِّيًا يَقُولُ: لَبَّيْكَ، اللَّهُمَّ لَبَّيْكَ، لَبَّيْكَ لَا شَرِيكَ لَكَ لَبَّيْكَ إِنَّ الْحَمْدَ وَالنِّعْمَةَ لَكَ، وَالْمُلْكَ لَا شَرِيكَ لَكَ» لَا يَزِيدُ عَلَى هَؤُلَاءِ الْكَلِمَاتِ “.

قَالَ أَبُو مُحَمَّد: وَقَدْ رَوَى غَيْرُهُ الزِّيَادَةَ، وَمَنْ زَادَ ذِكْرَ اللَّهِ تَعَالَى فَحَسَنٌ، وَمَنْ اخْتَصَرَ عَلَى هَذِهِ فَحَسَنٌ، كُلُّ ذَلِكَ ذِكْرٌ حَسَنٌ -: نَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ نَا قُتَيْبَةُ بْنُ سَعِيدٍ نَا حُمَيْدُ بْنُ عَبْدِ الرَّحْمَنِ عَنْ عَبْدِ الْعَزِيزِ بْنِ أَبِي سَلَمَةَ هُوَ ابْنُ الْمَاجِشُونِ - عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ عَنِ الْأَعْرَجِ عَنْ أَبِي هُرَيْرَةَ قَالَ: «كَانَ مِنْ تَلْبِيَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَبَّيْكَ إِلَهَ الْحَقِّ» .

قَالَ أَحْمَدُ بْنُ شُعَيْبٍ مَا نَعْلَمُ أَحَدًا أَسْنَدَهُ إِلَّا عَبْدُ اللَّهِ بْنُ الْفَضْلِ وَهُوَ ثِقَةٌ -: نَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا إِسْحَاقُ بْنُ رَاهْوَيْهِ نَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ عَنْ عَبْدِ الْمَلِكِ بْنِ أَبِي بَكْرِ بْنِ

ibn Shuʿayb narrated to me; Isḥāq ibn Rāhwayh narrated to me; Sufyān ibn ʿUyaynah narrated to us from ʿAbdullāh ibn Abī Bakr ibn Muḥammad ibn ʿAmr ibn Ḥazm from ʿAbd al-Malik ibn Abī Bakr ibn ʿAbd al-Raḥmān from Khallād ibn al-Sāʾib from his father from the Messenger of Allah - peace and blessings of Allah be upon him - who said: ʾGabriel came to me and said: "O Muḥammad, command your companions to raise their voices in the talbiyah.""

عَبْدِ الرَّحْمَنِ عَنْ خَلَّادِ بْنِ السَّائِبِ عَنْ أَبِيهِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «جَاءَنِي جِبْرِيلُ فَقَالَ لِي: يَا مُحَمَّدُ مُرْ أَصْحَابَكَ فَلْيَرْفَعُوا أَصْوَاتَهُمْ بِالتَّلْبِيَةِ» .

L13021 Abu Muhammad said: "This is a matter," and some people said: "Raising the voice is reprehensible (makrūh)."

قَالَ أَبُو مُحَمَّدٍ: هَذَا أَمْرٌ، وَقَالَ بَعْضُ النَّاسِ: يُكْرَهُ رَفْعُ الصَّوْتِ.

L13022 Ali said, "This is contrary to the Sunnah." Some of them said, "A woman should not raise."

قَالَ عَلِيٌّ: وَهَذَا خِلَافٌ لِلسُّنَّةِ، وَقَالَ بَعْضُهُمْ: لَا تَرْفَعُ الْمَرْأَةُ.

L13023 Abū Muḥammad said: This is an error and an unwarranted specification without evidence, for people would hear the speech of the Mothers of the Believers without any restriction. Narrations have been transmitted from them while they were in their twenties or a few years beyond that, with no disagreement among scholars regarding the validity and recommended status of this practice.

We have been narrated through the chain of Saʿīd ibn Manṣūr: Hushaym narrated to us, Humayd ibn ʿAbd al-Raḥmān narrated to us, from Bakr ibn ʿAbd Allāh al-Muzanī, who said: I heard Ibn ʿUmar raising his voice in the *talbiyah* until I heard the reverberation of his voice echoing between the mountains.

Through the same chain to Hushaym: al-Faḍl ibn ʿAṭiyyah narrated to us, Abū Ḥāzim narrated to us, who said: When the Companions of the Messenger of Allah—peace and blessings be upon him—entered the state of *iḥrām*, they would not reach al-Rawḥāʾ until their voices were strained.

قَالَ أَبُو مُحَمَّدٍ: هَذَا خَطَأٌ وَتَخْصِيصٌ بِلَا دَلِيلٍ، وَقَدْ كَانَ النَّاسُ يَسْمَعُونَ كَلَامَ أُمَّهَاتِ الْمُؤْمِنِينَ وَلَا حَرَجَ فِي ذَلِكَ، وَقَدْ رُوِيَ عَنْهُنَّ وَهُنَّ فِي حُدُودِ الْعِشْرِينَ سَنَةً وَفُوَيْقَ ذَلِكَ، وَلَمْ يَخْتَلِفْ أَحَدٌ فِي جَوَازِ ذَلِكَ وَاسْتِحْبَابِهِ -: رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ أَنَا حُمَيْدٌ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ - عَنْ بَكْرِ بْنِ عَبْدِ اللَّهِ الْمُزَنِيِّ قَالَ: سَمِعْت ابْنَ عُمَرَ يَرْفَعُ صَوْتَهُ بِالتَّلْبِيَةِ حَتَّى أَنِّي لَأَسْمَعُ دَوِيَّ صَوْتِهِ بَيْنَ الْجِبَالِ -: وَبِهِ إلَى هُشَيْمٍ أَنَا الْفَضْلُ بْنُ عَطِيَّةَ نَا أَبُو حَازِمٍ قَالَ: كَانَ أَصْحَابُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذَا أَحْرَمُوا لَمْ يَبْلُغُوا الرَّوْحَاءَ حَتَّى تُبَحَّ أَصْوَاتُهُمْ.

Through the chain of Waki‘, who narrated to us from Ibrāhīm ibn Nāfi‘, who said: A non-Arab woman arrived and went out with the people but did not recite the Talbiyah at all, except that she was invoking Allah, the Exalted. So ‘Aṭā’ said: It is not sufficient for her.

وَمِنْ طَرِيقِ وَكِيعٍ نَا إبْرَاهِيمُ بْنُ نَافِعٍ قَالَ: قَدِمَتْ امْرَأَةٌ أَعْجَمِيَّةٌ فَخَرَجَتْ مَعَ النَّاسِ وَلَمْ تُهِلَّ بِشَيْءٍ إلَّا أَنَّهَا كَانَتْ تَذْكُرُ اللَّهَ تَعَالَى، فَقَالَ عَطَاءٌ: لَا يُجْزِئُهَا.

L13026 And through the chain of Ibn Abi Shaybah: from Abd al-Rahman ibn Mahdi, from Sufyan al-Thawri, from Abd al-Rahman ibn al-Qasim ibn Muhammad,

from his father, who said: Mu‘awiyah went out on the night of Nafar (ritual departure) and heard the sound of the talbiyah. He asked, “Who is this?” It was said, “‘A’ishah, the Mother of the Believers, performed ‘Umrah from Tan‘im.” When this was mentioned to her, she said, “Had he asked me, I would have informed him. This is the Mother of the Believers raising her voice until Mu‘awiyah hears it in the very situation he was in.”

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ قَالَ: خَرَجَ مُعَاوِيَةُ لَيْلَةَ النَّفَرِ فَسَمِعَ صَوْتَ تَلْبِيَةٍ فَقَالَ: مَنْ هَذَا؟ قِيلَ: عَائِشَةَ أُمَّ الْمُؤْمِنِينَ اعْتَمَرَتْ مِنْ التَّنْعِيمِ فَذُكِرَ ذَلِكَ لِعَائِشَةَ فَقَالَتْ عَائِشَةُ: لَوْ سَأَلَنِي لَأَخْبَرْته، فَهَذِهِ أُمُّ الْمُؤْمِنِينَ تَرْفَعُ صَوْتَهَا حَتَّى يَسْمَعَهَا مُعَاوِيَةُ فِي حَالِهِ الَّتِي كَانَ فِيهَا.

L13027 If it is said: It has been reported from Ibn Abbas that “a woman should not raise her voice in the talbiyah,” and from Ibn Umar that “women are not required to raise their voices in the talbiyah”? We respond: The narration from Ibn Umar is transmitted through Isa ibn Abi Isa al-Hannat, who is weak, and the narration from Ibn Abbas is transmitted through Ibrahim ibn Abi Habibah, who is also weak. Even if both were authentic, the narration of Aisha would be consistent with the textual evidence.

فَإِنْ قِيلَ: قَدْ رُوِيَ عَنْ ابْنِ عَبَّاسٍ: لَا تَرْفَعُ الْمَرْأَةُ صَوْتَهَا بِالتَّلْبِيَةِ - وَعَنْ ابْنِ عُمَرَ: لَيْسَ عَلَى النِّسَاءِ أَنْ يَرْفَعْنَ أَصْوَاتَهُنَّ بِالتَّلْبِيَةِ؟ قُلْنَا: رِوَايَةُ ابْنِ عُمَرَ هِيَ مِنْ طَرِيقِ عِيسَى بْنِ أَبِي عِيسَى الْخَنَّاطِ وَهُوَ ضَعِيفٌ، وَرِوَايَةُ ابْنِ عَبَّاسٍ هِيَ مِنْ طَرِيقِ إبْرَاهِيمَ بْنِ أَبِي حَبِيبَةَ وَهُوَ ضَعِيفٌ وَلَوْ صَحَّا لَكَانَتْ رِوَايَةُ عَائِشَةَ مُوَافِقَةً لِلنَّصِّ.

## [مَسْأَلَةُ الْقَصْد إلَى الْحَجَرِ الْأَسْوَدِ وَتَقْبِيله]

L13028 **Issue: Intending to approach the Black Stone and kissing it.**

٨٣٠ - مَسْأَلَةٌ:

L13029 830: Legal Question:

فَإِذَا قَدِمَ الْمُعْتَمِرُ، أَوْ الْمُعْتَمِرَةُ مَكَّةَ فَلْيَدْخُلَا الْمَسْجِدَ وَلَا يَبْدَآ بِشَيْءٍ لَا رَكْعَتَيْنِ وَلَا غَيْرَ ذَلِكَ قَبْلَ الْقَصْدِ إلَى الْحَجَرِ الْأَسْوَدِ فَيُقَبِّلَانِه، ثُمَّ يَلْقَيَانِ الْبَيْتَ عَلَى الْيَسَارِ وَلَا بُدَّ، ثُمَّ يَطُوفَانِ بِالْبَيْتِ مِنْ الْحَجَرِ الْأَسْوَدِ إلَى أَنْ يَرْجِعَا إلَيْهِ سَبْعَ مَرَّاتٍ، مِنْهَا ثَلَاثُ مَرَّاتٍ خَبَبًا وَهُوَ مَشْيٌ فِيهِ سُرْعَةٌ، وَالْأَرْبَعُ طَوَّافَاتِ الْبَوَاقِي مَشْيًا، وَمَنْ شَاءَ أَنْ يَخُبَّ فِي الثَّلَاثِ الطَّوَّافَاتِ، وَهِيَ الْأَشْوَاطُ مِنْ الرُّكْنِ الْأَسْوَدِ مَارًّا عَلَى الْحَجَرِ إلَى الرُّكْنِ الْيَمَانِيِّ، ثُمَّ يَمْشِي رِفْقًا مِنْ الْيَمَانِيِّ إلَى الْأَسْوَدِ فِي كُلِّ شَوْطٍ مِنْ الثَّلَاثَةِ فَذَلِكَ لَهُ وَكُلَّمَا مَرَّا عَلَى

L13030 When the male or female ʿUmrah pilgrim arrives in Makkah, they must enter the Masjid and refrain from initiating any act—including the two rakʿahs or other rituals—before proceeding to the Black Stone to kiss it. They must necessarily position themselves with the Kaaba on their left, then perform seven circuits around the Kaaba, starting and ending at the Black Stone. Three of these circuits should be performed with *ramal* (a ritual brisk walk or jog), while the remaining four are completed at a normal pace. Those who wish to observe *ramal* during the three circuits—moving swiftly from the Black Stone to the Yemeni Corner in each circuit, then walking calmly from the Yemeni Corner back to the Black Stone—may do so. Each time they pass the Black Stone, they kiss it, and they also touch the Yemeni Corner, but no other. Upon completing this circumambulation, they proceed to the Station of Abraham (peace be upon him) to pray two recommended rakʿahs there.

الْحَجَرِ الْأَسْوَدِ قَبَّلَاهُ، وَكَذَلِكَ الرُّكْنُ الْيَمَانِيُّ أَيْضًا فَقَطْ، فَإِذَا تَمَّ الطَّوَافُ الْمَذْكُورُ أَتَيَا إِلَى مَقَامِ إِبْرَاهِيمَ - عَلَيْهِ السَّلَامُ - فَصَلَّيَا هُنَالِكَ رَكْعَتَيْنِ وَلَيْسَتَا فَرْضًا.

L13031 Then the two inevitably proceeded to Safa, ascended it, and descended. When they reached the valley of Mas‘ā, the pilgrim would hasten his pace until exiting it, then walk until arriving at Marwah. He would ascend it, descend, and return to Safa in this manner, repeating this between Safa and Marwah until completing seven trips: three with light jogging (khabb) and four walking. The light jogging between them is not obligatory.

ثُمَّ خَرَجَا وَلَا بُدَّ إِلَى الصَّفَا فَصَعِدَا عَلَيْهِ، ثُمَّ هَبَطَا فَإِذَا صَارَا فِي بَطْنِ الْوَادِي أَسْرَعَ الرَّجُلُ الْمَشْيَ حَتَّى يَخْرُجَ عَنْهُ ثُمَّ يَمْشِي حَتَّى يَأْتِيَ الْمَرْوَةَ فَيَصْعَدَ عَلَيْهَا ثُمَّ يَنْحَدِرَ كَذَلِكَ حَتَّى يَرْجِعَ إِلَى الصَّفَا ثُمَّ يَرْجِعَ كَذَلِكَ إِلَى الْمَرْوَةِ هَكَذَا حَتَّى يُتِمَّ سَبْعَ مَرَّاتٍ: مِنْهَا ثَلَاثٌ خَبَبًا وَأَرْبَعٌ مَشْيًا، وَلَيْسَ الْخَبَبُ بَيْنَهُمَا فَرْضًا.

L13032–13034 Then the man shaves his head or trims some of his hair—and the woman does not shave, but trims her hair. her hair, as the ‘Umrah had been completed, and all that had been forbidden to them both due to iḥrām—including clothing and other restrictions—became permissible.

ثُمَّ يَحْلِقُ الرَّجُلُ رَأْسَهُ، أَوْ يُقَصِّرُ مِنْ شَعْرِهِ - وَلَا تَحْلِقُ الْمَرْأَةُ لَكِنْ تُقَصِّرُ مِنْ شَعْرِهَا، وَقَدْ تَمَّتْ الْعُمْرَةُ وَحَلَّ لَهُمَا كُلُّ مَا كَانَ حَرُمَ عَلَيْهِمَا بِالْإِحْرَامِ مِنْ لِبَاسٍ وَغَيْرِهِ.

L13035 Abu Muhammad said: There is no disagreement regarding what we have mentioned except in certain matters which we will clarify, God the Mighty and Majestic willing. These are: the obligation of *ramal* (brisk walking) during circumambulation, the permissibility of reversing the direction of circumambulation by facing the House on the right side, and the obligation of *Sa‘i* between *al-Ṣafā* and *al-Marwah*. The proof for the validity of our position is what was transmitted to us by ‘Abdullāh ibn Rabī‘: Muḥammad ibn Mu‘āwiyah narrated to us, Aḥmad ibn Shu‘ayb narrated to us, Muḥammad ibn Sulaymān Luwayn informed me from Ḥammād ibn Zayd, from Ayyūb al-Sikhtiyānī, from Sa‘īd ibn Jubayr, from Ibn ‘Abbās, who said: “When the Messenger of God—peace and blessings be upon him—arrived, the polytheists said, ‘A people weakened by the fever of Yathrib are coming to you, having suffered greatly from it.’ God the Mighty and Majestic informed His Prophet—peace be upon him—of this, so he commanded his companions to perform *ramal* and to walk normally between the two corners.” This constitutes an obligatory ruling. Through this chain to Aḥmad ibn Shu‘ayb: ‘Ubaydullāh ibn Sa‘īd ibn Qudāmah narrated to us, Yaḥyā—meaning Ibn Sa‘īd al-Qaṭṭān—narrated from ‘Ubaydullāh—meaning Ibn ‘Umar—from

قَالَ أَبُو مُحَمَّد: لَا خِلَافَ فِيمَا ذَكَرْنَا إِلَّا فِي أَشْيَاءَ نُبَيِّنُهَا إِنْ شَاءَ اللَّهُ عَزَّ وَجَلَّ، وَهِيَ: وُجُوبُ الْخَبَبِ فِي الطَّوَافِ، وَجَوَازُ تَنْكِيسِ الطَّوَافِ بِأَنْ يَلْقَى الْبَيْتَ عَلَى الْيَمِينِ، وَوُجُوبُ السَّعْيِ بَيْنَ الصَّفَا وَالْمَرْوَةِ -: بُرْهَانُ صِحَّةِ قَوْلِنَا مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَخْبَرَنِي مُحَمَّدُ بْنُ سُلَيْمَانَ لُوَيْنٌ عَنْ حَمَّادِ بْنِ زَيْدٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ قَالَ «لَمَّا قَدِمَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ الْمُشْرِكُونَ إِنَّهُ يَقْدَمُ عَلَيْكُمْ قَوْمٌ وَهَنَتْهُمْ حُمَّى يَثْرِبَ وَلَقُوا مِنْهَا شَرًّا فَأَطْلَعَ اللَّهُ - عَزَّ وَجَلَّ نَبِيَّهُ - عَلَيْهِ السَّلَامُ - عَلَى ذَلِكَ فَأَمَرَ أَصْحَابَهُ أَنْ يَرْمُلُوا وَأَنْ يَمْشُوا مَا بَيْنَ الرُّكْنَيْنِ» فَهَذَا أَمْرٌ وَاجِبٌ -: وَبِهِ إِلَى أَحْمَدَ بْنِ شُعَيْبٍ أَنَا عُبَيْدُ اللَّهِ بْنُ سَعِيدِ بْنِ قُدَامَةَ نَا يَحْيَى هُوَ ابْنُ سَعِيدٍ الْقَطَّانُ - عَنْ عُبَيْدِ اللَّهِ هُوَ ابْنُ عُمَرَ - عَنْ نَافِعٍ أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ كَانَ يَرْمُلُ الثَّلَاثَ وَيَمْشِي الْأَرْبَعَ وَيَزْعُمُ أَنَّ رَسُولَ اللَّهِ -

Nāfiʿ, that ʿAbdullāh ibn ʿUmar would perform *ramal* for three circuits and walk normally for four circuits, firmly asserting that the Messenger of God—peace and blessings be upon him—used to do this. This clarifies that *ramal* applies specifically to the first three circuits, and that performing *ramal* throughout all the first three circuits is permissible.

صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يَفْعَلُ ذَلِكَ - فَهَذَا بَيَانُ الرَّمَلِ إِنَّمَا هُوَ فِي الثَّلَاثَةِ الْأَشْوَاطِ الْأُوَلِ، وَأَنَّ الرَّمَلَ فِي جَمِيعِ تِلْكَ الْأَشْوَاطِ جَائِزٌ.

L13036 If it is said: "Indeed, Ibn ʿAbbās stated regarding the *ramal* that it is not a Sunnah, though he is the narrator of the ḥadīth?" We respond: No one's opinion can stand as proof against the Messenger of Allah—peace and blessings be upon him. We ask you: What would you and the people of Islam say about them if, when the Messenger of Allah—peace and blessings be upon him—commanded them to perform the *ramal*, they had replied, "We will not do it"—though Allah the Exalted has protected them from such—would they then be disobedient or obedient? As for its obligation: We have been narrated through chains from Ibn ʿUmar, ʿAṭā, Sulaymān ibn Yasār, and Makhūl that women are not required to perform the *ramal*—via chains which, had we wished, we could have critiqued most of them due to weakness in their transmission.

فَإِنْ قِيلَ: إِنَّ ابْنَ عَبَّاسٍ قَالَ فِي الرَّمَلِ: لَيْسَ سُنَّةً، وَهُوَ رَاوِي الْحَدِيثِ؟ قُلْنَا: لَا حُجَّةَ فِي أَحَدٍ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَنَحْنُ نَسْأَلُكُمْ مَا قَوْلُكُمْ، وَقَوْلُ أَهْلِ الْإِسْلَامِ فِيهِمْ لَوْ أَنَّهُمْ إِذْ أَمَرَهُمْ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِأَنْ يَرْمُلُوا؟ يَقُولُونَ لَهُ: لَا نَفْعَلُ - وَقَدْ أَعَاذَهُمْ اللَّهُ تَعَالَى مِنْ ذَلِكَ - أَعُصَاةً كَانُوا يَكُونُونَ أَمْ مُطِيعِينَ؟ وَأَمَّا وُجُوبُهُ -: فَقَدْ رُوِّينَا مِنْ طَرِيقِ ابْنِ عُمَرَ، وَعَطَاءٍ، وَسُلَيْمَانَ بْنِ يَسَارٍ، وَمَكْحُولٍ، لَيْسَ عَلَى النِّسَاءِ رَمَلٌ مِنْ طُرُقٍ لَوْ شِئْنَا لَتَكَلَّمْنَا فِي أَكْثَرِهَا لِضَعْفِهَا.

L13037 It is narrated from Ibn Abbas and Ata that nothing is required of one who omits the *ramal*; whereas it is narrated from Ibrahim that a *fidya* (compensation) is incumbent upon him.

وَرُوِّينَا عَنْ ابْنِ عَبَّاسٍ، وَعَطَاءٍ، لَيْسَ عَلَى مَنْ تَرَكَ الرَّمَلَ شَيْءٌ - وَعَنْ إِبْرَاهِيمَ عَلَيْهِ فِدْيَةٌ.

L13038 We received a narration via Ibn Abī Shaybah's chain: he narrated to us [from] al-Thaqafī – who is ʿAbd al-Wahhāb ibn ʿAbd al-Majīd – from Ḥabīb – who is Ibn Abī Thābit – from ʿAṭāʾ: that he asked about the resident near the Sacred Mosque who assumes ihrām in Mecca – must he perform the three circuits of Saʿī? He replied: "They perform Saʿī." As for Ibn ʿAbbās, he said: "This obligation applies only to people from distant regions."

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا الثَّقَفِيُّ هُوَ عَبْدُ الْوَهَّابِ بْنُ عَبْدِ الْمَجِيدِ - عَنْ حَبِيبٍ هُوَ ابْنُ أَبِي ثَابِتٍ - عَنْ عَطَاءٍ: أَنَّهُ سَأَلَ عَنْ الْمُجَاوِرِ إِذَا أَهَلَّ مِنْ مَكَّةَ هَلْ يَسْعَى الْأَشْوَاطَ الثَّلَاثَةَ؟ قَالَ: إِنَّهُمْ يَسْعَوْنَ قَالَ: فَأَمَّا ابْنُ عَبَّاسٍ فَإِنَّهُ قَالَ: إِنَّمَا ذَلِكَ عَلَى أَهْلِ الْآفَاقِ.

L13039–13040 From the narration chain of ʿAbd al-Razzāq, from Zakariyyā ibn Isḥāq, from Ibrāhīm ibn Maysarah, from Mujāhid, who said: Ibn al-Zubayr and Ibn ʿUmar went out to perform ʿUmrah from al-Jiʿrānah after Ibn al-Zubayr had completed the building of the Kaʿbah. Mujāhid said: I was sitting near Zamzam, and when Ibn al-Zubayr entered, Ibn ʿUmar called out to him,

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ زَكَرِيَّا بْنِ إِسْحَاقَ عَنْ إِبْرَاهِيمَ بْنِ مَيْسَرَةَ عَنْ مُجَاهِدٍ قَالَ: خَرَجَ ابْنُ الزُّبَيْرِ، وَابْنُ عُمَرَ فَاعْتَمَرَا مِنْ الْجِعْرَانَةِ لَمَّا فَرَغَ ابْنُ الزُّبَيْرِ مِنْ بِنَاءِ الْكَعْبَةِ قَالَ

"Will you perform the Raml for the first three circuits?" Then Ibn al-Zubayr performed the Raml for the entire seven circuits.

مُجَاهِدٌ: وَكُنْت جَالِسًا عِنْدَ زَمْزَمَ فَلَمَّا دَخَلَ ابْنُ الزُّبَيْرِ نَادَاهُ ابْنُ عُمَرَ أَرْمِلْ الثَّلَاثَ الْأُوَلَ؟ فَرَمَلَ ابْنُ الزُّبَيْرِ السَّبْعَ كُلَّهُ.

L13041 And via the narration of Ibn Abī Shaybah from Abū Usāmah from Hishām from al-Ḥasan and ʿAṭāʾ, they both said: The residents of Mecca are not obligated to perform *ramal*, nor is one who enters the state of Ihrām from Mecca required to do so, unless a Meccan arrives from outside Mecca.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَبِي أُسَامَةَ عَنْ هِشَامٍ عَنْ الْحَسَنِ، وَعَطَاءٍ قَالَا: لَيْسَ عَلَى أَهْلِ مَكَّةَ رَمَلٌ، وَلَا عَلَى مَنْ أَهَلَّ مِنْهَا إلَّا أَنْ يَجِيءَ أَحَدٌ مِنْ أَهْلِ مَكَّةَ مِنْ خَارِجٍ.

L13042 So this is a narration from Ibn Abbas affirming the obligation of ramal (ritual jogging) upon the people of distant lands.

فَهَذِهِ رِوَايَةٌ عَنْ ابْنِ عَبَّاسٍ بِإِيجَابِ الرَّمَلِ عَلَى أَهْلِ الْآفَاقِ.

L13043 And from Al-Hasan and Ata similarly. From Ibn Umar regarding his attribution of that obligation to Ibn Az-Zubayr (who resided in Mecca). At the very least, this represents a divergence between the two opinions of Ibn Abbas and Ata. We have mentioned wherein they opposed the majority and what they uniquely held without any basis in the Sunnah, but rather based on opinion. Yet they esteemed this highly, and we do not reject it if the Sunnah is followed contrary to it.

وَعَنْ الْحَسَنِ، وَعَطَاءٍ مِثْلُ ذَلِكَ - وَعَنْ ابْنِ عُمَرَ بِإِيجَابِهِ ذَلِكَ عَنْ ابْنِ الزُّبَيْرِ وَهُوَ سَاكِنٌ بِمَكَّةَ، وَأَقَلُّ هَذَا أَنْ يَكُونَ اخْتِلَافًا مِنْ قَوْلَيْ ابْنِ عَبَّاسٍ وَعَطَاءٍ، وَقَدْ ذَكَرْنَا مَا تَرَكُوا فِيهِ الْجُمْهُورَ وَمَا انْفَرَدُوا بِهِ بِغَيْرِ سُنَّةٍ لَكِنْ بِرَأْيٍ؛ وَهُمْ يُعَظِّمُونَ ذَلِكَ، وَنَحْنُ لَا نُنْكِرُهُ إذَا اُتُّبِعَتْ السُّنَّةُ فِي خِلَافِهِ.

L13044 As for kissing the two corners, it is a recommended practice (Sunnah) and not an obligation, because there is no command regarding it. Rather, it is solely an action performed by the Messenger of Allah—peace and blessings be upon him—and he—peace and blessings be upon him—performed the circumambulation (Tawaf) while riding, pointing to the corner with a crooked staff in his hand.

وَأَمَّا تَقْبِيلُ الرُّكْنَيْنِ فَسُنَّةٌ وَلَيْسَ فَرْضًا، لِأَنَّهُ لَمْ يَأْتِ بِذَلِكَ أَمْرٌ، وَإِنَّمَا هُوَ عَمَلٌ مِنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَطْ، وَقَدْ طَافَ - عَلَيْهِ السَّلَامُ - رَاكِبًا يُشِيرُ بِمِحْجَنٍ فِي يَدِهِ إلَى الرُّكْنِ.

L13045 As for the reversal of the order in circumambulation, Abū Ḥanīfah permitted the reversal of the order in ablution, the reversal of the order in the *adhan*, the reversal of the order in the *iqamah*, and the reversal of the order in circumambulation.

وَأَمَّا تَنْكِيسُ الطَّوَافِ فَإِنَّ أَبَا حَنِيفَةَ أَجَازَ تَنْكِيسَ الْوُضُوءِ، وَتَنْكِيسَ الْأَذَانِ، وَتَنْكِيسَ الْإِقَامَةِ، وَتَنْكِيسَ الطَّوَافِ.

L13046 Abū Muḥammad said: Since the Messenger of Allah—peace and blessings be upon him—commanded hastening during the mentioned circuits, has he not taught them where to begin and how to walk? Thus this became an injunction, and the Prophet's command—peace and blessings be upon him—is

قَالَ أَبُو مُحَمَّد: إذْ أَمَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْخَبَبِ فِي الْأَشْوَاطِ الْمَذْكُورَةِ فَقَدْ عَلَّمَهُمْ مِنْ أَيْنَ يَبْتَدِئُونَ؟ وَكَيْفَ يَمْشُونَ فَصَارَ ذَلِكَ أَمْرًا، وَأَمْرُهُ - عَلَيْهِ السَّلَامُ

obligatory. I am not astonished at those who do not consider ʿUmrah or Ḥajj invalidated by violating what Allah the Exalted and His Messenger—peace and blessings be upon him—have commanded, yet deem them invalid due to matters for which neither Allah the Exalted nor His Messenger—peace and blessings be upon him—issued any command, such as intentionally causing ejaculation through intimate contact with one's wife without intercourse and similar acts.

- فَرْضٌ، وَلَا أَعْجَبُ مِمَّنْ لَا يَرَى الْعُمْرَةَ، أَوْ الْحَجَّ يُبْطِلَانِ بِمُخَالَفَةِ مَا أَمَرَ اللَّهُ تَعَالَى بِهِ وَرَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ثُمَّ يَرَاهُمَا يُبْطِلَانِ بِمَا لَمْ يَأْتِ فِيهِ أَمْرٌ بِذَلِكَ مِنْ اللَّهِ تَعَالَى، وَلَا مِنْ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَتَعَمُّدِ الْإِمْنَاءِ فِي مُبَاشَرَةِ امْرَأَتِهِ بِغَيْرِ جِمَاعٍ وَنَحْوِ ذَلِكَ.

L13047 As for the Tawaf between al-Safa and al-Marwah in Umrah, Anas and others said: "It is not obligatory." We received a narration through the chain of Abd al-Razzaq: Sufyan ibn Uyaynah reported to us from Amr ibn Dinar, who said: Ibn Abbas would recite: "So whoever performs Hajj to the House or performs Umrah, there is no blame upon him for not performing Tawaf around them."[4]

وَأَمَّا الطَّوَافُ بَيْنَ الصَّفَا وَالْمَرْوَةِ فِي الْعُمْرَةِ فَإِنَّ أَنَسًا وَغَيْرَهُ قَالُوا: لَيْسَ فَرْضًا -: رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ قَالَ: كَانَ ابْنُ عَبَّاسٍ يَقْرَأُ: " فَمَنْ حَجَّ الْبَيْتَ أَوْ اعْتَمَرَ فَلَا جُنَاحَ عَلَيْهِ أَنْ لَا يَطَّوَّفَ بِهِمَا.

L13048–13049 Abu Muhammad said: This is a statement from Ibn Abbas, not an addition by him to the Quran. It is also narrated from Ibn Abbas that the ʿUmrah is the circumambulation of the House.

قَالَ أَبُو مُحَمَّد: هَذَا قَوْلٌ مِنْ ابْنِ عَبَّاسٍ لَا إدْخَالٌ مِنْهُ فِي الْقُرْآنِ - وَعَنْ ابْنِ عَبَّاسٍ أَيْضًا: الْعُمْرَةُ الطَّوَافُ بِالْبَيْتِ.

L13050 And via Shu'bah from ʿĀṣim al-Aḥwal, who said: I heard Anas ibn Mālik recite, "There is no blame upon him for not performing Tawaf around them both."

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ عَاصِمٍ الْأَحْوَلِ قَالَ: سَمِعْت أَنَسَ بْنَ مَالِكٍ يَقْرَأُ فَلَا جُنَاحَ عَلَيْهِ أَنْ لَا يَطَّوَّفَ بِهِمَا.

L13051 Reported via the chain of Abd ibn Humaid from al-Dahhak ibn Makhlad from Ibn Juraij from Ata from Ibn Masud - similar to that.

وَمِنْ طَرِيقِ عَبْدِ بْنِ حُمَيْدٍ عَنْ الضَّحَّاكِ بْنِ مَخْلَدٍ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ عَنْ ابْنِ مَسْعُودٍ مِثْلُ ذَلِكَ.

L13052 And through the chain of ʿAbd ibn Ḥumayd from ʿAbdullāh ibn Yazīd al-Muqrī from Abū Ḥanīfah from Maymūn ibn Mihrān from Ubayy ibn Kaʿb - a similar ruling is reported, and this is the opinion of ʿAṭāʾ, Mujāhid, and Maymūn ibn Mihrān. And through the chain of Ḥammād ibn Salamah from Qays ibn Saʿd from ʿAṭāʾ from Ibn al-Zubayr, who said concerning the ṭawāf between al-Ṣafā and al-Marwah: "It is a voluntary act."

وَمِنْ طَرِيقِ عَبْدِ بْنِ حُمَيْدٍ عَنْ عَبْدِ اللَّهِ بْنِ يَزِيدَ الْمُقْرِي عَنْ أَبِي حَنِيفَةَ عَنْ مَيْمُونِ بْنِ مِهْرَانَ عَنْ أُبَيِّ بْنِ كَعْبٍ مِثْلُ ذَلِكَ، وَهُوَ قَوْلُ عَطَاءٍ، وَمُجَاهِدٍ، وَمَيْمُونِ بْنِ مِهْرَانَ. وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءٍ عَنْ ابْنِ الزُّبَيْرِ قَالَ فِي الطَّوَافِ بَيْنَ الصَّفَا وَالْمَرْوَةِ: هُمَا تَطَوُّعٌ.

[4] **Qur'an references (L13047):** Qur'an 2:158 (Al-Baqarah).

L13053 Those who held this opinion cited as their evidence the statement of Allah, the Exalted: {Indeed, as-Safa and al-Marwah are among the symbols of Allah. So whoever performs Hajj to the House or performs ʻUmrah, there is no blame upon him to traverse between them.} [Al-Baqarah: 158].[5]

وَاحْتَجَّ مَنْ رَأَى هَذَا الْقَوْلَ بِقَوْلِ اللَّهِ تَعَالَى: {إِنَّ الصَّفَا وَالْمَرْوَةَ مِنْ شَعَائِرِ اللَّهِ فَمَنْ حَجَّ الْبَيْتَ أَوِ اعْتَمَرَ فَلا جُنَاحَ عَلَيْهِ أَنْ يَطَّوَّفَ بِهِمَا} [البقرة: ١٥٨] .

L13054 It has been narrated to us from ʻĀ'ishah—may Allah be pleased with her—regarding the establishment of the obligation of performing Sa'i between them. She said concerning this verse: "It was revealed concerning people who did not perform Sa'i between them. When Islam came, the Messenger of Allah—peace and blessings be upon him—performed ṭawaf between them."

وَرُوِّينَا عَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - إِيجَابَ فَرْضِ السَّعْيِ بَيْنَهُمَا، وَقَالَتْ فِي هَذِهِ الْآيَةِ: إِنَّمَا نَزَلَتْ فِي نَاسٍ كَانُوا لَا يَطُوفُونَ بَيْنَهُمَا، فَلَمَّا كَانَ الْإِسْلَامُ طَافَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13055 Abu Muhammad said: If there were only this verse, it would not be an obligation. However, the proof for the obligation of that lies in what was transmitted to us by Abdullah ibn Yusuf from Ahmad ibn Fath from Abdul Wahhab ibn Isa from Ahmad ibn Muhammad from Ahmad ibn Ali from Muslim ibn al-Hajjaj from Muhammad ibn al-Muthanna from Muhammad ibn Ja'far from Shu'bah from Qays ibn Muslim from Tariq ibn Shihab from Abu Musa al-Ash'ari, who said: "I came to the Messenger of Allah - peace and blessings be upon him - while he was camped at al-Batha'. He asked me: 'Have you performed Hajj?' I replied: 'Yes.' He said: 'How did you enter ihram?' I responded: 'I proclaimed Labbayk with an ihram like that of the Messenger of Allah - peace and blessings be upon him.' He said: 'You have done well. Perform tawaf around the House, walk between Safa and Marwah, then end your state of consecration.'"

قَالَ أَبُو مُحَمَّدٍ: لَوْ لَمْ تَكُنْ إِلَّا هَذِهِ الْآيَةُ لَكَانَتْ غَيْرَ فَرْضٍ لَكِنَّ الْحُجَّةَ فِي فَرْضِ ذَلِكَ مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ نَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا مُحَمَّدُ بْنُ جَعْفَرٍ نَا شُعْبَةُ عَنْ قَيْسِ بْنِ مُسْلِمٍ عَنْ طَارِقِ بْنِ شِهَابٍ عَنْ أَبِي مُوسَى الْأَشْعَرِيِّ قَالَ «قَدِمْتُ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ مُنِيخٌ بِالْبَطْحَاءِ فَقَالَ لِي: أَحَجَجْتَ؟ فَقُلْتُ: نَعَمْ فَقَالَ: بِمَ أَهْلَلْتَ؟ قَالَ قُلْتُ: لَبَّيْتُ بِإِهْلَالٍ كَإِهْلَالِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: فَقَدْ أَحْسَنْتَ طُفْ بِالْبَيْتِ، وَبَيْنَ الصَّفَا وَالْمَرْوَةِ وَأَحِلَّ» .

L13056 ʿAlī said: "Because of this, the Saʿī between al-Ṣafā and al-Marwah in ʿUmrah has become obligatory."

قَالَ عَلِيٌّ: بِهَذَا صَارَ السَّعْيُ بَيْنَ الصَّفَا وَالْمَرْوَةِ فِي الْعُمْرَةِ فَرْضًا.

L13057–13059 As for the *ramal* (rapid walking) between them: ʿAbdullāh ibn Rabīʿ narrated to us, Muḥammad ibn Muʿāwiyah narrated to us, Aḥmad ibn Shuʿayb narrated to us. Mahmud ibn Ghaylan al-Marwazi said: Bishr ibn al-Sarri reported to us, Sufyan, who is al-Thawri, reported to us from Ata ibn al-Sa'ib, from Kathir ibn Jumhan, who said: I saw Ibn Umar walking between al-Safa and al-Marwah. He said: "If I walk, I do so because I saw the Mes-

وَأَمَّا الرَّمَلُ بَيْنَهُمَا -: فَحَدَّثَنَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا مَحْمُودُ بْنُ غَيْلَانَ الْمَرْوَزِيُّ نَا بِشْرُ بْنُ السَّرِيِّ نَا سُفْيَانُ هُوَ الثَّوْرِيُّ - عَنْ عَطَاءِ بْنِ السَّائِبِ عَنْ كَثِيرِ بْنِ جُمْهَانَ قَالَ: رَأَيْت ابْنَ عُمَرَ يَمْشِي بَيْنَ الصَّفَا وَالْمَرْوَةِ فَقَالَ: إِنْ أَمْشِ فَقَدْ رَأَيْت رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَمْشِي، وَإِنْ أَسْعَ فَقَدْ رَأَيْت رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَسْعَى.

[5] **Qur'an references (L13053):** Qur'an 2:158 (Al-Baqarah).

senger of Allah (peace be upon him) walk. If I rush, I do so because I saw the Messenger of Allah (peace be upon him) rush."

L13060 Ali said: As for the report stating "Perform the Sa'i, for Allah has ordained the Sa'i upon you," it was narrated by Safiyyah bint Shaybah from an unnamed woman. It has been said that she is the daughter of Abi Tajrāt, who is of unknown reliability. Had the report been authentic, we would have ruled its obligation. Whoever is incapable of the ritual jogging mentioned may walk normally and incurs no sin, in accordance with Allah's statement: *"Allah does not burden any soul beyond its capacity"* (al-Baqarah 2:286).[6]

L13061 **A Legal Issue Concerning Hunting and Sexual Intercourse for a Person in the State of Ihram.**

L13062 831–Legal Question:

L13063 It is not lawful for the pilgrim in consecration for Umrah or Hajj to hunt any game from what is hunted for consumption, nor to engage in sexual intercourse that was permissible before assuming consecration, nor to wear any of the types of clothing we mentioned earlier—prior to the Prophet's prohibition (peace and blessings be upon him) against the pilgrim in consecration wearing such garments. Allah the Exalted said: "Do not kill game while you are in a state of consecration" [Al-Mā'idah: 95].[7]

L13064 And the Most High said: "There is to be no lewdness, disobedience, or disputing during Hajj." [Al-Baqarah: 197] This too has no disagreement concerning it.[8]

L13065 **An issue regarding someone intending to perform ʿUmrah while in al-Makkah.**

L13066 832 – Issue:

L13067 Whoever intends to perform ʻUmrah while in Mecca—whether a resident or a non-resident—must exit to the Ḥill (the non-sacred territory outside Mecca)

[6] **Qur'an references (L13060):** Qur'an 2:286 (Al-Baqarah).
[7] **Qur'an references (L13063):** Qur'an 5:95 (Al-Ma'idah).
[8] **Qur'an references (L13064):** Qur'an 2:197 (Al-Baqarah).

قَالَ عَلِيٌّ: وَالْخَبَرُ الَّذِي فِيهِ " اسْعَوْا فَإِنَّ اللَّهَ كَتَبَ عَلَيْكُمْ السَّعْيَ " فَإِنَّمَا رَوَتْهُ صَفِيَّةُ بِنْتُ شَيْبَةَ عَنْ امْرَأَةٍ لَمْ تُسَمَّ، وَقَدْ قِيلَ: هِيَ بِنْتُ أَبِي تَجْرَاةَ وَهِيَ مَجْهُولَةٌ، وَلَوْ صَحَّ لَقُلْنَا بِوُجُوبِهِ، وَمَنْ عَجَزَ عَنْ الْخَبَبِ الْمَذْكُورِ مَشَى وَلَا شَيْءَ عَلَيْهِ لِقَوْلِ اللَّهِ تَعَالَى: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦]

## [مَسْأَلَةُ الصَّيْد والوطء لِلْمُحْرِمِ]

٨٣١ - مَسْأَلَةٌ:

وَلَا يَحِلُّ لِلْمُحْرِمِ بِالْعُمْرَةِ أَوْ بِالْحَجِّ تَصَيُّدُ شَيْءٍ مِمَّا يُصَادُ لِيُؤْكَلَ، وَلَا وَطْءٌ كَانَ لَهُ حَلَالًا قَبْلَ إحْرَامِهِ، وَلَا لِبَاسُ شَيْءٍ مِمَّا ذَكَرْنَا قَبْلُ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ لِبَاسِ الْمُحْرِمِ، قَالَ اللَّهُ تَعَالَى: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ} [المائدة: ٩٥] .

وَقَالَ تَعَالَى: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] وَهَذَا أَيْضًا لَا خِلَافَ فِيهِ.

## [مَسْأَلَةٌ أَرَادَ الْعُمْرَةَ وَهُوَ بِمَكَّةَ]

٨٣٢ - مَسْأَلَةٌ:

وَمَنْ أَرَادَ الْعُمْرَةَ - وَهُوَ بِمَكَّةَ - إمَّا مِنْ أَهْلِهَا، أَوْ مِنْ غَيْرِ أَهْلِهَا فَفَرْضٌ عَلَيْهِ أَنْ يَخْرُجَ لِلْإِحْرَامِ بِهَا إلَى الْحِلِّ وَلَا بُدَّ فَيَخْرُجُ إلَى أَيِّ الْحِلِّ شَاءَ، وَيُهِلُّ بِهَا «فَلَأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ عَبْدَ الرَّحْمَنِ بْنَ أَبِي بَكْرٍ بِالْخُرُوجِ مِنْ مَكَّةَ إلَى التَّنْعِيمِ لِيَعْتَمِرَ

to assume the state of iḥrām for it. He may go to any part of the Ḥill he wishes and recite the Talbiyah for it there. This is because the Messenger of Allah (peace and blessings be upon him) commanded ʻAbd al-Raḥmān ibn Abī Bakr to depart from Mecca to Tanʻīm to perform ʻUmrah from it [Tanʻīm]. The Prophet (peace and blessings be upon him) himself also performed ʻUmrah from al-Jiʻrānah. Thus, this obligation applies specifically to ʻUmrah. And success comes only from Allah, the Most High.

مِنْهُ» «وَاعْتَمَرَ - عَلَيْهِ السَّلَامُ - مِنْ الْجِعْرَانَةِ» فَوَجَبَ ذَلِكَ فِي الْعُمْرَةِ خَاصَّةً - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L13068 Abdur-Rahman ibn Abdullah ibn Khalid narrated to us: Ibrahim ibn Ahmad narrated to us: Al-Farbari narrated to us: Al-Bukhari narrated to us: Amr ibn Ali narrated to us: Abu Asim narrated to us: Uthman ibn Al-Aswad narrated to us: Ibn Abi Mulaikah narrated from Aisha, the Mother of the Believers, that the Messenger of Allah (peace be upon him) commanded Abdur-Rahman, her brother, to perform Umrah on her behalf from Tanʻīm. He (peace be upon him) waited for her in the upper part of Mecca until she arrived.

حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ خَالِدٍ نَا إبْرَاهِيمُ بْنُ أَحْمَدَ نَا الْفَرَبْرِيُّ نَا الْبُخَارِيُّ نَا عَمْرُو بْنُ عَلِيٍّ أَنَا أَبُو عَاصِمٍ نَا عُثْمَانُ بْنُ الْأَسْوَدِ نَا ابْنُ أَبِي مُلَيْكَةَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ عَبْدَ الرَّحْمَنِ أَخَاهَا أَنْ يُعْمِرَهَا مِنْ التَّنْعِيمِ وَانْتَظَرَهَا - عَلَيْهِ السَّلَامُ - بِأَعْلَى مَكَّةَ حَتَّى جَاءَتْ» .

L13069 833 - Question:

٨٣٣ - مَسْأَلَةٌ:

L13070–13072 As for the one who intends to perform Hajj, when he reaches the *Miqat* as we mentioned, he either has a sacrificial animal with him or not. The sacrificial animal is either a camel, a cow, or a sheep or goat. If he has no sacrificial animal with him—and this is the superior option—it is obligatory for him to enter the state of *Ihram* for a single Umrah without fail, and there is no avoiding it not. Otherwise, it is permissible for him. If he enters the state of *ihram* for Hajj or for *Qiran* (combining Hajj and Umrah), it becomes obligatory for him to annul that consecration by performing Umrah. He may exit *ihram* upon completing the Umrah - no other action is valid. Thereafter, when he exits *ihram*, he must renew the consecration for *Ifrad* (Hajj alone) from Makkah. This is termed *Tamattu'*.

وَأَمَّا مَنْ أَرَادَ الْحَجَّ فَإِنَّهُ إذَا جَاءَ إلَى الْمِيقَاتِ كَمَا ذَكَرْنَا فَلَا يَخْلُو مِنْ أَنْ يَكُونَ مَعَهُ هَدْيٌ، أَوْ لَيْسَ مَعَهُ هَدْيٌ، وَالْهَدْيُ إمَّا مِنْ الْإِبِلِ، أَوْ الْبَقَرِ، أَوْ الْغَنَمِ، فَإِنْ كَانَ لَا هَدْيَ مَعَهُ - وَهَذَا هُوَ الْأَفْضَلُ - فَفَرْضٌ عَلَيْهِ أَنْ يُحْرِمَ بِعُمْرَةٍ مُفْرَدَةٍ وَلَا بُدَّ لَا يَجُوزُ لَهُ غَيْرُ ذَلِكَ، فَإِنْ أَحْرَمَ بِحَجٍّ، أَوْ بِقِرَانِ حَجٍّ وَعُمْرَةٍ فَفَرْضٌ عَلَيْهِ أَنْ يَفْسَخَ إهْلَالَهُ ذَلِكَ بِعُمْرَةٍ يَحِلُّ إذَا أَتَمَّهَا، لَا يُجْزِئُهُ غَيْرُ ذَلِكَ، ثُمَّ إذَا أَحَلَّ مِنْهَا ابْتَدَأَ الْإِهْلَالَ بِالْحَجِّ مُفْرَدًا مِنْ مَكَّةَ وَهَذَا يُسَمَّى: مُتَمَتِّعًا.

L13073 If he has a sacrificial animal that he brought with himself, it is recommended for him to mark his sacrificial animal by wounding it if it is a camel - by striking it with an iron tool on the right side of its body until it bleeds - then to garland it by tying a sandal to a rope and hanging it around its neck. If he covers it with a covering, that is good. If the sacrificial animal is a sheep, there is no wounding for it, but he should garland it with a leather patch

وَإِنْ كَانَ مَعَهُ هَدْيٌ سَاقَهُ مَعَ نَفْسِهِ فَنَسْتَحِبُّ لَهُ أَنْ يُشْعِرَ هَدْيَهُ إنْ كَانَ مِنْ الْإِبِلِ، وَهُوَ أَنْ يَضْرِبَهُ بِحَدِيدَةٍ فِي الْجَانِبِ الْأَيْمَنِ مِنْ جَسَدِهِ حَتَّى يُدْمِيَهُ ثُمَّ يُقَلِّدَهُ، وَهُوَ أَنْ يَرْبِطَ نَعْلًا فِي حَبْلٍ وَيُعَلِّقَهَا فِي عُنُقِ الْهَدْيِ وَإِنْ جَلَّلَهُ بِجُلٍّ فَحَسَنٌ، فَإِنْ كَانَ الْهَدْيُ

around its neck. If it is a cow, there is neither wounding nor garlanding, whether it has humps or not.

مِنْ الْغَنَمِ فَلَا إشْعَارَ فِيهِ لَكِنْ يُقَلِّدُهُ رُقْعَةَ جِلْدٍ فِي عُنُقِهِ، فَإِنْ كَانَ مِنْ الْبَقَرِ فَلَا إشْعَارَ فِيهِ وَلَا تَقْلِيدَ كَانَتْ لَهُ أَسْنِمَةٌ أَوْ لَمْ تَكُنْ.

L13074 Then he says: "Here I am for Umrah and Hajj combined." Only this suffices, and it is obligatory. If he says: "Here I am for Hajj and Umrah," or "Here I am for Umrah and Hajj," or "Here I am for Hajj and Umrah," or intends all of that inwardly without uttering it; all of these are permissible. This is called Qirān.

ثُمَّ يَقُولُ: لَبَّيْكَ بِعُمْرَةٍ وَحَجٍّ مَعًا، لَا يُجْزِئُهُ إلَّا ذَلِكَ وَلَا بُدَّ، وَإِنْ قَالَ: لَبَّيْكَ بِحَجٍّ وَعُمْرَةٍ، أَوْ لَبَّيْكَ عُمْرَةً وَحَجًّا، أَوْ حَجَّةً وَعُمْرَةً، أَوْ نَوَى كُلَّ ذَلِكَ فِي نَفْسِهِ، وَلَمْ يَنْطِقْ بِهِ فَكُلُّ ذَلِكَ جَائِزٌ، وَهَذَا يُسَمَّى: الْقِرَانَ.

L13075 Whoever among the performers of Umrah drives the sacrificial animal must apply the marking and collaring as we have mentioned. It is recommended for him in all that we have described to stipulate a condition by saying at the time of entering Ihrām: "O Allah, my exiting Ihrām is wherever You detain me." If he says this and is then afflicted by any impediment preventing the completion of his intended Hajj or Umrah, he may exit Ihrām with no obligation upon him—neither sacrifice nor making up (qada'), unless he has never performed Hajj or Umrah at all. In that case, he must perform the Hajj of Islam and his Umrah.

وَمَنْ سَاقَ مِنْ الْمُعْتَمِرِينَ الْهَدْيَ فَعَلَ فِيهِ مِنْ الْإِشْعَارِ، وَالتَّقْلِيدِ مَا ذَكَرْنَا؛ وَنُحِبُّ لَهُ فِي كُلِّ مَا ذَكَرْنَا أَنْ يَشْتَرِطَ فَيَقُولَ عِنْدَ إهْلَالِهِ: اللَّهُمَّ إنَّ مَحِلِّي حَيْثُ تَحْبِسُنِي، فَإِنْ قَالَ ذَلِكَ فَأَصَابَهُ أَمْرٌ مَا يَعُوقُهُ عَنْ تَمَامِ مَا خَرَجَ لَهُ مِنْ حَجٍّ أَوْ عُمْرَةٍ أَحَلَّ وَلَا شَيْءَ عَلَيْهِ؛ لَا هَدْيَ وَلَا قَضَاءَ إلَّا إنْ كَانَ لَمْ يَحُجَّ قَطُّ وَلَا اعْتَمَرَ فَعَلَيْهِ أَنْ يَحُجَّ حَجَّةَ الْإِسْلَامِ وَعُمْرَتَهُ.

L13076 The evidence for what we have mentioned is what we narrated through the transmission of Muslim: Ibn Abi Umar reported from Sufyan ibn Uyaynah, from al-Zuhri, from Urwah, from Aisha (may Allah be pleased with her), who said: "We set out with the Messenger of Allah (peace be upon him) on the journey, and he said: 'Whoever among you wishes to enter ihram for Hajj, let him do so. Whoever wishes to enter ihram for Hajj, let him enter it. Whoever wishes to enter ihram for Umrah, let him enter it.' Aisha said: 'The Messenger of Allah (peace be upon him) entered ihram for Hajj, and some people entered ihram for it (Hajj) along with him. Others entered ihram for Hajj and Umrah together, while some entered ihram for Umrah alone. I was among those who entered ihram for Umrah.'"

بُرْهَانُ مَا ذَكَرْنَا -: مَا رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ نَا ابْنُ أَبِي عُمَرَ نَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ الزُّهْرِيِّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ قَالَتْ «خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: مَنْ أَرَادَ مِنْكُمْ أَنْ يُهِلَّ بِحَجٍّ، أَوْ عُمْرَةٍ فَلْيَفْعَلْ، وَمَنْ أَرَادَ أَنْ يُهِلَّ بِحَجٍّ فَلْيُهِلَّ، وَمَنْ أَرَادَ أَنْ يُهِلَّ بِعُمْرَةٍ فَلْيُهِلَّ، قَالَتْ عَائِشَةُ: فَأَهَلَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِحَجٍّ، وَأَهَلَّ بِهِ نَاسٌ مَعَهُ وَأَهَلَّ نَاسٌ بِالْحَجِّ وَالْعُمْرَةِ، وَأَهَلَّ نَاسٌ بِعُمْرَةٍ وَكُنْتُ فِيمَنْ أَهَلَّ بِالْعُمْرَةِ» .

L13077–13079 Abu Muhammad said: This is the first of his commands (peace be upon him) concerning Dhū al-Ḥulayfah at the outset of their entering the state of iḥrām and their intention to commence the talbiyah without doubt, as it is the explicit text of the ḥadīth: Abdullah ibn Yūsuf reported; Aḥmad ibn Fatḥ

قَالَ أَبُو مُحَمَّدٍ: فَهَذَا أَوَّلُ أَمْرِهِ - عَلَيْهِ السَّلَامُ - بِذِي الْحُلَيْفَةِ عِنْدَ ابْتِدَاءِ إحْرَامِهِمْ وَإِرَادَتِهِمْ الْإِهْلَالَ بِلَا شَكٍّ، إذْ هُوَ نَصُّ الْحَدِيثِ -: نَا عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا

reported from him; Abdul-Wahhāb ibn ʿĪsā reported from Aḥmad ibn Fatḥ; Aḥmad ibn Muḥammad reported from Abdul-Wahhāb ibn ʿĪsā. From Ahmad ibn Ali, from Muslim ibn al-Hajjaj, from Ibn Numayr, from Abu Nuʿaym—who is al-Faḍl ibn Dukayn—from Musa ibn Nafiʿ, who said: "I came to Mecca to perform *ʿUmrah* for *Tamattuʿ* four days before al-Tarwiyah. People remarked: 'Your Hajj will now become a resident's Hajj (Qirān).'" I visited 'Ata' ibn Abi Rabah, who said: "Jabir ibn 'Abdullah narrated to me that he performed Hajj with Allah's Messenger (peace and blessings be upon him) during the year he brought the sacrificial animal. They had entered *Ihram* for Hajj as *Ifrad*. Allah's Messenger (peace and blessings be upon him) said: 'Exit your *Ihram*. Perform *Tawaf* around the House and *Sa'i* between Safa and Marwah. Then shorten your hair and remain in a lawful state until the day of al-Tarwiyah, when you must enter *Ihram* for Hajj and transform your current state into *Tamattuʿ*.'"

عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ نَا ابْنُ نُمَيْرٍ نَا أَبُو نُعَيْمٍ هُوَ الْفَضْلُ بْنُ دُكَيْنٍ - نَا مُوسَى بْنُ نَافِعٍ قَالَ: (قَدِمْت مَكَّةَ مُتَمَتِّعًا بِعُمْرَةٍ قَبْلَ التَّرْوِيَةِ بِأَرْبَعَةِ أَيَّامٍ فَقَالَ النَّاسُ: تَصِيرُ حَجَّتُك الْآنَ مَكِّيَّةً) فَدَخَلْت عَلَى عَطَاءِ بْنِ أَبِي رَبَاحٍ فَقَالَ: حَدَّثَنِي جَابِرُ بْنُ عَبْدِ اللَّهِ أَنَّهُ حَجَّ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَامَ سَاقَ الْهَدْيَ مَعَهُ، وَقَدْ أَهَلُّوا بِالْحَجِّ مُفْرَدًا فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «أَحِلُّوا مِنْ إحْرَامِكُمْ فَطُوفُوا بِالْبَيْتِ، وَبَيْنَ الصَّفَا وَالْمَرْوَةِ، وَقَصِّرُوا وَأَقِيمُوا حَلَالًا حَتَّى إذَا كَانَ يَوْمُ التَّرْوِيَةِ فَأَهِلُّوا بِالْحَجِّ وَاجْعَلُوا الَّذِي قَدِمْتُمْ بِهَا مُتْعَةً» .

L13080 And via him [the chain reaches] in Ṣaḥīḥ Muslim: Isḥāq ibn Rāhwayh narrated to us—from Ḥātim ibn Ismāʿīl—from Jaʿfar ibn Muḥammad ibn ʿAlī ibn al-Ḥusayn—from his father—from Jābir ibn ʿAbdullāh, who informed him about the Prophet's pilgrimage—peace be upon him. He said: "When he performed the final circumambulation at al-Marwah, the Prophet—peace be upon him—declared: 'If I had faced [the consequences] of my matter as I now turn away from it, I would not have driven the sacrificial animal and would have made this an ʿUmrah. Let whoever among you has no sacrificial animal exit the state of consecration (iḥrām) and make it an ʿUmrah.' Surāqah ibn Mālik ibn Juʿshum stood and asked: 'O Messenger of God, is this ruling specific to our year or perpetual?' The Messenger of God—peace be upon him—interlaced his fingers and said: 'ʿUmrah has been integrated into Ḥajj on this occasion. No—rather, forever.'" ʿAbd al-Raḥmān ibn ʿAbdullāh ibn Khālid narrated to us—Ibrāhīm ibn Aḥmad narrated to us—al-Farbarī narrated to us—al-Bukhārī narrated to us—Mūsā ibn Ismāʿīl narrated to us—Wuhaib ibn Khālid narrated to us—Ayyūb al-Sakhtiyānī narrated to us—from Abū Qilābah—from Anas ibn Mālik, who said: "God's Messenger—peace be upon him—prayed the noon prayer as four units with us in Medina and the afternoon prayer as two units at Dhū al-Ḥulayfah. He remained there

وَبِهِ إلَى مُسْلِمٍ نَا إسْحَاقُ هُوَ ابْنُ رَاهْوَيْهِ - عَنْ حَاتِمِ بْنِ إسْمَاعِيلَ عَنْ جَعْفَرِ بْنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ عَنْ أَبِيهِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّهُ أَخْبَرَهُ عَنْ حَجَّةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: «حَتَّى إذَا كَانَ آخِرَ طَوَافٍ عَلَى الْمَرْوَةِ، قَالَ - عَلَيْهِ السَّلَامُ -: لَوْ أَنِّي اسْتَقْبَلْتُ مِنْ أَمْرِي مَا اسْتَدْبَرْتُ لَمْ أَسُقْ الْهَدْيَ وَجَعَلْتُهَا عُمْرَةً فَمَنْ كَانَ مِنْكُمْ لَيْسَ مَعَهُ هَدْيٌ فَلْيَحِلَّ وَلْيَجْعَلْهَا عُمْرَةً فَقَامَ سُرَاقَةُ بْنُ مَالِكِ بْنِ جُعْشُمٍ فَقَالَ: يَا رَسُولَ اللَّهِ أَلِعَامِنَا هَذَا أَمْ لِلْأَبَدِ؟ فَشَبَّكَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَصَابِعَهُ وَاحِدَةً فِي الْأُخْرَى وَقَالَ: دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ مَرَّتَيْنِ، لَا بَلْ لِأَبَدِ أَبَدٍ» . نَا عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ خَالِدٍ نَا إبْرَاهِيمُ بْنُ أَحْمَدَ نَا الْفَرَبْرِيُّ نَا الْبُخَارِيُّ نَا مُوسَى بْنُ إسْمَاعِيلَ نَا وُهَيْبٌ هُوَ ابْنُ خَالِدٍ - نَا أَيُّوبُ هُوَ السِّخْتِيَانِيُّ - عَنْ أَبِي قِلَابَةَ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ «صَلَّى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَنَحْنُ مَعَهُ بِالْمَدِينَةِ - الظُّهْرَ أَرْبَعًا وَالْعَصْرَ بِذِي الْحُلَيْفَةِ رَكْعَتَيْنِ ثُمَّ بَاتَ بِهَا حَتَّى الصُّبْحِ ثُمَّ رَكِبَ حَتَّى اسْتَوَتْ بِهِ رَاحِلَتُهُ عَلَى

overnight until dawn, then mounted until his riding beast stood firmly upon al-Bayḍāʾ. There he praised God, glorified Him, and proclaimed His greatness. He then assumed iḥrām for Ḥajj and ʿUmrah, and the people likewise assumed iḥrām for both. When we arrived [in Mecca], he instructed them to release themselves from iḥrām. On the Day of Tarwiyah [8th Dhū al-Ḥijjah], they assumed iḥrām for Ḥajj."[9]

الْبَيْدَاءِ حَمِدَ اللَّهَ وَسَبَّحَ وَكَبَّرَ ثُمَّ أَهَلَّ بِحَجٍّ وَعُمْرَةٍ وَأَهَلَّ النَّاسُ بِهِمَا، فَلَمَّا قَدِمْنَا أَمَرَ النَّاسَ فَحَلُّوا حَتَّى إِذَا كَانَ يَوْمُ التَّرْوِيَةِ أَهَلُّوا بِالْحَجِّ» .

L13081–13083 Hammām ibn Aḥmad narrated to us: ʿAbd Allāh ibn Muḥammad ibn ʿAlī al-Bājī narrated to us: Aḥmad ibn Khālid narrated to us: ʿUbayd ibn Muḥammad al-Kashwarī narrated to us: Muḥammad ibn Yūsuf al-Ḥudhāfī narrated to us: ʿAbd al-Razzāq narrated to us from Mālik and Maʿmar, from... Az-Zuhri reported from Urwah, from Aisha, who said: "We departed with the Prophet (peace and blessings of Allah be upon him) during the year of the Farewell Hajj, and we entered the state of ihram for Umrah. Then the Prophet (peace and blessings of Allah be upon him) said: 'Whoever has a sacrificial animal with him, let him enter the state of ihram for Hajj along with Umrah, and let him not exit ihram until he has exited from both [Hajj and Umrah] together.'"

نَا حُمَامُ بْنُ أَحْمَدَ نَا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ عَلِيٍّ الْبَاجِيُّ نَا أَحْمَدُ بْنُ خَالِدٍ نَا عُبَيْدُ بْنُ مُحَمَّدٍ الْكَشْوَرِيُّ نَا مُحَمَّدُ بْنُ يُوسُفَ الْحُذَافِيُّ نَا عَبْدُ الرَّزَّاقِ نَا مَالِكٌ، وَمَعْمَرٌ عَنِ الزُّهْرِيِّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ قَالَتْ: «خَرَجْنَا مَعَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَامَ حَجَّةِ الْوَدَاعِ فَأَهْلَلْنَا بِعُمْرَةٍ، ثُمَّ قَالَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: مَنْ كَانَ مَعَهُ هَدْيٌ فَلْيُهِلَّ بِالْحَجِّ مَعَ الْعُمْرَةِ وَلَا يَحِلَّ حَتَّى يَحِلَّ مِنْهُمَا جَمِيعًا» .

L13084 Abu Muhammad said: In these established narrations is the proof for all we have stated, and all praise belongs to Allah the Exalted. These are four narrations: In the first - transmitted through Jābir - the Prophet (peace and blessings of Allah be upon him) commanded those who had entered the state of iḥrām for Ifrād Hajj without a sacrificial animal to necessarily perform ʿUmrah to exit iḥrām, then enter iḥrām anew for Hajj on the Day of Tarwiyyah, thereby becoming mutamattiʿūn (those performing Tamattuʿ Hajj).

قَالَ أَبُو مُحَمَّدٍ: فَفِي هَذِهِ الْأَحَادِيثِ الثَّابِتَةِ بُرْهَانُ كُلِّ مَا قُلْنَا وَلِلَّهِ تَعَالَى الْحَمْدُ وَهِيَ أَرْبَعَةُ أَحَادِيثَ -: فَفِي الْأَوَّلِ الَّذِي مِنْ طَرِيقِ جَابِرٍ أَمَرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ أَهَلَّ بِحَجٍّ مُفْرَدٍ وَلَا هَدْيَ مَعَهُ بِأَنْ يَحِلَّ بِعُمْرَةٍ وَلَا بُدَّ، ثُمَّ يُهِلَّ بِالْحَجِّ يَوْمَ التَّرْوِيَةِ فَيَصِيرُ مُتَمَتِّعًا.

L13085 In the third ḥadīth transmitted through Anas, the Prophet's command—may Allah bless him and grant him peace—is that whoever enters iḥrām for Ḥajj and ʿUmrah as a Qārin (one combining both) without a sacrificial animal must necessarily begin with ʿUmrah's iḥrām; then he must declare Ḥajj's iḥrām on the Day of Tarwiyah (8th Dhul-Hijjah), thereby becoming a Mutamatti (one performing Tamattuʿ) as well.

وَفِي الْحَدِيثِ الثَّالِثِ الَّذِي مِنْ طَرِيقِ أَنَسٍ أَمْرُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ أَهَلَّ بِحَجٍّ وَعُمْرَةٍ قَارِنًا وَلَا هَدْيَ مَعَهُ أَنْ يُهِلَّ بِعُمْرَةٍ وَلَا بُدَّ؛ ثُمَّ يُهِلَّ بِالْحَجِّ يَوْمَ التَّرْوِيَةِ فَيَصِيرُ أَيْضًا مُتَمَتِّعًا.

L13086 In the second ḥadīth transmitted through Jābir, the Prophet—may Allah bless him and grant him peace—generally commands all those without a sacrifi-

وَفِي الْحَدِيثِ الثَّانِي الَّذِي مِنْ طَرِيقِ جَابِرٍ أَمْرُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كُلُّ مَنْ لَا هَدْيَ مَعَهُ عُمُومًا بِأَنْ يَحِلَّ بِعُمْرَةٍ، وَأَنَّ هَذَا هُوَ آخِرُ أَمْرِهِ عَلَى الصَّفَا بِمَكَّةَ؛ وَأَنَّهُ - عَلَيْهِ

[9] **Hadith references (L13080):** Sahih Muslim 1218a; Mishkat al-Masabih 2555.

cial animal without exception to exit the state of consecration by performing ʿUmrah. This was his final instruction while on al-Ṣafā in Makkah. He—peace be upon him—declared that the Tamattuʿ is superior to accompanying a sacrificial animal, expressing regret for not having done so himself. This ruling remains valid until the Day of Resurrection; since what is of this description secures us against abrogation forever, whoever permits the abrogation of what has these characteristics effectively permits falsehood against the report of Allah's Messenger—may Allah bless him and grant him peace—and such a deliberate act constitutes pure disbelief. The ḥadīth further confirms that ʿUmrah has become integral to Ḥajj—this being our doctrine, for Ḥajj is only valid when preceded by an ʿUmrah performed specifically for it (thereby becoming Tamattuʿ) or accompanied by a concurrent ʿUmrah, with no additional requirement.

السَّلَامُ - أَخْبَرَ بِأَنَّ التَّمَتُّعَ أَفْضَلُ مِنْ سَوْقِ الْهَدْيِ مَعَهُ، وَتَأَسَّفَ إِذْ لَمْ يَفْعَلْ ذَلِكَ هُوَ، وَأَنَّ هَذَا الْحُكْمَ (هُوَ) بَاقٍ إِلَى يَوْمِ الْقِيَامَةِ، وَمَا كَانَ هَكَذَا فَقَدْ أَمِنَّا أَنْ يُنْسَخَ أَبَدًا، وَمَنْ أَجَازَ نَسْخَ مَا هَذِهِ صِفَتُهُ فَقَدْ أَجَازَ الْكَذِبَ عَلَى خَبَرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهَذَا تَعَمُّدُهُ كُفْرٌ مُجَرَّدٌ، وَفِيهِ أَنَّ الْعُمْرَةَ قَدْ دَخَلَتْ فِي الْحَجِّ - وَهَذَا هُوَ قَوْلُنَا لِأَنَّ الْحَجَّ لَا يَجُوزُ إِلَّا بِعُمْرَةٍ مُتَقَدِّمَةٍ لَهُ يَكُونُ بِهَا مُتَمَتِّعًا أَوْ بِعُمْرَةٍ مَقْرُونَةٍ مَعَهُ وَلَا مَزِيدَ.

L13087–13089 In the fourth ḥadīth transmitted through the path of ʿĀ'ishah, the Mother of the Believers, the command of the Prophet (peace be upon him) to those possessing a sacrificial animal to combine Ḥajj and ʿUmrah—and this is the opinion of Ibn ʿAbbās, Mujāhid, ʿAṭā', Isḥāq ibn Rāhūyah, and others—from Aḥmad ibn ʿUmar ibn Anas, from ʿAbdullāh ibn al-Ḥusayn ibn ʿIqāl, from Ibrāhīm ibn Muḥammad al-Dīnawarī, from Muḥammad ibn Aḥmad ibn al-Jahm, from Abū Ismāʿīl Muḥammad ibn Ismāʿīl, from Aḥmad ibn Ṣāliḥ, from ʿAnbasah, who said: Yūnus—he is Ibn Yazīd—from Ibn Shihāb, from Kuraib, that he... It was narrated from Ibn Abbas that he said: No pilgrim performs Tawaf around the House while in the state of Hajj except that he must exit Ihram by converting to Umrah if he has no sacrificial offering, nor does any pilgrim perform Tawaf with a sacrificial offering except that both Hajj and Umrah are combined for him.

وَفِي الْحَدِيثِ الرَّابِعِ الَّذِي مِنْ طَرِيقِ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَمْرُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ مَعَهُ هَدْيٌ أَنْ يَقْرُنَ بَيْنَ الْحَجِّ، وَالْعُمْرَةِ -: وَبِهِ يَقُولُ ابْنُ عَبَّاسٍ، وَمُجَاهِدٌ، وَعَطَاءٌ، وَإِسْحَاقُ بْنُ رَاهْوَيْهِ، وَغَيْرُهُ -: نَا أَحْمَدُ بْنُ عُمَرَ بْنِ أَنَسٍ نَا عَبْدُ اللَّهِ بْنُ الْحُسَيْنِ بْنِ عِقَالٍ نَا إِبْرَاهِيمُ بْنُ مُحَمَّدٍ الدِّينَوَرِيُّ نَا مُحَمَّدُ بْنُ أَحْمَدَ بْنِ الْجَهْمِ نَا أَبُو إِسْمَاعِيلَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ نَا أَحْمَدُ بْنُ صَالِحٍ نَا عَنْبَسَةُ حَدَّثَنِي يُونُسُ هُوَ ابْنُ يَزِيدَ - عَنِ ابْنِ شِهَابٍ عَنْ كُرَيْبٍ أَنَّهُ حَدَّثَهُ عَنِ ابْنِ عَبَّاسٍ أَنَّهُ كَانَ يَقُولُ: مَا طَافَ رَجُلٌ بِالْبَيْتِ إِنْ كَانَ حَاجًّا إِلَّا حَلَّ بِعُمْرَةٍ إِذَا لَمْ يَكُنْ مَعَهُ هَدْيٌ، وَلَا طَافَ وَمَعَهُ هَدْيٌ إِلَّا اجْتَمَعَتْ لَهُ: حَجَّةٌ، وَعُمْرَةٌ.

L13090 From the transmission of Muslim ibn al-Ḥajjāj: He informed us Isḥāq—who is Ibn Rāhwayh—I, Muḥammad ibn Bakr; I, Ibn Jurayj, informed me that ʿAṭā' said: Ibn ʿAbbās used to say: No one performs *ṭawāf* around the House—neither a pilgrim nor a non-pilgrim—except that they exit *iḥrām*.

وَمِنْ طَرِيقِ مُسْلِمِ بْنِ الْحَجَّاجِ نَا إِسْحَاقُ هُوَ ابْنُ رَاهْوَيْهِ - أَنَا مُحَمَّدُ بْنُ بَكْرٍ أَنَا ابْنُ جُرَيْجٍ أَخْبَرَنِي عَطَاءٌ قَالَ: كَانَ ابْنُ عَبَّاسٍ يَقُولُ: لَا يَطُوفُ بِالْبَيْتِ حَاجٌّ وَلَا غَيْرُ حَاجٍّ إِلَّا حَلَّ.

L13091 So I said to 'Aṭā': "From where do you derive that?" He replied: "From the

statement of Allah the Exalted: ‘Then their place of sacrifice is to the Ancient House’ [al-Ḥajj 33].”[10]

L13092 I said: Then, is that after the known period? He said: Ibn Abbas used to say: It is after the known period and before it.

L13093 He took that from the command of the Messenger of Allah (peace and blessings be upon him) when he ordered them to exit Ihrām during the Farewell Pilgrimage. Through the chain of transmission of ʿAṭāʾ and Mujāhid: Ibn ʿAbbās used to instruct the Qārin (combiner of Hajj and Umrah) to convert his Hajj into an Umrah if he had not driven the sacrificial animal. Through the chain of transmission of Ṭāwūs from Ibn ʿAbbās: “By Allah, no man’s Hajj has ever been completed except through Tamattuʿ, except for one who performed Umrah in the middle of the year.” Narrated by ʿAbdullāh ibn Rabīʿ from Muḥammad ibn Muʿāwiyah from Aḥmad ibn Shuʿayb from Muḥammad ibn al-Muthannā from ʿAbd al-Raḥmān ibn Mahdī from Sufyān al-Thawrī – from Qays ibn Muslim from Ṭāriq ibn Shihāb from Abū Mūsā al-Ashʿarī, who said: “I came to the Messenger of Allah (peace and blessings be upon him) while he was at al-Baṭḥāʾ. He asked: ’With what have you entered Ihrām?’ I replied: ’I entered it with the same Ihrām as the Prophet (peace and blessings be upon him).’ He asked: ’Did you bring a sacrificial animal?’ I said: ’No.’ He said: ’Perform Ṭawāf around the House and between al-Ṣafā and al-Marwah, then exit Ihrām.’ I performed Ṭawāf around the House and between al-Ṣafā and al-Marwah, then went to a woman from my people who combed and washed my hair.” I issued fatwas based on this during the caliphates of Abū Bakr and ʿUmar. Once, while I stood at the pilgrimage season, a man came and said: “You do not know what the Commander of the Faithful has newly enacted regarding the rites!” I said: “O people, whoever received our fatwa should hold on, for the Commander of the Faithful approaches – follow him fully.” When he arrived, I asked: “O Commander of the Faithful, what is this new enactment regarding the rites?” He replied: “If we follow the Book of Allah – Exalted is He – He says: ’Fulfill the Hajj and Umrah for Allah’ [Quran

[10]**Qur’an references (L13091):** Qur’an 22:33 (Al-Hajj).

فَقُلْت لِعَطَاءٍ: مِنْ أَيْنَ تَقُولُ ذَلِكَ؟ قَالَ: مِنْ قَوْلِ اللَّهِ تَعَالَى: {ثُمَّ مَحِلُّهَا إِلَى الْبَيْتِ الْعَتِيقِ} [الحج: ٣٣] .

قُلْت: فَإِنَّ ذَلِكَ بَعْدَ الْمَعْرَفِ؟ قَالَ: كَانَ ابْنُ عَبَّاسٍ يَقُولُ: هُوَ بَعْدَ الْمَعْرَفِ وَقَبْلَهُ.

وَكَانَ يَأْخُذُ ذَلِكَ مِنْ أَمْرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حِينَ أَمَرَهُمْ أَنْ يَحِلُّوا فِي حَجَّةِ الْوَدَاعِ - وَمِنْ طَرِيقِ عَطَاءٍ، وَمُجَاهِدٍ: أَنَّ ابْنَ عَبَّاسٍ كَانَ يَأْمُرُ الْقَارِنَ أَنْ يَجْعَلَهَا عُمْرَةً إِذَا لَمْ يَكُنْ سَاقَ الْهَدْيَ - وَمِنْ طَرِيقِ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ: وَاَللَّهِ مَا تَمَّتْ حَجَّةُ رَجُلٍ قَطُّ إِلَّا بِمُتْعَةٍ إِلَّا رَجُلٌ اعْتَمَرَ فِي وَسَطِ السَّنَةِ -: نَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ نَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ نَا سُفْيَانُ هُوَ الثَّوْرِيُّ - عَنْ قَيْسِ بْنِ مُسْلِمٍ عَنْ طَارِقِ بْنِ شِهَابٍ عَنْ أَبِي مُوسَى الْأَشْعَرِيِّ قَالَ: «قَدِمْتُ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ بِالْبَطْحَاءِ فَقَالَ: بِمَ أَهْلَلْتَ؟ قُلْتُ: أَهْلَلْتُ بِإِهْلَالِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: هَلْ سُقْتَ مِنْ هَدْيٍ؟ قُلْتُ: لَا، قَالَ: طُفْ بِالْبَيْتِ وَبِالصَّفَا وَالْمَرْوَةِ ثُمَّ حِلَّ، فَطُفْتُ بِالْبَيْتِ وَبِالصَّفَا وَالْمَرْوَةِ ثُمَّ أَتَيْتُ امْرَأَةً مِنْ قَوْمِي فَمَشَطَتْنِي وَغَسَلَتْ رَأْسِي» فَكُنْتُ أُفْتِي النَّاسَ بِذَلِكَ فِي إِمَارَةِ أَبِي بَكْرٍ، وَإِمَارَةِ عُمَرَ، فَإِنِّي لَقَائِمٌ بِالْمَوْسِمِ إِذْ جَاءَنِي رَجُلٌ فَقَالَ: إِنَّكَ لَا تَدْرِي مَا أَحْدَثَ أَمِيرُ الْمُؤْمِنِينَ فِي شَأْنِ النُّسُكِ؟ قُلْتُ: يَا أَيُّهَا النَّاسُ مَنْ كُنَّا أَفْتَيْنَاهُ بِشَيْءٍ فَلْيَتَّئِدْ فَإِنَّ أَمِيرَ الْمُؤْمِنِينَ قَادِمٌ عَلَيْكُمْ فَأَتَمُّوا بِهِ، فَلَمَّا قَدِمَ قُلْتُ: يَا أَمِيرَ الْمُؤْمِنِينَ مَا (هَذَا) الَّذِي أَحْدَثْتَ فِي شَأْنِ النُّسُكِ؟ قَالَ: إِنْ نَأْخُذْ بِكِتَابِ اللَّهِ تَعَالَى فَإِنَّ اللَّهَ تَعَالَى قَالَ: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] وَإِنْ نَأْخُذْ بِسُنَّةِ نَبِيِّنَا - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَإِنَّهُ لَمْ يَحِلَّ حَتَّى نَحَرَ الْهَدْيَ.

2:196]. If we follow the Sunnah of our Prophet (peace and blessings be upon him) – he did not exit Ihrām until he slaughtered the sacrificial animal."[11]

L13094–13096 Abu Muhammad said: This is Abu Musa, who issued fatwas in accordance with our views during the leadership of Abu Bakr and the early phase of the leadership. Umar (may Allah be pleased with them both), and his cessation of what Allah the Exalted decreed to be ceased does not constitute evidence against what was narrated from the Prophet (peace and blessings be upon him). Sufficient for us is his statement to Umar: "What have you innovated concerning the pilgrimage rites?" And Umar did not deny that.

L13097 As for the statement of Umar (may Allah be pleased with him), Allah the Exalted says: {And complete the Hajj and Umrah for Allah} [Al-Baqarah: 196]. There is no completion for them except what the Messenger of Allah (peace and blessings be upon him) taught the people, for he is the one to whom this verse was revealed, and he was commanded to clarify what was revealed to him regarding that.[12]

L13098 As for the fact that he (peace be upon him) did not exit the state of consecration until he sacrificed the sacrificial animal, Umm al-Mu'minin Ḥafṣah, the daughter of ʿUmar (may Allah be pleased with her), narrated from the Prophet (peace be upon him) an explanation of his action, as transmitted to us through Mālik's chain from Nāfiʿ, from Ibn ʿUmar, from Ḥafṣah, who said to the Messenger of Allah (peace be upon him): "Why have the people ended their ritual consecration while you have not ended yours after your ʿUmrah?" He replied: "I have matted my hair and garlanded my sacrificial animal. Thus, I cannot exit consecration until I slaughter it."

L13099 It was also narrated by Ali, as transmitted to us through the chain of Ahmad ibn Shu'ayb: Mu'awiyah ibn Salih al-Ash'ari informed me, Yahya ibn Ma'in narrated to us, Hajjaj—meaning ibn Muhammad al-A'war—narrated to us, Yunus—meaning Abu Ishaq al-Sabi'i—narrated from his father from al-Bara'—he is ibn Azib—from Ali ibn Abi Talib that the Messenger of Allah—peace and blessings be upon him—said to him: "I drove the sacrificial

قَالَ أَبُو مُحَمَّدٍ: هَذَا أَبُو مُوسَى قَدْ أَفْتَى بِمَا قُلْنَا مُدَّةَ إِمَارَةِ أَبِي بَكْرٍ وَصَدْرًا مِنْ إِمَارَةِ عُمَرَ - رَضِيَ اللَّهُ عَنْهُمَا -، وَلَيْسَ تَوَقُّفُهُ لِمَا شَاءَ اللَّهُ تَعَالَى أَنْ يَتَوَقَّفَ لَهُ حُجَّةٌ عَلَى مَا رُوِيَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَحَسْبُنَا قَوْلُهُ لِعُمَرَ مَا الَّذِي أَحْدَثْتَ فِي شَأْنِ النُّسُكِ؟ فَلَمْ يُنْكِرْ ذَلِكَ عُمَرُ.

وَأَمَّا قَوْلُ عُمَرَ - رَضِيَ اللَّهُ عَنْهُ - فَيَقُولُ اللَّهُ تَعَالَى: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] فَلَا إتْمَامَ لَهُمَا إلَّا عَلَّمَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - النَّاسَ وَهُوَ الَّذِي أُنْزِلَتْ عَلَيْهِ هَذِهِ الْآيَةُ، وَأُمِرَ بِبَيَانِ مَا أُنْزِلَ عَلَيْهِ مِنْ ذَلِكَ.

وَأَمَّا كَوْنُهُ - عَلَيْهِ السَّلَامُ - لَمْ يَحِلَّ حَتَّى نَحَرَ الْهَدْيَ فَإِنَّ أُمَّ الْمُؤْمِنِينَ ابْنَتَهُ حَفْصَةَ - رَضِيَ اللَّهُ عَنْهَا - رَوَتْ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَيَانَ فِعْلِهِ كَمَا رُوِّينَا مِنْ طَرِيقِ مَالِكٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ عَنْ «حَفْصَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا قَالَتْ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا شَأْنُ النَّاسِ حَلُّوا وَلَمْ تَحِلَّ أَنْتَ مِنْ عُمْرَتِكَ؟ قَالَ: إنِّي لَبَّدْتُ رَأْسِي وَقَلَّدْت هَدْيِي فَلَا أَحِلُّ حَتَّى أَنْحَرَ» .

وَرَوَاهُ أَيْضًا عَلِيٌّ كَمَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَخْبَرَنِي مُعَاوِيَةُ بْنُ صَالِحٍ الْأَشْعَرِيُّ نَا يَحْيَى بْنُ مَعِينٍ نَا حَجَّاجٌ يَعْنِي ابْنَ مُحَمَّدٍ الْأَعْوَرِ - نَا يُونُسُ يَعْنِي أَبَا إِسْحَاقَ السَّبِيعِيَّ - عَنْ أَبِيهِ عَنْ الْبَرَاءِ هُوَ ابْنُ عَازِبٍ - عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: إنِّي سُقْتُ الْهَدْيَ وَقَرَنْتُ، لَوْ اسْتَقْبَلْتُ مِنْ أَمْرِي مَا اسْتَدْبَرْتُ لَفَعَلْتُ كَمَا فَعَلْتُمْ، وَلَكِنِّي سُقْتُ الْهَدْيَ وَقَرَنْتُ» .

[11] **Qur'an references (L13093):** Qur'an 2:196 (Al-Baqarah).
[12] **Qur'an references (L13097):** Qur'an 2:196 (Al-Baqarah).

animal and performed *qiran*. If I were to start over what I have already concluded, I would do as you have done, but I drove the sacrificial animal and performed *qiran*."[13]

L13100 Therefore, this is more deserving of being followed than an opinion Umar held, since it is authentically established that he retracted it. They also opposed him regarding it, as we will mention later, if Allah, the Most High, wills.

L13101–13103 From the chain of ʿAbd al-Razzāq, from Sufyān ibn ʿUyaynah, from Jaʿfar ibn Muḥammad, from his father, who said in the book of ʿAlī ibn Abī Ṭālib: "Whoever wishes to combine Ḥajj and ʿUmrah, let him drive his sacrificial animal with him." Narrated to us Aḥmad ibn Muḥammad al-Ṭalamankī, from Ibn Mufarrij, from Ibrāhīm ibn Aḥmad ibn Firās, from Muḥammad ibn ʿAlī ibn Zayd al-Ṣāʾigh, from Saʿīd ibn Manṣūr, from Hushaym, from Manṣūr—he is Ibn al-Muʿtamir—who said: "Al-Ḥasan al-Baṣrī performed Ḥajj, and I performed Ḥajj with him that year. When we arrived in Mecca, a man came to al-Ḥasan and said: 'O Abā Saʿīd, I am a man from Khurāsān, far from my homeland, and I arrived having entered Iḥrām for Ḥajj.' Al-Ḥasan replied: 'Change it to ʿUmrah and exit the state of Iḥrām.' The people condemned al-Ḥasan for this, and his statement spread throughout Mecca. The man then went to ʿAṭāʾ ibn Abī Rabāḥ and mentioned this to him. ʿAṭāʾ said: 'The Shaykh spoke truthfully, but we fear to speak such.'" Abū Muḥammad said: "The rejection by the ignorant is no proof against the established practices of Allah, the Exalted, and His Messenger—peace and blessings be upon him." And from the chain of Abd al-Razzaq narrated from Ibn Jurayj from ʿAṭāʾ, who said: Whoever among Allah's servants declares the intention to perform Tamattuʿ with Ḥajj exclusively or with Ḥajj and ʿUmrah together, then this is the Tamattuʿ of the Sunnah of Allah the Exalted and His Messenger (peace be upon him). And through the same chain (وبه), Abd al-Razzaq narrated from Maʿmar from Ibn Ṭāwūs from his father, that he was asked about the statement of the Messenger of Allah (peace be upon him): "Has the ʿUmrah been incorporated into the Ḥajj?" He replied: This refers to the man who

فَهَذَا أَوْلَى أَنْ يُتَّبَعَ مِنْ رَأْيٍ رَآهُ عُمَرُ قَدْ صَحَّ عَنْهُ رُجُوعُهُ عَنْهُ، وَقَدْ خَالَفُوهُ فِيهِ أَيْضًا كَمَا نَذْكُرُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ قَالَ فِي كِتَابِ عَلِيِّ بْنِ أَبِي طَالِبٍ: مَنْ شَاءَ أَنْ يَجْمَعَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَلْيَسُقْ هَدْيَهُ مَعَهُ -: نَا أَحْمَدُ بْنُ مُحَمَّدٍ الطَّلَمَنْكِيُّ نَا ابْنُ مُفَرِّجٍ نَا إِبْرَاهِيمُ بْنُ أَحْمَدَ بْنِ فِرَاسٍ نَا مُحَمَّدُ بْنُ عَلِيِّ بْنِ زَيْدٍ الصَّائِغُ نَا سَعِيدُ بْنُ مَنْصُورٍ نَا هُشَيْمٌ أَنَا مَنْصُورٌ هُوَ ابْنُ الْمُعْتَمِرِ - قَالَ: حَجَّ الْحَسَنُ الْبَصْرِيُّ وَحَجَجْت مَعَهُ فِي ذَلِكَ الْعَامِ فَلَمَّا قَدِمْنَا مَكَّةَ جَاءَ رَجُلٌ إلَى الْحَسَنِ فَقَالَ: يَا أَبَا سَعِيدٍ إنِّي رَجُلٌ بَعِيدُ الشُّقَّةِ مِنْ أَهْلِ خُرَاسَانَ وَإِنِّي قَدِمْت مُهِلًّا بِالْحَجِّ؟ فَقَالَ لَهُ الْحَسَنُ: اجْعَلْهَا عُمْرَةً وَأَحِلَّ فَأَنْكَرَ ذَلِكَ النَّاسُ عَلَى الْحَسَنِ وَشَاعَ قَوْلُهُ بِمَكَّةَ فَأَتَى عَطَاءَ بْنَ أَبِي رَبَاحٍ فَذَكَرَ ذَلِكَ لَهُ فَقَالَ: صَدَقَ الشَّيْخُ، وَلَكِنَّا نَفْرَقُ أَنْ نَتَكَلَّمَ بِذَلِكَ قَالَ أَبُو مُحَمَّدٍ: لَيْسَ إنْكَارُ أَهْلِ الْجَهْلِ حُجَّةً عَلَى سُنَنِ اللَّهِ تَعَالَى وَرَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ قَالَ: مَنْ أَهَلَّ مِنْ خَلْقِ اللَّهِ تَعَالَى مِمَّنْ لَهُ مُتْعَةٌ بِالْحَجِّ خَالِصًا أَوْ بِحَجَّةٍ وَعُمْرَةٍ فَهِيَ مُتْعَةُ سُنَّةِ اللَّهِ تَعَالَى وَرَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَبِهِ إلَى عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ ابْنِ طَاوُسٍ عَنْ أَبِيهِ أَنَّهُ سَأَلَ عَنْ قَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ؟» فَقَالَ: هُوَ الرَّجُلُ يُفْرِدُ الْحَجَّ وَيَذْبَحُ فَقَدْ دَخَلَتْ لَهُ عُمْرَةٌ فِي الْحَجِّ فَوَجَبَتَا لَهُ جَمِيعًا.

[13] **Hadith references (L13099):** Sunan an-Nasai 2725.

performs Ḥajj alone (Ifrād) and sacrifices - for indeed an ʿUmrah has been incorporated into his Ḥajj, thus making both rituals jointly obligatory for him.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا عُمَرُ بْنُ ذَرٍّ: أَنَّهُ سَمِعَ مُجَاهِدًا يَقُولُ: مَنْ جَاءَ حَاجًّا فَأَهْدَى هَدْيًا فَلَهُ عُمْرَةٌ مَعَ حَجَّةٍ.

L13104 Abd al-Razzaq narrated to us: Umar ibn Dharr reported that he heard Mujahid say: Whoever comes as a pilgrim and offers a sacrificial animal (hady), for him is Umrah alongside Hajj.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا عَتَّابُ بْنُ بَشِيرٍ نَا خُصَيْفٌ عَنْ عَطَاءٍ وَمُجَاهِدٍ أَنَّ ابْنَ عَبَّاسٍ كَانَ يَأْمُرُ الْقَارِنَ أَنْ يَجْعَلَهَا عُمْرَةً إِذَا لَمْ يَكُنْ سَاقَ الْهَدْيَ قَالَ خُصَيْفٌ: وَكُنْت مَعَ مُجَاهِدٍ فَأَتَاهُ الضَّحَّاكُ بْنُ سُلَيْمٍ وَقَدْ خَرَجَ حَاجًّا فَسَأَلَ مُجَاهِدًا؟ فَقَالَ لَهُ مُجَاهِدٌ: اجْعَلْهَا عُمْرَةً، فَقَالَ: هَذَا أَوَّلُ مَا حَجَجْت فَلَا تُشَايِعُنِي نَفْسِي فَأَيُّ ذَلِكَ تَرَى أَتَمُّ؟ أَنْ أَمْكُثَ كَمَا أَنَا أَوْ أَجْعَلَهَا عُمْرَةً؟ قَالَ خُصَيْفٌ: فَقُلْت لَهُ: أَظُنُّ هَذَا أَتَمَّ لِحَجِّك أَنْ تَمْكُثَ كَمَا أَنْتَ؟ فَرَفَعَ مُجَاهِدٌ تِبْنَةً مِنْ الْأَرْضِ وَقَالَ: مَا هُوَ بِأَتَمَّ مِنْ هَذَا، وَهُوَ قَوْلُ إِسْحَاقَ بْنِ رَاهْوَيْهِ.

From the narration of Sa‘īd ibn Manṣūr: ‘Aṭṭāb ibn Bashīr reported to us: Khuṣayf reported from ‘Aṭā’ and Mujāhid that Ibn ‘Abbās used to instruct the *qārin* (a pilgrim combining Ḥajj and ‘Umrah) to convert his Ḥajj into ‘Umrah if he had not brought the sacrificial animal. Khuṣayf said: I was in Mujāhid’s company when aḍ-Ḍaḥḥāk ibn Sulaym—who had set out for Ḥajj—came and questioned Mujāhid. Mujāhid told him: “Convert your Ḥajj into ‘Umrah.” He replied: “This is my first Ḥajj, and I am inwardly unsettled. Which do you consider more complete: remaining in my current state or converting it into ‘Umrah?” Khuṣayf added: I told him: “I think remaining as you are would make your Ḥajj more complete.” Mujāhid then lifted a dried stalk from the ground and said: “It is no more complete than this”—and this is the opinion of Isḥāq ibn Rāhawayh.

وَقَالَ عُبَيْدُ اللَّهِ بْنُ الْحَسَنِ الْقَاضِي، وَأَحْمَدُ بْنُ حَنْبَلٍ بِإِبَاحَةِ فَسْخِ الْحَجِّ لَا بِإِيجَابِهِ - وَمَنَعَ مِنْهُ أَبُو حَنِيفَةَ، وَمَالِكٌ، وَالشَّافِعِيُّ.

L13106 Ubaydullah ibn al-Hasan, the judge, and Ahmad ibn Hanbal held the permissibility of dissolving the state of Ihrām for Hajj but did not consider it obligatory, while Abu Hanifah, Malik, and al-Shafi’i prohibited it.

قَالَ عَلِيٌّ: رَوَى أَمْرَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ لَا هَدْيَ لَهُ أَنْ يَفْسَخَ حَجَّهُ بِعُمْرَةٍ وَيَحِلَّ بِأَوْكَدِ أَمْرٍ جَابِرَ بْنَ عَبْدِ اللَّهِ، وَعَائِشَةَ أُمَّ الْمُؤْمِنِينَ، وَحَفْصَةَ أُمَّ الْمُؤْمِنِينَ (كَذَلِكَ) ، وَفَاطِمَةُ بِنْت رَسُول اللَّه - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -، وَعَلِيٌّ، وَأَسْمَاءُ بِنْتُ أَبِي بَكْرٍ الصِّدِّيقِ، وَأَبُو مُوسَى الْأَشْعَرِيُّ، وَأَبُو سَعِيدٍ الْخُدْرِيّ، وَأَنَسٌ وَابْنُ عَبَّاسٍ، وَابْنُ عُمَرَ، وَسَبْرَةُ بْنُ مَعْبَدٍ، وَالْبَرَاءُ بْنُ عَازِبٍ، وَسُرَاقَةُ بْنُ مَالِكٍ، وَمَعْقِلُ بْنُ يَسَارٍ خَمْسَةَ

L13107 Ali said: The matter of the Messenger of Allah—may Allah bless him and grant him peace—that one who has no sacrificial animal may transform his Hajj into Umrah and exit the state of consecration through the strongest injunction was narrated by Jabir ibn Abdullah, Aisha the Mother of the Believers, Hafsah the Mother of the Believers (likewise), Fatimah the daughter of the Messenger of Allah, Ali, Asma bint Abi Bakr al-Siddiq, Abu Musa al-Ash‘ari, Abu Sa‘id al-Khudri, Anas, Ibn Abbas, Ibn Umar, Sabrah ibn Ma‘bad, al-Bara’ ibn ‘Azib, Suraqah ibn Malik, and Ma‘qil ibn Yasar—fifteen of the Companions—may Allah be pleased with them—. More than twenty of the Successors narrated it from these, and those who narrated it from them are

countless—none can enumerate them except Allah, the Mighty and Majestic. Thus, no one was permitted to deviate from this.

L13108–13110 Those who differed from all this raised objections wherein they had no valid proof. Among these was their mention of a narration we transmitted through Malik's chain from Abu al-Aswad Muhammad ibn Abd al-Rahman ibn Nawfal, from Urwah, from Aishah: "We set out with Allah's Messenger (peace and blessings be upon him) during the year of the Farewell Hajj. Among us were those who entered ihram for Umrah, those who entered ihram for Hajj and Umrah together, and those who entered ihram for Hajj. Allah's Messenger (peace and blessings be upon him) entered ihram for Hajj. As for those who entered ihram for Umrah..." Then he exited Ihram. As for those who entered Ihram for Hajj or combined Hajj and Umrah, they did not exit Ihram until the Day of Sacrifice.

L13111 And with a narration we transmitted through the chain of Ibn Wahb from ʿAmr ibn al-Ḥārith from Abū al-Aswad Muḥammad ibn ʿAbd al-Raḥmān ibn Nawfal from ʿUrwah—when it was mentioned to him concerning a man who reported "from the Prophet, peace and blessings of Allah be upon him, that he performed Ṭawāf around the House and exited iḥrām"—ʿUrwah narrated from ʿĀ'ishah in a ḥadīth: She said regarding the Messenger of Allah, peace and blessings of Allah be upon him: "The first act he initiated upon arriving in Mecca was performing ablution, then performing Ṭawāf around the House. Then Abū Bakr performed Ḥajj, and the first act he initiated was Ṭawāf around the House, and he did nothing else besides it. Then ʿUmar did likewise. Then ʿUthmān performed Ḥajj, and I saw him initiate Ṭawāf around the House as the first act, and he did nothing else besides it. Then Muʿāwiyah and ʿAbdullāh ibn ʿUmar. Then I performed Ḥajj with al-Zubayr, my father, and the first act he initiated was Ṭawāf around the House, and he did nothing else besides it. Then I observed the Muhājirīn and the Anṣār acting in the same manner, with no deviation. None of the predecessors would commence any act upon setting foot until they first performed Ṭawāf around the House, nor would they exit iḥrām afterward. I witnessed my mother and aunt arriving; they would not initiate any act before circling the House in

عَشَرَ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -؛ وَرَوَاهُ عَنْ هَؤُلَاءِ نَيِّفٌ وَعِشْرُونَ مِنْ التَّابِعِينَ؛ وَرَوَاهُ عَنْ هَؤُلَاءِ مَنْ لَا يُحْصِيهِ إلَّا اللَّهُ عَزَّ وَجَلَّ، فَلَمْ يَسَعْ أَحَدًا الْخُرُوجُ عَنْ هَذَا.

وَاحْتَجَّ مَنْ خَالَفَ كُلَّ هَذَا بِاعْتِرَاضَاتٍ لَا حُجَّةَ لَهُمْ فِي شَيْءٍ مِنْهَا؛ مِنْهَا أَنَّهُمْ ذَكَرُوا خَبَرًا رُوِّينَاهُ مِنْ طَرِيقِ مَالِكٍ عَنْ أَبِي الْأَسْوَدِ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ نَوْفَلٍ عَنْ عُرْوَةَ عَنْ عَائِشَةَ «خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَامَ حَجَّةِ الْوَدَاعِ فَمِنَّا مَنْ أَهَلَّ بِعُمْرَةٍ، وَمِنَّا مَنْ أَهَلَّ بِحَجٍّ وَعُمْرَةٍ، وَمِنَّا مَنْ أَهَلَّ بِالْحَجِّ وَأَهَلَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْحَجِّ، فَأَمَّا مَنْ أَهَلَّ بِعُمْرَةٍ فَحَلَّ، وَأَمَّا مَنْ أَهَلَّ بِحَجٍّ أَوْ جَمَعَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَلَمْ يَحِلُّوا حَتَّى كَانَ يَوْمُ النَّحْرِ» .

وَبِخَبَرٍ رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ وَهْبٍ عَنْ عَمْرِو بْنِ الْحَارِثِ عَنْ أَبِي الْأَسْوَدِ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ نَوْفَلٍ عَنْ عُرْوَةَ، وَقَدْ ذُكِرَ لَهُ عَنْ رَجُلٍ ذَكَرَ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ طَافَ بِالْبَيْتِ وَحَلَّ» فَقَالَ عُرْوَةُ عَنْ عَائِشَةَ فِي حَدِيثٍ: قَالَتْ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - " أَنَّهُ أَوَّلُ شَيْءٍ بَدَأَ بِهِ حِينَ قَدِمَ مَكَّةَ أَنَّهُ تَوَضَّأَ ثُمَّ طَافَ بِالْبَيْتِ، ثُمَّ حَجَّ أَبُو بَكْرٍ فَكَانَ أَوَّلُ شَيْءٍ بَدَأَ بِهِ الطَّوَافَ بِالْبَيْتِ ثُمَّ لَمْ يَكُنْ غَيْرُهُ، ثُمَّ عُمَرُ مِثْلُ ذَلِكَ، ثُمَّ حَجَّ عُثْمَانُ فَرَأَيْته أَوَّلُ شَيْءٍ بَدَأَ بِهِ الطَّوَافُ (بِالْبَيْتِ) ، ثُمَّ لَمْ يَكُنْ غَيْرُهُ، ثُمَّ مُعَاوِيَةُ، وَعَبْدُ اللَّهِ بْنُ عُمَرَ، ثُمَّ حَجَجْت مَعَ الزُّبَيْرِ أَبِي فَكَانَ أَوَّلُ شَيْءٍ بَدَأَ بِهِ الطَّوَافَ بِالْبَيْتِ ثُمَّ لَمْ يَكُنْ غَيْرُهُ، ثُمَّ رَأَيْت الْمُهَاجِرِينَ وَالْأَنْصَارَ يَفْعَلُونَ ذَلِكَ، ثُمَّ لَمْ يَكُنْ غَيْرُهُ وَلَا أَحَدٌ مِمَّنْ مَضَى (مَا) كَانُوا يَبْدَءُونَ بِشَيْءٍ حِينَ يَضَعُونَ أَقْدَامَهُمْ أَوَّلَ مِنْ الطَّوَافِ بِالْبَيْتِ ثُمَّ لَا يَحِلُّونَ، وَقَدْ رَأَيْت أُمِّي، وَخَالَتِي تَقْدُمَانِ لَا

Ṭawāf, nor would they exit iḥrām. My mother informed me that she, her sister, al-Zubayr, and so-and-so and so-and-so once came for ʿUmrah. When they touched the Black Stone, they exited iḥrām. The man lied in what was attributed regarding that matter."

تَبْدَآنِ بِشَيْءٍ أَوَّلَ مِنْ الْبَيْتِ تَطُوفَانِ بِهِ ثُمَّ لَا تَحِلَّانِ، وَقَدْ أَخْبَرَتْنِي أُمِّي أَنَّهَا أَقْبَلَتْ هِيَ وَأُخْتُهَا وَالزُّبَيْرُ وَفُلَانٌ وَفُلَانٌ بِعُمْرَةٍ قَطُّ فَلَمَّا مَسَحُوا الرُّكْنَ حَلُّوا، وَقَدْ كَذَبَ فِيمَا ذُكِرَ مِنْ ذَلِكَ ".

L13112 And with a narration we have transmitted through the chain of Ibn Abi Shaybah from Muhammad ibn Bishir al-Abdi from Muhammad ibn Amr ibn Alqamah from Yahya ibn Abd al-Rahman ibn Hatib from Aisha, who said: "We set out with the Messenger of Allah (peace and blessings be upon him) for Hajj. Then I mentioned that those among them who had entered ihram for a single Hajj or for both Umrah and Hajj did not exit ihram until they had completed the ritual acts of Hajj. And whoever had entered ihram for a single Umrah performed Tawaf around the House and Sa'i between Safa and Marwah, then exited ihram so they could perform Hajj."

وَبِخَبَرٍ رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ مُحَمَّدِ بْنِ بَشِيرٍ الْعَبْدِيِّ عَنْ مُحَمَّدِ بْنِ عَمْرِو بْنِ عَلْقَمَةَ عَنْ يَحْيَى بْنِ عَبْدِ الرَّحْمَنِ بْنِ حَاطِبٍ عَنْ عَائِشَةَ قَالَتْ: " خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِلْحَجِّ ثُمَّ ذَكَرْت أَنَّ مَنْ كَانَ مِنْهُمْ أَهَلَّ بِحَجٍّ مُفْرَدٍ، أَوْ بِعُمْرَةٍ وَحَجٍّ فَلَمْ يَحْلِلْ حَتَّى قَضَى مَنَاسِكَ الْحَجِّ، وَمَنْ أَهَلَّ بِعُمْرَةٍ مُفْرَدَةٍ طَافَ بِالْبَيْتِ وَبِالصَّفَا وَالْمَرْوَةِ ثُمَّ حَلَّ حَتَّى يَسْتَقْبِلَ حَجًّا ".

L13113 Abu Muhammad said: The hadith of Abu al-Aswad from Urwah from Aisha, and the hadith of Yahya ibn Abd al-Rahman ibn Hatib from her are both deemed munkar (rejected) and erroneous according to hadith scholars.

قَالَ أَبُو مُحَمَّدٍ: حَدِيثُ أَبِي الْأَسْوَدِ عَنْ عُرْوَةَ عَنْ عَائِشَةَ، وَحَدِيثُ يَحْيَى بْنِ عَبْدِ الرَّحْمَنِ بْنِ حَاطِبٍ عَنْهَا مُنْكَرَانِ، وَخَطَأٌ عِنْدَ أَهْلِ الْعِلْمِ بِالْحَدِيثِ.

L13114 Aḥmad ibn ʿUmar ibn Anas narrated to us from ʿAbdullāh ibn al-Ḥusayn ibn ʿIqāl, who narrated from ʿUbaydullāh ibn Muḥammad al-Saqṭī, who narrated from Aḥmad ibn Jaʿfar, who narrated from Muḥammad ibn Muslim al-Khuttalī, who narrated from ʿUmar ibn Muḥammad ibn ʿĪsā al-Jawharī al-Suddānī, who narrated from Aḥmad ibn Muḥammad al-Athram, who narrated from Aḥmad ibn Ḥanbal. He mentioned Mālik's ḥadīth from Abū al-Aswad that we previously cited. Aḥmad ibn Ḥanbal said: "What is astonishing in this ḥadīth? This is an error!" Al-Athram said: "I asked him: 'Does al-Zuhrī's narration from ʿUrwah from ʿĀ'ishah contradict it?'" Aḥmad ibn Ḥanbal replied: "Yes—and Hishām ibn ʿUrwah."

نَا أَحْمَدُ بْنُ عُمَرَ بْنِ أَنَسٍ نَا عَبْدُ اللَّهِ بْنُ الْحُسَيْنِ بْنِ عِقَالٍ نَا عُبَيْدُ اللَّهِ بْنُ مُحَمَّدٍ السَّقَطِيُّ نَا أَحْمَدُ بْنُ جَعْفَرٍ نَا مُحَمَّدُ بْنُ مُسْلِمٍ الْخُتَّلِيُّ نَا عُمَرُ بْنُ مُحَمَّدِ بْنِ عِيسَى الْجَوْهَرِيُّ السُّدَّانِيُّ نَا أَحْمَدُ بْنُ مُحَمَّدٍ الْأَثْرَمُ نَا أَحْمَدُ بْنُ حَنْبَلٍ فَذَكَرَ حَدِيثَ مَالِكٍ عَنْ أَبِي الْأَسْوَدِ الَّذِي ذَكَرْنَا آنِفًا فَقَالَ أَحْمَدُ: إيشٍ فِي هَذَا الْحَدِيثِ مِنْ الْعَجَبِ؟ هَذَا خَطَأٌ، قَالَ الْأَثْرَمُ: فَقُلْت لَهُ: الزُّهْرِيُّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ بِخِلَافِهِ؟ قَالَ أَحْمَدُ: نَعَمْ، وَهِشَامُ بْنُ عُرْوَةَ.

L13115–13116 Abu Muhammad said: The aforementioned Abu al-Aswad has another hadith in this chapter whose corruption is evident. It is a report we transmitted through al-Bukhari's chain: Ahmad ibn Salih narrated to us, Ibn Wahb narrated to us, Amr ibn al-Harith informed us from Abu al-Aswad Muhammad ibn Abd al-Rahman ibn Nawfal that Abdullah, the freed slave of Asma bint

قَالَ أَبُو مُحَمَّدٍ: وَلِأَبِي الْأَسْوَدِ الْمَذْكُورِ حَدِيثٌ آخَرُ فِي هَذَا الْبَابِ لَا خَفَاءَ بِفَسَادِهِ، وَهُوَ خَبَرٌ رُوِّينَاهُ مِنْ طَرِيقِ الْبُخَارِيِّ نَا أَحْمَدُ بْنُ صَالِحٍ نَا ابْنُ وَهْبٍ أَنَا عَمْرُو بْنُ الْحَارِثِ

عَنْ أَبِي الْأَسْوَدِ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ نَوْفَلٍ أَنَّ عَبْدَ اللَّهِ مَوْلَى أَسْمَاءَ بِنْتِ أَبِي بَكْرٍ قَالَ: حَدَّثَهُ أَنَّهُ كَانَ يَسْمَعُ أَسْمَاءَ بِنْتَ أَبِي بَكْرٍ تَقُولُ كُلَّمَا مَرَّتْ بِالْحَجُونِ: صَلَّى اللَّهُ عَلَى رَسُولِهِ لَقَدْ نَزَلْنَا مَعَهُ هَاهُنَا، وَنَحْنُ يَوْمَئِذٍ خِفَافٌ قَلِيلٌ ظَهْرُنَا قَلِيلَةٌ أَزْوَادُنَا فَاعْتَمَرْتُ أَنَا وَأُخْتِي عَائِشَةُ، وَالزُّبَيْرُ، وَفُلَانٌ، وَفُلَانٌ، فَلَمَّا مَسَحْنَا الْبَيْتَ أَحْلَلْنَا ثُمَّ أَهْلَلْنَا مِنْ الْعَشِيِّ بِالْحَجِّ.

Abi Bakr, narrated: He used to hear Asma bint Abi Bakr say whenever she passed by al-Hajun: "May Allah bless His Messenger. We alighted here with him when we were lightly equipped - our mounts were few and our provisions scarce. I performed Umrah with my sister Aisha, al-Zubayr, so-and-so, and so-and-so. When we performed Tawaf around the House, we ended our ritual state, then assumed the state of consecration for Hajj in the afternoon."

L13117 قَالَ عَلِيٌّ: وَهَذَا بَاطِلٌ بِلَا خِلَافٍ مِنْ أَحَدٍ، لِأَنَّ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - لَمْ تَعْتَمِرْ فِي عَامِ حَجَّةِ الْوَدَاعِ قَبْلَ الْحَجِّ أَصْلًا، لِأَنَّهَا دَخَلَتْ - وَهِيَ حَائِضٌ - حَاضَتْ بِسَرِفَ وَلَمْ تَطُفْ بِالْبَيْتِ إلَّا بَعْدَ أَنْ طَهُرَتْ يَوْمَ النَّحْرِ هَذَا أَمْرٌ فِي شُهْرَةِ الشَّمْسِ، وَلِذَلِكَ رَغِبَتْ مِنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ يَعْمُرَهَا بَعْدَ الْحَجِّ فَأَعْمَرَهَا مِنْ التَّنْعِيمِ بَعْدَ انْقِضَاءِ أَيَّامِ التَّشْرِيقِ كُلِّهَا رَوَاهُ جَابِرُ بْنُ عَبْدِ اللَّهِ، وَرَوَاهُ عَنْ عَائِشَةَ: عُرْوَةُ، وَالْقَاسِمُ بْنُ مُحَمَّدٍ، وَطَاوُسٌ، وَمُجَاهِدٌ، وَالْأَسْوَدُ بْنُ زَيْدٍ وَابْنُ أَبِي مُلَيْكَةَ.

Ali said: This is invalid without any disagreement from anyone, because Aisha—may Allah be pleased with her—did not perform Umrah during the Farewell Pilgrimage before Hajj at all. She had entered Ihram while menstruating—her menstruation began at Saraf—and did not perform Tawaf around the House until after becoming pure on the Day of Sacrifice. This matter is in the clarity of the sun. For this reason, she sought from the Prophet—peace and blessings of Allah be upon him—to permit her to perform Umrah after Hajj, so he permitted her to perform it from al-Tanʿim after the conclusion of all the Days of Tashreeq. This was narrated by Jabir ibn Abdullah, and from Aisha: Urwah, al-Qasim ibn Muhammad, Tawus, Mujahid, al-Aswad ibn Zayd, and Ibn Abi Mulaykah.

L13118 وَبَلِيَّةٌ أُخْرَى فِي هَذَا الْخَبَرِ وَهِيَ قَوْلُهُ فِيهِ: ثُمَّ أَهْلَلْنَا مِنْ الْعَشِيِّ بِالْحَجِّ، وَهَذَا بَاطِلٌ بِلَا خِلَافٍ، لِأَنَّ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ، وَجَابِرَ بْنَ عَبْدِ اللَّهِ وَأَنَسُ بْنُ مَالِكٍ، وَابْنَ عَبَّاسٍ، كُلُّهُمْ رَوَوْا: أَنَّ الْإِحْلَالَ كَانَ يَوْمَ دُخُولِهِمْ مَكَّةَ مَعَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَنَّ إهْلَالَهُمْ بِالْحَجِّ كَانَ يَوْمَ التَّرْوِيَةِ - وَهُوَ يَوْمُ مِنًى - وَبَيْنَ يَوْمِ إحْلَالِهِمْ يَوْمَ إهْلَالِهِمْ ثَلَاثَةُ أَيَّامٍ بِلَا شَكٍّ، لِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - دَخَلَ مَكَّةَ فِي حَجَّةِ الْوَدَاعِ صُبْحَ رَابِعَةٍ مِنْ ذِي الْحِجَّةِ، وَالْأَحَادِيثُ فِي ذَلِكَ مَشْهُورَةٌ قَدْ ذَكَرْنَاهَا فِي كُتُبِنَا وَذَكَرَهَا النَّاسُ وَكُلُّ مَنْ جَمَعَ فِي الْمُسْنَدِ، فَظَهَرَ عَوَارُ رِوَايَةِ أَبِي الْأَسْوَدِ.

Another critical flaw in this narration is his statement within it: "Then we assumed the state of Ihram for Hajj from the afternoon." This is unequivocally invalid, for Aisha, the Mother of the Believers; Jabir ibn Abdullah; Anas ibn Malik; and Ibn Abbas—all of them narrated that their exit from Ihram occurred on the day they entered Makkah with the Prophet—peace and blessings of Allah be upon him—and that their assumption of Ihram for Hajj was on the Day of Tarwiyah, which is the day of Mina. There were three days between their day of exiting Ihram and their day of assuming Ihram without doubt, for the Messenger of Allah—peace and blessings of Allah be upon him—entered Makkah during the Farewell Pilgrimage on the morning of the fourth day of Dhu al-Hijjah. The hadiths concerning this are well-known—we have mentioned them in our books, others have cited them, and every compiler of a Musnad has included them. Thus, the weakness in Abu al-Aswad's narration became evident.

L13119–13121 Az-Zuhri reported from Urwah from Aishah: “The Prophet—peace be upon him—commanded those who had no sacrificial animal to annul their Hajj in favor of ‘Umrah,” and they did so. Abu Al-Aswad should not be equated with Az-Zuhri. We were narrated via Al-Bukhari’s chain: Yahya ibn Bukayr narrated to us, Al-Laith ibn Sa‘d narrated to us, from Uqayl ibn Khalid from Ibn Shihab from Salim ibn Abdullah ibn Umar, who said: Abdullah ibn Umar said concerning the description of the Prophet’s Hajj. When the Prophet (peace be upon him) arrived in Mecca, he (peace be upon him) said to the people: “Whoever among you has brought a sacrificial animal must not consider anything forbidden during Ihram as permissible until he completes his Hajj. Whoever has not brought a sacrificial animal should circumambulate the Kaaba, perform Sa‘ī between Safa and Marwah, shorten his hair, and exit the state of Ihram. Then let him enter the state of Ihram for Hajj. Whoever cannot find a sacrificial animal must fast three days during Hajj and seven days upon returning home.” Az-Zuhri reported from Urwah that ‘Ā’isha informed him about the Prophet (peace be upon him) regarding his practice of combining Umrah with Hajj (Tamattu‘), and the people performed this Tamattu‘ with him in the same manner as what Salim reported from his father.

وَقَدْ رَوَى الزُّهْرِيُّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ «أَمْرَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ لَا هَدْيَ لَهُ بِفَسْخِ الْحَجِّ» وَأَنَّهُمْ فَسَخُوهُ، وَلَا يُعْدَلُ أَبُو الْأَسْوَدِ بِالزُّهْرِيِّ -: رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نَا يَحْيَى بْنُ بُكَيْرٍ نَا اللَّيْثُ هُوَ ابْنُ سَعْدٍ - عَنْ عُقَيْلِ بْنِ خَالِدٍ عَنْ ابْنِ شِهَابٍ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: قَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ فِي صِفَةِ حَجَّةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَلَمَّا قَدِمَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَكَّةَ قَالَ لِلنَّاسِ: «مَنْ كَانَ مِنْكُمْ أَهْدَى فَإِنَّهُ لَا يَحِلُّ مِنْ شَيْءٍ حَرُمَ مِنْهُ حَتَّى يَقْضِيَ حَجَّهُ، وَمَنْ لَمْ يَكُنْ مِنْكُمْ أَهْدَى فَلْيَطُفْ بِالْبَيْتِ وَبِالصَّفَا وَالْمَرْوَةِ - وَيُقَصِّرْ وَلْيَحْلِلْ ثُمَّ لِيُهِلَّ بِالْحَجِّ فَمَنْ لَمْ يَجِدْ هَدْيًا فَلْيَصُمْ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةً إِذَا رَجَعَ إِلَى أَهْلِهِ» ؛ قَالَ الزُّهْرِيُّ عَنْ عُرْوَةَ: إِنَّ عَائِشَةَ أَخْبَرَتْهُ (عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -) فِي تَمَتُّعِهِ بِالْعُمْرَةِ إِلَى الْحَجِّ فَتَمَتَّعَ النَّاسُ مَعَهُ بِمِثْلِ مَا أَخْبَرَ بِهِ سَالِمٌ عَنْ أَبِيهِ.

L13122 It was also narrated from ʿĀ’ishah by those with whom Yaḥyā ibn ʿAbd al-Raḥmān ibn Ḥāṭib is not mentioned in their chains - namely al-Qāsim ibn Muḥammad ibn Abī Bakr, al-Aswad ibn Yazīd, Dhakwān (her freedman who led her in prayer), and ʿAmrah bint ʿAbd al-Raḥmān. Each of these narrators was more closely associated with ʿĀ’ishah, more knowledgeable, precise, and reliable than Yaḥyā ibn ʿAbd al-Raḥmān. We received this through the transmission of Imam Muslim: Sulaymān ibn ʿUbayd Allāh al-Ghaylānī reported to me, Abū ʿĀmir ʿAbd al-Malik ibn ʿUmar al-ʿAqadī reported to us, ʿAbd al-ʿAzīz ibn Abī Salamah al-Mājishūn reported to us from ʿAbd al-Raḥmān ibn al-Qāsim ibn Muḥammad from his father, from ʿĀ’ishah, Mother of the Believers, who said: “We departed with the Messenger of Allah (peace be upon him)” - and he narrated the ḥadīth, which included: “When we reached Mecca, the Messenger of Allah (peace be upon him) told his companions: ‘Designate this as ʿUmrah.’ The people then exited their Ihrām except those

وَرَوَاهُ أَيْضًا عَنْ عَائِشَةَ مَنْ لَا يُذْكَرُ مَعَهُ يَحْيَى بْنُ عَبْدِ الرَّحْمَنِ بْنِ حَاطِبٍ وَهُمْ: الْقَاسِمُ بْنُ مُحَمَّدِ بْنِ أَبِي بَكْرٍ، وَالْأَسْوَدُ بْنُ يَزِيدَ، وَذَكْوَانُ مَوْلَاهَا وَكَانَ يَؤُمُّهَا، وَعَمْرَةُ بِنْتُ عَبْدِ الرَّحْمَنِ، وَكُلُّ وَاحِدٍ مِنْ هَؤُلَاءِ أَخَصُّ بِعَائِشَةَ وَأَعْلَمُ وَأَضْبَطُ وَأَوْثَقُ مِنْ يَحْيَى بْنِ عَبْدِ الرَّحْمَنِ -: رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي سُلَيْمَانُ بْنُ عُبَيْدِ اللَّهِ الْغَيْلَانِيُّ نَا أَبُو عَامِرٍ عَبْدُ الْمَلِكِ بْنُ عُمَرَ الْعَقَدِيُّ نَا عَبْدُ الْعَزِيزِ بْنُ أَبِي سَلَمَةَ الْمَاجِشُونُ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ «عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَ الْحَدِيثَ: وَفِيهِ فَلَمَّا قَدِمْنَا مَكَّةَ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِأَصْحَابِهِ: اجْعَلُوهَا عُمْرَةً فَأَحَلَّ النَّاسُ إلَّا مَنْ كَانَ مَعَهُ الْهَدْيُ، فَكَانَ الْهَدْيُ

possessing sacrificial animals. The sacrificial animals remained with the Messenger of Allah (peace be upon him), Abū Bakr, ʿUmar, and those of means. They later resumed Ihrām when they proceeded."

L13123–13125 Sufficient from all this is that these three reports via Abū al-Aswad and Yaḥyā ibn ʿAbd al-Raḥmān are mawqūf (attributed to a Companion) rather than musnad (traceable to the Prophet). No authoritative evidence exists in mawqūf narrations—how then when over twenty Tābiʿūn (successors to the Companions) transmitted from fifteen Companions contradicting it? The most valid interpretations of Abū al-Aswad's two narrations and Yaḥyā ibn ʿAbd al-Raḥmān's narration are to construe the statement: "Those who entered the state of consecration for Ḥajj, or Ḥajj and ʿUmrah, did not exit it until the Day of Sacrifice" as applying specifically to those possessing sacrificial animals who combined both rites in their declaration or subordinated ʿUmrah to Ḥajj, as transmitted by Mālik from... From al-Zuhri, from Aisha, from the Prophet—may Allah bless him and grant him peace—these reports remain intact at that point, for what the group of narrators transmitted from her contains an addition not mentioned by Abu al-Aswad nor Yahya ibn Abd al-Rahman. If their narration were a connected chain, how could that be, given that it is not? We interpret Abu al-Aswad's report from Urwah regarding the Hajj of Abu Bakr, Umar, and all those we mentioned as indicating they would herd the sacrificial animals, thereby harmonizing the reports.

L13126 They also cited the prohibition of ʿUmar and ʿUthmān regarding that matter as evidence.

L13127 Abū Muḥammad said: This is against them, not for them, because if their prohibition—may Allah be pleased with both of them—constitutes proof, then the prohibition of Ḥajj mutʿah has been authentically established from them, yet they contradict them in this matter. Narrated by Aḥmad ibn Muḥammad al-Ṭalamankī, narrated by Ibn Mufarrij, narrated by Ibrāhīm ibn Aḥmad ibn Firās, narrated by Muḥammad ibn ʿAlī ibn Zayd al-Ṣāʾigh, narrated by Saʿīd ibn Manṣūr, narrated by Hushaym and Ḥammād ibn Zayd. Hushaym said: From Khalid—meaning al-Ḥadhdhāʾ—and Ḥammād said: From Ayyūb al-Sikhtiyānī. Then Ayyūb and Khalid concurred, both transmitting from Abū Qilābah, who said: ʿUmar ibn al-Khaṭṭāb said: "Two types

مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَبِي بَكْرٍ، وَعُمَرَ، وَذَوِي الْيَسَارَةِ ثُمَّ أَهَلُّوا حِينَ رَاحُوا» .

وَيَكْفِي مِنْ كُلِّ هَذَا أَنَّ هَذِهِ الْأَخْبَارَ الثَّلَاثَةَ مِنْ طَرِيقِ أَبِي الْأَسْوَدِ، وَيَحْيَى بْنِ عَبْدِ الرَّحْمَنِ إنَّمَا هِيَ مَوْقُوفَةٌ لَا مُسْنَدَةٌ، وَلَا حُجَّةَ فِي مَوْقُوفٍ فَكَيْفَ إذَا رَوَى بِضْعَةً وَعِشْرُونَ مِنْ التَّابِعِينَ عَنْ خَمْسَةَ عَشَرَ مِنْ الصَّحَابَةِ خِلَافَ ذَلِكَ؟ وَأَسْلَمُ الْوُجُوهِ لِحَدِيثَيْ أَبِي الْأَسْوَدِ، وَحَدِيثِ يَحْيَى بْنِ عَبْدِ الرَّحْمَنِ أَنْ يُخَرَّجَ عَلَى أَنَّ الْمُرَادَ بِقَوْلِهَا: إنَّ الَّذِينَ أَهَلُّوا بِحَجٍّ، أَوْ حَجٍّ وَعُمْرَةٍ لَمْ يَحِلُّوا إلَى يَوْمِ النَّحْرِ إنَّمَا كَانُوا مَنْ كَانَ مَعَهُ هَدْيٌ فَأَهَلَّ بِهِمَا جَمِيعًا أَوْ أَضَافَ الْعُمْرَةَ إلَى الْحَجِّ كَمَا رَوَى مَالِكٌ عَنْ الزُّهْرِيِّ عَنْ عَائِشَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَتَخْرُجُ حِينَئِذٍ هَذِهِ الْأَخْبَارُ سَالِمَةً لِأَنَّ مَا رَوَتْهُ الْجَمَاعَةُ عَنْهَا فِيهِ زِيَادَةٌ لَمْ يَذْكُرْهَا أَبُو الْأَسْوَدِ، وَلَا يَحْيَى بْنُ عَبْدِ الرَّحْمَنِ لَوْ كَانَ مَا رَوَيَا مُسْنَدًا فَكَيْفَ وَلَيْسَ مُسْنَدًا؟ وَنَحْمِلُ حَدِيثَ أَبِي الْأَسْوَدِ عَنْ عُرْوَةَ فِي حَجِّ أَبِي بَكْرٍ، وَعُمَرَ، وَسَائِرِ مَنْ ذَكَرْنَا عَلَى أَنَّهُمْ كَانُوا يَسُوقُونَ الْهَدْيَ فَتَتَّفِقُ الْأَخْبَارُ.

وَاحْتَجُّوا أَيْضًا بِنَهْيِ عُمَرَ، وَعُثْمَانَ عَنْ ذَلِكَ.

قَالَ أَبُو مُحَمَّدٍ: هَذَا عَلَيْهِمْ لَا لَهُمْ لِأَنَّهُ إنْ كَانَ نَهْيُهُمَا - رَضِيَ اللَّهُ عَنْهُمَا - حُجَّةً فَقَدْ صَحَّ عَنْهُمَا النَّهْيُ عَنْ مُتْعَةِ الْحَجِّ، وَهُمْ يُخَالِفُونَهُمَا فِي ذَلِكَ -: نَا أَحْمَدُ بْنُ مُحَمَّدٍ الطَّلَمَنْكِيُّ نَا ابْنُ مُفَرِّجٍ نَا إبْرَاهِيمُ بْنُ أَحْمَدَ بْنِ فِرَاسٍ نَا مُحَمَّدُ بْنُ عَلِيِّ بْنِ زَيْدٍ الصَّائِغُ نَا سَعِيدُ بْنُ مَنْصُورٍ نَا هُشَيْمٌ، وَحَمَّادُ بْنُ زَيْدٍ قَالَ هُشَيْمٌ: أَنَا خَالِدٌ هُوَ الْحَذَّاءُ - وَقَالَ حَمَّادٌ: عَنْ أَيُّوبَ السِّخْتِيَانِيِّ ثُمَّ اتَّفَقَ أَيُّوبُ، وَخَالِدٌ كِلَاهُمَا عَنْ أَبِي قِلَابَةَ قَالَ: قَالَ عُمَرُ بْنُ

of mutʿah existed during the Messenger of Allah's time—peace and blessings be upon him—and I forbid them and impose penalties for them." This is Ayyūb's wording. In Khalid's narration: "I forbid them and punish for them: women's mutʿah and Ḥajj mutʿah."

الْخَطَّابِ: مُتْعَتَانِ كَانَتَا عَلَى عَهْدِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَنَا أُنْهِي عَنْهُمَا وَأَضْرِبُ عَلَيْهِمَا، هَذَا لَفْظُ أَيُّوبَ، وَفِي رِوَايَةِ خَالِدٍ: أَنَا أُنْهِي عَنْهُمَا، وَأُعَاقِبُ عَلَيْهِمَا: مُتْعَةُ النِّسَاءِ، وَمُتْعَةُ الْحَجِّ.

L13128 And through him to Saʿīd ibn Manṣūr: Hushaym narrated to us: from ʿAbdullāh ibn ʿAwn from al-Qāsim ibn Muḥammad: that ʿUthmān prohibited the Tamattuʿ—meaning the Tamattuʿ of Ḥajj. And through him to Saʿīd ibn Manṣūr: ʿAbdullāh ibn Wahb narrated to us: ʿAmr ibn al-Ḥārith informed me from ʿAbd al-ʿAzīz ibn Nabīh from his father: that ʿUthmān ibn ʿAffān heard a man proclaiming the intention for ʿUmrah and Ḥajj, so he said: "Bring me the one proclaiming [the intention]!" Then he struck him and shaved him.

وَبِهِ إِلَى سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ أَنَا عَبْدُ اللَّهِ بْنُ عَوْنٍ عَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ: أَنَّ عُثْمَانَ نَهَى عَنْ الْمُتْعَةِ - يَعْنِي مُتْعَةَ الْحَجِّ - وَبِهِ إِلَى سَعِيدِ بْنِ مَنْصُورٍ نَا عَبْدُ اللَّهِ بْنُ وَهْبٍ أَخْبَرَنِي عَمْرُو بْنُ الْحَارِثِ عَنْ عَبْدِ الْعَزِيزِ بْنِ نَبِيهٍ عَنْ أَبِيهِ أَنَّ عُثْمَانَ بْنَ عَفَّانَ سَمِعَ رَجُلًا يُهِلُّ بِعُمْرَةٍ وَحَجٍّ فَقَالَ: عَلَيَّ بِالْمُهِلِّ، فَضَرَبَهُ وَحَلَقَهُ.

L13129–13131 Abu Muhammad said: They contradict them both and permit the Mut'ah, to the extent that according to Abu Hanifah and Al-Shafi'i, it is superior to Ifrad. Glory be to Him Who considered the prohibition by Umar and Uthman—may Allah be pleased with them—against invalidating Hajj as authoritative evidence, yet did not regard their prohibition against Hajj Mut'ah and their punishment for it as such. This is truly astonishing! If they argue: "Did Sa'd ibn Abi Waqqas and others permit it?" We reply: "Did Ibn Abbas and others obligate invalidation of Hajj? There is no difference." They also cited as evidence what we narrated through Al-Bazzar's chain: 'Umar ibn Al-Khattab Al-Sijistani narrated to us... Al-Firyabi reported to us from Aban ibn Abi Hazim. Abu Bakr ibn Hafs reported to me from Ibn Umar from Umar, who said: "O people, the Messenger of Allah (may Allah's peace and blessings be upon him) permitted mut'ah for us and then prohibited it for us."

قَالَ أَبُو مُحَمَّدٍ: وَهُمْ يُخَالِفُونَهُمَا وَيُجِيزُونَ الْمُتْعَةَ حَتَّى أَنَّهَا عِنْدَ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ أَفْضَلُ مِنْ الْإِفْرَادِ، فَسُبْحَانَ مَنْ جَعَلَ نَهْيَ عُمَرَ، وَعُثْمَانَ - رَضِيَ اللَّهُ عَنْهُمَا - عَنْ فَسْخِ الْحَجِّ حُجَّةً وَلَمْ يَجْعَلْ نَهْيَهُمَا عَنْ مُتْعَةِ الْحَجِّ وَضَرْبَهُمَا عَلَيْهَا حُجَّةً إنَّ هَذَا لَعَجَبٌ فَإِنْ قَالُوا: قَدْ أَبَاحَهَا سَعْدُ بْنُ أَبِي وَقَّاصٍ وَغَيْرُهُ؟ قُلْنَا: وَقَدْ أَوْجَبَ فَسْخَ الْحَجِّ ابْنُ عَبَّاسٍ وَغَيْرُهُ وَلَا فَرْقَ -: وَاحْتَجُّوا بِمَا رُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ الْبَزَّارِ نَا عُمَرُ بْنُ الْخَطَّابِ السِّجِسْتَانِيُّ نَا الْفِرْيَابِيُّ نَا أَبَانُ بْنُ أَبِي حَازِمٍ حَدَّثَنِي أَبُو بَكْرِ بْنُ حَفْصٍ عَنْ ابْنِ عُمَرَ عَنْ عُمَرَ قَالَ: يَا أَيُّهَا النَّاسُ، إنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَحَلَّ لَنَا الْمُتْعَةَ ثُمَّ حَرَّمَهَا عَلَيْنَا.

L13132 And from the narration of Abu Dharr: The Tamattuʿ in Hajj was a concession granted to us, the companions of Muhammad (peace be upon him). And from Uthman: The Tamattuʿ in Hajj was for us, not for you.

وَمِنْ طَرِيقِ أَبِي ذَرٍّ كَانَتْ الْمُتْعَةُ فِي الْحَجِّ رُخْصَةً لَنَا أَصْحَابَ مُحَمَّدٍ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَعَنْ عُثْمَانَ: كَانَتْ مُتْعَةُ الْحَجِّ لَنَا لَيْسَتْ لَكُمْ.

L13133 Abū Muḥammad said: All of this was opposed by the Ḥanafīs, Mālikīs, and Shāfiʿīs, for they unanimously agree on permitting Ḥajj al-Tamattūʿ. As for

the ḥadīth of ʿUmar, it undoubtedly pertains exclusively to the temporary marriage (mutʿah) of women, since it is authentically established that he returned to the opinion concerning it in Ḥajj. These groups contradict this report if they interpret it as referring to Ḥajj al-Tamattūʿ.

قَالَ أَبُو مُحَمَّدٍ: هَذَا كُلُّهُ خَالَفَهُ الْحَنَفِيُّونَ، وَالْمَالِكِيُّونَ، وَالشَّافِعِيُّونَ، لِأَنَّهُمْ مُتَّفِقُونَ عَلَى إبَاحَةِ مُتْعَةِ الْحَجِّ - وَأَمَّا حَدِيثُ عُمَرَ فَإِنَّمَا هُوَ فِي مُتْعَةِ النِّسَاءِ بِلَا شَكٍّ، لِأَنَّهُ قَدْ صَحَّ عَنْهُ الرُّجُوعُ إلَى الْقَوْلِ بِهَا فِي الْحَجِّ، وَهَؤُلَاءِ مُخَالِفُونَ لِهَذَا الْخَبَرِ إنْ كَانَ مَحْمُولًا عِنْدَهُمْ عَلَى مُتْعَةِ الْحَجِّ.

L13134 We have received narrations via the transmission of Shuʿbah from Salamah ibn Kuhayl from Ṭāwus from Ibn ʿAbbās, who said: "'Umar ibn al-Khaṭṭāb stated: 'If you perform two Umrahs in a year and then undertake Hajj, I would combine an Umrah with my Hajj.'"

رُوِّينَا مِنْ طَرِيقِ شُعْبَةَ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ عُمَرُ بْنُ الْخَطَّابِ: لَوْ اعْتَمَرْت فِي سَنَةٍ مَرَّتَيْنِ ثُمَّ حَجَجْت لَجَعَلْت مَعَ حَجَّتِي عُمْرَةً.

L13135 We have also narrated it via Sufyān's chain from Salamah ibn Kuhayl from Ṭāwūs from Ibn ʿAbbās from ʿUmar with a similar narration; we have also narrated it through multiple chains.

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ سُفْيَانَ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ عَنْ عُمَرَ بِمِثْلِهِ - وَرُوِّينَاهُ أَيْضًا مِنْ طُرُقٍ.

L13136 They cited as evidence what we have also narrated through the chain of Al-Muraqqaʿ from Abū Dharr, who said: "The annulment of Ḥajj by the Messenger of Allah (may Allah bless him and grant him peace) was specifically for us."

وَاحْتَجُّوا بِمَا رُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ الْمُرَقَّعِ عَنْ أَبِي ذَرٍّ أَنَّهُ قَالَ: كَانَ فَسْخُ الْحَجِّ مِنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَنَا خَاصَّةً.

L13137 Through the chain of Abd al-Rahman ibn al-Aswad from Sulayman or Sulaym ibn al-Aswad, that Abu Dharr said regarding one who performs Hajj then converts it into Umrah: "This was only permitted for the caravan members who accompanied the Messenger of Allah—peace and blessings be upon him." Through the chain of Musa ibn Ubaydah from Yaqub ibn Zayd from Abu Dharr, who said: "No one after us may transform their Hajj into Umrah. This was exclusively a concession granted to us, the companions of Muhammad—peace and blessings be upon him."

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ الْأَسْوَدِ عَنْ سُلَيْمَانَ أَوْ سُلَيْمِ بْنِ الْأَسْوَدِ أَنَّ أَبَا ذَرٍّ قَالَ فِيمَنْ حَجَّ ثُمَّ فَسَخَهَا عُمْرَةً: لَمْ يَكُنْ ذَلِكَ إلَّا لِلرَّكْبِ الَّذِينَ كَانُوا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؛ وَمِنْ طَرِيقِ مُوسَى بْنِ عُبَيْدَةَ عَنْ يَعْقُوبَ بْنِ زَيْدٍ عَنْ أَبِي ذَرٍّ قَالَ: لَمْ يَكُنْ لِأَحَدٍ بَعْدَنَا أَنْ يَجْعَلَ حَجَّتَهُ عُمْرَةً إنَّمَا كَانَتْ لَنَا رُخْصَةً أَصْحَابَ مُحَمَّدٍ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13138 Abu Muhammad said: If the statement of Abu Dharr that the Tamattuʿ Hajj was specific to them does not constitute proof, then his statement that the abrogation of Hajj was specific to them cannot be proof either—especially since that chain of transmission from him is authentic, as it is narrated by Ibrahim al-Taymi from his father. These other chains from him are weak, for

قَالَ أَبُو مُحَمَّدٍ: إنْ لَمْ يَكُنْ قَوْلُ أَبِي ذَرٍّ إنَّ مُتْعَةَ الْحَجِّ خَاصَّةً لَهُمْ حُجَّةً فَلَيْسَ قَوْلُهُ: إنَّ فَسْخَ الْحَجِّ خَاصَّةً لَهُمْ حُجَّةٌ، لَا سِيَّمَا وَذَلِكَ الْإِسْنَادُ عَنْهُ صَحِيحٌ، لِأَنَّهُ مِنْ رِوَايَةِ إبْرَاهِيمَ التَّيْمِيِّ عَنْ أَبِيهِ، وَهَذِهِ الْأَسَانِيدُ عَنْهُ وَاهِيَةٌ، لِأَنَّهَا عَنْ الْمُرَقَّعِ، وَسُلَيْمَانَ أَوْ سُلَيْمٍ، وَهُمَا

مَجْهُولَانِ. وَعَنْ مُوسَى بْنِ عُبَيْدَةَ الرَّبَذِيِّ - وَهُوَ ضَعِيفٌ - فَكَيْفَ وَقَدْ خَالَفَهُ ابْنُ عَبَّاسٍ، وَأَبُو مُوسَى؟ فَلَمْ يَرَيَا ذَلِكَ خَاصَّةً.

وَلَا يَجُوزُ أَنْ يُقَالَ فِي سُنَّةٍ ثَابِتَةٍ أَنَّهَا خَاصَّةٌ لِقَوْمٍ دُونَ قَوْمٍ إِلَّا بِنَصِّ قُرْآنٍ أَوْ سُنَّةٍ صَحِيحَةٍ؛ لِأَنَّ أَوَامِرَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى لُزُومِ الْإِنْسِ، وَالْجِنِّ، الطَّاعَةُ لَهَا وَالْعَمَلُ بِهَا.

فَإِنْ قِيلَ: هَذَا لَا يُقَالُ بِالرَّأْيِ؟ قُلْنَا: فَيَجِبُ عَلَى هَذَا مَتَى وُجِدَ أَحَدٌ مِنْ الصَّحَابَةِ يَقُولُ فِي آيَةٍ أَنَّهَا مَخْصُوصَةٌ أَوْ مَنْسُوخَةٌ أَنْ يُقَالَ بِقَوْلِهِ؛ وَأَقَرَّ بِذَلِكَ قَوْلُهُمْ فِي الْمُتْعَةِ: إنَّهَا خَاصَّةٌ، وَقَدْ خَالَفُوا ذَلِكَ.

وَاحْتَجُّوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ رَبِيعَةَ الرَّأْيِ «عَنْ الْحَارِثِ بْنِ بِلَالِ بْنِ الْحَارِثِ عَنْ أَبِيهِ قُلْتُ: يَا رَسُولَ اللَّهِ أَفَسْخُ الْحَجِّ لَنَا خَاصَّةً أَوْ لِمَنْ بَعْدَنَا؟ قَالَ: لَكُمْ خَاصَّةً» .

قَالَ أَبُو مُحَمَّد الْحَارِثُ بْنُ بِلَالٍ مَجْهُولٌ وَلَمْ يُخَرِّجْ أَحَدٌ هَذَا الْخَبَرَ فِي صَحِيحِ الْحَدِيثِ، وَقَدْ صَحَّ خِلَافُهُ بِيَقِينٍ، كَمَا أَوْرَدْنَا مِنْ طَرِيقِ جَابِرِ بْنِ عَبْدِ اللَّهِ «أَنَّ سُرَاقَةَ بْنَ مَالِكٍ قَالَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذْ أَمَرَهُمْ بِفَسْخِ الْحَجِّ فِي عُمْرَةٍ: يَا رَسُولَ اللَّهِ، لِعَامِنَا هَذَا أَمْ لِأَبَدٍ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَلْ لِأَبَدِ الْأَبَدِ» .

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا أَبُو النُّعْمَانِ هُوَ مُحَمَّدُ بْنُ الْفَضْلِ عَارِمٌ - نَا حَمَّادُ بْنُ زَيْدٍ عَنْ عَبْدِ الْمَلِكِ بْنِ جُرَيْجٍ عَنْ عَطَاءٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَعَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ قَالَا جَمِيعًا: «قَدِمَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - صُبْحَ رَابِعَةٍ مِنْ ذِي الْحِجَّةِ يُهِلُّونَ

they come through al-Muraqqaʿ and Sulayman or Sulaym, both of whom are unknown, and through Musa ibn ʻUbaydah al-Rabadhi—who is weak. How then, when Ibn ʻAbbas and Abu Musa opposed him and did not consider it specific?

L13139–13140 It is impermissible to assert that an authenticated Sunnah is specific to particular people to the exclusion of others except by a Quranic text or sound Sunnah, for the commands of the Prophet—peace and blessings of Allah be upon him—obligate both humankind and jinn to obey them and implement them.

L13141 If it is said: "Is this not established through personal opinion?" We reply: Then, by this logic, it would necessarily follow that whenever a Companion is found to have stated a verse is particularized or abrogated, their opinion must be adhered to. Yet they affirmed thereby their own statement regarding temporary marriage—that it is particularized—and contradicted this [logic].

L13142 They cited as evidence what we narrated through Rabīʿah al-Raʾy from al-Ḥārith ibn Bilāl ibn al-Ḥārith from his father, who said: "I asked, 'O Messenger of Allāh, is the annulment of Ḥajj exclusively for us or for those who come after us?' He replied, 'Exclusively for you.'"

L13143 Abū Muḥammad al-Ḥārith ibn Bilāl is of unknown reliability, and no compiler has included this report in authentic ḥadīth collections. The opposing position has been definitively confirmed, as we transmitted via the chain of Jābir ibn ʿAbdullāh: "When the Messenger of Allah (peace and blessings be upon him) commanded them during the Farewell Pilgrimage to annul Ḥajj in favor of ʻUmrah, Surāqah ibn Mālik said: 'O Messenger of Allah, is this for our present year or forever?' The Messenger of Allah (peace and blessings be upon him) replied: 'Rather, for eternity of eternities.'"

L13144 From the chain of Al-Bukhari: Abu An-Nu'man—who is Muhammad ibn Al-Fadl 'Arim—informed us, saying: Hammad ibn Zayd narrated to us from 'Abdul-Malik ibn Jurayj from 'Ata' from Jabir ibn 'Abdullah, and from Tawus from Ibn 'Abbas. Both of them jointly stated: "Allah's Messenger—peace and blessings of Allah be upon him—arrived on the morning of the fourth day of Dhul-Hijjah while the people were proclaiming the Talbiyah for Hajj exclu-

sively, without combining it with anything. When we arrived, he commanded us to convert it into 'Umrah and to exit our consecration to approach our wives. This led to widespread talk, which reached the Prophet—peace and blessings of Allah be upon him. He said: 'It has reached me that some people are saying such and such. By Allah, I am more righteous and more God-fearing than them. Had I known at the outset what I came to know later, I would not have brought the sacrificial animal. If I did not have the sacrificial animal with me, I would have exited my consecration.' Suraqah ibn Ju'shum stood up and asked: 'O Messenger of Allah, is this ruling for us alone or permanent?' He replied: 'No, it is permanent.'"

L13145–13147 Abu Muhammad said: And likewise, Mujahid narrated it from Ibn Abbas, and Muhammad ibn Ali ibn al-Husayn from Jabir. Abu Muhammad said: Thus, specification and abrogation are invalidated, and one is forever secured from that. By Allah, whoever hears this report and then opposes the command of Allah's Messenger—peace and blessings of Allah be upon him—with the words of anyone, even if they were the words of the two Mothers of the Believers, Hafsah and Aisha, and their parents—may Allah be pleased with them—would perish. How then can one accept lies as flimsy as a spider's web, which is the weakest of dwellings, from al-Harith ibn Bilal, al-Muraqqa', Sulayman or Sulaym—whose identities among the people are unknown—and Musa al-Rabadhi? And sufficient is He for you, and Allah is sufficient for us, and what an excellent Trustee! No one has the right... That one would restrict oneself to his statement—peace be upon him—"Umrah has been incorporated into Hajj until the Day of Resurrection" by claiming he intended its permissibility during the months of Hajj, disregarding what Jābir and Ibn ʿAbbās clarified—from his denial (peace be upon him)—that the conversion was specific to them alone or to their year rather than others. Whoever does this has openly lied against the Messenger of Allah—peace and blessings be upon him.

L13148 Abu Muhammad said: Some of them committed a grave sin, which is that he cited the authenticated narration from Ibn Abbas stating they considered performing Umrah during the Hajj months to be the most heinous of immoral acts on earth. When the Prophet (peace be upon him) and his com-

بِالْحَجِّ لَا يَخْلِطُهُ شَيْءٌ، فَلَمَّا قَدِمْنَا أَمَرَنَا فَجَعَلْنَاهَا عُمْرَةً، وَأَنْ نَحِلَّ إِلَى نِسَائِنَا فَفَشَتْ فِي ذَلِكَ الْقَالَةُ فَبَلَغَ ذَلِكَ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: بَلَغَنِي أَنَّ قَوْمًا يَقُولُونَ كَذَا وَكَذَا وَاللَّهِ لَأَنَا أَبَرُّ وَأَتْقَى لِلَّهِ مِنْهُمْ، وَلَوْ أَنِّي اسْتَقْبَلْتُ مِنْ أَمْرِي مَا اسْتَدْبَرْتُ مَا أَهْدَيْتُ، وَلَوْلَا أَنَّ مَعِي الْهَدْيَ لَأَحْلَلْتُ؟ فَقَامَ سُرَاقَةُ بْنُ جُعْشُمٍ فَقَالَ: يَا رَسُولَ اللَّهِ هِيَ لَنَا أَوْ لِلْأَبَدِ؟ قَالَ: لَا بَلْ لِلْأَبَدِ» .

قَالَ أَبُو مُحَمَّد: وَهَكَذَا رَوَاهُ مُجَاهِدٌ عَنْ ابْنِ عَبَّاسٍ، وَمُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ عَنْ جَابِرٍ -: قَالَ أَبُو مُحَمَّد: فَبَطَلَ التَّخْصِيصُ وَالنَّسْخُ وَأُمِنَ [مِنْ] ذَلِكَ أَبَدًا، وَوَاللَّهِ إِنَّ مَنْ سَمِعَ هَذَا الْخَبَرَ ثُمَّ عَارَضَ أَمْرَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِكَلَامِ أَحَدٍ وَلَوْ أَنَّهُ كَلَامُ أُمَّيْ الْمُؤْمِنِينَ حَفْصَةَ، وَعَائِشَةَ، وَأَبَوَيْهِمَا - رَضِيَ اللَّهُ عَنْهُمْ - لَهَالِكٌ؛ فَكَيْفَ بِأُكْذُوبَاتِ كَنَسْجِ الْعَنْكَبُوتِ الَّذِي هُوَ أَوْهَنُ الْبُيُوتِ؟ عَنْ الْحَارِثِ بْنِ بِلَالٍ، وَالْمُرَقَّعِ، وَسُلَيْمَانَ أَوْ سُلَيْمٍ الَّذِينَ لَا يُدْرَى مَنْ هُمْ فِي الْخَلْقِ، وَمُوسَى الرَّبَذِيِّ، وَكَفَاك وَحَسْبُنَا اللَّهُ وَنِعْمَ الْوَكِيلُ، وَلَيْسَ لِأَحَدٍ أَنْ يَقْتَصِرَ بِقَوْلِهِ - عَلَيْهِ السَّلَامُ - «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إِلَى يَوْمِ الْقِيَامَةِ» عَلَى أَنَّهُ أَرَادَ جَوَازَهَا فِي أَشْهُرِ الْحَجِّ دُونَ مَا بَيَّنَهُ جَابِرٌ، وَابْنُ عَبَّاسٍ مِنْ إنْكَارِهِ - عَلَيْهِ السَّلَامُ - أَنْ يَكُونَ الْفَسْخُ لَهُمْ خَاصَّةً أَوْ لِعَامِهِمْ دُونَ ذَلِكَ، وَمَنْ فَعَلَ ذَلِكَ فَقَدْ كَذَبَ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - جِهَارًا.

قَالَ أَبُو مُحَمَّد: وَأَتَى بَعْضُهُمْ بِطَامَّةٍ، وَهِيَ أَنَّهُ ذَكَرَ الْخَبَرَ الثَّابِتَ عَنْ ابْنِ عَبَّاسٍ أَنَّهُمْ كَانُوا يَرَوْنَ الْعُمْرَةَ فِي أَشْهُرِ الْحَجِّ مِنْ أَفْجَرِ الْفُجُورِ فِي الْأَرْضِ فَقَدِمَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ

panions arrived on the fourth morning of Dhū al-Ḥijjah, he ordered them to change their pilgrimage to Umrah. They were greatly troubled by this and asked, “O Messenger of Allah, what is the exiting of ihram?” He answered, “Exiting ihram is permissible everywhere.” A speaker among them then said, “He (peace be upon him) only commanded this to demonstrate to them the permissibility of performing Umrah during the Hajj months through both word and deed.”

وَسَلَّمَ - وَأَصْحَابُهُ صَبِيحَةَ رَابِعَةٍ مِنْ ذِي الْحِجَّةِ فَأَمَرَهُمْ أَنْ يَجْعَلُوهَا عُمْرَةً فَتَعَاظَمَ ذَلِكَ عِنْدَهُمْ فَقَالُوا: يَا رَسُولَ اللَّهِ أَيُّ الْحِلِّ؟ قَالَ: الْحِلُّ كُلُّهُ “ فَقَالَ قَائِلُهُمْ: إنَّمَا أَمَرَهُمْ - عَلَيْهِ السَّلَامُ - بِذَلِكَ لِيُوقِفَهُمْ عَلَى جَوَازِ الْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ قَوْلًا وَعَمَلًا.

L13149 Abu Muhammad said: This is a significant matter. The first aspect of it is the lie against the Prophet (peace and blessings of Allah be upon him) in their claim that he commanded them to annul their Hajj and perform Umrah solely to teach them the permissibility of performing Umrah during the months of Hajj.

قَالَ أَبُو مُحَمَّد: وَهَذِهِ عَظِيمَةٌ، أَوَّلُ ذَلِكَ أَنَّهُ كَذِبٌ عَلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي دَعْوَاهُمْ أَنَّهُ إنَّمَا أَمَرَهُمْ بِفَسْخِ الْحَجِّ فِي عُمْرَةٍ لِيُعَلِّمَهُمْ جَوَازَ الْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ.

L13150–13152 Then it is said to them: Suppose that were the case—and we seek refuge in Allah from it being so—was it by truth or by falsehood? If they say: “By falsehood,” they have disbelieved. If they say: “By truth,” we say: Then his instruction—peace be upon him—regarding that matter, for whatever reason it may have been, must be acknowledged as binding and obligatory. Now if this delusion they claim were valid, why would it specifically apply to those who did not bring sacrificial animals rather than those who did? More grievous than all this is that this ignorant claimant knows the Prophet—peace and blessings of Allah be upon him—performed Umrah with them in Dhū al-Qaʿdah year after year in the years before the Conquest, then performed Umrah in Dhū al-Qaʿdah during the Conquest year, and later said to them at Dhū al-Ḥulayfah during the Farewell Pilgrimage: “Whoever wishes to assume iḥrām for Umrah, let him do so; whoever wishes to assume it for Hajj and Umrah, let him do so; and whoever wishes to assume it for Hajj alone, let him do so.” They acted upon all this. O Allah! O Muslims! Could the Companions—may Allah be pleased with them—have reached such depths of obtuseness, foolishness, and ignorance that despite all this, they failed to recognize Umrah’s permissibility during the Hajj months? Yet they performed it with him—peace be upon him—year after year after year [during the Hajj months], until he had to convert their Hajj into Umrah so they would know its permissibility. By Allah, even donkeys discern paths with less

ثُمَّ يُقَالُ لَهُمْ: هَبْكَ لَوْ كَانَ ذَلِكَ وَمَعَاذَ اللَّهِ مِنْ أَنْ يَكُونَ أَبِحَقّ أَمْرٍ أَمْ بِبَاطِلٍ؟ فَإِنْ قَالُوا: بِبَاطِلٍ كَفَرُوا، وَإِنْ قَالُوا: بِحَقٍّ؟ قُلْنَا: فَلْيَكُنْ أَمْرُهُ - عَلَيْهِ السَّلَامُ - بِذَلِكَ لِأَيِّ وَجْهٍ كَانَ قَدْ صَارَ حَقًّا وَاجِبًا، ثُمَّ لَوْ كَانَ هَذَا الْهَوَسُ الَّذِي قَالُوهُ فَلِأَيِّ مَعْنًى كَانَ يَخُصُّ بِذَلِكَ مَنْ لَمْ يَسُقْ الْهَدْيَ دُونَ مَنْ سَاقَ؟ وَأَطَمُّ مِنْ هَذَا كُلِّهِ أَنَّ هَذَا الْجَاهِلَ الْقَائِلَ بِذَلِكَ قَدْ عَلِمَ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - اعْتَمَرَ بِهِمْ فِي ذِي الْقَعْدَةِ عَامًا بَعْدَ عَامٍ قَبْلَ الْفَتْحِ، ثُمَّ اعْتَمَرَ فِي ذِي الْقَعْدَةِ عَامَ الْفَتْحِ، ثُمَّ قَالَ لَهُمْ فِي حَجَّةِ الْوَدَاعِ فِي ذِي الْحُلَيْفَةِ: مَنْ شَاءَ مِنْكُمْ أَنْ يُهِلَّ بِعُمْرَةٍ فَلْيَفْعَلْ، وَمَنْ شَاءَ أَنْ يُهِلَّ بِحَجٍّ وَعُمْرَةٍ فَلْيَفْعَلْ، وَمَنْ شَاءَ أَنْ يُهِلَّ بِحَجٍّ فَلْيَفْعَلْ، فَفَعَلُوا كُلَّ ذَلِكَ، فَيَا لِلَّهِ وَيَا لِلْمُسْلِمِينَ أَبَلَغَ الصَّحَابَةُ - رَضِيَ اللَّهُ عَنْهُمْ - مِنْ الْبَلَادَةِ، وَالْبَلَهِ، وَالْجَهْلِ أَنْ لَا يَعْرِفُوا مَعَ هَذَا كُلِّهِ أَنَّ الْعُمْرَةَ جَائِزَةٌ فِي أَشْهُرِ الْحَجِّ؟ وَقَدْ عَمِلُوهَا مَعَهُ - عَلَيْهِ السَّلَامُ - عَامًا بَعْدَ عَامٍ بَعْدَ عَامٍ [فِي أَشْهُرِ الْحَجِّ] حَتَّى يَحْتَاجَ إلَى أَنْ يَفْسَخَ حَجَّهُمْ فِي عُمْرَةٍ لِيَعْلَمُوا جَوَازَ ذَلِكَ، تَاللَّهِ إنَّ الْحَمِيرَ لَتُمَيِّزُ الطَّرِيقَ مِنْ أَقَلَّ مِنْ هَذَا، فَكَمْ هَذَا الْإِقْدَامُ وَالْجُرْأَةُ عَلَى مُدَافَعَةِ

guidance than this! How immense is this audacity and boldness in contesting the Sunnah! Are these the established in support of tradition? At times with blatant lies, at times with notorious foolishness, and at times with absurdity and coldness—Sufficient is Allah for us, and He is the best Trustee. All praise is due to Allah for safety.

السُّنَنِ الثَّابِتَةِ فِي نَصْرِ التَّقْلِيدِ؟ مَرَّةً بِالْكَذِبِ الْمَفْضُوحِ، وَمَرَّةً بِالْحَمَاقَةِ الْمَشْهُورَةِ، وَمَرَّةً بِالْغَثَاثَةِ وَالْبَرْدِ - حَسْبُنَا اللَّهُ وَنِعْمَ الْوَكِيلُ، وَالْحَمْدُ لِلَّهِ عَلَى السَّلَامَةِ.

L13153 Some of them argued for the permissibility of performing Hajj alone (Ifrad) based on the established report narrated through Abū Hurayrah from the Prophet - peace and blessings of Allah be upon him -: “By the One in Whose Hand is my soul, the son of Maryam will undoubtedly pronounce the talbiyah at Fajj al-Rawḥā as a pilgrim performing Hajj or Umrah, or he will most certainly combine them both in Qirān.”[14]

وَاحْتَجَّ بَعْضُهُمْ فِي جَوَازِ الْإِفْرَادِ بِالْحَجِّ بِالْخَبَرِ الثَّابِتِ مِنْ طَرِيقِ أَبِي هُرَيْرَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «وَالَّذِي نَفْسِي بِيَدِهِ لَيُهِلَّنَ ابْنُ مَرْيَمَ بِفَجِّ الرَّوْحَاءِ حَاجًّا أَوْ مُعْتَمِرًا أَوْ لَيَثْنِيَنَّهُمَا» .

L13154 Abu Muhammad said: Every Muslim undoubtedly holds that the Prophet (peace be upon him) knew this solely through revelation from Allah the Almighty - no alternative exists whatsoever. There is no doubt that Allah’s revelation cannot be discarded due to doubt, for He - Exalted and Glorified - does not doubt. Thus, it is confirmed that this doubt stems from Abu Hurayrah or those below him in rank, not from the Messenger of Allah (peace be upon him). Even if it were proven to originate from him (peace be upon him), this would relate to the time when Ifrād was permissible, later abrogated by his command (peace be upon him). Those without sacrificial animals were irrevocably obligated to perform Tamattuʿ, and those possessing sacrificial animals were irrevocably obligated to perform Qirān.

قَالَ أَبُو مُحَمَّد: كُلُّ مُسْلِمٍ فَلَا يَشُكُّ فِي أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَعْلَمْ هَذَا إلَّا بِوَحْيٍ مِنْ اللَّهِ عَزَّ وَجَلَّ إلَيْهِ لَا يُمْكِنُ غَيْرُ هَذَا أَصْلًا، وَلَا شَكَّ فِي أَنَّ وَحْيَ اللَّهِ عَزَّ وَجَلَّ لَا يُتْرَكُ بِشَكٍّ لِأَنَّهُ عَزَّ وَجَلَّ لَا يَشُكُّ، فَصَحَّ أَنَّ هَذَا الشَّكَّ مِنْ قِبَلِ أَبِي هُرَيْرَةَ أَوْ مِمَّنْ دُونَهُ لَا مِنْ قِبَلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -، ثُمَّ لَوْ صَحَّ أَنَّهُ مِنْ قِبَلِهِ - عَلَيْهِ السَّلَامُ - لَكَانَ ذَلِكَ إذْ كَانَ الْإِفْرَادُ مُبَاحًا، ثُمَّ نُسِخَ بِأَمْرِهِ - عَلَيْهِ السَّلَامُ - مَنْ لَا هَدْيَ مَعَهُ بِالْمُتْعَةِ وَلَا بُدَّ، وَمَنْ مَعَهُ الْهَدْيُ بِالْقِرَانِ وَلَا بُدَّ.

L13155 Ali said: “The truth became clearly evident, and all praise is due to Allah, Lord of the worlds.” Malik said: “Al-Ifrād (performing Hajj independently of Umrah) is preferable.” Both Malik and Al-Shāfiʿī agreed with us regarding the manner of Tamattuʿ (combining Umrah and Hajj with a separation) and Qirān (combining Hajj and Umrah under a single intention) for those wishing to be Qārin (one performing Qirān) or Mutamattiʿ (one performing Tamattuʿ). All these forms are permissible according to both scholars, whether one has offered the sacrificial animal or not.

قَالَ عَلِيٌّ: فَظَهَرَ الْحَقُّ وَاضِحًا وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَقَالَ مَالِكٌ: الْإِفْرَادُ أَفْضَلُ، وَوَافَقَنَا هُوَ وَالشَّافِعِيُّ فِي صِفَةِ التَّمَتُّعِ وَالْقِرَانِ لِمَنْ أَرَادَ أَنْ يَكُونَ قَارِنًا أَوْ مُتَمَتِّعًا، وَكُلُّ ذَلِكَ جَائِزٌ عِنْدَهُمَا لِمَنْ سَاقَ الْهَدْيَ وَلِمَنْ لَمْ يَسُقْهُ.

L13156 And Al-Shāfiʿī said at one time: *Ifrād* is superior; at another time he said:

[14] **Hadith references (L13153):** Sahih Muslim 1252a.

*Tamattuʿ* is superior; and at another time he said: *Qirān* is superior. All these are permissible in his view, as we have mentioned.

وَقَالَ الشَّافِعِيُّ مَرَّةً: الْإِفْرَادُ أَفْضَلُ، وَمَرَّةً قَالَ: التَّمَتُّعُ أَفْضَلُ، وَمَرَّةً قَالَ: الْقِرَانُ أَفْضَلُ؛ وَكُلُّ ذَلِكَ عِنْدَهُ جَائِزٌ كَمَا ذَكَرْنَا.

L13157 As for Abu Hanifah, he held that Qiran is most virtuous, followed by Tamattuʿ, then Ifrad. All these forms are permissible according to him for those who drove the sacrificial animal and those who did not, except that he differed regarding the manner of Tamattuʿ and Qiran as we will mention after this, Allah the Most High willing.

وَأَمَّا أَبُو حَنِيفَةَ فَإِنَّهُ قَالَ: الْقِرَانُ أَفْضَلُ ثُمَّ التَّمَتُّعُ ثُمَّ الْإِفْرَادُ، وَكُلُّ ذَلِكَ جَائِزٌ عِنْدَهُ لِمَنْ سَاقَ الْهَدْيَ وَلِمَنْ لَمْ يَسُقْهُ إِلَّا أَنَّهُ خَالَفَ فِي صِفَةِ التَّمَتُّعِ وَالْقِرَانِ عَلَى مَا نَذْكُرُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى.

L13158 As for the *Ishʿār*: ʿAbdullāh ibn Rabīʿ reported: Muḥammad ibn Muʿāwiyah reported to us, Aḥmad ibn Shuʿayb reported to us, ʿAmr ibn ʿAlī al-Fallās reported to us, Yaḥyā ibn Saʿīd al-Qaṭṭān reported to us, Shuʿbah reported from Qatādah from Abū Ḥassān al-Aʿraj from Ibn ʿAbbās: "When the Prophet—peace and blessings be upon him—was at Dhū al-Ḥulayfah, he ordered his sacrificial she-camel to be marked. He had an incision made in the right side of its hump, drained the blood from it, and hung two sandals around its neck." Ibn ʿAbbās mentioned the remainder of the narration.

وَأَمَّا الْإِشْعَارُ: فَإِنَّ عَبْدَ اللَّهِ بْنَ رَبِيعٍ نَا قَالَ: نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا عَمْرُو بْنُ عَلِيٍّ الْفَلَّاسُ نَا يَحْيَى بْنُ سَعِيدٍ الْقَطَّانُ نَا شُعْبَةُ عَنْ قَتَادَةَ عَنْ أَبِي حَسَّانَ الْأَعْرَجِ عَنِ ابْنِ عَبَّاسٍ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمَّا كَانَ بِذِي الْحُلَيْفَةِ أَمَرَ بِبَدَنَتِهِ فَأَشْعَرَ فِي سَنَامِهَا مِنَ الشِّقِّ الْأَيْمَنِ ثُمَّ سَلَتَ الدَّمَ عَنْهَا وَقَلَّدَهَا نَعْلَيْنِ» وَذَكَرَ بَاقِيَ الْخَبَرِ.

L13159–13160 And through him to ʿAmr ibn ʿAlī: Wakīʿ narrated to us, saying: Aflaḥ ibn Ḥumayd narrated to me from al-Qāsim ibn Muḥammad ibn Abī Bakr, from ʿĀ'ishah, the Mother of the Believers, that the Messenger of Allah (peace be upon him) marked his sacrificial camels with a sign.[15]

وَبِهِ إِلَى عَمْرِو بْنِ عَلِيٍّ نَا وَكِيعٌ حَدَّثَنِي أَفْلَحُ بْنُ حُمَيْدٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدِ بْنِ أَبِي بَكْرٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَشْعَرَ بُدْنَهُ» .

L13161 It has also been narrated to us through the chain of al-Miswar ibn Makhramah from the Prophet—peace and blessings of Allah be upon him—from ʿAbd al-Raḥmān ibn ʿAbd Allāh ibn Khālid, from Ibrāhīm ibn Aḥmad, from al-Farbarī, from al-Bukhārī, from Abū al-Nuʿmān (Muḥammad ibn al-Faḍl ʿĀrim), from ʿAbd al-Wāḥid ibn Ziyād, from al-Aʿmash, from Ibrāhīm al-Nakhaʿī, from al-Aswad ibn Yazīd, from ʿĀ'ishah, the Mother of the Believers, who said: "I used to braid garlands for the Prophet—peace and blessings of Allah be upon him—and he would place them on the sheep [for sacrifice] while remaining with his family in a state of ritual purity (ḥalāl)."

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ الْمِسْوَرِ بْنِ مَخْرَمَةَ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَا عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ خَالِدٍ نَا إِبْرَاهِيمُ بْنُ أَحْمَدَ نَا الْفَرَبْرِيُّ نَا الْبُخَارِيُّ نَا أَبُو النُّعْمَانِ هُوَ مُحَمَّدُ بْنُ الْفَضْلِ عَارِمٌ - نَا عَبْدُ الْوَاحِدِ هُوَ ابْنُ زِيَادٍ - نَا الْأَعْمَشُ نَا إِبْرَاهِيمُ النَّخَعِيُّ عَنِ الْأَسْوَدِ بْنِ يَزِيدَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: كُنْتُ أَفْتِلُ الْقَلَائِدَ لِلنَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَيُقَلِّدُ الْغَنَمَ وَيُقِيمُ فِي أَهْلِهِ حَلَالًا.

L13162 We have also narrated it via the chain of Abū Muʿāwiyah from al-Aʿmash, al-

[15] **Hadith references (L13160):** Sunan an-Nasai 2772; Sunan an-Nasai 2773.

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ أَبِي مُعَاوِيَةَ عَنْ الْأَعْمَشِ، وَالْحَكَمِ بْنِ عُتَيْبَةَ، وَمَنْصُورٍ، كُلِّهِمْ عَنْ إبْرَاهِيمَ عَنْ الْأَسْوَدِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ.

Ḥakam ibn ʿUtaybah, and Manṣūr—all of them from Ibrāhīm, from al-Aswad, from ʿĀ’ishah Umm al-Muʾminīn.

قَالَ أَبُو مُحَمَّد: وَلَمْ يَأْتِ فِي الْبَقَرِ شَيْءٌ مِنْ هَذَا، وَرُوِّينَا كَمَا نَذْكُرُ بَعْدَ هَذَا - إنْ شَاءَ اللَّهُ تَعَالَى - أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ عَلِيًّا بِأَنْ يَقْسِمَ لُحُومَ الْبُدْنِ وَجِلَالَهَا، فَصَحَّ التَّجْلِيلُ فِيهَا.

L13163 Abu Muhammad said: None of this applies to cows. It has been narrated to us—as we will mention later, if Allah the Exalted wills—that the Messenger of Allah (peace be upon him) commanded Ali to distribute the meat of the sacrificial camels and their skins. Thus, the validity of their hides was established.

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ عَلِيِّ بْنِ مُسْهِرٍ عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: لَا هَدْيَ إلَّا مَا قُلِّدَ وَأُشْعِرَ وَوُقِفَ بِعَرَفَةَ. وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ: إنْ شِئْت فَأَشْعِرْ، وَإِنْ شِئْت فَلَا تُشْعِرْ، وَإِنْ شِئْت فَقَلِّدْ، وَإِنْ شِئْت فَلَا تُقَلِّدْ.

L13164 It was reported to us through the chain of Ibn Abi Shaybah, from Ali ibn Mishar, from Ubayd Allah ibn Umar, from Nafi’, from Ibn Umar, who said: “There is no valid sacrificial offering unless it is garlanded, branded, and has stood at Arafah.” And through the chain of Hammad ibn Salamah, from Qays ibn Sa’d, from Ata’, from Ibn Abbas: “If you wish, brand it; otherwise, refrain. If you wish, garland it; otherwise, do not.”

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَبِي مُعَاوِيَةَ عَنْ الْأَعْمَشِ عَنْ إبْرَاهِيمَ عَنْ الْأَسْوَدِ أَنَّهُ أَرْسَلَ إلَى عَائِشَةَ أُمِّ الْمُؤْمِنِينَ فِي إشْعَارِ الْبَدَنَةِ؟ فَقَالَتْ: إنْ شِئْت، إنَّمَا تُشْعِرُ لِيُعْلَمَ أَنَّهَا بَدَنَةٌ.

L13165 And through the chain of Ibn Abī Shaybah from Abū Muʿāwiyah from al-Aʿmash from Ibrāhīm from al-Aswad: that he sent an inquiry to ʿĀ’ishah, the Mother of the Believers, regarding marking the sacrificial camel. She said: “If you wish, then do so; it is only marked to signify that it is a sacrificial camel.”

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ أَنَّهُ كَانَ يُشْعِرُ فِي الشِّقِّ الْأَيْمَنِ حِينَ يُرِيدُ أَنْ يُحْرِمَ. وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ قَالَ: تُشْعِرُهَا مِنْ الْأَيْمَنِ - وَمِنْ طَرِيقِ وَكِيعٍ نَا أَفْلَحُ هُوَ ابْنُ حُمَيْدٍ - قَالَ: رَأَيْت الْقَاسِمَ بْنَ مُحَمَّدٍ أَشْعَرَهَا فِي الْجَانِبِ الْأَيْمَنِ -

L13166–13168 And via the chain of ʿAbd al-Razzāq on the authority of Maʿmar, on the authority of al-Zuhrī, on the authority of Sālim ibn ʿAbd Allāh ibn ʿUmar, on the authority of his father, that he would ritually mark the sacrificial animal from the right side when intending to enter the state of ritual consecration. And via the chain of Ḥammād ibn Salamah on the authority of Hishām ibn ʿUrwah, on the authority of his father, who said: “Mark the animal from the right side...” Through the narration of Wakīʿ—Aflaḥ ibn Ḥumayd reported to us—he said: I saw al-Qāsim ibn Muḥammad ritually marking her by cutting hair on the right side.

L13169 This is the opinion of Al-Shafiʿi and Abu Sulayman, and via the chain of Abd al-Razzaq from Umar ibn Dhar ibn Abi Rāḥah, who said: “I saw Aisha, the

Mother of the Believers, braiding garlands for the sheep being driven with her as a sacrificial offering."

وَهُوَ قَوْلُ الشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ عُمَرَ بْنِ ذَرٍّ بْنِ أَبِي رَبَاحٍ قَالَ: رَأَيْت عَائِشَةَ أُمَّ الْمُؤْمِنِينَ تَفْتِلُ الْقَلَائِدَ لِلْغَنَمِ تُسَاقُ مَعَهَا هَدْيًا.

L13170 Via the chain of Ibn Abi Shaybah, from Ibn Abi 'Adiyy, from Muhammad ibn 'Amr, from Muhammad ibn Abbas, who said: I have indeed seen sheep brought in collared.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا ابْنُ أَبِي عَدِيٍّ عَنْ مُحَمَّدِ بْنِ عَمْرٍو عَنْ مُحَمَّدِ بْنِ عَبَّاسٍ قَالَ: لَقَدْ رَأَيْت الْغَنَمَ يُؤْتَى بِهَا مُقَلَّدَةً.

L13171 And via the chain of Ibn Abi Shaybah: Ḥātim ibn Wardān narrated to us from Burda from ʿAṭāʾ, who said: "I saw some people from the companions of the Messenger of Allah (peace be upon him) leading sheep that were garlanded for sacrifice."

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا حَاتِمُ بْنُ وَرْدَانَ عَنْ بُرْدٍ عَنْ عَطَاءٍ قَالَ: رَأَيْت نَاسًا مِنْ أَصْحَابِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَسُوقُونَ الْغَنَمَ مُقَلَّدَةً.

L13172 From Hammad ibn Salama through Qays ibn Sa'd through 'Ata, who said: "I saw rams being garlanded." From Waki' through Bassam through Abu Ja'far ibn Muhammad ibn Ali ibn al-Husayn, who said: "I saw rams being garlanded." And via the route of Ibn Tawus through his father, who said: "I saw sheep being garlanded."

وَعَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءٍ قَالَ: رَأَيْت الْكِبَاشَ تُقَلَّدُ، وَعَنْ وَكِيعٍ عَنْ بَسَّامٍ عَنْ أَبِي جَعْفَرِ بْنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ قَالَ: رَأَيْت الْكِبَاشَ تُقَلَّدُ - وَمِنْ طَرِيقِ ابْنِ طَاوُسٍ عَنْ أَبِيهِ قَالَ: رَأَيْت الْغَنَمَ تُقَلَّدُ.

L13173 And through the chain of Sa'id ibn Mansur from Sufyan ibn 'Uyaynah from Sufyan al-Thawri from 'Ubayd Allah ibn Abi Yazid, who said: I saw ritually garlanded sheep entering Mecca.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ عُبَيْدِ اللَّهِ بْنِ أَبِي يَزِيدَ قَالَ: رَأَيْت الْغَنَمَ تَقْدُمُ مَكَّةَ مُقَلَّدَةً.

L13174 Abu Muhammad said: People have differed regarding this. Abu Hanifah said: I disapprove of marking (al-ish'ār), as it constitutes mutilation. Ali said: This is a monumental calamity—that something the Prophet (peace be upon him) practiced should be equated with such! Fie upon any mind that scrutinizes the rulings of Allah's Messenger (peace be upon him)! By this logic, cupping and bloodletting would likewise be deemed mutilation and prohibited. Similarly, retributive punishment involving nasal amputation, tooth extraction, or ear removal would constitute mutilation; amputating the thief or brigand would be mutilation; stoning a married adulterer would be mutilation; and crucifying the brigand would be mutilation. True mutilation is the act of one who presumes to critique the actions of Allah's Messenger (peace be upon him)—such a person has mutilated himself! The marking practice occurred during the Farewell Pilgrimage, while the prohibition of

قَالَ أَبُو مُحَمَّدٍ: وَاخْتَلَفَ النَّاسُ فِي هَذَا فَقَالَ أَبُو حَنِيفَةَ: أَكْرَهُ الْإِشْعَارَ، وَهُوَ مُثْلَةٌ - قَالَ عَلِيٌّ: هَذِهِ طَامَّةٌ مِنْ طَوَامِّ الْعَالَمِ أَنْ يَكُونَ مِثْلُهُ شَيْءٍ فَعَلَهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أُفٍّ لِكُلِّ عَقْلٍ يَتَعَقَّبُ - حُكْمَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَيَلْزَمُهُ أَنْ تَكُونَ الْحِجَامَةُ، وَفَتْحُ الْعِرْقِ: مِثْلُهُ فَيُمْنَعُ مِنْ ذَلِكَ، وَأَنْ يَكُونَ الْقِصَاصُ مِنْ قَطْعِ الْأَنْفِ، وَقَلْعِ الْأَسْنَانِ، وَجَدْعِ الْأُذُنَيْنِ: مُثْلَةً، وَأَنْ يَكُونَ قَطْعُ السَّارِقِ وَالْمُحَارِبِ: مُثْلَةً، وَالرَّجْمُ لِلزَّانِي الْمُحْصَنِ: مُثْلَةً، وَالصَّلْبُ لِلْمُحَارِبِ: مُثْلَةً، إنَّمَا الْمُثْلَةُ فِعْلُ مَنْ بَلَغَ نَفْسَهُ مَبْلَغَ انْتِقَادِ فِعْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَهَذَا هُوَ الَّذِي مَثَّلَ بِنَفْسِهِ؛

mutilation was established years prior. Thus, it is evident that marking is not mutilation. This view of Abu Hanifah has no precedent among earlier scholars, nor does any jurist of his era concur except those whom Allah has tested with following him—we seek refuge in Allah from tribulation. Abu Yusuf, Muhammad ibn al-Hasan, and Malik said: The marking should be performed on the left side.

وَالْإِشْعَارُ كَانَ فِي حَجَّةِ الْوَدَاعِ وَالنَّهْيُ عَنْ الْمُثْلَةِ كَانَ قَبْلَ قِيَامِ ذَلِكَ بِأَعْوَامٍ، فَصَحَّ أَنَّهُ لَيْسَ مُثْلَةً وَهَذِهِ قَوْلَةٌ لَا يُعْلَمُ لِأَبِي حَنِيفَةَ فِيهَا مُتَقَدِّمٌ مِنْ السَّلَفِ، وَلَا مُوَافِقٌ مِنْ فُقَهَاءِ أَهْلِ عَصْرِهِ إلَّا مَنْ ابْتَلَاهُ اللَّهُ بِتَقْلِيدِهِ وَنَعُوذُ بِاَللَّهِ مِنْ الْبَلَاءِ - وَقَالَ أَبُو يُوسُفَ، وَمُحَمَّدُ بْنُ الْحَسَنِ، وَمَالِكٌ: يُشْعِرُ فِي الْجَانِبِ الْأَيْسَرِ.

L13175 Abu Muhammad said: This is contrary to the Sunnah as we have mentioned earlier. If they object: You have transmitted from Nāfiʿ, from Ibn ʿUmar, that when there was a single sacrificial camel, he would make a ritual incision on its left side, and when there were two sacrificial camels, he would place a ritual garland on one on the right side and the other on the left.

قَالَ أَبُو مُحَمَّد: وَهَذَا خِلَافُ السُّنَّةِ كَمَا ذَكَرْنَا فَإِنْ قَالُوا: قَدْ رَوَيْتُمْ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّهُ كَانَ إذَا كَانَتْ بَدَنَةٌ وَاحِدَةٌ أَشْعَرَهَا فِي الْجَانِبِ الْأَيْسَرِ وَإِذَا كَانَتْ بَدَنَتَيْنِ قَلَّدَ إحْدَاهُمَا فِي الْجَانِبِ الْأَيْمَنِ، وَالْأُخْرَى فِي الْأَيْسَرِ.

L13176–13177 And from Mujāhid: They considered marking preferable on the left side. We said: This is among what has been differed upon regarding Ibn ʾUmar. In any case, it does not align with your view. His son Sālim is more reliable, distinguished, and knowledgeable about this matter than Nāfiʿ, who narrated from him the marking on the right side as we cited. No one's statement holds authority except the Messenger of Allah—peace and blessings be upon him. How astonishing is their argument citing Ibn ʾUmar regarding an action with conflicting reports from him—sometimes undermining their position and other times irrelevant to it—while they contradict his unambiguous statement that "no sacrificial animal is valid except what is collared and marked." This is among the matters where the Mālikīs opposed the practice of Medina's people, as we previously mentioned.

وَعَنْ مُجَاهِدٍ كَانُوا يَسْتَحِبُّونَ الْإِشْعَارَ فِي الْجَانِبِ الْأَيْسَرِ؟ قُلْنَا: هَذَا مِمَّا اُخْتُلِفَ فِيهِ عَنْ ابْنِ عُمَرَ، وَعَلَى كُلِّ حَالٍ فَلَيْسَ هُوَ قَوْلُكُمْ، وَسَالِمٌ ابْنُهُ أَوْثَقُ وَأَجَلُّ وَأَعْلَمُ بِهِ مِنْ نَافِعٍ رَوَى عَنْهُ الْإِشْعَارَ فِي الْجَانِبِ الْأَيْمَنِ كَمَا أَوْرَدْنَا، وَلَا حُجَّةَ فِي قَوْلِ أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَالْعَجَبُ مِنْ احْتِجَاجِهِمْ بِابْنِ عُمَرَ فِي فِعْلٍ قَدْ اُخْتُلِفَ عَنْهُ فِيهِ فَمَرَّةً عَلَيْهِمْ وَمَرَّةً لَيْسَ لَهُمْ، وَهُمْ قَدْ خَالَفُوا قَوْلَهُ الَّذِي لَمْ يَخْتَلِفْ عَنْهُ فِيهِ مِنْ أَنَّهُ لَا هَدْيَ إلَّا مَا قُلِّدَ وَأُشْعِرَ، وَهَذَا مِمَّا خَالَفَ فِيهِ الْمَالِكِيُّونَ عَمَلَ أَهْلِ الْمَدِينَةِ كَمَا ذَكَرْنَا.

L13178 If it is said: "Why did you not yourselves assert that the Hady (sacrificial animal for Hajj/ʿUmrah) is not valid unless marked, based on the hadith you previously narrated from the Messenger of Allah—peace be upon him—'that he commanded regarding his female sacrificial camel, and it was marked on its hump'?" We answer: This narration does not contain a command to perform marking. Had it included such a command, we would have swiftly affirmed its obligation. Rather, it merely states that he commanded regarding his female sacrificial camel, and he marked it on its hump. The implication

فَإِنْ قِيلَ: فَلِمَ لَمْ تَقُولُوا أَنْتُمْ: بِأَنَّهُ لَا يَكُونُ هَدْيًا إلَّا مَا أُشْعِرَ؟ لِلْحَدِيثِ الَّذِي رَوَيْتُمْ آنِفًا عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «أَنَّهُ أَمَرَ بِبَدَنَتِهِ فَأُشْعِرَ فِي سَنَامِهَا» ؟ قُلْنَا: لَيْسَ فِي هَذَا الْخَبَرِ أَمْرٌ بِالْإِشْعَارِ، وَلَوْ كَانَ فِيهِ لَقُلْنَا بِإِيجَابِهِ مُسَارِعِينَ، وَإِنَّمَا فِيهِ أَنَّهُ أَمَرَ بِبَدَنَتِهِ فَأُشْعِرَ فِي سَنَامِهَا فَمُقْتَضَاهُ أَنَّهُ أَمَرَ بِهَا فَأُدْنِيَتْ إلَيْهِ فَأَشْعَرَ فِي سَنَامِهَا؛ لِأَنَّهُ هُوَ - عَلَيْهِ السَّلَامُ - تَوَلَّى بِيَدِهِ إشْعَارَهَا، بِذَلِكَ صَحَّ الْأَثَرُ عَنْهُ - عَلَيْهِ السَّلَامُ - كَمَا ذَكَرْنَا.

is that he commanded it to be prepared, so it was brought near him, and he marked it on its hump. This is because he—peace be upon him—personally carried out the marking with his own hand. Thus, the report from him—peace be upon him—is authenticated, as we have mentioned.

L13179 And it has been reported to us from Ubayy ibn Kaʿb and Ibn ʿUmar regarding the ritual marking of cows on their humps.

L13180 It is narrated from Ibn ʿUmar that a sheep should not be marked with a garland.

L13181 There is no authoritative proof in anyone besides the Messenger of Allah—may Allah bless him and grant him peace—and they have contradicted Ibn Umar, as we earlier cited regarding his ruling on the sacrificial animal (hady). Thus, their reliance on one whose dissent imposes no obligation on them is invalid.

L13182 It has been narrated to us from Saʿīd ibn Jubayr: Camels are to be garlanded and marked, sheep are neither garlanded nor marked, and cows are garlanded but not marked. Abū Ḥanīfah and Mālik said, "No: sheep are not to be garlanded." Mālik held the opinion of marking cows if they have humps.

L13183 Ali said: This is an error and a reversal. Rather, camels are collared [qilāda] and marked [tashʿīr]; cows are neither collared nor marked; and sheep are collared but not marked.

L13184 Abu Hanifah said: Only the sacrificial animals of Tamattuʿ, Qiran, and voluntary offerings of camels and cows specifically are to be garlanded. The sacrificial animals for [cases of] prevention (iḥṣār), those for intercourse [during Ihrām], and those for expiation of unlawful hunting [during pilgrimage] are not to be garlanded.

L13185 Mālik and al-Shāfiʿī said: Every Hajj sacrificial animal should be garlanded and marked by notching, and this is the correct opinion due to the generality of the Prophet's action—may Allah's blessings and peace be upon him.

L13186–13187 Ali said: Some who were blinded by passion and deafened by desire claimed

وَرُوِّينَا عَنْ أُبَيِّ بْنِ كَعْبٍ، وَابْنِ عُمَرَ إشْعَارَ الْبَقَرِ فِي أَسْنِمَتِهَا.

وَعَنْ ابْنِ عُمَرَ: الشَّاةُ لَا تُقَلَّدُ.

وَلَا حُجَّةَ فِي أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَدْ خَالَفُوا ابْنَ عُمَرَ كَمَا أَوْرَدْنَا آنِفًا فِي قَوْلِهِ فِي الْهَدْيِ، فَمِنْ الْبَاطِلِ احْتِجَاجُهُمْ بِمَنْ لَا مُؤْنَةَ عَلَيْهِمْ فِي مُخَالَفَتِهِ.

وَرُوِّينَا عَنْ سَعِيدِ بْنِ جُبَيْرٍ: الْإِبِلُ تُقَلَّدُ، وَتُشْعَرُ، وَالْغَنَمُ لَا تُقَلَّدُ، وَلَا تُشْعَرُ، وَالْبَقَرُ تُقَلَّدُ، وَلَا تُشْعَرُ - وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: لَا - تُقَلَّدُ الْغَنَمُ - وَرَأَى مَالِكٌ إشْعَارَ الْبَقَرِ إنْ كَانَتْ لَهَا أَسْنِمَةٌ.

قَالَ عَلِيٌّ: وَهَذَا خَطَأٌ وَمَقْلُوبٌ، بَلْ الْإِبِلُ: تُقَلَّدُ، وَتُشْعَرُ، وَالْبَقَرُ: لَا تُقَلَّدُ، وَلَا تُشْعَرُ، وَالْغَنَمُ: تُقَلَّدُ، وَلَا تُشْعَرُ.

وَقَالَ أَبُو حَنِيفَةَ: لَا يُقَلَّدُ إلَّا هَدْيُ الْمُتْعَةِ، وَالْقِرَانِ، وَالتَّطَوُّعِ مِنْ الْإِبِلِ، وَالْبَقَرِ فَقَطْ: وَلَا يُقَلَّدُ: هَدْيُ الْإِحْصَارِ، وَلَا الْجِمَاعِ، وَلَا جَزَاءِ الصَّيْدِ.

وَقَالَ مَالِكٌ، وَالشَّافِعِيُّ: يُقَلَّدُ كُلُّ هَدْيٍ وَيُشْعَرُ، وَهَذَا هُوَ الصَّوَابُ لِعُمُومِ فِعْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

that the meaning of what was narrated from ʾĀʾisha regarding garlanded sacrificial sheep is merely that she braided the sacrificial garlands from sheep—i.e., from sheep's wool. Abū Muḥammad said: This is a trivialization of outright falsehood and a contradiction of what people have transmitted from her regarding the Prophet's (peace be upon him) offering of garlanded sheep as sacrifices. We seek refuge with Allah the Almighty from abandonment.

قَالَ عَلِيٌّ: وَقَالَ بَعْضُ مَنْ أَعْمَاهُ الْهَوَى وَأَصَمَّهُ: إِنَّمَا مَعْنَى مَا رُوِيَ عَنْ عَائِشَةَ مِنْ هَدْيِ الْغَنَمِ مُقَلَّدَةً، إِنَّمَا هُوَ أَنَّهَا فَتَلَتْ قَلَائِدَ الْهَدْيِ مِنْ الْغَنَمِ - أَيْ مِنْ صُوفِ الْغَنَمِ -: قَالَ أَبُو مُحَمَّد: وَهَذَا اسْتِسْهَالٌ لِلْكَذِبِ الْبَحْتِ وَخِلَافٌ لِمَا رَوَاهُ النَّاسُ عَنْهَا مِنْ إهْدَائِهِ - عَلَيْهِ السَّلَامُ - الْغَنَمَ مُقَلَّدَةً - وَنَعُوذُ بِاَللَّهِ الْعَظِيمِ مِنْ الْخِذْلَانِ.

L13188 As for stipulating: This is based on what was narrated to us by Abdullah ibn Yusuf, who narrated from Ahmad ibn Fath, who narrated from Abdul Wahhab ibn Isa, who narrated from Ahmad ibn Muhammad, who narrated from Ahmad ibn Ali, who narrated from Muslim ibn al-Hajjaj, who narrated from Abu Kuraib Muhammad ibn al-Ala al-Hamdani, who narrated from Abu Usamah from Hisham ibn Urwah (son of Abd al-Muttalib) from his father from Aishah, who said: "The Messenger of Allah—peace and blessings be upon him—visited Duba'ah bint al-Zubayr and said to her: 'Do you intend to perform Hajj?' She replied: 'By Allah, I am only in pain.' He then said to her: 'Perform Hajj and stipulate a condition, saying: "O Allah, my place of exiting Ihram is wherever You detain me."' And she was married to al-Miqdad."

وَأَمَّا الِاشْتِرَاطُ: فَلِمَا حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ نَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلَاءِ الْهَمْدَانِيُّ نَا أَبُو أُسَامَةَ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ عَائِشَةَ قَالَتْ: «دَخَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى ضُبَاعَةَ بِنْتِ الزُّبَيْرِ هُوَ ابْنُ عَبْدِ الْمُطَّلِبِ - فَقَالَ لَهَا: أَرَدْتِ الْحَجَّ؟ قَالَتْ: وَاَللَّهِ مَا أَجِدُنِي إلَّا وَجِعَةً؟ فَقَالَ لَهَا: حُجِّي وَاشْتَرِطِي وَقُولِي: اللَّهُمَّ مَحِلِّي حَيْثُ حَبَسْتَنِي، وَكَانَتْ تَحْتَ الْمِقْدَادِ» .

L13189 We have also narrated it through the chain of Isḥāq ibn Rāhawayh from ʿAbd al-Razzāq from Maʿmar from al-Zuhrī from ʿUrwah from ʿĀʾishah, from the Prophet—may Allah's peace and blessings be upon him—that he said to Ḍubāʿah: "Perform Ḥajj and stipulate that my place of exiting the state of Iḥrām is wherever you are prevented."

وَرُوِّينَاهُ أَيْضًا: مِنْ طَرِيقِ إِسْحَاقَ بْنِ رَاهْوَيْهِ عَنْ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ لِضُبَاعَةَ حُجِّي وَاشْتَرِطِي أَنَّ مَحِلِّي حَيْثُ تَحْبِسُنِي» .

L13190 We have also narrated it through the chain of Ṭāwūs, ʿIkrimah, and Saʿīd ibn Jubayr—all of them from Ibn ʿAbbās—from the Messenger of Allah (peace and blessings of Allah be upon him) that he said to Ḍubāʿah: "Assume Ihrām for Ḥajj and stipulate that my exit from Ihrām is wherever you are detained [from proceeding]."

وَرُوِّينَاهُ أَيْضًا: مِنْ طَرِيقِ طَاوُسٍ، وَعِكْرِمَةَ، وَسَعِيدِ بْنِ جُبَيْرٍ، كُلِّهِمْ عَنْ ابْنِ عَبَّاسٍ «عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ لِضُبَاعَةَ أَهِّلِي بِالْحَجِّ وَاشْتَرِطِي أَنَّ مَحِلِّي حَيْثُ تَحْبِسُنِي» .

L13191 We have also narrated it via the chain of ʿUrwah ibn al-Zubayr, from Ḍubāʿah, from the Messenger of Allah, peace and blessings be upon him.

وَرُوِّينَاهُ أَيْضًا: مِنْ طَرِيقِ عُرْوَةَ بْنِ الزُّبَيْرِ عَنْ ضُبَاعَةَ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13192 And through the narration of Abū al-Zubayr from Jābir from the Prophet (peace be upon him).

وَمِنْ طَرِيقِ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13193 Thus, these are clear, mutawatir traditions that no one may disregard.

فَهَذِهِ آثَارٌ مُتَظَاهِرَةٌ مُتَوَاتِرَةٌ لَا يَسَعُ أَحَدًا الْخُرُوجُ عَنْهَا.

L13194 And it has been narrated to us through Suwayd ibn Ghafala that ʿUmar ibn al-Khaṭṭāb said to me: “If you perform Hajj and are not a first-time pilgrim, then stipulate: If I am afflicted by an illness, injury, or detention, then I am free.”

وَرُوِّينَا مِنْ طَرِيقِ سُوَيْدِ بْنِ غَفَلَةَ قَالَ لِي عُمَرُ بْنُ الْخَطَّابِ: إنْ حَجَجْت وَلَسْت صَرُورَةً فَاشْتَرَطَ إنْ أَصَابَنِي مَرَضٌ أَوْ كَسْرٌ أَوْ حَبْسٌ فَأَنَا حِلٌّ.

L13195–13196 It has also been narrated to us that the command to stipulate during Hajj was conveyed through the chains of Wakiʿ, ʿAbd al-Raḥmān ibn Mahdī, and Yaḥyā ibn Saʿīd al-Qaṭṭān—all of them transmitting from Sufyān al-Thawrī, from Ibrāhīm ibn ʿAbd al-Aʿlā, from Suwayd ibn Ghafalah, from ʿUmar. In the narration of Ibn Mahdī and Yaḥyā, it states that he said to him: “Observe Hajj as *Ifrād* and stipulate, for you are entitled to what you have stipulated, and Allah’s due upon you is what you have stipulated.”

وَرُوِّينَا أَيْضًا الْأَمْرَ بِالِاشْتِرَاطِ فِي الْحَجِّ مِنْ طَرِيقِ: وَكِيعٍ، وَعَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ، وَيَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ، كُلِّهِمْ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ إبْرَاهِيمَ بْنِ عَبْدِ الْأَعْلَى عَنْ سُوَيْدِ بْنِ غَفَلَةَ عَنْ عُمَرَ: أَنَّهُ - وَفِي رِوَايَةِ ابْنِ مَهْدِيٍّ، وَيَحْيَى: أَنَّهُ قَالَ لَهُ: أَفْرِدْ الْحَجَّ وَاشْتَرِطْ، فَإِنَّ لَك مَا اشْتَرَطْت، وَلِلَّهِ عَلَيْك مَا شَرَطْت.

L13197 And via the chain of Ibn Abī Shaybah: al-Faḍl ibn Dukayn narrated to us from Saʿīd ibn ʿAbd al-Raḥmān from Ibn Sīrīn from ʿAbd Allāh ibn ʿUtbah from ʿUthmān ibn ʿAffān, similar to what Ibn al-Mubārak narrated from Hishām ibn Ḥassān from Ibn Sīrīn: that ʿUthmān saw a man who was standing at ʿArafah. He asked him, saying: “Did you stipulate?” The man replied: “Yes.”

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا الْفَضْلُ بْنُ دُكَيْنٍ عَنْ سَعِيدِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ ابْنِ سِيرِينَ عَنْ عَبْدِ اللَّهِ بْنِ عُتْبَةَ عَنْ عُثْمَانَ بْنِ عَفَّانَ مِثْلُ مَا رَوَاهُ ابْنُ الْمُبَارَكِ عَنْ هِشَامِ بْنِ حَسَّانَ عَنْ ابْنِ سِيرِينَ: أَنَّ عُثْمَانَ رَأَى رَجُلًا وَاقِفًا بِعَرَفَةَ قَالَ لَهُ: أَشَارَطْتَ؟ قَالَ: نَعَمْ.

L13198 And through the chain of Jammah from Muḥammad ibn Fuḍayl from ʿAṭāʾ ibn al-Sāʾib from Maysarah: that ʿAlī ibn Abī Ṭālib, when he intended to perform Ḥajj, would say: “O Allah, a Ḥajj if it is facilitated, or an ʿUmrah if he intends ʿUmrah; otherwise, there is no blame.”

وَمِنْ طَرِيقِ جَمَّةَ عَنْ مُحَمَّدِ بْنِ فُضَيْلٍ عَنْ عَطَاءِ بْنِ السَّائِبِ عَنْ مَيْسَرَةَ: أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ كَانَ إذَا أَرَادَ الْحَجَّ قَالَ: اللَّهُمَّ حَجَّةً إنْ تَيَسَّرَتْ، أَوْ عُمْرَةً إنْ أَرَادَ الْعُمْرَةَ وَإِلَّا فَلَا حَرَجَ.

L13199 And through the chain of Sufyan al-Thawri from Abu Ishaq from Umayrah ibn Ziyad, who said: Ibn Mas’ud said to me: “Perform Hajj while stipulating a condition, and say: ’O Allah, I intended Hajj and directed myself toward it. If it becomes possible, [proceed]; otherwise, let it be Umrah.”’

وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي إسْحَاقَ عَنْ عُمَيْرَةَ بْنِ زِيَادٍ قَالَ: قَالَ لِي ابْنُ مَسْعُودٍ: حُجَّ وَاشْتَرِطْ، وَقُلْ: اللَّهُمَّ الْحَجَّ أَرَدْت وَلَهُ عَمَدْت فَإِنْ تَيَسَّرَ وَإِلَّا فَعُمْرَةٌ.

L13200 From the narration of Hishām ibn ʿUrwah, from his father, from ʿĀ’ishah, the

Mother of the Believers, that she used to say: “O Allah, I have set out for Hajj and intended it. If I fulfill it, then it is Hajj; but if an obstacle intervenes, then it is Umrah.” And she used to instruct ʿUrwah to stipulate [this condition] in the same manner.

وَمِنْ طَرِيقِ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا كَانَتْ تَقُولُ: اللَّهُمَّ لِلْحَجِّ خَرَجْت وَلَهُ عَمَدْت فَإِنْ قَضَيْت فَهُوَ الْحَجُّ وَإِنْ حَالَ دُونَهُ شَيْءٌ فَهِيَ عُمْرَةٌ، وَإِنَّهَا كَانَتْ تَأْمُرُ عُرْوَةَ بِأَنْ يَشْتَرِطَ كَذَلِكَ.

L13201 And via the chain of Abu Ishaq from Al-Minhal from Ammar, the son of Yasir, that he said: If you intend to perform Hajj, then make a stipulation.

وَمِنْ طَرِيقِ أَبِي إِسْحَاقَ عَنْ الْمِنْهَالِ عَنْ عَمَّارٍ هُوَ ابْنُ يَاسِرٍ - أَنَّهُ قَالَ: إذَا أَرَدْت الْحَجَّ فَاشْتَرِطْ.

L13202 And via the chain of Kuraib from Ibn Abbas, that he used to enjoin making conditional stipulations during Hajj.

وَمِنْ طَرِيقِ كُرَيْبٍ عَنْ ابْنِ عَبَّاسٍ: أَنَّهُ كَانَ يَأْمُرُ بِالِاشْتِرَاطِ فِي الْحَجِّ.

L13203 These are ʿUmar, ʿUthmān, ʿAlī, ʿĀ’ishah the Mother of the Believers, ʿAmmār ibn Yāsir, Ibn Masʿūd, Ibn ʿAbbās; and among the Followers, ʿUmayrah ibn Ziyād.

فَهَؤُلَاءِ: عُمَرُ، وَعُثْمَانُ، وَعَلِيٌّ وَعَائِشَةُ أُمُّ الْمُؤْمِنِينَ، وَعَمَّارُ بْنُ يَاسِرٍ، وَابْنُ مَسْعُودٍ، وَابْنُ عَبَّاسٍ - وَمِنْ التَّابِعِينَ عُمَيْرَةُ بْنُ زِيَادٍ.

L13204 Narrated through al-Ḥajjāj ibn al-Minhāl, from Abū ʻAwanah, from Manṣūr, from Ibrāhīm al-Nakhaʻī, who said: They used to stipulate conditions for Ḥajj and ʻUmrah, saying: “O Allah, I intend Ḥajj if it is facilitated; otherwise, then ʻUmrah if it is facilitated. O Allah, I intend ʻUmrah if it is facilitated; otherwise, there is no blame on me.”

وَمِنْ طَرِيقِ الْحَجَّاجِ بْنِ الْمِنْهَالِ عَنْ أَبِي عَوَانَةَ عَنْ مَنْصُورٍ عَنْ إبْرَاهِيمَ النَّخَعِيِّ قَالَ: كَانُوا يَشْتَرِطُونَ فِي الْحَجِّ وَالْعُمْرَةِ يَقُولُ: اللَّهُمَّ إنِّي أُرِيدُ الْحَجَّ إنْ تَيَسَّرَ، وَإِلَّا فَعُمْرَةٌ إنْ تَيَسَّرَتْ، اللَّهُمَّ إنِّي أُرِيدُ الْعُمْرَةَ إنْ تَيَسَّرَتْ وَإِلَّا فَلَا حَرَجَ عَلَيَّ.

L13205–13206 And from the chain of Waki‘: Ar-Rabi‘ narrated to us from Al-Hasan Al-Basri and ‘Ata’ ibn Abi Rabah. They both said regarding the muhrim who stipulates a condition: They both said, “His condition applies to him.”

وَمِنْ طَرِيقِ وَكِيعٍ نَا الرَّبِيعُ عَنْ الْحَسَنِ الْبَصْرِيِّ، وَعَطَاءِ بْنِ أَبِي رَبَاحٍ، قَالَا جَمِيعًا فِي الْمُحْرِمِ يَشْتَرِطُ: قَالَا جَمِيعًا: لَهُ شَرْطُهُ.

L13207 And via the chain of Al-A‘mash from ‘Umarah ibn ‘Umayr, who said: “Alqamah and Al-Aswad used to stipulate conditions during Hajj.”

وَمِنْ طَرِيقِ الْأَعْمَشِ عَنْ عُمَارَةَ بْنِ عُمَيْرٍ قَالَ: كَانَ عَلْقَمَةُ، وَالْأَسْوَدُ يَشْتَرِطَانِ فِي الْحَجِّ.

L13208 From the path of Sufyan al-Thawri, from al-Mughirah ibn Miqsam, from al-Musayyib ibn Rafi‘: I intended to perform Hajj, so send ‘Ubaydah—he is al-Salmānī—to me, that I may make a stipulation.

وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ الْمُغِيرَةِ بْنِ مِقْسَمٍ عَنْ الْمُسَيِّبِ بْنِ رَافِعٍ أَرَدْت الْحَجَّ فَأَرْسِلْ إلَيَّ عَبِيدَةَ هُوَ السَّلْمَانِيُّ - أَنْ اشْتَرِطْ.

L13209 From the chain of Ibn Abi Shaybah, via Abu Mu’awiyah, via Al-A’mash, via

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَبِي مُعَاوِيَةَ عَنْ الْأَعْمَشِ عَنْ عُمَارَةَ بْنِ عُمَيْرٍ قَالَ: كَانَ شُرَيْحٌ الْقَاضِي يَشْتَرِطُ فِي الْحَجِّ فَيَقُولُ: اللَّهُمَّ إنَّك قَدْ عَرَفْت نِيَّتِي وَمَا أُرِيدُ، فَإِنْ كَانَ أَمْرًا تُتِمُّهُ فَهُوَ أَحَبُّ إلَيَّ وَإِنْ كَانَ غَيْرَ ذَلِكَ فَلَا حَرَجَ.

'Umarah ibn 'Umayr, who said: Judge Shuraih would stipulate a condition during Hajj, saying: "O Allah, You know my intention and what I aim for. If it is a matter You complete, then it is dearer to me; but if it is otherwise, then there is no harm."

وَعَنْ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ أَنَّهُ كَانَ يَشْتَرِطُ فِي الْعُمْرَةِ، وَجَاءَ أَيْضًا [نَصًّا] عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ، وَعَطَاءِ بْنِ يَسَارٍ، وَعِكْرِمَةَ - وَقَالَ الشَّافِعِيُّ: إنْ صَحَّ الْخَبَرُ قُلْت بِهِ.

L13210 It is reported from Abu Bakr ibn Abd al-Rahman ibn al-Harith ibn Hisham that he stipulated conditions for the Umrah. It is also [explicitly] reported from Sa'id ibn al-Musayyab, 'Ata' ibn Yasar, and 'Ikrimah. Al-Shafi'i said: "If the report is authentic, I endorse it."

قَالَ أَبُو مُحَمَّد: قَدْ صَحَّ الْخَبَرُ وَبَالَغَ فِي الصِّحَّةِ فَهُوَ قَوْلُهُ وَهُوَ قَوْلُ أَحْمَدَ، وَإِسْحَاقَ، وَأَبِي ثَوْرٍ، وَأَبِي سُلَيْمَانَ - وَرُوِيَ عَنْ ابْنِ عُمَرَ أَنَّهُ كَانَ إذَا سَأَلَ عَنْ الِاسْتِثْنَاءِ فِي الْحَجِّ؟ قَالَ: لَا أَعْرِفُهُ.

L13211 Abū Muḥammad said: The report has indeed been authenticated and its authenticity is well-established. Thus, it is his opinion, as well as the opinion of Aḥmad, Isḥāq, Abī Thawr, and Abī Sulaymān. It is narrated from Ibn 'Umar that when he was asked about the exception in Ḥajj, he said: "I do not recognize it."

وَرُوِّينَا عَنْ إبْرَاهِيمَ اضْطِرَابًا فَرُوِّينَا عَنْهُ مِنْ طَرِيقِ الْمُغِيرَةِ أَنَّهُ قَالَ: كَانُوا يَسْتَحِبُّونَ أَنْ يَشْتَرِطُوا عِنْدَ الْإِحْرَامِ وَكَانُوا لَا يَرَوْنَ الشَّرْطَ شَيْئًا لَوْ أَنَّ الرَّجُلَ ابْتُلِيَ - وَرُوِّينَا عَنْهُ مِنْ طَرِيقِ الْأَعْمَشِ أَنَّهُ قَالَ كَانُوا يَكْرَهُونَ أَنْ يَشْتَرِطُوا فِي الْحَجِّ.

L13212 We have received conflicting narrations from Ibrāhīm. In one narration via Al-Mughīrah, it was reported that he said: "They preferred to stipulate conditions upon entering Ihrām, though they did not regard the stipulation as significant—even if a man was afflicted [with hardship]." In another narration via Al-A'mash, it was reported that he said: "They considered stipulating conditions during Ḥajj reprehensible."

قَالَ أَبُو مُحَمَّد: هَذَا تَنَاقُضٌ فَاحِشٌ، مَرَّةً كَانُوا يَسْتَحِبُّونَ الشَّرْطَ، وَمَرَّةً كَانُوا يَكْرَهُونَهُ، فَأَقَلُّ مَا فِي هَذَا تَرْكُ رِوَايَةِ إبْرَاهِيمَ جُمْلَةً لِاضْطِرَابِهَا.

L13213 Abu Muhammad said: This is an egregious contradiction—at one time they deemed the condition recommended, and at another time they deemed it disliked. At the very least, this necessitates abandoning Ibrāhīm's narration as a whole due to its internal contradictions in transmission.

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ جُبَيْرٍ، وَإِبْرَاهِيمَ النَّخَعِيِّ أَنَّهُمَا قَالَا: الْمُشْتَرِطُ وَغَيْرُ الْمُشْتَرِطِ سَوَاءٌ إذَا أُحْصِرَ فَلْيَجْعَلْهَا عُمْرَةً.

L13214 It has been narrated to us through the chain of transmission of Sa'īd ibn Jubayr and Ibrāhīm al-Nakha'ī that they said: The one who stipulates [a condition] and the one who does not are the same. If he is prevented, let him transform it into 'Umrah.

L13215 And through the chain of Al-Ḥajjāj ibn Arṭāh—whose narration is rejected (sāqiṭ)—from 'Aṭā', [there is a report] similar to this statement of Sa'īd ibn

Jubayr. However, the authentic (ṣaḥīḥ) narration from ʿAṭāʾ contradicts the former.

وَمِنْ طَرِيقِ الْحَجَّاجِ بْنِ أَرْطَاةَ - وَهُوَ سَاقِطٌ - عَنْ عَطَاءٍ مِثْلُ قَوْلِ سَعِيدِ بْنِ جُبَيْرٍ هَذَا، وَالصَّحِيحُ عَنْ عَطَاءٍ خِلَافُ هَذَا.

L13216–13217 Via the chain of Hisham ibn Urwah from his father, that he did not consider the stipulation in Hajj as anything.

وَمِنْ طَرِيقِ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ أَنَّهُ كَانَ لَا يَرَى الِاشْتِرَاطَ فِي الْحَجِّ شَيْئًا.

L13218 From Ṭāwus: Stipulating conditions in Ḥajj is not a [valid] matter.

وَعَنْ طَاوُسٍ الِاشْتِرَاطُ فِي الْحَجِّ لَيْسَ شَيْئًا.

L13219 From Ibrāhīm ibn Muhājir (who is weak), from Ibrāhīm al-Nakhaʿī, from ʿAlqamah, who held that stipulations in Hajj were not problematic.

وَعَنْ إبْرَاهِيمَ بْنِ مُهَاجِرٍ - وَهُوَ ضَعِيفٌ - عَنْ إبْرَاهِيمَ النَّخَعِيِّ عَنْ عَلْقَمَةَ أَنَّهُ كَانَ لَا يَرَى الِاشْتِرَاطَ فِي الْحَجِّ شَيْئًا.

L13220 And from Al-Ḥakam ibn ʿUtaybah and Ḥammād likewise; and this is the view of Mālik and the Ḥanafīs.

وَعَنْ الْحَكَمِ بْنِ عُتَيْبَةَ، وَحَمَّادٍ مِثْلُ هَذَا، وَهُوَ قَوْلُ مَالِكٍ، وَالْحَنَفِيِّينَ.

L13221 Abu Muhammad said: They objected to opposing the Sunnah traditions in this chapter by arguing: "This hadith contradicts the Quran, for Allah, the Exalted, says: {And complete Hajj and ʿUmrah solely for Allah} [Surah Al-Baqarah 2:196]."[16]

قَالَ أَبُو مُحَمَّد: وَشَغَبُوا فِي مُخَالَفَةِ السُّنَنِ الْوَارِدَةِ فِي هَذَا الْبَابِ بِأَنْ قَالُوا: هَذَا الْخَبَرُ خِلَافٌ لِلْقُرْآنِ، لِأَنَّ اللَّهَ تَعَالَى يَقُولُ: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] .

L13222 Ali said: This verse is evidence against them, not against us, for they issue rulings permitting those afflicted by an impediment such as illness or the like to dissolve their *ihram* through Umrah if they miss Hajj. Thus, they have contradicted the verse concerning the completion of Hajj. As for us, we affirm that the one upon whom this verse was revealed and who was commanded to clarify *to us* what was revealed to him has instructed us to stipulate conditions during Hajj and that one's point of release is wherever his Lord, the Exalted, detains him through His executed decree. Therefore, we have not contradicted the verse by adhering to the Prophet's (peace be upon him) clarification, whereas you have contradicted it through your corrupt opinions, thereby opposing the Sunnah related to that matter.

قَالَ عَلِيٌّ: هَذِهِ الْآيَةُ حُجَّةٌ عَلَيْهِمْ لَا عَلَيْنَا لِأَنَّهُمْ يُفْتُونَ مَنْ عَرَضَ لَهُ عَارِضٌ مِنْ مَرَضٍ أَوْ نَحْوِهِ أَنْ يَحِلَّ بِعُمْرَةٍ إنْ فَاتَهُ الْحَجُّ، فَقَدْ خَالَفُوا الْآيَةَ فِي إتْمَامِ الْحَجِّ، وَأَمَّا نَحْنُ فَإِنَّا نَقُولُ: إنَّ الَّذِي أُنْزِلَتْ عَلَيْهِ هَذِهِ الْآيَةُ وَأُمِرَ بِبَيَانِ مَا أُنْزِلَ عَلَيْهِ لَنَا قَدْ أَمَرَ بِالِاشْتِرَاطِ فِي الْحَجِّ وَأَنَّ مَحِلَّهُ حَيْثُ حَبَسَهُ رَبُّهُ تَعَالَى بِالْقَدَرِ النَّافِذِ، فَنَحْنُ لَمْ نُخَالِفْ الْآيَةَ إذَا أَخَذْنَا بِبَيَانِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَنْتُمْ خَالَفْتُمُوهَا بِآرَائِكُمْ الْفَاسِدَةِ إلَى مُخَالَفَتِكُمْ السُّنَّةَ الْوَارِدَةَ فِي ذَلِكَ.

L13223 They said: "This report contradicts the words of Allah the Exalted: {But if you are prevented, then offer what can be obtained with ease of the sacrificial animal} [Al-Baqarah: 196]." We replied: "Those who claim this report

وَقَالُوا: هَذَا الْخَبَرُ خِلَافٌ لِقَوْلِ اللَّهِ تَعَالَى: {فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] ؟ قُلْنَا: كَذَبَ مَنْ ادَّعَى أَنَّ هَذَا الْخَبَرَ خِلَافٌ لِهَذِهِ الْآيَةِ، بَلْ أَنْتُمْ

[16] **Qur'an references (L13221):** Qur'an 2:196 (Al-Baqarah).

contradicts this verse have lied. Rather, you yourselves contradicted it when you asserted: 'Whoever is prevented by illness may not exit ihram except by performing Umrah' - an opinion lacking textual basis. As for us, we adhere to this verse: If one did not stipulate a condition in their ihram, as commanded by the Prophet - who received this verse and was tasked with its clarification."

خَالَفْتُمُوهَا إِذْ قُلْتُمْ: مَنْ أُحْصِرَ بِمَرَضٍ لَمْ يَحِلَّ إِلَّا بِعُمْرَةٍ بِرَأْيٍ لَا نَصَّ فِيهِ، وَأَمَّا نَحْنُ فَقُلْنَا بِهَذِهِ الْآيَةِ: إِنْ لَمْ يَشْتَرِطْ كَمَا أَمَرَ الَّذِي أُنْزِلَتْ عَلَيْهِ هَذِهِ الْآيَةُ وَأَمَرَ بِبَيَانِهَا لَنَا؟

Abu Muhammad said: "Whoever deems this Sunnah contradictory to the Quran must also consider the narration stipulating hand amputation for [theft of] a quarter dinar or ten dirhams as opposing the Quran, given the Exalted's decree: {As for the thief, male or female, cut their hands} [Al-Ma'idah: 38]."[17]

قَالَ أَبُو مُحَمَّد: وَمَنْ جَعَلَ هَذِهِ السُّنَّةَ مُعَارِضَةً لِلْقُرْآنِ فَالْوَاجِبُ عَلَيْهِ أَنْ يَجْعَلَ الرِّوَايَةَ فِي الْقَطْعِ فِي رُبْعِ دِينَارٍ وَعَشَرَةِ دَرَاهِمَ مُخَالِفَةً لِلْقُرْآنِ إِذْ يَقُولُ تَعَالَى: {وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا} [المائدة: ٣٨] .

L13224 Because the hadith concerning the stipulation is consistent in its narration from Aisha and is of the utmost authenticity, while there is inconsistency in the hadith concerning amputation for a quarter of a dinar narrated from her. No report has ever been authenticated specifying amputation for ten dirhams; rather, their statement is truly contrary to the Quran, for Allah the Exalted says: "He has not placed upon you in the religion any difficulty" [al-Ḥajj 22:78].[18]

لِأَنَّ حَدِيثَ الِاشْتِرَاطِ لَمْ يُضْطَرَبْ فِيهِ عَنْ عَائِشَةَ وَهُوَ فِي غَايَةِ الصِّحَّةِ، وَقَدْ اضْطَرَبَ فِي حَدِيثِ الْقَطْعِ فِي رُبْعِ دِينَارٍ عَلَيْهَا - وَلَمْ يَصِحَّ قَطُّ خَبَرٌ فِي تَحْدِيدِ الْقَطْعِ فِي عَشَرَةِ دَرَاهِمَ بَلْ قَوْلُهُمْ هُوَ الْمُخَالِفُ لِلْقُرْآنِ حَقًّا، لِأَنَّ اللَّهَ تَعَالَى يَقُولُ: {وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ} [الحج: ٧٨] .

L13225 And the Exalted said: "Allah does not charge a soul except [with that within] its capacity" [Al-Baqarah 2:286].[19]

وَقَالَ تَعَالَى: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] .

L13226 And He, the Exalted, said: "Allah intends ease for you and does not intend hardship for you" [Al-Baqarah 2:185].[20]

وَقَالَ تَعَالَى: {يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلا يُرِيدُ بِكُمُ الْعُسْرَ} [البقرة: ١٨٥] .

L13227–13228 There is no harm, no hardship, and no obligation exceeding one's capacity—more than requiring one to remain in the state of *iḥrām*, prohibiting regular clothing, perfume, and marital relations for someone whom Allah the Exalted has indeed prevented from Hajj or Umrah. If these verses alone existed, they would suffice to establish the obligation of releasing from *iḥrām* anyone hindered by an obstacle from completing Hajj or Umrah—how much

وَلَا حَرَجَ، وَلَا عُسْرَ، وَلَا تَكْلِيفَ مَا لَيْسَ فِي الْوُسْعِ أَكْثَرُ مِنْ إِيجَابِ الْبَقَاءِ عَلَى حَالِ الْإِحْرَامِ، وَمَنْعِ الثِّيَابِ، وَالطِّيبِ، وَالنِّسَاءِ، لِمَنْ قَدْ مَنَعَهُ اللَّهُ تَعَالَى مِنْ الْحَجِّ وَالْعُمْرَةِ؛ فَلَوْ لَمْ يَكُنْ إِلَّا هَذِهِ الْآيَاتُ لَكَفَتْ فِي وُجُوبِ إِحْلَالِ مَنْ عَاقَهُ عَائِقٌ عَنْ إِتْمَامِ الْحَجِّ وَالْعُمْرَةِ، فَكَيْفَ وَالسُّنَّةُ قَدْ جَاءَتْ بِذَلِكَ نَصًّا؟ وَشَغَبَ بَعْضُهُمْ بِالْخَبَرِ الثَّابِتِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «كُلُّ شَرْطٍ لَيْسَ فِي كِتَابِ اللَّهِ فَهُوَ بَاطِلٌ

[17] **Qur'an references (L13223):** Qur'an 2:196 (Al-Baqarah); Qur'an 5:38 (Al-Ma'idah).
[18] **Qur'an references (L13224):** Qur'an 22:78 (Al-Hajj).
[19] **Qur'an references (L13225):** Qur'an 2:286 (Al-Baqarah).
[20] **Qur'an references (L13226):** Qur'an 2:185 (Al-Baqarah).

more compelling is it when the *Sunnah* has explicitly stated this in text? Yet some have clamored by citing the authentically transmitted report from the Messenger of Allah (peace and blessings be upon him): *"Every condition not in the Book of Allah is void, even if it were a hundred conditions. What is the matter with people who stipulate conditions not in the Book of Allah? Whoever stipulates a condition not in the Book of Allah has no right to it. The Book of Allah is more deserving, and Allah's stipulation is more binding."*

وَإِنْ كَانَ مِائَةَ شَرْطٍ مَا بَالُ أَقْوَامٍ يَشْتَرِطُونَ شُرُوطًا لَيْسَتْ فِي كِتَابِ اللَّهِ؟ مَنْ اشْتَرَطَ شَرْطًا لَيْسَ فِي كِتَابِ اللَّهِ فَلَيْسَ لَهُ، كِتَابُ اللَّهِ أَحَقُّ وَشَرْطُ اللَّهِ أَوْثَقُ» .

L13229 Abu Muhammad said: This is one of the most astonishing things, for they have cited as evidence what constitutes a greater proof against them. The stipulation in Hajj is textually specified in the Book of Allah, the Exalted, as we have mentioned from His saying: {Allah does not burden any soul beyond its capacity} [Al-Baqarah: 286].[21]

قَالَ أَبُو مُحَمَّد: هَذَا مِنْ أَعْجَبْ شَيْءٍ لِأَنَّهُمْ احْتَجُّوا بِمَا هُوَ أَعْظَمُ حُجَّةً عَلَيْهِمْ، وَالِاشْتِرَاطُ فِي الْحَجِّ هُوَ فِي كِتَابِ اللَّهِ تَعَالَى مَنْصُوصٌ مِمَّا ذَكَرْنَا مِنْ قَوْله تَعَالَى: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] .

L13230 "He has not placed any hardship upon you in the religion" [Al-Ḥajj 22:78].[22]

{وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ} [الحج: ٧٨] .

L13231 "Allah intends ease with you and does not intend hardship with you" [2:185].[23]

وَ {يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلا يُرِيدُ بِكُمُ الْعُسْرَ} [البقرة: ١٨٥] .

L13232 And by His saying, the Most High: "To clarify to the people what has been sent down to them" [An-Nahl:44].[24]

وَبِقَوْلِهِ تَعَالَى: {لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ} [النحل: ٤٤] .

L13233 The words of the Most High: {Take what the Messenger has given you, and refrain from what he forbids you} [Al-Hashr: 7].[25]

وقَوْله تَعَالَى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا} [الحشر: ٧] .

L13234 The conditions not stipulated in the Book of Allah the Exalted are those permitted by the jurists—such as the condition that if he marries any woman upon [the status of] his existing wife so-and-so, she is thereby divorced, or that if he purchases any female slave upon [the status of] his wife, the purchased slave is thereby freed.

وَإِنَّمَا الشُّرُوطُ الَّتِي لَيْسَتْ فِي كِتَابِ اللَّهِ تَعَالَى فَهِيَ الشُّرُوطُ الَّتِي أَبَاحُوا: مِنْ أَنَّ كُلَّ امْرَأَةٍ يَتَزَوَّجُهَا عَلَى فُلَانَةَ امْرَأَتِهِ فَهِيَ طَالِقٌ، وَكُلَّ أَمَةٍ اشْتَرَاهَا عَلَيْهَا فَهِيَ حُرَّةٌ.

L13235 That part of the dowry is not binding except for such-and-such years, and

وَأَنْ يَكُونَ بَعْضُ الصَّدَاقِ لَا يَلْزَمُ إِلَّا إِلَى كَذَا وَكَذَا عَامًا وَاللَّهُ تَعَالَى يَقُولُ: {وَآتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً} [النساء: ٤] .

[21] **Qur'an references (L13229):** Qur'an 2:286 (Al-Baqarah).
[22] **Qur'an references (L13230):** Qur'an 22:78 (Al-Hajj).
[23] **Qur'an references (L13231):** Qur'an 2:185 (Al-Baqarah).
[24] **Qur'an references (L13232):** Qur'an 16:44 (An-Nahl).
[25] **Qur'an references (L13233):** Qur'an 59:7 (Al-Hashr).

Allah the Exalted says: “Give women their dowers as a gracious obligation” (Quran 4:4).[26]

وَكَبَيْعِ السُّنْبُلِ وَعَلَى الْبَائِعِ دَرْسُهُ.

L13236 Similarly, the sale of unthreshed ears of grain obligates the seller to thresh it.

وَكَنُزُولِ أَهْلِ الْحَرْبِ وَبِأَيْدِيهِمْ الْأَسْرَى مِنْ الْمُسْلِمِينَ بِشَرْطِ أَنْ لَا يُمْنَعُوا مِنْ الْوَطْءِ

L13237 And like the arrival of the people of war with Muslim captives in their possession, on the condition that they are not prevented from engaging in sexual relations with them or returning them to the lands of disbelief—along with all other invalid conditions which they permitted. They argued by citing that this report was narrated by Urwah, Ata, Sa‘id ibn Jubayr, and Tawus—yet contradictory reports were also narrated from those same scholars.

لَهُنَّ وَلَا مِنْ رَدِّهِمْ إلَى بِلَادِ الْكُفْرِ - وَسَائِرُ الشُّرُوطِ الْفَاسِدَةِ الَّتِي أَبَاحُوا؛ وَاحْتَجُّوا بِأَنَّ هَذَا الْخَبَرَ رَوَاهُ عُرْوَةُ، وَعَطَاءٌ، وَسَعِيدُ بْنُ جُبَيْرٍ، وَطَاوُسٌ - وَرُوِيَ عَنْهُمْ خِلَافُهُ.

قَالَ أَبُو مُحَمَّدٍ: فَقُلْنَا: سَمِعْنَا كُمْ تَقْبَلُونَ هَذَا فِي الصَّاحِبِ إذَا رَوَى الْخَبَرَ وَخَالَفَهُ فَأَنْكَرْنَاهُ

L13238–13240 Abu Muhammad said: We then said, “We have heard you accept this regarding the Companion when he narrates a report yet contradicts it. We rejected this until you brought clear proofs by making the Follower’s abandonment of what he narrated a proof for abandoning the Sunnah. If you apply this principle, it will reach us and those after us, so that everyone who receives a ḥadīth from the Prophet—peace and blessings of Allah be upon him—and abandons it, whoever they may be, [will do likewise].” There existed among people an argument for rejecting the Sunnah - and this is the ruling of the accursed Iblis. Allah the Exalted did not command us to follow the opinions of those you mentioned, but rather commanded us to follow their narrations, for they are trustworthy and upright, though not infallible from error in opinion.

حَتَّى أَتَيْتُمْ بِالْآبِدَةِ إذْ جَعَلْتُمْ تَرْكَ التَّابِعِ لِمَا رَوَى حُجَّةً فِي تَرْكِ السُّنَنِ؛ وَهَذَا إنْ أَدْرَجْتُمُوهُ بَلَغَ إلَيْنَا وَإِلَى مَنْ بَعْدَنَا فَصَارَ كُلُّ مَنْ بَلَغَهُ حَدِيثٌ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَتَرَكَهُ كَائِنًا مَنْ كَانَ مِنْ النَّاسِ حُجَّةً فِي رَدِّ السُّنَنِ؛ وَهَذَا حُكْمُ إبْلِيسَ اللَّعِينِ، وَمَا أَمَرَنَا اللَّهُ تَعَالَى بِاتِّبَاعِ رَأْيِ مَنْ ذَكَرْتُمْ؛ وَإِنَّمَا أَمَرَنَا بِاتِّبَاعِ رِوَايَتِهِمْ؛ لِأَنَّهُمْ ثِقَاتٌ عُدُولٌ وَلَيْسُوا مَعْصُومِينَ مِنْ الْخَطَإِ فِي الرَّأْيِ.

L13241 There is no wonder regarding those who object to the rejection of the Sunnahs by citing that Ṭāwūs, ʿAṭāʾ, ʿUrwah, and Saʿīd ibn Jubayr contradicted what they themselves narrated. Furthermore, if he resolved to dye his shirt green and they told him, “Rather, dye it red,” he would not regard their opinion as valid evidence in that matter nor compel himself to act upon it. Yet their opinion is considered evidence in opposing the Messenger of Allah—peace and blessings be upon him. Even if these individuals contradicted what they narrated, others—such as ʿIkrimah and ʿAṭāʾ—narrated it without contradiction. Nothing is authentically reported from ʿAṭāʾ except his adherence

وَلَا عَجَبَ مِمَّنْ يَعْتَرِضُ فِي رَدِّ السُّنَنِ بِأَنَّ طَاوُسًا، وَعَطَاءً، وَعُرْوَةَ، وَسَعِيدَ بْنَ جُبَيْرٍ: خَالَفُوا مَا رَوَوْا مِنْ ذَلِكَ - ثُمَّ لَوْ أَنَّهُ عَزَمَ عَلَى صَبْغِ قَمِيصِهِ أَخْضَرَ فَقَالُوا لَهُ: بَلْ اُصْبُغْهُ أَحْمَرَ؟ لَمْ يَرَ رَأْيَهُمْ فِي ذَلِكَ حُجَّةً وَلَا أَلْزَمَ نَفْسَهُ الْأَخْذَ بِهِ؟ ثُمَّ رَأْيُهُمْ حُجَّةٌ فِي مُخَالَفَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَئِنْ كَانَ خَالَفَ هَؤُلَاءِ مَا رَوَوْا فَقَدْ رَوَاهُ غَيْرُهُمْ وَلَمْ يُخَالِفْهُ: كَعِكْرِمَةَ، وَعَطَاءٍ؛ وَلَا يَصِحُّ عَنْ عَطَاءٍ إلَّا الْقَوْلُ بِهِ - وَقَدْ رَوَاهُ عَنْ عَائِشَةَ، وَابْنِ عَبَّاسٍ، وَأَخَذَ بِهِ.

[26] **Qur’an references (L13235):** Qur’an 4:4 (An-Nisa).

to it, and it was narrated from ʿĀʾishah and Ibn ʿAbbās, both of whom acted upon it.

L13242 They said: "Did Ibn ʿUmar not acknowledge it?" We replied: "What of it? For indeed ʿUmar, ʿUthman, ʿAlī, ʿĀʾishah, Ibn Masʿūd, ʿAmmār, and Ibn ʿAbbās acknowledged it and acted upon it." This is among the matters in which they opposed the majority of the Companions. Rather, Ibn ʿUmar has no disagreement here, for he did not invalidate it; he merely said: "I do not acknowledge it."

L13243 The entire astonishment is that ʿUmar held the view regarding the stipulation in Ḥajj while having the Quran and Sunnah with him, yet they opposed him and clung to the claim that his son ʿAbdullāh was unaware of it.

L13244 It is authentically reported from Abdullah ibn Umar that he would declare Ihram on the Day of Tarwiyah while adhering to the Sunnah, yet they opposed him and clung to a narration attributed to Umar regarding this matter. Umar and Uthman advocated stipulating conditions in Hajj, but they opposed them despite the Sunnah supporting them, while relying on their stance to prohibit annulling Hajj in favor of Umrah since their position contradicts the Prophet's command (peace and blessings be upon him). It is as though they are obsessed with opposing the Sunnah and contradicting the Companions even when their positions align with it. These people are drowning in seas of their desires, clinging to everything that destroys the drowned. They cited Ibrahim's statement: "They used to stipulate conditions during Hajj and did not consider it a problem?" Abu Muhammad said: This is utterly corrupt discourse, revealing nothing but their flawed reasoning and frivolity, for they stipulate what is futile, invalid, and impermissible - a characteristic of those lacking intellect. All this suffices to confirm that when the Sunnah is authentically established, no one may lawfully oppose it, nor can any individual's opinion constitute evidence against it. Success is attained solely through Allah, the Most High.

L13245–13247 This is among the matters in which they contradicted the Quran, the established Sunnah, the majority of the Companions, and analogical deduction; because they They say: Whoever begins prayer and is unable to complete it

وَقَالُوا: لَمْ يَعْرِفْهُ ابْنُ عُمَرَ؟ فَقُلْنَا: فَكَانَ مَاذَا؟ فَقَدْ عَرَفَهُ: عُمَرُ، وَعُثْمَانُ وَعَلِيٌّ، وَعَائِشَةُ، وَابْنُ مَسْعُودٍ، وَعَمَّارٌ، وَابْنُ عَبَّاسٍ، وَأَخَذُوا بِهِ، وَهَذَا مِمَّا خَالَفُوا فِيهِ جُمْهُورَ الصَّحَابَةِ بَلْ لَيْسَ لِابْنِ عُمَرَ هَاهُنَا خِلَافٌ، لِأَنَّهُ لَمْ يَقُلْ بِإِبْطَالِهِ، وَإِنَّمَا قَالَ: لَا أَعْرِفُهُ.

وَالْعَجَبُ كُلُّهُ أَنَّ عُمَرَ رَأَى الِاشْتِرَاطَ فِي الْحَجِّ وَمَعَهُ الْقُرْآنُ وَالسُّنَّةُ فَخَالَفُوهُ وَتَعَلَّقُوا فِي ذَلِكَ بِأَنَّ ابْنَهُ عَبْدَ اللَّهِ لَمْ يَعْرِفْهُ.

وَصَحَّ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ الْإِهْلَالُ يَوْمَ التَّرْوِيَةِ وَمَعَهُ السُّنَّةُ فَخَالَفُوهُ وَتَعَلَّقُوا بِرِوَايَةٍ جَاءَتْ فِي ذَلِكَ عَنْ عُمَرَ - وَقَالَ عُمَرُ، وَعُثْمَانُ، بِالِاشْتِرَاطِ فِي الْحَجِّ فَخَالَفُوهُمَا وَمَعَهُمَا السُّنَّةُ وَتَعَلَّقُوا بِهِمَا فِي الْمَنْعِ مِنْ فَسْخِ الْحَجِّ فِي عُمْرَةٍ إِذْ جَاءَ عَنْهُمَا خِلَافُ أَمْرِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَكَأَنَّهُمْ مُغْرَمُونَ بِمُخَالَفَةِ السُّنَنِ، وَمُخَالَفَةِ الصَّحَابَةِ فِيمَا جَاءَ عَنْهُمْ مِنْ مُوَافَقَةِ السُّنَنِ: وَالْقَوْمُ غَرْقَى فِي بِحَارِ هَوَاهُمْ وَبِكُلِّ مَا يُرْدِي الْغَرِيقَ تَعَلَّقُوا وَذَكَرُوا قَوْلَ إِبْرَاهِيمَ: كَانُوا يَشْتَرِطُونَ فِي الْحَجِّ وَلَا يَرَوْنَهُ شَيْئًا؟ قَالَ أَبُو مُحَمَّدٍ: وَهَذَا كَلَامٌ فِي غَايَةِ الْفَسَادِ وَلَيْسَ فِيهِ أَكْثَرُ مِنْ أَنَّهُ يَصِفُهُمْ بِفَسَادِ الرَّأْيِ وَالتَّلَاعُبِ، إِذْ يَشْتَرِطُونَ مَا لَا فَائِدَةَ فِيهِ، وَلَا يَصِحُّ، وَلَا يَجُوزُ، وَهَذِهِ صِفَةُ مَنْ لَا عَقْلَ لَهُ، وَيَكْفِي مِنْ هَذَا كُلِّهِ أَنَّ السُّنَّةَ إِذَا صَحَّتْ لَمْ يَحِلَّ لِأَحَدٍ خِلَافُهَا، وَلَمْ يَكُنْ قَوْلُ أَحَدٍ حُجَّةً فِي مُعَارَضَتِهَا - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

standing, from bowing, and from prostration – what he is incapable of from that is waived from him.

وَهَذَا مِمَّا خَالَفُوا فِيهِ الْقُرْآنَ، وَالسُّنَّةَ الثَّابِتَةَ، وَجُمْهُورَ الصَّحَابَةِ، وَالْقِيَاسَ؛ لِأَنَّهُمْ يَقُولُونَ: مَنْ دَخَلَ فِي صَلَاةٍ فَعَجَزَ عَنْ إِتْمَامِهَا قَائِمًا، وَعَنْ الرُّكُوعِ، وَعَنْ السُّجُودِ: سَقَطَ عَنْهُ مَا لَا يَقْدِرُ عَلَيْهِ مِنْ ذَلِكَ.

L13248 Whoever begins an obligatory fast then becomes incapable of fulfilling it is exempted and not held accountable; the same applies to voluntary acts. They stated here: whoever enters into obligatory Hajj, a voluntary act, or Umrah and becomes incapable of them is not exempted. Rather, he remains obligated to perform what he is incapable of, namely reaching the House.

وَمَنْ دَخَلَ فِي صَوْمِ فَرْضٍ فَعَجَزَ عَنْ إِتْمَامِهِ: سَقَطَ عَنْهُ وَلَمْ يُكَلَّفْهُ، وَكَذَلِكَ التَّطَوُّعُ، وَقَالُوا هَاهُنَا: مَنْ دَخَلَ فِي حَجِّ فَرْضٍ، أَوْ تَطَوُّعٍ، أَوْ عُمْرَةٍ، كَذَلِكَ فَعَجَزَ عَنْهُمَا: لَمْ يَسْقُطَا عَنْهُ، بَلْ هُوَ مُكَلَّفٌ مَا لَا يَقْدِرُ عَلَيْهِ مِنْ الْوُصُولِ إِلَى الْبَيْتِ.

## [مَسْأَلَةُ تَقْدِيمِ لَفْظَةِ الْعُمْرَةِ عَلَى الْحَجِّ أَوْ لَفْظَةِ الْحَجِّ عَلَى الْعُمْرَةِ]

L13249 **The Issue of Whether the Term *ʿUmrah* Precedes *Ḥajj* or Vice Versa.**

٨٣٤ - مَسْأَلَةٌ:

L13250 834 – Question:

وَأَمَّا جَوَازُ تَقْدِيمِ لَفْظَةِ الْعُمْرَةِ عَلَى الْحَجِّ، أَوْ لَفْظَةِ الْحَجِّ عَلَى الْعُمْرَةِ؛ فَلِأَنَّهُ قَالَ تَعَالَى: {وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ} [البقرة: ١٩٦] فَبَدَأَ بِلَفْظَةِ الْحَجِّ، وَصَحَّ «عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: لَبَّيْكَ عُمْرَةً وَحَجَّةً» وَصَحَّ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ: «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إِلَى يَوْمِ الْقِيَامَةِ» فَلَا نُبَالِي أَيُّ ذَلِكَ قُدِّمَ فِي اللَّفْظِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L13251 As for the permissibility of placing the term “Umrah” before “Hajj” or “Hajj” before “Umrah,” it is because Allah the Exalted said: {And complete the Hajj and Umrah for Allah} [Al-Baqarah: 196], thus beginning with the term “Hajj.” It is authentically reported from the Messenger of Allah—peace and blessings be upon him—that he said: “Labbayka, Umrah and Hajj!” and it is confirmed that he—peace be upon him—said: “Umrah is included within Hajj until the Day of Resurrection.” Therefore, we do not care which term is prioritized in speech—and success is from Allah the Exalted.[27]

## [مَسْأَلَةُ الْقَارِنُ إِذَا جَاءَ إِلَى مَكَّةَ]

L13252 **An issue concerning the Qārin (one combining Umrah and Hajj) when arriving in Makkah.**

٨٣٥ - مَسْأَلَةٌ:

L13253 835 - Issue:

فَإِذَا جَاءَ الْقَارِنُ إِلَى مَكَّةَ عَمِلَ فِي الطَّوَافِ وَالسَّعْيِ بَيْنَ الصَّفَا وَالْمَرْوَةِ كَمَا قُلْنَا فِي الْعُمْرَةِ إِلَّا أَنَّهُ يُسْتَحَبُّ لَهُ أَنْ يَرْمُلَ فِي الثَّلَاثِ، وَلَيْسَ ذَلِكَ فَرْضًا فِي الْحَجِّ ثُمَّ إِذَا أَتَمَّ ذَلِكَ أَقَامَ مُحْرِمًا [كَمَا هُوَ] إِلَى يَوْمِ مِنًى - وَهُوَ الثَّامِنُ مِنْ ذِي الْحِجَّةِ - فَإِذَا كَانَ الْيَوْمُ الْمَذْكُورُ

L13254 When the Qirān pilgrim arrives in Makkah, he performs the ṭawāf and saʿī between Ṣafā and Marwah as we described for the ʿUmrah, except that it is recommended for him to perform ramal during the first three circuits—

[27] **Qur’an references (L13251):** Qur’an 2:196 (Al-Baqarah).

though this is not obligatory in Hajj. Upon completing this, he remains in iḥrām as he is until the day of Minā (the eighth of Dhū al-Ḥijjah). When the aforementioned day arrives, those performing Tamattuʿ assume iḥrām for Hajj. Then the Qirān pilgrim and the Tamattuʿ pilgrim proceed to Minā, remaining there for their day and night. When the following day comes—the ninth of Dhū al-Ḥijjah—they all proceed to ʿArafah. There, the Imam and the people pray Ẓuhr after the Imam delivers a sermon. The mu'adhdhin then gives the adhān, followed by the iqāmah, and the Imam leads the people in Ẓuhr. After concluding Ẓuhr, the prayer is called to prayer with the iqāmah alone, without the adhān, and the Imam leads them in ʿAṣr immediately after the conclusion of Ẓuhr, following the sun's decline, without waiting for ʿAṣr's designated time as on other days. The people then stand in supplication. When the sun sets, they all proceed to Muzdalifah.

أَحْرَمَ بِالْحَجِّ مَنْ كَانَ مُتَمَتِّعًا ثُمَّ نَهَضَ الْقَارِنُ، وَالْمُتَمَتِّعُ إِلَى مِنًى فَيَبْقَيَانِ بِهَا نَهَارَهُمَا وَلَيْلَتَهُمَا فَإِذَا كَانَ مِنْ الْغَدِ - وَهُوَ الْيَوْمُ التَّاسِعُ مِنْ ذِي الْحِجَّةِ - نَهَضُوا كُلُّهُمْ إِلَى عَرَفَةَ فَيُصَلِّي هُنَالِكَ الْإِمَامُ وَالنَّاسُ الظُّهْرَ بَعْدَ أَنْ يَخْطُبَ النَّاسَ ثُمَّ يُؤَذِّنَ الْمُؤَذِّنُ، وَيُقِيمَ وَيُصَلِّيَ الظُّهْرَ بِالنَّاسِ، فَإِذَا سَلَّمَ مِنْ الظُّهْرِ أُقِيمَتْ الصَّلَاةُ إِقَامَةً بِلَا أَذَانٍ وَصَلَّى بِهِمْ الْعَصْرَ إِثْرَ سَلَامِهِ مِنْ الظُّهْرِ بَعْدَ زَوَالِ الشَّمْسِ لَا يَنْتَظِرُ وَقْتَ الْعَصْرِ كَمَا فِي سَائِرِ الْأَيَّامِ، ثُمَّ يَقِفُ النَّاسُ لِلدُّعَاءِ فَإِذَا غَابَتْ الشَّمْسُ نَهَضُوا كُلُّهُمْ إِلَى مُزْدَلِفَةَ.

L13255 If a person proceeds to Muzdalifah before sunset, there is no harm in that. He incurs no obligation—neither a sacrifice nor anything else—and his pilgrimage remains valid.

وَلَوْ نَهَضَ إِنْسَانٌ إِلَى مُزْدَلِفَةَ قَبْلَ غُرُوبِ الشَّمْسِ فَلَا حَرَجَ فِي ذَلِكَ، وَلَا شَيْءَ عَلَيْهِ - لَا دَمَ وَلَا غَيْرَهُ وَحَجُّهُ تَامٌّ.

L13256 When they reach Muzdalifah, the caller to prayer announces the adhan for Maghrib, then gives the iqama, and the imam leads the people in praying Maghrib. It is not valid for anyone to pray that prayer on that night before reaching Muzdalifah or before the twilight disappears. When the imam completes the prayer with the taslīm, the iqama is given without an adhan for the Isha prayer, and he leads the people in praying it. This night is the night of Eid al-Adha, and the people spend the night there. When true dawn emerges, the caller to prayer announces the adhan, the iqama is given, and the imam leads them in praying Fajr.

فَإِذَا أَتَوْا مُزْدَلِفَةَ أَذَّنَ الْمُؤَذِّنُ لِصَلَاةِ الْمَغْرِبِ، ثُمَّ أَقَامَ وَصَلَّى الْإِمَامُ بِالنَّاسِ صَلَاةَ الْمَغْرِبِ وَلَا يُجْزِئُ أَحَدًا أَنْ يُصَلِّيَهَا تِلْكَ اللَّيْلَةَ قَبْلَ مُزْدَلِفَةَ وَلَا قَبْلَ مَغِيبِ الشَّفَقِ، فَإِذَا - سَلَّمَ أُقِيمَ لِصَلَاةِ الْعَتَمَةِ إِقَامَةً بِلَا أَذَانٍ فَيُصَلِّيهَا بِالنَّاسِ، وَهِيَ لَيْلَةُ عِيدِ الْأَضْحَى وَيَبِيتُ النَّاسُ هُنَالِكَ، فَإِذَا انْصَدَعَ الْفَجْرُ أَذَّنَ الْمُؤَذِّنُ وَأُقِيمَتْ الصَّلَاةُ فَصَلَّى بِهِمْ الصُّبْحَ.

L13257–13258 Whoever does not stand at Arafat from after the sun's zenith on the Day of Arafah until the time required to depart from there, and does not attain the Fajr prayer at Muzdalifah with the Imam—his Hajj is invalid if he is a man. And whoever does not attain the Fajr prayer with the Imam at Muzdalifah—his Hajj is invalid if he is a man.

وَمَنْ لَمْ يَقِفْ بِعَرَفَةَ مِنْ بَعْدِ زَوَالِ الشَّمْسِ مِنْ يَوْمِ عَرَفَةَ إِلَى مِقْدَارِ مَا يُدْفَعُ مِنْهَا وَيُدْرِكُ بِمُزْدَلِفَةَ صَلَاةَ الصُّبْحِ مَعَ الْإِمَامِ - فَقَدْ بَطَلَ حَجُّهُ إِنْ كَانَ رَجُلًا، وَمَنْ لَمْ يُدْرِكْ مَعَ الْإِمَامِ بِمُزْدَلِفَةَ صَلَاةَ الصُّبْحِ فَقَدْ بَطَلَ حَجُّهُ إِنْ كَانَ رَجُلًا.

L13259 As for women, if they stay at Arafat until before the rising of dawn on the Day of Sacrifice or depart from Arafat after remembering Allah—Exalted

is He—therein, their Hajj is valid. Whoever among them does not stay at Arafat neither on the day of Arafah nor during the night leading into the Day of Sacrifice until dawn broke, her Hajj is invalid. And whoever among them does not stay at Muzdalifah after staying at Arafat while remembering Allah—Exalted is He—therein until the sun rose on the Day of Sacrifice, her Hajj is invalid.

وَأَمَّا النِّسَاءُ فَإِنْ وَقَفْنَ بِعَرَفَةَ إِلَى قَبْلِ طُلُوعِ الْفَجْرِ مِنْ يَوْمِ النَّحْرِ أَوْ دَفَعْنَ مِنْ عَرَفَةَ بَعْدَ ذِكْرِهِنَّ اللَّهَ - تَعَالَى - فِيهَا أَجْزَأَهُنَّ الْحَجُّ، وَمَنْ لَمْ يَقِفْ مِنْهُنَّ بِعَرَفَةَ لَا يَوْمَ عَرَفَةَ وَلَا لَيْلَةَ يَوْمِ النَّحْرِ حَتَّى طَلَعَ الْفَجْرُ، فَقَدْ بَطَلَ حَجُّهَا، وَمَنْ لَمْ تَقِفْ مِنْهُنَّ بِمُزْدَلِفَةَ بَعْدَ وُقُوفِهَا بِعَرَفَةَ وَتَذْكُرُ اللَّهَ - تَعَالَى - فِيهَا حَتَّى طَلَعَتْ الشَّمْسُ مِنْ يَوْمِ النَّحْرِ، فَقَدْ بَطَلَ حَجُّهَا.

L13260 When the Imam prays the dawn prayer with the people at Muzdalifah as we mentioned, they stand to supplicate. When the sky brightens before sunrise, they all depart to Mina. Upon arriving at Mina, we prefer for them to apply perfume after stoning Jamrah al-ʿAqabah with seven pebbles, declaring *Allāhu Akbar* with each pebble. They must not cease the Talbiyah from when they assume Ihrām for Hajj at Masjid al-Khayf or for Qirān at the Miqāt, except upon completing the stoning of the seven pebbles. When they stone it as we described, their Ihrām is completed, and they shave or cut their hair short, with shaving being superior for men.

فَإِذَا صَلَّى الْإِمَامُ كَمَا ذَكَرْنَا بِمُزْدَلِفَةَ صَلَاةَ الصُّبْحِ بِالنَّاسِ وَقَفُوا لِلدُّعَاءِ، فَإِذَا أَسْفَرَ قَبْلَ طُلُوعِ الشَّمْسِ دَفَعُوا كُلُّهُمْ إِلَى مِنًى، فَإِذَا أَتَوْا مِنًى أَحْبَبْنَا لَهُمْ التَّطَيُّبَ بَعْدَ أَنْ يَرْمُوا جَمْرَةَ الْعَقَبَةِ بِسَبْعِ حَصَيَاتٍ يُكَبِّرُونَ مَعَ كُلِّ حَصَاةٍ، وَلَا يَقْطَعُونَ التَّلْبِيَةَ مُذْ يُهِلُّونَ بِالْحَجِّ مِنْ الْمَسْجِدِ، أَوْ بِالْقِرَانِ مِنْ الْمِيقَاتِ إِلَّا مَعَ تَمَامِ رَمْيِ السَّبْعِ حَصَيَاتٍ، فَإِذَا رَمَوْهَا كَمَا ذَكَرْنَا فَقَدْ تَمَّ إحْرَامُهُمْ وَيَحْلِقُونَ أَوْ يُقَصِّرُونَ، وَالْحَلْقُ أَفْضَلُ لِلرِّجَالِ.

L13261 They slaughter the sacrificial animal if they have one. Thereafter, all garments forbidden to those in Ihrām become permissible for them. They may hunt in areas outside the Haram boundaries and use perfume, except during intercourse itself.

وَيَنْحَرُونَ الْهَدْيَ إِنْ كَانَ مَعَهُمْ، ثُمَّ قَدْ حَلَّ لَهُمْ كُلُّ مَا كَانَ مِنْ اللِّبَاسِ حَرَامًا عَلَى الْمُحْرِمِ، وَحَلَّ لَهُمْ التَّصَيُّدُ فِي الْحِلِّ، وَالتَّطَيُّبُ حَاشَا الْوَطْءَ فَقَطْ.

L13262 If they depart on their day to Makkah, circumambulate the House seven times without *khabab* in any of them, then perform Saʿī between Ṣafā and Marwah seven times—whether they are Tamattuʿ pilgrims or Qirān pilgrims who did not perform Saʿī between them upon their initial entry—then the entire Hajj or Qirān is completed, and sexual intercourse becomes permissible for them.

فَإِنْ نَهَضُوا مِنْ يَوْمِهِمْ إِلَى مَكَّةَ فَطَافُوا بِالْبَيْتِ سَبْعًا لَا خَبَبَ فِي شَيْءٍ مِنْهَا ثُمَّ سَعَى بَيْنَ الصَّفَا وَالْمَرْوَةِ سَبْعًا - إِنْ كَانَ مُتَمَتِّعًا، أَوْ إِنْ كَانَ لَمْ يَسْعَ بَيْنَهُمَا أَوَّلَ دُخُولِهِ إِنْ كَانَ قَارِنًا - فَقَدْ تَمَّ الْحَجُّ كُلُّهُ، أَوْ الْقِرَانُ كُلُّهُ وَحَلَّ لَهُمْ الْوَطْءُ.

L13263 They return to Mina and stay there for three days after the Day of Sacrifice. Each day after midday, they stone the three Jamarat with seven pebbles—seven pebbles, seven pebbles, seven pebbles—beginning with the farthest, then the middle, then Jamrah al-Aqabah, which the pilgrim had stoned on the Day of Sacrifice. The pilgrim stands for supplication at the first two

وَيَرْجِعُونَ إِلَى مِنًى فَيُقِيمُونَ بِهَا ثَلَاثَةَ أَيَّامٍ بَعْدَ يَوْمِ النَّحْرِ يَرْمُونَ كُلَّ يَوْمٍ بَعْدَ زَوَالِ الشَّمْسِ الْجَمَرَاتِ الثَّلَاثَ بِسَبْعِ حَصَيَاتٍ، سَبْعِ حَصَيَاتٍ، سَبْعِ حَصَيَاتٍ: يَبْدَأُ

Jamarat but does not stand at Jamrah al-Aqabah. When this is completed, all the rites of the pilgrim are fully completed.

بِالْقُصْوَى، ثُمَّ بِالَّتِي تَلِيهَا، ثُمَّ جَمْرَةِ الْعَقَبَةِ الَّتِي رَمَى يَوْمَ النَّحْرِ يَقِفُ عِنْدَ الْأُولَيَيْنِ لِلدُّعَاءِ، وَلَا يَقِفُ عِنْدَ جَمْرَةِ الْعَقَبَةِ؛ فَإِذَا تَمَّ ذَلِكَ، فَقَدْ تَمَّ جَمِيعُ [عَمَلِ] الْحَاجِّ.

L13264 The Qārin must eat, and it is obligatory for him to have brought the sacrificial animal with himself. He must also distribute it as ṣadaqah, and this is obligatory.

وَيَأْكُلُ الْقَارِنُ وَلَا بُدَّ مِنْ الْهَدْيِ الَّذِي سَاقَ مَعَ نَفْسِهِ وَيَتَصَدَّقُ مِنْهُ وَلَا بُدَّ.

L13265–13267 As for the *Mutamatti*, if he is not from the people of Mecca or the Sacred Sanctuary, and his household is not residing there with him, it is incumbent upon him to offer a sacrificial animal: either a head of camel or a head of cow, a sheep, or a shared portion in a head of camel or a head of cow among ten individuals or fewer—we do not mind. Whether they were performing Tamattu‘ or not, it is the same whether some of them intended his share for eating, for sale, or for the Hady. It is not valid for him to offer it unless he has entered the state of Ihram for Hajj and slaughters it in Makkah or Mina without fail, or at any time thereafter.

فَأَمَّا الْمُتَمَتِّعُ فَإِنْ كَانَ مِنْ غَيْرِ أَهْلِ مَكَّةَ وَالْحَرَمِ، وَلَمْ يَكُنْ أَهْلُهُ مَعَهُ قَاطِنِينَ هُنَالِكَ: فَفَرْضٌ عَلَيْهِ أَنْ يُهْدِيَ هَدْيًا، وَلَا بُدَّ -: إمَّا رَأْسٌ مِنْ الْإِبِلِ، أَوْ مِنْ الْبَقَرِ، وَإِمَّا شَاةٌ، وَإِمَّا نَصِيبٌ مُشْتَرَكٌ فِي رَأْسٍ مِنْ الْإِبِلِ، أَوْ فِي رَأْسٍ مِنْ الْبَقَرِ بَيْنَ عَشَرَةِ أَنْفُسٍ فَأَقَلَّ - لَا نُبَالِي مُتَمَتِّعِينَ كَانُوا أَوْ غَيْرَ مُتَمَتِّعِينَ، وَسَوَاءٌ أَرَادَ بَعْضُهُمْ حِصَّتَهُ لِلْأَكْلِ، أَوْ لِلْبَيْعِ، أَوْ لِلَّهِ دْيِ، وَلَا يُجْزِئُهُ أَنْ يُهْدِيَهُ إلَّا بَعْدَ أَنْ يُحْرِمَ بِالْحَجِّ وَيَذْبَحَهُ بِمَكَّةَ أَوْ بِمِنًى وَلَا بُدَّ، أَوْ مَتَى شَاءَ بَعْدَ ذَلِكَ.

L13268 If he is unable to offer a sacrificial animal, his obligation is to fast three days between entering the state of consecration for Hajj and the first day of the Day of Sacrifice. If he misses this period, he must delay the Tawaf of Ifadah—which is the Tawaf we mentioned on the Day of Sacrifice—until the Days of Tashreeq have ended. Then he must fast the three days, perform the Tawaf of Ifadah after completing those days of fasting, and then fast seven days once he has returned after completing all Hajj rites entirely with nothing remaining. If his family resides in Mecca and he is performing Hajj al-Tamattu’, he is not obligated to offer a sacrificial animal or fast, and he has acted righteously in all of that.

فَإِنْ لَمْ يَقْدِرْ عَلَى هَدْيٍ فَفَرْضُهُ أَنْ يَصُومَ ثَلَاثَةَ أَيَّامٍ مَا بَيْنَ أَنْ يُحْرِمَ بِالْحَجِّ إلَى أَوَّلِ يَوْمٍ مِنْ النَّحْرِ، فَإِنْ فَاتَهُ ذَلِكَ فَلْيُؤَخِّرْ طَوَافَ الْإِفَاضَةِ - وَهُوَ الطَّوَافُ الَّذِي ذَكَرْنَا يَوْمَ النَّحْرِ - إلَى أَنْ تَنْقَضِيَ أَيَّامُ التَّشْرِيقِ، ثُمَّ يَصُومَ الثَّلَاثَةَ الْأَيَّامَ؛ ثُمَّ يَطُوفَ بَعْدَ تَمَامِ صِيَامِهِنَّ طَوَافَ الْإِفَاضَةِ؛ ثُمَّ يَصُومَ سَبْعَةَ أَيَّامٍ إذَا رَجَعَ مِنْ عَمَلِ الْحَجِّ كُلِّهِ وَلَمْ يَبْقَ مِنْهُ شَيْءٌ؛ فَإِنْ كَانَ أَهْلُهُ بِمَكَّةَ لَمْ يَلْزَمْهُ إنْ كَانَ مُتَمَتِّعًا هَدْيٌ، وَلَا صِيَامٌ، وَهُوَ مُحْسِنٌ فِي كُلِّ ذَلِكَ.

## [نسك التَّمَتُّع]

## the rite of at-Tamattu‘

L13269

L13270 The Mutamatti’ (one performing Hajj al-Tamattu’) is one who performs Umrah while his household is not among the residents of the Sacred Sanctuary, then performs Hajj in the same year—whether he returns to his homeland,

goes back to the Miqat, or does not return. The validity of the sacrificial animal is not affected even if [the pilgrim] does not halt at Arafah, nor is a sacrificial animal obligatory upon the Qarin (one performing combined Hajj and Umrah)—whether a Meccan resident or otherwise—except for the sacrificial animal that was physically present with him at the time of his Ihram.

L13271 Whoever among those we have mentioned intends to depart from Mecca must ensure that the final act he performs is to circumambulate the Kaaba seven times. He must then depart immediately afterward, with no intervening acts—this is obligatory. If he delays for any reason, he must repeat the circumambulation when he intends to leave Mecca. If he departs without performing it, he is obligated to return without exception—even from the farthest corners of the earth—until his final act in Mecca is the circumambulation of the Kaaba.

L13272 **He omitted part of a shawṭ (circuit) in the Tawāf al-Ifāḍah - the post-return circumambulation - until he exited.**

L13273 Whoever omits any part of the Ifadah Tawaf—even a portion of one circuit—before exiting the ritual area is obligated to return and complete it. If the pilgrim departs before completing it, their Hajj is invalidated.

L13274 **He did not stone Jamrat al-Aqabah on the Day of Sacrifice nor during the remaining days of Dhu al-Hijjah.**

L13275 Whoever does not stone Jamrat al-Aqaba on the Day of Sacrifice or the remainder of Dhu al-Hijjah has invalidated his Hajj. For the *Qarin*, a single Tawaf suffices for both his Umrah and Hajj, just as it does for the *Mufrid* in Hajj, with no difference.

L13276–13280 The proof of this is what was narrated to us by Abdullah ibn Yusuf, from Ahmad ibn Fath, from Abd al-Wahhab ibn Isa, from Ahmad ibn Muhammad, from Ahmad ibn Ali, from Muslim ibn al-Hajjaj, from Abu Bakr ibn Abi Shaybah and Ishaq ibn Ibrahim (Ibn Rahawayh)—all from Hatim ibn Ismail, from Ja'far ibn Muhammad ibn Ali ibn al-Husayn, from his father (...). He said: "I said to Jabir ibn Abdullah: 'Inform me...'" Regarding the Farewell

وَالْمُتَمَتِّعُ هُوَ مَنْ اعْتَمَرَ مِمَّنْ لَيْسَ أَهْلُهُ مِنْ سُكَّانِ الْحَرَمِ ثُمَّ حَجَّ مِنْ عَامِهِ سَوَاءٌ رَجَعَ إِلَى بَلَدِهِ، أَوْ إِلَى الْمِيقَاتِ، أَوْ لَمْ يَرْجِعْ، وَلَا يَضُرُّ الْهَدْيَ أَنْ لَا يُوقَفَ بِعَرَفَةَ، وَلَا هَدْيَ عَلَى الْقَارِنِ - مَكِّيًّا كَانَ أَوْ غَيْرَ مَكِّيٍّ - حَاشَا الْهَدْيَ الَّذِي كَانَ مَعَهُ عِنْدَ إِحْرَامِهِ.

فَمَنْ أَرَادَ مِمَّنْ ذَكَرْنَا أَنْ يَخْرُجَ عَنْ مَكَّةَ فَلْيَجْعَلْ آخِرَ عَمَلٍ يَعْمَلُهُ أَنْ يَطُوفَ بِالْبَيْتِ سَبْعًا، ثُمَّ يَخْرُجَ إِثْرَ تَمَامِهِ مَوْصُولًا بِهِ وَلَا بُدَّ؛ فَإِنْ تَرَدَّدَ لِأَمْرٍ مَا أَعَادَ الطَّوَافَ إِذَا أَرَادَ الْخُرُوجَ عَنْ مَكَّةَ، فَإِنْ خَرَجَ وَلَمْ يَطُفْ فَفَرْضٌ عَلَيْهِ الرُّجُوعُ وَلَا بُدَّ - وَلَوْ مِنْ أَقْصَى الدُّنْيَا - حَتَّى يَجْعَلَ آخِرَ عَمَلِهِ بِمَكَّةَ الطَّوَافَ بِالْبَيْتِ

## [تَرَكَ مِنْ طَوَافِ الْإِفَاضَةِ بَعْضَ شَوْطٍ حَتَّى خَرَجَ]

وَمَنْ تَرَكَ مِنْ طَوَافِ الْإِفَاضَةِ - وَلَوْ بَعْضَ شَوْطٍ حَتَّى خَرَجَ -: فَفَرْضٌ عَلَيْهِ الرُّجُوعُ حَتَّى يُتِمَّهُ؛ فَإِنْ خَرَجَ ذُو الْحِجَّةِ قَبْلَ أَنْ يُتِمَّهُ فَقَدْ بَطَلَ حَجُّهُ.

## [لَمْ يَرْمِ جَمْرَةَ الْعَقَبَةِ يَوْمَ النَّحْرِ أَوْ بَاقِيَ ذِي الْحِجَّةِ]

وَمَنْ لَمْ يَرْمِ جَمْرَةَ الْعَقَبَةِ يَوْمَ النَّحْرِ أَوْ بَاقِيَ ذِي الْحِجَّةِ فَقَدْ بَطَلَ حَجُّهُ؛ وَيُجْزِئُ الْقَارِنَ طَوَافٌ وَاحِدٌ لِعُمْرَتِهِ وَحَجِّهِ، كَالْمُفْرِدِ بِالْحَجِّ وَلَا فَرْقَ.

بُرْهَانُ ذَلِكَ: مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ يُوسُفَ نَا أَحْمَدُ بْنُ فَتْحٍ نَا عَبْدُ الْوَهَّابِ بْنُ عِيسَى نَا أَحْمَدُ بْنُ مُحَمَّدٍ نَا أَحْمَدُ بْنُ عَلِيٍّ نَا مُسْلِمُ بْنُ الْحَجَّاجِ نَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - جَمِيعًا عَنْ حَاتِمِ بْنِ إِسْمَاعِيلَ عَنْ جَعْفَرِ بْنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ عَنْ أَبِيهِ (...) قَالَ: قُلْتُ لِجَابِرِ بْنِ عَبْدِ اللَّهِ: أَخْبِرْنِي عَنْ حَجَّةِ الْوَدَاعِ؟

فَقَالَ جَابِرٌ - فَذَكَرَ حَدِيثًا - وَفِيهِ «فَخَرَجْنَا مَعَهُ حَتَّى أَتَيْنَا ذَا الْحُلَيْفَةِ - فَذَكَرَ كَلَامًا - ثُمَّ قَالَ فَصَلَّى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الْمَسْجِدِ، ثُمَّ رَكِبَ الْقَصْوَاءَ - فَذَكَرَ كَلَامًا - ثُمَّ قَالَ: حَتَّى إِذَا أَتَيْنَا الْبَيْتَ مَعَهُ اسْتَلَمَ الرُّكْنَ فَرَمَلَ ثَلَاثًا وَمَشَى أَرْبَعًا، ثُمَّ نَفَذَ إِلَى مَقَامِ إِبْرَاهِيمَ فَقَرَأَ {وَاتَّخِذُوا مِنْ مَقَامِ إِبْرَاهِيمَ مُصَلًّى} [البقرة: ١٢٥] فَجَعَلَ الْمَقَامَ بَيْنَهُ وَبَيْنَ الْبَيْتِ. . . ثُمَّ رَجَعَ إِلَى الرُّكْنِ فَاسْتَلَمَهُ، ثُمَّ خَرَجَ مِنْ الْبَابِ إِلَى الصَّفَا، فَلَمَّا دَنَا مِنْ الصَّفَا قَرَأَ {إِنَّ الصَّفَا وَالْمَرْوَةَ مِنْ شَعَائِرِ اللَّهِ} [البقرة: ١٥٨] أَبْدَأُ بِمَا بَدَأَ اللَّهُ بِهِ، فَبَدَأَ بِالصَّفَا فَرَقِيَ عَلَيْهِ حَتَّى رَأَى الْبَيْتَ فَاسْتَقْبَلَ الْقِبْلَةَ، فَوَحَّدَ اللَّهَ وَكَبَّرَهُ وَقَالَ: لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، لَهُ الْمُلْكُ، وَلَهُ الْحَمْدُ، وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ، لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ، أَنْجَزَ وَعْدَهُ، وَنَصَرَ عَبْدَهُ، وَهَزَمَ الْأَحْزَابَ وَحْدَهُ. ثُمَّ دَعَا بَيْنَ ذَلِكَ قَالَ مِثْلَ هَذَا ثَلَاثَ مَرَّاتٍ، ثُمَّ نَزَلَ إِلَى الْمَرْوَةِ حَتَّى انْصَبَّتْ قَدَمَاهُ فِي بَطْنِ الْوَادِي حَتَّى إِذَا صَعِدَتَا مَشَى حَتَّى أَتَى الْمَرْوَةَ قَالَ: لَوْ أَنِّي اسْتَقْبَلْتُ مِنْ أَمْرِي مَا اسْتَدْبَرْتُ لَمْ أَسُقْ الْهَدْيَ وَجَعَلْتُهَا عُمْرَةً، فَمَنْ كَانَ مِنْكُمْ لَيْسَ مَعَهُ هَدْيٌ فَلْيَحِلَّ وَلْيَجْعَلْهَا عُمْرَةً فَقَامَ سُرَاقَةُ بْنُ مَالِكِ بْنِ جُعْشُمٍ فَقَالَ: يَا رَسُولَ اللَّهِ أَلِعَامِنَا هَذَا أَمْ لِلْأَبَدِ؟ - فَشَبَّكَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَصَابِعَهُ وَاحِدَةً فِي الْأُخْرَى وَقَالَ: دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ مَرَّتَيْنِ - لَا، بَلْ لِأَبَدِ أَبَدٍ، وَقَدِمَ عَلِيٌّ مِنْ الْيَمَنِ بِبُدْنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَوَجَدَ فَاطِمَةَ مِمَّنْ حَلَّ، وَلَبِسَتْ ثِيَابًا صَبِيغًا فَأَنْكَرَ ذَلِكَ عَلَيْهَا فَقَالَتْ: إِنِّي أُمِرْتُ بِهَذَا. . . فَأَخْبَرَ عَلِيٌّ بِذَلِكَ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: صَدَقَتْ صَدَقَتْ مَاذَا قُلْتَ حِينَ فَرَضْتَ الْحَجَّ؟ قَالَ: قُلْتُ: اللَّهُمَّ إِنِّي أُهِلُّ بِمَا أَهَلَّ بِهِ رَسُولُكَ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: فَإِنَّ مَعِي الْهَدْيَ فَلَا تَحِلُّ. . . فَحَلَّ النَّاسُ كُلُّهُمْ

Pilgrimage? Jābir said—he related a narration—and within it: "We departed with him until we reached Dhul-Hulayfah"—he mentioned some details—then said: "Allah's Messenger (peace be upon him) prayed in the mosque, then mounted Al-Qaṣwā"—he related further—then said: "When we reached the House with him, he touched the Black Stone, performed Ramal three times and walked four times. He then proceeded to the Station of Ibrāhīm and recited: {Take the Station of Ibrāhīm as a place of prayer} [2:125], placing the Station between himself and the Kaʿbah... He returned to the Black Stone, touched it, then exited through the gate toward Ṣafā. As he approached Ṣafā, he recited: {Indeed, Ṣafā and Marwah are among the symbols of Allah} [2:158], saying: 'I begin with what Allah began.' He ascended Ṣafā until he saw the Kaʿbah, faced the qiblah, declared Allah's oneness, glorified Him, and proclaimed: 'There is no deity but Allah alone, with no partner. To Him belongs all sovereignty and praise, and He is omnipotent. There is no deity but Allah alone—He fulfilled His promise, granted victory to His servant, and vanquished the confederates alone.' He supplicated between that similarly three times, then descended to Marwah, hastening until his feet sank into the valley's base. When ascending, he walked until reaching Marwah. He then said: 'Had I known beforehand what I later realized, I would not have driven sacrificial animals and would have made this an ʿUmrah. Let whoever among you has no sacrificial animal exit iḥrām and make it ʿUmrah.' Surāqah ibn Mālik ibn Juʿshum stood and asked: 'O Messenger of Allah, is this for our year alone or forever?' Allah's Messenger (peace be upon him) intertwined his fingers once into the other and said: "ʿUmrah has been incorporated into Ḥajj twice. No, rather it is forever, forever." ʿAlī arrived from Yemen with the Prophet's sacrificial camels and found Fāṭimah among those who had exited iḥrām, wearing dyed garments. He objected to her, and she said: 'I was commanded to do this...' ʿAlī informed the Prophet (peace be upon him), who affirmed: 'She spoke truthfully. What did you say when you undertook Ḥajj?' ʿAlī replied: 'I said: "O Allah, I commence as Your Messenger commenced."' The Prophet said: 'I have sacrificial animals; thus, do not exit iḥrām...' All people exited iḥrām and shortened their hair except the Prophet and those with sacrificial animals. On the Day of Tarwiyah, they departed to Minā, entering iḥrām for Ḥajj. Allah's Messenger (peace be upon him)

وَقَصَّرُوا إِلَّا النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَمَنْ كَانَ مَعَهُ هَدْيٌ، فَلَمَّا كَانَ يَوْمُ التَّرْوِيَةِ تَوَجَّهُوا إِلَى مِنًى فَأَهَلُّوا بِالْحَجِّ وَرَكِبَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَصَلَّى بِهَا الظُّهْرَ وَالْعَصْرَ وَالْمَغْرِبَ وَالْعِشَاءَ وَالْفَجْرَ، ثُمَّ مَكَثَ قَلِيلًا حَتَّى طَلَعَتْ الشَّمْسُ وَأَمَرَ بِقُبَّةٍ مِنْ شَعَرٍ فَضُرِبَتْ لَهُ بِنَمِرَةَ فَسَارَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. . . حَتَّى أَتَى عَرَفَةَ. . . فَنَزَلَ فِي الْقُبَّةِ بِنَمِرَةَ حَتَّى إِذَا زَاغَتْ الشَّمْسُ أَمَرَ بِالْقَصْوَاءِ فَرُحِلَتْ لَهُ فَأَتَى بَطْنَ الْوَادِي فَخَطَبَ النَّاسَ فَقَالَ: إِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا - ثُمَّ ذَكَرَ كَلَامًا كَثِيرًا - ثُمَّ أَذَّنَ، ثُمَّ أَقَامَ فَصَلَّى الظُّهْرَ ثُمَّ أَقَامَ فَصَلَّى الْعَصْرَ وَلَمْ يُصَلِّ بَيْنَهُمَا شَيْئًا، ثُمَّ رَكِبَ - عَلَيْهِ السَّلَامُ - حَتَّى أَتَى الْمَوْقِفَ فَجَعَلَ بَطْنَ نَاقَتِهِ الْقَصْوَاءِ إِلَى الصَّخَرَاتِ، وَجَعَلَ حَبْلَ الْمُشَاةِ بَيْنَ يَدَيْهِ وَاسْتَقْبَلَ الْقِبْلَةَ فَلَمْ يَزَلْ وَاقِفًا حَتَّى غَرَبَتْ الشَّمْسُ وَذَهَبَتْ الصُّفْرَةُ قَلِيلًا. . . وَأَرْدَفَ أُسَامَةَ خَلْفَهُ وَدَفَعَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَدْ شَنَقَ لِلْقَصْوَاءِ الزِّمَامَ، وَقَالَ: أَيُّهَا النَّاسُ السَّكِينَةَ السَّكِينَةَ، كُلَّمَا أَتَى جَبَلًا مِنْ الْجِبَالِ أَرْخَى لَهَا قَلِيلًا حَتَّى تَصْعَدَ، حَتَّى أَتَى الْمُزْدَلِفَةَ فَصَلَّى بِهَا الْمَغْرِبَ وَالْعِشَاءَ بِأَذَانٍ وَاحِدٍ وَإِقَامَتَيْنِ، وَلَمْ يُسَبِّحْ بَيْنَهُمَا شَيْئًا، ثُمَّ اضْطَجَعَ - عَلَيْهِ السَّلَامُ - حَتَّى طَلَعَ الْفَجْرُ فَصَلَّى الْفَجْرَ حِينَ تَبَيَّنَ لَهُ الصُّبْحُ بِأَذَانٍ وَإِقَامَةٍ، ثُمَّ رَكِبَ الْقَصْوَاءَ حَتَّى أَتَى الْمَشْعَرَ الْحَرَامَ فَاسْتَقْبَلَ الْقِبْلَةَ فَدَعَا اللَّهَ تَعَالَى وَكَبَّرَهُ وَهَلَّلَهُ وَوَحَّدَهُ، فَلَمْ يَزَلْ وَاقِفًا حَتَّى أَسْفَرَ جِدًّا فَدَفَعَ قَبْلَ أَنْ تَطْلُعَ الشَّمْسُ، وَأَرْدَفَ الْفَضْلَ بْنَ الْعَبَّاسِ حَتَّى أَتَى بَطْنَ مُحَسِّرٍ فَحَرَّكَ قَلِيلًا، ثُمَّ سَلَكَ الطَّرِيقَ الْوُسْطَى الَّتِي تَخْرُجُ عَلَى الْجَمْرَةِ الْكُبْرَى حَتَّى أَتَى الْجَمْرَةَ الَّتِي عِنْدَ الشَّجَرَةِ فَرَمَاهَا بِسَبْعِ حَصَيَاتٍ يُكَبِّرُ مَعَ كُلِّ حَصَاةٍ مِنْهَا مِثْلَ حَصَى الْخَذْفِ، رَمَى مِنْ بَطْنِ

rode and prayed Dhuhr, ʿAṣr, Maghrib, ʿIshāʾ, and Fajr there. After sunrise, he ordered a goat-hair tent pitched at Namirah. He then journeyed until reaching ʿArafah... He remained in the tent until the sun passed its zenith, then commanded Al-Qaṣwā be saddled. Proceeding to the valley's center, he addressed the people: 'Your blood and wealth are sacred to you as the inviolability of your day this, in your month this, in your land this...' He continued extensively—then gave the adhān, followed by the iqāmah, and prayed Dhuhr. Then he gave the iqāmah and prayed ʿAṣr." He did not perform any voluntary prayers between them; then he rode—peace be upon him—until he reached *ʻArafah*, positioning the belly of his she-camel Al-Qaṣwā' toward the rocks, placing the path of those on foot before him, and facing the *qiblah*. He remained standing until the sun set and the yellow twilight had subsided slightly… He seated Usāmah behind him, and the Messenger of Allah—may Allah bless him and grant him peace—departed, tightening Al-Qaṣwā's reins, saying, "O people, remain calm! Remain calm!" Whenever he approached a mountain, he slackened the reins slightly for her to ascend until reaching *Muzdalifah*. There he prayed *Maghrib* and *'Ishā'* with one *adhān* and two *iqāmahs*, without performing any voluntary prayers between them. Then he lay down—peace be upon him—until dawn appeared. He prayed *Fajr* when the dawn became distinct to him, with an *adhān* and *iqāmah*. Then he mounted Al-Qaṣwā' until reaching *Mashʿar al-Ḥarām*, faced the *qiblah*, supplicated to Allah the Exalted, uttered *Takbīr* ("Allāhu Akbar"), declared *Tahlīl* ("Lā ilāha illā Allāh"), and affirmed *Tawḥīd* (divine oneness). He remained standing until full daylight emerged, then departed before sunrise, seating Al-Faḍl ibn ʿAbbās behind him until reaching the valley of Muḥassir, where he urged his camel forward briefly. He then took the middle path leading to the major *Jamrah*, arriving at the *Jamrah* near the tree. He stoned it with seven pebbles—the size of those used for pelting—uttering "Allāhu Akbar" with each, throwing from the valley's bed. He proceeded to the slaughtering place, sacrificing sixty-three camels. He instructed ʿAlī to slaughter the remainder, sharing in his offering. He ordered a portion from each camel to be placed in a pot, cooked it, and they ate the meat and drank the broth. The Messenger of Allah—may Allah bless him and grant him peace—then rode and proceeded to the House, praying

*Ẓuhr* in Mecca. He went to *Zamzam*, took a bucket, and drank from it.[28][29]

الْوَادِي، ثُمَّ انْصَرَفَ إِلَى الْمَنْحَرِ فَنَحَرَ ثَلَاثًا وَسِتِّينَ بَدَنَةً ثُمَّ أَعْطَى عَلِيًّا فَنَحَرَ مَا غَبَرَ وَأَشْرَكَهُ فِي هَدْيِهِ. ثُمَّ أَمَرَ مِنْ كُلِّ بَدَنَةٍ بِبِضْعَةٍ فَجُعِلَتْ فِي قِدْرٍ فَطُبِخَتْ فَأَكَلَا مِنْ لَحْمِهَا وَشَرِبَا مِنْ مَرَقِهَا، ثُمَّ رَكِبَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَأَفَاضَ إِلَى الْبَيْتِ فَصَلَّى بِمَكَّةَ الظُّهْرَ. ثُمَّ أَتَى زَمْزَمَ فَتَنَاوَلَ دَلْوًا فَشَرِبَ مِنْهُ» .

L13281 Abū Muḥammad said: All that is in this narration—supplication, manner of walking, and the like—do not avoid any part of it, for all of it is a recommended Sunnah.

قَالَ أَبُو مُحَمَّد: كُلُّ مَا فِي هَذَا الْخَبَرِ مِنْ دُعَاءٍ، وَصِفَةِ مَشْيٍ، وَغَيْرِ ذَلِكَ لَا تَحَاشَ شَيْئًا، فَهُوَ كُلُّهُ سُنَّةٌ مُسْتَحَبَّةٌ

L13282 ## He departed from ʿArafah before sunset.

## [دَفَعَ مِنْ عَرَفَةَ قَبْلَ غُرُوبِ الشَّمْسِ]

L13283 As for our statement: "Whoever proceeds from Arafah before sunset, their Hajj is complete, and no obligation remains upon them," and the obligation of the prescribed standing at Arafah as we mentioned—this is based on what Abdullah ibn Rabīʿ narrated to us, Muḥammad ibn Muʿāwiyah narrated to us, Aḥmad ibn Shuʿayb narrated to us, Isḥāq ibn Ibrāhīm narrated to us, Wakīʿ narrated to us, Sufyān al-Thawrī narrated from Bukayr ibn ʿAṭāʾ, from ʿAbd al-Raḥmān ibn Yaʿmur al-Dīlī, who said: "I witnessed the Messenger of Allah—peace and blessings be upon him—at Arafah when he was asked about Hajj. He replied: 'Hajj is Arafah. Whoever attains the night of Arafah before the dawn of the night of Jamʿ has indeed fulfilled it.'"

وَأَمَّا قَوْلُنَا: مَنْ دَفَعَ مِنْ عَرَفَةَ قَبْلَ غُرُوبِ الشَّمْسِ فَحَجُّهُ تَامٌّ وَلَا شَيْءَ عَلَيْهِ، وَوُجُوبُ فَرْضِ الْوُقُوفِ بِعَرَفَةَ كَمَا ذَكَرْنَا -: فَلِمَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ أَنَا وَكِيعٌ نَا سُفْيَانُ هُوَ الثَّوْرِيُّ - عَنْ بُكَيْرِ بْنِ عَطَاءٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَعْمُرَ الدِّيلِيِّ قَالَ «شَهِدْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِعَرَفَةَ - وَسُئِلَ عَنْ الْحَجِّ -؟ فَقَالَ: الْحَجُّ عَرَفَةُ فَمَنْ أَدْرَكَ لَيْلَةَ عَرَفَةَ قَبْلَ طُلُوعِ الْفَجْرِ مِنْ لَيْلَةِ جَمْعٍ فَقَدْ أَدْرَكَ» .

L13284–13285 And through him to Aḥmad ibn Shuʿayb: I am Ismāʿīl ibn Masʿūd al-Jaḥdarī, from Khālid—that is, ibn al-Ḥārith—from Shuʿbah, from ʿAbd Allāh ibn Abī al-Safar, who said: I heard al-Shaʿbī say: ʿUrwah ibn Muḍarris ibn Aws ibn Ḥārithah ibn Lām al-Ṭāʾī narrated to me, saying: I came to the Messenger of Allah—peace and blessings be upon him—at Jamʿ and asked him, "Do I have a valid Hajj?" He replied, "Whoever prayed this prayer with us, performed the

وَبِهِ إِلَى أَحْمَدَ بْنِ شُعَيْبٍ أَنَا إِسْمَاعِيلُ بْنُ مَسْعُودٍ الْجَحْدَرِيُّ نَا خَالِدٌ هُوَ ابْنُ الْحَارِثِ - عَنْ شُعْبَةَ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي السَّفَرِ قَالَ: سَمِعْتُ الشَّعْبِيَّ يَقُولُ: حَدَّثَنِي «عُرْوَةُ بْنُ مُضَرِّسِ بْنِ أَوْسِ بْنِ حَارِثَةَ بْنِ لَامٍ الطَّائِيُّ قَالَ: أَتَيْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِجَمْعٍ فَقُلْتُ لَهُ: هَلْ لِي مِنْ حَجٍّ؟ فَقَالَ: مَنْ صَلَّى هَذِهِ الصَّلَاةَ مَعَنَا وَوَقَفَ هَذَا

[28] **Hadith references (L13276):** Sahih Muslim 1218a; Sahih Muslim 2723c; Sunan an-Nasai 1343.

[29] **Qur'an references (L13276):** Qur'an 2:125 (Al-Baqarah); Qur'an 2:158 (Al-Baqarah); Qur'an 64:1 (At-Taghabun).

standing at this site until departing, and had already departed beforehand from Arafat—whether by night or day—his Hajj is complete, and he has fulfilled his ritual obligations." Abū Ḥanīfah and al-Shāfiʿī said: If one departs from Arafat by day, his Hajj is complete, but he must offer a blood sacrifice.[30]

الْمَوْقِفَ حَتَّى يُفِيضَ، وَأَفَاضَ قَبْلَ ذَلِكَ مِنْ عَرَفَاتٍ لَيْلًا أَوْ نَهَارًا فَقَدْ تَمَّ حَجُّهُ وَقَضَى تَفَثَهُ» . وَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ: إِنْ أَفَاضَ مِنْهَا نَهَارًا فَحَجُّهُ تَامٌّ وَعَلَيْهِ دَمٌ.

L13286 Malik said: "If he does not stand there at night, there is no Hajj for him." Those who followed him argued: "Did the Messenger of Allah—peace and blessings be upon him—not stand there in the first part of the night?" We replied: "But he also performed the standing during the day," so they invalidated the Hajj of anyone who did not stand there during the day.

وَقَالَ مَالِكٌ: إِنْ لَمْ يَقِفْ بِهَا لَيْلًا فَلَا حَجَّ لَهُ، وَاحْتَجَّ لَهُ مَنْ قَلَّدَهُ بِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَفَ بِهَا فِي أَوَّلِ اللَّيْلِ؟ فَقُلْنَا: وَوَقَفَ نَهَارًا، فَأَبْطَلُوا حَجَّ مَنْ لَمْ يَقِفْ بِهَا نَهَارًا.

L13287 They said: "He (peace be upon him) said, 'Whoever attains the night of Arafah before dawn has indeed attained it'?" We said: "And he (peace be upon him) has said, 'Whoever departs from Arafat before that, whether by night or day, has indeed attained it.'" So they persisted.

فَقَالُوا: قَدْ قَالَ - عَلَيْهِ السَّلَامُ -، «مَنْ أَدْرَكَ لَيْلَةَ عَرَفَةَ قَبْلَ طُلُوعِ الْفَجْرِ فَقَدْ أَدْرَكَ» ؟ فَقُلْنَا: وَقَدْ قَالَ - عَلَيْهِ السَّلَامُ -: «وَأَفَاضَ قَبْلَ ذَلِكَ مِنْ عَرَفَاتٍ لَيْلًا أَوْ نَهَارًا فَقَدْ أَدْرَكَ» فَبَلَّحُوا.

L13288 They presented a rare argument, asserting that the meaning of His statement "by night or by day" is "by night and by day," just as Allah the Exalted said: {And do not obey from among them a sinner or a disbeliever} [Al-Insan 24]. We replied: This is an explicit lie against Allah the Exalted and His Messenger, peace be upon him. Had it been as you interpreted it, the Prophet, peace be upon him, would only be prohibited from obeying a sinner among them if that sinner were also a disbeliever. No Muslim would utter such a claim. Rather, the Prophet, peace be upon him, is prohibited from obeying both the sinner and the disbeliever among them, even if the sinner is not a disbeliever.[31]

فَأَتَوْا بِنَادِرَةٍ، وَهِيَ أَنَّهُمْ قَالُوا: مَعْنَى قَوْلِهِ " لَيْلًا أَوْ نَهَارًا " إِنَّمَا هُوَ لَيْلًا وَنَهَارًا كَمَا قَالَ - تَعَالَى -: {وَلا تُطِعْ مِنْهُمْ آثِمًا أَوْ كَفُورًا} [الإنسان: ٢٤] ؟ فَقُلْنَا: هَذَا الْكَذِبُ عَلَى اللَّهِ - تَعَالَى - وَعَلَى رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - صُرَاحًا، وَلَوْ كَانَ كَمَا تَأَوَّلْتُمُوهُ لَمَا كَانَ - عَلَيْهِ السَّلَامُ - مَنْهِيًّا عَنْ أَنْ يُطِيعَ مِنْهُمْ آثِمًا إِلَّا حَتَّى يَكُونَ كَفُورًا، وَهَذَا لَا يَقُولُهُ مُسْلِمٌ، بَلْ هُوَ - عَلَيْهِ السَّلَامُ - مَنْهِيٌّ عَنْ أَنْ يُطِيعَ مِنْهُمُ الْآثِمَ، وَالْكَفُورَ، وَإِنْ لَمْ يَكُنِ الْآثِمُ كَفُورًا.

L13289 Moreover, if your invalid interpretation of the narration were valid, then no one's Hajj would be valid unless they stood there during both day and night. Yet this contradicts your own position, given that the Prophet—peace be upon him—only stood there during the day and departed from it immediately after the complete setting of the sun's disk at the onset of night. Departure is not termed standing; rather, it is moving away from it.

ثُمَّ لَوْ صَحَّ لَكُمْ فِي الْخَبَرِ تَأْوِيلُكُمُ الْفَاسِدُ لَكَانَ لَا يَصِحُّ لِأَحَدٍ حَجٌّ حَتَّى يَقِفَ بِهَا نَهَارًا وَلَيْلًا مَعًا، وَهَذَا خِلَافُ قَوْلِكُمْ مَعَ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَقِفْ بِهَا إِلَّا نَهَارًا وَدَفَعَ مِنْهَا إِثْرَ تَمَامِ غُرُوبِ الْقُرْصِ فِي أَوَّلِ اللَّيْلِ، وَالدَّفْعُ لَا يُسَمَّى وُقُوفًا، بَلْ هُوَ زَوَالٌ عَنْهَا.

[30] **Hadith references (L13285):** Sunan an-Nasai 3042.
[31] **Qur'an references (L13288):** Qur'an 76:24 (Al-Insan).

وَذَكَرُوا خَبَرًا فَاسِدًا رُوِّينَاهُ مِنْ طَرِيقِ إِبْرَاهِيمَ بْنِ حَمَّادٍ عَنْ أَبِي عَوْنٍ مُحَمَّدِ بْنِ عَمْرِو بْنِ عَوْنٍ عَنْ دَاوُد بْنِ جُبَيْرٍ عَنْ أَبِي هَاشِمٍ رَحْمَةَ بْنِ مُصْعَبٍ الْفَرَّاءِ الْوَاسِطِيِّ عَنْ ابْنِ أَبِي لَيْلَى عَنْ عَطَاءٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَنْ وَقَفَ بِعَرَفَاتٍ بِلَيْلٍ فَقَدْ أَدْرَكَ الْحَجَّ وَمَنْ فَاتَهُ عَرَفَاتٌ بِلَيْلٍ فَقَدْ فَاتَهُ الْحَجُّ» .

They mentioned an unsound narration which we have narrated through the chain of Ibrāhīm ibn Ḥammād from Abī ʿAwn Muḥammad ibn ʿAmr ibn ʿAwn from Dāwūd ibn Jubayr from Abū Hāshim Raḥmah ibn Muṣʿab al-Farrāʾ al-Wāsiṭī from Ibn Abī Laylā from ʿAṭāʾ from Nāfiʿ from Ibn ʿUmar, who said: The Messenger of Allah (peace be upon him) said, “Whoever performs Wuqūf at Arafat during the night has fulfilled Hajj, and whoever misses Arafat at night has failed to perform Hajj.”

قَالَ أَبُو مُحَمَّد: هَذَا عَوْرَةٌ لِأَنَّ أَبَا عَوْنِ بْنَ عَمْرٍو، وَرَحْمَةَ بْنَ مُصْعَبٍ، وَدَاوُد بْنَ جُبَيْرٍ مَجْهُولُونَ لَا يُدْرَى مَنْ هُمْ وَابْنُ أَبِي لَيْلَى سَيِّئُ الْحِفْظِ، وَعَلَى هَذَا الْخَبَرِ يَبْطُلُ حَجُّ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِأَنَّهُ لَمْ يَقِفْ بِعَرَفَةَ بِلَيْلٍ إنَّمَا دَفَعَ مِنْهَا فِي أَوَّلِ أَوْقَاتِ اللَّيْلِ.

Abu Muhammad said: This is a defect because Abu Awn ibn Amr, Rahmah ibn Mus’ab, and Dawud ibn Jubayr are unknown – their identities are unrecognized – and Ibn Abi Layla is weak in memorization. By this report, the Hajj of the Prophet (peace be upon him) becomes invalid, for he did not remain in Arafat during the night but rather moved on from it at the beginning of the night’s timings.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ أَنَا ابْنُ أَبِي لَيْلَى نَا عَطَاءٌ يَرْفَعُ الْحَدِيثَ قَالَ «مَنْ أَدْرَكَ عَرَفَةَ بِلَيْلٍ فَقَدْ أَدْرَكَ الْحَجَّ وَمَنْ فَاتَهُ عَرَفَاتٌ بِلَيْلٍ فَقَدْ فَاتَهُ الْحَجُّ» وَهَذَا مُرْسَلٌ، وَمَعَ ذَلِكَ فَلَيْسَ فِيهِ بَيَانٌ جَلِيٌّ بِأَنَّهُ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَابْنُ أَبِي لَيْلَى سَيِّئُ الْحِفْظِ، وَهَذَا مِمَّا تَرَكَ فِيهِ الْحَنَفِيُّونَ الْمُرْسَلَ.

From the narration of Sa’id ibn Mansur: Hushaym reported to us, from Ibn Abi Layla, from ’Ata’, who elevated the hadith [to the Prophet], saying: “Whoever reaches ’Arafah at night has indeed attained Hajj, and whoever misses ’Arafah at night has indeed missed Hajj.” This is a mursal narration, and despite that, it does not contain a clear statement attributing it to the Messenger of Allah (peace be upon him). Ibn Abi Layla is weak in memory, and this is among the instances where the Hanafis rejected the mursal narration.

وَخَبَرٌ مِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ الْأَنْدَلُسِيِّ، نَا ابْنُ أَبِي نَافِعٍ عَنْ الْمُنْكَدِرِ بْنِ مُحَمَّدِ بْنِ الْمُنْكَدِرِ عَنْ أَبِيهِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «لَا تَدْفَعُوا مِنْ عَرَفَةَ وَمُزْدَلِفَةَ حَتَّى يَدْفَعَ الْإِمَامُ» .

A narration transmitted through the chain of ʿAbd al-Malik ibn Ḥabīb al-Andalusī, who reported to us from Ibn Abī Nāfiʿ, from al-Munkadir ibn Muḥammad ibn al-Munkadir, from his father, that the Messenger of Allah—may Allah bless him and grant him peace—said: “Do not depart from ʿArafah and Muzdalifah until the Imam departs.”

وَهَذَا لَا شَيْءَ، لِوُجُوهٍ -: أَحَدُهَا: أَنَّهُ مُرْسَلٌ، وَالثَّانِي: أَنَّ فِيهِ ثَلَاثَةً ضُعَفَاءَ فِي نَسَقٍ وَثَالِثُهَا: أَنَّهُ لَيْسَ فِيهِ إيجَابُ الْوُقُوفِ بِعَرَفَةَ لَيْلًا أَصْلًا، وَالرَّابِعُ: أَنَّهُ مُخَالِفٌ لِقَوْلِهِمْ؛ لِأَنَّهُمْ لَا يُبْطِلُونَ حَجَّ مَنْ دَفَعَ قَبْلَ الْإِمَامِ مِنْ عَرَفَةَ، وَلَا مِنْ مُزْدَلِفَةَ.

This is baseless for several reasons: First, it is mursal; second, it contains three weak individuals in succession; third, it does not impose any obligation whatsoever to stand at Arafah during the night; fourth, it contradicts their stated view, as they do not invalidate the Hajj of one who moved on from Arafah before the Imam, nor from Muzdalifah.

And among them is a narration from the path of ʿAbd al-Malik ibn Ḥabīb,

from Abū Muʿāwiyah al-Madanī, from. Yazīd ibn ʻIyāḍ—he is the son of Juʿdubah—narrates from ʻAmr ibn Shuʿayb that the Messenger of Allah (peace be upon him) said: "Whoever passes through the valley of ʻUrnah before the sun sets has no Hajj for him." This is a flawed narration, for ʻAbd al-Malik is rejected, Abū Muʿāwiyah is unknown, Yazīd is a liar, and the narration is mursal. Moreover, it contradicts their established position, for the valley of ʻUrnah is part of the sacred precinct—distinct from ʻArafah—and thus there is no obligation at all to stand in ʻArafah at night.

وَمِنْهَا: خَبَرٌ مِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ عَنْ أَبِي مُعَاوِيَةَ الْمَدَنِيِّ عَنْ يَزِيدَ بْنِ عِيَاضٍ هُوَ ابْنُ جُعْدُبَةَ - عَنْ عَمْرِو بْنِ شُعَيْبٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «مَنْ أَجَازَ بَطْنَ عُرَنَةَ قَبْلَ أَنْ تَغِيبَ الشَّمْسُ فَلَا حَجَّ لَهُ» ؟ وَهَذِهِ بَلِيَّةٌ، لِأَنَّ عَبْدَ الْمَلِكِ سَاقِطٌ وَأَبَا مُعَاوِيَةَ مَجْهُولٌ، وَيَزِيدَ كَذَّابٌ ثُمَّ هُوَ مُرْسَلٌ؛ ثُمَّ إنَّهُ مُخَالِفٌ لِقَوْلِهِمْ؛ لِأَنَّ بَطْنَ عُرَنَةَ مِنْ الْحَرَمِ - وَهُوَ غَيْرُ عَرَفَةَ - فَلَيْسَ فِيهِ وُجُوبُ الْوُقُوفِ لَيْلًا بِعَرَفَةَ أَصْلًا.

L13299 A report we narrated through the chain of ʿAbd al-Razzāq from Maʿmar from a man from Saʿīd ibn Jubayr, who said: The Messenger of Allāh—peace and blessings be upon him—declared: "Indeed, we do not depart until the sun sets—referring to departure from ʿArafāt—while the people of the pre-Islamic era would not depart from Muzdalifah until the sun rose. We depart before that time; our practice contradicts theirs." Abū Muḥammad remarked: This is baseless, as it is a mursal narration transmitted by an unnamed man. Moreover, scholars contradict it, for they do not invalidate the Ḥajj of one who departs from Muzdalifah after sunrise or who never stopped there at all.

وَخَبَرٌ رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ رَجُلٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إنَّا لَا نَدْفَعُ حَتَّى تَغْرُبَ الشَّمْسُ - يَعْنِي مِنْ عَرَفَاتٍ - وَإِنَّ أَهْلَ الْجَاهِلِيَّةِ كَانُوا لَا يُفِيضُونَ مِنْ جَمْعٍ حَتَّى تَطْلُعَ الشَّمْسُ، وَإِنَّا نَدْفَعُ قَبْلَ ذَلِكَ، هَدْيُنَا مُخَالِفٌ لِهَدْيِهِمْ» ؟ قَالَ أَبُو مُحَمَّد: وَهَذَا لَا شَيْءَ، لِأَنَّهُ مُرْسَلٌ، ثُمَّ هُوَ عَنْ رَجُلٍ لَمْ يُسَمَّ، ثُمَّ هُمْ مُخَالِفُونَ لَهُ، لِأَنَّهُمْ لَا يُبْطِلُونَ حَجَّ مَنْ دَفَعَ مِنْ جَمْعٍ بَعْدَ طُلُوعِ الشَّمْسِ أَوْ مَنْ لَمْ يَقِفْ بِهَا أَصْلًا.

L13300–13302 Abū Muḥammad said: We do not know from what basis they established the obligation of standing at 'Arafah during the night and the invalidation of Hajj due to its omission, while they do not invalidate Hajj for contravening all the Prophet's practices (peace be upon him) at 'Arafah, in departing from it, and at Muzdalifah. If they cite what we narrated through Saʿīd ibn Manṣūr – Hushaym – Ibn Abī Laylā – Nāfiʿ – Ibn ʻUmar, who said: "Whoever attains ʻArafah by night has fulfilled Hajj, and whoever fails to attain ʻArafah by night has missed the Hajj," we reply: It is authentically established from Ibn ʻUmar that a ritual offering (hady) is only valid if garlanded and marked, yet you opposed him. Likewise, ʻUmar's ruling that "whoever's heavy belongings arrive from Minā invalidates his Hajj" is authenticated, yet you contradicted him. How then can Ibn ʻUmar be invoked as proof here, while neither he nor his father are deemed authoritative in the matters we mentioned from them

قَالَ أَبُو مُحَمَّد: وَمَا نَدْرِي مِنْ أَيْنَ وَقَعَ إيجَابُ الْوُقُوفِ بِعَرَفَةَ لَيْلًا، وَإِبْطَالُ الْحَجِّ بِتَرْكِهِ؟ وَهُمْ لَا يُبْطِلُونَ الْحَجَّ بِمُخَالَفَةِ عَمَلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كُلِّهِ فِي عَرَفَةَ، وَفِي الدَّفْعِ مِنْهَا، وَفِي مُزْدَلِفَةَ -: فَإِنْ ذَكَرُوا مَا رُوِّينَاهُ مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ أَنَا ابْنُ أَبِي لَيْلَى عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: مَنْ أَدْرَكَ عَرَفَاتٍ بِلَيْلٍ فَقَدْ أَدْرَكَ الْحَجَّ، وَمَنْ لَمْ يُدْرِكْ عَرَفَاتٍ بِلَيْلٍ فَقَدْ فَاتَهُ الْحَجُّ؟ قُلْنَا: قَدْ صَحَّ عَنْ ابْنِ عُمَرَ أَنَّهُ لَا يَكُونُ هَدْيًا إلَّا مَا قُلِّدَ وَأُشْعِرَ فَخَالَفْتُمُوهُ، وَصَحَّ عَنْ عُمَرَ: مَنْ قَدِمَ ثِقْلُهُ مِنْ مِنًى بَطَلَ حَجُّهُ فَخَالَفْتُمُوهُ، فَمِنْ أَيْنَ صَارَ ابْنُ عُمَرَ هَاهُنَا حُجَّةً، وَلَمْ يَصِرْ حُجَّةً هُوَ وَلَا أَبُوهُ فِيمَا ذَكَرْنَا

– matters wherein you took lightly the act of opposing them? We know of no foundational evidence for Mālik's position in this matter. As for imposing an expiation sacrifice (dam) for this, it is erroneous, for it necessarily pertains only to departing from ʻArafah prior to... At sunset, if he performed what was permissible or impermissible for him: if he did what was permissible, there is no blame on him; and if he did what was impermissible, his Hajj is void, and nothing more is required.

L13303 Abu Muhammad said: It was narrated to us through the chain of ʻAta' from Ibn Abbas that he said: The pivotal element of Hajj, to which one must arrive on the night of Arafah, is fulfilled by whoever reaches it before dawn—whether arriving during the night or the preceding day—for such a person has indeed attained Hajj.

## L13304 A Tamattuʿ pilgrim may declare the intention for Hajj on the Day of al-Tarwiyah.

L13305 As for our view that it is recommended for the pilgrim performing Tamattuʿ to declare the intention for Hajj on the Day of Tarwiyah when departing to Mina, this is due to the previously mentioned practice of the Prophet's companions—peace and blessings be upon him—in his presence. Mālik held that the Tamattuʿ pilgrim should declare the intention, while the residents of Mecca should do so when the crescent of Dhū al-Ḥijjah is sighted. They argued using a narration attributed to ʿUmar, who said: "O people of Mecca, others arrive disheveled while you remain groomed. When you see the crescent, declare the intention." However, this narration lacks a verified chain to ʿUmar, as we only transmit it through al-Qāsim ibn Muḥammad and Ibrāhīm al-Nakhaʿī—both born years after ʿUmar's death. Even if authentic, the continuous, established practice of the companions during the Prophet's lifetime—peace and blessings be upon him—would take precedence over an opinion attributed to ʿUmar.

We narrate from Saʿīd ibn Manṣūr: Hushaym reported to us from Ibn Abī Laylā, from ʿAṭāʾ ibn Abī Rabāḥ, who said: "I saw Ibn ʿUmar in the Sacred Mosque declaring the intention for Hajj upon sighting the Dhū al-Ḥijjah crescent one year, then another year. In the third year, when told, 'The

عَنْهُمَا مِمَّا اسْتَسْهَلْتُمْ خِلَافَهُمَا فِيهِ، وَمَا نَعْلَمُ لِمَالِكٍ فِي هَذَا الْقَوْلِ حُجَّةً أَصْلًا؟ وَأَمَّا إِيجَابُ الدَّمِ فِي ذَلِكَ فَخَطَأٌ، لِأَنَّهُ لَا يَخْلُو أَنْ يَكُونَ مِنْ دَفْعٍ مِنْ عَرَفَةَ قَبْلَ غُرُوبِ الشَّمْسِ فَعَلَ مَا أُبِيحَ لَهُ أَوْ مَا لَمْ يُبَحْ لَهُ، فَإِنْ كَانَ فَعَلَ مَا أُبِيحَ لَهُ فَلَا شَيْءَ عَلَيْهِ، وَإِنْ كَانَ فَعَلَ مَا لَمْ يُبَحْ لَهُ فَحَجُّهُ بَاطِلٌ وَلَا مَزِيدَ.

قَالَ أَبُو مُحَمَّدٍ: رُوِّينَا مِنْ طَرِيقِ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: مِلَاكُ الْحَجِّ الَّذِي يَصِيرُ إِلَيْهِ لَيْلَةَ عَرَفَةَ مَنْ أَدْرَكَهَا قَبْلَ الْفَجْرِ لَيْلًا أَوْ نَهَارًا فَقَدْ أَدْرَكَ الْحَجَّ.

## [لِلْمُتَمَتِّعِ أَنْ يُهِلَّ بِالْحَجِّ يَوْمَ التَّرْوِيَةِ]

وَأَمَّا اسْتِحْبَابُنَا لِلْمُتَمَتِّعِ أَنَّ يُهِلَّ بِالْحَجِّ يَوْمَ التَّرْوِيَةِ فِي أَخْذِهِ فِي النُّهُوضِ إِلَى مِنًى فَلِمَا ذَكَرْنَا مِنْ فِعْلِ أَصْحَابِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِحَضْرَتِهِ، وَاخْتَارَ مَالِكٌ أَنَّ يُهِلَّ الْمُتَمَتِّعُ، وَأَهْلُ مَكَّةَ إِذَا أَهَلَّ هِلَالُ ذِي الْحِجَّةِ، وَاحْتَجُّوا بِرِوَايَةٍ عَنْ عُمَرَ أَنَّهُ قَالَ: يَا أَهْلَ مَكَّةَ يَقْدَمُ النَّاسُ شُعْثًا وَأَنْتُمْ مُدَّهِنُونَ فَإِذَا رَأَيْتُمْ الْهِلَالَ فَأَهِلُّوا، فَإِنَّ هَذِهِ رِوَايَةٌ لَا نَعْلَمُهَا تَتَّصِلُ إِلَى عُمَرَ، إِنَّمَا نَذْكُرُهَا مِنْ طَرِيقِ الْقَاسِمِ بْنِ مُحَمَّدٍ وَإِبْرَاهِيمَ النَّخَعِيِّ عَنْ عُمَرَ، وَكِلَاهُمَا لَمْ يُولَدْ إِلَّا بَعْدَ مَوْتِ عُمَرَ بِأَعْوَامٍ، ثُمَّ لَوْ صَحَّ عَنْهُ لَكَانَ الثَّابِتُ الْمُتَّصِلُ مِنْ فِعْلِ الصَّحَابَةِ بِحَضْرَةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَوْلَى مِنْ رَأْيٍ رَآهُ عُمَرُ؟ وَقَدْ رُوِّينَا عَنْ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ نَا ابْنُ أَبِي لَيْلَى عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ قَالَ: رَأَيْت ابْنَ عُمَرَ فِي الْمَسْجِدِ الْحَرَامِ وَقَدْ أَهَلَّ بِالْحَجِّ إِذْ رَأَى هِلَالَ ذِي الْحِجَّةِ عَامًا ثُمَّ عَامًا آخَرَ، فَلَمَّا كَانَ فِي الْعَامِ الثَّالِثِ قِيلَ لَهُ: قَدْ رُئِيَ هِلَالُ ذِي الْحِجَّةِ؟ فَقَالَ: مَا أَنَا إِلَّا

crescent has been sighted,' he replied: 'I am but like one of the companions. I will only act as they acted.' He delayed until the Day of Tarwiyah, then declared the intention for Hajj from al-Baṭḥāʾ when his mount was steadied beneath him."

كَرَجُلٍ مِنْ أَصْحَابِي، وَمَا أَرَانِي أَفْعَلُ إِلَّا كَمَا فَعَلُوا، فَأَمْسَكَ إِلَى يَوْمِ التَّرْوِيَةِ، ثُمَّ أَحْرَمَ مِنْ الْبَطْحَاءِ حِينَ اسْتَوَتْ بِهِ رَاحِلَتُهُ بِالْحَجِّ.

L13306 And through the chain of Sa'id ibn Mansur from 'Attab ibn Abi Bishr from Khusayf from Mujahid from Ibn Umar: that he entered ihram in one year starting from the mosque when the crescent of Dhu al-Hijjah was sighted, then another year likewise. When the third year came, he did not enter ihram until the Day of Tarwiyyah. Mujahid said: "I asked him about that." He replied: "I was a man from the people of Medina, so I wished to proclaim the talbiyah in accordance with their proclamation. Then I went to observe, and I found myself entering and leaving my home while still in ihram. This was improper, because when a person enters ihram, they must depart for the purpose of Hajj." Mujahid said: "I said to Ibn Umar: 'Which of those do you hold?'" He replied: "The Day of Tarwiyyah."

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ عَتَّابِ بْنِ أَبِي بِشْرٍ عَنْ خُصَيْفٍ عَنْ مُجَاهِدٍ عَنْ ابْنِ عُمَرَ: أَنَّهُ أَحْرَمَ عَامًا مِنْ الْمَسْجِدِ حِينَ أَهَلَّ هِلَالُ ذِي الْحِجَّةِ ثُمَّ عَامًا آخَرَ كَذَلِكَ، فَلَمَّا كَانَ الْعَامُ الثَّالِثُ لَمْ يُحْرِمْ حَتَّى كَانَ يَوْمُ التَّرْوِيَةِ قَالَ مُجَاهِدٌ: فَسَأَلْته عَنْ ذَلِكَ؟ فَقَالَ: إنِّي كُنْت امْرَأً مِنْ أَهْلِ الْمَدِينَةِ فَأَحْبَبْت أَنْ أُهِلَّ بِإِهْلَالِهِمْ ثُمَّ ذَهَبْت أَنْظُرُ فَإِذَا أَنَا أَدْخُلُ عَلَى أَهْلِي وَأَنَا مُحْرِمٌ وَأَخْرُجُ وَأَنَا مُحْرِمٌ، فَإِذَا ذَلِكَ لَا يَصْلُحُ؛ لِأَنَّ الْمُحْرِمَ إذَا أَحْرَمَ خَرَجَ لِوَجْهِهِ. قَالَ مُجَاهِدٌ: فَقُلْت لِابْنِ عُمَرَ: فَأَيَّ ذَلِكَ تَرَى؟ قَالَ: يَوْمَ التَّرْوِيَةِ.

L13307 So here is Ibn 'Umar, who has reported that the practice of the Companions was that the *mutamatti'* pilgrim (performing *Tamattu'*) and the people of Mecca would enter the state of *ihram* on the Day of Tarwiyah, and he disagreed with his father's opinion even if it had been established from him as well.

فَهَذَا ابْنُ عُمَرَ قَدْ أَخْبَرَ أَنَّ فِعْلَ الصَّحَابَةِ أَنْ يُهِلَّ الْمُتَمَتِّعُ وَأَهْلُ مَكَّةَ يَوْمَ التَّرْوِيَةِ، وَرَغِبَ عَنْ رَأْيِ أَبِيهِ لَوْ ثَبَتَ أَيْضًا عَنْهُ.

L13308–13309 If they say, "We chose this for him only to make him disheveled," we respond: "Has neither Allah (Exalted is He) nor His Messenger (peace be upon him) taught us to choose dishevelment for the pilgrim? If you have chosen it, then command them to commence ihrām from the beginning of Shawwāl—would this not achieve greater dishevelment?"

فَإِنْ قَالُوا: إنَّمَا اخْتَرْنَا لَهُ ذَلِكَ لِيَكُونَ أَشْعَثَ؟ قُلْنَا: مَا عَلَّمَنَا اللَّهُ - تَعَالَى - وَلَا رَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - اخْتِيَارَ الشَّعْثِ لِلْمُحْرِمِ؟ فَإِنْ اخْتَرْتُمُوهُ فَأْمُرُوهُمْ بِالْإِهْلَالِ مِنْ أَوَّلِ شَوَّالٍ فَهُوَ أَتَمُّ لِلشَّعْثِ؟

## L13310 When the Imam completes the khutbah during Arafah.

## [الْإِمَامُ إذَا أَتَمَّ الْخُطْبَةَ بِعَرَفَةَ]

L13311 As for our statement that the muezzin should perform the adhan when the imam concludes the sermon at Arafat, then proclaim the iqamah for the Dhuhr prayer, followed by the iqamah for the Asr prayer without performing the adhan for it—this is based on what we previously cited from the report concerning the Messenger of Allah (peace and blessings be upon him). It

وَأَمَّا قَوْلُنَا: أَنْ يُؤَذِّنَ الْمُؤَذِّنُ إذَا أَتَمَّ الْإِمَامُ الْخُطْبَةَ بِعَرَفَةَ، ثُمَّ يُقِيمَ لِصَلَاةِ الظُّهْرِ، ثُمَّ يُقِيمَ لِلْعَصْرِ وَلَا يُؤَذِّنَ لَهَا؛ فَلِمَا ذَكَرْنَاهُ فِي الْخَبَرِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -

represents the view of Abu Sulayman and one of the two opinions of Malik. Malik stated on another occasion: "If the muezzin wishes, he may perform the adhan while the imam is actively delivering the sermon, or if he wishes, he may perform it when the imam concludes."

L13312 Abu Hanifah and Abu Thawr said: The adhan should be called when the Imam sits on the pulpit before commencing the sermon. Abu Yusuf said: The adhan should be called before the Imam comes out to the pulpit; then he retracted his view and said: The adhan should be called after the opening portion of the sermon, as reported from a muezzin among the people of Mecca.

L13313 Al-Shafi'i said: The call to prayer begins when the Imam completes the first sermon.

L13314 Abu Muhammad said: These are statements for which there is no valid proof to substantiate any of them. If they say: "We have analogized this to the Friday prayer," we respond: The analogy is invalid. Even if it were valid, this would represent the essence of falsehood, for analogizing the call to prayer at Arafat to the Friday prayer is no more valid than analogizing the Friday prayer to what is reported regarding Arafat—especially when you yourselves state: "There is no Friday prayer at Arafat." If it is objected: "But you say: 'Indeed, the Friday prayer at Arafat is like that in other regions,'" we reply: Yes, but this does not justify contradicting what is authentically established from the Prophet—peace and blessings of Allah be upon him—regarding the manner of the call to prayer there, which differs from other regions. Just as the ruling regarding the combining of Dhuhr and Asr prayers at Arafat differs from other regions. Had we claimed these statements contradict the consensus of all the Companions—may Allah be pleased with them—in their assertion of this position, we would have spoken truthfully.

L13315 ## Combining the Dhuhr and Asr Prayers at Arafat

L13316 As for our statement regarding combining between the prayers of Dhuhr and Asr in Arafah with one adhan and two iqamahs, and likewise between Maghrib and the 'Atamah prayer in Muzdalifah, this is based on what has

آنِفًا وَهُوَ قَوْلُ أَبِي سُلَيْمَانَ، وَأَحَدِ قَوْلَيْ مَالِكٍ؛ وَقَالَ مَالِكٌ مَرَّةً أُخْرَى: إنْ شَاءَ أَذَّنَ، وَالْإِمَامُ فِي الْخُطْبَةِ، وَإِنْ شَاءَ إذَا أَتَمَّ.

وَقَالَ أَبُو حَنِيفَةَ، وَأَبُو ثَوْرٍ: يُؤَذِّنُ إذَا قَعَدَ الْإِمَامُ عَلَى الْمِنْبَرِ قَبْلَ أَنْ يَأْخُذَ فِي الْخُطْبَةِ - وَقَالَ أَبُو يُوسُفَ: يُؤَذِّنُ قَبْلَ خُرُوجِ الْإِمَامِ، ثُمَّ رَجَعَ فَقَالَ: يُؤَذِّنُ بَعْدَ صَدْرٍ مِنْ الْخُطْبَةِ، وَذَكَرَ ذَلِكَ عَنْ مُؤَذِّنٍ مِنْ أَهْلِ مَكَّةَ.

وَقَالَ الشَّافِعِيُّ: يَأْخُذُ فِي الْأَذَانِ إذَا أَتَمَّ الْإِمَامُ الْخُطْبَةَ الْأُولَى.

قَالَ أَبُو مُحَمَّدٍ: وَهَذِهِ أَقْوَالٌ لَا حُجَّةَ لِصِحَّةِ شَيْءٍ مِنْهَا؟ فَإِنْ قَالُوا: قِسْنَا ذَلِكَ عَلَى الْجُمُعَةِ؟ قُلْنَا: الْقِيَاسُ بَاطِلٌ، ثُمَّ لَوْ كَانَ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنَ الْبَاطِلِ، لِأَنَّهُ لَيْسَ قِيَاسُ الْأَذَانِ بِعَرَفَةَ عَلَى الْأَذَانِ بِالْجُمُعَةِ بِأَوْلَى مِنْ الْقِيَاسِ لِلْجُمُعَةِ عَلَى مَا رُوِيَ فِي عَرَفَةَ لَا سِيَّمَا وَأَنْتُمْ تَقُولُونَ: لَا جُمُعَةَ بِعَرَفَةَ؟ فَإِنْ قِيلَ: فَأَنْتُمْ تَقُولُونَ: إنَّ الْجُمُعَةَ بِعَرَفَةَ كَمَا هِيَ فِي غَيْرِهَا مِنْ الْبِلَادِ؟ قُلْنَا: نَعَمْ، وَلَيْسَ ذَلِكَ بِمُبِيحٍ مُخَالَفَةَ مَا صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي صِفَةِ الْأَذَانِ فِيهَا بِخِلَافِهِ فِي سَائِرِ الْبِلَادِ كَمَا كَانَ بِعَرَفَةَ حُكْمُ الصَّلَاةِ فِي الْجَمْعِ بَيْنَ الظُّهْرِ، وَالْعَصْرِ، بِخِلَافِ ذَلِكَ فِي سَائِرِ الْبِلَادِ، وَلَوْ قُلْنَا: إنَّ هَذِهِ الْأَقْوَالَ خِلَافٌ لِإِجْمَاعِ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - كُلِّهِمْ فِي الْقَوْلِ بِذَلِكَ لَصَدَقْنَا.

## [الْجَمْع بَيْنَ صَلَاتَيْ الظُّهْرِ وَالْعَصْرِ بِعَرَفَةَ]

وَأَمَّا قَوْلُنَا: بِالْجَمْعِ بَيْنَ صَلَاتَيْ الظُّهْرِ، وَالْعَصْرِ بِعَرَفَةَ بِأَذَانٍ وَاحِدٍ وَإِقَامَتَيْنِ وَبِمُزْدَلِفَةَ بَيْنَ الْمَغْرِبِ وَالْعَتَمَةِ كَذَلِكَ أَيْضًا فَلِمَا صَحَّ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الْخَبَرِ

been authentically reported from the Messenger of Allah—peace and blessings be upon him—in the aforementioned report. People have differed on this matter. Abu Hanifah and Al-Shafi'i held the same view as we have stated regarding the prayer in Arafah.

الْمَذْكُورِ، وَقَدْ اخْتَلَفَ النَّاسُ فِي هَذَا، فَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، فِي الصَّلَاةِ بِعَرَفَةَ كَمَا قُلْنَا.

L13317–13318 Malik said: "Two adhans and two iqamahs for each prayer," [whereas] each prayer [ordinarily] has one adhan and one iqamah. We know of no evidence whatsoever for this opinion—neither from an authentic Sunnah, nor a weak narration, nor the practice of a Companion, nor a Follower. If they argue: "We analogize this to combining [Maghrib and Isha] prayers at Muzdalifah?" We reply: "This is an analogy compounding one error with another, and your claim about Muzdalifah is itself erroneous, as we will clarify, if Allah, the Exalted, wills."

وَقَالَ مَالِكٌ: بِأَذَانَيْنِ وَإِقَامَتَيْنِ لِكُلِّ صَلَاةٍ أَذَانٌ وَإِقَامَةٌ، وَمَا نَعْلَمُ لِهَذَا الْقَوْلِ حُجَّةً أَصْلًا لَا مِنْ سُنَّةٍ صَحِيحَةٍ، وَلَا مِنْ رِوَايَةٍ سَقِيمَةٍ، وَلَا مِنْ عَمَلِ صَاحِبٍ، وَلَا تَابِعٍ، فَإِنْ قَالُوا: قِسْنَا ذَلِكَ عَلَى الْجَمْعِ بِمُزْدَلِفَةَ؟ قُلْنَا: هَذَا قِيَاسٌ لِلْخَطَأِ عَلَى الْخَطَأِ، وَقَوْلُكُمْ هَذَا فِي مُزْدَلِفَةَ خَطَأٌ عَلَى مَا نُبَيِّنُهُ إِنْ شَاءَ اللَّهُ - تَعَالَى.

L13319 If they say: "We have analogized that to the missed prayers," we reply: All analogy is entirely invalid. Moreover, even if analogy were valid, this [case] would constitute the very essence of invalidity within it, because the Ẓuhr and ʿAṣr prayers at ʿArafah are not two missed prayers. It is invalid to analogize a prayer performed within its prescribed time to a missed prayer—particularly since you yourselves do not endorse this ruling for missed prayers. Sufyān and Isḥāq said: One combines Ẓuhr and ʿAṣr at ʿArafah with two iqāmahs only, without any adhān.

فَإِنْ قَالُوا: قِسْنَا ذَلِكَ عَلَى الصَّلَوَاتِ الْفَائِتَاتِ؟ قُلْنَا: الْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَوْ كَانَ حَقًّا لَكَانَ [هَذَا] مِنْهُ عَيْنَ الْبَاطِلِ، لِأَنَّ صَلَاةَ الظُّهْرِ، وَالْعَصْرِ، بِعَرَفَةَ لَيْسَتَا فَائِتَتَيْنِ، وَمِنْ الْبَاطِلِ قِيَاسُ صَلَاةٍ تُصَلَّى فِي وَقْتِهَا عَلَى صَلَاةٍ فَائِتَةٍ لَا سِيَّمَا وَأَنْتُمْ لَا تَقُولُونَ بِهَذَا الْعَمَلِ فِي الْفَائِتَاتِ، وَقَالَ سُفْيَانُ، وَإِسْحَاقُ: يَجْمَعُ بَيْنَ الظُّهْرِ، وَالْعَصْرِ، بِعَرَفَةَ بِإِقَامَتَيْنِ فَقَطْ بِلَا أَذَانٍ.

L13320 The proponents of this opinion argued with a narration we have transmitted through the chain of ʿAbd al-Razzāq from Ibn Jurayj from ʿAṭāʾ: "The Messenger of Allah—peace be upon him—performed every prayer in Makkah and Mina with adhan and iqamah, and he performed every prayer in ʿArafat and Muzdalifah with iqamah."

وَاحْتَجَّ أَهْلُ هَذَا الْقَوْلِ بِخَبَرٍ رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - صَلَّى بِمَكَّةَ وَبِمِنًى كُلَّ صَلَاةٍ بِأَذَانٍ وَإِقَامَةٍ، وَصَلَّى - بِعَرَفَةَ، وَبِجَمْعٍ - كُلَّ صَلَاةٍ بِإِقَامَةٍ» .

L13321 Abū Muḥammad said: This does not establish a valid proof. Even if it were authentic, it would contain no proof, for Jābir's report included an added mention of the call to prayer. The addition of the reliable narrator must be accepted without exception. As for the standing at Muzdalifah as we mentioned, this is also based on the aforementioned report.

قَالَ أَبُو مُحَمَّدٍ: هَذَا لَا تَقُومُ بِهِ حُجَّةٌ، ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ فِيهِ حُجَّةٌ، لِأَنَّ خَبَرَ جَابِرٍ وَرَدَ بِزِيَادَةِ ذِكْرِ الْأَذَانِ، وَزِيَادَةُ الْعَدْلِ وَاجِبٌ قَبُولُهَا، وَلَا بُدَّ، وَأَمَّا الْجَمْعُ بِمُزْدَلِفَةَ كَمَا ذَكَرْنَا فَلِلْخَبَرِ الْمَذْكُورِ أَيْضًا.

L13322 There is a disagreement among the *Salaf* regarding this. It was reported

to us via the routes of Ḥammād ibn Zayd and Ḥammād ibn Salamah. Ibn Zayd reported from Nāfiʿ, who said: "I do not recall from Ibn ʿUmar any *Adhān* or *Iqāmah* at Jamʿ"—meaning Muzdalifah.

وَفِي هَذَا خِلَافٌ مِنْ السَّلَفِ -: رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ، وَحَمَّادِ بْنِ سَلَمَةَ، قَالَ ابْنُ زَيْدٍ: عَنْ نَافِعٍ قَالَ: لَمْ أَحْفَظْ عَنْ ابْنِ عُمَرَ أَذَانًا وَلَا إقَامَةً بِجَمْعٍ - يَعْنِي مُزْدَلِفَةَ.

L13323 Ibn Salamah reported from Anas from Ibn Sīrīn, who said: "I prayed Maghrib with Ibn ʿUmar at Jamʿ (Muzdalifah) without *adhan* or *iqamah*, then prayed ʿIshāʾ at Jamʿ without *adhan* or *iqamah*."

وَقَالَ ابْنُ سَلَمَةَ عَنْ أَنَسٍ عَنْ ابْنِ سِيرِينَ قَالَ: صَلَّيْت مَعَ ابْنِ عُمَرَ بِجَمْعٍ الْمَغْرِبَ بِلَا أَذَانٍ وَلَا إقَامَةٍ، ثُمَّ الْعِشَاءَ بِلَا أَذَانٍ وَلَا إقَامَةٍ.

L13324 A second opinion: that we have also narrated from him that he combined the two prayers with a single iqāmah without an adhān—and we have narrated that from Shuʿbah from al-Ḥakam ibn ʿUtaybah and Salamah ibn Kuhayl, both of whom narrated from Saʿīd ibn Jubayr that he prayed Maghrib and ʿIshāʾ by combining them with a single iqāmah. Saʿīd ibn Jubayr mentioned that Ibn ʿUmar did the same, and that he stated the Messenger of Allah (peace be upon him) did so.

وَقَوْلٌ ثَانٍ -: وَهُوَ أَنَّنَا رُوِّينَا عَنْهُ أَيْضًا أَنَّهُ جَمَعَ بَيْنَهُمَا بِإِقَامَةٍ وَاحِدَةٍ بِلَا أَذَانٍ - وَرُوِّينَا ذَلِكَ عَنْ شُعْبَةَ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ، وَسَلَمَةَ بْنِ كُهَيْلٍ، كِلَاهُمَا عَنْ سَعِيدِ بْنِ جُبَيْرٍ: أَنَّهُ صَلَّى الْمَغْرِبَ وَالْعِشَاءَ بِجَمْعٍ بِإِقَامَةٍ وَاحِدَةٍ - وَذَكَرَ أَنَّ ابْنَ عُمَرَ فَعَلَ مِثْلَ ذَلِكَ، وَأَنَّ ابْنَ عُمَرَ ذَكَرَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَعَلَ ذَلِكَ.

L13325–13326 It has also been narrated to us via the chain of Mujāhid and others besides him from Ibn ʿUmar: that he did that—this being the opinion of Sufyān and Aḥmad ibn Ḥanbal in one of their two opinions—and Abū Bakr ibn Dāwūd upheld this position.

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ مُجَاهِدٍ، وَغَيْرِهِ عَنْ ابْنِ عُمَرَ: أَنَّهُ فَعَلَ ذَلِكَ - وَهُوَ قَوْلُ سُفْيَانَ، وَأَحْمَدَ بْنِ حَنْبَلٍ فِي أَحَدِ قَوْلَيْهِمَا - وَبِهِ أَخَذَ أَبُو بَكْرِ بْنُ دَاوُد.

L13327 The proponents of this view cited what we have narrated through the chain of Sufyān al-Thawrī and Yaḥyā ibn Saʿīd al-Qaṭṭān. Sufyān narrated from Maslamah ibn Kuhayl, from Saʿīd ibn Jubayr, from Ibn ʿAbbās. Al-Qaṭṭān narrated from Ibn Abī Dhiʾb, from al-Zuhrī, from Sālim ibn ʿAbd Allāh ibn ʿUmar, from his father. Then, Ibn ʿAbbās and Ibn ʿUmar agreed that the Messenger of Allāh (peace and blessings be upon him) combined Maghrib and ʿIshāʾ at Muzdalifah with a single iqāmah. This is an authentic report.

وَاحْتَجَّ أَهْلُ هَذِهِ الْمَقَالَةِ بِمَا رُوِّينَاهُ مِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ، وَيَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ، قَالَ سُفْيَانُ: عَنْ مَسْلَمَةَ بْنِ كُهَيْلٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ؛ وَقَالَ الْقَطَّانُ: عَنْ ابْنِ أَبِي ذِئْبٍ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ؛ ثُمَّ اتَّفَقَ ابْنُ عَبَّاسٍ، وَابْنُ عُمَرَ: عَلَى أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - جَمَعَ بِمُزْدَلِفَةَ بَيْنَ الْمَغْرِبِ وَالْعِشَاءِ بِإِقَامَةٍ وَاحِدَةٍ، وَهَذَا خَبَرٌ صَحِيحٌ.

L13328 A third opinion is to combine them with two iqāmahs—each prayer being preceded by its own iqāmah without an adhān. We have been narrated through Ḥammād ibn Salamah, from al-Ḥajjāj ibn Arṭāʾah, from Abū Isḥāq al-Sabīʿī, from ʿAbd al-Raḥmān ibn Yazīd that ʿUmar ibn al-Khaṭṭāb combined them with two iqāmahs (i.e., at al-Muzdalifah). Through the narration

وَقَوْلٌ ثَالِثٌ -: وَهُوَ الْجَمْعُ بَيْنَهُمَا بِإِقَامَتَيْنِ - لِكُلِّ صَلَاةٍ إقَامَةٌ دُونَ أَذَانٍ -: رُوِّينَا عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ الْحَجَّاجِ بْنِ أَرْطَاةَ عَنْ أَبِي إسْحَاقَ السَّبِيعِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ أَنَّ عُمَرَ بْنَ الْخَطَّابِ جَمَعَ بَيْنَهُمَا بِإِقَامَتَيْنِ - يَعْنِي بِمُزْدَلِفَةَ - وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ

route of ʿAbd al-Razzāq, from some of his companions, from Sharīk, from Abū Isḥāq, from Abū Jaʿfar: that ʿAlī ibn Abī Ṭālib combined Maghrib and ʿIshā', each prayer being preceded by its own iqāmah (i.e., at al-Muzdalifah).

بَعْضِ أَصْحَابِهِ عَنْ شَرِيكٍ عَنْ أَبِي إِسْحَاقَ عَنْ أَبِي جَعْفَرٍ: أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ جَمَعَ بَيْنَ الْمَغْرِبِ وَالْعِشَاءِ، كُلُّ وَاحِدَةٍ مِنْهُمَا بِإِقَامَةٍ - يَعْنِي بِمُزْدَلِفَةَ.

L13329 Through the narration of Hammad ibn Salamah: I, ʻAbd al-Karim, was with Salim ibn ʻAbd Allah ibn ʻUmar at Muzdalifah, where he performed the Maghrib and ʻIsha prayers together with two iqamahs. This is the opinion of Sufyan, al-Shafiʻi, and Ahmad—in one of their opinions.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ أَنَا عَبْدُ الْكَرِيمِ أَنَّهُ كَانَ مَعَ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ بِمُزْدَلِفَةَ فَجَمَعَ بَيْنَ الْمَغْرِبِ وَالْعِشَاءِ بِإِقَامَتَيْنِ، وَهُوَ قَوْلُ سُفْيَانَ، وَالشَّافِعِيِّ، وَأَحْمَدَ - فِي أَحَدِ أَقْوَالِهِمْ.

L13330–13332 They cited as evidence what we have narrated through the transmission of Mālik from Mūsā ibn ʿUqbah from Kuraib, the freed slave of Ibn ʿAbbās, from Usāmah ibn Zayd: "The Messenger of Allah—peace and blessings be upon him—arrived at Muzdalifah, performed ablution, then the iqamah was given. He prayed Maghrib, after which each person made his camel kneel at his resting place. Then the iqamah was given again, and he prayed, performing no prayer between the two." Through the transmission of Al-Bukhārī: Asim narrated to us from Ibn Abī Dhīb from Al-Zuhrī from Sālim ibn ʿAbdullāh from Ibn ʿUmar—may Allah be pleased with them both—who said: "The Messenger of Allah—peace and blessings be upon him—combined Maghrib and Isha prayers." He combined each of the two prayers with an iqamah, without performing voluntary prayers between them or immediately after each of them. These are two authentic reports.

وَاحْتَجُّوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ مَالِكٍ عَنْ مُوسَى بْنِ عُقْبَةَ عَنْ كُرَيْبٍ مَوْلَى ابْنِ عَبَّاسٍ عَنْ أُسَامَةَ بْنِ زَيْدٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَتَى مُزْدَلِفَةَ فَتَوَضَّأَ ثُمَّ أُقِيمَتْ الصَّلَاةُ فَصَلَّى الْمَغْرِبَ ثُمَّ أَنَاخَ كُلُّ إِنْسَانٍ بَعِيرَهُ فِي مَنْزِلِهِ ثُمَّ أُقِيمَتْ الصَّلَاةُ فَصَلَّى، وَلَمْ يُصَلِّ بَيْنَهُمَا شَيْئًا» . وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا عَاصِمٌ عَنْ ابْنِ أَبِي ذِئْبٍ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ عَنْ ابْنِ عُمَرَ [- رَضِيَ اللَّهُ عَنْهُمَا -] قَالَ «جَمَعَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَيْنَ الْمَغْرِبِ وَالْعِشَاءِ بِجَمْعٍ كُلُّ وَاحِدَةٍ مِنْهُمَا بِإِقَامَةٍ، وَلَمْ يُسَبِّحْ بَيْنَهُمَا، وَلَا عَلَى إثْرِ كُلِّ وَاحِدَةٍ مِنْهُمَا» وَهَذَانِ خَبَرَانِ صَحِيحَانِ.

L13333 The fourth opinion is that combining the two prayers with one adhan and one iqamah. It has been narrated to us through the chain of Sufyān al-Thawrī, from Simāk ibn Ḥarb, from al-Nuʿmān ibn Ḥumayd, that ʿUmar combined the two prayers at Muzdalifah with an adhan and an iqamah.

وَقَوْلٌ رَابِعٌ -: وَهُوَ أَنَّ الْجَمْعَ بَيْنَهُمَا بِأَذَانٍ وَاحِدٍ وَإِقَامَةٍ وَاحِدَةٍ -: رُوِّينَا مِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ سِمَاكِ بْنِ حَرْبٍ عَنْ النُّعْمَانِ بْنِ حُمَيْدٍ أَنَّ عُمَرَ جَمَعَ بَيْنَ الصَّلَاتَيْنِ بِمُزْدَلِفَةَ بِأَذَانٍ وَإِقَامَةٍ.

L13334 And through the chain of Abū Dāwūd al-Sijistānī: Musaddad narrated to us, from Abū al-Aḥwaṣ, from Ashʿath ibn Sulaym, from his father: Ashʿath's father was with Ibn ʿUmar at Muzdalifah, and Ibn ʿUmar called the adhān and iqāmah or ordered that they be done. Then he prayed Maghrib as three

وَمِنْ طَرِيقِ أَبِي دَاوُد السِّجِسْتَانِيِّ نَا مُسَدَّدٌ نَا أَبُو الْأَحْوَصِ نَا أَشْعَثُ بْنُ سُلَيْمٍ عَنْ أَبِيهِ " أَنَّهُ كَانَ مَعَ ابْنِ عُمَرَ بِمُزْدَلِفَةَ فَأَذَّنَ وَأَقَامَ، أَوْ أَمَرَ بِذَلِكَ ثُمَّ صَلَّى الْمَغْرِبَ ثَلَاثَ رَكَعَاتٍ، ثُمَّ الْتَفَتَ إلَيْنَا فَقَالَ: الصَّلَاةَ، فَصَلَّى الْعِشَاءَ رَكْعَتَيْنِ.

rakʿahs, turned to us, and said: “Establish the prayer.” After which, he prayed ʿIshā’ as two rakʿahs.

L13335 Ash’ath said: And ’Ilaj ibn ’Amr informed me from Ibn ’Umar regarding this, saying: “It was said to Ibn ’Umar concerning that matter?” He replied: “I prayed with the Messenger of Allah - peace and blessings be upon him - in this manner.” Abu Hanifah adopts this position, except he stated: “If one performs a voluntary prayer between them, he should establish another iqamah for the ’Isha prayer.”

L13336 The fifth opinion is combining them with two adhāns and two iqāmahs. This is authentically reported from ʿUmar ibn al-Khaṭṭāb through the chain narrated by Ḥushaym narrated by Ibrāhīm narrated by al-Aswad: “I was with ʿUmar when he came to Muzdalifah and prayed Maghrib and ʿIshā’, each prayer with its own adhān and iqāmah.” Narrated by Ḥammām narrated by al-Bājī narrated by ʿAbdullāh ibn Yūnus narrated by Baqī narrated by Abū Bakr ibn Abī Shaybah narrated by Abū al-Aḥwaṣ from Abū Isḥāq al-Sabīʿī from ʿAbd al-Raḥmān ibn Yazīd, who said: “I prayed Maghrib at Jamʿ (Muzdalifah) with Ibn Masʿūd, each prayer with its own adhān and iqāmah. Then we came to our supper and ate. Afterward, he led us in ʿIshā’ prayer, each prayer with its own adhān and iqāmah.”

L13337 An explicit text from Abu Ja‘far Muhammad ibn Ali ibn al-Husayn via Abu Ishaq al-Sabi‘i states: Ali ibn Abi Talib would combine the two prayers at Muzdalifah, each prayer with adhan and iqamah. This is the statement of Muhammad ibn Ali ibn al-Husayn, and he mentioned it from his household (Ahl al-Bayt); and this is the position held by Malik.

L13338 There is no valid argument in this statement from a report of the Prophet (peace be upon him).

L13339–13341 There is no proof in the statements of Umar, Ibn Masʿūd, and ʿAlī regarding that matter, because others have opposed them. Among the Companions, there are also differences reported from ʿUmar, as we have mentioned. Therefore, the reference in case of dispute is the Qur’an and the Sunnah.

قَالَ أَشْعَثُ: وَأَخْبَرَنِي عِلَاجُ بْنُ عَمْرٍو «عَنْ ابْنِ عُمَرَ بِهَذَا قَالَ: فَقِيلَ لِابْنِ عُمَرَ فِي ذَلِكَ؟ فَقَالَ: صَلَّيْتُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - هَكَذَا» . وَبِهِ يَأْخُذُ أَبُو حَنِيفَةَ إِلَّا أَنَّهُ قَالَ: فَإِنْ تَطَوَّعَ بَيْنَهُمَا أَقَامَ لِلْعِشَاءِ إِقَامَةً أُخْرَى.

وَقَوْلٌ خَامِسٌ -: وَهُوَ الْجَمْعُ بَيْنَهُمَا بِأَذَانَيْنِ وَإِقَامَتَيْنِ صَحَّ ذَلِكَ عَنْ عُمَرَ بْنِ الْخَطَّابِ مِنْ طَرِيقِ هُشَيْمٍ عَنْ إبْرَاهِيمَ عَنْ الْأَسْوَدِ كُنْت مَعَ عُمَرَ فَأَتَى الْمُزْدَلِفَةَ فَصَلَّى الْمَغْرِبَ وَالْعِشَاءَ، كُلُّ صَلَاةٍ بِأَذَانٍ وَإِقَامَةٍ -: نَا حَمَامٌ نَا الْبَاجِيَّ نَا عَبْدُ اللَّهِ بْنُ يُونُسَ نَا بَقِيٌّ نَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نَا أَبُو الْأَحْوَصِ عَنْ أَبِي إِسْحَاقَ السَّبِيعِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ قَالَ: صَلَّيْت مَعَ ابْنِ مَسْعُودٍ الْمَغْرِبَ بِجَمْعٍ بِأَذَانٍ وَإِقَامَةٍ، ثُمَّ أَتَيْنَا بِعِشَائِنَا فَتَعَشَّيْنَا، ثُمَّ صَلَّى بِنَا الْعِشَاءَ بِأَذَانٍ وَإِقَامَةٍ.

وَبِهِ نَصًّا إلَى أَبِي إِسْحَاقَ السَّبِيعِيِّ عَنْ أَبِي جَعْفَرٍ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ: أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ كَانَ يَجْمَعُ بَيْنَ الصَّلَاتَيْنِ بِمُزْدَلِفَةَ كُلُّ صَلَاةٍ بِأَذَانٍ وَإِقَامَةٍ - وَهُوَ قَوْلُ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ، وَذَكَرَهُ عَنْ أَهْلِ بَيْتِهِ؛ وَبِهِ يَقُولُ مَالِكٌ.

وَلَا حُجَّةَ فِي هَذَا الْقَوْلِ مِنْ خَبَرٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

وَلَا حُجَّةَ فِي قَوْلِ عُمَرَ، وَابْنِ مَسْعُودٍ، وَعَلِيٍّ فِي ذَلِكَ؛ لِأَنَّهُ قَدْ خَالَفَهُمْ غَيْرُهُمْ مِنْ الصَّحَابَةِ، وَاخْتَلَفَ عَنْ عُمَرَ أَيْضًا كَمَا أَوْرَدْنَا، فَالْمَرْجُوعُ إلَيْهِ عِنْدَ التَّنَازُعِ هُوَ الْقُرْآنُ وَالسُّنَّةُ.

وَلَا حُجَّةَ لِأَبِي حَنِيفَةَ فِي دَعْوَاهُ أَنَّ إِعَادَةَ الْأَذَانِ لِلْعِشَاءِ هُوَ مِنْ أَجْلِ أَنَّ عُمَرَ، وَابْنَ مَسْعُودٍ تَعَشَّيَا بَيْنَ الصَّلَاتَيْنِ، لِأَنَّهُمَا لَمْ يَذْكُرَا ذَلِكَ، وَلَا أَخْبَرَا: أَنَّ إِعَادَتَهُمَا الْأَذَانَ إِنَّمَا هُوَ مِنْ أَجْلِ الْعِشَاءِ، فَهِيَ دَعْوَى فَاسِدَةٌ؟ فَإِنْ قِيلَ: قِسْنَا ذَلِكَ عَلَى الْجَمْعِ بَيْنَ سَائِرِ الصَّلَوَاتِ إِذَا صُلِّيَتْ الْأُولَى فِي آخِرِ وَقْتِهَا، وَالْأُخْرَى فِي أَوَّلِ وَقْتِهَا، فَلَا بُدَّ مِنْ أَذَانٍ وَإِقَامَةٍ لِكُلِّ صَلَاةٍ؟ قُلْنَا: الْقِيَاسُ بَاطِلٌ، وَلَا يَجُوزُ أَنْ يُعَارَضَ مَا صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِقِيَاسٍ فَاسِدٍ قَالَ أَبُو مُحَمَّدٍ: وَقَدْ رُوِيَ مِثْلُ قَوْلِنَا عَنْ ابْنِ عُمَرَ، وَسَالِمٍ ابْنِهِ، وَعَطَاءٍ، كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ الْفَضْلِ بْنِ دُكَيْنٍ عَنْ مِسْعَرِ بْنِ كِدَامٍ عَنْ عَبْدِ الْكَرِيمِ قَالَ: صَلَّيْت خَلْفَ سَالِمٍ: الْمَغْرِبَ، وَالْعِشَاءَ بِجَمْعٍ بِأَذَانٍ وَإِقَامَتَيْنِ، فَلَقِيت نَافِعًا فَقُلْت لَهُ: هَكَذَا كَانَ يَصْنَعُ عَبْدُ اللَّهِ؟ قَالَ: نَعَمْ، فَلَقِيت عَطَاءً فَقُلْت لَهُ؟ فَقَالَ: قَدْ كُنْت أَقُولُ لَهُمْ: لَا صَلَاةَ إلَّا بِإِقَامَةٍ - وَهُوَ قَوْلُ الشَّافِعِيِّ مِنْ رِوَايَةِ أَبِي ثَوْرٍ عَنْهُ، فَهِيَ سِتَّةُ أَقْوَالٍ -: أَحَدُهُمَا: الْجَمْعُ بَيْنَهُمَا بِلَا أَذَانٍ وَلَا إقَامَةٍ، وَصَحَّ عَنْ ابْنِ عُمَرَ. وَالثَّانِي:

There is no valid proof for Abū Ḥanīfah in his claim that repeating the *adhān* for the ʿIshā’ prayer is due to ʿUmar and Ibn Masʿūd having eaten their evening meal between the two prayers, for they neither mentioned that nor reported that their repetition of the *adhān* was specifically for the ʿIshā’ prayer. Thus, his claim is baseless. If it is argued: “We analogize this to combining other prayers when the first is performed at the end of its time and the second at the beginning of its time, requiring an *adhān* and *iqāmah* for each prayer,” we reply: The analogy is invalid, and it is impermissible to oppose what is authentically established from the Prophet (peace and blessings of Allāh be upon him) with a flawed analogy. Abū Muḥammad said: A report aligning with our view has been narrated from Ibn ʿUmar, his son Sālim, and ʿAṭā’, as was narrated to us through Ibn Abī Shaybah from al-Faḍl ibn Dukayn from Misʿar ibn Kidām from ʿAbd al-Karīm, who said: “I prayed Maghrib and ʿIshā’ together behind Sālim with one *adhān* and two *iqāmahs*. I met Nāfiʿ and asked him: ‘Did ʿAbdullāh ibn ʿUmar used to do this?’ He replied: ‘Yes.’ Then I met ʿAṭā’ and asked him, to which he responded: ‘I would tell them: There is no prayer without an *iqāmah*.’” This is the opinion of al-Shāfiʿī according to the narration of Abū Thawr from him. There are six opinions on this matter: The first is combining the prayers without an *adhān* or *iqāmah*, which is authentically reported from Ibn ʿUmar. The second...

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الْجَمْعُ بَيْنَهُمَا بِإِقَامَةٍ وَاحِدَةٍ فَقَطْ - وَصَحَّ أَيْضًا: عَنْ ابْنِ عُمَرَ -: وَهُوَ قَوْلُ سُفْيَانَ، وَأَحْمَدَ، وَأَبِي بَكْرِ بْنِ دَاوُد - وَصَحَّ بِهِ خَبَرٌ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. وَالثَّالِثُ: الْجَمْعُ بَيْنَهُمَا بِإِقَامَتَيْنِ فَقَطْ؛ رُوِيَ عَنْ عُمَرَ، وَعَلِيٍّ، وَصَحَّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ - وَهُوَ أَحَدُ قَوْلَيْ سُفْيَانَ، وَأَحْمَدَ، وَالشَّافِعِيِّ؛ وَصَحَّ بِهِ خَبَرٌ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. وَالرَّابِعُ:

Combining the two prayers with only one iqāmah—and it is also authenticated from Ibn ʿUmar. This is the opinion of Sufyān, Aḥmad, and Abū Bakr ibn Dāwūd, and a report from the Messenger of Allah (peace be upon him) is authenticated through it. The third view: combining the two prayers with only two iqāmahs—narrated from ʿUmar and ʿAlī, and authenticated from Sālim ibn ʿAbdillāh. This is one of the two opinions held by Sufyān, Aḥmad, and al-Shāfiʿī, and a report from the Messenger of Allah (peace be upon him) is authenticated through it. The fourth view:

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الْجَمْعُ بَيْنَهُمَا بِأَذَانٍ وَاحِدٍ وَإِقَامَةٍ وَاحِدَةٍ - رُوِيَ عَنْ عُمَرَ؛ وَصَحَّ عَنْ ابْنِهِ عَبْدِ اللَّهِ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ - وَصَحَّ بِهِ خَبَرٌ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. وَالْخَامِسُ:

Combining the two prayers with one adhan and one iqamah - narrated from ’Umar and authenticated from his son ’Abdullah - this being the opinion of

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Abu Hanifah - with a sound report from the Messenger of Allah (peace be upon him) affirming it. The fifth:

L13345 Combining the two prayers with one adhān and two iqāmahs is established from Ibn ʿUmar, his son Salim ibn ʿUmar, and ʿAṭāʾ. This is one of the two doctrinal positions of Al-Shāfiʿī, and it is the view we adopt. A sound narration from the Messenger of Allah (may Allah bless him and grant him peace) has been authenticated with this ruling. The sixth:

L13346–13348 Combining the two prayers [e.g., Maghrib and ʿIshāʾ] with two adhāns (calls to prayer) and two iqāmahs (calls to commence prayer) is authentically reported from ʿUmar and Ibn Masʿūd, and it has been narrated. From Ali, Muhammad ibn Ali ibn al-Ḥusayn, and the members of his household—this is the view of Mālik.

L13349 As for the narrations regarding this matter, some mention one iqama through the chain of Ibn Umar and Ibn Abbas, while others mention two iqamas through the chain of Ibn Umar and Usama ibn Zayd. Some narrations mention one adhan and one iqama through the chain of Ibn Umar, and others mention one adhan and two iqamas through the chain of Jabir. The narrations from Ibn Umar are conflicting, except that one narration from him—along with those from Usama ibn Zayd and Jabir ibn Abdullah—includes an addition over the others. In the narration of Ibn Abbas, there is an additional iqama, so it is obligatory to adopt the version with the addition. One narration from Ibn Umar and Jabir includes an addition over the others and over the narration of Usama an adhan, making it obligatory to adopt the version with the addition, since it is an independently authentic narration that cannot be contradicted. When combining the narrations transmitted by Salim and ʿAlaq from Ibn Umar, it is established from both that there is one adhan and two iqamas, as explicitly stated in the hadith of Jabir. This is the position that cannot be opposed, and no valid argument exists for those who contradict it. With Allah, the Exalted, lies success.

L13350 As for our statement: The Maghrib prayer on that night is not valid unless performed in Muzdalifah—necessarily—and after the disappearance of twilight—necessarily—this is based on what we transmitted through al-Bukhari's

الْجَمْعُ بَيْنَهُمَا بِأَذَانٍ وَاحِدٍ وَإِقَامَتَيْنِ صَحَّ عَنْ ابْنِ عُمَرَ، وَسَالِمِ ابْنِهِ، وَعَطَاءٍ، وَهُوَ أَحَدُ قَوْلَيْ الشَّافِعِيِّ، وَبِهِ نَأْخُذُ - وَصَحَّ بِذَلِكَ خَبَرٌ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

وَالسَّادِسُ:

الْجَمْعُ بَيْنَهُمَا بِأَذَانَيْنِ وَإِقَامَتَيْنِ صَحَّ عَنْ عُمَرَ، وَابْنِ مَسْعُودٍ، وَرُوِيَ عَنْ عَلِيٍّ، وَعَنْ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ وَأَهْلِ بَيْتِهِ - وَهُوَ قَوْلُ مَالِكٍ.

فَأَمَّا الْأَخْبَارُ فِي ذَلِكَ فَبَعْضُهَا بِإِقَامَةٍ وَاحِدَةٍ مِنْ طَرِيقِ ابْنِ عُمَرَ، وَابْنِ عَبَّاسٍ، وَبَعْضُهَا بِإِقَامَتَيْنِ مِنْ طَرِيقِ ابْنِ عُمَرَ، وَأُسَامَةَ بْنِ زَيْدٍ - وَبَعْضُهَا بِأَذَانٍ وَاحِدٍ، وَإِقَامَةٍ وَاحِدَةٍ مِنْ طَرِيقِ ابْنِ عُمَرَ - وَبَعْضُهَا بِأَذَانٍ وَاحِدٍ وَإِقَامَتَيْنِ مِنْ طَرِيقِ جَابِرٍ؛ فَاضْطَرَبَتْ الرِّوَايَةُ عَنْ ابْنِ عُمَرَ إلَّا أَنَّ إحْدَى الرِّوَايَاتِ عَنْهُ، وَعَنْ أُسَامَةَ بْنِ زَيْدٍ، وَعَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ: زَادَتْ عَلَى الْأُخْرَى؛ وَعَلَى رِوَايَةِ ابْنِ عَبَّاسٍ إقَامَةٌ فَوَجَبَ الْأَخْذُ بِالزِّيَادَةِ، وَإِحْدَى الرِّوَايَاتِ عَنْهُ، وَعَنْ جَابِرٍ تَزِيدُ عَلَى الْأُخْرَى، وَعَلَى رِوَايَةِ أُسَامَةَ أَذَانًا، فَوَجَبَ الْأَخْذُ بِالزِّيَادَةِ لِأَنَّهَا رِوَايَةٌ قَائِمَةٌ بِنَفْسِهَا صَحِيحَةٌ فَلَا يَجُوزُ خِلَافُهَا، فَإِذَا جَمَعْت رِوَايَةَ سَالِمٍ، وَعِلَاجٍ عَنْ ابْنِ عُمَرَ صَحَّ مِنْهُمَا أَذَانٌ، وَإِقَامَتَانِ كَمَا جَاءَ بَيِّنًا فِي حَدِيثِ جَابِرٍ، وَهَذَا هُوَ الَّذِي لَا يَجُوزُ خِلَافُهُ، وَلَا حُجَّةَ لِمَنْ خَالَفَ ذَلِكَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

وَأَمَّا قَوْلُنَا: لَا تُجْزِئُ صَلَاةُ الْمَغْرِبِ تِلْكَ اللَّيْلَةَ إلَّا بِمُزْدَلِفَةَ وَلَا بُدَّ، وَبَعْدَ غُرُوبِ الشَّفَقِ وَلَا بُدَّ، فَلِمَا رُوِّينَاهُ مِنْ طَرِيقِ الْبُخَارِيِّ نَا ابْنُ سَلَّامٍ نَا يَزِيدُ بْنُ هَارُونَ عَنْ يَحْيَى بْنِ

chain: Ibn Sallam narrated to us, [who] narrated to us from Yazīd ibn Hārūn, from Yaḥyā ibn Saʿīd al-Anṣārī, from Mūsā ibn ʿUqbah, from Kurayb—the mawlā of Ibn ʿAbbās—from Usāmah ibn Zayd, who said: "When Allah's Messenger (peace be upon him) departed from ʿArafāt, he turned toward the mountain pass to relieve himself. I poured water for him as he performed ablution. I asked: 'O Messenger of Allah, will you pray?' He replied: 'The prayer site lies ahead of you.'" The rest of the ḥadīth is mentioned.

سَعِيدٍ الْأَنْصَارِيِّ عَنْ مُوسَى بْنِ عُقْبَةَ عَنْ كُرَيْبٍ مَوْلَى ابْنِ عَبَّاسٍ عَنْ أُسَامَةَ بْنِ زَيْدٍ قَالَ «لَمَّا أَفَاضَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ عَرَفَاتٍ عَدَلَ إِلَى الشِّعْبِ فَقَضَى حَاجَتَهُ فَجَعَلْتُ أَصُبُّ عَلَيْهِ وَيَتَوَضَّأُ فَقُلْتُ: يَا رَسُولَ اللَّهِ أَتُصَلِّي؟ قَالَ: الْمُصَلَّى أَمَامَكَ» وَذَكَرَ بَاقِيَ الْحَدِيثِ.

L13351 And through the chain of Muslim: From Yahya ibn Ayyub, from Qutaybah ibn Saʿid, from Ibn Hujr, who said: Ismaʿil reported to us, from Yahya ibn Yahya—and the wording is his—from Ismaʿil ibn Jaʿfar, from Muhammad ibn Abi Harmalah, from Kurayb the freedman of Ibn ʿAbbas, from Usamah ibn Zayd that he was seated behind the Messenger of Allah (PBUH) on the same mount from ʿArafat. When the Messenger of Allah (PBUH) reached the left mountain path below Muzdalifah, he dismounted by making his camel kneel and urinated. Then he came, and I poured water over him for ablution. He performed a brief ablution, whereupon I said: "Shall we pray, O Messenger of Allah?" He replied: "The prayer is ahead of you." Kurayb then related the remainder of the hadith.

وَمِنْ طَرِيقِ مُسْلِمٍ نَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، وَابْنُ حُجْرٍ قَالُوا: نَا إِسْمَاعِيلُ نَا يَحْيَى بْنُ يَحْيَى - وَاللَّفْظُ لَهُ - نَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَرْمَلَةَ عَنْ كُرَيْبٍ مَوْلَى ابْنِ عَبَّاسٍ «عَنْ أُسَامَةَ بْنِ زَيْدٍ أَنَّهُ كَانَ رِدْفَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ عَرَفَاتٍ فَلَمَّا بَلَغَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الشِّعْبَ الْأَيْسَرَ الَّذِي دُونَ الْمُزْدَلِفَةِ أَنَاخَ فَبَالَ، ثُمَّ جَاءَ فَصَبَبْتُ عَلَيْهِ الْوَضُوءَ فَتَوَضَّأَ وُضُوءًا خَفِيفًا، ثُمَّ قُلْتُ: الصَّلَاةَ يَا رَسُولَ اللَّهِ فَقَالَ: الصَّلَاةُ أَمَامَكَ» وَذَكَرَ الْحَدِيثَ.

L13352–13354 Abu Muhammad said: Since the Imam (peace be upon him) had intended to omit the Maghrib prayer and informed that the prayer place... From the front, and that prayer is from the front, the *musalla* is the place of prayer. It has been informed that the place of prayer and the time of prayer are established beforehand. Thus, it is conclusively certain that whatever precedes that time or precedes that place is not a valid prayer space, nor is a prayer performed there considered prayer.

قَالَ أَبُو مُحَمَّد: فَإِذْ قَدْ قَصَدَ - عَلَيْهِ السَّلَامُ - تَرْكَ صَلَاةِ الْمَغْرِبِ وَأَخْبَرَ بِأَنَّ الْمُصَلَّى مِنْ أَمَامٍ، وَأَنَّ الصَّلَاةَ مِنْ أَمَامٍ، فَالْمُصَلَّى هُوَ مَوْضِعُ الصَّلَاةِ فَقَدْ أَخْبَرَ بِأَنَّ مَوْضِعَ الصَّلَاةِ وَوَقْتَ الصَّلَاةِ مِنْ أَمَامٍ، فَصَحَّ يَقِينًا أَنَّ مَا قَبْلَ ذَلِكَ الْوَقْتِ، وَمَا قَبْلَ ذَلِكَ الْمَكَانِ لَيْسَ مُصَلًّى، وَلَا الصَّلَاةُ فِيهِ صَلَاةٌ.

L13355 It was narrated to us through the chain of Abd al-Razzaq from Ibn Jurayj, who reported to me that Abu al-Zubayr heard Jabir ibn Abdullah saying: "There is no prayer except with congregational prayer." And it was narrated to us through the chain of Hajjaj ibn al-Minhal from Yazid ibn Ibrahim al-Tustari from Abdullah ibn Abi Mulaikah, who said: "Ibn al-Zubayr would deliver sermons to us, saying: 'Is there no prayer except with congregational prayer?'" repeating it three times.

رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: لَا صَلَاةَ إِلَّا بِجَمْعٍ - وَرُوِّينَا مِنْ طَرِيقِ حَجَّاجِ بْنِ الْمِنْهَالِ نَا يَزِيدُ بْنُ إِبْرَاهِيمَ هُوَ التُّسْتَرِيُّ - نَا عَبْدُ اللَّهِ بْنُ أَبِي مُلَيْكَةَ قَالَ: كَانَ ابْنُ الزُّبَيْرِ يَخْطُبُنَا فَيَقُولُ: أَلَا لَا صَلَاةَ إِلَّا بِجَمْعٍ؟ يُرَدِّدُهَا ثَلَاثًا.

L13356 From the chain of Abd al-Rahman ibn Mahdi, from Sufyan al-Thawri, from Layth, from Mujahid, who said: “There is no prayer [valid] except in congregation, even if it extends until midnight.” It is narrated from Ibn Umar and Ibn Abbas that the Maghrib prayer is performed without congregation, and no authoritative evidence exists except based on the statement of the Messenger of Allah (peace and blessings be upon him).

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ لَيْثٍ عَنْ مُجَاهِدٍ قَالَ: لَا صَلَاةَ إِلَّا بِجَمْعٍ، وَلَوْ إِلَى نِصْفِ اللَّيْلِ - وَرُوِيَ عَنْ ابْنِ عُمَرَ وَابْنِ عَبَّاسٍ: صَلَاةُ الْمَغْرِبِ دُونَ جَمْعٍ، وَلَا حُجَّةَ إِلَّا فِي قَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

## L13357 Hajj of One Who Did Not Join the imam in the Fajr Prayer at Muzdalifah

## [حَجّ مَنْ لَمْ يُدْرِكْ مَعَ الْإِمَامِ صَلَاةَ الصُّبْحِ بِمُزْدَلِفَةَ]

L13358 As for the invalidity of the Hajj of any man who did not attend the Fajr prayer with the Imam at Muzdalifah, this is based on what ʿAbdullāh ibn Rabīʿ narrated to us: Muḥammad ibn Muʿāwiyah narrated to us, Aḥmad ibn Shuʿayb narrated to us, Muḥammad ibn Qudāmah al-Miṣīṣī informed me, Jarīr ibn Ḥāzim narrated to us from Muṭarrif ibn Ṭarīf from al-Shaʿbī from ʿUrwah ibn Muḍarris, who said: The Messenger of Allah—peace and blessings be upon him—said, “Whoever attains the gathering with the Imam and the people until they move onward collectively from it has indeed attained Hajj, and whoever does not attain it with the Imam and the people has not attained it.”

وَأَمَّا بُطْلَانُ حَجِّ مَنْ لَمْ يُدْرِكْ مَعَ الْإِمَامِ صَلَاةَ الصُّبْحِ بِمُزْدَلِفَةَ مِنَ الرِّجَالِ، فَلِمَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَخْبَرَنِي مُحَمَّدُ بْنُ قُدَامَةَ الْمِصِّيصِيّ نَا جَرِيرُ بْنُ حَازِمٍ عَنْ مُطَرِّفِ بْنِ طَرِيفٍ عَنِ الشَّعْبِيِّ عَنْ عُرْوَةَ بْنِ مُضَرِّسٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَنْ أَدْرَكَ جَمْعًا مَعَ الْإِمَامِ وَالنَّاسِ حَتَّى يُفِيضُوا مِنْهَا فَقَدْ أَدْرَكَ الْحَجَّ، وَمَنْ لَمْ يُدْرِكْ مَعَ الْإِمَامِ وَالنَّاسِ فَلَمْ يُدْرِكْ».

L13359 And with his chain to Aḥmad ibn Shuʿayb: I am ʿAmr ibn ʿAlī - from Yaḥyā ibn Saʿīd al-Qaṭṭān - from Ismāʿīl ibn Abī Khālid, who informed me: ʿĀmir al-Shaʿbī informed me - ʿUrwah ibn Muḍarris al-Ṭāʾī said: I said: “O Messenger of Allah, I have come to you from the two mountains of Ṭayy, having exhausted my mount and fatigued myself. By Allah, no mountain remains except that I stood upon it. Do I have any Hajj?” The Messenger of Allah - peace and blessings of Allah be upon him - said: “Whoever prays the dawn prayer here, then remains with us, and had already stood at ʿArafah before that - whether by night or day - his Hajj is complete.”

وَبِهِ إِلَى أَحْمَدَ بْنِ شُعَيْبٍ أَنَا عَمْرُو بْنُ عَلِيٍّ نَا يَحْيَى بْنُ سَعِيدٍ الْقَطَّانُ نَا إِسْمَاعِيلُ بْنُ أَبِي خَالِدٍ أَخْبَرَنِي عَامِرٌ الشَّعْبِيُّ أَخْبَرَنِي «عُرْوَةُ بْنُ مُضَرِّسٍ الطَّائِيُّ قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ أَتَيْتُكَ مِنْ جَبَلَيْ طَيِّئٍ أَكْلَلْتُ مَطِيَّتِي وَأَتْعَبْتُ نَفْسِي، وَاللَّهِ مَا بَقِيَ مِنْ جَبَلٍ إِلَّا وَقَفْتُ عَلَيْهِ فَهَلْ لِي مِنْ حَجٍّ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: مَنْ صَلَّى الْغَدَاةَ هَاهُنَا، ثُمَّ أَقَامَ مَعَنَا، وَقَدْ وَقَفَ قَبْلَ ذَلِكَ بِعَرَفَةَ لَيْلًا أَوْ نَهَارًا فَقَدْ تَمَّ حَجُّهُ».

L13360–13362 And He, the Exalted, said: {When you depart from ʿArafāt, remember Allah at the Sacred Monument} [Al-Baqarah: 198]. Thus, the standing at Muzdalifah—which is the Sacred Monument—is obligatory, and the remembrance of Allah, the Exalted, near it is a binding obligation. Whoever contravenes this disobeys and has no Hajj for him, because he failed to fulfill what he was

وَقَالَ تَعَالَى: {فَإِذَا أَفَضْتُمْ مِنْ عَرَفَاتٍ فَاذْكُرُوا اللَّهَ عِنْدَ الْمَشْعَرِ الْحَرَامِ} [البقرة: ١٩٨] فَوَجَبَ الْوُقُوفُ بِمُزْدَلِفَةَ - وَهِيَ الْمَشْعَرُ الْحَرَامُ - وَذِكْرُ اللَّهِ - تَعَالَى - عِنْدَهَا فَرْضٌ يَعْصِي مَنْ خَالَفَهُ وَلَا حَجَّ لَهُ، لِأَنَّهُ لَمْ يَأْتِ بِمَا أُمِرَ، إِلَّا أَنَّ إِدْرَاكَ صَلَاةِ الْفَجْرِ فِيهَا

commanded—except that attaining the Fajr prayer... The obligatory recitation performed with the Imam in the prayer is as established through the statement of the Messenger of Allah (peace and blessings be upon him). Whoever joins any part of the Imam's prayer has caught up with the prayer, in accordance with the statement of the Messenger of Allah (peace and blessings be upon him): "What you join, pray it, and what you miss, complete it."[32]

مَعَ الْإِمَامِ هُوَ الذِّكْرُ الْمُفْتَرَضُ بِبَيَانِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْمَذْكُورِ، وَمَنْ أَدْرَكَ شَيْئًا مِنْ صَلَاةِ الْإِمَامِ فَقَدْ أَدْرَكَ الصَّلَاةَ لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «فَمَا أَدْرَكْتُمْ فَصَلُّوا وَمَا فَاتَكُمْ فَأَتِمُّوا» .

L13363 Abu Muhammad said: How astonishing that one would claim the Messenger of Allah's statement (peace be upon him) regarding pastured camels, "For every five, a sheep," serves as evidence that non-pastured camels differ from pastured ones.

قَالَ أَبُو مُحَمَّدٍ: وَالْعَجَبُ مِمَّنْ يَقُولُ: إنَّ قَوْلَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي سَائِمَةِ الْإِبِلِ «فِي كُلِّ خَمْسٍ شَاةٌ» دَلِيلٌ عَلَى أَنَّ غَيْرَ السَّائِمَةِ بِخِلَافِ السَّائِمَةِ.

L13364 Among those who assert that the Prophet's statement (peace be upon him)—"When he says, 'Allāh hears those who praise Him,' respond with, 'Our Lord, to You is all praise'"—indicates that the Imam does not say "Our Lord, to You is all praise" and that the congregant does not say "Allāh hears those who praise Him," yet they do not regard his statement (peace be upon him)—"Whoever prays Fajr here with us after having reached Arafat beforehand has completed his Hajj"—as evidence that one who fails to pray Fajr there with the Imam has not completed his Hajj. How can this be, when the Prophet's explicit text (peace be upon him) suffices us [from all of that]? For if one fails to fulfill this, he has not attained Hajj.

وَمِمَّنْ يَقُولُ: إنَّ قَوْلَهُ - عَلَيْهِ السَّلَامُ - «وَإِذَا قَالَ: سَمِعَ اللَّهُ لِمَنْ حَمِدَهُ فَقُولُوا: رَبَّنَا وَلَكَ الْحَمْدُ» دَلِيلٌ أَنَّ الْإِمَامَ لَا يَقُولُ: رَبَّنَا وَلَكَ الْحَمْدُ، وَأَنَّ الْمَأْمُومَ لَا يَقُولُ: سَمِعَ اللَّهُ لِمَنْ حَمِدَهُ ثُمَّ لَا يَرَى قَوْلَهُ - عَلَيْهِ السَّلَامُ -: «مَنْ صَلَّى الْغَدَاةَ هَاهُنَا مَعَنَا، وَقَدْ أَتَى عَرَفَةَ قَبْلَ ذَلِكَ فَقَدْ تَمَّ حَجُّهُ» دَلِيلًا عَلَى أَنَّ مَنْ لَمْ يُصَلِّ الْغَدَاةَ هُنَالِكَ مَعَ الْإِمَامِ لَمْ يَتِمَّ حَجُّهُ، فَكَيْفَ وَقَدْ غُنِينَا [عَنْ ذَلِكَ كُلِّهِ] بِنَصِّهِ - عَلَيْهِ السَّلَامُ -؟ عَلَى أَنَّهُ إنْ لَمْ يُدْرِكْ ذَلِكَ فَلَمْ يُدْرِكْ الْحَجَّ.

L13365 Some of them argued using the Prophet's statement (peace and blessings be upon him): "Ḥajj is ʿArafah." ʿAlī responded: Yet they themselves are the first to nullify this argument, for according to their rulings, there are obligatory acts whose abandonment invalidates Ḥajj besides ʿArafah—such as abandoning ihrām, neglecting Tawāf al-Ifāḍah, and omitting Saʿy between al-Ṣafā and al-Marwah. How contradictory is this? The Prophet's statement (peace be upon him)—"Ḥajj is ʿArafah"—does not prevent other elements from being Ḥajj as well when supported by textual evidence. Indeed, the Almighty has said: {And [due] to Allah from the people is pilgrimage to the

وَاحْتَجَّ بَعْضُهُمْ بِقَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «الْحَجُّ عَرَفَةَ» ؟ قَالَ عَلِيٌّ: وَهُمْ أَوَّلُ مُبْطِلٍ لِهَذَا الِاحْتِجَاجِ لِأَنَّ عِنْدَهُمْ فَرَائِضَ يَبْطُلُ الْحَجُّ بِتَرْكِهَا سِوَى عَرَفَةَ كَتَرْكِ الْإِحْرَامِ وَتَرْكِ طَوَافِ الْإِفَاضَةِ. وَتَرْكِ الصَّفَا وَالْمَرْوَةِ. فَكَمْ هَذَا التَّنَاقُضُ؟ وَلَيْسَ قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «وَالْحَجُّ عَرَفَةَ» بِمَانِعٍ مِنْ أَنْ يَكُونَ غَيْرُ عَرَفَةَ الْحَجَّ أَيْضًا إذَا جَاءَ بِذَلِكَ نَصٌّ، وَقَدْ قَالَ تَعَالَى: {وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] وَالْبَيْتُ غَيْرُ عَرَفَةَ بِلَا شَكٍّ.

[32] **Qur'an references (L13360):** Qur'an 2:198 (Al-Baqarah).

House—for whoever is able to find thereto a way} [Āl ʿImrān 3:97], and the House is undoubtedly other than ʿArafah.[33]

وَسَوَّى - تَعَالَى - بَيْنَ الْأَمْرِ بِعَرَفَةَ، وَالْأَمْرِ بِمُزْدَلِفَةَ فِي الْقُرْآنِ، وَقَدْ قَالَ - تَعَالَى -: {وَأَذَانٌ مِنَ اللَّهِ وَرَسُولِهِ إِلَى النَّاسِ يَوْمَ الْحَجِّ الأَكْبَرِ} [التوبة: ٣] .

L13366 He (Exalted is He) equated the commands concerning ʿArafah and Muzdalifah in the Quran, and He said: *"A declaration from Allah and His Messenger to the people on the Day of the Greater Pilgrimage"* (Quran 9:3).[34]

وَأَخْبَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّ يَوْمَ الْحَجِّ الْأَكْبَرِ - هُوَ يَوْمُ النَّحْرِ - وَلَا يَكُونُ يَوْمُ الْحَجِّ الْأَكْبَرِ إِلَّا وَغَيْرُهُ يَوْمُ الْحَجِّ الْأَصْغَرِ، وَمُحَالٌ مُمْتَنِعٌ أَنْ يَكُونَ - هُوَ يَوْمَ الْحَجِّ الْأَكْبَرِ - وَلَا يَكُونَ فِيهِ مِنْ فَرَائِضِ الْحَجِّ شَيْءٌ وَيَكُونَ فَرْضُ الْحَجِّ فِي غَيْرِهِ.

L13367 The Messenger of Allah, peace and blessings be upon him, stated that the Day of the Greater Hajj is the Day of Sacrifice. The Day of the Greater Hajj cannot exist unless another day is the Day of the Lesser Hajj (ʿUmrah). It is utterly inconceivable and impossible for it to be the Day of the Greater Hajj without there being any of the obligatory rites of Hajj in it, and for the obligation of Hajj to be in a day other than it.

فَصَحَّ أَنَّ جُمْلَةَ فَرَائِضِ الْحَجِّ فِي يَوْمِ الْحَجِّ الْأَكْبَرِ، وَهِيَ الْوُقُوفُ بِمُزْدَلِفَةَ الَّذِي لَا يَكُونُ فِي غَيْرِهِ، وَرَمْيُ الْجَمْرَةِ، وَالْإِفَاضَةُ؛ وَقَدْ يَكُونَانِ فِيمَا بَعْدَهُ كَمَا عَرَفَةُ فِيمَا قَبْلَهُ -: رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ عَنِ الْحَسَنِ الْعُرَنِيِّ عَنِ ابْنِ عَبَّاسٍ قَالَ " مَنْ أَفَاضَ مِنْ عَرَفَةَ فَلَا حَجَّ لَهُ ".

L13368–13369 It has been established that the totality of Hajj obligations on the Day of the Greater Pilgrimage comprises standing at Muzdalifah - which does not occur at any other time - stoning the Jamrah, and the Ifādah ritual procession. These latter two may take place afterward, similar to how the standing at Arafat precedes it. We have been narrated through the chain of Abd al-Rahman ibn Mahdi, who narrated to us Sufyan al-Thawri, from Salamah ibn Kuhayl, from al-Ḥasan al-ʿUrnī, from Ibn Abbas, who said: "Whoever departs prematurely from Arafat has no valid Hajj."

وَقَدْ ذَكَرْنَا عَنِ ابْنِ الزُّبَيْرِ أَنَّهُ كَانَ يَقُولُ فِي خُطْبَتِهِ: أَلَا لَا صَلَاةَ إِلَّا بِجَمْعٍ، فَإِذَا أَبْطَلَ الصَّلَاةَ إِلَّا بِمُزْدَلِفَةَ فَقَدْ جَعَلَهَا مِنْ فَرَائِضِ الْحَجِّ.

L13370 We have related from Ibn al-Zubayr that he would declare in his sermon: "Know that there is no prayer except at Jam' (Muzdalifah). If one invalidates the prayer except at Muzdalifah, he has indeed made it one of the obligatory rites of Hajj."

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ دَاوُد بْنِ يَزِيدَ الْأَزْدِيِّ عَنْ أَبِي الضُّحَى قَالَ: سَأَلْت عَلْقَمَةَ عَمَّنْ لَمْ يُدْرِكْ عَرَفَاتٍ، أَوْ جَمْعًا، أَوْ وَقَعَ بِأَهْلِهِ يَوْمَ النَّحْرِ قَبْلَ أَنْ يَزُورَ؟ فَقَالَ: عَلَيْهِ الْحَجُّ.

L13371 From the narration of Shu'bah from Dāwūd ibn Yazīd al-Azdī from Abū al-Ḍuḥā, who said: I asked 'Alqamah about one who did not reach Arafat or Jam' (Muzdalifah), or violated marital restrictions on the day of sacrifice before performing the visitation (Tawaf). He replied: He must perform Hajj again.

وَمِنْ طَرِيقِ شُعْبَةَ عَنِ الْمُغِيرَةِ بْنِ مِقْسَمٍ عَنْ إبْرَاهِيمَ النَّخَعِيِّ قَالَ: كَانَ يُقَالُ: مَنْ فَاتَهُ جَمْعٌ أَوْ عَرَفَةُ فَقَدْ فَاتَهُ الْحَجُّ.

L13372 From the narration of Shu'bah, from al-Mughīrah ibn Miqsam, from Ibrāhīm

[33] **Qur'an references (L13365):** Qur'an 3:97 (Ali 'Imran).
[34] **Qur'an references (L13366):** Qur'an 9:3 (At-Tawbah).

al-Nakha‘ī, who said: It was said, “Whoever misses the gathering [at Muzdalifah] or Arafat has indeed missed Hajj.”

وَمِنْ طَرِيق عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ قَالَ: مَنْ فَاتَهُ عَرَفَةُ، أَوْ جَمْعٌ، أَوْ جَامَعَ قَبْلَ أَنْ يَزُورَ فَقَدْ فَسَدَ حَجُّهُ.

L13373 From the narration of Abdur-Rahman ibn Mahdi, from Sufyan al-Thawri, from Mansur ibn al-Mu‘tamir, from Ibrahim al-Nakha‘i, who said: Whoever misses the standing at Arafah, fails to reach Muzdalifah (al-Jam‘), or engages in marital relations before performing the Tawaf al-Ziyarah (visitation rite), their Hajj is invalid.

وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ أَيْضًا عَنْ عَبْدِ اللَّهِ بْنِ أَبِي السَّفَرِ عَنْ الشَّعْبِيِّ أَنَّهُ قَالَ: مَنْ فَاتَهُ جَمْعٌ جَعَلَهَا عُمْرَةً.

L13374 Narrated via Sufyan al-Thawri as well, from Abdullah ibn Abi al-Safar, from al-Sha‘bi, that he said: Whoever misses the gathering (jam‘), let him convert his pilgrimage into umrah.

وَعَنْ الْحَسَنِ الْبَصْرِيِّ مَنْ لَمْ يَقِفْ بِجَمْعٍ فَلَا حَجَّ لَهُ.

L13375 It is reported from al-Ḥasan al-Baṣrī: Whoever does not stand at Jam‘ (Muzdalifah), he has no Hajj.

وَعَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ قَالَ: مَنْ فَاتَهُ الْإِفَاضَةُ مِنْ جَمْعٍ فَقَدْ فَاتَهُ الْحَجُّ فَلْيَحِلَّ بِعُمْرَةٍ ثُمَّ لِيَحُجَّ مِنْ قَابِلٍ - وَمِنْ طَرِيقِ شُعْبَةَ عَنْ أَبِي بِشْرٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: يَوْمُ الْحَجِّ الْأَكْبَرِ - هُوَ يَوْمُ النَّحْرِ - أَلَا تَرَى أَنَّهُ إِذَا فَاتَهُ عَرَفَةُ لَمْ يَفُتْهُ الْحَجُّ وَإِذَا فَاتَهُ يَوْمُ النَّحْرِ فَاتَهُ الْحَجُّ؟ قَالَ أَبُو مُحَمَّد: صَدَقَ سَعِيدٌ، لِأَنَّ مَنْ فَاتَتْهُ عَرَفَةُ يَوْمَ عَرَفَةَ لَمْ يَفُتْهُ الْحَجُّ لِأَنَّهُ يَقِفُ بِعَرَفَةَ لَيْلَةَ يَوْمِ النَّحْرِ، وَأَمَّا يَوْمُ النَّحْرِ فَإِنَّمَا سَمَّاهُ اللَّهُ - تَعَالَى -: {يَوْمَ الْحَجِّ الْأَكْبَرِ} [التوبة: ٣] لِأَنَّ فِيهِ فَرَائِضَ ثَلَاثًا مِنْ فَرَائِضِ الْحَجِّ، وَهُوَ الْوُقُوفُ بِمُزْدَلِفَةَ لَا يَكُونُ جَازِئًا إِلَّا غَدَاةَ يَوْمِ النَّحْرِ، وَجَمْرَةُ الْعَقَبَةِ، وَطَوَافُ الْإِفَاضَةِ، وَيَجُوزُ تَأْخِيرُهُ، فَصَحَّ أَنَّ مُزْدَلِفَةَ أَشَدُّ فُرُوضِ الْحَجِّ تَأْكِيدًا وَأَضْيَقُهَا وَقْتًا، وَقَدْ رُوِيَ عَنْ ابْنِ عُمَرَ خِلَافُ هَذَا.

L13376–13378 Hammad ibn Abi Sulayman said: “Whoever misses the Ifāḍah from Jam‘ has missed Hajj. Let him exit the state of consecration by performing Umrah, then perform Hajj the following year.” Through the chain of Shu‘bah from Abu Bishr from Sa‘id ibn Jubayr, he said: “The Greatest Day of Hajj is the Day of Sacrifice. Do you not see that if one misses Arafah, he does not miss Hajj, but if he misses the Day of Sacrifice, he misses Hajj?” Abu Muhammad said: “Sa‘id spoke truthfully, for whoever misses standing at Arafah on its day does not miss Hajj because he can stand at Arafah during the night of the Day of Sacrifice. As for the Day of Sacrifice, Allah the Exalted named it ’the Greatest Day of Hajj’ [9:3] because it contains three obligatory rites of Hajj: standing at Muzdalifah—which is not acceptable unless performed at the dawn of the Day of Sacrifice—stoning Jamrah al-‘Aqabah, and the Ifāḍah circumambulation, though it may be delayed. Thus it is confirmed that...” Muzdalifah is the most strictly mandated of Hajj’s obligations and the most time-constrained. A contrary opinion to this has been narrated from Ibn ‘Umar.[35]

L13379 As for our statement that women, children, and the weak are treated differently from this ruling, it is due to what was narrated to us through Muslim’s chain: Muhammad ibn Abi Bakr al-Muqaddami narrated to us, Yahya—the

وَأَمَّا قَوْلُنَا: إِنَّ النِّسَاءَ، وَالصِّبْيَانَ، وَالضُّعَفَاءَ بِخِلَافِ هَذَا، فَلِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ أَبِي بَكْرٍ الْمُقَدَّمِيُّ نَا يَحْيَى هُوَ ابْنُ سَعِيدٍ الْقَطَّانُ - عَنْ ابْنِ جُرَيْجٍ حَدَّثَنِي «عَبْدُ

[35] **Qur’an references (L13376):** Qur’an 9:3 (At-Tawbah).

son of Sa'īd al-Qaṭṭān—from Ibn Jurayj, who said: 'Abdullāh, the freed slave of Asmā' bint Abī Bakr al-Ṣiddīq, narrated to me that Asmā' said to him at Muzdalifah: "Has the moon set?" I replied: "No." She prayed for an hour, then asked: "My son, has the moon set?" I said: "Yes." She said: "Take me away." So we departed until she threw pebbles at the Jamrah, then prayed at her camp. I said to her: "O dear one, we departed in the early darkness!" She replied: "No, my son! The Messenger of Allah (peace and blessings be upon him) permitted women in litters."

اللَّهِ مَوْلَى أَسْمَاءَ بِنْتِ أَبِي بَكْرٍ الصِّدِّيقِ أَنَّ أَسْمَاءَ قَالَتْ لَهُ بِمُزْدَلِفَةَ: هَلْ غَابَ الْقَمَرُ؟ قُلْتُ: لَا، فَصَلَّتْ سَاعَةً ثُمَّ قَالَتْ يَا بُنَيَّ هَلْ غَابَ الْقَمَرُ؟ قُلْتُ: نَعَمْ، قَالَتْ: ارْحَلْ بِي فَارْتَحَلْنَا حَتَّى رَمَتْ الْجَمْرَةَ ثُمَّ صَلَّتْ فِي مَنْزِلِهَا فَقُلْتُ لَهَا أَيْ هَنْتَاهُ لَقَدْ غَلَّسْنَا، قَالَتْ: كَلَّا أَيْ بُنَيَّ إِنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَذِنَ لِلظُّعُنِ» .

L13380 From the narration of Ibn Wahb, Yunus reported to me from Ibn Shihāb that Sālim ibn ʿAbdullāh ibn ʿUmar informed him that ʿAbdullāh ibn ʿUmar would send the weak members of his household ahead. They would stand at al-Mashʿar al-Haram in Muzdalifah during the night, mentioning Allah the Exalted, then depart before the Imam stands. Ibn ʿUmar would say: The Messenger of Allah, peace and blessings of Allah be upon him, granted a concession for such people.

وَمِنْ طَرِيقِ ابْنِ وَهْبٍ أَخْبَرَنِي يُونُسُ عَنْ ابْنِ شِهَابٍ أَنَّ سَالِمَ بْنَ عَبْدِ اللَّهِ بْنِ عُمَرَ أَخْبَرَهُ أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ كَانَ يُقَدِّمُ ضَعَفَةَ أَهْلِهِ فَيَقِفُونَ عِنْدَ الْمَشْعَرِ الْحَرَامِ بِالْمُزْدَلِفَةِ بِاللَّيْلِ فَيَذْكُرُونَ اللَّهَ - تَعَالَى - ثُمَّ يَدْفَعُونَ قَبْلَ أَنْ يَقِفَ الْإِمَامُ وَيَقُولُ ابْنُ عُمَرَ أَرْخَصَ فِي أُولَئِكَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13381 And through the chain of Muslim, Ali ibn Khashram narrated to me: Isa ibn Yunus informed us from Ibn Jurayj, who informed me that Ata' informed me: Ibn Shawwal reported to him that he visited Umm Habibah, the Mother of the Believers, and she informed him, "The Messenger of Allah (may Allah's peace and blessings be upon him) sent her from Muzdalifah at night."

وَمِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي عَلِيُّ بْنُ خَشْرَمٍ أَنَا عِيسَى بْنُ يُونُسَ عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي عَطَاءٌ: أَنَّ ابْنَ شَوَّالٍ أَخْبَرَهُ أَنَّهُ دَخَلَ عَلَى أُمِّ حَبِيبَةَ أُمِّ الْمُؤْمِنِينَ فَأَخْبَرَتْهُ: «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَعَثَ بِهَا مِنْ جَمْعٍ بِلَيْلٍ» .

L13382 And through the chain of Muslim: Yahya ibn Yahya narrated to us from Hammad ibn Yazid from Ubayd Allah ibn Abi Yazid, who said: I heard Ibn Abbas say: The Messenger of Allah—peace be upon him—sent me with those needing assistance and the vulnerable individuals from Jam' (Muzdalifah) at night.

وَمِنْ طَرِيقِ مُسْلِمٍ نَا يَحْيَى بْنُ يَحْيَى عَنْ حَمَّادِ بْنِ يَزِيدَ عَنْ عُبَيْدِ اللَّهِ بْنِ أَبِي يَزِيدَ قَالَ: سَمِعْت «ابْنَ عَبَّاسٍ يَقُولُ: بَعَثَنِي رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الثَّقَلِ وَفِي الضَّعَفَةِ مِنْ جَمْعٍ بِلَيْلٍ» .

L13383–13385 Abu Muhammad said: At that time, Ibn Abbas was approaching the age of puberty but had not yet experienced nocturnal emission. This is how he mentioned about himself in the report which states that he came to Mina on a she-donkey while the Messenger of Allah—may Allah's peace and blessings be upon him—was leading the people in prayer. He said: "I was a boy who had neared puberty." Thus, these individuals were exempt from the obligation of attending the Fajr prayer at Muzdalifah with the Imam leading them, yet

قَالَ أَبُو مُحَمَّد: كَانَ ابْنُ عَبَّاسٍ حِينَئِذٍ قَدْ نَاهَزَ الِاحْتِلَامَ وَلَمْ يَحْتَلِمْ بَعْدُ، هَكَذَا ذَكَرَ عَنْ نَفْسِهِ فِي الْخَبَرِ الَّذِي فِيهِ: أَنَّهُ أَتَى مِنًى عَلَى أَتَانٍ، وَرَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يُصَلِّي بِالنَّاسِ قَالَ: وَأَنَا غُلَامٌ قَدْ نَاهَزْت الِاحْتِلَامَ فَخَرَجَ هَؤُلَاءِ عَنْ وُجُوبِ حُضُورِ

the obligation of standing at Muzdalifah and remembering Allah—Exalted is He—there on that night remained incumbent upon them. The slaughtering is necessary due to the generality of Allah's statement, the Exalted: {When you depart from ʿArafat, remember Allah at al-Mashʿar al-Ḥarām (Muzdalifah)} [al-Baqarah 2:198].[36]

صَلَاةِ الصُّبْحِ بِمُزْدَلِفَةَ مَعَ الْإِمَامِ عَلَيْهِمْ وَبَقِيَ عَلَيْهِمْ فَرْضُ الْوُقُوفِ بِمُزْدَلِفَةَ، وَذِكْرِ اللَّهِ - تَعَالَى - هُنَالِكَ لَيْلَةَ النَّحْرِ وَلَا بُدَّ لِعُمُومِ قَوْلِه تَعَالَى: {فَإِذَا أَفَضْتُمْ مِنْ عَرَفَاتٍ فَاذْكُرُوا اللَّهَ عِنْدَ الْمَشْعَرِ الْحَرَامِ} [البقرة: ١٩٨] .

## Stoning Jamrat al-Aqabah

## [رَمْيِ جَمْرَةِ الْعَقَبَةِ]

L13386

L13387 As for the obligation of stoning Jamrat al-ʿAqaba, this is based on what we have narrated through the chain of Abū Dāwūd: Naṣr ibn ʿAlī al-Jahḍamī informed us, Yazīd ibn Zuraiʿ informed us, from Khālid - who is al-Ḥadhāʾ - from ʿIkrimah, from Ibn ʿAbbās: "A man said to the Messenger of Allah - peace and blessings be upon him - 'I spent the evening without stoning.' He said: 'Stone, and there is no harm.'"

وَأَمَّا وُجُوبُ رَمْيِ جَمْرَةِ الْعَقَبَةِ، فَلِمَا رُوِّينَاهُ مِنْ طَرِيقِ أَبِي دَاوُد نَا نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ نَا يَزِيدُ بْنُ زُرَيْعٍ أَنَا خَالِدٌ هُوَ الْحَذَّاءُ - عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَجُلًا قَالَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: إِنِّي أَمْسَيْتُ، وَلَمْ أَرْمِ قَالَ: ارْمِ وَلَا حَرَجَ» .

L13388 And through the chain of Al-Bukhārī from ʿAbdullāh ibn Yūsuf who narrated to us from Mālik, from Ibn Shihāb, from ʿĪsā ibn Ṭalḥah, from ʿUbaydullāh, from ʿAbdullāh ibn ʿAmr ibn al-ʿĀṣ: "The Messenger of Allah (peace and blessings be upon him) paused during the Farewell Pilgrimage, and people began to question him. A man said: 'I was unaware, so I slaughtered before throwing the stones?' He replied: 'Throw them now; there is no blame.'" Thus, he (peace be upon him) ordered the throwing of stones, and it became obligatory.

وَمِنْ طَرِيقِ الْبُخَارِيِّ عَنْ عَبْدِ اللَّهِ بْنِ يُوسُفَ نَا مَالِكٌ عَنِ ابْنِ شِهَابٍ عَنْ عِيسَى بْنِ طَلْحَةَ عَنْ عُبَيْدِ اللَّهِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَفَ فِي حَجَّةِ الْوَدَاعِ فَجَعَلُوا يَسْأَلُونَهُ؟ فَقَالَ لَهُ رَجُلٌ: لَمْ أُشْعِرْ فَنَحَرْتُ قَبْلَ أَنْ أَرْمِيَ؟ قَالَ: ارْمِ وَلَا حَرَجَ» فَأَمَرَ - عَلَيْهِ السَّلَامُ - بِرَمْيِهَا فَوَجَبَ فَرْضًا.

L13389 If it is said: "In this report, he—peace be upon him—stated, 'Slaughter, and there is no harm,' so they ruled the slaughter as obligatory?" We respond: If that slaughter was a vowed act or an obligatory sacrifice, then yes, it is obligatory. But if it was voluntary, sufficient proof that slaughtering it is not obligatory lies in the certain knowledge that it is voluntary, not obligatory.

فَإِنْ قِيلَ: إنَّ فِي هَذَا الْخَبَرِ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ: «اذْبَحْ وَلَا حَرَجَ» فَأَوْجَبُوا الذَّبْحَ فَرْضًا؟ قُلْنَا: إنْ كَانَ ذَلِكَ الذَّبْحُ مَنْذُورًا أَوْ هَدْيًا وَاجِبًا؟ فَنَعَمْ هُوَ فَرْضٌ، وَإِنْ كَانَ تَطَوُّعًا فَيَكْفِي مِنَ الْبُرْهَانِ عَلَى أَنَّهُ لَيْسَ ذَبْحُهُ فَرْضًا تَيَقُّنُ الْعِلْمِ بِأَنَّهُ تَطَوُّعٌ لَا فَرْضٌ.

L13390–13392 It has been reported to us through the chain of al-Ḥudhāfī from ʿAbd al-Razzāq from Maʿmar, who said: Al-Zuhrī stated concerning one who failed to stone the jamrah: If he remembers while in Mina, he should stone it. If this opportunity passes until the *nafar* departure, he must perform Hajj

رُوِّينَا مِنْ طَرِيقِ الْحُذَافِيِّ عَنْ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ قَالَ: قَالَ الزُّهْرِيُّ فِيمَنْ لَمْ يَرْمِ الْجَمْرَةَ: إنْ ذَكَرَ وَهُوَ بِمِنًى رَمَى، وَإِنْ فَاتَهُ ذَلِكَ حَتَّى نَفَرَ فَإِنَّهُ يَحُجُّ مِنْ قَابِلٍ وَيُحَافِظُ عَلَى الْمَنَاسِكِ - وَبِهِ يَقُولُ دَاوُد، وَأَصْحَابُنَا، وَلَا يُجْزِئُ الرَّمْيُ إلَّا بِحَصًى كَحَصَى الْخَذْفِ لَا

[36] **Qur'an references (L13383):** Qur'an 2:198 (Al-Baqarah).

أَصْغَرَ، وَلَا أَكْبَرَ، لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ -: نَا مُحَمَّدُ بْنُ رُمْحٍ عَنْ اللَّيْثِ هُوَ ابْنُ سَعْدٍ - عَنْ أَبِي الزُّبَيْرِ عَنْ أَبِي مَعْبَدٍ مَوْلَى ابْنِ عَبَّاسٍ عَنْ الْفَضْلِ بْنِ عَبَّاسٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «عَلَيْكُمْ بِحَصَى الْخَذْفِ الَّذِي تُرْمَى بِهِ الْجَمْرَةُ» .

the following year and carefully adhere to the rites. This opinion is held by Dāwūd and our companions. Stoning is only valid with pebbles resembling those used for fingertip casting—neither smaller nor larger. As reported through the chain of Muslim: Muḥammad ibn Rumḥ narrated to us from al-Layth ibn Saʿd from Abū al-Zubayr from Abū Maʿbad, the freedman of Ibn ʿAbbās, from... Al-Fadl ibn Abbas reported that the Messenger of Allah (peace be upon him) said: "It is incumbent upon you to use the pebbles the size of fingertips used for flicking, with which Jamrah is stoned."

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا يَعْقُوبُ بْنُ إبْرَاهِيمَ هُوَ الدَّوْرَقِيُّ - نَا إسْمَاعِيلُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ عُلَيَّةَ - نَا عَوْفٌ هُوَ ابْنُ أَبِي جَمِيلَةَ - نَا زِيَادُ بْنُ حُصَيْنٍ عَنْ أَبِي الْعَالِيَةِ قَالَ: «قَالَ ابْنُ عَبَّاسٍ: قَالَ لِي رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - غَدَاةَ الْعَقَبَةِ وَهُوَ عَلَى رَاحِلَتِهِ هَاتِ الْقُطْ لِي؟ فَلَقَطْتُ لَهُ حَصَيَاتٍ، هِيَ حَصَى الْخَذْفِ، فَلَمَّا وَضَعْتُهُنَّ فِي يَدِهِ قَالَ: بِأَمْثَالِ هَؤُلَاءِ بِأَمْثَالِ هَؤُلَاءِ وَإِيَّاكُمْ وَالْغُلُوَّ فِي الدِّينِ فَإِنَّمَا أَهْلَكَ مَنْ كَانَ قَبْلَكُمْ الْغُلُوُّ فِي الدِّينِ» .

L13393 From the path of Ahmad ibn Shuʿayb: I am Yaʿqub ibn Ibrāhīm ad-Dawraqī; from Ismāʿīl ibn Ibrāhīm, the son of ʿUlayyah; from ʿAwf ibn Abī Jamīlah; from Ziyād ibn Ḥuṣayn; from Abū al-ʿĀliyah, who said: Ibn ʿAbbās said: The Messenger of Allah—peace and blessings of Allah be upon him—said to me on the morning of ʿAqabah while mounted on his riding animal, "Bring me pebbles." I gathered pebbles for him—pebbles for throwing. When I placed them in his hand, he said, "Like these, like these. Beware of extremism in religion, for it was extremism in religion that destroyed those who came before you."[37]

وَقَالَ مَالِكٌ: أُحِبُّ أَكْبَرَ مِنْ حَصَى الْخَذْفِ، وَهَذَا قَوْلٌ فِي غَايَةِ الْفَسَادِ لِتَعَرِّيهِ مِنْ الْبُرْهَانِ وَمُخَالَفَةِ الْأَثَرِ الثَّابِتِ -: رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا أَبُو خَالِدٍ الْأَحْمَرُ عَنْ ابْنِ جُرَيْجٍ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ عَنْ عَبْدِ اللَّهِ، وَابْنِ الزُّبَيْرِ، قَالَا جَمِيعًا: مِثْلُ حَصَى الْخَذْفِ، وَلَا مُخَالِفَ لَهُمَا لَا مِنْ صَاحِبٍ، وَلَا مِنْ تَابِعٍ، وَهَذَانِ الْأَثَرَانِ يُبْطِلَانِ قَوْلَ مَنْ قَالَ: يُجْزِئُ الرَّمْيُ بِغَيْرِ الْحَصَى

L13394 Mālik said: "I hold [stones] larger than the pebbles used in stoning (ḥaṣā al-khadhf)." This opinion is utterly invalid due to its lack of evidence and contradiction of the established narration. We have received through Ibn Abī Shaybah's transmission: from us Abū Khālid al-Aḥmar narrated from Ibn Jurayj, from Abū al-Zubayr, from Jābir, from ʿAbdullāh and Ibn al-Zubayr, both of whom said: "Like the pebbles used in stoning," with no opposition from any Companion or Successor. These two narrations invalidate the view of those who claim: "Stoning with non-standard pebbles is valid."

## [عَدَد الْحَصَى]

L13395 ## The number of pebbles.

وَأَمَّا الْعَدَدُ فَاخْتَلَفَ النَّاسُ فِيهِ - رُوِّينَا عَنْ ابْنِ عُيَيْنَةَ عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ مُجَاهِدٍ أَنَّ سَعْدَ بْنَ أَبِي وَقَّاصٍ قَالَ:

L13396 As for the number, the people differed—it was reported to us via Ibn 'Uyaynah from Ibn Abī Najīḥ from Mujāhid that Sa'd ibn Abī Waqqāṣ said: "We

[37] **Hadith references (L13393):** Sunan an-Nasai 3057.

sat down. Some of us said, 'I threw six,' while others said, 'I threw seven,' yet none of us criticized the others."

وَأَمَّا الْعَدَدُ فَإِنَّ النَّاسَ اخْتَلَفُوا - رُوِّينَا مِنْ طَرِيقِ ابْنِ عُيَيْنَةَ عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ مُجَاهِدٍ: أَنَّ سَعْدَ بْنَ أَبِي وَقَّاصٍ قَالَ: جَلَسْنَا فَقَالَ بَعْضُنَا: رَمَيْت بِسِتٍّ، وَقَالَ بَعْضُنَا: رَمَيْت بِسَبْعٍ؛ فَلَمْ يَعِبْ بَعْضُنَا عَلَى بَعْضٍ.

L13397 And through the chain of Abd al-Razzaq from Ibn Jurayj, Muhammad ibn Yusuf informed me that Abdullah ibn Amr ibn Uthman reported to him: He heard Abu Habbah al-Ansari issuing a fatwa that there is no harm in the number of pebbles a person throws. Then Abdullah ibn Amr came to Ibn Umar and informed him, whereupon Ibn Umar said: "Abu Habbah has spoken truthfully."

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي مُحَمَّدُ بْنُ يُوسُفَ: أَنَّ عَبْدَ اللَّهِ بْنَ عَمْرِو بْنِ عُثْمَانَ أَخْبَرَهُ: أَنَّهُ سَمِعَ أَبَا حَبَّةَ الْأَنْصَارِيَّ يُفْتِي بِأَنَّهُ لَا بَأْسَ بِمَا رَمَى بِهِ الْإِنْسَانُ مِنْ عَدَدِ الْحَصَى فَجَاءَ عَبْدُ اللَّهِ بْنُ عَمْرٍو إلَى ابْنِ عُمَرَ فَأَخْبَرَهُ فَقَالَ: صَدَقَ أَبُو حَبَّةَ.

L13398 Abu Muhammad said: Abu Habbah al-Badri – and it has been narrated to us from Tāwus: "Whoever omits a pebble must feed [someone] a date or a morsel" – and from ʿAṭāʾ: "Whoever fails to perform the stoning rites for a day must give a dirham in charity, and whoever delays it until the days of Mina conclude must slaughter an animal."

قَالَ أَبُو مُحَمَّد: أَبُو حَبَّةَ بَدْرِيٌّ - وَرُوِّينَا عَنْ طَاوُسٍ مَنْ تَرَكَ حَصَاةً فَإِنَّهُ يُطْعِمُ تَمْرَةً أَوْ لُقَيْمَةً - وَعَنْ عَطَاءٍ: مَنْ فَاتَتْهُ الْجِمَارُ يَوْمًا تَصَدَّقَ بِدِرْهَمٍ، وَمَنْ فَاتَتْهُ حَتَّى تَنْقَضِيَ أَيَّامُ مِنًى فَعَلَيْهِ دَمٌ.

L13399–13401 Ali said: It was narrated to us via the chain from 'Abd al-Razzaq, from Ma'mar, from Sulayman at-Taymi, from Abu Mijlaz: I said to Ibn Umar, "I forgot to throw a pebble from the Jamrah's stones." Ibn Umar said to me, "Go to..." That is the Sheikh—ask him, then return and inform me of what he says. He said: So I asked him, and he replied to me: If I had forgotten anything during my prayer, I would have repeated it. Then Ibn 'Umar said: He was correct.

قَالَ عَلِيٌّ: رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا مَعْمَرٌ عَنْ سُلَيْمَانَ التَّيْمِيِّ عَنْ أَبِي مِجْلَزٍ قُلْت لِابْنِ عُمَرَ: نَسِيت أَنْ أَرْمِيَ بِحَصَاةٍ مِنْ حَصَى الْجَمْرَةِ فَقَالَ لِي ابْنُ عُمَرَ: اذْهَبْ إلَى ذَلِكَ الشَّيْخِ فَسَلْهُ ثُمَّ ارْجِعْ فَأَخْبِرْنِي بِمَا يَقُولُ، قَالَ: فَسَأَلْته؟ فَقَالَ لِي: لَوْ نَسِيت شَيْئًا مِنْ صَلَاتِي لَأَعَدْت، فَقَالَ ابْنُ عُمَرَ: أَصَابَ.

L13402 Abu Muhammad said: This Sheikh—he is Muhammad ibn al-Hanafiyyah—we have narrated it thus through the chain of al-Mu'tamir ibn Sulayman from his father. It was narrated to us from Ibn 'Umar, who said: "Whoever forgets the jamarah, he should stone it at night when he remembers."

قَالَ أَبُو مُحَمَّد: هَذَا الشَّيْخُ - هُوَ مُحَمَّدُ ابْنُ الْحَنَفِيَّةِ - هَكَذَا رُوِّينَاهُ مِنْ طَرِيقِ الْمُعْتَمِرِ بْنِ سُلَيْمَانَ عَنْ أَبِيهِ - وَرُوِّينَا عَنْ ابْنِ عُمَرَ قَالَ: مَنْ نَسِيَ الْجَمْرَةَ رَمَاهَا بِاللَّيْلِ حِينَ يَذْكُرُ.

L13403 From Tawus, Urwah ibn al-Zubayr, al-Nakhaʿī, and al-Ḥasan - they all said: "He may perform the pebble-throwing (*rami*) at night." This is the view of Sufyan; they did not consider it obligatory in that matter.

وَعَنْ طَاوُسٍ، وَعُرْوَةَ بْنِ الزُّبَيْرِ، وَالنَّخَعِيِّ، وَالْحَسَنِ قَالُوا كُلُّهُمْ: يَرْمِي بِاللَّيْلِ - هُوَ قَوْلُ سُفْيَانَ، وَلَمْ يُوجِبُوا فِي ذَلِكَ شَيْئًا.

L13404 Abu Muhammad said: The Prophet (PBUH) only prohibited throwing peb-

bles before sunrise on the Day of Sacrifice and permitted it thereafter, even if one remains until evening. This ruling applies to both the night and the late afternoon together, as we previously mentioned.

قَالَ أَبُو مُحَمَّد: إنَّمَا نَهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ رَمْيِهَا مَا لَمْ تَطْلُعْ الشَّمْسُ مِنْ يَوْمِ النَّحْرِ، وَأَبَاحَ رَمْيَهَا بَعْدَ ذَلِكَ، وَإِنْ أَمْسَى؛ وَهَذَا يَقَعُ عَلَى اللَّيْلِ وَالْعَشِيِّ مَعًا كَمَا ذَكَرْنَا قَبْلُ.

L13405 Abu Ḥanīfah said: Upon him is half a ṣāʿ of wheat as food for a poor person for every pebble he forgot, unless that amount reaches [the obligation of] a sacrificial animal.

قَالَ أَبُو حَنِيفَةَ: عَلَيْهِ فِي كُلِّ حَصَاةٍ نَسِيَهَا طَعَامُ مِسْكِينٍ نِصْفَ صَاعِ حِنْطَةٍ إلَّا أَنْ يَبْلُغَ ذَلِكَ دَمًا.

L13406 Malik said: If one forgets a single pebble or more, he must offer a blood sacrifice. If he omits seven pebbles, he must offer a camel; if he cannot afford or procure it, then a cow; if unable, then a sheep or goat; and if still unable, he must fast.

وَقَالَ مَالِكٌ: عَلَيْهِ فِي الْحَصَاةِ الْوَاحِدَةِ فَأَكْثَرَ إنْ نَسِيَهَا دَمٌ، فَإِنْ تَرَكَ سَبْعَ حَصَيَاتٍ فَعَلَيْهِ بَدَنَةٌ، فَإِنْ لَمْ يَجِدْ فَبَقَرَةٌ، فَإِنْ لَمْ يَجِدْ فَشَاةٌ، فَإِنْ لَمْ يَجِدْ فَصِيَامٌ.

L13407 As for Al-Shafiʿī, he once stated: Upon him is a mudd of food for a single stone, two mudds for two stones, and starting from three stones, the blood sacrifice obligation. It has also been narrated from him that for one stone, a third of the blood sacrifice obligation is required; for two stones, two-thirds of it; and starting from three stones, the full blood sacrifice obligation. Another narration from him mentions that starting from one stone, the blood sacrifice obligation applies.

وَأَمَّا الشَّافِعِيُّ فَمَرَّةً قَالَ: عَلَيْهِ فِي حَصَاةٍ وَاحِدَةٍ مُدُّ طَعَامٍ، وَفِي حَصَاتَيْنِ مُدَّانِ، وَفِي ثَلَاثٍ فَصَاعِدًا دَمٌ - وَقَدْ رُوِيَ عَنْهُ فِي حَصَاةٍ ثُلُثُ دَمٍ، وَفِي الْحَصَاتَيْنِ ثُلُثَا دَمٍ، وَفِي الثَّلَاثِ فَصَاعِدًا دَمٌ - وَرُوِيَ عَنْهُ لِلْحَصَاةِ الْوَاحِدَةِ فَصَاعِدًا دَمٌ.

L13408 Abu Muhammad said: All these mentioned opinions—none of them are supported by a scriptural text, a corrupt narration, a Companion's statement, a follower's view, analogy, nor has anyone we know of upheld any of these opinions before the proponents we cited—those we mentioned? As for throwing pebbles before sunrise, it is not valid for anyone: neither woman nor man. It was narrated to us through the chain of Ahmad ibn Shuʿayb → Mahmud ibn Ghaylan al-Marwazi → Bishr ibn al-Sari → Sufyan al-Thawri → Habib (ibn Abi Thabit) → ʿAta' → Ibn Abbas: "The Prophet—peace and blessings be upon him—sent his family ahead and commanded them not to throw pebbles at Jamrat al-ʿAqaba until the sun rises."

قَالَ أَبُو مُحَمَّد: وَهَذِهِ الْأَقْوَالُ الْمَذْكُورَةُ كُلُّهَا لَيْسَ شَيْءٌ مِنْهَا جَاءَ بِهِ نَصٌّ، وَلَا رِوَايَةٌ فَاسِدَةٌ، وَلَا قَوْلُ صَاحِبٍ، وَلَا تَابِعٍ، وَلَا قِيَاسٌ، وَلَا قَالَ بِشَيْءٍ مِنْهَا أَحَدٌ نَعْلَمُهُ قَبْلَ الْقَائِلِ بِكُلِّ قَوْلٍ ذَكَرْنَاهُ عَمَّنْ ذَكَرْنَاهُ عَنْهُ؟ وَأَمَّا الرَّمْيُ قَبْلَ طُلُوعِ الشَّمْسِ فَلَا يُجْزِئُ أَحَدًا: لَا امْرَأَةً وَلَا رَجُلًا -: رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا مَحْمُودُ بْنُ غَيْلَانَ الْمَرْوَزِيِّ نَا بِشْرُ بْنُ السَّرِيِّ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ حَبِيبٍ هُوَ ابْنُ أَبِي ثَابِتٍ - عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدَّمَ أَهْلَهُ وَأَمَرَهُمْ أَنْ لَا يَرْمُوا جَمْرَةَ الْعَقَبَةِ حَتَّى تَطْلُعَ الشَّمْسُ» .

L13409 And it has been narrated to us from a group of the Successors [to the Prophet's Companions] that it is permissible to perform the ritual throwing [of pebbles] before sunrise.

L13410–13411 There is no valid argument for anyone in the presence of the Messenger of Allah, peace and blessings be upon him. Sufyan said: "Whoever performs the ritual throwing of stones before sunrise must repeat it after sunrise." This is the position held by our companions.

## L13412 The Talbiyah should not be discontinued until the time of throwing the final pebble at Jamrat al-'Aqabah.

L13413 As for our statement: "One does not cease the Talbiyah except with the last pebble at Jamrah al-Aqabah"—Mālik said: "One ceases the Talbiyah when departing for ʿArafah." They cited narrations regarding this from ʿĀ'ishah, the Mother of the Believers, Ibn ʿUmar, and ʿAlī. They argued by stating: "The Talbiyah is an act of answering [the divine call], so when one has reached ʿArafah, the Talbiyah becomes meaningless."

L13414 Abū Muḥammad said: As for the narration attributed to ʿAlī, it is not valid because it has an interrupted chain to him. The authentic report from him contradicts that. As for the narrations from Umm al-Muʾminīn and Ibn ʿUmar, other Companions besides them—may Allah be pleased with them—disagreed. When disagreement occurs, the matter must be referred back to what Allah—Exalted is He—has mandated recourse to: the Qurʾān and the Sunnah.

L13415 As for their statement that the *talbiyah* is a response, this is an unsubstantiated claim. Had their assertion been valid, the *talbiyah* would have been obligatory upon hearing the call to prayer, and likewise required for fulfilling the obligation to proceed to Friday prayer and other such duties. The *talbiyah* is nothing but a divinely ordained law commanded by Allah, with no cause for it except what He, the Exalted, stated: "to test which of you is best in deed" (Quran 11:7).[38]

L13416 Then, if it were an acceptance of the call as they claimed, he would not

[38] **Qur'an references (L13415):** Qur'an 11:7 (Hud); Qur'an 67:2 (Al-Mulk).

وَرُوِّينَا عَنْ طَائِفَةٍ مِنْ التَّابِعِينَ: إبَاحَةَ - الرَّمْيِ قَبْلَ طُلُوعِ الشَّمْسِ.

وَلَا حُجَّةَ فِي أَحَدٍ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَالَ سُفْيَانُ: مَنْ رَمَى قَبْلَ طُلُوعِ الشَّمْسِ أَعَادَ الرَّمْيَ بَعْدَ طُلُوعِهَا - وَهُوَ قَوْلُ أَصْحَابِنَا.

## [لَا يَقْطَعُ التَّلْبِيَةَ إلَّا مَعَ آخِرِ حَصَاةٍ مِنْ جَمْرَةِ الْعَقَبَةِ]

وَأَمَّا قَوْلُنَا: لَا يَقْطَعُ التَّلْبِيَةَ إلَّا مَعَ آخِرِ حَصَاةٍ مِنْ جَمْرَةِ الْعَقَبَةِ؛ فَإِنَّ مَالِكًا قَالَ: يَقْطَعُ التَّلْبِيَةَ إذَا نَهَضَ إلَى عَرَفَةَ، وَذَكَرُوا فِي ذَلِكَ رِوَايَةً عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَابْنِ عُمَرَ، وَعَنْ عَلِيٍّ، وَاحْتَجُّوا بِأَنْ قَالُوا: التَّلْبِيَةُ اسْتِجَابَةٌ فَإِذَا وَصَلَ فَلَا مَعْنَى لِلتَّلْبِيَةِ.

قَالَ أَبُو مُحَمَّد: أَمَّا الرِّوَايَةُ عَنْ عَلِيٍّ فَلَا تَصِحُّ؛ لِأَنَّهَا مُنْقَطِعَةٌ إلَيْهِ، وَالصَّحِيحُ عَنْهُ خِلَافُ ذَلِكَ، وَأَمَّا عَنْ أُمِّ الْمُؤْمِنِينَ، وَابْنِ عُمَرَ فَقَدْ خَالَفَهُمَا غَيْرُهُمَا مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَإِذَا وَقَعَ التَّنَازُعُ فَالْمَرْجُوعُ فِيهِ إلَى مَا افْتَرَضَ اللَّهُ - تَعَالَى - الرُّجُوعَ إلَيْهِ مِنْ الْقُرْآنِ وَالسُّنَّةِ.

وَأَمَّا قَوْلُهُمْ: إنَّ التَّلْبِيَةَ اسْتِجَابَةٌ فَدَعْوَى لَا بُرْهَانَ عَلَى صِحَّتِهَا، وَلَوْ كَانَ مَا قَالُوا: لَوَجَبَتْ التَّلْبِيَةُ عِنْدَ سَمَاعِ الْأَذَانِ، وَوُجُوبِ النُّهُوضِ إلَى الْجُمُعَةِ وَغَيْرِهَا، وَمَا التَّلْبِيَةُ إلَّا شَرِيعَةٌ أَمَرَ اللَّهُ بِهَا لَا عِلَّةَ لَهَا إلَّا مَا قَالَ تَعَالَى: {لِيَبْلُوَكُمْ أَيُّكُمْ أَحْسَنُ عَمَلًا} [هود: ٧] .

yet have attained what he was commanded to fulfill, because there remained upon him obligatory rites of Hajj which he could only attain by completing them, such as standing at ‘Arafah and Tawaf al-Ifadah. It has been narrated to us through the transmission of Abu Dawud: Ahmad ibn Hanbal narrated to us from Waki‘ from Ibn Jurayj from ‘Ata’ from Ibn ‘Abbas from al-Fadl ibn ‘Abbas that “the Prophet (peace and blessings be upon him) recited the Talbiyah until he pelted Jamrat al-‘Aqabah.” This has also been authenticated through the transmission of Usamah ibn Zayd from the Prophet (peace and blessings be upon him).[39]

ثُمَّ لَوْ كَانَتْ اسْتِجَابَةً كَمَا قَالُوا: لَكَانَ لَمْ يَصِلْ بَعْدُ إِلَى مَا دُعِيَ إِلَيْهِ لِأَنَّهُ قَدْ بَقِيَتْ عَلَيْهِ فُرُوضٌ مِنْ فُرُوضِ الْحَجِّ لَا يَكُونُ وَاصِلًا إِلَى مَا دُعِيَ إِلَيْهِ إِلَّا بِتَمَامِهَا كَعَرَفَةَ، وَطَوَافِ الْإِفَاضَةِ -: رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نَا أَحْمَدُ بْنُ حَنْبَلٍ نَا وَكِيعٌ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ عَنْ الْفَضْلِ بْنِ عَبَّاسٍ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَبَّى حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ» . وَصَحَّ أَيْضًا مِنْ طَرِيقِ أُسَامَةَ بْنِ زَيْدٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13417 From the path of Muslim: Shuraih ibn Yunus narrated to us, Hushaym said: I narrate from Husayn ibn Abd al-Rahman, from Kathir ibn Mudrik al-Ashja’i, from Abd al-Rahman ibn Yazid: “Abdullah ibn Mas’ud recited the Talbiyah when he departed from Jam‘. It was said to him: ’Regarding what is this?’ He replied: ’Have people forgotten or gone astray? I heard the one upon whom Surah al-Baqarah was revealed say in this place: Labbayka Allahumma Labbayka.”’

وَمِنْ طَرِيقِ مُسْلِمٍ نَا شُرَيْحُ بْنُ يُونُسَ نَا هُشَيْمٌ أَنَا حُصَيْنٌ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ - عَنْ كَثِيرِ بْنِ مُدْرِكٍ الْأَشْجَعِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ «أَنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ لَبَّى حِينَ أَفَاضَ مِنْ جَمْعٍ فَقِيلَ لَهُ: عَنْ أَيِّ هَذَا؟ فَقَالَ: أَنَسِيَ النَّاسُ أَمْ ضَلُّوا؟ سَمِعْتُ الَّذِي أُنْزِلَتْ عَلَيْهِ سُورَةُ الْبَقَرَةِ يَقُولُ فِي هَذَا الْمَكَانِ: لَبَّيْكَ اللَّهُمَّ لَبَّيْكَ» .

L13418–13419 And through the chain of Yahya ibn Sa’id al-Qattan from Sufyan al-Thawri from Ibrahim ibn ’Uqbah from Kuraib, the freedman of Ibn Abbas, that Maymunah, the Mother of the Believers, continuously recited the talbiyah when she performed the stoning of the pillar (jamrah).

وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ إبْرَاهِيمَ بْنِ عُقْبَةَ عَنْ كُرَيْبٍ مَوْلَى ابْنِ عَبَّاسٍ أَنَّ مَيْمُونَةَ أُمَّ الْمُؤْمِنِينَ لَبَّتْ حِينَ رَمَتْ الْجَمْرَةَ.

L13420 And from him [the preceding narrator] to Sufyan, from Amir ibn Shaqiq: I heard Abu Wa’il say: Ibn Mas’ud said: “The pilgrim must not stop reciting the talbiyah until they have stoned Jamrat al-‘Aqabah.”

وَبِهِ إلَى سُفْيَانَ عَنْ عَامِرِ بْنِ شَقِيقٍ سَمِعْت أَبَا وَائِلٍ يَقُولُ: قَالَ ابْنُ مَسْعُودٍ: لَا يُمْسِكُ الْحَاجُّ عَنْ التَّلْبِيَةِ حَتَّى يَرْمِيَ جَمْرَةَ الْعَقَبَةِ.

L13421 And from the chain of Hammad ibn Zayd, Ayyub al-Sikhtiyānī reported to us that he heard Abd al-Rahman ibn al-Aswad ibn Yazid say: My father narrated to me that he heard Umar ibn al-Khattab reciting the talbiyah at ʿArafah.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ نَا أَيُّوبُ السِّخْتِيَانِيُّ أَنَّهُ سَمِعَ عَبْدَ الرَّحْمَنِ بْنَ الْأَسْوَدِ بْنِ يَزِيدَ يَقُولُ: حَدَّثَنِي أَبِي أَنَّهُ سَمِعَ عُمَرَ بْنَ الْخَطَّابِ يُلَبِّي بِعَرَفَةَ.

L13422 And it is narrated through the chain of Hammad ibn Salamah via Qays

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: سَمِعْت عُمَرَ يُلَبِّي غَدَاةَ الْمُزْدَلِفَةِ.

[39] **Hadith references (L13416):** Sunan Ibn Majah 3039.

ibn Saʿd via ʿAta ibn Abi Rabah via Ibn Abbas, who said: I heard ʿUmar proclaiming the Talbiyah at dawn in al-Muzdalifah.

L13423 From Ibn Abi Shaybah: Abd al-A'la narrated to us from Muhammad ibn Ishaq, who said, "I heard Ikrimah say: 'The Messenger of Allah (peace be upon him) entered Ihram until he threw pebbles at the Jamrah, as did Abu Bakr and Umar.'"

L13424 It is narrated that Ali ibn Abi Talib proclaimed the Talbiyah until he began stoning Jamrah al-ʿAqabah.

L13425 From al-Qāsim ibn Muḥammad, from Umm al-Mu'minīn ʿĀ'ishah: She would proclaim the Talbiyah after ʿArafah. From Sufyān ibn ʿUyaynah: He heard Saʿd ibn Ibrāhīm narrate to al-Zuhrī, from ʿAbd al-Raḥmān ibn al-Aswad, that ʿAbd al-Raḥmān's father ascended to Ibn al-Zubayr's pulpit on the day of ʿArafah and said to him, "What prevents you from proclaiming the Talbiyah? I have seen ʿUmar in this same position proclaiming it." Thereupon Ibn al-Zubayr proclaimed the Talbiyah.

L13426 And from Ibn ʿUyaynah, from ʿUbayd Allāh ibn Abī Yazīd, who said: Continue the talbiyah until your iḥrām ends when you throw at the Jamrah. And from Sufyān al-Thawrī, from ʿAbd Allāh ibn al-Ḥasan, from ʿIkrimah, who said: I was with al-Ḥusayn ibn ʿAlī, and he maintained the talbiyah until he threw at Jamrat al-ʿAqabah.

L13427 Abu Muhammad said that Mu'awiyah used to prohibit from that.

L13428 From the narration of Mālik via Yaḥyā ibn Saʿīd, who said: "'Umar ibn ʿAbd al-ʿAzīz departed early from Minā to ʿArafat and heard people generally reciting the *Takbīr*. He then sent guards to proclaim: 'O people, it is the *Talbiyah*!'"

L13429 Through the chain of Saʿīd ibn Manṣūr, Jarīr narrated to us from al-Mughīrah, who said: A matter was raised before Ibrāhīm al-Nakhaʿī: When the pilgrim arrives, should he cease the talbiyah while circumambulating the House? Ibrāhīm replied: No. Rather, he should make the talbiyah before the circumambulation, during it, and after it, and he must not discontinue

وَعَنْ ابْنِ أَبِي شَيْبَةَ نَا عَبْدُ الْأَعْلَى عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ سَمِعْت عِكْرِمَةَ يَقُولُ: «أَهَلَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَتَّى رَمَى الْجَمْرَةَ، وَأَبُو بَكْرٍ، وَعُمَرُ» .

وَعَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ أَنَّهُ لَبَّى حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ.

وَعَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أُمِّ الْمُؤْمِنِينَ عَائِشَةَ كَانَتْ تُلَبِّي بَعْدَ عَرَفَةَ - وَعَنْ سُفْيَانَ بْنِ عُيَيْنَةَ سَمِعَ سَعْدَ بْنَ إبْرَاهِيمَ يُحَدِّثُ الزُّهْرِيَّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَسْوَدِ أَنَّ أَبَاهُ صَعِدَ إلَى ابْنِ الزُّبَيْرِ الْمِنْبَرَ يَوْمَ عَرَفَةَ فَقَالَ لَهُ: مَا يَمْنَعُك أَنْ تُهِلَّ؟ فَقَدْ رَأَيْت عُمَرَ فِي مَكَانِك هَذَا يُهِلُّ؟ فَأَهَلَّ ابْنُ الزُّبَيْرِ.

وَعَنْ ابْنِ عُيَيْنَةَ عَنْ عُبَيْدِ اللَّهِ بْنِ أَبِي يَزِيدَ يَقُولُ: تُلَبِّي حَتَّى يَنْقَضِيَ حَرَمُك إذَا رَمَيْت الْجَمْرَةَ - وَعَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ عَبْدِ اللَّهِ بْنِ الْحَسَنِ عَنْ عِكْرِمَةَ قَالَ: كُنْت مَعَ الْحُسَيْنِ بْنِ عَلِيٍّ فَلَبَّى حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ.

قَالَ أَبُو مُحَمَّدٍ: وَكَانَ مُعَاوِيَةُ يَنْهَى عَنْ ذَلِكَ.

وَمِنْ طَرِيقِ مَالِكٍ عَنْ يَحْيَى بْنِ سَعِيدٍ قَالَ: غَدَا عُمَرُ بْنُ عَبْدِ الْعَزِيزِ مِنْ مِنًى إلَى عَرَفَةَ فَسَمِعَ التَّكْبِيرَ عَامًّا فَبَعَثَ الْحَرَسَ يَصِيحُونَ: أَيُّهَا النَّاسُ إنَّهَا التَّلْبِيَةُ.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا جَرِيرٌ عَنْ الْمُغِيرَةِ قَالَ: ذُكِرَ عِنْدَ إبْرَاهِيمَ النَّخَعِيِّ إذَا قَدِمَ الْحَاجُّ أَمْسَكَ عَنْ التَّلْبِيَةِ مَا دَامَ يَطُوفُ بِالْبَيْتِ فَقَالَ إبْرَاهِيمُ: لَا، بَلْ يُلَبِّي قَبْلَ

it until he stones the Jamrah. This is the view of Abū Ḥanīfah, al-Shāfiʿī, Aḥmad, Isḥāq, and Abī Sulaymān.

الطَّوَافِ، وَفِي الطَّوَافِ، وَبَعْدَ الطَّوَافِ، وَلَا يَقْطَعُهَا حَتَّى يَرْمِيَ الْجَمْرَةَ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَحْمَدَ، وَإِسْحَاقَ، وَأَبِي سُلَيْمَانَ.

L13430–13431 Abu Muhammad said: However, Abu Hanifah and Al-Shafiʿi stated that one ceases the Talbiyah with the first stone he throws at the Jamrah. This is incorrect; rather, it is with the last stone of the Jamrah, because this is the explicit text of the Messenger of Allah's action (peace be upon him), as reported by Ibn ʿAbbas and Usamah: "He (peace be upon him) continued the Talbiyah until he stoned Jamrat al-ʿAqabah." Had it been as Abu Hanifah and Al-Shafiʿi claimed, they would have said: "until he began stoning Jamrat al-ʿAqabah."

قَالَ أَبُو مُحَمَّدٍ: إلَّا أَنَّ أَبَا حَنِيفَةَ، وَالشَّافِعِيَّ قَالَا: يَقْطَعُ التَّلْبِيَةَ مَعَ أَوَّلِ حَصَاةٍ يَرْمِيهَا فِي الْجَمْرَةِ؟ وَلَيْسَ كَذَلِكَ بَلْ مَعَ آخِرِ حَصَاةٍ مِنْ الْجَمْرَةِ لِأَنَّهُ نَصُّ فِعْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَمَا «حَكَى ابْنُ عَبَّاسٍ، وَأُسَامَةُ: أَنَّهُ - عَلَيْهِ السَّلَامُ - لَبَّى حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ» وَلَوْ كَانَ مَا قَالَهُ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، لَقَالَا: حَتَّى بَدَأَ رَمْيَ جَمْرَةِ الْعَقَبَةِ.

L13432 It has been narrated to us through the chain of Al-Ḥudhāfī from ʿAbdur-Razzāq from Sufyān ibn ʿUyaynah from Zayd ibn Aslam from ʿAbdullāh ibn Ibrāhīm ibn Ḥunayn from Ibn ʿAbbās, who said: I heard ʿUmar ibn Al-Khaṭṭāb in the state of ihrām while stoning Jamrah al-ʿAqabah. I asked him: "Why have you entered ihrām, O Commander of the Believers?" He replied: "Have we completed our rites yet?" This reflects the apparent and unambiguous meaning inferred from the practice of all the Companions—may Allah be pleased with them—we have mentioned.

رُوِّينَا مِنْ طَرِيقِ الْحُذَافِيِّ عَنْ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ زَيْدِ بْنِ أَسْلَمَ عَنْ عَبْدِ اللَّهِ بْنِ إبْرَاهِيمَ بْنِ حُنَيْنٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: سَمِعْت عُمَرَ بْنَ الْخَطَّابِ يُهِلُّ وَهُوَ يَرْمِي جَمْرَةَ الْعَقَبَةِ فَقُلْت لَهُ: فِيمَا الْإِهْلَالُ يَا أَمِيرَ الْمُؤْمِنِينَ؟ فَقَالَ: وَهَلْ قَضَيْنَا نُسُكَنَا بَعْدُ؟ وَهُوَ الْمَفْهُومُ الظَّاهِرُ مِنْ فِعْلِ كُلِّ مَنْ ذَكَرْنَا مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -.

L13433 A group among them, including Mālik, said: The pilgrim ceases the talbiyah when performing the circumambulation of the House and at al-Ṣafā and al-Marwah. When he completes that, he renews it.

وَقَالَ قَوْمٌ مِنْهُمْ مَالِكٌ: إنَّ الْحَاجَّ يَقْطَعُ التَّلْبِيَةَ إذَا طَافَ بِالْبَيْتِ، وَبِالصَّفَا وَالْمَرْوَةِ، فَإِذَا أَتَمَّ ذَلِكَ عَاوَدَهَا.

L13434 Abu Muhammad said: Abu Hanifah and al-Shafi'i said: He does not cease it—and this is the correct view; due to what we have mentioned—that the Prophet, peace and blessings be upon him, continued reciting the talbiyah until he stoned Jamrat al-Aqabah. It was narrated to us via the chain from Abu Dawud's transmission: Abd Allah ibn Muhammad al-Nufayli and Uthman ibn Abi Shaybah said: Hatim ibn Isma'il narrated to us: Ja'far ibn Muhammad narrated from his father that Jabir ibn Abd Allah informed him, and he mentioned the hadith of the Prophet's Hajj, peace and blessings be upon him, and said: The Messenger of Allah, peace and blessings be upon him, entered the state of ihram with the declaration of divine oneness: "Here I

قَالَ أَبُو مُحَمَّدٍ: وَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ: لَا يَقْطَعُهَا - وَهَذَا هُوَ الْحَقُّ؛ لِمَا ذَكَرْنَا مِنْ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَبَّى حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ -: رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نَا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ النُّفَيْلِيُّ، وَعُثْمَانُ بْنُ أَبِي شَيْبَةَ قَالَا: نَا حَاتِمُ بْنُ إسْمَاعِيلَ نَا جَعْفَرُ بْنُ مُحَمَّدٍ عَنْ أَبِيهِ أَنَّ جَابِرَ بْنَ عَبْدِ اللَّهِ أَخْبَرَهُ فَذَكَرَ «حَدِيثَ حَجَّةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَالَ: فَأَهَلَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالتَّوْحِيدِ: لَبَّيْكَ اللَّهُمَّ

am, O Allah, here I am; here I am, You have no partner, here I am; here I am. Indeed, all praise, blessings, and sovereignty are Yours. You have no partner." The people entered the state of ihram with this declaration, and the Messenger of Allah, peace and blessings be upon him, did not object to any part of it, and he persisted in his talbiyah. Thus, it is confirmed that he, peace and blessings be upon him, did not cease it. From the chain of Sufyan al-Thawri: Mansur ibn al-Mu'tamir narrated from Abu Wa'il from Masruq that he saw Abd Allah ibn Mas'ud circumambulate the House seven times, then proceed to al-Safa. He said: I asked him, "O Abu Abd al-Rahman, some people prohibit entering the state of ihram in this place." He replied, "But I instruct you to do so;" and he mentioned the rest of the report.[40]

لَبَّيْكَ، لَبَّيْكَ لَا شَرِيكَ لَكَ لَبَّيْكَ، إِنَّ الْحَمْدَ وَالنِّعْمَةَ لَكَ وَالْمُلْكَ لَا شَرِيكَ لَكَ، فَأَهَلَّ النَّاسُ بِهَذَا الَّذِي يُهِلُّونَ بِهِ فَلَمْ يَرُدَّ عَلَيْهِمْ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - شَيْئًا مِنْهُ وَلَزِمَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - تَلْبِيَتَهُ» فَصَحَّ أَنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يَقْطَعْهَا -: وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ أَبِي وَائِلٍ عَنْ مَسْرُوقٍ أَنَّهُ رَأَى عَبْدَ اللَّهِ بْنَ مَسْعُودٍ طَافَ بِالْبَيْتِ سَبْعًا ثُمَّ خَرَجَ إلَى الصَّفَا قَالَ: فَقُلْتُ لَهُ: يَا أَبَا عَبْدَ الرَّحْمَنِ إنَّ نَاسًا يَنْهَوْنَ عَنْ الْإِهْلَالِ فِي هَذَا الْمَكَانِ؟ فَقَالَ: لَكِنِّي آمُرُك بِهِ، وَذَكَرَ بَاقِيَ الْخَبَرِ.

L13435–13437 If they mention: What has been narrated to us through the chain of Ibn Abi Shaybah—Safwan ibn Isa reported to us from... Al-Harith ibn Abd al-Rahman ibn Abi Dhubab reported from Mujahid, from Abdullah ibn Sakhbara, from Abdullah ibn Mas'ud, who said: "I went out with the Messenger of Allah—peace and blessings of Allah be upon him—and he did not cease the talbiyah until he reached Jamrat al-Aqabah, except that he mixed it with takbir or tahlil."

Through another chain: Ibn Abi Shaybah narrated to us, from Abd al-A'la, from Muhammad ibn Ishaq, from Ikrimah, who said: "I heard al-Hasan ibn Ali proclaiming the talbiyah until he reached Jamrat al-Aqabah. He told me: 'I heard my father, Ali ibn Abi Talib, proclaiming the talbiyah until he reached Jamrat al-Aqabah, and he narrated to me that the Messenger of Allah—peace and blessings of Allah be upon him—proclaimed the talbiyah until he reached it.'"

فَإِنْ ذَكَرُوا: مَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا صَفْوَانُ بْنُ عِيسَى عَنْ الْحَارِثِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي ذُبَابٍ عَنْ مُجَاهِدٍ عَنْ عَبْدِ اللَّهِ بْنِ سَخْبَرَةَ عَنْ «عَبْدِ اللَّهِ بْنِ مَسْعُودٍ قَالَ: خَرَجْتُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَمَا تَرَكَ التَّلْبِيَةَ حَتَّى أَتَى جَمْرَةَ الْعَقَبَةِ إلَّا أَنْ يَخْلِطَهَا بِتَكْبِيرٍ أَوْ بِتَهْلِيلٍ -: وَمِنْ طَرِيقٍ» ابْنِ أَبِي شَيْبَةَ نَا عَبْدُ الْأَعْلَى عَنْ مُحَمَّدِ بْنِ إسْحَاقَ عَنْ عِكْرِمَةَ قَالَ: «سَمِعْتُ الْحَسَنَ بْنَ عَلِيٍّ يُلَبِّي حَتَّى انْتَهَى إلَى الْجَمْرَةِ وَقَالَ لِي: سَمِعْتُ أَبِي عَلِيَّ بْنَ أَبِي طَالِبٍ يُهِلُّ حَتَّى انْتَهَى إلَى الْجَمْرَةِ، وَحَدَّثَنِي أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَهَلَّ حَتَّى انْتَهَى إلَيْهَا» .

L13438 We said: Al-Harith is weak, and Aban ibn Salih is not strong. Even if their reports were sound, the reports of Al-Fadl ibn Abbas and Usamah ibn Zayd would still represent two additional reports beyond these two—an addition that it is impermissible to discard out of aversion toward them or preference

قُلْنَا: الْحَارِثُ ضَعِيفٌ، وَأَبَانُ بْنُ صَالِحٍ لَيْسَ بِالْقَوِيِّ، ثُمَّ لَوْ صَحَّا لَكَانَ خَبَرُ الْفَضْلِ بْنِ عَبَّاسٍ، وَأُسَامَةَ بْنِ زَيْدٍ: زَائِدَيْنِ عَلَى هَذَيْنِ الْخَبَرَيْنِ زِيَادَةً لَا يَحِلُّ تَرْكُهَا رَغْبَةً عَنْهَا وَاخْتِيَارًا لِغَيْرِهَا عَلَيْهَا، وَلَيْسَ فِي هَذَيْنِ الْخَبَرَيْنِ نَهْيٌ عَمَّا فِي خَبَرِ ابْنِ عَبَّاسٍ، وَأُسَامَةَ.

[40] **Hadith references (L13434):** Sunan Abi Dawud 1812; Sunan Abi Dawud 1905; Sahih al-Bukhari 1549.

for others over them. Moreover, these two reports contain no prohibition against what is mentioned in the report of Ibn Abbas and Usamah.

L13439 And a group held: The Umrah pilgrim ceases the talbiyah when he enters the Sacred Precinct.

L13440 A group held the opinion: One may not exit Ihram unless he sees the houses of Makkah.

L13441 A group said: Until he enters the houses of Mecca.

L13442 Abu Hanifah said: He does not conclude the Tawaf until he touches the Black Stone. Once he touches it, he concludes the Tawaf.

L13443 And al-Layth said: When he reaches the Kaʿbah, he ceases the talbiyah.

L13444 Al-Shafiʿi said: One does not stop the talbiyah until commencing the circumambulation. Malik said: Whoever assumes iḥrām from the miqāt stops the talbiyah upon entering the Ḥaram area. If one assumes iḥrām from al-Jiʿrānah or al-Tanʿīm, he stops it either upon entering the houses of Mecca or upon entering the Sacred Mosque. It was narrated to us from Wakīʿ, from ʿUmar ibn Dhar, from Mujāhid, who said: Ibn ʿAbbās stated: The person performing ʿUmrah should not stop the talbiyah until touching the Black Stone. Ibn ʿUmar used to stop it upon seeing the houses of Mecca. Wakīʿ said: Sufyān al-Thawrī narrated to us from ʿAbdullāh ibn Dīnār, who said: Ibn ʿUmar stated: One stops the talbiyah upon entering the Ḥaram.

L13445–13447 Abū Muḥammad said: The position we uphold is the view of Ibn Masʿūd that we mentioned earlier—that one should not cease the talbiyah until completing all rites of ʿUmrah. If they cite what was transmitted to us from Saʿīd ibn Manṣūr: Hushaym narrated to us, Ibn Abī Laylā narrated to us, from ʿAṭāʾ, from Ibn ʿAbbās: "The Messenger of Allah—peace and blessings be upon him—continued the talbiyah during his ʿUmrah until he touched the Stone." From the narration of Hafs ibn Ghiyath, from al-Hajjaj ibn Arta'ah, from ʿAmr ibn Shuʿayb, from his father, from his grandfather, who said: "The Messenger of Allah—peace and blessings be upon him and his family—performed three Umrahs, never ceasing the Talbiyah until he touched the

وَقَالَ قَوْمٌ: يَقْطَعُ الْمُعْتَمِرُ التَّلْبِيَةَ إِذَا دَخَلَ الْحَرَمَ.

وَقَالَتْ طَائِفَةٌ: لَا يَقْطَعُهَا إِلَّا حَتَّى يَرَى بُيُوتَ مَكَّةَ.

وَقَالَتْ طَائِفَةٌ: حَتَّى يَدْخُلَ بُيُوتَ مَكَّةَ.

وَقَالَ أَبُو حَنِيفَةَ: لَا يَقْطَعُهَا حَتَّى يَسْتَلِمَ الْحَجَرَ فَإِذَا اسْتَلَمَهُ قَطَعَهَا.

وَقَالَ اللَّيْثُ: إِذَا بَلَغَ الْكَعْبَةَ قَطَعَ التَّلْبِيَةَ.

وَقَالَ الشَّافِعِيُّ: لَا يَقْطَعُهَا حَتَّى يَفْتَتِحَ الطَّوَافَ - وَقَالَ مَالِكٌ: مَنْ أَحْرَمَ مِنْ الْمِيقَاتِ قَطَعَ التَّلْبِيَةَ إِذَا دَخَلَ أَوَّلَ الْحَرَمِ فَإِنْ أَحْرَمَ مِنْ الْجِعْرَانَةِ، أَوْ مِنْ التَّنْعِيمِ قَطَعَهَا إِذَا دَخَلَ بُيُوتَ مَكَّةَ، أَوْ إِذَا دَخَلَ الْمَسْجِدَ -: رُوِّينَا عَنْ وَكِيعٍ عَنْ عُمَرَ بْنِ ذَرٍّ عَنْ مُجَاهِدٍ قَالَ: قَالَ ابْنُ عَبَّاسٍ: لَا يَقْطَعُ الْمُعْتَمِرُ التَّلْبِيَةَ حَتَّى يَسْتَلِمَ الرُّكْنَ، وَكَانَ ابْنُ عُمَرَ يَقْطَعُهَا إِذَا رَأَى بُيُوتَ مَكَّةَ - قَالَ وَكِيعٌ: وَحَدَّثَنَا سُفْيَانُ هُوَ الثَّوْرِيُّ - عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ قَالَ: قَالَ ابْنُ عُمَرَ: يَقْطَعُ التَّلْبِيَةَ إِذَا دَخَلَ الْحَرَمَ.

قَالَ أَبُو مُحَمَّدٍ: وَالَّذِي نَقُولُ بِهِ فَهُوَ قَوْلُ ابْنِ مَسْعُودٍ الَّذِي ذَكَرْنَا آنِفًا أَنَّهُ لَا يَقْطَعُهَا حَتَّى يُتِمَّ جَمِيعَ عَمَلِ الْعُمْرَةِ، فَإِنْ ذَكَرُوا: مَا رُوِّينَا عَنْ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ نَا ابْنُ أَبِي لَيْلَى عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَبَّى فِي عُمْرَتِهِ حَتَّى اسْتَلَمَ الْحَجَرَ» : وَمِنْ طَرِيقِ حَفْصِ بْنِ غِيَاثٍ عَنْ الْحَجَّاجِ بْنِ أَرْطَاةَ عَنْ عَمْرِو بْنِ شُعَيْبٍ عَنْ أَبِيهِ عَنْ جَدِّهِ قَالَ: «اعْتَمَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -

Black Stone." These are two weak narrations—in one of them is Ibn Abi Laylah, who had poor retention, and in the other is al-Hajjaj—and his mention alone suffices as a flaw, for he was also a narrator reliant on written notes.

ثَلَاثَ عُمَرَ، كُلُّ ذَلِكَ لَا يَقْطَعُ التَّلْبِيَةَ حَتَّى يَسْتَلِمَ الْحَجَرَ» ؟ فَهَذَانِ أَثَرَانِ ضَعِيفَانِ - فِي أَحَدِهِمَا: ابْنُ أَبِي لَيْلَى - وَهُوَ سَيِّئُ الْحِفْظِ - وَفِي الْآخَرِ: الْحَجَّاجُ، وَنَاهِيكَ بِهِ؛ وَهُوَ أَيْضًا صَحِيفَةٌ.

L13448 If they were to ask: "Do you have any objection regarding what you narrated through the chain of Aḥmad ibn Shuʿayb from Yaʿqūb ibn Ibrāhīm from Ibn ʿUlayyah from Ayyūb from Nāfiʿ, who said: 'When Ibn ʿUmar entered the nearest part of the Ḥaram (sacred precinct), he would cease the talbiyah, spend the night at Dhū Ṭuwā, pray the dawn prayer therein, and relate that the Messenger of Allah—peace and blessings be upon him and his family—used to do that'?" We respond: No valid objection applies to it, and it is authentic. However, it provides no evidence for your position. The first point is that this narration does not include what you mention—that this occurred during ʿUmrah. Thus, it contradicts the positions chosen by Abū Ḥanīfah and al-Shāfiʿī concerning Ḥajj, and it also contradicts what Abū Ḥanīfah chose regarding ʿUmrah.

فَإِنْ قَالُوا: فَهَلْ عِنْدَكُمْ اعْتِرَاضٌ؟ فِيمَا رَوَيْتُمْ مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ عَنْ يَعْقُوبَ بْنِ إِبْرَاهِيمَ عَنْ ابْنِ عُلَيَّةَ عَنْ أَيُّوبَ عَنْ نَافِعٍ قَالَ: «كَانَ ابْنُ عُمَرَ إِذَا دَخَلَ أَدْنَى الْحَرَمِ أَمْسَكَ عَنْ التَّلْبِيَةِ ثُمَّ يَبِيتُ بِذِي طُوًى، ثُمَّ يُصَلِّي بِهِ الصُّبْحَ، وَيُحَدِّثُ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - كَانَ يَفْعَلُ ذَلِكَ» ؟ قُلْنَا: لَا مُعْتَرَضَ فِيهِ وَهُوَ صَحِيحٌ، إلَّا أَنَّهُ لَا حُجَّةَ لَكُمْ فِيهِ، أَوَّلُ ذَلِكَ: أَنَّهُ لَيْسَ فِي هَذَا الْخَبَرِ مَا تَذْكُرُونَ مِنْ أَنَّ ذَلِكَ كَانَ فِي الْعُمْرَةِ، فَهُوَ مُخَالِفٌ لِمَا اخْتَارَهُ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ فِي الْحَجِّ، وَلِمَا اخْتَارَهُ أَبُو حَنِيفَةَ فِي الْعُمْرَةِ أَيْضًا.

L13449 Then we say to those who follow Mālik's opinion in this matter: This report offers you no conclusive proof, for it is possible that Ibn 'Umar's statement "Indeed, the Messenger of Allah (peace and blessings be upon him) used to do that" referred only to staying overnight at Dhū Ṭuwā and performing the dawn prayer there. Thus we say.[41]

ثُمَّ نَقُولُ لِمَنْ ذَهَبَ إلَى قَوْلِ مَالِكٍ فِي هَذَا: إنَّ هَذَا خَبَرٌ لَا حُجَّةَ لَكُمْ فِيهِ، لِأَنَّهُ قَدْ يُمْكِنُ أَنَّ ابْنَ عُمَرَ إنَّمَا أَشَارَ بِقَوْلِهِ «إنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يَفْعَلُ ذَلِكَ» إلَى الْمَبِيتِ بِذِي طُوًى وَصَلَاةِ الصُّبْحِ بِهَا فَقَطْ، وَهَكَذَا نَقُولُ.

L13450 Or he may have indicated thereby the cessation of the Talbiyah as you assert. If this is the case, then the narration of Jābir ibn 'Abdullāh, Usāmah, and Ibn 'Abbās—"that the Messenger of Allah (peace and blessings of Allah be upon him) maintained the Talbiyah and did not cease it until he threw pebbles at Jamrah al-'Aqabah"—constitutes an addition to what is in the narration of Ibn 'Umar. The addition by a reliable narrator must not be disregarded, for he mentioned knowledge he possessed that Ibn 'Umar, who did not mention it, was unaware of—and success is from Allah, the Exalted.

أَوْ يَكُونُ أَشَارَ بِذَلِكَ إلَى قَطْعِ التَّلْبِيَةِ كَمَا تَقُولُونَ، فَإِنْ كَانَ هَذَا فَخَبَرُ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَأُسَامَةَ، وَابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَزِمَ التَّلْبِيَةَ وَلَمْ يَقْطَعْهَا حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ» زَائِدٌ عَلَى مَا فِي خَبَرِ ابْنِ عُمَرَ، وَزِيَادَةُ الْعَدْلِ لَا يَجُوزُ تَرْكُهَا، لِأَنَّهُ ذَكَرَ عِلْمًا كَانَ عِنْدَهُ لَمْ يَكُنْ عِنْدَ ابْنِ عُمَرَ الَّذِي لَمْ يَذْكُرْهُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[41] **Hadith references (L13449):** Sunan Abi Dawud 1128; Sahih Muslim 392f; Sunan an-Nasai 2940.

## [الطِّيب بِمِنًى قَبْلَ رَمْيِ الْجَمْرَةِ]

وَأَمَّا اخْتِيَارُنَا الطِّيبَ بِمِنًى قَبْلَ رَمْيِ الْجَمْرَةِ، فَلِمَا قَدْ ذَكَرْنَا قَبْلُ فِي اخْتِيَارِ التَّطَيُّبِ لِلْإِحْرَامِ مِنْ النَّصِّ - وَمِمَّنْ قَالَ بِذَلِكَ مِنْ الصَّحَابَةِ، وَغَيْرِهِمْ - رَضِيَ اللَّهُ عَنْهُمْ -، فَأَغْنَى عَنْ إعَادَتِهِ.

وَأَمَّا قَوْلُنَا: أَنْ يَرْمِيَ الْجَمْرَةَ، وَبِدُخُولِ وَقْتِهَا يَحِلُّ لِلْمُحْرِمِ بِالْحَجِّ أَوْ الْقِرَانِ كُلُّ مَا كَانَ عَلَيْهِ حَرَامًا مِنْ اللِّبَاسِ، وَالطِّيبِ، وَالتَّصَيُّدِ فِي الْحِلِّ، وَعَقْدِ النِّكَاحِ لِنَفْسِهِ، وَلِغَيْرِهِ حَاشَا الْجِمَاعَ فَقَطْ، فَإِنَّهُ حَرَامٌ عَلَيْهِ بَعْدُ حَتَّى يَطُوفَ بِالْبَيْتِ -: فَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَأَصْحَابِهِمْ.

وَقَالَ مَالِكٌ، وَسُفْيَانُ: إذَا رَمَى الْجَمْرَةَ حَلَّ لَهُ كُلُّ شَيْءٍ إلَّا النِّسَاءَ، وَالتَّصَيُّدَ، وَالطِّيبَ - قَالَ: فَإِنْ تَطَيَّبَ فَلَا شَيْءَ عَلَيْهِ لِمَا جَاءَ فِي ذَلِكَ، وَإِنْ تَصَيَّدَ فَعَلَيْهِ الْجَزَاءُ.

وَذَكَرُوا فِي ذَلِكَ رِوَايَةً عَنْ عُمَرَ، وَابْنِهِ عَبْدِ اللَّهِ: أَنَّهُ حَلَّ لَهُ كُلُّ شَيْءٍ إلَّا النِّسَاءَ وَالطِّيبَ - وَعَنْ سَالِمٍ، وَعُرْوَةَ مِثْلُ هَذَا.

قَالَ أَبُو مُحَمَّد: أَمَّا ابْنُ عُمَرَ فَقَدْ رُوِيَ عَنْهُ الرُّجُوعُ، وَقَدْ خَالَفَ فِي ذَلِكَ عُمَرُ: عَائِشَةَ وَغَيْرَهَا، كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ قَالَ: قَالَ عُمَرُ: «إذَا رَمَيْتُمْ الْجَمْرَةَ بِسَبْعِ حَصَيَاتٍ، وَذَبَحْتُمْ، وَحَلَقْتُمْ، فَقَدْ حَلَّ لَكُمْ كُلُّ شَيْءٍ، إلَّا الطِّيبَ، وَالنِّسَاءَ، فَقَالَتْ عَائِشَةُ: أَنَا طَيَّبْتُ

## The use of perfume in Mina before the stoning of the Jamrah.

As for our preference to apply fragrance in Mina before stoning the Jamrah, this is due to what we have previously mentioned regarding the choice of applying fragrance for entering the state of consecration from the textual sources—and from those who held this opinion among the Companions, may Allah be pleased with them, and others. This suffices without need for repetition.

As for our statement: that he casts pebbles at the Jamrah, and upon the commencement of its time, everything that was forbidden to the pilgrim in Hajj or Qirān becomes permissible—such as wearing stitched garments, applying perfume, hunting within the non-sacred territory, and entering into a marriage contract for oneself. And for other than him, except sexual intercourse alone, it is forbidden for him thereafter until he performs *Tawaf* around the Kaaba: this is the opinion of Abu Hanifah, Al-Shafi'i, Abu Sulayman, and their companions.

Mālik and Sufyān said: When one stones the Jamrah, all things become lawful for him except women, hunting, and [using] perfume. It was added: If he uses perfume, there is no penalty upon him due to the transmitted ruling, and if he hunts, he must offer expiation.

They mentioned regarding this a narration from ʿUmar and his son ʿAbd Allāh: that all things were lawful for him except women and perfume. The same is also reported from Sālim and ʿUrwa.

Abu Muhammad said: As for Ibn Umar, reports indicate he retracted his position. Umar's opinion was contradicted by Aisha and others, as narrated to us through the chain of Sa'id ibn Mansur – from Sufyan, from Amr ibn Dinar, from Salim ibn Abdullah ibn Umar, from his father, who said: Umar stated, "When you have thrown pebbles at the Jamrah (the ritual pillar) with seven stones, performed your sacrifice, and shaved your heads, all things become permissible for you except using perfume and [relations with] women." Thereupon Aisha responded: "I applied perfume to the Messenger of Allah

(peace be upon him), thus the Sunnah of the Messenger of Allah (peace be upon him) is far more deserving to be followed."

L13459 Abu Muhammad said: This is the statement of Ibn Umar (which if they had followed it, they would have been granted success) - via the chain of Waki' from Sufyan, from Salamah ibn Kuhayl, from al-Hasan al-'Urani, from Ibn Abbas who said: "When you throw pebbles at the Jamrah, all things become permissible for you except women." A man asked: "And perfume?" Ibn Abbas replied: "As for me, I saw the Messenger of Allah - may Allah's peace and blessings be upon him - anointing his head with musk. Is that not the most fragrant?" - via the chain of Waki' from Hisham ibn 'Urwah, from his father, from 'A'ishah - may Allah be pleased with her - who said: "When you throw pebbles at the Jamrah, all things become permissible for you except women."

L13460 From Sufyan ibn 'Uyaynah, from Muhammad ibn al-Munkadir: I heard Ibn al-Zubayr say, "When you have stoned the Jamrah, everything becomes permissible for you except sexual relations."

L13461 And this is the opinion of ʿAṭāʾ, Ṭāwūs, ʿAlqamah, and Khārijah ibn Zayd ibn Thābit.

L13462 Abu Muhammad said: Allah, the Exalted, said: "Forbidden to you is the game of the land as long as you remain in a state of Iḥrām" [Al-Mā'idah: 96].[42]

L13463 And He, the Most High, said: {When you have ended the state, then hunt} [al-Mā'idah 5:2].[43]

L13464 The textual evidence and the consensus of opposing scholars regarding its implication establish that for the pilgrim in Ihram, it is forbidden to wear shirts, turbans, hooded cloaks, leather socks, trousers, or to shave the head. They have concurred with our position despite the presence of the textual

رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَسُنَّةُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَحَقُّ أَنْ تُتَّبَعَ» .

قَالَ أَبُو مُحَمَّدٍ: هَذَا قَوْلُ ابْنِ عُمَرَ الَّذِي لَوْ اتَّبَعُوهُ لَوُفِّقُوا -: وَمِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ عَنْ الْحَسَنِ الْعُرَنِيِّ عَنْ «ابْنِ عَبَّاسٍ قَالَ: إذَا رَمَيْتُمْ الْجَمْرَةَ فَقَدْ حَلَّ لَكُمْ كُلُّ شَيْءٍ إلَّا النِّسَاءَ، فَقَالَ رَجُلٌ: وَالطِّيبُ؟ فَقَالَ ابْنُ عَبَّاسٍ: أَمَّا أَنَا فَقَدْ رَأَيْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يُضَمِّخُ رَأْسَهُ بِالْمِسْكِ أَطِيبُ ذَلِكَ أَمْ لَا» ؟ -: وَمِنْ طَرِيقِ وَكِيعٍ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - قَالَتْ: إذَا رَمَيْت الْجَمْرَةَ فَقَدْ حَلَّ لَك كُلُّ شَيْءٍ إلَّا النِّسَاءَ.

وَعَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ سَمِعْت ابْنَ الزُّبَيْرِ يَقُولُ: إذَا رَمَيْت الْجَمْرَةَ فَقَدْ حَلَّ لَك كُلُّ شَيْءٍ مَا وَرَاءَ النِّسَاءِ.

وَهُوَ قَوْلُ عَطَاءٍ، وَطَاوُسٍ، وَعَلْقَمَةَ، وَخَارِجَةَ بْنِ زَيْدِ بْنِ ثَابِتٍ.

قَالَ أَبُو مُحَمَّدٍ: قَالَ اللَّهُ تَعَالَى: {وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرُمًا} [المائدة: ٩٦] .

وَقَالَ تَعَالَى: {وَإِذَا حَلَلْتُمْ فَاصْطَادُوا} [المائدة: ٢] .

وَجَاءَ النَّصُّ وَإِجْمَاعُ الْمُخَالِفِينَ مَعْنَاهُ عَلَى أَنَّ الْمُحْرِمَ حَرَامٌ عَلَيْهِ لِبَاسُ الْقُمُصِ، وَالْعَمَائِمِ، وَالْبَرَانِسِ، وَالْخِفَّيْنِ، وَالسَّرَاوِيلِ، وَحَلْقُ الرَّأْسِ؛ وَوَافَقُونَا مَعَ مَجِيءِ النَّصِّ عَلَى جَوَازِ لِبَاسِ كُلِّ ذَلِكَ إذَا رَمَى وَنَحَرَ.

[42] **Qur'an references (L13462):** Qur'an 5:96 (Al-Ma'idah).
[43] **Qur'an references (L13463):** Qur'an 5:2 (Al-Ma'idah).

evidence permitting the wearing of all such garments when one has thrown the pebbles and slaughtered the sacrificial animal.

L13465–13466 It has been authentically reported from the Prophet—may the peace and blessings of Allah be upon him—as we will mention after this, if Allah, the Exalted, wills—that it is permissible to perform the circumambulation (ṭawāf), slaughtering (dhabḥ), stoning (ramy), and shaving (ḥalq) with some preceding others.

L13467 It has been established that ihram is invalidated by the arrival of the time for ritual stoning, shaving, and sacrificing—whether one has performed the stoning or not, shaved or not, sacrificed or not, performed tawaf or not. When shaving, which was prohibited during ihram, becomes permissible for him, there is no doubt that the ihram has been invalidated and its ruling nullified. Since this is the case, he is now released, so hunting—which was only prohibited due to ihram—becomes lawful for him through the release. Similarly, marriage and arranging marriages are permitted, because the textual ruling only prohibits the one in ihram from marrying, arranging marriages, or proposing. Thus, it is confirmed that these acts are prohibited for the one in ihram, but whoever is permitted to wear shirts, hooded cloaks, or shave his head without necessity is lawful and not prohibited. Therefore, marriage, arranging marriages, and proposing are lawful for him, as they are not prohibited. As for sexual intercourse, it differs in this regard, because Allah the Exalted said: "There shall be no intercourse, nor wickedness, nor quarreling during Hajj" (Al-Baqarah 2:197). Thus, intercourse is prohibited during Hajj in general, not specifically for the one in ihram. As long as any obligatory rites of Hajj remain, one is still considered to be in Hajj even if not in ihram, and intercourse remains prohibited for him as long as he is in Hajj.[44]

L13468 Abū Muḥammad said: Mālik acknowledges the requirement of expiation for impermissible scents during iḥrām, just as he affirms the penalty for hunting during iḥrām. Yet here, he upheld the penalty for hunting but rejected the expiation for using scents—this is perplexing. If they defend his view by

وَصَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى مَا نَذْكُرُ بَعْدَ هَذَا - إنْ شَاءَ اللَّهُ تَعَالَى - جَوَازُ تَقْدِيمِ الطَّوَافِ، وَالذَّبْحِ، وَالرَّمْيِ، وَالْحَلْقِ، بَعْضِهَا عَلَى بَعْضٍ.

فَصَحَّ أَنَّ الْإِحْرَامَ قَدْ بَطَلَ بِدُخُولِ وَقْتِ الرَّمْيِ، وَالْحَلْقِ، وَالنَّحْرِ، رَمَى أَوْ لَمْ يَرْمِ، حَلَقَ أَوْ لَمْ يَحْلِقْ، نَحَرَ أَوْ لَمْ يَنْحَرْ، طَافَ أَوْ لَمْ يَطُفْ؛ وَإِذَا حَلَّ لَهُ الْحَلْقُ الَّذِي كَانَ حَرَامًا فِي الْإِحْرَامِ، فَبِلَا شَكٍّ أَنَّهُ قَدْ بَطَلَ الْإِحْرَامُ، وَبَطَلَ حُكْمُهُ؛ وَإِذَا كَانَ ذَلِكَ فَقَدْ حَلَّ، فَحَلَّ لَهُ الصَّيْدُ الَّذِي لَمْ يُحَرَّمْ عَلَيْهِ إلَّا بِالْإِحْرَامِ، وَحَلَّ لَهُ بِالْإِحْلَالِ، وَكَذَلِكَ الزَّوَاجُ وَالتَّزْوِيجُ؛ لِأَنَّ النَّصَّ إنَّمَا جَاءَ بِأَنْ لَا يَنْكِحَ الْمُحْرِمُ، وَلَا يُنْكِحَ، وَلَا يَخْطُبَ، فَصَحَّ أَنَّ هَذَا حَرَامٌ عَلَى الْمُحْرِمِ، وَمَنْ حَلَّ لَهُ لِبَاسُ الْقُمُصِ، وَالْبَرَانِسِ، وَحَلْقُ الرَّأْسِ لِغَيْرِ ضَرُورَةٍ فَهُوَ حَلَالٌ لَا مُحَرَّمٌ فَالنِّكَاحُ، وَالْإِنْكَاحُ، وَالْخُطْبَةُ حَلَالٌ لَهُ؛ إذْ لَيْسَ مُحَرَّمًا، وَأَمَّا الْجِمَاعُ فَبِخِلَافِ هَذَا؛ لِأَنَّ اللَّهَ تَعَالَى قَالَ: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] فَحُرِّمَ الرَّفَثُ، وَهُوَ الْجِمَاعُ فِي الْحَجِّ جُمْلَةً لَا عَلَى الْمُحْرِمِ خَاصَّةً، وَمَا دَامَ يَبْقَى مِنْ فَرَائِضِ الْحَجِّ شَيْءٌ فَهُوَ بَعْدُ فِي الْحَجِّ وَإِنْ لَمْ يَكُنْ مُحْرِمًا، وَالْوَطْءُ حَرَامٌ عَلَيْهِ مَا دَامَ فِي الْحَجِّ.

قَالَ أَبُو مُحَمَّدٍ: وَمَالِكٌ يَرَى فِي الطِّيبِ الْمُحَرَّمِ عَلَى الْمُحْرِمِ الْفِدْيَةُ، كَمَا يَرَى الْجَزَاءَ عَلَى الْمُحْرِمِ فِي الصَّيْدِ - ثُمَّ رَأَى هَاهُنَا الْجَزَاءَ فِي الصَّيْدِ وَلَمْ يَرَ الْفِدْيَةَ فِي التَّطَيُّبِ، وَهَذَا عَجَبٌ فَإِنْ احْتَجُّوا لَهُ بِالْأَثَرِ الْوَارِدِ فِي طِيبِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَبْلَ أَنْ

[44] **Qur'an references (L13467):** Qur'an 2:197 (Al-Baqarah).

يَطُوفَ بِالْبَيْتِ؟ قُلْنَا لَهُمْ: لَا يَخْلُو هَذَا الْأَثَرُ مِنْ أَنْ يَكُونَ صَحِيحًا فَفَرْضٌ عَلَيْكُمْ أَنْ لَا تُخَالِفُوهُ، وَأَنْتُمْ قَدْ خَالَفْتُمُوهُ، أَوْ يَكُونَ غَيْرَ صَحِيحٍ فَلَا تُرَاعُوهُ، وَأَوْجَبُوا الْفِدْيَةَ عَلَى مَنْ تَطَيَّبَ كَمَا أَوْجَبْتُمُوهَا عَلَى مَنْ تَصَيَّدَ، وَلَا فَرْقَ.

citing the narration about the Prophet—peace and blessings be upon him—using scented substances before circumambulating the Kaaba, we respond: This narration must either be authentic, obligating you not to oppose it—yet you have opposed it—or inauthentic, obligating you to disregard it. You mandated expiation for using scents just as you mandated it for hunting, drawing no distinction.

L13469 ثُمَّ نَقُولُ لَهُمْ: أَخْبِرُونَا عَنْ إِيجَابِكُمُ الْجَزَاءَ عَلَى مَنْ تَصَيَّدَ فِي الْحِلِّ بَعْدَ رَمْيِ جَمْرَةِ الْعَقَبَةِ، أَحَرَمٌ هُوَ أَمْ غَيْرُ حَرَمٍ؟ وَلَا سَبِيلَ إِلَى ثَالِثٍ.

Then we say to them: Explain to us your ruling on obliging the penalty for one who hunted in al-Ḥill (the non-sacred precincts) after stoning Jamrat al-Aqabah - is he in a state of Ihram or not? There is no third possibility.

L13470 فَإِنْ قُلْتُمْ: هُوَ حَرَمٌ؟ قُلْنَا لَكُمْ: فَحَرِّمُوا عَلَيْهِ اللِّبَاسَ الَّذِي يَحْرُمُ عَلَى الْمُحْرِمِينَ وَحَرِّمُوا عَلَيْهِ حَلْقَ رَأْسِهِ.

If you say, “Is he in the Haram?” We reply to you, “Then prohibit him from wearing the garments forbidden to those in Ihrām, and prohibit him from shaving his head.”

L13471–13472 وَإِنْ قَالُوا: لَيْسَ حَرَامًا؟ قُلْنَا: فَلَا جَزَاءَ عَلَيْهِ فِي التَّصَيُّدِ.

And if they say, “It is not forbidden?” We say, “Then there is no penalty upon him for the hunting.”

L13473 فَإِنْ قَالُوا: قَدْ جَاءَ النَّصُّ وَالْإِجْمَاعُ بِأَمْرِهِ بِحَلْقِ رَأْسِهِ، وَبِلِبَاسِ مَا يَحْرُمُ عَلَى الْمُحْرِمِينَ؟ قُلْنَا: فَهَذَا بُرْهَانٌ كَافٍ فِي أَنَّهُ لَيْسَ مُحْرِمًا، وَهَذَا مَا لَا مُخَلِّصَ [لَهُمْ] مِنْهُ؛ وَأَيْضًا فَإِنَّهُمْ أَوْهَمُوا أَنَّهُمْ تَعَلَّقُوا بِعُمَرَ، وَابْنِ عُمَرَ؛ وَإِنَّمَا عَنْهُمَا الْمَنْعُ مِنَ التَّطَيُّبِ لَا مِنَ الصَّيْدِ، وَهَذَا عَجَبٌ جِدًّا.

If they say: “The textual evidence and consensus have commanded him to shave his head and wear what is prohibited for those in the sacral state (iḥrām),” we reply: This constitutes sufficient proof that he is not in the state of iḥrām, and this is a matter from which they have no deliverance. Furthermore, they have misleadingly implied that they relied upon the positions of ʿUmar and Ibn ʿUmar, whereas the prohibition transmitted from both of them concerns the application of perfume—not hunting—and this is very astonishing.

L13474 وَأَيْضًا فَالْقَوْمُ أَصْحَابُ قِيَاسٍ، وَهُمْ قَدْ أَبَاحُوا لِبَاسَ الْقُمُصِ، وَالسَّرَاوِيلَ وَغَيْرَ ذَلِكَ بَعْدَ رَمْيِ جَمْرَةِ الْعَقَبَةِ، وَحَلْقِ الرَّأْسِ، وَمَنَعُوا مِنَ الصَّيْدِ، وَالطِّيبِ.

Moreover, the scholars—who are proponents of analogy—permitted the wearing of shirts, trousers, and other garments after throwing pebbles at Jamrat al-ʿAqabah and shaving the head, but prohibited from hunting and using perfume.

L13475 فَإِنْ قَالُوا: قِسْنَاهُ عَلَى الْجِمَاعِ؟ قُلْنَا: هَذَا قِيَاسٌ فَاسِدٌ، لِأَنَّ اللِّبَاسَ، وَالْحَلْقَ، وَالطِّيبَ، وَالصَّيْدَ عِنْدَكُمْ خَبَرٌ وَاحِدٌ، وَحُكْمٌ وَاحِدٌ فِي أَنَّهُ لَا يَبْطُلُ بِهِ الْحَجُّ فِي الْإِحْرَامِ، وَكَانَ لِلْجِمَاعِ خَبَرٌ آخَرُ، لِأَنَّهُ لَا يَبْطُلُ بِهِ الْحَجُّ فِي الْإِحْرَامِ؛ فَلَوْ كَانَ الْقِيَاسُ حَقًّا لَكَانَ

If they say: “We have analogized it to intercourse?” We say: This is an invalid analogy, for clothing, shaving, perfume, and hunting—according to your position—are based on a single narration and a single ruling, in that they do not invalidate the pilgrimage during the state of consecration. Intercourse has a distinct narration because it does not invalidate the pilgrimage during

the state of consecration. Thus, if analogical reasoning were valid, it would be more appropriate to analogize perfume and hunting to clothing and shaving than to analogize them to intercourse. And success is from Allah, the Exalted.

L13476 As for our statement: If he proceeded to Mecca, performed seven circumambulations of the House without performing *raml* in them, and—if he was performing *Tamattu‘* Hajj—performed *sa‘i* between al-Ṣafā and al-Marwah, or abstained from *sa‘i* (if performing *Qirān* Hajj) having already completed it between them during his initial entry, then his Hajj **and** Qirān are complete, and marital relations become lawful for him. This is an established consensus without dispute, supported by the explicit text in God’s words: {Let them perform the circumambulation of the Ancient House} [Al-Ḥajj: 29].[45]

L13477 As for our statement that they return to Mina and stay there for three days and nights—stoning the three jamarat each day after the sun passes the zenith, using seven pebbles for each jamrah, beginning with the farthest one, then the middle one, then Jamrat al-Aqabah, the same one stoned on the Day of Sacrifice—by this, their Hajj and all their rites are fully completed. This is a consensus with no disagreement from anyone.

L13478 **He stands and supplicates at the first two Jamrahs but does not stand at the third Jamrah.**

L13479–13481 As for our statement: one stands for supplication at the two initial Jamrahs and does not stand at the third; this is due to what we have narrated through the chain of al-Bukhari: ‘Uthman ibn Abi Shaybah narrated to us, Talhah ibn Yahya al-Ansari narrated to us, Yunus narrated to us from al-Zuhri, from Salim ibn ‘Abdullah ibn ‘Umar, from his father—may Allah be pleased with both of them—that he would stone the nearest Jamrah with seven pebbles, proclaiming “Allahu Akbar” after each one. He would then advance until reaching an open area facing the Qiblah, where he would stand for supplication. He stands for a long time, then supplicates and raises his hands. Then

[45] **Qur’an references (L13476):** Qur’an 22:29 (Al-Hajj).

قِيَاسُ الطِّيبِ، وَالصَّيْدِ، عَلَى اللِّبَاسِ، وَالْحَلْقُ أَوْلَى مِنْ قِيَاسِهِ عَلَى الْجِمَاعِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

وَأَمَّا قَوْلُنَا -: إنْ نَهَضَ إلَى مَكَّةَ فَطَافَ بِالْبَيْتِ سَبْعًا - لَا رَمَلَ فِيهَا - وَسَعَى بَيْنَ الصَّفَا وَالْمَرْوَةِ، إنْ كَانَ مُتَمَتِّعًا، أَوْ لَمْ يَسْعَ إنْ كَانَ قَارِنًا، وَكَانَ قَدْ سَعَى بَيْنَهُمَا فِي أَوَّلِ دُخُولِهِ فَقَدْ تَمَّ حَجُّهُ وَقِرَانُهُ، وَحَلَّ لَهُ النِّسَاءُ - فَإِجْمَاعٌ لَا خِلَافَ فِيهِ مَعَ النَّصِّ فِي قَوْله تَعَالَى: {وَلْيَطَّوَّفُوا بِالْبَيْتِ الْعَتِيقِ} [الحج: ٢٩] .

وَأَمَّا قَوْلُنَا -: إنَّهُمْ يَرْجِعُونَ إلَى مِنًى فَيُقِيمُونَ بِهَا ثَلَاثَ لَيَالٍ بِأَيَّامِهَا - يَرْمُونَ فِي كُلِّ يَوْمٍ مِنْ الْأَيَّامِ الثَّلَاثَةِ الْجَمَرَاتِ الثَّلَاثَ بَعْدَ زَوَالِ الشَّمْسِ بِسَبْعِ حَصَيَاتٍ سَبْعِ حَصَيَاتٍ كُلُّ جَمْرَةٍ يَبْدَأُ بِالْقُصْوَى، ثُمَّ الَّتِي تَلِيهَا، ثُمَّ جَمْرَةِ الْعَقَبَةِ الَّتِي رَمَى يَوْمَ النَّحْرِ، وَقَدْ تَمَّ حَجُّهُ وَعَمَلُهُ كُلُّهُ - فَإِجْمَاعٌ لَا خِلَافَ فِيهِ مِنْ أَحَدٍ.

## [يَقِفُ لِلدُّعَاءِ عِنْدَ الْجَمْرَتَيْنِ الْأُولَيَيْنِ وَلَا يَقِفُ عِنْدَ الثَّالِثَةِ]

وَأَمَّا قَوْلُنَا: يَقِفُ لِلدُّعَاءِ عِنْدَ الْجَمْرَتَيْنِ الْأُولَيَيْنِ وَلَا يَقِفُ عِنْدَ الثَّالِثَةِ، فَلِمَا رُوِّينَاهُ مِنْ طَرِيقِ الْبُخَارِيِّ نَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ نَا طَلْحَةُ بْنُ يَحْيَى الْأَنْصَارِيُّ نَا يُونُسُ عَنْ الزُّهْرِيِّ «عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ - رَضِيَ اللَّهُ عَنْهُمَا - أَنَّهُ كَانَ يَرْمِي الْجَمْرَةَ الدُّنْيَا بِسَبْعِ حَصَيَاتٍ يُكَبِّرُ عَلَى إثْرِ كُلِّ حَصَاةٍ ثُمَّ يَتَقَدَّمُ حَتَّى يُسْهِلَ مُسْتَقْبِلَ الْقِبْلَةِ فَيَقُومُ طَوِيلًا، وَيَدْعُو وَيَرْفَعُ يَدَيْهِ، ثُمَّ يَرْمِي الْجَمْرَةَ الْوُسْطَى، ثُمَّ يَأْخُذُ ذَاتَ الشِّمَالِ فَيُسْهِلُ وَيَقُومُ مُسْتَقْبِلَ الْقِبْلَةِ فَيَقُومُ طَوِيلًا ثُمَّ يَدْعُو، وَيَرْفَعُ يَدَيْهِ، ثُمَّ يَقُومُ

he throws pebbles at the middle Jamrah. He moves to the left side, proceeds smoothly, and stands facing the Qiblah. He stands for a long time, then supplicates and raises his hands. Then he stands again for a long time, after which he throws pebbles at Jamrah al-Aqabah from the valley bed without pausing there. He then departs and said: "This is how I saw the Messenger of Allah—peace and blessings be upon him—perform it."

طَوِيلًا ثُمَّ يَرْمِي جَمْرَةَ الْعَقَبَةِ مِنْ بَطْنِ الْوَادِي وَلَا يَقِفُ عِنْدَهَا، ثُمَّ يَنْصَرِفُ، وَيَقُولُ: هَكَذَا رَأَيْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَفْعَلُهُ» .

L13482 Through the narration chain of Abū Dāwūd: ʿAlī ibn Baḥr and ʿAbdullāh ibn Saʿīd al-Maʿnā—both said together—narrated from Abū Khālid al-Aḥmar, from Muḥammad ibn Isḥāq, from ʿAbd al-Raḥmān ibn al-Qāsim ibn Muḥammad, from his father, from ʿĀ'ishah, Mother of the Believers, who said: "Allah's Messenger—peace and blessings of Allah be upon him—proceeded at the conclusion of his Hajj on the final day after praying the Dhuhr prayer. He then returned to Minā and stayed there during the nights of the Days of Tashrīq, stoning the Jamrah when the sun declined, casting seven pebbles at each Jamrah and pronouncing 'Allāhu Akbar' with every pebble."[46]

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا عَلِيُّ بْنُ بَحْرٍ، وَعَبْدُ اللَّهِ بْنُ سَعِيدٍ الْمَعْنَى قَالَا [جَمِيعًا] نَا أَبُو خَالِدٍ الْأَحْمَرُ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ «أَفَاضَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ آخِرِ يَوْمِهِ حِينَ صَلَّى الظُّهْرَ، ثُمَّ رَجَعَ إِلَى مِنًى فَمَكَثَ بِهَا لَيَالِيَ أَيَّامِ التَّشْرِيقِ يَرْمِي الْجَمْرَةَ إِذَا زَالَتْ الشَّمْسُ كُلُّ جَمْرَةٍ بِسَبْعِ حَصَيَاتٍ يُكَبِّرُ مَعَ كُلِّ حَصَاةٍ» .

## The Qārin pilgrim performing combined Hajj may eat from his sacrificial offering and give charity.

## [يَأْكُلُ الْقَارِنُ مِنْ هَدْيِهِ وَيَتَصَدَّقُ]

L13483

L13484 As for our statement: "The qārin (one combining Ḥajj with ʿUmrah) must eat from his hady and give charity, and likewise from a voluntary hady?" This is based on Allah's statement: "We have made the sacrificial camels among Allah's rites for you – there is good in them for you. So proclaim Allah's name over them as they stand in rows. When they have fallen on their sides, eat from them and feed both the contented and the one who asks openly" [al-Ḥajj: 36]. "Allah's Messenger (peace and blessings be upon him) and ʿAlī (may Allah be pleased with him) both performed qirān, ate from their hady animals, and gave charity."[47]

وَأَمَّا قَوْلُنَا: وَيَأْكُلُ الْقَارِنُ مِنْ هَدْيِهِ وَلَا بُدَّ وَيَتَصَدَّقُ، وَكَذَلِكَ مِنْ هَدْيِ التَّطَوُّعِ؟ فَلِقَوْلِ اللَّهِ تَعَالَى: {وَالْبُدْنَ جَعَلْنَاهَا لَكُمْ مِنْ شَعَائِرِ اللَّهِ لَكُمْ فِيهَا خَيْرٌ فَاذْكُرُوا اسْمَ اللَّهِ عَلَيْهَا صَوَافَّ فَإِذَا وَجَبَتْ جُنُوبُهَا فَكُلُوا مِنْهَا وَأَطْعِمُوا الْقَانِعَ وَالْمُعْتَرَّ} [الحج: ٣٦] «وَكَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَعَلِيٌّ رِضْوَانُ اللَّهِ عَلَيْهِ قَارِنِينَ، وَأَكَلَا مِنْ هَدْيِهِمَا وَتَصَدَّقَا» .

L13485 Abu Muhammad said: A narration has been reported stating, "Whoever does not perform ṭawāf around the House on the Day of Sacrifice reverts to the state of iḥrām as he was until he performs ṭawāf." This was reported by Abu Ubaydah ibn Abdallah ibn Wahb ibn Zamʿah from his father and

قَالَ أَبُو مُحَمَّدٍ: وَرُوِيَ أَثَرٌ: «أَنَّ مَنْ لَمْ يَطُفْ بِالْبَيْتِ يَوْمَ النَّحْرِ فَإِنَّهُ يَعُودُ مُحْرِمًا كَمَا كَانَ حَتَّى يَطُوفَ بِهِ» رَوَاهُ أَبُو عُبَيْدَةَ بْنُ عَبْدِ اللَّهِ بْنِ وَهْبِ بْنِ زَمْعَةَ عَنْ أَبِيهِ وَأُمِّهِ زَيْنَبَ بِنْتِ أُمِّ سَلَمَةَ عَنْ أُمِّهَا عَنْ أُمِّ سَلَمَةَ أُمِّ الْمُؤْمِنِينَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. وَلَا

[46] **Hadith references (L13482):** Sunan Abi Dawud 1973; Mishkat al-Masabih 2676.
[47] **Qur'an references (L13484):** Qur'an 22:36 (Al-Hajj).

his mother Zaynab bint Umm Salamah, from her mother, the daughter of Umm Salamah, from Umm Salamah, the Mother of the Believers, from the Prophet—peace and blessings be upon him. It is not authentic, for though Abu Ubaydah was renowned for nobility and eminence in authority, he is not known for transmitting ḥadīth or for memorization. Had it been authentic, we would have hastened to adopt it. Urwah ibn al-Zubayr held this opinion.

يَصِحُّ، لِأَنَّ أَبَا عُبَيْدَةَ وَإِنْ كَانَ مَشْهُورَ الشَّرَفِ وَالْجَلَالَةِ فِي الرِّيَاسَةِ فَلَيْسَ مَعْرُوفًا بِنَقْلِ الْحَدِيثِ، وَلَا مَعْرُوفًا بِالْحِفْظِ، وَلَوْ صَحَّ لَقُلْنَا بِهِ مُسَارِعِينَ إِلَى ذَلِكَ، وَقَدْ قَالَ بِهِ عُرْوَةُ بْنُ الزُّبَيْرِ.

## [الْمُتَمَتِّعُ إِذَا كَانَ مِنْ غَيْرِ أَهْلِ الْحَرَمِ أَوْ لَمْ يَكُنْ أَهْلُهُ مَعَهُ]

## The *mutamatti*, if he is neither from the residents of the Haram nor accompanied by his family...

L13486

L13487 As for our statement: "If the Tamattuʿ pilgrim is not a resident of the Haram or his household is not residing there with him, he is obligated to offer a sacrificial animal. This offering is not valid unless he offers it after entering the state of Iḥram for Hajj."

وَأَمَّا قَوْلُنَا -: فَأَمَّا الْمُتَمَتِّعُ فَإِنْ كَانَ مِنْ غَيْرِ أَهْلِ الْحَرَمِ أَوْ لَمْ يَكُنْ أَهْلُهُ مَعَهُ قَاطِنِينَ هُنَالِكَ فَفَرْضٌ عَلَيْهِ أَنْ يُهْدِيَ هَدْيًا وَلَا بُدَّ، وَلَا يُجْزِئُهُ أَنْ يُهْدِيَهُ إِلَّا بَعْدَ أَنْ يُحْرِمَ بِالْحَجِّ.

L13488–13489 If he does not find a sacrificial animal nor the means to do so, he must fast three days starting from the day he enters *Ihram* for *Hajj* and concluding by the end of the day of *Arafah*, followed by seven days after the days of *Tashreeq* have concluded.

فَإِنْ لَمْ يَجِدْ هَدْيًا وَلَا مَا يَبْتَاعُهُ بِهِ فَلْيَصُمْ ثَلَاثَةَ أَيَّامٍ مِنْ يَوْمٍ يُحْرِمُ بِالْحَجِّ إِلَى انْقِضَاءِ يَوْمِ عَرَفَةَ وَسَبْعَةَ أَيَّامٍ إِذَا انْقَضَتْ أَيَّامُ التَّشْرِيقِ.

L13490 If he does not fast the three days as we mentioned, he must delay Tawaf al-Ifadah until the days of Tashreeq have ended. Then he must fast the three days. Once he completes them all, he must perform Tawaf al-Ifadah on the fourth day, then he must begin fasting the seven days.

فَإِنْ لَمْ يَصُمِ الثَّلَاثَةَ الْأَيَّامِ كَمَا ذَكَرْنَا فَلْيُؤَخِّرْ طَوَافَ الْإِفَاضَةِ حَتَّى تَنْقَضِيَ أَيَّامُ التَّشْرِيقِ، ثُمَّ يَصُومَ الثَّلَاثَةَ الْأَيَّامِ، فَإِذَا أَتَمَّهَا كُلَّهَا طَافَ طَوَافَ الْإِفَاضَةِ فِي الْيَوْمِ الرَّابِعِ، ثُمَّ ابْتَدَأَ بِصِيَامِ السَّبْعَةِ الْأَيَّامِ.

L13491 If he does not do so until the time for Hajj acts has passed, he must fast only seven days and seek forgiveness from Allah if he deliberately neglected to fast the three days.

فَإِنْ لَمْ يَفْعَلْ حَتَّى خَرَجَ عَنْ عَمَلِ الْحَجِّ صَامَ السَّبْعَةَ الْأَيَّامِ فَقَطْ وَاسْتَغْفَرَ اللَّهَ إِنْ كَانَ تَعَمَّدَ تَرْكَ صِيَامِ الثَّلَاثَةِ الْأَيَّامِ.

L13492 If he finds a sacrificial animal after entering the state of iḥrām for Ḥajj, it does not suffice him, and fasting becomes obligatory for him without exception. But if he finds it before entering the state of iḥrām for Ḥajj, his obligation is the sacrificial animal - based on the words of Allah, the Exalted: "Whoever performs Tamattuʿ with ʿUmrah to Ḥajj must offer what is feasible as a sacrificial animal. But whoever cannot find it must fast three days dur-

وَلَوْ وَجَدَ هَدْيًا بَعْدَ إِحْرَامِهِ بِالْحَجِّ لَمْ يُجْزِهِ وَفَرْضُهُ الصَّوْمُ وَلَا بُدَّ، فَإِنْ وَجَدَهُ قَبْلَ أَنْ يُحْرِمَ بِالْحَجِّ فَفَرْضُهُ الْهَدْيُ - فَلِقَوْلِ اللَّهِ تَعَالَى: {فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ تِلْكَ عَشَرَةٌ كَامِلَةٌ

ing Ḥajj and seven days upon returning. That is ten complete days. This is for those whose families are not present at the Sacred Mosque" [al-Baqarah 2:196]. This is the explicit text of what we have stated - and to Allah belongs all praise in abundance.[48]

L13493 Some people have permitted fasting the three days before entering the state of ihram for Hajj. This is erroneous, as it opposes Allah's command—Exalted is He—to fast them during the Hajj rites. Since a person has not entered ihram, they are neither in Hajj nor within the prescribed timeframe for fasting the three days.

L13494 Moreover, the mentioned sacrifice and fasting are not obligatory upon him except by his Tamattuʿ—which is performing Umrah followed by Hajj—as per the explicit text of Allah's words. If he has not assumed Ihram for Hajj, he does not yet qualify as one who has performed Umrah followed by Hajj through Tamattuʿ. Nor is the fulfillment of any obligation validly discharged except within its prescribed time, which Allah the Exalted has decreed for it.

L13495 Some people have permitted fasting the three days on the days of Tashreeq, but this is erroneous. We have mentioned the decisive evidence demonstrating the invalidity of [this view] in the Book of Fasting within this *Dīwān*, and the Prophet—may Allah bless him and grant him peace—prohibited fasting entirely on the days of Tashreeq altogether.

L13496 This is also the opinion of Al-Shāfiʿī, Abū Ḥanīfah, Abū Sulaymān, and others.

L13497 It has been narrated to us through the chain of Ibn Abī Shaybah from Yaḥyā ibn Saʿīd al-Qaṭṭān from Ibn Jurayj from Nāfiʿ from Ibn ʿUmar, who said: The one performing Tamattuʿ should only fast while in the state of Ihrām, and he may not make up for it except in that state.

L13498–13499 It has been narrated to us from ʿĀ'ishah and Ibn ʿUmar as well regarding the permissibility of fasting the Days of Tashrīq for the one performing Tamattu'. There is no valid proof in the presence of differing opinions except what is

ذَلِكَ لِمَنْ لَمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ} [البقرة: ١٩٦] وَهَذَا نَصُّ مَا قُلْنَاهُ - وَلِلَّهِ الْحَمْدُ كَثِيرًا.

وَقَدْ أَجَازَ قَوْمٌ أَنْ يَصُومَ الثَّلَاثَةَ الْأَيَّامِ قَبْلَ أَنْ يُحْرِمَ بِالْحَجِّ، وَهَذَا خَطَأٌ، لِأَنَّهُ خِلَافُ أَمْرِ اللَّهِ - تَعَالَى - بِأَنْ يَصُومَهَا فِي الْحَجِّ، وَمَا لَمْ يُحْرِمْ الْمَرْءُ فَلَيْسَ هُوَ فِي الْحَجِّ فَلَيْسَ هُوَ فِي وَقْتِ صِيَامِ الثَّلَاثَةِ الْأَيَّامِ.

وَأَيْضًا فَإِنَّهُ لَا يَجِبُ عَلَيْهِ الْهَدْيُ الْمَذْكُورُ وَلَا الصِّيَامُ الْمَذْكُورُ إلَّا بِتَمَتُّعِهِ بِالْعُمْرَةِ إلَى الْحَجِّ بِنَصِّ كَلَامِ اللَّهِ تَعَالَى، وَهُوَ مَا لَمْ يُحْرِمْ بِالْحَجِّ فَلَيْسَ هُوَ بَعْدُ مِمَّنْ تَمَتَّعَ بِالْعُمْرَةِ إلَى الْحَجِّ، وَلَا يُجْزِئُ [أَدَاءُ] فَرْضٍ إلَّا فِي وَقْتِهِ الَّذِي أَوْجَبَهُ اللَّهُ - تَعَالَى - فِيهِ.

وَأَجَازَ قَوْمٌ أَنْ يَصُومَ الثَّلَاثَةَ الْأَيَّامَ فِي أَيَّامِ التَّشْرِيقِ وَهَذَا خَطَأٌ، وَقَدْ ذَكَرْنَا الْبُرْهَانَ عَلَى بُطْلَانِ [هَذَا الْقَوْلِ] فِي كِتَابِ الصِّيَامِ مِنْ هَذَا الدِّيوَانِ، وَنَهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ صِيَامِ أَيَّامِ التَّشْرِيقِ جُمْلَةً.

وَبِهِ يَقُولُ الشَّافِعِيُّ، وَأَبُو حَنِيفَةَ، وَأَبُو سُلَيْمَانَ، وَغَيْرُهُمْ.

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ ابْنِ جُرَيْجٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: لَا يَصُومُ الْمُتَمَتِّعُ إلَّا وَهُوَ مُحْرِمٌ لَا يَقْضِي عَنْهُ إلَّا ذَلِكَ.

وَرُوِّينَا عَنْ عَائِشَةَ وَابْنِ عُمَرَ أَيْضًا جَوَازَ صِيَامِ أَيَّامِ التَّشْرِيقِ لِلْمُتَمَتِّعِ، وَلَا حُجَّةَ مَعَ التَّنَازُعِ إلَّا فِيمَا صَحَّ عَنْ اللَّهِ - تَعَالَى، أَوْ عَنْ رَسُولِهِ - عَلَيْهِ السَّلَامُ -.

[48] **Qur'an references (L13492):** Qur'an 2:196 (Al-Baqarah).

authentically established from Allah, the Exalted, or from His Messenger, peace be upon him.

L13500 It has been narrated to us from ʿAlī through a disconnected chain from Jaʿfar ibn Muḥammad, from his father, that ʿAlī said regarding the Tamattuʿ pilgrim: He misses the fasting during the ten days. He should take the pre-dawn meal on the night of the stoning (Ramy al-Jamarat), then fast three days followed by seven days when he returns.

وَرُوِّينَا عَنْ عَلِيٍّ مِنْ طَرِيقٍ مُنْقَطِعَةٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ أَنَّ عَلِيًّا قَالَ فِي الْمُتَمَتِّعِ: يَفُوتُهُ الصَّوْمُ فِي الْعَشْرِ: أَنَّهُ يَتَسَحَّرُ لَيْلَةَ الْحَصْبَةِ فَيَصُومُ ثَلَاثَةَ أَيَّامٍ وَسَبْعَةً إِذَا رَجَعَ.

L13501 Abu Muhammad said: The Night of al-Ḥaṣbah is the fourteenth night of Dhu al-Hijjah following the last day of the Tashrīq days. It has been narrated to us from ʿUmar and Ibn ʿAbbās that whoever does not fast the three days during the ten days of Dhu al-Hijjah has no right to fast them afterward.

قَالَ أَبُو مُحَمَّد: لَيْلَةُ الْحَصْبَةِ هِيَ اللَّيْلَةُ الرَّابِعَةَ عَشَرَ مِنْ ذِي الْحِجَّةِ التَّالِيَةُ لِآخِرِ أَيَّامِ التَّشْرِيقِ - وَرُوِّينَا عَنْ عُمَرَ، وَابْنِ عَبَّاسٍ: أَنَّ مَنْ لَمْ يَصُمْ الثَّلَاثَةَ الْأَيَّامَ فِي عَشْرِ ذِي الْحِجَّةِ لَمْ يَكُنْ لَهُ أَنْ يَصُومَهَا بَعْدُ.

L13502 Ali said: The statement of Allah—the Most High—"He is the Sovereign over all things," and He—the Most High—only obligated fasting the three days during Ḥajj. Therefore, it is not permissible to fast them either before or after Ḥajj, for this would contravene Allah's command—the Most High—in this matter. He—the Almighty and Majestic—obligated fasting them during Ḥajj, not during Ihrām. Whoever has not performed Ṭawāf al-Ifāḍah remains in Ḥajj.

قَالَ عَلِيٌّ: قَوْلُ اللَّهِ تَعَالَى - هُوَ الْحَاكِمُ عَلَى كُلِّ شَيْءٍ - وَلَمْ يُوجِبْ - تَعَالَى - صِيَامَ الثَّلَاثَةِ الْأَيَّامِ إلَّا فِي الْحَجِّ، فَلَيْسَ لَهُ أَنْ يَصُومَهَا لَا قَبْلَ الْحَجِّ وَلَا بَعْدَ الْحَجِّ، لِأَنَّهُ يَكُونُ مُخَالِفًا لِأَمْرِ اللَّهِ - تَعَالَى - فِي ذَلِكَ، وَلَمْ يُوجِبْ - عَزَّ وَجَلَّ - صِيَامَهَا فِي الْإِحْرَامِ لَكِنْ فِي الْحَجِّ، وَهُوَ مَا لَمْ يَطُفْ طَوَافَ الْإِفَاضَةِ فَهُوَ فِي الْحَجِّ بَعْدُ.

L13503 Abu Hanifa said: If one fasts the three days after assuming ihram for Umrah—whether before performing tawaf for it or after completing it—and before assuming ihram for Hajj, that suffices him. However, fasting the seven days during the ten days of Dhu al-Hijjah does not suffice. This was an unmistakable contradiction and contrary to the Quran as we have mentioned, without evidence.

وَقَالَ أَبُو حَنِيفَةَ: إنْ صَامَ الثَّلَاثَةَ الْأَيَّامِ بَعْدَ أَنْ أَحْرَمَ بِالْعُمْرَةِ، وَقَبْلَ أَنْ يَطُوفَ لَهَا أَوْ بَعْدَ تَمَامِهَا، وَقَبْلَ أَنْ يُحْرِمَ بِالْحَجِّ أَجْزَأَهُ ذَلِكَ، وَلَا يُجْزِئُهُ أَنْ يَصُومَ السَّبْعَةَ الْأَيَّامِ فِي عَشْرِ ذِي الْحِجَّةِ؛ فَكَانَ هَذَا تَنَاقُضًا لَا خَفَاءَ بِهِ، وَخِلَافًا لِلْقُرْآنِ كَمَا ذَكَرْنَا بِلَا دَلِيلٍ.

L13504 Some of them said: The meaning of the statement of the Exalted "in Hajj" [Al-Baqarah:196] refers to the months of Hajj. We responded: This is a lie against the Quran, for if it were as you claim, then you should permit him to fast them during the months of Hajj before performing Umrah - otherwise you have contradicted yourselves. It is authentically reported from Umm al-Mu'minīn ʿĀ'ishah, the Mother of the Believers, and Ibn ʿUmar that one does not fast the three days except after entering the state of consecration for Hajj. This is the opinion of Mālik, al-Shāfiʿī, Aḥmad, and Abū Sulaymān, with no dissenting opinion from the Companions being known in that matter. Al-Shāfiʿī said: He fasts them after the days of Tashrīq (the days of drying meat)

وَقَالَ بَعْضُهُمْ: مَعْنَى قَوْله تَعَالَى: {فِي الْحَجِّ} [البقرة: ١٩٦] أَيْ فِي أَشْهُرِ الْحَجِّ؟ فَقُلْنَا: هَذَا كَذِبٌ عَلَى الْقُرْآنِ، فَإِنْ كَانَ كَمَا تَزْعُمُونَ فَأَجِيزُوا لَهُ صِيَامَهَا فِي أَشْهُرِ الْحَجِّ قَبْلَ أَنْ يَعْتَمِرَ، وَإِلَّا فَقَدْ تَنَاقَضْتُمْ، وَصَحَّ عَنْ أُمِّ الْمُؤْمِنِينَ عَائِشَةَ، وَعَنْ ابْنِ عُمَرَ أَنَّهُ لَا يَصُومُ الثَّلَاثَةَ الْأَيَّامِ إلَّا بَعْدَ إحْرَامِهِ بِالْحَجِّ، وَهُوَ قَوْلُ مَالِكٍ، وَالشَّافِعِيِّ، وَأَحْمَدَ، وَأَبِي

and separates the three fasting days from the seven total days, even by a single day.[1]

سُلَيْمَانَ، وَلَا يُعْرَفُ لَهُمْ مُخَالِفٌ مِنْ الصَّحَابَةِ فِي ذَلِكَ، وَقَالَ الشَّافِعِيُّ: يَصُومُهُنَّ بَعْدَ أَيَّامِ التَّشْرِيقِ وَيُفَرِّقُ بَيْنَ الثَّلَاثَةِ وَالسَّبْعَةِ وَلَوْ بِيَوْمٍ.

L13505 Ali said: And this is an error and contrary to the Quran as we have mentioned, and there is no distinction between advancing the obligation before its time and delaying it after its time without an explicit text.

قَالَ عَلِيٌّ: وَهَذَا خَطَأٌ وَخِلَافٌ لِلْقُرْآنِ كَمَا ذَكَرْنَا، وَلَا فَرْقَ بَيْنَ تَقْدِيمِ الْفَرْضِ قَبْلَ وَقْتِهِ، وَبَيْنَ تَأْخِيرِهِ بَعْدَ وَقْتِهِ بِغَيْرِ نَصٍّ

L13506 ʻAṭāʼ said: The *Tamattuʻ* sacrificial offering is only valid after the stationing at ʻArafah.

وَقَالَ عَطَاءٌ: لَا يُجْزِئُ هَدْيُ الْمُتْعَةِ إلَّا بَعْدَ الْوُقُوفِ بِعَرَفَةَ.

L13507 And ʻAmr ibn Dīnār said: "It suffices from the time one enters the state of iḥrām for Ḥajj, and this is what we adopt based on what we mentioned earlier."

وَقَالَ عَمْرُو بْنُ دِينَارٍ يُجْزِئُ مُذْ يُحْرِمُ بِالْحَجِّ، وَبِهِ نَأْخُذُ لِمَا ذَكَرْنَا آنِفًا.

L13508–13509 They differed regarding the interpretation of His words, the Most High: {And seven animals when you have returned} [Al-Baqarah: 196].[2]

وَاخْتَلَفُوا فِي مَعْنَى قَوْله تَعَالَى: {وَسَبْعَةٍ إِذَا رَجَعْتُمْ} [البقرة: ١٩٦] .

L13510 Some people said: "When you return to your lands," while others said: "When you return from performing Hajj"—which is the opinion of Sufyan and Abū Ḥanīfah, and it is the correct view. This is because it is impermissible to particularize the Qur'an's general ruling without a textual basis or compelling necessity requiring such particularization. Allah the Exalted mentioned fasting three days during Hajj, then the Almighty and Majestic said: {and seven days when you return} [Al-Baqarah 2:196]. Thus, it is established that the verse is to be understood according to its apparent and general meaning—referring to after returning from the Hajj that makes such fasting obligatory. And success is from Allah, the Most High.[3]

فَقَالَ قَوْمٌ: إذَا رَجَعْتُمْ إلَى بِلَادِكُمْ، وَقَالَ آخَرُونَ: إذَا رَجَعْتُمْ مِنْ عَمَلِ الْحَجِّ - وَهُوَ قَوْلُ سُفْيَانَ، وَأَبِي حَنِيفَةَ، وَهُوَ الصَّحِيحُ؛ لِأَنَّهُ لَا يَجُوزُ تَخْصِيصُ الْقُرْآنِ بِلَا نَصٍّ وَلَا ضَرُورَةَ مُوجِبَةٌ لِتَخْصِيصِهِ، وَقَدْ ذَكَرَ - تَعَالَى - صِيَامَ الثَّلَاثَةِ الْأَيَّامِ فِي الْحَجِّ، ثُمَّ قَالَ عَزَّ وَجَلَّ: {وَسَبْعَةٍ إِذَا رَجَعْتُمْ} [البقرة: ١٩٦] فَصَحَّ أَنَّهُ عَلَى ظَاهِرِهِ وَعُمُومِهِ بَعْدَ رُجُوعِهِ مِنْ الْحَجِّ الْمُوجِبِ عَلَيْهِ ذَلِكَ الصِّيَامَ وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13511 If it is said: You have narrated through the chain of Al-Bukhari from Yahya ibn Bukayr from Al-Laith from Uqayl from Al-Zuhri from Urwa from Aisha that the Messenger of Allah—peace and blessings be upon him—said: "Whoever among you has not brought a sacrificial animal should perform Tawaf

فَإِنْ قِيلَ: فَقَدْ رَوَيْتُمْ مِنْ طَرِيقِ الْبُخَارِيِّ عَنْ يَحْيَى بْنِ بُكَيْرٍ عَنْ اللَّيْثِ عَنْ عُقَيْلٍ عَنْ الزُّهْرِيِّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «وَمَنْ لَمْ يَكُنْ مِنْكُمْ أَهْدَى فَلْيَطُفْ بِالْبَيْتِ وَبَيْنَ الصَّفَا وَالْمَرْوَةِ، وَيُقَصِّرْ، وَيَحِلَّ، ثُمَّ لِيُهِلَّ بِالْحَجِّ فَمَنْ لَمْ يَجِدْ هَدْيًا فَلْيَصُمْ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةً إِذَا رَجَعَ إِلَى أَهْلِهِ» .

[1] **Qur'an references (L13504):** Qur'an 2:196 (Al-Baqarah).
[2] **Qur'an references (L13509):** Qur'an 2:196 (Al-Baqarah).
[3] **Qur'an references (L13510):** Qur'an 2:196 (Al-Baqarah).

around the House and between Safa and Marwah, cut their hair short, exit Ihram, then assume Ihram anew for Hajj. Whoever cannot find a sacrificial animal must fast three days during Hajj and seven days when they return home."[4]

L13512 We said: Yes, and returning to one's family occurs in two forms: the first is traveling to his homeland, and the second is returning to his family—even if what was prohibited to him due to the acts of Hajj becomes permissible in them.

L13513 It is not permissible to specify the wording except through an explicit text or consensus. Therefore, it is obligatory to apply it to all cases encompassed by the term "return." If one fasts the seven designated days upon the lifting of their prohibition from him when returning to his family, this is permissible. Likewise, if one fasts them when returning by walking, this is permissible.

L13514 Abu Muhammad said: If he does not fast the three days until completing Hajj, we have transmitted narrations from Umar ibn al-Khattab that the sacrificial obligation reverts to him. This position has been authenticated through Ibn Abbas, and it represents the view of Ata, Tawus, Mujahid, al-Nakhaʿī, and al-Hakam.

L13515 It was also narrated from him that one must offer two sacrificial animals: the sacrificial animal for tamattuʿ and a sacrificial animal for its delay. And it was not authenticated from him—and this is the opinion adopted by Abū Ḥanīfa and his companions.

L13516 Mālik and al-Shāfiʿī said: He fasts those days after Ḥajj (and this is a statement narrated from ʿAlī, though not authentically established from him). Saʿīd ibn Jubayr said: He feeds as compensation for the three days and fasts the seven days.

L13517 Ali said: No one may validly argue against Allah—the Exalted—and His Messenger—may Allah bless him and grant him peace—for Allah, the Almighty and Majestic, has stipulated that whoever cannot find the sacrificial animal must fast three days during Hajj and seven days upon returning.

قُلْنَا: نَعَمْ وَالرُّجُوعُ إِلَى أَهْلِهِ يَقَعُ عَلَى وَجْهَيْنِ: أَحَدُهُمَا الْمَشْيُ إِلَى بَلَدِهِ، وَالْآخَرُ الرُّجُوعُ إِلَى أَهْلِهِ؛ وَإِنْ حَلَّ لَهُ فِيهَا مَا كَانَ لَهُ حَرَامًا بِالْعَمَلِ لِلْحَجِّ.

وَلَا يَجُوزُ تَخْصِيصُ اللَّفْظِ إِلَّا بِنَصٍّ أَوْ إِجْمَاعٍ فَحَمْلُهُ عَلَى كُلِّ مَا يَقَعُ عَلَيْهِ اسْمُ رُجُوعٍ هُوَ الْوَاجِبُ، فَإِنْ صَامَ السَّبْعَةَ إِذَا رَجَعَ إِلَى أَهْلِهِ مِنْ تَحْرِيمِهَا عَلَيْهِ فَذَلِكَ جَائِزٌ، وَإِنْ صَامَهَا إِذَا رَجَعَ بِالْمَشْيِ فَذَلِكَ جَائِزٌ.

قَالَ أَبُو مُحَمَّد: فَإِنْ لَمْ يَصُمْ الثَّلَاثَةَ الْأَيَّامِ حَتَّى أَتَمَّ الْحَجَّ فَقَدْ رُوِّينَا عَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ يَعُودُ عَلَيْهِ الْهَدْيُ وَصَحَّ ذَلِكَ عَنْ ابْنِ عَبَّاسٍ وَهُوَ قَوْلُ عَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ، وَالنَّخَعِيِّ، وَالْحَكَمِ.

وَرُوِيَ عَنْهُ أَيْضًا أَنَّ عَلَيْهِ هَدْيَيْنِ: هَدْيَ الْمُتْعَةِ، وَهَدْيًا لِتَأْخِيرِهِ، وَلَمْ يَصِحَّ عَنْهُ - وَبِهِ يَأْخُذُ أَبُو حَنِيفَةَ، وَأَصْحَابُهُ.

وَقَالَ مَالِكٌ، وَالشَّافِعِيُّ: يَصُومُهُنَّ بَعْدَ الْحَجِّ - وَهَذَا قَوْلٌ رُوِيَ عَنْ عَلِيٍّ وَلَمْ يَصِحَّ عَنْهُ - وَقَالَ سَعِيدُ بْنُ جُبَيْرٍ: يُطْعِمُ عَنْ الثَّلَاثَةِ الْأَيَّامِ وَيَصُومُ السَّبْعَةَ.

قَالَ عَلِيٌّ: وَلَا حُجَّةَ فِي أَحَدٍ مَعَ اللَّهِ - تَعَالَى - وَرَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَدْ نَصَّ - عَزَّ وَجَلَّ - عَلَى أَنَّ مَنْ لَمْ يَجِدْ الْهَدْيَ صَامَ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةً إِذَا رَجَعَ.

[4] **Qur'an references (L13511):** Qur'an 2:196 (Al-Baqarah).

L13518–13519 Thus, it is established with certainty that whoever can neither find a sacrificial animal nor its price, his obligation is the aforementioned fasting, and that no sacrificial animal is required of him. Therefore, since this is the case with certainty and without any disagreement from any scholar, it is impermissible for his incumbent obligation to be dropped.

فَصَحَّ يَقِينًا أَنَّ مَنْ لَمْ يَجِدْ هَدْيًا، وَلَا ثَمَنَهُ أَنَّ فَرْضَهُ الصَّوْمُ الْمَذْكُورُ، وَأَنَّهُ لَا هَدْيَ عَلَيْهِ، فَإِذَا هُوَ كَذَلِكَ بِيَقِينٍ، وَبِلَا خِلَافٍ مِنْ أَحَدٍ فَلَا يَجُوزُ سُقُوطُ فَرْضِهِ الْوَاجِبِ عَلَيْهِ.

L13520 The Qur'an has established the exemption from the obligation of a ritual offering, but this exemption is claimed through a disputed opinion unvalidated by the Qur'an or Sunnah. Likewise, it is insufficient for one to fast the three days outside the time ordained by Allah—Exalted is He—for their fasting, based on a contested view unvalidated by scriptural evidence. Umar and Ibn Abbas state: "He may not fast after that." Ali asserts: "He may not offer the ritual offering after that." Sa'id ibn Jubayr declares: "He neither offers the ritual offering nor fasts those days, but should provide food." Others do not recognize feeding [as a valid substitute]. Thus, the rulings obligating fasting, a ritual offering, or feeding lack validity in the absence of consensus or explicit textual evidence. Rather, the text precludes both fasting and the ritual offering, while not mandating feeding.

وَإِيجَابُ هَدْيٍ قَدْ جَاءَ الْقُرْآنُ بِسُقُوطِهِ عَنْهُ بِقَوْلٍ مُخْتَلَفٍ فِيهِ لَا يُصَحِّحُهُ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا يُجْزِئُهُ أَيْضًا أَنْ يَصُومَ الثَّلَاثَةَ الْأَيَّامِ فِي غَيْرِ الْوَقْتِ الَّذِي افْتَرَضَ اللَّهُ - تَعَالَى - عَلَيْهِ صِيَامَهَا فِيهِ بِقَوْلٍ مُخْتَلَفٍ فِيهِ لَا يُصَحِّحُهُ قُرْآنٌ، وَلَا سُنَّةٌ - وَعُمَرُ، وَابْنُ عَبَّاسٍ يَقُولَانِ: لَا يَصُومُ بَعْدُ - وَعَلِيٌّ يَقُولُ: لَا يُهْدِي بَعْدُ - وَسَعِيدُ بْنُ جُبَيْرٍ يَقُولُ: لَا يُهْدِي وَلَا يَصُومُهُنَّ، لَكِنْ يُطْعِمُ - وَغَيْرُهُ لَا يَرَى الْإِطْعَامَ، فَلَمْ يَصِحَّ إيجَابُ صَوْمٍ، أَوْ هَدْيٍ، أَوْ إطْعَامٍ بِغَيْرِ إجْمَاعٍ وَلَا نَصٍّ، بَلْ النَّصُّ مَانِعٌ مِنْهُمَا، وَغَيْرُ مُوجِبٍ لِلْإِطْعَامِ.

L13521 We have found Allah—Exalted is He—saying: {Allah does not charge a soul except [with that within] its capacity} [Al-Baqarah: 286]. Since fasting the three days during an elapsed time is beyond one's capacity, it is valid that he is not obligated to what exceeds his capacity in that matter. The Messenger of Allah—peace and blessings be upon him—said: "When I command you with a matter, fulfill from it what you are able." Thus, fasting the three days is lifted from him due to his inability to observe them as commanded, while fasting seven days remains obligatory upon him because he is capable of it. He is obliged to fulfill it perpetually, and it suffices as valid compensation for him. If he dies without fasting them, his legal guardian must fast them on his behalf as we detailed in the Book of Fasting. The three days are not to be fasted on his behalf since they are no longer incumbent upon him. However, he becomes a transgressor against Allah—Exalted is He—if he intentionally neglected fasting them until their time elapsed. In that case, he must seek forgiveness from Allah—Almighty and Majestic—repent, and must increase in doing good deeds. There is no blame upon him if he neglected them

وَقَدْ وَجَدْنَا اللَّهَ - تَعَالَى - يَقُولُ: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] . وَهُوَ لَيْسَ فِي وُسْعِهِ أَنْ يَصُومَ الثَّلَاثَةَ الْأَيَّامِ فِي وَقْتٍ قَدْ فَاتَ، فَصَحَّ أَنَّهُ لَيْسَ مُكَلَّفًا بَعْدُ مَا لَيْسَ فِي وُسْعِهِ مِنْ ذَلِكَ. وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ» فَسَقَطَ عَنْهُ صَوْمُ الثَّلَاثَةِ الْأَيَّامِ لِعَجْزِهِ عَنْ أَدَائِهَا كَمَا أُمِرَ وَبَقِيَ عَلَيْهِ صِيَامُ السَّبْعَةِ الْأَيَّامِ، لِأَنَّهُ مُسْتَطِيعٌ عَلَيْهَا فَعَلَيْهِ أَنْ يَأْتِيَ بِهَا أَبَدًا وَتُجْزِئُ عَنْهُ، فَإِنْ مَاتَ، وَلَمْ يَصُمْهَا صَامَهَا عَنْهُ وَلِيُّهُ عَلَى مَا ذَكَرْنَا فِي كِتَابِ الصِّيَامِ وَلَا تُصَامُ عَنْهُ الثَّلَاثَةُ الْأَيَّامِ لِأَنَّهَا لَيْسَتْ عَلَيْهِ بَعْدُ، إلَّا أَنَّهُ عَاصٍ لِلَّهِ - تَعَالَى - إنْ كَانَ تَعَمَّدَ تَرْكَ صِيَامِهَا حَتَّى فَاتَ وَقْتُهَا فَلْيَسْتَغْفِرْ اللَّهَ - عَزَّ وَجَلَّ - وَلْيَتُبْ وَلْيُكْثِرْ مِنْ

due to a legitimate excuse, in accordance with Allah's statement—Exalted is He—: {Allah does not charge a soul except [with that within] its capacity} [Al-Baqarah: 286].[5]

فِعْلِ الْخَيْرِ، وَلَا حَرَجَ عَلَيْهِ إِنْ كَانَ تَرَكَهَا لِعُذْرٍ لِقَوْلِ اللَّهِ - تَعَالَى -: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] .

L13522 Abū Muḥammad said: Abū Ḥanīfa stated: If he finds a sacrificial animal before completing the three days of fasting or after completing them and before exiting the state of iḥrām during the days of sacrifice, his fasting is invalidated and the ruling reverts to offering the sacrificial animal. If he finds the sacrificial animal after the days of sacrifice have ended—whether he has exited iḥrām or not—his fasting remains valid, and no sacrificial animal is required of him.

قَالَ أَبُو مُحَمَّد: وَقَالَ أَبُو حَنِيفَةَ: إِنْ وَجَدَ هَدْيًا قَبْلَ أَنْ يُتِمَّ صِيَامَ الثَّلَاثَةِ الْأَيَّامِ أَوْ بَعْدَ أَنْ أَتَمَّهُنَّ، وَقَبْلَ أَنْ يَحِلَّ فِي أَيَّامِ النَّحْرِ فَقَدْ بَطَلَ صَوْمُهُ وَعَادَ حُكْمُهُ إِلَى الْهَدْيِ، وَإِنْ وَجَدَ الْهَدْيَ بَعْدَ انْقِضَاءِ أَيَّامِ النَّحْرِ - وَقَدْ حَلَّ أَوْ لَمْ يَحِلَّ - فَصَوْمُهُ تَامٌّ، وَلَا هَدْيَ عَلَيْهِ.

L13523–13525 Malik and Al-Shāfiʿī said: If he finds the Hady after commencing the fast, his obligation is fasting [and no Hady is incumbent upon him]. But if he finds the Hady before undertaking the fast, his ruling reverts to the Hady. ʿAlī said: Both statements lack evidence, and no valid proof exists for either despite the words of Allah, the Exalted. The Exalted obligated what He obligated of the Hady or fasting — if he could not find the Hady due to being a Tamattuʿ pilgrim. If one combines Umrah with Hajj but has not yet entered the state of consecration for Hajj, they are not considered a Tamattuʿ pilgrim (combining Umrah and Hajj). Thus, neither a sacrificial offering nor fasting has become incumbent upon them up to that stage.

وَقَالَ مَالِكٌ، وَالشَّافِعِيُّ: إِنْ وَجَدَ الْهَدْيَ بَعْدَ أَنْ دَخَلَ فِي الصَّوْمِ فَفَرْضُهُ الصَّوْمُ [وَلَا هَدْيَ عَلَيْهِ] وَإِنْ وَجَدَ الْهَدْيَ قَبْلَ أَنْ يَأْخُذَ فِي الصَّوْمِ عَادَ حُكْمُهُ إِلَى الْهَدْيِ -: قَالَ عَلِيٌّ: كِلَا الْقَوْلَيْنِ لَا دَلِيلَ عَلَيْهِ وَلَا حُجَّةَ فِي أَحَدٍ مَعَ كَلَامِ اللَّهِ - تَعَالَى - وَإِنَّمَا أَوْجَبَ - تَعَالَى - مَا أَوْجَبَ مِنَ الْهَدْيِ، أَوْ مِنَ الصَّوْمِ إِنْ لَمْ يَجِدِ الْهَدْيَ بِأَنْ يَكُونَ مُتَمَتِّعًا بِالْعُمْرَةِ إِلَى الْحَجِّ فَهُوَ مَا لَمْ يُحْرِمْ بِالْحَجِّ، فَلَيْسَ مُتَمَتِّعًا بِالْعُمْرَةِ إِلَى الْحَجِّ فَلَمْ يَجِبْ عَلَيْهِ - حَتَّى الْآنَ - هَدْيٌ، وَلَا صَوْمٌ.

L13526 There is no disagreement among any Muslim scholars that if a Muslim performs ʿUmrah intending Tamattuʿ but fails to perform Hajj in that same year, neither a sacrificial animal nor fasting is required of him. This certainly confirms that such obligations only become obligatory upon his entry into Hajj, for it is at that point he becomes a Mutamattiʿ by transitioning from ʿUmrah to Hajj. Thus, there remains no doubt in this matter. The ruling applies precisely when the ruling of Tamattuʿ takes effect – neither preceding this moment nor applying afterward.

وَلَا خِلَافَ بَيْنَ أَحَدٍ مِنْ أَهْلِ الْإِسْلَامِ فِي أَنَّ الْمُسْلِمَ إِنْ اعْتَمَرَ، وَهُوَ يُرِيدُ التَّمَتُّعَ ثُمَّ لَمْ يَحُجَّ مِنْ عَامِهِ ذَلِكَ فَإِنَّهُ لَا هَدْيَ عَلَيْهِ وَلَا صَوْمَ، فَصَحَّ يَقِينًا أَنَّهُ لَا يَجِبُ عَلَيْهِ ذَلِكَ إِلَّا بِدُخُولِهِ فِي الْحَجِّ، فَإِنَّهُ حِينَئِذٍ يَصِيرُ مُتَمَتِّعًا بِالْعُمْرَةِ إِلَى الْحَجِّ، فَإِذًا لَا شَكَّ فِي هَذَا فَإِنَّمَا حُكْمُهُ حِينَ وَجَبَ عَلَيْهِ ذَلِكَ الْحُكْمُ بِالتَّمَتُّعِ لَا قَبْلَ ذَلِكَ وَلَا بَعْدَ ذَلِكَ.

L13527 If, at the time of entering the state of Ihram for Hajj, he was capable of offering a sacrificial animal, then his obligation is to offer it by the explicit

فَإِنْ كَانَ فِي أَثَرِ حِينِ إِحْرَامِهِ بِالْحَجِّ قَادِرًا عَلَى هَدْيٍ فَفَرْضُهُ الْهَدْيُ بِنَصِّ الْقُرْآنِ سَوَاءٌ أَعْسَرَ بَعْدَ ذَلِكَ أَوْ كَانَ مُعْسِرًا قَبْلَ ذَلِكَ، وَلَا يَسْقُطُ عَنْهُ مَا أَوْجَبَهُ اللَّهُ - تَعَالَى -

[5] **Qur'an references (L13521):** Qur'an 2:286 (Al-Baqarah).

عَلَيْهِ مِنْ الْهَدْيِ بِدَعْوَى لَا بُرْهَانَ عَلَى صِحَّتِهَا مِنْ قُرْآنٍ وَلَا سُنَّةٍ، وَعَلَيْهِ أَنْ يُهْدِيَ مَتَى وَجَدَ.

text of the Quran—whether he later becomes impoverished or was already impoverished beforehand. The obligation imposed by Allah—Exalted is He—to offer the sacrificial animal is not waived based on a claim unsupported by evidence from the Quran or the Sunnah. He must offer the sacrifice whenever he is able.

فَإِنْ كَانَ فِي أَثَرِ حِينِ إحْرَامِهِ بِالْحَجِّ لَا يَقْدِرُ عَلَى هَدْيٍ فَفَرْضُهُ الصَّوْمُ بِنَصِّ الْقُرْآنِ سَوَاءٌ كَانَ قَبْلَ ذَلِكَ قَادِرًا عَلَى هَدْيٍ أَوْ قَدَرَ عَلَيْهِ بَعْدَ ذَلِكَ لَا يَسْقُطُ عَنْهُ مَا أَوْجَبَ اللَّهُ - تَعَالَى - عَلَيْهِ بِالْقُرْآنِ بِدَعْوَى لَا بُرْهَانَ عَلَى صِحَّتِهَا مِنْ قُرْآنٍ وَلَا سُنَّةٍ.

L13528 If, during the time of entering the state of *iḥrām* for Ḥajj, he is unable to provide a sacrificial animal, then fasting becomes obligatory for him by the explicit text of the Quran—whether he was previously capable of offering it or became capable afterward. What Allah—Exalted is He—has obligated upon him in the Quran is not waived based on a claim unsupported by evidence from the Quran or Sunnah.

وَقَاسَهُ الْحَنَفِيُّونَ عَلَى الْمُطَلَّقَةِ الَّتِي لَمْ تَحِضْ تَعْتَدُّ بِالشُّهُورِ فَتَحِيضُ قَبْلَ إتْمَامِ عِدَّتِهَا فَإِنَّهَا تَنْتَقِلُ إلَى الْعِدَّةِ بِالْأَقْرَاءِ، أَوْ بِالْمُطَلَّقَةِ يَمُوتُ زَوْجُهَا قَبْلَ تَمَامِ عِدَّتِهَا فَتَنْتَقِلُ إلَى عِدَّةِ الْوَفَاةِ.

L13529 The Hanafis analogized this ruling to the case of a divorced woman who has not yet menstruated—she observes her waiting period by months, then menstruates before completing her iddah, in which case she switches to observing the waiting period by menstrual cycles—or to the case of a divorced woman whose husband dies during her waiting period, causing her to switch to the widow's waiting period.

قَالَ أَبُو مُحَمَّد: وَهَذَا قِيَاسٌ، وَالْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَوْ صَحَّ لَكَانَ هَذَا مِنْهُ عَيْنَ الْبَاطِلِ لِأَنَّهُ لَا نِسْبَةَ بَيْنَ الْحَجِّ وَبَيْنَ الطَّلَاقِ، وَإِنَّمَا انْتَقَلَتْ الَّتِي لَمْ تَحِضْ إلَى الْعِدَّةِ بِالْأَقْرَاءِ؛ لِأَنَّ الْقُرْآنَ جَاءَ بِذَلِكَ نَصًّا، وَبِأَنَّ عِدَّةَ الْمُطَلَّقَةِ الْأَقْرَاءُ إلَّا أَنَّ الَّتِي لَمْ تَحِضْ أَوْ يَئِسَتْ مِنْ الْحَيْضِ عِدَّتُهَا الشُّهُورُ، فَإِذَا حَاضَتْ فَبِيَقِينٍ نَدْرِي أَنَّهَا لَيْسَتْ مِنْ اللَّوَاتِي لَمْ يَحِضْنَ، وَلَا مِنْ اللَّائِي يَئِسْنَ مِنْ الْمَحِيضِ فَوَجَبَ أَنْ تَعْتَدَّ بِمَا أَمَرَهَا اللَّهُ - تَعَالَى - أَنْ تَعْتَدَّ بِهِ مِنْ الْأَقْرَاءِ، وَإِنَّمَا انْتَقَلَتْ الْمُتَوَفَّى عَنْهَا زَوْجُهَا إلَى عِدَّةِ الْوَفَاةِ؛ لِأَنَّهَا مَا دَامَتْ فِي الْعِدَّةِ فَهِيَ زَوْجَةٌ لَهُ، وَجَمِيعُ أَحْكَامِ الزَّوْجِيَّةِ بَاقٍ عَلَيْهَا، وَتَرِثُهُ وَيَرِثُهَا، فَإِذَا مَاتَ زَوْجُهَا لَزِمَهَا أَنْ تَعْتَدَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا كَمَا أَمَرَهَا اللَّهُ - تَعَالَى، فَظَهَرَ تَخْلِيطُ هَؤُلَاءِ الْقَوْمِ، وَجَهْلُهُمْ بِالْقِيَاسِ، وَخِلَافُهُمْ الْقُرْآنَ بِآرَائِهِمْ.

L13530 Abū Muḥammad said: This is *qiyas*, and all *qiyas* is invalid. Moreover, even if it were valid, this would represent the very essence of falsehood, for there is no correlation between Ḥajj and divorce. The woman who has not menstruated transitions to a waiting period based on menstrual cycles solely because the Qur'an explicitly stipulates this, and because the waiting period for a divorced woman is determined by menstrual cycles—except that the waiting period for one who has not menstruated or has despaired of menstruation is months. When she menstruates, we know for certain that she is neither among those who have not menstruated nor those who have despaired of menstruation, thus she must observe the waiting period mandated by Allah, Exalted is He, through menstrual cycles. The woman whose husband has died transitions to the widow's waiting period because she remains his wife throughout this period, with all marital rulings intact: she inherits him, and he inherits from her. When her husband dies, she must observe four months and ten days as ordained by Allah, Exalted is He. Thus, the con-

fusion of these people, their ignorance of *qiyas*, and their contradiction of the Qur'an with their opinions becomes evident.

L13531–13533 As for our statement, "This is the ruling pertaining to one whose household is settled within the Sacred Precinct of Makkah," it is because Allah, the Exalted, has decreed... He said: {That is for one whose family is not resident at the Sacred Mosque} [Al-Baqarah: 196]. We found that the scholars differed in opinion. Abū Ḥanīfah said: "Residents of the Sacred Mosque are those residing at one of the mawaqit and what lies between them and Mecca." This is a view narrated from ʿAṭāʾ though unconfirmed from him, but confirmed from Makhūl. Al-Shāfiʿī said: "They are those at a distance of four burud from Mecca such that they do not shorten prayers when traveling to Mecca." This is confirmed from ʿAṭāʾ. Mālik said: "They are the residents of Mecca and Dhū Ṭuwā." Sufyān and Dāwūd said: "They are exclusively the residents of Mecca's dwellings." This is confirmed from Nāfiʿ, the freed slave of Ibn ʿUmar, and from Al-Aʿraj. It was narrated from ʿAṭāʾ and Ṭāwus that they are the residents of Mecca, except that Ṭāwus said: "If a Meccan performs ʿUmrah from one of the mawaqit and then performs Ḥajj in the same year, he must fulfill what is obligatory for the mutamatti." This was narrated through the chain of Wakīʿ from Sufyān from ʿAbdullāh ibn Ṭāwus from his father.[6]

L13534 It was reported to us through the chain of Abd al-Razzaq from Ma'mar from al-Zuhri concerning the residents near the Sacred Mosque. He said: "Whoever's family resides within a day's journey of Mecca or thereabouts."

L13535 Others said: They are the people of the Ḥaram, as narrated via the chain of Saʿīd ibn Manṣūr from Ismāʿīl ibn ʿAyyāsh from Ibn Jurayj from ʿAṭāʾ from Ibn ʿAbbās, who said: "Al-Masjid al-Ḥaram is the entire Ḥaram."

L13536 And through the chain of Al-Ḥudhāfī from ʿAbd al-Razzāq: Maʿmar narrated to us, as did Sufyān ibn ʿUyaynah. Maʿmar said from a man from Ibn ʿAbbās, and from ʿAbd Allāh ibn Ṭāwus from his father. Sufyān said: from Ibn Abī Najīḥ from Mujāhid. Then Ibn ʿAbbās, Ṭāwus, and Mujāhid concurred

وَأَمَّا قَوْلُنَا: إِنَّ هَذَا حُكْمُ مَنْ كَانَ أَهْلُهُ قَاطِنِينَ فِي الْحَرَمِ بِمَكَّةَ فَلِأَنَّ اللَّهَ - تَعَالَى قَالَ: {ذَلِكَ لِمَنْ لَمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ} [البقرة: ١٩٦] وَوَجَدْنَا النَّاسَ اخْتَلَفُوا - فَقَالَ أَبُو حَنِيفَةَ: حَاضِرُو الْمَسْجِدِ الْحَرَامِ هُوَ مَنْ كَانَ سَاكِنًا فِي أَحَدِ الْمَوَاقِيتِ فَمَا بَيْنَ ذَلِكَ إلَى مَكَّةَ وَهُوَ قَوْلٌ رُوِيَ عَنْ عَطَاءٍ وَلَمْ يَصِحَّ عَنْهُ، وَصَحَّ عَنْ مَكْحُولٍ. وَقَالَ الشَّافِعِيُّ: هُمْ مَنْ كَانَ مِنْ مَكَّةَ عَلَى أَرْبَعَةِ بُرُدٍ بِحَيْثُ لَا يَقْصُرُ الصَّلَاةَ إلَى مَكَّةَ، وَصَحَّ هَذَا عَنْ عَطَاءٍ. وَقَالَ مَالِكٌ: هُمْ أَهْلُ مَكَّةَ، وَذِي طُوًى. وَقَالَ سُفْيَانُ، وَدَاوُد: هُمْ أَهْلُ دُورِ مَكَّةَ فَقَطْ، وَصَحَّ عَنْ نَافِعٍ مَوْلَى ابْنِ عُمَرَ، وَعَنْ الْأَعْرَجِ. وَرُوِّينَا عَنْ عَطَاءٍ، وَطَاوُسٍ: أَنَّهُمْ أَهْلُ مَكَّةَ إلَّا أَنَّ طَاوُسًا قَالَ: إذَا اعْتَمَرَ الْمَكِّيُّ مِنْ أَحَدِ الْمَوَاقِيتِ ثُمَّ حَجَّ مِنْ عَامِهِ فَعَلَيْهِ مَا عَلَى الْمُتَمَتِّعِ - رُوِّينَا ذَلِكَ مِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ.

وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ فِي حَاضِرِي الْمَسْجِدِ الْحَرَامِ قَالَ: مَنْ كَانَ أَهْلُهُ مِنْ مَكَّةَ عَلَى يَوْمٍ أَوْ نَحْوِهِ.

وَقَالَ آخَرُونَ: هُمْ أَهْلُ الْحَرَمِ كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ إسْمَاعِيلَ بْنِ عَيَّاشٍ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: الْمَسْجِدُ الْحَرَامُ: الْحَرَمُ كُلُّهُ.

وَمِنْ طَرِيقِ الْخُذَافِيِّ عَنْ عَبْدِ الرَّزَّاقِ نَا مَعْمَرٌ، وَسُفْيَانُ بْنُ عُيَيْنَةَ قَالَ مَعْمَرٌ، عَنْ رَجُلٍ عَنْ ابْنِ عَبَّاسٍ، وَعَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ، وَقَالَ سُفْيَانُ: عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ مُجَاهِدٍ، ثُمَّ اتَّفَقَ ابْنُ عَبَّاسٍ، وَطَاوُسٌ، وَمُجَاهِدٌ فِي قَوْلِ اللَّهِ - تَعَالَى -: {ذَلِكَ لِمَنْ

[6] **Qur'an references (L13531):** Qur'an 2:196 (Al-Baqarah).

regarding the statement of Allah—Exalted is He—: “That is for those whose families are not among the attendees of the Sacred Mosque” [Al-Baqarah: 196]. They all said: This is for one whose family is not within the Haram.[7]

L13537–13539 Abu Muhammad said: As for the statement of Abu Hanifa and his companions, it is utterly baseless. We know of no argument for them except their claim: “We found that those residing within the area short of the miqat are not permitted when intending to perform Hajj or...” It is impermissible for those performing ‘Umrah to cross the Mawaqit except in a state of Ihram, nor may they enter Ihram before them. This confirms that the Mawaqit have a legal ruling distinct from what precedes them.

L13540 Ali said: This argument is utterly feeble. It should be said to them: “Yes – so what? From where does it become obligatory by this reasoning that the people of the appointed boundaries (mawaqit) and those beyond them up to Mecca are considered present at the Sacred Mosque? Is this confusion not akin to one who argues: ’We hold that everyone in the land of Islam may not unsheathe his sword against those he encounters or initiate his raid, while we hold that whoever is in the abode of war may unsheathe his sword and initiate his raid’ – thus it is established that the people of the abode of Islam have rulings distinct from others. Therefore, this necessitates that all people of the abode of Islam are considered present at the Sacred Mosque.”

L13541 Then it is said to them: The resident among you performs prayer in full, while the traveler shortens it. If the inhabitants of Dhū al-Ḥulayfah and al-Juḥfah are considered residents of the Sacred Mosque—while in your view they shorten prayers and break fasts toward Mecca—how can a resident be permitted to shorten prayers and break fasts? What is utterly astonishing is that those settled in Dhū al-Ḥulayfah, nearly two hundred miles from Mecca, are deemed residents of the Sacred Mosque, while those settled south of Yalamlam, merely thirty-three miles away, are not considered residents. Is there any greater confusion than this? Truly, to Allah we belong and to Him we return, when religious rulings are legislated based on such opinions! As for Mālik’s view: His specification of Dhū Ṭuwā is an assertion without

[7] **Qur’an references (L13536):** Qur’an 2:196 (Al-Baqarah).

لَمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ} [البقرة: ١٩٦] قَالُوا كُلُّهُمْ: هِيَ لِمَنْ لَمْ يَكُنْ أَهْلُهُ فِي الْحَرَمِ.

قَالَ أَبُو مُحَمَّد: أَمَّا قَوْلُ أَبِي حَنِيفَةَ وَأَصْحَابِهِ فَفِي غَايَةِ الْفَسَادِ، وَمَا نَعْلَمُ لَهُمْ حُجَّةً إِلَّا أَنَّهُمْ قَالُوا: وَجَدْنَا مَنْ كَانَ مِنْ أَهْلِ مَا دُونَ الْمَوَاقِيتِ لَا يَجُوزُ لَهُمْ إِذَا أَرَادُوا الْحَجَّ أَوْ الْعُمْرَةَ أَنْ يَتَجَاوَزُوا الْمَوَاقِيتَ إِلَّا مُحْرِمِينَ، وَلَيْسَ لَهُمْ أَنْ يُحْرِمُوا قَبْلَهَا، فَصَحَّ أَنَّ لِلْمَوَاقِيتِ حُكْمًا غَيْرَ حُكْمِ مَا قَبْلَهَا.

قَالَ عَلِيٌّ: وَهَذَا الِاحْتِجَاجُ فِي غَايَةِ الْغَثَاثَةِ، وَيُقَالُ لَهُمْ: [نَعَمْ] فَكَانَ مَاذَا؟ وَمِنْ أَيْنَ وَجَبَ مِنْ هَذَا أَنْ يَكُونَ أَهْلُ الْمَوَاقِيتِ فَمَا وَرَاءَهَا إلَى مَكَّةَ هُمْ حَاضِرُو الْمَسْجِدِ الْحَرَامِ؟ وَهَلْ هَذَا التَّخْلِيطُ إلَّا كَمَنْ قَالَ: وَجَدْنَا كُلَّ مَنْ كَانَ فِي أَرْضِ الْإِسْلَامِ لَيْسَ لَهُ أَنْ يُطْلِقَ سَيْفَهُ - فِيمَنْ لَقِيَ - وَغَارَتَهُ؟ وَوَجَدْنَا مَنْ كَانَ فِي دَارِ الْحَرْبِ لَهُ أَنْ يُطْلِقَ سَيْفَهُ وَغَارَتَهُ، فَصَحَّ أَنَّ لِأَهْلِ [دَارِ] الْإِسْلَامِ حُكْمًا غَيْرَ حُكْمِ غَيْرِهَا فَوَجَبَ مِنْ ذَلِكَ أَنْ يَكُونَ جَمِيعُ أَهْلِ دَارِ الْإِسْلَامِ حَاضِرِي الْمَسْجِدِ الْحَرَامِ.

ثُمَّ يُقَالُ لَهُمْ: إنَّ الْحَاضِرَ عِنْدَكُمْ يُتِمُّ الصَّلَاةَ، وَالْمُسَافِرُ يَقْصُرُهَا فَإِذَا كَانَ أَهْلُ ذِي الْحُلَيْفَةِ، وَالْجُحْفَةِ حَاضِرِي الْمَسْجِدِ الْحَرَامِ - وَهُمْ عِنْدَكُمْ يَقْصُرُونَ إلَى مَكَّةَ وَيُفْطِرُونَ - فَكَيْفَ يَكُونُ الْحَاضِرُ يَقْصُرُ وَيُفْطِرُ؟ وَالْعَجَبُ كُلُّهُ أَنْ جَعَلَ مَنْ كَانَ فِي ذِي الْحُلَيْفَةِ سَاكِنًا مِنْ حَاضِرِي الْمَسْجِدِ الْحَرَامِ وَبَيْنَهُمْ وَبَيْنَ مَكَّةَ نَحْوُ مِائَتَيْ مِيلٍ، وَجَعَلَ مَنْ كَانَ سَاكِنًا خَلْفَ يَلَمْلَمَ لَيْسَ مِنْ حَاضِرِي الْمَسْجِدِ الْحَرَامِ وَلَيْسَ بَيْنَهُ وَبَيْنَهَا إلَّا ثَلَاثَةٌ وَثَلَاثُونَ مِيلًا، فَهَلْ فِي التَّخْلِيطِ أَكْثَرُ مِنْ هَذَا؟ وَإِنَّا لِلَّهِ وَإِنَّا إلَيْهِ رَاجِعُونَ، إذْ صَارَتْ الشَّرَائِعُ فِي دِينِ اللَّهِ - تَعَالَى - تُشَرَّعُ بِمِثْلِ هَذَا الرَّأْيِ وَأَمَّا قَوْلُ مَالِكٍ: فَتَخْصِيصُهُ ذَا

evidence, and we know of no one before him who held this opinion. As for al-Shāfiʿī's view: He built his ruling here upon his earlier erroneous position regarding where prayer may be shortened, thus compounding error upon error. It is said to them: You claim that tayammum is fundamentally impermissible for a settled resident, yet permissible for one who is a mile or so from their residence. Why then do you not analogize the residents of the Sacred Mosque to those permitted tayammum? This contradiction is inescapable. Herein, the Ḥanafīs, Mālikīs, and Shāfiʿīs have opposed a Companion—a stance with no known dissent among the Companions—yet they themselves vocally condemn others for this.

L13542–13544 As for the statement of Sufyan and Dawud, it is a mistaken notion on their part, for Allah—Exalted be He—did not say "those present in Mecca," but rather He said: {those present in the Sacred Mosque} [Al-Baqarah: 196]. Thus, the obligation to consider Mecca is nullified here. It has been established that the focus here pertains exclusively to the Sacred Mosque. Since this is the case, we must seek Allah the Exalted's intent in His words {those present at the Sacred Mosque} [Al-Baqarah:196] to distinguish those whom Allah has obligated to offer the sacrificial animal or fast - if performing Tamattuʿ - from those He has not obligated. Upon examination, we determined the term "the Sacred Mosque" must correspond to one of three aspects with no fourth possibility: either Allah the Exalted meant the Kaaba alone, the area enclosed by the mosque's walls alone, or the entire Sanctuary. This is because the designation "Sacred Mosque" applies exclusively to these three aspects.[8]

L13545 Thus, it is incorrect to assert that Allah the Exalted intended only the Kaaba, for if that were the case, the sacrificial offering would not be waived except for one whose family is at the Kaaba, and this is nonexistent and not found.

L13546 It is invalid to claim that Allah, the Exalted and Majestic, intended only what is enclosed by the walls of the Sacred Mosque; for the Sacred Mosque has

[8] **Qur'an references (L13542):** Qur'an 2:196 (Al-Baqarah).

طُوًى قَوْلٌ لَا دَلِيلَ عَلَيْهِ وَلَا نَعْلَمُ هَذَا الْقَوْلَ عَنْ أَحَدٍ قَبْلَ مَالِكٍ؟ وَأَمَّا قَوْلُ الشَّافِعِيِّ: فَإِنَّهُ بَنَى قَوْلَهُ هَاهُنَا عَلَى قَوْلِهِ فِيمَا تُقْصَرُ فِيهِ الصَّلَاةُ، وَقَوْلُهُ هُنَالِكَ خَطَأٌ فَبَنَى الْخَطَأَ عَلَى الْخَطَأِ - وَيُقَالُ لَهُمْ: أَنْتُمْ تَقُولُونَ: لَا يَجُوزُ التَّيَمُّمُ لِلْحَاضِرِ الْمُقِيمِ أَصْلًا وَيَجُوزُ لِمَنْ كَانَ عَلَى مِيلٍ وَنَحْوِهِ مِنْ مَنْزِلِهِ، فَهَلَّا جَعَلْتُمْ حَاضِرِي الْمَسْجِدِ الْحَرَامِ قِيَاسًا عَلَى مَنْ يَجُوزُ لَهُ التَّيَمُّمُ؟ وَهَذَا مَا لَا انْفِكَاكَ مِنْهُ، وَهَذَا مِمَّا خَالَفَ فِيهِ الْحَنَفِيُّونَ، وَالْمَالِكِيُّونَ، وَالشَّافِعِيُّونَ: صَاحِبًا، لَا يُعْرَفُ لَهُ مُخَالِفٌ مِنْ الصَّحَابَةِ، وَهُمْ يُشَنِّعُونَ بِهَذَا.

وَأَمَّا قَوْلُ سُفْيَانَ، وَدَاوُد: فَوَهْمٌ مِنْهُمَا، لِأَنَّ اللَّهَ - تَعَالَى - لَمْ يَقُلْ: حَاضِرِي مَكَّةَ، وَإِنَّمَا قَالَ تَعَالَى: {حَاضِرِي الْمَسْجِدِ الْحَرَامِ} [البقرة: ١٩٦] فَسَقَطَتْ مُرَاعَاةُ مَكَّةَ هَاهُنَا، وَصَحَّ أَنَّ الْمُرَاعَى هَاهُنَا إنَّمَا هُوَ الْمَسْجِدُ الْحَرَامُ فَقَطْ، فَإِذْ ذَلِكَ كَذَلِكَ فَوَاجِبٌ أَنْ نَطْلُبَ مُرَادَ اللَّهِ تَعَالَى بِقَوْلِهِ: {حَاضِرِي الْمَسْجِدِ الْحَرَامِ} [البقرة: ١٩٦] لِنَعْرِفَ مَنْ أَلْزَمَهُ اللَّهُ تَعَالَى الْهَدْيَ أَوْ الصَّوْمَ - إنْ تَمَتَّعَ - مِمَّنْ لَمْ يُلْزِمْهُ اللَّهُ - تَعَالَى - ذَلِكَ؟ فَنَظَرْنَا فَوَجَدْنَا لَفْظَةَ " الْمَسْجِدِ الْحَرَامِ " لَا تَخْلُو مِنْ أَحَدِ ثَلَاثَةِ وُجُوهٍ لَا رَابِعَ لَهَا: إمَّا أَنْ يَكُونَ اللَّهُ - تَعَالَى - أَرَادَ الْكَعْبَةَ فَقَطْ، أَوْ مَا أَحَاطَتْ بِهِ جُدْرَانُ الْمَسْجِدِ فَقَطْ، أَمْ أَرَادَ الْحَرَمَ كُلَّهُ، لِأَنَّهُ لَا يَقَعُ اسْمُ " مَسْجِدٍ حَرَامٍ " إلَّا عَلَى هَذِهِ الْوُجُوهِ فَقَطْ.

فَبَطَلَ أَنْ يَكُونَ اللَّهُ تَعَالَى أَرَادَ الْكَعْبَةَ فَقَطْ، لِأَنَّهُ لَوْ كَانَ ذَلِكَ لَكَانَ لَا يَسْقُطُ الْهَدْيُ إلَّا عَمَّنْ أَهْلُهُ فِي الْكَعْبَةِ وَهَذَا مَعْدُومٌ وَغَيْرُ مَوْجُودٍ.

وَبَطَلَ أَنْ يَكُونَ - عَزَّ وَجَلَّ - أَرَادَ مَا أَحَاطَتْ بِهِ جُدْرَانُ الْمَسْجِدِ الْحَرَامِ فَقَطْ، لِأَنَّ الْمَسْجِدَ الْحَرَامَ قَدْ زِيدَ فِيهِ مَرَّةً بَعْدَ مَرَّةً فَكَانَ لَا يَكُونُ هَذَا الْحُكْمُ يَنْتَقِلُ وَلَا يَثْبُتُ.

been expanded time after time, and thus this ruling would neither transfer nor be established.

L13547 Moreover, this ruling applies only to one whose household is within the Sacred Mosque—a scenario that is nonexistent and absent. Since these two interpretations have been invalidated, the third position is validated, as no alternative remains.

L13548 Moreover, if the term "the Sacred Mosque" refers to the entire sanctuary, it is impermissible to restrict this ruling to only part of what the term designates, excluding the rest of what it encompasses, without proof.

L13549 Moreover, Allah, the Exalted, has made matters clear to us, as He says: *"Allah intends to make [His guidance] clear to you"* [An-Nisa: 26]. Thus, if Allah, the Exalted, had intended only some of what is encompassed by the term 'Sacred Mosque'—to the exclusion of others—He would not have neglected to specify it. Otherwise, Allah, the Exalted, would have been burdening us unnecessarily by failing to clarify what He has obligated us to do. Far be it from Allah that any Muslim should entertain such a thought![9]

L13550 Thus, it is valid because Allah Exalted is He did not specify that He intended only some of what falls under the name of the Sacred Mosque to the exclusion of others. Therefore, there is no doubt that He Exalted is He intended all that falls under the name of the Sacred Mosque.

L13551 Furthermore, Allah—the Exalted—says: {Indeed, the polytheists are impure, so they must not approach the Sacred Mosque after this year of theirs} [9:28]. There was no disagreement among them that He—the Exalted—intended the entire Sanctuary. Thus, it is impermissible to specify this ruling through mere claims.[10]

L13552 It is authentically established from the Messenger of Allah (peace be upon him) through the narrations of Abu Hurairah, Jabir, and Hudhayfah: "The earth has been made for me a place for prostration and a means of purification."

وَأَيْضًا فَكَانَ لَا يَكُونُ هَذَا الْحُكْمُ إلَّا لِمَنْ أَهْلُهُ فِي الْمَسْجِدِ الْحَرَامِ، وَهَذَا مَعْدُومٌ غَيْرُ مَوْجُودٍ، فَإِذْ قَدْ بَطَلَ هَذَانِ الْوَجْهَانِ فَقَدْ صَحَّ الثَّالِثُ إذْ لَمْ يَبْقَ غَيْرُهُ.

وَأَيْضًا فَإِنَّهُ إذَا كَانَ اسْمُ الْمَسْجِدِ الْحَرَامِ يَقَعُ عَلَى الْحَرَمِ كُلِّهِ فَغَيْرُ جَائِزٍ أَنْ يُخَصَّ بِهَذَا الْحُكْمِ بَعْضُ مَا يَقَعُ عَلَيْهِ هَذَا الِاسْمُ دُونَ سَائِرِ مَا يَقَعُ عَلَيْهِ بِلَا بُرْهَانٍ.

وَأَيْضًا فَإِنَّ اللَّهَ - تَعَالَى - قَدْ بَيَّنَ عَلَيْنَا فَقَالَ: {يُرِيدُ اللَّهُ لِيُبَيِّنَ لَكُمْ} [النساء: ٢٦] فَلَوْ أَرَادَ اللَّهُ - تَعَالَى - بَعْضَ مَا يَقَعُ عَلَيْهِ اسْمُ الْمَسْجِدِ الْحَرَامِ دُونَ بَعْضٍ لَمَا أَهْمَلَ ذَلِكَ وَلَبَيَّنَهُ، أَوْ لَكَانَ اللَّهُ - تَعَالَى - مُعَنِّتًا لَنَا غَيْرَ مُبَيِّنٍ عَلَيْنَا مَا أَلْزَمَنَا، وَمَعَاذَ اللَّهِ مِنْ أَنْ يَظُنَّ هَذَا مُسْلِمٌ.

فَصَحَّ إذْ لَمْ يُبَيِّنْ اللَّهُ - تَعَالَى - أَنَّهُ أَرَادَ بَعْضَ مَا يَقَعُ عَلَيْهِ اسْمُ الْمَسْجِدِ الْحَرَامِ دُونَ بَعْضٍ فَلَا شَكَّ فِي أَنَّهُ - تَعَالَى - أَرَادَ كُلَّ مَا يَقَعُ عَلَيْهِ اسْمُ الْمَسْجِدِ الْحَرَامِ.

وَأَيْضًا فَإِنَّ اللَّهَ - تَعَالَى - يَقُولُ: {إنَّمَا الْمُشْرِكُونَ نَجَسٌ فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ بَعْدَ عَامِهِمْ هَذَا} [التوبة: ٢٨] فَلَمْ يَخْتَلِفُوا فِي أَنَّهُ - تَعَالَى - أَرَادَ الْحَرَمَ كُلَّهُ، فَلَا يَجُوزُ تَخْصِيصُ ذَلِكَ بِالدَّعْوَى.

وَصَحَّ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ طَرِيقِ أَبِي هُرَيْرَةَ، وَجَابِرٍ، وَحُذَيْفَةَ «جُعِلَتْ لِي الْأَرْضُ مَسْجِدًا وَطَهُورًا» .

[9] **Qur'an references (L13549):** Qur'an 4:26 (An-Nisa).
[10] **Qur'an references (L13551):** Qur'an 9:28 (At-Tawbah).

L13553–13554 Thus, it is valid that the Ḥaram is a place of worship, for being part of the earth, all of it is a sacred place of worship—hence it is the Sacred Mosque without doubt. Those present are the inhabitants who do not depart. Thus, is it valid that those whose households are present at the Sacred Mosque are those whose households inhabit the Ḥaram? If it is argued: "Those who reside outside it but near it are considered present," we say: This is incorrect. The proof of this claim's invalidity is that we ask you to define the proximity that renders one present versus not present. There is no way to specify this except through a false assertion, for the entire earth consists of successive boundaries extending to its outermost limits.

فَصَحَّ أَنَّ الْحَرَمَ مَسْجِدٌ لِأَنَّهُ مِنَ الْأَرْضِ فَهُوَ كُلُّهُ مَسْجِدٌ حَرَامٌ فَهُوَ الْمَسْجِدُ الْحَرَامُ بِلَا شَكٍّ، وَالْحَاضِرُونَ هُمُ الْقَاطِنُونَ غَيْرُ الْخَارِجِينَ؛ فَصَحَّ أَنَّ مَنْ كَانَ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ هُمْ مَنْ كَانَ أَهْلُهُ قَاطِنِينَ الْحَرَمَ؟ فَإِنْ قِيلَ: فَإِنَّ مَنْ سَكَنَ خَارِجًا مِنْهُ بِقُرْبِهِ هُمْ حَاضِرُوهُ؟ قُلْنَا: هَذَا خَطَأٌ: وَبُرْهَانُ فَسَادِ هَذَا الْقَوْلِ أَنَّا نَسْأَلُكُمْ عَنْ تَحْدِيدِ ذَلِكَ الْقُرْبِ الَّذِي يَكُونُ مَنْ هُوَ فِيهِ حَاضِرًا مِمَّا يَكُونُ مَنْ هُوَ فِيهِ غَيْرَ حَاضِرٍ، وَهَذَا لَا سَبِيلَ إِلَى تَفْصِيلِهِ إِلَّا بِدَعْوَى كَاذِبَةٍ؛ لِأَنَّ الْأَرْضَ كُلَّهَا خَطٌّ بَعْدَ خَطٍّ إِلَى مُنْقَطَعِهَا.

L13555 It was narrated to us through the chain of Muslim: Ali ibn Hujr narrated to us, Ali ibn Mushir narrated to us from al-A'mash from Ibrahim ibn Yazid al-Taymi that his father said to him: "I heard Abu Dharr say: 'I asked the Messenger of Allah (peace and blessings be upon him) about the first mosque placed on earth?' He said, 'The Sacred Mosque.'"

وَرُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا عَلِيُّ بْنُ حُجْرٍ نَا عَلِيُّ بْنُ مُسْهِرٍ عَنِ الْأَعْمَشِ عَنْ إِبْرَاهِيمَ بْنِ يَزِيدَ التَّيْمِيِّ أَنَّ أَبَاهُ قَالَ لَهُ: «سَمِعْتُ أَبَا ذَرٍّ يَقُولُ: سَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؟ عَنْ أَوَّلِ مَسْجِدٍ وُضِعَ فِي الْأَرْضِ؟ فَقَالَ: الْمَسْجِدُ الْحَرَامُ» .

L13556 Abu Muhammad said: It was confirmed that the entire Haram is certain beyond doubt, for the Kaaba had not been built at that time. Rather, Ibrahim and Ismail (peace be upon them) built it, as Allah the Almighty said: "And [mention] when Ibrahim was raising the foundations of the House and Ismail" [Al-Baqarah 2:127]. The mosque around the Kaaba was not constructed until a long time after that.[11]

قَالَ أَبُو مُحَمَّدٍ: فَصَحَّ أَنَّهُ الْحَرَمُ كُلُّهُ بِيَقِينٍ لَا شَكَّ فِيهِ لِأَنَّ الْكَعْبَةَ لَمْ تُبْنَ فِي ذَلِكَ الْوَقْتِ، وَإِنَّمَا بَنَاهَا إِبْرَاهِيمُ، وَإِسْمَاعِيلُ - عَلَيْهِمَا السَّلَامُ -، قَالَ - عَزَّ وَجَلَّ -: {وَإِذْ يَرْفَعُ إِبْرَاهِيمُ الْقَوَاعِدَ مِنَ الْبَيْتِ وَإِسْمَاعِيلُ} [البقرة: ١٢٧] وَلَمْ يُبْنَ الْمَسْجِدُ حَوْلَ الْكَعْبَةِ إِلَّا بَعْدَ ذَلِكَ بِدَهْرٍ طَوِيلٍ.

L13557 There is no disagreement among anyone in the Ummah that if the Mosque were permanently expanded within its boundaries until it encompassed the entire Haram precinct, it would still be called the Haram Mosque. Likewise, if expanded with additions from al-Hill (the non-sacred area), the newly added portions would not be designated as part of the Haram Mosque. Thus, every difficulty is resolved, and all praise in abundance belongs to Allah.

وَلَا خِلَافَ بَيْنَ أَحَدٍ مِنَ الْأُمَّةِ فِي أَنَّهُ لَوْ زِيدَ فِي الْمَسْجِدِ أَبَدًا حَتَّى يَعُمَّ بِهِ جَمِيعَ الْحَرَمِ يُسَمَّى مَسْجِدًا حَرَامًا، وَأَنَّهُ لَوْ زِيدَ فِيهِ مِنَ الْحِلِّ لَمْ يُسَمَّ مَا زِيدَ فِيهِ مَسْجِدًا حَرَامًا، فَارْتَفَعَ كُلُّ إِشْكَالٍ وَلِلَّهِ الْحَمْدُ كَثِيرًا.

L13558 **Issue: If a pilgrim performing Tamattuʿ has family mem-**

## [مَسْأَلَةٌ المتمتع كَانَ لَهُ أَهْلٌ حَاضِرُو الْمَسْجِدِ الْحَرَامِ وَأَهْلٌ غَيْرُ حَاضِرِينَ]

[11] **Qur'an references (L13556):** Qur'an 2:127 (Al-Baqarah).

**bers residing near the Sacred Mosque and family members not residing near it.**

L13559 Issues from this chapter: 836. Issue: If one has family members present within the precincts of the Sacred Mosque and others not present there, neither sacrifice nor fasting is required, because his family members are present within the precincts of the Sacred Mosque. Whoever performs Hajj with his family through Tamattu‘: if he stays with them within the precincts of the Sacred Mosque for more than four days, his family is considered present within the precincts of the Sacred Mosque. If he stays there only four days or less, his family is not considered present within the precincts of the Sacred Mosque, so he must offer a sacrifice or fast.

مَسَائِلُ مِنْ هَذَا الْبَابِ ٨٣٦ - مَسْأَلَةٌ: مَنْ كَانَ لَهُ أَهْلٌ حَاضِرُو الْمَسْجِدِ الْحَرَامِ وَأَهْلٌ غَيْرُ حَاضِرِينَ فَلَا هَدْيَ عَلَيْهِ وَلَا صَوْمَ؛ لِأَنَّ أَهْلَهُ حَاضِرُو الْمَسْجِدِ الْحَرَامِ فَمَنْ حَجَّ بِأَهْلِهِ فَتَمَتَّعَ، فَإِنْ أَقَامَ أَكْثَرَ مِنْ أَرْبَعَةِ أَيَّامٍ بِأَهْلِهِ بِمَكَّةَ فَأَهْلُهُ حَاضِرُو الْمَسْجِدِ الْحَرَامِ، وَإِنْ لَمْ يُقِمْ بِهَا إِلَّا أَرْبَعَةَ أَيَّامٍ فَأَقَلَّ فَلَيْسَ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ فَعَلَيْهِ الْهَدْيُ أَوْ الصَّوْمُ.

L13560–13562 The family of the Messenger of Allah—may the peace and blessings of Allah be upon him—and a group of his companions—may Allah be pleased with them—performed Ḥajj with their families, and it became obligatory upon those among them who performed Tamattu‘ to offer a sacrificial animal or to fast. Thus, it is established that whoever fits this description, his family is not [obligated]. Those present at the Sacred Mosque. Verily, the Messenger of Allah—peace be upon him—stayed in Mecca for four days during the Farewell Pilgrimage. Then we retracted from this opinion to the view that if one resides with his family in Mecca for twenty days or fewer, he is not among those whose family are present at the Sacred Mosque. But if he remains more than twenty days from the time he enters Mecca until he assumes Ihram for Hajj, then he is among those whose family are present at the Sacred Mosque. This is because the Messenger of Allah—peace be upon him—stayed in Tabuk for twenty nights while shortening the prayer.

وَقَدْ حَجَّ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَهْلُهُ وَجَمَاعَةٌ مِنْ أَصْحَابِهِ - رَضِيَ اللَّهُ عَنْهُمْ - بِأَهْلِهِمْ فَوَجَبَ عَلَى مَنْ تَمَتَّعَ مِنْهُمْ الْهَدْيُ أَوْ الصَّوْمُ، فَصَحَّ أَنَّ مَنْ هَذِهِ صِفَتُهُ فَلَيْسَ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ، وَإِنَّمَا أَقَامَ [رَسُولُ اللَّهِ]- عَلَيْهِ السَّلَامُ - بِمَكَّةَ أَرْبَعًا فِي حَجَّةِ الْوَدَاعِ، ثُمَّ رَجَعْنَا عَنْ هَذَا الْقَوْلِ إلَى أَنَّهُ إنْ أَقَامَ بِأَهْلِهِ بِمَكَّةَ عِشْرِينَ يَوْمًا فَأَقَلَّ فَلَيْسَ مِمَّنْ أَهْلُهُ حَاضِرُو الْمَسْجِدِ الْحَرَامِ فَإِنْ بَقِيَ أَكْثَرَ مِنْ عِشْرِينَ يَوْمًا مُذْ يَدْخُلُ مَكَّةَ إلَى أَنْ يُهِلَّ بِالْحَجِّ فَهُوَ مِمَّنْ أَهْلُهُ حَاضِرُوا الْمَسْجِدِ الْحَرَامِ؛ لِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَقَامَ بِتَبُوكَ عِشْرِينَ لَيْلَةً يُقْصِرُ الصَّلَاةَ.

L13563 If a Meccan has no family at all, or has family outside the Sacred Precinct, and he performs Tamattu‘, he must offer a sacrifice or fast, because he is not among those whose family is present in the Sacred Mosque.

وَإِنْ كَانَ مَكِّيٌّ لَا أَهْلَ لَهُ أَصْلًا، أَوْ لَهُ أَهْلٌ فِي غَيْرِ الْحَرَمِ فَتَمَتَّعَ فَعَلَيْهِ الْهَدْيُ أَوْ الصَّوْمُ، لِأَنَّهُ لَيْسَ مِمَّنْ أَهْلُهُ حَاضِرُوا الْمَسْجِدِ الْحَرَامِ.

L13564 The family (ahl) here specifically refers to dependents (‘iyāl) in this context, because all those from Quraysh who performed Hajj with the Messenger of Allah—peace and blessings of Allah be upon him—had their ahl—that is, their relatives—in Mecca. This did not exempt them from the obligation of the

hadyy sacrifice or the fasting required of the mutamattiʾ. And success comes from Allah, the Exalted.

وَالْأَهْلُ: هُمْ الْعِيَالُ خَاصَّةً هَاهُنَا، لِأَنَّ كُلَّ مَنْ حَجَّ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ قُرَيْشٍ فَإِنَّ أَهْلَهُمْ كَانُوا بِمَكَّةَ - يَعْنِي أَقَارِبَهُمْ - فَلَمْ يُسْقِطْ هَذَا عَنْهُمْ حُكْمَ الْهَدْيِ أَوْ الصَّوْمِ الَّذِي عَلَى الْمُتَمَتِّعِ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13565 As for our statement: The obligatory sacrificial animal required of the one performing Tamattuʿ is a head from sheep or goats, camels, or cattle, or a share in a cow or she-camel shared among ten or fewer people—whether all are performing Tamattuʿ or some of them, or if among them is someone who intends his share as meat for consumption, sale, for a vow, or for voluntary offering—this is based on the words of Allah—Exalted is He—: {Whoever performs the Tamattuʿ by combining Umrah with Hajj must offer what is feasible of the sacrificial animal} [Al-Baqarah: 196]. The term "sacrificial animal" applies to a sheep, a cow, and a camel.[12]

وَأَمَّا قَوْلُنَا: إنَّ الْهَدْيَ الْوَاجِبَ عَلَى الْمُتَمَتِّعِ رَأْسٌ مِنْ الْغَنَمِ أَوْ مِنْ الْإِبِلِ أَوْ مِنْ الْبَقَرِ، أَوْ شِرْكٌ فِي بَقَرَةٍ أَوْ نَاقَةٍ بَيْنَ عَشَرَةٍ فَأَقَلَّ سَوَاءٌ كَانُوا مُتَمَتِّعِينَ أَوْ بَعْضُهُمْ، أَوْ كَانَ فِيهِمْ مَنْ يُرِيدُ نَصِيبَهُ لَحْمًا لِلْأَكْلِ أَوْ الْبَيْعِ أَوْ لِنَذْرٍ أَوْ لِتَطَوُّعٍ فَلِقَوْلِ اللَّهِ - تَعَالَى -: {فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] وَاسْمُ الْهَدْيِ يَقَعُ عَلَى الشَّاةِ، وَالْبَقَرَةِ، وَالْبَدَنَةِ.

L13566 It has been narrated to us from Ibn Masʿūd that he used to permit a sheep in that.

وَرُوِّينَا عَنْ ابْنِ مَسْعُودٍ أَنَّهُ كَانَ يُجِيزُ فِي ذَلِكَ الشَّاةَ.

L13567 And the like of that is from Ibn Abbas.

وَعَنْ ابْنِ عَبَّاسٍ مِثْلَ ذَلِكَ.

L13568 There were differing opinions reported from Umm al-Muʾminīn ʿĀʾishah regarding it; a statement similar to that of Ibn ʿAbbās was narrated from her, and it was also narrated from her and from Ibn ʿUmar that a sheep does not suffice for this ruling, and that only a she-camel or a cow suffices for it.

وَاخْتُلِفَ فِيهِ عَنْ أُمِّ الْمُؤْمِنِينَ عَائِشَةَ فَرُوِيَ عَنْهَا مِثْلُ قَوْلِ ابْنِ عَبَّاسٍ - وَرُوِيَ عَنْهَا أَيْضًا، وَعَنْ ابْنِ عُمَرَ أَنَّهُ لَا يُجْزِئُ فِي ذَلِكَ شَاةٌ وَأَنَّهُ إنَّمَا فِي ذَلِكَ النَّاقَةُ أَوْ الْبَقَرَةُ.

L13569 As has been narrated to us from Abū Bakr ibn Abī Shaybah from Abū al-Aḥwaṣ from Abū Isḥāq (he is al-Sabīʿī) from Wabarah ibn ʿAbd al-Raḥmān, who said: Ibn ʿUmar said to me: "Fasting three days during Ḥajj and seven days when you return to your family is more beloved to me than a ewe."

كَمَا رُوِّينَا عَنْ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ عَنْ أَبِي الْأَحْوَصِ عَنْ أَبِي إسْحَاقَ هُوَ السَّبِيعِيِّ - عَنْ وَبَرَةَ بْنِ عَبْدِ الرَّحْمَنِ قَالَ: قَالَ لِي ابْنُ عُمَرَ: صَوْمُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إذَا رَجَعْت إلَى أَهْلِك أَحَبُّ إلَيَّ مِنْ شَاةٍ.

L13570 And from the narration of Hammad ibn Zayd, from Ghaylan ibn Jarir, who said: I heard Ibn Umar being asked about the sacrificial animal of the tamattu' pilgrimage—while they were mentioning a sheep—so Ibn Umar said: "A

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ غَيْلَانَ بْنِ جَرِيرٍ قَالَ: سَمِعْت ابْنَ عُمَرَ يَسْأَلُ عَنْ هَدْيِ الْمُتْعَةِ - وَهُمْ يَذْكُرُونَ الشَّاةَ - فَقَالَ ابْنُ عُمَرَ: شَاةٌ شَاةٌ، وَرَفَعَ بِهَا صَوْتَهُ؛ لَا، بَلْ بَقَرَةٌ، أَوْ نَاقَةٌ - وَعَنْ عُرْوَةَ بْنِ الزُّبَيْرِ مِثْلُ قَوْلِ ابْنِ عُمَرَ.

[12] **Qur'an references (L13565):** Qur'an 2:196 (Al-Baqarah).

sheep, a sheep!" raising his voice over it, "No! Rather, a cow or a camel." And from Urwah ibn al-Zubayr the same as Ibn Umar's statement.

L13571–13572 It has been narrated to us from Ṭāwus with the following chain: through Ismāʿīl ibn Isḥāq al-Qāḍī, from ʿAlī ibn ʿAbd Allāh (Ibn al-Madīnī), from Hishām ibn Yūsuf, from Ibn Jurayj, who said: I heard Ibn Ṭāwus assert from his father that he would say: "According to the extent of a man's wealth: if a sacrificial camel is affordable, then a camel; if a cow is affordable, then a cow; and if only a sheep is affordable, then a sheep." He said: "My father would distinguish between what one can afford and what becomes easily attainable." He said: "If the sacrifice is affordable according to his means, then it becomes easily attainable as required."

وَرُوِّينَا عَنْ طَاوُسٍ التَّرْتِيبَ - رُوِّينَا مِنْ طَرِيقِ إِسْمَاعِيلَ بْنِ إِسْحَاقَ الْقَاضِي نَا عَلِيُّ بْنُ عَبْدِ اللَّهِ هُوَ ابْنُ الْمَدِينِيِّ - نَا هِشَامُ بْنُ يُوسُفَ أَنَا ابْنُ جُرَيْجٍ قَالَ: سَمِعْتُ ابْنَ طَاوُسٍ يَزْعُمُ عَنْ أَبِيهِ أَنَّهُ كَانَ يَقُولُ: بِقَدْرِ يَسَارِ الرَّجُلِ إِنْ اسْتَيْسَرَ جَزُورٌ فَجَزُورٌ، وَإِنْ اسْتَيْسَرَ بَقَرَةٌ فَبَقَرَةٌ، وَإِنْ لَمْ يَسْتَيْسِرْ إِلَّا شَاةٌ فَشَاةٌ. قَالَ: وَكَانَ أَبِي يُفَرِّقُ بَيْنَ مَا اسْتَيْسَرَ وَتَيَسَّرَ. قَالَ: فَإِنْ اسْتَيْسَرَ عَلَى قَدْرِ يَسَارِهِ، وَتَيَسَّرَ مَا شَاءَ.

L13573 Abū Muḥammad said: We have been narrated from the chain of al-Bukhārī: from Isḥāq ibn Manṣūr, from al-Naḍr ibn Shumayl, from Shuʿbah, from Abū Jamrah—who is Naṣr ibn ʿImrān al-Ḍubaʿī—who said: I asked Ibn ʿAbbās (may Allah be pleased with them both) about mutʿah, and he instructed me to perform it. I asked him about the sacrificial animal, and he replied: "It can be a camel, a cow, a sheep, or a share in a blood sacrifice." Likewise, we have narrated this in the explanation of the sacrificial ruling for mutʿah through the chain of al-Ḥajjāj ibn al-Minhāl, from Ḥammād ibn Salamah, from Abi Jamrah, from Ibn ʿAbbās. This is the position we uphold.

قَالَ أَبُو مُحَمَّدٍ: وَرُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نَا إِسْحَاقُ بْنُ مَنْصُورٍ أَنَا النَّضْرُ بْنُ شُمَيْلٍ أَنَا شُعْبَةُ نَا أَبُو جَمْرَةَ هُوَ نَصْرُ بْنُ عِمْرَانَ الضُّبَعِيُّ - قَالَ: سَأَلْت ابْنَ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - عَنْ الْمُتْعَةِ؟ فَأَمَرَنِي بِهَا وَسَأَلْته عَنْ الْهَدْيِ؟ فَقَالَ: فِيهَا جَزُورٌ، أَوْ بَقَرَةٌ، أَوْ شَاةٌ، أَوْ شِرْكٌ فِي دَمٍ، وَهَكَذَا رُوِّينَاهُ فِي تَفْسِيرِ هَدْيِ الْمُتْعَةِ أَيْضًا مِنْ طَرِيقِ الْحَجَّاجِ بْنِ الْمِنْهَالِ عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ أَبِي جَمْرَةَ عَنْ ابْنِ عَبَّاسٍ، وَبِهَذَا نَأْخُذُ.

L13574 As for the permissibility of a sheep in this matter, this is the opinion of Abū Ḥanīfah, Mālik, and al-Shāfiʿī. As for shared ownership of the sacrificial animal, this is the view of Abū Ḥanīfah, al-Shāfiʿī, al-Awzāʿī, Sufyān al-Thawrī, Aḥmad ibn Ḥanbal, Isḥāq, Abū Thawr, and Abū Sulaymān. However, Abū Ḥanīfah said: "Shared ownership of the sacrifice is only permissible if all participants intend it for the sacrificial offering, even if their reasons differ."

فَأَمَّا إجَازَةُ الشَّاةِ فِي ذَلِكَ فَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ: وَأَمَّا الشِّرْكُ فِي الدَّمِ فَبِهِ يَقُولُ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، وَالْأَوْزَاعِيُّ، وَسُفْيَانُ الثَّوْرِيُّ، وَأَحْمَدُ بْنُ حَنْبَلٍ، وَإِسْحَاقُ، وَأَبُو ثَوْرٍ، وَأَبُو سُلَيْمَانَ؛ إلَّا أَنَّ أَبَا حَنِيفَةَ قَالَ: لَا يَجُوزُ الشِّرْكُ فِي الدَّمِ إلَّا بِأَنْ يَكُونُوا كُلُّهُمْ يُرِيدُونَهُ لِلْهَدْيِ، وَإِنْ اخْتَلَفَتْ أَسْبَابُهُمْ.

L13575 His companion Zufar ibn al-Hudhayl said: It is impermissible unless their legal causes are identical, such as all being *mutamattiʿīn* (those performing Tamattuʿ pilgrimage) or *muftadīn* (those redeeming through compensatory offerings), and similar cases.

وَقَالَ صَاحِبُهُ زُفَرُ بْنُ الْهُذَيْلِ: لَا يَجُوزُ إلَّا بِأَنْ تَكُونَ أَسْبَابُهُمْ وَاحِدَةً، مِثْلُ أَنْ يَكُونُوا كُلُّهُمْ مُتَمَتِّعِينَ، أَوْ كُلُّهُمْ مُفْتَدِينَ، وَنَحْوُ هَذَا.

L13576 Al-Shafi'i and Abu Sulaiman said as we have said, except that they all stated

that it is impermissible for more than seven to be made partners in it.

وَقَالَ الشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ: كَمَا قُلْنَا، إِلَّا أَنَّهُمْ [كُلَّهُمْ] قَالُوا: لَا يَجُوزُ أَنْ يُشْرَكَ فِيهِ أَكْثَرُ مِنْ سَبْعَةٍ.

L13577 As for Mālik's opinion, they used as proof a narration we have narrated through the chain of Abū al-ʻĀliyah, Saʻīd ibn Jubayr, and Ibn Sīrīn—all of whom reported from Ibn ʻUmar.

فَأَمَّا قَوْلُ مَالِكٍ: فَإِنَّهُمْ احْتَجُّوا بِرِوَايَةٍ رُوِّينَاهَا مِنْ طَرِيقِ أَبِي الْعَالِيَةِ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَابْنِ سِيرِينَ، كُلُّهُمْ عَنْ ابْنِ عُمَرَ.

L13578 Abu Al-Aliyah said: I heard Ibn Umar say, "They say: A sacrificial camel suffices for seven, and a cow suffices for seven. But I do not know of any person being validly covered except by their own sacrifice."

قَالَ أَبُو الْعَالِيَةِ: سَمِعْت ابْنَ عُمَرَ يَقُولُ: يَقُولُونَ: الْبَدَنَةُ عَنْ سَبْعَةٍ. وَالْبَقَرَةُ عَنْ سَبْعَةٍ، مَا أَعْلَمُ النَّفْسَ تُجْزِئُ إِلَّا عَنْ النَّفْسِ.

L13579–13581 Sa'id ibn Jubayr reported from Ibn Abbas that he said: "I did not realize that a soul could suffice as compensation except for a soul." Ibn Sirin reported from him that he said: "I am not aware, nor is blood money paid on behalf of more than one person."

وَقَالَ سَعِيدُ بْنُ جُبَيْرٍ عَنْهُ أَنَّهُ قَالَ: مَا كُنْت أَشْعُرُ أَنَّ النَّفْسَ تُجْزِئُ إِلَّا عَنْ النَّفْسِ وَقَالَ ابْنُ سِيرِينَ عَنْهُ أَنَّهُ قَالَ: لَا أَعْلَمُ وَمَا يُرَاقُ عَنْ أَكْثَرَ مِنْ إنْسَانٍ وَاحِدٍ.

L13582 This is the view of Ibn Sirin. Al-Hakam and Hammad ibn Abi Sulayman disapproved of it. We know of no basis for their objection except this - and this contains no valid evidence, for Ibn Umar recanted this position and endorsed shared sacrifice. He merely stated here that he had no knowledge of it nor awareness, and one who lacks knowledge cannot constitute proof over one who possesses knowledge. Yusuf ibn ʿAbd Allah al-Namarī reported to us; from ʿAbd Allah ibn Muhammad ibn Yusuf al-Azdi, the judge; from Ishaq ibn Ahmad; from Ahmad ibn ʿAmr ibn Musa al-ʿUqayli; from Muhammad ibn ʿIsa al-Hashimi; from ʿAmr ibn ʿAli; from Wakiʿ ibn al-Jarrah; from ʿArīf ibn Dirham, through Jabalah ibn Suhaym, from Ibn Umar, who said: "A camel or cow [is sacrificed] on behalf of seven."

وَهُوَ رَأْيُ ابْنِ سِيرِينَ، وَكَرِهَ ذَلِكَ الْحَكَمُ، وَحَمَّادُ بْنُ أَبِي سُلَيْمَانَ، مَا نَعْلَمُ لَهُمْ شُبْهَةً غَيْرَ هَذَا - وَهَذَا لَا حُجَّةَ فِيهِ، لِأَنَّ ابْنَ عُمَرَ قَدْ رَجَعَ عَنْ هَذَا إلَى إجَازَةِ الِاشْتِرَاكِ، وَإِنَّمَا أَخْبَرَ هَاهُنَا بِأَنَّهُ لَمْ يَعْلَمْ بِذَلِكَ وَلَا شَعَرَ بِهِ، وَلَيْسَ مَنْ لَمْ يَعْلَمْ حُجَّةً عَلَى مَنْ عَلِمَ حَدَّثَنَا يُوسُفُ بْنُ عَبْدِ اللَّهِ النَّمَرِيُّ نَا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ يُوسُفَ الْأَزْدِيُّ الْقَاضِي نَا إِسْحَاقُ بْنُ أَحْمَدَ نَا أَحْمَدُ بْنُ عَمْرِو بْنِ مُوسَى الْعُقَيْلِيُّ نَا مُحَمَّدُ بْنُ عِيسَى الْهَاشِمِيُّ نَا عَمْرُو بْنُ عَلِيٍّ نَا وَكِيعُ بْنُ الْجَرَّاحِ نَا عَرِيفُ بْنُ دِرْهَمٍ عَنْ جَبَلَةَ بْنِ سُحَيْمٍ عَنْ ابْنِ عُمَرَ قَالَ: الْجَزُورُ، وَالْبَقَرَةُ، عَنْ سَبْعَةٍ.

L13583 Abu Muhammad said: His ruling of permissibility regarding that matter serves as clear evidence that he came to know the Sunnah concerning it after having been unaware. This has been transmitted as an explicit textual report from him, as narrated through the chain of Ibn Abi Shaybah: via Ibn Numayr from Mujalid from al-Shaʻbi, who said: I asked Ibn ʻUmar, "Does a cow or

قَالَ أَبُو مُحَمَّدٍ: إجَازَتُهُ عَنْ ذَلِكَ دَلِيلٌ بَيِّنٌ عَلَى أَنَّهُ عَلِمَ بِالسُّنَّةِ فِي ذَلِكَ بَعْدَ أَنْ لَمْ يَكُنْ عَلِمَهَا، وَقَدْ جَاءَ هَذَا نَصًّا عَنْهُ كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا ابْنُ نُمَيْرٍ نَا مُجَالِدٌ عَنْ «الشَّعْبِيِّ قَالَ: قُلْتُ لِابْنِ عُمَرَ: الْبَقَرَةُ، وَالْبَعِيرُ تُجْزِئُ عَنْ سَبْعَةٍ؟ فَقَالَ: وَكَيْفَ؟

camel suffice for seven people?" He replied, "How so? Does it count for seven shares?" I said, "The Companions of Muhammad (peace and blessings of Allah be upon him) in Kufa gave me this ruling." The people present affirmed, "Indeed, the Messenger of Allah (peace and blessings of Allah be upon him), Abu Bakr, and 'Umar all stated this." Ibn 'Umar responded, "I was unaware [of this]." Thus, their attribution of this opinion to Ibn 'Umar was invalidated. Hammad and al-Hakam did not prohibit it but merely expressed dislike for it, thereby establishing soundly that they permitted it. As for Ibn Sirin, his view was a personal opinion unsupported by any transmitted precedent. Consequently, this position holds no valid basis whatsoever.

أَلَهَا سَبْعَةُ أَنْفُسٍ؟ فَقُلْتُ لَهُ: إِنَّ أَصْحَابَ مُحَمَّدٍ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الَّذِينَ بِالْكُوفَةِ أَفْتَوْنِي، فَقَالَ الْقَوْمُ: نَعَمْ قَدْ قَالَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَبُو بَكْرٍ وَعُمَرُ فَقَالَ ابْنُ عُمَرَ: مَا شَعَرْتُ» ، فَبَطَلَ تَعَلُّقُهُمْ بِابْنِ عُمَرَ، وَلَمْ يَمْنَعْ مِنْ ذَلِكَ حَمَّادٌ، وَالْحَكَمُ، لَكِنْ كَرِهَاهُ فَقَطْ، فَصَحَّ أَنَّهُمَا مُجِيزَانِ لِذَلِكَ، وَإِنَّمَا هُوَ ابْنُ سِيرِينَ رَأْيٌ لَا عَنْ أَثَرٍ - فَبَطَلَ أَنْ يَكُونَ لِهَذَا الْقَوْلِ مُتَعَلَّقٌ أَصْلًا.

L13584 We have recently mentioned from Ibn Umar that he held the opinion that fasting is required during the Tamattu' pilgrimage but did not permit the use of a sheep as a sacrificial offering (hady) in that context. It has been narrated to us via Abd al-Rahman ibn Mahdi, from Sufyan al-Thawri, from Zayd ibn Jubayr, who said: "I heard Ibn Umar being asked about someone who offers a camel as a sacrificial animal, and he replied: 'I have not seen anyone do that.'"

وَقَدْ ذَكَرْنَا عَنْ ابْنِ عُمَرَ آنِفًا أَنَّهُ رَأَى الصَّوْمَ فِي التَّمَتُّعِ وَلَمْ يُجِزْ الشَّاةَ فِي ذَلِكَ - وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ زَيْدِ بْنِ جُبَيْرٍ قَالَ: سَمِعْت ابْنَ عُمَرَ سَأَلَ عَمَّنْ يُهْدِي جَمَلًا؟ فَقَالَ: مَا رَأَيْتُ أَحَدًا فَعَلَ ذَلِكَ.

L13585 Ali said: It is a blatant falsehood that Ibn Umar or another could be considered an authority in one place but not considered an authority in another place. It has been narrated to us through the chain of Abd al-Razzaq from Sufyan al-Thawri from Hammad ibn Abi Sulayman from Ibrahim al-Nakha'i, who said: The companions of Muhammad—peace be upon him—used to say: A sacrificial camel is sufficient for seven people, and a sacrificial cow is sufficient for seven people.

قَالَ عَلِيٌّ: مِنْ الْبَاطِلِ الْفَاحِشِ أَنْ يَكُونَ ابْنُ عُمَرَ، أَوْ غَيْرُهُ حُجَّةً فِي مَكَان غَيْرَ حُجَّةٍ فِي [مَكَان] آخَرَ - وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ إبْرَاهِيمَ النَّخَعِيِّ قَالَ: كَانَ أَصْحَابُ مُحَمَّدٍ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُونَ: الْبَدَنَةُ عَنْ سَبْعَةٍ، وَالْبَقَرَةُ عَنْ سَبْعَةٍ.

L13586 From Qatadah, from Anas: The companions of Muhammad (peace be upon him) would share a sacrificial camel among seven people.

وَعَنْ قَتَادَةَ عَنْ أَنَسٍ كَانَ أَصْحَابُ مُحَمَّدٍ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يُشْرِكُونَ السَّبْعَةَ فِي الْبَدَنَةِ مِنْ الْإِبِلِ.

L13587–13588 From Sufyan al-Thawri, from Muslim al-Qarri, from Ḥabbah al-'Uraniyy, from Ali ibn Abi Talib, who said: "A sacrificial camel is valid on behalf of seven, and a cow is valid on behalf of seven."

وَعَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ مُسْلِمٍ الْقَرِّيِّ عَنْ حَبَّةَ الْعُرَنِيِّ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ قَالَ: الْبَدَنَةُ عَنْ سَبْعَةٍ، وَالْبَقَرَةُ عَنْ سَبْعَةٍ.

L13589 On the authority of Sufyan al-Thawri, from Zuhayr ibn Abi Thabit, from

Sulayman ibn Zafir al-Absi, who said: “I and my mother took a share from a cow with Hudhayfah ibn al-Yaman for seven people during al-Adha.”

وَعَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ زُهَيْرِ بْنِ أَبِي ثَابِتٍ عَنْ سُلَيْمَانَ بْنِ زَافِرٍ الْعَبْسِيِّ قَالَ: أَنَا وَأُمِّي أَخَذْنَا مَعَ حُذَيْفَةَ بْنِ الْيَمَانِ مِنْ بَقَرَةٍ عَنْ سَبْعَةٍ فِي الْأَضْحَى.

L13590 From Sufyan al-Thawri, from Abu Husayn, from Khalid ibn Sa’d, from Abu Mas’ud al-Badri, who said: A camel is slaughtered for seven, and a cow is slaughtered for seven.

وَعَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي حُصَيْنٍ عَنْ خَالِدِ بْنِ سَعْدٍ عَنْ أَبِي مَسْعُودٍ الْبَدْرِيِّ قَالَ: تُنْحَرُ الْبَدَنَةُ عَنْ سَبْعَةٍ، وَالْبَقَرَةُ عَنْ سَبْعَةٍ.

L13591 Through the chain of Ibn Abi Shaybah: It was narrated by Ibn ’Ulayyah from Sa’id ibn Abi ’Arubah from Qatadah from Sulayman ibn Yasar from ’Aishah, the Mother of the Believers, who said: “A cow or a sacrificial camel suffices as a sacrifice for seven [people].”

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا ابْنُ عُلَيَّةَ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ عَنْ قَتَادَةَ عَنْ سُلَيْمَانَ بْنِ يَسَارٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: الْبَقَرَةُ، وَالْجَزُورُ عَنْ سَبْعَةٍ.

L13592 And with it (the narration) to Ibn Abī Shaybah from Ibn Fudayl from Muslim from Ibrāhīm al-Nakhaʿī from ʿAlqamah from Ibn Masʿūd, who said: A cow and a camel are for seven.

وَبِهِ إِلَى ابْنِ أَبِي شَيْبَةَ عَنِ ابْنِ فُضَيْلٍ عَنْ مُسْلِمٍ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ عَنْ عَلْقَمَةَ عَنِ ابْنِ مَسْعُودٍ قَالَ: الْبَقَرَةُ، وَالْجَزُورُ عَنْ سَبْعَةٍ.

L13593 From Yahya ibn Saʿīd al-Qaṭṭān, from Saʿīd ibn Abī ʿArūbah, from Qatādah, from Anas, who said: “A mature camel and a cow are for seven [people].”

وَعَنْ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ عَنْ قَتَادَةَ عَنْ أَنَسٍ قَالَ: الْجَزُورُ، وَالْبَقَرَةُ عَنْ سَبْعَةٍ.

L13594 The soundness of this opinion is also affirmed by ʿAṭāʾ, Ṭāwus, Sulaymān al-Taymiyy, Abī ʿUthmān al-Nahdiyy, al-Ḥasan al-Baṣrī, Qatādah, Sālim ibn ʿAbd Allāh ibn ʿUmar, ʿAmr ibn Dīnār, and others.

وَصَحَّ الْقَوْلُ بِذَلِكَ أَيْضًا عَنْ عَطَاءٍ، وَطَاوُسٍ، وَسُلَيْمَانَ التَّيْمِيِّ، وَأَبِي عُثْمَانَ النَّهْدِيِّ، وَالْحَسَنِ الْبَصْرِيِّ، وَقَتَادَةَ، وَسَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ، وَعَمْرِو بْنِ دِينَارٍ، وَغَيْرِهِمْ.

L13595 The evidence for this opinion is what we reported through the chain of Mālik from Abū az-Zubayr al-Makkī from Jābir ibn ʿAbdullāh, who said: “We slaughtered by nahr with the Messenger of Allāh—peace and blessings be upon him—on the day of Ḥudaybiyyah a camel for seven and a cow for seven.”

وَالْحُجَّةُ لِهَذَا الْقَوْلِ مَا رُوِّينَاهُ مِنْ طَرِيقِ مَالِكٍ عَنْ أَبِي الزُّبَيْرِ الْمَكِّيِّ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّهُ قَالَ: «نَحَرْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَوْمَ الْحُدَيْبِيَةِ الْبَدَنَةَ عَنْ سَبْعَةٍ، وَالْبَقَرَةَ عَنْ سَبْعَةٍ» .

L13596–13598 From the chain of Yaḥyā ibn Saʿīd al-Qaṭṭān: Jaʿfar ibn Muḥammad narrated to us: Ubayy (who is Muḥammad ibn ʿAlī ibn al-Ḥusayn) narrated to us: Jābir ibn ʿAbd Allāh mentioned the Prophet’s pilgrimage (peace be upon him), stating that he (peace be upon him) slaughtered sixty-three camels, then gave ʿAlī the remaining animals to slaughter, and made him a partner in his sacrifice.

وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ نَا جَعْفَرُ بْنُ مُحَمَّدٍ نَا أُبَيٌّ هُوَ مُحَمَّدُ بْنُ عَلِيِّ بْنِ الْحُسَيْنِ - نَا «جَابِرُ بْنُ عَبْدِ اللَّهِ فَذَكَرَ حَجَّةَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَفِيهَا فَنَحَرَ - عَلَيْهِ

السَّلَامُ - ثَلَاثًا وَسِتِّينَ، فَأَعْطَى عَلِيًّا فَنَحَرَ مَا غَبَرَ، وَأَشْرَكَهُ فِي هَدْيِهِ» وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا أَبُو دَاوُد هُوَ الطَّيَالِسِيُّ - نَا عَفَّانَ بْنُ مُسْلِمٍ نَا حَمَّادُ بْنُ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَحَرَ الْبَدَنَةَ عَنْ سَبْعَةٍ، وَالْبَقَرَةَ عَنْ سَبْعَةٍ» قَالَ أَبُو مُحَمَّد: فَصَحَّ هَذَا عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ إجْمَاعٌ مِنْ الصَّحَابَةِ كَمَا أَوْرَدْنَا - وَأَمَّا قَوْلُ مَنْ لَمْ يُجِزْ ذَلِكَ إلَّا عَنْ سَبْعَةٍ فَإِنَّهُ تَعَلَّقَ بِمَا ذَكَرْنَا عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَعَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -.

From the chain of Aḥmad ibn Shuʿayb: Abū Dāwūd al-Ṭayālisī narrated to us: ʿAffān ibn Muslim narrated to us: Ḥammād ibn Salamah narrated from Qays ibn Saʿd from ʿAṭāʾ ibn Abī Rabāḥ from Jābir ibn ʿAbd Allāh: "The Messenger of Allah (peace be upon him) slaughtered a sacrificial camel on behalf of seven people and a cow on behalf of seven people." Abu Muhammad said: This has been confirmed from the Prophet—peace and blessings be upon him—and it is a consensus among the companions, as we have cited. As for the statement of those who permit it only from seven, they based their position on what we mentioned from the Messenger of Allah—peace and blessings be upon him—and from the companions—may Allah be pleased with them.

فَأَمَّا الصَّحَابَةُ - رَضِيَ اللَّهُ عَنْهُمْ - وَمَنْ بَعْدَهُمْ فَقَدْ اخْتَلَفُوا -: رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا إسْحَاقُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - أَنَا الْفَضْلُ بْنُ مُوسَى نَا الْحُسَيْنُ بْنُ وَاقِدٍ عَنْ عُلْيَاءَ بْنِ أَحْمَرَ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: «كُنَّا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَحَضَرَ النَّحْرُ فَنَحَرْنَا الْبَعِيرَ عَنْ عَشَرَةٍ» .

L13599 As for the Companions—may Allah be pleased with them—and those after them, they differed. It was narrated to us through the chain of Aḥmad ibn Shuʿayb: I, Isḥāq ibn Ibrāhīm (Ibn Rāhwayh), inform you—al-Faḍl ibn Mūsā informed us, al-Ḥusayn ibn Wāqid informed us from ʿAlāʾ ibn Aḥmar, from ʿIkrimah, from Ibn ʿAbbās—who said: "We were with the Messenger of Allah (peace and blessings be upon him) when the sacrificial time came, and we sacrificed a camel on behalf of ten."

وَمِنْ طَرِيقِ الْحُذَافِيِّ عَنْ عَبْدِ الرَّزَّاقِ نَا مَعْمَرٌ نَا قَتَادَةُ قَالَ: قَالَ سَعِيدُ بْنُ الْمُسَيِّبِ: الْبَدَنَةُ عَنْ عَشَرَةٍ -: فَهَذَا اخْتِلَافٌ مِنْ الصَّحَابَةِ وَالتَّابِعِينَ، عَلَى أَنَّنَا إذَا تَأَمَّلْنَا فِعْلَ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - وَقَوْلَهُمْ فِي ذَلِكَ فَإِنَّمَا هُوَ أَنَّ الْبَقَرَةَ عَنْ سَبْعَةٍ، وَالْبَدَنَةَ عَنْ سَبْعَةٍ، وَهَذَا قَوْلٌ صَحِيحٌ، وَلَيْسَ فِيهِ مَنْعٌ مِنْ جَوَازِهِمَا عَنْ أَكْثَرَ مِنْ سَبْعَةٍ.

L13600 From the path of Al-Ḥudhāfī, from ʿAbd al-Razzāq: Maʿmar narrated to us, Qatādah narrated to us, saying: Saʿīd ibn al-Musayyab said: "A sacrificial camel is valid on behalf of ten." This constitutes a disagreement among the Companions and the Successors. When we contemplate the actions and statements of the Companions—may Allah be pleased with them—regarding this matter, it is only that a sacrificial cow is valid on behalf of seven, and a sacrificial camel is valid on behalf of seven. This is a sound opinion, and there is no restriction preventing both from being permissible for more than seven.

L13601 Similarly, the narration from the Messenger of Allah—peace be upon him—states: "He—peace be upon him—sacrificed a badanah on behalf of seven people and a cow likewise." This is an established ruling and a religious

practice, and it does not prohibit sacrificing them on behalf of more than seven people or fewer than seven people.

وَكَذَلِكَ الْأَثَرُ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَيْضًا إنَّمَا فِيهِ «أَنَّهُ - عَلَيْهِ السَّلَامُ -: نَحَرَ الْبَدَنَةَ عَنْ سَبْعَةٍ، وَالْبَقَرَةَ عَنْ سَبْعَةٍ» ، وَهَذَا حَقٌّ وَدِينٌ، وَلَيْسَ فِيهِ مَنْعُ مَنْ نَحَرَهُمَا عَنْ أَكْثَرَ مِنْ سَبْعَةٍ، أَوْ عَنْ أَقَلَّ مِنْ سَبْعَةٍ ".

L13602 Similarly, what we have related through the chain of Abū Dāwūd: Mūsā ibn Ismāʿīl narrated to us, from Ḥammād ibn Salamah, from Qays ibn Saʿd, from ʿAṭāʾ ibn Abī Rabāḥ, from Jābir ibn ʿAbd Allāh: that the Messenger of Allāh—peace and blessings be upon him—said, "A cow is for seven, and a camel is for seven."

وَكَذَلِكَ مَا رُوِّينَاهُ مِنْ طَرِيقِ أَبِي دَاوُد نَا مُوسَى بْنُ إسْمَاعِيلَ نَا حَمَّادُ بْنُ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ: أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «الْبَقَرَةُ عَنْ سَبْعَةٍ، وَالْجَزُورُ عَنْ سَبْعَةٍ» .

L13603 Yes, he said: The Truth, and His word is the truth, and there is no prohibition in this ruling against permitting both for more than seven if evidence is provided for that; otherwise, exceeding that number through unsubstantiated claim is impermissible.

فَنَعَمْ، قَالَ: الْحَقُّ وَقَوْلُهُ الْحَقُّ، وَلَيْسَ فِي هَذَا مَنْعٌ مِنْ جَوَازِهِمَا عَنْ أَكْثَرَ مِنْ سَبْعَةٍ إنْ جَاءَ بُرْهَانٌ بِذَلِكَ، وَإِلَّا فَلَا تَجُوزُ الزِّيَادَةُ عَلَى ذَلِكَ بِالدَّعْوَى.

L13604 We examined that matter and found what we have narrated through the chain of Abu Dawud al-Sijistani, from Amr ibn Uthman and Muhammad ibn Mihran al-Razi—both said: Al-Walid ibn Muslim narrated to us from al-Awzaʿi, from Yahya ibn Abi Kathir, from Abu Salamah ibn Abd al-Rahman ibn Awf, from Abu Hurayrah that "the Messenger of Allah (peace and blessings be upon him) sacrificed a cow on behalf of his wives who performed Umrah, sharing it among them."

فَنَظَرْنَا فِي ذَلِكَ فَوَجَدْنَا مَا رُوِّينَاهُ مِنْ طَرِيقِ أَبِي دَاوُد السِّجِسْتَانِيِّ نَا عَمْرُو بْنُ عُثْمَانَ، وَمُحَمَّدُ بْنُ مِهْرَانَ الرَّازِيّ قَالَا [جَمِيعًا] : ثنا الْوَلِيدُ بْنُ مُسْلِمٍ عَنْ الْأَوْزَاعِيِّ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ عَنْ أَبِي هُرَيْرَةَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ذَبَحَ عَمَّنْ اعْتَمَرَ مِنْ أَزْوَاجِهِ بَقَرَةً بَيْنَهُنَّ» .

L13605–13606 Via the chain of al-Bukhārī: ʻUthmān (Ibn Abī Shaybah) narrated to us; Jarīr (Ibn ʻAbd al-Ḥamīd) narrated to us; from Manṣūr ibn al-Muʻtamir; from Ibrāhīm al-Nakhaʻī; from al-Aswad; from ʻĀ'ishah, the Mother of the Believers (may Allah be pleased with her), who said: "We set out with the Messenger of Allah (peace and blessings of Allah be upon him) believing it was exclusively Ḥajj. When we arrived, we performed Ṭawāf around the House. The Prophet (peace and blessings of Allah be upon him) then ordered those who had not brought the sacrificial animal to terminate their iḥrām. Thus those who had not brought the sacrificial animal were released from iḥrām, and his wives – who had likewise not brought it – were also released."

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا عُثْمَانُ هُوَ ابْنُ أَبِي شَيْبَةَ - نَا جَرِيرٌ هُوَ ابْنُ عَبْدِ الْحَمِيدِ - عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ إبْرَاهِيمَ النَّخَعِيِّ عَنْ الْأَسْوَدِ عَنْ «عَائِشَةَ أُمِّ الْمُؤْمِنِينَ - رَضِيَ اللَّهُ عَنْهَا - قَالَتْ: خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَا نَرَى إلَّا أَنَّهُ الْحَجُّ فَلَمَّا قَدِمْنَا تَطَوَّفْنَا بِالْبَيْتِ فَأَمَرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ لَمْ يَكُنْ سَاقَ الْهَدْيَ أَنْ يَحِلَّ فَحَلَّ مَنْ لَمْ يَكُنْ سَاقَ الْهَدْيَ وَنِسَاؤُهُ لَمْ يَسُقْنَ فَأَحْلَلْنَ» .

L13607 Abu Muhammad said: There were nine women—may Allah be pleased with

them all—from whom ʿĀ’ishah was excepted, for she did not exit the state of ihram but rather added Hajj to her Umrah, as mentioned in another narration. Thus eight remained who had not driven the sacrificial animals, so they exited the state of ihram as you have heard. The Prophet—peace be upon him—slaughtered a single cow on behalf of all of them. This concerns more than seven.

قَالَ أَبُو مُحَمَّد: كُنَّ رِضْوَانُ اللَّهِ عَلَيْهِنَّ تِسْعًا خَرَجَتْ مِنْهُنَّ عَائِشَةُ لِأَنَّهَا لَمْ تَحِلَّ لَكِنَّهَا أَرْدَفَتْ حَجًّا عَلَى عُمْرَتِهَا كَمَا جَاءَ فِي أَثَرٍ آخَرَ فَبَقِيَ ثَمَانٍ لَمْ يَسُقْنَ الْهَدْيَ فَأَحْلَلْنَ كَمَا تَسْمَعُ وَنَحَرَ - عَلَيْهِ السَّلَامُ - عَنْهُنَّ كُلِّهِنَّ بَقَرَةً وَاحِدَةً فَهَذَا عَنْ أَكْثَرَ مِنْ سَبْعَةٍ.

L13608 If it is said: It has been narrated that he (peace be upon him) sacrificed cattle for his wives? We say: This is what we have narrated through the chain of ʿAbd al-ʿAzīz ibn Abī Salamah al-Mājishūn, from ʿAbd al-Raḥmān ibn al-Qāsim, from his father, from ʿĀ’ishah, the Mother of the Believers. She mentioned a ḥadīth containing: “Meat was brought to us, so I asked: ’What is this?’ They answered: ’The Messenger of Allah (may Allah’s blessings and peace be upon him) sacrificed cattle for his wives.’”

فَإِنْ قِيلَ: قَدْ رُوِيَ أَنَّهُ - عَلَيْهِ السَّلَامُ - أَهْدَى عَنْ نِسَائِهِ الْبَقَرَ؟ قُلْنَا: هَذَا لَفْظٌ رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الْعَزِيزِ بْنِ أَبِي سَلَمَةَ الْمَاجِشُونِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ فَذَكَرَتْ حَدِيثًا، وَفِيهِ: «فَأُتِينَا بِلَحْمٍ، فَقُلْتُ: مَا هَذَا؟ قَالُوا: أَهْدَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ نِسَائِهِ الْبَقَرَ» .

L13609 And indeed, this very report has been transmitted to us through a narrator more reliable in memorization and precise in transmission than Ibn al-Mājishūn—via ʿAbd al-Raḥmān ibn al-Qāsim, from his father, from ʿĀ’ishah, the Mother of the Believers—thereby elucidating what Ibn al-Mājishūn had summarized.

وَقَدْ رُوِّينَا هَذَا الْخَبَرَ نَفْسَهُ عَمَّنْ هُوَ أَحْفَظُ وَأَضْبَطُ مِنْ ابْنِ الْمَاجِشُونِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ فَبَيَّنَ مَا أَجْمَلَهُ ابْنُ الْمَاجِشُونِ.

L13610 We have narrated it through the chain of Al-Bukhārī from Musaddad from Sufyān ibn ʿUyaynah from ʿAbd al-Raḥmān ibn al-Qāsim from his father from ʿĀ’ishah, Mother of the Believers, and she mentioned the ḥadīth. It states: She said, “When we were in Minā, I was brought cow meat. I asked, ’What is this?’ They replied, ’The Messenger of Allah (peace be upon him) sacrificed cows on behalf of his wives.’”

وَرُوِّينَاهُ مِنْ طَرِيقِ الْبُخَارِيِّ عَنْ مُسَدَّدٍ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ فَذَكَرَتْ الْحَدِيثَ " وَفِيهِ «قَالَتْ: فَلَمَّا كُنَّا بِمِنًى أُتِيتُ بِلَحْمِ بَقَرٍ، فَقُلْتُ: مَا هَذَا؟ قَالُوا: ضَحَّى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ أَزْوَاجِهِ بِالْبَقَرِ» .

L13611 Sufyan clarified in this report—which was narrated by ʿAbd al-ʿAzīz ibn al-Mājishūn himself—that those cows were *aḍāḥī* (sacrificial animals), and *aḍāḥī* are distinct from the obligatory *hady* required in the *Tamattuʿ* of performing Umrah followed by Hajj, without any doubt.

فَبَيَّنَ سُفْيَانُ فِي هَذَا الْخَبَرِ - وَهُوَ الَّذِي رَوَاهُ عَبْدُ الْعَزِيزِ بْنُ الْمَاجِشُونِ نَفْسُهُ - أَنَّ تِلْكَ الْبَقَرَ كَانَتْ أَضَاحِيَ، وَالْأَضَاحِيُّ غَيْرُ الْهَدْيِ الْوَاجِبِ فِي التَّمَتُّعِ بِالْعُمْرَةِ إلَى الْحَجِّ بِلَا شَكٍّ.

L13612 The Messenger of Allah—peace and blessings be upon him—commanded us, when exiting *Ihram*, to offer a sacrifice and contribute collectively as

a group to the *fidyah*. This occurred when he instructed them to exit *Ihram* during their sacrifice in their Hajj.

وَمِنْ طَرِيقِ مُسْلِمِ بْنِ الْحَجَّاجِ حَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ نَا مُحَمَّدُ بْنُ بَكْرٍ أَنَا ابْنُ جُرَيْجٍ أَنَا أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يُحَدِّثُ عَنْ حَجَّةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «فَأَمَرَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِذَا أَحْلَلْنَا أَنْ نُهْدِيَ وَنَجْمَعَ النَّفَرَ مِنَّا فِي الْفِدْيَةِ وَذَلِكَ حِينَ أَمَرَهُمْ أَنْ يَحِلُّوا فِي هَدْيِهِمْ مِنْ حَجِّهِمْ» .

L13613–13615 Abu Muhammad said: This is an unparalleled chain [of transmission], a clarification free from ambiguity, and the ruling of the Cow [Quranic chapter] applies to the ten [cases]. He mentioned the minimum and maximum quantities—so we examined the verse and found Allah, the Most High, also states: {Whoever performs Tamattuʿ [by combining Umrah with Hajj] must offer what is readily available of the sacrificial animal} [Al-Baqarah: 196]. The particle "of" here denotes a portion, thus joint participation in the sacrificial animal is permissible according to the literal meaning of the verse.[13]

قَالَ أَبُو مُحَمَّد: هَذَا سَنَدٌ لَا نَظِيرَ لَهُ، وَبَيَانٌ لَا إشْكَالَ فِيهِ، وَالْبَقَرُ يَقَعُ عَلَى الْعَشَرَةِ وَأَقَلَّ وَأَكْثَرَ، فَنَظَرْنَا فِي الْآيَةِ فَوَجَدْنَا اللَّهَ - تَعَالَى - أَيْضًا يَقُولُ: {فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] وَ " مِنْ " لِلتَّبْعِيضِ فَجَازَ الِاشْتِرَاكُ فِي الْهَدْيِ بِظَاهِرِ الْآيَةِ.

L13616 If it is asked: "From where have you restricted it to only ten?" We say: For two reasons. The first is that no one has ever asserted the permissibility of more than ten sharing in an obligatory hady sacrifice. The second is what we narrated via Al-Bukhārī's chain: From Musaddad, from Abū al-Aḥwaṣ, from Saʿīd ibn Masrūq, from ʿAbāyah ibn Rifāʿah ibn Rāfiʿ ibn Khadīj, from his father, from his grandfather Rāfiʿ ibn Khadīj, who mentioned the ḥadīth of Hunayn—wherein it states: "The Prophet (peace be upon him) distributed among them and established a camel as equivalent to ten sheep."

فَإِنْ قِيلَ: فَمِنْ أَيْنَ اقْتَصَرْتُمْ عَلَى الْعَشَرَةِ فَقَطْ؟ قُلْنَا: لِوَجْهَيْنِ: أَحَدُهُمَا: أَنَّهُ لَمْ يَقُلْ أَحَدٌ بِأَنَّهُ يَجُوزُ أَنْ يَشْتَرِكَ فِي هَدْيِ فَرْضٍ أَكْثَرُ مِنْ عَشَرَةٍ؟ وَالثَّانِي: مَا رُوِّينَاهُ عَنْ طَرِيقِ الْبُخَارِيِّ نَا مُسَدَّدٌ نَا أَبُو الْأَحْوَصِ نَا سَعِيدُ بْنُ مَسْرُوقٍ عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ عَنْ أَبِيهِ عَنْ جَدِّهِ رَافِعِ بْنِ خَدِيجٍ فَذَكَرَ حَدِيثَ حُنَيْنٍ " وَفِيهِ: «أَنَّهُ - عَلَيْهِ السَّلَامُ - قَسَمَ بَيْنَهُمْ وَعَدَلَ بَعِيرًا بِعَشْرِ شِيَاهٍ» .

L13617 Ali said: The consensus of our opponents has been confirmed in accordance with the apparent meaning of the Quranic verse, affirming that a sheep suffices for the obligatory offering in Tamattuʿ (a type of Hajj), in cases of prevention (during Hajj), and for voluntary offerings. The Messenger of Allah—peace be upon him—considered ten sheep equivalent in value to one camel.

قَالَ عَلِيٌّ: قَدْ صَحَّ إجْمَاعُ الْمُخَالِفِينَ لَنَا مَعَ ظَاهِرِ الْآيَةِ بِأَنَّ شَاةً تُجْزِئُ فِي الْهَدْيِ الْوَاجِبِ فِي التَّمَتُّعِ، وَالْإِحْصَارِ، وَالتَّطَوُّعِ، وَقَدْ عَدَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَشْرَ شِيَاهٍ بِبَعِيرٍ.

L13618 Thus, it is established that a sheep equates to a tenth of a camel as a whole,

فَصَحَّ أَنَّ الشَّاةَ بِإِزَاءِ عُشْرِ الْبَعِيرِ جُمْلَةً، وَأَنَّ الْبَقَرَةَ كَالْبَعِيرِ فِي جَوَازِ الِاشْتِرَاكِ فِيهَا فِي الْهَدْيِ الْوَاجِبِ فِيمَا ذَكَرْنَا.

[13] **Qur'an references (L13613):** Qur'an 2:196 (Al-Baqarah).

and that a cow shares the same ruling as a camel regarding the permissibility of joint participation in obligatory offerings, as we have mentioned.

فَصَحَّ أَنَّ الْبَعِيرَ وَالْبَقَرَةَ يُجْزِئَانِ عَمَّا يُجْزِئُ عَنْهُ عَشْرُ شِيَاهٍ، وَعَشْرُ شِيَاهٍ تُجْزِئُ عَنْ عَشْرَةٍ، فَالْبَعِيرُ، وَالْبَقَرَةُ يُجْزِئُ كُلُّ وَاحِدٍ مِنْهُمَا عَنْ عَشَرَةٍ، وَهُوَ قَوْلُ ابْنِ عَبَّاسٍ، وَسَعِيدِ بْنِ الْمُسَيِّبِ، وَإِسْحَاقَ بْنِ رَاهْوَيْهِ.

L13619 Thus, it is established that a camel and a cow suffice for what ten sheep suffice, and ten sheep suffice for ten. Hence, a camel and a cow each suffice for ten, and this is the view of Ibn Abbas, Sa'id ibn al-Musayyib, and Ishaq ibn Rāhawayh.

وَبِهِ نَقُولُ لِمَا ذَكَرْنَا - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13620 By Him, we state what we have mentioned - and success is by Allah, the Exalted.

وَأَمَّا مَنْ مَنَعَ مِنْ اخْتِلَافِ أَغْرَاضِ الْمُشْتَرِكِينَ فِي الْهَدْيِ فَإِنَّهُمْ احْتَجُّوا بِأَنْ قَالُوا: إذَا كَانَ فِيهِمْ مَنْ يُرِيدُ نَصِيبَهُ لِلْبَيْعِ، أَوْ لِلْأَكْلِ لَا لِلْهَدْيِ فَلَمْ تَحْصُلْ الْبَدَنَةُ، وَلَا الْبَقَرَةُ مُذَكَّاةً لِلْهَدْيِ الْمَقْصُودِ بِهِ إلَى اللَّهِ - عَزَّ وَجَلَّ -.

L13621 As for those who disallowed differing intentions among partners in the sacrificial offering, they argued: If there exists among them one who intends his share for sale or eating—not for sacrificial offering—then neither the camel nor the cow becomes properly slaughtered as a valid sacrificial offering intended for Allah, the Almighty and Majestic.

وَحُجَّةُ زُفَرَ: أَنَّهُ لَمْ يَحْصُلْ الْهَدْيُ الْمَذْكُورُ إذَا اشْتَرَكَ فِيهِ الْمُحْصِرُ، وَالْمُتَمَتِّعُ، وَالْمُتَطَوِّعُ، وَالْقَارِنُ، فَلَمْ يَحْصُلْ مُذَكًّى لِمَا قَصَدَهُ بِهِ كُلُّ وَاحِدٍ مِنْهُمْ، وَالذَّكَاةُ لَا تَتَبَعَّضُ.

L13622 The argument of Zufar is that the aforementioned sacrificial animal is not valid if the prevented pilgrim, the pilgrim performing *tamattuʿ*, the voluntary pilgrim, and the pilgrim performing *qirān* share in it, for the ritual slaughter intended for each of them was not fulfilled, and ritual slaughtering cannot be divided.

قَالَ أَبُو مُحَمَّد: وَهَذَا لَا يَحِلُّ الِاحْتِجَاجُ بِهِ، لِأَنَّهُ قَدْ صَحَّ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَمَا أَوْرَدْنَا أَنَّهُ أَمَرَ أَنْ يَجْتَمِعَ النَّفَرُ مِنْهُمْ فِي الْهَدْيِ وَأَنَّهُ قَالَ - عَلَيْهِ السَّلَامُ -: «الْبَقَرَةُ عَنْ سَبْعَةٍ، وَالْجَزُورُ عَنْ سَبْعَةٍ» فَعَمَّ - عَلَيْهِ السَّلَامُ - وَلَمْ يَخُصَّ مَنْ اتَّفَقَتْ أَغْرَاضُهُمْ مِمَّنْ اخْتَلَفَتْ، وَإِنَّمَا أُمِرْنَا فِي الْهَدْيِ بِالتَّذْكِيَةِ وَبِالنِّيَّةِ عَمَّا يَقْصِدُهُ الْمَرْءُ، وَقَدْ قَالَ - عَلَيْهِ السَّلَامُ -: «وَلِكُلِّ امْرِئٍ مَا نَوَى» فَحَصَلَتْ الْبَدَنَةُ، وَالْبَقَرَةُ مُذَكَّاةً إذْ ذُكِّيَتْ كَمَا أَمَرَ اللَّهُ - تَعَالَى - بِأَمْرِ مَالِكِهَا وَسَمَّى اللَّهَ - تَعَالَى - عَلَيْهَا، ثُمَّ لِكُلِّ وَاحِدٍ مِنْهُمْ فِي حِصَّتِهِ مِنْهَا نِيَّةٌ، قَالَ - عَزَّ وَجَلَّ -: {وَلا تَكْسِبُ كُلُّ نَفْسٍ إِلا عَلَيْهَا} [الأنعام:

L13623–13625 Abu Muhammad said: "It is not permissible to cite this as evidence; for it has been authentically reported from the Messenger of Allah (peace and blessings be upon him) as..." We have conveyed that he—peace be upon him—commanded a group of them to combine their shares in the sacrificial animal and said: "A cow suffices for seven, and a camel suffices for seven." Thus, he—peace be upon him—applied a universal ruling without specifying whether their purposes aligned or differed. We are commanded regarding the sacrificial animal to perform lawful slaughter and to intend what one seeks, for he—peace be upon him—stated: "Each person shall have what he intended." Thus, the camel is duly offered, and the cow is ritually slaughtered when slaughtered as Allah—Exalted is He—commanded, under the owner's authority with Allah's name invoked over it. Thereafter, each participant holds a specific intention for his allotted share. Allah—Exalted is He—declared:

{No soul bears a burden except its own} [6:164]. The ruling for the entire sacrificial animal is that it is lawfully slaughtered, while the ruling for each portion corresponds to what its owner intended. There is thus no distinction between seven shares of a cow or camel and seven sheep. There is no disagreement among them that even if their purposes align and their motive is unified, each individual is subject to his own ruling. It remains possible that Allah—Exalted is He—may accept from some and not others, without this affecting the acceptance of the one whose offering is granted. And success comes from Allah, the Exalted.[14]

١٦٤] فَأَحْكَامُ جُمْلَتِهَا أَنَّهَا مُذَكَّاةٌ، وَحُكْمُ كُلِّ جُزْءٍ مِنْهَا مَا نَوَاهُ فِيهِ مَالِكُهُ، وَلَا فَرْقَ حِينَئِذٍ بَيْنَ أَجْزَاءِ سَبْعَةٍ مِنْ الْبَقَرَةِ، أَوْ الْبَعِيرِ وَبَيْنَ سَبْعِ شِيَاهٍ وَلَا يَخْتَلِفُونَ فِي أَنَّهُمْ، وَإِنْ كَانَتْ أَغْرَاضُهُمْ مُتَّفِقَةً وَكَانَ سَبَبُهُمْ كُلُّهُمْ وَاحِدًا، فَإِنَّ لِكُلِّ وَاحِدٍ حُكْمَهُ وَأَنَّهُ قَدْ يُمْكِنُ أَنْ يَقْبَلَ اللَّهُ - تَعَالَى - مِنْ بَعْضِهِمْ، وَلَا يَقْبَلُ مِنْ بَعْضِهِمْ؛ وَلَا يَقْدَحُ ذَلِكَ فِي حِصَّةِ الْمُتَقَبَّلِ مِنْهُ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13626 As for our statement: It does not suffice him to offer the hady except after entering the state of ritual consecration for Hajj, and that he may slaughter it or sacrifice it whenever he wishes thereafter. Nor does it suffice him to offer it or sacrifice it except in Mina or Mecca. This is because Allah, the Exalted, said: {But whoever performs Tamattu‘ by combining Umrah with Hajj must offer what is readily available of the hady} [2:196]. The Exalted obligated it only upon those who perform Tamattu‘ by combining Umrah with Hajj, not upon those who do not perform Tamattu‘ by combining Umrah with Hajj [without doubt]. Thus, if one has not entered the state of consecration for Hajj, he has not yet performed Tamattu‘ by combining Umrah with Hajj. Since he has not performed Tamattu‘ by combining Umrah with Hajj, the hady is not obligatory upon him, and a non-obligatory act cannot suffice for an obligatory one except through explicit textual evidence. There is no disagreement among scholars that if he changes his mind and does not perform Hajj in that year, no hady is required of him. This confirms that no hady is yet obligatory upon him. Since it is not obligatory, what is not obligatory cannot suffice for what becomes obligatory afterward. This is the view of al-Shafi‘i and Abu Sulayman.[15]

وَأَمَّا قَوْلُنَا: لَا يُجْزِئُهُ أَنْ يُهْدِيَهُ إلَّا بَعْدَ أَنْ يُحْرِمَ بِالْحَجِّ، وَأَنَّ لَهُ أَنْ يَذْبَحَهُ أَوْ يَنْحَرَهُ مَتَى شَاءَ بَعْدَ ذَلِكَ وَلَا يُجْزِئُهُ أَنْ يُهْدِيَهُ، وَيَنْحَرَهُ إلَّا بِمِنًى أَوْ بِمَكَّةَ؛ فَلِأَنَّ اللَّهَ - تَعَالَى - قَالَ: {فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] فَإِنَّمَا أَوْجَبَهُ - تَعَالَى - عَلَى مَنْ تَمَتَّعَ بِالْعُمْرَةِ إلَى الْحَجِّ، لَا عَلَى مَنْ لَمْ يَتَمَتَّعْ بِالْعُمْرَةِ إلَى الْحَجِّ [بِلَا شَكٍّ] فَهُوَ مَا لَمْ يُحْرِمْ بِالْحَجِّ فَلَمْ يَتَمَتَّعْ بَعْدُ بِالْعُمْرَةِ إلَى الْحَجِّ، وَإِذْ لَمْ يَتَمَتَّعْ بَعْدُ بِالْعُمْرَةِ إلَى الْحَجِّ فَالْهَدْيُ غَيْرُ وَاجِبٍ عَلَيْهِ، وَلَا يُجْزِئُ غَيْرُ وَاجِبٍ عَنْ وَاجِبٍ إلَّا بِنَصٍّ وَارِدٍ فِي ذَلِكَ؛ وَلَا خِلَافَ بَيْنَ أَحَدٍ فِي أَنَّهُ إنْ بَدَا لَهُ فَلَمْ يَحُجَّ مِنْ عَامِهِ ذَلِكَ فَإِنَّهُ لَا هَدْيَ عَلَيْهِ؛ فَصَحَّ أَنَّهُ لَيْسَ [عَلَيْهِ] هَدْيٌ بَعْدُ، وَإِذَا لَمْ يَكُنْ عَلَيْهِ فَلَا يُجْزِئُهُ مَا لَيْسَ عَلَيْهِ عَمَّا يَكُونُ عَلَيْهِ بَعْدَ ذَلِكَ؛ وَهُوَ قَوْلُ الشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ.

L13627–13629 As for slaughtering it or sacrificing it thereafter, this is because Allah—Exalted is He—has clarified to us the initial time of obligation for this sacrificial offering but did not set a definitive end time for its obligation. Whatever is thus remains an enduring obligation that persists perpetually until fulfilled,

وَأَمَّا ذَبْحُهُ وَنَحْرُهُ بَعْدَ ذَلِكَ فَلِأَنَّ هَذَا الْهَدْيَ قَدْ بَيَّنَ اللَّهُ - تَعَالَى - لَنَا أَوَّلَ وَقْتِ وُجُوبِهِ، وَلَمْ يُحَدَّ آخِرَ وَقْتَ وُجُوبِهِ بِحَدٍّ، وَمَا كَانَ هَكَذَا فَهُوَ دَيْنٌ بَاقٍ أَبَدًا حَتَّى يُؤَدَّى؛ وَالْأَمْرُ بِهِ ثَابِتٌ حَتَّى يُؤَدَّى؛ وَمَنْ خَصَّهُ بِوَقْتٍ مَحْدُودٍ فَقَدْ قَالَ عَلَى اللَّهِ -

[14] **Qur’an references (L13623):** Qur’an 6:164 (Al-An’am).
[15] **Qur’an references (L13626):** Qur’an 2:196 (Al-Baqarah).

and the command for it remains binding until executed. Whoever restricts it to a limited timeframe has ascribed to Allah—Exalted is He—what He never declared—Majestic and Exalted is He—and this is profoundly grave. Abu Hanifah and Malik said: One's sacrificial offering does not suffice before the Day of Sacrifice. This opinion lacks any evidence for its validity—rather, it is a baseless claim without proof. Whatever stands thus is invalid. It is astonishing that Abu Hanifah endorsed this. The permissibility of advancing Zakāh and the ruling granted by his Companions that one who vowed to fast on Thursday but fasted the preceding Wednesday has fulfilled his obligation. However, they do not permit the *hady* of *tamattuʿ* to be offered before the Day of Sacrifice. As for our position that it is only valid in Makkah or Minā, some scholars have argued it is valid in any location, since Allah, Exalted is He, has not designated a specific place for its offering. Had Allah, Exalted is He, intended to restrict it to a particular place, He would have clarified it—just as He specified regarding the expiation for hunting by His saying, Exalted is He: "a *hady* that reaches the Kaaba" (5:95). Yet He did not stipulate this for the *hady* of *tamattuʿ* or the *hady* of the *muḥṣar*, as "And your Lord is not forgetful" (19:64).[16]

L13630 If it is asked: "Should we analogize the ritual sacrifice to another ritual sacrifice in that matter?" We say: All analogy is invalid. Furthermore, even if analogy were valid, this instance would be the epitome of invalidity. For if you validate your analogy of the *mutʿah* ritual sacrifice to the ritual sacrifice compensating for hunting, you would be obliged to analogize it further by substituting feeding the poor or fasting in place of the ritual sacrifice in the case of *mutʿah* — yet you do not hold this view. Thus, the corruption and contradiction of your analogy are evident. Abū Muḥammad said: The proof here is that Allah — Exalted is He — said: *"Whoever venerates the rites of Allah, it is indeed from the piety of hearts"* (Quran 22:32), and *"For you in them are benefits until a specified term; then their destination is the Ancient House"* (Quran 22:33).[17]

L13631 And He—Exalted is He—said: "The sacrificial camels—We have appointed

تَعَالَى - مَا لَمْ يَقُلْهُ - عَزَّ وَجَلَّ - وَهَذَا عَظِيمٌ جِدًّا وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: لَا يُجْزِئُ هَدْيُهُ قَبْلَ يَوْمِ النَّحْرِ، وَهَذَا قَوْلٌ لَا دَلِيلَ عَلَى صِحَّتِهِ بَلْ هُوَ دَعْوَى بِلَا بُرْهَانٍ، وَمَا كَانَ هَكَذَا فَهُوَ سَاقِطٌ، وَالْعَجَبُ مِنْ تَجْوِيزِ أَبِي حَنِيفَةَ تَقْدِيمَ الزَّكَاةِ وَإِجَازَةِ أَصْحَابِهِ لِمَنْ نَذَرَ صِيَامَ يَوْمِ الْخَمِيسِ فَصَامَ يَوْمَ الْأَرْبِعَاءِ قَبْلَهُ أَجْزَأَهُ ثُمَّ لَا يُجِيزُونَ هَدْيَ الْمُتْعَةِ قَبْلَ يَوْمِ النَّحْرِ وَأَمَّا قَوْلُنَا: إنَّهُ لَا يُجْزِئُ إلَّا بِمَكَّةَ أَوْ مِنًى فَإِنَّ قَوْمًا قَالُوا: يُجْزِئُ فِي كُلِّ بَلَدٍ؛ لِأَنَّ اللَّهَ - تَعَالَى - لَمْ يَحُدَّ مَوْضِعَ أَدَائِهِ فَهُوَ جَائِزٌ فِي كُلِّ مَوْضِعٍ، وَلَوْ أَرَادَ اللَّهُ - تَعَالَى - قَصْرَهُ عَلَى مَكَانٍ دُونَ مَكَانٍ لَبَيَّنَهُ كَمَا بَيَّنَ ذَلِكَ فِي جَزَاءِ الصَّيْدِ بِقَوْلِهِ - تَعَالَى -: {هَدْيًا بَالِغَ الْكَعْبَةِ} [المائدة: ٩٥] وَلَمْ يَقُلْ فِي هَدْيِ الْمُتْعَةِ، وَلَا فِي هَدْيِ الْمُحْصِرِ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

فَإِنْ قِيلَ: نَقِيسُ الْهَدْيَ عَلَى الْهَدْيِ فِي ذَلِكَ؟ قُلْنَا: الْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَوْ كَانَ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنَ الْبَاطِلِ؛ لِأَنَّهُ إنْ صَحَّحْتُمْ قِيَاسَكُمْ هَدْيَ الْمُتْعَةِ عَلَى هَدْيِ جَزَاءِ الصَّيْدِ لَزِمَكُمْ أَنْ تَقِيسُوهُ عَلَيْهِ فِي تَعْوِيضِ الْإِطْعَامِ مِنْ الْهَدْيِ وَالصِّيَامِ فِي هَدْيِ الْمُتْعَةِ وَأَنْتُمْ لَا تَقُولُونَ هَذَا، فَظَهَرَ فَسَادُ قِيَاسِكُمْ وَتَنَاقُضُهُ قَالَ أَبُو مُحَمَّد: لَكِنَّ الْحُجَّةَ فِي ذَلِكَ أَنَّ اللَّهَ - تَعَالَى - قَالَ: {وَمَنْ يُعَظِّمْ شَعَائِرَ اللَّهِ فَإِنَّهَا مِنْ تَقْوَى الْقُلُوبِ} [الحج: ٣٢] {لَكُمْ فِيهَا مَنَافِعُ إِلَى أَجَلٍ مُسَمًّى ثُمَّ مَحِلُّهَا إِلَى الْبَيْتِ الْعَتِيقِ} [الحج: ٣٣] .

وَقَالَ - تَعَالَى -: {وَالْبُدْنَ جَعَلْنَاهَا لَكُمْ مِنْ شَعَائِرِ اللَّهِ لَكُمْ فِيهَا خَيْرٌ} [الحج: ٣٦] .

[16] **Qur'an references (L13627):** Qur'an 5:95 (Al-Ma'idah); Qur'an 19:64 (Maryam).
[17] **Qur'an references (L13630):** Qur'an 22:32 (Al-Hajj); Qur'an 22:33 (Al-Hajj).

them for you among the rites of Allah, in which there is good for you." [al-Ḥajj 22:36][18]

L13632 The text states that the rites of Allah (Exalted is He) "their time [for slaughter] is until they reach the Ancient House" (Quran 22:33), and that sacrificial camels are among Allah's rites. Thus, it was confirmed with certainty that the aforementioned verse applies, and no one disputes that the ruling for all sacrificial animals corresponds to that of sacrificial camels. We have been narrated through the chain of Abu Dawud: Ahmad ibn Hanbal via Yahya ibn Sa'id al-Qattan via Ja'far ibn Muhammad ibn Ali, on the authority of his father, that Jabir ibn Abdullah reported: The Messenger of Allah (peace and blessings be upon him) said, "I have ritually slaughtered here, and all of Mina is a place of slaughter."[19]

L13633–13635 From Ahmad ibn Umar ibn Anas, Narrated by Ubayd Allah ibn al-Husayn ibn Iqal, Narrated by Ibrāhīm ibn Muhammad al-Dīnawarī, Narrated by Muhammad ibn Ahmad ibn al-Jahm, Narrated by Muʿādh ibn al-Muthannā, Narrated by Musaddad, Narrated by Hafs ibn Ghiyāth, Narrated by Jaʿfar ibn Muhammad, Narrated by his father, Narrated by Jābir: "The Messenger of Allah (peace and blessings of Allah be upon him) said at the place of sacrifice: 'This is the place of sacrifice, and all the open spaces of Mecca are places of sacrifice.'" And he—peace be upon him—said in Mina: "This is the place of sacrifice, and all the open spaces of Mina are places of sacrifice." Thus, it is established that wherever the camels are ritually sacrificed within the open spaces of Mecca and Mina—which are part of the entire sacred precinct—the sacrificer has fulfilled the requirement properly. It is not permissible to slaughter camels and offerings outside the sacred precinct except what the text specifically specifies: the offering of the prevented pilgrim and the voluntary offering if it becomes impaired before reaching Mecca.

L13636 It was narrated to us from Ṭāwus and ʿAṭāʾ, the two said: All that pertains to the sacrificial rites is in Mecca, while fasting and feeding [the needy] may

فَجَاءَ النَّصُّ بِأَنَّ شَعَائِرَ اللَّهِ - تَعَالَى - {مَحِلُّهَا إِلَى الْبَيْتِ الْعَتِيقِ} [الحج: ٣٣] وَأَنَّ الْبُدْنَ مِنْ شَعَائِرِ اللَّهِ - تَعَالَى - فَصَحَّ يَقِينًا أَنَّ {مَحِلُّهَا إِلَى الْبَيْتِ الْعَتِيقِ} [الحج: ٣٣] وَلَا خِلَافَ بَيْنَ أَحَدٍ فِي أَنَّ حُكْمَ الْهَدْيِ كُلِّهِ كَحُكْمِ الْبُدْنِ -: رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نَا أَحْمَدُ بْنُ حَنْبَلٍ نَا يَحْيَى بْنُ سَعِيدٍ الْقَطَّانُ نَا جَعْفَرُ بْنُ مُحَمَّدِ بْنِ عَلِيٍّ عَنْ أَبِيهِ أَنَّ جَابِرَ بْنَ عَبْدِ اللَّهِ حَدَّثَهُ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «قَدْ نَحَرْتُ هُنَا، وَمِنًى كُلُّهَا مَنْحَرٌ» .

نَا أَحْمَدُ بْنُ عُمَرَ بْنِ أَنَسٍ نَا عُبَيْدُ اللَّهِ بْنُ الْحُسَيْنِ بْنِ عِقَالٍ نَا إِبْرَاهِيمُ بْنُ مُحَمَّدٍ الدِّينَوَرِيُّ نَا مُحَمَّدُ بْنُ أَحْمَدَ بْنِ الْجَهْمِ نَا مُعَاذُ بْنُ الْمُثَنَّى نَا مُسَدَّدٌ نَا حَفْصُ بْنُ غِيَاثٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ جَابِرٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ عِنْدَ الْمَنْحَرِ: هَذَا الْمَنْحَرُ، وَفِجَاجُ مَكَّةَ كُلُّهَا مَنْحَرٌ» «وَقَالَ - عَلَيْهِ السَّلَامُ - فِي مِنًى: هَذَا الْمَنْحَرُ، وَفِجَاجُ مِنًى كُلُّهَا مَنْحَرٌ» فَصَحَّ أَنَّهُ حَيْثُمَا نُحِرَتْ الْبُدْنُ، وَالْإِهْدَاءُ مِنْ فِجَاجِ مَكَّةَ وَمِنًى - وَهُوَ الْحَرَمُ كُلُّهُ - فَقَدْ أَصَابَ النَّاحِرُ، وَأَنَّهُ لَا يَجُوزُ نَحْرُ الْبُدْنِ وَالْهَدْيِ فِي غَيْرِ الْحَرَمِ إلَّا مَا خَصَّهُ النَّصُّ مِنْ هَدْيِ الْمُحْصِرِ، وَهَدْيِ التَّطَوُّعِ إذَا عَطِبَ قَبْلَ بُلُوغِهِ مَكَّةَ.

وَرُوِّينَا عَنْ طَاوُسٍ، وَعَطَاءٍ قَالَا: كُلُّ مَا كَانَ مِنْ هَدْيٍ فَهُوَ بِمَكَّةَ، وَالصِّيَامُ وَالْإِطْعَامُ حَيْثُ شِئْتَ - وَعَنْ مُجَاهِدٍ: انْحَرْ حَيْثُ شِئْتَ.

[18] **Qur'an references (L13631):** Qur'an 22:36 (Al-Hajj).
[19] **Qur'an references (L13632):** Qur'an 22:33 (Al-Hajj).

be observed wherever you wish. It is also narrated from Mujāhid: Slaughter wherever you wish.

L13637 As for our statement: "What about one whose family resides within the Haram?" He is not required to offer a sacrifice or fast during his *Tamattuʿ*, and he is performing commendably in his *Tamattuʿ*—though some have said: "He is acting wrongly in his *Tamattuʿ*"—Abū Muḥammad said: Allāh—Exalted is He—states: {Whoever performs the ʿUmrah as part of the *Tamattuʿ* Hajj must offer whatever sacrifice is feasible. But whoever cannot afford it must fast three days during Hajj and seven days upon returning—making ten complete days. This is for those whose family is not present within the Sacred Mosque's precincts} [Al-Baqarah 2:196].[20]

L13638 Ali said: The dissenters argued, "If Allah, the Exalted, had intended what you assert, He would have specified this ruling for those whose relatives were not present in the vicinity of the Sacred Mosque." Thus, it was established that temporary marriage is solely permissible for non-Meccans.

L13639 Abū Muḥammad said: It is not as they have claimed, for the sacrificial animal or fasting made obligatory by Allah, the Exalted, in the tamattuʿ [pilgrimage] is an additional rite and merit—not a compensation for a shortcoming, as supposed by those who do not scrutinize [the matter]. Thus, it is for their sake, not imposed on them.

L13640 The proof of the validity of this is the statement of Allah's Messenger—peace and blessings be upon him—: "If I were to face my affair again what I had left behind, I would not have driven the Hady, would have made it an Umrah, and would have ended my state of Ihrām" or as he—peace be upon him—said. He thereby informed us of the excellence of Tamattu', confirming it as the most superior of Hajj's acts. Allah—Exalted is He—exempted Makkah's residents from offering the Hady and fasting in it for reasons known to His wisdom, though the apparent rationale is His kindness toward them. For undoubtedly, had Allah obligated this upon them, it would have caused hardship—for Umrah is easily accessible to them, being performable daily, unlike pilgrims from distant regions.

وَأَمَّا قَوْلُنَا: وَمَنْ كَانَ أَهْلُهُ سَاكِنِينَ فِي الْحَرَمِ؟ فَلَا يَلْزَمُهُ فِي تَمَتُّعِهِ هَدْيٌ وَلَا صَوْمٌ، وَهُوَ مُحْسِنٌ فِي تَمَتُّعِهِ - وَقَالَ قَوْمٌ: هُوَ مُسِيءٌ فِي تَمَتُّعِهِ -: قَالَ أَبُو مُحَمَّدٍ: قَالَ اللَّهُ - تَعَالَى -: {فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ تِلْكَ عَشَرَةٌ كَامِلَةٌ ذَلِكَ لِمَنْ لَمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ} [البقرة: ١٩٦] .

قَالَ عَلِيٌّ: فَقَالَ الْمُخَالِفُونَ: لَوْ أَنَّ اللَّهَ - تَعَالَى - أَرَادَ مَا قُلْتُمْ لَقَالَ ذَلِكَ عَلَى مَنْ لَمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ، فَصَحَّ أَنَّ الْمُتْعَةَ إِنَّمَا هِيَ لِغَيْرِ أَهْلِ مَكَّةَ.

قَالَ أَبُو مُحَمَّدٍ: لَيْسَ كَمَا قَالُوا، لِأَنَّ الْهَدْيَ أَوْ الصَّوْمَ الَّذِي أَوْجَبَهُ اللَّهُ - تَعَالَى - فِي التَّمَتُّعِ إِنَّمَا هُوَ نُسُكٌ زَائِدٌ وَفَضِيلَةٌ وَلَيْسَ جَبْرًا لِنَقْصٍ كَمَا ظَنَّ مَنْ لَا يُحَقِّقُ، فَهُوَ لَهُمْ لَا عَلَيْهِمْ.

بُرْهَانُ صِحَّةِ ذَلِكَ -: قَوْلُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «لَوْ اسْتَقْبَلْتُ مِنْ أَمْرِي مَا اسْتَدْبَرْتُ مَا سُقْتُ الْهَدْيَ، وَلَجَعَلْتُهَا عُمْرَةً، وَلَأَحْلَلْتُ» أَوْ كَمَا قَالَ - عَلَيْهِ السَّلَامُ -، فَأَخْبَرَ - عَلَيْهِ السَّلَامُ - بِفَضْلِ الْمُتْعَةِ، وَأَنَّهَا أَفْضَلُ أَعْمَالِ الْحَجِّ، وَأَسْقَطَ اللَّهُ - عَزَّ وَجَلَّ - الْهَدْيَ عَنْ أَهْلِ مَكَّةَ وَالصَّوْمَ فِيهَا لِمَا هُوَ أَعْلَمُ بِهِ، وَظَاهِرُهُ الرِّفْقُ بِهِمْ، لِأَنَّهُ لَا شَكَّ فِي أَنَّ اللَّهَ - تَعَالَى - لَوْ كَلَّفَهُمْ ذَلِكَ لَكَانَ حَرَجًا عَلَيْهِمْ لِسُهُولَةِ الْعُمْرَةِ عَلَيْهِمْ وَلِإِمْكَانِهَا لَهُمْ كُلَّ يَوْمٍ بِخِلَافِ أَهْلِ الْآفَاقِ.

[20] **Qur'an references (L13637):** Qur'an 2:196 (Al-Baqarah).

L13641 And Allah (Exalted is He) said: “Allah desires ease for you and does not will hardship upon you” [Al-Baqarah: 185].[21]

وَقَالَ اللَّهُ - تَعَالَى -: {يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلا يُرِيدُ بِكُمُ الْعُسْرَ} [البقرة: ١٨٥] .

L13642–13644 And it invalidates the opponent’s assertion that if the verse had been as he supposed, then Umrah would have been prohibited during the months of Hajj. For the people of Makkah and the Sacred Precinct, this is contrary to what the Sunnah has conveyed regarding the encouragement of Umrah and that it serves as expiation for what occurs between them. Thus, the people of Makkah and others are included in that.

وَيُبْطِلُ قَوْلَ الْمُخَالِفِ: أَنَّ الْآيَةَ لَوْ كَانَتْ كَمَا ظَنَّ لَحُرِّمَتْ الْعُمْرَةُ فِي أَشْهُرِ الْحَجِّ عَلَى أَهْلِ مَكَّةَ وَالْحَرَمِ، وَهَذَا خِلَافُ مَا جَاءَتْ بِهِ السُّنَّةُ مِنْ الْحَضِّ عَلَى الْعُمْرَةِ، وَأَنَّهَا كَفَّارَةٌ لِمَا بَيْنَهُمَا، فَدَخَلَ فِي ذَلِكَ أَهْلُ مَكَّةَ وَغَيْرُهُمْ.

L13645 It was narrated to us from Sa’īd ibn Manṣūr; he informed us from Hushaym; he informed us from al-Ḥajjāj, from al-Ḥakam, from Miqsam, from Ibn ’Abbās, who said: The people of Mecca are not obligated to offer a sacrificial animal in the Tamattu’ pilgrimage.

رُوِّينَا عَنْ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ نَا الْحَجَّاجُ عَنْ الْحَكَمِ عَنْ مِقْسَمٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: لَيْسَ عَلَى أَهْلِ مَكَّةَ هَدْيٌ فِي الْمُتْعَةِ.

L13646 From the chain of Saʿīd ibn Manṣūr: Hushaym and Wakīʿ reported to us. Hushaym said: al-Mughīrah ibn Miqsam and Yūnus ibn ʿUbayd narrated to us. Al-Mughīrah said: From al-Nakhaʿī, while Yūnus said: From al-Ḥasan. Wakīʿ said: From al-Ḥasan ibn Ḥayy, from Layth, from ʿAṭāʾ, Ṭāwūs, and Mujāhid; then ʿAṭāʾ, Ṭāwūs, Mujāhid, al-Ḥasan, and al-Nakhaʿī unanimously agreed, stating: “There is no sacrificial obligation upon the Meccan resident performing tamattuʿ.” From the chain of al-Ḥudhāfī: From ʿAbd al-Razzāq, from Ibn Jurayj and Maʿmar. Ibn Jurayj said: From ʿAṭāʾ, while Maʿmar said: From al-Zuhrī; then al-Zuhrī and ʿAṭāʾ jointly declared regarding the Meccan who passes the miqāt and performs ʿUmrah from it: “He is not a mutamattiʿ.” This is the opinion we uphold.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ، وَوَكِيعٌ، قَالَ هُشَيْمٌ: نَا الْمُغِيرَةُ بْنُ مِقْسَمٍ، وَيُونُسُ بْنُ عُبَيْدٍ، قَالَ الْمُغِيرَةُ: عَنْ النَّخَعِيِّ، وَقَالَ يُونُسُ: عَنْ الْحَسَنِ، وَقَالَ وَكِيعٌ: عَنْ الْحَسَنِ بْنِ حَيٍّ عَنْ لَيْثٍ عَنْ عَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ، ثُمَّ اتَّفَقَ عَطَاءٌ، وَطَاوُسٌ، وَمُجَاهِدٌ، وَالْحَسَنُ، وَالنَّخَعِيُّ، قَالُوا كُلُّهُمْ: لَيْسَ عَلَى الْمَكِّيِّ هَدْيٌ فِي الْمُتْعَةِ وَمِنْ طَرِيقِ الْحُذَّاقِيِّ عَنْ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ، وَمَعْمَرٍ قَالَ ابْنُ جُرَيْجٍ: عَنْ عَطَاءٍ، وَقَالَ مَعْمَرٌ، عَنْ الزُّهْرِيِّ، ثُمَّ اتَّفَقَ الزُّهْرِيُّ، وَعَطَاءٌ قَالَا جَمِيعًا فِي الْمَكِّيِّ يَمُرُّ بِالْمِيقَاتِ فَيَعْتَمِرُ مِنْهُ: إنَّهُ لَيْسَ بِمُتَمَتِّعٍ - وَبِهَذَا نَقُولُ.

L13647 And it has been narrated to us through the chain of Ibn Abi Shaybah: Waki‘ narrated to us from Sufyān, from Ibn Ṭāwūs, from his father, who said: When a resident of Makkah departs to the Miqat and performs *tamattu‘* [after leaving it], the sacrificial offering becomes obligatory upon him.

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا وَكِيعٌ عَنْ سُفْيَانَ عَنْ ابْنِ طَاوُسٍ عَنْ أَبِيهِ قَالَ: إذَا خَرَجَ الْمَكِّيُّ إلَى الْمِيقَاتِ فَتَمَتَّعَ مِنْهُ فَعَلَيْهِ الْهَدْيُ.

L13648 Abu Muhammad held: There is nothing incumbent upon him because his family members are present at the Sacred Mosque. The Malikis maintained

قَالَ أَبُو مُحَمَّدٍ: لَا شَيْءَ عَلَيْهِ، لِأَنَّ أَهْلَهُ حَاضِرُو الْمَسْجِدِ الْحَرَامِ - وَزَعَمَ الْمَالِكِيُّونَ: أَنَّ الْهَدْيَ إنَّمَا جُعِلَ عَلَى الْمُتَمَتِّعِ لِإِسْقَاطِهِ سَفَرَ الْحَجِّ إلَى مَكَّةَ.

[21] **Qur’an references (L13641):** Qur’an 2:185 (Al-Baqarah).

that the sacrificial animal was only imposed on the one performing Tamattuʿ due to his forgoing the Hajj journey to Mecca.

L13649–13651 Ali said: This is utterly invalid. It is astonishing how they make it easy for themselves to accept such a corrupt statement that will soon bring them disgrace. It is said to them: This very same cause exists for one who performs Umrah on the last day of Ramadan, then stays in Mecca until performing Hajj—thus waiving one of the two journeys—yet you do not deem a sacrifice or fasting obligatory for him. Then you claim regarding one who performs Umrah during the Hajj months, then departs beyond the furthest Miqats and assumes the pilgrim's state of consecration for Hajj from there—even if he is a resident of Egypt, Syria, or Iraq—that no sacrifice or fasting is required, and neither journey is omitted. They also say regarding a resident of these lands who travels for a need unrelated to Hajj—and his need was in Usfan or Batn Marr—but upon arriving there, he decides to perform Hajj and Umrah after having performed Umrah outside the Hajj months: No sacrifice is required for him, and he has indeed waived both journeys. Regarding Hajj and Umrah as well. By my oath! It is not fitting for one who has faith or intellect to ascribe to Allah—Exalted is He—what he has no knowledge of, and by Allah—Exalted is He—we seek strength.

قَالَ عَلِيٌّ: وَهَذَا بَاطِلٌ بَحْتٌ، وَالْعَجَبُ مِنْ تَسْهِيلِهِمْ عَلَى أَنْفُسِهِمْ مِثْلَ هَذَا الْقَوْلِ الْفَاسِدِ الَّذِي يَفْتَضِحُونَ بِهِ مِنْ قُرْبٍ، وَيُقَالُ لَهُمْ: هَذِهِ الْعِلَّةُ نَفْسُهَا مَوْجُودَةٌ فِيمَنْ اعْتَمَرَ فِي آخِرِ يَوْمٍ مِنْ رَمَضَانَ، ثُمَّ أَقَامَ بِمَكَّةَ حَتَّى حَجَّ فَقَدْ أَسْقَطَ أَحَدَ السَّفَرَيْنِ، وَأَنْتُمْ لَا تَرَوْنَ عَلَيْهِ هَدْيًا وَلَا صَوْمًا، ثُمَّ تَقُولُونَ فِيمَنْ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ ثُمَّ خَرَجَ إلَى مَا وَرَاءَ أَبْعَدِ الْمَوَاقِيتِ فَأَهَلَّ بِالْحَجِّ مِنْهُ، وَهُوَ مِنْ أَهْلِ مِصْرَ، أَوْ الشَّامِ، أَوْ الْعِرَاقِ: أَنَّهُ لَا هَدْيَ عَلَيْهِ وَلَا صَوْمَ، وَلَمْ يَسْقُطْ أَحَدُ السَّفَرَيْنِ، وَيَقُولُونَ فِيمَنْ كَانَ مِنْ أَهْلِ هَذِهِ الْبِلَادِ فَخَرَجَ لِحَاجَتِهِ لَا يُرِيدُ حَجًّا، وَكَانَتْ حَاجَتُهُ بِعُسْفَانَ، أَوَبِبَطْنِ؛ فَلَمَّا صَارَ بِهَا بَدَا لَهُ فِي الْحَجِّ وَالْعُمْرَةِ فَحَجَّ بَعْدَ أَنْ اعْتَمَرَ فِي غَيْرِ أَشْهُرِ الْحَجِّ: فَلَا هَدْيَ عَلَيْهِ، وَهُوَ قَدْ أَسْقَطَ السَّفَرَيْنِ إلَى الْحَجِّ، وَإِلَى الْعُمْرَةِ أَيْضًا؛ وَلَعَمْرِي مَا يَنْبَغِي لِمَنْ لَهُ دِينٌ، أَوْ عَقْلٌ أَنْ يُطْلِقَ عَنْ اللَّهِ - تَعَالَى - مَا لَا عِلْمَ لَهُ بِهِ، وَبِاَللَّهِ - تَعَالَى - نَتَأَيَّدُ.

## The Tamattuʿ pilgrim who is obligated to fast or offer a sacrificial animal.

## [الْمُتَمَتِّعُ الَّذِي يَجِبُ عَلَيْهِ الصَّوْمُ أَوْ الْهَدْيُ]

L13652

L13653 As for our statement: "The Mutamattiʿ obligated to fast or offer a sacrificial animal is one who initiates his Umrah by entering iḥrām for it during the months of Hajj—not prior to them at all—completes his Umrah, then performs Hajj in the same year, whether he returns during that period to the Miqat, his residence, a region equidistant to his residence, farther, or nearer; or remains in Makkah; whether he performs numerous Umrahs in between or none. If he enters iḥrām for Umrah before the crescent of Shawwāl appears, he is not a Mutamattiʿ. No sacrificial animal or fasting is incumbent upon him if he performs Hajj in that year—whether he resides in Makkah or not—regardless of whether he performed some, most, or less of his Umrah during the Hajj months, or none of it during those months, unless he later

وَأَمَّا قَوْلُنَا -: وَالْمُتَمَتِّعُ الَّذِي يَجِبُ عَلَيْهِ الصَّوْمُ أَوْ الْهَدْيُ هُوَ مَنْ ابْتَدَأَ عُمْرَتَهُ بِأَنْ يُحْرِمَ لَهَا فِي أَحَدِ أَشْهُرِ الْحَجِّ لَا قَبْلَ ذَلِكَ أَصْلًا، وَيُتِمَّ عُمْرَتَهُ ثُمَّ يَحُجَّ مِنْ عَامِهِ سَوَاءٌ رَجَعَ فِيمَا بَيْنَ ذَلِكَ إلَى الْمِيقَاتِ أَوْ إلَى مَنْزِلِهِ أَوْ إلَى أُفُقٍ أَبْعَدَ مِنْ مَنْزِلِهِ، أَوْ مِثْلِهِ أَوْ أَقْرَبَ مِنْهُ، أَوْ أَقَامَ بِمَكَّةَ، اعْتَمَرَ فِيمَا بَيْنَ ذَلِكَ عُمَرًا كَثِيرَةً أَوْ لَمْ يَعْتَمِرْ؛ فَإِنْ أَحْرَمَ بِالْعُمْرَةِ قَبْلَ هِلَالِ شَوَّالٍ فَلَيْسَ بِمُتَمَتِّعٍ، وَلَا هَدْيَ عَلَيْهِ، وَلَا صَوْمَ إنْ حَجَّ مِنْ عَامِهِ، أَقَامَ بِمَكَّةَ أَوْ لَمْ يُقِمْ عَمِلَ بَعْضَ عُمْرَتِهِ أَكْثَرَهَا أَوْ أَقَلَّهَا فِي أَشْهُرِ الْحَجِّ، أَوْ لَمْ يَعْمَلْ مِنْهَا

performs an Umrah within the Hajj months, thereby becoming a Mutamattiʿ." People have differed regarding this. A group stated—as transmitted to us via Ḥammād ibn Salamah from Isḥāq ibn Suwayd, who said: "I heard Ibn al-Zubayr proclaim: 'O people, the Mutamattiʿ is not as you understand it, where one of you combines Umrah with Hajj. Rather, it applies to a pilgrim who misses Hajj, loses his mount, or whose mount is incapacitated such that Hajj becomes impossible. He must convert it to an Umrah, and he is obligated to perform Hajj the following year along with whatever sacrificial animal is feasible.'"

شَيْئًا فِي أَشْهُرِ الْحَجِّ إِلَّا أَنْ يَعْتَمِرَ بَعْدَ ذَلِكَ مِنْ أَشْهُرِ الْحَجِّ فَيَكُونَ مُتَمَتِّعًا -: فَإِنَّ النَّاسَ اخْتَلَفُوا فِي هَذَا -: فَقَالَتْ طَائِفَةٌ: كَمَا رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ نَا إِسْحَاقُ بْنُ سُوَيْدٍ قَالَ: سَمِعْتُ ابْنَ الزُّبَيْرِ يَقُولُ: أَيُّهَا النَّاسُ إِنَّ الْمُتَمَتِّعَ لَيْسَ بِالَّذِي تَصْنَعُونَ يَتَمَتَّعُ أَحَدُكُمْ بِالْعُمْرَةِ قَبْلَ الْحَجِّ، وَلَكِنَّ الْحَاجَّ إِذَا فَاتَهُ الْحَجُّ أَوْ ضَلَّتْ رَاحِلَتُهُ أَوْ كُسِرَ حَتَّى يَفُوتَهُ الْحَجُّ فَإِنَّهُ يَجْعَلُهَا عُمْرَةً، وَعَلَيْهِ الْحَجُّ مِنْ قَابِلٍ، وَمَا اسْتَيْسَرَ مِنْ الْهَدْيِ.

L13654 Through the chain of ʿAbd al-Razzāq, from Maʿmar, from Ibn Abī Najīḥ, from ʿAṭāʾ, who said: Ibn al-Zubayr would say, "Tamattuʿ is for those who are prevented [from completing Hajj]."

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ عَطَاءٍ قَالَ: كَانَ ابْنُ الزُّبَيْرِ يَقُولُ: الْمُتْعَةُ لِمَنْ أُحْصِرَ.

L13655 A group has said: The one performing tamattuʿ is he who performs ʿUmrah in any [i.e., whichever] months of the year—whether his ʿUmrah was before the months of Ḥajj or during the months of Ḥajj—then stays in consecration until performing Ḥajj that same year. Such a person must sacrifice or fast. Likewise, one who performs ʿUmrah during the months of Ḥajj then stays [in consecration] until performing Ḥajj that year or does not perform Ḥajj must sacrifice or fast. We were narrated via the isnād of Wakiʿ, who narrated from Sufyān al-Thawrī, from Layth ibn Abī Sulaym, from Ṭāwūs, who said: If one enters ihrām for ʿUmrah during the months of Ḥajj, he must sacrifice—even if he does not perform Ḥajj.

وَقَالَتْ طَائِفَةٌ: الْمُتَمَتِّعُ هُوَ مَنْ اعْتَمَرَ فِي أَيِّ - أَشْهُرِ السَّنَةِ كَانَتْ عُمْرَتُهُ قَبْلَ أَشْهُرِ الْحَجِّ أَوْ فِي أَشْهُرِ الْحَجِّ، ثُمَّ أَقَامَ حَتَّى حَجَّ مِنْ عَامِهِ، فَهَذَا عَلَيْهِ الْهَدْيُ أَوْ الصَّوْمُ، وَكَذَلِكَ مَنْ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ ثُمَّ أَقَامَ حَتَّى حَجَّ مِنْ عَامِهِ أَوْ لَمْ يَحُجَّ فَعَلَيْهِ الْهَدْيُ أَوْ الصَّوْمُ -: رُوِّينَا مِنْ طَرِيقِ وَكِيعٍ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ لَيْثِ بْنِ أَبِي سُلَيْمٍ عَنْ طَاوُسٍ قَالَ: إذَا أَهَلَّ بِالْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ فَعَلَيْهِ الْهَدْيُ، وَإِنْ لَمْ يَحُجَّ.

L13656 From the path of Abd al-Razzaq, from Sufyan al-Thawri, from Layth, from Abdullah ibn Tawus, from his father, who said: If one performs Umrah outside the months of Hajj and then resides until Hajj, he is considered a *Mutamatti*.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ لَيْثٍ عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ قَالَ: إنْ اعْتَمَرَ فِي غَيْرِ أَشْهُرِ الْحَجِّ ثُمَّ أَقَامَ إلَى الْحَجِّ فَهُوَ مُتَمَتِّعٌ.

L13657–13658 From the transmission of Waki' from Sufyān from Ibn Ṭāwus from his father, who said, "When a Meccan travels to the mīqāt and performs ʿUmrah therefrom, they must offer a ritual sacrifice."

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ ابْنِ طَاوُسٍ عَنْ أَبِيهِ قَالَ: إذَا خَرَجَ الْمَكِّيُّ إلَى الْمِيقَاتِ فَاعْتَمَرَ مِنْهُ فَعَلَيْهِ الْهَدْيُ.

L13659 A group held that a *tamattuʿ* pilgrim is only one who initiates *ihram* for ʿUmrah during the Hajj months, then resides in Mecca until he performs

Hajj in the same year. If he returns to his family between ʿUmrah and Hajj, he is not a *tamattuʿ* pilgrim.

وَقَالَتْ طَائِفَةٌ: لَيْسَ الْمُتَمَتِّعُ إِلَّا مِنْ أَهَلَّ بِالْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ ثُمَّ أَقَامَ بِمَكَّةَ حَتَّى حَجَّ مِنْ عَامِهِ فَإِنْ رَجَعَ إِلَى أَهْلِهِ بَيْنَ الْعُمْرَةِ وَالْحَجِّ فَلَيْسَ مُتَمَتِّعًا.

L13660 It has been narrated to us through Waki‘ via our teacher al-‘Umari, from Nafi‘, from Ibn ‘Umar, from ‘Umar ibn al-Khaṭṭāb, who said: If someone enters the state of ihram for Umrah during the Hajj months, then remains until performing Hajj, he is considered a mutamatti. If he returns to his family and then performs Hajj, he is not considered a mutamatti.

رُوِّينَا مِنْ طَرِيقِ وَكِيعٍ نَا الْعُمَرِيُّ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ عَنْ عُمَرَ بْنِ الْخَطَّابِ قَالَ: إِذَا أَهَلَّ بِالْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ ثُمَّ أَقَامَ حَتَّى يَحُجَّ فَهُوَ مُتَمَتِّعٌ، وَإِذَا رَجَعَ إِلَى أَهْلِهِ ثُمَّ حَجَّ فَلَيْسَ مُتَمَتِّعًا.

L13661 From the chain of Ibn Abi Shaybah: He narrated to us through Waki‘ and Hafs ibn Ghiyath. Hafs said, from Yahya ibn Sa‘id, from Nafi‘, from Ibn ‘Umar. Waki‘ said, from Yahya ibn Sa‘id, from Sa‘id ibn al-Musayyib. Both agreed: Whoever performs ‘Umrah during the months of Hajj and then returns is not considered a _Mutamatti‘_. That is the one who remains and does not return.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا وَكِيعٌ، وَحَفْصُ بْنُ غِيَاثٍ قَالَ حَفْصٌ: عَنْ يَحْيَى بْنِ سَعِيدٍ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ، وَقَالَ وَكِيعٌ: عَنْ يَحْيَى بْنِ سَعِيدٍ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ قَالَا جَمِيعًا: مَنِ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ ثُمَّ رَجَعَ فَلَيْسَ بِمُتَمَتِّعٍ، ذَاكَ مَنْ أَقَامَ وَلَمْ يَرْجِعْ.

L13662 And via him to Waki‘: Sufyān al-Thawrī narrated to us from al-Mughīrah, and Yaḥyā ibn Sa‘īd al-Anṣārī. Al-Mughīrah narrated from Ibrāhīm al-Nakha‘ī, while Yaḥyā narrated from Sa‘īd ibn al-Musayyib. They both unanimously stated: Similar to the statement of ʿUmar.

وَبِهِ إِلَى وَكِيعٍ نَا سُفْيَانُ الثَّوْرِيُّ عَنِ الْمُغِيرَةِ، وَيَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ قَالَ الْمُغِيرَةُ: عَنْ إِبْرَاهِيمَ النَّخَعِيِّ، وَقَالَ يَحْيَى: عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ قَالَا جَمِيعًا: مِثْلَ قَوْلِ عُمَرَ.

L13663 A group held that the Tamattuʿ pilgrim is one who enters iḥrām for ʿUmrah during the months of Hajj—not before them—then remains in Mecca until performing Hajj in the same year. If he departs between the ʿUmrah and Hajj from Mecca to a place where prayer is shortened, he is not considered a Tamattuʿ pilgrim.

وَقَالَتْ طَائِفَةٌ: الْمُتَمَتِّعُ هُوَ مَنْ أَهَلَّ بِالْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ لَا قَبْلَهَا، ثُمَّ أَقَامَ بِمَكَّةَ حَتَّى حَجَّ مِنْ عَامِهِ، فَإِنْ خَرَجَ بَيْنَ الْعُمْرَةِ وَالْحَجِّ إِلَى مَا تُقْصَرُ فِيهِ الصَّلَاةُ مِنْ مَكَّةَ فَلَيْسَ مُتَمَتِّعًا.

L13664 It has been narrated to us through the chain of ʿAbd al-Razzāq: Sufyān al-Thawrī informed us from Layth, from ʿAṭāʾ, who said: “No one becomes a *mutamatti* until they perform ʿUmrah within the months of Ḥajj.”

رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ لَيْثٍ عَنْ عَطَاءٍ قَالَ: لَيْسَ بِمُتَمَتِّعٍ حَتَّى يَعْتَمِرَ فِي أَشْهُرِ الْحَجِّ.

L13665 From Waki‘’s transmission: Sufyan al-Thawri reported to us from Ibn Jurayj, who said: ʿAṭāʾ said: His ʿUmrah is in the month when he enters iḥrām. If he undertakes a journey that requires shortening the prayer, he is not a muṭamattiʿ.

وَمِنْ طَرِيقِ وَكِيعٍ نَا سُفْيَانُ الثَّوْرِيُّ عَنِ ابْنِ جُرَيْجٍ قَالَ: قَالَ عَطَاءٌ عُمْرَتُهُ فِي الشَّهْرِ الَّذِي يُهِلُّ فِيهِ فَإِذَا سَافَرَ سَفَرًا تُقْصَرُ فِيهِ الصَّلَاةُ فَلَيْسَ بِمُتَمَتِّعٍ.

L13666 And from the route of Waki‘, he narrated to us from Sufyān from Layth from ‘Aṭā’ regarding one who assumes Ihrām for Umrah during the months of Hajj then does not perform Hajj in that year: He said, “There is nothing upon him.”

وَمِنْ طَرِيقِ وَكِيعٍ نَا سُفْيَانُ عَنْ لَيْثٍ عَنْ عَطَاءٍ فِيمَنْ أَهَلَّ بِالْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ ثُمَّ لَمْ يَحُجَّ مِنْ عَامِهِ؟ قَالَ: لَا شَيْءَ عَلَيْهِ.

L13667–13669 A group said: The *Mutamatti‘* is one who performs Tawaf during the months of Ḥajj and then undertakes Ḥajj in the same year. This has been narrated. Through the chain of Sufyān from some of his companions, from Ibrāhīm al-Nakha‘ī, who said: His Umrah is in the month during which he performs the ṭawāf.

وَقَالَتْ طَائِفَةٌ: إِنَّ الْمُتَمَتِّعَ مَنْ طَافَ فِي أَشْهُرِ الْحَجِّ، ثُمَّ حَجَّ مِنْ عَامِهِ، رُوِيَ ذَلِكَ مِنْ طَرِيقِ سُفْيَانَ عَنْ بَعْضِ أَصْحَابِهِ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ قَالَ: عُمْرَتُهُ فِي الشَّهْرِ الَّذِي يَطُوفُ فِيهِ.

L13670 From the narration via Abd al-Razzaq, from Hisham, from Hafsa bint Sirin, she said: We entered the state of ihram for Umrah in Ramadan and arrived in Mecca during Shawwal. We asked the jurists—while people were present in large numbers—and all of them said: This is considered Tamattu’.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ هِشَامٍ عَنْ حَفْصَةَ بِنْتِ سِيرِينَ قَالَتْ: أَحْرَمْنَا بِالْعُمْرَةِ فِي رَمَضَانَ فَقَدِمْنَا مَكَّةَ فِي شَوَّالٍ فَسَأَلْنَا الْفُقَهَاءَ - وَالنَّاسُ مُتَوَافِرُونَ - فَكُلُّهُمْ قَالَ: هِيَ مُتْعَةٌ.

L13671 And from the narration of Abd al-Razzaq, from Uthman ibn Matar, from Matar in his prayer, from al-Hasan and al-Hakam ibn Utaybah regarding one who entered *iḥrām* in Ramadan and performed the circumambulation in Shawwal—they both said together, “His *‘Umrah* is in the month in which he performed the circumambulation.”

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ عُثْمَانَ بْنِ مَطَرٍ عَنْ مَطَرٍ بِصَلَاتِهِ عَنِ الْحَسَنِ وَالْحَكَمِ بْنِ عُتَيْبَةَ فِيمَنْ أَهَلَّ فِي رَمَضَانَ وَطَافَ فِي شَوَّالٍ قَالَا جَمِيعًا: عُمْرَتُهُ فِي الشَّهْرِ الَّذِي طَافَ فِيهِ.

L13672 From Abd al-Razzaq, from Sufyan al-Thawri, from al-Mughira, from Ibrahim, who said: If one returns to his family before performing Hajj after having performed Umrah during the Hajj months, he is not a mutamatti‘. If he remains until he performs Hajj, he is a mutamatti‘. All of this is the opinion of Sufyan.

وَعَنْ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنِ الْمُغِيرَةِ عَنْ إِبْرَاهِيمَ قَالَ: إِذَا رَجَعَ إِلَى أَهْلِهِ قَبْلَ أَنْ يَحُجَّ وَبَعْدَ أَنْ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ فَلَيْسَ مُتَمَتِّعًا، فَإِنْ أَقَامَ حَتَّى يَحُجَّ فَهُوَ مُتَمَتِّعٌ، وَهُوَ كُلُّهُ قَوْلُ سُفْيَانَ.

L13673 A group of scholars stated: If one entered *ihram* for ‘Umrah during Ramadan and then entered the Haram before the sighting of the Shawwāl crescent, he is not a *mutamatti‘*. But if he entered the Haram after the sighting of the Shawwāl crescent, he is a *mutamatti‘* if he performed Hajj in the same year.

وَقَالَتْ طَائِفَةٌ: إِنْ أَحْرَمَ بِالْعُمْرَةِ فِي رَمَضَانَ فَدَخَلَ الْحَرَمَ قَبْلَ هِلَالِ شَوَّالٍ فَلَيْسَ مُتَمَتِّعًا، وَإِنْ دَخَلَ الْحَرَمَ بَعْدَ هِلَالِ شَوَّالٍ فَهُوَ مُتَمَتِّعٌ إِذَا حَجَّ مِنْ عَامِهِ.

L13674 As narrated via the chain of ʿAbd al-Razzāq from Maʿmar and Ibn Jurayj - Maʿmar said: From Ibn Abī Najīḥ from ʿAṭāʾ, and Ibn Jurayj said: From ʿAṭāʾ, who said: If a muḥrim enters the Haram before sighting the Shawwal

crescent, he is not performing Tamattuʿ. But if he enters the Haram after sighting the Shawwal crescent and remains there until the time of ḥajj, he is performing Tamattuʿ. This is the opinion of al-Awzāʿī.

كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ، وَابْنِ جُرَيْجٍ قَالَ مَعْمَرٌ: عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ عَطَاءٍ، وَقَالَ ابْنُ جُرَيْجٍ: عَنْ عَطَاءٍ قَالَ: إذَا دَخَلَ الْمُحْرِمُ الْحَرَمَ قَبْلَ أَنْ يَرَى هِلَالَ شَوَّالٍ فَلَيْسَ مُتَمَتِّعًا، وَإِنْ دَخَلَ الْحَرَمَ بَعْدَ أَنْ يَرَى هِلَالَ شَوَّالٍ فَهُوَ مُتَمَتِّعٌ إذَا مَكَثَ إلَى الْحَجِّ - وَهُوَ قَوْلُ الْأَوْزَاعِيِّ.

L13675 A group held an opinion like ours—as narrated through Mālik's chain from ʿAbdullāh ibn Dīnār, who said: I heard Ibn ʿUmar state: "Whoever performs ʿUmrah during the Ḥajj months—in Shawwāl, Dhū al-Qaʿdah, or Dhū al-Ḥijjah before Ḥajj—has indeed performed *tamattuʿ*, and the *hady* is obligatory upon them, or fasting if they cannot find a *hady*." Similarly, through ʿAbd al-Razzāq's chain: Sayf → Yazīd al-Faqīr reported that some people performed ʿUmrah during the Ḥajj months, then departed for Medina and assumed iḥrām for Ḥajj. Ibn ʿAbbās stated: "The *hady* is obligatory upon them."

وَقَالَتْ طَائِفَةٌ مِثْلَ قَوْلِنَا -: كَمَا رُوِّينَا مِنْ طَرِيقِ مَالِكٍ عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ قَالَ: سَمِعْت ابْنَ عُمَرَ يَقُولُ: مَنْ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ فِي شَوَّالٍ أَوْ ذِي الْقَعْدَةِ أَوْ فِي ذِي الْحِجَّةِ قَبْلَ الْحَجِّ فَقَدْ اسْتَمْتَعَ، وَوَجَبَ عَلَيْهِ الْهَدْيُ، أَوْ الصِّيَامُ إذَا لَمْ يَجِدْ هَدْيًا -: وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سَيْفٍ عَنْ يَزِيدَ الْفَقِيرِ أَنَّ قَوْمًا اعْتَمَرُوا فِي أَشْهُرِ الْحَجِّ ثُمَّ خَرَجُوا إلَى الْمَدِينَةِ فَأَهَلُّوا بِالْحَجِّ؟ فَقَالَ ابْنُ عَبَّاسٍ: عَلَيْهِمْ الْهَدْيُ.

L13676 From the narration of Abd al-Razzaq, from Ibn Jurayj, from Ataa regarding one who arrives outside the months of Hajj to perform Umrah, then decides to perform Umrah during the months of Hajj: He said, "He does not become a Mutamatti' until he enters Ihram at his Miqat during the months of Hajj." I asked him, "Is this your opinion or knowledge?" He replied, "Rather, it is knowledge."

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ فِي مَنْ قَدِمَ فِي غَيْرِ أَشْهُرِ الْحَجِّ مُعْتَمِرًا ثُمَّ بَدَا لَهُ أَنْ يَعْتَمِرَ فِي أَشْهُرِ الْحَجِّ؟ قَالَ: لَا يَكُونُ مُتَمَتِّعًا حَتَّى يَأْتِيَ مِنْ مِيقَاتِهِ فِي أَشْهُرِ الْحَجِّ، قُلْت لَهُ: أَرَأْيٌ أَمْ عِلْمٌ؟ قَالَ: بَلْ عِلْمٌ.

L13677–13678 Abu Muhammad said: We only agreed with 'Ata' regarding the view that the Muttamatti' is none other than one who enters Ihram during the Hajj months. We disagree with his statement that one who arrives in a state of Ihram outside the Hajj months, performs Umrah, exits his Ihram, then performs another Umrah during the Hajj months is not a Muttamatti'. Rather, he is a Muttamatti' if he performs Hajj within the same year. Through the chain of 'Abd al-Razzaq from Ma'mar from Qatadah, who said: "His Umrah is in the month during which he entered the state of Ihram."

قَالَ أَبُو مُحَمَّدٍ: إنَّمَا وَافَقْنَا عَطَاءً فِي أَنَّهُ لَا يَكُونُ الْمُتَمَتِّعُ إلَّا مَنْ أَحْرَمَ فِي أَشْهُرِ الْحَجِّ لَا فِي قَوْلِهِ: إنَّ مَنْ قَدِمَ فِي غَيْرِ أَشْهُرِ الْحَجِّ مُحْرِمًا ثُمَّ اعْتَمَرَ ثُمَّ حَلَّ ثُمَّ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ أَنَّهُ لَيْسَ مُتَمَتِّعًا، بَلْ هُوَ مُتَمَتِّعٌ إنْ حَجَّ مِنْ عَامِهِ وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ قَتَادَةَ قَالَ: عُمْرَتُهُ فِي الشَّهْرِ الَّذِي أَهَلَّ فِيهِ.

L13679 And from the chain of Saʿīd ibn Manṣūr: Hushaym and Abū ʿAwānah informed us. Abū ʿAwānah said: From Qatādah, from Saʿīd ibn al-Musayyib. Hushaym said: I narrate from Yūnus, from al-Ḥasan. Then al-Ḥasan and

Sa‘īd came to agreement, both stating: The pilgrim performing Tamattu‘ must offer the sacrificial animal, even if he returns to his homeland.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ، وَأَبُو عَوَانَةَ، قَالَ أَبُو عَوَانَةَ: عَنْ قَتَادَةَ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ، وَقَالَ هُشَيْمٌ: أَنَا يُونُسُ عَنْ الْحَسَنِ، ثُمَّ اتَّفَقَ الْحَسَنُ وَسَعِيدٌ قَالَا: فِي الْمُتَمَتِّعِ عَلَيْهِ الْهَدْيُ، وَإِنْ رَجَعَ إلَى بِلَادِهِ.

L13680 Another group said: If someone entered the state of iḥrām outside the pilgrimage months, performed four circuits of his ‘umrah, then the crescent of Shawwāl was sighted and he completed his ‘umrah—whether he stayed in Mecca or did not stay there but also did not return to his homeland—or if he entered iḥrām for his ‘umrah in the same manner during the pilgrimage months, and was not among those required to observe the mawāqīt but was within the area closer to Mecca than them, then he is a mutamatti‘ pilgrim obligated to a sacrifice or fasting. If he entered iḥrām for his ‘umrah outside the pilgrimage months, performed three circuits of his ‘umrah, then the crescent of Shawwāl was sighted, he is not considered a mutamatti‘ pilgrim—this is the opinion of Abū Ḥanīfah. Abū Yūsuf agreed with him except that he said: If he returned to a place beyond one of the mawāqīt, he is not a mutamatti‘ pilgrim. They said: A mutamatti‘ pilgrim without a sacrifice may exit iḥrām upon completing his ‘umrah. If he had brought his sacrifice, he may not exit iḥrām until exiting from the ḥajj on the Day of Sacrifice. If he exited iḥrām, another sacrifice becomes obligatory for exiting.

وَقَالَتْ طَائِفَةٌ [أُخْرَى] : إنْ أَحْرَمَ فِي غَيْرِ أَشْهُرِ الْحَجِّ فَطَافَ مِنْ عُمْرَتِهِ أَرْبَعَةَ أَشْوَاطٍ ثُمَّ أَهَلَّ هِلَالُ شَوَّالٍ فَأَتَمَّ عُمْرَتَهُ ثُمَّ أَقَامَ بِمَكَّةَ أَوْ لَمْ يُقِمْ إلَّا أَنَّهُ لَمْ يَرْجِعْ إلَى بَلَدِهِ أَوْ أَهَلَّ بِعُمْرَتِهِ كَذَلِكَ فِي أَشْهُرِ الْحَجِّ، وَلَمْ يَكُنْ مِنْ أَهْلِ الْمَوَاقِيتِ، فَمَا دُونَهَا فَهُوَ مُتَمَتِّعٌ عَلَيْهِ الْهَدْيُ أَوْ الصَّوْمُ، فَإِنْ أَهَلَّ بِعُمْرَتِهِ فِي غَيْرِ أَشْهُرِ الْحَجِّ، وَطَافَ مِنْ عُمْرَتِهِ ثَلَاثَةَ أَشْوَاطٍ، ثُمَّ أَهَلَّ هِلَالُ شَوَّالٍ فَلَيْسَ مُتَمَتِّعًا - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَوَافَقَهُ أَبُو يُوسُفَ عَلَى ذَلِكَ إلَّا أَنَّهُ قَالَ: إذَا رَجَعَ إلَى مَا وَرَاءَ مِيقَاتٍ مِنْ الْمَوَاقِيتِ فَلَيْسَ مُتَمَتِّعًا، وَقَالُوا: مَنْ كَانَ مُتَمَتِّعًا وَلَا هَدْيَ مَعَهُ فَإِنَّهُ يَحِلُّ إذَا أَتَمَّ عُمْرَتَهُ، فَإِنْ كَانَ أَتَى بِهَدْيِهِ فَإِنَّهُ لَا يَحِلُّ حَتَّى يَحِلَّ مِنْ الْحَجِّ يَوْمَ النَّحْرِ، فَإِنْ حَلَّ فَعَلَيْهِ هَدْيٌ آخَرُ لِإِحْلَالِهِ.

L13681 A group has stated: If someone performs ‘Umrah during the months of Hajj or assumes Ihram for ‘Umrah in Ramadan but has any part of the Tawaf between Al-Ṣafā and Al-Marwah remaining, even if minor, and then the crescent of Shawwāl appears—whether he remains in Mecca or returns to a region nearer than his original region—then performs Hajj in the same year, he is considered a *mutamatti‘*. If he completes his ‘Umrah in Ramadan, he is not a *mutamatti‘*. Similarly, one who performs ‘Umrah in a month from the months of Hajj, then returns to his original region or a region equally distant as his original region, is not considered a *mutamatti‘* even if he performs Hajj in the same year. This is the opinion of Mālik.

وَقَالَتْ طَائِفَةٌ: مَنْ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ أَوْ أَهَلَّ بِعُمْرَةٍ فِي رَمَضَانَ ثُمَّ بَقِيَ عَلَيْهِ مِنْ الطَّوَافِ بَيْنَ الصَّفَا وَالْمَرْوَةِ شَيْءٌ وَإِنْ قَلَّ فَأَهَلَّ هِلَالُ شَوَّالٍ ثُمَّ أَقَامَ بِمَكَّةَ أَوْ رَجَعَ إلَى أُفُقٍ دُونَ أُفُقِهِ فِي الْبُعْدِ ثُمَّ حَجَّ مِنْ عَامِهِ فَهُوَ مُتَمَتِّعٌ، فَإِنْ أَتَمَّ عُمْرَتَهُ فِي رَمَضَانَ فَلَيْسَ مُتَمَتِّعًا - وَكَذَلِكَ الَّذِي يَعْتَمِرُ فِي شَهْرٍ مِنْ شُهُورِ الْحَجِّ، ثُمَّ يَرْجِعُ إلَى أُفُقِهِ أَوْ أُفُقٍ مِثْلِ أُفُقِهِ فِي الْبُعْدِ فَلَيْسَ مُتَمَتِّعًا، وَإِنْ حَجَّ مِنْ عَامِهِ - وَهُوَ قَوْلُ مَالِكٍ.

L13682–13684 A group has said: Whoever performs the majority of his Umrah during the months of Hajj, then remains or departs to a location short of one of the

miqats, he is considered a Tamattuʿ pilgrim if he performs Hajj in the same year. If he departs to one of the miqats or performs Umrah outside the Hajj months, he is not a Tamattuʿ pilgrim: this is the opinion of al-Shāfiʿī.

Abū Muḥammad said: As for Abū Ḥanīfah's division between the four circuits and the minimum required to be a Tamattuʿ pilgrim, this is an opinion not known from anyone before him. He provides no evidence for it from either the Qur'ān or the Sunnah. Neither a sound narration, nor a weak narration, nor a saying of a Companion, nor a Follower; nor analogy.

L13685 Some of his emulators argued in his defense by citing his reliance on ʿAṭāʾ's opinion regarding a woman who menstruates after performing four circuits of circumambulation. Abū Muḥammad said: This is a separate issue from Tamattuʿ, and ʿAṭāʾ's opinion here is also erroneous, for it contradicts the command of the Messenger of Allah—peace and blessings be upon him—that a menstruating woman must not circumambulate the House, and because it constitutes an arbitrary division without any foundational evidence. As for Abū Ḥanīfah's opinion that a person performing ʿUmrah with a sacrificial animal who intends to perform Ḥajj does not exit the state of iḥrām until he exits iḥrām for his Hajj, he based this on narrations from the Prophet—peace and blessings be upon him—commanding those with sacrificial animals to remain in iḥrām and those without sacrificial animals to exit iḥrām. However, to cite these narrations as evidence for Abū Ḥanīfah's opinion reflects profound ignorance, an assertion devoid of knowledge, or a deliberate fabrication by one who knowingly lies against the Messenger of Allah—peace and blessings be upon him. Both alternatives are calamitous, for all these narrations merely indicate that the Prophet—peace and blessings be upon him—commanded those without sacrificial animals among pilgrims performing Ifrād (single Ḥajj) or Qirān (combined Ḥajj and ʿUmrah) to exit iḥrām, while ordering those with sacrificial animals to combine Ḥajj and ʿUmrah. None of these narrations state that he—peace and blessings be upon him—commanded a person performing ʿUmrah who did not combine it to remain

وَقَالَتْ طَائِفَةٌ: مَنْ اعْتَمَرَ أَكْثَرَ عُمْرَتِهِ فِي أَشْهُرِ الْحَجِّ، ثُمَّ أَقَامَ أَوْ خَرَجَ إِلَى مَا دُونَ مِيقَاتٍ مِنْ الْمَوَاقِيتِ فَهُوَ مُتَمَتِّعٌ إذَا حَجَّ مِنْ عَامِهِ، فَإِنْ خَرَجَ إِلَى مِيقَاتٍ مِنْ الْمَوَاقِيتِ أَوْ اعْتَمَرَ فِي غَيْرِ أَشْهُرِ الْحَجِّ فَلَيْسَ مُتَمَتِّعًا - وَهُوَ قَوْلُ الشَّافِعِيِّ -: قَالَ أَبُو مُحَمَّدٍ: أَمَّا قَوْلُ أَبِي حَنِيفَةَ فِي تَقْسِيمِهِ بَيْنَ الْأَرْبَعَةِ الْأَشْوَاطِ وَالْأَقَلِّ فِيمَا يَكُونُ بِهِ مُتَمَتِّعًا، فَقَوْلٌ لَا يُعْرَفُ عَنْ أَحَدٍ قَبْلَهُ، وَلَا حُجَّةَ لَهُ فِيهِ لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ صَحِيحَةٍ، وَلَا رِوَايَةٍ سَقِيمَةٍ، وَلَا قَوْلِ صَاحِبٍ، وَلَا تَابِعٍ، وَلَا قِيَاسٍ.

وَاحْتَجَّ لَهُ بَعْضُ مُقَلِّدِيهِ بِأَنَّهُ عَوَّلَ عَلَى قَوْلِ عَطَاءٍ فِي الْمَرْأَةِ تَحِيضُ بَعْدَ أَنْ طَافَتْ أَرْبَعَةَ أَشْوَاطٍ -: قَالَ أَبُو مُحَمَّدٍ: وَهَذِهِ مَسْأَلَةٌ غَيْرُ الْمُتْعَةِ، وَقَوْلُ عَطَاءٍ أَيْضًا فِيهَا خَطَأٌ؛ لِأَنَّهُ خِلَافُ «أَمْرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: الْحَائِضَ أَنْ لَا تَطُوفَ بِالْبَيْتِ» وَلِأَنَّهُ تَقْسِيمٌ بِلَا دَلِيلٍ أَصْلًا وَأَمَّا قَوْلُ أَبِي حَنِيفَةَ: إنَّ الْمُعْتَمِرَ - الَّذِي مَعَهُ الْهَدْيُ - الْمُرِيدَ الْحَجَّ فَإِنَّهُ لَا يَحِلُّ حَتَّى يَحِلَّ مِنْ حَجِّهِ فَإِنَّهُ بَنَى عَلَى الْآثَارِ الْوَارِدَةِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِأَمْرِهِ مَنْ مَعَهُ الْهَدْيُ بِالْبَقَاءِ عَلَى إحْرَامِهِ، وَمَنْ لَا هَدْيَ مَعَهُ بِالْإِحْلَالِ، وَالِاحْتِجَاجُ بِهَذِهِ الْآثَارِ لِقَوْلِ أَبِي حَنِيفَةَ جَهْلٌ مُظْلِمٌ وَقَوْلٌ بِغَيْرِ عِلْمٍ، أَوْ تَعَمُّدٌ - مِمَّنْ يَعْلَمُ الْكَذِبَ - عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَكِلَاهُمَا بَلِيَّةٌ، لِأَنَّ جَمِيعَ تِلْكَ الْآثَارِ إنَّمَا وَرَدَتْ بِأَنَّهُ - عَلَيْهِ السَّلَامُ - أَمَرَ مَنْ لَا هَدْيَ مَعَهُ مِنْ الْمُفْرِدِينَ لِلْحَجِّ وَالْقَارِنِينَ بِالْإِحْلَالِ، وَأَمَرَ مَنْ مَعَهُ الْهَدْيُ بِأَنْ يَقْرِنَ بَيْنَ حَجٍّ وَعُمْرَةٍ؛ وَلَيْسَ فِي شَيْءٍ مِنْهَا أَنَّهُ - عَلَيْهِ السَّلَامُ - أَمَرَ مُعْتَمِرًا لَمْ يُقْرِنْ بِالْبَقَاءِ عَلَى إحْرَامِهِ، وَقَدْ ذَكَرْنَاهَا فِي ذِكْرِنَا عَمَلَ الْحَجِّ مِنْ دِيوَانِنَا هَذَا.

in iḥrām. We have previously mentioned these narrations in our account of Hajj rites within this compilation of ours.

L13686–13688 As for Mālik's statement regarding his distinction concerning the continuation of part of the *sa'y* for his 'Umrah until the crescent of Shawwāl appears, it is not preserved from anyone before him, nor does he have any basis for it—neither from the Quran, nor the Sunnah, nor a sound or weak narration, nor the statement of a Companion, nor a Follower, nor analogy. Al-Shāfi'ī also said: "There is absolutely no evidence for this; it is sheer opinions." Therefore, it is necessary to examine the other opinions regarding four aspects of this ruling: 1. One who enters *iḥrām* for 'Umrah outside the months of Ḥajj. 2. One who resides in Mecca until performing Ḥajj, returns to their hometown, or travels farther away and then performs Ḥajj in the same year. 3. One who performs 'Umrah outside the months of Ḥajj, stays in Mecca, then performs another 'Umrah during the months of Ḥajj, and subsequently performs Ḥajj in the same year. 4. Whether the *mutamatti'* is someone who missed Ḥajj, as Ibn al-Zubayr stated, or if such a person is not considered a *mutamatti'*. When we examined Ibn al-Zubayr's statement, we found that other Companions (may Allah be pleased with them) disagreed with him. We also found his opinion to be baseless, as evidence points to its error. For Allah—Exalted is He—refers to one prevented from reaching Ḥajj until its time passes as a *muḥṣar*, not a *mutamatti'*, and distinguishes between their rulings. And regarding the ruling of the one performing Tamattu', the Exalted said: "{But if you are prevented, then [offer] what can be feasibly obtained of the sacrifice}" [Al-Baqarah: 196]. And the Exalted said: "{Whoever performs Tamattu' by combining Umrah with Hajj must offer what can be feasibly obtained of the sacrifice. But whoever cannot find [it] must fast three days during Hajj and seven upon returning—making ten complete days in total. This is for those whose families are not present at the Sacred Mosque}" [Al-Baqarah: 196]. Thus, the Exalted differentiated between their two names and their two rulings; therefore, it is impermissible to say they are one and the same—and with Allah, the Exalted, lies all success.[22]

وَأَمَّا قَوْلُ مَالِكٍ فِي تَفْرِيقِهِ بَيْنَ بَقَاءِ شَيْءٍ مِنْ السَّعْيِ لِعُمْرَتِهِ حَتَّى يَهُلَّ هِلَالُ شَوَّالٍ فَلَا يُحْفَظُ عَنْ أَحَدٍ قَبْلَهُ، وَلَا لَهُ أَيْضًا مُتَعَلَّقٌ فِي ذَلِكَ لَا بِقُرْآنٍ، وَلَا بِسُنَّةٍ، وَلَا بِرِوَايَةٍ صَحِيحَةٍ، وَلَا سَقِيمَةٍ، وَلَا بِقَوْلِ صَاحِبٍ، وَلَا تَابِعٍ وَلَا قِيَاسٍ وَقَوْلُ الشَّافِعِيِّ أَيْضًا: لَا حُجَّةَ لَهُ فِيهِ أَصْلًا، وَإِنَّمَا هِيَ آرَاءٌ مَحْضَةٌ فَوَجَبَ النَّظَرُ فِي سَائِرِ الْأَقْوَالِ فِي أَرْبَعَةِ مَوَاضِعَ مِنْ هَذَا الْحُكْمِ -: أَحَدُهَا: مَنْ أَهَلَّ بِعُمْرَةٍ فِي غَيْرِ أَشْهُرِ الْحَجِّ، وَالثَّانِي: مَنْ أَقَامَ بِمَكَّةَ حَتَّى حَجَّ أَوْ رَجَعَ إلَى بَلَدِهِ أَوْ أَبْعَدَ مِنْ بَلَدِهِ ثُمَّ حَجَّ مِنْ عَامِهِ، وَالثَّالِثُ: مَنْ اعْتَمَرَ فِي غَيْرِ أَشْهُرِ الْحَجِّ وَأَقَامَ بِمَكَّةَ ثُمَّ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ ثُمَّ حَجَّ مِنْ عَامِهِ، وَالرَّابِعُ: هَلْ الْمُتَمَتِّعُ مَنْ فَاتَهُ الْحَجُّ كَمَا قَالَ ابْنُ الزُّبَيْرِ أَمْ لَيْسَ هَذَا مُتَمَتِّعًا؟ -: فَنَظَرْنَا فِي قَوْلِ ابْنِ الزُّبَيْرِ هَذَا فَوَجَدْنَا غَيْرَهُ مِنْ الصَّحَابَةِ [- رَضِيَ اللَّهُ عَنْهُمْ -] قَدْ خَالَفُوهُ، وَوَجَدْنَاهُ قَوْلًا بِلَا دَلِيلٍ، بَلْ الدَّلِيلُ قَائِمٌ عَلَى خَطَئِهِ، لِأَنَّ اللَّهَ - تَعَالَى - سَمَّى مَنْ حَالَ بَيْنَهُ وَبَيْنَ إدْرَاكِ الْحَجِّ حَتَّى فَاتَ وَقْتُهُ: مُحْصَرًا، وَلَمْ يُسَمِّهِ: مُتَمَتِّعًا - وَفَرَّقَ بَيْنَ حُكْمِهِ وَبَيْنَ حُكْمِ الْمُتَمَتِّعِ، قَالَ - تَعَالَى -: {فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] وَقَالَ - تَعَالَى -: {فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ تِلْكَ عَشَرَةٌ كَامِلَةٌ ذَلِكَ لِمَنْ لَمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ} [البقرة: ١٩٦] فَفَرَّقَ - تَعَالَى - بَيْنَ اسْمَيْهِمَا وَبَيْنَ حُكْمَيْهِمَا، فَلَمْ يَجُزْ أَنْ يُقَالَ: هُمَا شَيْءٌ وَاحِدٌ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

[22] **Qur'an references (L13686):** Qur'an 2:196 (Al-Baqarah).

ثُمَّ نَظَرْنَا فِي قَوْلِ طَاوُسٍ: إنَّ مَنْ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ فَهُوَ مُتَمَتِّعٌ، وَإِنْ لَمْ يَحُجَّ مِنْ عَامِهِ ذَلِكَ، فَوَجَدْنَاهُ خَطَأً، لِأَنَّ اللَّهَ - تَعَالَى - يَقُولُ: {فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ} [البقرة: ١٩٦] فَصَحَّ بِنَصِّ الْقُرْآنِ أَنَّهُ لَيْسَ مُتَمَتِّعًا إلَّا مَنْ حَجَّ بَعْدَ عُمْرَتِهِ لِوُجُوبِ الصِّيَامِ عَلَيْهِ فِي الْحَجِّ إنْ لَمْ يَجِدْ هَدْيًا.

L13689 Then we examined the statement of Ṭāwus: "Whoever performs ʿUmrah during the months of Ḥajj is a mutamattiʿ, even if he does not perform Ḥajj in that same year." We found this erroneous, for Allah—Exalted is He—states: "Whoever combines ʿUmrah with Ḥajj should offer what is readily available as a sacrificial offering. Whoever cannot afford it must fast three days during the days of Ḥajj and seven when you return" [Al-Baqarah: 196]. Thus, the Quranic text definitively confirms that none is considered a mutamattiʿ except one who performs Ḥajj after his ʿUmrah, due to the obligation of fasting during the days of Ḥajj upon him if he cannot find an offering.[23]

ثُمَّ نَظَرْنَا فِيمَنْ اعْتَمَرَ فِي غَيْرِ أَشْهُرِ الْحَجِّ، أَوْ فِي أَشْهُرِ الْحَجِّ، أَوْ اعْتَمَرَ بَعْضَ عُمْرَتِهِ فِي غَيْرِ أَشْهُرِ الْحَجِّ أَقَلَّهَا أَوْ أَكْثَرَهَا، وَبَعْضَهَا فِي أَشْهُرِ الْحَجِّ أَقَلَّهَا أَوْ أَكْثَرَهَا، وَفِيمَنْ أَقَامَ مِنْ هَؤُلَاءِ بِمَكَّةَ حَتَّى حَجَّ مِنْ عَامِهِ أَوْ لَمْ يُقِمْ لَكِنْ خَرَجَ إلَى مَسَافَةٍ تُقْصَرُ فِيهَا الصَّلَاةُ أَوْ لَا تُقْصَرُ، أَوْ إلَى مِيقَاتٍ أَوْ وَرَاءَ مِيقَاتٍ إلَى بَلَدِهِ أَوْ مِثْلِ بَلَدِهِ أَوْ أَبْعَدَ مِنْ بَلَدِهِ، ثُمَّ حَجَّ مِنْ عَامِهِ فَكَانَ كُلُّ هَؤُلَاءِ مُمْكِنًا فِي اللُّغَةِ أَنْ يَقَعَ عَلَيْهِ اسْمُ: مُتَمَتِّعٌ بِالْعُمْرَةِ إلَى الْحَجِّ، وَمُمْكِنًا أَنْ لَا يَقَعَ عَلَيْهِ أَيْضًا اسْمُ: مُتَمَتِّعٌ - فَلَمْ يَجُزْ أَنْ يُوقِعَ عَلَى أَحَدٍ إيجَابَ غَرَامَةِ هَدْيٍ أَوْ إيجَابَ صَوْمٍ بِالظَّنِّ إلَّا بِبَيَانٍ جَلِيٍّ أَنَّ اللَّهَ - تَعَالَى - أَلْزَمَهُ ذَلِكَ، فَوَجَبَ الرُّجُوعُ إلَى بَيَانِ سُنَّةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي ذَلِكَ -: فَوَجَدْنَا مَا رُوِّينَاهُ مِنْ طَرِيقِ الْبُخَارِيِّ نَا يَحْيَى بْنُ بُكَيْرٍ نَا اللَّيْثُ هُوَ ابْنُ سَعْدٍ - عَنْ عُقَيْلِ بْنِ خَالِدٍ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: قَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ «تَمَتَّعَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجَّةِ الْوَدَاعِ بِالْعُمْرَةِ إلَى الْحَجِّ، وَأَهْدَى وَسَاقَ مَعَهُ الْهَدْيَ مِنْ ذِي الْحُلَيْفَةِ وَبَدَأَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَأَهَلَّ بِالْعُمْرَةِ ثُمَّ أَهَلَّ بِالْحَجِّ فَتَمَتَّعَ النَّاسُ مَعَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْعُمْرَةِ إلَى الْحَجِّ، فَكَانَ مِنْ النَّاسِ مَنْ أَهْدَى، فَسَاقَ الْهَدْيَ وَمِنْهُمْ مَنْ لَمْ يُهْدِ، فَلَمَّا قَدِمَ رَسُولُ اللَّهِ - صَلَّى

L13690–13692 Then we examined those who performed Umrah outside the Hajj months, during the Hajj months, or performed part of their Umrah—whether a smaller or larger part—outside the Hajj months and another part during the Hajj months—whether a smaller or larger part. We also considered those among them who resided in Mecca until performing Hajj in the same year, or did not reside but traveled a distance where prayer is shortened or not shortened, or to a miqat boundary, beyond a miqat to their hometown, a distance equivalent to their hometown, or farther than their hometown, then performed Hajj in the same year. All these scenarios could linguistically fall under the term "one performing *Tamattuʿ* (combining Umrah with Hajj)," or they might not. Thus, it is impermissible to impose the obligation of a sacrificial animal or fasting on anyone through mere speculation unless there is clear evidence that Allah—Exalted is He—has mandated it. Consequently, we must refer to the clarification in the Sunnah of Allah's Messenger—peace and blessings be upon him. We found what we narrated via Bukhari's chain: Yahya ibn Bukayr narrated to us; al-Layth—he is Ibn Sa'd—narrated to us, from 'Uqayl ibn Khalid, from al-Zuhri, from Salim ibn 'Abdullah ibn 'Umar, who said: 'Abdullah ibn 'Umar stated, "Allah's Messenger—peace and blessings be upon him—performed *Tamattuʿ* during the Farewell Hajj by combining Umrah with Hajj. He presented a sacrificial animal and drove it with him from Dhul-Hulayfah. The Messenger—peace and blessings be upon him—first entered *Ihram* for Umrah, then entered *Ihram* for Hajj. The people performed *Tamattuʿ* with the Prophet—peace and

[23] **Qur'an references (L13689):** Qur'an 2:196 (Al-Baqarah).

blessings be upon him—by combining Umrah with Hajj. Some brought sacrificial animals, while others did not. When Allah's Messenger—peace and blessings be upon him—arrived in Mecca, he said to the people: 'Whoever among you has presented a sacrificial animal must not cease from anything he was prohibited from.'" until he completes his Hajj. Whoever among you lacks a sacrificial animal must perform Tawaf around the House and between Safa and Marwah, shorten his hair, and exit Ihrām. Then he must assume Ihrām for Hajj. Whoever cannot procure a sacrificial animal must fast three days during Hajj and seven days upon returning home." The remainder of the authentic hadith was narrated. This text clarifies: *Who is the Tamattuʿ pilgrim (undertaking Umrah followed by Hajj in the same journey) obligated to offer the sacrifice or observe the prescribed fasting?* This is because the Prophet (peace be upon him) issued this ruling exclusively to his companions who performed *Tamattuʿ* by undertaking Umrah followed by Hajj in the same journey (after exiting Ihrām). They were people who initiated Ihrām for Umrah during the Hajj months and performed Hajj within those same months. This established narration thereby excludes from *Tamattuʿ* status anyone who performed any portion of their Umrah outside *all*, *most*, or even *fewer* of the Hajj months. This is because the Prophet (peace be upon him) indubitably did not address anyone possessing these characteristics in this ruling, thus resolving all ambiguity regarding their status with certainty.

اللَّهُ عَلَيْهِ وَسَلَّمَ - مَكَّةَ قَالَ لِلنَّاسِ: مَنْ كَانَ مِنْكُمْ أَهْدَى فَإِنَّهُ لَا يَحِلُّ مِنْ شَيْءٍ حُرِمَ مِنْهُ حَتَّى يَقْضِيَ حَجَّهُ، وَمَنْ لَمْ يَكُنْ مِنْكُمْ أَهْدَى فَلْيَطُفْ بِالْبَيْتِ وَبِالصَّفَا وَالْمَرْوَةِ وَيُقَصِّرْ وَيَحِلَّ ثُمَّ لِيُهِلَّ بِالْحَجِّ فَمَنْ لَمْ يَجِدْ هَدْيًا فَلْيَصُمْ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةً إِذَا رَجَعَ إِلَى أَهْلِهِ» وَذَكَرَ بَاقِيَ الْحَدِيثِ، فَكَانَ فِي هَذَا الْخَبَرِ بَيَانُ مَنْ هُوَ الْمُتَمَتِّعُ الَّذِي يَجِبُ عَلَيْهِ الْهَدْيُ أَوْ الصَّوْمُ الْمَذْكُورُ؟ وَهُوَ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنَّمَا أَمَرَ بِهَذَا أَصْحَابَهُ الْمُتَمَتِّعِينَ بِالْعُمْرَةِ إلَى الْحَجِّ، وَهُمْ قَوْمٌ ابْتَدَءُوا الْإِحْرَامَ لِعُمْرَتِهِمْ فِي أَشْهُرِ الْحَجِّ ثُمَّ حَجُّوا فِي تِلْكَ الْأَشْهُرِ - نَخْرُجُ بِهَذَا الْخَبَرِ الثَّابِتِ عَنْ أَنْ يَكُونَ مُتَمَتِّعًا بِالْعُمْرَةِ إلَى الْحَجِّ كُلُّ مَنْ عَمِلَ شَيْئًا مِنْ عُمْرَتِهِ فِي غَيْرِ أَشْهُرِ الْحَجِّ كُلِّهَا أَوْ أَكْثَرِهَا أَوْ أَقَلِّهَا؛ لِأَنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يُخَاطِبْ بِهَذَا الْحُكْمِ أَحَدًا مِنْ أَهْلِ هَذِهِ الصِّفَاتِ بِلَا شَكٍّ وَارْتَفَعَ الْإِشْكَالُ فِي أَمْرِ هَؤُلَاءِ بِيَقِينٍ.

L13693 Additionally, it is said to the one who claims: "If one performs the majority of his Umrah during the months of Hajj, then he is a Mutamatti'": From where do you derive this ruling? This is stated without him asserting: "Whoever performs any part of it during the months of Hajj is a Mutamatti'," and is there no way to evidence this? It is also said to him: From where do you conclude that four circuits of the Umrah's circumambulation constitute the majority? Rather, this is part of the minority, for Umrah — according to your view and ours — entails assuming the state of ihram, followed by seven circuits, then seven rounds between Safa and Marwah. Thus, the remainder after the four circuits may constitute a greater portion of the Umrah's rites than what preceded.

وَأَيْضًا فَيُقَالُ لِمَنْ قَالَ: إنْ عَمِلَ الْأَكْثَرَ مِنْ عُمْرَتِهِ فِي أَشْهُرِ الْحَجِّ فَهُوَ مُتَمَتِّعٌ: مِنْ أَيْنَ لَك هَذَا؟ دُونَ أَنْ يَقُولَ: إنَّ مَنْ عَمِلَ مِنْهَا شَيْئًا فِي أَشْهُرِ الْحَجِّ فَهُوَ مُتَمَتِّعٌ، وَلَا سَبِيلَ إلَى دَلِيلٍ عَلَى ذَلِكَ؟ وَيُقَالُ لَهُ أَيْضًا: مِنْ أَيْنَ لَكَ أَنَّ أَرْبَعَةَ أَشْوَاطٍ مِنْ طَوَافِ الْعُمْرَةِ هُوَ الْأَكْثَرُ؟ بَلْ هُوَ مِنْ جُمْلَةِ الْأَقَلِّ، لِأَنَّ الْعُمْرَةَ عِنْدَك وَعِنْدَنَا إحْرَامُ مُدَّةٍ ثُمَّ سَبْعَةِ أَشْوَاطٍ، ثُمَّ سَبْعَةِ أَطْوَافٍ بَيْنَ الصَّفَا وَالْمَرْوَةِ، فَالْبَاقِي بَعْدَ الْأَرْبَعَةِ الْأَشْوَاطِ قَدْ يَكُونُ أَكْثَرَ مِمَّا مَضَى لَهُ مِنْ عَمَلِ الْعُمْرَةِ.

L13694 And it is said to one who asserts, "If someone performs any part of their

Umrah during the months of Hajj, they are a *Mutamatti'*": On what basis do you make this assertion? Unless you specify, "If they perform the majority of it during the months of Hajj, they are a *Mutamatti'*," there is absolutely no evidence whatsoever. Both positions contradict one another, and both are entirely baseless. And success comes from Allah, the Most High.

وَيُقَالُ لِمَنْ قَالَ: إنْ عَمِلَ مِنْ عُمْرَتِهِ شَيْئًا فِي أَشْهُرِ الْحَجِّ فَهُوَ مُتَمَتِّعٌ: مِنْ أَيْنَ قُلْتَ هَذَا؟ دُونَ أَنْ تَقُولَ: إنْ عَمِلَ الْأَكْثَرَ مِنْهَا فِي أَشْهُرِ الْحَجِّ فَهُوَ مُتَمَتِّعٌ، وَلَا سَبِيلَ إلَى دَلِيلٍ أَصْلًا، وَكِلْتَا الدَّعْوَتَيْنِ تُعَارِضُ الْأُخْرَى، وَكِلْتَاهُمَا لَا شَيْءَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13695–13697 There remains the issue of one who departs after performing Umrah during the months of Hajj to his homeland, to a land similar in distance to his homeland, beyond one of the designated Miqats, to one of the designated Miqats, or to a place where prayer is shortened. We find this narration from the Messenger of Allah—peace and blessings be upon him—who clarifies Allah's intent, the Exalted. He did not stipulate that those addressed by this ruling must reside in Mecca or refrain from departing from it entirely. "He does not speak from whim. It is but revelation inspired" (53:3-4). "Your Lord is never forgetful" (19:64). Even if this were... Among the conditions of *tamattu'*, since the Messenger of Allah (peace and blessings be upon him) did not clarify it, we now need to resort to invalid reasoning, false conjecture, and contradictory statements without evidence.[24]

وَبَقِيَ أَمْرُ مَنْ خَرَجَ بَعْدَ اعْتِمَارِهِ فِي أَشْهُرِ الْحَجِّ إلَى بَلَدِهِ أَوْ إلَى بَلَدٍ فِي الْبُعْدِ مِثْلِ بَلَدِهِ، أَوْ إلَى وَرَاءِ مِيقَاتٍ مِنْ الْمَوَاقِيتِ، أَوْ إلَى مِيقَاتٍ مِنْ الْمَوَاقِيتِ، أَوْ إلَى مَا تُقْصَرُ فِيهِ الصَّلَاةُ -: فَوَجَدْنَا هَذَا الْخَبَرَ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْمُبَيِّنِ عَنْ اللَّهِ - تَعَالَى - مُرَادَهُ لَمْ يَشْتَرِطْ فِيهِ عَلَى مَنْ خَاطَبَهُ بِذَلِكَ الْحُكْمِ إقَامَةً بِمَكَّةَ وَتَرْكَ خُرُوجٍ مِنْهَا أَصْلًا {وَمَا يَنْطِقُ عَنِ الْهَوَى} [النجم: ٣] {إِنْ هُوَ إِلا وَحْيٌ يُوحَى} [النجم: ٤] {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] وَلَوْ كَانَ هَذَا مِنْ شَرْطِ التَّمَتُّعِ لَمَا أَغْفَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَيَانَهُ حَتَّى نَحْتَاجَ فِي ذَلِكَ إلَى بَيَانٍ بِرَأْيٍ فَاسِدٍ، وَظَنٍّ كَاذِبٍ، وَتَدَافُعٍ مِنْ الْأَقْوَالِ بِلَا بُرْهَانٍ.

L13698 The statement of the Prophet—may Allah's peace and blessings be upon him—in this authentic report: "He may exit iḥlāl (exit the state of consecration), then he should enter ihlāl (assume the state of consecration) specifically for Hajj," clarifies the permissibility of the period between exiting iḥlāl and entering ihlāl. There is no restriction for those among them—may Allah be pleased with them—who have a need requiring departure from Mecca for it. Thus, it is invalid to consider residing in Mecca until performing Hajj as one of the conditions of tamattuʿ (a form of Hajj combining Umrah and Hajj with a break). And with Allah, the Most High, lies all success.

وَقَوْلُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي هَذَا الْخَبَرِ الثَّابِتِ: «وَيَحِلَّ ثُمَّ لِيُهِلَّ بِالْحَجِّ» بَيَانٌ بِإِبَاحَةِ الْمُهْلَةِ بَيْنَ الْإِحْلَالِ وَالْإِهْلَالِ، وَلَا مَانِعَ لِمَنْ عَرَضَتْ لَهُ مِنْهُمْ - رَضِيَ اللَّهُ عَنْهُمْ - حَاجَةٌ مِنْ الْخُرُوجِ عَنْ مَكَّةَ لَهَا - فَبَطَلَ أَنْ تَكُونَ الْإِقَامَةُ بِمَكَّةَ حَتَّى يَحُجَّ مِنْ شُرُوطِ التَّمَتُّعِ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

[24] **Qur'an references (L13695):** Qur'an 53:3 (An-Najm); Qur'an 53:4 (An-Najm); Qur'an 19:64 (Maryam).

وَصَحَّ أَنَّ الْمُتَمَتِّعَ بِنَصِّ الْخَبَرِ الْمَذْكُورِ هُوَ مَنْ أَهَلَّ بِالْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ ثُمَّ حَجَّ فِي تِلْكَ الْأَشْهُرِ فَقَطْ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13699 It has been established that the *mutamattiʿ*, according to the explicit text of the aforementioned report, is one who assumes *ihram* for ʿUmrah during the months of Hajj and then performs Hajj only within those same months. And success is by Allah, the Exalted.

L13700 Then it is said to those who assert: "If one departs to their homeland, the obligation of sacrifice or fasting—which God, Exalted, has mandated upon the *mutamatti*—is waived." What is your evidence for this? What distinction exists between your claim and those who say: "If one departs to a land as distant as their homeland, they cease to be a *mutamatti*?" Similarly, it is said to those who argue: "If one departs to a land equally distant as their homeland, they are not a *mutamatti*"—what proof supports this? Why did you not limit the waiver of obligation exclusively to those returning to their homeland? And why do you not both instead declare: "Whoever departs beyond a *miqat* is no longer a *mutamatti*?"

Abu Muḥammad said: They have no escape from this question whatsoever unless one retorts: "They were required to perform Hajj from their homeland or from one of the designated ritual boundaries (*mawaqit*)." To such claimants, we respond: You have uttered falsehood. God, Exalted, has never obligated any Muslim to perform Hajj from their homeland, nor from a land equally distant, nor strictly from a *miqat*. Indeed, you yourselves agree with us that a Muslim, upon first attaining the means for Hajj, if they depart for trade or other purposes prior to the Hajj season—and later resolve to perform Hajj—retains sufficient time between their departure and the Hajj period to reach it without constraint. They are not compelled to journey to Mecca at that initial time. If they approach Mecca for their needs and the Hajj period arrives while they remain capable, performing Hajj from that location fulfills their obligation completely. They bear no blame whatsoever for not having initiated Hajj from their homeland.

L13701–13703 Similarly, there is no disagreement that one who passes by a miqat without intending Hajj, Umrah, or entry into Makkah—but rather for a need of his in Rihāṭ or in the garden of Ibn ʿĀmir (Bustān Ibn ʿĀmir)—is not obligated to initiate ihram from that point, and that if he... When he intends to perform

ثُمَّ يُقَالُ لِمَنْ قَالَ: إنْ خَرَجَ إلَى بَلَدِهِ سَقَطَ عَنْهُ الْهَدْيُ وَالصَّوْمُ اللَّذَانِ افْتَرَضَ اللَّهُ - تَعَالَى - أَحَدَهُمَا عَلَى الْمُتَمَتِّعِ: مِنْ أَيْنَ لَك هَذَا؟ وَمَا الْفَرْقُ بَيْنَ مَنْ قَالَ: إنْ خَرَجَ إلَى بَلَدٍ مِثْلِ بَلَدِهِ فِي الْبُعْدِ فَلَيْسَ بِمُتَمَتِّعٍ؟ وَهَكَذَا يُقَالُ أَيْضًا لِمَنْ قَالَ: إنْ خَرَجَ إلَى بَلَدٍ فِي الْبُعْدِ مِثْلِ بَلَدِهِ فَلَيْسَ بِمُتَمَتِّعٍ مِنْ أَيْنَ قُلْتَ هَذَا؟ وَهَلَّا خَصَّصْتَ بِسُقُوطِ التَّمَتُّعِ مَنْ خَرَجَ إلَى بَلَدِهِ فَقَطْ، وَيُقَالُ لَهُمَا جَمِيعًا: هَلَّا قُلْتُمَا مَنْ خَرَجَ إلَى وَرَاءِ مِيقَاتٍ فَلَيْسَ بِمُتَمَتِّعٍ؟ -: قَالَ أَبُو مُحَمَّدٍ: لَا مَخْلَصَ لَهُمْ مِنْ هَذَا السُّؤَالِ أَصْلًا إلَّا أَنْ يَقُولَ قَائِلُهُمْ: كَانَ عَلَيْهِ أَنْ يَأْتِيَ بِالْحَجِّ مِنْ بَلَدِهِ أَوْ مِنْ مِيقَاتٍ مِنْ الْمَوَاقِيتِ؟ فَنَقُولُ لِمَنْ قَالَ هَذَا: قُلْت الْبَاطِلَ، وَمَا أَوْجَبَ اللَّهُ - تَعَالَى - قَطُّ عَلَى أَحَدٍ مِنْ أَهْلِ الْإِسْلَامِ أَنْ يَأْتِيَ بِالْحَجِّ مِنْ بَلَدِهِ وَلَا مِنْ مِثْلِ بَلَدِهِ فِي الْبُعْدِ وَلَا مِنْ مِيقَاتٍ وَلَا بُدَّ، بَلْ أَنْتُمْ مُجْمِعُونَ مَعَنَا عَلَى أَنَّ الْمُسْلِمَ فِي أَوَّلِ أَوْقَاتِ الِاسْتِطَاعَةِ لِلْحَجِّ لَوْ خَرَجَ تَاجِرًا أَوْ مُسَافِرًا لِبَعْضِ الْأَمْرِ قَبْلَ مِقْدَارِ مَا إنْ أَرَادَ الْحَجَّ كَانَتْ لَهُ مُهْلَةٌ بَيْنَهُ وَبَيْنَ الْوَقْتِ الَّذِي إذَا أَهَلَّ [فِيهِ] أَدْرَكَ الْحَجَّ عَلَى سَعَةٍ وَمَهْلٍ، فَإِنَّهُ لَا يَلْزَمُهُ الْخُرُوجُ إلَى مَكَّةَ حِينَئِذٍ أَصْلًا، وَأَنَّهُ إنْ قَرُبَ مِنْ مَكَّةَ لِحَاجَتِهِ فَقَرُبَ وَقْتُ الْحَجِّ وَهُوَ بِمُسْتَطِيعٍ لَهُ فَحَجَّ مِنْ ذَلِكَ الْمَكَانِ أَنَّهُ قَدْ أَدَّى مَا عَلَيْهِ بِأَتَمِّ مَا يَلْزَمُهُ، وَأَنَّهُ لَا شَيْءَ عَلَيْهِ إذْ لَمْ يَأْتِ لِلْحَجِّ مِنْ بَلَدِهِ أَصْلًا.

وَكَذَلِكَ لَا خِلَافَ فِيمَنْ جَازَ عَلَى مِيقَاتٍ لَا يُرِيدُ حَجًّا، وَلَا عُمْرَةً، وَلَا دُخُولَ مَكَّةَ لَكِنْ لِحَاجَةٍ لَهُ فِي رِهَاطٍ أَوْ فِي بُسْتَانِ ابْنِ عَامِرٍ أَنَّهُ لَا يَلْزَمُهُ الْإِهْلَالُ مِنْ هُنَالِكَ،

وَأَنَّهُ إِنْ بَدَا لَهُ فِي الْحَجِّ وَالْعُمْرَةِ، وَقَدْ تَجَاوَزَ الْمِيقَاتَ فَإِنَّهُ يُهِلُّ مِنْ مَكَانِهِ ذَلِكَ، وَحَجُّهُ تَامٌّ وَعُمْرَتُهُ تَامَّةٌ، وَأَنَّهُ غَيْرُ مُقَصِّرٍ فِي شَيْءٍ مِمَّا يَلْزَمُهُ.

Ḥajj and ʿUmrah after passing the Miqāt, he must assume iḥrām from his current location. His Ḥajj will be valid, his ʿUmrah will be valid, and that he has not neglected any of his obligatory duties.

فَصَحَّ أَنَّ الْقَصْدَ لِلْحَجِّ أَوْ الْعُمْرَةِ مِنْ بَلَدِ الْإِنْسَانِ، أَوْ مِنْ مِثْلِ بَلَدِهِ فِي الْبُعْدِ، أَوْ مِنْ الْمِيقَاتِ لِمَنْ لَمْ يَمُرَّ بِهِ، وَهُوَ يُرِيدُ حَجًّا أَوْ عُمْرَةً لَيْسَ شَيْءٌ مِنْ ذَلِكَ مِنْ شُرُوطِ الْحَجِّ، وَلَا الْعُمْرَةِ - فَبَطَلَتْ هَذِهِ الْأَقْوَالُ الْفَاسِدَةُ جِدًّا، وَكَانَ تَعَارُضُهَا وَتَوَافُقُهَا بُرْهَانًا فِي فَسَادِ جَمِيعِهَا، فَإِنْ قَالَ مَنْ قَالَ: إنَّهُ إنْ خَرَجَ إلَى الْمِيقَاتِ فَلَيْسَ بِمُتَمَتِّعٍ؛ لِأَنَّ أَهْلَ الْمَوَاقِيتِ لَيْسَ لَهُمْ التَّمَتُّعُ؟ قُلْنَا لَهُ: قَدْ قُلْتَ الْبَاطِلَ، وَاحْتَجَجْت لِلْخَطَأِ بِالْخَطَأِ، وَلِدَعْوَى كَاذِبَةٍ، وَكَفَى بِهَذَا مَقْتًا.

L13704 It has thus been established that the intention to perform Hajj or *ʿUmrah* from one's city of residence, from a place equally distant as one's city, or from the *miqat* for those who do not pass by it while intending Hajj or *ʿUmrah*—none of these are among the conditions of Hajj or *ʿUmrah*. Thus, these utterly baseless claims have been nullified, and both their contradictions and their agreement stand as proof against all of them. If someone argues: "If one proceeds to the *miqat*, they cannot be a *mutamattiʿ*, for the people of the *miqat* are not permitted *Tamattuʿ*," we reply: You have spoken falsely, defending error with error and advancing a groundless claim—this alone suffices to condemn it.

فَإِنْ قَالَ: إنَّ أَهْلَ الْمَوَاقِيتِ فَمَا دُونَهَا إلَى مَكَّةَ لَا هَدْيَ عَلَيْهِمْ وَلَا صَوْمَ فِي التَّمَتُّعِ؟ قُلْنَا: قُلْت الْبَاطِلَ وَادَّعَيْت مَا لَا يَصِحُّ، ثُمَّ لَوْ صَحَّ لَك لَكَانَ حُجَّةً عَلَيْك؛ لِأَنَّ أَهْلَ مَكَّةَ لَا هَدْيَ عَلَيْهِمْ، وَلَا صَوْمَ فِي التَّمَتُّعِ وَلَمْ يَكُنْ الْمُقِيمُ بِهَا حَتَّى يَحُجَّ كَذَلِكَ، بَلْ الْهَدْيُ عَلَيْهِ، أَوْ الصَّوْمُ؛ فَهَلَّا إذْ كَانَ عِنْدَك مَنْ خَرَجَ إلَى مِيقَاتٍ فَمَا دُونَهُ إلَى مَكَّةَ يَصِيرُ فِي حُكْمِ مَنْ هُوَ مِنْ أَهْلِ ذَلِكَ الْمَوْضِعِ فِي سُقُوطِ الْهَدْيِ وَالصَّوْمِ عَلَيْهِ، جَعَلْت أَيْضًا الْمُقِيمَ بِمَكَّةَ حَتَّى يَحُجَّ فِي حُكْمِ أَهْلِ مَكَّةَ فِي سُقُوطِ الْهَدْيِ وَالصَّوْمِ عَنْهُمَا - فَظَهَرَ تَنَاقُضُ هَذَا الْقَوْلِ الْفَاسِدِ أَيْضًا.

L13705 If he says: "Indeed, the people of the *miqāts* and the areas between them and Mecca are not obligated to offer a sacrificial animal nor to fast during Tamattuʿ?" We respond: You have uttered falsehood and claimed what is invalid. Furthermore, even if this were valid for you, it would still serve as evidence against you. For while the people of Mecca are exempt from offering a sacrificial animal or fasting during Tamattuʿ, the resident there until performing Hajj was not similarly exempt. Rather, the sacrificial animal or fasting remains obligatory upon him. Why then—given that you assert one who travels to a *miqāt* or areas between it and Mecca assumes the legal status of that location's inhabitants regarding exemption from the sacrificial animal and fasting—do you not also place the resident of Mecca until he performs Hajj under the ruling of Mecca's inhabitants in exempting them from both obligations? Thus, the contradiction within this invalid statement has also become evident.

ثُمَّ يُقَالُ لِمَنْ قَالَ: إنْ خَرَجَ إلَى مَكَان تُقْصَرُ فِيهِ الصَّلَاةُ، سَقَطَ عَنْهُ الْهَدْيُ وَالصَّوْمُ: مِنْ أَيْنَ قُلْت هَذَا؟ وَلَا دَلِيلَ عَلَى صِحَّةِ هَذَا الْقَوْلِ أَصْلًا.

L13706 Then it is said to the one who claims, "If one travels to a place where prayer is shortened, the sacrificial offering and fasting are no longer required of him": On what grounds do you make this claim? There is no evidence whatsoever to support the validity of this statement.

فَإِنْ قَالَ: لِأَنَّهُ قَدْ سَافَرَ إِلَى الْحَجِّ؟ قُلْنَا: نَعَمْ فَكَانَ مَاذَا؟ وَمَا الَّذِي جَعَلَ سَفَرَهُ مُسْقِطًا لِلْهَدْيِ، وَالصَّوْمِ اللَّذَيْنِ أَوْجَبَ اللَّهُ - تَعَالَى - عَلَيْهِ؟ هَاتُوا شَيْئًا غَيْرَ هَذِهِ الدَّعْوَى وَلَا سَبِيلَ إِلَى ذَلِكَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13707 If he says: "Because he has traveled for Hajj?" We respond: "Yes—so what then? What has rendered his journey a cause to nullify the sacrificial offering and the fasting, both of which Allah—the Most High—has obligated upon him? Bring forth something beyond this mere assertion, for there is no path to validating it—and success comes only from Allah, the Most High."

قَالَ أَبُو مُحَمَّد: وَمِنْ هَذَا الْخَبَرِ الَّذِي ذَكَرْنَا غَلِطَ أَبُو حَنِيفَةَ، وَأَصْحَابُهُ فِي إيجَابِهِمْ عَلَى الْمُتَمَتِّعِ الَّذِي سَاقَ الْهَدْيَ: أَنْ يَبْقَى عَلَى إحْرَامِهِ حَتَّى يَقْضِيَ حَجَّهُ -: قَالَ أَبُو مُحَمَّد: وَلَا حُجَّةَ لَهُمْ فِيهِ، لِأَنَّ ابْنَ عُمَرَ رَاوِي الْخَبَرِ - رَضِيَ اللَّهُ عَنْهُ - وَإِنْ كَانَ قَالَ فِي أَوَّلِهِ: تَمَتَّعَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجَّةِ الْوَدَاعِ فِي الْعُمْرَةِ إلَى الْحَجِّ فَإِنَّهُ بَيَّنَ إثْرَ هَذَا الْكَلَامِ صِفَةَ «عَمَلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَ أَنَّهُ - عَلَيْهِ السَّلَامُ - بَدَأَ فَأَهَلَّ بِالْعُمْرَةِ ثُمَّ أَهَلَّ بِالْحَجِّ» فَذَكَرَ صِفَةَ الْقِرَانِ.

L13708–13710 And based on this report we have mentioned, Abu Hanifa and his companions erred in their ruling obliging the Tamattuʿ pilgrim (mutamatti) who brought the sacrificial animal to remain in his state of iḥrām until completing his Hajj. Abu Muhammad said: They have no valid proof for this position, because Ibn Umar - the narrator of this report, may Allah be pleased with him - even if... He said at the beginning: "The Messenger of Allah (peace and blessings of Allah be upon him) performed Tamattuʿ during the Farewell Pilgrimage through combining ʿUmrah with Hajj." Following this statement, he clarified the description of 'the Prophet's practice' (peace and blessings of Allah be upon him), mentioning that he (peace and blessings of Allah be upon him) initiated by entering the state of ihram for ʿUmrah, then entered the state of ihram for Hajj - thereby describing the manner of Qirān.

وَهَكَذَا صَحَّ فِي سَائِرِ الْأَخْبَارِ مِنْ رِوَايَةِ الْبَرَاءِ، وَعَائِشَةَ، وَحَفْصَةَ أُمَّيْ الْمُؤْمِنِينَ، وَأَنَسٍ، وَغَيْرِهِمْ: أَنَّهُ - عَلَيْهِ السَّلَامُ - كَانَ قَارِنًا.

L13711 And thus, it has been authentically established through all other reports narrated by Al-Barāʾ, ʿĀishah, Ḥafṣah (the two Mothers of the Believers), Anas, and others: that he (peace be upon him) was a *qirān* performer—the combination of Ḥajj and ʿUmrah.

فَصَحَّ أَنَّ الَّذِينَ أَمَرَهُمْ - عَلَيْهِ السَّلَامُ - إذْ أَهْدَوْا بِأَنْ لَا يَحِلُّوا إنَّمَا كَانُوا قَارِنِينَ - وَهَكَذَا رَوَتْ عَائِشَةُ أُمُّ الْمُؤْمِنِينَ - رَضِيَ اللَّهُ عَنْهَا - «أَنَّهُ - عَلَيْهِ السَّلَامُ - أَمَرَ مَنْ مَعَهُ الْهَدْيُ بِأَنْ يُهِلَّ بِحَجٍّ مَعَ عُمْرَتِهِ» فَعَادَ احْتِجَاجُهُمْ عَلَيْهِمْ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13712 Thus, it is established that those whom he—peace be upon him—commanded, when they offered the sacrificial animal, not to terminate Ihrām were indeed performing *Qirān*. Similarly, ʿĀ'ishah, the Mother of the Believers—may Allah be pleased with her—narrated that he—peace be upon him—commanded those with him who had the sacrificial animal to enter Ihrām for Hajj concurrently with his Umrah. Thus, their argument rebounded against them—and success comes only from Allah, the Exalted.

فَإِنْ قَالَ قَائِلٌ: قَدْ صَحَّ الْإِجْمَاعُ عَلَى أَنَّ مَنْ تَمَتَّعَ بِالْعُمْرَةِ إلَى الْحَجِّ فَابْتَدَأَ عُمْرَتَهُ فِي أَشْهُرِ الْحَجِّ، ثُمَّ أَقَامَ بِمَكَّةَ إلَى أَنْ حَجَّ لَمْ يَخْرُجْ عَنْهَا أَنَّهُ مُتَمَتِّعٌ عَلَيْهِ الْهَدْيُ، أَوْ الصَّوْمُ -

L13713 If someone says: A consensus has been established that whoever performs Tamattuʿ by entering *Ihram* for Umrah during the Hajj months, then remains in Mecca until performing Hajj without departing is a *mutamattiʿ* obligated to offer a sacrificial animal or fast—but they differed regarding one

who enters *Ihram* for Umrah before the Hajj months or departs Mecca between Umrah and Hajj: Is he a *mutamattiʿ* or not? Thus, the obligation of the sacrificial animal or fasting would apply only if there is unanimous agreement that he is subject to the *mutamattiʿ* ruling. We say: This is erroneous. People have never agreed upon your claim. It has been narrated to us from Ibn al-Zubayr that the *mutamattiʿ* refers to the *muḥṣar* (one prevented [from completing Hajj]), not one who performs Hajj after Umrah. There is no validity in observing consensus when the Prophet's (peace be upon him) clarification exists, for this claim necessitates contradicting his commands (peace be upon him) in matters lacking unanimous agreement—this is pure falsehood. Rather, when people dispute, we refer to what Allah (Exalted is He) obligated us to refer: the Quran and Sunnah. We do not consider their consensus when a Prophetic clarification exists in one of the disputants' positions. Success is by Allah, the Exalted.

L13714 **The ritual standing at Arafat pertaining to the sacrificial offering.**

L13715 As for our statement that it is not obligatory to halt the sacrificial animal at Arafah—if one does so, it is acceptable, and if not, that too is acceptable—this is because Malik and his followers assert that a sacrificial animal purchased within the sacred precincts does not suffice unless it is necessarily halted at Arafah. Otherwise, it remains invalid if the sacrifice was obligatory. If it is a supererogatory offering not halted at Arafah, it must be slaughtered in Mecca without exception, and it is impermissible to slaughter it in Mina. If the sacrificial animal is purchased outside the sacred precincts and then brought into them, it suffices even if not halted at Arafah. Camels, cattle, and sheep are treated equally in all these rulings according to their school.

L13716–13718 Al-Layth said: It is not considered a *hady* [a sacrificial animal during Hajj] unless it has been garlanded and marked, and the offerer has stood at Arafah. Abu Hanifah, al-Shāfiʿī, Sufyān, and Abū Sulaymān held: There is no significance to identifying the hady, whether purchased within the Sacred Precinct or in al-Ḥill [non-sacred territory]. If it is identified, it is permissible, and if it is not identified, it is permissible.

وَاخْتَلَفُوا فِيهِ إذَا أَهَلَّ بِعُمْرَةٍ قَبْلَ أَشْهُرِ الْحَجِّ، وَإِذَا خَرَجَ بَيْنَ عُمْرَتِهِ، وَحَجِّهِ مِنْ مَكَّةَ أَمُتَمَتِّعٌ [هُوَ] أَمْ لَا؟ فَوَجَبَ أَنْ لَا يَلْزَمَهُ الْهَدْيُ أَوْ الصَّوْمُ إلَّا مَنْ أَجْمَعَ عَلَى أَنَّهُ يَلْزَمُهُ حُكْمُ الْمُتَمَتِّعِ؟ قُلْنَا: هَذَا خَطَأٌ، وَمَا أَجْمَعَ النَّاسُ قَطُّ عَلَى مَا قُلْتُمْ، وَقَدْ رُوِّينَا عَنْ ابْنِ الزُّبَيْرِ أَنَّ الْمُتَمَتِّعَ هُوَ الْمُحْصَرُ لَا مَنْ حَجَّ بَعْدَ أَنْ اعْتَمَرَ، وَلَا مَعْنَى لِمُرَاعَاةِ الْإِجْمَاعِ مَعَ وُرُودِ بَيَانِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؛ لِأَنَّ فِي الْقَوْلِ بِهَذَا إيجَابَ مُخَالَفَةِ أَوَامِرِهِ - عَلَيْهِ السَّلَامُ - مَا لَمْ يُجْمِعْ النَّاسُ عَلَيْهَا، وَهَذَا عَيْنُ الْبَاطِلِ بَلْ إذَا تَنَازَعَ النَّاسُ رَدَدْنَا ذَلِكَ إلَى مَا افْتَرَضَ اللَّهُ - تَعَالَى - عَلَيْنَا الرَّدَّ إلَيْهِ مِنْ الْقُرْآنِ، وَالسُّنَّةِ لَا نُرَاعِي مَا أَجْمَعُوا عَلَيْهِ مَعَ وُجُودِ بَيَانِ السُّنَّةِ فِي أَحَدِ أَقْوَالِ الْمُتَنَازِعِينَ وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

## [الْوُقُوفُ بِالْهَدْيِ بِعَرَفَةَ]

وَأَمَّا قَوْلُنَا: لَا يَجِبُ الْوُقُوفُ بِالْهَدْيِ بِعَرَفَةَ فَإِنْ وَقَفَ بِهَا فَحَسَنٌ، وَإِلَّا فَحَسَنٌ؛ فَإِنَّ مَالِكًا وَمَنْ قَلَّدَهُ قَالَ: لَا يُجْزِئُ مِنْ الْهَدْيِ الَّذِي يُبْتَاعُ فِي الْحَرَمِ إلَّا أَنْ يُوقَفَ بِعَرَفَةَ وَلَا بُدَّ، وَإِلَّا فَلَا يُجْزِئُ إنْ كَانَ وَاجِبًا، فَإِنْ كَانَ تَطَوُّعًا فَلَمْ يُوقَفْ بِعَرَفَةَ فَإِنَّهُ يُنْحَرُ بِمَكَّةَ وَلَا بُدَّ، وَلَا يَجُوزُ أَنْ يُنْحَرَ بِمِنًى، فَإِنْ ابْتِيعَ الْهَدْيُ فِي الْحِلِّ ثُمَّ أُدْخِلَ الْحَرَمَ أَجْزَأَ، وَإِنْ لَمْ يُوقَفْ بِعَرَفَةَ - وَالْإِبِلُ، وَالْبَقَرُ، وَالْغَنَمُ عِنْدَهُمْ سَوَاءٌ فِي كُلِّ ذَلِكَ.

وَقَالَ اللَّيْثُ: لَا يَكُونُ هَدْيًا إلَّا مَا قَلَّدَ وَأَشْعَرَ وَوَقَفَ بِعَرَفَةَ -: وَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، وَسُفْيَانُ، وَأَبُو سُلَيْمَانَ: لَا مَعْنَى لِلتَّعْرِيفِ بِالْهَدْيِ سَوَاءٌ اُبْتِيعَ فِي الْحَرَمِ أَوْ فِي الْحِلِّ، إنْ عَرَّفَ فَجَائِزٌ، وَإِنْ لَمْ يُعَرِّفْ فَجَائِزٌ.

L13719 Abu Muhammad said: As for Mālik's statement, we do not know it from any scholar—neither before him nor among his contemporaries—nor do we recognize any basis for it whatsoever, neither from a sound Sunnah, nor a weak hadith narration, nor the statement of the Salaf, nor analogical reasoning, nor a meaningful opinion.

قَالَ أَبُو مُحَمَّد: أَمَّا قَوْلُ مَالِكٍ فَمَا نَعْلَمُهُ عَنْ أَحَدٍ مِنْ الْعُلَمَاءِ لَا قَبْلَهُ وَلَا مَعَهُ، وَلَا نَعْرِفُ لَهُ وَجْهًا أَصْلًا لَا مِنْ سُنَّةٍ صَحِيحَةٍ، وَلَا مِنْ رِوَايَةٍ سَقِيمَةٍ، وَلَا مِنْ قَوْلِ سَلَفٍ، وَلَا مِنْ قِيَاسٍ، وَلَا مِنْ رَأْيٍ لَهُ مَعْنًى.

L13720 As for the statement of al-Layth, it is argued for by what we have reported through the chains of Ḥajjāj ibn Arṭāh, Isrā'īl, and Yūnus ibn Yūnus. Ḥajjāj said: from ʿAṭāʾ. Isrā'īl said: from Thuwayr ibn Abī Fākhitah, from Ṭāwus: "That the Messenger of Allah (peace be upon him) declared the sacrificial camels." ʿAlī said: These are two mursal narrations (narrations with interrupted chains), and there is no valid proof in a mursal narration. Moreover, Ḥajjāj, Isrā'īl, and Thuwayr are all deemed weak.

وَأَمَّا قَوْلُ اللَّيْثِ فَإِنَّهُ يُحْتَجُّ لَهُ بِمَا رُوِّينَاهُ مِنْ طَرِيقِ حَجَّاجِ بْنِ أَرْطَاةَ، وَإِسْرَائِيلَ، وَيُونُسَ بْنِ يُونُسَ، قَالَ حَجَّاجٌ: عَنْ عَطَاءٍ، وَقَالَ إِسْرَائِيلُ: عَنْ ثُوَيْرِ بْنِ أَبِي فَاخِتَةَ عَنْ طَاوُسٍ " «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَرَّفَ بِالْبُدْنِ» . قَالَ عَلِيٌّ: وَهَذَانِ مُرْسَلَانِ، وَلَا حُجَّةَ فِي مُرْسَلٍ، ثُمَّ إنَّ الْحَجَّاجَ، وَإِسْرَائِيلَ، وَثُوَيْرًا كُلُّهُمْ ضُعَفَاءُ،

L13721 Then, even if it were authentic, it would not constitute proof, because this is an action rather than a command, and it contains no evidence for Mālik since he stipulated conditions none of which are present in this report. The Prophet's (peace and blessings be upon him) sacrificial animals were unquestionably led from Medina. Moreover, Mālik does not require reliance on textual evidence at ʿArafah regarding what is brought into the sacred precincts from the non-sacred area.

ثُمَّ لَوْ صَحَّ لَمْ يَكُنْ فِيهِ حُجَّةٌ، لِأَنَّ هَذَا فِعْلٌ لَا أَمْرٌ، وَلَا حُجَّةَ فِيهِ لِمَالِكٍ لِأَنَّهُ شَرَطَ شُرُوطًا لَيْسَ فِي هَذَا الْخَبَرِ شَيْءٌ مِنْهَا، وَهَدْيُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنَّمَا سِيقَ مِنْ الْمَدِينَةِ بِلَا خِلَافٍ، وَمَالِكٌ لَا يُوجِبُ التَّوْقِيفَ بِعَرَفَةَ فِيمَا أُدْخِلَ مِنْ الْحِلِّ.

L13722 An argument is also presented in support of al-Layth's opinion based on what we have reported through the chain narrated by Saʿīd ibn Manṣūr, narrated by ʿĪsā ibn Yūnus, narrated by ʿUbaydullāh—who is Ibn ʿUmar—narrated by Nāfiʿ, narrated by Ibn ʿUmar, who said: "There is no sacrificial animal except that which is garlanded, driven, and presented at Arafah."

وَيُحْتَجُّ لِقَوْلِ اللَّيْثِ أَيْضًا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا عِيسَى بْنُ يُونُسَ نَا عُبَيْدُ اللَّهِ هُوَ ابْنُ عُمَرَ - عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: لَا هَدْيَ إلَّا مَا قُلِّدَ، وَسِيقَ، وَوُقِفَ بِعَرَفَةَ.

L13723 And through the chain of Sufyān ibn ʿUyaynah from Ayyūb from Nāfiʿ from Ibn ʿUmar, who said: Any sacrificial animal that has not been ritually marked, garlanded, and driven away from ʿArafat is not valid as a Hajj offering; it is merely an ordinary sacrifice.

وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ أَيُّوبَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: كُلُّ هَدْيٍ لَمْ يُشْعَرْ وَيُقَلَّدْ وَيُفَضْ بِهِ مِنْ عَرَفَةَ فَلَيْسَ بِهَدْيٍ إنَّمَا هِيَ ضَحَايَا.

L13724 Ali said: This cannot be cited as evidence for Mālik, because he does not consider omission for the sake of adherence to a legal school and ritual marking as an impediment to its status as a sacrificial offering.

قَالَ عَلِيٌّ: مَالِكٌ لَا يُحْتَجُّ [لَهُ] بِهَذَا، لِأَنَّهُ لَا يَرَى التَّرْكَ لِلتَّقْلِيدِ وَلِلْإِشْعَارِ مَانِعًا مِنْ أَنْ يَكُونَ هَدْيًا.

L13725 Ali said: “No one besides the Messenger of Allah—may Allah bless him and grant him peace—holds conclusive authority, for Ibn Umar differed with other Companions regarding this matter. As we narrate through the chain of Sa‘īd ibn Manṣūr: ‘Īsā ibn Yūnus narrated to us: Rabāḥ ibn Abī Ma‘rūf narrated to us from ‘Aṭā’ from Ibn ‘Abbās, who said: ’Mark the sacrificial animal if you wish, or refrain from doing so. People only instituted the practice of herding them out of fear of thieves.’”

قَالَ عَلِيٌّ: لَا حُجَّةَ فِي أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَدْ خَالَفَ ابْنُ عُمَرَ فِي هَذَا غَيْرَهُ - مِنْ الصَّحَابَةِ -: كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا عِيسَى بْنُ يُونُسَ نَا رَبَاحُ بْنُ أَبِي مَعْرُوفٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: إنْ شِئْت فَعَرِّفْ الْهَدْيَ، وَإِنْ شِئْت فَلَا تُعَرِّفْ بِهِ إنَّمَا أَحْدَثَ النَّاسُ السِّيَاقَ مَخَافَةَ السُّرَّاقِ.

L13726–13728 From Sa‘īd ibn Manṣūr, who narrated from ‘Īsā ibn Yūnus, who narrated from al-A‘mash, from Ibrāhīm, who said: Al-Aswad summoned... His master ordered him to inform me of what ʿĀ’ishah had said to him. He replied, “Yes. I asked ʿĀ’ishah, the Mother of the Believers. Then I said: ’Shall I mark the sacrificial animal?’ She said: ’There is no harm if you do not mark it.’”

وَعَنْ سَعِيدِ بْنِ مَنْصُورٍ نَا عِيسَى بْنُ يُونُسَ نَا الْأَعْمَشُ عَنْ إبْرَاهِيمَ قَالَ: دَعَا الْأَسْوَدُ مَوْلًى لَهُ فَأَمَرَهُ أَنْ يُخْبِرَنِي بِمَا قَالَتْ لَهُ عَائِشَةُ، فَقَالَ: نَعَمْ سَأَلْتُ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ؟ فَقُلْت: أُعَرِّفُ بِالْهَدْيِ؟ فَقَالَتْ: لَا عَلَيْك أَنْ لَا تُعَرِّفَ بِهِ.

L13729 And from ʿAṭā’ and Ṭāwūs: There is no harm if you do not declare it [your intention].

وَعَنْ عَطَاءٍ، وَطَاوُسٍ: لَا يَضُرُّك أَنْ لَا تُعَرِّفَ بِهِ.

L13730 And it is narrated from Ibn al-Ḥanafiyyah that he commanded a sacrificial camel brought into the sacred precincts from the non-sacred area to be marked.

وَعَنْ ابْنِ الْحَنَفِيَّةِ أَنَّهُ أَمَرَ بِتَعْرِيفِ بَدَنَةٍ أُدْخِلَتْ مِنْ الْحِلِّ.

L13731 From Sa‘īd ibn Jubayr: He did not consider any Hajj sacrificial animal valid except those designated specifically from camels and cattle.

وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ: أَنَّهُ لَمْ يَرَ هَدْيًا إلَّا مَا عُرِّفَ بِهِ مِنْ الْإِبِلِ وَالْبَقَرِ خَاصَّةً.

L13732 Abu Muhammad said: No command has come in the Quran or the Sunnah requiring the specification of any of that, nor is anything obligatory except what Allah, the Exalted, has made obligatory in either of them, nor is there any analogical reasoning that necessitates that as well; because the rites of Hajj are only incumbent upon people, not camels. And success is from Allah, the Exalted.

قَالَ أَبُو مُحَمَّدٍ: لَمْ يَأْتِ أَمْرٌ بِتَعْرِيفِ شَيْءٍ مِنْ ذَلِكَ فِي قُرْآنٍ، وَلَا سُنَّةٍ، وَلَا يَجِبُ إلَّا مَا أَوْجَبَهُ اللَّهُ - تَعَالَى - فِي أَحَدِهِمَا، وَلَا قِيَاسَ يُوجِبُ ذَلِكَ أَيْضًا؛ لِأَنَّ مَنَاسِكَ الْحَجِّ إنَّمَا تَلْزَمُ النَّاسَ لَا الْإِبِلَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13733 As for our statement: “There is no sacrificial offering incumbent upon the Qārin other than the sacrifice he brought with himself before entering the state of consecration - being a voluntary sacrifice, whether he is a Meccan resident or not” - Mālik and al-Shāfiʿī held that the Qārin is obligated to offer a sacrifice, and its ruling is wholly identical to that of the Mutamattiʿ regarding substitution by fasting if unable to procure a sacrifice. According

وَأَمَّا قَوْلُنَا: وَلَا هَدْيَ عَلَى الْقَارِنِ غَيْرُ الْهَدْيِ الَّذِي سَاقَ مَعَ نَفْسِهِ قَبْلَ أَنْ يُحْرِمَ، وَهُوَ هَدْيُ تَطَوُّعٍ سَوَاءٌ مَكِّيًّا كَانَ أَوْ غَيْرَ مَكِّيٍّ فَإِنَّ مَالِكًا، وَالشَّافِعِيَّ قَالَا: عَلَى الْقَارِنِ هَدْيٌ وَحُكْمُهُ كَحُكْمِ الْمُتَمَتِّعِ سَوَاءً سَوَاءً فِي تَعْوِيضِ الصَّوْمِ مِنْهُ إنْ لَمْ يَجِدْ هَدْيًا، وَلَيْسَ عَلَى الْمَكِّيِّ عِنْدَهُمَا هَدْيٌ، وَلَا صَوْمٌ إنْ قَرَنَ، كَمَا لَا شَيْءَ عَلَيْهِ فِي التَّمَتُّعِ.

to their view, neither a sacrifice nor fasting is required of a Meccan resident who performs Qirān, just as no obligation rests upon him in the case of Tamattuʿ.

وَقَالَ مَالِكٌ: لَمْ أَسْمَعْ قَطُّ أَنَّ مَكِّيًّا قَرَنَ. وَقَالَ أَبُو حَنِيفَةَ: إِنْ تَمَتَّعَ الْمَكِّيُّ فَلَا شَيْءَ عَلَيْهِ - لَا هَدْيَ، وَلَا صَوْمَ - وَإِنْ قَرَنَ فَعَلَيْهِ هَدْيٌ وَلَا بُدَّ، وَلَا يَجُوزُ أَنْ يُعَوَّضَ مِنْهُ صَوْمٌ - وَجَدَ هَدْيًا أَوْ لَمْ يَجِدْ - وَلَا يَجُوزُ لَهُ أَنْ يَأْكُلَ مِنْهُ شَيْئًا.

L13734 Mālik said: I have never heard of any Meccan performing *Qirān*. Abū Ḥanīfa said: If a Meccan performs *Tamattuʿ*, nothing is required of him—neither sacrificial offering nor fasting—but if he performs *Qirān*, he must necessarily offer a sacrificial offering. It is not permissible to substitute fasting for it, whether he found an offering or did not find one, nor is it permissible for him to consume any portion of it.

قَالَ: وَالْمَكِّيُّ عِنْدَهُ مَنْ كَانَ سَاكِنًا فِي أَحَدِ الْمَوَاقِيتِ فَمَا دُونَهَا إِلَى مَكَّةَ - قَالَ: فَإِنْ تَمَتَّعَ مَنْ هُوَ سَاكِنٌ فِيمَا وَرَاءَ الْمَوَاقِيتِ أَوْ قَرَنَ، فَعَلَيْهِ هَدْيٌ - وَلَهُ أَنْ يَأْكُلَ مِنْهُ، فَإِنْ لَمْ يَجِدْ فَصَوْمُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعَ قَالَ أَبُو مُحَمَّدٍ: أَمَّا قَوْلُ أَبِي حَنِيفَةَ فَفِيهِ وُجُوهٌ جَمَّةٌ مِنْ الْخَطَأِ -: أَوَّلُهَا - أَنَّهُ تَقْسِيمٌ لَا يُعْرَفُ عَنْ أَحَدٍ قَبْلَهُ.

L13735 He said: According to al-Makki, whoever is resident within any of the designated boundaries or areas closer to Mecca—he stated that if someone residing beyond the boundaries or at Qarn performs Tamattuʿ, a sacrificial offering becomes obligatory upon him. The pilgrim may consume part of it. If he cannot find it, he must fast three days during Hajj and seven upon returning. Abu Muhammad said: As for Abu Hanifa's position, it contains numerous aspects of error. The first is that it constitutes a classification unattested from anyone before him.

وَالثَّانِي - تَفْرِيقُهُ بَيْنَ قِرَانِ الْمَكِّيِّ وَبَيْنَ تَمَتُّعِهِ، وَتَسْوِيَتُهُ بَيْنَ قِرَانِ غَيْرِ الْمَكِّيِّ وَبَيْنَ تَمَتُّعِهِ بِلَا بُرْهَانٍ.

L13736 The second is his differentiation between the Qirān of a Meccan and his Tamattuʿ, and his equating of the Qirān of a non-Meccan with his Tamattuʿ without justification.

الثَّالِثُ - تَعْوِيضُهُ الصَّوْمَ مِنْ هَدْيِ غَيْرِ الْمَكِّيِّ، وَمَنْعُهُ مِنْ تَعْوِيضِهِ الصَّوْمَ مِنْ هَدْيِ الْمَكِّيِّ؛ كُلُّ ذَلِكَ رَأْيٌ فَاسِدٌ لَا سَلَفَ لَهُ فِيهِ، وَلَا دَلِيلَ أَصْلًا.

L13737 The third matter is substituting fasting for the sacrificial offering of non-Makkan residents and preventing him from substituting fasting for the sacrificial offering of Makkan residents - all of this constitutes a corrupt opinion having no precedent in this matter and no supporting evidence whatsoever.

فَقَالُوا: إِنَّ الْمَكِّيَّ إِذَا قَرَنَ فَهُوَ دَاخِلٌ فِي إِسَاءَةٍ؟ فَقُلْنَا: فَكَانَ مَاذَا؟ وَأَيْنَ وَجَدْتُمْ أَنَّ مَنْ دَخَلَ فِي إِسَاءَةٍ لَمْ يَجُزْ لَهُ أَنْ يُعَوِّضَ مِنْ هَدْيِهِ دَمٌ؟ وَهَذَا قَاتِلُ الصَّيْدِ مُحْرِمًا دَاخِلٌ فِي أَعْظَمِ الْإِسَاءَةِ وَأَشَدِّ الْإِثْمِ، وَقَدْ عَوَّضَ اللَّهُ - تَعَالَى - مِنْ هَدْيِهِ صَوْمًا وَإِطْعَامًا وَخَيَّرَهُ فِي أَيِّ ذَلِكَ شَاءَ؟ وَهَذَا الْمُحْصَرُ غَيْرُ دَاخِلٍ فِي إِسَاءَةٍ بَلْ مَأْجُورٌ مَعْذُورٌ وَلَمْ

L13738–13739 They said: If a Meccan performs qirān (combining Hajj and Umrah), does he commit transgression? We replied: What then? Where have you found that one who commits transgression is not permitted to substitute his sacrificial offering with a blood sacrifice? This killer of game while in a state of ihram has entered into the gravest transgression and most severe sin, yet Allah, Exalted is He, required him to compensate for his sacrificial offering with fasting or feeding the poor, allowing him to choose whichever he wishes. This prevented pilgrim has not committed transgression but is de-

serving reward and excused, yet Allah, Exalted is He, has not required him to compensate for his sacrificial offering with fasting or feeding the poor. What great confusion and disorder is this in the religion of Allah, Exalted is He, by legislating corrupt rulings? Additionally, according to them, if a Meccan performs tamattuʿ, is he committing transgression or not? One of the two must apply. If he is committing transgression, why have they not imposed upon him a sacrificial offering like the one they imposed for qirān? If he is not committing transgression, then on what basis is he obligated to be deemed committing transgression for performing qirān? Can there be more than this in the contradictions of those who are misguided? As for us, neither the Meccan nor others are committing transgression in their qirān or tamattuʿ; rather, both are acting rightly in all of that, like the rest of the people, with no distinction. Thus, the opinion of Abu Hanifah is invalidated due to its profound contradictions and corruption. As for Malik and Al-Shafiʿi, they analogized qirān to tamattuʿ for the Meccan and others.

يُعَوِّضْ اللَّهُ - تَعَالَى - مِنْ هَدْيِهِ صَوْمًا وَلَا إطْعَامًا، فَكَمْ هَذَا التَّخْلِيطُ وَالْخَبْطُ فِي دِينِ اللَّهِ - تَعَالَى - بِشَرْعِ الشَّرَائِعِ الْفَاسِدَةِ فِيهِ؟ وَأَيْضًا: فَالْمَكِّيُّ عِنْدَهُمْ إذَا تَمَتَّعَ فَهُوَ دَاخِلٌ فِي إسَاءَةٍ أَوْ غَيْرُ دَاخِلٍ فِي إسَاءَةٍ لَا بُدَّ مِنْ أَحَدِهِمَا، فَإِنْ كَانَ دَاخِلًا فِي إسَاءَةٍ فَلِمَ لَمْ يَجْعَلُوا عَلَيْهِ هَدْيًا كَالَّذِي جَعَلُوا فِي الْقِرَانِ عَلَيْهِ؟ وَإِنْ كَانَ لَيْسَ دَاخِلًا فِي إسَاءَةٍ فَمِنْ أَيْنَ وَجَبَ أَنْ يَدْخُلَ إذَا قَرَنَ فِي إسَاءَةٍ؟ فَهَلْ فِيمَا يَأْتِي بِهِ الْمَمْرُورُونَ أَكْثَرُ مِنْ هَذَا؟ وَأَمَّا نَحْنُ فَلَيْسَ الْمَكِّيُّ وَلَا غَيْرُهُ مُسِيئًا فِي قِرَانِهِ وَلَا فِي تَمَتُّعِهِ بَلْ هُمَا مُحْسِنَانِ فِي كُلِّ ذَلِكَ كَسَائِرِ النَّاسِ وَلَا فَرْقَ؛ فَسَقَطَ قَوْلُ أَبِي حَنِيفَةَ لِعِظَمِ تَنَاقُضِهِ وَفَسَادِهِ، وَأَمَّا مَالِكٌ، وَالشَّافِعِيُّ، فَإِنَّهُمَا قَاسَا الْقِرَانَ عَلَى الْمُتْعَةِ فِي الْمَكِّيِّ وَغَيْرِهِ.

L13740 Abu Muhammad said: All analogical reasoning is erroneous. Even if analogical reasoning were valid, this case would itself be the very error, for there is no similarity between the pilgrim combining Hajj and Umrah (Qārin) and the pilgrim performing Umrah and Hajj with a break between them (Mutamattiʿ). This is because the Mutamattiʿ releases Iḥrām between their Umrah and Hajj, while the Qārin does not release Iḥrām between their Umrah and Hajj.

قَالَ أَبُو مُحَمَّدٍ: الْقِيَاسُ كُلُّهُ خَطَأٌ ثُمَّ لَوْ كَانَ الْقِيَاسُ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنَ الْخَطَأِ، لِأَنَّهُ لَا شَبَهَ بَيْنَ الْقَارِنِ وَالْمُتَمَتِّعِ، لِأَنَّ الْمُتَمَتِّعَ يَجْعَلُ بَيْنَ عُمْرَتِهِ وَحَجِّهِ إحْلَالًا وَلَا يَجْعَلُ الْقَارِنُ بَيْنَ عُمْرَتِهِ وَحَجِّهِ إحْلَالًا.

L13741 Moreover, the one performing *Qirān*, according to both them and us, performs only one Tawāf and one Saʿy, whereas the one performing *Tamattuʿ* performs two Tawāfs and two Saʿys.

وَأَيْضًا: فَإِنَّ الْقَارِنَ عِنْدَهُمَا وَعِنْدَنَا لَا يَطُوفُ إلَّا طَوَافًا وَاحِدًا وَلَا يَسْعَى إلَّا سَعْيًا وَاحِدًا وَالْمُتَمَتِّعُ يَطُوفُ طَوَافَيْنِ وَيَسْعَى سَعْيَيْنِ.

L13742 Furthermore, the Qārin—who combines Hajj and Umrah—must necessarily perform the rites of Hajj alongside his Umrah, while the Mutamattiʿ—who performs the Tamattuʿ Hajj—is not obligated to perform Hajj if he does not intend to. According to the two scholars, analogy is only valid when based on an effective cause uniting the two rulings, and no such effective cause exists that unites the Qārin and the Mutamattiʿ.

وَأَيْضًا: فَإِنَّ الْقَارِنَ لَا بُدَّ لَهُ مِنْ عَمَلِ الْحَجِّ مَعَ عُمْرَتِهِ وَالْمُتَمَتِّعُ إنْ لَمْ يُرِدْ أَنْ يَحُجَّ لَمْ يَلْزَمْهُ أَنْ يَحُجَّ، وَالْقِيَاسُ عِنْدَهُمَا لَا يَكُونُ إلَّا عَلَى عِلَّةٍ جَامِعَةٍ بَيْنَ الْحُكْمَيْنِ وَلَا عِلَّةَ تَجْمَعُ بَيْنَ الْقَارِنِ وَالْمُتَمَتِّعِ.

L13743–13745 If they say: "The legal cause for this is the waiver of one of the two journeys?"

فَإِنْ قَالُوا: الْعِلَّةُ فِي ذَلِكَ هِيَ إِسْقَاطُ أَحَدِ السَّفَرَيْنِ؟ قُلْنَا: هَذِهِ عِلَّةٌ مَوْضُوعَةٌ لَا دَلِيلَ لَكُمْ عَلَى صِحَّتِهَا وَقَدْ أَرَيْنَاكُمْ بُطْلَانَهَا مِرَارًا، وَأَقْرَبُ ذَلِكَ أَنَّ مَنْ أَحْرَمَ وَعَمِلَ عُمْرَتَهُ فِي آخِرِ يَوْمٍ مِنْ رَمَضَانَ ثُمَّ أَهَلَّ هِلَالُ شَوَّالٍ إثْرَ إحْلَالِهِ مِنْهَا ثُمَّ أَقَامَ بِمَكَّةَ وَلَمْ يَبْرَحْ حَتَّى حَجَّ مِنْ عَامِهِ ذَلِكَ فَلَا هَدْيَ عَلَيْهِ عِنْدَهُمَا وَلَا صَوْمَ، وَقَدْ أَسْقَطَ أَحَدَ السَّفَرَيْنِ.

We respond: "This is a fabricated justification for which you possess no valid evidence, and we have repeatedly shown its invalidity. A more pertinent illustration would be one who enters iḥrām and completes their ʿUmrah on Ramadan's final day, after which the Shawwāl crescent appears immediately..." his exiting the state of iḥrām from it, then he resided in Mecca and did not depart until he performed the pilgrimage in that same year. Thus, neither a sacrificial animal nor fasting is required of him according to them, and he has waived one of the two journeys.

وَكَذَلِكَ مَنْ قَصَدَ إلَى مَا دُونَ التَّنْعِيمِ دَاخِلَ الْعَامِ لِحَاجَةٍ فَلَمَّا صَارَ هُنَالِكَ - وَهُوَ لَا يُرِيدُ حَجًّا وَلَا عُمْرَةً - بَدَا لَهُ فِي الْعُمْرَةِ فَاعْتَمَرَ مِنْ التَّنْعِيمِ فِي آخِرِ يَوْمٍ مِنْ رَمَضَانَ، ثُمَّ أَقَامَ حَتَّى حَجَّ مِنْ عَامِهِ فَلَا هَدْيَ عَلَيْهِ وَلَا صَوْمَ عِنْدَهُمَا، وَهُوَ قَدْ أَسْقَطَ السَّفَرَيْنِ جَمِيعًا سَفَرَ الْحَجِّ وَسَفَرَ الْعُمْرَةِ.

L13746 Similarly, if someone intended to go to a place closer than al-Tanʿīm within the same year for a need, and when he arrived there—without initially intending Ḥajj or ʿUmrah—it then occurred to him to perform ʿUmrah, so he assumed Ihrām from al-Tanʿīm and performed ʿUmrah on the last day of Ramaḍān, then remained [in Mecca] until performing Ḥajj in that same year, there is no Hady required from him nor is there any fasting, according to both opinions—since he has eliminated both journeys entirely: the Ḥajj journey and the ʿUmrah journey.

ثُمَّ يَقُولَانِ فِيمَنْ حَجَّ بَعْدَهُ بِسَاعَةٍ إثْرَ ظُهُورِ هِلَالِ شَوَّالٍ فَاعْتَمَرَ، ثُمَّ خَرَجَ إلَى الْبَيْدَاءِ عَلَى أَقَلَّ مِنْ بَرِيدٍ مِنْ الْمَدِينَةِ عِنْدَ الشَّافِعِيِّ، أَوْ إلَى مَدِينَةِ الْفُسْطَاطِ، وَهُوَ مِنْ أَهْلِ الْإِسْكَنْدَرِيَّةِ عِنْدَ مَالِكٍ ثُمَّ حَجَّ مِنْ عَامِهِ: فَعَلَيْهِ الْهَدْيُ أَوْ الصَّوْمُ، وَهُوَ لَمْ يُسْقِطْ سَفَرًا أَصْلًا، فَظَهَرَ فَسَادُ هَذِهِ الْعِلَّةِ الَّتِي لَا عِلَّةَ أَفْسَدَ مِنْهَا، وَلَا أَبْطَلَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13747 Then they both state regarding one who performed Hajj after him by an hour following the appearance of the Shawwāl crescent, then performed ʿUmrah, then departed to al-Baydāʾ—a distance less than a barīd from Medina according to al-Shāfiʿī—or to the city of Fusṭāṭ, being a resident of Alexandria according to Mālik, then performed Hajj in the same year: he must offer a ritual sacrifice or fast, for he did not omit any travel at all. Thus the corruption of this reasoning—a reasoning than which none is more corrupt or void—becomes evident. And by Allah, the Exalted, is success.

وَاحْتَجَّ بَعْضُ أَهْلِ الْمَعْرِفَةِ مِمَّنْ يَرَى الْهَدْيَ فِي الْقِرَانِ بِأَنْ قَالَ: قَدْ صَحَّ عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ، وَعَلِيِّ بْنِ أَبِي طَالِبٍ، وَعَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَعِمْرَانَ بْنَ الْحُصَيْنِ، وَعَبْدِ اللَّهِ بْنِ عُمَرَ أَنَّهُمْ سَمَّوْا الْقِرَانَ: تَمَتُّعًا، وَهُمْ الْحُجَّةُ فِي اللُّغَةِ، فَإِذْ الْقِرَانُ تَمَتُّعٌ فَالْهَدْيُ فِيهِ، أَوْ الصَّوْمُ بِنَصِّ الْقُرْآنِ فِي إيجَابِ ذَلِكَ عَلَى الْمُتَمَتِّعِ.

L13748 Some people of knowledge who uphold the view requiring the sacrificial animal in Qirān argued by stating: It is authentically established from Sa'd ibn Abī Waqqāṣ, ʻAlī ibn Abī Ṭālib, ʻĀ'ishah the Mother of the Believers, ʻImrān ibn al-Ḥuṣayn, and ʻAbdullāh ibn ʻUmar that they linguistically termed Qirān as Tamattu'. They are the definitive references in linguistic matters. Thus, since Qirān is [designated] Tamattu', the sacrificial animal in it, or fasting, becomes obligatory by the Quranic text stipulating this obligation upon the Mutamatti'.

L13749 Abū Muḥammad said: There is no disagreement among these individuals—may Allah be pleased with them—or others that the act of one entering *ihram* for both Ḥajj and ʿUmrah together differs from the act of one entering *ihram* for ʿUmrah alone, then performing Ḥajj in the same year through another newly initiated *ihlāl* (entering *ihram*). Since this is so, the reference point is the clarification provided by the Messenger of Allah—peace and blessings be upon him. Granted that both are termed *tamattuʿ*, they are nevertheless two distinct acts.

قَالَ أَبُو مُحَمَّد: لَا يَخْتَلِفُ هَؤُلَاءِ - رَضِيَ اللَّهُ عَنْهُمْ - وَلَا غَيْرُهُمْ فِي أَنَّ عَمَلَ الْمُهِلِّ بِحَجٍّ وَعُمْرَةٍ مَعًا هُوَ عَمَلٌ غَيْرُ عَمَلِ الْمُهِلِّ بِعُمْرَةٍ فَقَطْ، ثُمَّ يَحُجُّ مِنْ عَامِهِ بِإِهْلَالٍ آخَرَ مُبْتَدَأٍ؛ فَإِذْ ذَلِكَ كَذَلِكَ فَالْمَرْجُوعُ إلَيْهِ هُوَ بَيَانُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهَبْكَ أَنَّ كِلَيْهِمَا يُسَمَّى تَمَتُّعًا إلَّا أَنَّهُمَا عَمَلَانِ مُتَغَايِرَانِ.

L13750–13752 We examined that matter and found the Hadith we previously mentioned, narrated by Al-Bukhari from Yahya ibn Bukayr from Al-Layth from Uqayl ibn Khalid from Al-Zuhri from Salim ibn Abdullah ibn Umar from his father: "The Messenger of Allah—peace and blessings of Allah be upon him—assumed Ihram for Umrah, then assumed Ihram for Hajj. The people, along with him—peace be upon him—performed Tamattuʿ by combining Umrah with Hajj. Some among them had brought along the sacrificial animals, while others had not. When the Messenger of Allah—peace and blessings of Allah be upon him—arrived in Makkah, he said to the people: 'Whoever among you has offered a sacrifice must not release himself from any restriction of Ihram until...'" "He should complete his Hajj. Whoever among you has not brought a sacrificial animal must perform Tawaf around the Kaaba, perform Sa'y between Safa and Marwah, shorten his hair, leave Ihram and resume normal acts, then enter Ihram for Hajj. Whoever cannot find a sacrificial animal must fast three days during Hajj and seven days upon returning home.""

فَنَظَرْنَا فِي ذَلِكَ فَوَجَدْنَا الْحَدِيثَ الَّذِي ذَكَرْنَا قَبْلُ مِنْ رِوَايَةِ الْبُخَارِيِّ عَنْ يَحْيَى بْنِ بُكَيْرٍ عَنْ اللَّيْثِ عَنْ عُقَيْلِ بْنِ خَالِدٍ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَهَلَّ بِالْعُمْرَةِ ثُمَّ أَهَلَّ بِالْحَجِّ فَتَمَتَّعَ النَّاسُ مَعَهُ - عَلَيْهِ السَّلَامُ - بِالْعُمْرَةِ إلَى الْحَجِّ، فَكَانَ مِنْ النَّاسِ مَنْ أَهْدَى فَسَاقَ الْهَدْيَ وَمِنْهُمْ مَنْ لَمْ يُهْدِ، فَلَمَّا قَدِمَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَكَّةَ قَالَ لِلنَّاسِ: مَنْ كَانَ مِنْكُمْ أَهْدَى فَإِنَّهُ لَا يَحِلُّ مِنْ شَيْءٍ حُرِمَ مِنْهُ حَتَّى يَقْضِيَ حَجَّهُ، وَمَنْ لَمْ يَكُنْ مِنْكُمْ أَهْدَى فَلْيَطُفْ بِالْبَيْتِ وَبَيْنَ الصَّفَا وَالْمَرْوَةِ وَيُقَصِّرْ وَيَحِلَّ؛ ثُمَّ لِيُهِلَّ بِالْحَجِّ فَمَنْ لَمْ يَجِدْ هَدْيًا فَلْيَصُمْ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةً إذَا رَجَعَ إلَى أَهْلِهِ» .

L13753 We have previously mentioned through the chain of Mālik and Maʿmar from al-Zuhrī from ʿUrwah from ʿĀ'ishah, the Mother of the Believers, that the Messenger of Allah—peace and blessings be upon him—commanded those accompanying him with sacrificial animals to combine their Umrah with Hajj. Thus, the Prophet's ruling—peace and blessings be upon him—was confirmed for those performing Tamattuʿ by combining Umrah with Hajj through offering a sacrificial animal or fasting, while he did not command the Qārin to do anything from that.

وَقَدْ ذَكَرْنَا قَبْلُ مِنْ طَرِيقِ مَالِكٍ وَمَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ عُرْوَةَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ مَنْ مَعَهُ الْهَدْيُ بِأَنْ يَجْعَلَ مَعَ عُمْرَتِهِ حَجًّا، فَصَحَّ أَمْرُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ تَمَتَّعَ بِالْعُمْرَةِ إلَى الْحَجِّ بِالْهَدْيِ، أَوْ الصَّوْمِ وَلَمْ يَأْمُرْ الْقَارِنَ بِشَيْءٍ مِنْ ذَلِكَ» .

L13754 We found what was narrated to us through Muslim: Abu Bakr ibn Abi Shaybah narrated to us, ʿAbdah ibn Sulaymān narrated to us, from Hisham

ibn Urwah, from his father, from Aisha, who said: “We departed with the Messenger of Allah (peace be upon him) during the Farewell Pilgrimage coinciding with the sighting of the Dhul-Hijjah crescent. I was among those who assumed iḥrām for Umrah. When we reached Mecca, the day of Arafah overtook me while I was menstruating and had not yet been released from the state of iḥrām for my Umrah. I complained of this to the Prophet (peace be upon him), and he said: ’Abandon your Umrah, untie your hair, comb it, and assume iḥrām for Hajj.’ She said: I did so. When it was the night of departure from Mina, after Allah had enabled us to complete our Hajj, he sent Abd al-Rahman ibn Abi Bakr with me. He let me ride behind him and took me out to Tan’im, where I assumed iḥrām for Umrah. Thus Allah ordained both our Hajj and Umrah as complete, with no requirement for a sacrificial animal, charity, or fasting in that matter.”

وَوَجَدْنَا مَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نَا عَبْدَةُ بْنُ سُلَيْمَانَ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ عَائِشَةَ قَالَتْ «خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجَّةِ الْوَدَاعِ مُوَافِينَ لِهِلَالِ ذِي الْحِجَّةِ فَكُنْتُ فِيمَنْ أَهَلَّ بِعُمْرَةٍ فَقَدِمْنَا مَكَّةَ فَأَدْرَكَنِي يَوْمُ عَرَفَةَ وَأَنَا حَائِضٌ لَمْ أَحِلَّ مِنْ عُمْرَتِي فَشَكَوْتُ ذَلِكَ إلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: دَعِي عُمْرَتَكِ وَانْقُضِي رَأْسَكِ وَامْتَشِطِي وَأَهِلِّي بِالْحَجِّ قَالَتْ: فَفَعَلْتُ فَلَمَّا كَانَتْ لَيْلَةُ الْحَصْبَةِ وَقَدْ قَضَى اللَّهُ حَجَّنَا أَرْسَلَ مَعِي عَبْدَ الرَّحْمَنِ بْنَ أَبِي بَكْرٍ فَأَرْدَفَنِي، وَخَرَجَ بِي إلَى التَّنْعِيمِ فَأَهْلَلْتُ بِعُمْرَةٍ، وَقَضَى اللَّهُ حَجَّنَا وَعُمْرَتَنَا وَلَمْ يَكُنْ فِي ذَلِكَ هَدْيٌ، وَلَا صَدَقَةٌ، وَلَا صَوْمٌ» .

L13755 Through the chain of Abū Dāwūd: Al-Rabīʿ ibn Sulaymān al-Muʾadhdhin reported to us, from Muḥammad ibn Idrīs al-Shāfiʿī, from Sufyān ibn ʿUyaynah, from Ibn Abī Najīḥ, from ʿAṭāʾ, from ʿĀʾishah, the Mother of the Believers, that the Messenger of Allah, peace and blessings be upon him, said to her: “Your circumambulation of the House and [ritual] between al-Ṣafā and al-Marwah suffice for your Ḥajj and your ʿUmrah.” This confirms that she was a *qārina*, and the Prophet, peace and blessings be upon him, did not require for this a sacrificial animal or fasting.

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا الرَّبِيعُ بْنُ سُلَيْمَانَ الْمُؤَذِّنُ أَنَا مُحَمَّدُ بْنُ إدْرِيسَ الشَّافِعِيُّ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ عَطَاءٍ «عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهَا: طَوَافُكِ بِالْبَيْتِ وَبَيْنَ الصَّفَا وَالْمَرْوَةِ يَكْفِيكِ لِحَجِّكِ وَعُمْرَتِكِ» فَصَحَّ أَنَّهَا كَانَتْ قَارِنَةً، وَلَمْ يَجْعَلْ - عَلَيْهِ السَّلَامُ - فِي ذَلِكَ هَدْيًا وَلَا صَوْمًا.

L13756 If it is said that she—may Allah be pleased with her—annulled her ʿUmrah...

فَإِنْ قِيلَ: إنَّهَا - رَضِيَ اللَّهُ عَنْهَا -: رَفَضَتْ عُمْرَتَهَا.

L13757 We said: If you intend that she exited iḥrām from her Umrah, then whoever claimed this has lied, for the Messenger of Allah—may Allah bless him and grant peace—informed her that her circumambulation and saʿy would suffice for her Hajj and Umrah. It is baseless that these rites would suffice for an Umrah from which she had already exited iḥrām. If you intend that she left it and postponed it—in the sense that she delayed the Umrah rites of circumambulation and saʿy until performing the ifāḍah on the Day of Sacrifice, when she then performed circumambulation and saʿy jointly for her Hajj and Umrah—then yes, this is our position.

قُلْنَا: إنْ كُنْتُمْ تُرِيدُونَ أَنَّهَا حَلَّتْ مِنْهَا فَقَدْ كَذَبَ مَنْ قَالَ ذَلِكَ، لِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَخْبَرَهَا أَنَّ طَوَافَهَا وَسَعْيَهَا يَكْفِيهَا لِحَجَّتِهَا وَعُمْرَتِهَا، وَمِنْ الْبَاطِلِ أَنْ يَكْفِيَهَا عَنْ عُمْرَةٍ قَدْ أَحَلَّتْ مِنْهَا، وَإِنْ كُنْتُمْ تُرِيدُونَ أَنَّهَا رَفَضَتْهَا وَتَرَكَتْهَا بِمَعْنَى أَخَّرَتْ عَمَلَ الْعُمْرَةِ مِنْ الطَّوَافِ وَالسَّعْيِ حَتَّى أَفَاضَتْ يَوْمَ النَّحْرِ فَطَافَتْ وَسَعَتْ لِحَجَّتِهَا وَعُمْرَتِهَا مَعًا فَنَعَمْ، وَهَذَا قَوْلُنَا.

L13758–13759 If it is said: "But Waki' narrated this narration, attributing her statement—'There was no sacrificial offering nor fasting in that matter'—to Hisham's words?" We respond: Indeed, 'Abdullah ibn Numayr and 'Abdah attributed it to 'Ā'ishah's speech, and Ibn Numayr is no less than Waki' in memorization and reliability—and likewise 'Abdah. Both narrations are correct: she said it, Hisham said it, and we too affirm it.

فَإِنْ قِيلَ: فَإِنَّ وَكِيعًا رَوَى هَذَا الْخَبَرَ فَجَعَلَ قَوْلَهَا، وَلَمْ يَكُنْ فِي ذَلِكَ هَدْيٌ وَلَا صَوْمٌ مِنْ قَوْلِ هِشَامٍ؟ قُلْنَا: فَإِنَّ عَبْدَ اللَّهِ بْنَ نُمَيْرٍ، وَعَبْدَةَ جَعَلَاهُ مِنْ كَلَامِ عَائِشَةَ، وَمَا ابْنُ نُمَيْرٍ دُونَ وَكِيعٍ فِي الْحِفْظِ، وَالثِّقَةِ، وَكَذَلِكَ عَبْدَةُ، وَكِلَا الرِّوَايَتَيْنِ حَقٌّ قَالَتْهُ هِيَ، وَقَالَهُ هِشَامٌ، وَنَحْنُ أَيْضًا نَقُولُهُ.

L13760 If it is said: It has been established that he—peace be upon him—offered cows as sacrifices on behalf of his wives? We say: Yes. Sufyān ibn ʿUyaynah clarified the meaning of this offering via ʿAbd al-Raḥmān ibn al-Qāsim, from his father, from ʿĀ'ishah: that these were Eid al-Adha sacrifices, not the sacrificial offering of *tamattuʿ*, nor the sacrificial offering of *qirān*.

فَإِنْ قِيلَ: قَدْ صَحَّ أَنَّهُ - عَلَيْهِ السَّلَامُ - أَهْدَى عَنْ نِسَائِهِ الْبَقَرَ؟ قُلْنَا: نَعَمْ، وَقَدْ بَيَّنَ مَعْنَى ذَلِكَ الْإِهْدَاءِ سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ عَنْ أَبِيهِ عَنْ عَائِشَةَ أَنَّهُ كَانَ أَضَاحِيَ، لَا هَدْيَ مُتْعَةٍ، وَلَا هَدْيًا عَنْ قِرَانٍ.

L13761 Abū Muḥammad said: They said, "It has been reported from ʿUmar and Jābir that the sacrificial animal is obligatory upon the qārin?" We responded, "As for the narration from ʿUmar, it is transmitted through the chain of ʿAbd al-Salām ibn Ḥarb, from Saʿīd, from Abū Maʿshar, from Ibrāhīm, from ʿUmar. ʿAbd al-Salām is weak, Abū Maʿshar is likewise, and Ibrāhīm was not born except after the death of ʿUmar—may Allāh be pleased with him."

قَالَ أَبُو مُحَمَّدٍ: وَقَالُوا: قَدْ رُوِيَ عَنْ عُمَرَ، وَجَابِرٍ وُجُوبُ الْهَدْيِ عَلَى الْقَارِنِ؟ قُلْنَا: أَمَّا الرِّوَايَةُ عَنْ عُمَرَ فَإِنَّهَا مِنْ طَرِيقِ عَبْدِ السَّلَامِ بْنِ حَرْبٍ عَنْ سَعِيدٍ عَنْ أَبِي مَعْشَرٍ عَنْ إبْرَاهِيمَ عَنْ عُمَرَ، فَعَبْدُ السَّلَامِ ضَعِيفٌ، وَأَبُو مَعْشَرٍ مِثْلُهُ، وَإِبْرَاهِيمُ لَمْ يُولَدْ إلَّا بَعْدَ مَوْتِ عُمَرَ - رَضِيَ اللَّهُ عَنْهُ -.

L13762 As for the narration from Jābir, we have reported it through the chain of Mūsā ibn 'Ubaydah from some of his companions that he asked Jābir ibn 'Abdullāh about combining Ḥajj and 'Umrah without a sacrificial offering. He replied: "I have not seen any of us do such a thing." Now, Mūsā is a weak narrator, and some of his companions were utterly astonished. Furthermore, even if it were authentic, it would align with our position, for its apparent meaning is prohibiting the combination [of Ḥajj and 'Umrah] unless one brings a sacrificial offering with him - and this is our position.

وَأَمَّا الرِّوَايَةُ عَنْ جَابِرٍ فَرُوِّينَاهَا مِنْ طَرِيقِ مُوسَى بْنِ عُبَيْدَةَ عَنْ بَعْضِ أَصْحَابِهِ أَنَّهُ سَأَلَ جَابِرَ بْنَ عَبْدِ اللَّهِ أَنْ يَقْرِنَ بَيْنَ حَجٍّ وَعُمْرَةٍ بِغَيْرِ هَدْيٍ؟ فَقَالَ: مَا رَأَيْتُ أَحَدًا مِنَّا فَعَلَ مِثْلَ ذَلِكَ، فَمُوسَى ضَعِيفٌ، وَبَعْضُ أَصْحَابِهِ عَجِبَ أَلْبَتَّةَ، ثُمَّ لَوْ صَحَّتْ لَكَانَتْ مُوَافِقَةً لِقَوْلِنَا، لِأَنَّ ظَاهِرَهَا الْمَنْعُ مِنْ الْقِرَانِ دُونَ أَنْ يَسُوقَ مَعَ نَفْسِهِ هَدْيًا، وَهَكَذَا نَقُولُ.

L13763 Moreover, if that [statement] from both of them were valid, there would be no decisive proof in the statement of anyone apart from the Messenger of Allah (peace and blessings be upon him), and other Companions besides them would have opposed them both, as we mentioned earlier from the Mother of the Believers.

ثُمَّ لَوْ صَحَّ ذَلِكَ عَنْهُمَا لَكَانَ لَا حُجَّةَ فِي قَوْلِ أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَكَانَ قَدْ خَالَفَهُمَا غَيْرُهُمَا مِنْ الصَّحَابَةِ كَمَا ذَكَرْنَا آنِفًا عَنْ أُمِّ الْمُؤْمِنِينَ.

L13764 It has been narrated to us from Saʿīd ibn Manṣūr: Abū ʿAwānah narrated from ʿAṭāʾ ibn as-Sāʾib from Kathīr ibn Jumhān that he asked Ibn ʿUmar in the company of people about a man who assumed iḥrām for combined pilgrimage (Qirān) – what is his expiation? Ibn ʿUmar said: "His expiation is to return with two rewards, while they return with one reward. If a sacrifice had been required, would he not have instructed them about it?" From Ibn Abī Shaybah's chain: Wakīʿ narrated from Shuʿbah from al-Ḥakam ibn ʿUtaybah that al-Ḥasan ibn ʿAlī ibn Abī Ṭālib combined Ḥajj and ʿUmrah (Qirān) without offering a sacrifice. Al-Ḥakam said: "Shurayḥ also combined Ḥajj and ʿUmrah (Qirān) without offering a sacrifice."

وَرُوِّينَا عَنْ سَعِيدِ بْنِ مَنْصُورٍ نَا أَبُو عَوَانَةَ عَنْ عَطَاءِ بْنِ السَّائِبِ عَنْ كَثِيرِ بْنِ جُمْهَانَ أَنَّهُ سَأَلَ ابْنَ عُمَرَ مَعَ قَوْمٍ عَنْ رَجُلٍ أَحْرَمَ بِالْقِرَانِ مَا كَفَّارَتُهُ؟ فَقَالَ ابْنُ عُمَرَ: كَفَّارَتُهُ أَنْ يَرْجِعَ بِأَجْرَيْنِ، وَيَرْجِعُونَ بِأَجْرٍ - فَلَوْ كَانَ عَلَيْهِ هَدْيٌ لَأَفْتَاهُمْ بِهِ؟ وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا وَكِيعٌ عَنْ شُعْبَةَ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ أَنَّ الْحَسَنَ بْنَ عَلِيِّ بْنِ أَبِي طَالِبٍ قَرَنَ بَيْنَ حَجٍّ، وَعُمْرَةٍ، وَلَمْ يُهْدِ قَالَ الْحَكَمُ: وَقَرَنَ أَيْضًا شُرَيْحٌ بَيْنَ الْحَجِّ وَالْعُمْرَةِ، وَلَمْ يُهْدِ.

L13765–13766 If it is said: You have narrated from Ibn Abi Shaybah – Abdullah ibn Numayr reported to us from Isma'il (who is Ibn Abi Khalid) – from Wabarah ibn Abd al-Rahman – from Ibn Umar, who said: "If a man combines Hajj and Umrah, he must offer a she-camel." It was said to him: "Indeed, Ibn Mas'ud says: 'A sheep.'" Ibn Umar responded: "Is fasting dearer to me than a sheep?" We said: "Yes, and you were the first to oppose Ibn Umar in this matter. Among the trifling with religion is that you deem a Companion's statement authoritative evidence [that cannot be opposed] when it aligns with Abu Hanifah, Malik, or al-Shafi'i – yet consider it non-authoritative when it contradicts them. We absolve ourselves before Allah, the Exalted, from such conduct."

فَإِنْ قِيلَ: فَقَدْ رَوَيْتُمْ عَنْ ابْنِ أَبِي شَيْبَةَ نَا عَبْدُ اللَّهِ بْنُ نُمَيْرٍ عَنْ إسْمَاعِيلَ هُوَ ابْنُ أَبِي خَالِدٍ - عَنْ وَبَرَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ ابْنِ عُمَرَ قَالَ: إذَا قَرَنَ الرَّجُلُ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَعَلَيْهِ بَدَنَةٌ فَقِيلَ لَهُ: إنَّ ابْنَ مَسْعُودٍ يَقُولُ: شَاةٌ، فَقَالَ ابْنُ عُمَرَ: الصِّيَامُ أَحَبُّ إلَيَّ مِنْ شَاةٍ؟ قُلْنَا: نَعَمْ، وَأَنْتُمْ أَوَّلُ مَنْ خَالَفَ ابْنَ عُمَرَ فِي هَذَا، وَمِنْ التَّلَاعُبِ فِي الدِّينِ أَنْ تُوجِبُوا قَوْلَ الصَّاحِبِ حُجَّةً [لَا يَجُوزُ خِلَافُهَا] إذَا وَافَقَ قَوْلَ أَبِي حَنِيفَةَ، أَوْ مَالِكٍ، أَوْ الشَّافِعِيِّ، وَغَيْرَ حُجَّةٍ إذَا خَالَفَهُمْ - نَبْرَأُ إلَى اللَّهِ - تَعَالَى - مِنْ هَذَا الْعَمَلِ.

## When a muḥrim intends to leave Makkah.

## [الْمُحْرِم إذَا أَرَادَ أَنْ يَخْرُجَ مِنْ مَكَّةَ]

L13768 As for our statement: Whoever intends to depart from Mecca—whether as a pilgrim performing ʻUmrah, a Qārin (combining Hajj and ʻUmrah), or a Mutamatti' (performing ʻUmrah followed by Hajj)—is obligated to make his final act the circumambulation of the House. If he remains in Mecca thereafter, he must repeat the circumambulation without exception. Should he depart without performing the circumambulation of the House, he is obligated to return even if his homeland lies at the farthest reaches of the world, until he performs the circumambulation. If he departs beyond Mecca's dwellings and lingers outside while traveling, he need not repeat the circumambula-

وَأَمَّا قَوْلُنَا -: مَنْ أَرَادَ أَنْ يَخْرُجَ مِنْ مَكَّةَ، مِنْ مُعْتَمِرٍ، أَوْ قَارِنٍ، أَوْ مُتَمَتِّعٍ بِالْعُمْرَةِ إلَى الْحَجِّ، فَفَرَضَ عَلَيْهِ أَنْ يَجْعَلَ آخِرَ عَمَلِهِ الطَّوَافَ بِالْبَيْتِ، فَإِنْ تَرَدَّدَ بِمَكَّةَ بَعْدَ ذَلِكَ أَعَادَ الطَّوَافَ وَلَا بُدَّ، فَإِنْ خَرَجَ وَلَمْ يَطُفْ بِالْبَيْتِ فَفَرَضَ عَلَيْهِ الرُّجُوعَ، وَلَوْ كَانَ بَلَدُهُ بِأَقْصَى الدُّنْيَا حَتَّى يَطُوفَ بِالْبَيْتِ، فَإِنْ خَرَجَ عَنْ مَنَازِلِ مَكَّةَ فَتَرَدَّدَ خَارِجًا مَاشِيًا، فَلَيْسَ عَلَيْهِ أَنْ يُعِيدَ الطَّوَافَ إلَّا الَّتِي تَحِيضُ بَعْدَ أَنْ تَطُوفَ طَوَافَ الْإِفَاضَةِ فَلَيْسَ

tion. However, a woman who menstruates after performing Tawaf al-Ifāḍah is not required to await ritual purity to perform the farewell circumambulation (Tawaf al-Wadā‘); she may depart without performing it. But if she menstruates before Tawaf al-Ifāḍah, she must wait until she becomes pure, perform the circumambulation, and the rental mounts and travel companions must be retained for her. As narrated by Muslim: Sa‘īd ibn Manṣūr reported to us, Sufyān reported from Sulaymān al-Aḥwal from Ṭāwūs from Ibn ‘Abbās, who said: “People would disperse in every direction, so Allah’s Messenger—peace and blessings be upon him—declared: ’Let no one depart until his final act is at the House.’”[25]

L13769 And through the chain of Muslim: Muhammad ibn Rumh narrated to us, Al-Layth narrated to us from Ibn Shihab from Abu Salama - he is the son of Abd al-Rahman ibn Awf - that Aisha, the Mother of the Believers, said: “Safiyyah bint Huyayy menstruated after performing the Ifadah. She mentioned her menstruation to the Messenger of Allah - peace and blessings be upon him - and he - peace be upon him - said: ’Is she detaining us?’ I said: ’O Messenger of Allah, she had already performed the Ifadah tawaf and circumambulated the House, then menstruated after the Ifadah.’ The Messenger of Allah - peace and blessings be upon him - said: ’Then let her depart.’”

L13770–13771 Abū Muḥammad said: Whoever departs without bidding farewell, except the menstruating woman, has indeed neglected a binding obligation, so he must fulfill it. It has been narrated to us through the chain of Wakiʿ from Ibrāhīm ibn Yazīd from Abū al-Zubayr ibn ʿAbdullāh that a group set out without bidding farewell, so ʿUmar ibn al-Khaṭṭāb ordered them to return and bid farewell.

L13772 Ali said: And Umar did not single out any place from another.

L13773 Malik said: Regarding the specification of a place that, once reached, one must not turn back from it; this is an opinion not established as obligatory by any text, consensus, analogy, or statement of a Maliki disciple.

عَلَيْهَا أَنْ تَنْتَظِرَ طُهْرَهَا لِتَطُوفَ لَكِنْ تَخْرُجُ كَمَا هِيَ، فَإِنْ حَاضَتْ قَبْلَ طَوَافِ الْإِفَاضَةِ فَلَا بُدَّ لَهَا أَنْ تَنْتَظِرَ حَتَّى تَطْهُرَ، وَتَطُوفَ، وَتُحْبَسُ عَلَيْهَا الْكِرَى وَالرُّفْقَةُ -: فَلَمَّا رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ قَالَ: نَا سَعِيدُ بْنُ مَنْصُورٍ نَا سُفْيَانُ عَنْ سُلَيْمَانَ الْأَحْوَلِ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ قَالَ «كَانَ النَّاسُ يَنْصَرِفُونَ فِي كُلِّ وَجْهٍ، فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: لَا يَنْفِرَنَّ أَحَدٌ حَتَّى يَكُونَ آخِرُ عَهْدِهِ بِالْبَيْتِ» .

وَمِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ رُمْحٍ نَا اللَّيْثُ عَنْ ابْنِ شِهَابٍ عَنْ أَبِي سَلَمَةَ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ - أَنَّ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ قَالَتْ «حَاضَتْ صَفِيَّةُ بِنْتُ حُيَيٍّ بَعْدَمَا أَفَاضَتْ فَذَكَرَتْ حَيْضَتَهَا لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ - عَلَيْهِ السَّلَامُ -: أَحَابِسَتُنَا هِيَ؟ فَقُلْتُ: يَا رَسُولَ اللَّهِ إِنَّهَا قَدْ كَانَتْ أَفَاضَتْ وَطَافَتْ بِالْبَيْتِ ثُمَّ حَاضَتْ بَعْدَ الْإِفَاضَةِ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: فَلْتَنْفِرْ» .

قَالَ أَبُو مُحَمَّدٍ: فَمَنْ خَرَجَ وَلَمْ يُوَدِّعْ مِنْ غَيْرِ الْحَائِضِ فَقَدْ تَرَكَ فَرْضًا لَازِمًا فَعَلَيْهِ أَنْ يُؤَدِّيَهُ -: رُوِّينَا مِنْ طَرِيقِ وَكِيعٍ عَنْ إبْرَاهِيمَ بْنِ يَزِيدَ عَنْ أَبِي الزُّبَيْرِ بْنِ عَبْدِ اللَّهِ أَنَّ قَوْمًا نَفَرُوا وَلَمْ يُوَدِّعُوا فَرَدَّهُمْ عُمَرُ بْنُ الْخَطَّابِ حَتَّى وَدَّعُوا.

قَالَ عَلِيٌّ: وَلَمْ يَخُصَّ عُمَرُ مَوْضِعًا مِنْ مَوْضِعٍ.

وَقَالَ مَالِكٌ: بِتَحْدِيدِ مَكَانٍ إذَا بَلَغَهُ لَمْ يَرْجِعْ مِنْهُ - وَهَذَا قَوْلٌ لَمْ يُوجِبْهُ نَصٌّ، وَلَا إجْمَاعٌ، وَلَا قِيَاسٌ، وَلَا قَوْلُ صَاحِبٍ.

[25] **Hadith references (L13768):** Sahih Muslim 1327.

L13774 From the narration of Abd al-Razzaq, who reported from Muhammad ibn Rashid, from Sulayman ibn Musa, from Nafi', who said: Umar ibn al-Khattab turned back women of Thaniyyat Harsha who had performed Tawaf al-Ifadah on the Day of Sacrifice, then began menstruating and departed from Mina. He ordered them to return until they attained ritual purity and performed Tawaf around the Kaaba. Later, a hadith contradicting his action reached Umar, so he abandoned his initial practice.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا مُحَمَّدُ بْنُ رَاشِدٍ عَنْ سُلَيْمَانَ بْنِ مُوسَى عَنْ نَافِعٍ قَالَ: رَدَّ عُمَرُ بْنُ الْخَطَّابِ نِسَاءً مِنْ ثَنِيَّةِ هَرْشَى كُنَّ أَفَضْنَ يَوْمَ النَّحْرِ ثُمَّ حِضْنَ فَنَفَرْنَ فَرَدَّهُنَّ حَتَّى يَطْهُرْنَ وَيَطُفْنَ بِالْبَيْتِ، ثُمَّ بَلَغَ عُمَرَ بَعْدَ ذَلِكَ حَدِيثٌ غَيْرُ مَا صَنَعَ فَتَرَكَ صُنْعَهُ الْأَوَّلَ.

L13775 Abu Muhammad said: Hirshā is the midpoint on the route from Medina to Mecca, between al-Abwā and al-Juhfah, at two leagues from al-Abwā. It has two erected markers as a sign, because it is the midpoint of the route.

قَالَ أَبُو مُحَمَّدٍ: هَرْشَى هِيَ نِصْفُ الطَّرِيقِ مِنْ الْمَدِينَةِ إلَى مَكَّةَ بَيْنَ الْأَبْوَاءِ وَالْجُحْفَةِ عَلَى فَرْسَخَيْنِ مِنْ الْأَبْوَاءِ وَبِهَا عَلَمَانِ مَبْنِيَّانِ عَلَامَةً، لِأَنَّهُ نِصْفُ الطَّرِيقِ.

L13776 It has been reported through the chain of Abu 'Awanah from Ya'la ibn 'Ata', from al-Walid ibn 'Abd al-Rahman, from al-Harith ibn 'Abd Allah ibn Aws that the Messenger of Allah (peace and blessings of Allāh be upon him) and 'Umar ibn al-Khattab gave him a ruling concerning a woman who performs tawaf around the House on the Day of Sacrifice and then menstruates, that her last contact with the House be the final one.

وَقَدْ رُوِيَ أَثَرٌ مِنْ طَرِيقِ أَبِي عَوَانَةَ عَنْ يَعْلَى بْنِ عَطَاءٍ عَنْ الْوَلِيدِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ الْحَارِثِ بْنِ عَبْدِ اللَّهِ بْنِ أَوْسٍ " «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَعُمَرَ بْنَ الْخَطَّابِ أَفْتَيَاهُ فِي الْمَرْأَةِ تَطُوفُ بِالْبَيْتِ يَوْمَ النَّحْرِ، ثُمَّ تَحِيضُ أَنْ يَكُونَ آخِرُ عَهْدِهَا بِالْبَيْتِ» ".

L13777 Abu Muhammad said: Al-Walid ibn Abd al-Rahman is unknown. Furthermore, even if it were authentic, it would fall under the general scope of his command (peace be upon him) that no one should depart until their final act is with the House. Its universal application stands, as though his instruction (peace be upon him) to the menstruating woman who completed the ritual departure (ifadah) to depart constitutes an additional ruling built upon the aforementioned prohibition but exempted from it, so that both reports may be utilized together without any contradiction between them. And success comes from Allah, the Most High.

قَالَ أَبُو مُحَمَّدٍ: الْوَلِيدُ بْنُ عَبْدِ الرَّحْمَنِ غَيْرُ مَعْرُوفٍ، ثُمَّ لَوْ صَحَّ لَكَانَ دَاخِلًا فِي جُمْلَةِ أَمْرِهِ - عَلَيْهِ السَّلَامُ - أَنْ لَا يَنْفِرَ أَحَدٌ حَتَّى يَكُونَ آخِرُ عَهْدِهِ بِالْبَيْتِ - وَعُمُومُهُ، وَكَأَنْ يَكُونَ أَمْرُهُ - عَلَيْهِ السَّلَامُ - الْحَائِضَ الَّتِي أَفَاضَتْ بِأَنْ تَنْفِرَ حُكْمًا زَائِدًا مَبْنِيًّا عَلَى النَّهْيِ الْمَذْكُورِ مُسْتَثْنًى مِنْهُ لِيُسْتَعْمَلَ الْخَبَرَانِ مَعًا وَلَا يُخَالَفَ شَيْءٌ مِنْهُمَا - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

## Omitting any part of the Tawaf al-Ifadah or the Sa'ī.

## [تَرْكُ شَيْءٍ مِنْ طَوَافِ الْإِفَاضَةِ أَوْ السَّعْيِ]

L13778–13781 As for our statement: whoever intentionally or forgetfully omits any part of the Tawaf al-Ifadah or any part of the obligatory Sa'i between Safa and Marwah must also return—as we mentioned—and abstain from sexual relations with their wives until he performs the Tawaf [around the House (the Kaaba)].

وَأَمَّا قَوْلُنَا: مَنْ تَرَكَ عَمْدًا أَوْ بِنِسْيَانٍ شَيْئًا مِنْ طَوَافِ الْإِفَاضَةِ أَوْ مِنْ السَّعْيِ الْوَاجِبِ بَيْنَ الصَّفَا وَالْمَرْوَةِ فَلْيَرْجِعْ أَيْضًا - كَمَا ذَكَرْنَا - مُمْتَنِعًا مِنْ النِّسَاءِ حَتَّى يَطُوفَ [بِالْبَيْتِ]

What remains incumbent upon him: if Dhul-Hijjah ends before he performs the circumambulation, his pilgrimage is invalidated. Upon returning for the farewell circumambulation (Tawaf al-Wada), he is not required to abstain from women, for indeed, Tawaf al-Ifadah - the obligatory post-pilgrimage circumambulation - is obligatory.

مَا بَقِيَ عَلَيْهِ، فَإِنْ خَرَجَ ذُو الْحِجَّةِ قَبْلَ أَنْ يَطُوفَ فَقَدْ بَطَلَ حَجُّهُ، وَلَيْسَ عَلَيْهِ فِي رُجُوعِهِ لِطَوَافِ الْوَدَاعِ أَنْ يَمْتَنِعَ مِنْ النِّسَاءِ فَلِأَنَّ طَوَافَ الْإِفَاضَةِ فَرْضٌ.

L13782 And He, the Most High, said: *"Hajj is observed during well-known months"* [Al-Baqarah 2:197]. We have mentioned that these are Shawwāl, Dhu al-Qaʿdah, and Dhu al-Hijjah. Since these are the months, it is not permissible for anyone to perform any of the rites of Hajj outside the months of Hajj, thereby opposing the command of Allah, the Most High.[26]

وَقَالَ - تَعَالَى -: {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ} [البقرة: ١٩٧] وَقَدْ ذَكَرْنَا أَنَّهَا شَوَّالٌ، وَذُو الْقَعْدَةِ، وَذُو الْحِجَّةِ، فَإِذْ هُوَ كَذَلِكَ فَلَا يَحِلُّ لِأَحَدٍ أَنْ يَعْمَلَ شَيْئًا مِنْ أَعْمَالِ الْحَجِّ فِي غَيْرِ أَشْهُرِ الْحَجِّ فَيَكُونَ مُخَالِفًا لِأَمْرِ اللَّهِ - تَعَالَى -.

L13783 As for abstaining from women, it is based on Allah's statement—Exalted is He—: "There is to be no sexual relations, sinfulness, or disputing during Hajj" [Al-Baqarah 2:197]. Therefore, until he fulfills the obligations of Hajj, he is still in the state of Hajj.[27]

وَأَمَّا امْتِنَاعُهُ مِنْ النِّسَاءِ فَلِقَوْلِ اللَّهِ - تَعَالَى -: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] فَهُوَ مَا لَمْ يُتِمَّ فَرَائِضَ الْحَجِّ فَهُوَ فِي الْحَجِّ بَعْدُ.

L13784 As for his return for the Farewell Tawaf, it is neither part of Hajj nor Umrah. Therefore, he is not required to enter Ihram or refrain from sexual relations, because neither Allah—Exalted is He—nor the Messenger of Allah has obligated this. There is no Ihram except for Hajj or Umrah—not even for a mere Tawaf. Hence, it does not require it.

وَأَمَّا رُجُوعُهُ لِطَوَافِ الْوَدَاعِ فَلَيْسَ هُوَ فِي حَجٍّ، وَلَا فِي عُمْرَةٍ فَلَيْسَ عَلَيْهِ أَنْ يُحْرِمَ، وَلَا أَنْ يَمْتَنِعَ مِنْ النِّسَاءِ، لِأَنَّ اللَّهَ - تَعَالَى - لَمْ يُوجِبْ ذَلِكَ، وَلَا رَسُولُ اللَّهِ، وَلَا إحْرَامَ إلَّا بِحَجٍّ أَوْ عُمْرَةٍ - أَوْ لِطَوَافٍ مُجَرَّدٍ فَلَا.

## L13785 He did not perform the stoning of Jamrat al-Aqabah until the days of stoning in Dhu al-Hijjah had passed or he had intentionally engaged in sexual intercourse (thereby invalidating his Hajj).

## [لَمْ يَرْمِ جَمْرَةَ الْعَقَبَةِ حَتَّى خَرَجَ ذُو الْحِجَّةِ أَوْ وَطِئَ عَمْدًا]

L13786 As for our statement that whoever does not cast at Jamrat al-'Aqaba until Dhul-Hijjah passes, or until he intentionally engages in intercourse, his Hajj is invalid—this is based on what was narrated to us through Abu Dawud al-Sijistani's chain: Nasr ibn 'Ali al-Jahdhami narrated to us, from Yazid ibn Zurai', from Khalid al-Hadhdha', from 'Ikrimah, from Ibn 'Abbas: "A man said to the Messenger of Allah (peace and blessings be upon him), 'I reached

وَأَمَّا قَوْلُنَا: إنَّ مَنْ لَمْ يَرْمِ جَمْرَةَ الْعَقَبَةِ حَتَّى خَرَجَ ذُو الْحِجَّةِ، أَوْ حَتَّى وَطِئَ عَمْدًا فَحَجُّهُ بَاطِلٌ، فَلِمَا رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد السِّجِسْتَانِيِّ نَا نَصْرُ بْنُ عَلِيٍّ هُوَ الْجَهْضَمِيُّ - نَا يَزِيدُ بْنُ زُرَيْعٍ أَنَا خَالِدٌ هُوَ الْحَذَّاءُ - عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَجُلًا قَالَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: إنِّي أَمْسَيْتُ وَلَمْ أَرْمِ قَالَ: ارْمِ وَلَا حَرَجَ» فَأَمَرَ

[26] **Qur'an references (L13782):** Qur'an 2:197 (Al-Baqarah).
[27] **Qur'an references (L13783):** Qur'an 2:197 (Al-Baqarah).

evening without casting.' He (peace be upon him) said, 'Cast, and there is no sin.'" Thus, he (peace be upon him) commanded this casting, and his command is obligatory. He (peace be upon him) indicated that there is no sin in delaying it, so the obligation remains as long as any portion of the Hajj months persists. It is not valid outside the Hajj months, for it is among Hajj's obligations as we previously stated. It was narrated to us through 'Abd al-Razzaq's chain, from Ma'mar, from al-Zuhri, who said: "If he remembers while in Mina, he casts. But if he misses it until departing, he must perform Hajj the following year while observing the rites."

L13787 Abū Muḥammad said: Utterly astonishing are those who invalidate a Muslim's Hajj for merely engaging in intimacy with his wife to the point of ejaculation without penetration—while there exists no prohibition of this act whatsoever, neither in the Quran, nor in the Sunnah, nor any explicit text, consensus, or analogy that nullifies the Hajj's validity for such an act. Then they do not invalidate his Hajj for abandoning the stoning of Jamarat al-ʿAqabah or neglecting to stay at Muzdalifah, despite the clear command for both being established in the Quran and the authentically established Sunnah.

L13788 **Both a single Tawaf and a single Saʿī suffice for the qārin (a pilgrim combining Hajj and Umrah).**

L13789–13791 As for our statement: It suffices for the Qarin (one combining Ḥajj and ʿUmrah) to perform a single seven-circuit circumambulation for both together, and a single seven-circuit saʿī between Ṣafā and Marwah for both together - the same as the Mufrid (one performing Ḥajj alone). Uniform Practice: Regarding what we have narrated through Muslim's chain: Qutaybah reported to us, al-Layth—that is, Ibn Saʿd—reported to us from Nāfiʿ that Ibn ʿUmar said to them: "Bear witness that I have made Hajj obligatory alongside my Umrah." Then he set out entering *ihram* for both by pronouncing the talbiyah together until he reached Mecca. He performed Tawaf around the House and Saʿy between as-Ṣafā and al-Marwah, and he did not do more than that. He did not sacrifice, shave, shorten his hair, or exit the state of *ihram* from anything he was prohibited from during it until the Day of Nahr ar-

- عَلَيْهِ السَّلَامُ - بِالرَّمْيِ الْمَذْكُورِ، وَأَمْرُهُ فَرْضٌ، وَأَخْبَرَ - عَلَيْهِ السَّلَامُ - أَنَّهُ لَا حَرَجَ فِي تَأْخِيرِهِ فَهُوَ بَاقٍ مَا دَامَ مِنْ أَشْهُرِ الْحَجِّ شَيْءٌ، وَلَا يُجْزِئُ فِي غَيْرِ أَشْهُرِ الْحَجِّ، لِأَنَّهُ مِنْ فَرَائِضِ الْحَجِّ لِمَا ذَكَرْنَاهُ آنِفًا -: رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ قَالَ: إنْ ذَكَرَ، وَهُوَ بِمِنًى رَمَى، وَإِنْ فَاتَهُ ذَلِكَ حَتَّى يَنْفِرَ فَإِنَّهُ يَحُجُّ مِنْ قَابِلٍ وَيُحَافِظُ عَلَى الْمَنَاسِكِ.

قَالَ أَبُو مُحَمَّد: وَالْعَجَبُ كُلُّهُ مِمَّنْ يُبْطِلُ حَجَّ الْمُسْلِمِ بِأَنْ بَاشَرَ امْرَأَتَهُ حَتَّى أَمْنَى مِنْ غَيْرِ إيلَاجٍ، وَلَا نَهْيَ عَنْ ذَلِكَ أَصْلًا لَا فِي قُرْآنٍ، وَلَا فِي سُنَّةٍ، وَلَا جَاءَ بِإِبْطَالِ حَجَّةٍ بِذَلِكَ نَصٌّ، وَلَا إجْمَاعٌ، وَلَا قِيَاسٌ، ثُمَّ لَا يُبْطِلُ حَجَّهُ بِتَرْكِ رَمْيِ جَمْرَةِ الْعَقَبَةِ، وَتَرْكِ مُزْدَلِفَةَ، وَقَدْ صَحَّ الْأَمْرُ بِهِمَا فِي الْقُرْآنِ وَالسُّنَّةِ الثَّابِتَةِ.

## [يُجْزِئُ الْقَارِنَ بَيْنَ طَوَافٌ وَاحِدٌ وَسَعْيٌ وَاحِدٌ]

وَأَمَّا قَوْلُنَا -: إنَّهُ يُجْزِئُ الْقَارِنَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ طَوَافٌ وَاحِدٌ سَبْعَةَ أَشْوَاطٍ لَهُمَا جَمِيعًا، وَسَعْيٌ وَاحِدٌ بَيْنَ الصَّفَا وَالْمَرْوَةِ سَبْعَةَ أَشْوَاطٍ لَهُمَا جَمِيعًا، كَالْمُفْرِدِ سَوَاءً سَوَاءً -: فَلِمَا رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ نَا قُتَيْبَةُ نَا اللَّيْثُ هُوَ ابْنُ سَعْدٍ - عَنْ نَافِعٍ أَنَّ ابْنَ عُمَرَ قَالَ لَهُمْ: اشْهَدُوا أَنِّي قَدْ أَوْجَبْت حَجًّا مَعَ عُمْرَتِي، ثُمَّ انْطَلَقَ يُهِلُّ بِهِمَا جَمِيعًا حَتَّى قَدِمَ مَكَّةَ فَطَافَ بِالْبَيْتِ وَبِالصَّفَا وَالْمَرْوَةِ، وَلَمْ يَزِدْ عَلَى ذَلِكَ [وَلَمْ يَنْحَرْ] وَلَمْ يَحْلِقْ، وَلَا قَصَّرَ، وَلَا أَحَلَّ مِنْ شَيْءٍ حَرُمَ مِنْهُ حَتَّى كَانَ يَوْمُ النَّحْرِ فَنَحَرَ وَحَلَقَ وَرَأَى أَنَّهُ قَدْ

rived, when he sacrificed, shaved, and held the view that he had fulfilled the Tawaf required for Hajj and Umrah through his initial Tawaf. He said: “This is how the Messenger of Allah—peace and blessings be upon him—did it.”

قَضَى طَوَافَ الْحَجِّ وَالْعُمْرَةِ بِطَوَافِهِ الْأَوَّلِ، وَقَالَ: هَكَذَا فَعَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13792 From the path of Muslim: from Muhammad ibn Hatim, from Bahz ibn Asad, from Wuhaib—who is Ibn Khalid—from Abdullah ibn Tawus, from his father that Aisha entered the state of ihram for Umrah. When she arrived, she did not perform Tawaf around the House until she menstruated. She completed all the rites, having already entered the state of ihram for Hajj. The Messenger of Allah—peace and blessings be upon him—said to her on the day of departure: “Your Tawaf will suffice for both your Hajj and your Umrah.” But she refused. He then sent her with Abdurrahman ibn Abi Bakr to al-Tan’im, where she performed Umrah after Hajj.

وَمِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ حَاتِمٍ نَا بَهْزُ بْنُ أَسَدٍ نَا وُهَيْبٌ هُوَ ابْنُ خَالِدٍ - نَا عَبْدُ اللَّهِ بْنُ طَاوُسٍ عَنْ أَبِيهِ عَنْ «عَائِشَةَ أَنَّهَا أَهَلَّتْ بِعُمْرَةٍ فَقَدِمَتْ، وَلَمْ تَطُفْ بِالْبَيْتِ حَتَّى حَاضَتْ فَنَسَكَتْ الْمَنَاسِكَ كُلَّهَا، وَقَدْ أَهَلَّتْ بِالْحَجِّ، فَقَالَ لَهَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَوْمَ النَّفْرِ: يَسَعُكِ طَوَافُكِ لِحَجِّكِ وَعُمْرَتِكِ فَأَبَتْ، فَبَعَثَ بِهَا مَعَ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرٍ إلَى التَّنْعِيمِ فَاعْتَمَرَتْ بَعْدَ الْحَجِّ» .

L13793 From the narration of Muslim: Hasan ibn Ali al-Hulwani narrated to me, Zayd ibn al-Hubab narrated to us, Ibrahim ibn Nafi‘ narrated to me, Abdullah ibn Abi Najih narrated to me, from Mujahid, from Aisha, the Mother of the Believers, that she menstruated at Sarif and purified herself at Arafah. The Messenger of Allah (peace and blessings be upon him) said to her: “Your Tawaf between Safa and Marwah will suffice for your Hajj and Umrah.”

وَمِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي حَسَنُ بْنُ عَلِيٍّ الْحُلْوَانِيُّ نَا زَيْدُ بْنُ الْحُبَابِ حَدَّثَنِي إبْرَاهِيمُ بْنُ نَافِعٍ حَدَّثَنِي عَبْدُ اللَّهِ بْنُ أَبِي نَجِيحٍ عَنْ مُجَاهِدٍ «عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا حَاضَتْ بِسَرِفَ فَتَطَهَّرَتْ بِعَرَفَةَ، فَقَالَ لَهَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: يُجْزِي عَنْكِ طَوَافُكِ بِالصَّفَا وَالْمَرْوَةِ عَنْ حَجِّكِ وَعُمْرَتِكِ» .

L13794 From the chain of Muslim, Qutaybah narrated to us, al-Layth narrated to us from Abu al-Zubayr, from Jabir ibn Abdullah, who said: Aisha arrived to perform Umrah. He mentioned the ḥadīth, which states that the Messenger of Allah—peace and blessings be upon him—entered upon her while she was weeping. He asked, “What troubles you?” She replied, “I have menstruated. The people have undone their *ihram*, but I have not undone mine, nor performed the circumambulation of the House. Now the people are beginning their Hajj?” The Messenger of Allah—peace and blessings be upon him—said to her, “This is a matter Allah has ordained for the daughters of Adam. Perform *ghusl*, then enter *ihram* for Hajj.” She complied, stood at the Hajj stations until she became pure, then performed the circumambulation of the Kaaba and the *sa‘ī* between al-Ṣafā and al-Marwah. The Messenger

وَمِنْ طَرِيقِ مُسْلِمٍ نَا قُتَيْبَةُ نَا اللَّيْثُ عَنْ أَبِي الزُّبَيْرِ «عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: أَقْبَلَتْ عَائِشَةُ بِعُمْرَةٍ فَذَكَرَ الْحَدِيثَ، وَفِيهِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - دَخَلَ عَلَيْهَا، وَهِيَ تَبْكِي فَقَالَ: مَا شَأْنُكِ؟ قَالَتْ شَأْنِي أَنِّي قَدْ حِضْتُ، وَقَدْ حَلَّ النَّاسُ، وَلَمْ أَحْلِلْ، وَلَمْ أَطُفْ بِالْبَيْتِ وَالنَّاسُ يَذْهَبُونَ إلَى الْحَجِّ الْآنَ؟ فَقَالَ لَهَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: إنَّ هَذَا أَمْرٌ كَتَبَهُ اللَّهُ عَلَى بَنَاتِ آدَمَ فَاغْتَسِلِي، ثُمَّ أَهِلِّي بِالْحَجِّ فَفَعَلَتْ وَوَقَفَتْ الْمَوَاقِفَ حَتَّى إذَا طَهُرَتْ طَافَتْ بِالْكَعْبَةِ وَبَيْنَ الصَّفَا وَالْمَرْوَةِ، قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: قَدْ حَلَلْتِ مِنْ حَجِّكِ وَعُمْرَتِكِ جَمِيعًا» .

of Allah—peace and blessings be upon him—declared, “You have now exited the state of *ihram* for both your Hajj and Umrah.”[28]

L13795–13797 And through the chain of Aḥmad ibn Shuʿayb, Muḥammad ibn ʿAbd Allāh ibn ʿAbd al-Ḥakam informed me: I am Ashhab. Malik reported to them that Ibn Shihāb and Hishām ibn ʿUrwah related to him from ʿUrwah, from ʿĀ’ishah, who said: “We departed with the Messenger of Allāh—peace and blessings be upon him—during the year of the Farewell Pilgrimage. When we reached Mecca, those who had entered iḥrām for ʿUmrah performed ṭawāf around the House [Kaaba] and the Saʿī between Ṣafā and Marwah, then they dissolved their iḥrām. They performed another ṭawāf after returning from Minā for their Hajj; as for those who had undertaken *Qirān* (combining Hajj and ʿUmrah), they performed only one ṭawāf.”

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَخْبَرَنِي مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ عَبْدِ الْحَكَمِ أَنَا أَشْهَبُ أَنَّ مَالِكًا حَدَّثَهُمْ أَنَّ ابْنَ شِهَابٍ وَهِشَامَ بْنَ عُرْوَةَ حَدَّثَاهُ عَنْ عُرْوَةَ «عَنْ عَائِشَةَ قَالَتْ خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَامَ حَجَّةِ الْوَدَاعِ فَقَدِمْنَا مَكَّةَ فَطَافَ الَّذِينَ أَهَلُّوا بِالْعُمْرَةِ بِالْبَيْتِ وَبَيْنَ الصَّفَا وَالْمَرْوَةِ، ثُمَّ حَلُّوا، ثُمَّ طَافُوا طَوَافًا آخَرَ بَعْدَ أَنْ رَجَعُوا مِنْ مِنًى لِحَجِّهِمْ، وَأَمَّا الَّذِينَ كَانُوا جَمَعُوا الْحَجَّ وَالْعُمْرَةَ فَإِنَّمَا طَافُوا طَوَافًا وَاحِدًا» .

L13798 Aḥmad ibn ʿUmar ibn Anas narrated to us: ʿAbd Allāh ibn al-Ḥusayn ibn ʿIqāl narrated to us: Ibrāhīm ibn Muḥammad al-Dīnawarī narrated to us: Muḥammad ibn Aḥmad ibn al-Jahm narrated to us: Muḥammad ibn Bishr ibn Maṭar narrated to us: Abū al-Musʿab and Jaʿfar ibn Muḥammad al-Warakānī both said together: al-Darāwardī (he is ʿAbd al-ʿAzīz ibn Muḥammad) narrated to us: ʿUbayd Allāh ibn ʿUmar narrated to us from Nāfiʿ from Ibn ʿUmar, who said: The Messenger of Allāh, peace and blessings be upon him, said: “Whoever combines Ḥajj and ʿUmrah (Qirān), let him perform a single circumambulation and a single Saʿī for both.”

حَدَّثَنَا أَحْمَدُ بْنُ عُمَرَ بْنِ أَنَسٍ نَا عَبْدُ اللَّهِ بْنُ الْحُسَيْنِ بْنِ عِقَالٍ نَا إِبْرَاهِيمُ بْنُ مُحَمَّدٍ الدِّينَوَرِيُّ نَا مُحَمَّدُ بْنُ أَحْمَدَ بْنِ الْجَهْمِ نَا مُحَمَّدُ بْنُ بِشْرِ بْنِ مَطَرٍ نَا أَبُو الْمُصْعَبِ، وَجَعْفَرُ بْنُ مُحَمَّدٍ الْوَرَكَانِيُّ قَالَا جَمِيعًا: نَا الدَّرَاوَرْدِيُّ هُوَ عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ - نَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَنْ قَرَنَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَلْيَطُفْ لَهُمَا طَوَافًا وَاحِدًا وَسَعْيًا وَاحِدًا» .

L13799 Hence, these successive, mutually corroborating narrations compel indispensable certainty.

فَهَذِهِ آثَارٌ مُتَوَاتِرَةٌ مُتَظَاهِرَةٌ تُوجِبُ الْعِلْمَ الضَّرُورِيَّ.

L13800 From the chain of ʿAbd al-Razzāq: ʿUbayd Allāh ibn ʿUmar reported from Nāfiʿ that Ibn ʿUmar would say: “Does the Qārin have one Saʿī, and the Mutamattiʿ have two Saʿīs?” From the chain of Sufyān ibn ʿUyaynah, from ʿAmr ibn Dīnār, from Ṭāwus, from Ibn ʿAbbās, who said: “Your first ṭawāf between al-Ṣafā and al-Marwah suffices for both—referring to the Qārin combining Ḥajj and ʿUmrah.”

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ عَنْ نَافِعٍ أَنَّ ابْنَ عُمَرَ كَانَ يَقُولُ: لِلْقَارِنِ سَعْيٌ وَاحِدٌ، وَلِلْمُتَمَتِّعِ سَعْيَانِ؟ وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ طَاوُسٍ عَنِ ابْنِ عَبَّاسٍ قَالَ: يَكْفِيكَ لَهُمَا طَوَافُكَ الْأَوَّلُ بَيْنَ الصَّفَا وَالْمَرْوَةِ - يَعْنِي الْقَارِنَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ.

[28] **Hadith references (L13794):** Sunan Abi Dawud 1785; Sahih Muslim 1213a; Sunan an-Nasai 2763.

وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ قَالَ: حَلَفَ لِي طَاوُسٍ مَا طَافَ أَحَدٌ مِنْ أَصْحَابِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِحَجِّهِ وَعُمْرَتِهِ إِلَّا طَوَافًا وَاحِدًا.

L13801 Through the chain of Sufyan al-Thawri from Salamah ibn Kuhayl, who said: Tāwūs swore to me that none of the Companions of the Messenger of Allah (peace be upon him) performed Tawaf for their Hajj and Umrah except a single Tawaf.

وَمِنْ طَرِيقِ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ أَنَّهُ كَانَ يَحْفَظُ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ لِلْقَارِنِ طَوَافًا وَاحِدًا بَيْنَ الصَّفَا وَالْمَرْوَةِ خِلَافَ مَا يَحْفَظُ أَهْلُ الْعِرَاقِ.

L13802 And through the chain of Jaʿfar ibn Muḥammad, who narrated from his father that he transmitted from ʿAlī ibn Abī Ṭālib a ruling requiring the Qārin (one combining Hajj and Umrah) to perform one Tawaf (circumambulation) between al-Ṣafā and al-Marwah, contrary to what the people of Iraq had transmitted.

وَمِنْ طَرِيقِ هُشَيْمِ بْنِ بَشِيرٍ نَا أَبُو بِشْرٍ عَنْ سُلَيْمَانَ الْيَشْكُرِيِّ أَنَّ جَابِرَ بْنَ عَبْدِ اللَّهِ قَالَ: لَوْ أَهْلَلْتُ بِالْحَجِّ وَالْعُمْرَةِ جَمِيعًا تُخُصَّ لَهُمَا طَوَافًا وَاحِدًا وَلَكُنْتُ مُهْدِيًا - يَعْنِي سُوقَ الْهَدْيِ قَبْلَ الْإِحْرَامِ -.

L13803 From the narration of Hushaym ibn Bashir: Abu Bishr reported to us from Sulayman al-Yashkuri that Jabir ibn Abdullah said: “If I were to enter Ihram for Hajj and Umrah together as Qirān, I would designate a single circumambulation for both, and I would sacrifice the hady”—meaning the driving of the sacrificial animal before entering Ihram.

وَهُوَ قَوْلُ مُحَمَّدِ بْنِ سِيرِينَ، وَالْحَسَنِ الْبَصْرِيِّ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَعَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ، وَسَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ، وَمُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ، وَالزُّهْرِيِّ، وَمَالِكٍ، وَالشَّافِعِيِّ، وَأَحْمَدَ، وَإِسْحَاقَ، وَأَبِي ثَوْرٍ، وَدَاوُد، وَأَصْحَابِهِمْ.

L13804 This is the opinion of Muḥammad ibn Sīrīn, al-Ḥasan al-Baṣrī, Saʿīd ibn Jubayr, ʿAṭāʾ, Ṭāwūs, Mujāhid, Sālim ibn ʿAbd Allāh ibn ʿUmar, Muḥammad ibn ʿAlī ibn al-Ḥusayn, al-Zuhrī, Mālik, al-Shāfiʿī, Aḥmad, Isḥāq, Abū Thawr, Dāwūd, and their companions.

وَقَالَتْ طَائِفَةٌ: بَلْ يَطُوفُ طَوَافَيْنِ، وَيَسْعَى سَعْيَيْنِ -: كَمَا رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ أَنَّ الصُّبَيَّ بْنَ مَعْبَدٍ قَرَنَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَطَافَ لَهُمَا طَوَافَيْنِ وَسَعَى سَعْيَيْنِ، وَلَمْ يَحِلَّ بَيْنَهُمَا وَأَهْدَى، وَأَخْبَرَ بِذَلِكَ عُمَرُ بْنُ الْخَطَّابِ، فَقَالَ عُمَرُ: هُدِيتَ لِسُنَّةِ نَبِيِّكَ.

L13805–13806 A group said: Rather, he performs two circumambulations and two saʿys—as narrated through the chain of Ḥammād ibn Salamah from Ḥammād ibn Abī Sulaymān from Ibrāhīm al-Nakhaʿī that al-Ṣubayy ibn Maʿbad combined Ḥajj and ʿUmrah, so he performed two circumambulations for them and two saʿys, did not exit Iḥrām between them, sacrificed a *hady*, and informed ʿUmar ibn al-Khaṭṭāb of that. ʿUmar said: “You have been guided to the Sunnah of your Prophet.”

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ عَبَّادِ بْنِ كَثِيرٍ، وَيس الزَّيَّاتِ قَالَ يس: عَنْ رَجُلٍ عَنْ ابْنِ الْأَصْبَهَانِيِّ وَقَالَ عَبَّادٌ: عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَصْبَهَانِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى أَنَّ الْحُسَيْنَ بْنَ عَلِيٍّ قَرَنَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَطَافَ بِالْبَيْتِ وَسَعَى بَيْنَ الصَّفَا وَالْمَرْوَةِ

L13807 And from the chain of ʿAbd al-Razzāq, from ʿAbbād ibn Kathīr and Yas al-Zayyāt. Yas said: From a man on the authority of Ibn al-Aṣbahānī. ʿAbbād said: From ʿAbd al-Raḥmān ibn al-Aṣbahānī, from ʿAbd al-Raḥmān ibn Abī Laylā, that al-Ḥusayn ibn ʿAlī performed Qirān Hajj (combining Hajj and ʿUmrah). He performed ṭawāf around the House and saʿī between Ṣafā and Marwah for his ʿUmrah, then sat in the Ḥijr for an hour. He then stood and

performed seven circuits of ṭawāf around the House and seven rounds of saʿī between Ṣafā and Marwah for his Hajj, saying: “This is how the Messenger of Allah (peace and blessings be upon him) did it.”

لِعُمْرَتِه، ثُمَّ قَعَدَ فِي الْحِجْرِ سَاعَةً، ثُمَّ قَامَ فَطَافَ بِالْبَيْتِ سَبْعًا وَبَيْنَ الصَّفَا وَالْمَرْوَةِ سَبْعًا لِحَجِّهِ، ثُمَّ قَالَ: هَكَذَا صَنَعَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13808 And from the narration of Abd al-Razzaq, from al-Hasan ibn Umarah, from al-Hakam ibn Utayba, from Abd al-Rahman ibn Abi Layla: “The Prophet performed Hajj al-Qirān (combining Hajj and Umrah), so he performed two Tawafs and two Sa’ys for both rituals.”

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ الْحَسَنِ بْنِ عُمَارَةَ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى «أَنَّ النَّبِيَّ جَمَعَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَطَافَ لَهُمَا طَوَافَيْنِ وَسَعَى لَهُمَا سَعْيَيْنِ» .

L13809 It has been narrated from some of the Companions, as transmitted via the chain of Mansūr ibn al-Muʿtamir from Mālik ibn al-Ḥārith from Abū Naṣr—who is Ibn ʿAmr al-Sulamī—and via the chain of Mansūr from a man of the Banū Sulaym; via the chain of Abū ʿAwānah from al-Aʿmash from Ibrāhīm al-Nakhaʿī from ʿAbd al-Raḥmān ibn Udhaynah; via the chain of Wakīʿ from Misʿar from Bukayr ibn ʿAṭāʾ al-Laythī from a man of the Banū ʿUdhrah; via the chain of Mansūr ibn Zādhān from both al-Ḥakam ibn ʿUtaybah and Ziyād ibn Mālik; and via the chain of Ibn Samʿān from Ibn Shubrumah. Then the chains converged: Abū Naṣr ibn ʿAmr, the man from the Banū Sulaym, the man from the Banū ʿUdhrah, ʿAbd al-Raḥmān ibn Udhaynah, al-Ḥakam ibn ʿUtaybah, Ziyād ibn Mālik, and Ibn Shubrumah—all narrating from ʿAlī that he said: “The pilgrim performing combined Hajj and ʿUmrah (Qārin) must perform two circumambulations and two Saʿīs.” Via the chain of Mansūr ibn Zādhān from Ziyād ibn Mālik, and via the chain of Sufyān from Abū Isḥāq al-Sabīʿī—then both Ziyād ibn Mālik and Abū Isḥāq concurred in narrating from Ibn Masʿūd: “The pilgrim performing combined Hajj and ʿUmrah is to perform two circumambulations and two Saʿīs.”

وَرُوِيَ عَنْ بَعْضِ الصَّحَابَةِ، كَمَا رُوِّينَا مِنْ طَرِيقِ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ مَالِكِ بْنِ الْحَارِثِ عَنْ أَبِي نَصْرٍ هُوَ ابْنُ عَمْرٍو السُّلَمِيُّ - وَمِنْ طَرِيقِ مَنْصُورٍ عَنْ رَجُلٍ مِنْ بَنِي سُلَيْمٍ؛ وَمِنْ طَرِيقِ أَبِي عَوَانَةَ عَنْ الْأَعْمَشِ عَنْ إبْرَاهِيمَ النَّخَعِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أُذَيْنَةَ؛ وَمِنْ طَرِيقِ وَكِيعٍ عَنْ مِسْعَرٍ عَنْ بُكَيْرِ بْنِ عَطَاءٍ اللَّيْثِيِّ عَنْ رَجُلٍ مِنْ بَنِي عُذْرَةَ، وَمِنْ طَرِيقِ مَنْصُورِ بْنِ زَاذَانَ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ، وَزِيَادِ بْنِ مَالِكٍ، وَمِنْ طَرِيقِ ابْنِ سَمْعَانَ عَنْ ابْنِ شُبْرُمَةَ، ثُمَّ اتَّفَقَ أَبُو نَصْرِ بْنُ عَمْرٍو، وَالرَّجُلُ السُّلَمِيُّ، وَالرَّجُلُ الْعُذْرِيُّ، وَعَبْدُ الرَّحْمَنِ بْنُ أُذَيْنَةَ، وَالْحَكَمُ بْنُ عُتَيْبَةَ، وَزِيَادُ بْنُ مَالِكٍ، وَابْنُ شُبْرُمَةَ كُلُّهُمْ عَنْ عَلِيٍّ أَنَّهُ قَالَ: يَطُوفُ الْقَارِنُ طَوَافَيْنِ وَيَسْعَى سَعْيَيْنِ - وَمِنْ طَرِيقِ مَنْصُورِ بْنِ زَاذَانَ عَنْ زِيَادِ بْنِ مَالِكٍ - وَمِنْ طَرِيقِ سُفْيَانَ عَنْ أَبِي إِسْحَاقَ السَّبِيعِيِّ، ثُمَّ اتَّفَقَ زِيَادُ بْنُ مَالِكٍ، وَأَبُو إِسْحَاقَ كِلَاهُمَا عَنْ ابْنِ مَسْعُودٍ عَلَى الْقَارِنِ طَوَافَانِ، وَسَعْيَانِ.

L13810–13812 Narrated via the chain of al-Ḥajjāj ibn Arṭāh, from al-Ḥakam ibn ʿAmr ibn al-Aswad, from al-Ḥusayn ibn ʿAlī, who said: “When you combine Ḥajj and ʿUmrah as Qirān, perform two Tawafs and two Saʿys.” This is the view of Mujāhid, Jābir ibn Zayd, Shurayḥ the Judge, al-Shaʿbī, Muḥammad ibn ʿAlī ibn al-Ḥusayn, and Ibrāhīm al-Nakhaʿī. And Hammad ibn Abi Sulayman, al-Hakam ibn ʻUtaybah, and it is reported from al-Aswad ibn Yazid—this being the opinion of Abu Hanifah, Sufyan, and al-Hasan ibn Hayy. Al-Awzaʿi inclined to a similar view. Here, there is a third opinion transmitted through

وَمِنْ طَرِيقِ الْحَجَّاجِ بْنِ أَرْطَاةَ عَنْ الْحَكَمِ بْنِ عَمْرِو بْنِ الْأَسْوَدِ عَنْ الْحُسَيْنِ بْنِ عَلِيٍّ قَالَ: إذَا قَرَنْتَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَطُفْ طَوَافَيْنِ وَاسْعَ سَعْيَيْنِ - وَهُوَ قَوْلُ مُجَاهِدٍ، وَجَابِرِ بْنِ زَيْدٍ، وَشُرَيْحٍ الْقَاضِي، وَالشَّعْبِيِّ، وَمُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ وَإِبْرَاهِيمَ النَّخَعِيِّ، وَحَمَّادِ بْنِ أَبِي سُلَيْمَانَ، وَالْحَكَمِ بْنِ عُتَيْبَةَ، وَرُوِيَ عَنْ الْأَسْوَدِ بْنِ يَزِيدَ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ،

وَسُفْيَانَ، وَالْحَسَنِ بْنِ حَيٍّ، وَأَشَارَ نَحْوَهُ الْأَوْزَاعِيُّ وَهَا هُنَا قَوْلٌ ثَالِثٌ رُوِّينَاهُ مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ قَالَ: نَا جَهْمُ بْنُ وَاقِدٍ الْأَنْصَارِيُّ سَأَلَتْ عَطَاءَ بْنَ أَبِي رَبَاحٍ فَقُلْتُ: قَرَنْتُ الْحَجَّ وَالْعُمْرَةَ فَقَالَ: تَطُوفُ طَوَافَيْنِ بِالْبَيْتِ وَيُجْزِئُك سَعْيٌ وَاحِدٌ بَيْنَ الصَّفَا وَالْمَرْوَةِ.

Sa‘id ibn Mansur, who reported: Jahm ibn Waqid al-Ansari narrated to us: “I asked ‘Ata’ ibn Abi Rabah, saying: ‘I combined Hajj and Umrah.’ He responded: ‘Perform two circumambulations of the House and let one _sa‘i_ between Safa and Marwah suffice for you.’”

L13813 قَالَ أَبُو مُحَمَّدٍ: أَمَّا قَوْلُ عَطَاءٍ هَذَا فَإِنَّهُ كَانَ لَا يَرَى السَّعْيَ بَيْنَ الصَّفَا وَالْمَرْوَةِ مِنْ فَرَائِضِ الْحَجِّ، فَلِذَلِكَ أَجْزَأَهُ عِنْدَهُ سَعْيٌ وَاحِدٌ بَيْنَهُمَا، لِأَنَّهُ لِلْحَجِّ وَحْدَهُ.

Abu Muhammad said: As for this statement of ʿAṭāʾ, he did not consider the Saʿī between al-Ṣafā and al-Marwah to be among the obligatory rites of Hajj. Therefore, in his view, a single Saʿī between them sufficed because it is prescribed for Hajj alone.

L13814 قَالَ أَبُو مُحَمَّدٍ: أَمَّا مَا شَغَبَ بِهِ، مَنْ يَرَى أَنْ يَطُوفَ الْقَارِنُ طَوَافَيْنِ وَيَسْعَى سَعْيَيْنِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَسَاقِطٌ كُلُّهُ لَا يَجُوزُ الِاحْتِجَاجُ بِهِ.

Abu Muhammad said: As for the contention raised by those who assert that the Qarin should perform two circumambulations and two saʿys—attributed to the Prophet (peace and blessings of Allah be upon him)—all of it is invalid, and it is impermissible to cite it as evidence.

L13815 وَكَذَلِكَ كُلُّ مَا رَوَوْا فِي ذَلِكَ عَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - لَا يَصِحُّ مِنْهُ، وَلَا كَلِمَةٌ وَاحِدَةٌ، وَلَكِنَّهُ عَمَّنْ ذَكَرْنَا مِنْ التَّابِعِينَ صَحِيحٌ إلَّا عَنْ الْأَسْوَدِ وَحْدَهُ فَإِنَّهُ مِنْ رِوَايَةِ جَابِرٍ الْجُعْفِيِّ.

Similarly, every narration they reported regarding that from the Companions—may Allah be pleased with them—none of it is authentic, not even a single word. However, what is narrated from those we mentioned among the Successors is authentic, except from al-Aswad alone, for it is from the narration of Jābir al-Juʿfī.

L13816 أَمَّا حَدِيثُ الضَّبِّيِّ بْنِ مَعْبَدٍ فَإِنَّ إبْرَاهِيمَ لَمْ يُدْرِكْ الضَّبِّيَّ، وَلَا سَمِعَ مِنْهُ، وَلَا أَدْرَكَ عُمَرَ فَهُوَ مُنْقَطِعٌ، وَقَدْ رَوَاهُ الثِّقَاتُ: مُجَاهِدٌ، وَمَنْصُورٌ عَنْ أَبِي وَائِلٍ شَقِيقِ بْنِ سَلَمَةَ عَنْ الضَّبِّيِّ - فَلَمْ يَذْكُرُوا فِيهِ طَوَافًا، وَلَا طَوَافَيْنِ، وَلَا سَعْيًا، وَلَا سَعْيَيْنِ أَصْلًا، وَإِنَّمَا فِيهِ أَنَّهُ قَرَنَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ فَقَطْ.

As for the ḥadīth of al-Ḍabbī ibn Maʿbad, Ibrāhīm did not meet al-Ḍabbī, nor hear from him, nor meet ʿUmar, rendering the chain interrupted. Moreover, trustworthy narrators—Mujāhid and Manṣūr—narrated it from Abū Wāʾil Shaqīq ibn Salamah, from al-Ḍabbī. They did not mention any *tawaf*, two *tawafs*, *saʿy*, or two *saʿys* whatsoever. The narration only states that he performed *Qirān* between Ḥajj and ʿUmrah and nothing else.

L13817 وَأَمَّا حَدِيثُ ابْنِ أَبِي لَيْلَى فَمُرْسَلٌ، ثُمَّ هُوَ أَيْضًا عَنْ الْحَسَنِ بْنِ عُمَارَةَ، وَلَا يَجُوزُ الِاحْتِجَاجُ بِرِوَايَتِهِ.

As for the ḥadīth of Ibn Abī Laylā, it is *mursal*. Furthermore, it is narrated from al-Ḥasan ibn ʿUmārah, and it is impermissible to cite his narration as evidence.

L13818 As for the ḥadīth of Al-Ḥusayn ibn ʿAlī, it is narrated through ʿAbbād ibn

Kathīr and Yas—both of whom are very weak narrators, to the point of being utterly discarded. Thus, all of that is discarded, and the narration transmitted from ʿAmr from Al-Ḥusayn ibn ʿAlī is rejected by its discarding.

وَأَمَّا حَدِيثُ الْحُسَيْنِ بْنِ عَلِيٍّ، فَعَنْ عَبَّادِ بْنِ كَثِيرٍ، وَيس، وَكِلَاهُمَا ضَعِيفٌ جِدًّا فِي غَايَةِ السُّقُوطِ، فَسَقَطَ كُلُّ ذَلِكَ، وَتَسْقُطُ بِسُقُوطِهِ الرِّوَايَةُ عَنْ عَمْرٍو عَنْ الْحُسَيْنِ بْنِ عَلِيٍّ.

L13819 By Allah, Allah the Exalted has not granted any excuse to one who opposes the narrations of ‘Aṭā’, Ṭāwūs, Mujāhid, and ‘Urwah—from the Mother of the Believers, from the Prophet (peace be upon him)—nor the narration of Nāfi‘ from Ibn ‘Umar, and that of Abū al-Zubayr from Jābir, both of them tracing back to the Prophet (peace be upon him), regarding the likes of these foul-smelling abominations. We seek refuge in Allah from being forsaken.

وَوَاللَّهِ مَا جَعَلَ اللَّهُ - تَعَالَى - عُذْرًا لِمَنْ يُعَارِضُ رِوَايَةَ عَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ، وَعُرْوَةَ، عَنْ أُمِّ الْمُؤْمِنِينَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَرِوَايَةَ نَافِعٍ عَنْ ابْنِ عُمَرَ وَأَبِي الزُّبَيْرِ عَنْ جَابِرٍ، كِلَاهُمَا عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِمِثْلِ هَذِهِ الْعُفُونَاتِ الذَّفِرَةِ، وَنَعُوذُ بِاللَّهِ مِنْ الْخِذْلَانِ.

L13820–13821 As for the narrators from Ali, they include Abu Nasr ibn Amr, Abd al-Rahman ibn Udhaynah, Ziyad ibn Malik, a man from Banu Udhrah, and a man from Banu Sulaym—none of Allah—Exalted is He—’s creation knows who they are? As for al-Hakam ibn Utaybah and Ibn Shubrumah, they did not meet Ali or his son except after his death. As for the narration from his son al-Husayn, it is transmitted through al-Hajjaj ibn Arṭā’ah, who is in the utmost unreliability.

وَأَمَّا الرِّوَايَةُ عَنْ عَلِيٍّ فَأَبُو نَصْرِ بْنِ عَمْرٍو، وَعَبْدُ الرَّحْمَنِ بْنُ أُذَيْنَةَ، وَزِيَادُ بْنُ مَالِكٍ، وَرَجُلٌ مِنْ بَنِي عُذْرَةَ، وَرَجُلٌ مِنْ بَنِي سُلَيْمٍ لَا يَدْرِي أَحَدٌ مِنْ خَلْقِ اللَّهِ - تَعَالَى - مَنْ هُمْ؟ وَأَمَّا الْحَكَمُ بْنُ عُتَيْبَةَ، وَابْنُ شُبْرُمَةَ فَلَمْ يُدْرِكْهُ عَلِيًّا وَلَا وَلَدًا إلَّا بَعْدَ مَوْتِهِ، وَأَمَّا الرِّوَايَةُ عَنْ الْحُسَيْنِ ابْنِهِ، فَعَنْ الْحَجَّاجِ بْنِ أَرْطَاةَ وَهُوَ فِي غَايَةِ السُّقُوطِ.

L13822 As for the narration from Ibn Masʿūd concerning Ziyād ibn Mālik, his identity is unknown (*majhūl*).

وَأَمَّا الرِّوَايَةُ عَنْ ابْنِ مَسْعُودٍ فَزِيَادُ بْنُ مَالِكٍ لَا يُدْرَى مَنْ هُوَ.

L13823 As for Abū Isḥāq, he was not born except in the year of Ibn Masʿūd’s death or after it.

وَأَمَّا أَبُو إِسْحَاقَ فَلَمْ يُولَدْ إلَّا سَنَةَ مَوْتِ ابْنِ مَسْعُودٍ أَوْ بَعْدَهَا.

L13824 Who is more astonishing than one who opposes the narration of Abdullah ibn Umar from Nafi‘ from Ibn Umar, the narration of Amr ibn Dinar from Tawus from Ibn Abbas, the narration of Salamah ibn Kuhayl from Tawus in a general transmission from the Companions collectively, the narration of Abu Bishr from Sulayman al-Yashkuri from Jabir, the narration of Malik from al-Zuhri, and the narration of Hisham ibn Urwah from Urwah from Aishah, the Mother of the Believers, from every Companion who accompanied the Messenger of Allah (peace and blessings be upon him) with these

فَمَنْ أَعْجَبُ مِمَّنْ يُعَارِضُ رِوَايَةَ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ، وَرِوَايَةَ عَمْرِو بْنِ دِينَارٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ، وَرِوَايَةَ سَلَمَةَ بْنِ كُهَيْلٍ عَنْ طَاوُسٍ عَنْ الصَّحَابَةِ جُمْلَةً، وَرِوَايَةَ أَبِي بِشْرٍ عَنْ سُلَيْمَانَ الْيَشْكُرِيِّ عَنْ جَابِرٍ، وَرِوَايَةَ مَالِكٍ عَنْ الزُّهْرِيِّ، وَهِشَامِ بْنِ عُرْوَةَ عَنْ عُرْوَةَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ عَنْ كُلِّ مَنْ قَرَنَ مِنْ الصَّحَابَةِ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِهَذِهِ النَّطَائِحِ الْمُتَرَدِّيَاتِ، وَهَذَا - لِمَنْ تَأَمَّلَهُ

clashing and discredited [narrations]? This, for whoever reflects, constitutes a valid consensus from all the Companions—may Allah be pleased with them—established in the presence of the Messenger of Allah (peace and blessings be upon him). It is not weakened by anything that might emerge afterward—if such were to emerge—how much more so when all of it is baseless and discarded? Abu Muhammad said: The statement of the Messenger of Allah (peace and blessings be upon him)—narrated by Tawus and Mujahid from Ibn Abbas, narrated by Ata and Muhammad ibn Ali from Jabir, and narrated by Tawus from Suraqah, all of them narrating from the Prophet (peace and blessings be upon him)—is: "The rites of Umrah have been merged into Hajj until the Day of Resurrection."

- إجْمَاعٌ صَحِيحٌ مِنْ جَمِيعِ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - بِحَضْرَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَا يَكْدَحُ فِيهِ مَا جَاءَ بَعْدَهُ - لَوْ جَاءَ - فَكَيْفَ وَكُلُّهُ بَاطِلٌ مُطْرَحٌ؟ قَالَ أَبُو مُحَمَّد: وَقَوْلُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الَّذِي رَوَاهُ طَاوُسٍ، وَمُجَاهِدٌ عَنْ ابْنِ عَبَّاسٍ، وَرَوَاهُ عَطَاءٌ، وَمُحَمَّدُ بْنُ عَلِيٍّ عَنْ جَابِرٍ، وَرَوَاهُ طَاوُسٍ عَنْ سُرَاقَةَ، كُلُّهُمْ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إلَى يَوْمِ الْقِيَامَةِ» .

L13825 Ali said: It is invalid for Umrah to require any rite beyond the rites of Hajj, since Umrah is subsumed within it. Among the wonders of the world is their reliance in their arguments on those we previously mentioned from the despicable individuals whose absence from good brings comfort, and whose presence in it causes unease.

قَالَ عَلِيٌّ: وَمِنْ الْبَاطِلِ أَنْ تَحْتَاجَ الْعُمْرَةُ إلَى عَمَلٍ غَيْرِ عَمَلِ الْحَجِّ، وَقَدْ دَخَلَتْ فِيهِ، وَمِنْ عَجَائِبِ الدُّنْيَا احْتِجَاجُهُمْ بِمَنْ ذَكَرْنَا مِنْ السُّقَّاطِ الَّذِينَ يُؤْنَسُ بِالْخَيْرِ فَقْدُهُمْ مِنْهُ، وَيُوحَشُ مِنْهُ وُجُودُهُمْ فِيهِ.

L13826 They then comment regarding what is authenticated from the Prophet—may God's blessings and peace be upon him—concerning his instruction that whoever combines Hajj and Umrah by performing a single circumambulation and a single Sa'i for both: "This is from the narration of Al-Darawardi. Yes, it is indeed from the narration of Al-Darawardi, the trustworthy and reliable, not from the narration of Al-Hajjaj ibn Artāh, 'Abbad ibn Kathir, or Yas[ir] al-Zayyāt, who are rejected and abandoned."

ثُمَّ يَقُولُونَ فِي الثَّابِتِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ أَمْرِهِ مَنْ قَرَنَ بَيْنَ الْحَجِّ وَالْعُمْرَةِ بِأَنْ يَطُوفَ لَهُمَا طَوَافًا وَاحِدًا وَسَعْيًا وَاحِدًا: هَذَا مِنْ رِوَايَةِ الدَّرَاوَرْدِيِّ، نَعَمْ، إنَّهُ لَمِنْ رِوَايَةِ الدَّرَاوَرْدِيِّ الثِّقَةِ الْمَأْمُونِ، لَا مِنْ رِوَايَةِ الْحَجَّاجِ بْنِ أَرْطَاةَ، وَعَبَّادِ بْنِ كَثِيرٍ، وَيس الزَّيَّاتِ، الْمُطْرَحَيْنِ الْمَتْرُوكَيْنِ.

L13827–13829 Then, the most astonishing matter is that in the report of the aforementioned 'Abd al-Raḥmān ibn Udhaynah, on the authority of 'Alī: that he does not... It is permissible for one who initiates the declaration of intent for Ḥajj to append ʿUmrah to it. Then Abū Ḥanīfah treated the narration transmitted by Ibn Udhaynah from ʿAlī – which states that the Qārin (combiner) performs two circumambulations and two Saʿys – as valid evidence, though this narration itself contradicts the established Sunnah and the Companions' consensus. Conversely, he did not consider the narration transmitted by Ibn Udhaynah from ʿAlī – which states that one who initiates the declaration

ثُمَّ أَعْجَبُ شَيْءٍ: أَنَّ فِي رِوَايَةِ عَبْدِ الرَّحْمَنِ بْنِ أُذَيْنَةَ الْمَذْكُورِ عَنْ عَلِيٍّ: أَنَّهُ لَا يَجُوزُ لِمَنْ بَدَأَ بِالْإِهْلَالِ بِالْحَجِّ أَنْ يُرْدِفَ عَلَيْهِ عُمْرَةً فَجَعَلَ أَبُو حَنِيفَةَ مَا رَوَى ابْنُ أُذَيْنَةَ عَنْ عَلِيٍّ مِنْ أَنَّ الْقَارِنَ يَطُوفُ طَوَافَيْنِ وَيَسْعَى سَعْيَيْنِ حُجَّةً خَالَفَ لَهَا السُّنَنَ الثَّابِتَةَ وَإِجْمَاعَ الصَّحَابَةِ، وَلَمْ يَجْعَلْ مَا رَوَاهُ ابْنُ أُذَيْنَةَ عَنْ عَلِيٍّ -: مِنْ أَنَّهُ لَا يَجُوزُ لِمَنْ بَدَأَ بِالْإِهْلَالِ بِالْحَجِّ أَنْ يُضِيفَ إلَيْهِ عُمْرَةً -: حُجَّةً، فَمَا هَذَا التَّلَاعُبُ؟ وَلَئِنْ كَانَتْ رِوَايَةُ ابْنِ أُذَيْنَةَ

of intent for Ḥajj may not append ʿUmrah to it – as valid evidence. What capriciousness is this? If Ibn Udhaynah's narration from ʿAlī constitutes valid evidence for one juristic aspect, it is indeed equally valid evidence for the other aspect. If it is not valid evidence for one of the two aspects, how can it be valid evidence for the other?

عَنْ عَلِيٍّ فِي أَحَدِ الْوَجْهَيْنِ حُجَّةً: إِنَّهَا لَحُجَّةٌ فِي الْوَجْهِ الْآخَرِ، وَلَئِنْ لَمْ تَكُنْ حُجَّةً فِي أَحَدِ الْوَجْهَيْنِ فَمَا هِيَ حُجَّةٌ فِي الْآخَرِ.

L13830 If only the one who cited this as evidence had felt shame from those present around him among the people before progressing to feeling shame before the angels, and ultimately before the One to Whom is his return—the Almighty and Majestic—it would have restrained him from this disgraceful brazenness.

ثُمَّ اعْتَرَضُوا فِي الْآثَارِ الْوَارِدَةِ عَنِ ابْنِ عُمَرَ بِمَا رُوِيَ عَنْهُ مِنْ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ مُتَمَتِّعًا، وَلَوْ أَنَّ الَّذِي احْتَجَّ بِهَذَا يَسْتَحْيِي مِمَّنْ حَضَرَهُ مِنَ النَّاسِ [مِنْ] قَبْلِ أَنْ يَبْلُغَ إِلَى الْحَيَاءِ مِنَ الْمَلَائِكَةِ، ثُمَّ مِنَ الَّذِي إِلَيْهِ مَعَادُهُ - عَزَّ وَجَلَّ -: لَرَدَعَهُ عَنْ هَذِهِ الْمُجَاهَرَةِ الْقَبِيحَةِ.

L13831 We have already mentioned this report, and in it [from] "The Tamattuʿ of the Messenger of Allah—peace and blessings be upon him—he began by entering Ihrām for Umrah, then assumed Ihrām for Hajj." Thus he described the action of Qirān and named it Tamattuʿ.

وَهَذَا الْخَبَرُ قَدْ ذَكَرْنَاهُ وَفِيهِ [مِنْ] «تَمَتُّعِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَدَأَ فَأَهَلَّ بِالْعُمْرَةِ، ثُمَّ أَهَلَّ بِالْحَجِّ» فَوَصَفَ عَمَلَ الْقِرَانِ وَسَمَّاهُ: تَمَتُّعًا.

L13832 It is astonishing that this individual, who brazenly persists in this grave error, once vehemently argued to prove that the Prophet—peace and blessings of Allah be upon him—performed Hajj as a *Qārin* (combining Hajj and Umrah), yet now he abandons that stance and insinuates the Prophet was a *Mutamattiʿ* (one performing Umrah followed by Hajj in the same year with a break). This epitomizes the height of folly and blameworthy conduct. He contests the narrations from ʿĀ'ishah, the Mother of the Believers, by citing the report in which the Prophet—peace and blessings of Allah be upon him—instructed her: *"Abandon the Umrah, relinquish the Umrah, leave the Umrah, comb your hair, loosen it, and proclaim the Hajj."* This obstinate denier misleadingly asserts through these phrases that they released her from the Umrah. This is false, for the meaning of *"Abandon the Umrah, relinquish the Umrah, leave the Umrah, and proclaim the Hajj"* is that she should suspend the *ṭawāf*—the essential rite of Umrah—due to her menstruation, pause the Umrah rites, and attach Hajj to her Umrah, thereby becoming a female *Qārin*. When she became pure, she then performed the *ṭawāf* around the House, fulfilling both her Umrah and Hajj.

وَالْعَجَبُ أَنَّ هَذَا الْمُجَاهِرَ بِهَذِهِ الْعَظِيمَةِ يُنَاظِرُ الدَّهْرَ فِي إِثْبَاتِ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ قَارِنًا، ثُمَّ أَضْرَبَ عَنْ ذَلِكَ الْآنَ وَجَعَلَ يُوهِمُ: أَنَّهُ كَانَ مُتَمَتِّعًا، وَهَذَا مِنَ الْغَايَةِ فِي السَّمَاجَةِ وَالصِّفَةِ الْمَذْمُومَةِ، وَاعْتَرَضَ فِي الْآثَارِ الْمَذْكُورَةِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ بِمَا رُوِيَ فِي ذَلِكَ الْخَبَرِ مِنْ «قَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - اُرْفُضِي الْعُمْرَةَ، وَدَعِي الْعُمْرَةَ، وَاتْرُكِي الْعُمْرَةَ، وَامْتَشِطِي، وَانْقُضِي رَأْسَكِ، وَأَهِلِّي بِالْحَجِّ» وَأَوْهَمَ هَذَا الْمُكَابِرُ بِهَذِهِ الْأَلْفَاظِ: أَنَّهَا أَحَلَّتْ مِنَ الْعُمْرَةِ، وَهَذَا بَاطِلٌ لِأَنَّ - مَعْنَى «اُرْفُضِي الْعُمْرَةَ، وَدَعِي الْعُمْرَةَ، وَاتْرُكِي الْعُمْرَةَ، وَأَهِلِّي بِالْحَجِّ» أَنْ تَدَعَ الطَّوَافَ الَّذِي هُوَ عَمَلُ الْعُمْرَةِ وَتَتْرُكَهُ، وَتَرْفُضَ عَمَلَ الْعُمْرَةِ مِنْ أَجْلِ حَيْضِهَا، وَتُدْخِلَ حَجًّا عَلَى عُمْرَتِهَا، فَتَكُونَ قَارِنَةً، فَإِذَا طَهُرَتْ طَافَتْ بِالْبَيْتِ حِينَئِذٍ لِلْعُمْرَةِ وَلِلْحَجِّ.

L13833 As for unbraiding the hair and combing, these are not considered reprehensible during the state of *iḥrām*; rather, they are absolutely permissible—the proof of this is the statement of the Messenger of Allah—may Allah's peace and blessings be upon him—to her at that time: "Your circumambulation of the House (*ṭawāf*) and your *saʿy* between Ṣafā and Marwah suffice for your Ḥajj and your ʿUmrah."

وَأَمَّا نَقْضُ الرَّأْسِ وَالِامْتِشَاطُ فَلَا يُكْرَهُ ذَلِكَ فِي الْإِحْرَامِ بَلْ هُوَ مُبَاحٌ مُطْلَقٌ -: بُرْهَانُ ذَلِكَ قَوْلُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَهَا حِينَئِذٍ «طَوَافُكِ بِالْبَيْتِ وَسَعْيُكِ بَيْنَ الصَّفَا وَالْمَرْوَةِ يَكْفِيكِ لِحَجِّكِ وَعُمْرَتِكِ» .

L13834–13835 So how can her *ṭawāf* and *saʿy* suffice for an *ʿumrah* after having exited the state of *iḥrām* from it? Were it not for the blinding, deafening, plunging desire that thrusts into the seas of misguidance by openly proclaiming falsehood, this error would hold no ground.

فَكَيْفَ يُمْكِنُ أَنْ يَكْفِيَهَا طَوَافُهَا وَسَعْيُهَا لِعُمْرَةٍ قَدْ أَحَلَّتْ مِنْهَا؟ لَوْلَا الْهَوَى الْمُعْمِي الْمُصِمُّ الْمُقْحِمُ فِي بِحَارِ الضَّلَالَةِ بِالْمُجَاهَرَةِ بِالْبَاطِلِ.

L13836 It was conclusively established that her Tawaf and Sa'i sufficed for both her Hajj and Umrah - the two rites she had combined through Qiran. This presents no implausibility to anyone possessing the slightest understanding, nor did anyone find grounds to obscure the meaning in Jabir's narration or Urwa's report from Aisha: that the Companions who combined Umrah with Hajj performed a single Tawaf for both rites.

فَصَحَّ يَقِينًا أَنَّهُ إنَّمَا كَفَاهَا طَوَافُهَا وَسَعْيُهَا لِحَجِّهَا وَعُمْرَتِهَا اللَّذَيْنِ كَانَتْ قَارِنَةً بَيْنَهُمَا، هَذَا مَا لَا يَحِيلُ عَلَى مَنْ لَهُ أَدْنَى فَهْمٍ، وَلَمْ يَجِدْ مَا يُمَوِّهُ بِهِ فِي حَدِيثِ جَابِرٍ، وَلَا فِي حَدِيثِ عُرْوَةَ عَنْ عَائِشَةَ: أَنَّ الَّذِينَ جَمَعُوا بَيْنَ الْعُمْرَةِ وَالْحَجِّ مِنْ الصَّحَابَةِ طَافُوا لَهُمَا طَوَافًا وَاحِدًا.

L13837 He returned to say: "Indeed, Ali was with the Messenger of Allah (peace and blessings be upon him) during his Hajj and shared in his sacrificial offering. Did he not speak except based on knowledge?" Thus, it is said to whoever makes this claim: "You ascribe falsehood to Ali and attribute a statement never authentically established from him. Even if it were established, the Mother of the Believers was in that Hajj more privy to the Prophet's private matters (peace and blessings be upon him) and more knowledgeable about him than Ali or others. Since Ali's position here is presented as necessitating following him and discarding established Sunnah and the statements of the other Companions for an unverified statement from him, why was it not obligatory to follow him in what is authentically reported from him—such as permitting the sale of slave mothers who bore children, his ruling that twenty-five camels require five sheep, and other matters where they opposed him regarding issues less significant than what they abandoned here? Is not desire an idol worshipped? Our observation shows them declaring regarding the narration from the Mother of the Believers when she said to the slave

فَرَجَعَ إلَى أَنْ قَالَ: إنَّ عَلِيًّا كَانَ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجِّهِ وَأَشْرَكَهُ فِي هَدْيِهِ، فَلَمْ يَقُلْ مَا قَالَ إلَّا عَنْ عِلْمٍ؟ فَيُقَالُ لِمَنْ قَالَ هَذَا الْقَوْلَ: إنَّك تَنْسِبُ إلَى عَلِيٍّ الْبَاطِلَ، وَقَوْلًا لَمْ يَثْبُتْ عَنْهُ قَطُّ، ثُمَّ لَوْ ثَبَتَ عَنْهُ فَأُمُّ الْمُؤْمِنِينَ كَانَتْ فِي تِلْكَ الْحَجَّةِ أَبْطَنَ بِالنَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَعْلَمَ بِهِ مِنْ عَلِيٍّ وَغَيْرِ عَلِيٍّ، وَإِذْ صَارَ عَلِيٌّ هَاهُنَا يَجِبُ تَقْلِيدُهُ وَإِطْرَاحُ السُّنَنِ الثَّابِتَةِ، وَأَقْوَالِ سَائِرِ الصَّحَابَةِ لِقَوْلٍ لَمْ يَصِحَّ عَنْهُ، فَهَلَّا وَجَبَ تَقْلِيدُهُ فِي الثَّابِتِ عَنْهُ مِنْ بَيْعِ أُمَّهَاتِ الْأَوْلَادِ، وَمِنْ قَوْلِهِ: إنَّ فِي خَمْسٍ وَعِشْرِينَ مِنْ الْإِبِلِ خَمْسَ شِيَاهٍ، وَسَائِرِ مَا خَالَفُوهُ فِيهِ لِمَا هُوَ أَقَلُّ مِمَّا تَرَكُوا هَاهُنَا؟ وَلَكِنَّ الْهَوَى إلَهٌ مَعْبُودٌ؟ وَعَهْدُنَا بِهِمْ يَقُولُونَ فِيمَا رُوِيَ عَنْ أُمِّ الْمُؤْمِنِينَ إذْ

mother of Zayd ibn Arqam's child concerning her sale of Zayd's slave for eight hundred dirhams on credit, then repurchasing him for six hundred dirhams in cash: 'Inform Zayd he has nullified his jihad with the Messenger of Allah (peace and blessings be upon him) unless he repents'—asserting: 'Such a ruling cannot stem from personal opinion.' Why then do they not say here regarding the statements of Aisha, Jabir, Ibn Umar, and Ibn Abbas that one performing *Qirān* Hajj suffices with a single circumambulation: 'Such a ruling cannot stem from personal opinion'? Yet they suffice with supporting the current issue by whatever means possible. Success comes solely from Allah, the Exalted."

## Issue: The Defective Among Sacrificial Offerings

837. Issue: A defective animal suffices as a sacrificial offering, but a sound one is more preferable to us. A jadhaʿah from camels, cows, or sheep and goats does not suffice except only as compensation for hunting.

The proof of that is that the Prophet (peace and blessings be upon him) prohibited [sacrificing] a clearly lame animal, a clearly one-eyed animal, a clearly sick animal, an emaciated animal not cleared of defects, and that one should not sacrifice an animal with a split ear, nor... A torn-eared [animal], nor one with a front-slit ear, nor one with a back-slit ear—the ruling is explicitly stated in the texts regarding sacrifices (al-aḍāḥī). The sacrificial offering (al-uḍḥiyah) differs from the pilgrimage offering (al-hady), and analogy is invalid.

We have agreed with the dissenting scholars regarding the difference in rulings between the hady (sacrificial animal) and udhiyah (Eid sacrifice) concerning marking and garlanding, and the ruling applicable if it becomes unfit before reaching its designated slaughtering place.

It is invalid to analogize the ruling of *hady* to *udhiyah* in one context without analogizing it in another, absent differentiating evidence. The *hady* is permissible throughout the entire year, whereas *udhiyah*—according to their view—is only permissible during the three days of Dhul-

قَالَتْ لِأُمِّ وَلَدِ زَيْدِ بْنِ أَرْقَمَ فِي بَيْعِهَا غُلَامًا مِنْ زَيْدٍ بِثَمَانِمَائَةِ دِرْهَمٍ إِلَى الْعَطَاءِ، ثُمَّ ابْتَاعَتْهُ مِنْهُ بِسِتِّمَائَةِ دِرْهَمٍ نَقْدًا: أَبْلِغْ زَيْدًا أَنَّهُ قَدْ أَبْطَلَ جِهَادَهُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِنْ لَمْ يَتُبْ: مِثْلُ هَذَا لَا يُقَالُ بِالرَّأْيِ - فَهَلَّا قَالُوا هَاهُنَا فِي قَوْلِ عَائِشَةَ، وَجَابِرٍ، وَابْنِ عُمَرَ، وَابْنِ عَبَّاسٍ: إِنَّ الْقَارِنَ يُجْزِئُهُ طَوَافٌ وَاحِدٌ: مِثْلُ هَذَا لَا يُقَالُ بِالرَّأْيِ، وَلَكِنْ حَسْبُهُمْ وَنَصْرُ الْمَسْأَلَةِ الْحَاصِلَةِ الْحَاضِرَةِ بِمَا يُمْكِنُ وَبِاللَّهِ - تَعَالَى - التَّوْفِيقُ

## [مَسْأَلَةٌ الْمَعِيبُ مِنْ الْهَدْيِ]

٨٣٧ - مَسْأَلَةٌ: وَيُجْزِئُ فِي الْهَدْيِ: الْمَعِيبُ، وَالسَّالِمُ أَحَبُّ إلَيْنَا - وَلَا تُجْزِئُ جَذَعَةٌ مِنْ الْإِبِلِ، وَلَا مِنْ الْبَقَرِ، وَلَا مِنْ الْغَنَمِ، إلَّا فِي جَزَاءِ الصَّيْدِ فَقَطْ.

بُرْهَانُ ذَلِكَ -: أَنَّ «نَهْيَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْعَرْجَاءِ الْبَيِّنِ عَرَجُهَا، وَالْعَوْرَاءِ الْبَيِّنِ عَوَرُهَا، وَالْمَرِيضَةِ الْبَيِّنِ مَرَضُهَا، وَالْعَجْفَاءِ الَّتِي لَا تُنَقِّي، وَأَنْ لَا يُضَحَّى بِشَرْقَاءَ، وَلَا خَرْقَاءَ، وَلَا مُقَابَلَةٍ، وَلَا مُدَابَرَةٍ» ، إنَّمَا جَاءَ فِي الْأَضَاحِيِّ نَصًّا، وَالْأُضْحِيَّةُ غَيْرُ الْهَدْيِ، وَالْقِيَاسُ بَاطِلٌ.

وَقَدْ وَافَقْنَا الْمُخَالِفَ عَلَى اخْتِلَافِ حُكْمِ الْهَدْيِ وَالْأُضْحِيَّةِ فِي الْإِشْعَارِ وَالتَّقْلِيدِ، وَحُكْمُهُ إذَا عَطِبَ قَبْلَ مَحِلِّهِ.

فَمِنْ الْبَاطِلِ أَنْ يُقَاسَ حُكْمُ الْهَدْيِ عَلَى الْأَضَاحِيِّ فِي مَكَانٍ، وَلَا يُقَاسُ عَلَيْهِ فِي مَكَانٍ آخَرَ بِغَيْرِ بُرْهَانٍ مُفَرِّقٍ بَيْنَ ذَلِكَ، وَالْهَدْيُ جَائِزٌ فِي جَمِيعِ السَّنَةِ، وَلَا تَجُوزُ الْأُضْحِيَّةُ

Hijjah. Thus, equating them is invalid. And divine facilitation is by Allah, the Most High.

عِنْدَهُمْ إِلَّا فِي ثَلَاثَةِ أَيَّامٍ مِنْ ذِي الْحِجَّةِ، فَبَطَلَتْ التَّسْوِيَةُ بَيْنَهُمَا - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13845 As for the six-month-old sheep or goat (al-jadhaʿah), this ruling is based on what was transmitted to us through Muslim's chain: Yahya ibn Yahya narrated to us from Hushaym, from Dawud ibn Abi Hind, from Al-Shaʿbi, from Al-Bara' ibn ʿAzib that his maternal uncle Abu Burdah ibn Niyar slaughtered his sacrificial animal before the Prophet (peace be upon him) had slaughtered. He said: "O Messenger of Allah, meat is disliked on this day. I hastened my ritual sacrifice to feed my family, neighbors, and household." The Messenger of Allah (peace be upon him) said: "Offer another sacrifice." He replied: "O Messenger of Allah, I have a milking young she-goat that is better than two meat-bearing sheep." The Prophet (peace be upon him) said: "It is the best of your two sacrifices. But no six-month-old sheep or goat will ever be valid as a sacrifice for anyone after you."

وَأَمَّا الْجَذَعَةُ -: فَلِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا يَحْيَى بْنُ يَحْيَى أَنَا هُشَيْمٌ عَنْ دَاوُد بْنِ أَبِي هِنْدَ عَنْ الشَّعْبِيِّ «عَنْ الْبَرَاءِ بْنِ عَازِبٍ: أَنَّ خَالَهُ أَبَا بُرْدَةَ بْنَ نِيَارٍ ذَبَحَ قَبْلَ أَنْ يَذْبَحَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: يَا رَسُولَ اللَّهِ إنَّ هَذَا الْيَوْمَ اللَّحْمُ فِيهِ مَكْرُوهٌ، وَإِنِّي عَجَّلْتُ نَسِيكَتِي لِأُطْعِمَ أَهْلِي، وَجِيرَانِي، وَأَهْلَ دَارِي؟ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَعِدْ نُسُكًا؟ فَقَالَ: يَا رَسُولَ اللَّهِ إنَّ عِنْدِي عِنَاقَ لَبَنٍ هِيَ خَيْرٌ مِنْ شَاتَيْ لَحْمٍ؟ فَقَالَ - عَلَيْهِ السَّلَامُ -: هِيَ خَيْرُ نَسِيكَتَيْكَ، وَلَا تُجْزِئُ جَذَعَةٌ عَنْ أَحَدٍ بَعْدَكَ» .

L13846 This is a general ruling from him (peace be upon him) and the commencement of a self-contained legal matter. This would have been confined to the Udhiyah only had he (peace be upon him) stated: "It does not suffice for anyone after your time," in which case the pronoun would refer back to the Udhiyah. However, he (peace be upon him) commenced by declaring that a Jadhaʿah (a one-year-old sheep) does not suffice for anyone after her, thereby generalizing the ruling without restriction.

وَهَذَا عُمُومٌ مِنْهُ - عَلَيْهِ السَّلَامُ - وَابْتِدَاءُ قَضِيَّةٍ قَائِمَةٍ بِذَاتِهَا وَإِنَّمَا كَانَ يَكُونُ هَذَا مَقْصُورًا عَلَى الْأُضْحِيَّةِ لَوْ قَالَ - عَلَيْهِ السَّلَامُ -: وَلَا تُجْزِئُ عَنْ أَحَدٍ بَعْدَك، فَكَانَ يَكُونُ الضَّمِيرُ مَرْدُودًا إلَى الْأُضْحِيَّةِ، لَكِنْ ابْتَدَأَ - عَلَيْهِ السَّلَامُ - فَأَخْبَرَ: أَنَّهُ لَا يُجْزِئُ جَذَعَةٌ عَنْ أَحَدٍ بَعْدَهَا، فَعَمَّ وَلَمْ يَخُصَّ.

L13847 We specified the compensation for hunting based on the explicit statement of Allah, the Exalted: *"So the compensation is an equivalent of what he killed of livestock"* [Al-Mā'idah: 95]. Thus, He, the Exalted, made it a general ruling, obligating that the compensation must suffice as an equivalent: a yearling camel, a young animal, or a defective animal, each according to its counterpart, as per the explicit text of the Quran. And success comes from Allah alone.[29]

وَإِنَّمَا خَصَّصْنَا جَزَاءَ الصَّيْدِ بِنَصِّ قَوْله تَعَالَى: {فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] فَعَمَّ - تَعَالَى - أَيْضًا، وَوَجَبَ أَنْ يُجْزِئَ الْجَذَعُ بِمِثْلِهِ، وَالصَّغِيرُ بِمِثْلِهِ، وَالْمَعِيبُ بِمِثْلِهِ بِنَصِّ الْقُرْآنِ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13848 **A case concerning someone who circumambulated the**

## [مَسْأَلَةٌ طَافَ بِالْبَيْتِ عُرْيَانًا]

[29] **Qur'an references (L13847):** Qur'an 5:95 (Al-Ma'idah).

## Kaaba while naked.

L13849 838 – Issue: It is not permissible for anyone to perform circumambulation around the Sacred House while naked. If one does so, their circumambulation is invalid. However, if they cover their front and rear private parts, they are not considered naked. If their covering is unintentionally exposed, it does not harm its validity. Allah—Exalted and Glorified is He—says: "Take your adornment at every mosque" (Quran 7:31).[30]

L13850–13852 It has been narrated to us via the chain of Shuʿbah from Al-Mughīrah from Ash-Shaʿbī, from Al-Muḥarrir ibn Abī Hurayrah from his father. He said: I was with Ali ibn Abi Talib when the Messenger of Allah—peace and blessings be upon him—sent him to Mecca with Barā'ah (the Declaration of Disavowal). We would proclaim: "No one will enter Paradise except a Muslim soul, nor may a naked person perform circumambulation around the Kaaba."

L13853 And He, the Most High, said: "There is no sin upon you for that in which you have erred unintentionally" [Al-Ahzab: 5].[31]

## The issue of circumambulating the Sacred House without ablution.

L13854

L13855 Issue 839: Circumambulation around the Sacred House without ritual purity is permissible, including for women in postnatal bleeding (nifās). It is prohibited exclusively for the menstruating woman, as the Messenger of Allah (peace be upon him) forbade the Mother of the Believers from performing circumambulation around the Sacred House during her menstruation, as we previously mentioned.

L13856 Asma bint Umays gave birth at Dhu al-Hulayfa, and the Prophet—peace be upon him—commanded her to perform ritual purification (ghusl) and commence the talbiyah, yet he did not prohibit her from performing tawaf. Had ritual purification been a condition for tawaf, the Messenger of Allah—peace and blessings be upon him—would have clarified it explicitly, just as

٨٣٨ - مَسْأَلَةٌ: وَلَا يَجُوزُ لِأَحَدٍ أَنْ يَطُوفَ بِالْبَيْتِ عُرْيَانَ، فَإِنْ فَعَلَ لَمْ يُجْزِهِ، فَإِنْ غَطَّى قُبُلَهُ وَدُبُرَهُ، فَلَا يُسَمَّى: عُرْيَانَ، فَإِنْ انْكَشَفَ سَاهِيًا لَمْ يَضُرَّهُ، قَالَ اللَّهُ - عَزَّ وَجَلَّ -: {خُذُوا زِينَتَكُمْ عِنْدَ كُلِّ مَسْجِدٍ} [الأعراف: ٣١] .

رُوِّينَا مِنْ طَرِيقِ شُعْبَةَ عَنْ الْمُغِيرَةِ عَنْ الشَّعْبِيِّ «عَنْ الْمُحَرِّرِ بْنِ أَبِي هُرَيْرَةَ عَنْ أَبِيهِ قَالَ: كُنْت مَعَ عَلِيِّ بْنِ أَبِي طَالِبٍ حِينَ بَعَثَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إلَى مَكَّةَ بِبَرَاءَةَ كُنَّا نُنَادِي: أَنَّهُ لَا يَدْخُلُ الْجَنَّةَ إلَّا نَفْسٌ مُسْلِمَةٌ، وَلَا يَطُوفُ بِالْبَيْتِ عُرْيَانُ» .

وَقَالَ - تَعَالَى -: {وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ} [الأحزاب: ٥] .

## [مَسْأَلَةُ الطَّوَافُ بِالْبَيْتِ عَلَى غَيْرِ طَهَارَةٍ]

٨٣٩ - مَسْأَلَةٌ: وَالطَّوَافُ بِالْبَيْتِ عَلَى غَيْرِ طَهَارَةٍ جَائِزٌ، وَلِلنُّفَسَاءِ، وَلَا يَحْرُمُ إلَّا عَلَى الْحَائِضِ فَقَطْ، لِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنَعَ أُمَّ الْمُؤْمِنِينَ - إذْ حَاضَتْ - مِنْ الطَّوَافِ بِالْبَيْتِ كَمَا ذَكَرْنَا قَبْلُ.

وَوَلَدَتْ أَسْمَاءُ بِنْتُ عُمَيْسٍ بِذِي الْحُلَيْفَةِ فَأَمَرَهَا - عَلَيْهِ السَّلَامُ - بِأَنْ تَغْتَسِلَ وَتُهِلَّ، وَلَمْ يَنْهَهَا عَنْ الطَّوَافِ، فَلَوْ كَانَتْ الطَّهَارَةُ مِنْ شُرُوطِ الطَّوَافِ لَبَيَّنَهُ [رَسُولُ اللَّهِ]- صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَمَا بَيَّنَ أَمْرَ الْحَائِضِ، {وَمَا يَنْطِقُ عَنِ الْهَوَى} [النجم: ٣] {إِنْ هُوَ إِلا وَحْيٌ يُوحَى} [النجم: ٤] {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] وَلَا فَرْقَ بَيْنَ

[30] **Qur'an references (L13849):** Qur'an 7:31 (Al-A'raf).
[31] **Qur'an references (L13853):** Qur'an 33:5 (Al-Ahzab).

he clarified the ruling regarding menstruating women. *“He does not speak from whim; it is but revelation revealed”* (53:3-4). *“And your Lord is never forgetful”* (19:64). There is no distinction between their permitting standing at Arafat, Muzdalifah, performing Saʿi between Safa and Marwah, and stoning of the Jamrah without ritual purification, and the permissibility of tawaf without ritual purification—except where explicitly prohibited by scriptural evidence alone.[32]

إِجَازَتِهِمْ الْوُقُوفَ بِعَرَفَةَ، وَالْمُزْدَلِفَةِ، وَالسَّعْيَ بَيْنَ الصَّفَا وَالْمَرْوَةِ، وَرَمْيِ الْجَمْرَةِ عَلَى غَيْرِ طَهَارَةٍ، وَبَيْنَ جَوَازِ الطَّوَافِ عَلَى غَيْرِ طَهَارَةٍ إلَّا حَيْثُ مَنَعَ مِنْهُ النَّصُّ فَقَطْ.

L13857 It has been narrated to us by Saʿīd ibn Manṣūr, who reported to us from Abū ʿAwānah, from Abī Bishr, from ʿAṭāʾ, who said: A woman began menstruating while performing circumambulation (ṭawāf) with ʿĀʾishah, the Mother of the Believers, so ʿĀʾishah completed the remainder of her circumambulation with her. This indicates that the Mother of the Believers did not regard ritual purity (ṭahārah) among the conditions for circumambulation. We do not hold this opinion specifically for menstruation due to the explicit text (naṣṣ) reported regarding that matter.

رُوِّينَا عَنْ سَعِيدِ بْنِ مَنْصُورٍ نَا أَبُو عَوَانَةَ عَنْ أَبِي بِشْرٍ عَنْ عَطَاءٍ قَالَ: حَاضَتْ امْرَأَةٌ وَهِيَ تَطُوفُ مَعَ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ فَأَتَمَّتْ بِهَا عَائِشَةُ بَقِيَّةَ طَوَافِهَا - فَهَذِهِ أُمُّ الْمُؤْمِنِينَ لَمْ تَرَ الطَّهَارَةَ مِنْ شُرُوطِ الطَّوَافِ - وَلَا نَقُولُ بِهَذَا فِي الْحَيْضِ خَاصَّةً لِلنَّصِّ الْوَارِدِ فِي ذَلِكَ.

L13858 **A case: A woman began menstruating when only a round (or part of it) of the ṭawāf remained for her to complete.**

## [مَسْأَلَةٌ حَاضَتْ امْرَأَةٌ وَلَمْ يَبْقَ لَهَا مِنْ الطَّوَافِ إلَّا شَوْطٌ أَوْ بَعْضُهُ]

L13859 Issue 840: If a woman begins menstruating while only one circuit, part of a circuit, or multiple circuits of the Tawaf remain unfinished, all such cases are equivalent. She must cease immediately. When she purifies herself, she resumes the Tawaf from where she left off. She may perform Sa’i between Safa and Marwah, as the prohibition applies solely to the Tawaf [around the House].

٨٤٠ - مَسْأَلَةٌ: فَلَوْ حَاضَتْ امْرَأَةٌ وَلَمْ يَبْقَ لَهَا مِنْ الطَّوَافِ إلَّا شَوْطٌ أَوْ بَعْضُهُ، أَوْ أَشْوَاطٌ، فَكُلُّ ذَلِكَ سَوَاءٌ، وَتَقْطَعُ وَلَا بُدَّ، فَإِذَا طَهُرَتْ بَنَتْ عَلَى مَا كَانَتْ طَافَتْهُ، وَلَهَا أَنْ تَطُوفَ بَيْنَ الصَّفَا وَالْمَرْوَةِ؛ لِأَنَّهَا لَمْ تُنْهَ إلَّا عَنْ الطَّوَافِ [بِالْبَيْتِ] فَقَطْ.

L13860 They have agreed with us on permitting all of that for the menstruating woman because the Prophet—peace and blessings of Allah be upon him—did not forbid her from it. Similarly, he did not forbid the sexually impure or postpartum women from circumambulation, and there is no distinction. [And success is by Allah, the Most High.]

وَقَدْ وَافَقُونَا عَلَى إجَازَةِ كُلِّ ذَلِكَ لِلْحَائِضِ، لِأَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَنْهَهَا عَنْ ذَلِكَ، فَكَذَلِكَ لَمْ يَنْهَ الْجُنُبَ، وَلَا النُّفَسَاءَ، عَنْ الطَّوَافِ، وَلَا فَرْقَ [وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ] .

L13861 **Issue: Interruption of One’s Circumambulation Due to an**

## [مَسْأَلَةٌ قَطَعَ طَوَافَهُ لِعُذْرٍ أَوْ لِكَلَلٍ]

[32] **Qur’an references (L13856):** Qur’an 53:3 (An-Najm); Qur’an 53:4 (An-Najm); Qur’an 19:64 (Maryam).

## Excuse or Exhaustion.

L13862 Issue 841: If one interrupts their circumambulation (*ṭawāf*) due to an excuse or fatigue, they must resume from where they left off. The same applies to the *saʿy* (ritual pacing), for they have performed the completed portion in compliance with the command, and it is impermissible to nullify it. But if they interrupt it frivolously, their circumambulation becomes invalid, as they did not perform it as commanded.

٨٤١ - مَسْأَلَةٌ: وَمَنْ قَطَعَ طَوَافَهُ لِعُذْرٍ أَوْ لِكَلَلٍ بَنَى عَلَى مَا طَافَ، وَكَذَلِكَ السَّعْيُ؛ لِأَنَّهُ قَدْ طَافَ مَا طَافَ كَمَا أُمِرَ فَلَا يَجُوزُ إبْطَالُهُ، فَلَوْ قَطَعَهُ عَابِثًا فَقَدْ بَطَلَ طَوَافُهُ، لِأَنَّهُ لَمْ يَطُفْ كَمَا أُمِرَ.

## Issue: Performing the Tawaf and the Sa'i on a Mount.

L13863

## [مَسْأَلَةُ الطَّوَافُ وَالسَّعْيُ رَاكِبًا]

L13864–13866 842 - Issue: Performing Tawaf and Sa'i while mounted is permissible, and likewise stoning the Jamrah—whether due to a valid reason or otherwise. It has been narrated to us through Imam Muslim's chain of transmission: from Thani Abu al-Tahir and Harmala ibn Yahya, from Ibn Wahb, who said: "I am Ibn Wahb; he informed me." Yunus from Ibn Shihab from 'Ubayd Allah ibn 'Abd Allah ibn 'Utbah from Ibn 'Abbas: "The Messenger of Allah—peace and blessings of Allah be upon him—performed Tawaf during the Farewell Pilgrimage on a camel, touching the Corner with a staff."[33]

٨٤٢ - مَسْأَلَةٌ: وَالطَّوَافُ وَالسَّعْيُ رَاكِبًا جَائِزٌ، وَكَذَلِكَ رَمْيُ الْجَمْرَةِ -: لِعُذْرٍ وَلِغَيْرِ عُذْرٍ رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ ثَنِيّ أَبُو الطَّاهِرِ وَحَرْمَلَةُ بْنُ يَحْيَى أَنَا ابْنُ وَهْبٍ: أَخْبَرَنِي يُونُسُ عَنْ ابْنِ شِهَابٍ عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - طَافَ فِي حَجَّةِ الْوَدَاعِ عَلَى بَعِيرٍ يَسْتَلِمُ الرُّكْنَ بِمِحْجَنٍ» .

L13867 It was also narrated to us through the chain of ʿĀ'ishah and Jābir ibn ʿAbd Allāh.

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ عَائِشَةَ، وَجَابِرِ بْنِ عَبْدِ اللَّهِ.

L13868 From the chain of Muslim: Abd ibn Humaid informed us, Muhammad ibn Bakr informed us, Ibn Jurayj reported: Abu al-Zubayr informed me that he heard Jabir ibn Abdullah saying: "The Prophet - peace and blessings of Allah be upon him - performed Tawaf during the Farewell Pilgrimage on his mount around the House and between al-Safa and al-Marwah so that the people could see him, so he could be elevated, and so they could question him."[34]

وَمِنْ طَرِيقِ مُسْلِمٍ نَا عَبْدُ بْنُ حُمَيْدٍ أَنَا مُحَمَّدُ بْنُ بَكْرٍ أَنَا ابْنُ جُرَيْجٍ: أَخْبَرَنِي أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: «طَافَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجَّةِ الْوَدَاعِ عَلَى رَاحِلَتِهِ بِالْبَيْتِ وَبِالصَّفَا وَالْمَرْوَةِ لِيَرَاهُ النَّاسُ وَلِيُشْرِفَ وَلِيَسْأَلُوهُ» .

L13869 And through the chain of Muslim: Ahmad ibn Hanbal narrated to us, saying: Muhammad ibn Salamah narrated to us from Abu Abd al-Rahim—he is the maternal uncle of Muhammad ibn Salamah, and his name is Khalid

وَمِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي أَحْمَدُ بْنُ حَنْبَلٍ نَا مُحَمَّدُ بْنُ سَلَمَةَ عَنْ أَبِي عَبْدِ الرَّحِيمِ هُوَ خَالُ مُحَمَّدِ بْنِ سَلَمَةَ وَاسْمُهُ خَالِدُ بْنُ أَبِي يَزِيدَ عَنْ زَيْدِ بْنِ أَبِي أُنَيْسَةَ عَنْ يَحْيَى بْنِ الْحُصَيْنِ عَنْ جَدَّتِهِ «أُمِّ الْحُصَيْنِ قَالَتْ: حَجَجْتُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَجَّةَ

[33] **Hadith references (L13864):** Sunan Abi Dawud 1877; Sunan an-Nasai 713; Sahih Muslim 1272.

[34] **Hadith references (L13868):** Sunan Abi Dawud 1880; Sahih Muslim 1273b.

ibn Abi Yazid—from Zayd ibn Abi Unaysah from Yahya ibn al-Husayn from his grandmother Umm al-Husayn, who said: "I performed Hajj with the Messenger of Allah—peace and blessings be upon him—during the Farewell Pilgrimage. I saw Usamah ibn Zayd and Bilal; one of them was holding the reins of the she-camel of the Messenger of Allah—peace and blessings be upon him—and the other was lifting his garment to shield him from the heat, until he stoned Jamrat al-Aqabah."

L13870 It has been narrated to us from 'Umar and 'Urwah concerning the prohibition of that [act], for no one's argument holds valid against the Messenger of Allah (peace be upon him).

L13871 **The issue of distancing from the House during Tawaf.**

L13872 It is not permissible to distance oneself from the Kaaba during circumambulation except in crowded conditions, because distancing oneself from it is an act that contradicts the practice of the Messenger of Allah (peace and blessings of Allah be upon him) and a senseless act with no purpose, thus it is impermissible.

L13873 **Issue: Circumambulating the House [Kaaba] is lawful at all times.**

L13874 844. Issue: Circumambulating the House at every hour is permissible - including at sunrise and sunset - and one may perform rukūʿ during those times. It has been transmitted to us through the chain of Aḥmad ibn Shuʿayb: From ʿAbdullāh ibn Muḥammad ibn ʿAbd al-Raḥmān al-Zuhrī, from Sufyān - meaning Ibn ʿUyaynah - from Abū al-Zubayr, from ʿAbdullāh ibn Bābāh, from Jubayr ibn Muṭʿim: "The Prophet, peace and blessings be upon him, said: 'O Banī ʿAbd Manāf! Do not prevent anyone who circumambulates this House and prays at whatever hour they wish, whether night or day.'"[35]

L13875 It has been narrated to us through the chain of Ibn Abī Najīḥ from ʿAbdullāh ibn Bābāh with his isnād. It has been narrated to us from al-Ḥasan and al-

[35]**Hadith references (L13874):** Sunan an-Nasai 2924.

الْوَدَاعِ فَرَأَيْتُ أُسَامَةَ بْنَ زَيْدٍ وَبِلَالًا أَحَدُهُمَا آخِذٌ بِخِطَامِ نَاقَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَالْآخَرُ رَافِعٌ ثَوْبَهُ يَسْتُرُهُ مِنْ الْحَرِّ حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ» .

وَقَدْ رُوِّينَا عَنْ عُمَرَ، وَعُرْوَةَ: الْمَنْعَ مِنْ ذَلِكَ، وَلَا حُجَّةَ فِي أَحَدٍ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

## [مَسْأَلَةُ التَّبَاعُدُ عَنْ الْبَيْتِ عِنْدَ الطَّوَافِ]

٨٤٣ - مَسْأَلَةٌ: وَلَا يَجُوزُ التَّبَاعُدُ عَنْ الْبَيْتِ عِنْدَ الطَّوَافِ إلَّا فِي الزِّحَامِ، لِأَنَّ التَّبَاعُدَ عَنْهُ عَمَلٌ بِخِلَافِ فِعْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَعَبَثٌ لَا مَعْنَى لَهُ فَلَا يَجُوزُ.

## [مَسْأَلَةُ الطَّوَافُ بِالْبَيْتِ جَائِزٌ فِي كُلِّ سَاعَةٍ]

٨٤٤ - مَسْأَلَةٌ: وَالطَّوَافُ بِالْبَيْتِ فِي كُلِّ سَاعَةٍ جَائِزٌ، وَعِنْدَ طُلُوعِ الشَّمْسِ، وَعِنْدَ غُرُوبِهَا، وَيَرْكَعُ عِنْدَ ذَلِكَ -: رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ الزُّهْرِيُّ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - نَا أَبُو الزُّبَيْرِ عَنْ عَبْدِ اللَّهِ بْنِ بَابَاهُ عَنْ جُبَيْرِ بْنِ مُطْعِمٍ: " أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «يَا بَنِي عَبْدِ مَنَافٍ لَا تَمْنَعُنَّ أَحَدًا طَافَ بِهَذَا الْبَيْتِ وَصَلَّى أَيَّ سَاعَةٍ شَاءَ مِنْ لَيْلٍ أَوْ نَهَارٍ» .

Ḥusayn, the two sons of ʿAlī, and ʿAbdullāh ibn ʿUmar: circumambulation after ʿAṣr, with the prayer at that time following the circumambulation.

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ ابْنِ أَبِي نَجِيحٍ عَنْ عَبْدِ اللَّهِ بْنِ بَابَاهُ بِإِسْنَادِهِ -: وَرُوِّينَا عَنْ الْحَسَنِ، وَالْحُسَيْنِ ابْنَيْ عَلِيٍّ، وَعَبْدِ اللَّهِ بْنِ عُمَرَ: الطَّوَافُ بَعْدَ الْعَصْرِ وَالصَّلَاةُ حِينَئِذٍ إثْرَ الطَّوَافِ.

L13876–13878 It is narrated from Ibn Abbas that he performed Tawaf after ʻAsr. It is narrated from Ibn al-Zubayr that he performed Tawaf after the Fajr prayer and prayed the two rakʿahs then. Abu Muhammad said: The prohibition against prayer after ʿAṣr was stated as a comprehensive ruling. Thus, whoever permits *Tawaf* after ʿAṣr before the sun turns yellow has ruled arbitrarily without evidence.

وَعَنْ ابْنِ عَبَّاسٍ أَنَّهُ طَافَ بَعْدَ الْعَصْرِ -: وَعَنْ ابْنِ الزُّبَيْرِ أَنَّهُ طَافَ بَعْدَ صَلَاةِ الصُّبْحِ وَصَلَّى الرَّكْعَتَيْنِ حِينَئِذٍ قَالَ أَبُو مُحَمَّد: إنَّمَا جَاءَ النَّهْيُ عَنْ الصَّلَاةِ بَعْدَ الْعَصْرِ جُمْلَةً فَمَنْ أَجَازَ الطَّوَافَ بَعْدَ الْعَصْرِ مَا لَمْ تَصْفَرَّ الشَّمْسُ فَقَدْ تَحَكَّمَ بِلَا دَلِيلٍ.

## Issue: The Ruling on Shaving Before the Pelting.

## [مَسْأَلَةٌ حُكْم الْحَلْق قَبْل الرَّمْي]

L13879

L13880 845 - Issue: It is permissible to perform the following acts in any order you wish—there is no harm in any of them: stoning at the Jamrah, shaving, sacrificing, slaughtering, the Ifāḍah circumambulation, circumambulating the Kaʿbah, and the Saʿī between Ṣafā and Marwah. It was narrated to us through the chain of Muslim ibn al-Ḥajjāj: Muḥammad ibn ʿAbdullāh ibn Qahzād narrated to us, from ʿAlī ibn al-Ḥasan, from ʿAbdullāh ibn al-Mubārak, from Muḥammad ibn Abī Ḥafṣah, from al-Zuhrī, from ʿĪsā ibn Ṭalḥah, from ʿAbdullāh ibn ʿAmr ibn al-ʿĀṣ, who said: "I heard the Messenger of Allah—peace and blessings be upon him—when a man came to him on the Day of Sacrifice while he was standing near the Jamrah and said: 'O Messenger of Allah, I shaved before stoning?' He replied: 'Stone the Jamrah—there is no harm.' Another man came and said: 'I slaughtered before stoning?' He replied: 'Stone the Jamrah—there is no harm.' Another came and said: 'I performed the Ifāḍah circumambulation of the House before stoning?' He replied: 'Stone the Jamrah—there is no harm.' He added: 'I did not see him asked about anything that day except that he responded: "Do it, all of you—there is no harm."'"

٨٤٥ - مَسْأَلَةٌ: وَجَائِزٌ فِي - رَمْيِ الْجَمْرَةِ، وَالْحَلْقِ، وَالنَّحْرِ، وَالذَّبْحِ، وَطَوَافِ الْإِفَاضَةِ، وَالطَّوَافِ بِالْبَيْتِ وَالسَّعْيِ بَيْنَ الصَّفَا وَالْمَرْوَةِ، أَنْ تُقَدِّمَ أَيَّهَا شِئْت عَلَى أَيُّهَا شِئْت لَا حَرَجَ فِي شَيْءٍ مِنْ ذَلِكَ -: رُوِّينَا مِنْ طَرِيقِ مُسْلِمِ بْنِ الْحَجَّاجِ نَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ قَهْزَادَ نَا عَلِيُّ بْنُ الْحَسَنِ عَنْ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ أَنَا مُحَمَّدُ بْنُ أَبِي حَفْصَةَ عَنْ الزُّهْرِيِّ عَنْ عِيسَى بْنِ طَلْحَةَ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ قَالَ «سَمِعْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَتَاهُ رَجُلٌ يَوْمَ النَّحْرِ وَهُوَ وَاقِفٌ عِنْدَ الْجَمْرَةِ فَقَالَ: يَا رَسُولَ اللَّهِ إنِّي حَلَقْتُ قَبْلَ أَنْ أَرْمِيَ؟ قَالَ: ارْمِ، وَلَا حَرَجَ، وَأَتَاهُ آخَرُ فَقَالَ: إنِّي ذَبَحْتُ قَبْلَ أَنْ أَرْمِيَ؟ قَالَ: ارْمِ وَلَا حَرَجَ، وَأَتَاهُ آخَرُ وَقَالَ: إنِّي أَفَضْت إلَى الْبَيْتِ قَبْلَ أَنْ أَرْمِيَ؟ قَالَ: ارْمِ وَلَا حَرَجَ قَالَ فَمَا رَأَيْته يُسْأَلُ يَوْمَئِذٍ عَنْ شَيْءٍ إلَّا قَالَ: افْعَلُوا وَلَا حَرَجَ» .

L13881 And through the chain of Malik, from Ibn Shihab, from Isa ibn Talhah, from Abdullah ibn Amr ibn al-As: "The Messenger of Allah (peace be upon him) stood at Mina during the Farewell Pilgrimage. A man came and said:

وَمِنْ طَرِيقِ مَالِكٍ عَنْ ابْنِ شِهَابٍ عَنْ عِيسَى بْنِ طَلْحَةَ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَفَ بِمِنًى فِي حَجَّةِ الْوَدَاعِ فَجَاءَ رَجُلٌ

’O Messenger of Allah, I did not realize I had shaved before throwing the pebbles.’ He said: ’Throw, and there is no blame.’ Another man came and said: ’O Messenger of Allah, I did not realize I had sacrificed before throwing the pebbles.’ He said: ’Throw, and there is no blame.’ He said: The Messenger of Allah (peace be upon him) was not asked anything that day regarding a matter done earlier or later except that he replied: ’Do it, and there is no blame.’”

فَقَالَ: يَا رَسُولَ اللَّهِ إِنِّي لَمْ أُشْعِرْ فَحَلَقْتُ قَبْلَ أَنْ أَرْمِيَ؟ قَالَ: ارْمِ وَلَا حَرَجَ، وَجَاءَ آخَرُ فَقَالَ: يَا رَسُولَ اللَّهِ إِنِّي لَمْ أُشْعِرْ فَنَحَرْتُ قَبْلَ أَنْ أَرْمِيَ؟ قَالَ: ارْمِ وَلَا حَرَجَ - قَالَ: فَمَا سُئِلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ شَيْءٍ يَوْمَئِذٍ قُدِّمَ أَوْ أُخِّرَ إِلَّا قَالَ: اصْنَعْ وَلَا حَرَجَ» .

L13882 And through the chain of Ibn al-Jahm, from Ismāʿīl ibn Ishāq, from Abū al-Muṣʿab, from Mālik, from Ibn Shihāb, from ʿĪsā ibn Ṭalḥah ibn ʿUbayd Allāh, from ʿAbd Allāh ibn ʿAmr ibn al-ʿĀṣ, who said: “The Messenger of Allāh (peace be upon him) paused at Minā during the Farewell Pilgrimage. A man came and said: ’O Messenger of Allāh, I did not realize, so I shaved before slaughtering.’ He replied: ’Slaughter, and there is no harm.’ Another said: ’O Messenger of Allāh, I did not realize, so I shaved before performing the stoning.’ He said: ’Perform the stoning, and there is no harm.’ He was not asked about anything—whether done earlier or later—except that he responded: ’Do it, and there is no harm.’”

وَمِنْ طَرِيقِ ابْنِ الْجَهْمِ عَنْ إِسْمَاعِيلَ بْنِ إِسْحَاقَ أَنَا أَبُو الْمُصْعَبِ عَنْ مَالِكٍ عَنْ ابْنِ شِهَابٍ عَنْ عِيسَى بْنِ طَلْحَةَ بْنِ عُبَيْدِ اللَّهِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ قَالَ: «وَقَفَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجَّةِ الْوَدَاعِ بِمِنًى فَجَاءَ رَجُلٌ فَقَالَ: يَا رَسُولَ اللَّهِ لَمْ أُشْعِرْ فَحَلَقْتُ قَبْلَ أَنْ أَذْبَحَ؟ قَالَ: اذْبَحْ وَلَا حَرَجَ، فَقَالَ آخَرُ: يَا رَسُولَ اللَّهِ لَمْ أُشْعِرْ فَحَلَقْتُ قَبْلَ أَنْ أَرْمِيَ؟ قَالَ: ارْمِ وَلَا حَرَجَ، فَمَا سُئِلَ عَنْ شَيْءٍ قُدِّمَ، وَلَا أُخِّرَ إِلَّا قَالَ: افْعَلْ وَلَا حَرَجَ» .

L13883 Through Muslim’s chain: Muḥammad ibn Ḥātim narrated to us: Bahz ibn Asad narrated to us: Wuhaib—that is, ibn Khālid—narrated to us: ʿAbdullāh ibn Ṭāwūs narrated from his father from Ibn ʿAbbās that the Prophet (peace and blessings of Allāh be upon him) was asked about slaughtering, shaving, stone-throwing, advancing [rites], and delaying [rites]. He replied, “There is no harm.”[36]

وَمِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ نَا بَهْزُ بْنُ أَسَدٍ نَا وُهَيْبٌ هُوَ ابْنُ خَالِدٍ - نَا عَبْدُ اللَّهِ بْنُ طَاوُسٍ عَنْ أَبِيهِ عَنِ ابْنِ عَبَّاسٍ، «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قِيلَ لَهُ فِي الذَّبْحِ، وَالْحَلْقِ وَالرَّمْيِ، وَالتَّقْدِيمِ، وَالتَّأْخِيرِ؟ فَقَالَ: لَا حَرَجَ» .

L13884–13885 And through the chain of Abū Dāwūd: ʿUthmān ibn Abī Shaybah narrated to us, Jarīr ibn ʿAbd al-Ḥamīd narrated to us from al-Shaybānī (who is Abū Isḥāq), from Ziyād ibn ʿIlāqah from Usāmah ibn Sharīk, who said: “I set out with the Messenger of Allah—peace be upon him—for Hajj. People would come to him, and some would say: ’O Messenger of Allah, I performed Saʿī before Ṭawāf,’ or ’I delayed something,’ or ’I did something earlier.’ He would respond: ’There is no harm, there is no harm.’” The narrator omitted the rest of the hadith.

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ نَا جَرِيرُ بْنُ عَبْدِ الْحَمِيدِ عَنِ الشَّيْبَانِيِّ هُوَ أَبُو إِسْحَاقَ - عَنْ زِيَادِ بْنِ عِلَاقَةَ عَنْ «أُسَامَةَ بْنِ شَرِيكٍ قَالَ: خَرَجْتُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَاجًّا فَكَانَ النَّاسُ يَأْتُونَهُ فَمِنْ قَائِلٍ يَا رَسُولَ اللَّهِ سَعَيْتُ قَبْلَ أَنْ أَطُوفَ أَوْ أَخَّرْتُ شَيْئًا أَوْ قَدَّمْتُ شَيْئًا فَكَانَ يَقُولُ: لَا حَرَجَ لَا حَرَجَ» ، ذَكَرَ بَاقِيَ الْحَدِيثِ.

[36] **Hadith references (L13883):** Sahih Muslim 1307.

L13886 Abu Muhammad said: The majority of the *Salaf* upheld this opinion, as narrated to us through the chain of Sa'īd ibn Manṣūr: Sufyān narrated to us—Ayyūb (al-Sakhtiyānī) narrated to us—from Nāfi', from Ibn 'Umar, that he saw a man among his Hajj companions proceed from Muzdalifah before shaving his head, so he ordered him to shave.

قَالَ أَبُو مُحَمَّد: فَأَخَذَ بِهَذَا جُمْهُورٌ مِنْ السَّلَفِ كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ نَا أَيُّوبُ هُوَ السِّخْتِيَانِيُّ - عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّهُ رَأَى رَجُلًا مِنْ أَهْلِهِ أَفَاضَ قَبْلَ أَنْ يَحْلِقَ فَأَمَرَهُ أَنْ يَحْلِقَ.

L13887 It was narrated to us from him other than this through the chain of Sa'īd as well: Ibn Wahb reported from 'Amr ibn al-Ḥārith from Yaḥyā ibn Sa'īd from Nāfi' that Ibn 'Umar met his nephew 'Abd al-Raḥmān ibn 'Abd al-Ḥakam ibn 'Umar, who had performed Ifāḍah before shaving or shortening his hair. He instructed him to shorten his hair, then return and perform Ifāḍah again.

وَرُوِّينَا عَنْهُ غَيْرَ هَذَا مِنْ طَرِيقِ سَعِيدٍ أَيْضًا -: نَا ابْنُ وَهْبٍ عَنْ عَمْرِو بْنِ الْحَارِثِ عَنْ يَحْيَى بْنِ سَعِيدٍ عَنْ نَافِعٍ: أَنَّ ابْنَ عُمَرَ لَقِيَ ابْنَ أَخِيهِ عَبْدَ الرَّحْمَنِ بْنَ عَبْدِ الرَّحْمَنِ بْنِ عُمَرَ قَدْ أَفَاضَ قَبْلَ أَنْ يَحْلِقَ أَوْ يُقَصِّرَ فَأَمَرَهُ أَنْ يُقَصِّرَ، ثُمَّ يَرْجِعَ فَيَفِيضَ.

L13888 From the path of Ibn al-Jahm: Abdullah ibn al-Hasan al-Hashimi narrated to us, from Rawh, from Sa'id, from Qatadah, from Muwarriq al-'Ijli: I said to Ibn Umar, "What about a man who shaved his head before slaughtering?" He said, "He opposed the Sunnah." I asked, "What is incumbent upon him?" He replied, "You indeed have a thick beard, and nothing has been imposed upon him."

وَمِنْ طَرِيقِ ابْنِ الْجَهْمِ نَا عَبْدُ اللَّهِ بْنُ الْحَسَنِ الْهَاشِمِيّ نَا رَوْحٌ نَا سَعِيدٌ عَنْ قَتَادَةَ عَنْ مُوَرِّقٍ الْعِجْلِيِّ قُلْت لِابْنِ عُمَرَ: رَجُلٌ حَلَقَ قَبْلَ أَنْ يَذْبَحَ؟ قَالَ: خَالَفَ السُّنَّةَ، قُلْت: مَاذَا عَلَيْهِ؟ قَالَ: إنَّك لَضَخْمُ اللِّحْيَةِ، وَلَمْ يَجْعَلْ عَلَيْهِ شَيْئًا.

L13889 From the chain of Ibn al-Jahm: Ibrāhīm ibn Ḥammād reported to us, al-Ṣāghānī reported to us, from Saʿīd ibn ʿĀmir, from Saʿīd ibn Abī ʿArūbah, from Muqātil: They asked Anas ibn Mālik about people who shaved their heads before slaughtering their sacrificial animals. He said: "You have opposed the Sunnah, but there is no sin upon you."

وَمِنْ طَرِيقِ ابْنِ الْجَهْمِ نَا إبْرَاهِيمُ بْنُ حَمَّادٍ نَا الصَّاغَانِيُّ نَا سَعِيدُ بْنُ عَامِرٍ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ عَنْ مُقَاتِلٍ: أَنَّهُمْ سَأَلُوا أَنَسَ بْنَ مَالِكٍ عَنْ قَوْمٍ حَلَقُوا قَبْلَ أَنْ يَذْبَحُوا؟ قَالَ: أَخْطَأْتُمْ السُّنَّةَ وَلَا شَيْءَ عَلَيْكُمْ.

L13890 Ali said: They did not err against the Sunnah nor oppose it, for whatever the Messenger of Allah—may Allah bless him and grant him peace—permitted and saw no harm in, that is Sunnah. However, they merely neglected the superior action.

قَالَ عَلِيٌّ: مَا أَخْطَئُوا السُّنَّةَ وَلَا خَالَفُوهَا، لِأَنَّ مَا أَبَاحَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَمْ يَرَ فِيهِ حَرَجًا فَهُوَ سُنَّةٌ لَكِنْ تَرَكُوا الْأَفْضَلَ فَقَطْ.

L13891 From the chain of Al-Ḥudhāfī: ʿAbd al-Razzāq narrated to us; Sufyān al-Thawrī narrated to us from ʿAbd al-Malik ibn Abī Sulaymān from ʿAṭāʾ regarding one who performed the pelting at the Middle Jamrah (Jamrat al-Wusṭā) before the First (Jamrat al-Ūlā). He said: He must throw the one he omitted, and that sufficed him [wa-ajza'ahu].

وَمِنْ طَرِيقِ الْحُذَافِيِّ نَا عَبْدُ الرَّزَّاقِ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ عَبْدِ الْمَلِكِ بْنِ أَبِي سُلَيْمَانَ عَنْ عَطَاءٍ فِيمَنْ رَمَى الْجَمْرَةَ الْوُسْطَى قَبْلَ الْأُولَى قَالَ: يَرْمِي الَّتِي تَرَكَ (وَأَجْزَأَهُ) .

L13892 In the text directed to Sufyan, he said: Ibn Jurayj informed me from Ata that

he said: “What of one who begins with Safa and Marwah before the House?” Verily he performs Tawaf around the House, and it suffices for him—and this is the position maintained by Sufyan.

وَبِهِ نَصًّا إِلَى سُفْيَانَ، قَالَ: أَخْبَرَنِي ابْنُ جُرَيْجٍ عَنْ عَطَاءٍ أَنَّهُ قَالَ: مَنْ بَدَأَ بِالصَّفَا وَالْمَرْوَةِ قَبْلَ الْبَيْتِ؟ أَنَّهُ يَطُوفُ بِالْبَيْتِ، وَقَدْ أَجْزَأَ عَنْهُ - وَبِهِ يَقُولُ سُفْيَانُ.

L13893–13895 From the chain of Hammad ibn Salama, from Humaid, that he approached al-Hasan al-Basri in Makkah on the day after the Day of Sacrifice. He began by stoning Jamrat al-ʿAqabah, then the middle pillar, then the last one. He said: I asked the jurists of Makkah about that, and they did not disapprove of it. Through the chain of Ibn Abi Shaybah: Al-Fuḍayl ibn ʿIyāḍ narrated to us from Layth ibn Abi Sulaym from Ṣadaqah, who said: I asked Ṭāwus and Mujāhid about one who shaved before slaughtering the sacrifice. They said, “There is no blame upon him,” and this is the opinion of Sufyān, Al-Awzāʿī, Dāwūd, and his followers.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حُمَيْدٍ أَنَّهُ أَتَى الْحَسَنَ الْبَصْرِيَّ بِمَكَّةَ ثَانِيَ يَوْمِ النَّحْرِ قَدْ بَدَأَ يَرْمِي جَمْرَةَ الْعَقَبَةِ، ثُمَّ الْوُسْطَى، ثُمَّ الْأُخْرَى قَالَ: فَسَأَلْت فُقَهَاءَ مَكَّةَ عَنْ ذَلِكَ فَلَمْ يُنْكِرُوهُ؟ وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا الْفُضَيْلُ بْنُ عِيَاضٍ عَنْ لَيْثِ بْنِ أَبِي سُلَيْمٍ عَنْ صَدَقَةَ قَالَ: سَأَلْت طَاوُسًا، وَمُجَاهِدًا عَمَّنْ حَلَقَ قَبْلَ أَنْ يَنْحَرَ؟ قَالَا: لَا شَيْءَ عَلَيْهِ - وَهُوَ قَوْلُ سُفْيَانَ، وَالْأَوْزَاعِيِّ، وَدَاوُد، وَأَصْحَابِهِ.

L13896 It has been narrated from some of the Salaf contrary to this: It was narrated to us through the chain of Ibn Abī Shaybah—Sallām ibn Muṭīʿ, and he is Abū al-Aḥwaṣ—from Ibrāhīm ibn Muhājir, from Mujāhid, from Ibn ʿAbbās, who said: “Whoever advances any part of their pilgrimage or delays it must shed blood as compensation for that.”

وَقَدْ رُوِيَ عَنْ بَعْضِ السَّلَفِ غَيْرُ هَذَا -: رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا سَلَّامُ بْنُ مُطِيعٍ وَهُوَ أَبُو الْأَحْوَصِ - عَنْ إبْرَاهِيمَ بْنِ مُهَاجِرٍ عَنْ مُجَاهِدٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: مَنْ قَدَّمَ شَيْئًا مِنْ حَجِّهِ أَوْ أَخَّرَهُ فَلْيُهْرِقْ لِذَلِكَ دَمًا.

L13897 And via the narration of Ibn Abi Shaybah: Jarir reported from Mansur, from Saʿid ibn Jubayr, who said: Whoever performs a ritual before its designated time in Hajj or shaves his head before slaughtering the sacrifice, upon him is a compensatory sacrifice (dam).

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا جَرِيرٌ عَنْ مَنْصُورٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: مَنْ قَدَّمَ شَيْئًا قَبْلَ شَيْءٍ مِنْ حَجِّهِ أَوْ حَلَقَ قَبْلَ أَنْ يَذْبَحَ فَعَلَيْهِ دَمٌ.

L13898 Through the chain of Ibn Abi Shaybah, narrated to us Abū Muʿāwiyah from Al-Aʿmash, from Ibrāhīm, who said: “Whoever shaves [his head] before slaughtering [the sacrificial animal] has thereby incurred the obligation of a compensatory sacrifice,” and he recited: *“And do not shave your heads until the sacrificial offering has reached its destination”* [Al-Baqarah: 196].[37]

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا أَبُو مُعَاوِيَةَ عَنْ الْأَعْمَشِ، عَنْ إبْرَاهِيمَ قَالَ: مَنْ حَلَقَ قَبْلَ أَنْ يَذْبَحَ أَهْرَقَ دَمًا، وَقَرَأَ {وَلا تَحْلِقُوا رُءُوسَكُمْ حَتَّى يَبْلُغَ الْهَدْيُ مَحِلَّهُ} [البقرة: ١٩٦] .

L13899 From the transmission of Ibn Abi Shaybah: Fudayl ibn Iyad reported to us from Layth from Sadaqah from Jabir ibn Zayd, who said: “Whoever shaves [his head] before sacrificing [the animal] must offer expiation (fidya).”

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا فُضَيْلُ بْنُ عِيَاضٍ عَنْ لَيْثٍ عَنْ صَدَقَةَ عَنْ جَابِرِ بْنِ زَيْدٍ قَالَ: مَنْ حَلَقَ قَبْلَ أَنْ يَنْحَرَ فَعَلَيْهِ الْفِدْيَةُ.

L13900 Abū Muḥammad said: As for the narration from Ibn ʿAbbās, it is weak be-

[37] **Qur’an references (L13898):** Qur’an 2:196 (Al-Baqarah).

cause it is reported through Ibrāhīm ibn Muhājir, who is a weak narrator. As for the statement of Ibrāhīm and Jābir ibn Zayd that whoever shaves before slaughtering and sacrificing must offer a blood sacrifice or expiation, and their argument based on Allah's words – Exalted is He – {Do not shave your heads until the sacrificial animal reaches its designated place} [Al-Baqarah: 196] – this reflects negligence on the part of those who cite it as evidence. For the designated place of the sacrificial animal is the Day of Sacrifice at Mina, whether one has slaughtered or sacrificed or not. Once the Day of Sacrifice begins and the sacrificial animal is in Mina or Mecca, it has reached its designated place, and shaving becomes permissible. Allah did not say, "until you sacrifice or slaughter," and the Messenger of Allah – peace and blessings be upon him – clarified that all of this is permissible. There is no proof in anyone's opinion other than his – peace be upon him.[38]

قَالَ أَبُو مُحَمَّد: أَمَّا الرِّوَايَةُ عَنْ ابْنِ عَبَّاسٍ فَوَاهِيَةٌ؛ لِأَنَّهَا عَنْ إبْرَاهِيمَ بْنِ مُهَاجِرٍ، وَهُوَ ضَعِيفٌ - وَأَمَّا قَوْلُ إبْرَاهِيمَ، وَجَابِرِ بْنِ زَيْدٍ فِي أَنَّ مَنْ حَلَقَ قَبْلَ الذَّبْحِ وَالنَّحْرِ: فَعَلَيْهِ دَمٌ أَوْ الْفِدْيَةُ، وَاحْتِجَاجُهُمْ بِقَوْلِ اللَّهِ - تَعَالَى -: {وَلا تَحْلِقُوا رُءُوسَكُمْ حَتَّى يَبْلُغَ الْهَدْيُ مَحِلَّهُ} [البقرة: ١٩٦] فَغَفْلَةٌ مِمَّنْ احْتَجَّ بِهَذَا؛ لِأَنَّ مَحِلَّ الْهَدْيِ هُوَ يَوْمُ النَّحْرِ بِمِنًى ذَبَحَ أَوْ نَحَرَ، أَوْ لَمْ يَذْبَحْ وَلَا نَحَرَ إذَا دَخَلَ يَوْمُ النَّحْرِ وَالْهَدْيُ بِمِنًى أَوْ بِمَكَّةَ فَقَدْ بَلَغَ مَحِلَّهُ فَحَلَّ الْحَلْقُ، وَلَمْ يَقُلْ - تَعَالَى -: حَتَّى تَنْحَرُوا أَوْ تَذْبَحُوا، وَبَيَّنَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّ كُلَّ ذَلِكَ مُبَاحٌ وَلَا حُجَّةَ فِي قَوْلِ أَحَدٍ سِوَاهُ - عَلَيْهِ السَّلَامُ -.

L13901 As for the later scholars after those we mentioned, Abū Ḥanīfah said: Whoever shaves before casting stones incurs no obligation. If he shaves before slaughtering or sacrificing, then if he is performing Ifrād, he must offer one sacrifice, but if performing Qirān, he must offer two sacrifices.

وَأَمَّا الْمُتَأَخِّرُونَ عَمَّنْ ذَكَرْنَا -: فَإِنَّ أَبَا حَنِيفَةَ قَالَ: مَنْ حَلَقَ قَبْلَ أَنْ يَرْمِيَ فَلَا شَيْءَ عَلَيْهِ، فَإِنْ حَلَقَ قَبْلَ أَنْ يَنْحَرَ أَوْ يَذْبَحَ فَإِنْ كَانَ مُفْرِدًا فَعَلَيْهِ دَمٌ، وَإِنْ كَانَ قَارِنًا فَعَلَيْهِ دَمَانِ.

L13902–13903 And his companion Zufar said: If the *Qārin* shaves before slaughtering or sacrificing, he must offer three blood offerings. If he is a *Mutamatti'*, he must offer one blood offering. If he is a *Mufrid*, he owes nothing.

وَقَالَ زُفَرُ صَاحِبُهُ: إنْ حَلَقَ الْقَارِنُ قَبْلَ أَنْ يَذْبَحَ أَوْ يَنْحَرَ فَعَلَيْهِ ثَلَاثَةُ دِمَاءٍ، فَإِنْ كَانَ مُتَمَتِّعًا فَعَلَيْهِ دَمٌ وَاحِدٌ، فَإِنْ كَانَ مُفْرِدًا فَلَا شَيْءَ عَلَيْهِ.

L13904 Abū Yūsuf said: If one shaves before slaughtering as a *qārin* or *mutamatti'*, a single *dam* is due from him. If he is a *mufrid*, there is no obligation upon him. Then he retracted and said—he and Muḥammad ibn al-Ḥasan—"There is no obligation upon him in all of that."

وَقَالَ أَبُو يُوسُفَ: إنْ حَلَقَ قَبْلَ أَنْ يَذْبَحَ قَارِنًا أَوْ مُتَمَتِّعًا فَعَلَيْهِ دَمٌ وَاحِدٌ، فَإِنْ كَانَ مُفْرِدًا فَلَا شَيْءَ عَلَيْهِ، ثُمَّ رَجَعَ فَقَالَ هُوَ، وَمُحَمَّدُ بْنُ الْحَسَنِ: لَا شَيْءَ عَلَيْهِ فِي كُلِّ ذَلِكَ.

L13905 Malik said: If one shaves before slaughtering (dhabh) or slaughtering (nahr), there is nothing required of him. However, if he shaves before throwing [the stones], a sacrificial animal [dam] is required of him.

وَقَالَ مَالِكٌ: إنْ حَلَقَ قَبْلَ أَنْ يَذْبَحَ أَوْ يَنْحَرَ فَلَا شَيْءَ عَلَيْهِ، فَإِنْ حَلَقَ قَبْلَ أَنْ يَرْمِيَ فَعَلَيْهِ دَمٌ.

L13906 Al-Shafi'i said: There is no obligation for altering the sequence, except for

وَقَالَ الشَّافِعِيُّ: لَا شَيْءَ عَلَيْهِ فِيمَا أَخَّرَ أَوْ قَدَّمَ إلَّا مَنْ طَافَ بَيْنَ الصَّفَا وَالْمَرْوَةِ قَبْلَ الطَّوَافِ بِالْبَيْتِ فَعَلَيْهِ دَمٌ.

[38] **Qur'an references (L13900):** Qur'an 2:196 (Al-Baqarah).

one who performs Tawaf between al-Ṣafā and al-Marwah before circumambulating the House; upon him is a sacrificial animal.

L13907 Abū Muḥammad said: All these statements are utterly corrupt, for they are all claims without evidence—neither from the Qur'ān, nor the Sunnah, nor the statement of a Companion, nor analogical reasoning, nor sound opinion. As for Abū Ḥanīfah's differentiation between the ruling for the solitary pilgrim (Mufrid) and the combined pilgrim (Qārin); Zufar's requirement of three sacrifices on the Qārin and one sacrifice on the Mutamatti'; Mālik's differentiation between performing the shaving before the stoning of the jamarāt, and performing it before the ritual slaughter (naḥr) and sacrificial slaughter (dhabḥ); and Al-Shāfi'ī's differentiation between performing the Sa'y before the Ṭawāf, and other cases where acts are prioritized or delayed—these are statements not reported from any scholar prior to those who asserted them among those we have mentioned. And success comes only from Allah, the Exalted.

قَالَ أَبُو مُحَمَّدٍ: كُلُّ هَذِهِ أَقْوَالٌ فِي غَايَةِ الْفَسَادِ، لِأَنَّهَا كُلَّهَا دَعَاوَى بِلَا دَلِيلٍ لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَلَا مِنْ قَوْلِ صَاحِبٍ، وَلَا مِنْ قِيَاسٍ، وَلَا مِنْ رَأْيٍ سَدِيدٍ فَأَمَّا تَفْرِيقُ - أَبِي حَنِيفَةَ بَيْنَ حُكْمِ الْمُفْرِدِ وَالْقَارِنِ، وَإِيجَابُ زُفَرَ ثَلَاثَةَ دِمَاءَ عَلَى الْقَارِنِ، وَدَمًا عَلَى الْمُتَمَتِّعِ، وَتَفْرِيقُ مَالِكٍ بَيْنَ تَقْدِيمِ الْحَلْقِ عَلَى الرَّمْيِ، وَتَقْدِيمُهُ عَلَى النَّحْرِ، وَالذَّبْحِ، وَتَفْرِيقُ الشَّافِعِيِّ بَيْنَ تَقْدِيمِ السَّعْيِ عَلَى الطَّوَافِ، وَبَيْنَ سَائِرِ مَا قُدِّمَ وَأُخِّرَ -: فَأَقْوَالٌ لَا تُحْفَظُ عَنْ أَحَدٍ مِنْ أَهْلِ الْعِلْمِ قَبْلَ الْقَائِلِ بِهَا مِمَّنْ ذَكَرْنَا - وَبِاللَّهِ - تَعَالَى - التَّوْفِيقُ.

## The ruling on spending the night outside Mina during the days at Mina.

## [مَسْأَلَةٌ الْمَبِيت بِغَيْرِ مِنًى أَيَّامَ مِنًى]

L13908

L13909 846 – Issue: Whoever does not spend the nights of Mina in Mina has done wrong, but there is no obligation upon him except for the shepherds and those responsible for al-ʿAbbās's water provision. We do not disapprove of them spending the night outside Mina; rather, the shepherds may stone [the Jamarāt] one day and omit [the stoning] the next day.

٨٤٦ - مَسْأَلَةٌ: وَمَنْ لَمْ يَبِتْ لَيَالِيَ مِنًى بِمِنًى فَقَدْ أَسَاءَ وَلَا شَيْءَ عَلَيْهِ إلَّا الرِّعَاءَ وَأَهْلَ سِقَايَةِ الْعَبَّاسِ فَلَا نَكْرَهُ لَهُمْ الْمَبِيتُ فِي غَيْرِ مِنًى؛ بَلْ لِلرِّعَاءِ أَنْ يَرْمُوا يَوْمًا وَيَدَعُوا يَوْمًا.

L13910 It was narrated to us through the chain of Abū Dāwūd: Musaddad narrated to us; Sufyān—that is, Ibn ʿUyaynah—from ʿAbdullāh and Muḥammad, the two sons of Abū Bakr, son of Muḥammad ibn ʿAmr ibn Ḥazm, from their father, from Abū al-Baddāḥ ibn ʿAdiyy, from his father, that "the Messenger of Allah—may Allah's blessings and peace be upon him—permitted the shepherds to throw stones [at the jamarāt] on one day and forgo it on another day."

رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نَا مُسَدَّدٌ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ عَبْدِ اللَّهِ، وَمُحَمَّدِ ابْنَيْ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ عَنْ أَبِيهِمَا عَنْ أَبِي الْبَدَّاحِ بْنِ عَدِيٍّ عَنْ أَبِيهِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَخَّصَ لِلرِّعَاءِ أَنْ يَرْمُوا يَوْمًا وَيَدَعُوا يَوْمًا» .

L13911 Thus, this valid report establishes that performing the stoning ritual on each of the days of Mina is not obligatory.

فَصَحَّ بِهَذَا الْخَبَرِ أَنَّ الرَّمْيَ فِي كُلِّ يَوْمٍ مِنْ أَيَّامِ مِنًى لَيْسَ فَرْضًا.

وَمِنْ طَرِيقِ مُسْلِمٍ نَا ابْنُ نُمَيْرٍ هُوَ مُحَمَّدُ بْنُ عَبْدِ اللَّهِ - نَا أَبِي نَا عُبَيْدُ اللَّهِ هُوَ ابْنُ عُمَرَ حَدَّثَنِي نَافِعٌ عَنْ ابْنِ عُمَرَ قَالَ: «إنَّ الْعَبَّاسَ بْنَ عَبْدِ الْمُطَّلِبِ اسْتَأْذَنَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ أَجْلِ سِقَايَتِهِ أَنْ يَبِيتَ بِمَكَّةَ لَيَالِيَ مِنًى فَأَذِنَ لَهُ» .

L13912–13914 And from the chain of Muslim: Ibn Numayr—Muḥammad ibn ʿAbd Allāh—narrated to us; my father narrated to us; ʿUbayd Allāh—son of ʿUmar—narrated to us. Nafiʿ reported to me from Ibn ʿUmar that he said: "Al-ʿAbbās ibn ʿAbd al-Muṭṭalib sought permission from the Messenger of Allah—may Allah bless him and grant him peace—because of his siqāyah to stay overnight in Mecca during the nights of Mina, and he permitted him."

قَالَ أَبُو مُحَمَّد: فَأَهْلُ السِّقَايَةِ مَأْذُونٌ لَهُمْ مِنْ أَجْلِ السِّقَايَةِ، وَبَاتَ - عَلَيْهِ السَّلَامُ - بِمِنًى وَلَمْ يَأْمُرْ بِالْمَبِيتِ بِهَا، فَالْمَبِيتُ بِهَا سُنَّةٌ، وَلَيْسَ فَرْضًا، لِأَنَّ الْفَرْضَ إنَّمَا هُوَ أَمْرُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَطْ.

L13915 Abu Muhammad said: Those responsible for providing water to pilgrims are granted permission due to their water distribution duties. He (peace and blessings be upon him) spent the night at Minā but did not command others to stay there. Thus, staying overnight there is a Sunnah and not an obligation, for an obligation is only established by his explicit command (peace and blessings be upon him).

فَإِنْ قِيلَ: إنَّ إذْنَهُ لِلرِّعَاءِ وَتَرْخِيصَهُ لَهُمْ وَإِذْنَهُ لِلْعَبَّاسِ دَلِيلٌ عَلَى أَنَّ غَيْرَهُمْ بِخِلَافِهِمْ؟ قُلْنَا: لَا وَإِنَّمَا كَانَ يَكُونُ هَذَا لَوْ تَقَدَّمَ مِنْهُ - عَلَيْهِ السَّلَامُ - أَمْرٌ بِالْمَبِيتِ وَالرَّمْيِ، فَكَانَ يَكُونُ هَؤُلَاءِ مُسْتَثْنَيْنَ مِنْ سَائِرِ مَنْ أُمِرُوا، وَأَمَّا إذَا لَمْ يَتَقَدَّمْ مِنْهُ أَمْرٌ - عَلَيْهِ السَّلَامُ - فَنَحْنُ نَدْرِي أَنَّ هَؤُلَاءِ مَأْذُونٌ لَهُمْ، وَلَيْسَ غَيْرُهُمْ مَأْمُورًا بِذَلِكَ وَلَا مَنْهِيًّا فَهُمْ عَلَى الْإِبَاحَةِ -: رُوِّينَا عَنْ عُمَرَ بْنِ الْخَطَّابِ " لَا يَبِيتَنَّ أَحَدٌ مِنْ وَرَاءِ الْعَقَبَةِ أَيَّامَ مِنًى " وَصَحَّ هَذَا عَنْهُ - رَضِيَ اللَّهُ عَنْهُ - وَعَنْ ابْنِ عَبَّاسٍ مِثْلُ هَذَا، وَعَنْ ابْنِ عُمَرَ أَنَّهُ كَرِهَ الْمَبِيتَ بِغَيْرِ مِنًى أَيَّامَ مِنًى، وَلَمْ يَجْعَلْ وَاحِدٌ مِنْهُمْ فِي ذَلِكَ فِدْيَةً أَصْلًا.

L13916 If it is said: His permission to the shepherds, his dispensation for them, and his authorization to al-ʿAbbās indicate that others are subject to different rulings? We reply: No. This reasoning would only hold if he (peace be upon him) had previously issued a general command to stay overnight and perform the ritual stoning, thereby making these groups exceptions from the originally commanded people. However, since no prior command was issued by him (peace be upon him), we understand that these were specifically permitted while others were neither commanded nor prohibited in this matter—they remain in a state of inherent permissibility. It is narrated from ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him): "Let no one spend the night beyond al-ʿAqaba during the days of staying at Mina in Hajj"—an authentic report. The same ruling is transmitted from Ibn ʿAbbās. From Ibn ʿUmar, it is related that he disapproved of staying overnight outside Mina during its days, though none of them imposed any fidya (ritual expiation) for this whatsoever.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: لَا بَأْسَ لِمَنْ كَانَ لَهُ مَتَاعٌ بِمَكَّةَ أَنْ يَبِيتَ بِهَا لَيَالِيَ مِنًى.

L13917 From the chain of Saʿīd ibn Manṣūr, who narrated to us: Sufyān narrated from Ibn Jurayj from ʿAṭāʾ from Ibn ʿAbbās, who said: There is no harm for one who possesses belongings in Mecca to spend the nights of Mina there.

L13918 From the chain of Ibn Abi Shaybah: Zayd ibn al-Hubab narrated to us, Ibrahim ibn Nafiʿ narrated to us, on the authority of Amr ibn Dinar, from

Ikrimah, from Ibn Abbas, who said: When you stone the Jamarat [pillars], stay overnight wherever you wish.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا زَيْدُ بْنُ الْحُبَابِ نَا إِبْرَاهِيمُ بْنُ نَافِعٍ أَنَا عَمْرُو بْنُ دِينَارٍ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: إِذَا رَمَيْت الْجِمَارَ فَبِتْ حَيْثُ شِئْت.

L13919 And from him to Ibrāhīm ibn Nāfiʿ: Ibn Abī Najīḥ reported to us from ʿAṭāʾ, who said: "There is no harm in staying in Makkah during the nights designated for Mina at his rural estate."

وَبِهِ إِلَى إِبْرَاهِيمَ بْنِ نَافِعٍ نَا ابْنُ أَبِي نَجِيحٍ عَنْ عَطَاءٍ قَالَ: لَا بَأْسَ أَنْ يَبِيتَ بِمَكَّةَ لَيَالِيَ مِنًى فِي ضَيْعَتِهِ.

L13920 From Mujahid: There is no harm in spending the first part of the night in Makkah and the latter part in Mina, or the first part in Mina and the latter part in Makkah. Narrated to us via the chain of Ibn Abi Shaybah: Abu Muʿawiyah reported from Ibn Jurayj, from ʿAtaa, that he used to say: Whoever spends the nights [obligatory] for Mina in Makkah should give a dirham in charity or something similar.

وَعَنْ مُجَاهِدٍ لَا بَأْسَ بِأَنْ يَكُونَ أَوَّلَ اللَّيْلِ بِمَكَّةَ وَآخِرَهُ بِمِنًى أَوْ أَوَّلَ اللَّيْلِ بِمِنًى وَآخِرَهُ بِمَكَّةَ - وَرُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا أَبُو مُعَاوِيَةَ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ أَنَّهُ كَانَ يَقُولُ: مَنْ بَاتَ لَيَالِيَ مِنًى بِمَكَّةَ تَصَدَّقَ بِدِرْهَمٍ أَوْ نَحْوِهِ.

L13921 From Bukayr ibn Mismār, from Sālim, from Ibn Jurayj, from ʿAṭāʾ: likewise similar to this - he gives a dirham in charity if he does not spend the night in Minā.

وَعَنْ بُكَيْرِ بْنِ مِسْمَارٍ عَنْ سَالِمٍ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ مِثْلُ هَذَا أَيْضًا يَتَصَدَّقُ بِدِرْهَمٍ إِذَا لَمْ يَبِتْ بِمِنًى.

L13922–13923 From the chain of Abū Bakr ibn ʿAyyāsh, via al-Mughīrah, via Ibrāhīm, who said: If someone spends the night short of al-ʿAqabah, they are to sacrifice an animal.

وَمِنْ طَرِيقِ أَبِي بَكْرِ بْنِ عَيَّاشٍ عَنْ الْمُغِيرَةِ عَنْ إبْرَاهِيمَ قَالَ: إذَا بَاتَ دُونَ الْعَقَبَةِ أَهْرَقَ دَمًا.

L13924 Abu Hanifah held the same opinion as ours. Sufyan said: "He must give food in charity as expiation." Malik said: "Whoever stays overnight during the days of Mina outside Mina, or for most of the night, must offer a sacrificial animal. If he remains there for the shorter duration of the night, nothing is required of him."

وَقَالَ أَبُو حَنِيفَةَ: بِمِثْلِ قَوْلِنَا، وَقَالَ سُفْيَانُ: يُطْعِمُ شَيْئًا، وَقَالَ مَالِكٌ: مَنْ بَاتَ لَيْلَةً مِنْ لَيَالِي مِنًى بِغَيْرِ مِنًى أَوْ أَكْثَرَ لَيْلَتِهِ فَعَلَيْهِ دَمٌ، فَإِنْ بَاتَ الْأَقَلَّ مِنْ لَيْلَتِهِ فَلَا شَيْءَ عَلَيْهِ.

L13925 Al-Shāfiʿī said: "Whoever spends a night of the Nights of Tashreeq outside Mina must give a mudd as charity. If he spends two nights, two mudds; if he spends three nights, a blood sacrifice." It is narrated from him: "For one night, a third of a blood sacrifice; for two nights, two-thirds of a blood sacrifice; and for three nights, a full blood sacrifice." Abū Muḥammad said: "These opinions have no evidence for their validity—referring to charity with a dirham, providing food to someone, obligating a blood sacrifice, a mudd,

وَقَالَ الشَّافِعِيُّ: مَنْ بَاتَ لَيْلَةً مِنْ لَيَالِي التَّشْرِيقِ فِي غَيْرِ مِنًى فَلْيَتَصَدَّقْ بِمُدٍّ فَإِنْ بَاتَ لَيْلَتَيْنِ، فَمُدَّانِ فَإِنْ بَاتَ ثَلَاثًا فَدَمٌ - وَرُوِيَ عَنْهُ فِي لَيْلَةٍ ثُلُثُ دَمٍ، وَفِي لَيْلَتَيْنِ ثُلُثَا دَمٍ وَفِي ثَلَاثِ لَيَالٍ دَمٌ قَالَ أَبُو مُحَمَّدٍ: هَذِهِ الْأَقْوَالُ لَا دَلِيلَ عَلَى صِحَّتِهَا يَعْنِي الصَّدَقَةَ بِدِرْهَمٍ أَوْ بِإِطْعَامِ شَيْءٍ أَوْ بِإِيجَابِ دَمٍ، أَوْ بُدٍّ، أَوْ مُدَّيْنِ، أَوْ ثُلُثِ دَمٍ، أَوْ ثُلُثَيْ دَمٍ، أَوْ الْفَرْقَ

two mudds, a third of a blood sacrifice, two-thirds of a blood sacrifice, or distinguishing between spending most of the night or a small portion of it. In such cases, holding such an opinion is impermissible. We know of no predecessors at all for Mālik or Al-Shāfiʿī in these specific statements of theirs—neither from a Companion nor a Follower."

L13926 **An Issue: He stoned on two days, then dispersed from Mina and did not stone on the third day.**

L13927 Issue 847: Whoever throws for two days and then departs without performing the third day's throwing - there is no harm in that. But whoever performs the third day's throwing, it is better.

L13928 The evidence for this is the statement of Allah, the Exalted: {So whoever hastens departure within two days - there is no sin upon him, and whoever delays - there is no sin upon him} [2:203]. Abu Hanifah said: "If one departs on the second day before nightfall, they must throw pebbles on the third day." Ali said: "This is incorrect, a ruling without evidence and in contradiction to the Quran."[39]

L13929 **Issue: If a woman performing 'Umrah as part of Tamattu' Hajj menstruates before circumambulating the Kaaba...**

L13930 848 – Issue: If a woman performing Tamattuʿ (combining Umrah and Hajj) menstruates before circumambulating the Kaaba, her obligation is to add Hajj to her Umrah if she intends to perform Hajj in the same year. She must perform all rituals of Hajj except the circumambulation of the Kaaba. When she purifies [from menstruation], she should then perform the circumambulation. This ruling is based on the command of the Messenger of Allah (peace be upon him) to ʿĀ'ishah in this matter, as mentioned earlier.

L13931 **A case wherein a woman assumes *ihram* for Umrah intending *Tamattuʿ*, then menstruates before performing the circumambulation of the House.**

بَيْنَ الْمَبِيتِ أَكْثَرَ اللَّيْلِ، أَوْ أَقَلَّهُ، وَمَا كَانَ هَكَذَا فَالْقَوْلُ بِهِ لَا يَجُوزُ، وَمَا نَعْلَمُ لِمَالِكٍ، وَلَا لِلشَّافِعِيِّ فِي أَقْوَالِهِمْ هَذِهِ سَلَفًا أَصْلًا، لَا مِنْ صَاحِبٍ، وَلَا مِنْ تَابِعٍ.

## [مَسْأَلَةٌ رَمَى يَوْمَيْنِ ثُمَّ نَفَرَ وَلَمْ يَرْمِ الثَّالِثَ]

٨٤٧ - مَسْأَلَةٌ: وَمَنْ رَمَى يَوْمَيْنِ، ثُمَّ نَفَرَ، وَلَمْ يَرْمِ الثَّالِثَ فَلَا بَأْسَ بِهِ، وَمَنْ رَمَى الثَّالِثَ فَهُوَ أَحْسَنُ.

بُرْهَانُ ذَلِكَ -: قَوْلُ اللَّهِ - تَعَالَى -: {فَمَنْ تَعَجَّلَ فِي يَوْمَيْنِ فَلا إِثْمَ عَلَيْهِ وَمَنْ تَأَخَّرَ فَلا إِثْمَ عَلَيْهِ} [البقرة: ٢٠٣] وَقَالَ أَبُو حَنِيفَةَ: إنْ نَفَرَ الْيَوْمَ الثَّانِيَ إلَى اللَّيْلِ لَزِمَهُ أَنْ يَرْمِيَ الثَّالِثَ -: قَالَ عَلِيٌّ: وَهَذَا خَطَأٌ، وَحُكْمٌ بِلَا دَلِيلٍ وَخِلَافٌ لِلْقُرْآنِ.

## [مَسْأَلَةٌ الْمُتَمَتِّعَةُ بِعُمْرَةٍ إنْ حَاضَتْ قَبْلَ الطَّوَافِ بِالْبَيْتِ]

٨٤٨ - مَسْأَلَةٌ: وَالْمَرْأَةُ الْمُتَمَتِّعَةُ بِعُمْرَةٍ إنْ حَاضَتْ قَبْلَ الطَّوَافِ بِالْبَيْتِ فَفَرْضُهَا أَنْ تُضِيفَ حَجًّا إلَى عُمْرَتِهَا إنْ كَانَتْ تُرِيدُ الْحَجَّ مِنْ عَامِهَا وَتَعْمَلَ عَمَلَ الْحَجِّ حَاشَا الطَّوَافَ بِالْبَيْتِ، فَإِذَا طَهُرَتْ طَافَتْ، وَهَذَا لِأَمْرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَائِشَةَ بِذَلِكَ قَدْ ذَكَرْنَاهُ قَبْلُ.

## [مَسْأَلَةٌ تُهِلُّ بِعُمْرَةٍ وَهِيَ تُرِيدُ التَّمَتُّعَ فَتَحِيضُ قَبْلَ الطَّوَافِ بِالْبَيْتِ]

[39] **Qur'an references (L13928):** Qur'an 2:203 (Al-Baqarah).

L13932–13934 Issue 849: The ritual bath is not obligatory in Hajj except in two cases: 1) A woman who enters ihram for Umrah intending Tamattu‘, then menstruates before performing circumambulation of the House. She must perform the ritual bath and combine Hajj with her Umrah (Qiran). 2) A woman who gives birth before initiating ihram for Umrah or Qiran. She is obligated to perform the ritual bath and must enter ihram for Hajj. What has been narrated to us through Muslim’s chain: narrated to us by Qutaybah from Al-Layth, from Abu Al-Zubayr, from Jabir, who said: “‘Ā’ishah came to perform ‘Umrah.” He related the ḥadīth, in which she said to Allah’s Messenger - peace and blessings of Allah be upon him - “I have menstruated while the people have exited ihrām, but I have not exited ihrām nor performed ṭawāf around the House. Now the people are going for Ḥajj.” Allah’s Messenger - peace and blessings of Allah be upon him - responded: “This is a matter Allah has ordained for the daughters of Ādam. Perform ghusl and enter ihrām for Ḥajj.”

٨٤٩ - مَسْأَلَةٌ - وَلَا يَلْزَمُ الْغُسْلُ فِي الْحَجِّ فَرْضًا إِلَّا الْمَرْأَةَ تُهِلُّ بِعُمْرَةٍ تُرِيدُ التَّمَتُّعَ فَتَحِيضُ قَبْلَ الطَّوَافِ بِالْبَيْتِ فَهَذِهِ تَغْتَسِلُ وَلَا بُدَّ وَتُقْرِنُ حَجًّا إِلَى عُمْرَتِهَا؛ وَالْمَرْأَةُ تَلِدُ قَبْلَ أَنْ تُهِلَّ بِالْعُمْرَةِ، أَوْ بِالْقِرَانِ: فَفُرِضَ عَلَيْهَا أَنْ تَغْتَسِلَ، وَلْتُهِلَّ بِالْحَجِّ -: لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا قُتَيْبَةُ نَا اللَّيْثُ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ قَالَ «أَقْبَلَتْ عَائِشَةُ بِعُمْرَةٍ فَذَكَرَ الْحَدِيثَ وَفِيهِ أَنَّهَا قَالَتْ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ حِضْتُ وَقَدْ حَلَّ النَّاسُ وَلَمْ أَحِلَّ وَلَمْ أَطُفْ بِالْبَيْتِ وَالنَّاسُ يَذْهَبُونَ إِلَى الْحَجِّ الْآنَ فَقَالَ لَهَا رَسُولُ اللَّهِ: - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِنَّ هَذَا أَمْرٌ كَتَبَهُ اللَّهُ عَلَى بَنَاتِ آدَمَ فَاغْتَسِلِي وَأَهِلِّي بِالْحَجِّ» .

L13935 And for his command—peace be upon him—to Asmā’ bint ‘Umays, when she gave birth to Muḥammad ibn Abī Bakr at al-Shajarah, that she perform the ritual bath and proclaim the talbiyah (the pilgrimage invocation). We are certain of her compliance with his command—peace be upon him—and that had the two women not performed the ritual bath, they would have been disobedient. And Allah—the Almighty and Majestic—protected them both from such disobedience.

«وَلِأَمْرِهِ - عَلَيْهِ السَّلَامُ -، أَسْمَاءَ بِنْتَ عُمَيْسٍ إِذْ وَلَدَتْ مُحَمَّدَ بْنَ أَبِي بَكْرٍ بِالشَّجَرَةِ أَنْ تَغْتَسِلَ وَتُهِلَّ» ؛ وَنَحْنُ قَاطِعُونَ بِائْتِمَارِهَا لَهُ - عَلَيْهِ السَّلَامُ -، وَأَنَّهُمَا لَوْ لَمْ يَغْتَسِلَا لَكَانَتَا عَاصِيَتَيْنِ، وَقَدْ أَعَاذَهُمَا اللَّهُ - عَزَّ وَجَلَّ - مِنْ ذَلِكَ.

## A ruling on one who deliberately commits a ritual violation while in the state of consecration for Hajj (Iḥrām).

## [مَسْأَلَةٌ تَعَمَّدَ مَعْصِيَةً وَهُوَ ذَاكِرٌ لِحَجِّهِ]

L13937 850. Issue: Anyone who intentionally commits any sin—while being mindful of his Hajj from the moment he enters Ihram until he completes his Tawaf al-Ifadah around the House and throws the pebbles—invalidates his Hajj. If he commits it out of forgetfulness of the sin itself, or forgetfulness of his Ihram and entry into Hajj or ‘Umrah, there is no penalty for such forgetfulness, and his Hajj and ‘Umrah are complete despite his unawareness of being in them. This is based on Allah’s statement—Exalted is He—: “So whoever has made Hajj obligatory upon himself in them [the months], there is to be

٨٥٠ - مَسْأَلَةٌ: وَكُلُّ مَنْ تَعَمَّدَ مَعْصِيَةً أَيَّ مَعْصِيَةٍ كَانَتْ - وَهُوَ ذَاكِرٌ لِحَجِّهِ مُذْ يُحْرِمُ إِلَى أَنْ يُتِمَّ طَوَافَهُ بِالْبَيْتِ لِلْإِفَاضَةِ وَيَرْمِيَ الْجَمْرَةَ - فَقَدْ بَطَلَ حَجُّهُ، فَإِنْ أَتَاهَا نَاسِيًا لَهَا، أَوْ نَاسِيًا لِإِحْرَامِهِ وَدُخُولِهِ فِي الْحَجِّ أَوْ الْعُمْرَةِ: فَلَا شَيْءَ عَلَيْهِ فِي نِسْيَانِهَا، وَحَجُّهُ وَعُمْرَتُهُ تَامَّانِ فِي نِسْيَانِهِ كَوْنَهُ فِيهِمَا، وَذَلِكَ لِقَوْلِ اللَّهِ - تَعَالَى -: {فَمَنْ فَرَضَ فِيهِنَّ الْحَجَّ فَلَا

no sexual intimacy, no disobedience, and no disputing during Hajj" [2:197]. Thus, Allah's condition for Hajj is purification from sexual intimacy and disobedience. Whoever fails to purify himself from these has not performed Hajj as commanded, and whoever does not perform Hajj as commanded has no valid Hajj. The Messenger of Allah—peace and blessings of Allah be upon him—said: "The 'Umrah is incorporated into Hajj until the Day of Resurrection." Among the absurdities of this world is their invalidation of Hajj for a man kissing his lawful wife—an act which causes him to ejaculate—even though Allah, Exalted is He, never prohibited this. Yet they do not invalidate Hajj for acts of disobedience such as unlawful killing, abandoning prayer, or other sins—this is truly astonishing. Even more bewildering is Abū Ḥanīfah's invalidation of Hajj for a man who has intercourse with his wife while forgetful of his Ihram, despite the established principle that Allah, Exalted is He, does not hold accountable for forgetfulness. He—Exalted is He—said: "There is no blame upon you for what you do by mistake, but only for what your hearts deliberately intend" [33:5]. Moreover, they do not invalidate Hajj for intentionally seeking sodomy during Ihram or being subjected to it. Is there any vile calamity greater than this? The most astonishing thing is their claim of consensus on this matter, though they cannot cite a single narration from any Companion—may Allah be pleased with them—stating that intentional disobedience does not invalidate Hajj. Rather, reports from the predecessors testify to our position.[40]

L13938–13940 It is narrated from Mujāhid that he said: "Truly, we enter iḥrām from the mīqāt, and I fear that I will not depart from it until..." My ihram has been exited, or words with this meaning - and indeed Shuraih, when entering ihram, would become like a deaf serpent[851] - Issue: If one can renew the ihram, he must do so and perform Hajj or Umrah even if he has already fulfilled his duty, for his initial ihram has been nullified and invalid. Persisting in it is impermissible according to Allah's word, Exalted is He: "Allah does not set right the work of those who cause corruption" (Quran 10:81).[41]

رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] فَكَانَ مِنْ شَرْطِ اللَّهِ - تَعَالَى - فِي الْحَجِّ بَرَاءَتُهُ مِنْ الرَّفَثِ وَالْفُسُوقِ، فَمَنْ لَمْ يَتَبَرَّأْ مِنْهُمَا فَلَمْ يَحُجَّ كَمَا أُمِرَ، وَمَنْ لَمْ يَحُجَّ كَمَا أُمِرَ فَلَا حَجَّ لَهُ وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إلَى يَوْمِ الْقِيَامَةِ» وَمِنْ عَجَائِبِ الدُّنْيَا إبْطَالُهُمْ الْحَجَّ بِتَقْبِيلِهِ امْرَأَتَهُ الْمُبَاحَةَ لَهُ فَيُمْنِي وَلَمْ يَنْهَهُ اللَّهُ - تَعَالَى - قَطُّ عَنْ هَذَا، ثُمَّ لَا يُبْطِلُونَهُ بِالْفُسُوقِ مِنْ قَتْلِ النَّفْسِ الْمُحَرَّمَةِ، وَتَرْكِ الصَّلَاةِ، وَسَائِرِ الْفُسُوقِ إنَّ هَذَا لَعَجَبٌ وَأَعْجَبُ مِنْ ذَلِكَ إبْطَالُ أَبِي حَنِيفَةَ الْحَجَّ بِوَطْءِ الرَّجُلِ امْرَأَتَهُ نَاسِيًا لِإِحْرَامِهِ وَقَدْ صَحَّ أَنَّ اللَّهَ - تَعَالَى - لَا يُؤَاخِذُ بِالنِّسْيَانِ، قَالَ - تَعَالَى -: {وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ} [الأحزاب: ٥] ثُمَّ لَا يُبْطِلُ الْحَجَّ بِتَعَمُّدِ الْقَصْدِ إلَى أَنْ يَلُوطَ فِي إحْرَامِهِ أَوْ يُلَاطَ بِهِ، فَهَلْ فِي الْفَضَائِحِ وَالْقَبَائِحِ أَكْثَرُ مِنْ هَذِهِ الْمُصِيبَةِ؟ وَأَعْجَبُ شَيْءٍ دَعْوَاهُمْ الْإِجْمَاعَ عَلَى هَذَا وَلَا سَبِيلَ إلَى أَنْ يَأْتُوا بِرِوَايَةٍ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - فِي أَنَّ تَعَمُّدَ الْفُسُوقِ لَا يُبْطِلُ بَلْ الرِّوَايَاتُ عَنْ السَّلَفِ تَشْهَدُ لِقَوْلِنَا.

وَرُوِيَ عَنْ مُجَاهِدٍ أَنَّهُ قَالَ: إنَّا لَنُحْرِمُ مِنْ الْمِيقَاتِ وَأَخْشَى أَنْ لَا أَخْرُجَ مِنْهُ حَتَّى أُخْرِجَ إحْرَامِي، أَوْ كَلَامًا هَذَا مَعْنَاهُ - وَإِنَّ شُرَيْحًا كَانَ إذَا أَحْرَمَ فَكَأَنَّهُ حَيَّةٌ صَمَّاءُ ٨٥١ - مَسْأَلَةٌ: فَإِنْ أَمْكَنَهُ تَجْدِيدُ الْإِحْرَامِ فَلْيَفْعَلْ وَيَحُجَّ أَوْ يَعْتَمِرَ وَقَدْ أَدَّى فَرْضَهُ لِأَنَّ إحْرَامَهُ الْأَوَّلَ قَدْ بَطَلَ وَأَفْسَدَهُ، وَالتَّمَادِي عَلَيْهِ لَا يَجُوزُ لِقَوْلِ اللَّهِ - تَعَالَى -: {إِنَّ اللَّهَ لا يُصْلِحُ عَمَلَ الْمُفْسِدِينَ} [يونس: ٨١] .

[40] **Qur'an references (L13937):** Qur'an 2:197 (Al-Baqarah); Qur'an 33:5 (Al-Ahzab).

[41] **Qur'an references (L13938):** Qur'an 10:81 (Yunus).

L13941 Al-Awzāʿī said: Blood money is required for insulting a muḥrim. Yet they impose blood money for acts deemed permissible, such as staying overnight outside Mina and other similar matters, but they do not apply it to insulting a muḥrim during Ḥajj.

وَقَالَ الْأَوْزَاعِيُّ: فِي سِبَابِ الْمُحْرِمِ دَمٌ، وَهُمْ يَجْعَلُونَ الدَّمَ فِيمَا لَا يُكْرَهُ فِيهِ مِنَ الْمَبِيتِ فِي غَيْرِ مِنًى وَغَيْرِ ذَلِكَ وَلَا يَجْعَلُونَهُ فِي السِّبَابِ لِلْمُحْرِمِ فِي الْحَجِّ.

L13942 **A case: He performed the Wuquf at Arafah on a stolen camel or a camel used for carrying impurities.**

## [مَسْأَلَةٌ وَقَفَ بِعَرَفَةَ عَلَى بَعِيرٍ مَغْصُوبٍ أَوْ جَلَّالٍ]

L13943 Issue 852: If someone stands at Arafat on a stolen camel or a baggage camel, their Hajj is invalid if they were aware of this. As for one who performs Hajj with unlawful wealth and spent it on Hajj—without having handled it himself—their Hajj is complete.

٨٥٢ - مَسْأَلَةٌ: وَمَنْ وَقَفَ بِعَرَفَةَ عَلَى بَعِيرٍ مَغْصُوبٍ، أَوْ جَلَّالٍ بَطَلَ حَجُّهُ إِذَا كَانَ عَالِمًا بِذَلِكَ، وَأَمَّا مَنْ حَجَّ بِمَالٍ حَرَامٍ فَأَنْفَقَهُ فِي الْحَجِّ - وَلَمْ يَتَوَلَّ هُوَ حَمْلَهُ بِنَفْسِهِ - فَحَجُّهُ تَامٌّ.

L13944 As for the usurped one, it is because he acted contrary to what Allah—Exalted is He—commanded and did not perform Hajj as he was ordered. As for his standing on a jallala camel (camels that consume filth), this relates to what is authentically reported from the Prophet—peace and blessings be upon him—through what was narrated to us by Abdullah ibn Rabiʿ: Umar ibn Abd al-Malik narrated to us, Muhammad ibn Bakr narrated to us, Abu Dawud narrated to us, Ahmad ibn Abi Suraij al-Razi narrated to us, Abdullah ibn al-Jahm narrated to us, Amr (Ibn Abi Qays) from Ayyub al-Sakhtiyani from Nafiʿ from Ibn Umar, who said: "The Messenger of Allah—peace and blessings be upon him—forbade riding jallala camels."[42]

أَمَّا الْمَغْصُوبُ، فَلِأَنَّهُ مُخَالِفٌ لِمَا أَمَرَهُ اللَّهُ - تَعَالَى - بِهِ وَلَمْ يَحُجَّ كَمَا أُمِرَ - وَأَمَّا وُقُوفُهُ عَلَى بَعِيرٍ جَلَّالٍ فَلِمَا صَحَّ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِمَّا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا عُمَرُ بْنُ عَبْدِ الْمَلِكِ نَا مُحَمَّدُ بْنُ بَكْرٍ نَا أَبُو دَاوُد نَا أَحْمَدُ بْنُ أَبِي سُرَيْجٍ الرَّازِيّ أَخْبَرَنِي عَبْدُ اللَّهِ بْنُ الْجَهْمِ نَا عَمْرٌو هُوَ ابْنُ أَبِي قَيْسٍ - عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ قَالَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنِ الْجَلَّالَةِ فِي الْإِبِلِ أَنْ يُرْكَبَ عَلَيْهَا» .

L13945 Reported to Abu Dawud through him: Musaddad ibn Musarhad narrated to us; Abdul-Warith (he is al-Tannuri) narrated to us; from Ayyub al-Sakhtiyānī, from Nafi', from Ibn Umar, who said: "The Messenger of Allah (peace and blessings be upon him) forbade riding al-jallalah [filth-eating animals]."

وَبِهِ إِلَى أَبِي دَاوُد نَا مُسَدَّدٌ نَا عَبْدُ الْوَارِثِ هُوَ التَّنُّورِيُّ - عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ قَالَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ رُكُوبِ الْجَلَّالَةِ» .

L13946 Abū Muḥammad said: The jallalah (camel fed filth) is an animal whose fodder consists of impurities. Whoever fulfills the standing at ʻArafah while mounted on a jallalah camel has not fulfilled the standing as commanded, for

قَالَ أَبُو مُحَمَّد: وَالْجَلَّالَةُ هِيَ الَّتِي عَلَفُهَا الْجُلَّةُ وَهِيَ الْعَذِرَةُ، فَمَنْ وَقَفَ بِعَرَفَةَ عَلَى بَعِيرٍ جَلَّالٍ فَلَمْ يَقِفْ كَمَا أُمِرَ، لِأَنَّهُ عَاصٍ فِي وُقُوفِهِ [عَلَيْهِ] وَالْوُقُوفُ بِعَرَفَةَ طَاعَةٌ وَفَرْضٌ، وَمِنَ الْمُحَالِ أَنْ تَنُوبَ الْمَعْصِيَةُ عَنِ الطَّاعَةِ وَقَالَ - عَلَيْهِ السَّلَامُ -: «إِنَّ دِمَاءَكُمْ

[42] **Hadith references (L13944):** Sunan Abi Dawud 2558; Sunan Abi Dawud 3787; Riyad as-Salihin 1692.

he is disobedient in his standing upon such a camel, given that the standing at ʻArafah constitutes obedience and an obligatory duty. It is inconceivable that disobedience could substitute for obedience. The Prophet (peace be upon him) said: "Your blood and your wealth are forbidden to you." Thus, whoever stands there while possessing forbidden wealth has not stood as commanded but rather stood in disobedience. If he was unaware of this, Allah the Exalted states: "There is no blame upon you for that in which you erred, but only for what your hearts deliberately intended" (33:5). Whoever does not intentionally engage in forbidden acts while aware of them is not considered disobedient. If he is not disobedient, he is counted among the virtuous. Allah says: "There is no recourse against the virtuous" (9:91). Thus, he has fulfilled the standing as commanded, and Allah the Exalted has pardoned him for what he did not know.[43]

وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ» فَمَنْ وَقَفَ بِهَا حَامِلًا لِمَالٍ حَرَامٍ، فَلَمْ يَقِفْ كَمَا أُمِرَ بَلْ وَقَفَ عَاصِيًا، فَإِنْ لَمْ يَعْلَمْ بِذَلِكَ فَقَدْ قَالَ - تَعَالَى -: {وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ} [الأحزاب: ٥] وَمَنْ لَمْ يَتَعَمَّدْ لِلْحَرَامِ عَالِمًا بِهِ فَلَيْسَ عَاصِيًا، وَإِذَا لَمْ يَكُنْ عَاصِيًا فَهُوَ مُحْسِنٌ قَالَ - تَعَالَى -: {مَا عَلَى الْمُحْسِنِينَ مِنْ سَبِيلٍ} [التوبة: ٩١] فَقَدْ وَقَفَ كَمَا أُمِرَ، وَعَفَا اللَّهُ - تَعَالَى - لَهُ عَمَّا لَمْ يَعْلَمْهُ.

L13947–13948 As for the expenditure of unlawful wealth in Hajj and its journey: he, if he was sinful in that but did not engage in sin during his state of Ihram nor in any of the acts of his Hajj—and did not mix any forbidden action with his obligatory act—then success is from Allah, the Exalted.

وَأَمَّا نَفَقَةُ الْمَالِ الْحَرَامِ فِي الْحَجِّ وَطَرِيقُهُ -: فَهُوَ إِنْ كَانَ عَاصِيًا بِذَلِكَ فَلَمْ يُبَاشِرْ الْمَعْصِيَةَ فِي حَالِ إحْرَامِهِ وَلَا فِي شَيْءٍ مِنْ أَعْمَالِ حَجِّهِ فَلَمْ يَخْلِطْ فِي عَمَلِهِ الْوَاجِبِ عَمَلًا مُحَرَّمًا وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L13949 Similarly, if someone rides a jallāla animal (one fed impure substances) during any part of his ritual state (Iḥrām) or during the performance of his Hajj, based on Allah's statement—Exalted is He—: *"There is to be no lewdness, transgression, or disputing during Hajj"* [Al-Baqarah: 197]. Sin constitutes transgression. They have agreed with us that the prayer of one who performs an obligatory prayer while riding without necessity is invalid, and there is no distinction between the two matters, for both are prohibited acts.[44]

وَكَذَلِكَ لَوْ رَكِبَ الْجَلَّالَ فِي شَيْءٍ مِنْ إحْرَامِهِ أَوْ عَمَلِ حَجِّهِ لِقَوْلِ اللَّهِ - تَعَالَى -: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] وَالْمَعْصِيَةُ: فُسُوقٌ، وَقَدْ وَافَقُونَا عَلَى بُطْلَانِ صَلَاةِ مَنْ صَلَّى الْفَرْضَ رَاكِبًا لِغَيْرِ ضَرُورَةٍ وَلَا فَرْقَ بَيْنَ الْأَمْرَيْنِ؛ لِأَنَّ كِلَيْهِمَا عَمَلٌ مُحَرَّمٌ.

L13950 **Issue: The entire area of Arafah is a valid standing place.**

## [مَسْأَلَةٌ عَرَفَةُ كُلُّهَا مَوْقِفٌ]

L13951 853. Issue: All of ʻArafah is a standing place except the valley of ʻUranat, and all of Muzdalifah is a standing place except the valley of Muḥassir. This is because ʻArafah is part of the non-sacred territory (al-Ḥill), while the valley

٨٥٣ - مَسْأَلَةٌ: وَعَرَفَةُ كُلُّهَا مَوْقِفٌ إلَّا بَطْنَ عُرَنَةَ، وَمُزْدَلِفَةُ كُلُّهَا مَوْقِفٌ إلَّا بَطْنَ مُحَسِّرٍ؛ لِأَنَّ عَرَفَةَ مِنْ الْحِلِّ، وَبَطْنَ عُرَنَةَ مِنْ الْحَرَمِ فَهُوَ غَيْرُ عَرَفَةَ؛ وَأَمَّا مُزْدَلِفَةُ فَهِيَ الْمَشْعَرُ الْحَرَامُ وَهِيَ مِنْ الْحَرَمِ؛ وَبَطْنُ مُحَسِّرٍ مِنْ الْحِلِّ فَهُوَ غَيْرُ مُزْدَلِفَةَ.

[43] **Qur'an references (L13946):** Qur'an 33:5 (Al-Ahzab); Qur'an 9:91 (At-Tawbah).
[44] **Qur'an references (L13949):** Qur'an 2:197 (Al-Baqarah).

of ʻUranat is part of the sacred precinct (al-Ḥaram), and thus excluded from ʻArafah. As for Muzdalifah, it is the Sacred Ritual Site (al-Mashʻar al-Ḥaram) and is part of the sacred precinct (al-Ḥaram), while the valley of Muḥassir is part of the non-sacred territory (al-Ḥill), and thus excluded from Muzdalifah.

L13952 Aḥmad ibn ʻUmar ibn Anas narrated to us from ʻAbd Allāh ibn Ḥusayn ibn ʻIqāl, from Ibrāhīm ibn Muḥammad al-Dīnawarī, from Muḥammad ibn Aḥmad ibn al-Jahm, from Jaʻfar al-Ṣāʾigh, from Abū Naṣr al-Nimār (who is ʻAbd al-Malik ibn ʻAbd al-ʻAzīz), from Sulaymān ibn Mūsā, from ʻAbd al-Raḥmān ibn Abī Ḥusayn, from Jubayr ibn Muṭʻim, who said: The Messenger of Allah—peace be upon him—said: "All of ʻArafāt is a valid standing place, but avoid the valley of ʻUranah. All of Muzdalifah is a valid standing place, but avoid the valley of Muhassir."

## L13953 A juristic issue regarding casting pebbles at the Jamarat with ones that had already been used for this purpose.

L13954 854. Issue: Throwing pebbles at the jamarat (stone pillars) with pebbles previously used for throwing is permissible. Similarly, performing this act while mounted is acceptable. As for using previously thrown pebbles, this is because neither the Quran nor the Sunnah prohibits it. This is the opinion of Abū Ḥanīfah and his companions. If it is objected: It has been narrated from Ibn ʻAbbās that the pebbles of the jamarat which are accepted [by God] are elevated, while those not accepted remain, for otherwise they would form mounds that would obstruct the path. We respond: Indeed, so what? If ʻAmr's throwing of these pebbles is not accepted, Zayd's use of the same pebbles may be accepted. Just as a person may give charity which Allah—Exalted—does not accept from him, then another person comes to possess those very pebbles and gives them in charity, and they may then be accepted from him.

L13955–13957 As for throwing while riding: ʻAbdullāh ibn Rabīʻ narrated to us via Muḥammad ibn Muʻāwiyah, Aḥmad ibn Shuʻayb, Isḥāq ibn Ibrāhīm (Ibn Rāhawayh), Wakīʻ, and Ayman ibn Nābil—from Qudāmah ibn ʻAbdullāh. He said: "I saw the Messenger of Allah—peace and blessings be upon him—stoning Jam-

نَا أَحْمَدُ بْنُ عُمَرَ بْنِ أَنَسٍ نَا عَبْدُ اللَّهِ بْنُ حُسَيْنِ بْنِ عِقَالٍ نَا إِبْرَاهِيمُ بْنُ مُحَمَّدٍ الدِّينَوَرِيُّ نَا مُحَمَّدُ بْنُ أَحْمَدَ بْنِ الْجَهْمِ نَا جَعْفَرُ الصَّائِغُ نَا أَبُو نَصْرٍ النَّمَّارُ هُوَ عَبْدُ الْمَلِكِ بْنُ عَبْدِ الْعَزِيزِ - عَنْ سُلَيْمَانَ بْنِ مُوسَى عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي حُسَيْنٍ عَنْ جُبَيْرِ بْنِ مُطْعِمٍ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «كُلُّ عَرَفَاتٍ مَوْقِفٌ وَارْفَعُوا عَنْ بَطْنِ عُرَنَةَ، وَالْمُزْدَلِفَةُ كُلُّهَا مَوْقِفٌ وَارْفَعُوا عَنْ بَطْنِ مُحَسِّرٍ» .

## [مَسْأَلَةُ رَمْيُ الْجِمَارِ بِحَصًى قَدْ رُمِيَ بِهِ قَبْلَ ذَلِكَ]

٨٥٤ - مَسْأَلَةٌ: وَرَمْيُ الْجِمَارِ بِحَصًى قَدْ رُمِيَ بِهِ قَبْلَ ذَلِكَ جَائِزٌ، وَكَذَلِكَ رَمْيُهَا رَاكِبًا حَسَنٌ؛ أَمَّا رَمْيُهَا بِحَصًى قَدْ رُمِيَ بِهِ فَلِأَنَّهُ لَمْ يَنْهَ عَنْ ذَلِكَ قُرْآنٌ، وَلَا سُنَّةٌ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ وَأَصْحَابِهِ -: فَإِنْ قِيلَ: قَدْ رُوِيَ عَنْ ابْنِ عَبَّاسٍ أَنَّ حَصَى الْجِمَارِ مَا تُقُبِّلَ مِنْهُ رُفِعَ، وَمَا لَمْ يُتَقَبَّلْ مِنْهُ تُرِكَ وَلَوْلَا ذَلِكَ لَكَانَ هِضَابًا تَسُدُّ الطَّرِيقَ؟ قُلْنَا: نَعَمْ فَكَانَ مَاذَا؟ وَإِنْ لَمْ يُتَقَبَّلْ - رَمْيُ هَذِهِ الْحَصَى مِنْ عَمْرٍو فَيُسْتَقْبَلُ مِنْ زَيْدٍ، وَقَدْ يَتَصَدَّقُ الْمَرْءُ بِصَدَقَةٍ فَلَا يَقْبَلُهَا اللَّهُ - تَعَالَى - مِنْهُ، ثُمَّ يَمْلِكُ تِلْكَ الْعَيْنَ آخَرُ فَيَتَصَدَّقُ بِهَا فَتُقْبَلُ مِنْهُ.

وَأَمَّا رَمْيُهَا رَاكِبًا -: نَا عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - نَا وَكِيعٌ نَا أَيْمَنُ بْنُ نَابِلٍ عَنْ قُدَامَةَ بْنِ عَبْدِ اللَّهِ قَالَ:

rat al-ʿAqabah on the Day of Sacrifice while mounted on his reddish-brown she-camel, neither striking her, driving her forcefully, nor urging her onward with shouts."[45]

L13958 And Abū Yūsuf said less than an hour before his death: Throwing at the last two jamarat while mounted is superior, and throwing at Jamrat al-ʿAqabah on foot is superior. This is a baseless categorization without proof; rather, throwing at it while mounted is superior, in emulation of the Messenger of Allāh—peace and blessings of Allāh be upon him.

L13959 **Issue: Deliberate sexual intercourse in lawful circumstances while being aware of his Hajj or Umrah.**

L13960 Issue 855: Hajj is invalidated by intentionally engaging in sexual intercourse with one's lawful wife or bondmaid while mindful of his Hajj or Umrah. If he does so forgetfully - because he is in the state of Hajj or Umrah - he incurs no penalty. Similarly, the Hajj and Umrah of the woman with whom he intentionally had intercourse are also invalidated. Allah the Exalted says: "There shall be no obscenity (al-rafath), nor disobedience, nor quarreling during Hajj" (Al-Baqarah 2:197). Al-rafath refers to sexual intercourse (copulation). Thus, whoever engages in it has invalidated his Hajj or Umrah as he was commanded. The Messenger of Allah (peace be upon him) said: "Umrah is part of Hajj until the Day of Judgment."[46]

L13961 As for the one who forgets and the coerced person, there is no obligation upon them, based on the saying of Allah's Messenger (peace be upon him): "The consequences of error, forgetfulness, and what they were compelled to do have been lifted from my nation."

L13962 And based on the saying of Allāh—may He be exalted—: {There is no blame upon you for what you have erred in, but what your hearts deliberately intended} [Al-Aḥzāb: 5]. This is the view of our companions.[47]

L13963 **Case: He engaged in sexual intercourse without complet-**

«رَأَيْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَرْمِي جَمْرَةَ الْعَقَبَةِ يَوْمَ النَّحْرِ عَلَى نَاقَةٍ لَهُ صَهْبَاءَ، لَا ضَرْبَ، وَلَا طَرْدَ، وَلَا إِلَيْكَ إِلَيْكَ» .

وَقَالَ أَبُو يُوسُفَ قَبْلَ مَوْتِهِ بِأَقَلَّ مِنْ سَاعَةٍ: رَمْيُ الْجَمْرَتَيْنِ الْآخِرَتَيْنِ رَاكِبًا أَفْضَلُ وَرَمْيُ جَمْرَةِ الْعَقَبَةِ رَاجِلًا أَفْضَلُ، وَهَذَا تَقْسِيمٌ فَاسِدٌ بِلَا بُرْهَانٍ بَلْ رَمْيُهَا رَاكِبًا أَفْضَلُ اقْتِدَاءً بِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

## [مَسْأَلَةٌ تَعَمُّدُ الْوَطْءِ فِي الْحَلَالِ ذَاكِرًا لِحَجِّهِ أَوْ عُمْرَتِهِ]

٨٥٥ - مَسْأَلَةٌ: وَيُبْطِلُ الْحَجَّ تَعَمُّدُ الْوَطْءِ فِي الْحَلَالِ مِنَ الزَّوْجَةِ وَالْأَمَةِ ذَاكِرًا لِحَجِّهِ أَوْ عُمْرَتِهِ فَإِنْ وَطِئَهَا نَاسِيًا، لِأَنَّهُ فِي عَمَلِ حَجٍّ أَوْ عُمْرَةٍ فَلَا شَيْءَ عَلَيْهِ، وَكَذَلِكَ يَبْطُلُ بِتَعَمُّدِهِ أَيْضًا حَجُّ الْمَوْطُوءَةِ وَعُمْرَتُهَا قَالَ - تَعَالَى -: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] وَالرَّفَثُ الْجِمَاعُ، فَمَنْ جَامَعَ فَلَمْ يَحُجَّ، وَلَا اعْتَمَرَ كَمَا أُمِرَ، وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إلَى يَوْمِ الْقِيَامَةِ» .

وَأَمَّا النَّاسِي، وَالْمُكْرَهُ فَلَا شَيْءَ عَلَيْهِ لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «رُفِعَ عَنْ أُمَّتِي الْخَطَأُ وَالنِّسْيَانُ وَمَا اُسْتُكْرِهُوا عَلَيْهِ» .

وَلِقَوْلِ اللَّهِ - تَعَالَى -: {وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ} [الأحزاب: ٥] وَهُوَ قَوْلُ أَصْحَابِنَا.

## [مَسْأَلَةٌ وَطِئَ وَعَلَيْهِ بَقِيَّةٌ مِنْ طَوَافِ الْإِفَاضَةِ أَوْ رَمْيِ الْجَمْرَةِ]

[45] **Hadith references (L13955):** Sunan an-Nasai 3061.
[46] **Qur'an references (L13960):** Qur'an 2:197 (Al-Baqarah).
[47] **Qur'an references (L13962):** Qur'an 33:5 (Al-Ahzab).

**ing the remainder of Tawaf al-Ifadah or the stoning of Jamrah.**

856 – Issue:

If he engages in intercourse while he still owes remaining acts of Ṭawāf al-Ifāḍah or any portion of the stoning of the Jamarāt, his Hajj becomes invalid as we have stated. Allah the Exalted said: “There is to be no lewdness, nor wickedness, nor disputing during Hajj” [al-Baqarah 2:197].[48]

Thus, it is established that whoever engaged in sexual intercourse during Ihram and did not complete his Hajj did not perform Hajj as he was obligated to do. This is the opinion of Ibn ʻUmar and the scholars of our school.

Ibn Abbas said: Hajj is not invalidated by intercourse after Arafah; this being the opinion of Abu Hanifah. Malik said: If intercourse occurs on the day of sacrifice before stoning the Jamrah, his Hajj is invalidated. If it occurs on the day of sacrifice after stoning the Jamrah, his Hajj is not invalidated. If it occurs after the day of sacrifice before stoning the Jamrah, his Hajj is not invalidated.

As for Mālik’s statement, it is a division for which there is absolutely no evidence to validate it.

Abu Hanifah invoked as proof the statement of the Messenger of Allah (peace and blessings be upon him): “Hajj is [standing at] Arafat.”

Ali said: “There is no authoritative evidence for them in this, for the one who said this is the same one who informed us from Allah, the Most High.” That He said, “And let them perform *ṭawāf* around the Ancient House” [al-Ḥajj: 29] and that He said, “And when you depart from ʻArafāt, remember Allah at *al-Mashʻar al-Ḥarām*” [al-Baqarah: 198].[49]

He is the One who commanded the throwing of the Jamrah, so it is impermissible to adopt part of His ruling while excluding another part.

Allah the Exalted has said: {Hajj to the House is a duty owed to Allah upon

[48] **Qur’an references (L13965):** Qur’an 2:197 (Al-Baqarah).

[49] **Qur’an references (L13970):** Qur’an 22:29 (Al-Hajj); Qur’an 2:198 (Al-Baqarah).

٨٥٦ - مَسْأَلَةٌ:

وَإِنْ وَطِئَ وَعَلَيْهِ بَقِيَّةٌ مِنْ طَوَافِ الْإِفَاضَةِ أَوْ شَيْءٌ مِنْ رَمْيِ الْجَمْرَةِ فَقَدْ بَطَلَ حَجُّهُ كَمَا قُلْنَا، قَالَ تَعَالَى: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] .

فَصَحَّ أَنَّ مَنْ رَفَثَ وَلَمْ يُكْمِلْ حَجَّهُ فَلَمْ يَحُجَّ كَمَا أُمِرَ، وَهُوَ قَوْلُ ابْنِ عُمَرَ وَقَوْلُ أَصْحَابِنَا.

وَقَالَ ابْنُ عَبَّاسٍ: لَا يَبْطُلُ الْحَجُّ بِالْوَطْءِ بَعْدَ عَرَفَةَ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ وَقَالَ مَالِكٌ: إِنْ وَطِئَ يَوْمَ النَّحْرِ قَبْلَ رَمْيِ الْجَمْرَةِ بَطَلَ حَجُّهُ، وَإِنْ وَطِئَ يَوْمَ النَّحْرِ بَعْدَ رَمْيِ الْجَمْرَةِ لَمْ يَبْطُلْ حَجُّهُ، وَإِنْ وَطِئَ بَعْدَ يَوْمِ النَّحْرِ قَبْلَ رَمْيِ الْجَمْرَةِ لَمْ يَبْطُلْ حَجُّهُ.

فَأَمَّا قَوْلُ مَالِكٍ فَتَقْسِيمٌ لَا دَلِيلَ عَلَى صِحَّتِهِ أَصْلًا.

وَاحْتَجَّ أَبُو حَنِيفَةَ بِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «الْحَجُّ عَرَفَةَ» .

قَالَ عَلِيٌّ: وَلَا حُجَّةَ لَهُمْ فِي هَذَا لِأَنَّ الَّذِي قَالَ هَذَا هُوَ الَّذِي أَخْبَرَنَا عَنْ اللَّهِ تَعَالَى بِأَنَّهُ قَالَ: {وَلْيَطَّوَّفُوا بِالْبَيْتِ الْعَتِيقِ} [الحج: ٢٩] وَبِأَنَّهُ قَالَ: {فَإِذَا أَفَضْتُمْ مِنْ عَرَفَاتٍ فَاذْكُرُوا اللَّهَ عِنْدَ الْمَشْعَرِ الْحَرَامِ} [البقرة: ١٩٨] .

وَهُوَ الَّذِي أَمَرَ بِرَمْيِ الْجَمْرَةِ فَلَا يَجُوزُ الْأَخْذُ بِبَعْضِ قَوْلِهِ دُونَ بَعْضٍ.

وَقَدْ قَالَ تَعَالَى: {وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] فَكَانَ الطَّوَافُ بِالْبَيْتِ هُوَ الْحَجُّ كَعَرَفَةَ وَلَا فَرْقَ.

those who are able to undertake the journey} [Āl ʿImrān: 97]. Thus, the Tawaf around the House and the standing at Arafah are both integral to Hajj, with equal obligation in its validity.[50]

L13975 The statement of the Prophet—peace be upon him—"Ḥajj is ʿArafah" does not preclude Ḥajj from encompassing rites beyond ʿArafah. Our opponent agrees with us that if a person were to set out for ʿArafah and stand there without entering iḥrām, without proclaiming the talbiyah, without performing ṭawāf, and without performing saʿī, he has no valid Ḥajj. Thus, their reliance on the Prophet's statement—peace be upon him—"Ḥajj is ʿArafah" is nullified.

L13976 **Issue: He engaged in sexual intercourse intentionally, so his Hajj became invalid.**

L13977 857 – Issue

L13978 Whoever intentionally has intercourse as we mentioned, thereby invalidating his Hajj, is not obligated to persist in a corrupt and void act that will not suffice for him. Rather, he must assume ihram from his current location. If he attains the completion of Hajj, nothing is required of him beyond that. But if he cannot attain the completion of Hajj, he has disobeyed, and his matter is referred to Allah, the Exalted. There is no animal sacrifice and nothing else required in this case – unless he has never performed Hajj at all, in which case he must perform both Hajj and Umrah.

L13979 The Salaf differed regarding this matter. It has been reported to us from ʿUmar—may Allah be pleased with him—that the two pilgrims should continue their Hajj, then perform Hajj the following year and separate from the place where intercourse occurred, with him required to offer a sacrificial animal and her likewise. This is a mursal report from ʿUmar, as it is transmitted from Mujāhid from ʿUmar, and Mujāhid did not meet ʿUmar.

L13980 It has been narrated to us from Ali that each of the two must offer a camel sacrifice, and they must part ways when they have performed Hajj in the following year. This is a mursal narration attributed to Ali, as it is transmitted

[50] **Qur'an references (L13974):** Qur'an 3:97 (Ali 'Imran).

وَقَوْلُهُ - عَلَيْهِ السَّلَامُ -: «الْحَجُّ عَرَفَةَ» لَا يَمْنَعُ مِنْ أَنْ يَكُونَ الْحَجُّ غَيْرَ عَرَفَةَ أَيْضًا، وَقَدْ وَافَقَنَا الْمُخَالِفُ عَلَى أَنَّ امْرَأً لَوْ قَصَدَ عَرَفَةَ فَوَقَفَ بِهَا فَلَمْ يُحْرِمْ وَلَا لَبَّى، وَلَا طَافَ، وَلَا سَعَى فَلَا حَجَّ لَهُ، فَبَطَلَ تَعَلُّقُهُمْ بِقَوْلِهِ - عَلَيْهِ السَّلَامُ -: «الْحَجُّ عَرَفَةَ» .

## [مَسْأَلَةٌ وَطِئَ عَامِدًا فَبَطَلَ حَجُّهُ]

٨٥٧ - مَسْأَلَةٌ:

فَمَنْ وَطِئَ عَامِدًا كَمَا قُلْنَا فَبَطَلَ حَجُّهُ فَلَيْسَ عَلَيْهِ أَنْ يَتَمَادَى عَلَى عَمَلٍ فَاسِدٍ بَاطِلٍ لَا يُجْزِئُ عَنْهُ لَكِنْ يُحْرِمُ مِنْ مَوْضِعِهِ، فَإِنْ أَدْرَكَ تَمَامَ الْحَجِّ فَلَا شَيْءَ عَلَيْهِ غَيْرَ ذَلِكَ وَإِنْ كَانَ لَا يُدْرِكُ تَمَامَ الْحَجِّ فَقَدْ عَصَى، وَأَمْرُهُ إِلَى اللَّهِ تَعَالَى، وَلَا هَدْيَ فِي ذَلِكَ، وَلَا شَيْءَ؛ إِلَّا أَنْ يَكُونَ لَمْ يَحُجَّ قَطُّ، فَعَلَيْهِ الْحَجُّ وَالْعُمْرَةُ.

وَقَدْ اخْتَلَفَ السَّلَفُ فِي هَذَا -: فَرُوِّينَا عَنْ عُمَرَ - رَضِيَ اللَّهُ عَنْهُ - أَنْ يَتَمَادَيَا فِي حَجِّهِمَا، ثُمَّ يَحُجَّانِ مِنْ قَابِلٍ وَيَتَفَرَّقَانِ مِنْ الْمَوْضِعِ الَّذِي جَامَعَ فِيهِ وَعَلَيْهِ هَدْيٌ وَعَلَيْهَا، وَهَذَا مُرْسَلٌ عَنْ عُمَرَ؛ لِأَنَّهُ عَنْ مُجَاهِدٍ عَنْ عُمَرَ وَلَمْ يُدْرِكْ مُجَاهِدٌ عُمَرَ.

وَرُوِّينَا عَنْ عَلِيٍّ عَلَى كُلِّ وَاحِدٍ مِنْهُمَا بَدَنَةٌ وَيَتَفَرَّقَانِ إذَا حَجَّا مِنْ قَابِلٍ وَهَذَا مُرْسَلٌ عَنْ عَلِيٍّ، لِأَنَّهُ عَنْ الْحَكَمِ عَنْ عَلِيٍّ، وَالْحَكَمُ لَمْ يُدْرِكْ عَلِيًّا.

through Al-Hakam who claims narration from Ali, though Al-Hakam never met him.

وَرُوِّينَا عَنْ ابْنِ عَبَّاسٍ أَقْوَالًا مِنْهَا: أَنْ يَتَمَادَيَا عَلَى حَجِّهِمَا ذَلِكَ وَعَلَيْهِمَا هَدْيٌ وَحَجٌّ قَابِلٌ وَيَتَفَرَّقَانِ مِنْ الْمَوْضِعِ الَّذِي جَامَعَهَا فِيهِ.

L13981 It has been narrated to us from Ibn Abbas several statements, among them: that they should continue with their pilgrimage as they began it, and they are obligated to offer a sacrificial animal and perform a subsequent pilgrimage, and they must separate from the location in which he engaged in intercourse with her.

وَعَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو، وَعَبْدِ اللَّهِ بْنِ عُمَرَ مِثْلُهُ قَالُوا: فَإِنْ لَمْ يَجِدْ هَدْيًا صَامَ صِيَامَ الْمُتَمَتِّعِ، وَقَوْلٌ آخَرُ مِثْلُ هَذَا سَوَاءً سَوَاءً إلَّا أَنَّهُ لَمْ يُعَوِّضْ مِنْ الدَّمِ صِيَامًا.

L13982 From Abdullah ibn Amr and similarly from Abdullah ibn Umar, they said: If he does not find a sacrificial animal, he must observe the fast prescribed for the *Tamattu‘* pilgrim. Another statement is identical to this one, except that it does not replace the sacrificial offering with fasting.

وَعَنْ ابْنِ عَمْرٍو، وَابْنِ عُمَرَ مِثْلُهُ، وَلَمْ يَذْكُرُوا تَفْرِيقًا.

L13983 And a similar narration is reported from Ibn ʿAmr and Ibn ʿUmar, and their narrations did not mention any distinction.

وَرُوِيَ عَنْ ابْنِ عَبَّاسٍ أَيْضًا أَنَّهُ عَلَيْهِ بَدَنَةٌ، وَيَتَفَرَّقَانِ مِنْ قَابِلٍ قَبْلَ الْمَوْضِعِ الَّذِي جَامَعَهَا فِيهِ - وَعَنْ ابْنِ عَبَّاسٍ عَلَى كُلِّ وَاحِدٍ مِنْهُمَا هَدْيٌ.

L13984 It has been reported from Ibn Abbas as well that a sacrificial she-camel is incumbent upon him, and the two are to separate in the following year before reaching the place where he had intercourse with her. From Ibn Abbas: each one of them is required to provide a sacrificial animal.

وَعَنْ جُبَيْرِ بْنِ مُطْعِمٍ أَنَّهُ قَالَ لِلْمُجَامِعِ: أُفٍّ لَا أُفْتِيكَ بِشَيْءٍ؟ وَأَمَّا مَنْ جَامَعَ بَعْدَ عَرَفَةَ -: فَعَنْ ابْنِ عُمَرَ مَنْ وَطِئَ قَبْلَ أَنْ يَطُوفَ بِالْبَيْتِ فَعَلَيْهِ الْحَجُّ وَالْهَدْيُ - وَرُوِيَ عَنْهُ أَيْضًا: عَلَيْهِ الْحَجُّ مِنْ قَابِلٍ وَبَدَنَةٌ. وَعَنْ ابْنِ عَبَّاسٍ عَلَى كُلِّ وَاحِدٍ مِنْهُمَا جَزُورٌ.

L13985–13986 From Jubayr ibn Muṭʿim that he said to the one who had sexual intercourse: “Uff! Should I not give you a fatwa?” As for the one who had sexual intercourse after the Day of ʿArafah: From Ibn ʿUmar: Whoever has intercourse before performing the circumambulation of the House must perform Hajj and offer a sacrificial animal. It is also narrated from him: He must perform Hajj the following year and offer a sacrificial camel. From Ibn ʿAbbās: Each one of them must offer a camel.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ ابْنِ عُلَيَّةَ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ: مَنْ وَاقَعَ امْرَأَتَهُ قَبْلَ أَنْ يَطُوفَ بِالْبَيْتِ فَعَلَيْهِ دَمٌ.

L13987 From the chain of narration of Ibn Abī Shaybah, from Ibn ʿUlayyah, from Ayyūb al-Sakhtiyānī, from Saʿīd ibn Jubayr, from Ibn ʿAbbās: Whoever has intercourse with his wife before performing the circumambulation of the House must offer a *dam*, a sacrificial animal.

وَعَنْ ابْنِ عَبَّاسٍ أَيْضًا عَلَيْهِ وَعَلَيْهَا بَدَنَةٌ.

L13988 It is also narrated from Ibn Abbas: A sacrificial camel is incumbent upon both him and her.

وَرُوِّينَا عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ لَا هَدْيَ إلَّا عَلَى الْمُحْصَرِ.

L13989 It has been reported to us from ʿĀʾishah, the Mother of the Believers, that

no hady (sacrificial offering) is required except for the one prevented [from completing pilgrimage].

وَقَالَ أَبُو حَنِيفَةَ: إنْ وَطِئَ قَبْلَ عَرَفَةَ تَمَادَيَا عَلَى حَجِّهِمَا ذَلِكَ وَعَلَيْهِمَا حَجٌّ، قَابِلٌ وَهَدْيٌ وَيُجْزِئُ فِي ذَلِكَ شَاةٌ وَلَا يَتَفَرَّقَانِ، فَإِنْ وَطِئَ بَعْدَ عَرَفَةَ فَحَجُّهُ تَامٌّ وَعَلَيْهِ بَدَنَةٌ.

L13990 Abu Hanifah said: If he engages in intercourse before the day of Arafah, they must continue with that Hajj of theirs, and upon them both is a Hajj the following year and a sacrificial animal—a sheep suffices—and they must not separate. If he engages in intercourse after the day of Arafah, his Hajj remains complete, and upon him is a camel as sacrifice.

قَالَ أَبُو مُحَمَّد: فَكَانَ مِنْ الْعَجَبِ أَنَّهُ إذَا بَطَلَ حَجُّهُ أَجْزَأَهُ هَدْيُ شَاةٍ وَإِذَا تَمَّ حَجُّهُ لَمْ يُجْزِهُ إلَّا بَدَنَةٌ، وَهَذَا تَقْسِيمٌ مَا رُوِيَ عَنْ أَحَدٍ، فَإِنْ تَعَلَّقَ بِابْنِ عَبَّاسٍ فَقَدْ اخْتَلَفَ عَنْ ابْنِ عَبَّاسٍ كَمَا ذَكَرْنَا وَعَنْ غَيْرِهِ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَلَيْسَ قَوْلُ بَعْضِهِمْ أَوْلَى مِنْ بَعْضٍ، وَهَذَا جُبَيْرُ بْنُ مُطْعِمٍ لَمْ يُوجِبْ فِي ذَلِكَ هَدْيًا أَصْلًا وَلَا أَمَرَ بِالتَّمَادِي عَلَى الْحَجِّ.

L13991 Abu Muhammad said: It was astonishing that if one's pilgrimage was invalidated, a sheep sufficed as a sacrificial animal, but if it was validly completed, only a camel would suffice. This distinction is not reported from any authority. If one relies on Ibn Abbas, differing reports have indeed come from him, as we mentioned, and from other Companions—raḍiya Allāhu ʿanhum—and the view of one is no more authoritative than another. And this is Jubayr ibn Muṭʿim: he did not deem any sacrificial animal obligatory in that matter at all, nor did he instruct persisting in the pilgrimage.

قَالَ عَلِيٌّ: قَالَ اللَّهُ تَعَالَى: {إنَّ اللَّهَ لا يُصْلِحُ عَمَلَ الْمُفْسِدِينَ} [يونس: ٨١] فَمِنْ الْخَطَأِ تَمَادِيهِ عَلَى عَمَلٍ لَا يُصْلِحُهُ اللَّهُ عَزَّ وَجَلَّ؛ لِأَنَّهُ مُفْسِدٌ بِلَا خِلَافٍ مِنَّا وَمِنْهُمْ، فَاَللَّهُ تَعَالَى لَا يُصْلِحُ عَمَلَهُ بِنَصِّ الْقُرْآنِ.

L13992 Ali said: Allah, the Exalted, said: *"Indeed, Allah does not rectify the work of the corrupters"* [Yūnus: 81]. Therefore, it is an error to persist in a deed that Allah, the Exalted, does not rectify, for it is corrupting without disagreement from us and them. Thus, by the Quran's explicit text, He does not rectify his deed.[51]

وَقَدْ صَحَّ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّ الْحَجَّ إنَّمَا يَجِبُ مَرَّةً، وَمَنْ أَلْزَمَهُ التَّمَادِي عَلَى ذَلِكَ الْحَجِّ الْفَاسِدِ، ثُمَّ أَلْزَمَهُ حَجًّا آخَرَ فَقَدْ أَلْزَمَهُ حَجَّتَيْنِ، وَهَذَا خِلَافُ أَمْرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13993 It has been authentically established from the Messenger of Allah—may the peace and blessings of Allah be upon him—that Hajj is obligatory only once. Whoever compels someone to persist in that ritually invalid Hajj and then obliges him to perform another Hajj has required him to perform two Hajj pilgrimages, and this contradicts the command of the Messenger of Allah—may the peace and blessings of Allah be upon him.

وَالْعَجَبُ أَنَّهُمْ يَدَّعُونَ أَنَّهُمْ أَصْحَابُ قِيَاسٍ بِزَعْمِهِمْ، وَهُمْ لَا يَخْتَلِفُونَ فِي أَنَّ مَنْ أَبْطَلَ صَلَاتَهُ أَنَّهُ لَا يَتَمَادَى عَلَيْهَا فَلِمَ أَلْزَمُوهُ التَّمَادِي عَلَى الْحَجِّ؟ وَقَدْ خَالَفَ أَبُو حَنِيفَةَ ابْنَ عَبَّاسٍ، وَعُمَرَ، وَعَلِيًّا فِيمَا رُوِيَ عَنْهُمْ مِنْ التَّفَرُّقِ فَلَا نَكِرَةَ فِيمَنْ خَالَفَ ابْنَ عَبَّاسٍ

L13994–13996 It is astonishing that they claim by their own assertion to be proponents of analogy, yet they unanimously agree that whoever invalidates their prayer must cease performing it. Why then do they compel persistence in Hajj?

[51] **Qur'an references (L13992):** Qur'an 10:81 (Yunus).

Abū Ḥanīfah opposed Ibn ʿAbbās, ʿUmar ibn al-Khaṭṭāb, and ʿAlī ibn Abī Ṭālib regarding what has been reported from them concerning divergent practices. There is no reproach against those who oppose Ibn ʿAbbās in a matter where authentic reports establish disagreement with his position. Only six Companions—may Allah be pleased with them—differed, as we mentioned. Therefore, it is obligatory to revert to the Quran and the Sunnah. The Prophet—peace and blessings of Allah be upon him—authentically stated: "Indeed, your blood..." Your wealth is forbidden to be taken unjustly, so it is impermissible to obligate a sacrificial offering without a Quranic injunction or an explicit directive from the Messenger of Allah—peace be upon him.

فِي قَوْلٍ قَدْ صَحَّ عَنْهُ خِلَافُهُ، وَإِنَّمَا هُمْ سِتَّةٌ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - مُخْتَلِفُونَ كَمَا ذَكَرْنَا، فَالْوَاجِبُ الرُّجُوعُ إلَى الْقُرْآنِ، وَالسُّنَّةِ، وَقَدْ صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ» فَلَا يَجُوزُ أَنْ يُوجَبَ هَدْيٌ بِغَيْرِ قُرْآنٍ، وَلَا عَهْدٍ مِنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L13997 It has been narrated to us via Mujāhid and Ṭāwus regarding one who has intercourse with his wife while in a state of iḥrām: his Hajj becomes an ʿUmrah, he is obligated to perform a Hajj the following year and offer a budn (sacrificial she-camel). They did not deem it incumbent upon him to persist in performing the rites of Hajj.

وَرُوِّينَا مِنْ طَرِيقِ مُجَاهِدٍ، وَطَاوُسٍ فِيمَنْ وَطِئَ امْرَأَتَهُ وَهُوَ مُحْرِمٌ: أَنَّ حَجَّهُ يَصِيرُ عُمْرَةً وَعَلَيْهِ حَجٌّ قَابِلٌ وَبَدَنَةٌ - فَلَمْ يَرَيَا عَلَيْهِ التَّمَادِي فِي عَمَلِ الْحَجِّ.

L13998 It is reported from Qatādah that the two of them return to their designated boundary—the *miqat*—assume Ihram for Umrah, part ways, and each offer a sacrificial animal.

وَرُوِّينَا عَنْ قَتَادَةَ: أَنَّهُمَا يَرْجِعَانِ إلَى حَدِّهِمَا - يَعْنِي الْمِيقَاتَ - وَيُهِلَّانِ بِعُمْرَةٍ، وَيَتَفَرَّقَانِ، وَيُهْدِيَانِ هَدْيًا هَدْيًا.

L13999 And from al-Ḥasan regarding one who engaged in sexual relations before performing Ṭawāf al-Ifāḍah (the obligatory post-Hajj circumambulation): He stated, "He must perform a subsequent Hajj," and he did not mention any sacrificial offering whatsoever.

وَعَنْ الْحَسَنِ فِيمَنْ وَطِئَ قَبْلَ طَوَافِ الْإِفَاضَةِ؟ قَالَ: عَلَيْهِ حَجٌّ قَابِلٌ وَلَمْ يَذْكُرْ هَدْيًا أَصْلًا.

L14000 Malik said: If one has intercourse before stoning Jamrah on the Day of Sacrifice, they must offer a sacrificial animal, perform Hajj the following year, and the two must separate from the place where the act occurred. If one has intercourse after stoning Jamrah, their Hajj remains valid but they must perform Umrah, sacrifice a camel. If unable, a cow; if not, a sheep; if not, fast as prescribed for the one performing Hajj al-Tamattu‘. The obligation of Umrah here is a matter of wonder—its meaning unclear? Similarly, his categorization of the sacrifice and his categorization of the timing of intercourse are unknown from any Companion—may Allah be pleased with them.

وَقَالَ مَالِكٌ: إنْ وَطِئَ قَبْلَ رَمْيِ الْجَمْرَةِ يَوْمَ النَّحْرِ فَعَلَيْهِ هَدْيٌ وَحَجٌّ قَابِلٌ وَيَتَفَرَّقَانِ مِنْ حَيْثُ جَامَعَهَا، فَإِنْ وَطِئَ بَعْدَ رَمْيِ الْجَمْرَةِ فَحَجُّهُ تَامٌّ وَعَلَيْهِ عُمْرَةٌ وَهَدْيُ بَدَنَةٍ، فَإِنْ لَمْ يَجِدْ فَبَقَرَةٌ، فَإِنْ لَمْ يَجِدْ فَشَاةٌ، فَإِنْ لَمْ يَجِدْ صَامَ صِيَامَ الْمُتَمَتِّعِ، فَكَانَ إيجَابُ الْعُمْرَةِ، هَاهُنَا عَجَبًا لَا يُدْرَى مَعْنَاهُ؟ وَكَذَلِكَ تَقْسِيمُهُ الْهَدْيَ وَتَقْسِيمُهُ وَقْتَ الْوَطْءِ وَلَا يُعْرَفُ هَذَا عَنْ أَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -.

L14001 Al-Shafi‘i said: If one engages in sexual intercourse from the moment of entering ihram until stoning Jamrah al-‘Aqabah, his Hajj becomes invalid and he must offer a she-camel as expiation. If he cannot find a she-camel, then a cow; if he cannot find a cow, then seven sheep. If he cannot find sheep, the value of a she-camel is appraised in Makkah in dirhams, then the dirhams are converted into food, and he must give each poor person one Mudd of food. If he is unable to provide this, he must fast one day for every Mudd. If the intercourse occurs after stoning Jamrah al-‘Aqabah, his Hajj remains valid but he must still offer a she-camel. This opinion likewise lacks support from the Qur’an, the Sunnah, the statement of a Companion, analogical reasoning, or any trace of precedent from the Companions whatsoever. And with Allah the Exalted lies all success.

وَقَالَ الشَّافِعِيُّ: إنْ وَطِئَ مَا بَيْنَ أَنْ يُحْرِمَ إلَى أَنْ يَرْمِيَ جَمْرَةَ الْعَقَبَةِ فَسَدَ حَجُّهُ وَعَلَيْهِ بَدَنَةٌ، فَإِنْ لَمْ يَجِدْ بَدَنَةً فَبَقَرَةٌ، فَإِنْ لَمْ يَجِدْ بَقَرَةً فَسَبْعٌ مِنْ الْغَنَمِ، فَإِنْ لَمْ يَجِدْ قُوِّمَتْ الْبَدَنَةُ بِمَكَّةَ دَرَاهِمَ، ثُمَّ قُوِّمَتْ الدَّرَاهِمُ طَعَامًا فَأَطْعَمَ كُلَّ مِسْكِينٍ مُدًّا، فَإِنْ لَمْ يَجِدْ صَامَ عَنْ كُلِّ مُدٍّ يَوْمًا، فَإِنْ وَطِئَ بَعْدَ رَمْيِ جَمْرَةِ الْعَقَبَةِ فَحَجُّهُ تَامٌّ وَعَلَيْهِ بَدَنَةٌ - فَكَانَ هَذَا أَيْضًا قَوْلًا لَا يُؤَيِّدُهُ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا قَوْلُ صَاحِبٍ، وَلَا قِيَاسٌ، وَلَا يُوجَدُ هَذَا عَنْ أَحَدٍ مِنْ الصَّحَابَةِ أَصْلًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## A case where there was an error in the sighting of the crescent moon for Dhul-Ḥijjah.

## [مَسْأَلَةٌ أَخْطَأَ فِي رُؤْيَةِ الْهِلَالِ لِذِي الْحِجَّةِ]

L14003 858 – Legal Issue:

٨٥٨ - مَسْأَلَةٌ:

L14004 Whoever erred in sighting the crescent for Dhul-Hijjah and consequently stood at Arafah on the tenth day, believing it was the ninth, and stood at Muzdalifah on the eleventh night, thinking it was the tenth—his Hajj is complete and there is nothing required of him, because the Messenger of Allah—peace and blessings be upon him—did not state that standing at Arafah occurs only on the ninth day of Dhul-Hijjah or the tenth night of it. Rather, he—peace be upon him—obligated standing there during night or day.

وَمَنْ أَخْطَأَ فِي رُؤْيَةِ الْهِلَالِ لِذِي الْحِجَّةِ فَوَقَفَ بِعَرَفَةَ الْيَوْمَ الْعَاشِرَ وَهُوَ يَظُنُّهُ التَّاسِعَ، وَوَقَفَ بِمُزْدَلِفَةَ اللَّيْلَةَ الْحَادِيَةَ عَشْرَةَ وَهُوَ يَظُنُّهَا الْعَاشِرَةَ -: فَحَجُّهُ تَامٌّ وَلَا شَيْءَ عَلَيْهِ، لِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَقُلْ: إنَّ الْوُقُوفَ بِعَرَفَةَ لَا يَكُونُ إلَّا

فِي الْيَوْمِ التَّاسِعِ مِنْ ذِي الْحِجَّةِ أَوْ اللَّيْلَةِ الْعَاشِرَةِ مِنْهَا، وَإِنَّمَا أَوْجَبَ - عَلَيْهِ السَّلَامُ - الْوُقُوفَ بِهَا لَيْلًا أَوْ نَهَارًا.

L14005–14006 It is thus established that whoever prays during these times, his prayer suffices him, provided he does not pray during a time wherein two [jurists] unanimously agree that it does not suffice him in that time.

فَصَحَّ أَنَّ كُلَّ مَنْ وَقَفَ بِهَا أَجْزَأَهُ مَا لَمْ يَقِفْ فِي وَقْتٍ لَا يَخْتَلِفُ اثْنَانِ فِي أَنَّهُ لَا يُجْزِيهِ فِيهِ.

L14007 The consensus is firmly established among junior scholars, senior scholars, dissenting scholars, and predecessors: that whoever stands at Arafah before noon on the ninth day of Dhū al-Ḥijjah or after the dawn of the eleventh night of Dhū al-Ḥijjah, no Hajj is counted for them. Similarly, if one stands there after the dawn of the tenth night (i.e., the morning of the tenth day) while knowing it is the tenth night, this is the position held by the majority of scholars.

وَقَدْ تَيَقَّنَ الْإِجْمَاعُ مِنَ الصَّغِيرِ، وَالْكَبِيرِ، وَالْخَالِفِ، وَالسَّالِفِ: أَنَّ مَنْ وَقَفَ بِهَا قَبْلَ الزَّوَالِ مِنَ الْيَوْمِ التَّاسِعِ مِنْ ذِي الْحِجَّةِ أَوْ بَعْدَ طُلُوعِ الْفَجْرِ مِنَ اللَّيْلَةِ الْحَادِيَةَ عَشْرَةَ مِنْ ذِي الْحِجَّةِ فَلَا حَجَّ لَهُ، وَكَذَلِكَ إِنْ وَقَفَ بِهَا بَعْدَ طُلُوعِ الْفَجْرِ مِنَ اللَّيْلَةِ الْعَاشِرَةِ وَهُوَ يَدْرِي أَنَّهَا الْعَاشِرَةُ، وَهَذَا قَوْلُ جُمْهُورِ النَّاسِ.

L14008 **A juristic issue was validated in his view that this is the ninth day of Dhu al-Hijjah.**

## [مَسْأَلَةٌ صَحَّ عِنْدَهُ أَنَّ هَذَا هُوَ الْيَوْمُ التَّاسِعُ مِنْ ذِي الْحِجَّةِ]

L14009 859 - Issue:

٨٥٩ - مَسْأَلَةٌ:

L14010 If it is confirmed to him through knowledge or a truthful report that this is the ninth day, though people have not observed a sighting that establishes it as the eighth day, then he must perform the *wuqūf* on the day confirmed to him as the ninth day. Otherwise, his Hajj is invalid for the reason we mentioned.

فَإِنْ صَحَّ عِنْدَهُ بِعِلْمٍ أَوْ بِخَبَرِ صَادِقٍ: أَنَّ هَذَا هُوَ الْيَوْمُ التَّاسِعُ إِلَّا أَنَّ النَّاسَ لَمْ يَرَوْهُ رُؤْيَةً تُوجِبُ أَنَّهَا الْيَوْمُ الثَّامِنُ فَفَرَضَ عَلَيْهِ الْوُقُوفَ فِي الْيَوْمِ الَّذِي صَحَّ عِنْدَهُ أَنَّهُ الْيَوْمُ التَّاسِعُ، وَإِلَّا فَحَجُّهُ بَاطِلٌ لِمَا ذَكَرْنَا.

L14011 It has been narrated to us through the chain of Abd al-Razzaq from Sufyan al-Thawri from Umar ibn Muhammad, who said: A group testified that they had sighted the crescent of Dhul-Hijjah. Salim brought them to Ibn Hisham, the Commander of the Hajj, but he did not accept them. Salim then performed the standing at Arafah at the time corresponding to their reported sighting, then proceeded to Muzdalifah. When the second day came, he performed the standing at Arafah with the people.

رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ عُمَرَ بْنِ مُحَمَّدٍ قَالَ: شَهِدَ نَفَرٌ أَنَّهُمْ رَأَوْا هِلَالَ ذِي الْحِجَّةِ فَذَهَبَ بِهِمْ سَالِمٌ إِلَى ابْنِ هِشَامٍ وَهُوَ أَمِيرُ الْحَجِّ فَلَمْ يَقْبَلْهُمْ فَوَقَفَ سَالِمٌ بِعَرَفَةَ لِوَقْتِ شَهَادَتِهِمْ، ثُمَّ دَفَعَ، فَلَمَّا كَانَ فِي الْيَوْمِ الثَّانِي وَقَفَ مَعَ النَّاسِ.

L14012 **Legal issue regarding a person who lost consciousness during his *ihram* or became insane after having entered it.**

## [مَسْأَلَةٌ أُغْمِيَ عَلَيْهِ فِي إِحْرَامِهِ أَوْ جُنَّ بَعْدَ أَنْ أَحْرَمَ]

L14013 860 - Question:

٨٦٠ - مَسْأَلَةٌ:

L14014 Whoever faints during his ihram or becomes insane after entering ihram in a state of sanity, his ihram remains valid. Similarly, if one faints or becomes insane after standing at Arafat—even for the blink of an eye—or after catching any part of the prayer at Muzdalifah with the imam, his pilgrimage is complete. This is because fainting and insanity do not invalidate any prior act fundamentally, nor has any textual proof or consensus been established to this effect. The statement of Allah's Messenger—peace and blessings be upon him—"The pen is raised from three: the sleeper until he awakens, the afflicted until he recovers, and the child until he reaches maturity," does not necessitate the invalidation of their prior acts. It merely indicates that during such states, they are not held accountable. When they regain consciousness, they revert to their prior legal standing. And with Allah, the Exalted, we seek support.

وَمَنْ أُغْمِيَ عَلَيْهِ فِي إِحْرَامِهِ، أَوْ جُنَّ بَعْدَ أَنْ أَحْرَمَ فِي عَقْلِهِ فَإِحْرَامُهُ صَحِيحٌ، وَكَذَلِكَ لَوْ أُغْمِيَ عَلَيْهِ، أَوْ جُنَّ بَعْدَ أَنْ وَقَفَ بِعَرَفَةَ وَلَوْ طَرْفَةَ عَيْنٍ أَوْ بَعْدَ أَنْ أَدْرَكَ شَيْئًا مِنْ الصَّلَاةِ بِمُزْدَلِفَةَ مَعَ الْإِمَامِ فَحَجُّهُ تَامٌّ، لِأَنَّ الْإِغْمَاءَ وَالْجُنُونَ لَا يُبْطِلَانِ عَمَلًا تَقَدَّمَ أَصْلًا، وَلَا جَاءَ بِذَلِكَ نَصٌّ أَصْلًا وَلَا إجْمَاعٌ، وَلَيْسَ قَوْلُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «رُفِعَ الْقَلَمُ عَنْ ثَلَاثٍ: فَذَكَرَ النَّائِمَ حَتَّى يَنْتَبِهَ وَالْمُبْتَلَى حَتَّى يُفِيقَ وَالصَّبِيَّ حَتَّى يَبْلُغَ» بِمُوجِبِ بُطْلَانِ مَا تَقَدَّمَ مِنْ عَمَلِهِ، وَإِنَّمَا فِيهِ: أَنَّهُمْ فِي هَذِهِ الْحَالِ غَيْرُ مُخَاطَبِينَ فَقَطْ، فَإِذَا أَفَاقُوا صَارُوا عَلَى حُكْمِهِمْ الَّذِي كَانُوا عَلَيْهِ قَبْلُ - وَبِاَللَّهِ تَعَالَى نَتَأَيَّدُ.

## [مَسْأَلَةٌ نَامَ قَبْلَ الزَّوَالِ مِنْ يَوْمِ عَرَفَةَ فَلَمْ يَسْتَيْقِظْ إلَّا بَعْدَ الْفَجْرِ]

## Issue: A person slept before the zenith on the day of ʿArafah and did not wake until after the dawn of the following day.

L14016 861 – Issue:

٨٦١ - مَسْأَلَةٌ:

L14017 Whoever faints, becomes insane, or sleeps before noon on the day of ʿArafah and does not regain consciousness or wake up except after the dawn of the night preceding the Day of Sacrifice, his Hajj is nullified, regardless of whether he stood at ʿArafah or not.

وَمَنْ أُغْمِيَ عَلَيْهِ، أَوْ جُنَّ، أَوْ نَامَ قَبْلَ الزَّوَالِ مِنْ يَوْمِ عَرَفَةَ فَلَمْ يُفِقْ، وَلَا اسْتَيْقَظَ إلَّا بَعْدَ طُلُوعِ الْفَجْرِ مِنْ لَيْلَةِ يَوْمِ النَّحْرِ، فَقَدْ بَطَلَ حَجُّهُ، سَوَاءٌ وَقَفَ بِهِ بِعَرَفَةَ أَوْ لَمْ يَقِفْ بِهِ.

L14018 Likewise, whoever fainted, became insane, or slept before attaining any portion of the Fajr prayer at Muzdalifah with the Imam, and did not regain consciousness or awaken until after the Imam's *salam* of the Fajr prayer—indeed, their Hajj is nullified.

وَكَذَلِكَ مَنْ أُغْمِيَ عَلَيْهِ أَوْ جُنَّ، أَوْ نَامَ قَبْلَ أَنْ يُدْرِكَ شَيْئًا مِنْ صَلَاةِ الصُّبْحِ بِمُزْدَلِفَةَ مَعَ الْإِمَامِ فَلَمْ يُفِقْ وَلَا اسْتَيْقَظَ إلَّا بَعْدَ سَلَامِ الْإِمَامِ مِنْ صَلَاةِ الصُّبْحِ؛ فَقَدْ بَطَلَ حَجُّهُ.

L14019–14021 If there was a woman who slept, became insane, or fainted before she stood at Muzdalifah and did not regain consciousness. She did not realize until

فَإِنْ كَانَتْ امْرَأَةٌ فَنَامَتْ، أَوْ جُنَّتْ، أَوْ أُغْمِيَ عَلَيْهَا قَبْلَ أَنْ تَقِفَ بِمُزْدَلِفَةَ فَلَمْ تُفِقْ، وَلَا انْتَبَهَتْ حَتَّى طَلَعَتْ الشَّمْسُ مِنْ يَوْمِ النَّحْرِ، فَقَدْ بَطَلَ حَجُّهَا، وَسَوَاءٌ وَقَفَ بِهَا بِمُزْدَلِفَةَ، أَوْ لَمْ يَقِفْ، لِأَنَّ الْأَعْمَالَ الْمَذْكُورَةَ فَرْضٌ مِنْ فَرَائِضِ الْحَجِّ.

the sun had risen on the Day of Sacrifice, invalidating her Hajj—whether he performed the Wuqūf with her at Muzdalifah or not—because the aforementioned acts are obligatory rites of Hajj.

وَقَالَ اللَّهُ تَعَالَى: {وَمَا أُمِرُوا إِلا لِيَعْبُدُوا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ حُنَفَاءَ} [البينة: ٥] وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ وَلِكُلِّ امْرِئٍ مَا نَوَى» .

L14022 Allah the Exalted said: {They were commanded only to worship Allah, sincere in religion to Him, devoutly upright} [Al-Bayyinah: 5]. The Messenger of Allah (peace be upon him) said: “Actions are but by intentions, and every person will have only what he intended.”[1]

فَصَحَّ أَنَّهُ لَا يَجْزِي عَمَلٌ مَأْمُورٌ بِهِ إِلَّا بِنِيَّةِ الْقَصْدِ إِلَيْهِ مُؤَدًّى بِإِخْلَاصٍ لِلَّهِ تَعَالَى فِيهِ كَمَا أَمَرَ عَزَّ وَجَلَّ؛ وَكُلُّ مَنْ ذَكَرْنَا فَلَمْ يَعْبُدْ اللَّهَ فِي الْأَعْمَالِ الْمَذْكُورَةِ مُخْلِصًا لَهُ الدِّينَ بِهَا فَلَمْ يَأْتِ بِهَا، وَلَا حَجَّ لِمَنْ لَمْ يَأْتِ بِهَا، وَلَا يُجْزِي أَنْ يَقِفَ بِهِ غَيْرُهُ هُنَالِكَ لِقَوْلِ اللَّهِ تَعَالَى: {كُلُّ نَفْسٍ بِمَا كَسَبَتْ رَهِينَةٌ} [المدثر: ٣٨] وَقَالَ تَعَالَى: {وَلا تَكْسِبُ كُلُّ نَفْسٍ إِلا عَلَيْهَا وَلا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَى} [الأنعام: ١٦٤] .

L14023 It is established that no commanded act is valid except with intention of purpose, performed with sincerity for Allah the Exalted, as the Almighty has ordained. Every individual who does not worship Allah in the specified acts—sincerely devoting his religion to Him through them—has not performed them. There is no valid Hajj for one who fails to fulfill them, nor is it valid for another to substitute for him there, based on Allah’s statement: “Every soul is held in pledge for what it has earned” (Al-Muddaththir 74:38), and His saying: “No soul bears the burden of another, and no soul earns except against itself” (Al-An‘am 6:164).[2]

وَكَذَلِكَ لَوْ أَنَّ امْرَأً مَرَّ بِعَرَفَةَ مُجْتَازًا لَيْلَةَ النَّحْرِ - نَزَلَ بِهَا أَوْ لَمْ يَنْزِلْ - وَهُوَ لَا يَدْرِي أَنَّهَا عَرَفَةُ - فَلَا يُجْزِئُهُ ذَلِكَ وَلَا حَجَّ لَهُ حَتَّى يَقِفَ بِهَا قَاصِدًا إِلَى الْوُقُوفِ بِهَا كَمَا أَمَرَهُ اللَّهُ تَعَالَى.

L14024 Similarly, if a person were to pass through ‘Arafah while traversing it on the Night of Sacrifice—whether he stayed there or not—without knowing it is ‘Arafah, that would not suffice him, nor does his Hajj count until he intentionally stands there with the intention of standing there as Allah, the Most High, has commanded him.

وَاخْتَلَفَ النَّاسُ فِي هَذَا، فَقَالَ مَالِكٌ: لَا يُجْزِئُ أَنْ يُحْرِمَ أَحَدٌ عَنْ غَيْرِهِ فَإِذَا أَحْرَمَ بِنِيَّةِ الْحَجِّ أَجْزَأَ كُلُّ عَمَلٍ فِي الْحَجِّ بِلَا نِيَّةٍ.

L14025 People have differed regarding this. Mālik said: It is not valid for anyone to enter the state of ritual consecration (iḥrām) on behalf of another. If one enters iḥrām with the intention of performing the pilgrimage (ḥajj), every act in the pilgrimage suffices without [further] intention.

وَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ: أَعْمَالُ الْحَجِّ كُلُّهَا تَجْزِي بِلَا نِيَّةٍ، وَلَوْ أَنَّ مَنْ لَمْ يَحُجَّ قَطُّ حَجَّ وَلَا يَنْوِي إِلَّا التَّطَوُّعَ أَجْزَأَهُ عَنْ حَجَّةِ الْفَرْضِ.

L14026 Abu Hanifah and Al-Shafi‘i said: All rites of Hajj are valid without formal

[1] **Qur’an references (L14022):** Qur’an 98:5 (Al-Bayyinah).

[2] **Qur’an references (L14023):** Qur’an 74:38 (Al-Muddaththir); Qur’an 6:164 (Al-An’am).

intention. Even if one who has never performed Hajj were to undertake it intending only a voluntary act, it would suffice as their obligatory Hajj.

L14027 Abu Muhammad said: These are statements rife with corruption and contradiction. The scholars have unanimously agreed that if a man obligated to perform the dawn prayer prays two units voluntarily, or one obligated to perform the noon prayer prays four units voluntarily, this does not suffice for the obligatory prayer. Similarly, if someone liable for the zakāt due on five dirhams gives five dirhams as voluntary charity, this does not suffice for the obligatory zakāt.

L14028 They unanimously agreed—except Zufar—that whoever fasts a day of Ramadan intending only a voluntary act, or without any specific intention, it does not count toward the obligatory fast. I wish I knew: what distinction exists between fasting, prayer, zakat, and Hajj if they truly reflected? If they argue: It has been narrated that the Messenger of Allah—peace and blessings be upon him—declared a child's Hajj valid, and he heard a man who had not performed Hajj making the Talbiyah on behalf of Shubruma, so he told him, "First dedicate this Hajj of yours to yourself, then perform Hajj on behalf of Shubruma."

L14029–14030 We said: As for his report—peace be upon him—that a child has a Hajj, it is an authentic, established report with which you have no grounds. This is because he—peace be upon him—did not consider that Hajj as counting toward the obligatory Hajj. Thus, it serves as evidence for our position against yours. We affirm that a child may perform Hajj, as stated by the Prophet—peace be upon him—but it remains a voluntary act that does not suffice for the obligation. Similarly, we hold that a child may pray and fast—all such acts being voluntary acts on his part and for his benefit. Indeed, children used to attend prayers with the Messenger of Allah—peace and blessings of Allah be upon him—just as he performed Hajj with them, with no distinction.

L14031 As for the narration of Shubrumah, it is not authentic. Even if it were authentic, they would have no argument based on it, for it does not state that his Hajj performed on behalf of Shubrumah suffices for the person he represented. Rather, it constitutes proof against them, because it establishes

قَالَ أَبُو مُحَمَّد: وَهَذِهِ أَقْوَالٌ فِي غَايَةِ الْفَسَادِ وَالتَّنَاقُضِ، وَقَدْ أَجْمَعُوا لَوْ أَنَّ امْرَأً عَلَيْهِ صَلَاةُ الصُّبْحِ فَصَلَّى رَكْعَتَيْنِ تَطَوُّعًا، أَوْ عَلَيْهِ الظُّهْرُ فَصَلَّى أَرْبَعًا تَطَوُّعًا أَنَّ ذَلِكَ لَا يُجْزِئُهُ مِنْ الْفَرْضِ، وَأَنَّ مَنْ عَلَيْهِ زَكَاةُ خَمْسَةِ دَرَاهِمَ فَتَصَدَّقَ بِخَمْسَةِ دَرَاهِمَ تَطَوُّعًا أَنَّهَا لَا تُجْزِئُهُ مِنْ الْفَرْضِ.

وَأَجْمَعُوا إلَّا زُفَرَ: أَنَّ مَنْ صَامَ يَوْمًا مِنْ رَمَضَانَ يَنْوِي بِهِ التَّطَوُّعَ فَقَطْ، أَوْ لَا يَنْوِي بِهِ شَيْئًا فَإِنَّهُ لَا يُجْزِئُهُ مِنْ صَوْمِ الْفَرْضِ - فَلَيْتَ شِعْرِي أَيُّ فَرْقٍ بَيْنَ الصَّوْمِ، وَالصَّلَاةِ، وَالزَّكَاةِ، وَالْحَجِّ لَوْ نَصَحُوا أَنْفُسَهُمْ؟ فَإِنْ قَالُوا: قَدْ رُوِيَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَخْبَرَ أَنَّ لِلصَّبِيِّ حَجًّا، وَسَمِعَ إنْسَانًا لَمْ يَكُنْ حَجَّ يُلَبِّي عَنْ شُبْرُمَةَ فَقَالَ [لَهُ] «اجْعَلْ حَجَّكَ هَذَا عَنْ نَفْسِكَ ثُمَّ حُجَّ عَنْ شُبْرُمَةَ» .

قُلْنَا: أَمَّا إخْبَارُهُ - عَلَيْهِ السَّلَامُ - أَنَّ لِلصَّبِيِّ حَجًّا فَخَبَرٌ صَحِيحٌ ثَابِتٌ وَلَا مُتَعَلَّقَ لَكُمْ بِهِ؛ لِأَنَّهُ لَمْ يَجْعَلْ - عَلَيْهِ السَّلَامُ - ذَلِكَ الْحَجَّ جَازِيًا مِنْ حَجِّ الْفَرِيضَةِ، فَهُوَ حُجَّةٌ لَنَا عَلَيْكُمْ، وَنَحْنُ نَقُولُ: إنَّ لِلصَّبِيِّ حَجًّا كَمَا قَالَ - عَلَيْهِ السَّلَامُ - وَهُوَ تَطَوُّعٌ لَا يُجْزِئُ عَنْ الْفَرْضِ، وَنَحْنُ نَقُولُ: إنَّ لِلصَّبِيِّ صَلَاةً وَصَوْمًا وَكُلُّ ذَلِكَ تَطَوُّعٌ مِنْهُ وَلَهُ، وَقَدْ كَانَ الصِّبْيَانُ يَشْهَدُونَ الصَّلَوَاتِ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَمَا حَجَّ بِهِمْ مَعَهُ وَلَا فَرْقَ.

the argument against himself. This entails the requirement to intend the Hajj for oneself, thus it is proof against them—and success is from Allah, the Most High.

وَأَمَّا خَبَرُ شُبْرُمَةَ فَلَا يَصِحُّ، وَلَوْ صَحَّ لَمَا كَانَ لَهُمْ فِيهِ حُجَّةٌ؛ لِأَنَّهُ لَيْسَ فِيهِ أَنَّ حَجَّهُ عَنْ شُبْرُمَةَ يُجْزِي عَنْ الَّذِي حَجَّ عَنْهُ، بَلْ هُوَ حُجَّةٌ عَلَيْهِمْ؛ لِأَنَّ فِيهِ أَنْ يَجْعَلَ الْحَجَّةَ عَلَى نَفْسِهِ، وَفِي هَذَا إيجَابٌ لِلنِّيَّةِ بِهَا عَنْ نَفْسِهِ فَهُوَ حُجَّةٌ عَلَيْهِمْ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14032 It has been narrated to us from Al-Hasan concerning one who owes two consecutive months of expiation for dhihār or a vow, and is also obligated to perform a Hajj he vowed without having fulfilled the obligatory Hajj: if he fasted Shaʿbān and Ramadan and performed Hajj, this would suffice him from all that he owed and from the obligation of Ramadan. That Hajj would suffice him for his vow and the Obligatory Hajj of Islam. This is incorrect due to what we mentioned earlier—the opinion of our companions—and success is from Allah, the Exalted.

وَرُوِّينَا عَنْ الْحَسَنِ فِيمَنْ عَلَيْهِ شَهْرَانِ مُتَتَابِعَانِ مِنْ كَفَّارَةِ ظِهَارٍ، أَوْ نَذْرٍ، وَعَلَيْهِ حَجٌّ نَذَرَهُ وَلَمْ يَكُنْ حَجَّ حَجَّةَ الْفَرِيضَةِ فَصَامَ شَعْبَانَ وَرَمَضَانَ وَحَجَّ فَإِنَّ ذَلِكَ يُجْزِئُهُ عَمَّا كَانَ عَلَيْهِ، وَعَنْ فَرْضِ رَمَضَانَ، وَتِلْكَ الْحَجَّةُ تُجْزِئُهُ عَنْ نَذْرِهِ وَفَرْضِ الْإِسْلَامِ، وَهَذَا خَطَأٌ لِمَا ذَكَرْنَا قَبْلُ - وَهُوَ قَوْلُ أَصْحَابِنَا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14033 If a Mālikī were to say: "Is Ḥajj analogous to fasting a day—if one enters into it with an intention, then their intention ceases, does it suffice?" We would respond: This is not valid, for Ḥajj consists of numerous distinct acts interspersed with actions not intrinsic to it—such as the *talbiyah*, the *wuqūf* at ʿArafah and Muzdalifah, the stoning of the *jamarāt*, the *ṭawāf al-ifāḍah*, and the *saʿī* between Ṣafā and Marwah. Thus, each act requires its own specific intention.

فَإِنْ قَالَ مَالِكِيٌّ: الْحَجُّ كَصَوْمِ الْيَوْمِ إذَا دَخَلَ فِيهِ بِنِيَّةٍ، ثُمَّ عَزَبَتْ نِيَّتُهُ أَجْزَأَهُ؟ قُلْنَا: لَيْسَ كَذَلِكَ، لِأَنَّ الْحَجَّ أَعْمَالٌ كَثِيرَةٌ مُتَغَايِرَةٌ يَحُولُ بَيْنَهَا مَا لَيْسَ مِنْهَا كَالتَّلْبِيَةِ، وَالْوُقُوفِ بِعَرَفَةَ، وَمُزْدَلِفَةَ، وَرَمْيِ الْجِمَارِ، وَطَوَافِ الْإِفَاضَةِ وَالسَّعْيِ بَيْنَ الصَّفَا وَالْمَرْوَةِ، فَلَا بُدَّ لِكُلِّ عَمَلٍ مِنْ نِيَّةٍ لَهُ.

L14034 As for the iḥrām, it is a continuous act that remains unbroken. Therefore, the intention to enter into it suffices as long as one does not deliberately divert their intention or invalidate their iḥrām—and in God the Exalted we place our trust.

وَأَمَّا الْإِحْرَامُ فَهُوَ عَمَلٌ مُتَّصِلٌ لَا يَنْفَصِلُ فَيُجْزِئُهُ نِيَّةُ الدُّخُولِ فِيهِ مَا لَمْ يَتَعَمَّدْ إحَالَةَ نِيَّتِهِ أَوْ إبْطَالَ إحْرَامِهِ - وَبِاَللَّهِ تَعَالَى نَتَأَيَّدُ.

## [مَسْأَلَةٌ أَدْرَكَ صَلَاةَ الصُّبْحِ بِمُزْدَلِفَةَ فَلَمَّا سَلَّمَ ذَكَرَ أَنَّهُ غَيْرُ طَاهِرٍ]

L14035 **A case: He caught the Fajr prayer at Muzdalifah, and when he concluded it, he remembered that he was not in a state of ritual purity.**

٨٦٢ - مَسْأَلَةٌ:

L14036 862 - Issue:

L14037 And whoever among the men catches up with the Fajr prayer behind the Imam at Muzdalifah, then when the Imam concludes the prayer, this person

remembers that he is not in a state of ritual purity—his Hajj is nullified because he did not join the prayer with the Imam. We have previously mentioned our reference to the mention of the Messenger of Allah—peace and blessings of Allah be upon him—concerning this, and with Allah, the Exalted, lies all success.

L14038 **A case where one killed game while mindful of their Iḥrām and with deliberate intent to kill it.**

L14039 863 – Issue:

L14040–14042 Whoever kills game while engaged in hunting, being aware of his state of ihram and intending to kill it, invalidates his Hajj or Umrah because his ihram is nullified. He remains obligated to provide expiation regardless, based on Allah the Exalted's statement: "Do not kill game while you are in ihram. Whoever among you kills it intentionally, his expiation shall be livestock equivalent to what he killed, as determined by two just persons among you" [Al-Mā'idah:95]. Thus Allah the Exalted prohibited the intentional killing of game during ihram. If he does so, then [...] He should enter iḥrām as he was commanded, for God Almighty only commanded him with an iḥrām that does not involve intentional killing of the game. This iḥrām is undoubtedly distinct from the iḥrām that involves intentional killing of the game. Thus, he has not fulfilled the iḥrām that God Almighty commanded him to perform.[3]

L14043 Moreover, Allah the Exalted said: {Hajj is well-known months, so whoever undertook Hajj therein, there shall be no lewdness, no transgression, and no disputing during Hajj} [Al-Baqarah: 197]. There is no disagreement that intentionally killing game while in Ihram constitutes transgression. Whoever transgresses during his Hajj has not performed Hajj as commanded, and whoever does not perform Hajj as commanded: he has not performed Hajj—he has not performed Hajj. We narrate via the chain of Ismail ibn Ishaq al-Qadi → Ibrahim ibn al-Hajjaj narrated to us → Abd al-Warith ibn Sa'id al-Tannuri narrated to us → al-Layth → Mujahid, who said: "Whoever intentionally kills game, his Hajj is invalidated, and he must offer a sacrifi-

[3] **Qur'an references (L14040):** Qur'an 5:95 (Al-Ma'idah).

وَمَنْ أَدْرَكَ مَعَ الْإِمَامِ صَلَاةَ الصُّبْحِ بِمُزْدَلِفَةَ مِنْ الرِّجَالِ فَلَمَّا سَلَّمَ الْإِمَامُ ذَكَرَ هَذَا الْإِنْسَانُ أَنَّهُ عَلَى غَيْرِ طَهَارَةٍ فَقَدْ بَطَلَ حَجُّهُ، لِأَنَّهُ لَمْ يُدْرِكْ الصَّلَاةَ مَعَ الْإِمَامِ، وَقَدْ تَقَدَّمَ ذِكْرُنَا لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي ذَلِكَ وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ قَتَلَ صَيْدًا ذَاكِرًا لِإِحْرَامِهِ عَامِدًا لِقَتْلِهِ]

٨٦٣ - مَسْأَلَةٌ:

وَمَنْ قَتَلَ صَيْدًا مُتَصَيِّدًا لَهُ ذَاكِرًا لِإِحْرَامِهِ عَامِدًا لِقَتْلِهِ فَقَدْ بَطَلَ حَجُّهُ أَوْ عُمْرَتُهُ لِبُطْلَانِ إحْرَامِهِ وَعَلَيْهِ الْجَزَاءُ مَعَ ذَلِكَ لِقَوْلِ اللَّهِ تَعَالَى: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ} [المائدة: ٩٥] الْآيَةَ، فَحَرَّمَ اللَّهُ تَعَالَى عَلَيْهِ أَنْ يَقْتُلَ الصَّيْدَ مُتَعَمِّدًا فِي إحْرَامِهِ فَإِذَا فَعَلَ فَلَمْ يُحْرِمْ كَمَا أُمِرَ؛ لِأَنَّ اللَّهَ تَعَالَى إنَّمَا أَمَرَهُ بِإِحْرَامٍ لَيْسَ فِيهِ تَعَمُّدُ قَتْلِ صَيْدٍ، وَهَذَا الْإِحْرَامُ هُوَ بِلَا شَكٍّ غَيْرُ الْإِحْرَامِ الَّذِي فِيهِ تَعَمُّدُ قَتْلِ الصَّيْدِ فَلَمْ يَأْتِ بِالْإِحْرَامِ الَّذِي أَمَرَهُ اللَّهُ تَعَالَى بِهِ.

وَأَيْضًا فَإِنَّ اللَّهَ تَعَالَى قَالَ: {الْحَجُّ أَشْهُرٌ مَعْلُومَاتٌ فَمَنْ فَرَضَ فِيهِنَّ الْحَجَّ فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] وَلَا خِلَافَ فِي أَنَّ تَعَمُّدَ قَتْلِ الصَّيْدِ فِي الْإِحْرَامِ فُسُوقٌ، وَمَنْ فَسَقَ فِي حَجِّهِ فَلَمْ يَحُجَّ كَمَا أُمِرَ، وَمَنْ لَمْ يَحُجَّ كَمَا أُمِرَ فَلَمْ يَحُجَّ -: رُوِّينَا مِنْ طَرِيقِ إسْمَاعِيلَ بْنِ إسْحَاقَ الْقَاضِي نَا إبْرَاهِيمُ بْنُ الْحَجَّاجِ نَا عَبْدُ الْوَارِثِ بْنُ سَعِيدٍ التَّنُّورِيُّ عَنْ اللَّيْثِ عَنْ مُجَاهِدٍ قَالَ: مَنْ قَتَلَ صَيْدًا مُتَعَمِّدًا فَقَدْ بَطَلَ حَجُّهُ وَعَلَيْهِ الْهَدْيُ - وَاعْتَرَضَ بَعْضُهُمْ بِأَنْ قَالَ: إنَّ اللَّهَ تَعَالَى يَقُولُ: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ}

cial animal." Some objected by saying: Allah states {Do not kill game while you are in Ihram} [Al-Ma'idah: 95], thus calling them "those in Ihram." Abu Muhammad said: This constitutes grave audacity on their part—attributing to Allah the Exalted what He never uttered. Allah only named them "those in Ihram" before killing game, prohibiting them from killing game while in that state. He never designated them as "those in Ihram" after killing game. Disgrace upon every blind allegiance to a school of thought that brazenly drives one to lie against Allah the Exalted![4]

L14044 Allah the Exalted has said: {There is to be no sexual intercourse, nor disobedience, nor quarreling during Hajj} [Al-Baqarah: 197]. Thus, He prescribed Hajj and prohibited sexual intercourse within it. Therefore, they are bound by this ruling not to invalidate Hajj through sexual intercourse, which is the prohibited act. This [prohibition] is akin to the earlier prohibition, with no distinction. Indeed, Allah the Exalted only deems their Hajj valid if they refrain from sexual intercourse and do not commit acts of disobedience.[5]

L14045 Some of them said: "He (peace be upon him) obligated a ram for the hyena, yet did he not indicate that his pilgrimage state was invalidated?" We responded: "You have uttered falsehood. Rather, he did indicate that his pilgrimage state was invalidated through his statement: 'Whoever performs an action not in accordance with our command, it is rejected.'"

L14046 Moreover, he (peace be upon him) never ever asserted: "Indeed, his *Ihram* has not been invalidated," nor has any evidence ever substantiated this—and success is attained only through Allah, the Most High.

## Issue: The intentional commission of a religious violation by the pilgrim while fully aware of his state of ihram.

L14047–14048

L14049 Issue:

L14050 Abū Muḥammad said: Every act of transgression that the *muhrim* intentionally commits while mindful of his *ihram* invalidates his *ihram*, his

[4]**Qur'an references (L14043):** Qur'an 2:197 (Al-Baqarah); Qur'an 5:95 (Al-Ma'idah).
[5]**Qur'an references (L14044):** Qur'an 2:197 (Al-Baqarah).

[المائدة: ٩٥] فَسَمَّاهُمْ: حُرُمًا؟ قَالَ أَبُو مُحَمَّدٍ: وَهَذَا إقْدَامٌ مِنْهُمْ عَظِيمٌ عَلَى تَقْوِيلِ اللَّهِ تَعَالَى مَا لَمْ يَقُلْهُ قَطُّ، وَإِنَّمَا سَمَّاهُمْ اللَّهُ تَعَالَى: حُرُمًا، قَبْلَ قَتْلِ الصَّيْدِ، وَنَهَاهُمْ إذَا كَانُوا حُرُمًا عَنْ قَتْلِ الصَّيْدِ، وَمَا سَمَّاهُمْ تَعَالَى قَطُّ بَعْدَ قَتْلِ الصَّيْدِ: حُرُمًا فَأُفٍّ لِكُلِّ عَصَبِيَّةٍ لِمَذْهَبٍ تَحْدُو إلَى الْكَذِبِ عَلَى اللَّهِ تَعَالَى جِهَارًا.

وَقَدْ قَالَ تَعَالَى: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] فَأَثْبَتَ الْحَجَّ وَنَهَى فِيهِ عَنْ الرَّفَثِ فَيَلْزَمُهُمْ عَلَى هَذَا أَنْ لَا يُبْطِلُوا الْحَجَّ بِالْجِمَاعِ الَّذِي هُوَ الرَّفَثُ، وَهَذِهِ كَالَّتِي قَبْلَهَا وَلَا فَرْقَ: وَإِنَّمَا جَعَلَهُمْ تَعَالَى فِي الْحَجِّ مَا لَمْ يَرْفُثُوا وَلَا فَسَقُوا.

وَقَالَ بَعْضُهُمْ: قَدْ أَوْجَبَ - عَلَيْهِ السَّلَامُ - فِي الضَّبُعِ كَبْشًا وَلَمْ يُخْبِرْ بِأَنَّ إحْرَامَهُ بَطَلَ؟ قُلْنَا لَهُمْ: قُلْتُمْ الْبَاطِلَ، بَلْ قَدْ أَخْبَرَ - عَلَيْهِ السَّلَامُ - بِأَنَّ إحْرَامَهُ قَدْ بَطَلَ بِقَوْلِهِ - عَلَيْهِ السَّلَامُ -: «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» .

وَأَيْضًا: فَلَمْ يَقُلْ - عَلَيْهِ السَّلَامُ - قَطُّ: إنَّ إحْرَامَهُ لَمْ يَبْطُلْ، وَلَا دَلَّ دَلِيلٌ عَلَى ذَلِكَ أَصْلًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ فُسُوق تَعَمَّدَهُ الْمُحْرِمُ ذَاكِرًا لِإِحْرَامِهِ]

مَسْأَلَةٌ:

قَالَ أَبُو مُحَمَّدٍ: وَكُلُّ فُسُوقٍ تَعَمَّدَهُ الْمُحْرِمُ ذَاكِرًا لِإِحْرَامِهِ فَقَدْ بَطَلَ إحْرَامُهُ، وَحَجُّهُ، وَعُمْرَتُهُ، لِقَوْلِ اللَّهِ تَعَالَى: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧]

Ḥajj, and his ʿUmrah, due to Allāh the Exalted's statement: "So there is to be no lewdness, nor transgression, nor disputing during Ḥajj" [al-Baqarah: 197]. It is established that whoever intentionally commits transgression while conscious of his Ḥajj or his ʿUmrah has not performed his Ḥajj as he was commanded. The Prophet (peace be upon him) stated: "Indeed, ʿUmrah is incorporated into Ḥajj until the Day of Resurrection."[6]

فَصَحَّ أَنَّ مَنْ تَعَمَّدَ الْفُسُوقَ ذَاكِرًا لِحَجِّهِ، أَوْ عُمْرَتِهِ، فَلَمْ يَحُجَّ كَمَا أُمِرَ، وَقَدْ أَخْبَرَ - عَلَيْهِ السَّلَامُ -: «أَنَّ الْعُمْرَةَ دَخَلَتْ فِي الْحَجِّ إلَى يَوْمِ الْقِيَامَةِ» .

L14051 And he (peace be upon him) said, "Whoever performs an act not in accordance with our command, it is rejected."

وَقَالَ - عَلَيْهِ السَّلَامُ -: «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» .

L14052 Among the wonders of this world is that the verse was revealed as we recite it, yet they invalidated Hajj due to obscene speech but not due to transgression. Stranger still is Abū Ḥanīfa's statement: "Whoever in the state of Ihram—forgetfully, without intent nor mindful of being in Ihram—engages with his wife whom Allah the Exalted permitted him before or after Ihram, his Hajj is invalidated. Yet if one deliberately commits sodomy with a male, or is subjected to it while conscious of his Ihram, his Hajj remains complete and his Ihram valid—Uff! Disgust for this statement, as countless as the grains of sand, pebbles, and dust?" If they argue: "Ihram is invalidated only by what is prohibited during its state, not by what was forbidden before, during, or after it," we respond: "Is it not this corrupt classification that we have questioned you about? You possess no proof for it, yet you invalidate prayer by every prohibited act—before it, during it, or after it—just as you invalidate it by what is forbidden during prayer alone?"

وَمِنْ عَجَائِبِ الدُّنْيَا: أَنَّ الْآيَةَ وَرَدَتْ كَمَا تَلَوْنَا فَأَبْطَلُوا الْحَجَّ بِالرَّفَثِ وَلَمْ يُبْطِلُوهُ بِالْفُسُوقِ، وَأَعْجَبُ مِنْ هَذَا: أَنَّ أَبَا حَنِيفَةَ قَالَ: مَنْ وَطِئَ فِي إحْرَامِهِ - نَاسِيًا غَيْرَ عَامِدٍ وَلَا ذَاكِرٍ لِأَنَّهُ مُحْرِمٌ - امْرَأَتَهُ الَّتِي أَبَاحَ اللَّهُ تَعَالَى لَهُ وَطْأَهَا قَبْلَ الْإِحْرَامِ أَوْ بَعْدَهُ فَقَدْ بَطَلَ حَجُّهُ، فَلَوْ تَعَمَّدَ اللِّيَاطَةَ بِذَكَرٍ، أَوْ أَنْ يُلَاطَ بِهِ ذَاكِرًا لِإِحْرَامِهِ فَحَجُّهُ تَامٌّ وَإِحْرَامُهُ مَبْرُورٌ - فَأُفٍّ لِهَذَا الْقَوْلِ عَدَدَ الرَّمْلِ، وَالْحَصَى، وَالتُّرَابِ؟ فَإِنْ قَالُوا: إنَّمَا يَبْطُلُ إحْرَامُهُ بِأَنْ يَأْتِيَ مَا حُرِّمَ فِي حَالِ الْإِحْرَامِ فَقَطْ، لَا بِمَا هُوَ حَرَامٌ قَبْلَ الْإِحْرَامِ، وَفِي الْإِحْرَامِ وَبَعْدَ الْإِحْرَامِ؟ قُلْنَا: وَعَنْ هَذَا التَّقْسِيمِ الْفَاسِدِ سَأَلْنَاكُمْ؟ وَلَا حُجَّةَ لَكُمْ فِيهِ، وَأَنْتُمْ تُبْطِلُونَ الصَّلَاةَ بِكُلِّ عَمَلٍ مُحَرَّمٍ، قَبْلَهَا، وَفِيهَا، وَبَعْدَهَا، كَمَا تُبْطِلُونَهَا بِمَا حُرِّمَ فِيهَا فَقَطْ.

L14053 You have violated this corrupt principle, thereby failing to invalidate the state of consecration (iḥrām) by deliberately wearing prohibited garments—those which are lawful before and after it. Thus, you have annulled this false division. Where then is the analogy (qiyās) which you falsely claim to follow? Allah the Exalted has affirmed Ḥajj and specifically prohibited immoral conduct within it, just as He prohibited obscenity therein—with no distinction between them? Muḥammad ibn al-Ḥasan ibn ʿAbd al-Wārith al-Rāzī

وَقَدْ نَقَضْتُمْ هَذَا الْأَصْلَ الْفَاسِدَ فَلَمْ تُبْطِلُوا الْإِحْرَامَ بِتَعَمُّدِ لِبَاسِ مَا حُرِّمَ فِيهِ مِمَّا هُوَ حَلَالٌ قَبْلَهُ وَبَعْدَهُ، فَقَدْ أَبْطَلْتُمْ هَذَا التَّقْسِيمَ الْفَاسِدَ فَأَيْنَ الْقِيَاسُ الَّذِي تَنْتَسِبُونَ إلَيْهِ بِزَعْمِكُمْ؟ وَاَللَّهُ تَعَالَى قَدْ أَكَّدَ الْحَجَّ وَخَصَّهُ بِتَحْرِيمِ الْفُسُوقِ فِيهِ، كَمَا خَصَّهُ بِتَحْرِيمِ الرَّفَثِ فِيهِ وَلَا فَرْقَ؟ أَخْبَرَنَا مُحَمَّدُ بْنُ الْحَسَنِ بْنِ عَبْدِ الْوَارِثِ الرَّازِيّ نَا عَبْدُ الرَّحْمَنِ بْنِ عُمَرَ بْنِ مُحَمَّدِ بْنِ النَّحَّاسِ بِمِصْرَ نَا أَبُو سَعِيدِ بْنُ الْأَعْرَابِيِّ نَا عُبَيْدُ بْنُ غَنَّامِ بْنِ حَفْصِ بْنِ

[6] **Qur'an references (L14050):** Qur'an 2:197 (Al-Baqarah).

narrated to us; ʿAbd al-Raḥmān ibn ʿUmar ibn Muḥammad ibn al-Naḥḥās in Egypt narrated to us; Abū Saʿīd ibn al-Aʿrābī narrated to us; ʿUbayd ibn Ghannām ibn Ḥafṣ ibn Ghayyāth al-Nakhaʿī narrated to us; Muḥammad ibn ʿAbd Allāh ibn Numayr narrated to us; Aḥmad ibn Bishr narrated from ʿAbd al-Salām ibn ʿAbd Allāh ibn Jābir al-Aḥmasī, from his father, from Zaynab bint Jābir al-Aḥmasiyyah: "The Messenger of Allah—peace and blessings be upon him—said to her regarding a woman who performed Ḥajj accompanied by a mute girl: 'Tell her: She should speak, for there is no Ḥajj for one who does not speak.'"

L14054 We have mentioned the narration of Aḥmad ibn Shuʿayb from Nūḥ ibn Ḥabīb al-Qūmisī that the Messenger of Allah—peace be upon him—commanded the one who assumed iḥrām while wearing a *jubbah* to renew [their] iḥrām.

L14055–14056 Abū Muḥammad said: They have no means to cite from any of the Companions—may Allah be pleased with them—that major sins do not invalidate the state of iḥrām. As for one who commits sin while unmindful of his iḥrām, his iḥrām is not invalidated by that, because he did not intend to nullify it nor did he intentionally perform his iḥrām in a way that contravenes what he was commanded. And success is by Allah, the Most High.

## L14057 A legal question: Deliberately engaging in argumentation using falsehood or in falsehood while remembering his state of ritual consecration (iḥrām).

L14058 865 - Question:

L14059 Argumentation is divided into two types: that pertaining to an obligatory duty and truth, and that pertaining to falsehood. As for argumentation in [the service of] truth, it is obligatory both during the state of iḥrām and otherwise. Allah the Exalted said: "Invite to the way of your Lord with wisdom and good exhortation, and argue with them in the best manner" [an-Nahl 16:125].[7]

غِيَاثٍ النَّخَعِيُّ نَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ نَا أَحْمَدُ بْنُ بِشْرٍ عَنْ عَبْدِ السَّلَامِ بْنِ عَبْدِ اللَّهِ بْنِ جَابِرٍ الْأَحْمَسِيِّ عَنْ أَبِيهِ عَنْ زَيْنَبَ بِنْتِ جَابِرٍ الْأَحْمَسِيَّةِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهَا فِي امْرَأَةٍ حَجَّتْ مَعَهَا مُصْمِتَةً: قُولِي لَهَا: تَتَكَلَّمُ فَإِنَّهُ لَا حَجَّ لِمَنْ لَمْ يَتَكَلَّمْ» .

وَقَدْ ذَكَرْنَا رِوَايَةَ أَحْمَدَ بْنِ شُعَيْبٍ عَنْ نُوحِ بْنِ حَبِيبٍ الْقُومِسِيِّ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. أَمَرَ الَّذِي أَحْرَمَ فِي جُبَّةٍ أَنْ يُجَدِّدَ إحْرَامًا» .

قَالَ أَبُو مُحَمَّدٍ: وَلَا سَبِيلَ لَهُمْ إلَى أَنْ يُوجِدُوا عَنْ أَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - أَنَّ الْفُسُوقَ لَا يُبْطِلُ الْإِحْرَامَ، وَأَمَّا مَنْ فَسَقَ غَيْرَ ذَاكِرٍ لِإِحْرَامِهِ فَإِنَّهُ لَا يَبْطُلُ بِذَلِكَ إحْرَامُهُ، لِأَنَّهُ لَمْ يَقْصِدْ إبْطَالَهُ وَلَا أَتَى بِإِحْرَامِهِ بِخِلَافِ مَا أُمِرَ بِهِ عَامِدًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ الْجَدَلُ بِالْبَاطِلِ وَفِي الْبَاطِلِ عَمْدًا ذَاكِرًا لِإِحْرَامِهِ]

٨٦٥ - مَسْأَلَةٌ:

وَالْجِدَالُ قِسْمَانِ: قِسْمٌ فِي وَاجِبٍ وَحَقٍّ، وَقِسْمٌ فِي بَاطِلٍ، فَالَّذِي فِي الْحَقِّ وَاجِبٌ فِي الْإِحْرَامِ وَغَيْرِ الْإِحْرَامِ قَالَ تَعَالَى: {ادْعُ إلَى سَبِيلِ رَبِّكَ بِالْحِكْمَةِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ} [النحل: ١٢٥] .

[7] **Qur'an references (L14059):** Qur'an 16:125 (An-Nahl).

L14060 Whoever argues in pursuit of his right has indeed called to the path of his Lord, the Exalted, and striven to make truth evident and forbid falsehood. Similarly, anyone who argues for a right of others or for Allah, the Exalted, [does the same].

L14061 Intentionally engaging in disputation using falsehood or arguing about falsehood while mindful of one's Ihram invalidates both the Ihram and the Hajj, due to the statement of Allah, the Exalted: "There shall be no lewdness, disobedience, or quarreling during Hajj" [Al-Baqarah: 197]. And success is by Allah, the Exalted.[8]

## L14062 An issue regarding one who did not recite the Talbiyah at any point during their Hajj or ʿUmrah.

L14063 866 - Legal Question:

L14064 Whoever does not recite the Talbiyah at all during any part of their Hajj or Umrah invalidates their Hajj and Umrah. Then if they recite it even once, it suffices them. Frequent recitation is superior. If they recited the Talbiyah but did not raise their voice, then their Hajj and Umrah are invalid due to Allah's command—conveyed by Gabriel, the Messenger of Allah (peace be upon him)—to instruct his companions to raise their voices in the Talbiyah. Thus, whoever did not recite it at all or recited it without raising their voice despite being capable did not perform Hajj or Umrah as commanded by Allah, the Exalted. The Prophet (peace be upon him) said: "Whoever performs a deed not in accordance with our command, it is rejected." Had the companions (may Allah be pleased with them) refused when he (peace be upon him) commanded them to raise their voices in the Talbiyah, they would undoubtedly have been disobedient. Disobedience is transgression without any disagreement. Allah, the Mighty and Majestic, has protected them from that. He, the Exalted, says: "So there is to be no lewdness, no transgression, and no dis-

[8] **Qur'an references (L14061):** Qur'an 2:197 (Al-Baqarah).

وَمَنْ جَادَلَ فِي طَلَبِ حَقٍّ لَهُ فَقَدْ دَعَا إِلَى سَبِيلِ رَبِّهِ تَعَالَى، وَسَعَى فِي إِظْهَارِ الْحَقِّ وَالْمَنْعِ مِنْ الْبَاطِلِ، وَهَكَذَا كُلُّ مَنْ جَادَلَ فِي حَقٍّ لِغَيْرِهِ أَوْ لِلَّهِ تَعَالَى.

وَالْجَدَلُ بِالْبَاطِلِ وَفِي الْبَاطِلِ عَمْدًا ذَاكِرًا لِإِحْرَامِهِ مُبْطِلٌ لِلْإِحْرَامِ وَلِلْحَجِّ لِقَوْلِهِ تَعَالَى: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ مَنْ لَمْ يُلَبِّ فِي شَيْءٍ مِنْ حَجِّهِ أَوْ عُمْرَتِهِ]

٨٦٦ - مَسْأَلَةٌ:

وَمَنْ لَمْ يُلَبِّ فِي شَيْءٍ مِنْ حَجِّهِ أَوْ عُمْرَتِهِ بَطَلَ حَجُّهُ وَعُمْرَتُهُ فَإِنْ لَبَّى وَلَوْ مَرَّةً وَاحِدَةً أَجْزَأَهُ، وَالِاسْتِكْثَارُ أَفْضَلُ؛ فَلَوْ لَبَّى وَلَمْ يَرْفَعْ صَوْتَهُ فَلَا حَجَّ لَهُ وَلَا عُمْرَةَ لِأَمْرِ جِبْرِيلَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ اللَّهِ عَزَّ وَجَلَّ بِأَنْ يَأْمُرَ أَصْحَابَهُ أَنْ يَرْفَعُوا أَصْوَاتَهُمْ بِالتَّلْبِيَةِ، فَمَنْ لَمْ يُلَبِّ أَصْلًا أَوْ لَبَّى وَلَمْ يَرْفَعْ صَوْتَهُ وَهُوَ قَادِرٌ عَلَى ذَلِكَ فَلَمْ يَحُجَّ وَلَا اعْتَمَرَ كَمَا أَمَرَهُ اللَّهُ تَعَالَى، وَقَدْ قَالَ - عَلَيْهِ السَّلَامُ -: «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» وَلَوْ أَنَّهُمْ - رَضِيَ اللَّهُ عَنْهُمْ - إذْ أَمَرَهُمْ - عَلَيْهِ السَّلَامُ - بِرَفْعِ أَصْوَاتِهِمْ بِالتَّلْبِيَةِ أَبَوْا لَكَانُوا عُصَاةً بِلَا شَكٍّ، وَالْمَعْصِيَةُ فُسُوقٌ بِلَا خِلَافٍ، وَقَدْ أَعَاذَهُمْ اللَّهُ عَزَّ وَجَلَّ مِنْ ذَلِكَ قَالَ تَعَالَى: {فَلا رَفَثَ وَلا فُسُوقَ وَلا جِدَالَ فِي الْحَجِّ} [البقرة: ١٩٧] وَقَدْ بَيَّنَّا أَنَّ الْفُسُوقَ يُبْطِلُ الْحَجَّ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

puting during Hajj" (Al-Baqarah 2:197). We have clarified that transgression invalidates Hajj—and success is from Allah, the Exalted.[9][10]

وَمَنْ لَبَّى مَرَّةً وَاحِدَةً رَافِعًا صَوْتَهُ فَقَدْ لَبَّى كَمَا أَمَرَهُ اللَّهُ تَعَالَى وَوَقَعَ عَلَيْهِ اسْمُ: مُلَبٍّ وَعَلَى فِعْلِهِ اسْمُ: التَّلْبِيَةِ، فَقَدْ أَدَّى مَا عَلَيْهِ، وَمَنْ أَدَّى مَا عَلَيْهِ لَمْ يَلْزَمْهُ فَرْضًا أَنْ يُؤَدِّيَ مَا لَيْسَ عَلَيْهِ، وَالْفَرَائِضُ لَا تَكُونُ إِلَّا مَحْدُودَةً لِيَعْلَمَ النَّاسُ مَا يَلْزَمُهُمْ مِنْهَا، وَمَا لَا حَدَّ لَهُ فَلَيْسَ فَرْضًا عَلَيْهِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ؛ لِأَنَّ فِي إِلْزَامِهِ تَكْلِيفَ مَا لَا يُطَاقُ - وَقَدْ أَمَّنَنَا اللَّهُ تَعَالَى مِنْ ذَلِكَ.

L14065 Whoever proclaims the talbiyah once while raising their voice has indeed fulfilled it as Allah the Exalted commanded. The designation "one who has proclaimed the talbiyah" applies to him, and the designation "talbiyah" applies to his act. Thus, he has discharged his obligation. Whoever fulfills what is incumbent upon them is not obligated to perform what is not incumbent. Obligations are necessarily defined so people may know what is incumbent upon them among them, while that which has no defined limit is not an obligation—and with Allah, the Exalted, lies success, for imposing it would entail obligating what is beyond capacity, and Allah the Exalted has secured us from that.

## [مَسْأَلَةٌ لِلْمُحْرِمِينَ مِنْ الرِّجَالِ وَالنِّسَاءِ أَنْ يَتَظَلَّلُوا فِي الْمَحَامِلِ]

مَسْأَلَةٌ:

وَجَائِزٌ لِلْمُحْرِمِينَ مِنْ الرِّجَالِ وَالنِّسَاءِ أَنْ يَتَظَلَّلُوا فِي الْمَحَامِلِ وَإِذَا نَزَلُوا - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَصْحَابِنَا.

L14066–14067 **A jurisprudential question for those in iḥrām (men and women alike) is whether they may seek shade in covered litters used for transport.**

L14068 Issue:

L14069 It is permissible for those in the state of iḥrām—both men and women—to seek shade in litters and when they dismount—this is the opinion of Abū Ḥanīfah, al-Shāfiʿī, and our companions.

وَقَالَ مَالِكٌ: يَتَظَلَّلُونَ إِذَا نَزَلُوا وَلَا يَتَظَلَّلُونَ فِي الْمَحَامِلِ وَلَا رِكَابًا، وَهَذَا تَقْسِيمٌ لَا دَلِيلَ عَلَى صِحَّتِهِ فَهُوَ خَطَأٌ.

L14070 Malik said: They may seek shade when they dismount, but not in palanquins nor on mounts. This categorization has no evidence for its validity and is therefore erroneous.

فَإِنْ قِيلَ: قَدْ نَهَى عَنْ ذَلِكَ ابْنُ عُمَرَ؟ قُلْنَا: نَعَمْ، وَلَا حُجَّةَ فِي أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَدْ صَحَّ عَنْ عُمَرَ مَنْ قَدَّمَ ثِقْلَهُ مِنْ مِنًى فَلَا حَجَّ لَهُ، فَمَا الَّذِي جَعَلَ قَوْلَ ابْنِ عُمَرَ فِي النَّهْيِ عَنْ التَّظَلُّلِ حُجَّةً وَلَمْ يَجْعَلْ قَوْلَ أَبِيهِ فِي النَّهْيِ عَنْ تَقَدُّمِ

L14071 If it is said: Did Ibn ʿUmar prohibit that? We respond: Yes, but no authoritative proof lies with anyone apart from the Messenger of Allah—peace and blessings be upon him. It is authentically established from ʿUmar that "Whoever sends their belongings ahead from Mina has no valid Hajj." What

[9] **Hadith references (L14064):** Sahih Muslim 1718b; Riyad as-Salihin 1647; Riyad as-Salihin 169.

[10] **Qur'an references (L14064):** Qur'an 2:197 (Al-Baqarah).

then justifies accepting Ibn ʿUmar's prohibition against seeking shade as authoritative, while rejecting ʿUmar's prohibition against advancing one's belongings from Mina and his severity in that matter? It is also authentically reported from Ibn ʿUmar regarding one who breaks their fast during Ramadan's daytime out of forgetfulness that their fast remains valid, requiring no compensatory observance.

الثِّقَلِ مِنْ مِنًى وَتَشَدُّدِهِ فِي ذَلِكَ حُجَّةٌ؟ وَقَدْ صَحَّ عَنْ ابْنِ عُمَرَ فِيمَنْ أَفْطَرَ فِي نَهَارِ رَمَضَانَ نَاسِيًا أَنَّ صِيَامَهُ تَامٌّ وَلَا قَضَاءَ عَلَيْهِ.

L14072 It is authentically reported from the Prophet ﷺ that marking a camel by incision is permissible for one in the state of *Iḥrām*.

وَصَحَّ عَنْهُ إِبَاحَةُ تَقْرِيدِ الْبَعِيرِ لِلْمُحْرِمِ.

L14073 It is authentically reported from Ibn Umar that whoever engages in sexual intercourse before performing Tawaf al-Ifadah invalidates his Hajj. None of the Companions opposed him in any of what we mentioned except Ibn Abbas, for he held that the Hajj of one who had intercourse after the ritual stay at Arafah is valid. They opposed him in this. Why then is Ibn Umar's opinion regarded as binding evidence in some instances but not others? It has been narrated to us through the chain of Imam Muslim: Salamah ibn Shabib reported to us, Al-Hasan ibn Aʿyan reported to us, Maʿqil reported from Zayd ibn Abi Unaysah from Yahya ibn al-Husayn, who said: I heard my grandmother Umm al-Husayn say, "I performed Hajj with Allah's Messenger (peace and blessings be upon him) during the Farewell Pilgrimage. I saw him when he stoned Jamrat al-ʿAqabah; he departed while mounted on his riding animal. Bilal and Usamah were with him—one of them was leading his mount, while the other was raising his garment over the head of Allah's Messenger (peace and blessings be upon him) to shield him from the sun."

وَصَحَّ عَنْ ابْنِ عُمَرَ مَنْ وَطِئَ قَبْلَ أَنْ يَطُوفَ طَوَافَ الْإِفَاضَةِ بَطَلَ حَجُّهُ وَلَا مُخَالِفَ لَهُ مِنَ الصَّحَابَةِ فِي شَيْءٍ مِمَّا ذَكَرْنَا إِلَّا ابْنَ عَبَّاسٍ فَإِنَّهُ رَأَى حَجَّ مَنْ وَطِئَ بَعْدَ الْوُقُوفِ بِعَرَفَةَ تَامًّا فَخَالَفُوهُ، فَمَا الَّذِي جَعَلَ قَوْلَ ابْنِ عُمَرَ فِي بَعْضِ الْمَوَاضِعِ حُجَّةً، وَفِي بَعْضِهَا لَيْسَ حُجَّةً؟ رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا سَلَمَةُ بْنُ شَبِيبٍ نَا الْحَسَنُ بْنُ أَعْيَنَ نَا مَعْقِلٌ عَنْ زَيْدِ بْنِ أَبِي أُنَيْسَةَ عَنْ يَحْيَى بْنِ الْحُصَيْنِ قَالَ: سَمِعْتُ جَدَّتِي أُمَّ الْحُصَيْنِ تَقُولُ «حَجَجْتُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَجَّةَ الْوَدَاعِ فَرَأَيْته حِينَ رَمَى جَمْرَةَ الْعَقَبَةِ انْصَرَفَ وَهُوَ عَلَى رَاحِلَتِهِ، وَمَعَهُ بِلَالٌ، وَأُسَامَةُ، أَحَدُهُمَا يَقُودُ رَاحِلَتَهُ، وَالْآخَرُ رَافِعٌ ثَوْبَهُ عَلَى رَأْسِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ الشَّمْسِ» .

L14074–14076 And from the chain of Muslim: Aḥmad ibn Ḥanbal narrated to me, Muḥammad ibn Salamah narrated to us from Abū ʿAbd al-Raḥīm, from Zayd ibn Abī ʾUnaysah, from Yaḥyā ibn al-Ḥuṣayn, from Umm al-Ḥuṣayn, his grandmother, who said: "I performed Ḥajj with" During the Farewell Pilgrimage of the Messenger of Allah (peace and blessings be upon him), I saw Usāmah and Bilāl—one of them holding the reins of the she-camel of the Messenger of Allah (peace and blessings be upon him), and the other lifting his garment to shield him from the heat—until he stoned Jamrat al-ʿAqabah.

وَمِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي أَحْمَدُ بْنُ حَنْبَلٍ نَا مُحَمَّدُ بْنُ سَلَمَةَ عَنْ أَبِي عَبْدِ الرَّحِيمِ عَنْ زَيْدِ بْنِ أَبِي أُنَيْسَةَ عَنْ يَحْيَى بْنِ الْحُصَيْنِ عَنْ أُمِّ الْحُصَيْنِ جَدَّتِهِ قَالَتْ «حَجَجْتُ مَعَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَجَّةَ الْوَدَاعِ فَرَأَيْتُ أُسَامَةَ، وَبِلَالًا وَأَحَدُهُمَا آخِذٌ بِخِطَامِ نَاقَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَالْآخَرُ رَافِعٌ ثَوْبَهُ يَسْتُرُهُ مِنْ الْحَرِّ حَتَّى رَمَى جَمْرَةَ الْعَقَبَةِ» .

L14077 Thus, this is the proof, not anything else. And Ibn Umar opposed Bilāl and

Usāmah in this opinion - which is the opinion of ʿAṭā, al-Aswad, and others besides these two.

## Chapter: On Circumambulation

868 - Issue:

Speaking with people during Tawaf is permissible, and the remembrance of Allah is more virtuous, as the text did not come with a prohibition of that. He, the Most High, said: {He has already detailed for you what He has forbidden upon you} [Al-An'am: 119]. Therefore, whatever He has not detailed as forbidden is permissible—and success comes from Allah, the Most High.[11]

## Issue: The Marriage of a Muhrim.

869: Issue

It is not permissible for a man or a woman to marry or be married, nor for a man to arrange the marriage of another from those under his guardianship, nor to propose marriage from the time the two enter the state of consecration (Ihram) until the sun rises on the Day of Sacrifice and the time for stoning Jamrat al-'Aqabah begins—any marriage contracted before this specified time is annulled, whether consummation occurred, a lengthy period elapsed, a child was born, or not. When the aforementioned time arrives, marriage and the act of marriage become permissible for them. A man may take back his divorced wife only during her waiting period, and her husband may likewise take her back during this period. A man may purchase female slaves for intercourse but must not engage in intercourse during the state of consecration (Ihram). We have been narrated through Malik's transmission from Nafi' from Nabih ibn Wahb: Aban ibn 'Uthman ibn 'Affan said, "I heard 'Uthman ibn 'Affan state: The Messenger of Allah—peace and bless-

[11] **Qur'an references (L14080):** Qur'an 6:119 (Al-An'am).

فَهَذَا هُوَ الْحُجَّةُ لَا مَا سِوَاهُ، وَقَدْ خَالَفَ ابْنُ عُمَرَ فِي هَذَا الْقَوْلِ بِلَالًا وَأُسَامَةَ - وَهُوَ قَوْلُ عَطَاءٍ، وَالْأَسْوَدِ، وَغَيْرِهِمَا.

## [مَسْأَلَةُ الْكَلَامُ فِي الطَّوَافِ]

٨٦٨ - مَسْأَلَةٌ:

وَالْكَلَامُ مَعَ النَّاسِ فِي الطَّوَافِ جَائِزٌ، وَذِكْرُ اللَّهِ أَفْضَلُ؛ لِأَنَّ النَّصَّ لَمْ يَأْتِ بِمَنْعٍ مِنْ ذَلِكَ، وَقَالَ تَعَالَى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام: ١١٩] فَمَا لَمْ يُفَصِّلْ تَحْرِيمَهُ فَهُوَ حَلَالٌ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةُ نِكَاحُ الْمُحْرِمِ]

٨٦٩ - مَسْأَلَةٌ:

وَلَا يَحِلُّ لِرَجُلٍ، وَلَا لِامْرَأَةٍ، أَنْ يَتَزَوَّجَ أَوْ تَتَزَوَّجَ، وَلَا أَنْ يُزَوِّجَ الرَّجُلُ غَيْرَهُ مِنْ وَلِيَّتِهِ، وَلَا أَنْ يَخْطُبَ خُطْبَةَ نِكَاحٍ مُذْ يُحْرِمَانِ إلَى أَنْ تَطْلُعَ الشَّمْسُ مِنْ يَوْمِ النَّحْرِ وَيَدْخُلَ وَقْتُ - رَمْيِ جَمْرَةِ الْعَقَبَةِ، وَيُفْسَخُ النِّكَاحُ قَبْلَ الْوَقْتِ الْمَذْكُورِ، كَانَ فِيهِ دُخُولٌ وَطُولُ مُدَّةٍ وَوِلَادَةٌ، أَوْ لَمْ يَكُنْ؛ فَإِذَا دَخَلَ الْوَقْتُ الْمَذْكُورُ حَلَّ لَهُمَا النِّكَاحُ وَالْإِنْكَاحُ، وَلَهُ أَنْ يُرَاجِعَ زَوْجَتَهُ الْمُطَلَّقَةَ مَا دَامَتْ فِي الْعِدَّةِ فَقَطْ، وَلَهَا أَنْ يُرَاجِعَهَا زَوْجُهَا كَذَلِكَ أَيْضًا مَا دَامَتْ فِي الْعِدَّةِ، وَلَهُ أَنْ يَبْتَاعَ الْجَوَارِيَ لِلْوَطْءِ وَلَا يَطَأُ -: رُوِّينَا مِنْ طَرِيقِ مَالِكٍ عَنْ نَافِعٍ عَنْ نَبِيهِ بْنِ وَهْبٍ: أَنَّ أَبَانَ بْنَ عُثْمَانَ بْنِ عَفَّانَ قَالَ: سَمِعْت عُثْمَانَ بْنَ عَفَّانَ يَقُولُ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «لَا يَنْكِحُ الْمُحْرِمُ وَلَا يُنْكَحُ وَلَا يَخْطُبُ» وَهَذَا لَفْظٌ يَقْتَضِي كُلَّ مَا قُلْنَاهُ.

ings be upon him—declared, 'A person in Ihram must not marry, nor can someone marry him, nor propose marriage.'" This wording entails all we have explained.

وَالْمُحْرِمُ اسْمٌ يَقَعُ عَلَى الْجِنْسِ وَيَعُمُّ الرِّجَالَ وَالنِّسَاءَ، وَمُرَاجَعَةُ الْمَرْأَةِ [الْمُطَلَّقَةِ] فِي عِدَّتِهَا لَا يُسَمَّى نِكَاحًا؛ لِأَنَّهَا امْرَأَتُهُ، كَمَا كَانَتْ تَرِثُهُ وَيَرِثُهَا وَتَلْزَمُهُ نَفَقَتُهَا وَإِسْكَانُهَا، وَلَا صَدَاقَ فِي ذَلِكَ، وَلَا يُرَاعَى إِذْنُهَا، وَلَا حُكْمَ لِلْوَلِيِّ فِي ذَلِكَ، وَأَمَّا بَعْدَ انْقِضَاءِ الْعِدَّةِ فَهُوَ نِكَاحٌ لَا مُرَاجَعَةٌ، وَلَا يَكُونُ إِلَّا بِرِضَاهُمَا وَبِصَدَاقٍ وَوَلِيٍّ.

L14084–14088 The term in question is a general designation that applies to both men and women. Revoking the divorce with the [divorced] woman during her waiting period is not termed a new marriage, for she remains his wife—just as she inherits him and he inherits her, and her maintenance remains his obligation. And providing her residence, and no dower is due in such a case, her consent is not taken into account, and the guardian (walī) has no authority in this regard. As for after... Upon the expiration of the waiting period, it is a marriage, not a revocation [of divorce], and it cannot occur except with the consent of both parties, a dowry (mahr), and a guardian.

وَابْتِيَاعُ الْجَوَارِي لِلْوَطْءِ لَا يُسَمَّى نِكَاحًا، وَإِنَّمَا حَرَّمَ اللَّهُ تَعَالَى مَا ذَكَرْنَا مِنْ النِّكَاحِ وَالْإِنْكَاحِ وَالْخِطْبَةِ عَلَى الْمُحْرِمِ.

L14089 Purchasing female slaves for sexual intercourse is not termed marriage. Rather, Allah the Exalted has prohibited the Muhrim from what we have mentioned of marriage, arranging marriages, and marriage proposals.

وَالْمُحْرِمُ هُوَ الَّذِي يَحْرُمُ عَلَيْهِ لِبَاسُ الْقُمُصِ، وَالْعَمَائِمِ، وَالْبَرَانِسِ، وَحَلْقُ رَأْسِهِ إِلَّا لِضَرُورَةٍ بِالنَّصِّ وَالْإِجْمَاعِ؛ فَإِذَا صَارَ فِي حَالٍ يَجُوزُ لَهُ كُلُّ ذَلِكَ فَلَيْسَ مُحْرِمًا بِلَا شَكٍّ، فَقَدْ تَمَّ إحْرَامُهُ، وَإِذَا لَمْ يَكُنْ مُحْرِمًا حَلَّ لَهُ النِّكَاحُ وَالْإِنْكَاحُ وَالْخُطْبَةُ.

L14090 The one in the state of iḥrām is prohibited from wearing shirts, turbans, hooded cloaks, and shaving his head except out of necessity, according to the explicit text and consensus. When he enters a state where all these actions become permissible for him, he is unquestionably no longer in the state of iḥrām, as his iḥrām has been completed. If he is not in the state of iḥrām, marriage, facilitating marriage contracts, and marriage proposals become permissible for him.

وَبِدُخُولِ وَقْتِ رَمْيِ الْجَمْرَةِ يَحِلُّ لَهُ كُلُّ مَا ذَكَرْنَا، رَمَى أَوْ لَمْ يَرْمِ، عَلَى مَا ذَكَرْنَا قَبْلُ مِنْ إبَاحَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - تَقْدِيمَ الْحَلْقِ عَلَى - الرَّمْيِ.

L14091 Upon the entry of the time for pelting the *Jamrah*, all that we have mentioned becomes lawful for him, whether he has thrown or not, based on what we previously mentioned regarding the permissibility established by the Messenger of Allah—peace be upon him—of doing the shaving before the pelting.

فَإِنْ نَكَحَ الْمُحْرِمُ أَوْ الْمُحْرِمَةُ فُسِخَ، لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» وَكَذَلِكَ إنْ أَنْكَحَ مَنْ لَا نِكَاحَ لَهَا إلَّا بِإِنْكَاحِهِ

L14092 If a person in the state of iḥrām (male or female) marries, the marriage is annulled, based on the statement of Allah's Messenger (peace and blessings of Allah be upon him): "Whoever performs an action not in accordance with our command, it is rejected." Similarly, if one conducts the marriage of a woman whose marriage cannot be valid except through his authorization,

such a marriage is annulled for the reasons mentioned—due to the invalidity of the marriage contract through which alone the marriage can be valid, and because there is no validity for that which cannot be valid except through what is itself invalid.[12]

فَهُوَ نِكَاحٌ مَفْسُوخٌ لِمَا ذَكَرْنَا، وَلِفَسَادِ الْإِنْكَاحِ الَّذِي لَا يَصِحُّ النِّكَاحُ إِلَّا بِهِ، وَلَا صِحَّةَ لِمَا لَا يَصِحُّ إِلَّا بِمَا يَصِحُّ.

L14093 As for the proposal, if he proposes, he is sinning—yet the marriage remains valid, for proposals have no bearing on the marriage contract. One might propose without finalizing the marriage if the proposal is rejected, and a marriage may be validly contracted without any prior proposal. For instance, by him saying to her: "Give yourself in marriage to me," to which she responds: "Yes, I have done so," and he states: "I have accepted," provided the legal guardian consents to this. Success is through Allah, the Exalted.

وَأَمَّا الْخِطْبَةُ فَإِنْ خَطَبَ فَهُوَ عَاصٍ وَلَا يَفْسُدُ النِّكَاحُ، لِأَنَّ الْخِطْبَةَ لَا مُتَعَلَّقَ لَهَا بِالنِّكَاحِ، وَقَدْ يَخْطُبُ وَلَا يُتِمُّ النِّكَاحَ إِذَا رُدَّ الْخَاطِبُ، وَقَدْ يَتِمُّ نِكَاحٌ بِلَا خِطْبَةٍ أَصْلًا، لَكِنْ بِأَنْ يَقُولَ لَهَا: انْكِحِينِي نَفْسَكِ؟ فَتَقُولُ: نَعَمْ قَدْ فَعَلْتُ، وَيَقُولُ هُوَ: قَدْ رَضِيتُ وَيَأْذَنُ الْوَلِيُّ فِي ذَلِكَ وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14094 The Salaf differed regarding this matter. A group permitted the marriage of a pilgrim in consecration—this is authentically established from Ibn Abbas. It was narrated from Ibn Masʿūd and Muʿādh, and the opinion was held by ʿAṭāʾ, al-Qāsim ibn Muḥammad ibn Abī Bakr, ʿIkrimah, and Ibrāhīm al-Nakhaʿī.

وَاخْتَلَفَ السَّلَفُ فِي هَذَا فَأَجَازَ نِكَاحَ الْمُحْرِمِ طَائِفَةٌ صَحَّ ذَلِكَ عَنْ ابْنِ عَبَّاسٍ، وَرُوِيَ عَنْ ابْنِ مَسْعُودٍ، وَمُعَاذٍ - وَقَالَ بِهِ عَطَاءٌ، وَالْقَاسِمُ بْنُ مُحَمَّدِ بْنِ أَبِي بَكْرٍ، وَعِكْرِمَةُ، وَإِبْرَاهِيمُ النَّخَعِيُّ.

L14095 And with this, Abu Hanifah and Sufyan state, and it is authentically established from Umar ibn al-Khattab and Zayd ibn Thabit that the marriage of the person in the state of ritual consecration (ihram) is annulled if he marries.

وَبِهِ يَقُولُ أَبُو حَنِيفَةَ، وَسُفْيَانُ، وَصَحَّ عَنْ عُمَرَ بْنِ الْخَطَّابِ، وَزَيْدِ بْنِ ثَابِتٍ فَسْخُ نِكَاحِ الْمُحْرِمِ إِذَا نَكَحَ.

L14096 It has been authentically reported from Ibn Umar through the chain of Hammad ibn Salamah, from Ayyub al-Sakhtiyani, from Nafi', from Ibn Umar, who said: "A person in the state of *iḥrām* does not marry nor is married. He does not arrange a marriage for himself nor for anyone else."

وَصَحَّ عَنِ ابْنِ عُمَرَ مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنْهُ قَالَ: الْمُحْرِمُ لَا يَنْكِحُ وَلَا يُنْكَحُ لَا يَخْطُبُ عَلَى نَفْسِهِ وَلَا عَلَى مَنْ سِوَاهُ.

L14097 It has been transmitted to us from ʿAlī ibn Abī Ṭālib that the marriage of a person in *iḥrām* is invalid. If he marries, we remove his wife from him. This is the opinion of Saʿīd ibn al-Musayyab: a view upheld by Mālik, al-Shāfiʿī, Abū Sulaymān, and their adherents.

وَرُوِّينَا عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ لَا يَجُوزُ نِكَاحُ الْمُحْرِمِ إِنْ نَكَحَ نَزَعْنَا مِنْهُ امْرَأَتَهُ، وَهُوَ قَوْلُ سَعِيدِ بْنِ الْمُسَيِّبِ - وَبِهِ يَقُولُ مَالِكٌ، وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ، وَأَصْحَابُهُمْ.

L14098–14099 Those who deemed his marriage permissible cited as evidence what we have narrated through the chain of Al-Awzaʿī from ʿAṭāʾ, from Ibn ʿAbbās, who

وَاحْتَجَّ مَنْ رَأَى نِكَاحَهُ جَائِزًا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ الْأَوْزَاعِيِّ عَنْ عَطَاءٍ عَنِ ابْنِ عَبَّاسٍ قَالَ «تَزَوَّجَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ مُحْرِمٌ» .

[12] **Hadith references (L14092):** Sahih Muslim 1718b; Riyad as-Salihin 1647; Riyad as-Salihin 169.

said: “The Messenger of Allah (peace and blessings be upon him) married while in the state of *ihram*.”

وَبِمَا رُوِّينَاهُ مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حُمَيْدٍ عَنْ مُجَاهِدٍ عَنْ ابْنِ عَبَّاسٍ قَالَ «إِنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - تَزَوَّجَ مَيْمُونَةَ وَهُمَا مُحْرِمَانِ» وَكَذَلِكَ رُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ جَابِرِ بْنِ زَيْدٍ، وَعِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ.

L14100 And by what we have reported through the chain of Ḥammād ibn Salamah from Ḥumayd from Mujāhid from Ibn ʿAbbās, who said: “Indeed, the Messenger of Allāh—peace and blessings be upon him—married Maymūnah while both were in the state of iḥrām.” In the same manner, we have also reported it through the chain of Jābir ibn Zayd and ʿIkrimah from Ibn ʿAbbās.[13]

قَالَ عَلِيٌّ: فَعَارَضَهُمْ الْآخَرُونَ بِأَنْ ذَكَرُوا مَا رُوِّينَاهُ مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ نَا حَبِيبُ بْنُ الشَّهِيدِ عَنْ مَيْمُونِ بْنِ مِهْرَانٍ عَنْ زَيْدِ بْنِ الْأَصَمِّ ابْنِ أُخْتِ مَيْمُونَةَ أُمِّ الْمُؤْمِنِينَ «عَنْ مَيْمُونَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: تَزَوَّجَنِي رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَنَحْنُ حَلَالَانِ بِسَرِفَ» .

L14101 Ali said: The others opposed them by citing the narration we transmitted via the chain of Hammad ibn Salamah, who reported from Habib ibn Shahid, from Maymun ibn Mihran, from Zayd ibn al-Asamm, the nephew of Maymunah, the Mother of the Believers, from her, who said: “The Messenger of Allah, peace and blessings be upon him, married me while we were both in a permissible state at Sarif.”

قَالَ أَبُو مُحَمَّدٍ: فَقَالَ مَنْ أَجَازَ نِكَاحَ الْمُحْرِمِ: لَا يَعْدِلُ يَزِيدُ بْنُ الْأَصَمِّ أَعْرَابِيٌّ بَوَّالٌ عَلَى عَقِبَيْهِ بِعَبْدِ اللَّهِ بْنِ عَبَّاسٍ - وَقَالُوا: قَدْ يَخْفَى عَلَى مَيْمُونَةَ كَوْنُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مُحْرِمًا، فَالْمُخْبِرُ عَنْ كَوْنِهِ - عَلَيْهِ السَّلَامُ - مُحْرِمًا زَائِدٌ عِلْمًا، وَقَالُوا: خَبَرُ ابْنِ عَبَّاسٍ وَارِدٌ بِحُكْمٍ زَائِدٍ فَهُوَ أَوْلَى، وَقَالُوا فِي خَبَرِ عُثْمَانَ «لَا يَنْكِحُ الْمُحْرِمُ وَلَا يُنْكَحُ» : إنَّمَا مَعْنَاهُ لَا يُوطِئُ غَيْرَهُ وَلَا يَطَأُ، ثُمَّ اعْتَرَضُوا بِوَسَاوِسَ مِنْ الْقِيَاسِ عُورِضُوا بِمِثْلِهَا لَا فَائِدَةَ فِي ذِكْرِهَا، لِأَنَّهَا حَمَاقَاتٌ؟ قَالَ أَبُو مُحَمَّدٍ: هَذَا كُلُّ مَا شَغَبُوا بِهِ وَكُلُّهُ لَيْسَ بِشَيْءٍ، أَمَّا تَأْوِيلُهُمْ فِي خَبَرِ عُثْمَانَ - رَضِيَ اللَّهُ عَنْهُ - أَنَّ مَعْنَاهُ لَا يَطَأُ وَلَا يُوطِئُ: فَبَاطِلٌ وَتَخْصِيصٌ لِلْخَبَرِ بِالدَّعْوَى الْكَاذِبَةِ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذْ صَرَفُوا كَلَامَهُ - عَلَيْهِ السَّلَامُ - إلَى بَعْضِ مَا يَقْتَضِيهِ دُونَ بَعْضٍ وَهَذَا لَا يَجُوزُ، قَالَ تَعَالَى: {يُحَرِّفُونَ الْكَلِمَ عَنْ مَوَاضِعِهِ} [النساء: ٤٦] .

L14102 Abu Muhammad said: Those who permit the marriage of a pilgrim in consecration argue: Yazeed ibn al-Aṣamm—a foolish Bedouin—does not equate to Abdullah ibn Abbas. They claim: It is plausible that Maymunah remained unaware of the Messenger of Allah—peace and blessings of Allah be upon him—being in consecration, hence the narrator who informed of his consecration has additional knowledge. They assert: The report of Ibn Abbas includes an additional legal ruling, thus it takes precedence. Regarding Uthman’s narration, “A pilgrim in consecration neither marries nor is married,” they claim its meaning is: He neither causes others to engage in intercourse nor engages in it himself. Then they raised specious arguments derived from analogy, which were rebutted by similar ones—though mentioning them is pointless, as they are sheer foolishness. Abu Muhammad said: This constitutes all their clamorous objections, none of which holds validity. As for their interpretation of Uthman’s narration—may Allah be pleased with him—that it signifies “he neither engages in intercourse nor is made to engage in it,” this is false—an arbitrary restriction of the narration through a base-

[13] **Hadith references (L14100):** Sunan an-Nasai 2839.

less claim against the Messenger of Allah—peace and blessings of Allah be upon him—for they selectively interpreted his speech—peace be upon him—emphasizing some implications while ignoring others, which is impermissible. Allah the Exalted says: "They distort words from their proper contexts" (Quran 4:46).[14]

L14103 The misguidance of this interpretation is clarified by his statement (peace be upon him) - "nor shall he propose marriage" - whereby it is established that he (peace be upon him) intended the marriage which is the contract. It is impermissible to restrict this wording without clear textual evidence.

L14104–14106 As for their favoring Ibn Abbas's report over Maymunah's report due to their claim, "Yazid should not be equated with Ibn Abbas"—by God, we do not equate him with Ibn Abbas, nor is there any honor in doing so. This is their obfuscation, for Yazid narrated from Maymunah, while Ibn Abbas's companions narrated from Ibn Abbas. Let them now hear the truth—We declare: We do not equate Ibn Abbas, a child among the children of the Messenger of God's companions—peace and blessings be upon him—to... Maymunah, reclining with the Messenger of Allah (peace and blessings of Allah be upon him) upon shared bedding in the presence of the Most High, among the earliest in Islam and in companionship. However, we link Yazīd ibn al-Aṣam to the companions of Ibn ʿAbbās, and no definitive precedence is established for them over him.

L14107 As for their statement: "It is possible that the state of ihram of the Messenger of Allah - peace and blessings be upon him - was unknown to Maymunah when he married her," this is an absurd argument. They may be refuted by responding: "It is equally possible that the dissolution of the Messenger of Allah's ihram was unknown to Ibn Abbas." The one who reported his dissolution of ihram possessed additional knowledge. Thus, do we conclude that it might have been unknown or not unknown? As for their claim that Ibn Abbas's narration introduces an additional legal ruling - this is incorrect. Rather, Uthman's narration is the one that introduces the additional ruling, as we shall clarify if Allah the Exalted wills. Thus, all their specious arguments

وَيُبَيِّنُ ضَلَالَ هَذَا التَّأْوِيلِ قَوْلُهُ - عَلَيْهِ السَّلَامُ - «وَلَا يَخْطُبُ» فَصَحَّ أَنَّهُ - عَلَيْهِ السَّلَامُ - أَرَادَ النِّكَاحَ الَّذِي هُوَ الْعَقْدُ، وَلَا يَجُوزُ أَنْ يَخُصَّ هَذَا اللَّفْظَ بِلَا نَصٍّ بَيِّنٍ.

وَأَمَّا تَرْجِيحُهُمْ خَبَرَ ابْنِ عَبَّاسٍ عَلَى خَبَرِ مَيْمُونَةَ بِقَوْلِهِمْ: لَا يُقْرَنُ يَزِيدُ إلَى ابْنِ عَبَّاسٍ فَنَعَمْ وَاَللَّهِ لَا نَقْرِنُهُ إلَيْهِ وَلَا كَرَامَةَ، وَهَذَا تَمْوِيهٌ مِنْهُمْ إنَّمَا رَوَى يَزِيدُ عَنْ مَيْمُونَةَ، وَرَوَى أَصْحَابُ ابْنِ عَبَّاسٍ عَنْ ابْنِ عَبَّاسٍ، فَلْيَسْمَعُوا الْآنَ إلَى الْحَقِّ -: نَحْنُ نَقُولُ: لَا نَقْرِنُ ابْنَ عَبَّاسٍ صَبِيًّا مِنْ صِبْيَانِ أَصْحَابِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إلَى مَيْمُونَةَ الْمُتَّكِئَةِ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى فِرَاشٍ وَاحِدٍ فِي الرَّفِيقِ الْأَعْلَى، الْقَدِيمَةِ الْإِسْلَامِ وَالصُّحْبَةِ، وَلَكِنْ نَقْرِنُ يَزِيدَ بْنَ الْأَصَمِّ إلَى أَصْحَابِ ابْنِ عَبَّاسٍ، وَلَا يُقْطَعُ بِفَضْلِهِمْ عَلَيْهِ.

وَأَمَّا قَوْلُهُمْ: قَدْ يَخْفَى عَلَى مَيْمُونَةَ إحْرَامُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذْ تَزَوَّجَهَا فَكَلَامٌ سَخِيفٌ، وَيُعَارَضُونَ بِأَنْ يُقَالَ لَهُمْ: قَدْ يَخْفَى عَلَى ابْنِ عَبَّاسٍ إحْلَالُ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ إحْرَامِهِ، فَالْمُخْبِرَةُ عَنْ كَوْنِهِ قَدْ أَحَلَّ زَائِدَةٌ عِلْمًا، فَحَصَلْنَا عَلَى: قَدْ يَخْفَى وَقَدْ لَا يَخْفَى؟ وَأَمَّا قَوْلُهُمْ: خَبَرُ ابْنِ عَبَّاسٍ وَارِدٌ بِحُكْمٍ زَائِدٍ فَلَيْسَ كَذَلِكَ، بَلْ خَبَرُ عُثْمَانَ هُوَ الْوَارِدُ بِالْحُكْمِ الزَّائِدِ عَلَى مَا نُبَيِّنُ إنْ شَاءَ اللَّهُ تَعَالَى؛ فَبَطَلَ

[14] **Qur'an references (L14102):** Qur'an 4:46 (An-Nisa); Qur'an 5:13 (Al-Ma'idah).

are invalidated, leaving us to prefer Uthman's narration and Maymunah's narration over Ibn Abbas's narration - may Allah be pleased with them all.

كُلُّ مَا شَغَبُوا بِهِ، فَبَقِيَ أَنْ نُرَجِّحَ خَبَرَ عُثْمَانَ، وَخَبَرَ مَيْمُونَةَ عَلَى خَبَرِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمْ جَمِيعِهِمْ.

L14108 We say—and with Allah, the Exalted, is the tawfīq—: The report transmitted by Yazīd from Maymūnah is correct, while Ibn ʿAbbās's statement is undoubtedly an error on his part, due to clear aspects. The first of these: She—may Allah be pleased with her—knows better about herself than Ibn ʿAbbās due to her exclusive connection to that incident, from which he is excluded. This is beyond any doubt. The second aspect:

فَنَقُولُ وَبِاللَّهِ تَعَالَى التَّوْفِيقُ -: خَبَرُ يَزِيدَ عَنْ مَيْمُونَةَ هُوَ الْحَقُّ، وَقَوْلُ ابْنِ عَبَّاسٍ وَهْمٌ مِنْهُ بِلَا شَكٍّ لِوُجُوهٍ بَيِّنَةٍ -: أَوَّلُهَا: أَنَّهَا - رَضِيَ اللَّهُ عَنْهَا - أَعْلَمُ بِنَفْسِهَا مِنْ ابْنِ عَبَّاسٍ لِاخْتِصَاصِهَا بِتِلْكَ الْقِصَّةِ دُونَهُ، هَذَا مَا لَا يَشُكُّ فِيهِ أَحَدٌ. وَثَانِيهَا:

L14109 that she—may Allah be pleased with her—was at that time a woman in her full maturity, while Ibn Abbas—may Allah be pleased with him—was then ten years and months old. Thus, there is a distinction that cannot be overlooked between the two narrations. The third matter:

أَنَّهَا - رَضِيَ اللَّهُ عَنْهَا - كَانَتْ حِينَئِذٍ امْرَأَةً كَامِلَةً وَكَانَ ابْنُ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُ - يَوْمَئِذٍ ابْنَ عَشْرَةِ أَعْوَامٍ وَأَشْهُرٍ فَبَيْنَ الضَّبْطَيْنِ فَرْقٌ لَا يَخْفَى. وَالثَّالِثُ:

L14110 He—peace be upon him—married her during the Umrah al-Qaḍāʾ, a matter on which no two disagree. Mecca at that time was an abode of war, and he had only concluded a truce stipulating his entry to perform umrah and remain there for only three days before departing. He came from Medina in the state of ihram for umrah without prior preparations, proceeding to ṭawāf and saʿi while fulfilling the rites of his ihram within the prescribed time. None dispute that he married her in Mecca while physically present there, not in Medina.

أَنَّهُ - عَلَيْهِ السَّلَامُ - إِنَّمَا تَزَوَّجَهَا فِي عُمْرَةِ الْقَضَاءِ، هَذَا مَا لَا يَخْتَلِفُ فِيهِ اثْنَانِ وَمَكَّةُ يَوْمَئِذٍ دَارُ حَرْبٍ، وَإِنَّمَا هَادَنَهُمْ - عَلَيْهِ السَّلَامُ - عَلَى أَنْ يَدْخُلَهَا مُعْتَمِرًا وَيَبْقَى بِهَا ثَلَاثَةَ أَيَّامٍ فَقَطْ ثُمَّ يَخْرُجَ، فَأَتَى مِنَ الْمَدِينَةِ مُحْرِمًا بِعُمْرَةٍ وَلَمْ يُقَدِّمْ شَيْئًا، إِذْ دَخَلَ عَلَى الطَّوَافِ وَالسَّعْيِ وَتَمَّ إِحْرَامُهُ فِي الْوَقْتِ، وَلَمْ يَخْتَلِفْ أَحَدٌ فِي أَنَّهُ إِنَّمَا تَزَوَّجَهَا بِمَكَّةَ حَاضِرًا بِهَا لَا بِالْمَدِينَةِ.

L14111 Thus, it was established without doubt that he married her only after his Iḥrām was fully in effect, not during his Ṭawāf or Saʿī. Consequently, the ambiguity was entirely lifted, and the narration of Maymunah and the narration of ʿUthmān stood unchallenged. All praise is due to Allah, Lord of the worlds.

فَصَحَّ أَنَّهُ بِلَا شَكٍّ إِنَّمَا تَزَوَّجَهَا بَعْدَ تَمَامِ إِحْرَامِهِ لَا فِي حَالِ طَوَافِهِ وَسَعْيِهِ فَارْتَفَعَ الْإِشْكَالُ جُمْلَةً، وَبَقِيَ خَبَرُ مَيْمُونَةَ، وَخَبَرُ عُثْمَانَ، لَا مُعَارِضَ لَهُمَا وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

L14112–14113 Then, if the narration of Ibn Abbas were definitively authenticated while Maymunah's narration remained unauthenticated, the narration of Uthman would stand as the supplementary report that establishes a ruling which it is impermissible to contradict—because marriage has been lawful in all circumstances since God Almighty permitted it for the fasting person, the

ثُمَّ لَوْ صَحَّ خَبَرُ ابْنِ عَبَّاسٍ بِيَقِينٍ وَلَمْ يَصِحَّ خَبَرُ مَيْمُونَةَ لَكَانَ خَبَرُ عُثْمَانَ هُوَ الزَّائِدُ الْوَارِدُ بِحُكْمٍ لَا يَحِلُّ خِلَافُهُ، لِأَنَّ النِّكَاحَ مُذْ أَبَاحَهُ اللَّهُ تَعَالَى حَلَالٌ فِي كُلِّ حَالٍ لِلصَّائِمِ، وَالْمُحْرِمِ، وَالْمُجَاهِدِ، وَالْمُعْتَكِفِ، وَغَيْرِهِمْ، هَذَا مَا لَا شَكَّ فِيهِ.

pilgrim in a state of consecration, the one engaged in jihad, the one observing itikaf, and others. There is no doubt about this.

ثُمَّ لَمَّا أَمَرَ - عَلَيْهِ السَّلَامُ - بِأَنْ لَا يَنْكِحَ الْمُحْرِمُ، وَلَا يُنْكَحَ، وَلَا يَخْطُبَ كَانَ ذَلِكَ بِلَا شَكٍّ نَاسِخًا لِلْحَالِ الْمُتَقَدِّمَةِ مِنْ الْإِبَاحَةِ، لَا يُمْكِنُ غَيْرُ هَذَا أَصْلًا، وَكَانَ يَكُونُ خَبَرُ ابْنِ عَبَّاسٍ مَنْسُوخًا بِلَا شَكٍّ لِمُوَافَقَتِهِ لِلْحَالَةِ الْمَنْسُوخَةِ بِيَقِينٍ.

L14114 Then when he—peace be upon him—commanded that a muḥrim must not marry, nor be married off, nor propose marriage, this was undoubtedly an abrogation of the previous ruling of permissibility. No alternative to this is fundamentally possible. The narration of Ibn ʿAbbās would likewise be abrogated without doubt, as it certainly aligns with the abrogated ruling by definitive correspondence.

وَمَنْ ادَّعَى فِي حُكْمٍ قَدْ صَحَّ نَسْخُهُ وَبُطْلَانُهُ أَنَّهُ قَدْ عَادَ حُكْمُهُ وَبَطَلَ نَسْخُهُ فَقَدْ كَذَبَ أَوْ قَطَعَ بِالظَّنِّ إنْ لَمْ يُحَقِّقْ ذَلِكَ، وَكِلَاهُمَا لَا يَحِلُّ الْقَوْلُ بِهِ، وَلَا يَجُوزُ تَرْكُ الْيَقِينِ لِلظُّنُونِ.

L14115 Whoever claims regarding a ruling whose abrogation and nullification have been established as valid that its ruling has been reinstated and its abrogation nullified has either lied or - if he has not verified this - asserted definitively based on conjecture. Both claims are impermissible to uphold, and it is not permissible to abandon certainty for conjectures.

قَالَ أَبُو مُحَمَّدٍ: وَقَالُوا: لَمَّا حَلَّ لَهُ شِرَاءُ جَارِيَةٍ لِلْوَطْءِ وَلَا يَطَأُ: حَلَّ لَهُ نِكَاحُ زَوْجَةٍ لِلْوَطْءِ وَلَا يَطَأُ؟ فَقُلْنَا لَهُمْ: لَوْ اسْتَعْمَلْتُمْ هَذَا فِي قَوْلِكُمْ: لَا يَكُونُ صَدَاقٌ يُسْتَبَاحُ بِهِ الْفَرْجُ أَقَلَّ مِنْ عَشَرَةِ دَرَاهِمَ، فَهَلَّا قُلْتُمْ: كَمَا حَلَّ لَهُ اسْتِبَاحَةُ فَرْجِ جَارِيَةٍ مُحْرِمَةٍ بِأَنْ يَبْتَاعَهَا بِدِرْهَمٍ حَلَّ لَهُ فَرْجُ زَوْجَةٍ مُحْرِمَةٍ بِأَنْ يَصْدُقَهَا دِرْهَمًا؟ وَالْقِيَاسَاتُ لَا يُعَارَضُ بِهَا الْحَقُّ؛ لِأَنَّ الْقِيَاسَ كُلَّهُ بَاطِلٌ.

L14116 Abū Muḥammad said: They argued: Since it is permissible for him to purchase an enslaved woman in iḥrām for intercourse without engaging in it, does it then become permissible for him to marry a wife in iḥrām for intercourse without engaging in it? We replied to them: If you applied this reasoning to your claim that no dower permitting lawful sexual intercourse may be less than ten dirhams, then why did you not argue: Just as it is permissible for him to lawfully access the sexual intercourse of an enslaved woman in iḥrām by purchasing her for a dirham, it is permissible for him to access the sexual intercourse of a wife in iḥrām by stipulating a dirham as her dower? Analogies cannot oppose the divine truth, for all analogy is invalid.

وَقَالُوا: كَمَا جَازَ لَهُ أَنْ يُرَاجِعَ الْمُطَلَّقَةَ فِي عِدَّتِهَا جَازَ لَهُ ابْتِدَاءُ النِّكَاحِ؟ فَقُلْنَا: هَذَا بَاطِلٌ؛ لِأَنَّهُ لَوْ كَانَ قِيَاسُ النِّكَاحِ عَلَى الْمُرَاجَعَةِ حَقًّا لَوَجَبَ أَنْ يَقُولُوا: كَمَا جَازَتْ الْمُرَاجَعَةُ بِغَيْرِ إذْنِهَا وَلَا إذْنِ وَلِيِّهَا، وَبِغَيْرِ صَدَاقٍ: وَجَبَ أَنْ يَجُوزَ النِّكَاحُ بِغَيْرِ إذْنِهَا وَلَا إذْنِ وَلِيِّهَا وَبِغَيْرِ صَدَاقٍ، وَهُمْ لَا يَقُولُونَهُ، وَهَذِهِ صِفَةُ قِيَاسَاتِهِمْ السَّخِيفَةِ؟ وَأَمَّا

L14117 They argued: Just as it is permissible for him to reconcile with the divorced woman during her waiting period, should it not likewise be permissible for him to initiate a new marriage? We responded: This is invalid, for if the analogy between marriage and reconciliation were valid, they would necessarily have to say: Just as reconciliation is permissible without her consent or her guardian's consent, and without mahr, marriage should likewise be permissible without her consent, her guardian's consent, or mahr - yet they do not hold this view. Does this not characterize their absurd analogies? As

for the Malikis, they permitted the marriage of a gifted woman when mahr was specified, prohibited the marriage of a pilgrim in the state of consecration, and continue to assert regarding divine commands: "This is merely recommended."

L14118 As for their [the scholars'] interpretation of the Prophet's saying—peace be upon him—"None of you should urinate in stagnant water and then perform ablution from it," they assert that it is merely a recommendation (nadb).

L14119 Why, then, did they not say here regarding the Prophet's statement (peace be upon him), "A pilgrim in sacred state may neither marry nor be married": is this a recommendable act? Yet they proceed only upon what is superficially apparent—and success comes solely from Allah, the Most High.

## [An Issue Regarding the Drinking of Zamzam Water]

L14120–14121

L14122 Issue:

L14123 It is recommended to drink Zamzam water abundantly, to draw it with one's own hand, and to partake of the water provided by its custodians. This is based on what was transmitted in Ṣaḥīḥ Muslim: Isḥāq ibn Rāhawayh narrated to us from Ḥātim ibn Ismāʿīl, the Medinan, from Jaʿfar ibn Muḥammad, from his father, from Jābir ibn ʿAbdullāh, who recounted the ḥadīth of the Prophet's Hajj (peace be upon him). He said: "Then the Messenger of Allah (peace be upon him) mounted his ride and departed after performing the ṭawāf of the House. He prayed the noon prayer in Mecca and approached Banū ʿAbd al-Muṭṭalib, who were providing Zamzam water. He said: 'Draw water, Banū ʿAbd al-Muṭṭalib! Were it not that people might overwhelm you in your custodianship, I would draw it alongside you.' They handed him a bucket, and he drank from it."[15]

L14124 Through the chain in Muslim: Muhammad ibn al-Minhal al-Darir narrated to us, Yazid ibn Zurayʿ narrated to us from Humaid al-Tawil from Bakr ibn Abdullah al-Muzani that he heard Ibn Abbas say: "The Prophet (peace and

[15] **Hadith references (L14123):** Sunan Abi Dawud 1905; Sahih Muslim 1218a; Mishkat al-Masabih 2555.

الْمَالِكِيُّونَ فَإِنَّهُمْ أَجَازُوا نِكَاحَ الْمَوْهُوبَةِ إِذَا ذُكِرَ فِيهِ صَدَاقٌ، وَمَنَعُوا مِنْ نِكَاحِ الْمُحْرِمِ، وَهُمْ لَا يَزَالُونَ يَقُولُونَ فِي الْأَوَامِرِ: هَذَا نَدْبٌ.

كَقَوْلِهِمْ فِي قَوْلِهِ - عَلَيْهِ السَّلَامُ - «لَا يَبُولَنَّ أَحَدُكُمْ فِي الْمَاءِ الدَّائِمِ، ثُمَّ يَتَوَضَّأُ مِنْهُ» إِنَّمَا هُوَ نَدْبٌ.

فَهَلَّا قَالُوا: هَاهُنَا فِي قَوْلِهِ - عَلَيْهِ السَّلَامُ -: «لَا يَنْكِحُ الْمُحْرِمُ وَلَا يُنْكَحُ» : هَذَا نَدْبٌ؟ وَلَكِنَّهُمْ إِنَّمَا يَجْرُونَ عَلَى مَا سَنَحَ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةُ شُرْبِ مَاءِ زَمْزَمَ]

مَسْأَلَةٌ:

وَيُسْتَحَبُّ الْإِكْثَارُ مِنْ شُرْبِ مَاءِ زَمْزَمَ، وَأَنْ يَسْتَقِيَ بِيَدِهِ مِنْهَا، وَأَنْ يَشْرَبَ مِنْ نَبِيذِ السِّقَايَةِ -: لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا إِسْحَاقُ بْنُ رَاهَوَيْهِ عَنْ حَاتِمِ بْنِ إِسْمَاعِيلَ الْمَدَنِيِّ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ فَذَكَرَ حَدِيثَ حَجَّةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «ثُمَّ رَكِبَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَأَفَاضَ بِالْبَيْتِ فَصَلَّى بِمَكَّةَ الظُّهْرَ وَأَتَى بَنِي عَبْدِ الْمُطَّلِبِ يَسْقُونَ عَلَى زَمْزَمَ فَقَالَ: انْزِعُوا بَنِي عَبْدِ الْمُطَّلِبِ فَلَوْلَا أَنْ يَغْلِبَكُمْ النَّاسُ عَلَى سِقَايَتِكُمْ لَنَزَعْتُ مَعَكُمْ فَنَاوَلُوهُ دَلْوًا فَشَرِبَ مِنْهُ» .

وَمِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ الْمِنْهَالِ الضَّرِيرُ نَا يَزِيدُ بْنُ زُرَيْعٍ عَنْ حُمَيْدٍ الطَّوِيلِ عَنْ بَكْرِ بْنِ عَبْدِ اللَّهِ الْمُزَنِيِّ أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ يَقُولُ: «قَدِمَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى رَاحِلَتِهِ وَخَلْفَهُ أُسَامَةُ فَاسْتَسْقَى فَأَتَيْنَاهُ بِإِنَاءٍ مِنْ نَبِيذٍ فَشَرِبَ وَسَقَى فَضْلَهُ أُسَامَةَ

blessings of Allah be upon him) arrived on his mount with Usama behind him. He requested water, so we brought him a vessel of nabidh. He drank and gave the remainder to Usama, saying: 'You have done well and excelled. Do thus.' Ibn Abbas said: 'We do not wish to change anything the Messenger of Allah (peace and blessings of Allah be upon him) commanded.'"

L14125 And through the chain of Abd al-Razzaq, who narrated to us from Ma'mar and Sufyan ibn Uyaynah, from Abdullah ibn Tawus, from his father—and he [Tawus] mentioned the matter of the Prophet's (peace be upon him) drinking from Zamzam water and from the drink of the water provision of Abbas, the aforementioned nabidh. Tawus said: "It is from the completion of Hajj."

L14126 Abu Muhammad said: Allah said: "In the Messenger of Allah there is indeed an excellent model for you" [al-Aḥzāb: 21].[16]

## L14127 A legal issue: When one misses the congregational prayer behind the Imam at Arafah or Muzdalifah.

L14128 871: Issue

L14129 Whoever misses the prayer with the Imam at 'Arafah or Muzdalifah during Maghrib and 'Ishā', he is obligated to combine the two prayers, just as if he had prayed the two prayers with the Imam at 'Arafah.

L14130 If one joins the Imam during the ʿAṣr prayer, it becomes obligatory for him to enter [the prayer] with him and intend Ẓuhr for it. Nothing else suffices him.

L14131–14132 When the Imam performs the Taslim, the worshiper should complete their prayer if any part of it remains unfinished, then pray the ʿAṣr prayer in congregation if possible; otherwise, they should pray it individually.

L14133 Similarly, if he finds the Imam at Muzdalifah during the later Isha prayer

[16] **Qur'an references (L14126):** Qur'an 33:21 (Al-Ahzab).

وَقَالَ: أَحْسَنْتُمْ وَأَجْمَلْتُمْ هَكَذَا فَاصْنَعُوا، قَالَ ابْنُ عَبَّاسٍ: فَنَحْنُ لَا نُرِيدُ أَنْ نُغَيِّرَ مَا أَمَرَ بِهِ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -» .

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا مَعْمَرٌ وَسُفْيَانَ بْنِ عُيَيْنَةَ «عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ فَذَكَرَ أَمْرَ شُرْبِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ مَاءِ زَمْزَمَ وَمِنْ شَرَابِ سِقَايَةِ الْعَبَّاسِ النَّبِيذِ الْمَذْكُورِ فَقَالَ طَاوُسٍ: هُوَ مِنْ تَمَامِ الْحَجِّ» .

قَالَ أَبُو مُحَمَّدٍ: قَالَ اللَّهُ تَعَالَى: {لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللَّهِ أُسْوَةٌ حَسَنَةٌ} [الأحزاب: ٢١] .

## [مَسْأَلَةٌ فَائِتَهُ الصَّلَاةُ مَعَ الْإِمَامِ بِعَرَفَةَ أَوْ مُزْدَلِفَةَ]

٨٧١ - مَسْأَلَةٌ:

وَمَنْ فَاتَتْهُ الصَّلَاةُ مَعَ الْإِمَامِ بِعَرَفَةَ أَوْ مُزْدَلِفَةَ فِي الْمَغْرِبِ وَالْعِشَاءِ فَفَرْضٌ عَلَيْهِ أَنْ يَجْمَعَ بَيْنَهُمَا كَمَا لَوْ صَلَّاهُمَا مَعَ الْإِمَامِ بِعَرَفَةَ.

فَلَوْ أَدْرَكَ الْإِمَامَ فِي الْعَصْرِ لَزِمَهُ أَنْ يَدْخُلَ مَعَهُ وَيَنْوِيَ بِهَا الظُّهْرَ وَلَا بُدَّ، لَا يُجْزِيه غَيْرُ ذَلِكَ.

فَإِذَا سَلَّمَ الْإِمَامُ أَتَمَّ صَلَاتَهُ إِنْ كَانَ بَقِيَ عَلَيْهِ مِنْهَا شَيْءٌ، ثُمَّ صَلَّى الْعَصْرَ إِنْ أَمْكَنَهُ فِي جَمَاعَةٍ وَإِلَّا فَوَحْدَهُ.

وَكَذَلِكَ لَوْ وَجَدَ الْإِمَامَ بِمُزْدَلِفَةَ فِي الْعِشَاءِ الْآخِرَةِ فَلْيَدْخُلْ مَعَهُ وَلْيَنْوِ بِهَا الْمَغْرِبَ وَلَا بُدَّ، لَا يُجْزِئُهُ غَيْرُ ذَلِكَ.

time, he must join him and include the intention for Maghrib in it; no other action is valid.

أَمَّا الْجَمْعُ فَإِنَّهُ حُكْمُ هَذِهِ الصَّلَوَاتِ هُنَالِكَ فِي ذَلِكَ الْيَوْمِ، وَتِلْكَ اللَّيْلَةِ بِالنَّصِّ، وَالْإِجْمَاعِ فَلَا يَجُوزُ لَهُ خِلَافُ ذَلِكَ.

L14134 As for combining prayers, the ruling regarding these prayers in that location during that day and that night is established by scriptural text and scholarly consensus. Therefore, it is not permissible for anyone to act contrary to this ruling.

وَأَمَّا تَقْدِيمُ الظُّهْرِ وَالْمَغْرِبِ فَلِأَنَّهُمَا قَبْلَ الْعَصْرِ وَالْعَتَمَةِ وَلَا يَحِلُّ تَقْدِيمُ مُؤَخَّرَةٍ مِنْهُمَا وَلَا تَأْخِيرُ مُقَدَّمَةٍ، وَقَدْ ذَكَرْنَا فِي كِتَابِ الصَّلَاةِ جَوَازَ اخْتِلَافِ نِيَّةِ الْإِمَامِ وَالْمَأْمُومِ.

L14135 As for advancing the Ẓuhr and Maghrib prayers, this is because they precede the ʿAṣr and ʿIshāʾ prayers. It is impermissible to advance a delayed prayer into the time of the former or to delay an advanced prayer into the time of the latter. We have mentioned in the Chapter on Prayer the permissibility of differing intentions between the Imam and the congregant.

فَإِنْ أَدْرَكَهَا مِنْ أَوَّلِهَا فَلْيَقْعُدْ فِي الثَّالِثَةِ وَلَا يَقُمْ حَتَّى يَقَعَ الْإِمَامُ، فَإِذَا سَلَّمَ الْإِمَامُ سَلَّمَ مَعَهُ، وَإِنْ أَدْرَكَ مَعَهُ ثَلَاثَ رَكَعَاتٍ فَلْيَقُمْ فِي الثَّانِيَةِ بِقِيَامِ الْإِمَامِ وَلَا بُدَّ، وَلْيَقْعُدْ فِي الْأُولَى بِقُعُودِهِ وَلْيُسَلِّمْ بِسَلَامِهِ.

L14136 If he catches the prayer from its beginning, he should sit in the third rak'ah and not rise until the Imam has settled into sitting. When the Imam gives the salutation, he should give the salutation with him. If he joins the Imam for three rak'ahs of a four-rak'ah prayer, he must necessarily stand for his own second rak'ah when the Imam stands, sit during his first sitting when the Imam sits, and give the salutation with the Imam's salutation.

أَمَّا قُعُودُهُ فِي الثَّالِثَةِ، فَلِأَنَّهُ لَوْ قَامَ لَصَلَّى الْمَغْرِبَ أَرْبَعًا عَامِدًا، وَهَذَا حَرَامٌ وَفَسَادٌ لِلصَّلَاةِ وَكُفْرٌ مِمَّنْ دَانَ بِهِ.

L14137 As for his sitting in the third [rakʿah], it is because if he were to stand, he would intentionally pray Maghrib as four [rakʿahs]. This is forbidden, a nullification of the prayer, and disbelief (kufr) by whoever professes it.

وَأَمَّا إِنْ أَدْرَكَ ثَلَاثًا فَقَطْ فَقُعُودُهُ فِي الْأُولَى لِقَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «إِنَّمَا جُعِلَ الْإِمَامُ لِيُؤْتَمَّ بِهِ» وَلَا خِلَافَ فِي نَصٍّ وَلَا بَيْنَ الْأُمَّةِ فِي أَنَّ الْمَأْمُومَ إِنْ وَجَدَ الْإِمَامَ جَالِسًا جَلَسَ مَعَهُ، وَكَذَلِكَ مَنْ أَدْرَكَ رَكْعَةً مِنْ أَيِّ الصَّلَوَاتِ كَانَتْ فَإِنَّهُ يَجْلِسُ وَلَوْ كَانَ مُنْفَرِدًا أَوْ إِمَامًا لَقَامَ.

L14138 As for one who catches only three rakʿahs, his sitting in the first sitting position is based on the Prophet's statement—peace and blessings of Allah be upon him—"The Imam is appointed to be followed." There is no disagreement in any explicit textual source or within the Ummah that if the follower finds the Imam sitting, he sits with him. Similarly, whoever joins the prayer in one rakʿah of any prayer sits [with the Imam]—but if he were praying alone or leading as Imam, he would stand.

وَأَمَّا قِيَامُهُ مِنْ الثَّانِيَةِ، فَلِلنَّصِّ الْوَارِدِ وَالْإِجْمَاعِ فِي أَنَّ الْإِمَامَ إِنْ قَامَ مِنْ اثْنَتَيْنِ سَاهِيًا فَفَرْضٌ عَلَى الْمَأْمُومِينَ اتِّبَاعُهُ فِي ذَلِكَ.

L14139 As for his standing up from the second unit, this ruling is based on the transmitted text and consensus, which state that if the Imam rises from two units due to forgetfulness, it is obligatory upon the congregation to follow him in standing for that action.

L14140 All of this applies if the Imam completes it or the follower is among those who complete it; otherwise, no.

هَذَا كُلُّهُ إِنْ أَتَمَّ الْإِمَامُ أَوْ كَانَ الْمَأْمُومُ مِمَّنْ يُتِمُّ وَإِلَّا فَلَا.

L14141 When he completes the Maghrib prayer, he must pray the ‘atamah prayer in congregation or alone if he cannot find a congregation. And success is from Allah, the Most High.

فَإِذَا أَتَمَّ صَلَاةَ الْمَغْرِبِ صَلَّى الْعَتَمَةَ فِي جَمَاعَةٍ أَوْ وَحْدَهُ إِنْ لَمْ يَجِدْ جَمَاعَةً وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14142 **Case: He was in Tawaf when the iqamah for the prayer was established.**

## [مَسْأَلَةٌ كَانَ فِي طَوَافٍ فَأُقِيمَتْ الصَّلَاةُ]

L14143 872 - Issue:

٨٧٢ - مَسْأَلَةٌ:

L14144 If someone is performing an obligatory or voluntary *ṭawāf* and the *iqāmah* is called, a funeral prayer occurs, or he feels the need to relieve himself, he should pray, leave to attend to his need, then resume and complete his *ṭawāf*.

وَمَنْ كَانَ فِي طَوَافِ فَرْضٍ أَوْ تَطَوُّعٍ فَأُقِيمَتْ الصَّلَاةُ أَوْ عَرَضَتْ لَهُ صَلَاةُ جِنَازَةٍ، أَوْ عَرَضَ لَهُ بَوْلٌ، أَوْ حَاجَةٌ، فَلْيُصَلِّ وَلْيَخْرُجْ لِحَاجَتِهِ، ثُمَّ لِيَبْنِ عَلَى طَوَافِهِ وَيُتِمَّهُ.

L14145–14146 Similarly, whoever is afflicted by any of the things we have mentioned during his Sa’i between Safa and Marwah, and there is no difference—this is the opinion of Abu Hanifah and Al-Shafi’i.

وَكَذَلِكَ مَنْ عَرَضَ لَهُ شَيْءٌ مِمَّا ذَكَرْنَا فِي سَعْيِهِ بَيْنَ الصَّفَا وَالْمَرْوَةِ وَلَا فَرْقَ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ.

L14147 Mālik said: As for the obligatory circumambulation, one must begin except only in the case of the prescribed prayer, for one prays it and then resumes. As for voluntary circumambulation, one resumes in all such cases.

وَقَالَ مَالِكٌ: أَمَّا فِي الطَّوَافِ الْوَاجِبِ فَيَبْتَدِئُ وَلَا بُدَّ إلَّا فِي الصَّلَاةِ الْمَكْتُوبَةِ فَقَطْ، فَإِنَّهُ يُصَلِّيهَا ثُمَّ يَبْنِي؛ وَأَمَّا فِي طَوَافِ التَّطَوُّعِ فَيَبْنِي فِي كُلِّ ذَلِكَ.

L14148 Abu Muhammad said: This categorization has absolutely no proof of its validity whatsoever. No textual evidence or consensus exists obligating the restart of Tawaf and Sa‘i if interrupted for a legitimate need, nor invalidating the circuits and Sa‘i already performed. Allah the Exalted said: “And do not nullify your deeds” [47:33]. He only prescribed Tawaf and Sa‘i as seven circuits, and no text mandates their uninterrupted continuity. This is solely an action of the Prophet—peace and blessings be upon him. As for one who interrupts them frivolously, there is no validity to the deeds of one who acts frivolously, and they do not suffice him. From Muhammad ibn Sa‘id ibn Nubat, from Ahmad ibn ‘Abd al-Basir, from Qasim ibn Asbagh, from Muhammad ibn ‘Abd al-Salam al-Khushani, from Muhammad ibn al-Muthanna, from Mu’ammal ibn Isma‘il al-Himyari, from Sufyan al-Thawri,

قَالَ أَبُو مُحَمَّدٍ: هَذَا تَقْسِيمٌ لَا بُرْهَانَ عَلَى صِحَّتِهِ أَصْلًا، وَلَمْ يَأْتِ نَصٌّ وَلَا إجْمَاعٌ عَلَى وُجُوبِ ابْتِدَاءِ الطَّوَافِ وَالسَّعْيِ إنْ قَطَعَ لِحَاجَةٍ، وَلَا بِإِبْطَالِ مَا طَافَ مِنْ أَشْوَاطِهِ وَسَعَى، وَقَدْ قَالَ اللَّهُ تَعَالَى: {وَلا تُبْطِلُوا أَعْمَالَكُمْ} [محمد: ٣٣] وَإِنَّمَا افْتَرَضَ الطَّوَافَ وَالسَّعْيَ سَبْعًا، وَلَمْ يَأْتِ نَصٌّ بِوُجُوبِ اتِّصَالِهِ وَإِنَّمَا هُوَ عَمَلٌ مِنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَطْ، وَأَمَّا مَنْ فَعَلَ ذَلِكَ عَبَثًا فَلَا عَمَلَ لِعَابِثٍ وَلَا يُجْزِئُهُ -: نَا مُحَمَّدُ بْنُ سَعِيدِ بْنِ نُبَاتٍ نَا أَحْمَدُ بْنُ عَبْدِ الْبَصِيرِ نَا قَاسِمُ بْنُ أَصْبَغَ نَا مُحَمَّدُ بْنُ عَبْدِ السَّلَامِ الْخُشَنِيُّ نَا

from Jamil ibn Zayd, who said: I saw Ibn ʿUmar perform three circuits on a hot day. When overcome by heat, he entered the Hijr to rest, then emerged and resumed his Tawaf from where he had left off.[17]

مُحَمَّدُ بْنُ الْمُثَنَّى نَا مُؤَمَّلُ بْنُ إِسْمَاعِيلَ الْحِمْيَرِيُّ نَا سُفْيَانُ الثَّوْرِيُّ نَا جَمِيلُ بْنُ زَيْدٍ قَالَ: رَأَيْت ابْنَ عُمَرَ طَافَ فِي يَوْمٍ حَارٍّ ثَلَاثَةَ أَطْوَافٍ، ثُمَّ أَصَابَهُ حَرٌّ فَدَخَلَ الْحِجْرَ فَجَلَسَ، ثُمَّ خَرَجَ فَبَنَى عَلَى مَا كَانَ طَافَ.

L14149 From ʿAṭāʾ: There is no harm in a person sitting during Ṭawāf to rest. As for one who encounters a need during his Ṭawāf, he may leave to fulfill it, then continue from where he had performed Ṭawāf—and with Allah, the Exalted, is all success.

وَعَنْ عَطَاءٍ: لَا بَأْسَ بِأَنْ يَجْلِسَ الْإِنْسَانُ فِي الطَّوَافِ لِيَسْتَرِيحَ وَفِيمَنْ عَرَضَتْ لَهُ حَاجَةٌ فِي طَوَافِهِ لِيَذْهَبَ وَلِيَقْضِ حَاجَتَهُ، ثُمَّ يَبْنِي عَلَى مَا كَانَ طَافَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ مَنْ عَرَضَ لَهُ مَا يَمْنَعُهُ مِنْ إتْمَامِ حَجِّهِ أَوْ عُمْرَتِهِ]

L14150 **Issue: One who encounters something that prevents the completion of his Ḥajj or ʿUmrah.**

٨٧٣ - مَسْأَلَةٌ:

L14151 873: Issue:

وَأَمَّا الْإِحْصَارُ فَإِنَّ كُلَّ مَنْ عَرَضَ لَهُ مَا يَمْنَعُهُ مِنْ إتْمَامِ حَجِّهِ أَوْ عُمْرَتِهِ، قَارِنًا كَانَ، أَوْ مُتَمَتِّعًا، مِنْ عَدُوٍّ، أَوْ مَرَضٍ، أَوْ كَسْرٍ، أَوْ خَطَأِ طَرِيقٍ، أَوْ خَطَأٍ فِي رُؤْيَةِ الْهِلَالِ، أَوْ سِجْنٍ، أَوْ أَيِّ شَيْءٍ كَانَ: فَهُوَ مُحْصِرٌ.

L14152 As for al-Iḥṣār, indeed anyone prevented from completing his Hajj or Umrah—whether as a Qārin or Mutamattiʿ—by any obstacle such as an enemy, illness, fracture, route error, mistaken crescent sighting, imprisonment, or any impediment whatsoever becomes a muḥṣir.

فَإِنْ كَانَ اشْتَرَطَ عِنْدَ إحْرَامِهِ كَمَا قَدَّمْنَا أَنَّ مَحَلَّهُ حَيْثُ حَبَسَهُ اللَّهُ عَزَّ وَجَلَّ فَلْيَحِلَّ مِنْ إحْرَامِهِ وَلَا شَيْءَ عَلَيْهِ، سَوَاءٌ شَرَعَ فِي عَمَلِ الْحَجِّ، أَوْ الْعُمْرَةِ، أَوْ لَمْ يَشْرَعْ بَعْدُ، قَرِيبًا كَانَ أَوْ بَعِيدًا، مَضَى لَهُ أَكْثَرُ فَرْضِهِمَا أَوْ أَقَلُّهُ، كُلُّ ذَلِكَ سَوَاءٌ وَلَا هَدْيَ فِي ذَلِكَ وَلَا غَيْرِهِ، وَلَا قَضَاءَ عَلَيْهِ فِي شَيْءٍ مِنْ ذَلِكَ إلَّا أَنْ يَكُونَ لَمْ يَحُجَّ قَطُّ وَلَا اعْتَمَرَ، فَعَلَيْهِ أَنْ يَحُجَّ وَيَعْتَمِرَ وَلَا بُدَّ.

L14153 If he stipulated at the time of entering iḥrām—as we earlier established that its place is where Allah the Exalted has detained him—he must exit his iḥrām with no obligation upon him. This applies equally whether he had begun performing the acts of Ḥajj or ʿUmrah or not yet started, whether near or far, whether most or few of their obligatory acts had been completed. All these scenarios are equivalent, requiring no sacrificial offering nor anything else, nor is he required to make up anything from these—except if he has never performed Ḥajj or ʿUmrah at all, in which case he must necessarily perform both Ḥajj and ʿUmrah.

فَإِنْ كَانَ لَمْ يَشْتَرِطْ كَمَا ذَكَرْنَا فَإِنَّهُ يَحِلُّ أَيْضًا كَمَا ذَكَرْنَا سَوَاءٌ سَوَاءٌ وَلَا فَرْقَ، وَعَلَيْهِ هَدْيٌ وَلَا بُدَّ، كَمَا قُلْنَا فِي هَدْيِ الْمُتْعَةِ سَوَاءٌ سَوَاءٌ إلَّا أَنَّهُ لَا يُعَوَّضُ مِنْ هَذَا الْهَدْيِ

L14154–14156 If he did not stipulate as we mentioned, then it becomes permissible as stated, exactly the same, exactly the same, with no difference whatsoever,

[17] **Qur'an references (L14148):** Qur'an 47:33 (Muhammad).

and he remains obligated. The sacrificial offering is necessarily required, as we previously explained regarding the sacrificial offering for Tamattuʿ—entirely the same—except that neither fasting nor any substitute can compensate for this offering. Whoever cannot afford it retains this as an outstanding obligation until they acquire it. No compensatory act is required unless one has never performed Hajj or ʿUmrah at all; in that case, they must perform Hajj and ʿUmrah for the first time.

صَوْمٌ وَلَا غَيْرُهُ، فَمَنْ لَمْ يَجِدْهُ فَهُوَ عَلَيْهِ دَيْنٌ حَتَّى يَجِدَهُ، وَلَا قَضَاءَ عَلَيْهِ إِلَّا إِنْ كَانَ لَمْ يَحُجَّ قَطُّ وَلَا اعْتَمَرَ، فَعَلَيْهِ أَنْ يَحُجَّ وَيَعْتَمِرَ.

L14157 The Companions and those after them differed concerning al-ihsar. It has been narrated to us through the narration of Waki‘, Sufyan al-Thawri from Musa ibn ‘Uqbah from Nafi‘ from Ibn ‘Umar, who said: “There is no ihsar except by an enemy.”

وَاخْتَلَفَ الصَّحَابَةُ وَمَنْ بَعْدَهُمْ فِي الْإِحْصَارِ -: فَرُوِّينَا مِنْ طَرِيقِ وَكِيعٍ: نَا سُفْيَانُ الثَّوْرِيُّ عَنْ مُوسَى بْنِ عُقْبَةَ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ، قَالَ: لَا إِحْصَارَ إِلَّا مِنْ عَدُوٍّ.

L14158 From the chain of Muslim: Ishaq ibn Ibrahim—that is, Ibn Rahawayh—reported to us; Isa ibn Yunus reported to us from Zakariyya—that is, Ibn Abi Za’ida—from Abu Ishaq al-Sabi’i, from Al-Bara’ ibn Azib, who said: “When the Prophet—peace and blessings of Allah be upon him—was prevented from entering Mecca near the Kaaba, its people reconciled with him on the condition that he would enter it and remain for three days, entering only with sheathed weapons—the sword and its scabbard. He would not take any of its inhabitants with him when departing, nor prevent any of his companions from choosing to stay there.” Thus, Al-Bara’ termed the enemy’s prevention as iḥṣār (detainment).

وَمِنْ طَرِيقِ مُسْلِمٍ نَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - أَنَا عِيسَى بْنُ يُونُسَ نَا زَكَرِيَّا هُوَ ابْنُ أَبِي زَائِدَةَ - عَنْ أَبِي إِسْحَاقَ السَّبِيعِيِّ عَنِ الْبَرَاءِ بْنِ عَازِبٍ، قَالَ: «لَمَّا أُحْصِرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عِنْدَ الْبَيْتِ صَالَحَهُ أَهْلُ مَكَّةَ عَلَى أَنْ يَدْخُلَهَا فَيُقِيمَ بِهَا ثَلَاثًا وَلَا يَدْخُلَهَا إِلَّا بِجُلُبَّانِ السِّلَاحِ السَّيْفِ وَقِرَابِهِ، وَلَا يَخْرُجُ بِأَحَدٍ مَعَهُ مِنْ أَهْلِهَا، وَلَا يَمْنَعُ أَحَدًا يَمْكُثُ بِهَا مِمَّنْ كَانَ مَعَهُ» فَسَمَّى الْبَرَاءُ مَنْعَ الْعَدُوِّ: إِحْصَارًا.

L14159 It has been narrated to us from Ibrāhīm al-Nakhaʿī that prevention [from completing the pilgrimage] (al-iḥṣār) can result from fear, illness, or physical incapacitation. Through Ibn Jurayj’s transmission from ʿAṭāʾ, it is stated: Al-iḥṣār applies to anything that prevents one [from continuing the rites].

وَرُوِّينَا عَنْ إِبْرَاهِيمَ النَّخَعِيِّ: الْإِحْصَارُ مِنَ الْخَوْفِ وَالْمَرَضِ، وَالْكَسْرِ؛ وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ قَالَ: الْإِحْصَارُ مِنْ كُلِّ شَيْءٍ يَحْبِسُهُ.

L14160 As for al-ḥaṣr (confinement): It has been narrated to us from Mujāhid, from Ibn Masʿūd, that he said: “Confinement, illness, fracture, and the like.”

وَأَمَّا الْحَصْرُ -: فَرُوِّينَا عَنْ مُجَاهِدٍ عَنِ ابْنِ مَسْعُودٍ أَنَّهُ قَالَ: الْحَصْرُ، وَالْمَرَضُ، وَالْكَسْرُ، وَشِبْهُهُ.

L14161 And through the chain of Ibn Jurayj from Ibn Tāwūs from his father from Ibn ʿAbbās, who said: There is no preclusion except for someone prevented by an enemy.

وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنِ ابْنِ طَاوُسٍ عَنْ أَبِيهِ عَنِ ابْنِ عَبَّاسٍ قَالَ: لَا حَصْرَ إِلَّا مَنْ حَبَسَهُ عَدُوٌّ.

L14162 Tawus said: “There is no restriction now; the restriction has indeed ended.”

وَعَنْ طَاوُسٍ قَالَ: لَا حَصْرَ الْآنَ، قَدْ ذَهَبَ الْحَصْرُ.

L14163 And from ʿAlqamah: Al-ḥaṣr is fear and sickness.

وَعَنْ عَلْقَمَةَ: الْحَصْرُ الْخَوْفُ وَالْمَرَضُ.

L14164 From Hisham ibn Urwah, from his father, who said: Hindrance refers to what detains a person, such as illness, fear, or seeking a lost item.

وَعَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ قَالَ: الْحَصْرُ مَا حَبَسَهُ مِنْ حَابِسٍ مِنْ وَجَعٍ، أَوْ خَوْفٍ، أَوْ ابْتِغَاءِ ضَالَّةٍ.

L14165 From Ma’mar, on the authority of al-Zuhri, who said: Al-ḥaṣr is what prevents him due to pain or an enemy until Hajj becomes impossible for him.

وَعَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ قَالَ: الْحَصْرُ مَا مَنَعَهُ مِنْ وَجَعٍ، أَوْ عَدُوٍّ حَتَّى يَفُوتَهُ الْحَجُّ.

L14166–14167 A group of scholars differentiated between prevention (al-iḥṣār) and detention (al-ḥaṣr). It has been narrated to us from al-Kisāʾī that he said: “If it is due to illness, the term used is ’he was prevented’ (uḥṣira), making him muḥṣir (one prevented). As for what pertains to detention, the term used is ḥaṣr.”

وَفَرَّقَ قَوْمٌ بَيْنَ الْإِحْصَارِ، وَالْحَصْرِ -: فَرُوِّينَا عَنْ الْكِسَائِيِّ قَالَ: مَا كَانَ مِنْ الْمَرَضِ فَإِنَّهُ يُقَالُ فِيهِ: أُحْصِرَ، فَهُوَ مُحْصِرٌ، وَمَا كَانَ مِنْ حَبْسٍ قِيلَ: حَصْرٌ.

L14168 Abū ʿUbayd said: Abū ʿUbaydah stated: Any circumstance involving illness or loss of financial means is described by the term “uḥṣira” (to be prevented), making them “muḥṣir” (a person prevented [from proceeding]). Any circumstance involving detention is termed “ḥaṣr” (confinement) – and this is the opinion of Abū ʿUbayd.

وَقَالَ أَبُو عُبَيْدٍ: قَالَ أَبُو عُبَيْدَةَ: مَا كَانَ مِنْ مَرَضٍ، أَوْ ذَهَابِ نَفَقَةٍ، قِيلَ فِيهِ: أُحْصِرَ، فَهُوَ مُحْصِرٌ، وَمَا كَانَ مِنْ حَبْسٍ قِيلَ: حَصْرٌ - وَبِهِ يَقُولُ أَبُو عُبَيْدٍ.

L14169 Abu Muhammad said: This is meaningless, for the statement of Allah the Exalted constitutes the definitive proof in language and sacred law. Allah the Exalted said: {If you are blockaded, then offer what is readily available of the sacrificial animal} [Al-Baqarah: 196]. This verse was revealed concerning the matter of Al-Ḥudaybiyah when the disbelievers prevented the Messenger of Allah—peace and blessings be upon him—from completing his Umrah. Allah the Exalted designated the enemy’s blockade as _iḥṣār_ [a state of constraint].[18]

قَالَ أَبُو مُحَمَّدٍ: هَذَا لَا مَعْنَى لَهُ، قَوْلُ اللَّهِ تَعَالَى هُوَ الْحُجَّةُ فِي اللُّغَةِ وَالشَّرِيعَةِ قَالَ تَعَالَى: {فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] وَإِنَّمَا نَزَلَتْ هَذِهِ الْآيَةُ فِي أَمْرِ الْحُدَيْبِيَةِ إذْ مَنَعَ الْكُفَّارُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ إتْمَامِ عُمْرَتِهِ، وَسَمَّى اللَّهُ تَعَالَى مَنْعَ الْعَدُوِّ إحْصَارًا.

L14170 Similarly, Al-Barāʾ ibn ʿĀzib, Ibn ʿUmar, and Ibrāhīm al-Nakhaʿī said, stating that they surpassed Abū Ubaydah, Abū Ubayd, and Al-Kisaʾī in linguistic expertise.

وَكَذَلِكَ قَالَ الْبَرَاءُ بْنُ عَازِبٍ، وَابْنُ عُمَرَ، وَإِبْرَاهِيمُ النَّخَعِيُّ - وَهُمْ فِي اللُّغَةِ فَوْقَ أَبِي عُبَيْدَةَ، وَأَبِي عُبَيْدٍ، وَالْكِسَائِيِّ.

[18] **Qur’an references (L14169):** Qur’an 2:196 (Al-Baqarah).

L14171 And He, the Exalted, said: “For the poor who are constrained in the cause of Allah, unable to move about the earth; an ignorant person deems them wealthy due to their self-restraint—you recognize them by their appearance; they do not beg people insistently” [Al-Baqarah: 273].[19]

وَقَالَ تَعَالَى: {لِلْفُقَرَاءِ الَّذِينَ أُحْصِرُوا فِي سَبِيلِ اللَّهِ لا يَسْتَطِيعُونَ ضَرْبًا فِي الأَرْضِ يَحْسَبُهُمُ الْجَاهِلُ أَغْنِيَاءَ مِنَ التَّعَفُّفِ تَعْرِفُهُمْ بِسِيمَاهُمْ لا يَسْأَلُونَ النَّاسَ إِلْحَافًا} [البقرة: ٢٧٣] .

L14172 This is undoubtedly the prevention by the enemy, for undoubtedly the disbelievers prevented the Muhajirun from traveling in the land. The Most High has clarified this in His statement, “in the path of Allah” [Al-Baqarah: 273].[20]

فَهَذَا هُوَ مَنْعُ الْعَدُوِّ بِلَا شَكٍّ، لِأَنَّ الْمُهَاجِرِينَ إِنَّمَا مَنَعَهُمْ مِنَ الضَّرْبِ فِي الْأَرْضِ الْكُفَّارُ بِلَا شَكٍّ، وَبَيَّنَ ذَلِكَ تَعَالَى بِقَوْلِهِ {فِي سَبِيلِ اللَّهِ} [البقرة: ٢٧٣] .

L14173 It has been established that “al-ihsar” and “al-hasr” share a single meaning, being two terms applicable to every obstacle - whether an enemy, illness, or anything else. Scholars differed regarding the ruling for the prevented person (muhsir) who is obstructed from completing their Hajj or Umrah. It has been narrated to us from Ibn Mas’ud that he issued a legal verdict concerning a pilgrim in ihram for Hajj who fell ill and could not proceed: he must send a sacrificial animal, and when it reaches its designated place, he may exit the state of ihrām. If he performs Umrah from his current location after recovery, then performs Hajj in the following year, no sacrifice is required. But if he does not visit the Sacred House until performing Hajj and combines both as a single journey, he must offer another sacrifice: either two journeys with one sacrifice or one journey with two sacrifices. This narration from him has an interrupted chain of transmission and is therefore unreliable.

فَصَحَّ أَنَّ الْإِحْصَارَ، وَالْحَصْرَ بِمَعْنًى وَاحِدٍ، وَأَنَّهُمَا اسْمَانِ يَقَعَانِ عَلَى كُلِّ مَانِعٍ مِنْ عَدُوٍّ، أَوْ مَرَضٍ، أَوْ غَيْرِ ذَلِكَ، أَيِّ شَيْءٍ كَانَ ثُمَّ اخْتَلَفُوا فِي حُكْمِ الْمُحْصِرِ الْمَمْنُوعِ مِنْ إِتْمَامِ حَجِّهِ، أَوْ عُمْرَتِهِ. فَرُوِّينَا عَنِ ابْنِ مَسْعُودٍ: أَنَّهُ أَفْتَى فِي مُحْرِمٍ بِحَجٍّ مَرِضَ فَلَمْ يَقْدِرْ عَلَى النُّهُوضِ: أَنَّهُ يَبْعَثُ بِهَدْيٍ، فَإِذَا بَلَغَ مَحَلَّهُ حَلَّ؛ فَإِنْ اعْتَمَرَ مِنْ وَجْهِهِ ذَلِكَ إِذَا بَرَأَ، ثُمَّ حَجَّ مِنْ قَابِلٍ فَلَيْسَ عَلَيْهِ هَدْيٌ، فَإِنْ لَمْ يَزُرِ الْبَيْتَ حَتَّى يَحُجَّ وَيَجْعَلَهُمَا سَفَرًا وَاحِدًا فَعَلَيْهِ هَدْيٌ آخَرُ: سَفَرَانِ وَهَدْيٌ أَوْ هَدْيَانِ وَسَفَرٌ - وَهَذَا عَنْهُ مُنْقَطِعٌ لَا يَصِحُّ.

L14174 It has been authentically reported that he issued a fatwa regarding a pilgrim in ihram for Umrah who was bitten and could not proceed further: he should dispatch a sacrificial animal and designate a meeting point with his companions. When the sacrificial animal reaches the Haram, he is released from ihram.

وَصَحَّ عَنْهُ: أَنَّهُ أَفْتَى فِي مُحْرِمٍ بِعُمْرَةٍ لُدِغَ فَلَمْ يَقْدِرْ عَلَى النُّفُوذِ: أَنَّهُ يَبْعَثُ بِهَدْيٍ وَيُوَاعِدُ أَصْحَابَهُ، فَإِذَا بَلَغَ الْهَدْيُ أَحَلَّ.

L14175–14176 It has also been authentically reported from him that he issued a legal ruling regarding a sick person in the state of ritual consecration (ihram) who could not proceed: that a sacrificial camel should be slaughtered on his behalf, then

وَصَحَّ عَنْهُ أَيْضًا: أَنَّهُ أَفْتَى فِي مَرِيضٍ مُحْرِمٍ لَا يَقْدِرُ عَلَى النُّفُوذِ: بِأَنْ يُنْحَرَ عَنْهُ بَدَنَةٌ، ثُمَّ لِيُهِلَّ عَامًا قَابِلًا بِمِثْلِ إِهْلَالِهِ الَّذِي أَهَلَّ بِهِ.

[19] **Qur’an references (L14171):** Qur’an 2:273 (Al-Baqarah).
[20] **Qur’an references (L14172):** Qur’an 2:273 (Al-Baqarah).

he must redeclare ihram the following year in the same manner as his initial declaration.

وَصَحَّ عَنْ ابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ فِي مُحْرِمٍ بِعُمْرَةٍ مَرِضَ بِوَقْعَةٍ مِنْ رَاحِلَتِهِ، قَالَا جَمِيعًا: لَيْسَ لَهَا وَقْتٌ كَوَقْتِ الْحَجِّ، يَكُونُ عَلَى إحْرَامِهِ حَتَّى يُصَلِّ إلَى الْبَيْتِ - وَعَنْ ابْنِ الزُّبَيْرِ مِثْلُ هَذَا أَيْضًا.

L14177 It is authentically reported from Ibn Abbas and Ibn Umar regarding a person in the state of _ihram_ for Umrah who was injured in a fall from his mount and became ill. They both said: "There is no fixed time for it [Umrah] like the time of Hajj. He must remain in his state of _ihram_ until he performs the prayer at the House." A similar statement was also reported from Ibn al-Zubayr.

وَرُوِّينَا عَنْ ابْنِ عَبَّاسٍ فِيمَنْ أُحْصِرَ: يَبْعَثُ بِهَدْيِهِ فَإِذَا نَحَرَ فَقَدْ حَلَّ مِنْ كُلِّ شَيْءٍ.

L14178 It has been narrated from Ibn Abbas concerning one who is prevented from completing the pilgrimage: he should send forth his sacrificial animal to be slaughtered, and once it has been ritually slaughtered, he is released from all restrictions [of the consecrated state].

وَرُوِّينَا مِنْ طَرِيقِ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّهُ قِيلَ لَهُ: لَا يَضُرُّكَ أَنْ لَا تَحُجَّ الْعَامَ فَإِنَّا نَخْشَى أَنْ يَكُونَ بَيْنَ النَّاسِ قِتَالٌ يُحَالُ بَيْنَكَ وَبَيْنَ الْبَيْتِ وَذَلِكَ حِينَ نَزَلَ الْحَجَّاجُ بِابْنِ الزُّبَيْرِ فَقَالَ ابْنُ عُمَرَ: إنْ حِيلَ بَيْنِي وَبَيْنَهُ فَعَلْت كَمَا فَعَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَنَا مَعَهُ حِينَ حَالَتْ كُفَّارُ قُرَيْشٍ بَيْنَهُ وَبَيْنَ الْبَيْتِ: أُشْهِدُكُمْ أَنِّي قَدْ أَوْجَبْت عُمْرَةً، ثُمَّ قَالَ: مَا أَمْرُهُمَا إلَّا وَاحِدٌ إنْ حِيلَ بَيْنِي وَبَيْنَ الْعُمْرَةِ حِيلَ بَيْنِي وَبَيْنَ الْحَجِّ: أُشْهِدُكُمْ أَنِّي قَدْ أَوْجَبْت حَجَّةً مَعَ عُمْرَتِي.

L14179 It has been reported to us through the chain of 'Ubayd Allāh ibn 'Umar from Nāfi' from Ibn 'Umar that it was said to him: "It will not harm you if you do not perform Hajj this year, for we fear there may be fighting among the people that would prevent you from reaching the House." This occurred when Al-Ḥajjāj besieged Ibn al-Zubayr. Ibn 'Umar responded: "If I am prevented from reaching it, I will do as the Messenger of Allāh (peace and blessings be upon him) did when the Quraysh polytheists prevented him from reaching the House, and I was with him. I call you to witness that I have made 'Umrah obligatory upon myself." He then said: "The ruling for both is the same. If I am prevented from performing 'Umrah, then I am prevented from performing Hajj. I call you to witness that I have made Hajj obligatory upon myself along with my 'Umrah."

قَالَ أَبُو مُحَمَّدٍ: وَلَمْ يَخْتَلِفْ اثْنَانِ فِي أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذْ حَالَ كُفَّارُ قُرَيْشٍ بَيْنَهُ وَبَيْنَ الْعُمْرَةِ - وَكَانَ مُهِلًّا بِعُمْرَةٍ هُوَ وَأَصْحَابُهُ - رَضِيَ اللَّهُ عَنْهُمْ - نَحَرَ وَحَلَّ وَانْصَرَفَ مِنْ الْحُدَيْبِيَةِ.

L14180 Abu Muhammad said: No two scholars have differed regarding the fact that when the disbelievers of Quraysh prevented the Messenger of Allah (may Allah bless him and grant him peace) from performing *Umrah*—while he and his companions (may Allah be pleased with them) had declared the intention for *Umrah*—he slaughtered a sacrificial animal, exited the state of *Ihram*, and departed from Al-Hudaybiyah.

L14181 From the transmission of Mālik, from Yaḥyā ibn Saʿīd al-Anṣārī, from Yaʿqūb ibn Khālid ibn al-Musayyab al-Makhzūmī, from Abū Asmā', the client of

ʿAbdullāh ibn Jaʿfar, that Abū Asmā’ informed him that he was with ʿAbdullāh ibn Jaʿfar when he departed from Medina. They passed by al-Ḥusayn ibn ʿAlī, who was ill at Sukyā. ʿAbdullāh ibn Jaʿfar remained with him until he feared missing his departure; then he left and sent for ʿAlī ibn Abī Ṭālib and Asmā’ bint ʿUmays, who were in Medina. They came to him. Al-Ḥusayn gestured toward his head, so ʿAlī ordered his head to be shaved. Then he performed a ritual sacrifice on his behalf at Sukyā by slaughtering a camel in the prescribed manner.

وَمِنْ طَرِيقِ مَالِكٍ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ عَنْ يَعْقُوبَ بْنِ خَالِدٍ بْنِ الْمُسَيَّبِ الْمَخْزُومِيِّ عَنْ أَبِي أَسْمَاءَ مَوْلَى عَبْدِ اللَّهِ بْنِ جَعْفَرٍ، " أَنَّهُ أَخْبَرَهُ أَنَّهُ كَانَ مَعَ عَبْدِ اللَّهِ بْنِ جَعْفَرٍ فَخَرَجَ مَعَهُ مِنْ الْمَدِينَةِ فَمَرُّوا عَلَى الْحُسَيْنِ بْنِ عَلِيٍّ وَهُوَ مَرِيضٌ بِالسُّقْيَا فَأَقَامَ عَلَيْهِ عَبْدُ اللَّهِ بْنُ جَعْفَرٍ حَتَّى إذَا خَافَ الْفَوَاتَ خَرَجَ وَبَعَثَ إلَى عَلِيِّ بْنِ أَبِي طَالِبٍ وَأَسْمَاءَ بِنْتِ عُمَيْسٍ وَهُمَا بِالْمَدِينَةِ فَقَدِمَا عَلَيْهِ، وَأَنَّ حُسَيْنًا أَشَارَ إلَى رَأْسِهِ فَأَمَرَ عَلِيٌّ بِرَأْسِهِ فَحُلِقَ، ثُمَّ نَسَكَ عَنْهُ بِالسُّقْيَا فَنَحَرَ عَنْهُ بَعِيرًا ".

L14182–14184 And from the chain of ʿAbd al-Razzāq, from Sufyān al-Thawrī, Yaḥyā ibn Saʿīd al-Anṣārī informed me from Yaʿqūb ibn Khālid, from Abū Asmā’, the client of ʿAbd Allāh ibn Jaʿfar, who said: Verily, al-Ḥusayn ibn ʿAlī set out. He was performing ʿUmrah with ʿUthmān ibn ʿAffān, and when he reached Al-ʿAraj, he fell ill. When they arrived at As-Suqyā according to custom, the first sign of his regaining consciousness was that he gestured toward his head. His head was shaved and a camel was slaughtered on his behalf there.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ أَخْبَرَنِي يَحْيَى بْنُ سَعِيدٍ الْأَنْصَارِيُّ عَنْ يَعْقُوبَ بْنِ خَالِدٍ عَنْ أَبِي أَسْمَاءَ مَوْلَى عَبْدِ اللَّهِ بْنِ جَعْفَرٍ قَالَ: إنَّ الْحُسَيْنَ بْنَ عَلِيٍّ خَرَجَ مُعْتَمِرًا مَعَ عُثْمَانَ بْنِ عَفَّانَ فَلَمَّا كَانَ بِالْعَرَجِ مَرِضَ، فَلَمَّا أَتَى السُّقْيَا بِرَسْمٍ فَكَانَ أَوَّلُ إفَاقَتِهِ أَنْ أَشَارَ إلَى رَأْسِهِ فَحُلِقَ عَلَى رَأْسِهِ وَنُحِرَ عَنْهُ بِهَا جَزُورًا.

L14185 Abu Muhammad said: We have cited this report solely due to what it contains - that he was in the state of iḥram for ʿUmrah. Thus, ʿAlī, al-Ḥusayn, and Asmā’ held that he should dissolve his iḥram for his ʿUmrah and offer a hady in his current location where he was situated. This is our position.

قَالَ أَبُو مُحَمَّد: إنَّمَا أَتَيْنَا بِهَذَا الْخَبَرِ لِمَا فِيهِ مِنْ أَنَّهُ كَانَ مُعْتَمِرًا فَهَذَا عَلِيٌّ، وَالْحُسَيْنُ، وَأَسْمَاءُ رَأَوْا أَنْ يَحِلَّ مِنْ عُمْرَتِهِ وَيُهْدِيَ فِي مَوْضِعِهِ الَّذِي كَانَ فِيهِ، وَهُوَ قَوْلُنَا.

L14186 Narrated from ʻAlqamah concerning the muḥṣir (one prevented from completing the pilgrimage): He sends his sacrificial animal, and once it is slaughtered, he is permitted to exit the state of ihram.

وَعَنْ عَلْقَمَةَ فِي الْمُحْصِرِ قَالَ: يَبْعَثُ بِهَدْيِهِ فَإِذَا ذُبِحَ حَلَّ.

L14187 It was narrated to us from ʿAlqamah: “Consecration is only terminated by circumambulating the Kaʿbah.” It was further narrated from him: “If one ends their consecration before slaughtering their sacrificial animal (hady), a dam (sacrificial animal) is required of them.”

وَرُوِّينَا عَنْ عَلْقَمَةَ أَيْضًا: لَا يُحِلُّهُ إلَّا الطَّوَافُ بِالْبَيْتِ. وَرُوِّينَا عَنْهُ أَيْضًا إنْ حَلَّ قَبْلَ نَحْرِ هَدْيِهِ فَعَلَيْهِ دَمٌ.

L14188 It has been narrated to us from Ibrahim, Ata’, Al-Hasan, and Al-Sha’bi that it is not rendered lawful except by circumambulating the House.

وَرُوِّينَا عَنْ إبْرَاهِيمَ، وَعَطَاءٍ، وَالْحَسَنِ، وَالشَّعْبِيِّ: لَا يُحِلُّهُ إلَّا الطَّوَافُ بِالْبَيْتِ.

L14189 And it has also been narrated to us from them—excluding Ash-Sha‘bi—that

if one stops short of the House, he must offer another sacrifice besides the one he was obligated to send, and he may only exit the state of consecration on the day he agreed upon with them for his reaching Mecca and performing his sacrifice.

وَرُوِّينَا عَنْهُمْ أَيْضًا: حَاشَا الشَّعْبِيَّ: إِنْ حَلَّ دُونَ الْبَيْتِ فَعَلَيْهِ هَدْيٌ آخَرُ سِوَى الَّذِي لَزِمَهُ أَنْ يَبْعَثَ بِهِ، وَلَا يَحِلُّ إِلَّا فِي الْيَوْمِ الَّذِي وَاعَدَهُمْ لِبُلُوغِهِ مَكَّةَ وَنَحْرِهِ.

L14190 And it was conveyed to us from Ibrāhīm as well concerning the Qārin who is prevented: he said, “Two sacrifices are required of him.”

وَرُوِّينَا عَنْ إِبْرَاهِيمَ أَيْضًا فِي الْقَارِنِ يُحْصِرُ قَالَ: عَلَيْهِ هَدْيَانِ.

L14191 We have also received narrations from him: From Sa‘īd ibn Jubayr concerning the *qārin* (one combining Hajj and Umrah) who is prevented—they both said: “He must perform two Umrahs and one Hajj.” It is narrated from ‘Aṭā’ and Ṭāwus that the *qārin* is only obligated to offer one sacrifice.

وَرُوِّينَا عَنْهُ أَيْضًا: وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ فِي الْقَارِنِ يُحْصِرُ قَالَا جَمِيعًا: عَلَيْهِ عُمْرَتَانِ وَحَجَّةٌ - وَعَنْ عَطَاءٍ، وَطَاوُسٍ لَيْسَ عَلَى الْقَارِنِ إِلَّا هَدْيٌ وَاحِدٌ.

L14192 And from Al-Sha‘bi also: If the muḥṣir terminates iḥrām before slaughtering his sacrificial animal, he must offer the expiation for harm - feeding six needy people, fasting three days, or sacrificing a sheep.

وَعَنْ الشَّعْبِيِّ أَيْضًا: إِنْ أَحَلَّ الْمُحْصِرُ قَبْلَ نَحْرِ هَدْيِهِ فَعَلَيْهِ فِدْيَةُ الْأَذَى - إِطْعَامُ سِتَّةِ مَسَاكِينَ، أَوْ صِيَامُ ثَلَاثَةِ أَيَّامٍ، أَوْ شَاةٌ.

L14193 From Mujāhid regarding the Qārin (one combining Hajj and Umrah) who is prevented? He said: He sends a sacrificial animal, which permits him to exit the state of Ihram, then he assumes Ihram anew the following year with the same combined Hajj and Umrah he had originally intended.

وَعَنْ مُجَاهِدٍ فِي الْقَارِنِ يُحْصِرُ؟ قَالَ: يَبْعَثُ بِهَدْيٍ يَحِلُّ بِهِ، ثُمَّ يُهِلُّ مِنْ قَابِلٍ بِمَا كَانَ أَهَلَّ بِهِ.

L14194 From Hammad ibn Abi Sulayman regarding the *Qārin* (combiner of *Hajj* and *Umrah*) who is prevented: he must dispatch the sacrificial animal. When it reaches its designated place, he exits the state of *ihram*, required to perform one *Umrah* and one *Hajj*. Al-Hakam ibn Utaybah said: he is obligated to perform one *Hajj* and three *Umrahs*.

وَعَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ فِي الْقَارِنِ يُحْصَرُ: أَنَّهُ يَبْعَثُ بِالْهَدْيِ فَإِذَا بَلَغَ مَحَلَّهُ حَلَّ وَعَلَيْهِ عُمْرَةٌ وَحَجَّةٌ - قَالَ الْحَكَمُ بْنُ عُتَيْبَةَ: عَلَيْهِ حَجَّةٌ وَثَلَاثُ عُمَرَ.

L14195 From ʿUrwah ibn al-Zubayr concerning the prevented pilgrim: When he returns, nothing of him is released except his head. From al-Zuhrī: Whoever is prevented by warfare must slaughter a camel as a sacrificial animal where he is detained and becomes released from the prohibition of marital relations and from everything.

وَعَنْ عُرْوَةَ بْنِ الزُّبَيْرِ فِي الْمُحْصِرِ إِذَا رَجَعَ لَا يَحِلُّ مِنْهُ إِلَّا رَأْسُهُ - وَعَنْ الزُّهْرِيِّ مَنْ أُحْصِرَ بِالْحَرْبِ نَحَرَ حَيْثُ حُبِسَ وَحَلَّ مِنْ النِّسَاءِ وَمِنْ كُلِّ شَيْءٍ.

L14196–14198 From Al-Qasim ibn Muhammad, Salim, and Ibn Sirin: He designates his sacrificial animal, and once he slaughters it, he is freed from. In every case. Mujāhid also narrated that if a person prevented from completing the pil-

وَعَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ، وَسَالِمٍ، وَابْنُ سِيرِينَ: يَبْعَثُ هَدْيَهُ فَإِذَا نَحَرَ فَقَدْ حَلَّ مِنْ كُلِّ شَيْءٍ - وَعَنْ مُجَاهِدٍ أَيْضًا إِذَا حَلَّ الْمُحْصِرُ قَبْلَ نَحْرِ هَدْيِهِ فَعَلَيْهِ هَدْيٌ آخَرُ.

grimage releases themselves from iḥrām before slaughtering their sacrificial animal, they must offer another sacrificial animal.

L14199 Abu Hanifah said regarding one who enters the state of ihrām for Hajj and is prevented: He must send the value of a sacrificial animal to be purchased for him in Makkah, which is then slaughtered on his behalf on the Day of Sacrifice, whereupon he exits the state of ihrām. He remains obligated to perform both Umrah and Hajj. If he cannot procure a sacrificial animal, he must remain in ihrām until obtaining one, though he may coordinate with others regarding its slaughter before the Day of Sacrifice. He stated: The person performing Umrah may slaughter his sacrificial animal whenever he wishes. In his view, prevention applies equally to enemy obstruction, illness, and any other impediment besides these two - all being exactly the same. If his illness persists until the Day of Sacrifice, the ruling applies as we have outlined. If he recovers before the time of Hajj, this does not suffice him, and he remains in the state of ihrām for Hajj as previously. If he was performing Umrah and then recovers, and is able to reach the sacrificial animal he had dispatched, he may proceed to fulfill his Umrah. If he is unable to do this, he exits the state of ihrām once the sacrificial animal has been slaughtered on his behalf.

وَقَالَ أَبُو حَنِيفَةَ فِيمَنْ أَهَلَّ بِالْحَجِّ فَأُحْصِرَ: عَلَيْهِ أَنْ يَبْعَثَ بِثَمَنِ هَدْيٍ فَيُشْتَرَى لَهُ بِمَكَّةَ فَيُذْبَحُ عَنْهُ يَوْمَ النَّحْرِ، وَيَحِلُّ، وَعَلَيْهِ عُمْرَةٌ وَحَجَّةٌ، فَإِنْ لَمْ يَجِدْ هَدْيًا أَقَامَ مُحْرِمًا حَتَّى يَجِدَ هَدْيًا وَلَهُ أَنْ يُوَاعِدَهُمْ بِنَحْرِهِ قَبْلَ يَوْمِ النَّحْرِ قَالَ: وَالْمُعْتَمِرُ يَنْحَرُ هَدْيَهُ مَتَى شَاءَ، وَالْإِحْصَارُ عِنْدَهُ بِالْعَدُوِّ، وَالْمَرَضِ، وَبِكُلِّ مَانِعٍ سِوَاهُمَا سَوَاءٌ سَوَاءٌ، فَإِنْ تَمَادَى مَرَضُهُ إِلَى يَوْمِ النَّحْرِ فَكَمَا قُلْنَا - وَإِنْ هُوَ أَفَاقَ قَبْلَ وَقْتِ الْحَجِّ لَمْ يَجْزِهِ ذَلِكَ وَهُوَ مُحْرِمٌ بِالْحَجِّ كَمَا كَانَ، فَإِنْ كَانَ مُعْتَمِرًا فَأَفَاقَ فَإِنْ قَدَرَ عَلَى إِدْرَاكِ الْهَدْيِ الَّذِي بَعَثَ مَضَى وَقَضَى عُمْرَتَهُ، فَإِنْ لَمْ يَقْدِرْ عَلَى ذَلِكَ حَلَّ إِذَا نُحِرَ عَنْهُ الْهَدْيُ.

L14200 Malik said: If a person is prevented by an enemy, he must slaughter his sacrificial animal where he is detained, exit the state of consecration, and is not required to compensate—unless he has never performed the Hajj of Islam, in which case he must perform Hajj. If he did not have a sacrificial animal, nothing is binding upon him, unless the animal was present with him, having been driven by himself. If he is prevented by something other than an enemy, such as imprisonment, illness, or similar causes, he cannot exit the state of consecration except by performing circumambulation of the House—even if the impediment persists until the following Hajj year.

وَقَالَ مَالِكٌ: إِنْ أُحْصِرَ بِعَدُوٍّ فَإِنَّهُ يَنْحَرُ هَدْيَهُ حَيْثُ حُبِسَ وَيَحِلُّ وَلَا قَضَاءَ عَلَيْهِ، إِلَّا أَنْ يَكُونَ لَمْ يَحُجَّ قَطُّ حَجَّةَ الْإِسْلَامِ فَعَلَيْهِ أَنْ يَحُجَّ، فَإِنْ لَمْ يُهْدِ فَلَا شَيْءَ عَلَيْهِ، لَا يَلْزَمُهُ الْهَدْيُ إِلَّا أَنْ يَكُونَ حَاضِرًا مَعَهُ قَدْ سَاقَهُ مَعَ نَفْسِهِ، فَإِنْ أُحْصِرَ بِغَيْرِ عَدُوٍّ لَكِنْ بِحَبْسٍ، أَوْ مَرَضٍ، أَوْ غَيْرِ ذَلِكَ، فَإِنَّهُ لَا يَحِلُّ إِلَّا بِالطَّوَافِ بِالْبَيْتِ، وَلَوْ بَقِيَ كَذَلِكَ إِلَى عَامٍ آخَرَ.

L14201 Al-Shāfiʿī said: If someone is prevented by an enemy or imprisonment, they must offer a Hady and exit the state of iḥrām wherever they are, whether in Hill, non-sacred territory, or Haram, the sacred precinct. There is no obligation to repeat the pilgrimage unless they have never performed Hajj or ʿUmrah; in that case, they must perform Hajj and ʿUmrah. If they are

وَقَالَ الشَّافِعِيُّ: إِذَا أُحْصِرَ بِعَدُوٍّ، أَوْ بِسِجْنٍ فَإِنَّهُ يُهْدِي وَيَحِلُّ حَيْثُ كَانَ مِنْ حِلٍّ، أَوْ حَرَمٍ وَلَا قَضَاءَ عَلَيْهِ إِلَّا إِنْ كَانَ لَمْ يَحُجَّ قَطُّ وَلَا اعْتَمَرَ فَعَلَيْهِ أَنْ يَحُجَّ وَيَعْتَمِرَ؛

فَإِنْ لَمْ يَقْدِرْ عَلَى هَدْيٍ فَفِيهَا قَوْلَانِ - أَحَدُهُمَا: لَا يَحِلُّ إِلَّا حَتَّى يُهْدِيَ، وَالْآخَرُ يُحِلُّ، وَالْهَدْيُ دَيْنٌ عَلَيْهِ - وَقَدْ قِيلَ: عَلَيْهِ إِطْعَامٌ، أَوْ صِيَامٌ - إِنْ لَمْ يَقْدِرْ عَلَى الْهَدْيِ - فَإِنْ أُحْصِرَ بِغَيْرِ عَدُوٍّ أَوْ حَبْسٍ لَمْ يُحِلَّهُ إِلَّا الطَّوَافُ بِالْبَيْتِ، فَإِنْ لَمْ يُفِقْ حَتَّى فَاتَهُ الْحَجُّ طَافَ، وَسَعَى، وَحَلَّ، وَعَلَيْهِ الْهَدْيُ.

L14202 Abū Muḥammad said: As for distinguishing between one prevented by an enemy and one prevented by other causes, this is invalid based on what we have established before. As for waiving the sacrificial animal's obligation from one prevented by an enemy or otherwise, this contradicts the Quran; for Allah the Exalted says: {If you are prevented, then sacrifice what is feasible of the sacrificial animal} [Al-Baqarah: 196]. As for requiring the compensatory performance of Hajj, this is erroneous because no scriptural proof mandates it.[21]

قَالَ أَبُو مُحَمَّدٍ: أَمَّا التَّفْرِيقُ بَيْنَ الْمُحْصَرِ بِعَدُوٍّ، وَبِغَيْرِ عَدُوٍّ فَفَاسِدٌ عَلَى مَا قَدَّمْنَا قَبْلُ وَأَمَّا إِسْقَاطُ الْهَدْيِ عَنْ الْمُحْصَرِ بِعَدُوٍّ، أَوْ غَيْرِهِ فَخِلَافٌ لِلْقُرْآنِ، لِأَنَّ اللَّهَ تَعَالَى يَقُولُ: {فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] وَأَمَّا إِيجَابُ الْقَضَاءِ فَخَطَأٌ، لِأَنَّهُ لَمْ يَأْتِ بِذَلِكَ نَصٌّ.

L14203 If it is said, "Verily, the Messenger of Allah—may Allah bless him and grant him peace—performed Umrah after the year of Ḥudaybiyyah," we reply: Yes. We do not prohibit making it up in another year for whoever wishes to do so. Rather, we prohibit imposing it as a compulsory duty, because Allah the Exalted did not command that, nor did His Messenger—may Allah bless him and grant him peace—command it.

فَإِنْ قِيلَ: إِنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ اعْتَمَرَ بَعْدَ عَامِ الْحُدَيْبِيَةِ؟ قُلْنَا: نَعَمْ، وَنَحْنُ لَمْ نَمْنَعْ مِنْ الْقَضَاءِ عَامًا آخَرَ لِمَنْ أَحَبَّ، وَإِنَّمَا نَمْنَعُ مِنْ إِيجَابِهِ فَرْضًا، لِأَنَّ اللَّهَ تَعَالَى لَمْ يَأْمُرْ بِذَلِكَ، وَلَا رَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L14204–14205 It has been authentically established that Allah the Exalted has obligated upon a Muslim only one Hajj and one Umrah in their lifetime. Therefore, it is impermissible to obligate another Hajj or Umrah except through a Quranic injunction or an authentic Sunnah that mandates it, and one must adhere strictly to that.

وَقَدْ صَحَّ أَنَّ اللَّهَ تَعَالَى لَمْ يُوجِبْ عَلَى الْمُسْلِمِ إِلَّا حَجَّةً وَاحِدَةً وَعُمْرَةً فِي الدَّهْرِ، فَلَا يَجُوزُ إِيجَابُ أُخْرَى، إِلَّا بِقُرْآنٍ، أَوْ سُنَّةٍ صَحِيحَةٍ تُوجِبُ ذَلِكَ فَيُوقَفُ عِنْدَ ذَلِكَ.

L14206 As for the assertion that the muḥṣir (prevented pilgrim) due to illness remains in their iḥrām until performing the circumambulation of the Kaaba, this is a claim with no evidence for its validity. It is not mandated by the Quran, the Sunnah, or consensus—rather, it contradicts the Quran as we have presented.

وَأَمَّا الْقَوْلُ بِبَقَاءِ الْمُحْصَرِ بِمَرَضٍ عَلَى إِحْرَامِهِ حَتَّى يَطُوفَ بِالْبَيْتِ، فَقَوْلٌ لَا بُرْهَانَ عَلَى صِحَّتِهِ، وَلَا أَوْجَبَهُ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا إِجْمَاعٌ بَلْ هُوَ خِلَافُ الْقُرْآنِ كَمَا أَوْرَدْنَا -

[21] **Qur'an references (L14202):** Qur'an 2:196 (Al-Baqarah).

The Companions differed on this matter specifically regarding ʿUmrah, and it is not reported from any of them that they issued a fatwa regarding this in the context of Ḥajj at all.

L14207 If it is said: "But Allah, the Exalted, says: {Then their lawful place is to the Ancient House} [22:33]?" We said: Yes, and the Exalted did not state that the restricted person may only exit *ihram* by performing circumambulation.[22]

L14208 And the One who said, "And whoever honors the rites of Allah—it is from the piety of hearts" [Al-Hajj: 32], "There are benefits for you in them until a specified term; then their destination is the Ancient House" [Al-Hajj: 33]—He is the One who said, "If you are detained, then offer what is readily available of the offerings" [Al-Baqarah: 196].[23]

L14209 He is the One who commanded His Messenger—peace and blessings be upon him—to exit iḥrām and return before circumambulating the House during his Umrah, when he was barred from reaching the House. It is not permissible to pit His commands against one another. As for the claim that he sent a Hady—a ritual sacrificial animal—to exit iḥrām by offering it, this is an assertion unattested in the Quran, the Sunnah, or consensus. The Companions themselves differed regarding this matter, as we have mentioned.

L14210 If it is said: Indeed, Allah, the Exalted, says: {And do not shave your heads until the sacrificial animal reaches its designated place} [Al-Baqarah: 196].[24]

L14211 We said: Yes, and this is not restricted to the prevented pilgrim alone, but rather it is the ruling for all who drive a sacrificial animal in Hajj or Umrah according to the generality of the verse. Thus, the pilgrim and the pilgrim combining Hajj and Umrah—when the Day of Sacrifice has arrived—the sacrificial animal has reached its designated time and place in Mecca or Mina, so the pilgrim may shave his head.

وَالصَّحَابَةُ قَدْ اخْتَلَفُوا فِي ذَلِكَ فِي الْعُمْرَةِ خَاصَّةً وَلَمْ يُرْوَ عَنْ أَحَدٍ مِنْهُمْ أَنَّهُ أَفْتَى بِذَلِكَ فِي الْحَجِّ أَصْلًا.

فَإِنْ قِيلَ: فَإِنَّ اللَّهَ تَعَالَى يَقُولُ: {ثُمَّ مَحِلُّهَا إِلَى الْبَيْتِ الْعَتِيقِ} [الحج: ٣٣] ؟ قُلْنَا نَعَمْ، وَلَمْ يَقُلْ تَعَالَى: إِنَّ الْمُحْصِرَ لَا يُحِلُّ إِلَّا بِالطَّوَافِ.

وَالَّذِي قَالَ {وَمَنْ يُعَظِّمْ شَعَائِرَ اللَّهِ فَإِنَّهَا مِنْ تَقْوَى الْقُلُوبِ} [الحج: ٣٢] {لَكُمْ فِيهَا مَنَافِعُ إِلَى أَجَلٍ مُسَمًّى ثُمَّ مَحِلُّهَا إِلَى الْبَيْتِ الْعَتِيقِ} [الحج: ٣٣] هُوَ الَّذِي قَالَ {فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] .

وَهُوَ الَّذِي أَمَرَ رَسُولَهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ يُحِلَّ وَيَرْجِعَ قَبْلَ أَنْ يَطُوفَ بِالْبَيْتِ فِي عُمْرَتِهِ الَّتِي صُدَّ فِيهَا عَنْ الْبَيْتِ، وَلَا يَحِلُّ ضَرْبُ أَوَامِرِهِ بَعْضُهَا بِبَعْضٍ؟ وَأَمَّا الْقَوْلُ: بِبَعْثِهِ هَدْيًا يَحِلُّ بِهِ، فَقَوْلٌ لَا يُؤَيِّدُهُ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا إجْمَاعٌ، وَالصَّحَابَةُ قَدْ اخْتَلَفُوا فِي ذَلِكَ كَمَا أَوْرَدْنَا.

فَإِنْ قِيلَ: فَإِنَّ اللَّهَ تَعَالَى يَقُولُ: {وَلا تَحْلِقُوا رُءُوسَكُمْ حَتَّى يَبْلُغَ الْهَدْيُ مَحِلَّهُ} [البقرة: ١٩٦] .

قُلْنَا: نَعَمْ، وَلَيْسَ هَذَا فِي الْمُحْصَرِ وَحْدَهُ، بَلْ هُوَ حُكْمُ كُلِّ مَنْ سَاقَ هَدْيًا فِي حَجٍّ أَوْ عُمْرَةٍ عَلَى عُمُومِ الْآيَةِ -: فَالْحَاجُّ، وَالْقَارِنُ إذَا كَانَ يَوْمَ النَّحْرِ فَقَدْ بَلَغَ الْهَدْيُ مَحِلَّهُ مِنْ الزَّمَانِ وَالْمَكَانِ بِمَكَّةَ أَوْ بِمِنًى، فَلَهُ أَنْ يَحْلِقَ رَأْسَهُ.

[22] **Qur'an references (L14207):** Qur'an 22:33 (Al-Hajj).

[23] **Qur'an references (L14208):** Qur'an 22:32 (Al-Hajj); Qur'an 22:33 (Al-Hajj); Qur'an 2:196 (Al-Baqarah).

[24] **Qur'an references (L14210):** Qur'an 2:196 (Al-Baqarah).

L14212 When the Umrah performer completes his Tawaf and Sa'i, his sacrificial offering has reached its designated time and place in Mecca, and he may then shave his head.

وَالْمُعْتَمِرُ إِذَا أَتَمَّ طَوَافَهُ وَسَعْيَهُ فَقَدْ بَلَغَ هَدْيُهُ مَحِلَّهُ مِنْ الزَّمَانِ وَالْمَكَانِ بِمَكَّةَ فَلَهُ أَنْ يَحْلِقَ رَأْسَهُ.

L14213–14214 The prevented pilgrim, when barred, then indeed his sacrificial animal has reached its designated place, so he may shave his head if there is a sacrificial animal with these people. Allah, the Almighty and Majestic, has never said that the prevented pilgrim cannot exit iḥrām until his sacrificial animal reaches Makkah. Rather, it is a falsehood against Allah, the Exalted, from those who attributed it to Him, the Almighty and Majestic. Thus, the error of these assertions has become evident.

وَالْمُحْصَرُ إِذَا صُدَّ فَقَدْ بَلَغَ هَدْيُهُ مَحِلَّهُ فَلَهُ أَنْ يَحْلِقَ رَأْسَهُ إِنْ كَانَ مَعَ هَؤُلَاءِ هَدْيٌ، وَلَمْ يَقُلْ اللَّهُ عَزَّ وَجَلَّ قَطُّ: إنَّ الْمُحْصَرَ لَا يَحِلُّ حَتَّى يَبْلُغَ هَدْيُهُ مَكَّةَ، بَلْ هُوَ الْكَذِبُ عَلَى اللَّهِ تَعَالَى مِمَّنْ نَسَبَهُ إلَيْهِ عَزَّ وَجَلَّ؛ فَظَهَرَ خَطَأُ هَذِهِ الْأَقَاوِيلِ.

L14215 As for the views of Abu Hanifah, Malik, and Al-Shafi'i concerning al-iḥṣār [prevention during pilgrimage], no complete and systematically categorized statement of theirs—at all—is preserved from any of the Companions, may Allah be pleased with them.

وَأَمَّا قَوْلُ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ، فِي الْإِحْصَارِ، فَلَا يُحْفَظُ قَوْلٌ مِنْهَا - بِتَمَامِهِ وَتَقْسِيمِهِ - عَنْ أَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - أَصْلًا.

L14216 Abu Muhammad said: It is obligatory to revert disputes to that which Allah the Exalted has mandated as the referent, for Almighty He states: *"If you dispute concerning anything, refer it back to Allah and the Prophet, if you believe in Allah and the Last Day"* (4:59).[25]

قَالَ أَبُو مُحَمَّدٍ: فَوَجَبَ الرُّجُوعُ عِنْدَ التَّنَازُعِ إلَى مَا افْتَرَضَ اللَّهُ تَعَالَى الرُّجُوعَ إلَيْهِ إذْ يَقُولُ عَزَّ وَجَلَّ: {فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إلَى اللَّهِ وَالرَّسُولِ إنْ كُنْتُمْ تُؤْمِنُونَ بِاَللَّهِ وَالْيَوْمِ الآخِرِ} [النساء: ٥٩] .

L14217 We found the ruling concerning prevention (iḥṣār) derives: from the words of Allah, the Exalted: {But if you are prevented, then offer what is feasible of the sacrificial animal (hady)} [Al-Baqarah: 196]. This verse establishes a general obligation to offer the sacrificial animal (hady) upon everyone prevented, regardless of the manner of prevention.[26]

فَوَجَدْنَا حُكْمَ الْإِحْصَارِ يَرْجِعُ -: إلَى قَوْلِ اللَّهِ تَعَالَى: {فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ} [البقرة: ١٩٦] فَكَانَ فِي هَذِهِ الْآيَةِ عُمُومُ إيجَابِ الْهَدْيِ عَلَى كُلِّ مَنْ أُحْصِرَ بِأَيِّ وَجْهٍ أُحْصِرَ.

L14218 And to the act of the Messenger of Allah—peace be upon him—when the polytheists prevented him from reaching the Kaaba, whereupon he slaughtered the sacrificial animal and shaved his head (he and his companions doing the same), and they ritually exited the state of consecration (Ihram) at Ḥudaybiyyah.

وَإِلَى «فِعْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذْ صَدَّهُ الْمُشْرِكُونَ عَنْ الْبَيْتِ فَنَحَرَ وَحَلَقَ هُوَ وَأَصْحَابُهُ وَحَلُّوا بِالْحُدَيْبِيَةِ» .

[25] **Qur'an references (L14216):** Qur'an 4:59 (An-Nisa).
[26] **Qur'an references (L14217):** Qur'an 2:196 (Al-Baqarah).

وَإِلَى «أَمْرِهِ - عَلَيْهِ السَّلَامُ - مَنْ حَجَّ أَنْ يَقُولَ: اللَّهُمَّ إِنَّ مَحِلِّي حَيْثُ حَبَسْتَنِي» وَقَدْ ذَكَرْنَاهُ قَبْلُ.

L14219 And regarding his command—peace be upon him—for whoever performs Hajj to say: "O Allāh, the place where I exit iḥrām is wherever You have detained me," as we previously mentioned.

وَإِلَى مَا حَدَّثَنَاهُ عَبْدُ اللَّهِ بْنُ رَبِيعٍ نَا مُحَمَّدُ بْنُ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا حُمَيْدُ بْنُ مَسْعَدَةَ الْبَصْرِيُّ نَا سُفْيَانُ هُوَ ابْنُ حَبِيبٍ عَنْ الْحَجَّاجِ الصَّوَّافِ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ عِكْرِمَةَ عَنْ الْحَجَّاجِ بْنِ عَمْرٍو الْأَنْصَارِيِّ قَالَ " سَمِعْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُ: «مَنْ كُسِرَ أَوْ عَرَجَ فَقَدْ حَلَّ وَعَلَيْهِ حَجَّةٌ أُخْرَى» فَسَأَلْت ابْنَ عَبَّاسٍ، وَأَبَا هُرَيْرَةَ؟ فَقَالَا: صَدَقَ ".

L14220 Abdullah ibn Rabīʿ narrated to us: from Muḥammad ibn Muʿāwiyah, from Aḥmad ibn Shuʿayb, from Ḥumayd ibn Masʿadah al-Baṣrī, from Sufyān—he is the son of Ḥabīb—from al-Ḥajjāj al-Ṣawwāf, from Yaḥyā ibn Abī Kathīr, from ʿIkrimah, from al-Ḥajjāj ibn ʿAmr al-Anṣārī, who said: "I heard the Messenger of Allah (peace and blessings be upon him) say: 'Whoever breaks a bone or becomes lame has become permissible to exit ihrām, and upon him is a compensatory Hajj.'" I asked Ibn ʿAbbās and Abū Hurayrah, and they both said: "He spoke truthfully."[27]

فَهَذِهِ النُّصُوصُ تَنْتَظِمُ كُلَّ مَا قُلْنَا - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

L14221–14222 Thus, these texts encompass all that we have said—and all praise is to Allah, Lord of the worlds.

فَإِنْ قِيلَ: فَفِي هَذَا الْخَبَرِ أَنَّ عَلَيْهِ حَجَّةً أُخْرَى، وَلَيْسَ فِيهِ ذِكْرُ هَدْيٍ؟ قُلْنَا: إنَّ الْقُرْآنَ جَاءَ بِإِيجَابِ الْهَدْيِ، فَهُوَ زَائِدٌ عَلَى مَا فِي هَذَا الْخَبَرِ، وَلَيْسَ فِي هَذَا الْخَبَرِ ذِكْرٌ لِإِسْقَاطِ الْهَدْيِ وَلَا لِإِيجَابِهِ، فَوَجَبَ إضَافَةُ مَا زَادَهُ الْقُرْآنُ إلَيْهِ، وَقَدْ قَدَّمْنَا أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَخْبَرَ بِأَنَّ اللَّازِمَ لِلنَّاسِ حَجَّةٌ وَاحِدَةٌ فَكَانَ هَذَا الْخَبَرُ مَحْمُولًا عَلَى مَنْ لَمْ يَحُجَّ قَطُّ، وَبِهَذَا تَتَأَلَّفُ الْأَخْبَارُ.

L14223 If it is said: In this report, there is an obligation upon him to perform another Hajj, yet no mention of a sacrificial offering? We respond: The Quran established the obligation of the sacrificial offering, thereby supplementing this report. This text neither mentions omitting the offering nor imposing it, which necessitates adding what the Quran has introduced. We previously stated that the Prophet—peace and blessings of Allah be upon him—declared that only one Hajj is obligatory for people. Thus, this report pertains to those who have never performed Hajj, thereby reconciling the reports.

فَإِنْ قِيلَ: إنَّ ابْنَ عَبَّاسٍ قَدْ رُوِيَ عَنْهُ خِلَافُ مَا رُوِيَ مِنْ هَذَا؟ قُلْنَا: الْحُجَّةُ إنَّمَا هِيَ فِيمَا رَوَى لَا فِي رَأْيِهِ وَقَدْ يَنْسَى، أَوْ يَتَأَوَّلُ، وَأَيْضًا فَإِنَّ التَّوْهِينَ بِمَا رَوَى لِمَا رُوِيَ عَنْهُ مِمَّا يُخَالِفُ مَا رَوَى - أَوْلَى مِنْ تَوْهِينِ مَا رَوَى بِمَا رُوِيَ عَنْهُ مِنْ خِلَافِهِ لِمَا رَوَى، لِأَنَّ الطَّاعَةَ عَلَيْنَا إنَّمَا هِيَ لِمَا رَوَى لَا لِمَا رَأَى بِرَأْيِهِ.

L14224 If it is objected: "Reports attributed to Ibn ʿAbbās contradict what is narrated here?" We reply: The valid proof lies solely in what he narrated, not in his personal opinion—for he may have forgotten or engaged in interpretation. Furthermore, discrediting contradictions [to his narrations] by citing other reports from him is more valid than discrediting his narrations by citing contradictory reports attributed to him, since obedience is incumbent on us only for what he narrated, not for what he opined by his own judgment.

[27] **Hadith references (L14220):** Sunan Ibn Majah 3077; Sunan an-Nasai 2861; Jami at-Tirmidhi 940.

L14225 Furthermore, if a position contradicting what was narrated were authentically attributed to Ibn ʿAbbās, then al-Hajjaj and Abū Hurayrah would have narrated it and would not have contradicted it.

وَأَيْضًا فَلَوْ صَحَّ عَنْ ابْنِ عَبَّاسٍ خِلَافُ مَا رُوِيَ لَكَانَ الْحَجَّاجُ، وَأَبُو هُرَيْرَةَ، قَدْ رَوَيَاهُ وَلَمْ يُخَالِفَاهُ.

L14226 Abu Hanifah said: The sacrificial animal for being prevented (from completing Hajj) must only be slaughtered within the Haram. He argued that Nājiyah ibn Kaʿb took charge of the sacrificial animal on the day of the Treaty of Ḥudaybiyyah, traversing mountain passes and valleys until he could slaughter it within the Haram.

وَقَالَ أَبُو حَنِيفَةَ: لَا يَنْحَرُ هَدْيَ الْإِحْصَارِ إِلَّا فِي الْحَرَمِ، وَاحْتَجَّ بِأَنَّ نَاجِيَةَ بْنَ كَعْبٍ نَهَضَ بِالْهَدْيِ يَوْمَ الْحُدَيْبِيَةِ فِي شِعَابٍ وَأَوْدِيَةٍ حَتَّى نَحَرَهُ فِي الْحَرَمِ.

L14227 Abu Muhammad said: If this were valid, there would be no proof in it, because he - peace be upon him - did not command that nor make it obligatory. Rather, it would merely be an action he performed. Obedience is solely for his command - peace be upon him.

قَالَ أَبُو مُحَمَّد: لَوْ صَحَّ هَذَا لَمَا كَانَتْ فِيهِ حُجَّةٌ؛ لِأَنَّهُ لَمْ يَأْمُرْ بِذَلِكَ - عَلَيْهِ السَّلَامُ - وَلَا أَوْجَبَهُ، وَإِنَّمَا كَانَ يَكُونُ عَمَلًا عَمِلَهُ، وَإِنَّمَا الطَّاعَةُ لِأَمْرِهِ - عَلَيْهِ السَّلَامُ -.

L14228 A report has been transmitted to us stating that he—peace be upon him—commanded his companions regarding the camels for the sacrificial offering. This is invalid because its narrator is Abu Hazir al-Azdi, who is of unknown reliability. And with Allah, the Most High, is success.

وَرُوِّينَا خَبَرًا فِيهِ: أَنَّهُ - عَلَيْهِ السَّلَامُ - أَمَرَ أَصْحَابَهُ بِالْبُدْنِ لِلْهَدْيِ - وَهَذَا لَا يَصِحُّ، لِأَنَّ رَاوِيَهُ أَبُو حَاضِرٍ الْأَزْدِيُّ وَهُوَ مَجْهُولٌ، وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ احْتَاجَ إلَى حَلْقِ رَأْسِهِ وَهُوَ مُحْرِمٌ]

L14229 **A case involving one who needed to shave his head while he was a muḥrim.**

L14230 874 – Issue:

٨٧٤ - مَسْأَلَةٌ:

L14231 Whoever needs to shave his head while in the state of consecration (ihram) due to an illness, headache, lice, a wound, or similar harm—let him shave it. He must perform one of three things, being free to choose whichever he wishes, for he is necessarily required to undertake one of them.

وَمَنْ احْتَاجَ إلَى حَلْقِ رَأْسِهِ - وَهُوَ مُحْرِمٌ لِمَرَضٍ، أَوْ صُدَاعٍ، أَوْ لِقَمْلٍ، أَوْ لِجُرْحٍ بِهِ، أَوْ نَحْوِ ذَلِكَ مِمَّا يُؤْذِيهِ - فَلْيَحْلِقْهُ، وَعَلَيْهِ أَحَدُ ثَلَاثَةِ أَشْيَاءَ هُوَ مُخَيَّرٌ فِي أَيِّهَا شَاءَ لَا بُدَّ لَهُ مِنْ أَحَدِهَا.

L14232 He must either fast three days, or feed six separate needy individuals—each of whom must unfailingly receive half a ṣāʿ of dates—or sacrifice a sheep as ṣadaqah to the needy. The sacrifice may be performed in the place where he shaved his head or elsewhere.

إمَّا أَنْ يَصُومَ ثَلَاثَةَ أَيَّامٍ، وَإِمَّا أَنْ يُطْعِمَ سِتَّةَ مَسَاكِينَ مُتَغَايِرِينَ لِكُلِّ مِسْكِينٍ مِنْهُمْ نِصْفُ صَاعِ تَمْرٍ وَلَا بُدَّ، وَإِمَّا أَنْ يُهْدِيَ شَاةً يَتَصَدَّقُ بِهَا عَلَى الْمَسَاكِينِ، أَوْ يَصُومَ، أَوْ يُطْعِمَ، أَوْ يَنْسُكَ الشَّاةَ فِي الْمَكَانِ الَّذِي حَلَقَ فِيهِ أَوْ فِي غَيْرِهِ.

L14233–14235 If he shaves his head without necessity, or shaves part of his head and

leaves the rest unshaven intentionally and with full awareness of the ruling concerning that act... It is not permissible; his Hajj is invalid. If he cuts from the hair of his head an amount that does not amount to shaving part of his head, there is nothing upon him—neither sin nor expiation—regardless of the manner in which he cut or plucked it.

فَإِنْ حَلَقَ رَأْسَهُ لِغَيْرِ ضَرُورَةٍ، أَوْ حَلَقَ بَعْضَ رَأْسِهِ دُونَ بَعْضٍ عَامِدًا عَالِمًا أَنَّ ذَلِكَ لَا يَجُوزُ بَطَلَ حَجُّهُ، فَلَوْ قَطَعَ مِنْ شَعْرِ رَأْسِهِ مَا لَا يُسَمَّى بِهِ حَالِقًا بَعْضَ رَأْسِهِ فَلَا شَيْءَ عَلَيْهِ، لَا إِثْمَ وَلَا كَفَّارَةَ بِأَيِّ وَجْهٍ قَطَعَهُ، أَوْ نَزَعَهُ.

L14236 The proof of this is Allah's statement, the Almighty and Majestic: {But whoever among you is ill or has an affliction of the head, then a fidya is required—consisting of fasting, charity, or sacrifice} [Al-Baqarah: 196]. In this verse, there is a choice of whichever of these three acts he prefers. It does not clarify how much to fast, with how much to give in charity, or with what to offer as sacrifice. The verse also contains an omission clarified by consensus and the Sunnah: that he shaved his head.[28]

بُرْهَانُ ذَلِكَ -: قَوْلُ اللَّهِ عَزَّ وَجَلَّ {فَمَنْ كَانَ مِنْكُمْ مَرِيضًا أَوْ بِهِ أَذًى مِنْ رَأْسِهِ فَفِدْيَةٌ مِنْ صِيَامٍ أَوْ صَدَقَةٍ أَوْ نُسُكٍ} [البقرة: ١٩٦] فَكَانَ فِي هَذِهِ الْآيَةِ التَّخْيِيرُ فِي أَيِّ هَذِهِ الثَّلَاثَةِ الْأَعْمَالِ أَحَبَّ، وَلَيْسَ فِيهَا بَيَانُ كَمْ يَصُومُ؟ وَلَا بِكَمْ يَتَصَدَّقُ؟ وَلَا بِمَاذَا يَنْسُكُ؟ وَفِي الْآيَةِ أَيْضًا حَذْفٌ بَيَّنَهُ الْإِجْمَاعُ، وَالسُّنَّةُ وَهُوَ: فَحَلَقَ رَأْسَهُ.

L14237 It has been narrated to us through the chain of Ḥammād ibn Salamah from Dāwūd ibn Abī Hind from al-Shaʿbī from ʿAbd al-Raḥmān ibn Abī Laylā from Kaʿb ibn ʿUjrah in this report: "The Messenger of Allah (peace be upon him) said to him: If you wish, slaughter a sheep as a sacrifice; if you wish, fast three days; if you wish, give three ṣāʿs of dates to six needy people."[29]

وَرُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ دَاوُد بْنِ أَبِي هِنْدٍ عَنْ الشَّعْبِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى عَنْ كَعْبِ بْنِ عُجْرَةَ فِي هَذَا الْخَبَرِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: إنْ شِئْتَ فَانْسُكْ نَسِيكَةً، وَإِنْ شِئْتَ فَصُمْ ثَلَاثَةَ أَيَّامٍ، وَإِنْ شِئْتَ فَأَطْعِمْ ثَلَاثَةَ آصُعَ مِنْ تَمْرٍ لِسِتَّةِ مَسَاكِينَ» .

L14238 It has been narrated to us via Muslim's chain: Yahya ibn Yahya narrated to us, Khalid ibn Abdullah al-Tahhan narrated to us from Khalid al-Ḥadhdhā' from Abu Qilabah from Abd al-Rahman ibn Abi Layla from Ka'b ibn Ujrah: "Allah's Messenger—peace be upon him—passed by him during the time of Hudaybiyah and said: 'Is the vermin in your head harming you?' He replied: 'Yes.' The Prophet—peace be upon him—then said: 'Shave your head, then slaughter a sheep as sacrifice, or fast three days, or feed three ṣuʿs of dates to six needy people.'"[30]

وَرُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي يَحْيَى بْنُ يَحْيَى نَا خَالِدُ بْنُ عَبْدِ اللَّهِ الطَّحَّانُ عَنْ خَالِدٍ الْحَذَّاءِ عَنْ أَبِي قِلَابَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى عَنْ كَعْبِ بْنِ عُجْرَةَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَرَّ بِهِ زَمَنَ الْحُدَيْبِيَةِ فَقَالَ لَهُ: آذَاكَ هَوَامُّ رَأْسِكَ؟ قَالَ: نَعَمْ، فَقَالَ لَهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - احْلِقْ، ثُمَّ اذْبَحْ شَاةً نُسُكًا، أَوْ صُمْ ثَلَاثَةَ أَيَّامٍ، أَوْ اطْعَمْ ثَلَاثَةَ آصُعَ مِنْ تَمْرٍ: عَلَى سِتَّةِ مَسَاكِينَ» .

L14239 Abu Muhammad said: This is the most complete and clearest of the hadiths,

قَالَ أَبُو مُحَمَّد: هَذَا أَكْمَلُ الْأَحَادِيثِ وَأَبْيَنُهَا، وَقَدْ جَاءَ هَذَا الْخَبَرُ مِنْ طُرُقٍ -: فِي بَعْضِهَا «أَوْ نُسُكٍ مَا تَيَسَّرَ» .

[28] **Qur'an references (L14236):** Qur'an 2:196 (Al-Baqarah).
[29] **Hadith references (L14237):** Sunan Abi Dawud 1857.
[30] **Hadith references (L14238):** Sunan Abi Dawud 1856.

and this narration has been transmitted through multiple chains. In some of them is [the wording]: “or the ritual sacrifice of what can be afforded.”

L14240 Some of them we have narrated via Muḥammad ibn Jaʿfar from Shuʿbah from ʿAbd al-Raḥmān ibn al-Aṣbahānī from ʿAbdullāh ibn Maʿqil: that Kaʿb ibn ʿUjrah informed him of this report, which states: “The Messenger of Allah—peace and blessings of Allah be upon him—said to him at that time: ‘Or feed six needy people half a ṣāʿ of food for each needy person.’”

وَبَعْضُهَا رُوِّينَاهُ مِنْ طَرِيقِ مُحَمَّدِ بْنِ جَعْفَرٍ عَنْ شُعْبَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَصْبَهَانِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ: أَنَّ كَعْبَ بْنَ عُجْرَةَ أَخْبَرَهُ بِهَذَا الْخَبَرِ، وَفِيهِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ حِينَئِذٍ: أَوْ أَطْعِمْ سِتَّةَ مَسَاكِينَ نِصْفَ صَاعٍ طَعَامًا لِكُلِّ مِسْكِينٍ» .

L14241–14243 And it was also narrated via Bishr ibn ʿUmar al-Zahrānī from Shuʿbah from… Abd al-Rahman ibn al-Aṣbahānī from Abdullah ibn Ma’qil from Kaʿb ibn ʿUjrah, wherein he mentioned half a *saʿ* of wheat for every needy person.

وَرُوِيَ أَيْضًا مِنْ طَرِيقِ بِشْرِ بْنِ عُمَرَ الزَّهْرَانِيِّ عَنْ شُعْبَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَصْبَهَانِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ عَنْ كَعْبِ بْنِ عُجْرَةَ، فَذَكَرَ فِيهِ نِصْفَ صَاعِ حِنْطَةٍ لِكُلِّ مِسْكِينٍ.

L14244 A report via the chain of Abū Dāwūd: Muḥammad ibn Manṣūr narrated to us, Yaʿqūb ibn Ibrāhīm ibn Saʿd narrated to us, from his father, from Muḥammad ibn Isḥāq, from Abān ibn Ṣāliḥ, from al-Ḥakam ibn ʿUtaybah, from ʿAbd al-Raḥmān ibn Abī Laylā, from Kaʿb ibn ʿUjrah, from the Prophet—peace and blessings be upon him—who mentioned therein: “or feeding six needy people a farq of raisins.”

وَخَبَرٌ مِنْ طَرِيقِ أَبِي دَاوُد -: نَا مُحَمَّدُ بْنُ مَنْصُورٍ نَا يَعْقُوبُ بْنُ إِبْرَاهِيمَ بْنِ سَعْدٍ نَا أَبِي عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ [قَالَ] حَدَّثَنِي أَبَانُ هُوَ ابْنُ صَالِحٍ - عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى عَنْ كَعْبِ بْنِ عُجْرَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَ فِيهِ «أَوْ إطْعَامَ سِتَّةِ مَسَاكِينَ فَرْقًا مِنْ زَبِيبٍ» .

L14245 A report through the chain of Ibn Abī Shaybah: ʿAbdullāh ibn Numayr narrated to us from Zakariyyā ibn Abī Zāʾidah from ʿAbd al-Raḥmān ibn al-Aṣbahānī from ʿAbdullāh ibn Maʿqil—Kaʿb ibn ʿUjrah informed me, from the Messenger of Allah (peace be upon him). He mentioned the ḥadīth, which states: “The Prophet (peace be upon him) said to him: ’Do you have an offering?’ He replied: ’I cannot afford it.’ So he commanded him to fast three days or feed six poor people, giving each half a ṣāʿ.”

وَخَبَرٌ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ -: نَا عَبْدُ اللَّهِ بْنُ نُمَيْرٍ زَكَرِيَّا بْنُ أَبِي زَائِدَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَصْبَهَانِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ أَخْبَرَنِي كَعْبُ بْنُ عُجْرَةَ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَ الْحَدِيثَ، وَفِيهِ «أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ لَهُ: هَلْ عِنْدَكَ نُسُكٌ؟ قَالَ: مَا أَقْدِرُ عَلَيْهِ، فَأَمَرَهُ أَنْ يَصُومَ ثَلَاثَةَ أَيَّامٍ، أَوْ يُطْعِمَ سِتَّةَ مَسَاكِينَ، لِكُلِّ مِسْكِينٍ نِصْفُ صَاعٍ» .

L14246 From the narration chain of Saʿīd ibn Manṣūr: He reported to us; Abū ʿAwānah narrated from ʿAbd al-Raḥmān ibn al-Iṣbahānī from ʿAbd Allāh ibn Maʿqil that Kaʿb ibn ʿUjrah informed him: The Messenger of Allāh—peace and blessings be upon him—said to him in this narration: “Do you possess

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا أَبُو عَوَانَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْأَصْبَهَانِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ «أَنَّ كَعْبَ بْنَ عُجْرَةَ أَخْبَرَهُ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ

any sacrificial animal?" He replied: "No." The Prophet then asked: "Is it a sheep?" He answered: "No." He said: "Then fast three days or feed three ṣāʿs of food to six needy persons."

L14247 And through the chain of Abū Dāwūd, Muḥammad ibn al-Muthannā narrated from ʿAbd al-Wahhāb, who is Ibn ʿAbd al-Majīd al-Thaqafī, from Dāwūd ibn Abī Hind, from al-Shaʿbī, from Kaʿb ibn ʿUjrah, that the Messenger of Allāh—peace and blessings be upon him—said to him in this same hadith: "Do you possess a sacrificial animal?" He replied: "No." Then Kaʿb mentioned the hadith, which includes that the Prophet—peace be upon him—said to him: "Fast three days, or give three ṣāʿs of dates as charity distributed among six needy people." Al-Shaʿbī did not hear this directly from Kaʿb according to what we mentioned before.

L14248 We now mention, if Allah the Exalted wills, as narrated through the chain from Muḥammad ibn al-Jahm, from Jaʿfar al-Ṣāʾigh, from Muḥammad ibn al-Ṣabbāḥ, from Ismāʿīl ibn Zakariyyā, from Ashʿath, from al-Shaʿbī, from ʿAbdullāh ibn Maʿqil, from Kaʿb ibn ʿUjrah, who said: "The Messenger of Allah—peace be upon him—said to him in this narration: 'Do you have a sacrificial animal with you?' I replied: 'I do not have one.' He said: 'Is there not something within your means?' I said: 'I cannot find one.' He said: 'Then fast three days, or feed six poor persons—for each poor person, a *ṣāʿ* of dates.'"

L14249–14251 Abū Muḥammad said: So all these contradictory hadiths are solely in the narration of... From Abdullah ibn Maʿqil, from Kaʿb ibn ʿUjrah—and the report we first mentioned through the chain of ʿAbd al-Raḥmān ibn Abī Laylā from Kaʿb ibn ʿUjrah is the authentic and agreed-upon one—as for this report containing "a ṣāʿ of dates for every poor person," it is from Ashʿath al-Kūfī through al-Shaʿbī, and it is wholly weak. In the earlier report discussed before, transmitted through Dāwūd from al-Shaʿbī from Kaʿb, there is an obligation to follow the prescribed order, and that fasting and charity are only permissible if the ritual offering is unavailable. We have already clarified that al-Shaʿbī did not hear this from Kaʿb, resulting in a disconnected chain. Thus, both are thereby discarded together.

فِي هَذَا الْخَبَرِ: هَلْ تَجِدُ مِنْ نَسِيكَةٍ؟ قَالَ: لَا، قَالَ: وَهِيَ شَاةٌ؟ قَالَ: فَصُمْ ثَلَاثَةَ أَيَّامٍ، أَوْ أَطْعِمْ ثَلَاثَةَ آصُعَ بَيْنَ سِتَّةِ مَسَاكِينَ» .

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا عَبْدُ الْوَهَّابِ هُوَ ابْنُ عَبْدِ الْمَجِيدِ الثَّقَفِيُّ - أَنَا دَاوُد بْنُ أَبِي هِنْدٍ عَنْ الشَّعْبِيِّ «عَنْ كَعْبِ بْنِ عُجْرَةَ، أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ فِي هَذَا الْحَدِيثِ نَفْسِهِ أَمَعَكَ دَمٌ؟ قَالَ: لَا فَذَكَرَ الْحَدِيثَ وَفِيهِ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ لَهُ: فَصُمْ ثَلَاثَةَ أَيَّامٍ، أَوْ تَصَدَّقْ بِثَلَاثَةِ آصُعَ مِنْ تَمْرٍ بَيْنَ سِتَّةِ مَسَاكِينَ» لَمْ يَسْمَعْهُ الشَّعْبِيُّ مِنْ كَعْبٍ عَلَى مَا ذَكَرْنَا قَبْلُ.

وَنَذْكُرُ الْآنَ إنْ شَاءَ اللَّهُ تَعَالَى كَمَا رُوِّينَا مِنْ طَرِيقِ مُحَمَّدِ بْنِ الْجَهْمِ نَا جَعْفَرُ الصَّائِغُ نَا مُحَمَّدُ بْنُ الصَّبَّاحِ نَا إسْمَاعِيلُ بْنُ زَكَرِيَّا عَنْ أَشْعَثَ عَنْ الشَّعْبِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ عَنْ كَعْبِ بْنِ عُجْرَةَ قَالَ: «إنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ فِي هَذَا الْخَبَرِ: أَمَعَكَ هَدْيٌ؟ قُلْتُ: مَا أَجِدُهُ، قَالَ: إنَّهُ مَا اسْتَيْسَرَ؟ قُلْتُ: مَا أَجِدُهُ؟ قَالَ: فَصُمْ ثَلَاثَةَ أَيَّامٍ، أَوْ أَطْعِمْ سِتَّةَ مَسَاكِينَ لِكُلِّ مِسْكِينٍ صَاعًا مِنْ تَمْرٍ» .

قَالَ أَبُو مُحَمَّد: فَهَذِهِ الْأَحَادِيثُ الْمُضْطَرِبَةُ كُلُّهَا إنَّمَا هِيَ فِي رِوَايَةِ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ عَنْ كَعْبِ بْنِ عُجْرَةَ، وَالَّذِي ذَكَرْنَاهُ أَوَّلًا مِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى عَنْ كَعْبِ بْنِ عُجْرَةَ هُوَ الصَّحِيحُ الْمُتَّفَقُ عَلَيْهِ -: أَمَّا هَذَا الْخَبَرُ الَّذِي فِيهِ لِكُلِّ مِسْكِينٍ صَاعُ تَمْرٍ فَهُوَ عَنْ أَشْعَثَ الْكُوفِيِّ عَنْ الشَّعْبِيِّ وَهُوَ ضَعِيفٌ أَلْبَتَّةَ، وَفِي هَذَا الْخَبَرِ الَّذِي قَبْلَهُ مِنْ طَرِيقِ دَاوُد عَنْ الشَّعْبِيِّ عَنْ كَعْبٍ: إيجَابُ التَّرْتِيبِ، وَأَنْ لَا يَجْزِيَ الصِّيَامُ، وَلَا

الصَّدَقَةُ إِلَّا عِنْدَ عَدَمِ النُّسُكِ، وَذَلِكَ الْخَبَرُ قَدْ بَيَّنَّا أَنَّ الشَّعْبِيَّ لَمْ يَسْمَعْهُ مِنْ كَعْبٍ، فَخَصَلَ مُنْقَطِعًا: فَسَقَطَا مَعًا.

L14252 وَأَمَّا رِوَايَةُ ابْنِ أَبِي زَائِدَةَ، وَأَبِي عَوَانَةَ عَنِ الْأَصْبَهَانِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ فَفِيهَا أَيْضًا: إِيجَابُ التَّرْتِيبِ، وَقَدْ خَالَفَهُمَا شُعْبَةُ عَنِ ابْنِ الْأَصْبَهَانِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مَعْقِلٍ فَذَكَرَهُ بِالتَّخْيِيرِ بَيْنَ النُّسُكِ أَوِ الصَّوْمِ، أَوِ الصَّدَقَةِ، ثُمَّ وَجَدْنَا شُعْبَةَ قَدِ اخْتَلَفَ عَلَيْهِ أَيْضًا فِي هَذَا الْخَبَرِ -: فَرَوَى عَنْهُ مُحَمَّدُ بْنُ جَعْفَرٍ: نِصْفَ صَاعٍ طَعَامًا لِكُلِّ مِسْكِينٍ.

L14253 وَرَوَى عَنْهُ بِشْرُ بْنُ عُمَرَ: نِصْفَ صَاعٍ حِنْطَةً لِكُلِّ مِسْكِينٍ.

L14254 وَرَوَى عَنْهُ أَبُو دَاوُد الطَّيَالِسِيُّ: ثَلَاثَةَ آصُعٍ بَيْنَ سِتَّةِ مَسَاكِينَ، وَلَمْ يَذْكُرْ لِمَاذَا.

L14255 قَالَ أَبُو مُحَمَّدٍ: وَهَذَا كُلُّهُ خَبَرٌ وَاحِدٌ فِي قِصَّةٍ وَاحِدَةٍ بِلَا خِلَافٍ مِنْ أَحَدٍ، وَبِنُصُوصِ هَذِهِ الْأَخْبَارِ كُلِّهَا أَيْضًا، فَصَحَّ أَنَّ جَمِيعَهَا وَهْمٌ إِلَّا وَاحِدًا فَقَطْ -: فَوَجَدْنَا أَصْحَابَ شُعْبَةَ قَدِ اخْتَلَفُوا عَلَيْهِ، فَوَجَبَ تَرْكُ مَا اضْطَرَبُوا فِيهِ، إِذْ لَيْسَ بَعْضُهُ أَوْلَى مِنْ بَعْضٍ، وَوَجَبَ الرُّجُوعُ إِلَى رِوَايَةِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى الَّذِي لَمْ يَضْطَرِبِ الثِّقَاتُ مِنْ رُوَاتِهِ فِيهِ، وَلَوْ كَانَ مَا ذَكَرَ فِي هَذِهِ الْأَخْبَارِ عَنْ قَضَايَا شَتَّى لَوَجَبَ الْأَخْذُ بِجَمِيعِهَا وَضَمُّ بَعْضِهَا إِلَى بَعْضٍ، وَأَمَّا فِي قَضِيَّةٍ وَاحِدَةٍ فَلَا يُمْكِنُ ذَلِكَ أَصْلًا.

L14256 ثُمَّ وَجَدْنَا أَبَانَ بْنَ صَالِحٍ قَدْ ذَكَرَ فِي رِوَايَتِهِ «فَرْقًا مِنْ زَبِيبٍ» وَأَبَانُ لَا يُعْدَلُ فِي الْحِفْظِ بِدَاوُد بْنِ أَبِي هِنْدٍ عَنِ الشَّعْبِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، وَلَا بِأَبِي قِلَابَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، وَلَا بُدَّ مِنْ أَخْذِ إِحْدَى هَاتَيْنِ الرِّوَايَتَيْنِ، إِذْ لَا يُمْكِنُ جَمْعُهُمَا؛ لِأَنَّهَا كُلَّهَا فِي قَضِيَّةٍ وَاحِدَةٍ، فِي مَقَامٍ وَاحِدٍ، فِي رَجُلٍ وَاحِدٍ، فِي وَقْتٍ وَاحِدٍ، فَوَجَبَ

As for the narration of Ibn Abī Zā'idah and Abū ʻAwānah from al-Aṣbahānī via ʻAbd Allāh ibn Maʻqil, it also contains the obligation of sequence. However, Shuʻbah contradicted them in his narration from Ibn al-Aṣbahānī, who narrated from ʻAbd Allāh ibn Maʻqil, by mentioning the option to choose between sacrifice, fasting, or charity. Subsequently, we found there were also discrepancies in narrations from Shuʻbah regarding this report: Muḥammad ibn Jaʻfar narrated from him "half a ṣāʻ of food for each needy person."

Bishr ibn ʿUmar narrated from him: half a ṣāʿ of wheat for every poor person.

Abū Dāwūd al-Ṭayālisī narrated from him that three ṣāʿs are to be distributed among six needy individuals, but he did not mention why.

Abū Muḥammad said: All of this is a single report concerning one incident without any disagreement from anyone. According to the texts of all these reports, it has been established that all are erroneous except one alone. We found that Shuʻbah's companions conflicted in their narrations from him, making it obligatory to discard the parts where they were inconsistent, since none of their narrations are more valid than others. It became obligatory to rely on the narration of ʻAbd al-Raḥmān ibn Abī Laylā, in which the trustworthy among his transmitters showed no inconsistency. Had these reports addressed multiple cases, it would have been obligatory to accept all of them and integrate them together. But in a single case, this is not possible at all.

Then we found that Abān ibn Ṣāliḥ mentioned in his narration "a farq of raisins," and Abān's memorization cannot be compared to that of Dāwūd ibn Abī Hind from al-Shaʿbī from ʿAbd al-Raḥmān ibn Abī Laylā, nor to that of Abū Qilābah from ʿAbd al-Raḥmān ibn Abī Laylā. It is necessary to accept one of these two narrations, as reconciling them is impossible, for they all pertain to a single incident, context, individual, and moment. Therefore, it is obligatory to accept what was narrated by Abū Qilābah and al-

Shaʿbī from ʿAbd al-Raḥmān ibn Abī Laylā from Kaʿb ibn ʿUjrah, due to their trustworthiness and because this narration clarifies the rest of the ahadith. And with Allah, the Most High, lies success.

أَخْذُ مَا رَوَاهُ أَبُو قِلَابَةَ، وَالشَّعْبِيُّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى عَنْ كَعْبِ بْنِ عُجْرَةَ، لِثِقَتِهِمَا وَلِأَنَّهَا مُبَيِّنَةٌ لِسَائِرِ الْأَحَادِيثِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14257–14258 As for one who shaves his entire head without necessity, knowingly and deliberately, aware that this is impermissible, or shaves part of his head while leaving the rest, knowing that it is impermissible: he has indeed disobeyed Allah the Exalted. Every act of disobedience is transgression, and we have established that transgression invalidates the state of ihrām—and with Allah the Exalted is success. There is nothing required for that, because Allah the Exalted has only obligated expiation upon one who shaves his head due to illness or harm therein only. "And your Lord is never forgetful" [Maryam 19:64].[31]

وَأَمَّا مَنْ حَلَقَ رَأْسَهُ لِغَيْرِ ضَرُورَةٍ عَالِمًا عَامِدًا بِأَنَّ ذَلِكَ لَا يَجُوزُ، أَوْ حَلَقَ بَعْضَ رَأْسِهِ وَخَلَّى الْبَعْضَ عَالِمًا بِأَنَّ ذَلِكَ لَا يَجُوزُ: فَقَدْ عَصَى اللَّهَ تَعَالَى، وَكُلُّ مَعْصِيَةٍ فُسُوقٌ، وَقَدْ بَيَّنَّا أَنَّ الْفُسُوقَ يُبْطِلُ الْإِحْرَامَ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ - وَلَا شَيْءَ فِي ذَلِكَ؛ لِأَنَّ اللَّهَ تَعَالَى لَمْ يُوجِبْ الْكَفَّارَةَ إلَّا عَلَى مَنْ حَلَقَ رَأْسَهُ لِمَرَضٍ، أَوْ أَذًى بِهِ فَقَطْ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

L14259 It is not permissible to impose a ransom, fine, or fasting that Allah the Exalted has not obligated nor His Messenger—may Allah bless him and grant him peace—for this constitutes legislation in the religion that Allah the Exalted has not permitted. Nor is it permissible to analogize the disobedient to the obedient even if analogy were hypothetically valid—how much more so when it is entirely invalid? As for one who cuts hair from his head in a manner not deemed shaving—by cutting part of the head—he has neither disobeyed nor committed a wrongful act, for Allah the Exalted has only prohibited the one in iḥrām from shaving his head. Through His Messenger—may Allah bless him and grant him peace—He has prohibited shaving parts of the head while leaving others, which is al-qazaʿ.

وَلَا يَجُوزُ أَنْ يُوجَبَ فِدْيَةٌ، أَوْ غَرَامَةٌ، أَوْ صِيَامٌ، لَمْ يُوجِبْهُ اللَّهُ تَعَالَى وَلَا رَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَهُوَ شَرْعٌ فِي الدِّينِ لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى، وَلَا يَجُوزُ قِيَاسُ الْعَاصِي عَلَى الْمُطِيعِ لَوْ كَانَ الْقِيَاسُ حَقًّا فَكَيْفَ وَهُوَ كُلُّهُ بَاطِلٌ؟ وَأَمَّا مَنْ قَطَعَ مِنْ شَعْرِ رَأْسِهِ مَا لَا يُسَمَّى بِذَلِكَ حَالِقًا بَعْضَ رَأْسِهِ فَإِنَّهُ لَمْ يَعْصِ وَلَا أَتَى مُنْكَرًا؛ لِأَنَّ اللَّهَ تَعَالَى لَمْ يَنْهَ الْمُحْرِمَ إلَّا عَنْ حَلْقِ رَأْسِهِ وَنَهَى جُمْلَةً عَلَى لِسَانِ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ حَلْقِ بَعْضِ الرَّأْسِ دُونَ بَعْضٍ وَهُوَ الْقَزَعُ.

L14260 It was narrated to us through the chain of Abī Dāwūd: Aḥmad ibn Ḥanbal informed us from ʿAbd al-Razzāq, from Maʿmar, from Ayyūb al-Sikhtiyānī, from Nāfiʿ, from Ibn ʿUmar, who said: "The Prophet—peace and blessings of Allah be upon him—saw a child who had shaved part of his hair and left part of it. He forbade them from doing so and said: 'Shave it all or leave it all.'"

رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نَا أَحْمَدُ بْنُ حَنْبَلٍ نَا عَبْدُ الرَّزَّاقِ نَا مَعْمَرٌ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: «رَأَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - صَبِيًّا قَدْ حَلَقَ بَعْضَ شَعْرِهِ وَتَرَكَ بَعْضَهُ فَنَهَاهُمْ عَنْ ذَلِكَ، وَقَالَ: احْلِقُوا كُلَّهُ، أَوْ اُتْرُكُوا كُلَّهُ» .

L14261 Abu Muhammad said: There are reports that are inauthentic, including one transmitted via al-Layth, from Nāfiʿ, from an Ansari man—"that the

[31] **Qur'an references (L14258):** Qur'an 19:64 (Maryam).

Messenger of Allah (peace be upon him) ordered Kaʿb ibn ʿUjrah to shave and offer a cow." This is a *mursal* narration from an unknown narrator.

قَالَ أَبُو مُحَمَّد: وَجَاءَتْ أَخْبَارٌ لَا تَصِحُّ، مِنْهَا -: مِنْ طَرِيقِ اللَّيْثِ عَنْ نَافِعٍ عَنْ رَجُلٍ أَنْصَارِيٍّ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ كَعْبَ بْنَ عُجْرَةَ أَنْ يَحْلِقَ وَيُهْدِيَ بَقَرَةً» وَهَذَا مُرْسَلٌ عَنْ مَجْهُولٍ.

L14262 And through the chain of ʿAbd al-Razzāq from ʿAbdullāh ibn ʿUmar from Nāfiʿ from Sulaymān ibn Muḥammad ibn Kaʿb ibn ʿUjrah: that Kaʿb slaughtered a cow at al-Ḥudaybiyah (ʿAbdullāh ibn ʿUmar is very weak).

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ سُلَيْمَانَ بْنِ مُحَمَّدِ بْنِ كَعْبِ بْنِ عُجْرَةَ: أَنَّ كَعْبًا ذَبَحَ بَقَرَةً بِالْحُدَيْبِيَةِ - عَبْدُ اللَّهِ بْنُ عُمَرَ ضَعِيفٌ جِدًّا.

L14263 And through the narration of Isma'il ibn Umayyah from Muhammad ibn Yahya ibn Hibban: A man was afflicted with the same affliction that befell Ka'b ibn 'Ujrah. Umar asked a son of Ka'b ibn 'Ujrah about what his father had slaughtered at Hudaybiyyah as the ransom for his head. He replied: "A cow." Muhammad ibn Yahya did not meet Umar.

وَمِنْ طَرِيقِ إِسْمَاعِيلَ بْنِ أُمَيَّةَ عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حِبَّانَ: أَنَّ رَجُلًا أَصَابَهُ مِثْلُ الَّذِي أَصَابَ كَعْبَ بْنَ عُجْرَةَ فَسَأَلَ عُمَرُ ابْنًا لِكَعْبِ بْنِ عُجْرَةَ عَمَّا كَانَ أَبُوهُ ذَبَحَ بِالْحُدَيْبِيَةِ فِي فِدْيَةِ رَأْسِهِ؟ فَقَالَ: بَقَرَةً - مُحَمَّدُ بْنُ يَحْيَى لَمْ يُدْرِكْ عُمَرَ.

L14264 And through the chain of Nāfiʿ and others from Sulaymān ibn Yasār, who said: 'Umar asked a son of Kaʿb ibn 'Ujrah, "What did his father redeem with?" He replied, "A cow"—Sulaymān did not meet 'Umar.

وَمِنْ طَرِيقِ نَافِعٍ، وَغَيْرِهِ، عَنْ سُلَيْمَانَ بْنِ يَسَارٍ قَالَ: سَأَلَ عُمَرُ ابْنًا لِكَعْبِ بْنِ عُجْرَةَ بِمَاذَا افْتَدَى أَبُوهُ؟ فَقَالَ بِبَقَرَةٍ - سُلَيْمَانُ لَمْ يُدْرِكْ عُمَرَ.

L14265–14266 From the narration of Abū Maʿshar al-Madanī, from Nāfiʿ, from Ibn 'Umar, who said: Kaʿb ibn 'Ujrah redeemed himself from an affliction affecting his head by shaving it in exchange for a cow he garlanded and marked for sacrifice by slitting its hump (Abū Maʿshar is a weak narrator).

وَمِنْ طَرِيقِ أَبِي مَعْشَرٍ الْمَدَنِيِّ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ قَالَ: افْتَدَى كَعْبُ بْنُ عُجْرَةَ مِنْ أَذًى كَانَ بِرَأْسِهِ فَحَلَقَهُ بِبَقَرَةٍ قَلَّدَهَا وَأَشْعَرَهَا - أَبُو مَعْشَرٍ ضَعِيفٌ.

L14267 Abū Muḥammad said: The predecessors differed. It has been narrated to us from Ibn ʿAbbās, ʿAlqamah, Mujāhid, Ibrāhīm al-Nakhaʿī, Qatādah, Ṭāwūs, and ʿAṭāʾ—all of them stated regarding the expiation for harm: fasting three days, sacrificing a sheep, or feeding six poor persons by giving each one half a *saʿ* (a traditional measure) of food.

قَالَ أَبُو مُحَمَّد: وَاخْتَلَفَ السَّلَفُ فَرُوِّينَا عَنِ ابْنِ عَبَّاسٍ، وَعَلْقَمَةَ، وَمُجَاهِدٍ، وَإِبْرَاهِيمَ النَّخَعِيِّ، وَقَتَادَةَ، وَطَاوُسٍ، وَعَطَاءٍ، كُلُّهُمْ قَالَ فِي فِدْيَةِ الْأَذَى: صِيَامُ ثَلَاثَةِ أَيَّامٍ، أَوْ نُسُكُ شَاةٍ، أَوْ إِطْعَامُ سِتَّةِ مَسَاكِينَ لِكُلِّ مِسْكِينٍ نِصْفُ صَاعٍ.

L14268 It is authentically reported from Al-Hasan Al-Basri, Nāfiʿ the client of Ibn ʿUmar, and ʿIkrimah concerning the expiation for harm [during *ihram*]: sacrificing a sheep; fasting for ten days; or feeding ten needy people.

وَصَحَّ عَنِ الْحَسَنِ الْبَصْرِيِّ، وَنَافِعٍ مَوْلَى ابْنِ عُمَرَ، وَعِكْرِمَةَ فِي فِدْيَةِ الْأَذَى: نُسُكُ شَاةٍ، أَوْ صِيَامُ عَشَرَةِ أَيَّامٍ، أَوْ إِطْعَامُ عَشَرَةِ مَسَاكِينَ.

L14269 That has been narrated to us - from the chain of Sa'īd ibn Manṣūr, from

Hushaym: “I am Manṣūr ibn al-Mu’tamir, from al-Ḥasan” - and he [Mansur] mentioned it.

رُوِّينَا ذَلِكَ -: مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ هُشَيْمٍ: أَنَا مَنْصُورَ بْنَ الْمُعْتَمِرِ عَنْ الْحَسَنِ فَذَكَرَهُ.

L14270 And through the chain of Bishr ibn ʿUmar from Shuʿbah from Qatādah from al-Ḥasan and ʿIkrimah, and he mentioned it.

وَمِنْ طَرِيقِ بِشْرِ بْنِ عُمَرَ عَنْ شُعْبَةَ عَنْ قَتَادَةَ عَنْ الْحَسَنِ، وَعِكْرِمَةَ فَذَكَرَهُ.

L14271 And via Hammad ibn Zayd, from Ayyub al-Sakhtiyānī, from Nāfiʿ and Ikrimah - and he related it.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ، وَعِكْرِمَةَ فَذَكَرَهُ.

L14272 Abu Muhammad said: As for the later scholars, Abu Ḥanīfa stated: If one shaves less than a quarter of their head due to necessity, they must give charity according to what is readily available. If they shave a quarter of their head, they may choose between offering a sacrificial animal of their choice - and a sheep suffices for this - fasting three days, or providing food to six needy persons, giving each needy person half a ṣāʿ of wheat, wheat flour, or a full ṣāʿ of dates, barley, or raisins.

قَالَ أَبُو مُحَمَّد: وَأَمَّا الْمُتَأَخِّرُونَ فَإِنَّ أَبَا حَنِيفَةَ قَالَ: إنْ حَلَقَ مِنْ رَأْسِهِ أَقَلَّ مِنْ الرُّبُعِ لِضَرُورَةٍ فَعَلَيْهِ صَدَقَةُ مَا تَيَسَّرَ، فَإِنْ حَلَقَ رُبُعَ رَأْسِهِ فَهُوَ مُخَيَّرٌ بَيْنَ نُسُكٍ مَا شَاءَ، وَيُجْزِئُهُ شَاةٌ، أَوْ صِيَامُ ثَلَاثَةِ أَيَّامٍ، أَوْ إطْعَامُ سِتَّةِ مَسَاكِينَ لِكُلِّ مِسْكِينٍ نِصْفُ صَاعٍ حِنْطَةٍ، أَوْ دَقِيقُ حِنْطَةٍ، أَوْ صَاعًا مِنْ تَمْرٍ، أَوْ مِنْ شَعِيرٍ، أَوْ مِنْ زَبِيبٍ.

L14273 Abu Yusuf said: It suffices to provide them with the morning and evening meals.

قَالَ أَبُو يُوسُفَ: وَيُجْزِئُ أَنْ يُغَدِّيَهُمْ وَيُعَشِّيَهُمْ.

L14274 Muhammad ibn al-Hasan said: It will not suffice him unless he hands it over to them.

قَالَ مُحَمَّدُ بْنُ الْحَسَنُ: لَا يُجْزِئُهُ إلَّا أَنْ يُعْطِيَهُمْ إيَّاهُ.

L14275 Abu Yusuf stated in another opinion: If one shaves half or less of his head, he must give charity; if he shaves more than half, the expiation applies as previously stated.

وَقَالَ أَبُو يُوسُفَ فِي قَوْلٍ لَهُ آخَرَ: إنْ حَلَقَ نِصْفَ رَأْسِهِ فَأَقَلَّ صَدَقَةٌ، وَإِنْ حَلَقَ أَكْثَرَ مِنْ النِّصْفِ فَالْفِدْيَةُ كَمَا ذَكَرْنَا.

L14276 It is narrated from Muḥammad ibn al-Ḥasan in another statement of his: If one shaves a tenth of his head, charity is due; and if he shaves more than a tenth, then the aforementioned expiation applies.

وَرُوِيَ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ فِي قَوْلٍ لَهُ آخَرَ إنْ حَلَقَ عُشْرَ رَأْسِهِ فَصَدَقَةٌ - فَإِنْ حَلَقَ أَكْثَرَ مِنْ الْعُشْرِ فَالْفِدْيَةُ الْمَذْكُورَةُ.

L14277 They all said: If he shaves his entire head without necessity, then a sacrificial animal is obligatory upon him. Neither fasting nor feeding (a specified number of) the poor suffices him as a substitute. Al-Ṭaḥāwī said: No expiation is required for shaving part of the head.

قَالُوا كُلُّهُمْ: فَإِنْ حَلَقَ رَأْسَهُ لِغَيْرِ ضَرُورَةٍ فَعَلَيْهِ دَمٌ لَا يُجْزِئُهُ بَدَلُهُ صِيَامٌ، وَلَا إطْعَامٌ - وَقَالَ الطَّحَاوِيَّ: لَيْسَ فِي حَلْقِ بَعْضِ الرَّأْسِ شَيْءٌ.

L14278–14279 Abu Muhammad said: These are whisperings, mockery, and akin to

frivolity—we seek refuge in Allah from calamity. Such absurdities are not attributed to any of the creation of Allah, the Exalted, before them.

قَالَ أَبُو مُحَمَّد: وَهَذِهِ وَسَاوِسُ وَاسْتِهْزَاءٌ وَشَبِيهٌ بِالْهَزْلِ، نَعُوذُ بِاللَّهِ مِنْ الْبَلَاءِ، وَلَا يُحْفَظُ هَذَا السُّخَامُ عَنْ أَحَدٍ مِنْ خَلْقِ اللَّهِ تَعَالَى قَبْلَهُمْ.

L14280 Mālik said: If one shaves or plucks hairs—whether forgetfully, unknowingly, or intentionally—he must give a measure of food as expiation. If he shaves or plucks hair that entails removing a source of harm, then upon him is the specific expiation mentioned in the ḥadīth of Kaʿb ibn ʿUjrah.

وَقَالَ مَالِكٌ: إنْ حَلَقَ، أَوْ نَتَفَ شَعَرَاتٍ نَاسِيًا، أَوْ جَاهِلًا أَوْ عَامِدًا فَيُطْعِمُ شَيْئًا مِنْ طَعَامٍ - فَإِنْ حَلَقَ، أَوْ نَتَفَ مَا يَكُونُ فِيهِ إمَاطَةَ أَذًى فَعَلَيْهِ الْفِدْيَةُ الْمَذْكُورَةُ فِي حَدِيثِ كَعْبِ بْنِ عُجْرَةَ.

L14281 Ali said: And this is also an opinion for which there is no evidence of its soundness, nor is it known to have been held by anyone before them.

قَالَ عَلِيٌّ: وَهَذَا أَيْضًا قَوْلٌ لَا دَلِيلَ عَلَى صِحَّتِهِ وَلَا يُعْرَفُ عَنْ أَحَدٍ قَبْلَهُمْ.

L14282 Al-Shāfiʿī and al-Awzāʿī ruled regarding plucking or shaving a single hair, whether done intentionally or unintentionally: the expiation is one mudd. For two hairs, the expiation is likewise two mudds. For three hairs or more, the expiation is likewise the sacrifice of an animal.

وَقَالَ الشَّافِعِيُّ، وَالْأَوْزَاعِيُّ فِي نَتْفِ شَعْرَةٍ أَوْ حَلْقِهَا عَامِدًا وَنَاسِيًا: مُدٌّ، وَفِي الشَّعْرَتَيْنِ كَذَلِكَ مُدَّانِ، وَفِي الثَّلَاثِ شَعَرَاتٍ فَصَاعِدًا كَذَلِكَ دَمٌ.

L14283 Al-Shafi'i said: If he wishes, he may slaughter a sheep; if he prefers, he may feed six poor persons, giving each two *mudds* of the food he himself consumes; or if he wishes, he may fast for three days.

قَالَ الشَّافِعِيُّ: إنْ أَحَبَّ فَشَاةٌ، وَإِنْ شَاءَ أَطْعَمَ سِتَّةَ مَسَاكِينَ لِكُلِّ مِسْكِينٍ مُدَّانِ مُدَّانِ مِمَّا يَأْكُلُ، وَإِنْ شَاءَ صَامَ ثَلَاثَةَ أَيَّامٍ.

L14284 Abū Muḥammad said: It has been transmitted to us from ʿAṭāʾ: No expiation is due for two hairs or a single hair, but for three hairs—a sacrificial offering (dam) is required. Al-Layth ibn Saʿd inclined toward this position. It has also been transmitted to us from Ibn Abī Shaybah, from Ḥafṣ ibn Ghiyāth, from Hishām ibn Ḥassān, who reported from al-Ḥasan and ʿAṭāʾ—both of whom said together regarding three hairs removed by a person in iḥrām: a sacrificial offering (dam) is required, whether done forgetfully or intentionally—they incur the same ruling.

قَالَ أَبُو مُحَمَّد: رُوِّينَا عَنْ عَطَاءٍ: لَيْسَ فِي الشَّعْرَتَيْنِ وَلَا فِي الشَّعْرَةِ شَيْءٌ، وَفِي ثَلَاثِ شَعَرَاتٍ دَمٌ - وَكَانَ اللَّيْثُ بْنُ سَعْدٍ نَحَا إلَى هَذَا - وَرُوِّينَا عَنْ ابْنِ أَبِي شَيْبَةَ عَنْ حَفْصِ بْنِ غِيَاثٍ عَنْ هِشَامِ بْنِ حَسَّانَ عَنْ الْحَسَنِ، وَعَطَاءٍ قَالَا جَمِيعًا فِي ثَلَاثِ شَعَرَاتٍ لِلْمُحْرِمِ: دَمٌ، النَّاسِي وَالْعَامِدُ سَوَاءٌ.

L14285 Through the chain of Saʿīd ibn Manṣūr, from al-Muʿtamir ibn Sulaymān, from Abū Ismāʿīl al-Makkī: He said, "I asked ʿAṭāʾ about a pilgrim in iḥrām who shaved two hairs for medical treatment." He replied, "He must offer a ransom (dam)."

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ الْمُعْتَمِرِ بْنِ سُلَيْمَانَ عَنْ أَبِي إسْمَاعِيلَ الْمَكِّيِّ: قَالَ: سَأَلْت عَطَاءً عَنْ مُحْرِمٍ حَلَقَ شَعْرَتَيْنِ لِدَوَاءٍ؟ قَالَ: عَلَيْهِ دَمٌ.

L14286 Abu Muhammad said: It was narrated to us from Abu Bakr ibn Abi Shaybah,

from Abu Usamah—who is Hammad ibn Usamah—from Jarir ibn Hazim, from Al-Zubayr ibn Al-Khirrit, from Ikrimah, who said: Ibn Abbas saw no issue with a person in the state of ihram shaving hair due to a head wound. Ali said: Ibn Abbas permitted that, seeing nothing objectionable in it, and no dissenting opinion is known from any of the Companions—may Allah the Exalted be pleased with them.

قَالَ أَبُو مُحَمَّدٍ: رُوِّينَا عَنْ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ: نَا أَبُو أُسَامَةَ هُوَ حَمَّادُ بْنُ أُسَامَةَ - عَنْ جَرِيرِ بْنِ حَازِمٍ عَنْ الزُّبَيْرِ بْنِ الْخِرِّيتِ عَنْ عِكْرِمَةَ قَالَ: كَانَ ابْنُ عَبَّاسٍ لَا يَرَى بَأْسًا لِلْمُحْرِمِ أَنْ يَحْلِقَ عَنْ الشَّجَّةِ -: قَالَ عَلِيٌّ: فَأَبَاحَ ذَلِكَ لَمْ يَرَ فِيهِ شَيْئًا وَلَا يُعْرَفُ فِي ذَلِكَ مُخَالِفٌ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ تَعَالَى عَنْهُمْ -.

L14287–14289 Abu Muhammad said: As for the legal context of the rituals, feeding, and fasting, we have mentioned in the chapter on the muḥṣir (prevented pilgrim) the rituals of Ali ibn Abi Talib—as narrated by Al-Husayn (may Allah the Exalted be pleased with both of them)—concerning the shaving of his head due to illness. He was present at Sukya, and we know of no opposition from the Companions—may Allah the Exalted be pleased with them—regarding the two of them. The act of worship involving shaving the head is not termed a sacrificial offering; therefore, if it is not designated as such, it becomes permissible in every location, since neither the Quran, the Sunnah, nor consensus mandates that this act of worship be performed in Mecca.

قَالَ أَبُو مُحَمَّدٍ: وَأَمَّا مَوْضِعُ النُّسُكِ وَالْإِطْعَامِ وَالصِّيَامِ فَقَدْ ذَكَرْنَا فِي بَابِ الْمُحْصِرِ نُسُكَ عَلِيِّ بْنِ أَبِي طَالِبٍ عَنْ الْحُسَيْنِ - رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا - فِي حَلْقِ رَأْسِهِ لِمَرَضٍ كَانَ بِهِ بِالسُّقْيَا وَلَا نَعْلَمُ لَهُمَا مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ تَعَالَى عَنْهُمْ - مُخَالِفًا وَنُسُكُ حَلْقِ الرَّأْسِ لَا يُسَمَّى هَدْيًا، فَإِذَا لَمْ يَكُنْ فَهُوَ جَائِزٌ فِي كُلِّ مَوْضِعٍ، إذْ لَمْ يُوجِبْ كَوْنَ النُّسُكِ بِمَكَّةَ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا إجْمَاعٌ.

L14290 It has been narrated to us from Ṭāwūs that he said: “Whatever pertains to blood or food must be in Makkah, but as for fasting, it may be observed wherever one wishes.” ʿAṭāʾ and Ibrāhīm al-Nakhaʿī said: “Whatever pertains to blood must be in Makkah, but whatever pertains to food or fasting may be done wherever one wishes.”

وَرُوِّينَا عَنْ طَاوُسٍ قَالَ: مَا كَانَ مِنْ دَمٍ أَوْ طَعَامٍ فَبِمَكَّةَ، وَأَمَّا الصَّوْمُ فَحَيْثُ شَاءَ - وَقَالَ عَطَاءٌ وَإِبْرَاهِيمُ النَّخَعِيُّ مَا كَانَ مِنْ دَمٍ فَبِمَكَّةَ وَمَا كَانَ مِنْ طَعَامٍ أَوْ صِيَامٍ فَحَيْثُ شَاءَ.

L14291 Al-Hasan said: Every obligatory blood sacrifice—therefore, you are not permitted to slaughter it except in Makkah.

وَقَالَ الْحَسَنُ: كُلُّ دَمٍ وَاجِبٍ فَلَيْسَ لَك أَنْ تَذْبَحَهُ إلَّا بِمَكَّةَ.

L14292 It has been narrated to us from Saʿīd ibn Manṣūr, who narrated to us from Jarīr, from Manṣūr, from Mujāhid, who said: “Place the *fidya* wherever you wish.” Abū Muḥammad said: It is not permissible to designate specific places for acts of worship to the exclusion of others except by the Quran or an established Sunnah.

رُوِّينَا عَنْ سَعِيدِ بْنِ مَنْصُورٍ نَا جَرِيرٌ عَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ قَالَ: اجْعَلْ الْفِدْيَةَ حَيْثُ شِئْت -: قَالَ أَبُو مُحَمَّدٍ: لَا يَجُوزُ أَنْ يَخُصَّ بِالنُّسُكِ مَكَانًا دُونَ مَكَانٍ إلَّا بِقُرْآنٍ، أَوْ سُنَّةٍ ثَابِتَةٍ.

L14293 **A juristic issue: A muḥrim shaving his head with nūrah.**

## [مَسْأَلَةٌ حَلَقَ الْمُحْرِمِ رَأْسَهُ بِنُورَةٍ]

875 – Issue:

If he shaves his head with nuura, he is linguistically deemed to have shaved, so all the rulings mentioned for one who shaves apply to him regardless of what he used to shave it. If he plucks it, there is no liability in that, because he did not shave it, for plucking is not shaving: *"And your Lord is not forgetful"* [19:64]. The prohibition and expiation pertain specifically to shaving, not to plucking.[32]

## A jurisprudential question: If someone hunts game and kills it while in the state of *iḥrām*.

876 - Issue:

Whoever hunts game and kills it while in a state of consecration (iḥrām) for ʿUmrah, Qirān, or Tamattuʿ Hajj—from the beginning of their consecration until the time begins for stoning Jamrat al-ʿAqabah—or if the game is killed by someone in iḥrām or by a person who has exited the state of consecration within the sacred precinct (Ḥaram): If one intentionally kills it while unmindful of their consecration or because the killing occurred within the Ḥaram, or kills it unintentionally—whether mindful of their consecration or not—then nothing is required of them: no expiation nor sin. That game is carrion forbidden for consumption. If one intentionally kills it while mindful of their consecration or because the act occurred within the Ḥaram, they have disobeyed Allah the Exalted, their Hajj becomes invalid, and their ʿUmrah likewise. They are obligated to fulfill what will be mentioned hereafter, if Allah the Almighty wills.

Allah the Exalted said: "Do not kill game while you are in iḥrām. Whoever among you kills it intentionally must atone by offering livestock equivalent to what he killed, as judged by two just men among you—either a sacrificial animal to reach the Kaaba, or expiation through feeding the poor or fasting equivalent to that feeding—so he may taste the consequence of his deed.

[32] **Qur'an references (L14295):** Qur'an 19:64 (Maryam).

٨٧٥ - مَسْأَلَةٌ:

فَإِنْ حَلَقَ رَأْسَهُ بِنُورَةٍ فَهُوَ حَالِقٌ فِي اللُّغَةِ فَفِيهِ مَا فِي الْحَالِقِ مِنْ كُلِّ مَا ذَكَرْنَا بِأَيِّ شَيْءٍ - حَلَقَهُ؟ فَإِنْ نَتَفَهُ فَلَا شَيْءَ فِي ذَلِكَ، لِأَنَّهُ لَمْ يَحْلِقْهُ، وَالنَّتْفُ غَيْرُ الْحَلْقِ: {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] وَإِنَّمَا جَاءَ النَّهْيُ وَالْفِدْيَةُ فِي الْحَلْقِ لَا فِي النَّتْفِ.

## [مَسْأَلَةٌ تَصَيَّدَ صَيْدًا فَقَتَلَهُ وَهُوَ مُحْرِمٌ]

٨٧٦ - مَسْأَلَةٌ:

وَمَنْ تَصَيَّدَ صَيْدًا فَقَتَلَهُ وَهُوَ مُحْرِمٌ بِعُمْرَةٍ أَوْ بِقِرَانٍ أَوْ بِحَجَّةِ تَمَتُّعٍ مَا بَيْنَ أَوَّلِ إِحْرَامِهِ إِلَى دُخُولِ وَقْتِ رَمْيِ جَمْرَةِ الْعَقَبَةِ، أَوْ قَتَلَهُ مُحْرِمٌ، أَوْ مُحِلٌّ فِي الْحَرَمِ -: فَإِنْ فَعَلَ ذَلِكَ عَامِدًا لِقَتْلِهِ غَيْرَ ذَاكِرٍ لِإِحْرَامِهِ أَوْ؛ لِأَنَّهُ فِي الْحَرَمِ، أَوْ غَيْرَ عَامِدٍ لِقَتْلِهِ - سَوَاءٌ كَانَ ذَاكِرًا لِإِحْرَامِهِ أَوْ لَمْ يَكُنْ -: فَلَا شَيْءَ عَلَيْهِ، لَا كَفَّارَةَ وَلَا إِثْمَ؛ وَذَلِكَ الصَّيْدُ جِيفَةٌ لَا يَحِلُّ أَكْلُهُ، فَإِنْ قَتَلَهُ عَامِدًا لِقَتْلِهِ ذَاكِرًا لِإِحْرَامِهِ، أَوْ؛ لِأَنَّهُ فِي الْحَرَمِ فَهُوَ عَاصٍ لِلَّهِ تَعَالَى، وَحَجُّهُ بَاطِلٌ وَعُمْرَتُهُ كَذَلِكَ - وَعَلَيْهِ مَا نَذْكُرُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ عَزَّ وَجَلَّ.

قَالَ اللَّهُ تَعَالَى: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ هَدْيًا بَالِغَ الْكَعْبَةِ أَوْ كَفَّارَةٌ طَعَامُ مَسَاكِينَ أَوْ عَدْلُ ذَلِكَ صِيَامًا لِيَذُوقَ وَبَالَ أَمْرِهِ عَفَا اللَّهُ عَمَّا سَلَفَ وَمَنْ عَادَ فَيَنْتَقِمُ اللَّهُ مِنْهُ} [المائدة: ٩٥].

Allah has pardoned what preceded, but whoever returns to it, Allah will exact vengeance from him." [Al-Mā'idah: 95][33]

فَصَحَّ يَقِينًا لَا إشْكَالَ فِيهِ أَنَّ هَذَا الْحُكْمَ كُلَّهُ إنَّمَا هُوَ عَلَى الْعَامِدِ لِقَتْلِهِ، الذَّاكِرِ لِإِحْرَامِهِ، أَوْ؛ لِأَنَّهُ فِي الْحَرَمِ، لِأَنَّ إذَاقَةَ اللَّهِ تَعَالَى وَبَالَ الْأَمْرِ وَعَظِيمِ وَعِيدِهِ بِالِانْتِقَامِ مِنْهُ لَا يَخْتَلِفُ اثْنَانِ مِنْ أَهْلِ الْإِسْلَامِ فِي أَنَّهُ لَيْسَ عَلَى الْمُخْطِئِ أَلْبَتَّةَ، وَلَا عَلَى غَيْرِ الْعَامِدِ لِلْمَعْصِيَةِ الْقَاصِدِ إلَيْهَا؛ فَبَطَلَ يَقِينًا أَنْ يَكُونَ فِي الْقُرْآنِ، وَلَا فِي السُّنَّةِ إيجَابُ حُكْمٍ فِي هَذَا الْمَكَانِ عَلَى غَيْرِ الْعَامِدِ الذَّاكِرِ الْقَاصِدِ إلَى الْمَعْصِيَةِ.

L14300–14301 It is thus definitively established beyond doubt that this entire ruling applies solely to one who intentionally kills while conscious of his state of consecration (ihram) or due to being within the sacred precinct. For Allah the Exalted's subjecting him to the dire consequence of the act and the magnitude of His threat to exact vengeance—no two Muslims disagree that no ruling whatsoever applies to the one who errs unintentionally, nor to one who does not deliberately intend the sin yet commits it. It is therefore invalidated with certainty that the Quran or the Sunnah could impose a ruling in this context upon anyone other than the intentional, conscious, and deliberate perpetrator of the sin.

قَالَ اللَّهُ تَعَالَى: {وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ} [الأحزاب: ٥] وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «رُفِعَ عَنْ أُمَّتِي الْخَطَأُ وَالنِّسْيَانُ وَمَا اُسْتُكْرِهُوا عَلَيْهِ» .

L14302 Allah the Exalted said: {There is no blame upon you for what you err in, but only for what your hearts deliberately intended} [Al-Ahzab: 5]. And the Messenger of Allah—peace and blessings of Allah be upon him—said: "Has been lifted from my ummah are error, forgetfulness, and what they are compelled to do."[34]

وَاخْتَلَفَ النَّاسُ فِي هَذَا -: فَرُوِّينَا مِنْ طَرِيقِ وَكِيعٍ عَنْ الْمَسْعُودِيِّ هُوَ عُتْبَةُ بْنُ عَبْدِ اللَّهِ بْنِ عُتْبَةَ بْنِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ - عَنْ عَبْدِ الْمَلِكِ بْنِ عُمَيْرٍ عَنْ قَبِيصَةَ بْنِ جَابِرٍ الْأَسَدِيِّ: أَنَّهُ سَمِعَ عُمَرَ بْنَ الْخَطَّابِ، وَمَعَهُ عَبْدُ الرَّحْمَنِ بْنُ عَوْفٍ، وَعُمَرُ: يَسْأَلُ رَجُلًا قَتَلَ ظَبْيًا وَهُوَ مُحْرِمٌ؟ فَقَالَ لَهُ عُمَرُ: عَمْدًا قَتَلْتَهُ أَمْ خَطَأً؟ فَقَالَ لَهُ الرَّجُلُ: لَقَدْ تَعَمَّدْت رَمْيَهُ وَمَا أَرَدْت قَتْلَهُ، فَقَالَ لَهُ عُمَرُ: مَا أَرَاك إلَّا أَشْرَكْت بَيْنَ الْعَمْدِ وَالْخَطَأِ، أَعْمِدْ إلَى شَاةٍ فَاذْبَحْهَا فَتَصَدَّقْ بِلَحْمِهَا وَأَسِقْ إهَابَهَا.

L14303 People have differed regarding this matter. It has been narrated to us through the chain of Wakiʿ from al-Masʿūdī—who is ʿUtbah ibn ʿAbdullāh ibn ʿUtbah ibn ʿAbdullāh ibn Masʿūd—from ʿAbd al-Malik ibn ʿUmayr from Qabīṣah ibn Jābir al-Asadī: that he heard ʿUmar ibn al-Khaṭṭāb, accompanied by ʿAbd al-Raḥmān ibn ʿAwf, while Umar was questioning a man who had killed a gazelle while in a state of iḥrām. ʿUmar said to him: "Did you kill it intentionally or unintentionally?" The man replied: "I deliberately shot at it, but I did not intend to kill it." ʿUmar said to him: "It seems you have conflated intentional and unintentional action. Proceed to slaughter a sheep, distribute its meat as charity, and soak its hide [for tanning]."

قَالَ أَبُو مُحَمَّدٍ: فَلَوْ كَانَ الْعَمْدُ وَالْخَطَأُ فِي ذَلِكَ سَوَاءً عِنْدَ عُمَرَ، وَعَبْدِ الرَّحْمَنِ لَمَا سَأَلَهُ عُمَرُ أَعَمْدًا قَتَلْتَهُ أَمْ خَطَأً؟ وَلَمْ يُنْكِرْ ذَلِكَ عَبْدُ الرَّحْمَنِ؛ لِأَنَّهُ كَانَ يَكُونُ فُضُولًا مِنْ

L14304 Abū Muḥammad said: If intentional and accidental killing had been equivalent in this matter according to ʿUmar and ʿAbd al-Raḥmān, ʿUmar would not have asked him, "Did you kill him intentionally or accidentally?" nor

[33] **Qur'an references (L14299):** Qur'an 5:95 (Al-Ma'idah).
[34] **Qur'an references (L14302):** Qur'an 33:5 (Al-Ahzab).

would ʿAbd al-Raḥmān have denied this—for that would have been a superfluous and meaningless question. Through the chain of Ibn Abī Shaybah from Ismāʿīl ibn ʿUlayyah, from al-Ḥusayn al-Muʿallim, from Qatādah, from Abī Madīnah, from Ibn ʿAbbās—that he said regarding a pilgrim in iḥrām who kills game: He incurs no penalty for accidental killing. Abū Madīnah is ʿAbd Allāh ibn Ḥiṣn al-Sadūsī, a *Tābiʿī*, who heard Abū Mūsā, Ibn ʿAbbās, and Ibn al-Zubayr—may Allāh be pleased with them.

السُّؤَالِ لَا مَعْنَى لَهُ؟ وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ إِسْمَاعِيلَ ابْنِ عُلَيَّةَ عَنْ الْحُسَيْنِ الْمُعَلِّمِ عَنْ قَتَادَةَ عَنْ أَبِي مَدِينَةَ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ فِي الْمُحْرِمِ يَقْتُلُ الصَّيْدَ: لَيْسَ عَلَيْهِ فِي الْخَطَأِ شَيْءٌ - أَبُو مَدِينَةَ هُوَ عَبْدُ اللَّهِ بْنُ حِصْنٍ السَّدُوسِيُّ تَابِعِيٌّ -، سَمِعَ أَبَا مُوسَى، وَابْنَ عَبَّاسٍ، وَابْنَ الزُّبَيْرِ - رَضِيَ اللَّهُ عَنْهُمْ -.

L14305 From the narration of Shuʿbah from Abi Bishr Jaʿfar ibn Abi Waḥshiyyah from Saʿīd ibn Jubayr: He was asked, “What about a muḥrim who kills game by mistake?” He replied, “Is there nothing upon him?” I asked, “From whom?” He said, “The Sunnah.”

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ أَبِي بِشْرٍ جَعْفَرِ بْنِ أَبِي وَحْشِيَّةَ عَنْ سَعِيدِ بْنِ جُبَيْرٍ: أَنَّهُ سُئِلَ عَنْ الْمُحْرِمِ يَقْتُلُ الصَّيْدَ خَطَأً؟ قَالَ: لَيْسَ عَلَيْهِ شَيْءٌ؟ قَالَ: فَقُلْت لَهُ: عَمَّنْ؟ قَالَ: السُّنَّةُ.

L14306–14307 Abu Muhammad said: Our understanding of the Malikis is that they consider the statement of Sa’id ibn al-Musayyib when Rabi’ah asked him about his statement regarding a woman: if three fingers are severed for her, she receives thirty camels, but if four fingers are severed for her, does she receive only twenty camels? Sa’id said to him: “Sunnah, O my nephew.” Thus they took this as an incontrovertible proof.

قَالَ أَبُو مُحَمَّد: عَهْدُنَا بِالْمَالِكِيِّينَ يَجْعَلُونَ قَوْلَ سَعِيدِ بْنِ الْمُسَيِّبِ إذْ سَأَلَهُ رَبِيعَةُ عَنْ قَوْلِهِ فِي الْمَرْأَةِ يُقْطَعُ لَهَا ثَلَاثُ أَصَابِعَ لَهَا ثَلَاثُونَ مِنْ الْإِبِلِ فَإِنْ قُطِعَتْ لَهَا أَرْبَعُ أَصَابِعَ فَلَيْسَ لَهَا إلَّا عِشْرُونَ مِنْ الْإِبِلِ؟ فَقَالَ لَهُ سَعِيدٌ: السُّنَّةُ يَا ابْنَ أَخِي، فَجَعَلُوهُ حُجَّةً لَا يَجُوزُ خِلَافُهَا.

L14308 Sa’id ibn Jubayr opposed Umar ibn al-Khattab, Ali ibn Abi Talib, and others in that matter. Yet later scholars did not regard Sa’id ibn Jubayr’s opinion as authoritative here, despite his assertion that the Sunnah dictates no penalty is incurred by a muhrim who kills game by mistake—supported by the Quran and the Companions. This is truly astonishing.

وَقَدْ خَالَفَ سَعِيدٌ فِي ذَلِكَ عُمَرَ بْنَ الْخَطَّابِ، وَعَلِيَّ بْنَ أَبِي طَالِبٍ وَغَيْرَهُمَا، ثُمَّ لَمْ يَجْعَلُوا هَاهُنَا حُجَّةَ قَوْلِ سَعِيدِ بْنِ جُبَيْرٍ: إنَّ السُّنَّةَ هِيَ أَنَّ لَيْسَ عَلَى الْمُحْرِمِ يَقْتُلُ الصَّيْدَ خَطَأً، وَمَعَهُ الْقُرْآنُ، وَالصَّحَابَةُ - وَهَذَا عَجَبٌ جِدًّا.

L14309 And through the chain of Ḥammād ibn Zayd, from Ayyūb al-Sakhtiyānī, from Ṭāwūs, who said: “Judgment is only passed upon one who intentionally killed him, as Allah, the Exalted and Majestic, said.”

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ طَاوُسٍ قَالَ: لَا يُحْكَمُ إلَّا عَلَى مَنْ قَتَلَهُ مُتَعَمِّدًا كَمَا قَالَ اللَّهُ عَزَّ وَجَلَّ.

L14310 And from Al-Qasim ibn Muhammad, Salim ibn Abdullah, Ata, and Mujahid regarding one who kills locusts unintentionally: they said, “No ruling is imposed on him. But if he kills them intentionally, a ruling is imposed on him.” This view is held by Abu Sulayman and our companions.

وَعَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ، وَسَالِمِ بْنِ عَبْدِ اللَّهِ، وَعَطَاءٍ، وَمُجَاهِدٍ فِيمَنْ أَصَابَ الْجَنَادِبَ خَطَأً؟ قَالُوا: لَا يُحْكَمُ عَلَيْهِ فَإِنْ أَصَابَهَا مُتَعَمِّدًا حُكِمَ عَلَيْهِ وَهُوَ قَوْلُ أَبِي سُلَيْمَانَ وَأَصْحَابِنَا.

L14311 Another valid statement is reported from Mujāhid: that the penalty is im-

posed only on one who kills game while in a state of iḥrām unintentionally, whereas one who kills it intentionally while conscious of their iḥrām is not subject to this ruling.

وَصَحَّ عَنْ مُجَاهِدٍ قَوْلٌ آخَرُ وَهُوَ أَنَّهُ إنَّمَا يُحْكَمُ عَلَى مَنْ قَتَلَ الصَّيْدَ وَهُوَ مُحْرِمٌ خَطَأً، وَأَمَّا مَنْ قَتَلَهُ عَامِدًا ذَاكِرًا لِإِحْرَامِهِ فَلَا يُحْكَمُ عَلَيْهِ.

L14312 Abu Hanifah, Malik, and al-Shafiʿi said: Intentional and unintentional are equal; the ruling applies to him in all such cases—and this opinion has also been narrated from ʿUmar, ʿAbd al-Rahman, Saʿd, al-Nakhaʿī, and al-Shaʿbi.

وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ، وَالشَّافِعِيُّ: الْعَمْدُ وَالْخَطَأُ سَوَاءٌ يُحْكَمُ عَلَيْهِ فِي كُلِّ ذَلِكَ - وَقَدْ رُوِيَ هَذَا الْقَوْلُ أَيْضًا عَنْ عُمَرَ، وَعَبْدِ الرَّحْمَنِ، وَسَعْدٍ، وَالنَّخَعِيِّ، وَالشَّعْبِيِّ.

L14313 Abu Muhammad said: The ultimate recourse in disputes is what Allah, the Exalted and Majestic, has obligated upon us—to refer back to Allah, the Exalted, and His Messenger, peace and blessings be upon him.

قَالَ أَبُو مُحَمَّد: الْمَرْجُوعُ إلَيْهِ عِنْدَ التَّنَازُعِ هُوَ مَا افْتَرَضَهُ اللَّهُ عَزَّ وَجَلَّ عَلَيْنَا مِنْ الرُّجُوعِ إلَى اللَّهِ تَعَالَى وَرَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L14314 Proponents of this view objected, arguing: "Allah the Exalted has mandated expiation for one who kills a believer by mistake. Should we then analogize this ruling to require it for one who kills game animals by mistake?"

وَشَغَبَ أَهْلُ هَذِهِ الْمَقَالَةِ بِأَنْ قَالُوا: قَدْ أَوْجَبَ اللَّهُ تَعَالَى الْكَفَّارَةَ عَلَى قَاتِلِ الْمُؤْمِنِ خَطَأً فَقِسْنَا عَلَيْهِ قَاتِلَ الصَّيْدِ خَطَأً؟

L14315–14316 Ali said: This is analogy, and all analogy is invalid. Furthermore, even if it were valid, this would constitute sheer invalidity. They have also diverged from the ruling of analogy in this statement of theirs. As for its being erroneous, this is because one of their foundational principles which they do not differ about states that whatever diverges from the ruling of its foundational principle as explicitly specified cannot be made subject to analogy. The foundational principle holds that no obligation falls upon the forgetful or the mistaken. Yet in their view, the obligation of expiation and blood money upon one who kills a believer by mistake constitutes a departure from this principle. Therefore, it necessarily follows that no analogy should be made upon it.

قَالَ عَلِيٌّ: هَذَا قِيَاسٌ وَالْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَوْ كَانَ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنَ الْبَاطِلِ؛ وَلَكَانُوا أَيْضًا قَدْ فَارَقُوا حُكْمَ الْقِيَاسِ فِي قَوْلِهِمْ هَذَا، أَمَّا كَوْنُهُ خَطَأً، فَلِأَنَّ مِنْ أَصْلِهِمْ الَّذِي لَا يَخْتَلِفُونَ فِيهِ أَنَّ مَا خَرَجَ عَنْ حُكْمِ أَصْلِهِ مَخْصُوصًا أَنَّهُ لَا يُقَاسُ عَلَيْهِ، وَالْأَصْلُ أَنْ لَا شَيْءَ عَلَى النَّاسِي وَالْمُخْطِئِ فَخَرَجَ عِنْدَهُمْ إيجَابُ الْكَفَّارَةِ وَالدِّيَةِ عَلَى قَاتِلِ الْمُؤْمِنِ خَطَأً عَنْ أَصْلِهِ، فَوَجَبَ أَنْ لَا يُقَاسَ عَلَيْهِ.

L14317 Moreover, they are unanimously agreed not to analogize the ruling upon one who engages in sexual intercourse during Ramadan's daytime while forgetful to the ruling upon one who does so intentionally regarding the obligation of expiation upon both of them. Killing game bears closer resemblance to sexual intercourse than to killing a believer, for killing a believer was never permissible at any point, then was prohibited; rather, it has perpetually been forbidden since embracing faith, or since birth if born a Muslim.

وَأَيْضًا فَإِنَّهُمْ مُتَّفِقُونَ عَلَى أَنْ لَا يَقِيسُوا حُكْمَ الْوَاطِئِ فِي نَهَارِ رَمَضَانَ نَاسِيًا عَلَى الْوَاطِئِ فِيهِ عَمْدًا فِي إيجَابِ الْكَفَّارَةِ عَلَيْهِمَا، وَقَتْلُ الصَّيْدِ أَشْبَهُ بِالْوَطْءِ مِنْهُ بِقَتْلِ الْمُؤْمِنِ؛ لِأَنَّ قَتْلَ الْمُؤْمِنِ لَمْ يَحِلَّ قَطُّ ثُمَّ حُرِّمَ، بَلْ لَمْ يَزَلْ حَرَامًا مُذْ آمَنَ، أَوْ مُذْ وُلِدَ إنْ كَانَ وُلِدَ عَلَى الْإِسْلَامِ.

وَأَمَّا الْوَطْءُ وَقَتْلُ الصَّيْدِ فَكَانَا حَلَالَيْنِ، ثُمَّ حُرِّمَا بِالصَّوْمِ وَبِالْإِحْرَامِ فَجَمَعَتْهُمَا هَذِهِ الْعِلَّةُ فَأَخْطَئُوا فِي قِيَاسِ قَاتِلِ الصَّيْدِ خَطَأً عَلَى مَا لَا يُشْبِهُ.

L14318 As for sexual intercourse and hunting, they were initially permissible but later prohibited during fasting and in the state of Ihrām. This effective cause united them under a single ruling, yet they erred in applying legal analogy to the case of killing game by likening it to what bears no resemblance.

وَأَمَّا مُخَالَفَتُهُمْ لِلْقِيَاسِ هُنَا فَإِنَّ الْحَنَفِيِّينَ مِنْ أَصْلِهِمْ أَنَّ الْكَفَّارَاتِ لَا يَجُوزُ أَنْ تُوجَبَ بِالْقِيَاسِ ثُمَّ أَوْجَبُوهَا هَاهُنَا بِالْقِيَاسِ، وَأَيْضًا فَإِنَّ الْحَنَفِيِّينَ، وَالْمَالِكِيِّينَ قَاسُوا الْخَطَأَ فِي قَتْلِ الصَّيْدِ عَلَى الْخَطَأِ فِي قَتْلِ الْمُؤْمِنِ فَأَوْجَبُوا الْجَزَاءَ فِي كِلَيْهِمَا وَلَمْ يَقِيسُوا قَتْلَ الْمُؤْمِنِ عَمْدًا عَلَى قَتْلِ الصَّيْدِ عَمْدًا فَأَوْجَبُوا الْكَفَّارَةَ فِي قَتْلِ الصَّيْدِ عَمْدًا وَلَمْ يُوجِبُوهَا فِي قَتْلِ الْمُؤْمِنِ عَمْدًا وَهَذَا تَنَاقُضٌ وَبَاطِلٌ.

L14319 As for their contradiction of analogy here, the Ḥanafīs—despite their foundational principle that expiations cannot be legislated through analogy—obligated them here via analogy. Moreover, the Ḥanafīs and Mālikīs analogized negligent killing in the case of hunted game to negligent killing of a Muslim, imposing retribution in both instances. Yet they did not analogize the intentional killing of a Muslim to the intentional killing of hunted game, thereby requiring expiation for the latter while exempting it for the former. This is a contradiction and invalid.

وَأَيْضًا فَلَمْ يَقِيسُوا نَاسِيَ التَّسْمِيَةِ فِي التَّذْكِيَةِ عَلَى الْمُتَعَمِّدِ لِتَرْكِهَا فِيهَا مَعَ مَجِيءِ الْقُرْآنِ بِالتَّسْوِيَةِ بَيْنَ الْأَمْرَيْنِ هُنَالِكَ، وَتَفْرِيقِ الْحُكْمِ هَاهُنَا.

L14320 Moreover, they did not analogize the one who forgot the tasmiyah in ritual slaughter to the intentional omitter of it in it, despite the Quran establishing parity between the two matters in that context, and the differentiation of the legal ruling in this context.

وَالشَّافِعِيُّونَ فَرَّقُوا بَيْنَ النَّاسِي فِيمَا تَبْطُلُ بِهِ الصَّلَاةُ وَبَيْنَ الْعَامِدِ، وَكَذَلِكَ فِي الصَّوْمِ وَسَاوَوْا هَاهُنَا بَيْنَ النَّاسِي وَالْعَامِدِ، وَهَذَا اضْطِرَابٌ شَدِيدٌ.

L14321 The Shafi'i scholars distinguished between the forgetful person in matters that invalidate prayer and the intentional one, and similarly regarding fasting. Yet they treated the forgetful and the intentional in fasting as equal. This is a grave inconsistency.

وَقَالُوا: لَيْسَ تَخْصِيصُ اللَّهِ تَعَالَى الْمُتَعَمِّدَ بِإِيجَابِ الْكَفَّارَةِ عَلَيْهِ بِمُوجِبٍ أَنَّ الْمُخْطِئَ بِخِلَافِهِ وَذَكَرُوا مَا نَحْتَجُّ بِهِ نَحْنُ وَمَنْ وَافَقَنَا مِنْهُمْ مِنَ النُّصُوصِ فِي إبْطَالِ الْقَوْلِ بِدَلِيلِ الْخِطَابِ -: قَالَ أَبُو مُحَمَّد: وَهَذَا جَهْلٌ شَدِيدٌ مِنْ هَذَا الْقَائِلِ، لِأَنَّنَا إذَا أَبْطَلْنَا الْقَوْلَ بِدَلِيلِ الْخِطَابِ لَمْ نُوجِبْ الْقَوْلَ بِالْقِيَاسِ بَلْ أَبْطَلْنَاهُمَا جَمِيعًا، وَالْقِيَاسُ: هُوَ أَنْ يُحْكَمَ لِلْمَسْكُوتِ عَنْهُ بِحُكْمِ الْمَنْصُوصِ عَلَيْهِ، وَدَلِيلُ الْخِطَابِ: هُوَ أَنْ يُحْكَمَ لِلْمَسْكُوتِ عَنْهُ بِخِلَافِ الْمَنْصُوصِ عَلَيْهِ.

L14322–14324 They said: Allah the Exalted's specification of the one who acts intentionally by obligating expiation upon him does not entail that the mistaken person is subject to an opposing ruling. They mentioned the texts that we and those who agree with us among them cite to invalidate the assertion of *dalīl al-khiṭāb*. Abu Muhammad said: This is profound ignorance from this proponent, for when we invalidate the assertion of *dalīl al-khiṭāb*, we do not necessitate the validity of *qiyās*; rather, we invalidate both entirely. *Qiyās* is that a ruling is made... For the matter left unaddressed, the ruling is that of what is explicitly stated. The implication of the text refers to applying a ruling to the unaddressed matter contrary to what is explicitly stated.

L14325 As for them, they have varied here as they wished: at times, they extend the

ruling of the explicitly stipulated case to the unmentioned one via analogy, and at times, they rule contrary to it by invoking the implication of the address—and each of these two rulings directly contradicts the other.

وَأَمَّا هُمْ فَتَلَوَّنُوا هَاهُنَا مَا شَاءُوا، فَمَرَّةً يَحْكُمُونَ لِلْمَسْكُوتِ عَنْهُ بِحُكْمِ الْمَنْصُوصِ عَلَيْهِ قِيَاسًا، وَمَرَّةً يَحْكُمُونَ عَلَيْهِ بِخِلَافِ حُكْمِهِ أَخْذًا بِدَلِيلِ الْخِطَابِ - وَكُلُّ وَاحِدٍ مِنْ هَذَيْنِ الْحُكْمَيْنِ مُضَادٌّ لِلْآخَرِ.

L14326 As for us, we do not transgress the Quran nor the Sunnah, and we suspend judgment on matters left unaddressed, neither ruling for them by the ruling of what is explicitly stated nor by another ruling contrary to the explicit ruling. Instead, we seek its ruling in another text, for it must exist. We have never asserted in this matter: "Since Allah the Exalted imposed compensation and expiation on one who intentionally kills game, the inadvertent offender must be the opposite." We seek refuge in Allah from saying this! Rather, we stated: This verse pertains solely to the intentional offender and makes no mention of the inadvertent offender—neither obligating compensation upon him nor exempting him. Thus, it is obligatory to seek its ruling in another text, for not every ruling is found in a single verse. This is the only position a person of understanding can hold. When we find its ruling, we judge by it, whether it aligns with the explicit ruling or diverges from it. So we acted and found that Allah the Exalted has absolved the inadvertent offender of blame.

وَأَمَّا نَحْنُ فَلَا نَتَعَدَّى الْقُرْآنَ وَلَا السُّنَّةَ وَنُوقِفُ أَمْرَ الْمَسْكُوتِ عَنْهُ فَلَا نَحْكُمُ لَهُ بِحُكْمِ الْمَنْصُوصِ وَلَا بِحُكْمٍ آخَرَ، بِخِلَافِ حُكْمِ الْمَنْصُوصِ؛ لَكِنْ نَطْلُبُ حُكْمَهُ فِي نَصٍّ آخَرَ فَلَا بُدَّ مِنْ وُجُودِهِ وَلَمْ نَقُلْ قَطُّ هَاهُنَا: إنَّهُ لَمَّا نَصَّ اللَّهُ تَعَالَى عَلَى إيجَابِ الْجَزَاءِ وَالْكَفَّارَةِ عَلَى قَاتِلِ الصَّيْدِ عَمْدًا وَجَبَ أَنْ يَكُونَ الْمُخْطِئُ بِخِلَافِهِ، وَمَعَاذَ اللَّهِ أَنْ نَقُولَ هَذَا، لَكِنْ قُلْنَا: لَيْسَ فِي هَذِهِ الْآيَةِ إلَّا الْمُتَعَمِّدُ وَحْدُهُ وَلَيْسَ فِيهَا ذِكْرٌ لِلْمُخْطِئِ لَا بِإِيجَابِ جَزَاءٍ عَلَيْهِ وَلَا بِإِسْقَاطِهِ عَنْهُ فَوَجَبَ طَلَبُ حُكْمِهِ فِي نَصٍّ آخَرَ، إذْ لَيْسَ حُكْمُ كُلِّ شَيْءٍ مَوْجُودًا فِي آيَةٍ وَاحِدَةٍ، وَهَذَا هُوَ الَّذِي لَا يَعْقِلُ أَحَدٌ سِوَاهُ؛ فَإِذَا وَجَدْنَا حُكْمَهُ حَكَمْنَا بِهِ، إمَّا مُوَافِقًا لِهَذَا الْحُكْمِ الْآخَرِ، وَإِمَّا مُخَالِفًا لَهُ، فَفَعَلْنَا -: فَوَجَدْنَا اللَّهَ تَعَالَى قَدْ أَسْقَطَ الْجُنَاحَ عَنْ الْمُخْطِئِ.

L14327 We found that the Messenger of Allah—may Allah, the Exalted, bless him and grant him peace—said: "Indeed, your blood and your wealth are forbidden to you," and that He has pardoned error and forgetfulness. He, the Exalted, censured those who legislate in the religion what He did not permit.[35]

وَوَجَدْنَا رَسُولَ اللَّهِ - صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَسَلَّمَ - قَدْ قَالَ: «إنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ» وَأَنَّهُ قَدْ عَفَا عَنْ الْخَطَأِ وَالنِّسْيَانِ، وَذَمَّ تَعَالَى مَنْ شَرَعَ فِي الدِّينِ مَا لَمْ يَأْذَنْ بِهِ.

L14328 By these texts, it is established that one who kills game mistakenly or forgetfully due to being in a state of ihrām is not legally obligated to fast, nor is there a penalty of offering a sacrificial animal, nor any obligation to provide food at all. Thus, the invalidity of their argument is clear—and all praise is due to God, the Exalted.

فَوَجَبَ بِهَذِهِ النُّصُوصِ أَنْ لَا يَلْزَمَ قَاتِلَ الصَّيْدِ خَطَأً أَوْ نَاسِيًا لِإِحْرَامِهِ شَرْعُ صَوْمٍ، وَلَا غَرَامَةُ هَدْيٍ، أَوْ إطْعَامٌ أَصْلًا؛ فَظَهَرَ فَسَادُ احْتِجَاجِهِمْ - وَلِلَّهِ تَعَالَى الْحَمْدُ.

[35] **Qur'an references (L14327):** Qur'an 42:21 (Ash-Shuraa).

وَاحْتَجُّوا أَيْضًا: بِأَنْ قَالُوا: لَمَّا كَانَ مُتْلِفُ أَمْوَالِ النَّاسِ يَلْزَمُهُ ضَمَانُهَا بِالْخَطَأِ وَالْعَمْدِ وَكَانَ الصَّيْدُ مِلْكًا لِلَّهِ تَعَالَى وَجَبَ ضَمَانُهُ بِالْعَمْدِ وَالْخَطَأِ.

L14329 They further argued: Since one who causes loss to people's property is liable to compensate for it—whether the act was accidental or deliberate—and since game belongs to God Almighty, compensation for it is obligatory whether the act was accidental or deliberate.

قَالَ أَبُو مُحَمَّد: وَهَذَا قِيَاسٌ وَالْقِيَاسُ كُلُّهُ بَاطِلٌ ثُمَّ لَوْ كَانَ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنُ الْبَاطِلِ، وَلَكَانُوا أَيْضًا قَدْ أَخْطَئُوا فِيهِ.

L14330 Abu Muhammad said: This is analogy, and all analogy is invalid. Moreover, even if it were valid, this would be the very essence of invalidity from it, and they would have also erred in applying it.

أَمَّا كَوْنُهُ خَطَأً فَإِنَّ اللَّهَ تَعَالَى فَرَّقَ بَيْنَ حُكْمِ مَا أُصِيبَ مِنْ أَمْوَالِ النَّاسِ وَبَيْنَ حُكْمِ مَا أُصِيبَ مِنْ الصَّيْدِ فِي الْإِحْرَامِ فَجَعَلَ فِي أَمْوَالِ النَّاسِ الْمِثْلَ، أَوْ الْقِيمَةَ عِنْدَ عَدَمِ الْمِثْلِ، وَجَعَلَ فِي الصَّيْدِ جَزَاءً مِنْ النَّعَمِ لَا مِنْ مِثْلِهِ مِنْ الصَّيْدِ الْمُبَاحِ فِي الْإِحْلَالِ، أَوْ إطْعَامًا، أَوْ صِيَامًا، وَلَيْسَ شَيْءٌ مِنْ هَذَا فِي أَمْوَالِ النَّاسِ؛ فَسَوَّوْا بَيْنَ حُكْمَيْنِ قَدْ فَرَّقَ اللَّهُ تَعَالَى بَيْنَهُمَا - وَهَذِهِ جُرْأَةٌ شَدِيدَةٌ وَخَطَأٌ لَائِحٌ؛ وَأَمَّا خَطَؤُهُمْ فِيهِ فَإِنَّ الْحَنَفِيِّينَ مُجْمِعُونَ عَلَى أَنَّ الْكَفَّارَاتِ لَا يَجُوزُ أَنْ تُؤْخَذَ قِيَاسًا، وَأَوْجَبُوا هَاهُنَا قِيَاسًا، وَالْقَوْمُ لَيْسُوا فِي شَيْءٍ، وَإِنَّمَا هُمْ فِي شَبَهِ اللَّعِبِ وَنَعُوذُ بِاَللَّهِ مِنْ الْخِذْلَانِ.

L14331–14333 As for it being an inadvertent act, Allah the Exalted has distinguished between the ruling concerning compensation for harm caused to people's property and the ruling concerning game hunted while in the sacred state of iḥrām, mandating for people's property the equivalent (mithl, like-for-like) or the market value when no equivalent exists. He ordained for hunting an expiation from livestock - not from its equivalent in permissible game upon release from ihram - or feeding the poor, or fasting, none of these being part of people's wealth. Thus they equated two rulings that Allah the Exalted had distinguished - this being grave presumption and evident error. As for their mistake herein: the Hanafis unanimously hold that expiations cannot be established through analogy, yet they prescribed analogy here. The people are not upon anything valid; rather, they are immersed in an illusion of frivolity. We seek refuge with Allah from forsakenness.

وَأَمَّا الْمَالِكِيُّونَ فَإِنَّهُمْ قَاسُوا مُتْلِفَ الصَّيْدِ خَطَأً عَلَى مُتْلِفِ أَمْوَالِ النَّاسِ عَمْدًا، وَإِنَّمَا يَجِبُ عِنْدَهُمْ فِي أَمْوَالِ النَّاسِ الْقِيمَةُ فَقَطْ، وَيَجِبُ عِنْدَهُمْ فِي الصَّيْدِ الْمِثْلُ مِنْ النَّعَمِ، أَوْ الْإِطْعَامُ، أَوْ الصِّيَامُ، فَقَدْ تَرَكُوا قِيَاسَهُمْ الْفَاسِدَ.

L14334 As for the Mālikī jurists, they analogized accidental destruction of game to intentional destruction of people's property. Yet in cases of damaging property, they require only monetary value, while in game cases they mandate equivalent grazing livestock, feeding, or fasting. Indeed, they have abandoned their flawed analogy.

فَإِنْ قَالُوا: اتَّبَعْنَا الْقُرْآنَ؟ قُلْنَا: فَالْتَزِمُوا اتِّبَاعَهُ فِي الْعَامِدِ خَاصَّةً وَإِسْقَاطُ الْجُنَاحِ عَنْ الْمُخْطِئِ، وَأَوْجَبُوا فِي الصَّيْدِ: الْقِيمَةَ كَمَا فَعَلَ أَبُو حَنِيفَةَ وَطَرَدَ قِيَاسَهُ الْفَاسِدَ.

L14335 If they say, "We follow the Qur'an?" We respond, "Then adhere strictly to its rulings: absolving the one who errs from sin and holding the intentional one specifically accountable." They imposed compensation for hunting, as Abū Ḥanīfah did, but rejected his invalid analogy.

وَأَيْضًا: فَإِنَّ الْحَنَفِيِّينَ لَا يَرَوْنَ ضَمَانَ مَا وَلَدَتْ الْمَاشِيَةُ الْمَغْصُوبَةُ إلَّا أَنْ تُسْتَهْلَكَ الْأَوْلَادُ، وَيَرَى عَلَى مَنْ أَخَذَ صَيْدًا وَهُوَ مُحْرِمٌ فَوَلَدَ عِنْدَهُ، ثُمَّ مَاتَ الْوَلَدُ مِنْ غَيْرِ فِعْلِهِ: أَنْ يَضْمَنَ

L14336 Moreover, the Hanafis do not deem one liable for the offspring of usurped livestock unless the offspring are disposed of. Yet they hold that if someone takes game while in a state of ritual consecration (iḥrām) and it gives birth in

الْأُمَّ وَالْأَوْلَادَ، فَأَيْنَ قِيَاسُهُ الصَّيْدَ عَلَى أَمْوَالِ النَّاسِ؟ وَأَمَّا الشَّافِعِيُّونَ فَإِنَّ اللَّهَ تَعَالَى قَدْ حَرَّمَ الْخِنْزِيرَ، وَكُلَّ ذِي نَابٍ مِنْ السِّبَاعِ، وَكُلَّ ذِي مِخْلَبٍ مِنْ الطَّيْرِ كَمَا حَرَّمَ الصَّيْدَ فِي الْإِحْرَامِ، وَكُلُّ ذَلِكَ مِلْكٌ لِلَّهِ تَعَالَى، ثُمَّ لَا يُوجِبُونَ عَلَى مَنْ قَتَلَ شَيْئًا مِنْ ذَلِكَ جَزَاءً، فَنَقَضُوا قِيَاسَهُمْ.

فَإِنْ قَالُوا: لَمْ يُحَرِّمْ قَتْلَ شَيْءٍ مِنْ هَذِهِ؟ قُلْنَا: وَلَا أَوْجَبَ اللَّهُ تَعَالَى الْجَزَاءَ إلَّا عَلَى الْمُتَعَمِّدِ فَإِمَّا الْتَزَمُوا النُّصُوصَ كَمَا وَرَدَتْ وَلَا تَتَعَدَّوْا حُدُودَ اللَّهِ، وَإِمَّا اطَّرَدُوا قِيَاسَكُمْ فَأَوْجِبُوا الْجَزَاءَ فِي الْخِنْزِيرِ، وَفِي السِّبَاعِ، وَفِي ذَوَاتِ الْمَخَالِبِ، كَمَا فَعَلَ أَبُو حَنِيفَةَ - فَظَهَرَ أَيْضًا فَسَادُ أَقْوَالِهِمْ جُمْلَةً - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَقَالَ بَعْضُهُمْ: إنَّمَا نَصَّ عَلَى الْمُتَعَمِّدِ لِيَعْلَمَ أَنَّ حُكْمَ الْمُخْطِئِ مِثْلُهُ -: قَالَ أَبُو مُحَمَّد: وَهَذِهِ مِنْ أَسْخَفِ كَلَامٍ فِي الْأَرْضِ، وَيَلْزَمُهُ أَنْ يَقُولَ: إنَّ اللَّهَ تَعَالَى إنَّمَا نَصَّ عَلَى أَنَّ جَزَاءَ قَاتِلِ الْمُؤْمِنِ عَامِدًا فِي جَهَنَّمَ خَالِدًا فِيهَا وَغَضِبَ اللَّهُ عَلَيْهِ وَلَعَنَهُ، لِيَعْلَمَ أَنَّ حُكْمَ قَاتِلِهِ مُخْطِئٌ مِثْلُهُ، وَإِلَّا فَقَدْ ظَهَرَ كَذِبُ هَذَا الْقَائِلِ عَلَى اللَّهِ عَزَّ وَجَلَّ، وَافْتِرَاؤُهُ عَلَى خَالِقِهِ لِإِخْبَارِهِ عَنْهُ بِالْكَذِبِ وَالْبَاطِلِ.

فَإِنْ قَالَ: قَدْ فَرَّقَ اللَّهُ تَعَالَى بَيْنَ قَاتِلِ الْعَمْدِ وَقَاتِلِ الْخَطَأِ.

قُلْنَا: وَقَدْ فَرَّقَ اللَّهُ عَزَّ وَجَلَّ بَيْنَ كُلِّ مُخْطِئٍ وَكُلِّ عَامِدٍ بِقَوْلِهِ عَزَّ وَجَلَّ: {وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ} [الأحزاب: ٥] .

his possession, then the offspring dies through no fault of his own, he is liable for both the mother and the offspring. So where is his analogy of game to people's property? As for the Shafi'is, Allah the Exalted has prohibited pigs, every predatory beast with fangs, and every bird of prey with talons, just as He prohibited hunting during ritual consecration. All of this is the exclusive property of Allah the Exalted, yet they do not impose any expiation on one who kills any of these, thereby nullifying their own analogy.

L14337 If they say: "Did He not prohibit killing any of these?" We reply: Allah the Exalted has not mandated the prescribed penalty except upon the intentional offender. Therefore, they must either adhere to the texts as revealed without transgressing Allah's boundaries, or consistently apply their analogy and impose the penalty upon pigs, predatory animals, and clawed animals - as Abū Ḥanīfa applied it. Thus, the invalidity of their arguments becomes entirely evident. And success comes only from Allah, the Exalted.

L14338–14340 Some of them said: The explicit textual mention of the intentional [act] is only to clarify that the ruling for the mistaken [act] is the same as it. Abū Muḥammad said: This is among the most absurd statements on earth, for it would logically compel him to assert: "Allah the Exalted only explicitly stated that the punishment for one who intentionally kills a believer is eternal abode in Hell—wherein they remain perpetually—and that he has incurred Allah's wrath." He cursed him so that he would know that the judgment regarding his killer is mistaken, just as he is; otherwise, the lie of this claimant against Allah, the Almighty, has become evident, and his fabrication against his Creator for informing lies and falsehood about Him.[36]

L14341 If he says: Allah, the Exalted, has legally distinguished between the intentional killer and the unintentional killer.

L14342 We said: Indeed, Allah, the Mighty and Majestic, has distinguished between every person who errs and every person who acts deliberately through His words: "There is no blame upon you for that in which you have erred, but only for what your hearts have deliberately intended" [al-Aḥzāb 33:5].[37]

[36] **Qur'an references (L14338):** Qur'an 4:93 (An-Nisa).
[37] **Qur'an references (L14342):** Qur'an 33:5 (Al-Ahzab).

L14343 Ali said: “We know of no obfuscation on their part except this, and all of it is manifestly corrupt” - and with Allah, the Exalted, is success.

قَالَ عَلِيٌّ: مَا نَعْلَمُ لَهُمْ تَمْوِيهًا غَيْرَ هَذَا وَهُوَ كُلُّهُ ظَاهِرُ الْفَسَادِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14344 As for our statement that eating that hunted game is prohibited, it is because Allah the Exalted has termed it killing and forbidden it. He, the Almighty and Majestic, has not permitted us to eat any animal except by the ritual slaughter He has commanded. There is no doubt in the mind of anyone of wholesome and sound intellect that what Allah the Exalted has commanded regarding ritual slaughter differs from the killing He prohibited. Since the commanded slaughter differs from the prohibited killing, the prohibited killing is not valid ritual slaughter. As it is not valid ritual slaughter, it is impermissible to eat the animal thereby. And by Allah, the Exalted, is success.

وَأَمَّا قَوْلُنَا: إنَّ ذَلِكَ الصَّيْدَ حَرَامٌ أَكْلُهُ، فَلِأَنَّ اللَّهَ تَعَالَى سَمَّاهُ قَتْلًا وَنَهَى عَنْهُ وَلَمْ يُبِحْ لَنَا عَزَّ وَجَلَّ أَكْلَ شَيْءٍ مِنْ الْحَيَوَانِ إلَّا بِالذَّكَاةِ الَّتِي أَمَرَ بِهَا عَزَّ وَجَلَّ، وَلَا شَكَّ عِنْدَ كُلِّ ذِي حَسَنٍ سَلِيمٍ أَنَّ الَّذِي أَمَرَ اللَّهُ تَعَالَى بِهِ مِنْ الذَّكَاةِ هُوَ غَيْرُ مَا نَهَى عَنْهُ مِنْ الْقَتْلِ، فَإِذْ هُوَ غَيْرُهُ فَالْقَتْلُ الْمَنْهِيُّ عَنْهُ لَيْسَ ذَكَاةً، وَإِذْ لَيْسَ هُوَ ذَكَاةً فَلَا يَحِلُّ أَكْلُ الْحَيَوَانِ بِهِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14345 If it is said: “Why did you not restrict that to those who act intentionally?” We respond: The explicit text of the verse prevents that, for Allah the Exalted said: {O you who have believed, do not kill game while you are in the state of iḥrām} [5:95]. Thus, He spoke in general terms without specification, and He termed the killing of game during the sacred precincts as killing and prohibited it.[38]

فَإِنْ قِيلَ: فَهَلَّا خَصَّصْتُمْ الْعَامِدَ بِذَلِكَ؟ قُلْنَا: نَصُّ الْآيَةِ مَانِعٌ مِنْ ذَلِكَ، لِأَنَّ اللَّهَ تَعَالَى قَالَ: {يَا أَيُّهَا الَّذِينَ آمَنُوا لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ} [المائدة: ٩٥] فَعَمَّ تَعَالَى وَلَمْ يَخُصَّ، وَسَمَّى إتْلَافَ الصَّيْدِ فِي حَالِ الْحَرَمِ قَتْلًا وَحَرَّمَهُ.

L14346 Then He said: {And whoever among you intentionally kills game [while in the sacred state of iḥrām] must offer a grazing livestock animal equivalent to what he killed} [Al-Mā’idah: 95]. Thus, He restricted the ruling of compensation to one who acts intentionally, in contrast to the general prohibition [against hunting during iḥrām] stated at the beginning of the verse.[39]

ثُمَّ قَالَ: {وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] فَأَوْجَبَ حُكْمَ الْجَزَاءِ عَلَى الْعَامِدِ خَاصَّةً بِخِلَافِ النَّهْيِ الْعَامِّ فِي أَوَّلِ الْآيَةِ.

L14347 As for the invalidation of his _Ihram_ due to that—it is because, without disagreement, it constitutes a sin. All sins are acts of disobedience, and the _Ihram_ is invalidated by such acts of disobedience as mentioned earlier.

وَأَمَّا بُطْلَانُ إحْرَامِهِ بِذَلِكَ -: فَلِأَنَّهُ بِلَا خِلَافٍ مَعْصِيَةٌ، وَالْمَعَاصِي كُلُّهَا فُسُوقٌ، وَالْإِحْرَامُ يَبْطُلُ بِالْفُسُوقِ كَمَا ذَكَرْنَا قَبْلُ.

L14348 Among the egregious and corrupt statements is the Mālikīs’ invalidation of Hajj through premature departure from ʿArafah before sunset, though Allah the Exalted never prohibited this nor did His Messenger—peace be upon him.

وَمِنْ شَنَعِ الْأَقْوَالِ وَفَاسِدِهَا إبْطَالُ الْمَالِكِيِّينَ الْحَجَّ بِالدَّفْعِ مِنْ عَرَفَةَ قَبْلَ غُرُوبِ الشَّمْسِ وَلَمْ يَمْنَعْ اللَّهُ تَعَالَى قَطُّ مِنْ ذَلِكَ وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ -، ثُمَّ لَمْ يُبْطِلُوهُ بِالْفُسُوقِ الْكَبِيرِ الَّذِي تَوَعَّدَ اللَّهُ تَعَالَى أَشَدَّ الْوَعِيدِ فِيهِ وَهُوَ قَتْلُ الصَّيْدِ عَمْدًا.

[38] **Qur’an references (L14345):** Qur’an 5:95 (Al-Ma’idah).
[39] **Qur’an references (L14346):** Qur’an 5:95 (Al-Ma’idah).

Yet they did not invalidate it by the major transgression for which Allah the Exalted threatened the severest punishment - the intentional killing of game.

L14349 They—the Hanafis—invalidated the state of Ihram due to sexual intercourse performed forgetfully, yet Allah the Exalted did not invalidate it by that act, nor did His Messenger (peace and blessings of Allah be upon him), nor did they invalidate it by the Muhrim's killing of game.

L14350–14351 They invalidated the Hajj due to coercion into sexual intercourse, and the Shafi'is invalidated it, though Allah the Exalted never invalidated it for this reason at any time, nor did His Messenger—peace be upon him. Nor did they invalidate it for intentionally killing game. Success comes solely from Allah the Exalted.

## L14352 A legal question: A man of the Book killed game within the sacred precincts of Al-Haram.

L14353 877. Issue:

L14354 If a person from the People of the Book were to kill game within the Sanctuary, it would not be lawful to eat it, due to the command of Allah the Most High: {And judge between them by what Allah has revealed} [5:49]. Therefore, it is obligatory to judge them by the ruling of Allah the Most High as is incumbent upon Muslims. And with Allah the Most High is success.[40]

## L14355 The issue of one who deliberately kills game while in the state of *ihram*.

L14356 878. Question:

L14357 As for one who intentionally kills game while in the sacred state of iḥrām, he may choose between three options—whichever he chooses, he has fulfilled his obligation. He must either offer livestock equivalent to the game he killed, which includes camels, cattle, or sheep (specifically fat-tailed sheep) and goats. He must provide from this livestock what resembles the killed game, based on the judgment established by two just arbiters from the Companions—may

[40] **Qur'an references (L14354):** Qur'an 5:49 (Al-Ma'idah).

وَأَبْطَلُوا هُمْ، وَالْحَنَفِيُّونَ الْإِحْرَامَ بِالْوَطْءِ نَاسِيًا وَلَمْ يُبْطِلْهُ اللَّهُ تَعَالَى بِذَلِكَ وَلَا رَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَمْ يُبْطِلُوهُ بِقَتْلِ الصَّيْدِ الْمُحْرِمِ.

وَأَبْطَلُوا هُمْ، وَالشَّافِعِيُّونَ الْحَجَّ بِالْإِكْرَاهِ عَلَى الْوَطْءِ وَلَمْ يُبْطِلْهُ اللَّهُ تَعَالَى قَطُّ بِهِ وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ -، وَلَمْ يُبْطِلُوهُ بِقَتْلِ الصَّيْدِ عَمْدًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ كِتَابِيٌّ قَتَلَ صَيْدًا فِي الْحَرَمِ]

٨٧٧ - مَسْأَلَةٌ:

فَلَوْ أَنَّ كِتَابِيًّا قَتَلَ صَيْدًا فِي الْحَرَمِ لَمْ يَحِلَّ أَكْلُهُ لِقَوْلِ اللَّهِ تَعَالَى: {وَأَنِ احْكُمْ بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ} [المائدة: ٤٩] فَوَجَبَ أَنْ يَحْكُمَ عَلَيْهِمْ بِحُكْمِ اللَّهِ تَعَالَى عَلَى الْمُسْلِمِينَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ الْمُتَعَمِّدُ لِقَتْلِ الصَّيْدِ وَهُوَ مُحْرِمٌ]

٨٧٨ - مَسْأَلَةٌ:

وَأَمَّا الْمُتَعَمِّدُ لِقَتْلِ الصَّيْدِ وَهُوَ مُحْرِمٌ فَهُوَ مُخَيَّرٌ بَيْنَ ثَلَاثَةِ أَشْيَاءَ أَيُّهَا شَاءَ فَعَلَهُ؟ وَقَدْ أَدَّى مَا عَلَيْهِ إمَّا أَنْ يُهْدِيَ مِثْلَ الصَّيْدِ الَّذِي قَتَلَ مِنْ النَّعَمِ وَهِيَ: الْإِبِلُ، وَالْبَقَرُ، وَالْغَنَمُ - ضَأْنُهَا، وَمَاعِزُهَا - وَعَلَيْهِ مِنْ ذَلِكَ مَا يُشْبِهُ الصَّيْدَ الَّذِي قَتَلَ مِمَّا قَدْ حَكَمَ بِهِ عَدْلَانِ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، أَوْ مِنْ التَّابِعِينَ - رَحِمَهُمُ اللَّهُ -، وَلَيْسَ عَلَيْهِ أَنْ

يَسْتَأْنِفَ تَحْكِيمَ حُكْمَيْنِ الْآنَ وَإِنْ شَاءَ أَطْعَمَ مَسَاكِينَ، وَأَقَلُّ ذَلِكَ ثَلَاثَةٌ، وَإِنْ شَاءَ نَظَرَ إِلَى مَا يُشْبِعُ ذَلِكَ الصَّيْدَ مِنَ النَّاسِ، فَصَامَ بَدَلَ كُلِّ إِنْسَانٍ يَوْمًا.

Allah be pleased with them—or the Successors—may Allah have mercy on them. He is not required to seek new arbitration from two arbiters now. If he chooses, he may feed poor people—with a minimum of three individuals—or determine how many people that game could have fed, then fast one day for each person.

L14358 بُرْهَانُ ذَلِكَ -: قَوْلُ اللَّهِ تَعَالَى: {فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ هَدْيًا بَالِـغَ الْكَعْبَةِ أَوْ كَفَّارَةٌ طَعَامُ مَسَاكِينَ أَوْ عَدْلُ ذَلِكَ صِيَامًا} [المائدة: ٩٥] .

The proof of that is the statement of Allah, the Most High: "The recompense for that is the equivalent of what he killed from the game, as determined by two just persons among you—either a sacrificial animal to be offered at the Kaaba, expiation by feeding the needy, or fasting equivalent to that feeding." [Al-Ma'idah: 95][41]

L14359 فَأَوْجَبَ اللَّهُ تَعَالَى التَّخْيِيرَ فِي ذَلِكَ بِلَفْظَةِ " أَوْ " وَأَوْجَبَ مِنَ الْمِثْلِ مَا حَكَمَ بِهِ ذَوَا عَدْلٍ مِنَّا.

Thus, Allah, the Exalted, prescribed the choice in that matter by the word "or," and mandated the equivalent (like-for-like) determined by two upright assessors from among us.

L14360 فَصَحَّ أَنَّ الصَّاحِبَيْنِ إِذَا حَكَمَا بِمِثْلٍ فِي ذَلِكَ فَقَدْ صَارَ فَرْضًا لَازِمًا لَا يَحِلُّ تَعَدِّيهِ، وَكَذَلِكَ الصَّاحِبُ وَالتَّابِعُ إِنْ لَمْ يُوجَدْ فِيهِ حُكْمُ صَاحِبَيْنِ، وَكَذَلِكَ حُكْمُ التَّابِعِينَ إِنْ لَمْ يُوجَدْ فِي حُكْمِ صَاحِبٍ، وَأَوْجَبَ تَعَالَى طَعَامَ مَسَاكِينَ، وَهَذَا بِنَاءٌ لَا يَقَعُ عَلَى أَقَلَّ مِنْ ثَلَاثَةٍ فِي اللُّغَةِ الَّتِي بِهَا نَزَلَ الْقُرْآنُ، وَيَقَعُ عَلَى ثَلَاثَةٍ فَصَاعِدًا إِلَى مَا لَا يَقْدِرُ عَلَى إِحْصَائِهِ إِلَّا اللَّهُ عَزَّ وَجَلَّ، فَكَانَ إِيجَابُ عَدَدٍ أَكْثَرَ مِنْ ثَلَاثَةٍ قَوْلًا عَلَى اللَّهِ تَعَالَى بِلَا بُرْهَانٍ، وَهَذَا لَا يَجُوزُ وَوَجَبَ إِطْعَامُ الثَّلَاثَةِ بِنَصِّ الْقُرْآنِ لَا أَقَلَّ، فَإِنْ زَادَ فَهُوَ تَطَوُّعُ خَيْرٍ.

Thus, it is established that if the two companions issue an equivalent ruling in such matters, it becomes a binding obligation that must not be transgressed. Similarly, the ruling of a companion or a Successor applies if no ruling exists from the two companions; likewise, the ruling of Successors applies if no ruling exists from a companion. The Exalted has mandated feeding the poor, and this principle—according to the language in which the Qur'an was revealed—does not apply to fewer than three individuals, but applies to three and beyond, up to a number none can count except Allah, the Almighty. To mandate a number exceeding three would constitute making a statement about Allah, the Exalted, without evidence—an impermissible act. Feeding three individuals is obligatory by the Qur'an's explicit text, no fewer, while giving more constitutes a supererogatory act of charity.

L14361–14363 وَنَحْنُ نَشْهَدُ بِشَهَادَةِ اللَّهِ عَزَّ وَجَلَّ وَنَقْطَعُ بِأَنَّهُ تَعَالَى لَوْ أَرَادَ أَنْ يُلْزِمَ فِي هَذَا عَدَدًا مَحْدُودًا مِنَ الْمَسَاكِينِ لَا يُوجِبُهُ ظَاهِرُ الْآيَةِ أَوْ صِفَةً مِنَ الْإِطْعَامِ لَا يَقْتَضِيهِ وَظَاهِرُ الْآيَةِ لَمَا أَغْفَلَهُ عَمْدًا وَلَا نَسِيَهُ، وَلَبَيَّنَهُ لَنَا فِي كِتَابِهِ أَوْ عَلَى لِسَانِ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَمَا بَيَّنَ عَدَدَ الْمَسَاكِينِ فِي كَفَّارَةِ قَتْلِ الْخَطَأِ، وَكَفَّارَةِ الْعَوْدِ لِلظِّهَارِ، وَكَفَّارَةِ

We bear witness by the testimony of Allah—the Mighty and Majestic—and decisively affirm that had He, Exalted is He, intended to impose a limited number of poor people in this matter, the apparent meaning of the verse or a manner of feeding that does not necessitate it would not have made this obligatory. The apparent meaning of the verse would not have omitted it

[41] **Qur'an references (L14358):** Qur'an 5:95 (Al-Ma'idah).

deliberately nor neglected to mention it, and He would have explicitly elucidated it for us in His Book or upon the tongue of His Messenger—may Allah's blessings and peace be upon him—just as He clarified the number of poor people in the expiation for unintentional killing, the expiation for reverting to ẓihār, the expiation for breaking oaths, the expiation for intercourse during Ramadan, and the expiation... Shaving the head due to harm during the state of Ihram: If the Exalted did not specify here a particular number nor a specific description, we testify by Allah's truthful decree that He imposed nothing in this matter beyond what the literal meaning of the verse necessitates with absolute certainty—leaving no room for doubt—and no alternative is permissible—and all praise is due to Allah, Lord of the worlds. Some people said something similar to our statement, except that they said: "Whatever they feed them, regardless of the amount, is sufficient to fulfill the obligation."

الْأَيْمَانِ، وَكَفَّارَةِ الْوَطْءِ فِي رَمَضَانَ، وَكَفَّارَةِ حَلْقِ الرَّأْسِ لِلْأَذَى فِي الْإِحْرَامِ، فَإِذَا لَمْ يَنُصَّ تَعَالَى هُنَا عَلَى عَدَدٍ بِعَيْنِهِ وَلَا عَلَى صِفَةٍ بِعَيْنِهَا فَنَحْنُ نَشْهَدُ بِشَهَادَةِ اللَّهِ الصَّادِقَةِ أَنَّهُ لَمْ يُلْزِمْ فِي ذَلِكَ غَيْرَ مَا اقْتَضَاهُ ظَاهِرُ الْآيَةِ بِيَقِينٍ لَا مَجَالَ لِلشَّكِّ فِيهِ، وَلَا يُمْكِنُ سِوَاهُ - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ - وَقَالَ بَعْضُ النَّاسِ: كَقَوْلِنَا إلَّا أَنَّهُ قَالَ: مَا أَطْعِمُهُمْ وَأَيُّ مِقْدَارٍ أَطْعِمُهُمْ أَجْزَأَهُ.

L14364 Abu Muhammad said: This is invalid because Allah, the Exalted, said: {Food for the poor} [Al-Ma'idah: 95]. If it were taken according to the literal meaning of the wording, it would suffice to feed a single grain of barley to a poor person, or a mustard seed, or the weight of an aloe seed, or the fatty part of a colocynth. But this is invalid - because Allah, the Exalted, said: {Who fed them from hunger and secured them from fear} [Quraysh: 4].[42]

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا بَاطِلٌ، لِأَنَّ اللَّهَ تَعَالَى قَالَ: {طَعَامُ مَسَاكِينَ} [المائدة: ٩٥] فَلَوْ حُمِلَ عَلَى ظَاهِرِ اللَّفْظِ لَأَجْزَأَ إطْعَامُ حَبَّةِ بُرَّةٍ لِمِسْكِينٍ، أَوْ حَبَّةَ خَرْدَلَةٍ، أَوْ وَزْنَ حَبَّةِ صَبْرٍ، أَوْ شَحْمَ حَنْظَلٍ، وَهَذَا بَاطِلٌ - لِأَنَّ اللَّهَ تَعَالَى قَالَ: {الَّذِي أَطْعَمَهُمْ مِنْ جُوعٍ وَآمَنَهُمْ مِنْ خَوْفٍ} [قريش: ٤] .

L14365 The Exalted mentioned from Abraham that he recounted from his Lord, the Almighty and Majestic, in praising Him: "He feeds me and gives me drink" [Ash-Shu'arā': 79]. By this, the Almighty and Majestic undoubtedly intended what sustains life and repels hunger from what is lawful to eat, not from what is forbidden nor from what makes no difference whether present or absent. Thus, it is valid with certainty that one must satiate three needy people from what is lawful to eat - and this is our position regarding feeding in the atonement for accidental killing. As for other cases involving feeding, the prescribed manner of feeding has been textually established in four cases only: feeding for intentionally engaging in intercourse with one's spouse during the daytime of Ramadan, feeding in ẓihār, feeding in the atonement

وَذَكَرَ تَعَالَى عَنْ إبْرَاهِيمَ أَنَّهُ ذَكَرَ عَنْ رَبِّهِ عَزَّ وَجَلَّ فِي حَمْدِهِ إيَّاهُ هُوَ {يُطْعِمُنِي وَيَسْقِينِ} [الشعراء: ٧٩] فَإِنَّمَا أَرَادَ عَزَّ وَجَلَّ بِذَلِكَ بِلَا شَكٍّ مَا أَمْسَكَ الْحَيَاةَ وَطَرَدَ الْجُوعَ مِمَّا يَحِلُّ أَكْلُهُ لَا مِمَّا يَحْرُمُ وَلَا مِمَّا هُوَ وَعَدَمُهُ سَوَاءٌ، فَصَحَّ يَقِينًا أَنَّهُ يُشْبِعُ ثَلَاثَ مَسَاكِينَ مِمَّا يَحِلُّ أَكْلُهُ - وَهَكَذَا نَقُولُ فِي الْإِطْعَامِ فِي كَفَّارَةِ قَتْلِ الْخَطَأِ، وَأَمَّا سَائِرُ مَا فِيهِ الْإِطْعَامُ فَقَدْ جَاءَ مِقْدَارُ مَا يُطْعَمُ فِيهِ مَنْصُوصًا وَهِيَ: أَرْبَعَةُ مَوَاضِعَ فَقَطْ، الْإِطْعَامُ فِي وَطْءِ الْأَهْلِ فِي نَهَارِ رَمَضَانَ عَمْدًا، وَالْإِطْعَامُ فِي الظِّهَارِ، وَالْإِطْعَامُ فِي كَفَّارَةِ الْأَيْمَانِ، وَالْإِطْعَامُ فِي حَلْقِ الرَّأْسِ لِلْمَرِيضِ الْمُحْرِمِ قَبْلَ مَحِلِّهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[42] **Qur'an references (L14364):** Qur'an 106:4 (Quraysh); Qur'an 5:95 (Al-Ma'idah).

for oaths, and feeding for shaving the head of an ill pilgrim in the state of iḥrām before its designated time - and success is from Allah, the Exalted.[43]

وَأَمَّا قَوْلُنَا فِي الصِّيَامِ: فَإِنَّ الْإِشَارَةَ بِلَفْظَةِ ذَلِكَ إِنَّمَا تَقَعُ فِي اللِّسَانِ الْعَرَبِيِّ الَّذِي بِهِ نَزَلَ الْقُرْآنُ عَلَى أَبْعَدِ مَذْكُورٍ، وَكَانَ الصَّيْدُ فِي هَذِهِ الْآيَةِ أَبْعَدَ مَذْكُورٍ فَلَزِمَ بِذَلِكَ عَدْلُهُ صِيَامًا، وَلَا يَكُونُ عَدْلُهُ أَصْلًا إِلَّا كَمَا ذَكَرْنَا.

L14366 As for our statement regarding fasting: the demonstrative reference with the term “that” in the Arabic language in which the Quran was revealed pertains specifically to the most distant referent mentioned. Since hunted game in this verse was the most distant referent mentioned, the obligation to compensate through fasting is thereby necessitated. Such compensation cannot be at all except in the manner we have explained.

وَأَمَّا مَنْ قَوَّمَهُ قِيمَةً، ثُمَّ قَوَّمَ الْقِيمَةَ طَعَامًا، ثُمَّ رَأَى عَدْلَ ذَلِكَ صِيَامًا فَلَمْ يُوجِبْ عَدْلَ الصَّيْدِ وَإِنَّمَا أَوْجَبَ عَدْلَ قِيمَتِهِ وَلَيْسَ هَذَا فِي الْآيَةِ فَبَطَلَ الْقَوْلُ بِهِ [جُمْلَةً] .

L14367 As for one who assesses it with a value, then estimates the value as food, and considers the equivalent in fasting: he required not the equivalent of the game animal but the equivalent of its value. This is not mentioned in the verse, and thus the opinion asserting it is invalidated entirely.

ثُمَّ نَسْأَلُ مَنْ قَالَ بِتَقْوِيمِ الْهَدْيِ دَرَاهِمَ، أَوْ طَعَامًا، أَيُّ الْهَدْيِ تُقَوِّمُ؟ وَقَدْ يَخْتَلِفُ قِيَمُ النُّوقِ، وَالْبَقَرِ، وَالْغَنَمِ، فَأَيُّ نَاقَةٍ تُقَوَّمُ؟ أَمْ أَيِّ بَقَرَةٍ تُقَوَّمُ؟ أَمْ أَيِّ شَاةٍ؟ وَهَذَا إِلْزَامٌ مُضْمَحِلٌّ بِلَا بُرْهَانٍ.

L14368 Then we ask those who claim that the sacrificial animal should be appraised in dirhams or food: Which sacrificial animal is to be appraised? The values of camels, cattle, and sheep may vary—so which camel is to be appraised? Which cow? Which sheep? This is an invalid obligation lacking evidence.

ثُمَّ نَقُولُ لِمَنْ قَالَ بِتَقْوِيمِ الصَّيْدِ: مَتَى تُقَوِّمُهُ؟ أَحَيًّا أَمْ مَقْتُولًا؟

L14369 Then we ask those who uphold the valuation of hunted game: When do you valuate it—while alive or after being killed?

فَإِنْ قَالُوا: مَقْتُولًا؟ قُلْنَا: هُوَ عِنْدَكُمْ جِيفَةٌ مَيِّتَةٌ، وَلَا قِيمَةَ لِلْمَيْتَةِ، ثُمَّ هُوَ أَيْضًا مِنْكُمْ قَوْلٌ بِلَا بُرْهَانٍ.

L14370–14371 If they say: “Killed?” We say: “In your view, it is a dead carcass, and carrion holds no value.” Moreover, this is also from you a statement without proof.

وَإِنْ قَالُوا: بَلْ يُقَوَّمُ حَيًّا؟ قُلْنَا: وَمَا بُرْهَانُكُمْ عَلَى ذَلِكَ وَقِيمَتُهُ حَيًّا تَخْتَلِفُ فَيَكُونُ حِمَارُ وَحْشٍ يَرْغَبُ فِيهِ الْمُلُوكُ حَيًّا فَيُغَالُونَ بِهِ فَإِذَا ذُكِّيَ لَمْ يَكُنْ لَهُ كَبِيرُ قِيمَةٍ، ثُمَّ فِي أَيِّ الْمَوَاضِعِ يُقَوَّمُ؟ فَإِنْ قَالُوا: حَيْثُ أُصِيبَ؟ قُلْنَا: فَإِنْ أُصِيبَ بِفَلَاةٍ لَا قِيمَةَ لَهُ فِيهَا أَصْلًا؟ وَكُلُّ مَا قَالُوهُ فَبِلَا دَلِيلٍ.

L14372 If they say, “Rather, it should be appraised alive?” We respond: “What proof supports this when its living value fluctuates? Take a wild donkey that kings desire alive—it becomes overvalued, but once ritually slaughtered, it holds no significant value. Moreover, in which locations is it appraised?” If they answer, “Where it was seized,” we counter: “What if seized in a barren land where it has no value there whatsoever?” All their claims lack any evidence.

[43] **Qur’an references (L14365):** Qur’an 26:79 (Ash-Shu’ara).

قَالَ أَبُو مُحَمَّد: وَاخْتَلَفَ النَّاسُ هَاهُنَا فِي مَوَاضِعَ، أَحَدُهَا التَّخْيِيرُ -: فَقَالَ قَوْمٌ: هَذَا عَلَى التَّرْتِيبِ وَلَا يُجْزِئُهُ إِلَّا الْهَدْيُ فَإِنْ لَمْ يَجِدْ فَالْإِطْعَامُ فَإِنْ لَمْ يَجِدْ فَالصِّيَامُ -: رُوِّينَا هَذَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا جَرِيرُ بْنُ عَبْدِ الْحَمِيدِ عَنْ مَنْصُورٍ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ عَنْ مِقْسَمٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: إذَا أَصَابَ الْمُحْرِمُ الصَّيْدَ فَإِنْ كَانَ عِنْدَهُ جَزَاءُ ذَبْحِهِ، فَإِنْ لَمْ يَكُنْ عِنْدَهُ جَزَاءُ قُوِّمَ جَزَاؤُهُ دَرَاهِمَ، ثُمَّ قُوِّمَتْ الدَّرَاهِمُ طَعَامًا فَصَامَ مَكَانَ كُلِّ نِصْفِ صَاعٍ يَوْمًا، وَإِنَّمَا جُعِلَ الطَّعَامَ لِلصَّائِمِ، لِأَنَّهُ إذَا وُجِدَ الطَّعَامُ وُجِدَ جَزَاؤُهُ.

L14373 Abū Muḥammad said: People have differed here regarding several matters, one being the principle of choice. Some said: This follows a sequential order where only the sacrificial animal (*hady*) suffices. If he does not find it, then feeding the poor is required. If he cannot find it, then fasting. This was narrated to us via Saʿīd ibn Manṣūr: Jarīr ibn ʿAbd al-Ḥamīd reported to us from Manṣūr, from al-Ḥakam ibn ʿUtaybah, from Miqsam, from Ibn ʿAbbās, who said: If a person in *iḥrām* hunts game and possesses the expiation for slaughtering it, he must offer it. If he lacks the expiation, its value is assessed in dirhams. The dirhams are then converted into food, and he fasts one day for every half *ṣāʿ* of food. The food is allocated for the one who fasts because when food is available, his expiation is fulfilled.

وَرُوِّينَاهُ أَيْضًا عَنْ إبْرَاهِيمَ النَّخَعِيِّ، وَعَطَاءٍ، وَمُجَاهِدٍ، وَمَيْمُونِ بْنِ مِهْرَانٍ - وَهُوَ قَوْلُ زُفَرَ، وَسُفْيَانَ الثَّوْرِيِّ.

L14374 We have also reported it from Ibrāhīm al-Nakhaʿī, ʿAṭāʾ, Mujāhid, and Maymūn ibn Mihrān - this being the opinion of Zufar and Sufyān al-Thawrī.

وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ اللَّيْثِ عَنْ مُجَاهِدٍ عَنْ ابْنِ عَبَّاسٍ كُلُّ شَيْءٍ فِي الْقُرْآنِ " أَوْ " فَهُوَ مُخَيَّرٌ وَكُلُّ شَيْءٍ {فَمَنْ لَمْ يَجِدْ} [البقرة: ١٩٦] فَهُوَ الْأَوَّلُ فَالْأَوَّلُ.

L14375 It has been narrated to us through the chain of ʿAbd al-Razzāq from Sufyān al-Thawrī from al-Layth from Mujāhid from Ibn ʿAbbās: Every mention of "or" in the Quran denotes a choice, and every case of *"so whoever cannot find"* (Quran 2:196) refers to the first [option], and again the first [if needed].[44]

وَرُوِّينَا التَّخْيِيرَ أَيْضًا: عَنْ عَطَاءٍ، وَمُجَاهِدٍ، وَإِبْرَاهِيمَ، وَالزُّهْرِيِّ، وَقَتَادَةَ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ، وَأَحْمَدَ، وَأَبِي سُلَيْمَانَ.

L14376 The legal option has also been reported to us from ʿAṭāʾ, Mujāhid, Ibrāhīm, al-Zuhrī, and Qatādah—and this is...

L14377 The opinion of Abū Ḥanīfah, Mālik, al-Shāfiʿī, Aḥmad ibn Ḥanbal, and Abū Sulaymān.

وَإِذَا تَنَازَعَ النَّاسُ فَالْمَرْجِعُ إلَى الْقُرْآنِ، وَحُكْمُ الْقُرْآنِ التَّخْيِيرُ، وَلَقَدْ كَانَ يَلْزَمُ مَنْ قَاسَ قَاتِلَ الصَّيْدِ خَطَأً عَلَى الْعَامِدِ فِي إيجَابِ الْكَفَّارَةِ، أَوْ عَلَى قَاتِلِ الْخَطَأِ أَنْ يَقِيسَ حُكْمَ كَفَّارَةِ الصَّيْدِ عَلَى كَفَّارَةِ الْقَتْلِ فَيَجْعَلُهَا عَلَى التَّرْتِيبِ كَمَا كَفَّارَةُ الْقَتْلِ عَلَى التَّرْتِيبِ وَإِلَّا فَقَدْ تَنَاقَضُوا؟ وَمِنْهَا اسْتِئْنَافُ التَّحْكِيمِ فَإِنَّ الرِّوَايَةَ جَاءَتْ عَنْ طَاوُسٍ: أَنَّهُ يَسْتَأْنِفُ الْحُكْمَ وَيَحْكُمَانِ بِحُكْمِ يَوْمِهِمَا وَلَا يَنْظُرَانِ إلَى حُكْمِ مَنْ مَضَى، فَإِنَّ مَالِكًا،

L14378–14380 When people dispute, the recourse is to the Quran, and the ruling of the Quran entails the option of choice. Indeed, it would be incumbent upon those who analogize the one who accidentally kills game to the intentional killer in imposing expiation, or to the accidental human killer, to analogize the ruling of expiation for game (hunted animals) to the expiation for human killing—thereby making it follow the same sequence as the expiation for killing follows the sequence. Otherwise, would they not contradict

[44] **Qur'an references (L14375):** Qur'an 2:196 (Al-Baqarah).

themselves? Among these issues is the appeal of arbitration, for the report transmitted from Tāwūs states that he appeals the judgment. They both rule according to the rulings of their time and do not consider prior rulings. For Mālik, Ibn Abī Laylā, al-Ḥasan ibn Ḥayy, and al-Thawrī stated: The defendant must initiate a new arbitration by two arbitrators. They later disagreed, however. Mālik said: The choice lies with the one against whom the ruling is issued, not the arbitrators. He instructs them: "Do not rule against me except through feeding the needy if he so chooses, or fasting if he chooses, or kaffārah if he chooses."

وَابْنَ أَبِي لَيْلَى، وَالْحَسَنَ بْنَ حَيٍّ، وَالثَّوْرِيَّ قَالُوا: لَا بُدَّ لَهُ مِنْ اسْتِئْنَافِ تَحْكِيمِ حَكَمَيْنِ، ثُمَّ اخْتَلَفُوا فَقَالَ مَالِكٌ: الْخِيَارُ إلَى الْمَحْكُومِ عَلَيْهِ لَا إلَى الْحَكَمَيْنِ، وَيَقُولُ لَهُمَا: لَا تَحْكُمَا عَلَيَّ إلَّا بِالْإِطْعَامِ إنْ شَاءَ أَوْ بِالصِّيَامِ إنْ شَاءَ، أَوْ بِالْجَزَاءِ إنْ شَاءَ.

L14381 Ibn Abī Laylā, Sufyān al-Thawrī, al-Ḥasan, and Ibn Ḥayyān said: The choice in this matter rests with the two arbitrators, not with the party against whom judgment is passed.

وَقَالَ ابْنُ أَبِي لَيْلَى، وَسُفْيَانُ الثَّوْرِيُّ، وَالْحَسَنُ، وَابْنُ حَيٍّ: الْخِيَارُ فِي ذَلِكَ إلَى الْحَكَمَيْنِ لَا إلَى الْمَحْكُومِ عَلَيْهِ.

L14382 Mālik said: It is not permissible for the two arbitrators to rule by other than the ruling of those who preceded [them].

وَقَالَ مَالِكٌ: لَا يَجُوزُ لِلْحَكَمَيْنِ أَنْ يَحْكُمَا بِغَيْرِ حُكْمِ مَنْ مَضَى.

L14383 Ibn Hayy said: If the rulings of today are more numerous than the rulings of those who passed, judgment is given according to the rulings of today. But if the rulings of today are fewer than the rulings of those who passed, judgment is given according to the rulings of those who passed.

قَالَ ابْنُ حَيٍّ: إنْ كَانَ حُكْمُ الْيَوْمِ أَكْثَرَ مِنْ حُكْمِ مَنْ مَضَى؛ حُكِمَ بِحُكْمِ الْيَوْمِ، وَإِنْ كَانَ حُكْمُ الْيَوْمِ أَقَلَّ مِنْ حُكْمِ مَنْ مَضَى: حُكِمَ بِحُكْمِ مَنْ مَضَى.

L14384 Abū Ḥanīfah, Al-Shāfiʿī, and Abū Sulaymān held that the judgment cannot be renewed today.

وَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، أَبُو سُلَيْمَانَ: لَا يَسْتَأْنِفُ الْحُكْمَ الْيَوْمَ.

L14385 Al-Shāfiʿī and Abū Sulaymān said: It is strictly limited to what the pious predecessors ruled; one may not deviate from it.

قَالَ الشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ: إنَّمَا هُوَ مَا حَكَمَ بِهِ السَّلَفُ لَا يَجُوزُ تَجَاوُزُهُ.

L14386 Abu Muhammad said: Allah the Exalted has obligated [adherence to] what two just individuals among us have ruled in that matter. Thus, if two from the Salaf have ruled, Allah the Exalted has mandated obedience to their judgment. Resuming arbitration with two others is meaningless, for it has not been obligated by the Quran, the Sunnah, nor consensus. It is a void and invalid act with no benefit whatsoever.

قَالَ أَبُو مُحَمَّدٍ: وَاَللَّهُ تَعَالَى أَوْجَبَ مَا حَكَمَ بِهِ فِي ذَلِكَ ذَوَا عَدْلٍ مِنَّا فَإِذَا حَكَمَ اثْنَانِ مِنْ السَّلَفِ فَقَدْ أَوْجَبَ اللَّهُ تَعَالَى الطَّاعَةَ لِمَا حَكَمَا بِهِ فَاسْتِئْنَافُ تَحْكِيمِ آخَرَيْنِ لَا مَعْنَى لَهُ، لِأَنَّهُ لَمْ يُوجِبْهُ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا إجْمَاعٌ -: فَهُوَ عَمَلٌ فَارِغٌ فَاسِدٌ لَا فَائِدَةَ فِيهِ أَصْلًا.

L14387 Then the statement of Mālik: Verily, the option lies with the one against whom a judgment was passed erroneously and repeatedly, for if appointing two arbitrators were obligatory while obedience to them in matters over

which Allah, Exalted be He, has granted authority to judge is not obligatory, this would constitute a void act.

ثُمَّ قَوْلُ مَالِكٍ: إنَّ الْخِيَارَ إلَى الْمَحْكُومِ عَلَيْهِ خَطَأً مُكَرَّرٌ، إذْ لَوْ وَجَبَ تَحْكِيمُ حَكَمَيْنِ لَا تَجِبُ طَاعَتُهُمَا فِيمَا حَكَمَا بِهِ مِمَّا جَعَلَ اللَّهُ تَعَالَى إلَيْهِمَا الْحُكْمَ بِهِ لَكَانَ ذَلِكَ عَمَلًا فَاسِدًا.

L14388 If they deceptively appointed the two arbitrators between the spouses, Allah the Exalted has never ever granted them authority to enforce a divorce or impose a financial penalty. Rather, He has only empowered them to mediate for conciliation, so that Allah the Exalted may alone reconcile them.

فَإِنْ مَوَّهُوا بِالْحَكَمَيْنِ بَيْنَ الزَّوْجَيْنِ فَلَمْ يَجْعَلْ اللَّهُ تَعَالَى قَطُّ إلَيْهِمَا فُرْقَةً وَلَا إيجَابَ غَرَامَةٍ، وَإِنَّمَا جَعَلَ تَعَالَى إلَيْهِمَا الْإِصْلَاحَ لِيُوَفِّقَ اللَّهُ تَعَالَى بَيْنَهُمَا فَقَطْ.

L14389 Among these is that some of those we mentioned advocated arbitration regarding feeding and fasting, and this is erroneous, for Allah the Exalted did not mandate arbitration in that except in expiation by means of the ritual sacrificial offering alone - this is the explicit text of the verse. Moreover, the one who holds this view has contradicted what is reported from Ibn Abbas and others concerning the ruling on feeding and fasting, thereby becoming inconsistent.

وَمِنْهَا أَنَّ بَعْضَ مَنْ ذَكَرْنَا رَأَى التَّحْكِيمَ فِي الْإِطْعَامِ، وَالصِّيَامِ، وَهَذَا خَطَأٌ؛ لِأَنَّ اللَّهَ تَعَالَى لَمْ يُوجِبْ التَّحْكِيمَ فِي ذَلِكَ إلَّا فِي الْجَزَاءِ بِالْهَدْيِ فَقَطْ هَذَا هُوَ نَصُّ الْآيَةِ، ثُمَّ الْقَائِلُ بِهَذَا قَدْ خَالَفَ مَا جَاءَ عَنْ ابْنِ عَبَّاسٍ، وَغَيْرِهِ مِنْ الْحُكْمِ فِي الْإِطْعَامِ، وَالصِّيَامِ فَتَنَاقَضَ.

L14390–14392 And among them are the specified amounts for feeding and fasting (from Ibn Abbas, as we have previously mentioned) that the expiation is to be assessed. Instead of [offering] livestock, [one may give] dirhams. These dirhams are then converted to the value of food, requiring them to fast one day for every half ṣāʿ of food [not provided]. A similar ruling is narrated from Ibn ʿUmar. Neither report is authentically attributed to them. This indicates that the feeding obligation consists of half a ṣāʿ of food for every needy person.

وَمِنْهَا مِقْدَارُ الْإِطْعَامِ، وَالصِّيَامِ -: فَعَنْ ابْنِ عَبَّاسٍ كَمَا ذَكَرْنَا آنِفًا أَنْ يُقَوَّمَ الْجَزَاءُ مِنْ النَّعَمِ دَرَاهِمَ، ثُمَّ تُقَوَّمُ الدَّرَاهِمُ طَعَامًا فَيَصُومُ بَدَلَ كُلِّ نِصْفِ صَاعٍ يَوْمًا؛ وَعَنْ ابْنِ عُمَرَ أَيْضًا كَذَلِكَ، وَكِلَاهُمَا لَا يَصِحُّ عَنْهُمَا، فَدَلَّ هَذَا عَلَى أَنَّ الْإِطْعَامَ يَكُونُ لِكُلِّ مِسْكِينٍ نِصْفُ صَاعٍ.

L14393 Another opinion from Ibn Abbas states: If one kills an ostrich or a wild donkey, the atonement is a she-camel. If he cannot procure it, he must feed thirty poor people with exactly one mudd of food. If he cannot procure this, he must fast thirty days. If one kills a stag or similar animal, the atonement is a cow. If he cannot procure it, he must feed twenty poor people. If he cannot procure this, he must fast twenty days. If one kills a gazelle, the atonement is a sheep or goat. If he cannot procure it, he must feed six poor people. If he cannot procure this, he must fast three days.

عَنْ ابْنِ عَبَّاسٍ أَيْضًا قَوْلٌ آخَرُ وَهُوَ إنْ قَتَلَ نَعَامَةً، أَوْ حِمَارَ وَحْشٍ فَبَدَنَةٌ مِنْ الْإِبِلِ فَإِنْ لَمْ يَجِدْ أَطْعَمَ ثَلَاثِينَ مِسْكِينًا، فَإِنْ لَمْ يَجِدْ صَامَ ثَلَاثِينَ يَوْمًا وَالْإِطْعَامُ مُدُّ مُدٍّ فَقَطْ، فَإِنْ قَتَلَ أُيَّلًا أَوْ نَحْوَهُ فَبَقَرَةٌ، فَإِنْ لَمْ يَجِدْ أَطْعَمَ عِشْرِينَ مِسْكِينًا، فَإِنْ لَمْ يَجِدْ صَامَ عِشْرِينَ يَوْمًا، فَإِنْ قَتَلَ ظَبْيًا فَشَاةٌ، فَإِنْ لَمْ يَجِدْ فَإِطْعَامُ سِتَّةِ مَسَاكِينَ، فَإِنْ لَمْ يَجِدْ صَامَ ثَلَاثَةَ أَيَّامٍ.

L14394 Abu Muhammad said: We do not know of anyone from the Companions

- may Allah be pleased with them - having a saying other than the one we have mentioned.

قَالَ أَبُو مُحَمَّدٍ: مَا نَعْلَمُ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - قَوْلَةً غَيْرَ هَذِهِ الَّتِي ذَكَرْنَا.

L14395 It has been narrated to us from Mujāhid that one should judge in that matter by offering a sacrificial animal. If one cannot find it, the sacrificial animal is commuted to food. Then the food is commuted to fasting - two mudd per needy person, with each needy person's [share] being a day of fasting.

وَرُوِّينَا عَنْ مُجَاهِدٍ: أَنْ يَحْكُمَ فِي ذَلِكَ بِهَدْيٍ فَإِنْ لَمْ يَجِدْ قُوِّمَ الْهَدْيُ طَعَامًا، ثُمَّ قُوِّمَ الطَّعَامُ صِيَامًا لِكُلِّ مِسْكِينٍ مُدَّانِ، وَمَكَانُ كُلِّ مِسْكِينٍ صَوْمُ يَوْمٍ.

L14396 Something similar to this is reported from Ibrāhīm.

وَعَنْ إبْرَاهِيمَ نَحْوَ هَذَا.

L14397 A similar ruling is also narrated from Al-Ḥasan.

وَعَنْ الْحَسَنِ مِثْلُهُ أَيْضًا.

L14398 And from 'Aṭā': The expiation is assessed as food. Then one fasts a day for each mudd. If he finds the food before completing the fast, he must feed.

وَعَنْ عَطَاءٍ يُقَوَّمُ الْجَزَاءُ طَعَامًا، ثُمَّ يَصُومُ بَدَلَ كُلِّ مُدٍّ يَوْمًا، فَإِنْ وَجَدَ الطَّعَامَ قَبْلَ أَنْ يَفْرُغَ مِنْ الصَّوْمِ أَطْعَمَ.

L14399 It has also been narrated from him that fasting a day is a substitute for every half ṣāʿ.

وَرُوِّينَا عَنْهُ أَيْضًا بَدَلَ كُلِّ نِصْفِ صَاعٍ صِيَامَ يَوْمٍ.

L14400 It is narrated from Maymūn ibn Mihrān that fasting one day serves as compensation for feeding a poor person for each day.

عَنْ مَيْمُونِ بْنِ مِهْرَانٍ: أَنَّ صِيَامَ يَوْمٍ بَدَلَ كُلِّ مِسْكِينٍ يَوْمًا.

L14401 From Abū ʿIyāḍ—and he was a Tābiʿī—who narrated from Muʿāwiyah that he said: "The maximum fasting observed in that matter is twenty-one days."

وَعَنْ أَبِي عِيَاضٍ - وَهُوَ تَابِعِيٌّ - رَوَى عَنْ مُعَاوِيَةَ قَالَ: أَكْثَرُ الصَّوْمِ فِي ذَلِكَ وَاحِدٌ وَعِشْرُونَ يَوْمًا.

L14402 It has been authentically reported from Saʿīd ibn Jubayr that he said: "Fasting in expiation for hunting is from three days to ten days. We do not know of any Tābiʿī who has mentioned anything regarding this matter other than what we have mentioned."

وَصَحَّ عَنْ سَعِيدِ بْنِ جُبَيْرٍ أَنَّهُ قَالَ: الصَّوْمُ فِي فِدْيَةِ الصَّيْدِ مِنْ ثَلَاثَةِ أَيَّامٍ إلَى عَشَرَةِ أَيَّامٍ مَا نَعْلَمُ عَنْ تَابِعٍ فِي هَذَا غَيْرَ مَا ذَكَرْنَا.

L14403 Al-Layth said: One should not exceed sixty days of fasting in such cases.

وَقَالَ اللَّيْثُ: لَا يَتَجَاوَزُ فِي ذَلِكَ بِالصَّوْمِ سِتِّينَ يَوْمًا.

L14404 Abu Hanifah said: The value of the hunted game is assessed in dirhams, then food is purchased with them. He feeds each poor person half a saʿ of wheat, a saʿ of dates, a saʿ of barley, or raisins. Alternatively, he may fast one day in place of feeding each poor person. This is the opinion of al-Thawri.

وَقَالَ أَبُو حَنِيفَةَ: يُقَوِّمُ الصَّيْدَ دَرَاهِمَ فَيَبْتَاعُ بِهَا طَعَامًا فَيُطْعِمُ كُلَّ مِسْكِينٍ نِصْفَ صَاعٍ مِنْ بُرٍّ أَوْ صَاعًا مِنْ تَمْرٍ أَوْ صَاعَ شَعِيرٍ أَوْ زَبِيبٍ، أَوْ يَصُومُ بَدَلَ كُلِّ مِسْكِينٍ يَوْمًا، وَهُوَ قَوْلُ الثَّوْرِيِّ.

L14405–14406 Mālik also held this view, except he said: "He should feed each poor person one mudd [of food] or fast one day in place of each mudd." As for their opinion regarding the appraisal of hunted game, we know of no one before them who maintained this position. Those we mentioned earlier spoke only of appraising the sacrificial animal, which constitutes the compensation.

وَبِهِ قَالَ مَالِكٌ، إِلَّا أَنَّهُ قَالَ: يُطْعِمُ [لِكُلِّ مِسْكِينٍ] مُدًّا مُدًّا أَوْ يَصُومُ بَدَلَ كُلِّ مُدٍّ يَوْمًا، وَقَوْلُهُمْ بِتَقْوِيمِ الصَّيْدِ لَا نَعْلَمُهُ قَبْلَهُمْ عَنْ أَحَدٍ وَإِنَّمَا قَالَ مَنْ ذَكَرْنَا قَبْلُ بِتَقْوِيمِ الْهَدْيِ وَهُوَ الْجَزَاءُ.

L14407 Al-Shafiʿi said: The compensation is appraised in dirhams, not the game. The dirhams are then appraised in terms of food, requiring one to give a mudd of food for each resulting mudd or fast one day in place of each mudd.

وَقَالَ الشَّافِعِيُّ: يُقَوَّمُ الْجَزَاءُ لَا الصَّيْدُ دَرَاهِمَ، ثُمَّ تُقَوَّمُ الدَّرَاهِمُ طَعَامًا فَيُطْعِمُ مُدًّا مُدًّا أَوْ يَصُومُ بَدَلَ كُلِّ مُدٍّ يَوْمًا.

L14408 Abu Thawr said: The feeding is three sa's for six poor people, half a sa' per individual, and the fasting is three days only.

وَقَالَ أَبُو ثَوْرٍ: الْإِطْعَامُ ثَلَاثَةُ آصُعٍ لِسِتَّةِ مَسَاكِينَ لِكُلِّ مِسْكِينٍ نِصْفُ صَاعٍ، وَالصِّيَامُ ثَلَاثَةُ أَيَّامٍ فَقَطْ.

L14409 Abu Muhammad said: As for Ibn Abbas, his statements on that matter have varied, and none is more preferable than the others. Abu Hanifa, Malik, and Al-Shafiʿi opposed all of them. Yet they hold in high regard a Companion's divergent opinion when it aligns with their adherence to *taqlīd*, because one of his two opinions includes the sequential order, which they do not uphold.

قَالَ أَبُو مُحَمَّدٍ: أَمَّا ابْنُ عَبَّاسٍ فَقَدْ اخْتَلَفَتْ أَقْوَالُهُ فِي ذَلِكَ وَلَيْسَ بَعْضُهَا أَوْلَى مِنْ بَعْضٍ، وَكُلُّهَا قَدْ خَالَفَهَا أَبُو حَنِيفَةَ، وَمَالِكٌ، وَالشَّافِعِيُّ، وَهُمْ يُعَظِّمُونَ خِلَافَ الصَّاحِبِ إذَا وَافَقَ تَقْلِيدَهُمْ، لِأَنَّ فِي أَحَدِ قَوْلَيْهِ التَّرْتِيبَ وَهُمْ لَا يَقُولُونَ بِهِ.

L14410 In this ruling, it is stipulated that the compensation be assessed, and neither Abū Ḥanīfah nor Mālik uphold this opinion.

وَفِيهِ: أَنْ يُقَوَّمَ الْجَزَاءَ، وَلَا يَقُولُ أَبُو حَنِيفَةَ، وَلَا مَالِكٌ بِهِ.

L14411 In it: The ruling attributed to him and Ibn ʿUmar is that half a ṣāʿ per day serves as a substitute. Neither Mālik nor Al-Shāfiʿī hold this opinion. As for his second opinion, all of them wholly oppose him, and no dissenting opinion among the Companions (may Allah be pleased with them) is known regarding the positions we attributed to Ibn ʿAbbās and Ibn ʿUmar.

وَفِيهِ: عَنْهُ وَعَنْ ابْنِ عُمَرَ مَكَانُ كُلِّ نِصْفِ صَاعٍ يَوْمًا، وَلَا يَقُولُ مَالِكٌ، وَلَا الشَّافِعِيُّ بِهِ - وَأَمَّا قَوْلُهُ الثَّانِي فَكُلُّهُمْ مُخَالِفُونَ لَهُ جُمْلَةً، وَلَا يُعْرَفُ فِيمَا ذَكَرْنَا لِابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ مُخَالِفٌ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -.

L14412 Ali said: We have found no proof from the Quran, nor the Sunnah, nor

any decisive evidence supporting these statements except within these two sources. No speech is more offensive than that of one who dismissively contradicts Ibn Abbas based on personal opinion or the view of a follower whom other followers have opposed, then condemns those who contradict him even as they adhere to the Quran. We are satisfied and delighted with this apportionment from Allah the Exalted for us and for them. May Allah the Exalted never deprive us of this through His grace [and bounty]. Amen.

قَالَ عَلِيٌّ: لَمْ نَجِدْ لِشَيْءٍ مِنْ هَذِهِ الْأَقْوَالِ بُرْهَانًا مِنْ قُرْآنٍ، وَلَا سُنَّةٍ، وَلَا حُجَّةٍ إِلَّا فِيهِمَا، وَلَا أَفْحَشُ قَوْلًا مِمَّنْ اسْتَسْهَلَ خِلَافَ ابْنِ عَبَّاسٍ بِرَأْيِ نَفْسِهِ أَوْ بِرَأْيِ تَابِعٍ قَدْ خَالَفَهُ غَيْرُهُ مِنَ التَّابِعِينَ، ثُمَّ يُنْكِرُ عَلَى مَنْ خَالَفَهُ الْتِزَامًا لِلْقُرْآنِ، وَنَحْنُ رَاضُونَ مَسْرُورُونَ بِهَذِهِ الْقِسْمَةِ مِنَ اللَّهِ تَعَالَى لَنَا وَلَهُمْ لَا أَعْدَمَنَا اللَّهُ تَعَالَى ذَلِكَ بِمَنِّهِ [وَفَضْلِهِ] آمِينَ.

L14413 The Followers differ, as we have mentioned. Whoever adheres to a statement by any one of them without textual evidence in that matter has deviated from himself and others among the mentioned Followers by another statement in the very same issue. They are only seven who differ and dispute: Mujāhid, ʿAṭāʾ, Ibrāhīm, al-Ḥasan, Abū ʿUyayyah, Saʿīd ibn Jubayr, and Maymūn ibn Mihrān.

وَالتَّابِعُونَ مُخْتَلِفُونَ كَمَا ذَكَرْنَا فَمَنْ تَعَلَّقَ بِبَعْضِ قَوْلَةِ لِوَاحِدٍ مِنْهُمْ بِلَا نَصٍّ فِي ذَلِكَ فَقَدْ خَالَفَهُ نَفْسَهُ وَغَيْرُهُ مِنَ التَّابِعِينَ الْمَذْكُورِينَ فِي قَوْلَةٍ أُخْرَى فِي الْمَسْأَلَةِ بِعَيْنِهَا، وَإِنَّمَا هُمْ سَبْعَةٌ فَقَطْ مُخْتَلِفُونَ مُتَنَازِعُونَ: مُجَاهِدٌ، وَعَطَاءٌ، وَإِبْرَاهِيمُ، وَالْحَسَنُ، وَأَبُو عِيَاضٍ، وَسَعِيدُ بْنُ جُبَيْرٍ، وَمَيْمُونُ بْنُ مِهْرَانٍ.

L14414 As for the statements of Abū Ḥanīfah, Sufyān, Mālik, and Al-Shāfiʿī (despite their differences and disputes), none of them possesses any proof for the validity of his claim—neither from the Quran, nor from the Sunnah, nor from a weak narration, nor from the statement of a Companion, nor from analogy, nor from a Follower who fully agrees with any one of them in the entirety of his position regarding that matter.

وَأَمَّا قَوْلُ أَبِي حَنِيفَةَ، وَسُفْيَانَ، وَمَالِكٍ، وَالشَّافِعِيِّ، فَمَعَ اخْتِلَافِهِمْ وَتَنَازُعِهِمْ فَلَا بُرْهَانَ لِوَاحِدٍ مِنْهُمْ عَلَى صِحَّةِ دَعْوَاهُ لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَلَا مِنْ رِوَايَةٍ سَقِيمَةٍ، وَلَا مِنْ قَوْلِ صَاحِبٍ، وَلَا قِيَاسٍ، وَلَا مِنْ تَابِعٍ مُوَافِقٍ لِلْوَاحِدِ مِنْهُمْ فِي قَوْلِهِ كُلِّهِ فِي ذَلِكَ.

L14415–14416 As for Al-Layth, he analogized fasting in this matter to fasting for accidental homicide. He would require those who analogized the obligation of expiation in accidental game killing to its obligation in accidental killing of a believer to similarly analogize fasting in this case to fasting in that one, as Al-Layth did. This applies particularly to those who did not raise the blood money for male and female slaves to reach that of free men and women, those who allocated a share for the horse while declaring "I do not prefer beasts over humans," yet then gave preference to beasts here over people by prescribing fasting as expiation for their killing.

وَأَمَّا اللَّيْثُ فَإِنَّهُ قَاسَ الصِّيَامَ فِي ذَلِكَ عَلَى الصِّيَامِ فِي قَتْلِ النَّفْسِ، وَلَقَدْ كَانَ يَلْزَمُ مَنْ قَاسَ إِيجَابَ الْكَفَّارَةِ فِي قَتْلِ الصَّيْدِ خَطَأً عَلَى وُجُوبِهَا فِي قَتْلِ الْمُؤْمِنِ خَطَأً أَنْ يَقِيسَ الصِّيَامَ فِي هَذِهِ عَلَى الصِّيَامِ فِي ذَلِكَ كَمَا فَعَلَ اللَّيْثُ، وَلَا سِيَّمَا مَنْ لَمْ يُبْلِغْ دِيَةَ الْعَبْدِ وَالْأَمَةِ إِلَى دِيَةِ الْحُرِّ وَالْحُرَّةِ، وَمَنْ جَعَلَ لِلْفَرَسِ سَهْمًا، وَقَالَ: لَا أُفَضِّلُ بَهِيمَةً عَلَى إِنْسَانٍ، ثُمَّ فَضَّلَ الْبَهَائِمَ هَاهُنَا عَلَى النَّاسِ فِي الصِّيَامِ عَنْ نُفُوسِهَا.

L14417 Abū Muḥammad said: All analogy is entirely invalid, and even if it were valid, it would be invalid in this context. For Allah the Exalted mandated,

in the case of hunting, compensation with equivalent livestock or feeding, yet He did not impose any of that for the accidental killing of a believer. Rather, He mandated in that case *diyah* and the freeing of a slave, but He did not mandate it here. How then could anyone consider it permissible to analogize one matter to another when Allah the Exalted has distinguished between their rulings?

قَالَ أَبُو مُحَمَّد: وَالْقِيَاسُ كُلُّهُ بَاطِلٌ، وَلَوْ كَانَ حَقًّا لَكَانَ هَاهُنَا بَاطِلًا؛ لِأَنَّ اللَّهَ تَعَالَى أَوْجَبَ فِي جَزَاءِ الصَّيْدِ مِثْلًا مِنْ النَّعَمِ أَوْ إطْعَامًا وَلَمْ يُوجِبْ شَيْئًا مِنْ ذَلِكَ فِي قَتْلِ الْمُؤْمِنِ خَطَأً بَلْ أَوْجَبَ هُنَالِكَ دِيَةً. وَعِتْقَ رَقَبَةٍ وَلَمْ يُوجِبْهَا هَاهُنَا، فَكَيْفَ يَسْتَجِيزُ أَحَدٌ قِيَاسَ شَيْءٍ عَلَى شَيْءٍ قَدْ فَرَّقَ اللَّهُ تَعَالَى بَيْنَ حُكْمَيْهِمَا.

L14418 As for Abū Thawr, he analogized the feeding and fasting in the expiation for hunting to the feeding and fasting in the ransom for a person in iḥrām shaving his head due to harm present in him (such as lice) and illness.

وَأَمَّا أَبُو ثَوْرٍ فَإِنَّهُ قَاسَ الْإِطْعَامَ، وَالصِّيَامَ فِي جَزَاءِ الصَّيْدِ عَلَى الْإِطْعَامِ وَالصِّيَامِ فِي فِدْيَةِ حَلْقِ الْمُحْرِمِ رَأْسَهُ لِلْأَذَى يَكُونُ بِهِ وَالْمَرَضِ.

L14419 Ali said: This is analogy (qiyas), and all analogy is invalid. Moreover, even if it were valid, this particular case would be the very essence of invalidity, because the killer of game is disobedient to Allah the Exalted—a transgressor and sinner—and faces the severest threat, while the one who shaves his head due to an illness afflicting him is obedient, virtuous, and rewarded. How, then, can it be permissible to analogize one of them to the other when they are not alike? Furthermore, Allah the Exalted has distinguished between them by ordaining, in the penalty for game, the judgment of two judges, while not ordaining this for the one who shaves his head. This is evident—and success is from Allah the Exalted.

قَالَ عَلِيٌّ: وَهَذَا قِيَاسٌ وَالْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَوْ كَانَ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنُ الْبَاطِلِ؛ لِأَنَّ قَاتِلَ الصَّيْدِ عَاصٍ لِلَّهِ تَعَالَى فَاسِقٌ آثِمٌ، ثُمَّ مُتَوَعَّدٌ أَشَدَّ الْوَعِيدِ، وَحَالِقُ رَأْسِهِ لِمَرَضٍ بِهِ: مُطِيعٌ مُحْسِنٌ مَأْجُورٌ، فَكَيْفَ يَجُوزُ قِيَاسُ أَحَدِهِمَا عَلَى الْآخَرِ وَلَيْسَ مِثْلُهُ؟ ثُمَّ إنَّ اللَّهَ تَعَالَى قَدْ فَرَّقَ بَيْنَهُمَا فَجَعَلَ فِي جَزَاءِ الصَّيْدِ تَحْكِيمَ حَكَمَيْنِ وَلَمْ يَجْعَلْ ذَلِكَ فِي حَالِقِ رَأْسِهِ، وَهَذَا بَيِّنٌ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14420 We have been narrated from Isḥāq ibn Rāhawayh that when Aḥmad's statement on a matter was mentioned to him, he said: "The best of what I had assumed was that anyone would agree with me on it, yet Abū Ya'qūb—may Allah have mercy on him—did not reject a statement unattributed to any prior scholar, provided it agrees with the Quran or the Sunnah, unlike one who rejects this. Such a person then puts forth opinions based on his own reasoning that contradict the Quran and the Sunnahs, unaware that anyone has asserted them before him. In the statements of all those we mentioned—Abū Ḥanīfah, Mālik, al-Layth, and al-Shāfi'ī—there are positions unknown to have been held by anyone before them, each within the classification they established. Thus, the follower of the Quran and the Sunnah is most deserving of the truth."

وَقَدْ رُوِّينَا عَنْ إسْحَاقَ بْنِ رَاهْوَيْهِ أَنَّهُ ذُكِرَ لَهُ قَوْلُ أَحْمَدَ فِي مَسْأَلَةٍ فَقَالَ: أَحْسَنُ مَا كُنْت أَظُنُّ أَنَّ أَحَدًا يُوَافِقُنِي عَلَيْهَا، فَلَمْ يُنْكِرْ أَبُو يَعْقُوبَ - رَحِمَهُ اللَّهُ - الْقَوْلَ بِمَا لَا يَعْلَمُ بِهِ قَائِلٌ إذَا وَافَقَ الْقُرْآنَ، أَوْ السُّنَّةَ لَا كَمَنْ يُنْكِرُ هَذَا - ثُمَّ يَأْتِي بِأَقْوَالٍ مِنْ رَأْيِهِ مُخَالِفَةٍ لِلْقُرْآنِ وَالسُّنَنِ لَا يَعْرِفُ أَنَّ أَحَدًا قَالَ بِهَا قَبْلَهُ، وَفِي قَوْلِ كُلِّ مَنْ ذَكَرْنَا مِنْ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَاللَّيْثِ، وَالشَّافِعِيِّ، مَا لَا يُعْرَفُ أَنَّ أَحَدًا قَالَ بِهِ قَبْلُ كُلُّ وَاحِدٍ مِنْهُمْ مِنْ التَّقْسِيمِ الَّذِي قَسَّمُوهُ، فَمُتَّبِعُ الْقُرْآنِ، وَالسُّنَّةِ أَوْلَى بِالْحَقِّ.

وَمِنْهَا: مَا هُوَ الْمِثْلُ الَّذِي يُجْزِئُ بِهِ الصَّيْدُ مِنْ النَّعَمِ فَإِنَّ الرِّوَايَةَ جَاءَتْ كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا عَائِذُ بْنُ حَبِيبٍ عَنْ عَطَاءٍ، وَمُجَاهِدٍ، وَإِبْرَاهِيمَ قَالُوا جَمِيعًا: إذَا أَصَابَ الْمُحْرِمُ صَيْدًا حُكِمَ عَلَيْهِ بِثَمَنِهِ فَاشْتَرَى بِهِ هَدْيًا فَإِنْ لَمْ يَجِدْ قُوِّمَ طَعَامًا فَتَصَدَّقَ بِهِ عَلَى كُلِّ مِسْكِينٍ نِصْفُ صَاعٍ، فَإِنْ لَمْ يَجِدْ صَامَ لِكُلِّ صَاعٍ يَوْمَيْنِ.

L14421–14423 Among them is the equivalent among livestock that suffices for the hunted animal, for the narration has been transmitted as we were told via the chain of Ibn Abī Shaybah: ʿĀʾidh ibn Ḥabīb narrated from ʿAṭāʾ, Mujāhid, and Ibrāhīm. They all said: When... If a pilgrim in the state of iḥrām hunts game, he must pay its compensation value to purchase a sacrificial animal. If he cannot procure the animal, he must convert the compensation into food and distribute half a ṣāʿ of that food to each needy person. If he cannot distribute the food, he must fast two days for every full ṣāʿ owed.

وَقَدْ صَحَّ عَنْ عَطَاءٍ، وَمُجَاهِدٍ، وَإِبْرَاهِيمَ غَيْرُ هَذَا، وَهُوَ أَنَّهُمْ قَالُوا: الْجَزَاءُ بِالْمِثْلِ مِنْ النَّعَمِ لَا بِالْقِيمَةِ - وَهَكَذَا رُوِّينَا عَنْ عُثْمَانَ، وَعُمَرَ، وَعَلِيٍّ، وَعَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ، وَسَعْدِ بْنِ أَبِي وَقَّاصٍ، وَجَابِرِ بْنِ عَبْدِ اللَّهِ، وَابْنِ عَبَّاسٍ، وَمُعَاوِيَةَ، وَابْنِ مَسْعُودٍ، وَطَارِقِ بْنِ شِهَابٍ، وَعَبْدِ اللَّهِ بْنِ عُمَرَ، وَعَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَلَا مُخَالِفَ لَهُمْ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - فِي ذَلِكَ.

L14424 It has been authentically reported from ʿAṭāʾ, Mujāhid, and Ibrāhīm a ruling other than this, namely that they said: "The recompense is in kind for livestock, not by monetary value." Similarly, it has been narrated to us from ʿUthmān, ʿUmar, ʿAlī, ʿAbd al-Raḥmān ibn ʿAwf, Saʿd ibn Abī Waqqāṣ, Jābir ibn ʿAbd Allāh, Ibn ʿAbbās, Muʿāwiyah, Ibn Masʿūd, Ṭāriq ibn Shihāb, ʿAbd Allāh ibn ʿUmar, and ʿAbd Allāh ibn ʿAmr ibn al-ʿĀṣ—may Allah be pleased with them—with no dissenting opinion among the Companions—may Allah be pleased with them—in that matter.

وَكَذَلِكَ أَيْضًا عَمَّنْ ذَكَرْنَا مِنْ التَّابِعِينَ، وَعَنْ شُرَيْحٍ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَغَيْرِهِمْ - وَهُوَ قَوْلُ مَالِكٍ، وَسُفْيَانَ الثَّوْرِيِّ، وَالشَّافِعِيِّ، وَابْنِ حَيٍّ، وَابْنِ أَبِي لَيْلَى، وَأَحْمَدَ، وَإِسْحَاقَ، وَأَبِي ثَوْرٍ، وَأَبِي سُلَيْمَانَ، وَغَيْرِهِمْ.

L14425 Similarly, also from those we have mentioned among the Successors, and from Shurayh, Saʿīd ibn Jubayr, and others: this is the opinion held by Mālik, Sufyān al-Thawrī, al-Shāfiʿī, Ibn Ḥabīb, Ibn Abī Laylā, Aḥmad, Isḥāq, Abū Thawr, Abū Sulaymān, and others.

فَأَتَى أَبُو حَنِيفَةَ بِقَوْلٍ لَمْ يُسْمَعْ بِأَوْحَشَ مِنْهُ فِي هَذَا الْبَابِ، وَهُوَ أَنَّهُ قَالَ: مَنْ قَتَلَ صَيْدًا وَهُوَ مُحْرِمٌ فَإِنَّهُ يُقَوِّمُ الصَّيْدَ دَرَاهِمَ، ثُمَّ يَبْتَاعُ بِتِلْكَ الدَّرَاهِمِ مَا بَلَغَتْ مِنْ الْهَدْيِ وَلَا يُجْزِئُ فِي ذَلِكَ إلَّا الْجَذَعُ مِنْ الضَّأْنِ فَصَاعِدًا وَالثَّنِيُّ مِنْ الْإِبِلِ، وَالْبَقَرُ، وَالْمَاعِزُ، فَصَاعِدًا.

L14426 Abu Hanifah issued a ruling harsher than any known in this matter, declaring: Whoever kills game while in a state of iḥrām must appraise the game's value in dirhams and use those dirhams to purchase sacrificial animals equivalent to that value. Only a jadhaʿ (sheep aged six to twelve months) or older, a thani (camel that has entered its third year), a cow or older, or a goat or older is valid for this purpose.

L14427 If he finds two sacrificial animals of that value, or three or four, he is obligated to offer all of them. This ruling applies to the gazelle, the ostrich, the

wild donkey, the camel, the wild ox, the dhabb lizard, the jerboa, the dove, and others.

فَإِنْ وَجَدَ بِتِلْكَ الْقِيمَةِ هَدْيَيْنِ أَوْ ثَلَاثَةً أَوْ أَرْبَعَةً: لَزِمَهُ أَنْ يُهْدِيَ كُلَّ ذَلِكَ - هَكَذَا يَفْعَلُ فِي الظَّبْيِ وَالنَّعَامَةِ، وَحِمَارِ الْوَحْشِ، وَالْإِبِلِ، وَالْبَقَرَةِ الْوَحْشِيَّةِ، وَالضَّبِّ، وَالْيَرْبُوعِ وَالْحَمَامَةِ، وَغَيْرِ ذَلِكَ.

L14428 If the value of that does not equal the value of a sacrificial animal, he should buy food with it and feed the poor, as we mentioned from him earlier.

فَإِنْ لَمْ يَبْلُغْ قِيمَةُ ذَلِكَ هَدْيًا ابْتَاعَ بِهِ طَعَامًا فَأَطْعَمَ كَمَا ذَكَرْنَا عَنْهُ قَبْلُ.

L14429 "If he kills an elephant, the sacrificial offering required in its expiation does not exceed a single sheep - and similarly, if he kills a monkey."

فَإِنْ قَتَلَ فِيلًا لَمْ يَتَجَاوَزْ بِالْهَدْيِ فِي جَزَائِهِ شَاةً وَاحِدَةً - وَكَذَلِكَ إِنْ قَتَلَ قِرْدًا.

L14430–14432 A wild boar suffices as compensation if killed. How I wish I knew how the boar is valued! His companion Zufar said: The game is valued. If the value of an ostrich exceeds that of a she-camel, compensation is capped at one she-camel. If the value of a wild donkey, wild ox, deer, or Barbary sheep exceeds that of a cow, compensation is capped at one cow. If the value of an addax, gazelle, antelope, rabbit, hyrax, jerboa, spiny-tailed lizard, dove, partridge, sandgrouse, Dusky eagle-owl, houbara bustard, stone curlew, crane, or guinea fowl exceeds that of a sheep, compensation is capped at one sheep. First: If none of that reaches the price of a sacrificial animal, he should buy food with it, as Abu Hanifah said.

وَيُجْزِئُ الْخِنْزِيرُ الْبَرِّيُّ إِنْ قَتَلَهُ، فَلَيْتَ شِعْرِي كَيْفَ يُقَوَّمُ الْخِنْزِيرُ؟ وَقَالَ صَاحِبُهُ زُفَرُ: يُقَوَّمُ الصَّيْدُ فَإِنْ بَلَغَتْ قِيمَةُ النَّعَامَةِ أَكْثَرَ مِنْ بَدَنَةٍ لَمْ يَتَجَاوَزْ بِهَا بَدَنَةً وَاحِدَةً، فَإِنْ بَلَغَتْ قِيمَةُ حِمَارِ الْوَحْشِ، وَثَوْرِ الْوَحْشِ، وَالْأَيِّلِ، وَالْأَرْوِيِّ أَكْثَرَ مِنْ بَقَرَةٍ لَمْ يَتَجَاوَزْ بِهَا بَقَرَةً وَاحِدَةً، فَإِنْ بَلَغَتْ قِيمَةُ الثَّيْتَلِ وَالْغَزَالِ، وَالظَّبْيِ، وَالْأَرْنَبِ، وَالْوَبَرِ، وَالْيَرْبُوعِ، وَالضَّبِّ، وَالْحَمَامَةِ، وَالْحَجَلَةِ، وَالْقَطَاةِ، وَالدُّبْسِيِّ، وَالْحُبَارَيْ، وَالْكَرَوَانِ، وَالْكَرَاكِيِّ، وَالدَّجَاجَةِ الْحَبَشِيَّةِ، أَكْثَرَ مِنْ شَاةٍ وَاحِدَةٍ لَمْ يَتَجَاوَزْ بِهَا شَاةً وَاحِدَةً، فَإِنْ لَمْ يَبْلُغْ شَيْءٌ مِنْ ذَلِكَ ثَمَنَ هَدْيٍ ابْتَاعَ بِهِ طَعَامًا كَمَا قَالَ أَبُو حَنِيفَةَ.

L14433 Abu Yusuf and Muhammad ibn al-Hasan disagreed with both of them, advocating recompense in kind, as the majority of scholars held.

وَخَالَفَهُمَا أَبُو يُوسُفَ، وَمُحَمَّدُ بْنُ الْحَسَنِ، فَرَأَيَا الْجَزَاءَ بِالْمِثْلِ كَمَا قَالَ سَائِرُ النَّاسِ.

L14434 Abu Muhammad said: The opinions of Abu Hanifah and Zufar are utterly flawed and contradict the Qur'an and Sunnah, for Allah the Exalted said: *"'The expiation is equivalent to what he killed of livestock'"* [al-Mā'idah: 95], meaning: the expiation is the value equivalent to what he killed of livestock. But the verse does not indicate this at all, nor does it allow for it in any way.[45]

قَالَ أَبُو مُحَمَّدٍ: قَوْلُ أَبِي حَنِيفَةَ، وَزُفَرَ فِي غَايَةِ الْفَسَادِ، وَمُخَالِفٌ لِلْقُرْآنِ وَالسُّنَّةِ؛ لِأَنَّ اللَّهَ تَعَالَى قَالَ: {فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] يَقُولُ تَعَالَى: فَجَزَاءُ قِيمَةِ مِثْلِ مَا قَتَلَ مِنَ النَّعَمِ، وَلَا تَدُلُّ الْآيَةُ عَلَى ذَلِكَ أَصْلًا وَلَا تَحْتَمِلُهُ بِوَجْهٍ مِنَ الْوُجُوهِ.

L14435 It has been authentically reported from the Prophet (peace be upon him) re-

وَصَحَّ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الضَّبُعِ: كَبْشٌ، وَلَمْ يَجْعَلْ فِيهَا قِيمَةً، وَقَدْ وَجَدْنَا قِيمَةَ الْحَمَامَةِ الْهَادِيَةِ، وَالْمُقِلِّينَ الْمُغَرِّدِ يَبْلُغُ عَشَرَاتِ الدَّنَانِيرِ، فَعَلَى قَوْلِ أَبِي حَنِيفَةَ

[45] **Qur'an references (L14434):** Qur'an 5:95 (Al-Ma'idah).

garding the hyena: “A ram,” without assigning a fixed value to it. Yet we have found the value of a homing pigeon and muqillīn warbling birds reaching tens of dinars. According to Abū Ḥanīfah’s view, the compensation for each of these birds from the ritual offerings would exceed the compensation for the wild donkey and ostrich. This constitutes a grave inconsistency alongside contradicting the Quran.

يَكُونُ جَزَاءُ كُلِّ وَاحِدٍ مِنْهُمَا مِنْ الْهَدْيِ أَكْثَرَ مِنْ جَزَاءِ الْحِمَارِ الْوَحْشِيِّ - وَالنَّعَامَةِ مِنْ الْهَدْيِ، فَهَذَا مَعَ خِلَافِ الْقُرْآنِ تَخْلِيطٌ فَاحِشٌ.

L14436 The remainder of his aforementioned categorization is something never preserved from any Muslim scholar before him. Abu Yusuf had made Abu Hanifah aware that this legal issue contained time-specific narrations, yet this was disregarded. Abu Hanifah retorted: “Do we not follow the Quran?” Abu Muhammad declared: “By Allah, he was not granted success in this matter to follow the Quran nor to follow any of the early predecessors. Yet they freely claimed that this ruling had reached them from Ibn Abbas and Ibrahim.”

ثُمَّ سَائِرُ تَقْسِيمِهِ الْمَذْكُورِ فَهُوَ شَيْءٌ لَمْ يُحْفَظْ عَنْ أَحَدٍ مِنْ أَهْلِ الْإِسْلَامِ قَبْلَهُ، وَقَدْ وَقَفَ أَبُو يُوسُفَ أَبَا حَنِيفَةَ عَلَى أَنَّ هَذَا الْبَابَ قَدْ رُوِيَتْ فِيهِ آثَارٌ مُؤَقَّتَةٌ، فَلَمْ يُلْتَفَتْ إلَى ذَلِكَ وَقَالَ: إنَّمَا نَتْبَعُ لِلْقُرْآنِ؟ قَالَ أَبُو مُحَمَّدٍ: فَوَاَللَّهِ مَا وُفِّقَ فِي هَذَا لِاتِّبَاعِ الْقُرْآنِ، وَلَا لِاتِّبَاعِ أَحَدٍ مِنْ السَّلَفِ، وَقَدْ أَطْلَقُوا الْقَوْلَ بِأَنَّهُ قَدْ بَلَغَهُمْ ذَلِكَ عَنْ ابْنِ عَبَّاسٍ، وَإِبْرَاهِيمَ.

L14437 Abū Muḥammad said: This is an invalid absolute ruling. It has been reported only from Ibrāhīm, ʿAṭāʾ, and Mujāhid that one must appraise the game exclusively, and contrary reports are also attributed to them.

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا إطْلَاقٌ فَاسِدٌ إنَّمَا جَاءَ عَنْ إبْرَاهِيمَ، وَعَطَاءٍ، وَمُجَاهِدٍ: أَنْ يُقَوِّمَ الصَّيْدَ فَقَطْ وَجَاءَ عَنْهُمْ خِلَافُهُ.

L14438 As for Ibn Abbas, nothing has been reported from him except what we previously mentioned—all of which they opposed. Indeed, some of them ventured to say: “Is the monetary equivalent more just?” Ali said: “The sinful liar has lied (no honor whatsoever) that the monetary equivalent could be more just than the equivalent in kind from the grazing livestock which Allah the Exalted has commanded. Rather, the monetary equivalent in that constitutes injustice and tyranny.” It is a principle they constructed based on another corrupt principle of theirs: ruling that destroyed property—which is not measured by volume or weight—should be compensated by monetary value, not by equivalent in kind. This constitutes their responding to error with error, for the only obligation in all such cases is the equivalent in kind, as per the explicit texts of the Quran and Sunnahs.

وَأَمَّا ابْنُ عَبَّاسٍ فَلَمْ يَأْتِ عَنْهُ إلَّا مَا ذَكَرْنَا قَبْلُ فَقَطْ مِمَّا قَدْ خَالَفُوهُ كُلَّهُ - وَلَقَدْ أَقْدَمَ بَعْضُهُمْ فَقَالَ: الْقِيمَةُ أَعْدَلُ؟ قَالَ عَلِيٌّ: كَذَبَ الْآفِكُ الْآثِمُ - وَلَا كَرَامَةَ - أَنْ تَكُونَ الْقِيمَةُ أَعْدَلَ مِنْ الْمِثْلِ مِنْ النَّعَمِ الَّذِي أَمَرَ اللَّهُ تَعَالَى بِهِ، بَلْ الْقِيمَةُ فِي ذَلِكَ جَوْرٌ وَظُلْمٌ، وَإِنَّمَا هُوَ أَصْلٌ بَنَوْهُ عَلَى أَصْلٍ آخَرَ لَهُمْ فَاسِدٌ وَهُوَ أَنْ يَحْكُمَ فِيمَا أَتْلَفَ مِنْ أَمْوَالِ النَّاسِ مِمَّا لَا يُكَالُ، وَلَا يُوزَنُ بِالْقِيمَةِ لَا بِالْمِثْلِ - وَهَذَا رَدٌّ مِنْهُمْ لِلْخَطَأِ عَلَى الْخَطَأِ، وَمَا الْوَاجِبُ فِي كُلِّ ذَلِكَ إلَّا الْمِثْلُ بِنَصِّ الْقُرْآنِ وَالسُّنَنِ.

L14439–14440 Abu Muhammad said: Since these confused notions have been invalidated, it is obligatory to return to the Quran, to what the Messenger of Allah,

may Allah bless him and grant him peace, has ruled, and to what the upright among the Companions and the Successors, may Allah be pleased with them, have ruled, as the Exalted has commanded us to follow them here. And divine enablement comes only from Allah, the Exalted.

قَالَ أَبُو مُحَمَّدٍ: فَإِذْ قَدْ بَطَلَتْ هَذِهِ التَّخَالِيطُ فَالْوَاجِبُ الرُّجُوعُ إِلَى الْقُرْآنِ وَمَا حَكَمَ بِهِ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَمَا حَكَمَ بِهِ الْعُدُولُ مِنْ الصَّحَابَةِ، وَالتَّابِعِينَ - رَضِيَ اللَّهُ عَنْهُمْ - كَمَا أَمَرَ تَعَالَى بِاتِّبَاعِهِمْ هَاهُنَا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## A legal issue: Is an ostrich equivalent to a sacrificial camel (badanah)?

## [مَسْأَلَةٌ فِي النَّعَامَةِ بَدَنَةٌ مِنْ الْإِبِلِ]

879 - Issue:

٨٧٩ - مَسْأَلَةٌ:

In the case of an ostrich, the offering is a she-camel; for a wild donkey, wild ox, large ibex, and deer: a cow. For a gazelle, ibex, and antelope: a female goat. For a spiny-tailed lizard, jerboa, rabbit, and desert rodent: a young goat. For the rock badger, monitor lizard, and hyena: a sheep. For a dove and any bird that utters a low or resonant call: a sheep, and similarly for the houbara bustard, crane, grey heron, wild goose, sea coot, Abyssinian chicken, and stone curlew.

وَفِي النَّعَامَةِ بَدَنَةٌ مِنْ الْإِبِلِ، وَفِي حِمَارِ الْوَحْشِ، وَثَوْرِ الْوَحْشِ، وَالْأُرْوِيَّةِ الْعَظِيمَةِ، وَالْأَيَّلِ: بَقَرَةٌ، وَفِي الْغَزَالِ، وَالْوَعِلِ وَالظَّبْيِ: عَنْزٌ، وَفِي الضَّبِّ، وَالْيَرْبُوعِ، وَالْأَرْنَبِ وَأُمِّ حُبَيْنٍ جَدْيٌ، وَفِي الْوَبْرِ: شَاةٌ، وَكَذَلِكَ فِي الْوَرَلِ وَالضَّبُعِ، وَفِي الْحَمَامَةِ، وَكُلِّ مَا عَبَّ وَهَدَرَ مِنْ الطَّيْرِ: شَاةٌ، وَكَذَلِكَ الْحُبَارَى وَالْكُرْكِيُّ، والبلدج، وَالْإِوَزُّ الْبَرِّيُّ، وَالْبُرَكُ الْبَحْرِيُّ، وَالدَّجَاجُ الْحَبَشِيُّ، وَالْكَرَوَانُ.

The proof of this is the statement of Allah, the Mighty and Majestic: {"The atonement is the equivalent of what he killed of livestock"} [Al-Mā'idah: 95]. The equivalent cannot exist except in one of three categories: either from all aspects, from a single aspect, or from the predominant aspects. We find that equivalence from all aspects is entirely absent from the world altogether, for any two distinct entities cannot be identical in all respects due to their mutual differences. Thus, this category is invalidated.[46]

بُرْهَانُ ذَلِكَ -: قَوْلُ اللَّهِ عَزَّ وَجَلَّ: {فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] فَلَا يَخْلُو الْمِثْلُ مِنْ أَنْ يَكُونَ مِنْ جَمِيعِ الْوُجُوهِ، أَوْ مِنْ وَجْهٍ وَاحِدٍ، أَوْ مِنْ أَغْلَبِ الْوُجُوهِ؛ فَوَجَدْنَا الْمُمَاثَلَةَ مِنْ جَمِيعِ الْوُجُوهِ مَعْدُومَةً مِنْ الْعَالَمِ جُمْلَةً لِأَنَّ كُلَّ غَيْرَيْنِ فَلَيْسَا مِثْلَيْنِ فِي تَغَايُرِهِمَا فَبَطَلَ هَذَا الْقِسْمُ.

Then we considered resemblance from the least of the aspects, which is a single one, and found that everything in the world—excluding nothing—must necessarily resemble all that exists in the world from one aspect without exception, namely its createdness. For everything in the world—meaning all that is other than Allah, the Exalted—is created. Thus this category too becomes invalid.

ثُمَّ نَظَرْنَا فِي الْمُمَاثَلَةِ مِنْ أَقَلِّ الْوُجُوهِ، وَهُوَ وَجْهٌ وَاحِدٌ فَوَجَدْنَا كُلَّ مَا فِي الْعَالَمِ لَا تَحَاشَ شَيْئًا، فَهُوَ يُمَاثِلُ كُلَّ مَا فِي الْعَالَمِ مِنْ وَجْهٍ وَلَا بُدَّ وَهُوَ الْخَلْقُ، لِأَنَّ كُلَّ مَا فِي الْعَالَمِ - وَهُوَ مَا دُونَ اللَّهِ تَعَالَى - فَهُوَ مَخْلُوقٌ فَبَطَلَ هَذَا الْقِسْمُ أَيْضًا.

[46] **Qur'an references (L14444):** Qur'an 5:95 (Al-Ma'idah).

L14446 If it were used, the female goat would suffice in place of the wild donkey and the ostrich, because they are two animals created together; and this is what no one would say.

وَلَوْ اُسْتُعْمِلَ لَأَجْزَأَتْ الْعَنْزُ بَدَلَ الْحِمَارِ الْوَحْشِيِّ، وَالنَّعَامَةِ؛ لِأَنَّهُمَا حَيَّانِ مَخْلُوقَانِ مَعًا، وَهَذَا مَا لَا يَقُولُهُ أَحَدٌ.

L14447 There remains only the third category: equivalence in the predominant and most evident aspects. If the issue involves only limited opinions, all of which are invalidated save one, then that one is undoubtedly the truth. This is the necessary conclusion derived from the Quran.

فَلَمْ يَبْقَ إلَّا الْقِسْمُ الثَّالِثُ وَهُوَ الْمُمَاثَلَةُ مِنْ أَغْلَبِ الْوُجُوهِ، وَأَظْهَرِهَا، وَإِذَا لَمْ يَكُنْ فِي الْمَسْأَلَةِ إلَّا أَقْوَالٌ مَحْصُورَةٌ فَبَطَلَتْ كُلُّهَا إلَّا وَاحِدًا فَهُوَ الْحَقُّ بِلَا شَكٍّ؛ فَهَذَا مُوجَبُ الْقُرْآنِ.

L14448 We found that the Messenger of Allah (peace be upon him) had ruled regarding the hyena with a ram, so we came to know with certainty that he (peace be upon him) made clear to us that equivalence is solely in size and bodily form, for the ram is the livestock most resembling the hyena—and with this came the ruling of the righteous predecessors (may Allah be pleased with them).

وَوَجَدْنَا رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ حَكَمَ فِي الضَّبُعِ بِكَبْشٍ، فَعَلِمْنَا يَقِينًا أَنَّهُ - عَلَيْهِ السَّلَامُ - إنَّمَا بَيَّنَ لَنَا أَنَّ الْمُمَاثَلَةَ إنَّمَا هِيَ فِي الْقَدِّ وَهَيْئَةِ الْجِسْمِ، لِأَنَّ الْكَبْشَ أَشْبَهُ النَّعَمِ بِالضَّبُعِ - وَبِهَذَا جَاءَ حُكْمُ السَّلَفِ الطَّيِّبِ - رَضِيَ اللَّهُ عَنْهُمْ -.

L14449–14451 It was narrated to us through the chain of Jarīr ibn Ḥāzim from ʻAbdullāh ibn ʻUbayd ibn ʻUmayr from ʻAbd al-Raḥmān ibn Abī ʻAmmār. Narrated by Jabir ibn Abdullah: "I asked the Messenger of Allah—peace and blessings be upon him—about the hyena. He replied, 'It is lawful game, and He has decreed a ram as expiation if a pilgrim in the state of ihram hunts it.'"

رُوِّينَا مِنْ طَرِيقِ جَرِيرِ بْنِ حَازِمٍ عَنْ عَبْدِ اللَّهِ بْنِ عُبَيْدِ بْنِ عُمَيْرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَمَّارٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ " قَالَ: «سَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الضَّبُعِ فَقَالَ: هُوَ صَيْدٌ وَجَعَلَ فِيهِ كَبْشًا إذَا صَادَهُ الْمُحْرِمُ» .

L14452 Narrated through the chain of Sufyān ibn ʻUyaynah: Abū al-Zubayr reported to us that he heard Jābir ibn ʻAbdillāh say: "Umar ibn al-Khattāb ruled regarding the hyena as a ram."

وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ نَا أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: حَكَمَ عُمَرُ بْنُ الْخَطَّابِ فِي الضَّبُعِ كَبْشًا.

L14453 Narrated via Hammad ibn Salamah from ʿAmmar ibn Abi ʿAmmar from Rabāḥ: ʿAbdullāh ibn ʿUmar ruled that the compensatory ruling for a hyena is a ram.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ عَمَّارِ بْنِ أَبِي عَمَّارٍ عَنْ رَبَاحٍ أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ حَكَمَ فِي الضَّبُعِ كَبْشًا.

L14454 Via the narration of Abd al-Razzaq, from Ibn Jurayj, from Ata: that he [Ata] heard Ibn Abbas say regarding the hyena: "It requires the expiation of a ram."

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ: أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ يَقُولُ: فِي الضَّبُعِ كَبْشٌ.

L14455 From Ali ibn Abi Talib and Jabir ibn Abdullah, both said together: "Regarding the hyena [as permissible game], the ruling is equivalent to that of a ram."

The holders of this opinion are Umar, Ali, Jabir, Ibn Umar, and Ibn Abbas. Ibn al-Zubayr became aware of Umar's statement on this matter and did not disagree with him. This is the opinion of Ikrimah, al-Shafi'i, and Abu Sulayman.

وَعَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ، وَجَابِرِ بْنِ عَبْدِ اللَّهِ قَالَا جَمِيعًا: فِي الضَّبُعِ كَبْشٌ فَهُمْ: عُمَرُ، وَعَلِيٌّ، وَجَابِرٌ، وَابْنُ عُمَرَ، وَابْنُ عَبَّاسٍ، وَقَدْ بَلَغَ ابْنَ الزُّبَيْرِ قَوْلُ عُمَرَ هَذَا فَلَمْ يُخَالِفْهُ - وَهُوَ قَوْلُ عِكْرِمَةَ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ.

L14456 Via the chain of Ibn Jurayj from ʻAṭāʾ al-Khurāsānī, who reported from Ibn ʻAbbās: ʻUmar ibn al-Khaṭṭāb, ʻUthmān, ʻAlī ibn Abī Ṭālib, and Zayd ibn Thābit ruled regarding the ostrich (al-naʿāmah): "It requires a sacrificial camel (badanah)."

وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ الْخُرَاسَانِيِّ عَنْ ابْنِ عَبَّاسٍ: أَنَّ عُمَرَ بْنَ الْخَطَّابِ، وَعُثْمَانَ، وَعَلِيَّ بْنَ أَبِي طَالِبٍ، وَزَيْدَ بْنَ ثَابِتٍ قَالُوا فِي النَّعَامَةِ: بَدَنَةٌ مِنْ الْإِبِلِ.

L14457 Narrated by Ibn Jurayj from ʿAṭāʾ: Ibn ʿAbbās and Muʿāwiyah said regarding the ostrich that it requires a badanah (a sacrificial camel)—and this is the opinion of Ṭāwūs, ʿAṭāʾ, Mujāhid, ʿUrwah ibn al-Zubayr, Ibrāhīm al-Nakhaʿī, Mālik, al-Shāfiʿī, and Abū Sulaymān. There is nothing more similar to the ostrich than the she-camel in the length of its neck, physical structure, and appearance.

وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ: أَنَّ ابْنَ عَبَّاسٍ، وَمُعَاوِيَةَ، قَالَا: فِي النَّعَامَةِ بَدَنَةٌ يَعْنِي مِنْ الْإِبِلِ - وَهُوَ قَوْلُ طَاوُسٍ، وَعَطَاءٍ، وَمُجَاهِدٍ، وَعُرْوَةَ بْنِ الزُّبَيْرِ، وَإِبْرَاهِيمَ النَّخَعِيِّ - وَهُوَ قَوْلُ مَالِكٍ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَلَا شَيْءَ أَشْبَهُ بِالنَّعَامَةِ مِنْ النَّاقَةِ فِي طُولِ الْعُنُقِ، وَالْهَيْئَةِ وَالصُّورَةِ.

L14458 It has been reported to us from Ibn Masʿūd regarding the wild ass: a camel or a cow. From Ibn ʻAbbās: a camel. From Ibrāhīm: a camel. From ʻAṭāʾ: a camel. It has also been reported from ʻAṭāʾ that it is a cow. The narration from Ibn ʻAbbās is not authentic, nor is the one from Ibn Masʿūd, because his narration is mursal.

وَرُوِّينَا عَنْ ابْنِ مَسْعُودٍ فِي حِمَارِ الْوَحْشِ بَدَنَةٌ أَوْ بَقَرَةٌ، وَعَنْ ابْنِ عَبَّاسٍ فِيهِ بَدَنَةٌ - وَعَنْ إبْرَاهِيمَ فِيهِ بَدَنَةٌ - وَعَنْ عَطَاءٍ فِيهِ بَدَنَةٌ، وَقَدْ رُوِيَ عَنْ عَطَاءٍ أَيْضًا فِيهِ بَقَرَةٌ - وَالرِّوَايَةُ فِي ذَلِكَ عَنْ ابْنِ عَبَّاسٍ لَا تَصِحُّ، وَلَا عَنْ ابْنِ مَسْعُودٍ لِأَنَّهُ مُرْسَلٌ عَنْهُ.

L14459–14461 Ibn Abī Najīḥ narrated from Mujāhid, and Ibn Jurayj narrated from ʿAṭāʾ; both said: For a wild donkey, a cow is due; for a wild cow, a cow is due. ʿAṭāʾ said: For the *arwā*, a cow is due. Mujāhid said: For a mature, large *arwā*, a cow is due. This is a sound narration from both of them, and they are two reliable authorities among us. We found that the wild donkey resembles the cow more than the camel, because cows and the wild donkey both possess hair and flowing tails with no humps, whereas the camel has wool, a short tail, and a hump. Thus, the ruling applies to the cow due to the pronounced resemblance.

وَرَوَى ابْنُ أَبِي نَجِيحٍ عَنْ مُجَاهِدٍ - وَرَوَى ابْنُ جُرَيْجٍ عَنْ عَطَاءٍ قَالَا جَمِيعًا: فِي حِمَارِ الْوَحْشِ: بَقَرَةٌ، وَفِي بَقَرَةِ الْوَحْشِ: بَقَرَةٌ، قَالَ عَطَاءٌ: وَفِي الْأَرْوَى بَقَرَةٌ، وَقَالَ مُجَاهِدٌ: فِي الْقَادِرِ الْعَظِيمِ مِنْ الْأَرْوَى بَقَرَةٌ، وَهَذَا صَحِيحٌ عَنْهُمَا وَهُمَا ذَوَا عَدْلٍ مِنَّا - فَوَجَدْنَا حِمَارَ الْوَحْشِ أَشْبَهَ بِالْبَقَرَةِ مِنْهُ بِالنَّاقَةِ، لِأَنَّ الْبَقَرَ، وَحِمَارَ الْوَحْشِ، ذَوَا شَعْرٍ وَذَنَبٍ سَابِغٍ وَلَيْسَ لَهُمَا سَنَامٌ، وَالنَّاقَةُ ذَاتُ وَبَرٍ وَذَنَبٍ قَصِيرٍ وَسَنَامٍ فَوَجَبَ الْحُكْمُ بِالْبَقَرَةِ لِقُوَّةِ الْمُمَاثَلَةِ.

وَرُوِيَ عَنْ ابْنِ عَبَّاسٍ فِي الْأُيَّلِ: بَقَرَةٌ - وَبِهِ يَقُولُ الشَّافِعِيُّ.

L14462 It has been reported from Ibn Abbas regarding the deer: "It is ruled equivalent to a cow," and this is the opinion held by Al-Shafi'i.

وَفِي الثَّيْتَلِ: بَقَرَةٌ، وَهُوَ قَوْلُ جَمَاعَةٍ مِنْ السَّلَفِ.

L14463 Regarding the thaythal (a type of cow): a cow, and this is the view held by a group of the Salaf.

وَفِي الْوَبْرِ: شَاةٌ - وَهُوَ قَوْلُ عَطَاءٍ، وَالشَّافِعِيِّ، وَعَنْ عُمَرَ بْنِ الْخَطَّابِ وَعَطَاءٍ فِي الْغَزَالِ: شَاةٌ.

L14464 And concerning the hyrax: a sheep—this is the opinion of ʿAṭāʾ and al-Shāfiʿī. And regarding the gazelle: a sheep, as narrated from ʿUmar ibn al-Khaṭṭāb and ʿAṭāʾ.

قَالَ أَبُو مُحَمَّدٍ: الشَّاةُ تَقَعُ عَلَى الْمَاعِزَةِ كَمَا تَقَعُ عَلَى الضَّأْنِيَّةِ.

L14465 Abu Muhammad said: The ewe mounts the she-goat just as it mounts the ewe.

وَعَنْ سَعْدٍ، وَعَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ فِي الظَّبْيِ: تَيْسٌ.

L14466 From Saʿd and ʿAbd al-Raḥmān ibn ʿAwf regarding the gazelle: [it is equivalent to] a male goat (tays).

وَعَنْ عُمَرَ بْنِ الْخَطَّابِ، وَزَيْدٍ عَنْ جَابِرٍ فِي الضَّبِّ: جَدْيُ رَاعٍ.

L14467 From Umar ibn al-Khattab, and from Zayd—from Jabir—regarding the spiny-tailed lizard: a herder's goat.

وَعَنْ زَيْدِ بْنِ عَبْدِ اللَّهِ، وَطَارِقِ بْنِ شِهَابٍ مِثْلُهُ أَيْضًا؟ فَقَالَ مَالِكٌ، وَأَبُو حَنِيفَةَ: لَا يَجُوزُ هَذَا.

L14468 It is narrated from Zayd ibn Abdullah and Tariq ibn Shihab likewise. Then Mālik and Abū Ḥanīfah said: This is not permissible.

وَرُوِيَ عَنْ عَطَاءٍ فِي الضَّبِّ: شَاةٌ.

L14469 And it was narrated from 'Aṭā' regarding the ḍabb: a sheep.

وَعَنْ مُجَاهِدٍ فِي الضَّبِّ: حُفْنَةٌ مِنْ طَعَامٍ.

L14470 It is narrated from Mujāhid concerning the ḍabb [spiny-tailed lizard]: a handful of food.

وَهَذَا كُلُّهُ لَا شَيْءَ لِأَنَّ خِلَافَ حُكْمِ عُمَرَ، وَطَارِقٍ، وَمَنْ مَعَهُمَا لَا يُجَوِّزُ خِلَافَهُ، لِأَنَّهُمْ ذَوُو عَدْلٍ مِنَّا مَعَ مُوَافَقَتِهِمْ الْقُرْآنَ فِي الْمُمَاثَلَةِ؛ وَقَوْلُ عَطَاءٍ حَادِثٌ بَعْدَهُمْ، وَقَوْلُ مُجَاهِدٍ كَذَلِكَ مَعَ خِلَافِ قَوْلِهِمَا، وَقَوْلِ مَالِكٍ لِلْقُرْآنِ.

L14471 All of this is baseless, for opposing the rulings of 'Umar, Ṭāriq, and those with them is impermissible, as they are people of justice among us whose positions align with the Qur'an in equivalence. 'Aṭā's opinion is a later development, and Mujāhid's view is likewise a later development, while also contradicting the rulings of both groups and Mālik's statement regarding the Qur'an.

وَبِقَوْلِ عُمَرَ يَقُولُ الشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ، وَأَبُو يُوسُفَ، وَمُحَمَّدُ بْنُ الْحَسَنِ وَأَحْمَدُ، وَغَيْرُهُمْ.

L14472 And by 'Umar's statement, al-Shāfiʿī, Abū Sulaymān, Abū Yūsuf, Muḥammad ibn al-Ḥasan, Aḥmad, and others state.

L14473 And from 'Umar concerning the rabbit: it is termed ʿanāq (a young she-goat),

which is the male kid (jady).

وَعَنْ عُمَرَ فِي الْأَرْنَبِ: عَنَاقٌ، وَهِيَ الْجَدْيُ.

L14474 Narrated by Abdullah ibn Amr ibn al-As, Amr ibn Habashi, and Ibn Abbas: the same view as his. This is the opinion of al-Shafiʿi, Ahmad, Abu Yusuf, Muhammad ibn al-Hasan, Abu Sulayman, and others. Abu Hanifa and Malik said: "It is not permissible," thus opposing all those we have mentioned and the equivalence commanded in the Quran.

وَعَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ، وَعَمْرِو بْنِ حَبَشِيٍّ، وَابْنِ عَبَّاسٍ مِثْلُهُ - وَهُوَ قَوْلُ الشَّافِعِيِّ، وَأَحْمَدَ، وَأَبِي يُوسُفَ، وَمُحَمَّدِ بْنِ الْحَسَنِ، وَأَبِي سُلَيْمَانَ، وَغَيْرِهِمْ، قَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: لَا يَجُوزُ - فَخَالَفُوا كُلَّ مَنْ ذَكَرْنَا، وَالْمُمَاثَلَةَ الْمَأْمُورَ بِهَا فِي الْقُرْآنِ.

L14475–14477 From ʿUmar, Ibn Masʿūd, and Mujāhid concerning the jerboa: It is equivalent to a suckling lamb or an unweaned kid, both. It is the same—this being the opinion of al-Shāfiʿī, Aḥmad, Abū Yūsuf, Muḥammad ibn al-Ḥasan, Abū Sulaymān, and others.

وَعَنْ عُمَرَ، وَابْنِ مَسْعُودٍ، وَمُجَاهِدٍ فِي الْيَرْبُوعِ: سَخْلَةٌ، أَوْ جَفْرَةٌ، وَهُمَا سَوَاءٌ - وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ، وَأَبِي يُوسُفَ، وَمُحَمَّدِ بْنِ الْحَسَنِ، وَأَبِي سُلَيْمَانَ، وَغَيْرِهِمْ.

L14478 It has been narrated to us from ʿAṭāʾ that he said, "I have not heard anything about it," and from al-Zuhrī that he said, "It requires arbitration."

وَرُوِّينَا عَنْ عَطَاءٍ: لَمْ أَسْمَعْ فِيهِ بِشَيْءٍ، وَعَنْ الزُّهْرِيِّ: فِيهِ حُكُومَةٌ.

L14479 And from Ibrāhīm: In it lies its value—and all of this is invalid.

وَعَنْ إبْرَاهِيمَ: فِيهِ قِيمَتُهُ - وَهَذَا كُلُّهُ لَيْسَ بِشَيْءٍ.

L14480 Malik said regarding the rabbit, the spiny-tailed lizard, and the jerboa: "Food is to be bought with its value." This is an error, for it has not been established by the Qur'an, the Sunnah, the statement of a Companion, Ijma (consensus), or Qiyas (analogy).

وَقَالَ مَالِكٌ فِي الْأَرْنَبِ، وَالضَّبِّ، وَالْيَرْبُوعِ قِيمَتُهُ يُبْتَاعُ بِهِ طَعَامٌ - وَهَذَا خَطَأٌ لَمْ يُوجِبْهُ الْقُرْآنُ، وَلَا السُّنَّةُ، وَلَا قَوْلُ صَاحِبٍ، وَلَا إجْمَاعٌ، وَلَا قِيَاسٌ.

L14481 If they say, "We have analogized based on sacrificial animals, where a *jadha'* from non-sheep is impermissible in them, nor anything below a *jadha'* in sheep?" We reply: The analogy is invalid. Moreover, even if it were valid, you would be the first to contradict this analogy, for you state that rams and male goats are superior to camels and cows for sacrificial animals, and that males are superior to females in them. Yet you state regarding all *hady* that camels and cows are superior to sheep and goats, and that females are superior to males in them. At times, you analogize rulings between these categories, and at times, you differentiate their rulings without textual evidence or proof.

فَإِنْ قَالُوا: قِسْنَا عَلَى الْأَضَاحِيِّ لَا يَجُوزُ فِيهِ الْجَذَعُ مِنْ غَيْرِ الضَّأْنِ وَلَا مَا دُونَ الْجَذَعِ مِنْ الضَّأْنِ؟ قُلْنَا: الْقِيَاسُ بَاطِلٌ، ثُمَّ لَوْ كَانَ حَقًّا لَكُنْتُمْ أَوَّلَ مُخَالِفٍ لِهَذَا الْقِيَاسِ لِأَنَّكُمْ تَقُولُونَ: إنَّ الْكَبْشَ، وَالتَّيْسَ، أَفْضَلُ فِي الْأَضَاحِيِّ مِنْ الْإِبِلِ، وَالْبَقَرِ، وَإِنَّ الذَّكَرَ فِيهَا أَفْضَلُ مِنْ الْأُنْثَى، وَتَقُولُونَ فِي الْهَدْيِ كُلِّهِ: إنَّ الْإِبِلَ، وَالْبَقَرَ: أَفْضَلُ مِنْ الضَّأْنِ، وَالْمَاعِزِ، وَإِنَّ الْإِنَاثَ أَفْضَلُ فِيهَا مِنْ الذُّكُورِ، فَمَرَّةً تَقِيسُونَ حُكْمَ بَعْضِ ذَلِكَ عَلَى بَعْضٍ، وَمَرَّةً تُفَرِّقُونَ بَيْنَ أَحْكَامِهَا بِلَا نَصٍّ وَلَا دَلِيلٍ.

L14482 If they say: It has been authentically reported from the Prophet—peace

فَإِنْ قَالُوا: قَدْ صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: «لَا تُجْزِئُ جَذَعَةٌ عَنْ أَحَدٍ بَعْدَ أَبِي بُرْدَةَ» .

قُلْنَا: نَعَمْ، وَالَّذِي أَخْبَرَ بِهَذَا هُوَ الَّذِي أَخْبَرَنَا عَنْ رَبِّهِ تَعَالَى بِإِيجَابِ مِثْلِ الصَّيْدِ الْمَقْتُولِ مِنْ النَّعَمِ، وَلَيْسَ بَعْضُ كَلَامِهِ أَوْلَى بِالطَّاعَةِ مِنْ بَعْضٍ، بَلْ كُلُّهُ فُرِضَ اسْتِعْمَالُهُ، وَلَا يَجُوزُ تَرْكُ شَيْءٍ مِنْهُ لِشَيْءٍ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَلَمْ يَنْهَ قَطُّ - عَلَيْهِ السَّلَامُ - عَنْ مَا دُونَ الْجَذَعِ بِاسْمِهِ، لَكِنْ لَمَّا كَانَ بَعْضُ مَا دُونَ الْجَذَعِ لَا يَقَعُ عَلَيْهِ اسْمُ شَاةٍ لَمْ يُجْزِ فِيمَا جَاءَ فِيهِ النَّصُّ بِإِيجَابِ شَاةٍ فَقَطْ.

وَأَمَّا الْجَذَعَةُ فَلَا تُجْزِئُ فِي جَزَاءِ الصَّيْدِ أَيْضًا، لِأَنَّ النَّهْيَ عَنْهَا عُمُومٌ، إلَّا حَيْثُ أُوجِبَتْ بِاسْمِهَا وَلَيْسَ ذَلِكَ إلَّا فِي زَكَاةِ الْإِبِلِ، وَالْبَقَرِ، فَقَطْ، مَعَ أَنَّ الْجَذَعَ مِنْ الضَّأْنِ، وَالْمَاعِزِ، وَالْإِبِلِ، وَالْبَقَرِ: لَا مَعْنَى لِمُرَاعَاتِهِ فِي جَزَاءِ الصَّيْدِ إنَّمَا يُرَاعَى الْمِثْلُ فِي الْقَدِّ وَالصُّورَةِ لَا مَا لَا يُعْرَفُ إلَّا بَعْدَ فَرِّ الْأَسْنَانِ - فَصَحَّ أَنَّ الْجَذَعَةَ لَا تُجْزِئُ فِي جَزَاءِ الصَّيْدِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ - وَرُوِّينَا عَنْ عَطَاءٍ فِي الْوَرَلِ: شَاةٌ.

قَالَ أَبُو مُحَمَّدٍ: إنْ كَانَ عَظِيمًا فِي مِقْدَارِ الشَّاةِ فَكَذَلِكَ، وَإِلَّا فَفِيهِ، وَفِي الْقُنْفُذِ: جَدْيٌ صَغِيرٌ.

وَعَنْ عُمَرَ، وَعُثْمَانَ، وَابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ فِي الْحَمَامَةِ: شَاةٌ.

وَهُوَ قَوْلُ مَالِكٍ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَأَحْمَدَ.

and blessings be upon him—that he said: "A jadhʿah (young camel) does not suffice from anyone after Abu Burda."

L14483 We said: Yes, and He who informed us of this is the same who informed us from his Lord, the Exalted, by obligating compensation with the equivalent from livestock for slaughtered game. No part of His speech holds greater claim to obedience than another. Rather, the application of all of it is mandated, and it is impermissible to abandon any portion of it in favor of another part. And success comes only through Allah, the Exalted.

L14484 The Prophet—peace be upon him—never prohibited the use of sheep below the jadhaʿ stage by name. However, since some sheep beneath the jadhaʿ stage are not classified as sheep, they were not deemed valid for cases where the textual ruling explicitly requires only a sheep.

L14485 As for the jadhaʿah (young camel), it is likewise invalid as expiation for hunting, since the prohibition concerning it is general except where explicitly mandated by its specific designation—and this applies solely to the zakah of camels and cows. Moreover, the jadhaʿ of sheep, goats, camels, and cows has no legal significance in hunting compensation, for what is evaluated is equivalence in physical stature and form—not traits discernible only after the shedding of teeth. Thus, it is confirmed that the jadhaʿah is invalid as expiation for hunting. And success is from Allah, the Exalted. It has been narrated to us from ʿAṭāʾ regarding the monitor lizard: a sheep.

L14486–14487 Abu Muhammad said: If it is large, comparable in size to a sheep, the same ruling applies; otherwise, the prescribed ruling applies. As for the hedgehog, the required compensation is a young male goat.

L14488 It is reported from ʿUmar, ʿUthmān, Ibn ʿAbbās, and Ibn ʿUmar regarding the dove: a sheep.

L14489 And this is the opinion of Mālik, al-Shāfiʿī, Abī Sulaymān, and Aḥmad.

L14490 Al-Shafi'i and Abu Sulayman said: For every [domesticated] animal that grazes as sheep do, a sheep is required as an equivalent offering by this

equivalence [in kind]. It has been narrated to us from Ibn Abbas regarding the ringdove, turtle dove, bustard, sandgrouse, and partridge: a sheep for each.

وَقَالَ الشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ: كُلُّ مَا يَعُبُّ كَمَا تَعُبُّ الشَّاةُ فَفِيهِ شَاةٌ بِهَذِهِ الْمُمَاثَلَةِ - وَرُوِّينَا عَنْ ابْنِ عَبَّاسٍ فِي الدُّبْسِيِّ، وَالْقُمْرِيِّ، وَالْحُبَارَى، وَالْقَطَاةِ، وَالْحَجَلَةِ شَاةٌ شَاةٌ.

L14491 It has been narrated to us from ʿAṭāʾ regarding all of that: the same as this also. And likewise regarding the curlew and the son of water (ibn al-māʾ).

وَرُوِّينَا عَنْ عَطَاءٍ فِي كُلِّ ذَلِكَ مِثْلَ هَذَا أَيْضًا. وَكَذَلِكَ فِي الْكَرَوَانِ، وَابْنِ الْمَاءِ.

L14492 It has been narrated to us from Al-Qāsim and Sālim that they asked, "Is a third of a mudd better than a ḥajalah?" Abū Muḥammad said: It is impermissible here to oppose the ruling issued by Ibn ʾAbbās, and ʾAṭāʾ.

وَرُوِّينَا عَنِ الْقَاسِمِ، وَسَالِمٍ: ثُلُثُ مُدٍّ: خَيْرٌ مِنْ حَجَلَةٍ؟ قَالَ أَبُو مُحَمَّدٍ: لَا يَجُوزُ هَاهُنَا خِلَافُ مَا حَكَمَ بِهِ ابْنُ عَبَّاسٍ، وَعَطَاءٌ.

L14493 Ali said: And it is narrated from Ata' that concerning the hoopoe, a dirham; concerning the bat, two-thirds of a dirham; and concerning the sparrow, half a dirham.

قَالَ عَلِيٌّ: وَعَنْ عَطَاءٍ فِي الْهُدْهُدِ: دِرْهَمٌ، وَفِي الْوَطْوَاطِ: ثُلُثَا دِرْهَمٍ، وَفِي الْعُصْفُورِ: نِصْفُ دِرْهَمٍ.

L14494 From ʿUmar regarding the locust: it is a date. From Saʿīd ibn Jubayr: the same as that.

وَعَنْ عُمَرَ فِي الْجَرَادَةِ: تَمْرَةٌ، وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ مِثْلُ ذَلِكَ.

L14495 Others said: There is no prohibition regarding it because it is from sea game. This is incorrect, for if it is immersed in seawater, it dies.

وَقَالَ آخَرُونَ: لَا شَيْءَ فِيهَا؛ لِأَنَّهَا مِنْ صَيْدِ الْبَحْرِ، وَهَذَا خَطَأٌ؛ لِأَنَّهَا إِنْ غُمِسَتْ فِي الْبَحْرِ مَاتَتْ.

L14496 And on the authority of Kaʿb concerning the locust: a dirham.

وَعَنْ كَعْبٍ فِي الْجَرَادَةِ دِرْهَمٌ.

L14497–14499 Abu Muhammad said: Allah the Exalted has commanded arbitration only regarding compensation through livestock, not through feeding or fasting. Therefore, it is impermissible to apply arbitration to these two acts. Rather, it is only what Allah the Exalted has ordained in this matter - which we previously mentioned. Thus, whatever has an equivalent among small livestock must be compensated with its like. As for what has no equivalent among large or small livestock, the expiation is feeding the poor, as Allah, the Mighty and Majestic, stated: {or the equivalent of that in fasting} [al-Ma'idah: 95]. For it is inconceivable that Allah the Exalted would obligate compensation for game with its equivalent from livestock when no equivalent exists among them, as this would impose what is beyond one's capacity, while Allah the Exalted

قَالَ أَبُو مُحَمَّدٍ: إِنَّمَا أَمَرَ اللَّهُ تَعَالَى بِتَحْكِيمٍ فِي الْجَزَاءِ مِنَ النَّعَمِ لَا فِي الْإِطْعَامِ وَلَا فِي الصِّيَامِ، فَلَا يَجُوزُ التَّحْكِيمُ فِي هَذَيْنِ الْعَمَلَيْنِ، وَإِنَّمَا هُوَ مَا أَمَرَ اللَّهُ تَعَالَى بِهِ فِي ذَلِكَ وَهُوَ مَا ذَكَرْنَا قَبْلُ، فَكُلُّ مَا كَانَ لَهُ مِثْلٌ مِنْ صِغَارِ النَّعَمِ جُزِيَ بِهِ وَمَا لَمْ يَكُنْ لَهُ مِثْلٌ مِنْ كِبَارِ النَّعَمِ وَلَا صِغَارِهِ فَإِنَّمَا فِيهِ فِدْيَةٌ طَعَامُ مَسَاكِينَ كَمَا قَالَ عَزَّ وَجَلَّ: {أَوْ عَدْلُ ذَلِكَ صِيَامًا} [المائدة: ٩٥] لِأَنَّ مِنَ الْمُحَالِ أَنْ يُوجِبَ اللَّهُ تَعَالَى جَزَاءَ صَيْدٍ بِمِثْلِهِ مِنَ النَّعَمِ وَهُوَ لَا مِثْلَ لَهُ مِنْهَا، لِأَنَّ هَذَا تَكْلِيفُ مَا لَيْسَ فِي الْوُسْعِ وَاللَّهُ تَعَالَى يَقُولُ: {لا يُكَلِّفُ

says: {Allah does not burden any soul beyond its capacity} [al-Baqarah: 286]. Since there is no doubt about this, there is likewise no doubt that Allah the Exalted knew the compensation for game created exceedingly small - such as tiny birds and locusts - and thus ordained nothing for large or small game except expiation through feeding the poor or its equivalent in fasting. Therefore, the obligation applies to a locust and what exceeds it up to... Regarding the ostrich, the offspring of the smallest bird species up to the wild donkey: the feeding of three poor people only.[47]

اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] فَإِذْ لَا شَكَّ فِي هَذَا فَلَا شَكَّ أَيْضًا فِي أَنَّ اللَّهَ تَعَالَى قَدْ عَلِمَ أَنَّ مِنْ جَزَاءِ الصَّيْدِ الَّذِي خُلِقَ صَغِيرًا جِدًّا كَصِغَارِ الْعَصَافِيرِ وَالْجَرَادِ فَلَمْ يَجْعَلْ فِي كَبِيرِ الصَّيْدِ وَصَغِيرِهِ إِلَّا فِدْيَةً طَعَامَ مَسَاكِينَ أَوْ عَدْلَهُ صِيَامًا -: فَوَجَبَ فِي الْجَرَادَةِ فَمَا فَوْقَهَا إِلَى النَّعَامَةِ، وَفِي وَلَدِ أَصْغَرِ الطَّيْرِ إِلَى حِمَارِ الْوَحْشِ: إِطْعَامُ ثَلَاثَةِ مَسَاكِينَ فَقَطْ.

[47] **Qur'an references (L14497):** Qur'an 5:95 (Al-Ma'idah); Qur'an 2:286 (Al-Baqarah).

وَأَمَّا الصِّيَامُ فَلَا صِيَامَ فِي الْإِسْلَامِ أَقَلُّ مِنْ صَوْمِ يَوْمٍ، فَفِي كُلِّ صَغِيرٍ مِنْهَا صَوْمُ يَوْمٍ فَقَطْ، فَإِنْ كَانَ يُشْبِعُ بِكِبَرِ جِسْمِهِ إنْسَانَيْنِ أَوْ ثَلَاثَةً فَأَكْثَرَ: فَلِكُلِّ آكِلٍ صَوْمُ يَوْمٍ كَمَا نَصَّ اللَّهُ تَعَالَى.

L14500 As for fasting, there is no act of fasting in Islam shorter than fasting a single day. For each minor offense among them, only one day of fasting is required. If someone's body size is equivalent to feeding two or three people or more, then a day of fasting is obligated for each person fed, as Allah the Exalted has stipulated.

فَإِنْ قِيلَ: إنَّ هَذَا قَوْلٌ لَا يُحْفَظُ عَنْ أَحَدٍ مِمَّنْ سَلَفَ؟ قُلْنَا: نَحْنُ لَا نَدَّعِي الْإِحَاطَةَ بِأَقْوَالِ الصَّحَابَةِ جَمِيعِهِمْ وَالتَّابِعِينَ كُلِّهِمْ فَمَنْ بَعْدَهُمْ مِنْ الْعُلَمَاءِ؟ بَلْ نَقُولُ وَنَقْطَعُ: أَنَّ مَنْ ادَّعَى الْإِحَاطَةَ بِأَقْوَالِهِمْ فَقَدْ كَذَبَ كَذِبًا مُتَيَقَّنًا لَا خَفَاءَ بِهِ، وَلَا نُنْكِرُ الْقَوْلَ بِمَا أَوْجَبَهُ الْقُرْآنُ أَوْ السُّنَّةُ وَإِنْ لَمْ تُعْرَفْ رِوَايَةٌ عَنْ إنْسَانٍ بِعَيْنِهِ بِمِثْلِ ذَلِكَ، لِأَنَّ اللَّهَ تَعَالَى لَمْ يَقُلْ لَنَا قَطُّ وَلَا رَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَا تَقُولُوا بِمَا فِي الْقُرْآنِ وَالسُّنَّةِ حَتَّى تَعْلَمُوا أَنَّ إنْسَانًا قَالَ بِمَا فِيهِمَا، بَلْ هَذَا الْقَوْلُ عِنْدَنَا ضَلَالٌ وَبِدْعَةٌ وَكَبِيرَةٌ مِنْ أَكْبَرِ الْكَبَائِرِ، وَإِنَّمَا قَالَ تَعَالَى: {اتَّبِعُوا مَا أُنْزِلَ إِلَيْكُمْ مِنْ رَبِّكُمْ وَلا تَتَّبِعُوا مِنْ دُونِهِ أَوْلِيَاءَ قَلِيلا مَا تَذَكَّرُونَ} [الأعراف: ٣] .

L14501 If it is said: "This is a statement not attributed to any of the early predecessors," we respond: We do not claim to encompass all the statements of every Companion, every Follower, and the scholars after them. Rather, we declare and assert decisively: Whoever claims comprehensive knowledge of their statements has undoubtedly lied—a lie that is utterly evident. We do not reject the position necessitated by the Quran or the Sunnah merely because no narration is known from any specific person endorsing what they contain. For Allah the Exalted has never told us—nor has His Messenger, peace be upon him—'Do not act upon what is in the Quran and the Sunnah until you know that a person has affirmed their contents.' On the contrary, such a claim is, in our view, misguidance, innovation, and a major sin—one of the greatest sins. Allah the Exalted has said: "Follow what has been revealed to you from your Lord, and do not follow protectors besides Him. How seldom you reflect!" [Al-A'raf 7:3].[1]

وَالنَّاسُ قَدْ اخْتَلَفُوا فِي الْجَرَادِ -: فَرُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ أَبِي الْمُهَزِّمِ عَنْ أَبِي هُرَيْرَةَ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «الْجَرَادُ مِنْ صَيْدِ الْبَحْرِ» .

L14502 People have differed regarding locusts. It has been narrated to us through the chain of Ḥammād ibn Salamah, from Abi al-Muhazzim, from Abū Hurayrah, from the Messenger of Allah (peace be upon him), "Locusts are among the game of the sea."

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا مُحَمَّدُ بْنُ عِيسَى عَنْ حَمَّادٍ عَنْ مَيْمُونِ بْنِ جَابَانَ عَنْ أَبِي رَافِعٍ عَنْ أَبِي هُرَيْرَةَ مُسْنَدًا مِثْلَهُ.

L14503 And via the chain of Abū Dāwūd: Muḥammad ibn ʿĪsā narrated to us from Ḥammād, from Maymūn ibn Jābān, from Abu Rāfiʿ, from Abu Hurayrah - *musnad* similar to it.

وَعَنْ كَعْبٍ أَنَّهُ قَالَ لِعُمَرَ: يَا أَمِيرَ الْمُؤْمِنِينَ إنَّ الْجَرَادَ نَثْرُ حُوتٍ يَنْثُرُهُ فِي كُلِّ عَامٍ مَرَّتَيْنِ، وَأَبَاحَ أَكْلَهُ لِلْمُحْرِمِ وَصَيْدَهُ، فَهَذَا قَوْلٌ.

L14504 Kaʿb reported that he said to 'Umar, "O Commander of the Faithful, locusts are the scattered spawn of a whale that scatters it twice every year, and He permitted consuming it and hunting it for the one in iḥrām." This is an opinion.

[1] **Qur'an references (L14501):** Qur'an 7:3 (Al-A'raf).

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ نَا أَبُو بِشْرٍ عَنْ يُوسُفَ بْنِ مَاهَكَ قَالَ كَعْبٌ: ذُكِرَ لِعُمَرَ أَنِّي أَصَبْت جَرَادَتَيْنِ وَأَنَا مُحْرِمٌ فَقَالَ لِي عُمَرُ: مَا نَوَيْت فِي نَفْسِك؟ قُلْت: دِرْهَمَيْنِ، فَقَالَ عُمَرُ: تَمْرَتَانِ خَيْرٌ مِنْ جَرَادَتَيْنِ، امْضِ لِمَا نَوَيْت فِي نَفْسِك.

L14505 It has been narrated to us through the chain of Saʿīd ibn Manṣūr, who narrated from Hushaym, who narrated from Abū Bishr, who narrated from Yūsuf ibn Māhak, who said: Kaʿb said, "'Umar was informed that I had caught two locusts while in a state of iḥrām. 'Umar said to me, 'What did you intend in your heart?' I replied, 'Two dirhams.' 'Umar then said, 'Two dates are superior to two locusts. Proceed with what you intended in your heart.'"

فَهَذَا عُمَرُ، وَكَعْبٌ: جَعَلَا فِي الْجَرَادَةِ دِرْهَمًا - فَهَذَا قَوْلٌ آخَرُ.

L14506 Thus, 'Umar and Kaʿb: they set one dirham for the locust – this represents another juristic view.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ: نَا أَبُو مُعَاوِيَةَ عَنْ الْأَعْمَشِ عَنْ إبْرَاهِيمَ عَنْ الْأَسْوَدِ عَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ قَالَ فِي مُحْرِمٍ أَصَابَ جَرَادَةً: تَمْرَةٌ خَيْرٌ مِنْ جَرَادَةٍ.

L14507 From the chain of Ibn Abī Shaybah: Abū Muʿāwiyah narrated to us from al-Aʿmash from Ibrāhīm from al-Aswad from ʿUmar ibn al-Khaṭṭāb that he said regarding a muḥrim who killed a locust: "Giving a date in charity is better than killing a locust."

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا خَالِدِ بْنِ عَبْدِ اللَّهِ الطَّحَّانِ عَنْ مُحَمَّدِ بْنِ عَمْرِو بْنِ عَلْقَمَةَ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ أَنَّهُ حَكَمَ فِي الْجَرَادَةِ تَمْرَةٌ - فَهَذَا قَوْلٌ ثَالِثٌ.

L14508–14509 Through the chain of Saʿīd ibn Manṣūr: Khālid ibn ʿAbdullāh al-Ṭaḥḥān narrated to us from Muḥammad ibn ʿAmr ibn ʿAlqamah, from Abū Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf, from ʿAbdullāh ibn ʿAmr ibn al-ʿĀṣ that he ruled a locust to be equivalent to a date in value. Thus, this constitutes a third legal opinion.

وَمِنْ طَرِيقِ ابْنِ وَهْبٍ عَنْ عَمْرِو بْنِ الْحَارِثِ عَنْ بُكَيْرِ بْنِ الْأَشَجِّ عَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ قَالَ: أَفْتَى ابْنُ عَبَّاسٍ فِي جَرَادَةٍ يُصِيبُهَا الْمُحْرِمُ بِأَنْ يَقْصِدَ بِقَبْضَةٍ مِنْ طَعَامٍ - وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ شُعَيْبٍ عَنْ عَلِيِّ بْنِ عَبْدِ اللَّهِ الْبَارِقِيِّ عَنْ ابْنِ عُمَرَ قَالَ: فِي الْجَرَادَةِ إذَا صَادَهَا الْمُحْرِمُ: قَبْضَةٌ مِنْ طَعَامٍ.

L14510 And through the chain of Ibn Wahb from Amr ibn al-Harith from Bukayr ibn al-Ashajj from al-Qasim ibn Muhammad, who said: Ibn Abbas issued a legal verdict regarding a locust killed by a Muhrim, to give a handful of food. And through the chain of Ibn Abi Shaybah reported from Abdul Wahhab al-Thaqafi from Shu'ayb from Ali ibn Abdullah al-Bariqi from Ibn Umar, who said: If a Muhrim hunts a locust, a handful of food.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا حَمَّادُ بْنُ خَالِدٍ عَنْ ابْنِ أَبِي ذِئْبٍ عَنْ الزُّهْرِيِّ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ قَالَ فِي الْجَرَادَةِ: قَبْضَةٌ مِنْ طَعَامٍ - فَهَذَا قَوْلٌ رَابِعٌ.

L14511 Via the chain of Ibn Abi Shaybah: He narrated to us – Hammad ibn Khalid from Ibn Abi Dhib from al-Zuhri from Saʿid ibn al-Musayyab, who said regarding a locust: "A handful of food." This is a fourth opinion.

L14512 And via the transmission of Ibn Abī Shaybah: Ibn Abī Zā'idah reported to us from Ibn Jurayj, on the authority of 'Aṭā', who said concerning the locust: a handful or a mouthful.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا ابْنُ أَبِي زَائِدَةَ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ قَالَ فِي الْجَرَادَةِ: قَبْضَةٌ أَوْ لُقْمَةٌ.

L14513 From the chain of Ibn Abi Shaybah, from Waki‘, from Isra’il, from Jabir - who reported from Muhammad ibn Ali, as well as ‘Ata’, Tawus, and Mujahid - all of whom said: Regarding the locust, there is no liability in accidental [cases]. But if one kills it intentionally, he must provide something to feed.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ وَكِيعٍ عَنْ إِسْرَائِيلَ عَنْ جَابِرٍ عَنْ مُحَمَّدِ بْنِ عَلِيٍّ، وَعَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ، قَالُوا كُلُّهُمْ: فِي الْجَرَادَةِ لَيْسَ فِيهَا فِي الْخَطَأِ شَيْءٌ فَإِنْ قَتَلَهَا عَمْدًا أَطْعَمَ شَيْئًا.

L14514 And through the chain of Waki‘ from ‘Imrān ibn Ḥudayr from ‘Ikrimah regarding the locust, he said: “One should feed a piece.” This is a fifth opinion.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ عِمْرَانَ بْنِ حُدَيْرٍ عَنْ عِكْرِمَةَ فِي الْجَرَادَةِ قَالَ: يُطْعِمُ كِسْرَةً - فَهَذَا قَوْلٌ خَامِسٌ.

L14515 From the narration of Sa‘īd ibn Manṣūr, who reported to us: Abū al-Aḥwaṣ narrated from Simāk, from ‘Ikrimah, from Ibn ‘Abbās, who said regarding a pilgrim in iḥrām who kills game with no equivalent in kind among livestock: He must send its value to Mecca as a ransom.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا أَبُو الْأَحْوَصِ عَنْ سِمَاكٍ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ فِي مُحْرِمٍ أَصَابَ صَيْدًا لَيْسَ لَهُ نِدٌّ مِنْ النَّعَمِ: إنَّهُ يُهْدِي ثَمَنَهُ إلَى مَكَّةَ.

L14516 And it has also been narrated to us from ‘Ikrimah: in it is its price—thus, this is the sixth opinion.

وَرُوِّينَا أَيْضًا عَنْ عِكْرِمَةَ فِيهِ ثَمَنُهُ - فَهَذَا قَوْلٌ سَادِسٌ.

L14517 From the chain of Sa’id ibn Mansur: Hushaym reported to us: “I am Mansur” - from Al-Hasan, who said: “Locusts are among the lawful game of land and sea.” This is the seventh opinion.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ أَنَا مَنْصُورٌ عَنْ الْحَسَنِ قَالَ: الْجَرَادُ مِنْ صَيْدِ الْبَرِّ وَالْبَحْرِ - فَهَذَا قَوْلٌ سَابِعٌ.

L14518 And from the chain of Sa‘īd ibn Manṣūr: Ḥafṣ ibn Maysarah al-San‘ānī narrated to us, from Zayd ibn Aslam, from ‘Aṭā’ ibn Yasār, from Ka‘b al-Aḥbār, that ‘Umar considered reprehensible the eating of locusts for a pilgrim (muḥrim) and did not assign any penalty for it.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا حَفْصُ بْنُ مَيْسَرَةَ الصَّنْعَانِيُّ نَا زَيْدُ بْنُ أَسْلَمَ عَنْ عَطَاءِ بْنِ يَسَارٍ عَنْ كَعْبِ الْأَحْبَارِ أَنَّ عُمَرَ كَرِهَ أَكْلَ الْجَرَادِ لِلْمُحْرِمِ وَلَمْ يَجْعَلْ فِيهِ جَزَاءً.

L14519–14521 And through the chain of Sa‘īd from Hushaym - who said, “I am Abū Bishr” - from Yūsuf ibn Māhak, who said: Ibn ‘Abbās forbade. Regarding the taking of locusts within the Sacred Precinct, he said: “If they knew the ruling regarding it, they would not have taken it.” These are eight opinions, as we have presented. So what makes some of them more preponderant than others? As for the report concerning that from the Messenger of Allah—peace

وَمِنْ طَرِيقِ سَعِيدٍ عَنْ هُشَيْمٍ أَنَا أَبُو بِشْرٍ عَنْ يُوسُفَ بْنِ مَاهَكَ قَالَ: نَهَى ابْنُ عَبَّاسٍ عَنْ أَخْذِ الْجَرَادِ فِي الْحَرَمِ قَالَ: لَوْ عَلِمُوا مَا فِيهِ مَا أَخَذُوهُ، فَهِيَ ثَمَانِيَةُ أَقْوَالٍ كَمَا أَوْرَدْنَا، فَمَا الَّذِي جَعَلَ بَعْضَهَا أَوْلَى مِنْ بَعْضٍ؟ وَأَمَّا الْخَبَرُ فِي ذَلِكَ عَنْ رَسُولِ اللَّهِ - صَلَّى

and blessings of Allah be upon him—it is fabricated without doubt, because one chain includes Abu al-Muhazzim, who is abandoned, while the other includes Maymun ibn Jaban, who is unknown.

L14522 By visible observation, people see locusts laying eggs on land, and on land the eggs hatch from them, and on land they remain until they die. If it is submerged in fresh or salt water, it dies in the same duration that all land animals die when submerged in water. Since the Messenger of Allah – peace and blessings of Allah be upon him – does not speak falsehood, this claim is dismissed with certainty.

L14523 And it has been established that this is among the land game prohibited both for the one in *ihram* and within the Haram, without doubt.

L14524 The extant opinions of ʿUmar ibn al-Khaṭṭāb and Kaʿb regarding a locust [state its value as] one dirham.

L14525 It is narrated from Abdullah ibn Amr ibn al-As concerning the locust: it is considered a date.

L14526 And Umar said: A date is better than a locust.

L14527 From Ibn Abbas, Ibn Umar, and Ibn al-Musayyib regarding locusts: A handful of food.

L14528 Reported from ʿAṭāʾ: a handful or a morsel.

L14529 It is narrated from ʿIkrimah: A piece.

L14530 From Muhammad ibn Ali, ʿAṭāʾ, Ṭāwūs, and Mujāhid: If he hits her intentionally, he provides food; otherwise, there is none.

L14531 From Ibn Abbas regarding livestock for which there is no substitute: its value must be used to send a sacrificial animal (هدي) to Makkah.

L14532 And from Ikrimah: The locust's value is such because it has no equivalent among grazing livestock.

L14533 And from al-Ḥasan al-Baṣrī: It pertains to lawful game of land and sea.

اللَّهُ عَلَيْهِ وَسَلَّمَ - فَمَوْضُوعٌ بِلَا شَكٍّ لِأَنَّ فِي أَحَدِ طَرِيقَيْهِ أَبَا الْمُهَزِّمِ وَهُوَ هَالِكٌ - وَفِي الْأُخْرَى مَيْمُونُ بْنُ جَابَانَ وَهُوَ مَجْهُولٌ.

وَبِالْعِيَانِ يَرَى النَّاسُ الْجَرَادَ يَبِيضُ فِي الْبَرِّ وَفِي الْبَرِّ يَفْقِسُ عَنْهُ الْبَيْضُ وَفِي الْبَرِّ يَبْقَى حَتَّى يَمُوتَ، وَأَنَّهُ لَوْ غُمِسَ فِي مَاءٍ عَذْبٍ أَوْ مِلْحٍ لَمَاتَ فِي مِقْدَارِ مَا يَمُوتُ فِيهِ سَائِرُ حَيَوَانِ الْبَرِّ إذَا غُمِسَ فِي الْمَاءِ، وَرَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَا يَقُولُ الْكَذِبَ؛ فَسَقَطَ هَذَا الْقَوْلُ بِيَقِينٍ.

وَصَحَّ أَنَّهُ مِنْ صَيْدِ الْبَرِّ الْمُحَرَّمِ عَلَى الْمُحْرِمِ وَفِي الْحَرَمِ بِلَا شَكٍّ.

وَالْأَقْوَالُ الْبَاقِيَةُ عَنْ عُمَرَ بْنِ الْخَطَّابِ، وَكَعْبٍ فِي الْجَرَادَةِ: دِرْهَمٌ.

وَعَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ فِي الْجَرَادَةِ: تَمْرَةٌ.

وَقَالَ عُمَرُ: تَمْرَةٌ خَيْرٌ مِنْ جَرَادَةٍ.

وَعَنْ ابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ، وَابْنِ الْمُسَيِّبِ فِي الْجَرَادَةِ: قَبْضَةٌ مِنْ طَعَامٍ.

وَعَنْ عَطَاءٍ: قَبْضَةٌ أَوْ لُقْمَةٌ.

وَعَنْ عِكْرِمَةَ: كِسْرَةٌ.

وَعَنْ مُحَمَّدِ بْنِ عَلِيٍّ، وَعَطَاءٍ، وَطَاوُسٍ، وَمُجَاهِدٍ: يُطْعِمُ شَيْئًا إنْ أَصَابَهَا عَمْدًا وَإِلَّا فَلَا.

وَعَنْ ابْنِ عَبَّاسٍ فِيمَا لَا نِدَّ لَهُ مِنْ النَّعَمِ: ثَمَنُهُ يُهْدِيهِ إلَى مَكَّةَ.

وَعَنْ عِكْرِمَةَ: ثَمَنُهُ - وَالْجَرَادَةُ مِمَّا لَا نِدَّ لَهَا مِنْ النَّعَمِ.

وَعَنْ الْحَسَنِ: هِيَ مِنْ صَيْدِ الْبَرِّ وَالْبَحْرِ.

وَعَنْ عُمَرَ، وَابْنِ عَبَّاسٍ: الْمَنْعُ مِنْ صَيْدِهَا - وَلَمْ يَجْعَلَا فِيهَا شَيْئًا.

From ʿUmar and Ibn ʿAbbās: Preventing [others] from hunting its game, and they did not establish anything therein.

فَالْمَرْجُوعُ إلَيْهِ عِنْدَ التَّنَازُعِ هُوَ مَا افْتَرَضَ اللَّهُ تَعَالَى عَلَيْنَا الرُّجُوعَ إلَيْهِ إذْ يَقُولُ تَعَالَى: {فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الآخِرِ} [النساء: ٥٩] .

The ultimate authority in disputes is what Allah, the Exalted, has obligated us to refer back to, as He says: “If you dispute about something, refer it back to Allah and the Messenger, if you believe in Allah and the Last Day” [*al-Nisāʾ* 4:59].[2]

وَالْقُرْآنُ يُوجِبُ مَا قُلْنَا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

The Quran obligates what we have said—and with Allah alone is all success, the Exalted.

وَقَدْ خَالَفَ أَبُو حَنِيفَةَ، وَمَالِكٌ فِي بَيْضِ الصَّيْدِ كُلَّ مَا رُوِيَ فِيهِ عَنْ أَحَدٍ مِنْ الْمُتَقَدِّمِينَ فَأَنَّى لَهُمْ إنْكَارُ ذَلِكَ عَلَى غَيْرِهِمْ؟ وَفِي صِغَارِ الصَّيْدِ: مَا كَانَ مِنْهُ مِنْ ذَوَاتِ الْأَرْبَعِ، أَوْ الطَّيْرِ صِغَارُهَا فِي صِغَارِهِ، وَكِبَارُهَا فِي كِبَارِهِ، فَفِي رَأْلِ النَّعَمِ: فَصِيلٌ مِنْ الْإِبِلِ.

Abu Hanifah and Malik held differing opinions on the eggs of hunted game compared to all that was reported from the predecessors—so how can they object to others doing the same? Regarding the young of hunted animals: if they belong to quadrupeds or birds, their young are classified as such, and their adults likewise. In the case of camels past weaning age (raʾl), the term is faṣīl (weaned young camel).

وَفِي وَلَدِ كُلِّ مَا فِيهِ بَقَرَةٌ عُجَيْلٌ مِثْلُ ذَلِكَ الصَّغِيرِ، وَفِيمَا فِيهِ شَاةٌ، حَمَلٌ، أَوْ جَدْيٌ: عَلَى مَا ذَكَرْنَا قَبْلُ.

For the offspring of any cow, a weaned calf similar to the small one; and for the offspring of any sheep, a lamb or a kid: the ruling follows what we have previously mentioned.

وَقَالَ مَالِكٌ: فِي صِغَارِهَا مَا فِي كِبَارِهَا - وَهَذَا خَطَأٌ لِأَنَّ الْكَبِيرَ لَيْسَ مِثْلًا لِلصَّغِيرِ. وَرُوِّينَا عَنْ ابْنِ عُمَرَ أَنَّهُ حَكَمَ فِي فَرْخَيْ حَمَامَةٍ وَأُمِّهِمَا بِثَلَاثَةٍ مِنْ الْغَنَمِ - وَقَدْ خَالَفُوا ابْنَ عُمَرَ وَغَيْرَهُ فِي كَثِيرٍ مِمَّا ذَكَرْنَا قَبْلُ.

Malik said: The ruling for their young is the same as for their adult counterparts – but this is incorrect, for the adult is not analogous to the young. It has been narrated to us from Ibn Umar that he ruled regarding two pigeon chicks and their mother as equivalent to three head of small livestock. Yet the scholars have disagreed with Ibn Umar and others in many of the matters we previously mentioned.

وَيُفْدَى الْمَعِيبُ بِمَعِيبٍ مِثْلِهِ، وَالسَّالِمُ بِسَالِمٍ، وَالذَّكَرُ بِالذَّكَرِ وَالْأُنْثَى بِالْأُنْثَى لِقَوْلِهِ تَعَالَى: {فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] .

A defective [animal] is redeemed with a defective one like it, a sound [animal] with a sound one, a male with a male and a female with a female, in accordance with the words of the Most High: “The atonement is equivalent to what was killed of livestock” [Al-Māʾidah: 95].[3]

رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَبِيبٍ عَنْ عَطَاءٍ قَالَ: فِي الظَّبْيَةِ الْوَالِدِ: شَاةٌ وَالِدٌ. وَفِي الْحِمَارَةِ الْوَحْشِ النَّتُوجِ بَقَرَةٌ نَتُوجٌ.

It was narrated to us via the chain of Ḥammād ibn Salamah from Ḥabīb from

[2] **Qur’an references (L14535):** Qur’an 4:59 (An-Nisa).
[3] **Qur’an references (L14541):** Qur’an 5:95 (Al-Ma’idah).

ʿAṭāʾ that he said: For a pregnant gazelle: a pregnant ewe. For a pregnant female wild donkey: a cow among the pregnant ones.

L14543 From the narration of Yahyā ibn Saʿīd al-Qaṭṭān, from Ibn Jurayj: I said to ʿAṭāʾ ibn Abī Rabāḥ, "What do you think—if I hunted game with a deficiency or defect, must I pay its equivalent?" He said, "Yes." I asked, "Is the full [equivalent] preferable to you?" He replied, "Yes." And concerning the offspring of the hyena: the offspring of the ram, for the young of hyenas is not called a hyena; rather, it is called a *farghal*.

L14544 The tortoise is classified as land game because it permanently inhabits land; therefore, the expiation for it is a young sheep of a specified age.

L14545 What always dwells in water and does not leave it is then permissible for the one in Ihram (a pilgrim in the sacred state).

L14546 It has been narrated to us from 'Aṭā' regarding living beings of land and sea—what is the ruling? In it: half the penalty.

L14547–14549 Ali said: "This is incorrect, for Allah, the Exalted, permitted sea hunting for one in ihram and prohibited it for him." The game of the land is exclusively either ḥarām (forbidden) or ḥalāl (permissible). It cannot be both ḥalāl and ḥarām simultaneously, nor can it be neither permissible nor forbidden. And with Allah, the Most High, is success.

L14550 **Issue: Ostrich eggs and other game are lawful for a pilgrim in iḥrām and lawful within the sacred sanctuary (al-ḥaram).**

L14551 880 - Issue:

L14552 Ostrich eggs and the rest of game are permissible for one in iḥrām and within the sacred precincts—this is the position of Abū Ḥanīfah, Abū Sulaymān, and their followers. This is because eggs are not considered game, nor are they classified as game, nor is it permissible to kill game for them. Allah the Exalted only prohibited the one in iḥrām from killing land game. If one finds a dead chick within an egg, no expiation is required, as it is not game

وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ ابْنِ جُرَيْجٍ قُلْت لِعَطَاءِ بْنِ أَبِي رَبَاحٍ أَرَأَيْت لَوْ أَصَبْت صَيْدًا فِيهِ نَقْصٌ أَوْ عَوَرٌ أَغْرَمُ مِثْلَهُ؟ قَالَ: نَعَمْ، قُلْت: الْوَفِيُّ أَحَبُّ إلَيْك؟ قَالَ: نَعَمْ وَفِي وَلَدِ الضَّبُعِ وَلَدُ الْكَبْشِ لِأَنَّ الصَّغِيرَ مِنْ الضِّبَاعِ لَا يُسَمَّى ضَبُعًا إنَّمَا يُسَمَّى الْفَرْغَلَ.

وَالسُّلَحْفَاةُ هِيَ مِنْ صَيْدِ الْبَرِّ، لِأَنَّ عَيْشَهَا الدَّائِمَ فِي الْبَرِّ فَفِيهَا الْجَزَاءُ بِصَغِيرٍ مِنْ الْغَنَمِ.

وَمَا كَانَ سَاكِنًا فِي الْمَاءِ أَبَدًا لَا يُفَارِقُهُ فَهُوَ مُبَاحٌ لِلْمُحْرِمِ.

وَقَدْ رُوِّينَا عَنْ عَطَاءٍ فِيمَا عَاشَ فِي الْبَرِّ وَالْبَحْرِ؟ فِيهِ: نِصْفُ الْجَزَاءِ.

قَالَ عَلِيٌّ: وَلَيْسَ هَذَا بِشَيْءٍ، لِأَنَّ اللَّهَ تَعَالَى أَبَاحَ لِلْمُحْرِمِ صَيْدَ الْبَحْرِ وَحَرَّمَ عَلَيْهِ صَيْدَ الْبَرِّ فَلَيْسَ إلَّا حَرَامٌ أَوْ حَلَالٌ، وَلَا يَجُوزُ أَنْ يَكُونَ حَلَالٌ حَرَامٌ مَعًا، وَلَا لَا حَلَالٌ وَلَا حَرَامٌ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ بَيْضُ النَّعَامِ وَسَائِرِ الصَّيْدِ حَلَالٌ لِلْمُحْرِمِ وَفِي الْحَرَمِ]

٨٨٠ - مَسْأَلَةٌ:

وَبَيْضُ النَّعَامِ وَسَائِرِ الصَّيْدِ حَلَالٌ لِلْمُحْرِمِ وَفِي الْحَرَمِ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَأَبِي سُلَيْمَانَ، وَأَصْحَابِهِمَا: لِأَنَّ الْبَيْضَ لَيْسَ صَيْدًا، وَلَا يُسَمَّى صَيْدًا، وَلَا يُقْتَلُ، وَإِنَّمَا حَرَّمَ اللَّهُ تَعَالَى عَلَى الْمُحْرِمِ قَتْلَ صَيْدِ الْبَرِّ فَقَطْ، فَإِنْ وَجَدَ فِيهَا فَرْخَ مَيِّتٍ فَلَا جَزَاءَ لَهُ، لِأَنَّهُ

and he did not kill it. If one finds a live chick inside an egg and it dies due to their action, the expiation is an embryo of the same species, because it constitutes game that he killed.

L14553 Mālik said: For an ostrich egg, [the atonement is] a tenth of a camel, and for a dove's egg, a tenth of a sheep. He said: It is not permissible for a person in iḥrām to eat it, nor for a non-Muḥrim if the Muḥrim roasted or broke it.

L14554 Al-Shāfiʿī said, "In it is only its value."

L14555 Abu Muhammad said: As for the statement of al-Shāfiʿī, it is incorrect due to what we have mentioned - that it is not considered game. He also erred in another error as well, and it is that its compensation is with its monetary value, for compensation through monetary value is not found in the Qur'ān or the Sunnah.

L14556 As for Mālik's statement – he compiled within it aspects of the error. The first of these:

L14557 that it is an opinion not known to have been held by anyone before him - and they reject such an opinion with the utmost severity, as we mentioned earlier in our statement concerning locusts. And the second of them is:

L14558 that it is a statement not found in the Qur'an nor in the Sunnah. And its third point:

L14559 They do not permit sharing in the sacrificial offering despite the valid consensus of the Companions and the Sunnah's explicit affirmation of its permissibility, yet they permit it here where no known scholar before them held this view? If they argue: "The sacrificial camel or sheep is appraised, then we take a tenth of its appraised value to purchase food for distribution?" We respond: This constitutes the fourth egregious error, for you impose upon him what you yourselves prohibit in your juristic rulings - obligating a tenth of a camel's value or a tenth of a sheep's value which he cannot ritually offer. He is only required to provide food equivalent to that tenth's value. This represents utmost confusion and manifest contradiction. Fifthly:

لَيْسَ صَيْدًا وَلَمْ يَقْتُلْهُ، فَإِنْ وَجَدَ فِيهَا فَرْخَ حَيٍّ فَمَاتَ فَجَزَاؤُهُ بِجَنِينٍ مِنْ مِثْلِهِ، لِأَنَّهُ صَيْدٌ قَتَلَهُ.

وَقَالَ مَالِكٌ: فِي بَيْضَةِ النَّعَامَةِ: عُشْرُ الْبَدَنَةِ، وَفِي بَيْضَةِ الْحَمَامَةِ، عُشْرُ الشَّاةِ، قَالَ: لَا يَحِلُّ أَكْلُهُ لِلْمُحْرِمِ، وَلَا لِلْحَلَالِ إِذَا شَوَاهُ الْمُحْرِمُ أَوْ كَسَرَهُ.

وَقَالَ الشَّافِعِيُّ: فِيهِ قِيمَتُهُ فَقَطْ.

قَالَ أَبُو مُحَمَّد: أَمَّا قَوْلُ الشَّافِعِيِّ فَخَطَأٌ لِمَا ذَكَرْنَا مِنْ أَنَّهُ لَيْسَ صَيْدًا، وَأَخْطَأَ خَطَأً آخَرَ أَيْضًا وَهُوَ أَنَّهُ جَزَاؤُهُ بِثَمَنِهِ وَالْجَزَاءُ بِالثَّمَنِ لَا يُوجَدُ فِي قُرْآنٍ وَلَا سُنَّةٍ.

وَأَمَّا قَوْلُ مَالِكٍ فَجَمَعَ فِيهِ مِنْ الْخَطَأِ وُجُوهًا -: أَوَّلُهَا:

أَنَّهُ قَوْلٌ لَا يُعْرَفُ أَنَّ أَحَدًا قَالَ بِهِ قَبْلَهُ - وَهُمْ يُنْكِرُونَ مِثْلَ هَذَا أَشَدَّ الْإِنْكَارِ كَمَا ذَكَرْنَا آنِفًا فِي قَوْلِنَا فِي الْجَرَادِ. وَثَانِيهَا:

أَنَّهُ قَوْلٌ لَا يُوجَدُ فِي الْقُرْآنِ، وَلَا فِي السُّنَّةِ. وَثَالِثُهَا:

أَنَّهُمْ لَا يُجِيزُونَ الِاشْتِرَاكَ فِي الْهَدْيِ حَيْثُ صَحَّ إجْمَاعُ الصَّحَابَةِ وَالسُّنَّةِ عَلَى جَوَازِهِ، ثُمَّ أَجَازُوهُ هَاهُنَا حَيْثُ لَمْ يَقُلْ بِهِ أَحَدٌ يُعْرَفُ قَبْلَهُمْ؟ فَإِنْ قَالُوا: إنَّمَا تُقَوَّمُ الْبَدَنَةُ، أَوْ الشَّاةُ، ثُمَّ نَأْخُذُ عُشْرَ تِلْكَ الْقِيمَةِ فَنُطْعِمُ بِهِ؟ قُلْنَا: هَذَا خَطَأٌ رَابِعٌ فَاحِشٌ لِأَنَّكُمْ تُلْزِمُونَهُ وَتَأْمُرُونَهُ بِمَا تَنْهَوْنَهُ عَنْهُ مِنْ وَقْتِكُمْ فَتُوجِبُونَ عَلَيْهِ عُشْرَ بَدَنَةٍ، وَعُشْرَ شَاةٍ وَلَا يَجُوزُ لَهُ إهْدَاؤُهُ، إنَّمَا يَلْزَمُهُ طَعَامٌ بِقِيمَةِ ذَلِكَ الْعُشْرِ، وَهَذَا تَخْلِيطٌ نَاهِيكَ بِهِ، وَتَنَاقُضٌ ظَاهِرٌ. وَخَامِسُهَا:

L14560 Their argument is that they said this by way of analogy to the fetus of a free woman, in which there is a tenth of its mother's diyah?

احْتِجَاجُهُمْ بِأَنَّهُمْ قَالُوا ذَلِكَ قِيَاسًا عَلَى جَنِينِ الْحُرَّةِ الَّذِي فِيهِ عُشْرُ دِيَةِ أُمِّهِ؟

L14561–14562 We said: This is an analogy of error upon error and a comparison of falsehood to falsehood that is itself compared to falsehood. Allah the Exalted has never decreed—neither for the fetus of a free woman nor the fetus of a slave woman—a tenth of its mother's diya nor a tenth of its mother's value. Rather, Allah the Exalted established through His Messenger's declaration (peace be upon him) only a ghurrah equivalent to the value of a male or female slave for the fetus. He did not assign a value to the diya, but established it as one hundred camels.

فَقُلْنَا: هَذَا قِيَاسٌ لِلْخَطَأِ عَلَى الْخَطَأِ وَتَشْبِيهٌ لِلْبَاطِلِ بِالْبَاطِلِ الْمُشَبَّهِ بِالْبَاطِلِ وَمَا جَعَلَ اللَّهُ تَعَالَى قَطُّ فِي جَنِينِ الْحُرَّةِ وَلَا فِي جَنِينِ الْأَمَةِ: عُشْرَ دِيَةِ أُمِّهِ، وَلَا عُشْرَ قِيمَةِ أُمِّهِ، وَإِنَّمَا جَعَلَ اللَّهُ تَعَالَى «فِي الْجَنِينِ عَلَى لِسَانِ رَسُولِهِ - عَلَيْهِ السَّلَامُ -: غُرَّةً عَبْدًا، أَوْ أَمَةً فَقَطْ» ، وَلَا جَعَلَ فِي الدِّيَةِ قِيمَةً؛ بَلْ جَعَلَهَا مِائَةً مِنْ الْإِبِلِ.

L14563 Abu Muhammad said: As for the disagreement among the people regarding this matter—it has been narrated to us through the chain of Hammad ibn Salamah: from Ammar ibn Abi Ammar, from Abdullah ibn al-Harith ibn Nawfal, that a Bedouin presented to the Messenger of Allah—may Allah bless him and grant him peace—eggs and dried dates. He said to him: "Feed them to your family, for we are in the state of ihram."

قَالَ أَبُو مُحَمَّد: وَأَمَّا اخْتِلَافُ النَّاسِ فِي هَذَا فَإِنَّنَا -: رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ أَنَا عَمَّارُ بْنُ أَبِي عَمَّارٍ عَنْ عَبْدِ اللَّهِ بْنِ الْحَارِثِ بْنِ نَوْفَلٍ «أَنَّ أَعْرَابِيًّا أَهْدَى إلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَيْضًا وَتَمْرِ وَحْشٍ؟ فَقَالَ لَهُ: أَطْعِمْهُ أَهْلَكَ فَإِنَّا حُرُمٌ» .

L14564 From the narration of Hammad ibn Salamah, from Ali ibn Zayd ibn Judʿān, from Abdullah ibn al-Harith ibn Nawfal, from Ali ibn Abi Talib, from the Messenger of Allah - may Allah bless him and grant him peace - conveying it identically, word for word.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ عَلِيِّ بْنِ زَيْدِ بْنِ جُدْعَانَ عَنْ عَبْدِ اللَّهِ بْنِ الْحَارِثِ بْنِ نَوْفَلٍ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِثْلُهُ حَرْفًا حَرْفًا.

L14565 Abū Muḥammad said: The first is a mursal (interrupted-chain) report, and in the second is ʿAlī ibn Zayd ibn Judʿān—and he is weak. Furthermore, even if both were authentic, there would be no prohibition in them against eating it. Rather, it is his abandonment (peace be upon him) of it, and he may abandon what is not prohibited, just as he abandoned the dabb (spiny-tailed lizard).

قَالَ أَبُو مُحَمَّد: الْأَوَّلُ مُرْسَلٌ، وَفِي الثَّانِي عَلِيُّ بْنُ زَيْدِ بْنِ جُدْعَانَ وَهُوَ ضَعِيفٌ، ثُمَّ لَوْ صَحَّا لَمَا كَانَ فِيهِمَا نَهْيٌ عَنْ أَكْلِهَا وَإِنَّمَا هُوَ تَرْكٌ مِنْهُ - عَلَيْهِ السَّلَامُ - وَقَدْ يَتْرُكُ مَا لَيْسَ حَرَامًا كَمَا تَرَكَ الضَّبَّ.

L14566 Through the chain of Ibn Abi Shaybah, who narrated to us via Hafs ibn Ghiyath and Abu Khalid al-Ahmar - both transmitting from Ibn Jurayj, from Abdullah ibn Dhakwan (who is Abu al-Zinad) - from Aisha, the Mother of the Believers: "The Messenger of Allah (peace and blessings be upon him) was asked about the ostrich eggs killed by a Muhrim. He (peace be upon him) said: 'For each egg, [one must] fast for a day or feed a poor person.'"

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا حَفْصُ بْنُ غِيَاثٍ. وَأَبُو خَالِدٍ الْأَحْمَرُ كِلَاهُمَا عَنْ ابْنِ جُرَيْجٍ عَنْ عَبْدِ اللَّهِ بْنِ ذَكْوَانَ هُوَ أَبُو الزِّنَادِ - عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ رَسُولَ اللَّهِ

- صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - سُئِلَ عَنْ بَيْضِ نَعَامٍ أَصَابَهَا مُحْرِمٌ؟ فَقَالَ - عَلَيْهِ السَّلَامُ -: فِي كُلِّ بَيْضَةٍ صِيَامُ يَوْمٍ أَوْ إِطْعَامُ مِسْكِينٍ» .

L14567 Ali said: Abū al-Zināد did not live to meet ʿĀʾisha—may Allah be pleased with her—so the chain is disconnected. Had it been authentic, we would have upheld it. Some of the Salaf held this.

قَالَ عَلِيٌّ: أَبُو الزِّنَادِ لَمْ يُدْرِكْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - فَهُوَ مُنْقَطِعٌ، وَلَوْ صَحَّ لَقُلْنَا بِهِ، وَقَالَ بِهَذَا بَعْضُ السَّلَفِ.

L14568 As we have been narrated through the chain of Ḥammād ibn Salamah from Qatādah from Abī al-Malīḥ from Abū ʿUbaydah ibn ʿAbdullāh ibn Masʿūd, who said regarding a pilgrim in iḥrām who destroys an ostrich egg: "A day's fasting or feeding a needy person."

كَمَا رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَتَادَةَ عَنْ أَبِي الْمَلِيحِ عَنْ أَبِي عُبَيْدَةَ بْنِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ قَالَ فِي بَيْضَةِ النَّعَامَةِ يُصِيبُهَا الْمُحْرِمُ: صَوْمُ يَوْمٍ، أَوْ إِطْعَامُ مِسْكِينٍ.

L14569 From the chain of Ibn Abī Shaybah: Abdah narrated to us from Saʿīd from Qatādah from Abi Mijlaz from Abū Ubaydah ibn ʿAbd Allāh ibn Masʿūd regarding ostrich eggs encountered by a pilgrim in the state of iḥrām. Abū Ubaydah said: Ibn Masʿūd would say concerning it: "Fasting for a day or providing food to a needy person."

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا عَبْدَةُ عَنْ سَعِيدٍ عَنْ قَتَادَةَ عَنْ أَبِي مِجْلَزٍ عَنْ أَبِي عُبَيْدَةَ بْنِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ فِي بَيْضِ النَّعَامِ يُصِيبُهَا الْمُحْرِمُ قَالَ أَبُو عُبَيْدَةَ: كَانَ ابْنُ مَسْعُودٍ يَقُولُ فِيهِ: صَوْمُ يَوْمٍ، أَوْ إِطْعَامُ مِسْكِينٍ.

L14570–14571 Through the chain of Hammad ibn Salamah from Qatadah, that Abu Musa al-Ash'ari said: For every egg from ostrich eggs, [there is] the fasting of a day or the feeding of a needy person. This is likewise the view of Abd al-Rahman ibn Abdullah ibn Mas'ud.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَتَادَةَ أَنَّ أَبَا مُوسَى الْأَشْعَرِيَّ قَالَ: فِي كُلِّ بَيْضَةٍ مِنْ بَيْضِ النَّعَامِ صِيَامُ يَوْمٍ، أَوْ إِطْعَامُ مِسْكِينٍ - وَهُوَ قَوْلُ عَبْدِ الرَّحْمَنِ بْنِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ أَيْضًا.

L14572 And it is the statement of Ibn Sirin, who issued a legal ruling to a pilgrim in sacred state who indicated that ostrich eggs are permissible. This is an opinion.

وَهُوَ قَوْلُ ابْنِ سِيرِينَ أَفْتَى بِذَلِكَ عَلَى مُحْرِمٍ أَشَارَ لِحَلَالٍ إِلَى بَيْضِ نَعَامٍ فَهَذَا قَوْلٌ.

L14573 Via the chain of Abd al-Razzaq from Ma'mar, from Ibn Jurayj, from Abd al-Hamid ibn Jubayr, who reported: Ikrimah reported from Ibn Abbas, who said: Ali ibn Abi Talib ruled regarding ostrich eggs taken by a pilgrim in ihram: "If you release the male ostrich to your camels, and once their fertilization becomes evident, you specify the number of eggs you collected by declaring: 'This is a sacrificial offering' - then you bear no liability for any spoiled eggs." Ibn Abbas said: Muawiyah marveled at Ali's ruling. Ibn Abbas

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ ابْنِ جُرَيْجٍ عَنْ عَبْدِ الْحَمِيدِ بْنِ جُبَيْرٍ أَخْبَرَنِي عِكْرِمَةُ عَنْ ابْنِ عَبَّاسٍ قَالَ: قَضَى عَلِيُّ بْنُ أَبِي طَالِبٍ فِي بَيْضِ النَّعَامَةِ يُصِيبُهَا الْمُحْرِمُ تُرْسِلُ الْفَحْلَ عَلَى إِبِلِكَ فَإِذْ تَبَيَّنَ لِقَاحُهَا سَمَّيْتَ عَدَدَ مَا أَصَبْتَ مِنَ الْبَيْضِ فَقُلْتَ: هَذَا هَدْيٌ ثُمَّ لَيْسَ عَلَيْكَ ضَمَانُ مَا فَسَدَ. قَالَ ابْنُ عَبَّاسٍ: فَعَجِبَ مُعَاوِيَةُ مِنْ قَضَاءِ عَلِيٍّ.

added: “Muawiyah’s astonishment was nothing but regarding the price for which the eggs are sold in the market, which must be given as charity.”

قَالَ ابْنُ عَبَّاسٍ: لَمْ يَعْجَبْ مُعَاوِيَةُ مِنْ عَجَبٍ مَا هُوَ إِلَّا مَا يُبَاعُ بِهِ الْبَيْضُ فِي السُّوقِ يُتَصَدَّقُ بِهِ.

L14574 Ibn Jurayj reported: ʿAṭāʾ said, “For one who owns camels, the ruling is what ʿAlī stated. For those without camels, two dirhams are due for every bayḍah.” This is another opinion; then a third and a fourth.

قَالَ ابْنُ جُرَيْجٍ: وَقَالَ عَطَاءٌ: مَنْ كَانَتْ لَهُ إِبِلٌ فَإِنَّ فِيهِ مَا قَالَ عَلِيٌّ وَمَنْ لَمْ يَكُنْ لَهُ إِبِلٌ فَفِي كُلِّ بَيْضَةٍ دِرْهَمَانِ - فَهَذَا قَوْلٌ آخَرُ، وَثَالِثٌ وَرَابِعٌ.

L14575 From the chain of Wākiʿ, who narrated to us from al-Aʿmash, from Ibrāhīm al-Nakhaʿī: that ʿUmar ibn al-Khaṭṭāb said concerning ostrich eggs: “its value or its price.”

وَمِنْ طَرِيقِ وَكِيعٍ نَا الْأَعْمَشُ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ: أَنَّ عُمَرَ بْنَ الْخَطَّابِ قَالَ فِي بَيْضِ النَّعَامِ: قِيمَتُهُ. أَوْ ثَمَنُهُ.

L14576 Via Wakiʿ, from Khusayf, from Abū ʿUbaydah ibn ʿAbdullāh ibn Masʿūd, from his father, who said regarding ostrich eggs: *its assessed value or its market price.*

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ خُصَيْفٍ عَنْ أَبِي عُبَيْدَةَ بْنِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ عَنْ أَبِيهِ قَالَ فِي بَيْضِ النَّعَامِ: قِيمَتُهُ، أَوْ ثَمَنُهُ.

L14577 This is the view of Ibrāhīm al-Nakhaʿī, al-Shaʿbī, al-Zuhrī, and al-Shāfiʿī. As for pigeon eggs: We have been narrated through the chain of transmission of ʿAbd al-Razzāq from Ibn Mujāhid from his father and from ʿAṭāʾ—both of whom said: “‘Alī ibn Abī Ṭālib stated, ’In every two eggs there is a dirham.’”

وَهُوَ قَوْلُ إِبْرَاهِيمَ النَّخَعِيِّ، وَالشَّعْبِيِّ، وَالزُّهْرِيِّ، وَالشَّافِعِيِّ. وَأَمَّا بَيْضُ الْحَمَامِ -: فَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ مُجَاهِدٍ عَنْ أَبِيهِ وَعَطَاءٍ كِلَاهُمَا قَالَ: إِنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ قَالَ: فِي كُلِّ بَيْضَتَيْنِ دِرْهَمٌ.

L14578 And through the chain of ʿAbd al-Razzāq from Muḥammad ibn ʿUbayd Allāh from ʿAṭāʾ from Ibn ʿAbbās, who said: “For every egg from the eggs of the pigeons of Mecca, there is a dirham.” This is the statement of ʿAṭāʾ. He further said: “If there is a chick within it, there is a dirham.”

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مُحَمَّدِ بْنِ عُبَيْدِ اللَّهِ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: فِي كُلِّ بَيْضَةٍ مِنْ بَيْضِ حَمَامِ مَكَّةَ دِرْهَمٌ - وَهُوَ قَوْلُ عَطَاءٍ، وَقَالَ: فَإِنْ كَانَ فِيهَا فَرْخٌ فَدِرْهَمٌ.

L14579 Ubayd ibn ʿUmayr said: He acquires food with half a dirham and donates it as charity.

وَقَالَ عُبَيْدُ بْنُ عُمَيْرٍ: بِنِصْفِ دِرْهَمٍ طَعَامٌ وَيَتَصَدَّقُ بِهِ.

L14580–14581 From Abd al-Razzaq via Ma’mar; and from Qatadah, who said regarding the eggs of the pigeons of Mecca: a dirham is due, and for an egg of the pigeons of al-Ḥill: a mudd is due.

وَعَنْ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ، وَعَنْ قَتَادَةَ قَالَ فِي بَيْضِ حَمَامِ مَكَّةَ: دِرْهَمٌ وَفِي بَيْضَةٍ مِنْ بَيْضِ حَمَامِ الْحِلِّ: مُدٌّ.

L14582 Ma’mar said: Al-Zuhri said, “In it is its price”—and this is the opinion of al-Shafi’i.

قَالَ مَعْمَرٌ: وَقَالَ الزُّهْرِيُّ: فِيهِ ثَمَنُهُ - وَهُوَ قَوْلُ الشَّافِعِيِّ.

From the narration of Sa‘id ibn Mansur: He narrated to us from ‘Attab ibn Bashir, from Khusayf, from Ibn ‘Abbas, who said regarding the egg: “A dirham. There are differing opinions as you see—one of them states that for an ostrich egg, one must fast a day or feed a needy person, and there is a musnad (authenticated) report about this. This is the opinion of Abu Musa al-Ash‘ari, Ibn Mas‘ud, his two sons Abu Ubaydah and ‘Abd al-Rahman, and Ibn Sirin. The second opinion is:”

that in each of their testicles is the sperm of a she-camel—and this is the statement of ʿAlī, Muʿāwiyah, and ʿAṭāʾ. The third of them is:

That the value of an ostrich egg is its price - this is the opinion of ’Umar, Ibn Mas’ud, Ibn Abbas, Ibrahim, al-Sha’bi, al-Zuhri, and al-Shafi’i. And its fourth:

Whoever owns camels must give a pregnant she-camel (liqāḥ) for every bayḍah (1–2-year-old camel), and whoever owns no camels must give two dirhams for every bayḍah—this is the opinion of ʿAṭāʾ.

And concerning pigeon eggs, there are opinions: one of them is

For an egg, a dirham—this is the view of Ibn Abbas. The second [case]:

For an egg, half a dirham is due – as held by Ibn ʿAbbās and ʿUbayd ibn ʿUmayr. The third opinion: half a dirham is due for it. If it contains a chick, then a dirham is due – according to ʿAṭāʾ. The fourth opinion: a dirham is due for an egg from Mecca’s pigeons, while a _mudd_ is due for an egg from pigeons of al-Ḥill (non-sacred territory) – as stated by Qatādah. The fifth opinion:

Its price is in it—this is the view of al-Zuhri and al-Shafi’i.

Thus, the two opinions of Malik and Abu Hanifah emerged without anyone from the Salaf being known to have advocated those opinions. They magnify this when it contradicts their _taqlīd_. And success is from Allah, the Most High.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا عَتَّابُ بْنُ بَشِيرٍ عَنْ خُصَيْفٍ عَنْ ابْنِ عَبَّاسٍ قَالَ فِي الْبَيْضَةِ: دِرْهَمٌ فَهِيَ أَقْوَالٌ كَمَا تَرَى -: أَحَدُهَا: أَنَّ فِي بَيْضَةِ النَّعَامَةِ صَوْمَ يَوْمٍ، أَوْ إِطْعَامَ مِسْكِينٍ فِيهِ خَبَرٌ مُسْنَدٌ، وَهُوَ قَوْلُ أَبِي مُوسَى الْأَشْعَرِيِّ، وَابْنِ مَسْعُودٍ، وَابْنَيْهِ أَبِي عُبَيْدَةَ، وَعَبْدِ الرَّحْمَنِ، وَابْنِ سِيرِينَ. وَثَانِيهَا:

أَنَّ فِي كُلِّ بَيْضَةٍ مِنْهَا لِقَاحَ نَاقَةٍ - وَهُوَ قَوْلُ عَلِيٍّ، وَمُعَاوِيَةَ، وَعَطَاءٍ. وَثَالِثُهَا:

أَنَّ فِي بَيْضَةِ النَّعَامَةِ ثَمَنَهَا - هُوَ قَوْلُ عُمَرَ، وَابْنِ مَسْعُودٍ، وَابْنِ عَبَّاسٍ، وَإِبْرَاهِيمَ، وَالشَّعْبِيِّ، وَالزُّهْرِيِّ، وَالشَّافِعِيِّ. وَرَابِعُهَا:

أَنَّ مَنْ لَهُ إِبِلٌ فَفِي كُلِّ بَيْضَةٍ لِقَاحُ نَاقَةٍ وَمَنْ لَا إِبِلَ لَهُ فَفِي كُلِّ بَيْضَةٍ دِرْهَمَانِ - وَهُوَ قَوْلُ عَطَاءٍ.

وَفِي بَيْضِ الْحَمَامِ أَقْوَالٌ -: أَحَدُهَا:

فِي الْبَيْضَةِ دِرْهَمٌ - وَهُوَ قَوْلُ ابْنِ عَبَّاسٍ. وَثَانِيهَا:

فِي الْبَيْضَةِ نِصْفُ دِرْهَمٍ - وَهُوَ قَوْلُ ابْنِ عَبَّاسٍ، وَعُبَيْدِ بْنِ عُمَيْرٍ، وَثَالِثُهَا: فِيهَا نِصْفُ دِرْهَمٍ، فَإِنْ كَانَ فِيهَا فَرْخٌ فَدِرْهَمٌ - وَهُوَ قَوْلُ عَطَاءٍ، وَرَابِعُهَا: فِي بَيْضَةٍ مِنْ حَمَامِ مَكَّةَ دِرْهَمٌ، وَفِي بَيْضَةٍ مِنْ حَمَامِ الْحِلِّ مُدٌّ - وَهُوَ قَوْلُ قَتَادَةَ. وَخَامِسُهَا:

فِيهَا ثَمَنُهَا - وَهُوَ قَوْلُ الزُّهْرِيِّ، وَالشَّافِعِيِّ.

فَخَرَجَ قَوْلَا: مَالِكٍ، وَأَبِي حَنِيفَةَ عَنْ أَنْ يُعْرَفَ لَهُمَا قَائِلٌ مِنْ السَّلَفِ. وَهُمْ يُعَظِّمُونَ هَذَا إذَا خَالَفَ تَقْلِيدَهُمْ وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## A ruling: The sacrificial animal is not valid unless it is stationed at the Sacred Mosque.

881. Issue:

The sacrificial animal is not valid in that case unless it is stationed at the Sacred Mosque and then slaughtered in Makkah or Mina, as stated in the words of Allah, the Exalted: “Let two just men among you judge regarding it as expiation - a sacrificial animal that reaches the Kaaba” [Al-Mā’idah: 95].[4]

Issue:

As for feeding the poor and fasting, they may be performed as one chooses, because Allah, the Exalted, has not designated a specific location for them.

## The ruling on sea game for the muḥrim [a person in ritual consecration].

883: Issue

The hunting of any creature that inhabits water—whether in ponds, rivers, the sea, springs, or wells—is permissible for the pilgrim in iḥrām to hunt and eat, according to the words of Allah the Exalted: *“Lawful for you is the game of the sea and its provision as sustenance for you and for travelers, but forbidden to you is the game of the land as long as you remain in iḥrām”* [al-Mā’idah 5:96].[5]

And He, the Exalted, said: _“The two seas are not alike: this one is fresh, sweet, and pleasant to drink, while this one is salty and briny. Yet from each you eat tender meat”_ [35:12]. Thus, the Exalted named all waters—whether fresh or salty—a “sea.” Even if this verse had not been revealed, the game of the land, sea, and river, and all we have mentioned would have been permissible without dispute by the Quran’s explicit text.[6]

## [مَسْأَلَةٌ لَا يُجْزَى الْهَدْيُ إِلَّا مُوقَفًا عِنْدَ الْمَسْجِدِ الْحَرَامِ]

٨٨١ - مَسْأَلَةٌ:
وَلَا يُجْزَى الْهَدْيُ فِي ذَلِكَ إِلَّا مُوقَفًا عِنْدَ الْمَسْجِدِ الْحَرَامِ ثُمَّ يُنْحَرُ بِمَكَّةَ أَوْ بِمِنًى لِقَوْلِ اللَّهِ تَعَالَى: {يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ هَدْيًا بَالِـغَ الْكَعْبَةِ} [المائدة: ٩٥] .

مَسْأَلَةٌ:
وَأَمَّا الْإِطْعَامُ وَالصِّيَامُ فَحَيْثُ شَاءَ، لِأَنَّ اللَّهَ تَعَالَى لَمْ يَحُدَّ لَهُمَا مَوْضِعًا.

## [مَسْأَلَةٌ صَيْدُ الْبَحْرِ لِلْمُحْرِمِ]

٨٨٣ - مَسْأَلَةٌ:
وَصَيْدُ كُلِّ مَا سَكَنَ الْمَاءَ مِنْ الْبِرَكِ، أَوْ الْأَنْهَارِ، أَوْ الْبَحْرِ، أَوْ الْعُيُونِ أَوْ الْآبَارِ حَلَالٌ لِلْمُحْرِمِ صَيْدُهُ وَأَكْلُهُ، لِقَوْلِ اللَّهِ تَعَالَى: {أُحِلَّ لَكُمْ صَيْدُ الْبَحْرِ وَطَعَامُهُ مَتَاعًا لَكُمْ وَلِلسَّيَّارَةِ وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرُمًا} [المائدة: ٩٦] .

وَقَالَ تَعَالَى: {وَمَا يَسْتَوِي الْبَحْرَانِ هَذَا عَذْبٌ فُرَاتٌ سَائِغٌ شَرَابُهُ وَهَذَا مِلْحٌ أُجَاجٌ وَمِنْ كُلٍّ تَأْكُلُونَ لَحْمًا طَرِيًّا} [فاطر: ١٢] فَسَمَّى تَعَالَى كُلَّ مَاءٍ عَذْبٍ أَوْ مِلْحٍ بَحْرًا، وَحَتَّى لَوْ لَمْ تَأْتِ هَذِهِ الْآيَةُ لَكَانَ صَيْدُ الْبَرِّ وَالْبَحْرِ وَالنَّهْرِ وَكُلِّ مَا ذَكَرْنَا حَلَالًا بِلَا خِلَافٍ بِنَصِّ الْقُرْآنِ.

[4] **Qur’an references (L14594):** Qur’an 5:95 (Al-Ma’idah).
[5] **Qur’an references (L14600):** Qur’an 5:96 (Al-Ma’idah).
[6] **Qur’an references (L14601):** Qur’an 35:12 (Fatir).

ثُمَّ حُرِّمَ بِالْإِحْرَامِ وَفِي الْحَرَمِ صَيْدُ الْبَرِّ وَلَمْ يُحَرَّمْ صَيْدُ الْبَحْرِ فَكَانَ مَا عَدَا صَيْدَ الْبَرِّ حَلَالًا كَمَا كَانَ إذْ لَمْ يَأْتِ مَا يُحَرِّمُهُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14602 Then, upon entering the state of *iḥrām* and within the sacred precincts, land-game hunting was prohibited, while sea-game hunting was not prohibited. Thus, all other game remained permissible as it had been, since nothing had come to prohibit it—and success is from Allah, the Exalted.

## [مَسْأَلَةٌ مَا أُصِيبَ فِي حَرَمِ مَكَّةَ أَوْ فِي حَرَمِ الْمَدِينَةِ]

L14603 **An issue regarding what is incurred within the sacred precincts of Mecca or the sacred precincts of Medina.**

٨٨٤ - مَسْأَلَةٌ:

L14604 884 - Issue:

وَالْجَزَاءُ وَاجِبٌ كَمَا ذَكَرْنَا سَوَاءٌ سَوَاءٌ فِيمَا أُصِيبَ فِي حَرَمِ مَكَّةَ، أَوْ فِي حَرَمِ الْمَدِينَةِ أَصَابَهُ حَلَالٌ، أَوْ مُحْرِمٌ، لِقَوْلِ اللَّهِ تَعَالَى: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] الْآيَةَ.

L14605 The expiation is obligatory, as we mentioned, the same whether the game was killed in the sanctuary of Mecca or the sanctuary of Medina, or whether it was struck by a non-*Muḥrim* (a person not in state of consecration) or a *Muḥrim*, based on Allah's statement: "Do not kill game while you are in the state of consecration. Whoever among you kills it intentionally, the expiation is the equivalent of what he killed from livestock..." [Al-Mā'idah 5:95].[7]

فَمَنْ كَانَ فِي حَرَمِ مَكَّةَ، أَوْ فِي حَرَمِ الْمَدِينَةِ فَاسْمُ " حَرَمٍ " يَقَعُ عَلَيْهِ.

L14606 So whoever is within the Haram of Mecca or the Haram of Medina - the name 'Haram' applies to him.

رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا وَكِيعٌ عَنْ الْحَسَنِ بْنِ حَيٍّ قَالَ: سَأَلْت ابْنَ أَبِي لَيْلَى عَمَّنْ أَصَابَ صَيْدًا بِالْمَدِينَةِ؟ فَقَالَ: يُحْكَمُ عَلَيْهِ - وَهُوَ قَوْلُ ابْنِ أَبِي ذِئْبٍ، وَمُحَمَّدِ بْنِ إبْرَاهِيمَ النَّيْسَابُورِيِّ، وَبَعْضِ كِبَارِ أَصْحَابِ مَالِكٍ.

L14607 It has been narrated to us through the chain of Ibn Abi Shaybah, who reported to us from Waki', from al-Hasan ibn Hayy, who said: I asked Ibn Abi Layla about someone who hunted wild game in Medina. He replied: A ruling is imposed upon him - and this is the view of Ibn Abi Dhi'b, Muhammad ibn Ibrahim al-Naysaburi, and some senior disciples of Malik.

وَقَدْ صَحَّ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَرَّمَ مَا بَيْنَ لَابَتَيْ الْمَدِينَةِ وَهُمَا حَرَّتَانِ بِهَا مَعْرُوفَتَانِ، وَحَرَمُ الْمَدِينَةِ مَعْرُوفٌ كَحَرَمِ مَكَّةَ» .

L14608 It has been authentically established that the Messenger of Allah—peace and blessings be upon him—declared the area between the two Harrahs (volcanic fields) of Medina as inviolable, which are two well-known regions within it. The sacred precinct of Medina is established as a sanctuary, like the sanctuary of Mecca.

وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: لَا جَزَاءَ فِيهِ - وَهُوَ خَطَأٌ لِمَا ذَكَرْنَا، وَاحْتَجَّ بَعْضُ مَنْ امْتُحِنَ بِتَقْلِيدِهِمَا بِخَبَرَيْنِ -: فِي أَحَدِهِمَا: أَنَّ عَمْرَو بْنَ أُمَيَّةَ كَانَ يَتَصَيَّدُ بِالْعَقِيقِ - وَهَذَا لَا حُجَّةَ

L14609–14610 Abu Hanifah and Malik said: There is no expiation for it – and this is erroneous due to our earlier explanation. Some who were challenged for rigid adherence to their positions cited two narrations: The first claims that 'Amr

[7] **Qur'an references (L14605):** Qur'an 5:95 (Al-Ma'idah).

ibn Umayyah used to hunt in the valley of al-ʻAqiq – this holds no validity for their argument, as it is an unreliable narration. Even if authentic, it could plausibly refer to a time preceding the prohibition of Medina's sacred precinct and the ban on hunting its game. The second narration states: "Allah's Messenger – peace and blessings be upon him – owned a wild animal that would playfully move about, but would crouch upon seeing him." This too is an unreliable narration. Moreover, even if verified, it would not constitute proof, since game lawfully hunted in non-consecrated land remains permissible when brought into the sacred precinct – as we shall elucidate hereafter, Allah the Exalted willing.

L14611 **A legal issue regarding the intentional killing of game in the Ḥill by one who is within the Ḥaram.**

L14612 885. Issue:

L14613 Whoever intentionally kills game in the non-sacred area while being within the sacred precincts must offer expiation, because he killed the game while situated in the sacred precincts. If the game is within the sacred precincts and the killer is in the non-sacred area, he has disobeyed Allah Almighty. That game may not be consumed, and no expiation is required. The absence of expiation applies because the killer is not within the sacred precincts. As for his disobedience and the prohibition against eating the game, this is because it constitutes game of the sacred precincts, for which no expiation is prescribed - only its prohibition is established. Expiation is required only if the killer is within the sacred precincts.

L14614 We have been narrated through the chain of Al-Bukhari: from Uthman ibn Abi Shaybah, from Jarir ibn Abd al-Hamid, from Mansur, from Mujahid, from Tawus, from Ibn Abbas, who said: "The Messenger of Allah—peace and blessings be upon him—said on the day he conquered Mecca," and he mentioned the following words: "This is a city Allah—the Almighty and Majestic—declared inviolable on the day He created the heavens and the earth. It remains sacred through Allah's inviolability until the Day of Resurrection. Its thorny bushes are not to be cut down, nor may its game be disturbed." And he related the rest of the hadith.

لَهُمْ فِيهِ، لِأَنَّهُ خَبَرٌ لَا يَصِحُّ، وَلَوْ صَحَّ لَكَانَ ذَلِكَ مُمْكِنًا [أَنْ يَكُونَ] قَبْلَ تَحْرِيمِ الْحَرَمِ بِالْمَدِينَةِ وَالنَّهْيِ عَنْ صَيْدِهَا. وَالثَّانِي: «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ لَهُ وَحْشٌ فَكَانَ يَلْعَبُ فَإِذَا رَأَى رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَبَعَ» وَهُوَ خَبَرٌ لَا يَصِحُّ، ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ فِيهِ حُجَّةٌ، لِأَنَّ الصَّيْدَ إذَا صِيدَ فِي الْحِلِّ، ثُمَّ أُدْخِلَ فِي الْحَرَمِ حَلَّ مِلْكُهُ عَلَى مَا نُبَيِّنُ بَعْدَ هَذَا إنْ شَاءَ اللَّهُ تَعَالَى.

## [مَسْأَلَةٌ تَعَمَّدَ قَتْلَ صَيْدٍ فِي الْحِلِّ وَهُوَ فِي الْحَرَمِ]

٨٨٥ - مَسْأَلَةٌ:

وَمَنْ تَعَمَّدَ قَتْلَ صَيْدٍ فِي الْحِلِّ وَهُوَ فِي الْحَرَمِ فَعَلَيْهِ الْجَزَاءُ لِأَنَّهُ قَتَلَ الصَّيْدَ وَهُوَ حَرَمٌ، فَإِنْ كَانَ الصَّيْدُ فِي الْحَرَمِ وَالْقَاتِلُ فِي الْحِلِّ فَهُوَ عَاصٍ لِلَّهِ عَزَّ وَجَلَّ وَلَا يُؤْكَلُ ذَلِكَ الصَّيْدُ وَلَا جَزَاءَ فِيهِ، أَمَّا سُقُوطُ الْجَزَاءِ فَلِأَنَّهُ لَيْسَ حَرَمًا وَأَمَّا عِصْيَانُهُ وَالْمَنْعُ مِنْ أَكْلِ الصَّيْدِ فَلِأَنَّهُ مِنْ صَيْدِ الْحَرَمِ وَلَمْ يَأْتِ فِيهِ جَزَاءٌ إنَّمَا جَاءَ تَحْرِيمُهُ فَقَطْ، وَإِنَّمَا جَاءَ الْجَزَاءُ عَلَى الْقَاتِلِ إذَا كَانَ حَرَمًا.

رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ نَا جَرِيرُ بْنُ عَبْدِ الْحَمِيدِ عَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: «قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَوْمَ افْتَتَحَ مَكَّةَ فَذَكَرَ كَلَامًا فِيهِ: هَذَا بَلَدٌ حَرَّمَهُ اللَّهُ - عَزَّ وَجَلَّ - يَوْمَ خَلَقَ السَّمَاوَاتِ وَالْأَرْضَ، وَهُوَ حَرَامٌ بِحُرْمَةِ اللَّهِ إلَى يَوْمِ الْقِيَامَةِ لَا يُعْضَدُ شَوْكُهُ وَلَا يُنَفَّرُ صَيْدُهُ» وَذَكَرَ الْحَدِيثَ.

L14615 In the chain narrated by Muslim: Abu Bakr ibn Abi Shaybah reported to us from Abdullah ibn Numayr, from his father [Numayr], from Uthman ibn Hakim, from Amir ibn Sa'd ibn Abi Waqqas, from his father, that the Messenger of Allah (peace and blessings of Allah be upon him) said: "I declare sacred the area between the two lava fields of Medina, forbidding the cutting of its thorny trees or the killing of its game."[8]

وَمِنْ طَرِيقِ مُسْلِمٍ نَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نَا عَبْدُ اللَّهِ بْنُ نُمَيْرٍ نَا أَبِي نَا عُثْمَانُ بْنُ حَكِيمٍ نَا عَامِرُ بْنُ سَعْدِ بْنِ أَبِي وَقَّاصٍ عَنْ أَبِيهِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: " أَنَّهُ قَالَ: «إنِّي أُحَرِّمُ مَا بَيْنَ لَابَتَيْ الْمَدِينَةِ أَنْ يُقْطَعَ عِضَاهُهَا أَوْ يُقْتَلَ صَيْدُهَا» .

L14616–14618 And from the chain of Muslim: Qutaybah ibn Saʿīd narrated to us from ʿAbd al-ʿAzīz—he is the son of Muḥammad—ad-Darāwardī— From Amr ibn Yahya al-Mazini, from Abbad ibn Tamim, from his uncle Abdullah ibn Zayd ibn Asim: "The Messenger of Allah — may Allah bless him and grant him peace — said: 'Indeed, Ibrahim made Mecca inviolable and supplicated for its people, and I have made Medina inviolable just as Ibrahim made Mecca inviolable.'" Abu Muhammad said: Thus, the prohibition against killing the game of Medina is confirmed, and that this ruling is identical in every respect to the ruling of the inviolable sanctuary of Mecca. Therefore, it is confirmed that any game killed within the sacred precincts of Medina or Mecca is not lawfully slaughtered, and success is from Allah, the Exalted.[9]

وَمِنْ طَرِيقِ مُسْلِمٍ نَا قُتَيْبَةُ بْنُ سَعِيدٍ نَا عَبْدُ الْعَزِيزِ هُوَ ابْنُ مُحَمَّدٍ الدَّرَاوَرْدِيُّ - عَنْ عَمْرِو بْنِ يَحْيَى الْمَازِنِيِّ عَنْ عَبَّادِ بْنِ تَمِيمٍ عَنْ عَمِّهِ عَبْدِ اللَّهِ بْنِ زَيْدِ بْنِ عَاصِمٍ: " أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «إنَّ إبْرَاهِيمَ حَرَّمَ مَكَّةَ وَدَعَا لِأَهْلِهَا وَإِنِّي حَرَّمْتُ الْمَدِينَةَ كَمَا حَرَّمَ إبْرَاهِيمُ مَكَّةَ» . قَالَ أَبُو مُحَمَّدٍ: فَصَحَّ تَحْرِيمُ قَتْلِ صَيْدِ الْمَدِينَةِ وَأَنَّ ذَلِكَ حُكْمٌ حَرَمِ مَكَّةَ سَوَاءٌ سَوَاءٌ، فَصَحَّ أَنَّ كُلَّ صَيْدٍ قُتِلَ فِي حَرَمِ الْمَدِينَةِ، أَوْ مَكَّةَ فَهُوَ غَيْرُ ذَكِيٍّ وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14619 It has been narrated to us from 'Aṭā' and Qatādah: "Whoever shoots at game in the Hill while located in the Haram must offer expiation." And with Allah alone is success, the Most High.

رُوِّينَا عَنْ عَطَاءٍ، وَقَتَادَةَ: مَنْ رَمَى صَيْدًا فِي الْحِلِّ، وَالرَّامِي فِي الْحَرَمِ فَعَلَيْهِ الْجَزَاءُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## L14620 Issue: Those performing Qirān, ʿUmrah, or Tamattuʿ are equally required to make expiation for killing game.

## [مَسْأَلَةٌ الْقَارِنُ وَالْمُعْتَمِرُ وَالْمُتَمَتِّعُ سَوَاءٌ فِي جَزَاءِ قَتْلِ الصَّيْدِ]

L14621 886 – Issue:

٨٨٦ - مَسْأَلَةٌ:

L14622 The qārin pilgrim, the ʿUmrah pilgrim, and the tamattuʿ pilgrim are equally liable for the penalty mentioned—whether the violation occurred outside the state of consecration or within the sacred precincts. There is only one penalty for all such cases. This is the doctrine of Mālik and al-Shāfiʿī.

وَالْقَارِنُ، وَالْمُعْتَمِرُ، وَالْمُتَمَتِّعُ: سَوَاءٌ فِي الْجَزَاءِ فِيمَا ذَكَرْنَا سَوَاءٌ فِي حِلٍّ أَصَابُوهُ، أَوْ فِي حَرَمٍ - إنَّمَا فِي كُلِّ ذَلِكَ جَزَاءٌ وَاحِدٌ - وَهُوَ قَوْلُ مَالِكٍ، وَالشَّافِعِيِّ.

L14623 Abu Hanifah said: A Qārin (combining Hajj and Umrah) is liable for two compensations. If he kills game within the sacred precincts while in iḥrām,

وَقَالَ أَبُو حَنِيفَةَ: عَلَى الْقَارِنِ جَزَاءَانِ فَإِنْ قَتَلَهُ فِي الْحَرَمِ وَهُوَ مُحْرِمٌ فَجَزَاءٌ وَاحِدٌ - وَهَذَا تَنَاقُضٌ شَدِيدٌ، ثُمَّ قَالَ: إنْ قَتَلَ الْمُحِلُّ صَيْدًا فِي الْحَرَمِ فَإِنَّمَا فِيهِ الْهَدْيُ، أَوْ الصَّدَقَةُ

[8] **Hadith references (L14615):** Sahih Muslim 1363a; Mishkat al-Masabih 2729.
[9] **Hadith references (L14616):** Sahih Muslim 1360a; Bulugh al-Maram 740.

فَقَطْ، وَلَا يُجْزِئُهُ صِيَامٌ - وَهَذَا تَخْلِيطٌ آخَرُ، وَقَوْلٌ لَا يُعْرَفُ أَحَدٌ قَالَ بِهِ قَبْلَهُ، وَإِنَّمَا أَوْجَبَ اللَّهُ تَعَالَى عَلَى قَاتِلِ الصَّيْدِ وَهُوَ حَرَمٌ جَزَاءَ مِثْلِ مَا قَتَلَ، لَا جَزَاءَ مِثْلَيْ مَا قَتَلَ؛ فَخَالَفَ الْقُرْآنَ فِي كِلَا الْمَوْضِعَيْنِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

he must offer one compensation - and this is a severe contradiction. He further stated: If a muḥill [one not in the ritual state of iḥrām] kills game within the sacred precincts, only a sacrificial animal or charity is required, as fasting does not suffice for him - this represents another confusion, a position unknown to have been held by any predecessor. Indeed, Allah the Exalted obligated upon one who kills game within the sacred precincts compensation equivalent to what he killed, not equivalent to twice what he killed. Thus he contradicted the Quran in both rulings - and with Allah the Exalted lies all success.

وَقَدْ جَاءَتْ آثَارٌ عَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - أَنَّهُمْ سُئِلُوا عَنْ الصَّيْدِ يُصِيبُهُ الْمُحْرِمُ؟ فَمَا سَأَلُوا فِي شَيْءٍ مِنْ ذَلِكَ أَقَارِنٌ هُوَ، أَمْ مُفْرِدٌ، أَمْ مُعْتَمِرٌ؟ فَبَطَلَ مَا قَالُوهُ جُمْلَةً - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14624 There have come reports from the Companions—may Allah be pleased with them—that they were asked about game killed by a Muhrim. Yet they did not inquire in any of those instances whether the Muhrim was a *qārin*, *mufrid*, or *muʿtamir*. Thus, what they claimed is entirely invalidated—and success comes from Allah, the Exalted.

## [مَسْأَلَةٌ اشْتَرَكَ جَمَاعَةٌ فِي قَتْلِ صَيْدٍ عَامِدِينَ]

## A juristic issue regarding a group who jointly and intentionally killed game.

٨٨٧ - مَسْأَلَةٌ:

فَإِنْ اشْتَرَكَ جَمَاعَةٌ فِي قَتْلِ صَيْدٍ عَامِدِينَ لِذَلِكَ كُلُّهُمْ، فَلَيْسَ عَلَيْهِمْ كُلِّهِمْ إلَّا جَزَاءٌ وَاحِدٌ لِقَوْلِ اللَّهِ تَعَالَى: {فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] فَلَيْسَ فِي الصَّيْدِ إلَّا مِثْلُهُ لَا أَمْثَالُهُ.

887 – Legal Case:

If a group jointly kills game, all of them acting intentionally, only one compensation is required from them, as decreed by Allah, the Exalted: {The compensation is the equivalent of what he killed from the livestock} [Al-Ma'idah 95]. Thus, for the game, only its equivalent is due, not multiples thereof.[10]

رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ عَمَّارِ بْنِ أَبِي عَمَّارٍ أَنَّ مَوَالِيَ لِابْنِ الزُّبَيْرِ قَتَلُوا ضَبُعًا وَهُمْ مُحْرِمُونَ فَسَأَلُوا ابْنَ عُمَرَ؟ فَقَالَ: اذْبَحُوا كَبْشًا فَقَالُوا عَنْ كُلِّ إنْسَانٍ مِنَّا؟ فَقَالَ: بَلْ كَبْشٌ وَاحِدٌ جَمِيعَكُمْ - وَهَذَا فِي أَوَّلِ دَوْلَةِ ابْنِ الزُّبَيْرِ، وَلَا يُعْرَفُ لَهُ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - مُخَالِفٌ.

It was narrated to us through the chain of Ḥammād ibn Salamah from ʿAmmār ibn Abī ʿAmmār that some clients of Ibn al-Zubayr killed a hyena while in the state of ritual consecration (iḥrām). They consulted Ibn ʿUmar, who said: "Sacrifice a ram." They asked: "For each one of us?" He replied: "Rather, one ram for all of you." This occurred during the initial reign of Ibn al-Zubayr, and no opposing view from the Companions—may Allah be pleased with them—is known regarding his ruling.

L14625 L14626 L14627 L14628–14629

[10] **Qur'an references (L14627):** Qur'an 5:95 (Al-Ma'idah).

L14630 This is the view of ʿAṭāʾ, al-Zuhrī, Mujāhid, al-Nakhaʿī, Muḥammad ibn ʿAlī, al-Ḥārith al-ʿUklī, Ḥammād ibn Abī Sulaymān, al-Awzāʿī, al-Shāfiʿī, and Abū Sulaymān. It is also narrated from al-Ḥasan al-Baṣrī, Saʿīd ibn Jubayr, and al-Shaʿbī that expiation is required for each individual.

وَهُوَ قَوْلُ عَطَاءٍ، وَالزُّهْرِيِّ، وَمُجَاهِدٍ، وَالنَّخَعِيِّ، وَمُحَمَّدِ بْنِ عَلِيٍّ، وَالْحَارِثِ الْعُكْلِيِّ، وَحَمَّادِ بْنِ أَبِي سُلَيْمَانَ، وَالْأَوْزَاعِيِّ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَرُوِيَ عَنْ الْحَسَنِ الْبَصْرِيِّ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَالشَّعْبِيِّ: عَلَى كُلِّ وَاحِدٍ مِنْهُمْ جَزَاءٌ.

L14631 This has also been reported from al-Nakhaʿī and al-Ḥārith al-ʿUklī—the view of Mālik.

وَرُوِيَ هَذَا أَيْضًا عَنْ النَّخَعِيِّ، وَالْحَارِثِ الْعُكْلِيِّ - وَهُوَ قَوْلُ مَالِكٍ.

L14632 Abu Hanifah said: As for those in iḥrām, it makes no difference whether they slay game within the Sacred Precinct or outside it—each incurs full expiation. As for two or more individuals not in iḥrām who slay game within the Sacred Precinct, a single expiation is incumbent upon all of them. This distinction is remarkably novel, undocumented from any predecessor. They argued this by asserting: "The iḥrām of each pilgrim differs from another's, but is the Haram not a single entity?" It was countered: "Rather, each pilgrim's location within the Haram differs from another's. Every location within the Haram constitutes a distinct sacred entity separate from others, while iḥrām remains a unified legal ruling binding upon all pilgrims."

وَقَالَ أَبُو حَنِيفَةَ: أَمَّا الْمُحْرِمُونَ فَسَوَاءٌ أَصَابُوهُ فِي الْحَرَمِ، أَوْ الْحِلِّ عَلَى كُلِّ وَاحِدٍ مِنْهُمْ جَزَاءٌ كَامِلٌ، وَأَمَّا الْحَلَالَانِ فَصَاعِدًا يُصِيبُونَ الصَّيْدَ فِي الْحَرَمِ فَعَلَيْهِمْ كُلِّهِمْ جَزَاءٌ وَاحِدٌ، فَكَانَ هَذَا الْفَرْقُ طَرِيفًا جِدًّا لَا يُحْفَظُ عَنْ أَحَدٍ قَبْلَهُ -: وَاحْتَجُّوا فِي ذَلِكَ بِأَنَّ إحْرَامَ كُلِّ وَاحِدٍ مِنْ الْمُحْرِمِينَ غَيْرُ إحْرَامِ صَاحِبِهِ، وَالْحَرَمُ شَيْءٌ وَاحِدٌ؟ فَقِيلَ لَهُمْ: بَلْ مَوْضِعُ كُلِّ وَاحِدٍ مِنْهُمْ مِنْ الْحَرَمِ غَيْرُ مَوْضِعِ الْآخَرِ، وَكُلُّ مَكَانٍ مِنْ الْحَرَمِ فَهُوَ حَرَمٌ آخَرُ، غَيْرُ الْمَكَانِ الثَّانِي، وَالْإِحْرَامُ حُكْمٌ وَاحِدٌ لَازِمٌ لِجَمِيعِ الْمُحْرِمِينَ.

L14633 Some of those who held that each individual is obligated to provide an expiation argued by stating: It is an expiation. Just as each accidental killer must provide an expiation if they collectively caused the death of a believer, and each intentional oath-breaker must provide an expiation if they jointly committed a single violation, this case is analogous. Others rebutted them, arguing that since a single blood compensation is collectively incumbent upon all of them, likewise a single expiation and a single feeding obligation are collectively incumbent upon them.

وَاحْتَجَّ بَعْضُ مَنْ رَأَى عَلَى كُلِّ وَاحِدٍ جَزَاءٌ بِأَنْ قَالَ: هِيَ كَفَّارَةٌ، فَكَمَا عَلَى كُلِّ قَاتِلِ خَطَأٍ إذَا اشْتَرَكُوا فِي دَمِ الْمُؤْمِنِ كَفَّارَةٌ، وَعَلَى كُلِّ حَانِثٍ إذَا اشْتَرَكُوا فِي فِعْلٍ وَاحِدٍ كَفَّارَةٌ فَهَذَا مِثْلُهُ - فَعَارَضَهُمْ الْآخَرُونَ بِأَنَّهُ لَمَّا كَانَ عَلَيْهِمْ كُلِّهِمْ دِيَةٌ وَاحِدَةٌ فَكَذَلِكَ عَلَيْهِمْ جَزَاءٌ وَاحِدٌ وَإِطْعَامٌ وَاحِدٌ.

L14634 Abu Muhammad said: This is analogy, and all analogy is invalid. The correct view is that people's wealth is protected; thus, it is impermissible to impose financial penalties upon them without explicit textual evidence or consensus. Similarly, neither compensation among them nor feeding is permissible without explicit text or consensus.

قَالَ أَبُو مُحَمَّد: وَهَذَا قِيَاسٌ وَالْقِيَاسُ كُلُّهُ بَاطِلٌ، وَالصَّحِيحُ أَنَّ أَمْوَالَ النَّاسِ مَحْظُورَةٌ فَلَا يَجُوزُ إلْزَامُهُمْ غَرَامَةً بِغَيْرِ نَصٍّ وَلَا إجْمَاعٍ، فَالْجَزَاءُ بَيْنَهُمْ وَالْإِطْعَامُ كَذَلِكَ.

L14635 As for fasting, if they choose it, then each one of them must fast in full,

because fasting cannot be shared—and that is impossible—unlike financial matters.

وَأَمَّا الصِّيَامُ فَإِنْ اخْتَارُوهُ: فَعَلَى كُلِّ وَاحِدٍ مِنْهُمْ الصِّيَامُ كُلُّهُ لِأَنَّ الصَّوْمَ لَا يُشْتَرَكُ فِيهِ وَلَا يُمْكِنُ ذَلِكَ، بِخِلَافِ الْأَمْوَالِ.

L14636–14638 If they differ: whoever opts for compensation must provide a full equivalent - not a portion of the equivalent - and whoever... If one chose to provide food (as expiation), it did not suffice for fewer than three needy individuals, because this would constitute opposition to the textual ruling. And with Allah alone is success, the Exalted.

فَإِنْ اخْتَلَفُوا: فَمَنْ اخْتَارَ مِنْهُمْ الْجَزَاءَ لَمْ يُجْزِهِ إلَّا بِمِثْلٍ كَامِلٍ لَا بِبَعْضِ مِثْلٍ - وَمَنْ اخْتَارَ الْإِطْعَامَ لَمْ يُجْزِهِ أَقَلُّ مِنْ ثَلَاثَةِ مَسَاكِينَ، لِأَنَّهُ كَانَ يَكُونُ خِلَافَ النَّصِّ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ الْمُحْرِم إذَا قَتَلَ الصَّيْدَ مَرَّةً بَعْدَ مَرَّةٍ]

## Issue: If a مُحْرِم (person in the state of *ihram*) kills game animals time after time.

٨٨٨ - مَسْأَلَةٌ:

L14640 888. Issue:

وَمَنْ قَتَلَ الصَّيْدَ مَرَّةً بَعْدَ مَرَّةٍ فَعَلَيْهِ لِكُلِّ مَرَّةٍ جَزَاءٌ وَلَيْسَ قَوْلُ اللَّهِ تَعَالَى: {وَمَنْ عَادَ فَيَنْتَقِمُ اللَّهُ مِنْهُ} [المائدة: ٩٥] بِمُسْقِطٍ لِلْجَزَاءِ عَنْهُ لِأَنَّ اللَّهَ تَعَالَى لَمْ يَقُلْ: لَا جَزَاءَ عَلَيْهِ، بَلْ قَدْ أَوْجَبَ الْجَزَاءَ عَلَى الْقَاتِلِ لِلصَّيْدِ عَمْدًا، فَهُوَ عَلَى كُلِّ قَاتِلٍ مَعَ النِّقْمَةِ عَلَى الْعَائِدِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14641 Whoever kills game repeatedly, upon him is an expiation for each instance. The statement of Allah, the Exalted: {And whoever returns [to hunting], then Allah will inflict punishment upon him} [Al-Mā'idah: 95] does not nullify the expiation incumbent upon him, for Allah, the Exalted, did not say: "There is no expiation upon him." Rather, He has mandated the expiation for one who intentionally kills game. Thus, it applies to everyone who kills game, alongside punishment upon the repeat offender – and with Allah, the Exalted, lies all divine assistance.[11]

## [مَسْأَلَةٌ لِلْمُحْرِمِ ذَبْحُ مَا عَدَا الصَّيْدَ]

## A question regarding whether a person in ritual consecration (iḥrām) may slaughter anything other than game.

٨٨٩ - مَسْأَلَةٌ:

L14643 889. Question:

وَحَلَالٌ لِلْمُحْرِمِ ذَبْحُ مَا عَدَا الصَّيْدَ مِمَّا يَأْكُلُهُ النَّاسُ مِنْ الدَّجَاجِ، وَالْإِوَزِّ الْمُتَمَلَّكِ، وَالْبُرَكِ الْمُتَمَلَّكِ، وَالْحَمَامِ الْمُتَمَلَّكِ، وَالْإِبِلِ، وَالْبَقَرِ، وَالْغَنَمِ، وَالْخَيْلِ، وَكُلِّ مَا لَيْسَ صَيْدًا - الْحِلُّ وَالْحَرَمُ سَوَاءٌ - وَهَذَا لَا خِلَافَ فِيهِ مِنْ أَحَدٍ مَعَ أَنَّ النَّصَّ لَمْ يُحَرِّمْهُ،

L14644 It is permissible for one in the state of iḥrām to slaughter any non-game animals that people consume, including chickens, owned geese, owned ducks, owned pigeons, camels, cows, sheep, horses, and all non-game creatures - the ruling applies equally in both sacred and non-sacred areas. There is no disagreement among scholars about this, despite the scriptural texts not ex-

[11] **Qur'an references (L14641):** Qur'an 5:95 (Al-Ma'idah).

plicitly prohibiting it. Similarly, slaughtering all the aforementioned animals deemed permissible within the sacred precincts is lawful without any dissent, even though they did not prohibit that?

وَكَذَلِكَ يَذْبَحُ كُلَّ مَا ذَكَرْنَا الْحَلَالُ فِي الْحَرَمِ بِلَا خِلَافٍ أَيْضًا مَعَ أَنَّ النَّصَّ لَمْ يَمْنَعْ مِنْ ذَلِكَ؟

## Issue: The ruling concerning a *muḥrim* who kills something that is not considered game.

## [مَسْأَلَةٌ الْمُحْرِمِ إِذَا قَتَلَ مَا لَيْسَ بِصَيْدٍ]

890 - Issue:

٨٩٠ - مَسْأَلَةٌ:

It is permissible for the one in ritual consecration (muḥrim) within non-sacred and sacred territories, and for the unconsecrated person (muḥill) within sacred and non-sacred territories, to kill all creatures not classified as game—among them pigs, lions, predatory beasts, lice, fleas, ticks on his camel or another's camel, and mites.

وَجَائِزٌ لِلْمُحْرِمِ فِي الْحِلِّ وَالْحَرَمِ، وَلِلْمُحِلِّ فِي الْحَرَمِ وَالْحِلِّ قَتْلُ كُلِّ مَا لَيْسَ بِصَيْدٍ مِنْ الْخَنَازِيرِ، وَالْأُسْدِ وَالسِّبَاعِ، وَالْقَمْلِ، وَالْبَرَاغِيثِ، وَقِرْدَانِ بَعِيرِهِ أَوْ غَيْرِ بَعِيرِهِ، وَالْحَلَمِ كَذَلِكَ.

It is recommended to kill snakes, mice, kite birds, crows, scorpions, and vicious dogs—the young and adults of all these are equal—and likewise geckos and all creeping pests. There is no compensation for anything we have mentioned, nor is there compensation for lice.

وَنَسْتَحِبُّ لَهُمْ قَتْلَ الْحَيَّاتِ، وَالْفِئْرَانِ، وَالْحِدَأِ وَالْغِرْبَانِ، وَالْعَقَارِبِ، وَالْكِلَابِ الْعَقُورَةِ، صِغَارُ كُلِّ ذَلِكَ وَكِبَارُهُ سَوَاءٌ، وَكَذَلِكَ الْوَزَغُ وَسَائِرُ الْهَوَامِّ - وَلَا جَزَاءَ فِي شَيْءٍ مِنْ كُلِّ مَا ذَكَرْنَا وَلَا فِي الْقَمْلِ.

If one kills what has been prohibited to kill, such as a hoopoe, a shrike, a frog, or ants, they have disobeyed, and there is no expiation required for that.

فَإِنْ قَتَلَ مَا نُهِيَ عَنْ قَتْلِهِ مِنْ هُدْهُدٍ، أَوْ صُرَدٍ، أَوْ ضُفْدَعٍ، أَوْ نَمْلٍ: فَقَدْ عَصَى وَلَا جَزَاءَ فِي ذَلِكَ.

The proof of what we have mentioned is that Allah the Exalted permitted the killing of what we have mentioned. He forbade the pilgrim only from killing game, prohibited only the game of the sanctuary, and imposed expiation only for game.

بُرْهَانُ مَا ذَكَرْنَا -: أَنَّ اللَّهَ تَعَالَى أَبَاحَ قَتْلَ مَا ذَكَرْنَا، ثُمَّ لَمْ يَنْهَ الْمُحْرِمَ إلَّا عَنْ قَتْلِ الصَّيْدِ فَقَطْ، وَلَا نَهَى إلَّا عَنْ صَيْدِ الْحَرَمِ فَقَطْ، وَلَا جَعَلَ الْجَزَاءَ إلَّا فِي الصَّيْدِ فَقَطْ.

Whoever prohibits what the divine text has not forbidden, or prescribes a punishment for matters where the divine text has not ordained punishment, has legislated in the religion what Allah has not permitted.

فَمَنْ حَرَّمَ مَا لَمْ يَأْتِ النَّصُّ بِتَحْرِيمِهِ، أَوْ جَعَلَ جَزَاءً فِيمَا لَمْ يَأْتِ النَّصُّ بِالْجَزَاءِ فِيهِ: فَقَدْ شَرَّعَ فِي الدِّينِ مَا لَمْ يَأْذَنْ بِهِ اللَّهُ.

Abu Hanifah said: A person in the state of ritual consecration (iḥrām) must not kill any animal except the following: the vicious dog, the snake, the

وَقَالَ أَبُو حَنِيفَةَ: لَا يَقْتُلُ الْمُحْرِمُ شَيْئًا مِنْ الْحَيَوَانِ إلَّا الْكَلْبَ الْعَقُورَ، وَالْحَيَّةَ، وَالْعَقْرَبَ، وَالْحِدَأَةَ، وَالْغُرَابَ، وَالذِّئْبَ فَقَطْ، وَلَا جَزَاءَ عَلَيْهِ فِيهَا.

scorpion, the kite, the crow, and the wolf only. No atonement is required for killing them.

فَأَمَّا الْأَسَدُ، وَالنَّمِرُ، وَالسَّبُعُ، وَالدُّبُّ، وَالْخِنْزِيرُ، وَسَائِرُ سِبَاعِ ذَوَاتِ الْأَرْبَعِ، وَجَمِيعُ سِبَاعِ الطَّيْرِ فَفِيهَا الْجَزَاءُ إِلَّا أَنْ تَكُونَ ابْتَدَأَتْهُ فَلَا جَزَاءَ عَلَيْهِ فِيهَا، وَجَزَاؤُهَا عِنْدَهُ الْأَقَلُّ مِنْ قِيمَةِ كُلِّ ذَلِكَ أَوْ شَاةٌ، وَلَا يَتَجَاوَزُ بِجَزَاءِ شَيْءٍ مِنْ ذَلِكَ شَاةً وَاحِدَةً، وَيَقْتُلُ الْقِرْدَانَ عَنْ بَعِيرِهِ وَلَا شَيْءَ عَلَيْهِ، وَلَا يَقْتُلُ الْقُمَّلَ، فَإِنْ قَتَلَهَا أَطْعَمَ شَيْئًا، وَلَهُ قَتْلُ الْبُرْغُوثِ، وَالذَّرِّ، وَالْبَعُوضِ، وَلَا جَزَاءَ فِي ذَلِكَ.

L14653–14654 As for the lion, tiger, wild beast, bear, pig, all other four-legged predators, and all predatory birds, compensation is due unless the animal initiated the attack, in which case no compensation is required. The compensation, according to his view, is the lesser of the value [of the attacked animal] or a sheep, and the compensation for any of them must not exceed a single sheep. One may kill two monkeys to protect their camel without liability. Lice should not be killed; if one kills them, he must give something in charity. It is permissible to kill fleas, gnats, and mosquitoes, and no compensation is required for that.

وَقَالَ زُفَرُ: سَوَاءٌ ابْتَدَأَتْ الْمُحْرِمَ السِّبَاعُ أَوْ لَمْ تَبْتَدِئْهُ عَلَيْهِ الْجَزَاءُ فِيمَا قَتَلَ مِنْهَا، وَقَالَ الطَّحَاوِيُّ: لَا يَقْتُلُ الْمُحْرِمُ الْحَيَّةَ، وَلَا الْوَزَغَ، وَلَا شَيْئًا غَيْرَ الْحِدَأَةِ، وَالْغُرَابِ، وَالْكَلْبِ الْعَقُورِ، وَالْفَأْرَةِ وَالْعَقْرَبِ.

L14655 Zufar said: Whether predatory animals initiate an attack against the pilgrim or not, upon him is the expiation for whatever he kills among them. Al-Tahawi said: The pilgrim must not kill snakes, geckos, or any creature except the kite, the crow, the vicious dog, the rat, and the scorpion.

وَقَالَ مَالِكٌ: يَقْتُلُ الْمُحْرِمُ الْفَأْرَةَ، وَالْعَقْرَبَ، وَالْحِدَأَةَ، وَالْغُرَابَ، وَالْكَلْبَ الْعَقُورَ، وَالْحَيَّةَ، وَجَمِيعَ سِبَاعِ ذَوَاتِ الْأَرْبَعِ، إِلَّا أَنَّهُ كَرِهَ قَتْلَ الْغُرَابِ، وَالْحِدَأَةِ، إِلَّا أَنْ يُؤْذِيَاهُ.

L14656 Mālik said: A pilgrim in *ihram* may kill mice, scorpions, kites, crows, vicious dogs, snakes, and all four-legged predatory animals. However, he disliked (makruh) the killing of crows and kites unless they cause harm to him.

وَلَا يَجُوزُ لَهُ قَتْلُ الثَّعْلَبِ، وَلَا الْهِرِّ الْوَحْشِيِّ، وَفِيهِمَا الْجَزَاءُ عَلَى مَنْ قَتَلَهُمَا، إِلَّا إِنْ ابْتَدَآهُ بِالْأَذَى.

L14657 It is not permissible to kill the fox or the wildcat, and a retribution is imposed on whoever kills them unless they initiate harm.

وَلَا يَجُوزُ لَهُ قَتْلُ صِغَارِ السِّبَاعِ أَصْلًا وَلَا قَتْلُ الْوَزَغِ، وَلَا قَتْلُ الْبَعُوضِ، وَلَا قِرْدَانِ بَعِيرِهِ خَاصَّةً، فَإِنْ قَتَلَهُ أَطْعَمَ شَيْئًا، وَلَا يَقْتُلُ شَيْئًا مِنْ سِبَاعِ الطَّيْرِ، فَإِنْ فَعَلَ فَفِيهَا الْجَزَاءُ، وَلَهُ قَتْلُ الْقُرَادِ إِذَا وَجَدَهُ عَلَى نَفْسِهِ.

L14658 It is not permissible for him to kill young predators at all, nor to kill the gecko, nor the mosquito, nor two lice specifically found on his camel. If he kills any of these, he is to give a measure of food as expiation. He must not kill any predatory birds; if he does so, he incurs a prescribed penalty. However, he may kill ticks when he finds them on himself.

L14659 It is not permissible for him to kill the young of crows or the young of kites. There is a differing opinion narrated from him regarding the young

of mice—should he kill them or not? He said: "He should not kill lice, but if he kills them, he must give food [as charity]."

L14660 The opinion of Al-Shāfiʿī corresponds to our view except concerning the fox, for he deemed compensation obligatory for it.

L14661 It has been reported to us from Mujāhid: "Kill the kite, throw stones at the crow, but do not kill it."

L14662 And via the chain of Wakiʿ, from Sufyān, from Ḥammād ibn Abī Sulaymān, from Ibrāhīm, who said: "The muḥrim (one in the state of iḥrām) must not kill mice."

L14663–14665 Abu Muhammad said: All that we have mentioned constitutes invalid and contradictory opinions, and even if predatory beasts were forbidden for [believers]... The ruling concerning the one in the state of ritual consecration (iḥrām) and within the sacred precincts (ḥaram): Abū Ḥanīfah's distinction between the expiation for hunted game—wherein he deemed it necessary to pay its value by purchasing sacrificial offerings equivalent to it, even if three or four—and the expiation for predatory animals, in which he considered only the lesser of their value or a single sheep, not exceeding one, is an astonishing distinction without parallel? It is a heretical innovation from which we disassociate ourselves before Allah, the Exalted and Majestic—a claim without proof, neither from the Qur'ān nor the Sunnah, nor a weak narration, nor the statement of any recognized predecessor.

L14666 Nor analogical reasoning. Nor any opinion possessing a share of correctness.

L14667 Similarly, Malik differentiates between the young of crows and kites; between the young of scorpions and snakes; regarding predatory birds; and regarding four-legged predators.

L14668 If they say: "We analogized the four-legged predators to the vicious dog," we respond: "Why did you not analogize the bird predators to the kite? Or why did you not analogize the four-legged predators to the hyena or the fox

وَلَا يَجُوزُ لَهُ قَتْلُ صِغَارِ الْغِرْبَانِ، وَلَا صِغَارِ الْحِدَأَةِ، وَاخْتُلِفَ عَنْهُ فِي صِغَارِ الْفِئْرَانِ أَيَقْتُلُهَا أَمْ لَا؟ قَالَ: وَلَا يَقْتُلُ الْقُمَّلَ، فَإِنْ قَتَلَهَا أَطْعَمَ شَيْئًا.

وَقَوْلُ الشَّافِعِيِّ كَقَوْلِنَا إِلَّا فِي الثَّعْلَبِ فَإِنَّهُ رَأَى فِيهِ الْجَزَاءَ.

وَرُوِّينَا عَنْ مُجَاهِدٍ: قَتِّلْ الْحِدَأَةَ، وَارْمِ الْغُرَابَ، وَلَا تَقْتُلْهُ.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ إِبْرَاهِيمَ قَالَ: لَا يَقْتُلُ الْمُحْرِمُ الْفَأْرَةَ.

قَالَ أَبُو مُحَمَّدٍ: كُلُّ مَا ذَكَرْنَا آرَاءٌ فَاسِدَةٌ مُتَنَاقِضَةٌ، وَلَئِنْ كَانَتْ السِّبَاعُ مُحَرَّمَةً عَلَى الْمُحْرِمِ وَفِي الْحَرَمِ فَإِنَّ تَفْرِيقَ أَبِي حَنِيفَةَ بَيْنَ جَزَاءِ الصَّيْدِ، فَرَأَى فِيهِ قِيمَتَهُ يَبْتَاعُ مَا بَلَغَتْ مِنْ الْإِهْدَاءِ وَلَوْ ثَلَاثَةً، أَوْ أَرْبَعَةً وَبَيْنَ جَزَاءِ السِّبَاعِ فَلَمْ يَرَ فِيهَا إِلَّا الْأَقَلَّ مِنْ قِيمَتِهَا أَوْ شَاةً فَقَطْ لَا يَزِيدُ عَلَى وَاحِدَةٍ: عَجَبٌ لَا نَظِيرَ لَهُ؟ ، وَدِينٌ جَدِيدٌ نَبْرَأُ إلَى اللَّهِ تَعَالَى عَزَّ وَجَلَّ مِنْهُ، وَقَوْلٌ بِلَا بُرْهَانٍ لَا مِنْ قُرْآنٍ، وَلَا سُنَّةٍ. وَلَا رِوَايَةٍ سَقِيمَةٍ. وَلَا قَوْلِ أَحَدٍ يُعْرَفُ قَبْلَهُ.

وَلَا قِيَاسٍ. وَلَا رَأْيٍ لَهُ نَصِيبٌ مِنْ السَّدَادِ.

وَكَذَلِكَ تَفْرِيقُ مَالِكٍ بَيْنَ صِغَارِ الْغِرْبَانِ، وَالْحُدَيَّا، وَبَيْنَ صِغَارِ الْعَقَارِبِ، وَالْحَيَّاتِ، وَبَيْنَ سِبَاعِ الطَّيْرِ، وَبَيْنَ سِبَاعِ ذَوَاتِ الْأَرْبَعِ.

in your own view?" They argued regarding monkeys that they are derived from the camel.

فَإِنْ قَالُوا: قِسْنَا سِبَاعَ ذَوَاتِ الْأَرْبَعِ عَلَى الْكَلْبِ الْعَقُورِ؟ قُلْنَا: فَهَلَّا قِسْتُمْ سِبَاعَ الطَّيْرِ عَلَى الْحِدَأَةِ؟ أَوْ هَلَّا قِسْتُمْ سِبَاعَ ذَوَاتِ الْأَرْبَعِ عَلَى الضَّبُعِ وَعَلَى الثَّعْلَبِ عِنْدَكُمْ؟ وَاحْتَجُّوا فِي الْقِرْدَانِ بِأَنَّهَا مِنْ الْبَعِيرِ؟ .

L14669–14671 Ali said: This statement is grossly corrupt due to two reasons. First: It is invalid, for monkeys have never been born from camels. Second: No ruling in Allah's religion establishes ihram restrictions for camels. Even if a pilgrim caused his camel to mate with a she-camel or caused a camel to mate with his she-camel, he would incur no penalty. How then could he be punished for monkeys eating it? This is truly astonishing. They argued regarding a louse that it originates from humans. We responded, "What follows from that?" They do not dispute that yellow bile comes from humans, yet if a pilgrim kills it, they maintain there is no penalty. They said: "It is removing harm from oneself." We replied, "Granted, but what is the consequence?" Allah never commanded anything for removing harm besides shaving the head. Yet you yourselves consider squeezing boils, scratching skin, washing eye discharge, or killing fleas as harm removal—imposing no penalty. If you arbitrarily equate harm removal wherever you wish to harm removal through shaving the head, then apply the same rulings. Otherwise, you have confused principles, contradicted yourselves, and invalidated your analogy.

قَالَ عَلِيٌّ: هَذَا كَلَامٌ فَاحِشُ الْفَسَادِ لِوَجْهَيْنِ، أَحَدُهُمَا: أَنَّهُ بَاطِلٌ وَمَا كَانَتْ الْقِرْدَانُ قَطُّ مُتَوَلِّدَةً مِنْ الْإِبِلِ، وَالثَّانِي: أَنَّهُ مَا عُلِمَ فِي دِينِ اللَّهِ تَعَالَى إحْرَامٌ عَلَى بَعِيرٍ وَلَوْ أَنَّ مُحْرِمًا أَنْزَى بَعِيرَهُ عَلَى نَاقَةٍ أَوْ أَنْزَى بَعِيرًا عَلَى نَاقَتِهِ مَا كَانَ عَلَيْهِ فِي ذَلِكَ شَيْءٌ، فَكَيْفَ أَنْ يُعَذَّبَ بِأَكْلِ الْقِرْدَانِ لَهُ؟ إنَّ هَذَا لَعَجَبٌ وَاحْتَجُّوا فِي الْقَمْلَةِ بِأَنَّهَا مِنْ الْإِنْسَانِ؟ فَقُلْنَا: فَكَانَ مَاذَا؟ وَهُمْ لَا يَخْتَلِفُونَ أَنَّ الصُّفَارَ مِنْ الْإِنْسَانِ وَلَوْ قَتَلَهَا الْمُحْرِمُ لَمْ يَكُنْ فِيهَا عِنْدَهُمْ شَيْءٌ، وَقَالُوا: هُوَ إمَاطَةُ الْأَذَى عَنْ نَفْسِهِ؟ فَقُلْنَا: نَعَمْ فَكَانَ مَاذَا؟ وَمَا أَمَرَ اللَّهُ تَعَالَى قَطُّ فِي إمَاطَةِ الْأَذَى بِغَيْرِ حَلْقِ الرَّأْسِ بِشَيْءٍ وَأَنْتُمْ لَا تَخْتَلِفُونَ فِي أَنَّ تَعْصِيرَ الدُّمَّلِ وَحَكَّ الْجِلْدِ وَغَسْلَ الْقَذَى عَنْ الْعَيْنِ وَقَتْلَ الْبَرَاغِيثِ إمَاطَةُ أَذًى وَلَا شَيْءَ عَلَيْهِ فِي ذَلِكَ عِنْدَكُمْ، وَإِذْ قِسْتُمْ إمَاطَةَ الْأَذَى حَيْثُ اشْتَهَيْتُمْ عَلَى إمَاطَةِ الْأَذَى بِحَلْقِ الرَّأْسِ فَاجْعَلُوا فِيهَا مَا فِي إمَاطَةِ الْأَذَى بِحَلْقِ الرَّأْسِ وَإِلَّا فَقَدْ خَلَطْتُمْ وَتَنَاقَضْتُمْ وَأَبْطَلْتُمْ قِيَاسَكُمْ؟ قَالَ عَلِيٌّ: وَهَذَا الْبَابُ كُلُّهُ مَرْجِعُهُ إلَى شَيْئَيْنِ، أَحَدُهُمَا: قَوْلُ اللَّهِ تَعَالَى: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] الْآيَةَ - وَإِلَى مَا رُوِّينَاهُ مِنْ طَرِيقِ نَافِعٍ عَنْ ابْنِ عُمَرَ قِيلَ: «يَا رَسُولَ اللَّهِ مَا نَقْتُلُ مِنْ الدَّوَابِّ إذَا أَحْرَمْنَا؟ قَالَ: خَمْسٌ لَا جُنَاحَ عَلَى مَنْ قَتَلَهُنَّ: الْحِدَأَةُ، وَالْغُرَابُ، وَالْعَقْرَبُ، وَالْفَأْرَةُ، وَالْكَلْبُ الْعَقُورُ» وَمِنْ طَرِيقِ سَالِمِ بْنِ عَبْدِ اللَّهِ

Ali said: This entire matter rests on two foundations. First: Allah's statement: *"Do not kill game while you are in ihram. Whoever kills it intentionally, the recompense is livestock equivalent to what he killed"* (Quran 5:95). Second: What we narrated through Nāfiʿ from Ibn ʿUmar, who asked: "O Messenger of Allah, what creatures may we kill while in ihram?" He replied: *"Five: No blame attaches to one who kills them—the kite, the crow, the scorpion, the mouse, and the rabid dog."* Via the chain of Salim ibn Abdullah ibn Umar from his father from the Prophet, peace and blessings of Allah be upon him: "There is no blame upon one who kills five creatures within the sacred precincts and during the state of consecration: the mouse, the crow, the kite, the scorpion, and the vicious dog."[12]

[12] **Qur'an references (L14669):** Qur'an 5:95 (Al-Ma'idah).

بْنِ عُمَرَ عَنْ أَبِيهِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «خَمْسٌ لَا جُنَاحَ عَلَى مَنْ قَتَلَهُنَّ فِي الْحَرَمِ وَالْإِحْرَامِ: الْفَأْرَةُ، وَالْغُرَابُ، وَالْحِدَأَةُ وَالْعَقْرَبُ، وَالْكَلْبُ الْعَقُورُ» .

L14672 Ali said: Some people said, "Allah the Exalted commanded His Messenger, peace be upon him, to clarify. He was asked: 'What may a pilgrim in sacred state kill?' He answered them, peace be upon him, with these five, and informed that there is no sin in killing them within the sacred precincts and during the state of pilgrimage. Had there been a sixth, he, peace be upon him, would have clarified it. It is inconceivable for him to neglect any matter of the religion about which he was questioned." Thus, it is confirmed that killing any creature other than these five is not permissible.

قَالَ عَلِيٌّ: فَقَالَ قَائِلُونَ: قَدْ أَمَرَ اللَّهُ تَعَالَى رَسُولَهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْبَيَانِ وَسُئِلَ: مَاذَا يَقْتُلُ الْمُحْرِمُ؟ فَأَجَابَهُمْ - عَلَيْهِ السَّلَامُ - بِهَذِهِ الْخَمْسِ، وَأَخْبَرَ أَنَّهُ لَا جُنَاحَ فِي قَتْلِهِنَّ فِي الْحَرَمِ وَالْإِحْرَامِ، فَلَوْ كَانَ هُنَالِكَ سَادِسٌ لَبَيَّنَهُ - عَلَيْهِ السَّلَامُ - وَحَاشَا لَهُ مِنْ أَنْ يُغْفِلَ شَيْئًا مِنْ الدِّينِ سُئِلَ عَنْهُ، فَصَحَّ أَنَّ مَا عَدَا هَذِهِ الْخَمْسَةَ لَا يَجُوزُ قَتْلُهُنَّ.

L14673 Abu Muhammad said: This argument does not enable the followers of Abu Hanifa to cite it as evidence, for all of them have added to these five what was not mentioned among them. Abu Hanifa added to them: wolves, snakes, beetles, geckos, ants, ticks, and mosquitoes.

قَالَ أَبُو مُحَمَّد: وَهَذَا الِاحْتِجَاجُ لَا يُمْكِنُ الْمُقَلِّدِينَ لِأَبِي حَنِيفَةَ أَنْ يَحْتَجُّوا بِهِ لِأَنَّهُمْ كُلَّهُمْ قَدْ زَادُوا إلَى هَذِهِ الْخَمْسِ مَا لَمْ يُذْكَرْ فِيهِنَّ، فَأَضَافَ أَبُو حَنِيفَةَ إلَيْهِنَّ: الذِّئْبَ، وَالْحَيَّاتِ، وَالْجِعْلَانَ وَالْوَزَغَ، وَالنَّمْلَ، وَالْقُرَادَ وَالْبَعُوضَ.

L14674 If they say: We added the wolf only due to the report we narrated through the chain of Waki' from Sufyan from Ibn Harmalah from Sa'id ibn al-Musayyab from the Prophet—peace and blessings be upon him—who said: "A pilgrim in the state of ihram may kill the wolf," and are the mursal and musnad reports considered equal? We say: Then say according to what we narrated through the chain of Abu Dawud from Ahmad ibn Hanbal from Hushaym, who said: Yazid ibn Abi Ziyad narrated to us from 'Abd al-Rahman ibn Abi Nu'm al-Bajali from Abu Sa'id al-Khudri: "The Messenger of Allah—peace and blessings be upon him—was asked about what a pilgrim in the state of ihram may kill. He replied: The snake, the scorpion, the harmful vermin; he may throw stones at the crow to drive it away but not kill it; the vicious dog, the kite, and the attacking predator. So kill every attacking predator."[13]

فَإِنْ قَالُوا: إنَّمَا زِدْنَا الذِّئْبَ لِلْخَبَرِ الَّذِي رُوِّينَاهُ مِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ ابْنِ حَرْمَلَةَ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «يَقْتُلُ الْمُحْرِمُ الذِّئْبَ» وَالْمُرْسَلُ وَالْمُسْنَدُ سَوَاءٌ؟ قُلْنَا: فَقُولُوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ أَبِي دَاوُد عَنْ أَحْمَدَ بْنِ حَنْبَلٍ عَنْ هُشَيْمٍ قَالَ: أَنَا يَزِيدُ بْنُ أَبِي زِيَادٍ نَا عَبْدُ الرَّحْمَنِ بْنُ أَبِي نُعْمٍ الْبَجَلِيُّ عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ: «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - سُئِلَ عَمَّا يَقْتُلُ الْمُحْرِمُ؟ فَقَالَ: الْحَيَّةُ، وَالْعَقْرَبُ، وَالْفُوَيْسِقَةُ، وَيَرْمِي الْغُرَابَ وَلَا يَقْتُلُهُ، وَالْكَلْبُ الْعَقُورُ، وَالْحِدَأَةُ، وَالسَّبُعُ الْعَادِي» فَاقْتُلُوا كُلَّ سَبُعٍ عَادٍ.

L14675 And he did not say—peace be upon him—"the predatory animal that attacks him," but rather stated it in an unrestricted manner.

وَلَمْ يَقُلْ - عَلَيْهِ السَّلَامُ -: السَّبُعُ الْعَادِي عَلَيْهِ بَلْ أَطْلَقَهُ إطْلَاقًا.

[13] **Hadith references (L14674):** Sunan Abi Dawud 1848.

وَأَمَّا نَحْنُ فَلَمْ نَأْخُذْ بِمَا فِي هَذَا الْخَبَرِ مِنْ النَّهْيِ عَنْ قَتْلِ الْغُرَابِ، لِأَنَّ رَاوِيَهُ يَزِيدُ بْنُ أَبِي زِيَادٍ - وَقَدْ قَالَ فِيهِ ابْنُ الْمُبَارَكِ: ارْمِ بِهِ، عَلَى جُمُودِ لِسَانِ ابْنِ الْمُبَارَكِ وَشِدَّةِ تَوَقِّيهِ - وَتَكَلَّمَ فِيهِ شُعْبَةُ، وَأَحْمَدُ - وَقَالَ فِيهِ يَحْيَى: لَا يُحْتَجُّ بِحَدِيثِهِ - وَكَذَّبَهُ أَبُو أُسَامَةَ، وَقَالَ: لَوْ حَلَفَ خَمْسِينَ يَمِينًا مَا صَدَّقْته.

L14676–14678 As for us, we did not adopt the prohibition against killing crows mentioned in this report because its narrator, Yazīd ibn Abī Ziyād—about whom Ibn al-Mubārak remarked: “Reject it”—is dismissed due to Ibn al-Mubārak’s harshness in speech and severity in criticism [text incomplete]... Scholars exercised caution about him—Shu‘bah and Ahmad criticized him, and Yahya said regarding him: “His hadith is not admissible as evidence”—while Abū Usāmah declared him a liar, stating: “Even if he swore fifty oaths, I would not believe him.”

فَإِنْ قَالُوا: قَدْ جَعَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الضَّبُعِ الْجَزَاءَ - وَهِيَ سَبُعٌ ذُو نَابٍ -؟ قُلْنَا: نَعَمْ، وَهِيَ حَلَالٌ مِنْ بَيْنِ السِّبَاعِ فَهِيَ صَيْدٌ فَمَا الَّذِي أَوْجَبَ أَنْ تَقِيسُوا سَائِرَ السِّبَاعِ الْمُحَرَّمَةِ عَلَى الضَّبُعِ الْحَلَالِ أَكْلُهَا؟ وَلَمْ تَقِيسُوهَا عَلَى الذِّئْبِ الَّذِي هُوَ حَرَامٌ عِنْدَكُمْ؟ وَقَدْ صَحَّ عَنْ أَبِي هُرَيْرَةَ أَنَّ الْأَسَدَ: هُوَ الْكَلْبُ الْعَقُورُ، وَأَبُو هُرَيْرَةَ حُجَّةٌ فِي اللُّغَةِ، وَلَا مُخَالِفَ لَهُ مِنْ الصَّحَابَةِ يُعْرَفُ فِي ذَلِكَ.

L14679 If they say: The Messenger of Allah—peace and blessings be upon him—prescribed an expiation for the hyena—which is a predatory beast with fangs—? We say: Yes, and it is permissible among predatory beasts, so it is game. Then what obliges you to analogize all prohibited predatory beasts to the hyena, which is permissible to eat, and why did you not analogize them to the wolf, which you consider forbidden? It has been authentically reported from Abu Hurairah that the lion is regarded as the ferocious dog, and Abu Hurairah is an authority in language, with no opposing opinion from the Companions known regarding this matter.

قَالَ أَبُو مُحَمَّد: أَمَّا هَذِهِ الْأَقْوَالُ فَظَاهِرَةُ الْفَسَادِ، وَلَمْ يَبْقَ الْكَلَامُ إلَّا فِي تَخْصِيصِ الْخَبَرِ الْمَذْكُورِ مِنْ [هَذِهِ] الْآيَةِ وَإِلْحَاقِ مَا عَدَا مَا ذَكَرَ فِي هَذَا الْخَبَرِ بِالتَّحْرِيمِ، أَوْ تَخْصِيصِ الْآيَةِ وَإِلْحَاقِ مَا عَدَا مَا ذَكَرَ فِيهَا بِالْخَبَرِ الْمَذْكُورِ، أَوْ أَنْ نَحْكُمَ بِمَا فِي الْآيَةِ وَبِمَا فِي الْخَبَرِ وَنَطْلُبَ حُكْمَ مَا لَمْ يُذْكَرْ فِيهِمَا مِنْ غَيْرِ هَذَيْنِ النَّصَّيْنِ.

L14680 Abū Muḥammad said: As for these statements, they are inherently flawed. The discussion now remains confined to either particularizing the aforementioned report from this verse and subsuming what is excluded from the report under prohibition, or particularizing the verse and subsuming what is excluded from it under the aforementioned report, or ruling by what is in the verse and what is in the report while seeking the ruling for what is not mentioned in either of them from sources other than these two texts.

قَالَ عَلِيٌّ: فَكَانَ الْوَجْهَانِ الْأَوَّلَانِ مُتَعَارِضَيْنِ لَيْسَ أَحَدُهُمَا أَوْلَى مِنْ الْآخَرِ، وَأَيْضًا: فَإِنَّ إلْحَاقَ مَا لَمْ يَذْكُرْ فِي الْآيَةِ بِمَا ذَكَرَ فِيهَا، أَوْ إلْحَاقَ مَا لَمْ يَذْكُرْ فِي الْخَبَرِ بِمَا ذَكَرَ فِيهِ قِيَاسٌ وَالْقِيَاسُ كُلُّهُ بَاطِلٌ، وَتَعَدٍّ لِحُدُودِ اللَّهِ: {وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ} [الطلاق: ١] وَشَرَّعَ فِي الدِّينِ بِمَا لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى، وَهَذَا لَا يَحِلُّ، فَلَمْ يَبْقَ إلَّا

L14681 Ali said: The first two aspects were contradictory, neither being more valid than the other. Moreover, linking what is unmentioned in the verse to what is mentioned therein, or attaching what is omitted in the hadith to what is stated within it constitutes analogy – and all analogy is invalid. This transgresses Allah’s boundaries: *“And whoever transgresses Allah’s boundaries has wronged himself”* (65:1), while legislating in religion what Allah the Exalted has not permitted – this is impermissible. Thus, only the third aspect remained, which was the truth, for it entails compliance with Allah

الْوَجْهُ الثَّالِثُ، فَكَانَ هُوَ الْحَقَّ لِأَنَّهُ هُوَ الِائْتِمَارُ لِلَّهِ تَعَالَى وَلِرَسُولِهِ - عَلَيْهِ السَّلَامُ - وَتَرْكُ تَعَدِّ لِحُدُودِهِمَا.

the Exalted and His Messenger – peace be upon him – and refraining from transgressing their boundaries.[14]

فَنَظَرْنَا فِي ذَلِكَ -: فَوَجَدْنَا اللَّهَ تَعَالَى إنَّمَا حَرَّمَ فِي الْإِحْرَامِ وَالْحَرَمِ قَتْلَ الصَّيْدِ، وَجَعَلَ عَلَى مَنْ قَتَلَهُ وَهُوَ حَرَمٌ بِالْعَمْدِ الْجَزَاءَ، فَوَجَبَ الْقَوْلُ بِذَلِكَ.

L14682 So we examined this matter and found that Allah, the Exalted, prohibited specifically during the state of consecration (Iḥrām) and within the sacred precinct (Ḥaram) the killing of game, and He ordained expiation for one who deliberately kills it while in the sacred precinct (Ḥaram). Thus, it becomes obligatory to affirm this ruling.

وَوَجَدْنَا رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - قَدْ أَخْبَرَ بِأَنَّ الْمُحْرِمَ يَقْتُلُ الْخَمْسَ الْمَذْكُورَاتِ، وَأَنَّهُ لَا جُنَاحَ فِي قَتْلِهِنَّ فِي حَرَمٍ، أَوْ إحْرَامٍ فَوَجَبَ الْقَوْلُ بِذَلِكَ.

L14683 We have found the Messenger of Allah—peace be upon him—to have informed that a person in the state of ritual consecration may kill the five mentioned [creatures], and that there is no sin in killing them within the sacred precinct or while in the state of ritual consecration. Therefore, it is obligatory to affirm this view.

ثُمَّ نَظَرْنَا فِيمَا عَدَا الْخَمْسَ الْمَذْكُورَاتِ مِمَّا لَيْسَ صَيْدًا -: فَوَجَدْنَا الْكَلَامَ فِيهِمَا فِي مَوْضِعَيْنِ أَحَدُهُمَا: قَتْلُهَا، وَالثَّانِي: هَلْ فِي قَتْلِهَا جَزَاءٌ أَمْ لَا؟ فَنَظَرْنَا فِي إيجَابِ الْجَزَاءِ فِي ذَلِكَ -: فَوَجَدْنَاهُ بَاطِلًا لَا إشْكَالَ فِيهِ، لِأَنَّهُ لَيْسَ فِي هَذَا الْخَبَرِ دَلِيلٌ عَلَى إيجَابِ جَزَاءٍ فِي ذَلِكَ أَصْلًا وَلَا شَيْءٌ مِنْ النُّصُوصِ كُلِّهَا، فَكَانَ الْقَوْلُ بِذَلِكَ شَرْعًا فِي الدِّينِ لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى، فَبَطَلَ جُمْلَةً وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

L14684–14686 Then we considered what is besides the five mentioned [categories] that are not game. We found the discussion regarding them addressed in two contexts: the first concerns their killing, and the second whether killing them entails a compensation or not. Then we examined the obligation of... As for the recompense in that matter—we found it invalid with no ambiguity in it, because this report contains no evidence whatsoever indicating the obligation of any recompense, nor anything from all the texts. Thus, establishing this as religious law is something Allah the Exalted has not sanctioned. Therefore, it is invalid completely, and all praise is due to Allah, Lord of the worlds.

ثُمَّ نَظَرْنَا فِي قَتْلِهَا -: فَوَجَدْنَا مَنْ مَنَعَ مِنْهُ يَقُولُ: اقْتِصَارُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى جَوَابِ السَّائِلِ عَمَّا يَقْتُلُ الْمُحْرِمُ عَلَى هَذِهِ الْخَمْسِ دَلِيلٌ عَلَى أَنَّ مَا عَدَاهَا بِخِلَافِهَا؟ وَلَوْلَا ذَلِكَ لَكَانَ كَلَامُهُ - عَلَيْهِ السَّلَامُ - غَيْرَ مُسْتَوْعِبٍ لِجَوَابِ السَّائِلِ وَلَا مُبَيِّنٍ لَهُ حُكْمَ مَا سَأَلَ عَنْهُ، وَحَاشَا لَهُ مِنْ هَذَا، وَوَجَدْنَا مَنْ أَبَاحَ قَتْلَهَا يَقُولُ: اقْتِصَارُ اللَّهِ تَعَالَى عَلَى الْمَنْعِ مِنْ قَتْلِ الصَّيْدِ خَاصَّةً بِقَوْلِهِ تَعَالَى: {وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرُمًا} [المائدة: ٩٦] دَلِيلٌ عَلَى أَنَّ مَا عَدَا الصَّيْدَ بِخِلَافِ الصَّيْدِ فِي ذَلِكَ، وَلَوْلَا ذَلِكَ لَكَانَ

L14687 Then we examined the issue of killing them: We found those who prohibit it argue that the Prophet's (peace be upon him) restriction of his answer regarding what a pilgrim in ihram may kill to these five creatures emphatically permitted indicates differing rulings for other animals. If this were not so, his speech (peace be upon him) would have been non-comprehensive in answering the questioner or clarifying the ruling he inquired about—He is far above such inadequacy. Conversely, those who permit it argue that Allah's restriction in His verse "Forbidden to you is the game of the land while you are in a state of consecration" (Quran 5:96), specifically prohibiting game

[14] **Qur'an references (L14681):** Qur'an 65:1 (At-Talaq).

كَلَامُهُ تَعَالَى غَيْرَ مُسْتَوْعِبٍ لِمَا يُحَرَّمُ عَلَيْنَا وَلَا مُبَيِّنٍ لَنَا حُكْمَ مَا أَلْزَمَنَا إِيَّاهُ، وَحَاشَا لَهُ مِنْ ذَلِكَ فَكَانَ هَذَانِ الِاسْتِدْلَالَانِ مُتَقَابِلَيْنِ فَلَا بُدَّ مِنَ النَّظَرِ فِيهِمَا؟ فَأَوَّلُ مَا نَقُولُ: أَنَّ الْيَقِينَ مِنْ كُلِّ مُسْلِمٍ قَدْ صَحَّ بِأَنَّ اللَّهَ تَعَالَى قَدْ بَيَّنَ لَنَا مَا أَلْزَمَنَا، وَأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ بَيَّنَ لَنَا مَا أَلْزَمَنَا اللَّهُ تَعَالَى، وَلَمْ يَجُزْ لَنَا تَعَدِّي مَا نَصَّهُ عَلَيْنَا رَبُّنَا تَعَالَى وَنَبِيُّنَا - عَلَيْهِ السَّلَامُ -، فَوَجَدْنَا الْآيَةَ فِيهَا حُكْمُ الصَّيْدِ وَلَيْسَ فِيهَا حُكْمُ غَيْرِهِ لَا بِتَحْرِيمٍ، وَلَا بِإِبَاحَةٍ، وَوَجَدْنَا الْخَبَرَ الَّذِي فِيهِ ذِكْرُ الْخَمْسِ الْمَحْضُوضِ عَلَى قَتْلِهَا فِي الْحَرَمِ وَالْإِحْرَامِ وَالْحِلِّ لَيْسَ فِيهِ حُكْمُ غَيْرِهَا لَا بِتَحْرِيمٍ، وَلَا بِإِبَاحَةٍ؛ فَلَمْ يَجُزْ أَنْ يُضَافَ إِلَى هَذِهِ الْآيَةِ وَلَا إِلَى هَذَا الْحَدِيثِ مَا لَيْسَ فِيهِمَا، فَوَجَبَ النَّظَرُ فِيمَا لَمْ يُذْكَرْ فِيهِمَا وَطَلَبُ حُكْمِهِ مِنْ غَيْرِهِمَا؛ فَوَجَدْنَا الْحَيَوَانَ قِسْمَيْنِ سِوَى مَا ذُكِرَ فِي الْآيَةِ وَالْخَبَرِ -: فَقِسْمٌ مُبَاحٌ قَتْلُهُ: كَجَمِيعِ سِبَاعِ الطَّيْرِ، وَذَوَاتِ الْأَرْبَعِ، وَالْخَنَازِيرِ، وَالْهَوَامِّ، وَالْقَمْلِ، وَالْقِرْدَانِ، وَالْحَيَّاتِ، وَالْوَزَغِ، وَغَيْرِ ذَلِكَ مِمَّا لَا يُخْتَلَفُ أَنَّهُ لَا حَرَجَ فِي قَتْلِهِ.

وَقِسْمٌ مُحَرَّمٌ قَتْلُهُ بِنُصُوصٍ وَارِدَةٍ فِيهِ: كَالْهُدْهُدِ، وَالصُّرَدِ، وَالضَّفَادِعِ، وَالنَّحْلِ، وَالنَّمْلِ؛ فَوَجَبَ أَنْ يُحْمَلَ كُلُّ ذَلِكَ عَلَى حُكْمِهِ كَمَا كَانَ، وَأَنْ لَا يُنْقَلَ بِظَنٍّ قَدْ عَارَضَهُ ظَنٌّ آخَرُ، وَبِغَيْرِ نَصٍّ جَلِيٍّ؛ فَهَذَا هُوَ الْحَقُّ الَّذِي لَا يَجُوزُ تَعَدِّيهِ.

فَإِنْ قِيلَ: فَإِنَّ مَا لَا يَحِلُّ أَكْلُهُ قَدْ يَصِيدُهُ الْمَرْءُ لِيُطْعِمَهُ جَوَارِحَهُ؟

قُلْنَا: هَذَا بَاطِلٌ لِأَنَّ اللَّهَ تَعَالَى قَدْ نَصَّ عَلَيْنَا حُكْمَ الصَّيْدِ بِقَوْلِهِ تَعَالَى: {لَيَبْلُوَنَّكُمُ اللَّهُ بِشَيْءٍ مِنَ الصَّيْدِ تَنَالُهُ أَيْدِيكُمْ وَرِمَاحُكُمْ لِيَعْلَمَ اللَّهُ مَنْ يَخَافُهُ بِالْغَيْبِ فَمَنِ اعْتَدَى بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ} [المائدة: ٩٤] .

animals, indicates differing rulings for non-game creatures. If this were not the case, His speech would have inadequately defined our obligations—He is exalted above such deficiency. These two opposing arguments necessitated resolution.

First, we affirm every Muslim's certainty that Allah has clarified our obligations, and that His Messenger (peace be upon him) has elucidated what Allah ordained. We may not overstep the explicit rulings established by our Lord and Prophet. The Quranic verse addresses game animals without mentioning others, neither prohibiting nor permitting them. Similarly, the ḥadīth specifying five creatures permitted for killing in the sacred precinct, during ihram, or outside the sacred precinct mentions no rulings for other animals. Thus, we cannot ascribe unstated rulings to these texts. We must instead examine unmentioned cases through other sources.

Animals other than those mentioned in the verse and ḥadīth fall into two categories: Those permissible to kill—including all predatory birds, wild beasts, swine, creeping pests, lice, monkeys, snakes, wall lizards, and others about which there is no disagreement that killing them entails no sin.[15]

L14688 A prohibited category is those whose killing is forbidden by explicit texts mentioning them, such as the hoopoe, shrikes, frogs, bees, and ants. Thus, all such rulings must be applied as they were originally ordained. They may not be altered based on conjecture opposed by other assumptions or in the absence of a clear textual basis. This is the correct ruling that must not be transgressed.

L14689 If it is said: "May a person hunt what is unlawful to eat in order to feed it to his predatory animals?"

L14690–14691 We said: This is null and void because Allah, the Exalted, has clearly specified for us the ruling on hunting through His statement: "Allah will surely test you with something from the game that your hands and weapons can reach,

[15] **Qur'an references (L14687):** Qur'an 5:96 (Al-Ma'idah).

so that Allah may know who fears Him unseen. Whoever transgresses after that will have a painful punishment." [Al-Ma'idah: 94][16]

L14692 And by His Exalted statement: {Allah will surely test you with something from the hunt that your hands and spears obtain, so that Allah may make evident who fears Him unseen. Whoever transgresses after that will have a painful punishment} [Al-Mā'idah: 94]. Thus, it is established that what is lawful for us in the state of permissibility (ḥalāl) becomes forbidden when we enter iḥrām, and that it is the hunting of what Allah Almighty has taught us its ruling - through adherence to which He distinguishes those who fear their Lord, Exalted is He, by obeying His commands regarding hunting and avoiding His prohibitions therein, from those who do not fear their Lord and thus transgress His commandments. This is not established with certainty except in what is hunted for consumption, and we have never known in any language or religious law that pursuing swine and lions, or killing them, is termed "hunting."[17]

L14693 If it is asked: What is the rationale for the Messenger of Allah—may Allah bless him and grant him peace—restricting [the ruling] to these five? We respond: Success is from Allah, the Exalted. The apparent meaning of the report indicates that killing them is emphatically urged—a recommended act—while the killing of others besides them remains permissible. This report does not preclude that creatures beyond these five—such as geckos, vipers, common snakes, scorpions, and venomous serpents—are likewise commanded to be killed.

L14694 It is possible that he—peace be upon him—had already clarified this matter here and thus refrained from repeating it when mentioning the five specified harmful creatures, as their mention had not preceded. Were it not for this report, we would not have known the injunction to kill crows, the prohibition against eating it (the crow), the mouse, or the scorpion. In it lies the greatest benefit—and all praise is due to Allah, the Exalted.

L14695 We have stated: Indeed, this entire argument has no bearing on any posi-

وَبِقَوْلِهِ تَعَالَى: {لَيَبْلُوَنَّكُمُ اللَّهُ بِشَيْءٍ مِنَ الصَّيْدِ تَنَالُهُ أَيْدِيكُمْ وَرِمَاحُكُمْ لِيَعْلَمَ اللَّهُ مَنْ يَخَافُهُ بِالْغَيْبِ فَمَنِ اعْتَدَى بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ} [المائدة: ٩٤] فَصَحَّ أَنَّ الْمُحَلَّلَ لَنَا إذَا حَلَلْنَا هُوَ الْمُحَرَّمُ عَلَيْنَا إذَا أَحْرَمْنَا، وَأَنَّهُ تَصَيُّدُ مَا عَلَّمَنَا اللَّهُ عَزَّ وَجَلَّ حُكْمَهُ الَّذِي بِالْتِزَامِهِ يَتَبَيَّنُ مَنْ يَخَافُ رَبَّهُ تَعَالَى فَيَلْتَزِمُ مَا أَمَرَ بِهِ فِي صَيْدِهِ وَيَجْتَنِبُ مَا نَهَى عَنْهُ فِيهِ مِمَّنْ لَا يَخَافُ رَبَّهُ فَيَعْتَدِي مَا أَمَرَهُ تَعَالَى، وَلَيْسَ هَذَا بِيَقِينٍ إلَّا فِيمَا تُصُيِّدَ لِلْأَكْلِ، وَمَا عَلِمْنَا قَطُّ فِي لُغَةٍ وَلَا شَرِيعَةٍ أَنَّ الْجَرْيَ خَلْفَ الْخَنَازِيرِ، وَالْأُسْدِ، وَقَتْلَهَا يُطْلَقُ عَلَيْهِ اسْمُ: صَيْدٍ.

فَإِنْ قِيلَ: فَمَا وَجْهُ اقْتِصَارِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَلَى هَذِهِ الْخَمْسِ؟ قُلْنَا: وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ: ظَاهِرُ الْخَبَرِ يَدُلُّ عَلَى أَنَّهَا مَحْضُوضٌ عَلَى قَتْلِهِنَّ مَنْدُوبٌ إلَيْهِ وَيَكُونُ غَيْرُهُنَّ مُبَاحًا قَتْلُهُ أَيْضًا وَلَيْسَ هَذَا الْخَبَرُ مِمَّا يَمْنَعُ أَنْ يَكُونَ غَيْرُ الْخَمْسِ مَأْمُورًا بِقَتْلِهِ أَيْضًا: كَالْوَزَغِ، وَالْأَفَاعِي، وَالْحَيَّاتِ، وَالرُّتَيْلَا وَالثَّعَابِينِ.

وَقَدْ يَكُونُ - عَلَيْهِ السَّلَامُ - تَقَدَّمَ بَيَانُهُ فِي هَذِهِ فَاكْتَفَى عَنْ إعَادَتِهَا عِنْدَ ذِكْرِهِ الْخَمْسَ الْفَوَاسِقَ، وَلَمْ يَكُنْ تَقَدَّمَ ذِكْرُهُ لَهُنَّ، فَلَوْلَا هَذَا الْخَبَرُ مَا عَلِمْنَا الْحَضَّ عَلَى قَتْلِ الْغُرَابِ وَلَا تَحْرِيمَ أَكْلِهِ، وَأَكْلِ الْفَأْرَةِ، وَالْعَقْرَبِ، فَلَهُ أَعْظَمُ الْفَائِدَةِ - وَلِلَّهِ تَعَالَى الْحَمْدُ.

[16] **Qur'an references (L14691):** Qur'an 5:94 (Al-Ma'idah).
[17] **Qur'an references (L14692):** Qur'an 5:94 (Al-Ma'idah).

tion of Abū Ḥanīfa or Mālik, for they added many animals beyond the five [specified] and prohibited the killing of numerous animals based on corrupt and baseless opinion. Thus, they neither relied on the verse nor the ḥadīth.

وَقَدْ قُلْنَا: إِنَّ هَذَا الْحَجَاجَ كُلَّهُ لَا مَدْخَلَ فِي شَيْءٍ لِأَبِي حَنِيفَةَ، وَلَا لِمَالِكٍ لِأَنَّهُمْ زَادُوا عَلَى الْخَمْسِ دَوَابَّ كَثِيرَةً، وَمَنَعُوا مِنْ قَتْلِ دَوَابَّ كَثِيرَةٍ بِالرَّأْيِ الْفَاسِدِ الْمُجَرَّدِ، فَلَا بِالْآيَةِ تَعَلَّقُوا وَلَا بِالْحَدِيثِ.

L14696 As for Al-Shāfiʿī: Indeed, he contradicted himself regarding the fox, for it is a fanged beast of prey - thus unlawful, as its permissibility has never been mentioned in any text whatsoever, nor is it considered game.

وَأَمَّا الشَّافِعِيُّ: فَإِنَّهُ تَنَاقَضَ فِي الثَّعْلَبِ، لِأَنَّهُ ذُو نَابٍ مِنْ السِّبَاعِ فَهُوَ حَرَامٌ لَمْ يَأْتِ تَحْلِيلُهُ فِي نَصٍّ قَطُّ وَلَيْسَ صَيْدًا.

L14697–14698 It is utterly astonishing that some companions of Abū Ḥanīfah's school cited the hadith about the five vermin while falsely claiming the ruling applies strictly to it without extending beyond it - yet they lied in that very claim, as we have previously clarified.

وَالْعَجَبُ كُلُّهُ مِمَّنْ احْتَجَّ مِنْ أَصْحَابِ أَبِي حَنِيفَةَ بِحَدِيثِ الْخَمْسِ الْفَوَاسِقِ وَأَوْهَمَ أَنَّهُ مُتَعَلِّقٌ بِهِ غَيْرُ مُتَعَدٍّ لَهُ، وَقَدْ كَذَبُوا فِي ذَلِكَ كَمَا ذَكَرْنَا.

L14699 Then they did not hesitate to add a thousand types beyond the six categories mentioned in the hadith on usury—types unmentioned neither in that report nor in any other: It has been narrated to us through Waki'ʿ's chain: Sufyān reported from Ibn Jurayj from ʿAṭāʾ, who said: "Kill among the wild predators both those that have attacked you and those that have not attacked you while you are in iḥrām." ʿAṭāʾ added: "There is no harm in a muḥrim killing a wolf, a wildcat, or a vulture."

ثُمَّ لَمْ يُبَالُوا بِأَنْ يَزِيدُوا عَلَى حَدِيثِ الْأَصْنَافِ السِّتَّةِ فِي الرِّبَا أَلْفَ صِنْفٍ لَا يُذْكَرُ، لَا فِي ذَلِكَ الْخَبَرِ، وَلَا فِي غَيْرِهِ: رُوِّينَا مِنْ طَرِيقِ وَكِيعٍ نَا سُفْيَانُ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ قَالَ: اُقْتُلْ مِنْ السِّبَاعِ مَا عَدَا عَلَيْك وَمَا لَمْ يَعْدُ عَلَيْك وَأَنْتَ مُحْرِمٌ - قَالَ: وَلَا بَأْسَ بِأَنْ يَقْتُلَ الْمُحْرِمُ: الذِّئْبَ، وَالسِّنَّوْرَ الْبَرِّيَّ، وَالنَّسْرَ.

L14700 Abu Muhammad said: As for the eagle, compensation applies to it because it is lawful game whose consumption is permitted, since no explicit prohibition has been stipulated. Through the chain of ʿAbd al-Razzāq, from Ibn Jurayj, from ʿAmr ibn Dīnār, who said: "We have not heard that a fox requires compensation." From Maʿmar, from Ibn Abī Najīḥ: "The fox is a predatory animal," and he denied that compensation applies to it or that it qualifies as game.

قَالَ أَبُو مُحَمَّدٍ: أَمَّا النَّسْرُ فَفِيهِ الْجَزَاءُ، لِأَنَّهُ صَيْدٌ حَلَالٌ أَكْلُهُ، إذْ لَمْ يُنَصَّ عَلَى تَحْرِيمِهِ -: وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَمْرِو بْنِ دِينَارٍ قَالَ: مَا سَمِعْنَا أَنَّ الثَّعْلَبَ يُفْدَى - وَعَنْ مَعْمَرٍ عَنْ ابْنِ أَبِي نَجِيحٍ: أَنَّ الثَّعْلَبَ سَبُعٌ، وَأَنْكَرَ أَنْ يَكُونَ فِيهِ جَزَاءٌ، أَوْ أَنْ يَكُونَ صَيْدًا.

L14701 From the chain of ʿAbd al-Raḥmān ibn Mahdī, he informed us: Sufyān al-Thawrī reported from Ibrāhīm ibn ʿAbd al-Aʿlā from Suwayd ibn Ghafalah, who said: "'Umar ibn al-Khaṭṭāb commanded us to kill the snake, the scorpion, the mouse, and the wasp while we were in the state of iḥrām."

وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ إبْرَاهِيمَ بْنِ عَبْدِ الْأَعْلَى عَنْ سُوَيْدِ بْنِ غَفَلَةَ قَالَ: أَمَرَنَا عُمَرُ بْنُ الْخَطَّابِ بِقَتْلِ الْحَيَّةِ، وَالْعَقْرَبِ، وَالْفَأْرِ، وَالزُّنْبُورِ، وَنَحْنُ مُحْرِمُونَ.

L14702 Narrated via the chain of Ḥammād ibn Salamah from Ḥabīb al-Muʿallim from ʿAṭāʾ ibn Abī Rabāḥ, who said: “There is no liability for harm caused by a hornet.”

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَبِيبٍ الْمُعَلِّمِ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ قَالَ: لَيْسَ فِي الزُّنْبُورِ جَزَاءٌ.

L14703 And through the chain of Abd al-Razzaq, from Sufyan al-Thawri, from Habib ibn Abi Amra, from Sa‘id ibn Jubayr, from Ibn Abbas, who said: Whoever kills a house gecko, for him is a charitable deed (sadaqah).

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ حَبِيبِ بْنِ أَبِي عَمْرَةَ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عَبَّاسٍ قَالَ: مَنْ قَتَلَ وَزَغًا فَلَهُ بِهِ صَدَقَةٌ.

L14704 And on the authority of Ibn Umar: Kill the gecko, for indeed it is a devil.

وَعَنِ ابْنِ عُمَرَ: اُقْتُلُوا الْوَزَغَ فَإِنَّهُ شَيْطَانٌ.

L14705 From the narration of Waki‘, from Hanzalah ibn Abī Sufyān al-Jumaḥī, from al-Qāsim ibn Muḥammad ibn Abī Bakr, from ʿĀʾishah, the Mother of the Believers, that she used to kill geckos in the House of Allah, the Exalted.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ حَنْظَلَةَ بْنِ أَبِي سُفْيَانَ الْجُمَحِيِّ عَنِ الْقَاسِمِ بْنِ مُحَمَّدِ بْنِ أَبِي بَكْرٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا كَانَتْ تَقْتُلُ الْوَزَغَ فِي بَيْتِ اللَّهِ تَعَالَى.

L14706–14707 Through the chain of Wakī‘, Ibrāhīm ibn Nāfi‘ said: I asked ʿAṭāʾ, “Is the lizard to be killed in the Haram?” He replied, “There is no harm in that, and no opposing view from the Companions is known (may Allah be pleased with them).”

وَمِنْ طَرِيقِ وَكِيعٍ قَالَ إِبْرَاهِيمُ بْنُ نَافِعٍ: سَأَلْتُ عَطَاءً أَيُقْتَلُ الْوَزَغُ فِي الْحَرَمِ؟ قَالَ: لَا بَأْسَ، وَلَا مُخَالِفَ لَهُمْ يُعْرَفُ مِنَ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -.

L14708 On the authority of Hammad ibn Salamah, from Yahya ibn Sa’id al-Ansari, from Muhammad ibn Ibrahim al-Taymi, from Rabi’ah ibn Abdullah ibn al-Hudayr, who said: I saw Umar ibn al-Khattab cutting the fat of his camel while he was in ihram.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ التَّيْمِيِّ عَنْ رَبِيعَةَ بْنِ عَبْدِ اللَّهِ بْنِ الْهُدَيْرِ قَالَ: رَأَيْتُ عُمَرَ بْنَ الْخَطَّابِ يُقَرِّدُ بَعِيرَهُ وَهُوَ مُحْرِمٌ.

L14709 From Waki‘, who narrated to us: ‘Abd al-Ḥamīd ibn Ja‘far reported from ‘Īsā ibn ‘Alī al-Ansārī that ‘Alī ibn Abī Ṭālib granted a concession to a person in the state of *ihram* to cut his camel into strips for drying.

وَمِنْ طَرِيقِ وَكِيعٍ نَا عَبْدُ الْحَمِيدِ بْنُ جَعْفَرٍ عَنْ عِيسَى بْنِ عَلِيٍّ الْأَنْصَارِيِّ أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ رَخَّصَ فِي الْمُحْرِمِ أَنْ يُقَرِّدَ بَعِيرَهُ.

L14710 And through the chain of Muḥammad ibn al-Muthannā, narrated from Muḥammad ibn Fuḍayl, narrated from al-ʿAlāʾ—who is ibn al-Musayyib—he said: ʿAṭāʾ was asked, “May a pilgrim in the state of iḥrām apply qarḍ ointment to his camel?” He replied, “Yes, for Ibn ʿUmar used to apply qarḍ ointment to his camel while he was in the state of iḥrām.”

وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ الْمُثَنَّى نَا مُحَمَّدُ بْنُ فُضَيْلٍ نَا الْعَلَاءُ هُوَ ابْنُ الْمُسَيَّبِ - قَالَ: سُئِلَ عَطَاءٌ أَيُقَرِّدُ الْمُحْرِمُ بَعِيرَهُ؟ قَالَ: نَعَمْ، قَدْ كَانَ ابْنُ عُمَرَ يُقَرِّدُ بَعِيرَهُ وَهُوَ مُحْرِمٌ.

L14711 From the chain of Ibn Abī Shaybah: he narrated to us from Rawḥ bin ʿUbādah, from Zakariyyā bin Isḥāq; Abū az-Zubayr narrated to us that he

heard Jābir bin ʿAbdullāh say: “There is no harm in a Muḥrim trimming the hair around the hump of his camel.”

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا رَوْحُ بْنُ عُبَادَةَ عَنْ زَكَرِيَّا بْنِ إِسْحَاقَ نَا أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: لَا بَأْسَ أَنْ يُقَرِّدَ الْمُحْرِمُ بَعِيرَهُ.

L14712 And through the chain of Saʿīd ibn Manṣūr: Sufyān reported to us from Yaḥyā ibn Saʿīd al-Anṣārī from ʿIkrimah that Ibn ʿAbbās ordered him to cut a camel into strips [for drying] while he was in the state of iḥrām. ʿIkrimah disapproved, so Ibn ʿAbbās said to him, “Then rise and slaughter it properly,” and he slaughtered it. Ibn ʿAbbās then said to him, “Fie on you! How many ticks, mites, and grubs have you killed?” No disagreement is known from the Companions regarding this except a narration from Ibn ʿUmar - we have already presented his contradiction of it.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ عَنْ عِكْرِمَةَ أَنَّ ابْنَ عَبَّاسٍ أَمَرَهُ أَنْ يُقَرِّدَ بَعِيرًا وَهُوَ مُحْرِمٌ؟ فَكَرِهَ عِكْرِمَةُ، فَقَالَ لَهُ ابْنُ عَبَّاسٍ: قُمْ فَانْحَرْهُ فَنَحَرَهُ، فَقَالَ لَهُ ابْنُ عَبَّاسٍ: لَا أُمَّ لَك كَمْ قَتَلْت مِنْ قُرَادٍ وَحَلَمَةٍ وَحَمْنَانَةٍ؟ - لَا يُعْرَفُ لَهُمْ مِنْ الصَّحَابَةِ مُخَالِفٌ إلَّا رِوَايَةً عَنْ ابْنِ عُمَرَ قَدْ أَوْرَدْنَا عَنْهُ خِلَافَهَا.

L14713 From Sufyān ibn ʻUyaynah, from ʻAmr ibn Dīnār, from Jābir ibn Zayd, who said: A pilgrim in the state of *iḥrām* (muḥrim) may trim his camel’s hair and apply tar to it—there is no harm in that—and this is the opinion of Mujāhid. However, conflicting reports contrary to this have been narrated to us from some of the Followers.

وَعَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ جَابِرِ بْنِ زَيْدٍ قَالَ: يُقَرِّدُ الْمُحْرِمُ بَعِيرَهُ، وَيَطْلِيهِ بِالْقَطْرَانِ، لَا بَأْسَ بِذَلِكَ - وَهُوَ قَوْلُ مُجَاهِدٍ - وَقَدْ رُوِّينَا خِلَافَ ذَلِكَ عَنْ بَعْضِ التَّابِعِينَ.

L14714–14716 As for the ant: it is not permissible to kill it, nor the hoopoe, the shrike, the bee, or the frog—due to what has been reported to us through the chain of ʿAbd al-Razzāq, from Maʿmar, from al-Zuhrī, from ʿUbayd Allāh ibn ʿAbd Allāh ibn ʿUtbah. Ibn Abbas reported: The Messenger of Allah—peace and blessings be upon him—prohibited the killing of four animals: ants, bees, hoopoes, and shrike. And via the chain of Abu Dawud, Muhammad ibn Kathir narrated from Sufyan, from Ibn Abi Dhi’b, from Saʿid ibn Khalid, from Saʿid ibn al-Musayyib, from ʻAbd al-Rahman ibn ʻUthman: A physician asked the Messenger of Allah—peace and blessings be upon him—about using a frog in medicine. The Prophet—peace be upon him—forbade him from killing it.[18]

وَأَمَّا النَّمْلُ: فَلَا يَحِلُّ قَتْلُهُ، وَلَا قَتْلُ الْهُدْهُدِ، وَلَا الصُّرَدِ، وَلَا النَّحْلَةِ، وَلَا الضُّفْدَعِ -: لِمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نَا مَعْمَرٌ عَنْ الزُّهْرِيِّ عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ قَتْلِ أَرْبَعٍ مِنْ الدَّوَابِّ: النَّمْلَةِ، وَالنَّحْلَةِ، وَالْهُدْهُدِ وَالصُّرَدِ» . وَمِنْ طَرِيقِ أَبِي دَاوُد نَا مُحَمَّدُ بْنُ كَثِيرٍ نَا سُفْيَانُ عَنْ ابْنِ أَبِي ذِئْبٍ عَنْ سَعِيدِ بْنِ خَالِدٍ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ عُثْمَانَ: «أَنَّ طَبِيبًا سَأَلَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ ضُفْدَعٍ يَجْعَلُهَا فِي دَوَاءٍ؟ فَنَهَاهُ النَّبِيُّ - عَلَيْهِ السَّلَامُ - عَنْ قَتْلِهَا» .

L14717 Abū Muḥammad said: It is not permissible to kill any of these creatures—neither for one in a state of non-Iḥrām (muḥill) nor for one in Iḥrām

[18] **Hadith references (L14714):** Mishkat al-Masabih 4145.

(muḥrim). If someone intentionally kills any of them while in the state of Iḥrām, knowingly violating the prohibition, he is a sinful transgressor and disobedient to Allah the Almighty, and no expiation is required of him, because they are not game.

قَالَ أَبُو مُحَمَّد: فَلَا يَحِلُّ قَتْلُ شَيْءٍ مِنْ هَذِهِ لَا لِمُحِلٍّ، وَلَا لِمُحْرِمٍ، فَإِنْ قَتَلَ شَيْئًا مِنْهَا عَامِدًا وَهُوَ مُحْرِمٌ عَالِمًا بِالنَّهْيِ: فَهُوَ فَاسِقٌ عَاصٍ لِلَّهِ عَزَّ وَجَلَّ، وَلَا جَزَاءَ عَلَيْهِ لِأَنَّهَا لَيْسَتْ صَيْدًا.

L14718 It was narrated to us through Hammad ibn Salamah from Abu al-Muhazzim, who heard Ibn al-Zubayr being asked by a muhrim about killing ants. Ibn al-Zubayr said to him: “There is no sin upon you.”

رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ أَبِي الْمُهَزِّمِ: سَمِعَ ابْنَ الزُّبَيْرِ وَسَأَلَهُ مُحْرِمٌ عَنْ قَتْلِهِ نَمْلًا؟ فَقَالَ لَهُ ابْنُ الزُّبَيْرِ: لَيْسَ عَلَيْك شَيْءٌ.

L14719 As for mosquitoes and flies: It has been narrated to us from Saʿīd ibn Jubayr that he said: “I would see no issue if I killed twenty flies while in iḥrām,” and that there is no harm in one in iḥrām killing pests—here referring to mosquitoes.

وَأَمَّا الْبَعُوضُ، وَالذُّبَابُ: فَرُوِّينَا عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: مَا أُبَالِي لَوْ قَتَلْت عِشْرِينَ ذُبَابَةً وَأَنَا مُحْرِمٌ، وَأَنَّهُ لَا بَأْسَ بِقَتْلِ الْبَقِّ لِلْمُحْرِمِ - يَعْنِي الْبَعُوضَ.

L14720 From ʻAṭāʼ: There is no harm for a pilgrim in sacred state to kill flies. From Mujāhid: There is no blame for a pilgrim in sacred state who kills Egyptian vultures, eagles, falcons, and kites.

وَعَنْ عَطَاءٍ: لَا بَأْسَ بِقَتْلِ الذُّبَابِ لِلْمُحْرِمِ. وَعَنْ مُجَاهِدٍ لَا شَيْءَ فِي الرَّخَمِ وَالْعُقَابِ، وَالصَّقْرِ، وَالْحِدَأِ، يُصِيبُهَا الْمُحْرِمُ.

L14721 As for lice: We have been narrated via the chain of ʿAbd al-Razzāq from Ibn al-Taymī from his father—who is al-Muʿtamir ibn Sulaymān—from Abī Mijlaz, who said, “I witnessed a woman asking Ibn ʿUmar about a louse she killed while in the state of iḥrām.” He replied, “We do not regard the louse as wild game,” and he mentioned the rest of the report.

وَأَمَّا الْقَمْلُ: فَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ التَّيْمِيِّ عَنْ أَبِيهِ - هُوَ الْمُعْتَمِرُ بْنُ سُلَيْمَانَ - عَنْ أَبِي مِجْلَزٍ قَالَ: شَهِدْت امْرَأَةً سَأَلَتْ ابْنَ عُمَرَ عَنْ قَمْلَةٍ قَتَلَتْهَا وَهِيَ مُحْرِمَةٌ؟ فَقَالَ: مَا نَعْلَمُ الْقَمْلَةَ مِنْ الصَّيْدِ، وَذَكَرَ بَاقِيَ الْخَبَرِ.

L14722 From the chain of Wakiʿ, who narrated to us from ʿĪsā ibn Ḥafṣ, from his father, who said: Ibn ʿUmar saw me lightly tapping my head while I was in _iḥrām_. He said, “Like this, scrubbing vigorously.”

وَمِنْ طَرِيقِ وَكِيعٍ نَا عِيسَى بْنُ حَفْصٍ عَنْ أَبِيهِ قَالَ: رَآنِي ابْنُ عُمَرَ وَأَنَا أَنْقُرُ رَأْسِي وَأَنَا مُحْرِمٌ فَقَالَ: هَكَذَا حَكًّا شَدِيدًا.

L14723–14725 From the chain of Wakiʿ, from ʿUyaynah ibn ʿAbd al-Raḥmān, from his father, who said: I was with Ibn ʿAbbās, and he [the narrator] asked him... A man asked, “May I scratch my head while in a state of *iḥrām*?” Ibn ʿAbbās vigorously scratched his head and said, “Far from you! What is a louse that it should prevent me from scratching my head? I intended to kill it, and you are only prohibited from hunting game.” The man then asked, “Have you considered if I killed a louse?”

وَمِنْ طَرِيقِ وَكِيعٍ نَا عُيَيْنَةَ بْنُ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ قَالَ: كُنْت عِنْدَ ابْنِ عَبَّاسٍ فَسَأَلَهُ رَجُلٌ أَحُكُّ رَأْسِي وَأَنَا مُحْرِمٌ؟ فَحَكَّ ابْنُ عَبَّاسٍ رَأْسَهُ حَكًّا شَدِيدًا، فَقَالَ الرَّجُلُ: أَفَرَأَيْت إنْ قَتَلْت قَمْلَةً، قَالَ: بَعُدْت مَا الْقَمْلَةُ مَانِعَتِي أَنْ أَحُكَّ رَأْسِي وَإِيَّاهَا أَرَدْت، وَمَا نُهِيتُمْ إلَّا عَنْ الصَّيْدِ.

L14726 From Ibn Jurayj from ‘Ata’: All that is not eaten - if you kill it while in a state of *ihram*, there is no financial penalty upon you for it, though it is forbidden to kill it unless it is an enemy or harms you.

وَعَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ كُلُّ مَا لَا يُؤْكَلُ فَإِنْ قَتَلْته وَأَنْت مُحْرِمٌ فَلَا غُرْمَ عَلَيْك فِيهِ، مَعَ أَنَّهُ يُنْهَى عَنْ قَتْلِهِ إلَّا أَنْ يَكُونَ عَدُوًّا أَوْ يُؤْذِيك.

L14727 From Hammad ibn Salama, from Habib al-Mu‘allim, from ‘Ata’ ibn Abi Rabah: He saw no harm in a *muḥrim* killing a louse.

وَعَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَبِيبٍ الْمُعَلِّمِ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ أَنَّهُ كَانَ لَا يَرَى بَأْسًا بِقَتْلِ الْمُحْرِمِ الْقَمْلَةَ.

L14728 From the chain of Sa‘īd ibn Manṣūr: From Hushaym: I heard Abū Bishr, and he was asked about a louse killed by a person in *iḥrām*. He said: Sa‘īd ibn Jubayr stated, “The expiation is the equivalent of what he killed of livestock” (Quran 5:95), for there is no expiation for a louse.[19]

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ سَمِعْت أَبَا بِشْرٍ وَقَدْ سَأَلْته عَنْ الْقَمْلَةِ يَقْتُلُهَا الْمُحْرِمُ، فَقَالَ: قَالَ سَعِيدُ بْنُ جُبَيْرٍ: {فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ} [المائدة: ٩٥] لَيْسَ لِلْقَمْلَةِ جَزَاءٌ.

L14729 It was narrated to us through the narration of Sufyan al-Thawri from Jabir from Ata’ from Aisha, the Mother of the Believers, who said: “The Muhrim should kill all creeping harmful creatures except the louse, for it is part of him.” Abu Muhammad said: He did not make any exception regarding it.

وَرُوِّينَا مِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ جَابِرٍ عَنْ عَطَاءٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: يَقْتُلُ الْمُحْرِمُ الْهَوَامَّ كُلَّهَا إلَّا الْقَمْلَةَ فَإِنَّهَا مِنْهُ؟ قَالَ أَبُو مُحَمَّدٍ: لَمْ يَجْعَلْ فِيهَا شَيْئًا.

L14730 Abu Hanifah said: If one kills a louse, he must provide something [as food]; and he permitted the muḥrim to wash his clothes and wash his head—and this is a contradiction.

وَقَالَ أَبُو حَنِيفَةَ: إنْ قَتَلَ قَمْلَةً أَطْعَمَ شَيْئًا، وَأَبَاحَ لِلْمُحْرِمِ غَسْلَ ثِيَابِهِ، وَغَسْلَ رَأْسِهِ - وَهَذَا تَنَاقُضٌ.

L14731 Malik was asked about mosquitoes and fleas—is a person in the state of ihram required to offer an expiation for killing them? He replied, “I disapprove of that”—this being the narration transmitted by Ibn Wahb from him. Ibn al-Qasim reported that he was asked about a person in ihram who reflexively killed a hornet that stung him, without conscious intent. He responded, “He must give some food in expiation,” applying the same ruling to one who kills lice.

وَسُئِلَ مَالِكٌ عَنْ الْبَعُوضِ، وَالْبَرَاغِيثِ، يَقْتُلُهَا الْمُحْرِمُ أَعَلَيْهِ كَفَّارَةٌ؟ فَقَالَ: إنِّي لَا أُحِبُّ ذَلِكَ - هَذِهِ رِوَايَةُ ابْنِ وَهْبٍ عَنْهُ، وَرَوَى عَنْهُ ابْنُ الْقَاسِمِ أَنَّهُ قَالَ فِي مُحْرِمٍ لَدَغَتْهُ دَبْرَةٌ فَقَتَلَهَا وَهُوَ لَا يَشْعُرُ؟ فَقَالَ: يُطْعِمُ شَيْئًا، وَكَذَلِكَ مَنْ قَتَلَ قَمْلَةً.

L14732 Al-Shafi‘i said: If one removes a louse from his head and kills it, he must provide expiation by giving a portion of food.

وَقَالَ الشَّافِعِيُّ: إنْ أَخَذَهَا مِنْ رَأْسِهِ فَقَتَلَهَا فَلْيُطْعِمْ لُقْمَةً.

L14733–14735 Ali said: “If they argue by citing what ’the Messenger of Allah—peace and blessings be upon him—commanded Ka‘b ibn ‘Ujrah when he saw lice falling

[19] **Qur’an references (L14728):** Qur’an 5:95 (Al-Ma’idah).

upon his face, so he ordered him to shave his head and offer a fidya?' We replied: Yes, this is correct, but we do not uphold shaving the head as you do; we are only concerned with killing lice, and we did not..." He - peace be upon him - said: "This expiation applies solely to killing lice. Whoever attributed this to him has lied against him. If the louse is not considered wild game, it requires no expiation. If it were considered wild game, its equivalent would be neither a morsel nor a handful of food - its equivalent would be a single sesame seed. We do not know on what basis they have relied for this ruling. And success comes only from Allah, the Exalted."

قَالَ عَلِيٌّ: فَإِنْ احْتَجُّوا بِمَا «أَمَرَ بِهِ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَعْبَ بْنَ عُجْرَةَ إذْ رَآهُ يَتَنَاثَرُ الْقَمْلُ عَلَى وَجْهِهِ فَأَمَرَهُ بِحَلْقِ رَأْسِهِ، وَأَنْ يَفْتَدِيَ؟» قُلْنَا: نَعَمْ هَذَا حَقٌّ وَلَسْنَا مَعَكُمْ فِي حَلْقِ الرَّأْسِ إنَّمَا نَحْنُ فِي قَتْلِ الْقَمْلِ، وَلَمْ يَقُلْ - عَلَيْهِ السَّلَامُ -: إنَّ هَذِهِ الْفِدْيَةَ إنَّمَا هِيَ لِقَتْلِ الْقَمْلِ؛ وَمَنْ قَوَّلَهُ هَذَا فَقَدْ كَذَبَ عَلَيْهِ، وَلَئِنْ كَانَتْ الْقَمْلَةُ لَيْسَتْ مِنْ الصَّيْدِ فَمَا لَهَا جَزَاءٌ، وَلَئِنْ كَانَتْ مِنْ الصَّيْدِ فَمَا مِثْلُهَا لُقْمَةٌ، وَلَا قَبْضَةَ طَعَامٍ، وَإِنَّمَا مِثْلُهَا حَبَّةَ سِمْسِمَةٍ. فَمَا نَدْرِي بِمَاذَا تَعَلَّقُوا؟ وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

## The ruling on a muḥrim entering a bathhouse.

## [مَسْأَلَةُ دُخُولُ الْحَمَّامِ لِلْمُحْرِمِ]

L14736

L14737 891 - Legal Issue:

٨٩١ - مَسْأَلَةٌ:

L14738 It is permissible for a muḥrim to enter bathhouses, scrub themselves, wash their head with clay or khitmī (marshmallow plant), apply kohl, use a siwak, look in a mirror, smell basil, wash their clothes, trim their nails and mustache, pluck underarm hair, and enter a tandoor (clay oven). There is no sin in any of this, nor any obligation upon them regarding it, because neither Quranic verses nor Prophetic traditions prohibit what we have mentioned. Whoever claims consensus on any of these matters falsely attributes it to the entire Ummah—asserting what they have no knowledge of. As for those who impose fines for such acts: have they not imposed religious rulings in matters of faith that Allah the Exalted has not permitted? The early scholars differed regarding this. It is narrated through the narration chain of Ayyūb al-Sikhtiyānī from Ikrimah that Ibn ʿAbbās entered the bathhouse of al-Juḥfah while in iḥram and said: "Allah the Exalted does not act upon the filth of the muḥrim." He also stated: "A muḥrim may enter bathhouses, extract a tooth, discard a broken nail—remove harm from yourselves, for Allah does not act upon your harm." He saw no issue with a muḥrim smelling basil, trimming a broken nail, or extracting a painful tooth.

وَجَائِزٌ لِلْمُحْرِمِ دُخُولُ الْحَمَّامِ، وَالتَّدَلُّكُ، وَغَسْلُ رَأْسِهِ بِالطِّينِ، وَالْخِطْمِيِّ، وَالِاكْتِحَالُ، وَالتَّسْوِيكُ، وَالنَّظَرُ فِي الْمِرْآةِ، وَشَمُّ الرَّيْحَانِ، وَغَسْلُ ثِيَابِهِ، وَقَصُّ أَظْفَارِهِ وَشَارِبِهِ، وَنَتْفُ إبْطِهِ، وَالتَّنَوُّرُ، وَلَا حَرَجَ فِي شَيْءٍ مِنْ ذَلِكَ، وَلَا شَيْءَ عَلَيْهِ فِيهِ؛ لِأَنَّهُ لَمْ يَأْتِ فِي مَنْعِهِ مِنْ كُلِّ مَا ذَكَرْنَا قُرْآنٌ، وَلَا سُنَّةٌ، وَمُدَّعِي الْإِجْمَاعِ فِي شَيْءٍ مِنْ ذَلِكَ: كَاذِبٌ عَلَى جَمِيعِ الْأُمَّةِ، قَائِلٌ مَا لَا عِلْمَ بِهِ - وَمَنْ أَوْجَبَ فِي ذَلِكَ غَرَامَةً فَقَدْ أَوْجَبَ شَرْعًا فِي الدِّينِ لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى؟ وَقَدْ اخْتَلَفَ السَّلَفُ فِي هَذَا -: رُوِّينَا مِنْ طَرِيقِ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ عِكْرِمَةَ أَنَّ ابْنَ عَبَّاسٍ دَخَلَ حَمَّامَ الْجُحْفَةِ وَهُوَ مُحْرِمٌ وَقَالَ: إنَّ اللَّهَ تَعَالَى لَا يَصْنَعُ بِوَسَخِ الْمُحْرِمِ شَيْئًا. وَأَنَّهُ قَالَ: الْمُحْرِمُ يَدْخُلُ الْحَمَّامَ، وَيَنْزِعُ ضِرْسَهُ، إنْ انْكَسَرَ ظُفْرُهُ طَرَحَهُ، أَمِيطُوا عَنْكُمْ الْأَذَى إنَّ اللَّهَ لَا يَصْنَعُ بِأَذَاكُمْ شَيْئًا. وَأَنَّهُ كَانَ لَا يَرَى بِشَمِّ الرَّيْحَانِ لِلْمُحْرِمِ بَأْسًا، وَأَنْ يَقْطَعَ ظُفْرَهُ إذَا انْكَسَرَ، وَيَقْلَعَ ضِرْسَهُ إذَا آذَاهُ.

وَمِنْ طَرِيقِ مَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: رَأَى عُمَرُ بْنُ الْخَطَّابِ بَعْضَ بَنِيهِ - أَحْسَبُهُ قَالَ عَاصِمُ بْنُ عُمَرَ - وَعَبْدُ الرَّحْمَنِ بْنُ زَيْدِ بْنِ الْخَطَّابِ، وَهُوَ جَالِسٌ عَلَى ضِفَّةِ الْبَحْرِ، وَهُمَا يَتَمَاقَلَانِ وَهُمْ مُحْرِمُونَ: يُغَيِّبُ هَذَا رَأْسَ هَذَا وَيُغَيِّبُ هَذَا رَأْسَ هَذَا: فَلَمْ يَعِبْ عَلَيْهِمَا.

L14739 Through the chain of Ma'mar from al-Zuhri from Salim ibn Abdullah ibn Umar, he said: Umar ibn al-Khattab saw some of his sons - I think he said Asim ibn Umar - and Abd al-Rahman ibn Zayd ibn al-Khattab, while he was sitting on the seashore. The two were quarreling in the state of *ihram*: each would submerge the other's head, and the other would submerge the former's head, yet he did not criticize them.

وَعَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: كُنْت أُطَاوِلُ عُمَرَ بْنَ الْخَطَّابِ النَّفَسَ وَنَحْنُ مُحْرِمَانِ فِي الْحِيَاضِ.

L14740 From Ikrimah, from Ibn Abbas, who said: "I would prolong my breath toward Umar ibn al-Khattab while we were in the state of ihram at the water reservoirs."

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ نَا أَيُّوبُ هُوَ السِّخْتِيَانِيُّ - عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: لَقَدْ رَأَيْتنِي أُمَاقِلُ عُمَرَ بْنَ الْخَطَّابِ بِالْجُحْفَةِ وَنَحْنُ مُحْرِمَانِ - الْمُمَاقَلَةُ: التَّغْطِيسُ فِي الْمَاءِ.

L14741–14743 From the transmission via Hammad ibn Zayd: Ayyub, that is, al-Sakhtiyani, narrated to us from Ikrimah, from Ibn Abbas, who said: "You have certainly seen me guiding Umar ibn al-Khattab at al-Juhfah while we were both in the state of ihram." al-Mumāqalah: Immersing [goods, e.g., grains] in water [to verify quantity/quality in commercial transactions].

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ خَالِدٍ الْحَذَّاءِ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ: أَنَّهُ كَانَ هُوَ وَابْنُ عُمَرَ بِإِخَاذٍ بِالْجُحْفَةِ يَتَرَامَسَانِ وَهُمَا مُحْرِمَانِ -: قَالَ أَبُو مُحَمَّدٍ: الْإِخَاذُ الْغَدِيرُ - وَالتَّرَامُسُ التَّغَاطُسُ.

L14744 Reported through the chain of Ḥammād ibn Salamah from Khālid al-Ḥadhdhā' from 'Ikrimah from Ibn 'Abbās: that he and Ibn 'Umar were at a seasonal pool (al-ikhādh, ghadeer) in al-Juḥfah repeatedly immersing their heads while in the state of iḥrām – Abū Muḥammad said: "Al-ikhādh" means a rainwater pool, and "al-tarāmus" means complete immersion.

وَرَأَى مَالِكٌ عَلَى مَنْ غَيَّبَ رَأْسَهُ فِي الْمَاءِ: الْفِدْيَةَ، وَخَالَفَ كُلَّ مَنْ ذَكَرْنَا، وَاخْتَلَفَ عَنْ ابْنِ عَبَّاسٍ، وَالْمِسْوَرِ بْنِ مَخْرَمَةَ فِي غَسْلِ الْمُحْرِمِ رَأْسَهُ فَاحْتَكَمَا إلَى أَبِي أَيُّوبَ الْأَنْصَارِيِّ، وَوَجَّهَا إلَيْهِ عَبْدَ اللَّهِ بْنَ حُنَيْنٍ فَوَجَدَهُ يَغْسِلُ رَأْسَهُ وَهُوَ مُحْرِمٌ، وَأَخْبَرَهُ: أَنَّهُ «رَأَى رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَغْسِلُ رَأْسَهُ وَهُوَ مُحْرِمٌ» وَقَدْ ذَكَرْنَا «أَمْرَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَائِشَةَ أُمَّ الْمُؤْمِنِينَ بِأَنْ تَنْقُضَ رَأْسَهَا وَتَمْتَشِطَ وَهِيَ مُحْرِمَةٌ» .

L14745 Malik maintained that a compensatory offering (fidyah) is incumbent upon one who submerges his head in water, opposing all the scholars we previously mentioned. Differing opinions were reported from Ibn 'Abbās and al-Miswar ibn Makhramah concerning a person in the state of consecration (iḥrām) washing his head. They sought arbitration from Abū Ayyūb al-Anṣārī, dispatching 'Abdullāh ibn Ḥunayn to him. 'Abdullāh found Abū Ayyūb washing his head while in iḥrām, and Abū Ayyūb informed him: "I saw the Messenger of God—peace and blessings of God be upon him—wash his head while in the state of consecration." We have already mentioned "the command of the Messenger of God—peace and blessings of God be upon him—to 'Ā'ishah, the Mother of the Believers, to loosen her hair and comb it while she was in iḥrām."

L14746 Via the chain of Waki‘, al-‘Umarī reported to us from Nāfi‘ from Ibn ‘Umar, who said: “There is no harm in a *muḥrim* washing his clothes.”

وَمِنْ طَرِيقِ وَكِيعٍ نَا الْعُمَرِيُّ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: لَا بَأْسَ أَنْ يَغْسِلَ الْمُحْرِمُ ثِيَابَهُ.

L14747 From the path of Waki‘: Sufyan al-Thawri reported from Mansur, from Salim, from Abu al-Ja‘d, who said: Ibn ‘Umar was asked about that—meaning a person in ihram washing their clothes—and he said: “There is no harm in it. Indeed, Allah is not concerned with your dirt.” From the path of ‘Amr ibn Dinar, from ‘Ikrimah, who said: “There is no harm if a woman in ihram combs another woman in ihram and kills lice on someone else.”

وَمِنْ طَرِيقِ وَكِيعٍ نَا سُفْيَانُ الثَّوْرِيُّ عَنْ مَنْصُورٍ عَنْ سَالِمٍ عَنْ أَبِي الْجَعْدِ قَالَ: سُئِلَ ابْنُ عُمَرَ عَنْ ذَلِكَ؟ - يَعْنِي عَنْ غَسْلِ الْمُحْرِمِ ثِيَابَهُ - فَقَالَ: لَا بَأْسَ بِهِ إِنَّ اللَّهَ لَا يَصْنَعُ بِدَرَنِك شَيْئًا؟ وَمِنْ طَرِيقِ عَمْرِو بْنِ دِينَارٍ عَنْ عِكْرِمَةَ قَالَ: لَا بَأْسَ أَنْ تُمَشِّطَ الْمَرْأَةُ الْحَرَامُ الْمَرْأَةَ الْحَرَامَ وَتَقْتُلَ قَمْلَ غَيْرِهَا.

L14748 On the authority of ‘Aṭā’ and Ibrāhīm al-Nakha‘ī, who both said: There is no harm in a *muḥrim* entering a bathhouse. This is also the view of Abū Ḥanīfah, Sufyān al-Thawrī, al-Shāfi‘ī, and Abū Sulaymān.

وَعَنْ عَطَاءٍ، وَإِبْرَاهِيمَ النَّخَعِيِّ قَالَا: لَا بَأْسَ بِدُخُولِ الْمُحْرِمِ الْحَمَّامَ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَسُفْيَانَ الثَّوْرِيِّ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ.

L14749 If they mention the statement of Allah Almighty: {Then let them complete their remaining rites} [Al-Hajj: 29], we say: It has been narrated to us from Ibn Umar that he said: “The remaining rites pertain to their Hajj obligations.” The Messenger of Allah (peace and blessings be upon him) informed: “Among the fitrah are trimming the nails, plucking the armpit hair, shaving the pubic hair, and trimming the mustache.” The fitrah is a Sunnah that should not be exceeded, and he (peace be upon him) did not distinguish between those in ihram and others: {And your Lord is never forgetful} [Maryam: 64].[20]

فَإِنْ ذَكَرُوا قَوْلَ اللَّهِ تَعَالَى: {ثُمَّ لْيَقْضُوا تَفَثَهُمْ} [الحج: ٢٩] ؟ قُلْنَا: رُوِّينَا عَنْ ابْنِ عُمَرَ قَالَ: التَّفَثُ مَا عَلَيْهِمْ مِنْ الْحَجِّ، وَقَدْ أَخْبَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مِنْ الْفِطْرَةِ: قَصُّ الْأَظْفَارِ، وَنَتْفُ الْإِبْطِ، وَحَلْقُ الْعَانَةِ وَقَصُّ الشَّارِبِ» ، وَالْفِطْرَةُ سُنَّةٌ لَا يَجُوزُ تَعَدِّيهَا، وَلَمْ يَخُصَّ - عَلَيْهِ السَّلَامُ - مُحْرِمًا مِنْ غَيْرِهِ: {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

L14750 It is utterly astonishing that those who impose a kaffārah or penalty upon one who has done what he was commanded in that matter, or what was permitted for him without prohibition, yet assign neither ransom nor penalty upon the pilgrim in consecration for his transgressions, sins, and deliberate commission of major sins—how can they deem that pilgrimage complete and accepted? Allah suffices us, and He is the best Disposer of affairs.

وَالْعَجَبُ كُلُّهُ مِمَّنْ يَجْعَلُ فِيمَنْ فَعَلَ مَا أُمِرَ بِهِ مِنْ ذَلِكَ، أَوْ أُبِيحَ لَهُ وَلَمْ يُنْهَ عَنْهُ: كَفَّارَةً أَوْ غَرَامَةً، ثُمَّ لَا يَجْعَلُ عَلَى الْمُحْرِمِ فِي فُسُوقِهِ وَمَعَاصِيهِ، وَارْتِكَابِهِ الْكَبَائِرَ شَيْئًا، لَا فِدْيَةً، وَلَا غَرَامَةً، بَلْ يَرَى حَجَّهُ ذَلِكَ تَامًّا مَبْرُورًا؟ وَحَسْبُنَا اللَّهُ وَنِعْمَ الْوَكِيلُ.

L14751–14752 And via the chain of Abd al-Razzaq from Ma’mar from Ayyub al-Sakhtiyani

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ: أَنَّهُ كَانَ يَنْظُرُ فِي الْمِرْآةِ وَهُوَ مُحْرِمٌ.

[20] **Qur’an references (L14749):** Qur’an 22:29 (Al-Hajj); Qur’an 19:64 (Maryam).

from Nafi’ from Ibn Umar: that he used to look into the mirror while he was in the state of ihram.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ هِشَامِ بْنِ حَسَّانَ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: لَا بَأْسَ أَنْ يَنْظُرَ الْمُحْرِمُ فِي الْمِرْآةِ - وَلَا يُعْرَفُ لَهُمَا مُخَالِفٌ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -.

L14753 From the chain of ʿAbd al-Razzāq, from Hishām ibn Ḥassān, from ʿIkrimah, from Ibn ʿAbbās, who said: “There is no harm in a muḥrim looking in the mirror” - and no opposing view from the Companions concerning this ruling is known (may Allah be pleased with them).

وَهُوَ قَوْلُ الْحَسَنِ، وَابْنِ سِيرِينَ، وَعَطَاءٍ، وَطَاوُسٍ، وَعِكْرِمَةَ.

L14754 And it is the opinion of Al-Ḥasan, Ibn Sīrīn, ʿAṭāʾ, Ṭāwus, and ʿIkrimah.

وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ - وَقَالَ مَالِكٌ: يُكْرَهُ ذَلِكَ - وَقَدْ رُوِيَتْ كَرَاهَةُ ذَلِكَ عَنْ ابْنِ عَبَّاسٍ، وَالْإِبَاحَةُ عَنْهُ أَصَحُّ.

L14755 This is the view of Abū Ḥanīfah, al-Shāfiʿī, and Abū Sulaymān. - Mālik said: That is disliked - and the dislike of that has been narrated from Ibn ʿAbbās; the permissibility [attributed to him] is more authentic.

وَقَالَ أَبُو حَنِيفَةَ: إنْ قَلَّمَ الْمُحْرِمُ أَظْفَارَ أَرْبَعِ أَصَابِعَ، أَرْبَعَ أَصَابِعَ مِنْ كُلِّ يَدٍ مِنْ يَدَيْهِ، وَمِنْ كُلِّ رِجْلٍ مِنْ رِجْلَيْهِ: فَعَلَيْهِ إطْعَامٌ مَا شَاءَ، فَإِنْ قَلَّمَ أَظْفَارَ كَفٍّ وَاحِدَةٍ فَقَطْ، أَوْ رِجْلٍ وَاحِدَةٍ فَقَطْ: فَعَلَيْهِ دَمٌ. وَقَالَ مُحَمَّدُ بْنُ الْحَسَنِ: إنْ قَلَّمَ خَمْسَةَ أَظْفَارٍ مِنْ يَدٍ وَاحِدَةٍ، أَوْ مِنْ رِجْلٍ وَاحِدَةٍ، أَوْ مِنْ يَدَيْنِ، أَوْ مِنْ رِجْلَيْنِ، أَوْ مِنْ يَدَيْهِ، وَرِجْلَيْهِ مَعًا: فَعَلَيْهِ دَمٌ، فَإِنْ قَلَّمَ أَرْبَعَةَ أَظْفَارٍ كَذَلِكَ: فَعَلَيْهِ إطْعَامٌ.

L14756 Abu Hanifah said: If a person in the state of consecration (ihram) trims the nails of four fingers from each of his two hands and four toes from each of his two feet, he must feed as he wills. If he trims the nails of only one hand or only one foot, he must offer a sacrifice. Muhammad ibn al-Hasan said: If he trims five nails from one hand, one foot, both hands, both feet, or both hands and feet together, he must offer a sacrifice. If he trims four nails in the same manner, he must feed as he wills.

وَقَالَ أَبُو يُوسُفَ: كَقَوْلِ أَبِي حَنِيفَةَ، إلَّا أَنَّهُ قَالَ: يُطْعِمُ عَنْ كُلِّ ظُفْرٍ نِصْفَ صَاعٍ.

L14757 Abu Yusuf held the same opinion as Abu Hanifah, except he stated: one must give half a *ṣāʿ* for each nail.

وَقَالَ زُفَرُ، وَالْحَسَنُ بْنُ زِيَادٍ: إنْ قَلَّمَ ثَلَاثَةَ أَظْفَارٍ مِنْ يَدٍ وَاحِدَةٍ، أَوْ مِنْ رِجْلٍ وَاحِدَةٍ، أَوْ مِنْ يَدَيْنِ وَرِجْلٍ، أَوْ مِنْ رِجْلَيْنِ وَيَدٍ: فَعَلَيْهِ دَمٌ - فَإِنْ قَلَّمَ أَقَلَّ فَعَلَيْهِ أَنْ يُطْعِمَ عَنْ كُلِّ أُصْبُعٍ نِصْفَ صَاعٍ.

L14758 Zufar and al-Ḥasan ibn Ziyād said: If one trims three nails in total from one hand; one foot; two hands and one foot; or two feet and one hand, he must offer a sacrificial animal (dam). If he trims fewer than this, he must give half a ṣāʿ of food for each finger/toe.

وَقَالَ الطَّحَاوِيُّ: لَا شَيْءَ عَلَيْهِ حَتَّى يُقَلِّمَ جَمِيعَ أَظْفَارِ يَدَيْهِ وَرِجْلَيْهِ: فَتَجِبُ عَلَيْهِ الْفِدْيَةُ.

L14759 And Al-Ṭaḥāwī said: There is no obligation upon him until he trims all the nails on his hands and feet, at which point the *fidyah* becomes obligatory upon him.

وَقَالَ مَالِكٌ: مَنْ قَلَّمَ مِنْ أَظْفَارِهِ مَا يُمِيطُ بِهِ عَنْ نَفْسِهِ أَذًى فَالْفِدْيَةُ الْمَذْكُورَةُ فِي حَلْقِ الرَّأْسِ عَلَيْهِ.

L14760 Malik said: Whoever trims from his nails that which removes harm from himself, the expiation mentioned for shaving the head is incumbent upon him.

وَقَالَ الشَّافِعِيُّ: مَنْ قَلَّمَ ظُفْرًا وَاحِدًا فَلْيُطْعِمْ مُدًّا، فَإِنْ قَلَّمَ ظُفْرَيْنِ فَمُدَّيْنِ، فَإِنْ قَلَّمَ ثَلَاثَةَ أَظْفَارٍ فَعَلَيْهِ دَمٌ؟ فَاعْجَبُوا لِهَذِهِ الْأَقْوَالِ الشَّنِيعَةِ الَّتِي لَا حَظَّ لَهَا فِي شَيْءٍ مِنْ وُجُوهِ الصَّوَابِ وَلَا نَعْلَمُ أَحَدًا قَالَهَا قَبْلَهُمْ - وَقَدْ ذَكَرْنَا عَنْ ابْنِ عَبَّاسٍ آنِفًا: لَا بَأْسَ عَلَى الْمُحْرِمِ إذَا انْكَسَرَ ظُفْرُهُ أَنْ يَطْرَحَهُ عَنْهُ وَأَنْ يُمِيطَ عَنْ نَفْسِهِ الْأَذَى.

L14761–14763 Al-Shafi'i said: Whoever trims a single nail must give a *mudd* of food; if two nails, then two *mudds*; and if three nails, a dam [sacrificial animal] is obligatory. Marvel at these absurd rulings, which have no basis in any aspect of valid principles, nor do we know of any justification for them. No one has stated this before them, as we have just mentioned from Ibn Abbas: There is no harm upon a pilgrim in *ihram* if his nail breaks; he may remove it and eliminate harm from himself.

وَهُوَ قَوْلُ عِكْرِمَةَ، وَإِبْرَاهِيمَ النَّخَعِيِّ، وَمُجَاهِدٍ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَسَعِيدِ بْنِ الْمُسَيِّبِ، وَحَمَّادِ بْنِ أَبِي سُلَيْمَانَ، لَيْسَ مِنْهُمْ أَحَدٌ جَعَلَ فِي ذَلِكَ شَيْئًا.

L14764 This is the position of 'Ikrimah, Ibrāhīm al-Nakha'ī, Mujāhid, Sa'īd ibn Jubayr, Sa'īd ibn al-Musayyib, and Ḥammād ibn Abī Sulaymān—not a single one of them established anything concerning that matter.

وَعَنْ عَطَاءٍ: إنْ قَصَّ أَظْفَارَهُ لِأَذًى بِهِ فَلَا شَيْءَ عَلَيْهِ، فَإِنْ قَصَّهَا لِغَيْرِ أَذًى فَعَلَيْهِ دَمٌ - وَعَنْهُ، وَعَنْ الْحَسَنِ: إنْ قَلَّمَ ظُفْرَهُ الْمُنْكَسِرَ فَلَا شَيْءَ عَلَيْهِ، فَإِنْ قَلَّمَهُ مِنْ غَيْرِ أَنْ يَنْكَسِرَ: فَعَلَيْهِ دَمٌ.

L14765 Narrated from 'Ataa: If one trims his nails due to harm he is experiencing, there is no blame on him. But if he trims them without experiencing harm, he must offer a dam. Narrated from him ('Ataa) and from Al-Hasan: If one trims his broken nail, there is no blame on him. But if he trims it when it is not broken, he must offer a dam.

وَعَنْ الشَّعْبِيِّ: إنْ نَزَعَ الْمُحْرِمُ ضِرْسَهُ: فَعَلَيْهِ دَمٌ.

L14766 From al-Sha'bī: If a pilgrim in the state of iḥrām pulls out his molar, he must offer a blood sacrifice (dam).

قَالَ أَبُو مُحَمَّد: وَلَا مُخَالِفَ لِابْنِ عَبَّاسٍ فِي هَذَا يُعْرَفُ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، وَيَلْزَمُ مَنْ رَأَى فِي إمَاطَةِ الْأَذَى الدَّمَ أَنْ يَقُولَ بِقَوْلِ الشَّعْبِيِّ فِي إيجَابِ إمَاطَةِ الْأَذَى بِقَلْعِ الضِّرْسِ، وَنَعَمْ، وَفِي الْبَوْلِ، وَفِي الْغَائِطِ لِأَنَّ كُلَّ ذَلِكَ إمَاطَةُ أَذًى.

L14767 Abu Muhammad said: There is no known opponent of Ibn Abbas among the Companions—may Allah be pleased with them—regarding this matter. Whoever holds that removing harm entails blood must adopt Al-Sha'bi's position on the obligation of removing harm through extracting a molar—and excellent!—as well as in cases of urine and feces, for all of these constitute the removal of harm.

وَعَنْ ابْنِ عَبَّاسٍ: يَغْسِلُ الْمُحْرِمُ ثِيَابَهُ.

L14768 It is narrated from Ibn Abbas that a pilgrim in the state of iḥrām should wash his garments.

L14769 Among the chains of narration transmitted by Waki' from Sufyan, from Mansur, from Salim ibn Abdullah ibn Umar, from his father, is his statement

concerning a pilgrim in sacred state washing his garments: “Allah does not concern Himself with your dirt.”

وَمِنْ طُرُقٍ وَكِيعٍ عَنْ سُفْيَانَ عَنْ مَنْصُورٍ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ أَنَّهُ قَالَ فِي غَسْلِ الْمُحْرِمِ ثِيَابَهُ: إنَّ اللَّهَ لَا يَصْنَعُ بِدَرَنِك شَيْئًا.

L14770 And via the same chain to Sufyān, from Abū al-Zubayr, from Jābir, who said: There is no harm in a person in *iḥrām* washing his clothes, and no opposing view from the Companions is known regarding it.

- وَبِهِ إلَى سُفْيَانَ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ قَالَ: لَا بَأْسَ بِغَسْلِ الْمُحْرِمِ ثِيَابَهُ، وَلَا يُعْرَفُ لَهُمْ مِنْ الصَّحَابَةِ مُخَالِفٌ.

L14771 This is also the view of Abū Ḥanīfah, Al-Shāfiʿī, and Abū Sulaymān.

وَبِهِ يَقُولُ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ.

## L14772 A case concerning game hunted by a pilgrim released from the state of iḥrām in the Ḥill (non-sacred area) and subsequently brought into the Ḥaram (sacred precincts).

## [مَسْأَلَةٌ مَا صَادَهُ الْمُحِلُّ فِي الْحِلِّ فَأَدْخَلَهُ الْحَرَمَ]

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٨٩٢ - مَسْأَلَةٌ:

L14774 Any game hunted by a non-Muḥrim in a permissible area and brought into the Sacred Precinct, gifted to a Muḥrim, or purchased by a Muḥrim is lawful for the Muḥrim and those within the Sacred Precinct to own, slaughter, and consume. Similarly, if someone enters the state of iḥrām while possessing game he owned previously, whether in his nearby or distant residence, or in a cage with him, it remains lawful for him to eat, slaughter, own, and sell it as it was. The prohibition applies solely to initiating the hunting of game, acquiring it, or slaughtering it while in iḥrām. If he slaughters it in this state, it becomes carrion (maytah). If someone not in iḥrām seizes it from him, it becomes the property of the one who seizes it. The Muḥrim cannot own it even after exiting iḥrām unless a new ownership occurs after his exit.

وَكُلُّ مَا صَادَهُ الْمُحِلُّ فِي الْحِلِّ فَأَدْخَلَهُ الْحَرَمَ، أَوْ وَهَبَهُ لِمُحْرِمٍ، أَوْ اشْتَرَاهُ مُحْرِمٌ: فَحَلَالٌ لِلْمُحْرِمِ، وَلِمَنْ فِي الْحَرَمِ مِلْكُهُ، وَذَبْحُهُ، وَأَكْلُهُ - وَكَذَلِكَ مَنْ أَحْرَمَ وَفِي يَدِهِ صَيْدٌ قَدْ مَلَكَهُ قَبْلَ ذَلِكَ، أَوْ فِي مَنْزِلِهِ قَرِيبًا، أَوْ بَعِيدًا، أَوْ فِي قَفَصٍ مَعَهُ فَهُوَ حَلَالٌ لَهُ - كَمَا كَانَ - أَكْلُهُ، وَذَبْحُهُ وَمِلْكُهُ، وَبَيْعُهُ، وَإِنَّمَا يُحَرَّمُ عَلَيْهِ ابْتِدَاءُ التَّصَيُّدِ لِلصَّيْدِ وَتَمَلُّكُهُ وَذَبْحُهُ حِينَئِذٍ فَقَطْ، فَلَوْ ذَبَحَهُ لَكَانَ مَيْتَةً، وَلَوْ انْتَزَعَهُ حَلَالٌ مِنْ يَدِهِ لَكَانَ لِلَّذِي انْتَزَعَهُ، وَلَا يَمْلِكُهُ الْمُحْرِمُ وَإِنْ أَحَلَّ، إلَّا بِأَنْ يَحْدُثَ لَهُ تَمَلُّكًا بَعْدَ إحْلَالِهِ.

L14775 The proof for this is that Allah, the Exalted, said: “The game of the earth is forbidden to you as long as you remain in a state of consecration” [Al-Ma’idah: 96].[21]

بُرْهَانُ ذَلِكَ -: أَنَّ اللَّهَ تَعَالَى قَالَ: {وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرُمًا} [المائدة: ٩٦] .

L14776–14777 And He said: “Do not kill the game while you are in the state of ihram.”

وَقَالَ: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ} [المائدة: ٩٥] .

[21] **Qur’an references (L14775):** Qur’an 5:96 (Al-Ma’idah).

[Quran 5:95][22]

L14778 A group stated: These two verses apply in their general sense, and the hunted game refers to what is prohibited regarding ownership, slaughtering, and consumption under any circumstances. Thus, they prohibited the *muhrim* absolutely from eating any hunted meat – even if he hunted it for himself when it is permissible, and even if it was slaughtered by someone in a lawful state.

فَقَالَتْ طَائِفَةٌ: هَاتَانِ الْآيَتَانِ عَلَى عُمُومِهِمَا، وَالشَّيْءُ الْمُتَصَيَّدُ هُوَ الْمُحَرَّمُ مِلْكُهُ وَذَبْحُهُ وَأَكْلُهُ كَيْفَ كَانَ؟ فَحَرَّمُوا عَلَى الْمُحْرِمِ أَكْلَ كُلِّ شَيْءٍ مِنْ لَحْمِ الصَّيْدِ جُمْلَةً وَإِنْ صَادَهُ لِنَفْسِهِ حَلَالٌ وَإِنْ ذَبَحَهُ الْحَلَالُ.

L14779 They prohibited him from slaughtering any of it, even if he owned it before entering the state of Ihram. They obliged anyone who entered Ihram while game was in his home, in his possession, or with him in a cage to release it, nullifying his ownership entirely. They did not permit any residents of Mecca and Medina to eat game meat, own it, or slaughter it.

وَحَرَّمُوا عَلَيْهِ ذَبْحَ شَيْءٍ مِنْهُ، وَإِنْ كَانَ قَدْ مَلَكَهُ قَبْلَ إِحْرَامِهِ، وَأَوْجَبُوا عَلَى مَنْ أَحْرَمَ وَفِي دَارِهِ صَيْدٌ أَوْ فِي يَدِهِ، أَوْ مَعَهُ فِي قَفَصٍ أَنْ يُطْلِقَهُ، وَأَسْقَطُوا عَنْهُ مِلْكَهُ أَلْبَتَّةَ، وَلَمْ يُبِيحُوا لِأَحَدٍ مِنْ سُكَّانِ مَكَّةَ وَالْمَدِينَةِ أَكْلَ شَيْءٍ مِنْ لَحْمِ الصَّيْدِ، أَوْ تَمَلُّكَهُ، أَوْ ذَبْحَهُ.

L14780 A group said: The statement of Allah the Exalted, "And forbidden to you is the hunting of land game as long as you are in the state of iḥrām" [Al-Mā'idah: 96]—Allah the Exalted intended only the act, which is hunting, not the hunted game—it being the verbal noun of "ṣāda yaṣīdu ṣaydan"—thus, what is prohibited upon him is his hunting of what he hunts alone.[23]

وَقَالَتْ طَائِفَةٌ: قَوْلُ اللَّهِ تَعَالَى: {وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرُمًا} [المائدة: ٩٦] إِنَّمَا أَرَادَ اللَّهُ تَعَالَى الْفِعْلَ الَّذِي هُوَ التَّصَيُّدُ لَا الشَّيْءَ الْمُتَصَيَّدَ - وَهُوَ مَصْدَرُ صَادَ يَصِيدُ صَيْدًا - فَإِنَّمَا حُرِّمَ عَلَيْهِ صَيْدُهُ لِمَا يَتَصَيَّدُ فَقَطْ.

L14781 They said: Allāh's statement (سبحانه وتعالى), "Do not kill game while you are in a state of ihrām" [Al-Mā'idah 95], refers to the very act of hunting itself—the same prohibition stated in the other verse.[24]

وَقَالُوا: قَوْله تَعَالَى: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ} [المائدة: ٩٥] هُوَ التَّصَيُّدُ أَيْضًا نَفْسُهُ الْمُحَرَّمُ فِي الْآيَةِ الْأُخْرَى.

L14782 This group supported their opinion by citing Allah's statement: "When you have exited iḥrām, then hunt" [Al-Mā'idah 5:2]. They said: "What Allah has permitted us through the termination of iḥrām is undoubtedly precisely what had been prohibited to us during iḥrām, nothing else."[25]

وَاسْتَدَلَّتْ هَذِهِ الطَّائِفَةُ عَلَى مَا قَالَتْهُ بِقَوْلِ اللَّهِ تَعَالَى: {وَإِذَا حَلَلْتُمْ فَاصْطَادُوا} [المائدة: ٢] قَالُوا: فَالَّذِي أَبَاحَهُ اللَّهُ تَعَالَى لَنَا بِالْإِحْلَالِ هُوَ بِلَا شَكٍّ الْمُحَرَّمُ عَلَيْنَا بِالْإِحْرَامِ لَا غَيْرُهُ.

[22]**Qur'an references (L14777):** Qur'an 5:95 (Al-Ma'idah).
[23]**Qur'an references (L14780):** Qur'an 5:96 (Al-Ma'idah).
[24]**Qur'an references (L14781):** Qur'an 5:95 (Al-Ma'idah).
[25]**Qur'an references (L14782):** Qur'an 5:2 (Al-Ma'idah).

وَقَالُوا: لَا يُطْلَقُ فِي اللُّغَةِ اسْمُ الصَّيْدِ إلَّا عَلَى مَا كَانَ فِي الْبَرِّيَّةِ وَحْشِيًّا غَيْرَ مُتَمَلَّكٍ فَإِذَا تُمُلِّكَ لَمْ يَقَعْ عَلَيْهِ اسْمُ صَيْدٍ بَعْدُ.

L14783 They said: The term “game” is not applied linguistically except to what is wild, unowned, and in its natural habitat. Once it comes into ownership, the name “game” no longer applies to it.

قَالَ أَبُو مُحَمَّد: فَهَذَانِ الْقَوْلَانِ هُمَا اللَّذَانِ لَا يَجُوزُ أَنْ يُفْهَمَ مِنْ الْآيَةِ غَيْرُهُمَا وَكُلُّ مَا عَدَاهُمَا فَقَوْلٌ فَاسِدٌ مُتَنَاقِضٌ لَا يَدُلُّ عَلَى صِحَّتِهِ دَلِيلٌ أَصْلًا فَوَجَبَ أَنْ نَنْظُرَ فِي أَيِّ الْقَوْلَيْنِ يَقُومُ عَلَى صِحَّتِهِ الْبُرْهَانُ -: فَوَجَدْنَا أَهْلَ الْمَقَالَةِ الْأُولَى يَحْتَجُّونَ بِحَدِيثِ ابْنِ عَبَّاسٍ عَنْ الصَّعْبِ بْنِ جَثَّامَةَ اللَّيْثِيِّ «أَنَّهُ أَهْدَى لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَجُلٌ حِمَارَ وَحْشٍ فَرَدَّهُ عَلَيْهِ، وَقَالَ: إنَّا حُرُمٌ لَا نَأْكُلُ الصَّيْدَ» .

L14784 Abu Muhammad said: These two opinions are the only permissible interpretations derived from the verse, and any view other than them is invalid, contradictory, and entirely lacking any evidence to indicate its validity. It thus becomes obligatory to examine which of the two opinions has definitive proof establishing its correctness. We found proponents of the first position citing the hadith narrated by Ibn Abbas from al-Sa‘b ibn Jaththama al-Laythi: “A man offered the Messenger of Allah—peace and blessings be upon him—a wild donkey as a gift, but he returned it saying: ’We are in consecration (iḥrām) and do not eat game.’”

وَرُوِيَ هَذَا الْحَدِيثُ أَيْضًا بِلَفْظِ: «أَنَّهُ أَهْدَى لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حِمَارَ وَحْشٍ فَرَدَّهُ عَلَيْهِ وَقَالَ: لَوْلَا أَنَّا مُحْرِمُونَ لَقَبِلْنَاهُ مِنْكَ» .

L14785–14786 This ḥadīth has also been narrated with the wording: “He gifted a wild donkey to the Messenger of Allah (peace and blessings of Allah be upon him), and the Prophet returned it to him and said: ’Were it not that we are in a state of iḥrām, we would have accepted it from you.’”

رُوِّينَا اللَّفْظَ الْأَوَّلَ: مِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ صَالِحِ بْنِ كَيْسَانَ عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ عَنْ ابْنِ عَبَّاسٍ: عَنْ الصَّعْبِ بْنِ جَثَّامَةَ.

L14787 The first wording was narrated to us through the route of Ḥammād ibn Zayd, from Ṣāliḥ ibn Kaysān, from ʿUbayd Allāh ibn ʿAbd Allāh ibn ʿUtbah, from Ibn ʿAbbās, from Ṣa‘b ibn Jaththāmah.

وَاللَّفْظَ الثَّانِيَ: مِنْ طَرِيقِ الْأَعْمَشِ عَنْ حَبِيبِ بْنِ أَبِي ثَابِتٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ: أَهْدَى الصَّعْبُ بْنُ جَثَّامَةَ.

L14788 The second wording: via Al-A‘mash, on the authority of Habib ibn Abi Thabit, from Sa‘id ibn Jubayr, from Ibn Abbas: Al-Sa‘b ibn Jaththāmah offered [as a gift].

وَمِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ نَا يَحْيَى هُوَ ابْنُ سَعِيدٍ الْقَطَّانُ - عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي الْحَسَنُ بْنُ مُسْلِمٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ أَنَّ زَيْدَ بْنَ أَرْقَمَ أَخْبَرَهُ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أُهْدِيَ لَهُ عُضْوٌ مِنْ لَحْمِ صَيْدٍ فَرَدَّهُ وَقَالَ: إنَّا لَا نَأْكُلُهُ إنَّا حُرُمٌ» .

L14789 And via the transmission of Muslim: Zuhayr ibn Harb narrated to us: Yahya—that is, Ibn Sa‘īd al-Qaṭṭān—narrated to us from Ibn Jurayj, who informed me that al-Ḥasan ibn Muslim informed me from Ṭāwūs from Ibn ʿAbbās that Zayd ibn Arqam informed him: “The Messenger of Allah—peace and blessings be upon him—was presented with a piece of hunted game meat, but he declined it and said: ’We do not eat it, for we are all in iḥram (as muḥrimūn).’”

L14790–14792 These are two narrations that were transmitted to us through entirely au-

thentic chains. This opinion was narrated from Ali, Mu'adh, and Ibn Umar, and it is the view held by Abu Bakr ibn Dawud. It was narrated to us via Abd al-Razzaq's chain from Ma'mar from Ayyub from Nafi', who said: "A slaughtered gazelle was presented to Ibn Umar in Mecca, but he refused to accept it, for Ibn Umar disapproved of a pilgrim in ihram consuming game meat under any circumstances."

We then examined the evidence cited by the opposing group and found them relying on what was narrated to us through Muslim's chain: Ibn Abi Umar narrated to us, Sufyan ibn Uyayna narrated to us, Salih ibn Kaysan narrated to us, saying: "I heard Abu Muhammad, the client of Abu Qatadah, say: 'I heard Abu Qatadah say: "We journeyed with Allah's Messenger (peace be upon him) until we reached al-Qaʿah. Some of us were in ihram while others were not. Suddenly I noticed my companions gazing at something. When I looked, I saw a wild ass. I saddled my horse, took my spear, and mounted. My whip fell, so I asked my companions—who were in ihram—to hand it to me, but they refused, declaring: 'No, by Allah! We will not assist you in hunting.'"" Having something with me, I dismounted and retrieved it. Then I rode again and caught up with the donkey from behind as it was behind a hillock - I stabbed it with a spear and hamstrung it. I brought it to my companions, whereupon some said: "Eat it," while others said: "Do not eat it." The Prophet (peace be upon him) was ahead of us, so I spurred my horse and reached him. He said: "It is ḥalāl - eat it."

L14793 Abu Muhammad, the client of Abu Qatadah, is trustworthy, and his name is Nafi'. Abu al-Nadr and others narrated from him.

L14794 From the path of Muslim: Ahmad ibn 'Abdah al-Dabbī narrated to us, Fudayl ibn Sulaymān al-Numayrī narrated to us, Abū Ḥāzim narrated to us from 'Abdullāh ibn Abī Qatādah from his father: "They departed with the Messenger of God - peace and blessings be upon him - while they were in the state of ritual consecration (iḥrām), whereas Abū Qatādah was not in iḥrām." He cited the ḥadīth, which includes: "The Messenger of God - peace be upon him - asked: 'Do you possess any portion of it?' They responded:

وَهَذَانِ خَبَرَانِ رُوِّينَاهُمَا مِنْ طُرُقٍ كُلُّهَا صِحَاحٌ - وَهَذَا قَوْلٌ رُوِيَ عَنْ عَلِيٍّ وَمُعَاذٍ، وَابْنِ عُمَرَ - وَبِهِ يَقُولُ أَبُو بَكْرِ بْنُ دَاوُد -: رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ أَيُّوبَ عَنْ نَافِعٍ قَالَ: أُهْدِيَ إِلَى ابْنِ عُمَرَ ظَبْيٌ مَذْبُوحَةٌ بِمَكَّةَ فَلَمْ يَقْبَلْهَا، وَكَانَ ابْنُ عُمَرَ يَكْرَهُ لِلْمُحْرِمِ أَنْ يَأْكُلَ مِنْ لَحْمِ الصَّيْدِ عَلَى كُلِّ حَالٍ -: فَنَظَرْنَا فِيمَا احْتَجَّتْ بِهِ الطَّائِفَةُ الْأُخْرَى -: فَوَجَدْنَاهُمْ يَحْتَجُّونَ بِمَا رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ نَا ابْنُ أَبِي عُمَرَ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - نَا صَالِحُ بْنُ كَيْسَانَ قَالَ: سَمِعْت أَبَا مُحَمَّدٍ مَوْلَى أَبِي قَتَادَةَ يَقُولُ: سَمِعْت أَبَا قَتَادَةَ يَقُولُ: «خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَتَّى إذَا كُنَّا بِالْقَاحَةِ فَمِنَّا الْمُحْرِمُ وَمِنَّا غَيْرُ الْمُحْرِمِ إذْ بَصُرْت بِأَصْحَابِي يَتَرَاءَوْنَ شَيْئًا فَنَظَرْتُ فَإِذَا حِمَارُ وَحْشٍ فَأَسْرَجْتُ فَرَسِي وَأَخَذْتُ رُمْحِي ثُمَّ رَكِبْتُ فَسَقَطَ مِنِّي سَوْطِي فَقُلْتُ لِأَصْحَابِي: نَاوِلُونِي سَوْطِي وَكَانُوا مُحْرِمِينَ فَقَالُوا: لَا وَاَللَّهِ لَا نُعِينُكَ عَلَيْهِ بِشَيْءٍ فَنَزَلْتُ فَتَنَاوَلْتُهُ، ثُمَّ رَكِبْتُ فَأَدْرَكْتُ الْحِمَارَ مِنْ خَلْفِهِ وَهُوَ وَرَاءَ أَكَمَةٍ فَطَعَنْتُهُ بِرُمْحٍ فَعَقَرْتُهُ فَأَتَيْتُ بِهِ أَصْحَابِي فَقَالَ بَعْضُهُمْ: كُلُوهُ، وَقَالَ بَعْضُهُمْ: لَا تَأْكُلُوهُ، وَكَانَ النَّبِيُّ - عَلَيْهِ السَّلَامُ - أَمَامَنَا فَحَرَّكْتُ فَرَسِي فَأَدْرَكْتُهُ فَقَالَ: هُوَ حَلَالٌ فَكُلُوهُ» .

أَبُو مُحَمَّدٍ مَوْلَى أَبِي قَتَادَةَ ثِقَةٌ اسْمُهُ نَافِعٌ رَوَى عَنْهُ أَبُو النَّضْرِ وَغَيْرُهُ.

وَمِنْ طَرِيقِ مُسْلِمٍ نَا أَحْمَدُ بْنُ عَبْدَةَ الضَّبِّيُّ نَا فُضَيْلُ بْنُ سُلَيْمَانَ النُّمَيْرِيُّ نَا أَبُو حَازِمٍ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ «أَنَّهُمْ خَرَجُوا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُمْ مُحْرِمُونَ وَأَبُو قَتَادَةَ مُحِلٌّ» فَذَكَرَ الْحَدِيثَ وَفِيهِ " أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ

'We have its leg.' The Messenger of God - peace be upon him - took it and consumed it."[26]

عَلَيْهِ وَسَلَّمَ - قَالَ: «هَلْ مَعَكُمْ مِنْهُ شَيْءٌ؟ قَالُوا: مَعَنَا رِجْلُهُ فَأَخَذَهَا رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - فَأَكَلَهَا» .

L14795 From the chain of Muslim: Zuhayr ibn Harb narrated to me; Yahya narrated to us—that is, Ibn Saʿīd al-Qaṭṭān—from Ibn Jurayj, who informed me: Muḥammad ibn al-Munkadir reported to me on the authority of Muʿādh ibn ʿAbd al-Raḥmān ibn ʿUthmān al-Taymī, from his father, who said: "We were with Ṭalḥah ibn ʿUbayd Allāh while we were in the state of iḥrām. A bird was presented to us while Ṭalḥah was asleep. Some of us abstained out of scrupulousness, while others ate it. When Ṭalḥah awoke, he approved those who ate it, saying: 'We ate it with the Messenger of Allāh (peace and blessings be upon him)."'

وَمِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ نَا يَحْيَى هُوَ ابْنُ سَعِيدٍ الْقَطَّانُ - عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي مُحَمَّدُ بْنُ الْمُنْكَدِرِ عَنْ مُعَاذِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عُثْمَانَ التَّيْمِيِّ عَنْ أَبِيهِ قَالَ: «كُنَّا مَعَ طَلْحَةَ بْنِ عُبَيْدِ اللَّهِ، وَنَحْنُ حُرُمٌ فَأُهْدِيَ لَنَا طَيْرٌ وَطَلْحَةُ رَاقِدٌ، فَمِنَّا مَنْ تَوَرَّعَ، وَمِنَّا مَنْ أَكَلَ فَلَمَّا اسْتَيْقَظَ طَلْحَةُ وَفَّقَ مَنْ أَكَلَهُ، وَقَالَ: أَكَلْنَاهُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -» .

L14796 And via the narration of Al-Layth ibn Sa'd, from Ibn al-Hād, from Muḥammad ibn Ibrāhīm al-Taymī, from 'Īsā ibn Ṭalḥah ibn 'Ubayd Allāh, from 'Umayr ibn Salamah al-Ḍamrī, who said: "While we were traveling with the Messenger of Allah—peace be upon him—at Al-Rawḥā while we were in the state of iḥrām, there appeared a hamstrung donkey. The Messenger of Allah—peace be upon him—said: 'Leave it, for its owner will soon come.' Then a man from the tribe of Bahz—the one who had hamstrung the donkey—arrived and said: 'O Messenger of Allah, see to this donkey.' Thereupon the Messenger of Allah—peace be upon him—ordered Abū Bakr to distribute it among the people."

وَمِنْ طَرِيقِ اللَّيْثِ بْنِ سَعْدٍ عَنْ ابْنِ الْهَادِ عَنْ مُحَمَّدِ بْنِ إبْرَاهِيمَ التَّيْمِيِّ عَنْ عِيسَى بْنِ طَلْحَةَ بْنِ عُبَيْدِ اللَّهِ عَنْ عُمَيْرِ بْنِ سَلَمَةَ الضَّمْرِيِّ قَالَ: «بَيْنَمَا نَحْنُ نَسِيرُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالرَّوْحَاءِ وَهُمْ حُرُمٌ إذَا حِمَارٌ مَعْقُورٌ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - دَعُوهُ فَيُوشِكُ صَاحِبُهُ أَنْ يَأْتِيَ فَجَاءَ رَجُلٌ مِنْ بَهْزٍ هُوَ الَّذِي عَقَرَ الْحِمَارَ فَقَالَ: يَا رَسُولَ اللَّهِ شَأْنُكُمْ بِهَذَا الْحِمَارِ، فَأَمَرَ - عَلَيْهِ السَّلَامُ - أَبَا بَكْرٍ فَقَسَّمَهُ بَيْنَ النَّاسِ» .

L14797 This is the opinion of Umar, Talha—as we mentioned—and Abu Hurairah: as we have transmitted through Abd al-Razzaq's chain from Ma'mar, from al-Zuhri, from Salim ibn Abdullah ibn Umar, who heard Abu Hurairah narrating to Salim's father, Abdullah ibn Umar. He said: "Some people in Ihram asked me about those who had exited Ihram gifting them hunted game." He said: "I commanded them to eat it. Then I met Umar and informed him, whereupon Umar said: 'Had you given them a ruling contrary to this, I would have made you suffer pain."'

وَهُوَ قَوْلُ عُمَرَ بْنِ الْخَطَّابِ، وَطَلْحَةَ كَمَا ذَكَرْنَا، وَأَبِي هُرَيْرَةَ -: كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يُحَدِّثُ أَبَاهُ عَبْدَ اللَّهِ بْنَ عُمَرَ قَالَ: سَأَلَنِي قَوْمٌ مُحْرِمُونَ عَنْ مُحِلِّينَ أَهْدَوْا لَهُمْ صَيْدًا؟ قَالَ: فَأَمَرْتهمْ بِأَكْلِهِ، ثُمَّ لَقِيت عُمَرَ فَأَخْبَرْته، فَقَالَ عُمَرُ: لَوْ أَفْتَيْتهمْ بِغَيْرِ هَذَا لَأَوْجَعْتُك.

[26] **Hadith references (L14794):** Sahih Muslim 1196h.

وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ ابْنِ جُرَيْجٍ حَدَّثَنِي يُوسُفُ بْنُ مَاهَكَ أَنَّهُ سَمِعَ عَبْدَ اللَّهِ بْنَ أَبِي عَمَّارٍ قَالَ: أَقْبَلْنَا مَعَ مُعَاذِ بْنِ جَبَلٍ مُحْرِمِينَ بِعُمْرَةٍ مِنْ بَيْتِ الْمَقْدِسِ وَأَمِيرُنَا مُعَاذُ بْنُ جَبَلٍ فَأَتَى رَجُلٌ بِحِمَارٍ وَحْشٍ قَدْ عَقَرَهُ فَابْتَاعَهُ كَعْبُ بْنُ مُسْلِمٍ فَجَاءَ مُعَاذٌ وَالْقُدُورُ تَغْلِي بِهِ، فَقَالَ مُعَاذٌ: لَا يُطِيعُنِي أَحَدٌ إِلَّا أَكْفَأَ قِدْرَهُ فَأَكْفَأَ الْقَوْمُ قُدُورَهُمْ فَلَمَّا وَافَوْا عُمَرَ قَصَّ عَلَيْهِ كَعْبٌ قِصَّةَ الْحِمَارِ، قَالَ عُمَرُ: مَا بَأْسُ ذَلِكَ؟ وَمَنْ نَهَى عَنْ ذَلِكَ؟ لَعَلَّك أَفْتَيْت بِذَلِكَ يَا مُعَاذُ؟ قَالَ: نَعَمْ - فَلَامَهُ عُمَرُ.

L14798–14799 From the chain of Yahyā ibn Saʿīd al-Qaṭṭān, from Ibn Jurayj: Yūsuf ibn Māhak narrated to me that he heard ʿAbdullāh ibn Abī ʿAmmār say: We set out with Muʿādh ibn Jabal while in the state of iḥrām for ʿUmrah from Bayt al-Maqdis, our leader being Muʿādh ibn Jabal. A man came with a wild donkey he had hamstrung, and Kaʿb ibn Muslim purchased it. When Muʿādh approached while the cauldrons were boiling with its meat, he declared: "Let no one obey me unless he overturns his cauldron!" The people then overturned their cauldrons. When they met ʿUmar, Kaʿb related the incident of the donkey. ʿUmar asked: "What harm is in that? Who prohibited it? Did you issue a fatwā on this, O Muʿādh?" He replied: "Yes." ʿUmar then rebuked him.

وَهُوَ أَيْضًا قَوْلُ ابْنِ عُمَرَ، وَابْنِ مَسْعُودٍ، وَأَبِي ذَرٍّ، وَمُجَاهِدٍ، وَاللَّيْثِ، وَأَبِي حَنِيفَةَ، وَغَيْرِهِمْ.

L14800 This is also the view of Ibn Umar, Ibn Mas'ud, Abu Dharr, Mujahid, al-Layth, Abu Hanifah, and others besides them.

قَالَ أَبُو مُحَمَّد: فَكَانَتْ هَذِهِ الْأَخْبَارُ وَالَّتِي قَبْلَهَا صِحَاحًا كُلُّهَا، فَالْوَاجِبُ فِي ذَلِكَ الْأَخْذُ بِجَمِيعِهَا وَاسْتِعْمَالُهَا كَمَا هِيَ دُونَ أَنْ يُزَادَ فِي شَيْءٍ مِنْهَا مَا لَيْسَ فِيهِ، فَيَقَعُ فَاعِلُ ذَلِكَ فِي الْكَذِبِ، فَنَظَرْنَا فِي هَذِهِ الْأَخْبَارِ فَوَجَدْنَا فِيهَا إبَاحَةَ أَكْلِ مَا صَادَهُ الْحَلَالُ لِلْمُحْرِمِ.

L14801 Abu Muhammad said: All these reports and those preceding them are entirely authentic. Therefore, it is obligatory to adhere to all of them and implement them exactly as they are, without adding anything to them that is not part of them, thereby causing the one who does so to fall into falsehood. We examined these reports and found within them the permissibility of a Muhrim consuming what a non-Muhrim has hunted.

ثُمَّ نَظَرْنَا فِي الَّتِي قَبْلَهَا فَوَجَدْنَاهَا لَيْسَ فِيهَا نَهْيُ الْمُحْرِمِ عَنْ أَكْلِ مَا صَادَهُ الْمُحِلُّ أَصْلًا وَإِنَّمَا فِيهَا قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «إنَّا لَا نَأْكُلُهُ إنَّا حُرُمٌ، وَلَوْلَا أَنَّنَا مُحْرِمُونَ لَقَبِلْنَاهُ» فَإِنَّمَا فِيهِ رَدُّ الصَّيْدِ عَلَى مُهْدِيهِ، لِأَنَّهُمْ حُرُمٌ وَتَرْكُ أَكْلِهِ لِأَنَّهُمْ حُرُمٌ، وَهَذَا فِعْلٌ مِنْهُ - عَلَيْهِ السَّلَامُ - وَلَيْسَ أَمْرًا، وَإِنَّمَا الْوَاجِبُ أَمْرُهُ وَإِنَّمَا فِي فِعْلِهِ الِائْتِسَاءُ بِهِ فَقَطْ.

L14802 Then we examined the preceding text and found it contains no original prohibition against a pilgrim eating game hunted by someone not in Ihram. Rather, it includes his statement—peace be upon him—: "We do not eat it, for we are in the state of Ihram. Had we not been in this state, we would have accepted it." This merely involves returning the hunted animal to the one who presented it and refraining from eating it because they were in the state of Ihram. This constitutes an action from him—peace be upon him—not a command. Only his explicit commands are obligatory, while his actions permit emulation alone.

وَهَذَا مِثْلُ قَوْلِهِ - عَلَيْهِ السَّلَامُ -: «أَمَّا أَنَا فَلَا آكُلُ مُتَّكِئًا» .

L14803 This is similar to his saying — peace be upon him —: "As for me, I do not eat while reclining."

وَتَرْكِهِ أَكْلَ الضَّبِّ - فَلَمْ يُحَرِّمْ بِذَلِكَ الْأَكْلَ مُتَّكِئًا لَكِنْ هُوَ الْأَفْضَلُ.

L14804 His abstention from eating the *dab*—he did not thereby declare it forbid-

den based on that act, but [abstaining] remains the superior course.

L14805 The consumption by a *Muhrim* of game hunted by a *Muhill* was also not prohibited, based on the Prophet's statement—peace be upon him—"We do not eat it, for we are *Muhrims*." However, abstaining from eating it was more virtuous.

وَلَمْ يُحَرَّمْ أَيْضًا أَكْلُ الْمُحْرِمِ الصَّيْدَ يَصِيدُهُ الْمُحِلُّ بِقَوْلِهِ - عَلَيْهِ السَّلَامُ - «إِنَّا لَا نَأْكُلُهُ إِنَّا حُرُمٌ» لَكِنْ كَانَ تَرْكُ أَكْلِهِ أَفْضَلَ.

L14806 Similarly, it is narrated from Aisha that there is no restriction whatsoever in eating it, nor is it disliked, because the Prophet - peace be upon him - permitted it and ate it. At times he ate it, at times he did not eat it, at times he accepted it, and at times he did not accept it – all of these actions are praiseworthy and permissible.

وَهَكَذَا رُوِيَ عَنْ عَائِشَةَ وَلَا حَرَجَ فِي أَكْلِهِ أَصْلًا وَلَا كَرَاهَةَ لِأَنَّهُ - عَلَيْهِ السَّلَامُ - قَدْ أَبَاحَهُ وَأَكَلَهُ أَيْضًا، فَمَرَّةً أَكَلَهُ، وَمَرَّةً لَمْ يَأْكُلْهُ، وَمَرَّةً قَبِلَهُ، وَمَرَّةً لَمْ يَقْبَلْهُ - فَكُلُّ ذَلِكَ حَسَنٌ مُبَاحٌ.

L14807–14809 And such is the ruling concerning the ḥadīth which states: "Ostrich eggs and wild dates were presented to the Messenger of Allah—peace and blessings be upon him—and he said: 'Give them to your family to eat, for we are in a state of ihram.'" Even if it were authentic—but how could that be? It is not authentic! Since there is no doubt about this, it follows that... It is authentically established that the statement of Allah, the Exalted, {Forbidden to you is the game of the land while you are in a state of iḥrām} [Al-Mā'idah: 96], intends by it solely the act of hunting within the land.[27]

وَهَكَذَا الْقَوْلُ فِي الْحَدِيثِ الَّذِي فِيهِ «أُهْدِيَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بَيْضُ نَعَامٍ وَتَمْرٍ وَحْشٍ فَقَالَ: أَطْعِمْهُ أَهْلَكَ فَإِنَّا حُرُمٌ» لَوْ صَحَّ فَكَيْفَ وَلَا يَصِحُّ؟ فَإِذْ لَا شَكَّ فِي هَذَا فَقَدْ صَحَّ أَنَّ قَوْلَ اللَّهِ تَعَالَى: {وَحُرِّمَ عَلَيْكُمْ صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرُمًا} [المائدة: ٩٦] إِنَّمَا أَرَادَ بِهِ التَّصَيُّدَ فِي الْبَرِّ فَقَطْ.

L14810 And it is established that the statement of the Exalted: "Do not kill game while you are in a state of ihram" [Al-Mā'idah:95] constitutes a prohibition against killing it during the state of ihram. Ritual slaughter is not killing—there is no disagreement in the Sharīʿah on this—and killing is not ritual slaughter. Thus, it is established that He did not prohibit its ritual slaughter. Since this is confirmed, and the scriptural text did not forbid owning game without hunting, it is permissible (ḥalāl).[28]

وَصَحَّ أَنَّ قَوْلَه تَعَالَى: {لا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ} [المائدة: ٩٥] نَهْيٌ عَنْ قَتْلِهِ فِي حَالِ كَوْنِ الْمَرْءِ حَرَمًا، وَالذَّكَاةُ لَيْسَتْ قَتْلًا بِلَا خِلَافٍ فِي الشَّرِيعَةِ، وَالْقَتْلُ لَيْسَ ذَكَاةً، فَصَحَّ أَنَّهُ لَمْ يَنْهَ عَنْ تَذْكِيَتِهِ، وَإِذَا ثَبَتَ هَذَا فَلَمْ يَأْتِ النَّصُّ بِنَهْيٍ عَنْ تَمَلُّكِ الصَّيْدِ بِغَيْرِ التَّصَيُّدِ فَهُوَ حَلَالٌ.

L14811 A decisive proof is that the Prophet—peace be upon him—resided in Medina until his death, and it is a sanctuary like Mecca, entirely equal. His Companions after him also upheld this. The Prophet—peace be upon him—continuously received game gifted to him and his Companions, which was brought alive into Medina, where it was bought, slaughtered, eaten, and

وَبُرْهَانٌ قَاطِعٌ -: وَهُوَ أَنَّ النَّبِيَّ - عَلَيْهِ السَّلَامُ - سَكَنَ الْمَدِينَةَ إِلَى أَنْ مَاتَ، وَهِيَ حَرَمٌ كَمَكَّةَ سَوَاءً سَوَاءً وَأَصْحَابُهُ بَعْدَهُ، وَلَمْ يَزَلْ - عَلَيْهِ السَّلَامُ - يُهْدَى لَهُ الصَّيْدُ وَلِأَصْحَابِهِ وَيَدْخُلُ بِهِ الْمَدِينَةَ حَيًّا فَيُبْتَاعُ وَيُذْبَحُ وَيُؤْكَلُ وَيُتَمَلَّكُ، وَمُذَكًّى فَيُبَاعُ وَيُؤْكَلُ، هَذَا أَمْرٌ لَا يَقْدِرُ عَلَى إِنْكَارِهِ أَحَدٌ جِيلًا بَعْدَ جِيلٍ، وَكَذَلِكَ بِمَكَّةَ وَهِيَ حَرَمٌ -: حَدَّثَنَا يُوسُفُ

[27] **Qur'an references (L14807):** Qur'an 5:96 (Al-Ma'idah).
[28] **Qur'an references (L14810):** Qur'an 5:95 (Al-Ma'idah).

owned. Similarly, properly slaughtered game was sold and consumed. This is a matter that no one, generation after generation, can deny. The same applies to Mecca as a sanctuary.

بْنُ عَبْدِ اللَّهِ بْنِ عَبْدِ الْبَرِّ النَّمَرِيُّ نَا عَبْدُ الْوَارِثِ بْنُ سُفْيَانَ نَا قَاسِمُ بْنُ أَصْبَغَ نَا أَحْمَدُ بْنُ زُهَيْرِ بْنِ حَرْبٍ هُوَ ابْنُ أَبِي خَيْثَمَةَ - نا عُبَيْدُ اللَّهِ بْنُ عُمَرَ نا حَمَّادُ بْنُ زَيْدٍ قَالَ: سَمِعْتُ دَاوُد بْنَ أَبِي هِنْدٍ يُحَدِّث هِشَامَ بْنَ عُرْوَةَ أَنَّ عَطَاءً يَكْرَهُ مَا أُدْخِلَ مِنْ الصَّيْدِ مِنْ الْحِلِّ أَنْ يُذْبَحَ فِي الْحَرَامِ، فَقَالَ هِشَامٌ: وَمَا عِلْمُ عَطَاءٍ، وَمَنْ يَأْخُذُ عَنْ ابْنِ رَبَاحٍ كَانَ أَمِيرُ الْمُؤْمِنِينَ بِمَكَّةَ - يَعْنِي عَمَّهُ ابْنَ الزُّبَيْرِ - تِسْعَ سِنِينَ يَرَاهَا فِي الْأَقْفَاصِ وَأَصْحَابُ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - يُقَدِّمُونَ بِهَا الْقَمَارِيَّ وَالْيَعَاقِيبَ لَا يَنْهَوْنَ عَنْ ذَلِكَ.

Yusuf ibn ʿAbd Allāh ibn ʿAbd al-Barr al-Namarī reported to us: ʿAbd al-Wārith ibn Sufyān reported to us: Qāsim ibn Aṣbagh reported to us: Aḥmad ibn Zuhayr ibn Ḥarb—the son of Abī Khaythamah—reported to us: ʿUbayd Allāh ibn ʿUmar reported to us: Ḥammād ibn Zayd said: I heard Dāwūd ibn Abī Hind narrating to Hishām ibn ʿUrwah that ʿAṭāʾ disliked game brought from outside the sanctuary being slaughtered within it. Hishām responded: "What does ʿAṭāʾ know? Who would learn from Ibn Rabāḥ? The Commander of the Believers in Mecca"—referring to his uncle Ibn al-Zubayr—"ruled for nine years, seeing them in cages, while the Companions of the Messenger of Allah—peace be upon him—brought quails and hawks, and none forbade that."

L14812 Abū Muḥammad said: What the sacred precinct does not prohibit, the state of iḥrām does not prohibit either, since the text makes no distinction between them whatsoever—thus the ambiguity is resolved (and success is from Allah, the Exalted). However, Abū Ḥanīfah stated: If someone enters the state of iḥrām while there is game in his residence or with him in a cage, he is not obligated to release it. But if it is in his hand, he must release it. If, after ending his iḥrām, he finds it in the possession of someone who has taken it, he may reclaim and wrest it away from the holder. This is confusion enough to suffice. For if his ownership over it ceases due to his iḥrām, how does he have the right to take it from one who has lawfully acquired it? There is no means for his ownership to revert to him after its cessation except through definitive proof. But if his ownership does not cease due to his iḥrām, then he is not obligated to release it.

قَالَ أَبُو مُحَمَّدٍ: مَا لَمْ يَمْنَعْ مِنْهُ الْحَرَمُ لَمْ يَمْنَعْ مِنْهُ الْإِحْرَامُ إذْ لَمْ يُفَرِّقْ بَيْنَ ذَلِكَ النَّصُّ أَصْلًا فَارْتَفَعَ الْإِشْكَالُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ - إلَّا أَنَّ أَبَا حَنِيفَةَ قَالَ: مَنْ أَحْرَمَ وَفِي مَنْزِلِهِ صَيْدٌ أَوْ مَعَهُ فِي قَفَصٍ لَمْ يَلْزَمْهُ إرْسَالُهُ فَإِنْ كَانَ فِي يَدِهِ لَزِمَهُ إرْسَالُهُ فَإِنْ وَجَدَهُ بَعْدَ إحْلَالِهِ فِي يَدِ إنْسَانٍ قَدْ أَخَذَهُ كَانَ لَهُ ارْتِجَاعُهُ وَانْتِزَاعُهُ مِنْ الَّذِي هُوَ بِيَدِهِ، وَهَذَا تَخْلِيطٌ نَاهِيكَ بِهِ، وَلَئِنْ كَانَ يَسْقُطُ مِلْكُهُ عَنْهُ بِإِحْرَامِهِ فَمَا لَهُ أَنْ يَأْخُذَهُ مِمَّنْ مَلَكَهُ وَلَا سَبِيلَ إلَى عَوْدَةِ مِلْكِهِ عَلَيْهِ بَعْدَ سُقُوطِهِ إلَّا بِبُرْهَانٍ، وَإِنْ كَانَ مِلْكُهُ لَمْ يَسْقُطْ عَنْهُ بِإِحْرَامِهِ فَلَا يَلْزَمُهُ إرْسَالُهُ.

L14813–14815 He also said: If a non-Muhrim hunts game and brings it alive into the Ḥaram of Mecca, he must release it, but if he sells it... His sale is rescinded. If he sells it to someone who will slaughter it or if he slaughtered it, the expiation becomes obligatory for him - and this is a muddling [of rulings] and contradicts what we stated earlier.

وَقَالَ أَيْضًا: إنْ صَادَ مُحِلٌّ صَيْدًا فَأَدْخَلَهُ حَرَمَ مَكَّةَ حَيًّا فَعَلَيْهِ أَنْ يُرْسِلَهُ فَإِنْ بَاعَهُ فُسِخَ بَيْعُهُ، فَإِنْ بَاعَهُ مِمَّنْ يَذْبَحُهُ أَوْ ذَبَحَهُ فَعَلَيْهِ الْجَزَاءُ - وَهَذَا تَخْلِيطٌ وَتَنَاقُضٌ لِمَا ذَكَرْنَا قَبْلُ.

L14816 It has been reported to us from Mujāhid that there is no harm in game being brought into the Haram alive and then slaughtered.

وَرُوِّينَا عَنْ مُجَاهِدٍ لَا بَأْسَ أَنْ يُدْخَلَ الصَّيْدُ فِي الْحَرَمِ حَيًّا - ثُمَّ يُذْبَحَ.

L14817 And from ʿAṭāʾ, ʿAmr ibn Dīnār, and Saʿīd ibn Jubayr as well is narrated the like of this.

وَعَنْ عَطَاءٍ، وَعَمْرِو بْنِ دِينَارٍ، وَسَعِيدِ بْنِ جُبَيْرٍ أَيْضًا مِثْلُ هَذَا.

L14818 And from the chain of ʿAbd al-Razzāq, from Maʿmar, from Ṣāliḥ ibn Kayṣān, who said: I saw live game being sold alive in Mecca during the emirate of Ibn al-Zubayr.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ صَالِحِ بْنِ كَيْسَانَ قَالَ: رَأَيْت الصَّيْدَ يُبَاعُ بِمَكَّةَ حَيًّا فِي إمَارَةِ ابْنِ الزُّبَيْرِ.

L14819 Abu Muhammad said: There is no distinction between one who is within the Haram (sacred precincts) and a person in the state of Ihram (Muhrim), whether the latter is in the Hill (non-sacred area) or the Haram, for both are bound by the rulings of the Haram—and success is from Allah, the Exalted. Since this is established, the obligation upon one who kills owned game while in the state of Ihram or within the Haram is to provide the owner with an equivalent animal by purchasing it on their behalf or to pay its value if no equivalent is found. No expiation is required in this case, and the slain animal may not be consumed because it is considered maytah (improperly slaughtered meat), as it was killed without the owner's permission.

قَالَ أَبُو مُحَمَّد: وَلَا فَرْقَ بَيْنَ مَنْ كَانَ فِي الْحَرَمِ، وَبَيْنَ الْمُحْرِمِ فِي الْحِلِّ وَالْحَرَمِ، لِأَنَّ كِلَيْهِمَا يَقَعُ عَلَيْهِ اسْمُ حَرَمٍ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ - فَإِذْ قَدْ صَحَّ هَذَا فَالْوَاجِبُ فِيمَنْ قَتَلَ صَيْدًا مُتَمَلَّكًا وَهُوَ مُحْرِمٌ أَوْ فِي الْحَرَمِ أَنْ يُؤَدِّيَ لِصَاحِبِهِ صَيْدًا مِثْلَهُ يَبْتَاعُهُ لَهُ أَوْ قِيمَتَهُ إنْ لَمْ يُوجَدْ مِثْلُهُ، وَلَا جَزَاءَ فِيهِ وَلَا يُؤْكَلُ الَّذِي قُتِلَ لِأَنَّهُ مَيْتَةٌ، إذْ قَتْلُهُ بِغَيْرِ إذْنِ صَاحِبِهِ.

L14820 Abu Muhammad said: There are two other opinions here. One of them is a group who said: The meat of game is permissible for the one in the state of ihram provided he did not hunt it himself or have it hunted for him. They cited as evidence what we have narrated through the chain of ʿAbd al-Razzāq from Maʿmar from Yaḥyā ibn Abī Kathīr from ʿAbd Allāh ibn Abī Qatādah from his father, who said: I went out with the Messenger of Allāh—peace and blessings be upon him—during the time of Ḥudaybiyyah. My companions had assumed the state of ihram, but I had not. I saw a wild donkey, pursued it, and hunted it. I mentioned the matter to the Prophet—peace be upon him—and informed him I had not assumed the state of ihram. He ordered his companions to eat, and they ate. However, he did not eat from it when I told him I had hunted it for his sake.

قَالَ أَبُو مُحَمَّد: وَهَا هُنَا قَوْلَانِ آخَرَانِ، أَحَدُهُمَا: قَوْمٌ قَالُوا: لَحْمُ الصَّيْدِ حَلَالٌ لِلْمُحْرِمِ مَا لَمْ يَصِدْهُ هُوَ أَوْ يُصَدْ لَهُ، وَاحْتَجُّوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ «عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ قَالَ: خَرَجْتُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - زَمَنَ الْحُدَيْبِيَةِ فَأَحْرَمَ أَصْحَابِي وَلَمْ أُحْرِمْ فَرَأَيْتُ حِمَارَ وَحْشٍ فَحَمَلْتُ عَلَيْهِ فَاصْطَدْتُهُ فَذَكَرْتُ شَأْنَهُ لِلنَّبِيِّ - عَلَيْهِ السَّلَامُ - وَذَكَرْتُ أَنِّي لَمْ أَكُنْ أَحْرَمْتُ فَأَمَرَ أَصْحَابَهُ فَأَكَلُوا وَلَمْ يَأْكُلْ مِنْهُ حِينَ أَخْبَرْتُهُ أَنِّي اصْطَدْتُهُ لَهُ» .

L14821 And based on what we have narrated through the chain of ʿAmr ibn Abī ʿAmr from al-Muṭṭalib ibn Ḥanṭab from Jābir ibn ʿAbd Allāh, who said: The Messenger of Allah - upon him be peace - said: "The game of the land is

lawful for you while in the state of ihram, except what you hunted and was hunted on your behalf."

وَبِمَا رُوِّينَاهُ مِنْ طَرِيقِ عَمْرِو بْنِ أَبِي عَمْرٍو عَنْ الْمُطَّلِبِ بْنِ حَنْطَبٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -: «صَيْدُ الْبَرِّ لَكُمْ حَلَالٌ وَأَنْتُمْ حُرُمٌ إلَّا مَا اصْطَدْتُمْ وَصِيدَ لَكُمْ» .

L14822 This has been narrated to us from Uthman: that game was brought to him while he and his companions were in ihram. He commanded them to eat it, but he himself did not eat. Amr ibn al-As said to him: "How strange of you! You order us to eat what you yourself do not eat?" Uthman replied: "I think it was hunted on my account." So they ate, and he did not eat. That is the opinion of Malik.

فَرُوِّينَا هَذَا عَنْ عُثْمَانَ وَأَنَّهُ أُتِيَ بِصَيْدٍ وَهُوَ وَأَصْحَابُهُ مُحْرِمُونَ فَأَمَرَهُمْ بِأَكْلِهِ وَلَمْ يَأْكُلْهُ هُوَ فَقَالَ لَهُ عَمْرُو بْنُ الْعَاصِ: يَا عَجَبًا لَك تَأْمُرُنَا أَنْ نَأْكُلَ مِمَّا لَسْت آكِلًا؟ فَقَالَ عُثْمَانُ: إنِّي أَظُنُّ إنَّمَا صِيدَ مِنْ أَجْلِي، فَأَكَلُوا وَلَمْ يَأْكُلْ - وَهُوَ قَوْلُ مَالِكٍ.

L14823–14825 Abū Muḥammad said: As for the report of Jābir, it is rejected because it is from ʿAmr ibn Abī ʿAmr, who is weak. As for the report of Abū Qatādah, Maʿmar narrated it as we have mentioned. Muʿāwiyah ibn Sallām narrated it from Yaḥyā ibn Abī Kathīr, as did Hishām al-Dastawā'ī, both of whom narrate: In it, from Yaḥyā: ʿAbdullāh ibn Abī Qatādah narrated to me. Yaḥyā and ʿAbdullāh do not mention what Maʿmar mentioned, nor does Maʿmar mention in his narration that Yaḥyā heard directly from ʿAbdullāh ibn Abī Qatādah for his own chain.

قَالَ أَبُو مُحَمَّد: أَمَّا خَبَرُ جَابِرٍ فَسَاقِطٌ، لِأَنَّهُ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو وَهُوَ ضَعِيفٌ. وَأَمَّا خَبَرُ أَبِي قَتَادَةَ فَإِنَّ مَعْمَرًا رَوَاهُ كَمَا ذَكَرْنَا. وَرَوَاهُ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ مُعَاوِيَةُ بْنُ سَلَّامٍ، وَهِشَامٌ الدَّسْتُوَائِيُّ كِلَاهُمَا يَقُولُ فِيهِ: عَنْ يَحْيَى حَدَّثَنِي عَبْدُ اللَّهِ بْنُ أَبِي قَتَادَةَ، وَلَا يَذْكُرَانِ مَا ذَكَرَ مَعْمَرٌ، وَلَمْ يَذْكُرْ فِيهِ مَعْمَرٌ سَمَاعَ يَحْيَى لَهُ مِنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ.

L14826 It was also narrated by Shuʿbah from ʿUthman ibn ʿAbdullah ibn Mawhab, from ʿAbdullah ibn Abi Qatadah, from Abu Qatadah—in accordance with what we will mention after this, if Allah the Exalted wills—wherein Shuʿbah did not include the details mentioned by Maʿmar.

وَرَوَاهُ أَيْضًا: شُعْبَةُ عَنْ عُثْمَانَ بْنِ عَبْدِ اللَّهِ بْنِ مَوْهَبٍ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِي قَتَادَةَ عَلَى مَا نَذْكُرُ بَعْدَ هَذَا إنْ شَاءَ اللَّهُ تَعَالَى فَلَمْ يَذْكُرْ فِيهِ مَا ذَكَرَ مَعْمَرٌ.

L14827 It was also narrated by Abu Muhammad, the freed slave of Abu Qatadah, from Abu Qatadah—though he did not mention in it what Ma'mar mentioned. Another narration by Abu Hazim from Abdullah ibn Abi Qatadah from Abu Qatadah states that the Messenger of Allah, peace be upon him, ate from it.

وَرَوَاهُ أَيْضًا: أَبُو مُحَمَّدٍ مَوْلَى أَبِي قَتَادَةَ عَنْ أَبِي قَتَادَةَ - فَلَمْ يَذْكُرْ فِيهِ مَا ذَكَرَ مَعْمَرٌ، وَرَوَاهُ أَبُو حَازِمٍ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِي قَتَادَةَ فَذَكَرَ: أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - أَكَلَ مِنْهُ.

L14828 The action in this matter must be understood in one of three scenarios: first, that the narration of the group is given precedence over Ma'mar's narration—particularly since among them is one who attributes Yaḥyā's report to Ibn Abī Qatādah without mentioning Ma'mar.

فَلَا يَخْلُو الْعَمَلُ فِي هَذَا مِنْ ثَلَاثَةِ أَوْجُهٍ -: إمَّا أَنْ تُغَلَّبَ رِوَايَةُ الْجَمَاعَةِ عَلَى رِوَايَةِ مَعْمَرٍ لَا سِيَّمَا وَفِيهِمْ مَنْ يَذْكُرُ سَمَاعَ يَحْيَى مِنْ ابْنِ أَبِي قَتَادَةَ وَلَمْ يَذْكُرْ مَعْمَرًا.

وَتَسْقُطَ رِوَايَةُ يَحْيَى بْنِ أَبِي كَثِيرٍ جُمْلَةً لِأَنَّهُ اضْطَرَبَ عَلَيْهِ وَيُؤْخَذَ بِرِوَايَةِ أَبِي حَازِمٍ، وَأَبِي مُحَمَّدٍ، وَابْنِ مَوْهَبٍ، الَّذِينَ لَمْ يَضْطَرِبْ عَلَيْهِمْ لِأَنَّهُ لَا يَشُكُّ ذُو حِسٍّ أَنَّ إِحْدَى الرِّوَايَتَيْنِ وَهْمٌ.

L14829 The narration of Yaḥyā ibn Abī Kathīr is categorically dismissed due to his inconsistency, while the narrations of Abū Ḥāzim, Abū Muḥammad, and Ibn Mawhab—who were not inconsistent—are adopted, for no discerning person doubts that one of the two narrations contains an error.

إِذْ لَا يَجُوزُ أَنْ تَصِحَّ الرِّوَايَةُ فِي أَنَّهُ - عَلَيْهِ السَّلَامُ - أَكَلَ مِنْهُ، وَتَصِحَّ الرِّوَايَةُ فِي أَنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يَأْكُلْ مِنْهُ، وَهِيَ قِصَّةٌ وَاحِدَةٌ فِي وَقْتٍ وَاحِدٍ، فِي مَكَانٍ وَاحِدٍ فِي صَيْدٍ وَاحِدٍ، وَيُؤْخَذُ بِالزَّائِدِ وَهُوَ الْحَقُّ الَّذِي لَا يَجُوزُ تَعَدِّيهِ؟ فَنَظَرْنَا فِي ذَلِكَ -: فَوَجَدْنَا مَنْ رَوَى عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ: «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَكَلَ مِنْهُ» قَدْ أَثْبَتَ خَبَرًا وَزَادَ عِلْمًا عَلَى مَا رُوِيَ عَنْهُ أَنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يَأْكُلْ مِنْهُ، فَوَجَبَ الْأَخْذُ بِالزَّائِدِ وَلَا بُدَّ وَتَرْكُ رِوَايَةِ مَنْ لَمْ يُثْبِتْ مَا أَثْبَتَهُ غَيْرُهُ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14830 For it is not permissible that both narrations be authentic—one stating he (peace be upon him) ate from it and another stating he (peace be upon him) did not eat from it—when it concerns a single incident occurring at one time, in one place, involving one hunted animal. How then can the additional narration be taken as the truth that cannot be transgressed? We examined this matter and found that those who narrated from ʿAbdullāh ibn Abī Qatādah—"The Messenger of Allah (may Allah's blessings and peace be upon him) ate from it"—affirmed a report and provided supplementary knowledge beyond what was narrated about him (peace be upon him) not eating from it. Thus, it becomes obligatory to adopt the additional narration, necessarily disregarding the narration of those who did not affirm what others affirmed. And with Allah, the Exalted, lies all success.

وَأَمَّا فِعْلُ عُثْمَانَ فَإِنَّنَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ أَنَا ابْنُ وَهْبٍ أَنَا عَمْرُو بْنُ الْحَارِثِ أَنَّ أَبَا النَّضْرِ مَوْلَى عُمَرَ بْنِ عُبَيْدِ اللَّهِ حَدَّثَهُ أَنَّ بُسْرَ بْنَ سَعِيدٍ أَخْبَرَهُ أَنَّ عُثْمَانَ بْنَ عَفَّانَ كَانَ يُصَادُ لَهُ الْوَحْشُ عَلَى الْمَنَازِلِ ثُمَّ يُذْبَحُ فَيَأْكُلُهُ وَهُوَ مُحْرِمٌ سَنَتَيْنِ مِنْ خِلَافَتِهِ، ثُمَّ إِنَّ الزُّبَيْرَ كَلَّمَهُ، فَقَالَ: مَا أَدْرِي مَا هَذَا يُصَادُ لَنَا وَمِنْ أَجْلِنَا؟ لَوْ تَرَكْنَاهُ؟ فَتَرَكَهُ.

L14831 As for the action of ʿUthmān, it has been narrated to us through the chain of Saʿīd ibn Manṣūr: from Ibn Wahb, from ʿAmr ibn al-Ḥārith, that Abū al-Naḍr – the freed slave of ʿUmar ibn ʿUbayd Allāh – reported to him that Busr ibn Saʿīd informed him that ʿUthmān ibn ʿAffān would have wild game hunted for him at the stopping points during travel, then slaughtered, and he would eat it while in the state of ritual consecration, iḥrām, during two years of his caliphate. Then al-Zubayr spoke to him, saying: "I do not know what this is – hunted on our behalf and for our sake. What if we were to abandon it?" So ʿUthmān abandoned it.

فَصَحَّ أَنَّهُ رَأْيٌ مِنْ عُثْمَانَ، وَالزُّبَيْرِ، وَاسْتِحْسَانٌ، لَا مَنْعٌ، وَلَا عَنْ أَثَرٍ عِنْدَهُمَا، وَمِثْلُ هَذَا لَا تَقُومُ بِهِ حُجَّةٌ، وَلَا يَشُكُّ أَحَدٌ فِي أَنَّ أَبَا قَتَادَةَ لَمْ يَصِدْ الْحِمَارَ إِلَّا لِنَفْسِهِ وَأَصْحَابِهِ وَهُمْ مُحْرِمُونَ فَلَمْ يَمْنَعْهُمْ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ أَكْلِهِ فَسَقَطَ هَذَا الْقَوْلُ.

L14832–14834 Thus, it is confirmed that this was an opinion from Uthman and Zubayr, and a juristic discretion—not a prohibition—and not from any transmitted precedent in their possession. Such a scenario cannot constitute valid evidence, and no one doubts that Abū Qatādah hunted the wild donkey exclusively for himself and his companions while they were in the state of iḥrām. Yet the

Messenger of Allah (peace and blessings be upon him) did not prohibit them from consuming it. Therefore, this argument is invalidated.

وَقَوْلٌ آخَرُ: وَهُوَ أَنَّهُ حَلَالٌ لِلْمُحْرِمِ مَا صَادَهُ الْحَلَالُ مَا لَمْ يُشِرْ لَهُ إلَيْهِ أَوْ يَأْمُرْهُ بِصَيْدِهِ وَاحْتَجَّ هَؤُلَاءِ بِمَا رُوِّينَاهُ مِنْ طَرِيقِ شُعْبَةَ أَنَا عُثْمَانُ بْنُ عَبْدِ اللَّهِ بْنِ مَوْهَبٍ قَالَ: سَمِعْتُ «عَبْدَ اللَّهِ بْنَ أَبِي قَتَادَةَ يُحَدِّثُ عَنْ أَبِيهِ: أَنَّهُمْ كَانُوا فِي مَسِيرٍ لَهُمْ بَعْضُهُمْ مُحْرِمٌ وَبَعْضُهُمْ لَيْسَ بِمُحْرِمٍ فَرَأَيْتُ حِمَارَ وَحْشٍ فَرَكِبْتُ فَرَسِي وَأَخَذْتُ رُمْحِي فَاسْتَعَنْتُهُمْ فَأَبَوْا أَنْ يُعِينُونِي فَاخْتَلَسْتُ سَوْطًا مِنْ بَعْضِهِمْ وَشَدَدْتُ عَلَى الْحِمَارِ فَأَصَبْتُهُ فَأَكَلُوا مِنْهُ فَأَشْفَقُوا مِنْهُ، فَسُئِلَ عَنْ ذَلِكَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -؟ فَقَالَ: هَلْ أَشَرْتُمْ أَوْ أَعَنْتُمْ؟ قَالُوا: لَا، قَالَ: فَكُلُوهُ» .

L14835 Another opinion is that it is permissible for the Muḥrim to consume what a person permitted to hunt has caught, provided the Muḥrim neither directed attention to it nor commanded its hunting. These proponents cite the narration we transmitted through Shu'bah's chain: "I am 'Uthmān ibn 'Abdullāh ibn Mawhab. He said: I heard 'Abdullāh ibn Abī Qatādah narrate from his father: 'We were on a journey - some of us in the state of iḥrām and others not. I saw a wild donkey, mounted my horse, took my spear, and sought their help, but they refused to assist me. I stealthily snatched a whip from one of them, pursued the donkey, struck it, and they ate from it though they feared it. The Messenger of Allah (peace be upon him) was asked about this and said: 'Did any of you direct attention to it or assist¿' They replied: 'No.' He said: 'Then eat it.'"

وَمِنْ طَرِيقِ أَبِي عَوَانَةَ عَنْ عَبْدِ اللَّهِ بْنِ عُثْمَانَ بْنِ مَوْهَبٍ عَنْ ابْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ بِمِثْلِهِ إلَّا أَنَّهُ قَالَ: هَلْ مِنْكُمْ أَحَدٌ أَمَرَهُ أَوْ أَشَارَ إلَيْهِ بِشَيْءٍ؟ قَالُوا: لَا.

L14836 And via the narration of Abū 'Awānah from 'Abdullāh ibn 'Uthmān ibn Mawhab from the son of Abī Qatādah from his father with a similar wording, except that he said, "Did any of you command him or gesture to him with anything?" They said, "No."

قَالَ أَبُو مُحَمَّد: وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّنَا لَا نَدْرِي مَاذَا كَانَ يَقُولُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَوْ قَالَ لَهُ: نَعَمْ؟ إلَّا أَنَّ الْيَقِينَ عِنْدَنَا أَنَّ كُلَّ مَا لَمْ يَقُلْهُ - عَلَيْهِ السَّلَامُ - وَلَا حَكَمَ بِهِ فَإِنَّهُ غَيْرُ لَازِمٍ وَلَا تُؤْخَذُ الدِّيَانَةُ بِالتَّكَهُّنِ، وَنَحْنُ عَلَى يَقِينٍ مِنْ أَنَّهُ لَوْ لَزِمَ بِإِشَارَتِهِمْ إلَيْهِ، أَوْ أَمْرِهِمْ إيَّاهُ، أَوْ عَوْنِهِمْ لَهُ حُكْمُ تَحْرِيمٍ لَبَيَّنَهُ - عَلَيْهِ السَّلَامُ -، فَإِذْ لَمْ يَفْعَلْ فَلَا حُكْمَ لِذَلِكَ.

L14837 Abū Muḥammad said: This contains no proof for them, because we do not know what the Messenger of Allah—peace and blessings of Allah be upon him—would have said had they responded to him with "Yes?" However, our certain conviction is that anything he—peace and blessings of Allah be upon him—did not explicitly state or rule upon is not binding, for religious rulings cannot be founded upon conjecture. We are absolutely certain that had a prohibition been necessitated by their pointing to it, their commanding him, or their assisting him, he—peace and blessings of Allah be upon him—would have clarified it. Since he did not do so, there is no valid ruling for that matter.

وَقَدْ رُوِّينَا عَنْ عَطَاءٍ فِي مُحْرِمٍ كَانَ بِمَكَّةَ فَاشْتَرَى حَجَلَةً فَأَمَرَ مُحِلًّا بِذَبْحِهَا أَنَّهُ لَا شَيْءَ عَلَيْهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14838 And it has been narrated to us from 'Aṭā' regarding a person in the state of ritual consecration (muḥrim) who was in Makkah, purchased a partridge, and instructed a person in the state of permissibility (muḥill) to undertake

its slaughter, that there is no blame on him—and with Allah, the Exalted, lies success.

## [مَسْأَلَةٌ أَمَرَ مُحْرِمٌ حَلَالًا بِالتَّصَيُّدِ]

L14839 **A legal issue: A person in iḥrām commanded a person not in the sacred state to hunt.**

٨٩٣ - مَسْأَلَةٌ:

L14840 893 – Question:

فَلَوْ أَمَرَ مُحْرِمٌ حَلَالًا بِالتَّصَيُّدِ فَإِنْ كَانَ مِمَّنْ يُطِيعُهُ وَيَأْتَمِرُ لَهُ فَالْمُحْرِمُ هُوَ الْقَاتِلُ لِلصَّيْدِ فَهُوَ حَرَامٌ، وَإِنْ كَانَ مِمَّنْ لَا يَأْتَمِرُ لَهُ وَلَا يُطِيعُهُ فَلَيْسَ الْمُحْرِمُ هَاهُنَا قَاتِلًا، بَلْ أَمَرَ بِمُبَاحٍ حَلَالٍ لِلْمَأْمُورِ.

L14841 If a Muhrim commands someone lawfully permitted to perform hunting, and the commanded person obeys and acts upon his instruction, then the Muhrim is deemed responsible for killing the prey, thus making it forbidden [for him]. But if the commanded person neither obeys nor heeds him, the Muhrim is not considered responsible here; rather, he merely issued a lawful and permissible command that the person was permitted to carry out.

وَلَوْ اشْتَرَكَ حَلَالٌ وَمُحْرِمٌ فِي قَتْلِ صَيْدٍ كَانَ مَيْتَةً لَا يَحِلُّ أَكْلُهُ؛ لِأَنَّهُ لَمْ تَصِحَّ فِيهِ الذَّكَاةُ خَالِصَةً، وَعَلَى الْمُحْرِمِ جَزَاؤُهُ كُلُّهُ لِأَنَّهُ قَاتِلٌ وَلَا جَزَاءَ عَلَى الْمُحِلِّ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L14842 If a person in the state of consecration (Muhrim) and one not in the state of consecration jointly kill game, it becomes carrion that is unlawful to eat, because a valid slaughter was not purely performed for it. The Muhrim bears full expiation as the killer, while the non-consecrated person incurs none—and success comes from Allah, the Exalted.

## [مَسْأَلَةٌ لِلْمُحْرِمِ أَنْ يُقَبِّلَ امْرَأَتَهُ وَيُبَاشِرَهَا مَا لَمْ يُولِجْ]

L14843 **A jurisprudential issue for a person in iḥrām is whether he may kiss his wife and engage in non-penetrative intimacy, provided there is no penetration.**

٨٩٤ - مَسْأَلَةٌ:

L14844 Issue 894:

وَمُبَاحٌ لِلْمُحْرِمِ أَنْ يُقَبِّلَ امْرَأَتَهُ وَيُبَاشِرَهَا مَا لَمْ يُولِجْ، لِأَنَّ اللَّهَ تَعَالَى لَمْ يَنْهَ إِلَّا عَنْ الرَّفَثِ، وَالرَّفَثُ: الْجِمَاعُ، فَقَطْ.

L14845 It is permissible for a person in iḥrām to kiss his wife and engage in intimate contact with her without penetration, for Allah the Exalted only prohibited al-rafath. Al-rafath is sexual intercourse, only.

وَلَا عَجَبَ أَعْجَبُ مِمَّنْ يَنْهَى عَنْ ذَلِكَ وَلَمْ يَنْهَ اللَّهُ تَعَالَى وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ - قَطُّ عَنْ ذَلِكَ، وَيُبْطِلُ الْحَجَّ بِالْإِمْنَاءِ فِي مُبَاشَرَتِهَا الَّتِي لَمْ يَنْهَ قَطُّ قُرْآنٌ وَلَا سُنَّةٌ عَنْهَا، ثُمَّ لَا يُبْطِلُ حَجَّهُ بِالْفُسُوقِ الَّذِي صَحَّ نَهْيُ اللَّهِ تَعَالَى فِي الْقُرْآنِ عَنْهُ فِي الْحَجِّ مِنْ تَرْكِ

L14846–14847 No wonder is greater than that of one who prohibits what Allah the Exalted and His Messenger (peace be upon him) never prohibited. Such a person invalidates Hajj due to ejaculation during physical contact with his wife—an act neither the Quran nor the Sunnah ever forbade—yet does not invalidate Hajj for committing transgressions whose prohibition Allah has established in the Quran during Hajj: abandoning prayer, killing a soul Allah has for-

bidden without right, and all other transgressions. Is this not astonishing? It has been narrated to us through Al-Ḥudhayfī's chain from Abd al-Razzaq, who narrated from Muhammad ibn Rashid, from a narrator named Abu Harim, who said: I heard Abu Hurayrah state, "Everything is permissible for a Muhrim regarding his wife except this"—and he gestured with his index finger between two fingers of his hand, meaning intercourse.

الصَّلَاةِ، وَقَتْلِ النَّفْسِ الَّتِي حَرَّمَ اللَّهُ تَعَالَى بِغَيْرِ الْحَقِّ وَسَائِرِ الْفُسُوقِ، إِنَّ هَذَا لَعَجَبٌ؟ رُوِّينَا مِنْ طَرِيقِ الْحُذَافِيِّ عَنْ عَبْدِ الرَّزَّاقِ نَا مُحَمَّدُ بْنُ رَاشِدٍ عَنْ شَيْخٍ يُقَالُ لَهُ: أَبُو هَرِمٍ قَالَ: سَمِعْت أَبَا هُرَيْرَةَ يَقُولُ: يَحِلُّ لِلْمُحْرِمِ مِنْ امْرَأَتِهِ كُلُّ شَيْءٍ إلَّا هَذَا وَأَشَارَ بِإِصْبَعِهِ السَّبَّابَةِ بَيْنَ أُصْبُعَيْنِ مِنْ أَصَابِعِ يَدِهِ - يَعْنِي الْجِمَاعَ.

L14848 From ʿAbd al-Razzāq, from Ibn Jurayj: ʿUthmān ibn ʿAbd al-Raḥmān informed me that he kissed his wife while in the state of Iḥrām. I asked Saʿīd ibn Jubayr, and he said: "We have no ruling on this; he should seek forgiveness from Allah, the Mighty and Majestic."

وَعَنْ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي عُثْمَانُ بْنُ عَبْدِ الرَّحْمَنِ أَنَّهُ قَبَّلَ امْرَأَتَهُ وَهُوَ مُحْرِمٌ فَسَأَلْت سَعِيدَ بْنَ جُبَيْرٍ؟ فَقَالَ: مَا نَعْلَمُ فِيهَا شَيْئًا فَلْيَسْتَغْفِرْ اللَّهَ عَزَّ وَجَلَّ.

L14849 Ibn Jurayj said: And I heard ʿAṭāʾ say: the same as Saʿīd ibn Jubayr's statement.

قَالَ ابْنُ جُرَيْجٍ: وَسَمِعْت عَطَاءً يَقُولُ: مِثْلَ قَوْلِ سَعِيدِ بْنِ جُبَيْرٍ.

L14850 And from the narration of Ibn Jurayj as well, from ʿAṭāʾ: "Only the contact of the two circumcised parts invalidates the pilgrimage. When the circumcised parts meet, the pilgrimage becomes nullified, and an obligatory sacrifice is required."

وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ أَيْضًا عَنْ عَطَاءٍ لَا يُفْسِدُ الْحَجَّ إلَّا الْتِقَاءُ الْخِتَانَيْنِ فَإِذَا الْتَقَى الْخِتَانَانِ فَسَدَ الْحَجُّ وَوَجَبَ الْغُرْمُ.

L14851 From the narration of Ibn Abi Shaybah: Ibn ʿUlayyah reported from Ghaylan ibn Jarir, who said: "'Ali ibn 'Abdullah and Halim ibn al-Duraym asked me while in the state of iḥrām. One of them said: 'I placed my hand on my wife's private part and did not withdraw it until I became junub.'" We all said: "We have no knowledge regarding this." He then went to Abu al-Shaʿtha' Jabir ibn Zayd and consulted him. When he returned to us, his face showed evident joy. We asked: "What ruling did he give you?" He replied: "He enjoined me to secrecy—" Thus all these scholars found no issue with the matter. If they then cite the narration from 'Ā'ishah: "Everything is forbidden to the muḥrim concerning his wife except speech."

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا ابْنُ عُلَيَّةَ عَنْ غَيْلَانَ بْنِ جَرِيرٍ قَالَ: سَأَلَنِي وَعَلِيُّ بْنُ عَبْدِ اللَّهِ، وَحَلِيمُ بْنُ الدُّرَيْمِ مُحْرِمٌ؟ فَقَالَ: وَضَعْت يَدِي مِنْ امْرَأَتِي مَوْضِعًا فَلَمْ أَرْفَعْهَا حَتَّى أَجْنَبْت؟ ؟ فَقُلْنَا كُلُّنَا: مَا لَنَا بِهَذَا عِلْمٌ؟ فَمَضَى إلَى أَبِي الشَّعْثَاءِ جَابِرِ بْنِ زَيْدٍ فَسَأَلَهُ، ثُمَّ رَجَعَ إلَيْنَا يُعْرَفُ الْبِشْرُ فِي وَجْهِهِ؟ فَسَأَلْنَاهُ مَاذَا أَفْتَاك؟ فَقَالَ: إنَّهُ اسْتَكْتَمَنِي - فَهَؤُلَاءِ كُلُّهُمْ لَمْ يَرَوْا فِي ذَلِكَ شَيْئًا؟ فَإِنْ ذَكَرُوا الرِّوَايَةَ عَنْ عَائِشَةَ: يُحَرَّمُ عَلَى الْمُحْرِمِ مِنْ امْرَأَتِهِ كُلُّ شَيْءٍ إلَّا الْكَلَامَ.

L14852 And from Ibn Abbas: "Lewd speech is what is uttered in the presence of women." Thus, they are the first to contradict this, as they permit gazing. Moreover, she and Ibn Abbas did not attribute any significance to that matter.

وَعَنْ ابْنِ عَبَّاسٍ إنَّمَا الرَّفَثُ مَا تَكَلَّمَ بِهِ عِنْدَ النِّسَاءِ - فَهُمْ أَوَّلُ مُخَالِفٍ لِهَذَا لِأَنَّهُمْ يُبِيحُونَ لَهُ النَّظَرَ، ثُمَّ إنَّهَا وَابْنَ عَبَّاسٍ لَمْ يَجْعَلَا فِي ذَلِكَ شَيْئًا.

L14853 Abu Hanifa and al-Shafiʿi said: If someone engages in intercourse outside the vagina and ejaculates, he must offer only a sacrificial animal—and a goat suffices—and his pilgrimage remains complete.

L14854 And it has been reported to us from Ibn Abbas (though it is not confirmed) regarding one who looked and emitted pre-seminal fluid or semen: a blood sacrifice is required of him.

L14855 It is narrated from Ali (though not authentically established) that he said: "Whoever kisses [during Ihram] must offer a dam (sacrificial offering) as expiation."

L14856 As for the narration of Ibn Abbas, it is transmitted from Sharik, from Ibrāhīm ibn Muhājir.

L14857–14858 As for the narration of Ali, it is from Sharik from Jabir al-Juʿfi—and all of them are nothing?

L14859 Abu Muhammad said: The obligation of blood money in that matter is an opinion not mandated by the Qur'an, the Sunnah, analogical reasoning, or a unanimously agreed-upon scholarly opinion—and success is from Allah, the Exalted.

## L14860 Issue: If a person in the state of iḥrām (ritual consecration) forgetfully applies perfume or uses it medicinally...

L14861 895: Question

L14862 If someone applies perfume forgetfully, uses perfume for medicinal purposes, is touched by the Kaaba's perfume, touches perfume intended for sale or purchase, or wears garments forbidden to a pilgrim forgetfully or out of necessity—whether all that he did lasted long or was brief for him—there is no sin upon him, and this does not invalidate his Hajj. He must remove all such things from himself immediately upon remembering or when no longer needing them. Similarly, one who shaves his head forgetfully incurs no sin. He may undergo cupping and shave cupping areas without penalty, and may apply any oil he wishes. But whoever intentionally wears forbidden

وَقَالَ أَبُو حَنِيفَةَ: وَالشَّافِعِيُّ: مَنْ جَامَعَ دُونَ الْفَرْجِ فَأَنْزَلَ فَلَيْسَ عَلَيْهِ إِلَّا دَمٌ وَتُجْزِئُهُ شَاةٌ وَحَجُّهُ تَامٌّ.

وَرُوِّينَا عَنْ ابْنِ عَبَّاسٍ وَلَمْ يَصِحَّ فِيمَنْ نَظَرَ فَأَمْذَى، أَوْ أَمْنَى: عَلَيْهِ دَمٌ.

وَعَنْ عَلِيٍّ وَلَا يَصِحُّ: مَنْ قَبَّلَ فَعَلَيْهِ دَمٌ.

أَمَّا رِوَايَةُ ابْنِ عَبَّاسٍ فَعَنْ شَرِيكٍ عَنْ إِبْرَاهِيمَ بْنِ مُهَاجِرٍ.

وَأَمَّا رِوَايَةُ عَلِيٍّ فَعَنْ شَرِيكٍ عَنْ جَابِرٍ الْجُعْفِيِّ - وَكُلُّهُمْ لَا شَيْءٌ؟

قَالَ أَبُو مُحَمَّدٍ: إِيجَابُ الدَّمِ فِي ذَلِكَ قَوْلٌ لَمْ يُوجِبْهُ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا قِيَاسٌ، وَلَا قَوْلٌ مُجْمَعٌ عَلَيْهِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

## [مَسْأَلَةٌ الْمُحْرِمِ إِذَا تَطَيَّبَ نَاسِيًا أَوْ تَدَاوَى بِطِيبٍ]

٨٩٥ - مَسْأَلَةٌ:

وَمَنْ تَطَيَّبَ نَاسِيًا، أَوْ تَدَاوَى بِطِيبٍ، أَوْ مَسَّهُ طِيبُ الْكَعْبَةِ، أَوْ مَسَّ طِيبًا لِبَيْعٍ، أَوْ شِرَاءٍ، أَوْ لَبِسَ مَا يُحَرَّمُ عَلَى الْمُحْرِمِ لِبَاسُهُ نَاسِيًا، أَوْ لِضَرُورَةٍ طَالَ كُلُّ ذَلِكَ مِنْهُ، أَوْ قَصُرَ فَلَا شَيْءَ عَلَيْهِ، وَلَا يَكْدَحُ ذَلِكَ فِي حَجِّهِ، وَعَلَيْهِ أَنْ يُزِيلَ عَنْ نَفْسِهِ كُلَّ ذَلِكَ سَاعَةَ يَذْكُرُهُ أَوْ سَاعَةَ يَسْتَغْنِي عَنْهُ، وَكَذَلِكَ مَنْ حَلَقَ رَأْسَهُ نَاسِيًا فَلَا شَيْءَ عَلَيْهِ، وَلَهُ

garments or performs prohibited acts without necessity invalidates his Hajj and ihram.

أَنْ يَحْتَجِمَ وَيَحْلِقَ مَوَاضِعَ الْمَحَاجِمِ، وَلَا شَيْءَ عَلَيْهِ، وَلَهُ أَنْ يَدْهُنَ بِمَا شَاءَ، فَلَوْ تَعَمَّدَ لِبَاسَ مَا حُرِّمَ عَلَيْهِ أَوْ فِعْلَ مَا حُرِّمَ لِغَيْرِ ضَرُورَةٍ: بَطَلَ حَجُّهُ وَإِحْرَامُهُ.

L14863 The proof of that is the statement of Allah, the Most High: “There is no blame upon you for that in which you have erred, but only for what your hearts deliberately intended” [Al-Ahzab: 5]. And the Messenger of Allah - peace and blessings be upon him - said: “My nation has been pardoned for mistakes, forgetfulness, and what they were compelled to do.” Thus, the one compelled in the aforementioned cases, including the woman forced into intercourse, bears no blame, nor upon those who were compelled to do what we mentioned. Their Hajj and their state of consecration (Ihram) remain valid and complete.[29]

بُرْهَانُ ذَلِكَ -: قَوْلُ اللَّهِ تَعَالَى: {وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ} [الأحزاب: ٥] وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «عُفِيَ لِأُمَّتِي عَنْ الْخَطَأِ وَالنِّسْيَانِ وَمَا اُسْتُكْرِهُوا عَلَيْهِ» فَالْمُسْتَكْرَهُ عَلَى كُلِّ مَا ذَكَرْنَا وَالْمَرْأَةُ الْمُكْرَهَةُ عَلَى الْجِمَاعِ لَا شَيْءَ عَلَيْهَا، وَلَا عَلَى مَنْ أُكْرِهَ عَلَى مَا ذَكَرْنَا، وَحَجُّهُمْ تَامٌّ، وَإِحْرَامُهُمْ تَامٌّ.

L14864 Abu Hanifa said: Whoever covers his head or face, or wears what is prohibited—whether intentionally, out of forgetfulness, or under compulsion—for a full day until nightfall must offer a sacrificial animal (dam). If he does so for less than a day, he must give charitable expiation (ṣadaqah). If he shaves the back of his head to facilitate cupping, he must offer a sacrificial animal (dam); if he shaves part of a limb, he must give charitable expiation (ṣadaqah).

وَقَالَ أَبُو حَنِيفَةَ: مَنْ غَطَّى رَأْسَهُ، أَوْ وَجْهَهُ، أَوْ لَبِسَ مَا نُهِيَ عَامِدًا، أَوْ نَاسِيًا، أَوْ مُكْرَهًا يَوْمًا إلَى اللَّيْلِ فَعَلَيْهِ دَمٌ، فَإِنْ فَعَلَ ذَلِكَ أَقَلَّ مِنْ يَوْمٍ فَعَلَيْهِ صَدَقَةٌ، فَإِنْ حَلَقَ قَفَاهُ لِلْحِجَامَةِ فَعَلَيْهِ دَمٌ، فَإِنْ حَلَقَ بَعْضَ عُضْوٍ فَعَلَيْهِ صَدَقَةٌ.

L14865 Mālik said: Whoever does any of that to thereby remove harm from himself must offer the ransom required for shaving one’s head. Such a person should not perform cupping unless out of necessity. If they shave the areas where cupping is performed, they must offer the ransom.

وَقَالَ مَالِكٌ: مَنْ فَعَلَ شَيْئًا مِنْ ذَلِكَ فَأَمَاطَ بِهِ عَنْ نَفْسِهِ أَذًى فَعَلَيْهِ الْفِدْيَةُ الَّتِي عَلَى مَنْ حَلَقَ رَأْسَهُ، وَلَا يَحْتَجِمُ إلَّا مِنْ ضَرُورَةٍ، فَإِنْ حَلَقَ مَوَاضِعَ الْمَحَاجِمِ فَعَلَيْهِ الْفِدْيَةُ.

L14866 Al-Shafi’i said: There is no liability for forgetfulness in all of that except in shaving the head alone—so in it is the expiation. He said: One should not shave the areas where cupping is applied, and he did not mention any expiation for that.

وَقَالَ الشَّافِعِيُّ: لَا شَيْءَ فِي النِّسْيَانِ فِي كُلِّ ذَلِكَ إلَّا فِي حَلْقِ الرَّأْسِ فَقَطْ فَفِيهِ الْفِدْيَةُ - قَالَ: وَلَا يَحْلِقُ مَوْضِعَ الْمَحَاجِمِ، وَلَمْ يَذْكُرْ فِي ذَلِكَ فِدْيَةً.

L14867 Abu Muhammad said: As for the statements of Abu Hanifa, they are manifestly corrupt and contradictory. We do not know of them being attributed to anyone before him, nor is there evidence for the validity of anything

[29] **Qur’an references (L14863):** Qur’an 33:5 (Al-Ahzab).

therein—neither from the Quran, nor the Sunnah, nor a weak narration, nor the opinion of a companion, nor analogy. This is because his differentiation between such matters for a day or less than a day is a baseless assertion.

قَالَ أَبُو مُحَمَّد: أَمَّا أَقْوَالُ أَبِي حَنِيفَةَ فَظَاهِرَةُ الْفَسَادِ وَالتَّنَاقُضِ وَلَا نَعْلَمُهَا عَنْ أَحَدٍ قَبْلَهُ، وَلَا دَلِيلَ عَلَى صِحَّةِ شَيْءٍ مِنْهَا لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَلَا رِوَايَةٍ سَقِيمَةٍ، وَلَا قَوْلِ صَاحِبٍ، وَلَا قِيَاسٍ؛ لِأَنَّ تَفْرِيقَهُ بَيْنَ ذَلِكَ يَوْمًا أَوْ أَقَلَّ مِنْ يَوْمٍ: دَعْوَى فَاسِدَةٌ.

L14868 And some of them said, "This is the customary clothing of the people."

وَقَالَ بَعْضُهُمْ: هَذَا هُوَ الْمَعْهُودُ مِنْ لِبَاسِ النَّاسِ.

L14869–14871 Ali said: He has lied about that. On the contrary, Allah the Exalted says: {And when you remove your clothes [for rest] at midday and after the Isha prayer} [An-Nur: 58]. The Exalted has clarified that clothing is not reduced during the day, though it may be adjusted for the midday rest. He further clarified that clothing is reduced until after the ʿIshāʾ prayer and may remain so until midnight.[30]

قَالَ عَلِيٌّ: كَذَبَ فِي ذَلِكَ بَلْ قَدْ قَالَ اللَّهُ تَعَالَى: {وَحِينَ تَضَعُونَ ثِيَابَكُمْ مِنَ الظَّهِيرَةِ وَمِنْ بَعْدِ صَلَاةِ الْعِشَاءِ} [النور: ٥٨] فَأَخْبَرَ تَعَالَى أَنَّ اللِّبَاسَ لَا يَقِلُّ فِي النَّهَارِ بَلْ قَدْ يُوضَعُ لِلْقَائِلَةِ، وَأَخْبَرَ أَنَّ اللِّبَاسَ يَقِلُّ إِلَى بَعْدِ صَلَاةِ الْعِشَاءِ وَقَدْ يَكُونُ إِلَى نِصْفِ اللَّيْلِ.

L14872 If they mention what was narrated from Ibn Abbas and al-Nakhaʿī - that whoever omits something from their rites should shed blood - we say: You are the first to oppose this, for you stipulate charity instead of blood in most such cases. Nothing is more astonishing than one who cites as proof something he considers true, then becomes the first to oppose it.

فَإِنْ ذَكَرُوا مَا رُوِيَ عَنِ ابْنِ عَبَّاسٍ، وَالنَّخَعِيِّ، أَنَّ مَنْ تَرَكَ مِنْ نُسُكِهِ شَيْئًا فَلْيُرِقْ دَمًا؟ قُلْنَا: أَنْتُمْ أَوَّلُ مَنْ خَالَفَ ذَلِكَ لِأَنَّكُمْ تَجْعَلُونَ فِي أَكْثَرِ ذَلِكَ صَدَقَةً لَا دَمًا، وَلَا عَجَبَ أَعْجَبُ مِمَّنْ يَحْتَجُّ بِشَيْءٍ يَرَاهُ حَقًّا، ثُمَّ هُوَ أَوَّلُ مُخَالِفٍ لَهُ.

L14873 As for Mālik's statement, it is qiyās, and all qiyās is invalid. If removing harm without shaving the head obligated fidya, then fidya would also be obligated for: urination; defecation; eating; drinking; performing ghusl for heat and seeking coolness; warming oneself against cold; extracting a molar due to pain: for all of these constitute removal of harm.

وَأَمَّا قَوْلُ مَالِكٍ فَإِنَّهُ قِيَاسٌ وَالْقِيَاسُ كُلُّهُ بَاطِلٌ، وَلَوْ كَانَتْ إِمَاطَتُهُ الْأَذَى بِغَيْرِ حَلْقِ الرَّأْسِ تُوجِبُ الْفِدْيَةَ لَأَوْجَبَ الْفِدْيَةَ: الْبَوْلُ، وَالْغَائِطُ، وَالْأَكْلُ، وَالشُّرْبُ، وَالْغُسْلُ لِلْحَرِّ وَالتَّرَوُّحِ، وَالتَّدَفُّؤُ لِلْبَرْدِ، وَقَلْعُ الضِّرْسِ لِلْوَجَعِ، فَكُلُّ هَذَا إِمَاطَةُ أَذًى.

L14874 If they say: "Have the people unanimously agreed to waive the expiation in cases exceeding that?" We reply: Sufficient for us and for you is your acknowledgment of the consensus' validity in nullifying your legal cause, and that not every removal of harm necessitates expiation, and that obligating fasting, almsgiving, and sacrificial offerings constitutes divine law - none may

فَإِنْ قَالُوا: قَدْ أَجْمَعَ النَّاسُ عَلَى إِسْقَاطِهِ الْفِدْيَةَ فِي أَكْثَرَ مِنْ ذَلِكَ؟ قُلْنَا: حَسْبُنَا وَإِيَّاكُمْ إِقْرَارُكُمْ بِصِحَّةِ الْإِجْمَاعِ عَلَى إِبْطَالِ عِلَّتِكُمْ، وَعَلَى أَنَّهُ لَيْسَ كُلُّ إِمَاطَةِ أَذًى تَجِبُ فِيهِ فِدْيَةٌ، وَإِلْزَامُ الصِّيَامِ وَالصَّدَقَةِ وَالْهَدْيِ شَرْعٌ لَا يُجَوِّزُ إِلْزَامَهُ أَحَدٌ حَيْثُ لَمْ يُلْزِمْهُ اللَّهُ تَعَالَى وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ -.

[30] **Qur'an references (L14869):** Qur'an 24:58 (An-Nur).

permit the imposition of such obligations where neither Allah the Exalted nor His Messenger (peace be upon him) have obligated them.

فَإِنْ ادَّعَوْا إِجْمَاعًا كَذَبُوا، لِأَنَّهُمْ لَا يَقْدِرُونَ عَلَى أَنْ يُورِدُوا فِي ذَلِكَ قَوْلَ عَشَرَةٍ مِنْ صَاحِبٍ، وَتَابِعٍ فِي ذَلِكَ مَعَ اخْتِلَافِهِمْ فِي أَقْوَالِهِمْ.

L14875 If they claimed consensus, they lied, for they cannot produce ten statements from a Companion and a Follower on that matter—along with the differences in their statements.

وَأَمَّا الشَّافِعِيُّ فَإِنَّهُ احْتَجَّ لَهُ مُقَلِّدُهُ بِأَنَّ كُلَّ مَنْ ذَكَرْنَا يَقْدِرُ النَّاسُ عَلَى إِزَالَتِهِ عَنْ نَفْسِهِ إِلَّا حَلْقَ الشَّعْرِ فَلَا يَقْدِرُ عَلَى إِنْبَاتِهِ؟ فَقُلْنَا: فَكَانَ مَاذَا؟ وَأَيُّ شَيْءٍ فِي هَذَا مِمَّا يُوجِبُ الْفِدْيَةَ؟ وَهَلْ زِدْتُمْ إِلَّا دَعْوَى لَا بُرْهَانَ لَهَا؟

L14876 As for al-Shāfiʿī, his follower argued on his behalf that all that we have mentioned people can remove themselves from except shaving the hair, for they cannot regrow it? We responded: What does that prove? What in this necessitates the fidya? Have you produced anything beyond a claim without proof?

وَرُوِّينَا مِنْ طَرِيقِ نَافِعٍ أَنَّ ابْنَ عُمَرَ كَانَ يَأْكُلُ الْخَبِيصَ الْأَصْفَرَ وَهُوَ مُحْرِمٌ - يَعْنِي الْمُزَعْفَرَ.

L14877–14878 It was narrated through Nafiʿ that Ibn ʿUmar would eat yellow khabīṣ—meaning saffron-dyed—while in iḥrām.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا عَبْدُ اللَّهِ بْنُ نُمَيْرٍ عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: يَكْتَحِلُ الْمُحْرِمُ بِأَيِّ كُحْلٍ شَاءَ مَا لَمْ يَكُنْ فِيهِ طِيبٌ.

L14879 And via the route of Ibn Abi Shaybah, ʿAbdullāh ibn Numayr narrated to us from ʿUbaydullāh ibn ʿUmar from Nāfiʿ from Ibn ʿUmar, who said: “A person in *ihrām* (state of consecration) may apply any *kohl* they wish, as long as it does not contain any fragrance.”

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ شُمَيْسَةَ الْأَزْدِيَّةِ أَنَّ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ قَالَتْ لَهَا: اكْتَحِلِي بِأَيِّ كُحْلٍ شِئْتِ غَيْرَ الْإِثْمِدِ أَمَا إِنَّهُ لَيْسَ بِحَرَامٍ وَلَكِنَّهُ زِينَةٌ، وَنَحْنُ نَكْرَهُهُ.

L14880 From the chain of Shuʿbah via Shumaysah al-Azdiyyah that ʿĀʾishah, the Mother of the Believers, said to her: “Use any kohl you wish except ithmid (antimony kohl). Indeed, it is not forbidden, but it is [merely] an adornment, and we disapprove of it.”

وَمِنْ الْخِلَافِ فِي ذَلِكَ -: مَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ نَا يَزِيدُ بْنُ إِبْرَاهِيمَ عَنْ قَتَادَةَ: أَنَّ عَبْدَ الرَّحْمَنِ بْنَ أَبِي بَكْرٍ أَمَرَ امْرَأَةً مُحْرِمَةً اكْتَحَلَتْ بِإِثْمِدٍ أَنْ تُهْرِقَ دَمًا.

L14881 Among the disagreements concerning this matter is what we have transmitted as recorded in the narration from Ibn Abi Shaybah through Abd al-Rahman ibn Mahdi, who narrated from Yazid ibn Ibrahim, from Qatadah: that Abd al-Rahman ibn Abi Bakr commanded a woman in the state of ihram who had applied ithmid (antimony-based kohl) to spill blood as expiation.

L14882 From the chain of Saʿīd ibn Manṣūr: He narrated to us from Marwān—who is Ibn Muʿāwiyah al-Fazārī—who narrated to us from Ṣāliḥ ibn Ḥayy, who said: “I saw Anas ibn Mālik when the Kaʿbah’s sacred perfume (khalūq) touched his garment, and he did not wash it—while he was in a state of

iḥrām." The same is reported identically from ʿAṭāʾ and Saʿīd ibn Jubayr, without any difference.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا مَرْوَانُ هُوَ ابْنُ مُعَاوِيَةَ الْفَزَارِيّ - نَا صَالِحُ بْنُ حَيّ قَالَ: رَأَيْت أَنَسَ بْنَ مَالِكٍ أَصَابَ ثَوْبَهُ خَلُوقُ الْكَعْبَةِ فَلَمْ يَغْسِلْهُ - وَكَانَ مُحْرِمًا - وَعَنْ عَطَاءٍ، وَسَعِيدِ بْنِ جُبَيْرٍ مِثْلُهُ سَوَاءً سَوَاءً.

L14883 And through the chain of Al-Ḥajjāj ibn Arṭāh, from Abī az-Zubayr, from Jābir: If a pilgrim in iḥrām smells a fragrant plant or touches any perfume, he must spill blood as sacrifice.

وَمِنْ طَرِيقِ الْحَجَّاجِ بْنِ أَرْطَاةَ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ: إنْ شَمَّ الْمُحْرِمُ رَيْحَانًا، أَوْ مَسَّ طِيبًا: أَهْرَقَ دَمًا.

L14884 And it has been narrated to us through the chain of ʿĀʾishah, the Mother of the Believers, that the Messenger of Allāh (may Allāh bless him and grant him peace) underwent cupping while he was in the state of iḥram.[31]

وَقَدْ رُوِّينَا مِنْ طَرِيقِ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - احْتَجَمَ وَهُوَ مُحْرِمٌ» .

L14885 And from the route of Sufyān ibn ʿUyaynah: from ʿAmr ibn Dīnār from ʿAṭāʾ; and through Ṭāwūs from Ibn ʿAbbās: "The Prophet—peace be upon him—was cupped while in a state of *iḥrām*."

وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ عَطَاءٍ، وَطَاوُسٍ عَنْ ابْنِ عَبَّاسٍ «أَنَّ النَّبِيَّ - عَلَيْهِ السَّلَامُ - احْتَجَمَ وَهُوَ مُحْرِمٌ» .

L14886 Narrated through the chain of Muslim: From Abu Bakr ibn Abi Shaybah, from Al-Mu'alla ibn Mansur, from Sulayman ibn Bilal, from Alqamah ibn Abi Alqamah, from Abd al-Rahman al-A'raj, from Ibn Buhaynah, who said: "The Messenger of God (peace be upon him) was cupped along the Meccan route while in a state of ritual consecration, on the middle of his head."

وَمِنْ طَرِيقِ مُسْلِمٍ عَنْ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نَا الْمُعَلَّى بْنُ مَنْصُورٍ نَا سُلَيْمَانُ بْنُ بِلَالٍ عَنْ عَلْقَمَةَ بْنِ أَبِي عَلْقَمَةَ عَنْ عَبْدِ الرَّحْمَنِ الْأَعْرَجِ عَنْ ابْنِ بُحَيْنَةَ قَالَ «احْتَجَمَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - بِطَرِيقِ مَكَّةَ وَهُوَ مُحْرِمٌ وَسَطَ رَأْسِهِ» .

L14887–14889 Abu Muhammad said: The Prophet (peace be upon him) did not state that there was any financial penalty or expiatory payment in that matter, and had it been obligatory, it would not have... He omitted this, "And he (peace be upon him) had abundant thick hair. However, we were prohibited from shaving the head during Ihram," and the nape is neither the head nor part of the head.

قَالَ أَبُو مُحَمَّدٍ: لَمْ يُخْبِرْ - عَلَيْهِ السَّلَامُ - أَنَّ فِي ذَلِكَ غَرَامَةً وَلَا فِدْيَةً وَلَوْ وَجَبَتْ لَمَا أَغْفَلَ ذَلِكَ، «وَكَانَ - عَلَيْهِ السَّلَامُ - كَثِيرَ الشَّعْرِ أَفْرَعَ وَإِنَّمَا نُهِينَا عَنْ حَلْقِ الرَّأْسِ فِي الْإِحْرَامِ» وَالْقَفَا لَيْسَ رَأْسًا وَلَا هُوَ مِنْ الرَّأْسِ.

L14890 If they cite what has been narrated to us from Ma'mar through Ayyūb, from Nāfiʿ, from Ibn 'Umar that he commanded a pilgrim in the state of iḥrām who

فَإِنْ ذَكَرُوا مَا رُوِّينَا عَنْ مَعْمَرٍ عَنْ أَيُّوبَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّهُ أَمَرَ مُحْرِمًا احْتَجَمَ أَنْ يَفْتَدِيَ بِصِيَامٍ، أَوْ صَدَقَةٍ، أَوْ نُسُكٍ، فَإِنْ اُضْطُرَّ إلَى ذَلِكَ فَلَا شَيْءَ عَلَيْهِ، فَهَذَا عَلَيْهِمْ، لِأَنَّهُمْ خَالَفُوهُ فِي مَوْضِعَيْنِ -: أَحَدُهُمَا:

[31] **Hadith references (L14884):** Sunan an-Nasai 2845; Sunan Abi Dawud 1836; Sunan an-Nasai 2849.

underwent cupping to pay expiation through fasting, charity, or a sacrificial offering - though if compelled to do so, he incurs no obligation - then they are accountable for this ruling, for they contradicted him on two points: the first being...

أَنَّهُ أَوْجَبَ الدَّمَ وَلَمْ يَشْتَرِطْ إِنْ حَلَقَ لَهَا شَعْرًا. وَالثَّانِي:

L14891 He decreed the blood sacrifice obligatory and did not stipulate whether one shaved any hair for it. The second:

أَنَّهُ لَمْ يُوجِبْ شَيْئًا عَلَى مَنْ اُضْطُرَّ إِلَيْهَا - وَهُمْ لَا يَقُولُونَ بِهَذَا.

L14892 that He did not impose anything upon those compelled to it—and they do not say this.

وَرُوِّينَا عَنْ مَسْرُوقٍ أَنَّهُ قَالَ: يَحْتَجِمُ الْمُحْرِمُ، وَلَا يَحْتَجِمُ الصَّائِمُ، وَلَمْ يَشْتَرِطْ تَرْكَ حَلْقِ الْقَفَا.

L14893 It was narrated to us from Masrūq that he said: “One in iḥrām may undergo cupping, but a fasting person may not.” He did not specify refraining from shaving the nape.

وَعَنْ طَاوُسٍ يَحْتَجِمُ الْمُحْرِمُ إِذَا كَانَ وَجِعًا وَمَا نَعْلَمُ مَنْ أَوْجَبَ فِي ذَلِكَ حُكْمًا مِنَ التَّابِعِينَ إِلَّا الْحَسَنَ فَإِنَّهُ قَالَ: مَنْ احْتَجَمَ وَهُوَ مُحْرِمٌ أَرَاقَ دَمًا.

L14894 Tawus stated that a person in the state of Ihrām may perform cupping if afflicted by pain. We know none among the Successors who imposed a ruling regarding this except al-Ḥasan, for he said: “Whoever performs cupping while in Ihrām has shed blood.”

وَعَنْ إِبْرَاهِيمَ، وَعَطَاءٍ: إِنْ حَلَقَ مَوَاضِعَ الْمَحَاجِمِ فَعَلَيْهِ كَفَّارَةٌ.

L14895 From Ibrāhīm al-Nakhaʿī and ʿAṭāʾ ibn Abī Rabāḥ: If one shaves the areas where cupping is applied, he incurs a kaffārah—a religious expiation.

وَأَمَّا الِادِّهَانُ -: فَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا أَبُو عَوَانَةَ عَنْ أَشْعَثَ بْنِ سُلَيْمٍ وَهُوَ ابْنُ أَبِي الشَّعْثَاءِ - عَنْ مُرَّةِ بْنِ خَالِدٍ قَالَ: رَآنَا أَبُو ذَرٍّ وَنَحْنُ مُحْرِمُونَ فَقَالَ: اُدْهُنُوا أَيْدِيَكُمْ.

L14896 As for applying oil: It has been narrated to us through the chain of Saʿīd ibn Manṣūr: Abū ʿAwānah reported from Ashʿath ibn Sulaym—son of Abī al-Shaʿthāʾ—from Murrah ibn Khālid, who said: Abū Dharr saw us while we were in the state of ritual consecration (iḥrām) and said, “Apply oil to your hands.”

وَصَحَّ عَنِ ابْنِ عُمَرَ أَنَّهُ كَرِهَ أَنْ يُعَالِجَ الْمُحْرِمُ يَدَيْهِ بِالدَّسَمِ، وَأَنْ يَدْهُنَ بِالسَّمْنِ رَأْسَهُ لِصُدَاعٍ أَصَابَهُ وَلَمْ يَجْعَلْ فِي ذَلِكَ شَيْئًا.

L14897 It has been authentically reported from Ibn Umar that he disliked for a person in the state of consecration (iḥrām) to treat his hands with animal fat or rub ghee on his head to alleviate a headache he suffered, and he did not assign any legal consequence to that.

وَرُوِّينَا عَنْ عَطَاءٍ: مَنْ تَدَاوَى بِدَوَاءٍ فِيهِ طِيبٌ فَعَلَيْهِ الْكَفَّارَةُ وَلَا بَأْسَ بِالْأَدْهَانِ الْفَارِسِيَّةِ.

L14898 It has been narrated to us from ʿAṭāʾ: Whoever uses a medicine containing aromatic substances must perform expiation, but there is no harm in using Persian oils.

وَعَنْ إِبْرَاهِيمَ: فِي الطِّيبِ الْفِدْيَةُ.

L14899 And from Ibrahim: Expiation is required for using perfume.

وَعَنْ مُجَاهِدٍ: إذَا تَدَاوَى الْمُحْرِمُ بِالسَّمْنِ، أَوْ الزَّيْتِ، أَوْ الْبَنَفْسَجِ فَعَلَيْهِ الْكَفَّارَةُ.

L14900 From Mujāhid: If a person in the state of iḥram medicates himself with ghee, oil, or violet, expiation is required of him.

وَعَنْ الْحَجَّاجِ بْنِ أَرْطَاةَ: كَانَ الْحَكَمُ، وَأَصْحَابُنَا يَقُولُونَ فِي الْمُحْرِمِ يُدَاوِي قُرُوحًا بِرَأْسِهِ وَجَسَدِهِ: إنَّ عَلَيْهِ كَفَّارَتَيْنِ.

L14901 From Al-Ḥajjāj ibn Arṭa'ah: Al-Ḥakam and our companions held the opinion regarding a *muḥrim* [in ritual consecration] who treats wounds by applying substances to his head or body: Two acts of expiation are incumbent upon him.

وَأَمَّا اللِّبَاسُ نَاسِيًا -: فَعَنْ عَطَاءٍ فِي الْمُحْرِمِ يُغَطِّي رَأْسَهُ نَاسِيًا لَا شَيْءَ عَلَيْهِ فَإِنْ لَبِسَ قَمِيصًا نَاسِيًا فَلَا شَيْءَ عَلَيْهِ وَلْيَسْتَغْفِرْ اللَّهَ تَعَالَى؛ فَإِنْ تَعَمَّدَ ذَلِكَ فَالْكَفَّارَةُ.

L14902–14904 As for clothing [worn] forgetfully, it is reported from ʿAṭā' regarding a pilgrim in iḥrām: if he covers his head forgetfully, he bears no liability. But if he [...] If someone wears a shirt in a state of forgetfulness, there is no sin upon him, and let him seek forgiveness from Allah, the Exalted. But if he does so intentionally, then expiation is obligatory.

وَعَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ بِمِثْلِهِ لَا شَيْءَ فِي ذَلِكَ عَلَى النَّاسِي.

L14905 From Ḥammād ibn Abī Sulaymān similarly: There is no blame upon the one who forgets in that matter.

وَعَنْ مُجَاهِدٍ، وَسَعِيدِ بْنِ جُبَيْرٍ: أَنَّهُمَا أَجَازَا لِلْمُحْرِمِ أَكْلَ الطَّعَامِ، وَفِيهِ الزَّعْفَرَانُ - وَكَرِهَهُ عَطَاءٌ، وَأَخْبَرَ أَنَّهُ لَا يَأْثُرُ قَوْلَهُ عَنْ أَحَدٍ.

L14906 From Mujāhid and Saʿīd ibn Jubayr: They permitted a person in the state of consecration (*iḥrām*) to eat food containing saffron. ʿAṭā' disliked it and informed that his statement was not traced back to anyone.

وَعَنْ طَاوُسٍ، وَعَطَاءٍ: إبَاحَةُ الْخَبِيصِ الْمُزَعْفَرِ لِلْمُحْرِمِ.

L14907 And from Ṭāwus and ʿAṭā': the permissibility of saffron-infused *khabīṣ*, a date-based sweet dish, for a *muḥrim*, a person in iḥrām.

وَمِثْلُهُ عَنْ الْحَسَنِ، وَإِبْرَاهِيمَ النَّخَعِيِّ، وَجَابِرِ بْنِ زَيْدٍ، وَمُحَمَّدِ بْنِ عَلِيٍّ.

L14908 And something similar is narrated from Al-Ḥasan, Ibrāhīm al-Nakhaʿī, Jābir ibn Zayd and Muḥammad ibn ʿAlī.

وَعَنْ إبْرَاهِيمَ، وَعَطَاءٍ، وَالْحَسَنِ، فِي لِبَاسِ الْقَمِيصِ، وَالْقَلَنْسُوَةِ، وَالْخُفَّيْنِ لِلْمُحْرِمِ أَنَّهُ يُهْرِقُ دَمًا -: وَهَذِهِ كُلُّهَا أَقْوَالٌ مُخَالِفَةٌ لِأَقْوَالِ أَبِي حَنِيفَةَ، وَمَالِكٍ.

L14909 Concerning the opinions of Ibrāhīm, ʿAṭā', and al-Ḥasan on a Muhrim wearing a shirt, cap, or leather socks, they ruled that it requires a blood sacrifice. All these opinions contradict the views of Abū Ḥanīfah and Mālik.

قَالَ أَبُو مُحَمَّدٍ: وَأَمَّا مَنْ تَعَمَّدَ مَا حُرِّمَ عَلَيْهِ فَقَدْ فَسَقَ، وَالْفُسُوقُ يُبْطِلُ الْحَجَّ كَمَا قَدَّمْنَا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14910 Abu Muhammad said: As for whoever deliberately commits what is forbidden to him, he has indeed transgressed, and the transgressions invalidate the Hajj as we have previously stated. And success is from Allah, the Exalted.

## [مَسْأَلَةٌ لَا يَعْصِبُ الْمُحْرِمُ رَأْسَهُ بِسَيْرٍ وَلَا بِخِرْقَةٍ]

L14911 **Legal Ruling: A person in the state of *ihram* (ritual consecration) must not tie anything around his head, whether a strap or a piece of cloth.**

L14912 896 – Issue:

٨٩٦ - مَسْأَلَةٌ:

L14913 A Muhrim may tighten a belt around his izar if he wishes, or around his body, and gird himself with whatever he chooses. He may carry his bag on his head, tie his izar and ridā' over the belt if he wishes, carry any load he desires on his head, bind his head for a headache or wound, set a broken arm or lower leg, bandage his injuries, abscesses, or sores, and he incurs no blame for any of that. He may assume iḥrām wearing any color he wishes, except garments dyed with wars or saffron, because nothing of what we have mentioned has been prohibited by the Quran or the Sunnah. {And your Lord is not forgetful} [Maryam: 64]. However, it has been narrated to us through the chain of Wakīʿ from Ibn Abī Dhi'b from Ṣāliḥ from Abū Ḥassān that "the Messenger of Allah—peace and blessings be upon him—saw a Muhrim girded with a rope and said: 'O man with the rope, cast it away!'"[32]

وَلِلْمُحْرِمِ أَنْ يَشُدَّ الْمِنْطَقَةَ عَلَى إزَارِهِ إنْ شَاءَ أَوْ عَلَى جِلْدِهِ وَيَحْتَزِمَ بِمَا شَاءَ، وَيَحْمِلَ خُرْجَهُ عَلَى رَأْسِهِ، وَيَعْقِدَ إزَارَهُ عَلَيْهِ وَرِدَاءَهُ إنْ شَاءَ، وَيَحْمِلَ مَا شَاءَ مِنْ الْحُمُولَةِ عَلَى رَأْسِهِ، وَيَعْصِبَ عَلَى رَأْسِهِ لِصُدَاعٍ، أَوْ لِجَرْحٍ، وَيَجْبُرَ كَسْرَ ذِرَاعِهِ، أَوْ سَاقِهِ، وَيَعْصِبَ عَلَى جِرَاحِهِ، وَخُرَّاجِهِ، وَقُرُوحِهِ، وَلَا شَيْءَ عَلَيْهِ فِي كُلِّ شَيْءٍ مِنْ ذَلِكَ، وَيُحْرِمُ فِي أَيِّ لَوْنٍ شَاءَ حَاشَا مَا صُبِغَ بِوَرْسٍ، أَوْ زَعْفَرَانٍ لِأَنَّهُ لَمْ يَنْهَ عَنْ شَيْءٍ مِمَّا ذَكَرْنَا قُرْآنٌ، وَلَا سُنَّةٌ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] إلَّا أَنَّنَا رُوِّينَا مِنْ طَرِيقِ وَكِيعٍ عَنْ ابْنِ أَبِي ذِئْبٍ عَنْ صَالِحٍ عَنْ أَبِي حَسَّانَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَأَى مُحْرِمًا مُحْتَزِمًا بِحَبْلٍ فَقَالَ: يَا صَاحِبَ الْحَبْلِ أَلْقِهِ» .

L14914 And via him from Muslim ibn Jundub to Ibn Abī Dhī'b: I heard Ibn ʿUmar say, "Do not tie anything to yourself while in *iḥrām*."

وَبِهِ إلَى ابْنِ أَبِي ذِئْبٍ عَنْ مُسْلِمِ بْنِ جُنْدُبٍ: سَمِعْتُ ابْنَ عُمَرَ يَقُولُ: لَا تَعْقِدْ عَلَيْكَ شَيْئًا وَأَنْتَ مُحْرِمٌ.

L14915 Through the chain of Ibn Abī Shaybah, he informed us from Ḥafṣ ibn Ghīyāth from Yaḥyā ibn Saʿīd from Nāfiʿ from Ibn ʿUmar that he disapproved of the money belt for one in the state of *iḥrām*. As for the report, it is *mursal* and holds no legal weight.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا حَفْصُ بْنُ غِيَاثٍ عَنْ يَحْيَى بْنِ سَعِيدٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّهُ كَرِهَ الْهِمْيَانَ لِلْمُحْرِمِ - فَأَمَّا الْأَثَرُ فَمُرْسَلٌ لَا حُجَّةَ فِيهِ.

L14916–14917 It has been narrated to us via ʿAbd al-Razzāq, from al-Aslamī, on the authority of one who heard Ṣāliḥ—the client of al-Taw'ama—that he heard Ibn ʿAbbās say: "The Messenger of God, peace be upon him, permitted the use of a money belt for one in iḥrām."

وَقَدْ رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ الْأَسْلَمِيِّ عَمَّنْ سَمِعَ صَالِحًا مَوْلَى التَّوْأَمَةِ أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ يَقُولُ: «رَخَّصَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - فِي الْهِمْيَانِ لِلْمُحْرِمِ» .

L14918 Abu Muhammad said: Both of them and a date. As for Ibn 'Umar, it has been reported from him and from other Companions—Allah was pleased with them—contrary to this.

قَالَ أَبُو مُحَمَّدٍ: كِلَاهُمَا وَتَمْرَةٌ - وَأَمَّا ابْنُ عُمَرَ فَقَدْ رُوِيَ عَنْهُ وَعَنْ غَيْرِهِ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - خِلَافُ هَذَا.

[32] **Qur'an references (L14913):** Qur'an 19:64 (Maryam).

L14919 It was reported to us through the chain of Ibn Abī Shaybah → Ibn Fuḍayl narrated to us → Layth → ʿAṭāʾ and Ṭāwus, who both said: "We saw Ibn ʿUmar tying both sides of his waist with a turban while in the state of iḥram."

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا ابْنُ فُضَيْلٍ عَنْ لَيْثٍ عَنْ عَطَاءٍ، وَطَاوُسٍ قَالَا جَمِيعًا: رَأَيْنَا ابْنَ عُمَرَ قَدْ شَدَّ حَقْوَيْهِ بِعِمَامَةٍ وَهُوَ مُحْرِمٌ.

L14920 And through the chain of Saʿīd ibn Manṣūr from Hushaym: I am Yaḥyā ibn Saʿīd al-Anṣārī, narrating from al-Qāsim ibn Muḥammad from ʿĀʾishah, the Mother of the Believers, that she granted concession for the himyān (which a pilgrim in iḥrām fastens around his hips) and also the belt.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ هُشَيْمٍ: أَنَا يَحْيَى بْنُ سَعِيدٍ الْأَنْصَارِيُّ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ: أَنَّهَا كَانَتْ تُرَخِّصُ فِي الْهِمْيَانِ يَشُدُّهُ الْمُحْرِمُ عَلَى حَقْوَيْهِ، وَفِي الْمِنْطَقَةِ أَيْضًا.

L14921 Through the chain of Wakīʿ, from Sufyān, from Ḥumayd al-Aʿraj, from ʿAṭāʾ, from Ibn ʿAbbās, who said regarding the money belt for one in iḥrām: There is no blame in it.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ حُمَيْدٍ الْأَعْرَجِ عَنْ عَطَاءٍ عَنِ ابْنِ عَبَّاسٍ قَالَ فِي الْهِمْيَانِ لِلْمُحْرِمِ: لَا بَأْسَ بِهِ.

L14922 And from the narration of Shuʿbah from Manṣūr from Mujāhid, who said: I saw Ibn al-Zubayr come for Ḥajj and perform *ramal* (rapid walking during circumambulation) to the extent that his waist belt had worn through from rubbing against his stomach.

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ قَالَ: رَأَيْت ابْنَ الزُّبَيْرِ جَاءَ حَاجًّا فَرَمَلَ حَتَّى رَأَيْت مِنْطَقَتَهُ قَدْ انْقَطَعَتْ عَلَى بَطْنِهِ.

L14923 Abu Muhammad said: There is no doubt that Ibn al-Zubayr was not compelled to secure his sustenance, and Ibn Umar did not stipulate anything regarding that matter. Malik held the opinion that whoever bandaged his head must offer an expiation.

قَالَ أَبُو مُحَمَّدٍ: لَا شَكَّ أَنَّ ابْنَ الزُّبَيْرِ لَمْ يَكُنْ مُضْطَرًّا إلَى إحْرَازِ نَفَقَتِهِ، وَابْنُ عُمَرَ لَمْ يَجْعَلْ فِي ذَلِكَ شَيْئًا - وَرَأَى مَالِكٌ عَلَى مَنْ عَصَبَ رَأْسَهُ فِدْيَةً.

L14924 And via the narration of Ibn ʿUmar: A muḥrim must not tie a strap or a rag around his head.

وَمِنْ طَرِيقِ ابْنِ عُمَرَ: لَا يَعْصِبُ الْمُحْرِمُ رَأْسَهُ بِسَيْرٍ وَلَا بِخِرْقَةٍ.

L14925 Narrated by Ibn Abi Shaybah from Abu Dawud al-Tayalisi from Abu Ma'shar from Abd al-Rahman ibn Yasar, who said: I saw Ibn Abbas tie his hair with a strap while in the state of ihram, and both of them did not place anything in it.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَبِي دَاوُد الطَّيَالِسِيِّ عَنْ أَبِي مَعْشَرٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَسَارٍ قَالَ: رَأَيْت ابْنَ عَبَّاسٍ قَدْ شَدَّ شَعْرَهُ بِسَيْرٍ وَهُوَ مُحْرِمٌ وَكِلَاهُمَا لَمْ يَجْعَلْ فِيهِ شَيْئًا.

L14926 From the chain of Saʿīd ibn Manṣūr: Sufyān (he is Ibn ʿUyaynah) narrated to us from ʿAmr ibn Dīnār: I asked Jābir ibn Zayd, Abū al-Shaʿthāʾ, "Does my izār come undone on the day of ʿArafah?" He replied, "Tie it."

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ عَمْرِو بْنِ دِينَارٍ قُلْت لِجَابِرِ بْنِ زَيْدٍ أَبِي الشَّعْثَاءِ: يَنْحَلُّ إزَارِي يَوْمَ عَرَفَةَ؟ قَالَ: اعْقِدْهُ.

L14927 And via the chain of Saʿīd ibn Manṣūr: Khālid ibn ʿAbdullāh reported to us from al-ʿAlāʾ ibn al-Musayyib, from al-Ḥakam ibn ʿUtaybah: that he saw

no issue with a muḥrim draping his garment over his shoulders and tying it into a knot on his nape.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا خَالِدُ بْنُ عَبْدِ اللَّهِ عَنْ الْعَلَاءِ بْنِ الْمُسَيِّبِ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ: أَنَّهُ كَانَ لَا يَرَى بَأْسًا أَنْ يَتَوَشَّحَ الْمُحْرِمُ بِثَوْبِهِ وَيَعْقِدَهُ عَلَى قَفَاهُ.

L14928–14929 From Saʿīd ibn Manṣūr, who narrated to us from Hushaym, from Yūnus, from al-Ḥasan al-Baṣrī, that he did not see any harm in a pilgrim in iḥrām tying a knot in his garment upon himself.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ عَنْ يُونُسَ عَنْ الْحَسَنِ الْبَصْرِيِّ أَنَّهُ لَمْ يَرَ بَأْسًا أَنْ يَعْقِدَ الْمُحْرِمُ ثَوْبَهُ عَلَى نَفْسِهِ.

L14930 The following permitted wearing the money belt for a person in iḥrām: Muḥammad ibn Kaʿb, ʿAṭāʾ, Ṭāwus, Muḥammad ibn ʿAlī, Ibrāhīm, Saʿīd ibn Jubayr, Mujāhid, and al-Qāsim ibn Muḥammad; others considered it disliked (makrūh).

وَأَبَاحَ لِبَاسَ الْهِمْيَانِ لِلْمُحْرِمِ: مُحَمَّدُ بْنُ كَعْبٍ، وَعَطَاءٌ، وَطَاوُسٌ، وَمُحَمَّدُ بْنُ عَلِيٍّ، وَإِبْرَاهِيمُ، وَسَعِيدُ بْنُ جُبَيْرٍ، وَمُجَاهِدٌ، وَالْقَاسِمُ بْنُ مُحَمَّدٍ - وَكَرِهَهُ آخَرُونَ.

L14931 From Saʿīd ibn Jubayr: He permitted a person in iḥrām with a broken nail to apply gall to it and did not mandate anything further in that regard.

وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ أَنَّهُ أَبَاحَ لِلْمُحْرِمِ يَنْكَسِرُ ظُفْرُهُ: أَنْ يَجْعَلَ عَلَيْهِ مُرَارَةً وَلَمْ يَأْمُرْ فِي ذَلِكَ بِشَيْءٍ.

L14932 Through the chain of Sa'id ibn Mansur: Abu al-Ahwas reported to us, Mansur reported to us from Ibrāhīm and Mujāhid—both said: "A Muhrim (one in the state of Ihram) may splint his bone if it breaks." They stated: "No expiation is required of him for this."

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا أَبُو الْأَحْوَصِ نَا مَنْصُورٌ عَنْ إبْرَاهِيمَ وَمُجَاهِدٍ قَالَا جَمِيعًا: يَجْبُرُ الْمُحْرِمُ عَظْمَهُ إذَا انْكَسَرَ، قَالَا: وَلَيْسَ عَلَيْهِ فِي ذَلِكَ كَفَّارَةٌ.

L14933 From the chain of Sa'id ibn Mansur: Jarir ibn Abd al-Hamid narrated to us from Mansur from Mujahid, who said: If a pilgrim in the state of ihram suffers a broken hand or sustains a head wound, he should bandage the injury (whether the fracture or head wound), secure it with a knot, and not apply any substance to it.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ ثنا جَرِيرُ بْنُ عَبْدِ الْحَمِيدِ عَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ قَالَ: إذَا انْكَسَرَتْ يَدُ الْمُحْرِمِ، أَوْ شُجَّ عَصَبَ عَلَى الشَّجِّ وَالْكَسْرِ وَعَقَدَ عَلَيْهِ، وَلَمْ يَجْعَلْ فِي ذَلِكَ شَيْئًا.

L14934 From Muhammad ibn Ali and Saʿīd ibn al-Musayyib: There is no harm in a Muhrim [pilgrim in ritual state] tying. Muhammad [ibn Ali] added: "For a sore."

وَعَنْ مُحَمَّدِ بْنِ عَلِيٍّ، وَسَعِيدِ بْنِ الْمُسَيِّبِ: لَا بَأْسَ أَنْ يَعْقِدَ الْمُحْرِمُ -: قَالَ مُحَمَّدٌ: عَلَى الْقَرْحَةِ.

L14935 Ibn al-Musayyib said: The ruling applies to the wound.

وَقَالَ ابْنُ الْمُسَيِّبِ: عَلَى الْجَرْحِ.

L14936 Abu Hanifah, Al-Shafi'i, and Abu Sulayman permitted the one in *ihram* to wear a money belt and a belt, to carry a travel bag on his head, and similar items, and they deemed it permissible.

وَأَبَاحَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ لِلْمُحْرِمِ: الْهِمْيَانَ وَالْمِنْطَقَةَ، وَأَنْ يَحْمِلَ الْخُرْجَ عَلَى رَأْسِهِ، وَنَحْوَ ذَلِكَ، وَلَمْ يَرَوْا فِيهِ بَأْسًا.

L14937 Malik permitted the wearing of the waistband for one in iḥrām if it contained his essentials, but forbade him from wearing it if it contained the essentials of another.

وَأَبَاحَ مَالِكٌ لِبَاسَ الْمِنْطَقَةِ لِلْمُحْرِمِ إِذَا كَانَتْ فِيهَا نَفَقَتُهُ، وَمَنَعَهُ لِبَاسَهَا إِذَا كَانَتْ فِيهَا نَفَقَةُ غَيْرِهِ.

L14938 Ibn al-Qasim held his colleague responsible for the ransom in that matter.

وَجَعَلَ ابْنُ الْقَاسِمِ صَاحِبَهُ فِي ذَلِكَ الْفِدْيَةَ.

L14939 Mālik prohibited tightening the band on the upper arm for a person in iḥrām, permitted tightening it directly against the skin, and prohibited tightening it over the izar (lower garment).

وَمَنَعَ مَالِكٌ مِنْ شَدِّ الْمِنْطَقَةِ عَلَى الْعَضُدِ لِلْمُحْرِمِ، وَأَبَاحَ شَدَّهَا عَلَى جِلْدِهِ، وَمَنَعَ مِنْ شَدِّهَا فَوْقَ الْإِزَارِ.

L14940 Ibn al-Qāsim deemed his companion's involvement in that matter to require an expiation—these are contradictory statements with no evidence supporting the validity of any of them, and we know of no one who held such positions before the two of them.

وَجَعَلَ ابْنُ الْقَاسِمِ صَاحِبَهُ فِي ذَلِكَ فِدْيَةً - فَأَقْوَالٌ مُتَنَاقِضَةٌ لَا دَلِيلَ عَلَى صِحَّةِ شَيْءٍ مِنْهَا، وَلَا نَعْلَمُ أَحَدًا قَالَ بِهَا قَبْلَهُمَا.

L14941 Malik prohibited the one in the state of ihram from carrying a saddlebag belonging to another on his head and deemed a ransom due for that, but permitted him to carry it on his head if it was his own. This distinction is baseless, and we are not aware of it from anyone before him.

وَمَنَعَ مَالِكٌ الْمُحْرِمَ مِنْ حَمْلِ خُرْجٍ لِغَيْرِهِ عَلَى رَأْسِهِ، وَرَأَى عَلَيْهِ فِي ذَلِكَ فِدْيَةً، وَأَبَاحَ لَهُ حَمْلَهُ عَلَى رَأْسِهِ إِذَا كَانَ لَهُ - وَهَذَا فَرْقٌ فَاسِدٌ لَا نَعْلَمُهُ أَيْضًا عَنْ أَحَدٍ قَبْلَهُ.

L14942–14943 It has been reported from ʿAṭāʾ that the permissibility for a pilgrim in the state of consecration (iḥrām) to carry the basket on his head.

وَقَدْ رُوِيَ عَنْ عَطَاءٍ إِبَاحَةُ حَمْلِ الْمُحْرِمِ الْمِكْتَلَ عَلَى رَأْسِهِ.

L14944 From the path of Sufyān ibn ʿUyaynah, from ʿAmr ibn Dīnār, from Muḥammad ibn ʿAlī ibn al-Ḥusayn, who said: ʿUmar saw ʿAbdullāh ibn Jaʿfar wearing two garments dyed with stripes while he was in the state of *iḥrām*. He said, "What is this?" ʿAlī ibn Abī Ṭālib said, "I do not think anyone could teach *us* the *Sunnah*." So ʿUmar fell silent.

وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ قَالَ: رَأَى عُمَرُ عَلَى عَبْدِ اللَّهِ بْنِ جَعْفَرٍ ثَوْبَيْنِ مُضَرَّجَيْنِ وَهُوَ مُحْرِمٌ فَقَالَ: مَا هَذَا؟ فَقَالَ عَلِيُّ بْنُ أَبِي طَالِبٍ: مَا أَخَالُ أَحَدًا يُعَلِّمُنَا السُّنَّةَ؟ فَسَكَتَ عُمَرُ.

L14945 Sālim ibn ʿAbdullāh ibn ʿUmar wore a reddish-yellow garment dyed with wars while he was a muḥrim.

وَعَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ أَنَّهُ لَبِسَ ثَوْبًا مُوَرَّدًا وَهُوَ مُحْرِمٌ.

L14946 If it is said: It has been reported that ʿUmar disapproved of Ṭalḥa wearing a dyed garment for a pilgrim in iḥrām, we respond: You are the first to oppose ʿUmar in that matter, yet you did not disapprove of it? Nor did you deem it objectionable—and this is among the matters where they abandoned analogy, permitting dyed garments without applying analogy to wars or safflower

فَإِنْ قِيلَ: قَدْ رُوِيَ عَنْ عُمَرَ أَنَّهُ أَنْكَرَ عَلَى طَلْحَةَ لِبَاسَ ثَوْبٍ مَصْبُوغٍ لِلْمُحْرِمِ؟ قُلْنَا: أَنْتُمْ أَوَّلُ مَنْ خَالَفَ عُمَرَ فِي ذَلِكَ فَلَمْ تُنْكِرُوهُ؟ وَلَا رَأَيْتُمْ فِيهِ شَيْئًا - وَهَذَا مِمَّا تَرَكُوا فِيهِ الْقِيَاسَ فَأَبَاحُوا الْمُصَبَّغَاتِ وَلَمْ يَقِيسُوهَا عَلَى الْوَرْسِ وَالْمُعَصْفَرِ، كَمَا قَاسُوا كُلَّ مَنْ

dyes. Just as they analogized one who removes harm by it (i.e., shaving his head) to one who shaves his head, analogized one who wounds game to one who kills it, and obligated the same ruling upon one who wears a shirt or turban.

أَمَاطَ بِهِ أَذًى عَلَى حَالِقِ رَأْسِهِ، وَكَمَا قَاسُوا جَارِحَ الصَّيْدِ عَلَى قَاتِلِهِ، وَكَمَا أَوْجَبُوهَا عَلَى مَنْ لَبِسَ قَمِيصًا أَوْ عِمَامَةً.

## A Legal Issue: The Cutting of the Haram's Trees.

## [مَسْأَلَةٌ قَطْعُ شَجَرِ الْحَرَمِ]

L14947

897 - Issue:

٨٩٧ - مَسْأَلَةٌ:

L14948

It is not permissible for anyone to cut anything from the trees of the sacred precinct in Mecca and Medina—not a thorn or anything greater—nor to cut any of its grass, except for al-idhkhir, for gathering it is permissible within the sacred precinct. It is permissible for one to graze camels, a camel, or livestock in the sacred precinct. If one finds a branch another has cut or that has fallen and detached from its root, they may take it at that time.

وَلَا يَحِلُّ لِأَحَدٍ قَطْعُ شَيْءٍ مِنْ شَجَرِ الْحَرَمِ بِمَكَّةَ، وَالْمَدِينَةِ وَلَا شَوْكَةٍ فَمَا فَوْقَهَا، وَلَا مِنْ حَشِيشِهِ حَاشَا الْإِذْخِرَ فَإِنَّ جَمْعَهُ مُبَاحٌ فِي الْحَرَمِ - وَمُبَاحٌ لَهُ أَنْ يَرْعَى إِبِلَهُ أَوْ بَعِيرَهُ أَوْ مَوَاشِيَهُ فِي الْحَرَمِ - فَإِنْ وَجَدَ غُصْنًا قَدْ قَطَعَهُ غَيْرُهُ أَوْ وَقَعَ فَفَارَقَ جِذْمَهُ فَلَهُ أَخْذُهُ حِينَئِذٍ.

L14949

If someone gathers firewood specifically within the sanctuary of Medina, then it is permissible for whoever finds it to seize it.

فَإِنْ احْتَطَبَ فِي حَرَمِ الْمَدِينَةِ خَاصَّةً فَإِنَّ سَلْبَهُ حَلَالٌ لِمَنْ وَجَدَهُ.

L14950

It has been narrated to us through the chain of Muslim ibn al-Ḥajjāj, who received from Isḥāq ibn Ibrāhīm—known as Ibn Rāhwayh—who received from Jarīr, from Manṣūr, from Mujāhid, from Ṭāwūs, from Ibn ʿAbbās, who said: The Messenger of Allah—peace and blessings be upon him—declared on the day of Mecca's conquest: "Allah the Exalted made this land inviolable on the day He created the heavens and the earth. Thus, it remains inviolable by Allah's sanctity until the Day of Resurrection. Fighting within it was not lawful for anyone before me, nor was it lawful for me except for a short time during the day. It remains inviolable by Allah's sanctity until the Day of Resurrection: its trees are not to be felled, its game is not to be disturbed, no lost property is to be taken except by one who announces it publicly, and its green herbage is not to be harvested." Al-ʿAbbās said: "O Messenger of Allah, except for al-idhkhir, for it is used for their fuel and homes." He replied: "Except for al-idhkhir."

رُوِّينَا مِنْ طَرِيقِ مُسْلِمِ بْنِ الْحَجَّاجِ نَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - أَنَا جَرِيرٌ عَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَوْمَ فَتْحِ مَكَّةَ: «إِنَّ هَذَا الْبَلَدَ حَرَّمَهُ اللَّهُ تَعَالَى يَوْمَ خَلَقَ السَّمَاوَاتِ وَالْأَرْضَ فَهُوَ حَرَامٌ بِحُرْمَةِ اللَّهِ تَعَالَى إِلَى يَوْمِ الْقِيَامَةِ وَإِنَّهُ لَمْ يَحِلَّ الْقِتَالُ فِيهِ لِأَحَدٍ قَبْلِي، وَلَمْ يَحِلَّ لِي إِلَّا سَاعَةً مِنْ نَهَارٍ، فَهُوَ حَرَامٌ بِحُرْمَةِ اللَّهِ إِلَى يَوْمِ الْقِيَامَةِ لَا يُعْضَدُ شَجَرُهُ وَلَا يُنَفَّرُ صَيْدُهُ، وَلَا يَلْتَقِطُ لُقَطَتَهُ إِلَّا مَنْ عَرَّفَهَا وَلَا يُخْتَلَى خَلَاهَا قَالَ الْعَبَّاسُ: يَا رَسُولَ اللَّهِ إِلَّا الْإِذْخِرَ فَإِنَّهُ لِقَيْنِهِمْ وَلِبُيُوتِهِمْ فَقَالَ: إِلَّا الْإِذْخِرَ» .

L14951

From the narration of Muslim: Qutaybah ibn Sa'id narrated to us; Laith—that is, Ibn Sa'd—narrated to us from Sa'id ibn Abi Sa'id al-Maqburi, from

L14952–14953

Abu Shurayh al-‘Adawi, that he heard the Messenger of Allah—peace be upon him—say: “Allah has made Mecca inviolable, not the people. Therefore, it is not lawful for anyone who believes in Allah and the Last Day to shed blood therein or cut down its trees. If anyone seeks to justify fighting therein by citing the permission granted to the Messenger of Allah—peace be upon him—then say to them: ’Allah permitted His Messenger but has not permitted you. He only permitted me therein for an hour of daytime, and its inviolability has now been restored today as it was inviolable yesterday. Let those present convey this to those absent.”’

وَمِنْ طَرِيقِ مُسْلِمٍ نَا قُتَيْبَةُ بْنُ سَعِيدٍ نَا لَيْثٌ هُوَ ابْنُ سَعْدٍ - عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبُرِيِّ عَنْ أَبِي شُرَيْحٍ الْعَدَوِيِّ " أَنَّهُ سَمِعَ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - يَقُولُ: «إِنَّ مَكَّةَ حَرَّمَهَا اللَّهُ وَلَمْ يُحَرِّمْهَا النَّاسُ فَلَا يَحِلُّ لِامْرِئٍ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ أَنْ يَسْفِكَ بِهَا دَمًا وَلَا يَعْضِدَ بِهَا شَجَرَةً فَإِنْ أَحَدٌ تَرَخَّصَ بِقِتَالِ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - فِيهَا فَقُولُوا لَهُ: إِنَّ اللَّهَ أَذِنَ لِرَسُولِهِ وَلَمْ يَأْذَنْ لَكُمْ؟ وَإِنَّمَا أَذِنَ لِي فِيهَا سَاعَةً مِنْ نَهَارٍ وَقَدْ عَادَتْ حُرْمَتُهَا الْيَوْمَ كَحُرْمَتِهَا بِالْأَمْسِ، وَلْيُبَلِّغْ الشَّاهِدُ الْغَائِبَ» .

L14954 Abu Muhammad said: This is what God, the Exalted, has prohibited through the words of His Messenger (peace be upon him), and He did not prohibit the herding of livestock: “Your Lord is not forgetful” (Quran 19:64).[33]

قَالَ أَبُو مُحَمَّدٍ: هَذَا مَا نَهَى اللَّهُ تَعَالَى عَنْهُ عَلَى لِسَانِ رَسُولِهِ - عَلَيْهِ السَّلَامُ - وَلَمْ يَنْهَ عَنْ إرْعَاءِ الْمَوَاشِي: {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

L14955 Abū Ḥanīfa held the view that grazing within the sacred precinct of Mecca is disliked, as this constitutes an encroachment on Allah’s boundaries, the Exalted. Mālik, however, permitted taking fodder and all other vegetation of the sacred precinct—a stance that is also contrary to the command of the Messenger of Allah, peace be upon him. There is no distinction between fodder and the rest of the sacred precinct’s vegetation.

قَالَ أَبُو حَنِيفَةَ: بِكَرَاهِيَةِ الرَّعْيِ فِي حَرَمِ مَكَّةَ - وَهَذَا تَعَدٍّ لِحُدُودِ اللَّهِ تَعَالَى - وَأَبَاحَ مَالِكٌ أَخْذَ السَّنَى وَسَائِرِ حَشِيشِ الْحَرَمِ - وَهَذَا أَيْضًا خِلَافُ أَمْرِ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ -، وَلَا فَرْقَ بَيْنَ السَّنَى وَبَيْنَ سَائِرِ حَشِيشِ الْحَرَمِ.

L14956 Abu Hanifah, al-Shafi’i, and Sufyan ruled that compensation is obligatory for one who cuts a tree in the Sacred Precinct. Abu Hanifah stated regarding a branch and anything above it up to the entire tree: the value of that [must be paid]. If it reaches the value of a pilgrimage sacrifice, he must ritually offer it. If it does not reach the value of a pilgrimage sacrifice, then its equivalent value is to be given as charity in the form of food—half a sa‘ of wheat, a sa‘ of dates, or a sa‘ of barley—to each needy person. Expiatory fasting does not suffice as compensation in this case.

وَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، وَسُفْيَانُ: بِإِيجَابِ الْجَزَاءِ عَلَى قَاطِعِ شَجَرِ الْحَرَمِ - قَالَ أَبُو حَنِيفَةَ فِي الْغُصْنِ فَمَا فَوْقَهُ إلَى الدَّوْحَةِ: قِيمَةُ ذَلِكَ، فَإِنْ بَلَغَ هَدْيًا أَهْدَاهُ، فَإِنْ لَمْ يَبْلُغْ هَدْيًا فَقِيمَتُهُ طَعَامًا يَتَصَدَّقُ بِهِ لِكُلِّ مِسْكِينٍ نِصْفُ صَاعِ حِنْطَةٍ، أَوْ صَاعُ تَمْرٍ، أَوْ شَعِيرٍ، وَلَا يُجْزِئُ فِي ذَلِكَ صِيَامٌ.

L14957 Zufar said: He must give charity of equivalent value, and neither a sacrificial animal nor fasting suffices for this obligation.

وَقَالَ زُفَرُ: يَتَصَدَّقُ بِالْقِيمَةِ وَلَا يُجْزِئُ فِي ذَلِكَ هَدْيٌ وَلَا صِيَامٌ.

L14958 Abū Muḥammad said: It has been related to us from some of the Salaf: In

قَالَ أَبُو مُحَمَّدٍ: رُوِّينَا عَنْ بَعْضِ السَّلَفِ فِي الدَّوْحَةِ بَدَنَةٌ.

[33] **Qur’an references (L14954):** Qur’an 19:64 (Maryam).

the large tree there is a sacrificial camel.

وَعَنْ عَطَاءٍ فِيهَا بَقَرَةٌ، وَفِي الْوَتَدِ مُدٌّ.

L14959 And from ʻAṭāʼ: In it is a cow, and in the stake is a *mudd*.

وَعَنْ عَبْدِ اللَّهِ بْنِ عَامِرٍ فِي الدَّوْحَةِ: بَقَرَةٌ.

L14960 It is narrated from Abdullah ibn Amir regarding the tree: a cow.

وَعَنْ ابْنِ أَبِي نَجِيحٍ فِي الدَّوْحَةِ سِتَّةُ دَنَانِيرَ، أَوْ خَمْسَةٌ، أَوْ سَبْعَةٌ يَتَصَدَّقُ بِهَا بِمَكَّةَ - وَمَا نَعْلَمُ لِأَبِي حَنِيفَةَ وَزُفَرَ فِي قَوْلِهِمَا سَلَفًا.

L14961 And from Ibn Abi Najīḥ regarding al-Dawḥah—six dinars, five dinars, or seven dinars—he is to give as charity in Mecca. We know of no precedent for the opinion of Abū Ḥanīfah and Zufar.

وَقَالَ مَالِكٌ، وَأَبُو سُلَيْمَانَ: لَا شَيْءَ فِي ذَلِكَ - وَهُوَ الْحَقُّ لِأَنَّهُ لَوْ كَانَ فِي ذَلِكَ شَيْءٌ لَبَيَّنَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَا يَجُوزُ شَرْعُ هَدْيٍ، وَلَا إيجَابُ صِيَامٍ، وَلَا إلْزَامُ غَرَامَةِ إطْعَامٍ، وَلَا صَدَقَةٍ، إلَّا بِقُرْآنٍ، أَوْ سُنَّةٍ، وَهَذَا مِمَّا تَرَكَتْ فِيهِ الطَّوَائِفُ الْمَذْكُورَةُ الْقِيَاسَ.

L14962–14964 Mālik and Abū Sulaymān said: "There is nothing in that"—and this is the correct opinion, because if there were anything in that. The Messenger of Allah—peace and blessings be upon him—has clarified it, and it is not permissible to legislate a sacrificial offering, nor to obligate fasting, nor to impose a penalty of feeding, nor charity, except through the Qur'an or the Sunnah. This is one of the matters in which the aforementioned sects have abandoned analogy.

فَإِنَّ أَبَا حَنِيفَةَ، وَالشَّافِعِيَّ قَاسَا إيجَابَ الْجَزَاءِ فِي شَجَرِ الْحَرَمِ عَلَى إيجَابِ الْجَزَاءِ فِي صَيْدِهِ وَلَمْ يَقِيسَا إيجَابَ الْجَزَاءِ فِي حَرَمِ الْمَدِينَةِ عَلَى إيجَابِهِ فِي حَرَمِ مَكَّةَ وَكِلَاهُمَا حَرَمٌ مُحَرَّمٌ صَيْدُهُ.

L14965 Indeed, Abū Ḥanīfah and al-Shāfiʻī analogized the imposition of compensation for the trees of the Sacred Precinct to the imposition of compensation for its game. Yet they did not analogize the imposition of compensation in Medina's Sacred Precinct to its imposition in Mecca's Sacred Precinct, though both are a sacred precinct where hunting is prohibited.

وَقَاسَ مَالِكٌ إيجَابَ الْفِدْيَةِ عَلَى اللَّابِسِ وَالْمُتَطَيِّبِ عَلَى وُجُوبِهَا عَلَى حَالِقِ رَأْسِهِ، وَلَمْ يَقِسْ إيجَابَ الْجَزَاءِ فِي شَجَرِ حَرَمِ مَكَّةَ، وَفِي صَيْدِ حَرَمِ الْمَدِينَةِ عَلَى وُجُوبِهِ فِي صَيْدِ حَرَمِ مَكَّةَ.

L14966 Malik drew an analogy between imposing the ransom on one who wears [sewn garments] or applies perfume and its imposition on one who shaves his head, but he did not extend the analogy to impose compensation for cutting trees in the Sanctuary of Mecca or for hunting game in the Sanctuary of Medina, as he upheld its obligation for hunting game in the Sanctuary of Mecca.

وَكُلُّ ذَلِكَ تَنَاقُضٌ لَا وَجْهَ لَهُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14967 All of that is an indefensible contradiction, and success lies solely with Allah, the Exalted.

## [مَسْأَلَةٌ سفك الدِّمَاء فِي الْحَرَمِ]

## A Legal Inquiry Regarding Shedding Blood in the Sacred Precinct.

L14968

L14969 898 - Issue:

L14970 It is fundamentally impermissible to shed blood as legal retribution (qiṣāṣ) within the Ḥaram of Mecca, nor to implement any ḥadd punishment therein, nor to imprison anyone therein. Whoever becomes liable for any of these [penalties] must be taken out of the Ḥaram, where the ḥadd punishment shall then be enforced against them, due to what we have mentioned of the Messenger of Allah's prohibition—peace be upon him—against bloodshed therein, and in accordance with Allah's declaration: *"The station of Abraham; whoever enters it shall be secure"* (Quran 3:97). This is a universal ruling from which no exception may be made.[34]

L14971 As for expelling the disobedient one from it, this is based on the statement of Allah, the Most High: "Both of you purify My House for those who circumambulate, those who seclude themselves in worship, and those who bow and prostrate." [Al-Baqarah: 125] Thus, purifying it from the disobedient is obligatory. This ruling does not apply to the Haram of Medina, because no explicit text has come regarding this matter. Moreover, slaughtering lawfully owned animals, cupping, or opening a vein is not termed bloodshed.[35]

L14972 We have been narrated via the chain of Ibn ʿUyaynah: Ibrāhīm ibn Maysarah—who was trustworthy and reliable—said: I heard Ṭāwūs say: I heard Ibn ʿAbbās state: "Whoever commits a ḥadd offense and then enters the Ḥaram (Sacred Precinct), he is not to be sat with nor pledged allegiance to"—and Ṭāwūs mentioned further remarks—"including: 'Once he leaves the Ḥaram (Sacred Precinct), the ḥadd punishment is to be enforced upon him.'" This is the opinion of Saʿīd ibn Jubayr and al-Ḥakam ibn ʿUtaybah, and it is also the opinion of ʿUmar ibn al-Khaṭṭāb.

L14973–14974 "From the narration of Ibn Jurayj, Abū al-Zubayr said: Ibn ʿUmar said, 'If I found the killer of ʿUmar therein, I would not assault him'—meaning the Ḥaram of Mecca."

L14975 Ibn Abbas said: If I were to find my father's killer in the Ḥaram, I would

[34] **Qur'an references (L14970):** Qur'an 3:97 (Ali 'Imran).
[35] **Qur'an references (L14971):** Qur'an 2:125 (Al-Baqarah).

٨٩٨ - مَسْأَلَةٌ:

وَلَا يَحِلُّ أَنْ يُسْفَكَ فِي حَرَمِ مَكَّةَ دَمٌ بِقِصَاصٍ أَصْلًا، وَلَا أَنْ يُقَامَ فِيهَا حَدٌّ، وَلَا يُسْجَنَ فِيهَا أَحَدٌ، فَمَنْ وَجَبَ عَلَيْهِ شَيْءٌ مِنْ ذَلِكَ أُخْرِجَ عَنْ الْحَرَمِ وَأُقِيمَ عَلَيْهِ الْحَدُّ لِمَا ذَكَرْنَا مِنْ نَهْيِ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - أَنْ يُسْفَكَ بِهَا دَمٌ، وَلِقَوْلِ اللَّهِ تَعَالَى: {مَقَامُ إِبْرَاهِيمَ وَمَنْ دَخَلَهُ كَانَ آمِنًا} [آل عمران: ٩٧] وَهَذَا عُمُومٌ لَا يَجُوزُ أَنْ يُخَصَّ مِنْهُ شَيْءٌ.

وَأَمَّا إخْرَاجُ الْعَاصِي مِنْهُ فَلِقَوْلِ اللَّهِ تَعَالَى: {أَنْ طَهِّرَا بَيْتِيَ لِلطَّائِفِينَ وَالْعَاكِفِينَ وَالرُّكَّعِ السُّجُودِ} [البقرة: ١٢٥] فَتَطْهِيرُهُ مِنْ الْعُصَاةِ وَاجِبٌ، وَلَيْسَ هَذَا فِي حَرَمِ الْمَدِينَةِ، لِأَنَّهُ لَمْ يَأْتِ بِذَلِكَ نَصٌّ وَلَا يُسَمَّى ذَبْحُ الْحَيَوَانِ الْمُتَمَلَّكِ وَلَا الْحِجَامَةُ، وَلَا فَتْحُ الْعِرْقِ: سَفْكَ دَمٍ.

رُوِّينَا مِنْ طَرِيقِ ابْنِ عُيَيْنَةَ أَنَا إبْرَاهِيمُ بْنُ مَيْسَرَةَ - وَكَانَ ثِقَةً مَأْمُونًا - قَالَ: سَمِعْت طَاوُسًا يَقُولُ: سَمِعْت ابْنَ عَبَّاسٍ يَقُولُ: مَنْ أَصَابَ حَدًّا، ثُمَّ دَخَلَ الْحَرَمَ لَمْ يُجَالَسْ وَلَمْ يُبَايَعْ - وَذَكَرَ كَلَامًا - وَفِيهِ: فَإِذَا خَرَجَ أُقِيمَ عَلَيْهِ الْحَدُّ - وَهُوَ قَوْلُ سَعِيدِ بْنِ جُبَيْرٍ، وَالْحَكَمِ بْنِ عُتَيْبَةَ - وَهُوَ قَوْلُ عُمَرَ بْنِ الْخَطَّابِ.

وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ قَالَ أَبُو الزُّبَيْرِ: قَالَ ابْنُ عُمَرَ: لَوْ وَجَدْتُ فِيهِ قَاتِلَ عُمَرَ مَا نَدَهْتُهُ يَعْنِي حَرَمَ مَكَّةَ.

وَقَالَ ابْنُ عَبَّاسٍ: لَوْ وَجَدْت قَاتِلَ أَبِي فِي الْحَرَمِ مَا عَرَضْت لَهُ.

not confront him.

L14976 Abu Muhammad said: They did not distinguish between one who committed an offense incurring a prescribed punishment within the Sacred Precinct and one who committed it outside, then sought refuge therein; and ʻAṭāʼ and Mujāhid differentiated between the two.

قَالَ أَبُو مُحَمَّدٍ: فَلَمْ يَخُصُّوا مَنْ أَصَابَ حَدًّا فِي الْحَرَمِ مِمَّنْ أَصَابَهُ خَارِجَ الْحَرَمِ، ثُمَّ لَجَأَ إِلَى الْحَرَمِ - وَفَرَّقَ عَطَاءٌ، وَمُجَاهِدٌ بَيْنَهُمَا.

L14977 And it has been narrated to us through the chain of Ibn al-Zubayr that he expelled a group from the sacred sanctuary to the profane area and crucified them.

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ الزُّبَيْرِ أَنَّهُ خَرَّجَ قَوْمًا مِنْ الْحَرَمِ إِلَى الْحِلِّ فَصَلَبَهُمْ.

L14978 Through the chain of Shuʻbah from Ḥammād ibn Abī Sulaymān regarding someone who commits murder then seeks refuge in the sacred sanctuary (Ḥaram). He said: "He must be expelled from it and executed."

وَمِنْ طَرِيقِ شُعْبَةَ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ فِيمَنْ قَتَلَ، ثُمَّ لَجَأَ إِلَى الْحَرَمِ؟ قَالَ: يُخْرَجُ مِنْهُ فَيُقْتَلُ.

L14979 Abu Hanifa said: Hadd punishments are enforced in the Haram except for killing alone. Neither the hadd punishment for killing nor qisas is carried out within the Haram until the offender departs of his own volition.

وَقَالَ أَبُو حَنِيفَةَ: تُقَامُ الْحُدُودُ فِي الْحَرَمِ إلَّا الْقَتْلَ وَحْدَهُ فَإِنَّهُ لَا يُقَامُ فِيهِ حَدُّ قَتْلٍ وَلَا قَوَدٍ حَتَّى يَخْرُجَ بِاخْتِيَارِهِ.

L14980 Abu Yusuf said: He is brought out, then the hadd of death is imposed upon him.

وَقَالَ أَبُو يُوسُفَ: يُخْرَجُ فَيُقَامُ عَلَيْهِ حَدُّ الْقَتْلِ.

L14981 Ali said: The categorization of Abu Hanifa is invalid, and we know of no argument at all—nor any precedent—for those who permitted killing within the sacred precinct, except al-Husayn ibn Numayr and those he dispatched, al-Hajjaj and those he dispatched.

قَالَ عَلِيٌّ: تَقْسِيمُ أَبِي حَنِيفَةَ فَاسِدٌ وَمَا نَعْلَمُ لِمَنْ أَبَاحَ الْقَتْلَ فِي الْحَرَمِ حُجَّةً أَصْلًا، وَلَا سَلَفًا، إلَّا الْحُصَيْنَ بْنَ نُمَيْرٍ، وَمَنْ بَعَثَهُ، وَالْحَجَّاجَ، وَمَنْ بَعَثَهُ.

L14982 Abu Muhammad said: As for one who is aggressed against in al-Haram, he should defend himself. Allah the Exalted has said: {Do not fight them at the Sacred Mosque unless they fight you there. But if they fight you, then kill them} [Al-Baqarah: 191]. And with Allah, the Exalted, is success.[36]

قَالَ أَبُو مُحَمَّدٍ: وَأَمَّا مَنْ تُعُدِّيَ عَلَيْهِ فِي الْحَرَمِ فَلْيَدْفَعْ عَنْ نَفْسِهِ قَالَ تَعَالَى: {وَلا تُقَاتِلُوهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتَّى يُقَاتِلُوكُمْ فِيهِ فَإِنْ قَاتَلُوكُمْ فَاقْتُلُوهُمْ} [البقرة: ١٩١] وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L14983 **An issue: Nothing may be removed from the soil of the Sacred Precinct or its stones to the Hill (areas outside the Sacred Precinct).**

## [مَسْأَلَةٌ لَا يُخْرَجُ شَيْءٌ مِنْ تُرَابِ الْحَرَمِ وَلَا حِجَارَتِهِ إلَى الْحِلِّ]

[36] **Qur'an references (L14982):** Qur'an 2:191 (Al-Baqarah).

899 – Issue

No soil of the Ḥaram nor any of its stones must be taken out to the Ḥill.

It has been narrated to us through the chain of Sa'īd ibn Manṣūr: Hushaym informed us, from Ḥajjāj, from 'Aṭā', who said: It is reprehensible for soil to be taken out from the Ḥaram to the Ḥill or for soil of the Ḥill to be brought into the Ḥaram — this is the opinion of Ibn Abī Laylā and others.

There is no harm in removing Zamzam water because the sanctity of the Ḥaram pertains solely to the earth, its soil, and its stones. Therefore, it is not permissible for one to nullify its sanctity, and no prohibition has been established regarding the water.

## The Legal Question of Ownership, Sale, and Leasing of Properties in Makkah

900 - Issue:

Owning houses in Makkah, selling them, and leasing them are permissible.

It has been narrated to us from Abdullah ibn Amr ibn al-As that he said: It is not permissible to sell the houses [of mosques] nor to lease them.

Umar ibn Abd al-Aziz forbade its rental.

It has been reported to us that Umar prohibited the codification [of rulings] according to their juristic positions. Two disconnected (mursal) narrations on this matter have been transmitted to us, but they are unsound—this being the opinion of Ishaq ibn Rahawayh.

Ali said: The Companions thereby owned their homes through the knowledge of the Messenger of Allah (peace be upon him), and he did not prohibit that. Whoever owns a share, for Allah the Exalted has said: "Allah has per-

٨٩٩ - مَسْأَلَةٌ

: وَلَا يُخْرَجُ شَيْءٌ مِنْ تُرَابِ الْحَرَمِ وَلَا حِجَارَتِهِ إِلَى الْحِلِّ

رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا هُشَيْمٌ أَنَا حَجَّاجٌ عَنْ عَطَاءٍ قَالَ: يُكْرَهُ أَنْ يُخْرَجَ مِنْ تُرَابِ الْحَرَمِ إِلَى الْحِلِّ، أَوْ يُدْخَلَ تُرَابُ الْحِلِّ إِلَى الْحَرَمِ - وَهُوَ قَوْلُ ابْنِ أَبِي لَيْلَى وَغَيْرِهِ.

وَلَا بَأْسَ بِإِخْرَاجِ مَاءِ زَمْزَمَ لِأَنَّ حُرْمَةَ الْحَرَمِ إِنَّمَا هِيَ لِلْأَرْضِ وَتُرَابِهَا وَحِجَارَتِهَا، فَلَا يَجُوزُ لَهُ إِزَالَةُ حُرْمَتِهَا وَلَمْ يَأْتِ فِي الْمَاءِ تَحْرِيمٌ.

## [مَسْأَلَةُ مِلْكُ دُورِ مَكَّةَ وَبَيْعُهَا وَإِجَارَتُهَا]

٩٠٠ - مَسْأَلَةٌ:

وَمِلْكُ دُورِ مَكَّةَ وَبَيْعُهَا وَإِجَارَتُهَا جَائِزٌ.

وَقَدْ رُوِّينَا عَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ أَنَّهُ قَالَ: لَا يَحِلُّ بَيْعُ دُورِهَا وَلَا إِجَارَتُهَا.

وَمَنَعَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ مِنْ كِرَائِهَا.

وَرُوِّينَا عَنْ عُمَرَ الْمَنْعَ مِنَ التَّبْوِيبِ عَلَى دُورِهَا، وَرُوِّينَا فِي ذَلِكَ خَبَرَيْنِ مُرْسَلَيْنِ لَا يَصِحَّانِ - وَهُوَ قَوْلُ إِسْحَاقَ بْنِ رَاهْوَيْهِ.

قَالَ عَلِيٌّ: قَدْ مَلَكَ الصَّحَابَةُ بِهَا دُورَهُمْ بِعِلْمِ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - فَلَمْ يَمْنَعْ مِنْ ذَلِكَ، وَكُلُّ مَنْ مَلَكَ رَبْعًا فَقَدْ قَالَ اللَّهُ تَعَالَى: {وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا} [البقرة: ٢٧٥] وَأَمَرَ بِالْمُؤَاجَرَةِ رَسُولُهُ - عَلَيْهِ السَّلَامُ - فَكُلُّ ذَلِكَ مُبَاحٌ فِيهَا.

mitted trade and forbidden usury" [Al-Baqarah: 275]. His Messenger (peace be upon him) commanded renting, and all of that is permissible within it.[37]

## Issue: Gathering Firewood in the Ḥaram of Medina

901 - Issue:

As for one who gathers firewood in the sacred precinct of Medina, it is lawful to seize all he carries in that state and strip him entirely except for what merely covers his private parts. This ruling derives from what we were narrated through Muslim's chain: Isḥāq ibn Ibrāhīm—Ibn Rāhawayh—from Abū ʿĀmir al-ʿAqadī via ʿAbdullāh ibn Jaʿfar, from Ismāʿīl ibn Muḥammad ibn Saʿd ibn Abī Waqqāṣ, from his uncle ʿĀmir ibn Saʿd, who said: Saʿd rode to his estate at al-ʿAqīq and found a slave cutting a tree or stripping its branches. He stripped him of his belongings. When Saʿd returned, the slave's kin came asking him to restore what he had taken from their slave, whether to them or to the slave himself. He declared: "By Allah! I shall never return anything the Messenger of Allah—peace be upon him—granted me as a special portion!" and he refused to restore it to them.

From Umar ibn al-Khaṭṭāb: He said to a freedman of ʿUthmān ibn Maẓʿūn, "I have appointed you over this area. If you see anyone hacking a tree or pruning it, take his rope and axe?" I said, "Should I take his cloak?" He said, "No"—and a similar report is narrated from Ibn ʿUmar.

[37] **Qur'an references (L14995):** Qur'an 2:275 (Al-Baqarah).

## [مَسْأَلَة احْتَطَبَ فِي حَرَمِ الْمَدِينَةِ]

٩٠١ - مَسْأَلَةٌ:

وَأَمَّا مَنْ احْتَطَبَ فِي حَرَمِ الْمَدِينَةِ فَحَلَالٌ سَلْبُهُ كُلَّ مَا مَعَهُ فِي حَالِهِ تِلْكَ وَتَجْرِيدُهُ إِلَّا مَا يَسْتُرُ عَوْرَتَهُ فَقَطْ؛ فَلِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - عَنْ أَبِي عَامِرٍ الْعَقَدِيِّ نَا عَبْدُ اللَّهِ بْنُ جَعْفَرٍ عَنْ إِسْمَاعِيلَ بْنِ مُحَمَّدِ بْنِ سَعْدِ بْنِ أَبِي وَقَّاصٍ عَنْ عَمِّهِ عَامِرِ بْنِ سَعْدٍ قَالَ: إِنَّ سَعْدًا أَبَاهُ رَكِبَ إِلَى قَصْرِهِ بِالْعَقِيقِ فَوَجَدَ عَبْدًا يَقْطَعُ شَجَرًا أَوْ يَخْبِطُهُ فَسَلَبَهُ فَلَمَّا رَجَعَ سَعْدٌ جَاءَهُ أَهْلُ الْعَبْدِ فَسَأَلُوهُ أَنْ يَرُدَّ عَلَى غُلَامِهِمْ أَوْ عَلَيْهِمْ مَا أَخَذَ مِنْ غُلَامِهِمْ فَقَالَ: مَعَاذَ اللَّهِ أَنْ أَرُدَّ شَيْئًا نَفَّلَنِيهِ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - وَأَبَى أَنْ يَرُدَّ عَلَيْهِمْ.

وَعَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ قَالَ لِمَوْلًى لِعُثْمَانَ بْنِ مَظْعُونٍ: إِنِّي اسْتَعْمَلْتُكَ عَلَى مَا هَاهُنَا فَمَنْ رَأَيْتُهُ يَخْبِطُ شَجَرًا أَوْ يَعْضِدُهُ: فَخُذْ حَبْلَهُ وَفَأْسَهُ؟ قُلْت: آخُذُ رِدَاءَهُ؟ قَالَ: لَا - وَعَنْ ابْنِ عُمَرَ نَحْوُ هَذَا.

L15000 Abū Muḥammad said: No opposing Companion is known [to contradict them], and this ruling does not apply to dry vegetation, for the precedent only pertains to gathering firewood. Moreover, covering the private parts is obligatory in all circumstances.

قَالَ أَبُو مُحَمَّدٍ: وَلَا مُخَالِفَ لَهُمْ مِنْ الصَّحَابَةِ يُعْرَفُ وَلَيْسَ هَذَا فِي الْحَشِيشِ لِأَنَّ الْأَثَرَ إنَّمَا جَاءَ فِي الِاحْتِطَابِ - وَسِتْرُ الْعَوْرَةِ فَرْضٌ بِكُلِّ حَالٍ.

L15001 **A legal issue: He vowed to walk to Mecca as a means of seeking closeness to God.**

## [مَسْأَلَةُ نَذَرَ أَنْ يَمْشِيَ إلَى مَكَّةَ عَلَى سَبِيلِ التَّقَرُّبِ]

L15002 902 - Issue:

٩٠٢ - مَسْأَلَةٌ:

L15003 Whoever vows to walk to Mecca, Arafat, Mina, or a specified place within the Ḥaram as an act of devotion to Allah—the Almighty—or gratitude to Him—Exalted is He—not as an oath, becomes obligated to walk to the vowed location to pray there or solely to circumambulate the Kaaba. They are not required to perform Hajj or Umrah unless they explicitly vow to do so.

وَمَنْ نَذَرَ أَنْ يَمْشِيَ إلَى مَكَّةَ أَوْ إلَى عَرَفَةَ أَوْ إلَى مِنًى أَوْ إلَى مَكَان ذَكَرَهُ مِنْ الْحَرَمِ عَلَى سَبِيلِ التَّقَرُّبِ إلَى اللَّهِ - عَزَّ وَجَلَّ - أَوْ الشُّكْرِ لَهُ - تَعَالَى - لَا عَلَى سَبِيلِ الْيَمِينِ فَفَرْضٌ عَلَيْهِ الْمَشْيُ إلَى حَيْثُ نَذَرَ لِلصَّلَاةِ هُنَالِكَ، أَوْ الطَّوَافِ بِالْبَيْتِ فَقَطْ - وَلَا يَلْزَمُهُ أَنْ يَحُجَّ، وَلَا أَنْ يَعْتَمِرَ إلَّا أَنْ يَنْذِرَ ذَلِكَ وَإِلَّا فَلَا.

L15004–15005 If walking to the place he vowed becomes difficult for him, he may ride without incurring any obligation. However, if he rides the entire journey without experiencing hardship during the journey, he must offer a ritual sacrifice (hady), and he cannot substitute it with fasting or feeding the poor.

فَإِنْ شَقَّ عَلَيْهِ الْمَشْيُ إلَى حَيْثُ نَذَرَ مِنْ ذَلِكَ فَلْيَرْكَبْ وَلَا شَيْءَ عَلَيْهِ؛ فَإِنْ رَكِبَ الطَّرِيقَ كُلَّهُ لِغَيْرِ مَشَقَّةٍ فِي طَرِيقٍ فَعَلَيْهِ هَدْيٌ وَلَا يُعَوِّضُ مِنْهُ صِيَامًا وَلَا إطْعَامًا.

L15006 If one vows to perform Hajj on foot, one must walk from the Miqat until completing one's Hajj.

فَإِنْ نَذَرَ أَنْ يَحُجَّ مَاشِيًا فَلْيَمْشِ مِنْ الْمِيقَاتِ حَتَّى يُتِمَّ حَجَّهُ.

L15007 Whoever vows to ride for that purpose must ride. This is imperative due to Allah's statement—Exalted is He—: "They will come to you on foot and on every emaciated camel, arriving from every distant pass" [Al-Hajj: 27]. Thus, walking and riding toward all that we have mentioned constitute obedience to Allah—the Mighty and Majestic.[1]

وَمَنْ نَذَرَ أَنْ يَرْكَبَ فِي ذَلِكَ فَعَلَيْهِ أَنْ يَرْكَبَ وَلَا بُدَّ لِقَوْلِ اللَّهِ - تَعَالَى -: {يَأْتُوكَ رِجَالا وَعَلَى كُلِّ ضَامِرٍ يَأْتِينَ مِنْ كُلِّ فَجٍّ عَمِيقٍ} [الحج: ٢٧] فَالْمَشْيُ وَالرُّكُوبُ إلَى كُلِّ مَا ذَكَرْنَا طَاعَةٌ لِلَّهِ - عَزَّ وَجَلَّ -.

L15008 It has been narrated to us through the narration of Mālik from Ṭalḥa ibn ʿAbd al-Malik, from al-Qāsim ibn Muḥammad, from ʿĀ'isha, the Mother of the Believers, who said: The Messenger of Allah (ṣallā Allāhu ʿalayhi wa-

رُوِّينَا مِنْ طَرِيقِ مَالِكٍ عَنْ طَلْحَةَ بْنِ عَبْدِ الْمَلِكِ عَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: قَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - «مَنْ نَذَرَ أَنْ يُطِيعَ اللَّهَ فَلْيُطِعْهُ وَمَنْ نَذَرَ أَنْ يَعْصِيَ اللَّهَ فَلَا يَعْصِهِ» .

[1] **Qur'an references (L15007):** Qur'an 22:27 (Al-Hajj).

sallam) said, “Whoever vows to obey Allah, let him obey Him, and whoever vows to disobey Allah, let him not disobey Him.”[2]

L15009 And He—the Exalted—said: “They fulfill vows” [Al-Insān 76:7], and He—the Exalted—said: “Fulfill covenants” [al-Mā’idah 5:1]. Indeed, He—the Exalted—commands the fulfillment of covenants pertaining to obedience, not covenants pertaining to sins.[3]

L15010 A group of scholars maintained that the ritual walking (Sa’ī) is only permissible during Ḥajj or ʿUmrah.

L15011 Abu Muhammad said: This is erroneous, for it imposes an obligation which one has not vowed upon himself without any Quran or Sunnah. Malik said: If one vows to walk to the mosque, to the Kaaba, or to the Sacred Precinct, it becomes binding upon him. But if one vows to walk to Arafat, to Muzdalifah, to Mina, or to As-Safa and Al-Marwah, it does not become binding upon him. This is a division without evidence.

L15012–15014 It has been narrated to us through the chain of al-Bukhārī: Muḥammad ibn Sallām narrated to us, al-Fazārī narrated from Ḥumayd al-Ṭawīl, Thābit al-Bunānī narrated to me from Anas, from the Prophet (peace be upon him), that he saw an elderly man struggling to walk while supported by his sons. He said, “What is the matter with this man?” They replied, “He vowed to walk.” He said, “Allāh is certainly free from any need for this man’s self-imposed suffering,” and commanded him. That he rode, so the Prophet—peace be upon him—imposed no obligation on him for his riding.

L15015 Allah, the Exalted, has said, “Allah does not burden a soul beyond its capacity” [Al-Baqarah: 286]. Thus, whoever does not have the capacity to walk, Allah has not obligated them to walk. Their vow to what is not within their capacity constitutes an act of disobedience, and it is not permissible for them to fulfill it.[4]

L15016 Ali said: This al-Fazari is Abu Ishaq—or Marwan ibn Mu’awiyah—and both

وَقَالَ - تَعَالَى - {يُوفُونَ بِالنَّذْرِ} [الإنسان: ٧] وَقَالَ - تَعَالَى - {أَوْفُوا بِالْعُقُودِ} [المائدة: ١] فَإِنَّمَا أَمَرَ - تَعَالَى - بِالْوَفَاءِ بِعُقُودِ الطَّاعَةِ لَا بِعُقُودِ الْمَعَاصِي.

وَقَالَ قَوْمٌ: لَا يَمْشِي إِلَّا فِي حَجٍّ، أَوْ عُمْرَةٍ.

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا خَطَأٌ، لِأَنَّهُ إِلْزَامُ مَا لَمْ يَنْذِرْهُ عَلَى نَفْسِهِ بِغَيْرِ قُرْآنٍ، وَلَا سُنَّةٍ. وَقَالَ مَالِكٌ: إِنْ نَذَرَ الْمَشْيَ إِلَى الْمَسْجِدِ، أَوْ إِلَى الْكَعْبَةِ، أَوْ إِلَى الْحَرَمِ لَزِمَهُ، فَإِنْ نَذَرَ إِلَى عَرَفَةَ، أَوْ إِلَى مُزْدَلِفَةَ، أَوْ مِنًى، أَوْ الصَّفَا وَالْمَرْوَةِ لَمْ يَلْزَمْهُ - وَهَذَا تَقْسِيمٌ بِلَا بُرْهَانٍ.

رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نَا مُحَمَّدُ بْنُ سَلَّامٍ نَا الْفَزَارِيّ عَنْ حُمَيْدٍ الطَّوِيلِ أَخْبَرَنِي ثَابِتٌ هُوَ الْبُنَانِيُّ - عَنْ أَنَسٍ «عَنْ النَّبِيِّ - عَلَيْهِ السَّلَامُ -: أَنَّهُ رَأَى شَيْخًا يُهَادَي بَيْنَ بَنِيهِ فَقَالَ: مَا بَالُ هَذَا؟ قَالُوا: نَذَرَ أَنْ يَمْشِيَ قَالَ: إنَّ اللَّهَ لَغَنِيٌّ عَنْ تَعْذِيبِ هَذَا نَفْسَهُ، وَأَمَرَهُ أَنْ يَرْكَبَ» فَلَمْ يُوجِبْ عَلَيْهِ النَّبِيُّ - عَلَيْهِ السَّلَامُ - شَيْئًا لِرُكُوبِهِ.

وَقَالَ - تَعَالَى - {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] فَمَنْ لَيْسَ الْمَشْيُ فِي وُسْعِهِ فَلَمْ يُكَلِّفْهُ اللَّهُ - تَعَالَى - الْمَشْيَ، وَكَانَ نَذْرُهُ لِمَا لَيْسَ فِي وُسْعِهِ مَعْصِيَةً لَا يَجُوزُ لَهُ الْوَفَاءُ بِهَا.

قَالَ عَلِيٌّ: الْفَزَارِيّ هَذَا هُوَ أَبُو إِسْحَاقَ - أَوْ مَرْوَانُ بْنُ مُعَاوِيَةَ، وَكِلَاهُمَا ثِقَةٌ إمَامٌ.

[2] **Hadith references (L15008):** Sunan an-Nasai 3806; Sunan Abi Dawud 3289; Jami at-Tirmidhi 1526.

[3] **Qur’an references (L15009):** Qur’an 76:7 (Al-Insan); Qur’an 5:1 (Al-Ma’idah).

[4] **Qur’an references (L15015):** Qur’an 2:286 (Al-Baqarah).

of them are trustworthy imams.

L15017 From the path of al-Bukhari: Ibrāhīm ibn Mūsā narrated to us, Hishām ibn Yūsuf narrated to us that Ibn Jurayj informed them, saying: Saʿīd ibn Abī Ayyūb informed me that Yazīd ibn Abī Ḥabīb informed him that Abū al-Khayr related to him from ʿUqbah ibn ʿĀmir al-Juhanī, who said: "My sister vowed to walk to the House of Allah (Exalted is He) and commanded me to seek a legal verdict for her from the Prophet (peace and blessings be upon him). So I sought the verdict from the Prophet (peace be upon him). He said: 'Let her walk and let her ride.' Thus, he commanded her to do both and did not make obligatory upon her anything in that regard."

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا إِبْرَاهِيمُ بْنُ مُوسَى نَا هِشَامُ بْنُ يُوسُفَ أَنَّ ابْنَ جُرَيْجٍ أَخْبَرَهُمْ قَالَ: أَخْبَرَنِي سَعِيدُ بْنُ أَبِي أَيُّوبَ أَنَّ يَزِيدَ بْنَ أَبِي حَبِيبٍ أَخْبَرَهُ أَنَّ أَبَا الْخَيْرِ حَدَّثَهُ «عَنْ عُقْبَةَ بْنِ عَامِرٍ الْجُهَنِيِّ قَالَ نَذَرَتْ أُخْتِي أَنْ تَمْشِيَ إِلَى بَيْتِ اللَّهِ - تَعَالَى - وَأَمَرَتْنِي أَنْ أَسْتَفْتِيَ لَهَا النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَاسْتَفْتَيْتُ النَّبِيَّ - عَلَيْهِ السَّلَامُ -؟ فَقَالَ: لِتَمْشِ وَلْتَرْكَبْ فَأَمَرَهَا بِكِلَا الْأَمْرَيْنِ وَلَمْ يُوجِبْ عَلَيْهَا فِي ذَلِكَ شَيْئًا» .

L15018 We have known with certainty that the Messenger of Allah (peace be upon him) did not command her to walk except when she was capable of it, in accordance with the words of Allah (Exalted is He): "Allah does not burden any soul beyond its capacity" [Al-Baqarah: 286].[5]

وَقَدْ عَلِمْنَا ضَرُورَةً أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - لَمْ يَأْمُرْهَا بِالْمَشْيِ إلَّا وَهِيَ قَادِرَةٌ عَلَيْهِ لِقَوْلِ اللَّهِ - تَعَالَى -: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] .

L15019 Through the chain of Abu Dawud: Muhammad ibn al-Muthanna narrated to us, Abu al-Walid (who is al-Tayalisi) narrated to us, Hisham (who is al-Dastawā'ī) narrated to us from Qatadah from Ikrimah from Ibn Abbas that the sister of Uqbah ibn Amir vowed to walk to the House. The Prophet, peace be upon him, commanded her to ride and offer a sacrificial animal.

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا أَبُو الْوَلِيدِ هُوَ الطَّيَالِسِيُّ - نَا هِشَامٌ هُوَ الدَّسْتُوَائِيُّ - نَا قَتَادَةُ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ «أَنَّ أُخْتَ عُقْبَةَ بْنِ عَامِرٍ نَذَرَتْ أَنْ تَمْشِيَ إلَى الْبَيْتِ فَأَمَرَهَا النَّبِيُّ - عَلَيْهِ السَّلَامُ - أَنْ تَرْكَبَ وَتُهْدِيَ هَدْيًا» .

L15020 These are two commands from the Messenger of Allah (peace be upon him). One of them is that you may ride and walk without requiring anything to be obligatory in that regard, and the other is that you may ride and offer a ritual sacrifice without walking in that regard - and this is our position.

فَهَذَانِ أَمْرَانِ مِنْ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ -، أَحَدُهُمَا: أَنْ تَرْكَبَ وَتَمْشِيَ دُونَ إلْزَامِ شَيْءٍ فِي ذَلِكَ، وَالْآخَرُ: أَنْ تَرْكَبَ وَتُهْدِيَ هَدْيًا دُونَ مَشْيٍ فِي ذَلِكَ - وَهَذَا هُوَ قَوْلُنَا.

L15021–15022 Abu Muhammad said: It has been narrated to us through a chain containing Ubayd Allāh ibn Zuḥar (who is weak) from Abū Saʿīd al-Ruʿaynī (who is obscure) that the Prophet (peace and blessings be upon him) commanded her to fast three days.

قَالَ أَبُو مُحَمَّد: وَرُوِّينَا مِنْ طَرِيقٍ فِيهَا عُبَيْدُ اللَّهِ بْنُ زُحَرَ - وَهُوَ ضَعِيفٌ - عَنْ أَبِي سَعِيدٍ الرُّعَيْنِيِّ وَهُوَ مَجْهُولٌ " أَنَّهُ - عَلَيْهِ السَّلَامُ - أَمَرَهَا أَنْ تَصُومَ ثَلَاثَةَ أَيَّامٍ ".

L15023 It has also been similarly reported through a chain that includes Ḥayy ibn ʿAbd Allāh—who is unknown—and likewise through a chain with Sharīk—who is weak. We have noted these to ensure one is not deceived by them.

وَرُوِيَ أَيْضًا مِثْلُ هَذَا مِنْ طَرِيقٍ فِيهَا حَيُّ بْنُ عَبْدِ اللَّهِ - وَهُوَ مَجْهُولٌ - وَمِثْلُهُ مِنْ طَرِيقٍ فِيهَا شَرِيكٌ - وَهُوَ ضَعِيفٌ - نَبَّهْنَا عَلَيْهَا لِئَلَّا يُغْتَرَّ بِهَا.

[5] **Qur'an references (L15018):** Qur'an 2:286 (Al-Baqarah).

L15024 Some scholars objected to the two hadiths we cited by arguing: “Matar al-Warraq narrated it from Ikrimah from Uqbah, though Ikrimah never met Uqbah.” Others attributed it as mawquf to Ibn Abbas, while a contradictory narration has been transmitted from Ibn Abbas himself.

وَقَدْ اعْتَرَضَ قَوْمٌ فِي الْحَدِيثَيْنِ اللَّذَيْنِ أَوْرَدْنَا بِأَنْ قَالُوا: قَدْ رَوَاهُ مَطَرُ الْوَرَّاقُ عَنْ عِكْرِمَةَ عَنْ عُقْبَةَ، وَعِكْرِمَةُ لَمْ يَلْقَ عُقْبَةَ؛ وَأَوْقَفَهُ بَعْضُ النَّاسِ عَلَى ابْنِ عَبَّاسٍ - وَقَدْ رُوِيَ عَنْ ابْنِ عَبَّاسٍ خِلَافُهُ.

L15025 Ali said: This is among what Allah, the Exalted, detests him for, because the necessary implication of his statement—that the *mursal* and *munqati‘* are equivalent to the *musnad*—is that he then faults here a sound *musnad* transmitted by one who related it as *munqati‘* or *mawquf* if it contradicts his uncritical adherence (taqlīd). This is the act of one devoid of piety and sincerity. None objects to a *musnad* that constitutes authoritative evidence with such criticism except an ignorant person, for it is an objection lacking proof of its validity—an invalid claim—since the *musnad* constitutes authoritative evidence, while the *mursal* is rejected. What deficiency can there be upon the truth from another’s narration of what lacks authoritative evidence?

قَالَ عَلِيٌّ: وَهَذَا مِمَّا يَمْقُتُ اللَّهُ - تَعَالَى - عَلَيْهِ؛ لِأَنَّ الْمُفْتَرَضَ بِهَذَا مِنْ قَوْلِهِ: إنَّ الْمُرْسَلَ وَالْمُنْقَطِعَ كَالْمُسْنَدِ ثُمَّ يَعِيبُ هُنَا مُسْنَدًا صَحِيحًا بِرِوَايَةِ مَنْ رَوَاهُ مُنْقَطِعًا أَوْ مَوْقُوفًا إنْ خَالَفَ تَقْلِيدَهُ، وَهَذَا فِعْلُ مَنْ لَا وَرَعَ لَهُ وَلَا صِدْقَ وَلَا يَعْتَرِضُ عَلَى الْمُسْنَدِ الَّذِي تَقُومُ بِهِ الْحُجَّةُ بِمِثْلِ هَذَا إلَّا جَاهِلٌ؛ لِأَنَّهُ اعْتِرَاضٌ لَا دَلِيلَ عَلَى صِحَّتِهِ وَدَعْوَى فَاسِدَةٌ؛ لِأَنَّ الْمُسْنَدَ تَقُومُ بِهِ الْحُجَّةُ، وَالْمُرْسَلُ مُطَّرَحٌ، وَأَيُّ نَقِيصَةٍ عَلَى الْحَقِّ مِنْ رِوَايَةِ آخَرَ مِمَّا لَا حُجَّةَ فِيهِ.

L15026 As for their claim that a narration contradicting this has been transmitted from Ibn Abbas, the narrations from Ibn Abbas indeed vary: It has been reported to us through Abd al-Razzāq’s chain from Ibn Jurayj via Aṭāʾ that Ibn Abbas said: “Walk as far as you are able, then ride, sacrifice, or give charity.” This corresponds with other narrations, differing only in its exclusive mention of charity.

وَأَمَّا قَوْلُهُمْ: إنَّهُ قَدْ رُوِيَ عَنْ ابْنِ عَبَّاسٍ خِلَافُ مَا رُوِيَ مِنْ ذَلِكَ، فَإِنَّ الرِّوَايَةَ عَنْ ابْنِ عَبَّاسٍ اخْتَلَفَتْ -: فَرُوِّينَا عَنْهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ أَنَّ ابْنَ عَبَّاسٍ قَالَ: امْشِ مَا اسْتَطَعْت وَارْكَبْ وَاذْبَحْ، أَوْ تَصَدَّقْ - وَهَذَا مُوَافِقٌ لِمَا رُوِيَ إلَّا ذِكْرُ الصَّدَقَةِ فَقَطْ.

L15027 It has been narrated to us from him through the chain of Hammad ibn Salamah, from Humaid, from Bakr (Ibn Abdullah al-Muzani), that Ibn Abbas instructed a woman who vowed to perform Hajj on foot to purchase a slave and walk. If she becomes unable, then she should ride and the slave walks. If the slave becomes exhausted, then the slave should ride and the woman who vowed walks. When she completes her Hajj, she must emancipate her.

وَرُوِّينَا عَنْهُ مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حُمَيْدٍ عَنْ بَكْرٍ هُوَ ابْنُ عَبْدِ اللَّهِ الْمُزَنِيِّ - أَنَّ ابْنَ عَبَّاسٍ أَمَرَ امْرَأَةً نَذَرَتْ أَنْ تَحُجَّ مَاشِيَةً بِأَنْ تَشْتَرِيَ رَقَبَةً وَلْتَمْشِ فَإِذَا عَجَزَتْ فَلْتَرْكَبْ وَلْتَمْشِ الرَّقَبَةُ فَإِذَا أَعْيَتْ الرَّقَبَةُ فَلْتَرْكَبْ وَلْتَمْشِ النَّاذِرَةُ فَإِذَا قَضَتْ حَجَّهَا فَلْتُعْتِقْهَا.

L15028–15030 Narrated by Abd al-Razzaq, from Ma’mar, from Abu Ishaq al-Sabi’i, from Umm Ḥabba: She vowed to walk to the Kaaba. She walked until she became exhausted, then rode. She came to Ibn Abbas and asked him. He said: “Are you able to perform Hajj next year, riding until you reach the place where you

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ أَبِي إسْحَاقَ السَّبِيعِيِّ عَنْ أُمِّ مَحَبَّةَ أَنَّهَا نَذَرَتْ أَنْ تَمْشِيَ إلَى الْكَعْبَةِ فَمَشَتْ حَتَّى أَعْيَتْ فَرَكِبَتْ، ثُمَّ أَتَتْ ابْنَ عَبَّاسٍ فَسَأَلَتْهُ؟ فَقَالَ:

began riding, then walk the remaining distance?" He asked, "Did you ride [during the pilgrimage]?" She said, "No." He said, "Do you have a daughter to walk [the required rites] on your behalf?" She said, "I have two daughters; they are too dignified for that." He said, "Then seek Allah's forgiveness and repent to Him."

أَتَسْتَطِيعِينَ أَنْ تَحُجِّي قَابِلًا وَتَرْكَبِي حَتَّى تَنْتَهِي إِلَى الْمَكَانِ الَّذِي رَكِبْتِ فِيهِ فَتَمْشِي مَا رَكِبْتِ؟ قَالَتْ: لَا، قَالَ: أَلَكِ ابْنَةٌ تَمْشِي عَنْكِ؟ قَالَتْ: لِي ابْنَتَانِ هُمَا فِي أَنْفُسِهِمَا أَعْظَمُ مِنْ ذَلِكَ، قَالَ: فَاسْتَغْفِرِي اللَّهَ وَتُوبِي إِلَيْهِ.

L15031 Abu Muhammad said: This is Umm Mahabbah whose narration they relied upon regarding the sale of a slave from Zayd ibn Arqam on deferred terms for eight hundred dirhams and her purchase of him from him for six hundred dirhams. At times they adopt her narration when it suits them, and at times they discard it. The valid proof lies solely in Ibn Abbas's narration, not in his personal opinion, for he could err or forget. We have mentioned what they adhered to from the narrations of the Companion even when contradicted, such as Aisha's narration prohibiting fosterage through a male's milk, after which she would not receive into her presence anyone nursed by the wives of her brothers.

قَالَ أَبُو مُحَمَّدٍ: هَذِهِ أُمُّ مَحَبَّةَ الَّتِي عَوَّلُوا عَلَى رِوَايَتِهَا فِي بَيْعِ الْعَبْدِ مِنْ زَيْدِ بْنِ أَرْقَمَ إِلَى أَجَلٍ بِثَمَانِمِائَةٍ وَابْتِيَاعِهَا إِيَّاهُ مِنْهُ بِسِتِّمِائَةِ دِرْهَمٍ، فَمَرَّةً يُقَلِّدُونَ رِوَايَتَهَا حَيْثُ اشْتَهَوْا، وَمَرَّةً يَطْرَحُونَهَا، وَالْحُجَّةُ إِنَّمَا هِيَ فِي رِوَايَةِ ابْنِ عَبَّاسٍ لَا فِي رَأْيِهِ وَقَدْ يَهِمُ وَيَنْسَى، وَقَدْ ذَكَرْنَا مَا أَخَذُوا بِهِ مِمَّا رَوَاهُ الصَّاحِبُ وَخَالَفَهُ كَرِوَايَةِ عَائِشَةَ تَحْرِيمَ الرَّضَاعِ بِلَبَنِ الْفَحْلِ، ثُمَّ كَانَتْ لَا تُدْخِلُ عَلَيْهَا مَنْ أَرْضَعَهُ نِسَاءُ إِخْوَتِهَا.

L15032 It has been narrated to us from Ali: Whoever vows to walk to the House of Allah, let him ride and offer a sacrificial animal.

وَرُوِّينَا عَنْ عَلِيٍّ: مَنْ نَذَرَ أَنْ يَمْشِيَ إِلَى بَيْتِ اللَّهِ فَلْيَرْكَبْ وَلْيُهْدِ هَدْيًا -.

L15033 It was also narrated to us from him that he offered a hady (sacrificial camel).

وَرُوِّينَا عَنْهُ أَيْضًا يُهْدِي بَدَنَةً.

L15034 From Ibn Az-Zubayr and Ibn Umar: He walks, and when fatigued, he rides. When he returns the following year, he rides the distance he previously walked and walks the distance he previously rode.

وَعَنْ ابْنِ الزُّبَيْرِ، وَابْنِ عُمَرَ: يَمْشِي فَإِذَا أَعْيَا يَرْكَبُ وَيَعُودُ مِنْ قَابِلٍ فَيَرْكَبُ مَا مَشَى وَيَمْشِي مَا رَكِبَ.

L15035 Abu Hanifah said: He should walk. If he rides, he must sacrifice a ewe or what is above it.

وَقَالَ أَبُو حَنِيفَةَ: يَمْشِي فَإِنْ رَكِبَ فَلْيُهْدِ شَاةً فَمَا فَوْقَهَا.

L15036 In a narration from Ibn Wahb, Mālik said: He should walk, but if unable, he may ride and offer a sheep or a more valuable animal. Ibn al-Qāsim narrated from him that he should walk, and if exhausted, he may ride. He must identify the place from which he rode. When the next year arrives, he must return and walk the distance he had ridden and ride the distance he had walked. If his riding lasted a day or shorter, he need not return for it, but he must offer a sacrificial animal. If he rode from Mecca to Minā, to ʿArafah, to Muzdalifah, to Minā, to Mecca, he must return the following

وَقَالَ مَالِكٌ فِي رِوَايَةِ ابْنِ وَهْبٍ عَنْهُ: يَمْشِي، فَإِنْ عَجَزَ رَكِبَ وَأَهْدَى شَاةً فَمَا فَوْقَهَا - وَرَوَى عَنْهُ ابْنُ الْقَاسِمِ أَنَّهُ يَمْشِي فَإِذَا أَعْيَا رَكِبَ وَيَعْرِفُ الْمَوْضِعَ الَّذِي رَكِبَ مِنْهُ فَإِذَا كَانَ مِنْ قَابِلٍ رَجَعَ فَمَشَى مَا رَكِبَ وَرَكِبَ مَا مَشَى فَإِنْ كَانَ رُكُوبُهُ يَوْمًا فَأَقَلَّ لَمْ يَرْجِعْ لِذَلِكَ وَلَكِنْ عَلَيْهِ الْهَدْيُ، فَإِنْ رَكِبَ مِنْ مَكَّةَ إِلَى مِنًى إِلَى عَرَفَةَ

year and walk all that distance, unlike riding for a day on the road, while still offering a sacrificial animal. If he is an elderly man, he should walk even half a mile, then ride, offer a sacrificial animal, and need not return again.

إِلَى مُزْدَلِفَةَ إِلَى مِنًى إِلَى مَكَّةَ رَجَعَ مِنْ قَابِلٍ فَمَشَى كُلَّ ذَلِكَ بِخِلَافِ الرُّكُوبِ يَوْمًا فِي الطَّرِيقِ وَعَلَيْهِ مَعَ ذَلِكَ هَدْيٌ - فَإِنْ كَانَ شَيْخًا كَبِيرًا مَشَى وَلَوْ نِصْفَ مِيلٍ؛ ثُمَّ رَكِبَ وَيُهْدِي وَلَا يَرْجِعُ ثَانِيَةً.

L15037 Al-Shafi'i said: He is to walk, but if exhausted, let him ride. In such case, a sacrificial offering becomes incumbent upon him - not obligatory but precautionary.

وَقَالَ الشَّافِعِيُّ: يَمْشِي فَإِنْ أَعْيَا رَكِبَ وَعَلَيْهِ هَدْيٌ غَيْرُ وَاجِبٍ، وَلَكِنْ احْتِيَاطًا.

L15038 Ibn Shubrumah said, as per our opinion: If one is unable, he should ride, and there is nothing required of him.

وَقَالَ ابْنُ شُبْرُمَةَ كَقَوْلِنَا: إِنْ عَجَزَ رَكِبَ وَلَا شَيْءَ عَلَيْهِ.

L15039 As for Mālik's opinion, it is a division unknown among any of the predecessors before him, contrary to all that has been reported from the Companions on the matter, and an opinion lacking evidence for its soundness.

فَأَمَّا قَوْلُ مَالِكٍ فَتَقْسِيمٌ لَا يُعْرَفُ عَنْ أَحَدٍ مِنْ الْمُتَقَدِّمِينَ قَبْلَهُ، وَخِلَافٌ لِكُلِّ مَا رُوِيَ فِي ذَلِكَ عَنْ الصَّحَابَةِ، وَقَوْلٌ لَا دَلِيلَ عَلَى صِحَّتِهِ.

L15040 It has been narrated to us from Hammad ibn Salamah, from Habib, from 'Ataa, regarding one who imposes on himself the obligation to walk to the House: He should walk from where he intended. If he did not specify any intention, he should ride. When he enters the sanctuary (Haram), he should walk to the House.

وَرُوِّينَا عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَبِيبٍ عَنْ عَطَاءٍ فِيمَنْ جَعَلَ عَلَى نَفْسِهِ الْمَشْيَ إِلَى الْبَيْتِ قَالَ: يَمْشِي مِنْ حَيْثُ نَوَى فَإِنْ لَمْ يَنْوِ شَيْئًا فَلْيَرْكَبْ فَإِذَا دَخَلَ الْحَرَمَ مَشَى إِلَى الْبَيْتِ

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٩٠٣ - مَسْأَلَةٌ:

L15043 If one vows to perform Hajj on foot or to perform Umrah on foot, then as we have mentioned, he is not bound to walk except from the time he enters the state of Ihram until he completes the rites of his pilgrimage, because this period constitutes Hajj. If one vows to walk to Mecca, then as 'Ata said: from where he intended [to begin walking]. If he did not specify an intention, then he should walk a distance that qualifies as walking, ride otherwise, and there is no obligation upon him, because he has fulfilled what he vowed. And with Allah, the Exalted, lies all success.

فَإِنْ نَذَرَ أَنْ يَحُجَّ مَاشِيًا، أَوْ يَعْتَمِرَ مَاشِيًا فَكَمَا ذَكَرْنَا وَلَا يَلْزَمُهُ الْمَشْيُ إِلَّا مُذْ يُحْرِمُ إِلَى أَنْ يُتِمَّ مَنَاسِكَ عَمَلِهِ؛ لِأَنَّ هَذَا هُوَ الْحَجُّ، فَإِنْ نَذَرَ الْمَشْيَ إِلَى مَكَّةَ فَكَمَا قَالَ عَطَاءٌ: مِنْ حَيْثُ نَوَى، فَإِنْ لَمْ يَنْوِ فَلْيَمْشِ مَا يَقَعُ عَلَيْهِ اسْمُ مَشْيٍ وَلْيَرْكَبْ غَيْرَ ذَلِكَ وَلَا شَيْءَ عَلَيْهِ؛ لِأَنَّهُ قَدْ أَوْفَى بِمَا نَذَرَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

## [An Issue of Entering Makkah Without Ihram]

## [مَسْأَلَةٌ دُخُولُ مَكَّةَ بِلَا إِحْرَامٍ]

L15044

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٩٠٤ - مَسْأَلَةٌ:

وَدُخُولُ مَكَّةَ بِلَا إحْرَامٍ جَائِزٌ، لِأَنَّ النَّبِيَّ - عَلَيْهِ السَّلَامُ - إنَّمَا جَعَلَ الْمَوَاقِيتَ لِمَنْ مَرَّ بِهِنَّ يُرِيدُ حَجًّا، أَوْ عُمْرَةً، وَلَمْ يَجْعَلْهَا لِمَنْ لَمْ يُرِدْ حَجًّا وَلَا عُمْرَةً، فَلَمْ يَأْمُرْ اللَّهُ - تَعَالَى - قَطُّ، وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ - بِأَنْ لَا يَدْخُلَ مَكَّةَ إلَّا بِإِحْرَامٍ فَهُوَ إلْزَامُ مَا لَمْ يَأْتِ فِي الشَّرْعِ إلْزَامُهُ.

L15046 Entering Mecca without entering the state of Ihram is permissible, because the Prophet (peace be upon him) only designated the Miqats for those passing through them while intending Hajj or Umrah, and did not designate them for those not intending Hajj or Umrah. Thus, neither Allah the Exalted nor His Messenger (peace be upon him) ever commanded that one must not enter Mecca except in a state of Ihram. Therefore, this constitutes imposing an obligation that the Sharia did not prescribe as obligatory.

وَرُوِّينَا عَنْ ابْنِ عَبَّاسٍ: لَا يَدْخُلُ أَحَدٌ مَكَّةَ إلَّا مُحْرِمًا.

L15047 It has been reported to us from Ibn Abbas that no one may enter Makkah except as a muḥrim.

وَعَنْ ابْنِ عُمَرَ أَنَّهُ رَجَعَ مِنْ بَعْضِ الطَّرِيقِ فَدَخَلَ مَكَّةَ غَيْرَ مُحْرِمٍ.

L15048 It is narrated from Ibn ʻUmar that he returned from part of the route and entered Makkah without being in the state of ihram.

وَعَنْ ابْنِ شِهَابٍ: لَا بَأْسَ بِدُخُولِ مَكَّةَ بِغَيْرِ إحْرَامٍ.

L15049 There is no harm in entering Makkah without iḥrām.

وَقَالَ أَبُو حَنِيفَةَ: أَمَّا مَنْ كَانَ مَنْزِلُهُ بِحَيْثُ يَكُونُ الْمِيقَاتُ بَيْنَهُ وَبَيْنَهَا فَلَا يَدْخُلُهَا إلَّا بِإِحْرَامِ بِعُمْرَةٍ أَوْ حَجَّةٍ، وَأَمَّا مَنْ كَانَ مَنْزِلُهُ بَيْنَ الْمِيقَاتِ وَمَكَّةَ أَوْ كَانَ مِنْ أَهْلِ الْمِيقَاتِ فَلَهُ دُخُولُ مَكَّةَ وَلَا إحْرَامَ.

L15050 Abu Hanifah said: As for one whose residence is such that the Miqat lies between him and Mecca, he may not enter Mecca except by assuming Ihram for Umrah or Hajj. As for one whose residence is between the Miqat and Mecca, or who is a resident of the Miqat, he may enter Mecca and is not required to assume Ihram.

وَقَالَ مَالِكٌ: لَا يَدْخُلُ أَحَدٌ مَكَّةَ إلَّا بِإِحْرَامٍ إلَّا مَنْ اخْتَلَفَ مِنْ الطَّائِفِ وَعُسْفَانَ، بِالْحَطَبِ، وَالْفَاكِهَةِ: فَلَهُ دُخُولُهَا بِلَا إحْرَامٍ، وَإِلَّا الْعَبِيدَ فَلَهُمْ دُخُولُهَا بِلَا إحْرَامٍ، وَإِلَّا مَنْ خَرَجَ مِنْهَا، ثُمَّ رَجَعَ مِنْ قُرْبٍ فَلَهُ دُخُولُهَا بِلَا إحْرَامٍ.

L15051 Malik said: No one may enter Mecca without being in the state of Ihram, except those who come from Ta'if and Usfan with fuelwood and fruits—they may enter without Ihram; except slaves—they may enter without Ihram; and except those who depart Mecca and return shortly afterward—they may enter without Ihram.

وَقَالَ الشَّافِعِيُّ: لَا يَدْخُلُهَا أَحَدٌ إلَّا بِإِحْرَامٍ.

L15052 Al-Shafiʻi said: No one may enter it except in a state of *Ihram*.

فَأَمَّا قَوْلُ أَبِي حَنِيفَةَ فَفِي غَايَةِ الْفَسَادِ، لِأَنَّهُ تَقْسِيمٌ لَا يُعْقَلُ وَلَا لَهُ وَجْهٌ، وَفِيهِ إيجَابُ حَجٍّ وَعُمْرَةٍ لَمْ يُوجِبْهَا اللَّهُ - تَعَالَى - وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ -، وَإِنَّمَا يَجِبُ فِي الدِّينِ

L15053 As for the statement of Abū Ḥanīfah, it is utterly baseless because it constitutes an irrational division with no valid basis, and it wrongly imposes repeated Ḥajj and ʻUmrah (acts which Allah the Exalted and His Messenger—peace be upon him—never mandated). In the religion, these are obligatory only once in a lifetime, except for one who vows them, in which case ful-

مَرَّةً فِي الدَّهْرِ إِلَّا مَنْ نَذَرَ ذَلِكَ فَيَجِبُ أَنْ يَفِيَ بِنَذْرِهِ بِالنَّصِّ، وَقَوْلُ مَالِكٍ أَيْضًا: كَذَلِكَ سَوَاءٌ سَوَاءٌ - وَمَا نَعْرِفُ لَهُمَا فِي هَذَيْنِ الْقَوْلَيْنِ سَلَفًا أَصْلًا.

filling the vow becomes obligatory by explicit textual injunction. Mālik's ruling is equally invalid, equally invalid—and we find no precedent or foundational basis whatsoever from the early scholars to support either of these two positions.

وَالْعَجَبُ مِنْ احْتِجَاجِ مَنْ احْتَجَّ فِي ذَلِكَ «بِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي مَكَّةَ إنَّهَا حَرَامٌ بِحُرْمَةِ اللَّهِ إلَى يَوْمِ الْقِيَامَةِ لَمْ تَحِلَّ لِأَحَدٍ قَبْلِي وَلَا تَحِلُّ لِأَحَدٍ بَعْدِي وَإِنَّمَا أُحِلَّتْ لِي سَاعَةً مِنْ نَهَارٍ، ثُمَّ عَادَتْ كَحُرْمَتِهَا بِالْأَمْسِ» .

L15054–15056 It is astonishing how some argue in this matter by citing the Messenger of Allah—peace be upon him—who said, "Mecca is a sanctuary." "By the sanctity of Allah until the Day of Resurrection, it was not permissible for anyone before me, nor will it be permissible for anyone after me. It was only made lawful for me for a moment of daylight, then it reverted to its former sanctity."

فَلَيْتَ شِعْرِي بِأَيِّ شَيْءٍ اسْتَحَلُّوا أَنْ يُوهِمُوا فِي هَذَا الْخَبَرِ مَا لَيْسَ فِيهِ أَثَرٌ وَلَا دَلِيلٌ؟ وَإِنَّمَا أَخْبَرَ - عَلَيْهِ السَّلَامُ - أَنَّ سَفْكَ الدِّمَاءِ وَالْقِتَالَ حَرَامٌ لَمْ يَحِلَّ لِأَحَدٍ قَبْلَهُ كَمَا ذَكَرْنَا قَبْلَ هَذَا وَلَيْسَ فِي هَذَا الْحَدِيثِ لِلْإِحْرَامِ مَعْنًى.

L15057 If only I knew by what means they deemed it permissible to insinuate into this report claims that lack any supporting narration or evidence? He—peace be upon him—merely informed that bloodshed and combat are forbidden, for they were not lawful for anyone before him as we previously mentioned, and this hadith contains no indication whatsoever related to iḥrām.

وَقَدْ صَحَّ أَنَّهُ - عَلَيْهِ السَّلَامُ - دَخَلَهَا وَعَلَى رَأْسِهِ الْمِغْفَرُ أَوْ عِمَامَةٌ سَوْدَاءُ، وَهُوَ غَيْرُ مُحْرِمٍ - وَحَتَّى لَوْ لَمْ يَأْتِ هَذَا لَكَانَ فِي أَنَّهُ لَمْ يَأْتِ بِإِيجَابِ الْإِحْرَامِ عَلَى مَنْ قَصَدَهَا لِغَيْرِ حَجٍّ، أَوْ عُمْرَةٍ كِفَايَةٌ. وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ. .

L15058 It has been authentically established that he (peace be upon him) entered it wearing a helmet or a black turban while not in a state of iḥrām. Even if this had not been transmitted, it would suffice to prove he did not obligate iḥrām upon those who intended to visit it for reasons other than performing Ḥajj or ʿUmrah. And success is from Allah, the Exalted.

## [مَسْأَلَةٌ نَذَرَ أَنْ يَحُجَّ أَوْ يَعْتَمِرَ وَلَمْ يَكُنْ حَجَّ وَلَا اعْتَمَرَ قَطُّ]

## A ruling regarding one who made a vow to perform Ḥajj or ʿUmrah and had never performed Ḥajj or ʿUmrah at all.

٩٠٥ - مَسْأَلَةٌ:

L15060 905 – Issue:

وَمَنْ نَذَرَ أَنْ يَحُجَّ، أَوْ يَعْتَمِرَ، وَلَمْ يَكُنْ حَجَّ وَلَا اعْتَمَرَ قَطُّ فَلْيَبْدَأْ بِحَجَّةِ الْإِسْلَامِ وَعُمْرَتِهِ، وَلَا يُجْزِيهِ إلَّا ذَلِكَ، وَلَا يُجْزِيه أَنْ يَحُجَّ نَاوِيًا لِلْفَرْضِ وَلِنَذْرِهِ، وَلَا لِحَجَّةِ فَرْضٍ وَعُمْرَةِ نَذْرٍ، وَلَا لِحَجَّةِ نَذْرٍ وَعُمْرَةِ فَرْضٍ، لِأَنَّ عَقْدَ اللَّهِ ثَابِتٌ عَلَيْهِ قَبْلَ نَذْرِهِ، فَإِنْ أَخَّرَ مَا قَدَّمَهُ اللَّهُ - تَعَالَى - فَهُوَ عَاصٍ وَالْمَعْصِيَةُ لَا تَنُوبُ عَنْ الطَّاعَةِ وَلَا يُجْزِي عَمَلٌ وَاجِدٌ

L15061 Whoever vows to perform Hajj or Umrah, having never performed either pilgrimage at all, must begin with the obligatory Hajj of Islam (Hajjat al-Islam) and its Umrah. Nothing suffices him except this. It does not suffice him to perform Hajj intending both the obligatory duty and his vow, nor [to perform] an obligatory Hajj and a vowed Umrah, nor a vowed Hajj and an obligatory Umrah, for Allah's binding obligation remains established upon him prior to his vow. If he delays what Allah—Exalted is He—has prioritized, he becomes

disobedient. Disobedience cannot substitute for obedience, nor can a single act fulfill two obligations except where the textual proof explicitly permits it. We previously established that whoever drives the sacrificial animal is obligated to perform Qirān. The Umrah required of him due to driving the sacrificial animal is distinct from the one he vowed; thus nothing other than what he was commanded suffices him. No single act fulfills two obligations except where the text permits it. Analogical reasoning here is invalid.

عَنْ عَمَلَيْنِ مُفْتَرَضَيْنِ إِلَّا حَيْثُ أَجَازَهُ النَّصُّ وَقَدْ قَدَّمْنَا أَنَّ مَنْ سَاقَ الْهَدْيَ فَفَرْضٌ عَلَيْهِ أَنْ يَقْرِنَ فَالْعُمْرَةُ الْمُوجَبَةُ عَلَيْهِ لَسَوْقِ الْهَدْيِ هِيَ غَيْرُ الَّتِي نَذَرَ، فَلَا يُجْزِئُهُ غَيْرُ مَا أُمِرَ بِهِ وَلَا يُجْزِئُهُ عَمَلٌ عَنْ عَمَلَيْنِ إِلَّا حَيْثُ أَجَازَهُ النَّصُّ، وَالْقِيَاسُ بَاطِلٌ.

L15062 They have unanimously agreed that one prayer cannot suffice for two prayers, and they concurred with us—we mean those present from our interlocutors—that fasting one day cannot suffice for two days, nor freeing one enslaved person for two enslaved persons, nor one zakat payment for two zakat obligations. Thus, they contradicted themselves, and success comes from Allah, the Most High.

وَقَدْ أَجْمَعُوا أَنَّهُ لَا تُجْزِئُ صَلَاةٌ عَنْ صَلَاتَيْنِ، وَوَافَقُونَا - نَعْنِي الْحَاضِرِينَ مِنْ خُصُومِنَا - عَلَى أَنَّهُ لَا يُجْزِئُ صَوْمُ يَوْمٍ عَنْ يَوْمَيْنِ، وَلَا رَقَبَةٌ عَنْ رَقَبَتَيْنِ وَلَا زَكَاةٌ عَنْ زَكَاتَيْنِ، فَتَنَاقَضُوا، وَبِاللَّهِ - تَعَالَى - التَّوْفِيقُ.

L15063 It has been transmitted to us from Ibn ʾUmar that a woman asked him about someone who vowed to perform Hajj but had not yet performed Hajj. He said: “This [Hajj] counts as the Hajj of Islam and fulfills your vow.”

وَرُوِّينَا عَنْ ابْنِ عُمَرَ أَنَّهُ سَأَلَتْهُ امْرَأَةٌ عَمَّنْ نَذَرَ أَنْ يَحُجَّ وَلَمْ يَكُنْ حَجَّ بَعْدُ؟ فَقَالَ: هَذِهِ حَجَّةُ الْإِسْلَامِ وَفِي بِنَذْرِك.

L15064 From Anas, he said: “One should begin with the obligatory Hajj regarding one who has made a vow and has not yet performed Hajj. There is scholarly disagreement regarding this.”

وَعَنْ أَنَسٍ قَالَ: يَبْدَأُ بِالْفَرِيضَةِ فِيمَنْ نَذَرَ وَلَمْ يَكُنْ حَجَّ بَعْدُ. وَفِي هَذَا خِلَافٌ.

L15065–15066 It has been narrated to us from Mujāhid and Saʿīd ibn Jubayr regarding one who vowed to perform Hajj but had not yet fulfilled the obligatory Hajj. Both said together: “The obligatory Hajj suffices him for both [the vowed act and the obligatory Hajj].”

رُوِّينَا عَنْ مُجَاهِدٍ، وَسَعِيدِ بْنِ جُبَيْرٍ فِيمَنْ نَذَرَ أَنْ يَحُجَّ وَلَمْ يَكُنْ حَجَّ حَجَّةَ الْإِسْلَامِ، قَالَا جَمِيعًا: تُجْزِئُهُ حَجَّةُ الْإِسْلَامِ عَنْهُمَا جَمِيعًا.

L15067 Muhammad ibn al-Hasan and Abu Yusuf stated: If someone performs the obligatory Hajj and intends through their act to combine their religious obligation with a voluntary [Hajj] simultaneously, it suffices as their obligatory Hajj, and the voluntary intention becomes void.

وَقَالَ مُحَمَّدُ بْنُ الْحَسَنِ، وَأَبُو يُوسُفَ: مَنْ حَجَّ حَجَّةَ الْإِسْلَامِ فَنَوَى بِعَمَلِهِ فَرْضَهُ، وَالتَّطَوُّعَ مَعًا: أَنَّهُ يُجْزِئُهُ عَنْ حَجَّةِ الْإِسْلَامِ، وَتَبْطُلُ نِيَّةُ التَّطَوُّعِ.

L15068 If someone vows to perform Hajj and then performs it intending to fulfill both his vow and the voluntary Hajj simultaneously, Abu Yusuf said, “It suffices only for his vow.”

فَلَوْ نَذَرَ أَنْ يَحُجَّ فَحَجَّ يَنْوِي نَذْرَهُ وَالتَّطَوُّعَ مَعًا؟ قَالَ أَبُو يُوسُفَ: يُجْزِئُهُ عَنْ نَذْرِهِ فَقَطْ.

L15069 Muḥammad said: It is a voluntary act and does not suffice as a substitute

وَقَالَ مُحَمَّدٌ: هِيَ تَطَوُّعٌ وَلَا تُجْزِي عَنْ النَّذْرِ.

for the vowed obligation.

L15070 Abu Muhammad said: All deeds are void because he did not sincerely intend what was obligatory upon him in the manner he was commanded.

قَالَ أَبُو مُحَمَّدٍ: الْعَمَلُ كُلُّهُ بَاطِلٌ؛ لِأَنَّهُ لَمْ يُخْلِصْ النِّيَّةَ لِمَا لَزِمَهُ كَمَا أُمِرَ.

## [مَسْأَلَةٌ أَهْدَى هَدْيَ تَطَوُّعٍ فَعَطِبَ فِي الطَّرِيقِ]

L15071 **Issue: A person voluntarily offered a sacrificial animal, and it became unfit during the journey.**

L15072 906 – Issue:

٩٠٦ - مَسْأَلَةٌ:

L15073 Whoever offers a voluntary sacrificial animal that becomes unfit on the way before reaching Mecca or Mina must slaughter it, throw its garlands into the blood, make it accessible to the people. If he distributes it among them, he must provide a replacement of the same kind as what he distributed.

مَنْ أَهْدَى هَدْيَ تَطَوُّعٍ فَعَطِبَ فِي الطَّرِيقِ قَبْلَ بُلُوغِهِ مَكَّةَ، أَوْ مِنًى فَلْيَنْحَرْهُ، وَلْيُلْقِ قَلَائِدَهُ فِي دَمِهِ وَلْيُخْلِ بَيْنَ النَّاسِ وَبَيْنَهُ؛ وَإِنْ قَسَّمَهُ بَيْنَ النَّاسِ ضَمِنَ مِثْلَ مَا قَسَّمَ.

L15074 If he says, “Your responsibility is with it” or similar wording, there is no objection. It is unlawful for him or his companions to consume any part of it. Whoever among them eats from it must give to the poor only an amount of meat equivalent to what he consumed. Sheep and goats, cows, and camels are all treated equally in these rulings.

فَلَوْ قَالَ: شَأْنُكُمْ بِهِ أَوْ نَحْوَ هَذَا فَلَا بَأْسَ، وَلَا يَحِلُّ لَهُ أَنْ يَأْكُلَ هُوَ وَلَا رُفَقَاؤُهُ مِنْهُ شَيْئًا، فَمَنْ أَكَلَ مِنْهُمْ مِنْهُ أَدَّى إلَى الْمَسَاكِينِ لَحْمًا مِثْلَ مَا أَكَلَ فَقَطْ - الْغَنَمُ، وَالْبَقَرُ، وَالْإِبِلُ فِي كُلِّ ذَلِكَ سَوَاءٌ.

L15075 If it reaches its due time, it becomes obligatory upon him to necessarily eat from it and necessarily give charity from it, and thus it has been narrated to us from a group of the Salaf.

فَإِنْ بَلَغَ مَحَلَّهُ فَفَرْضٌ عَلَيْهِ أَنْ يَأْكُلَ مِنْهُ وَلَا بُدَّ، وَيَتَصَدَّقُ مِنْهُ وَلَا بُدَّ - وَهَكَذَا رُوِّينَا عَنْ طَائِفَةٍ مِنْ السَّلَفِ.

L15076 It has been reported to us through the chain of ʻAbd al-Razzāq from Sufyān and Maʻmar—both narrating from ʻAbd al-Karīm al-Jazarī from ʻIkrimah from Ibn ʻAbbās—that he said regarding a voluntary *hady* that becomes unfit: Let him slaughter it, dip his sandal in its blood, then strike it against its flank. If he eats from it or orders it to be eaten, he is liable to compensate. If it is an obligatory sacrifice and becomes unfit, let him slaughter it, dip his sandal in its blood, then strike it against its flank. He may eat from it, offer it as a hady, or apply its value toward the cost of another sacrifice.

رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ، وَمَعْمَرٍ، كِلَيْهِمَا عَنْ عَبْدِ الْكَرِيمِ الْجَزَرِيِّ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ فِي هَدْيِ التَّطَوُّعِ يَعْطَبُ: لِيَنْحَرْهُ، ثُمَّ لِيَغْمِسْ نَعْلَهُ فِي دَمِهِ، ثُمَّ لِيَضْرِبْ بِالنَّعْلِ صَفْحَتَهُ فَإِنْ أَكَلَ مِنْهُ، أَوْ أَمَرَ بِأَكْلِهِ غَرِمَ. فَإِنْ كَانَ وَاجِبًا فَعَطِبَ فَلْيَنْحَرْهُ، ثُمَّ لِيَغْمِسْ نَعْلَهُ فِي دَمِهِ، ثُمَّ لِيَضْرِبْ بِالنَّعْلِ صَفْحَتَهُ فَإِنْ شَاءَ أَكَلَ، وَإِنْ شَاءَ أَهْدَى، وَإِنْ شَاءَ تَقَوَّى بِهِ فِي ثَمَنِ أُخْرَى

L15077 The same as all of this is narrated from ʻAṭāʼ – and from Ibn al-Musayyib regarding voluntary acts, the like of it.

- وَعَنْ عَطَاءٍ مِثْلُ هَذَا كُلِّهِ - وَعَنْ ابْنِ الْمُسَيِّبِ فِي التَّطَوُّعِ مِثْلُهُ.

وَرُوِّينَا خِلَافَ هَذَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ: أَخْبَرَنِي حَمَّادٌ هُوَ ابْنُ أَبِي سُلَيْمَانَ - عَنْ إِبْرَاهِيمَ النَّخَعِيِّ عَنِ الْأَسْوَدِ بْنِ يَزِيدَ أَنَّ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ قَالَتْ فِي الْهَدْيِ يَعْطَبُ فِي الطَّرِيقِ: كُلُوهُ وَلَا تَدَعُوهُ لِلْكِلَابِ، وَالسِّبَاعِ، فَإِنْ كَانَ وَاجِبًا فَأَهْدُوا مَكَانَهُ هَدْيًا، وَإِنْ كَانَ تَطَوُّعًا فَإِنْ شِئْتُمْ فَلَا تُهْدُوا وَإِنْ شِئْتُمْ فَأَهْدُوا.

L15078–15080 It has been narrated to us with a variant version concerning this via the transmission of Ḥammād ibn Salamah: Ḥammād—that is, the son of Abī Sulaymān—reported to me on the authority of Ibrāhīm al-Nakhaʿī, from al-Aswad ibn Yazīd, that ʿĀʾishah, the Mother of the Believers, said regarding the sacrificial animal. If an animal becomes defective on the journey, eat it and do not abandon it for dogs and wild beasts. If it was obligatory, replace it with a sacrificial animal. If it was voluntary, then if you wish, do not offer; and if you wish, offer a sacrificial animal.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ أَنَّهُ عَطِبَتْ لَهُ بَدَنَةُ تَطَوُّعٍ فَنَحَرَهَا ابْنُ عُمَرَ وَأَكَلَهَا وَلَمْ يُهْدِ مَكَانَهَا. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ عَبْدِ الْكَرِيمِ الْجَزَرِيِّ عَنْ عِكْرِمَةَ عَنِ ابْنِ عَبَّاسٍ قَالَ: إِذَا أَهْدَيْتَ هَدْيًا - وَهُوَ تَطَوُّعٌ - فَعَطِبَ فَانْحَرْهُ، ثُمَّ اغْمِسِ النَّعْلَ فِي دَمِهِ، ثُمَّ اضْرِبْ بِهِ صَفْحَتَهُ، ثُمَّ كُلْهُ إِنْ شِئْتَ، وَاهْدِهِ إِنْ شِئْتَ وَتَقَوَّ بِهِ فِي هَدْيٍ آخَرَ.

L15081 From the chain of Ḥammād ibn Salama, from Ayyūb al-Sikhtiyānī, from Nāfiʿ, from Ibn ʿUmar: A she-camel he had designated for voluntary sacrifice became unfit, so Ibn ʿUmar slaughtered it, ate it, and did not substitute another sacrificial animal in its place. From the chain of Saʿīd ibn Manṣūr: He narrated to us from Sufyān—that is, Ibn ʿUyayna—from ʿAbd al-Karīm al-Jazarī, from ʿIkrima, from Ibn ʿAbbās, who said: If you designate a sacrificial animal—as a voluntary act—and it becomes unfit, slaughter it, dip a sandal in its blood, then strike the animal's side with the bloodied sandal. You may eat it if you wish, offer it as a sacrificial animal if you wish, or replace it with another sacrificial animal.

وَعَنِ ابْنِ مَسْعُودٍ إِذَا سَاقَ الْهَدْيَ تَطَوُّعًا فَعَطِبَ: كُلْ وَأَطْعِمْ وَلَيْسَ عَلَيْكَ الْبَدَلُ - وَهُوَ قَوْلُ نَافِعٍ أَيْضًا.

L15082 On the authority of Ibn Masʿūd: If one drives the sacrificial animal as a supererogatory act and it becomes defective, let him eat it and feed others; there is no obligation to replace it. This is also the view of Nāfiʿ.

وَعَنْ سَعِيدِ بْنِ جُبَيْرٍ إِذَا عَطِبَ الْهَدْيُ قَبْلَ مَحِلِّهِ فَكُلْ مِنَ التَّطَوُّعِ، وَلَا تَأْكُلْ مِنَ الْوَاجِبِ.

L15083 From Saʿīd ibn Jubayr: If the sacrificial animal becomes unfit before its designated time or place, eat of the voluntary sacrifice, but do not eat of the obligatory one.

وَرُوِّينَا قَوْلًا آخَرَ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ قَالَ: يَدَعُهَا تَمُوتُ فَرَجَعْنَا إِلَى السُّنَّةِ فَوَجَدْنَا مَا رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نَا مُسَدَّدٌ نَا حَمَّادٌ عَنْ أَبِي التَّيَّاحِ عَنْ مُوسَى بْنِ سَلَمَةَ عَنِ ابْنِ عَبَّاسٍ قَالَ «بَعَثَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَعَ فُلَانٍ الْأَسْلَمِيِّ ثَمَانِ عَشْرَةَ بَدَنَةً فَقَالَ: أَرَأَيْتَ إِنْ أُزْحِفَ عَلَيَّ مِنْهَا شَيْءٌ؟ فَقَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ

L15084–15086 We have been narrated another statement from Sa'id ibn al-Musayyab, who said: "He leaves her to die." So we returned to the Sunnah and found what was narrated to us through the chain of Abu Dawud: Musaddad narrated to us, Hammad narrated to us from Abu al-Tayyah from Musa ibn Salama from Ibn Abbas, who said: "The Messenger of Allah—peace and blessings be upon him—sent with so-and-so al-Aslami eighteen sacrificial camels. The companion asked: 'What do you think if one of them becomes lame?' The Messenger of Allah—peace and blessings be upon him—replied: 'Slaughter

her, then dye her hoof in her blood, then smear her side with it, and do not eat from her yourself nor let anyone from your travel companions eat from her.'" And through another chain of Abu Dawud: Muhammad ibn Kathir narrated to us, Sufyan—who is al-Thawri—narrated to us from Hisham ibn Urwah from his father from Najiyah al-Aslami that the Messenger of Allah—peace and blessings be upon him—sent with him sacrificial animals. He said: "If it becomes disabled..." If there is anything from it, slaughter it, then dye its hoof with its blood, then leave it available to the people. This is a general rule for all sacrificial offerings.[6]

L15087 Abū Muḥammad said: Abū Ḥanīfah said: He may give it as charity—and this contradicts the command of the Messenger of Allāh, peace be upon him—because when he takes charge of its allocation, he does not leave it to the people to handle.

L15088 And Malik said: If he eats any part of it, he is liable for the entire sacrificial animal.

L15089 This is erroneous because Allah, the Exalted, said: "The requital of an evil deed is its equivalent" [Ash-Shura 40]. Among the false and impossible claims is that one who eats a morsel should be held liable to repay it with a she-camel from its origin - an indisputable act of transgression.[7]

L15090 Abu Hanifa, Al-Shafi'i, and Abu Sulayman said: He is not liable except for the equivalent of what he ate.

L15091 This is among the matters where contradictions occur between Abū Ḥanīfah and Mālik, so they both adopted the narration of Ibn ʿAbbās and abandoned their own opinions that contradicted what was reported—and by Allāh, the Exalted, is success.

L15092 907. Issue:

L15093 If the sacrifice is for an obligatory act—and these are six obligatory sacrifices only, with no seventh—they are: either compensation for hunting, the Tamattuʿ pilgrim's sacrifice, the sacrifice for prevention, the ritual expiation

-: تَنْحَرُهَا ثُمَّ تَصْبِغُ نَعْلَهَا فِي دَمِهَا ثُمَّ اضْرِبْ بِهَا عَلَى صَفْحَتِهَا وَلَا تَأْكُلْ مِنْهَا أَنْتَ وَلَا أَحَدٌ مِنْ أَهْلِ رُفْقَتِكَ» وَمِنْ طَرِيقِ أَبِي دَاوُد نَا مُحَمَّدُ بْنُ كَثِيرٍ نَا سُفْيَانُ هُوَ الثَّوْرِيُّ - عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ «عَنْ نَاجِيَةَ الْأَسْلَمِيِّ أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - بَعَثَ مَعَهُ بِهَدْيٍ فَقَالَ: إنْ عَطِبَ مِنْهَا شَيْءٌ فَانْحَرْهُ، ثُمَّ اُصْبُغْ نَعْلَهُ فِي دَمِهِ، ثُمَّ خَلِّ بَيْنَهُ وَبَيْنَ النَّاسِ» فَهَذَا عُمُومٌ لِكُلِّ هَدْيٍ.

قَالَ أَبُو مُحَمَّد: قَالَ أَبُو حَنِيفَةَ: لَهُ أَنْ يَتَصَدَّقَ بِهَا - وَهَذَا خِلَافُ أَمْرِ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ -، لِأَنَّهُ إذَا تَوَلَّى تَوْزِيعَهَا -: فَلَمْ يُخَلِّ بَيْنَ النَّاسِ وَبَيْنَهَا.

وَقَالَ مَالِكٌ: إنْ أَكَلَ مِنْهَا شَيْئًا ضَمِنَ الْهَدْيَ كُلَّهُ.

وَهَذَا خَطَأٌ، لِأَنَّ اللَّهَ - تَعَالَى - قَالَ: {وَجَزَاءُ سَيِّئَةٍ سَيِّئَةٌ مِثْلُهَا} [الشورى: ٤٠] وَمِنْ الْبَاطِلِ الْمُحَالِ أَنْ يَأْكُلَ لُقْمَةً فَيَغْرَمُ عَنْهَا نَاقَةً مِنْ أَصْلِهَا، وَهَذَا عُدْوَانٌ لَا شَكَّ فِيهِ.

وَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ: لَا يَغْرَمُ إلَّا مِثْلَ مَا أَكَلَ.

وَهَذَا مِمَّا يَتَنَاقَضُ فِيهِ أَبُو حَنِيفَةَ، وَمَالِكٌ، فَأَخَذَا فِيهِ بِرِوَايَةِ ابْنِ عَبَّاسٍ وَتَرَكَا رَأْيَهُ الَّذِي خَالَفَ فِيهِ مَا رُوِيَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

٩٠٧ - مَسْأَلَةٌ:

فَإِنْ كَانَ الْهَدْيُ عَنْ وَاجِبٍ - وَهِيَ سِتَّةُ أَهْدَاءٍ فَقَطْ لَا سَابِعَ لَهَا -: إمَّا جَزَاءُ صَيْدٍ، وَإِمَّا هَدْيُ الْمُتَمَتِّعِ، وَإِمَّا هَدْيُ الْإِحْصَارِ، وَإِمَّا نُسُكُ فِدْيَةِ الْأَذَى، وَإِمَّا هَدْيُ مَنْ نَذَرَ مَشْيًا إلَى الْكَعْبَةِ فَرَكِبَ، وَإِمَّا نَذْرُ هَدْيٍ.

[6] **Hadith references (L15084):** Sunan Abi Dawud 1762.
[7] **Qur'an references (L15089):** Qur'an 42:40 (Ash-Shuraa).

for harm, the sacrifice of one who vowed to walk to the Kaaba but rode, or a vowed sacrifice.

وَهَذَا الْهَدْيُ يَنْقَسِمُ قِسْمَيْنِ -: قِسْمٌ بِغَيْرِ عَيْنِهِ، وَقِسْمٌ مَنْذُورٌ بِعَيْنِهِ - فَإِنْ عَطِبَ الْوَاجِبُ قَبْلَ بُلُوغِهِ مَحِلَّهُ فَعَلَ بِهِ صَاحِبُهُ مَا شَاءَ مِنْ بَيْعٍ أَوْ أَكْلٍ أَوْ هَدِيَّةٍ أَوْ صَدَقَةٍ وَيُهْدِي مَا وَجَبَ عَلَيْهِ وَلَا بُدَّ حَاشَا الْمَنْذُورِ بِعَيْنِهِ فَإِنَّهُ يَنْحَرُهُ وَيَتْرُكُهُ وَلَا يُبَدِّلُهُ؛ لِأَنَّهُ إِنَّمَا عَلَيْهِ فِي كُلِّ مَا ذَكَرْنَا هَدْيٌ وَاجِبٌ فِي مَالِهِ وَذِمَّتِهِ فَعَلَيْهِ أَنْ يَأْتِيَ بِهِ أَبَدًا وَمَا لَمْ يُؤَدِّهِ عَمَّا عَلَيْهِ فَهُوَ مَالٌ مِنْ مَالِهِ يَفْعَلُ فِيهِ مَا شَاءَ عَطِبَ أَوْ لَمْ يَعْطَبْ.

L15094 This sacrificial offering is divided into two categories: a category not tied to a specific entity and a vowed specific offering. If the obligated animal becomes unfit before reaching its designated place, its owner may do with it as he wishes—sell it, consume it, gift it, or give it in charity—and he must offer what is obligated upon him without fail, except for the vowed specific offering. For this, he must slaughter it and leave it without substitution. This is because, in all the cases we have mentioned, there is an obligatory offering—a duty binding on his wealth and liability—which he must fulfill in perpetuity. As for what he has not yet discharged of his obligation, it remains property from his wealth, which he may use as he wishes, whether it has become unfit or not.

وَأَمَّا الْمَنْذُورُ بِعَيْنِهِ فَهُوَ خَارِجٌ عَنْ مَالِهِ لَا حَقَّ لَهُ فِيهِ وَلَيْسَ عَلَيْهِ أَنْ يُبَدِّلَهُ إِلَّا أَنْ يَتَعَدَّى عَلَيْهِ فَيُهْلِكَهُ فَيَضْمَنُهُ بِالْوَجْهِ الَّذِي نَذَرَهُ لَهُ؛ لِأَنَّهُ اعْتَدَى عَلَى حَقِّ غَيْرِهِ فَعَلَيْهِ مِثْلُهُ.

L15095 As for the specifically designated vowed item, it is excluded from his wealth; he has no right to it, nor is he obligated to replace it unless he transgresses against it and destroys it. In that case, he must compensate for it in the manner he vowed, because he violated another's right and is therefore liable for its equivalent.

وَأَمَّا مَنْ مَنَعَ مِنْ تَحَكُّمِ الْمَرْءِ فِي هَدْيِهِ مَا لَمْ يَبْلُغْهُ مَحِلَّهُ فَمُبْطِلٌ بِلَا دَلِيلٍ، وَإِنَّمَا خَرَجَ مِنْ ذَلِكَ التَّطَوُّعُ يَعْطَبُ قَبْلَ مَحِلِّهِ بِالنَّصِّ الَّذِي أَوْرَدْنَا.

L15096–15097 As for whoever prohibits an individual's discretionary control over his Hajj sacrificial animal before it reaches its designated place (Mina), he nullifies without proof. Rather, the voluntary sacrifice that becomes ritually unfit before reaching its designated place is excluded from that ruling by the textual evidence we have presented.

وَالتَّطَوُّعُ ثَلَاثَةُ أَهْدَاءٍ لَا رَابِعَ لَهَا -: مَنْ سَاقَ هَدْيًا فِي قِرَانٍ أَوْ فِي عُمْرَةٍ وَهُوَ لَا يُرِيدُ أَنْ يَحُجَّ مِنْ عَامِهِ، أَوْ أَهْدَى وَهُوَ لَا يُرِيدُ حَجًّا وَلَا عُمْرَةً.

L15098 The voluntary act comprises three types of offerings—there is no fourth: one who brings a sacrificial animal while performing *Qirān* Hajj, one who brings it during Umrah without intending to perform Hajj in the same year, or one who offers a sacrificial animal without intending to perform Hajj or Umrah.

## [مَسْأَلَةٌ يَأْكُلُ مِنْ هَدْيِ التَّطَوُّعِ إِذَا بَلَغَ مَحِلَّهُ]

L15099 **Issue: One may eat from the voluntary hady once it reaches its designated place of sacrifice.**

908. Issue: He may eat from the voluntary sacrificial offering once it reaches

L15100

its designated place, as we have stated and by necessity. It is impermissible for him to eat anything from the obligatory sacrificial offerings once they reach their designated place. If he does eat from them, he must compensate exactly and only what he consumed. He must not be given any portion of the sacrificial offering at all as compensation for slaughtering it. He is obligated to donate its wool and skins, and this is obligatory.

٩٠٨ - مَسْأَلَةٌ: وَيَأْكُلُ مِنْ هَدْيِ التَّطَوُّعِ إذَا بَلَغَ مَحِلَّهُ وَلَا بُدَّ كَمَا قُلْنَا وَلَا يَحِلُّ لَهُ أَنْ يَأْكُلَ مِنْ شَيْءٍ مِنْ الْأَهْدَاءِ الْوَاجِبَةِ إذَا بَلَغَتْ مَحِلَّهَا فَإِنْ أَكَلَ ضَمِنَ مِثْلَ مَا أَكَلَ فَقَطْ، وَلَا يُعْطَى فِي جِزَارَةِ الْهَدْيِ شَيْءٌ مِنْهُ أَصْلًا وَيَتَصَدَّقُ بِجِلَالِهِ وَجُلُودِهِ وَلَا بُدَّ.

L15101 As for voluntary sacrificial offerings, this is based on Allah's statement—Exalted is He—: {We have made the sacrificial camels among Allah's sacred rites. There is benefit for you in them, so proclaim Allah's Name over them while they stand in rows. When their sides have fallen lifeless, eat thereof and feed the contented poor and the destitute who asks.} [Al-Ḥajj: 36]. Allah's command—Exalted is He—is an obligation.[8]

أَمَّا التَّطَوُّعُ فَلِقَوْلِ اللَّهِ - تَعَالَى -: {وَالْبُدْنَ جَعَلْنَاهَا لَكُمْ مِنْ شَعَائِرِ اللَّهِ لَكُمْ فِيهَا خَيْرٌ فَاذْكُرُوا اسْمَ اللَّهِ عَلَيْهَا صَوَافَّ فَإِذَا وَجَبَتْ جُنُوبُهَا فَكُلُوا مِنْهَا وَأَطْعِمُوا الْقَانِعَ وَالْمُعْتَرَّ} [الحج: ٣٦] ، وَأَمْرُ اللَّهِ - تَعَالَى - فَرْضٌ.

L15102 And through the chain of Muslim: Ishaq ibn Ibrahim narrated to us from Hatim ibn Isma'il from Ja'far ibn Muhammad from his father from Jabir ibn Abdullah, who mentioned the Hajj of the Messenger of Allah—peace and blessings be upon him. Jabir said: "Then the Messenger of Allah—peace and blessings be upon him—went to the slaughtering place and sacrificed sixty-three camels. He then gave Ali the remaining camels to slaughter, including him in his sacrificial act. He then commanded that a piece be taken from each camel, placed in a pot, and cooked. They both ate from its meat and drank from its broth." This constitutes an instruction from him—peace and blessings be upon him—to take the piece, cook it, and not restrict consumption to certain portions of the sacrifice while excluding others.

وَمِنْ طَرِيقِ مُسْلِمٍ نَا إِسْحَاقُ بْنُ إبْرَاهِيمَ عَنْ حَاتِمِ بْنِ إسْمَاعِيلَ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ «عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ فَذَكَرَ حَجَّةَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ جَابِرٌ ثُمَّ انْصَرَفَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - إلَى الْمَنْحَرِ فَنَحَرَ ثَلَاثًا وَسِتِّينَ بَدَنَةً، ثُمَّ أَعْطَى عَلِيًّا فَنَحَرَ مَا غَبَرَ وَأَشْرَكَهُ فِي هَدْيِهِ، ثُمَّ أَمَرَ فِي كُلِّ بَدَنَةٍ بِبِضْعَةٍ فَجُعِلَتْ فِي قِدْرٍ فَطُبِخَتْ فَأَكَلَا مِنْ لَحْمِهَا وَشَرِبَا مِنْ مَرَقِهَا» فَهَذَا أَمْرٌ مِنْهُ - عَلَيْهِ السَّلَامُ - بِأَخْذِ الْبِضْعَةِ وَطَبْخِهَا وَلَمْ يَقْتَصِرْ عَلَى الْأَكْلِ مِنْ بَعْضِ الْهَدْيِ دُونَ بَعْضٍ.

L15103 Through the chain of Muḥammad ibn Muʿāwiyah: Aḥmad ibn Shuʿayb narrated to us, from ʿImrān ibn Yazīd, from Shuʿayb ibn Isḥāq, from Ibn Jurayj, from al-Ḥasan ibn Muslim, that Mujāhid informed him, that ʿAbd al-Raḥmān ibn Abī Laylā informed him, that ʿAlī ibn Abī Ṭālib informed him: "The Messenger of Allah—peace and blessings be upon him—commanded him to distribute all of his sacrificial camels—their meat, hides, and coverings—to the poor, and not to give anything from them as payment for their slaughtering."

وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ مُعَاوِيَةَ نَا أَحْمَدُ بْنُ شُعَيْبٍ أَنَا عِمْرَانُ بْنُ يَزِيدَ نَا شُعَيْبُ بْنُ إِسْحَاقَ نَا ابْنُ جُرَيْجٍ نَا الْحَسَنُ بْنُ مُسْلِمٍ أَنَّ مُجَاهِدًا أَخْبَرَهُ أَنَّ عَبْدَ الرَّحْمَنِ بْنَ أَبِي لَيْلَى أَخْبَرَهُ «أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ أَخْبَرَهُ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَهُ أَنْ يُقَسِّمَ بُدْنَهُ كُلَّهَا لُحُومَهَا وَجُلُودَهَا وَجِلَالَهَا فِي الْمَسَاكِينِ وَلَا يُعْطِي فِي جِزَارَتِهَا مِنْهَا شَيْئًا» .

L15104–15105 Abu Muhammad said: Whoever deems some of the Prophet's commands

[8] **Qur'an references (L15101):** Qur'an 22:36 (Al-Ḥajj).

(peace be upon him) in all that we have mentioned as obligatory and others as recommended has arbitrarily judged in Allah's religion—Exalted is He—with falsehood and assertions that are impermissible.

قَالَ أَبُو مُحَمَّد: مَنْ جَعَلَ بَعْضَ أَوَامِرِهِ - عَلَيْهِ السَّلَامُ - فِي كُلِّ مَا ذَكَرْنَا فَرْضًا وَبَعْضَهَا نَدْبًا فَقَدْ تَحَكَّمَ فِي دِينِ اللَّهِ - تَعَالَى - بِالْبَاطِلِ وَبِمَا لَا يَحِلُّ مِنْ الْقَوْلِ.

L15106 We received a narration via ʿAbd al-Razzāq from Sufyān al-Thawrī from Ḥammād ibn Abī Sulaymān from Ibrāhīm from ʿAlqamah from Ibn Masʿūd that he dispatched a pilgrimage sacrificial animal and said: "Eat one-third yourself and with your companions, donate one-third as charity, and send one-third to the family of ʿUtbah."

وَرُوِّينَا عَنْ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ إبْرَاهِيمَ عَنْ عَلْقَمَةَ عَنْ ابْنِ مَسْعُودٍ أَنَّهُ بَعَثَ بِهَدْيٍ وَقَالَ: كُلْ أَنْتَ وَأَصْحَابَك ثُلُثًا وَتَصَدَّقْ بِثُلُثٍ وَابْعَثْ إلَى آلِ عُتْبَةَ ثُلُثًا.

L15107 And from the chain of Waki', from Ibn Abī Rawwād, from Nāfi', from Ibn 'Umar, who said: Sacrificial animals and ritual offerings are divided into thirds—one-third for your family, one-third for you, and one-third for the poor.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ ابْنِ أَبِي رَوَّادٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: الضَّحَايَا وَالْهَدَايَا: ثُلُثٌ لِأَهْلِك، وَثُلُثٌ لَك، وَثُلُثٌ لِلْمَسَاكِينِ.

L15108 Narrated by Maʿmar, on the authority of ʿAsim, from Abu Mijlaz: Ibn ʿUmar ordered that a portion of his sacrificial animal be allocated for himself and the remainder donated as charity.

وَعَنْ مَعْمَرٍ عَنْ عَاصِمٍ عَنْ أَبِي مِجْلَزٍ: أَنَّ ابْنَ عُمَرَ أَمَرَ أَنْ يُدْفَعَ لَهُ مِنْ أُضْحِيَّتِهِ بِضْعَةٌ وَيُتَصَدَّقَ بِسَائِرِهَا.

L15109 People differed regarding what may be eaten of the sacrificial animal. Narrated via the chain of Yahya ibn Sa'id al-Qattan, from Ubayd Allah ibn Umar, from Nafi', from Ibn Umar, who said: "Everything may be eaten except from the compensation for hunted game and vowed offerings."

وَاخْتَلَفَ النَّاسُ فِيمَا يُؤْكَلُ مِنْ الْهَدْيِ -: فَرُوِّينَا مِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: يُؤْكَلُ مِنْ كُلِّ شَيْءٍ إلَّا مِنْ جَزَاءِ صَيْدٍ وَنَذْرٍ.

L15110 Narrated from Ali: It is forbidden to eat from the compensation for hunting during pilgrimage (ihram), nor from vowed sacrifices, nor from what is designated for the poor.

وَعَنْ عَلِيٍّ: لَا يُؤْكَلُ مِنْ جَزَاءِ الصَّيْدِ وَلَا مِنْ النَّذْرِ وَلَا مِمَّا جُعِلَ لِلْمَسَاكِينِ.

L15111 From Maʿmar, from Qatāda, from Al-Ḥasan: All sacrificial animals may be eaten except those offered as expiation for hunted game. Al-Awzāʿī said: Five types from the sacrificial animals may be eaten: the vowed offering, the Tamattuʿ Hajj sacrifice, the voluntary offering, the bequest, and the sacrifice for one prevented from completing Hajj – but all expiatory sacrifices are excluded.

وَعَنْ مَعْمَرٍ عَنْ قَتَادَةَ عَنْ الْحَسَنِ: يُؤْكَلُ مِنْ الْهَدْيِ كُلِّهِ إلَّا مِنْ جَزَاءِ الصَّيْدِ - وَقَالَ الْأَوْزَاعِيُّ يُؤْكَلُ مِنْ الْهَدْيِ خَمْسَةٌ: النَّذْرُ، وَالْمُتْعَةُ، وَالتَّطَوُّعُ، وَالْوَصِيَّةُ، وَالْمُحْصَرُ، إلَّا الْكَفَّارَاتِ كُلَّهَا.

L15112 Abu Hanifa said: None of the sacrificial animals may be eaten except the

Tamattuʿ sacrifice, the Qirān sacrifice, and voluntary offerings provided they have reached their designated time. Malik said: All types of sacrificial animals may be eaten except voluntary offerings that have not reached their designated time, the expiation for hunting during pilgrimage, the ransom for harm, and vowed sacrifices for the poor.

وَقَالَ أَبُو حَنِيفَةَ: لَا يُؤْكَلُ مِنْ شَيْءٍ مِنْ الْهَدْيِ إلَّا الْمُتْعَةُ، وَالْقِرَانُ، وَالتَّطَوُّعُ إذَا بَلَغَ مَحِلَّهُ - وَقَالَ مَالِكٌ: يُؤْكَلُ مِنْ كُلِّ شَيْءٍ مِنْ الْهَدْيِ إلَّا التَّطَوُّعَ إذَا لَمْ يَبْلُغْ مَحِلَّهُ، وَجَزَاءَ الصَّيْدِ، وَفِدْيَةَ الْأَذَى، وَنَذْرَ الْمَسَاكِينِ.

L15113 Abu Muhammad said: These are mere opinions; there is no proof to support any of them.

قَالَ أَبُو مُحَمَّدٍ: هَذِهِ آرَاءٌ مُجَرَّدَةٌ لَا دَلِيلَ عَلَى شَيْءٍ مِنْهَا.

L15114 Some of them argued that one may eat from every sacrificial animal except what is designated for the poor. We responded: On what basis do you claim that the compensation for hunting [during iḥrām] is for the poor, and that the sacrificial animals mandated for tamattuʿ (the combined pilgrimage) and iḥṣār (being prevented from completing Hajj) are not for the poor?

وَاحْتَجَّ بَعْضُهُمْ بِأَنْ يُؤْكَلَ مِنْ كُلِّ هَدْيٍ إلَّا مَا جُعِلَ لِلْمَسَاكِينِ. فَقُلْنَا: وَأَيْنَ وَجَدْتُمْ أَنَّ جَزَاءَ الصَّيْدِ لِلْمَسَاكِينِ، وَأَنَّ هَدْيَ الْمُتْعَةِ وَالْإِحْصَارِ لَيْسَ لِلْمَسَاكِينِ؟

L15115 Some of them said, "We analogized the sacrificial offering of tamattuʿ pilgrimage upon that of qirān pilgrimage."

وَقَالَ بَعْضُهُمْ: قِسْنَا هَدْيَ الْمُتْعَةِ عَلَى هَدْيِ الْقِرَانِ.

L15116–15117 We said: Where did you derive that the Qārin (one combining Umrah and Hajj) is required to offer a sacrificial animal after his Qirān (combining Umrah and Hajj)? This matter has already been discussed—and success is from Allah, the Exalted.

فَقُلْنَا: أَيْنَ وَجَدْتُمْ أَنَّ عَلَى الْقَارِنِ هَدْيًا يَلْزَمُهُ بَعْدَ قِرَانِهِ؟ وَقَدْ مَضَى الْكَلَامُ فِي هَذَا - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L15118 Ali said: Every sacrificial offering that Allah—Exalted is He—has mandated as a binding obligation requires its owner to completely sever it from his wealth. Since this is the case, it is not permissible for him to take anything from that which he no longer owns except by an explicit scriptural injunction. However, his family and children may eat from it if they wish, as they are not legally considered part of him—except what is explicitly designated for the poor; they may not eat from it unless they are poor. And success is only by Allah, the Exalted.

قَالَ عَلِيٌّ: كُلُّ هَدْيٍ أَوْجَبَهُ اللَّهُ - تَعَالَى - فَرْضًا فَقَدْ أَلْزَمَ صَاحِبَهُ إخْرَاجَهُ مِنْ مَالِهِ وَقَطْعَهُ مِنْهُ، فَإِذْ هُوَ كَذَلِكَ فَلَا يَحِلُّ لَهُ مَا قَدْ سَقَطَ مِلْكُهُ عَنْهُ إلَّا بِنَصٍّ، لَكِنْ يَأْكُلُ مِنْهُ أَهْلُهُ وَوَلَدُهُ إنْ شَاءُوا؛ لِأَنَّهُمْ غَيْرُهُ إلَّا مَا سُمِّيَ لِلْمَسَاكِينِ فَلَا يَأْكُلُوا مِنْهُ إنْ لَمْ يَكُونُوا مَسَاكِينَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

## A Jurisprudential Issue: The Udḥiyyah for the Pilgrim

## [مَسْأَلَةٌ الْأُضْحِيَّةُ لِلْحَاجِّ]

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٩٠٩ - مَسْأَلَةٌ:

L15121 The Udhiyah (sacrificial animal) is recommended for the pilgrim, just as it

وَالْأُضْحِيَّةُ لِلْحَاجِّ مُسْتَحَبَّةٌ كَمَا هِيَ لِغَيْرِ الْحَاجِّ.

is for the one not performing Hajj.

L15122 And a group said: The pilgrim does not offer the udhiyah (sacrificial animal).

وَقَالَ قَوْمٌ: لَا يُضَحِّي الْحَاجُّ.

L15123 It has been narrated to us via the chain reported in Muslim's collection: Amr an-Naqid narrated to us, from Sufyan ibn Uyaynah, from Abd ar-Rahman ibn al-Qasim ibn Muhammad, from his father, from Aisha, the Mother of the Believers, who said: "We set out with the Messenger of Allah—peace and blessings be upon him—intending nothing but Hajj." She mentioned the hadith, and in it the Messenger of Allah—upon him be peace—sacrificed a cow on behalf of his wives.

رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا عَمْرُو النَّاقِدُ نَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: «خَرَجْنَا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَا نَرَى إلَّا الْحَجَّ فَذَكَرَتْ الْحَدِيثَ، وَفِيهِ فَضَحَّى رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - عَنْ نِسَائِهِ بِالْبَقَرِ» .

L15124 Through the chain of Al-Bukhari: Musaddad reported to us, Sufyan reported to us from ʻAbd al-Raḥmān ibn al-Qāsim ibn Muḥammad from his father, from ʻĀ'ishah, the Mother of the Believers—may Allah be pleased with her—that the Prophet—peace be upon him—visited her when she menstruated at Sarif before entering Mecca. She informed him of her condition, and he said to her—peace be upon him: "Fulfill all rites a pilgrim performs except circumambulating the House." She said: When we were at Mina, I was brought a large quantity of cow meat. I asked: "What is this?" They replied: "The Messenger of Allah—peace be upon him—sacrificed cows on behalf of his wives."

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا مُسَدَّدٌ نَا سُفْيَانُ عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ «عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ - رَضِيَ اللَّهُ عَنْهَا - أَنَّ النَّبِيَّ - عَلَيْهِ السَّلَامُ - دَخَلَ عَلَيْهَا وَقَدْ حَاضَتْ بِسَرِفَ قَبْلَ أَنْ تَدْخُلَ مَكَّةَ فَأَخْبَرَتْهُ أَنَّهَا حَاضَتْ، فَقَالَ لَهَا - عَلَيْهِ السَّلَامُ -: فَاقْضِي مَا يَقْضِي الْحَاجُّ غَيْرَ أَنْ لَا تَطُوفِي بِالْبَيْتِ قَالَتْ: فَلَمَّا كُنَّا بِمِنًى أُتِيتُ بِلَحْمِ بَقَرٍ كَثِيرٍ فَقُلْتُ: مَا هَذَا؟ فَقَالُوا: ضَحَّى رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - عَنْ نِسَائِهِ بِالْبَقَرِ» .

L15125 From the chain of Ḥammād ibn Zayd, from Ayyūb al-Sikhtiyānī, from Nāfiʻ, from Ibn ʻUmar, that he would say: "The *hady* is that which is garlanded, marked, and presented at ʻArafah; otherwise, it is considered ordinary sacrifices (ḍaḥāyā)."

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّهُ كَانَ يَقُولُ: الْهَدْيُ مَا قُلِّدَ وَأُشْعِرَ وَوُقِفَ بِهِ بِعَرَفَةَ وَإِلَّا فَإِنَّمَا هِيَ ضَحَايَا.

L15126 From the chain of Ismāʻīl ibn Isḥāq: Sulaymān ibn Ḥarb narrated to us, Ḥammād ibn Zayd narrated to us, ʻAbdullāh ibn al-Ḥasan ibn Abī al-Ḥasan al-Baṣrī reported to me that his father al-Ḥasan performed the *tamattuʻ*, so he slaughtered two sheep: one sheep for his *tamattuʻ* and one sheep for his *uḍḥiyah*.

وَمِنْ طَرِيقِ إسْمَاعِيلَ بْنِ إسْحَاقَ نَا سُلَيْمَانُ بْنُ حَرْبٍ نَا حَمَّادُ بْنُ زَيْدٍ حَدَّثَنِي عَبْدُ اللَّهِ بْنُ الْحَسَنِ بْنِ أَبِي الْحَسَنِ الْبَصْرِيُّ أَنَّ الْحَسَنَ أَبَاهُ تَمَتَّعَ فَذَبَحَ شَاتَيْنِ شَاةً لِمُتْعَتِهِ وَشَاةً لِأُضْحِيَّتِهِ.

L15127–15128 The Messenger of Allah (peace be upon him) urged the sacrificial offering. Therefore, it is impermissible to deprive the pilgrim of [Allah's] grace and nearness to Him—the Exalted—without textual evidence on the matter.

وَقَدْ حَضَّ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - عَلَى الْأُضْحِيَّةِ فَلَا يَجُوزُ أَنْ يُمْنَعَ الْحَاجُّ مِنْ الْفَضْلِ وَالْقُرْبَةِ إلَى اللَّهِ - تَعَالَى - بِغَيْرِ نَصٍّ فِي ذَلِكَ.

## [مَسْأَلَةٌ وَافَقَ الْإِمَامُ يَوْمَ عَرَفَةَ يَوْمَ جُمُعَةٍ]

٩١٠ - مَسْأَلَةٌ:

وَإِنْ وَافَقَ الْإِمَامُ يَوْمَ عَرَفَةَ يَوْمَ جُمُعَةٍ: جَهَرَ، وَهِيَ صَلَاةُ جُمُعَةٍ، وَيُصَلِّي الْجُمُعَةَ أَيْضًا بِمِنًى وَبِمَكَّةَ؛ لِأَنَّ النَّصَّ لَمْ يَأْتِ بِالنَّهْيِ عَنْ ذَلِكَ.

وَقَالَ - تَعَالَى - {إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَى ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ} [الجمعة: ٩] فَلَمْ يَخُصَّ اللَّهُ - تَعَالَى - بِذَلِكَ غَيْرَ يَوْمِ عَرَفَةَ وَمِنًى مِنْ عَرَفَةَ وَمِنًى.

وَرُوِّينَا مِنْ طَرِيقِ مُحَمَّدِ بْنِ عَبْدِ السَّلَامِ الْخُشَنِيِّ نَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا مُسْلِمُ بْنُ إبْرَاهِيمَ نَا بِشْرُ بْنُ مَنْصُورٍ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ قَالَ: إذَا وَافَقَ يَوْمُ جُمُعَةٍ يَوْمَ عَرَفَةَ: جَهَرَ الْإِمَامُ بِالْقِرَاءَةِ.

وَعَنْ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ مِثْلُهُ - وَهُوَ قَوْلُ أَبِي سُلَيْمَانَ.

فَإِنْ ذَكَرُوا خَبَرًا رُوِّينَاهُ مِنْ طَرِيقِ إبْرَاهِيمَ بْنِ أَبِي يَحْيَى عَنْ عَبْدِ الْعَزِيزِ بْنِ عُمَرَ عَنْ الْحَسَنِ بْنِ مُسْلِمٍ قَالَ: «وَافَقَ يَوْمُ التَّرْوِيَةِ يَوْمَ الْجُمُعَةِ وَحَجَّةَ النَّبِيِّ - عَلَيْهِ السَّلَامُ - فَقَالَ: مَنْ اسْتَطَاعَ مِنْكُمْ أَنْ يُصَلِّيَ الظُّهْرَ بِمِنًى فَلْيَفْعَلْ، فَصَلَّى الظُّهْرَ بِمِنًى وَلَمْ يَخْطُبْ» قَالَ عَبْدُ الْعَزِيزِ: وَفَعَلَ عُمَرُ بْنُ الْخَطَّابِ مِثْلَ ذَلِكَ.

### A legal issue: the Day of ʿArafah coinciding with a Friday according to the Imam's ruling.

910 – Issue:

If the Imam's determination of the day of Arafah coincides with Friday, he should recite the prayer aloud, and this prayer is valid as the Friday prayer. He should also lead the Friday prayer in Mina and Mecca, because there is no prohibition in the textual evidence regarding this.

And He, the Exalted, said, "When the call is made for prayer on Friday, hasten to the remembrance of Allah and leave trade." [Al-Jumuʿah: 9] Thus, Allah, the Exalted, did not restrict this ruling exclusively to Friday but included the Day of ʿArafah and the days at Minā—from ʿArafah and Minā.[9]

It was narrated to us through the chain of Muḥammad ibn ʿAbd al-Salām al-Khushanī: Muḥammad ibn al-Muthannā narrated to us, Muslim ibn Ibrāhīm narrated to us, Bishr ibn Manṣūr narrated to us, from Ibn Jurayj, from ʿAṭāʾ ibn Abī Rabāḥ, who said: "If Friday coincides with the Day of ʿArafah, the Imām should recite aloud."

And from ʿAbd al-Razzāq, from Ibn Jurayj, from ʿAṭāʾ – the same as it. This is the view of Abū Sulaymān.

If they mentioned a report that was narrated by us via the route of Ibrāhīm ibn Abī Yaḥyā from ʿAbd al-ʿAzīz ibn ʿUmar from al-Ḥasan ibn Muslim, who said: "The Day of al-Tarwiyah coincided with both Friday and the Prophet (peace be upon him)'s Hajj, so he said: 'Whoever among you is able to pray Dhuhr in Minā, let him do so.' He then prayed Dhuhr in Minā and did not deliver a khutbah." ʿAbd al-ʿAzīz said: "'Umar ibn al-Khaṭṭāb did the same."

[9] **Qur'an references (L15132):** Qur'an 62:9 (Al-Jumu'ah).

L15136 And through him to Ibrāhīm ibn Abī Yaḥyā, from al-Ḥajjāj ibn Arṭāʾa, from Wabara, who said: “The Day of ʿArafah coincided with a Friday, so Ibn al-Zubayr prayed the Ẓuhr prayer without audible recitation.” This is a fabricated report containing every defect. Ibrāhīm ibn Abī Yaḥyā is denounced for lying and universally abandoned. Moreover, it is a disconnected report, and the report combines Ibn al-Zubayr with Ibn Abī Yaḥyā and al-Ḥajjāj ibn Arṭāʾa—who is discarded. Furthermore, its falsehood is manifest, for the Day of Tarwiyah during the Prophet’s Ḥajj—peace be upon him—was on a Thursday, while the Day of ʿArafah was on a Friday. We have been narrated this through al-Bukhārī’s chain: Al-Ḥasan ibn al-Ṣabbāḥ reported to us; he heard Jaʿfar ibn ʿAwf, who reported from Abū al-ʿAmīs, who reported from Qays ibn Muslim, from Ṭāriq ibn Shihāb, from ʿUmar ibn al-Khaṭṭāb: “That this verse, {This day I have perfected for you your religion} [5:3], was revealed to the Messenger of Allah—peace be upon him—while he stood at ʿArafah on a Friday.”[10]

وَبِهِ إِلَى إِبْرَاهِيمَ بْنِ أَبِي يَحْيَى عَنْ الْحَجَّاجِ بْنِ أَرْطَاةَ عَنْ وَبَرَةَ قَالَ: وَافَقَ يَوْمُ عَرَفَةَ يَوْمَ جُمُعَةٍ فَصَلَّى ابْنُ الزُّبَيْرِ الظُّهْرَ وَلَمْ يَجْهَرْ بِالْقِرَاءَةِ -: فَهَذَا خَبَرٌ مَوْضُوعٌ فِيهِ كُلُّ بَلِيَّةٍ. إِبْرَاهِيمُ بْنُ أَبِي يَحْيَى مَذْكُورٌ بِالْكَذِبِ مَتْرُوكٌ مِنْ الْكُلِّ، ثُمَّ هُوَ مُرْسَلٌ، وَفِيهِ عَنْ ابْنِ الزُّبَيْرِ مَعَ ابْنِ أَبِي يَحْيَى الْحَجَّاجِ بْنِ أَرْطَاةَ وَهُوَ سَاقِطٌ، ثُمَّ الْكَذِبُ فِيهِ ظَاهِرٌ، لِأَنَّ يَوْمَ التَّرْوِيَةِ فِي حَجَّةِ النَّبِيِّ - عَلَيْهِ السَّلَامُ - إِنَّمَا كَانَ يَوْمَ الْخَمِيسِ وَكَانَ يَوْمُ عَرَفَةَ يَوْمَ الْجُمُعَةِ -: رُوِّينَا ذَلِكَ مِنْ طَرِيقِ الْبُخَارِيِّ نَا الْحَسَنُ بْنُ الصَّبَّاحِ سَمِعَ جَعْفَرَ بْنَ عَوْفٍ نَا أَبُو الْعَمِيسِ نَا قَيْسُ بْنُ مُسْلِمٍ عَنْ طَارِقِ بْنِ شِهَابٍ عَنْ عُمَرَ بْنِ الْخَطَّابِ " أَنَّ هَذِهِ الْآيَةَ {الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ} [المائدة: ٣] نَزَلَتْ عَلَى رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - وَهُوَ قَائِمٌ بِعَرَفَةَ يَوْمَ جُمُعَةٍ ".

L15137–15138 If it is said: Do all the reports state that the Messenger of Allah—peace be upon him—combined Dhuhr and Asr prayers in Arafah? We reply: Yes, and the Friday prayer is the Dhuhr prayer itself. None of the reports indicate that he—peace be upon him—did not recite aloud in it, and reciting aloud is not obligatory. The legal distinction lies in the fact that the Dhuhr prayer on Friday—whether in residence or travel—consists of two *rakʿahs* when prayed in congregation.

فَإِنْ قِيلَ: إنَّ الْآثَارَ كُلَّهَا إنَّمَا فِيهَا جَمَعَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - بِعَرَفَةَ بَيْنَ الظُّهْرِ وَالْعَصْرِ؟ قُلْنَا: نَعَمْ، وَصَلَاةُ الْجُمُعَةِ هِيَ صَلَاةُ الظُّهْرِ نَفْسُهَا وَلَيْسَ فِي شَيْءٍ مِنْ الْآثَارِ أَنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يَجْهَرْ فِيهَا، وَالْجَهْرُ أَيْضًا لَيْسَ فَرْضًا وَإِنَّمَا يَفْتَرِقُ الْحُكْمُ فِي أَنَّ ظُهْرَ يَوْمِ الْجُمُعَةِ فِي الْحَضَرِ وَالسَّفَرِ لِلْجَمَاعَةِ رَكْعَتَانِ.

## The issue of delaying Hajj and Umrah beyond the earliest times of capability.

## [مَسْأَلَةُ تَأْخِيرُ الْحَجِّ وَالْعُمْرَةِ عَنْ أَوَّلِ أَوْقَاتِ الِاسْتِطَاعَةِ]

L15140 911 – Issue:

٩١١ - مَسْأَلَةٌ:

L15141 It is impermissible to delay Hajj and Umrah beyond the earliest time of capability for them both. Whoever does so has sinned, and it is incumbent upon him to perform Umrah and Hajj—this being the position of Mālik and Abū Sulaymān. Al-Shāfiʿī said: One may delay until the end of his life.

وَلَا يَجُوزُ تَأْخِيرُ الْحَجِّ وَالْعُمْرَةِ عَنْ أَوَّلِ أَوْقَاتِ الِاسْتِطَاعَةِ لَهُمَا، فَمَنْ فَعَلَ ذَلِكَ فَقَدْ عَصَى وَعَلَيْهِ أَنْ يَعْتَمِرَ وَيَحُجَّ - وَهُوَ قَوْلُ مَالِكٍ، وَأَبِي سُلَيْمَانَ - وَقَالَ الشَّافِعِيُّ: هُوَ فِي سَعَةٍ إلَى آخِرِ عُمْرِهِ.

[10] **Qur’an references (L15136):** Qur’an 5:3 (Al-Ma’idah).

L15142 The proof for the validity of our position is Allah's statement - the Almighty and Majestic: {And hasten towards forgiveness from your Lord} [Āl ʿImrān: 133], and His declaration - Exalted is He: {Pilgrimage to the House is an obligation from Allah upon all people who are able to undertake it} [Āl ʿImrān: 97]. There is no disagreement that this directive is directed at every capable person. A capable individual must either have Hajj obligated upon them or not. If Hajj is obligated upon them, they are commanded to perform it in the same year - which is our position - and whoever fails to perform Hajj would be neglecting an obligation. If Hajj is not obligated upon them, this contradicts the Quran.[11]

L15143 Moreover, if he is permitted to act freely until the end of his life, reproach would only apply to him after death. Yet reproach does not apply to anyone after death. Therefore, it is valid to conclude that he is blameworthy during his lifetime.

L15144 If they argue, "Did the Prophet (peace be upon him) reside in Medina for ten years yet only perform Hajj at their end?" we respond: You possess no clear explanation regarding when God the Exalted ordained Hajj. It remains plausible that its obligation was decreed solely in the year he performed Hajj (peace be upon him). Matters lacking explicit textual clarification hold no proof, save that we are certain the Messenger of God (may God's blessings and peace be upon him) would never neglect a superior act except due to a preventing impediment. They do not dispute with us that hastening [to fulfill obligations] holds greater merit.

L15145 If they cite the delay of prayer until the end of its time, we respond: This is what the scriptural text explicitly addresses. Present us with a clear scriptural text permitting the delay of Hajj—which constitutes your claim in this instance—for there is no valid basis for this position. And by Allah—the Exalted—is success attained.

L15146 Issue 912:

L15147–15149 The consideration of ability is only taken into account such that if one

[11] **Qur'an references (L15142):** Qur'an 3:133 (Ali 'Imran); Qur'an 3:97 (Ali 'Imran).

بُرْهَانُ صِحَّةِ قَوْلِنَا قَوْلُ اللَّهِ - عَزَّ وَجَلَّ -: {وَسَارِعُوا إِلَى مَغْفِرَةٍ مِنْ رَبِّكُمْ} [آل عمران: ١٣٣] وَقَالَ - تَعَالَى - {وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلا} [آل عمران: ٩٧] وَلَا خِلَافَ فِي أَنَّ هَذَا مُتَوَجِّهٌ إلَى كُلِّ مُسْتَطِيعٍ، فَلَا يَخْلُو الْمُسْتَطِيعُ مِنْ أَنْ يَكُونَ مُفْتَرَضًا عَلَيْهِ الْحَجُّ أَوْ لَا يَكُونُ مُفْتَرَضًا عَلَيْهِ الْحَجُّ، فَإِنْ كَانَ مُفْتَرَضًا عَلَيْهِ فَهُوَ مَأْمُورٌ بِهِ فِي عَامِهِ - وَهُوَ قَوْلُنَا، وَهُوَ إنْ لَمْ يَحُجَّ مُعَطِّلُ فَرْضٍ وَإِنْ كَانَ لَيْسَ مُفْتَرَضًا عَلَيْهِ الْحَجُّ فَهَذَا خِلَافُ الْقُرْآنِ.

وَأَيْضًا فَإِنْ كَانَ مَفْسُوحًا لَهُ إلَى آخِرِ عُمْرِهِ فَإِنَّمَا تَلْحَقُهُ الْمَلَامَةُ بَعْدَ الْمَوْتِ، وَالْمَلَامَةُ لَا تَلْحَقُ أَحَدًا بَعْدَ الْمَوْتِ، فَصَحَّ أَنَّهُ مَلُومٌ فِي حَيَاتِهِ.

فَإِنْ احْتَجُّوا بِأَنَّ النَّبِيَّ - عَلَيْهِ السَّلَامُ - أَقَامَ بِالْمَدِينَةِ عَشْرَ سِنِينَ لَمْ يَحُجَّ إلَّا فِي آخِرِهَا؟ قُلْنَا: لَا بَيَانَ عِنْدَكُمْ مَتَى افْتَرَضَ اللَّهُ - تَعَالَى - الْحَجَّ، وَمُمْكِنٌ أَنْ لَا يَكُونَ افْتُرِضَ إلَّا عَامَ حَجَّ - عَلَيْهِ السَّلَامُ -، وَمَا لَا نَصَّ بَيِّنًا فِيهِ فَلَا حُجَّةَ فِيهِ، إلَّا أَنَّا مُوقِنُونَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَا يَدَعُ الْأَفْضَلَ إلَّا لِعُذْرٍ مَانِعٍ، وَلَا يَخْتَلِفُونَ مَعَنَا فِي أَنَّ التَّعْجِيلَ أَفْضَلُ.

فَإِنْ ذَكَرُوا تَأْخِيرَ الصَّلَاةِ إلَى آخِرِ وَقْتِهَا. قُلْنَا: هَذَا جَاءَ بِهِ النَّصُّ فَأَوْجِدُونَا نَصًّا بَيِّنًا فِي جَوَازِ تَأْخِيرِ الْحَجِّ وَهُوَ قَوْلُكُمْ حِينَئِذٍ، وَلَا سَبِيلَ إلَى هَذَا - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

٩١٢ - مَسْأَلَةٌ:

departs from the place where the ability was acquired, they can perform Hajj within its designated time and Umrah [at any time]. If the ability arises before the entirety of that year [i.e., its Hajj season], it becomes invalidated. If he was not capable during the mentioned time, nor is Hajj obligatory upon him, because he was only commanded to undertake Umrah and Hajj during the time of Hajj, so he becomes either a qārin or a mutamatti'.

وَإِنَّمَا تُرَاعَى الِاسْتِطَاعَةُ بِحَيْثُ لَوْ خَرَجَ مِنَ الْمَكَانِ الَّذِي حَدَثَتْ لَهُ فِيهِ الِاسْتِطَاعَةُ فَيُدْرِكُ الْحَجَّ فِي وَقْتِهِ وَالْعُمْرَةَ، فَإِنْ اسْتَطَاعَ قَبْلَ ذَلِكَ الْعَامِ كُلِّهِ وَبَطَلَتْ اسْتِطَاعَتُهُ فِي الْوَقْتِ الْمَذْكُورِ لَمْ يَكُنْ مُسْتَطِيعًا وَلَا لَزِمَهُ الْحَجُّ؛ لِأَنَّهُ لَمْ يُكَلَّفِ الْعُمْرَةَ وَالْحَجَّ إِلَّا فِي وَقْتِ الْحَجِّ فَيَكُونُ قَارِنًا، أَوْ مُتَمَتِّعًا.

## A case in which no one could be found to perform Hajj on his behalf except for a fee.

## [مَسْأَلَةٌ لَمْ يُوجَدْ مِنْ يَحُجُّ عَنْهُ إِلَّا بِأُجْرَةٍ]

913. Issue:

٩١٣ - مَسْأَلَةٌ:

Whoever is able as we have mentioned, then if his ability ceases or does not cease, Hajj and Umrah are obligatory upon him. He must perform them from his principal wealth before [paying] debts owed to people, according to what we stated at the beginning of this Book of Hajj in which we are engaged.

فَمَنِ اسْتَطَاعَ كَمَا ذَكَرْنَا، ثُمَّ بَطَلَتْ اسْتِطَاعَتُهُ أَوْ لَمْ تَبْطُلْ فَالْحَجُّ وَالْعُمْرَةُ عَلَيْهِ وَيَلْزَمُ أَدَاؤُهُمَا عَنْهُ مِنْ رَأْسِ مَالِهِ قَبْلَ دُيُونِ النَّاسِ عَلَى مَا ذَكَرْنَا فِي أَوَّلِ كِتَابِ الْحَجِّ الَّذِي نَحْنُ فِيهِ.

If no one is found to perform Hajj on his behalf except for a fee, someone must be hired to do so, based on the Prophet's (peace be upon him) statement: "Allah's debt is most deserving of settlement." Whoever performs Hajj and Umrah on his behalf must do so from one of the designated miqats. There is no obligation beyond this unless the deceased stipulated that Hajj be performed from his hometown. In that case, the extra cost incurred by performing Hajj from his hometown instead of a miqat must be paid from the third of the estate, as this constitutes an act that is not obligatory.

فَإِنْ لَمْ يُوجَدْ مِنْ يَحُجُّ عَنْهُ إِلَّا بِأُجْرَةٍ اُسْتُؤْجِرَ عَنْهُ لِقَوْلِ النَّبِيِّ - عَلَيْهِ السَّلَامُ - " دَيْنُ اللَّهِ أَحَقُّ بِالْقَضَاءِ " مَنْ يَحُجُّ عَنْهُ وَيَعْتَمِرُ مِنْ مِيقَاتٍ مِنَ الْمَوَاقِيتِ لَا يَلْزَمُ غَيْرُ هَذَا، إِلَّا أَنْ يُوصِيَ بِأَنْ يَحُجَّ عَنْهُ مِنْ بَلَدِهِ، فَتَكُونُ الْإِجَارَةُ الزَّائِدَةُ عَلَى الْحَجِّ مِنْ مِيقَاتِ مَا مِنَ الثُّلُثِ، لِأَنَّهُ عَمَلٌ لَا يَلْزَمُ.

If a person leaves his home for a personal need without intending Hajj or Umrah, then, upon reaching the Miqat, he must enter ihram and begin the acts of Hajj—not before that.

وَلَوْ خَرَجَ الْمَرْءُ مِنْ مَنْزِلِهِ لِحَاجَةِ نَفْسِهِ لَا يَنْوِي حَجًّا، وَلَا عُمْرَةً فَأَتَى الْمِيقَاتَ فَحِينَئِذٍ لَزِمَهُ الْإِحْرَامُ وَالدُّخُولُ فِي عَمَلِ الْحَجِّ لَا قَبْلَ ذَلِكَ.

It is permissible for a woman to perform Hajj on behalf of a man or woman, and for a man to perform Hajj on behalf of a woman or man, based on the Prophet's command (peace be upon him) to the woman from Khath'am to perform Hajj for her father, his command (peace be upon him) to a man to perform Hajj for his mother and father, and the absence of any explicit

وَجَائِزٌ أَنْ تَحُجَّ الْمَرْأَةُ عَنِ الرَّجُلِ وَالْمَرْأَةِ، وَالرَّجُلُ عَنِ الْمَرْأَةِ وَالرَّجُلِ، لِأَمْرِ النَّبِيِّ - عَلَيْهِ السَّلَامُ - الْخَثْعَمِيَّةَ أَنْ تَحُجَّ عَنْ أَبِيهَا، وَأَمْرِهِ - عَلَيْهِ السَّلَامُ - الرَّجُلَ أَنْ يَحُجَّ عَنْ

prohibition in sacred texts regarding such acts. Allah the Most High said: {And do good} [Al-Ḥajj: 77] – and this is an act of goodness. Thus, it becomes permissible for every person to perform Hajj on behalf of any other person.[12]

أُمِّهِ، وَالرَّجُلَ أَنْ يَحُجَّ عَنْ أَبِيهِ، وَلَمْ يَأْتِ نَصٌّ يَنْهَى عَنْ شَيْءٍ مِنْ ذَلِكَ، وَقَالَ - تَعَالَى -: {وَافْعَلُوا الْخَيْرَ} [الحج: ٧٧] وَهَذَا خَيْرٌ، فَجَائِزٌ أَنْ يَفْعَلَهُ كُلُّ أَحَدٍ عَنْ كُلِّ أَحَدٍ.

L15156 Our view is that of Abū Sulaymān, al-Shāfiʿī, and others.

وَقَوْلُنَا هُوَ قَوْلُ أَبِي سُلَيْمَانَ، وَالشَّافِعِيِّ، وَغَيْرِهِمَا.

L15157 Abu Hanifah said: Hiring someone to perform Hajj is not permissible. Rather, it is only permissible to give money for someone to perform Hajj with that money solely on behalf of the one requiring it. He argued against the permissibility of hiring in this matter by citing their statement: "Hiring is not permissible for acts of obedience nor for acts of disobedience."

وَقَالَ أَبُو حَنِيفَةَ: لَا تَجُوزُ الْإِجَارَةُ عَلَى الْحَجِّ، وَإِنَّمَا يَجُوزُ أَنْ يُعْطِيَ مَالًا لِيَحُجَّ عَنْ الْمَحْجُوجِ عَنْهُ بِهِ فَقَطْ، وَاحْتَجَّ فِي مَنْعِ الْإِجَارَةِ فِي ذَلِكَ بِأَنْ قَالَ قَائِلُهُمْ: لَا تَجُوزُ الْإِجَارَةُ عَلَى الطَّاعَةِ وَلَا عَلَى الْمَعْصِيَةِ.

L15158–15160 Abu Muhammad said: As for the contract of hiring to commit sin, it is invalid; but as for the contract of hiring for acts of obedience, their claim about its invalidity is false. Rather, the contract of hiring is permissible for obedience, and the Prophet—peace be upon him—commanded hiring, permitted it, and urged giving the worker his wage. Thus, this permissibility applies to all matters except what is prohibited solely by an explicit text. They unanimously agree with us on the validity of hiring for constructing mosques and on the permissibility of hiring camels for Hajj. Upon it, and upon the evacuation of the strivers' weapons—all in obedience to Allah, the Exalted—their hypocrisy became apparent. The rental contract is established by giving silver currency for the sacrificial animal of Tamattuʿ or for an animal provided before assuming Ihram to become a Qarin (a pilgrim combining Hajj and Umrah). The contracted Hajj obligations are then fully detailed, including specifying the Miqat (designated entry point), the number of Talbiyah invocations, the designated time at Arafat, the method of performing the two Rakʿahs at the Maqam (Station of Ibrahim), and hastening completion within two days or delaying it. If he performs Hajj in the specified year, it is valid. If he fails to perform Hajj in that year, he receives no payment and the contract is void. If he defers Hajj to a later year, it remains valid, but he

قَالَ أَبُو مُحَمَّدٍ: أَمَّا الْإِجَارَةُ عَلَى الْمَعْصِيَةِ فَنَعَمْ، وَأَمَّا عَلَى الطَّاعَةِ فَقَوْلُهُمْ فِيهِ بَاطِلٌ، بَلْ الْإِجَارَةُ جَائِزَةٌ عَلَى الطَّاعَةِ، وَقَدْ أَمَرَ - عَلَيْهِ السَّلَامُ - بِالْمُؤَاجَرَةِ وَأَبَاحَهَا وَحَضَّ عَلَى إعْطَاءِ الْأَجِيرِ أَجْرَهُ، فَكَانَ هَذَا جَائِزًا عَلَى كُلِّ شَيْءٍ إلَّا مَا مَنَعَ مِنْهُ نَصٌّ فَقَطْ، وَهُمْ مُجْمِعُونَ مَعَنَا عَلَى جَوَازِ الْإِجَارَةِ فِي بُنْيَانِ الْمَسَاجِدِ، وَعَلَى جَوَازِ الْإِجَارَةِ لِلْإِبِلِ لِلْحَجِّ عَلَيْهَا، وَعَلَى جَلَاءِ سِلَاحِ الْمُجَاهِدِينَ، وَكُلُّ ذَلِكَ طَاعَةٌ لِلَّهِ - تَعَالَى -، فَظَهَرَ تَنَاقُضُهُمْ. وَتُعْقَدُ الْإِجَارَةُ فِي كُلِّ ذَلِكَ بِأَنْ تُعْطَى دَرَاهِمُ فِي هَدْيِ الْمُتْعَةِ، أَوْ فِي هَدْيٍ يَسُوقُهُ قَبْلَ الْإِحْرَامِ لِيَكُونَ قَارِنًا، ثُمَّ يُوصَفُ لَهُ عَمَلُ الْحَجِّ الَّذِي اُسْتُؤْجِرَ عَلَيْهِ كُلُّهُ مِنْ تَحْدِيدِ الْمِيقَاتِ وَعَدَدِ التَّلْبِيَةِ، وَوَقْتِ الْمِيقَاتِ بِعَرَفَةَ، وَصِفَةِ الرَّكْعَتَيْنِ عِنْدَ الْمَقَامِ وَالتَّعْجِيلِ فِي يَوْمَيْنِ أَوْ التَّأْخِيرِ، فَإِنْ حَجَّ الْعَامَ فَحَسَنٌ، فَإِنْ لَمْ يَحُجَّ فِيهِ لَمْ يَكُنْ لَهُ مِنْ الْإِجَارَةِ شَيْءٌ وَبَطَلَ الْعَقْدُ، وَإِنْ لَمْ يَحُجَّ الْعَامَ فَحَسَنٌ، وَعَلَيْهِ أَنْ يَحُجَّ فِي أَوَّلِ أَوْقَاتِ إمْكَانِ الْحَجِّ لَهُ وَيُجْزِي مَتَى حَجَّ عَنْهُ كَسَائِرِ الْأَعْمَالِ الْمَوْصُوفَةِ مِنْ الْخِيَاطَةِ وَغَيْرِهَا.

[12] **Qur'an references (L15155):** Qur'an 22:77 (Al-Hajj).

must perform it at the earliest possible opportunity. It suffices whenever he performs Hajj on behalf [of the employer], like other specified tasks such as tailoring services or similar obligations.

وَكُلُّ مَا أَصَابَ الْأَجِيرَ مِنْ فِدْيَةِ الْأَذَى فَهُوَ عَلَيْهِ لَا عَلَى الْمَحْجُوجِ عَنْهُ فَإِنْ تَعَمَّدَ إبْطَالَ الْحَجِّ، أَوْ عُمْرَتِهِ فَلَا شَيْءَ لَهُ مِنْ الْأُجْرَةِ؛ لِأَنَّهُ لَمْ يَعْمَلْ شَيْئًا مِمَّا أُمِرَ بِهِ.

L15161 Any expiation for harm caused by the substitute pilgrim is his own obligation, not that of the person for whom the Hajj is performed. If he intentionally invalidates the Hajj or Umrah, he receives none of the fee, as he has not fulfilled any of the duties he was entrusted with.

فَلَوْ عَمِلَ بَعْضَ عَمَلِ الْحَجِّ، أَوْ الْعُمْرَةِ، ثُمَّ مَرِضَ أَوْ مَاتَ، أَوْ صُدَّ كَانَ لَهُ بِمِقْدَارِ مَا عَمِلَ، وَلَا يَكُونُ لَهُ الْبَاقِي؛ لِأَنَّهُ قَدْ عَمِلَ بَعْضَ مَا أُمِرَ بِهِ كَمَا أُمِرَ وَلَمْ يَتَعَمَّدْ تَرْكَ الْبَاقِي، وَيَكُونُ هَدْيُ الْإِحْصَارِ فِي مَالِ الْمُحْصَرِ؛ لِأَنَّهُ لَيْسَ مِمَّا يُعْمَلُ عَنْ الْمَيِّتِ فَيَسْتَأْجِرُ عَنْهُ مَنْ يَرْمِي الْجِمَارَ، أَوْ يَطُوفُ عَنْهُ، وَيَسْعَى مِمَّنْ قَدْ رَمَى عَنْ نَفْسِهِ، وَطَافَ عَنْ نَفْسِهِ، وَمِمَّنْ يُحْرِمُ عَنْهُ وَيَقِفُ بِعَرَفَةَ وَالْمُزْدَلِفَةِ، وَيُوَفِّي عَنْهُ بَاقِيَ عَمَلِ الْحَجِّ إنْ كَانَ لَمْ يَعْمَلْ مِنْ ذَلِكَ شَيْئًا.

L15162 If a person performs some of the acts of Ḥajj or ʿUmrah, then falls ill, dies, or is prevented, he receives according to the measure of what he performed and does not receive the remainder. This is because he performed part of what he was commanded as he was commanded and did not intentionally abandon the remainder. The prevention sacrifice (hady al-iḥṣār) must come from the prevented person's wealth, as it is not among the acts performed on behalf of the deceased. He must hire someone to throw the pebbles or perform Ṭawāf on his behalf and perform Saʿī from among those who have thrown the pebbles and performed Ṭawāf for themselves. He must also hire someone to assume Iḥrām on his behalf, stand at ʿArafah and Muzdalifah, and complete the remaining acts of Ḥajj on his behalf if he had not performed any of them.

وَلَا يَجُوزُ إعْطَاءُ مَالٍ لِيَحُجَّ بِهِ عَنْ الْمَيِّتِ بِغَيْرِ أُجْرَةٍ؛ لِأَنَّ الْمَالَ قَدْ يَضِيعُ فَلَا يَلْزَمُ الْمَدْفُوعَ إلَيْهِ ضَمَانُ مَالٍ وَلَا عَمَلُ حَجٍّ، فَهُوَ تَضْيِيعٌ لِمَالِ الْمَيِّتِ وَهَذَا لَا يَجُوزُ.

L15163 It is not permissible to give money for someone to perform Hajj with it on behalf of the deceased without payment, as the money may be lost, and the recipient is neither liable for safeguarding the money nor held responsible for the performance of Hajj. This constitutes squandering the deceased's wealth, and such an act is impermissible.

فَلَوْ أَعْطَاهُ حَيٌّ لِيَحُجَّ بِهِ عَنْهُ كَانَ عَقْدًا غَيْرَ لَازِمٍ حَتَّى يُتِمَّ الْحَجَّ، فَإِذَا تَمَّ حِينَئِذٍ اسْتَحَقَّ مَا أُعْطِيَ وَأَجْزَأَ عَنْ الْمُعْطِي - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

L15164 If a living person gave him to perform Hajj on his behalf, it constitutes a non-binding contract until the Hajj is fully completed. When it is completed, he becomes entitled to what was given, and it suffices for the giver. And by Allah, the Most High, is success.

L15165 It is not sufficient to hire someone who has not performed Hajj or Umrah unless he lacks the means to do so when hired. In that case, it becomes permissible, as he is incapable of performing Hajj for himself due to lacking the means and is therefore not obligated. However, he remains capable of

performing Hajj for others by means of the payment he takes. Thus, hiring him for what he is capable of performing is permissible—and success comes only from Allah, the Exalted.

وَلَا يُجْزِئُ أَنْ يَسْتَأْجِرَ مَنْ لَمْ يَحُجَّ وَلَا اعْتَمَرَ إِلَّا أَنْ يَكُونَ غَيْرَ مُسْتَطِيعٍ حِينَ اُسْتُؤْجِرَ فَيَجُوزُ حِينَئِذٍ، لِأَنَّهُ غَيْرُ مُسْتَطِيعٍ لِلْحَجِّ عَنْ نَفْسِهِ فَلَا يَلْزَمُهُ وَهُوَ مُسْتَطِيعٌ لِلْحَجِّ عَنْ غَيْرِهِ مِمَّا يَأْخُذُ مِنَ الْأُجْرَةِ فَاسْتِئْجَارُهُ لِمَا يَسْتَطِيعُ عَلَيْهِ جَائِزٌ - وَبِاللَّهِ - تَعَالَى - التَّوْفِيقُ.

## Issue: The Counted Days and the Designated Days.

## [مَسْأَلَةُ الْأَيَّامُ الْمَعْدُودَاتُ وَالْمَعْلُومَاتُ]

914 - Issue:

٩١٤ - مَسْأَلَةٌ:

The counted days and the known days refer to the same period - being the Day of Sacrifice and three days following it - based on the statement of Allah, Exalted is He: {And remember Allah during the counted days. Then whoever hastens to depart in two days, there is no sin upon him, and whoever delays, there is no sin upon him} [Sūrat al-Baqarah 2:203]. The aforementioned hastening and delaying are only done without fear of anyone during the days of throwing pebbles at the Jamarāt. The days of throwing pebbles at the Jamarāt (without dispute) are the Day of Sacrifice and the three days following it.[13]

وَالْأَيَّامُ الْمَعْدُودَاتُ وَالْمَعْلُومَاتُ وَاحِدَةٌ، وَهِيَ يَوْمُ النَّحْرِ، وَثَلَاثَةُ أَيَّامٍ بَعْدَهُ لِقَوْلِ اللَّهِ - تَعَالَى -: {وَاذْكُرُوا اللَّهَ فِي أَيَّامٍ مَعْدُودَاتٍ فَمَنْ تَعَجَّلَ فِي يَوْمَيْنِ فَلا إِثْمَ عَلَيْهِ وَمَنْ تَأَخَّرَ فَلا إِثْمَ عَلَيْهِ} [البقرة: ٢٠٣] وَالتَّعْجِيلُ الْمَذْكُورُ وَالتَّأْخِيرُ الْمَذْكُورُ إِنَّمَا هُوَ بِلَا خَوْفٍ مِنْ أَحَدٍ فِي أَيَّامِ رَمْيِ الْجِمَارِ. وَأَيَّامُ رَمْيِ الْجِمَارِ بِلَا خِلَافٍ هُوَ يَوْمُ النَّحْرِ وَثَلَاثَةُ أَيَّامٍ بَعْدَهُ.

And He—Exalted is He—said: {That they may witness benefits for themselves and mention the name of Allah on appointed days over what He has provided them of livestock} [Al-Hajj: 28]. These are undoubtedly the days of sacrifice during which livestock are slaughtered: the Day of Sacrifice and the three days following it.[14]

وَقَالَ - تَعَالَى - {لِيَشْهَدُوا مَنَافِعَ لَهُمْ وَيَذْكُرُوا اسْمَ اللَّهِ فِي أَيَّامٍ مَعْلُومَاتٍ عَلَى مَا رَزَقَهُمْ مِنْ بَهِيمَةِ الأَنْعَامِ} [الحج: ٢٨] فَهَذِهِ بِلَا شَكٍّ أَيَّامُ النَّحْرِ الَّتِي تُنْحَرُ فِيهَا بَهِيمَةُ الْأَنْعَامِ، وَهِيَ يَوْمُ النَّحْرِ وَثَلَاثَةُ أَيَّامٍ بَعْدَهُ.

It was narrated to us via Muḥammad ibn al-Muthannā from ʿUbayd Allāh ibn Mūsā from Ibn Abī Laylā from al-Ḥakam ibn ʿUtaybah from Miqsam from Ibn ʿAbbās, who said: "The appointed days are the Day of Sacrifice and the three days following it: these are the days of Tashrīq."

رُوِّينَا مِنْ طَرِيقِ مُحَمَّدِ بْنِ الْمُثَنَّى نَا عُبَيْدُ اللَّهِ بْنُ مُوسَى نَا ابْنُ أَبِي لَيْلَى عَنِ الْحَكَمِ بْنِ عُتَيْبَةَ عَنْ مِقْسَمٍ عَنِ ابْنِ عَبَّاسٍ قَالَ: الْأَيَّامُ الْمَعْلُومَاتُ: يَوْمُ النَّحْرِ وَثَلَاثَةُ أَيَّامٍ بَعْدَهُ: أَيَّامَ التَّشْرِيقِ.

From the chain of Ibn Abi Shaybah, he narrated to us, from Ali ibn Hashim,

[13] **Qur'an references (L15168):** Qur'an 2:203 (Al-Baqarah).
[14] **Qur'an references (L15171):** Qur'an 22:28 (Al-Hajj).

from Ibn Abi Layla, from al-Hakam, from Miqsam, from Ibn Abbas concerning the verse of Allah, the Exalted: "in numbered days" [Al-Baqarah 2:203], he stated: "The Day of Sacrifice and three days after it—the Days of Tashriq: and this is the view we uphold."[15]

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا عَلِيُّ بْنُ هَاشِمٍ عَنْ ابْنِ أَبِي لَيْلَى عَنْ الْحَكَمِ عَنْ مِقْسَمٍ عَنْ ابْنِ عَبَّاسٍ فِي وقَوْله تَعَالَى: {فِي أَيَّامٍ مَعْدُودَاتٍ} [البقرة: ٢٠٣] قَالَ: يَوْمُ النَّحْرِ، وَثَلَاثَةُ أَيَّامٍ بَعْدَهُ: أَيَّامُ التَّشْرِيقِ - وَهَذَا قَوْلُنَا.

L15174 Other narrations have been reported besides this, both earlier and later. Therefore, the remembrance of Allah—the Exalted—is obligatory every day. Hence, it is impermissible to restrict this obligation [to specific times] except through scriptural evidence. As for relying on mere assertions or the statements of someone whose opinion has been contradicted, this is not permissible.

وَقَدْ رُوِيَ غَيْرُ هَذَا، وَقَبْلُ وَبَعْدُ، فَذِكْرُ اللَّهِ - تَعَالَى - وَاجِبٌ فِي كُلِّ يَوْمٍ فَلَا يَجُوزُ تَخْصِيصُ ذَلِكَ إلَّا بِنَصٍّ، وَأَمَّا بِالدَّعْوَى وَقَوْلِ قَائِلٍ قَدْ خُولِفَ فَلَا.

L15175 It has been authentically reported from Ibn ʿAbbās, Saʿīd ibn Jubayr, Ibrāhīm al-Nakhaʿī, Mujāhid, ʿAṭāʾ, and al-Ḥasan al-Baṣrī that the "known days" are the ten days of Dhū al-Ḥijjah, culminating in the Day of Sacrifice (Yawm al-Naḥr), and that the "appointed days" are the three days of Tashrīq following the Day of Sacrifice.

صَحَّ عَنْ ابْنِ عَبَّاسٍ، وَسَعِيدِ بْنِ جُبَيْرٍ، وَإِبْرَاهِيمَ النَّخَعِيِّ، وَمُجَاهِدٍ، وَعَطَاءٍ، وَالْحَسَنِ الْبَصْرِيِّ أَنَّ الْأَيَّامَ الْمَعْلُومَاتِ عَشْرُ ذِي الْحِجَّةِ، آخِرُهَا يَوْمُ النَّحْرِ، وَأَنَّ الْمَعْدُودَاتِ ثَلَاثَةُ أَيَّامٍ بَعْدَ يَوْمِ النَّحْرِ.

L15176 This has been transmitted to us through the chain of Yaḥyā ibn Saʿīd al-Qaṭṭān: from Hushaym, from Abī Bishr, from Saʿīd ibn Jubayr, from Ibn ʿAbbās; and from Abī ʿAwānah, from Abī Bishr, from Saʿīd ibn Jubayr; and from Yaḥyā ibn Saʿīd al-Qaṭṭān, from Sufyān al-Thawrī, from Manṣūr ibn al-Muʿtamir, from Ibrāhīm; and from Sufyān, from Ibn Abī Najīḥ, from Mujāhid; and from Ḥammād ibn Salamah, from Qays ibn Saʿd, from ʿAṭāʾ; and from Ḥammād ibn Salamah, from Ḥumayd, from al-Ḥasan. This ruling is the opinion of Abū Ḥanīfah, al-Shāfiʿī, and Abū Sulaymān.

رُوِّينَا ذَلِكَ مِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ هُشَيْمٍ نَا أَبُو بِشْرٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ، وَعَنْ أَبِي عَوَانَةَ عَنْ أَبِي بِشْرٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ، وَعَنْ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ، عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ إبْرَاهِيمَ، وَعَنْ سُفْيَانَ عَنْ ابْنِ أَبِي نَجِيحٍ عَنْ مُجَاهِدٍ، وَعَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ عَطَاءٍ، وَعَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ حُمَيْدٍ عَنْ الْحَسَنِ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ.

L15177–15179 It has been narrated to us through the chain of Ismāʿīl ibn Isḥāq: ʿAlī ibn ʿAbd Allāh narrated to us, ʿUbayd Allāh ibn Mūsā narrated to us, from Ibn Abī Laylā, from Zirr and Nāfiʿ. Zirr reported from ʿAlī ibn Abī Ṭālib, while Nāfiʿ reported from Ibn ʿUmar. Then ʿAlī and Ibn ʿUmar concurred, both stating: "The counted days are the Day of Sacrifice and the two days following it. Sacrifice on whichever of them you wish, and the most virtuous among them

وَرُوِّينَا مِنْ طَرِيقِ إسْمَاعِيلَ بْنِ إسْحَاقَ نَا عَلِيُّ بْنُ عَبْدِ اللَّهِ نَا عُبَيْدُ اللَّهِ بْنُ مُوسَى عَنْ ابْنِ أَبِي لَيْلَى عَنْ زِرٍّ، وَنَافِعٍ، قَالَ زِرٌّ: عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ، وَقَالَ نَافِعٌ: عَنْ ابْنِ عُمَرَ، ثُمَّ اتَّفَقَ عَلِيٌّ، وَابْنُ عُمَرَ، قَالَا جَمِيعًا: الْأَيَّامُ الْمَعْدُودَاتُ يَوْمُ النَّحْرِ وَيَوْمَانِ بَعْدَهُ، اذْبَحْ فِي أَيِّهَا شِئْت، وَأَفْضَلُهَا أَوَّلُهَا وَرُوِّينَا مِنْ طَرِيقِ مُحَمَّدِ بْنِ الْمُثَنَّى نَا حَمَّادُ بْنُ عِيسَى

[15] **Qur'an references (L15173):** Qur'an 2:203 (Al-Baqarah).

الْجُهَنِيُّ نَا جَعْفَرُ بْنُ مُحَمَّدٍ عَنْ أَبِيهِ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ قَالَ فِي أَيَّامٍ مَعْدُودَاتٍ: أَيَّامُ التَّشْرِيقِ.

وَرُوِّينَا مِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ نَا ابْنُ عَجْلَانَ نَا نَافِعٌ عَنْ ابْنِ عُمَرَ أَنَّهُ كَانَ يَقُولُ: الْأَيَّامُ الْمَعْلُومَاتُ: يَوْمُ النَّحْرِ وَيَوْمَانِ بَعْدَهُ، وَالْمَعْدُودَاتُ: ثَلَاثَةُ أَيَّامٍ بَعْدَ النَّحْرِ، فَمَنْ تَعَجَّلَ فِي يَوْمَيْنِ فَلَا إِثْمَ عَلَيْهِ وَمَنْ تَأَخَّرَ فَلَا إِثْمَ عَلَيْهِ - وَبِهِ يَقُولُ مَالِكٌ.

قَالَ أَبُو مُحَمَّدٍ: مَا نَعْلَمُ لَهُ حُجَّةً إِلَّا تَعَلُّقَهُ بِابْنِ عُمَرَ، وَقَدْ رُوِّينَا عَنْ ابْنِ عُمَرَ خِلَافَ هَذَا، وَخَالَفَهُ ابْنُ عَبَّاسٍ، وَعَلِيٌّ، فَلَيْسَ التَّعَلُّقُ بِبَعْضِهِمْ أَوْلَى مِنْ بَعْضٍ.

وَاحْتَجَّ الْآخَرُونَ بِأَنْ قَالُوا: قَدْ فَرَّقَ اللَّهُ - تَعَالَى - بَيْنَ اسْمَيْهِمَا؟ قُلْنَا: نَعَمْ وَجَمَعَ بَيْنَ حُكْمَيْهِمَا فِي أَنَّهُ أَمَرَ بِذِكْرِهِ - عَزَّ وَجَلَّ - فَقَطْ وَذِكْرُ اللَّهِ - تَعَالَى - لَا يَجُوزُ أَنْ يُخَصَّ بِهِ يَوْمٌ دُونَ يَوْمٍ، وَكَذَلِكَ لَا يَجُوزُ أَنْ يُخَصَّ بِالنَّحْرِ لِلَّهِ - تَعَالَى - يَوْمٌ دُونَ يَوْمٍ، لِأَنَّهُ فِعْلُ خَيْرٍ وَبِرٍّ إِلَّا بِنَصٍّ، وَلَا نَصَّ فِي تَخْصِيصِ ذَلِكَ - وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

## [مَسْأَلَةُ حَجِّ الصَّبِيِّ]

٩١٥ - مَسْأَلَةٌ:

وَنَسْتَحِبُّ الْحَجَّ بِالصَّبِيِّ وَإِنْ كَانَ صَغِيرًا جِدًّا أَوْ كَبِيرًا وَلَهُ حَجٌّ وَأَجْرٌ، وَهُوَ تَطَوُّعٌ، وَلِلَّذِي يَحُجُّ بِهِ أَجْرٌ، وَيَجْتَنِبُ مَا يَجْتَنِبُ الْمُحْرِمُ، وَلَا شَيْءَ عَلَيْهِ إِنْ وَاقَعَ مِنْ ذَلِكَ مَا لَا يَحِلُّ لَهُ، وَيُطَافُ بِهِ، وَيُرْمَى عَنْهُ الْجِمَارُ إِنْ لَمْ يُطِقْ ذَلِكَ. وَيُجْزِي الطَّائِفَ بِهِ طَوَافُهُ ذَلِكَ عَنْ نَفْسِهِ.

is the first day." We have been narrated through the chain of Muḥammad ibn al-Muthannā → Ḥammād ibn ʿĪsā al-Juhanī → Jaʿfar ibn Muḥammad → his father → ʿAlī ibn Abī Ṭālib, who said about the "counted days": "They are the Days of Tashrīq [the three days following Eid al-Adha]."

L15180 We have been narrated through the chain of Yaḥyā ibn Saʿīd al-Qaṭṭān: from Ibn ʿAjlān, from Nāfiʿ, from Ibn ʿUmar, that he would say: The known days are the Day of Sacrifice and two days following it, and the counted days are three days after the Sacrifice. Whoever hastens in two days incurs no sin, nor does whoever delays. This is the view of Mālik.[16]

L15181 Abu Muhammad said: We do not know any proof for him except his reliance on Ibn Umar. And it has been narrated to us from Ibn Umar contrary to this, and Ibn Abbas and Ali opposed him. Thus, adhering to some of them is no more preferable than adhering to others.

L15182 The others argued by stating: "Did Allah (Exalted is He) not distinguish between their two names?" We replied: "Yes, but He united their rulings in that He commanded only the remembrance of Him (Exalted and Majestic). The remembrance of Allah (Exalted is He) must not be restricted to certain days to the exclusion of others. Likewise, it is impermissible to restrict sacrificing for Allah (Exalted is He) to certain days to the exclusion of others, as it is an act of goodness and righteousness—unless by a text, and there is no text specifying that—and with Allah (Exalted is He) is success."

L15183 ## Issue: The Hajj of the Male Child

L15184 915 – Issue:

L15185 We recommend performing Hajj with a child, even if he is very young or old, and he has a valid Hajj and reward. This is a voluntary act, and the one who facilitates his Hajj receives reward. The child must avoid what a pilgrim in ihram avoids, though no blame falls on him if he commits prohibited acts. He is carried during circumambulation if needed, and pebbles are thrown on his

[16] **Qur'an references (L15180):** Qur'an 2:203 (Al-Baqarah).

behalf if incapable. The circumambulation performed by the one performing it with him on his behalf suffices for the performer's own obligation.

وَكَذَلِكَ يَنْبَغِي أَنْ يُدَرَّبُوا وَيُعَلَّمُوا الشَّرَائِعَ مِنَ الصَّلَاةِ، وَالصَّوْمِ إِذَا أَطَاقُوا ذَلِكَ وَيُجَنَّبُوا الْحَرَامَ كُلَّهُ، وَاللَّهُ - تَعَالَى - يَتَفَضَّلُ بِأَنْ يَأْجُرَهُمْ، وَلَا يَكْتُبُ عَلَيْهِمْ إِثْمًا حَتَّى يَبْلُغُوا.

L15186 Similarly, it is proper that they be trained and taught the religious injunctions such as prayer and fasting once they are capable of bearing it, and be kept away from all that is forbidden. Allah the Exalted graciously bestows reward upon them and does not record sin against them until they attain maturity.

رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نَا سُفْيَانُ عَنْ إِبْرَاهِيمَ بْنِ عُقْبَةَ عَنْ كُرَيْبٍ مَوْلَى ابْنِ عَبَّاسٍ عَنْ ابْنِ عَبَّاسٍ «أَنَّ امْرَأَةً رَفَعَتْ إِلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - صَبِيًّا فَقَالَتْ: أَلِهَذَا حَجٌّ؟ قَالَ: نَعَمْ وَلَكِ أَجْرٌ» .

L15187 It was narrated to us through the chain of Muslim: Abu Bakr ibn Abi Shaybah narrated to us, from Sufyan, from Ibrahim ibn Uqbah, from Kuraib—the freed slave of Ibn Abbas—from Ibn Abbas: "A woman presented a child to the Messenger of Allah (peace and blessings of Allah be upon him) and said: 'Is there Hajj for this child?' He replied: 'Yes, and you will have a reward.'"

قَالَ أَبُو مُحَمَّدٍ: وَالْحَجُّ عَمَلٌ حَسَنٌ، وَقَالَ اللَّهُ - تَعَالَى -: {إِنَّا لا نُضِيعُ أَجْرَ مَنْ أَحْسَنَ عَمَلا} [الكهف: ٣٠] .

L15188 Abu Muhammad said: "The Hajj is a virtuous act, for Allah, Exalted is He, says: 'Indeed, We do not let the reward of those who excel in righteous deeds go to waste' [al-Kahf 18:30]."[17]

فَإِنْ قِيلَ: لَا نِيَّةَ لِلصَّبِيِّ؟ قُلْنَا: نَعَمْ، وَلَا تَلْزَمُهُ إِنَّمَا تَلْزَمُ النِّيَّةُ الْمُخَاطَبَ الْمَأْمُورَ الْمُكَلَّفَ، وَالصَّبِيُّ لَيْسَ مُخَاطَبًا وَلَا مُكَلَّفًا وَلَا مَأْمُورًا وَإِنَّمَا أَجْرُهُ تَفَضُّلٌ مِنَ اللَّهِ - تَعَالَى - مُجَرَّدٌ عَلَيْهِ كَمَا يَتَفَضَّلُ عَلَى الْمَيِّتِ بَعْدَ مَوْتِهِ وَلَا نِيَّةَ لَهُ وَلَا عَمَلَ بِأَنْ يَأْجُرَهُ بِدُعَاءِ ابْنِهِ لَهُ بَعْدَهُ وَبِمَا يَعْمَلُهُ غَيْرُهُ عَنْهُ مِنْ حَجٍّ، أَوْ صِيَامٍ، أَوْ صَدَقَةٍ، وَلَا فَرْقَ، وَيَفْعَلُ اللَّهُ مَا يَشَاءُ.

L15189–15191 If it is said: "Does the minor have no intention?" We respond: "Yes [they have none], and it is not incumbent upon them. The intention is only incumbent upon the legally accountable person obligated by the command." The legally responsible person is addressed and obligated, whereas the prepubescent boy is neither addressed, nor obligated, nor commanded. Rather, his reward is a mere favor from Allah—the Exalted—bestowed solely upon him, just as He bestows favor upon the deceased after death. He has no intention of his own or action of his own that would merit reward through his son's supplication for him after his death, nor through what others perform on his behalf, such as Ḥajj, fasting, or charity, for there is no difference. And Allah does whatever He wills.

وَإِذَا الصَّبِيُّ قَدْ رُفِعَ عَنْهُ الْقَلَمُ فَلَا جَزَاءَ عَلَيْهِ فِي صَيْدٍ إِنْ قَتَلَهُ فِي الْحَرَمِ أَوْ فِي إِحْرَامِهِ، وَلَا فِي حَلْقِ رَأْسِهِ لِأَذًى بِهِ، وَلَا عَنْ تَمَتُّعِهِ، وَلَا لِإِحْصَارِهِ، لِأَنَّهُ غَيْرُ مُخَاطَبٍ بِشَيْءٍ مِنْ ذَلِكَ، وَلَوْ لَزِمَهُ هَدْيٌ لَلَزِمَهُ أَنْ يُعَوِّضَ مِنْهُ الصِّيَامَ وَهُوَ فِي الْمُتْعَةِ، وَحَلْقِ الرَّأْسِ،

L15192 And when the pen is lifted from the minor, there is no expiation upon him for killing a game animal within the sacred precinct or during his state of consecration, nor for shaving his head due to harm he is suffering from such as lice or injury, nor for his Tamattu', nor for his being prevented from

[17] **Qur'an references (L15188):** Qur'an 18:30 (Al-Kahf).

completing Hajj. This is because he is not subject to legal rulings regarding any of that. If a sacrifice were required of him, he would have to substitute fasting in the cases of Tamattu‘, shaving the head, or the expiation for game animals, but the scholars do not affirm this ruling. His Hajj is not invalidated by any of what we have mentioned. Rather, he is rewarded for his own actions or those performed on his behalf, while for what he did not do, there is no sin upon him.

وَجَزَاءِ الصَّيْدِ، وَهُمْ لَا يَقُولُونَ هَذَا وَلَا يَفْسُدُ حَجُّهُ بِشَيْءٍ مِمَّا ذَكَرْنَا، إِنَّمَا هُوَ مَا عَمِلَ، أَوْ عُمِلَ بِهِ أُجِرَ، وَمَا لَمْ يَعْمَلْ فَلَا إِثْمَ عَلَيْهِ.

L15193 Children used to attend prayers with the Messenger of Allah—peace be upon him—as confirmed by numerous narrations: such as his leading Umamah bint Abi Waqqas in prayer, Ibn Abbas's presence with him during prayer, his hearing an infant's cry during prayer, and other instances. The circumambulation of one who carries another [e.g., a child] suffices for the carrier himself, for he is both circumambulating and carrying. These are two distinct acts, each with its own ruling, just as one may circumambulate while riding [an animal]—and there is no distinction [between the two cases].

وَقَدْ كَانَ الصِّبْيَانُ يَحْضُرُونَ الصَّلَاةَ مَعَ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ -، صَحَّتْ بِذَلِكَ آثَارٌ كَثِيرَةٌ: كَصَلَاتِهِ بِأُمَامَةَ بِنْتِ أَبِي وَقَّاصٍ، وَحُضُورِ ابْنِ عَبَّاسٍ مَعَهُ الصَّلَاةَ، وَسَمَاعِهِ بُكَاءَ الصَّبِيِّ فِي الصَّلَاةِ وَغَيْرِ ذَلِكَ، وَيُجْزِي الطَّائِفَ بِهِ طَوَافُهُ عَنْ نَفْسِهِ، لِأَنَّهُ طَائِفٌ وَحَامِلٌ، فَهُمَا عَمَلَانِ مُتَغَايِرَانِ لِكُلِّ وَاحِدٍ مِنْهُمَا حُكْمٌ، كَمَا هُوَ طَائِفٌ وَرَاكِبٌ، وَلَا فَرْقَ.

L15194 916 – Issue:

٩١٦ - مَسْأَلَةٌ:

L15195 If a minor reaches puberty while in the state of *ihrām*, he must renew his *ihrām* and commence the Hajj rites. If he misses Arafat or Muzdalifah, his Hajj is invalidated, and no sacrificial offering is required of him nor anything else.

فَإِنْ بَلَغَ الصَّبِيُّ فِي حَالِ إِحْرَامِهِ لَزِمَهُ أَنْ يُجَدِّدَ إِحْرَامًا وَيَشْرَعَ فِي عَمَلِ الْحَجِّ، فَإِنْ فَاتَتْهُ عَرَفَةُ، أَوْ مُزْدَلِفَةُ، فَقَدْ فَاتَهُ الْحَجُّ وَلَا هَدْيَ عَلَيْهِ وَلَا شَيْءَ.

L15196 As for renewing his ihram, it is because he has been commanded to perform Hajj while being capable of it, making it incumbent upon him to initiate it, since his initial ihram was voluntary, and the obligatory act takes precedence over the voluntary.

أَمَّا تَجْدِيدُهُ الْإِحْرَامَ فَلِأَنَّهُ قَدْ صَارَ مَأْمُورًا بِالْحَجِّ وَهُوَ قَادِرٌ عَلَيْهِ فَلَزِمَهُ أَنْ يَبْتَدِئَهُ، لِأَنَّ إِحْرَامَهُ الْأَوَّلَ كَانَ تَطَوُّعًا وَالْفَرْضُ أَوْلَى مِنْ التَّطَوُّعِ.

L15197 **Issue: He performed Hajj and ʿUmrah, then apostatized, then embraced Islam.**

## [مَسْأَلَةٌ حَجَّ وَاعْتَمَرَ ثُمَّ ارْتَدَّ ثُمَّ أَسْلَمَ]

L15198 917 – Issue:

٩١٧ - مَسْأَلَةٌ:

L15199 Whoever performed Hajj and Umrah, then apostatized, then Allah—the Exalted—guided him and rescued him from the Fire, so he embraced Islam, is

not required to repeat the Hajj or the Umrah. This is the opinion of Al-Shāfiʿī and one of the two opinions of Al-Layth.

مَنْ حَجَّ وَاعْتَمَرَ، ثُمَّ ارْتَدَّ، ثُمَّ هَدَاهُ اللَّهُ - تَعَالَى - وَاسْتَنْقَذَهُ مِنَ النَّارِ فَأَسْلَمَ فَلَيْسَ عَلَيْهِ أَنْ يُعِيدَ الْحَجَّ وَلَا الْعُمْرَةَ - وَهُوَ قَوْلُ الشَّافِعِيِّ، وَأَحَدُ قَوْلَيْ اللَّيْثِ.

L15200 Abu Hanifah, Malik, and Abu Sulayman said: One must repeat the Hajj and Umrah. They cited as evidence the words of Allah - the Exalted -: "If you commit shirk, your deeds will surely be rendered void and you will surely be among the losers" (39:65). We know no other evidence for them besides this, nor do they possess any valid proof in it. For Allah - the Exalted - did not state therein: "If you commit shirk, the deeds you performed before shirk will be rendered void." This constitutes an impermissible addition to Allah's words. The Exalted merely informed that one's deeds become void after committing shirk if one also dies persisting in that shirk - not if one embraces Islam. This is undoubtedly true.[18]

وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ، وَأَبُو سُلَيْمَانَ: يُعِيدُ الْحَجَّ وَالْعُمْرَةَ، وَاحْتَجُّوا بِقَوْلِ اللَّهِ - تَعَالَى -: {لَئِنْ أَشْرَكْتَ لَيَحْبَطَنَّ عَمَلُكَ وَلَتَكُونَنَّ مِنَ الْخَاسِرِينَ} [الزمر: ٦٥] مَا نَعْلَمُ لَهُمْ حُجَّةً غَيْرَهَا، وَلَا حُجَّةَ لَهُمْ فِيهَا؛ لِأَنَّ اللَّهَ - تَعَالَى - لَمْ يَقُلْ فِيهَا: لَئِنْ أَشْرَكْتَ لَيَحْبَطَنَّ عَمَلُكَ الَّذِي عَمِلْتَ قَبْلَ أَنْ تُشْرِكَ، وَهَذِهِ زِيَادَةٌ عَلَى اللَّهِ - تَعَالَى - لَا تَجُوزُ، وَإِنَّمَا أَخْبَرَ - تَعَالَى - أَنَّهُ يَحْبَطُ عَمَلُهُ بَعْدَ الشِّرْكِ إِذَا مَاتَ أَيْضًا عَلَى شِرْكِهِ لَا إِذَا أَسْلَمَ وَهَذَا حَقٌّ بِلَا شَكٍّ.

L15201–15203 If a polytheist were to perform Hajj or ʿUmrah, or pray, or fast, or pay zakāh, none of those acts would be accepted from him. The obligatory ruling, and also—Allah's words in the verse: *And you will surely be among the losers* [Az-Zumar: 65] clarify that if the apostate returns to Islam, his prior deeds performed during his adherence to Islam are not invalidated at all. Rather, they remain recorded for him, and he will be rewarded for them with Paradise. This is because there is no disagreement among anyone in the Muslim community (Ummah)—neither they nor we—that when an apostate returns to Islam, he is not among the losers, but among those who profit, the successful, and the victorious.[19]

وَلَوْ حَجَّ مُشْرِكٌ أَوْ اعْتَمَرَ، أَوْ صَلَّى، أَوْ صَامَ، أَوْ زَكَّى، لَمْ يُجْزِهِ شَيْءٌ مِنْ ذَلِكَ عَنِ الْوَاجِبِ، وَأَيْضًا فَإِنَّ - قَوْله تَعَالَى - فِيهَا: {وَلَتَكُونَنَّ مِنَ الْخَاسِرِينَ} [الزمر: ٦٥] بَيَانُ أَنَّ الْمُرْتَدَّ إِذَا رَجَعَ إِلَى الْإِسْلَامِ لَمْ يَحْبَطْ مَا عَمِلَ قَبْلُ فِي إِسْلَامِهِ أَصْلًا بَلْ هُوَ مَكْتُوبٌ لَهُ وَمُجَازًى عَلَيْهِ بِالْجَنَّةِ؛ لِأَنَّهُ لَا خِلَافَ بَيْنَ أَحَدٍ مِنَ الْأُمَّةِ - لَا هُمْ وَلَا نَحْنُ - فِي أَنَّ الْمُرْتَدَّ إِذَا رَاجَعَ الْإِسْلَامَ لَيْسَ مِنَ الْخَاسِرِينَ، بَلْ مِنَ الْمُرْبِحِينَ الْمُفْلِحِينَ الْفَائِزِينَ.

L15204 It is established that the one whose deeds are rendered null is he who dies persisting in disbelief, whether having apostatized or not, and this person is undoubtedly among the losers. This does not apply to one who embraced Islam after disbelief or returned to Islam after his apostasy. Allah the Exalted says: {Whoever among you reverts from his religion and dies while a disbeliever - their deeds are rendered null} [Al-Baqarah 2:217]. Thus, the

فَصَحَّ أَنَّ الَّذِي يَحْبَطُ عَمَلُهُ هُوَ الْمَيِّتُ عَلَى كُفْرِهِ مُرْتَدًّا أَوْ غَيْرَ مُرْتَدٍّ، وَهَذَا هُوَ مِنَ الْخَاسِرِينَ بِلَا شَكٍّ، لَا مَنْ أَسْلَمَ بَعْدَ كُفْرِهِ أَوْ رَاجَعَ الْإِسْلَامَ بَعْدَ رِدَّتِهِ، وَقَالَ - تَعَالَى - {وَمَنْ يَرْتَدِدْ مِنْكُمْ عَنْ دِينِهِ فَيَمُتْ وَهُوَ كَافِرٌ فَأُولَئِكَ حَبِطَتْ أَعْمَالُهُمْ} [البقرة: ٢١٧] فَصَحَّ نَصُّ قَوْلِنَا: مِنْ أَنَّهُ لَا يَحْبَطُ عَمَلُهُ إِنْ ارْتَدَّ إِلَّا بِأَنْ يَمُوتَ وَهُوَ كَافِرٌ.

[18] **Qur'an references (L15200):** Qur'an 39:65 (Az-Zumar).
[19] **Qur'an references (L15201):** Qur'an 39:65 (Az-Zumar).

text of our statement is validated: that one's deeds are not rendered null by apostasy unless he dies while disbelieving.[20]

L15205 We have found Allah, the Most High, says: {I will never let the deed of any worker among you be lost, whether male or female} [Quran 3:195].[21]

L15206 And He—the Most High—said: "So whoever does the weight of a speck of good will see it" (Az-Zalzalah 7).[22]

L15207 And this is a generality that it is not permissible to particularize.

L15208 Thus, it is established that if he reverts to Islam, his Hajj and Umrah will be regarded as valid, and they will not be lost for him.

L15209 And it has been narrated to us through chains like the sun—from Ṣāliḥ ibn Kaysān, Yūnus, and Maʿmar, all of them from al-Zuhrī.

L15210 We have also been narrated from Hisham ibn Urwah in meaning, then Az-Zuhri and Hisham agreed—both transmitting from Urwah, with the wording belonging to Az-Zuhri. He said: Urwah ibn Az-Zubayr narrated to us that Hakim ibn Hizam informed him he said to Allah's Messenger - peace be upon him: "O Messenger of Allah, tell me about acts I performed as devotion during the pre-Islamic era—charity, emancipating slaves, or upholding kinship ties. Is there reward for them?" Allah's Messenger - peace be upon him - responded: "You have embraced Islam with the good you forwarded." Abu Muhammad said: Thus it is confirmed that when an apostate re-embraces Islam, or a disbeliever who never previously embraced Islam accepts it, they have entered Islam with the good they formerly accomplished. Moreover, when the apostate had performed Hajj while he was a Muslim, he fulfilled his obligation—what he was ordered and obligated to do as commanded. Therefore, he has now embraced Islam upon it, and it remains valid for him as originally established.

L15211–15213 As for the disbeliever performing Hajj like the Sabians who consider the Hajj

وَوَجَدْنَا اللَّهَ - تَعَالَى - يَقُولُ {أَنِّي لا أُضِيعُ عَمَلَ عَامِلٍ مِنْكُمْ مِنْ ذَكَرٍ أَوْ أُنْثَى} [آل عمران: ١٩٥] .

وَقَالَ - تَعَالَى - {فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ} [الزلزلة: ٧] .

وَهَذَا عُمُومٌ لَا يَجُوزُ تَخْصِيصُهُ.

فَصَحَّ أَنَّ حَجَّهُ وَعُمْرَتَهُ إذَا رَاجَعَ الْإِسْلَامَ سَيَرَاهُمَا وَلَا يَضِيعَانِ لَهُ.

وَرُوِّينَا مِنْ طُرُقٍ كَالشَّمْسِ عَنْ صَالِحِ بْنِ كَيْسَانَ، وَيُونُسَ، وَمَعْمَرٍ كُلُّهُمْ عَنْ الزُّهْرِيِّ.

وَرُوِّينَا أَيْضًا عَنْ هِشَامِ بْنِ عُرْوَةَ الْمَعْنَى، ثُمَّ اتَّفَقَ الزُّهْرِيُّ، وَهِشَامٌ كِلَاهُمَا عَنْ عُرْوَةَ وَاللَّفْظُ لِلزُّهْرِيِّ، قَالَ: نَا عُرْوَةُ بْنُ الزُّبَيْرِ «أَنَّ حَكِيمَ بْنَ حِزَامٍ أَخْبَرَهُ أَنَّهُ قَالَ لِرَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ -: أَيْ رَسُولَ اللَّهِ أَرَأَيْتَ أُمُورًا كُنْتُ أَتَحَنَّثُ بِهَا فِي الْجَاهِلِيَّةِ مِنْ صَدَقَةٍ، أَوْ عَتَاقَةٍ، أَوْ صِلَةِ رَحِمٍ، أَفِيهَا أَجْرٌ؟ فَقَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -: أَسْلَمْتَ عَلَى مَا أَسْلَفْتَ مِنْ خَيْرٍ» ، قَالَ أَبُو مُحَمَّدٍ: فَصَحَّ أَنَّ الْمُرْتَدَّ إذَا أَسْلَمَ، وَالْكَافِرُ الَّذِي لَمْ يَكُنْ أَسْلَمَ قَطُّ، إذَا أَسْلَمَا فَقَدْ أَسْلَمَا عَلَى مَا أَسْلَفَا مِنْ الْخَيْرِ، وَقَدْ كَانَ الْمُرْتَدُّ إذَا حَجَّ وَهُوَ مُسْلِمٌ قَدْ أَدَّى مَا أُمِرَ بِهِ، وَمَا كُلِّفَ كَمَا أُمِرَ بِهِ فَقَدْ أَسْلَمَ الْآنَ عَلَيْهِ، فَهُوَ لَهُ كَمَا كَانَ.

وَأَمَّا الْكَافِرُ يَحُجُّ كَالصَّابِئِينَ الَّذِينَ يَرَوْنَ الْحَجَّ إلَى مَكَّةَ فِي دِينِهِمْ، فَإِنْ أَسْلَمَ بَعْدَ ذَلِكَ لَمْ يُجْزِهِ؛ لِأَنَّهُ لَمْ يُؤَدِّهِ كَمَا أَمَرَ اللَّهُ - تَعَالَى - بِهِ؛ لِأَنَّ مِنْ فَرْضِ الْحَجِّ وَسَائِرِ الشَّرَائِعِ

[20] **Qur'an references (L15204):** Qur'an 2:217 (Al-Baqarah).
[21] **Qur'an references (L15205):** Qur'an 3:195 (Ali 'Imran).
[22] **Qur'an references (L15206):** Qur'an 99:7 (Az-Zalzalah).

to Mecca as part of their religion, if he embraces Islam after... That did not suffice him because he did not perform it as Allah, the Exalted, commanded. For among the obligations of Hajj and all legislations in their entirety is that they are not performed except as the Messenger of Allah, Muhammad ibn Abdullah (peace be upon him), commanded in the religion he brought—a religion other than which Allah, the Exalted, accepts none. He (peace be upon him) said: "Whoever does a deed not in accordance with what we have commanded, it is rejected."[23]

كُلِّهَا أَنْ لَا تُؤَدَّى إِلَّا كَمَا أَمَرَ بِهَا رَسُولُ اللَّهِ مُحَمَّدُ بْنُ عَبْدِ اللَّهِ - عَلَيْهِ السَّلَامُ - فِي الدِّينِ الَّذِي جَاءَ بِهِ، الَّذِي لَا يَقْبَلُ اللَّهُ - تَعَالَى - دِينًا غَيْرَهُ، وَقَالَ - عَلَيْهِ السَّلَامُ -: «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» .

L15214 The Ṣābiʾ only performed ḥajj as commanded by Yūrasf or Hermes, so it does not suffice him—and by Allah, the Exalted, success is granted. It becomes obligatory for one who invalidates his ḥajj through apostasy to invalidate his being muhsan, his triple divorce, his sales, his purchases, and his gifts given during his time in Islam. Yet they do not hold this opinion, thus the invalidity of their opinion becomes evident—and by Allah, the Exalted, we are supported.

وَالصَّابِئُ إِنَّمَا حَجَّ كَمَا أَمَرَهُ يوراسف، أَوْ هُرْمُسُ فَلَا يُجْزِئُهُ - وَبِاللَّهِ - تَعَالَى - التَّوْفِيقُ. وَيَلْزَمُ مَنْ أَسْقَطَ حَجَّهُ بِرِدَّتِهِ أَنْ يُسْقِطَ إِحْصَانَهُ، وَطَلَاقَهُ الثَّلَاثَ، وَبَيْعَهُ، وَابْتِيَاعَهُ، وَعَطَايَاهُ الَّتِي كَانَتْ فِي الْإِسْلَامِ، وَهُمْ لَا يَقُولُونَ بِهَذَا، فَظَهَرَ فَسَادُ قَوْلِهِمْ - وَبِاللَّهِ - تَعَالَى - نَتَأَيَّدُ.

L15215 ## The Issue of Found Property in the Sacred Precinct

## [مَسْأَلَةُ لُقَطَةِ الْحَرَمِ]

L15216 918: Issue

٩١٨ - مَسْأَلَةٌ:

L15217 It is not permissible to take possession of a lost item within the sacred precincts of Mecca, nor the lost item of one who has entered the state of consecration (iḥrām) for Hajj or Umrah, from the moment they assume iḥrām until they complete all the rites of their Hajj.

وَلَا تَحِلُّ لُقَطَةٌ فِي حَرَمِ مَكَّةَ، وَلَا لُقَطَةُ مَنْ أَحْرَمَ بِحَجٍّ، أَوْ عُمْرَةٍ، مُذْ يُحْرِمُ إِلَى أَنْ يُتِمَّ جَمِيعَ عَمَلِ حَجِّهِ.

L15218 Except for one who publicly announces it indefinitely; its declaration is not restricted to a year, neither more nor less. If the finder conclusively and with certainty despairs of identifying its owner, it becomes permissible for them at that point, unlike other lost items which become permissible after a year.

إِلَّا لِمَنْ يَنْشُدُهَا أَبَدًا لَا يُحَدُّ تَعْرِيفُهَا بِعَامٍ وَلَا بِأَكْثَرَ وَلَا بِأَقَلَّ، فَإِنْ يَئِسَ مِنْ مَعْرِفَةِ صَاحِبِهَا قَطْعًا مُتَيَقِّنًا حَلَّتْ حِينَئِذٍ لِوَاجِدِهَا، بِخِلَافِ سَائِرِ اللُّقَطَاتِ الَّتِي تَحِلُّ لَهُ بَعْدَ الْعَامِ.

L15219 It has been narrated to us through the chain of transmission from Muslim: Zuhayr ibn Harb narrated to us, Al-Walid ibn Muslim narrated to us, Al-

رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا زُهَيْرِ بْنِ حَرْبٍ نَا الْوَلِيدُ بْنُ مُسْلِمٍ نَا الْأَوْزَاعِيُّ نَا يَحْيَى بْنُ أَبِي كَثِيرٍ حَدَّثَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ حَدَّثَنِي أَبُو هُرَيْرَةَ " أَنَّ رَسُولَ

[23] **Hadith references (L15211):** Sahih Muslim 1718b; Riyad as-Salihin 1647; Riyad as-Salihin 169.

Awzāʿī narrated to us, Yahyā ibn Abī Kathīr reported to me, Abū Salama ibn ʿAbd al-Raḥmān ibn ʿAwf reported to me, Abū Hurayrah reported that the Messenger of Allah—peace be upon him—said: “Allah prevented the Elephant from reaching Mecca and entrusted His Messenger and the believers with authority over it. It was not lawful for anyone before me, and Allah made it lawful for me only for an hour of daylight. It will never be lawful for anyone after me. Therefore, its game must not be driven away, its thorny plants must not be cut, and its lost property is not lawful except for one who publicly proclaims it.” He mentioned the remainder of the hadith.

L15220 Abū Muḥammad said: This is none other than an attribute of the Ḥaram, not the Ḥill.

L15221 Through Al-Bukhari’s chain: Uthman ibn Abi Shaybah narrated to us, from Jarir, from Mansur, from Mujahid, from Tawus, from Ibn Abbas, that the Messenger of God (PBUH) said on the Day of Mecca’s conquest: “This is a city that God declared inviolable when He created the heavens and the earth. It remains inviolable by God’s sanctity until the Day of Resurrection.” Then he mentioned some words, in which he stated: “None may pick up its lost item except one who makes public announcement of it,” and he related the hadith. The Prophet permitted it for the public crier and mandated its public declaration without restriction.[24]

L15222–15223 He, peace be upon him, said: “Indeed, your blood and your wealth are forbidden to you.” Found property does not belong to the one who finds it; thus, it is forbidden for him.

L15224 The purpose of publicizing is solely to enable the discovery of one who can identify it or its owner. This ruling remains binding until one loses all hope with certainty of ascertaining ownership. At this point, publicizing ceases to be obligatory - for it is invalid to publicize what is confirmed to be unrecognizable. When the obligation of publicizing ceases, the item becomes permissible for its discoverer at that time by the explicit textual ruling.

L15225 And through the chain of Abī Dāwūd: From Aḥmad ibn Ṣāliḥ, from Ibn

[24] **Qur’an references (L15221):** Qur’an 9:36 (At-Tawbah).

اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «إِنَّ اللَّهَ حَبَسَ عَنْ مَكَّةَ الْفِيلَ، وَسَلَّطَ عَلَيْهَا رَسُولَهُ وَالْمُؤْمِنِينَ، وَإِنَّهَا لَمْ تَحِلَّ لِأَحَدٍ قَبْلِي، وَإِنَّمَا أُحِلَّتْ لِي سَاعَةً مِنْ نَهَارٍ، وَإِنَّهَا لَنْ تَحِلَّ لِأَحَدٍ بَعْدِي، فَلَا يُنَفَّرُ صَيْدُهَا وَلَا يُخْتَلَى شَوْكُهَا، وَلَا تَحِلُّ سَاقِطَتُهَا إِلَّا لِمُنْشِدٍ» وَذَكَرَ بَاقِيَ الْحَدِيثِ.

قَالَ أَبُو مُحَمَّدٍ: لَيْسَتْ هَذِهِ إِلَّا صِفَةَ الْحَرَمِ لَا الْحِلِّ.

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ نَا جَرِيرٌ عَنْ مَنْصُورٍ عَنْ مُجَاهِدٍ عَنْ طَاوُسٍ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - قَالَ يَوْمَ فَتْحِ مَكَّةَ: هَذَا بَلَدٌ حَرَّمَهُ اللَّهُ يَوْمَ خَلَقَ السَّمَاوَاتِ وَالْأَرْضَ وَهُوَ حَرَامٌ بِحُرْمَةِ اللَّهِ إِلَى يَوْمِ الْقِيَامَةِ» ثُمَّ ذَكَرَ كَلَامًا وَفِيهِ «فَلَا يَلْتَقِطُ لُقَطَتَهُ إِلَّا مَنْ عَرَّفَهَا» وَذَكَرَ الْحَدِيثَ، فَأَحَلَّهَا - عَلَيْهِ السَّلَامُ - لِلْمُنْشِدِ وَأَوْجَبَ تَعْرِيفَهَا بِغَيْرِ تَحْدِيدٍ.

وَقَالَ - عَلَيْهِ السَّلَامُ -: " إِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ ". وَاللُّقَطَةُ هِيَ غَيْرُ مَالِ الْمُلْتَقِطِ فَهِيَ عَلَيْهِ حَرَامٌ.

وَالتَّعْرِيفُ إنَّمَا هُوَ لِيُوجَدَ مَنْ يَعْرِفُهَا أَوْ صَاحِبُهَا فَهَذَا الْحُكْمُ لَازِمٌ، فَإِذَا يَئِسَ بِيَقِينٍ عَنْ مَعْرِفَةِ صَاحِبِهَا سَقَطَ التَّعْرِيفُ، إذْ مِنْ الْبَاطِلِ تَعْرِيفُ مَا يُوقَنُ أَنَّهُ لَا يُعْرَفُ، وَإِذَا سَقَطَ التَّعْرِيفُ حَلَّتْ حِينَئِذٍ بِالنَّصِّ لِمُنْشِدِهَا.

Wahb, from ʿAmr ibn al-Ḥārith, from Bukayr—who is Ibn ʿAbd Allāh ibn al-Ashajj—from Yaḥyā ibn ʿAbd al-Raḥmān ibn Ḥāṭib, from ʿAbd al-Raḥmān ibn ʿUthmān al-Taymī, that the Messenger of Allah—peace be upon him—prohibited taking the lost property of a pilgrim.

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا أَحْمَدُ بْنُ صَالِحٍ نَا ابْنُ وَهْبٍ نَا عَمْرُو بْنُ الْحَارِثِ عَنْ بُكَيْرٍ هُوَ ابْنُ عَبْدِ اللَّهِ بْنِ الْأَشَجِّ - عَنْ يَحْيَى بْنِ عَبْدِ الرَّحْمَنِ بْنِ حَاطِبٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ عُثْمَانَ التَّيْمِيِّ " أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - «نَهَى عَنْ لُقَطَةِ الْحَاجِّ»

L15226 Abū Muḥammad said: The pilgrim (ḥājj) is one actively performing the acts of Hajj. As for before commencing these acts, he is merely intending Hajj and is not yet considered a pilgrim. After completing the acts of Hajj, he has completed Hajj but is no longer a pilgrim. He is only called a pilgrim metonymically, just as the fasting person, the praying person, or the mujahid are only described as such while actively engaged in those acts. The same principle applies to all such matters.

قَالَ أَبُو مُحَمَّدٍ: الْحَاجُّ هُوَ مَنْ هُوَ فِي عَمَلِ الْحَجِّ، وَأَمَّا قَبْلَ أَنْ يَشْرَعَ فِي الْعَمَلِ فَهُوَ مُرِيدٌ لِلْحَجِّ وَلَيْسَ حَاجًّا بَعْدُ، وَأَمَّا بَعْدَ إتْمَامِهِ عَمَلَ الْحَجِّ فَقَدْ حَجَّ وَلَيْسَ حَاجًّا الْآنَ، وَإِنَّمَا سُمِّيَ حَاجًّا مَجَازًا، كَمَا أَنَّ الصَّائِمَ، أَوْ الْمُصَلِّيَ، أَوْ الْمُجَاهِدَ، إنَّمَا هُوَ صَائِمٌ، وَمُصَلٍّ، وَمُجَاهِدٌ، مَا دَامَ فِي عَمَلِ ذَلِكَ، وَكَذَلِكَ كُلُّ ذَلِكَ.

L15227 His prohibition (peace be upon him) regarding a lost item can only be understood in one of two ways, with no third option: either he prohibited picking it up or prohibited claiming ownership of it. As for picking it up, Allah the Exalted says: {And cooperate in righteousness and piety} [5:2]. The Prophet (peace be upon him) also prohibited the waste of wealth. Leaving it would unquestionably amount to wasting it, while safeguarding it is cooperation in righteousness and piety.[25]

وَنَهْيُهُ - عَلَيْهِ السَّلَامُ - عَنْ لُقَطَةٍ لَا يَخْلُو مِنْ أَحَدِ وَجْهَيْنِ لَا ثَالِثَ لَهُمَا، إمَّا أَنْ يَكُونَ نَهَى - عَلَيْهِ السَّلَامُ - عَنْ أَخْذِهَا، أَوْ نَهَى عَنْ تَمَلُّكِهَا، فَأَمَّا أَخْذُهَا فَقَدْ قَالَ - تَعَالَى -: {وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى} [المائدة: ٢] وَنَهَى - عَلَيْهِ السَّلَامُ - عَنْ إضَاعَةِ الْمَالِ، وَتَرْكُهَا إضَاعَةٌ لَهَا بِلَا شَكٍّ، وَحِفْظُهَا تَعَاوُنٌ عَلَى الْبِرِّ وَالتَّقْوَى.

L15228 Thus, it is established that the Prophet, peace be upon him, only forbade owning them. Moreover, he, peace be upon him, did not forbid preserving them nor identifying them; rather, he prohibited the objects themselves specifically. This is the explicit text of the hadith.

فَصَحَّ أَنَّهُ إنَّمَا نَهَى - عَلَيْهِ السَّلَامُ - عَنْ تَمَلُّكِهَا وَأَيْضًا فَإِنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يَنْهَ عَنْ حِفْظِهَا وَلَا عَنْ تَعْرِيفِهَا، وَإِنَّمَا نَهَى عَنْهَا بِعَيْنِهَا، هَذَا نَصُّ الْحَدِيثِ.

L15229 It is correct that He prohibited ownership only when one has despaired of identifying its owner with certainty. Thus, any property whose owner is unknown belongs to Allah (Exalted is He), then [its use] lies in the public interests of His servants. The finder—being one of them and holding it—is most entitled to it. He may not extend his claim to others without evidence. The ruling for the performer of *ʿUmrah* equates to that of the *Ḥajj* pilgrim, in accordance with the Prophet's statement (peace be upon him): **"*ʿUmrah*

فَصَحَّ أَنَّهُ إنَّمَا نَهَى عَنْ تَمَلُّكِهَا فَإِذَا يَئِسَ عَنْ مَعْرِفَةِ صَاحِبِهَا بِيَقِينٍ فَكُلُّ مَالٍ لَا يُعْرَفُ صَاحِبُهُ فَهُوَ لِلَّهِ - تَعَالَى -، ثُمَّ فِي مَصَالِحِ عِبَادِهِ، وَالْمُلْتَقِطُ أَحَدُهُمْ وَهِيَ فِي يَدِهِ فَهُوَ أَحَقُّ بِهَا، وَلَا يَتَعَدَّى بِهِ إلَى غَيْرِهِ إلَّا بِبُرْهَانٍ، وَحُكْمُ الْمُعْتَمِرِ كَحُكْمِ الْحَاجِّ لِقَوْلِهِ - عَلَيْهِ السَّلَامُ - «دَخَلَتْ الْعُمْرَةُ فِي الْحَجِّ إلَى يَوْمِ الْقِيَامَةِ» وَبِاَللَّهِ - تَعَالَى - التَّوْفِيقُ.

[25] **Qur'an references (L15227):** Qur'an 5:2 (Al-Ma'idah).

is incorporated into *Ḥajj* until the Day of Resurrection."** And success is from Allah alone.

## A juristic point: Mecca is the best of Allah's lands.

Issue:

Makkah is the best of Allah's lands—Exalted is He—we mean the Haram alone and only the area designated as ʿArafat.

And after it is the city of the Prophet—peace be upon him—by which we mean its sacred precinct alone.

Then Bayt al-Maqdis—by which we mean the mosque alone—this is the opinion of the majority of scholars.

Mālik said: Madīnah is superior to Makkah, and those who emulate him cited authentic reports as evidence.

Among them is his statement, peace be upon him: "Indeed, Abraham declared Mecca inviolable and supplicated for it, and I have declared Medina inviolable just as Abraham declared Mecca inviolable. And I have supplicated for its ṣāʿ and mudd with a supplication like that which Abraham supplicated with for the people of Mecca."

Abu Muhammad said: There is no proof for them in this, because it contains no evidence at all of Medina's superiority over Mecca in the first place. Rather, it only indicates that he—peace be upon him—made it inviolable as Ibrahim made Mecca inviolable, and prayed for it in the same manner Ibrahim prayed for Mecca, nothing more. This is true. He—peace be upon him—also prayed for all Muslims, just as he prayed for Abu Bakr, Umar, and his companions—may Allah be pleased with them. Does this imply our superiority over them, or our equality in merit? No rational person would make such a claim.

He, peace be upon him, forbade bloodshed, [violations of] honor, and [misappropriation of] wealth, and there is no evidence of virtue in that. They cited another authentic report: that he, peace be upon him, used to say: "O

## [مَسْأَلَةٌ مَكَّةُ أَفْضَلُ بِلَادِ اللَّهِ]

مَسْأَلَةٌ:

وَمَكَّةُ أَفْضَلُ بِلَادِ اللَّهِ - تَعَالَى -، نَعْنِي الْحَرَمَ وَحْدَهُ وَمَا وَقَعَ عَلَيْهِ اسْمُ عَرَفَاتٍ فَقَطْ.

وَبَعْدَهَا مَدِينَةُ النَّبِيِّ - عَلَيْهِ السَّلَامُ - نَعْنِي حَرَمَهَا وَحْدَهُ.

ثُمَّ بَيْتُ الْمَقْدِسِ، نَعْنِي الْمَسْجِدَ وَحْدَهُ - هَذَا قَوْلُ جُمْهُورِ الْعُلَمَاءِ.

وَقَالَ مَالِكٌ: الْمَدِينَةُ أَفْضَلُ مِنْ مَكَّةَ، وَاحْتَجَّ مُقَلِّدُوهُ بِأَخْبَارٍ ثَابِتَةٍ.

مِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «إنَّ إبْرَاهِيمَ حَرَّمَ مَكَّةَ وَدَعَا لَهَا، وَإِنِّي حَرَّمْتُ الْمَدِينَةَ كَمَا حَرَّمَ إبْرَاهِيمُ مَكَّةَ، وَإِنِّي دَعَوْتُ فِي صَاعِهَا وَمُدِّهَا بِمِثْلِ مَا دَعَا بِهِ إبْرَاهِيمُ لِأَهْلِ مَكَّةَ».

قَالَ أَبُو مُحَمَّد: هَذَا لَا حُجَّةَ لَهُمْ فِيهِ؛ لِأَنَّهُ لَا دَلِيلَ فِيهِ عَلَى فَضْلِ الْمَدِينَةِ عَلَى مَكَّةَ أَصْلًا، وَإِنَّمَا فِيهِ: أَنَّهُ - عَلَيْهِ السَّلَامُ - حَرَّمَهَا كَمَا حَرَّمَ إبْرَاهِيمُ مَكَّةَ وَدَعَا لَهَا كَمَا دَعَا إبْرَاهِيمُ لِمَكَّةَ فَقَطْ، وَهَذَا حَقٌّ، وَقَدْ دَعَا - عَلَيْهِ السَّلَامُ - لِلْمُسْلِمِينَ كُلِّهِمْ كَمَا دَعَا لِأَبِي بَكْرٍ، وَعُمَرَ، وَلِأَصْحَابِهِ - رَضِيَ اللَّهُ عَنْهُمْ - فَهَلْ فِي ذَلِكَ دَلِيلٌ عَلَى فَضْلِنَا عَلَيْهِمْ أَوْ عَلَى مُسَاوَاتِنَا فِي الْفَضْلِ؟ هَذَا مَا لَا يَقُولُهُ ذُو عَقْلٍ.

وَقَدْ حَرَّمَ - عَلَيْهِ السَّلَامُ -: الدِّمَاءَ، وَالْأَعْرَاضَ، وَالْأَمْوَالَ، وَلَيْسَ فِي ذَلِكَ دَلِيلٌ عَلَى فَضْلٍ؛ وَاحْتَجُّوا بِخَبَرٍ آخَرَ صَحِيحٍ: أَنَّهُ - عَلَيْهِ السَّلَامُ - كَانَ يَقُولُ: «اللَّهُمَّ بَارِكْ

Allah, bless us in our dates, bless us in Madinah, and bless us in our ṣāʿ and mudd. O Allah, indeed Abraham is Your servant, Your friend, and Your prophet, and he supplicated for Mecca. I supplicate to You for Madinah as he supplicated to You for Mecca, and the same again in addition to it."

L15240 And with an authentic report therein: "O Allah, grant Medina double the blessing You placed in Mecca." This contains no proof for Medina's superiority over Mecca, but rather a supplication for blessing upon Medina. Yes, indeed, by Allah, it is blessed. Yet Abraham supplicated for Mecca with what He, Exalted is He, revealed when He says: "So make the hearts of people incline toward them and provide them with fruits" (Ibrahim 14:37).[26]

L15241 There is no doubt that the fruits in Medina are more abundant than what is in Mecca.

L15242–15243 There is no doubt that the Prophet—peace be upon him—did not supplicate for Medina to attract people's hearts more than the inclination toward Mecca, for pilgrimage is to Mecca, not to Medina.

L15244 Thus, it is established that his supplication—peace be upon him—for Medina was equivalent to what Abraham made for Mecca, and a similar supplication was also made by him, specifically regarding sustenance from fruits. This does not relate to superiority in any respect.

L15245 Among them is his statement—peace be upon him—: "Medina is like a blacksmith's bellows: it expels its impurities while its goodness becomes pure. Indeed, it expels people just as the blacksmith's bellows expel the dross of iron." This contains no proof of its superiority over Mecca, for this report applies only to a specific period rather than all times, to particular people rather than all mankind, and to specific instances rather than general ones.

L15246 The proof of this is that he—peace be upon him—speaks nothing but the truth, and whoever condones falsehood about the Prophet—peace be upon him—is a disbeliever. Allah, the Exalted, says: *"Among the people of Medina

[26] **Qur'an references (L15240):** Qur'an 14:37 (Ibrahim).

لَنَا فِي ثَمَرِنَا وَبَارِكْ لَنَا فِي مَدِينَتِنَا وَبَارِكْ لَنَا فِي صَاعِنَا وَمُدِّنَا، اللَّهُمَّ إِنَّ إِبْرَاهِيمَ عَبْدُكَ وَخَلِيلُكَ وَنَبِيُّكَ وَإِنَّهُ دَعَا لِمَكَّةَ، وَإِنِّي أَدْعُوكَ لِلْمَدِينَةِ بِمِثْلِ مَا دَعَاكَ بِهِ لِمَكَّةَ وَمِثْلِهِ مَعَهُ» .

وَبِخَبَرٍ صَحِيحٍ فِيهِ: «اللَّهُمَّ اجْعَلْ بِالْمَدِينَةِ ضِعْفَيْ مَا جَعَلْتَ بِمَكَّةَ مِنْ الْبَرَكَةِ» وَهَذَا لَا حُجَّةَ فِيهِ فِي فَضْلِ الْمَدِينَةِ عَلَى مَكَّةَ وَإِنَّمَا فِيهِ الدُّعَاءُ لِلْمَدِينَةِ بِالْبَرَكَةِ، وَنَعَمْ، هِيَ وَاَللَّهِ مُبَارَكَةٌ، وَإِنَّمَا دَعَا إبْرَاهِيمُ لِمَكَّةَ بِمَا أَخْبَرَ بِهِ - تَعَالَى - إذْ يَقُولُ: {فَاجْعَلْ أَفْئِدَةً مِنَ النَّاسِ تَهْوِي إلَيْهِمْ وَارْزُقْهُمْ مِنَ الثَّمَرَاتِ} [إبراهيم: ٣٧] .

وَلَا شَكَّ فِي أَنَّ الثِّمَارَ بِالْمَدِينَةِ أَكْثَرُ مِمَّا بِمَكَّةَ.

وَلَا شَكَّ فِي أَنَّ النَّبِيَّ - عَلَيْهِ السَّلَامُ - لَمْ يَدْعُ لِلْمَدِينَةِ بِأَنْ تَهْوِي أَفْئِدَةُ النَّاسِ إلَيْهَا أَكْثَرَ مِنْ هَوِيِّهَا إلَى مَكَّةَ؛ لِأَنَّ الْحَجَّ إلَى مَكَّةَ لَا إلَى الْمَدِينَةِ.

فَصَحَّ أَنَّ دُعَاءَهُ - عَلَيْهِ السَّلَامُ - لِلْمَدِينَةِ بِمِثْلِ مَا دَعَا بِهِ إبْرَاهِيمُ لِمَكَّةَ وَمِثْلِهِ مَعَهُ إنَّمَا هُوَ فِي الرِّزْقِ مِنْ الثَّمَرَاتِ وَلَيْسَ هَذَا مِنْ بَابِ الْفَضْلِ فِي شَيْءٍ.

وَمِنْهَا قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «الْمَدِينَةُ كَالْكِيرِ تَنْفِي خَبَثَهَا وَيَنْصَعُ طِيبُهَا، وَإِنَّمَا تَنْفِي النَّاسَ كَمَا يَنْفِي الْكِيرُ خَبَثَ الْحَدِيدِ» وَلَا حُجَّةَ فِيهِ فِي فَضْلِهَا عَلَى مَكَّةَ؛ لِأَنَّ هَذَا الْخَبَرَ إنَّمَا هُوَ فِي وَقْتٍ دُونَ وَقْتٍ، وَفِي قَوْمٍ دُونَ قَوْمٍ، وَفِي خَاصٍّ لَا فِي عَامٍّ.

بُرْهَانُ ذَلِكَ أَنَّهُ - عَلَيْهِ السَّلَامُ - لَا يَقُولُ إلَّا الْحَقَّ، وَمَنْ أَجَازَ عَلَى النَّبِيِّ - عَلَيْهِ السَّلَامُ - الْكَذِبَ فَهُوَ كَافِرٌ، وَقَالَ اللَّهُ - تَعَالَى -: {وَمِنْ أَهْلِ الْمَدِينَةِ مَرَدُوا عَلَى النِّفَاقِ لا تَعْلَمُهُمْ نَحْنُ نَعْلَمُهُمْ} [التوبة: ١٠١] .

are those who have grown stubborn in hypocrisy. You do not know them, but We know them"* [Quran 9:101].[27]

وَقَالَ - تَعَالَى - {إِنَّ الْمُنَافِقِينَ فِي الدَّرْكِ الأَسْفَلِ مِنَ النَّارِ} [النساء: ١٤٥] .

L15247 And Allah, the Exalted, said, "Indeed, the hypocrites will be in the lowest level of the Fire" (Quran 4:145).[28]

فَصَحَّ أَنَّ الْمُنَافِقِينَ أَخْبَثُ الْخَلْقِ بِلَا خِلَافٍ مِنْ أَحَدٍ مِنْ الْمُسْلِمِينَ وَكَانُوا بِالْمَدِينَةِ، وَكَذَلِكَ قَدْ خَرَجَ: عَلِيٌّ، وَطَلْحَةُ، وَالزُّبَيْرُ، وَأَبُو عُبَيْدَةَ بْنُ الْجَرَّاحِ، وَمُعَاذٌ، وَابْنُ مَسْعُودٍ، عَنْ الْمَدِينَةِ، وَهُمْ مِنْ أَطْيَبِ الْخَلْقِ - رَضِيَ اللَّهُ عَنْهُمْ - بِلَا خِلَافٍ مِنْ مُسْلِمٍ حَاشَا الْخَوَارِجَ فِي بُغْضِهِمْ.

L15248 It is established without any disagreement from any Muslim that the hypocrites are the most wicked of creation, and they were in Medina. Likewise, Ali, Talha, Al-Zubayr, Abu Ubaydah ibn Al-Jarrah, Muadh, and Ibn Masud have left Medina, and they are among the best of creation (may Allah be pleased with them) with no disagreement from any Muslim, except for the Kharijites due to their hatred of them.

فَصَحَّ يَقِينًا لَا يَمْتَرِي فِيهِ إلَّا مُسْتَخِفٌّ بِالنَّبِيِّ - عَلَيْهِ السَّلَامُ - أَنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يَعْنِ بِالْمَدِينَةِ تَنْفِي الْخُبْثَ إلَّا فِي خَاصٍّ مِنْ النَّاسِ، وَفِي خَاصٍّ مِنْ الزَّمَانِ لَا عَامٍّ.

L15249 It was firmly established beyond doubt—none would question this except one who belittles the Prophet (peace be upon him)—that he (peace be upon him) did not intend by "the city" that it removes impurities except in specific cases involving certain people and times, not as a universal ruling.

وَقَدْ جَاءَ كَلَامُنَا هَذَا نَصًّا كَمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا قُتَيْبَةُ بْنُ سَعِيدٍ نَا عَبْدُ الْعَزِيزُ يَعْنِي الدَّرَاوَرْدِيَّ عَنْ الْعَلَاءِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ فِي حَدِيثٍ «أَلَا إنَّ الْمَدِينَةَ كَالْكِيرِ يُخْرِجُ الْخَبَثَ لَا تَقُومُ السَّاعَةُ حَتَّى تَنْفِيَ الْمَدِينَةُ شِرَارَهَا كَمَا يَنْفِي الْكِيرُ خَبَثَ الْحَدِيدِ» .

L15250 This statement of ours has been transmitted verbatim as was narrated to us via Muslim's compilation: Qutaybah ibn Sa'īd reported to us, 'Abd al-'Azīz—al-Darāwardī—reported to us from al-'Alā' ibn 'Abd al-Raḥmān, from his father, from Abū Hurayrah, that the Messenger of Allāh—peace and blessings be upon him—said in a ḥadīth: "Behold! Verily, Medina is like a bellows that expels dross. The Hour will not be established until Medina expels its wicked people, just as the bellows expel the dross of iron."[29]

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ نَا إِسْحَاقُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - نَا عُمَرُ بْنُ عَبْدِ الْوَاحِدِ عَنْ الْأَوْزَاعِيِّ عَنْ إِسْحَاقَ بْنِ عَبْدِ اللَّهِ بْنِ أَبِي طَلْحَةَ عَنْ أَنَسِ بْنِ مَالِكٍ " أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - قَالَ: «لَيْسَ بَلَدٌ إلَّا سَيَطَؤُهُ الدَّجَّالُ، إلَّا الْمَدِينَةَ، وَمَكَّةَ، عَلَى كُلِّ نَقْبٍ مِنْ أَنْقَابِ الْمَدِينَةِ الْمَلَائِكَةُ صَافِّينَ يَحْرُسُونَهَا فَيَنْزِلُ بِالسَّبْخَةِ فَتَرْجُفُ

L15251–15253 And from the chain of Aḥmad ibn Shuʿayb: He narrated to us from Isḥāq ibn Ibrāhīm - he is Ibn Rāhawayh - who narrated to us from ʿUmar ibn ʿAbd al-Wāḥid from al-Awzāʿī from Isḥāq ibn ʿAbd Allāh ibn Abī Ṭalḥah from Anas ibn Mālik that... The Messenger of Allah (peace be upon him) said: "There is no city the Dajjal will not tread upon except Madinah and Makkah. At every mountain pass of Madinah, angels stand in ranks guarding it. He will descend at the barren plain, and Madinah will quake three times, whereupon

[27] **Qur'an references (L15246):** Qur'an 9:101 (At-Tawbah).
[28] **Qur'an references (L15247):** Qur'an 4:145 (An-Nisa).
[29] **Hadith references (L15250):** Mishkat al-Masabih 2740.

every hypocrite and disbeliever will come out to him." This is precisely our position. Yet in all of this—neither through text nor evidence—is there any indication that Madinah holds superiority over Makkah.

L15254 The meaning of his statement (peace be upon him) - "There is no city that the Dajjal will not overrun except Mecca and Medina" - is that his authority and forces will overrun it, for no other interpretation is possible. The current inhabitants of Medina today are the worst of the worst, and verily to Allah we belong and to Him we shall return in the face of this calamity. Thus their deception through this narration becomes invalid.

L15255 Among them is his saying—peace be upon him—: "Yemen will be conquered, then a people will come hastening with their families and those who obey them, and Medina is better for them if only they knew." He mentioned something identical to this, word for word, regarding the conquest of al-Sham and the conquest of Iraq.

L15256 And his saying (peace be upon him): "A time will come upon the people when a man will call his cousin and relative: 'Come to ease, come to ease,' and Medina is better for them, if only they knew. By Him in whose Hand is my soul, no one among them will leave it out of desire to abandon it except that Allah will replace him therein with someone better."

L15257 Abu Muhammad said: The Prophet, peace be upon him, merely indicated that Medina is more beneficial for them than Yemen, Syria, Iraq, and the lands of ease and abundance. This is undoubtedly true, but there is nothing in it about its superiority over Mecca, nor does it mention Mecca at all.

L15258 As for his (peace be upon him) statement that Medina is better for them than these lands, this too pertains to a specific context rather than a general ruling - referring to those who left it seeking worldly prosperity or fleeting worldly gains. But as for those who departed for jihad, to administer justice through governance, or to teach people their religion, this is not the case. Rather, the purpose for which they left is superior to remaining in Medina.

الْمَدِينَةُ ثَلَاثَ رَجَفَاتٍ يَخْرُجُ إِلَيْهِ مِنْهَا كُلُّ مُنَافِقٍ وَكَافِرٍ» وَهَذَا نَفْسُ قَوْلِنَا وَلَيْسَ فِي هَذَا كُلِّهِ أَنَّهَا أَفْضَلُ مِنْ مَكَّةَ لَا بِنَصٍّ، وَلَا بِدَلِيلٍ.

وَمَعْنَى قَوْلِهِ - عَلَيْهِ السَّلَامُ -: «مَا مِنْ بَلَدٍ إِلَّا سَيَطَؤُهُ الدَّجَّالُ إِلَّا مَكَّةَ وَالْمَدِينَةَ» إِنَّمَا هُوَ سَيَطَؤُهُ أَمْرُهُ وَبعوثُهُ لَا يُمْكِنُ غَيْرُ هَذَا، وَسُكَّانُ الْمَدِينَةِ الْيَوْمَ أَخْبَثُ الْخُبْثِ، وَإِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ عَلَى مُصِيبَتِنَا فِي ذَلِكَ؛ فَبَطَلَ تَمْوِيهُهُمْ بِهَذَا الْخَبَرِ.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «يُفْتَحُ الْيَمَنُ فَيَأْتِي قَوْمٌ يبُسُّونَ بِأَهْلِيهِمْ وَمَنْ أَطَاعَهُمْ، وَالْمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ» وَذَكَرَ مِثْلَ هَذَا حَرْفًا حَرْفًا فِي فَتْحِ الشَّامِ، وَفَتْحِ الْعِرَاقِ.

وَقَوْلُهُ - عَلَيْهِ السَّلَامُ -: «يَأْتِي عَلَى النَّاسِ زَمَانٌ يَدْعُو الرَّجُلُ ابْنَ عَمِّهِ وَقَرِيبَهُ: هَلُمَّ إِلَى الرَّخَاءِ، هَلُمَّ إِلَى الرَّخَاءِ، وَالْمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ، وَالَّذِي نَفْسِي بِيَدِهِ لَا يَخْرُجُ أَحَدٌ مِنْهُمْ رَغْبَةً عَنْهَا إِلَّا أَخْلَفَ اللَّهُ فِيهَا خَيْرًا مِنْهُ» .

قَالَ أَبُو مُحَمَّد: إِنَّمَا أَخْبَرَ - عَلَيْهِ السَّلَامُ - بِأَنَّ الْمَدِينَةَ خَيْرٌ لَهُمْ مِنْ الْيَمَنِ، وَالشَّامِ، وَالْعِرَاقِ، وَبِلَادِ الرَّخَاءِ، وَهَذَا لَا شَكَّ فِيهِ، وَلَيْسَ فِيهِ فَضْلُهَا عَلَى مَكَّةَ، وَلَا ذِكْرَ لِمَكَّةَ أَصْلًا.

وَأَمَّا إِخْبَارُهُ - عَلَيْهِ السَّلَامُ - أَيْضًا بِأَنَّ الْمَدِينَةَ خَيْرٌ مِنْ هَذِهِ الْبِلَادِ لَهُمْ فَإِنَّمَا هُوَ أَيْضًا فِي خَاصٍّ لَا عَامٍّ وَهُوَ مَنْ خَرَجَ عَنْهَا طَلَبَ رَخَاءٍ، أَوْ لِعَرَضِ دُنْيَا؛ وَأَمَّا مَنْ خَرَجَ عَنْهَا لِجِهَادٍ، أَوْ لِحُكْمٍ بِالْعَدْلِ، أَوْ لِتَعْلِيمِ النَّاسِ دِينَهُمْ فَلَا، بَلْ الَّذِي خَرَجُوا لَهُ أَفْضَلُ مِنْ مُقَامِهِمْ بِالْمَدِينَةِ.

L15259–15261 The proof of that is his departure—peace be upon him—from there for jihad, his commanding the people to go out with him, and the threat against whoever remained in Medina without valid excuse. This is indisputable, and likewise his dispatch—peace be upon him—. He dispatched his companions to Yemen, Bahrain, and Oman to invite people to Islam, teach the Quran and the Sunnah. He—peace be upon him—said: "Religion is sincerity." Thus, without doubt, he sincerely advised them in sending them out for that purpose. Therefore, our statement stands validated, and their claim of Medina's superiority over Mecca has no basis in this matter.

بُرْهَانُ ذَلِكَ خُرُوجُهُ - عَلَيْهِ السَّلَامُ - عَنْهَا لِلْجِهَادِ وَأَمْرُهُ النَّاسَ بِالْخُرُوجِ مَعَهُ وَالْوَعِيدُ عَلَى مَنْ تَخَلَّفَ بِالْمَدِينَةِ لِغَيْرِ عُذْرٍ هَذَا مَا لَا شَكَّ فِيهِ، وَكَذَلِكَ بَعْثُهُ - عَلَيْهِ السَّلَامُ - أَصْحَابَهُ إِلَى الْيَمَنِ، وَالْبَحْرَيْنِ، وَعُمَانَ لِلدُّعَاءِ إِلَى الْإِسْلَامِ، وَتَعْلِيمِ الْقُرْآنِ، وَالسُّنَنِ، وَهُوَ - عَلَيْهِ السَّلَامُ - يَقُولُ: «الدِّينُ النَّصِيحَةُ» فَبِلَا شَكٍّ أَنَّهُ قَدْ نَصَحَهُمْ فِي إِخْرَاجِهِمْ لِذَلِكَ، فَصَحَّ قَوْلُنَا: وَبَطَلَ أَنْ يَكُونَ لَهُمْ مُتَعَلَّقٌ فِي هَذَا فِي دَعْوَاهُمْ فَضْلَ الْمَدِينَةِ عَلَى مَكَّةَ.

L15262 As for his statement (peace be upon him) - "None of them leaves out of desire to abandon it" - this is the truth. Upon whoever rejects Medina falls Allah's curse - he is not a Muslim. Without doubt, the same applies to whoever rejects Mecca. This does not grant it superiority over Mecca.

وَأَمَّا قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «لَا يَخْرُجُ أَحَدٌ مِنْهُمْ رَغْبَةً عَنْهَا» فَهَذَا الْحَقُّ وَعَلَى مَنْ يَرْغَبُ عَنْ الْمَدِينَةِ لَعْنَةُ اللَّهِ فَمَا هُوَ بِمُسْلِمٍ، وَكَذَلِكَ بِلَا شَكٍّ مَنْ رَغِبَ عَنْ مَكَّةَ وَلَيْسَ فِي هَذَا فَضْلٌ لَهَا عَلَى مَكَّةَ.

L15263 Among them is his saying (peace be upon him): "I have been commanded regarding a village that subdues the villages." This only signifies that from Medina the world is conquered, and there is no superiority in this for it over Mecca. Khurasan, Sijistan, Fars, and Kerman were conquered from Basra, yet this is not proof of Basra's superiority over Mecca.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «أُمِرْتُ بِقَرْيَةٍ تَأْكُلُ الْقُرَى» وَهَذَا إِنَّمَا فِيهِ: أَنَّ مِنْ الْمَدِينَةِ تُفْتَحُ الدُّنْيَا وَلَيْسَ فِي هَذَا فَضْلٌ لَهَا عَلَى مَكَّةَ وَقَدْ فُتِحَتْ خُرَاسَانُ، وَسِجِسْتَانُ، وَفَارِسُ، وَكَرْمَانُ، مِنْ الْبَصْرَةِ، وَلَيْسَ ذَلِكَ دَلِيلًا عَلَى فَضْلِ الْبَصْرَةِ عَلَى مَكَّةَ.

L15264 Among them is his statement—peace be upon him—"Verily, faith withdraws swiftly to Medina just as a snake withdraws to its hole." This does not indicate its superiority over Mecca; rather, it is only a report about a specific time as opposed to another, without doubt.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «إِنَّ الْإِيمَانَ يَأْرِزُ إِلَى الْمَدِينَةِ كَمَا تَأْرِزُ الْحَيَّةُ إِلَى جُحْرِهَا» وَهَذَا لَيْسَ فِيهِ فَضْلُهَا عَلَى مَكَّةَ وَإِنَّمَا هُوَ خَبَرٌ عَنْ وَقْتٍ دُونَ وَقْتٍ بِلَا شَكٍّ.

L15265 The proof of that is that he—peace be upon him—speaks nothing but the truth, while today's reality contradicts this. Alas for our grief! Alas for our sorrow! Islam manifests outwardly only in places other than its [true abode], and we ask Allah to restore it to the finest state it was in after him—peace be upon him—.

وَبُرْهَانُ ذَلِكَ أَنَّهُ - عَلَيْهِ السَّلَامُ - لَا يَقُولُ إِلَّا الْحَقَّ وَهُوَ الْيَوْمَ بِخِلَافِ ذَلِكَ فَوَا حُزْنَاهُ وَوَا أَسَفَاهُ وَمَا الْإِسْلَامُ ظَاهِرًا إِلَّا فِي غَيْرِهَا وَنَسْأَلُ اللَّهُ إِعَادَتَهَا إِلَى أَفْضَلِ مَا كَانَتْ عَلَيْهِ بَعْدَهُ - عَلَيْهِ السَّلَامُ -.

L15266 This report includes an addition, as we have narrated it via the transmission route of Imam Muslim: Muhammad ibn Rafi' narrated to us: Shababah ibn Sawwar narrated to us: 'Asim (the son of Muhammad ibn Zayd ibn

وَقَدْ جَاءَ هَذَا الْخَبَرُ بِزِيَادَةٍ كَمَا رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ رَافِعٍ نَا شَبَابَةُ بْنُ سَوَّارٍ نَا عَاصِمُ هُوَ ابْنُ مُحَمَّدِ بْنِ زَيْدِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ بْنِ الْخَطَّابِ - عَنْ أَبِيهِ عَنْ جَدِّهِ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِنَّ الْإِسْلَامَ بَدَأَ غَرِيبًا وَسَيَعُودُ غَرِيبًا كَمَا بَدَأَ وَهُوَ يَأْرِزُ بَيْنَ الْمَسْجِدَيْنِ كَمَا تَأْرِزُ الْحَيَّةُ إلَى جُحْرِهَا» فَفِي هَذَا أَنَّ الْإِيمَانَ يَأْرِزُ بَيْنَ مَسْجِدِ مَكَّةَ، وَمَسْجِدِ الْمَدِينَةِ.

Abdillah ibn ‘Umar ibn al-Khattab) narrated to us: from his father: from his grandfather ‘Abdullah ibn ‘Umar, who said: The Messenger of Allah—peace and blessings be upon him—said: “Islam began as something strange and will return to being strange as it began, and it will withdraw between the two mosques just as a snake withdraws into its hole.” This indicates that faith will withdraw between the Sacred Mosque [of Mecca] and the Prophet’s Mosque [of Medina].

وَمِنْهَا: حَدِيثُ أَنَسٍ «أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - كَانَ إذَا قَدِمَ مِنْ سَفَرٍ فَنَظَرَ إلَى جُدُرَاتِ الْمَدِينَةِ أَوْضَعَ رَاحِلَتَهُ مِنْ حُبِّهَا» وَهَذَا لَيْسَ فِيهِ إلَّا أَنَّهُ - عَلَيْهِ السَّلَامُ - كَانَ يُحِبُّهَا.

L15267 Among them is the hadith of Anas: “When the Messenger of Allah (peace be upon him) would return from a journey and behold the walls of Medina, he would make his riding camel hasten out of love for her.” This contains nothing except that he (peace be upon him) loved her.

وَنَعَمْ هَذَا حَقٌّ وَلَيْسَ فِيهِ أَنَّهُ كَانَ يُحِبُّهَا أَكْثَرَ مِنْ حُبِّهِ مَكَّةَ، وَلَا أَنَّهَا أَفْضَلُ مِنْ مَكَّةَ.

L15268–15269 Yes, this is correct, and there is nothing in it [to indicate] that he loved it more than his love of Mecca, nor that it is more virtuous than Mecca.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «لَا يَكِيدُ أَحَدٌ أَهْلَ الْمَدِينَةِ إلَّا انْمَاعَ كَمَا يَنْمَاعُ الْمِلْحُ فِي الْمَاءِ» .

L15270 Among them is his statement, peace be upon him: “No one plots against the people of Medina except that he melts away, just as salt melts away in water.”

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «لَا يُرِيدُ أَحَدٌ أَهْلَ الْمَدِينَةِ بِسُوءٍ إلَّا أَذَابَهُ اللَّهُ فِي النَّارِ ذَوْبَ الرَّصَاصِ، أَوْ ذَوْبَ الْمِلْحِ فِي الْمَاءِ، وَمَنْ أَخَافَ أَهْلَ الْمَدِينَةِ أَخَافَهُ اللَّهُ، وَعَلَيْهِ لَعْنَةُ اللَّهِ، وَالْمَلَائِكَةِ وَالنَّاسِ أَجْمَعِينَ، لَا يَقْبَلُ اللَّهُ مِنْهُ صَرْفًا وَلَا عَدْلًا» .

L15271 Among them is his saying - peace be upon him -: “No one harbors ill will toward the people of Medina except that Allah will melt him in the Fire like the melting of lead or the dissolving of salt in water. Whoever causes fear among the people of Medina, Allah will terrify him, and upon him is the curse of Allah, the angels, and all people collectively. Allah will not accept from him any voluntary or obligatory deed.”

وَقَوْلُهُ - عَلَيْهِ السَّلَامُ - مَثَلُ هَذَا فِيمَنْ أَحْدَثَ فِيهَا حَدَثًا أَوْ آوَى مُحْدِثًا وَهَذَا صَحِيحٌ، وَإِنَّمَا فِيهِ الْوَعِيدُ عَلَى مَنْ كَادَ أَهْلَهَا وَلَا يَحِلُّ كَيْدُ مُسْلِمٍ، فَلَيْسَ فِيهِ أَنَّهَا أَفْضَلُ مِنْ مَكَّةَ.

L15272 And his statement—peace be upon him—“The example of this applies to one who causes corruption therein or harbors an innovator”—and this is authentic. It merely serves as a warning against those who plot against its people, for it is impermissible to scheme against a Muslim. This does not establish that it is superior to Makkah.

L15273 The Most High has said concerning Mecca: “And whoever intends therein [to commit] deviation accompanied by injustice, We will make him taste a

painful punishment" [Al-Hajj: 25]. Thus, the threat is established against whoever commits wrong therein, just as the threat is established against whoever schemes against the people of Medina.[30]

L15274 Among them is his saying—peace be upon him—: "No one remains steadfast in the face of its hardships and severity except that I will be an intercessor or a witness for him on the Day of Resurrection." This serves only to encourage steadfastness in enduring its severity and to indicate that he will intercede for them. There is no evidence in this of its superiority over Mecca.

L15275 Indeed, it has been authentically established that he (peace be upon him) intercedes for his entire Ummah.

L15276 The Prophet - peace be upon him - said: "From one Umrah to the next is an expiation for what lies between them, and the righteous Hajj has no reward except Paradise." This can only be fulfilled in Makkah, so it is superior to the intercession that includes every righteous and sinful person among the Muslims.

L15277 Among them is his statement—peace be upon him—: "O Allah, endear Medina to us as our love for Mecca or more intensely." There is no proof in this of its superiority over Mecca. Rather, he—peace be upon him—supplicated with this as you see in one of two matters: either to endear it to them as their love for Mecca, or to endear it to them more intensely than their love for Mecca. Allah knows best which of the two his supplication—peace be upon him—was answered in. The love of a land arises from compatibility and familiarity, and this contains no superiority over Mecca.

L15278 Among them is his saying—peace be upon him—: "The span of a bow in Paradise for any one of you, or the space it occupies, is better than all worldly riches and what they contain."

L15279–15281 And his saying (peace be upon him): "Between my House and my pulpit lies a garden from the gardens of Paradise, and my pulpit rests upon my Pond."

[30]**Qur'an references (L15273):** Qur'an 22:25 (Al-Hajj).

وَقَدْ قَالَ - تَعَالَى - عَنْ مَكَّةَ: {وَمَنْ يُرِدْ فِيهِ بِإِلْحَادٍ بِظُلْمٍ نُذِقْهُ مِنْ عَذَابٍ أَلِيمٍ} [الحج: ٢٥] فَصَحَّ الْوَعِيدُ عَلَى مَنْ ظَلَمَ بِمَكَّةَ كَالْوَعِيدِ عَلَى مَنْ كَادَ أَهْلَ الْمَدِينَةِ.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «لَا يَثْبُتُ أَحَدٌ عَلَى لَأْوَائِهَا وَشَدَّتِهَا إِلَّا كُنْتُ لَهُ شَفِيعًا أَوْ شَهِيدًا يَوْمَ الْقِيَامَةِ» فَإِنَّمَا فِي هَذَا الْحَضِّ عَلَى الثَّبَاتِ عَلَى شِدَّتِهَا وَأَنَّهُ يَكُونُ لَهُمْ شَفِيعًا وَلَيْسَ فِي هَذَا دَلِيلٌ عَلَى فَضْلِهَا عَلَى مَكَّةَ.

وَقَدْ صَحَّ أَنَّهُ - عَلَيْهِ السَّلَامُ - يَشْفَعُ لِجَمِيعِ أُمَّتِهِ.

وَقَدْ قَالَ - عَلَيْهِ السَّلَامُ -: " الْعُمْرَةُ إِلَى الْعُمْرَةِ كَفَّارَةٌ لِمَا بَيْنَهُمَا، وَالْحَجُّ الْمَبْرُورُ لَيْسَ لَهُ جَزَاءٌ إِلَّا الْجَنَّةَ " وَهَذَا لَا يَكُونُ إِلَّا بِمَكَّةَ فَهَذَا أَفْضَلُ مِنْ الشَّفَاعَةِ الَّتِي يَدْخُلُ فِيهَا كُلُّ بَرٍّ وَفَاجِرٍ مِنْ الْمُسْلِمِينَ.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «اللَّهُمَّ حَبِّبْ إِلَيْنَا الْمَدِينَةَ كَحُبِّنَا مَكَّةَ أَوْ أَشَدَّ» فَلَيْسَ فِي هَذَا دَلِيلٌ عَلَى فَضْلِهَا عَلَى مَكَّةَ وَإِنَّمَا دَعَا - عَلَيْهِ السَّلَامُ - بِهَذَا كَمَا تَرَى فِي أَحَدِ الْأَمْرَيْنِ: إِمَّا أَنْ يُحَبِّبَهَا إلَيْهِمْ كَحُبِّهِمْ مَكَّةَ، وَإِمَّا أَشَدُّ مِنْ حُبِّهِمْ مَكَّةَ، وَاَللَّهُ أَعْلَمُ أَيُّ الْأَمْرَيْنِ أُجِيبَ بِهِ دُعَاؤُهُ - عَلَيْهِ السَّلَامُ -، وَحُبُّ الْبَلَدِ يَكُونُ لِلْمُوَافَقَةِ وَالْأُلْفَةِ وَلَيْسَ فِي هَذَا فَضْلٌ عَلَى مَكَّةَ.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «لَقَابُ قَوْسِ أَحَدِكُمْ مِنْ الْجَنَّةِ أَوْ مَوْضِعُ قِيدٍ - يَعْنِي سَوْطَهُ - خَيْرٌ مِنْ الْأَنْبَاطِ وَمَا فِيهَا» .

وَقَوْلُهُ - عَلَيْهِ السَّلَامُ -: «بَيْنَ بَيْتِي وَمِنْبَرِي رَوْضَةٌ مِنْ رِيَاضِ الْجَنَّةِ وَمِنْبَرِي عَلَى حَوْضِي» وَأَرَادُوا أَنْ يُثْبِتُوا مِنْ هَذَا أَنَّ مَكَّةَ مِنْ الدُّنْيَا فَمَوْضِعُ قَابِ قَوْسٍ مِنْ تِلْكَ

They sought to establish from this that Mecca belongs to this world, thus its location lies at the measure of a bow's length from that garden. Better than Mecca—so this is not as they supposed. If it were so, then Egypt and Kufa would be [so]. Our doctrine holds that it is better than Mecca and Medina.

L15282 It was narrated to us by Muslim: from Muḥammad ibn Numayr, from Muḥammad ibn Bishr, from ʿUbayd Allāh—Ibn ʿUmar—from Khubayb ibn ʿAbd al-Raḥmān, from Ḥafṣ ibn ʿĀṣim, from Abū Hurayrah, who said: The Messenger of Allah (peace be upon him) said: "The Sayḥān, Jayḥān, Euphrates, and Nile—all are among the rivers of Paradise." This is not something [Imam] Muslim would assert: that these lands, due to containing rivers of Paradise, are better than Makkah and Madinah.[31]

L15283 Abu Muhammad said: These two hadiths are not as the ignorant people suppose - that the Rawdah is a severed fragment from Paradise, or that these rivers were sent down from Paradise. This is falsehood and a lie, for Allah the Exalted says about Paradise: "You will neither hunger therein nor go naked, nor thirst therein nor suffer from the sun's glare" [20:118-119]. This is undoubtedly the description of Paradise, and it does not apply to these mentioned rivers nor to that Rawdah. The Messenger of Allah (upon him be peace) utters only the truth.[32]

L15284 It has thus been established that describing that Rawdah as being "from Paradise" is merely a matter of its wording, that prayer within it leads to Paradise, and that those rivers were ascribed to Paradise because of its blessing—just as one might say of a pleasant day: "This is among the days of Paradise," or as it is said of sheep: "They are among the creatures of Paradise," or as the Prophet (peace be upon him) stated: "Paradise lies beneath the shade of swords." This saying pertains to the land of disbelief without doubt, and it does not confer any superiority upon it over Mecca. Furthermore, even if their claim and assumption were valid, the virtue would apply

الرَّوْضَةِ خَيْرٌ مِنْ مَكَّةَ فَلَيْسَ هَذَا كَمَا ظَنُّوهُ، وَلَوْ كَانَ كَذَلِكَ لَكَانَتْ مِصْرُ، وَالْكُوفَةُ، وَرَاؤُنَا: خَيْرًا مِنْ مَكَّةَ، وَالْمَدِينَةِ.

وَرُوِّينَا عَنْ مُسْلِمٍ نَا مُحَمَّدُ بْنُ نُمَيْرٍ نَا مُحَمَّدُ بْنُ بِشْرٍ نَا عُبَيْدُ اللَّهِ هُوَ ابْنُ عُمَرَ - عَنْ خُبَيْبِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ حَفْصِ بْنِ عَاصِمٍ عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -: «سَيْحَانُ، وَجَيْحَانُ، وَالْفُرَاتُ، وَالنِّيلُ، كُلٌّ مِنْ أَنْهَارِ الْجَنَّةِ» وَهَذَا مَا لَا يَقُولُهُ مُسْلِمٌ: أَنَّ هَذِهِ الْبِلَادَ مِنْ أَجْلِ مَا فِيهَا مِنْ أَنْهَارِ الْجَنَّةِ، خَيْرٌ مِنْ مَكَّةَ، وَالْمَدِينَةِ.

قَالَ أَبُو مُحَمَّدٍ: وَهَذَانِ الْحَدِيثَانِ لَيْسَ عَلَى مَا يَظُنُّهُ أَهْلُ الْجَهْلِ مِنْ أَنَّ تِلْكَ الرَّوْضَةَ قِطْعَةٌ مُنْقَطِعَةٌ مِنْ الْجَنَّةِ، وَأَنَّ هَذِهِ الْأَنْهَارَ مُهْبَطَةٌ مِنْ الْجَنَّةِ، هَذَا بَاطِلٌ وَكَذِبٌ، لِأَنَّ اللَّهَ - تَعَالَى - يَقُولُ فِي الْجَنَّةِ {إِنَّ لَكَ أَلا تَجُوعَ فِيهَا وَلا تَعْرَى - وَأَنَّكَ لا تَظْمَأُ فِيهَا وَلا تَضْحَى} [طه: ١١٨ - ١١٩] فَهَذِهِ صِفَةُ الْجَنَّةِ بِلَا شَكٍّ وَلَيْسَتْ هَذِهِ صِفَةَ الْأَنْهَارِ الْمَذْكُورَةِ وَلَا تِلْكَ الرَّوْضَةِ، وَرَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - لَا يَقُولُ إلَّا الْحَقَّ.

فَصَحَّ أَنَّ كَوْنَ تِلْكَ الرَّوْضَةِ مِنْ الْجَنَّةِ إنَّمَا هُوَ لَفْظُهَا، وَأَنَّ الصَّلَاةَ فِيهَا تُؤَدِّي إلَى الْجَنَّةِ، وَأَنَّ تِلْكَ الْأَنْهَارَ لِبَرَكَتِهَا أُضِيفَتْ إلَى الْجَنَّةِ، كَمَا تَقُولُ فِي الْيَوْمِ الطَّيِّبِ: هَذَا مِنْ أَيَّامِ الْجَنَّةِ، وَكَمَا قِيلَ فِي الضَّأْنِ: إنَّهَا مِنْ دَوَابِّ الْجَنَّةِ، وَكَمَا قَالَ - عَلَيْهِ السَّلَامُ -: «إنَّ الْجَنَّةَ تَحْتَ ظِلَالِ السُّيُوفِ» فَهَذَا فِي أَرْضِ الْكُفْرِ بِلَا شَكٍّ وَلَيْسَ فِي هَذَا فَضْلٌ لَهَا عَلَى مَكَّةَ، ثُمَّ لَوْ صَحَّ مَا ادَّعُوهُ وَظَنُّوهُ لَمَا كَانَ الْفَضْلُ إلَّا لِتِلْكَ الرَّوْضَةِ خَاصَّةً لَا لِسَائِرِ الْمَدِينَةِ وَهَذَا خِلَافُ قَوْلِهِمْ.

[31] **Hadith references (L15282):** Sahih Muslim 2839; Mishkat al-Masabih 5628; Riyad as-Salihin 1853.

[32] **Qur'an references (L15283):** Qur'an 20:118 (Taha); Qur'an 20:119 (Taha).

solely to that Rawdah itself, not to the rest of Medina—and this contradicts their assertion.

فَإِنْ قَالُوا: مَا قَرُبَ مِنْهَا أَفْضَلُ مِمَّا بَعُدَ. قُلْنَا: يَلْزَمُكُمْ عَلَى هَذَا أَنَّ الْجُحْفَةَ، وَخَيْبَرَ، وَوَادِيَ الْقُرَى أَفْضَلُ مِنْ مَكَّةَ؛ لِأَنَّهَا أَقْرَبُ إِلَى تِلْكَ الرَّوْضَةِ مِنْ مَكَّةَ، وَهَذَا لَا يَقُولُونَهُ، وَلَا يَقُولُهُ ذُو عَقْلٍ، فَبَطَلَ تَظَنُّنُهُمْ، وَلِلَّهِ الْحَمْدُ.

L15285 If they say: "What is nearer to it is superior to what is farther," we reply: By this reasoning, you must necessarily hold that al-Juhfah, Khaybar, and Wadi al-Qura are superior to Mecca, for they are closer to that ar-Rawdah (the Prophet's sacred precinct) than Mecca. This they do not claim, nor would any rational person claim it. Thus their groundless speculation is invalidated, and all praise belongs to Allah.

وَسُبْحَانَ مَنْ جَعَلَ هَؤُلَاءِ الْقَوْمَ يَتَأَوَّلُونَ الْأَخْبَارَ الصِّحَاحَ بِلَا بُرْهَانٍ مِثْلُ «الْبَيِّعَانِ بِالْخِيَارِ حَتَّى يَتَفَرَّقَا» وَمِثْلُ «لَا صَلَاةَ لِمَنْ لَا يُقِيمُ صُلْبَهُ فِي الرُّكُوعِ وَالسُّجُودِ» وَغَيْرُ ذَلِكَ، ثُمَّ يَأْتُونَ إِلَى الْأَخْبَارِ الَّتِي قَدْ صَحَّ الْبُرْهَانُ مِنَ الْقُرْآنِ، وَمِنْ ضَرُورَةِ الْحِسِّ عَلَى أَنَّهَا لَيْسَتْ عَلَى ظَاهِرِهَا فَيُرِيدُونَ حَمْلَهَا عَلَى ظَاهِرِهَا، إِنَّ هَذَا لَعَجَبٌ لَا نَظِيرَ لَهُ؛ فَبَطَلَ تَعَلُّقُهُمْ بِهَذَا الْخَبَرِ، وَلِلَّهِ الْحَمْدُ.

L15286–15288 Glory be to the One who has made these people misinterpret the authentic narrations without evidence, such as "The buyer and seller retain the right to annul the sale until they part ways," and "There is no prayer for one who does not straighten his back during bowing and prostration," and other similar narrations. That being the case, they then come to narrations for which conclusive evidence from the Quran and inescapable sensory necessity has established they cannot be taken literally, yet insist on adhering to their apparent meaning. This is truly an astonishment without parallel. Thus their reliance on these narrations is invalidated, and all praise is due to Allah.

وَقَدْ رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَخْبَرَنِي إِبْرَاهِيمُ بْنُ يَعْقُوبَ الْجُوزَجَانِيُّ نَا مُوسَى بْنُ دَاوُد عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ عَطَاءِ بْنِ السَّائِبِ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عَبَّاسٍ أَنَّ رَسُولَ اللهِ - عَلَيْهِ السَّلَامُ - قَالَ: «الْحَجَرُ الْأَسْوَدُ مِنَ الْجَنَّةِ» فَهَذَا بِمَكَّةَ فَالَّذِي بِمَكَّةَ مِنْ هَذَا كَالَّذِي لِلْمَدِينَةِ، إِذْ فِي كُلِّ وَاحِدَةٍ مِنْهُمَا شَيْءٌ مِنَ الْجَنَّةِ.

L15289 It has been narrated to us through the chain of Ahmad ibn Shu'ayb: Ibrahim ibn Ya'qub al-Juzajani informed me, narrating from Musa ibn Dawud, from Hammad ibn Salamah, from 'Ata' ibn al-Sa'ib, from Sa'id ibn Jubayr, from Ibn 'Abbas, that the Messenger of God—peace be upon him—said: "The Black Stone is from Paradise." This is in Mecca. Thus, what is in Mecca from this [stone] is akin to what is in Medina, for in each of them lies something from Paradise.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «صَلَاةٌ فِي مَسْجِدِي هَذَا أَفْضَلُ مِنْ أَلْفِ صَلَاةٍ فِيمَا سِوَاهُ إِلَّا الْمَسْجِدَ الْحَرَامَ» .

L15290 Among them is his statement—peace be upon him—: "A prayer in this mosque of mine is better than a thousand prayers in any other mosque except the Sacred Mosque."

قَالَ أَبُو مُحَمَّدٍ: تَأَوَّلُوا هُمْ أَنَّ الصَّلَاةَ فِي مَسْجِدِ الْمَدِينَةِ أَفْضَلُ مِنَ الصَّلَاةِ فِي مَسْجِدِ مَكَّةَ بِدُونِ الْأَلْفِ، وَقُلْنَا نَحْنُ: بَلْ هَذَا الِاسْتِثْنَاءُ؛ لِأَنَّ الصَّلَاةَ فِي الْمَسْجِدِ الْحَرَامِ أَفْضَلُ مِنَ الصَّلَاةِ فِي مَسْجِدِ الْمَدِينَةِ.

L15291 Abu Muhammad said: They interpreted that prayer in the mosque of Medina is superior to prayer in the mosque of Mecca without the thousand. But we say: Rather, this is the exception, because prayer in the Sacred Mosque is superior to prayer in the mosque of Medina.

قَالَ عَلِيٌّ: فَكِلَا التَّأْوِيلَيْنِ مُحْتَمَلٌ. نَعَمْ، تَأْوِيلٌ ثَالِثٌ وَهُوَ إِلَّا الْمَسْجِدَ الْحَرَامَ فَإِنَّ الصَّلَاةَ فِي كِلَيْهِمَا سَوَاءٌ، وَلَا يَجُوزُ الْمَصِيرُ إِلَى أَحَدِ هَذِهِ التَّأْوِيلَاتِ دُونَ الْآخَرِ إِلَّا بِنَصٍّ آخَرَ، وَبَطَلَ أَنْ يَكُونَ فِي هَذَا الْخَبَرِ بَيَانٌ فِي فَضْلِ الْمَدِينَةِ عَلَى مَكَّةَ - وَبِاللَّهِ - تَعَالَى - التَّوْفِيقُ.

L15292 Ali said: Both interpretations are plausible. Yes, there is a third interpretation: except in the Sacred Mosque, prayer in both of them is equal. It is impermissible to adopt any one of these interpretations over another except through another text. Thus, the claim that this narration establishes the superiority of Medina over Mecca is invalid. And success is from Allah, the Exalted.

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «عَلَى أَنْقَابِ الْمَدِينَةِ مَلَائِكَةٌ لَا يَدْخُلُهَا الطَّاعُونُ وَلَا الدَّجَّالُ» وَهَذَا لَيْسَ فِيهِ فَضْلُهَا عَلَى مَكَّةَ؛ لِأَنَّهُ - عَلَيْهِ السَّلَامُ - قَدْ أَخْبَرَ أَنَّ مَكَّةَ لَا يَدْخُلُهَا الدَّجَّالُ أَيْضًا، وَاَللَّهُ - تَعَالَى - يَصْرِفُهُ عَنْهَا كَمَا يَصْرِفُهُ عَنْ الْمَدِينَةِ وَالْمَلَائِكَةُ تَنْزِلُ عَلَى الْمُصَلِّينَ فِي كُلِّ بَلَدٍ كَمَا أَخْبَرَ - عَلَيْهِ السَّلَامُ -: " أَنَّهُ يَتَعَاقَبُ فِينَا مَلَائِكَةٌ بِاللَّيْلِ وَالنَّهَارِ ".

L15293 Among them is his statement—peace be upon him—"There are angels at the gates of Medina; neither plague nor the Dajjal will enter it." This does not indicate its superiority over Mecca, for he—peace be upon him—had already reported that the Dajjal will not enter Mecca either. Allah—Exalted—diverts him from it, just as He diverts him from Medina. Angels descend upon those who pray in every city, as he—peace be upon him—reported: "Angels succeed one another among us by night and day."

وَمِنْهَا: قَوْلُهُ - عَلَيْهِ السَّلَامُ - «هِيَ طَيِّبَةٌ» وَنَعَمْ، هِيَ وَاَللَّهِ طَيِّبَةٌ، وَلَيْسَ فِي هَذَا فَضْلٌ لَهَا عَلَى مَكَّةَ أَصْلًا.

L15294 Among them is his statement—peace be upon him—"It is Ṭayyibah." Yes, by Allah, it is Ṭayyibah, but this does not grant it any superiority over Makkah whatsoever.

فَهَذَا كُلُّ مَا احْتَجُّوا بِهِ مِنْ الْأَخْبَارِ الصِّحَاحِ مَا لَهُمْ خَبَرٌ صَحِيحٌ سِوَى هَذِهِ، وَكُلُّهَا لَا حُجَّةَ فِي شَيْءٍ مِنْهَا عَلَى فَضْلِ الْمَدِينَةِ عَلَى مَكَّةَ أَصْلًا عَلَى مَا بَيَّنَّا - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

L15295 This is all the authentic reports they have cited; they possess no authentic report besides these. All of them contain no proof whatsoever regarding the superiority of Medina over Mecca in any aspect, as we have clarified - and all praise belongs to Allah, Lord of the worlds.

وَاحْتَجُّوا عَمَّنْ دُونَ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - بِالْخَبَرِ الصَّحِيحِ أَنَّ عُمَرَ قَالَ لِعَبْدِ اللَّهِ بْنِ عَيَّاشِ بْنِ أَبِي رَبِيعَةَ: أَنْتَ الْقَائِلُ: لَمَكَّةَ خَيْرٌ مِنْ الْمَدِينَةِ؟ فَقَالَ لَهُ عَبْدُ اللَّهِ: هِيَ حَرَمُ اللَّهِ وَأَمْنُهُ، وَفِيهَا بَيْتُهُ، فَقَالَ لَهُ عُمَرُ: لَا أَقُولُ فِي حَرَمِ اللَّهِ وَأَمْنِهِ شَيْئًا، أَنْتَ الْقَائِلُ: لَمَكَّةَ خَيْرٌ مِنْ الْمَدِينَةِ؟ فَقَالَ لَهُ عَبْدُ اللَّهِ: هِيَ حَرَمُ اللَّهِ وَأَمْنُهُ، وَفِيهَا بَيْتُهُ؟ فَقَالَ لَهُ عُمَرُ: لَا أَقُولُ فِي حَرَمِ اللَّهِ وَأَمْنِهِ شَيْئًا، ثُمَّ انْصَرَفَ.

L15296–15297 They cited as evidence—from those other than the Messenger of Allah (peace be upon him)—the authentic report that Umar said to Abdullah ibn Ayyash ibn Abi Rabi'ah: "Are you the one who said that Mecca is better than Medina?" Abdullah replied to him: "It is Allah's sanctuary and His security, and in it is His House." Umar said to him: "I do not say anything about Allah's sanctuary and His security. Are you the one who said that Mecca is better than Medina?" Abdullah said to him: "It is Allah's sanctuary and His security, and in it is His House." Umar said to him: "I do not say anything about Allah's sanctuary and His security." Then he left.

L15298 Abu Muhammad said: This is a proof against them, not for them, because Abdullah ibn Ayyash did not deny that Umar had affirmed the statement he made to him, but rather cited Umar's silence as evidence for his own position. It confirms that Abdullah ibn Ayyash – a Companion – maintained Mecca's superiority over Medina. This report from Umar neither asserts Mecca's superiority nor Medina's superiority, but merely documents his endorsement of Abdullah's view alone. Yet we find them attributing to Umar an explicit declaration that Mecca is superior to Medina.

قَالَ أَبُو مُحَمَّد: هَذَا حُجَّةٌ عَلَيْهِمْ لَا لَهُمْ، لِأَنَّ عَبْدَ اللَّهِ بْنَ عَيَّاشٍ لَمْ يُنْكِرْ لِعُمَرَ أَنَّهُ قَالَ مَا قَرَّرَهُ عَلَيْهِ بَلْ احْتَجَّ لِقَوْلِهِ ذَلِكَ بِمَا لَمْ يَعْتَرِضْ فِيهِ عُمَرُ، فَصَحَّ أَنَّ عَبْدَ اللَّهِ بْنَ عَيَّاشٍ - وَهُوَ صَاحِبٌ - كَانَ يَقُولُ: مَكَّةُ أَفْضَلُ مِنْ الْمَدِينَةِ وَلَيْسَ فِي هَذَا الْخَبَرِ عَنْ عُمَرَ: لَا أَنَّ مَكَّةَ أَفْضَلُ، وَلَا أَنَّ الْمَدِينَةَ أَفْضَلُ؛ وَإِنَّمَا فِيهِ تَقْرِيرُهُ لِعَبْدِ اللَّهِ عَلَى هَذَا الْقَوْلِ فَقَطْ، وَنَحْنُ نُوجِدُهُمْ عَنْ عُمَرَ تَصْرِيحًا بِأَنَّ مَكَّةَ أَفْضَلُ مِنْ الْمَدِينَةِ.

L15299 Yusuf ibn ʻAbd Allah ibn ʻAbd al-Barr al-Namari narrated to us: Saʻid ibn Nasr narrated to us: Qasim ibn Asbagh narrated to us: Muhammad ibn Waddah narrated to us: Hamid ibn Yahya al-Balkhi narrated to us: Sufyan ibn ʻUyaynah narrated from Ziyad ibn Saʻd: Sulayman ibn ʻAtiq said: I heard ʻAbd Allah ibn al-Zubayr say: I heard ʻUmar ibn al-Khattab say: "A prayer in the Sacred Mosque is superior to a hundred prayers in the Mosque of the Prophet, peace and blessings be upon him." This chain is as clear as the sun in authenticity. These two Companions have no known opposition from other Companions, and such a narration is a valid proof according to them.

حَدَّثَنَا يُوسُفُ بْنُ عَبْدِ اللَّهِ بْنِ عَبْدِ الْبَرِّ النَّمَرِيُّ نَا سَعِيدُ بْنُ نَصْرٍ نَا قَاسِمُ بْنُ أَصْبَغَ نَا مُحَمَّدُ بْنُ وَضَّاحٍ نَا حَامِدُ بْنُ يَحْيَى الْبَلْخِيّ نَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ زِيَادِ بْنِ سَعْدٍ نَا سُلَيْمَانُ بْنُ عَتِيقٍ قَالَ: سَمِعْتُ عَبْدَ اللَّهِ بْنَ الزُّبَيْرِ يَقُول: سَمِعْتُ عُمَرَ بْنَ الْخَطَّابِ يَقُول: " صَلَاةٌ فِي الْمَسْجِدِ الْحَرَامِ أَفْضَلُ مِنْ مِائَةِ صَلَاةٍ فِي مَسْجِدِ النَّبِيِّ - عَلَيْهِ السَّلَامُ - " وَهَذَا سَنَدٌ كَالشَّمْسِ فِي الصِّحَّةِ، فَهَذَانِ صَاحِبَانِ لَا يُعْرَفُ لَهُمَا مِنْ الصَّحَابَةِ مُخَالِفٌ، وَمِثْلُ هَذَا حُجَّةٌ عِنْدَهُمْ.

L15300 From the path of Abd al-Razzaq, from Ma'mar, from Abd al-Karim al-Jazari, from Sa'id ibn al-Musayyab, who said: Whoever vows to observe iʻtikāf in the Mosque of Jerusalem (Al-Aqsa) but instead observes it in the Mosque of the Prophet, peace be upon him, in Medina, fulfills his vow. Whoever vows to observe iʻtikāf in the Mosque of the Prophet, peace be upon him, but instead observes it in the Sacred Mosque, fulfills his vow.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ عَبْدِ الْكَرِيمِ الْجَزَرِيِّ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ قَالَ: مَنْ نَذَرَ أَنْ يَعْتَكِفَ فِي مَسْجِدِ إيلِيَا فَاعْتَكَفَ فِي مَسْجِدِ النَّبِيِّ - عَلَيْهِ السَّلَامُ - بِالْمَدِينَةِ أَجْزَأَ عَنْهُ، وَمَنْ نَذَرَ أَنْ يَعْتَكِفَ فِي مَسْجِدِ النَّبِيِّ - عَلَيْهِ السَّلَامُ - فَاعْتَكَفَ فِي الْمَسْجِدِ الْحَرَامِ أَجْزَأَ عَنْهُ.

L15301 Thus, this Saʿīd—the jurist of the people of Medina—explicitly declares the preeminence of Mecca over Medina.

فَهَذَا سَعِيدٌ فَقِيهُ أَهْلِ الْمَدِينَةِ يُصَرِّحُ بِفَضْلِ مَكَّةَ عَلَى الْمَدِينَةِ.

L15302 Abu Muhammad said: They argued using fabricated reports, and it is obligatory to alert about them and warn against them.

قَالَ أَبُو مُحَمَّد: وَاحْتَجُّوا بِأَخْبَارٍ مَوْضُوعَةٍ يَجِبُ التَّنْبِيهُ عَلَيْهَا وَالتَّحْذِيرُ مِنْهَا.

L15303–15305 Among them is a narration we transmitted: "The Prophet (peace be upon him) said regarding a deceased person he saw: 'He was buried in the soil

from which he was created.”’ They said: “The Prophet (peace be upon him) was buried in Medina, so he was created from its soil, and he is the most excellent of creation; thus, it is the most excellent of places.” This narration is fabricated, for one of its two chains of transmission contains Muḥammad ibn al-Ḥasan ibn Zubālah, who is a discredited narrator. In general, Yahya ibn Maʿin said regarding him: He is not trustworthy, and there is consensus overall on rejecting him. Moreover, the narration from Unays ibn Yahya is disconnected (mursal), and Unays ibn Yahya’s identity is unknown. The other chain is through the narration of Abu Khalid—who is unknown—from Yahya al-Bakkāʾ, who is weak. Even if the narration were authentic, it would not constitute evidence, for the virtue would have been exclusively for his grave—peace be upon him. Otherwise, hypocrites were buried therein. Prophets such as Ibrahim, Ishaq, Yaʿqub, Musa, Harun, Sulayman, Dawud (peace be upon them), and others were buried in the Levant (al-Sham), yet no Muslim would claim it is superior to Mecca.

مِنْهَا: خَبَرٌ رُوِّينَاهُ «أَنَّ النَّبِيَّ - عَلَيْهِ السَّلَامُ - قَالَ فِي مَيِّتٍ رَآهُ: دُفِنَ فِي التُّرْبَةِ الَّتِي خُلِقَ مِنْهَا» ، قَالُوا: وَالنَّبِيُّ - عَلَيْهِ السَّلَامُ - دُفِنَ بِالْمَدِينَةِ فَمِنْ تُرْبَتِهَا خُلِقَ وَهُوَ أَفْضَلُ الْخَلْقِ فَهِيَ أَفْضَلُ الْبِقَاعِ. وَهَذَا خَبَرٌ مَوْضُوعٌ؛ لِأَنَّ فِي أَحَدِ طَرِيقَيْهِ مُحَمَّدُ بْنُ الْحَسَنِ بْنِ زُبَالَةَ وَهُوَ سَاقِطٌ بِالْجُمْلَةِ، قَالَ فِيهِ يَحْيَى بْنُ مَعِينٍ: لَيْسَ بِثِقَةٍ وَهُوَ بِالْجُمْلَةِ مُتَّفَقٌ عَلَى اطِّرَاحِهِ - ثُمَّ هُوَ أَيْضًا عَنْ أُنَيْسِ بْنِ يَحْيَى مُرْسَلٌ وَلَا يُدْرَى مَنْ أُنَيْسُ بْنُ يَحْيَى وَالطَّرِيقُ الْأُخْرَى مِنْ رِوَايَةِ أَبِي خَالِدٍ وَهُوَ مَجْهُولٌ عَنْ يَحْيَى الْبَكَّاءِ وَهُوَ ضَعِيفٌ - ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ فِيهِ حُجَّةٌ؛ لِأَنَّهُ إنَّمَا كَانَ يَكُونُ الْفَضْلُ لِقَبْرِهِ - عَلَيْهِ السَّلَامُ - فَقَطْ، وَإِلَّا فَقَدْ دُفِنَ فِيهَا الْمُنَافِقُونَ، وَقَدْ دُفِنَ الْأَنْبِيَاءُ - عَلَيْهِمْ السَّلَامُ - مِنْ إبْرَاهِيمَ، وَإِسْحَاقَ، وَيَعْقُوبَ، وَمُوسَى، وَهَارُونَ، وَسُلَيْمَانَ، وَدَاوُد - عَلَيْهِمْ السَّلَامُ -، وَغَيْرِهِمْ بِالشَّامِ، وَلَا يَقُولُ مُسْلِمٌ: إنَّهَا أَفْضَلُ مِنْ مَكَّةَ.

L15306 Among them is the statement: “Cities were opened by the sword, yet Medina was opened by the Quran.” This too is among the narrations of Muḥammad ibn al-Ḥasan ibn Zubālah—notorious for forging ḥadīth. This is undoubtedly his fabrication, as he narrated it from Mālik, from Hishām ibn ʿUrwah, from his father, from ʿĀʾishah, from the Prophet (peace be upon him). Such an anomalous path could only be followed by a figure as vile as this dung heap, for this chain is uniquely transmitted by Ibn Zubālah alone—contrary to all other trustworthy narrators who transmitted from Mālik. Even if this narration were authentic, it would not constitute proof of Medina’s superiority over Mecca. For regions like Bahrain and most Yemeni cities—such as Ṣanʿāʾ, Al-Jund, and others—were likewise opened not by the sword but solely by the Quran. Yet no Muslim considers this method of conquest a basis for their superiority over Mecca.

وَمِنْهَا «افْتُتِحَتْ الْمَدَائِنُ بِالسَّيْفِ وَفُتِحَتْ الْمَدِينَةُ بِالْقُرْآنِ» وَهَذَا أَيْضًا مِنْ رِوَايَةِ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ زُبَالَةَ الْمَذْكُورِ بِوَضْعِ الْحَدِيثِ، وَهَذَا مِنْ وَضْعِهِ بِلَا شَكٍّ؛ لِأَنَّهُ رَوَاهُ عَنْ مَالِكٍ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ عَائِشَةَ عَنْ النَّبِيِّ - عَلَيْهِ السَّلَامُ -، وَمِثْلُ هَذَا الشَّارِعِ الْعَجِيبِ لَا يَجُوزُ أَنْ يَسْلُكَ إلَيْهِ إلَّا مِثْلُ هَذِهِ الْمَزْبَلَةِ، وَهَذَا إسْنَادٌ لَا يَنْفَرِدُ بِمِثْلِهِ إلَّا ابْنُ زُبَالَةَ دُونَ سَائِرِ مَنْ رَوَى عَنْ مَالِكٍ مِنْ الثِّقَاتِ - ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ فِيهِ حُجَّةٌ فِي فَضْلِهَا عَلَى مَكَّةَ؛ لِأَنَّ الْبَحْرَيْنِ وَأَكْثَرَ مَدَائِنِ الْيَمَنِ كَصَنْعَاءَ وَالْجُنْدِ وَغَيْرِهَا لَمْ تُفْتَحْ بِسَيْفٍ إلَّا بِالْقُرْآنِ فَقَطْ وَلَيْسَ ذَلِكَ بِمُوجِبٍ فَضْلَهَا عَلَى مَكَّةَ عِنْدَ أَحَدٍ مِنْ الْمُسْلِمِينَ.

L15307 Among them is the statement: “There is no spot on earth more beloved to

me for my grave to be in than it." This is from the narration of the fabricator Muḥammad ibn al-Ḥasan ibn Zubāla, from Mālik, from Yaḥyā ibn Saʿīd, as a mursal report. Even if it were authentic, it would not constitute proof of Medina's superiority over Mecca, for the Messenger of Allah—peace be upon him—disliked that the Emigrants—while he was their leader—should return to Mecca and be resurrected as strangers expelled from their homeland for Allah's sake—Exalted is He. He even—peace be upon him—lamented Saʿd ibn Khawlah's death in Mecca, and he did not permit the Emigrants after completing their rites to remain in Mecca beyond three nights. Since Mecca is thereby excluded as a burial place for the Prophet—peace be upon him—Medina is without doubt the most superior place after it.

وَمِنْهَا «مَا عَلَى الْأَرْضِ بُقْعَةٌ أَحَبُّ إِلَيَّ أَنْ يَكُونَ قَبْرِي فِيهَا مِنْهَا» وَهَذَا مِنْ رِوَايَةِ الْكَذَّابِ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ زُبَالَةَ عَنْ مَالِكٍ عَنْ يَحْيَى بْنِ سَعِيدٍ مُرْسَلٌ - ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ فِيهِ حُجَّةٌ فِي فَضْلِهَا عَلَى مَكَّةَ، لِأَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - كَرِهَ لِلْمُهَاجِرِينَ وَهُوَ سَيِّدُهُمْ أَنْ يَرْجِعُوا إِلَى مَكَّةَ لِيُحْشَرُوا غُرَبَاءَ مَطْرُودِينَ عَنْ وَطَنِهِمْ فِي اللَّهِ - تَعَالَى - حَتَّى إِنَّهُ - عَلَيْهِ السَّلَامُ - رَثَا لِسَعْدِ بْنِ خَوْلَةَ أَنْ مَاتَ بِمَكَّةَ وَلَمْ يَجْعَلْ لِلْمُهَاجِرِينَ بَعْدَ تَمَامِ نُسُكِهِ أَنْ يَبْقَى بِمَكَّةَ إِلَّا ثَلَاثَ لَيَالٍ فَقَطْ، فَإِذَا خَرَجَتْ مَكَّةُ بِهَذِهِ الْعِلَّةِ عَنْ أَنْ يُدْفَنَ فِيهَا النَّبِيُّ - عَلَيْهِ السَّلَامُ - فَالْمَدِينَةُ أَفْضَلُ الْبِقَاعِ بَعْدَهَا بِلَا شَكٍّ.

L15308 It has been narrated to us via the chain of Al-Bazzar: Muḥammad ibn ʿUmar ibn Hayyāj from Al-Fuḍayl ibn Dukayn (Abū Nuʿaym) from Muḥammad ibn Qays from Abū Burdah ibn Abī Mūsā al-Ashʿarī from his father Abū Mūsā, who said: "Saʿd fell ill in Mecca, so the Prophet (peace be upon him) came to visit him. Saʿd said: 'O Messenger of God, do you not dislike that a man should die in the land from which he emigrated?' He replied: 'Yes.'" The narrator mentioned the rest of the report. This is the verbatim account of our position - all praise is due to God, Lord of all worlds.

رُوِّينَا مِنْ طَرِيقِ الْبَزَّارِ نَا مُحَمَّدُ بْنُ عُمَرَ بْنِ هَيَّاجٍ نَا الْفُضَيْلُ بْنُ دُكَيْنٍ أَبُو نُعَيْمٍ نَا مُحَمَّدُ بْنُ قَيْسٍ عَنْ أَبِي بُرْدَةَ بْنِ أَبِي مُوسَى الْأَشْعَرِيِّ عَنْ أَبِيهِ أَبِي مُوسَى قَالَ: «مَرِضَ سَعْدٌ بِمَكَّةَ فَأَتَاهُ النَّبِيُّ - عَلَيْهِ السَّلَامُ - يَعُودُهُ فَقَالَ لَهُ يَا رَسُولَ اللَّهِ أَلَيْسَ تَكْرَهُ أَنْ يَمُوتَ الرَّجُلُ فِي الْأَرْضِ الَّتِي هَاجَرَ مِنْهَا؟ قَالَ: بَلَى» وَذَكَرَ بَاقِيَ الْخَبَرِ، فَهَذَا نَصُّ مَا قُلْنَا - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

L15309–15311 "O Allah, verily You have brought me out from the most beloved of Your lands to me, so settle me in the most beloved of the lands to You." And this is a fabricated report from the narration of Muḥammad ibn al-Ḥasan ibn Zubālah (the aforementioned), from Muḥammad ibn Ismāʿīl, from Sulaymān ibn Buraydah and others; it is a mursal report (with an incomplete chain of transmission).

وَمِنْهَا: «اللَّهُمَّ إِنَّكَ أَخْرَجْتَنِي مِنْ أَحَبِّ بِلَادِكَ إِلَيَّ فَأَسْكِنِي أَحَبَّ الْبِلَادِ إِلَيْكَ» وَهَذَا مَوْضُوعٌ مِنْ رِوَايَةِ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ زُبَالَةَ الْمَذْكُورِ عَنْ مُحَمَّدِ بْنِ إِسْمَاعِيلَ عَنْ سُلَيْمَانَ بْنِ بُرَيْدَةَ وَغَيْرِهِ مُرْسَلٌ.

L15312 Among them is: "Madinah is better than Makkah"—this is an explicit statement that has been narrated to us through chains of transmission.

وَمِنْهَا: الْمَدِينَةُ خَيْرٌ مِنْ مَكَّةَ - هَكَذَا تَصْرِيحٌ رُوِّينَا مِنْ طُرُقٍ.

L15313 One of the following:

أَحَدُهَا:

L15314 From the narration of Muḥammad ibn al-Ḥasan ibn Zubālata—the fabricator of all these fabrications who single-handedly forged them—from Yaḥyā ibn

ʿAbd al-Raḥmān, from ʿAmrah bint ʿAbd al-Raḥmān, from Rāfiʿ ibn Khadīj, who said: The Messenger of Allah (peace and blessings be upon him) said:

مِنْ رِوَايَةِ مُحَمَّدِ بْنِ الْحَسَنِ بْنِ زُبَالَةَ صَاحِبِ هَذِهِ الْفَضَائِحِ كُلِّهَا الْمُنْفَرِدِ بِوَضْعِهَا عَنْ يَحْيَى بْنِ عَبْدِ الرَّحْمَنِ عَنْ عَمْرَةَ بِنْتِ عَبْدِ الرَّحْمَنِ عَنْ رَافِعِ بْنِ خَدِيجٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -.

L15315 The second:

وَالثَّانِي:

L15316 From the chain of Muḥammad ibn ʿAbd al-Raḥmān ibn al-Raddād ibn ʿAbd Allāh ibn Shurayḥ ibn Mālik al-Qurashī, from Yaḥyā ibn Saʿīd al-Anṣārī, from ʿAmrah bint ʿAbd al-Raḥmān, from Rāfiʿ ibn Khadīj, from the Prophet (peace be upon him). This Muḥammad ibn ʿAbd al-Raḥmān is unknown; no one knows him.

مِنْ طَرِيقِ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الرَّدَّادِ بْنِ عَبْدِ اللَّهِ بْنِ شُرَيْحِ بْنِ مَالِكٍ الْقُرَشِيِّ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ عَنْ عَمْرَةَ بِنْتِ عَبْدِ الرَّحْمَنِ عَنْ رَافِعِ بْنِ خَدِيجٍ عَنْ النَّبِيِّ - عَلَيْهِ السَّلَامُ -، وَمُحَمَّدُ بْنُ عَبْدِ الرَّحْمَنِ هَذَا مَجْهُولٌ لَا يَدْرِيه أَحَدٌ.

L15317 And the third.

وَالثَّالِثُ:

L15318 From the path of ʿAbdullāh ibn Nāfiʿ al-Ṣāʾigh, a companion of Mālik, from the aforementioned Muḥammad ibn ʿAbd al-Raḥmān ibn al-Raddād, from Yaḥyā ibn Saʿīd, from ʿAmrah, Rāfiʿ reported that the Messenger of Allāh (peace be upon him) said. This ʿAbdullāh ibn Nāfiʿ is unanimously deemed weak, and Ibn al-Raddād is unknown. Such an anomalous path cannot be legitimately relied upon except through these repulsively deviant routes.

مِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ نَافِعٍ الصَّائِغِ صَاحِبِ مَالِكٍ عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الرَّدَّادِ الْمَذْكُورِ عَنْ يَحْيَى بْنِ سَعِيدٍ عَنْ عَمْرَةَ قَالَ رَافِعٌ: قَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -، وَعَبْدُ اللَّهِ بْنُ نَافِعٍ هَذَا ضَعِيفٌ بِلَا خِلَافٍ، وَابْنُ الرَّدَّادِ مَجْهُولٌ - وَمِثْلُ هَذَا الشَّارِعِ الْعَجِيبِ لَا يَجُوزُ أَنْ يُسْلَكَ عَلَيْهِ إلَّا عَلَى هَذِهِ الزَّوَايِغِ الْوَحْشَةِ.

L15319 This report we have narrated through Muslim with a chain of transmission of the highest authenticity. Muslim said: “Abdullah ibn Maslamah al-Qaʿnabi narrated to us, Sulayman ibn Bilal narrated to us from ʿUtbah ibn Muslim from Nafiʿ ibn Jubayr ibn Mutʿim, who said: Marwan delivered a sermon and mentioned Mecca, its people, and its sanctity, [but did not mention Medina, its people, and its sanctity]. Rafiʿ ibn Khadij [and said] called out to him: I hear you mention Mecca, its people, and its sanctity, yet you do not mention Medina, its people, and its sanctity, even though the Messenger of Allah, peace be upon him, declared sacred what lies between its two lava fields. That is with us on a Khulani leather parchment; if you wish, I can recite it to you.” Marwan replied: “I have heard some of that.” Abu Muhammad said:

وَهَذَا الْخَبَرُ رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ بِإِسْنَادٍ فِي غَايَةِ الصِّحَّةِ، قَالَ مُسْلِمٌ " نَا عَبْدُ اللَّهِ بْنُ مَسْلَمَةَ الْقَعْنَبِيُّ نَا سُلَيْمَانُ بْنُ بِلَالٍ عَنْ عُتْبَةَ بْنِ مُسْلِمٍ عَنْ نَافِعِ بْنِ جُبَيْرِ بْنِ مُطْعِمٍ قَالَ: خَطَبَ مَرْوَانُ فَذَكَرَ مَكَّةَ وَأَهْلَهَا وَحُرْمَتَهَا [وَلَمْ يَذْكُرْ الْمَدِينَةَ وَأَهْلَهَا وَحُرْمَتَهَا] فَنَادَاهُ رَافِعُ بْنُ خَدِيجٍ [فَقَالَ] أَسْمَعُك ذَكَرْت مَكَّةَ وَأَهْلَهَا وَحُرْمَتَهَا وَلَمْ تَذْكُرْ الْمَدِينَةَ وَأَهْلَهَا وَحُرْمَتَهَا، وَقَدْ حَرَّمَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - مَا بَيْنَ لَابَتَيْهَا وَذَلِكَ عِنْدَنَا فِي أَدِيمٍ خُولَانِيٍّ إنْ شِئْتُمْ أَقْرَأْتُكُمْ فَقَالَ مَرْوَانُ: قَدْ سَمِعْت بَعْضَ ذَلِكَ ". قَالَ أَبُو مُحَمَّدٍ: فَهَكَذَا

كَانَ الْحَدِيثُ فَبَدَّلَهُ أَهْلُ الزَّيْغِ عَصَبِيَّةً عَجَّلَ اللَّهُ - تَعَالَى - لَهُمْ بِهَا الْفَضِيحَةَ فِي الْكَذِبِ عَلَى رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - وَصِفَةِ الْحَمَاقَةِ، وَنَعُوذُ بِاللَّهِ مِنْ كُلِّ ذَلِكَ.

Thus was the original narration, but the people of deviation altered it out of partisanship—may Allah Almighty hasten for them through it their exposure in the lies they attribute to the Messenger of Allah, peace be upon him, and the attribute of foolishness. We seek refuge in Allah from all of that.

قَالَ عَلِيٌّ: هَذَا كُلُّ مَا مَوَّهُوا بِهِ قَدْ أَوْضَحْنَاهُ، وَبِاللَّهِ - تَعَالَى - التَّوْفِيقُ.

L15320 Ali said: This is all that they have disguised; we have clarified it. And with Allah, the Exalted, lies success.

ثُمَّ نُورِدُ الْآثَارَ الصَّحِيحَةَ وَالْبَرَاهِينَ الْوَاضِحَةَ فِي فَضْلِ مَكَّةَ عَلَى الْمَدِينَةِ وَغَيْرِهَا، أَوَّلُ ذَلِكَ: حَبْسُ اللَّهِ - تَعَالَى - الْفِيلَ عَنْهَا وَإِهْلَاكُهُ جَيْشَ رَاكِبِهِ إِذْ أَرَادَ غَزْوَ مَكَّةَ.

L15321–15322 Then we present the authentic narrations and clear proofs regarding the superiority of Mecca over Medina and others. The first of these is God—Exalted is He—preventing the elephant from reaching it and His destruction of the army accompanying its rider when he intended to invade Mecca.

ثُمَّ «قَوْلُ رَسُولِ اللَّهِ - عَلَيْهِ السَّلَامُ - فِي غَزْوَةِ الْحُدَيْبِيَةِ إِذْ بَرَكَتْ نَاقَتُهُ فَقَالَ النَّاسُ: خَلَأَتْ فَقَالَ النَّبِيُّ - عَلَيْهِ السَّلَامُ -: مَا خَلَأَتْ وَلَا هُوَ لَهَا بِخُلُقٍ وَلَكِنْ حَبَسَهَا حَابِسُ الْفِيلِ» ، وَقَالَ - تَعَالَى - {وَمَنْ دَخَلَهُ كَانَ آمِنًا} [آل عمران: ٩٧] ، وَقَالَ - تَعَالَى - {إِنَّ أَوَّلَ بَيْتٍ وُضِعَ لِلنَّاسِ لَلَّذِي بِبَكَّةَ مُبَارَكًا وَهُدًى لِلْعَالَمِينَ} [آل عمران: ٩٦] ، وَقَالَ - تَعَالَى - {إِنَّ الصَّفَا وَالْمَرْوَةَ مِنْ شَعَائِرِ اللَّهِ} [البقرة: ١٥٨] ، وَقَالَ - تَعَالَى - {ثُمَّ مَحِلُّهَا إِلَى الْبَيْتِ الْعَتِيقِ} [الحج: ٣٣] ، وَقَالَ - تَعَالَى - {أَنْ طَهِّرَا بَيْتِيَ لِلطَّائِفِينَ وَالْعَاكِفِينَ وَالرُّكَّعِ السُّجُودِ} [البقرة: ١٢٥] ، ثُمَّ جَعَلَ اللَّهُ - تَعَالَى - فِيهَا تَمَامَ الصَّلَاةِ، وَالْحَجِّ، وَالْعُمْرَةِ، فَهِيَ الْقِبْلَةُ الَّتِي لَا تُقْبَلُ صَلَاةٌ إِلَّا بِالْقَصْدِ نَحْوَهَا، وَإِلَيْهَا الْحَجُّ الْمُفْتَرَضُ، وَالْعُمْرَةُ الْمُفْتَرَضَةُ، وَإِنَّمَا فُرِضَتْ الْهِجْرَةُ إِلَى الْمَدِينَةِ مَا لَمْ تُفْتَحْ مَكَّةُ فَلَمَّا فُتِحَتْ بَطَلَتْ الْهِجْرَةُ، فَهَذِهِ الْفَضِيلَةُ لِمَكَّةَ ثُمَّ لِلْمَدِينَةِ، وَأَمَرَ - عَلَيْهِ السَّلَامُ - أَنْ لَا يُسْفَكَ فِيهَا دَمٌ، وَأَخْبَرَ أَنَّ اللَّهَ - تَعَالَى - حَرَّمَهَا يَوْمَ خَلَقَ السَّمَوَاتِ وَالْأَرْضَ، وَلَمْ يُحَرِّمْهَا النَّاسُ وَنَهَى - عَلَيْهِ السَّلَامُ - أَنْ يَسْتَقْبِلَهَا أَحَدٌ أَوْ يَسْتَدْبِرَهَا بِبَوْلٍ أَوْ غَائِطٍ.

L15323 Then the statement of the Messenger of Allah—peace be upon him—during the Expedition of Ḥudaybiyyah, when his she-camel knelt down, and the people said, “It has balked.” The Prophet—peace be upon him—said, “It has not balked, nor is that in its nature, but it has been restrained by the Restrainer of the elephant.” And Allah—the Most High—said, {And whoever enters it shall be secure} [Āl ʿImrān: 97], and He—the Most High—said, {Indeed, the first House established for mankind was that at Bakkah—blessed and a guidance for the worlds} [Āl ʿImrān: 96], and He—the Most High—said, {Indeed, Ṣafā and Marwah are among the symbols of Allah} [Al-Baqarah: 158], and He—the Most High—said, {Then their place of sacrifice is to the Ancient House} [Al-Ḥajj: 33], and He—the Most High—said, {Purify My House for those who perform circumambulation, those who stay in devotion, and those who bow and prostrate} [Al-Baqarah: 125]. Then Allah—the Most High—established in it the validity of prayer, Ḥajj, and ʿUmrah. It is the direction of prayer, the qiblah, without which no prayer is accepted unless one faces it. To it is the obligatory Ḥajj and the obligatory ʿUmrah. The obligation of Hijrah to Madīnah applied only until Makkah was conquered. When Makkah was conquered, the obligation of Hijrah ceased. Thus, this sacred virtue belongs to Makkah, then to Madīnah. He—peace be upon him—commanded that no bloodshed is permitted there and informed that Allah—the Most High—made it inviolable on the day He created the heavens and the earth, and it

was not people who rendered it sacred. He also forbade anyone to face it or turn one's back toward it during urination or defecation.[33]

L15324–15326 We have been narrated through the chain of al-Bukhārī: From Muḥammad ibn ʿAbdullāh, from ʿĀṣim ibn ʿAlī, from ʿĀṣim ibn Muḥammad (son of Zayd ibn ʿAbdullāh ibn ʿUmar ibn al-Khaṭṭāb), from Wāqid ibn Muḥammad (ʿĀṣim's brother), who said: I heard my father Muḥammad ibn Zayd say: ʿAbdullāh ibn ʿUmar reported: The Messenger of Allah—peace and blessings be upon him—said during the Farewell Pilgrimage: "Behold! Which month do you consider most sacred?" They answered: "Is it not this month of ours?" He said: "Behold! Which land do you consider most sacred?" They replied: "Is it not this land of ours?" He said: "Behold! Which day do you consider most sacred?" They responded: "Is it not this day of ours?" He said: "Verily, Allah the Exalted has made your blood, your wealth, and your honor sacred to you—except by their just due—as sacred as this day of yours in this land of yours during this month of yours. Behold! Have I not..." "Have I conveyed [it]? Three times. Each instance, they answer him: 'Is it not? Yes!'"

L15327 From the narration of Ibn Abi Shaybah: Abu Mu'awiyah—Muhammad ibn Khazim the Blind—narrated to us from al-A'mash, from Abi Salih al-Samman (the oil merchant), from Jabir ibn Abdullah, who said: "The Messenger of Allah (peace be upon him) said during his Hajj: 'Do you know which day holds the greatest sanctity?' We replied: 'This day.' He asked: 'Which land holds the greatest sanctity?' We said: 'This land.'" Then he cited a narration similar to that of Ibn Umar.

L15328 These two, Jābir and Ibn ʿUmar, testify that the Messenger of Allah (peace be upon him) asked the people to confirm which land holds the greatest sanctity. They answered him that it is Makkah, and he affirmed their response. This constitutes a consensus from all the Companions in their reply to him (peace be upon him) that their city was indeed Makkah, while they themselves were in Makkah. Therefore, whoever contradicts this has contradicted the consensus.

رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ نَا عَاصِمُ بْنُ عَلِيٍّ نَا عَاصِمُ بْنُ مُحَمَّدٍ هُوَ ابْنُ زَيْدِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ بْنِ الْخَطَّابِ - عَنْ وَاقِدِ بْنِ مُحَمَّدٍ - هُوَ أَخُوهُ - قَالَ: سَمِعْت أَبِي - هُوَ مُحَمَّدُ بْنُ زَيْدٍ - قَالَ: قَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ «قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَجَّةِ الْوَدَاعِ: أَلَا أَيُّ شَهْرٍ تَعْلَمُونَهُ أَعْظَمَ حُرْمَةً؟ قَالُوا: أَلَا شَهْرُنَا هَذَا. قَالَ: أَلَا أَيُّ بَلَدٍ تَعْلَمُونَهُ أَعْظَمَ حُرْمَةً؟ قَالُوا: أَلَا بَلَدُنَا هَذَا. قَالَ: أَلَا أَيُّ يَوْمٍ تَعْلَمُونَهُ أَعْظَمَ حُرْمَةً؟ قَالُوا: أَلَا يَوْمُنَا هَذَا. قَالَ: فَإِنَّ اللَّهَ - تَعَالَى - حَرَّمَ عَلَيْكُمْ دِمَاءَكُمْ، وَأَمْوَالَكُمْ، وَأَعْرَاضَكُمْ، إلَّا بِحَقِّهَا كَحُرْمَةِ يَوْمِكُمْ هَذَا، فِي بَلَدِكُمْ هَذَا مِنْ شَهْرِكُمْ هَذَا أَلَا هَلْ بَلَّغْتُ؟ ثَلَاثًا، كُلُّ ذَلِكَ يُجِيبُونَهُ: أَلَا نَعَمْ» .

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا أَبُو مُعَاوِيَةَ هُوَ مُحَمَّدُ بْنُ خَازِمٍ الضَّرِيرُ - عَنْ الْأَعْمَشِ عَنْ أَبِي صَالِحٍ السَّمَّانِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: «قَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - فِي حَجَّتِهِ: أَتَدْرُونَ أَيُّ يَوْمٍ أَعْظَمُ حُرْمَةً؟ فَقُلْنَا: يَوْمُنَا هَذَا قَالَ: فَأَيُّ بَلَدٍ أَعْظَمُ حُرْمَةً؟ فَقُلْنَا: بَلَدُنَا هَذَا» ثُمَّ ذَكَرَ مِثْلَ حَدِيثِ ابْنِ عُمَرَ.

فَهَذَانِ: جَابِرٌ، وَابْنُ عُمَرَ يَشْهَدَانِ: أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - قَرَّرَ النَّاسَ عَلَى أَيِّ بَلَدٍ أَعْظَمُ حُرْمَةً فَأَجَابُوهُ بِأَنَّهُ مَكَّةُ وَصَدَّقَهُمْ فِي ذَلِكَ، وَهَذَا إجْمَاعٌ مِنْ جَمِيعِ الصَّحَابَةِ فِي إجَابَتِهِمْ إيَّاهُ - عَلَيْهِ السَّلَامُ - بِأَنَّ بَلَدَهُمْ ذَلِكَ، وَهُمْ بِمَكَّةَ، فَمَنْ خَالَفَ هَذَا فَقَدْ خَالَفَ الْإِجْمَاعَ.

[33] **Qur'an references (L15323):** Qur'an 3:97 (Ali 'Imran); Qur'an 3:96 (Ali 'Imran); Qur'an 2:158 (Al-Baqarah); Qur'an 22:33 (Al-Hajj); Qur'an 2:125 (Al-Baqarah).

فَصَحَّ بِالنَّصِّ وَالْإِجْمَاعِ أَنَّ مَكَّةَ أَعْظَمُ حُرْمَةً مِنْ الْمَدِينَةِ، وَإِذَا كَانَتْ أَعْظَمَ حُرْمَةً مِنْ الْمَدِينَةِ فَهِيَ أَفْضَلُ بِلَا شَكٍّ، لِأَنَّ أَعْظَمَ الْحُرْمَةِ لَا يَكُونُ إلَّا لِلْأَفْضَلِ وَلَا بُدَّ، لَا لِلْأَقَلِّ فَضْلًا.

L15329 It has been established through textual evidence and consensus that Mecca possesses greater sanctity than Medina. Since it holds greater sanctity than Medina, it is unquestionably superior, for the highest degree of sanctity can only belong to the most excellent by necessity - not to what holds lesser merit.

رُوِّينَا مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ مُحَمَّدِ بْنِ عَمْرٍو عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ عَنْ أَبِي هُرَيْرَةَ «أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - كَانَ بِالْحَجُونِ فَقَالَ: وَاَللَّهِ إنَّكِ لَخَيْرُ أَرْضِ اللَّهِ وَأَحَبُّ أَرْضِ اللَّهِ إلَيَّ وَلَوْ لَمْ أُخْرَجْ مِنْكِ مَا خَرَجْتُ، لَمْ تَحِلَّ لِأَحَدٍ قَبْلِي، وَلَا تَحِلُّ لِأَحَدٍ بَعْدِي» وَذَكَرَ بَاقِيَ الْحَدِيثِ.

L15330 It has been narrated to us through Hammad ibn Salamah, from Muhammad ibn 'Amr, from Abu Salamah ibn 'Abd al-Rahman ibn 'Awf, from Abu Hurayrah: "The Messenger of Allah (peace be upon him) was at Hajun when he said: 'By Allah, you are truly the best land of Allah and the most beloved land of Allah to me. Had I not been expelled from you, I would not have left. It was not permissible for anyone before me, nor will it be permissible for anyone after me.'" The rest of the hadith was mentioned.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا عَبْدُ الْعَزِيزِ بْنِ مُحَمَّدٍ الدَّرَاوَرْدِيُّ عَنْ مُحَمَّدِ بْنِ عَمْرِو بْنِ عَلْقَمَةَ بْنِ وَقَّاصٍ عَنْ أَبِي سَلَمَةَ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ - عَنْ أَبِي هُرَيْرَةَ «أَنَّ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - وَقَفَ بِالْحَجُونِ فَقَالَ: إنَّكِ خَيْرُ أَرْضِ اللَّهِ وَأَحَبُّ أَرْضِ اللَّهِ إلَى اللَّهِ، وَلَوْ تُرِكْتُ فِيكِ مَا خَرَجْتُ مِنْكِ» وَذَكَرَ بَاقِيَ الْحَدِيثِ.

L15331 And through the chain of Saʿīd ibn Manṣūr, who narrated to us ʿAbd al-ʿAzīz ibn Muḥammad al-Darāwardī, from Muḥammad ibn ʿAmr ibn ʿAlqāmah ibn Waqqāṣ, from Abū Salamah – he is the son of ʿAbd al-Raḥmān ibn ʿAwf – from Abū Hurayrah: "The Messenger of Allah – peace be upon him – stood at al-Ḥajūn and said: 'You are the best land of Allah and the most beloved land of Allah to Him. If I had been allowed to stay in you, I would never have departed from you.'" And he [Saʿīd] mentioned the remainder of the Ḥadīth.

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ نَا سَلَمَةُ بْنُ شَبِيبٍ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، وَإِسْحَاقَ بْنِ مَنْصُورٍ قَالَ سَلَمَةُ: عَنْ إبْرَاهِيمَ بْنِ خَالِدٍ قَالَ: سَمِعْت مَعْمَرًا عَنْ الزُّهْرِيِّ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ عَنْ أَبِي هُرَيْرَةَ قَالَ: «قَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ - وَهُوَ فِي سُوقِ الْحَزُورَةِ بِمَكَّةَ: وَاَللَّهِ إنَّكِ لَخَيْرُ أَرْضِ اللَّهِ وَأَحَبُّ الْبِلَادِ إلَى اللَّهِ، وَلَوْلَا أَنِّي أُخْرِجْتُ مِنْكِ مَا خَرَجْتُ» .

L15332–15334 Via the chain of Aḥmad ibn Shuʿayb: Salamah ibn Shabīb, Quṭaybah ibn Saʿīd, and Isḥāq ibn Manṣūr narrated to us. Salamah said: From Ibrāhīm ibn Khālid, who said: I heard Maʿmar from al-Zuhrī from Abū Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf from Abū Hurayrah, who said: "The Messenger of Allah—peace be upon him—said, while he was in the market..." While in the region of Makkah: "By Allah, you are indeed the best of Allah's lands and the most beloved of territories to Allah. Had I not been expelled from you, I would never have departed."

وَقَالَ قُتَيْبَةُ: نَا اللَّيْثُ وَهُوَ ابْنُ سَعْدٍ - عَنْ عَقِيلِ بْنِ خَالِدٍ، وَقَالَ إسْحَاقُ: نَا يَعْقُوبُ وَهُوَ ابْنُ إبْرَاهِيمَ بْنِ سَعْدِ بْنِ إبْرَاهِيمَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ نَا أَبِي عَنْ صَالِحِ بْنِ كَيْسَانَ؛

L15335 Qutaybah said: Al-Layth—who is Ibn Saʿd—narrated to us from ʿAqil ibn Khalid. Ishaq said: Yaʿqub—who is Ibn Ibrahim ibn Saʿd ibn Ibrahim ibn ʿAbd al-Rahman ibn ʿAwf—narrated to us from my father from Salih ibn

Kaysan. Then ʻAqil and Salih concurred, both narrating from al-Zuhri: Abu Salamah ibn ʻAbd al-Rahman ibn ʻAwf informed me that ʻAbdullah ibn ʻAdi ibn al-Hamraʼ informed him that he heard the Messenger of Allah—peace be upon him—while standing on his mount at al-Jazūrah, a part of Mecca, saying to Mecca: "By Allah, you are indeed the best of Allah's lands and the most beloved to Him. Were I not expelled from you, I would never have departed."[34]

ثُمَّ اتَّفَقَ عُقَيْلٌ، وَصَالِحٌ، وَكِلَاهُمَا عَنْ الزُّهْرِيِّ: أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ: «أَنَّ عَبْدَ اللَّهِ بْنَ عَدِيِّ ابْنِ الْحَمْرَاءِ أَخْبَرَهُ أَنَّهُ سَمِعَ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - وَهُوَ وَاقِفٌ عَلَى رَاحِلَتِهِ بِالْجَزُورَةِ مِنْ مَكَّةَ يَقُولُ لِمَكَّةَ: وَاَللَّهِ إِنَّكِ لَخَيْرُ أَرْضِ اللَّهِ، وَأَحَبُّ أَرْضِ اللَّهِ إِلَى اللَّهِ، وَلَوْلَا أَنِّي أُخْرِجْتُ مِنْكِ مَا خَرَجْتُ» .

L15336 Uqayl and Salih did not differ in any of his wording—peace be upon him—except that Uqayl said: From al-Zuhri, from Abu Salama ibn Abd al-Rahman ibn Awf, from Abdullah ibn Adiyy ibn al-Hamraʼ—and this Abdullah is a well-known Companion of Zuhri lineage.

لَمْ يَخْتَلِفْ عُقَيْلٌ، وَصَالِحٌ، فِي شَيْءٍ مِنْ لَفْظِهِ - عَلَيْهِ السَّلَامُ -، إلَّا أَنَّ عَقِيلًا قَالَ: عَنْ الزُّهْرِيِّ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ عَنْ عَبْدِ اللَّهِ بْنِ عَدِيِّ ابْنِ الْحَمْرَاءِ - وَعَبْدُ اللَّهِ هَذَا مَشْهُورٌ مِنْ الصَّحَابَةِ زُهْرِيُّ النَّسَبِ.

L15337 Narrated by Ahmad ibn Umar ibn Anas, narrated by Abu Dharr al-Harawi, narrated by Abu al-Fadl Muhammad ibn Abdullah ibn Ḥumayrawayh, narrated by Ali ibn Muhammad ibn Isa, narrated by Abu al-Yaman—he is al-Hakam ibn Nafiʻ—reported to me by Shuʻayb (he is ibn Abi Hamzah) from al-Zuhri, reported to me by Abu Salamah ibn Abd al-Rahman ibn Awf that Abdullah ibn Adiy ibn al-Hamra reported: He heard the Messenger of Allah—peace be upon him—say while standing at al-Jazurah in the market of Mecca, "By Allah, you are indeed the best land of Allah and the most beloved land of Allah to Allah. Had I not been expelled from you, I would not have left." Thus, the ambiguity was entirely resolved—and all praise is due to Allah.[35]

نَا أَحْمَدُ بْنُ عُمَرَ بْنِ أَنَسٍ نَا أَبُو ذَرٍّ الْهَرَوِيُّ نَا أَبُو الْفَضْلِ مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ حُمَيْرَوَيْهِ نَا عَلِيُّ بْنُ مُحَمَّدِ بْنِ عِيسَى نَا أَبُو الْيَمَانِ هُوَ الْحَكَمُ بْنُ نَافِعٍ - أَخْبَرَنِي شُعَيْبٌ هُوَ ابْنُ أَبِي حَمْزَةَ - عَنْ الزُّهْرِيِّ أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَنَّ عَبْدَ اللَّهِ بْنَ عَدِيِّ بْنِ الْحَمْرَاءِ أَخْبَرَهُ: أَنَّهُ سَمِعَ رَسُولَ اللَّهِ - عَلَيْهِ السَّلَامُ - يَقُولُ وَهُوَ وَاقِفٌ بِالْجَزُورَةِ فِي سُوقِ مَكَّةَ: «وَاَللَّهِ إِنَّكِ لَخَيْرُ أَرْضِ اللَّهِ وَأَحَبُّ أَرْضِ اللَّهِ إِلَى اللَّهِ، وَلَوْلَا أَنِّي أُخْرِجْتُ مِنْكِ مَا خَرَجْتُ» فَارْتَفَعَ الْإِشْكَالُ جُمْلَةً - وَلِلَّهِ الْحَمْدُ.

L15338 This is a narration of the highest authenticity, narrated from the Prophet (peace be upon him) by Abū Hurayrah and ʿAbdullāh ibn ʿAdī. It was narrated from both of them by Abū Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf, and from Abū Salamah by al-Zuhrī and Muḥammad ibn ʿAmr ibn ʿAlqamah.

وَهَذَا خَبَرٌ فِي غَايَةِ الصِّحَّةِ رَوَاهُ عَنْ النَّبِيِّ - عَلَيْهِ السَّلَامُ - أَبُو هُرَيْرَةَ، وَعَبْدُ اللَّهِ بْنُ عَدِيٍّ - وَرَوَاهُ عَنْهُمَا أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ وَرَوَاهُ عَنْ أَبِي سَلَمَةَ الزُّهْرِيُّ وَمُحَمَّدُ بْنُ عَمْرِو بْنِ عَلْقَمَةَ.

L15339 Narrated it from Muhammad ibn ʻAmr are Hammad ibn Salamah and al-Darawardi. Narrated from al-Zuhri are his trustworthy students: Maʻmar,

[34] **Hadith references (L15335):** Jami at-Tirmidhi 3925.

[35] **Hadith references (L15337):** Jami at-Tirmidhi 3925.

Shu'ayb ibn Abi Hamzah, 'Uqayl, and Salih ibn Kaysan. It was also narrated from him by Yunus ibn Zayd and 'Abd al-Rahman ibn Khalid.

وَرَوَاهُ عَنْ مُحَمَّدِ بْنِ عَمْرٍو حَمَّادُ بْنُ سَلَمَةَ، والدراوردي - وَرَوَاهُ عَنِ الزُّهْرِيِّ أَصْحَابُهُ الثِّقَاتُ: مَعْمَرٌ، وَشُعَيْبُ بْنُ أَبِي حَمْزَةَ، وَعُقَيْلٌ، وَصَالِحُ بْنُ كَيْسَانَ - وَرَوَاهُ أَيْضًا عَنْهُ يُونُسُ بْنُ زَيْدٍ، وَعَبْدُ الرَّحْمَنِ بْنُ خَالِدٍ.

L15340–15341 And he narrated it from this vast gathering, and there is no statement for anyone after this.

وَرَوَاهُ عَنْ هَؤُلَاءِ الْجَمْعِ الْغَفِيرِ، وَلَا مَقَالَ لِأَحَدٍ بَعْدَ هَذَا.

L15342 Yusuf ibn Abdullah ibn Abd al-Barr al-Namari narrated to us, on the authority of Abdul-Warith ibn Sufyan ibn Jabrun, on the authority of Qasim ibn Asbagh, on the authority of Ahmad ibn Zuhayr and Abu Yahya ibn Abi Murrah, both of whom said together: Sulayman ibn Harb narrated to us, on the authority of Hammad ibn Zayd, on the authority of Habib the Teacher, on the authority of Ata ibn Abi Rabah, on the authority of Abdullah ibn al-Zubayr, who said: The Messenger of Allah - peace be upon him - said: "A prayer in my mosque is superior to a thousand prayers in other mosques except the Sacred Mosque; a prayer in the Sacred Mosque is superior to a hundred prayers in this mosque of mine."[36]

حَدَّثَنَا يُوسُفُ بْنُ عَبْدِ اللَّهِ بْنِ عَبْدِ الْبَرِّ النَّمَرِيُّ نَا عَبْدُ الْوَارِثِ بْنُ سُفْيَانَ بْنِ جَبْرُونَ نَا قَاسِمُ بْنُ أَصْبَغَ نَا أَحْمَدُ بْنُ زُهَيْرٍ، وَأَبُو يَحْيَى بْنُ أَبِي مُرَّةَ قَالَا جَمِيعًا: نَا سُلَيْمَانُ بْنُ حَرْبٍ نَا حَمَّادُ بْنُ زَيْدٍ عَنْ حَبِيبٍ الْمُعَلِّمِ نَا عَطَاءُ بْنُ أَبِي رَبَاحٍ عَنْ عَبْدِ اللَّهِ بْنِ الزُّبَيْرِ قَالَ: قَالَ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -: «صَلَاةٌ فِي مَسْجِدِي أَفْضَلُ مِنْ أَلْفِ صَلَاةٍ فِيمَا سِوَاهُ مِنَ الْمَسَاجِدِ إِلَّا الْمَسْجِدَ الْحَرَامَ وَصَلَاةٌ فِي الْمَسْجِدِ الْحَرَامِ أَفْضَلُ مِنْ صَلَاةٍ فِي مَسْجِدِي هَذَا بِمِائَةِ صَلَاةٍ» .

L15343 Ahmad ibn Zuhayr said: I asked Yaḥyā ibn Maʿīn about Ḥabīb al-Muʿallim, and he replied: "Trustworthy." And Ahmad ibn Ḥanbal said: "Ḥabīb al-Muʿallim is trustworthy. How authentic his ḥadīth is!" This is the wording of Ahmad ibn Zuhayr.

قَالَ أَحْمَدُ بْنُ زُهَيْرٍ: سَأَلْتُ يَحْيَى بْنَ مَعِينٍ عَنْ حَبِيبٍ الْمُعَلِّمِ فَقَالَ: ثِقَةٌ، وَقَالَ أَحْمَدُ بْنُ حَنْبَلٍ: حَبِيبٌ الْمُعَلِّمُ ثِقَةٌ مَا أَصَحَّ حَدِيثَهُ، هَذَا لَفْظُ أَحْمَدَ بْنِ زُهَيْرٍ.

L15344 Ibn Abi Murrah said in his narration: "A prayer in my mosque is superior to a thousand prayers in any other mosque except Al-Masjid al-Haram. And a prayer in Al-Masjid al-Haram is superior to a hundred prayers in my mosque."

وَقَالَ ابْنُ أَبِي مُرَّةَ فِي رِوَايَتِهِ «صَلَاةٌ فِي مَسْجِدِي هَذَا أَفْضَلُ مِنْ أَلْفِ صَلَاةٍ فِيمَا سِوَاهُ إِلَّا الْمَسْجِدَ الْحَرَامَ، وَصَلَاةٌ فِي الْمَسْجِدِ الْحَرَامِ أَفْضَلُ مِنْ مِائَةِ صَلَاةٍ فِي مَسْجِدِي» .

L15345 We have also transmitted it through the route of Muḥammad ibn ʿUbayd ibn Ḥisān from Ḥammād ibn Zayd with its wording and chain of transmission. We have also transmitted it through the route of Abū Muʿāwiyah from Mūsā al-Juhanī from Nāfiʿ from Ibn ʿUmar from the Prophet (peace be upon him).

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ مُحَمَّدِ بْنِ عُبَيْدِ بْنِ حِسَابٍ عَنْ حَمَّادِ بْنِ زَيْدٍ بِلَفْظِهِ وَإِسْنَادِهِ - وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ أَبِي مُعَاوِيَةَ عَنْ مُوسَى الْجُهَنِيِّ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ - عَلَيْهِ السَّلَامُ -.

[36] **Hadith references (L15342):** Sunan an-Nasai 2897.

L15346 The narration of Ibn al-Zubayr is authentic, thus the ambiguity has been entirely lifted, and all praise is due to Allah.

حَدِيثُ ابْنِ الزُّبَيْرِ صَحِيحٌ فَارْتَفَعَ الْإِشْكَالُ جُمْلَةً، وَالْحَمْدُ لِلَّهِ.

L15347 It has been decisively narrated that Mecca holds superiority over Medina, as transmitted from the Prophet (peace be upon him) by Jābir, Abū Hurayrah, Ibn ʿUmar, Ibn al-Zubayr, and ʿAbdullāh ibn ʿAdiyy (may Allah the Exalted be pleased with them) - five Companions, among whom three were Medinans - with chains of transmission in the utmost soundness.

فَرُوِيَ الْقَطْعُ بِفَضْلِ مَكَّةَ عَلَى الْمَدِينَةِ كَمَا أَوْرَدْنَا عَنِ النَّبِيِّ - عَلَيْهِ السَّلَامُ -: جَابِرٌ، وَأَبُو هُرَيْرَةَ، وَابْنُ عُمَرَ، وَابْنُ الزُّبَيْرِ، وَعَبْدُ اللَّهِ بْنُ عَدِيٍّ. خَمْسَةٌ مِنَ الصَّحَابَةِ - رَضِيَ اللَّهُ تَعَالَى عَنْهُمْ -، مِنْهُمْ ثَلَاثَةٌ مَدَنِيُّونَ بِأَسَانِيدَ فِي غَايَةِ الصِّحَّةِ.

L15348 He narrated these from the following individuals: Abū Ṣāliḥ al-Sammān, Muḥammad ibn Zayd ibn ʿAbd Allāh ibn ʿUmar, Abū Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf, and ʿAṭāʾ ibn Abī Rabāḥ. Three of them were Madani.

وَرَوَاهَا عَنْ هَؤُلَاءِ: أَبُو صَالِحٍ السَّمَّانُ، وَمُحَمَّدُ بْنُ زَيْدِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ وَأَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ، وَعَطَاءُ بْنُ أَبِي رَبَاحٍ، مِنْهُمْ ثَلَاثَةٌ مَدَنِيُّونَ.

L15349 And it was narrated from these: ʿĀṣim ibn Muḥammad, al-Aʿmash, Muḥammad ibn ʿAmr ibn ʿAlqamah, al-Zuhrī, and Ḥabīb al-Muʿallam. Three of them are Medinans.

وَرَوَاهُ عَنْ هَؤُلَاءِ: عَاصِمُ بْنُ مُحَمَّدٍ، وَالْأَعْمَشُ، وَمُحَمَّدُ بْنُ عَمْرِو بْنِ عَلْقَمَةَ، وَالزُّهْرِيُّ، وَحَبِيبُ الْمُعَلِّمُ، مِنْهُمْ ثَلَاثَةٌ مَدَنِيُّونَ.

L15350–15352 It was narrated by these individuals: Wāqid ibn Muḥammad, Abū Muʿāwiyah Muḥammad ibn Ḥāzim (the Blind), Ḥammād ibn Salamah, Ḥammād ibn Zayd, ʿAbd al-ʿAzīz ibn Muḥammad al-Darāwardī, Maʿmar, and Shuʿayb ibn Abī Ḥamzah. And ʿUqayl ibn Khālid, Ṣāliḥ ibn Kaysān, ʿAbd al-Raḥmān ibn Khālid, and Yūnus ibn Zayd: from them, three are Medinan.

وَرَوَاهُ عَنْ هَؤُلَاءِ: وَاقِدُ بْنُ مُحَمَّدٍ، وَأَبُو مُعَاوِيَةَ مُحَمَّدُ بْنُ حَازِمٍ الضَّرِيرُ، وَحَمَّادُ بْنُ سَلَمَةَ، وَحَمَّادُ بْنُ زَيْدٍ، وَعَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ الدَّرَاوَرْدِيُّ، وَمَعْمَرٌ، وَشُعَيْبُ بْنُ أَبِي حَمْزَةَ وَعُقَيْلُ بْنُ خَالِدٍ، وَصَالِحُ بْنُ كَيْسَانَ، وَعَبْدُ الرَّحْمَنِ بْنِ خَالِدٍ، وَيُونُسُ بْنُ زَيْدٍ مِنْهُمْ: ثَلَاثَةٌ مَدَنِيُّونَ.

L15353 And it was narrated from these by countless narrators—and all praise is due to Allah, the Lord of the worlds.

وَرَوَاهُ عَنْ هَؤُلَاءِ مَنْ لَا يُحْصَى كَثْرَةً - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

L15354 We have stated that this is the view of all the Companions, and that of ʿUmar ibn al-Khaṭṭāb is narrated from him.

وَقَدْ ذَكَرْنَا أَنَّهُ قَوْلُ جَمِيعِ الصَّحَابَةِ، وَقَوْلُ عُمَرَ بْنِ الْخَطَّابِ مَرْوِيًّا عَنْهُ.

L15355 It was narrated to us through the chain of Yahya ibn Saʿid al-Qattan from Sufyan al-Thawri from Aslam al-Munqiri: I said to ʿAta', "Should I go to the Mosque of the Prophet - may Allah bless him and grant him peace - to pray there?" ʿAta' replied to me, "One *tawaf* is dearer to me than your journey to Medina."

وَرُوِّينَا مِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَسْلَمَ الْمُنْقِرِيِّ: قُلْت لِعَطَاءٍ: آتِي مَسْجِدَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَأُصَلِّي فِيهِ؟ قَالَ: فَقَالَ لِي عَطَاءٌ: طَوَافٌ وَاحِدٌ أَحَبُّ إلَيَّ مِنْ سَفَرِك إلَى الْمَدِينَةِ.

L15356 This is the opinion of Abū Ḥanīfah, al-Shāfiʿī, Sufyān, Aḥmad, Abū Sulaymān, and others—and with Allah, the Most High, is the divine success.

وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَسُفْيَانَ، وَأَحْمَدَ، وَأَبِي سُلَيْمَانَ، وَغَيْرِهِمْ - وَبِاللَّهِ تَعَالَى - التَّوْفِيقُ.