

AL-MUHALLA

كِتَابُ التَّذْكِيَةِ

The Book of Ritual Slaughter

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[كِتَابُ التَّذْكِيَةِ] [مَسْأَلَةٌ لَا يَحِلُّ أَكْلُ شَيْءٍ مِمَّا يَحِلُّ أَكْلُهُ إِلَّا بِذَكَاةٍ]

١٠٤٥ - مَسْأَلَةٌ: لَا يَحِلُّ أَكْلُ شَيْءٍ مِمَّا يَحِلُّ أَكْلُهُ مِنْ حَيَوَانِ الْبَرِّ - طَائِرُهُ وَدَارِجُهُ - إِلَّا بِذَكَاةٍ كَمَا قَدَّمْنَا حَاشَا الْجَرَادِ وَقَدْ بَيَّنَّا أَمْرَهُ وَالتَّذْكِيَةُ قِسْمَانِ، قِسْمٌ فِي مَقْدُورٍ عَلَيْهِ مُتَمَكِّنٌ مِنْهُ، وَقِسْمٌ فِي غَيْرِ مَقْدُورٍ عَلَيْهِ أَوْ غَيْرِ مُتَمَكِّنٍ مِنْهُ؛ وَهَذَا مَعْلُومٌ بِالْمُشَاهَدَةِ؛ فَتَذْكِيَةُ الْمَقْدُورِ عَلَيْهِ الْمُتَمَكِّنِ مِنْهُ يَنْقَسِمُ قِسْمَيْنِ لَا ثَالِثَ لَهُمَا -: إِمَّا شَقٌّ فِي الْحَلْقِ وَقَطْعٌ يَكُونُ الْمَوْتُ فِي أَثَرِهِ. وَإِمَّا نَحْرٌ فِي الصَّدْرِ يَكُونُ الْمَوْتُ فِي أَثَرِهِ. وَسَوَاءٌ فِي ذَلِكَ كُلِّهِ مَا قَدَرَ عَلَيْهِ مِنْ الصَّيْدِ الشَّارِدِ أَوْ مِنْ غَيْرِ الصَّيْدِ، وَهَذَا حُكْمٌ وَرَدَ بِهِ النَّصُّ بِقَوْلِ اللَّهِ تَعَالَى: {إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] وَالذَّكَاةُ فِي اللُّغَةِ الشَّقُّ وَهُوَ أَيْضًا أَمْرٌ مُتَّفَقٌ عَلَى جُمْلَتِهِ إِلَّا أَنَّ النَّاسَ اخْتَلَفُوا فِي تَقْسِيمِهِ عَلَى مَا نُبَيِّنُ - إِنْ شَاءَ اللَّهُ تَعَالَى.

[مَسْأَلَةٌ إِكْمَالُ الذَّبْحِ]

١٠٤٦ - مَسْأَلَةٌ: وَإِكْمَالُ الذَّبْحِ هُوَ أَنْ يُقْطَعَ الْوَدَجَانِ وَالْحُلْقُومُ، وَالْمَرِيءُ وَهَذَا مَا لَا خِلَافَ فِيهِ مِنْ أَحَدٍ. ١٠٤٧ -

مَسْأَلَةٌ: فَإِنْ قَطَعَ الْبَعْضَ مِنْ هَذِهِ الْآرَابِ الْمَذْكُورَةِ فَأَسْرَعَ الْمَوْتُ كَمَا يُسْرِعُ مِنْ قَطْعِ جَمِيعِهَا فَأَكْلُهَا حَلَالٌ فَإِنْ لَمْ يُسْرِعْ الْمَوْتُ فَلْيُعِدْ الْقَطْعَ وَلَا يَضُرُّهُ ذَلِكَ شَيْئًا، وَأَكْلُهُ حَلَالٌ، وَسَوَاءٌ ذَبَحَ مِنْ الْحَلْقِ فِي أَعْلَاهُ أَوْ أَسْفَلِهِ رُمِيَتْ الْعُقْدَةُ إلَى فَوْقُ أَوْ إلَى أَسْفَلَ أَوْ قُطِعَ كُلُّ ذَلِكَ مِنْ الْقَفَا - أُبِينَ الرَّأْسُ أَوْ لَمْ يُبَنْ - كُلُّ ذَلِكَ حَلَالٌ أَكْلُهُ. وَهَذَا مَكَانٌ اخْتَلَفَ النَّاسُ فِيهِ -: فَقَالَتْ طَائِفَةٌ: مَا قُطِعَ مِنْ الْقَفَا لَمْ يَحِلَّ أَكْلُهُ.

[The Book of Ritual Slaughter] [An issue: It is not permissible to eat anything that is inherently permissible to eat except by ritual slaughter.]

Issue 1045: It is not permissible to eat anything permissible among land animals—its birds and ground-dwelling animals—except by slaughtering as we previously stated, excluding locusts whose ruling we have clarified. Slaughtering is divided into two categories: one for what is within one's capability and feasible to perform, and another for what is beyond one's capability or not feasible to perform. This is known through observation. The slaughtering of what is within one's capability and feasible to perform is divided into two methods with no third: either slitting the throat and severing it, causing death to follow, or cutting at the base of the neck, causing death to follow. This ruling applies equally to all that one is capable of slaughtering, whether hunted fleeing game or non-hunted animals. This is a ruling established by the scriptural text in Allah's words: "except what you slaughter" (Quran 5:3). Linguistically, "slaughtering" refers to the slitting, a matter agreed upon in its general principle though people have differed in its detailed classification—as we will clarify, if Allah wills.[1]

Legal Issue: The Completion of Slaughter

Issue 1046: The completion of slaughter is achieved by cutting the two jugular veins, the trachea, and the esophagus. There is no disagreement on this matter from anyone. —1047—

Issue: If one cuts some of these mentioned vessels and death hastens as it would hasten from cutting all of them, then consuming it is lawful. If death does not hasten, he must repeat the cutting - this causes no harm - and its consumption remains lawful. It is legally equivalent whether the slaughtering is performed from the upper throat or lower throat, whether the trachea/esophagus is severed upward or downward, or whether all is cut from the nape, whether the head is fully severed or not: all such cases

[1] **Qur'an references (L17052):** Qur'an 5:3 (Al-Ma'idah).

render the meat lawful to eat. This is an issue where people have differed - some scholars ruled that meat from animals slaughtered by cutting the nape is unlawful for consumption.

L17056–17057 A group said: If the throat and esophagus are not severed, the meat is unlawful, and we disregard failure to cut the two jugular veins—this being Al-Shafi'i's view. Another group stated: We do not recognize the esophagus as essential; however, if both jugular veins and the throat remain unsevered, the meat becomes unlawful. If one withdraws his hand before fully severing all of them, consumption is prohibited. Slaughtering from the nape renders the meat unlawful. If one slaughters at the throat and accidentally severs the head, the meat is lawful, but intentional decapitation makes it unlawful—this being Malik's opinion. Ibn al-Qasim, Malik's disciple, ruled: Directing the windpipe downward invalidates the slaughter.

Another group, identifying four parts—the throat, esophagus, and two jugular veins—held that severing three of these, regardless of which remains intact (whether throat, esophagus, or one jugular vein), makes the meat lawful. Severing only two of the four, irrespective of which two, renders it unlawful. Cutting more than half of each structure validates consumption; less than half invalidates it—this being Abu Hanifa's school. Another group required severing the throat, esophagus, and half of both jugular veins for lawful meat—Abu Thawr's position. Sufyan al-Thawri ruled: Severing only the two jugular veins suffices, even if throat and esophagus remain intact. Some Zahirites stipulated: These four must be cut from the throat's front; otherwise, the meat is unlawful.

Abu Hanifa and al-Shafi'i permitted meat from nape-slaughtered animals. Abu Muhammad countered al-Shafi'i's argument about jugular veins: "We need not engage in formal debate over whether survival is possible, but challenge his prohibition against consuming anything where only the esophagus remains unsevered—a ruling unsupported by textual evidence, analogy, or companion precedent."

وَقَالَتْ طَائِفَةٌ: إِنْ لَمْ يَقْطَعْ الْحُلْقُومَ وَالْمَرِيءَ لَمْ يَحِلَّ أَكْلُهُ، وَلَا نُبَالِي بِتَرْكِ قَطْعِ الْوَدَجَيْنِ - وَهُوَ قَوْلُ الشَّافِعِيِّ. وَقَالَتْ طَائِفَةٌ: لَا نَعْرِفُ الْمَرِيءَ؛ لَكِنْ إِنْ لَمْ يَقْطَعْ الْوَدَجَيْنِ جَمِيعًا وَالْحُلْقُومَ لَمْ يَحِلَّ أَكْلُهُ، وَإِنْ رَفَعَ يَدَهُ قَبْلَ تَمَامِ قَطْعِهَا كُلِّهَا لَمْ يَحِلَّ أَكْلُهُ. وَإِنْ ذَبَحَ مِنْ الْقَفَا لَمْ يَحِلَّ أَكْلُهُ. فَإِنْ ذَبَحَ مِنْ الْحَلْقِ فَأَبَانَ الرَّأْسَ غَيْرَ عَامِدٍ فَهُوَ حَلَالٌ أَكْلُهُ فَإِنْ تَعَمَّدَ ذَلِكَ لَمْ يَحِلَّ أَكْلُهُ - وَهُوَ قَوْلُ مَالِكٍ، وَقَالَ ابْنُ الْقَاسِمِ صَاحِبُ مَالِكٍ: إِنْ أَلْقَى الْعُقْدَةَ إلَى أَسْفَلَ لَمْ يَحِلَّ أَكْلُهُ. وَقَالَتْ طَائِفَةٌ - هِيَ أَرْبَعَةُ آرَابٍ، الْحُلْقُومُ، وَالْمَرِيءُ، وَالْوَدَجَانِ، فَإِنْ قَطَعَ مِنْهَا ثَلَاثَةً وَتَرَكَ الرَّابِعَ لَا نُبَالِي أَيَّ الْأَرْبَعَةِ تَرَكَ الْحُلْقُومَ، أَوْ الْمَرِيءَ أَوْ أَحَدَ الْوَدَجَيْنِ فَهُوَ حَلَالٌ أَكْلُهُ، وَإِنْ قَطَعَ اثْنَيْنِ مِنْ الْأَرْبَعَةِ فَقَطْ لَا نُبَالِي أَيَّهُمَا قَطَعَ لَمْ يَحِلَّ أَكْلُهُ. فَإِنْ قَطَعَ أَكْثَرَ مِنْ النِّصْفِ مِنْ كُلِّ وَاحِدٍ مِنْ هَذِهِ الْأَرْبَعَةِ حَلَّ أَكْلُهُ، فَإِنْ قَطَعَ أَقَلَّ لَمْ يَحِلَّ أَكْلُهُ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ وَأَصْحَابِهِ. وَقَالَتْ طَائِفَةٌ: إذَا قَطَعَ الْحُلْقُومَ وَالْمَرِيءَ وَالنِّصْفَ مِنْ الْوَدَجَيْنِ حَلَّ أَكْلُهُ. فَإِنْ قَطَعَ أَقَلَّ مِمَّا ذَكَرْنَا لَمْ يَحِلَّ أَكْلُهُ - وَهُوَ قَوْلُ أَبِي ثَوْرٍ. وَقَالَ سُفْيَانُ الثَّوْرِيُّ: إنْ قَطَعَ الْوَدَجَيْنِ فَقَطْ حَلَّ أَكْلُهُ، وَإِنْ لَمْ يَقْطَعْ الْحُلْقُومَ وَلَا الْمَرِيءَ. وَقَالَ بَعْضُ أَصْحَابِ الظَّاهِرِ: إنْ قَطَعَ هَذِهِ الْأَرْبَعَةَ مِنْ جِهَةِ الْحَلْقِ حَلَّ أَكْلُهُ وَإِلَّا فَلَا - وَأَجَازَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ أَكْلَ مَا ذُبِحَ مِنْ الْقَفَا. قَالَ أَبُو مُحَمَّدٍ: احْتَجَّ الشَّافِعِيُّ فِي تَرْكِ الْوَدَجَيْنِ بِأَنَّهُمَا عِرْقَانِ قَدْ يَعِيشُ مَنْ قُطِعَا لَهُ. قَالَ أَبُو مُحَمَّدٍ: وَلَسْنَا نَحْتَاجُ إلَى مُنَاظَرَةٍ

فَهَلْ يَعِيشُ أَمْ لَا يَعِيشُ؟ لَكِنْ إِنَّمَا نُكَلِّمُهُ فِي مَنْعِهِ أَكْلَ مَا لَمْ يُقْطَعْ مَرِيئُهُ فَقَطْ، فَإِنَّهُ لَا يَقْدِرُ فِي ذَلِكَ عَلَى نَصٍّ، وَلَا عَلَى قِيَاسٍ أَصْلًا، وَلَا عَلَى قَوْلِ صَاحِبٍ.

L17058–17059 وَبِالْمُشَاهَدَةِ نَعْلَمُ أَنَّهُ يَمُوتُ مَنْ قَطَعَ الْحُلْقُومَ وَالْوَدَجَيْنِ وَإِنْ لَمْ يَقْطَعِ الْمَرِيءَ، كَمَا يَمُوتُ مَنْ قَطَعَ الْمَرِيءَ وَالْوَدَجَيْنِ وَلَا فَرْقَ فِي سُرْعَةِ الْمَوْتِ، فَتَعَرَّى هَذَا الْقَوْلُ مِنَ الدَّلِيلِ، فَسَقَطَ، إِذْ كُلُّ قَوْلٍ لَا بُرْهَانَ عَلَى صِحَّتِهِ فَهُوَ بَاطِلٌ؟ وَأَمَّا قَوْلُ أَبِي حَنِيفَةَ فَإِنَّهُ رَاعَى الْأَكْثَرَ فِي الْقَطْعِ، وَهُوَ أَيْضًا قَوْلٌ بِلَا بُرْهَانٍ أَصْلًا لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَلَا مِنْ رِوَايَةٍ سَقِيمَةٍ، وَلَا مِنْ قِيَاسٍ، وَلَا مِنْ قَوْلِ صَاحِبٍ. فَإِنْ قَالُوا: قِسْنَاهُ عَلَى نُقْصَانِ أُذُنِ الذَّبِيحَةِ وَذَنَبِهَا؟ قُلْنَا: قِسْتُمُ الْخَطَأَ عَلَى الْخَطَأِ، وَمَا لَا يَصِحُّ عَلَى مَا لَا يَصِحُّ، وَلَا تَخْلُو هَذِهِ الْآرَابُ مِنْ أَنْ يَكُونَ قَطْعُهَا كُلِّهَا فَرْضًا، وَلَا يَكُونُ قَطْعُهَا كُلُّهَا فَرْضًا، فَإِنْ لَمْ يَكُنْ قَطْعُهَا كُلُّهَا فَرْضًا فَعَلَيْهِ الْبُرْهَانُ فِي إِيجَابِ قَطْعِ ثَلَاثَةٍ مِنْهَا، وَلَا سَبِيلَ لَهُ إِلَى ذَلِكَ، وَإِنْ كَانَ قَطْعُهَا كُلُّهَا قَدْ وَجَبَ فَرْضًا فَلَا يُجْزِئُ عَنِ الْفَرْضِ بَعْضُهُ. وَيَلْزَمُهُ عَلَى هَذَا أَنَّ مَنْ صَلَّى ثَلَاثَ رَكَعَاتٍ مِنَ الظُّهْرِ أَنَّهُ يُجْزِيهِ مِنَ الظُّهْرِ، لِأَنَّهُ قَدْ صَلَّى الْأَكْثَرَ - وَأَنَّ مَنْ صَامَ أَكْثَرَ النَّهَارِ أَنَّهُ يَجْزِيهِ، وَهَذَا لَا يَقُولُونَهُ، فَلَاحَ فَسَادُ قَوْلِهِ جُمْلَةً، وَكَذَلِكَ قَوْلُ أَبِي ثَوْرٍ سَوَاءً سَوَاءً. وَأَمَّا قَوْلُ مَالِكٍ فَإِنَّ إِيجَابَهُ الْحُلْقُومَ وَإِسْقَاطَهُ الْمَرِيءَ قَوْلٌ بِلَا بُرْهَانٍ لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَلَا رِوَايَةٍ سَقِيمَةٍ، وَلَا قَوْلِ صَاحِبٍ، وَلَا إِجْمَاعٍ، وَلَا قِيَاسٍ. وَأَمَّا قَوْلُ سُفْيَانَ فَإِنَّهُمْ ذَكَرُوا مَا رُوِّينَا مِنْ طَرِيقِ أَبِي عُبَيْدٍ نا ابْنُ عُلَيَّةَ عَنْ أَيُّوبَ عَنْ عِكْرِمَةَ عَنِ ابْنِ عَبَّاسٍ كُلُّ مَا أَفْرَى الْأَوْدَاجَ غَيْرُ مُتَرَدٍّ. وَعَنِ النَّخَعِيِّ، وَالشَّعْبِيِّ، وَجَابِرِ بْنِ زَيْدٍ، وَيَحْيَى بْنِ يَعْمُرَ كَذَلِكَ، وَاحْتَجُّوا فِي

Through observation, we know that whoever severs the trachea and the two jugular veins dies even if the esophagus is not severed, just as one who severs the esophagus and the two jugular veins dies, with no difference in the speed of death. Thus, this opinion is stripped of evidence and invalidated, for any statement without proof of its validity is false. As for Abu Hanifa's opinion, he considered the majority in severing, which is also an entirely baseless opinion with no evidence from the Quran, the Sunnah, a weak narration, analogy, or a companion's statement. If they argue: "We analogized it to the deficiency in the slaughtered animal's ear or tail," we respond: "You have analogized error upon error and invalidated what is invalid." These four critical vessels—the trachea, esophagus, and two jugular veins—cannot escape one of two scenarios: either their complete severance is obligatory, or their complete severance is not obligatory. If their complete severance is not obligatory, then proof is required for obligating the severance of three of them, and there is no means to establish this. If their complete severance is indeed obligatory, then performing part of the obligation does not suffice. By this logic, it would follow that one who prays three units of the Dhuhr prayer is deemed sufficient because he performed most of it, and that one who fasts most of the day is deemed sufficient—yet they do not uphold this. Thus, the flaw in his opinion becomes wholly apparent, as does Abu Thawr's opinion, both being equally invalid. As for Malik's opinion, his obligation of the trachea and omission of the esophagus is a baseless statement with no evidence from the Quran, the Sunnah, a weak narration, a companion's statement, consensus, or analogy. Regarding Sufyan's opinion, they cited what was narrated to us through Abu Ubayd: Ibn Ulayyah narrated from Ayyub from Ikrimah from Ibn Abbas: "Every act that severs the jugular veins is valid if done without delay." Similar statements are reported from Al-Nakha'i, Al-Sha'bi, Jabir ibn Zayd, and Yahya ibn Ya'mur. They argued for the obligation of the two jugular veins with what was narrated to us by Humam: Abbas ibn Asbagh narrated from Ibn Ayman from Mutallib from

Ibn Abi Maryam from Yahya ibn Ayyub, who narrated from Ubaydullah ibn Zahir from Ali ibn Zayd from Al-Qasim Abu Abd al-Rahman from Abu Umamah: "A woman asked the Messenger of Allah—peace be upon him—about slaughtering a sheep. He said to her: 'Did you sever the jugular veins?' She said: 'Yes.' He said: 'Every act that severs the jugular veins is permissible, provided it is not a gnawing with a tooth or a claw slash.'" Abu Muhammad said: This is a report of the utmost weakness, for it is narrated by Yahya ibn Ayyub, whom Malik ibn Anas accused of lying and reported that he narrated falsehood from him. Ahmad ibn Hanbal and others weakened him, and he is entirely dismissed.

إِيجَابِهِ الْوَدَجَيْنِ بِمَا حَدَّثَنَاهُ حُمَامٌ نا عَبَّاسُ بْنُ أَصْبَغَ نا ابْنُ أَيْمَنَ نا مُطَّلِبٌ نا ابْنُ أَبِي مَرْيَمَ نا يَحْيَى بْنُ أَيُّوبَ حَدَّثَنِي عُبَيْدُ اللَّهِ بْنُ زَحْرٍ عَنْ عَلِيِّ بْنِ زَيْدٍ عَنْ الْقَاسِمِ أَبِي عَبْدِ الرَّحْمَنِ عَنْ أَبِي أُمَامَةَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - سَأَلَتْهُ امْرَأَةٌ ذَبَحَتْ شَاةً؟ فَقَالَ لَهَا: أَفَرَيْتِ الْأَوْدَاجَ؟ قَالَتْ: نَعَمْ، قَالَ: كُلُّ مَا أَفْرَى الْأَوْدَاجَ مَا لَمْ يَكُنْ قَرْضَ سِنٍّ، أَوْ حَزَّ ظُفْرٍ» . قَالَ أَبُو مُحَمَّدٍ: وَهَذَا خَبَرٌ فِي نِهَايَةِ السُّقُوطِ لِأَنَّهُ مِنْ رِوَايَةِ يَحْيَى بْنِ أَيُّوبَ وَقَدْ شَهِدَ عَلَيْهِ مَالِكُ بْنُ أَنَسٍ بِالْكَذِبِ، وَأَخْبَرَ أَنَّهُ رَوَى عَنْهُ الْكَذِبَ، وَضَعَّفَهُ أَحْمَدُ بْنُ حَنْبَلٍ وَغَيْرُهُ، وَهُوَ سَاقِطٌ أَلْبَتَّةَ.

L17060–17061 Then from 'Ubayd Allah ibn Zahr – who is weak, declared weak by Yahya and others. Then from 'Ali ibn Yazid – who is Abu 'Abd al-Malik al-Alhāniyy, a Damascene whose narrations are rejected. Then from al-Qasim Abu 'Abd al-Rahman – who is extremely weak. Thus, all of it is invalidated. There is no prohibition in Ibn 'Abbas's statement against eating anything beyond that, nor do the Malikis have any valid basis in this report. For if it were authentic, it would constitute proof against them, as it neither obligates severing the gullet (which they require) nor prescribes slaughtering from the throat (which they also require) – thus contradicting their position.

ثُمَّ عَنْ عُبَيْدِ اللَّهِ بْنِ زَحْرٍ، وَهُوَ ضَعِيفٌ ضَعَّفَهُ يَحْيَى وَغَيْرُهُ. ثُمَّ عَنْ عَلِيِّ بْنِ يَزِيدَ - وَهُوَ أَبُو عَبْدِ الْمَلِكِ الْأَلْهَانِيُّ - دِمَشْقِيٌّ مَتْرُوكُ الْحَدِيثِ. ثُمَّ عَنْ الْقَاسِمِ أَبِي عَبْدِ الرَّحْمَنِ - وَهُوَ ضَعِيفٌ جِدًّا، فَبَطَلَ كُلُّهُ، وَلَيْسَ فِي قَوْلِ ابْنِ عَبَّاسٍ مَنْعٌ مِنْ أَكْلِ مَا عَدَا ذَلِكَ. وَلَا مُتَعَلَّقَ لِلْمَالِكِيِّينَ فِي هَذَا الْخَبَرِ لِأَنَّهُ لَوْ صَحَّ لَكَانَ حُجَّةً عَلَيْهِمْ لِأَنَّهُ لَيْسَ فِيهِ إيجَابُ الْحُلْقُومِ وَقَدْ أَوْجَبُوهُ، وَلَا فِيهِ إيجَابُ الذَّبْحِ مِنْ الْحَلْقِ وَقَدْ أَوْجَبُوهُ - فَهَذَا مُخَالِفٌ لِقَوْلِهِمْ. وَأَمَّا قَوْلُ مَالِكٍ: إنْ رَفَعَ يَدَهُ قَبْلَ تَمَامِ الذَّكَاةِ لَمْ يَحِلَّ أَكْلُهُ - فَقَوْلٌ فَاسِدٌ جِدًّا - وَحُجَّتُهُمْ لَهُ: أَنَّهُ قَدْ حَصَلَ فِي حَالٍ لَا يَعِيشُ مِنْهَا فَإِنَّمَا يُعِيدُ فِي مَيِّتَةٍ وَلَا بُدَّ؟ فَقُلْنَا: نَعَمْ، فَكَانَ مَاذَا؟ وَأَيْنَ وَجَدْتُمْ تَحْرِيمَ مَا هَذَا صِفَتُهُ؟ قَالَ أَبُو مُحَمَّدٍ: وَهَذَا عَجَبٌ جِدًّا، وَهَلْ بَعْدَ بُلُوغِهِ إلَى قَطْعِ مَا قَطَعَ رَجَاءٌ فِي حَيَاةِ الْمَذْبُوحِ؟ هَذَا مَا لَا رَجَاءَ فِيهِ، فَتَمَادِيهِ فِي الْقَطْعِ بِغَيْرِ رَفْعِ يَدٍ أَوْ بَعْدَ رَفْعِ يَدٍ، إنَّمَا هُوَ فِيمَا لَا تُرْجَى حَيَاتُهُ - فَعَلَى قَوْلِهِ هَذَا لَا يَحِلُّ أَكْلُ مَذْبُوحٍ أَبَدًا، لِأَنَّهُ قَبْلَ تَمَامِ الذَّبْحِ وَلَا بُدَّ قَدْ حَصَلَ فِي حَالٍ

As for Malik's statement: "If one lifts their hand before completing the slaughter, it becomes impermissible to eat" – this is an utterly invalid opinion. Their evidence is that the slaughter renders the animal in a state from which it cannot survive, thereby necessarily making it a carcass. We respond: Granted – but what follows? Where have you established the prohibition of something with this description?

Abu Muhammad said: This is utterly astonishing. Once the slaughterer has severed what he severed, can any hope remain for the slaughtered animal's survival? This leaves no hope for survival. His persisting in cutting – whether without lifting the hand or after lifting it – applies only to what has no prospect of life. By this logic of his, no slaughtered animal would

ever be lawful to eat, for prior to completing the slaughter, it is inevitably rendered in a state from which survival is impossible – notwithstanding that this condition is invalid and an unsubstantiated claim. Thus, this opinion is nullified. Success comes only from Allah, the Exalted.

لَا يَعِيشُ مِنْهَا - مَعَ أَنَّهُ شَرْطٌ فَاسِدٌ، وَدَعْوَى أَيْضًا بِلَا بُرْهَانٍ - فَسَقَطَ هَذَا الْقَوْلُ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17062 This is also a position not known to have been held by anyone prior to him. As for his statement: "If the head is severed unintentionally, its consumption is permissible, but if severed intentionally, it is not permissible"—this is an invalid opinion, for it constitutes an unwarranted distinction without any proof. Once the slaughter is properly completed upon confirmation and fulfillment of all its conditions, what harm is there in intentionally severing the head at that point? If they argue: "It constitutes inflicting undue suffering on the slaughtered animal," we respond: "Does causing it suffering after completing its valid slaughter—according to your principles—prohibit its consumption?" They would answer: "No." We then ask: "What then justifies specifically prohibiting it due to this particular form of suffering?" A ruling similar to Mālik's position regarding cases where the head is severed has been reported from ʿAṭāʾ. Nāfiʿ, al-Ḥakam, Ḥammād ibn Abī Sulaymān, Saʿīd ibn Jubayr, ʿAbd al-Raḥmān ibn Abī Laylā, and Ibn Sīrīn all considered it reprehensible to consume an animal whose head had been severed.

وَهُوَ أَيْضًا قَوْلٌ لَا يُعْلَمُ أَنَّ أَحَدًا قَالَهُ قَبْلَهُ. وَأَمَّا قَوْلُهُ: إنْ أَبَانَ الرَّأْسَ غَيْرَ عَامِدٍ حَلَّ أَكْلُهُ، فَإِنْ أَبَانَهُ عَامِدًا لَمْ يَحِلَّ أَكْلُهُ - فَقَوْلٌ فَاسِدٌ، لِأَنَّهُ تَفْرِيقٌ بِلَا بُرْهَانٍ أَصْلًا، وَإِذَا تَمَّتْ ذَكَاتُهُ عَلَى إقْرَارِهِ وَعَلَى تَمَامِ شُرُوطِهِ فَمَا الَّذِي يَضُرُّ تَعَمُّدَ قَطْعِ الرَّأْسِ حِينَئِذٍ؟ فَإِنْ قَالُوا: إنَّهُ تَعْذِيبٌ لِلْمَذْبُوحِ؟ قُلْنَا: فَتَعْذِيبُهُ عِنْدَكُمْ بَعْدَ تَمَامِ ذَكَاتِهِ مَانِعٌ مِنْ أَكْلِهِ؟ فَمِنْ قَوْلِهِمْ: لَا، فَيُقَالُ لَهُمْ: فَمِنْ أَيْنَ وَقَعَ لَهُمْ تَحْرِيمُهُ بِهَذَا النَّوْعِ مِنْ التَّعْذِيبِ خَاصَّةً؟ وَقَدْ رُوِيَ مِثْلُ قَوْلِ مَالِكٍ فِيمَا أُبِينَ رَأْسُهُ عَنْ عَطَاءٍ. وَكَرِهَ نَافِعٌ، وَالْحَكَمُ، وَحَمَّادُ بْنُ أَبِي سُلَيْمَانَ، وَسَعِيدُ بْنُ جُبَيْرٍ، وَعَبْدُ الرَّحْمَنِ بْنُ أَبِي لَيْلَى، وَابْنُ سِيرِينَ مَا أُبِينَ رَأْسُهُ.

L17063–17064 It is narrated from ʿAlī concerning a mark that became apparent on his head, but this is invalid because it comes through Ḥasan ibn ʿUmārah—an abandoned narrator—while authentic contradictory reports exist from other Companions. The opposite is also narrated from ʿAlī himself, and differing reports exist from al-Ḥasan (may Allah be pleased with him) and others. As for their prohibition of animals slaughtered from the nape, this too is an unsupported opinion with no evidence from the Quran or authentic Sunnah. If they argue: "It constitutes torture," we respond: The torture in this equals that of slaughtering from the front—there is no difference, and this is observable reality. If they cite reports from certain Companions validating slaughter at the throat or jugular notch, we reply: Yes, but this offers no proof for two reasons. First: You contradict this by prohibiting slaughter at the jugular notch for some animals and at the throat for others, though no such distinction is reported from the Companions. Second: Validating

وَرُوِيَ عَنْ عَلِيٍّ فِيمَا أُبِينَ رَأْسُهُ أَثَرٌ لَا يَصِحُّ لِأَنَّهُ مِنْ رِوَايَةِ الْحَسَنِ بْنِ عُمَارَةَ - وَهُوَ هَالِكٌ - وَقَدْ صَحَّ خِلَافُهُ عَنْ غَيْرِهِ مِنْ الصَّحَابَةِ، وَرُوِيَ عَنْهُ نَفْسِهِ أَيْضًا خِلَافُ ذَلِكَ، وَاخْتَلَفَ فِيهِ عَنْ الْحَسَنِ - رَضِيَ اللَّهُ عَنْهُ - وَعَنْهُمْ. وَأَمَّا مَنْعُهُمْ أَيْضًا مِمَّا ذُبِحَ مِنْ الْقَفَا فَقَوْلٌ أَيْضًا لَا بُرْهَانَ عَلَى صِحَّتِهِ لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ صَحِيحَةٍ. فَإِنْ قَالُوا: هُوَ تَعْذِيبٌ؟ قُلْنَا: مَا التَّعْذِيبُ فِيهِ إلَّا كَالتَّعْذِيبِ فِي الذَّبْحِ مِنْ أَمَامٍ وَلَا فَرْقَ، وَهَذَا أَمْرٌ مُشَاهَدٌ. فَإِنْ قَالُوا: قَدْ رُوِيَ عَنْ بَعْضِ الصَّحَابَةِ الذَّكَاةُ فِي الْحَلْقِ وَاللَّبَّةِ؟ قُلْنَا: نَعَمْ، وَلَا حُجَّةَ لَكُمْ فِيهِ لِوَجْهَيْنِ -: أَحَدُهُمَا: أَنَّكُمْ قَدْ خَالَفْتُمُوهُ فِي مَنْعِكُمْ مِنْ الذَّكَاةِ فِي اللَّبَّةِ فِي بَعْضِ الْحَيَوَانِ وَمَنْعِكُمْ الذَّكَاةَ فِي الْحَلْقِ فِي بَعْضِهِ وَلَيْسَ عَنْهُمْ فِي ذَلِكَ تَفْرِيقٌ. وَالثَّانِي:

slaughter at the throat does not necessitate restricting it to either the front or rear portion, as the entire throat is equivalent. Thus, their reliance on this wording is invalid. Saʿīd ibn al-Musayyab's prohibition of nape-slaughtered animals—endorsed by Aḥmad and Isḥāq—is also reported. As for Ibn al-Qāsim's stipulation to direct the knot [trachea and esophagus] downward, Mālik's followers rejected this. His adherents argued that such slaughter occurs in the head, not the throat, equating it to a strangled animal—a claim utterly false and defiant of observable reality. Whoever said that has lied, for observable slaughter occurs only at the front of the throat, which is part of the throat like its middle and end, with no distinction. No precedent exists for Ibn al-Qāsim's view before him, rendering it entirely baseless. And success comes from Allah, the Most High.

أَنَّهُ لَيْسَ فِي كَوْنِ الذَّكَاةِ فِي الْحَلْقِ مَا يُوجِبُ أَنْ لَا يَكُونَ قَطْعُ الْحَلْقِ ذَكَاةً مِنْ وَرَائِهِ دُونَ أَمَامِهِ، أَوْ مِنْ أَمَامِهِ دُونَ وَرَائِهِ، فَبَطَلَ تَعَلُّقُهُمْ بِهَذَا اللَّفْظِ أَيْضًا، وَقَدْ رُوِيَ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ الْمَنْعُ مِمَّا ذُبِحَ مِنْ الْقَفَا - وَبِهِ يَقُولُ أَحْمَدُ، وَإِسْحَاقُ. وَأَمَّا اشْتِرَاطُ ابْنُ الْقَاسِمِ إلْقَاءَ الْعُقْدَةِ إلَى أَسْفَلَ فَإِنَّ أَصْحَابَ مَالِكٍ خَالَفُوهُ فِي ذَلِكَ، وَاحْتَجَّ لَهُ مُقَلِّدُوهُ بِأَنَّهُ إنَّمَا ذُبِحَ فِي الرَّأْسِ لَا فِي الْحَلْقِ، وَأَنَّهُ بِمَنْزِلَةِ الْمَخْنُوقِ - فَكَانَتْ الْحُجَّةُ أَشَدَّ بُطْلَانًا وَمُكَابَرَةً لِلْعِيَانِ مِنْ الْقَوْلِ الْمُحْتَجِّ لَهُ بِهَا - وَقَدْ كَذَبَ مَنْ قَالَ ذَلِكَ وَمَا ذُبِحَ بِالْمُشَاهَدَةِ إلَّا فِي أَوَّلِ الْحَلْقِ، وَأَوَّلُ الْحَلْقِ بَعْضُ الْحَلْقِ كَوَسَطِهِ وَكَآخِرِهِ وَلَا فَرْقَ، وَلَا نَعْلَمُ لِابْنِ الْقَاسِمِ أَحَدًا قَبْلَهُ قَالَ بِهَذَا الْقَوْلِ فَسَقَطَ لِتَعَرِّيه عَنْ الدَّلِيلِ جُمْلَةً - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17065–17071 As for those among our companions and others who hold that valid slaughter cannot be achieved except by severing the two jugular veins, the trachea, and the esophagus, they argue by stating: The prohibition of the animal being alive until it is properly slaughtered is established, and severing these four parts constitutes valid slaughter agreed upon for the permissibility of what is slaughtered thus. Any method falling short of this is disputed, and therefore it cannot transition from prohibition to permissibility except through consensus. Abu Muhammad said: This argument has a sound premise but an incomplete conclusion. The obligatory ruling is that… They say: Whatever has been authentically established as prohibited cannot transition from prohibition to permissibility except through an authentic scriptural text, regardless of whether it is unanimously agreed upon or disputed. If a person were to derive rulings solely from texts unanimously agreed upon, he would contradict the preponderance of Allah's decrees—Exalted is He—in the Quran and the majority of the Sunnah of the Messenger of Allah (peace be upon him). This is impermissible for anyone, and it opposes Allah's command—Exalted is He—to refer disputes to the Quran and Sunnah. He did not say—Exalted is He—"Refer them to what you have unanimously agreed upon," though we

وَأَمَّا مَنْ ذَهَبَ مِنْ أَصْحَابِنَا وَغَيْرِهِمْ إلَى أَنَّهُ لَا تَكُونُ ذَكَاةٌ إلَّا مَا قَطَعَ الْوَدَجَيْنِ، وَالْحُلْقُومَ، وَالْمَرِيءَ فَإِنَّهُمْ احْتَجُّوا بِأَنْ قَالُوا: قَدْ صَحَّ تَحْرِيمُ الْحَيَوَانِ حَيًّا حَتَّى يُذَكَّى، وَقَطْعُ هَذِهِ الْأَرْبَعَةِ ذَكَاةٌ صَحِيحَةٌ مُجْتَمَعٌ عَلَى تَحْلِيلِ مَا زُكِّيَ كَذَلِكَ، وَكَانَ مَا دُونَ ذَلِكَ مُخْتَلَفًا فِيهِ فَلَا يَخْرُجُ مِنْ تَحْرِيمٍ إلَى تَحْلِيلٍ إلَّا بِإِجْمَاعٍ. قَالَ أَبُو مُحَمَّد: وَهَذِهِ قَضِيَّةٌ صَحِيحَةُ الْمَبْدَأِ نَاقِصَةُ الْآخِرِ، وَإِنَّمَا الْوَاجِبُ أَنْ يَقُولُوا: مَا صَحَّ تَحْرِيمُهُ لَمْ يَجُزْ أَنْ يَخْرُجَ عَنْ التَّحْرِيمِ إلَى التَّحْلِيلِ إلَّا بِنَصٍّ صَحِيحٍ، ثُمَّ لَا نُبَالِي أُجْمِعَ عَلَيْهِ أَمْ اُخْتُلِفَ فِيهِ. وَلَوْ أَنَّ امْرَأً لَا يَأْخُذُ مِنْ النُّصُوصِ إلَّا بِمَا أُجْمِعَ عَلَيْهِ لَخَالَفَ جُمْهُورَ أَحْكَامِ اللَّهِ تَعَالَى فِي الْقُرْآنِ، وَجُمْهُورَ سُنَنِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؛ وَهَذَا لَا يَحِلُّ لِأَحَدٍ، وَهُوَ خِلَافُ أَمْرِ اللَّهِ تَعَالَى بِالرَّدِّ عِنْدَ التَّنَازُعِ إلَى الْقُرْآنِ، وَالسُّنَّةِ، وَلَمْ يَقُلْ تَعَالَى: فَرُدُّوهُ إلَى مَا أَجْمَعْتُمْ عَلَيْهِ مَعَ أَنَّنَا لَا نَعْلَمُ أَنَّ أَحَدًا الْتَزَمَ هَذَا الْأَصْلَ وَلَا أَحَدًا قَالَ

know of none who upheld this principle or validated it. Therefore, when disagreement arises as mentioned, the disputed matter must be referred to what Allah—Exalted is He—has obligated us to refer to in disputes, as He says: "If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day" (4:59). We did so and found Allah—Exalted is He—state: "Except what you duly slaughter" (5:3). Ritual slaughter (dhabḥ) is the act of slitting the throat, and the Prophet (peace be upon him) commanded slaughtering and sacrificing where feasible, obligating us not to transgress his directive (peace be upon him). He (peace be upon him) prescribed facilitation: any act of slaughtering or cutting affirmed by any scholar constitutes valid ritual slaughter. Since it is valid, what is duly slaughtered thereby transitions from prohibition to permissibility. If ritual slaughter were valid only by cutting specific disputed blood vessels, all vessels, or through disputed methods as mentioned, Allah—Exalted is He—would not have neglected to clarify it, nor would His Messenger (peace be upon him) have failed to inform us, requiring reliance on opinions Allah did not sanction, even for something as insignificant as a straw. Far be it from Allah to neglect instructing us in His obligations until those who recorded baseless doctrines prescribe for us. By Allah, the obscurity of this to those unaware is astounding, but we would never have been guided had Allah not guided us.

We narrate via Bukhari's chain: Musa ibn Ismail narrated to us, from Abu 'Awanah Sa'id ibn Masruq, from 'Abayah ibn Rifa'ah ibn Rafi' ibn Khadij, from his grandfather Rafi' ibn Khadij, who mentioned a hadith wherein he said: "O Messenger of Allah, we have no knife—should we slaughter with reeds?" The Messenger of Allah (peace be upon him) replied: "Whatever causes the blood to flow with Allah's name invoked over it, eat—but not with teeth or claws."

Via Ahmad ibn Shu'ayb's chain: 'Amr ibn 'Ali narrated to us, from Yahya ibn Sa'id al-Qattan, from Sufyan al-Thawri, from his father, from 'Abayah ibn Rifa'ah, from Rafi' ibn Khadij, who said: "I asked..." O Messenger of Allah, we will confront the enemy tomorrow and have no knives with us? He said: "Whatever causes blood to flow with Allah's name invoked over it

بِهِ وَصَحَّحَهُ. فَالْوَاجِبُ إِذْ قَدْ اخْتَلَفُوا كَمَا ذَكَرْنَا أَنْ يُرَدَّ مَا تَنَازَعُوا فِيهِ إِلَى مَا افْتَرَضَ اللَّهُ تَعَالَى الرَّدَّ إِلَيْهِ عِنْدَ التَّنَازُعِ إِذْ يَقُولُ تَعَالَى: {فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الآخِرِ} [النساء: ٥٩] فَفَعَلْنَا فَوَجَدْنَا اللَّهَ تَعَالَى قَالَ: {إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] وَالذَّكَاةُ الشَّقُّ وَقَدْ أَمَرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالذَّبْحِ وَالنَّحْرِ فِيمَا تُمُكِّنَ مِنْهُ فَوَجَبَ أَنْ لَا يَتَعَدَّى حَدَّهُ - عَلَيْهِ السَّلَامُ -. وَأَمَرَ - عَلَيْهِ السَّلَامُ - بِالْإِرَاحَةِ، أَنَّ كُلَّ ذَبْحٍ وَكُلَّ شَقٍّ قَالَ بِهِ أَحَدٌ مِنْ الْعُلَمَاءِ فَهُوَ ذَكَاةٌ، وَإِذْ هُوَ ذَكَاةٌ فَإِنَّ الْمُذَكَّى بِهِ خَارِجٌ مِنْ التَّحْرِيمِ إِلَى التَّحْلِيلِ. وَلَوْ أَنَّ الذَّكَاةَ لَا تَكُونُ إِلَّا بِقَطْعِ بَعْضِ الْآرَابِ الْمُخْتَلَفِ فِيهَا دُونَ بَعْضٍ، أَوْ بِقَطْعِ جَمِيعِهَا، أَوْ بِصِفَةٍ مِنْ الصِّفَاتِ الَّتِي اخْتَلَفَ النَّاسُ فِيهَا كَمَا ذَكَرْنَا لَمَا نَسِيَ اللَّهُ تَعَالَى بَيَانَهَا وَلَا أَغْفَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِعْلَامَنَا بِهَا حَتَّى نَحْتَاجَ فِي ذَلِكَ إِلَى رَأْيِ مَنْ لَمْ يَجْعَلْ اللَّهُ تَعَالَى رَأْيَهُ حُجَّةً فِي تَبِنَةٍ فَمَا فَوْقَهَا، وَحَاشَا لِلَّهِ مِنْ أَنْ يُضَيِّعَ إِعْلَامَنَا بِمَا افْتَرَضَهُ عَلَيْنَا حَتَّى يَشْرَعَهُ لَنَا مَنْ دُونَهُ مِنْ الْأَقْوَالِ الْفَاسِدَةِ، تَاللَّهِ إِنَّ فِي مَغِيبِ هَذَا عَمَّنْ غَابَ عَنْهُ لَعَجَبًا، وَلَكِنْ مَا كُنَّا لِنَهْتَدِيَ لَوْلَا أَنْ هَدَانَا اللَّهُ. رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نا مُوسَى بْنُ إِسْمَاعِيلَ نا أَبُو عَوَانَةَ سَعِيدُ بْنُ مَسْرُوقٍ عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ عَنْ جَدِّهِ «رَافِعِ بْنِ خَدِيجٍ فَذَكَرَ حَدِيثًا - وَفِيهِ أَنَّهُ قَالَ: يَا رَسُولَ اللَّهِ لَيْسَ مَعَنَا مُدًى أَفَنَذْبَحُ بِالْقَصَبِ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا أَنْهَرَ الدَّمَ وَذُكِرَ اسْمُ اللَّهِ عَلَيْهِ فَكُلْ لَيْسَ السِّنَّ وَالظُّفُرَ» . وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا عَمْرُو بْنُ عَلِيٍّ نا يَحْيَى بْنُ سَعِيدٍ الْقَطَّانُ نا سُفْيَانُ - هُوَ الثَّوْرِيُّ - حَدَّثَنِي أَبِي عَنْ عَبَايَةَ بْنِ رِفَاعَةَ «عَنْ رَافِعِ بْنِ خَدِيجٍ قَالَ قُلْتُ: يَا رَسُولَ اللَّهِ إِنَّا لَاقُو الْعَدُوِّ غَدًا وَلَيْسَ مَعَنَا

may be eaten, excluding teeth and claws. I shall clarify: As for teeth, they are bones, and as for claws, they are the knives of the Ethiopians." We narrated this through Shu'bah, Zā'idah, Abū al-Aḥwaṣ, and 'Amr ibn Sa'īd—all from Sa'īd ibn Masrūq from 'Abāyah ibn Rāfi' ibn Khadīj from the Prophet (peace be upon him)—thus resolving the ambiguity. Therefore, anything that causes blood flow when possible, with Allah's name invoked over it through slaughter or neck-cutting, constitutes valid slaughter permitting consumption. Had there been an essential condition required, he (peace be upon him) would have specified it, just as he clarified the obligation to eat only what causes blood flow and has Allah's name invoked over it, and the prohibition of using teeth or claws. Among the most astonishing wonders is those who discard Allah's conditions conveyed through His Messenger (peace be upon him) regarding slaughter—permitting consumption of what lacks Allah's name whether forgotten or intentional, and allowing slaughter with bones or claws. They further add stipulations unmentioned by Allah or His Messenger (peace be upon him) through their false opinions: restricting slaughter to the front, requiring severing the carotid arteries and windpipe but not the esophagus, partial slaughtering methods, prohibitions against raising hands, intentional head removal, untying knots, cutting three legs or over half of each limb, or specifying only windpipe and esophagus. This constitutes an appalling anomaly for those who reflect, surpassed only by the recklessness of those zealously defending these views by any means—we seek refuge in Allah from abandonment. We narrated through Muḥammad ibn al-Muthannā from Yaḥyā ibn Sa'īd al-Qaṭṭān from Sufyān al-Thawrī from Manṣūr ibn al-Mu'tamir from Ibrāhīm al-Nakha'ī from 'Alqamah ibn Qays: A wild ass was struck in the neck within 'Abdullāh ibn Mas'ūd's residence. When asked, Ibn Mas'ūd said: "It is lawful game—eat it." Abū Muḥammad said: This was a wild ass under control in the residence. Our opponents do not dispute that permissible game under one's control follows the same slaughter rules as camels, cattle, and sheep without distinction. Through Marwān ibn Mu'āwiyah al-Fazārī and Yaḥyā ibn Sa'īd al-Qaṭṭān from Abū Ghifār al-Ṭā'ī: Abū Mijlaz said: I asked Ibn 'Umar about an animal slaughtered by decapitation, and he permitted its consumption. Through 'Abd al-Razzāq from Ma'mar from Qatādah: 'Alī ibn Abī Ṭālib ruled regarding

مُدًى؟ فَقَالَ: مَا أَنْهَرَ الدَّمَ وَذُكِرَ اسْمُ اللَّهِ عَلَيْهِ فَكُلْ لَيْسَ السِّنَّ وَالظُّفُرَ وَسَأُحَدِّثُكَ: أَمَّا السِّنُّ فَعَظْمٌ، وَأَمَّا الظُّفُرُ فَمُدَى الْحَبَشَةِ» . وَرُوِّينَاهُ مِنْ طَرِيقِ شُعْبَةَ، وَزَائِدَةَ، وَأَبِي الْأَحْوَصِ، وَعَمْرِ بْنِ سَعِيدٍ كُلُّهُمْ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ عَنْ عَبَايَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَارْتَفَعَ الْإِشْكَالُ. فَكُلُّ مَا أَنْهَرَ الدَّمَ فِي الْمُتَمَكِّنِ مِنْهُ وَذُكِرَ اسْمُ اللَّهِ عَلَيْهِ مِنْ ذَبْحٍ أَوْ نَحْرٍ فَهُوَ ذَكَاةٌ يَحِلُّ بِهَا الْأَكْلُ، وَلَوْ كَانَ هَهُنَا صِفَةٌ لَازِمَةٌ لَبَيَّنَهَا - عَلَيْهِ السَّلَامُ - كَمَا بَيَّنَ وُجُوبَ أَنْ لَا يُؤْكَلَ إلَّا مَا أَنْهَرَ الدَّمَ وَمَا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ وَأَنْ لَا يَكُونَ ذَلِكَ بِسِنٍّ وَلَا ظُفُرٍ. وَمِنْ أَعْجَبِ الْعَجَائِبِ مَنْ أَسْقَطَ فِي الذَّكَاةِ مَا اشْتَرَطَهُ اللَّهُ تَعَالَى عَلَى لِسَانِ رَسُولِهِ - عَلَيْهِ السَّلَامُ - فِيهَا فَيُبِيحُ أَكْلَ مَا لَمْ يُسَمِّ اللَّهَ تَعَالَى بِنِسْيَانٍ أَوْ تَعَمُّدٍ، وَيُبِيحُ أَكْلَ مَا ذُبِحَ بِعَظْمٍ أَوْ ظُفُرٍ، ثُمَّ يَزِيدُ مَا لَمْ يَذْكُرْهُ اللَّهُ تَعَالَى وَلَا رَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِرَأْيِهِ الزَّائِفِ مِنْ أَنْ لَا يَكُونَ ذَلِكَ إلَّا مِنْ أَمَامَ وَبِأَنْ يَعُمَّ الْوَدَجَيْنِ، وَالْحُلْقُومَ، دُونَ الْمَرِيءِ، وَالذَّبْحُ فِي بَعْضِ ذَلِكَ دُونَ بَعْضٍ وَالنَّحْرُ فِي بَعْضٍ دُونَ بَعْضٍ، وَبِأَنْ لَا يَرْفَعَ يَدًا، وَأَنْ لَا يَتَعَمَّدَ إبَانَةَ الرَّأْسِ، وَأَنْ لَا يُلْقِيَ الْعُقْدَةَ، أَوْ بِأَنْ يَقْطَعَ الثَّلَاثَ الْآرَابَ، أَوْ الْأَكْثَرَ مِنْ النِّصْفِ مِنْ كُلِّ وَاحِدٍ مِنْ الْأَرْبَعَةِ أَوْ بِأَنْ يُبِيِّنَ الْحُلْقُومَ وَالْمَرِيءَ فَقَطْ - إنَّ فِي هَذَا لَعَجَبًا شَنِيعًا لِمَنْ تَأَمَّلَهُ، وَأَشْنَعُ مِنْ هَذَا تَهَالُكُ مَنْ تَهَالَكَ عَلَى التَّدَايُنِ بِهَذِهِ الْآرَاءِ وَنَصْرِهَا بِمَا أَمْكَنَهُ - وَنَعُوذُ بِاَللَّهِ مِنْ الْخِذْلَانِ. وَرُوِّينَا مِنْ طَرِيقِ مُحَمَّدِ بْنِ الْمُثَنَّى نا يَحْيَى بْنُ سَعِيدٍ الْقَطَّانُ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ إبْرَاهِيمَ النَّخَعِيِّ عَنْ عَلْقَمَةَ بْنِ قَيْسٍ أَنَّ حِمَارَ وَحْشٍ ضَرَبَ رَجُلٌ عُنُقَهُ فِي دَارِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ فَسَأَلُوا ابْنَ مَسْعُودٍ عَنْهُ؟ فَقَالَ: صَيْدٌ فَكُلُوهُ. قَالَ أَبُو مُحَمَّدٍ: هَذَا حِمَارُ وَحْشٍ مُتَمَكِّنٌ مِنْهُ فِي الدَّارِ وَلَا

poultry... If its head is severed, it is a swift valid slaughter—meaning all of it is permissible to eat. Narrated via Waki‘: Ḥammād ibn Salamah reported from Yūsuf ibn Sa‘d, who said: A man struck a duck’s neck with his sword, completely severing its head. He posed a question to ʿImrān ibn al-Ḥuṣayn, who then ordered them to eat it. We also narrated this via Hushaym: Yūnus ibn ʿUbayd and Manṣūr ibn al-Muʿtamir—both from Yūsuf ibn Saʿd—reported from ʿImrān ibn al-Ḥuṣayn. Yūsuf had met ʿImrān. Via Ibn Abī Shaybah: al-Muʿtamir ibn Sulaymān al-Taymī reported from ʿAwf—that is, Ibn Abī Jamīlah—from ʿAbdullāh ibn ʿAmr ibn Hind al-Jamalī that ʿAlī ibn Abī Ṭālib was asked about a man who struck a camel’s neck with a sword while invoking Allah’s name, severing it entirely. ʿAlī said: “It is valid slaughter even if the animal is alive.” Via Waki‘: Mubārak ibn Faḍālah reported from ʿUbaydullāh ibn Abī Bakr ibn Anas ibn Mālik that a baker belonging to Anas slaughtered a chicken, which began thrashing. He then slaughtered it from the back of its neck, severing the head entirely. They wanted to discard it, but Anas instructed them to eat it. Via Ibn Abī Shaybah: Abū Usāmah reported from Jarīr ibn Ḥāzim, from Yaʿlā ibn Ḥakīm, from ʿIkrimah, that Ibn ʿAbbās was asked about someone who slaughtered a chicken and severed its head. Ibn ʿAbbās said: “It is valid slaughter even if the animal is alive.” Via Waki‘: Hishām al-Dastuwā’ī reported from Yaḥyā ibn Abī Kathīr, from al-Maʿrūr, from Abū al-Furāfiṣah, from his father, who witnessed ʿUmar ibn al-Khaṭṭāb commanding a herald to announce: “The valid slaughter is in the throat and jugular notch. Allow the soul to depart fully.” Via Waki‘: Sufyān—that is, al-Thawrī—reported from Khālid al-Ḥadhdhā’, from ʿIkrimah, from Ibn ʿAbbās, who said: “The valid slaughter is in the throat and jugular notch.” From Ibn ʿAbbās: “The slaughter is completed when the blade reaches the bone.” Authentically reported via Saʿīd ibn Manṣūr: Ismāʿīl ibn Zakariyyā reported from Sulaymān al-Taymī, from Abū Mijlaz, from Ibn ʿAbbās, who said: “If the blood is spilled and the jugular veins are severed, then eat it.” Thus, ʿUmar ibn al-Khaṭṭāb and Ibn ʿAbbās spoke in general terms without elaboration, and ʿAlī ibn Abī Ṭālib, ʿImrān ibn al-Ḥuṣayn, Anas, Ibn Masʿūd,

يُخَالِفُنَا خُصُومُنَا فِي أَنَّ الْمَقْدُورَ عَلَيْهِ مِنْ الصَّيْدِ ذَكَاتُهُ كَذَكَاةِ الْإِبِلِ، وَالْبَقَرِ، وَالْغَنَمِ، وَلَا فَرْقَ. وَمِنْ طَرِيقِ مَرْوَانَ بْنِ مُعَاوِيَةَ الْفَزَارِيِّ، وَيَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ نا أَبُو غِفَارٍ - هُوَ الطَّائِيُّ - قَالَ: حَدَّثَنِي أَبُو مِجْلَزٍ قَالَ: سَأَلْت ابْنَ عُمَرَ عَنْ ذَبِيحَةٍ قُطِعَ رَأْسُهَا؟ فَأَمَرَ ابْنُ عُمَرَ بِأَكْلِهَا. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ قَتَادَةَ أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ قَالَ فِي الدَّجَاجَةِ إذَا قُطِعَ رَأْسُهَا: ذَكَاةٌ سَرِيعَةٌ، أَيْ كُلْهَا. وَمِنْ طَرِيقِ وَكِيعٍ نا حَمَّادُ بْنُ سَلَمَةَ عَنْ يُوسُفَ بْنِ سَعْدٍ قَالَ: ضَرَبَ رَجُلٌ بِسَيْفِهِ عُنُقَ بَطَّةٍ فَأَبَانَ رَأْسَهَا، فَسَأَلَ عِمْرَانَ بْنَ الْحُصَيْنِ؟ فَأَمَرَ بِأَكْلِهَا - وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ هُشَيْمٍ عَنْ يُونُسَ بْنِ عُبَيْدٍ، وَمَنْصُورِ بْنِ الْمُعْتَمِرِ كِلَاهُمَا عَنْ يُوسُفَ بْنِ سَعْدٍ عَنْ عِمْرَانَ بْنِ الْحُصَيْنِ وَقَدْ أَدْرَكَ يُوسُفُ عِمْرَانَ. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ التَّيْمِيُّ عَنْ عَوْفٍ - هُوَ ابْنُ أَبِي جَمِيلَةَ - عَنْ عَبْدِ اللَّهِ بْنِ عَمْرِو ابْنِ هِنْدٍ الْجَمَلِيِّ أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ سُئِلَ عَنْ رَجُلٍ ضَرَبَ عُنُقَ بَعِيرٍ بِالسَّيْفِ وَذَكَرَ اسْمَ اللَّهِ فَقَطَعَهُ، فَقَالَ عَلِيٌّ: ذَكَاةٌ وَحِيَّةٌ. وَمِنْ طَرِيقِ وَكِيعٍ نا مُبَارَكُ بْنُ فَضَالَةَ عَنْ عُبَيْدِ اللَّهِ بْنِ أَبِي بَكْرِ بْنِ أَنَسِ بْنِ مَالِكٍ أَنَّ خَبَّازًا لِأَنَسٍ ذَبَحَ دَجَاجَةً فَاضْطَرَبَتْ، فَذَبَحَهَا مِنْ قَفَاهَا فَأَبَانَ الرَّأْسَ فَأَرَادُوا طَرْحَهَا، فَأَمَرَهُمْ أَنَسٌ بِأَكْلِهَا. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا أَبُو أُسَامَةَ عَنْ جَرِيرِ بْنِ حَازِمٍ عَنْ يَعْلَى بْنِ حَكِيمٍ عَنْ عِكْرِمَةَ أَنَّ ابْنَ عَبَّاسٍ سُئِلَ عَمَّنْ ذَبَحَ دَجَاجَةً فَظَنَّ رَأْسَهَا فَقَالَ ابْنُ عَبَّاسٍ: ذَكَاةٌ وَحِيَّةٌ. وَمِنْ طَرِيقِ وَكِيعٍ نا هِشَامٌ الدَّسْتُوَائِيُّ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ الْمَعْرُورِ عَنْ أَبِي الْفُرَافِصَةِ عَنْ أَبِيهِ أَنَّهُ شَهِدَ عُمَرَ بْنَ الْخَطَّابِ أَمَرَ مُنَادِيًا فَنَادَى أَلَا إنَّ الذَّكَاةَ فِي الْحَلْقِ وَاللَّبَّةِ، وَأَقِرُّوا الْأَنْفُسَ حَتَّى تَزْهَقَ. وَمِنْ طَرِيقِ وَكِيعٍ

and Ibn ʿUmar—no authentic report from any Companion contradicts their rulings.[2]

نا سُفْيَانُ - هُوَ الثَّوْرِيُّ - عَنْ خَالِدٍ الْحَذَّاءِ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: الذَّكَاةُ فِي الْحَلْقِ وَاللَّبَّةِ. وَعَنْ ابْنِ عَبَّاسٍ إبْلَاغُ الذَّبْحِ أَنْ تَبْلُغَ الْعَظْمَ. وَصَحَّ عَنْهُ مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا إسْمَاعِيلُ بْنُ زَكَرِيَّا عَنْ سُلَيْمَانَ التَّيْمِيِّ عَنْ أَبِي مِجْلَزٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: إذَا أُهْرِيقَ الدَّمُ وَقُطِعَ الْوَدَجُ فَكُلْهُ -: فَهَؤُلَاءِ عُمَرُ بْنُ الْخَطَّابِ، وَابْنُ عَبَّاسٍ أَجْمَلَا وَلَمْ يُفَصِّلَا، وَعَلِيُّ بْنُ أَبِي طَالِبٍ، وَعِمْرَانُ بْنُ الْحُصَيْنِ، وَأَنَسٌ، وَابْنُ مَسْعُودٍ، وَابْنُ عُمَرَ لَا يَصِحُّ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ خِلَافُهُمْ.

L17072–17075 From the narration of ʿAbd al-Razzāq from Jurayj, ʿAṭāʾ said: "Slaughtering is cutting the jugular veins." I said to ʿAṭāʾ: "What if a slaughterer slaughtered without cutting the jugular veins?" He replied: "I see no exception except that he has performed the ritual slaughter properly. Let him eat it." This shows ʿAṭāʾ's view that the ritual slaughter is valid regardless of how it was performed. From the narration of ʿAbd al-Razzāq from Sufyān al-Thawrī from Abū Isḥāq al-Sabīʿī and ʿAbd Allāh ibn Abī al-Safar—both narrating from al-Shaʿbī—that he was asked about a rooster slaughtered from the nape of its neck. He said: "If you invoked Allah's name, eat it." From the narration of ʿAbd al-Razzāq from Maʿmar from al-Mughīrah ibn Miqsam from Ibrāhīm al-Nakhaʿī, who was asked about an animal slaughtered such that the knife passed through and severed the entire neck. He said: "No harm—it is valid if done swiftly." From the narration of Shuʿbah from al-Mughīrah ibn Miqsam, who said: "I asked Ibrāhīm al-Nakhaʿī about a man who struck the neck of a wild ass. He instructed me to eat it. I also asked him about a hen slaughtered from the nape of its neck. Ibrāhīm said: 'That slaughtering from the nape—no harm in it.'" From the narration of ʿAbd al-Razzāq from Maʿmar from al-Zuhrī, who was asked about a man who slaughtered with his sword and severed the head. Al-Zuhrī said: "How reprehensible his action!" A man asked: "Should we eat it?" He replied: "Yes." Abū Muḥammad remarked: "Had it been unintentional, al-Zuhrī would not have said, 'How reprehen-

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ جُرَيْجٍ قَالَ عَطَاءٌ: الذَّبْحُ قَطْعُ الْأَوْدَاجِ فَقُلْت لِعَطَاءٍ: ذَبَحَ ذَابِحٌ فَلَمْ يَقْطَعْ الْأَوْدَاجَ؟ قَالَ: مَا أَرَاهُ إلَّا قَدْ ذَكَّاهَا فَلْيَأْكُلْهَا - فَهَذَا عَطَاءٌ يَرَى الذَّكَاةَ كَيْفَ كَانَتْ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي إسْحَاقَ السَّبِيعِيِّ، وَعَبْدِ اللَّهِ بْنِ أَبِي السَّفَرِ، وَكِلَاهُمَا عَنْ الشَّعْبِيِّ أَنَّهُ سُئِلَ عَنْ دِيكٍ ذُبِحَ مِنْ قَفَاهُ؟ فَقَالَ: إذَا سَمَّيْت فَكُلْ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الْمُغِيرَةِ بْنِ مِقْسَمٍ عَنْ إبْرَاهِيمَ النَّخَعِيِّ أَنَّهُ سُئِلَ عَنْ الذَّبِيحَةِ تُذْبَحُ فَتَمُرُّ السِّكِّينُ فَتَقْطَعُ الْعُنُقَ كُلَّهُ؟ قَالَ: لَا بَأْسَ بِهِ ذَكَاةٌ سَرِيعَةٌ. وَمِنْ طَرِيقِ شُعْبَةَ عَنْ الْمُغِيرَةِ بْنِ مِقْسَمٍ قَالَ: سَأَلْت إبْرَاهِيمَ النَّخَعِيَّ عَنْ رَجُلٍ ضَرَبَ عُنُقَ حِمَارٍ وَحْشٍ؟ فَأَمَرَنِي بِأَكْلِهِ، وَسَأَلْته عَنْ دَجَاجَةٍ ذُبِحَتْ مِنْ قَفَاهَا؟ فَقَالَ إبْرَاهِيمُ: تِلْكَ الْقَفِينَةُ لَا بَأْسَ بِهَا. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ أَنَّهُ سُئِلَ عَنْ رَجُلٍ ذَبَحَ بِسَيْفِهِ فَقَطَعَ الرَّأْسَ؟ فَقَالَ الزُّهْرِيُّ: بِئْسَمَا فَعَلَ، فَقَالَ لَهُ رَجُلٌ: أَفَنَأْكُلُهَا؟ قَالَ: نَعَمْ. قَالَ أَبُو مُحَمَّدٍ: لَوْ كَانَ مَغْلُوبًا لَمْ يَقُلْ الزُّهْرِيُّ، " بِئْسَمَا فَعَلَ ". فَصَحَّ أَنَّهُ إنَّمَا قَالَهُ فِي مُتَعَمَّدِهِ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ

[2] **Qur'an references (L17065):** Qur'an 4:59 (An-Nisa); Qur'an 5:3 (Al-Ma'idah).

sible his action!' Thus, it is confirmed he spoke this regarding intentional severance." From the narration of ʿAbd al-Razzāq from Maʿmar from ʿAbd Allāh ibn Ṭāwūs from his father, who said: "If a man slaughtered a kid and severed its head, there is no harm in eating it." From the narration of Wakīʿ from Shuʿbah from Yūnus ibn ʿUbayd from al-Ḥasan al-Baṣrī regarding a duck whose neck was struck with a sword. Al-Ḥasan said: "No harm in eating it." From the narration of Wakīʿ from al-Rabīʿ ibn Ṣubayḥ from al-Ḥasan and ʿAṭāʾ, who both said regarding one who slaughters and severs the head: "No harm in eating it." From the narration of Ibn Abī Shaybah from Ḥafs ibn Ghiyāth from Layth from Mujāhid regarding one who slaughters and severs the head. He said: "Eat it." Mujāhid also narrated from al-Ḍaḥḥāk. From the narration of Saʿīd ibn Manṣūr from Ismāʿīl ibn ʿAyyāsh, who narrated from ʿAbd al-ʿAzīz ibn ʿAbd Allāh. From Al-Shaʿbī that he said regarding slaughter: "The head should not be severed. If the head is severed, then let him eat." So these—ʿAṭāʾ, Ṭāwūs, Mujāhid, Al-Ḥasan, Al-Nakhaʿī, Al-Shaʿbī, Al-Zuhrī, and Al-Ḍaḥḥāk—permit eating what had its head severed during ritual slaughter. Some of them ate from what had not had its jugular veins severed, and from what was slaughtered from the nape, and from what had its neck struck.

L17076 **Issue: All that is permissible to slaughter by *dhabh* is permissible to slaughter by *nahr*.**

L17077 Issue: Any animal that is permissible to slaughter by cutting the throat (*dhabḥ*) is permissible to slaughter by piercing the base of the neck (*nahr*), and any animal permissible to slaughter by *nahr* is permissible to slaughter by *dhabḥ*. This includes camels, cows, sheep and goats, horses, chickens, sparrows, pigeons, and all other animals whose meat is lawful to eat. Thus, if you wish, slaughter by *dhabḥ*, and if you wish, slaughter by *nahr*. This is the opinion of Abū Ḥanīfah, al-Shāfiʿī, Sufyān al-Thawrī, al-Layth ibn Saʿd, Abū Thawr, Aḥmad ibn Ḥanbal, Isḥāq ibn Rāhawayh, and some of our companions.

Mālik, however, said: Sheep and goats and birds must be slaughtered by *dhabḥ* and not by *nahr*. If any of them are slaughtered by *nahr*, their meat is not permissible to eat. As for camels, they must be slaughtered by

عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ قَالَ: لَوْ أَنَّ رَجُلًا ذَبَحَ جَدْيًا فَقَطَعَ رَأْسَهُ لَمْ يَكُنْ بِأَكْلِهِ بَأْسٌ. وَمِنْ طَرِيقِ وَكِيعٍ عَنْ شُعْبَةَ عَنْ يُونُسَ بْنِ عُبَيْدٍ عَنْ الْحَسَنِ الْبَصْرِيِّ فِي بَطَّةٍ ضَرَبَ رَجُلٌ عُنُقَهَا بِالسَّيْفِ، فَقَالَ الْحَسَنُ: لَا بَأْسَ بِأَكْلِهَا. وَمِنْ طَرِيقِ وَكِيعٍ نا الرَّبِيعُ بْنُ صُبَيْحٍ عَنْ الْحَسَنِ، وَعَطَاءٍ قَالَا جَمِيعًا فِيمَنْ ذَبَحَ فَأَبَانَ الرَّأْسَ: فَلَا بَأْسَ بِأَكْلِهِ. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا حَفْصٌ - هُوَ ابْنُ غِيَاثٍ - عَنْ لَيْثٍ عَنْ مُجَاهِدٍ فِيمَنْ ذَبَحَ فَأَبَانَ الرَّأْسَ، قَالَ: كُلْ - وَرَوَى أَيْضًا عَنْ الضَّحَّاكِ وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ إسْمَاعِيلَ بْنِ عَيَّاشٍ حَدَّثَنِي عَبْدُ الْعَزِيزِ بْنُ عَبْدِ اللَّهِ عَنْ الشَّعْبِيِّ أَنَّهُ قَالَ فِي الذَّبْحِ لَا يُقْطَعُ الرَّأْسُ فَإِنْ قُطِعَ الرَّأْسُ فَلْيَأْكُلْ -: فَهَؤُلَاءِ عَطَاءٌ، وَطَاوُسٌ، وَمُجَاهِدٌ، وَالْحَسَنِ، وَالنَّخَعِيُّ، وَالشَّعْبِيُّ، وَالزُّهْرِيُّ، وَالضَّحَّاكُ يُجِيزُونَ أَكْلَ مَا قُطِعَ رَأْسُهُ فِي الذَّكَاةِ - وَبَعْضُهُمْ أَكَلَ مَا لَمْ يُقْطَعْ أَوْدَاجُهُ - وَمَا ذُبِحَ مِنْ قَفَاهُ - وَمَا ضُرِبَتْ عُنُقُهُ.

[مَسْأَلَةٌ كُلُّ مَا جَازَ ذَبْحُهُ جَازَ نَحْرُهُ]

١٠٤٨ - مَسْأَلَةٌ: وَكُلُّ مَا جَازَ ذَبْحُهُ جَازَ نَحْرُهُ، وَكُلُّ مَا جَازَ نَحْرُهُ جَازَ ذَبْحُهُ -: الْإِبِلُ، وَالْبَقَرُ، وَالْغَنَمُ، وَالْخَيْلُ، وَالدَّجَاجُ، وَالْعَصَافِيرُ، وَالْحَمَامُ، وَسَائِرُ كُلِّ مَا يُؤْكَلُ لَحْمُهُ، فَإِنْ شِئْت فَاذْبَحْ، وَإِنْ شِئْت فَانْحَرْ -: وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَسُفْيَانَ الثَّوْرِيِّ، وَاللَّيْثِ بْنِ سَعْدٍ، وَأَبِي ثَوْرٍ، وَأَحْمَدَ بْنِ حَنْبَلٍ، وَإِسْحَاقَ بْنِ رَاهْوَيْهِ وَبَعْضُ أَصْحَابِنَا. وَقَالَ مَالِكٌ: الْغَنَمُ، وَالطَّيْرُ، تُذْبَحُ وَلَا تُنْحَرُ، فَإِنْ نُحِرَ شَيْءٌ مِنْهَا لَمْ يُؤْكَلْ وَأَمَّا الْإِبِلُ فَتُنْحَرُ، فَإِنْ ذُبِحَ مِنْهَا شَيْءٌ لَمْ يُؤْكَلْ، وَأَمَّا الْبَقَرُ فَتُذْبَحُ وَتُنْحَرُ - وَلَا نَعْلَمُ لَهُ فِي هَذَا الْقَوْلِ سَلَفًا مِنْ الْعُلَمَاءِ أَصْلًا، إلَّا رِوَايَةً عَنْ عَطَاءٍ فِي الْبَعِيرِ خَاصَّةً قَدْ رُوِيَ عَنْهُ

nahr; if slaughtered by *dhabḥ*, their meat is not permissible to eat. As for cows, they may be slaughtered by either method. We know of no precedent among earlier scholars for this opinion, except for a disputed report attributed to ʿAṭāʾ concerning camels specifically, which itself has conflicting narrations.

Some of Mālik's followers argued that slaughtering a camel by *dhabḥ* is torturous due to its long neck and thick skin. ʿAlī responded: This is a denial of evident reality. The suffering caused by *dhabḥ* is no different from that caused by *nahr*; there is no distinction. A camel's skin is no thicker than that of an ox, and its neck is no longer than that of other camels, yet one who holds this view permits *dhabḥ* in all such cases. Similarly, slaughtering a sparrow, pigeon, or chicken by *nahr* is as torturous as slaughtering them by *dhabḥ*, with no difference.

The strangest part of their argument is their citation of Allah's verse: *"Allah commands you to slaughter a cow"* (Quran 2:67), while they themselves contradict this by permitting *nahr* for cows. As for us, we are not bound by what Allah commanded the Children of Israel.

If some argue that *"the Prophet (peace be upon him) slaughtered camels by *nahr* at Minā and slaughtered the two rams by *dhabḥ* when he offered them as sacrifices,"* we respond: Yes, this was his practice, not a command, and it does not prohibit other methods. What is decisively established from him (peace be upon him) is his statement: *"Whatever causes the blood to flow and over which Allah's name is mentioned, eat of it."* This is the clear ruling that must not be violated, not merely actions that do not preclude other methods.[3][4]

L17078–17081 We have mentioned in the issue preceding this one concerning Umar ibn al-Khattab and Ibn Abbas that ritual slaughter occurs at the throat and jugular notch, and they did not designate either method exclusively for any specific animal. Rather, Umar proclaimed this emphatically in general terms, and no opposing view from any of the Companions is known at all. In-

خِلَافُهَا، وَاحْتَجَّ بَعْضُهُمْ فِي ذَلِكَ بِأَنَّ ذَبْحَ الْجَمَلِ تَعْذِيبٌ لَهُ لِطُولِ عُنُقِهِ، وَغِلَظِ جِلْدِهِ. قَالَ عَلِيٌّ: وَهَذِهِ مُكَابَرَةٌ لِلْعِيَانِ، وَمَا تَعْذِيبُهُ بِالذَّبْحِ إِلَّا كَتَعْذِيبِهِ بِالنَّحْرِ وَلَا فَرْقَ، وَمَا جِلْدُهُ بِأَغْلَظَ مِنْ جِلْدِ الثَّوْرِ، وَمَا عُنُقُهُ بِأَطْوَلَ مِنْ عُنُقِ الْإِبِلِ وَهُوَ يَرَى الذَّبْحَ فِي كُلِّ ذَلِكَ - وَمَا تَعْذِيبُ الْعُصْفُورِ، وَالْحَمَامَةِ، وَالدَّجَاجَةِ بِالنَّحْرِ إِلَّا كَتَعْذِيبِهَا بِالذَّبْحِ وَلَا فَرْقَ. وَأَطْرَفُ شَيْءٍ احْتِجَاجُهُمْ فِي ذَلِكَ بِقَوْلِ اللَّهِ تَعَالَى: {إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تَذْبَحُوا بَقَرَةً} [البقرة: ٦٧] وَهُمْ أَوَّلُ مُخَالِفٍ لِذَلِكَ فَيُجِيزُونَ فِيهَا النَّحْرَ - وَأَمَّا نَحْنُ فَلَا يَلْزَمُنَا مَا أَمَرَ اللَّهُ بِهِ بَنِي إِسْرَائِيلَ. فَإِنْ احْتَجَّ بَعْضُهُمْ بِأَنَّ «النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَحَرَ الْإِبِلَ بِمِنًى، وَذَبَحَ الْكَبْشَيْنِ إِذْ ضَحَّى بِهِمَا» قُلْنَا: نَعَمْ، وَهَذَا فِعْلٌ لَا أَمْرٌ، وَلَيْسَ ذَلِكَ بِمَانِعٍ مِنْ غَيْرِ هَذَا الْفِعْلِ، وَقَدْ صَحَّ عَنْهُ - عَلَيْهِ السَّلَامُ - مَا ذَكَرْنَا قَبْلُ مِنْ قَوْلِهِ «مَا أَنْهَرَ الدَّمَ وَذُكِرَ اسْمُ اللَّهِ عَلَيْهِ فَكُلْ» وَهَذَا هُوَ الْفُتْيَا الْمُبِينَةُ الَّتِي لَا يَحِلُّ تَعَدِّيهَا، لَا الْعَمَلُ الَّذِي لَمْ يُنْهَ عَمَّا سِوَاهُ.

وَقَدْ ذَكَرْنَا فِي الْمَسْأَلَةِ الَّتِي قَبْلَ هَذِهِ عَنْ عُمَرَ بْنِ الْخَطَّابِ، وَابْنِ عَبَّاسٍ الذَّكَاةَ فِي الْحَلْقِ وَاللَّبَّةِ، وَلَمْ يَخُصَّا بِإِحْدَاهُمَا حَيَوَانًا مِنْ حَيَوَانٍ بَلْ هَتَفَ عُمَرُ بِذَلِكَ مُجْمَلًا وَلَا يُعْرَفُ لَهُمَا مُخَالِفٌ مِنْ الصَّحَابَةِ أَصْلًا. بَلْ قَدْ ذَكَرْنَا الرِّوَايَةَ عَنْ عَلِيٍّ فِي إبَاحَةِ أَكْلِ بَعِيرٍ ضُرِبَ عُنُقُهُ بِالسَّيْفِ وَرَأَى ذَلِكَ ذَكَاةً وَحَيَّةً. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نا وَهْبُ بْنُ

[3] **Hadith references (L17077):** Sahih al-Bukhari 5498; Sunan Ibn Majah 3178.
[4] **Qur'an references (L17077):** Qur'an 2:67 (Al-Baqarah).

deed, we have cited the narration from Ali regarding the permissibility of eating a camel whose neck was struck with a sword, deeming this a valid slaughter while it was alive. From the transmission of Abd al-Razzaq: Wahb ibn Nafi‘ narrated that he heard Ikrimah report that Ibn Abbas ordered him to slaughter a jazur (camel) while in the state of ritual consecration (ihram) during pilgrimage, and “jazur” unequivocally denotes a camel. From another transmission of Abd al-Razzaq via Ibn Jurayj from Ata, who said: Allah the Exalted mentioned slaughtering in the Quran. If you slaughter an animal that is normally sacrificed by nahr (throat-slitting), it suffices. From the transmission of Muhammad ibn al-Muthanna: Muammal ibn Isma‘il narrated from Sufyan al-Thawri via Ibn Jurayj from Ata, who said: “Slaughtering (dhabh) is a form of ritual sacrifice (nahr), and ritual sacrifice is a form of slaughtering.” From the transmission of Abd al-Razzaq via Ma‘mar from al-Zuhri and Qatada, both of whom said: For camels and cattle, you may slaughter them or perform nahr as you choose. From the transmission of Abd al-Razzaq via Sufyan al-Thawri from Ubayd from Mujahid, who said: “Slaughtering was their practice, and ritual sacrifice is yours” – [But they slaughtered her, though they nearly refrained] [2:71] and [So pray to your Lord and sacrifice] [108:2]. Abu Muhammad said: We have mentioned Allah’s decree [except what you duly slaughter] [5:3] and the Prophet’s (peace be upon him) saying: “Whatever causes the blood to flow with Allah’s name invoked over it, then eat.” Allah the Exalted did not prioritize slaughtering over ritual sacrifice, nor ritual sacrifice over slaughtering – [and your Lord is never forgetful] [19:64]. From the transmission of Muslim: Yahya ibn Yahya narrated from Abu Khaythamah – Zuhayr ibn Mu‘awiyah – from al-Aswad ibn Qays, who said: Jundub ibn Sufyan narrated: “I attended the Eid al-Adha with the Messenger of Allah (peace be upon him), and he said: ’Whoever slaughtered their sacrifice before praying or before we prayed, let them slaughter another in its place. Whoever has not slaughtered, let them slaughter in Allah’s name.’” From the transmission of Shu‘bah via Zubayd al-Yami from al-Sha‘bi from al-Bara’ ibn Azib, who said: The Prophet (peace be upon him) said... The Messenger of Allah (peace be upon him) said: “The first act we commence with on this day of ours is to pray, then return to perform the sacrifice. Whoever does this has indeed conformed to our Sunnah, while whoever

نَافِعٍ أَنَّهُ سَمِعَ عِكْرِمَةَ يُحَدِّثُ أَنَّ ابْنَ عَبَّاسٍ أَمَرَهُ أَنْ يَذْبَحَ جَزُورًا وَهُوَ مُحْرِمٌ، وَالْجَزُورُ الْبَعِيرُ بِلَا خِلَافٍ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ قَالَ: ذَكَرَ اللَّهُ تَعَالَى الذَّبْحَ فِي الْقُرْآنِ، فَإِنْ ذَبَحْت شَيْئًا يُنْحَرُ أَجْزَى عَنْك. وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ الْمُثَنَّى نا مُؤَمَّلُ بْنُ إِسْمَاعِيلَ، نا سُفْيَانُ الثَّوْرِيُّ عَنْ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ قَالَ: الذَّبْحُ مِنَ النَّحْرِ، وَالنَّحْرُ مِنَ الذَّبْحِ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنِ الزُّهْرِيِّ، وَقَتَادَةَ، قَالَا جَمِيعًا: الْإِبِلُ، وَالْبَقَرُ إِنْ شِئْت ذَبَحْت وَإِنْ شِئْت نَحَرْت. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ عُبَيْدٍ عَنْ مُجَاهِدٍ قَالَ: كَانَ الذَّبْحُ فِيهِمْ، وَالنَّحْرُ فِيكُمْ {فَذَبَحُوهَا وَمَا كَادُوا يَفْعَلُونَ} [البقرة: ٧١] ، {فَصَلِّ لِرَبِّكَ وَانْحَرْ} [الكوثر: ٢] . قَالَ أَبُو مُحَمَّدٍ: قَدْ ذَكَرْنَا قَوْلَ اللَّهِ تَعَالَى: {إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] وَقَوْلَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَا أَنْهَرَ الدَّمَ وَذُكِرَ اسْمُ اللَّهِ عَلَيْهِ فَكُلُوا» وَلَمْ يَخُصَّ اللَّهُ تَعَالَى ذَبْحًا مِنْ نَحْرٍ، وَلَا نَحْرًا مِنْ ذَبْحٍ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] . وَمِنْ طَرِيقِ مُسْلِمٍ نا يَحْيَى بْنُ يَحْيَى أَنَا أَبُو خَيْثَمَةَ - هُوَ زُهَيْرُ بْنُ مُعَاوِيَةَ - عَنِ الْأَسْوَدِ بْنِ قَيْسٍ حَدَّثَنِي «جُنْدُبُ بْنُ سُفْيَانَ قَالَ شَهِدْتُ الْأَضْحَى مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ مَنْ كَانَ ذَبَحَ أُضْحِيَّتَهُ قَبْلَ أَنْ يُصَلِّيَ أَوْ نُصَلِّيَ فَلْيَذْبَحْ مَكَانَهَا أُخْرَى، وَمَنْ لَمْ يَذْبَحْ فَلْيَذْبَحْ بِاسْمِ اللَّهِ» . وَمِنْ طَرِيقِ شُعْبَةَ عَنْ زُبَيْدٍ اليامي عَنِ الشَّعْبِيِّ عَنِ الْبَرَاءِ بْنِ عَازِبٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «إِنَّ أَوَّلَ مَا نَبْدَأُ بِهِ فِي يَوْمِنَا هَذَا أَنْ نُصَلِّيَ ثُمَّ نَرْجِعَ فَنَنْحَرَ، فَمَنْ فَعَلَ ذَلِكَ فَقَدْ أَصَابَ سُنَّتَنَا وَمَنْ ذَبَحَ قَبْلَ ذَلِكَ فَإِنَّمَا هُوَ لَحْمٌ قَدَّمَهُ لِأَهْلِهِ وَذَكَرَ الْخَبَرَ» وَمِنْ طَرِيقِ مُسْلِمٍ نا مُحَمَّدُ بْنُ حَاتِمٍ نا مُحَمَّدُ بْنُ بَكْرٍ أَنَا ابْنُ جُرَيْجٍ أَخْبَرَنِي أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ «صَلَّى بِنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -

slaughters before this time—it is nothing but ordinary meat provided for his household"—and he mentioned the report explicitly. As narrated in Sahih Muslim: Muhammad ibn Hatim reported to us, Muhammad ibn Bakr reported to us, Ibn Jurayj informed us: Abu al-Zubayr narrated that he heard Jabir ibn Abdullah state: "Allah's Messenger (peace be upon him) led us in prayer on the Day of Sacrifice at Medina. Some men proceeded to sacrifice, assuming the Prophet had already performed his sacrifice. Thereupon the Prophet ordered those who had sacrificed before him to repeat it with another animal, instructing them not to sacrifice until he himself had sacrificed."

It is authentically established through Ibn Umar's transmission—as we cited in the Book of Sacrificial Rites—that "Allah's Messenger (peace be upon him) would slaughter and sacrifice at the prayer ground." He (peace be upon him) used the terms "slaughtering" and "sacrificing" comprehensively for all sacrificial animals, including camels, cattle, and sheep. He did not designate any specific type to be exclusively sacrificed by one method over the other. Had either practice been religiously impermissible or discouraged in Islamic law, he would have clarified it.

It is narrated through Asma's transmission, daughter of Abu Bakr al-Siddiq: "We sacrificed a horse during the era of Allah's Messenger (peace be upon him)." Another narration from her states: "We slaughtered a horse." And with Allah alone lies all success.[56]

The issue of ritual slaughter that cannot be properly performed.

L17082

L17083–17085

1049 - Issue: As for an animal that cannot be properly restrained, its slaughter is accomplished by killing it through throat-slitting (dhabḥ) or slaughtering at the jugular notch (nahr) wherever possible—whether in the flank, hindquarters, thigh, back, belly, or head—such as a camel, sheep, cow,

[5] **Hadith references (L17079):** Sahih al-Bukhari 2507; Sunan Abi Dawud 2821; Sahih al-Bukhari 5512.

[6] **Qur'an references (L17079):** Qur'an 2:71 (Al-Baqarah); Qur'an 108:2 (Al-Kawthar); Qur'an 5:3 (Al-Ma'idah); Qur'an 19:64 (Maryam).

يَوْمَ النَّحْرِ بِالْمَدِينَةِ فَتَقَدَّمَ رِجَالٌ فَنَحَرُوا وَظَنُّوا أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ نَحَرَ فَأَمَرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَنْ كَانَ نَحَرَ قَبْلَهُ أَنْ يُعِيدَ بِنَحْرٍ آخَرَ وَلَا يَنْحَرُوا حَتَّى يَنْحَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -» . وَصَحَّ مِنْ طَرِيقِ ابْنِ عُمَرَ كَمَا أَوْرَدْنَا فِي كِتَابِ الْأَضَاحِيِّ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يَذْبَحُ وَيَنْحَرُ بِالْمُصَلَّى» فَأَطْلَقَ - عَلَيْهِ السَّلَامُ - فِي الْأَضَاحِيِّ الذَّبْحَ وَالنَّحْرَ عُمُومًا وَفِيهَا الْإِبِلُ، وَالْبَقَرُ، وَالْغَنَمُ، وَلَمْ يَخُصَّ - عَلَيْهِ السَّلَامُ - شَيْئًا مِنْ ذَلِكَ بِنَحْرٍ دُونَ ذَبْحٍ وَلَا بِذَبْحٍ دُونَ نَحْرٍ، وَلَوْ كَانَ أَحَدُ الْأَمْرَيْنِ لَا يَجُوزُ أَوْ يُكْرَهُ لَبَيَّنَهُ - عَلَيْهِ السَّلَامُ -: رُوِّينَا مِنْ طَرِيقِ أَسْمَاءَ بِنْتِ أَبِي بَكْرٍ الصِّدِّيقِ «نَحَرْنَا عَلَى عَهْدِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَرَسًا» وَرُوِّينَا عَنْهَا أَيْضًا ذَبَحْنَا فَرَسًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ ذَكَاة غَيْر الْمُتَمَكَّنِ مِنْهُ]

١٠٤٩ - مَسْأَلَةٌ: وَأَمَّا غَيْرُ الْمُتَمَكَّنِ مِنْهُ فَذَكَاتُهُ أَنْ يُمَاتَ بِذَبْحٍ أَوْ بِنَحْرٍ حَيْثُ أَمْكَنَ مِنْهُ مِنْ خَاصِرَةٍ، أَوْ مِنْ عَجُزٍ، أَوْ نَخِذٍ، أَوْ ظَهْرٍ، أَوْ بَطْنٍ، أَوْ رَأْسٍ، كَبَعِيرٍ، أَوْ شَاةٍ، أَوْ بَقَرَةٍ، أَوْ دَجَاجَةٍ، أَوْ طَائِرٍ، أَوْ غَيْرِ ذَلِكَ: سَقَطَ فِي غَوْرٍ فَلَمْ يُتَمَكَّنْ مِنْ حَلْقِهِ، وَلَا مِنْ لَبَّتِهِ، فَإِنَّهُ يُطْعَنُ حَيْثُ أَمْكَنَ بِمَا يُعَجِّلُ بِهِ مَوْتَهُ، ثُمَّ هُوَ حَلَالٌ أَكْلُهُ. وَكَذَلِكَ

كُلُّ مَا اسْتَعْصَى مِنْ كُلِّ مَا ذَكَرْنَا فَلَمْ يَقْدِرْ عَلَى أَخْذِهِ، فَإِنَّ ذَكَاتَهُ كَذَكَاةِ الصَّيْدِ، ثُمَّ يُؤْكَلُ عَلَى مَا نَذْكُرُ فِي كِتَابِ الصَّيْدِ إِنْ شَاءَ اللَّهُ تَعَالَى. وَهُوَ قَوْلُ أَبِي حَنِيفَةَ وَأَصْحَابِهِ، وَسُفْيَانَ الثَّوْرِيِّ، وَالشَّافِعِيِّ، وَأَبِي ثَوْرٍ، وَأَحْمَدَ، وَإِسْحَاقَ، وَأَصْحَابِهِمْ - وَهُوَ قَوْلُ أَبِي سُفْيَانَ وَأَصْحَابِنَا. وَقَالَ مَالِكٌ: لَا يَجُوزُ أَنْ يُذَكَّى أَصْلًا إِلَّا فِي الْحَلْقِ وَاللَّبَّةِ - وَهُوَ قَوْلُ اللَّيْثِ. قَالَ أَبُو مُحَمَّد: وَقَوْلُنَا هُوَ قَوْلُ السَّلَفِ -: كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِ الْكَرِيمِ الْجَزَرِيِّ عَنْ زِيَادِ بْنِ أَبِي مَرْيَمَ أَنَّ حِمَارًا وَحْشِيًّا اسْتَعْصَى عَلَى أَهْلِهِ فَضَرَبُوا عُنُقَهُ فَسَأَلَ ابْنَ مَسْعُودٍ؟ فَقَالَ: تِلْكَ أَسْرَعُ الذَّكَاةِ. وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ نا سُفْيَانُ، وَشُعْبَةُ كِلَاهُمَا عَنْ سَعِيدِ بْنِ مَسْرُوقٍ عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ أَنَّ بَعِيرًا تَرَدَّى فِي بِئْرٍ فَذُكِّيَ مِنْ قِبَلِ شَاكِلَتِهِ، فَأَخَذَ ابْنُ عُمَرَ مِنْهُ عَشِيرًا بِدِرْهَمَيْنِ. وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ حَدَّثَنِي أَبُو حَيَّانَ يَحْيَى بْنُ سَعِيدٍ التَّيْمِيُّ حَدَّثَنِي عَبَايَةُ بْنُ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ قَالَ: تَرَدَّى بَعِيرٌ فِي بِئْرٍ، فَكَانَ أَعْلَاهُ أَسْفَلَهُ؟ فَنَزَلَ عَلَيْهِ رَجُلٌ فَلَمْ يَسْتَطِعْ أَنْ يَنْحَرَهُ، فَقَالَ ابْنُ عُمَرَ: أَجِزْ عَلَيْهِ وَاذْكُرْ اسْمَ اللَّهِ عَزَّ وَجَلَّ، فَأَجَازَ عَلَيْهِ مِنْ شَاكِلَتِهِ فَأُخْرِجَ قِطَعًا قِطَعًا فَأَخَذَ مِنْهُ ابْنُ عُمَرَ عَشِيرًا بِدِرْهَمَيْنِ. وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَبْدِ الْعَزِيزِ بْنِ سِيَاهٍ سَمِعَ أَبَا رَاشِدٍ السَّلْمَانِيَّ قَالَ: كُنْت فِي مَنَائِخِ لِأَهْلِي بِظَهْرِ الْكُوفَةِ أَرْعَاهَا فَتَرَدَّى بَعِيرٌ مِنْهَا فَنَحَرْتُهُ مِنْ قِبَلِ شَاكِلَتِهِ، فَأَتَيْت عَلِيًّا فَأَخْبَرْتُهُ؟ فَقَالَ: اهْدِ لِي عَجُزَهُ -: الشَّاكِلَةَ: الْحَاصِرَةَ. وَمِنْ طَرِيقِ وَكِيعٍ نا عَبْدُ الْعَزِيزِ بْنُ سِيَاهٍ عَنْ حَبِيبِ بْنِ أَبِي ثَابِتٍ عَنْ مَسْرُوقٍ أَنَّ بَعِيرًا تَرَدَّى فِي بِئْرٍ فَصَارَ أَسْفَلُهُ أَعْلَاهُ، قَالَ: فَسَأَلْنَا عَلِيَّ بْنَ أَبِي طَالِبٍ؟ فَقَالَ: قَطِّعُوهُ أَعْضَاءً وَكُلُوهُ. وَمِنْ طَرِيقِ وَكِيعٍ نا سُفْيَانُ - هُوَ الثَّوْرِيُّ - عَنْ خَالِدٍ

chicken, bird, or similar creature that falls into a pit where one cannot reach its throat or jugular notch. In such cases, it suffices to pierce it wherever possible with whatever hastens its death, after which it becomes permissible to eat it. Similarly, any animal from the mentioned categories that becomes unmanageable and cannot be controlled—its slaughter follows the slaughter rules for hunted game, and it may be consumed according to the regulations detailed in the Book of Hunting, God willing. This is the opinion of Abū Ḥanīfa and his companions, Sufyān al-Thawrī, al-Shāfiʿī, Abū Thawr, Aḥmad, Isḥāq, and their followers—and also the view of Abū Sufyān and our associates. Mālik said: "It is impermissible to slaughter except at the throat and jugular notch"—this being al-Layth's opinion. Abū Muḥammad said: "Our position aligns with the predecessors (salaf). As transmitted via Ibn Abī Shaybah's chain: Sufyān ibn ʿUyaynah reported from ʿAbd al-Karīm al-Jazarī from..." Ziyad ibn Abi Maryam reported that a wild donkey became uncontrollable for its owners, so they struck its neck. They asked Ibn Mas'ud? He said: "That is the swiftest method of slaughter." Through the chain of Abd al-Rahman ibn Mahdi: Sufyan and Shu'ba both narrated from Saʿid ibn Masruq from Ubaya ibn Rifaʿa ibn Rafiʿ ibn Khadīj that a camel fell into a well and was slaughtered from its loin. Ibn Umar took a portion of it for two *dirhams*. Through the chain of Yahya ibn Saʿid al-Qattan: Abu Hayyan Yahya ibn Saʿid al-Taymi narrated to me from Ubaya ibn Rifaʿa ibn Rafiʿ ibn Khadīj, who said: A camel fell into a well and flipped upside down. A man descended to it but could not slaughter it. Ibn Umar said: "Go ahead and slaughter it and mention the name of Allah Almighty." He slaughtered it from its loin, and it was removed in pieces. Ibn Umar took a portion of it for two *dirhams*. Through the chain of Sufyan ibn Uyayna from Abd al-Aziz ibn Siyah, who heard Abu Rashid al-Salmani say: "I was tending my family's camels near Kufa when a camel fell, and I slaughtered it from its loin. I went to Ali and informed him. He said: 'Give me its loin.'" Through the chain of Waki' from Abd al-Aziz ibn Siyah from Habib ibn Abi Thabit from Masruq: An unmanageable camel fell into a well, its lower part becoming its upper. They asked Ali ibn Abi Talib? He said: "Cut it into pieces and eat it." Through the chain of Waki' from Sufyan al-Thawri from Khalid al-Hadhdha' from Ikrimah from Ibn Abbas, who said: "What becomes impossible for you

to slaughter among livestock is equivalent to game." This is also the view of Aisha, the Mother of the Believers, with no known disagreement among the Companions—Ibn Masʿud, Ali, Ibn Abbas, Ibn Umar, and the Mother of the Believers. Through the chain of Abd al-Rahman ibn Mahdi from Sufyan al-Thawri from Mansur ibn al-Muʿtamir from Abu al-Duha from Masruq, who was asked about a camel that fell into a well and was slaughtered from its loin. Masruq said: "Eat it." Through the chain of Wakiʿ from Hurayth from al-Shaʿbi, who said: "If you fear missing the slaughter, strike wherever you can reach on it."

الْحَذَّاءِ عَنْ عِكْرِمَةَ عَنِ ابْنِ عَبَّاسٍ، قَالَ: مَا أَعْجَزَكَ مِنَ الْبَهَائِمِ فَهُوَ بِمَنْزِلَةِ الصَّيْدِ. وَهُوَ أَيْضًا قَوْلُ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَلَا يُعْرَفُ لَهُمْ مِنَ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - مُخَالِفٌ: ابْنُ مَسْعُودٍ، وَعَلِيٌّ، وَابْنُ عَبَّاسٍ، وَابْنُ عُمَرَ، وَأُمُّ الْمُؤْمِنِينَ. وَمِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ نا سُفْيَانُ الثَّوْرِيُّ عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ أَبِي الضُّحَى عَنْ مَسْرُوقٍ أَنَّهُ سَأَلَ عَنْ قَالِحٍ تَرَدَّى فِي بِئْرٍ فَذُكِّيَ مِنْ قِبَلِ خَاصِرَتِهِ، فَقَالَ مَسْرُوقٌ: كُلُوهُ. وَمِنْ طَرِيقِ وَكِيعٍ نا حُرَيْثٌ عَنِ الشَّعْبِيِّ قَالَ: إِذَا خَشِيتَ أَنْ يَفُوتَكَ ذَكَاتُهَا فَاضْرِبْ حَيْثُ أَدْرَكْتَ مِنْهَا.

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From the path of Wakiʿ: Hishām al-Dastuwāʾī reported from Qatādah from Saʿīd ibn al-Musayyab concerning a camel that falls into a well. He said: "It must be stabbed where they are able to mention the name of Allah, the Mighty and Majestic." From the path of Saʿīd ibn Manṣūr: Jarīr reported from al-Mughīrah ibn Miqsam from Ibrāhīm, who said: "A camel fell into a well, and they found no way to kill it. Al-Aswad ibn Yazīd was asked about this, and he replied: 'Slaughter it at the nearest accessible point of slaughter.' They did so, and al-Aswad took two dirhams from it." From the path of Wakiʿ: Qurrah ibn Khālid said: "I heard al-Ḍaḥḥāk state regarding a straying cow: 'It holds the status of game.' This is the view of ʿAṭāʾ, Ṭāwūs, al-Ḥasan, al-Ḥakam ibn ʿUtaybah, Ibrāhīm al-Nakhaʿī, and Ḥammād ibn Abī Sulaymān. We know of no precedent for Mālik's ruling on this matter except a statement from Rabīʿah."

وَمِنْ طَرِيقِ وَكِيعٍ نا هِشَامٌ الدَّسْتُوَائِيُّ عَنْ قَتَادَةَ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ فِي الْبَعِيرِ يَتَرَدَّى فِي الْبِئْرِ؟ قَالَ: يُطْعَنُ حَيْثُ قَدَرُوا ذِكْرَ اسْمِ اللَّهِ عَزَّ وَجَلَّ. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا جَرِيرٌ عَنِ الْمُغِيرَةِ بْنِ مِقْسَمٍ عَنْ إِبْرَاهِيمَ قَالَ: تَرَدَّى بَعِيرٌ فِي بِئْرٍ فَلَمْ يَجِدُوا لَهُ مَقْتَلًا فَسُئِلَ الْأَسْوَدُ بْنُ يَزِيدَ عَنْ ذَلِكَ؟ فَقَالَ: ذَكُّوهُ مِنْ أَدْنَى مَقْتَلِهِ، فَفَعَلُوا فَأَخَذَ الْأَسْوَدُ مِنْهُ بِدِرْهَمَيْنِ. وَمِنْ طَرِيقِ وَكِيعٍ نا قُرَّةُ بْنُ خَالِدٍ قَالَ: سَمِعْتُ الضَّحَّاكَ يَقُولُ فِي بَقَرَةٍ شَرَدَتْ: هِيَ بِمَنْزِلَةِ الصَّيْدِ - وَهُوَ قَوْلُ عَطَاءٍ، وَطَاوُسٍ، وَالْحَسَنِ، وَالْحَكَمِ بْنِ عُتَيْبَةَ، وَإِبْرَاهِيمَ النَّخَعِيِّ، وَحَمَّادِ بْنِ أَبِي سُلَيْمَانَ. وَلَا نَعْلَمُ لِمَالِكٍ فِي هَذَا سَلَفًا إِلَّا قَوْلًا عَنْ رَبِيعَةَ. قَالَ أَبُو مُحَمَّدٍ: وَقَالَ قَائِلُهُمْ: إِنْ كَانَتْ بِمَنْزِلَةِ الصَّيْدِ فَأَبِيحُوا قَتْلَهَا بِالْكِلَابِ وَالْجَوَارِحِ؟ فَقُلْنَا: نَعَمْ، إِذَا لَمْ يُقْدَرْ عَلَيْهَا بِذَلِكَ فَهِيَ فِي ذَلِكَ كَالصَّيْدِ وَلَا فَرْقَ. قَالَ عَلِيٌّ: وَهُمْ أَصْحَابُ قِيَاسٍ بِزَعْمِهِمْ وَقَدْ أَجْمَعُوا عَلَى أَنَّ الصَّيْدَ إِذَا قُدِرَ عَلَيْهِ فَهُوَ بِمَنْزِلَةِ النَّعَمِ وَالْإِنْسِيَّاتِ فِي الذَّكَاةِ، فَهَلَّا قَالُوا: إِنَّ النَّعَمَ وَالْإِنْسِيَّاتِ إِذَا لَمْ يُقْدَرْ عَلَيْهَا فَمَنْزِلَتُهَا

Abū Muḥammad remarked: Someone among them argued: "If its status equates to game, does this permit killing it with dogs and hunting animals?" We responded: "Yes, if it cannot be subdued by that means. In such a case, it is treated as game with no distinction." ʿAlī observed: "They claim to uphold analogy, yet they unanimously agree that captured game assumes the status of livestock and domestic animals regarding slaughter. Why do they not assert that livestock and domestic animals, when unmanageable, should

be treated as game? If analogy were ever valid, this would be the soundest analogy in existence."

It is perplexing that Mālik declared: "I consider it immensely grave to deliberately pour out a provision from Allah's sustenance because a dog lapped from it," yet failed to state here: "I consider it immensely grave to deliberately waste and ruin a provision from Allah's sustenance merely because one cannot access its throat or chest." Had he reversed his reasoning, it would have been correct. The greatest gravity of all lies in the Messenger of Allah—peace and blessings upon him—commanding: "If a dog laps from one's vessel, let him pour it out," only for someone to assert by personal opinion: "Do not pour it out," and in the Prophet—peace and blessings upon him—prohibiting the waste of wealth, yet permitting the loss of camels, cows, sheep, or poultry—despite our capacity to slaughter them—solely due to inability to slit the throat or chest. This is the true gravity!

Abū Muḥammad affirmed: Allah the Mighty and Majestic decreed: {Except what you slaughter} [5:3], and He stated: {Allah does not burden any soul beyond its capacity} [2:286]. Thus, it is established that slaughter is valid by whatever means attainable, for we are not tasked beyond our capability. It was narrated to us through the chain of Al-Bukhari: Mūsā ibn Ismāʿīl narrated to us, ʿAwāna narrated to us from Saʿīd ibn Masrūq from ʿAbāya ibn Rifāʿa ibn Rāfiʿ ibn Khadīj from his grandfather Rāfiʿ ibn Khadīj, who said: "We were with the Prophet—peace and blessings of Allah be upon him—and he mentioned the report. In it, a camel bolted while there were only a few horses with the group. They pursued it but grew exhausted. A man aimed an arrow at it, and Allah—the Almighty—halted it. The Messenger of Allah—peace and blessings of Allah be upon him—said: 'These beasts have wild instincts like those of untamed animals. Whatever escapes your control among them, deal with it in this manner.'"

Through the chain of Muslim: Ibn Abī ʿUmar narrated to us, Sufyān ibn ʿUyayna narrated to us, saying: ʿUmar ibn Saʿīd ibn Masrūq reported to me from his father from ʿAbāya ibn Rifāʿa ibn Rāfiʿ ibn Khadīj from his grandfather Rāfiʿ ibn Khadīj: "They were with the Messenger of Allah—peace

كَمَنْزِلَةِ الصَّيْدِ؟ وَلَوْ صَحَّ قِيَاسٌ يَوْمًا مَا لَكَانَ هَذَا أَصَحَّ قِيَاسٍ فِي الْعَالَمِ. وَالْعَجَبُ مِنْ قَوْلِ مَالِكٍ: إنِّي لَأَرَاهُ عَظِيمًا أَنْ يُعْمَدَ إلَى رِزْقٍ مِنْ رِزْقِ اللَّهِ فَيُهْرَقَ مِنْ أَجْلِ كَلْبٍ وَلَغَ فِيهِ وَلَمْ يَقُلْ هَهُنَا: إنِّي لَأَرَاهُ عَظِيمًا أَنْ يُعْمَدَ إلَى رِزْقٍ مِنْ رِزْقِ اللَّهِ فَيُضَيَّعَ وَيُفْسَدَ لِأَجْلِ أَنْ لَمْ يَقْدِرْ عَلَى لَبَّتِهِ، وَلَا عَلَى حَلْقِهِ؛ فَلَوْ عُكِسَ كَلَامُهُ لَأَصَابَ؛ بَلْ الْعَظِيمُ كُلُّ الْعَظِيمِ هُوَ أَنْ يَقُولَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إذَا وَلَغَ الْكَلْبُ فِي إنَاءِ أَحَدِكُمْ فَلْيُرِقْهُ» فَيَقُولُ قَائِلٌ بِرَأْيِهِ: لَا يُرَاقُ، وَأَنْ يَنْهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ إضَاعَةِ الْمَالِ فَيُضَيَّعُ الْبَعِيرُ، وَالْبَقَرَةُ، وَالشَّاةُ، وَالدَّجَاجَةُ، وَنَحْنُ قَادِرُونَ عَلَى تَذْكِيَتِهَا مِنْ أَجْلِ عَجْزِنَا عَنْ أَنْ تَكُونَ التَّذْكِيَةُ فِي الْحَلْقِ وَاللَّبَّةِ؛ فَهَذَا هُوَ الْعَظِيمُ حَقًّا؟ قَالَ أَبُو مُحَمَّدٍ: قَالَ اللَّهُ عَزَّ وَجَلَّ: {إلا مَا ذَكَّيْتُمْ} [المائدة: ٣] . وَقَالَ تَعَالَى: {لا يُكَلِّفُ اللَّهُ نَفْسًا إلا وُسْعَهَا} [البقرة: ٢٨٦] فَصَحَّ أَنَّ التَّذْكِيَةَ كَيْفَمَا قَدَرْنَا لَا نُكَلَّفُ مِنْهَا مَا لَيْسَ فِي وُسْعِنَا -: رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نا مُوسَى بْنُ إسْمَاعِيلَ نا عَوَانَةُ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ عَنْ جَدِّهِ «رَافِعِ بْنِ خَدِيجٍ قَالَ: كُنَّا مَعَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَ الْخَبَرَ وَفِيهِ فَنَدَّ بَعِيرٌ وَكَانَ فِي الْقَوْمِ خَيْلٌ يَسِيرَةٌ فَطَلَبُوهُ فَأَعْيَاهُمْ، فَأَهْوَى إلَيْهِ رَجُلٌ بِسَهْمٍ فَحَبَسَهُ اللَّهُ - عَزَّ وَجَلَّ - فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنَّ لِهَذِهِ الْبَهَائِمِ أَوَابِدَ كَأَوَابِدِ الْوَحْشِ فَمَا نَدَّ عَلَيْكُمْ مِنْهَا فَاصْنَعُوا بِهِ هَكَذَا» . وَمِنْ طَرِيقِ مُسْلِمٍ نا ابْنُ أَبِي عُمَرَ نا سُفْيَانُ بْنُ عُيَيْنَةَ حَدَّثَنِي عُمَرُ بْنُ سَعِيدِ بْنِ مَسْرُوقٍ عَنْ أَبِيهِ عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ عَنْ جَدِّهِ «رَافِعِ بْنِ خَدِيجٍ أَنَّهُمْ كَانُوا مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَنَدَّ عَلَيْنَا بَعِيرٌ فَرَمَيْنَاهُ بِالنَّبْلِ حَتَّى وَهَصْنَاهُ» وَذَكَرَ الْحَدِيثَ. قَالَ عَلِيٌّ: الْوَهْصُ الْكَسْرُ وَالْإِسْقَاطُ إلَى

and blessings of Allah be upon him—when a camel escaped from us. We shot it with arrows until we brought it down." He mentioned the narration.

ʿAlī said: "Al-Wahṣ means breaking and felling to the ground. A camel does not reach this state unless it is beyond capture. The Prophet—peace and blessings of Allah be upon him—permitted shooting it with arrows. The customary outcome of such shooting is death, and this constitutes his authorization for their valid slaughter by arrow."

ʿAlī said: "Here is a narration they would have transgressed in applying had they found its like: As narrated through ʿAbd al-Raḥmān ibn Mahdī from Ḥammād ibn Salama from Abū al-ʿAshrāʾ from his father: I said, 'O Messenger of Allah, is valid slaughter only in the throat and chest?' He replied: 'Were you to stab its thigh, it would suffice you.'"

Abū Muḥammad said: "Abū al-ʿAshrāʾ—some say his name is Usāma ibn Mālik ibn Qaḥṭam, others ʿUṭārid ibn Barz. The authentic report we cited earlier suffices. This exemplifies their disregard for the apparent meaning of the Quran, the Sunnah, the Companions' practice, the majority of scholars, and analogical reasoning. Success comes solely from Allah, the Exalted."[7]

L17090 **A legal issue regarding the permissibility of ritual slaughter to make lawful a part severed from livestock while alive, which subsequently becomes fully detached from it.**

L17091 1050 - Issue: Any part severed from an animal while it is alive or before the completion of its ritual slaughter, and which becomes separated from it, is considered carrion that is unlawful to consume. If the ritual slaughter is completed after severing that part, the animal becomes permissible to eat while the severed part remains unlawful. There is no disagreement on this ruling, for the severed part had separated from the animal while its consumption was prohibited. Thus, the subsequent slaughter does not apply to it, as it was severed from the animal when the slaughter had not yet been completed. - 1051

L17092–17094 Issue: If a part is severed from an animal after the completion of ritual

[7] **Qur'an references (L17087):** Qur'an 5:3 (Al-Ma'idah); Qur'an 2:286 (Al-Baqarah).

الْأَرْضِ وَلَا يَبْلُغُ الْبَعِيرُ هَذَا الْأَمْرَ إِلَّا وَهُوَ مَنْفَذُ الْمَقَاتِلِ، وَقَدْ أُذِنَ - عَلَيْهِ السَّلَامُ - فِي رَمْيِهِ بِالنَّبْلِ، وَالْمَعْهُودُ مِنْهَا الْمَوْتُ بِإِصَابَتِهَا وَهَذَا إِذْنٌ مِنْهُ - عَلَيْهِ السَّلَامُ - فِي ذَكَاتِهَا بِالرَّمْيِ. قَالَ عَلِيٌّ: وَهَهُنَا خَبَرٌ لَوْ ظَفِرُوا بِمِثْلِهِ لَطَغَوْا -: كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ «أَبِي الْعَشْرَاءِ عَنْ أَبِيهِ قُلْتُ يَا رَسُولَ اللَّهِ أَمَا تَكُونُ الذَّكَاةُ إِلَّا فِي الْحَلْقِ وَاللَّبَّةِ؟ قَالَ: لَوْ طُعِنْتَ فِي فَخِذِهَا لَأَجْزَأَكَ» . قَالَ أَبُو مُحَمَّدٍ: أَبُو الْعَشْرَاءِ قِيلَ: اسْمُهُ أُسَامَةُ بْنُ مَالِكِ بْنِ قَهْطَمٍ، وَقِيلَ: عُطَارِدُ بْنُ بَرْزٍ وَفِي الصَّحِيحِ الَّذِي قَدَّمْنَا كِفَايَةٌ. وَهَذَا مِمَّا تَرَكُوا فِيهِ ظَاهِرَ الْقُرْآنِ، وَالسُّنَنِ، وَالصَّحَابَةِ، وَجُمْهُورَ الْعُلَمَاءِ، وَالْقِيَاسَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ تَذْكِيَةَ مَا قُطِعَ مِنْ الْبَهِيمَةِ وَهِيَ حَيَّةٌ فَبَانَ عَنْهَا]

١٠٥٠ - مَسْأَلَةٌ: وَمَا قُطِعَ مِنْ الْبَهِيمَةِ - وَهِيَ حَيَّةٌ - أَوْ قَبْلَ تَمَامِ تَذْكِيَتِهَا فَبَانَ عَنْهَا فَهُوَ مَيْتَةٌ لَا يَحِلُّ أَكْلُهُ، فَإِنْ تَمَّتْ الذَّكَاةُ بَعْدَ قَطْعِ ذَلِكَ الشَّيْءِ أُكِلَتْ الْبَهِيمَةُ وَلَمْ تُؤْكَلْ تِلْكَ الْقِطْعَةُ - وَهَذَا مَا لَا خِلَافَ فِيهِ لِأَنَّهَا زَايَلَتْ الْبَهِيمَةَ وَهِيَ حَرَامٌ أَكْلُهَا فَلَا تَقَعُ عَلَيْهَا ذَكَاةٌ كَانَتْ بَعْدَ مُفَارَقَتِهَا لَمَّا قُطِعَتْ مِنْهُ. ١٠٥١ -

slaughter but before its death, it is impermissible to eat it as long as the animal is alive. Once it dies, the entire animal becomes permissible, and the severed part also becomes permissible. This is based on the statement of Allah, the Exalted: “When their sides have ceased [moving], then eat from them” [Al-Ḥajj: 36]. Thus, Allah, the Exalted, has not permitted eating anything from them except after that has occurred. The term *al-janb*—which linguistically denotes “death”—refers to the animal. If it dies after valid slaughter, the ritual slaughter applies to its entire body once slaughtered. Thus, any part severed from it is lawfully slaughtered. When the animal itself becomes lawful, all its parts become lawful. Success is attained solely through Allah, the Exalted.[8]

L17095 There is no disagreement among anyone that the ruling concerning the sacrificial camel in this matter follows the same ruling as all other ritually slaughtered animals. We have mentioned ’Umar’s statement: “Keep the soul undisturbed until it expires,” and none of the Companions opposed him in this.

L17096 **Issue: Lawful slaughter is permissible with anything, provided it cuts in the manner of a knife’s severing.**

L17097 Issue 1052: Slaughtering is valid by throat-cutting, jugular severance, stabbing, or striking with any implement that causes a knife-like incision or spear-like penetration. This applies equally to all such methods: sharpened sticks, sharp stones, sharp reeds, or any object except unlawfully acquired tools, teeth, claws, or instruments crafted from extracted teeth or claws. Excluded also are pig bones, domestic donkey bones, bones of predatory quadrupeds—except hyenas—or birds, or human bones. Slaughtering with any of these renders the meat unlawful, as it is carrion. Slaughtering is permissible with bones from carrion animals and all other bones except the aforementioned. It is valid with Ethiopian blades and what is slaughtered by a Zanjī, Ethiopian, or any Muslim slaughterer, for it is lawful. If an arrow, spear, or knife is fashioned from an elephant’s molar, meat slaughtered with it becomes unlawful as it constitutes a tooth. However, tools made from other elephant bones permit lawful slaughter and shooting with them. Abu

مَسْأَلَةٌ: وَمَا قُطِعَ مِنْهَا بَعْدَ تَمَامِ التَّذْكِيَةِ وَقَبْلَ مَوْتِهَا لَمْ يَحِلَّ أَكْلُهُ مَا دَامَتْ الْبَهِيمَةُ حَيَّةً فَإِذَا مَاتَتْ حَلَّتْ هِيَ وَحَلَّتْ الْقِطْعَةُ أَيْضًا لِقَوْلِ اللَّهِ تَعَالَى: {فَإِذَا وَجَبَتْ جُنُوبُهَا فَكُلُوا مِنْهَا} [الحج: ٣٦] فَلَمْ يُبِحْ اللَّهُ تَعَالَى أَكْلَ شَيْءٍ مِنْهَا إلَّا بَعْدَ وُجُوبِ الْجَنْبِ - وَهُوَ فِي اللُّغَةِ الْمَوْتُ - فَإِذَا مَاتَتْ فَالذَّكَاةُ وَاقِعَةٌ عَلَى جَمِيعِهَا إذْ ذُكِّيَتْ، فَالَّذِي قُطِعَ مِنْهَا مُذَكًّى فَإِذَا حَلَّتْ هِيَ حَلَّتْ أَجْزَاؤُهَا وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَلَا خِلَافَ بَيْنَ أَحَدٍ فِي أَنَّ حُكْمَ الْبَدَنِ فِي ذَلِكَ حُكْمُ سَائِرِ مَا يُذَكَّى، وَقَدْ ذَكَرْنَا قَوْلَ عُمَرَ: أَقِرُّوا الْأَنْفُسَ حَتَّى تَزْهَقَ، وَلَا مُخَالِفَ لَهُ فِي ذَلِكَ مِنْ الصَّحَابَةِ.

[مَسْأَلَةٌ التَّذْكِيَةُ جَائِزَةٌ بِكُلِّ شَيْءٍ إذَا قَطَعَ قِطْعَةَ السِّكِّينِ]

١٠٥٢ - مَسْأَلَةٌ: وَالتَّذْكِيَةُ مِنْ الذَّبْحِ، وَالنَّحْرِ، وَالطَّعْنِ، وَالضَّرْبِ جَائِزَةٌ بِكُلِّ شَيْءٍ إذَا قَطَعَ قِطْعَةَ السِّكِّينِ أَوْ نَفَذَ نَفَاذَ الرُّمْحِ سَوَاءٌ فِي ذَلِكَ كُلِّهِ: الْعُودُ الْمُحَدَّدُ، وَالْحَجَرُ الْحَادُّ، وَالْقَصَبُ الْحَادُّ وَكُلُّ شَيْءٍ حَاشَا آلَةٍ أُخِذَتْ بِغَيْرِ حَقٍّ، وَحَاشَا السِّنِّ، وَالظُّفْرِ، وَمَا عُمِلَ مِنْ سِنٍّ، أَوْ مِنْ ظُفْرٍ مَنْزُوعَيْنِ وَإِلَّا عَظْمُ خِنْزِيرٍ، أَوْ عَظْمُ حِمَارٍ أَهْلِيٍّ، أَوْ عَظْمُ سَبُعٍ مِنْ ذَوَاتِ الْأَرْبَعِ - أَوْ الطَّيْرِ حَاشَا الضِّبَاعَ - أَوْ عَظْمِ إنْسَانٍ فَلَا يَكُونُ حَلَالًا مَا ذُبِحَ أَوْ نُحِرَ بِشَيْءٍ مِمَّا ذَكَرْنَا بَلْ هُوَ مَيْتَةٌ حَرَامٌ. وَالتَّذْكِيَةُ جَائِزَةٌ بِعَظْمِ الْمَيْتَةِ وَبِكُلِّ عَظْمٍ حَاشَا مَا ذَكَرْنَا، وَهِيَ جَائِزَةٌ بِمُدَى الْحَبَشَةِ وَمَا ذَكَّاهُ الزِّنْجِيُّ، وَالْحَبَشِيُّ، وَكُلُّ مُسْلِمٍ فَهُوَ حَلَالٌ. فَلَوْ عُمِلَ مِنْ ضِرْسِ الْفِيلِ سَهْمٌ، أَوْ رُمْحٌ، أَوْ سِكِّينٌ: لَمْ يَحِلَّ

[8] **Qur’an references (L17092):** Qur’an 22:36 (Al-Hajj).

Hanifa and Malik said: All such slaughter is lawful except that performed with teeth before extraction from the mouth or claws before removal from the limb, as this constitutes strangulation rather than valid slaughter. Al-Shāfiʿī said: All slaughter with the aforementioned tools is lawful except that performed with any claws or bones—whether extracted or not—rendering the meat unlawful. This is also the view of Al-Layth ibn Saʿd.

أَكْلُ مَا ذُبِحَ أَوْ نُحِرَ بِهِ، لِأَنَّهُ سِنٌّ. فَلَوْ عُمِلَتْ مِنْ سَائِرِ عِظَامِهِ هَذِهِ الْآلَاتُ حَلَّ الذَّبْحُ، وَالنَّحْرُ، وَالرَّمْيُ بِهَا. وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: التَّذْكِيَةُ بِكُلِّ ذَلِكَ حَلَالٌ حَاشَا السِّنَّ قَبْلَ أَنْ يُنْزَعَ مِنَ الْفَمِ، وَحَاشَا الظُّفْرَ قَبْلَ أَنْ يُنْزَعَ مِنَ الْيَدِ، فَإِنَّهُ لَا يُؤْكَلُ مَا ذُبِحَ بِهِمَا لِأَنَّهُ خَنْقٌ لَا ذَبْحٌ. وَقَالَ الشَّافِعِيُّ: كُلُّ مَا ذُكِّيَ بِكُلِّ مَا ذَكَرْنَا فَحَلَالٌ أَكْلُهُ حَاشَا مَا ذُكِّيَ بِشَيْءٍ مِنَ الْأَظْفَارِ كُلِّهَا، وَالْعِظَامِ كُلِّهَا، مَنْزُوعٍ كُلِّ ذَلِكَ أَوْ غَيْرِ مَنْزُوعٍ، فَلَا يُؤْكَلُ وَهُوَ قَوْلُ اللَّيْثِ بْنِ سَعْدٍ.

L17098–17101 Abū Sulaymān said: This is identical to al-Shāfiʿī's view—identical—except he stated: One may not eat what is slaughtered by throat-slitting (dhabḥ) or jugular piercing (nahr), or struck with an unlawfully acquired instrument. As for the opinion of Abū Ḥanīfah and Mālik, we know of no precedent for it among earlier scholars, nor any evidence whatsoever—neither from the Qurʾān, nor the Sunnah, nor a weak narration, nor analogy. Rather, it contradicts the Sunnah as we shall demonstrate hereafter, God willing. Thus this opinion is entirely invalidated, leaving only our position alongside those of al-Shāfiʿī, al-Layth, and Abū Sulaymān. We found in the narration transmitted through Sufyān al-Thawrī: My father narrated from ʿAbāyah ibn Rifāʿah ibn Rāfiʿ ibn Khadīj from his grandfather Rāfiʿ ibn Khadīj: I said, "O Messenger of God, we will confront the enemy tomorrow and have no knives." The Messenger of God—peace and blessings be upon him—said: "Whatever causes blood to flow with God's name invoked over it, you may eat—except what is slaughtered with a tooth or claw. Let me clarify: the tooth is bone, and the claw is like Ethiopian-style blades." We previously cited this in our opening discussion on slaughtering methods with its chain.

We adhere strictly to his prohibition—peace be upon him—without extension, forbidding only what is slaughtered or killed using teeth or claws. We do not consider bones inherently prohibitive except where the Messenger of God—peace and blessings be upon him—specified the cause, namely teeth and claws exclusively. We prohibit slaughtering with bones from pigs, domestic donkeys, quadruped predators, or birds based on God's decree regard-

وَقَالَ أَبُو سُلَيْمَانَ: كَقَوْلِ الشَّافِعِيِّ سَوَاءً سَوَاءً إِلَّا أَنَّهُ قَالَ: لَا يُؤْكَلُ مَا ذُبِحَ أَوْ نُحِرَ أَوْ رُمِيَ بِآلَةٍ مَأْخُوذَةٍ بِغَيْرِ حَقٍّ - فَأَمَّا قَوْلُ أَبِي حَنِيفَةَ، وَمَالِكٍ فَلَا نَعْلَمُهُ عَنْ أَحَدٍ قَبْلَهُمَا وَلَا نَعْلَمُ لَهُمَا فِيهِ سَلَفًا مِنْ أَهْلِ الْعِلْمِ، وَلَا حُجَّةَ أَصْلًا لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَلَا مِنْ رِوَايَةٍ سَقِيمَةٍ، وَلَا مِنْ قِيَاسٍ؛ بَلْ هُوَ خِلَافُ السُّنَّةِ عَلَى مَا نُورِدُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى - فَسَقَطَ هَذَا الْقَوْلُ جُمْلَةً، وَبَقِيَ قَوْلُنَا، وَقَوْلُ الشَّافِعِيِّ، وَاللَّيْثِ، وَأَبِي سُلَيْمَانَ -: فَوَجَدْنَا مَا رُوِّينَا مِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ حَدَّثَنِي أَبِي عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ عَنْ جَدِّهِ «رَافِعِ بْنِ خَدِيجٍ قُلْتُ يَا رَسُولَ اللَّهِ إِنَّا لَاقُو الْعَدُوِّ غَدًا وَلَيْسَ مَعَنَا مُدًى فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: مَا أَنْهَرَ الدَّمَ، وَذُكِرَ اسْمُ اللَّهِ عَلَيْهِ فَكُلْ لَيْسَ السِّنَّ وَالظُّفُرَ، وَسَأُحَدِّثُكَ، أَمَّا السِّنُّ فَعَظْمٌ، وَأَمَّا الظُّفُرُ فَمُدَى الْحَبَشَةِ» . وَقَدْ ذَكَرْنَاهُ فِي أَوَّلِ كَلَامِنَا فِي التَّذْكِيَةِ بِإِسْنَادِهِ. فَأَمَّا نَحْنُ فَتَعَلَّقْنَا بِنَهْيِهِ - عَلَيْهِ السَّلَامُ - وَلَمْ نَتَعَدَّهُ وَلَمْ نُحَرِّمْ إِلَّا مَا ذُبِحَ أَوْ رُمِيَ بِسِنٍّ أَوْ ظُفُرٍ فَقَطْ، وَلَمْ نَجْعَلْ الْعَظِيمَةَ سَبَبًا لِلْمَنْعِ مِنَ الذَّكَاةِ إِلَّا حَيْثُ جَعَلَهَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - سَبَبًا لِذَلِكَ، وَهُوَ السِّنُّ، وَالظُّفُرُ فَقَطْ. وَإِنَّمَا مَنَعْنَا مِنَ التَّذْكِيَةِ بِعِظَامِ الْخِنْزِيرِ، وَالْحِمَارِ الْأَهْلِيِّ، أَوْ

ing pigs: {It is indeed an abomination} (6:145), and the Prophet's—peace and blessings be upon him—declaration concerning domestic donkeys: "They are abominations." All such items are abominations requiring avoidance. Their possession is unlawful except where explicitly permitted—such as owning, riding, utilizing, selling, or purchasing donkeys specifically.

We forbid slaughtering with bones of quadruped predators and birds due to the Prophet's—peace and blessings be upon him—general prohibition as previously detailed. We permit only what textual evidence allows regarding their use for hunting or acquisition for that purpose—otherwise, they remain forbidden, and even a portion of what is forbidden remains forbidden. Concerning human bones, their burial is obligatory regardless of the deceased's faith. We permit slaughtering using carrion bones based on the Prophet's—peace and blessings be upon him—ruling: "Only consumption is prohibited regarding carrion," while its sale and use of its fat for oil remain forbidden—nothing beyond these restrictions applies. Al-Shāfiʿī and our scholars argued using the Prophet's—peace and blessings be upon him—statement "It is bone," establishing the use of bone as the legal cause. Regarding the prohibition of slaughtering [an animal] if a bone or any bone whatsoever is used: Abu Muhammad said: This is an error because it transgresses the boundaries of Allah, the Most High, and the boundaries of His Messenger—peace be upon him—for if the Prophet—peace be upon him—had intended that, he would not have failed to say, "Neither bone nor claw," given that he—peace be upon him—was granted the concise and comprehensive speech and was commanded to clarify. Had he—peace be upon him—intended to prohibit slaughtering with bone, he would not have neglected to state it explicitly, nor resorted to obfuscation and meaningless repetition by restricting the prohibition to teeth alone. This constitutes confusion and complication, not clarification. Both we and they are certain that he—peace be upon him—ruled the prohibition of slaughtering with teeth stems solely from their being bones, and we are certain that had he—peace be upon him—intended all bones, he would not have remained silent. Thus, they have added to his ruling—peace be upon him—what he did not decree. Moreover, they contradicted themselves in this very report, for he—peace be upon him—

سِبَاعِ ذَوَاتِ الْأَرْبَعِ، أَوْ الطَّيْرِ لِقَوْلِهِ تَعَالَى فِي الْخِنْزِيرِ: {فَإِنَّهُ رِجْسٌ} [الأنعام: ١٤٥] «وَلِقَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الْحُمُرِ الْأَهْلِيَّةِ فَإِنَّهَا رِجْسٌ» فَهِيَ كُلُّهَا رِجْسٌ، وَالرِّجْسُ وَاجِبٌ اجْتِنَابُهُ، وَلَا يَحِلُّ إمْسَاكُهَا إلَّا حَيْثُ أَبَاحَهَا نَصٌّ، وَلَيْسَ ذَلِكَ إلَّا مِلْكُهَا وَرُكُوبُهَا وَاسْتِخْدَامُهَا وَبَيْعُهَا وَابْتِيَاعُهَا يَعْنِي الْحُمُرَ فَقَطْ. وَمَنَعْنَا مِنْ التَّذْكِيَةِ بِعِظَامِ سِبَاعِ ذَوَاتِ الْأَرْبَعِ، وَالطَّيْرِ لِنَهْيِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْهَا جُمْلَةً عَلَى مَا ذَكَرْنَا قَبْلُ فَلَمْ نُحِلَّ مِنْهَا إلَّا مَا أَحَلَّهُ النَّصُّ مِنْ تَمَلُّكِهَا لِلصَّيْدِ بِهَا وَابْتِيَاعِهَا لِذَلِكَ فَقَطْ وَإِلَّا فَهِيَ حَرَامٌ وَبَعْضُ الْحَرَامِ حَرَامٌ. وَأَمَّا عَظْمُ الْإِنْسَانِ فَلِأَنَّ مُوَارَاتَهُ فَرْضٌ كَافِرًا كَانَ أَوْ مُؤْمِنًا. وَأَبَحْنَا التَّذْكِيَةَ بِعِظَامِ الْمَيْتَةِ لِقَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إنَّمَا حُرِّمَ مِنْ الْمَيْتَةِ أَكْلُهَا» وَحُرِّمَ - عَلَيْهِ السَّلَامُ - بَيْعُهَا وَالدُّهْنُ بِشَحْمِهَا، فَلَا يَحْرُمُ مِنْ الْمَيْتَةِ شَيْءٌ إلَّا ذَلِكَ وَلَا مَزِيدَ. وَاحْتَجَّ الشَّافِعِيُّ وَأَصْحَابُنَا «بِقَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَإِنَّهُ عَظْمٌ» فَجَعَلَ الْعَظْمِيَّةَ عِلَّةً لِلْمَنْعِ مِنْ التَّذْكِيَةِ حَيْثُ كَانَ الْعَظْمُ أَوْ أَيُّ عَظْمٍ كَانَ -: قَالَ أَبُو مُحَمَّدٍ: وَهَذَا خَطَأٌ لِأَنَّهُ تَعَدٍّ لِحُدُودِ اللَّهِ تَعَالَى وَحُدُودِ رَسُولِهِ - عَلَيْهِ السَّلَامُ - لِأَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَوْ أَرَادَ ذَلِكَ لَمَا عَجَزَ عَنْ أَنْ يَقُولَ: لَيْسَ الْعَظْمُ وَالظُّفْرُ، وَهُوَ - عَلَيْهِ السَّلَامُ - قَدْ أُوتِيَ جَوَامِعَ الْكَلِمِ وَأُمِرَ - عَلَيْهِ السَّلَامُ - بِالْبَيَانِ. فَلَوْ أَنَّهُ - عَلَيْهِ السَّلَامُ - أَرَادَ تَحْرِيمَ الذَّكَاةِ بِالْعَظْمِ لَمَا تَرَكَ أَنْ يَقُولَهُ وَلَا اسْتَعْمَلَ التَّحْلِيقَ وَالْإِكْثَارَ بِلَا مَعْنًى فِي الِاقْتِصَارِ عَلَى ذِكْرِ السِّنِّ، فَهَذَا هُوَ التَّلْبِيسُ وَالْإِشْكَالُ لَا الْبَيَانُ، وَنَحْنُ وَهُمْ عَلَى يَقِينٍ مِنْ أَنَّهُ - عَلَيْهِ السَّلَامُ - حَكَمَ بِأَنَّ الْمَنْعَ مِنْ التَّذْكِيَةِ بِالسِّنِّ إنَّمَا هُوَ مِنْ أَجْلِ كَوْنِهِ عَظْمًا، وَنَحْنُ مُوقِنُونَ بِأَنَّهُ - عَلَيْهِ السَّلَامُ - لَوْ أَرَادَ كُلَّ عَظْمٍ لَمَا سَكَتَ عَنْ ذَلِكَ فَقَدْ زَادُوا فِي حُكْمِهِ - عَلَيْهِ السَّلَامُ - مَا لَمْ

attributed the reason for prohibiting slaughtering with claws to their being the knives of the Ethiopians. This obliges them to apply their principle universally, prohibiting slaughtering with Ethiopian knives regardless of their material, or else they contradict themselves. If they claim consensus here, they lie, asserting what they have no knowledge of. We have received a narration through Abu Bakr ibn Abi Shaybah, from ʻAbd al-Aʻlā, from Maʻmar, from ʻAbdullāh ibn Ṭāwūs, from his father, that he deemed the slaughter of the Zanj reprehensible. As for us, we do not consider the use of Ethiopian knives for slaughtering a reason to prohibit consumption except for claws alone, as designated by the Messenger of Allah—peace be upon him. Nor do we deem the fact of being a bone a reason to prohibit consuming what is slaughtered with such material except for teeth alone, as established by the Messenger of Allah—peace be upon him. This is the height of clarity and lucidity—and success is from Allah, the Most High.[9]

L17102–17104 It has been reported that a statement similar to theirs was transmitted from some of the early predecessors: as narrated through the chain of ʿAbd al-Razzāq from Sufyān al-Thawrī from al-Mughīrah from Ibrāhīm, who said: "Slaughtering is permissible with anything except four: the fang, the nail, the bone, and the horn." And through the chain of ʿAbd al-Razzāq from Hishām ibn Ḥassān from al-Ḥasan, who said: "Anything that slits the jugular veins and spills the blood, except the nail, the fang, and the bone." A statement similar to our opinion has also been reported from some of the early predecessors... As narrated through the chain of Saʿīd ibn Manṣūr: Abū Muʿāwiyah reported to us, al-Aʿmash reported to us from Ibrāhīm, who said: "If it does not slit the jugular veins, then all except the tooth and nail." And through the chain of Saʿīd ibn Manṣūr: Khadīj ibn Muʿāwiyah reported to us from Abū Isḥāq al-Sabīʿī, who said: "The canine tooth and nail were disliked."

L17105 Abu Muhammad said: The Hanafis and Malikis have opposed this Sunnah with their opinions. Among all marvels, none is more astounding than their advancement of false, corrupt, and fabricated rationales—such as rational-

[9] **Qur'an references (L17099):** Qur'an 6:145 (Al-An'am).

يَحْكُمْ بِهِ. وَأَيْضًا فَقَدْ تَنَاقَضُوا فِي هَذَا الْخَبَرِ نَفْسِهِ، لِأَنَّهُ - عَلَيْهِ السَّلَامُ - جَعَلَ السَّبَبَ فِي مَنْعِ التَّذْكِيَةِ بِالظُّفْرِ إنَّمَا هُوَ كَوْنُهُ مُدَى الْحَبَشَةِ فَيَلْزَمُهُمْ أَنْ يَطْرُدُوا أَصْلَهُمْ فَيَمْنَعُوا التَّذْكِيَةَ بِمُدَى الْحَبَشَةِ مِنْ أَيِّ شَيْءٍ كَانَتْ وَإِلَّا فَقَدْ تَنَاقَضُوا فَإِنْ ادَّعَوْا هَهُنَا إجْمَاعًا كَانُوا كَاذِبِينَ قَائِلِينَ مَا لَا عِلْمَ لَهُمْ بِهِ. وَقَدْ رُوِّينَا مِنْ طَرِيقِ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نا عَبْدُ الْأَعْلَى عَنْ مَعْمَرٍ عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ أَنَّهُ كَرِهَ ذَبِيحَةَ الزِّنْجِيِّ. وَأَمَّا نَحْنُ فَلَا نَجْعَلُ كَوْنَ مَا يُذَكَّى بِهِ مِنْ مُدَى الْحَبَشَةِ سَبَبًا لِتَحْرِيمِ أَكْلِهِ إلَّا فِي الظُّفْرِ وَحْدَهُ، حَيْثُ جَعَلَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَا نَجْعَلُ الْعَظْمِيَّةَ سَبَبًا لِتَحْرِيمِ أَكْلِ مَا ذُكِّيَ بِمَا هِيَ فِيهِ إلَّا فِي السِّنِّ وَحْدَهُ، حَيْثُ جَعَلَهُ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -، وَهَذَا فِي غَايَةِ الْبَيَانِ وَالْوُضُوحِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَقَدْ رُوِيَ نَحْوُ قَوْلِهِمْ عَنْ بَعْضِ السَّلَفِ -: كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ الْمُغِيرَةِ عَنْ إبْرَاهِيمَ قَالَ: يُذْبَحُ بِكُلِّ شَيْءٍ غَيْرِ أَرْبَعَةِ السِّنِّ، وَالظُّفْرِ، وَالْعَظْمِ، وَالْقَرْنِ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ هِشَامِ بْنِ حَسَّانَ عَنْ الْحَسَنِ قَالَ: كُلُّ مَا فَرَى الْأَوْدَاجَ وَأَهْرَاقَ الدَّمَ، إلَّا الظُّفْرَ، وَالنَّابَ، وَالْعَظْمَ. وَرُوِيَ نَحْوُ قَوْلِنَا عَنْ بَعْضِ السَّلَفِ أَيْضًا -: كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا أَبُو مُعَاوِيَةَ نا الْأَعْمَشُ عَنْ إبْرَاهِيمَ قَالَ: مَا فَرَى الْأَوْدَاجَ فَكُلُّ إلَّا السِّنَّ، وَالظُّفْرَ. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا خَدِيجُ بْنُ مُعَاوِيَةَ عَنْ أَبِي إسْحَاقَ السَّبِيعِيِّ قَالَ: كَانَ يُكْرَهُ النَّابُ وَالظُّفْرُ.

قَالَ أَبُو مُحَمَّدٍ: وَخَالَفَ الْحَنَفِيُّونَ، وَالْمَالِكِيُّونَ هَذِهِ السُّنَّةَ بِآرَائِهِمْ، وَلَيْسَ فِي الْعَجَبِ أَعْجَبُ مِنْ إخْرَاجِهِمْ الْعِلَلَ الْكَاذِبَةَ الْفَاسِدَةَ الْمُفْتَرَاةَ: مِنْ مِثْلِ تَعْلِيلِ الرِّبَا بِالِادِّخَارِ وَالْأَكْلِ، وَتَعْلِيلِ مِقْدَارِ الصَّدَاقِ بِأَنَّهُ عِوَضُ مَا يُسْتَبَاحُ بِهِ الْعُضْوُ، وَسَائِرُ تِلْكَ الْعِلَلِ

izing usury based on hoarding and consumption, justifying the prescribed dowry amount as compensation for legitimizing access to bodily organs, and other similarly absurd, lame, and invented rationales. Then they approach what the Prophet—peace and blessings of Allah be upon him—established as the cause for prohibiting the consumption of what is slaughtered with certain tools, when he said, "For it is a bone, and it is the blade of the Ethiopians," yet they disregard these as meaningless speech, instead contriving a false and ludicrous rationale of their own: slaughter by suffocation. We ask them: If someone grows their nail excessively, sharpens it, and thins it until they slaughter a small bird with it—the nail being honed like a knife—is it permissible to eat or not? If they say no, they abandon their rationale of suffocation. If they say yes, they contradict their ruling on the detached nail. If they cite the narration we transmitted from Shu'bah, from Simak ibn Harb, from Murayy ibn Qatariyy, from 'Adi ibn Hatim, from the Prophet—peace and blessings of Allah be upon him—who said, "Let the blood flow with whatever you wish, and mention Allah's name," we respond: This is a rejected narration, for it comes through Simak ibn Harb—who accepts prompting—from Murayy ibn Qatariyy, who is unknown. Even if it were authentic, the narration of Rafi' ibn Khadij would constitute an additional specification to it, necessitating its incorporation so that both narrations are applied together.

السَّخِيفَةِ الْبَارِدَةِ الْمَكْذُوبَةِ، ثُمَّ يَأْتُونَ إِلَى مَا جَعَلَهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - سَبَبًا لِتَحْرِيمِ أَكْلِ مَا ذُكِّيَ بِهِ بِقَوْلِهِ فَإِنَّهُ عَظْمٌ وَإِنَّهُ مُدَى الْحَبَشَةِ وَلَا يُعَلِّلُونَ بِهِمَا بَلْ يَجْعَلُونَهُ لَغْوًا مِنْ الْكَلَامِ وَيُخْرِجُونَ مِنْ أَنْفُسِهِمْ عِلَّةً كَاذِبَةً سَخِيفَةً وَهِيَ الْخَنْقُ. وَنَسْأَلُهُمْ عَمَّنْ أَطَالَ ظُفْرَهُ جِدًّا وَشَحَذَهُ وَرَقَّقَهُ حَتَّى ذَبَحَ بِهِ عُصْفُورًا صَغِيرًا فَبُرِيَ كَمَا تُبْرَى السِّكِّينُ أَيُؤْكَلُ أَمْ لَا؟ فَإِنْ قَالُوا: لَا، تَرَكُوا عِلَّتَهُمْ فِي الْخَنْقِ. وَإِنْ قَالُوا: يُؤْكَلُ، تَرَكُوا قَوْلَهُمْ فِي الظُّفْرِ الْمَنْزُوعِ. فَإِنْ ذَكَرُوا مَا رُوِّينَاهُ عَنْ شُعْبَةَ عَنْ سِمَاكِ بْنِ حَرْبٍ عَنْ مُرَيٍّ بْنِ قَطَرِيٍّ عَنْ عَدِيِّ بْنِ حَاتِمٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «أَنْهِرْ الدَّمَ بِمَا شِئْتَ وَاذْكُرْ اسْمَ اللَّهِ» . قُلْنَا: هَذَا خَبَرٌ سَاقِطٌ، لِأَنَّهُ عَنْ سِمَاكِ بْنِ حَرْبٍ وَهُوَ يَقْبَلُ التَّلْقِينَ عَنْ مُرَيِّ بْنِ قَطَرِيٍّ - وَهُوَ مَجْهُولٌ - ثُمَّ لَوْ صَحَّ لَكَانَ خَبَرُ رَافِعِ بْنِ خَدِيجٍ زَائِدًا عَلَيْهِ تَخْصِيصًا يَلْزَمُ إضَافَتُهُ إلَيْهِ وَلَا بُدَّ لِيَسْتَعْمِلَ الْخَبَرَيْنِ مَعًا.

L17106 If they cite what has been narrated to us through Ma'mar's chain from 'Awf, from Abū Rajā' al-'Uṭāridī, who said: "I asked Ibn 'Abbās about a rabbit I slaughtered with my fingernail." He replied: "Do not eat it, for it is strangled." In some narrations, Ibn 'Abbās said: "You only killed it by strangulation." This does not constitute valid proof for them for two reasons. The first is that no valid proof lies in the words of anyone other than the Messenger of Allah—peace and blessings be upon him. The second is that it serves as proof against them and contradicts their view, for Ibn 'Abbās did not stipulate it being removed or not removed.

فَإِنْ ذَكَرُوا مَا رُوِّينَا مِنْ طَرِيقِ مَعْمَرٍ عَنْ عَوْفٍ عَنْ أَبِي رَجَاءٍ الْعُطَارِدِيِّ قَالَ: سَأَلْت ابْنَ عَبَّاسٍ عَنْ أَرْنَبٍ ذَبَحْتُهَا بِظُفْرِي؟ فَقَالَ: لَا تَأْكُلْهَا فَإِنَّهَا الْمُنْخَنِقَةُ، وَفِي بَعْضِ الرِّوَايَاتِ إنَّمَا قَتَلْتَهَا خَنْقًا، فَلَا حُجَّةَ لَهُمْ فِيهِ لِوَجْهَيْنِ -: أَحَدُهُمَا: أَنْ لَا حُجَّةَ فِيمَنْ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. وَالثَّانِي: أَنَّهُ حُجَّةٌ عَلَيْهِمْ وَخِلَافُ قَوْلِهِمْ؛ لِأَنَّ ابْنَ عَبَّاسٍ لَمْ يَشْتَرِطْهُ مَنْزُوعًا مِنْ غَيْرِ مَنْزُوعٍ.

L17107–17108 As for our prohibition from eating what is slaughtered, sacrificed, or hunted with a projectile using a tool seized unlawfully, this is due to Allah's statement: *"And do not consume one another's wealth wrongfully"* [Al-Baqarah

وَأَمَّا مَنْعُنَا مِنْ أَكْلِ مَا ذُبِحَ أَوْ نُحِرَ أَوْ رُمِيَ بِآلَةٍ مَأْخُوذَةٍ بِغَيْرِ حَقٍّ فَلِقَوْلِ اللَّهِ تَعَالَى: {وَلا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ} [البقرة: ١٨٨] وَقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ

2:188], and the Messenger of Allah—peace and blessings be upon him—saying: *"Your blood and your wealth are inviolable to you."* There is no doubt that what is slaughtered, sacrificed, or hunted with a projectile using a tool seized unlawfully entails wrongful acquisition by the perpetrator. When this is established with certainty, it is wrongfully consumed, and this is forbidden by explicit textual ruling. Additionally, Islamic slaughter is an obligatory act commanded as obedience to Allah Almighty, while using a tool seized unlawfully in slaughtering, sacrificing, or hunting is a forbidden act of disobedience to Him. These are two certain, undisputed principles. Given this, it is pure falsehood and manifest deceit to claim that disobedience substitutes for obedience, or that one who disobeys Allah—failing to perform what He commanded—could be fulfilling what He commanded. And success comes only from Allah, the Most High.[10]

L17109 **Issue: If one incises deeply or pierces in the case of ritual slaughter (with a knife) or with an arrow (for hunting), but the penetration does not reach the depth achieved by a knife.**

L17110 1053. Issue: If an animal is pierced or slashed with a tool that does not penetrate fully like a knife or arrow, it is impermissible to eat what is killed thereby. Likewise, if slaughtered with a saw or sickle, due to the statement of Allah's Messenger—peace and blessings be upon him: "Allah has prescribed excellence in all matters. When you kill, execute properly, and when you slaughter, slaughter properly. Let each of you sharpen his blade and let him ease his slaughter." Therefore, one who slashes or slaughters with a worn-toothed instrument has neither slaughtered as commanded nor performed the ritual purification as ordained. Thus, it becomes carrion. It is astonishing that they prohibit consumption in this case because the slaughter was not conducted as prescribed nor the ritual purification fulfilled, but rather with a prohibited tool. Yet they permit eating what is slaughtered by nahr (throat-cutting for camels) or slaughtered with a prohibited tool acquired unjustly—

[10]**Qur'an references (L17108):** Qur'an 2:188 (Al-Baqarah).

عَلَيْهِ وَسَلَّمَ -: «إِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ» . وَلَا شَكَّ فِي أَنَّ مَا ذُبِحَ أَوْ نُحِرَ بِآلَةٍ مَأْخُوذَةٍ بِغَيْرِ حَقٍّ، فَبِالْبَاطِلِ تَوَلَّى ذَلِكَ مِنْهُ، وَإِذَا هُوَ كَذَلِكَ بِيَقِينٍ فَبِالْبَاطِلِ يُؤْكَلُ، وَهَذَا حَرَامٌ بِالنَّصِّ. وَأَيْضًا فَإِنَّ الذَّكَاةَ فِعْلٌ مُفْتَرَضٌ مَأْمُورٌ بِهِ طَاعَةً لِلَّهِ عَزَّ وَجَلَّ، وَاسْتِعْمَالُ الْمَأْخُوذَةِ بِغَيْرِ حَقٍّ فِي الذَّبْحِ، وَالنَّحْرِ، وَالرَّمْيِ: فِعْلٌ مُحَرَّمٌ مَعْصِيَةً لِلَّهِ تَعَالَى. هَذَانِ قَوْلَانِ مُتَيَقَّنَانِ بِلَا خِلَافٍ، فَإِذْ هُوَ كَذَلِكَ فَمِنْ الْبَاطِلِ الْبَحْتِ، وَالْكَذِبِ الظَّاهِرِ أَنْ تَنُوبَ الْمَعْصِيَةُ عَنْ الطَّاعَةِ وَأَنْ يَكُونَ مَنْ عَصَى اللَّهَ تَعَالَى وَلَمْ يَفْعَلْ مَا أَمَرَ بِهِ مُؤَدِّيًا لِمَا أُمِرَ بِهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ مَا ثَرَدَ وَخَزَقَ وَلَمْ يَنْفُذْ نَفَاذَ السِّكِّينِ فِي التَّذْكِيَةِ وَالسَّهْمِ]

١٠٥٣ - مَسْأَلَةٌ: وَمَا ثَرَدَ وَخَزَقَ وَلَمْ يَنْفُذْ نَفَاذَ السِّكِّينِ، وَالسَّهْمِ: لَمْ يَحِلَّ أَكْلُ مَا قُتِلَ بِهِ، وَكَذَلِكَ مَا ذُبِحَ بِمِنْشَارٍ، أَوْ بِمِنْجَلٍ لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِنَّ اللَّهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ فَإِذَا قَتَلْتُمْ فَأَحْسِنُوا الْقِتْلَةَ، وَإِذَا ذَبَحْتُمْ فَأَحْسِنُوا الذِّبْحَ، وَلْيُحِدَّ أَحَدُكُمْ شَفْرَتَهُ وَلْيُرِحْ ذَبِيحَتَهُ» . فَالْمُثْرِدُ وَالذَّابِحُ بِشَيْءٍ مُضْرِسٍ لَمْ يَذْبَحْ كَمَا أُمِرَ وَلَا ذَكَّى كَمَا أُمِرَ، فَهِيَ مَيْتَةٌ وَالْعَجَبُ مِنْ مَنْعِهِمْ الْأَكْلَ هَهُنَا، لِأَنَّهُ لَمْ يُذَكِّ كَمَا أُمِرَ وَلَمْ يَذْبَحْ بَلْ بِآلَةٍ نُهِيَ عَنْهَا، ثُمَّ يُجِيزُونَ أَكْلَ مَا نُحِرَ أَوْ ذُبِحَ بِآلَةٍ مَنْهِيٍّ عَنْهَا مَأْخُوذَةٍ بِغَيْرِ حَقٍّ - وَلَا فَرْقَ بَيْنَ ذَلِكَ أَصْلًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

though there is absolutely no distinction between the two cases. And success comes only from Allah, the Most High.[11]

L17111 **Issue: Ritual slaughter using an implement of gold or a gilded one.**

L17112 1054. Issue: It is not permissible at all for men to ritually slaughter using a gold or gold-plated tool. If a man does so, the meat becomes prohibited for both men and women. However, if a woman ritually slaughters with such a tool, it is permissible for both men and women. This ruling derives from the Prophet's (peace be upon him) prohibition of gold for male members of his community and its allowance for female members. Thus, any man who slaughters with a gold or gold-plated tool has employed a tool whose use is forbidden to him, thereby failing to slaughter as commanded. The ruling for women is contrary to this.

L17113–17114 **An issue of ritual slaughter using a silver implement.**

L17115 It is permissible because only their utensils were prohibited, and neither the knife, the spear, the arrow, nor the sword—are utensils.

L17116 **A case where he could find nothing but a tooth, a claw, or a predator's bone and feared the animal's death.**

L17117 1056 - Issue: If one finds only a tooth, a claw, a bone of a wild beast, a bird, a quadruped, a pig, a donkey, a human, or gold, and fears the animal's death, it is not permissible for him to eat what has been slaughtered with any of those things, for valid ritual slaughter cannot be performed with any of these whatsoever. Such a person lacks the means to perform valid slaughter and is not considered negligent, because he did not find any permissible instrument to slaughter it with. Therefore, that animal remains entirely without valid slaughter.

[مَسْأَلَةٌ التَّذْكِيَةُ بِآلَةٍ ذَهَبٍ أَوْ مُذَهَّبَةٍ]

١٠٥٤ - مَسْأَلَةٌ: وَلَا يَجُوزُ التَّذْكِيَةُ بِآلَةِ ذَهَبٍ أَوْ مُذَهَّبَةٍ أَصْلًا لِلرِّجَالِ، فَإِنْ فَعَلَ الرَّجُلُ فَهُوَ حَرَامٌ عَلَى الرِّجَالِ وَالنِّسَاءِ. فَإِنْ ذَكَّتْ بِهَا امْرَأَةٌ فَهُوَ حَلَالٌ لِلرِّجَالِ وَلِلنِّسَاءِ، لِتَحْرِيمِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الذَّهَبَ عَلَى ذُكُورِ أُمَّتِهِ وَإِبَاحَتِهِ إيَّاهُ لِإِنَاثِهَا. فَمَنْ ذَكَّى مِنْ الرِّجَالِ بِآلَةِ ذَهَبٍ أَوْ مُذَهَّبَةٍ فَقَدْ اسْتَعْمَلَ آلَةً مُحَرَّمَةً عَلَيْهِ اسْتِعْمَالُهَا فَلَمْ يُذَكِّ كَمَا أُمِرَ - وَالْمَرْأَةُ بِخِلَافِ ذَلِكَ.

[مَسْأَلَةٌ التَّذْكِيَةُ بِآلَةِ فِضَّةٍ]

حَلَالٌ، لِأَنَّهُ لَمْ يُنْهَ إلَّا عَنْ آنِيَتِهَا فَقَطْ، وَلَيْسَ السِّكِّينُ، وَالرُّمْحُ وَالسَّهْمُ، وَلَا السَّيْفُ -: آنِيَةً.

[مَسْأَلَةٌ لَمْ يَجِدْ إلَّا سِنًّا أَوْ ظُفْرًا أَوْ عَظْمَ سَبُعٍ وَخَشِيَ مَوْتَ الْحَيَوَانِ]

١٠٥٦ - مَسْأَلَةٌ: فَمَنْ لَمْ يَجِدْ إلَّا سِنًّا، أَوْ ظُفْرًا، أَوْ عَظْمَ سَبُعٍ، أَوْ طَائِرٍ، أَوْ ذِي أَرْبَعٍ أَوْ خِنْزِيرٍ، أَوْ حِمَارٍ، أَوْ إنْسَانٍ، أَوْ ذَهَبٍ، وَخَشِيَ مَوْتَ الْحَيَوَانِ لَمْ يَحِلَّ لَهُ أَنْ يَأْكُلَ مَا ذُكِّيَ بِشَيْءٍ مِنْ ذَلِكَ، لِأَنَّهُ لَا يَكُونُ ذَكَاةٌ بِشَيْءٍ مِنْ هَذَا كُلِّهِ أَصْلًا، فَهُوَ عَادِمُ مَا يُذْكِي بِهِ، وَلَيْسَ مُضَيِّعًا لَهُ، لِأَنَّهُ لَمْ يَجِدْ مَا يَجُوزُ أَنْ يُذَكِّيَهُ بِهِ، فَذَلِكَ الْحَيَوَانُ غَيْرُ مُذَكًّى أَصْلًا.

[11] **Hadith references (L17110):** Sunan an-Nasai 4412.

[مَسْأَلَةٌ لَمْ يَجِدْ إِلَّا آلَةً مَغْصُوبَةً وَخَشِيَ الْمَوْتَ عَلَى حَيَوَانِهِ]

١٠٥٧ - مَسْأَلَةٌ: فَمَنْ لَمْ يَجِدْ إِلَّا آلَةً مَغْصُوبَةً، أَوْ مَأْخُوذَةً بِغَيْرِ حَقٍّ وَخَشِيَ الْمَوْتَ عَلَى حَيَوَانِهِ ذَكَّاهُ بِهَا وَحَلَّ لَهُ أَكْلُهُ لِقَوْلِ اللَّهِ تَعَالَى: {وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى وَلا تَعَاوَنُوا عَلَى الإِثْمِ وَالْعُدْوَانِ} [المائدة: ٢] فَحَرَامٌ عَلَى صَاحِبِ الْآلَةِ مَنْعُهُ مِنْهَا إِذَا خَشِيَ ضَيَاعَ مَالِهِ بِمَوْتِهِ جِيفَةً، فَإِذْ هُوَ حَرَامٌ عَلَى صَاحِبِهَا مَنْعُهُ مِنْهَا، فَفُرِضَ عَلَى صَاحِبِ الْحَيَوَانِ أَخْذُهَا وَالتَّذْكِيَةُ بِهَا فَهُوَ مُطِيعٌ بِذَلِكَ أَحَبَّ صَاحِبُ الْآلَةِ أَوْ كَرِهَ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17118 **A case where one finds only a usurped tool and fears his animal may die.**

L17119 Issue: If someone finds only a tool that is wrongfully seized or taken without right and fears the death of his animal, he may slaughter it with that tool, and its consumption becomes lawful. This is based on Allah's statement, the Exalted: *"Cooperate in righteousness and piety, and do not cooperate in sin and aggression"* [Al-Mā'idah: 2]. Thus, it is forbidden for the tool's owner to withhold it when the animal's owner fears losing his property through its death as carrion. Since withholding it is forbidden, the animal's owner is obligated to take the tool and slaughter with it. In doing so, he is obeying Allah—whether the tool's owner approves or disapproves. And success is from Allah, the Exalted.[12]

[مَسْأَلَةٌ تَذْكِيَةُ الْحَائِضِ وَالزِّنْجِيِّ وَالْأَقْلَفِ وَالْأَخْرَسِ]

١٠٥٨ - مَسْأَلَةٌ: وَتَذْكِيَةُ الْمَرْأَةِ الْحَائِضِ وَغَيْرِ الْحَائِضِ، وَالزِّنْجِيِّ، وَالْأَقْلَفِ، وَالْأَخْرَسِ، وَالْفَاسِقِ، وَالْجُنُبِ، وَالْآبِقِ، وَمَا ذُبِحَ أَوْ نُحِرَ لِغَيْرِ الْقِبْلَةِ عَمْدًا، أَوْ غَيْرِ عَمْدٍ: جَائِزٌ أَكْلُهَا إِذَا ذَكَّوْا وَسَمَّوْا عَلَى حَسْبِ طَاقَتِهِمْ، بِالْإِشَارَةِ مِنَ الْأَخْرَسِ، وَيُسَمِّي الْأَعْجَمِيُّ بِلُغَتِهِ لِقَوْلِ اللَّهِ تَعَالَى: {إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] فَخَاطَبَ كُلَّ مُسْلِمٍ وَمُسْلِمَةٍ، وَقَالَ تَعَالَى: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] فَلَمْ يُكَلِّفُوا مِنَ التَّسْمِيَةِ إِلَّا مَا قَدَرُوا عَلَيْهِ. وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَفِي كُلِّ مَا ذَكَرْنَا خِلَافٌ - وَقَدْ ذَكَرْنَا مَنْعَ طَاوُسٍ مِنْ أَكْلِ ذَبِيحَةِ الزِّنْجِيِّ. رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا أَبُو أُسَامَةَ عَنْ سَعِيدٍ - هُوَ ابْنُ أَبِي عَرُوبَةَ - عَنْ قَتَادَةَ عَنْ حَيَّانَ عَنْ جَابِرٍ - هُوَ ابْنُ زَيْدٍ - عَنِ ابْنِ عَبَّاسٍ قَالَ: الْأَقْلَفُ لَا تُؤْكَلُ لَهُ ذَبِيحَةٌ، وَلَا تُقْبَلُ

L17120 **Issue: The permissibility of ritual slaughter performed by a menstruating woman, a Zanjī person, an uncircumcised male, or a mute person.**

L17121–17123 1058. Issue: The slaughtering by a menstruating woman, a non-menstruating woman, a Zinjī, one who is not circumcised, a mute person, a sinner, one in a state of major impurity, a fugitive slave, and what is slaughtered by dhabh or nahr not facing the qiblah intentionally or unintentionally—it is permissible to consume provided they performed the slaughtering and pronounced Allah's name as they were able, through gestures in the case of the mute. A non-Arab may pronounce the name in his own tongue, based on Allah's decree: {Except what you slaughter} [Al-Mā'idah: 3], which addresses every Muslim male and female. Allah also states: {Allah does not burden a soul beyond its capacity} [Al-Baqarah: 286], thus obligating them only to what they can manage in pronouncing the name. This is the view of Abū Ḥanīfah, Mālik, Al-Shāfiʿī, and Abū Sulaymān. There exists disagreement concerning all the aforementioned cases; we previously noted Ṭāwūs's prohibition against consuming the slaughter of a Zinjī. It is narrated through the chain of Ibn Abī Shaybah: Abū Usāmah reported to us from Saʿīd—

[12] **Qur'an references (L17119):** Qur'an 5:2 (Al-Ma'idah).

Ibn Abī ʿArūbah—from Qatādah from Ḥayyān from Jābir ibn Zayd from Ibn ʿAbbās, who said: "The slaughter of one who is not circumcised is impermissible to eat, his prayer is invalid, and his testimony is inadmissible." However, Al-Ḥasan and Ḥammād ibn Abī Sulaymān deemed his slaughter lawful. Through another chain of Ibn Abī Shaybah: ʿUbaydullāh ibn Mūsá reported to us from Ṣakhr ibn Juwayriyah from Nāfiʿ from... Ibn Umar disliked eating it—meaning the slaughter performed by a runaway slave—while Saʿīd ibn al-Musayyib permitted it. From the transmission chain of ʿAbd al-Razzāq, from Maʿmar, from Ayyūb al-Sikhtiyānī, from Nāfiʿ, from Ibn Umar: he disliked eating what was slaughtered while not facing the Qiblah. The same is authentically reported from Ibn Sīrīn and Jābir ibn Zayd. The permissibility of eating it is authentically established from al-Nakhaʿī, al-Shaʿbī, al-Qāsim ibn Muḥammad, and al-Ḥasan al-Baṣrī. Abū Muḥammad said: No Companion is recorded to have opposed Ibn ʿAbbās regarding the slaughter by an uncircumcised male, nor Ibn Umar regarding the slaughter performed by a runaway slave or what was slaughtered while not facing the Qiblah—but later Companions (may Allah be pleased with them) did oppose them. From the transmission chain of Ibn Abī Shaybah: ʿAbd al-Wahhāb ibn ʿAbd al-Majīd al-Thaqafī narrated to us from Ayyūb al-Sikhtiyānī, from Muḥammad ibn Sīrīn: when asked about slaughter performed by a woman or a child, he would not comment on them. From ʿIkrimah and Qatādah: one in major impurity may slaughter after performing ablution. From al-Ḥasan: he should wash his face and forearms, then slaughter. Ibrāhīm, ʿAṭāʾ, and al-Ḥakam permitted it unconditionally. Abū Muḥammad said: Had facing the Qiblah been a condition for valid slaughter, Allah the Exalted would not have omitted its clarification—and likewise for all previously mentioned matters. Success is by Allah, the Exalted. 1059.[13]

لَهُ صَلَاةٌ، وَلَا تَجُوزُ لَهُ شَهَادَةٌ - وَأَجَازَ ذَبِيحَتَهُ الْحَسَنُ، وَحَمَّادُ بْنُ أَبِي سُلَيْمَانَ. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا عُبَيْدُ اللَّهِ بْنُ مُوسَى عَنْ صَخْرِ بْنِ جُوَيْرِيَةَ عَنْ نَافِعٍ عَنْ ابْنُ عُمَرَ أَنَّهُ كَرِهَ أَكْلَهَا - يَعْنِي ذَبِيحَةَ الْآبِقِ - وَأَجَازَهَا سَعِيدُ بْنُ الْمُسَيِّبِ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ أَيُّوبَ السِّخْتِيَانِيُّ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَنَّهُ كَانَ يَكْرَهُ أَنْ يَأْكُلَ ذَبِيحَةً لِغَيْرِ الْقِبْلَةِ. وَصَحَّ عَنْ ابْنِ سِيرِينَ، وَجَابِرِ بْنِ زَيْدٍ مِثْلُ هَذَا، وَصَحَّتْ إبَاحَةُ ذَلِكَ عَنْ النَّخَعِيِّ، وَالشَّعْبِيِّ، وَالْقَاسِمِ بْنِ مُحَمَّدٍ، وَالْحَسَنِ الْبَصْرِيِّ إبَاحَةَ أَكْلِهَا. قَالَ أَبُو مُحَمَّدٍ: لَا يُعْرَفُ لِابْنِ عَبَّاسٍ فِي ذَبِيحَةِ الْأَقْلَفِ مُخَالِفٌ مِنْ الصَّحَابَةِ، وَلَا لِابْنِ عُمَرَ فِي ذَبِيحَةِ الْآبِقِ - وَمَا ذُبِحَ لِغَيْرِ الْقِبْلَةِ مُخَالِفٌ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - وَقَدْ خَالَفُوهُمَا. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا عَبْدُ الْوَهَّابِ بْنُ عَبْدِ الْمَجِيدِ الثَّقَفِيُّ عَنْ أَيُّوبَ السِّخْتِيَانِيُّ عَنْ مُحَمَّدِ بْنِ سِيرِينَ أَنَّهُ كَانَ إذَا سُئِلَ عَنْ ذَبِيحَةِ الْمَرْأَةِ، وَالصَّبِيِّ؟ لَا يَقُولُ فِيهِمَا شَيْئًا. وَعَنْ عِكْرِمَةَ، وَقَتَادَةَ يَذْبَحُ الْجُنُبُ إذَا تَوَضَّأَ. وَعَنْ الْحَسَنِ يَغْسِلُ وَجْهَهُ وَذِرَاعَيْهِ وَيَذْبَحُ - وَأَجَازَهَا إبْرَاهِيمُ، وَعَطَاءٌ، وَالْحَكَمُ بِغَيْرِ شَرْطٍ. قَالَ أَبُو مُحَمَّدٍ: لَوْ كَانَ اسْتِقْبَالُ الْقِبْلَةِ مِنْ شُرُوطِ التَّذْكِيَةِ لَمَا أَغْفَلَ اللَّهُ تَعَالَى بَيَانَهُ وَكَذَلِكَ سَائِرُ مَا ذُكِرَ قَبْلُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ. ١٠٥٩ -

[مَسْأَلَةٌ مَا ذَبَحَهُ أَوْ نَحَرَهُ يَهُودِيٌّ أَوْ نَصْرَانِيٌّ أَوْ مَجُوسِيٌّ]

L17124 **Issue: That which is slaughtered by throat-cutting or slaughtered by chest-cutting by a Jew, a Christian, or a Zoroastrian.**

L17125 Issue: Any animal slaughtered via dhabh or slaughtered via nahr by a Jew,

[13] **Qur'an references (L17121):** Qur'an 5:3 (Al-Ma'idah); Qur'an 2:286 (Al-Baqarah).

Christian, or Zoroastrian—whether by their women or men—is lawful for us, and the fats of such animals are lawful for us provided they invoke the name of God Almighty over them. Even if a Jew slaughters a camel via nahr or a rabbit, its consumption is permissible, and we pay no heed to what the Torah prohibits them or permits. Mālik said: It is unlawful to eat the fats of animals slaughtered by Jews, nor what they slaughter of animals they deem unlawful for themselves—and this is an utterly baseless opinion, for it contradicts the Qur'an, the Sunnah, and rational principles.

L17126–17127 As for the Quran, Allah the Exalted says: "The food of those who were given the Scripture is lawful for you, and your food is lawful for them" [Al-Ma'idah: 5]. We have agreed that what is intended by this is what they have properly slaughtered, not what they have consumed, for they eat pork, carrion, and blood – none of which is lawful for us by the consensus of them and us. Since this is established, Allah the Exalted did not stipulate distinguishing between what they eat and what they do not eat, "and your Lord is not forgetful" [Maryam: 64].[14]

L17128–17130 As for the Quran and *Ijmaʿ*: The Quran has come, and *Ijmaʿ* is established that the religion of Islam has abrogated every religion preceding it, and that whoever adheres to what the Torah or Gospel brought without following the Quran is a disbeliever and polytheist, whose adherence is not accepted. Since this is so, Allah the Exalted has nullified every legal code formerly present in the Torah, Gospel, and other creeds, and He obligated jinn and humankind to follow the ordinances of Islam. Thus, nothing is forbidden except what He forbade therein, nothing lawful except what He permitted therein, and no obligation except what He ordained therein. Whoever asserts anything contrary to this regarding religion is a disbeliever without disagreement from any of the Imams.

As for the *Sunnah*: We mentioned in the Book of Jihad within this work the hadith of the fat container seized at Khaybar—the Prophet (peace be upon him) did not prohibit its consumption, but left it for whichever Muslims

[14] **Qur'an references (L17127):** Qur'an 5:5 (Al-Ma'idah); Qur'an 19:64 (Maryam).

مَسْأَلَةٌ: وَكُلُّ مَا ذَبَحَهُ، أَوْ نَحَرَهُ يَهُودِيٌّ، أَوْ نَصْرَانِيٌّ، أَوْ مَجُوسِيٌّ - نِسَاؤُهُمْ، أَوْ رِجَالُهُمْ -: فَهُوَ حَلَالٌ لَنَا، وَشُحُومُهَا حَلَالٌ لَنَا إِذَا ذَكَرُوا اسْمَ اللَّهِ تَعَالَى عَلَيْهِ. وَلَوْ نَحَرَ الْيَهُودِيُّ بَعِيرًا أَوْ أَرْنَبًا حَلَّ أَكْلُهُ، وَلَا نُبَالِي مَا حُرِّمَ عَلَيْهِمْ فِي التَّوْرَاةِ وَمَا لَمْ يُحَرَّمْ. وَقَالَ مَالِكٌ: لَا يَحِلُّ أَكْلُ شُحُومِ مَا ذَبَحَهُ الْيَهُودِيُّ، وَلَا مَا ذَبَحُوهُ مِمَّا لَا يَسْتَحِلُّونَهُ - وَهَذَا قَوْلٌ فِي غَايَةِ الْفَسَادِ، لِأَنَّهُ خِلَافُ الْقُرْآنِ، وَالسُّنَنِ، وَالْمَعْقُولِ.

أَمَّا الْقُرْآنُ فَإِنَّ اللَّهَ تَعَالَى يَقُولُ: {وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَكُمْ وَطَعَامُكُمْ حِلٌّ لَهُمْ} [المائدة: ٥] . وَقَدْ اتَّفَقْنَا عَلَى أَنَّ الْمُرَادَ بِذَلِكَ مَا ذَكَّوْهُ، لَا مَا أَكَلُوهُ، لِأَنَّهُمْ يَأْكُلُونَ الْخِنْزِيرَ، وَالْمَيْتَةَ، وَالدَّمَ، وَلَا يَحِلُّ لَنَا شَيْءٌ مِنْ ذَلِكَ بِإِجْمَاعٍ مِنْهُمْ وَمِنَّا، فَإِذْ ذَلِكَ كَذَلِكَ فَلَمْ يَشْتَرِطِ اللَّهُ تَعَالَى مَا أَكَلُوهُ مِمَّا لَمْ يَأْكُلُوهُ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

وَأَمَّا الْقُرْآنُ، وَالْإِجْمَاعُ: فَقَدْ جَاءَ الْقُرْآنُ، وَصَحَّ الْإِجْمَاعُ بِأَنَّ دِينَ الْإِسْلَامِ نَسَخَ كُلَّ دِينٍ كَانَ قَبْلَهُ، وَأَنَّ مَنْ الْتَزَمَ مَا جَاءَتْ بِهِ التَّوْرَاةُ أَوْ الْإِنْجِيلُ، وَلَمْ يَتَّبِعْ الْقُرْآنَ فَإِنَّهُ كَافِرٌ مُشْرِكٌ، غَيْرُ مَقْبُولٍ مِنْهُ، فَإِذْ ذَلِكَ كَذَلِكَ فَقَدْ أَبْطَلَ اللَّهُ تَعَالَى كُلَّ شَرِيعَةٍ كَانَتْ فِي التَّوْرَاةِ، وَالْإِنْجِيلِ، وَسَائِرِ الْمِلَلِ، وَافْتَرَضَ عَلَى الْجِنِّ، وَالْإِنْسِ: شَرَائِعَ الْإِسْلَامِ، فَلَا حَرَامَ إِلَّا مَا حَرَّمَ فِيهِ، وَلَا حَلَالَ إِلَّا مَا حَلَّلَ فِيهِ، وَلَا فَرْضَ إِلَّا مَا فَرَضَ فِيهِ - وَمَنْ قَالَ فِي شَيْءٍ مِنْ الدِّينِ خِلَافَ هَذَا فَهُوَ كَافِرٌ بِلَا خِلَافٍ مِنْ أَحَدٍ مِنْ الْأَئِمَّةِ.

وَأَمَّا السُّنَّةُ: فَقَدْ ذَكَرْنَا فِي كِتَابِ الْجِهَادِ مِنْ كِتَابِنَا هَذَا مِنْ حَدِيثِ جِرَابِ الشَّحْمِ الْمَأْخُوذِ فِي خَيْبَرَ فَلَمْ يَمْنَعْ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ أَكْلِهِ، بَلْ أَبْقَاهُ لِمَنْ وَقَعَ لَهُ مِنْ الْمُسْلِمِينَ. وَرُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد الطَّيَالِسِيِّ نا سُلَيْمَانُ بْنُ الْمُغِيرَةِ عَنْ

acquired it. It was narrated to us via Abu Dawud al-Tayalisi: Sulayman ibn al-Mughirah narrated to us from Humaid ibn Hilal al-Adawi: “I heard Abdullah ibn Mughaffal say: ’A fat container was lowered during Khaybar. I seized it and clung to it, whereupon Allah’s Messenger (peace be upon him) told me: ”It is yours.“” The renowned report through Shu‘bah from Hisham ibn Zayd from Anas ibn Malik states: “A Jewish woman gifted a poisoned sheep to Allah’s Messenger (peace be upon him), and he ate from it”—he (peace be upon him) did not prohibit its belly fat or any other part.

As for rational proof: It is utterly absurd to claim slaughter according to Islamic law applies to some portions of a sheep’s fat but not others. We know of no evidence for their claim here—neither from the Quran, nor sound *Sunnah*, nor weak narration, nor analogy. Astonishingly, they hear Allah’s words: *“Your food is lawful for them”* (Quran 5:5)—yet our food includes fat, camel meat, and all they prohibit or what Allah had forbidden them through Musa (peace be upon him), later abrogating, nullifying, and permitting it through ‘Isa and Muhammad (peace be upon them) by His statement regarding ‘Isa... And I will declare lawful for you some of what was forbidden to you [Āl ‘Imrān 3:50].[15]

L17131 And by His Exalted statement regarding Muhammad—peace and blessings of Allah be upon him: “The unlettered Prophet whom they find written with them in the Torah and the Gospel. He enjoins upon them what is right and forbids them what is wrong, makes lawful for them the good things and prohibits for them the evil” [Al-A‘raf 7:157]. And by His Exalted statement: “Whoever seeks a religion other than Islam, it will never be accepted from him” [Al ‘Imran 3:85]. Then they persist in forbidding what [others] prohibit, even though they acknowledge it is permissible for them, and they inquire about fat and the camel: “Are these permissible for the Jews today, or are they forbidden to them to this day?” If they say: “Rather, it is forbidden to them to this day,” they commit disbelief without doubt, for they claim that Allah the Exalted did not abrogate it. If they say: “Rather, they are permissible,” they are believed and must abandon their corrupt statement regarding that.

[15] **Qur’an references (L17128):** Qur’an 5:5 (Al-Ma’idah); Qur’an 3:50 (Ali ’Imran).

حُمَيْدِ بْنِ هِلَالٍ الْعَدَوِيِّ سَمِعْتُ «عَبْدَ اللَّهِ بْنَ مُغَفَّلٍ يَقُولُ دُلِّيَ جِرَابٌ مِنْ شَحْمٍ يَوْمَ خَيْبَرَ فَأَخَذْتُهُ وَالْتَزَمْتُهُ فَقَالَ لِي رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - هُوَ لَكَ» . وَالْخَبَرُ الْمَشْهُورُ مِنْ طَرِيقِ شُعْبَةَ عَنْ هِشَامِ بْنِ زَيْدٍ عَنْ أَنَسِ بْنِ مَالِكٍ «أَنَّ يَهُودِيَّةً أَهْدَتْ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - شَاةً مَسْمُومَةً فَأَكَلَ مِنْهَا» وَلَمْ يُحَرِّمْ - عَلَيْهِ السَّلَامُ - مِنْهَا لَا شَحْمَ بَطْنِهَا وَلَا غَيْرَهُ. وَأَمَّا الْمَعْقُولُ: فَمِنْ الْمُحَالِ الْبَاطِلِ أَنْ تَقَعَ الذَّكَاةُ عَلَى بَعْضِ شَحْمِ الشَّاةِ دُونَ بَعْضٍ، وَمَا نَعْلَمُ لِقَوْلِهِمْ هَهُنَا حُجَّةً أَصْلًا، لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ صَحِيحَةٍ، وَلَا رِوَايَةٍ سَقِيمَةٍ، وَلَا قِيَاسٍ. وَالْعَجَبُ أَنَّهُمْ يَسْمَعُونَ اللَّهَ تَعَالَى يَقُولُ: {وَطَعَامُكُمْ حِلٌّ لَهُمْ} [المائدة: ٥] وَمِنْ طَعَامِنَا الشَّحْمُ، وَالْجَمَلُ، وَسَائِرُ مَا يُحَرِّمُونَهُ أَوْ حَرَّمَهُ اللَّهُ تَعَالَى عَلَيْهِمْ عَلَى لِسَانِ مُوسَى، ثُمَّ نَسَخَهُ وَأَبْطَلَهُ وَأَحَلَّهُ عَلَى لِسَانِ عِيسَى وَمُحَمَّدٍ - عَلَيْهِمَا السَّلَامُ - بِقَوْلِهِ تَعَالَى عَنْ عِيسَى {وَلأُحِلَّ لَكُمْ بَعْضَ الَّذِي حُرِّمَ عَلَيْكُمْ} [آل عمران: ٥٠] .

وَبِقَوْلِهِ تَعَالَى عَنْ مُحَمَّدٍ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: {النَّبِيَّ الأُمِّيَّ الَّذِي يَجِدُونَهُ مَكْتُوبًا عِنْدَهُمْ فِي التَّوْرَاةِ وَالإِنْجِيلِ يَأْمُرُهُمْ بِالْمَعْرُوفِ وَيَنْهَاهُمْ عَنِ الْمُنْكَرِ وَيُحِلُّ لَهُمُ الطَّيِّبَاتِ وَيُحَرِّمُ عَلَيْهِمُ الْخَبَائِثَ} [الأعراف: ١٥٧] . وَبِقَوْلِهِ تَعَالَى: {وَمَنْ يَبْتَغِ غَيْرَ الإِسْلامِ دِينًا فَلَنْ يُقْبَلَ مِنْهُ} [آل عمران: ٨٥] ثُمَّ يُصِرُّونَ عَلَى تَحْرِيمِ مَا يُحَرِّمُونَهُ مِمَّا هُمْ مُقِرُّونَ بِأَنَّهُ حَلَالٌ لَهُمْ وَيَسْأَلُونَ عَنْ الشَّحْمِ وَالْجَمَلِ أَحَلَالٌ هُمَا الْيَوْمَ لِلْيَهُودِ أَمْ هُمَا حَرَامٌ عَلَيْهِمْ إلَى الْيَوْمِ؟ فَإِنْ قَالُوا: بَلْ هُوَ حَرَامٌ عَلَيْهِمْ إلَى الْيَوْمِ كَفَرُوا، بِلَا مِرْيَةٍ؛ إذْ قَالُوا: إنَّ ذَلِكَ لَمْ يَنْسَخْهُ اللَّهُ تَعَالَى. وَإِنْ قَالُوا: بَلْ هُمَا حَلَالٌ صُدِّقُوا وَلَزِمَهُمْ تَرْكُ قَوْلِهِمْ الْفَاسِدِ فِي ذَلِكَ. وَنَسْأَلُهُمْ عَنْ يَهُودِيٍّ مُسْتَخْفٍ بِدِينِهِ يَأْكُلُ الشَّحْمَ فَذَبَحَ شَاةً. أَيَحِلُّ لَنَا أَكْلُ

We ask them about a Jew who conceals his religion, eats fat, and slaughters a sheep: Is its fat permissible for us to eat because the slaughterer deems it lawful, or is it forbidden for us as a result of strictly adhering to the religion of the Jews—the religion of disbelief and error? One of the two must be affirmed, and both are paths to ruin. They are obliged not to consider it permissible to eat what a Jew slaughters on the Sabbath or to eat fish caught by a Jew on the Sabbath—a clear contradiction in their stance. It has been narrated to us from ʻUmar ibn al-Khattab, ʻAli, Ibn Masʻud, ʻA'ishah the Mother of the Believers, Abu al-Darda', ʻAbdullah ibn Yazid, Ibn ʻAbbas, al-ʻIrbad ibn Sariyah, Abu Umamah, ʻUbadah ibn al-Samit, and Ibn ʻUmar—the permissibility of what the People of the Book slaughter without stipulating conditions regarding what they deem permissible or impermissible.[16]

L17132 Similarly, none of the majority of the Tabi'in—such as Ibrahim al-Nakha'i, Jubayr ibn Nufayr, Abu Muslim al-Khawlani, Damrah ibn Habib, al-Qasim ibn Mukhaymirata, Makhūl, Sa'id ibn al-Musayyab, Mujahid, 'Abd al-Rahman ibn Abi Layla, al-Hasan, Ibn Sirin, al-Harith al-'Uklī, 'Ata', al-Sha'bi, Muhammad ibn 'Ali ibn al-Husayn, Tawus, 'Amr ibn al-Aswad, Hammad ibn Abi Sulayman, and others—are recorded to have held this opinion except Qatadah, then Malik and 'Ubayd Allah ibn al-Hasan.

L17133–17134 This is among the matters in which they differed from a group of the Companions—with whom no other Companion disagreed—and in which they differed from the majority of scholars. Our position aligns with Sufyan al-Thawri, al-Awza'i, al-Layth ibn Sa'd, Abu Hanifa, al-Shafi'i, Abu Sulayman, Ahmad, Ishaq, and their adherents.

L17135 As for the Magians: We have mentioned in the Book of Jihad that they are considered People of the Book, and thus their rulings correspond to those of the People of the Book in all respects. If they cite the narration we transmitted through Waki‘ from Sufyān from Qays ibn Muslim al-Jadalī from

[16] **Qur'an references (L17131):** Qur'an 7:157 (Al-A'raf); Qur'an 3:85 (Ali 'Imran).

شَحْمِهَا لِاسْتِحْلَالِ ذَابِحِهَا لَهُ أَمْ يَحْرُمُ عَلَيْنَا تَحْقِيقًا فِي اتِّبَاعِ دِينِ الْيَهُودِ دِينِ الْكُفْرِ وَدِينِ الضَّلَالِ؟ وَلَا بُدَّ مِنْ أَحَدِهِمَا، وَكِلَاهُمَا خُطَّةُ خَسْفٍ. وَيَلْزَمُهُمْ أَنْ لَا يَسْتَحِلُّوا أَكْلَ مَا ذَبَحَهُ يَهُودِيٌّ يَوْمَ سَبْتٍ وَلَا أَكْلَ حِيتَانٍ صَادَهَا يَهُودِيٌّ يَوْمَ سَبْتٍ، وَهَذَا مِمَّا تَنَاقَضُوا فِيهِ. وَقَدْ رُوِّينَا عَنْ عُمَرَ بْنِ الْخَطَّابِ، وَعَلِيٍّ، وَابْنِ مَسْعُودٍ، وَعَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَأَبِي الدَّرْدَاءِ، وَعَبْدِ اللَّهِ بْنِ يَزِيدَ، وَابْنِ عَبَّاسٍ، وَالْعِرْبَاضِ بْنِ سَارِيَةَ: وَأَبِي أُمَامَةَ، وَعُبَادَةَ بْنِ الصَّامِتِ، وَابْنِ عُمَرَ: إبَاحَةَ مَا ذَبَحَهُ أَهْلُ الْكِتَابِ دُونَ اشْتِرَاطٍ لِمَا يَسْتَحِلُّونَهُ مِمَّا لَا يَسْتَحِلُّونَهُ.

وَكَذَلِكَ عَنْ جُمْهُورِ التَّابِعِينَ كَإِبْرَاهِيمَ النَّخَعِيِّ، وَجُبَيْرِ بْنِ نُفَيْرٍ، وَأَبِي مُسْلِمٍ الْخَوْلَانِيِّ، وَضَمْرَةَ بْنِ حَبِيبٍ، وَالْقَاسِمِ بْنِ مُخَيْمِرَةَ، وَمَكْحُولٍ، وَسَعِيدِ بْنِ الْمُسَيَّبِ، وَمُجَاهِدٍ، وَعَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، وَالْحَسَنِ، وَابْنِ سِيرِينَ، وَالْحَارِثِ الْعُكْلِيِّ، وَعَطَاءٍ، وَالشَّعْبِيِّ، وَمُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ، وَطَاوُسٍ، وَعَمْرِو بْنِ الْأَسْوَدِ، وَحَمَّادِ بْنِ أَبِي سُلَيْمَانَ، وَغَيْرِهِمْ، لَمْ نَجِدْ عَنْ أَحَدٍ مِنْهُمْ هَذَا الْقَوْلَ إلَّا عَنْ قَتَادَةَ - ثُمَّ عَنْ مَالِكٍ، وَعُبَيْدِ اللَّهِ بْنِ الْحَسَنِ.

وَهَذَا مِمَّا خَالَفُوا فِيهِ طَائِفَةً مِنْ الصَّحَابَةِ لَا مُخَالِفَ لَهُمْ مِنْهُمْ وَخَالَفُوا فِيهِ جُمْهُورَ الْعُلَمَاءِ. وَقَوْلُنَا هُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، وَالْأَوْزَاعِيِّ، وَاللَّيْثِ بْنِ سَعْدٍ، وَأَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَأَحْمَدَ، وَإِسْحَاقَ، وَأَصْحَابِهِمْ.

وَأَمَّا الْمَجُوسُ: فَقَدْ ذَكَرْنَا فِي كِتَابِ الْجِهَادِ أَنَّهُمْ أَهْلُ كِتَابٍ فَحُكْمُهُمْ حُكْمُ أَهْلِ الْكِتَابِ فِي كُلِّ ذَلِكَ: فَإِنْ ذَكَرُوا: مَا رُوِّينَا مِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ عَنْ قَيْسِ بْنِ مُسْلِمٍ الْجَدَلِيِّ عَنْ الْحَسَنِ بْنِ مُحَمَّدٍ «كَتَبَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إلَى مَجُوسٍ مِنْ

al-Ḥasan ibn Muḥammad: “The Messenger of Allah—peace and blessings of Allah be upon him—wrote to Magians among the people of Hajar inviting them to Islam. Whoever embraced Islam was accepted, and whoever refused was subjected to the jizya. It is not permissible to eat their slaughtered animals, nor to marry their women”—this is a mursal narration, and no valid proof exists in a mursal report. Hammām narrated to us; ʻAbdullāh ibn Muḥammad al-Bājī narrated to us; Aḥmad ibn Muslim narrated to us; Abū Thawr Ibrāhīm ibn Khālid narrated to us; ʻAbd al-Wahhāb narrated from Saʻīd ibn Abī ʻArūbah from Qatādah from Saʻīd ibn al-Musayyab that he was asked about a sick man who instructed a Magian to slaughter an animal while invoking Allah’s name, and the Magian did so. Saʻīd ibn al-Musayyab replied, “There is no harm in that”—this being the opinion of Qatādah and Abū Thawr. Abū Muḥammad said: Allah the Exalted did not permit accepting jizya from those outside the People of the Book, yet the Prophet—peace and blessings of Allah be upon him—collected it from the Magians. It was not conceivable for him to oppose the command of his Lord, the Exalted. If they cite Allah’s statement: {Lest you say, “The Book was only revealed to two communities before us, and we were entirely unaware of their teachings”} [al-Anʻām 6:156], we respond: Allah articulated this in the explicit verse to prohibit such a statement, not to endorse it. He further said: {And messengers We have not mentioned to you} [al-Nisāʼ 4:164].[17]

L17136 **Issue: Eating what is ritually slaughtered by someone other than a Jew, Christian, or Zoroastrian.**

L17137 1060. Issue: It is not permissible to eat what has been slaughtered by anyone other than a Jew, a Christian, or a Zoroastrian. Nor is it permissible to eat what has been slaughtered by an apostate who reverts to a scriptural or non-scriptural religion, nor what has been slaughtered by one who converts from one religion of the Book to another, nor what has been slaughtered by one who enters a religion of the Book after the commissioning of the Prophet—peace and blessings of Allah be upon him. This is because Allah, exalted be

[17] **Qur’an references (L17135):** Qur’an 6:156 (Al-An’am); Qur’an 4:164 (An-Nisa).

أَهْلِ هَجَرَ يَدْعُوهُمْ إِلَى الْإِسْلَامِ فَمَنْ أَسْلَمَ قُبِلَ مِنْهُ وَمَنْ لَمْ يُسْلِمْ ضُرِبَتْ عَلَيْهِ الْجِزْيَةُ وَلَا تُؤْكَلُ لَهُمْ ذَبِيحَةٌ وَلَا تُنْكَحُ مِنْهُمُ امْرَأَةٌ» فَهَذَا مُرْسَلٌ وَلَا حُجَّةَ فِي مُرْسَلٍ. نا حُمَامٌ نا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ الْبَاجِيَّ نا أَحْمَدُ بْنُ مُسْلِمٍ نا أَبُو ثَوْرٍ إِبْرَاهِيمُ بْنُ خَالِدٍ نَا عَبْدُ الْوَهَّابِ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ عَنْ قَتَادَةَ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ أَنَّهُ سُئِلَ عَنْ رَجُلٍ مَرِيضٍ أَمَرَ مَجُوسِيًّا أَنْ يَذْبَحَ وَيُسَمِّيَ، فَفَعَلَ ذَلِكَ؟ فَقَالَ سَعِيدُ بْنُ الْمُسَيِّبِ: لَا بَأْسَ بِذَلِكَ - وَهُوَ قَوْلُ قَتَادَةَ، وَأَبِي ثَوْرٍ قَالَ أَبُو مُحَمَّدٍ: لَمْ يُفْسِحْ اللَّهُ تَعَالَى فِي أَخْذِ الْجِزْيَةِ مِنْ غَيْرِ كِتَابِيٍّ، وَأَخَذَهَا النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ الْمَجُوسِ وَمَا كَانَ لِيُخَالِفَ أَمْرَ رَبِّهِ تَعَالَى. فَإِنْ ذَكَرُوا قَوْلَ اللَّهِ تَعَالَى: {أَنْ تَقُولُوا إِنَّمَا أُنْزِلَ الْكِتَابُ عَلَى طَائِفَتَيْنِ مِنْ قَبْلِنَا وَإِنْ كُنَّا عَنْ دِرَاسَتِهِمْ لَغَافِلِينَ} [الأنعام: ١٥٦] . قُلْنَا: إنَّمَا قَالَ اللَّهُ تَعَالَى هَذَا بِنَصِّ الْآيَةِ نَهْيًا عَنْ هَذَا الْقَوْلِ لَا تَصْحِيحًا لَهُ، وَقَدْ قَالَ تَعَالَى: {وَرُسُلا لَمْ نَقْصُصْهُمْ عَلَيْكَ} [النساء: ١٦٤] .

[مَسْأَلَةٌ أَكْلُ مَا ذَكَّاهُ غَيْرُ الْيَهُودِيِّ وَالنَّصْرَانِيِّ وَالْمَجُوسِيِّ]

١٠٦٠ - مَسْأَلَةٌ: وَلَا يَحِلُّ أَكْلُ مَا ذَكَّاهُ غَيْرُ الْيَهُودِيِّ، وَالنَّصْرَانِيِّ، وَالْمَجُوسِيِّ، وَلَا مَا ذَكَّاهُ مُرْتَدٌّ إلَى دِينٍ كِتَابِيٍّ أَوْ غَيْرِ كِتَابِيٍّ، وَلَا مَا ذَكَّاهُ مَنْ انْتَقَلَ مِنْ دِينٍ كِتَابِيٍّ إلَى دِينٍ كِتَابِيٍّ، وَلَا مَا ذَكَّاهُ مَنْ دَخَلَ فِي دِينٍ كِتَابِيٍّ بَعْدَ مَبْعَثِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِأَنَّ اللَّهَ تَعَالَى لَمْ يُبِحْ لَنَا إلَّا مَا ذَكَّيْنَاهُ أَوْ ذَكَّاهُ الْكِتَابِيُّ كَمَا قَدَّمْنَا.

He, has not permitted us [to eat] except what we have slaughtered or what a person of the Book has slaughtered, as we previously mentioned.

L17138–17139 Every individual we have mentioned is not considered a follower of a scriptured religion, for all inhabitants of the earth outside the People of the Book are obligated to embrace Islam—since Allah the Exalted sent Muhammad (may Allah bless him and grant him peace) with it—or face being killed. Their adherence to a non-Islamic scriptured religion is invalid, nor are they among those whose slaughtered animals Allah has permitted for consumption. The apostate from our religion to theirs is treated similarly, as is one who converts from one scriptured religion to another, for he was under the *dhimma* (covenant) entailed by the religion of his forefathers—a covenant that rendered his killing prohibited. His shift to another religion breaches this covenant, and he cannot be permitted to persist in that state. All of this constitutes the view of Al-Shāfiʿī and Abū Sulaymān. And success is from Allah, the Exalted.

L17140 **A legal issue: If someone slaughtered [an animal] while drunk or insane...**

L17141 Issue 1061: If someone slaughters an animal while intoxicated or in a state of insanity, the meat is not permissible to eat, as they are not legally accountable when their rationality is impaired, based on Allah's saying: {except what you slaughter} [5:3]. If they slaughter after regaining sobriety or recovery, the meat becomes permissible to eat, for they are then legally accountable like all other Muslims - and success comes only from Allah, the Most High.[18]

L17142 **The Issue of the Slaughter of the Woman and the Boy.**

L17143 1062 - Issue: What is slaughtered or sacrificed by one who has not reached puberty is impermissible to eat, because such a person is not legally accountable under Allah's injunction: {except what you properly slaughter} [5:3]. The Messenger of Allah—peace and blessings be upon him—declared that the pen is lifted from the child until he reaches puberty. We have received narration

[18] **Qur'an references (L17141):** Qur'an 5:3 (Al-Ma'idah).

وَكُلُّ مَنْ ذَكَرْنَا لَيْسَ كِتَابِيًّا لِأَنَّ كُلَّ مَنْ كَانَ عَلَى ظَهْرِ الْأَرْضِ مِنْ غَيْرِ أَهْلِ الْكِتَابِ فَفَرْضٌ عَلَيْهِمْ أَنْ يَرْجِعُوا إلَى الْإِسْلَامِ إذْ بَعَثَ اللَّهُ تَعَالَى مُحَمَّدًا - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِهِ، أَوْ الْقَتْلُ فَدُخُولُهُ فِي دِينٍ كِتَابِيٍّ غَيْرِ مَقْبُولٍ مِنْهُ وَلَا هُوَ مِنْ الَّذِينَ أَمَرَ اللَّهُ تَعَالَى بِأَكْلِ ذَبَائِحِهِمْ، وَالْمُرْتَدُّ مِنَّا إلَيْهِمْ كَذَلِكَ، وَالْخَارِجُ مِنْ دِينٍ كِتَابِيٍّ إلَى دِينٍ كِتَابِيٍّ كَذَلِكَ، لِأَنَّهُ إنَّمَا تَذَمَّمَ وَحَرُمَ قَتْلُهُ بِالدِّينِ الَّذِي كَانَ آبَاؤُهُ عَلَيْهِ، فَخُرُوجُهُ إلَى غَيْرِهِ نَقْضٌ لِلذِّمَّةِ لَا يَقَرُّ عَلَى ذَلِكَ - وَهَذَا كُلُّهُ قَوْلُ الشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مسأَلَةٌ ذَبَحَ وَهُوَ سَكْرَانُ أَوْ فِي جُنُونِهِ]

١٠٦١ - مَسْأَلَةٌ: وَمَنْ ذَبَحَ وَهُوَ سَكْرَانُ أَوْ فِي جُنُونِهِ لَمْ يَحِلَّ أَكْلُهُ، لِأَنَّهُمَا غَيْرُ مُخَاطَبَيْنِ فِي حَالِ ذَهَابِ عُقُولِهِمَا بِقَوْلِ اللَّهِ تَعَالَى: {إلا مَا ذَكَّيْتُمْ} [المائدة: ٣] فَإِنْ ذَكَّيَا بَعْدَ الصَّحْوِ وَالْإِفَاقَةِ حَلَّ أَكْلُهُ، لِأَنَّهُمَا مُخَاطَبَانِ كَسَائِرِ الْمُسْلِمِينَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ ذَبِيحَةُ الْمَرْأَةِ وَالصَّبِيِّ]

١٠٦٢ - مَسْأَلَةٌ: وَمَا ذَبَحَهُ أَوْ نَحَرَهُ مَنْ لَمْ يَبْلُغْ لَمْ يَحِلَّ أَكْلُهُ، لِأَنَّهُ غَيْرُ مُخَاطَبٍ بِقَوْلِ اللَّهِ تَعَالَى: {إلا مَا ذَكَّيْتُمْ} [المائدة: ٣] . وَقَدْ أَخْبَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّ الصَّبِيَّ مَرْفُوعٌ عَنْهُ الْقَلَمُ حَتَّى يَبْلُغَ. رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا عَبْدُ الْوَهَّابِ

through Ibn Abi Shaybah's transmission: narrated to us by 'Abd al-Wahhab ibn 'Abd al-Majid al-Thaqafi, from Ayyub al-Sakhtiyānī, from Muhammad ibn Sirin—that when asked about slaughter by a woman and a child, he would not comment on either case. Abu Sulayman and our scholarly companions prohibit slaughter by both. However, al-Nakha'i, al-Sha'bi, al-Hasan, 'Ata', Tawus, and Mujahid permitted it. The Abu Muhammad said: They concur with us that a minor's authorization of marriage for his female relative, his own marriage contract, his sales, purchases, or appointments of agents are invalid; that he bears no obligation for prayer, fasting, or pilgrimage—since he is not subject to these divine injunctions—and that his Hajj cannot substitute for another's obligation. How then do they deem his slaughter permissible?[19]

بْنُ عَبْدِ الْمَجِيدِ الثَّقَفِيُّ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ مُحَمَّدِ بْنِ سِيرِينَ أَنَّهُ كَانَ إِذَا سُئِلَ عَنْ ذَبِيحَةِ الْمَرْأَةِ، وَالصَّبِيِّ؟ لَا يَقُولُ فِيهِمَا شَيْئًا. وَبِالْمَنْعِ مِنْهُمَا يَقُولُ أَبُو سُلَيْمَانَ، وَأَصْحَابُنَا. وَأَبَاحَهَا: النَّخَعِيُّ: وَالشَّعْبِيُّ، وَالْحَسَنُ، وَعَطَاءٌ، وَطَاوُسٌ، وَمُجَاهِدٌ. قَالَ أَبُو مُحَمَّدٍ: قَدْ وَافَقُونَا أَنَّ إِنْكَاحَهُ لِوَلِيَّتِهِ، وَنِكَاحَهُ، وَبَيْعَهُ، وَابْتِيَاعَهُ، وَتَوْكِيلَهُ: لَا يَجُوزُ، وَأَنَّهُ لَا تَلْزَمُهُ صَلَاةٌ، وَلَا صَوْمٌ، وَلَا حَجٌّ، لِأَنَّهُ غَيْرُ مُخَاطَبٍ بِذَلِكَ وَلَا يُجْزِي حَجُّهُ عَنْ غَيْرِهِ فَمِنْ أَيْنَ أَجَازُوا ذَبِيحَتَهُ؟

[Issue: An animal shared between two individuals, wherein one slaughtered it without the other's permission.]

[مَسْأَلَةُ حَيَوَانٍ بَيْنَ اثْنَيْنِ فَذَكَّاهُ أَحَدُهُمَا بِغَيْرِ إِذْنِ الْآخَرِ]

L17144

L17145–17147

Issue 1063: If an animal is jointly owned by two or more partners and one of them ritually slaughters it without the other partner's permission, it becomes carrion unlawful for consumption. The slaughterer must compensate the other partner with a share equivalent to his portion in a similar animal under undivided ownership. If no such animal exists at all, the compensation becomes its monetary value. However, if the animal is observed to be near death or its upkeep becomes prohibitively costly leading to loss, he may slaughter it at that point, rendering it lawful. This ruling applies as per what we mentioned regarding Allah's prohibition against consuming wealth unjustly, and His saying: "No soul bears the burden of another" (6:164). Thus, he is a transgressor in slaughtering it. If it involves utilizing another's property and such use is righteous, then it is permissible, as we have stated, based on Allah's command: *And cooperate in righteousness and piety* [Al-Ma'idah: 2], and the Prophet's prohibition—peace and blessings of Allah be upon him—against squandering wealth. This is the view of Abū Sulaymān and our companions.[20]

١٠٦٣ - مَسْأَلَةٌ: وَكُلُّ حَيَوَانٍ بَيْنَ اثْنَيْنِ فَصَاعِدًا فَذَكَّاهُ أَحَدُهُمَا بِغَيْرِ إِذْنِ الْآخَرِ، فَهُوَ مَيْتَةٌ لَا يَحِلُّ أَكْلُهُ، وَيَضْمَنُ لِشَرِيكِهِ مِثْلَ حِصَّتِهِ مُشَاعًا فِي حَيَوَانٍ مِثْلِهِ، فَإِنْ لَمْ يُوجَدْ أَصْلًا فَقِيمَتُهُ، إِلَّا أَنْ يَرَى بِهِ مَوْتًا أَوْ تَعْظُمُ مُؤْنَتُهُ فَيَضِيعُ، فَلَهُ تَذْكِيَتُهُ حِينَئِذٍ، وَهُوَ حَلَالٌ لِمَا ذَكَرْنَا مِنْ تَحْرِيمِ اللَّهِ تَعَالَى أَكْلَ أَمْوَالِنَا بِالْبَاطِلِ. وَقَوْلِهِ تَعَالَى: {وَلا تَكْسِبُ كُلُّ نَفْسٍ إِلا عَلَيْهَا} [الأنعام: ١٦٤] فَهُوَ مُتَعَدٍّ فِي ذَبْحِهِ مَتَاعَ غَيْرِهِ، فَإِنْ كَانَ ذَلِكَ صَلَاحًا جَازَ كَمَا قُلْنَا لِقَوْلِ اللَّهِ تَعَالَى: {وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى} [المائدة: ٢] وَلِنَهْيِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ إِضَاعَةِ الْمَالِ - وَهُوَ قَوْلُ أَبِي سُلَيْمَانَ، وَأَصْحَابِنَا.

[19] **Qur'an references (L17143):** Qur'an 5:3 (Al-Ma'idah).

[20] **Qur'an references (L17145):** Qur'an 6:164 (Al-An'am); Qur'an 5:2 (Al-Ma'idah).

A legal issue: He instructed his household to perform ritual slaughter on whichever of his animals they wished or whichever they had need of.

Issue 1064: If someone instructs his family, agent, or servant to perform ritual slaughter of any animals they choose from his livestock or what they require from it (whether in his presence or absence), this is permissible. The slaughter is religiously valid because it was conducted with his authorization, and the slaughterer does not overstep in such circumstances - as this authority pertains to his own property. Success comes solely from Allah, the Most High.

[مَسْأَلَةٌ أَمَرَ أَهْلَهُ بِتَذْكِيَةِ مَا شَاءُوا مِنْ حَيَوَانِهِ أَوْ مَا احْتَاجُوا إِلَيْهِ]

١٠٦٤ - مَسْأَلَةٌ: وَمَنْ أَمَرَ أَهْلَهُ، أَوْ وَكِيلَهُ، أَوْ خَادِمَهُ بِتَذْكِيَةِ مَا شَاءُوا مِنْ حَيَوَانِهِ، أَوْ مَا احْتَاجُوا إِلَيْهِ فِي حَضْرَتِهِ، أَوْ مَغِيبِهِ جَازَ ذَلِكَ، وَهِيَ ذَكَاةٌ صَحِيحَةٌ لِأَنَّهُ بِإِذْنِهِ كَانَ ذَلِكَ، وَلَمْ يَتَعَدَّ الْمُذَكِّي حِينَئِذٍ - وَلَهُ ذَلِكَ فِي مَالِ نَفْسِهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

Issue: Breaking the nape of an animal intended for slaughter until it dies.

Issue 1065: It is not permissible to break the nape of the slaughtered animal until it dies. If one does so after completing the slaughter, he has sinned, but the meat remains permissible to eat. This is because he failed to ease his slaughtered animal's suffering by breaking its neck, though this act does not render the meat unlawful. For when the slaughter is properly completed, the meat becomes permissible to eat once the animal dies from that [valid slaughter].

[مَسْأَلَةٌ كَسْرُ قَفَا الذَّبِيحَةِ حَتَّى تَمُوتَ]

١٠٦٥ - مَسْأَلَةٌ: وَلَا يَحِلُّ كَسْرُ قَفَا الذَّبِيحَةِ حَتَّى تَمُوتَ فَإِنْ فَعَلَ بَعْدَ تَمَامِ الذَّكَاةِ فَقَدْ عَصَى وَلَمْ يَحْرُمْ أَكْلُهَا بِذَلِكَ، لِأَنَّهُ لَمْ يُرِحْ ذَبِيحَتَهُ، إذْ كَسَرَ عُنُقَهَا، وَلَمْ يَحْرُمْ أَكْلُهَا، لِأَنَّهُ إذَا تَمَّتْ ذَكَاتُهَا فَقَدْ حَلَّ أَكْلُهَا بِذَلِكَ إذَا مَاتَتْ.

An issue pertaining to that which is slaughtered outside our presence by a sinful Muslim, an ignorant person [of the rulings], or a Kitabi (member of the People of the Book).

1066 - Issue: Any meat slaughtered by a Muslim (whether sinful or ignorant) or a Person of the Book, which is unknown to us, is lawful to consume. This is based on what we narrated through Al-Bukhari's chain: Muhammad ibn Abdullah, Abu Thabit Al-Madini, narrated to us; Usamah ibn Hafs narrated to us from Hisham ibn Urwah from his father from Aisha, Mother of the Believers: "Some people said to the Prophet—peace and blessings of Allah be upon him—'Certain people bring us meat, and we do not know whether they mentioned Allah's name over it.' He—peace be upon him—responded:

[مَسْأَلَةٌ مَا غَابَ عَنَّا مِمَّا ذَكَّاهُ مُسْلِمٌ فَاسِقٌ أَوْ جَاهِلٌ أَوْ كِتَابِيٌّ]

١٠٦٦ - مَسْأَلَةٌ: وَكُلُّ مَا غَابَ عَنَّا مِمَّا ذَكَّاهُ مُسْلِمٌ فَاسِقٌ، أَوْ جَاهِلٌ، أَوْ كِتَابِيٌّ فَحَلَالٌ أَكْلُهُ لِمَا رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ هُوَ أَبُو ثَابِتٍ الْمَدِينِيُّ - نا أُسَامَةُ بْنُ حَفْصٍ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ قَوْمًا قَالُوا لِلنَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنَّ قَوْمًا يَأْتُونَنَا بِاللَّحْمِ لَا نَدْرِي أَذَكَرُوا اسْمَ اللَّهِ عَلَيْهِ أَمْ لَا؟

'Pronounce Allah's name yourselves and eat.' Aisha added: 'They had recently left disbelief.'" If they object: "You have transmitted this report through Sufyan ibn Uyaynah's chain wherein he—peace be upon him—said: 'Strive concerning their faith and eat,'" we reply: Indeed, we narrated it through Sufyan's chain from Hisham ibn Urwah from his father that the Messenger of Allah—peace and blessings of Allah be upon him—[said]. This constitutes a disconnected chain, and disconnected narrations cannot serve as conclusive evidence. Success comes solely from Allah, the Most High.

فَقَالَ - عَلَيْهِ السَّلَامُ -: سَمُّوا اللَّهَ أَنْتُمْ وَكُلُوا، قَالَتْ عَائِشَةُ: وَكَانُوا حَدِيثِي عَهْدٍ بِكُفْرٍ» . فَإِنْ قَالُوا: وَقَدْ رَوَيْتُمْ هَذَا الْخَبَرَ مِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ، وَفِيهِ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ «اجْتَهِدُوا إِيمَانَهُمْ وَكُلُوا» . قُلْنَا: نَعَمْ، رُوِّينَاهُ مِنْ طَرِيقِ سُفْيَانَ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَهَذَا مُرْسَلٌ، وَالْمُرْسَلُ لَا تَقُومُ بِهِ حُجَّةٌ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

Issue: If an animal that has fallen is retrieved while still alive, then it is slaughtered.

L17154

[مَسْأَلَةٌ مَا تَرَدَّى إذَا أُدْرِكَ وَفِيهِ شَيْءٌ مِنْ الْحَيَاةِ فَذُبِحَ]

L17155 Issue: Any animal that plunges (from a height), is attacked by a predator, is gored by another animal, suffocates until its brain spills out, has its intestines severed, has its spinal cord cut, or has its internal organs scattered—if found with any remnant of life and subsequently slaughtered by dhabḥ (standard throat-slitting) or subjected to nahr (camel-specific slaughter)—its consumption becomes lawful. The prohibition applies only to what dies from such injuries. The evidence for this is Allah's statement: "Except what you properly slaughter" (Quran 5:3). Thus, He excluded from all such cases whatever is ritually slaughtered. It does not matter whether the injury or the slaughter occurred first chronologically, for Allah did not stipulate such precedence. Rather, He permitted what we slaughter before death. If a predator severs the throat of a camel, it must still undergo nahr (if alive), rendering its consumption lawful. If a portion of the throat remains intact where valid dhabḥ can be performed, it must be slaughtered accordingly, making its consumption lawful.[21]

١٠٦٧ - مَسْأَلَةٌ: وَكُلُّ مَا تَرَدَّى أَوْ أَصَابَهُ سَبُعٌ أَوْ نَطَحَهُ نَاطِحٌ، أَوْ انْخَنَقَ فَانْتَثَرَ دِمَاغُهُ، أَوْ انْقَرَضَ مُصْرَانُهُ، أَوْ انْقَطَعَ نُخَاعُهُ، أَوْ انْتَشَرَتْ حَشْوَتُهُ فَأُدْرِكَ وَفِيهِ شَيْءٌ مِنْ الْحَيَاةِ فَذُبِحَ أَوْ نُحِرَ -: حَلَّ أَكْلُهُ، وَإِنَّمَا حَرَّمَ تَعَالَى مَا مَاتَ مِنْ كُلِّ ذَلِكَ. بُرْهَانُهُ -: قَوْله تَعَالَى: {إلا مَا ذَكَّيْتُمْ} [المائدة: ٣] فَاسْتَثْنَى مِنْ ذَلِكَ كُلِّهِ مَا أُدْرِكَتْ ذَكَاتُهُ، وَلَا نُبَالِي مِنْ أَيِّهِمَا مَاتَ قَبْلُ، لِأَنَّ اللَّهَ تَعَالَى لَمْ يَشْتَرِطْ ذَلِكَ بَلْ أَبَاحَ مَا ذَكَّيْنَا قَبْلَ الْمَوْتِ، فَلَوْ قَطَعَ السَّبُعُ حَلْقَهَا نُحِرَتْ وَحَلَّ أَكْلُهَا، وَلَوْ بَقِيَ فِي الْحَلْقِ مَوْضِعٌ يُذْبَحُ فِيهِ ذُبِحَتْ وَحَلَّ أَكْلُهَا.

L17156–17157 It was narrated through the chain of ʿAbd al-Razzāq from Maʿmar from Ibn Abī Dhuʾayb from Muḥammad ibn Yaḥyā ibn Ḥibbān from Abū Murrah, the freed slave of ʿAqīl ibn Abī Ṭālib, that he found a sheep of theirs dying, so he slaughtered it. It then moved. He asked Zayd ibn Thābit, who said: "A

رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ ابْنِ أَبِي ذُؤَيْبٍ عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حِبَّانَ عَنْ أَبِي مُرَّةَ مَوْلَى عَقِيلِ بْنِ أَبِي طَالِبٍ أَنَّهُ وَجَدَ شَاةً لَهُمْ تَمُوتُ فَذَبَحَهَا فَتَحَرَّكَتْ فَسَأَلَتْ زَيْدَ بْنَ ثَابِتٍ؟ فَقَالَ: إنَّ الْمَيْتَةَ لَا تَتَحَرَّكُ، فَسَأَلَتْ أَبَا هُرَيْرَةَ؟ فَقَالَ: كُلْهَا إذَا طَرَفَتْ عَيْنُهَا، أَوْ تَحَرَّكَتْ قَائِمَةٌ مِنْ قَوَائِمِهَا.

[21] **Qur'an references (L17155):** Qur'an 5:3 (Al-Ma'idah).

dead animal does not move." He then asked Abū Hurayrah, who said: "Eat it if either its eye fluttered or a leg jerked upright from among its legs."

L17158 From the narration of Ibn Juraij, from Ja'far ibn Muhammad, from his father, that Ali ibn Abi Talib said: "If it strikes with its leg or tail, or blinks its eye, then it is ritually slaughtered." From the narration of Sufyan ibn Uyaynah, from al-Rukayn ibn al-Rabi', from Abu Talhah al-Asadi, who said: "A wolf attacked a sheep, slit its belly, and something from the sheep fell to the ground. I asked Ibn Abbas, and he said: 'Examine what fell to the earth and do not eat it,' then he instructed him to slaughter it ritually and consume it." From the narration of Muhammad ibn al-Muthanna, from Abdullah ibn Dawud al-Khuraibi, from Abu Shihab—who is Musa ibn Rafi'—from al-Nu'man ibn Ali, who said: "Sa'id ibn Jubayr saw an ostrich in our courtyard thrashing its leg. He asked: 'What is this?' We replied: 'An animal that fell into a pit and became trapped in the well.' He said: 'Ritually slaughter it, for the fallen animal is what dies from its fall.'" From the narration of Isma'il ibn Ishaq al-Qadi, from Muhammad ibn Ubayd, from Muhammad ibn Thawr, from Ma'mar, from Qatadah, regarding Allah's statement: {And the strangled} [5:3], he said: "It is what dies from suffocation. {And the struck} [5:3] is what is bludgeoned and dies. {And the fallen from a height} [5:3] is what plummets and dies. {And what is mauled by beasts—except what you slaughter ritually} [5:3]—from all these categories. If you find it blinking its eye or twitching its ear among these—whether strangled, bludgeoned, fallen from a height, mauled by a beast, or gored—then it becomes lawful for you if you slaughter it ritually."[22]

L17159–17161 From the path of Sa'īd ibn Manṣūr: Jarīr ibn 'Abd al-Ḥamīd narrated to us from al-Rukayn ibn al-Rabī' from Abū Ṭalḥah al-Asadī that he heard Ibn 'Abbās being asked about a sheep whose belly a wolf tore, causing its intestines to fall to the ground, after which it was slaughtered. Ibn 'Abbās said: "Do not eat whatever part of its intestines fell to the ground, for it is carrion, but eat whatever remains." No Companion is known to have disagreed with the

وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ قَالَ: إِذَا ضَرَبَتْ بِرِجْلِهَا أَوْ ذَنَبِهَا أَوْ طَرَفَتْ بِعَيْنِهَا فَهِيَ ذَكِيٌّ. وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ الرُّكَيْنِ بْنِ الرَّبِيعِ عَنْ أَبِي طَلْحَةَ الْأَسَدِيِّ قَالَ: عَدَا الذِّئْبُ عَلَى شَاةٍ فَفَرَى بَطْنَهَا فَسَقَطَ مِنْهُ شَيْءٌ إِلَى الْأَرْضِ، فَسَأَلْتُ ابْنَ عَبَّاسٍ؟ فَقَالَ: انْظُرْ مَا سَقَطَ مِنْهَا إِلَى الْأَرْضِ فَلَا تَأْكُلْهُ، وَأَمَرَهُ أَنْ يُذَكِّيَهَا فَيَأْكُلَهَا. وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ الْمُثَنَّى نا عَبْدُ اللَّهِ بْنُ دَاوُد الْخُرَيْبِيُّ عَنْ أَبِي شِهَابٍ هُوَ مُوسَى بْنُ رَافِعٍ - عَنْ النُّعْمَانِ بْنِ عَلِيٍّ قَالَ: رَأَى سَعِيدُ بْنُ جُبَيْرٍ فِي دَارِنَا نَعَامَةً تَرْكُضُ بِرِجْلِهَا، فَقَالَ: مَا هَذِهِ؟ قُلْنَا: وَقِيذٌ وَقَعَتْ فِي بِئْرٍ، فَقَالَ: ذَكُّوهَا، فَإِنَّ الْوَقِيذَ مَا مَاتَ فِي وَقْذِهِ. وَمِنْ طَرِيقِ إِسْمَاعِيلَ بْنِ إِسْحَاقَ الْقَاضِي نا مُحَمَّدُ بْنُ عُبَيْدٍ نا مُحَمَّدُ بْنُ ثَوْرٍ عَنْ مَعْمَرٍ عَنْ قَتَادَةَ فِي قَوْلِ اللَّهِ تَعَالَى -: {وَالْمُنْخَنِقَةُ} [المائدة: ٣] قَالَ: هِيَ الَّتِي تَمُوتُ فِي خِنَاقِهَا. {وَالْمَوْقُوذَةُ} [المائدة: ٣] الَّتِي تُوقَذُ فَتَمُوتُ. {وَالْمُتَرَدِّيَةُ} [المائدة: ٣] الَّتِي تَتَرَدَّى فَتَمُوتُ. {وَمَا أَكَلَ السَّبُعُ إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] مِنْ هَذَا كُلِّهِ، فَإِذَا وَجَدْتَهَا تَطْرِفُ عَيْنَهَا، أَوْ تُحَرِّكُ أُذُنَهَا مِنْ هَذَا كُلِّهِ: مُنْخَنِقَةً، أَوْ مَوْقُوذَةً، أَوْ مُتَرَدِّيَةً، أَوْ مَا أَكَلَ السَّبُعُ، أَوْ نَطِيحَةً فَهِيَ لَكَ حَلَالٌ إِذَا ذَكَّيْتَهَا.

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا جَرِيرُ بْنُ عَبْدِ الْحَمِيدِ عَنْ الرُّكَيْنِ بْنِ الرَّبِيعِ عَنْ أَبِي طَلْحَةَ الْأَسَدِيِّ أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ سُئِلَ عَنْ شَاةٍ بَقَرَ الذِّئْبُ بَطْنَهَا فَوَضَعَ قَصَبَهَا إِلَى الْأَرْضِ، ثُمَّ ذُبِحَتْ؟ فَقَالَ ابْنُ عَبَّاسٍ: مَا سَقَطَ، مِنْ قَصَبِهَا إِلَى الْأَرْضِ فَلَا تَأْكُلْهُ، فَإِنَّهُ مَيْتَةٌ، وَكُلْ مَا بَقِيَ - وَلَا يُعْرَفُ لِمَنْ ذَكَرْنَا مُخَالِفٌ مِنْ الصَّحَابَةِ - وَهِيَ رِوَايَةُ ابْنِ

[22] **Qur'an references (L17158):** Qur'an 5:3 (Al-Ma'idah).

وَهْبٍ عَنْ مَالِكٍ - وَبِهِ يَأْخُذُ إِسْمَاعِيلُ، وَمَا نَعْلَمُ لِلْقَوْلِ الْآخَرِ حُجَّةً أَصْلًا وَلَا مُتَعَلَّقًا.
وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا هُشَيْمٌ أَنَا حَجَّاجٌ عَنْ الشَّعْبِيِّ عَنْ الْحَارِثِ عَنْ عَلِيٍّ قَالَ: إذَا وَجَدَ الْمَوْقُوذَةَ، وَالْمُتَرَدِّيَةَ، وَالنَّطِيحَةَ، وَمَا أَصَابَ السَّبُعُ: فَوَجَدْتَ تَحْرِيكَ يَدٍ أَوْ رِجْلٍ فَذَكِّهَا وَكُلْ. قَالَ هُشَيْمٌ: وَأَخْبَرَنَا حُصَيْنٌ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ - أَنَّ ابْنَ أَخِي مَسْرُوقٍ سَأَلَ ابْنَ عُمَرَ عَنْ صَيْدِ الْمَنَاجِلِ؟ فَقَالَ: إنَّهُ يَبِينُ مِنْهُ الشَّيْءُ وَهُوَ حَيٌّ فَقَالَ ابْنُ عُمَرَ: أَمَّا مَا أَبَانَ مِنْهُ وَهُوَ حَيٌّ فَلَا تَأْكُلْ - وَكُلْ مَا سِوَى ذَلِكَ. وَأَمَّا مَنْ قَالَ: يُنْظَرُ مِنْ أَيِّ الْأَمْرَيْنِ مَاتَ قَبْلُ - فَقَوْلٌ فَاسِدٌ، لِأَنَّهُ لَا يُقْدَرُ فِيهِ عَلَى بُرْهَانٍ مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَنَسْأَلُهُ عَمَّنْ ذَبَحَ، أَوْ نَحَرَ كَمَا أَمَرَ اللَّهُ تَعَالَى، ثُمَّ رَمَى رَامٍ حَجَرًا، وَشَدَخَ رَأْسَ الذَّبِيحَةِ، أَوْ النَّحِيرَةِ، بَعْدَ تَمَامِ الذَّكَاةِ فَمَاتَتْ لِلْوَقْتِ؟ أَتُؤْكَلُ أَمْ لَا؟ فَمِنْ قَوْلِهِمْ: نَعَمْ، فَصَحَّ أَنَّ الْمُرَاعَى إنَّمَا هُوَ مَا جَاءَ بِهِ النَّصُّ مِمَّا ذُكِّيَ، ثُمَّ لَا نُبَالِي مِمَّا مَاتَ أَمِنْ الذَّكَاةِ أَمْ مِنْ غَيْرِهَا؟ لِأَنَّ اللَّهَ تَعَالَى لَمْ يَشْتَرِطْ لَنَا ذَلِكَ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] . وَمِنْ الْبَاطِلِ أَنْ يُلْزِمَنَا اللَّهُ تَعَالَى حُكْمًا، وَلَا يُعَيِّنَهُ عَلَيْنَا.

one we mentioned—and this is the narration of Ibn Wahb. From Malik—and Ismail adopts this position—and we know of no argument whatsoever, foundational or related, for the opposing view. Through the chain of Sa'id ibn Mansur: Hushaym narrated to us from Hajjaj, from Al-Sha'bi, from Al-Harith, from 'Ali, who said: "If you find an animal beaten to death, fallen from a height, gored by another animal, or mauled by a predator, and you observe movement in a limb, then ritually slaughter it and eat." Hushaym said: Husayn, the son of 'Abd al-Rahman, informed us that Masruq's nephew asked Ibn 'Umar about prey taken by birds of prey. He replied: "What is severed from it while alive—do not eat that part. Eat everything else!" As for those who say, "Determine which of the two causes preceded its death," this is an invalid opinion, for no evidence exists from the Quran or Sunnah. We ask him: If one slaughters or sacrifices as Allah commanded, then a thrower threw a stone and crushed the head of the slaughtered or sacrificed animal after proper ritual slaughter, causing immediate death—is it permissible to eat? They replied, "Yes," thereby confirming that the consideration is solely what the text specifies regarding what was ritually slaughtered. Thereafter, we disregard whether death resulted from the slaughter or other causes, for Allah did not impose this condition: {Your Lord is never forgetful} [19:64]. It is falsehood to claim Allah obligates rulings without clarifying them.[23]

[23] **Qur'an references (L17159):** Qur'an 19:64 (Maryam).



AL-MUHALLA

كِتَابُ الصَّيْدِ

The Book of Hunting

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

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[كِتَابُ الصَّيْدِ] [مَسْأَلَةٌ مَا شَرَدَ فَلَمْ يُقْدَرْ عَلَيْهِ مِنْ حَيَوَانِ الْبَرِّ]

١٠٦٨ - مَسْأَلَةٌ: مَا شَرَدَ فَلَمْ يُقْدَرْ عَلَيْهِ مِنْ حَيَوَانِ الْبَرِّ كُلِّهِ - وَحْشِيِّهِ وَأَنِيسِهِ - لَا تُحَاشِ شَيْئًا، لَا طَائِرًا وَلَا ذَا أَرْبَعٍ مِمَّا يَحِلُّ أَكْلُهُ فَإِنَّ ذَكَاتَهُ أَنْ يُرْمَى بِمَا يَعْمَلُ عَمَلَ الرُّمْحِ، أَوْ عَمَلَ السَّهْمِ، أَوْ عَمَلَ السَّيْفِ، أَوْ عَمَلَ السِّكِّينِ حَاشَا مَا ذَكَرْنَا أَنَّهُ لَا تَحِلُّ التَّذْكِيَةُ بِهِ، فَإِنْ أُصِيبَ بِذَلِكَ، فَمَاتَ قَبْلَ أَنْ تُدْرِكَ ذَكَاتُهُ فَأَكْلُهُ حَلَالٌ، فَإِنْ أُدْرِكَ حَيًّا إِلَّا أَنَّهُ فِي سَبِيلِ الْمَوْتِ السَّرِيعِ فَإِنْ ذُبِحَ، أَوْ نُحِرَ فَحَسَنٌ، وَإِلَّا فَلَا بَأْسَ بِأَكْلِهِ، وَإِنْ كَانَ لَا يَمُوتُ سَرِيعًا لَمْ يَحِلَّ أَكْلُهُ إِلَّا بِذَبْحٍ أَوْ نَحْرٍ، أَوْ بِأَنْ يُرْسَلَ عَلَيْهِ سَبُعٌ مِنْ سِبَاعِ الطَّيْرِ، أَوْ ذَوَاتِ الْأَرْبَعِ، لَا ذَكَاةَ لَهُ إِلَّا بِأَحَدِ هَذَيْنِ الْوَجْهَيْنِ -: لِمَا رُوِّينَا مِنْ طَرِيقِ شُعْبَةَ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي السَّفَرِ عَنْ الشَّعْبِيِّ عَنْ عَدِيِّ بْنِ حَاتِمٍ قَالَ «سَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْمِعْرَاضِ؟ فَقَالَ: إذَا أَصَابَ بِحَدِّهِ فَكُلْ وَإِذَا أَصَابَ بِعَرْضِهِ فَقَتَلَ فَإِنَّهُ وَقِيذٌ فَلَا تَأْكُلْ» . وَمِنْ طَرِيقِ مُسْلِمٍ نا إِسْحَاقُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - أَنَا جَرِيرٌ هُوَ ابْنُ عَبْدِ الْحَمِيدِ - عَنْ مَنْصُورٍ هُوَ ابْنُ الْمُعْتَمِرِ - عَنْ إبْرَاهِيمَ النَّخَعِيِّ عَنْ هَمَّامِ بْنِ الْحَارِثِ عَنْ عَدِيِّ بْنِ حَاتِمٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: «إذَا رَمَيْتَ بِالْمِعْرَاضِ نَخَزَ فَكُلْهُ، وَإِنْ أَصَابَ بِعَرْضِهِ فَلَا تَأْكُلْهُ» . وَقَدْ اخْتَلَفَ النَّاسُ فِي هَذَا -: كَمَا رُوِّينَا عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ عَنْ عَمَّارِ بْنِ يَاسِرٍ قَالَ: إذَا رَمَيْت بِالْحَجَرِ أَوْ الْبُنْدُقَةِ ثُمَّ ذَكَرْت اسْمَ اللَّهِ فَكُلْ.

L17162–17163 **[The Book of Hunting] [A legal issue concerning wild animals that escape and cannot be captured]**

L17164 Issue 1068: Concerning any land animal that flees and cannot be captured—whether wild or domesticated, including all types such as birds and permissible four-legged animals—its valid slaughter occurs when struck by a projectile serving the function of a spear, arrow, sword, or knife, excluding tools we previously deemed impermissible for slaughter. If killed by such means before slaughter can be performed, its consumption is lawful. If caught alive but undergoing rapid death, slaughtering it by throat-cutting (dhabḥ) or neck-base slaughter (nahr) is preferable; otherwise, consumption remains permissible. If the animal is not dying rapidly, consumption is lawful only through dhabḥ, nahr, or by releasing upon it a bird of prey or four-legged predator. Slaughter is valid solely through these two methods.

This ruling derives from our narration via Shu'bah's chain from 'Abdullāh ibn Abī al-Safar, from al-Sha'bī, from 'Adī ibn Ḥātim, who said: "I asked Allah's Messenger—peace and blessings upon him—about the blunt arrow (mi'rāḍ). He replied: 'If it pierces with its sharp edge, eat. But if it kills by striking with its flat side, it is carrion—do not eat.'"

Through Muslim's chain: Isḥāq ibn Ibrāhīm (Ibn Rāhwayh) narrated to us that Jarīr ibn 'Abd al-Ḥamīd reported from Manṣūr ibn al-Mu'tamir, from Ibrāhīm al-Nakha'ī, from Hammām ibn al-Ḥārith, from 'Adī ibn Ḥātim that Allah's Messenger—peace and blessings upon him—said: "If you shoot with a blunt arrow and it pierces, eat it. But if it strikes with its flat side, do not eat it."

Scholars have differed on this matter, as evidenced by our narration from Sufyān ibn 'Uyaynah, from 'Amr ibn Dīnār, from Sa'īd ibn al-Musayyib, from 'Ammār ibn Yāsir, who stated: "If you throw a stone or pellet while invoking Allah's name, then eat."[1]

L17165–17168 We have also transmitted it from Salmān al-Fārisī - and this is the opinion

[1] **Hadith references (L17164):** Sunan an-Nasai 4306; Sahih Muslim 1929c.

of Abū al-Dardā’, Faḍālah ibn ʿUbayd, and Ibn ʿUmar. Through the chain of Sufyān al-Thawrī from ʿAbd al-Raḥmān ibn Ḥarmala from Saʿīd ibn al-Musayyab, who said: “Any wild game you kill with a stone, a wooden implement, or a sling – eat it. If you shoot and forget to invoke Allah’s name, then eat it.” Through the chain of Sufyān ibn ʿUyayna from ʿAbd al-Raḥmān ibn Ḥarmala: I heard Saʿīd ibn al-Musayyab say: “Any wild game you kill with a stone, a sling, or a blunt arrow – eat it. If you refuse to eat it, bring it to me.” This is the opinion of Makḥūl and al-Awzāʿī. We have transmitted contradictory reports from ʿUmar, as we narrated through the chain of ʿAbd al-Razzāq from Maʿmar from ʿĀṣim ibn Abī al-Najūd from Zirr ibn Ḥubaysh, who said: I heard ʿUmar ibn al-Khaṭṭāb say: “Let none of you strike a rabbit with his staff or stone then consume it. Let him perform the slaughter for you with al-asall: arrows and spears.” This is the position of Abū Ḥanīfa, Mālik, al-Shāfiʿī, and Abū Sulaymān. Those who upheld the opinion of ʿAmmār, Salmān, and Saʿīd cited as evidence Allah’s decree: {Allah will surely test you with game within reach of your hands and spears} [5:94], and a ḥadīth we transmitted through Muslim’s chain from Hannād ibn al-Sarī from ʿAbdullāh ibn al-Mubārak from Ḥaywah ibn Shurayḥ, who said: I heard Rabīʿah ibn Yazīd al-Dimashqī say: “I am Abū Idrīs ʿĀ’idh Allāh al-Khawlānī. I heard Abū Thaʿlabah al-Khushanī say: The Messenger of Allah (peace be upon him) told me: ’Regarding your mention of dwelling in a game-rich land: whatever you strike with your bow after invoking Allah’s name – eat it.’” Abū Muḥammad said: They possess no valid proof through these two texts, for the ḥadīth of ʿAdī ibn Ḥātim we previously mentioned necessitates qualifying them with the exceptions it specifies. It is impermissible to disregard one textual proof for another. There is unanimous agreement that these rulings on game are not absolute, since one might retrieve a dead animal by hand (without proper slaughter), or strike it with a bow in a manner insufficient for valid ritual slaughter – which is indisputably invalid. Herein lies the contradiction of the Ḥanafīs, for they adopted the report of ʿAdī ibn Ḥātim – which introduces stipulations beyond [text incomplete]. What is in the Quran—while they refused similar cases regarding the exemption from Zakat for quantities

وَرُوِّينَاهُ أَيْضًا عَنْ سَلْمَانَ الْفَارِسِيِّ - وَهُوَ قَوْلُ أَبِي الدَّرْدَاءِ، وَفَضَالَةَ بْنِ عُبَيْدٍ، وَابْنِ عُمَرَ.
وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ حَرْمَلَةَ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ قَالَ: كُلُّ وَحْشِيَّةٍ قَتَلْتَهَا بِحَجَرٍ، أَوْ بِخَشَبَةٍ، أَوْ بِبُنْدُقَةٍ فَكُلْهَا وَإِذَا رَمَيْتَ فَنَسِيتَ أَنْ تُسَمِّيَ فَكُلْ.
وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ حَرْمَلَةَ سَمِعْتُ سَعِيدَ بْنَ الْمُسَيِّبِ يَقُولُ: كُلُّ وَحْشِيَّةٍ قَتَلْتَهَا بِحَجَرٍ، أَوْ بِبُنْدُقَةٍ، أَوْ بِمِعْرَاضٍ فَكُلْ، وَإِنْ أَبَيْتَ أَنْ تَأْكُلَ فَأْتِنِي بِهِ - وَهُوَ قَوْلُ مَكْحُولٍ، وَالْأَوْزَاعِيِّ. وَرُوِّينَا خِلَافَ هَذَا عَنْ عُمَرَ كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ عَاصِمِ بْنِ أَبِي النَّجُودِ عَنْ زِرِّ بْنِ حُبَيْشٍ قَالَ: سَمِعْتُ عُمَرَ بْنَ الْخَطَّابِ يَقُولُ: لَا يَخْذِفَنَّ أَحَدُكُمْ الْأَرْنَبَ بِعَصَاهُ أَوْ بِحَجَرٍ، ثُمَّ يَأْكُلُهَا وَلْيُذَكِّ لَكُمْ الْأَسَلُّ: النَّبْلُ، وَالرِّمَاحُ. وَبِهِ يَقُولُ أَبُو حَنِيفَةَ، وَمَالِكٌ، وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ. وَاحْتَجَّ مَنْ ذَهَبَ إلَى قَوْلِ عَمَّارٍ، وَسَلْمَانَ، وَسَعِيدٍ بِقَوْلِ اللَّهِ تَعَالَى {لَيَبْلُوَنَّكُمُ اللَّهُ بِشَيْءٍ مِنَ الصَّيْدِ تَنَالُهُ أَيْدِيكُمْ وَرِمَاحُكُمْ} [المائدة: ٩٤] . وَبِحَدِيثٍ رُوِّينَاهُ مِنْ طَرِيقِ مُسْلِمٍ عَنْ هَنَّادِ بْنِ السَّرِيِّ نا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ عَنْ حَيْوَةَ بْنِ شُرَيْحٍ قَالَ: سَمِعْتُ رَبِيعَةَ بْنَ يَزِيدَ الدِّمَشْقِيَّ يَقُولُ: أَنَا أَبُو إدْرِيسَ عَائِذُ اللَّهِ الْخَوْلَانِيّ قَالَ سَمِعْتُ «أَبَا ثَعْلَبَةَ الْخُشَنِيَّ يَقُولُ: قَالَ لِي رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: وَأَمَّا مَا ذَكَرْتَ مِنْ أَنَّكَ بِأَرْضِ صَيْدٍ فَمَا أَصَبْتَ بِقَوْسِكَ فَاذْكُرْ اسْمَ اللَّهِ عَلَيْهِ وَكُلْ» . قَالَ أَبُو مُحَمَّد: وَلَا حُجَّةَ لَهُمْ فِي هَذَيْنِ النَّصَّيْنِ، لِأَنَّ حَدِيثَ عَدِيِّ بْنِ حَاتِمٍ الَّذِي ذَكَرْنَا فَرَضَ أَنْ يُضَافَ إلَيْهِمَا فَيُسْتَثْنَى مِنْهُمَا مَا اسْتَثْنَى فِيهِ، فَإِنَّهُ لَا يَحِلُّ تَرْكُ نَصٍّ لِنَصٍّ. وَلَا خِلَافَ فِي أَنَّ هَذَيْنِ مِنْ الصَّيْدِ لَيْسَا عَلَى عُمُومِهِمَا، لِأَنَّهُ قَدْ تَنَالُ فِيهِ الْيَدُ الْمَيْتَةَ، وَقَدْ تُصَابُ بِالْقَوْسِ الْمَقْدُورِ عَلَيْهِ فَلَا يَكُونُ ذَكَاةً بِلَا خِلَافٍ. وَهَذَا مِمَّا تَنَاقَضَ فِيهِ الْحَنَفِيُّونَ لِأَنَّهُمْ أَخَذُوا

بِخَبَرِ عَدِيِّ بْنِ حَاتِمٍ، وَهُوَ زَائِدٌ عَلَى مَا فِي الْقُرْآنِ، وَقَدْ امْتَنَعُوا مِنْ مِثْلِ هَذَا فِي إِسْقَاطِ الزَّكَاةِ فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ، وَغَيْرِ ذَلِكَ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

below five awsuq, and other matters—and success comes only from Allah, the Exalted.[2]

وَأَمَّا قَوْلُنَا: إِنْ أُدْرِكَ حَيًّا إِلَّا أَنَّهُ فِي سَبِيلِ الْمَوْتِ السَّرِيعِ فَلَا بَأْسَ بِنَحْرِهِ وَذَبْحِهِ وَلَا بَأْسَ بِتَرْكِهِ، فَلِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ بِأَكْلِ مَا خُزِقَ، وَلَمْ يَنْهَ عَنْ ذَبْحِهِ، أَوْ نَحْرِهِ وَلَا أَمَرَ بِهِ فَهُوَ حَلَالٌ مُذَكًّى عَلَى كُلِّ حَالٍ، وَأَمَّا إِذَا كَانَ لَا يَمُوتُ مِنْ ذَلِكَ مَوْتَ الْمُذَكَّى فَلَا يَحِلُّ أَكْلُهُ إِلَّا بِذَكَاةٍ، لِأَنَّ حُكْمَ الذَّكَاةِ إِرَاحَةُ الْمُذَكَّى، وَتَعْجِيلُ الْمَوْتِ كَمَا ذَكَرْنَا مِنْ أَمْرِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِذَلِكَ وَسَنَذْكُرُ إِنْ شَاءَ اللَّهُ تَعَالَى حُكْمَ إِرْسَالِ الْجَارِحِ.

L17169 As for our statement: If the animal is found alive but in the process of rapid dying, there is no harm in slaughtering it by dhabh or nahr, nor in leaving it. This is because the Messenger of Allah—peace and blessings be upon him—instructed eating what has been pierced by a weapon, did not prohibit slaughtering through dhabh or nahr, nor mandated it. Thus, it is lawful as a properly slaughtered (mudhakkan) animal in all cases. However, if the injury would not cause the death of a properly slaughtered animal, it becomes impermissible to eat except through valid slaughter. This is because the ruling of slaughter entails relieving the animal's suffering and hastening death, as indicated in the Prophet's instruction—peace and blessings be upon him. We will mention, Allah willing, the ruling regarding releasing predatory animals.

[مَسْأَلَةٌ أَكْلُ مَا لَمْ يُسَمِّ اللَّهَ تَعَالَى عَلَيْهِ مِمَّا قُتِلَ مِنْ الصَّيْدِ]

١٠٦٩ - مَسْأَلَةٌ: وَكُلُّ مَا ذَكَرْنَا أَنَّهُ لَا يَجُوزُ التَّذْكِيَةُ بِهِ فَلَا يَحِلُّ مَا قُتِلَ بِهِ مِنْ الصَّيْدِ، وَكُلُّ مَنْ قُلْنَا: إِنَّهُ لَا يَحِلُّ أَكْلُ مَا ذَبَحَ أَوْ نَحَرَ لَمْ يَحِلَّ أَكْلُ مَا قَتَلَ مِنْ الصَّيْدِ كَغَيْرِ الْكِتَابِيِّ وَالصَّبِيِّ، وَمَنْ تَصَيَّدَ بِآلَةٍ مَأْخُوذَةٍ بِغَيْرِ حَقٍّ. وَكُلُّ مَنْ قُلْنَا: إِنَّهُ يَحِلُّ أَكْلُ مَا ذَبَحَ أَوْ نَحَرَ أُكِلَ مَا قَتَلَ مِنْ الصَّيْدِ كَالْكِتَابِيِّ، وَالْمَرْأَةِ، وَالْعَبْدِ، وَغَيْرِهِمْ، وَلَا يَحِلُّ أَكْلُ مَا لَمْ يُسَمِّ اللَّهَ تَعَالَى عَلَيْهِ مِمَّا قُتِلَ مِنْ الصَّيْدِ بِعَمْدٍ، أَوْ بِنِسْيَانٍ لِأَنَّ الصَّيْدَ ذَكَاةٌ، وَقَدْ ذَكَرْنَا بُرْهَانَ ذَلِكَ -: فِي كَلَامِنَا فِي كِتَابِ التَّذْكِيَةِ آنِفًا وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ. وَكَرِهَ بَعْضُ النَّاسِ أَكْلَ مَا قَتَلَهُ الْكِتَابِيُّونَ مِنْ الصَّيْدِ - وَهَذَا بَاطِلٌ لِأَنَّ الصَّيْدَ ذَكَاةٌ، وَقَدْ أَبَاحَ اللَّهُ تَعَالَى لَنَا مَا ذَكَّوْا وَلَمْ يَخُصَّ ذَبِيحَةً مِنْ نَحِيرَةٍ مِنْ صَيْدٍ {وَمَا كَانَ رَبُّكَ نَسِيًّا}

Issue: Consuming what was killed from the game without invoking the name of Allah, the Exalted, over it.

L17170

1069. Issue: Every tool or method we have mentioned as impermissible for slaughtering renders unlawful any game killed with it. Anyone we have deemed impermissible to eat what they slaughter or sacrifice likewise makes unlawful the game they kill - such as non-People of the Book, a child, and those who hunt with wrongfully acquired tools. Conversely, those we permit to eat what they slaughter or sacrifice also make permissible the game they kill - such as People of the Book, women, slaves, and others. It is impermissible to eat any game killed - whether intentionally or in forgetfulness - without Allah's name being pronounced over it, for game is validated through ritual slaughter. We have already established the proof for this in our preceding discourse in the Book of Slaughtering. All praise is due to Allah, Lord of the Worlds.

L17171–17173

[2] **Qur'an references (L17166):** Qur'an 5:94 (Al-Ma'idah).

Some have disapproved of eating game killed by People of the Book, but this is baseless, as game is validated through ritual slaughter. Allah Almighty has permitted us what they slaughter without excluding their sacrifices or hunts: {Your Lord is never forgetful} [19:64]. He also said: {He has already detailed for you what He has forbidden you} [6:119], yet He did not specify prohibiting this. Had it been forbidden, He would have detailed its prohibition. Since He did not, it remains entirely lawful.

If they obfuscate this with Allah's words: {What your hands and spears reach} [5:94], we respond: He also said: {Except what you slaughter} [5:3]. By this verse, they would then have to prohibit eating what they slaughter - otherwise, they contradict themselves. His statement: {The food of those who were given the Scripture is lawful for you} [5:5] supplements these two verses, and acting upon it is obligatory. Our position here aligns with the views of 'Aṭā', al-Layth, al-Awzā'ī, al-Thawrī, and Abū Ḥanīfah. Ash-Shafi'i, Abu Sulayman, and their companions (hold one view). The other opinion (that of Malik)—we know of no precedent for this in any foundational basis, nor did any of the Companions or Successors report making a distinction between the slaughtered animals of the People of the Book and their game. We have narrated through the chain of Yahya ibn Sa'id al-Qattan from Ibn Jurayj, who said: I asked 'Ata', "May a Zoroastrian send out a hawk?" He replied, "Yes. If a Zoroastrian sends out his dog and it kills [game], then eat." This is the opinion of Abu Thawr and others—and with Allah, the Exalted, lies success.[3]

L17174 Some people said: We know that when a Christian invokes Allah the Exalted, he intends Christ by it. Therefore, whether he explicitly invokes the name of the Messiah or not makes no difference - and this view is invalid, for we only follow what Allah the Exalted has commanded us and do not oppose Him with our opinions. Allah the Exalted has said: {Do not eat of that over which Allah's name has not been invoked} (6:121). Thus, it suffices us that if he has invoked Allah the Exalted, he has fulfilled the requirement through which Allah the Exalted permitted us to eat what he slaughtered. We

[3] **Qur'an references (L17171):** Qur'an 19:64 (Maryam); Qur'an 6:119 (Al-An'am); Qur'an 5:94 (Al-Ma'idah); Qur'an 5:3 (Al-Ma'idah); Qur'an 5:5 (Al-Ma'idah).

[مريم: ٦٤] . وَقَدْ قَالَ تَعَالَى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام: ١١٩] وَلَمْ يُفَصِّلْ لَنَا تَحْرِيمَ هَذَا، فَلَوْ كَانَ حَرَامًا لَفَصَّلَ لَنَا تَحْرِيمَهُ، فَإِذْ لَمْ يُفَصِّلْ لَنَا تَحْرِيمَهُ فَهُوَ حَلَالٌ مَحْضٌ. فَإِنْ مَوَّهُوا بِقَوْلِ اللَّهِ تَعَالَى: {تَنَالُهُ أَيْدِيكُمْ وَرِمَاحُكُمْ} [المائدة: ٩٤] . قُلْنَا: وَقَدْ قَالَ تَعَالَى: {إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] فَحَرِّمُوا بِهَذِهِ الْآيَةِ أَكْلَ مَا ذَبَحُوا إِذًا، وَإِلَّا فَقَدْ تَنَاقَضْتُمْ وقَوْله تَعَالَى: {وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَكُمْ} [المائدة: ٥] زَائِدٌ عَلَى مَا فِي هَاتَيْنِ الْآيَتَيْنِ، فَالْأَخْذُ بِهِ وَاجِبٌ. وَقَوْلُنَا هَهُنَا - هُوَ قَوْلُ عَطَاءٍ، وَاللَّيْثِ، وَالْأَوْزَاعِيِّ، وَالثَّوْرِيِّ، وَأَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ، وَأَصْحَابِهِمْ. وَالْقَوْلُ الْآخَرُ - هُوَ قَوْلُ مَالِكٍ، وَلَا نَعْلَمُ لَهُ سَلَفًا فِي هَذَا أَصْلًا، وَلَا جَاءَ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ وَلَا التَّابِعِينَ التَّفْرِيقُ بَيْنَ ذَبَائِحِ أَهْلِ الْكِتَابِ وَبَيْنَ صَيْدِهِمْ. وَرُوِّينَا مِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ ابْنِ جُرَيْجٍ قَالَ: قُلْت لِعَطَاءٍ: أُيْرْسِلُ الْمَجُوسِيُّ بَازِيَ؟ قَالَ: نَعَمْ، إذَا أَرْسَلَ الْمَجُوسِيُّ كَلْبَك فَقَتَلَ فَكُلْ وَهُوَ قَوْلُ أَبِي ثَوْرٍ، وَغَيْرِهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَقَالَ بَعْضُ النَّاسِ: قَدْ عَلِمْنَا أَنَّ النَّصْرَانِيَّ إذَا سَمَّى اللَّهَ تَعَالَى فَإِنَّمَا يَعْنِي بِهِ الْمَسِيحَ، فَسَوَاءٌ أَعْلَنَ بِاسْمِ الْمَسِيحِ أَوْ لَمْ يُعْلِنْ - وَهَذَا بَاطِلٌ، لِأَنَّا إنَّمَا نَتْبَعُ مَا أَمَرَنَا اللَّهُ تَعَالَى بِهِ، وَلَا نَعْتَرِضُ عَلَيْهِ بِآرَائِنَا. وَقَدْ قَالَ اللَّهُ تَعَالَى: {وَلا تَأْكُلُوا مِمَّا لَمْ يُذْكَرِ اسْمُ اللَّهِ عَلَيْهِ} [الأنعام: ١٢١] فَحَسْبُنَا إذَا سَمَّى اللَّهَ تَعَالَى فَقَدْ أَتَى بِالصِّفَةِ الَّتِي أَبَاحَ اللَّهُ تَعَالَى لَنَا بِهَا أَكْلَ مَا ذَكَّى وَلَا نُبَالِي مَا عَنَى، لِأَنَّ اللَّهَ تَعَالَى لَمْ يَأْمُرْنَا بِمُرَاعَاةِ نِيَّتِهِ الْخَبِيثَةِ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] وَإِذَا لَمْ يَذْكُرْ اللَّهَ تَعَالَى، أَوْ ذَكَرَ غَيْرَ اللَّهِ تَعَالَى،

disregard what he intended, for Allah the Exalted did not command us to consider his vile intention - {Your Lord is never forgetful} (19:64). If he fails to invoke Allah the Exalted, or invokes other than Allah the Exalted, he has met the condition through which Allah the Exalted prohibited us from eating in such cases, because he dedicated it to other than Allah. We disregard his vile intention, as Allah the Exalted only commanded this obligation to be observed by each individual personally.[4]

L17175

Issue: The Timing for the Slaughterer to Utter [Allah's Name].

L17176–17178

1070. Issue: The time for invoking the name of Allah the Exalted during slaughter is necessarily at the initial placement of the slaughtering or sacrificing tool upon the hide before cutting. For hunting, its time coincides with the first release of the projectile, the first strike, or the initial release of the trained animal. Invocation is invalid before or after these moments, as these mark the commencement of slaughter. If one begins slaughter before invocation, part of the act precedes the invocation, thus he has not slaughtered as commanded. If an interval exists between invocation and commencing slaughter, the slaughter does not coincide with invocation as ordained, so he has not slaughtered as commanded. No distinction exists between a short or long interval, for if separation by an eye-blink were permitted, two or three blinks would follow until reaching the general populace and beyond. We are narrated via the chain of Imam Muslim's Ṣaḥīḥ: Al-Walīd ibn Shujāʿ al-Sakūnī reported to us from ʿAlī ibn Mushir, from ʿĀṣim al-Aḥwal, from al-Shaʿbī, from ʿAdī ibn Ḥātim, who said: The Messenger of Allah—peace and blessings be upon him—said to me, "When..." When you release your trained dog, mention Allah's name. Then he mentioned other words including: "If you shoot your arrow, mention Allah's name." Through the chain of Shuʿbah from al-Ḥakam ibn ʿUtaybah from Saʿīd ibn Masrūq: Ash-Shaʿbī narrated, saying: I heard ʿAdiyy ibn Ḥātim - who was my neighbor, dependent, and frontier guard in the Two Rivers region (Nahrawān) - that he asked Allah's Messenger (peace be upon him): "I release my dog and find another dog with

[4] **Qur'an references (L17174):** Qur'an 6:121 (Al-An'am); Qur'an 19:64 (Maryam).

فَقَدْ أَتَى بِالصِّفَةِ الَّتِي حَرَّمَ اللَّهُ تَعَالَى عَلَيْنَا الْأَكْلَ مَعَ وُجُودِهَا، لِأَنَّهُ أَهَلَّ لِغَيْرِ اللَّهِ بِهِ، وَلَا نُبَالِي بِنِيَّتِهِ الْخَبِيثَةِ، إِذْ لَمْ يَأْمُرِ اللَّهُ تَعَالَى بِذَلِكَ إِلَّا كُلَّ أَحَدٍ فِي نَفْسِهِ خَاصَّةً.

[مَسْأَلَةٌ وَقْتُ تَسْمِيَةِ الذَّابِحِ]

١٠٧٠ - مَسْأَلَةٌ: وَوَقْتُ تَسْمِيَةِ الذَّابِحِ اللَّهَ تَعَالَى فِي الذَّكَاةِ هِيَ مَعَ أَوَّلِ وَضْعِ مَا يَذْبَحُ بِهِ أَوْ يَنْحَرُ فِي الْجِلْدِ قَبْلَ الْقَطْعِ وَلَا بُدَّ. وَوَقْتُهَا فِي الصَّيْدِ مَعَ أَوَّلِ إِرْسَالِ الرَّمْيَةِ أَوْ مَعَ أَوَّلِ الضَّرْبَةِ، أَوْ مَعَ أَوَّلِ إِرْسَالِ الْجَارِحِ لَا تُجْزِي قَبْلَ ذَلِكَ وَلَا بَعْدَهُ، لِأَنَّ هَذِهِ مَبَادِئُ الذَّكَاةِ فَإِذَا شَرَعَ فِيهَا قَبْلَ التَّسْمِيَةِ فَقَدْ مَضَى مِنْهَا شَيْءٌ قَبْلَ التَّسْمِيَةِ فَلَمْ يُذَكِّ كَمَا أُمِرَ، وَإِذَا كَانَ بَيْنَ التَّسْمِيَةِ وَبَيْنَ الشُّرُوعِ فِي التَّذْكِيَةِ مُهْلَةٌ فَلَمْ تَكُنِ الذَّكَاةُ مَعَ التَّسْمِيَةِ كَمَا أُمِرَ، فَلَمْ يُذَكِّ كَمَا أُمِرَ. وَلَا فَرْقَ بَيْنَ قَلِيلِ الْمُهْلَةِ وَبَيْنَ كَثِيرِهَا، وَلَوْ جَازَ أَنْ يُفَرَّقَ بَيْنَهُمَا بِطَرْفَةِ عَيْنٍ جَازَ أَنْ يُفَرَّقَ بَيْنَهُمَا بِطَرْفَتَيْنِ وَثَلَاثٍ إِلَى أَنْ يَبْلُغَ الْأَمْرُ إِلَى الْعَامِّ وَأَكْثَرَ. رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نا الْوَلِيدُ بْنُ شُجَاعٍ السَّكُونِيُّ أَنَا عَلِيُّ بْنُ مُسْهِرٍ عَنْ عَاصِمٍ الْأَحْوَلِ عَنِ الشَّعْبِيِّ عَنْ عَدِيِّ بْنِ حَاتِمٍ قَالَ: قَالَ [لِي] ، رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «إِذَا أَرْسَلْتَ كَلْبَكَ الْمُعَلَّمَ فَاذْكُرِ اسْمَ اللَّهِ ثُمَّ ذَكَرَ كَلَامًا وَفِيهِ وَإِنْ رَمَيْتَ سَهْمَكَ فَاذْكُرِ اسْمَ اللَّهِ» . وَمِنْ طَرِيقِ شُعْبَةَ عَنِ الْحَكَمِ بْنِ عُتَيْبَةَ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ نا الشَّعْبِيُّ قَالَ: سَمِعْتُ عَدِيَّ بْنَ حَاتِمٍ وَكَانَ لِي جَارًا وَدَخِيلًا وَرَبِيطًا بِالنَّهْرَيْنِ، أَنَّهُ سَأَلَ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: «أُرْسِلُ كَلْبِي فَأَجِدُ مَعَ كَلْبِي آخَرَ قَدْ

mine that has caught [prey], and I do not know which of them caught it." He replied: "Do not eat it, for you mentioned Allah's name over your dog alone and did not mention it over the other." Thus, the Prophet (peace be upon him) only validated the release when accompanied by immediate mention of Allah's name, and prohibited eating what was not mentioned over. However, we have received conflicting reports from Ibn ʻAbbās, as transmitted through Ibn Lahīʻah from Yazīd ibn Abī Ḥabīb: ʻAbdullāh ibn al-Ḥakam al-Balawī informed him that he asked Ibn ʻAbbās: "I go out hunting and mention Allah's name when departing, yet sometimes game rushes past me swiftly, so I hasten to shoot before mentioning Allah's name?" Ibn ʻAbbās answered him: "If you depart as a hunter intending nothing else, and mentioned Allah's name when leaving, that suffices you." But no argument can be derived from anyone below the rank of Allah's Messenger (peace be upon him), especially since the narration from Ibn Lahīʻah - who is discarded - is followed by transmission from ʻAbdullāh ibn al-Ḥakam al-Balawī - who is unknown.

أَخَذَ لَا أَدْرِي أَيُّهُمَا أَخَذَ؟ قَالَ: فَلَا تَأْكُلْ إِنَّمَا سَمَّيْتَ عَلَى كَلْبِكَ وَلَمْ تُسَمِّ عَلَى غَيْرِهِ» فَلَمْ يَجْعَلْ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْإِرْسَالَ، إِلَّا مَعَ التَّسْمِيَةِ بِلَا مُهْلَةٍ، وَحَرَّمَ أَكْلَ مَا لَمْ يُسَمِّ عَلَيْهِ. وَقَدْ رُوِّينَا خِلَافَ هَذَا عَنْ ابْنِ عَبَّاسٍ كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ لَهِيعَةَ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ أَنَّ عَبْدَ اللَّهِ بْنَ الْحَكَمِ الْبَلَوِيَّ أَخْبَرَهُ أَنَّهُ سَأَلَ ابْنَ عَبَّاسٍ؟ فَقَالَ: إِنِّي أَخْرُجُ إِلَى الصَّيْدِ فَأَذْكُرُ اسْمَ اللَّهِ حِينَ أَخْرُجُ فَرُبَّمَا مَرَّ بِي الصَّيْدُ حَثِيثًا فَأُعَجِّلُ فِي رَمْيِهِ قَبْلَ أَنْ أَذْكُرَ اسْمَ اللَّهِ تَعَالَى؟ فَقَالَ لَهُ ابْنُ عَبَّاسٍ: إِذَا خَرَجْتَ قَانِصًا لَا تُرِيدُ إِلَّا ذَلِكَ فَذَكَرْتَ اسْمَ اللَّهِ حِينَ تَخْرُجُ فَإِنَّ ذَلِكَ يَكْفِيكَ - وَلَا حُجَّةَ فِي أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَكَيْفَ وَرِوَايَةُ ابْنِ لَهِيعَةَ وَهُوَ سَاقِطٌ - ثُمَّ عَنْ عَبْدِ اللَّهِ بْنِ الْحَكَمِ الْبَلَوِيِّ وَهُوَ مَجْهُولٌ. -

A legal question: What is the ruling when a game animal is struck with a stone and some remaining life is found in it?

[مَسْأَلَةٌ مَا ضُرِبَ بِحَجَرٍ مِنْ الصَّيْدِ فَأُدْرِكَتْ فِيهِ بَقِيَّةٌ مِنْ الْحَيَاةِ]

1071 - Issue: Any animal struck by a stone or stick, or whose vital organs were cut open by a wild beast, a bird likewise, an idolater, or someone who did not mention Allah's name—if found with residual life—must be properly slaughtered by throat-cutting (dhabh) or chest-slaughtering (nahr). Its consumption becomes lawful, as this falls under the Exalted's statement: "Except what you [properly] slaughter" (5:3). We have detailed this in "What is Lawful and Forbidden to Eat" within this book. Success comes from Allah, the Most High.[5]

١٠٧١ - مَسْأَلَةٌ: وَكُلُّ مَا ضُرِبَ بِحَجَرٍ، أَوْ عُودٍ، أَوْ فَرَى مَقَاتِلَهُ سَبُعٌ بَرِّيٌّ أَوْ طَائِرٌ كَذَلِكَ، أَوْ وَثَنِيٌّ، أَوْ مَنْ لَمْ يُسَمِّ اللَّهَ تَعَالَى فَأُدْرِكَتْ فِيهِ بَقِيَّةٌ مِنْ الْحَيَاةِ ذُكِّيَ بِالذَّبْحِ أَوْ النَّحْرِ، وَحَلَّ أَكْلُهُ، لِأَنَّهُ مِمَّا قَالَ فِيهِ تَعَالَى {إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] وَقَدْ تَقَصَّيْنَا هَذَا " فِيمَا يَحِلُّ أَكْلُهُ وَيَحْرُمُ " مِنْ كِتَابِنَا هَذَا. وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

A case where two individuals each placed his hand on a knife and slaughtered an animal.

[مَسْأَلَةٌ وَضَعَ اثْنَانِ أَيْدِيَهُمَا عَلَى شَفْرَةٍ فَذَكَّيَا بِهَا حَيَوَانًا]

1072. Issue: If two or more persons place their hands on a blade or spear

[5] **Qur'an references (L17180):** Qur'an 5:3 (Al-Ma'idah).

and slaughter an animal at its owner's instruction, and one or all of them utter the name of Allah the Exalted, it is lawful. Similarly, if a group shoots arrows, and one or all of them utter the name of Allah the Exalted, and they strike game such that their arrows hit its lethal spot while all of them have uttered Allah's name, its consumption is lawful and shared among them. If any of them fails to strike the lethal spot, he has no claim to it. If the sole person who uttered the name of Allah the Exalted misses the lethal spot, the animal becomes *maytah* (carrion) and its consumption is unlawful. If none of those who struck the lethal spot uttered the name of Allah the Exalted, he has no claim to it, and the entire animal belongs to the one who uttered Allah's name. This differs from the ruling concerning owned animals under control, for the utterance remains valid over them, rendering them lawful. As for game, ownership cannot be established except through proper slaughter or capture. Before its death, this one did not slaughter it. However, he wounded it without attaining ownership. Ownership belongs solely to the one who slaughtered it with the *tasmiyah* [i.e., invoking Allah's name]. As for an animal already owned before being slaughtered, it becomes ritually slaughtered through the *tasmiyah* of whoever invoked Allah's name. Ownership remains with the one who originally held it, as it originally was—and success is from Allah, the Most High.

A case: He shot at game, struck it, lost sight of it, and later found it dead.

L17185

L17186 1073 - Issue: If someone shoots at game and hits it, and it remains out of sight for a day or more, or even less, then finds it dead: if he identifies his arrow and is certain he struck its lethal spot, it is permissible for him to eat it; otherwise, it is not permissible. Similarly, if he shoots it and hits it, then it falls from a mountain or into water: if he likewise identifies his arrow and is certain he struck its lethal spot, it is permissible for him to eat it; otherwise, it is not permissible. This is based on what we have narrated through the chain of Aḥmad ibn Ḥanbal: Yaḥyā ibn Zakariyyā ibn Abī Zā'idah reported to us, ʿĀṣim al-Aḥwal reported to me from al-Shaʿbī from ʿAdī ibn Ḥātim from the Prophet – peace and blessings be upon him – who said: "If your arrow lands in water and it drowns and dies, do not eat it." And through another

١٠٧٢ - مَسْأَلَةٌ: فَلَوْ وَضَعَ اثْنَانِ فَصَاعِدًا أَيْدِيَهُمْ عَلَى شَفْرَةٍ، أَوْ رُمْحٍ فَذَكَّوْا بِهِ حَيَوَانًا بِأَمْرِ مَالِكِهِ وَسَمَّى اللَّهَ تَعَالَى أَحَدُهُمْ أَوْ كُلُّهُمْ فَهُوَ حَلَالٌ. وَكَذَلِكَ، لَوْ رَمَى جَمَاعَةٌ سِهَامًا وَسَمَّى اللَّهَ تَعَالَى أَحَدُهُمْ أَوْ كُلُّهُمْ فَأَصَابُوا صَيْدًا فَأَكْلُهُ حَلَالٌ وَهُوَ بَيْنَهُمْ إِذَا أَصَابَتْ سِهَامُهُمْ مَقْتَلَهُ سَمَّى اللَّهَ تَعَالَى جَمِيعُهُمْ وَإِذَا لَمْ يُصِبْ أَحَدُهُمْ مَقْتَلَهُ، فَلَا حَقَّ لَهُ فِيهِ، فَإِنْ كَانَ الَّذِي لَمْ يُصِبْ مَقْتَلَهُ هُوَ وَحْدَهُ الَّذِي سَمَّى اللَّهَ تَعَالَى فَهُوَ مَيْتَةٌ لَا يَحِلُّ أَكْلُهُ فَإِنْ لَمْ يُسَمِّ اللَّهَ تَعَالَى أَحَدٌ مِمَّنْ أَصَابَ مَقْتَلَهُ فَلَا حَقَّ لَهُ فِيهِ، وَهُوَ كُلُّهُ الَّذِي سَمَّى اللَّهَ تَعَالَى - بِخِلَافِ الْقَوْلِ فِي الْمَقْدُورِ عَلَيْهِ الْمُتَمَلَّكِ، وَذَلِكَ لِأَنَّ التَّسْمِيَةَ صَحَّتْ عَلَيْهِ فَهُوَ حَلَالٌ، فَأَمَّا الصَّيْدُ فَلَا يُمْلَكُ إِلَّا بِالتَّذْكِيَةِ أَوْ بِأَنْ يُقْدَرَ عَلَيْهِ قَبْلَ مَوْتِهِ فَهَذَا لَمْ يُذَكِّهِ، لَكِنْ جَرَحَهُ فَلَمْ يَمْلِكْهُ وَإِنَّمَا مَلَكَهُ الَّذِي ذَكَّاهُ بِالتَّسْمِيَةِ، وَأَمَّا الْمُتَمَلَّكُ قَبْلَ أَنْ يُذَكَّى فَهُوَ مُذَكًّى بِتَسْمِيَةِ مَنْ سَمَّى، وَالْمِلْكُ بَاقٍ لِمَنْ سَلَفَ لَهُ فِيهِ مِلْكٌ كَمَا كَانَ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ رَمَى صَيْدًا فَأَصَابَهُ وَغَابَ عَنْهُ ثُمَّ وَجَدَهُ مَيِّتًا]

١٠٧٣ - مَسْأَلَةٌ: وَمَنْ رَمَى صَيْدًا فَأَصَابَهُ وَغَابَ عَنْهُ يَوْمًا أَوْ أَكْثَرَ أَوْ أَقَلَّ، ثُمَّ وَجَدَهُ مَيِّتًا، فَإِنْ مَيَّزَ سَهْمَهُ وَأَيْقَنَ أَنَّهُ أَصَابَ مَقْتَلَهُ حَلَّ لَهُ أَكْلُهُ وَإِلَّا فَلَا يَحِلُّ لَهُ. وَكَذَلِكَ لَوْ رَمَاهُ فَأَصَابَهُ، ثُمَّ تَرَدَّى مِنْ جَبَلٍ أَوْ فِي مَاءٍ، فَإِنْ مَيَّزَ أَيْضًا سَهْمَهُ وَأَيْقَنَ أَنَّهُ أَصَابَ مَقْتَلَهُ حَلَّ لَهُ أَكْلُهُ وَإِلَّا فَلَا -: لِمَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ حَنْبَلٍ نا يَحْيَى بْنُ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ حَدَّثَنِي عَاصِمٌ الْأَحْوَلُ عَنْ الشَّعْبِيِّ عَنْ عَدِيِّ بْنِ حَاتِمٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «إِذَا وَقَعَتْ رَمْيَتُكَ فِي مَاءٍ فَغَرِقَ فَمَاتَ فَلَا تَأْكُلْ» . وَمِنْ طَرِيقِ

chain of Aḥmad ibn Ḥanbal: Ghundar reported to us, Shuʿbah reported from Abū Bishr from Saʿīd ibn Jubayr from ʿAdī ibn Ḥātim, who said: “I asked the Messenger of Allah – peace and blessings be upon him – and he said: ’If you recognize your arrow and know it killed it, finding no trace of another [cause] upon it, then eat it.’”[6]

أَحْمَدَ بْنِ حَنْبَلٍ نا غُنْدَرٌ نا شُعْبَةُ عَنْ أَبِي بِشْرٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ «عَدِيِّ بْنِ حَاتِمٍ قَالَ سَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: إذَا عَرَفْتَ سَهْمَكَ تَعْلَمُ أَنَّهُ قَتَلَهُ لَمْ تَرَ فِيهِ أَثَرًا لِغَيْرِهِ فَكُلْ» . ١٠٧٤ -

L17187 Issue: It is the same whether the game has become putrid or not. The narration stating that one who retrieves their game after three days may eat it provided it has not putrefied is invalid, as it comes through Muʿāwiyah ibn Ṣāliḥ. Similarly invalid is the narration containing the query: “O Messenger of God, rule for me regarding my bow!” where he (peace be upon him) responded: “Eat whatever your bow retrieves for you - whether properly slaughtered or not, even if it disappears from sight - provided it is not lost or you find marks other than your arrow,” since it is transmitted as a musnad narration through ʻAmr ibn Shuʻayb from his father from his grandfather. Likewise invalid is the report stating: “Eat what you strike mortally and abstain from what escapes wounded.” The term “striking mortally” refers to immobilizing the prey, while “escaping wounded” denotes when the animal wanders off with the arrow embedded until vanishing from sight, later being found dead after a day or similar duration - this being the interpretation we relate from Ibn ʻAbbās. The narration is invalid because its transmitter Muḥammad ibn Sulaymān ibn Masmūl - a discredited ḥadīth narrator - relays it from ʻAmr ibn Tamīm (another discredited narrator) from his unknown father. Also invalid is the report where a man said: “O Messenger of God, I shot game that disappeared overnight,” prompting him (peace be upon him) to respond: “Nighttime vermin are numerous,” as its chain is interrupted.

مَسْأَلَةٌ: وَسَوَاءٌ أَنْتَنَ أَمْ لَمْ يُنْتِنْ، وَلَا يَصِحُّ الْأَثَرُ الَّذِي فِيهِ فِي الَّذِي يُدْرِكُ صَيْدَهُ بَعْدَ ثَلَاثٍ فَكُلْهُ مَا لَمْ يُنْتِنْ، لِأَنَّهُ مِنْ طَرِيقِ مُعَاوِيَةَ بْنِ صَالِحٍ، وَلَا الْخَبَرُ الَّذِي فِيهِ «يَا رَسُولَ اللَّهِ أَفْتِنِي فِي قَوْسِي؟ قَالَ: كُلْ مَا رَدَّتْ عَلَيْكَ قَوْسُكَ ذَكِيًّا وَغَيْرَ ذَكِيٍّ - وَإِنْ تَغَيَّبَ عَنْكَ - مَا لَمْ يَضِلَّ أَوْ تَجِدْ فِيهِ أَثَرًا غَيْرَ سَهْمِكَ» لِأَنَّهُ مِنْ عَمْرِو بْنِ شُعَيْبٍ عَنْ أَبِيهِ عَنْ جَدِّهِ مُسْنَدًا، وَلَا الْأَثَرُ الَّذِي فِيهِ «كُلْ مَا أَصْمَيْتَ وَلَا تَأْكُلْ مَا أَنْمَيْتَ» . وَتَفْسِيرُ الْإِصْمَاءِ أَنْ تُقْعِصَهُ وَالْإِنْمَاءُ أَنْ يَسْتَقِلَّ بِسَهْمِهِ حَتَّى يَغِيبَ عَنْهُ فَيَجِدَهُ بَعْدَ ذَلِكَ مَيِّتًا بِيَوْمٍ أَوْ نَحْوِهِ - وَهَكَذَا رُوِّينَا تَفْسِيرَهُ عَنْ ابْنِ عَبَّاسٍ: لِأَنَّ رَاوِيَ الْمُسْنَدِ فِي ذَلِكَ مُحَمَّدُ بْنُ سُلَيْمَانَ بْنِ مَسْمُولٍ - وَهُوَ مُنْكَرُ الْحَدِيثِ - عَنْ عَمْرِو بْنِ تَمِيمٍ عَنْ أَبِيهِ - وَهُوَ مُنْكَرُ الْحَدِيثِ وَأَبُوهُ مَجْهُولٌ. وَلَا الْخَبَرُ الَّذِي فِيهِ: «أَنَّ رَجُلًا قَالَ: يَا رَسُولَ اللَّهِ رَمَيْتُ صَيْدًا فَتَغَيَّبَ عَنِّي لَيْلَةً فَقَالَ - عَلَيْهِ السَّلَامُ -: إنَّ هَوَامَّ اللَّيْلِ كَثِيرَةٌ» لِأَنَّهُ مُرْسَلٌ.

L17188–17189 Nor is the narration containing his statement—peace be upon him—“If I knew that raiding mounts had not aided in its killing, I would have instructed you to eat it” valid, for it is mursal, and it includes al-Ḥārith ibn Nabḥān who is weak. Nor is the narration containing “his statement—peace be upon him—regarding game: ’If the place of its killing becomes concealed from you, deem it makrūh’” valid, for it is mursal. It has been narrated from Ibn ʿAbbās concerning one who shot game and found his arrow in it the next

وَلَا الْخَبَرُ الَّذِي فِيهِ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ «لَوْ أَعْلَمُ أَنَّهُ لَمْ يُعِنْ عَلَى قَتْلِهِ دَوَابُّ الْمُعَارِ لَأَمَرْتُكَ بِأَكْلِهِ» لِأَنَّهُ مُرْسَلٌ، وَفِيهِ الْحَارِثُ بْنُ نَبْهَانَ وَهُوَ ضَعِيفٌ. وَلَا الْخَبَرُ الَّذِي فِيهِ «أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ فِي الصَّيْدِ، إذَا غَابَ مَصْرَعُهُ عَنْك كَرِهَهُ» لِأَنَّهُ مُرْسَلٌ. وَرُوِّينَا عَنْ ابْنِ عَبَّاسٍ فِيمَنْ رَمَى الصَّيْدَ فَوَجَدَ فِيهِ سَهْمَهُ مِنْ الْغَدِ قَالَ: لَوْ أَعْلَمُ أَنَّ سَهْمَك قَتَلَهُ لَأَمَرْتُك بِأَكْلِهِ، وَلَكِنَّهُ لَعَلَّهُ قَتَلَهُ تَرَدِّيهِ أَوْ غَيْرُهُ.

[6] **Hadith references (L17186):** Sunan Abi Dawud 2850.

day: he said, “If I knew your arrow killed it, I would instruct you to eat it, but perhaps it was killed by its collapse or another cause.”

L17190 From Ibn Masʿūd: If one of you shoots a bird perched on a mountain and it plummets to death, do not eat it – for I fear its death resulted from the fall. Or if it falls into water and dies, do not eat it – for I fear the water may have caused its death. A similar ruling is narrated from Ṭāwūs and ʿIkrimah, who specified: “If it falls into water before you perform its ritual slaughter.” From ash-Shaʿbī: He refrained from eating the flesh of a bird that was shot, fell into water, and died. From ʿAṭāʾ regarding game that was shot and remained under observation until death: “Eat it; but if it disappears from your sight among hills or mountains – once the place where it fell is hidden from your sight – do not eat it. If it plunges from a height or falls into water while you witness it, do not eat it.”

As for later jurists: Abū Ḥanīfah ruled, “If the game and hunting dog vanish *while the dog is actively pursuing it*, then you find it slain, consumption is permissible. But if one leaves the dog to pray or attend to other matters, then returns to find the game killed with the dog present, its consumption is reprehensible.” Mālik said, “If one releases his dog or arrow, locates the game the same day dead with wounds, he may eat it. If it remains overnight, he does not eat it.” Ash-Shāfiʿī stated, “The analogy dictates that if it disappears from sight, he may eat it.”

Abū Muḥammad remarked: “These opinions are baseless, as no evidence substantiates them. The one we are bound to obey is the Messenger of Allah (peace be upon him) – *since* he says, as we narrate through Abū Bakr ibn Abī Shaybah, transmitted to us by ʿAbd al-Aʿlā (Ibn ʿAbd al-Aʿlā ath-Thaʿlabī), from Dāwūd ibn Abī Hind, from ash-Shaʿbī – that ʿAdī ibn Ḥātim said: ”O Messenger of Allah, when one of us shoots game and tracks it for two or three days, then finds it dead with his arrow embedded – may he eat it¿‘ The Messenger of Allah (peace be upon him) replied: ”Yes, if he wishes,“ or [alternately] said: ”He may eat it if he wishes.“

L17191–17192 And through the chain of Aḥmad ibn Ḥanbal: He narrated to us from Hushaym, from Abū Bishr, from Saʿīd ibn Jubayr, from ʿAdī ibn Ḥātim: “I

وَعَنْ ابْنِ مَسْعُودٍ إِذَا رَمَى أَحَدُكُمْ طَائِرًا وَهُوَ عَلَى جَبَلٍ فَخَرَّ فَمَاتَ فَلَا تَأْكُلْهُ فَإِنِّي أَخَافُ أَنْ يَقْتُلَهُ تَرَدِّيهِ أَوْ وَقَعَ فِي مَاءٍ فَمَاتَ فَلَا تَأْكُلْهُ، فَإِنِّي أَخَافُ أَنْ يَكُونَ قَتَلَهُ الْمَاءُ. وَمِثْلُهُ عَنْ طَاوُسٍ، وَعِكْرِمَةَ قَالَ: إِذَا وَقَعَ فِي الْمَاءِ قَبْلَ أَنْ تُذَكِّيَهُ. وَعَنْ الشَّعْبِيِّ أَنَّهُ لَمْ يَأْكُلْ مِنْ لَحْمِ طَيْرٍ رُمِيَ فَوَقَعَ فِي مَاءٍ فَمَاتَ. وَعَنْ عَطَاءٍ فِي صَيْدٍ رُمِيَ فَلَمْ يَزَلْ يَنْظُرُ إِلَيْهِ حَتَّى مَاتَ قَالَ: كُلْهُ فَإِنْ تَوَارَى عَنْك بِالْهِضَابِ أَوْ الْجِبَالِ فَلَا تَأْكُلْهُ إِذَا غَابَ عَنْك مَصْرَعُهُ فَإِنْ تَرَدَّى أَوْ وَقَعَ فِي مَاءٍ وَأَنْتَ تَرَاهُ فَلَا تَأْكُلْهُ. وَأَمَّا الْمُتَأَخِّرُونَ فَإِنَّ أَبَا حَنِيفَةَ قَالَ: إِذَا تَوَارَى عَنْك الصَّيْدُ وَالْكَلْبُ وَهُوَ فِي طَلَبِهِ فَوَجَدْتَهُ وَقَدْ قَتَلَهُ جَازَ أَكْلُهُ، فَلَوْ تَرَكَ الرَّجُلُ الْكَلْبَ وَاشْتَغَلَ بِصَلَاةٍ أَوْ عَمَلٍ مَا ثُمَّ رَجَعَ إلَى الْكَلْبِ فَوَجَدَ الصَّيْدَ مَقْتُولًا وَالْكَلْبُ عِنْدَهُ كُرِهَ أَكْلُهُ. وَقَالَ مَالِكٌ: إذَا أَرْسَلَ كَلْبَهُ أَوْ سَهْمَهُ فَأَدْرَكَهُ مِنْ يَوْمِهِ فَوَجَدَهُ مَيِّتًا وَفِيهِ جِرَاحَةٌ أَكَلَهُ، فَإِنْ بَاتَ عَنْهُ لَمْ يَأْكُلْهُ. وَقَالَ الشَّافِعِيُّ: الْقِيَاسُ إذَا غَابَ عَنْهُ أَنْ يَأْكُلَهُ. قَالَ أَبُو مُحَمَّدٍ: هَذِهِ أَقْوَالٌ سَاقِطَةٌ إذْ لَا دَلِيلَ عَلَى صِحَّةِ شَيْءٍ مِنْهَا، وَالْمُفْتَرَضُ طَاعَتُهُ هُوَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -[إذْ] يَقُولُ مَا رُوِّينَاهُ مِنْ طَرِيقِ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نا عَبْدُ الْأَعْلَى هُوَ ابْنُ عَبْدِ الْأَعْلَى الثَّعْلَبِيُّ - عَنْ دَاوُد بْنِ أَبِي هِنْدَ عَنْ الشَّعْبِيِّ أَنَّ «عَدِيَّ بْنَ حَاتِمٍ قَالَ يَا رَسُولَ اللَّهِ أَحَدُنَا يَرْمِي الصَّيْدَ فَيَقْتَفِي أَثَرَهُ الْيَوْمَيْنِ وَالثَّلَاثَةَ، ثُمَّ يَجِدُهُ مَيِّتًا وَفِيهِ سَهْمُهُ أَيَأْكُلُ؟ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَعَمْ، إنْ شَاءَ، أَوْ قَالَ: يَأْكُلُ إنْ شَاءَ» .

asked the Messenger of Allāh—peace and blessings of Allāh be upon him—saying: 'One of us shoots at game, and it goes out of his sight for a night or two. Then he finds it with his arrow in it.' The Messenger of Allāh—peace and blessings of Allāh be upon him—said: 'If you find your arrow [in the game] and do not find any other trace on it, and you are certain that your arrow killed it, then eat it.'" ʿAlī said: "If he finds his arrow has pierced its killing spot, he has ascertained that his arrow killed the game—and success is from Allāh, the Most High."

L17193 **A jurisprudential issue: He shot at game, struck it, thereby preventing it from fleeing.**

L17194 1075 - Issue: If someone shoots at game and hits it, thereby preventing it from fleeing or flying, whether he fails to strike a lethal spot or succeeds in striking it, then it belongs to him. It does not belong to the one who takes it, because the shooter has rendered it attainable and no longer evasive, thus he owns it through that action. And success is from Allah, the Exalted.

L17195 **He shot a game animal, severed a limb from it, and it died.**

L17196–17198 1076 - Issue: If someone shoots game and severs any limb from it, causing certain death - whether swift death resembling lawful slaughter or delayed death, provided he only finds it after its demise or while in the immediate causes of death - he may consume the entire animal including the severed limb. If the animal does not die swiftly and is found alive with potential to survive longer than a lawfully slaughtered animal would, he must perform lawful slaughter and consume the meat while abstaining from the severed limb, regardless of its type. Should the animal die from the injury in a manner resembling lawful slaughter, the entire animal becomes permissible. If unrecovered alive, the animal remains lawfully slaughtered whenever death occurs from the inflicted injury, with the entire body deemed permissible. Contrary rulings are invalid. The Prophet (peace be upon him) stated, "If pierced [by hunting], consume it" - a universal ruling admitting no exceptions.

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ حَنْبَلٍ نا هُشَيْمٌ عَنْ أَبِي بِشْرٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ «عَنْ عَدِيِّ بْنِ حَاتِمٍ سَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -؟ فَقُلْتُ: يَرْمِي أَحَدُنَا الصَّيْدَ فَيَغِيبُ عَنْهُ لَيْلَةً أَوْ لَيْلَتَيْنِ فَيَجِدُهُ وَفِيهِ سَهْمُهُ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذَا وَجَدْتَ سَهْمَكَ وَلَمْ تَجِدْ فِيهِ أَثَرًا غَيْرَهُ وَعَلِمْتَ أَنَّ سَهْمَكَ قَتَلَهُ فَكُلْهُ» . قَالَ عَلِيٌّ: إذَا وَجَدَ سَهْمَهُ قَدْ أَنْفَذَ مَقْتَلَهُ فَقَدْ عَلِمَ أَنَّهُ قَتَلَهُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ رَمَى صَيْدًا فَأَصَابَهُ فَمَنَعَهُ مِنْ الْجَرْيِ]

١٠٧٥ - مَسْأَلَةٌ: وَمَنْ رَمَى صَيْدًا فَأَصَابَهُ فَمَنَعَهُ ذَلِكَ الْأَمْرُ مِنْ الْجَرْيِ أَوْ الطَّيَرَانِ وَلَمْ يُصِبْ لَهُ مَقْتَلًا أَوْ أَصَابَ فَهُوَ لَهُ، وَلَا يَكُونُ لِمَنْ أَخَذَهُ لِأَنَّهُ قَدْ جَعَلَهُ مَقْدُورًا عَلَيْهِ غَيْرَ مُمْتَنِعٍ فَمَلَكَهُ بِذَلِكَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ رَمَى صَيْدًا فَقَطَعَ مِنْهُ عُضْوًا فَمَاتَ]

١٠٧٦ - مَسْأَلَةٌ: وَمَنْ رَمَى صَيْدًا فَقَطَعَ مِنْهُ عُضْوًا، أَيَّ عُضْوٍ كَانَ فَمَاتَ مِنْهُ بِيَقِينٍ مَوْتًا سَرِيعًا كَمَوْتِ سَائِرِ الذَّكَاةِ، أَوْ بَطِيئًا إلَّا أَنَّهُ لَمْ يُدْرِكْهُ إلَّا وَقَدْ مَاتَ، أَوْ هُوَ فِي أَسْبَابِ الْمَوْتِ الْحَاضِرِ: أَكَلَهُ كُلَّهُ، وَأَكَلَ أَيْضًا الْعُضْوَ الْبَائِنَ. فَلَوْ لَمْ يَمُتْ مِنْهُ مَوْتًا سَرِيعًا وَأَدْرَكَهُ حَيًّا وَكَانَ يَعِيشُ مِنْهُ أَكْثَرَ مِنْ عَيْشِ الْمُذَكَّى، ذَكَّاهُ وَأَكَلَهُ، وَلَمْ يَأْكُلْ الْعُضْوَ الْبَائِنَ، أَيَّ عُضْوٍ كَانَ، لِأَنَّهُ إذَا مَاتَ مِنْهُ كَمَوْتِ الذَّكَاةِ فَهُوَ ذَكِيٌّ كُلُّهُ. فَلَوْ لَمْ يُدْرِكْهُ حَيًّا فَهُوَ ذَكِيٌّ مَتَى مَاتَ مِمَّا أَصَابَهُ وَهُوَ مُذَكًّى كُلُّهُ، وَمَا كَانَ بِخِلَافِ ذَلِكَ فَهُوَ غَيْرُ مُذَكًّى، وَقَالَ - عَلَيْهِ السَّلَامُ -، «إذَا خُزِقَ فَكُلْ» فَهَذَا عُمُومٌ لَا يَجُوزُ تَعَدِّيهِ. وَإِذَا أُدْرِكَ حَيًّا فَذَكَاتُهُ فَرْضٌ لِأَنَّهُ مَأْمُورٌ بِإِحْسَانِ الْقِتْلَةِ وَالْإِرَاحَةِ. وَأَمَّا إذَا

Recovering the animal alive necessitates lawful slaughter as an obligation, ensuring humane killing and mercy. If found in the immediate throes of death, slaughter by throat-cutting or nahr (the method for camels) becomes redundant and impermissible, as it causes suffering rather than providing relief. The animal remains lawful.

Narrations from Ibn Mas'ud, Ibn Abbas, Ikrimah, Qatadah, Ibrahim, Ata, and Abu Thawr state: If a hunter finds wounded game alive the next morning with a severed limb, only the intact parts may be consumed. If it dies at that moment, the entire animal may be consumed. Abu Hanifah, Malik, Sufyan, and Al-Awza'i ruled: If split into two halves, both portions may be eaten together. If unequally divided, the portion containing the head...[text incomplete] If the smaller one is eaten, both may be eaten. If the one containing the head is the larger one, it may be eaten while the other may not. Al-Shāfiʿī said: If one cuts from it a part that causes its death like an animal slaughtered by throat-cutting (manḥūr) or ritual slaughter (madhbūḥ), both [the animal and the severed part] may be consumed together. If one cuts from it a part that allows it to survive for an hour or longer, then finds it and performs valid ritual slaughter (dhakāh) on it, it may be eaten excluding the part that was severed. We know of no one who ascribed the juridical rulings established by Abū Ḥanīfah and Mālik to being rooted in a valid foundational principle—and success is attained only through Allah, the Exalted.

وَجَدَهُ فِي أَسْبَابِ الْمَوْتِ الْعَاجِلِ فَلَا مَعْنَى لِذَبْحِهِ حِينَئِذٍ وَلَا لِنَحْرِهِ لِأَنَّهُ لَيْسَ إرَاحَةً بَلْ هُوَ تَعْذِيبٌ، وَهُوَ بَعْدُ مُذَكًّى، فَهُوَ حَلَالٌ. وَرُوِيَ عَنْ ابْنِ مَسْعُودٍ، وَابْنِ عَبَّاسٍ، وَعِكْرِمَةَ، وَقَتَادَةَ، وَإِبْرَاهِيمَ، وَعَطَاءٍ، وَأَبِي ثَوْرٍ: إذَا رَمَى الصَّيْدَ فَغَدَا حَيًّا وَقَدْ سَقَطَ مِنْهُ عُضْوٌ، فَإِنَّهُ يُؤْكَلُ سَائِرُهُ حَاشَا ذَلِكَ الْعُضْوِ، فَإِنْ مَاتَ حِينَ ذَلِكَ أُكِلَ كُلُّهُ. وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ، وَسُفْيَانُ، وَالْأَوْزَاعِيُّ: إنْ قَطَعَهُ نِصْفَيْنِ أَكَلَ النِّصْفَيْنِ مَعًا، فَإِنْ كَانَتْ إحْدَاهُمَا أَقَلَّ مِنْ الْأُخْرَى، فَإِنْ كَانَتْ الْقِطْعَةُ الَّتِي فِي الرَّأْسِ هِيَ الصُّغْرَى أُكِلَ كِلْتَاهُمَا، وَإِنْ كَانَتْ الَّتِي فِيهَا الرَّأْسُ هِيَ الْكُبْرَى أُكِلَتْ هِيَ وَلَمْ تُؤْكَلْ الْأُخْرَى. وَقَالَ الشَّافِعِيُّ: إنْ قَطَعَ مِنْهُ مَا يَمُوتُ بِهِ مَوْتَ الْمَنْحُورِ أَوْ الْمَذْبُوحِ أُكِلَا مَعًا، وَإِنْ قَطَعَ مِنْهُ مَا يَعِيشُ بَعْدَهُ سَاعَةً فَأَكْثَرَ، ثُمَّ أَدْرَكَهُ فَذَكَّاهُ أُكِلَ، حَاشَا مَا قُطِعَ مِنْهُ. وَمَا نَعْلَمُ لِمَنْ حَدَّ الْحُدُودَ الَّتِي حَدَّهَا أَبُو حَنِيفَةَ، وَمَالِكٌ مُتَعَلِّقًا أَصْلًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

A case where a person shot at a group of game, invoked the name of Allah, the Exalted, and intended whichever one he might hit.

[مَسْأَلَةٌ رَمَى جَمَاعَةَ صَيْدٍ وَسَمَّى اللَّهَ تَعَالَى وَنَوَى أَيَّهَا أَصَابَ]

1077. Issue: If someone shoots at a group of game, invokes the name of Allah the Exalted while intending whichever he may strike, then whatever he strikes is lawful, based on the statement of the Messenger of Allah (peace be upon him) which we previously mentioned: "If you strike it with its proper tool, then eat," and his saying: "When you shoot your arrow, invoke Allah's name. If it disappears from you for a day and you find nothing but your arrow's trace, then eat." Thus, the Messenger of Allah (peace be upon him) gave a general ruling without specifying that one must target a particular

١٠٧٧ - مَسْأَلَةٌ: وَمَنْ رَمَى جَمَاعَةَ صَيْدٍ، وَسَمَّى اللَّهَ تَعَالَى وَنَوَى أَيَّهَا أَصَابَ، فَأَيُّهَا أَصَابَ حَلَالٌ لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الَّذِي ذَكَرْنَاهُ آنِفًا «إذَا أَصَابَ بِحَدِّهِ فَكُلْ» . وَقَوْلِهِ - عَلَيْهِ السَّلَامُ -: «إذَا رَمَيْتَ سَهْمَكَ فَاذْكُرْ اسْمَ اللَّهِ فَإِنْ غَابَ

عَنْكَ يَوْمًا فَلَمْ تَجِدْ إِلَّا أَثَرَ سَهْمِكَ فَكُلْ» فَعَمَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَمْ يَخُصَّ أَنْ يَقْصِدَ صَيْدًا مِنْ الْجُمْلَةِ بِعَيْنِهِ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] ١٠٧٨ - مَسْأَلَةٌ: فَلَوْ لَمْ يَنْوِ إِلَّا وَاحِدًا بِعَيْنِهِ فَإِنْ أَصَابَهُ فَهُوَ حَلَالٌ، وَإِنْ أَصَابَ غَيْرَهُ فَإِنْ أَدْرَكَ ذَكَاتَهُ فَهُوَ حَلَالٌ، فَإِنْ لَمْ يُدْرِكْ ذَكَاتَهُ لَمْ يَحِلَّ أَكْلُهُ. وَكَذَلِكَ لَوْ رَمَى وَسَمَّى اللَّهَ تَعَالَى وَلَمْ يَنْوِ صَيْدًا فَأَصَابَ صَيْدًا لَمْ يَحِلَّ أَكْلُهُ إِلَّا أَنْ يُدْرِكَ ذَكَاتَهُ. وَكَذَلِكَ لَوْ أَرَادَ ذَبْحَ حَيَوَانٍ مُتَمَلَّكٍ بِعَيْنِهِ فَذَبَحَ غَيْرَهُ مُخْطِئًا لَمْ يَحِلَّ أَكْلُهُ لِأَنَّهُ لَمْ يُسَمِّ اللَّهَ تَعَالَى عَلَيْهِ قَاصِدًا إلَيْهِ، وَقَدْ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ وَلِكُلِّ امْرِئٍ مَا نَوَى» .

animal from the group. {And your Lord is never forgetful} [Maryam: 64]. 1078.[7]

L17201 Issue: If one intends only a specific animal and hits it, it is permissible. If he hits another animal, it is permissible if he manages to slaughter it ritually; otherwise, eating it is not permissible. Similarly, if one shoots while invoking the name of Allah the Exalted without intending to hunt, and it strikes game, eating it is not permissible unless he manages to slaughter it ritually. Likewise, if one intends to slaughter ritually a specifically owned animal but mistakenly slaughters another ritually, eating it is not permissible because he did not invoke the name of Allah the Exalted upon it while directing his intention to it. The Messenger of Allah—peace be upon him—said: "Deeds are judged by intentions, and every person will be rewarded according to what they intended."

[مَسْأَلَةٌ رَمَى صَيْدًا فَأَثْخَنَهُ ثُمَّ رَمَاهُ فَسَمَّى اللَّهَ تَعَالَى فَقَتَلَهُ]

L17202 **Issue: He shot at game and severely wounded it. Then he shot it again, invoked "Bismillah," and killed it.**

١٠٧٩ - مَسْأَلَةٌ: وَلَوْ أَنَّ امْرَأً رَمَى صَيْدًا فَأَثْخَنَهُ وَجَعَلَهُ مَقْدُورًا عَلَيْهِ، ثُمَّ رَمَاهُ هُوَ أَوْ غَيْرُهُ فَسَمَّى اللَّهَ تَعَالَى فَقَتَلَهُ فَهُوَ مَيْتَةٌ فَلَا يَحِلُّ أَكْلُهُ، لِأَنَّهُ إذْ قَدَرَ عَلَيْهِ لَمْ تَكُنْ ذَكَاتُهُ إلَّا بِالذَّبْحِ أَوْ النَّحْرِ، فَلَمْ يُذَكِّهِ كَمَا أُمِرَ، فَهُوَ غَيْرُ مُذَكًّى، وَعَلَى قَاتِلِهِ إنْ كَانَ غَيْرَهُ ضَمَانُ مِثْلِهِ لِلَّذِي أَثْخَنَهُ، لِأَنَّهُ قَدْ مَلَكَهُ بِالْإِثْخَانِ وَخُرُوجِهِ عَنْ الِامْتِنَاعِ، فَقَاتِلُهُ مُعْتَدٍ عَلَيْهِ، وَقَدْ قَالَ تَعَالَى: {فَمَنِ اعْتَدَى عَلَيْكُمْ فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اعْتَدَى عَلَيْكُمْ} [البقرة: ١٩٤] . وَلَوْ جَرَحَهُ إلَّا أَنَّهُ مُمْتَنِعٌ بَعْدُ، فَهُوَ لِمَنْ أَخَذَهُ، لِأَنَّهُ لَا يَمْلِكُهُ إلَّا بِالْخُرُوجِ عَنْ الِامْتِنَاعِ، فَمَا دَامَ مُمْتَنِعًا فَهُوَ غَيْرُ مَمْلُوكٍ بَعْدُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17203–17205 1079 - Issue: If a man shoots a game animal, inflicts severe wounds that render it possible to subdue, then he or another shoots it while uttering "Bismillah" (in God's name), thereby killing it, it becomes an unslaughtered carcass and is unlawful to eat. This is because once the animal becomes accessible for capture, its ritual slaughter can only be valid through throat-slitting (dhabḥ, for non-camels) or jugular vein cutting (naḥr, for camels). Since it was not properly slaughtered as prescribed, it remains ritually invalid. If someone other than the subduer kills it, the slayer becomes liable to replace it with an equivalent animal for the initial subduer, who gained ownership by rendering the animal incapable of resistance through severe wounding. The slayer thus unlawfully infringes upon the subduer's ownership, as God Almighty states: *"So whoever transgresses against you, respond with equivalent transgression"* (Quran 2:194). If the animal is wounded but still resisting, it belongs to whoever captures it, for ownership is only estab-

[7] **Qur'an references (L17200):** Qur'an 19:64 (Maryam).

lished by rendering it incapable of resistance. As long as he is in a state of refusal, he is not yet owned – and success is from Allah, the Most High.[8]

L17206 **A jurisprudential issue regarding one who set up a trap or snare, or dug a game pit for hunting.**

L17207 1080 - Issue: Whoever sets a trap, snare, or digs a pit for hunting, whatever falls into any of these belongs solely to him, and none other may lawfully claim it. If he sets these devices for purposes other than hunting and game falls into them, it belongs to whoever retrieves it. Similarly, if one finds game caught by a trained hunting animal or bearing an arrow wound that has rendered it incapable of resistance, it is unlawful to take it, in accordance with the Messenger of Allah's (peace be upon him) saying: "Actions are but by intentions, and each person will have what they intended." When one intends to hunt, they acquire rights to whatever they capture from their intended prey. If they did not intend hunting, they gain no rights over what falls into their traps, and such game remains available for anyone to claim. Likewise, birds nesting in a tree or the walls of one's home belong to whoever takes them unless he establishes ownership through an act.

It is narrated through Malik's chain from Yahyā ibn Saʿīd al-Anṣārī, from Muḥammad ibn Ibrāhīm ibn al-Ḥārith al-Taymī, from ʿĪsā ibn Ṭalḥah ibn ʿUbaydullāh, from ʿUmayr ibn Salamah al-Ḍamrī, who reported from al-Bahzī: "The Messenger of Allah (peace be upon him) passed by al-Rawḥā and found a hamstrung wild donkey. He said, 'Leave it, for its owner will soon arrive,' then proceeded until reaching al-Uthāyah, where a gazelle was sitting on its haunches in a shaded shelter with an arrow in it. The Prophet (peace be upon him) instructed a man to stand firmly and guard it so no one would disturb it."

Abū Muḥammad said: This refutes Abū Ḥanīfah's ruling that if someone shoots game and it dies in others' presence without being slaughtered according to Islamic law, it becomes unlawful—for the Prophet (peace be upon him) neither ordered such slaughter for that gazelle nor claimed it, leaving it instead for the archer. This al-Bahzī owned that hamstrung donkey.

[8] **Qur'an references (L17203):** Qur'an 2:194 (Al-Baqarah).

[مَسْأَلَةٌ نَصَبَ خَفًّا أَوْ حِبَالَةً أَوْ حَفَرَ زُبْيَةً لِلصَّيْدِ]

١٠٨٠ - مَسْأَلَةٌ: وَمَنْ نَصَبَ خَفًّا، أَوْ حِبَالَةً، أَوْ حَفَرَ زُبْيَةً كُلُّ ذَلِكَ لِلصَّيْدِ، فَكُلُّ مَا وَقَعَ فِي شَيْءٍ مِنْ ذَلِكَ فَهُوَ لَهُ وَلَا يَحِلُّ لِأَحَدٍ سِوَاهُ، فَإِنْ نَصَبَهَا لِغَيْرِ الصَّيْدِ فَوَقَعَ فِيهَا صَيْدٌ فَهُوَ لِمَنْ أَخَذَهُ. وَكَذَلِكَ مَنْ وَجَدَ صَيْدًا قَدْ صَادَهُ جَارِحٌ أَوْ فِيهِ رَمْيَةٌ قَدْ جَعَلَتْهُ غَيْرَ مُمْتَنِعٍ فَلَا يَحِلُّ لَهُ أَخْذُهُ، لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ وَلِكُلِّ امْرِئٍ مَا نَوَى» . وَإِذَا نَوَى الصَّيْدَ فَقَدْ مَلَكَ كُلَّ مَا قَدَرَ عَلَيْهِ مِمَّا قَصَدَ تَمَلُّكَهُ، وَإِذَا لَمْ يَنْوِ الصَّيْدَ فَلَمْ يَتَمَلَّكْ مَا وَقَعَ فِيهَا فَهُوَ بَاقٍ عَلَى حَالِهِ لِكُلِّ مَنْ تَمَلَّكَهُ - وَكَذَلِكَ مَا عَشَّشَ فِي شَجَرَةٍ أَوْ جُدْرَانِ دَارِهِ هُوَ لِمَنْ أَخَذَهُ إلَّا أَنْ يُحْدِثَ لَهُ تَمَلُّكًا -: رُوِّينَا مِنْ طَرِيقِ مَالِكٍ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ أَنَا مُحَمَّدُ بْنُ إبْرَاهِيمَ بْنِ الْحَارِثِ التَّيْمِيُّ عَنْ عِيسَى بْنِ طَلْحَةَ بْنِ عُبَيْدِ اللَّهِ عَنْ عُمَيْرِ بْنِ سَلَمَةَ الضَّمْرِيِّ أَخْبَرَهُ عَنْ الْبَهْزِيِّ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَرَّ بِالرَّوْحَاءِ فَإِذَا حِمَارُ وَحْشٍ عَقِيرٌ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: دَعُوهُ فَإِنَّهُ يُوشِكُ أَنْ يَأْتِيَ صَاحِبُهُ، ثُمَّ مَضَى فَلَمَّا كَانَ بِالْأُثَايَةِ إذَا ظَبْيٌ حَاقِفٌ فِي ظِلٍّ وَفِيهِ سَهْمٌ فَأَمَرَ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَجُلًا يَثْبُتُ عِنْدَهُ لَا يَرِيبُهُ أَحَدٌ مِنْ النَّاسِ» . قَالَ أَبُو مُحَمَّدٍ: وَهَذَا يُبْطِلُ قَوْلَ أَبِي حَنِيفَةَ فِيمَنْ رَمَى صَيْدًا فَوَقَعَ بِحَضْرَةِ قَوْمٍ فَلَمْ يُذَكُّوهُ حَتَّى مَاتَ، فَهُوَ حَرَامٌ، لِأَنَّهُ - عَلَيْهِ السَّلَامُ - لَمْ يَأْمُرْ بِتَذْكِيَةِ ذَلِكَ الظَّبْيِ وَتَرَكَهُ لِصَاحِبِهِ الَّذِي رَمَاهُ، وَهَذَا الْبَهْزِيُّ هُوَ كَانَ صَاحِبَ ذَلِكَ الْحِمَارِ الْعَقِيرِ. ١٠٨١ -

1081 -

L17208–17210 Issue: If he dies in a snare or pitfall, his consumption remains impermissible whether the trapper placed an iron implement there or not, because he did not intend ritual slaughter through the commanded methods of hunting by projectile or killing via predator. The entire creature remains forbidden during its lifetime and becomes permissible only through explicit textual evidence - which is absent here. Yet some early scholars permitted it: We have been narrated through Ma'mar's chain from Jābir al-Juʿfī who said: "I asked al-Shaʿbī about one who placed his sickle where a bird passed by and was killed." He disapproved of eating it. When I asked Sālim ibn ʿAbdullāh about it, he saw no objection. Through Saʿīd ibn Manṣūr's chain: Hushaym reported to us from Yūnus, from al-Ḥasan that he saw no harm in it. Regarding game caught by sickles, he said: "Mention Allah's name when you deploy them." Through the chain of Saʿīd ibn Masrūq: Hushaym narrated to us: I am Husayn - son of 'Abd al-Rahmān and great-nephew of Masrūq - who asked Ibn 'Umar about game caught by sickles. Ibn 'Umar replied: "As for what becomes visibly affected by it while still alive, do not eat it, and eat all else. None of the Companions are known to have disagreed with him. The Hanafis and Malikis have opposed him, condemning this against others."

L17211 **An issue: owning a live wild animal, or a ritually slaughtered one, or portions of aquatic game.**

L17212 1082. Issue: Anyone who owns a wild animal—whether alive, properly slaughtered, or a part of aquatic game—retains ownership over it as part of their property without dispute. If the animal escapes, reverts to the wild, and returns to land or sea, it remains the owner's permanent property. None may lawfully take it except with the owner's consent. This applies equally to all offspring produced by such animals indefinitely, based on Allah's decree: "Do not consume one another's wealth unjustly" [Al-Baqarah 2:188], and the Prophet's (peace be upon him) declaration: "Your blood and your wealth are inviolable." This constitutes property owned by its possessor through the consensus of those who disagree with us, rendering it unlawful for others

مَسْأَلَةٌ: فَلَوْ مَاتَ فِي الْحِبَالَةِ، أَوْ الزُّبْيَةِ، لَمْ يَحِلَّ أَكْلُهُ سَوَاءٌ جَعَلَ هُنَالِكَ حَدِيدَةً أَمْ لَمْ يَجْعَلْ، لِأَنَّهُ لَمْ يَقْصِدْ تَذْكِيَتَهُ كَمَا أُمِرَ أَنْ يُذَكِّيَهُ بِهِ مِنْ رَمْيٍ أَوْ قَتْلِ جَارِحٍ، وَالْحَيَوَانُ كُلُّهُ حَرَامٌ فِي حَالِ حَيَاتِهِ، فَلَا يَنْتَقِلُ إلَى التَّحْلِيلِ إلَّا بِنَصٍّ وَلَا نَصَّ فِي هَذَا. وَقَدْ أَبَاحَهُ بَعْضُ السَّلَفِ -: رُوِّينَا مِنْ طَرِيقِ مَعْمَرٍ عَنْ جَابِرٍ الْجُعْفِيِّ قَالَ: سَأَلْتُ الشَّعْبِيَّ عَمَّنْ وَضَعَ مِنْجَلَهُ فَيَمُرُّ بِهِ طَائِرٌ فَيَقْتُلُهُ؟ فَكَرِهَ أَكْلَهُ - وَسَأَلْتُ عَنْهُ سَالِمَ بْنَ عَبْدِ اللَّهِ فَلَمْ يَرَ بِهِ بَأْسًا. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا هُشَيْمٌ أَنَا يُونُسُ عَنْ الْحَسَنِ أَنَّهُ كَانَ لَا يَرَى بَأْسًا بِصَيْدِ الْمَنَاجِلِ، وَقَالَ: سَمِّ إذَا نَصَبْتَهَا. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَسْرُوقٍ نا هُشَيْمٌ أَنَا حُصَيْنٌ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ ابْنِ أَخِي مَسْرُوقٍ - سَأَلَ ابْنَ عُمَرَ عَنْ صَيْدِ الْمَنَاجِلِ؟ فَقَالَ ابْنُ عُمَرَ: أَمَّا مَا بَانَ مِنْهُ وَهُوَ حَيٌّ فَلَا تَأْكُلْ وَكُلْ مَا سِوَى ذَلِكَ، وَلَا يُعْرَفُ لَهُ مِنْ الصَّحَابَةِ مُخَالِفٌ، قَدْ خَالَفَهُ الْحَنَفِيُّونَ، وَالْمَالِكِيُّونَ وَهُمْ يُشَنِّعُونَ هَذَا عَلَى غَيْرِهِمْ.

[مَسْأَلَةٌ مَلَكَ حَيَوَانًا وَحْشِيًّا حَيًّا أَوْ مُذَكًّى أَوْ بَعْضَ صَيْدِ الْمَاءِ]

١٠٨٢ - مَسْأَلَةٌ: وَكُلُّ مَنْ مَلَكَ حَيَوَانًا وَحْشِيًّا حَيًّا أَوْ مُذَكًّى أَوْ بَعْضَ صَيْدِ الْمَاءِ كَذَلِكَ فَهُوَ لَهُ كَسَائِرِ مَالِهِ بِلَا خِلَافٍ، فَإِنْ أَفْلَتَ وَتَوَحَّشَ وَعَادَ إلَى الْبَرِّ أَوْ الْبَحْرِ فَهُوَ بَاقٍ عَلَى مِلْكِ مَالِكِهِ أَبَدًا، وَلَا يَحِلُّ لِسِوَاهُ إلَّا بِطِيبِ نَفْسِ مَالِكِهِ، وَكَذَلِكَ كُلُّ مَا تَنَاسَلَ مِنْ الْإِنَاثِ مِنْ ذَلِكَ أَبَدًا. لِقَوْلِ اللَّهِ تَعَالَى: {وَلا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ} [البقرة: ١٨٨] . وَلِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ» . وَهَذَا مَالٌ مِنْ مَالِهِ بِإِجْمَاعِ الْمُخَالِفِينَ مَعَنَا فَلَا يَحِلُّ لِسِوَاهُ إلَّا

except through lawful means applicable to all property. This is the majority opinion.

Mālik asserted: “If the animal becomes wild, it belongs to the one who takes it”—a clearly corrupt view contradicting the Qur’an, Sunnah, and reason. They concede that if the animal escapes and is seized the same day or the next, it remains the owner’s. Let them define the precise point at which ownership ceases, for no criterion exists. They are asked about someone who owns a wild animal that breeds in his care, then its offspring flee. If they affirm that ownership lapses, this must apply universally, for all creatures in Allah’s initial creation were unowned before being claimed. The same logic governs doves in towers and bees: whatever is distinguished as domesticated and its progeny remain perpetually the owner’s property.

Mālik’s aforementioned view, al-Layth’s opinion that “an animal left unattended in a neglected place belongs to its finder,” and similar claims—such as damaged goods from ships wrecked at sea, which the sea casts ashore, belonging to whoever retrieves them, even if the owner produces testimony from upright witnesses—are all corrupt and manifestly false. They constitute the illegitimate appropriation of a Muslim’s or protected non-Muslim’s property through unjust means.[9]

A Juristic Inquiry on Dispatching the Predator (for Hunting).

L17213

1083. Issue: As for the ruling on releasing a hunting animal, such an animal inevitably falls into one of the following cases: Whether trained or untrained, the trained hunting animal is that which does not set out until released by its owner. When released, it departs, and when it seizes and kills without eating any of the prey, then once it has learned this action—killing from the outset without consuming any of it—it becomes a trained animal. The prey it kills is lawful to eat when released by its owner for hunting, provided the owner mentions Allah’s name upon releasing it. It is equally permissible whether the kill occurs through wounding, striking, collision, or suffocation—all such methods are lawful. If the animal kills and eats

L17214–17216

[9] **Qur’an references (L17212):** Qur’an 2:188 (Al-Baqarah).

بِمَا يَحِلُّ بِهِ سَائِرُ مَالِهِ. وَهُوَ قَوْلُ جُمْهُورِ النَّاسِ. وَقَالَ مَالِكٌ: إِذَا تَوَحَّشَ فَهُوَ لِمَنْ أَخَذَهُ - وَهَذَا قَوْلٌ بَيِّنُ الْفَسَادِ مُخَالِفٌ لِلْقُرْآنِ، وَالسُّنَّةِ، وَالنَّظَرِ، وَهُمْ لَا يَخْتَلِفُونَ فِي أَنَّهُمْ إِنْ أَفْلَتَ فَأُخِذَ مِنْ يَوْمِهِ، أَوْ مِنَ الْغَدِ فَلَا يَحِلُّ لِغَيْرِ مَالِكِهِ فَلْيُبَيِّنُوا لَنَا الْحَدَّ الَّذِي إِذَا بَلَغَهُ خَرَجَ بِهِ عَنْ مِلْكِ مَالِكِهِ وَلَا سَبِيلَ لَهُ إِلَيْهِ. وَيُسْأَلُونَ عَمَّنْ مَلَكَ وَحْشِيًّا فَتَنَاسَلَ عِنْدَهُ ثُمَّ شَرَدَ نَسْلُهَا؟ فَإِنْ قَالُوا: يَسْقُطُ مِلْكُهُ عَنْهُ - لَزِمَهُمْ ذَلِكَ فِي كُلِّ حَيَوَانٍ فِي الْعَالَمِ، لِأَنَّ جَمِيعَهَا فِي أَوَّلِ خَلْقِ اللَّهِ تَعَالَى لَهَا كَانَتْ غَيْرَ مُتَمَلَّكَةٍ ثُمَّ مُلِّكَتْ وَكَذَلِكَ الْقَوْلُ فِي حَمَامِ الْأَبْرَاجِ، وَالنَّحْلُ كُلُّ مَا مَيَّزَ فَهُوَ وَنَسْلُهُ لِمَالِكِهِ أَبَدًا لِمَا ذَكَرْنَا. وَقَوْلُ مَالِكٍ الَّذِي ذَكَرْنَا، وَقَوْلُ اللَّيْثِ: مَنْ تَرَكَ دَابَّتَهُ بِمَضْيَعَةٍ فَهِيَ لِمَنْ وَجَدَهَا لَا تُرَدُّ إِلَى صَاحِبِهَا - وَكَقَوْلِ اللَّيْثِ، أَوْ غَيْرِهِ مِنْ نُظَرَائِهِ: مَا عَطِبَ فِي الْبَحْرِ مِنَ السُّفُنِ فَرَمَى الْبَحْرُ مَتَاعًا مِمَّا غَرِقَ فِيهَا فَهُوَ لِمَنْ أَخَذَهُ لَا لِصَاحِبِهِ، وَلَوْ قَامَتْ لَهُ بِكُلِّ ذَلِكَ بَيِّنَةُ عَدْلٍ وَهَذِهِ أَقْوَالٌ فَاسِدَةٌ ظَاهِرَةُ الْبُطْلَانِ، لِأَنَّهُ إِيكَالُ مَالِ مُسْلِمٍ، أَوْ ذِمِّيٍّ بِالْبَاطِلِ.

[مَسْأَلَةٌ إِرْسَالِ الْجَارِحِ]

١٠٨٣ - مَسْأَلَةٌ: وَأَمَّا حُكْمُ إِرْسَالِ الْجَارِحِ، فَلَا يَخْلُو ذَلِكَ الْجَارِحُ مِنْ أَنْ يَكُونَ مُعَلَّمًا أَوْ غَيْرَ مُعَلَّمٍ فَالْمُعَلَّمُ هُوَ الَّذِي لَا يَنْطَلِقُ حَتَّى يُطْلِقَهُ صَاحِبُهُ، فَإِذَا أَطْلَقَهُ انْطَلَقَ، وَإِذَا أَخَذَ وَقَتَلَ وَلَمْ يَأْكُلْ مِنْ ذَلِكَ الصَّيْدِ شَيْئًا، فَإِذَا تَعَلَّمَ هَذَا الْعَمَلَ، فَبِأَوَّلِ مُدَّةٍ يُقْتَلُ وَلَا يَأْكُلُ مِنْهُ شَيْئًا فَهُوَ مُعَلَّمٌ حَلَالٌ أَكْلُ مَا قَتَلَ مِمَّا أَطْلَقَهُ عَلَيْهِ صَاحِبُهُ وَذَكَرَ اسْمَ اللَّهِ تَعَالَى عِنْدَ إِطْلَاقِهِ. وَسَوَاءٌ قَتَلَهُ بِجُرْحٍ أَوْ بِرَضٍّ، أَوْ بِصَدْمٍ، أَوْ بِخَنْقٍ كُلُّ ذَلِكَ حَلَالٌ. فَإِنْ قَتَلَهُ وَأَكَلَ مِنْ لَحْمِهِ شَيْئًا فَذَلِكَ الصَّيْدُ حَرَامٌ لَا يَحِلُّ أَكْلُ شَيْءٍ مِنْهُ.

any portion, the prey becomes entirely unlawful. This ruling applies equally in all we have mentioned: dogs, other predators of four-legged animals, falcons, and other birds of prey without distinction. The distinction between trained and untrained lies in Allah's words: "And what you have trained of hunting animals by training them as hunting dogs, teaching them from what Allah taught you—so eat what they catch for you" (5:4). What we will later cite from the Prophet's teachings—by Allah's will—confirms that He has only permitted what our trained hunting animals catch for us. Regarding training: Allah has not permitted us except what our trained animals catch. Necessarily, we recognize that predatory birds and four-legged animals hunt by natural instinct for their own sustenance and livelihood. Thus, there must be additional training beyond their innate behavior—training they would not acquire otherwise. Were this not so, every predator would be considered trained—contrary to the Quran, the Sunnah, and the fact that no one asserts this. Since this distinction is essential, no other form of training exists except what we have described.[10]

وَسَوَاءٌ فِي كُلِّ مَا ذَكَرْنَا الْكَلْبُ، وَغَيْرُهُ مِنْ سِبَاعِ دَوَابِّ الْأَرْبَعِ، وَالْبَازِي وَغَيْرُهُ مِنْ سِبَاعِ الطَّيْرِ وَلَا فَرْقَ. فَأَمَّا الْفَرْقُ بَيْنَ الْمُعَلَّمِ وَغَيْرِ الْمُعَلَّمِ فَهُوَ قَوْلُ اللَّهِ تَعَالَى: {وَمَا عَلَّمْتُمْ مِنَ الْجَوَارِحِ مُكَلِّبِينَ تُعَلِّمُونَهُنَّ مِمَّا عَلَّمَكُمُ اللَّهُ فَكُلُوا مِمَّا أَمْسَكْنَ عَلَيْكُمْ} [المائدة: ٤] . وَمَا سَنَذْكُرُهُ بَعْدَ هَذَا مِنْ كَلَامِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنْ شَاءَ اللَّهُ فَلَمْ يُبِحْ لَنَا عَزَّ وَجَلَّ إلَّا مَا أَمْسَكَ عَلَيْنَا جَوَارِحُنَا الْمُعَلَّمَةُ. وَأَمَّا قَوْلُنَا فِي التَّعْلِيمِ: فَإِنَّ اللَّهَ تَعَالَى لَمْ يُبِحْ لَنَا كَمَا ذَكَرْنَا إلَّا مَا أَمْسَكَ عَلَيْنَا جَوَارِحُنَا الْمُعَلَّمَةُ، وَبِالضَّرُورَةِ نَدْرِي أَنَّ سِبَاعَ الطَّيْرِ، وَذَوَاتَ الْأَرْبَعِ تَعْلَمُ التَّصَيُّدَ بِطَبْعِهَا لِأَنْفُسِهَا وَمَعَاشِهَا فَلَا بُدَّ مِنْ شَيْءٍ زَائِدٍ تَعْلَمُهُ لَمْ تَكُنْ تَعْلَمُهُ إلَّا أَنْ تَعَلَّمَهُ لَا بُدَّ مِنْ هَذَا ضَرُورَةً، وَإِلَّا فَكُلُّ جَارِحٍ فَهُوَ مُعَلَّمٌ - وَهَذَا خِلَافُ الْقُرْآنِ، وَالسُّنَنِ، وَلَا يَقُولُهُ أَحَدٌ، فَإِذْ لَا بُدَّ مِنْ هَذَا فَلَيْسَ هَهُنَا شَيْءٌ يُمْكِنُ أَنْ تُعَلَّمَهُ إلَّا مَا ذَكَرْنَاهُ.

L17217–17219 The early scholars differed regarding this matter. Abū Ḥanīfah and al-Shāfiʿī stated: If the hunting animal seizes prey and does not eat it time after time, it is considered trained. What it kills after those repeated instances may be eaten, though they did not specify a limit for this. Abū Yūsuf and Muḥammad ibn al-Ḥasan said: If it seizes prey and does not eat it three times, it is deemed trained. What it kills during the fourth instance may be eaten, but what it killed during those three instances may not be eaten. Abū Sulaymān held: If it seizes prey and does not eat it once, it is considered trained. What it kills during the second instance may be eaten, but what it killed during the first instance may not be eaten. Abū Thawr maintained: If it seizes prey and does not eat it, the first prey it kills in that initial instance may be eaten. Abū Muḥammad remarked: As for the position of Abū Ḥanīfah and al-Shāfiʿī, its apparent error lies in their failure to clarify when... The permissibility of eating what has been killed and when it is impermissible. In such cases, silence is preferable, as it is a matter of sheer ambiguity with no clarification or evi-

وَقَدْ اخْتَلَفَ الْمُتَقَدِّمُونَ فِي هَذَا فَقَالَ أَبُو حَنِيفَةَ، وَالشَّافِعِيُّ: إذَا أَمْسَكَ وَلَمْ يَأْكُلْ وَفَعَلَ ذَلِكَ مَرَّةً بَعْدَ مَرَّةٍ فَهُوَ مُعَلَّمٌ يُؤْكَلُ مَا قَتَلَ بَعْدَ تِلْكَ الْمِرَارِ، وَلَمْ يَحُدَّا فِي ذَلِكَ حَدًّا. وَقَالَ أَبُو يُوسُفَ، وَمُحَمَّدُ بْنُ الْحَسَنِ: إذَا أَمْسَكَ وَلَمْ يَأْكُلْ ثَلَاثَ مَرَّاتٍ فَهُوَ مُعَلَّمٌ يُؤْكَلُ مَا قَتَلَ فِي الرَّابِعَةِ وَلَا يُؤْكَلُ مَا قَتَلَ فِي تِلْكَ الثَّلَاثِ مَرَّاتٍ. وَقَالَ أَبُو سُلَيْمَانَ: إذَا أَمْسَكَ فَلَمْ يَأْكُلْ مَرَّةً فَهُوَ مُعَلَّمٌ وَيُؤْكَلُ مَا قَتَلَ فِي الثَّانِيَةِ وَلَا يُؤْكَلُ مَا قَتَلَ فِي الْأُولَى. وَقَالَ أَبُو ثَوْرٍ: إذَا أَمْسَكَ وَلَمْ يَأْكُلْ فَأَوَّلُ مَرَّةٍ يَفْعَلُ ذَلِكَ يُؤْكَلُ مَا قَتَلَ. قَالَ أَبُو مُحَمَّدٍ: أَمَّا قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ فَظَاهِرُ الْخَطَأِ لِأَنَّهُمَا لَمْ يُبَيِّنَا مَتَى يَحِلُّ أَكْلُ مَا قَتَلَ وَمَتَى لَا يَحِلُّ، وَمَا كَانَ هَكَذَا فَالسُّكُوتُ عَنْهُ أَوْلَى لِأَنَّهُ إشْكَالٌ مَحْضٌ، لَا بَيَانَ فِيهِ وَلَا دَلِيلَ عَلَيْهِ، وَدِينُ اللَّهِ تَعَالَى بَيِّنٌ لَائِحٌ قَدْ فَصَّلَ لَنَا مَا حَرَّمَ

[10] **Qur'an references (L17214):** Qur'an 5:4 (Al-Ma'idah).

dence. The religion of Allah the Exalted is clear and manifest, having clearly distinguished for us what He prohibited from what He did not prohibit—and to Allah the Exalted belongs all praise. Thus, this opinion is invalidated with certainty. As for the opinion of Abū Yūsuf and Muḥammad, its invalidity is more evident than that of the first opinion, for they prescribed a limit not supported by any textual evidence from the Qur'ān, the Sunnah, the statements of the Companions, rational basis, nor any distinction between one who sets the limit at three instances and one who sets it at four, five, two instances, or more. All such rulings constitute legislation in the religion that Allah the Exalted has not authorized. Therefore, this opinion is invalidated with certainty.

عَلَيْنَا مِمَّا لَمْ يَحْرُمْ - وَلِلَّهِ تَعَالَى الْحَمْدُ - فَسَقَطَ هَذَا الْقَوْلُ بِيَقِينٍ. وَأَمَّا قَوْلُ أَبِي يُوسُفَ، وَمُحَمَّدٍ فَأَظْهَرُ فَسَادًا مِنْ الْقَوْلِ الْأَوَّلِ لِأَنَّهُمَا حَدَّا حَدًّا لَمْ يَأْتِ بِهِ نَصٌّ مِنْ قُرْآنٍ، وَلَا سُنَّةٍ، وَلَا قَوْلِ صَاحِبٍ، وَلَا مَعْقُولٍ وَلَا فَرْقَ بَيْنَ مَنْ حَدَّ بِثَلَاثِ مَرَّاتٍ وَبَيْنَ مَنْ حَدَّ بِأَرْبَعٍ، أَوْ خَمْسٍ، أَوْ بِمَرَّتَيْنِ، أَوْ بِمَا زَادَ - وَكُلُّ ذَلِكَ، شَرْعٌ فِي الدِّينِ لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى فَبَطَلَ هَذَا الْقَوْلُ بِيَقِينٍ.

L17220 As for the statement of Abū Sulaymān, he argued that we only knew the hunting animal was trained through that initial action, thereby confirming its training. Thus, in the second instance, it is a trained animal, and what it has killed may be eaten. ʿAlī said: We responded: You are correct. Through that initial action, we knew it was trained, and there is no doubt it was untrained beforehand. Once its training was confirmed through that action, it became certain it hunted while trained. Had it been untrained, it would not have fulfilled the conditions of training. Therefore, since it hunted while trained, consuming its prey is lawful. This is the view of Abū Thawr, and it is undoubtedly the correct position. As for Mālik, he neglected the ruling on eating the prey caught by the trained animal, which is erroneous, as we shall clarify, God willing. Concerning the permissibility of eating what it kills regardless of method, some argued: Only prey it wounds may be eaten, not what it kills by choking, collision, crushing, or suffocation—citing God's words: "from the trained hunting animals" [5:4]. ʿAlī said: This reflects their ignorance, for the trained animal is the one that seizes prey. God, exalted, said: "He knows what you injure by day" [6:60]. Even if "trained hunting animals" were understood as "those inflicting injury," their argument would fail, for God named them trained hunting animals, and they are indeed trained hunters and killers, without doubt. He did not say: "Do not eat except what they wound," but rather: "Eat of what they catch for you" [5:4], without specifying wounding. "Your Lord is never forgetful" [19:64], for His

وَأَمَّا قَوْلُ أَبِي سُلَيْمَانَ فَإِنَّهُ احْتَجَّ بِأَنَّنَا لَمْ نَعْلَمْ أَنَّهُ مُعَلَّمٌ إلَّا بِتِلْكَ الْفِعْلَةِ الْأُولَى فَبِهَا عَلِمْنَا أَنَّهُ قَدْ تَعَلَّمَ فَهُوَ فِي الثَّانِيَةِ مُعَلَّمٌ يُؤْكَلُ مَا قَتَلَ. قَالَ عَلِيٌّ: فَقُلْنَا: صَدَقْتُمْ، إنَّهُ بِتِلْكَ الْفِعْلَةِ الْأُولَى عَلِمْنَا أَنَّهُ مُعَلَّمٌ، وَلَا شَكَّ أَنَّهُ قَبْلَهَا لَمْ يَكُنْ مُعَلَّمًا، فَلَمَّا صَحَّ أَنَّهُ مُعَلَّمٌ بِتِلْكَ الْفِعْلَةِ صَحَّ يَقِينًا أَنَّهُ صَادَ تِلْكَ الْمَرَّةَ وَهُوَ مُعَلَّمٌ، وَلَوْ لَمْ يَكُنْ مُعَلَّمًا لَمَا أَتَى بِشُرُوطِ التَّعْلِيمِ، فَإِذْ صَادَهَا وَهُوَ مُعَلَّمٌ فَحَلَالٌ أَكْلُ مَا صَادَ فِيهَا. وَهَذَا قَوْلُ أَبِي ثَوْرٍ: وَهَذَا الْقَوْلُ الصَّحِيحُ بِلَا شَكٍّ. وَأَمَّا مَالِكٌ: فَلَمْ يُرَاعِ أَكْلَ الْجَارِحِ وَهُوَ خَطَأٌ لِمَا نَذْكُرُ إنْ شَاءَ اللَّهُ تَعَالَى. وَأَمَّا جَوَازُ أَكْلِ مَا قَتَلَ كَيْفَمَا قَتَلَ فَإِنَّ قَوْمًا قَالُوا: لَا يُؤْكَلُ إلَّا مَا جَرَحَ لَا مَا قَتَلَ بِخَنْقٍ، أَوْ صَدْمٍ، أَوْ رَضٍّ، أَوْ غَمٍّ - وَاحْتَجُّوا بِقَوْلِ اللَّهِ تَعَالَى: {مِنَ الْجَوَارِحِ} [المائدة: ٤] . قَالَ عَلِيٌّ: وَهَذَا جَهْلٌ مِنْهُمْ، لِأَنَّ الْجَارِحَ الْكَاسِبُ قَالَ اللَّهُ تَعَالَى: {وَيَعْلَمُ مَا جَرَحْتُمْ بِالنَّهَارِ} [الأنعام: ٦٠] وَحَتَّى لَوْ كَانَ مُرَادُ اللَّهِ تَعَالَى بِقَوْلِهِ: (الْجَوَارِحِ) مِنْ الْجِرَاحِ لَمَا كَانَ لَهُمْ فِيهِ حُجَّةٌ، لِأَنَّ اللَّهَ تَعَالَى سَمَّاهُنَّ جَوَارِحَ، وَهُنَّ جَوَارِحُ، وَقَوَاتِلُ، بِلَا شَكٍّ، وَلَمْ يَقُلْ تَعَالَى: (لَا تَأْكُلُوا إلَّا مِمَّا وَلَّدْنَ فِيهِ جِرَاحَةً)

بَلْ قَالَ تَعَالَى: {فَكُلُوا مِمَّا أَمْسَكْنَ عَلَيْكُمْ} [المائدة: ٤] وَلَمْ يَذْكُرْ تَعَالَى بِجِرَاحَةٍ، وَلَا بِغَيْرِ جِرَاحَةٍ، {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] . وَقَالَ بَعْضُهُمْ: قِسْنَا الْجَارِحَ عَلَى الْمِعْرَاضِ إنْ خُزِقَ أُكِلَ وَإِنْ رُضَّ لَمْ يُؤْكَلْ.

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا بَاطِلٌ لِأَنَّهُ قِيَاسٌ.

ثُمَّ لَوْ صَحَّ الْقِيَاسُ لَكَانَ هَذَا بَاطِلًا لِأَنَّهُ لَا قِيَاسَ عِنْدَهُمْ مَعَ نَصٍّ وَالنَّصُّ جَاءَ فِي الْمِعْرَاضِ بِمَا ذَكَرُوا، وَفِي الْجَارِحِ بِغَيْرِ ذَلِكَ كَمَا ذَكَرْنَا مِنْ قَوْلِ اللَّهِ تَعَالَى. وَكَمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نا إِسْحَاقُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - نا جَرِيرٌ هُوَ ابْنُ عَبْدِ الْحَمِيدِ - عَنْ مَنْصُورٍ عَنْ إبْرَاهِيمَ النَّخَعِيِّ عَنْ هَمَّامِ بْنِ الْحَارِثِ عَنْ عَدِيِّ بْنِ حَاتِمٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: «إذَا أَرْسَلْتَ كَلْبَكَ الْمُعَلَّمَ وَذَكَرْتَ اسْمَ اللَّهِ عَلَيْهِ فَكُلْ، قُلْتُ: وَإِنْ قَتَلْنَ؟ قَالَ: وَإِنْ قَتَلْنَ مَا لَمْ يُشْرِكْهَا كَلْبٌ لَيْسَ مَعَهَا» . وَمِنْ طَرِيقِ الْبُخَارِيِّ نا أَبُو نُعَيْمٍ هُوَ الْفَضْلُ بْنُ دُكَيْنٍ - نا زَكَرِيَّا هُوَ ابْنُ أَبِي زَائِدَةَ - عَنْ الشَّعْبِيِّ عَنْ «عَدِيِّ بْنِ حَاتِمٍ قَالَ: سَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ أَخْذِ الْكَلْبِ؟ فَقَالَ: كُلْ مَا أَمْسَكَ عَلَيْكَ فَإِنَّ أَخْذَ الْكَلْبِ ذَكَاةٌ» . وَمِنْ طَرِيقِ مُسْلِمٍ نا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ نا أَبِي نا زَكَرِيَّا - هُوَ ابْنُ أَبِي زَائِدَةَ - عَنْ الشَّعْبِيِّ عَنْ «عَدِيِّ بْنِ حَاتِمٍ قَالَ سَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ صَيْدِ الْكَلْبِ؟ فَقَالَ: مَا أَمْسَكَ عَلَيْكَ وَلَمْ يَأْكُلْ مِنْهُ فَكُلْهُ فَإِنَّ ذَكَاتَهُ أَخْذُهُ» فَأَمَرَهُ - عَلَيْهِ السَّلَامُ - بِأَكْلِ مَا قَتَلَ الْكَلْبُ الْمُعَلَّمُ وَأَخْبَرَ أَنَّهُ ذَكَاةٌ وَلَمْ يَشْتَرِطْ - عَلَيْهِ السَّلَامُ - بِجِرَاحَةٍ مِنْ غَيْرِهَا، فَاشْتِرَاطُ ذَلِكَ بَاطِلٌ لَا يَجُوزُ. وَقَوْلُنَا هُوَ قَوْلُ أَبِي الْحَسَنِ بْنِ الْمُغَلِّسِ، وَغَيْرِهِ.

omission is deliberate. Some argued: We analogize the trained animal to the blunt arrow—if it pierces, the prey is eaten; if it crushes without bleeding, it is not eaten.[11]

L17221–17222 Abu Muhammad said: This is invalid because it is analogical reasoning (qiyās).

L17223 Furthermore, if analogical reasoning were valid, this would be invalid because they do not apply analogy in the presence of explicit textual evidence. The explicit text regarding the mi'rāḍ (hunting spear) is as they mentioned, and concerning the jāriḥ (wounding instrument), it is otherwise as we mentioned from the statement of Allah the Exalted. As narrated to us through Muslim's chain: Isḥāq ibn Ibrāhīm – Ibn Rāhwaih – narrated to us; Jarīr ibn 'Abd al-Ḥamīd narrated to us from Manṣūr, from Ibrāhīm al-Nakha'ī, from Hammām ibn al-Ḥārith, from 'Adī ibn Ḥātim that the Messenger of Allah – peace be upon him – said to him: "When you release your trained dog and invoke Allah's name upon it, then eat." I said: "Even if it kills?" He said: "Even if it kills, provided no other dog unassociated with it participates." Through Bukhārī's chain: Abū Nu'aym [al-Faḍl ibn Dukayn] narrated to us; Zakariyyā [Ibn Abī Zā'idah] narrated to us from al-Sha'bī, from 'Adī ibn Ḥātim, who said: "I asked the Messenger of Allah – peace be upon him – about taking game with a dog. He said: 'Eat whatever it captures for you, for the dog's capture constitutes ritual slaughter.'" Through Muslim's chain: Muḥammad ibn 'Abdullāh ibn Numayr narrated to us; my father narrated to us; Zakariyyā [Ibn Abī Zā'idah] narrated to us from al-Sha'bī, from 'Adī ibn Ḥātim, who said: "I asked the Messenger of Allah – peace be upon him – about hunting with a dog. He said: 'Whatever it captures for you without eating from it, eat it, for its ritual slaughter is its capture.'" Thus, the Prophet – peace be upon him – commanded him to eat what the trained dog killed and affirmed that this constitutes ritual slaughter, without stipulating a wound from another instrument. Therefore, stipulating such a condition

[11] **Qur'an references (L17220):** Qur'an 6:60 (Al-An'am); Qur'an 5:4 (Al-Ma'idah); Qur'an 19:64 (Maryam).

is invalid and impermissible. Our opinion aligns with that of Abū al-Ḥasan Ibn al-Mughallis and others.[12]

L17224–17226 As for the prohibition of eating game when a hunting animal has consumed part of it, this is based on Allah's statement: {"Then eat of what they catch for you"} [5:4]. Thus, Allah the Exalted has not permitted for us what hunting animals catch indiscriminately, nor what they catch for themselves, but only what they catch specifically for us. Through empirical evidence, we understand that if a hunting animal eats from the prey, it has caught it for itself and hunted it for its own benefit – thus making it unlawful. Furthermore, Allah the Exalted states: {"Prohibited to you are carrion, blood, swine flesh, what has been dedicated to other than Allah, animals strangled, beaten to death, fallen from height, gored, and what predators have eaten – except what you properly slaughter"} [5:3]. A dog is unquestionably a predator by consensus. Therefore, what it consumes becomes prohibited by the Quran's explicit text, leaving no permissibility except where the text specifically allows. Through al-Bukhārī's transmission: Adam narrated to us, Shuʿbah narrated from ʿAbdullāh ibn Abī al-Safar, from al-Shaʿbī, from ʿAdī ibn Ḥātim that Allah's Messenger (peace be upon him) told him: "When you release your trained dog after pronouncing Allah's name, and it catches, kills, then eats [from the prey], do not [...]" Eat [the prey], for the dog has only caught it for itself. From the chain of Ahmad ibn Shuʿayb: Suwayd ibn Nasr → Abdullah ibn al-Mubarak → ʿAsim (al-Ahwal) → al-Shaʿbi → ʿAdi ibn Hatim that the Messenger of Allah—peace and blessings be upon him—said to him: "When you release your dog, mention Allah's name over it. If you find it has not killed [the prey], slaughter it and mention Allah's name over it. If you find it has killed but not eaten [the prey], then eat, for it caught it for you. But if you find it has eaten any of the prey, do not consume it, for the dog has caught it only for itself." He mentioned the remainder of the report. This is the position held by a group of the Salaf. It is authentically established through the chain of Maʿmar → Abdullah ibn Tawus → his father

وَأَمَّا تَحْرِيمُ أَكْلِ الصَّيْدِ إِذَا أَكَلَ مِنْهُ الْجَارِحُ فَلِقَوْلِ اللَّهِ تَعَالَى: {فَكُلُوا مِمَّا أَمْسَكْنَ عَلَيْكُمْ} [المائدة: ٤] فَلَمْ يُبِحْ لَنَا اللَّهُ تَعَالَى مَا أَمْسَكْنَ فَقَطْ وَلَا مَا أَمْسَكْنَ عَلَى أَنْفُسِهِنَّ بَلْ مَا أَمْسَكْنَ عَلَيْنَا فَقَطْ، وَبِالْمُشَاهَدَةِ نَدْرِي أَنَّهُ إِذَا أَكَلَ مِنْهُ فَعَلَى نَفْسِهِ أَمْسَكَ وَلَهَا صَادَ فَهُوَ حَرَامٌ. وَأَيْضًا قَوْلُ اللَّهِ تَعَالَى: {وَالْمُنْخَنِقَةُ وَالْمَوْقُوذَةُ وَالْمُتَرَدِّيَةُ وَالنَّطِيحَةُ وَمَا أَكَلَ السَّبُعُ إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] وَالْكَلْبُ سَبُعٌ بِلَا خِلَافٍ فَتَحْرِيمُ مَا أَكَلَ مِنْهُ حَرَامٌ بِنَصِّ الْقُرْآنِ فَلَا يَحِلُّ إِلَّا حَيْثُ أَحَلَّهُ النَّصُّ فَقَطْ. وَمِنْ طَرِيقِ الْبُخَارِيِّ نا آدَم نا شُعْبَةُ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي السَّفَرِ عَنْ الشَّعْبِيِّ عَنْ عَدِيِّ بْنِ حَاتِمٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: «إِذَا أَرْسَلْتَ كَلْبَكَ وَسَمَّيْتَ فَأَخَذَ فَقَتَلَ فَأَكَلَ فَلَا تَأْكُلْ فَإِنَّمَا أَمْسَكَ عَلَى نَفْسِهِ» . وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا سُوَيْدُ بْنُ نَصْرٍ أَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ عَنْ عَاصِمٍ هُوَ الْأَحْوَلُ - عَنْ الشَّعْبِيِّ عَنْ عَدِيِّ بْنِ حَاتِمٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: «إِذَا أَرْسَلْتَ كَلْبَكَ فَاذْكُرْ اسْمَ اللَّهِ عَلَيْهِ فَإِنْ أَدْرَكْتَهُ لَمْ يَقْتُلْ فَاذْبَحْ وَاذْكُرْ اسْمَ اللَّهِ عَلَيْهِ، فَإِنْ أَدْرَكْتَهُ قَدْ قَتَلَ وَلَمْ يَأْكُلْ فَكُلْ فَقَدْ أَمْسَكَهُ عَلَيْكَ وَإِنْ وَجَدْتَهُ قَدْ أَكَلَ مِنْهُ فَلَا تَطْعَمْ مِنْهُ شَيْئًا فَإِنَّمَا أَمْسَكَ عَلَى نَفْسِهِ» وَذَكَرَ بَاقِي الْخَبَرِ - وَبِهَذَا يَقُولُ جَمَاعَةٌ مِنْ السَّلَفِ -: صَحَّ مِنْ طَرِيقِ مَعْمَرٍ عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ عَنْ ابْنِ عَبَّاسٍ إِذَا أَكَلَ الْكَلْبُ الْمُعَلَّمُ فَلَا تَأْكُلْ مِنْهُ فَإِنَّمَا أَمْسَكَ عَلَى نَفْسِهِ.

[12] **Hadith references (L17223):** Sahih Muslim 1929a.

→ Ibn Abbas: “If the trained dog eats any of the prey, do not consume it, for it has only caught it for itself.”[13]

L17227 From Sa‘īd ibn Manṣūr: Narrated from Sufyān, from ‘Amr ibn Dīnār, from ‘Aṭā’, from Ibn ‘Abbās, who said: If the dog eats, do not eat, for it has kept it for itself. Narrated from Ḥumām: Narrated from al-Bājī Abū Muḥammad: Narrated from Muḥammad ibn ‘Abd al-Malik ibn Ayman: Narrated from Aḥmad ibn Muslim: Narrated from Abū Thawr: Narrated from ‘Alī ibn al-Ḥasan ibn Shaqīq: Narrated from ‘Abdullāh ibn al-Mubārak: Narrated from Naṣr ibn Idrīs, from his uncle, who said: I asked Abū Hurayrah about a dog he sent. He said to me: “Rebuke it. When you release it, invoke the name of Allah the Exalted. If it eats, do not eat.” Through the chain of Wakī‘: Narrated from Sufyān al-Thawrī, from Layth, from Mujāhid, from Ibn ‘Umar, who said: If it eats, then it is not trained. This is the view of Abū Burdah ibn Abī Mūsā al-Ash‘arī, al-Sha‘bī, al-Nakha‘ī, ‘Ikrimah, and ‘Aṭā’—authentically reported from him (‘Aṭā’) via the chain of Wakī‘, from al-Rabī‘ ibn Ṣubayḥ, from ‘Aṭā’, who was asked: “If the falcon or goshawk eats?” He replied: “Do not eat.” A similar ruling is reported from ‘Ikrimah—and it is the opinion of Sa‘īd ibn Jubayr, Suwayd ibn Ghaflah, and Ḥammād ibn Abī Sulaymān. Al-Sha‘bī forbade eating the prey if the hunting animal drank its blood. This is the view of Sufyān al-Thawrī.

وَعَنْ سَعِيدِ بْنِ مَنْصُورٍ نا سُفْيَانُ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ عَطَاءٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: إِذَا أَكَلَ الْكَلْبُ فَلَا تَأْكُلْ فَإِنَّمَا أَمْسَكَ عَلَى نَفْسِهِ. نا حُمَامٌ نا الْبَاجِيَّ أَبُو مُحَمَّدٍ نا مُحَمَّدُ بْنُ عَبْدِ الْمَلِكِ بْنِ أَيْمَنَ نا أَحْمَدُ بْنُ مُسْلِمٍ نا أَبُو ثَوْرٍ نا عَلِيُّ بْنُ الْحَسَنِ بْنُ شَقِيقٍ نا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ نا نَصْرُ بْنُ إِدْرِيسَ عَنْ عَمِّهِ قَالَ: سَأَلْتُ أَبَا هُرَيْرَةَ عَنْ كَلْبٍ أَرْسَلَهُ؟ فَقَالَ لِي وَذَّمْهُ فَإِذَا أَرْسَلْته فَسَمِّ اللَّهَ تَعَالَى فَإِنْ أَكَلَ فَلَا تَأْكُلْ - وَمِنْ طَرِيقِ وَكِيعٍ نا سُفْيَانُ الثَّوْرِيُّ عَنْ لَيْثٍ عَنْ مُجَاهِدٍ عَنْ ابْنِ عُمَرَ قَالَ: إذَا أَكَلَ فَلَيْسَ بِمُعَلَّمٍ. وَهُوَ قَوْلُ أَبِي بُرْدَةَ بْنِ أَبِي مُوسَى الْأَشْعَرِيِّ، وَالشَّعْبِيِّ، وَالنَّخَعِيِّ، وَعِكْرِمَةَ، وَعَطَاءٍ صَحَّ عَنْهُ مِنْ طَرِيقِ وَكِيعٍ عَنْ الرَّبِيعِ بْنِ صُبَيْحٍ عَنْ عَطَاءٍ قَالَ فِي الصَّقْرِ وَالْبَازِي يَأْكُلُ؟ قَالَ: لَا تَأْكُلْ، وَمِثْلُهُ عَنْ عِكْرِمَةَ - وَهُوَ قَوْلُ سَعِيدِ بْنِ جُبَيْرٍ، وَسُوَيْدِ بْنِ غَفَلَةَ، وَحَمَّادِ بْنِ أَبِي سُلَيْمَانَ. وَمَنَعَ الشَّعْبِيُّ مِنْ أَكْلِ الصَّيْدِ إذَا شَرِبَ الْجَارِحُ مِنْ دَمِهِ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ،

L17228–17230 And Abu Hanifah, al-Shafi’i, Abu Thawr, Ahmad ibn Hanbal, Abu Sulayman, and all their companions. Malik said: It may be eaten even if he ate from it. Those who followed him adduced as proof what we have reported through the narration of Abu Dawud: I am Muhammad ibn ‘Isa, who narrated to us from Hushaym, who narrated to us from Dawud ibn ‘Amr, from Busr ibn ‘Ubayd Allah, from Abu Idris al-Khawlani. From Abu Tha‘labah, who said: The Messenger of Allah—peace and blessings be upon him—said: “If you release your dog while mentioning Allah’s name, then eat [the game] even if it eats.” Through the chain of ‘Amr ibn Shu‘ayb, from his father, from his grandfather: “The Prophet—peace and blessings be upon him—said to Abu

وَأَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَبِي ثَوْرٍ، وَأَحْمَدَ بْنِ حَنْبَلٍ، وَأَبِي سُلَيْمَانَ، وَجَمِيعِ أَصْحَابِهِمْ. وَقَالَ مَالِكٌ: يُؤْكَلُ وَإِنْ أَكَلَ مِنْهُ، وَاحْتَجَّ لَهُ مَنْ قَلَّدَهُ بِمَا رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد أَنَا مُحَمَّدُ بْنُ عِيسَى نا هُشَيْمٌ نا دَاوُد بْنُ عَمْرٍو عَنْ بُسْرِ بْنِ عُبَيْدِ اللَّهِ عَنْ أَبِي إِدْرِيسَ الْخَوْلَانِيِّ عَنْ أَبِي ثَعْلَبَةَ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إذَا أَرْسَلْتَ كَلْبَكَ وَذَكَرْتَ اسْمَ اللَّهِ فَكُلْ وَإِنْ أَكَلَ مِنْهُ» . وَمِنْ طَرِيقِ عَمْرِو بْنِ شُعَيْبٍ عَنْ أَبِيهِ عَنْ جَدِّهِ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لِأَبِي ثَعْلَبَةَ: إنْ كَانَ لَك كِلَابٌ

[13] **Qur’an references (L17224):** Qur’an 5:4 (Al-Ma’idah); Qur’an 5:3 (Al-Ma’idah).

Tha'labah: 'If you have trained hunting dogs, eat what they seize for you even if they eat from it. Eat whatever returns to your bow, and if the game is out of your sight, so long as it has not strayed.'" Through the chain of 'Abd al-Malik ibn Habib: Asad ibn Musa narrated to us from Ibn Abi Za'idah, from al-Sha'bi, from 'Adiyy ibn Hatim, who said: "I asked: 'O Messenger of Allah, we dwell in a game-rich land and have dogs we send out—do they catch game?' He—peace and blessings be upon him—replied: 'Eat what they seize for you unless another dog joins them.' I asked: 'O Messenger of Allah, even if it kills?' He said: 'Even if it kills.' I asked: 'Even if it eats?' He said: 'Even if it eats.'" Through the chain of Sufyan al-Thawri, from Simak ibn Harb, from Murayy ibn Qaṭari, from 'Adiyy ibn Hatim, who said: The Messenger of Allah—peace and blessings be upon him—said: "Whatever a hunting dog catches for you, eat it." I asked: "Even if it eats?" He said: "Yes."[14]

مُكَلَّبَةً فَكُلْ مِمَّا أَمْسَكْنَ عَلَيْكَ، وَإِنْ أَكَلَ مِنْهُ كُلْ مَا رَدَّتْ عَلَيْكَ قَوْسَكَ، وَإِنْ تَغَيَّبَ عَنْكَ مَا لَمْ يَضِلَّ» . وَمِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ نا أَسَدُ بْنُ مُوسَى عَنِ ابْنِ أَبِي زَائِدَةَ عَنِ الشَّعْبِيِّ «عَنْ عَدِيِّ بْنِ حَاتِمٍ قُلْتُ: يَا رَسُولَ اللَّهِ إِنَّا بِأَرْضِ صَيْدٍ وَلَنَا كِلَابٌ نُرْسِلُهَا فَتَأْخُذُ الصَّيْدَ؟ فَقَالَ - عَلَيْهِ السَّلَامُ -: كُلْ مِمَّا أَمْسَكْنَ عَلَيْكَ إِلَّا أَنْ يُخَالِطَهَا كَلْبٌ مِنْ غَيْرِهَا؟ قُلْتُ: يَا رَسُولَ اللَّهِ وَإِنْ قَتَلْنَ، قَالَ: وَإِنْ قَتَلْنَ، قُلْتُ: وَإِنْ أَكَلْنَ، قَالَ: وَإِنْ أَكَلْنَ» . وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ سِمَاكِ بْنِ حَرْبٍ عَنْ مُرَيِّ بْنِ قَطَرِيٍّ عَنْ عَدِيِّ بْنِ حَاتِمٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَا كَانَ مِنْ كَلْبٍ ضَارٍ أَمْسَكَ عَلَيْكَ فَكُلْ، قُلْتُ: وَإِنْ أَكَلَ؟ قَالَ: نَعَمْ» .

L17231–17233 And from the chain of Muḥammad ibn Jarīr al-Ṭabarī: Al-Ḥārith narrated to me, Muḥammad ibn Sa'īd narrated to us, Muḥammad ibn 'Umar al-Wāqidī narrated to us, Muḥammad ibn 'Abdullāh — the nephew of al-Zuhrī — narrated to us from Abī 'Umayr al-Ṭā'ī from Abī al-Nu'mān from his father — who was from Sa'd Hudhaym — who said: I said, "O Messenger of Allāh, we are people of hunting." The Messenger of Allāh — peace and blessings of Allāh be upon him — said to him: "When you release your trained dog and mention Allāh's name, and it kills, then eat." We asked, "Even if it ate, do we eat?" He replied, "Yes." They rejected the notion that the dog intends to seize for its owner or for itself — and it is authentically reported from Ibn 'Umar: "Eat from what your trained dog has eaten, even if it ate." It is also narrated from Sa'd ibn Abī Waqqāṣ: "Eat even if nothing remains but a piece." And from the chain of Ḥammād ibn Salama from Dāwūd from al-Sha'bī from Abī Hurayrah: "If you release your dog and it eats two-thirds, then eat." And from the chain of Shu'bah and Ḥammād ibn Salama: Shu'bah said — from Qatādah from Sa'īd ibn al-Musayyab — and Ḥammād said — from Ḥumayd from Bakr ibn 'Abdillāh al-Muzanī. Then Bakr and Sa'īd both concurred, narrating from... Salman al-Farisi held that game hunted by a

وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ جَرِيرٍ الطَّبَرِيِّ حَدَّثَنِي الْحَارِثُ نا مُحَمَّدُ بْنُ سَعِيدٍ نا مُحَمَّدُ بْنُ عُمَرَ الْوَاقِدِيُّ نا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ ابْنُ أَخِي الزُّهْرِيِّ عَنْ أَبِي عُمَيْرٍ الطَّائِيِّ عَنْ أَبِي النُّعْمَانِ عَنْ أَبِيهِ - وَهُوَ مِنْ سَعْدِ هُذَيْمٍ - قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ إِنَّا أَصْحَابُ قَنْصٍ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِذَا أَرْسَلْتَ كَلْبَكَ الْمُعَلَّمَ وَذَكَرْتَ اسْمَ اللَّهِ فَقَتَلَ فَكُلْ، قُلْنَا وَإِنْ أَكَلَ نَأْكُلُ؟ قَالَ: نَعَمْ» . وَاعْتَرَضُوا عَلَى الْقَوْلِ بِأَنَّ الْكَلْبَ لَهُ نِيَّةٌ فِي الْإِمْسَاكِ عَلَى مُرْسِلِهِ أَوْ عَلَى نَفْسِهِ بِالْإِنْكَارِ لِذَلِكَ - وَصَحَّ عَنِ ابْنِ عُمَرَ: كُلْ مِمَّا أَكَلَ مِنْهُ كَلْبُكَ الْمُعَلَّمُ وَإِنْ أَكَلَ. وَرُوِيَ أَيْضًا عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ كُلْ وَإِنْ لَمْ يَبْقَ إِلَّا بِضْعَةٌ. وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ دَاوُد عَنِ الشَّعْبِيِّ عَنْ أَبِي هُرَيْرَةَ إِذَا أَرْسَلْتَ كَلْبَكَ فَأَكَلَ ثُلُثَيْهِ فَكُلْ. وَمِنْ طَرِيقِ شُعْبَةَ، وَحَمَّادِ بْنِ سَلَمَةَ قَالَ شُعْبَةُ: عَنْ قَتَادَةَ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، وَقَالَ حَمَّادٌ: عَنْ حُمَيْدٍ عَنْ بَكْرِ بْنِ عَبْدِ اللَّهِ الْمُزَنِيِّ ثُمَّ اتَّفَقَ بَكْرٌ، وَسَعِيدٌ كِلَاهُمَا عَنْ سَلْمَانَ الْفَارِسِيِّ: أَنْ يُؤْكَلَ مِنْ صَيْدِ الْكَلْبِ وَإِنْ أَكَلَ ثُلُثَيْهِ.

[14] **Hadith references (L17228):** Sunan Abi Dawud 2852.

dog is permissible to eat even if the dog consumed two-thirds of it. A narration is attributed to Ali through an unidentified and unnamed chain of transmission, which is also the opinion of al-Zuhri and Rabi'ah. There is disagreement regarding the positions of al-Hasan and 'Ata'. Abu Muhammad stated: "We have exhaustively examined all the arguments they raise in dispute, and none of them constitutes valid evidence for their claim. As for the narrations ascribed to the Prophet (peace and blessings be upon him), all are invalid and unauthenticated. The hadith of Abu Tha'labah, for instance, is transmitted through Dawud ibn 'Umar, a weak narrator whom Ahmad ibn Hanbal deemed unreliable and who was accused of fabrication. Should they persist, claiming: 'But he is trustworthy!' We reply: 'If you insist on affirming his reliability here, then adhere to his narration transmitted via Abdullah ibn Ahmad ibn Hanbal from his father: Hushaym reported from Dawud ibn 'Umar, from Busr ibn 'Ubaydullah, from Idris al-Khawlani, from 'Awf ibn Malik al-Ashja'i: 'During the Tabuk expedition, the Messenger of Allah (peace and blessings be upon him) instructed travelers to wipe over khuffs for three days and nights, and residents for one day and night." This is the very same chain. To cite such narrations as religious proofs when they align with your desires and the opinions of those you blindly follow, while discarding them when they contradict these, constitutes a grave sin in Allah's religion. This is the trait Allah ascribes to those who say: {If you are granted this, accept it; but if you are not, beware} [5:41]. Herein lies sufficient admonition for the discerning. As for us, we neither cite these as proofs nor accept them as valid evidence. Concerning the hadith of 'Amr ibn Shu'ayb – a written record – should they demand its validation, we respond: 'Then accept his narration from his father, from his grandfather, from the Prophet (peace and blessings be upon him): 'The diyah for accidental killing is one hundred camels: thirty one-year-old she-camels (bint makhad), thirty two-year-old she-camels (bint labun), twenty four-year-old she-camels (ḥiqqah), and twenty two-year-old male camels (ibn labun). For cattle owners, it is two hundred cows,' and 'The Messenger of Allah (peace and blessings be upon him), Abu Bakr, and Umar burned the possessions of spoils-thieves and flogged them.' And much more besides this, which they reject solely by weakening the chain of 'Amr's transmission from his father and grandfather,

وَرُوِيَ عَنْ عَلِيٍّ مِنْ طَرِيقِ مَنْ لَا يُعْرَفُ مَنْ هُوَ وَلَا سُمِّيَ أَيْضًا وَهُوَ قَوْلُ الزُّهْرِيِّ، وَرَبِيعَةَ - وَاخْتُلِفَ فِيهِ عَنْ الْحَسَنِ. وَعَطَاءٍ. قَالَ أَبُو مُحَمَّدٍ: هَذَا كُلُّ مَا شَغَبُوا بِهِ قَدْ تَقَصَّيْنَاهُ لَهُمْ وَكُلُّهُ لَا حُجَّةَ لَهُمْ فِيهِ. أَمَّا الْآثَارُ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَكُلُّهَا سَاقِطَةٌ لَا تَصِحُّ -: أَمَّا حَدِيثُ أَبِي ثَعْلَبَةَ فَمِنْ طَرِيقِ دَاوُد بْنِ عُمَرَ. وَهُوَ ضَعِيفٌ، ضَعَّفَهُ أَحْمَدُ بْنُ حَنْبَلٍ وَقَدْ ذُكِرَ بِالْكَذِبِ، فَإِنْ لَجُّوا وَقَالُوا: بَلْ هُوَ ثِقَةٌ؟ قُلْنَا: لَا عَلَيْكُمْ إنْ وَثَّقْتُمُوهُ هَهُنَا فَخُذُوا رِوَايَتَهُ الَّتِي رُوِّينَاهَا مِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ أَحْمَدَ بْنِ حَنْبَلٍ عَنْ أَبِيهِ نا هُشَيْمٌ أَنَا دَاوُد بْنُ عُمَرَ عَنْ بُسْرِ بْنِ عُبَيْدِ اللَّهِ إدْرِيسَ الْخَوْلَانِيِّ عَنْ عَوْفِ بْنِ مَالِكٍ الْأَشْجَعِيِّ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ بِالْمَسْحِ عَلَى الْخُفَّيْنِ فِي غَزْوَةِ تَبُوكَ ثَلَاثَةَ أَيَّامٍ لِلْمُسَافِرِ وَلَيَالِهِنَّ وَيَوْمٌ وَلَيْلَةٌ لِلْمُقِيمِ» فَهَذِهِ تِلْكَ الطَّرِيقُ بِعَيْنِهَا. وَمِنْ الْكَبَائِرِ فِي دِينِ اللَّهِ تَعَالَى الِاحْتِجَاجُ بِهَا إذَا اشْتَهَيْتُمْ وَوَافَقَتْ أَهْوَاءَكُمْ وَرَأْيَ مَنْ قَلَّدْتُمُوهُ دِينَكُمْ، وَإِطْرَاحُهَا إذَا خَالَفَتْ أَهْوَاءَكُمْ وَرَأْيَ مَنْ قَلَّدْتُمُوهُ هَذِهِ الصِّفَةَ الَّتِي ذَكَرَهَا اللَّهُ تَعَالَى عَنْ قَوْمٍ يَقُولُونَ {إنْ أُوتِيتُمْ هَذَا فَخُذُوهُ وَإِنْ لَمْ تُؤْتَوْهُ فَاحْذَرُوا} [المائدة: ٤١] وَفِي هَذَا كِفَايَةٌ لِمَنْ عَقَلَ. وَأَمَّا نَحْنُ فَمَا نَحْتَجُّ بِهِ أَصْلًا، وَلَا نَقْبَلُهُ حُجَّةً. وَأَمَّا حَدِيثُ عَمْرِو بْنِ شُعَيْبٍ فَصَحِيفَةٌ، فَإِنْ أَبَوْا إلَّا تَصْحِيحَهَا، قُلْنَا: لَا عَلَيْكُمْ خُذُوا بِرِوَايَتِهِ عَنْ أَبِيهِ عَنْ جَدِّهِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَنْ قُتِلَ خَطَأً فَدِيَتُهُ مِائَةٌ مِنْ الْإِبِلِ: ثَلَاثُونَ بِنْتُ مَخَاضٍ، وَثَلَاثُونَ بِنْتُ لَبُونٍ، وَعِشْرُونَ حِقَّةً، وَعِشْرُونَ ابْنُ لَبُونٍ ذَكَرٍ، وَعَلَى أَهْلِ الْبَقَرِ مِائَتَا بَقَرَةٍ» «وَأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَبَا بَكْرٍ، وَعُمَرَ: حَرَقُوا مَتَاعَ الْغَالِّ وَضَرَبُوهُ» ، وَغَيْرُ هَذَا كَثِيرٌ مِمَّا خَالَفُوهُ وَلَمْ يَرُدُّوهُ

despite its authenticity as valid proof in Allah's religion. They attribute narrations to the Prophet (peace and blessings be upon him) when these suit their desires and the views of their authorities, yet dismiss them as rejected and unverified when contradictory. Is this not manifest misguidance? How can a Muslim's soul feel at ease with such [behavior]?"[15]

إِلَّا بِتَضْعِيفِ رِوَايَتِهِ عَنْ أَبِيهِ عَنْ جَدِّهِ فَهِيَ صَحِيحَةٌ، وَحُجَّةٌ فِي دِينِ اللَّهِ تَعَالَى وَمَنْسُوبَةٌ إِلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إذَا اشْتَهَوْا وَوَافَقَتْ أَهْوَاءَهُمْ، وَرَأْيَ مَنْ قَلَّدُوهُ، وَهِيَ مَرْدُودَةٌ مُطَّرَحَةٌ غَيْرُ مُصَدَّقَةٍ إذَا خَالَفَتْ أَهْوَاءَهُمْ، وَرَأْيَ مَنْ قَلَّدُوهُ، أَلَا ذَلِكَ هُوَ الضَّلَالُ الْمُبِينُ، وَمَا نَدْرِي كَيْفَ تَنْبَسِطُ نَفْسُ مُسْلِمٍ لِمِثْلِ هَذَا؟

L17234–17235 As for the narration from 'Adi ibn Hatim: one of its two chains comes through the report of 'Abd al-Malik ibn Habib al-Andalusi. He narrated sheer falsehood attributed to trustworthy authorities through Asad ibn Musa, who is rejected in hadith transmission.

وَأَمَّا الْخَبَرُ: عَنْ عَدِيِّ بْنِ حَاتِمٍ -: فَأَحَدُ: طَرِيقَيْهِ مِنْ رِوَايَةِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ الْأَنْدَلُسِيِّ. وَقَدْ رَوَى الْكَذِبَ الْمَحْضَ عَنْ الثِّقَاتِ عَنْ أَسَدِ بْنِ مُوسَى وَهُوَ مُنْكَرُ الْحَدِيثِ.

L17236 The second [narration] is through the chain of Simāk ibn Ḥarb—who accepts prompting—from Murayy ibn Qaṭarīy, who is unknown. How many narrations of Asad and Simāk do they discard when they contradict their desires? As for the ḥadīth of Abū al-Nuʿmān: it is problematic. Within it, al-Wāqidī—noted for falsehood—narrates from the nephew of al-Zuhrī—who is weak—from Abū ʿUmayr al-Ṭā'ī—whose identity is unknown—from Abū al-Nuʿmān—also unknown. Thus, all they clung to collapses. Regarding the Companions: the narration from Saʿd is invalid, as it comes through Ḥumayd ibn Mālik ibn al-Akhtam—who is obscure. Similarly, the narrations attributed to ʿAlī and Salmān are invalid, for we do not know of any instance where Saʿīd ibn al-Musayyib or Bakr ibn ʿAbd Allāh directly heard from Salmān, nor were they of an age to comprehend during Salmān's lifetime—may Allāh be pleased with him—as he died in the days of ʿUmar. However, the narration from Abū Hurayrah and Ibn ʿUmar is sound, though differences are reported from them on this matter, as we have cited.

وَالْأُخْرَى: مِنْ طَرِيقِ سِمَاكِ بْنِ حَرْبٍ وَهُوَ يَقْبَلُ التَّلْقِينَ عَنْ مُرَيِّ بْنِ قَطَرِيٍّ وَهُوَ مَجْهُولٌ. وَكَمْ رِوَايَةٍ لِأَسَدٍ، وَسِمَاكٍ، اطْرَحُوهَا إذَا خَالَفَتْ أَهْوَاءَهُمْ؟ وَأَمَّا حَدِيثُ أَبِي النُّعْمَانِ: فَمُصِيبَةٌ، فِيهِ الْوَاقِدِيُّ مَذْكُورٌ بِالْكَذِبِ عَنْ ابْنِ أَخِي الزُّهْرِيِّ - وَهُوَ ضَعِيفٌ - عَنْ أَبِي عُمَيْرٍ الطَّائِيِّ وَلَا يُدْرَى مَنْ هُوَ عَنْ أَبِي النُّعْمَانِ وَهُوَ مَجْهُولٌ - فَسَقَطَ كُلُّ مَا تَعَلَّقُوا بِهِ. وَأَمَّا عَنْ الصَّحَابَةِ: فَهُوَ عَنْ سَعْدٍ لَا يَصِحُّ، لِأَنَّهُ مِنْ طَرِيقِ حُمَيْدِ بْنِ مَالِكِ بْنِ الْأَخْتَمِ وَلَيْسَ بِالْمَشْهُورِ، وَعَنْ عَلِيٍّ كَذَلِكَ، وَعَنْ سَلْمَانَ كَذَلِكَ، لِأَنَّنَا لَا نَعْلَمُ لِسَعِيدِ بْنِ الْمُسَيِّبِ، وَلَا لِبَكْرِ بْنِ عَبْدِ اللَّهِ سَمَاعًا مِنْ سَلْمَانَ وَلَا كَانَا مِمَّنْ يَعْقِلُ؛ إذْ مَاتَ سَلْمَانُ - رَضِيَ اللَّهُ عَنْهُ - أَيَّامَ عُمَرَ بَلْ إنَّهُ صَحِيحٌ عَنْ أَبِي هُرَيْرَةَ، وَابْنِ عُمَرَ، وَقَدْ اُخْتُلِفَ عَنْهُمَا فِي ذَلِكَ كَمَا أَوْرَدْنَا.

L17237–17239 It has been authentically reported from Ibn Umar, as we narrated through Abd al-Razzaq's chain from Ibn Jurayj from Nafi' from Ibn Umar, who said: "Whatever is hunted with falcons or other birds—if you are able to slaughter

وَقَدْ صَحَّ عَنْ ابْنِ عُمَرَ مَا رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ: مَا يُصَادُ بِهِ مِنْ الْبِيزَانِ وَغَيْرِهَا مِنْ الطَّيْرِ فَمَا أَدْرَكْتَ ذَكَاتَهُ فَكُلْ وَمَا

[15] **Qur'an references (L17231):** Qur'an 5:41 (Al-Ma'idah).

it, then eat it; otherwise, do not consume it. As for the trained dog, eat from what it catches for you even if it has eaten from it. If Ibn Umar constitutes a valid authority in some of his rulings, he must be accepted as such in all of them; otherwise, this amounts to mockery of the religion. Their rejection of considering the intentions of dogs is itself the truly objectionable stance, for it constitutes a challenge to the Quran and to Allah's Messenger—peace and blessings be upon him. This is enough concerning the deprived one—we seek refuge in Allah from him. It is reported from Rabi'ah that he said: 'If a predator's consumption [of the game] rendered it unlawful, no one could lawfully hasten to the predator until knowing whether it would eat from it or not.' Abu Muhammad said: 'This is an utterly feeble statement, for within the first instant it is possible for the predator to...' [text incomplete]" He eats from what he killed. If he does not do so, we know he retained it on behalf of the one who commissioned him, not for himself. How then [could this apply] when we have never been charged with such an obligation? He – peace be upon him – only commanded us to abstain from eating if the hunter has eaten from it. Disgrace be upon every intellect that objects to Allah, the Exalted, and His Messenger – may Allah bless him and grant him peace. Thus, this claim is invalidated and entirely nullified – and all success lies with Allah, the Exalted.

لَا فَلَا تَطْعَمْ. وَأَمَّا الْكَلْبُ الْمُعَلَّمُ فَكُلْ مِمَّا أَمْسَكَ عَلَيْك وَإِنْ أَكَلَ مِنْهُ، فَإِنْ كَانَ ابْنُ عُمَرَ حُجَّةً فِي بَعْضِ قَوْلِهِ، فَهُوَ حُجَّةٌ فِي سَائِرِهِ، وَإِلَّا فَهُوَ تَلَاعُبٌ بِالدِّينِ. وَأَمَّا إنْكَارُهُمْ مُرَاعَاةَ نِيَّاتِ الْكِلَابِ فَقَوْلُهُمْ هَذَا هُوَ الْمُنْكَرُ نَفْسُهُ حَقًّا، لِأَنَّهُ اعْتِرَاضٌ عَلَى الْقُرْآنِ، وَعَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَحَسْبُ الْمَحْرُومِ هَذَا - وَنَعُوذُ بِاَللَّهِ مِنْهُ. وَرُوِيَ عَنْ رَبِيعَةَ أَنَّهُ قَالَ: لَوْ كَانَ أَكْلُ الْجَارِحِ يُحَرِّمُ مِنْهُ مَا بَقِيَ لَمْ يَحِلَّ لِأَحَدٍ أَنْ يُبَادِرَ إلَى الضَّارِي حَتَّى يَدْرِيَ أَيَأْكُلُ مِنْهُ أَمْ لَا؟ قَالَ أَبُو مُحَمَّدٍ: وَهَذَا [قَوْلٌ] فِي غَايَةِ السُّقُوطِ لِأَنَّ بِأَوَّلِ دَقِيقَةٍ يُمْكِنُ الْجَارِحَ أَنْ يَأْكُلَ مِمَّا قَتَلَ فَإِنْ لَمْ يَفْعَلْ عَلِمْنَا أَنَّهُ عَلَى مُرْسِلِهِ أَمْسَكَ لَا عَلَى نَفْسِهِ فَكَيْفَ وَلَمْ نُكَلَّفْ قَطُّ هَذَا؟ إنَّمَا أَمَرَ - عَلَيْهِ السَّلَامُ - أَنْ لَا نَأْكُلَ إذَا أَكَلَ، وَأُفٍّ أَوْ تُفٍّ لِكُلِّ عَقْلٍ يَعْتَرِضُ عَلَى اللَّهِ تَعَالَى وَعَلَى رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. فَسَقَطَ هَذَا الْقَوْلُ وَبَطَلَ جُمْلَةً - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17240 As for the permissibility of eating anything killed by a trained creature other than dogs, there is disagreement on this matter. We have narrated from Ibn Umar—as mentioned earlier—that it is unlawful to eat game killed by any of the trained hunting beasts except the trained one from among dogs alone. This has also been authentically established from Mujahid. It is authentically narrated from Ibn Abbas: "Whatever is trained to hunt and eats, it is permissible to eat what it kills."

وَأَمَّا جَوَازُ أَكْلِ كُلِّ مَا قَتَلَهُ الْمُعَلَّمُ مِنْ غَيْرِ الْكِلَابِ فَقَدْ اُخْتُلِفَ فِي هَذَا فَرُوِّينَا عَنْ ابْنِ عُمَرَ مَا رُوِّينَاهُ عَنْهُ آنِفًا مِنْ أَنَّهُ لَا يَحِلُّ أَكْلُ صَيْدٍ قَتَلَهُ شَيْءٌ مِنْ الْجَوَارِحِ إلَّا الْمُعَلَّمَ مِنْ الْكِلَابِ وَحْدَهُ - وَصَحَّ أَيْضًا عَنْ مُجَاهِدٍ. وَصَحَّ عَنْ ابْنِ عَبَّاسٍ: كُلُّ مَا عُلِّمَ فَصَادَ فَأَكَلَ مَا قَتَلَ جَائِزٌ.

L17241 Those who prohibited that argued that the authenticated reports from the Messenger of Allah—peace and blessings of Allah be upon him—pertain exclusively to dogs. They said: Allah's statement {And [what] you have trained of hunting creatures, preparing them as trained hunters} [Al-Mā'idah:4] refers specifically to dogs. They argued: Birds of prey and land predators cannot be trained at all, except dogs alone.

وَاحْتَجَّ مَنْ مَنَعَ ذَلِكَ بِأَنَّ الْأَخْبَارَ الثَّابِتَةَ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنَّمَا جَاءَتْ فِي الْكَلْبِ فَقَطْ، قَالُوا: وَقَوْلُ اللَّهِ تَعَالَى: {وَمَا عَلَّمْتُمْ مِنَ الْجَوَارِحِ مُكَلِّبِينَ} [المائدة: ٤] إشَارَةٌ إلَى الْكِلَابِ قَالُوا: وَسِبَاعُ الطَّيْرِ، وَسِبَاعُ الْبَرِّ، لَا يُمْكِنُ فِيهَا تَعْلِيمٌ

أَصْلًا حَاشَا الْكِلَابِ فَقَطْ. قَالَ أَبُو مُحَمَّد: أَمَّا الْأَخْبَارُ الثَّابِتَةُ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَكَمَا قَالُوا إلَّا أَنَّ الْآيَةَ أَعَمُّ مِنْ تِلْكَ الْأَحَادِيثِ لِقَوْلِ اللَّهِ تَعَالَى: {مِنَ الْجَوَارِحِ} [المائدة: ٤] فَعَمَّ كُلَّ جَارِحٍ، وَهَذَا لَا يَجُوزُ تَرْكُهُ لِخَبَرٍ فِيهِ بَعْضُ مَا فِي الْآيَةِ. وَأَمَّا قَوْله تَعَالَى: {مُكَلِّبِينَ} [المائدة: ٤] فَلَيْسَ فِيهِ دَلِيلٌ عَلَى أَنَّهُ لَا يُؤْكَلُ مَا قَتَلَهُ غَيْرُ الْكَلْبِ مِنْ الصَّيْدِ أَصْلًا، لَا بِنَصٍّ، وَلَا بِدَلِيلٍ، بَلْ فِيهِ بَيَانٌ بِأَنَّ صَيْدَ غَيْرِ الْكِلَابِ جَائِزٌ بِقَوْلِهِ تَعَالَى: {مُكَلِّبِينَ} [المائدة: ٤] لِأَنَّهَا لَا تَحْتَمِلُ هَذِهِ اللَّفْظَةَ أَلْبَتَّةَ إلَّا أَنْ يَجْعَلَهَا فِي حَالِ الْكِلَابِ - فَصَحَّ أَنَّهَا غَيْرُ الْكِلَابِ أَيْضًا. وَأَمَّا قَوْلُهُمْ: إنَّ مَا عَدَا الْكِلَابَ لَا يَقْبَلُ التَّعْلِيمَ الْمَذْكُورَ أَصْلًا، فَالْوَاجِبُ أَنْ يُنْظَرَ فِي ذَلِكَ، فَإِنْ وُجِدَ مِنْهَا نَوْعٌ يَقْبَلُ التَّعْلِيمَ فَلَا يَنْطَلِقُ حَتَّى يُطْلِقَهُ صَاحِبُهُ، وَإِذَا صَادَ لَمْ يَأْكُلْ فَهُوَ مُعَلَّمٌ يُؤْكَلُ مَا قَتَلَ وَإِنْ لَمْ يُوجَدْ ذَلِكَ أَصْلًا فَلَا يَجُوزُ أَكْلُ شَيْءٍ مِمَّا قَتَلَتْ إلَّا مَا أُدْرِكَتْ ذَكَاتُهُ وَهُوَ حَيٌّ بَعْدُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَقَدْ قَالَ قَوْمٌ: يُؤْكَلُ صَيْدُ الْبَازِي وَإِنْ أَكَلَ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ. قَالَ أَبُو مُحَمَّد: وَهَذَا بَاطِلٌ لِأَنَّ اللَّهَ تَعَالَى لَمْ يُبِحْ لَنَا أَنْ نَأْكُلَ إلَّا مِمَّا أَمْسَكْنَ عَلَيْنَا، لَا مِمَّا أَمْسَكْنَ جُمْلَةً، وَلَا مِمَّا أَمْسَكْنَ عَلَى أَنْفُسِهِنَّ وَقَوْلُنَا هُوَ قَوْلُ الشَّافِعِيِّ، وَهُوَ أَيْضًا قَوْلُ عَطَاءٍ، وَعِكْرِمَةَ كَمَا ذَكَرْنَا قَبْلُ وَعَنْ ابْنِ عَبَّاسٍ مَا أَكَلَتْ الْجَوَارِحُ فَلَا تَأْكُلْ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ شَرِبَ الْجَارِحُ مِنْ دَمِ الصَّيْدِ]

Imam Abū Muḥammad responded: As for the authenticated reports from the Prophet—peace and blessings of Allah be upon him—they are indeed as they stated. However, the Quranic verse is broader than those ḥadīths due to Allah's statement {of hunting creatures}, which encompasses all predatory animals. This general ruling cannot be abandoned for a report addressing only part of the verse's scope.

Regarding Allah's statement {preparing them as trained hunters}, it contains no evidence—neither explicit nor implicit—prohibiting consumption of game killed by non-canine predators. Rather, the verse confirms the permissibility of hunting with animals other than dogs through the phrase {preparing them as trained hunters}, for this wording cannot apply to them unless understood in the canine context—thereby establishing that the ruling extends beyond dogs.

As for their claim that non-canine animals cannot accept such training at all, this requires examination. If any species is found trainable to hunt—not setting off until released by its owner, and refraining from consuming prey—then its game is permissible. If no such training exists, only game slaughtered according to Islamic rites while still alive after being caught may be eaten. And success comes only from Allah, the Most High.[16]

L17242–17244 A group of scholars have said: "The prey of the falcon may be eaten even if it has eaten"—and this is the opinion of Abū Ḥanīfah. Abū Muḥammad said: "This is false, for Allah the Exalted has not permitted us to eat except from what they have retained for us." Neither from what they have caught in entirety, nor from what they have retained for themselves. Our opinion is the opinion of Al-Shāfiʿī, and it is also the view of ʿAṭāʾ and ʿIkrimah, as mentioned earlier. From Ibn ʿAbbās: "If the hunting animals have eaten [any of it], then do not eat it." And success comes from Allāh, the Exalted.

L17245 Issue: If a hunting animal drank from the blood of the game.

L17246 If the hunting dog or another hunting animal drinks from the blood of the

[16] **Qur'an references (L17241):** Qur'an 5:4 (Al-Ma'idah).

prey, that does not affect its permissibility, and it is lawful to eat what it has killed. This is because the Prophet (peace be upon him) only forbade us from eating what it has killed if it consumed part of the prey, and he did not prohibit us from eating what it has killed if it merely lapped the blood. {And your Lord is never forgetful} [Maryam: 64]. If the animal has not eaten from the prey, it has secured it for its owner. This is the opinion of Imam Abū Ḥanīfah and Imam al-Shāfiʿī. And success is from Allah, the Most High.[17]

Issue: If a hunting animal consumed part of the head, leg, or a detached piece of the hunted animal.

1085 - Question: If one eats from the head, leg, internal organs, or a piece severed from the hunted animal, all these are treated equally. It is not permissible to eat what he killed, because he has consumed part of the game.

Issue: If a trained dog consumes part of the game.

1086 - Issue: If the trained hunting dog, as we mentioned, returns and eats from what it killed, its status as trained does not cease thereby. However, eating the prey it killed and consumed is prohibited, while eating the prey it killed without consuming any remains permissible. Abū Ḥanīfa said: Its training becomes invalid, and it reverts to being untrained. Thus, whatever it kills cannot be eaten—even if it did not consume any—until it repeatedly [hunts properly] and regains its trained status. Our school's jurists said: Its training is not invalidated by this. However, it must be struck and disciplined harshly to deter it from eating. This is the correct ruling, for the Prophet (may Allah's prayers and peace be upon him) said—as narrated through Abū Dāwūd's chain: Hannād ibn al-Sarī narrated to us, from Ibn Fudayl, from Bayān, from al-Shaʿbī, from ʿAdī ibn Ḥātim—that Allah's Messenger (may Allah's prayers and peace be upon him) told him: "When you release your trained dogs after invoking Allah's name, eat what they seize for you even if they kill it, unless the dog eats [from the prey]. If it eats, do not eat [it],

[17] **Qur'an references (L17246):** Qur'an 19:64 (Maryam).

١٠٨٤ - مَسْأَلَةٌ: وَإِنْ شَرِبَ الْجَارِحُ الْكَلْبُ أَوْ غَيْرُهُ مِنْ دَمِ الصَّيْدِ لَمْ يَضُرَّ ذَلِكَ شَيْئًا وَحَلَّ أَكْلُ مَا قَتَلَ لِأَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إنَّمَا حَرَّمَ عَلَيْنَا أَكْلَ مَا قَتَلَ إذَا أَكَلَ، وَلَمْ يَنْهَنَا عَنْ أَكْلِ مَا قَتَلَ إذَا وَلَغَ فِي الدَّمِ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] وَإِذَا لَمْ يَأْكُلْ مِنْ الصَّيْدِ فَقَدْ أَمْسَكَهُ عَلَى مُرْسِلِهِ - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ أَكَلَ الجارح مِنْ الرَّأْسِ أَوْ الرِّجْلِ أَوْ قِطْعَةً انْقَطَعَتْ مِنْ الصَّيْدِ]

١٠٨٥ - مَسْأَلَةٌ: فَإِنْ أَكَلَ مِنْ الرَّأْسِ، أَوْ الرِّجْلِ، أَوْ الْحَشْوَةِ، أَوْ قِطْعَةً انْقَطَعَتْ مِنْهُ، فَكُلُّ ذَلِكَ سَوَاءٌ، وَلَا يَحِلُّ أَكْلُ مَا قَتَلَ، لِأَنَّهُ أَكَلَ مِنْ الصَّيْدِ.

[مَسْأَلَةٌ أَكَلَ الْكَلْبُ الْمُعَلَّمُ مِنْ الصَّيْدِ]

١٠٨٦ - مَسْأَلَةٌ: فَإِنْ كَانَ الْجَارِحُ مُعَلَّمًا كَمَا ذَكَرْنَا ثُمَّ إنَّهُ عَادَ فَأَكَلَ مِمَّا قَتَلَ لَمْ يَسْقُطْ بِذَلِكَ عَنْ أَنْ يَكُونَ مُعَلَّمًا، لَكِنْ يَحْرُمُ أَكْلُ الَّذِي قَتَلَ وَأَكَلَ مِنْهُ فَقَطْ، وَلَا يَحْرُمُ أَكْلُ مَا قَتَلَ وَلَمْ يَأْكُلْ مِنْهُ. وَقَالَ أَبُو حَنِيفَةَ: قَدْ بَطَلَ تَعْلِيمُهُ وَعَادَ غَيْرَ مُعَلَّمٍ، فَلَا يُؤْكَلُ مَا قَتَلَ وَإِنْ لَمْ يَأْكُلْ مِنْهُ حَتَّى يَفْعَلَ ذَلِكَ مَرَّةً بَعْدَ مَرَّةٍ فَيَعُودُ مُعَلَّمًا. وَقَالَ أَصْحَابُنَا: لَا يَبْطُلُ بِذَلِكَ تَعْلِيمُهُ، لَكِنْ يُضْرَبُ وَيُؤَدَّبُ حَتَّى لَا يَأْكُلَ - وَهَذَا هُوَ الصَّوَابُ، لِأَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ كَمَا رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نا هَنَّادُ بْنُ السَّرِيِّ نا ابْنُ فُضَيْلٍ عَنْ بَيَانٍ عَنْ الشَّعْبِيِّ «عَنْ عَدِيِّ بْنِ حَاتِمٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: إذَا أَرْسَلْتَ كِلَابَكَ الْمُعَلَّمَةَ وَذَكَرْتَ اسْمَ اللَّهِ عَلَيْهَا، فَكُلْ مِمَّا أَمْسَكْنَ عَلَيْكَ، وَإِنْ قَتَلَ، إلَّا إنْ أَكَلَ الْكَلْبُ فَإِنْ أَكَلَ فَلَا تَأْكُلْ

for I fear it caught it solely for itself." He (peace and blessings be upon him) still termed them "trained," without nullifying their legal status due to eating, but prohibited only the consumed portion. Another narration via ʻAbd al-Razzāq, from Maʻmar, from ʻAbdullāh ibn Ṭāwūs, from his father, from Ibn ʻAbbās states: "If the trained dog eats from the prey, do not eat from it, for it caught it for itself." Ibn ʻAbbās nevertheless maintained its designation as "trained." One who is taught, even if he eats—and it has been narrated to us from Ibn Abbas as well: "If he eats, how detestable is what you have taught him—he is no scholar"—and with Allah, the Exalted, lies all success.

فَإِنِّي أَخَافُ أَنْ يَكُونَ إِنَّمَا أَمْسَكَهُ عَلَى نَفْسِهِ» فَقَدْ سَمَّاهَا - عَلَيْهِ السَّلَامُ - مُعَلَّمَةً وَلَمْ يُسْقِطْ حُكْمَ التَّعْلِيمِ بِأَكْلِ مَا أَكَلَ مِنْهَا، بَلْ نَهَى عَنْ أَكْلِ مَا أَكَلَ مِنْهُ فَقَطْ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ عَنْ ابْنِ عَبَّاسٍ قَالَ: إذَا أَكَلَ الْكَلْبُ الْمُعَلَّمُ فَلَا تَأْكُلْ مِنْهُ، فَإِنَّمَا أَمْسَكَ عَلَى نَفْسِهِ فَسَمَّاهُ ابْنُ عَبَّاسٍ مُعَلَّمًا وَإِنْ أَكَلَ - وَقَدْ رُوِّينَا عَنْ ابْنِ عَبَّاسٍ أَيْضًا: أَنَّهُ إذَا أَكَلَ فَبِئْسَ مَا عَلَّمْتَهُ لَيْسَ بِعَالِمٍ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ أَدْرَكَهُ مُرْسِلُهُ حَتَّى قَتَلَ الصَّيْدَ وَهُوَ يُرِيدُ الْأَكْلَ مِنْهُ فَأَخَذَهُ]

L17253 **A legal case in which the sender caught up with his agent after he had killed the game intending to eat from it, and then took possession of it.**

L17254 Issue 1087: If its owner reaches it until he kills it while intending to eat from it, and takes it while the predator contends with him to eat from it, then eating it is not permissible at all. It is carrion, because we are certain at that moment that the predator seized it for itself rather than for its owner. This is the precise attribute by which Allah the Exalted and His Messenger (peace be upon him) prohibited us from eating what the predator has killed [in such circumstances].

١٠٨٧ - مَسْأَلَةٌ: فَإِنْ أَدْرَكَهُ مُرْسِلُهُ حَتَّى قَتَلَهُ وَهُوَ يُرِيدُ الْأَكْلَ مِنْهُ فَأَخَذَهُ وَالْجَارِحُ يُنَازِعُهُ إلَى الْأَكْلِ مِنْهُ، لَمْ يَحِلَّ أَكْلُهُ أَصْلًا، وَهُوَ مَيْتَةٌ، لِأَنَّنَا عَلَى يَقِينٍ حِينَئِذٍ مِنْ أَنَّهُ إنَّمَا أَمْسَكَ عَلَى نَفْسِهِ لَا عَلَى مُرْسِلِهِ، وَهَذِهِ الصِّفَةُ الَّتِي حَرَّمَ اللَّهُ تَعَالَى بِهَا وَرَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْأَكْلَ مِمَّا قَتَلَهُ الْجَارِحُ عَلَيْنَا.

[مَسْأَلَةٌ قَتَلَ الصَّيْدَ وَلَمْ يَأْكُلْ مِنْهُ وَهُوَ قَادِرٌ ثُمَّ أَكَلَ مِنْهُ]

L17255 **A jurisprudential issue in which a person killed game, did not eat from it despite being capable, and later ate some of it.**

L17256 1088 - Issue: If he kills it and does not eat anything from it while being capable of eating, then eats from it afterward, the remainder is permissible. This is because we are certain that if he did not eat from it—despite being capable—he did not retain it for himself but for the dispatcher. Whatever bears this characteristic is permissible by the explicit text of the Qur'an and the established Sunnahs. Since its permissibility has been validated through this and its ritual slaughter is complete, there is no harm in him eating from it afterward, for he realized he could eat from what was confirmed as retained

١٠٨٨ - مَسْأَلَةٌ: فَلَوْ قَتَلَهُ وَلَمْ يَأْكُلْ مِنْهُ شَيْئًا وَهُوَ قَادِرٌ عَلَى الْأَكْلِ مِنْهُ ثُمَّ أَكَلَ مِنْهُ فَبَاقِيهِ حَلَالٌ، لِأَنَّنَا عَلَى يَقِينٍ مِنْ أَنَّهُ إذَا لَمْ يَأْكُلْ مِنْهُ - وَهُوَ قَادِرٌ عَلَى الْأَكْلِ مِنْهُ - فَلَمْ يُمْسِكْ عَلَى نَفْسِهِ وَإِنَّمَا أَمْسَكَ عَلَى مُرْسِلِهِ، وَمَا كَانَ بِهَذِهِ الصِّفَةِ فَهُوَ حَلَالٌ بِنَصِّ الْقُرْآنِ وَالسُّنَّةِ. وَإِذْ قَدْ صَحَّ تَحْلِيلُهُ بِذَلِكَ وَتَمَّتْ ذَكَاتُهُ فَلَا يَضُرُّهُ أَنْ يَأْكُلَ مِنْهُ بَعْدَ ذَلِكَ لِأَنَّهُ قَدْ بَدَا لَهُ أَنْ يَأْكُلَ مِمَّا قَدْ صَحَّ أَنَّهُ أَمْسَكَهُ عَلَى مُرْسِلِهِ - وَقَدْ يَحْدُثُ

for the dispatcher. He may experience hunger compelling him to eat what he finds. The decisive factor is whether he retained it for his master—in which case it is permissible to eat even if he killed it—or retained it for himself, rendering only what he killed impermissible to eat, as Allah the Exalted commanded through His Messenger—peace and blessings be upon him—in the Qur'an and the established Sunnahs. And success is by Allah, the Exalted.

L17257 **A legal case in which he slaughtered [the animal] but did not consume it. Then the one who commissioned him took it, cut a portion from it, and ate it.**

L17258 Issue 1089: If he slaughters it but does not eat it, then the one who sent it takes it, cuts a piece for himself and eats it—or leaves it before him to eat, and he eats from it—then the remainder is ḥalāl. This is because, as we stated, the sender's act of taking possession validates it, thereby completing its ritual slaughter.

L17259 **Issue: The ruling on game hunted by untrained hunting animals.**

L17260–17262 1090. Issue: As for the untrained animal—whether owned or wild, from birds of prey or four-legged beasts, or not owned (whether released or not released)—all are treated the same. The ruling is that whatever it kills cannot be eaten at all. However, if one finds in it a remnant of life and performs ritual slaughter, its consumption becomes lawful, in accordance with Allah's decree: "Except what you have ritually slaughtered" [5:3]. Thus, the Exalted has exempted from all that was prohibited before that whatever we properly slaughter. This aligns with what we narrated through al-Bukhari's chain: From ʻAbdullāh ibn Yazīd, from Haywah—who is Ibn Shurayh—who informed me from Rabīʻah ibn Yazīd al-Dimashqī, from Abū Idrīs al-Khawlānī, from Abū Thaʻlabah al-Khushanī, that Allah's Messenger (peace be upon him) said to him: "What your trained dog catches—after you have invoked Allah's name—you may eat. And what you hunted..." "If your untrained [hunting] dog catches the game and you slaughter it [properly], then you may eat it"—

لَهُ جُوعٌ يَأْكُلُ بِهِ مَا وَجَدَ، وَإِنَّمَا الْمُرَاعَى إِمْسَاكُهُ عَلَى سَيِّدِهِ فَيُؤْكَلُ، وَإِنْ قَتَلَ، أَوْ إِمْسَاكُهُ عَلَى نَفْسِهِ فَلَا يُؤْكَلُ مَا قَتَلَ فَقَطْ، كَمَا أَمَرَ اللَّهُ تَعَالَى عَلَى لِسَانِ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الْقُرْآنِ، وَالسُّنَنِ الثَّابِتَةِ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ قَتَلَ وَلَمْ يَأْكُلْ ثُمَّ أَخَذَهُ مُرْسِلُهُ فَقَطَعَ لَهُ قِطْعَةً فَأَكَلَهَا]

١٠٨٩ - مَسْأَلَةٌ: فَلَوْ قَتَلَ وَلَمْ يَأْكُلْ، ثُمَّ أَخَذَهُ مُرْسِلُهُ فَقَطَعَ لَهُ قِطْعَةً فَأَكَلَهَا أَوْ خَلَّاهُ بَيْنَ يَدِهِ يَأْكُلُهُ فَأَكَلَ مِنْهُ فَالْبَاقِي حَلَالٌ، لِمَا ذَكَرْنَا مِنْ أَنَّهُ قَدْ صَحَّ إِمْسَاكُهُ عَلَى مُرْسِلِهِ فَتَمَّتْ ذَكَاتُهُ بِذَلِكَ.

[مَسْأَلَةٌ حُكْمُ صَيْدِ غَيْرِ الْمُعَلَّمِ مِنَ الْجَوَارِحِ]

١٠٩٠ - مَسْأَلَةٌ: وَأَمَّا غَيْرُ الْمُعَلَّمِ فَسَوَاءٌ كَانَ مُتَمَلَّكًا أَوْ بَرِّيًّا مِنْ سِبَاعِ الطَّيْرِ أَوْ دَوَابِّ الْأَرْبَعِ غَيْرَ مُتَمَلَّكٍ أُرْسِلَ أَوْ لَمْ يُرْسَلْ كُلُّ ذَلِكَ سَوَاءٌ، وَحُكْمُهُ أَنْ لَا يُؤْكَلَ مَا قَتَلَ أَصْلًا، فَإِنْ أَدْرَكَ فِيهِ بَقِيَّةً مِنَ الرُّوحِ وَذَكَّى حَلَّ أَكْلُهُ لِقَوْلِ اللَّهِ تَعَالَى: {إِلا مَا ذَكَّيْتُمْ} [المائدة: ٣] فَاسْتَثْنَى تَعَالَى مَا ذَكَّيْنَا مِنْ كُلِّ مَا حَرَّمَ مِنْ قَبْلِ ذَلِكَ. وَلِمَا رُوِّينَاهُ مِنْ طَرِيقِ الْبُخَارِيِّ نا عَبْدُ اللَّهِ بْنُ يَزِيدَ أَنَا حَيْوَةُ هُوَ ابْنُ شُرَيْحٍ - أَخْبَرَنِي رَبِيعَةُ بْنُ يَزِيدَ الدِّمَشْقِيُّ عَنْ أَبِي إِدْرِيسَ الْخَوْلَانِيِّ «عَنْ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ لَهُ: وَمَا صِدْتَ بِكَلْبِكَ الْمُعَلَّمِ فَذَكَرْتَ اسْمَ اللَّهِ فَكُلْ، وَمَا صِدْتَ

he (peace be upon him) did not make an exception for the hope of preserving its life through means other than [the dog's action]. Therefore, such an exception is invalid and contrary to the Messenger of Allah (peace and blessings be upon him).[18]

L17263 **A case where a trained hunting animal departed without its owner having set it loose.**

L17264 Issue: If a predatory animal—whether trained or untrained—departs without being released by its owner, it is impermissible to eat what it kills unless some life remains in it, in which case it may be ritually slaughtered and eaten. This is based on the statement of Allah's Messenger (peace be upon him): "If you release your dog and mention Allah's name..." The Prophet (peace be upon him) restricted valid slaughter to cases where the animal is intentionally released alongside the mention of Allah's name. Ritual slaughter is only valid with human intention and purpose, as per his saying (peace be upon him): "A person is rewarded only according to their intention." Authentic texts confirm that if one releases a trained predatory animal while mentioning Allah's name, and it kills the prey, this constitutes valid slaughter. However, no authentic text validates slaughter in cases that do not meet these conditions. It is narrated through the chain of 'Abd al-Razzāq, from Ma'mar, from Qatadah, that a man asked him about someone training his falcon. While the falcon was circling nearby, it saw a bird, swooped toward it, and the owner mentioned Allah's name. Qatadah said: "He may not eat it because he did not release it himself—unless he reaches it in time to slaughter it [while alive]."

L17265 **Legal issue: If one shoots a poisoned arrow and finds the game dead.**

L17266 Issue 1092: If someone shoots a poisoned arrow and finds the game dead, it is not permissible to eat it unless the arrow penetrated its vital organs in a way equivalent to how it would have died from it had the arrow not been poisoned. This is because what is killed by poison constitutes dead meat, as

بِكَلْبِكَ غَيْرِ الْمُعَلَّمِ فَأَدْرَكْتَ ذَكَاتَهُ فَكُلْ» فَلَمْ يَسْتَثْنِ - عَلَيْهِ السَّلَامُ - رَجَاءَ حَيَاةٍ مِنْ غَيْرِهَا، فَاسْتِثْنَاءُ ذَلِكَ بَاطِلٌ وَخِلَافٌ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -

[مَسْأَلَةٌ انْطَلَقَ الْجَارِحُ مِنْ غَيْرِ أَنْ يُطْلِقَهُ صَاحِبُهُ]

١٠٩١ - مَسْأَلَةٌ: وَإِذَا انْطَلَقَ الْجَارِحُ الْمُعَلَّمُ أَوْ غَيْرُ الْمُعَلَّمِ مِنْ غَيْرِ أَنْ يُطْلِقَهُ صَاحِبُهُ لَمْ يَحِلَّ أَكْلُ مَا قَتَلَ إلَّا أَنْ تُدْرَكَ فِيهِ بَقِيَّةٌ مِنْ الرُّوحِ فَيُذَكَّى وَيُؤْكَلُ لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «إذَا أَرْسَلْتَ كَلْبَكَ وَسَمَّيْتَ اللَّهَ» فَلَمْ يَجْعَلْ - عَلَيْهِ السَّلَامُ - الذَّكَاةَ إلَّا بِإِرْسَالِهِ مَعَ تَسْمِيَةِ اللَّهِ تَعَالَى، وَالذَّكَاةُ لَا تَكُونُ إلَّا بِنِيَّةٍ مِنْ الْإِنْسَانِ الْمُذَكِّي وَقَصْدٍ لِقَوْلِهِ - عَلَيْهِ السَّلَامُ -: «وَلِكُلِّ امْرِئٍ مَا نَوَى» . وَصَحَّ بِالنَّصِّ أَنَّهُ إذَا أَرْسَلَ جَارِحَهُ الْمُعَلَّمَ وَسَمَّى اللَّهَ تَعَالَى فَقَتَلَ الْجَارِحُ فَهِيَ ذَكَاةٌ صَحِيحَةٌ - وَلَمْ يَصِحَّ فِي كَوْنِ مَا دُونَ ذَلِكَ ذَكَاةً نَصٌّ. رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ قَتَادَةَ أَنَّهُ قَالَ لِرَجُلٍ سَأَلَهُ عَنْ إنْسَانٍ كَانَ يُعَلِّمُ صَقْرًا لَهُ؟ فَبَيْنَمَا هُوَ يَحُومُ حَوْلَهُ إذْ رَأَى طَائِرًا فَانْقَضَّ نَحْوَهُ وَسَمَّى الرَّجُلُ اللَّهَ عَزَّ وَجَلَّ؟ قَالَ قَتَادَةَ: لَا يَأْكُلُهُ لِأَنَّهُ لَمْ يُرْسِلْهُ هُوَ، إلَّا أَنْ يُدْرِكَ ذَكَاتَهُ.

[مَسْأَلَةٌ رَمَى بِسَهْمٍ مَسْمُومٍ فَوَجَدَ الصَّيْدَ مَيِّتًا]

١٠٩٢ - مَسْأَلَةٌ: وَكُلُّ مَنْ رَمَى بِسَهْمٍ مَسْمُومٍ فَوَجَدَ الصَّيْدَ مَيِّتًا لَمْ يَحِلَّ أَكْلُهُ إلَّا إنْ كَانَ السَّهْمُ أَنْفَذَ مَقَاتِلَهُ إنْفَاذًا كَأَنْ يَمُوتَ مِنْهُ لَوْ لَمْ يَكُنْ مَسْمُومًا لِأَنَّ مَا قُتِلَ بِالسُّمِّ

[18] **Qur'an references (L17260):** Qur'an 5:3 (Al-Ma'idah).

there is no definitive scriptural text stating that poisoning qualifies as valid ritual slaughter - unless some remnant of life is found in it, whereupon it must be ritually slaughtered to become permissible. And with Allah, the Exalted, lies all success.

فَهُوَ مَيْتَةٌ؛ لِأَنَّهُ لَمْ يَأْتِ نَصٌّ بِأَنَّهُ ذَكَاةٌ إِلَّا أَنْ تُدْرَكَ فِيهِ بَقِيَّةُ رُوحٍ فَيُذَكَّى فَيَحِلَّ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17267 **A legal ruling: It is permissible to eat what every predatory animal trained for hunting kills.**

[مَسْأَلَةٌ كُلُّ جَارِحٍ مُعَلَّمٍ حَلَالٌ أَكْلُ مَا قَتَلَ]

L17268 1093. Issue: Every trained hunting animal—thus, it is permissible to eat what it kills as we mentioned, regardless of whether it was trained by an idolater or a Muslim. Similarly, game hunted with an arrow fashioned by an idolater or a Muslim is permissible, due to the statement of the Messenger of Allah—peace and blessings be upon him—"When you release your trained dog," and he—peace and blessings be upon him—did not specify training by a Muslim over an idolater. This is the opinion of Abū Ḥanīfah, Mālik, al-Shāfiʿī, and Abū Sulaymān. Some scholars held that game hunted by an animal trained by one whose slaughter is invalid is impermissible to eat. It was narrated to us via Wakīʿ's chain: from Jarīr ibn Ḥāzim, from ʿĪsā ibn ʿĀṣim, from ʿAlī ibn Abī Ṭālib, that he deemed reprehensible game caught by a Zoroastrian's bāzī or falcon, and he also deemed reprehensible fish hunted by the Zoroastrian. Via ʿAbd al-Razzāq's chain: from Ḥumayd ibn Rumān, from al-Ḥajjāj, from Abū al-Zubayr, from Jābir, who said: "Do not eat the game of a Zoroastrian's dog or what is struck by his arrow."

١٠٩٣ - مَسْأَلَةٌ: وَكُلُّ جَارِحٍ مُعَلَّمٍ فَحَلَالٌ أَكْلُ مَا قَتَلَ كَمَا ذَكَرْنَا سَوَاءٌ عَلَّمَهُ وَثَنِيٌّ أَوْ مُسْلِمٌ، وَكَذَلِكَ الصَّيْدُ بِسَهْمٍ صَنَعَهُ وَثَنِيٌّ أَوْ مُسْلِمٌ لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إذَا أَرْسَلْتَ كَلْبَكَ الْمُعَلَّمَ» وَلَمْ يَخُصَّ - عَلَيْهِ السَّلَامُ - تَعْلِيمَ مُسْلِمٍ مِنْ تَعْلِيمِ وَثَنِيٍّ. وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ. وَقَالَ قَوْمٌ: لَا يُؤْكَلُ صَيْدُ جَارِحٍ عَلَّمَهُ مَنْ لَا يَحِلُّ أَكْلُ مَا ذَكَّى -: رُوِّينَا مِنْ طَرِيقِ وَكِيعٍ نا جَرِيرُ بْنُ حَازِمٍ عَنْ عِيسَى بْنِ عَاصِمٍ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ أَنَّهُ كَرِهَ صَيْدَ بَازِي الْمَجُوسِيِّ وَصَقْرِهِ، وَصَيْدُ الْمَجُوسِيِّ لِلسَّمَكِ كَرِهَهُ أَيْضًا. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ حُمَيْدِ بْنِ رُومَانَ عَنْ الْحَجَّاجِ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ قَالَ: لَا تَأْكُلْ صَيْدَ كَلْبِ الْمَجُوسِيِّ وَلَا مَا أَصَابَ بِسَهْمِهِ.

L17269–17270 This has also been transmitted to us via Saʿīd ibn Manṣūr's chain: ʿAttāb ibn Bashīr informed us, from Khuṣayf, who said: Ibn ʿAbbās stated: "Do not eat what you have hunted with a Zoroastrian's dog, even if you pronounce Allah's name over it, for this stems from the Zoroastrian's training. Allah the Exalted said: *'You teach them from what Allah has taught you'* [5:4]." This opinion has also been transmitted by 'Aṭā', Mujāhid, al-Nakhaʿī, and Muḥammad ibn 'Alī—and it is the view of Sufyān al-Thawrī. The proponents of this position cited Allah's statement as proof: *'And [lawful is] what you have trained of hunting animals as trainers, teaching them from what Allah has taught you'* [5:4]. They argued: "Thus, He ascribed the teaching to us." 'Alī remarked:

وَقَدْ رُوِّينَا هَذَا أَيْضًا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا عَتَّابُ بْنُ بَشِيرٍ أَنَا خُصَيْفٌ قَالَ: قَالَ ابْنُ عَبَّاسٍ: لَا تَأْكُلْ مَا صِدْت بِكَلْبِ الْمَجُوسِ وَإِنْ سَمَّيْت فَإِنَّهُ مِنْ تَعْلِيمِ الْمَجُوسِيِّ قَالَ اللَّهُ تَعَالَى: {تُعَلِّمُونَهُنَّ مِمَّا عَلَّمَكُمُ اللَّهُ} [المائدة: ٤] . وَجَاءَ هَذَا الْقَوْلُ عَنْ عَطَاءٍ، وَمُجَاهِدٍ، وَالنَّخَعِيِّ، وَمُحَمَّدِ بْنِ عَلِيٍّ - وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَاحْتَجَّ أَهْلُ هَذِهِ الْمَقَالَةِ بِقَوْلِ اللَّهِ تَعَالَى: {وَمَا عَلَّمْتُمْ مِنَ الْجَوَارِحِ مُكَلِّبِينَ تُعَلِّمُونَهُنَّ مِمَّا عَلَّمَكُمُ اللَّهُ} [المائدة: ٤]

"They have no valid evidence in this, for Allah's address with the rulings of Islam is binding upon every person—and success is from Allah the Exalted."[19]

قَالُوا: فَجَعَلَ التَّعْلِيمَ لَنَا. قَالَ عَلِيٌّ: وَلَا حُجَّةَ لَهُمْ فِي هَذَا، لِأَنَّ خِطَابَ اللَّهِ تَعَالَى بِأَحْكَامِ الْإِسْلَامِ لَازِمٌ لِكُلِّ أَحَدٍ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17271 This is among the matters in which they contradicted the narration transmitted from Companions (may Allah be pleased with them) - for whom no opposing Companion is known - and success comes from Allah, the Exalted.

وَهَذَا مِمَّا خَالَفُوا فِيهِ الرِّوَايَةَ عَنْ صَحَابِيٍّ لَا يُعْرَفُ لَهُمْ مِنَ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - مُخَالِفٌ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17272 **A legal issue concerning hunting with a predatory animal that had been unlawfully seized.**

[مَسْأَلَةٌ تَصَيَّدَ بِجَارِحٍ أُخِذَ بِغَيْرِ حَقٍّ]

L17273 1094. Issue: If someone hunts using a predatory animal taken without right, it is impermissible to eat what it kills, due to Allah's statement: "And do not transgress" (Quran 2:190). This is an act of transgression, and transgression cannot validly fulfill the requirements of slaughter. If the prey is found alive, or if a person sets a trap taken without right, or uses a tool taken without right, and subsequently finds the prey still has life remaining, then properly slaughters it, it becomes lawful for him. However, he must compensate the owner for the value of that predatory animal, that arrow, that spear, or that trap. This is because game animals—over which no one holds ownership—belong to the capturer. The owner of the tool, trap, or predatory animal does not own the prey, as he neither deployed nor released them with the intent to claim ownership of what they catch. Ownership of unowned property cannot be established except through intention. And with Allah, the Most High, lies all success.[20]

١٠٩٤ - مَسْأَلَةٌ: وَمَنْ تَصَيَّدَ بِجَارِحٍ أُخِذَ بِغَيْرِ حَقٍّ فَلَا يَحِلُّ أَكْلُ مَا قَتَلَ لِقَوْلِ اللَّهِ تَعَالَى: {وَلا تَعْتَدُوا} [البقرة: ١٩٠] وَهَذَا مُعْتَدٍ فَلَا يَكُونُ التَّعَدِّي ذَكَاةً أَصْلًا. فَلَوْ أَدْرِكَ حَيًّا، أَوْ نَصَبَ الْمَرْءُ حِبَالَةً مَأْخُوذَةً بِغَيْرِ حَقٍّ، أَوْ رَمَى بِآلَةٍ مَأْخُوذَةٍ بِغَيْرِ حَقٍّ، فَأَدْرَكَ كُلَّ ذَلِكَ فِيهِ بَقِيَّةُ حَيَاةٍ ذَكَّاهَا وَهِيَ لَهُ حَلَالٌ، وَعَلَيْهِ أُجْرَةُ مِثْلِ ذَلِكَ الْجَارِحِ، وَذَلِكَ السَّهْمِ، وَالرُّمْحِ، وَتِلْكَ الْحِبَالَةِ لِصَاحِبِ كُلِّ ذَلِكَ، لِأَنَّ الصَّيْدَ الَّذِي لَا مِلْكَ لِأَحَدٍ عَلَيْهِ هُوَ لِمَنْ أَخَذَهُ وَلَمْ يَمْلِكْهُ صَاحِبُ الْآلَةِ، وَالْحِبَالَةِ، وَالْجَارِحِ؛ لِأَنَّهُ لَمْ يَنْصِبْ ذَلِكَ وَلَا أَرْسَلَهُ قَاصِدًا لِتَمَلُّكِ مَا أَصَابَ بِذَلِكَ، وَلَا يَكُونُ التَّمَلُّكُ لِمَا لَمْ يَتَقَدَّمْ فِيهِ مِلْكٌ إِلَّا بِنِيَّةٍ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17274 **A case where a person found another individual with his hunting animal and could not determine which of them killed the game.**

[مَسْأَلَةٌ وَجَدَ مَعَ جَارِحِهِ آخَرَ لَمْ يَدْرِ أَيُّهُمَا قَتَلَ الصَّيْدَ]

L17275 1095. Issue: If someone finds that their hunting animal was accompanied by another hunting animal or a predatory animal, and it is unknown which

١٠٩٥ - مَسْأَلَةٌ: وَمَنْ وَجَدَ مَعَ جَارِحِهِ جَارِحًا آخَرَ أَوْ سَبُعًا لَمْ يَدْرِ أَيُّهُمَا قَتَلَ الصَّيْدَ؟ فَهُوَ مَيْتَةٌ لَا يَحِلُّ أَكْلُهُ إِلَّا أَنْ تُدْرَكَ ذَكَاتُهُ فَيُذَكَّى فَيَحِلَّ -: كَمَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ

[19] **Qur'an references (L17270):** Qur'an 5:4 (Al-Ma'idah).
[20] **Qur'an references (L17273):** Qur'an 2:190 (Al-Baqarah).

one of them killed the prey, then it is carrion and unlawful to eat—unless it can be properly slaughtered before death, thereby making it lawful. As we were narrated through the chain of Ahmad ibn Shuʿayb: from Suwayd ibn Nasr, from ʿAbdullāh ibn al-Mubārak, from ʿĀṣim, from al-Shaʿbī, from ʿAdī ibn Ḥātim, from the Prophet (peace and blessings of Allah be upon him)—and he mentioned the hadith containing: "If your dog joins other dogs and they killed [prey] while they did not eat any of it, then do not eat from it, for you do not know which one killed it."

The issue concerning hunting a jet-black dog.

L17276–17277

L17278 Issue: It is impermissible to keep a solid black dog without markings or one with two spots - whether for hunting or other purposes. It is impermissible to train such dogs for hunting, and the game they kill cannot be eaten under any circumstances unless ritual slaughter (dhabīḥah) is performed upon it. Moreover, keeping any dog is generally impermissible except for guarding crops, livestock, hunting, or necessity due to fear - based on what we have narrated through Muslim's chain: via Isḥāq ibn Manṣūr → Rawḥ ibn 'Ubādah → Ibn Jurayj → Abū al-Zubayr, who heard Jābir ibn 'Abdullāh say: "Allah's Messenger (peace be upon him) ordered us to kill dogs, then forbade their killing, stating: 'Beware of the solid black dog with two spots, for it is the devil.'"

Through another chain from Aḥmad ibn Shu'ayb: via 'Imrān ibn Mūsā → Yazīd ibn Zurai' → Yūnus ibn 'Ubayd → al-Ḥasan → 'Abdullāh ibn Mughaffal, who reported: Allah's Messenger (peace be upon him) said: "Were dogs not a community among communities, I would have ordered their extermination. Kill every solid black one. Any people who keep a dog not meant for farming, hunting, or herding will have his reward diminished daily by a qīrāṭ."

Allah the Exalted states: {He has explicitly forbidden you certain things, except when compelled} (6:119). Since the Prophet (peace be upon him) prohibited keeping solid black dogs or those with two spots, their ownership becomes unlawful. Maintaining them constitutes disobedience, while ritual slaughter through hunting animals constitutes obedience. Disobedience to

بْنِ شُعَيْبٍ أَنَا سُوَيْد بْنُ نَصْرٍ نا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ عَنْ عَاصِمٍ عَنْ الشَّعْبِيِّ عَنْ عَدِيِّ بْنِ حَاتِمٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَ الْحَدِيثَ وَفِيهِ: «فَإِنْ خَالَطَ كَلْبُكَ كِلَابًا فَقَتَلْنَ فَلَمْ يَأْكُلْنَ فَلَا تَأْكُلْ مِنْهُ شَيْئًا فَإِنَّكَ لَا تَدْرِي أَيُّهَا قَتَلَ؟» .

[مَسْأَلَةُ صَيْدِ الْكَلْبِ الْأَسْوَدِ الْبَهِيمِ]

مَسْأَلَةٌ: وَلَا يَحِلُّ إمْسَاكُ كَلْبٍ أَسْوَدَ بَهِيمٍ أَوْ ذِي نُقْطَتَيْنِ لَا لِصَيْدٍ وَلَا لِغَيْرِهِ، وَلَا يَحِلُّ تَعْلِيمُهُ، وَلَا أَكْلُ مَا قَتَلَ مِنْ الصَّيْدِ أَصْلًا، إلَّا أَنْ تُدْرَكَ ذَكَاتُهُ، وَلَا اتِّخَاذُ كَلْبٍ سِوَى ذَلِكَ أَصْلًا إلَّا لِزَرْعٍ، أَوْ مَاشِيَةٍ، أَوْ صَيْدٍ، أَوْ ضَرُورَةِ خَوْفٍ -: لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي إسْحَاقُ بْنُ مَنْصُورٍ نا رَوْحُ بْنُ عُبَادَةَ نا ابْنُ جُرَيْجٍ أَخْبَرَنِي أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ «أَمَرَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِقَتْلِ الْكِلَابِ ثُمَّ نَهَى عَنْ قَتْلِهَا وَقَالَ: عَلَيْكُمْ بِالْأَسْوَدِ الْبَهِيمِ ذِي النُّقْطَتَيْنِ فَإِنَّهُ الشَّيْطَانُ» .

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا عِمْرَانُ بْنُ مُوسَى نا يَزِيدُ بْنُ زُرَيْعٍ نا يُونُسُ بْنُ عُبَيْدٍ عَنْ الْحَسَنِ عَنْ عَبْدِ اللَّهِ بْنِ مُغَفَّلٍ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «لَوْلَا أَنَّ الْكِلَابَ أُمَّةٌ مِنْ الْأُمَمِ لَأَمَرْتُ بِقَتْلِهَا فَاقْتُلُوا مِنْهَا الْأَسْوَدَ الْبَهِيمَ وَأَيُّمَا قَوْمٍ اتَّخَذُوا كَلْبًا لَيْسَ بِكَلْبِ حَرْثٍ، أَوْ صَيْدٍ، أَوْ مَاشِيَةٍ، فَإِنَّهُ يَنْقُصُ مِنْ أَجْرِهِ كُلَّ يَوْمٍ قِيرَاطٌ» وَقَالَ تَعَالَى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إلا مَا اضْطُرِرْتُمْ إِلَيْهِ} [الأنعام: ١١٩] فَإِذَا حَرَّمَ - عَلَيْهِ السَّلَامُ - آنِفًا الْأَسْوَدَ الْبَهِيمَ أَوْ ذَا النُّقْطَتَيْنِ فَلَا يَحِلُّ اتِّخَاذُهُ، وَإِذْ

Allah cannot substitute for obedience to Him, and the disobedient has not performed the ritual slaughter (dhabīḥah) - thus the game becomes carrion.

We further narrate via ʾAbd al-Razzāq → Maʾmar → Qatādah, who stated: "I consider it disliked to eat game killed by a solid black dog, for Allah's Messenger (peace be upon him) ordered its killing." Through Wakīʿ's chain: Sufyān al-Thawrī → Yūnus ibn ʾUbayd → al-Ḥasan, who disliked game killed by solid black dogs. Through another chain from Wakīʿ: Saʾīd ibn Abī ʾArūbah → Abū Maʾshar → Ibrāhīm al-Nakhaʾī, who said: "How could we eat game killed by solid black dogs when we were commanded to kill them?" This is the position of Aḥmad ibn Ḥanbal and Isḥāq ibn Rāhawayh.

Aḥmad stated: "I know of no scholar who permitted eating game killed by solid black dogs" - and Aḥmad had encountered generations of scholars. Abū Muḥammad remarked: The two spots' location on the body is irrelevant. If there is one spot or more than two, killing is impermissible, as it does not linguistically qualify as "having two spots."[21][22]

L17279 **A case: If a person goes out with their trained hunting animal, releases it, invokes Allah's name, and intends whatever of the game it catches.**

L17280–17282 1097 - Issue: Whoever goes out with his predatory animal, releases it, invokes Allah's name, and intends whatever game it catches— Whether one does all of that from their home or in the desert—whatever game is caught during that act of sending the dog, if it kills it, then eating it is permissible. This is because the Prophet—peace and blessings of Allah be upon him—said: "When you release your trained dog," without specifying whether you see the game or not. It has been narrated to us through the chain of Saʿīd ibn Manṣūr from Ismāʿīl ibn ʿAyyāsh from ʿUmar ibn Muḥammad ibn Zayd from someone who narrated to him from Abū Hurayrah, who said: "If one

[21] **Hadith references (L17278):** Sunan an-Nasai 4280.

[22] **Qur'an references (L17278):** Qur'an 6:119 (Al-An'am).

لَا يَحِلُّ اتِّخَاذُهُ فَاتِّخَاذُهُ مَعْصِيَةٌ، وَالذَّكَاةُ بِالْجَارِحِ طَاعَةٌ، وَلَا تَنُوبُ الْمَعْصِيَةُ لِلَّهِ تَعَالَى عَنْ طَاعَتِهِ وَالْعَاصِي لَمْ يُذَكِّ كَمَا أُمِرَ فَهِيَ مَيْتَةٌ. وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ قَتَادَةَ قَالَ: أَكْرَهُ صَيْدَ الْكَلْبِ الْأَسْوَدِ الْبَهِيمِ، لِأَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمَرَ بِقَتْلِهِ. وَمِنْ طَرِيقِ وَكِيعٍ نا سُفْيَانُ الثَّوْرِيُّ عَنْ يُونُسَ بْنِ عُبَيْدٍ عَنْ الْحَسَنِ أَنَّهُ كَرِهَ صَيْدَ الْكَلْبِ الْأَسْوَدِ الْبَهِيمِ. وَمِنْ طَرِيقِ وَكِيعٍ نا سَعِيدُ بْنُ أَبِي عَرُوبَةَ عَنْ أَبِي مَعْشَرٍ عَنْ إبْرَاهِيمَ النَّخَعِيِّ قَالَ: كَيْفَ نَأْكُلُ صَيْدَ الْكَلْبِ الْأَسْوَدِ الْبَهِيمِ وَقَدْ أُمِرْنَا بِقَتْلِهِ؟ وَهُوَ قَوْلُ أَحْمَدَ بْنِ حَنْبَلٍ، وَإِسْحَاقَ بْنِ رَاهْوَيْهِ. قَالَ أَحْمَدُ: مَا أَعْلَمُ أَحَدًا رَخَّصَ فِي أَكْلِ مَا قَتَلَ الْكَلْبُ الْأَسْوَدُ مِنْ الصَّيْدِ - وَقَدْ أَدْرَكَ أَحْمَدُ مِنْ أَهْلِ الْعِلْمِ أُمَمًا. قَالَ أَبُو مُحَمَّدٍ: سَوَاءٌ حَيْثُ كَانَتْ النُّقْطَتَانِ مِنْ جَسَدِهِ فَإِنْ كَانَتْ نُقْطَةً وَاحِدَةً أَوْ أَكْثَرَ مِنْ اثْنَتَيْنِ لَمْ يَجُزْ قَتْلُهُ، لِأَنَّهُ لَا يُسَمَّى فِي اللُّغَةِ ذَا نُقْطَتَيْنِ.

[مَسْأَلَةٌ خَرَجَ بِجَارِحِهِ فَأَرْسَلَهُ وَسَمَّى وَنَوَى مَا أَصَابَ مِنْ الصَّيْدِ]

١٠٩٧ - مَسْأَلَةٌ: وَمَنْ خَرَجَ بِجَارِحِهِ فَأَرْسَلَهُ وَسَمَّى وَنَوَى مَا أَصَابَ مِنْ الصَّيْدِ - فَسَوَاءٌ فَعَلَ كُلَّ ذَلِكَ مِنْ مَنْزِلِهِ أَوْ فِي الصَّحْرَاءِ - مَا أَصَابَ فِي ذَلِكَ الْإِرْسَالِ مِنْ الصَّيْدِ، فَقَتَلَهُ فَأَكْلُهُ حَلَالٌ، لِأَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «إذَا أَرْسَلْتَ كَلْبَكَ الْمُعَلَّمَ» وَلَمْ يَخُصَّ: وَأَنْتَ تَرَى صَيْدًا مِنْ أَنْ لَا تَرَاهُ. وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ إسْمَاعِيلَ بْنِ عَيَّاشٍ عَنْ عُمَرَ بْنِ مُحَمَّدِ بْنِ زَيْدٍ عَمَّنْ حَدَّثَهُ عَنْ أَبِي هُرَيْرَةَ قَالَ: إنْ غَدَا بِكِلَابٍ مُعَلَّمَةٍ فَذَكَرَ اسْمَ اللَّهِ حِينَ يَغْدُو كَانَ كُلُّ شَيْءٍ صَادَهُ إلَى اللَّيْلِ

goes out in the morning with trained dogs and mentions Allah's name at that time, everything they catch until nightfall is permissible." Through the chain of Wakī', Sufyān al-Thawrī narrated from Khālid al-Ḥadhā' from Abū Iyās, who said: "We used to go out with our dogs for hunting, release them without seeing any game, and eat what they caught." Abū Muḥammad said: Abū Ḥanīfah stated: "If someone releases a dog or a domestic pig and it catches game, its consumption is not permissible. But if one releases a lion, wolf, or wild pig and it catches game, its consumption is permissible. If one releases their predatory animal at specific game but it catches another, its consumption is permissible. However, if one releases it at a fish and it catches game, its consumption is not permissible." 'Alī said: "These are confused statements, devoid of logic. Such things are unacceptable except from someone who does not question their actions. All that has been mentioned is the same—none of it is permissible because Allah's name was not invoked, nor did he direct his predatory animal or his arrow at what was caught. Thus, it is not properly slaughtered. Success comes only from Allah, the Exalted."

حَلَالًا. وَمِنْ طَرِيقِ وَكِيعٍ نا سُفْيَانُ الثَّوْرِيُّ عَنْ خَالِدٍ الْحَذَّاءِ عَنْ أَبِي إيَاسٍ قَالَ: إنَّا كُنَّا نَخْرُجُ بِكِلَابِنَا إلَى الصَّيْدِ فَنُرْسِلُهَا، وَلَا نَرَى شَيْئًا فَنَأْكُلُ مَا أَخَذَتْ. قَالَ أَبُو مُحَمَّدٍ: وَقَالَ أَبُو حَنِيفَةَ: مَنْ رَمَى كَلْبًا أَوْ خِنْزِيرًا إنْسِيًّا فَأَصَابَ صَيْدًا لَمْ يَحِلَّ أَكْلُهُ، فَلَوْ رَمَى أَسَدًا أَوْ ذِئْبًا أَوْ خِنْزِيرًا بَرِّيًّا فَأَصَابَ صَيْدًا حَلَّ لَهُ أَكْلُهُ، فَلَوْ أَرْسَلَ جَارِحَهُ عَلَى صَيْدٍ بِعَيْنِهِ فَأَصَابَ غَيْرَهُ حَلَّ أَكْلُهُ - فَلَوْ أَرْسَلَهُ عَلَى سَمَكَةٍ فَأَصَابَ صَيْدًا لَمْ يَحِلَّ أَكْلُهُ. قَالَ عَلِيٌّ: هَذِهِ تَخَالِيطُ لَا تُعْقَلُ وَلَا يُقْبَلُ مِثْلُهَا إلَّا مِمَّنْ لَا يُسْأَلُ عَمَّا يَفْعَلُ - وَكُلُّ مَا ذُكِرَ فَسَوَاءٌ - لَا يَحِلُّ شَيْءٌ مِنْهُ لِأَنَّهُ لَمْ يُسَمِّ اللَّهَ تَعَالَى، وَلَا أَرْسَلَ جَارِحَهُ، وَلَا سَهْمَهُ عَلَى الَّذِي أَصَابَ، فَهُوَ غَيْرُ مُذَكًّى - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[An Issue: The Sale of the Dog]

[مَسْأَلَةٌ بَيْعُ الْكَلْبِ]

1098 - Issue: It is not permissible to sell any dog whatsoever—neither those permitted to keep nor others—due to the authentic prohibition by the Prophet (peace and blessings of Allah be upon him). We shall mention this in the Book of Transactions if Allah, the Exalted, wills. If one is compelled to acquire a dog, they may take it from someone who has no need for it without payment. If unable to obtain it, they may purchase it. The price remains forbidden for the seller to retain but remains the property of the buyer. This is analogous to bribes in unjust matters and ransoming captives, as it constitutes taking wealth wrongfully. And success is from Allah alone.

١٠٩٨ - مَسْأَلَةٌ: وَلَا يَحِلُّ بَيْعُ كَلْبٍ أَصْلًا لَا الْمُبَاحُ اتِّخَاذُهُ وَلَا غَيْرُهُ؛ لِصِحَّةِ نَهْيِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْهُ - وَسَنَذْكُرُهُ فِي كِتَابِ الْبُيُوعِ إنْ شَاءَ اللَّهُ تَعَالَى - فَمَنْ اُضْطُرَّ إلَيْهِ فَلَهُ أَخْذُهُ مِمَّنْ يَسْتَغْنِي عَنْهُ بِلَا ثَمَنٍ، وَإِنْ لَمْ يَتَمَكَّنْ لَهُ، فَلَهُ ابْتِيَاعُهُ - وَالثَّمَنُ حَرَامٌ عَلَى الْبَائِعِ بَاقٍ عَلَى مِلْكِ الْمُشْتَرِي - وَإِنَّمَا هُوَ كَالرِّشْوَةِ فِي الْمَظْلَمَةِ، وَفِدَاءِ الْأَسِيرِ، لِأَنَّهُ أَخْذُ مَالٍ بِالْبَاطِلِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

AL-MUHALLA

كِتَابُ الْأَشْرِبَةِ وَمَا يَحِلُّ مِنْهَا وَمَا يَحْرُمُ

The Book of Beverages

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

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[كِتَابُ الْأَشْرِبَةِ وَمَا يَحِلُّ مِنْهَا وَمَا يَحْرُمُ] [مَسْأَلَةٌ مَا أَسْكَرَ كَثِيرُهُ]

[The Book of Beverages: What is Permissible and What is Prohibited] [Issue: What Intoxicates in Large Quantities is Prohibited in Any Amount]

مَسْأَلَةٌ: كُلُّ شَيْءٍ أَسْكَرَ كَثِيرُهُ أَحَدًا مِنْ النَّاسِ فَالنُّقْطَةُ مِنْهُ فَمَا فَوْقَهَا إلَى أَكْثَرِ الْمَقَادِيرِ: خَمْرٌ حَرَامٌ -: مِلْكُهُ، وَبَيْعُهُ، وَشُرْبُهُ، وَاسْتِعْمَالُهُ عَلَى أَحَدٍ - وَعَصِيرُ الْعِنَبِ، وَنَبِيذُ التِّينِ، وَشَرَابُ الْقَمْحِ، وَالسِّكْرَانِ، وَعَصِيرُ كُلِّ مَا سِوَاهَا وَنَقِيعُهُ، وَشَرَابُهُ - طُبِخَ كُلُّ ذَلِكَ أَوْ لَمْ يُطْبَخْ - ذَهَبَ أَكْثَرُهُ أَوْ أَقَلُّهُ سَوَاءٌ فِي كُلِّ مَا ذَكَرْنَا وَلَا فَرْقَ. وَهُوَ قَوْلُ مَالِكٍ، وَالشَّافِعِيِّ، وَأَحْمَدَ، وَأَبِي سُلَيْمَانَ وَغَيْرِهِمْ - وَفِي هَذَا اخْتِلَافٌ قَدِيمٌ وَحَدِيثٌ بَعْدَ صِحَّةِ الْإِجْمَاعِ عَلَى تَحْرِيمِ الْخَمْرِ قَلِيلِهَا وَكَثِيرِهَا -: فَرُوِّينَا عَنْ طَائِفَةٍ أَنَّهَا قَالَتْ: شَرَابُ الْبُسْرِ وَحْدَهُ خَمْرٌ مُحَرَّمَةٌ. وَقَالَتْ طَائِفَةٌ: الرُّطَبُ، وَالْبُسْرُ إذَا خُلِطَا، فَشَرَابُهُمَا خَمْرٌ مُحَرَّمَةٌ، وَكَذَلِكَ التَّمْرُ وَالْبُسْرُ إذَا خُلِطَا. وَقَالَتْ طَائِفَةٌ: عَصِيرُ الْعِنَبِ إذَا أَسْكَرَ، وَنَقِيعُ الزَّبِيبِ إذَا أَسْكَرَ، وَلَمْ يُطْبَخَا: هِيَ الْخَمْرُ الْمُحَرَّمَةُ قَلِيلُهَا وَكَثِيرُهَا، [وَكُلُّ] مَا عَدَا ذَلِكَ حَلَالٌ مَا لَمْ يُسْكِرْ مِنْهُ. وَقَالَتْ طَائِفَةٌ: لَا خَمْرَ إلَّا عَصِيرُ الْعِنَبِ إذَا أَسْكَرَ مَا لَمْ يُطْبَخْ حَتَّى يَذْهَبَ ثُلُثَاهُ فَهُوَ حَرَامٌ قَلِيلُهُ وَكَثِيرُهُ، فَإِذَا طُبِخَ كَذَلِكَ فَلَيْسَ خَمْرًا بَلْ هُوَ حَلَالٌ أَسْكَرَ أَوْ لَمْ يُسْكِرْ. وَأَمَّا كُلُّ شَرَابٍ مَا عَدَا عَصِيرَ الْعِنَبِ الْمَذْكُورَ فَهُوَ حَلَالٌ أَسْكَرَ أَوْ لَمْ يُسْكِرْ كَنَقِيعِ الزَّبِيبِ وَغَيْرِهِ طُبِخَ كُلُّ ذَلِكَ أَوْ لَمْ يُطْبَخْ إلَّا أَنَّ السُّكْرَ مِنْهُ حَرَامٌ. وَقَالَتْ طَائِفَةٌ: كُلُّ مَا عُصِرَ مِنْ الْعِنَبِ، وَنَبِيذِ الزَّبِيبِ، وَنَبِيذِ التَّمْرِ، وَالرُّطَبِ، وَالْبُسْرِ، وَالزَّهْوِ، فَلَمْ يُطْبَخْ، فَكُلُّ خَمْرٍ مُحَرَّمَةٌ قَلِيلُهَا وَكَثِيرُهَا، فَإِنْ طُبِخَ عَصِيرُ الْعِنَبِ حَتَّى ذَهَبَ ثُلُثَاهُ وَطُبِخَ سَائِرُ مَا ذَكَرْنَا فَهُوَ حَلَالٌ أَسْكَرَ أَوْ لَمْ يُسْكِرْ، إلَّا أَنَّ السُّكْرَ مِنْهُ حَرَامٌ. وَكُلُّ نَبِيذٍ

L17285–17286

Issue: Every substance whose large quantity intoxicates any person—from a drop up to the largest quantities—is unlawful khamr. This applies to its ownership, sale, drinking, use on anyone, grape juice, fig nabīdh, wheat-based drink, intoxicants, the juice or infusion of anything else—whether cooked or uncooked, whether most or little of it has evaporated—all are equal in what we have mentioned, with no distinction. This is the opinion of Mālik, al-Shāfiʿī, Aḥmad, Abū Sulaymān, and others. There exists ancient and modern disagreement on this matter after the establishment of the consensus prohibiting khamr in both small and large quantities.

L17287–17289

We have reported from one group that they said: "The drink of unripe dates alone is prohibited khamr." Another group said: "When fresh dates and unripe dates are mixed, their drink becomes prohibited khamr, as does the mixture of dried dates and unripe dates." A third group stated: "Uncooked grape juice or raisin infusion that intoxicates is prohibited khamr in small or large amounts. Every other drink is permissible unless it causes intoxication."

Another group argued: "There is no khamr except uncooked grape juice that intoxicates. If it is not cooked until two-thirds of it evaporates, it remains unlawful in any quantity. If cooked thus, it is not khamr but permissible, whether it intoxicates or not. As for all drinks besides this grape juice—such as raisin infusion and others, whether cooked or uncooked—they are permissible even if they intoxicate, though intoxication itself is forbidden."

Another group asserted: "Any liquid pressed from grapes, raisin nabīdh, date nabīdh, fresh date nabīdh, unripe date nabīdh, or nabīdh of fully ripe dates—if uncooked—is entirely prohibited khamr in all quantities. If grape juice is cooked..." Until two-thirds of it have evaporated and the remainder of what we mentioned has been cooked, it is permissible whether it caused intoxication or not, except that intoxication from it remains forbidden. All other nabidh and juices apart from what we mentioned are permissible whether they caused intoxication or not—cooked or uncooked—and intoxication from

them is likewise not forbidden. As for those who consider the drink of unripe dates alone to be khamr: We have received through Ahmad ibn Shu'ayb's chain—Ahmad ibn Sulayman narrated to us; Yazid reported from Humaid from 'Ikrimah from Ibn 'Abbas who said: "Unripe dates alone are forbidden." Ahmad ibn Shu'ayb stated: I, Abu Bakr ibn 'Ali al-Muqaddami, received from al-Qawariri (i.e., 'Ubaydullah ibn 'Umar); Hammad ibn Zayd narrated to us; Ayyub al-Sakhtiyani narrated from Sa'id ibn Jubayr from Ibn 'Abbas who said: "Nabidh made exclusively from unripe dates is unlawful." This opinion has also been transmitted from 'Abd al-Rahman ibn Abi Layla and Jabir ibn Zayd. It is reported that Ibn 'Abbas would administer flogging for it as for khamr. We find no valid evidence for this view whatsoever. Contrarily, the Prophet's invalidation of it is established—as we received through 'Abdullah ibn al-Mubarak's chain from Isma'il ibn Muslim al-'Abdi; Abu al-Mutawakkil narrated from Abu Sa'id al-Khudri that the Prophet (peace be upon him) said: "Whoever among you drinks it, let each consume one type individually: dates alone, unripe dates alone, or raisins alone."

The second opinion: We received through 'Abd al-Razzaq's chain from Sufyan al-Thawri from Muharib ibn Dithar who said: I heard Jabir ibn 'Abdullah declare: "Unripe dates and fresh dates are khamr"—meaning when mixed. Through Ahmad ibn Shu'ayb's chain: Suwayd ibn Nasr narrated; 'Abdullah ibn al-Mubarak reported from Sufyan al-Thawri and Shu'bah, both from Muharib ibn Dithar from Jabir ibn 'Abdullah who said: "Unripe dates and dried dates are khamr." Proponents of this view cite the authenticated prohibition by the Prophet (peace be upon him) against mixing unripe dates with dried dates or fresh dates.

Abu Muhammad remarked: This report provides them no proof for two reasons. First, the Prophet (peace be upon him) prohibited combining other types beyond these, rendering baseless any exclusive prohibition of these while disregarding others he forbade. We received through Yahya ibn Sa'id al-Qattan's chain from Ibn Jurayj; 'Ata' informed from Jabir who said: "The Prophet (peace be upon him) forbade mixing dates, raisins, unripe dates, and fresh dates."[1]

[1] **Hadith references (L17287):** Sunan an-Nasai 5568; Sunan an-Nasai 5554.

وَعَصِيرٍ مَا سِوَى مَا ذَكَرْنَا فَحَلَالٌ أَسْكَرَ أَوْ لَمْ يُسْكِرْ طُبِخَ أَوْ لَمْ يُطْبَخْ وَالسُّكْرُ أَيْضًا مِنْهُ لَيْسَ حَرَامًا. فَأَمَّا مَنْ رَأَى شَرَابَ الْبُسْرِ وَحْدَهُ خَمْرًا -: فَرُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا أَحْمَدُ بْنُ سُلَيْمَانَ نا يَزِيدُ [قَالَ] أَنَا حُمَيْدٍ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ: الْبُسْرُ وَحْدَهُ حَرَامٌ قَالَ أَحْمَدُ بْنُ شُعَيْبٍ: وَأَنَا أَبُو بَكْرِ بْنُ عَلِيٍّ الْمُقَدَّمِيُّ نا الْقَوَارِيرِيُّ هُوَ عُبَيْدُ اللَّهِ بْنُ عُمَرَ - نا حَمَّادٌ هُوَ ابْنُ زَيْدٍ - نا أَيُّوبُ هُوَ السَّخْتِيَانِيُّ - عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عَبَّاسٍ قَالَ: نَبِيذُ الْبُسْرِ بَحْتًا لَا يَحِلُّ - وَرُوِيَ هَذَا الْقَوْلُ أَيْضًا عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، وَجَابِرِ بْنِ زَيْدٍ. وَرُوِيَ عَنِ ابْنِ عَبَّاسٍ أَنَّهُ كَانَ يَجْلِدُ فِيهِ كَمَا يَجْلِدُ فِي الْخَمْرِ - وَمَا نَعْلَمُ لِهَذَا الْقَوْلِ حُجَّةً أَصْلًا، بَلْ قَدْ صَحَّ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إبْطَالُهُ -: كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ إسْمَاعِيلَ بْنِ مُسْلِمٍ الْعَبْدِيِّ نا أَبُو الْمُتَوَكِّلِ عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَنْ شَرِبَهُ مِنْكُمْ فَلْيَشْرَبْ كُلَّ وَاحِدٍ مِنْهُ فَرْدًا، تَمْرًا فَرْدًا، أَوْ بُسْرًا فَرْدًا، أَوْ زَبِيبًا فَرْدًا» . وَالْقَوْلُ الثَّانِي - رُوِّيناهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ مُحَارِبِ بْنِ دِثَارٍ قَالَ: سَمِعْت جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: الْبُسْرُ، وَالرُّطَبُ: خَمْرٌ - يَعْنِي إذَا جُمِعَا. وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا سُوَيْد بْنُ نَصْرٍ أَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ عَنْ سُفْيَانَ الثَّوْرِيِّ، وَشُعْبَةَ، كِلَيْهِمَا عَنْ مُحَارِبِ بْنِ دِثَارٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: الْبُسْرُ، وَالتَّمْرُ: خَمْرٌ وَحُجَّةُ هَذَا الْقَوْلِ هُوَ صِحَّةُ نَهْيِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ خَلْطِ الْبُسْرِ مَعَ التَّمْرِ، أَوْ مَعَ الرُّطَبِ. قَالَ أَبُو مُحَمَّد: وَلَا حُجَّةَ لَهُمْ فِي هَذَا الْخَبَرِ، لِوَجْهَيْنِ -: أَحَدُهُمَا: أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ نَهَى عَنِ الْجَمْعِ بَيْنَ غَيْرِ هَذِهِ الْأَنْوَاعِ، فَلَا مَعْنَى لِتَخْصِيصِ هَذِهِ خَاصَّةً بِالتَّحْرِيمِ دُونَ سَائِرِ مَا نَهَى - عَلَيْهِ السَّلَامُ - عَنْهُ. رُوِّينَا مِنْ طَرِيقِ يَحْيَى بْنِ

سَعِيدٍ الْقَطَّانِ عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي عَطَاءٌ عَنْ جَابِرٍ قَالَ «إِنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ خَلِيطِ التَّمْرِ، وَالزَّبِيبِ، وَالْبُسْرِ، وَالرُّطَبِ» .

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وَمِنْ طَرِيقِ اللَّيْثِ بْنِ سَعْدٍ عَنْ عَطَاءٍ عَنْ جَابِرٍ قَالَ «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ يُنْبَذَ الزَّبِيبُ وَالتَّمْرُ جَمِيعًا، وَأَنْ يُنْبَذَ الْبُسْرُ وَالتَّمْرُ جَمِيعًا» . وَنَهَى أَيْضًا - عَلَيْهِ السَّلَامُ - عَنْ أَنْ يُجْمَعَ غَيْرُ هَذِهِ كَمَا نَذْكُرُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى. وَوَجْهٌ آخَرُ -: وَهُوَ أَنَّهُ لَيْسَ كُلُّ مُحَرَّمٍ خَمْرًا، الدَّمُ حَرَامٌ، وَلَيْسَ خَمْرًا، وَلَبَنُ الْخِنْزِيرِ حَرَامٌ وَلَيْسَ خَمْرًا، وَالْبَوْلُ حَرَامٌ وَلَيْسَ خَمْرًا، فَهَذَانِ اللَّذَانِ نَهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ جَمْعِهِمَا حَرَامٌ وَلَيْسَتْ خَمْرًا إِلَّا أَنْ تُسْكِرَ، وَلَا مَعْنَى لِتَسْمِيَتِهِمَا إِذَا جُمِعَا خَمْرًا. فَإِنْ قِيلَ: فَقَدْ صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «الزَّبِيبُ وَالتَّمْرُ هُوَ الْخَمْرُ» فَمَا قَوْلُكُمْ فِيهِ؟ قُلْنَا: قَدْ صَحَّ بِالنَّصِّ وَالْإِجْمَاعِ الْمُتَيَقَّنِ إِبَاحَةُ التَّمْرِ وَإِبَاحَةُ الزَّبِيبِ، وَإِبَاحَةُ نَبِيذِهِمَا غَيْرَ مَخْلُوطَيْنِ، كَمَا ذَكَرْنَا آنِفًا وَأَنَّ ذَلِكَ لَمْ يُنْسَخْ قَطُّ. فَصَحَّ أَنَّ هَذَا الْخَبَرَ لَيْسَ عَلَى ظَاهِرِهِ، فَإِذْ لَا شَكَّ فِي هَذَا فَإِنَّمَا يَكُونُ خَمْرًا إِذَا جَاءَ نَصٌّ مُبَيِّنٌ لِهَذِهِ الْجُمْلَةِ، وَلَيْسَ ذَلِكَ إِلَّا إِذَا أَسْكَرَ نَبِيذُهُمَا كَمَا بَيَّنَ - عَلَيْهِ السَّلَامُ - فِي خَبَرٍ نَذْكُرُهُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى «إِنَّ كُلَّ مُسْكِرٍ خَمْرٌ» فَسَقَطَ هَذَا الْقَوْلُ أَيْضًا. وَالْقَوْلُ الثَّالِثُ: مِنْ تَخْصِيصِ عَصِيرِ الْعِنَبِ وَنَبِيذِ الزَّبِيبِ بِالتَّحْرِيمِ مَا لَمْ يُطْبَخَا دُونَ سَائِرِ الْأَنْبِذَةِ وَالْعَصِيرِ فَقَوْلٌ صَحَّ عَنْ أَبِي حَنِيفَةَ - وَهُوَ الْأَشْهَرُ عَنْهُ - إِلَّا أَنَّهُ لَا يَعْتَمِدُ مُقَلِّدُوهُ عَلَيْهِ، وَلَا يَشْتَغِلُونَ بِنَصْرِهِ، وَلَا نَعْلَمُ لَهُ أَيْضًا حُجَّةً أَصْلًا، لَا مِنْ قُرْآنٍ، وَلَا مِنْ سُنَّةٍ، وَلَا رِوَايَةٍ ضَعِيفَةٍ، وَلَا دَلِيلِ إِجْمَاعٍ، وَلَا قَوْلِ صَاحِبٍ، وَلَا رَأْيٍ، وَلَا قِيَاسٍ - فَسَقَطَ - وَلِلَّهِ الْحَمْدُ. وَالْقَوْلُ الرَّابِعُ: مِنْ تَخْصِيصِ عَصِيرِ الْعِنَبِ بِالتَّحْرِيمِ مَا لَمْ يُطْبَخْ، فَهُوَ قَوْلٌ اخْتَارَهُ

From the narration of Al-Layth ibn Sa‘d through ‘Aṭā’ from Jābir, who said: “The Messenger of Allah—peace and blessings of Allah be upon him—prohibited fermenting raisins and dates together, and fermenting unripe dates and dates together.” He—peace be upon him—also prohibited combining other substances besides these, as we will mention hereafter, Allah the Exalted willing. Another perspective holds that not every prohibited substance constitutes khamr. Blood is forbidden but not khamr, swine’s milk is forbidden but not khamr, and urine is forbidden but not khamr. Thus, these two mixtures the Prophet—peace and blessings of Allah be upon him—forbade combining are prohibited but not khamr unless they cause intoxication. There is no basis for designating them as khamr merely due to their combination. If one objects: There exists an authentic report from the Prophet—peace and blessings of Allah be upon him—that “raisins and dates constitute khamr”—what is your response? We reply: It is definitively established through textual evidence and certain consensus that dates are permissible, raisins are permissible, and their individual fermented drinks are permissible when unmixed—as we previously stated—and this ruling has never been abrogated. Therefore, this narration cannot be understood literally. Since there is no doubt in this matter, they can only be classified as khamr if an explicit text clarifies this generality, which applies solely when their fermented drink causes intoxication—as the Prophet—peace be upon him—explained in a narration we will mention later, Allah the Exalted willing: “Every intoxicant is khamr.” Thus, this argument too becomes invalid. The third opinion—restricting the prohibition to uncooked grape juice and raisin ferment, unlike other beverages and juices—is authentically reported from Abū Ḥanīfah and is most renowned from him. However, his followers neither base their practice on it nor strive to defend it. Moreover, we find no foundational evidence for it whatsoever—neither from the Qur’an, Sunnah, weak narrations, consensus, companions’ statements, reasoned opinion, nor analogy. Therefore, it is dismissed—and all praise belongs to Allah. The

fourth opinion—limiting the prohibition to uncooked grape juice—is a position favored by Abū Ja'far al-Ṭaḥāwī. Its proponents cite reports attributed to the Prophet—peace and blessings of Allah be upon him—narrations from the Companions, and claims of consensus. As for the narrations from the Prophet—peace and blessings of Allah be upon him—all contain no merit, as we shall clarify, Allah the Exalted willing.

L17292–17293 Then, even if they were authentic, none of them would align with this opinion; thus, it becomes evident that their citation of them is sheer obfuscation. Similarly, the narrations from the Companions—may Allah be pleased with them—except that some of them are inauthentic and do not conform to the view they have adopted, thus their citation of them is obfuscation.

L17294–17296 Among these are matters that are valid, and those who do not scrutinize carefully may presume they align with what the scholars have concluded—as we will present, God willing—though there exists no valid proof in the opinion of a scholar when another from among them opposes it. As for the claim of consensus, they argue: "Consensus has been established on the prohibition of grape juice when it intoxicates, while disagreement exists regarding other intoxicants. Thus, nothing is prohibited due to mere disagreement." Abu Muhammad said: This is an utterly corrupt view, for it invalidates the majority of their own rulings. It would compel them to mandate zakah only where consensus requires it, to recognize no obligation of Hajj or prayer except where consensus confirms it, and to not deem anything usury unless the entire ummah agrees it is usury. Whoever adopts this doctrine unquestionably exits the fold of Islam for two reasons: First, it is a fabricated doctrine never commanded by Allah Almighty nor His Messenger (peace be upon him). Allah has only commanded adherence to the Quran, the Sunnah of the Prophet (peace be upon him), and consensus in following those in authority. He never commanded that only consensus be followed, nor did He or His Messenger (peace be upon him) state: "Do not adopt anything from disputed matters except what is unanimously agreed upon." Whoever asserts this has falsely attributed lies to Allah, introduced a blatant religious innovation, and embraced manifest misguidance. Allah says: "Follow what has been revealed to you from your Lord, and do not follow guardians besides Him" (7:3);

أَبُو جَعْفَرٍ الطَّحَاوِيَّ. وَاحْتَجَّ مَنْ ذَهَبَ إِلَيْهِ بِأَخْبَارٍ أُضِيفَتْ إِلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَخْبَارٍ عَنْ الصَّحَابَةِ، وَدَعْوَى إِجْمَاعٍ - فَأَمَّا الْأَخْبَارُ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَكُلُّهَا لَا خَيْرَ فِيهَا - عَلَى مَا نُبَيِّنُ إِنْ شَاءَ اللَّهُ تَعَالَى.

ثُمَّ لَوْ صَحَّتْ لَمَا كَانَ شَيْءٌ مِنْهَا مُوَافِقًا لِهَذَا الْقَوْلِ، فَلَاحَ أَنَّ إِيرَادَهُمْ لَهَا تَمْوِيهٌ مَحْضٌ - وَكَذَلِكَ الْآثَارُ عَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ -، إِلَّا أَنَّ مِنْهَا مَا لَا يَصِحُّ وَلَا يُوَافِقُ مَا ذَهَبُوا إِلَيْهِ فَإِيرَادُهُمْ لَهَا تَمْوِيهٌ.

وَمِنْهَا شَيْءٌ يَصِحُّ وَيَظُنُّ مَنْ لَا يُنْعِمُ النَّظَرَ أَنَّهُ يُوَافِقُ مَا ذَهَبُوا إِلَيْهِ - عَلَى مَا نُورِدُ إِنْ شَاءَ اللَّهُ تَعَالَى - وَلَا حُجَّةَ فِي قَوْلِ صَاحِبٍ قَدْ خَالَفَهُ غَيْرُهُ مِنْهُمْ. وَأَمَّا دَعْوَى الْإِجْمَاعِ فَإِنَّهُمْ قَالُوا: قَدْ صَحَّ الْإِجْمَاعُ عَلَى تَحْرِيمِ عَصِيرِ الْعِنَبِ إِذَا أَسْكَرَ، وَاخْتُلِفَ فِيمَا عَدَاهُ - فَلَا يَحْرُمُ شَيْءٌ بِاخْتِلَافٍ. قَالَ أَبُو مُحَمَّدٍ: وَهَذَا قَوْلٌ فِي غَايَةِ الْفَسَادِ لِأَنَّهُ يُبْطِلُ عَلَيْهِمْ جُمْهُورَ أَقْوَالِهِمْ، وَيَلْزَمُهُمْ أَنْ لَا يُوجِبُوا زَكَاةً إِلَّا حَيْثُ أَوْجَبَهَا إِجْمَاعٌ، وَلَا فَرِيضَةَ حَجٍّ أَوْ صَلَاةٍ إِلَّا حَيْثُ صَحَّ الْإِجْمَاعُ عَلَى وُجُوبِهَا، وَأَنْ لَا يُثْبِتُوا الرِّبَا إِلَّا حَيْثُ أَجْمَعَتْ الْأُمَّةُ عَلَى أَنَّهُ رِبًا - وَمَنْ الْتَزَمَ هَذَا الْمَذْهَبَ خَرَجَ عَنْ دِينِ الْإِسْلَامِ بِلَا شَكٍّ لِوَجْهَيْنِ -: أَحَدُهُمَا: أَنَّهُ مَذْهَبٌ مُفْتَرًى لَمْ يَأْمُرْ اللَّهُ تَعَالَى بِهِ قَطُّ وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ -، وَإِنَّمَا أَمَرَ اللَّهُ تَعَالَى بِاتِّبَاعِ الْقُرْآنِ، وَسُنَّةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأُولِي الْأَمْرِ بِاتِّبَاعِ الْإِجْمَاعِ، وَلَمْ يَأْمُرْ تَعَالَى قَطُّ بِأَنْ لَا يُتَّبَعَ إِلَّا الْإِجْمَاعُ، وَلَا قَالَ تَعَالَى قَطُّ، وَلَا رَسُولُهُ - عَلَيْهِ السَّلَامُ -: لَا تَأْخُذُوا مِمَّا اُخْتُلِفَ فِيهِ إِلَّا مَا أُجْمِعَ عَلَيْهِ - وَمَنْ ادَّعَى هَذَا فَقَدْ افْتَرَى عَلَى اللَّهِ الْكَذِبَ وَأَتَى بِدِينٍ مُبْتَدَعٍ وَبِالضَّلَالِ الْمُبِينِ. إِنَّمَا قَالَ

"Whatever the Messenger gives you, take it, and whatever he forbids you, abstain from it" (59:7); and "If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day" (4:59). He did not say: "Refer it to consensus." Therefore, whoever refers disputed matters to consensus rather than the explicit texts of the Quran and Sunnah has disobeyed Allah Almighty and His Messenger (peace be upon him), introducing into religion what Allah never sanctioned. As for us, we follow consensus where its validity is established, never opposing it in principle. We refer disputed matters to the Quran and Sunnah, adopting their rulings even if no consensus exists—as Allah commands in the Quran, His Messenger (peace be upon him) taught, and all Muslims unanimously agree. And we know not. If anyone has ever said, "I do not adhere to anything in religion except what people unanimously agree upon," they have undoubtedly become opposed to the scholarly consensus (ijmāʿ) by this principle. The second aspect is that this is a doctrine which necessitates disregarding the Quran and the Sunnah whenever disagreement arises regarding any of their rulings, and this has no place in the religion of Islam. Moreover, it is in most cases a falsehood against the community and a statement without knowledge. Additionally, they only adhere to this corrupt principle in very few issues—though it invalidates all their doctrines entirely, thus recoiling upon them. Success is from Allah, the Exalted.

As for the narrations: Among them is a report authenticated from Ibn Abbas, who said, "Wine itself is prohibited, whether in small or large quantities, and whatever intoxicates from any drink." We narrated it through the chain of Qāsim ibn Aṣbagh: Aḥmad ibn Zuhayr narrated to us, Abū Nuʿaym al-Faḍl ibn Dukayn narrated to us, from Misʿar, from Abū ʿAwn, from ʿAbdullāh ibn Shaddād, from Ibn Abbas. There is no proof for them in this, for we narrated it through the chain of Aḥmad ibn Shuʿayb: al-Ḥusayn ibn Manṣūr narrated to us, Aḥmad ibn Ḥanbal narrated to us, Muḥammad ibn Jaʿfar Ghundar narrated to us, from Shuʿbah, from Misʿar, from Abū ʿAwn, from ʿAbdullāh ibn Shaddād, from Ibn Abbas, who said: "Wine itself is prohibited, whether in small or large quantities, and any intoxicant from every drink." Shuʿbah—without dispute—is more precise and reliable in memorization than Abū

تَعَالَى: {اتَّبِعُوا مَا أُنْزِلَ إِلَيْكُمْ مِنْ رَبِّكُمْ وَلا تَتَّبِعُوا مِنْ دُونِهِ أَوْلِيَاءَ} [الأعراف: ٣] وَقَالَ تَعَالَى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا} [الحشر: ٧] . وَقَالَ تَعَالَى: {فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الآخِرِ} [النساء: ٥٩] وَلَمْ يَقُلْ تَعَالَى: فَرُدُّوهُ إِلَى الْإِجْمَاعِ، فَمَنْ رَدَّ مَا تُنُوزِعَ فِيهِ إِلَى الْإِجْمَاعِ لَا إِلَى نَصِّ الْقُرْآنِ وَالسُّنَّةِ فَقَدْ عَصَى اللَّهَ تَعَالَى وَرَسُولَهُ - عَلَيْهِ السَّلَامُ -، وَشَرَعَ مِنْ الدِّينِ مَا لَمْ يَأْذَنْ بِهِ اللَّهُ تَعَالَى. وَأَمَّا نَحْنُ فَنَتَّبِعُ الْإِجْمَاعَ فِيمَا صَحَّ أَنَّهُمْ أَجْمَعُوا عَلَيْهِ وَلَا نُخَالِفُهُ أَصْلًا، وَنَرُدُّ مَا تُنُوزِعَ فِيهِ إِلَى الْقُرْآنِ، وَالسُّنَّةِ، فَنَأْخُذُ مَا فِيهِمَا وَإِنْ لَمْ يُجْمَعْ عَلَى الْأَخْذِ بِهِ - وَبِهَذَا أَمَرَ اللَّهُ تَعَالَى فِي الْقُرْآنِ وَرَسُولُهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَعَلَيْهِ أَجْمَعَ أَهْلُ الْإِسْلَامِ وَمَا نَعْلَمُ أَحَدًا قَالَ قَطُّ: لَا أَلْتَزِمُ فِي شَيْءٍ مِنْ الدِّينِ إلَّا مَا أَجْمَعَ النَّاسُ عَلَيْهِ، فَقَدْ صَارُوا بِهَذَا الْأَصْلِ مُخَالِفِينَ لِلْإِجْمَاعِ بِلَا شَكٍّ. وَالْوَجْهُ الثَّانِي: أَنَّهُ مَذْهَبٌ يَقْتَضِي أَنْ لَا يُلْتَفَتَ لِلْقُرْآنِ وَالسُّنَنِ إذَا وُجِدَ الِاخْتِلَافُ فِي شَيْءٍ مِنْ أَحْكَامِهِمَا، وَلَيْسَ هَذَا مِنْ دِينِ الْإِسْلَامِ فِي شَيْءٍ مَعَ أَنَّهُ فِي أَكْثَرِ الْأَمْرِ كَذِبٌ عَلَى الْأُمَّةِ وَقَوْلٌ بِلَا عِلْمٍ. وَأَيْضًا فَإِنَّهُمْ لَا يَلْتَزِمُونَ هَذَا الْأَصْلَ الْفَاسِدَ إلَّا فِي مَسَائِلَ قَلِيلَةٍ جِدًّا - وَهُوَ مُبْطِلٌ لِسَائِرِ مَذَاهِبِهِمْ كُلِّهَا فَعَادَ عَلَيْهِمْ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ. وَأَمَّا الْأَخْبَارُ: فَمِنْهَا خَبَرٌ صَحَّ عَنْ ابْنِ عَبَّاسٍ قَالَ: حُرِّمَتْ الْخَمْرُ بِعَيْنِهَا الْقَلِيلُ مِنْهَا وَالْكَثِيرُ وَالْمُسْكِرُ مِنْ كُلِّ شَرَابٍ -: وَرُوِّينَاهُ مِنْ طَرِيقِ قَاسِمِ بْنِ أَصْبَغَ نا أَحْمَدُ بْنُ زُهَيْرٍ نا أَبُو نُعَيْمٍ الْفَضْلُ بْنُ دُكَيْنٍ عَنْ مِسْعَرٍ عَنْ أَبِي عَوْنٍ عَنْ عَبْدِ اللَّهِ بْنِ شَدَّادٍ عَنْ ابْنِ عَبَّاسٍ - وَلَا حُجَّةَ لَهُمْ فِيهِ، لِأَنَّنَا رُوِّينَاهُ مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا الْحُسَيْنُ بْنُ مَنْصُورٍ نا أَحْمَدُ بْنُ حَنْبَلٍ نا مُحَمَّدُ بْنُ جَعْفَرٍ غُنْدَرٌ نا شُعْبَةُ عَنْ مِسْعَرٍ عَنْ أَبِي عَوْنٍ عَنْ عَبْدِ

Nu‘aym. He also reported an addition beyond what Abū Nu‘aym narrated, and the addition by a trustworthy narrator is impermissible to discard. Abū Nu‘aym’s narration does not preclude the prohibition of what we mentioned in our narration if an authentic text prohibiting it exists. It is authentically established through Ibn Abbas’s transmission that intoxicants are wholly prohibited, and it is also authentically established from him—as we mentioned earlier—that the fermented drink from unripe dates is absolutely forbidden. Thus, their reliance on this report is nullified.

Another narration we transmitted through Ibn Abbas from the Prophet—peace and blessings be upon him and his family—states: “Ferment in them”—meaning in containers—“for containers neither permit nor prohibit anything, and do not become intoxicated.” And that ‘Umar said to him: “O Messenger of Allah, what is your saying: ‘Every intoxicant is unlawful’?” He replied: “Drink, but when you fear intoxication, abstain.” Another narration through Abū Mūsā al-Ash‘arī from the Prophet—peace and blessings be upon him and his family—states: “Both of you drink, but do not become intoxicated.” Neither of these reports contains any proof for their argument.[2]

L17297–17302 As for the report of Ibn Abbas: It is transmitted through the path of Al-Mushma‘il ibn Milḥān—who is unknown—from Al-Naḍr ibn ʿAbd al-Raḥmān, a Basran silk merchant known as Abū Bakr, a denounced narrator of ḥadīth weakened by Al-Bukhārī and others. Ibn Maʿīn stated: “It is impermissible to narrate from him.” Even if it were authentic, it would not serve as proof for them, for it contains a prohibition against intoxication. His statement “When you fear, then abstain” means “If you fear it may be intoxicating”—thus, reliance on it is invalidated.

As for the report of Abū Mūsā: It is inauthentic, as it is transmitted through Sharīk—a narrator who practices tadlis (concealing defects in the chain) and is weak—from Abū Isḥāq, from Abū Burdah, from Abū Mūsā, from the Prophet (peace and blessings of Allah be upon him). Trustworthy narrators have transmitted it differently, as we reported through ʿUmar ibn Dīnār, Zayd ibn

[2]**Qur’an references (L17294):** Qur’an 7:3 (Al-A’raf); Qur’an 59:7 (Al-Hashr); Qur’an 4:59 (An-Nisa).

اللَّهِ بْنِ شَدَّادٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: حُرِّمَتْ الْخَمْرُ بِعَيْنِهَا قَلِيلُهَا وَكَثِيرُهَا، وَالْمُسْكِرُ مِنْ كُلِّ شَرَابٍ وَشُعْبَةَ بِلَا خِلَافٍ أَضْبَطُ وَأَحْفَظُ مِنْ أَبِي نُعَيْمٍ. وَقَدْ رَوَى فِيهِ زِيَادَةً عَلَى مَا رَوَى أَبُو نُعَيْمٍ، وَزِيَادَةُ الْعَدْلِ لَا يَحِلُّ تَرْكُهَا، وَلَيْسَ فِي رِوَايَةِ أَبِي نُعَيْمٍ مَا يَمْنَعُ مِنْ تَحْرِيمِ غَيْرِ مَا ذَكَرْنَا فِي رِوَايَتِهِ إذَا جَاءَ بِتَحْرِيمِهِ نَصٌّ صَحِيحٌ. وَقَدْ صَحَّ مِنْ طَرِيقِ ابْنِ عَبَّاسٍ تَحْرِيمُ الْمُسْكِرِ جُمْلَةً - وَصَحَّ عَنْهُ كَمَا ذَكَرْنَا آنِفًا تَحْرِيمُ نَبِيذِ الْبُسْرِ بَحْتًا فَسَقَطَ تَعَلُّقُهُمْ بِهَذَا الْخَبَرِ. وَمِنْهَا: خَبَرٌ رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ عَبَّاسٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَفِيهِ «فَانْتَبِذُوا فِيهَا - يَعْنِي فِي الظُّرُوفِ - فَإِنَّ الظُّرُوفَ لَا تَحِلُّ شَيْئًا وَلَا تُحَرِّمُ وَلَا تَسْكَرُوا» وَأَنَّ عُمَرَ قَالَ لَهُ «يَا رَسُولَ اللَّهِ مَا قَوْلُكَ: كُلُّ مُسْكِرٍ حَرَامٌ؟ قَالَ: اشْرَبْ، فَإِذَا خِفْتَ فَدَعْ» . وَخَبَرٌ: مِنْ طَرِيقِ أَبِي مُوسَى الْأَشْعَرِيِّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «اشْرَبَا وَلَا تَسْكَرَا» وَكِلَاهُمَا لَا حُجَّةَ لَهُمْ فِيهِ.

وَأَمَّا خَبَرُ ابْنِ عَبَّاسٍ: فَإِنَّهُ مِنْ طَرِيقِ الْمُشْمَعِلِّ بْنِ مِلْحَانَ وَهُوَ مَجْهُولٌ عَنْ النَّضْرِ بْنِ عَبْدِ الرَّحْمَنِ خَزَّازٌ بَصْرِيٌّ يُكَنَّى أَبَا بَكْرٍ - مُنْكَرُ الْحَدِيثِ ضَعَّفَهُ الْبُخَارِيُّ وَغَيْرُهُ، وَقَالَ فِيهِ ابْنُ مَعِينٍ: لَا تَحِلُّ الرِّوَايَةُ عَنْهُ - وَلَوْ صَحَّ لَمْ يَكُنْ لَهُمْ فِيهِ حُجَّةٌ، لِأَنَّ فِيهِ النَّهْيَ عَنْ السُّكْرِ وَيَكُونُ قَوْلُهُ «فَإِذَا خِفْتَ فَدَعْ» أَيْ إذَا خِفْت أَنْ يَكُونَ مُسْكِرًا - فَسَقَطَ التَّعَلُّقُ بِهِ. وَأَمَّا خَبَرُ أَبِي مُوسَى: فَلَا يَصِحُّ لِأَنَّهُ مِنْ طَرِيقِ شَرِيكٍ عَنْ أَبِي إسْحَاقَ عَنْ أَبِي بُرْدَةَ عَنْ أَبِي مُوسَى عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَشَرِيكٌ مُدَلِّسٌ وَضَعِيفٌ فَسَقَطَ. وَقَدْ رَوَاهُ الثِّقَاتُ بِخِلَافِ هَذَا -: كَمَا رُوِّينَا مِنْ طَرِيقِ عُمَرَ بْنِ دِينَارٍ، وَزَيْدِ بْنِ أَبِي أُنَيْسَةَ، وَشُعْبَةَ بْنِ الْحَجَّاجِ، كُلِّهِمْ عَنْ سَعِيدِ بْنِ أَبِي بُرْدَةَ عَنْ أَبِيهِ عَنْ أَبِي مُوسَى

Abī Unaysah, and Shuʿbah ibn al-Ḥajjāj—all from Saʿīd ibn Abī Burdah, from his father, from Abū Mūsā al-Ashʿarī, from the Prophet (peace and blessings of Allah be upon him), who said: "Every intoxicant is forbidden. Whatever causes intoxication to the point of preventing prayer is forbidden. I prohibit every intoxicant that intoxicates to the point of preventing prayer." This is the established truth, not the narration of every weak, deceptive, lying, or unknown narrator.

A report we transmitted from Abū Burdah, from the Prophet (peace and blessings of Allah be upon him)—"Drink from vessels but do not become intoxicated"—is inauthentic. Its chain includes Simāk ibn Ḥarb, who is known to accept prompting (as attested by Shuʿbah and others), from Al-Qāsim ibn ʿAbd al-Raḥmān, from his father, from Abū Burdah. Even if authentic, it would not constitute proof for them, for it merely prohibits intoxication and does not negate the prohibition of other intoxicants unmentioned in this report. The prohibition of all intoxicants has been firmly established through the most reliable chains, as previously cited—praise be to Allah.

A report transmitted through Sawwār ibn Muṣʿab and Saʿīd ibn ʿUmārah: Sawwār narrated from ʿAṭiyyah al-ʿAwfī (a discredited narrator) from Abū Saʿīd; Saʿīd narrated from Al-Ḥārith ibn al-Nuʿmān (an unknown figure) from Anas. Both Abū Saʿīd and Anas then concurred, attributing to the Prophet (peace and blessings of Allah be upon him): "Wine is inherently forbidden, whether little or much, as is intoxication from any drink." Sawwār is accused of lying, ʿAṭiyyah is discredited, and Al-Ḥārith and Saʿīd are unknown. Even if authentic, it would lack probative value, for the narration of Shuʿbah from Misʿar, from Abū ʿAwn, from ʿAbd Allāh ibn Shaddād, from Ibn ʿAbbās—cited earlier—adds to this report, and the addition of a reliable narrator must be accepted.

A report states: "The Prophet (peace and blessings of Allah be upon him) said to ʿAbd al-Qays: 'Drink what is wholesome for you.'" We transmitted it... From the narration of Ibn Abi Shaybah through Mulazim ibn Amr, from ʿAjībah ibn ʿAbd al-Hamid, from his uncle Qays ibn Talq, from his father Talq ibn ʿAlī, from the Prophet—peace and blessings of Allah be upon him and his family—this holds no valid evidence for several reasons: First, it is nar-

الْأَشْعَرِيِّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «كُلُّ مُسْكِرٍ حَرَامٌ، كُلُّ مَا أَسْكَرَ عَنْ الصَّلَاةِ فَهُوَ حَرَامٌ، أَنْهَى عَنْ كُلِّ مُسْكِرٍ أَسْكَرَ عَنْ الصَّلَاةِ» فَهَذَا هُوَ الْحَقُّ الثَّابِتُ لَا رِوَايَةُ كُلِّ ضَعِيفٍ، وَمُدَلِّسٍ، وَكَذَّابٍ، وَمَجْهُولٍ. وَخَبَرٌ رُوِّينَاهُ عَنْ أَبِي بُرْدَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «اشْرَبُوا فِي الظُّرُوفِ وَلَا تَسْكَرُوا» - وَهَذَا لَا يَصِحُّ لِأَنَّهُ مِنْ رِوَايَةِ سِمَاكِ بْنِ حَرْبٍ عَنْ الْقَاسِمِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ عَنْ أَبِي بُرْدَةَ وَسِمَاكٌ يَقْبَلُ التَّلْقِينَ شَهِدَ عَلَيْهِ بِذَلِكَ شُعْبَةُ، وَغَيْرُهُ. ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ لَهُمْ فِيهِ حُجَّةٌ لِأَنَّهُ إنَّمَا فِيهِ النَّهْيُ عَنْ السُّكْرِ وَلَيْسَ فِيهِ مَانِعٌ مِنْ تَحْرِيمِ مَا يَصِحُّ تَحْرِيمُهُ مِمَّا لَمْ يُذْكَرْ فِي هَذَا الْخَبَرِ. وَقَدْ صَحَّ تَحْرِيمُ كُلِّ مَا أَسْكَرَ كَمَا ذَكَرْنَا مِنْ أَصَحِّ طَرِيقٍ وَلِلَّهِ الْحَمْدُ. وَخَبَرٌ: مِنْ طَرِيقِ سَوَّارِ بْنِ مُصْعَبٍ، وَسَعِيدِ بْنِ عُمَارَةَ، قَالَ سَوَّارٌ: عَنْ عَطِيَّةَ الْعَوْفِيِّ عَنْ أَبِي سَعِيدٍ، وَقَالَ سَعِيدٌ: عَنْ الْحَارِثِ بْنِ النُّعْمَانِ عَنْ أَنَسٍ، ثُمَّ اتَّفَقَ أَبُو سَعِيدٍ وَأَنَسٌ قَالَا عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «حُرِّمَتْ الْخَمْرُ بِعَيْنِهَا قَلِيلُهَا وَكَثِيرُهَا وَالسُّكْرُ مِنْ كُلِّ شَرَابٍ» وَسَوَّارٌ مَذْكُورٌ بِالْكَذِبِ، وَعَطِيَّةُ هَالِكٌ، وَالْحَارِثُ، وَسَعِيدٌ مَجْهُولَانِ لَا يُدْرَى مَنْ هُمَا ثُمَّ لَوْ صَحَّ لَمْ تَكُنْ فِيهِ حُجَّةٌ لِأَنَّ رِوَايَةَ شُعْبَةَ عَنْ مِسْعَرٍ عَنْ أَبِي عَوْنٍ عَنْ عَبْدِ اللَّهِ بْنِ شَدَّادٍ عَنْ ابْنِ عَبَّاسٍ الَّتِي ذَكَرْنَا آنِفًا زَائِدَةٌ عَلَى هَذِهِ الرِّوَايَةِ، وَزِيَادَةُ الْعَدْلِ لَا يَجُوزُ رَدُّهَا. وَخَبَرٌ: رُوِيَ فِيهِ «أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ لِعَبْدِ الْقَيْسِ اشْرَبُوا مَا طَابَ لَكُمْ» رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ مُلَازِمِ بْنِ عَمْرٍو عَنْ عَجِيبَةَ بْنِ عَبْدِ الْحَمِيدِ عَنْ عَمِّهِ قَيْسِ بْنِ طَلْقٍ عَنْ أَبِيهِ طَلْقِ بْنِ عَلِيٍّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَهَذَا لَا حُجَّةَ فِيهِ لِوُجُوهٍ -: أَوَّلُهَا: أَنَّهُ مِنْ رِوَايَةِ عَجِيبَةَ بْنِ عَبْدِ الْحَمِيدِ وَهُوَ مَجْهُولٌ لَا يُدْرَى مَنْ

rated by ʿAjībah ibn ʿAbd al-Hamid, who is unknown and unidentified. Even if authentic, it would not constitute proof for them, since “what is lawful for us” refers to what Allah has permitted, as He said: {Marry women who are lawful for you} [4:3]. None of this permits what has been definitively prohibited. Another narration: We report through ʿAbdullāh ibn ʿAmr ibn al-ʿĀṣ from the Prophet—peace and blessings of Allah be upon him—that he “forbade wine, gambling, kubah, and ghubayrā,” and he said: “Every intoxicant is forbidden.” They argue that he—peace be upon him—distinguished between kubah, ghubayrā, and wine, thereby claiming the former two are not classified as wine. Abū Muḥammad said: This contains no proof for them; rather, it refutes them, as it is transmitted through al-Walīd ibn ʿAbdah—an unknown narrator. As for being evidence against them: If authentic, he—peace be upon him—would have equated all these in prohibition, making wine and other intoxicants equally forbidden—contrary to their claim. Furthermore, differentiation in specific contexts does not prove categorical distinction. Allah said: {Whoever is an enemy to Allah, His angels, His messengers, Gabriel, and Michael} [2:98], yet this does not exclude them—peace upon them—from being angels. Similarly, if “wine” denotes all intoxicants, listing wine alongside kubah and ghubayrā does not preclude the latter two from being wine. It is established that “every intoxicant is wine,” and the narration concludes: “Every intoxicant is forbidden”—directly opposing their view. We have never witnessed a more blatant contradiction than their citation of evidence that refutes their own argument. Another narration: We report through Ibn ʿUmar that he saw the Prophet—peace and blessings of Allah be upon him and his family—when date-wine (nabīdh) was brought to him. Finding it strong, he rejected it. When asked, “Is it unlawful?” he took it back, called for water, and poured water into it twice, saying: “When these vessels ferment excessively, dilute their contents with water.” A similar narration from Ibn ʿAbbās states: “If it becomes strong, dilute it with water,” with a parallel account from Abū Masʿūd. All of this contains no valid proof for them; rather, it constitutes proof against them. The report from Ibn ʻUmar comes through two chains: ʻAbd al-Malik ibn Nāfiʻ and ʻAbd al-Malik, the nephew of al-Qaʻqaʻ—both narrating from Ibn ʻUmar with a connected chain (*isnād*). Both are obscure and weak, whether they are two individuals or

هُوَ - ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ لَهُمْ فِيهِ حُجَّةٌ لِأَنَّ مَا طَابَ لَنَا هُوَ مَا أُحِلَّ لَنَا كَمَا قَالَ تَعَالَى: {فَانْكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ} [النساء: ٣] فَلَيْسَ فِي شَيْءٍ مِنْ هَذَا إبَاحَةُ مَا قَدْ صَحَّ تَحْرِيمُهُ. وَخَبَرٌ: رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ الْعَاصِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَنَّهُ «نَهَى عَنْ الْخَمْرِ وَالْمَيْسِرِ وَالْكُوبَةِ وَالْغُبَيْرَاءِ» وَقَالَ: «كُلُّ مُسْكِرٍ حَرَامٌ» قَالُوا: فَقَدْ فَرَّقَ - عَلَيْهِ السَّلَامُ - بَيْنَ الْكُوبَةِ، وَالْغُبَيْرَاءِ، وَالْخَمْرِ، فَلَيْسَا خَمْرًا. قَالَ أَبُو مُحَمَّد: وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ بَلْ هُوَ حُجَّةٌ عَلَيْهِمْ لِأَنَّهُ مِنْ طَرِيقِ الْوَلِيدِ بْنِ عَبْدَةَ وَهُوَ مَجْهُولٌ - وَأَمَّا كَوْنُهُ حُجَّةً عَلَيْهِمْ فَإِنَّهُ لَوْ صَحَّ لَكَانَ - عَلَيْهِ السَّلَامُ - قَدْ سَاوَى بَيْنَ كُلِّ ذَلِكَ فِي النَّهْيِ وَالْخَمْرُ وَسَائِرُ الْأَشْرِبَةِ سَوَاءٌ فِي النَّهْيِ عَنْهَا وَهَذَا خِلَافُ قَوْلِهِمْ. وَأَيْضًا: فَلَيْسَ التَّفْرِيقُ فِي بَعْضِ الْمَوَاضِعِ فِي الذِّكْرِ دَلِيلًا عَلَى أَنَّهُمَا شَيْئَانِ مُتَغَايِرَانِ فَقَدْ قَالَ تَعَالَى: {مَنْ كَانَ عَدُوًّا لِلَّهِ وَمَلَائِكَتِهِ وَرُسُلِهِ وَجِبْرِيلَ وَمِيكَالَ} [البقرة: ٩٨] لَمْ يَكُنْ هَذَا مُوجِبًا أَنَّهُمَا - عَلَيْهِمَا السَّلَامُ - لَيْسَا مِنْ الْمَلَائِكَةِ. وَهَكَذَا إذَا صَحَّ أَنَّ الْخَمْرَ هِيَ كُلُّ مُسْكِرٍ لَمْ يَكُنْ ذِكْرُ الْخَمْرِ وَالْكُوبَةِ وَالْغُبَيْرَاءِ مَانِعًا مِنْ أَنْ تَكُونَ الْكُوبَةُ وَالْغُبَيْرَاءُ خَمْرًا - وَقَدْ صَحَّ «أَنَّ كُلَّ مُسْكِرٍ خَمْرًا» وَأَيْضًا: فَفِي آخِرِ هَذَا الْحَدِيثِ «كُلُّ مُسْكِرٍ حَرَامٌ» وَهَذَا خِلَافُ قَوْلِهِمْ - فَمَا رَأَيْنَا أَقْبَحَ مُجَاهِرَةً مِنْ احْتِجَاجِهِمْ بِمَا هُوَ حُجَّةٌ عَلَيْهِمْ؟ وَخَبَرٌ: رُوِّينَاهُ مِنْ طَرِيقِ «ابْنِ عُمَرَ أَنَّهُ رَأَى النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - أُتِيَ بِنَبِيذٍ فَوَجَدَهُ شَدِيدًا فَرَدَّهُ فَقِيلَ: أَحَرَامٌ هُوَ؟ قَالَ: فَاسْتَرَدَّهُ ثُمَّ دَعَا بِمَاءٍ فَصَبَّهُ فِيهِ مَرَّتَيْنِ ثُمَّ قَالَ: إذَا اغْتَلَمَتْ عَلَيْكُمْ هَذِهِ الْأَوْعِيَةُ فَاكْسِرُوا مُتُونَهَا بِالْمَاءِ» . وَمِنْ طَرِيقِ ابْنِ عَبَّاسٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - مِثْلُهُ، وَفِيهِ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ: «إذَا اشْتَدَّ عَلَيْكُمْ فَاكْسِرُوهُ بِالْمَاءِ» وَمِثْلُهُ مِنْ طَرِيقِ أَبِي مَسْعُودٍ وَكُلُّ هَذَا لَا حُجَّةَ لَهُمْ فِيهِ، بَلْ

one. Furthermore, their narration is transmitted through Asbāṭ ibn Muḥammad al-Qurashī, Layth ibn Abī Sulaym, Qurrah al-ʻIjlī, and al-ʻAwwām—all of whom are weak. As for the report from Ibn ʻAbbās, it comes through Yazīd ibn Abī Ziyād from ʻIkrimah from Ibn ʻAbbās. Yazīd is weak, and we have received from him a fabricated report falsely attributed to the Prophet (peace and blessings of Allah be upon him) among fabricated narrations—there is no one accused in them except him. He has been deemed weak by Shuʻbah, Aḥmad, and Yaḥyā. Regarding the report from Abū Masʻūd, it is transmitted through Yaḥyā ibn Yamān and ʻAbd al-ʻAzīz ibn Abān—both unanimously acknowledged as weak. Even if these reports were authentic, they would constitute the greatest proof against their position, for all of them state that the Prophet (peace and blessings of Allah be upon him) mixed the drink with water before consuming it. This inevitably reduces to one of two scenarios: either the drink was not intoxicating, in which case all these reports align with our view; or it was intoxicating as they claim. If it was intoxicating, then—by their own principles—pouring water onto an intoxicant does not transfer it from prohibition to permissibility, nor alter its legal status. If it was unlawful before dilution, it remains unlawful afterward; if lawful before, lawful after; if disliked before, disliked after. Thus, they have contradicted all these reports, rendering the Prophet's action (peace and blessings of Allah be upon him)—which they themselves affirmed—null and meaningless in their view, as you can see. If adding water transformed it from intoxicating to non-intoxicating, they have no basis for their argument whatsoever, for if it ceased to intoxicate, we do not dispute its permissibility—thus the argument entirely rebounds against them. The report from Abū Hurayrah quoting the Prophet (peace and blessings of Allah be upon him and his family)—"Drink what is wholesome for you, but abandon it when it becomes spoiled"—contains no proof for them. Rather, it is proof against them, as its chain includes ʻAbd al-Ḥamīd ibn Bahram and Shahr ibn Ḥawshab—both dismissed as unreliable. Even if authentic, it would decisively oppose their position, for "when it becomes spoiled" unequivocally means "when it intox-

هُوَ حُجَّةٌ عَلَيْهِمْ، لِأَنَّ خَبَرَ ابْنِ عُمَرَ هُوَ مِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ نَافِعٍ وَعَبْدِ الْمَلِكِ ابْنِ أَخِي الْقَعْقَاعِ كِلَاهُمَا عَنِ ابْنِ عُمَرَ مُسْنَدًا، وَكِلَاهُمَا مَجْهُولٌ وَضَعِيفٌ سَوَاءٌ كَانَا اثْنَيْنِ أَوْ كَانَا إِنْسَانًا وَاحِدًا، ثُمَّ هُوَ عَنْهُمَا مِنْ طَرِيقِ أَسْبَاطِ بْنِ مُحَمَّدٍ الْقُرَشِيِّ، وَلَيْثِ بْنِ أَبِي سُلَيْمٍ، وَقُرَّةَ الْعِجْلِيِّ، وَالْعَوَّامِ، وَكُلُّهُمْ ضَعِيفٌ. وَأَمَّا خَبَرُ ابْنِ عَبَّاسٍ: فَهُوَ مِنْ طَرِيقِ يَزِيدَ بْنِ أَبِي زِيَادٍ عَنْ عِكْرِمَةَ عَنِ ابْنِ عَبَّاسٍ - وَيَزِيدَ ضَعِيفٌ، وَقَدْ رُوِّينَا عَنْهُ فِي الرِّوَايَاتِ السُّودِ خَبَرًا مَوْضُوعًا عَلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَيْسَ فِيهِ أَحَدٌ يَتَّهِمُ غَيْرَهُ - وَقَدْ ضَعَّفَهُ شُعْبَةُ، وَأَحْمَدُ، وَيَحْيَى. وَأَمَّا خَبَرُ أَبِي مَسْعُودٍ فَهُوَ مِنْ طَرِيقِ يَحْيَى بْنِ يَمَانٍ، وَعَبْدِ الْعَزِيزِ بْنِ أَبَانَ وَكِلَاهُمَا مُتَّفَقٌ عَلَى ضَعْفِهِ - ثُمَّ لَوْ صَحَّتْ لَكَانَتْ أَعْظَمَ حُجَّةً عَلَيْهِمْ، لِأَنَّ فِيهَا كُلِّهَا أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَزَجَهُ بِالْمَاءِ ثُمَّ شَرِبَهُ - وَهَذَا لَا يَخْلُو ضَرُورَةً مِنْ أَحَدِ وَجْهَيْنِ -: إِمَّا أَنْ لَا يَكُونَ ذَلِكَ النَّبِيذُ مُسْكِرًا فَهِيَ كُلُّهَا مُوَافِقَةٌ لِقَوْلِنَا. وَإِمَّا أَنْ يَكُونَ مُسْكِرًا كَمَا يَقُولُونَ، فَإِنْ كَانَ مُسْكِرًا فَصَبُّ الْمَاءِ عَلَى الْمُسْكِرِ عِنْدَهُمْ لَا يُخْرِجُهُ عِنْدَهُمْ عَنِ التَّحْرِيمِ إِلَى التَّحْلِيلِ، وَلَا يَنْقُلُهُ عَنْ حَالِهِ أَصْلًا إِنْ كَانَ قَبْلَ صَبِّ الْمَاءِ حَرَامًا فَهُوَ عِنْدَهُمْ بَعْدَ صَبِّهِ حَرَامٌ. وَإِنْ كَانَ قَبْلَ صَبِّهِ حَلَالًا فَهُوَ بَعْدَ صَبِّهِ حَلَالٌ، وَإِنْ كَانَ قَبْلَ صَبِّهِ مَكْرُوهًا فَهُوَ بَعْدَ صَبِّهِ مَكْرُوهٌ، فَقَدْ خَالَفُوهُ كُلَّهَا وَجَعَلُوا فِعْلَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الَّذِي حَقَّقُوهُ عَلَيْهِ بَاطِلًا عِنْدَهُمْ وَلَغْوًا لَا مَعْنَى لَهُ، وَهَذَا كَمَا تَرَى. وَإِنْ كَانَ صَبُّ الْمَاءِ نَقَلَهُ عَنْ أَنْ يَكُونَ مُسْكِرًا إِلَى أَنْ لَا يَكُونَ مُسْكِرًا فَلَا مُتَعَلَّقَ لَهُمْ فِيهِ حِينَئِذٍ أَصْلًا، لِأَنَّهُ إِذَا لَمْ يَكُنْ مُسْكِرًا فَلَا نُخَالِفُهُمْ فِي أَنَّهُ حَلَالٌ - فَعَادَ عَلَيْهِمْ جُمْلَةً. وَخَبَرٌ: مِنْ طَرِيقِ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «اشْرَبُوا مَا طَابَ لَكُمْ فَإِذَا خَبُثَ فَذَرُوهُ» وَهَذَا لَا حُجَّةَ

icates”—it admits no other interpretation. Let them otherwise clarify what “when it becomes spoiled, abandon it” signifies.[3][4]

L17303–17306 A report from the chain of ʿAlī: “The Prophet - peace and blessings of Allah be upon him - was brought nabīdh in Mecca. He tasted it, frowned, and rejected it. It was said to him: ’O Messenger of Allah, this is the drink of the people of Mecca?’ He then rejected it, poured water over it until it foamed vigorously, and said: ’Wine is prohibited by its very nature, and intoxication from any drink is forbidden.’” This contains no valid evidence for their position, as its chain includes Muḥammad ibn al-Furāt al-Kūfī - unanimously deemed weak and discarded - followed by al-Ḥārith - a known liar. Another chain via Shuʿayb ibn Wāqid - an unknown narrator - from Qays ibn Qaṭan - who is unidentified. Even if deemed authentic, it would constitute evidence against them, as its content aligns with the narration from Ibn ʿAbbās which we have previously cited.

A report from the chain of Samura: “The Prophet - peace and blessings of Allah be upon him - permitted nabīdh after having prohibited it” - this provides no valid evidence, as its chain includes al-Mundhir Abū Ḥassān - a weak narrator. Even if authentic, it would signify permission for nabīdh in certain vessels after its initial prohibition - a valid distinction. It does not indicate that wine was prohibited then permitted, given the established authentic ruling: ’Every intoxicant is wine,’ thereby nullifying their argument.

A report from Ibn ʿAbbās: “The Messenger of Allah - peace and blessings of Allah be upon him - said: ’Every intoxicant is forbidden.’ A man asked: ’Does this drink become forbidden if consumed excessively until it intoxicates?’ He replied: ’Not so. If one drinks nine measures without intoxication, it is permissible. If the tenth causes intoxication, that [act] is forbidden.’” This is

[3] **Hadith references (L17298):** Sunan an-Nasai 5684; Sunan an-Nasai 5685.

[4] **Qur’an references (L17298):** Qur’an 4:3 (An-Nisa); Qur’an 2:98 (Al-Baqarah).

لَهُمْ فِيهِ بَلْ هُوَ حُجَّةٌ عَلَيْهِمْ لِأَنَّهُ مِنْ طَرِيقِ عَبْدِ الْحَمِيدِ بْنِ بَهْرَامَ عَنْ شَهْرِ بْنِ حَوْشَبٍ - وَكِلَاهُمَا سَاقِطٌ. ثُمَّ لَوْ صَحَّ لَكَانَ حُجَّةً قَاطِعَةً عَلَيْهِمْ، لِأَنَّ مَعْنَى " إِذَا خَبُثَ " إِذَا أَسْكَرَ، لَا يَحْتَمِلُ غَيْرَ هَذَا أَصْلًا، وَإِلَّا فَلْيُعَرِّفُونَا مَا مَعْنَى «إِذَا خَبُثَ فَذَرُوهُ» .

وَخَبَرٌ: مِنْ طَرِيقِ عَلِيٍّ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَنَّهُ أُتِيَ بِمَكَّةَ بِنَبِيذٍ فَذَاقَهُ فَقَطَّبَ وَرَدَّهُ؟ فَقِيلَ لَهُ: يَا رَسُولَ اللَّهِ هَذَا شَرَابُ أَهْلِ مَكَّةَ؟ قَالَ: فَرَدَّهُ فَصَبَّ عَلَيْهِ الْمَاءَ حَتَّى رَغَا، قَالَ: حُرِّمَتْ الْخَمْرُ بِعَيْنِهَا، وَالسُّكْرُ مِنْ كُلِّ شَرَابٍ» . وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ، لِأَنَّهُ مِنْ طَرِيقِ مُحَمَّدِ بْنِ الْفُرَاتِ الْكُوفِيِّ - وَهُوَ ضَعِيفٌ بِاتِّفَاقٍ - مُطَّرَحٌ - ثُمَّ عَنْ الْحَارِثِ - وَهُوَ كَذَّابٌ. وَمِنْ طَرِيقِ شُعَيْبِ بْنِ وَاقِدٍ وَهُوَ مَجْهُولٌ عَنْ قَيْسِ بْنِ قَطَنٍ وَلَا يُدْرَى مَنْ هُوَ - ثُمَّ لَوْ صَحَّ لَكَانَ حُجَّةً عَلَيْهِمْ، لِأَنَّ الْكَلَامَ فِيهِ كَالْكَلَامِ فِيهِ مِنْ طَرِيقِ ابْنِ عَبَّاسٍ وَقَدْ ذَكَرْنَاهُ. وَخَبَرٌ: مِنْ طَرِيقِ سَمُرَةَ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ أَذِنَ فِي النَّبِيذِ بَعْدَمَا نَهَى عَنْهُ» - وَلَا حُجَّةَ فِيهِ لِأَنَّهُ مِنْ طَرِيقِ الْمُنْذِرِ أَبِي حَسَّانَ - وَهُوَ ضَعِيفٌ - ثُمَّ لَوْ صَحَّ لَكَانَ مَعْنَاهُ أَذِنَ فِي النَّبِيذِ فِي الظُّرُوفِ بَعْدَمَا نَهَى عَنْهُ، وَهَذَا حَقٌّ وَلَيْسَ فِيهِ أَنَّهُ - عَلَيْهِ السَّلَامُ - نَهَى عَنْ الْخَمْرِ، ثُمَّ أَذِنَ فِيهَا - وَقَدْ صَحَّ أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ: «كُلُّ مُسْكِرٍ خَمْرٌ» فَبَطَلَ تَعَلُّقُهُمْ بِهِ - وَلِلَّهِ الْحَمْدُ. وَخَبَرٌ: عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: كُلُّ مُسْكِرٍ حَرَامٌ فَقَالَ لَهُ رَجُلٌ: إنَّ هَذَا الشَّرَابَ إذَا أَكْثَرْنَا مِنْهُ سَكِرْنَا؟ قَالَ: لَيْسَ كَذَلِكَ إذَا شَرِبَ تِسْعَةً فَلَمْ يَسْكَرْ لَا بَأْسَ وَإِذَا شَرِبَ الْعَاشِرَ فَسَكِرَ فَذَلِكَ حَرَامٌ» وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّهُ فَضِيحَةُ الدَّهْرِ مَوْضُوعٌ بِلَا شَكٍّ -: رَوَاهُ أَبُو بَكْرِ بْنُ عَيَّاشٍ: ضَعِيفٌ - عَنْ الْكَلْبِيِّ: كَذَّابٌ

an utter scandal—undoubtedly fabricated. Its chain includes Abū Bakr ibn ʿAyyāsh (weak), al-Kalbī (notorious liar), and Abū Ṣāliḥ (discredited narrator).

A report prohibiting nabīdh in colored jars and instructing its preparation in waterskins, adding water if one fears intoxication - this comes via Abān al-Raqāshī, a weak narrator. Even if authentic, it opposes their stance, as the directive to dilute with water when fearing intoxication (by consensus) annuls its intoxicating potential. It specifies precaution before intoxication occurs, not remediation afterward.

A mursal report from Saʿīd ibn al-Musayyib: "The Prophet - peace and blessings of Allah be upon him - said: 'Wine derives from grapes, intoxication [results] from dates, mizr (a wheat-based drink) from wheat, bitʿ (a honey-based drink) from honey. Every intoxicant is forbidden. Deception and fraud merit the Fire, and trade requires mutual consent.'" This is utterly baseless, as mursal reports lack evidential value. All praise is due to Allah. From the narration of Ibrāhīm ibn Abī Yaḥyā—noted for falsehood—even if authentic, it would constitute proof against them, as it states "Every intoxicant is forbidden," contradicting their doctrine. The statement "Wine is from grapes" does not preclude other sources if supported by scriptural evidence. The authenticated saying of the Prophet (peace be upon him)—"Every intoxicant is wine"—invalidates their argument. Another report via Sufyān al-Thawrī from ʿAlī ibn Badhīmah from Qays ibn Ḥabtar al-Nahshalī from Ibn ʿAbbās: "The Prophet (peace be upon him) prohibited using gourds and tarred vessels, ordering nabīdh (fermented drink) to be prepared in water skins. They asked: 'If it becomes potent in the skins, O Messenger of God?' He replied: 'Pour water over it.' On the third or fourth occasion, he said: 'Discard it, for God has forbidden wine, gambling, kūbah, and every intoxicant is forbidden.'" This chain includes Qays ibn Ḥabtar—an unknown narrator. Even if authentic, it would strongly support our position against theirs, as it wholly contradicts their view and aligns with our ruling to discard it. The phrase "every intoxicant is forbidden" suffices for anyone with a modicum of reason. Is it not astonishing that they cite a text opposing their own doctrine? Has shame here become nonexistent? Another report via Abū al-Qumūṣ Zayd ibn ʿAlī from a man of ʿAbd al-Qays—we presume his name is Qays

مَشْهُورٌ - عَنْ أَبِي صَالِحٍ: هَالِكٌ. وَخَبَرٌ: فِيهِ النَّهْيُ عَنْ النَّبِيذِ فِي الْجِرَارِ الْمُلَوَّنَةِ وَالْأَمْرُ بِأَنْ يُنْبَذَ فِي السِّقَاءِ فَإِذَا خَشِيَ فَلْيَسُجَّهُ بِالْمَاءِ - فَهَذَا مِنْ طَرِيقِ أَبَانَ وَهُوَ الرَّقَاشِيُّ، وَهُوَ ضَعِيفٌ - ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ لَهُمْ فِيهِ حُجَّةٌ، بَلْ هُوَ حُجَّةٌ عَلَيْهِمْ، لِأَنَّ فِيهِ إذَا خَشِيَ فَلْيَسُجَّهُ بِالْمَاءِ، وَمَعْنَاهُ إذَا خَشِيَ أَنْ يَسْكَرَ بِإِجْمَاعِهِمْ مَعَنَا - لَا يَحْتَمِلُ غَيْرَ هَذَا أَصْلًا، فَإِذَا سُجَّ بِالْمَاءِ بَطَلَ إسْكَارُهُ - وَهَذَا لَا نُخَالِفُهُمْ فِيهِ وَلَيْسَ فِيهِ أَنَّ بَعْدَ إسْكَارِهِ يُسَجُّ إنَّمَا فِيهِ " إذَا خَشِيَ " وَهَذَا بِلَا شَكٍّ قَبْلَ أَنْ يَسْكَرَ. وَخَبَرٌ مُرْسَلٌ: مِنْ طَرِيقِ سَعِيدِ بْنِ الْمُسَيِّبِ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «الْخَمْرُ مِنْ الْعِنَبِ، وَالسُّكْرُ مِنْ التَّمْرِ، وَالْمِزْرُ مِنْ الْحِنْطَةِ، وَالْبِتْعُ مِنْ الْعَسَلِ، وَكُلُّ مُسْكِرٍ حَرَامٌ، وَالْمَكْرُ وَالْخَدِيعَةُ فِي النَّارِ، وَالْبَيْعُ عَنْ تَرَاضٍ» ، وَهَذَا لَا شَيْءَ، لِأَنَّهُ لَا حُجَّةَ فِي مُرْسَلٍ - ثُمَّ هُوَ أَيْضًا مِنْ طَرِيقِ إبْرَاهِيمَ بْنِ أَبِي يَحْيَى وَهُوَ مَذْكُورٌ بِالْكَذِبِ، ثُمَّ لَوْ صَحَّ لَكَانَ حُجَّةً عَلَيْهِمْ لِأَنَّ فِيهِ «كُلُّ مُسْكِرٍ حَرَامٌ» وَهُوَ خِلَافُ قَوْلِهِمْ وَلَيْسَ فِي قَوْلِهِ «إنَّ الْخَمْرَ مِنْ الْعِنَبِ» مَانِعٌ مِنْ أَنْ تَكُونَ مِنْ غَيْرِ الْعِنَبِ أَيْضًا إذَا صَحَّ بِذَلِكَ نَصٌّ. وَقَدْ صَحَّ قَوْلُهُ - عَلَيْهِ السَّلَامُ - «كُلُّ مُسْكِرٍ خَمْرٌ» فَسَقَطَ تَعَلُّقُهُمْ بِهِ. وَخَبَرٌ: مِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ عَلِيِّ بْنِ بَذِيمَةَ عَنْ قَيْسِ بْنِ حَبْتَرٍ النَّهْشَلِيِّ عَنْ ابْنِ عَبَّاسٍ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ الدُّبَّاءِ وَالْمُزَفَّتِ، وَأَمَرَ بِأَنْ يُنْبَذَ فِي الْأَسْقِيَةِ، قَالُوا: فَإِنْ اشْتَدَّ فِي الْأَسْقِيَةِ يَا رَسُولَ اللَّهِ قَالَ: فَصُبُّوا عَلَيْهِ الْمَاءَ، وَقَالَ لَهُمْ فِي الثَّالِثَةِ أَوْ الرَّابِعَةِ: أَهْرِيقُوهُ فَإِنَّ اللَّهَ حَرَّمَ الْخَمْرَ، وَالْمَيْسِرَ، وَالْكُوبَةَ، وَكُلُّ مُسْكِرٍ حَرَامٌ» ، فَهَذَا مِنْ طَرِيقِ قَيْسِ بْنِ حَبْتَرٍ - وَهُوَ مَجْهُولٌ ثُمَّ لَوْ صَحَّ لَكَانَ أَعْظَمَ حُجَّةً لَنَا عَلَيْهِمْ، لِأَنَّهُ مُخَالِفٌ كُلُّهُ لِقَوْلِهِمْ، مُوَافِقٌ لِقَوْلِنَا فِي الْأَمْرِ

ibn al-Nuʿmān—states: “The Prophet (peace be upon him) said: ’Drink in tied leather skins. If it becomes potent, weaken it with water. If unable, discard it.”’ Abū al-Qumūṣ is unknown. Even if authentic, it would decisively support our view and nullify theirs, given the command to discard it when unable to reduce its potency with water.

بِهَرْقِهِ، وَقَوْلُهُ «وَكُلُّ مُسْكِرٍ حَرَامٌ» كِفَايَةٌ لِمَنْ كَانَ لَهُ مُسْكَةُ عَقْلٍ فَاعْجَبُوا لِقَوْمٍ يَحْتَجُّونَ بِمَا هُوَ نَصٌّ مُخَالِفٌ لِقَوْلِهِمْ إِنَّ الْحَيَاءَ هَهُنَا لَعَدَمٌ؟ وَخَبَرٌ مِنْ طَرِيقِ أَبِي الْقُمُوصِ زَيْدِ بْنِ عَلِيٍّ عَنْ رَجُلٍ مِنْ عَبْدِ الْقَيْسِ - نَحْسِبُ أَنَّ اسْمَهُ قَيْسُ بْنُ النُّعْمَانِ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «اشْرَبُوا فِي الْجِلْدِ الْمُوكَى عَلَيْهِ فَإِنْ اشْتَدَّ فَاكْسِرُوهُ بِالْمَاءِ فَإِنْ أَعْيَاكُمْ فَأَهْرِيقُوهُ» أَبُو الْقُمُوصِ مَجْهُولٌ - ثُمَّ لَوْ صَحَّ لَكَانَ حُجَّةً قَاطِعَةً مُوَافِقَةً لِقَوْلِنَا مُفْسِدَةً لِقَوْلِهِمْ بِمَا فِيهِ مِنْ الْأَمْرِ بِهَرْقِهِ إِنْ لَمْ يُقْدَرْ عَلَى إِبْطَالِ شِدَّتِهِ بِالْمَاءِ.

L17307–17317 A narration: From the chain of Saʿīd ibn Manṣūr, who narrated to us from Ismāʿīl ibn Ibrāhīm—who is Ibn ʿUlayyah—who said: Al-Jurayrī, Saʿīd ibn Iyās, narrated to me from Abū al-ʿAlā’ ibn al-Shikhkhīr, who said: The matter of beverages was concluded by the Messenger of Allah—peace and blessings be upon him—when he said: “Drink what does not impair your judgment or squander your wealth.” This is a mursal narration. Had it possessed a connected chain (musnad), it would have constituted proof for our position, as it prohibits the category of drink that inherently impairs judgment and depletes wealth—admitting no alternative interpretation—since no individual element within this category uniquely causes these effects apart from others.

وَخَبَرٌ: مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ عُلَيَّةَ - حَدَّثَنِي الْجُرَيْرِيُّ سَعِيدُ بْنُ إِيَاسٍ عَنْ أَبِي الْعَلَاءِ بْنِ الشِّخِّيرِ قَالَ: انْتَهَى أَمْرُ الْأَشْرِبَةِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «اشْرَبُوا مَا لَا يُسَفِّهُ أَحْلَامَكُمْ وَلَا يُذْهِبُ أَمْوَالَكُمْ» وَهَذَا مُرْسَلٌ ثُمَّ لَوْ انْسَنَدَ لَكَانَ حُجَّةً لَنَا، لِأَنَّهُ نَهَى عَنْ النَّوْعِ الَّذِي مِنْ طَبْعِهِ أَنْ يُسَفِّهَ الْحُلُمَ، وَيُذْهِبَ الْمَالَ، لَا يَحْتَمِلُ غَيْرَ ذَلِكَ أَصْلًا؛ إِذْ لَيْسَ شَيْءٌ مِنْهُ يَنْفَرِدُ بِذَلِكَ دُونَ سَائِرِهِ. وَخَبَرٌ: مِنْ طَرِيقِ عَلْقَمَةَ «سَأَلْتُ ابْنَ مَسْعُودٍ عَنْ قَوْلِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي الْمُسْكِرِ؟ قَالَ: الشَّرْبَةُ الْآخِرَةُ» وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ؛ لِأَنَّهُ مِنْ طَرِيقِ الْحَجَّاجِ بْنِ أَرْطَاةَ - وَهُوَ هَالِكٌ - رُوِّينَا عَنْهُ أَنَّهُ كَانَ لَا يُصَلِّي مَعَ الْمُسْلِمِينَ فِي الْمَسْجِدِ فَقِيلَ لَهُ فِي ذَلِكَ؟ فَقَالَ: أَكْرَهُ مُزَاحَمَةَ الْبَقَّالِينَ، لَا يَنْبُلُ الْإِنْسَانُ حَتَّى يَدَعَ الصَّلَاةَ فِي الْجَمَاعَةِ - وَأَنَّهُ أَنْكَرَ السَّلَامَ عَلَى الْمَسَاكِينِ، وَقَالَ: عَلِيٌّ مِثْلُ هَؤُلَاءِ لَا يَسْلَمُ -: وَهَذِهِ جُرُحٌ ظَاهِرَةٌ، ثُمَّ الْأَظْهَرُ فِيهِ أَنَّ قَوْلَهُ " الشَّرْبَةُ الْآخِرَةُ " مِنْ قَوْلِ ابْنِ مَسْعُودٍ تَأْوِيلٌ مِنْهُ - وَهُوَ أَيْضًا فَاسِدٌ مِنْ التَّأْوِيلِ لِمَا نُبَيِّنُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى. وَخَبَرٌ مُرْسَلٌ: مِنْ طَرِيقِ مُجَاهِدٍ فِيهِ «أَنَّهُ - عَلَيْهِ السَّلَامُ - شَرِبَ مِنْ نَبِيذِ سِقَايَةِ زَمْزَمَ فَشَدَّ وَجْهَهُ،

it states: “The Prophet (peace and blessings of God be upon him) drank from the *nabīdh* of Zamzam’s water-skin, contorted his face, then poured water over it repeatedly, then drank from it.” This lacks foundation because it is reported by Ibn Jurayj from an unnamed source via Mujāhid—rendering it both interrupted (*munqatiʿ*) and mursal. Furthermore, it contradicts their established position—as we previously noted—that adding water does not alter a substance’s legal status from permissibility to prohibition or vice versa, nor does it hold any legal significance in their view. If it transforms it into a non-intoxicating substance, this aligns with our position that it is permissible when non-intoxicating. We have exhaustively examined all they cited from the Prophet (peace and blessings of God be upon him) and demonstrated that none of it constitutes valid evidence for their claim. Indeed, most of their citations serve as arguments against their own position.

They cited narrations from the Companions (may God be pleased with them): Among these is a report via Abū ʿAwānah from Simāk ibn Ḥarb from Qirṣāfah—a woman among them—from ʿĀ’ishah, Umm al-Muʾminīn [Mother of the Believers] (may God be pleased with her), who said: “Drink, but do not become intoxicated.” Simāk is deemed weak in transmission, and Qirṣāfah is unknown. Even if authentic, this does not permit intoxicants. Another narration via Isrāʾīl ibn Yūnus from Simāk ibn Ḥarb from Qirṣāfah from ʿĀ’ishah states she instructed her: “Drink, but do not consume intoxicants.” Simāk’s transmission from Qirṣāfah is inconsistent: at times attributing statements to them, at others neither for us nor for them? A report via Sumayyah from ʿĀ’ishah states: “If you fear your *nabīdh* may intoxicate, dilute it with water.” This offers them no proof, for diluting a potentially intoxicating substance is obligatory. The established position transmitted from Umm al-Muʾminīn is the prohibition of any substance that intoxicates in large quantities.

From Saʿīd ibn Dhī Ḥaddān or ibn Dhī Laʿwah: A man drank from ʿUmar ibn al-Khaṭṭāb’s vessel, became intoxicated, and was brought before ʿUmar. He protested: “I drank from your own vessel!” ʿUmar replied: “I strike you for intoxication.” Both Ibn Dhī Ḥaddān and Ibn Dhī Laʿwah are unknown narrators. A report via Abū Isḥāq al-Sabīʿī from ʿAmr ibn Maymūn from

ثُمَّ صَبَّ عَلَيْهِ الْمَاءَ مَرَّةً بَعْدَ مَرَّةٍ، ثُمَّ شَرِبَ مِنْهُ» - وَهَذَا لَا شَيْءَ؛ لِأَنَّهُ عَنْ ابْنِ جُرَيْجٍ عَمَّنْ لَمْ يُسَمِّهِ عَنْ مُجَاهِدٍ فَهُوَ مَقْطُوعٌ وَمُرْسَلٌ مَعًا - ثُمَّ هُوَ مُخَالِفٌ لِقَوْلِهِمْ كَمَا ذَكَرْنَا مِنْ أَنَّ صَبَّ الْمَاءِ لَا يَنْقُلُهُ عِنْدَهُمْ مِنْ تَحْلِيلٍ إلَى تَحْرِيمٍ وَلَا مِنْ تَحْرِيمٍ إلَى تَحْلِيلٍ وَلَا لَهُ عِنْدَهُمْ فِيهِ مَعْنًى، فَإِنْ نَقَلَهُ إلَى أَنْ لَا يُسْكِرَ فَهُوَ قَوْلُنَا فِي أَنَّهُ حَلَالٌ إذَا لَمْ يُسْكِرْ. هَذَا كُلُّ مَا مَوَّهُوا بِهِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ تَقَصَّيْنَاهُ بِأَجْمَعِهِ وَبَيَّنَّا أَنَّهُ لَا حُجَّةَ لَهُمْ فِي شَيْءٍ مِنْهُ، وَأَنَّ أَكْثَرَ مَا أَوْرَدُوا حُجَّةٌ عَلَيْهِمْ لَنَا. وَذَكَرُوا عَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - آثَارًا -: مِنْهَا: عَنْ أَبِي عَوَانَةَ عَنْ سِمَاكِ بْنِ حَرْبٍ عَنْ قِرْصَافَةَ - امْرَأَةٌ مِنْهُمْ - عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ - رَضِيَ اللَّهُ عَنْهَا - أَنَّهَا قَالَتْ: اشْرَبُوا وَلَا تَسْكَرُوا - وَسِمَاكٌ ضَعِيفٌ، وَقِرْصَافَةُ مَجْهُولَةٌ - ثُمَّ لَوْ صَحَّ لَمَا كَانَ فِيهِ إبَاحَةُ مَا أَسْكَرَ. وَرُوِّينَا مِنْ طَرِيقِ إسْرَائِيلَ بْنِ يُونُسَ عَنْ سِمَاكِ بْنِ حَرْبٍ عَنْ قِرْصَافَةَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا قَالَتْ لَهَا: اشْرَبِي وَلَا تَشْرَبِي مُسْكِرًا - فَسِمَاكٌ عَنْ قِرْصَافَةَ مَرَّةً [قَالَ] لَنَا عَلَيْهِمْ، وَمَرَّةً لَا لَنَا وَلَا لَهُمْ؟ وَمِنْ طَرِيقِ سُمَيَّةَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: إنْ خَشِيت مِنْ نَبِيذِك فَاكْسِرْهُ بِالْمَاءِ - وَلَا حُجَّةَ لَهُمْ فِي هَذَا لِأَنَّهُ إذَا خَشِيَ إسْكَارَهُ كَسَرَهُ بِالْمَاءِ، وَالثَّابِتُ عَنْ أُمِّ الْمُؤْمِنِينَ تَحْرِيمُ كُلِّ مَا أَسْكَرَ كَثِيرُهُ، وَعَنْ سَعِيدِ بْنِ ذِي حَدَّانَ أَوْ ابْنِ ذِي لَعْوَةَ: أَنَّ رَجُلًا شَرِبَ مِنْ سَطِيحَةٍ لِعُمَرَ بْنِ الْخَطَّابِ فَسَكِرَ، فَأُتِيَ بِهِ عُمَرَ، فَقَالَ: إنَّمَا شَرِبْت مِنْ سَطِيحَتِك؟ فَقَالَ لَهُ عُمَرُ: إنَّمَا أَضْرِبُك عَلَى السُّكْرِ، ابْنُ ذِي حَدَّانَ أَوْ ابْنُ ذِي لَعْوَةَ مَجْهُولَانِ. وَمِنْ طَرِيقِ أَبِي إسْحَاقَ السَّبِيعِيِّ عَنْ عَمْرِو بْنِ مَيْمُونٍ عَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ كَانَ يَقُولُ: إنَّا نَشْرَبُ مِنْ هَذَا النَّبِيذِ شَرَابًا يَقْطَعُ لُحُومَ الْإِبِلِ، قَالَ عَمْرُو بْنُ مَيْمُونٍ: وَشَرِبْت مِنْ شَرَابِهِ فَكَانَ كَأَشَدِّ النَّبِيذِ - وَفِي بَعْضِ طُرُقِهِ " إنَّا لَنَشْرَبُ هَذَا

ʿUmar ibn al-Khaṭṭāb states he would say: “We drink this *nabīdh*—a beverage potent enough to dissolve camel flesh.” ʿAmr ibn Maymūn remarked: “I drank his beverage, and it resembled the strongest *nabīdh*.” In some transmission chains: “We drink this intensely potent drink...” So that we may break down with it the camel meat in our stomachs, lest it harm us. Whoever is doubtful about something in his drink, let him mix it with water.“ This is a sound report, but there is no proof for them in it, because the sweet compounded nabīdh with its binding strength - which does not intoxicate - breaks down camel meat in the belly. This report does not state that ʿUmar drank from that drink which ʿAmr ibn Maymūn drank from. Since it lacks this, do they have any valid basis in this report whatsoever? Among them is a report through Ḥafṣ ibn Ghiyāth: al-Aʿmash reported to us from Ibrāhīm al-Nakhaʿī, from Hammām ibn al-Ḥārith that ʿUmar was brought a drink of Ṭāʾif raisins. He frowned and said: ”The nabīdh of Ṭāʾif has vigorous fermentation,“ then mentioned a potency I cannot recall, then called for water, poured it into the drink, and drank. This is a sound report, but it contains no proof for them, as it does not state that this nabīdh was intoxicating or had fermented strongly. It merely reports ʿUmar’s observation that Ṭāʾif nabīdh has frothing and potency, and that he diluted it with water before drinking. The evident meaning is that ʿUmar feared it might ferment further and intensify, so he diluted it with water - this supports our view, not theirs whatsoever. From what we have cited, only these two reports hold any validity for them.

A report we narrated through Ibn Abī Shaybah from Wakīʿ, from Ismāʿīl ibn Abī Khālid, from Qays ibn Abī Ḥāzim: ʿUqbah ibn Farqad told me: ”I visited ʿUmar when he was brought nabīdh that had nearly turned to vinegar. He told me: ’Drink.’ I could scarcely swallow it. ʿUmar then took it and said: ’We drink this strong nabīdh to break down camel meat in our stomachs, lest it harm us.’“ Abū Muḥammad remarked: What approaches vinegar cannot intoxicate.

Through Sufyān al-Thawrī from Yaḥyā ibn Saʿīd al-Anṣārī, who heard Saʿīd ibn al-Musayyab say: ”The Thaqīf tribe presented ʿUmar with a drink. When

الشَّرَابَ الشَّدِيدَ لِنَقْطَعَ بِهِ لُحُومَ الْإِبِلِ فِي بُطُونِنَا أَنْ تُؤْذِيَنَا فَمَنْ رَابَهُ مِنْ شَرَابِهِ شَيْءٌ فَلْيَمْزُجْهُ بِالْمَاءِ " وَهَذَا خَبَرٌ صَحِيحٌ وَلَا حُجَّةَ لَهُمْ فِيهِ، لِأَنَّ النَّبِيذَ الْحُلْوَ اللَّفِيفَ الشَّدِيدَ لِلْفَتِهِ الَّذِي لَا يُسْكِرُ يَقْطَعُ لُحُومَ الْإِبِلِ فِي الْجَوْفِ، لَيْسَ فِي هَذَا الْخَبَرِ: أَنَّ عُمَرَ شَرِبَ مِنْ ذَلِكَ الشَّرَابِ الَّذِي شَرِبَ مِنْهُ عَمْرُو بْنُ مَيْمُونٍ، فَإِذْ لَيْسَ فِيهِ ذَلِكَ، فَلَا مُتَعَلَّقَ لَهُمْ بِهَذَا الْخَبَرِ أَصْلًا؟ وَمِنْهَا: خَبَرٌ مِنْ طَرِيقِ حَفْصِ بْنِ غِيَاثٍ نا الْأَعْمَشُ نا إِبْرَاهِيمُ هُوَ النَّخَعِيُّ - عَنْ هَمَّامِ بْنِ الْحَارِثِ أَنَّ عُمَرَ أُتِيَ بِشَرَابٍ مِنْ زَبِيبِ الطَّائِفِ فَقَطَّبَ وَقَالَ: إِنَّ نَبِيذَ الطَّائِفِ لَهُ عُرَامٌ ثُمَّ ذَكَرَ شِدَّةً لَا أَحْفَظُهَا ثُمَّ دَعَا بِمَاءٍ فَصَبَّهُ فِيهِ ثُمَّ شَرِبَ - وَهَذَا خَبَرٌ صَحِيحٌ، إِلَّا أَنَّهُ لَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّهُ لَيْسَ فِيهِ: أَنَّ ذَلِكَ النَّبِيذَ كَانَ مُسْكِرًا، وَلَا أَنَّهُ كَانَ قَدْ اشْتَدَّ وَإِنَّمَا فِيهِ إِخْبَارُ عُمَرَ بِأَنَّ نَبِيذَ الطَّائِفِ لَهُ عُرَامٌ وَشِدَّةٌ وَأَنَّهُ كَسَرَ هَذَا بِالْمَاءِ ثُمَّ شَرِبَهُ، فَالْأَظْهَرُ فِيهِ أَنَّ عُمَرَ خَشِيَ أَنْ يَعْرِمَ وَيَشْتَدَّ فَتَعَجَّلَ كَسْرَهُ بِالْمَاءِ - وَهَذَا مُوَافِقٌ لِقَوْلِنَا لَا لِقَوْلِهِمْ أَصْلًا. وَلَا يَصِحُّ لَهُمْ مِمَّا ذَكَرْنَا إِلَّا هَذَانِ الْخَبَرَانِ فَقَطْ. وَخَبَرٌ: رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ وَكِيعٍ عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ عَنْ قَيْسِ بْنِ أَبِي حَازِمٍ حَدَّثَنِي عُقْبَةُ بْنُ فَرْقَدٍ قَالَ: قَدِمْت عَلَى عُمَرَ فَأُتِيَ بِنَبِيذٍ قَدْ كَادَ يَصِيرُ خَلًّا، فَقَالَ لِي: اشْرَبْ؟ قَالَ: فَمَا كِدْت أَنْ أَسِيغَهُ ثُمَّ أَخَذَهُ عُمَرُ، ثُمَّ قَالَ لِي: إِنَّا نَشْرَبُ هَذَا النَّبِيذَ الشَّدِيدَ لِيَقْطَعَ لُحُومَ الْإِبِلِ فِي بُطُونِنَا أَنْ تُؤْذِيَنَا قَالَ أَبُو مُحَمَّد: مَا بَلَغَ مُقَارَبَةَ الْخَلِّ فَلَيْسَ مُسْكِرًا. وَمِنْ طَرِيقِ سُفْيَانَ الثَّوْرِيِّ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ يَقُولُ: إِنَّ ثَقِيفًا تَلَقَّتْ عُمَرَ بِشَرَابٍ فَلَمَّا قَرَّبَهُ إِلَى فِيهِ كَرِهَهُ، ثُمَّ كَسَرَهُ بِالْمَاءِ، وَقَالَ: هَكَذَا فَافْعَلُوا - وَهَذَا مُرْسَلٌ. وَخَبَرٌ: مِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنْ إِسْمَاعِيلَ أَنَّ رَجُلًا عَبَّ فِي نَبِيذٍ لِعُمَرَ فَسَكِرَ فَلَمَّا أَفَاقَ حَدَّهُ، ثُمَّ أَوْجَعَ النَّبِيذَ بِالْمَاءِ فَشَرِبَ مِنْهُ

he brought it to his mouth, he disliked it, diluted it with water, and said: ’Do likewise.“ This is mursal.

A report through Ibn Jurayj from Ismāʿīl: A man drank excessively from ʿUmar’s nabīdh, became intoxicated, and ʿUmar punished him upon recovery. He then thoroughly diluted the nabīdh with water and drank. This is mursal.

Through Ibn Abī Mulaykah: Wahb ibn al-Aswad told me: ”We placed abundant raisins in our water-skins with little water. Before meeting ʿUmar, it had overfermented. We informed him and showed it. He tasted its strength, diluted it with water, then drank.“ Wahb ibn al-Aswad is unidentified.

Through Maʿmar from al-Zuhrī: ʿUmar was brought a vessel containing nabīdh that had partially intensified... He tasted its potency, then exclaimed: ”Tsk, tsk! Dilute it with water“—and this is a mursal report. A narration through Saʿīd ibn Manṣūr’s chain: Ismāʿīl—Ibn ʿUlayyah—from Khālid al-Ḥadhā’ from Abū al-Muʿaddil that Ibn ʿUmar told him: ”‘Umar had nabīdh prepared in a standing vessel of fifteen measures.“ He came, tasted it, and said: ”You have reduced its sediment.“ Abū al-Muʿaddil is unknown. Another narration via Ibn Abī Shaybah: from ʿUbaydah ibn Ḥumayd from Abī Miskīn from Hudhayl ibn Shuraḥbīl that ʿUmar asked the people of Ṭā’if for a drink, and they gave him their nabīdh. He told them: ”O Thaqīf! You drink this strong beverage. Whoever is uncertain about their drink should dilute it with water.“ Even if authentic, this would plainly support our view, as it does not mention consuming an intoxicant. Rather, it forbids the strong, doubtful drink and orders altering it with water until it loses potency and doubt—they cite nothing else from ʿUmar. None of this constitutes evidence for their stance, as diluting nabīdh with water does not—in their view—shift it from prohibition to permissibility. To them, its legal ruling remains unchanged before and after dilution. If water removes intoxication, it becomes permissible in our view. Had these reports been sound, their content would align with our position. What is authentically established from ʿUmar is the prohibition of any amount of what intoxicates in excess, as we will later detail, God willing. A narration through ʿAlī’s chain: A man drank from his water vessel, became intoxicated, and ʿAlī enforced the Hadd penalty. This is unsound, as it comes via Sharīk—a weak narrator guilty of tadlīs (concealing

- وَهَذَا مُرْسَلٌ. وَخَبَرٌ: مِنْ طَرِيقِ ابْنِ أَبِي مُلَيْكَةَ حَدَّثَنِي وَهْبُ بْنُ الْأَسْوَدِ قَالَ: أَخَذْنَا زَبِيبًا فَأَكْثَرْنَا مِنْهُ فِي أَدَاوَانَا وَأَقْلَلْنَا الْمَاءَ فَلَمْ نَلْقَ عُمَرَ حَتَّى عَدَا طَوْرُهُ فَأَخْبَرْنَاهُ أَنَّهُ قَدْ عَدَا طَوْرُهُ وَأَرَيْنَاهُ إيَّاهُ فَذَاقَهُ فَوَجَدَهُ شَدِيدًا فَكَسَرَهُ بِالْمَاءِ، ثُمَّ شَرِبَ - وَهْبُ بْنُ الْأَسْوَدِ لَا يُدْرَى مَنْ هُوَ. وَخَبَرٌ: مِنْ طَرِيقِ مَعْمَرٍ عَنْ الزُّهْرِيِّ أَنَّ عُمَرَ أُتِيَ بِسَطِيحَةٍ فِيهَا نَبِيذٌ قَدْ اشْتَدَّ بَعْضَ الشِّدَّةِ فَذَاقَهُ، ثُمَّ قَالَ: بَخٍ بَخٍ اكْسِرْهُ بِالْمَاءِ - وَهَذَا مُرْسَلٌ. وَخَبَرٌ: مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا إسْمَاعِيلُ هُوَ ابْنُ عُلَيَّةَ - عَنْ خَالِدٍ الْحَذَّاءِ عَنْ أَبِي الْمُعَدِّلِ أَنَّ ابْنَ عُمَرَ قَالَ لَهُ: إنَّ عُمَرَ يُنْبَذُ لَهُ فِي خَمْسَ عَشْرَةَ قَائِمَةً؟ فَجَاءَ فَذَاقَهُ فَقَالَ: إنَّكُمْ أَقْلَلْتُمْ عَكَرَهُ - أَبُو الْمُعَدِّلِ مَجْهُولٌ. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ عُبَيْدَةَ بْنِ حُمَيْدٍ عَنْ أَبِي مِسْكِينٍ عَنْ هُذَيْلِ بْنِ شُرَحْبِيلَ أَنَّ عُمَرَ اسْتَسْقَى أَهْلَ الطَّائِفِ مِنْ نَبِيذِهِمْ فَسَقَوْهُ، فَقَالَ لَهُمْ: يَا مَعْشَرَ ثَقِيفٍ إنَّكُمْ تَشْرَبُونَ مِنْ هَذَا الشَّرَابِ الشَّدِيدِ فَأَيُّكُمْ رَابَهُ مِنْ شَرَابِهِ شَيْءٌ فَلْيَكْسِرْهُ بِالْمَاءِ؟ وَهَذَا لَوْ صَحَّ حُجَّةٌ ظَاهِرَةٌ لَنَا لِأَنَّهُ لَيْسَ فِيهِ: أَنَّهُ شَرِبَ مُسْكِرًا، بَلْ فِيهِ النَّهْيُ عَنْ الشَّرَابِ الشَّدِيدِ الْمُرِيبِ، وَالْأَمْرُ بِأَنْ يُغَيَّرَ بِالْمَاءِ عَنْ حَالِهِ تِلْكَ حَتَّى يُفَارِقَ الشِّدَّةَ وَالْإِرَابَةَ - لَيْسَ لَهُمْ عَنْ عُمَرَ إلَّا هَذَا - وَكُلُّ هَذَا لَا حُجَّةَ لَهُمْ فِيهِ لِمَا ذَكَرْنَا قَبْلُ مِنْ أَنَّ كَسْرَ النَّبِيذِ بِالْمَاءِ لَا يَنْقُلُهُ عِنْدَهُمْ مِنْ تَحْرِيمٍ إلَى تَحْلِيلٍ، وَأَنَّهُ عِنْدَهُمْ قَبْلَ كَسْرِهِ بِالْمَاءِ وَبَعْدَهُ سَوَاءٌ وَأَنَّهُ إنْ كَانَ الْمَاءُ يُخْرِجُهُ عَنْ الْإِسْكَارِ فَهُوَ حِينَئِذٍ عِنْدَنَا حَلَالٌ، فَلَوْ صَحَّتْ لَكَانَ مَا فِيهَا مُوَافِقًا لِقَوْلِنَا - وَقَدْ صَحَّ عَنْ عُمَرَ تَحْرِيمُ قَلِيلِ مَا أَسْكَرَ كَثِيرُهُ عَلَى مَا نَذْكُرُ بَعْدَ هَذَا إنْ شَاءَ اللَّهُ تَعَالَى. وَخَبَرٌ: مِنْ طَرِيقِ عَلِيٍّ أَنَّ رَجُلًا شَرِبَ مِنْ إدَاوَتِهِ فَسَكِرَ فَجَلَدَهُ عَلِيٌّ الْحَدَّ - وَهَذَا لَا يَصِحُّ لِأَنَّهُ عَنْ شَرِيكٍ - وَهُوَ مُدَلِّسٌ ضَعِيفٌ - عَنْ فِرَاسٍ عَنْ الشَّعْبِيِّ عَنْ عَلِيٍّ - وَالشَّعْبِيُّ لَمْ يَسْمَعْ عَلِيًّا. ثُمَّ لَوْ

صَحَّ لَكَانَ لَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّهُ لَيْسَ فِيهِ أَنَّ عَلِيًّا شَرِبَ مِنْ تِلْكَ الْإِدَاوَةِ بَعْدَ مَا أَسْكَرَ مَا فِيهَا - فَلَا مُتَعَلَّقَ لَهُمْ بِهِ. وَخَبَرٌ: مِنْ طَرِيقِ هُشَيْمٍ عَنْ مُجَالِدٍ عَنْ الشَّعْبِيِّ أَنَّ رَجُلًا سَكِرَ مِنْ طِلَاءٍ فَضَرَبَهُ عَلِيٌّ الْحَدَّ فَقَالَ لَهُ الرَّجُلُ: إنَّمَا شَرِبْت مَا أَحْلَلْتُمْ؟ فَقَالَ لَهُ عَلِيٌّ: إنَّمَا ضَرَبْتُك لِأَنَّك سَكِرْت - وَهَذَا مُنْقَطِعٌ - وَمُجَالِدٌ ضَعِيفٌ جِدًّا. وَخَبَرٌ: عَنْ أَبِي هُرَيْرَةَ أَنَّهُ قَالَ: إذَا أَطْعَمَك أَخُوك الْمُسْلِمُ طَعَامًا فَكُلْ وَإِذَا سَقَاك شَرَابًا فَاشْرَبْ فَإِنْ رَابَك فَأَسْجُجْهُ بِالْمَاءِ، وَهَذَا خَبَرٌ صَحِيحٌ عَنْهُ رُوِّينَاهُ مِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ مُحَمَّدِ بْنِ عَجْلَانَ عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبُرِيِّ عَنْ أَبِي هُرَيْرَةَ، وَلَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّهُ لَيْسَ فِيهِ إبَاحَةُ نَبِيذِ الْمُسْكِرِ لَا بِنَصٍّ وَلَا بِدَلِيلٍ. وَلَا إبَاحَةُ مَا حَرَّمَ اللَّهُ مِنْ الْمَأْكَلِ كَالْخِنْزِيرِ وَغَيْرِهِ، وَلَا إبَاحَةُ الْخَمْرِ وَإِنَّمَا فِيهِ أَنْ لَا تُفَتِّشَ عَلَى أَخِيك الْمُسْلِمِ وَأَنْ يُسَجَّ النَّبِيذُ إذَا خِيفَ أَنْ يُسْكِرَ بِالْمَاءِ وَهُمْ لَا يَقُولُونَ بِهَذَا - وَهُوَ مُوَافِقٌ لِقَوْلِنَا إذَا كَانَ الْمَاءُ يُحِيلُهُ عَنْ الشِّدَّةِ إلَى إبْطَالِهَا - وَقَدْ صَحَّ عَنْ أَبِي هُرَيْرَةَ تَحْرِيمُ الْمُسْكِرِ جُمْلَةً. وَخَبَرٌ: مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ وَكِيعٍ عَنْ إسْمَاعِيلَ بْنِ خَالِدٍ عَنْ عُثْمَانَ بْنِ قَيْسٍ أَنَّهُ خَرَجَ مَعَ جَرِيرِ بْنِ عَبْدِ اللَّهِ الْبَجَلِيِّ إلَى حَمَّامٍ لَهُ بِالْعَاقُولِ فَأَكَلُوا مَعَهُ ثُمَّ أُوتُوا بِعَسَلٍ وَطِلَاءٍ فَقَالَ: اشْرَبُوا الْعَسَلَ أَنْتُمْ: وَشَرِبَ هُوَ الطِّلَاءَ، وَقَالَ: إنَّهُ يَسْتَنْكِرُ مِنْكُمْ وَلَا يَسْتَنْكِرُ مِنِّي قَالَ: وَكَانَتْ رَائِحَتُهُ تُوجَدُ مِنْ هُنَالِكَ، وَأَشَارَ إلَى أَقْصَى الْحَلْقَةِ عُثْمَانُ بْنُ قَيْسٍ مَجْهُولٌ. وَخَبَرٌ: مِنْ طَرِيقِ ابْنِ مَسْعُودٍ قَالَ: " إنَّ الْقَوْمَ يَجْلِسُونَ عَلَى الشَّرَابِ، وَهُوَ لَهُمْ حَلَالٌ فَمَا يَقُومُونَ حَتَّى يَحْرُمَ عَلَيْهِمْ، وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ، لِأَنَّهُ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ عَنْ شِمَاسِ بْنِ لَبِيدٍ عَنْ رَجُلٍ عَنْ ابْنِ مَسْعُودٍ - شِمَاسٌ وَلَبِيدٌ مَجْهُولَانِ، وَرَجُلٌ أَجْهَلُ وَأَجْهَلُ. ثُمَّ لَوْ صَحَّ لَمَا كَانَ فِيهِ دَلِيلٌ عَلَى قَوْلِهِمْ، وَيُقَالُ لَهُمْ: مَا مَعْنَاهُ إلَّا أَنَّهُمْ يَقْعُدُونَ عَلَيْهِ قَبْلَ أَنْ

defects)—from Firās from al-Shaʿbī from ʿAlī, and al-Shaʿbī did not directly hear from ʿAlī, breaking the chain. Even if valid, it offers no proof, as it does not state ʿAlī drank from the vessel after intoxication—thus, no basis for their claim. Another narration via Hushaym from Mujālid from al-Shaʿbī: A man became intoxicated from ṭilā' (fermented drink), so ʿAlī punished him. The man objected: "I drank what you permitted¡ʿ ʿAlī replied: "I punished you for becoming intoxicated." This chain is broken, and Mujālid is severely weak. A report from Abū Hurayrah: "When a Muslim brother offers you food, eat it. If he offers a drink, drink it. If uncertain, dilute it with water." This is authentic, transmitted via Sufyān ibn ʿUyaynah from Muḥammad ibn ʿAjlān from Saʿīd ibn Abī Saʿīd al-Maqburī from Abū Hurayrah. They have no argument in this matter because there is neither an explicit text nor an indicant permitting the intoxicant nabīdh. There is no permission for what Allah has prohibited of foods like pork and others, nor any permission for wine. Rather, it only contains the directive not to scrutinize your Muslim brother and that nabīdh should be diluted with water if there is fear of intoxication—though they do not hold this opinion, which aligns with our position that when water transforms it from potency to nullification. It is authentically established from Abū Hurayrah that intoxicants are prohibited wholesale.

A report transmitted through Ibn Abī Shaybah's chain from Wakīʿ, from Ismāʿīl ibn Khālid, from ʿUthmān ibn Qays states that he went with Jarīr ibn ʿAbdillāh al-Bajalī to his bathhouse in al-ʿĀqūl. They ate with him, then were brought honey and ṭilā' (fermented drink). Jarīr said: "You drink the honey," while he himself drank the ṭilā', adding: "It would be deemed improper if you drank it, but not if I do." ʿUthmān ibn Qays remarked that its odor could be detected from the far end of the gathering, gesturing toward the edge. However, ʿUthmān ibn Qays is obscure.

Another report via Ibn Masʿūd's chain states: "They sit around a drink permissible to them, but do not rise until it becomes forbidden." This contains no proof for their argument, as it is transmitted from Saʿīd ibn Masrūq, from Shimās ibn Labīd, from an unnamed man, from Ibn Masʿūd—Shimās and Labīd are unknown, and the man is even more obscure. Even if authentic, it provides no evidence for their claim. They are told: Its meaning is only that

يَغْلِيَ، وَهُوَ حَلَالٌ فَلَا يَقُومُونَ حَتَّى يَأْخُذَ فِي الْغَلَيَانِ فَيَحْرُمَ - فَهَذِهِ دَعْوَى كَدَعْوَى بَلْ هَذِهِ أَصَحُّ مِنْ دَعْوَاهُمْ لِأَنَّ قَوْلَهُمْ: إنَّ الشَّرَابَ لَا يَحْرُمُ أَصْلًا، وَإِنَّمَا يَحْرُمُ الْمُسْكِرُ وَلَيْسَ فِي الْحَدِيثِ إلَّا أَنَّ الشَّرَابَ نَفْسَهُ يَحْرُمُ - فَصَحَّ تَأْوِيلُنَا وَبَطَلَ تَأْوِيلُهُمْ. وَخَبَرٌ: مِنْ طَرِيقِ أَبِي وَائِلٍ كُنَّا نَدْخُلُ عَلَى ابْنِ مَسْعُودٍ فَيَسْقِينَا نَبِيذًا شَدِيدًا - وَهَذَا لَا يَصِحُّ لِأَنَّهُ مِنْ طَرِيقِ أَبِي بَكْرِ بْنِ عَيَّاشٍ وَهُوَ ضَعِيفٌ. وَخَبَرٌ: عَنْ ابْنِ مَسْعُودٍ رُوِّينَاهُ مِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ إبْرَاهِيمَ النَّخَعِيِّ عَنْ عَلْقَمَةَ قَالَ: أَكَلْت مَعَ ابْنِ مَسْعُودٍ فَأُتِينَا بِنَبِيذٍ شَدِيدٍ نَبَذَتْهُ سِيرِينَ فِي جَرَّةٍ خَضْرَاءَ فَشَرِبُوا مِنْهُ سِيرِينَ هِيَ أُمُّ أَبِي عُبَيْدَةَ بْنِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ - وَهَذَا خَبَرٌ صَحِيحٌ وَلَيْسَ فِي شَيْءٍ مِمَّا أَوْرَدُوا لِقَوْلِهِمْ وِفَاقٌ إلَّا هَذَا الْخَبَرُ وَحْدَهُ إلَّا أَنَّهُ يُسْقِطُ تَعَلُّقَهُمْ بِهِ بِثَلَاثَةِ وُجُوهٍ -: أَحَدُهَا: أَنَّهُ لَا حُجَّةَ فِي قَوْلِ أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. وَالثَّانِي: أَنَّهُ قَدْ صَحَّ عَنْ ابْنِ مَسْعُودٍ تَحْرِيمُ كُلِّ مَا قَلَّ أَوْ كَثُرَ مِمَّا يُسْكِرُ كَثِيرُهُ، وَعَنْ غَيْرِهِ مِنْ الصَّحَابَةِ أَيْضًا فَإِذَا اخْتَلَفَ قَوْلُهُ وَخَالَفَهُ غَيْرُهُ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - فَلَيْسَ بَعْضُهُمْ أَوْلَى مِنْ بَعْضٍ، وَهَذَا تَنَازُعٌ يَجِبُ بِهِ مَا أَوْجَبَهُ اللَّهُ تَعَالَى مِنْ الرَّدِّ عِنْدَ التَّنَازُعِ إلَى الْقُرْآنِ، وَالسُّنَّةِ. وَالثَّالِثُ: أَنَّهُ قَدْ يَحْتَمِلُ أَنْ يَكُونَ قَوْلُ عَلْقَمَةَ نَبِيذًا شَدِيدًا أَيْ خَاثِرًا لَفِيفًا حُلْوًا - فَهَذَا مُمْكِنٌ أَيْضًا. وَخَبَرٌ: عَنْ عِيسَى بْنِ أَبِي لَيْلَى أَنَّهُ مَضَى إلَى أَنَسٍ فَأَبْصَرَ عِنْدَهُ طِلَاءً شَدِيدًا - وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّهُ عَنْ ابْنِ أَبِي لَيْلَى - وَهُوَ سَيِّئُ الْحِفْظِ - عَنْ أَخِيهِ عِيسَى، وَيُمْكِنُ أَنْ يَكُونَ أَرَادَ بِقَوْلِهِ " شَدِيدًا " أَيْ خَاثِرًا لَفِيفًا، وَهَذِهِ صِفَةُ الرُّبِّ الْمَطْبُوخِ الَّذِي لَا يُسْكِرُ. وَرَوَى بَعْضُهُمْ عَنْ الْحَسَنِ بْنِ عَلِيٍّ أَنَّهُ أَبَاحَ

they sit around it before it boils (while permissible) and do not rise until it begins boiling and thus becomes forbidden. This claim resembles theirs, but ours is more valid because they assert the drink itself is never prohibited—only intoxication—whereas the ḥadīth explicitly states the drink becomes prohibited. Thus, our interpretation is validated and theirs invalidated.

A report via Abū Wāʾil's chain states: "We would enter Ibn Masʿūd's presence, and he would give us strong nabīdh to drink." This is unreliable due to its chain via Abū Bakr ibn ʿAyyāsh, a weak narrator. Another report from Ibn Masʿūd—which we narrated through the chain of Ḥammād ibn Salamah, from Ḥammād ibn Abī Sulaymān, from Ibrāhīm al-Nakhaʿī, from ʿAlqamah—states: "I ate with Ibn Masʿūd, and we were brought strong nabīdh that Sirīn had prepared in a green jar. They drank from it." Sirīn was the mother of Abū ʿUbaydah ibn ʿAbdillāh ibn Masʿūd. This report is authentic, but none of their cited proofs support their position except this one alone. Nevertheless, their reliance on it is invalidated by three considerations: The first is that there is no valid authority in the statement of anyone apart from the Messenger of Allah—peace and blessings of Allah be upon him. The second is that it is authentically established from Ibn Masʿūd that he prohibited every substance whose large quantity intoxicates, regardless of whether consumed in small or large amounts, and similarly from other Companions—may Allah be pleased with them. When his statement differs and is contradicted by other Companions, none among them holds greater precedence over another. This is a dispute necessitating what Allah the Exalted has ordained in cases of disagreement: referral back to the Quran and the Sunnah. The third is that it is plausible ʿAlqamah's statement refers to a "strong *nabīdh*"—meaning a thickened, layered, sweet drink—which remains a valid possibility.

A report from ʿĪsā ibn Abī Laylā states that he visited Anas and observed "strong *ṭilāʾ*" with him. This holds no valid proof for their position, as it is transmitted via Ibn Abī Laylā—a narrator of poor retention—from his brother ʿĪsā. It is possible "strong" here denotes a thickened or layered drink, describing the cooked syrup (*al-rubb*) that does not intoxicate.

Some narrators attributed to al-Ḥasan ibn ʿAlī the permissibility of consuming intoxicants provided one does not become intoxicated. This is entirely

baseless, as it stems from Simāk—a narrator susceptible to coaching—via an unnamed, unidentified man claiming al-Ḥasan ibn ʿAlī said: ”Drink, but if you fear intoxication, stop.“ Even if authentic, its apparent meaning would be: ”Consume the drink unless you fear intoxication; if so, abstain.“ We transmit this through Ibn Abī Shaybah from Wakīʿ, from al-Ḥasan ibn Ṣāliḥ, from Simāk ibn Ḥarb, from a man who asked al-Ḥasan ibn ʿAlī about *nabīdh*, to which he replied: ”Drink, but if you fear intoxication, stop.“

A report from Ibn ʿUmar via ʿAbd al-Malik ibn Nāfiʿ—an obscure narrator—states: ”I asked Ibn ʿUmar about *nabīdh* in a waterskin—if I stirred it, it would be confiscated.“ He replied: ”Oppression falls only on the oppressor,“ then cited the ḥadīth we prefaced earlier from the Prophet—peace and blessings of Allah be upon him—regarding pouring water over *nabīdh*. This wording contains no sanction for consuming intoxicants.

Another chain via Ibn Abī Shaybah from Marwān ibn Muʿāwiyah, from al-Naḍr ibn Muṭarrif, from Qāsim ibn ʿAbd al-Raḥmān, from his father claims: ”ʿAbdullāh ibn Masʿūd would have *nabīdh* prepared in a jar, retaining its sediment.“ This is invalid, as al-Naḍr is unknown and the chain is interrupted.

L17318–17319 From ʿAbd al-Raḥmān ibn Abī Laylā via the chain of Abū Farwah: He drank with him nabīdh from a jar containing dardī sediment. A similar report is cited from Abū Waʾil, al-Nakhaʿī, al-Shaʿbī, and al-Ḥasan: that lees were placed in his nabīdh.

L17320 These individuals were opposed by Ibn Sirīn and Ibn al-Musayyib—with authentic reports from them prohibiting *ʿakar* (date wine). Ibn al-Musayyib stated: “It is *khamr* (grape wine).” Authentic narrations from Ibn ʿUmar include what we transmitted via al-Bukhārī’s chain: al-Ḥasan ibn al-Ṣabbāḥ narrated to us, Muḥammad ibn Sābiq narrated to us, Mālik ibn Mighwal nar-

الْمُسْكِرَ، مَا لَمْ يُسْكِرْ مِنْهُ، وَلَا يَصِحُّ هَذَا عَنْ الْحَسَنِ أَصْلًا، لِأَنَّهُ مِنْ رِوَايَةِ سِمَاكٍ وَهُوَ يَقْبَلُ التَّلْقِينَ كَمَا قُلْنَا عَنْ رَجُلٍ لَمْ يُسَمِّهِ - وَلَا يُعْرَفُ مَنْ هُوَ - عَنْ الْحَسَنِ بْنِ عَلِيٍّ اشْرَبْ فَإِذَا رَهِبْت أَنْ تَسْكَرَ فَدَعْهُ. ثُمَّ لَوْ صَحَّ لَكَانَ ظَاهِرُهُ اشْرَبْ الشَّرَابَ مَا لَمْ يُسْكِرْ فَإِذَا رَهِبْت أَنْ تَشْرَبَهُ فَتَسْكَرَ مِنْهُ فَدَعْهُ - هَكَذَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ وَكِيعٍ عَنْ الْحَسَنِ بْنِ صَالِحٍ عَنْ سِمَاكِ بْنِ حَرْبٍ عَنْ رَجُلٍ أَنَّهُ سَأَلَ الْحَسَنَ بْنَ عَلِيٍّ عَنْ النَّبِيذِ؟ فَقَالَ: اشْرَبْ فَإِذَا رَهِبْت أَنْ تَسْكَرَ فَدَعْهُ. وَخَبَرٌ: عَنْ ابْنِ عُمَرَ مِنْ طَرِيقِ عَبْدِ الْمَلِكِ بْنِ نَافِعٍ قَالَ: سَأَلْت ابْنَ عُمَرَ عَنْ نَبِيذٍ فِي سِقَاءٍ لَوْ نَكَهْته لَأُخِذَ مِنِّي؟ فَقَالَ: إنَّمَا الْبَغْيُ عَلَى مَنْ أَرَادَ الْبَغْيَ ثُمَّ ذَكَرَ الْحَدِيثَ الَّذِي صَدَّرْنَا بِهِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ صَبِّهِ الْمَاءَ عَلَى النَّبِيذِ - وَعَبْدُ الْمَلِكِ بْنُ نَافِعٍ قَدْ قَدَّمْنَا أَنَّهُ مَجْهُولٌ لَا يُدْرَى مَنْ هُوَ. وَأَيْضًا فَلَيْسَ فِي هَذَا اللَّفْظِ إبَاحَةٌ لِشُرْبِ الْمُسْكِرِ. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ مَرْوَانَ بْنِ مُعَاوِيَةَ عَنْ النَّضْرِ بْنِ مُطَرِّفٍ عَنْ قَاسِمِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ قَالَ: كَانَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ يُنْبَذُ لَهُ فِي جُرٍّ وَيُجْعَلُ لَهُ فِيهِ عَكَرٌ - وَهَذَا بَاطِلٌ، لِأَنَّ النَّضْرَ مَجْهُولٌ، ثُمَّ هُوَ مُنْقَطِعٌ.

وَعَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى مِنْ طَرِيقِ أَبِي فَرْوَةَ أَنَّهُ شَرِبَ مَعَهُ نَبِيذَ جُرٍّ فِيهِ دُرْدِيٌّ. وَعَنْ أَبِي وَائِلٍ مِثْلُهُ - وَعَنْ النَّخَعِيِّ، وَالشَّعْبِيِّ، وَعَنْ الْحَسَنِ: أَنَّهُ كَانَ يُجْعَلُ فِي نَبِيذِهِ عَكَرٌ،

وَقَدْ خَالَفَ هَؤُلَاءِ: ابْنُ سِيرِينَ، وَابْنُ الْمُسَيِّبِ - وَصَحَّ عَنْ هَؤُلَاءِ الْمَنْعُ مِنْ الْعَكَرِ - وَقَالَ ابْنُ الْمُسَيِّبِ هُوَ: خَمْرٌ. وَأَخْبَارٌ صِحَاحٌ عَنْ ابْنِ عُمَرَ -: مِنْهَا: مَا رُوِّينَاهُ مِنْ طَرِيقِ الْبُخَارِيِّ نا الْحَسَنُ بْنُ الصَّبَّاحِ نا مُحَمَّدُ بْنُ سَابِقٍ نا مَالِكُ بْنُ مِغْوَلٍ عَنْ نَافِعٍ عَنْ ابْنِ

rated to us from Nāfiʿ from Ibn ʿUmar—may Allah be pleased with them—who said: “Grape wine (*khamr*) was forbidden, and there was none of it in Medina.” Another narration via ʿAbd al-Razzāq’s chain from ʿAqīl from Maʿqil, that Hammām ibn Munabbih informed him that Ibn ʿUmar told him: “As for grape wine (*khamr*), it is forbidden—there is no way to it. As for other beverages, every intoxicant is forbidden.” Another via ʿAbd al-Razzāq: Maʿmar narrated to us from al-Zuhrī from Sālim ibn ʿAbd Allāh ibn ʿUmar from his father, who said: “My brother ʿAbd al-Raḥmān ibn ʿUmar ibn al-Khaṭṭāb drank, and Abū Sirwaʿah ibn ʿUqbah ibn al-Ḥārith drank with him in Egypt during ʿUmar’s caliphate. They became intoxicated, and when morning came, they went to ʿAmr ibn al-ʿĀṣ, the governor of Egypt, and said: ’Purify us by punishing us, for we became intoxicated from a beverage we consumed.’ Thus, ʿAmr ibn al-ʿĀṣ administered the *ḥadd* punishment to them.” [The opponents] said: “Here, ʿAbd Allāh (Ibn ʿUmar) distinguished between grape wine (*khamr*) and other intoxicating beverages, not classifying them as *khamr*. Yet his brother ʿAbd al-Raḥmān—a Companion—and Abū Sirwaʿah—a Companion—along with ʿAmr ibn al-ʿĀṣ, upheld the *ḥadd* punishment for intoxication from a beverage they drank.” Authentic reports from Ibn ʿAbbās include what we previously cited: “Grape wine (*khamr*) was forbidden by its very essence, whether in small or large quantities, and every intoxicating beverage [is forbidden].” Thus, all of them differentiated between grape wine (*khamr*) and other intoxicating beverages, refusing to classify them as *khamr*. They attempted to use this to argue that *khamr* is exclusively derived from grapes. Abū Muḥammad said: “All of this evidence opposes their position, not supports it. For Ibn ʿUmar and Ibn ʿAbbās affirmed that every intoxicant is forbidden—contrary to their claim. As for the report involving ʿAbd al-Raḥmān, Abū Sirwaʿah, and ʿAmr ibn al-ʿĀṣ, it contains nothing they can validly rely upon.”

L17321–17322 It is possible that the two of them drank grape juice assuming it would not intoxicate, yet became intoxicated—with nothing to negate this. Thus, they have no remaining argument except to claim: “Khamr is none other than grape juice, and whatever is besides it is not khamr”—a stance that holds no benefit for them even if valid, once the prohibition of every intoxicant—

عُمَرَ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ: لَقَدْ حُرِّمَتْ الْخَمْرُ وَمَا بِالْمَدِينَةِ مِنْهَا شَيْءٌ. وَآخَرُ: مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ عَقِيلٍ عَنْ مَعْقِلٍ أَنَّ هَمَّامَ بْنَ مُنَبِّهٍ أَخْبَرَهُ أَنَّ ابْنَ عُمَرَ قَالَ لَهُ: أَمَّا الْخَمْرُ فَحَرَامٌ لَا سَبِيلَ إلَيْهَا، وَأَمَّا مَا سِوَاهَا مِنْ الْأَشْرِبَةِ فَكُلُّ مُسْكِرٍ حَرَامٌ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نا مَعْمَرٌ عَنْ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ قَالَ: شَرِبَ أَخِي عَبْدُ الرَّحْمَنِ بْنُ عُمَرَ بْنِ الْخَطَّابِ وَشَرِبَ مَعَهُ أَبُو سِرْوَعَةَ بْنُ عُقْبَةَ بْنِ الْحَارِثِ بِمِصْرَ فِي خِلَافَةِ عُمَرَ فَسَكِرَا فَلَمَّا أَصْبَحَا انْطَلَقَا إلَى عَمْرِو بْنِ الْعَاصِ أَمِيرِ مِصْرَ فَقَالَا لَهُ: طَهِّرْنَا فَإِنَّا قَدْ سَكِرْنَا مِنْ شَرَابٍ شَرِبْنَاهُ، فَجَلَدَهُمَا عَمْرُو بْنُ الْعَاصِ، قَالُوا: فَهَذَا عَبْدُ اللَّهِ قَدْ فَرَّقَ بَيْنَ الْخَمْرِ وَبَيْنَ سَائِرِ الْأَشْرِبَةِ الْمُسْكِرَةِ فَلَمْ يَجْعَلْهَا خَمْرًا، وَهَذَا أَخُوهُ عَبْدُ الرَّحْمَنِ - وَلَهُ صُحْبَةٌ - وَأَبُو سِرْوَعَةَ - وَلَهُ صُحْبَةٌ - وَعَمْرُو بْنُ الْعَاصِ رَأَوْا الْحَدَّ فِي السُّكْرِ مِنْ شَرَابٍ شَرِبَاهُ، وَصَحَّ عَنْ ابْنِ عَبَّاسٍ مَا قَدَّمْنَا قَبْلُ: حُرِّمَتْ الْخَمْرُ بِعَيْنِهَا قَلِيلُهَا وَكَثِيرُهَا وَالْمُسْكِرُ مِنْ كُلِّ شَرَابٍ. فَفَرَّقُوا كُلُّهُمْ بَيْنَ الْخَمْرِ وَبَيْنَ سَائِرِ الْأَشْرِبَةِ الْمُسْكِرَةِ فَلَمْ يَرَوْهَا خَمْرًا، وَرَامُوا بِهَذَا أَنْ يُثْبِتُوا أَنَّ الْخَمْرَ لَيْسَتْ إلَّا مِنْ الْعِنَبِ فَقَطْ؟ قَالَ أَبُو مُحَمَّدٍ: وَكُلُّ هَذَا عَلَيْهِمْ لَا لَهُمْ، لِأَنَّ ابْنَ عُمَرَ، وَابْنَ عَبَّاسٍ قَدْ أَثْبَتَا أَنَّ كُلَّ مُسْكِرٍ حَرَامٌ - وَهَذَا خِلَافُ قَوْلِهِمْ - وَلَيْسَ فِي خَبَرِ عَبْدِ الرَّحْمَنِ، وَأَبِي سِرْوَعَةَ، وَعَمْرِو بْنِ الْعَاصِ شَيْءٌ يُمْكِنُ أَنْ يَتَعَلَّقُوا بِهِ.

وَقَدْ يُمْكِنُ أَنْ يَكُونَا شَرِبَا عَصِيرَ عِنَبٍ ظَنًّا أَنَّهُ لَا يُسْكِرُ فَسَكِرَا - وَلَيْسَ فِيهِ شَيْءٌ يَدْفَعُ هَذَا، فَلَمْ يَبْقَ لَهُمْ مُتَعَلَّقٌ إلَّا أَنْ يَقُولُوا: إنَّ الْخَمْرَ هِيَ عَصِيرُ الْعِنَبِ فَقَطْ وَمَا سِوَاهَا فَلَيْسَ خَمْرًا - فَهَذَا مَكَانٌ لَا مَنْفَعَةَ لَهُمْ فِيهِ لَوْ صَحَّ لَهُمْ إذَا ثَبَتَ تَحْرِيمُ كُلِّ مُسْكِرٍ قَلَّ

be it small or large—is established. Here, we dispute them not merely regarding terminology. Since nothing remains but this claim, we present them with evidence from the Companions—may Allah, Exalted is He, be pleased with them—that every intoxicant is khamr. Moreover, from Ibn Umar himself, through a more authentic chain than this narration, it is established that khamr also comes from non-grape sources: as we were narrated through Ibn Abi Shaybah via Muhammad ibn Bishr, from Abdul-Aziz al-Darawardi, from Nafi', from Ibn Umar, who said: "The prohibition of khamr was revealed in the Quran while there were five intoxicating drinks in Medina, all called khamr—none being grape-derived khamr." This clarifies their report and invalidates their reliance on it. When we present this to them, the dispute is validated, obligating adherence to the Quran and Sunnah as Allah, Exalted is He, has mandated upon us if we are believers. They also assert it is authentically reported from Ibrahim al-Nakha'i—the jurist—that intoxication is prohibited, that grape juice becomes forbidden if it intoxicates, and that all intoxicating fermented drinks (nabīdh) are permissible.

أَوْ كَثُرَ، وَفِي هَذَا نَازَعْنَاهُمْ لَا فِي التَّسْمِيَةِ فَقَطْ، فَإِذْ لَمْ يَبْقَ إِلَّا هَذَا فَقَطْ فَنَحْنُ نُوجِدُهُمْ عَنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - أَنَّ كُلَّ مُسْكِرٍ خَمْرٌ، نَعَمْ، وَعَنْ ابْنِ عُمَرَ نَفْسِهِ بِأَصَحَّ مِنْ هَذِهِ الرِّوَايَةِ مِنْ طَرِيقٍ ثَابِتَةٍ أَنَّ الْخَمْرَ مِنْ غَيْرِ الْعِنَبِ أَيْضًا -: كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ مُحَمَّدِ بْنِ بِشْرٍ نا عَبْدُ الْعَزِيزِ هُوَ الدَّرَاوَرْدِيُّ - حَدَّثَنِي نَافِعٌ عَنْ ابْنِ عُمَرَ قَالَ: نَزَلَ تَحْرِيمُ الْخَمْرِ وَإِنَّ بِالْمَدِينَةِ خَمْسَةَ أَشْرِبَةٍ كُلُّهَا يَدْعُونَهَا الْخَمْرَ مَا فِيهَا خَمْرُ الْعِنَبِ، فَهَذَا بَيَانُ خَبَرِهِمْ بِمَا يُبْطِلُ تَعَلُّقَهُمْ بِهِ، فَإِذَا أَوْجَدْنَاهُمْ هَذَا فَقَدْ صَحَّ التَّنَازُعُ، وَوَجَبَ الرَّدُّ لِلْقُرْآنِ وَالسُّنَّةِ كَمَا افْتَرَضَ اللَّهُ تَعَالَى عَلَيْنَا إنْ كُنَّا مُؤْمِنِينَ. وَقَالُوا أَيْضًا: قَدْ صَحَّ عَنْ إبْرَاهِيمَ النَّخَعِيِّ تَحْرِيمُ السُّكْرِ وَعَصِيرُ الْعِنَبِ إذَا أَسْكَرَ وَإِبَاحَةُ كُلِّ مَا أَسْكَرَ مِنْ الْأَنْبِذَةِ.

From the narration chain of Ibn Abī Shaybah through Muḥammad ibn Fuḍayl through Yazīd ibn Abī Ziyād, who said: I saw ʿAbd al-Raḥmān ibn Abī Laylā drinking nabīdh from the jarr (a large clay vessel) after its boiling subsided—Yazīd ibn Abī Ziyād is weak. And from the narration chain of Ibn Abī Shaybah through Abī Khālid al-Aḥmar through al-Aʿmash through al-Ḥakam through Shurayh that he used to drink strong ṭilā' (a date-based fermented drink)—this suggests it was a very potent mixture—for had it been forbidden, would this have remained concealed from earlier generations? Abū Muḥammad said: This is deeply invalid, for they uphold placing hands on the knees during prayer, yet this was entirely unknown to Ibn Masʿūd. They also claim that a person in major impurity may perform dry ablution if water is unavailable, yet this was unknown to ʿUmar ibn al-Khaṭṭāb and Ibn Masʿūd. The Prophet's saying—peace and blessings be upon him—"Leaders are from Quraysh" remained unknown to the Anṣār until they were reminded of it—the matter here allows flexibility, for not every companion encompasses all sunnahs. They further said: Authentic consensus exists on declaring as unbelievers those who deny the prohibition of wine, and one who does not... Did He not prohibit other intoxicating beverages (nabīdh) besides it? Abū

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وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ مُحَمَّدِ بْنِ فُضَيْلٍ عَنْ يَزِيدَ بْنِ أَبِي زِيَادٍ قَالَ: رَأَيْت عَبْدَ الرَّحْمَنِ بْنَ أَبِي لَيْلَى يَشْرَبُ نَبِيذَ الْجُرِّ بَعْدَ أَنْ يَسْكُنَ غَلَيَانُهُ - يَزِيدُ بْنُ أَبِي زِيَادٍ ضَعِيفٌ. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَبِي خَالِدٍ الْأَحْمَرِ عَنْ الْأَعْمَشِ عَنْ الْحَكَمِ عَنْ شُرَيْحٍ أَنَّهُ كَانَ يَشْرَبُ الطِّلَاءَ الشَّدِيدَ - وَهَذَا يَخْرُجُ عَلَى أَنَّهُ لَفِيفٌ جِدًّا - فَلَوْ كَانَتْ حَرَامًا مَا خَفِيَ ذَلِكَ عَلَى مَنْ سَلَفَ؟ قَالَ أَبُو مُحَمَّدٍ: وَهَذَا فِي غَايَةِ الْفَسَادِ، لِأَنَّهُمْ يَقُولُونَ بِوَضْعِ الْأَيْدِي عَلَى الرُّكَبِ فِي الصَّلَاةِ، وَقَدْ خَفِيَ ذَلِكَ عَلَى ابْنِ مَسْعُودٍ [أَبَدًا] . وَيَقُولُونَ: بِأَنْ يَتَيَمَّمَ الْجُنُبُ إذَا لَمْ يَجِدْ الْمَاءَ، وَقَدْ خَفِيَ ذَلِكَ عَلَى عُمَرَ بْنِ الْخَطَّابِ، وَابْنِ مَسْعُودٍ. وَقَدْ خَفِيَ عَلَى الْأَنْصَارِ قَوْلُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «الْأَئِمَّةُ مِنْ قُرَيْشٍ» حَتَّى ذُكِّرُوا بِهِ - وَالْأَمْرُ هُنَا يَتَّسِعُ، وَلَيْسَ كُلُّ صَاحِبٍ يُحِيطُ بِجَمِيعِ السُّنَنِ. وَقَالُوا أَيْضًا: قَدْ صَحَّ الْإِجْمَاعُ عَلَى تَكْفِيرِ مَنْ لَمْ يَقُلْ بِتَحْرِيمِ الْخَمْرِ، وَلَا يَكْفُرُ مَنْ لَمْ

يُحَرِّمْ مَا سِوَاهَا مِنْ الْأَنْبِذَةِ الْمُسْكِرَةِ؟ قَالَ أَبُو مُحَمَّد: وَهَذَا لَا شَيْءَ لِأَنَّهُ لَوْ وَجَدْنَا إنْسَانًا غَابَ عَنْهُ تَحْرِيمُ الْخَمْرِ فَلَمْ يَبْلُغْهُ لَمَا كَفَّرْنَاهُ فِي إحْلَالِهَا حَتَّى يَبْلُغَ إلَيْهِ الْأَمْرُ، فَحِينَئِذٍ إنْ أَصَرَّ عَلَى اسْتِحْلَالِ مُخَالَفَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَفَرَ، لَا قَبْلَ ذَلِكَ. وَكَذَلِكَ مُسْتَحِلُّ النَّبِيذِ الْمُسْكِرِ وَكُلَّ مَا صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - تَحْرِيمُهُ لَا يَكْفُرُ مِنْ جَهْلِ ذَلِكَ وَلَمْ تَقُمْ عَلَيْهِ الْحُجَّةُ بِهِ - فَإِذَا ثَبَتَ ذَلِكَ عِنْدَهُ، وَصَحَّ لَدَيْهِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - حَرَّمَ ذَلِكَ فَأَصَرَّ عَلَى اسْتِحْلَالِ مُخَالَفَةِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَهُوَ كَافِرٌ وَلَا بُدَّ، وَلَا يَكْفُرُ جَاهِلٌ أَبَدًا حَتَّى يَبْلُغَهُ الْحُكْمُ مِنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَإِذَا بَلَغَهُ وَثَبَتَ عِنْدَهُ فَحِينَئِذٍ يَكْفُرُ إنْ اعْتَقَدَ مُخَالَفَتَهُ - عَلَيْهِ السَّلَامُ -، وَيَفْسُقُ إنْ عَمِلَ بِخِلَافِهِ غَيْرَ مُعْتَقِدٍ لِجَوَازِ ذَلِكَ. قَالَ اللَّهُ تَعَالَى: {فَلا وَرَبِّكَ لا يُؤْمِنُونَ حَتَّى يُحَكِّمُوكَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لا يَجِدُوا فِي أَنْفُسِهِمْ حَرَجًا مِمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا} [النساء: ٦٥] وَقَالَ تَعَالَى: {لأُنْذِرَكُمْ بِهِ وَمَنْ بَلَغَ} [الأنعام: ١٩] . قَالَ أَبُو مُحَمَّد: فَسَقَطَ كُلُّ مَا شَغَبَ بِهِ أَهْلُ هَذِهِ الْمَقَالَةِ، وَأَيْضًا: فَإِنَّهُ لَيْسَ فِي شَيْءٍ مِمَّا أَوْرَدُوا كُلِّهِ أَوَّلُهُ عَنْ آخِرِهِ وَلَا لَفْظَةٌ وَاحِدَةٌ مُوَافِقَةٌ لِقَوْلِهِمْ: أَنَّ الْخَمْرَ الْمُحَرَّمَةَ لَيْسَتْ إلَّا عَصِيرَ الْعِنَبِ فَقَطْ دُونَ نَقِيعِ الزَّبِيبِ، وَكَذَلِكَ أَيْضًا لَيْسَ فِي شَيْءٍ مِنْهُ وَلَا كَلِمَةٌ وَاحِدَةٌ مُوَافِقَةٌ لِقَوْلِ مَنْ قَالَ: إنَّ الْخَمْرَ الْمُحَرَّمَةَ لَيْسَتْ إلَّا نَقِيعَ الزَّبِيبِ الَّذِي لَمْ يُطْبَخْ، وَعَصِيرَ الْعِنَبِ إذَا أَسْكَرَ. فَصَحَّ أَنَّهُمَا قَوْلَانِ فَاسِدَانِ مُبْتَدَعَانِ خَارِجَانِ عَنْ كُلِّ أَثَرٍ ثَبَتَ أَوْ لَمْ يَثْبُتْ وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَالْقَوْلُ الْخَامِسُ: هُوَ الَّذِي رُوِيَ عَنْ أَبِي حَنِيفَةَ عَنْ طَرِيقِ مُحَمَّدِ بْنِ رُسْتُمَ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ عَنْ أَبِي يُوسُفَ عَنْ أَبِي حَنِيفَةَ - وَهُوَ الَّذِي يَنْصُرُهُ الْمُتَأَخِّرُونَ مِنْ مُقَلِّدِيهِ -

Muḥammad said: This holds no validity, for if we encountered someone unaware of wine's prohibition—to whom the ruling had not been conveyed—we would not deem him a disbeliever for permitting it until the command reached him. Only then, if he persists in deeming it permissible to oppose the Messenger of Allah—peace and blessings of Allah be upon him—would he disbelieve, not before that. Similarly, one who deems permissible intoxicating nabīdh or anything authentically prohibited by the Prophet—peace and blessings of Allah be upon him—does not disbelieve due to ignorance before the proof is established against him. Once this becomes certain to him and he confirms that the Messenger of Allah—peace and blessings of Allah be upon him—prohibited it, yet persists in deeming it permissible to oppose the Prophet—peace and blessings of Allah be upon him—he is necessarily a disbeliever. An ignorant person never disbelieves until the Prophet's ruling—peace and blessings of Allah be upon him—reaches him. When it reaches him and is confirmed, he disbelieves if he holds the belief of opposing him—peace be upon him—and becomes sinful if he acts contrary to it without believing in its permissibility. Allah the Exalted said: "But no, by your Lord, they will not believe until they make you judge in all disputes between them, find no reluctance in their hearts regarding your judgment, and submit with full submission" [4:65]. He also said: "That I may warn you thereby and whoever it reaches" [6:19]. Abū Muḥammad said: Thus every argument raised by proponents of this view collapses. Moreover, none of their cited evidence—from beginning to end—contains a single word supporting their claim that prohibited wine is exclusively grape juice to the exclusion of raisin infusion. Likewise, no word in their evidence aligns with those who claim prohibited wine refers only to unboiled raisin infusion and intoxicating grape juice. Thus both views are invalidated as innovated falsehoods, detached from any established precedent—whether verified or unverified. Success is attained only through Allah the Exalted.[5]

L17326–17328 The fifth opinion is that which is narrated from Abū Ḥanīfah through the chain of Muḥammad ibn Rustam from Muḥammad ibn al-Ḥasan from Abū

[5]**Qur'an references (L17323):** Qur'an 4:65 (An-Nisa); Qur'an 6:19 (Al-An'am).

Yūsuf from Abū Ḥanīfah—and it is the opinion supported by later jurists among his followers (by taqlīd)—that this interpretation is not authentically preserved from Abū Ḥanīfah but rather stems from their debased opinions. What is reliably transmitted from Abū Ḥanīfah is what Muḥammad ibn al-Ḥasan mentioned in *al-Jāmiʿ al-Ṣaghīr* within his discourse on manumission, situated between his discussion of reprehensible acts and that of pledges. Muḥammad said: "I, Yaʿqūb, narrate from Abū Ḥanīfah, who said: 'Wine, whether small or large in quantity, is forbidden in the Book of Allah. Intoxication, according to our school, is prohibited and reprehensible, and the infusion..." In our view, raisin wine when it becomes potent and ferments is prohibited (ḥarām) and reprehensible (makrūh). As for ṭilā' (date wine), if more than two-thirds is reduced through boiling and one-third remains, it is reprehensible. Other beverages are permissible—there is no objection to them. He [Abū Ḥanīfa] deemed the dregs of wine (durdiyy al-khamr) reprehensible for drinking and for women to comb their hair with. One who drinks it is not subjected to ḥadd punishment unless intoxicated; if intoxicated, the ḥadd is enforced. This is the explicit wording of their scholars. The dregs of wine refer to the sediment (ʿakar) that congeals at the bottom of the vat (dann), which is undeniably wine. Consider the irrationality of this obsession! As for the narration of Muḥammad ibn Rustam from Muḥammad ibn al-Ḥasan: Muḥammad said, "Abū Ḥanīfa stated: All fermented drinks are permissible except four: wine, cooked beverages if two-thirds have not been reduced and one-third remains, date infusion (for it is intoxicating), and raisin infusion." There is no disagreement reported from Abū Ḥanīfa that date-syrup infusion (dūshāt) is permissible in his view even if intoxicating, as is grape-syrup infusion (rubb) even if intoxicating—dūshāt being derived from dates and rubb from grapes. Abū Yūsuf said: "Any drink among fermented beverages that increases in potency beyond its initial state is reprehensible; otherwise, its sale is permitted. Its permissible duration is ten days. If it remains beyond ten days, it is reprehensible. If within ten days or less, there is no harm." This is the opinion of Muḥammad ibn al-Ḥasan. These are their statements in the major source. Later, Abū Yūsuf reverted to Abū Ḥanīfa's view. Muḥammad ibn al-Ḥasan said: "What intoxicates in large quantities—other than wine—I deem reprehensible but do not pro-

عَلَى أَنَّ ذَلِكَ التَّفْسِيرَ لَا يُحْفَظُ عَنْ أَبِي حَنِيفَةَ وَإِنَّمَا هُوَ مِنْ آرَائِهِمْ الْخَبِيثَةِ - وَالْمَحْفُوظُ عَنْ أَبِي حَنِيفَةَ هُوَ مَا ذَكَرَهُ مُحَمَّدُ بْنُ الْحَسَنِ فِي الْجَامِعِ الصَّغِيرِ فِي كَلَامِهِ فِي الْعِتْقِ الَّذِي بَيْنَ كَلَامِهِ فِي الْكَرَاهَةِ وَكَلَامِهِ فِي الرَّهْنِ قَالَ مُحَمَّدٌ: أَنَا يَعْقُوبُ عَنْ أَبِي حَنِيفَةَ قَالَ: الْخَمْرُ قَلِيلُهَا وَكَثِيرُهَا حَرَامٌ فِي كِتَابِ اللَّهِ، وَالسُّكْرُ عِنْدَنَا حَرَامٌ مَكْرُوهٌ وَنَقِيعُ الزَّبِيبِ عِنْدَنَا إذَا اشْتَدَّ وَغَلَى عِنْدَنَا حَرَامٌ مَكْرُوهٌ - وَالطِّلَاءُ مَا زَادَ عَلَى مَا ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ فَهُوَ مَكْرُوهٌ، وَمَا سِوَى ذَلِكَ مِنْ الْأَشْرِبَةِ فَلَا بَأْسَ بِهِ - وَكَانَ يَكْرَهُ دُرْدِيَّ الْخَمْرِ أَنْ يُشْرَبَ وَأَنْ تَمْتَشِطَ بِهِ الْمَرْأَةُ وَلَا يُحَدُّ مَنْ شَرِبَهُ إلَّا أَنْ يَسْكَرَ فَإِنْ سَكِرَ حُدَّ. هَذَا نَصُّ كَلَامِهِمْ هُنَالِكَ، وَدُرْدِيُّ الْخَمْرِ هُوَ الْعَكَرُ الَّذِي يُعْقَدُ مِنْهَا فِي قَاعِ الدَّنِّ. وَهُوَ خَمْرٌ بِلَا شَكٍّ، فَاعْجَبُوا لِهَذَا الْهَوَسِ وَأَمَّا رِوَايَةُ مُحَمَّدِ بْنِ رُسْتُمَ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ فَإِنَّمَا هِيَ -: قَالَ مُحَمَّدٌ: قَالَ أَبُو حَنِيفَةَ: الْأَنْبِذَةُ كُلُّهَا حَلَالٌ إلَّا أَرْبَعَةُ أَشْيَاءَ: الْخَمْرُ، وَالْمَطْبُوخُ إذَا لَمْ يَذْهَبْ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ، وَنَقِيعُ التَّمْرِ فَإِنَّهُ السَّكَرُ، وَنَقِيعُ الزَّبِيبِ. وَلَا خِلَافَ عَنْ أَبِي حَنِيفَةَ فِي أَنَّ نَقِيعَ الدُّوشَاتِ عِنْدَهُ حَلَالٌ وَإِنْ أَسْكَرَ، وَكَذَلِكَ نَقِيعُ الرُّبِّ وَإِنْ أَسْكَرَ -: وَالدُّوشَاتُ مِنْ التَّمْرِ، وَالرُّبُّ مِنْ الْعِنَبِ. وَقَالَ أَبُو يُوسُفَ: كُلُّ شَرَابٍ مِنْ الْأَنْبِذَةِ يَزْدَادُ جَوْدَةً عَلَى التَّرْكِ فَهُوَ مَكْرُوهٌ وَإِلَّا أُجِيزَ بَيْعُهُ وَوَقْتُهُ عَشَرَةُ أَيَّامٍ، فَإِذَا بَقِيَ أَكْثَرُ مِنْ عَشَرَةِ أَيَّامٍ فَهُوَ مَكْرُوهٌ، فَإِنْ كَانَ فِي عَشَرَةِ أَيَّامٍ فَأَقَلَّ فَلَا بَأْسَ، بِهِ - وَهُوَ قَوْلُ مُحَمَّدِ بْنِ الْحَسَنِ. هَذَا كَلَامُهُمْ فِي الْأَصْلِ الْكَبِيرِ، ثُمَّ رَجَعَ أَبُو يُوسُفَ إلَى قَوْلِ أَبِي حَنِيفَةَ؛. وَقَالَ مُحَمَّدُ بْنُ الْحَسَنِ: مَا أَسْكَرَ كَثِيرُهُ مِمَّا عَدَا الْخَمْرَ أَكْرَهُهُ وَلَا أُحَرِّمُهُ. فَإِنْ صَلَّى إنْسَانٌ وَفِي ثَوْبِهِ مِنْهُ أَكْثَرُ مِنْ قَدْرِ الدِّرْهَمِ الْبَغْلِيِّ بَطَلَتْ صَلَاتُهُ وَأَعَادَهَا أَبَدًا فَاعْجَبُوا لِهَذِهِ السَّخَافَاتِ لَئِنْ كَانَ تُعَادُ مِنْهُ الصَّلَاةُ أَبَدًا فَهُوَ نَجِسٌ، فَكَيْفَ يُبِيحُ شُرْبَ النَّجِسِ؟

hibit. If someone prays while wearing a garment containing more than a Baghli dirham's worth (a specific measure) of it, his prayer is invalidated and must be repeated perpetually." Reflect on these absurdities! If prayer must be repeated perpetually due to it, then it is ritually impure—how can they permit consuming impurity? If it is permissible, why must prayer be repeated for something permissible? We seek refuge in Allah from misguidance! Abū Muḥammad said: The fundamental flaw in these rulings is that none align with the Qur'ān, the Sunnah, weak narrations, the statements of the Companions (may Allah be pleased with them), the Followers, or any of Allah's creation before Abū Ḥanīfa—nor anyone before Abū Yūsuf regarding his ten-day stipulation. How grave is the calamity of these people, who legislate rulings of obligation, prohibition, and permissibility based on personal opinion—employing the most absurd reasoning utterly divorced from rationality!

وَلَئِنْ كَانَ حَلَالًا فَلِمَ تُعَادُ الصَّلَاةُ مِنْ الْحَلَالِ؟ وَنَعُوذُ بِاَللَّهِ مِنْ الْخِذْلَانِ. قَالَ أَبُو مُحَمَّد: فَأَوَّلُ فَسَادِ هَذِهِ الْأَقْوَالِ أَنَّهَا كُلُّهَا أَقْوَالٌ لَيْسَ فِي الْقُرْآنِ شَيْءٌ يُوَافِقُهَا وَلَا فِي شَيْءٍ مِنْ السُّنَنِ، وَلَا فِي شَيْءٍ مِنْ الرِّوَايَاتِ الضَّعِيفَةِ، وَلَا عَنْ أَحَدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - وَلَا صَحِيحٍ وَلَا غَيْرِ صَحِيحٍ، وَلَا عَنْ أَحَدٍ مِنْ التَّابِعِينَ، وَلَا عَنْ أَحَدٍ مِنْ خَلْقِ اللَّهِ تَعَالَى قَبْلَ أَبِي حَنِيفَةَ، وَلَا أَحَدٍ قَبْلَ أَبِي يُوسُفَ فِي تَحْدِيدِهِ عَشَرَةَ الْأَيَّامِ فَيَا لِعَظِيمِ مُصِيبَةِ هَؤُلَاءِ الْقَوْمِ فِي أَنْفُسِهِمْ إذْ يُشَرِّعُونَ الشَّرَائِعَ فِي الْإِيجَابِ وَالتَّحْرِيمِ وَالتَّحْلِيلِ مِنْ ذَوَاتِ أَنْفُسِهِمْ ثُمَّ بِأَسْخَفِ قَوْلٍ وَأَبْعَدِهِ عَنْ الْمَعْقُولِ؟

L17329–17330 Ali said: "There remains from what the followers of Abu Hanifah have embellished certain matters which we shall present, God willing, and mention their invalidity with the help of God Almighty, then follow with the established Sunnah in this matter from the Prophet—peace and blessings be upon him—and his Companions—may Allah be pleased with them."

Ali said: They argued: Allah Almighty stated: {From the fruits of palm trees and grapevines, you take intoxicants and goodly provision} [16:67]. And He said: {Eat and drink} [2:60]. This necessitates the permissibility of all foods and drinks, so nothing becomes unlawful after this except what is unanimously agreed upon or conveyed through mass-transmitted reports, as it constitutes an addition to what is in the Quran.

Abu Muhammad said: Herein they began with contradiction. Neither we nor any Muslim ever differed regarding the fact that wine, pork, and carrion were not prohibited until their prohibition was revealed. When the prohibition was revealed, it outlawed what it specified. Yet they were the first to prohibit date nabīdh based on a solitary report lacking consensus or mass transmission.

قَالَ عَلِيٌّ: وَبَقِيَ مِمَّا مَوَّهَ بِهِ مُقَلِّدُو أَبِي حَنِيفَةَ أَشْيَاءَ نُورِدُهَا إنْ شَاءَ اللَّهُ تَعَالَى وَنَذْكُرُ بِعَوْنِ اللَّهِ تَعَالَى فَسَادَهَا، ثُمَّ نُعَقِّبُ بِالسُّنَنِ الثَّابِتَةِ فِي هَذِهِ الْمَسْأَلَةِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَصْحَابِهِ - رَضِيَ اللَّهُ عَنْهُمْ -. قَالَ عَلِيٌّ: قَالُوا: قَالَ اللَّهُ تَعَالَى: {وَمِنْ ثَمَرَاتِ النَّخِيلِ وَالأَعْنَابِ تَتَّخِذُونَ مِنْهُ سَكَرًا وَرِزْقًا حَسَنًا} [النحل: ٦٧] . وَقَالَ تَعَالَى: {كُلُوا وَاشْرَبُوا} [البقرة: ٦٠] . فَاقْتَضَى هَذَا إبَاحَةَ كُلِّ مَأْكُولٍ وَمَشْرُوبٍ فَلَا يَحْرُمُ بَعْدَ هَذَا إلَّا مَا أُجْمِعَ عَلَيْهِ أَوْ جَاءَ مِنْ مَجِيءِ التَّوَاتُرِ، لِأَنَّهُ زَائِدٌ عَلَى مَا فِي الْقُرْآنِ. قَالَ أَبُو مُحَمَّد: مِنْ هُنَا بَدَءُوا بِالتَّنَاقُضِ وَمَا خَالَفَنَاهُمْ قَطُّ لَا نَحْنُ وَلَا أَحَدٌ مِنْ الْمُسْلِمِينَ فِي أَنَّهُ لَمْ يُحَرِّمْ الْخَمْرَ، وَلَا الْخِنْزِيرَ، وَلَا الْمَيْتَةَ حَتَّى نَزَلَ تَحْرِيمُ كُلِّ ذَلِكَ، فَلَمَّا نَزَلَ التَّحْرِيمُ حَرَّمَ مَا نَزَلَ تَحْرِيمُهُ وَهُمْ أَوَّلُ مَنْ حَرَّمَ نَبِيذَ تَمْرِ النَّخِيلِ بِخَبَرٍ مِنْ أَخْبَارِ الْآحَادِ غَيْرِ مُجْمَعٍ عَلَيْهِ وَلَا مَنْقُولٍ نَقْلَ التَّوَاتُرِ. ثُمَّ قَالُوا: صَحَّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «الْخَمْرُ مِنْ هَاتَيْنِ الشَّجَرَتَيْنِ النَّخْلَةِ وَالْعِنَبَةِ» فَالْخَمْرُ لَا تَكُونُ إلَّا مِنْهُمَا هَذَا كُلُّ

مَا مَوَّهُوا بِهِ، وَلَا حُجَّةَ لَهُمْ فِيهِ بَلْ هُوَ حُجَّةٌ عَلَيْهِمْ قَاطِعَةٌ. وَهَذَا خَبَرٌ رُوِّينَاهُ مِنْ طُرُقٍ كُلُّهَا تَرْجِعُ إِلَى الْأَوْزَاعِيِّ، وَيَحْيَى بْنِ أَبِي كَثِيرٍ قَالَا جَمِيعًا: نا أَبُو كَثِيرٍ أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «الْخَمْرُ مِنْ هَاتَيْنِ الشَّجَرَتَيْنِ النَّخْلَةِ وَالْعِنَبَةِ» . أَبُو كَثِيرٍ اسْمُهُ يَزِيدُ بْنُ عَبْدِ الرَّحْمَنِ. قَالَ عَلِيٌّ: فَافْتَرَقُوا فِي خِلَافِهِ عَلَى وَجْهَيْنِ -: فَأَمَّا الطَّحَاوِيُّ فَإِنَّهُ قَالَ: لَيْسَ ذِكْرُهُ - عَلَيْهِ السَّلَامُ - النَّخْلَةَ مَعَ الْعِنَبَةِ بِمُوجِبٍ أَنْ يَكُونَ الْخَمْرُ مِنَ النَّخْلَةِ بَلِ الْخَمْرُ مِنَ الْعِنَبَةِ فَقَطْ قَالَ: وَهَذَا مِثْلُ قَوْلِ اللَّهِ تَعَالَى: {مَرَجَ الْبَحْرَيْنِ يَلْتَقِيَانِ} [الرحمن: ١٩] {بَيْنَهُمَا بَرْزَخٌ لا يَبْغِيَانِ} [الرحمن: ٢٠] {فَبِأَيِّ آلاءِ رَبِّكُمَا تُكَذِّبَانِ} [الرحمن: ٢١] {يَخْرُجُ مِنْهُمَا اللُّؤْلُؤُ وَالْمَرْجَانُ} [الرحمن: ٢٢] .

قَالَ: فَإِنَّمَا يَخْرُجُ اللُّؤْلُؤُ وَالْمَرْجَانُ مِنْ أَحَدِهِمَا -: قَالَ: وَمِثْلُ قَوْلِه تَعَالَى: {يَا مَعْشَرَ الْجِنِّ وَالإِنْسِ أَلَمْ يَأْتِكُمْ رُسُلٌ مِنْكُمْ} [الأنعام: ١٣٠] قَالَ: وَإِنَّمَا الرُّسُلُ مِنَ الْإِنْسِ لَا مِنَ الْجِنِّ. قَالَ أَبُو مُحَمَّدٍ: صَدَقَ اللَّهُ وَكَذَبَ الطَّحَاوِيُّ، وَكَذَبَ مَنْ أَخْبَرَهُ بِمَا ذُكِرَ بَلْ اللُّؤْلُؤُ وَالْمَرْجَانُ خَارِجَانِ مِنَ الْبَحْرَيْنِ اللَّذَيْنِ بَيْنَهُمَا الْبَرْزَخُ فَلَا يَبْغِيَانِ، وَلَقَدْ جَاءَتِ الْجِنَّ رُسُلٌ مِنْهُمْ بِيَقِينٍ، لِأَنَّهُمْ بِنَصِّ الْقُرْآنِ مُتَعَبَّدُونَ مَوْعُودُونَ بِالْجَنَّةِ وَالنَّارِ. وَقَدْ صَحَّ مَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمِ بْنِ الْحَجَّاجِ نا قُتَيْبَةُ نا إِسْمَاعِيلُ هُوَ ابْنُ جَعْفَرٍ - عَنِ الْعَلَاءِ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ - عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «فُضِّلْتُ عَلَى الْأَنْبِيَاءِ بِسِتٍّ» فَذَكَرَ مِنْهَا «وَأُرْسِلْتُ إِلَى الْخَلْقِ كَافَّةً» . وَمِنْ طَرِيقِ

They then claimed: It is authentically reported from the Prophet—peace and blessings be upon him—that he said: 'Intoxicants come from these two trees: the date palm and the grapevine.' Thus, intoxicants cannot originate except from them. This is all they have used to embellish their arguments, containing no proof for them—rather, it decisively refutes them.

This report we narrated through chains all converging on Al-Awzāʿī and Yaḥyā ibn Abī Kathīr, who both said: We narrate from Abū Kathīr that he heard Abū Hurayrah say: The Messenger of Allah—peace and blessings be upon him—said: 'Intoxicants come from these two trees: the date palm and the grapevine.' Abū Kathīr's name is Yazīd ibn ʿAbd al-Raḥmān.

Ali said: They diverged in opposing it into two aspects: As for Al-Ṭaḥāwī, he asserted: The Prophet's mention of the date palm alongside the grapevine—peace be upon him—does not necessitate that intoxicants come from the date palm. Rather, intoxicants come solely from the grapevine. He said: This resembles Allah's statement: {He released the two seas meeting side by side} [55:19], {Between them is a barrier they do not transgress} [55:20], {So which of your Lord's favors will you deny?} [55:21], {From them both emerge pearls and coral} [55:22]."[6]

L17331–17332 He said: "Indeed, pearls and coral emerge from one of the two." He said: "Similar to the words of Allah the Exalted: {O company of jinn and mankind, did there not come to you messengers from among you?} [Al-An'am 6:130]."

[6] **Qur'an references (L17330):** Qur'an 16:67 (An-Nahl); Qur'an 55:19 (Ar-Rahman); Qur'an 55:20 (Ar-Rahman); Qur'an 55:13 (Ar-Rahman); Qur'an 55:16 (Ar-Rahman); Qur'an 55:18 (Ar-Rahman); Qur'an 55:21 (Ar-Rahman); Qur'an 55:23 (Ar-Rahman); Qur'an 55:25 (Ar-Rahman); Qur'an 55:28 (Ar-Rahman); Qur'an 55:30 (Ar-Rahman); Qur'an 55:32 (Ar-Rahman); Qur'an 55:34 (Ar-Rahman); Qur'an 55:36 (Ar-Rahman); Qur'an 55:38 (Ar-Rahman); Qur'an 55:40 (Ar-Rahman); Qur'an 55:42 (Ar-Rahman); Qur'an 55:45 (Ar-Rahman); Qur'an 55:47 (Ar-Rahman); Qur'an 55:49 (Ar-Rahman); Qur'an 55:51 (Ar-Rahman); Qur'an 55:53 (Ar-Rahman); Qur'an 55:55 (Ar-Rahman); Qur'an 55:57 (Ar-Rahman); Qur'an 55:59 (Ar-Rahman); Qur'an 55:61 (Ar-Rahman); Qur'an 55:63 (Ar-Rahman); Qur'an 55:65 (Ar-Rahman); Qur'an 55:67 (Ar-Rahman); Qur'an 55:69 (Ar-Rahman); Qur'an 55:71 (Ar-Rahman); Qur'an 55:73 (Ar-Rahman); Qur'an 55:75 (Ar-Rahman); Qur'an 55:77 (Ar-Rahman); Qur'an 55:22 (Ar-Rahman); Qur'an 2:60 (Al-Baqarah).

He said: “But the messengers are from mankind, not from the jinn.” Abu Muhammad said: “Allah has spoken the truth, and Al-Tahawi has lied, and the one who informed him of what was mentioned has lied. Rather, pearls and coral emerge from the two seas between which is a barrier, so they do not overflow. Indeed, messengers came to the jinn from among themselves with certainty, because according to the explicit text of the Quran, they are obliged to worship and are promised Paradise and Hellfire. It has been authenticated what we have narrated through Muslim ibn Al-Hajjaj’s chain: Qutaybah reported to us, Isma’il ibn Ja’far reported to us, from Al-’Ala’ ibn ’Abdur-Rahman, from his father, from Abu Hurairah, that the Messenger of Allah - peace and blessings be upon him - said: ’I have been favored over the prophets with six things’ - among them he mentioned: ’And I have been sent to all creation.’” And through Al-Bukhari’s chain: Muhammad ibn Sinan Al-’Awfi reported to us, Hushaym reported to us, from Sayyar who said: Yazid ibn Suhayb Al-Faqir reported to us, Jabir ibn ’Abdullah reported to us, that the Messenger of Allah - peace and blessings be upon him and his family - said: “I have been granted five things never granted to anyone before me” - among them he mentioned: “Every prophet was sent exclusively to his people, but I have been sent to all people.”[7][8]

الْبُخَارِيِّ نا مُحَمَّدُ بْنُ سِنَانٍ الْعَوْفِيُّ نا هُشَيْمٌ أَنَا سَيَّارٌ نا يَزِيدُ هُوَ ابْنُ صُهَيْبٍ الْفَقِيرُ أَنَا جَابِرُ بْنُ عَبْدِ اللَّهِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: «أُعْطِيتُ خَمْسًا لَمْ يُعْطَهُنَّ أَحَدٌ قَبْلِي» فَذَكَرَ فِيهَا «وَكَانَ النَّبِيُّ يُبْعَثُ إِلَى قَوْمِهِ خَاصَّةً وَبُعِثْتُ إِلَى النَّاسِ عَامَّةً» .

L17333 And through the chain of al-Ḥajjāj ibn al-Minhāl—he informed us—Ḥammād ibn Salamah narrated from Thābit al-Bunānī and Ḥumayd, both from Anas, that the Messenger of Allah—peace and blessings be upon him—said: “I have been granted four things no prophet before me was granted: I was sent to all people, red and black”—and he mentioned the rest of the report. Thus, it has been established through mass-transmitted reports that the Messenger of Allah—peace and blessings be upon him—was uniquely sent to both jinn and mankind, and that no prophet preceding him was ever sent except exclusively to his own community. The Almighty said: “I did not create the jinn and mankind except to worship Me” (51:56), and “We never punish until We have sent a messenger” (17:15). Therefore, it is decisively established that since their creation, they have been commanded to worship Allah Almighty.

وَمِنْ طَرِيقِ الْحَجَّاجِ بْنِ الْمِنْهَالِ نا حَمَّادُ بْنُ سَلَمَةَ عَنْ ثَابِتٍ الْبُنَانِيِّ وَحُمَيْدٍ كِلَيْهِمَا عَنْ أَنَسٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «أُعْطِيتُ أَرْبَعًا لَمْ يُعْطَهَا نَبِيٌّ قَبْلِي، أُرْسِلْتُ إِلَى كُلِّ أَحْمَرَ وَأَسْوَدَ» وَذَكَرَ بَاقِيَ الْخَبَرِ. فَصَحَّ بِنَقْلِ التَّوَاتُرِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بُعِثَ وَحْدَهُ إِلَى الْجِنِّ وَالْإِنْسِ وَأَنَّهُ لَمْ يُبْعَثْ نَبِيٌّ قَبْلَهُ قَطُّ إِلَّا إِلَى قَوْمِهِ خَاصَّةً. وَقَالَ تَعَالَى: {وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلا لِيَعْبُدُونِ} [الذاريات: ٥٦] . وَقَالَ تَعَالَى: {وَمَا كُنَّا مُعَذِّبِينَ حَتَّى نَبْعَثَ رَسُولا} [الإسراء: ١٥] . فَصَحَّ يَقِينًا أَنَّهُمْ مُذْ خُلِقُوا مَأْمُورُونَ بِعِبَادَةِ اللَّهِ تَعَالَى. وَصَحَّ بِمَا ذَكَرْنَا مِنَ السُّنَنِ الْقَاطِعَةِ أَنَّهُ

[7] **Hadith references (L17332):** Sahih al-Bukhari 335; Mishkat al-Masabih 5747.
[8] **Qur’an references (L17332):** Qur’an 6:130 (Al-An’am).

It has also been confirmed by the definitive traditions we cited that no human prophet was sent to them before Muhammad—peace and blessings be upon him—and that the jinn are not a community belonging to any human being.[9]

L17334–17335 It was thus definitively established that prophets were indeed sent to them from among their own, and al-Ṭaḥāwī's erroneous conflation of falsehood—through which he sought to suppress the truth—was invalidated. He also said: This derives from the ḥadīth of ʿUbāda ibn al-Ṣāmit from the Prophet—peace and blessings of Allah be upon him—who said: "Pledge allegiance to me on the condition that you associate nothing with Allah, do not steal, do not commit adultery, do not kill your children, do not fabricate slanders between your hands and feet, and do not disobey in matters of recognized goodness. Whoever among you fulfills this pledge will have his reward with Allah. Whoever commits any of those sins and is punished in this world, such punishment serves as expiation for him. Whoever commits any of those sins and Allah conceals it, then the matter rests with Allah: if He wills, He punishes him, and if He wills, He forgives him." He clarified: Expiation and forgiveness apply only to sins lesser than polytheism, not to polytheism itself, though it is mentioned alongside the other transgressions. Abū Muḥammad remarked: This reflects his profound ignorance, for expiations in the Qur'an and Sunnah are divided into four categories. The first: Expiation for a worship act devoid of any sin whatsoever, as Allah the Exalted stated: "Such is the expiation for your oaths when you swear" [5:89]. Breaking an oath may indeed be superior to persisting in it. The Messenger of Allah—peace and blessings of Allah be upon him—said: "If I swear an oath and then perceive a better course, I adopt what is better and perform expiation"—or as he said, peace be upon him. He explicitly affirmed that breaking an oath requiring expiation may be preferable to upholding it. The second: Expiation without lingering sin, applicable to sins already forgiven by Allah the Exalted, such as enforcing the prescribed penalty on one who repents after committing adultery. The third: Expiation for unrepented sins, whereby the penalty absolves the sin, as in the case of unrepentant adulterers or thieves. The fourth: Expiation for unrepented sins neither absolved nor mitigated by the

[9] **Qur'an references (L17333):** Qur'an 51:56 (Adh-Dhariyat); Qur'an 17:15 (Al-Isra).

لَمْ يُبْعَثْ إِلَيْهِمْ نَبِيٌّ مِنَ الْإِنْسِ قَبْلَ مُحَمَّدٍ - عَلَيْهِ السَّلَامُ -، وَالْجِنُّ لَيْسُوا قَوْمَ أَحَدٍ مِنَ الْإِنْسِ.

فَصَحَّ يَقِينًا أَنَّهُمْ بُعِثَ إِلَيْهِمْ أَنْبِيَاءُ مِنْهُمْ، وَبَطَلَ تَخْلِيطُ الطَّحَاوِيِّ بِالْبَاطِلِ الَّذِي رَامَ بِهِ دَفْعَ الْحَقِّ. وَقَالَ أَيْضًا: وَهَذَا مِنْ حَدِيثِ عُبَادَةَ بْنِ الصَّامِتِ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: «بَايِعُونِي عَلَى أَنْ لَا تُشْرِكُوا بِاللَّهِ شَيْئًا وَلَا تَسْرِقُوا وَلَا تَزْنُوا وَلَا تَقْتُلُوا أَوْلَادَكُمْ وَلَا تَأْتُوا بِبُهْتَانٍ تَفْتَرُونَهُ بَيْنَ أَيْدِيكُمْ وَأَرْجُلِكُمْ، وَلَا تَعْصُوا فِي مَعْرُوفٍ، فَمَنْ وَفَّى مِنْكُمْ فَأَجْرُهُ عَلَى اللَّهِ، وَمَنْ أَصَابَ مِنْ ذَلِكَ شَيْئًا فَعُوقِبَ فِي الدُّنْيَا فَهُوَ كَفَّارَةٌ لَهُ، وَمَنْ أَصَابَ مِنْ ذَلِكَ شَيْئًا ثُمَّ سَتَرَهُ اللَّهُ فَهُوَ إِلَى اللَّهِ إِنْ شَاءَ عَاقَبَهُ وَإِنْ شَاءَ عَفَا عَنْهُ» قَالَ: وَإِنَّمَا الْكَفَّارَةُ وَالْعَفْوُ فِيمَا دُونَ الشِّرْكِ لَا فِي الشِّرْكِ، وَقَدْ ذُكِرَ مَعَ سَائِرِ ذَلِكَ. قَالَ أَبُو مُحَمَّدٍ: وَهَذَا جَهْلٌ مِنْهُ شَدِيدٌ لِأَنَّ الْكَفَّارَاتِ فِي الْقُرْآنِ، وَالسُّنَنِ تَنْقَسِمُ أَرْبَعَةَ أَقْسَامٍ -: أَحَدُهَا: كَفَّارَةُ عِبَادَةٍ بِغَيْرِ ذَنْبٍ أَصْلًا قَالَ تَعَالَى: {ذَلِكَ كَفَّارَةُ أَيْمَانِكُمْ إِذَا حَلَفْتُمْ} [المائدة: ٨٩] . وَقَدْ يَكُونُ الْحِنْثُ أَفْضَلَ مِنَ التَّمَادِي عَلَى الْيَمِينِ وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِنِّي لَا أَحْلِفُ عَلَى يَمِينٍ فَأَرَى غَيْرَهَا خَيْرًا مِنْهَا إِلَّا أَتَيْتُ الَّذِي هُوَ خَيْرٌ وَكَفَّرْتُ» أَوْ كَمَا قَالَ - عَلَيْهِ السَّلَامُ -، فَقَدْ نَصَّ - عَلَيْهِ السَّلَامُ -[عَلَى] أَنَّ الْحِنْثَ وَفِيهِ الْكَفَّارَةُ قَدْ يَكُونُ خَيْرًا مِنَ الْوَفَاءِ بِالْيَمِينِ. وَالثَّانِي: كَفَّارَةٌ بِلَا ذَنْبٍ بَاقٍ لَكِنْ لِذَنْبٍ قَدْ تَقَدَّمَ غُفْرَانُ اللَّهِ تَعَالَى لَهُ كَالْحَدِّ يُقَامُ عَلَى التَّائِبِ مِنَ الزِّنَى. وَالثَّالِثُ: كَفَّارَةٌ لِذَنْبٍ لَمْ يَتُبْ مِنْهُ صَاحِبُهُ فَتَرْفَعُهُ الْكَفَّارَةُ كَحَدِّ الزَّانِي وَالسَّارِقِ اللَّذَيْنِ لَمْ يَتُوبَا. وَالرَّابِعُ: كَفَّارَةٌ عَلَى ذَنْبٍ لَمْ يَتُبْ مِنْهُ صَاحِبُهُ وَلَا رَفَعَتْهُ الْكَفَّارَةُ وَلَا حَطَّتْهُ كَالْعَائِدِ إِلَى قَتْلِ الصَّيْدِ فِي الْحَرَمِ عَمْدًا مَرَّةً بَعْدَ مَرَّةٍ - قَالَ تَعَالَى:

expiation, such as the deliberate repeated killing of game within the sacred precinct. Allah the Exalted decreed: “The recompense is livestock equivalent to what he slaughtered, as judged by two just men among you, offered as a sacrifice to the Kaaba, or expiation through feeding the needy or equivalent fasting—so he may taste the evil consequences of his affair. Allah pardons what is past, but whoever relapses, Allah will exact retribution from him” [5:95].[10]

{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] .

L17336–17341 This is a divine chastisement He has threatened, alongside the obligation of expiation upon him. The expiation mentioned in the ḥadīth of ʻUbādah, in its general application, either nullifies the sin and its punishment in the Hereafter—as in fornication, murder, slanderous fabrication, and disobedience in matters of recognized good—or does not nullify the sin and its punishment in the Hereafter, such as killing a polytheist for his polytheism. As for the Prophet’s statement—peace be upon him—“Whoever commits any of that and Allah conceals it, it rests with Allah: if He wills, He punishes him, and if He wills, He forgives him”—I wonder how it escaped him that this applies universally! The angels, messengers, prophets, righteous individuals, the debauched, disbelievers, Iblīs, Pharaoh, Abū Jahl, and Abū Lahab—all are subject to the will of Allah the Exalted. He does with them as He wills, punishing or pardoning, except that He has clarified He will necessarily punish the disbelievers, Iblīs, Abū Lahab, Abū Jahl, and Pharaoh without exception—and will necessarily be pleased with the angels, messengers, prophets, and righteous without exception. All remain within His will; none of this exits the will of Allah the Exalted. Whoever Allah punishes, He has willed to punish, and whoever He admits to Paradise, He has willed to admit. As for the ignorant one’s assertion that if Allah willed to torment the angels and messengers while granting disbelievers bliss, none could hinder Him—yet He has not willed this—has he not heard Allah’s words: “He forgives whom He wills and punishes whom He wills” [3:129], and His words: “Allah forgives all sins” [39:53], then excluded polytheism comprehensively and eternally, along with those whose major sins and misdeeds prevail until they are extracted through intercession? Does he not comprehend that the Prophet’s state-

فَهَذِهِ نِقْمَةٌ مُتَوَعَّدٌ بِهَا مَعَ وُجُوبِ الْكَفَّارَةِ عَلَيْهِ، فَالْكَفَّارَةُ الْمَذْكُورَةُ فِي حَدِيثِ عُبَادَةَ عَلَى عُمُومِهَا إِمَّا مُسْقِطَةٌ لِلذَّنْبِ وَعُقُوبَتِهِ فِي الْآخِرَةِ فِي الزِّنَى وَالْقَتْلِ، وَالْبُهْتَانِ الْمُفْتَرَى، وَالْمَعْصِيَةِ فِي الْمَعْرُوفِ، وَإِمَّا غَيْرُ مُسْقِطَةٍ لِلذَّنْبِ، وَعُقُوبَتِهِ فِي الْآخِرَةِ، وَهِيَ قَتْلُ الْمُشْرِكِ عَلَى شِرْكِهِ. وَأَمَّا قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «وَمَنْ أَصَابَ مِنْ ذَلِكَ شَيْئًا ثُمَّ سَتَرَهُ اللَّهُ فَهُوَ إِلَى اللَّهِ إِنْ شَاءَ عَاقَبَهُ وَإِنْ شَاءَ عَفَا عَنْهُ» فَلَيْتَ شِعْرِي كَيْفَ خَفِيَ عَلَيْهِ أَنَّ هَذَا عَلَى عُمُومِهِ؟ وَأَنَّ الْمَلَائِكَةَ وَالرُّسُلَ، وَالْأَنْبِيَاءَ، وَالصَّالِحِينَ، وَالْفُسَّاقَ وَالْكُفَّارَ، وَإِبْلِيسَ، وَفِرْعَوْنَ، وَأَبَا جَهْلٍ، وَأَبَا لَهَبٍ، كُلَّهُمْ فِي مَشِيئَةِ اللَّهِ تَعَالَى يَفْعَلُ فِيهِمْ مَا يَشَاءُ مِنْ عُقُوبَةٍ أَوْ عَفْوٍ، إِلَّا أَنَّهُ تَعَالَى قَدْ بَيَّنَ أَنَّهُ يُعَاقِبُ الْكُفَّارَ وَلَا بُدَّ، وَإِبْلِيسَ، وَأَبَا لَهَبٍ، وَأَبَا جَهْلٍ، وَفِرْعَوْنَ، وَلَا بُدَّ - وَيَرْضَى عَنِ الْمَلَائِكَةِ وَالرُّسُلِ، وَالْأَنْبِيَاءِ، وَالصَّالِحِينَ، وَلَا بُدَّ، وَكُلُّهُمْ فِي الْمَشِيئَةِ وَلَا يَخْرُجُ شَيْءٌ مِنْ ذَلِكَ عَنْ مَشِيئَةِ اللَّهِ تَعَالَى، مَنْ عَاقَبَهُ اللَّهُ تَعَالَى فَقَدْ شَاءَ أَنْ يُعَاقِبَهُ، وَمَنْ أَدْخَلَهُ الْجَنَّةَ فَقَدْ شَاءَ أَنْ يُدْخِلَهُ الْجَنَّةَ. أَمَّا عِلْمُ الْجَاهِلِ أَنَّ اللَّهَ تَعَالَى لَوْ شَاءَ أَنْ يُعَذِّبَ الْمَلَائِكَةَ، وَالرُّسُلَ، وَيُنْعِمَ الْكُفَّارَ لَمَا مَنَعَهُ مِنْ ذَلِكَ مَانِعٌ، لَكِنَّهُ تَعَالَى لَمْ يَشَأْ ذَلِكَ. أَمَا سَمِعَ قَوْلَهُ تَعَالَى {يَغْفِرُ لِمَنْ يَشَاءُ وَيُعَذِّبُ مَنْ يَشَاءُ} [آل عمران: ١٢٩] وَقَوْلَهُ تَعَالَى: {إِنَّ اللَّهَ يَغْفِرُ الذُّنُوبَ جَمِيعًا} [الزمر: ٥٣] ثُمَّ اسْتَثْنَى الشِّرْكَ جُمْلَةً أَبَدِيَّةً، وَمَنْ رَجَحَتْ كَبَائِرُهُ وَسَيِّئَاتُهُ حَتَّى يَخْرُجُوا

[10] **Qur’an references (L17335):** Qur’an 5:89 (Al-Ma’idah); Qur’an 5:95 (Al-Ma’idah).

ment—peace be upon him—"If He wills, He punishes him, and if He wills, He forgives him" does not necessitate either outcome irrevocably, but rather defers to other scriptural texts? What misguidance is more repugnant than deeming the Prophet's statement—Allah's peace and blessings upon him and his family—"Wine is from these two trees: the date palm and the grapevine" as contrary to reality? Rather, this is deception in religion! For what rationale would he claim the Prophet intended to clarify that wine is prohibited only from grapes, yet falsely included the date palm—from which wine is not produced? Is this not the doing of the debauched and those who practice deceit in religion, trifling with their speech? May they perish! Away with every whim that compels attributing to the Messenger of Allah—peace and blessings of Allah be upon him—what every honorable truth-rejecting person would disdain! They shall be returned, and we shall be returned; they shall know, and we shall know. By Allah, profound regret will indeed follow such grave transgressions—praise be to Allah for His abundant guidance: *{We would never have attained guidance had Allah not guided us}* [Al-Aʿrāf 7:43]. Did Al-Ṭaḥāwī clarify why he restricted the Prophet's statement—peace be upon him—"Intoxicants derive from these two trees: the date palm and the grapevine" to mean only the grapevine while still mentioning the date palm? We cannot fathom why he differentiated this from a deviant's claim: "Falsehood originates from these two men: Muḥammad and Musaylimah?" Ponder what drove Al-Ṭaḥāwī to this. You will find this assertion equally baseless. He arbitrarily imposed falsehood upon this ḥadīth, as evident, while his followers compounded it with two further invalid claims:

First: They declared, "Intoxicants derive solely from these two," though the ḥadīth contains no such restriction. The Prophet—peace and blessings of Allah be upon him—did not state, "Intoxicants are **exclusively** from these two trees," but rather, "Intoxicants are from these two trees," affirming their inclusion without precluding other sources if validated by authentic texts. Such a text exists: As narrated by Abū Dāwūd through Mālik ibn ʿAbd al-Wāḥid al-Misma'ī, via al-Muʿtamir ibn Sulaymān, who recited to al-Fuḍayl ibn Maysarah from Abū Ḥarīz, reporting that al-Sha'bī narrated from al-Nuʿmān ibn Bashīr, who heard Allah's Messenger—peace and blessings of

بِالشَّفَاعَةِ. أَمَا عَقَلَ أَنَّ قَوْلَهُ - عَلَيْهِ السَّلَامُ -: «إِنْ شَاءَ عَاقَبَهُ وَإِنْ شَاءَ عَفَا عَنْهُ» لَيْسَ فِيهِ إِيجَابٌ لِأَحَدِهِمَا وَلَا بُدَّ، وَأَنَّ ذَلِكَ مَرْدُودٌ إِلَى سَائِرِ النُّصُوصِ. فَهَلْ فِي الضَّلَالِ أَشْنَعُ مِمَّنْ جَعَلَ قَوْلَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - «الْخَمْرُ مِنْ هَاتَيْنِ الشَّجَرَتَيْنِ النَّخْلَةِ وَالْعِنَبَةِ» عَلَى غَيْرِ الْحَقِيقَةِ؟ بَلْ عَلَى التَّدْلِيسِ فِي الدِّينِ وَإِلَّا فَأَيُّ وَجْهٍ لَأَنْ يُرِيدَ أَنْ يُبَيِّنَ عَلَيْنَا مَا حَرَّمَ عَلَيْنَا مِنْ أَنَّ الْخَمْرَ مِنَ الْعِنَبِ فَقَطْ فَيُقْحِمَ فِي ذَلِكَ النَّخْلَةَ، وَهِيَ لَا تَكُونُ الْخَمْرُ مِنْهَا؟ هَلْ هَذَا إِلَّا فِعْلُ الْفُسَّاقِ وَالْمُلْغِزِينَ فِي الدِّينِ، الْعَابِثِينَ فِي كَلَامِهِمْ؟ فَسُحْقًا فَسُحْقًا لِكُلِّ هَوًى يُحْمَلُ عَلَى أَنْ يُنْسَبَ إِلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِثْلُ مِمَّا يَتَرَفَّعُ عَنْهُ كُلُّ مُجِدٍّ لَا يَرْضَى بِالْكَذِبِ، وَسَيُرَدُّونَ وَنُرَدُّ، وَيَعْلَمُونَ وَنَعْلَمُ، وَاَللَّهِ لَتَطُولَنَّ النَّدَامَةُ عَلَى مِثْلِ هَذِهِ الْعَظَائِمِ - وَالْحَمْدُ لِلَّهِ عَلَى هُدَاهُ لَنَا كَثِيرًا {وَمَا كُنَّا لِنَهْتَدِيَ لَوْلا أَنْ هَدَانَا اللَّهُ} [الأعراف: ٤٣] . وَهَلْ بَيَّنَ مَا حَمَلَ عَلَيْهِ الطَّحَاوِيُّ قَوْلَهُ - عَلَيْهِ السَّلَامُ - «الْخَمْرُ مِنْ هَاتَيْنِ الشَّجَرَتَيْنِ النَّخْلَةِ وَالْعِنَبَةِ» مِنْ أَنَّهُ إِنَّمَا أَرَادَ الْعِنَبَةَ فَقَطْ لَا النَّخْلَةَ فَذَكَرَ النَّخْلَةَ؟ لَا نَدْرِي لِمَاذَا فَرَّقَ بَيْنَهُ وَبَيْنَ قَوْلِ فَاسِقٍ يَقُولُ: الْكَذِبُ مِنْ هَذَيْنِ الرَّجُلَيْنِ مُحَمَّدٍ وَمُسَيْلِمَةَ؟ فَتَأَمَّلُوا مَا حَمَلَهُ عَلَيْهِ الطَّحَاوِيُّ، وَهَذَا الْقَوْلُ تَجِدُوهُ سَوَاءً سَوَاءً فَتَحَكَّمَ الطَّحَاوِيُّ بِالْبَاطِلِ فِي هَذَا الْخَبَرِ كَمَا تَرَوْنَ وَتَحَكَّمَ أَصْحَابُهُ فِيهِ أَيْضًا بِبَاطِلَيْنِ آخَرَيْنِ -: أَحَدُهُمَا: أَنَّهُمْ قَالُوا: لَيْسَ الْخَمْرُ مِنْ غَيْرِهِمَا، وَلَيْسَ هَذَا فِي الْخَبَرِ أَصْلًا، لِأَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمْ يَقُلْ: لَيْسَ الْخَمْرُ إِلَّا مِنْ هَاتَيْنِ الشَّجَرَتَيْنِ، إِنَّمَا قَالَ «الْخَمْرُ مِنْ هَاتَيْنِ الشَّجَرَتَيْنِ» فَأَوْجَبَ أَنَّ الْخَمْرَ مِنْهُمَا، وَلَمْ يَمْنَعْ أَنْ تَكُونَ الْخَمْرُ أَيْضًا مِنْ غَيْرِهِمَا إِنْ وَرَدَ بِذَلِكَ نَصٌّ صَحِيحٌ، بَلْ قَدْ جَاءَ نَصٌّ بِذَلِكَ -: كَمَا رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نا مَالِكُ بْنُ عَبْدِ الْوَاحِدِ الْمِسْمَعِيُّ نا الْمُعْتَمِرُ هُوَ ابْنُ سُلَيْمَانَ -[قَالَ] قَرَأْت عَلَى

الْفُضَيْلِ بْنِ مَيْسَرَةَ عَنْ أَبِي حَرِيزٍ قَالَ: إِنَّ الشَّعْبِيَّ حَدَّثَهُ أَنَّ النُّعْمَانَ بْنَ بَشِيرٍ حَدَّثَهُ قَالَ: سَمِعْت رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُ: «إنَّ الْخَمْرَ مِنْ الْعَصِيرِ، وَالزَّبِيبِ، وَالتَّمْرِ، وَالْحِنْطَةِ، وَالشَّعِيرِ، وَالذُّرَةِ، وَإِنِّي أَنْهَاكُمْ عَنْ كُلِّ مُسْكِرٍ» -: أَبُو حَرِيزٍ هُوَ عَبْدُ اللَّهِ بْنُ الْحُسَيْنِ - قَاضِي سِجِسْتَانَ رَوَى عَنْ عِكْرِمَةَ، وَالشَّعْبِيِّ، وَرَوَى عَنْهُ الْفَضْلُ بْنُ مَيْسَرَةَ وَغَيْرُهُ. فَهَذَا نَصٌّ كَنَصِّهِمْ وَزَائِدٌ عَلَيْهِ مَا لَا يَحِلُّ تَرْكُهُ. وَقَدْ صَحَّ عَنْهُ - عَلَيْهِ السَّلَامُ - أَنَّهُ قَالَ: «كُلُّ مُسْكِرٍ خَمْرٌ» . وَالثَّانِي: أَنَّهُمْ قَالُوا: لَيْسَ مَا طُبِخَ مِنْ عَصِيرِ الْعِنَبِ وَنَبِيذِ ثَمَرِ النَّخْلِ إذَا ذَهَبَ ثُلُثَاهُ خَمْرًا وَإِنْ أَسْكَرَ، فَتَحَكَّمُوا فِي الْخَبَرِ الَّذِي أَوْهَمُوا أَنَّهُمْ تَعَلَّقُوا بِهِ تَحَكُّمًا ظَاهِرَ الْفَسَادِ بِلَا بُرْهَانٍ، وَبَطَلَ تَعَلُّقُهُمْ بِهِ إذْ خَالَفُوا مَا فِيهِ بِغَيْرِ نَصٍّ آخَرَ، وَخَرَجَ عَنْ أَنْ يَكُونَ لَهُمْ فِي شَيْءٍ مِنْ جَمِيعِ ذَلِكَ مُتَعَلَّقٌ أَوْ مِنْ النَّاسِ سَلَفٌ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

Allah be upon him—declare: **"Intoxicants derive from grape juice, raisins, dates, wheat, barley, and grains. I prohibit every intoxicant."** Abū Ḥarīz—'Abdullāh ibn al-Ḥusayn, judge of Sijistān—narrated from 'Ikrimah and al-Sha'bī, with transmissions from al-Faḍl ibn Maysarah and others. This text matches theirs in authority while adding indispensable details. It is authentically established that the Prophet—peace be upon him—said: **"Every intoxicant is unlawful."**

Second: They asserted that cooked grape juice or fermented date drink does not become unlawful even if two-thirds evaporates and causes intoxication. They thus imposed corrupt, baseless interpretations on the ḥadīth they cited, nullifying their argument by contradicting its content without textual proof. They strayed beyond any legitimate evidence they might claim. Something related to all of that, or there are predecessors (Salaf) among the people. And by Allah, the Most High, is success.[1][12]

وَمَوَّهُوا فِي إبَاحَةِ مَا طُبِخَ حَتَّى ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ مِنْ عَصِيرِ الْعِنَبِ أَسْكَرَ بَعْدَ ذَلِكَ أَوْ لَمْ يُسْكِرْ بِرِوَايَاتٍ -: مِنْهَا: مَا رُوِّينَا مِنْ طُرُقٍ ثَابِتَةٍ إلَى إبْرَاهِيمَ عَنْ سُوَيْدِ بْنِ غَفَلَةَ قَالَ: كَتَبَ عُمَرُ إلَى عُمَّالِهِ أَنْ يَرْزُقُوا النَّاسَ الطِّلَاءَ ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ. وَأُخْرَى مِنْ طَرِيقِ الشَّعْبِيِّ عَنْ حَيَّانَ الْأَسَدِيِّ أَنَّهُ رَأَى عَمَّارًا قَدْ شَرِبَ مِنْ الْعَصِيرِ مَا طُبِخَ حَتَّى ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ وَسَقَاهُ مَنْ حَوْلَهُ. وَمِنْ طَرِيقِ قَتَادَةَ أَنَّ أَبَا عُبَيْدَةَ بْنِ الْجَرَّاحِ، وَمُعَاذَ بْنَ جَبَلٍ، كَانَا يَشْرَبَانِ الطِّلَاءَ مَا طُبِخَ حَتَّى ذَهَبَ ثُلُثَاهُ. وَعَنْ أَبِي الدَّرْدَاءِ، وَأَبِي مُوسَى مِثْلُ ذَلِكَ. وَعَنْ عَلِيٍّ: أَنَّهُ كَانَ يَرْزُقُ النَّاسَ طِلَاءً يَقَعُ فِيهِ الذُّبَابُ فَلَا يَسْتَطِيعُ أَنْ يَخْرُجَ مِنْهُ. وَعَنْ جَمَاعَةٍ مِنْ التَّابِعِينَ مِثْلُ هَذَا. وَاحْتَجُّوا فِي هَذَا بِخَبَرٍ عَنْ

L17342–17348 They argued for the permissibility of what was boiled until two-thirds evaporated and one-third remained of grape juice—whether it intoxicates afterward or not—based on narrations including: What we narrate through established chains from Ibrāhīm via Suwayd ibn Ghaflah, who said: "Umar wrote to his governors instructing them to provide people with ṭilā' (boiled liquid) when two-thirds had evaporated and one-third remained." Another narration through Al-Sha'bī from Ḥayyān al-Asadī states that he saw 'Ammār drink from juice boiled until two-thirds evaporated and one-third remained, and he gave it to those around him to drink. Through Qatādah's chain: Abū 'Ubaydah ibn al-Jarrāḥ and Mu'ādh ibn Jabal used to drink ṭilā' boiled until two-thirds evaporated. Similar accounts are reported from Abū al-Dardā' and Abū Mūsā. From 'Alī: He would distribute ṭilā' so thick that a

[11] **Hadith references (L17337):** Sunan Abi Dawud 3677.

[12] **Qur'an references (L17337):** Qur'an 3:129 (Ali 'Imran); Qur'an 5:18 (Al-Ma'idah); Qur'an 48:14 (Al-Fath); Qur'an 39:53 (Az-Zumar); Qur'an 7:43 (Al-A'raf).

fly falling into it could not escape. Comparable reports exist from a group of Successors. They cited as evidence a narration from Ibn Sīrīn regarding Noah—peace be upon him—dividing the zarjūn plant with Iblīs: two-thirds for Iblīs and one-third for Noah. A similar report is transmitted through Anas ibn Mālik. Abū Muḥammad commented: "Anas and Ibn Sīrīn undoubtedly never met Noah—peace be upon him. We do not know their source for this. Had Anas heard it from the Prophet—peace and blessings of Allāh be upon him—he would not have concealed the Prophet's name as the narrator. Thus, this argument is invalid. Even if valid, the ruling would apply whether two-thirds is lost through boiling or pouring, for only intoxication matters, as the Prophet—peace and blessings of Allāh be upon him—defined." Abū Muḥammad added: "This provides no proof for them. First: No authority exists apart from the Messenger of Allāh—peace and blessings of Allāh be upon him—to legislate religious boundaries of permissibility and prohibition. Second: Reports differing from this exist among other Companions, as we narrate through Ibn Abī Shaybah's chain: From Muḥammad ibn Fuḍayl, ʿAbd al-Raḥīm ibn Sulaymān, Wakīʿ, and Yaḥyā ibn Yamān, who said..." Ibn Fudayl reported from Habib ibn Abī ʿAmrah from ʿAdiyy ibn Thābit from Al-Barāʾ ibn ʿĀzib. ʿAbdur-Raḥīm reported from ʿUbaydah from Khaythamah from Anas ibn Mālik. Yaḥyā ibn Yamān reported from Ashʿath from Jaʿfar ibn Abzā. Wakīʿ reported from Ṭalḥah ibn Jabr and Jarīr ibn Ayyūb. Ṭalḥah said: "I saw Abū Juḥayfah As-Suwāʾī." Jarīr reported from Abū Zurʿah ibn ʿAmr ibn Jarīr that Jarīr ibn ʿAbdillāh Al-Bajalī – then their chains converged – from Al-Barāʾ, Abū Juḥayfah, Jarīr ibn ʿAbdillāh, and Ibn Abzā that they used to drink date syrup (ṭilāʾ) diluted by half. Through this chain to Ibn Abī Shaybah from Ibn Fudayl, Wakīʿ, and ʿAbdur-Raḥīm ibn Sulaymān: Ibn Fudayl reported from Dīnār Al-Aʿraj from Saʿīd ibn Jubayr that he drank date syrup diluted by half. Ibn Fudayl also reported from Al-Aʿmash from Yaḥyā that he drank date syrup diluted by half. Wakīʿ reported from Al-Aʿmash from Mundhir Ath-Thawrī from Ibn Al-Ḥanafiyyah that he used to drink date syrup diluted by half. Al-Aʿmash reported from Al-Ḥakam that Shurayḥ used to drink date syrup diluted by half. Al-Aʿmash stated: "Ibrāhīm used to drink it diluted by half." It is authentically established from Qays ibn Abī Ḥāzim – and narrated from Ash-Shaʿbī and Abū ʿUbaydah – how astonish-

ابْنِ سِيرِينَ فِي مُقَاسَمَةِ نُوحٍ - عَلَيْهِ السَّلَامُ - إبْلِيسَ الزَّرْجُونَ: لِإِبْلِيسِ الثُّلُثَانِ، وَلِنُوحٍ الثُّلُثُ. وَمِنْ طَرِيقِ أَنَسِ بْنِ مَالِكٍ مِثْلُ هَذَا. قَالَ أَبُو مُحَمَّد: لَمْ يُدْرِكْ أَنَسٌ، وَلَا ابْنُ سِيرِينَ نُوحًا بِلَا شَكٍّ، وَلَا نَدْرِي مِمَّنْ سَمِعَاهُ، وَلَوْ سَمِعَهُ أَنَسٌ مِنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا اسْتَحَلَّ كِتْمَانَ اسْمِهِ - فَسَقَطَ الِاحْتِجَاجُ بِهَذَا. وَلَوْ صَحَّ هَذَا لَكَانَ مَتَى أُهْرِقَ مِنْ الْعَصِيرِ ثُلُثَاهُ حَلَّ بَاقِيهِ فَلَا فَرْقَ بَيْنَ ذَهَابِ ثُلُثَيْهِ بِالطَّبْخِ وَبَيْنَ ذَهَابِهِمَا بِالْهَرْقِ وَإِنَّمَا الْمُرَاعَى السُّكْرُ فَقَطْ كَمَا حَدَّ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. قَالَ أَبُو مُحَمَّد: وَهَذَا لَا حُجَّةَ لَهُمْ فِيهِ -: أَوَّلُ ذَلِكَ: أَنَّهُ لَا حُجَّةَ فِي أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَلَا يَحُدُّ الْحُدُودَ فِي الدِّيَانَةِ بِالتَّحْلِيلِ وَالتَّحْرِيمِ أَحَدٌ سِوَاهُ. وَالثَّانِي: أَنَّهُ قَدْ جَاءَ عَنْ طَائِفَةٍ مِنْ الصَّحَابَةِ غَيْرُ هَذَا كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ: نا مُحَمَّدُ بْنُ فُضَيْلٍ، وَعَبْدُ الرَّحِيمِ بْنُ سُلَيْمَانَ، وَوَكِيعٌ، وَيَحْيَى بْنُ يَمَانٍ، قَالَ ابْنُ فُضَيْلٍ: عَنْ حَبِيبِ بْنِ أَبِي عَمْرَةَ عَنْ عَدِيِّ بْنِ ثَابِتٍ عَنْ الْبَرَاءِ بْنِ عَازِبٍ، وَقَالَ عَبْدُ الرَّحِيمِ: عَنْ عُبَيْدَةَ عَنْ خَيْثَمَةَ عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ يَحْيَى بْنُ يَمَانٍ: عَنْ أَشْعَثَ عَنْ جَعْفَرِ بْنِ أَبْزَى، وَقَالَ وَكِيعٌ: عَنْ طَلْحَةَ بْنِ جَبْرٍ، وَجَرِيرِ بْنِ أَيُّوبَ قَالَ طَلْحَةُ: رَأَيْت أَبَا جُحَيْفَةَ السُّوَائِيَّ، وَقَالَ جَرِيرٌ: عَنْ أَبِي زُرْعَةَ بْنِ عَمْرِو بْنِ جَرِيرٍ أَنَّ جَرِيرَ بْنَ عَبْدِ اللَّهِ الْبَجَلِيَّ ثُمَّ اتَّفَقَ عَنْ الْبَرَاءِ، وَأَبِي جُحَيْفَةَ، وَجَرِيرِ بْنِ عَبْدِ اللَّهِ وَابْنِ أَبْزَى أَنَّهُمْ كَانُوا يَشْرَبُونَ الطِّلَاءَ عَلَى النِّصْفِ. وَبِهِ إلَى ابْنِ أَبِي شَيْبَةَ عَنْ ابْنِ فُضَيْلٍ، وَوَكِيعٍ، وَعَبْدِ الرَّحِيمِ بْنِ سُلَيْمَانَ قَالَ ابْنُ فُضَيْلٍ: عَنْ دِينَارٍ الْأَعْرَجِ عَنْ سَعِيدِ بْنِ جُبَيْرٍ: أَنَّهُ شَرِبَ الطِّلَاءَ عَلَى النِّصْفِ. وَقَالَ ابْنُ فُضَيْلٍ أَيْضًا: عَنْ الْأَعْمَشِ عَنْ يَحْيَى أَنَّهُ شَرِبَ الطِّلَاءَ عَلَى النِّصْفِ وَقَالَ وَكِيعٌ عَنْ الْأَعْمَشِ عَنْ مُنْذِرٍ الثَّوْرِيِّ عَنْ ابْنِ الْحَنَفِيَّةِ: أَنَّهُ كَانَ يَشْرَبُ الطِّلَاءَ

ing is the lack of modesty among these people! What makes the opinion of some Companions superior to others? The third point: They opposed ʿUmar and ʿAlī. It has been narrated to us through Qatādah's chain that ʿUmar said: "I would prefer to drink a heated vessel that burns what it burns and spares what it spares over drinking jar-fermented beverage." If they object: "Qatādah did not contemporaneously meet ʿUmar?" We respond: "Nor did he meet Muʿādh or Abū ʿUbaydah." Through Saʿīd ibn Manṣūr's chain: Al-Muʿtamir ibn Sulaymān At-Taymī reported from his father that Abū Isḥāq As-Sabīʿī said: "When ʿAlī was informed about the jar-fermented beverage he had drunk, he vomited it." Fourth: None of the mentioned accounts indicate it was an intoxicant. Rather, it is confirmed to be non-intoxicating, as stated in ʿAlī's report that flies would fall into it and be unable to escape. We have been narrated through Ḥuṣayn's chain from Ibn Abī Laylā from Ash-Shaʿbī that ʿUmar wrote to... Ammar ibn Yasir reported: I was brought a drink that had been cooked until two-thirds of it evaporated, leaving one-third. Its devilish part departed from it along with the fumes of its madness, while its wholesome essence and lawful nature remained. He said, "Direct the Muslims around you to use it freely in their beverages," thereby nullifying their attachment to any of that. It is astonishing that they argue to invalidate the Prophet's prohibition—peace and blessings be upon him—against mixing dates and raisins in *nabidh* by saying, "If one were to drink this separately and then that, would it become forbidden?" They claim there is no difference between mixing them before drinking and mixing them in one's stomach. We responded: "It is impermissible to oppose Allah the Exalted or the Prophet—peace and blessings be upon him—with such reasoning. But you oppose with this misleading innovation when we say to you: What is your ruling regarding juice that intoxicates before being cooked, then is cooked until two-thirds evaporates and one-third remains—does it become permissible according to you?" They reply, "No." We then ask them: "What distinguishes cooking it after it intoxicates from cooking it before it intoxicates, when intoxication occurs in both cases?" If cooking nullifies its prohibition when it intoxicates afterward, then its prohibition should likewise be nullified if it intoxicates beforehand. This refutation holds greater validity.

عَلَى النِّصْفِ. وَقَالَ الْأَعْمَشُ عَنْ الْحَكَمِ: إنَّ شُرَيْحًا كَانَ يَشْرَبُ الطِّلَاءَ عَلَى النِّصْفِ. وَقَالَ الْأَعْمَشُ: وَكَانَ إبْرَاهِيمُ يَشْرَبُهُ عَلَى النِّصْفِ. وَصَحَّ أَيْضًا عَنْ قَيْسِ بْنِ أَبِي حَازِمٍ - وَرَوَى عَنْ الشَّعْبِيِّ، وَأَبِي عُبَيْدَةَ؛ فَالْعَجَبُ لِقِلَّةِ حَيَاءِ هَؤُلَاءِ الْقَوْمِ مَا الَّذِي جَعَلَ قَوْلَ بَعْضِ الصَّحَابَةِ أَوْلَى مِنْ قَوْلِ بَعْضٍ؟ وَالثَّالِثُ: قَدْ خَالَفُوا عُمَرَ، وَعَلِيًّا -: رُوِّينَا مِنْ طَرِيقِ قَتَادَةَ أَنَّ عُمَرَ قَالَ: لَأَنْ أَشْرَبَ قُمْقُمًا مُحْمًى أَحْرَقَ مَا أَحْرَقَ وَأَبْقَى مَا أَبْقَى أَحَبُّ إلَيَّ مِنْ أَنْ أَشْرَبَ نَبِيذَ الْجَرِّ. فَإِنْ قَالُوا: لَمْ يُدْرِكْ قَتَادَةُ عُمَرَ؟ قُلْنَا: وَلَا أَدْرَكَ مُعَاذًا، وَلَا أَبَا عُبَيْدَةَ. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ التَّيْمِيُّ عَنْ أَبِيهِ أَنَّ أَبَا إِسْحَاقَ السَّبِيعِيَّ قَالَ: إنَّ عَلِيًّا لَمَّا بَلَغَهُ فِي نَبِيذٍ شَرِبَهُ أَنَّهُ نَبِيذُ جُرٍّ تَقَيَّأَهُ. الرَّابِعُ: أَنَّهُ لَيْسَ فِي شَيْءٍ مِمَّا ذَكَرْنَا أَنَّهُ كَانَ مُسْكِرًا بَلْ قَدْ صَحَّ أَنَّهُ لَمْ يَكُنْ مُسْكِرًا كَمَا ذَكَرْنَا فِي خَبَرِ عَلِيٍّ أَنَّ الذُّبَابَ كَانَ يَقَعُ فِيهِ فَلَا يَسْتَطِيعُ الْخُرُوجَ مِنْهُ. وَرُوِّينَاهُ مِنْ طَرِيقِ حُصَيْنٍ عَنْ ابْنِ أَبِي لَيْلَى عَنْ الشَّعْبِيِّ: أَنَّ عُمَرَ كَتَبَ إلَى عَمَّارِ بْنِ يَاسِرٍ أَنِّي أُتِيت بِشَرَابٍ قَدْ طُبِخَ حَتَّى ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ فَذَهَبَ مِنْهُ شَيْطَانُهُ وَرِيحُ جُنُونِهِ وَبَقِيَ طِيبُهُ وَحَلَالُهُ فَمُرْ الْمُسْلِمِينَ قِبَلَك فَلْيَتَوَسَّعُوا بِهِ فِي شَرَابِهِمْ، فَبَطَلَ تَعَلُّقُهُمْ بِشَيْءٍ مِنْ ذَلِكَ، وَالْعَجَبُ أَنَّهُمْ يَحْتَجُّونَ فِي إبْطَالِ تَحْرِيمِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - التَّمْرَ، وَالزَّبِيبَ مَخْلُوطَيْنِ فِي النَّبِيذِ بِأَنْ قَالُوا: لَوْ شَرِبَ هَذَا ثُمَّ هَذَا أَكَانَ يَحْرُمُ ذَلِكَ عَلَيْهِ؟ فَلَا فَرْقَ بَيْنَ خَلْطِهِمَا قَبْلَ شُرْبِهِمَا وَبَيْنَ خَلْطِهِمَا فِي جَوْفِهِ؟ فَقُلْنَا: لَا يَحِلُّ أَنْ يُعَارَضَ اللَّهُ تَعَالَى وَلَا النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِمِثْلِ هَذَا، لَكِنْ تُعَارِضُونَ أَنْتُمْ فِي بِدْعَتِكُمْ هَذِهِ الْمُضِلَّةِ بِأَنْ نَقُولَ لَكُمْ: أَرَأَيْتُمْ الْعَصِيرَ إذَا أَسْكَرَ قَبْلَ أَنْ يُطْبَخَ، ثُمَّ طُبِخَ حَتَّى ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ أَيَحِلُّ عِنْدَكُمْ؟ فَمِنْ قَوْلِهِمْ: لَا، فَنَقُولُ لَهُمْ: فَمَا الْفَرْقُ بَيْنَ طَبْخِهِ بَعْدَ أَنْ يُسْكِرَ وَبَيْنَ

طَبْخِهِ قَبْلَ أَنْ يُسْكِرَ، وَالسُّكْرُ حَاصِلٌ فِيهِ فِي كِلَا الْوَجْهَيْنِ؟ فَإِذَا أَبْطَلَ الطَّبْخُ تَحْرِيمَهُ إِذَا أَسْكَرَ بَعْدَهُ كَذَلِكَ يَبْطُلُ تَحْرِيمُهُ إِذَا أَسْكَرَ قَبْلَهُ وَهَذَا أَصَحُّ فِي الْمُعَارَضَةِ. وَالْوَجْهُ الثَّالِثُ: أَنَّهُ قَدْ صَحَّ عَنْ عُمَرَ وَغَيْرِ عُمَرَ أَنَّهُمْ لَمْ يُرَاعُوا ثُلُثَيْنِ وَلَا ثُلُثًا -: كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ الْقَاسِمِ بْنِ مُحَمَّدِ بْنِ أَبِي بَكْرٍ الصِّدِّيقِ عَنْ أَسْلَمَ مَوْلَى عُمَرَ قَالَ: قَدِمْنَا الْجَابِيَةَ مَعَ عُمَرَ فَأُتِينَا بِالطِّلَاءِ وَهُوَ مِثْلُ عَقْدِ الرُّبِّ إنَّمَا يُخَاضُ بِالْمَخُوضِ خَوْضًا فَقَالَ عُمَرُ بْنُ الْخَطَّابِ: إنَّ فِي هَذَا لَشَرَابًا مَا انْتَهَى إلَيْهِ. وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا سُوَيْد بْنُ نَصْرٍ أَنَا عَبْدُ اللَّهِ هُوَ ابْنُ الْمُبَارَكِ - عَنْ ابْنِ جُرَيْجٍ قِرَاءَةً أَخْبَرَنِي عَطَاءٌ قَالَ: سَمِعْت ابْنَ عَبَّاسٍ يَقُولُ: وَاَللَّهِ مَا تُحِلُّ النَّارُ شَيْئًا وَلَا تُحَرِّمُهُ قَالَ: ثُمَّ فَسَّرَ لِي قَوْلَهُ: لَا تُحِلُّ النَّارُ شَيْئًا لِقَوْلِهِمْ فِي الطِّلَاءِ وَلَا تُحَرِّمُهُ. قَالَ أَبُو مُحَمَّدٍ: وَهَذَا هُوَ الْحَقُّ الَّذِي لَا يَصِحُّ عَنْ أَحَدٍ مِنْ الصَّحَابَةِ سِوَاهُ - وَصَحَّ عَنْ طَاوُسٍ أَنَّهُ سُئِلَ عَنْ الطِّلَاءِ؟ فَقَالَ: أَرَأَيْت الَّذِي مِثْلَ الْعَسَلِ تَأْكُلُهُ بِالْخُبْزِ وَتَصُبُّ عَلَيْهِ الْمَاءَ فَتَشْرَبُهُ؟ عَلَيْك بِهِ، وَلَا تَقْرَبْ مَا دُونَهُ وَلَا تَشْتَرِهِ، وَلَا تَسْقِهِ، وَلَا تَبِعْهُ، وَلَا تَسْتَعِنْ بِثَمَنِهِ - فَإِنَّمَا رَاعَى عُمَرُ، وَعَلِيٌّ، وَابْنُ عَبَّاسٍ مَا لَا يُسْكِرُ فَأَحَلُّوهُ، وَمَا يُسْكِرُ فَحَرَّمُوهُ. وَقَدْ صَحَّ عِنْدَنَا أَنَّ بِجِبَالِ رَيَّةَ أَعْنَابًا إذَا طُبِخَ عَصِيرُهَا فَنَقَصَ مِنْهُ الرُّبْعُ صَارَ رُبًّا خَائِرًا لَا يُسْكِرُ بَعْدَهَا كَالْعَسَلِ فَهَذَا حَلَالٌ بِلَا شَكٍّ. وَشَاهَدْنَا بِالْجَزَائِرِ أَعْنَابًا رَمْلِيَّةً تُطْبَخُ حَتَّى تَذْهَبَ ثَلَاثَةُ أَرْبَاعِهَا وَهِيَ بَعْدُ خَمْرٌ مُسْكِرَةٌ كَمَا كَانَتْ فَهَذَا حَرَامٌ بِلَا شَكٍّ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

The third perspective: It is authentically established from Umar and others that they did not adhere to the two-thirds or one-third reduction—as narrated through Abd al-Razzaq from Ma‘mar, from al-Zuhri, from al-Qasim ibn Muhammad ibn Abi Bakr al-Siddiq, from Aslam, the freed slave of Umar, who said: “We arrived at al-Jabiyah with Umar, and we were brought *ṭilā’* resembling date molasses, which had been thoroughly stirred. Umar ibn al-Khattab remarked: ‘This contains a drink that has not reached its completion.’” From the narration of Ahmad ibn Shu‘ayb: I, Suwayd ibn Nasr, [report] from Abdullah ibn al-Mubarak, from Ibn Jurayj, who recited to me: Aṭa’ informed me, saying: “I heard Ibn Abbas declare: ‘By Allah, fire does not render anything lawful or unlawful.’” He then clarified to me his statement “fire does not render anything lawful” in reference to their claims about *ṭilā’*, “nor does it render anything unlawful.” Abu Muhammad said: “This is the truth, as no authentic report from any Companion contradicts it.” It is authentically reported that Tawus, when asked about *ṭilā’*, replied: “What of that which resembles honey—consumed with bread or diluted with water for drinking? Consume it, but avoid what is inferior to it. Do not purchase it, serve it, sell it, or benefit from its price.” Umar, Ali, and Ibn Abbas only deemed permissible what does not intoxicate and prohibited what intoxicates. It is established to us that in the mountains of Rayyah, grapes are cooked until a quarter of their juice evaporates, becoming a superior syrup that does not intoxicate—like honey—which is unquestionably lawful. We observed in al-Jazair sandy grapes cooked until three-fourths evaporated, yet they remained wine. It is intoxicating as it has been, so this is undoubtedly forbidden. And with Allah, the Exalted, is success.

L17349 Since all these statements have been invalidated by the proofs we have presented, and the opinion of Abū Ḥanīfah and his followers stands stripped of any connection to textual evidence—neither through authentic narrations

nor defective ones, whether via a connected chain (musnad), disconnected chain (mursal), narration from a Companion, or a Successor—nor did they have any predecessor from the Ummah known to have established such a principle before them—let us now, with the help of Allah the Exalted, adduce the evidences affirming the correctness of our position:

We have received narrations through the chains of Mālik and Sufyān ibn ʿUyaynah—both transmitting from al-Zuhrī, from Abū Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf, from ʿĀ'ishah, the Mother of the Believers—that the Messenger of Allah (ﷺ) said: "Every intoxicating drink is forbidden." This is Sufyān's wording. Mālik's version states: "He was asked about *al-bitʿ*, and replied: 'Every intoxicating drink is forbidden.'"

Through another chain, ʿAbdullāh ibn al-Mubārak reported from Maʿmar, from al-Zuhrī, from Abū Salamah ibn ʿAbd al-Raḥmān, from ʿĀ'ishah, the Mother of the Believers, who said: "The Messenger of Allah (ﷺ) was asked about *al-bitʿ*, and he replied: 'Every intoxicating drink is forbidden.'"

Al-bitʿ is made from honey. Even if no evidence existed beyond this authenticated report—in which the Prophet explicitly declared, when asked about a honey drink, that whatever intoxicates is forbidden—it would suffice to refute these deprived ones who claim that intoxicating honey beverages are permissible and that intoxication from them is lawful. We seek refuge in Allah the Most Great from the like of their misguidance.[13]

L17350–17352 Via the chain of Yaḥyā ibn Saʿīd al-Qaṭṭān and Abū Dāwūd al-Ṭayālisī. Yaḥyā narrated: From Muḥammad ibn ʿAmr, from Abū Salamah ibn ʿAbd al-Raḥmān, from Abū Hurayrah. Abū Dāwūd narrated: From Shuʿbah, from Saʿīd ibn Abī Burdah, from his father, from Abū Mūsā al-Ashʿarī. Then their chains converge via the Prophet - peace and blessings of Allah be upon him - as both Abū Hurayrah and Abū Mūsā al-Ashʿarī transmitted that he said: "Every intoxicant is unlawful." Via the chain of Wakīʿ, from Shuʿbah, from

[13] **Hadith references (L17349):** Sunan an-Nasai 5593; Jami at-Tirmidhi 1863; Sunan an-Nasai 5594; Sahih Muslim 2001a; Sunan Abi Dawud 3682.

فَإِذْ قَدْ بَطَلَتْ هَذِهِ الْأَقْوَالُ كُلُّهَا بِالْبَرَاهِينِ الَّتِي أَوْرَدْنَا وَخَرَجَ قَوْلُ أَبِي حَنِيفَةَ وَأَصْحَابُهُ عَنْ أَنْ يَكُونَ لَهُمْ مُتَعَلَّقٌ بِشَيْءٍ مِنْ النُّصُوصِ وَلَا بِرِوَايَةٍ سَقِيمَةٍ، لَا فِي مُسْنَدٍ، وَلَا فِي مُرْسَلٍ، وَلَا عَنْ صَاحِبٍ، وَلَا عَنْ تَابِعٍ، وَلَا كَانَ لَهُمْ سَلَفٌ مِنْ الْأُمَّةِ يَعْرِفُ أَصْلًا قَبْلَهُمْ فَلْنَأْتِ بِعَوْنِ اللَّهِ تَعَالَى بِالْبَرَاهِينِ عَلَى صِحَّةِ قَوْلِنَا فِي ذَلِكَ -: رُوِّينَا مِنْ طَرِيقِ مَالِكٍ، وَسُفْيَانَ بْنِ عُيَيْنَةَ كِلَاهُمَا عَنْ الزُّهْرِيِّ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «كُلُّ شَرَابٍ أَسْكَرَ فَهُوَ حَرَامٌ» هَذَا لَفْظُ سُفْيَانَ - وَلَفْظُ مَالِكٍ «سُئِلَ عَنْ الْبِتْعِ؟ فَقَالَ: كُلُّ شَرَابٍ أَسْكَرَ فَهُوَ حَرَامٌ» . وَمِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ «سُئِلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْبِتْعِ؟ فَقَالَ: كُلُّ شَرَابٍ أَسْكَرَ فَهُوَ حَرَامٌ» وَالْبِتْعُ مِنْ الْعَسَلِ فَلَوْ لَمْ يَكُنْ إلَّا هَذَا الْخَبَرُ فِي صِحَّةِ إسْنَادِهِ وَقَدْ نَصَّ - عَلَيْهِ السَّلَامُ - إذْ سُئِلَ عَنْ شَرَابِ الْعَسَلِ أَنَّهُ إذَا أَسْكَرَ حَرَامٌ، وَهَذَا خِلَافُ قَوْلِ هَؤُلَاءِ الْمَحْرُومِينَ إنَّ شَرَابَ الْعَسَلِ الْمُسْكِرِ حَلَالٌ وَالسُّكْرُ مِنْهُ حَلَالٌ - نَعُوذُ بِاَللَّهِ الْعَظِيمِ مِنْ مِثْلِ ضَلَالِهِمْ.

وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ، وَأَبِي دَاوُد الطَّيَالِسِيِّ، قَالَ يَحْيَى: عَنْ مُحَمَّدِ بْنِ عَمْرٍو عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِي هُرَيْرَةَ. وَقَالَ أَبُو دَاوُد عَنْ شُعْبَةَ عَنْ سَعِيدِ بْنِ أَبِي بُرْدَةَ عَنْ أَبِيهِ عَنْ أَبِي مُوسَى الْأَشْعَرِيِّ، ثُمَّ اتَّفَقَ أَبُو هُرَيْرَةَ، وَأَبُو مُوسَى الْأَشْعَرِيُّ، كِلَاهُمَا عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: «كُلُّ مُسْكِرٍ حَرَامٌ» . وَمِنْ طَرِيقِ وَكِيعٍ عَنْ شُعْبَةَ عَنْ سَعِيدِ بْنِ أَبِي بُرْدَةَ عَنْ أَبِيهِ عَنْ أَبِي مُوسَى الْأَشْعَرِيِّ قَالَ «بَعَثَنِي

Saʿīd ibn Abī Burdah, from his father, from Abū Mūsā al-Ashʿarī, who said: “The Prophet - peace and blessings of Allah be upon him - sent me and Muʿādh ibn Jabal to Yemen. I asked: ’O Messenger of Allah, there is a beverage made in our land called al-mizr from barley, and another called al-bitʿ from honey.’ He responded: ’Every intoxicant is unlawful.’” Similarly, Khālid narrated it from ʿĀṣim ibn Kulayb, from Abū Burdah, and ʿAmr ibn Dīnār, who narrated from... Sa’id ibn Abi Burdah narrated from Abi Burdah, from Abu Musa, from the Prophet (may Allah bless him and grant him peace). Through the chain of Hammad ibn Salamah, from Hammad ibn Abi Sulayman, from Abdullah ibn Buraidah, from his father, who said: The Messenger of Allah (may Allah bless him and grant him peace) stated, “Beware entirely of every intoxicant.” Through the chain of Abdullah ibn Tawus, from his father, from Ibn Umar: “The Messenger of Allah (may Allah bless him and grant him peace) delivered a sermon when a man inquired, ’O Messenger of Allah, what is your view of mizr?’ He responded, ’What is mizr?’ The man answered, ’A grain made in Yemen.’ He asked, ’Does it intoxicate?’ The man affirmed, ’Yes.’ He declared, ’Every intoxicant is forbidden.’” Through the chain of Ayyub al-Sakhtiyani, Musa ibn Uqbah, and Ibn Ajlan—all narrating from Nafi’, from Ibn Umar, from the Prophet (may Allah bless him and grant him peace)—who said: “Every intoxicant is an intoxicant, and every intoxicant is prohibited.” This was narrated by Hammad ibn Zayd from Ayyub. It was transmitted from Hammad by Abd al-Rahman ibn Mahdi, Yunus ibn Muhammad, Abu al-Rabi’ al-Ataki, and Abu Kamil. Ibn Jurayj narrated it from Musa ibn Uqbah. These accounts have been conveyed through subsequent narrators of your choice. Through the chain of Muhammad ibn Ishaq, from Yazid ibn Abi Habib, from Marthad ibn Abdullah al-Yazani (known as Abu al-Khayr), from Daylam ibn al-Hawsha’ al-Himyari, who recounted: “I said, ’O Messenger of Allah, we inhabit a cold region where we undertake arduous labor. We prepare a drink from this wheat to strengthen ourselves for our work and withstand our land’s cold.’ He asked, ’Does it intoxicate?’ I replied, ’Yes.’ He commanded, ’Avoid it.’ I said, ’Our people will not give it up.’ He decreed, ’If they do not abandon it, fight them.’”

L17353 From the chain of Aḥmad ibn ʿAmr ibn ʿAbd al-Khāliq al-Bazzār from ʿAlī

النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَا وَمُعَاذَ بْنَ جَبَلٍ إِلَى الْيَمَنِ فَقُلْتُ: يَا رَسُولَ اللَّهِ إِنَّ شَرَابًا يُصْنَعُ بِأَرْضِنَا يُقَالُ لَهُ: الْمِزْرُ مِنْ الشَّعِيرِ، وَشَرَابًا يُقَالُ لَهُ: الْبِتْعُ مِنْ الْعَسَلِ؟ فَقَالَ: كُلُّ مُسْكِرٍ حَرَامٌ» . وَهَكَذَا رَوَاهُ أَيْضًا خَالِدٌ عَنْ عَاصِمِ بْنِ كُلَيْبٍ عَنْ أَبِي بُرْدَةَ، وَعَمْرِو بْنِ دِينَارٍ عَنْ سَعِيدِ بْنِ أَبِي بُرْدَةَ عَنْ أَبِي بُرْدَةَ عَنْ أَبِي مُوسَى عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -. وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ عَبْدِ اللَّهِ بْنِ بُرَيْدَةَ عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «وَإِيَّاكُمْ وَكُلَّ مُسْكِرٍ» . وَمِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ طَاوُسٍ عَنْ أَبِيهِ عَنْ ابْنِ عُمَرَ: «خَطَبَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ لَهُ رَجُلٌ: يَا رَسُولَ اللَّهِ أَرَأَيْت الْمِزْرَ؟ قَالَ: وَمَا الْمِزْرُ؟ قَالَ: حَبَّةٌ تُصْنَعُ بِالْيَمَنِ؟ قَالَ: تُسْكِرُ؟ قَالَ: نَعَمْ، قَالَ: كُلُّ مُسْكِرٍ حَرَامٌ» . وَمِنْ طَرِيقِ أَيُّوبَ السِّخْتِيَانِيِّ وَمُوسَى بْنِ عُقْبَةَ، وَابْنِ عَجْلَانَ كُلُّهُمْ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ: «كُلُّ مُسْكِرٍ خَمْرٌ وَكُلُّ مُسْكِرٍ حَرَامٌ» . وَرَوَاهُ عَنْ أَيُّوبَ حَمَّادِ بْنِ زَيْدٍ. وَرَوَاهُ عَنْ حَمَّادٍ عَبْدِ الرَّحْمَنِ بْنِ مَهْدِيٍّ، وَيُونُسَ بْنِ مُحَمَّدٍ، وَأَبُو الرَّبِيعِ الْعَتَكِيُّ، وَأَبُو كَامِلٍ. وَرَوَاهُ عَنْ مُوسَى بْنِ عُقْبَةَ ابْنُ جُرَيْجٍ. وَرَوَاهُ عَنْ هَؤُلَاءِ مَنْ شِئْت. وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ إِسْحَاقَ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ عَنْ مَرْثَدِ بْنِ عَبْدِ اللَّهِ الْيَزَنِيِّ هُوَ أَبُو الْخَيْرِ - «عَنْ دَيْلَمٍ هُوَ ابْنُ الْهَوْشَعِ الْحِمْيَرِيُّ - قَالَ: قُلْتُ يَا رَسُولَ اللَّهِ إِنَّا بِأَرْضٍ بَارِدَةٍ نُعَالِجُ فِيهَا عَمَلًا شَدِيدًا وَإِنَّا نَتَّخِذُ مِنْ هَذَا الْقَمْحِ شَرَابًا نَتَقَوَّى بِهِ عَلَى أَعْمَالِنَا وَعَلَى بَرْدِ بِلَادِنَا، فَقَالَ: هَلْ يُسْكِرُ؟ قُلْتُ: نَعَمْ، قَالَ: فَاجْتَنِبُوهُ قُلْتُ: فَإِنَّ النَّاسَ عِنْدَنَا غَيْرُ تَارِكِيهِ، قَالَ: فَإِنْ لَمْ يَتْرُكُوهُ قَاتِلُوهُمْ» .

ibn al-Ḥusayn al-Dirhamī from Anas ibn ʿIyāḍ (Ibn Ḍamrah) from Mūsā ibn ʿUqbah from Sālim ibn ʿAbd Allāh ibn ʿUmar from his father, who said: The Messenger of Allāh—peace be upon him—said, "What intoxicates in large quantities, its small amount is forbidden." From the chain of Qāsim ibn Aṣbagh from Isḥāq ibn al-Ḥasan al-Ḥarbī from Zakariyyā ibn ʿAdī from al-Walīd ibn Kathīr ibn Sinān al-Muzanī from al-Ḍaḥḥāk ibn ʿUthmān from Bukayr ibn ʿAbd Allāh ibn al-Ashajj from ʿĀmir ibn Saʿd ibn Abī Waqqāṣ from his father that the Messenger of Allāh—peace be upon him—said: "I forbid you from the small amount of what intoxicates in large quantities."

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ عَمْرِو بْنِ عَبْدِ الْخَالِقِ الْبَزَّارِ عَنْ عَلِيِّ بْنِ الْحُسَيْنِ الدِّرْهَمِيِّ نا أَنَسُ بْنُ عِيَاضٍ هُوَ ابْنُ ضَمْرَةَ - نا مُوسَى بْنُ عُقْبَةَ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ قَالَ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَا أَسْكَرَ كَثِيرُهُ فَقَلِيلُهُ حَرَامٌ» . وَمِنْ طَرِيقِ قَاسِمِ بْنِ أَصْبَغَ نا إِسْحَاقُ بْنُ الْحَسَنِ الْحَرْبِيُّ نا زَكَرِيَّا بْنُ عَدِيٍّ نا الْوَلِيدُ بْنُ كَثِيرِ بْنِ سِنَانٍ الْمُزَنِيّ حَدَّثَنِي الضَّحَّاكُ بْنُ عُثْمَانَ عَنْ بُكَيْرِ بْنِ عَبْدِ اللَّهِ بْنِ الْأَشَجِّ عَنْ عَامِرِ بْنِ سَعْدِ بْنِ أَبِي وَقَّاصٍ عَنْ أَبِيهِ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «أَنْهَاكُمْ عَنْ قَلِيلِ مَا أَسْكَرَ كَثِيرُهُ» .

L17354–17355 From the path of Abū Dāwūd al-Sijistānī and ʿAbdullāh ibn Muḥammad ibn ʿAbd al-ʿAzīz—the maternal grandson of Manīʿ al-Baghawī—Abū Dāwūd said: Qutaybah narrated to us. ʿAbdullāh said: Aḥmad ibn Ḥanbal narrated to us, Sulaymān ibn Dāwūd al-Hāshimī narrated to us. Then the chains of Qutaybah and Sulaymān converged, both stating: Ismāʿīl ibn Jaʿfar narrated to us, Dāwūd ibn Bakr ibn Abī al-Furāt narrated to us, Muḥammad ibn al-Munkadir narrated to us from Jābir ibn ʿAbdillāh, who said: The Messenger of Allāh—peace and blessings of Allāh be upon him—declared: "Whatever intoxicates in large quantity, its smallest measure is forbidden." We have also transmitted through the path of al-Qāsim ibn Muḥammad from ʿĀ'ishah, Mother of the Believers, from the Prophet—peace and blessings of Allāh be upon him. These are the mutually supporting, firmly established, authentic, mass-transmitted reports from the Mother of the Believers, Abū Hurayrah, Abū Mūsā, Ibn ʿUmar, Saʿd ibn Abī Waqqāṣ, Jābir ibn ʿAbdillāh, al-Nuʿmān ibn Bashīr, and al-Daylam ibn al-Hawshaʿ—all from the Prophet—peace and blessings of Allāh be upon him—through texts impervious to figurative interpretation and resistant to legal stratagems. They explicitly prohibit the intoxicating drink itself when it intoxicates, the honey drink, barley drink, wheat drink when intoxicating, corn drink when intoxicating, and the prohibition of any small quantity from what intoxicates in abundance—contrary to the claims of those whom Allāh has forsaken and deprived of divine suc-

وَمِنْ طَرِيقِ أَبِي دَاوُد السِّجِسْتَانِيِّ، وَعَبْدِ اللَّهِ بْنِ مُحَمَّدِ بْنِ عَبْدِ الْعَزِيزِ هُوَ ابْنُ بِنْتِ مَنِيعٍ الْبَغَوِيِّ قَالَ أَبُو دَاوُد: نا قُتَيْبَةَ، وَقَالَ عَبْدُ اللَّهِ: نا أَحْمَدُ بْنُ حَنْبَلٍ نا سُلَيْمَانُ بْنُ دَاوُد الْهَاشِمِيُّ، ثُمَّ اتَّفَقَ قُتَيْبَةَ، وَسُلَيْمَانُ، وَقَالَا جَمِيعًا: نا إِسْمَاعِيلُ هُوَ ابْنُ جَعْفَرٍ - نا دَاوُد بْنُ بَكْرٍ هُوَ ابْنُ أَبِي الْفُرَاتِ - نا مُحَمَّدُ بْنُ الْمُنْكَدِرِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «مَا أَسْكَرَ كَثِيرُهُ فَقَلِيلُهُ حَرَامٌ» . وَرُوِّينَا أَيْضًا مِنْ طَرِيقِ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَهَذِهِ الْآثَارُ الْمُتَظَاهِرَةُ الثَّابِتَةُ الصِّحَاحُ الْمُتَوَاتِرَةُ عَنْ أُمِّ الْمُؤْمِنِينَ، وَأَبِي هُرَيْرَةَ، وَأَبِي مُوسَى، وَابْنِ عُمَرَ، وَسَعْدِ بْنِ أَبِي وَقَّاصٍ، وَجَابِرِ بْنِ عَبْدِ اللَّهِ، وَالنُّعْمَانِ بْنِ بَشِيرٍ، وَالدَّيْلَمِ بْنِ الْهَوْشَعِ كُلِّهِمْ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِمَا لَا يَحْتَمِلُ التَّأْوِيلَ وَلَا يُقْدَرُ فِيهِ عَلَى حِيلَةٍ، بَلْ بِالنَّصِّ عَلَى تَحْرِيمِ الشَّرَابِ نَفْسِهِ إذَا أَسْكَرَ وَتَحْرِيمِ شَرَابِ الْعَسَلِ، وَشَرَابِ الشَّعِيرِ، وَشَرَابِ الْقَمْحِ إذَا أَسْكَرَ، وَشَرَابِ الذُّرَةِ إذَا أَسْكَرَ، وَتَحْرِيمِ الْقَلِيلِ مِنْ كُلِّ مَا أَسْكَرَ كَثِيرُهُ بِخِلَافِ مَا يَقُولُ مَنْ خَذَلَهُ اللَّهُ تَعَالَى وَحَرَمَهُ التَّوْفِيقَ. وَقَدْ رُوِّينَا أَيْضًا

cess. We have also transmitted through the path of ʿAmr ibn Shuʿayb from his father from his grandfather from the Prophet—peace and blessings of Allāh be upon him—the prohibition against small quantities of what intoxicates abundantly. Yet they authenticate such reports only when aligned with their desires, while some shamelessly oppose aspects of these narrations, such as his statement—peace be upon him—"Every intoxicant is forbidden," claiming it refers solely to the final cup causing intoxication. Abū Muḥammad said: This position is utterly invalid for three reasons: First, it is a baseless claim without evidence—a false attribution to the Messenger of Allāh—peace and blessings of Allāh be upon him—and an imposition of words he never uttered nor indicated. This act necessitates entry into the Fire for its perpetrator. Second, they do not apply this principle to honey drink, wheat drink, barley drink, apple drink, plum drink, pear drink, cherry drink, pomegranate drink, millet drink, or other beverages—restricting it only to cooked date wine, raisin drink, and grape juice. Thus they openly oppose the Prophet—peace and blessings of Allāh be upon him. Third, it constitutes a foolish interpretation and absurd deduction. Allāh has exalted His Messenger—peace and blessings of Allāh be upon him and his family—above such intent, just as He has exalted every rational being above such assertions. We challenge them: Which element do you deem prohibited? The final cup? The last swallow? Or the ultimate drop entering the throat?

مِنْ طَرِيقِ عَمْرِو بْنِ شُعَيْبٍ عَنْ أَبِيهِ عَنْ جَدِّهِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - النَّهْيَ عَنْ قَلِيلِ مَا أَسْكَرَ كَثِيرُهُ وَهُمْ يُوَثِّقُونَهَا إذَا وَافَقَتْ أَهْوَاءَهُمْ وَجَلَّحَ بَعْضُهُمْ بِعَدَمِ الْحَيَاءِ فِي بَعْضِ هَذِهِ الْآثَارِ وَهُوَ قَوْلُهُ - عَلَيْهِ السَّلَامُ -: «كُلُّ مُسْكِرٍ حَرَامٌ» فَقَالَ: إنَّمَا عَنَى الْكَأْسَ الْأَخِيرَ الَّذِي يُسْكِرُ مِنْهُ. قَالَ أَبُو مُحَمَّدٍ: وَهَذَا فِي غَايَةِ الْفَسَادِ مِنْ وُجُوهٍ -: أَحَدُهَا: أَنَّهُ دَعْوَى كَاذِبَةٌ بِلَا دَلِيلٍ وَافْتِرَاءٌ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْبَاطِلِ، وَتَقْوِيلٌ لَهُ مَا لَمْ يَقُلْهُ عَنْ نَفْسِهِ، وَلَا أَخْبَرَ بِهِ عَنْ مُرَادِهِ، وَهَذَا يُوجِبُ النَّارَ لِفَاعِلِهِ. وَثَانِيهَا: أَنَّهُمْ لَا يَقُولُونَ بِذَلِكَ فِي شَرَابِ الْعَسَلِ، وَالْحِنْطَةِ، وَالشَّعِيرِ، وَالتُّفَّاحِ، وَالْإِجَّاصِ وَالْكُمَّثْرَى، وَالْقَرَاسْيَا، وَالرُّمَّانِ، وَالدُّخْنِ، وَسَائِرِ الْأَشْرِبَةِ، إنَّمَا يَقُولُونَهُ فِي مَطْبُوخِ التَّمْرِ، وَالزَّبِيبِ، وَالْعَصِيرِ فَقَطْ، فَلَاحَ خِلَافُهُمْ لِلنَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - جِهَارًا. وَالثَّالِثُ: أَنَّهُ تَأْوِيلٌ أَحْمَقُ وَتَخْرِيجٌ سَخِيفٌ، قَدْ نَزَّهَ اللَّهُ تَعَالَى رَسُولَهُ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ أَنْ يُرِيدَهُ، بَلْ قَدْ نَزَّهَ اللَّهُ تَعَالَى كُلَّ ذِي مُسْكَةِ عَقْلٍ عَنْ أَنْ يَقُولَهُ لِأَنَّا نَسْأَلُهُمْ أَيُّ ذَلِكَ هُوَ الْمُحَرَّمُ عِنْدَكُمْ؟ الْكَأْسُ الْآخِرَةُ أَمْ الْجَرْعَةُ الْآخِرَةُ، أَمْ آخِرُ نُقْطَةٍ تَلِجُ حَلْقَهُ؟

L17356–17357 If they say: "The last cup?" We reply: It could be an ounce, four ratls, or more—varying between these measures—and there might not even be a cup. Instead, the drinker might place his mouth on the jug and not remove it from his mouth until he is intoxicated. Thus, the falsity of their claim regarding the cup is exposed. If they say: "The last gulp?" We reply: Gulps differ: some are minute, others fill the throat. Which of these is forbidden or permissible? Here, the flaw in their claim about the gulp becomes clear. If they say: "The last drop?" We reply: Drops vary in size—some large, some small—until we compel them to concede the correct measure, reducing them to the status of those mocked and derided for their assertions. If they fail to define a

فَإِنْ قَالُوا: الْكَأْسُ الْآخِرَةُ؟ قُلْنَا لَهُمْ: قَدْ يَكُونُ مِنْ أُوقِيَّةٍ، وَقَدْ يَكُونُ مِنْ أَرْبَعَةِ أَرْطَالٍ، وَأَكْثَرَ، فَمَا بَيْنَ ذَلِكَ، وَقَدْ لَا يَكُونُ هُنَالِكَ كَأْسٌ، بَلْ يَضَعُ الشَّرِّيبُ فَاهُ فِي الْكُوزِ فَلَا يُقْلِعُهُ عَنْ فِيهِ حَتَّى يَسْكَرَ فَظَهَرَ بُطْلَانُ قَوْلِهِمْ فِي الْكَأْسِ. فَإِنْ قَالُوا: الْجَرْعَةُ الْآخِرَةُ؟ قُلْنَا: وَالْجُرَعُ تَتَفَاضَلُ فَتَكُونُ مِنْهَا الصَّغِيرَةُ جِدًّا، وَتَكُونُ مِنْهَا مِلْءُ الْحَلْقِ، فَأَيُّ ذَلِكَ هُوَ الْحَرَامُ، وَأَيُّهُ هُوَ الْحَلَالُ؟ فَظَهَرَ فَسَادُ قَوْلِهِمْ فِي الْجَرْعَةِ أَيْضًا. فَإِنْ قَالُوا: آخِرُ نُقْطَةٍ؟

specific measure, they would have ascribed to Allah—Exalted is He—that He forbade us a quantity He neglected to delineate from what He permitted—a quantity unknown to anyone. This imposes an unbearable obligation and prohibits what cannot be discerned, and Allah is far above such a thing. If they retort: "You prohibit excessive consumption of destructive or harmful food or drink—so define this limit!" We respond: Indeed, it is what exceeds physically perceptible satiety and quenching, naturally recognized by all—even a nursing infant or animal. Every rational being stops once satiated, save those intent on harming themselves or indulging their desires. How can this hold when the narrations we cited utterly reject this corrupt interpretation? For the Prophet's statement—peace be upon him—"Every intoxicating drink is forbidden" refers to the drink's essence before consumption, not its final portion. Moreover, their claimed "last intoxicating cup" is not necessarily what causes intoxication. All prior portions contribute. One might drink yet not become intoxicated until exposed to the wind or a sudden head movement. Which portion of his drink would then be unlawful? And success comes only from Allah, the Exalted.

قُلْنَا: النُّقَطُ تَتَفَاضَلُ فَمِنْهَا كَبِيرٌ، وَمِنْهَا صَغِيرٌ حَتَّى نَرُدَّهُمْ إلَى مِقْدَارِ الصُّوَابَةِ، وَيَحْصُلُوا فِي نِصَابِ مَنْ يَسْخَرُ بِهِمْ وَيَتَطَايَبُ بِأَخْبَارِهِمْ، فَإِنْ لَمْ يَحُدُّوا فِي ذَلِكَ حَدًّا كَانُوا قَدْ نَسَبُوا إلَى اللَّهِ تَعَالَى أَنَّهُ حَرَّمَ عَلَيْنَا مِقْدَارًا مَا فَصَّلَهُ عَمَّا أَحَلَّ وَذَلِكَ الْمِقْدَارُ لَا يَعْرِفُهُ أَحَدٌ، وَهَذَا تَكْلِيفُ مَا لَا يُطَاقُ، وَتَحْرِيمُ مَا لَا يُمْكِنُ أَنْ يُدْرَى مَا هُوَ وَحَاشَا لِلَّهِ مِنْ هَذَا. فَإِنْ قَالُوا: أَنْتُمْ تُحَرِّمُونَ الْإِكْثَارَ الْمُهْلِكَ أَوْ الْمُؤْذِيَ مِنْ الطَّعَامِ أَوْ الشَّرَابِ فَحُدُّوهُ لَنَا؟ قُلْنَا: نَعَمْ، وَهُوَ مَا زَادَ عَلَى الشِّبَعِ وَالرِّيِّ الْمَحْسُوسَيْنِ بِالطَّبِيعَةِ اللَّذَيْنِ يُمَيِّزُهُمَا كُلُّ أَحَدٍ مِنْ نَفْسِهِ حَتَّى الطِّفْلُ الرَّضِيعُ وَالْبَهِيمَةُ، فَإِنَّ كُلَّ ذِي عَقْلٍ إذَا بَلَغَ شِبَعُهُ قَطَعَ إلَّا الْقَاصِدُ إلَى أَذَى نَفْسِهِ وَاتِّبَاعِ شَهْوَتِهِ فَكَيْفَ وَالْأَحَادِيثُ الَّتِي ذَكَرْنَا لَا تَحْتَمِلُ أَلْبَتَّةَ هَذَا التَّأْوِيلَ الْفَاسِدَ؟ لِأَنَّ قَوْلَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «كُلُّ شَرَابٍ أَسْكَرَ حَرَامٌ» إشَارَةٌ إلَى عَيْنِ الشَّرَابِ قَبْلَ أَنْ يُشْرَبَ لَا إلَى آخِرِ شَيْءٍ مِنْهُ وَأَيْضًا فَإِنَّ الْكَأْسَ الْأَخِيرَ الْمُسْكِرَةَ عِنْدَهُمْ لَيْسَتْ هِيَ الَّتِي أَسْكَرَتْ الشَّارِبَ بِالضَّرُورَةِ يُدْرَى هَذَا، بَلْ هِيَ وَكُلُّ مَا شُرِبَ قَبْلَهَا وَقَدْ يَشْرَبُ الْإِنْسَانُ فَلَا يَسْكَرُ، فَإِنْ خَرَجَ إلَى الرِّيحِ حَدَثَ لَهُ السُّكْرُ، وَكَذَلِكَ إنْ حَرَّكَ رَأْسَهُ حَرَكَةً قَوِيَّةً، فَأَيُّ أَجْزَاءِ شَرَابِهِ هُوَ الْحَرَامُ حِينَئِذٍ؟ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17358–17360 Abu Muhammad said: "We say to them: When you claim that the last cup becomes prohibited as intoxicating, inform us—when did it become unlawful? Was this before he drank it, after he drank it, or while he was drinking it? There is no fourth possibility. If they say: 'After he drank it,' we reply: 'This is invalid, for if it was not prohibited until after his drinking, then it remained permissible both when he drank it and before his drinking. It is among the false and absurd assertions that no Muslim would ever utter...'" A substance is permissible to drink, but when it enters his stomach, the act of drinking it becomes prohibited—this is foolish, absurd, and irrational babble.

قَالَ أَبُو مُحَمَّد: وَنَقُولُ لَهُمْ إذَا قُلْتُمْ: إنَّ الْكَأْسَ الْأَخِيرَةَ هِيَ الْمُسْكِرَةُ فَأَخْبِرُونَا مَتَى صَارَتْ حَرَامًا مُسْكِرَةً؟ أَقَبْلَ شُرْبِهِ لَهَا، أَمْ بَعْدَ شُرْبِهِ لَهَا، أَمْ فِي حَالِ شُرْبِهِ لَهَا؟ وَلَا سَبِيلَ إلَى قِسْمٍ رَابِعٍ. فَإِنْ قَالُوا: بَعْدَ أَنْ شَرِبَهَا؟ قُلْنَا: هَذَا بَاطِلٌ لِأَنَّهَا إذَا لَمْ تُحَرَّمْ إلَّا بَعْدَ شُرْبِهِ لَهَا فَقَدْ كَانَتْ حَلَالًا حِينَ شُرْبِهِ لَهَا وَقَبْلَ شُرْبِهِ لَهَا، وَمِنْ الْبَاطِلِ الْمُحَالِ الَّذِي لَا يَقُولُهُ مُسْلِمٌ أَنْ يَكُونَ شَيْءٌ حَلَالًا شُرْبُهُ، فَإِذَا صَارَ فِي بَطْنِهِ صَارَ حَرَامًا شُرْبُهُ

- هَذَا كَلَامٌ أَحْمَقُ وَسُخْفٌ وَهَذْرٌ لَا يُعْقَلُ. فَإِنْ قَالُوا: بَلْ صَارَتْ حَرَامًا حِينَ شُرْبِهِ لَهَا؟ قُلْنَا: إِنَّهَا لَا حَظَّ لَهَا فِي إِسْكَارِهِ إِلَّا بَعْدَ شُرْبِهِ لَهَا، وَأَمَّا فِي حِينِ شُرْبِهِ لَهَا فَلَيْسَتْ مُسْكِرَةً إِلَّا بِمَعْنَى أَنَّهَا سَتُسْكِرُهُ، وَهَذَا الْمَعْنَى مَوْجُودٌ فِيهَا وَهِيَ فِي دَنِّهَا فَلَا فَرْقَ بَيْنَهَا فِي حِينِ شُرْبِهِ لَهَا وَبَيْنَهَا قَبْلَ ذَلِكَ أَصْلًا. فَإِنْ قَالُوا: بَلْ قَبْلَ أَنْ يَشْرَبَهَا؟ قُلْنَا: فَقُولُوا بِتَحْرِيمِ الْإِنَاءِ الَّذِي كَانَتْ فِيهِ، وَبِتَنْجِيسِهِ، وَبِتَحْرِيمِ كُلِّ مَا كَانَ فِيهِ مِنَ الشُّرْبِ، وَبِتَنْجِيسِهِ لِأَنَّهُ قَدْ خَالَطَهُ حَرَامٌ نَجِسٌ عِنْدَكُمْ وَهُمْ لَا يَقُولُونَ بِهَذَا. فَظَهَرَ فَسَادُ قَوْلِهِمْ مِنْ كُلِّ وَجْهٍ وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

If they argue, “Rather, it becomes prohibited at the moment of drinking,” we reply: It has no effect in causing his intoxication except after he drinks it. As for the moment of drinking, it does not actively cause intoxication except in the sense that it will eventually intoxicate him. This inherent property exists within it even while in its cask, so there is absolutely no difference between it during the act of drinking and beforehand. If they counter, “Rather, it becomes prohibited before he drinks it,” we say: Then you must declare the container holding it prohibited, deem it ritually impure, forbid every drink within it, and consider it defiled because—by your claim—it has mixed with something forbidden and impure. Yet they do not hold this position. Thus, the corruption of their argument is evident from every angle, and success comes only from Allah, the Exalted.

وَهُوَ قَوْلُ السَّلَفِ كَمَا رُوِّينَا مِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ نا يَحْيَى بْنُ سَعِيدٍ التَّيْمِيُّ حَدَّثَنِي أَبِي عَنْ مَرْيَمَ بِنْتِ طَارِقٍ أَنَّهَا سَمِعَتْ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ تَقُولُ لِنِسَاءٍ عِنْدَهَا: مَا أَسْكَرَ إِحْدَاكُنَّ فَلْتَجْتَنِبْهُ - وَإِنْ كَانَ مَاءَ حُبِّهَا [مَحَلِّهَا] فَإِنَّ كُلَّ مُسْكِرٍ حَرَامٌ. وَمِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ عَلِيِّ بْنِ الْمُبَارَكِ حَدَّثَتْنِي كَرِيمَةُ بِنْتُ هَمَّامٍ أَنَّهَا سَمِعَتْ أُمَّ الْمُؤْمِنِينَ عَائِشَةَ تَقُولُ: نُهِيتُمْ عَنِ الدُّبَّاءِ، نُهِيتُمْ عَنِ الْحَنْتَمِ، نُهِيتُمْ عَنِ الْمُزَفَّتِ [ثُمَّ أَقْبَلَتْ عَلَى النِّسَاءِ فَقَالَتْ] إِيَّاكُنَّ وَالْجَرَّ الْأَخْضَرَ وَإِنْ أَسْكَرَكُنَّ مَاءُ حُبِّكُنَّ فَلَا تَشْرَبْنَهُ. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا عَبْدُ الْحَمِيدِ بْنُ أَبِي هِلَالٍ الْجَرْمِيُّ قَالَ: سَمِعْتُ أُمَّ طَلْحَةَ تَقُولُ: سَمِعْتُ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ وَقَدْ سُئِلَتْ عَنِ النَّبِيذِ؟ فَقَالَتْ: إِيَّاكُمْ وَمَا يُسْكِرُكُمْ. وَمِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ قُدَامَةَ الْعَامِرِيِّ أَنَّ جَسْرَةَ بِنْتَ دَجَاجَةَ الْعَامِرِيَّةَ حَدَّثَتْهُ أَنَّهَا سَمِعَتْ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ تَقُولُ: لَا أُحِلُّ مُسْكِرًا وَإِنْ كَانَ خُبْزًا وَمَاءً. نا يُوسُفُ بْنُ عَبْدِ اللَّهِ النَّمَرِيُّ نا عَبْدُ الرَّحْمَنِ بْنُ مَرْوَانَ الْقَنَازِعِيُّ - ثِقَةٌ مَشْهُورٌ - نا أَحْمَدُ

L17361–17363 This is the statement of the predecessors, as we have been narrated through the chain of Yahya ibn Sa’id al-Qattan: Yahya ibn Sa’id at-Taymi reported to us - my father narrated to me from Maryam bint Tariq that she heard Aisha, the Mother of the Believers, say to women present with her: “Whatever intoxicates any of you, she must avoid it—even if it were the water of her container [her place], for every intoxicating substance is forbidden.” Through the chain of Abdullah ibn al-Mubarak from Ali ibn al-Mubarak: Karimah bint Hammam narrated to me that she heard the Mother of the Believers, Aisha, say: “You are prohibited from gourds, prohibited from earthenware jugs (hantam), prohibited from resin-sealed containers (muzaffat). [Then she turned to the women and said]: Avoid the green jar. If the water of your container intoxicates you, do not drink it.” Through the chain of Sa’id ibn Mansur: Abdul-Hamid ibn Abi Hilal al-Jarmi reported to us, saying: I heard Umm Talhah say: “I heard Aisha, the Mother of the Believers, when asked about fermented date wine (nabidh), respond: ’Avoid whatever intoxicates you.”’ Through the chain of Abdullah ibn al-Mubarak from Qudamah al-Amiri: Jusrah bint Dajajah al-Amriyyah narrated to him that she heard Aisha, the Mother of the Believers, say: “I do not permit any intoxicating substance, even if it were bread and water.” Yusuf ibn Abdullah an-Namari reported to us: Abdur-Rahman ibn Marwan al-Qanazi’i—a trustworthy renowned narrator—reported to us: Ahmad ibn Amr ibn Sulaiman al-Baghdadi reported to us: Abdullah ibn Muhammad al-Baghawi reported to us: Ahmad ibn Hanbal

and my grandfather Ahmad ibn Mani' both stated: Abdullah ibn Idris al-Awdi reported to us, saying: I heard... Al-Mukhtar ibn Fulful narrated: Anas ibn Malik said: Khamr (intoxicant) is derived from grapes, dates, honey, wheat, barley, and millet. Whatever ferments from these and intoxicates is Khamr. Through the chain of ʿAbd al-Razzāq, from Maʿmar, from al-Zuhrī, from al-Sāʾib ibn Yazīd, who said: I witnessed ʿUmar ibn al-Khaṭṭāb pray over a funeral, then he turned to us and declared: "I detected the scent of drink on ʿUbayd Allāh and questioned him about it. He claimed it was ṭilāʾ (fermented date wine). I will inquire about the drink he consumed. If it was intoxicating, I will lash him." He added: Later, I witnessed ʿUmar lashing him. This is the most authentic chain of narration from ʿUmar, confirming he deemed the ḥadd penalty obligatory for consuming a drink that intoxicates in large quantities, even though ʿUbayd Allāh showed no signs of intoxication from what he drank. ʿUmar cross-examined him and observed no drunkenness, yet punished him solely for drinking what intoxicates. This applies even to ṭilāʾ, which some permit as you have heard.

Yūsuf ibn ʿAbd Allāh al-Namarī narrated, from ʿAbd al-Raḥmān ibn Marwān al-Qanāziʿī, from Aḥmad ibn ʿAmr ibn Sulaymān al-Baghdādī, from ʿAbd Allāh ibn Muḥammad al-Baghawī (the grandson of Manīʿ), from Aḥmad ibn Ḥanbal, from Ismāʿīl ibn Ibrāhīm (Ibn ʿUlayyah), from Abū Ḥayyān (Yaḥyā ibn Saʿīd al-Taymī), from al-Shaʿbī, from ʿAbd Allāh ibn ʿUmar, who said: I heard ʿUmar deliver a sermon from the pulpit of the Messenger of Allāh (may Allah bless him and grant him peace): "O people, the prohibition of Khamr was revealed on the day of its revelation. It is derived from five sources: grapes, dates, honey, wheat, and barley. Khamr is what clouds the mind."

L17364 We have also narrated it via the chain of Shuʿbah from ʿAbdullāh ibn Abī al-Safar from al-Shaʿbī from Ibn ʿUmar from ʿUmar. We have likewise narrated it via the chain of Abū Kuraib Muḥammad ibn al-ʿAlāʾ from ʿAbdullāh ibn Idrīs al-Awdī from Zakariyyā—who is the son of Abū Zāʾidah—from al-Shaʿbī from Ibn ʿUmar from ʿUmar. Via the chain of Aḥmad ibn Shuʿayb: Abū

بْنُ عَمْرِو بْنِ سُلَيْمَانَ الْبَغْدَادِيُّ نا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ الْبَغَوِيّ نا أَحْمَدُ بْنُ حَنْبَلٍ، وَجَدِّي أَحْمَدُ بْنُ مَنِيعٍ، قَالَا جَمِيعًا: نا عَبْدُ اللَّهِ بْنُ إِدْرِيسَ الْأَوْدِيُّ قَالَ: سَمِعْت الْمُخْتَارَ بْنَ فُلْفُلٍ قَالَ: قَالَ أَنَسُ بْنُ مَالِكٍ: الْخَمْرُ مِنْ الْعِنَبِ، وَالتَّمْرِ، وَالْعَسَلِ، وَالْحِنْطَةِ، وَالشَّعِيرِ، وَالذُّرَةِ، فَمَا تَخَمَّرَتْ مِنْ ذَلِكَ فَهُوَ الْخَمْرُ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ الزُّهْرِيِّ عَنْ السَّائِبِ بْنِ يَزِيدَ قَالَ شَهِدْت عُمَرَ بْنَ الْخَطَّابِ صَلَّى جِنَازَةً، ثُمَّ أَقْبَلَ عَلَيْنَا فَقَالَ: إنِّي وَجَدْت مِنْ عُبَيْدِ اللَّهِ رِيحَ شَرَابٍ وَإِنِّي سَأَلْته عَنْهَا؟ فَزَعَمَ أَنَّهَا الطِّلَاءُ وَإِنِّي سَائِلٌ عَنْ الشَّرَابِ الَّذِي شَرِبَ؟ فَإِنْ كَانَ مُسْكِرًا جَلَدْته؟ قَالَ: فَشَهِدْتُهُ بَعْدَ ذَلِكَ يَجْلِدُهُ. فَهَذِهِ أَصَحُّ طَرِيقٍ فِي الدُّنْيَا عَنْ عُمَرَ أَنَّهُ رَأَى الْحَدَّ وَاجِبًا عَلَى مَنْ شَرِبَ شَرَابًا يُسْكِرُ كَثِيرُهُ لِأَنَّ عُبَيْدَ اللَّهِ لَمْ يَكُنْ سَكِرَ مِمَّا شَرِبَ، لِأَنَّهُ سَأَلَهُ فَرَاجَعَهُ وَلَمْ يَرَ عَلَيْهِ سُكْرًا؟ وَإِنَّمَا حَدَّهُ عَلَى شُرْبِهِ، مِمَّا يُسْكِرُ فَقَطْ، نَعَمْ، وَمِنْ الطِّلَاءِ الَّذِي يُحَلُّونَهُ كَمَا تَسْمَعُ. نا يُوسُفُ بْنُ عَبْدِ اللَّهِ النَّمَرِيُّ نا عَبْدُ الرَّحْمَنِ بْنُ مَرْوَانَ الْقَنَازِعِيُّ، نا أَحْمَدُ بْنُ عَمْرِو بْنِ سُلَيْمَانَ الْبَغْدَادِيُّ نا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ الْبَغَوِيّ هُوَ ابْنُ بِنْتِ مَنِيعٍ - نا أَحْمَدُ بْنُ حَنْبَلٍ نا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ عُلَيَّةَ - نا أَبُو حَيَّانَ هُوَ يَحْيَى بْنُ سَعِيدٍ التَّيْمِيُّ - نا الشَّعْبِيُّ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: سَمِعْت عُمَرَ يَخْطُبُ عَلَى مِنْبَرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: يَا أَيُّهَا النَّاسُ إنَّهُ قَدْ نَزَلَ تَحْرِيمُ الْخَمْرِ يَوْمَ نَزَلَ وَهِيَ مِنْ خَمْسَةٍ مِنْ الْعِنَبِ، وَالتَّمْرِ، وَالْعَسَلِ، وَالْحِنْطَةِ، وَالشَّعِيرِ - وَالْخَمْرُ مَا خَامَرَ الْعَقْلَ ".

وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ شُعْبَةَ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي السَّفَرِ عَنْ الشَّعْبِيِّ عَنْ ابْنِ عُمَرَ عَنْ عُمَرَ - وَرُوِّينَاهُ أَيْضًا مِنْ طَرِيقِ أَبِي كُرَيْبٍ مُحَمَّدِ بْنِ الْعَلَاءِ عَنْ عَبْدِ اللَّهِ بْنِ إِدْرِيسَ الْأَوْدِيِّ عَنْ زَكَرِيَّا هُوَ ابْنُ أَبِي زَائِدَةَ - عَنْ الشَّعْبِيِّ عَنْ ابْنِ عُمَرَ عَنْ عُمَرَ. وَمِنْ طَرِيقِ

أَحْمَدَ بْنِ شُعَيْبٍ أَخْبَرَنِي أَبُو بَكْرِ بْنُ عَلِيٍّ هُوَ الْمُقَدَّمِيُّ - نا الْقَوَارِيرِيُّ هُوَ عُبَيْدُ اللَّهِ بْنُ عُمَرَ - نا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ التَّيْمِيُّ عَنْ أَبِيهِ عَنْ مُحَمَّدِ بْنِ سِيرِينَ عَنْ عَبِيدَةَ السَّلْمَانِيِّ عَنِ ابْنِ مَسْعُودٍ قَالَ: أَحْدَثَ النَّاسُ أَشْرِبَةً لَا أَدْرِي مَا هِيَ؟ فَمَا لِي شَرَابٌ مُنْذُ عِشْرِينَ سَنَةً أَوْ قَالَ: عَدَدًا آخَرَ إِلَّا السَّوِيقُ وَالْمَاءُ - غَيْرَ أَنَّهُ لَمْ يَذْكُرْ النَّبِيذَ. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ التَّيْمِيُّ عَنْ أَبِيهِ مُحَمَّدِ بْنِ سِيرِينَ عَنْ عَبِيدَةَ السَّلْمَانِيِّ عَنْ ابْنِ مَسْعُودٍ قَالَ: أَحْدَثَ النَّاسُ أَشْرِبَةً لَا أَدْرِي مَا هِيَ؟

Bakr ibn ʿAlī—who is al-Muqaddamī—narrated to us; al-Qawārīrī, who is ʿUbaydullāh ibn ʿUmar, narrated to us; al-Muʿtamir ibn Sulaymān al-Taymī narrated to us from his father from Muḥammad ibn Sīrīn from ʿUbāda al-Salmānī from Ibn Masʿūd, who said: "The people have introduced drinks I am unfamiliar with. For twenty years—or another number, as he said—I have consumed no drink except _sawīq_ and water," though he omitted mention of _nabīdh_. Via the chain of Saʿīd ibn Manṣūr: al-Muʿtamir ibn Sulaymān al-Taymī narrated to us from his father Muḥammad ibn Sīrīn from ʿUbāda al-Salmānī from Ibn Masʿūd, who said: "The people have introduced drinks I am unfamiliar with."

وَمَا لِي شَرَابٌ مُنْذُ عِشْرِينَ سَنَةً إِلَّا الْمَاءُ وَالْعَسَلُ وَاللَّبَنُ؟ وَمِنْ طَرِيقِ الْبُخَارِيِّ، وَأَحْمَدَ بْنِ شُعَيْبٍ، قَالَ الْبُخَارِيُّ: نا مُحَمَّدُ بْنُ كَثِيرٍ، وَقَالَ ابْنُ شُعَيْبٍ: أَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، ثُمَّ اتَّفَقَ ابْنُ كَثِيرٍ وَقُتَيْبَةُ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ أَبِي الْجُوَيْرِيَةِ الْجَرْمِيِّ قَالَ: سَأَلْتُ ابْنَ عَبَّاسٍ عَنِ الْبَاذَقِ؟ فَقَالَ: سَبَقَ مُحَمَّدٌ الْبَاذَقَ، مَا أَسْكَرَ فَهُوَ حَرَامٌ - أَبُو الْجُوَيْرِيَةِ سَمِعَ ابْنَ عَبَّاسٍ، وَمَعْنَ بْنَ يَزِيدَ - وَرَوَى عَنْهُ أَبُو عَوَانَةَ، وَسُفْيَانُ. وَمِنْ طَرِيقِ إِسْحَاقَ بْنِ رَاهْوَيْهِ نا أَبُو عَامِرٍ هُوَ الْعَقَدِيُّ - وَالنَّضْرُ بْنُ شُمَيْلٍ، وَوَهْبُ بْنُ جَرِيرِ بْنِ حَازِمٍ، قَالُوا كُلُّهُمْ: نا شُعْبَةُ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، قَالَ: سَمِعْتُ أَبَا الْحَكَمِ يَقُولُ: قَالَ ابْنُ عَبَّاسٍ مَنْ سَرَّهُ أَنْ يُحَرِّمَ مَا حَرَّمَ اللَّهُ وَرَسُولُهُ فَلْيُحَرِّمِ النَّبِيذَ. وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا سُوَيْدُ بْنُ نَصْرٍ أَنَا عَبْدُ اللَّهِ هُوَ ابْنُ الْمُبَارَكِ - عَنْ عُيَيْنَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ أَنَّ ابْنَ عَبَّاسٍ قَالَ لِرَجُلٍ سَأَلَهُ: اجْتَنِبْ مَا أَسْكَرَ مِنْ تَمْرٍ أَوْ زَبِيبٍ أَوْ غَيْرِهِ. وَبِهِ إِلَى عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ سُلَيْمَانَ التَّيْمِيِّ عَنْ مُحَمَّدِ بْنِ سِيرِينَ قَالَ: الْمُسْكِرُ قَلِيلُهُ وَكَثِيرُهُ حَرَامٌ. وَمِنْ طَرِيقِ مَالِكٍ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ كُلُّ مُسْكِرٍ خَمْرٌ وَكُلُّ مُسْكِرٍ حَرَامٌ. وَمِنْ طَرِيقِ

L17365–17366 What have I drunk for twenty years except water, honey, and milk? Through the chain of Al-Bukhārī and Aḥmad ibn Shuʿayb: Al-Bukhārī said: Muḥammad ibn Kathīr narrated to us, while Ibn Shuʿayb said: I am Qutaybah ibn Saʿīd. Then Ibn Kathīr and Qutaybah concurred through Sufyān ibn ʿUyaynah from Abū al-Juwayriyah al-Jarmī, who said: I asked Ibn ʿAbbās about al-bādhaq. He replied: Muḥammad has already addressed al-bādhaq. Whatever intoxicates is forbidden. Abū al-Juwayriyah heard Ibn ʿAbbās and Maʿn ibn Yazīd. Abū ʿAwānah and Sufyān narrated from him. Through the chain of Isḥāq ibn Rāhwayh: Abū ʿĀmir al-ʿAqadī, al-Naḍr ibn Shumayl, and Wahb ibn Jarīr ibn Ḥāzim all narrated: Shuʿbah narrated to us from Salamah ibn Kuhayl, who said: I heard Abū al-Ḥakam say: Ibn ʿAbbās said, "Whoever wishes to prohibit what Allāh and His Messenger have prohibited must prohibit nabīdh." Through the chain of Aḥmad ibn Shuʿayb: Suwayd ibn Naṣr narrated to us: ʿAbdullāh ibn al-Mubārak narrated from ʿUyaynah ibn ʿAbd al-Raḥmān from his father that Ibn ʿAbbās told a questioner: "Avoid whatever intoxicates, whether from dates, raisins, or other sources." Through the same chain to ʿAbdullāh ibn al-Mubārak from Sulaymān al-Taymī from Muḥammad ibn Sīrīn, who said: "The intoxicant – whether small or large in quantity – is forbidden." Through the chain of Mālik from Nāfiʿ from Ibn ʿUmar: "Every intoxicant is khamr, and every intoxicant is forbidden." Through the chain of Aḥmad ibn Shuʿayb: Qutaybah narrated to us: Abū ʿAwānah narrated from Zayd ibn Jubayr, who said: I asked Ibn ʿUmar about beverages. He replied: "Avoid anything that intoxicates." Through the chain

of Saʿīd ibn Manṣūr: Ismāʿīl ibn Ibrāhīm, known as Ibn ʿUlayyah, narrated to us from Ayyūb al-Sikhtiyānī from Muḥammad ibn Sīrīn, who heard ʿAbdullāh ibn ʿUmar respond to a man asking: "May I take dates, place them in a clay vessel, and put it in an oven?" Ibn ʿUmar said: "I do not understand your query about dates in clay vessels and ovens. Do not drink khamr." He then remarked: "The people of such-and-such land produce khamr from such-and-such and name it such-and-such," enumerating five beverages. Ibn Sīrīn said: "I recall only honey, barley, and milk among them."

أَحْمَدَ بْنِ شُعَيْبٍ أَنَا قُتَيْبَةَ أَنَا أَبُو عَوَانَةَ عَنْ زَيْدِ بْنِ جُبَيْرٍ قَالَ: سَأَلْت ابْنَ عُمَرَ عَنْ الْأَشْرِبَةِ؟ فَقَالَ: اجْتَنِبْ كُلَّ شَيْءٍ يَنُشُّ. وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ عُلَيَّةَ - عَنْ أَيُّوبَ السِّخْتِيَانِيِّ عَنْ مُحَمَّدِ بْنِ سِيرِينَ أَنَّهُ سَمِعَ عَبْدَ اللَّهِ بْنَ عُمَرَ قَدْ قَالَ لَهُ رَجُلٌ: آخُذُ التَّمْرَ فَأَجْعَلُهُ فِي نَخَّارٍ وَاجْعَلْهُ فِي التَّنُّورِ؟ فَقَالَ لَهُ ابْنُ عُمَرَ: لَا أَدْرِي مَا تَقُولُ آخُذُ التَّمْرَ فَأَجْعَلُهُ فِي نَخَّارٍ ثُمَّ أَجْعَلُهُ فِي تَنُّورٍ، لَا تَشْرَبْ الْخَمْرَ، ثُمَّ قَالَ ابْنُ عُمَرَ: يَتَّخِذُ أَهْلُ أَرْضِ كَذَا مِنْ كَذَا خَمْرًا يُسَمُّونَهَا كَذَا، وَيَتَّخِذُ أَهْلُ كَذَا مِنْ كَذَا خَمْرًا يُسَمُّونَهَا كَذَا، وَيَتَّخِذُ أَهْلُ أَرْضِ كَذَا مِنْ كَذَا خَمْرًا يُسَمُّونَهَا كَذَا - وَذَكَرَ كَلَامًا حَتَّى عَدَّ خَمْسَةَ أَشْرِبَةٍ، قَالَ ابْنُ سِيرِينَ لَا أَحْفَظُ مِنْهَا إِلَّا الْعَسَلَ، وَالشَّعِيرَ، وَاللَّبَنَ.

L17367–17368 Ayyub said: I feared to inform people about milk until a man told me that in Armenia, a drink is made from milk that does not remain long with its consumer. Similarly, Hammad ibn Zayd narrated from Ayyub, from Ibn Sirin, from Ibn Umar; and Ibn al-Mubarak from Abdullah ibn Awn, from Ibn Sirin, from Ibn Umar. Thus, Ibn Umar saw no significance in its preparation. We have also narrated it through Isra'il from Abu Husayn, from al-Sha'bi, from Ibn Umar: "Wine (khamr) is derived from five sources: dates, wheat, barley, honey, and grapes." Through the route of Abd al-Razzaq, Ma'mar narrated from Thabit al-Bunani and Qatadah, both from Anas ibn Malik, who said: "When wine was prohibited, Anas said: 'I used to serve eleven men, and they ordered me to spill it. So I spilled it, and people spilled their vessels until the streets were nearly flooded.'" Anas said: "Their wine was nothing but fresh unripe dates and dates mixed together." Abu Muhammad said: Anas named among them—in authentic hadiths we omitted for brevity—Abu Talha, Abu Ayyub, Abu Dujana, Abu Ubayda ibn al-Jarrah, Mu'adh ibn Jabal, Suhayl ibn Bayda', and Ubayy ibn Ka'b. Thus, this is the definitive consensus that when wine was prohibited, the Companions (may Allah be

قَالَ أَيُّوبُ: فَكُنْت أَهَابُ أَنْ أُحَدِّثَ النَّاسَ بِاللَّبَنِ حَتَّى حَدَّثَنِي رَجُلٌ أَنَّهُ يُصْنَعُ بِأَرْمِينِيَةَ مِنْ اللَّبَنِ شَرَابًا لَا يَلْبَثُ صَاحِبُهُ. وَهَكَذَا رَوَاهُ حَمَّادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ عَنْ ابْنِ سِيرِينَ عَنْ ابْنِ عُمَرَ، وَابْنِ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ بْنِ عَوْنٍ عَنْ ابْنِ سِيرِينَ عَنْ ابْنِ عُمَرَ - فَهَذَا ابْنُ عُمَرَ لَا يَرَى لِطَبْخِهِ مَعْنًى. وَقَدْ رُوِّينَاهُ مِنْ طَرِيقِ إِسْرَائِيلَ عَنْ أَبِي حُصَيْنٍ عَنْ الشَّعْبِيِّ عَنْ ابْنِ عُمَرَ: الْخَمْرُ مِنْ خَمْسَةٍ: مِنْ التَّمْرِ، وَالْحِنْطَةِ، وَالشَّعِيرِ، وَالْعَسَلِ، وَالْعِنَبِ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ نا مَعْمَرٌ عَنْ ثَابِتٍ الْبُنَانِيِّ، وَقَتَادَةَ، كِلَاهُمَا عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: لَمَّا حُرِّمَتْ الْخَمْرُ قَالَ أَنَسٌ: إِنِّي لِأَسْقِي أَحَدَ عَشَرَ رَجُلًا فَأَمَرُونِي فَكَفَأْتُهَا وَكَفَأَ النَّاسُ آنِيَتَهُمْ حَتَّى كَادَتْ السِّكَكُ أَنْ تَمْتَنِعَ - قَالَ أَنَسٌ: وَمَا خَمْرُهُمْ إِلَّا الْبُسْرُ، وَالتَّمْرُ مَخْلُوطَيْنِ. قَالَ أَبُو مُحَمَّدٍ: سَمَّى مِنْهُمْ أَنَسٌ فِي أَحَادِيثَ صِحَاحٍ تَرَكْنَا ذِكْرَهَا اخْتِصَارًا أَبَا

pleased with them) spilled every drink they had, whether from dates or fresh unripe dates. This confirms that according to all of them, it was considered wine without distinguishing between unfermented and fermented, contrary to the claims of those deprived of success. Had they considered a small amount permissible, they would not have spilled it, as wasting wealth is prohibited. Abu Muhammad said: Al-Tahtawi stated here a claim—we do not know how such words escaped his tongue—that they spilled it for fear that consuming more would lead to intoxication. Ali said: "This is an outright lie against all of them. I wish I knew who informed him of this! Is it permissible to report about someone based on conjecture?" We have narrated from Shu'ba ibn al-Hajjaj, from Yahya ibn Ubayd (the son of Abu Umar al-Bahrani), who said: "I heard Ibn Abbas say: 'The Messenger of Allah—peace and blessings be upon him—would have date wine prepared for him at night's beginning. He would drink it upon waking the next morning, throughout that day, the following night, the next day, the subsequent night, and the following day until Asr. If any remained, he would give it to a servant or order it to be poured out.'"

طَلْحَةَ، وَأَبَا أَيُّوبَ، وَأَبَا دُجَانَةَ، وَأَبَا عُبَيْدَةَ بْنَ الْجَرَّاحِ، وَمُعَاذَ بْنَ جَبَلٍ، وَسُهَيْلَ بْنَ بَيْضَاءَ، وَأُبَيَّ بْنَ كَعْبٍ - فَهَذَا الْإِجْمَاعُ الْمُتَيَقَّنُ أَنْ تَكُونَ حُرِّمَتْ الْخَمْرُ فَيُهْرِقُ الصَّحَابَةُ - رَضِيَ اللَّهُ عَنْهُمْ - كُلَّ شَرَابٍ عِنْدَهُمْ مِنْ تَمْرٍ أَوْ بُسْرٍ. فَصَحَّ أَنَّهُ عِنْدَ جَمِيعِهِمْ خَمْرٌ وَلَمْ يَخُصُّوا نَبِيًّا مِنْ مَطْبُوخٍ بِخِلَافِ أَقْوَالِ هَؤُلَاءِ الْمَحْرُومِينَ مِنْ التَّوْفِيقِ؛ وَلَوْ عِنْدَهُمْ قَلِيلُهُ لَمَا أَهْرَقُوهُ، لِأَنَّهُ قَدْ صَحَّ النَّهْيُ عَنْ إضَاعَةِ الْمَالِ. قَالَ أَبُو مُحَمَّد: وَقَالَ الطَّحْطَاوِيُّ هَهُنَا قَوْلًا لَا نَدْرِي كَيْفَ انْطَلَقَ بِهِ لِسَانُهُ؟ وَهُوَ أَنَّهُ قَالَ: إنَّمَا أَهْرَقُوهُ خَوْفَ أَنْ يَزِيدُوا مِنْهُ فَيَسْكَرُوا. قَالَ عَلِيٌّ: وَهَذَا هُوَ الْكَذِبُ الْبَحْتُ عَلَيْهِمْ كُلِّهِمْ، وَلَيْتَ شِعْرِي مَنْ أَخْبَرَهُ بِهَذَا عَنْهُمْ؟ وَهَلْ يَحِلُّ أَنْ يُخْبَرَ عَنْ أَحَدٍ بِالظَّنِّ؟ وَرُوِّينَا عَنْ شُعْبَةَ بْنِ الْحَجَّاجِ عَنْ يَحْيَى بْنِ عُبَيْدٍ هُوَ ابْنُ أَبِي عُمَرَ الْبَهْرَانِيُّ قَالَ: سَمِعْت ابْنَ عَبَّاسٍ يَقُولُ: كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يُنْتَبَذُ لَهُ أَوَّلَ اللَّيْلِ فَيَشْرَبُهُ إذَا أَصْبَحَ يَوْمَهُ ذَلِكَ وَاللَّيْلَةَ الَّتِي تَجِيءُ وَالْغَدَ وَاللَّيْلَةَ الْأُخْرَى وَالْغَدَ إلَى الْعَصْرِ، فَإِنْ بَقِيَ شَيْءٌ سَقَاهُ لِخَادِمٍ أَوْ أَمَرَ بِهِ فَصُبَّ.

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We have similarly transmitted it through the chain of Ibn Abi Shaybah and Abu Kuraib from Abu Mu'awiyah al-Darir from al-A'mash from Yahya ibn 'Ubayd al-Bahrani. If it were permissible as al-Tahawi claims, or if cooking rendered it lawful as his companions assert, the Messenger of Allah - peace and blessings be upon him - would not have destroyed it, given his prohibition against squandering wealth and his Lord's command to declare: {I do not wish to oppose you regarding what I forbid you from} [Hud 11:88]. Through the chain of Sa'id ibn Mansur: Nuh ibn Qays related to us: Muhammad ibn Nafi' reported that Anas ibn Malik instructed regarding unripe dates: "Separate them from fresh dates, prepare the nabīdh, then drink it before it becomes intoxicating." We previously transmitted from 'Ali that he vomited nabīdh upon learning it was prepared in clay vessels. This very ruling was transmitted from Tawus - indicating the prohibition of any quantity, small or

وَهَكَذَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ، وَأَبِي كُرَيْبٍ عَنْ أَبِي مُعَاوِيَةَ الضَّرِيرِ عَنْ الْأَعْمَشِ عَنْ يَحْيَى بْنِ عُبَيْدٍ الْبَهْرَانِيِّ؛ فَلَوْ كَانَ حَلَالًا كَمَا يَدَّعِي الطَّحَاوِيُّ أَوْ كَانَ الطَّبْخُ يُحِلُّهُ كَمَا يَزْعُمُ سَائِرُ أَصْحَابِهِ مَا أَهْرَقَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَقَدْ نَهَى عَنْ إضَاعَةِ الْمَالِ وَأَمَرَهُ بَاعِثُهُ عَزَّ وَجَلَّ أَنْ يَقُولَ: {وَمَا أُرِيدُ أَنْ أُخَالِفَكُمْ إِلَى مَا أَنْهَاكُمْ عَنْهُ} [هود: ٨٨] . وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا نُوحُ بْنُ قَيْسٍ نا مُحَمَّدُ بْنُ نَافِعٍ أَنَّ أَنَسَ بْنَ مَالِكٍ قَالَهُ لَهُ فِي الْبُسْرِ: خَلِّصْهُ مِنْ الرُّطَبِ ثُمَّ انْبِذْهُ ثُمَّ اشْرَبْهُ قَبْلَ أَنْ يَتَسَفَّهَ. رُوِّينَا قَبْلُ عَنْ عَلِيٍّ أَنَّهُ تَقَيَّأَ نَبِيذًا شَرِبَهُ إذْ عَلِمَ أَنَّهُ نَبِيذُ جُرٍّ. وَقَدْ رُوِّينَا

large, of intoxicants. From ’Ata’ and Mujahid, all stated: “A small measure of what intoxicates in large amounts is forbidden.” This is the position of Abu al-’Ala’ ibn al-Shikhkhir, ’Ubaydah al-Salmani, Muhammad ibn Sirin, and al-Qasim ibn Muhammad. Sulayman ibn Harb reported from Jarir ibn Hazim: “I heard Ibn Sirin tell one who opposed him regarding nabīdh: ’I met Ibn Mas’ud’s companions - whom you did not - and they did not hold the same opinion on nabīdh as you.”’ Through the chain of Ahmad ibn Shu’ayb: Ishaq ibn Ibrahim (Ibn Rahawayh) related to us: Jarir ibn ’Abd al-Hamid reported from Ibn Shubrumah: “May Allah grant Ibrahim mercy; people were strict regarding nabīdh while he permitted it.” Through the chain of Ahmad ibn Shu’ayb: Abu Qudamah ’Ubaydullah ibn Sa’id al-Sarakhsi - a trustworthy and reliable authority - related from Abu Usamah (Hammad ibn Usamah): “I heard ’Abdullah ibn al-Mubarak say: ’I found no authentic concession for intoxicants except from Ibrahim.”’ We transmitted through Ibn Abi Shaybah’s chain from Jarir from Mughirah from Ibrahim: “There is no merit in sweet nabīdh.” Abu Muhammad noted: “Contradictory reports from Ibrahim exist, as transmitted through Sa’id ibn Mansur’s chain: Abu ’Awanah and Khalid ibn ’Abdullah al-Tahhan - both from al-Mughirah ibn Miqsam - from Ibrahim al-Nakhaʿī, who disapproved of fermented nabīdh.”[14]

هَذَا نَفْسُهُ عَنْ طَاوُسٍ - يَعْنِي تَحْرِيمَ كُلِّ قَلِيلٍ أَوْ كَثِيرٍ مِنْ أَيِّ شَيْءٍ أَسْكَرَ. وَعَنْ عَطَاءٍ، وَمُجَاهِدٍ، قَالُوا كُلُّهُمْ: قَلِيلُ مَا أَسْكَرَ كَثِيرُهُ حَرَامٌ -. وَهُوَ قَوْلُ أَبِي الْعَلَاءِ بْنِ الشِّخِّيرِ - وَعَبِيدَةَ السَّلْمَانِيِّ، وَمُحَمَّدِ بْنِ سِيرِينَ، وَالْقَاسِمِ بْنِ مُحَمَّدٍ. وَرَوَى سُلَيْمَانُ بْنُ حَرْبٍ عَنْ جَرِيرِ بْنِ حَازِمٍ سَمِعْت ابْنَ سِيرِينَ يَقُولُ لِبَعْضِ مَنْ خَالَفَهُ فِي النَّبِيذِ: أَنَا أَدْرَكْت أَصْحَابَ ابْنِ مَسْعُودٍ وَأَنْتَ لَمْ تُدْرِكْهُمْ كَانُوا لَا يَقُولُونَ فِي النَّبِيذِ كَمَا تَقُولُونَ. وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ نا إِسْحَاقُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ رَاهْوَيْهِ - أَنَا جَرِيرُ بْنُ عَبْدِ الْحَمِيدِ عَنْ ابْنِ شُبْرُمَةَ قَالَ: رَحِمَ اللَّهُ إبْرَاهِيمَ شَدَّدَ النَّاسُ فِي النَّبِيذِ وَرَخَّصَ هُوَ فِيهِ. وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ نا أَبُو قُدَامَةَ عُبَيْدُ اللَّهِ بْنُ سَعِيدٍ السَّرَخْسِيُّ - ثِقَةٌ مَأْمُونٌ - عَنْ أَبِي أُسَامَةَ هُوَ حَمَّادُ بْنُ أُسَامَةَ - قَالَ: سَمِعْت عَبْدَ اللَّهِ بْنَ الْمُبَارَكِ يَقُولُ: مَا وَجَدْت الرُّخْصَةَ فِي الْمُسْكِرِ صَحِيحًا عَنْ أَحَدٍ إلَّا عَنْ إبْرَاهِيمَ. رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ جَرِيرٍ عَنْ مُغِيرَةَ عَنْ إبْرَاهِيمَ قَالَ: لَا خَيْرَ فِي النَّبِيذِ إذَا كَانَ حُلْوًا. قَالَ أَبُو مُحَمَّدٍ: وَقَدْ رُوِّينَا عَنْ إبْرَاهِيمَ خِلَافَ هَذَا كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا أَبُو عَوَانَةَ. وَخَالِدُ بْنُ عَبْدِ اللَّهِ هُوَ الطَّحَّانُ - كِلَاهُمَا عَنْ الْمُغِيرَةِ بْنِ مِقْسَمٍ عَنْ إبْرَاهِيمَ النَّخَعِيِّ أَنَّهُ كَرِهَ الْمُخَمَّرَ مِنْ النَّبِيذِ.

L17371–17372 From the path of Saʿīd ibn Manṣūr: Hushaym narrated to us, from al-Mughīrah, from Ibrāhīm, who said: They disapproved of aged date wine and aged raisin wine. It has been narrated from him permitting what is boiled until half evaporates and half remains. Yet Ibrāhīm has let them down, for he narrated the concession from later authorities: al-Aʿmash, Sharik, Wakīʿ, and Baqī ibn Makhlad. As for the opinion of Abū Ḥanīfah and his companions—it is invalid. Abū Muḥammad said: Our view aligns with the

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا هُشَيْمٌ أَنَا الْمُغِيرَةُ عَنْ إبْرَاهِيمَ قَالَ: كَانُوا يَكْرَهُونَ الْمُعَتَّقَ مِنْ نَبِيذِ التَّمْرِ وَالْمُعَتَّقَ مِنْ نَبِيذِ الزَّبِيبِ. وَرُوِّينَا عَنْهُ إبَاحَةَ مَا طُبِخَ حَتَّى ذَهَبَ نِصْفُهُ وَبَقِيَ نِصْفُهُ - فَهَذَا إبْرَاهِيمُ قَدْ خَذَلَهُمْ، وَلَقَدْ رَوَى عَمَّنْ بَعْدَهُ التَّرْخِيصَ فِيهِ عَنْ الْأَعْمَشِ، وَشَرِيكٍ، وَوَكِيعٍ، وَبَقِيِّ بْنِ مَخْلَدٍ - وَأَمَّا مِثْلُ قَوْلِ أَبِي حَنِيفَةَ وَأَصْحَابِهِ فَلَا. قَالَ أَبُو مُحَمَّدٍ: وَقَوْلُنَا هُوَ قَوْلُ مَالِكٍ، وَالْأَوْزَاعِيِّ، وَاللَّيْثِ، وَالشَّافِعِيِّ، وَأَحْمَدَ، وَإِسْحَاقَ،

[14] **Qur’an references (L17370):** Qur’an 11:88 (Hud).

view of Mālik, al-Awzā‘ī, al-Layth, al-Shāfi‘ī, Aḥmad, Isḥāq, Abū Sulaymān, and their companions. Differing narrations are reported from Sufyān al-Thawrī. Abū Muḥammad said: They narrated lies from the Prophet—peace and blessings of Allah be upon him—without evidence, contradicting their own position. It has been transmitted to us from him the authentic, widely-transmitted reports that explicitly affirm our position. They narrated lies and statements inconsistent with their own position from ‘Umar, ‘Alī, Ibn ‘Umar, ‘Ā’ishah, Ibn Mas‘ūd, and Anas. It has been transmitted to us from them the authentic reports and the explicit text of our position—all praise is to Allah, Lord of the worlds.[15]

Chapter: The Ḥadd for Intoxication

L17373

L17374 Issue 1100: The defining criterion of intoxication that prohibits a drink and shifts it from permissibility to prohibition is when boiling begins in it - even with a single bubble or more - and when drinking it and overindulgence typically result in corruption of one’s discernment, mixing their speech between coherent and incoherent elements, with their speech no longer following the logical structure of intelligible discourse. If any person reaches this state through excessive drinking, that drink becomes an intoxicant and thus unlawful. All who drink it are considered intoxicated by it - whether it intoxicates the drinker or not, whether cooked or uncooked, whether most of it is removed by cooking or not. Such a person is intoxicated. If this characteristic ceases to exist in the drink after having been present - so that no one becomes intoxicated through excessive consumption - it becomes permissible: vinegar, not an intoxicant.

L17375 The evidence for this is the statement of Allah the Exalted: {O you who have believed, do not approach prayer while you are intoxicated until you know what you are saying} [An-Nisa: 43]. Thus, Allah the Exalted refers to the one who does not know what he is saying as intoxicated, even if such a person may comprehend some of the matter.[16]

[15] **Qur’an references (L17372):** Qur’an 37:182 (As-Saffat).

[16] **Qur’an references (L17375):** Qur’an 4:43 (An-Nisa).

وَأَبِي سُلَيْمَانَ، وَأَصْحَابِهِمْ - وَاخْتُلِفَ فِيهِ عَنْ سُفْيَانَ الثَّوْرِيِّ. قَالَ أَبُو مُحَمَّد: وَقَدْ رَوَوْا عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْكَذِبَ وَمَا لَا حُجَّةَ لَهُمْ فِيهِ وَلَا يُوَافِقُ قَوْلَهُمْ - وَرُوِّينَا عَنْهُ الصَّحِيحَ الْمُتَوَاتِرَ الَّذِي هُوَ نَصُّ قَوْلِنَا، وَرَوَوْا عَنْ عُمَرَ، وَعَلِيٍّ، وَابْنِ عُمَرَ، وَعَائِشَةَ، وَابْنِ مَسْعُودٍ، وَأَنَسٍ: الْكَذِبَ، وَمَا لَا يُوَافِقُ قَوْلَهُمْ. وَرُوِّينَا عَنْهُمْ الصَّحِيحَ، وَنَصُّ قَوْلِنَا - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

[مَسْأَلَةٌ حَدُّ الْإِسْكَارِ]

١١٠٠ - مَسْأَلَةٌ: وَحَدُّ الْإِسْكَارِ الَّذِي يَحْرُمُ بِهِ الشَّرَابُ وَيَنْتَقِلُ بِهِ مِنْ التَّحْلِيلِ إلَى التَّحْرِيمِ هُوَ أَنْ يَبْدَأَ فِيهِ الْغَلَيَانُ وَلَوْ بِحَبَابَةٍ وَاحِدَةٍ فَأَكْثَرَ، وَيَتَوَلَّدُ مِنْ شُرْبِهِ وَالْإِكْثَارِ مِنْهُ عَلَى الْمَرْءِ فِي الْأَغْلَبِ أَنْ يَدْخُلَ الْفَسَادُ فِي تَمْيِيزِهِ، وَيَخْلِطَ فِي كَلَامِهِ بِمَا يَعْقِلُ وَبِمَا لَا يَعْقِلُ، وَلَا يَجْرِي كَلَامُهُ عَلَى نِظَامِ كَلَامِ التَّمْيِيزِ، فَإِذَا بَلَغَ الْمَرْءُ مِنْ النَّاسِ مِنْ الْإِكْثَارِ مِنْ الشَّرَابِ إلَى هَذِهِ الْحَالِ فَذَلِكَ الشَّرَابُ مُسْكِرٌ حَرَامٌ، سَكِرَ مِنْهُ كُلُّ مَنْ شَرِبَهُ سَوَاءٌ أَسْكَرَ أَوْ لَمْ يُسْكِرْ، طُبِخَ أَوْ لَمْ يُطْبَخْ، ذَهَبَ بِالطَّبْخِ أَكْثَرُهُ أَوْ لَمْ يَذْهَبْ، وَذَلِكَ الْمَرْءُ سَكْرَانُ، وَإِذَا بَطَلَتْ هَذِهِ الصِّفَةُ مِنْ الشَّرَابِ بَعْدَ أَنْ كَانَتْ فِيهِ مَوْجُودَةً فَصَارَ لَا يَسْكَرُ أَحَدٌ مِنْ النَّاسِ مِنْ الْإِكْثَارِ مِنْهُ، فَهُوَ حَلَالٌ، خَلٌّ لَا خَمْرٌ.

بُرْهَانُ ذَلِكَ -: قَوْلُ اللَّهِ تَعَالَى: {يَا أَيُّهَا الَّذِينَ آمَنُوا لا تَقْرَبُوا الصَّلاةَ وَأَنْتُمْ سُكَارَى حَتَّى تَعْلَمُوا مَا تَقُولُونَ} [النساء: ٤٣] فَسَمَّى اللَّهُ تَعَالَى مَنْ لَا يَدْرِي مَا يَقُولُ سَكْرَانَ، وَإِنْ كَانَ قَدْ يَفْهَمُ بَعْضَ الْأَمْرِ.

أَلَا تَرَى أَنَّهُ قَدْ يَقُومُ إِلَى الصَّلَاةِ فِي تِلْكَ الْحَالِ فَنَهَاهُ اللَّهُ تَعَالَى عَنْ ذَلِكَ وَالْمَجْنُونُ مِثْلُهُ سَوَاءً سَوَاءً قَدْ يَفْهَمُ الْمَجْنُونُ فِي حَالِ تَخْلِيطِهِ كَثِيرًا وَلَا يُخْرِجُهُ ذَلِكَ عَنْ أَنْ يُسَمَّى مَجْنُونًا فِي اللُّغَةِ وَأَحْكَامِ الشَّرِيعَةِ.

L17376–17378 Do you not see that he may indeed rise to perform prayer in such a state? Thus Allah, the Exalted, has forbidden him from that. The insane person is entirely the same, absolutely equal: even if he comprehends much during his state of confusion, this does not remove him from being called insane in language and the rulings of Sharia.

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا سَوَّارُ بْنُ عَبْدِ اللَّهِ بْنِ سَوَّارِ بْنِ عَبْدِ اللَّهِ هُوَ الْعَنْبَرِيُّ - نَا عَبْدُ الْوَهَّابِ بْنُ عَبْدِ الْمَجِيدِ هُوَ الثَّقَفِيُّ - عَنْ هِشَامٍ هُوَ ابْنُ حَسَّانَ - عَنْ مُحَمَّدِ بْنِ سِيرِينَ عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «انْتَبِذْ فِي سِقَائِكَ وَأَوْكِهِ وَاشْرَبْهُ حُلْوًا»

L17379 From the chain of Ahmad ibn Shu’ayb: I, Sawwar ibn Abdullah ibn Sawwar - he is al-Anbari - narrated to us, from Abdul Wahhab ibn Abdul Majid - he is al-Thaqafi - from Hisham - he is ibn Hassan - from Muhammad ibn Sirin, from Abu Hurairah, who said: The Messenger of Allah (peace and blessings be upon him) said, “Make nabidh in your waterskin, tie its stopper, and drink it sweet.”

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا قَوْلُنَا، لِأَنَّهُ إِذَا بَدَأَ يَغْلِي حَدَثَ فِي طَعْمِهِ تَغْيِيرٌ عَنْ الْحَلَاوَةِ، وَهُوَ قَوْلُ جَمَاعَةٍ مِنْ السَّلَفِ. كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ نَا هِشَامٌ هُوَ الدَّسْتُوَائِيُّ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ لَيْسَ بِشُرْبِ الْعَصِيرِ وَبَيْعِهِ بَأْسٌ حَتَّى يَغْلِيَ.

L17380 Abu Muhammad said: This is our position, because when it begins to boil, a change occurs in its taste—a departure from its sweetness—and this is the position of a group of the Salaf. As we were narrated through the chain of Saʿid ibn Mansur: narrated to us Ismāʿīl ibn Ibrāhīm; narrated to us Hishām al-Dastuwa’ī, from Ḥammād ibn Abī Sulaymān, from Ibrāhīm al-Nakhaʿī: “There is no harm in drinking grape juice or selling it until it boils.”

وَمِنْ طَرِيقِ ابْنِ الْمُبَارَكِ عَنْ هِشَامِ بْنِ عَائِذٍ الْأَسَدِيِّ قَالَ: سَأَلْت إبْرَاهِيمَ النَّخَعِيَّ عَنْ الْعَصِيرِ؟ فَقَالَ: اشْرَبْهُ مَا لَمْ يَتَغَيَّرْ.

L17381 And through the chain of Ibn al-Mubārak from Hishām ibn ʿĀ’idh al-Asadī, who said: I asked Ibrāhīm al-Nakhaʿī about juice? He said: “Drink it as long as it has not changed.”

وَمِنْ طَرِيقِ ابْنِ الْمُبَارَكِ عَنْ عَبْدِ الْمَلِكِ عَنْ عَطَاءٍ فِي الْعَصِيرِ قَالَ: اشْرَبْهُ حَتَّى يَغْلِيَ

L17382 And from the transmission of Ibn al-Mubārak, from ʿAbd al-Malik, from ʿAṭāʾ concerning grape juice, he said: “Drink it until it boils.”

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ هُوَ ابْنُ عُلَيَّةَ أَخْبَرَنِي مُحَمَّدُ بْنُ إِسْحَاقَ عَنْ يَزِيدَ بْنِ قُسَيْطٍ قَالَ سَعِيدُ بْنُ الْمُسَيِّبِ: لَيْسَ بِشَرَابِ الْعَصِيرِ بَأْسٌ مَا لَمْ يُزْبِدْ فَإِذَا أَزْبَدَ فَاجْتَنِبُوهُ - وَهُوَ قَوْلُ أَبِي يُوسُفَ.

L17383 From the path of Saʿīd ibn Manṣūr: Ismāʿīl ibn Ibrāhīm (that is, Ibn ʿUlayyah) narrated to us: Muḥammad ibn Isḥāq reported from Yazīd ibn Quṣayṭ that Saʿīd ibn al-Musayyab said: “There is no harm in drinking fresh juice as long as it does not froth. But when it froths, avoid it.” This is the opinion of Abū Yūsuf.

L17384 We have transmitted it via the narration of Ahmad ibn Shuʿayb: from Suwayd ibn Nuṣayr, from ʿAbdullāh ibn al-Mubārak, from Abū Yaʿfūr al-Sulamī, from

وَرُوِّينَاهُ مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا سُوَيْد بْنُ نُصَيْرٍ نَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ عَنْ أَبِي يَعْفُورٍ السُّلَمِيِّ عَنْ أَبِي ثَابِتٍ الثَّعْلَبِيِّ أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ يَقُولُ فِي الْعَصِيرِ: اشْرَبْهُ مَا دَامَ طَرِيًّا.

Abū Thābit al-Thaʿlabī, that he heard Ibn ʿAbbās say regarding fruit juice: "Drink it as long as it remains fresh."

وَقَدْ اخْتَلَفَ النَّاسُ فِي هَذَا فَقَالَ أَبُو يُوسُفَ، وَمُحَمَّدُ بْنُ الْحَسَنِ فِي الْعَصِيرِ هَكَذَا، وَفِي مَا عَدَا الْعَصِيرِ إذَا تَجَاوَزَ عَشَرَةَ أَيَّامٍ فَهُوَ حَرَامٌ - وَهَذَا حَدٌّ فِي غَايَةِ الْفَسَادِ، لَا يُعَضِّدُهُ قُرْآنٌ، وَلَا سُنَّةٌ، وَلَا رِوَايَةٌ سَقِيمَةٌ، وَلَا قِيَاسٌ، وَلَا رَأْيٌ سَدِيدٌ، وَلَا قَوْلُ أَحَدٍ نَعْلَمُهُ قَبْلَهُمَا.

L17385 People have differed regarding this matter. Abū Yūsuf and Muḥammad ibn al-Ḥasan held this view concerning grape juice, while regarding anything other than grape juice, if it exceeds ten days, it becomes forbidden. This definition is deeply flawed, unsupported by the Qur'ān, the Sunnah, a weak narration, analogy, sound opinion, or the statement of anyone we know of before the two of them.

وَقَالَتْ طَائِفَةٌ -: كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا سُوَيْد بْنُ عَبْدِ الْعَزِيزِ الدِّمَشْقِيُّ نَا ثَابِتُ بْنُ عَجْلَانَ عَنْ سُلَيْمِ بْنِ عَامِرٍ قَالَ: سَمِعْت عَمَّارَ بْنَ يَاسِرٍ يَقُولُ: اشْرَبْ الْعَصِيرَ ثَلَاثَةَ أَيَّامٍ مَا لَمْ يَغْلِ.

L17386–17387 And a group said—as transmitted via the chain of Saʿīd ibn Manṣūr → Suwayd ibn ʿAbd al-ʿAzīz al-Dimashqī → Thābit ibn ʿAjlān → Sulaym ibn ʿĀmir, who said: I heard ʿAmmār ibn Yāsir say: "Drink the fresh grape juice for three days, provided it has not boiled."

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ عَنْ ابْنِ عُمَرَ: اشْرَبُوا الْعَصِيرَ مَا لَمْ يَأْخُذْهُ شَيْطَانُهُ، قَالَ: وَمَتَى يَأْخُذُهُ شَيْطَانُهُ؟ قَالَ: بَعْدَ ثَلَاثٍ، أَوْ قَالَ: فِي ثَلَاثٍ.

L17388 From the narration of ʿAbd al-Razzāq via Sufyān al-Thawrī via ʿAbd Allāh ibn Murrah via Ibn ʿUmar: "Drink the juice as long as its Shayṭān does not seize it." He was asked: "When does its Shayṭān seize it?" He replied: "After three," or he said: "Within three."

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ أَنَا عَبْدُ الرَّحْمَنِ بْنُ مِينَا أَنَّهُ سَمِعَ الْقَاسِمَ بْنَ مُحَمَّدٍ يَقُول: نَهَى أَنْ يُشْرَبَ النَّبِيذُ بَعْدَ ثَلَاثٍ.

L17389 And from the transmission of Abd al-Razzaq from Ibn Jurayj: I, Abd al-Rahman ibn Meena, that he heard al-Qasim ibn Muhammad say: He prohibited the drinking of nabidh after three [days].

وَمِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا إسْمَاعِيلُ بْنُ إبْرَاهِيمَ نَا دَاوُد بْنُ أَبِي هِنْدٍ عَنْ الشَّعْبِيِّ قَالَ: لَا بَأْسَ بِشُرْبِ الْخَمْرِ مَا لَمْ يَغْلِ - يَعْنِي الْعَصِيرَ.

L17390 Through the chain of Saʿīd ibn Manṣūr: Ismāʿīl ibn Ibrāhīm narrated to us, from Dāwūd ibn Abī Hind, from al-Shaʿbī, who said: "There is no harm in drinking the juice [referred to as khamr] as long as it has not fermented."

L17391 A group defined this period as one day. As it has been narrated to us through the chain of transmission of 'Abd al-Razzāq from Ma'mar, from an

anonymous narrator, from Sa'īd ibn Jubayr – who would say: "If you emit semen during the day and evening comes, avoid it. If you emit semen at night and morning comes, avoid it."

وَحَدَّثَ طَائِفَةٌ ذَلِكَ بِيَوْمٍ وَاحِدٍ. كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ رَجُلٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ كَانَ يَقُولُ: إِذَا فَضَخْتَهُ نَهَارًا فَأَمْسَى فَلَا تَقْرَبْهُ، وَإِذَا فَضَخْتَهُ لَيْلًا فَأَصْبَحَ، فَلَا تَقْرَبْهُ

L17392 Abu Muhammad said: Those who defined that limit cited three pieces of evidence: the report transmitted to us through the chain of Al-A'mash from Ibn Abi Umar (he is Yahya al-Bahrani) from Ibn Abbas, who said: "Raisins would be soaked for the Messenger of Allah—peace and blessings be upon him—and he would drink it on the same day, the next day, and the day after that until the evening of the third day. When evening arrived, he would order it to be poured out or given to others to drink."

قَالَ أَبُو مُحَمَّدٍ: احْتَجَّ مَنْ حَدَّ ذَلِكَ بِثَلَاثٍ: بِالْخَبَرِ الَّذِي رُوِّينَا مِنْ طَرِيقِ الْأَعْمَشِ عَنِ ابْنِ أَبِي عُمَرَ هُوَ يَحْيَى الْبَهْرَانِيُّ عَنِ ابْنِ عَبَّاسٍ قَالَ: «كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يُنْقَعُ لَهُ الزَّبِيبُ فَيَشْرَبُهُ الْيَوْمَ وَالْغَدَ وَبَعْدَ الْغَدِ إِلَى مَسَاءِ الثَّالِثَةِ فَإِذَا أَمْسَى أَمَرَ بِهِ أَنْ يُهْرَاقَ أَوْ يُسْقَى» .

L17393 Those who argued for limiting it to one day. It was narrated by us through the chain of Abū Dāwūd: 'Īsā ibn Muḥammad Abū 'Umayr al-Ramlī narrated to us; Ḍamrah narrated to us from al-Saybānī, from 'Abdullāh ibn al-Daylamī, from his father, that they asked the Prophet—peace be upon him—about their grapevines. He said: "Dry them into raisins." We asked: "What should we do with the raisins?" He replied: "Brew it at your noon meal to drink at your evening meal, and brew it at your evening meal to drink at your noon meal. Brew it in water skins, and do not brew it in large jars, for if it remains beyond its fresh state, it turns to vinegar."

وَاحْتَجَّ مَنْ حَدَّ ذَلِكَ بِيَوْمٍ وَاحِدٍ. رُوِّينَاهُ مِنْ طَرِيقِ أَبِي دَاوُد نَا عِيسَى بْنُ مُحَمَّدٍ أَبُو عُمَيْرٍ الرَّمْلِيُّ نَا ضَمْرَةُ عَنِ السَّيْبَانِيِّ «عَنْ عَبْدِ اللَّهِ بْنِ الدَّيْلَمِيِّ عَنْ أَبِيهِ أَنَّهُمْ سَأَلُوا النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ أَعْنَابِهِمْ فَقَالَ: زَبِّبُوهَا. قُلْنَا: مَا نَصْنَعُ بِالزَّبِيبِ؟ قَالَ: انْبِذُوهُ عَلَى غَدَائِكُمْ وَاشْرَبُوهُ عَلَى عَشَائِكُمْ وَانْبِذُوهُ عَلَى عَشَائِكُمْ وَاشْرَبُوهُ عَلَى غَدَائِكُمْ وَانْبِذُوهُ فِي الشِّنَانِ وَلَا تَنْبِذُوهُ فِي الْقُلَلِ فَإِنَّهُ إِذَا تَأَخَّرَ عَنْ عَصِيرِهِ صَارَ خَلًّا» .

L17394–17396 This al-Saybānī with an unpointed sīn [potentially ambiguous in early orthography] is Yaḥyā ibn Abī ʿAmr. Through the transmission path of Abū Dāwūd: Muḥammad ibn al-Muthannā reported to us, who reported: ʿAbd al-Wahhāb ibn ʿAbd al-Majīd al-Thaqafī reported from Yūnus ibn ʿUbayd, from al-Ḥasan al-Baṣrī, from his mother, from ʿĀ'ishah, Mother of the Believers, who said: "Nabīdh (fermented drink) was prepared for the Messenger of God [...]." "...peace and blessings be upon him—in a tied waterskin with a spout. It is prepared in the morning to be drunk by evening, and prepared in the evening to be drunk by morning."[17]

هَذَا السَّيْبَانِيُّ بِالسِّينِ غَيْرِ مَنْقُوطَةٍ هُوَ يَحْيَى بْنُ أَبِي عَمْرٍو - وَمِنْ طَرِيقِ أَبِي دَاوُد نَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا عَبْدُ الْوَهَّابِ بْنُ عَبْدِ الْمَجِيدِ الثَّقَفِيُّ عَنْ يُونُسَ بْنِ عُبَيْدٍ عَنِ الْحَسَنِ الْبَصْرِيِّ عَنْ أُمِّهِ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: «كَانَ يُنْبَذُ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي سِقَاءٍ يُوكَأُ أَعْلَاهُ وَلَهُ عَزْلَاءُ يُنْبَذُ غُدْوَةً فَيَشْرَبُهُ عِشَاءً، وَيُنْبَذُ عِشَاءً فَيَشْرَبُهُ غُدْوَةً» .

L17397 Abu Muhammad said: This report and the report of Ibn Abbas are authentic,

[17] **Hadith references (L17394):** Sunan Abi Dawud 3711.

but they do not constitute a definitive ruling regarding prohibitions, for they contradict each other and neither takes precedence over the other. This matter depends on the measure of lands and vessels. You will find cold regions where raisin water does not transform into the initial stage of sweetness except after a week or longer, and similarly in unseasoned vessels. You will find hot regions and seasoned vessels where the nabidh becomes fully fermented within a day. The legal ruling rests solely on his statement—peace be upon him—which we mentioned: "Drink it while sweet, for whatever intoxicates is forbidden."

L17398 Abu Hanifah said: If it boils and emits froth, it is forbidden at that moment—this is an opinion without evidence. Others held: When its boiling ends and it begins to decrease in intensity, it becomes forbidden.

L17399 Others said: Therefore, when its boiling subsides, it is deemed ḥarām - and all of this constitutes an unsubstantiated opinion.

L17400 As for the prescribed punishment (ḥadd) for intoxication, it has been narrated to us through the transmission chain (isnād) of Ahmad ibn Salih that he was asked about the intoxicated person. He replied: "I rule in this matter by what Ibn Jurayj reported from Amr ibn Dinar from Ya'la ibn Munabbih from his father: 'I asked Umar ibn al-Khattab about the prescribed punishment for intoxication.' He answered: 'It applies to one who, when asked to recite a surah, did not recite it, and when his garment was mixed with others, he did not retrieve it.'"

L17401 Abu Muhammad said: This aligns with our view that he does not know what he is saying and fails to observe the distinction of his garment. Imam Abu Hanifah said: Intoxication is not deemed valid unless it reaches the point where one cannot distinguish earth from sky, and he permitted all levels of intoxication short of this threshold—so marvel at this ruling, may Allah have mercy on us and you?

L17402 **A legal question regarding the mixing of *nabīdh* (a soaked beverage) with *nabīdh*.**

L17403–17405 Issue 1101: If dates, fresh dates (rutab), half-dried dates (zahw), unripe dates

قَالَ أَبُو مُحَمَّد: هَذَا الْخَبَرُ، وَخَبَرُ ابْنِ عَبَّاسٍ صَحِيحَانِ، وَلَيْسَا حَدًّا فِيمَا يَحْرُمُ مِنْ ذَلِكَ؛ لِأَنَّهُمَا مُخْتَلِفَانِ، وَلَيْسَ أَحَدُهُمَا بِأَوْلَى مِنْ الْآخَرِ، إنَّمَا هَذَا عَلَى قَدْرِ الْبِلَادِ وَالْآنِيَةِ فَتَجِدُ بِلَادًا بَارِدَةً لَا يَسْتَحِيلُ فِيهَا مَاءُ الزَّبِيبِ إلَى ابْتِدَاءِ الْحَلَاوَةِ إلَّا بَعْدَ جُمُعَةٍ أَوْ أَكْثَرَ، وَآنِيَةً غَيْرَ ضَارِيَةٍ كَذَلِكَ، وَتَجِدُ بِلَادًا حَارَّةً وَآنِيَةً ضَارِيَةً يَتِمُّ فِيهَا النَّبِيذُ مِنْ يَوْمِهِ، وَالْحُكْمُ فِي ذَلِكَ لِقَوْلِهِ - عَلَيْهِ السَّلَامُ - الَّذِي ذَكَرْنَا: «وَاشْرَبْهُ حُلْوًا وَكُلُّ مَا أَسْكَرَ حَرَامٌ» فَقَطْ.

وَقَالَ أَبُو حَنِيفَةَ: إذَا غَلَى وَقَذَفَ بِالزَّبَدِ فَهُوَ حِينَئِذٍ حَرَامٌ - وَهَذَا قَوْلٌ بِلَا دَلِيلٍ - وَقَالَ آخَرُونَ: إذَا انْتَهَى غَلَيَانُهُ وَابْتَدَأَ بِأَنْ يَقِلَّ غَلَيَانُهُ فَحِينَئِذٍ يَحْرُمُ.

وَقَالَ آخَرُونَ إذَنْ إذَا سَكَنَ غَلَيَانُهُ فَحِينَئِذٍ يَحْرُمُ - وَهَذَا كُلُّهُ قَوْلٌ بِلَا بُرْهَانٍ.

وَأَمَّا حَدُّ سُكْرِ الْإِنْسَانِ فَإِنَّنَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ صَالِحٍ أَنَّهُ سُئِلَ عَنْ السَّكْرَانِ؟ فَقَالَ: أَنَا آخُذُ فِيهِ بِمَا رَوَاهُ ابْنُ جُرَيْجٍ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ يَعْلَى بْنِ مُنَبِّهٍ عَنْ أَبِيهِ سَأَلْتُ عُمَرَ بْنَ الْخَطَّابِ عَنْ حَدِّ السَّكْرَانِ؟ فَقَالَ: هُوَ الَّذِي إذَا اُسْتُقْرِئَ سُورَةً لَمْ يَقْرَأْهَا، وَإِذَا خُلِطَتْ ثَوْبُهُ مَعَ ثِيَابٍ لَمْ يُخْرِجْهُ.

قَالَ أَبُو مُحَمَّد: وَهُوَ نَحْوُ قَوْلِنَا فِي أَنْ لَا يَدْرِيَ مَا يَقُولُ، وَلَا يُرَاعِيَ تَمْيِيزَ ثَوْبِهِ، وَقَالَ أَبُو حَنِيفَةَ لَيْسَ سَكْرَانَ إلَّا حَتَّى لَا يُمَيِّزَ الْأَرْضَ مِنْ السَّمَاءِ، وَأَبَاحَ كُلَّ سُكْرٍ دُونَ هَذَا - فَاعْجَبُوا يَرْحَمُنَا اللَّهُ وَإِيَّاكُمْ؟

[مَسْأَلَةٌ خَلْطُ نَبِيذٍ بِنَبِيذٍ]

(busr), or raisins are soaked to make *nabīdh* with another type from these five categories or a type outside them, or if the *nabīdh* of one category is mixed with *nabīdh* of another category from them or outside them, or with a liquid other than these five categories except water, its consumption becomes forbidden—whether it intoxicates or not—while *nabīdh* of each individual category remains permissible. If a type not among these five is mixed with another type also outside them, or they are soaked together, or if juice is mixed with *nabīdh*, all of it is permissible—such as dry dates (balah), grape juice, fig *nabīdh*, honey, wheat, barley, and other substances we have not mentioned, without excluding anything. This ruling is based on the narration transmitted through Muslim's chain: Muslim reported to me through Abū Bakr ibn Isḥāq, from ʿAffān ibn Muslim, from Abān ibn Yazīd ibn al-ʿAṭṭār, from Yaḥyā ibn Abī Kathīr. Abdullah ibn Abi Qatadah and Abu Salamah ibn Abd al-Rahman ibn Awf both narrated from Abu Qatadah that the Prophet of Allah—peace and blessings of Allah be upon him—prohibited mixing dried dates with unripe dates, raisins with dried dates, and moist dates with fresh dates, saying: "Prepare each one separately for fermentation." Abu Muhammad said: We have also been conveyed through the chains of Jabir ibn Abdullah, Abu Sa'id al-Khudri, Ibn Abbas, Abu Hurairah, Ibn Umar, and Aisha, the Mother of the Believers, from the Prophet—peace and blessings of Allah be upon him—regarding this matter numerous, corroborating traditions of the highest authenticity, all of which together encompass the content of Abu Qatadah's aforementioned hadith.[18]

L17406 This is also the opinion held by the majority of the early scholars following his view. As reported through the chain of Musa ibn Uqbah from Nafi' from Ibn 'Umar, who said: "He prohibited that dates and raisins be made into nabidh together, and unripe dates and fresh dates together." Additionally, through the chain of Ma'mar from Qatadah, who said: "When Anas intended to make nabidh, he would separate the ripened part from the date fruit, set it apart, and make nabidh from dates separately and unripe dates separately."

L17407 And through the chain of Ibn Abi Shaybah from Abu Usamah, from Hatim ibn Abi Sagheerah, from Abu Mus'ab al-Madani, who said: I heard Abu

١١٠١ - مَسْأَلَةٌ: فَإِنْ نُبِذَ تَمْرٌ، أَوْ رُطَبٌ، أَوْ زَهْوٌ، أَوْ بُسْرٌ، أَوْ زَبِيبٌ مَعَ نَوْعٍ مِنْهَا أَوْ نَوْعٍ مِنْ غَيْرِهَا، أَوْ خُلِطَ نَبِيذُ أَحَدِ الْأَصْنَافِ بِنَبِيذِ صِنْفٍ مِنْهَا، أَوْ بِنَبِيذِ صِنْفٍ مِنْ غَيْرِهَا، أَوْ بِمَائِعٍ غَيْرِهَا حَاشَا الْمَاءِ حَرُمَ شُرْبُهُ أَسْكَرَ أَوْ لَمْ يُسْكِرْ، وَنَبِيذُ كُلِّ صِنْفٍ مِنْهَا عَلَى انْفِرَادِهِ حَلَالٌ، فَإِنْ مُزِجَ نَوْعٌ مِنْ غَيْرِ هَذِهِ الْخَمْسَةِ مَعَ نَوْعٍ آخَرَ مِنْ غَيْرِهَا أَيْضًا أَوْ نُبِذَا مَعًا، أَوْ خُلِطَ عَصِيرٌ بِنَبِيذٍ فَكُلُّهُ حَلَالٌ: كَالْبَلَحِ وَعَصِيرِ الْعِنَبِ، وَنَبِيذِ التِّينِ، وَالْعَسَلِ، وَالْقَمْحِ، وَالشَّعِيرِ، وَغَيْرِ مَا ذَكَرْنَا لَا تَحَاشَ شَيْئًا -: لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ حَدَّثَنِي أَبُو بَكْرِ بْنُ إِسْحَاقَ نَا عَفَّانَ بْنُ مُسْلِمٍ نا أَبَانُ بْنُ يَزِيدَ بْنِ الْعَطَّارِ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ نَا عَبْدُ اللَّهِ بْنُ أَبِي قَتَادَةَ، وَأَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ كِلَاهُمَا عَنْ أَبِي قَتَادَةَ: «أَنَّ نَبِيَّ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ خَلِيطِ التَّمْرِ وَالْبُسْرِ، وَعَنْ خَلِيطِ الزَّبِيبِ وَالتَّمْرِ، وَعَنْ خَلِيطِ الزَّهْوِ وَالرُّطَبِ، وَقَالَ: انْتَبِذُوا كُلَّ وَاحِدٍ عَلَى حِدَتِهِ» قَالَ أَبُو مُحَمَّدٍ: وَرُوِّينَا مِنْ طَرِيقِ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَأَبِي سَعِيدٍ الْخُدْرِيِّ، وَابْنِ عَبَّاسٍ، وَأَبِي هُرَيْرَةَ، وَابْنِ عُمَرَ، وَعَائِشَةَ أُمِّ الْمُؤْمِنِينَ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي هَذَا أَيْضًا آثَارًا مُتَوَاتِرَةً مُتَظَاهِرَةً فِي غَايَةِ الصِّحَّةِ يَجْمَعُ كُلُّ مَا فِيهَا حَدِيثُ أَبِي قَتَادَةَ الْمَذْكُورُ.

وَبِهِ يَقُولُ جُمْهُورُ السَّلَفِ. كَمَا رُوِّينَا مِنْ طَرِيقِ مُوسَى بْنِ عُقْبَةَ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ قَالَ: نَهَى أَنْ يُنْتَبَذَ التَّمْرُ وَالزَّبِيبُ جَمِيعًا، وَالْبُسْرُ وَالرُّطَبُ جَمِيعًا، وَمِنْ طَرِيقِ مَعْمَرٍ عَنْ قَتَادَةَ قَالَ: كَانَ أَنَسٌ إِذَا أَرَادَ أَنْ يَنْبِذَ يَقْطَعُ مِنَ الثَّمَرَةِ مَا نَضِجَ مِنْهَا فَيَضَعُهُ وَحْدَهُ وَيَنْبِذُ التَّمْرَ وَحْدَهُ وَالْبُسْرَ وَحْدَهُ.

[18] **Hadith references (L17403):** Sahih Muslim 1988e.

Hurairah say: When wine was prohibited, they would take fresh dates, cut off every tail-like part, then crush them forcefully and drink the liquid.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَبِي أُسَامَةَ عَنْ حَاتِمِ بْنِ أَبِي صَغِيرَةَ عَنْ أَبِي مُصْعَبٍ الْمَدَنِيِّ قَالَ: سَمِعْتُ أَبَا هُرَيْرَةَ يَقُولُ: لَمَّا حُرِّمَتْ الْخَمْرُ كَانُوا يَأْخُذُونَ الْبُسْرَ فَيَقْطَعُونَ مِنْهُ كُلَّ مُذَنَّبٍ ثُمَّ يَأْخُذُ الْبُسْرَ فَيَفْضَخُهُ ثُمَّ يَشْرَبُهُ.

L17408 And via the chain of Ibn Abi Shaybah from Ashʿath from Thabit ibn ʿUbayd, who said: Abu Masʿud al-Ansari would direct his household to cut the mudhannab [date clusters], and each part would be soaked separately to make nabīdh.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ أَشْعَثَ عَنْ ثَابِتِ بْنِ عُبَيْدٍ قَالَ: كَانَ أَبُو مَسْعُودٍ الْأَنْصَارِيُّ يَأْمُرُ أَهْلَهُ بِقَطْعِ الْمُذَنَّبِ فَيَنْبِذُ كُلَّ وَاحِدٍ مِنْهُمَا عَلَى حِدَةٍ.

L17409 From the narration of Ibn Abi Shaybah, from Mu’awiyah ibn Hisham, from Ammar ibn Zurayq, from Ibn Abi Layla, from al-Hakam ibn Utaybah, from Abd al-Rahman ibn Abi Layla, who said: A man would pass by the companions of Muhammad (peace be upon him) while they were gathered in large numbers, and they would curse him, saying: “Does this man drink the two mixtures of raisins and dates?” Abu Muhammad said: This was according to them when it aligned with their consensus, and a similar report has also come from Uthman, as we will mention later.

وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ مُعَاوِيَةَ بْنِ هِشَامٍ عَنْ عَمَّارِ بْنِ زُرَيْقٍ عَنْ ابْنِ أَبِي لَيْلَى عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى قَالَ: كَانَ الرَّجُلُ يَمُرُّ عَلَى أَصْحَابِ مُحَمَّدٍ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُمْ مُتَوَافِرُونَ فَيَلْعَنُونَهُ وَيَقُولُونَ: هَذَا يَشْرَبُ الْخَلِيطَيْنِ الزَّبِيبَ وَالتَّمْرَ؟ قَالَ أَبُو مُحَمَّدٍ: هَذَا عِنْدَهُمْ إذَا وَافَقَهُمْ إجْمَاعٌ، وَقَدْ جَاءَ عَنْ عُثْمَانَ أَيْضًا كَمَا نَذْكُرُ بَعْدَ هَذَا.

L17410–17412 Through the chain of ʿAbd al-Razzāq, from Ibn Jurayj, who said: ʿAmr ibn Dīnār said to me, “I heard Jābir ibn ʿAbd Allāh—or someone informed me about him—so whose testimony should I trust: that one must not combine unripe dates, fresh dates, dried dates, and raisins.” I said to ʿAmr ibn Dīnār, “Is there anything beyond this?” He replied, “No.” I said to ʿAmr, “What about other matters pertaining to sharecropping contracts and date palms?” He said, “I do not know.” I said to ʿAmr, “Or is it not that the prohibition is only against combining the two in nabīdh and fermenting them all together?” He answered, “Yes.” I said to ʿAṭāʾ, “Did Jābir mention that the Prophet—peace and blessings be upon him—prohibited...” Is it permissible to combine two things other than fresh dates with unripe dates, or dates with raisins? He said: “No—unless I have forgotten something?” I said to ʿAṭāʾ: “Can dates and raisins be combined by fermenting them as *nabīdh*, then drunk while both are sweet?” He said: “No, combining them has been prohibited.” Ibn Jurayj said: “If a drink were prepared in a vessel the Prophet—peace and

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ قَالَ لِي عَمْرُو بْنُ دِينَارٍ سَمِعْتُ جَابِرَ بْنَ عَبْدِ اللَّهِ أَوْ أَخْبَرَنِي عَنْهُ مَنْ أُصَدِّقُ: أَنْ لَا يُجْمَعَ بَيْنَ الْبُسْرِ، وَالرُّطَبِ، وَالتَّمْرِ، وَالزَّبِيبِ، قُلْت لِعَمْرِو بْنِ دِينَارٍ: هَلْ غَيْرُ ذَلِكَ؟ قَالَ: لَا، قُلْت لِعَمْرٍو: فَغَيْرُ ذَلِكَ مِمَّا فِي الْحَبَلَةِ وَالنَّخْلَةِ، قَالَ: لَا أَدْرِي، قُلْت لِعَمْرٍو: أَوْ لَيْسَ إنَّمَا نَهَى عَنْ أَنْ يُجْمَعَ بَيْنَهُمَا فِي النَّبِيذِ وَأَنْ يُنْبَذَ جَمِيعًا؟ قَالَ: بَلَى، وَقُلْت لِعَطَاءٍ: أَذَكَرَ جَابِرٌ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ أَنْ يُجْمَعَ بَيْنَ شَيْئَيْنِ غَيْرِ الرُّطَبِ وَالْبُسْرِ، وَالتَّمْرِ وَالزَّبِيبِ؟ قَالَ: لَا، إلَّا أَنْ أَكُونَ نَسِيتُ؟ قُلْت لِعَطَاءٍ: أَيُجْمَعُ بَيْنَ التَّمْرِ وَالزَّبِيبِ يُنْبَذَانِ، ثُمَّ يُشْرَبَانِ حُلْوَيْنِ؟ قَالَ:

blessings of Allah be upon him—forbade, it should not be drunk even if it is sweet." All of this is our opinion—and praise be to Allah, Lord of the worlds.

لَا قَدْ نُهِيَ عَنْ الْجَمْعِ بَيْنَهُمَا، قَالَ ابْنُ جُرَيْجٍ: لَوْ نُبِذَ شَرَابٌ فِي ظَرْفٍ قَدْ نَهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْهُ لَمْ يُشْرَبْ حُلْوًا - وَهَذَا كُلُّهُ قَوْلُنَا - وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ.

L17413 Thus, this ʿAmr ibn Dīnār did not consider the prohibition to be overstepped beyond what the scriptural text specifies—and that is our doctrine.

فَهَذَا عَمْرُو بْنُ دِينَارٍ لَمْ يَرَ النَّهْيَ يُتَعَدَّى بِهِ مَا وَرَدَ بِهِ النَّصُّ - وَهُوَ قَوْلُنَا -.

L17414 It was narrated to us from ʿUmar ibn ʿAbd al-ʿAzīz that he said: "If I had date *nabīdh* in one hand and raisin *nabīdh* in the other, and drank each separately, I would see no harm in it; but if I mixed it, I would not drink it." It is authentically reported from Jābir ibn Zayd Abū al-Shaʿthā that he was asked about unripe dates and dates being combined in *nabīdh*. He replied: "It would be better for you to take water and boil it in your stomach than to combine them both in your stomach."

وَرُوِّينَا عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ أَنَّهُ قَالَ: لَوْ كَانَ فِي إحْدَى يَدَيَّ نَبِيذُ تَمْرٍ، وَفِي الْأُخْرَى نَبِيذُ زَبِيبٍ فَشَرِبْت كُلَّ وَاحِدٍ مِنْهُمَا وَحْدَهُ لَمْ أَرَ بِهِ بَأْسًا، وَلَوْ خَلَطْته لَمْ أَشْرَبْهُ. وَصَحَّ عَنْ جَابِرِ بْنِ زَيْدٍ أَبِي الشَّعْثَاءِ أَنَّهُ سُئِلَ عَنْ الْبُسْرِ، وَالتَّمْرِ يُجْمَعَانِ فِي النَّبِيذِ؟ فَقَالَ: لَأَنْ تَأْخُذَ الْمَاءَ فَتَغْلِيَهُ فِي بَطْنِك خَيْرٌ مِنْ أَنْ تَجْمَعَهُمَا جَمِيعًا فِي بَطْنِك.

L17415 Mālik declared the prohibition of mixing any two types during the preparation of nabīdh, after its preparation, and in what has been pressed, without excluding anything from anything.

وَقَالَ مَالِكٌ بِتَحْرِيمِ خَلِيطِ كُلِّ نَوْعَيْنِ فِي الِانْتِبَاذِ وَبَعْدِ الِانْتِبَاذِ، وَكَذَلِكَ فِيمَا عُصِرَ، وَلَمْ يَخُصَّ شَيْئًا مِنْ شَيْءٍ.

L17416 Abu Hanifah ruled that every two mixed substances are permissible. His followers practicing taqlīd of him cited as evidence the narration we transmitted through Mis'ar's chain from Mūsā ibn 'Abd Allāh, from an unnamed woman of Banū Asad, from 'Ā'ishah: "We would prepare raisin nabīdh for the Messenger of Allah—peace and blessings of Allah be upon him—and dates would be added to it, or we would prepare date nabīdh and raisins would be added to it." This is invalid, as it comes through an unnamed woman.

وَقَالَ أَبُو حَنِيفَةَ بِإِبَاحَةِ كُلِّ خَلِيطَيْنِ وَاحْتَجَّ لِأَبِي حَنِيفَةَ مُقَلِّدُوهُ بِمَا رُوِّينَاهُ مِنْ طَرِيقِ مِسْعَرٍ عَنْ مُوسَى بْنِ عَبْدِ اللَّهِ عَنْ امْرَأَةٍ مِنْ بَنِي أَسَدٍ عَنْ عَائِشَةَ: «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يُنْبَذُ لَهُ زَبِيبٌ فَيُلْقَى فِيهِ تَمْرٌ أَوْ تَمْرٌ فَيُلْقَى فِيهِ زَبِيبٌ» - وَهَذَا لَا شَيْءَ؛ لِأَنَّهُ عَنْ امْرَأَةٍ لَمْ تُسَمَّ.

L17417 From the path of Ziyād ibn Yaḥyā al-Ḥassānī: Abū Baḥr narrated to us from ʿAṭṭāb ibn ʿAbd al-ʿAzīz al-Ḥimmānī. Ṣafiyyah bint ʿAṭiyyah narrated to me that she heard ʿĀ'ishah, the Mother of the Believers, say—when she was asked about dates and raisins—"I would take a handful of dates and a handful of raisins, cast them into a vessel, press them, then give the drink to the Prophet—peace and blessings of Allah be upon him." This narration is disputed in its rejection, as it comes from Abū Baḥr—whose identity is unknown—via ʿAṭṭāb ibn ʿAbd al-ʿAzīz al-Ḥimmānī, who is an unknown narrator, via Ṣafiyyah bint ʿAṭiyyah—who is unrecognized. Has there ever

وَمِنْ طَرِيقِ زِيَادِ بْنِ يَحْيَى الْحَسَّانِيِّ أَنَا أَبُو بَحْرٍ نَا عَتَّابُ بْنُ عَبْدِ الْعَزِيزِ الْحِمَّانِيُّ حَدَّثَتْنِي صَفِيَّةُ بِنْتُ عَطِيَّةَ أَنَّهَا سَمِعَتْ «عَائِشَةَ أُمَّ الْمُؤْمِنِينَ تَقُولُ - وَقَدْ سُئِلَتْ عَنْ التَّمْرِ وَالزَّبِيبِ - فَقَالَتْ: كُنْت آخُذُ قَبْضَةً مِنْ تَمْرٍ وَقَبْضَةً مِنْ زَبِيبٍ فَأُلْقِيهِ فِي إنَاءٍ فَأَمْرُسُهُ، ثُمَّ أَسْقِيهِ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -» وَهَذَا مُرَدَّدٌ فِي السُّقُوطِ؛ لِأَنَّهُ عَنْ أَبِي بَحْرٍ - لَا يُدْرَى مَنْ هُوَ عَنْ عَتَّابِ بْنِ عَبْدِ الْعَزِيزِ الْحِمَّانِيُّ - وَهُوَ مَجْهُولٌ عَنْ صَفِيَّةَ بِنْتِ

been anyone more contemptibly foolish than one who argues with such a narration attributed to the Mother of the Believers? An objection arises regarding the report of Abū ʿUthmān al-Anṣārī from al-Qāsim ibn Muḥammad from ʿĀ'ishah from the Prophet—peace and blessings of Allah be upon him: "What intoxicates in large quantities, even a small amount of it is forbidden."

عَطِيَّةَ - وَلَا تُعْرَفُ مَنْ هِيَ فَهَلْ سُمِعَ بِأَسْخَفَ مِمَّنْ يَحْتَجُّ بِمِثْلِ هَذَا عَنْ أُمِّ الْمُؤْمِنِينَ؟ وَيَعْتَرِضُ فِي رِوَايَةِ أَبِي عُثْمَانَ الْأَنْصَارِيِّ عَنْ الْقَاسِمِ بْنِ مُحَمَّدٍ عَنْ عَائِشَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مَا أَسْكَرَ كَثِيرُهُ فَقَلِيلُهُ حَرَامٌ» .

L17418 And Abu Uthman, the well-known judge of Rayy, was one from whom the imams narrated.

وَأَبُو عُثْمَانَ مَشْهُورٌ قَاضِي الرَّيِّ رَوَى عَنْهُ الْأَئِمَّةُ.

L17419–17421 And they increased their misguidance by citing as evidence what we have narrated via ʿAbd al-Razzāq from Ibn Jurayj: "It was reported to me." On the authority of Abu Ishaq: A man asked Ibn Umar, "May I combine dates and raisins?" He replied, "No." The man asked, "Why?" He said, "The Prophet (peace and blessings of Allah be upon him) forbade it." The man asked, "Why?" He said, "A man became intoxicated, so the Prophet (PBUH) prescribed the *hadd* punishment for him and ordered that his drink be examined. It turned out to be dates and raisins. The Prophet (PBUH) prohibited combining dates and raisins and said, 'Each should be left to ferment on its own.'"

وَزَادُوا ضَلَالًا فَاحْتَجُّوا بِمَا رُوِّينَاهُ عَنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ أُخْبِرْتُ عَنْ أَبِي إِسْحَاقَ: «أَنَّ رَجُلًا سَأَلَ ابْنَ عُمَرَ: أَجْمَعُ بَيْنَ التَّمْرِ وَالزَّبِيبِ؟ فَقَالَ: لَا، قَالَ: لِمَ؟ قَالَ: نَهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: لِمَ؟ قَالَ: سَكِرَ رَجُلٌ فَحَدَّهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَمَرَ أَنْ يُنْظَرَ مَا شَرَابُهُ فَإِذَا هُوَ تَمْرٌ وَزَبِيبٌ، فَنَهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ أَنْ يُجْمَعَ بَيْنَ التَّمْرِ وَالزَّبِيبِ وَقَالَ: يُلْقَى كُلُّ وَاحِدٍ مِنْهُمَا وَحْدَهُ» .

L17422 On the authority of Abu Ishaq from al-Najrani from Ibn Umar, who said: "The Messenger of Allah—peace and blessings be upon him—flogged a drunkard and asked him: 'What did you drink?' He replied: 'Dates and raisins.' He said: 'Do not mix them. Each should be left alone separately.'"

وَمِنْ طَرِيقِ أَبِي إِسْحَاقَ عَنْ النَّجْرَانِيِّ عَنْ ابْنِ عُمَرَ قَالَ: «ضَرَبَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - سَكْرَانَ وَقَالَ لَهُ: أَيُّ شَيْءٍ شَرِبْتَ؟ قَالَ: تَمْرٌ وَزَبِيبٌ، قَالَ: لَا تَخْلِطُوهُمَا كُلُّ وَاحِدٍ يُلْقَى وَحْدَهُ» .

L17423 From the chain of Abu al-Tayyāḥ, from Abu al-Waddāk, from Abu Saʿīd al-Khudrī: "An intoxicated man was brought to the Prophet—peace and blessings of Allah be upon him—and he said: 'I did not drink wine—I only drank raisins and dates in a vessel.' Then the mixture was stirred by hand and struck with sandals, and he prohibited raisins and dates from being mixed together."

وَمِنْ طَرِيقِ أَبِي التَّيَّاحِ عَنْ أَبِي الْوَدَّاكِ عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أُتِيَ بِنَشْوَانَ فَقَالَ: إِنِّي لَمْ أَشْرَبْ خَمْرًا إِنَّمَا شَرِبْتُ زَبِيبًا وَتَمْرًا فِي إِنَاءٍ. فَنُهِزَ بِالْأَيْدِي وَخُفِقَ بِالنِّعَالِ وَنَهَى عَنْ الزَّبِيبِ، وَالتَّمْرِ أَنْ يُخْلَطَا»

L17424 Abu Muhammad said: Do these despicable ones not have a religion to restrain them, or shame to deter them, or reason to prevent them from arguing with falsehood against the truth? Moreover, by what [they claim]—even if it were valid—it would become a greater proof against them. Ibn

قَالَ أَبُو مُحَمَّد: أَمَا لِهَؤُلَاءِ الْمَخَاذِيلِ دِينٌ يَرْدَعُهُمْ، أَوْ حَيَاءٌ يَزَعُهُمْ، أَوْ عَقْلٌ يَمْنَعُهُمْ عَنْ الِاحْتِجَاجِ بِالْبَاطِلِ عَلَى الْحَقِّ، ثُمَّ بِمَا لَوْ صَحَّ لَكَانَ أَعْظَمَ حُجَّةً عَلَيْهِمْ، ابْنُ جُرَيْجٍ

يَقُولُ: أُخْبِرْت عَنْ أَبِي إِسْحَاقَ وَلَا يُسَمِّي مَنْ أَخْبَرَهُ، ثُمَّ أَبُو إِسْحَاقَ عَنْ النَّجْرَانِيِّ - وَمَنْ النَّجْرَانِيُّ - لَيْتَ شِعْرِي؟ ثُمَّ هَبْكَ أَنَّنَا سَمِعْنَا كُلَّ ذَلِكَ مِنْ أَبِي سَعِيدٍ، وَمِنْ ابْنِ عُمَرَ أَلَيْسَ قَدْ أَخْبَرَا: أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ جَمْعِهِمَا وَأَمَرَ بِإِفْرَادِ كُلِّ وَاحِدٍ مِنْهُمَا؟ وَكَيْف يُجْعَلُ نَهْيُهُ نَفْسُهُ حُجَّةً فِي اسْتِبَاحَةِ مَا نَهَى عَنْهُ؟ مَا بَعْدَ هَذَا الضَّلَالِ ضَلَالٌ، وَلَا وَرَاءَ هَذِهِ الْمُجَاهَرَةِ مُجَاهَرَةٌ، وَلَوْلَا كَثْرَةُ مَنْ ضَلَّ بِاتِّبَاعِهِمْ لَكَانَ الْإِعْرَاضُ عَنْهُمْ أَوْلَى.

Jurayj says: "I was narrated from Abu Ishaq" without naming his informant, then Abu Ishaq from an-Najrani—who is this an-Najrani? Would that I knew! Suppose we heard all that from Abu Sa'id and Ibn 'Umar—have the two not informed us that the Prophet, peace and blessings be upon him, prohibited combining them and commanded that each be performed separately? How can his own prohibition be made a proof for legitimizing what he prohibited? No misguidance surpasses this misguidance, and no brazenness exceeds this brazenness. Were it not for the many who have gone astray by following them, turning away from them would be more fitting.

L17425 وَقَالُوا: إنَّمَا نُهِيَ عَنْ ذَلِكَ؛ لِأَنَّ أَحَدَهُمَا يُعَجِّلُ غَلَيَانَ الْآخَرِ. فَقُلْنَا: كَذَبْتُمْ وَقَفَوْتُمْ مَا لَا عِلْمَ لَكُمْ بِهِ، وَافْتَرَيْتُمْ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا لَمْ يَقُلْهُ قَطُّ وَلَا أَخْبَرَ بِهِ - ثُمَّ هَبْ الْأَمْرَ كَمَا قُلْتُمْ؟ أَلَيْسَ قَدْ نَهَى - عَلَيْهِ السَّلَامُ - عَنْهُ كَمَا ذَكَرْتُمْ؟ فَانْهَوْا عَمَّا نَهَاكُمْ عَنْهُ إنْ كَانَ فِي قُلُوبِكُمْ إيمَانٌ بِهِ؟

They said: "This was prohibited only because one of them hastens the boiling of the other." We retorted: "You have lied and followed what you know nothing about, fabricating against the Messenger of Allah (peace be upon him) what he neither said nor disclosed." Then [we said]: Even if we suppose your claim were true—did he not (peace be upon him) prohibit it as you yourselves mentioned? So forbid what he has forbidden you, if there is faith in him within your hearts!

L17426 فَإِنْ قَالُوا: هَذَا نَدْبٌ؟ قُلْنَا: كَذَبْتُمْ وَقُلْتُمْ مَا لَا دَلِيلَ لَكُمْ عَلَيْهِ - ثُمَّ هَبْ الْأَمْرَ كَمَا قُلْتُمْ فَاكْرَهُوهُ إذًا وَانْدُبُوا إلَى تَرْكِهِ، وَأَنْتُمْ لَا تَفْعَلُونَ ذَلِكَ بَلْ هُوَ عِنْدَكُمْ وَمَا لَمْ يَنْهَ عَنْهُ أَصْلًا سَوَاءٌ.

If they say: "This is recommended?" We say: "You have lied and asserted what you have no proof for." Then [say]: "Suppose the matter is as you claim—then declare it Disliked and urge toward abandoning it. Yet you yourselves refrain from doing this. Rather, in your view, it is the same as that which was never prohibited in the first place."

L17427–17428 وَقَالُوا: إنَّمَا نَهَى عَنْهُ لِضِيقِ الْعَيْشِ، وَلِأَنَّهُ مِنْ السَّرَفِ - وَهَذَا قَوْلٌ يُوجِبُ عَلَى قَائِلِهِ مَقْتَ اللَّهِ تَعَالَى، لِأَنَّهُ كَذِبٌ بَحْتٌ، وَمَعَ أَنَّهُ كَذِبٌ فَهُوَ بَارِدٌ مِنْ الْكَذِبِ سَخِيفٌ مِنْ الْبُهْتَانِ، لِأَنَّهُ مَا كَانَ قَطُّ عِنْدَ ذِي عَقْلٍ رِطْلُ تَمْرٍ وَرِطْلُ زَبِيبٍ، سَرَفًا، أَوْ رِطْلُ زَهْوٍ وَرِطْلُ بُسْرٍ سَرَفًا، وَهُمْ بِالْمَدِينَةِ وَالطَّائِفِ قَرِيبٌ، وَهُمَا بِلَادُ التَّمْرِ وَالزَّبِيبِ.

They said: He prohibited it solely due to constrained livelihood and because it is from extravagance – a statement that renders its speaker deserving of Allah's contempt, for it is sheer falsehood. Although it is a lie, it is a feeble fabrication and absurd slander. Never has a ratl of dates and a ratl of raisins been deemed extravagance by any rational person, nor has a ratl of Zahw dates and a ratl of Busr dates been considered extravagance – while Medina and Ta'if are nearby, these being the lands of dates and raisins.

L17429 فَكَيْفَ يَكُونُ رِطْلٌ مِنْ تَمْرٍ يَابِسٍ، وَرِطْلٌ مِنْ زَبِيبٍ، وَرِطْلٌ مِنْ بُسْرٍ، أَوْ رِطْلٌ مِنْ رُطَبٍ مَقْرُونٍ - سَرَفًا؟

Then how could a *ritl* of dry dates, a *ritl* of raisins, a *ritl* of semi-ripe dates, or a *ritl* of fresh dates—when combined in pairs—constitute

extravagance that straitened circumstances prohibit, such that they are forbidden for this reason? Yet fermenting one hundred *ritls* of dry dates, one hundred *ritls* of raisins, and one hundred *ritls* of honey—each type separately—would not be deemed extravagance. And how could fermenting a *ritl* of dry dates and a *ritl* of semi-ripe dates together be considered extravagance, while consuming them together is not deemed extravagance? Likewise, consuming dry dates and raisins together—this represents the very pinnacle of intellectual absurdity! What manner of intellect operates on such a measure? Grave indeed is the trial they face from themselves—and we seek refuge in Allah from being deprived of His support.

ثُمَّ كَيْفَ يَكُونُ رِطْلَ تَمْرٍ، وَرِطْلَ زَبِيبٍ، أَوْ رِطْلَ زَهْوٍ، وَرِطْلَ رُطَبٍ يُجْمَعَانِ سَرَفًا يَمْنَعُ مِنْهُ ضِيقُ الْعَيْشِ فَيُنْهَوْنَ عَنْهُ لِذَلِكَ - وَلَا يَكُونُ مِائَةَ رِطْلِ تَمْرٍ، وَمِائَةَ رِطْلِ زَبِيبٍ، وَمِائَةَ رِطْلِ عَسَلٍ يُنْبَذُ كُلُّ صِنْفٍ مِنْهَا عَلَى حِدَتِهِ سَرَفًا. وَكَيْفَ يَكُونُ رِطْلَ تَمْرٍ، وَرِطْلَ زَهْوٍ يُنْبَذَانِ مَعًا سَرَفًا وَلَا وَيَكُونُ أَكْلُهُمَا مَعًا سَرَفًا؟ كَذَلِكَ التَّمْرُ وَالزَّبِيبُ فِي الْأَكْلِ مَعًا، لَقَدْ بَلَغَ الْغَايَةَ مِنْ سُخْفِ الْعَقْلِ، مَنْ هَذَا مِقْدَارُ عَقْلِهِ، وَلَقَدْ عَظُمَتْ بَلِيَّتُهُمْ بِأَنْفُسِهِمْ - وَنَعُوذُ بِاَللَّهِ مِنْ الْخِذْلَانِ.

L17430 Moreover, eating chicken, quail, and sugar further introduces your corrupt principles of extravagance and distances you from hardship in living—things the Messenger of Allah (peace be upon him) never prohibited. Even if we grant your claim, what comfort does that bring you? There were indeed people of wealth among them. ʾĀʾishah said: "The sacrificial offerings were with the Messenger of Allah (peace be upon him) and the affluent." The well-known narration states: "Those with abundant wealth have taken the rewards." Among them were ʾUthmān, ʾAbd al-Raḥmān, Saʿd ibn ʾUbādah, and others. Among us now, and until the Day of Resurrection, there are those experiencing hardship in living and severe poverty. Thus, the rationale remains sufficiently established, making the prohibition necessarily binding. Mock as you wish—to evade Allah's decree upon you.

وَأَيْضًا: فَإِنَّ أَكْلَ الدَّجَاجِ وَالنِّقْيِ وَالسُّكَّرِ أَدْخَلُ عَلَى أُصُولِكُمْ الْفَاسِدَةِ فِي السَّرَفِ، وَأَبْعَدُ مِنْ ضِيقِ الْعَيْشِ، وَمَا نَهَى عَنْهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَطُّ، ثُمَّ هَبْكُمْ أَنَّهُ كَمَا تَقُولُونَ، فَأَيُّ رَاحَةٍ لَكُمْ فِي ذَلِكَ؟ وَقَدْ كَانَ فِيهِمْ ذُو سَعَةٍ مِنْ الْمَالِ، قَالَتْ عَائِشَةُ: وَكَانَ الْهَدْيُ مَعَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَذَوِي الْيَسَارَةِ، وَالْخَبَرُ الْمَشْهُورُ «ذَهَبَ أَصْحَابُ الدُّثُورِ بِالْأُجُورِ» وَكَانَ فِيهِمْ عُثْمَانُ، وَعَبْدُ الرَّحْمَنِ، وَسَعْدُ بْنُ عُبَادَةَ، وَغَيْرُهُ وَفِينَا نَحْنُ وَإِلَى يَوْمِ الْقِيَامَةِ ذُو ضِيقٍ مِنْ الْعَيْشِ وَفَاقَةٍ شَدِيدَةٍ، فَالْعِلَّةُ بَاقِيَةٌ بِحَسْبِهَا، فَالنَّهْيُ بَاقٍ وَلَا بُدَّ، اسْخَفُوا مَا شِئْتُمْ لَأَنْ تُفَوِّتُوا حُكْمَ اللَّهِ عَلَيْكُمْ.

L17431 They mentioned what we have narrated through the chain of Ibn Abī Shaybah from ʿAlī ibn Mushir from al-Shaybānī from ʿAbd al-Malik ibn Nāfiʿ: I said to Ibn ʿUmar, "I prepare nabīdh from raisins, and dates are thrown into it, causing it to spoil for me." He said, "There is no harm in it." ʿAbd al-Malik ibn Nāfiʿ is of unknown reliability.

وَذَكَرُوا مَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ عَلِيِّ بْنِ مُسْهِرٍ عَنْ الشَّيْبَانِيِّ عَنْ عَبْدِ الْمَلِكِ بْنِ نَافِعٍ قُلْت لِابْنِ عُمَرَ: أَنْبِذُ نَبِيذَ زَبِيبٍ فَيُلْقَى لِي فِيهِ تَمْرٌ فَيَفْسُدُ عَلَيَّ؟ قَالَ: لَا بَأْسَ بِهِ - وَعَبْدُ الْمَلِكِ بْنُ نَافِعٍ مَجْهُولٌ.

L17432 It has been authentically reported that Ibn ʿUmar retracted from this—as we have been narrated through the chain of Saʿīd ibn Manṣūr: from Ismāʿīl—that is, the son of Ibrāhīm, who is the son of ʿUlayyah; from Ayyūb—that is, al-Sikhtiyānī; from Nāfiʿ; from Ibn ʿUmar—that he ordered raisins and dates

وَقَدْ صَحَّ عَنْ ابْنِ عُمَرَ الرُّجُوعُ عَنْ هَذَا - كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نَا إِسْمَاعِيلُ هُوَ ابْنُ إبْرَاهِيمَ هُوَ ابْنُ عُلَيَّةَ - نَا أَيُّوبُ هُوَ السِّخْتِيَانِيُّ - عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ

أَنَّهُ أَمَرَ بِزَبِيبٍ وَتَمْرٍ أَنْ يُنْبَذَا لَهُ، ثُمَّ تَرَكَهُ بَعْدَ ذَلِكَ - قَالَ نَافِعٌ: فَلَا أَدْرِي أَلِشَيْءٍ ذَكَرَهُ أَمْ لِشَيْءٍ بَلَغَهُ؟ فَصَحَّ أَنَّهُ ذَكَرَ النَّهْيَ بَعْدَ أَنْ نَسِيَهُ أَوْ بَلَغَهُ وَلَمْ يَكُنْ بَلَغَهُ قَبْلَ ذَلِكَ.

to be prepared as *nabīdh* for him, then abandoned it afterward. Nāfiʿ said: "I do not know whether this was due to something he recalled or something that reached him?" Thus, it is confirmed that he mentioned the prohibition after having forgotten it, or that it reached him when it had not reached him before that.

وَذَكَرُوا مَا رُوِّينَاهُ مِنْ طَرِيقٍ غَيْرِ مَشْهُورَةٍ عَنْ شُعْبَةَ قَالَ: سَمِعْتُ أُسَامَةَ رَجُلًا مِنْ جِيرَانِنَا قَالَ: سَمِعْتُ شِهَابَ بْنَ عَبَّادٍ قَالَ: سَأَلْتُ ابْنَ عَبَّاسٍ عَنِ التَّمْرِ وَالزَّبِيبِ فَقَالَ: لَا يَضُرُّكَ أَنْ تَخْلِطَهُمَا جَمِيعًا أَوْ تُنْبَذَ كُلُّ وَاحِدٍ مِنْهُمَا عَلَى حِدَةٍ.

L17433–17434 They mentioned what we have narrated through an uncommon chain from Shuʿbah, who said: I heard Usāmah, a man from our neighbors, say: I heard Shihāb ibn ʿAbbād say: I asked Ibn ʿAbbās about dates and raisins, and he said: "It will not harm you to mix them together or to ferment each one separately."

قَالَ أَبُو مُحَمَّد: وَهَذَا لَا شَيْءَ، فَلَا أَكْثَرَ، أُسَامَةُ رَجُلٌ مِنْ جِيرَانِ شُعْبَةَ وَمَا نَعْلَمُ أَتَمَّ جَهْلًا، أَوْ أَقَلَّ حَيَاءً مِمَّنْ يَتَعَلَّقُ بِهَذَا عَنِ ابْنِ عَبَّاسٍ وَلَا يَصِحُّ أَصْلًا - ثُمَّ يُخَالِفُ رِوَايَةَ مُحَمَّدِ بْنِ جَعْفَرٍ غُنْدَرٍ عَنْ شُعْبَةَ عَنْ أَبِي جَمْرَةَ نَصْرِ بْنِ عِمْرَانَ الضُّبَعِيِّ قَالَ: قُلْتُ لِابْنِ عَبَّاسٍ: إِنِّي أَنْتَبِذُ فِي جَرَّةٍ خَضْرَاءَ نَبِيذًا حُلْوًا فَأَشْرَبُ مِنْهُ فَيُقَرْقِرُ بَطْنِي. قَالَ ابْنُ عَبَّاسٍ: لَا تَشْرَبْ مِنْهُ وَإِنْ كَانَ أَحْلَى مِنَ الْعَسَلِ.

L17435 Abū Muḥammad said: This is nothing—nor anything more. Usāmah is a man among Shuʿbah's neighbors, and we know no one more completely ignorant or shameless than those who attribute this to Ibn ʿAbbās, and it is not authentic at all. Moreover, it contradicts the narration of Muḥammad ibn Jaʿfar Ghundar from Shuʿbah from Abū Jamrah Naṣr ibn ʿImrān al-Ḍubaʿī, who said: I said to Ibn ʿAbbās, "I prepare sweet *nabīdh* in a green jar and drink from it, but it makes my stomach gurgle." Ibn ʿAbbās said, "Do not drink from it, even if it were sweeter than honey."

فَإِنْ قَالُوا: قَدْ صَحَّ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَسْخُ النَّهْيِ عَنْ نَبِيذِ الْجَرِّ. قُلْنَا: النَّهْيُ وَاَللَّهِ عَنْ خَلْطِ الزَّبِيبِ وَالتَّمْرِ أَصَحُّ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ نَسْخِ النَّهْيِ عَنْ نَبِيذِ الْجَرِّ الَّذِي لَمْ يَأْتِ إِلَّا مِنْ طَرِيقِ بُرَيْدَةَ وَجَابِرٍ فَقَطْ، وَالنَّهْيُ عَنِ الْجَمْعِ بَيْنَ التَّمْرِ وَالزَّبِيبِ فِي الِانْتِبَاذِ صَحَّ مِنْ طَرِيقِ أَبِي قَتَادَةَ، وَجَابِرٍ، وَابْنِ عَبَّاسٍ، وَأَبِي سَعِيدٍ، وَأَبِي هُرَيْرَةَ، فَهُوَ نَقْلُ تَوَاتُرٍ وَلَمْ يَأْتِ قَطُّ شَيْءٌ يَنْسَخُهُ لَا ضَعِيفٌ وَلَا قَوِيٌّ.

L17436 If they say: "It has been authentically established from the Prophet (peace be upon him) that the prohibition against *nabīdh* prepared in jars was abrogated," we say: By Allah, the prohibition against mixing raisins and dates is more authentic from the Prophet (peace be upon him) than the abrogation of the prohibition against jar-prepared *nabīdh*, which only comes via the chains of Buraydah and Jabir. The prohibition against combining dates and raisins in fermentation has been authentically transmitted through Abu Qatādah, Jabir, Ibn Abbās, Abu Saʿīd, and Abu Hurayrah—constituting a mass-transmitted (tawātur) report. No abrogating element has ever emerged regarding it, neither weak nor strong.

L17437 They said: "What difference is there between combining them in a vessel and combining them in the stomach?" We replied: "The Messenger of Allah (peace and blessings be upon him) cannot be contradicted in this. What dif-

ference is there between simultaneously marrying two sisters and marrying them one after another? If you were to oppose yourselves regarding your distinction between a runaway slave found within the city and a runaway slave found outside the city on three, you would have been correct."

وَقَالُوا: أَيُّ فَرْقٍ بَيْنَ جَمْعِهِمَا فِي الْإِنَاءِ، وَبَيْنَ جَمْعِهِمَا فِي الْبَطْنِ؟ فَقُلْنَا: لَا يُعَارَضُ بِهَذَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَيُّ فَرْقٍ بَيْنَ الْجَمْعِ بَيْنَ الْأُخْتَيْنِ وَبَيْنَ نِكَاحِهِمَا وَاحِدَةً بَعْدَ أُخْرَى؟ وَلَوْ عَارَضْتُمْ أَنْفُسَكُمْ فِي فَرْقِكُمْ بَيْنَ الْآبِقِ يُوجَدُ فِي الْمِصْرِ، وَبَيْنَ الْآبِقِ يُوجَدُ خَارِجَ الْمِصْرِ عَلَى ثَلَاثٍ لَأَصَبْتُمْ.

L17438 Regarding your distinction between theft from a secured place involving less than ten dirhams—which does not mandate amputation—and theft of ten dirhams from a non-secured place—which also does not mandate amputation: if both conditions combine, such as stealing ten dirhams from a secured place, amputation becomes obligatory. Similarly, regarding laughter during prayer—which invalidates ablution—and laughter after prayer—which does not invalidate it: adhering to this distinction would be more prudent for you.

وَفِي فَرْقِكُمْ بَيْنَ السَّرِقَةِ مِنْ الْحِرْزِ أَقَلَّ مِنْ عَشَرَةِ دَرَاهِمَ فَلَا يُوجِبُ الْقَطْعَ [وَبَيْنَ] سَرِقَةِ عَشَرَةِ دَرَاهِمَ مِنْ غَيْرِ حِرْزٍ فَلَا يُوجِبُ الْقَطْعَ، فَإِذَا اجْتَمَعَا فَسَرَقَ عَشَرَةَ دَرَاهِمَ مِنْ حِرْزٍ وَجَبَ الْقَطْعُ، وَبَيْنَ الْقَهْقَهَةِ تَكُونُ فِي الصَّلَاةِ فَتَنْقُضُ الْوُضُوءَ، وَتَكُونُ بَعْدَ الصَّلَاةِ فَلَا تَنْقُضُهُ لَكَانَ أَسْلَمَ لَكُمْ.

L17439 It has been narrated to us through the chain of Saʿīd ibn Manṣūr from Hushaym, from Yūnus, from al-Ḥasan that he saw no harm in splitting open a date cluster along with its contents. We do not know of this from any of the Salaf besides him, though the narration does not clarify the permissibility of combining raisins and dates and all other things that were subject to prohibition.

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ عَنْ هُشَيْمٍ عَنْ يُونُسَ عَنْ الْحَسَنِ أَنَّهُ كَانَ لَا يَرَى بَأْسًا أَنْ يَفْضَخَ الْعِذْقَ بِمَا فِيهِ، وَمَا نَعْلَمُ هَذَا عَنْ أَحَدٍ مِنْ السَّلَفِ غَيْرِهِ، عَلَى أَنَّهُ لَيْسَ فِيهِ بَيَانٌ لِإِبَاحَةِ الْجَمْعِ بَيْنَ الزَّبِيبِ وَالتَّمْرِ وَسَائِرِ مَا جَاءَ النَّهْيُ عَنْهُ.

L17440–17441 It was narrated to us through the chain of Ibn Abī Shaybah from ʿAffān ibn Muslim from ʿAbd al-Wāḥid ibn Ṣafwān, who said: I heard my father narrating from his mother that she said: "I would soak raisins for ʿUthmān (may Allah be pleased with him) in the morning, and he would drink it in the evening. I would soak them in the evening, and he would drink it in the morning." She said: ʿUthmān asked me, "Perhaps you add yeast to it?" I replied, "Perhaps I did." He said, "Then do not do it."

وَرُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ عَفَّانَ بْنِ مُسْلِمٍ عَنْ عَبْدِ الْوَاحِدِ بْنِ صَفْوَانَ سَمِعْتُ أَبِي يُحَدِّثُ عَنْ أُمِّهِ أَنَّهَا قَالَتْ: كُنْت أَمْغَثُ لِعُثْمَانَ - رَضِيَ اللَّهُ عَنْهُ - الزَّبِيبَ غُدْوَةً فَيَشْرَبُهُ عَشِيَّةً، وَأَمْغَثُهُ عَشِيَّةً فَيَشْرَبُهُ غُدْوَةً، قَالَتْ: فَقَالَ لِي عُثْمَانُ: لَعَلَّك تَجْعَلِينَ فِيهِ زَهْوًا قُلْت: رُبَّمَا فَعَلْت، فَقَالَ: فَلَا تَفْعَلِي. .

L17442 As for the Mālikīs, they argued by citing the narration we reported through the chain of Abū Dāwūd al-Ṭayālisī: Ḥarb ibn Shaddād reported from Yaḥyā ibn Abī Kathīr, from Abū Salama ibn ʿAbd al-Raḥmān, from ʿĀʾisha, the

Mother of the Believers, that “the Messenger of Allah (peace be upon him) forbade mixing two separately owned commodities.”

وَأَمَّا الْمَالِكِيُّونَ فَاحْتَجُّوا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ أَبِي دَاوُد الطَّيَالِسِيِّ نَا حَرْبُ بْنُ شَدَّادٍ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ الْخَلِيطَيْنِ» .

L17443 Through the chain of Ibn Wahb, Abd al-Jabbar ibn Umar said: Muhammad ibn al-Munkadir narrated to me from Jabir ibn Abdullah: “The Messenger of Allah (peace be upon him) prohibited the two mixtures from being drunk. We asked: ’O Messenger of Allah, what are the two mixtures?’ He said: ’Dates and raisins. All intoxicants are ḥarām.”’

وَمِنْ طَرِيقِ ابْنِ وَهْبٍ حَدَّثَنِي عَبْدُ الْجَبَّارِ بْنُ عُمَرَ قَالَ: حَدَّثَنِي مُحَمَّدُ بْنُ الْمُنْكَدِرِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ: «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى عَنْ الْخَلِيطَيْنِ أَنْ يُشْرَبَا؟ قُلْنَا: يَا رَسُولَ اللَّهِ وَمَا الْخَلِيطَانِ؟ قَالَ: التَّمْرُ وَالزَّبِيبُ، وَكُلُّ مُسْكِرٍ حَرَامٌ» .

L17444 From the narration of ʿAbdullāh ibn al-Mubārak: I [narrate] from Wiqāʿ ibn Iyās, from al-Mukhtār ibn Fulful, from Anas: “The Messenger of Allah (peace be upon him) forbade us from combining two substances as nabīdh from [ingredients] where one accelerates the fermentation of the other.” Anas disliked the stalk of unripe dates, fearing they might constitute two entities, so we would cut it off.

وَمِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ أَنَا وِقَاءُ بْنُ إيَاسٍ عَنْ الْمُخْتَارِ بْنِ فُلْفُلٍ عَنْ أَنَسٍ «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنْ نَجْمَعَ شَيْئَيْنِ نَبِيذًا مِمَّا يَبْغِي أَحَدُهُمَا عَلَى صَاحِبِهِ» وَكَانَ أَنَسٌ يَكْرَهُ الْمُذَنَّبَ مِنْ الْبُسْرِ مَخَافَةَ أَنْ يَكُونَا شَيْئَيْنِ فَكُنَّا نَقْطَعُهُ ".

L17445 They said: The Prophet’s prohibition—peace and blessings of Allah be upon him—has been authentically established against combining dates, raisins, unripe dates, overripe dates, and fresh dates in nabīdh-making: whether combining two of them, one of them with another from outside them, or fermenting them in a vessel. Thus, it necessarily follows that all that is used for nabīdh-making or pressing is similarly prohibited.

وَقَالُوا: قَدْ صَحَّ نَهْيُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ أَنْ يُجْمَعَ التَّمْرُ، وَالزَّبِيبُ، وَالْبُسْرُ، وَالزَّهْوُ، وَالرُّطَبُ: اثْنَانِ مِنْهُمَا أَوْ وَاحِدٌ مِنْهُمَا وَآخَرُ مِنْ غَيْرِهِمَا فِي الِانْتِبَاذِ مَعًا، أَوْ يَنْبِذَهُمَا فِي إنَاءٍ، فَوَجَبَ أَنْ يَكُونَ سَائِرُ مَا يُنْبَذُ وَيُعْصَرُ كَذَلِكَ.

L17446 Abū Muḥammad said: This is all they have objected with—and none of it is valid: As for the first ḥadīth, it is a *mudallas* narration, for Yaḥyā ibn Abī Kathīr did not hear it from Abū Salamah via ʿĀ’ishah. Rather, he heard it from Abū Salamah via Abū Qatādah, according to what we presented at the beginning of this chapter regarding the detailed explanation of the mentioned classifications. As for the chain through ʿĀ’ishah, we have been narrated via the chain of Aḥmad ibn Shuʿayb: Muḥammad ibn Maʿmar reported to us; Abū Dāwūd al-Ṭayālisī reported to us; Ḥarb ibn Shaddād reported to us from Yaḥyā ibn Abī Kathīr that Kilāb ibn ʿAlī informed him that Abū Salamah—the son of ʿAbd al-Raḥmān ibn ʿAwf—informed him that ʿĀ’ishah informed

قَالَ أَبُو مُحَمَّد: هَذَا كُلُّ مَا شَغَبُوا بِهِ - وَكُلُّهُ لَا يَصِحُّ: - أَمَّا الْحَدِيثُ الْأَوَّلُ: فَمُدَلَّسٌ لَمْ يَسْمَعْهُ يَحْيَى بْنُ أَبِي كَثِيرٍ مِنْ أَبِي سَلَمَةَ عَنْ عَائِشَةَ، وَإِنَّمَا سَمِعَهُ مِنْ أَبِي سَلَمَةَ عَنْ أَبِي قَتَادَةَ عَلَى مَا أَوْرَدْنَا فِي أَوَّلِ هَذَا الْبَابِ مِنْ تَفْصِيلِ الْأَصْنَافِ الْمَذْكُورَةِ وَأَمَّا مِنْ طَرِيقِ عَائِشَةَ فَإِنَّنَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا مُحَمَّدُ بْنُ مَعْمَرٍ نَا أَبُو دَاوُد الطَّيَالِسِيُّ نَا حَرْبُ بْنُ شَدَّادٍ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ أَنَّ كِلَابَ بْنَ عَلِيٍّ أَخْبَرَهُ أَنَّ أَبَا

him: “The Messenger of Allāh, peace be upon him, prohibited mixing unripe dates with fresh dates, and raisins with dried dates.”

سَلَمَةَ هُوَ ابْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ - أَخْبَرَهُ أَنَّ عَائِشَةَ أَخْبَرَتْهُ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى أَنْ يُخْلَطَ بَيْنَ الْبُسْرِ وَالرُّطَبِ، وَبَيْنَ الزَّبِيبِ وَالتَّمْرِ» .

L17447–17449 Ahmad ibn Shu‘ayb said: And I, Muhammad ibn al-Muthanna, narrate from Abu ‘Amir – who is al-‘Aqadi – from ‘Ali ibn al-Mubarak, from Yahya ibn Abi Kathir, from Thumamah ibn Kilab, from Abu Salamah, from ‘A’ishah: that... The Prophet - peace and blessings be upon him - said: “Prepare nabidh from raisins and dates together, but do not prepare nabidh from fresh dates and dried dates together.” Now Yahya heard this from Kilab ibn Ali and Thumamah ibn Kilab - both of whom are unidentified narrators - thus the narration became unreliable. Even if authentic, it would not constitute authoritative proof, for the two mixtures mentioned in such absolute terms remain ambiguous: are they mixtures pertaining to zakah or to what? Moreover, tharid combines two substances - meat and bread - while milk and water form another pair of combined substances. Therefore, the intended meaning of his statement - peace be upon him - must be clarified, and such clarification can only derive from his own wording - peace be upon him. Thus their dependence on this narration is invalidated.

قَالَ أَحْمَدُ بْنُ شُعَيْبٍ: وَأَنَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا أَبُو عَامِرٍ هُوَ الْعَقَدِيُّ - نَا عَلِيُّ بْنُ الْمُبَارَكِ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ ثُمَامَةَ بْنِ كِلَابٍ عَنْ أَبِي سَلَمَةَ عَنْ عَائِشَةَ: أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «انْتَبِذُوا الزَّبِيبَ وَالتَّمْرَ جَمِيعًا، وَلَا تَنْتَبِذُوا الرُّطَبَ وَالتَّمْرَ جَمِيعًا» فَإِنَّمَا سَمِعَهُ يَحْيَى مِنْ كِلَابِ بْنِ عَلِيٍّ، وَثُمَامَةَ بْنِ كِلَابٍ، وَكِلَاهُمَا لَا يُدْرَى مَنْ هُوَ - فَسَقَطَ. ثُمَّ لَوْ صَحَّ لَمَا كَانَ فِيهِ حُجَّةٌ؛ لِأَنَّ الْخَلِيطَيْنِ هَكَذَا مُطْلَقًا لَا يُدْرَى مَا هُمَا أَهُمَا الْخَلِيطَانِ فِي الزَّكَاةِ أَمْ فِي مَاذَا؟ وَأَيْضًا فَإِنَّ ثَرِيدَ اللَّحْمِ وَالْخُبْزِ خَلِيطَانِ، وَاللَّبَنَ وَالْمَاءَ خَلِيطَانِ، فَلَا بُدَّ مِنْ بَيَانِ مُرَادِهِ - عَلَيْهِ السَّلَامُ - بِذَلِكَ، وَلَا يُؤْخَذُ بَيَانُ مُرَادِهِ إِلَّا مِنْ لَفْظِهِ - عَلَيْهِ السَّلَامُ - فَبَطَلَ تَعَلُّقُهُمْ بِهَذَا الْأَثَرِ.

L17450 As for the ḥadīth of Jābir, it is transmitted through the chain of ‘Abd al-Jabbār ibn ‘Umar al-Ubullī, who is extremely weak. Even if it were authentic, it would not constitute evidence for them. Rather, it would be a decisive and overwhelming proof against them, for it states that the Companions - may Allah be pleased with them - did not know the meaning of the two prohibited mixtures until they asked the Messenger of Allah - peace and blessings be upon him - as was obligatory upon them and upon every individual. He - peace be upon him - explained to them that they were dates and raisins, without mentioning anything else. If he had intended other mixtures, would he have remained silent about them when they sought clarification. This is something no Muslim can deny, for it would have been the greatest deception against them. Whoever claims there exists something additional here about which the Prophet - peace and blessings be upon him - was questioned yet failed to clarify for his Ummah has indeed fabricated a lie against the

وَأَمَّا حَدِيثُ جَابِرٍ فَمِنْ طَرِيقِ عَبْدِ الْجَبَّارِ بْنِ عُمَرَ الْأُبُلِّيِّ وَهُوَ ضَعِيفٌ جِدًّا - ثُمَّ لَوْ صَحَّ لَمَا كَانَتْ لَهُمْ فِيهِ حُجَّةٌ، بَلْ كَانَ يَكُونُ حُجَّةً عَظِيمَةً قَاطِعَةً عَلَيْهِمْ؛ لِأَنَّ فِيهِ أَنَّ الصَّحَابَةَ - رَضِيَ اللَّهُ عَنْهُمْ - لَمْ يَعْرِفُوا مَا الْخَلِيطَانِ الْمَنْهِيُّ عَنْهُمَا حَتَّى سَأَلُوا رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَمَا يَجِبُ عَلَيْهِمْ وَعَلَى كُلِّ أَحَدٍ؟ فَفَسَّرَهُمَا لَهُمْ - عَلَيْهِ السَّلَامُ - بِأَنَّهُمَا التَّمْرُ وَالزَّبِيبُ وَلَمْ يَذْكُرْ غَيْرَهُمَا، فَلَوْ أَرَادَ غَيْرَهُمَا لَمَا سَكَتَ عَنْ ذِكْرِهِ وَقَدْ سَأَلُوهُ الْبَيَانَ؟ هَذَا مَا لَا يُحِيلُ عَلَى مُسْلِمٍ؛ لِأَنَّهُ كَانَ يَكُونُ أَعْظَمَ التَّلْبِيسِ عَلَيْهِمْ وَمَنْ ادَّعَى أَنَّ هَهُنَا شَيْئًا زَائِدًا سُئِلَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْهُ فَلَمْ يُبَيِّنْهُ لِأُمَّتِهِ فَقَدْ افْتَرَى الْكَذِبَ

Messenger of Allah - peace and blessings be upon him - and has undoubtedly committed heresy in the religion. We seek refuge in Allah from this.

عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَلْحَدَ فِي الدِّينِ بِلَا شَكٍّ - وَنَعُوذُ بِاللَّهِ مِنْ هَذَا.

L17451 As for the report of Anas, it comes through Wiqā' ibn Iyās—who is weak, having been deemed so by Ibn Maʿīn and others. Moreover, it is incoherent, corrupt speech that is unintelligible and cannot lawfully be attributed to the Prophet (peace and blessings be upon him) under any circumstance, for no one understands what is meant by "one of them overstepping against the other concerning nabīdh [fermented drink]."

وَأَمَّا خَبَرُ أَنَسٍ فَمِنْ طَرِيقِ وِقَاءِ بْنِ إيَاسٍ وَهُوَ ضَعِيفٌ ضَعَّفَهُ ابْنُ مَعِينٍ وَغَيْرُهُ، مَعَ أَنَّهُ كَلَامٌ فَاسِدٌ لَا يُعْقَلُ لَا يَجُوزُ أَنْ يُضَافَ إلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَلْبَتَّةَ؛ لِأَنَّهُ لَا يَدْرِي أَحَدٌ مَا مَعْنَى يَبْغِي أَحَدُهُمَا عَلَى صَاحِبِهِ فِي النَّبِيذِ.

L17452 If they say, "Its meaning is that one of the two hastens the boiling of the other?" We say: This is manifest falsehood; dates and raisins do not boil together in *nabīdh* except when raisins alone are boiling; or dates alone are boiling. And he—peace be upon him—does not speak except the truth. Thus, all they have deceptively presented is invalidated with certainty.

فَإِنْ قَالُوا: مَعْنَاهُ يُعَجِّلُ أَحَدُهُمَا غَلَيَانَ الْآخَرِ؟ قُلْنَا: هَذَا الْكَذِبُ الْعَلَانِيَةُ وَمَا يَغْلِي تَمْرٌ وَزَبِيبٌ جَمْعًا فِي النَّبِيذِ إلَّا فِي الْمُدَّةِ الَّتِي يَغْلِي فِيهَا الزَّبِيبُ وَحْدَهُ؛ أَوْ التَّمْرُ وَحْدَهُ وَهُوَ - عَلَيْهِ السَّلَامُ - لَا يَقُولُ إلَّا الْحَقَّ؛ فَبَطَلَ كُلُّ مَا مَوَّهُوا بِهِ بِيَقِينٍ.

L17453–17455 As for their statement: "We analogized the rest of the mixture according to what was explicitly established," we replied: The analogy is invalid. Then, even if it were valid, this instance would constitute the very essence of invalidity, for you are no more entitled to analogize figs and honey to what was mentioned than another who wanted to analogize milk and sugar to it. Either vinegar and honey in a dual combination as oxymel (a mixture of vinegar and honey), or raisins and vinegar in a dual combination, and there is no means to differentiate between them.

وَأَمَّا قَوْلُهُمْ: قِسْنَا سَائِرَ الْخَلْطِ عَلَى مَا نَصَّ عَلَيْهِ فَقُلْنَا: الْقِيَاسُ بَاطِلٌ، ثُمَّ لَوْ كَانَ حَقًّا لَكَانَ هَذَا مِنْهُ عَيْنَ الْبَاطِلِ؛ لِأَنَّكُمْ لَسْتُمْ بِأَوْلَى أَنْ تَقِيسُوا التِّينَ، وَالْعَسَلَ عَلَى مَا ذُكِرَ مِنْ آخَرَ أَرَادَ أَنْ يَقِيسَ عَلَى ذَلِكَ اللَّبَنَ وَالسُّكَّرَ مَجْمُوعَيْنِ، أَوْ الْخَلَّ، وَالْعَسَلَ فِي السَّكَنْجَبِينِ مَجْمُوعَيْنِ، أَوْ الزَّبِيبَ، وَالْخَلَّ مَجْمُوعَيْنِ، وَلَا سَبِيلَ إلَى فَرْقٍ.

L17456 If they say: "We do not extend [the ruling] beyond nabīdh," we say to them: "Rather, apply the analogy of combining in nabīdh to combining in what is not nabīdh, or do not exceed what the scriptural text has specified - neither in nabīdh nor in anything else - for there is absolutely no basis for distinction. And with Allāh, the Exalted, is success."

فَإِنْ قَالُوا: لَا نَتَعَدَّى النَّبِيذَ. قُلْنَا لَهُمْ: بَلْ قِيسُوا عَلَى الْجَمْعِ فِي النَّبِيذِ الْجَمْعَ فِي غَيْرِ النَّبِيذِ، أَوْ لَا تَتَعَدَّوْا مَا وَرَدَ بِهِ النَّصُّ لَا فِي نَبِيذٍ، وَلَا غَيْرِهِ، وَلَا سَبِيلَ إلَى فَرْقٍ أَصْلًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17457 **A legal issue concerning the fermentation of *nabidh* in clay jugs, hollowed-out wooden containers, pitched vessels, tar-coated receptacles, and gourds.**

[مَسْأَلَةٌ الِانْتِبَاذُ فِي الْحَنْتَمِ وَالنَّقِيرِ وَالْمُزَفَّتِ وَالْمُقَيَّرِ وَالدُّبَّاءِ]

L17458 1102 – Question:

١١٠٢ - مَسْأَلَةٌ:

وَالِانْتِبَاذُ فِي الْحَنْتَمِ، وَالنَّقِيرِ، وَالْمُزَفَّتِ، وَالْمُقَيَّرِ، وَالدُّبَّاءِ، وَالْجِرَارِ الْبِيضِ، وَالسُّودِ، وَالْحُمْرِ، وَالْخُضْرِ، وَالصُّفْرِ، وَالْمُوَشَّاةِ، وَغَيْرِ الْمَدْهُونَةِ، وَالْأَسْقِيَةِ، وَكُلُّ ظَرْفٍ حَلَالٌ، إِلَّا إِنَاءَ ذَهَبٍ أَوْ فِضَّةٍ أَوْ إِنَاءَ أَهْلِ الْكِتَابِ، أَوْ جِلْدَ مَيْتَةٍ غَيْرَ مَدْبُوغٍ، أَوْ إِنَاءً مَأْخُوذًا بِغَيْرِ حَقٍّ.

L17459 The preparation of nabīdh in ḥantam jars, naqīr (hollowed trunks), tar-coated vessels, resin-coated vessels, gourds, white jars, black jars, red jars, green jars, yellow jars, decorated jars, unoiled jars, waterskins, and all permissible vessels is permissible—except for vessels of gold or silver, vessels belonging to the People of the Book, vessels made from untanned dead animal hide, or vessels acquired through illegitimate means.

بُرْهَانُ ذَلِكَ: مَا رُوِّينَاهُ مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَخْبَرَنِي أَبُو بَكْرِ بْنُ عَلِيٍّ هُوَ الْمُقَدَّمِيُّ - نَا إِبْرَاهِيمُ بْنُ الْحَجَّاجِ نَا حَمَّادُ بْنُ سَلَمَةَ عَنْ حَمَّادِ بْنِ أَبِي سُلَيْمَانَ عَنْ عُبَيْدِ اللَّهِ بْنِ بُرَيْدَةَ عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «كُنْتُ نَهَيْتُكُمْ عَنْ الْأَوْعِيَةِ فَانْتَبِذُوا فِيمَا بَدَا لَكُمْ، وَإِيَّاكُمْ وَكُلَّ مُسْكِرٍ» .

L17460 The evidence for that is what we have narrated through the chain of Ahmad ibn Shu‘ayb, who informed me: Abū Bakr ibn ‘Ali—Al-Muqaddamī—informed us: Ibrāhīm ibn al-Ḥajjāj informed us, from Ḥammād ibn Salamah, from Ḥammād ibn Abī Sulaymān, from ‘Ubayd Allāh ibn Buraydah, from his father, who said: The Messenger of Allah—peace and blessings be upon him—said, “I had forbidden you from [using certain] vessels, so prepare nabīdh in whatever seems suitable to you, and avoid every intoxicant.”[19]

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ مَعْرُوفِ بْنِ وَاصِلٍ عَنْ مُحَارِبِ بْنِ دِثَارٍ عَنْ ابْنِ بُرَيْدَةَ عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «كُنْتُ نَهَيْتُكُمْ عَنْ الْأَشْرِبَةِ إِلَّا فِي ظُرُوفِ الْأُدْمِ فَاشْرَبُوا فِي كُلِّ وِعَاءٍ غَيْرَ أَنْ لَا تَشْرَبُوا مُسْكِرًا»

L17461 From the path of Waki’ from Ma’ruf ibn Wasil from Muharib ibn Dithar from Ibn Buraidah from his father, who said: The Messenger of Allah (peace and blessings of Allah be upon him) said: “I had forbidden you from drinks except in vessels of tanned hides. Now drink in every container, but do not drink intoxicants.”[20]

وَمِنْ طَرِيقِ مُسْلِمِ بْنِ الْحَجَّاجِ نَا الْحَجَّاجُ بْنُ الشَّاعِرُ نَا الضَّحَّاكُ بْنُ مَخْلَدٍ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ عَلْقَمَةَ بْنِ مَرْثَدٍ عَنْ أَبِي بُرَيْدَةَ عَنْ أَبِيهِ: أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «نَهَيْتُكُمْ عَنْ الظُّرُوفِ وَإِنَّ الظُّرُوفَ ظَرْفًا لَا يُحِلُّ شَيْئًا وَلَا يُحَرِّمُهُ وَكُلُّ مُسْكِرٍ حَرَامٌ»

L17462 From the path of Muslim ibn al-Ḥajjāj: Al-Ḥajjāj ibn al-Sha‘ir narrated to us, Al-Ḍaḥḥāk ibn Makhlad narrated to us from Sufyān al-Thawrī from ‘Alqamah ibn Marthad from Abū Buraydah from his father: That the Messenger of Allah—peace and blessings be upon him—said, “I forbade you from containers, yet a container, as a container, does not make anything permissible or impermissible. And every intoxicant is forbidden.”

L17463 From the chain of Yahya ibn Sa’id al-Qattan, from Sufyan al-Thawri, from Mansur, from Salim ibn Abi al-Ja’d, from Jabir ibn Abdullah, who said: “The

[19] **Hadith references (L17460):** Sunan an-Nasai 5654.

[20] **Hadith references (L17461):** Mishkat al-Masabih 4291.

Messenger of Allah—peace be upon him and his family—prohibited certain containers. The Ansar said: 'We must necessarily have them.' He said: 'Then do not do so.'"

وَمِنْ طَرِيقِ يَحْيَى بْنِ سَعِيدٍ الْقَطَّانِ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ مَنْصُورٍ عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ الظُّرُوفِ فَقَالَتْ الْأَنْصَارُ: إنَّهُ لَا بُدَّ لَنَا مِنْهَا. قَالَ: فَلَا إذًا» .

L17464 It has been established that the permissibility of what he prohibited of the vessels constitutes an abrogation of the prohibition, and he—peace and blessings of Allah be upon him—had indeed forbidden them. It is authentically transmitted through Ibn Abbas's narration from the Prophet—peace and blessings of Allah be upon him—that he prohibited: the preparation of Nabidh, drinking from al-Hantam vessels, pitch-coated vessels, gourds, water skins with severed tops, anything fashioned from mud mixed with hair, and earthenware jars.

فَصَحَّ أَنَّ إبَاحَةَ مَا نَهَى عَنْهُ مِنْ الظُّرُوفِ نَاسِخَةٌ لِلنَّهْيِ، وَقَدْ كَانَ - عَلَيْهِ السَّلَامُ - نَهَى عَنْهَا، فَقَدْ صَحَّ عَنْ طَرِيقِ ابْنِ عَبَّاسٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - «أَنَّهُ نَهَى عَنْ الِانْتِبَاذِ وَالشُّرْبِ فِي الْحَنْتَمِ، وَالْمُقَيَّرِ، وَالدُّبَّاءِ، وَالْمَزَادَةِ الْمَجْبُوبَةِ، وَكُلِّ شَيْءٍ صُنِعَ مِنْ مَدَرٍ، وَالْجَرِّ» .

L17465–17466 It has been authentically reported through Abu Hurairah from the Prophet, peace and blessings be upon him, that he prohibited all such vessels except that he omitted mention of "everything made of mud." It has also been authentically reported from Ibn Umar from the Prophet, peace and blessings be upon him, that he prohibited all such vessels except that he omitted mention of the stitched water-skin, while he did mention the large clay jar.

وَصَحَّ مِنْ طَرِيقِ أَبِي هُرَيْرَةَ عَنْهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَنَّهُ نَهَى عَنْ ذَلِكَ كُلِّهِ إلَّا أَنَّهُ لَمْ يَذْكُرْ «كُلَّ شَيْءٍ صُنِعَ مِنْ مَدَرٍ» . وَصَحَّ عَنْ ابْنِ عُمَرَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَنَّهُ نَهَى عَنْ ذَلِكَ كُلِّهِ إلَّا أَنَّهُ لَمْ يَذْكُرْ الْمُزَادَةَ الْمَجْبُوبَةَ وَذَكَرَ الْجَرَّ.

L17467 It has been authentically reported through the chain of Abū Saʿīd al-Khudrī and Ibn ʿUmar that the Prophet (peace and blessings of Allāh be upon him) forbade the use of tar-lined vessels, green ḥantam jugs, hollowed palm-stem containers, and stone jars.

وَصَحَّ مِنْ طَرِيقِ أَبِي سَعِيدٍ الْخُدْرِيِّ، وَابْنِ عُمَرَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَنَّهُ «نَهَى عَنْ الْمُزَفَّتِ، وَالْحَنْتَمِ، وَالنَّقِيرِ، وَالْجَرِّ» .

L17468 It has been authentically reported from Aisha, the Mother of the Believers, Ali ibn Abi Talib, Anas, and Abd al-Rahman ibn Yaʿmar—all of them—that the Prophet—peace and blessings of Allah be upon him—prohibited dried gourd containers and pitched vessels.[21]

وَصَحَّ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَعَلِيِّ بْنِ أَبِي طَالِبٍ، وَأَنَسٍ، وَعَبْدِ الرَّحْمَنِ بْنِ يَعْمُرَ كُلِّهِمْ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَنَّهُ نَهَى عَنْ الدُّبَّاءِ وَالْمُزَفَّتِ» .

L17469 And also through the chain of ʿĀ'ishah, transmitted with a connected chain regarding the clay jar. On the authority of Ṣafiyyah, the Mother of the Be-

وَمِنْ طَرِيقِ عَائِشَةَ أَيْضًا مُسْنَدًا عَنْ الْجَرِّ. وَعَنْ صَفِيَّةَ أُمِّ الْمُؤْمِنِينَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ نَبِيذِ الْجَرِّ» .

[21] **Hadith references (L17468):** Sunan an-Nasai 5627.

lievers: “The Messenger of Allah—may Allah’s blessings and peace be upon him—prohibited the fermented drink of the clay jar.”[22]

وَصَحَّ مِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ أَبِي أَوْفَى «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - أَنَّهُ نَهَى عَنْ الْجَرِّ الْأَخْضَرِ وَالْأَبْيَضِ» .

L17470 It has been authentically reported through Abdullah ibn Abi Awfa that the Prophet (peace be upon him and his household) forbade green and white jars.

وَمِنْ طَرِيقِ ابْنِ الزُّبَيْرِ «أَنَّهُ - عَلَيْهِ السَّلَامُ -: نَهَى عَنْ الْجَرِّ» . فَهَؤُلَاءِ أَحَدَ عَشَرَ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - رَوَوْا عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - النَّهْيَ، وَرَوَاهُ عَنْهُمْ أَعْدَادٌ كَثِيرَةٌ مِنْ التَّابِعِينَ، وَهَذَا نَقْلُ تَوَاتُرٍ وَلَمْ يَأْتِ النَّسْخُ إلَّا مِنْ طَرِيقِ ابْنِ بُرَيْدَةَ عَنْ أَبِيهِ. وَمِنْ طَرِيقِ سَالِمِ بْنِ أَبِي الْجَعْدِ عَنْ جَابِرٍ فَقَطْ - وَقَدْ ثَبَتَ عَلَى تَحْرِيمِ مَا صَحَّ النَّهْيُ عَنْهُ مِنْ ذَلِكَ: عُمَرُ بْنُ الْخَطَّابِ، وَعَلِيٌّ، وَابْنُ عُمَرَ، وَأَبُو سَعِيدٍ الْخُدْرِيِّ.

L17471 And through the narration of Ibn al-Zubayr: “He (peace be upon him) prohibited jarr.” These eleven Companions (may Allah be pleased with them) transmitted the prohibition from the Prophet (peace be upon him), and it was narrated from them by many of the Tabiʿun. This constitutes a mass-transmitted report, as abrogation was only reported through the chain of Ibn Buraidah from his father and only through the chain of Salim ibn Abi al-Ja’d from Jabir. Those who upheld the prohibition of what was authentically forbidden in this regard are: ʿUmar ibn al-Khaṭṭāb, ʿAlī, Ibn ʿUmar, and Abū Saʿīd al-Khudri.

وَاخْتُلِفَ فِيهِ عَنْ ابْنِ مَسْعُودٍ، وَعَنْ ابْنِ عَبَّاسٍ.

L17472 There existed differing positions ascribed to Ibn Mas’ud and Ibn Abbas regarding the matter.

وَاخْتَلَفَ التَّابِعُونَ أَيْضًا. وَعَهْدُنَا بِالْحَنَفِيِّينَ يَقُولُونَ: إنَّهُ إذَا جَاءَ خَبَرَانِ أَحَدُهُمَا نَقْلُ تَوَاتُرٍ، وَالْآخَرُ نَقْلُ آحَادٍ: أَخَذْنَا بِالتَّوَاتُرِ، وَتَنَاقَضُوا هَهُنَا.

L17473 The Successors also differed. Our understanding of the Hanafis is that they assert: when there are two reports—one being a mass-transmitted report (tawātur) and the other a solitary report (āḥād)—we follow the tawātur. Yet they contradicted themselves here.

وَقَالَ مَالِكٌ: أَكْرَهُ أَنْ يُنْبَذَ فِي الدُّبَّاءِ، وَالْمُزَفَّتِ فَقَطْ، وَأَبَاحَ الْجَرَّ كُلَّهُ غَيْرَ الْمُزَفَّتِ، وَالْحَنْتَمِ، وَالْمُقَيَّرِ - وَهَذَا فَاسِدٌ جِدًّا؛ لِأَنَّهُ قَوْلٌ بِلَا بُرْهَانٍ وَلَا نَعْلَمُ أَحَدًا قَبْلَهُ قَسَّمَ هَذَا التَّقْسِيمَ.

L17474–17476 Mālik said: I dislike that nabīdh is prepared specifically in gourds and pitched vessels, but he permitted all jars except... *The muzaffat, the hantam, and the muqayyar*—and this is profoundly invalid, for it is a statement without proof, and we do not know of anyone before him who formulated this division.

قَالَ أَبُو مُحَمَّدٍ: وَقَدْ ذَكَرْنَا: فِيمَا يَحِلُّ أَكْلُهُ وَيَحْرُمُ تَحْرِيمُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - الْأَكْلَ.

L17477 Abu Muhammad said: We have mentioned what is permissible to eat and what is forbidden by the Prophet’s prohibition (peace and blessings be upon him) of [certain] acts of eating.

[22] **Hadith references (L17469):** Sunan an-Nasai 5616; Sunan an-Nasai 5621; Sunan an-Nasai 5622.

L17478 Drinking from a vessel of gold or silver, or a vessel of the People of the Book is prohibited unless no other is found. In that case, it should be washed with water, and it becomes permissible to drink from it at that time. The evidence establishes the prohibition of using a vessel acquired unlawfully. We mentioned in the "Book of Purification" the prohibition of the skin of a dead animal before tanning. All these matters remain prohibited due to the validity of the evidence that none of them has been abrogated since their prohibition. Success comes from Allah, the Exalted.

L17479 **The issue of the permissibility of intoxicants for one compelled to consume them.**

L17480 1103 – An issue: We have previously mentioned in "The Book of Lawful and Unlawful Foods" within this volume the permissibility of wine for one who is compelled to consume it, based on the declaration of the Exalted: "He has elaborated for you what He has forbidden to you, except that to which you are compelled" [Al-Anʿām: 119]. This suffices to preclude its repetition.[23]

L17481 **Issue: Whatever is not lawful to drink is therefore not lawful to sell, nor to possess, nor to benefit from.**

L17482 1104 - Issue: Everything we have mentioned as impermissible to drink is also impermissible to sell, retain, or benefit from. Whoever ferments it into vinegar has disobeyed Allah, the Exalted and Majestic – though consuming that vinegar is permissible. Ownership of the originally lawful drink is forfeited once it becomes intoxicating wine. If someone seizes it first through force or theft, it becomes permissible, unless the one who fermented it acquires ownership first, in which case it belongs to them, just as it would belong to anyone else who acquires it first, with no distinction. This is based on what we have narrated through the chain reported by Imam Muslim: Ubaydullah ibn Umar al-Qawariri reported from Abd al-A'la Abu Hammad, from Sa'id al-Jurayri, from Abu Nadrah, from Abu Sa'id al-Khudri, who said: "I heard the Messenger of Allah (peace be upon him) delivering a sermon in Medina, saying: 'O people, Allah the Exalted is alluding to wine. Perhaps

[23] **Qur'an references (L17480):** Qur'an 6:119 (Al-An'am).

وَالشُّرْبَ فِي إِنَاءِ الذَّهَبِ أَوْ الْفِضَّةِ أَوْ إِنَاءِ أَهْلِ الْكِتَابِ إلَّا أَنْ لَا يُوجَدَ غَيْرُهُ فَيَغْسِلَ بِالْمَاءِ وَيَحِلَّ ذَلِكَ فِيهِ حِينَئِذٍ، وَالْبُرْهَانُ عَلَى تَحْرِيمِ اسْتِعْمَالِ الْإِنَاءِ الْمَأْخُوذِ بِغَيْرِ حَقٍّ وَذَكَرْنَا فِي " كِتَابِ الطَّهَارَةِ " تَحْرِيمَ جِلْدِ الْمَيْتَةِ قَبْلَ أَنْ يُدْبَغَ، فَبَقِيَ كُلُّ هَذَا عَلَى التَّحْرِيمِ لِصِحَّةِ الْبُرْهَانِ بِأَنَّ كُلَّ ذَلِكَ لَمْ يُنْسَخْ مُذْ حُرِّمَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ إبَاحَةَ الْخَمْرِ لِمَنْ اُضْطُرَّ إلَيْهَا]

١١٠٣ - مَسْأَلَةٌ: وَقَدْ ذَكَرْنَا فِي " كِتَابِ مَا يَحِلُّ أَكْلُهُ وَمَا يَحْرُمُ " مِنْ هَذَا الدِّيوَانِ إبَاحَةَ الْخَمْرِ لِمَنْ اُضْطُرَّ إلَيْهَا لِقَوْلِهِ تَعَالَى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إلا مَا اضْطُرِرْتُمْ إِلَيْهِ} [الأنعام: ١١٩] فَأَغْنَى عَنْ إعَادَتِهِ.

[مَسْأَلَةٌ مَا لَا يَحِلّ شُرْبُهُ فَلَا يَحِلُّ بَيْعُهُ وَلَا إمْسَاكُهُ وَلَا الِانْتِفَاعُ بِهِ]

١١٠٤ - مَسْأَلَةٌ: وَكُلُّ مَا ذَكَرْنَا أَنَّهُ لَا يَحِلُّ شُرْبُهُ فَلَا يَحِلُّ بَيْعُهُ وَلَا إمْسَاكُهُ، وَلَا الِانْتِفَاعُ بِهِ، فَمَنْ خَلَّلَهُ فَقَدْ عَصَى اللَّهَ عَزَّ وَجَلَّ - وَحَلَّ أَكْلُ ذَلِكَ الْخَلِّ، إلَّا أَنَّ مِلْكَهُ قَدْ سَقَطَ عَنْ الشَّرَابِ الْحَلَالِ إذَا أَسْكَرَ وَصَارَ خَمْرًا فَمَنْ سَبَقَ إلَيْهِ مِنْ أَحَدٍ بِغَلَبَةٍ أَوْ بِسَرِقَةٍ فَهُوَ حَلَالٌ، إلَّا أَنْ يَسْبِقَ الَّذِي خَلَّلَهُ إلَى تَمَلُّكِهِ فَهُوَ حِينَئِذٍ لَهُ، كَمَا لَوْ سَبَقَ إلَيْهِ غَيْرُهُ، وَلَا فَرْقَ؛ لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ الْقَوَارِيرِيُّ نَا عَبْدُ الْأَعْلَى أَبُو هَمَّامٍ نَا سَعِيدٌ الْجُرَيْرِيُّ عَنْ أَبِي نَضْرَةَ عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: «سَمِعْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَخْطُبُ بِالْمَدِينَةِ قَالَ: يَا أَيُّهَا النَّاسُ إنَّ اللَّهَ تَعَالَى يُعَرِّضُ بِالْخَمْرِ، وَلَعَلَّ اللَّهَ سَيُنْزِلُ فِيهَا أَمْرًا فَمَنْ كَانَ عِنْدَهُ مِنْهَا شَيْءٌ فَلْيَبِعْهُ وَلْيَنْتَفِعْ

به؟ فَمَا لَبِثْنَا إِلَّا يَسِيرًا حَتَّى قَالَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِنَّ اللَّهَ حَرَّمَ الْخَمْرَ فَمَنْ أَدْرَكَتْهُ هَذِهِ الْآيَةُ وَعِنْدَهُ مِنْهَا شَيْءٌ فَلَا يَشْرَبْ وَلَا يَبِعْ، قَالَ: فَاسْتَقْبَلَ النَّاسُ بِمَا كَانَ عِنْدَهُمْ مِنْهَا فِي طَرِيقِ الْمَدِينَةِ فَسَفَكُوهَا» .

Allah will soon reveal a decree concerning it. Whoever possesses any of it, let them sell it and benefit from it.' We had not waited long before the Prophet (peace be upon him) said: 'Allah has forbidden wine. Whoever is reached by this verse and possesses any of it must neither drink nor sell it.'" He said: "People then brought out whatever they had of it onto the streets of Medina and poured it out."[24]

وَمِنْ طَرِيقِ ابْنِ وَهْبٍ عَنْ مَالِكٍ، وَسُلَيْمَانَ بْنِ بِلَالٍ، قَالَ مَالِكٌ: عَنْ زَيْدِ بْنِ أَسْلَمَ، وَقَالَ سُلَيْمَانُ: عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ، ثُمَّ اتَّفَقَ زَيْدٌ، وَيَحْيَى، كِلَاهُمَا عَنْ عَبْدِ الرَّحْمَنِ بْنِ وَعْلَةَ السَّبَائِيِّ مِنْ أَهْلِ مِصْرَ عَنِ ابْنِ عَبَّاسٍ «أَنَّ رَجُلًا أَهْدَى لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - رَاوِيَةَ خَمْرٍ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - هَلْ عَلِمْتَ أَنَّ اللَّهَ حَرَّمَهَا؟ قَالَ: لَا، فَسَارَّ إِنْسَانًا فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِنَّ الَّذِي حَرَّمَ شُرْبَهَا حَرَّمَ بَيْعَهَا فَفَتَحَ الْمَزَادَةَ حَتَّى ذَهَبَ مَا فِيهَا» وَالَّذِي ذَكَرْنَاهُ قَبْلُ مِنْ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يَشْرَبُ مَا يُنْبَذُ لَهُ ثَلَاثَةَ أَيَّامٍ، ثُمَّ يَأْمُرُ بِأَنْ يُشْرَبَ أَوْ يُهْرَقَ وَهُوَ - عَلَيْهِ السَّلَامُ - قَدْ نَهَى عَنْ إِضَاعَةِ الْمَالِ فَلَوْ كَانَ مَا حَرَّمَ مَالًا لَمَا أَضَاعَهُ - عَلَيْهِ السَّلَامُ -، فَإِذْ لَيْسَ مَالًا فَقَدْ سَقَطَ مِلْكُ صَاحِبِهِ عَنْهُ، فَإِذْ سَقَطَ عَنْهُ ثُمَّ عَادَ إِلَى أَنْ صَارَ خَلًّا فَلَا يَجُوزُ أَنْ يَعُودَ مِلْكُهُ عَلَى مَا لَا مِلْكَ لَهُ عَلَيْهِ بِغَيْرِ أَنْ يَتَمَلَّكَهُ إِلَّا بِنَصٍّ، وَلَا نَصَّ فِي ذَلِكَ فَهُوَ لِمَنْ سَبَقَ إِلَيْهِ كَسَائِرِ مَا لَا يَمْلِكُهُ أَحَدٌ مِنَ الصَّيْدِ وَالْحَطَبِ وَغَيْرِ ذَلِكَ -: وَقَالَ أَبُو حَنِيفَةَ: مِلْكُهَا جَائِزٌ وَتَخْلِيلُهَا جَائِزٌ -: وَهَذَا بَاطِلٌ لِمَا ذَكَرْنَا - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17483–17485 And through the transmission of Ibn Wahb from Malik and Sulayman ibn Bilal: Malik narrated from Zayd ibn Aslam, and Sulayman narrated from Yahya ibn Sa'id al-Ansari. Then their chains of narration converged, both transmitting from 'Abd al-Rahman ibn Wa'la al-Sabā'ī, one of the people of Egypt, from Ibn Abbas: "A man gifted a wineskin of wine to the Messenger of Allah (peace be upon him). The Messenger of Allah (peace be upon him) said to him, 'Did you know that Allah has forbidden it?' He replied, 'No.' Then the Messenger of Allah whispered to him." A man said to the Messenger of Allah—peace be upon him—regarding a human: "He Who prohibited drinking it prohibited its sale." He then opened the waterskin and emptied it until nothing remained. Our earlier mention—that the Prophet—peace be upon him—would drink date-wine prepared for him for three days, then command it to be consumed or discarded—while he—peace be upon him—had forbidden squandering wealth—indicates that if what He prohibited were considered wealth, he—peace be upon him—would not have destroyed it. Since it is not wealth, the owner's ownership over it ceases. When it reverts to vinegar after this cessation, ownership cannot lawfully return to what inherently lacks ownership except through a textual ruling. As no such ruling exists, it becomes permissible for whoever first takes possession of it, like the rest of unowned items such as game, firewood, and similar things. Abu Hanifah said: "Its ownership remains valid, and its vinegarization is permissible"—but this is invalid due to our aforementioned reasoning. And success is from Allah, the Exalted.

وَقَالَ مَالِكٌ: إِنْ تَعَمَّدَ تَخْلِيلَ الْخَمْرِ لَمْ يَحِلَّ أَكْلُ ذَلِكَ الْخَلِّ فَإِنْ تَخَلَّلَتْ دُونَ أَنْ تُخَلَّلَ حَلَّ أَكْلُهَا - وَقَالَ أَبُو ثَوْرٍ: لَا تُؤْكَلُ تَخَلَّلَتْ أَوْ خُلِّلَتْ.

L17486 Malik said: If wine is intentionally turned into vinegar, it is impermissible to consume that vinegar. But if it becomes vinegar naturally without human intervention, its consumption is permissible. Abu Thawr said: It should not

[24] **Hadith references (L17482):** Sahih Muslim 1578.

be consumed, whether it turned into vinegar on its own or was intentionally made into vinegar.

وَقَوْلُنَا فِي مِلْكِهَا هُوَ قَوْلُ أَبِي حَنِيفَةَ، وَأَبِي سُلَيْمَانَ.

L17487 Our opinion concerning its ownership is the opinion of Abū Ḥanīfah and Abū Sulaymān.

رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ إِسْمَاعِيلَ ابْنِ عُلَيَّةَ عَنْ التَّيمِيِّ عَنْ أُمِّ خِدَاشٍ أَنَّهَا رَأَتْ عَلِيَّ بْنَ أَبِي طَالِبٍ يَصْطَبِغُ بِخَلِّ خَمْرٍ.

L17488 Narrated via the chain of Ibn Abī Shaybah, from Ismāʿīl ibn ʿUlayyah, from Tamīmī, from Umm Khidāsh, that she saw ʿAlī ibn Abī Ṭālib applying wine vinegar.

ابْنُ أَبِي شَيْبَةَ عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ عَنْ مُعَاوِيَةَ بْنِ صَالِحٍ أَبِي الزَّاهِرِيَّةِ عَنْ جُبَيْرِ بْنِ نُفَيْرٍ قَالَ: اخْتَلَفَ اثْنَانِ مِنْ أَصْحَابِ مُعَاذٍ فِي خَلِّ الْخَمْرِ فَسَأَلَا أَبَا الدَّرْدَاءِ؟ فَقَالَ: لَا بَأْسَ بِهِ.

L17489 Ibn Abī Shaybah from ʿAbd al-Raḥmān ibn Mahdī, from Muʿāwiyah ibn Ṣāliḥ, Abu al-Zāhiriyyah, from Jubayr ibn Nufayr, who said: Two companions of Mu’adh differed regarding wine vinegar, so they asked Abū al-Dardāʾ, and he said: “There is no harm in it.”

ابْنُ أَبِي شَيْبَةَ عَنْ حُمَيْدِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ عَنْ مُسَرْبَلٍ الْعَبْدِيِّ عَنْ أُمِّهِ قَالَتْ: سَأَلْت عَائِشَةَ أُمَّ الْمُؤْمِنِينَ عَنْ خَلِّ الْخَمْرِ؟ فَقَالَتْ: لَا بَأْسَ بِهِ هُوَ إدَامٌ.

L17490 Ibn Abi Shaybah reported from Humaid ibn Abd al-Rahman from his father from Musarbal al-Abdi from his mother, who said: I asked Aisha, the Mother of the Believers, about vinegar made from wine. She said, “There is no harm in it, for it is a savory accompaniment.”

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ عَبْدِ اللَّهِ بْنِ نَافِعٍ عَنْ أَبِيهِ عَنْ ابْنِ عُمَرَ: أَنَّهُ كَانَ لَا يَرَى بَأْسًا بِأَكْلِ مَا كَانَ خَمْرًا فَصَارَ خَلًّا.

L17491 And via the chain of Waki‘, from ‘Abdullāh ibn Nāfi‘, from his father, from Ibn ‘Umar: He did not consider it impermissible to consume what was originally wine but had turned into vinegar.

وَمِنْ طَرِيقِ حَمَّادِ بْنِ زَيْدٍ عَنْ يَحْيَى بْنِ عَتِيقٍ عَنْ ابْنِ سِيرِينَ قَالَ: لَا بَأْسَ بِخَلِّ الْخَمْرِ - وَهُوَ قَوْلُ الْحَسَنِ، وَسَعِيدِ بْنِ جُبَيْرٍ - وَلَا نَعْلَمُ مِثْلَ تَفْرِيقِ مَالِكٍ عَنْ أَحَدٍ قَبْلَهُ.

L17492 And through the narration of Ḥammād ibn Zayd, from Yaḥyā ibn ʿAtīq, from Ibn Sīrīn, who said: There is no objection to vinegar made from wine—and this is the position of al-Ḥasan and Saʿīd ibn Jubayr—and we know of no one before Mālik who formulated a similar legal distinction.

[مَسْأَلَةٌ كَسْرُ أَوَانِي الْخَمْرِ]

A Legal Ruling on the Breaking of Wine Utensils.

١١٠٥ - مَسْأَلَةٌ: وَلَا يَحِلُّ كَسْرُ أَوَانِي الْخَمْرِ، وَمَنْ كَسَرَهَا مِنْ حَاكِمٍ أَوْ غَيْرِهِ فَعَلَيْهِ ضَمَانُهَا، لَكِنْ تُهْرَقُ وَتُغْسَلُ الْفَخَّارُ، وَالْجُلُودُ، وَالْعِيدَانُ، وَالْحَجَرُ، وَالدُّبَّاءُ، وَغَيْرُ ذَلِكَ، كُلُّهُ سَوَاءٌ فِي ذَلِكَ.

L17493 1105 - Issue: It is not permissible to break wine vessels, and whoever breaks them—whether a ruler or anyone else—is liable for their compensation. However, the wine must be poured out, and the following must be washed: earthenware, leather, wood, stone vessels, gourd vessels, and others. All of these are treated equally in this ruling.

L17495–17496 This is the opinion of Abū Ḥanīfah and al-Shāfiʿī. Mālik said: The earthenware and wood should be broken; the leather should be split; and anything else should be washed.

وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ - وَقَالَ مَالِكٌ: يُكْسَرُ الْفَخَّارُ وَالْعُودُ وَيُشَقُّ الْجِلْدُ وَيُغْسَلُ مَا عَدَا ذَلِكَ.

L17497 The proof of this is what we have just mentioned regarding the case where a man gifted a wineskin of wine to the Prophet—peace and blessings be upon him. When the Prophet informed him that its sale was unlawful, he opened the wineskin and poured out its contents, but he—peace be upon him—did not order him to tear it. And his prohibition—peace be upon him—against squandering wealth, for breaking or tearing constitutes such waste. Moreover, one who destroys another's property is a transgressor, and Allah the Exalted says: "So whoever has transgressed against you, then transgress against him in the same manner as he has transgressed against you" [Al-Baqarah: 194].[25]

بُرْهَانُ ذَلِكَ -: مَا ذَكَرْنَاهُ الْآنَ مِنْ فَتْحِ الَّذِي أَهْدَى رَاوِيَةَ الْخَمْرِ إلَى النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَلَمَّا أَخْبَرَهُ أَنَّهُ لَا يَحِلُّ بَيْعُهَا فَتَحَ الْمُزَادَةَ وَأَهْرَقَهَا وَلَمْ يَأْمُرْهُ - عَلَيْهِ السَّلَامُ - بِخَرْقِهَا، وَنَهْيِهِ - عَلَيْهِ السَّلَامُ - عَنْ إضَاعَةِ الْمَالِ، وَالْكَسْرُ وَالْخَرْقُ إضَاعَةٌ لِلْمَالِ، وَمُتْلِفُ مَالِ غَيْرِهِ مُعْتَدٍ وَاَللَّهُ تَعَالَى يَقُولُ: {فَمَنِ اعْتَدَى عَلَيْكُمْ فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اعْتَدَى عَلَيْكُمْ} [البقرة: ١٩٤] .

L17498 Those who opposed this cited as evidence what we reported through ʿIkrimah's chain: "The Prophet—may God's blessings and peace be upon him—shattered a jug containing alcoholic drink and tore the torches—which are the water skins—on the day of Khaybar." This is a mursal narration lacking a full chain of transmission and holds no authority.

وَاحْتَجَّ مَنْ خَالَفَ هَذَا بِمَا رُوِّينَاهُ مِنْ طَرِيقِ عِكْرِمَةَ: «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَسَرَ كُوزًا فِيهِ شَرَابٌ وَشَقَّ الْمَشَاعِلَ يَوْمَ خَيْبَرَ وَهِيَ الزِّقَاقُ» . وَهَذَا مُرْسَلٌ لَا حُجَّةَ فِيهِ.

L17499 And in a narration transmitted through Ibn Umar, he said: "The Messenger of Allah (peace be upon him) destroyed the wineskins of wine."

وَبِخَبَرٍ مِنْ طَرِيقِ ابْنِ عُمَرَ قَالَ: «شَقَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - زُقَاقَ الْخَمْرِ» .

[25] **Qur'an references (L17497):** Qur'an 2:194 (Al-Baqarah).

L17500 And a report transmitted through the chain of Abu Hurairah states that the Prophet (peace be upon him) split open the wineskins.

وَبِخَبَرٍ مِنْ طَرِيقِ أَبِي هُرَيْرَةَ: «أَنَّهُ - عَلَيْهِ السَّلَامُ - شَقَّ زُقَاقَ الْخَمْرِ» .

L17501 And with a narration via Jābir's chain of transmission that the Prophet—peace be upon him—poured out the wine and shattered its jars.

وَبِخَبَرٍ مِنْ طَرِيقِ جَابِرٍ «أَنَّهُ - عَلَيْهِ السَّلَامُ - أَرَاقَ الْخَمْرَ وَكَسَرَ جِرَارَهَا» .

L17502 And all of this: nothing from it is legally sound.

وَكُلُّ هَذَا لَا يَصِحُّ مِنْهُ شَيْءٌ:

L17503 As for the narration of Ibn ʿUmar: one of its chains of transmission includes Thābit ibn Yazīd al-Khawlānī—an unknown figure whose identity is undetermined.

أَمَّا خَبَرُ ابْنِ عُمَرَ -: فَأَحَدُ طُرُقِهِ فِيهَا ثَابِتُ بْنُ يَزِيدَ الْخَوْلَانِيُّ - وَهُوَ مَجْهُولٌ - لَا يُدْرَى مَنْ هُوَ.

L17504 The second: via the chain of Ibn Lahīʿah—rejected—from Abī Ṭuʿmah, who is Nusayr ibn Dhuʿlūq, deemed insignificant.

وَالثَّانِي: مِنْ طَرِيقِ ابْنِ لَهِيعَةَ - وَهُوَ هَالِكٌ - عَنْ أَبِي طُعْمَةَ وَهُوَ نُسَيْرُ بْنُ ذُعْلُوقٍ وَهُوَ لَا شَيْءَ.

L17505 The third [narration] is transmitted by ʿAbd al-Malik ibn Ḥabīb al-Andalusī—who is deviant—from Ṭalq, who is weak.

وَالثَّالِثُ: مِنْ رِوَايَةِ عَبْدِ الْمَلِكِ بْنِ حَبِيبٍ الْأَنْدَلُسِيِّ - وَهُوَ هَالِكٌ - عَنْ طَلْقٍ وَهُوَ ضَعِيفٌ.

L17506 As for the ḥadīth of Abū Hurayrah, it includes ʿUmar ibn Ṣahbān—he is weak; Al-Bukhārī and others declared him so—and another narrator whom he did not name.

وَأَمَّا حَدِيثُ أَبِي هُرَيْرَةَ: فَفِيهِ عُمَرُ بْنُ صَهْبَانَ - وَهُوَ ضَعِيفٌ ضَعَّفَهُ الْبُخَارِيُّ وَغَيْرُهُ - وَفِيهِ أَيْضًا آخَرُ لَمْ يُسَمِّ.

L17507 The narration of Jābir through the chain of Ibn Lahiʿah—who is rejected—thus nothing authentic exists in this chapter. We have mentioned the instruction of the Messenger of Allah—peace and blessings of Allah be upon him—regarding the vessels of the People of the Book in which they habitually cook pork and drink wine. The Messenger of Allah—peace and blessings be upon him and his family—acknowledged this and ordered their washing with water, then permitted eating and drinking in them. There is no proof except what is authentically established from him—peace be upon him.

وَحَدِيثُ جَابِرٍ مِنْ طَرِيقِ ابْنِ لَهِيعَةَ - وَهُوَ مُطَّرَحٌ - فَلَمْ يَصِحَّ فِي هَذَا الْبَابِ شَيْءٌ، وَقَدْ ذَكَرْنَا أَمْرَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي آنِيَةِ أَهْلِ الْكِتَابِ الَّتِي يَطْبُخُونَ فِيهَا لُحُومَ الْخَنَازِيرِ وَيَشْرَبُونَ فِيهَا الْخَمْرَ وَعَرَفَ ذَلِكَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - فَأَمَرَ بِغَسْلِهَا بِالْمَاءِ، ثُمَّ أَبَاحَ الْأَكْلَ فِيهَا وَالشُّرْبَ، وَلَا حُجَّةَ إلَّا فِيمَا صَحَّ عَنْهُ - عَلَيْهِ السَّلَامُ -.

[مَسْأَلَةٌ مَنْ أَرَادَ النَّوْمَ لَيْلًا]

L17508–17509 **A juristic issue concerning one who wants to sleep at night.**

L17510 Issue: It is incumbent upon whoever intends to sleep at night to tie his water-skin, cover his vessels—even if by placing a stick over them—and mention the name of Allah the Exalted upon doing so. He must extinguish the lamp and remove fire completely from his house unless compelled to retain it due to cold, illness, or rearing a child; in such cases, it is permissible for him not to extinguish what he requires from that. This is based on what we have been narrated through the chain of Al-Bukhari: Ishaq ibn Mansur narrated to us, Ruh ibn Ubadah narrated to us, Ibn Jurayj said: 'Ata' informed me that he heard Jabir ibn Abdullah saying: The Messenger of Allah—peace and blessings be upon him—said, "When night falls or you enter the evening, restrain your children, for the devils spread at that time. When a portion of the night has passed, release them, close the doors, and mention the name of Allah, for the devil cannot open a closed door. Tie your water-skins, mention the name of Allah over them, cover your vessels, and mention the name of Allah over them—even if by placing something over them—and extinguish your lamps."

مَسْأَلَةٌ: وَفُرِضَ عَلَى مَنْ أَرَادَ النَّوْمَ لَيْلًا أَنْ يُوكِيَ قِرْبَتَهُ، وَيُخَمِّرَ آنِيَتَهُ وَلَوْ بِعُودٍ يَعْرِضُهُ عَلَيْهَا، وَيَذْكُرُ اسْمَ اللَّهِ تَعَالَى عَلَى مَا فَعَلَ مِنْ ذَلِكَ. وَأَنْ يُطْفِئَ السِّرَاجَ، وَيُخْرِجَ النَّارَ مِنْ بَيْتِهِ جُمْلَةً إِلَّا أَنْ يُضْطَرَّ إِلَيْهَا لِبَرْدٍ أَوْ لِمَرَضٍ، أَوْ لِتَرْبِيَةِ طِفْلٍ، فَمُبَاحٌ لَهُ أَنْ لَا يُطْفِئَ مَا احْتَاجَ إِلَيْهِ مِنْ ذَلِكَ لِمَا رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ -: نَا إِسْحَاقُ بْنُ مَنْصُورٍ أَنَا رَوْحُ بْنُ عُبَادَةَ نَا ابْنُ جُرَيْجٍ قَالَ: أَخْبَرَنِي عَطَاءٌ أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يَقُولُ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِذَا كَانَ جُنْحُ اللَّيْلِ أَوْ أَمْسَيْتُمْ فَكُفُّوا صِبْيَانَكُمْ فَإِنَّ الشَّيَاطِينَ تَنْتَشِرُ حِينَئِذٍ فَإِذَا ذَهَبَ سَاعَةٌ مِنَ اللَّيْلِ فَخَلُّوهُمْ وَأَغْلِقُوا الْأَبْوَابَ وَاذْكُرُوا اسْمَ اللَّهِ فَإِنَّ الشَّيْطَانَ لَا يَفْتَحُ بَابًا مُغْلَقًا، وَأَوْكُوا قِرَبَكُمْ، وَاذْكُرُوا اسْمَ اللَّهِ عَلَيْهَا، وَخَمِّرُوا آنِيَتَكُمْ وَاذْكُرُوا اسْمَ اللَّهِ عَلَيْهَا وَلَوْ أَنْ تَعْرِضُوا عَلَيْهَا شَيْئًا وَأَطْفِئُوا مَصَابِيحَكُمْ» .

L17511 And through the chain of Abī Dāwūd: Aḥmad ibn Ḥanbal informed us, Yaḥyā (that is, Ibn Saʿīd al-Qaṭṭān) informed us from Ibn Jurayj, who said: ʿAṭāʾ informed me from Jābir from the Prophet—peace and blessings of Allah be upon him—and he transmitted it. In it is: "Extinguish your lamp and mention the name of Allah."

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا أَحْمَدُ بْنُ حَنْبَلٍ نَا يَحْيَى هُوَ ابْنُ سَعِيدٍ الْقَطَّانُ - عَنِ ابْنِ جُرَيْجٍ قَالَ أَخْبَرَنِي عَطَاءٌ عَنْ جَابِرٍ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَذَكَرَهُ. وَفِيهِ «وَأَطْفِئْ مِصْبَاحَكَ وَاذْكُرْ اسْمَ اللَّهِ» .

L17512 From the transmission route of Muslim from Abu Bakr ibn Abi Shaybah: Sufyan ibn Uyaynah narrated to us from al-Zuhri, from Salim ibn Abd Allah ibn Umar [from his father], from the Prophet—peace be upon him—who said: "Do not leave fire in your houses when you sleep." As for one compelled by necessity to do so, Allah the Exalted says: "He has detailed for you what He has forbidden to you, except what you are forced to" (Quran 6:119).[1]

وَمِنْ طَرِيقِ مُسْلِمٍ عَنْ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ [عَنْ أَبِيهِ] عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «لَا تَتْرُكُوا النَّارَ فِي بُيُوتِكُمْ حِينَ تَنَامُونَ» وَأَمَّا مَنْ اُضْطُرَّ إِلَى ذَلِكَ فَإِنَّ اللَّهَ تَعَالَى يَقُولُ: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلا مَا اضْطُرِرْتُمْ إِلَيْهِ} [الأنعام: ١١٩] .

[مَسْأَلَةُ الشُّرْبِ مِنْ فَمِ السِّقَاءِ]

L17513 **An issue: Drinking from the mouth of the waterskin.**

[1] **Qur'an references (L17512):** Qur'an 6:119 (Al-An'am).

L17514 1107 - Issue: It is not permissible to drink from the mouth of a water skin—due to the narration we have reported through Al-Bukhari's chain: Ali ibn Abdullah narrated from Sufyan ibn Uyaynah from Ayyub al-Sakhtiyani from Ikrimah from Abu Hurairah, who said: "The Messenger of Allah (peace be upon him) prohibited drinking from the mouth of a water skin or a water container."

١١٠٧ - مَسْأَلَةٌ: وَلَا يَحِلُّ الشُّرْبُ مِنْ فَمِ السِّقَاءِ -: لِمَا رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ نَا عَلِيُّ بْنُ عَبْدِ اللَّهِ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ نَا أَيُّوبُ هُوَ السِّخْتِيَانِيُّ أَنَا عِكْرِمَةُ نَا أَبُو هُرَيْرَةَ قَالَ: «نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ الشُّرْبِ مِنْ فَمِ الْقِرْبَةِ أَوْ السِّقَاءِ» .

L17515–17516 The prohibition of that has also been narrated with a connected, authentic chain via Abū Saʿīd al-Khudrī and Ibn ʿAbbās (raḍiya Allāhu ʿanhum).

وَرُوِيَ النَّهْيُ عَنْ ذَلِكَ أَيْضًا مُسْنَدًا صَحِيحًا مِنْ طَرِيقِ أَبِي سَعِيدٍ الْخُدْرِيِّ وَابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمْ -.

L17517 If it is said: It has been reported that the Prophet—peace and blessings of Allah be upon him—drank from the mouth of a water skin? We respond: There is no proof in any of these reports. One of them is transmitted through Al-Harith ibn Abi Usamah, who was abandoned, and it includes Al-Bara', son of the daughter of Anas, who is unknown. Another report is transmitted through Yazid ibn Yazid ibn Jariyah from Abd al-Rahman ibn Abi Amrah, whom I do not know. Another report is transmitted through an unnamed man.

فَإِنْ قِيلَ: قَدْ رُوِيَ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَدْ شَرِبَ مِنْ فَمِ قِرْبَةٍ؟ قُلْنَا: لَا حُجَّةَ فِي شَيْءٍ مِنْهُ؛ لِأَنَّ أَحَدَهَا مِنْ طَرِيقِ الْحَارِثِ بْنِ أَبِي أُسَامَةَ - وَقَدْ تُرِكَ - وَفِيهِ الْبَرَاءُ ابْنُ بِنْتِ أَنَسٍ - وَهُوَ مَجْهُولٌ - وَخَبَرٌ آخَرُ: مِنْ طَرِيقِ يَزِيدَ بْنِ يَزِيدَ بْنِ جَارِيَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَمْرَةَ وَلَا أَعْرِفُهُ. وَآخَرُ مِنْ طَرِيقِ رَجُلٍ لَمْ يُسَمَّ.

L17518 Then, if it were valid, it would conform to the established principle of the original ruling, and the prohibitions—without doubt—would arise when an abrogating ruling of that permissibility comes without doubt. It is impossible for the abrogated ruling to become the abrogating one without a clear explanation. Thus, the religion would have been left unexplained—God forbid such a thing—while he—peace be upon him—was commanded to provide clarification.

ثُمَّ لَوْ صَحَّتْ لَكَانَتْ مُوَافَقَةً لِمَعْهُودِ الْأَصْلِ، وَالنَّهْيُ بِلَا شَكٍّ إذَا وَرَدَ نَاسِخٌ لِتِلْكَ الْإِبَاحَةِ بِلَا شَكٍّ، وَمِنْ الْمُحَالِ أَنْ يَعُودَ الْمَنْسُوخُ نَاسِخًا وَلَا يَأْتِي بِذَلِكَ بَيَانٌ جَلِيٌّ، إذَنْ كَانَ يَكُونُ الدِّينُ غَيْرَ مُبَيَّنٍ، وَمَعَاذَ اللَّهِ مِنْ هَذَا، وَهُوَ - عَلَيْهِ السَّلَامُ - مَأْمُورٌ بِالْبَيَانِ.

L17519 If it is said: "It has been authentically reported from Ibn Umar that he drank from the mouth of a small vessel (idāwa)," we say: Yes, this is ḥasan (a sound narration), because he drank from an idāwa and not a water skin (qirba or siqā'), and success is from Allah, the Exalted.

فَإِنْ قِيلَ: قَدْ صَحَّ عَنْ ابْنِ عُمَرَ أَنَّهُ شَرِبَ مِنْ فَمِ إدَاوَةٍ. قُلْنَا: نَعَمْ، هَذَا حَسَنٌ؛ لِأَنَّهُ الْإِدَاوَةُ وَلَيْسَتْ قِرْبَةً وَلَا سِقَاءً - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17520 The jurisprudential issue of the act of drinking while standing.

[مَسْأَلَةُ الشُّرْبِ قَائِمًا]

L17521–17523 ١١٠٨ - مَسْأَلَةٌ: وَلَا يَحِلُّ الشُّرْبُ قَائِمًا، وَأَمَّا الْأَكْلُ قَائِمًا فَمُبَاحٌ -: لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمِ بْنِ الْحَجَّاجِ نَا هَدَّابُ بْنُ خَالِدٍ، وَقُتَيْبَةُ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَمُحَمَّدُ بْنُ الْمُثَنَّى، قَالَ هَدَّابٌ: نَا هَمَّامُ بْنُ يَحْيَى، وَقَالَ مُحَمَّدُ بْنُ الْمُثَنَّى: نَا عَبْدُ الْأَعْلَى نَا سَعِيدُ بْنُ أَبِي عَرُوبَةَ، وَقَالَ قُتَيْبَةُ وَابْنُ أَبِي شَيْبَةَ: نَا وَكِيعٌ عَنْ هِشَامٍ الدَّسْتُوَائِيِّ، ثُمَّ اتَّفَقَ هَمَّامٌ، وَهِشَامٌ، وَسَعِيدٌ، كُلُّهُمْ عَنْ قَتَادَةَ عَنْ أَنَسٍ: «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - نَهَى عَنْ الشُّرْبِ قَائِمًا» وَلَفْظُ هَدَّابٍ «زَجَرَ عَنْ الشُّرْبِ قَائِمًا» .

1108 - Issue: It is not permissible to drink while standing, but eating while standing is permissible. This ruling derives from the narration transmitted via the chain of Muslim ibn al-Ḥajjāj: Haddāb ibn Khālid, Quṭaybah, Abū Bakr ibn Abī Shaybah, and Muḥammad ibn al-Muthannā narrated. Haddāb narrated from Hammām ibn Yaḥyā; Muḥammad ibn al-Muthannā narrated from ʿAbd al-Aʿlā, from Saʿīd ibn Abī ʿArūbah; Quṭaybah and Ibn Abī Shaybah narrated from Wakīʿ, from Hishām al-Dastawā'ī. Then the chains of Hammām, Hishām, and Saʿīd converge, all narrating from Qatādah, from Anas: "That the Prophet..." Peace and blessings of Allah be upon him and his family—prohibited drinking while standing. The wording of Haddāb is "rebuked [people] against drinking while standing."

L17524 وَصَحَّ أَيْضًا مِنْ طَرِيقِ أَبِي سَعِيدٍ الْخُدْرِيِّ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَهُوَ قَوْلُ أَنَسٍ، وَأَبِي هُرَيْرَةَ، وَذَكَرَ لِابْنِ عُمَرَ قَوْلَ أَبِي هُرَيْرَةَ فَقَالَ: لَمْ أَسْمَعْ. فَإِنْ قِيلَ: قَدْ صَحَّ عَنْ عَلِيٍّ، وَابْنِ عَبَّاسٍ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - شَرِبَ قَائِمًا» قُلْنَا: نَعَمْ، وَالْأَصْلُ إبَاحَةُ الشُّرْبِ عَلَى كُلِّ حَالٍ مِنْ قِيَامٍ، وَقُعُودٍ، وَاتِّكَاءٍ، وَاضْطِجَاعٍ، فَلَمَّا صَحَّ نَهْيُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الشُّرْبِ قَائِمًا كَانَ ذَلِكَ بِلَا شَكٍّ نَاسِخًا لِلْإِبَاحَةِ الْمُتَقَدِّمَةِ، وَمُحَالٌ مَقْطُوعٌ أَنْ يَعُودَ الْمَنْسُوخُ نَاسِخًا، ثُمَّ لَا يُبَيِّنَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - ذَلِكَ، إذَا كُنَّا لَا نَدْرِي مَا يَجِبُ عَلَيْنَا مِمَّا لَا يَجِبُ، وَكَانَ يَكُونُ الدِّينُ غَيْرَ مَوْثُوقٍ بِهِ - وَمَعَاذَ اللَّهِ مِنْ هَذَا. وَأَقَلُّ مَا فِي هَذَا عَلَى أُصُولِ الْمُخَالِفِينَ أَنْ لَا يُتْرَكَ الْيَقِينُ لِلظُّنُونِ وَهُمْ عَلَى يَقِينٍ مِنْ نَسْخِ الْإِبَاحَةِ السَّالِفَةِ وَلَمْ يَأْتِ فِي الْأَكْلِ نَهْيٌ إلَّا عَنْ أَنَسٍ مِنْ قَوْلِهِ.

It has also been authentically established through the chain of Abu Sa'id al-Khudri from the Prophet - may Allah's peace and blessings be upon him - and this is the position of Anas and Abu Hurairah. When someone mentioned to Ibn Umar the statement of Abu Hurairah, he said: "I did not hear it." If it is argued: "Authentic reports exist from Ali and Ibn Abbas that the Prophet - may Allah's peace and blessings be upon him - drank while standing," we respond: Indeed, but the foundational principle is the permissibility of drinking in every state—standing, sitting, reclining, or lying down. When the Prophet's prohibition - may Allah's peace and blessings be upon him - against drinking while standing was established, this undoubtedly abrogated the earlier permissibility. It is conclusively impossible and definitively established that the abrogated ruling could become the abrogating one, while the Prophet - may Allah's peace and blessings be upon him - would fail to clarify this, leaving us ignorant of what is obligatory versus non-obligatory. This would render the religion untrustworthy - and we seek refuge in Allah from this! At the very least, according to the opponents' principles, certainty must not be abandoned for conjectures, given their own certainty regarding the abrogation of the prior permissibility. No prohibition concerning eating has been transmitted except from Anas in his own statement.

[مَسْأَلَةُ النَّفْخِ فِي الشُّرْبِ]

An issue of blowing in drinking

L17526 Issue 1109: It is prohibited to blow during drinking, and it is recommended

for the drinker to distance the vessel from his mouth three times, as narrated in the chain transmitted by Muslim: reported by Ibn Abī ʻUmar, reported by al-Thaqafī—who is ʻAbd al-Wahhāb ibn ʻAbd al-Majīd—from Ayyūb—who is al-Sikhtiyānī—from Yaḥyā ibn Abī Kathīr, from ʻAbd Allāh ibn Abī Qatādah, from his father: "The Prophet (peace be upon him) forbade breathing into the vessel."[2]

١١٠٩ - مَسْأَلَةٌ: وَلَا يَحِلُّ النَّفْخُ فِي الشُّرْبِ وَيُسْتَحَبُّ أَنْ يُبِينَ الشَّارِبُ الْإِنَاءَ عَنْ فِيهِ ثَلَاثًا لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا ابْنُ أَبِي عُمَرَ نَا الثَّقَفِيُّ هُوَ عَبْدُ الْوَهَّابِ بْنُ عَبْدِ الْمَجِيدِ عَنْ أَيُّوبَ هُوَ السِّخْتِيَانِيُّ - عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ: «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَهَى أَنْ يُتَنَفَّسَ فِي الْإِنَاءِ» .

L17527 It was also narrated by Shaybān ibn Farrukh from Yaḥyā from ʿAbdullāh ibn Abī Qatādah from his father as a musnad report. And through the chain of Aḥmad ibn Shuʿayb: Muḥammad ibn al-Muthannā from ʿAbd al-Aʿlā from Maʿmar from Yaḥyā ibn Abī Kathīr from ʿAbdullāh ibn Abī Qatādah from his father that the Prophet—peace and blessings of Allāh be upon him—prohibited blowing into a vessel.

وَرَوَاهُ أَيْضًا شَيْبَانُ بْنُ فَرُّوخَ عَنْ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ مُسْنَدًا وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا عَبْدُ الْأَعْلَى نَا مَعْمَرٌ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ نَهَى عَنْ النَّفْخِ فِي الْإِنَاءِ» .

L17528–17529 It was also transmitted by Abān ibn Yazīd al-ʿAṭṭār from Yaḥyā from ʿAbdullāh ibn Abī Qatādah from his father as a musnad narration with a complete chain of transmission.

وَرَوَاهُ أَيْضًا أَبَانُ بْنُ يَزِيدَ الْعَطَّارُ عَنْ يَحْيَى عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ مُسْنَدًا.

L17530 If it is said: Hisham al-Dastawā'ī narrated it from Yahya al-Dastawā'ī from 'Abdullah ibn Abi Qatadah from his father, I believe, from the Prophet, may God bless him and his family and grant him peace—we say: This is the narration of al-Harith ibn Abi Usāmah, and it was abandoned. Even if Hisham cast doubt on its chain, neither Ayyub nor Ma'mar did so, and both are above Hisham.

فَإِنْ قِيلَ -: قَدْ رَوَاهُ هِشَامٌ الدَّسْتُوَائِيُّ عَنْ يَحْيَى الدَّسْتُوَائِيِّ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي قَتَادَةَ عَنْ أَبِيهِ أَحْسَبُهُ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قُلْنَا: هَذِهِ رِوَايَةُ الْحَارِثِ بْنِ أَبِي أُسَامَةَ - وَقَدْ تُرِكَ - وَحَتَّى لَوْ شَكَّ هِشَامٌ فِي إسْنَادِهِ فَلَمْ يَشُكَّ أَيُّوبُ وَلَا مَعْمَرٌ، وَكِلَاهُمَا فَوْقَ هِشَامٍ.

L17531 Through Al-Bukhārī's chain: Abū Nuʿaym and Abū ʻĀṣim narrated to us, saying: ʻAzrah ibn Thābit al-Anṣārī narrated to us, Thumāmah ibn ʻAbdullāh ibn Anas narrated to us, saying: "Anas would take breaths while drinking two or three times, and Anas narrated that the Prophet—peace and blessings of Allah be upon him—would take breaths three times."[3]

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا أَبُو نُعَيْمٍ، وَأَبُو عَاصِمٍ قَالَا: نَا عَزْرَةُ بْنُ ثَابِتٍ الْأَنْصَارِيُّ نَا ثُمَامَةُ بْنُ عَبْدِ اللَّهِ بْنِ أَنَسٍ قَالَ: كَانَ أَنَسٌ يَتَنَفَّسُ فِي الْإِنَاءِ مَرَّتَيْنِ أَوْ ثَلَاثًا وَزَعَمَ أَنَسٌ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يَتَنَفَّسُ ثَلَاثًا»

[2] **Hadith references (L17526):** Sahih Muslim 267d; Jami at-Tirmidhi 1888; Sahih Muslim 267c.

[3] **Hadith references (L17531):** Sahih al-Bukhari 5631.

L17532 Abū Muḥammad said: The prohibited breathing is blowing into it, as clarified by Maʿmar—and the mustaḥabb breathing is to exhale away from his mouth, for we have found no other meaning applicable to it besides this.

قَالَ أَبُو مُحَمَّد: التَّنَفُّسُ الْمَنْهِيُّ عَنْهُ هُوَ النَّفْخُ فِيهِ كَمَا بَيَّنَهُ مَعْمَرٌ - وَالتَّنَفُّسُ الْمُسْتَحَبُّ هُوَ أَنْ يَتَنَفَّسَ بِإِبَانَتِهِ عَنْ فِيهِ، إِذْ لَمْ نَجِدْ مَعْنًى يُحْمَلُ عَلَيْهِ سِوَاهُ.

L17533 **Issue: The ruling of one who drinks with his mouth from a river, a spring, or a water channel.**

[مَسْأَلَةٌ حُكْم مِنْ شَرِبَ بِفَمِهِ مِنْ النَّهْرِ أَوْ الْعَيْنِ أَوْ السَّاقِيَةِ]

L17534 Issue 1110: Al-karʿ is lawful, defined as drinking with one's mouth directly from a river, spring, or flowing watercourse, since no authentic prohibition has been established regarding it.

١١١٠ - مَسْأَلَةٌ: وَالْكَرْعُ مُبَاحٌ، وَهُوَ أَنْ يَشْرَبَ بِفَمِهِ مِنْ النَّهْرِ، أَوْ الْعَيْنِ، أَوْ السَّاقِيَةِ، إِذْ لَمْ يَصِحَّ فِيهِ نَهْيٌ.

L17535 It has been narrated to us via al-Bukhārī's chain from Fulayḥ, from Saʿīd ibn al-Ḥārith, from Jābir, that the Prophet—peace be upon him—said to an Anṣārī man while in his orchard: "If you have water that stayed overnight in a water-skin, otherwise we will drink by mouth directly from the source."

رُوِّينَا مِنْ طَرِيقِ الْبُخَارِيِّ عَنْ فُلَيْحٍ عَنْ سَعِيدِ بْنِ الْحَارِثِ عَنْ جَابِرٍ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: أَنَّهُ قَالَ لِبَعْضِ الْأَنْصَارِ وَهُوَ فِي حَائِطِهِ: إنْ كَانَ عِنْدَكَ مَاءٌ بَاتَ فِي شَنَّةٍ وَإِلَّا كَرَعْنَا» .

L17536 It has been narrated to us through the chain of Ibn Abi Shaybah, from Muhammad ibn Fudayl, from Layth ibn Abi Sulaym, from Sa'id ibn 'Amir, from Ibn 'Umar, who said: The Messenger of Allah—peace and blessings be upon him—said: "Do not drink by putting your mouth to the vessel, but rather wash your hands and drink from your hands, for there is no vessel purer than the hand."

رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا مُحَمَّدُ بْنُ فُضَيْلٍ عَنْ لَيْثِ بْنِ أَبِي سُلَيْمٍ عَنْ سَعِيدِ بْنِ عَامِرٍ عَنْ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «لَا تَكْرَعُوا، وَلَكِنْ اغْسِلُوا أَيْدِيَكُمْ فَاشْرَبُوا فِيهَا، فَإِنَّهُ لَيْسَ مِنْ إنَاءٍ أَطْيَبَ مِنْ الْيَدِ» .

L17537–17539 Abu Muhammad said: Fulayḥ and Layth are closely similar. When neither a prohibition nor a command is established, all matters are permissible, according to his authenticated statement (peace be upon him): "Leave me [to judge] what I have left unaddressed for you. When I command you to do something, do from it what you can." "If I command you to do something, do it as much as you are able, and if I forbid you from something, abandon it." Thus, there is no obligation to do except what he - peace be upon him - commanded, and no obligation to refrain except from what he - peace be upon him - prohibited. What lies between them is neither obligatory nor prohibited; it is permissible.

قَالَ أَبُو مُحَمَّد: فُلَيْحٌ، وَلَيْثٌ مُتَقَارِبَانِ، فَإِذَا لَمْ يَصِحَّ نَهْيٌ وَلَا أَمْرٌ، فَكُلُّ شَيْءٍ مُبَاحٌ؛ لِقَوْلِهِ - عَلَيْهِ السَّلَامُ - الثَّابِتِ «ذَرُونِي مَا تَرَكْتُكُمْ فَإِذَا أَمَرْتُكُمْ بِشَيْءٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ، وَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاتْرُكُوهُ» فَلَا وَاجِبَ أَنْ يُؤْتَى إلَّا مَا أُمِرَ بِهِ - عَلَيْهِ السَّلَامُ -، وَلَا وَاجِبَ أَنْ يُتْرَكَ إلَّا مَا نُهِيَ عَنْهُ - عَلَيْهِ السَّلَامُ - وَمَا بَيْنَهُمَا فَلَا وَاجِبَ وَلَا مُحَرَّمَ فَهُوَ مُبَاحٌ.

L17540 **Issue: Drinking from a crack in the cup.**

[مَسْأَلَةٌ الشُّرْبُ مِنْ ثُلْمَةِ الْقَدَحِ]

L17541 Issue 1111: Drinking from the chipped part of a cup is permissible, as no authentic prohibition against it has been established. The prohibition transmitted to us comes through the chain of Ibn Wahb from Qurrah ibn ʿAbd al-Raḥmān from al-Zuhrī from ʿUbayd Allāh ibn ʿAbd Allāh from Abū Saʿīd as a connected report (musnad). This Qurrah is Ibn ʿAbd al-Raḥmān ibn Ḥayyūl—and he is a discarded narrator. He is not Qurrah ibn Khālid, who narrates from Ibn Sīrīn; the latter is trustworthy and dependable. Another chain reported by Ibn Abī Shaybah states: Ḥusayn ibn ʿAlī al-Juʿfī narrated to us from Zāʾidah from Ibrāhīm ibn Muhājir from Mujāhid from Ibn ʿAbbās and Ibn ʿUmar that they deemed it reprehensible to drink from the chipped part of a cup or from near its rim. No opposing view is known from the Companions, yet these [narrators] have opposed them.

١١١١ - مَسْأَلَةٌ: وَالشُّرْبُ مِنْ ثُلْمَةِ الْقَدَحِ مُبَاحٌ؛ لِأَنَّهُ لَمْ يَصِحَّ فِيهَا نَهْيٌ، إنَّمَا رُوِّينَا النَّهْيَ عَنْ ذَلِكَ مِنْ طَرِيقِ ابْنِ وَهْبٍ عَنْ قُرَّةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ الزُّهْرِيِّ عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ عَنْ أَبِي سَعِيدٍ مُسْنَدًا - وَقُرَّةُ هَذَا هُوَ ابْنُ عَبْدِ الرَّحْمَنِ بْنِ حَيْوِيلَ - وَهُوَ سَاقِطٌ - وَلَيْسَ هُوَ قُرَّةُ بْنُ خَالِدٍ الَّذِي يَرْوِي عَنْ ابْنِ سِيرِينَ، ذَلِكَ ثِقَةٌ مَأْمُونٌ. وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا حُسَيْنُ بْنُ عَلِيٍّ الْجُعْفِيُّ عَنْ زَائِدَةَ عَنْ إبْرَاهِيمَ بْنِ مُهَاجِرٍ عَنْ مُجَاهِدٍ عَنْ ابْنِ عَبَّاسٍ، وَابْنِ عُمَرَ: أَنَّهُمَا كَرِهَا أَنْ يُشْرَبَ مِنْ ثُلْمَةِ الْقَدَحِ، أَوْ مِنْ عِنْدِ أُذُنِهِ، وَلَا يُعْرَفُ لَهُمَا مُخَالِفٌ مِنْ الصَّحَابَةِ، وَقَدْ خَالَفَهُمَا هَؤُلَاءِ.

A legal issue: Whoever drinks should pass it to the one on their right, then the right one.

[مَسْأَلَةٌ مَنْ شَرِبَ فَلْيُنَاوِلْ الْأَيْمَنَ مِنْهُ فَالْأَيْمَنَ]

L17542

L17543 1112: Issue

١١١٢ - مَسْأَلَةٌ:

L17544 Whoever drinks should offer it to the one on his right, then again to the one on his right—this is obligatory regardless of who the recipient may be. It is impermissible to offer it to anyone other than the one on the right unless permitted by him. Whoever does not wish to offer it to anyone has the right to refrain.

وَمَنْ شَرِبَ فَلْيُنَاوِلْ الْأَيْمَنَ مِنْهُ فَالْأَيْمَنَ وَلَا بُدَّ كَائِنًا مَنْ كَانَ، وَلَا يَجُوزُ مُنَاوَلَةُ غَيْرِ الْأَيْمَنِ إلَّا بِإِذْنِ الْأَيْمَنِ، وَمَنْ لَمْ يُرِدْ أَنْ يُنَاوِلَ أَحَدًا فَلَهُ ذَلِكَ.

L17545 If there is a group present with him, and they are all before him, behind his back, or to his left, he must necessarily hand it to the eldest then the eldest—as we have narrated through Muslim's chain: Zuhayr ibn Ḥarb narrated from Sufyān ibn ʿUyaynah from al-Zuhrī from Anas that the Messenger of Allah—peace and blessings be upon him—entered their home. He said: "We milked for him from a household sheep, and we mixed it for him with water from a well in the house. The Messenger of Allah—peace and blessings be upon him—drank, while Abū Bakr was on his left. ʿUmar said to him: 'O Messenger of Allah, give it to Abū Bakr!' The Messenger of Allah—peace and blessings be upon him—gave it to a Bedouin on his right and said—peace be upon him: 'The one on the right then the one on the right.'"

وَإِنْ كَانَ بِحَضْرَتِهِ جَمَاعَةٌ فَإِنْ كَانُوا كُلُّهُمْ أَمَامَهُ أَوْ خَلْفَ ظَهْرِهِ أَوْ عَنْ يَسَارِهِ: فَلْيُنَاوِلْ الْأَكْبَرَ فَالْأَكْبَرَ وَلَا بُدَّ -: لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا زُهَيْرُ بْنُ حَرْبٍ نَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ الزُّهْرِيِّ «عَنْ أَنَسٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - دَخَلَ دَارَهُمْ، قَالَ: فَحَلَبْنَا لَهُ مِنْ شَاةٍ دَاجِنٍ وَشُيِّبَ لَهُ مِنْ بِئْرٍ فِي الدَّارِ فَشَرِبَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَبُو بَكْرٍ عَنْ شِمَالِهِ، فَقَالَ لَهُ عُمَرُ: يَا رَسُولَ اللَّهِ أَعْطِهِ أَبَا بَكْرٍ فَأَعْطَاهُ

رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَعْرَابِيًّا عَنْ يَمِينِهِ، وَقَالَ - عَلَيْهِ السَّلَامُ -: الْأَيْمَنَ فَالْأَيْمَنَ» .

L17546 From him [the preceding narrator], through Muslim: ‘Abdullāh ibn Maslamah ibn Qa‘nab narrated to us; Sulaymān ibn Bilāl narrated to us from ‘Abdullāh ibn ‘Abd al-Raḥmān ibn Ma‘mar ibn Ḥazm ibn Abī Ṭuwālah al-Anṣārī that he heard Anas ibn Mālik narrating—and he mentioned this narration, within which: “The Messenger of Allāh (peace and blessings be upon him) gave to the Bedouin, bypassing Abū Bakr and ‘Umar, and said (peace and blessings be upon him): ‘Those on the right, those on the right, those on the right.’ Anas said: ‘This is a Sunnah, this is a Sunnah, this is a Sunnah.’”

وَبِهِ إِلَى مُسْلِمٍ نَا عَبْدُ اللَّهِ بْنُ مَسْلَمَةَ بْنِ قَعْنَبٍ نَا سُلَيْمَانُ بْنُ بِلَالٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ مَعْمَرِ بْنِ حَزْمِ بْنِ أَبِي طُوَالَةَ الْأَنْصَارِيِّ أَنَّهُ سَمِعَ أَنَسَ بْنَ مَالِكٍ يُحَدِّثُ فَذَكَرَ هَذَا الْخَبَرَ - وَفِيهِ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَاوَلَ الْأَعْرَابِيَّ، وَتَرَكَ أَبَا بَكْرٍ وَعُمَرَ، وَقَالَ - عَلَيْهِ السَّلَامُ -: الْأَيْمَنُونَ الْأَيْمَنُونَ الْأَيْمَنُونَ، قَالَ أَنَسٌ: فَهِيَ سُنَّةٌ فَهِيَ سُنَّةٌ فَهِيَ سُنَّةٌ» .

L17547–17548 From the narration of Malik, from Abu Hazim, from Sahl ibn Sa‘d al-Sa‘idi: “The Messenger of Allah (peace and blessings of Allah be upon him) was brought a drink, and he drank from it. On his right was a boy, and on his left were elders. He said to the boy, ‘Do you permit me to give these elders?’ The boy replied, ‘No, by Allah, O Messenger of Allah! I would not prefer anyone over my share from you.’ Then the Messenger of Allah (peace and blessings of Allah be upon him) placed it in his hand.”

وَمِنْ طَرِيقِ مَالِكٍ عَنْ أَبِي حَازِمٍ عَنْ سَهْلِ بْنِ سَعْدٍ السَّاعِدِيِّ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أُتِيَ بِشَرَابٍ فَشَرِبَ مِنْهُ وَعَنْ يَمِينِهِ غُلَامٌ وَعَنْ يَسَارِهِ الْأَشْيَاخُ فَقَالَ لِلْغُلَامِ: أَتَأْذَنُ لِي أَنْ أُعْطِيَ هَؤُلَاءِ الْأَشْيَاخَ فَقَالَ الْغُلَامُ: لَا وَاَللَّهِ يَا رَسُولَ اللَّهِ لَا أُوثِرُ بِنَصِيبِي مِنْكَ أَحَدًا قَالَ فَتَلَّهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي يَدِهِ» .

L17549 As for serving the eldest, the eldest should be served if there is no one to his right, based on the statement of the Messenger of Allah (peace and blessings be upon him) in the ḥadīth of Muḥayyiṣah and Ḥuwayyiṣah: “Honor the eldest.” This is a general ruling from which no exceptions are permitted unless supported by an authentic textual ruling, such as what we mentioned regarding the serving of drinks.

وَأَمَّا مُنَاوَلَةُ الْأَكْبَرِ فَالْأَكْبَرِ إِذَا لَمْ يَكُنْ عَنْ يَمِينِهِ أَحَدٌ فَلِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي حَدِيثِ مُحَيِّصَةَ، وَحُوَيِّصَةَ «كَبِّرْ الْكُبْرَ» فَهَذَا عُمُومٌ لَا يَجُوزُ أَنْ يَخْرُجَ مِنْهُ إلَّا مَا اسْتَثْنَاهُ نَصٌّ صَحِيحٌ كَالَّذِي ذَكَرْنَا فِي مُنَاوَلَةِ الشَّرَابِ.

L17550 From the chain of transmission of Al-Bukhari: Malik ibn Isma‘il narrated to us, Abdul Aziz ibn Abi Salama narrated to us, Abu al-Nadr—who is Salim, the client of Umar ibn Ubayd Allah ibn Ubayd Allah—narrated to us from Umayr, the client of Ibn Abbas, from Umm al-Fadl bint al-Harith, that she sent a cup of milk to the Messenger of Allah, peace and blessings be upon him and his family, while he was standing on the evening of Arafah. He took it with his hand and drank it. He drank this in the presence of the people and

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا مَالِكُ بْنُ إِسْمَاعِيلَ نَا عَبْدُ الْعَزِيزِ بْنُ أَبِي سَلَمَةَ نَا أَبُو النَّضْرِ هُوَ سَالِمٌ مَوْلَى عُمَرَ بْنِ عُبَيْدِ اللَّهِ بْنِ عُبَيْدِ اللَّهِ عَنْ عُمَيْرٍ مَوْلَى ابْنِ عَبَّاسٍ «عَنْ أُمِّ الْفَضْلِ بِنْتِ الْحَارِثِ أَنَّهَا أَرْسَلَتْ إِلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِقَدَحِ لَبَنٍ وَهُوَ

did not offer it to anyone. And he, peace be upon him, ate in the presence of his companions.

وَاقِفٌ عَشِيَّةَ عَرَفَةَ فَأَخَذَهُ بِيَدِهِ فَشَرِبَهُ» فَهَذَا الشَّرَابُ بِحَضْرَةِ النَّاسِ وَلَمْ يُنَاوِلْ أَحَدًا - وَقَدْ أَكَلَ - عَلَيْهِ السَّلَامُ - بِحَضْرَةِ أَصْحَابِهِ.

L17551 And through the chain of Sahl ibn Sa'd, he mentioned the hadith concerning the wedding of Abu Usaid, which includes: "Indeed, the wife of Abu Usaid served the Messenger of Allah (may the peace and blessings of Allah be upon him and his family) nabidh that she had reserved exclusively for him."

وَمِنْ طَرِيقِ سَهْلِ بْنِ سَعْدٍ وَذَكَرَ حَدِيثَ عُرْسِ أَبِي أُسَيْدَ وَفِيهِ «أَنَّ امْرَأَةَ أَبِي أُسَيْدَ سَقَتْ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - نَبِيذًا تَخُصُّهُ بِهِ» .

L17552 **An issue: the water bearer of the group is their last.**

[مَسْأَلَةُ سَاقِي الْقَوْمِ آخِرُهُمْ]

L17553 Issue 1113: The water server for a group should drink last, according to what we have narrated through Ibn Abī Shaybah: Shababah ibn Sawwār informed us, from Sulaymān ibn al-Mughīrah, from Thābit, who is al-Bunānī, from ʿAbdullāh ibn Rabāḥ, from Abū Qatādah, from the Prophet (peace and blessings be upon him and his family), who said: "The one who serves drinks to the group should drink last."

١١١٣ - مَسْأَلَةٌ: وَسَاقِي الْقَوْمِ آخِرُهُمْ شُرْبًا لِمَا رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نَا شَبَابَةُ بْنُ سَوَّارٍ عَنْ سُلَيْمَانَ بْنِ الْمُغِيرَةِ عَنْ ثَابِتٍ هُوَ الْبُنَانِيُّ - عَنْ عَبْدِ اللَّهِ بْنِ رَبَاحٍ عَنْ أَبِي قَتَادَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ «سَاقِي الْقَوْمِ آخِرُهُمْ شُرْبًا» .



AL-MUHALLA

كِتَابُ الْعَقِيقَةِ

The Book of Aqiqah

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

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[كِتَابُ الْعَقِيقَةِ] [مَسْأَلَةٌ الْعَقِيقَة فَرْضٌ وَاجِبٌ]

١١١٤ - مَسْأَلَةٌ: الْعَقِيقَةُ فَرْضٌ وَاجِبٌ يُجْبَرُ الْإِنْسَانُ عَلَيْهَا إذَا فَضَلَ لَهُ عَنْ قُوتِهِ مِقْدَارُهَا. وَهُوَ أَنْ يَذْبَحَ عَنْ كُلِّ مَوْلُودٍ يُولَدُ لَهُ حَيًّا أَوْ مَيِّتًا بَعْدَ أَنْ يَكُونَ يَقَعُ عَلَيْهِ اسْمُ غُلَامٍ أَوْ اسْمُ جَارِيَةٍ. إنْ كَانَ ذَكَرًا فَشَاتَانِ وَإِنْ كَانَ أُنْثَى فَشَاةٌ وَاحِدَةٌ.

يَذْبَحُ كُلَّ ذَلِكَ فِي الْيَوْمِ السَّابِعِ مِنْ الْوِلَادَةِ وَلَا تُجْزِئُ قَبْلَ الْيَوْمِ السَّابِعِ أَصْلًا - فَإِنْ لَمْ يَذْبَحْ فِي الْيَوْمِ السَّابِعِ ذَبَحَ بَعْدَ ذَلِكَ مَتَى أَمْكَنَ فَرْضًا.

وَيُؤْكَلُ مِنْهَا وَيُهْدَى وَيُتَصَدَّقُ، هَذَا كُلُّهُ مُبَاحٌ لَا فَرْضٌ.

وَيُعَدُّ فِي الْأَيَّامِ السَّبْعَةِ الَّتِي ذَكَرْنَا يَوْمُ الْوِلَادَةِ وَلَوْ لَمْ يَبْقَ مِنْهُ إلَّا يَسِيرٌ.

وَيَحْلِقُ رَأْسَهُ فِي الْيَوْمِ السَّابِعِ، وَلَا بَأْسَ بِأَنْ يَمَسَّ بِشَيْءٍ مِنْ دَمِ الْعَقِيقَةِ، وَلَا بَأْسَ بِكَسْرِ عِظَامِهَا. وَلَا يُجْزِئُ فِي الْعَقِيقَةِ إلَّا مَا يَقَعُ عَلَيْهِ اسْمُ شَاةٍ - إمَّا مِنْ الضَّأْنِ، وَإِمَّا مِنْ الْمَاعِزِ فَقَطْ - وَلَا يُجْزِئُ فِي ذَلِكَ مِنْ غَيْرِ مَا ذَكَرْنَا لَا مِنْ الْإِبِلِ وَلَا مِنْ الْبَقَرِ الْإِنْسِيَّةِ، وَلَا مِنْ غَيْرِ ذَلِكَ.

وَلَا تُجْزِئُ فِي ذَلِكَ جَذَعَةٌ أَصْلًا، وَلَا يُجْزِئُ مَا دُونَهَا مِمَّا لَا يَقَعُ عَلَيْهِ اسْمُ شَاةٍ.

وَيُجْزَى الذَّكَرُ وَالْأُنْثَى مِنْ كُلِّ ذَلِكَ؛ وَيُجْزِئُ الْمَعِيبُ سَوَاءٌ كَانَ مِمَّا يَجُوزُ فِي الْأَضَاحِيِّ أَوْ كَانَ مِمَّا لَا يَجُوزُ فِيهَا، وَالسَّالِمُ أَفْضَلُ.

وَيُسَمَّى الْمَوْلُودُ يَوْمَ وِلَادَتِهِ، فَإِنْ أُخِّرَتْ تَسْمِيَتُهُ إلَى الْيَوْمِ السَّابِعِ فَحَسَنٌ.

وَيُسْتَحَبُّ أَنْ يَطْعَمَ أَوَّلَ وِلَادَتِهِ التَّمْرَ مَمْضُوغًا وَلَيْسَ فَرْضًا.

[The Book of the Aqiqah] [Issue: The Aqiqah is an obligatory and prescribed duty.]

Issue 1114: The ʻAqīqah is a compulsory obligation that must be enforced upon a person when they possess surplus provisions beyond their basic sustenance. It requires slaughtering for every child born to them - whether alive or deceased, once the child is designated as a boy or a girl - two sheep if the child is male and one sheep if the child is female.

He must sacrifice all those animals on the seventh day from the child's birth; it is not valid at all before the seventh day. If he does not sacrifice on the seventh day, he must sacrifice after that as soon as possible.

From the sacrifice, one may eat, gift it, or give it as charity; all of this is permissible, not obligatory.

And the day of childbirth is counted during the seven days previously mentioned, even if only a small portion of it remains.

He shaves his head on the seventh day, and there is no harm in touching some of the blood of the ʻaqīqah and breaking its bones. Only what is called a sheep suffices for the ʻaqīqah—either from sheep or from goats exclusively—and nothing else is valid for this purpose: neither camels, nor human-raised cattle, nor from anything other than these.

A young female sheep (jadha'ah) does not suffice for that purpose at all, nor does anything younger than it that cannot be classified as a sheep.

Both male and female animals are valid for all these cases. A defective animal suffices whether it is of the type permitted for sacrifices or not, and a sound animal is preferable.

The newborn is named on the day of their birth. If the naming is delayed until the seventh day, it is good.

It is recommended to feed the newborn chewed dates immediately after birth, but it is not obligatory.

L17566 The free person and the slave are equal in all that we have mentioned, and the believer and the disbeliever are likewise.

وَالْحُرُّ، وَالْعَبْدُ فِي كُلِّ مَا ذَكَرْنَا سَوَاءٌ، وَالْمُؤْمِنُ، وَالْكَافِرُ كَذَلِكَ.

L17567 The ʻaqīqah is charged to the father's wealth or the mother's wealth if the child has no father, or if the newborn has no wealth. Then if the newborn has wealth, it is charged to his wealth.

وَهِيَ فِي مَالِ الْأَبِ أَوْ الْأُمِّ إِنْ لَمْ يَكُنْ لَهُ أَبٌ، أَوْ لَمْ يَكُنْ لِلْمَوْلُودِ مَالٌ، فَإِنْ كَانَ لَهُ مَالٌ فَهِيَ فِي مَالِهِ.

L17568 If he dies before the seventh day, an ʻaqīqah must be performed for him as we have mentioned - it is necessary, based on what we narrated through the chain of Aḥmad ibn Shuʿayb: Muḥammad ibn al-Muthannā from ʿAffān ibn Muslim from Ḥammād ibn Salamah from Ayyūb al-Sikhtiyānī, Ḥabīb ibn al-Shahīd, Yūnus ibn ʿUbayd, and Qatādah, all transmitting from Muḥammad ibn Sīrīn from Salmān ibn ʿĀmir al-Ḍabbī, that the Messenger of Allah (peace be upon him) said: "For the child there is an ʻaqīqah: sacrifice an animal on his behalf, and remove harm from him." We also narrated this through the chain of al-Bukhārī and others via Ḥammād ibn Zayd and Jarīr ibn Ḥāzim, both transmitting from Ayyūp from Ibn Sīrīn from Salmān ibn ʿĀmir from the Prophet (peace be upon him) in similar wording.[1]

وَإِنْ مَاتَ قَبْلَ السَّابِعِ عُقَّ عَنْهُ كَمَا ذَكَرْنَا وَلَا بُدَّ - لِمَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا مُحَمَّدُ بْنُ الْمُثَنَّى نَا عَفَّانَ بْنُ مُسْلِمٍ نَا حَمَّادُ بْنُ سَلَمَةَ أَنَا أَيُّوبُ هُوَ السِّخْتِيَانِيُّ - وَحَبِيبٌ هُوَ ابْنُ الشَّهِيدِ - وَيُونُسُ هُوَ ابْنُ عُبَيْدٍ - وَقَتَادَةَ كُلُّهُمْ عَنْ مُحَمَّدِ بْنِ سِيرِينَ عَنْ سَلْمَانَ بْنِ عَامِرٍ الضَّبِّيِّ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «فِي الْغُلَامِ عَقِيقَةٌ فَأَهْرِيقُوا عَنْهُ دَمًا، وَأَمِيطُوا عَنْهُ الْأَذَى» . وَرُوِّيناهُ أَيْضًا مِنْ طَرِيقِ الْبُخَارِيِّ وَغَيْرِهِ إِلَى حَمَّادِ بْنِ زَيْدٍ، وَجَرِيرِ بْنِ حَازِمٍ، كِلَاهُمَا عَنْ أَيُّوبَ عَنْ ابْنِ سِيرِينَ عَنْ سَلْمَانَ بْنِ عَامِرٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِنَحْوِهِ.

L17569 And through the chain of Rabāb, from Ibn Salmān ibn ʿĀmir, from the Prophet (peace and blessings of Allah be upon him), with a similar wording.

وَمِنْ طَرِيقِ الرَّبَابِ عَنْ ابْنِ سَلْمَانَ بْنِ عَامِرٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِنَحْوِهِ.

L17570 Through the mentioned chain of transmission from Aḥmad ibn Shuʿayb, from Aḥmad ibn Sulaymān, from ʿAffān, from Ḥammād ibn Salamah, from Qays ibn Saʿd, from Ṭāwūs and Mujāhid—who narrated from Umm Kurz al-Khuzāʿiyyah—that the Messenger of Allāh, may the peace and blessings of Allāh be upon him, said: "Two sheep of equal age are required for a male child, and one sheep is required for a female child."

وَبِالسَّنَدِ الْمَذْكُورِ إِلَى أَحْمَدَ بْنِ شُعَيْبٍ نَا أَحْمَدُ بْنُ سُلَيْمَانَ نَا عَفَّانَ نَا حَمَّادُ بْنُ سَلَمَةَ عَنْ قَيْسِ بْنِ سَعْدٍ عَنْ طَاوُسٍ، وَمُجَاهِدٍ عَنْ أُمِّ كُرْزٍ الْخُزَاعِيَّةِ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «عَنْ الْغُلَامِ شَاتَانِ مُكَافَأَتَانِ وَعَنْ الْجَارِيَةِ شَاةٌ» .

L17571 Hummam narrated to us, Abbas ibn Asbagh narrated to us, Muhammad ibn Abd al-Malik ibn Ayman narrated to us, Muhammad ibn Isma'il al-Tirmidhi narrated to us, al-Humaydi narrated to us, Sufyan ibn Uyaynah narrated to us, Amr ibn Dinar narrated to us, Ata ibn Abi Rabah narrated to us, that Habibah bint Maysarah al-Fihriyyah—her client from above—informed him

نَا حُمَامٌ نَا عَبَّاسُ بْنُ أَصْبَغَ نَا مُحَمَّدُ بْنُ عَبْدِ الْمَلِكِ بْنُ أَيْمَنَ نَا مُحَمَّدُ بْنُ إِسْمَاعِيلَ التِّرْمِذِيُّ نَا الْحُمَيْدِيُّ نَا سُفْيَانُ بْنُ عُيَيْنَةَ نَا عَمْرُو بْنُ دِينَارٍ أَنَا عَطَاءُ بْنُ أَبِي رَبَاحٍ أَنَّ حَبِيبَةَ بِنْتَ مَيْسَرَةَ الْفِهْرِيَّةَ مَوْلَاتُهُ مِنْ فَوْقُ أَخْبَرَتْهُ أَنَّهَا سَمِعَتْ أُمَّ كُرْزٍ الْخُزَاعِيَّةَ تَقُولُ سَمِعْت

[1] **Hadith references (L17568):** Sunan an-Nasai 4214.

that she heard Umm Kurz al-Khuza'iyyah say: "I heard the Messenger of Allah—peace and blessings be upon him—say regarding the Aqiqah: For a boy, two equivalent sheep, and for a girl, one sheep."

«رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُ فِي الْعَقِيقَةِ: عَنْ الْغُلَامِ شَاتَانِ مُكَافَأَتَانِ، وَعَنْ الْجَارِيَةِ شَاةٌ»

L17572 'Aṭā' interpreted the two compensations as being the two equivalents.

فَسَّرَ عَطَاءٌ الْمُكَافَأَتَانِ بِأَنَّهُمَا الْمِثْلَانِ.

L17573 Ahmad ibn Hanbal interpreted them as the two proximate entities or the two equivalent entities.

وَفَسَّرَهُ أَحْمَدُ بْنُ حَنْبَلٍ أَنَّهُمَا الْمُتَقَارِبَتَانِ أَوْ الْمُتَسَاوِيَتَانِ.

L17574 And through the chain of Sufyan ibn 'Uyaynah from 'Ubayd Allah ibn Abi Yazid from his father from Siba' ibn Thabit from Umm Kurz, she said: I heard the Messenger of Allah (peace and blessings be upon him) say: "Two goats are due for a boy and one for a girl. It does not harm you whether they are male or female."

وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ عُبَيْدِ اللَّهِ بْنِ أَبِي يَزِيدَ عَنْ أَبِيهِ عَنْ سِبَاعِ بْنِ ثَابِتٍ عَنْ أُمِّ كُرْزٍ قَالَتْ: سَمِعْت رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - يَقُولُ: «عَنْ الْغُلَامِ شَاتَانِ وَعَنْ الْجَارِيَةِ شَاةٌ لَا يَضُرُّكُمْ ذُكْرَانًا كُنَّ أَوْ إنَاثًا» .

L17575–17577 Through the narration of Aḥmad ibn Shuʿayb: I am ʿAmr ibn ʿAlī, Yazīd ibn Zurayʿ informed us from... From Sa'id ibn Abi 'Arubah, from Qatadah, from Al-Hasan, from Samurah ibn Jundub, from the Messenger of Allah - peace be upon him - who said: "Every newborn is pledged by his 'aqeeqah: a sacrifice is slaughtered for him on his seventh day, his head is shaved, and he is named."

وَمِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا عَمْرُو بْنُ عَلِيٍّ نَا يَزِيدُ هُوَ ابْنُ زُرَيْعٍ - عَنْ سَعِيدٍ هُوَ ابْنُ أَبِي عَرُوبَةَ - نَا قَتَادَةُ عَنْ الْحَسَنِ عَنْ سَمُرَةَ بْنِ جُنْدُبٍ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «كُلُّ غُلَامٍ مُرْتَهَنٌ بِعَقِيقَتِهِ تُذْبَحُ عَنْهُ يَوْمَ سَابِعِهِ وَيُحْلَقُ رَأْسُهُ وَيُسَمَّى» .

L17578 And through the chain of Abū Dāwūd: Ḥafṣ ibn ʿUmar al-Namarī narrated to us, Hammām (Ibn Yaḥyā) narrated to us from Qatādah, from al-Ḥasan, from Samurah, from the Prophet—peace and blessings of Allāh be upon him—who said: "Every child is bound by their *ʿaqīqah* until it is slaughtered for them on the seventh day, their head is shaved, and they are smeared with blood." When Qatādah was asked about how the blood is to be applied, he said: "When the *ʿaqīqah* is slaughtered, a tuft of wool is taken, dipped into the blood from its jugular veins, then placed on the infant's fontanelle until blood flows upon his head like a thin stream. Afterward, his head is washed and shaved."

وَمِنْ طَرِيقِ أَبِي دَاوُد نَا حَفْصُ بْنُ عُمَرَ النَّمَرِيُّ نَا هَمَّامٌ هُوَ ابْنُ يَحْيَى - نَا قَتَادَةُ عَنْ الْحَسَنِ عَنْ سَمُرَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «كُلُّ غُلَامٍ رَهِينَةٌ بِعَقِيقَتِهِ حَتَّى تُذْبَحَ عَنْهُ يَوْمَ السَّابِعِ وَيُحْلَقُ رَأْسُهُ وَيُدَمَّى» فَكَانَ قَتَادَةُ إذَا سُئِلَ عَنْ الدَّمِ كَيْفَ يُصْنَعُ؟ قَالَ: إذَا ذُبِحَتْ الْعَقِيقَةُ أُخِذَتْ مِنْهَا صُوفَةٌ فَاسْتُقْبِلَتْ بِهَا أَوْدَاجُهَا، ثُمَّ تُوضَعُ عَلَى يَافُوخِ الصَّبِيِّ حَتَّى يَسِيلَ عَلَى رَأْسِهِ مِثْلُ الْخَيْطِ، ثُمَّ يُغْسَلُ رَأْسُهُ بَعْدُ وَيُحْلَقُ ".

L17579 Abu Dawud said: Hammam erred; rather, it is to be named.

قَالَ أَبُو دَاوُد: أَخْطَأَ هَمَّامٌ إنَّمَا هُوَ يُسَمَّى.

L17580 Abu Muhammad said: Rather, Abu Dawud erred, for Hammam affirmed and

clarified that they asked Qatadah about the manner of the aforementioned raising the voice in saying *Amin*, and he described it to them.

قَالَ أَبُو مُحَمَّد: بَلْ وَهَمَ أَبُو دَاوُد، لِأَنَّ هَمَّامًا ثَبَّتَ وَبَيَّنَ أَنَّهُمْ سَأَلُوا قَتَادَةَ عَنْ صِفَةِ التَّدْمِيَةِ الْمَذْكُورَةِ فَوَصَفَهَا لَهُمْ.

L17581 From the transmission of Al-Bukhari: Abdullah ibn Abi al-Aswad narrated to us, Quraysh ibn Anas narrated to us, Habib ibn al-Shahid said: "Ibn Sirin commanded me to ask al-Hasan from whom he heard the hadith of the aqeeqah. I asked him? He replied: 'From Samurah ibn Jundub.'"

وَمِنْ طَرِيقِ الْبُخَارِيِّ نَا عَبْدُ اللَّهِ بْنِ أَبِي الْأَسْوَدِ نَا قُرَيْشُ بْنُ أَنَسٍ حَبِيبُ بْنُ الشَّهِيدِ قَالَ: أَمَرَنِي ابْنُ سِيرِينَ أَنْ أَسْأَلَ الْحَسَنَ مِمَّنْ سَمِعَ حَدِيثَ الْعَقِيقَةِ؟ فَسَأَلْته؟ فَقَالَ: مِنْ سَمُرَةَ بْنِ جُنْدُبٍ.

L17582 Ali said: No valid audition from Samura is authenticated for al-Ḥasan except the lone ḥadīth of ʿAqīqah. These reports constitute the explicit textual evidence for our position, which represents the view of a group of the early predecessors. We have been narrated via ʿAbd al-Razzāq from Ibn Jurayj, who reported from Yūsuf ibn Māhak that he said: I visited Ḥafṣa bint ʿAbd al-Raḥmān ibn Abī Bakr when she had given birth to a son for al-Mundhir ibn al-Zubayr. I said to her: "Why haven't you sacrificed a she-camel for your son?" She replied: "Allah forbid! My paternal aunt ʿĀ'isha used to say: For a male child, two sheep; and for a female child, one sheep."

قَالَ عَلِيٌّ: لَا يَصِحُّ لِلْحَسَنِ سَمَاعٌ مِنْ سَمُرَةَ إلَّا حَدِيثُ الْعَقِيقَةِ وَحْدَهُ - فَهَذِهِ الْأَخْبَارُ نَصُّ مَا قُلْنَا - وَهُوَ قَوْلُ جَمَاعَةٍ مِنْ السَّلَفِ -: رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي يُوسُفُ بْنُ مَاهَكَ أَنَّهُ دَخَلَ عَلَى حَفْصَةَ بِنْتِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرٍ وَقَدْ وَلَدَتْ لِلْمُنْذِرِ بْنِ الزُّبَيْرِ غُلَامًا فَقُلْت لَهَا: هَلَّا عَقَقْت جَزُورًا عَلَى ابْنِك؟ قَالَتْ: مَعَاذَ اللَّهِ كَانَتْ عَمَّتِي عَائِشَةُ تَقُولُ: عَلَى الْغُلَامِ شَاتَانِ، وَعَلَى الْجَارِيَةِ شَاةٌ.

L17583 And via the chain of Abī al-Ṭufayl from Ibn ʿAbbās: Two sheep are due for a boy, and one for a girl—this is the opinion of ʿAṭāʾ ibn Abī Rabāḥ.

وَمِنْ طَرِيقِ أَبِي الطُّفَيْلِ عَنْ ابْنِ عَبَّاسٍ: عَنْ الْغُلَامِ شَاتَانِ، وَعَنْ الْجَارِيَةِ شَاةٌ - وَهُوَ قَوْلُ عَطَاءِ بْنِ أَبِي رَبَاحٍ.

L17584 From the transmission of Ibn al-Jahm: Jaʿfar ibn Muḥammad al-Ṣāʾigh reported to us, ʿAffān reported to us, ʿAbd al-Wārith—he is Ibn Saʿīd al-Tannūrī—reported to us, from ʿAṭāʾ ibn al-Sāʾib, from Muḥārib ibn Dithār, from Ibn ʿUmar, who said: "His head is shaved and he smears it with blood, is slaughtered on the seventh day, and charity equivalent to its weight in silver is given."

وَمِنْ طَرِيقِ ابْنِ الْجَهْمِ نَا جَعْفَرُ بْنُ مُحَمَّدٍ الصَّائِغُ نَا عَفَّانَ نَا عَبْدُ الْوَارِثِ هُوَ ابْنُ سَعِيدٍ التَّنُّورِيُّ - عَنْ عَطَاءِ بْنِ السَّائِبِ عَنْ مُحَارِبِ بْنِ دِثَارٍ عَنْ ابْنِ عُمَرَ قَالَ: يُحْلَقُ رَأْسُهُ وَيُلَطَّخُهُ بِالدَّمِ، وَيُذْبَحُ يَوْمَ السَّابِعِ وَيُتَصَدَّقُ بِوَزْنِهِ فِضَّةً.

L17585–17586 From the narration of Makḥūl: It has reached me from Ibn ʿUmar that he said, "The newborn is pledged by his *ʿAqīqah*." From Buraydah al-Aslamī: "People will be presented with [their obligation toward] the *ʿAqīqah* on the Day of Resurrection, just as they are presented with the five obligatory prayers." The same [statement] is reported from Fāṭimah *bint* al-Ḥusayn.

وَمِنْ طَرِيقِ مَكْحُولٍ: بَلَغَنِي عَنْ ابْنِ عُمَرَ أَنَّهُ قَالَ: الْمَوْلُودُ مُرْتَهَنٌ بِعَقِيقَتِهِ. وَعَنْ بُرَيْدَةَ الْأَسْلَمِيِّ: إنَّ النَّاسَ يُعْرَضُونَ يَوْمَ الْقِيَامَةِ عَلَى الْعَقِيقَةِ كَمَا يُعْرَضُونَ عَلَى الصَّلَوَاتِ الْخَمْسِ - وَمِثْلُهُ عَنْ فَاطِمَةَ بِنْتِ الْحُسَيْنِ.

L17587 And according to the transmission of al-Ḥasan al-Baṣrī, the same rulings applied to the Uḍḥiyah are applied to the ʿAqīqah.

وَمِنْ طَرِيقِ الْحَسَنِ الْبَصْرِيِّ يُصْنَعُ بِالْعَقِيقَةِ مَا يُصْنَعُ بِالْأُضْحِيَّةِ.

L17588 And from ‘Ata’ he said: The family performing the ‘Aqiqah may eat from it and give it as gifts. The Prophet—peace be upon him—ordered that, as they claimed, and if he wills, he may give it in charity.

وَعَنْ عَطَاءٍ قَالَ: يَأْكُلُ أَهْلُ الْعَقِيقَةِ وَيُهْدُونَهَا أَمَرَ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِذَلِكَ - زَعَمُوا - وَإِنْ شَاءَ تَصَدَّقَ.

L17589 Abu Muhammad said: His command—peace be upon him—regarding the *aqiqah* is obligatory, as we have mentioned. It is not permissible for anyone to interpret any of his commands—peace be upon him—as permitting their abandonment except through another text that states that. Otherwise, asserting such is a falsehood and a blind following of matters they have no knowledge of.

قَالَ أَبُو مُحَمَّد: أَمْرُهُ - عَلَيْهِ السَّلَامُ - بِالْعَقِيقَةِ فَرْضٌ كَمَا ذَكَرْنَا لَا يَحِلُّ لِأَحَدٍ أَنْ يَحْمِلَ شَيْئًا مِنْ أَوَامِرِهِ - عَلَيْهِ السَّلَامُ - عَلَى جَوَازِ تَرْكِهَا إلَّا بِنَصٍّ آخَرَ وَارِدٍ بِذَلِكَ، وَإِلَّا فَالْقَوْلُ بِذَلِكَ كَذِبٌ وَقَفْوٌ لِمَا لَا عِلْمَ لَهُمْ بِهِ.

L17590 He (peace be upon him) said, “If I command you to do something, fulfill it to the best of your ability.”

وَقَدْ قَالَ - عَلَيْهِ السَّلَامُ -: «إذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ» .

L17591 Among those who stated its obligation are Abū Sulaymān and our companions.

وَمِمَّنْ قَالَ بِوُجُوبِهَا: أَبُو سُلَيْمَانَ، وَأَصْحَابُنَا.

L17592 Among those who said that two sheep are for a male and one sheep for a female are Al-Shāfiʿī and Abū Sulaymān - and the suckling lamb (al-sakhlah) is not called a sheep.

وَمِمَّنْ قَالَ: بِالشَّاتَيْنِ عَنْ الذَّكَرِ، وَشَاةٍ عَنْ الْأُنْثَى: الشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ - وَلَا تُسَمَّى " السَّخْلَةُ " شَاةً.

L17593 We have mentioned in the section on sacrifices the saying of the Prophet—peace be upon him—: “A jadhaʿah is not sufficient for anyone after you.” This is a general ruling that is not specified except by what a definitive text specifies.

وَقَدْ ذَكَرْنَا فِي " الْأَضَاحِيِّ " قَوْلَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «لَا تُجْزِي جَذَعَةٌ عَنْ أَحَدٍ بَعْدَكَ» فَهَذَا عُمُومٌ لَا يَخُصُّ مِنْهُ إلَّا مَا خَصَّهُ نَصٌّ.

L17594 The term *al-shaat* applies to both the female sheep (ewe) and the female goat (she-goat) without any disagreement, absolutely and without qualification. Al-Aʿshā described a wild bull, saying:

وَاسْمُ الشَّاةِ يَقَعُ عَلَى الضَّانِيَةِ وَالْمَاعِزَةِ بِلَا خِلَافٍ إطْلَاقًا بِلَا إضَافَةٍ - وَقَالَ الْأَعْشَى يَصِفُ ثَوْرًا وَحْشِيًّا:

L17595 When dawn shone, he rose in haste, and the sheep set out from where the two had camped.

فَلَمَّا أَضَاءَ الصُّبْحُ ثَارَ مُبَادِرًا ... وَكَانَ انْطِلَاقُ الشَّاةِ مِنْ حَيْثُ خَيَّمَا

L17596 And Dhū al-Rummah said, addressing a female gazelle:

وَقَالَ ذُو الرُّمَّةِ يُخَاطِبُ ظَبْيَةً:

L17597 O gazelle of the desolate wastes between clanging bells and shifting sands—

أَيَا ظَبْيَةَ الْوَعْسَاءِ بَيْنَ جُلَاجِلٍ ... وَبَيْنَ النَّقَا أَأَنْتِ أَمْ أُمُّ سَالِمِ

فَأَجَابَهُ أَخُو هِشَامٍ وَكِلَاهُمَا عَرَبِيٌّ أَعْرَابِيٌّ فَصِيحٌ:

فَلَوْ تُحْسِنُ التَّشْبِيهَ وَالشِّعْرَ لَمْ تَقُلْ ... لِشَاةِ النَّقَا أَأَنْتِ أَمْ أُمُّ سَالِمِ

وَقَالَ زُهَيْرُ بْنُ أَبِي سُلْمَى يَصِفُ حَمِيرَ وَحْشٍ: فَبَيْنَا نَبْغِي الْوَحْشَ جَاءَ غُلَامُنَا ... يَدِبُّ وَيُخْفِي شَخْصَهُ وَيُضَائِلُهُ

فَقَالَ شِيَاهٌ رَائِعَاتٌ بِقَفْرَةٍ ... بِمُسْتَأْسِدِ الْقِرْيَانِ حُوٌّ مَسَائِلُهُ

ثَلَاثٌ كَأَقْوَاسِ السَّرَاءِ وَمِسْحَلٌ ... قَدْ اخْضَرَّ مِنْ لَسِّ الْغَمِيرِ جَحَافِلُهُ

وَقَدْ خَرَمَ الطِّرَادَ عَنْهُ جِحَاشُهُ ... فَلَمْ يَبْقَ إِلَّا نَفْسُهُ وَحَلَائِلُهُ

ثُمَّ مَضَى فِي الْوَصْفِ إِلَى أَنْ قَالَ:

فَتَبِعَ آثَارَ الشِّيَاهِ وَلِيدُنَا ... كَشُؤْبُوبِ غَيْثٍ يَحْفِشُ الْأَكَمَ وَابِلُهُ

فَرَدَّ عَلَيْنَا الْعَيْرَ مِنْ دُونِ إِلْفِهِ ... عَلَى رَغْمِهِ يَدْمَى نَسَاهُ وَفَائِلُهُ

فَسَمَّى " الشِّيَاهَ " ثُمَّ فَسَّرَهَا بِأَنَّ لَهَا " مِسْحَلًا وَجِحَاشًا " وَأَنَّهَا عَيْرٌ وَأَتَانُهُ. فَإِنْ قَالَ قَائِلٌ: فَهَلَّا قُلْتُمْ بِإِيجَابِ الزَّكَاةِ فِيهَا وَبِأَخْذِ ذَلِكَ فِي زَكَاةِ الْغَنَمِ وَزَكَاةِ الْإِبِلِ، وَفِي الْعَقِيقَةِ، وَالنُّسُكِ؟ قُلْنَا: لَمْ يَجُزْ ذَلِكَ، لِأَنَّ النَّصَّ فِي الزَّكَاةِ إِنَّمَا جَاءَ كَمَا أَوْرَدْنَا فِي " كِتَابِ الزَّكَاةِ عَنْهُ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - نَصَّ كِتَابِهِ «فِي صَدَقَةِ الْغَنَمِ فِي سَائِمَتِهَا إِذَا كَانَتْ أَرْبَعِينَ إِلَى عِشْرِينَ وَمِائَةٍ شَاةٌ» .

are you, or are you Umm Salim?

So the brother of Hishām responded to him, and both were eloquent Arab Bedouins.

If you were adept in metaphor and poetry, you would not say to the ewe of the dunes: “Are you or Umm Salim?”

And Zuhayr ibn Abī Sulmā said, describing wild donkeys: While we were seeking out wild game, our young servant crept near, hiding his form and diminishing his presence.

He said: Splendid sheep in a desolate expanse... in lion-like villages, Huww’s matters.

Three like the arches of prosperity and a broom shrub— Its verdant masses have turned green from the caress of rain-fed soil.

His weaned camels impaired the pursuit away from him, Leaving nothing but himself and his breeding camels.

Then he continued describing until he said:

So our young boy followed the sheep’s tracks, like a deluge whose rain pools at the hillocks.

He drove back the camel train upon us, away from its familiar path against his will—his forgetfulness and deeds bleed.

He named “the sheep,” then explained them as having “a milking area and young goats,” and that they are a male donkey and female donkey. If someone were to say: Why do you not rule that Zakāh is obligatory on them and include that in the Zakāh of sheep and camels, as well as in the ʿAqīqah and sacrificial offerings? We would respond: This is not permissible because the textual evidence regarding Zakāh only came as we cited in the “Book of Zakāh” from him, peace and blessings be upon him, in the text of his book: “Regarding the charity of freely grazing sheep when they number forty up to 120, one sheep is due.”

And in the other Hadith: “For sheep and goats, a sheep is due out of every

forty sheep."

L17611 In the hadith of Abu Bakr from the Prophet—peace and blessings of Allah be upon him—it states: "For camels numbering twenty-four or fewer, one sheep is due for every five camels, taken from small livestock (sheep and goats)." The term "small livestock" (ghanam) in the language applies exclusively to sheep and goats. Thus, the hadiths on zakat necessitate that only small livestock be collected, and that one must not give anything other than small livestock as zakat for camels.

L17612 As for the prescribed amount taken from sheep, Allah, the Exalted, says: "Take zakat from their livestock" [At-Tawbah: 103].[2]

L17613 This wording by its apparent meaning necessitates taking Zakat from the very wealth subject to obligation and from which it is collected. Thus, it is established that what is taken in Zakat must exclusively come from the assets liable for Zakat. Zakat taken from other sources is invalid except what is explicitly permitted by textual evidence - such as paying Zakat for camels with sheep, or fulfilling Zakat for sheep with sheep the payer brings from any location he chooses. Success is from Allah, the Exalted.

L17614–17616 As for the *ʿaqīqah* and *nusuk*, we have stated that the term *shāh* in the Arabic language does not fundamentally apply to anything other than domesticated sheep (*ḍaʾn*) and goats (*maʿz*). Rather, that term is applied to gazelles (*ẓibāʾ*), onagers (*ḥumur al-waḥsh*), and wild cows (*baqar al-waḥsh*). By way of borrowing, clarification, and supplementary reasoning—not as an absolute ruling in any respect—restricting the sacrificial animal to sheep and goats in the ʿaqīqah does not constitute consensus. It has been narrated to us through the chain of Ibn Wahb from Mālik from Yaḥyā ibn Saʿīd al-Anṣārī from Muḥammad ibn Ibrāhīm al-Taymī, who said: "I heard that the ʿaqīqah is recommended even with a sparrow." Some held the opinion regarding camels in this matter. We presented this solely to avoid any claim of consensus being imposed on us therein. If it is asked: "Why do you not permit performing the ʿaqīqah with whatever one wishes whenever

[2]**Qur'an references (L17612):** Qur'an 9:103 (At-Tawbah).

وَفِي الْحَدِيثِ الْآخَرِ «فِي الْغَنَمِ فِي كُلِّ أَرْبَعِينَ شَاةً شَاةٌ» .

وَفِي حَدِيثِ أَبِي بَكْرٍ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «فِي أَرْبَعٍ وَعِشْرِينَ مِنْ الْإِبِلِ فَمَا دُونَهَا مِنْ الْغَنَمِ فِي كُلِّ خَمْسٍ شَاةٌ» . وَاسْمُ الْغَنَمِ لَا يَقَعُ فِي اللُّغَةِ إلَّا عَلَى الضَّأْنِ وَالْمَاعِزِ فَقَطْ، فَوَجَبَ بِالْأَحَادِيثِ الْوَارِدَةِ فِي الزَّكَاةِ أَنْ لَا يَأْخُذَ إلَّا مِنْ الْغَنَمِ، وَلَا يُعْطِي فِي زَكَاةِ الْإِبِلِ إلَّا الْغَنَمَ.

وَأَمَّا الْمَأْخُوذُ مِنْ الْغَنَمِ فَاَللَّهُ تَعَالَى يَقُولُ: {خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً} [التوبة: ١٠٣] .

وَهَذَا اللَّفْظُ يَقْتَضِي بِظَاهِرِهِ أَخْذُ الصَّدَقَةِ مِنْ نَفْسِ الْمَالِ الَّذِي يَجِبُ فِيهِ الصَّدَقَةُ، وَالَّذِي هِيَ مَأْخُوذَةٌ مِنْهُ، فَثَبَتَ أَنَّ الْمَأْخُوذَ فِي الصَّدَقَةِ إنَّمَا هُوَ مِنْ الْأَمْوَالِ الَّتِي تُؤْخَذُ مِنْهَا الصَّدَقَةُ، فَلَا تُجْزِئُ مِنْ غَيْرِهَا إلَّا مَا جَاءَ النَّصُّ بِأَنَّهُ يَجْزِي كَزَكَاةِ الْإِبِلِ مِنْ الْغَنَمِ، وَزَكَاةِ الْغَنَمِ مِنْ غَنَمٍ يَأْتِي بِهَا مِنْ حَيْثُ شَاءَ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَأَمَّا الْعَقِيقَةُ، وَالنُّسُكُ - فَقَدْ قُلْنَا: لَا يَقَعُ اسْمُ شَاةٍ بِالْإِطْلَاقِ فِي اللُّغَةِ أَصْلًا عَلَى غَيْرِ الضَّأْنِ وَالْمَعْزِ وَإِنَّمَا يُطْلَقُ ذَلِكَ عَلَى الظِّبَاءِ، وَحُمُرِ الْوَحْشِ، وَبَقَرِ الْوَحْشِ، اسْتِعَارَةً، وَبَيَانًا وَإِضَافَةً، لَا عَلَى الْإِطْلَاقِ أَصْلًا - وَلَيْسَ الِاقْتِصَارُ عَلَى الضَّأْنِ وَالْمَاعِزِ إجْمَاعًا فِي الْعَقِيقَةِ. رُوِّينَا مِنْ طَرِيقِ ابْنِ وَهْبٍ عَنْ مَالِكٍ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ عَنْ مُحَمَّدِ بْنِ إبْرَاهِيمَ التَّيْمِيِّ قَالَ: سَمِعْت أَنَّهُ يُسْتَحَبُّ الْعَقِيقَةُ وَلَوْ بِعُصْفُورٍ - وَقَدْ رَأَى بَعْضُهُمْ فِي ذَلِكَ الْجُزُورِ وَإِنَّمَا أَتَيْنَا بِهَذَا لِئَلَّا يُدْعَى عَلَيْنَا الْإِجْمَاعُ فِي ذَلِكَ. فَإِنْ قِيلَ: فَهَلَّا أَجَزْتُمْ أَنْ يُعَقَّ بِمَا شَاءَ مَتَى شَاءَ؟ لِحَدِيثِ سَلْمَانَ بْنِ عَامِرٍ «أَرِيقُوا عَنْهُ دَمًا» ؟ قُلْنَا: ذَلِكَ خَبَرٌ مُجْمَلٌ، فَسَّرَهُ الَّذِي فِيهِ «عَنْ الْغُلَامِ شَاتَانِ، وَعَنْ الْجَارِيَةِ شَاةٌ، تُذْبَحُ يَوْمَ السَّابِعِ» ،

فَكَانَتْ هَذِهِ الصِّفَةُ وَاجِبَةً، وَكَانَ مَنْ عَقَّ بِخِلَافِهَا مُخَالِفًا لِهَذَا النَّصِّ، وَهَذَا لَا يَجُوزُ وَلَا يَحِلُّ، وَكَانَ مَنْ عَقَّ بِهَذِهِ الصِّفَةِ مُوَافِقًا سَلْمَانَ بْنِ عَامِرٍ غَيْرَ خَارِجٍ عَنْهُ وَهَذَا هُوَ الَّذِي لَا يَحِلُّ سِوَاهُ.

one wishes, based on the ḥadīth of Salmān ibn ʿĀmir: ‘Shed blood on his behalf’?” We respond: That is a general report which is explicated by the ḥadīth specifying: “For a boy, two sheep, and for a girl, one sheep—slaughtered on the seventh day.” Thus, this specification becomes obligatory. Whoever performs the ʿaqīqah contrary to it opposes this explicit text, and this is neither permissible nor lawful. Whoever performs it in accordance with this specification aligns with Salmān ibn ʿĀmir without diverging from his directive, and this alone is lawful—nothing else is permitted.

فَإِنْ قِيلَ: فَمِنْ أَيْنَ أَجَزْتُمْ الذَّبْحَ بَعْدَ السَّابِعِ؟ قُلْنَا: لِأَنَّهُ قَدْ وَجَبَ الذَّبْحُ يَوْمَ السَّابِعِ وَلَزِمَ إخْرَاجُ تِلْكَ الصِّفَةِ مِنْ الْمَالِ فَلَا يَحِلُّ إبْقَاؤُهَا فِيهِ فَهُوَ دَيْنٌ وَاجِبٌ إخْرَاجُهُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17617 If it is asked: “From where do you permit slaughtering after the seventh day?” We reply: Because the slaughter has become obligatory on the seventh day, and it is necessary to remove this specific requirement from the wealth. Thus, it is impermissible to retain this requirement within the wealth, for it is an obligatory debt that must be discharged - and success comes only through Allah, the Exalted.

وَأَمَّا التَّسْمِيَةُ: فَرُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ حَاتِمٍ نَا بَهْزُ بْنُ أَسَدٍ نَا سُلَيْمَانُ بْنُ الْمُغِيرَةِ عَنْ ثَابِتٍ هُوَ الْبُنَانِيُّ - «عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ أُمَّ سُلَيْمٍ أُمَّهُ وَلَدَتْ غُلَامًا فَقَالَتْ لَهُ: يَا أَنَسُ لَا يُرْضِعُهُ أَحَدٌ حَتَّى تَغْدُوَ بِهِ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: فَلَمَّا أَصْبَحْتُ انْطَلَقْتُ بِهِ إلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - فَقَالَ: لَعَلَّ أُمَّ سُلَيْمٍ وَلَدَتْ؟ قُلْتُ: نَعَمْ، فَوَضَعْتُهُ فِي حِجْرِهِ وَدَعَا - عَلَيْهِ السَّلَامُ - بِعَجْوَةٍ مِنْ عَجْوَةِ الْمَدِينَةِ فَلَاكَهَا فِي فِيهِ ثُمَّ قَذَفَهَا فِي فِي الصَّبِيِّ فَجَعَلَ الصَّبِيُّ يَتَلَمَّظُهَا فَمَسَحَ وَجْهَهُ وَسَمَّاهُ عَبْدَ اللَّهِ» .

وَأَمَّا التَّسْمِيَةُ: فَرُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نَا مُحَمَّدُ بْنُ حَاتِمٍ نَا بَهْزُ بْنُ أَسَدٍ نَا سُلَيْمَانُ بْنُ الْمُغِيرَةِ عَنْ ثَابِتٍ هُوَ الْبُنَانِيُّ - «عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ أُمَّ سُلَيْمٍ أُمَّهُ وَلَدَتْ غُلَامًا فَقَالَتْ لَهُ: يَا أَنَسُ لَا يُرْضِعُهُ أَحَدٌ حَتَّى تَغْدُوَ بِهِ عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: فَلَمَّا أَصْبَحْتُ انْطَلَقْتُ بِهِ إلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - فَقَالَ: لَعَلَّ أُمَّ سُلَيْمٍ وَلَدَتْ؟ قُلْتُ: نَعَمْ، فَوَضَعْتُهُ فِي حِجْرِهِ وَدَعَا - عَلَيْهِ السَّلَامُ - بِعَجْوَةٍ مِنْ عَجْوَةِ الْمَدِينَةِ فَلَاكَهَا فِي فِيهِ ثُمَّ قَذَفَهَا فِي فِي الصَّبِيِّ فَجَعَلَ الصَّبِيُّ يَتَلَمَّظُهَا فَمَسَحَ وَجْهَهُ وَسَمَّاهُ عَبْدَ اللَّهِ» .

L17618 As for the naming: It was narrated to us through the chain of Muslim: Muhammad ibn Hatim narrated to us, Bahz ibn Asad narrated to us, Sulayman ibn al-Mughirah narrated to us from Thabit al-Bunani, from Anas ibn Malik, that Umm Sulaym - his mother - gave birth to a boy. She said to him: “O Anas, do not let anyone breastfeed him until you have taken him to the Messenger of Allah (peace be upon him and his family) at dawn.” He said: “When morning came, I carried him to the Messenger of Allah (peace be upon him and his family). He asked: ’Has Umm Sulaym given birth?’ I replied: ’Yes.’ I placed him in his lap. He (peace be upon him and his family) called for an Ajwa date from the Ajwa dates of Medina, chewed it, then placed it in the infant’s mouth. The baby began to move it in his mouth. He wiped the child’s face and named him Abdullah.”

وَقَدْ رُوِّينَا مِنْ طَرِيقِ ابْنِ أَيْمَنَ نَا إبْرَاهِيمُ بْنُ إسْحَاقَ السَّرَّاجُ نَا عَمْرُو بْنُ مُحَمَّدٍ النَّاقِدُ أَنَا الْهَيْثَمُ بْنُ جَمِيلٍ نَا عَبْدُ اللَّهِ بْنُ الْمُثَنَّى بْنِ أَنَسٍ نَا ثُمَامَةُ بْنُ عَبْدِ اللَّهِ بْنِ أَنَسٍ عَنْ أَنَسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَقَّ عَنْ نَفْسِهِ بَعْدَمَا جَاءَتْهُ النُّبُوَّةُ»

L17619–17621 We have been narrated through the chain of Ibn Ayman: from Ibrāhīm ibn Isḥāq al-Sarrāj, from ʿAmr ibn Muḥammad al-Nāqid, from al-Haytham ibn Jamīl, from ʿAbdullāh ibn al-Muthannā ibn Anas, from Thumāmah ibn ʿAbdillāh ibn Anas, from Anas: “That the Messenger of Allāh (peace be upon him and his family) performed ʿAqīqah for himself after prophethood came to him.” It has been narrated to us from Ibn Sīrīn that he did not mind slaughtering the ʿaqīqah before the seventh day or after it—but we do not

وَرُوِّينَا عَنْ ابْنِ سِيرِينَ أَنَّهُ كَانَ لَا يُبَالِي أَنْ يَذْبَحَ الْعَقِيقَةَ قَبْلَ السَّابِعِ أَوْ بَعْدَهُ - وَلَا نَقُولُ بِهَذَا، وَلَا يَجْزِي قَبْلَ السَّابِعِ؛ لِأَنَّهُ خِلَافُ النَّصِّ وَلَمْ تَجِبْ الْعَقِيقَةُ بَعْدُ.

hold this opinion, nor is it valid to slaughter before the seventh day, as this contradicts the explicit text. The ʿaqīqah had not yet become obligatory.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ الرَّبِيعِ بْنِ صُبَيْحٍ عَنْ الْحَسَنِ الْبَصْرِيِّ إذَا لَمْ يُعَقَّ عَنْك فَعُقَّ عَنْ نَفْسِك وَإِنْ كُنْت رَجُلًا. فَإِنْ قِيلَ: قَدْ رُوِيَ عَنْ عَمْرِو بْنِ شُعَيْبٍ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - أَمَرَ بِالْعَقِيقَةِ يَوْمَ سَابِعِ الْمَوْلُودِ وَتَسْمِيَتِهِ» .

L17622 From the narration of Waki‘ through Rabi‘ ibn Subayh from al-Hasan al-Basri: If no *‘Aqiqah* was performed for you, then perform it for yourself even if you are a man. If someone objects: It has been narrated from ‘Amr ibn Shu‘ayb that “the Prophet—peace be upon him and his family and grant him peace—commanded that the *‘Aqiqah* be performed on the newborn’s seventh day and his naming.”

قُلْنَا: هَذَا مُرْسَلٌ وَلَمْ يَصِحَّ فِي الْمَنْعِ مِنْ كَسْرِ عِظَامِهَا شَيْءٌ.

L17623 We said: This is mursal, and nothing authentic has been established regarding the prohibition from breaking her bones.

فَإِنْ قِيلَ: قَدْ رَوَيْتُمْ «عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ وَقَدْ قِيلَ لَهَا فِي الْعَقِيقَةِ بِجَزُورٍ، فَقَالَتْ: لَا، بَلْ السُّنَّةُ أَفْضَلُ، عَنْ الْغُلَامِ شَاتَانِ مُكَافَأَتَانِ، وَعَنْ الْجَارِيَةِ شَاةٌ تُقْطَعُ جُدُولًا وَلَا يُكْسَرُ لَهَا عَظْمٌ فَيَأْكُلُ وَيُطْعِمُ وَيَتَصَدَّقُ، وَلْيَكُنْ ذَلِكَ يَوْمَ السَّابِعِ، فَإِنْ لَمْ يَكُنْ فَفِي أَرْبَعَةَ عَشَرَ، فَإِنْ لَمْ يَكُنْ فَفِي إحْدَى وَعِشْرِينَ» .

L17624 If it is said: You have narrated from ʿĀ’ishah, the Mother of the Believers, when it was mentioned to her regarding using a camel for the *ʿaqīqah*, she replied, “No, rather the *sunnah* is superior: for a boy, two equivalent sheep, and for a girl, one sheep. It should be divided into portions at the joints without breaking its bones, then eat, feed others, and give charity. This should be done on the seventh day; if not, then on the fourteenth day; and if not, then on the twenty-first day.”

قُلْنَا: هَذَا لَا يَصِحُّ؛ لِأَنَّهُ مِنْ رِوَايَةِ عَبْدِ الْمَلِكِ بْنِ أَبِي سُلَيْمَانَ الْعَرْزَمِيِّ - ثُمَّ لَوْ كَانَ صَحِيحًا لَمَا كَانَتْ فِيهِ حُجَّةٌ؛ لِأَنَّهُ عَمَّنْ دُونَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: وَعَنْ عَطَاءٍ كَانُوا يَسْتَحِبُّونَ أَنْ لَا يُكْسَرَ لَهَا عَظْمٌ، فَإِنْ أَخْطَأَهُمْ أَنْ يَعُقُّوا يَوْمَ السَّابِعِ فَأَحَبُّ إلَيَّ أَنْ يُؤَخِّرَهُ إلَى السَّابِعِ الْآخَرِ - وَلَيْسَ هَذَا عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -. فَإِنْ قِيلَ: فَقَدْ رَوَيْتُمْ عَنْ ابْنِ أَبِي شَيْبَةَ عَنْ حَفْصِ بْنِ غِيَاثٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ عَنْ أَبِيهِ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بَعَثَ مِنْ عَقِيقَةِ الْحَسَنِ وَالْحُسَيْنِ إلَى الْقَابِلَةِ بِرِجْلِهَا، وَقَالَ: لَا تَكْسِرُوا مِنْهَا عَظْمًا» قُلْنَا: هَذَا مُرْسَلٌ وَلَا حُجَّةَ فِي مُرْسَلٍ،

L17625 We said: This is not authentic because it is from the narration of ‘Abd al-Malik ibn Abi Sulayman al-‘Arzami. Furthermore, even if it were authentic, it would not constitute authoritative proof because it is transmitted from someone other than the Prophet (peace be upon him and his family). It is narrated from ‘Ata’ that they deemed it preferable not to break any bone for it. If they erred in performing the ‘aqiqah on the seventh day, I would prefer that they delay it to the following seventh day - but this is not from the Prophet (peace be upon him and his family). If it is argued: “You have indeed narrated from Ibn Abi Shaybah, from Hafṣ ibn Ghiyath, from Ja‘far ibn Muhammad, from his father that the Prophet (peace be upon him and his family) sent a leg from the ‘aqiqah of al-Hasan and al-Husayn to the midwife and said: ’Do not break any bone from it,’” we respond: This is a mursal narration, and there is no authoritative proof in a mursal narration. Those who rely on mursal narrations must necessarily accept this one, especially

given the statements of the Mother of the Believers, ‘Ata’, and others besides them who held the same view.

وَيَلْزَمُ مَنْ قَالَ بِالْمُرْسَلِ أَنْ يَقُولَ بِهَذَا لَا سِيَّمَا مَعَ قَوْلِ أُمِّ الْمُؤْمِنِينَ، وَعَطَاءٍ، وَغَيْرِهِمَا بِذَلِكَ.

L17626 It has been reported to us through the chain of Abu Bakr ibn Abi Shaybah, who reported to us from Ma‘n ibn ‘Isa, from Ibn Abi Dhi’b, from al-Zuhri regarding the aqiqah. He said: Its bones and head are to be broken, and the child is not to be touched by any of its blood.

رُوِّينَا مِنْ طَرِيقِ أَبِي بَكْرِ بْنِ أَبِي شَيْبَةَ نَا مَعْنُ بْنُ عِيسَى عَنِ ابْنِ أَبِي ذِئْبٍ عَنِ الزُّهْرِيِّ فِي الْعَقِيقَةِ قَالَ: تُكْسَرُ عِظَامُهَا وَرَأْسُهَا وَلَا يُمَسُّ الصَّبِيُّ بِشَيْءٍ مِنْ دَمِهَا.

L17627 It is narrated to us from ‘Aṭā’ via ‘Abd al-Razzāq, from Ibn Jurayj, regarding the ‘aqīqah: it is cooked plainly with water and salt, divided into portions, distributed among neighbors and close friends, and no part of it is to be given as charity.

وَرُوِّينَا عَنْ عَطَاءٍ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنِ ابْنِ جُرَيْجٍ عَنْهُ فِي الْعَقِيقَةِ تُطْبَخُ بِمَاءٍ وَمِلْحٍ آرَابًا، وَتُهْدَى فِي الْجِيرَانِ، وَالصَّدِيقِ، وَلَا يُتَصَدَّقُ مِنْهَا بِشَيْءٍ.

L17628–17629 Through the chain of Waki‘ from al-Rabī‘ from al-Ḥasan al-Baṣrī, he said: The ‘Aqīqah is sacrificed for the boy but not for the girl. Through the chain of Ibn Abī Shaybah from Jarīr and Sahl ibn Yūsuf (Sahl said: from ‘Amr from Muḥammad ibn Sīrīn) that he did not consider the ‘Aqīqah obligatory for the girl. Jarīr said from al-Mughīrah ibn Miqsam from Abū Wā’il, Shaqīq ibn Salamah, who said: The ‘Aqīqah is not sacrificed for the girl, nor is it an honor.

وَمِنْ طَرِيقِ وَكِيعٍ عَنِ الرَّبِيعِ عَنِ الْحَسَنِ الْبَصْرِيِّ قَالَ: يُعَقُّ عَنِ الْغُلَامِ وَلَا يُعَقُّ عَنِ الْجَارِيَةِ - وَمِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنْ جَرِيرٍ، وَسَهْلِ بْنِ يُوسُفَ، قَالَ سَهْلٌ: عَنْ عَمْرٍو عَنْ مُحَمَّدِ بْنِ سِيرِينَ أَنَّهُ كَانَ لَا يَرَى عَلَى الْجَارِيَةِ عَقِيقَةً - وَقَالَ جَرِيرٌ عَنِ الْمُغِيرَةِ بْنِ مِقْسَمٍ عَنْ أَبِي وَائِلٍ هُوَ شَقِيقُ بْنُ سَلَمَةَ - قَالَ: لَا يُعَقُّ عَنِ الْجَارِيَةِ وَلَا كَرَامَةَ.

L17630 These statements impose no obligation, for there is no valid proof except in revelation from Allah the Exalted through His Messenger—peace and blessings be upon him and his progeny—as stated: *“Nor does he speak from desire. It is not but a revelation revealed”* [an-Najm 53:3–4]. Since Abū Ḥanīfah did not know the ʿaqīqah ritual, what of it? If only I knew why Abū Ḥanīfah did not know it—this is not something strange, for how often he remained unaware of Sunnah practices![3]

وَهَذِهِ أَقْوَالٌ لَا يَلْزَمُ مِنْهَا شَيْءٌ، لَا حُجَّةَ إِلَّا فِي وَحْيٍ عَنِ اللَّهِ تَعَالَى عَلَى لِسَانِ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: {وَمَا يَنْطِقُ عَنِ الْهَوَى} [النجم: ٣] {إِنْ هُوَ إِلا وَحْيٌ يُوحَى} [النجم: ٤] وَلَمْ يَعْرِفْ أَبُو حَنِيفَةَ الْعَقِيقَةَ، فَكَانَ مَاذَا؟ لَيْتَ شِعْرِي إِذْ لَمْ يَعْرِفْهَا أَبُو حَنِيفَةَ مَا هَذَا بِنَكِرَةٍ فَطَالَمَا لَمْ يَعْرِفْ السُّنَنَ.

L17631 Those who do not consider it obligatory have relied on a weak narration from Abū Jaʿfar Muḥammad ibn ʿAlī ibn al-Ḥusayn stating: “The Udḥiyah abrogates every slaughter performed before it.” This constitutes no valid proof, for it is the statement of Muḥammad ibn ʿAlī, and the claim of abrogation cannot be established except through a text with a documented chain

وَاحْتَجَّ مَنْ لَمْ يَرَهَا وَاجِبَةً بِرِوَايَةٍ وَاهِيَةٍ عَنْ أَبِي جَعْفَرٍ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ نَسَخَ الْأَضْحَى كُلَّ ذَبْحٍ كَانَ قَبْلَهُ وَهَذَا لَا حُجَّةَ فِيهِ، لِأَنَّهُ قَوْلُ مُحَمَّدِ بْنِ عَلِيٍّ وَلَا يَصِحُّ دَعْوَى النَّسْخِ إِلَّا بِنَصٍّ مُسْنَدٍ إِلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -.

[3] **Qur’an references (L17630):** Qur’an 53:3 (An-Najm); Qur’an 53:4 (An-Najm).

of transmission traced back to the Messenger of Allāh (peace be upon him and his progeny).

L17632 And according to what we have narrated through the chain of Sufyan al-Thawri and Sufyan ibn Uyaynah—Sufyan [al-Thawri] from Zayd ibn Aslam from a man who reported from his father (Al-Thawri said: "from Banu Damrah," while Ibn Uyaynah said: "or from his uncle")—from the Prophet, peace and blessings be upon him and his family, when he was asked about Aqeeqah: "I dislike disobedience to parents. If someone has a child born to him and wishes to perform a sacrifice on the child's behalf, let him do so."

L17633 Ibn ʿUyaynah said: "Or [it is narrated] from his uncle: 'I witnessed the Prophet (may God bless him, his family, and grant him peace),' but this is baseless because it comes from a man whose identity is unknown among the people."

L17634 Al-Shafi'i and Al-Nakha'i said it is not obligatory, and they cited as evidence the narration of ʿAmr ibn Shuʿayb on the authority of his father on the authority of his grandfather: "The Prophet—peace be upon him and his family—was asked about the ʿaqīqah. He replied: 'I dislike _al-ʿuquq_ (disobedience/cutting). Whoever among you wishes to offer a sacrifice for their child may do so: two equivalent sheep for a male child and one sheep for a female child.'"

L17635 Abū Muḥammad said: "This is a document. Were it authentic, it would serve as proof for us against them, for it stipulates this obligation upon the boy and the female servant, and that it binds the father unless he wishes – this being the explicit wording of the narration and its legal implication. Thus, it is like Zakāt, and Zakāt al-Fiṭr falls under this ruling without distinction."

L17636–17638 Mālik said: The ʿaqīqah is not obligatory, but it is a sheep for the male and the female equally, to be slaughtered on the seventh day, excluding the day of his birth. If they do not perform it on the seventh, they perform it on the second. If they do not do so, they do not perform the ʿaqīqah after that. We know of no precedent for them in excluding the day of birth or restricting to the second week alone—nor are we aware of anyone who stated these two views prior to him.

وَبِمَا رُوِّينَاهُ مِنْ طَرِيقِ سُفْيَانَ، وَسُفْيَانَ عَنْ زَيْدِ بْنِ أَسْلَمَ عَنْ رَجُلٍ عَنْ أَبِيهِ، قَالَ الثَّوْرِيُّ: مِنْ بَنِي ضَمْرَةَ، وَقَالَ ابْنُ عُيَيْنَةَ: أَوْ عَنْ عَمِّهِ «عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَقَدْ سُئِلَ عَنْ الْعَقِيقَةِ؟ لَا أُحِبُّ الْعُقُوقَ، مَنْ وُلِدَ لَهُ وَلَدٌ فَأَحَبَّ أَنْ يَنْسُكَ عَنْهُ فَلْيَفْعَلْ» .

وَقَالَ ابْنُ عُيَيْنَةَ: أَوْ عَنْ عَمِّهِ شَهِدْتُ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَهَذَا لَا شَيْءَ؛ لِأَنَّهُ عَنْ رَجُلٍ لَا يُدْرَى مَنْ هُوَ فِي الْخَلْقِ.

وَقَالَ الشَّافِعِيُّ، وَالنَّخَعِيُّ لَيْسَتْ وَاجِبَةً وَاحْتَجُّوا بِرِوَايَةِ عَمْرِو بْنِ شُعَيْبٍ عَنْ أَبِيهِ عَنْ جَدِّهِ «سُئِلَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ الْعَقِيقَةِ؟ فَقَالَ: لَا أُحِبُّ الْعُقُوقَ، مَنْ أَحَبَّ مِنْكُمْ أَنْ يَنْسُكَ عَنْ وَلَدِهِ فَلْيَفْعَلْ: عَنْ الْغُلَامِ شَاتَانِ مُكَافَأَتَانِ، وَعَنْ الْجَارِيَةِ شَاةٌ» .

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا صَحِيفَةٌ، وَلَوْ صَحَّ لَكَانَ حُجَّةً لَنَا عَلَيْهِمْ؛ لِأَنَّ فِيهِ إيجَابَ ذَلِكَ عَلَى الْغُلَامِ وَالْجَارِيَةِ، وَأَنَّ ذَلِكَ يَلْزَمُ الْأَبَ إلَّا أَنْ يَشَاءَ - هَذَا نَصُّ الْخَبَرِ وَمُقْتَضَاهُ، فَهِيَ كَالزَّكَاةِ، وَزَكَاةُ الْفِطْرِ فِي هَذَا وَلَا فَرْقَ

وَقَالَ مَالِكٌ: الْعَقِيقَةُ لَيْسَتْ وَاجِبَةً، لَكِنَّهَا شَاةٌ عَنْ الذَّكَرِ وَالْأُنْثَى سَوَاءً تُذْبَحُ يَوْمَ السَّابِعِ، وَلَا يُعَدُّ فِيهَا يَوْمَ وِلَادَتِهِ، فَإِنْ لَمْ يَعُقُّوا فِي السَّابِعِ عَقُّوا فِي الثَّانِي - فَإِنْ لَمْ يَفْعَلُوا لَمْ يَعُقُّوا بَعْدَ ذَلِكَ -: وَمَا نَعْلَمُ لَهُمْ سَلَفًا فِي أَنْ لَا يُعَدَّ يَوْمُ الْوِلَادَةِ، وَلَا فِي الِاقْتِصَارِ عَلَى السَّابِعِ الثَّانِي فَقَطْ - وَلَا نَدْرِي أَحَدًا قَالَ هَذَيْنِ الْقَوْلَيْنِ قَبْلَهُ.

وَأَمَّا الْقَوْلُ بِشَاةٍ عَنْ الذَّكَرِ وَالْأُنْثَى، فَقَدْ رُوِيَ عَنْ طَائِفَةٍ مِنْ السَّلَفِ -: مِنْهُمْ عَائِشَةُ أُمُّ الْمُؤْمِنِينَ، وَأَسْمَاءُ أُخْتُهَا وَلَا يَصِحُّ ذَلِكَ عَنْهُمَا، لِأَنَّهَا عَنْ ابْنِ لَهِيعَةَ - وَهُوَ سَاقِطٌ - أَوْ عَنْ سُلَافَةَ مَوْلَاةِ حَفْصَةَ - وَهِيَ مَجْهُولَةٌ - أَوْ عَنْ أُسَامَةَ بْنِ زَيْدٍ اللَّيْثِيِّ - وَهُوَ ضَعِيفٌ - أَوْ عَنْ مَخْرَمَةَ بْنِ بُكَيْرٍ عَنْ أَبِيهِ، وَهِيَ صَحِيفَةٌ - وَإِنَّمَا الصَّحِيحُ عَنْ أُمِّ الْمُؤْمِنِينَ مَا ذَكَرْنَا عَنْهَا قَبْلُ، لَكِنَّهُ عَنْ ابْنِ عُمَرَ صَحِيحٌ.

L17639 As for the opinion prescribing a sheep for both a male and female child, this has been reported from a group of early predecessors—including ʿĀ'ishah, the Mother of the Believers, and her sister Asmā'—but this is not authentically established from them. This is because the narration is transmitted through Ibn Lahīʿah, who is rejected; or through Sulāfah, the client of Ḥafṣah, who is unknown; or through Usāmah ibn Zayd al-Laythī, who is weak; or through Makḥramah ibn Bukayr, from his father—and this is a written document. The authentic narration from the Mother of the Believers is what we previously mentioned from her. However, the narration from Ibn ʿUmar is authentic.

وَاحْتَجَّ مَنْ رَأَى هَذَا بِمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ أَيْمَنَ نَا أَحْمَدُ بْنُ مُحَمَّدٍ الْبِرْتِيُّ نَا أَبُو مَعْمَرٍ عَبْدُ اللَّهِ بْنُ عَمْرٍو الرَّقِّيِّ نَا عَبْدُ الْوَارِثِ بْنُ سَعِيدٍ التَّنُّورِيُّ نَا أَيُّوبُ السِّخْتِيَانِيُّ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَقَّ عَنْ الْحَسَنِ كَبْشًا وَعَنْ الْحُسَيْنِ كَبْشًا» .

L17640 Those who hold this view cite as evidence what was transmitted to us through Ibn Ayman's chain: Ahmad ibn Muhammad al-Birtī narrated to us, Abu Ma'mar 'Abdullah ibn 'Amr al-Raqqī narrated to us, 'Abd al-Warith ibn Sa'īd al-Tannūrī narrated to us, Ayyub al-Sikhtiyānī narrated from 'Ikrimah, from Ibn 'Abbās: "The Messenger of Allah - may Allah bless him and his family and grant him peace - offered a ram as 'aqīqah for al-Hasan and a ram for al-Husayn."

وَمِنْ طَرِيقِ ابْنِ الْجَهْمِ نَا مُحَمَّدُ بْنُ غَالِبٍ التَّمَّامُ نَا الْحَارِثُ بْنُ مِسْكِينٍ نَا ابْنُ وَهْبٍ عَنْ جَرِيرِ بْنِ حَازِمٍ عَنْ قَتَادَةَ عَنْ أَنَسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَقَّ عَنْ الْحَسَنِ وَالْحُسَيْنِ شَاتَيْنِ» .

L17641 From the chain of Ibn al-Jahm: Muḥammad ibn Ghālib al-Tamtām narrated to us, al-Ḥārith ibn Miskīn narrated to us, Ibn Wahb narrated to us from Jarīr ibn Ḥāzim from Qatādah from Anas that the Messenger of Allāh—peace and blessings be upon him and his family—sacrificed two sheep as ʿAqiqah for al-Ḥasan and al-Ḥusayn.

قَالَ أَبُو مُحَمَّدٍ: وَهَذَانِ عِنْدَنَا أَثَرَانِ صَحِيحَانِ إلَّا أَنَّهُ لَا حُجَّةَ فِيهِمَا لَهُمْ، لِوُجُوهٍ -:

L17642 Abū Muḥammad said: These two are, in our view, two authentic traditions; however, they constitute no valid evidence for them, on account of various considerations:

أَوَّلُهَا: أَنَّ حَدِيثَ أُمِّ كُرْزٍ زَائِدٌ عَلَى مَا فِي هَذَيْنِ الْخَبَرَيْنِ وَالزِّيَادَةُ مِنْ الْعَدْلِ لَا يَحِلُّ تَرْكُهَا.

L17643 The first is that the ḥadīth of Umm Kurz contains an addition to what is in these two reports, and it is prohibited to disregard an addition from a reliable narrator.

وَالثَّانِي: أَنَّنَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا قُتَيْبَةَ نَا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ عُبَيْدِ اللَّهِ بْنِ أَبِي يَزِيدَ عَنْ سِبَاعِ بْنِ ثَابِتٍ عَنْ أُمِّ كُرْزٍ قَالَتْ: «أَتَيْتُ رَسُولَ اللَّهِ - صَلَّى

L17644 The second: We have been narrated through the chain of Ahmad ibn Shuʿayb—from Qutaybah, from Sufyān—who is Ibn ʿUyaynah—from ʿUbayd Allāh ibn Abī Yazīd, from Sibāʿ ibn Thābit, from Umm Kurz, who said: "I came to the Messenger of Allah (peace be upon him and his family) at Al-

Ḥudaybiyah to ask him about the meat of sacrificial animals. I heard him say: ‘For a male child, two sheep are due, and for a female child, one sheep. It does not matter whether the sheep are male or female.’”

L17645 There is no disagreement that Al-Hasan—may Allah be pleased with him—was born in the year of Uhud, and that Al-Husayn—may Allah be pleased with him—was born the following year, two years before Al-Hudaybiyah. Thus, the ruling adhered to the later scholar’s position, not the Prophet’s earlier action—peace be upon him—which was merely a supererogatory act.

L17646–17647 The third perspective: We have been narrated through the chain of Ibn al-Jahm: Muʿadh reported to us; al-Qaʿnabī reported to us; Sulaymān ibn Bilāl reported from Jaʿfar ibn Muḥammad ibn ʿAlī ibn al-Ḥusayn, from his father, from his grandfather: “Fāṭimah, daughter of the Messenger of Allah—ṣallā Allāhu ʿalayhi wa ālihi wa sallam—performed the ʿaqīqah for al-Ḥasan and al-Ḥusayn when she gave birth to them, one sheep for each.” Abū Muḥammad said: There is no doubt that what Fāṭimah—raḍiya Allāhu ʿanhā—used for the ʿaqīqah differed from what the Messenger of Allah—ṣallā Allāhu ʿalayhi wa ālihi wa sallam—used. Thus, from these two reports, it becomes clear that he—ʿalayhi al-salām—performed the ʿaqīqah for each of them with a ram, while Fāṭimah—raḍiya Allāhu ʿanhā—performed the ʿaqīqah for each with a sheep. The result for each of them was a ram and a sheep, a ram and a sheep.

L17648 And we have also been narrated a report such that, had they obtained its like, they would have rejoiced: as we have been narrated through the chain of Aḥmad ibn Shuʿayb – Aḥmad ibn Ḥafṣ ibn ʿAbdullāh narrated to us, saying: My father narrated to me from Ibrāhīm ibn Ṭahmān, from al-Ḥajjāj ibn al-Ḥajjāj, from Qatādah, from ʿIkrimah, from Ibn ʿAbbās, who said: “The Messenger of Allah (may Allah bless him and his family and grant him peace) performed ʿaqīqah on behalf of al-Ḥasan and al-Ḥusayn (may Allah be pleased with them both) with two large rams.”

L17649 We have also been narrated a similar report through the chain of Ibn Jurayj from the Mother of the Believers ʿĀ’ishah—though this chain is disconnected—and it is surprising that Sufyān al-Thawrī narrated that report from

اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِالْحُدَيْبِيَةِ أَسْأَلُهُ عَنْ لُحُومِ الْهَدْيِ؟ فَسَمِعْتُهُ يَقُولُ: عَلَى الْغُلَامِ شَاتَانِ، وَعَلَى الْجَارِيَةِ شَاةٌ، لَا يَضُرُّكُمْ ذُكْرَانًا كَانَتْ أَمْ إِنَاثًا» .

وَلَا خِلَافَ فِي أَنَّ مَوْلِدَ الْحَسَنِ - رَضِيَ اللَّهُ عَنْهُ - كَانَ " عَامَ أُحُدٍ " وَأَنَّ مَوْلِدَ الْحُسَيْنِ - رَضِيَ اللَّهُ عَنْهُ - كَانَ فِي الْعَامِ الثَّانِي لَهُ وَذَلِكَ قَبْلَ الْحُدَيْبِيَةِ بِسَنَتَيْنِ، فَصَارَ الْحُكْمُ لِقَوْلِ الْمُتَأَخِّرِ، لَا لِفِعْلِهِ الْمُتَقَدِّمِ الَّذِي إنَّمَا كَانَ تَطَوُّعًا مِنْهُ - عَلَيْهِ السَّلَامُ -.

وَالْوَجْهُ الثَّالِثُ: أَنَّنَا رُوِّينَا مِنْ طَرِيقِ ابْنِ الْجَهْمِ نَا مُعَاذٌ نَا الْقَعْنَبِيُّ نَا سُلَيْمَانُ بْنُ بِلَالٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ، عَنْ أَبِيهِ عَنْ جَدِّهِ " أَنَّ فَاطِمَةَ بِنْتَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَقَّتْ عَنْ الْحَسَنِ وَالْحُسَيْنِ حِينَ وَلَدَتْهُمَا شَاةً شَاةً ". قَالَ أَبُو مُحَمَّدٍ: لَا شَكَّ فِي أَنَّ الَّذِي عَقَّتْ بِهِ فَاطِمَةُ - رَضِيَ اللَّهُ عَنْهَا - هُوَ غَيْرُ الَّذِي عَقَّ بِهِ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - فَاجْتَمَعَ مِنْ هَذَيْنِ الْخَبَرَيْنِ أَنَّهُ - عَلَيْهِ السَّلَامُ - عَقَّ عَنْ كُلِّ وَاحِدٍ مِنْهُمَا بِكَبْشٍ وَعَقَّتْ فَاطِمَةُ - رَضِيَ اللَّهُ عَنْهَا - عَنْ كُلِّ وَاحِدٍ مِنْهُمَا بِشَاةٍ، فَحَصَلَ عَنْ كُلِّ وَاحِدٍ مِنْهُمَا كَبْشٌ وَشَاةٌ، كَبْشٌ وَشَاةٌ.

وَقَدْ رُوِّينَا أَيْضًا خَبَرًا لَوْ ظَفَرُوا بِمِثْلِهِ لَاسْتَبْشَرُوا -: كَمَا رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ نَا أَحْمَدُ بْنُ حَفْصِ بْنِ عَبْدِ اللَّهِ حَدَّثَنِي أَبِي نَا إبْرَاهِيمُ بْنُ طَهْمَانَ عَنْ الْحَجَّاجِ بْنِ الْحَجَّاجِ عَنْ قَتَادَةَ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ «عَقَّ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ الْحَسَنِ وَالْحُسَيْنِ - رَضِيَ اللَّهُ عَنْهُمَا - بِكَبْشَيْنِ كَبِيرَيْنِ» .

Ayyūb, from ʿIkrimah: “The Prophet—peace and blessings be upon him and his family—performed the *ʿAqiqah* for al-Ḥasan and al-Ḥusayn with a ram for each.”

وَرُوِّينَا أَيْضًا مِثْلَ هَذَا مِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنْ أُمِّ الْمُؤْمِنِينَ عَائِشَةَ وَهُوَ مُنْقَطِعٌ - وَالْعَجَبُ أَنَّ سُفْيَانَ الثَّوْرِيَّ رَوَى ذَلِكَ الْخَبَرَ عَنْ أَيُّوبَ عَنْ عِكْرِمَةَ «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَقَّ عَنْ الْحَسَنِ وَالْحُسَيْنِ بِكَبْشٍ كَبْشٍ» .

L17650 Similarly, he transmitted it from Ayyūb as well. On weaker grounds than this, they seek pretexts to reject reports and allege inconsistency. We do not heed this—our reliance is upon what we mentioned concerning acceptance of the additional and the other. Success is from Allah, the Exalted.

وَكَذَلِكَ أَيْضًا أَرْسَلَهُ عَنْ أَيُّوبَ - وَبِأَقَلَّ مِنْ هَذَا يَتَعَلَّلُونَ فِي رَدِّ الْأَخْبَارِ وَيَدَّعُونَ أَنَّهُ اضْطِرَابٌ، وَنَحْنُ لَا نُرَاعِي هَذَا، وَإِنَّمَا مُعْتَمَدُنَا عَلَى مَا ذَكَرْنَا مِنْ الْأَخْذِ بِالزَّائِدِ وَالْآخَرِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.



AL-MUHALLA

كِتَابُ النُّذُورِ

The Book of Vows

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

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The Book of Vows: A legal issue wherein he vowed obedience to Allah, the Mighty and Majestic.

[كِتَابُ النُّذُورِ] [مَسْأَلَةٌ نَذَرَ طَاعَةً لِلَّهِ عَزَّ وَجَلَّ]

Issue 1115: We dislike vows and prohibit them. However, if someone vows an act of obedience to Allah the Almighty, fulfilling it becomes obligatory as a duty if the vow was made purely as a means of drawing closer to Allah the Almighty, in gratitude for a blessing from the blessings of Allah the Exalted, or if Allah the Exalted shows him a hope that involves no injustice toward a Muslim, and no sin:

١١١٥ - مَسْأَلَةٌ: نَكْرَهُ النَّذْرَ وَنَنْهَى عَنْهُ، لَكِنْ مَعَ ذَلِكَ مَنْ نَذَرَ طَاعَةً لِلَّهِ عَزَّ وَجَلَّ لَزِمَهُ الْوَفَاءُ بِهَا فَرْضًا إِذَا نَذَرَهَا تَقَرُّبًا إِلَى اللَّهِ عَزَّ وَجَلَّ مُجَرَّدًا أَوْ شُكْرًا لِنِعْمَةٍ مِنْ نِعَمِ اللَّهِ تَعَالَى، أَوْ إِنْ أَرَاهُ اللَّهُ تَعَالَى أَمَلًا لَا ظُلْمَ فِيهِ لِمُسْلِمٍ، وَلَا لِمَعْصِيَةٍ -:

Such as saying: "I must give to Allah such and such charity," or saying: "Fasting such and such days or more," or Hajj, or jihad, or remembrance of Allah the Exalted, or guarding the frontier, or visiting a sick person, or attending a funeral, or visiting the grave of a prophet or a righteous man, or walking or riding, or traveling to a ritual site associated with Mecca, or to Medina, or to Jerusalem (Bayt al-Maqdis), or freeing a specific slave, or an unspecified one, or any act of obedience whatsoever: this is pure devotion.

مِثْلُ أَنْ يَقُولَ: لِلَّهِ عَلَيَّ صَدَقَةُ كَذَا وَكَذَا، أَوْ يَقُولَ: صَوْمُ كَذَا وَكَذَا فَأَكْثَرَ، أَوْ حَجٌّ، أَوْ جِهَادٌ، أَوْ ذِكْرٌ لِلَّهِ تَعَالَى، أَوْ رِبَاطٌ، أَوْ عِيَادَةُ مَرِيضٍ، أَوْ شُهُودُ جِنَازَةٍ، أَوْ زِيَارَةُ قَبْرِ نَبِيٍّ، أَوْ رَجُلٍ صَالِحٍ، أَوْ الْمَشْيُ أَوْ الرُّكُوبُ، أَوْ النُّهُوضُ إِلَى مَشْعَرٍ مِنْ مَشَاعِرِ مَكَّةَ، أَوْ الْمَدِينَةِ، أَوْ إِلَى بَيْتِ الْمَقْدِسِ، أَوْ عِتْقُ مُعَيَّنٍ، أَوْ غَيْرُ مُعَيَّنٍ، أَوْ أَيُّ طَاعَةٍ كَانَتْ -: فَهَذَا هُوَ التَّقَرُّبُ الْمُجَرَّدُ.

If He delivers me from such-and-such, grants me authority over such-and-such matter, reunites me with my father, so-and-so my friend, or my family—or if one mentions any of the acts of devotion we mentioned—then charity is incumbent upon me for Allah's sake.

أَوْ يَقُولَ: لِلَّهِ عَلَيَّ إِذَا خَلَّصَنِي مِنْ كَذَا، أَوْ إِذَا مَلَّكَنِي أَمْرَ كَذَا، أَوْ إِذَا جَمَعَنِي مَعَ أَبِي، أَوْ فُلَانٍ صَدِيقِي، أَوْ مَعَ أَهْلِي صَدَقَةٌ، أَوْ ذَكَرَ شَيْئًا مِنْ الْقُرَبِ الَّتِي ذَكَرْنَا.

"Or he says: 'Upon me is a vow to Allah if He sends down rain, should I recover from my illness, should I be delivered, should I acquire authority over such-and-such a matter, or anything similar to this.'"

أَوْ يَقُولَ: عَلَيَّ لِلَّهِ إِنْ أَنْزَلَ الْغَيْثَ، أَوْ إِنْ صَحَحْت مِنْ عِلَّتِي، أَوْ إِنْ تَخَلَّصْت، أَوْ إِنْ مَلَكْت أَمْرَ كَذَا، أَوْ مَا أَشْبَهَ هَذَا.

If one vows to commit an act of disobedience to Allah, or an act that is neither obedience nor disobedience, fulfilling such a vow is not obligatory.

فَإِنْ نَذَرَ مَعْصِيَةً لِلَّهِ، أَوْ مَا لَيْسَ طَاعَةً وَلَا مَعْصِيَةً: لَمْ يَلْزَمْ الْوَفَاءُ بِشَيْءٍ مِنْ ذَلِكَ -:

Such as reciting poetry, or dyeing his garment red, or anything resembling this—and likewise, one who vows to perform obedience if he commits a sin, or when he sees a sin—

مِثْلُ أَنْ يُنْشِدَ شِعْرًا، أَوْ أَنْ يَصْبُغَ ثَوْبَهُ أَحْمَرَ، أَوْ مَا أَشْبَهَ هَذَا - وَكَذَلِكَ مَنْ نَذَرَ طَاعَةً إِنْ نَالَ مَعْصِيَةً، أَوْ إِذَا رَأَى مَعْصِيَةً -

For example, if one declares, "Upon me is a fast for Allah if so-and-so is killed or beaten," even though that so-and-so does not warrant such harm.

مِثْلَ أَنْ يَقُولَ: لِلَّهِ عَلَيَّ صَوْمٌ إنْ قُتِلَ فُلَانٌ، أَوْ إنْ ضُرِبَ، وَذَلِكَ الْفُلَانُ لَا يَسْتَحِقُّ شَيْئًا مِنْ ذَلِكَ.

L17660–17661 أَوْ قَالَ: لِلَّهِ عَلَيَّ صَدَقَةٌ إذَا أَرَانِي مَصْرَعَ فُلَانٍ - وَذَلِكَ الْفُلَانُ مَظْلُومٌ -: فَكُلُّ هَذَا لَا يَلْزَمُ الْوَفَاءُ بِشَيْءٍ مِنْهُ وَلَا كَفَّارَةَ فِي شَيْءٍ مِنْهُ وَلْيَسْتَغْفِرْ اللَّهَ تَعَالَى فَقَطْ.

L17662 وَكَذَلِكَ مَنْ أَخْرَجَ نَذْرَهُ مَخْرَجَ الْيَمِينِ، فَقَالَ عَلَيَّ الْمَشْيُ إلَى مَكَّةَ إنْ كَلَّمْت فُلَانًا، أَوْ عَلَيَّ عِتْقُ خَادِمِي فُلَانَةَ إنْ كَلَّمْت فُلَانًا، أَوْ إنْ زُرْت فُلَانًا، فَكُلُّ هَذَا لَا يَلْزَمُ الْوَفَاءُ بِهِ، وَلَا كَفَّارَةَ فِيهِ إلَّا الِاسْتِغْفَارُ فَقَطْ.

L17663 فَإِنْ قَالَ: لِلَّهِ عَلَيَّ وَلَمْ يُسَمِّ شَيْئًا فَلَيْسَ عَلَيْهِ إلَّا كَفَّارَةُ يَمِينٍ فَقَطْ. وَقَالَ قَوْمٌ: مَا خَرَجَ مِنْ هَذَا مَخْرَجَ الْيَمِينِ فَعَلَيْهِ الْوَفَاءُ بِهِ. وَقَالَ آخَرُونَ: مَا خَرَجَ مِنْ هَذَا مَخْرَجَ الْيَمِينِ فَلَيْسَ فِيهِ إلَّا كَفَّارَةُ يَمِينٍ.

L17664–17666 قَالَ أَبُو مُحَمَّد: بُرْهَانُ صِحَّةِ قَوْلِنَا -: أَمَّا الْمَنْعُ مِنْ النَّذْرِ فَلِمَا رُوِّينَاهُ مِنْ طَرِيقِ سُفْيَانَ وَشُعْبَةَ، كِلَاهُمَا عَنْ مَنْصُورٍ عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ عَنْ ابْنِ عُمَرَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - «أَنَّهُ نَهَى عَنْ النَّذْرِ، وَقَالَ: إنَّهُ لَا يَرُدُّ شَيْئًا وَلَكِنْ يُسْتَخْرَجُ بِهِ مِنْ الْبَخِيلِ» هَذَا لَفْظُ سُفْيَانَ. وَلَفْظُ شُعْبَةَ إنَّهُ لَا يَأْتِي بِخَيْرٍ مَكَانَ «إنَّهُ لَا يَرُدُّ شَيْئًا، وَأَنَّهُ يُسْتَخْرَجُ بِهِ مِنْ الْبَخِيلِ» وَاتَّفَقَا فِي غَيْرِ ذَلِكَ. وَصَحَّ أَيْضًا مُسْنَدًا مِنْ طَرِيقِ أَبِي هُرَيْرَةَ. وَرُوِّينَا مِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ عَنْ ابْنِ عَجْلَانَ عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبُرِيِّ " أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ: لَا أَنْذِرُ أَبَدًا " وَهَذَا يُوجِبُ مَا قُلْنَا: مِنْ أَنَّهُ مَنْهِيٌّ عَنْهُ فَإِذَا وَقَعَ لَزِمَ وَاسْتُخْرِجَ بِهِ مِنْ الْبَخِيلِ. وَأَيْضًا قَوْلُ اللَّهِ تَعَالَى: {يُوفُونَ بِالنَّذْرِ وَيَخَافُونَ يَوْمًا

Or if he said: "I owe a charity to Allah if He shows me the place where so-and-so will die"—and that so-and-so is oppressed—then in all such instances, none of this requires fulfillment nor entails expiation. Let him seek forgiveness from Allah, the Exalted, only.

Similarly, one who formulates his vow in the manner of an oath, such as saying, "It is incumbent upon me to walk to Mecca if I speak to so-and-so male," or, "It is incumbent upon me to emancipate my female servant so-and-so female if I speak to so-and-so male," or, "If I visit so-and-so male," all of this does not require fulfillment, nor does any expiation apply to it except istighfār alone.

If he says, "To Allah is incumbent upon me," without specifying anything, there is nothing incumbent upon him except the expiation of an oath alone. Some jurists said: If this is not formulated in the manner of an oath, fulfilling the vow is obligatory upon him. Others said: If it is not formulated in the manner of an oath, there is nothing required except the expiation of an oath.

Abu Muhammad said: The evidence supporting the validity of our position—: As for the prohibition of vows, this is based on what we transmitted through the chains of Sufyān and Shu'bah—both reporting from Manṣūr from 'Abdullāh ibn Murrah from Ibn 'Umar from the Prophet, peace and blessings be upon him and his family: "He forbade vows, saying: 'It does not avert anything, but rather it is extracted from a miser.'" This is Sufyān's wording. Shu'bah's wording states: "It does not bring good," instead of "It does not avert anything; rather, it is extracted from a miser." They concurred on the remainder. This is also authentically established as a musnad through the chain of Abū Hurayrah. We transmitted through Sufyān ibn 'Uyaynah's chain from Ibn 'Ajlān from Sa'īd ibn Abī Sa'īd al-Maqburī that he heard Abū Hurayrah declare: "I will never make a vow." This necessitates what we said: that vows are prohibited, but if undertaken, they become binding and it is extracted from a miser. Furthermore, Allah's words: "They fulfill

vows and dread a day whose evil is widespread" (Quran 76:7); "O believers, fulfill your covenants" (Quran 5:1); "Whoever transgresses Allah's limits has wronged themselves" (Quran 65:1); and "Say: My Lord has forbidden only indecencies—open and secret—sin, and oppression without justification" (Quran 7:33). All this confirms that whatever Allah has prohibited, it is not lawful for anyone to do. From this, it is established that whoever vows such a thing has vowed to disobey Allah—the Mighty and Majestic—while Allah the Exalted has prohibited him from disobeying Him. Thus, it is conclusively confirmed that the vows and contracts which Allah the Exalted has commanded to fulfill are solely vows of obedience, nothing more. A vow of obedience is precisely what we have described, with no addition. Necessarily, everyone knows that if someone vows obedience but then witnesses disobedience, gains the capacity for disobedience, or finds joy in witnessing disobedience—all of that from him constitutes disobedience to Allah the Exalted. No Muslim doubts any of this. Therefore, it is confirmed that all such vows are vows of disobedience, and fulfilling them is impermissible. As for what entails neither obedience nor disobedience, the one making such a vow is imposing what Allah the Exalted has neither obligated nor recommended. Whoever does this has transgressed Allah's limits, and his action in this is itself disobedience. Thus, he is not bound to fulfill what Allah the Exalted has not imposed upon him.

It has been narrated to us through the chain of Ahmad ibn Shuʿayb: Abu Kurayb Muhammad ibn al-ʿAlā' narrated to us, from Ibn Idrīs (i.e., ʿAbdullāh), from ʿUbaydullāh ibn ʿUmar, from Ṭalḥah ibn ʿAbd al-Malik, from al-Qāsim ibn Muḥammad ibn Abī Bakr al-Ṣiddīq, from ʿĀ'ishah, the Mother of the Believers, who said: I heard the Messenger of Allah—peace and blessings be upon him and his family—say, "Whoever vows to obey Allah the Exalted, let him obey Him; and whoever vows to disobey Allah the Exalted, let him not disobey Him." Ahmad said: Ṭalḥah ibn ʿAbd al-Malik is trustworthy, trustworthy, trustworthy.

Through the chain of al-Bukhārī: Mūsā ibn Ismāʿīl narrated to us, from Wuḥayb ibn Khālid, from Ayyūb al-Sakhtiyānī, from ʿIkrimah, from Ibn ʿAbbās: "While the Messenger of Allah—peace and blessings be upon him and

كَانَ شَرُّهُ مُسْتَطِيرًا} [الإنسان: ٧] . وقَوْله تَعَالَى {يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ} [المائدة: ١] {وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ} [الطلاق: ١] . وقَوْله تَعَالَى {قُلْ إِنَّمَا حَرَّمَ رَبِّيَ الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَالإِثْمَ وَالْبَغْيَ بِغَيْرِ الْحَقِّ} [الأعراف: ٣٣] . فَصَحَّ بِهَذَا كُلِّهِ أَنَّ كُلَّ مَا نَهَى اللَّهُ تَعَالَى عَنْهُ فَلَا يَحِلُّ لأَحَدٍ أَنْ يَفْعَلَهُ - فَصَحَّ مِنْ هَذَا أَنَّ مَنْ نَذَرَهُ فَقَدْ نَذَرَ أَنْ يَعْصِيَ اللَّهَ عَزَّ وَجَلَّ وَقَدْ نَهَاهُ اللَّهُ تَعَالَى عَنْ مَعْصِيَتِهِ. فَقَدْ صَحَّ يَقِينًا أَنَّ النُّذُورَ وَالْعُقُودَ الَّتِي أَمَرَ اللَّهُ تَعَالَى بِالْوَفَاءِ بِهَا إِنَّمَا هِيَ نَذْرُ الطَّاعَةِ فَقَطْ، وَلَيْسَ نَذْرُ الطَّاعَةِ إِلَّا مَا ذَكَرْنَا وَلَا مَزِيدَ، وَبِالضَّرُورَةِ يَدْرِي كُلُّ أَحَدٍ أَنَّ مَنْ نَذَرَ طَاعَةً إِنْ رَأَى مَعْصِيَةً أَوْ إِنْ تَمَكَّنَ مِنْ مَعْصِيَةٍ، أَوْ إِذْ رَأَى مَعْصِيَةً سُرُورًا بِهَا - فَإِنَّ كُلَّ ذَلِكَ مِنْهُ عِصْيَانٌ لِلَّهِ تَعَالَى، لَا يَشُكُّ فِي شَيْءٍ مِنْ هَذَا مُسْلِمٌ. فَصَحَّ أَنَّهُ كُلَّهُ نَذْرُ مَعْصِيَةٍ فَلَا يَحِلُّ الْوَفَاءُ بِهِ. وَأَمَّا مَا لَا طَاعَةَ فِيهِ وَلَا مَعْصِيَةَ، فَإِنَّ نَاذِرَهُ مُوجِبٌ مَا لَمْ يُوجِبْهُ اللَّهُ تَعَالَى وَلَا نَدَبَ إِلَيْهِ، وَمَنْ فَعَلَ هَذَا فَقَدْ تَعَدَّى حُدُودَ اللَّهِ تَعَالَى، فَفِعْلُهُ لِذَلِكَ مَعْصِيَةٌ، فَلَا يَلْزَمُهُ الْوَفَاءُ بِمَا لَمْ يَلْزَمْهُ اللَّهُ تَعَالَى مِنْ ذَلِكَ. رُوِّينَا مِنْ طَرِيقِ أَحْمَدَ بْنِ شُعَيْبٍ أَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلَاءِ نا ابْنُ إِدْرِيسَ هُوَ عَبْدُ اللَّهِ - عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ طَلْحَةَ بْنِ عَبْدِ الْمَلِكِ عَنْ الْقَاسِمِ بْنِ مُحَمَّدِ بْنِ أَبِي بَكْرٍ الصِّدِّيقِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ قَالَتْ: سَمِعْت رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -[يَقُولُ] : «مَنْ نَذَرَ أَنْ يُطِيعَ اللَّهَ تَعَالَى فَلْيُطِعْهُ، وَمَنْ نَذَرَ أَنْ يَعْصِيَ اللَّهَ تَعَالَى فَلَا يَعْصِهِ» . قَالَ أَحْمَدُ: طَلْحَةُ بْنُ عَبْدِ الْمَلِكِ ثِقَةٌ ثِقَةٌ ثِقَةٌ. وَمِنْ طَرِيقِ الْبُخَارِيِّ نا مُوسَى بْنُ إِسْمَاعِيلَ نا وُهَيْبُ بْنُ خَالِدٍ نا أَيُّوبُ هُوَ السَّخْتِيَانِيُّ - عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بَيْنَمَا هُوَ يَخْطُبُ إِذَا هُوَ بِرَجُلٍ قَائِمٍ فَسَأَلَ عَنْهُ؟ فَقَالُوا

his family—was delivering a sermon, he noticed a man standing. He asked about him, and they replied, 'This is Abū Isrā'īl, who vowed to stand without sitting, not seek shade, not speak, and to fast.' The Prophet—peace and blessings be upon him and his family—said, 'Order him to speak, seek shade, sit, and complete his fast.'"

All of this aligns precisely with our position, and praise be to Allah. He—peace and blessings be upon him and his family—commanded fulfilling the fast, which is an act of obedience, and prohibited fulfilling what is neither obedience nor disobedience, such as standing, abstaining from shade, and abstaining from speech.[1]

L17667–17668 Abu Thawr said: It is incumbent upon him to abandon speech, and he supported this by the words of the Almighty: {I have vowed to the Most Merciful a fast, so I will not speak to any human today} [Maryam: 26], and His words: {Your sign is that you will not speak to the people for three consecutive nights} [Maryam: 10]. Ali said: This is the Shariah of Zakariyya and Maryam, peace be upon them, and we are not obligated by the Shariah of anyone other than our Prophet, may Allah bless him and his family and grant him peace—especially since their situation was a miraculous sign among the signs of prophethood, and such signs are not meant for us. Moreover, the Messenger of Allah, may Allah bless him and his family and grant him peace, prohibited abstaining from speech, as we have mentioned.[2]

L17669 From the chain of Abd al-Razzaq via Ibn Jurayj via Abdullah ibn Tawus, who said: I heard my father say, "Since I reached the age of understanding, there is no valid vow involving disobedience to Allah. No vow holds except concerning matters within your ownership."

From the chain of Abd al-Razzaq via Ma'mar, who said: I asked al-Zuhri about a vow made by a person. He replied, "If it entails obedience to Allah, he must fulfill it. If it entails disobedience to Allah, let him draw closer to Allah Almighty through whatever act he wishes."

[1] **Qur'an references (L17664):** Qur'an 76:7 (Al-Insan); Qur'an 5:1 (Al-Ma'idah); Qur'an 65:1 (At-Talaq); Qur'an 7:33 (Al-A'raf).

[2] **Qur'an references (L17668):** Qur'an 19:26 (Maryam); Qur'an 19:10 (Maryam).

أَبُو إِسْرَائِيلَ نَذَرَ أَنْ يَقُومَ وَلَا يَقْعُدَ وَلَا يَسْتَظِلَّ وَلَا يَتَكَلَّمَ وَيَصُومَ فَقَالَ النَّبِيُّ صَلَّى - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: مُرْهُ فَلْيَتَكَلَّمْ وَلْيَسْتَظِلَّ وَلْيَقْعُدْ وَلْيُتِمَّ صَوْمَهُ» . وَهَذَا كُلُّهُ هُوَ نَفْسُ قَوْلِنَا وَلِلَّهِ الْحَمْدُ، أَمَرَهُ - عَلَيْهِ السَّلَامُ - بِالْوَفَاءِ بِالصَّوْمِ الَّذِي هُوَ طَاعَةٌ وَنَهَاهُ عَنْ الْوَفَاءِ بِمَا لَيْسَ طَاعَةً وَلَا مَعْصِيَةً مِنْ الْوُقُوفِ وَتَرْكِ الِاسْتِظْلَالِ وَتَرْكِ الْكَلَامِ.

وَقَدْ قَالَ أَبُو ثَوْرٍ: يَلْزَمُهُ تَرْكُ الْكَلَامِ وَاحْتَجَّ لَهُ بِقَوْلِهِ تَعَالَى: {إِنِّي نَذَرْتُ لِلرَّحْمَنِ صَوْمًا فَلَنْ أُكَلِّمَ الْيَوْمَ إِنْسِيًّا} [مريم: ٢٦] . وَبِقَوْلِهِ تَعَالَى {آيَتُكَ أَلا تُكَلِّمَ النَّاسَ ثَلاثَ لَيَالٍ سَوِيًّا} [مريم: ١٠] . قَالَ عَلِيٌّ: هَذِهِ شَرِيعَةُ زَكَرِيَّا، وَمَرْيَمَ - عَلَيْهِمَا السَّلَامُ - وَلَا يَلْزَمُنَا شَرِيعَةُ غَيْرِ نَبِيِّنَا - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - مَعَ أَنَّ شَأْنَهُمَا آيَةٌ مِنْ آيَاتِ النُّبُوَّةِ، وَلَيْسَتْ الْآيَاتُ لَنَا، وَقَدْ نَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ تَرْكِ الْكَلَامِ كَمَا ذَكَرْنَا.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ عَنْ عَبْدِ اللَّهِ بْنِ طَاوُسٍ قَالَ: سَمِعْت أَبِي يَقُولُ مُذْ عَقَلْت لَا نَذْرَ فِي مَعْصِيَةِ اللَّهِ، لَا نَذْرَ إلَّا فِيمَا تَمْلِكُ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ قَالَ: سَأَلْت الزُّهْرِيَّ عَنْ النَّذْرِ يُنْذِرُهُ الْإِنْسَانُ؟ فَقَالَ: إنْ كَانَ طَاعَةً لِلَّهِ فَعَلَيْهِ وَفَاؤُهُ، وَإِنْ كَانَ مَعْصِيَةً لِلَّهِ فَلْيَتَقَرَّبْ إلَى اللَّهِ تَعَالَى بِمَا شَاءَ. وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ أَبَانَ عَنْ ابْنِ عَبَّاسٍ: أَنَّ رَجُلًا أَتَاهُ فَقَالَ: إنِّي نَذَرْت إنْ نَجَا أَبِي مِنْ الْأَسْرِ أَنْ أَقُومَ عُرْيَانًا، وَأَنْ أَصُومَ يَوْمًا؟ فَقَالَ لَهُ ابْنُ عَبَّاسٍ: الْبَسْ ثِيَابَك، وَصُمْ يَوْمًا، وَصَلِّ قَائِمًا وَقَاعِدًا. وَعَنْ أَبِي الزُّبَيْرِ: أَنَّهُ سَمِعَ جَابِرًا يَقُولُ: لَا وَفَاءَ لِنَذْرٍ فِي

From the chain of Abd al-Razzaq via Ma’mar via Aban via Ibn Abbas: A man came to him and said, “I vowed that if my father were rescued from captivity, I would stand naked and fast for a day—should I do so?” Ibn Abbas told him, “Wear your clothes, fast for one day, and pray whether standing or sitting.”

From Abu al-Zubayr: He heard Jabir state, “There is no obligation to fulfill a vow involving disobedience to Allah Almighty.”

From Ikrimah via Ibn Abbas via Umar ibn al-Khattab: A man vowed never to eat with his brother’s orphaned sons. Umar instructed him, “Go and eat with them.”

From Qays ibn Abi Hazim: Abu Bakr al-Siddiq—may Allah Almighty be pleased with him—ordered a woman who vowed to perform Hajj in total silence to break her vow and speak.

L17670 From Masruq and Al-Shaʿbi: There is no fulfillment of a vow of disobedience, nor any expiation.

L17671–17673 And via the route of Muslim: Qutaybah narrated to us, from Ismāʿīl ibn Jaʿfar, from ʿAbdullāh ibn Dīnār: that he heard Ibn ʿUmar saying, the Messenger of Allah—peace and blessings be upon him—said: “Whoever takes an oath, let him not swear except by Allah.” And via the route of Mālik: on the authority of Nāfiʿ, on the authority of Ibn ʿUmar, on the authority of the Messenger of Allah—peace and blessings be upon him—that he said in a ḥadīth: “Whoever takes an oath, let him swear by Allah or remain silent.” Thereby, the Messenger of Allah—peace and blessings be upon him—nullified such oaths. Every oath except those sworn by Allah, the Almighty and Majestic, is invalid, and Allah has prohibited it. Whoever swears by other than Allah has indeed disobeyed Allah the Exalted. There is no validity to fulfilling a vow made in disobedience to Allah. Abu Muhammad said: Abu Hanifah and Malik stated, “Whoever formulates their vow in the manner of an oath—such as one who says, ’Walking to Mecca becomes incumbent upon me if I speak to so-and-so’—then if they speak to him, they are obligated to fulfill that vow.”

L17674 Al-Shāfiʿī stated: Expiation is required solely for oaths, except in [the contexts of] designated manumission and the ḥadd (prescribed punishment).

مَعْصِيَةِ اللَّهِ تَعَالَى. وَعَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ عَنْ عُمَرَ بْنِ الْخَطَّابِ: أَنَّ رَجُلًا نَذَرَ أَنْ لَا يَأْكُلَ مَعَ بَنِي أَخِيهِ يَتَامَى؟ فَقَالَ لَهُ عُمَرُ: اذْهَبْ فَكُلْ مَعَهُمْ. وَعَنْ قَيْسِ بْنِ أَبِي حَازِمٍ أَنَّ أَبَا بَكْرٍ الصِّدِّيقَ - رَضِيَ اللَّهُ تَعَالَى عَنْهُ - أَمَرَ امْرَأَةً نَذَرَتْ أَنْ تَحُجَّ سَاكِتَةً بِأَنْ تَتَكَلَّمَ.

وَعَنْ مَسْرُوقٍ، وَالشَّعْبِيِّ: لَا وَفَاءَ فِي نَذْرِ مَعْصِيَةٍ، وَلَا كَفَّارَةَ.

وَمِنْ طَرِيقِ مُسْلِمٍ نا قُتَيْبَةَ نا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ: أَنَّهُ سَمِعَ ابْنَ عُمَرَ يَقُولُ قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «مَنْ كَانَ حَالِفًا فَلَا يَحْلِفْ إِلَّا بِاللَّهِ» . وَمِنْ طَرِيقِ مَالِكٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - أَنَّهُ قَالَ فِي حَدِيثٍ: «مَنْ كَانَ حَالِفًا فَلْيَحْلِفْ بِاللَّهِ أَوْ لِيَصْمُتْ» . فَأَبْطَلَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - كُلَّ يَمِينٍ إِلَّا بِاللَّهِ عَزَّ وَجَلَّ وَنَهَى عَنْهَا، فَمَنْ حَلَفَ بِغَيْرِ اللَّهِ فَقَدْ عَصَى اللَّهَ تَعَالَى، وَلَا وَفَاءَ لِنَذْرٍ فِي مَعْصِيَةِ اللَّهِ. قَالَ أَبُو مُحَمَّدٍ: وَقَالَ أَبُو حَنِيفَةَ، وَمَالِكٌ: مَنْ أَخْرَجَ نَذْرَهُ مَخْرَجَ الْيَمِينِ مِثْلَ مَنْ قَالَ عَلَيَّ الْمَشْيُ إلَى مَكَّةَ إنْ كَلَّمْت فُلَانًا، فَإِنْ كَلَّمَهُ فَعَلَيْهِ الْوَفَاءُ بِذَلِكَ.

وَقَالَ الشَّافِعِيُّ: كَفَّارَةُ يَمِينٍ فَقَطْ إلَّا فِي الْعِتْقِ الْمُعَيَّنِ وَحَدِّهِ.

وَقَالَ أَبُو ثَوْرٍ: كَفَّارَةُ يَمِينٍ فِي كُلِّ ذَلِكَ الْعِتْقِ الْمُعَيَّنِ وَغَيْرِهِ. وَقَالَ الْمُزَنِيّ: لَا شَيْءَ فِي ذَلِكَ إلَّا فِي الْعِتْقِ الْمُعَيَّنِ وَحَدِّهِ فَفِيهِ الْوَفَاءُ بِهِ. قَالَ عَلِيٌّ: أَمَّا مَنْ قَالَ بِقَوْلِ أَبِي حَنِيفَةَ، وَمَالِكٍ؛ فَإِنَّهُمْ احْتَجُّوا بِأَنَّهُ نَذْرُ طَاعَةٍ فَعَلَيْهِ الْوَفَاءُ بِهِ - وَقَالُوا: قِسْنَاهُ عَلَى الطَّلَاقِ. قَالَ أَبُو مُحَمَّد: وَهَذَا خَطَأٌ ظَاهِرٌ؛ لِأَنَّ النَّذْرَ مَا قَصَدَ نَاذِرُهُ الرَّغْبَةَ فِي فِعْلِهِ وَالتَّقَرُّبَ إلَى اللَّهِ تَعَالَى بِهِ، وَاسْتَدْعَى مِنْ اللَّهِ عَزَّ وَجَلَّ تَعْجِيلَ تَبْلِيغِهِ مَا يُوجِبُ عَلَيْهِ ذَلِكَ الْعَمَلَ، وَهَذَا بِخِلَافِ ذَلِكَ، لِأَنَّهُ إنَّمَا قَصَدَ الِامْتِنَاعَ مِنْ ذَلِكَ الْبِرِّ، وَإِبْعَادِهِ عَنْ نَفْسِهِ جُمْلَةً وَمَنَعَ نَفْسَهُ مِمَّا يُوجِبُ عَلَيْهَا ذَلِكَ الْعَمَلَ.

L17675 Abu Thawr said: The expiation for an oath applies to all of that—both specified manumission and other forms. Al-Muzani said: There is no obligation in that except in specified manumission and its defined conditions, which necessitate fulfilling it. Ali said: As for those who follow the opinion of Abu Hanifah and Malik, they argued that it is a vow of obedience requiring fulfillment—stating: "We analogized it to divorce." Abu Muhammad said: This is a manifest error, for a vow inherently involves the maker's desire to perform the act and draw nearer to Allah the Exalted through it, thereby seeking from Allah Almighty to hasten the occurrence of what would render that action obligatory. This situation contradicts that principle entirely, for here the person merely intended to abstain from that righteous deed, wholly distancing himself from it, and preventing himself from what would necessitate performing that action.

فَصَحَّ يَقِينًا أَنَّهُ لَيْسَ نَاذِرًا، وَإِذْ لَيْسَ نَاذِرًا، فَلَا وَفَاءَ عَلَيْهِ بِمَا قَالَ.

L17676 It was thus conclusively established that he is not a vow-maker, and since he is not a vow-maker, there is no fulfillment required of him for what he declared.

وَأَيْضًا فَإِنَّهُ عَاصٍ اللَّهَ عَزَّ وَجَلَّ فِي ذَلِكَ الِالْتِزَامِ إذْ أَخْرَجَهُ مَخْرَجَ الْيَمِينِ، وَقَدْ حَرَّمَ اللَّهُ تَعَالَى عَلَيْهِ أَنْ يَحْلِفَ بِغَيْرِهِ فَصَارَ مَعْصِيَةً وَلَا وَفَاءَ لِنَذْرِ مَعْصِيَةٍ.

L17677 Moreover, he is disobeying Allah, the Exalted and Majestic, in that commitment, since he has treated the commitment as equivalent to an oath. Allah, the Most High, has prohibited him from swearing by anything other than Him, thus it became disobedience, and there is no validity to a vow rooted in disobedience.

فَصَحَّ يَقِينًا أَنَّ كُلَّ مَا ذَكَرْنَا لَيْسَ نَذْرَ طَاعَةٍ فَيَجِبُ الْوَفَاءُ بِهِ، وَلَيْسَ يَمِينًا لِلَّهِ تَعَالَى فَيَجِبُ فِيهِ كَفَّارَةُ يَمِينٍ - فَبَطَلَ أَنْ يَجِبَ فِي ذَلِكَ شَيْءٌ، إذْ لَمْ يُوجِبْهُ قُرْآنٌ، وَلَا سُنَّةٌ - وَالْأَمْوَالُ مَحْظُورَةٌ مُحَرَّمَةٌ إلَّا بِنَصٍّ.

L17678 It is certain that all we have mentioned is neither a vow of obedience (which would require fulfillment) nor an oath in the name of Allah the Exalted (which would necessitate expiation for an oath). Thus, it is nullified that anything should be obligatory in such matters, since neither the Quran nor the Sunnah has mandated it. Wealth is prohibited and forbidden except by an explicit textual ruling.

وَأَمَّا قِيَاسُهُمْ إيَّاهُ عَلَى الطَّلَاقِ: فَالْخِلَافُ أَيْضًا فِي الطَّلَاقِ غَيْرِ الْمُعَيَّنِ أَشْهَرُ مِنْ أَنْ يُجْهَلَ - فَظَهَرَ بُطْلَانُ هَذَا الْقَوْلِ.

L17679 As for their analogy of it to divorce: the disagreement about non-specific divorce is likewise too prominent to be unknown—thus the invalidity of this analogical opinion becomes clear.

L17680 As for those who obligate an expiation for an oath in such a case, this too is invalid, because He (Allah) has decreed there is no oath except by Allah,

the Exalted, and He, the Mighty and Majestic, has not obligated expiation for oaths sworn by other than Him. Thus, there is no expiation for an oath sworn by other than Him, the Mighty and Majestic.

وَأَمَّا مَنْ أَوْجَبَ فِي ذَلِكَ كَفَّارَةَ يَمِينٍ، فَبَاطِلٌ أَيْضًا، لِأَنَّهُ لَا يَمِينَ إِلَّا بِاللَّهِ تَعَالَى، وَلَمْ يُوجِبْ عَزَّ وَجَلَّ كَفَّارَةً فِي غَيْرِ الْيَمِينِ بِهِ، فَلَا كَفَّارَةَ فِي يَمِينٍ بِغَيْرِهِ عَزَّ وَجَلَّ.

L17681–17682 As for those who differentiate between specified manumission and other types, this is erroneous. Their argument is that it constitutes conditional manumission - but this is incorrect. Rather, it is an oath concerning manumission, which is also void and non-binding.

وَأَمَّا مَنْ فَرَّقَ بَيْنَ الْعِتْقِ الْمُعَيَّنِ وَغَيْرِهِ خَطَأً، وَحُجَّتُهُمْ فِي ذَلِكَ أَنَّهُ عِتْقٌ بِصِفَةٍ - وَلَيْسَ كَمَا قَالُوا - بَلْ هُوَ يَمِينٌ بِالْعِتْقِ فَهُوَ بَاطِلٌ أَيْضًا لَا يَلْزَمُ.

L17683 They said: "Have we analogized specific manumission to specific divorce?" We replied: "All analogy is entirely invalid. Moreover, your claim regarding specific divorce when he intended it as an oath is invalid - neither from the Qur'an, nor the Sunnah, nor the consensus."

وَقَالُوا: قِسْنَا الْعِتْقَ الْمُعَيَّنَ عَلَى الطَّلَاقِ الْمُعَيَّنِ؟ فَقُلْنَا: الْقِيَاسُ كُلُّهُ بَاطِلٌ، ثُمَّ لَا يَصِحُّ قَوْلُكُمْ فِي الطَّلَاقِ الْمُعَيَّنِ إِذَا قَصَدَ بِهِ الْيَمِينَ، لَا مِنْ قُرْآنٍ، وَلَا سُنَّةٍ، وَلَا إِجْمَاعٍ.

L17684 If they adduce as evidence the report we transmitted through the chain of al-Zuhrī from Abū Salama from ʿĀ'isha that the Prophet—may Allah's blessings and peace be upon him and his family—said, "There is no valid vow in disobedience to Allah, and its expiation is the expiation for an oath," this is a report al-Zuhrī never heard directly from Abū Salama. Rather, he narrated it from Sulaymān ibn Arqam from Yaḥyā ibn Abī Kathīr from Abū Salama—and Sulaymān ibn Arqam is known for lying.[3]

فَإِنْ احْتَجُّوا بِالْخَبَرِ الَّذِي رُوِّينَاهُ مِنْ طَرِيقِ الزُّهْرِيِّ عَنْ أَبِي سَلَمَةَ عَنْ عَائِشَةَ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: «لَا نَذْرَ فِي مَعْصِيَةِ اللَّهِ وَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ» . وَهَذَا خَبَرٌ لَمْ يَسْمَعْهُ الزُّهْرِيُّ مِنْ أَبِي سَلَمَةَ، إِنَّمَا رَوَاهُ عَنْ سُلَيْمَانَ بْنِ أَرْقَمَ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ أَبِي سَلَمَةَ - وَسُلَيْمَانُ بْنُ أَرْقَمَ مَذْكُورٌ بِالْكَذِبِ.

L17685 Another narration: Through the chain of Ṭalḥah ibn Yaḥyā al-Anṣārī from ʿAbd Allāh ibn Saʿīd ibn Abī Hindah from Bukayr ibn ʿAbd Allāh ibn al-Ashajj from Kurayb from Ibn ʿAbbās, that the Messenger of Allah—peace and blessings of Allah be upon him—said: "Whoever vows to commit an act of disobedience, its expiation is the expiation of an oath, and whoever makes a vow that he cannot fulfill, its expiation is the expiation of an oath." Ṭalḥah ibn Yaḥyā al-Anṣārī is a very weak narrator.

وَخَبَرٌ آخَرُ: مِنْ طَرِيقِ طَلْحَةَ بْنِ يَحْيَى الْأَنْصَارِيِّ عَنْ عَبْدِ اللَّهِ بْنِ سَعِيدِ بْنِ أَبِي هِنْدٍ عَنْ بُكَيْرِ بْنِ عَبْدِ اللَّهِ بْنِ الْأَشَجِّ عَنْ كُرَيْبٍ عَنِ ابْنِ عَبَّاسٍ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: «مَنْ نَذَرَ نَذْرًا فِي مَعْصِيَةٍ فَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ، وَمَنْ نَذَرَ نَذْرًا لَا يُطِيقُهُ فَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ» . وَطَلْحَةُ بْنُ يَحْيَى الْأَنْصَارِيُّ ضَعِيفٌ جِدًّا.

L17686 It was narrated to us through the route of Saʿīd ibn Manṣūr—Ḥammād ibn Zayd ibn Dirham narrated from Muḥammad ibn al-Zubayr al-Ḥanẓalī, from his father, from 'Imrān ibn al-Ḥuṣayn, from the Prophet—peace and blessings be upon him and his family—who said: "There is no vow in anger, and its expiation is the expiation for an oath."

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا حَمَّادُ بْنُ زَيْدِ بْنِ دِرْهَمٍ عَنْ مُحَمَّدِ بْنِ الزُّبَيْرِ الْحَنْظَلِيِّ عَنْ أَبِيهِ عَنْ عِمْرَانَ بْنِ الْحُصَيْنِ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: «لَا نَذْرَ فِي غَضَبٍ، وَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ» .

[3] **Hadith references (L17684):** Jami at-Tirmidhi 1525.

L17687 And a report via the chain of ʿAbd al-Wārith ibn Saʿīd from Muḥammad ibn al-Zubayr al-Ḥanẓalī from his father from ʿImrān ibn al-Ḥuṣayn from the Prophet—peace and blessings be upon him and his family—: "There is no vow in disobedience, and its atonement is the atonement for an oath." Muḥammad ibn al-Zubayr al-Ḥanẓalī is in the utmost weakness. Furthermore: It has been narrated to us through the chain of Ibn Abī Shaybah from al-Muʿtamir ibn Sulaymān al-Taymī from Muḥammad ibn al-Zubayr al-Ḥanẓalī from ʿImrān ibn al-Ḥuṣayn, where he cited this same ḥadīth.

وَخَبَرٌ: مِنْ طَرِيقِ عَبْدِ الْوَارِثِ بْنِ سَعِيدٍ عَنْ مُحَمَّدِ بْنِ الزُّبَيْرِ الْحَنْظَلِيِّ عَنْ أَبِيهِ عَنْ عِمْرَانَ بْنِ الْحُصَيْنِ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «لَا نَذْرَ فِي مَعْصِيَةٍ وَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ» مُحَمَّدُ بْنُ الزُّبَيْرِ الْحَنْظَلِيُّ فِي غَايَةِ الضَّعْفِ وَزِيَادَةٌ: - فَقَدْ رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ عَنِ الْمُعْتَمِرِ بْنِ سُلَيْمَانَ التَّيْمِيِّ عَنْ مُحَمَّدِ بْنِ الزُّبَيْرِ الْحَنْظَلِيِّ عَنْ عِمْرَانَ بْنِ الْحُصَيْنِ، فَذَكَرَ هَذَا الْحَدِيثَ نَفْسَهُ.

L17688–17689 Al-Muʿtamir said: I asked Muḥammad ibn al-Zubayr, "Did one who heard it directly from ʿImrān narrate it to you?" He replied, "No, but a man narrated it to me on the authority of ʿImrān ibn al-Ḥuṣayn," thereby invalidating the entire narration as a whole.

قَالَ الْمُعْتَمِرُ: فَقُلْت لِمُحَمَّدِ بْنِ الزُّبَيْرِ أَحَدَّثَكَهُ مَنْ سَمِعَهُ مِنْ عِمْرَانَ فَقَالَ: لَا وَلَكِنْ حَدَّثَنِيهِ رَجُلٌ عَنْ عِمْرَانَ بْنِ الْحُصَيْنِ، فَبَطَلَ جُمْلَةً.

L17690 Another [narration]: through the chain of Ismāʿīl ibn Abī Uways from his father, from Dāwūd ibn al-Ḥuṣayn, from Bukayr ibn al-Ashajj, from Kurayb, from Ibn ʿAbbās, from the Messenger of Allah (peace and blessings of Allah be upon him and his family), similar to the ḥadīth of Ṭalḥah ibn Yaḥyā al-Anṣārī which we mentioned; Ibn Abī Uways is deemed weak.

وَآخَرُ: مِنْ طَرِيقِ إِسْمَاعِيلَ بْنِ أَبِي أُوَيْسٍ عَنْ أَبِيهِ عَنْ دَاوُد بْنِ الْحُصَيْنِ عَنْ بُكَيْرِ بْنِ الْأَشَجِّ عَنْ كُرَيْبٍ عَنِ ابْنِ عَبَّاسٍ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - مِثْلَ حَدِيثِ طَلْحَةَ بْنِ يَحْيَى الْأَنْصَارِيِّ الَّذِي ذَكَرْنَا. وَابْنُ أَبِي أُوَيْسٍ ضَعِيفٌ.

L17691 Narrated via the chain of ʿAbd al-Razzāq ibn Rūḥ, from Salām ibn Sulaymān, from Muḥammad ibn al-Faḍl ibn ʿAṭiyyah, from ʿAbd al-ʿAzīz ibn Rufayʿ, from Tamīm ibn Ṭarafah, from ʿAdī ibn Ḥātim, from the Prophet—may God's blessings and peace be upon him and his family—: "Whoever vows a vow involving disobedience, its expiation is the atonement for breaking an oath." Salām ibn Sulaymān is deemed weak.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ بْنِ رَوْحٍ عَنْ سَلَّامِ بْنِ سُلَيْمَانَ عَنْ مُحَمَّدِ بْنِ الْفَضْلِ بْنِ عَطِيَّةَ عَنْ عَبْدِ الْعَزِيزِ بْنِ رُفَيْعٍ عَنْ تَمِيمِ بْنِ طَرَفَةَ عَنْ عَدِيِّ بْنِ حَاتِمٍ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «مَنْ نَذَرَ نَذْرًا فِي مَعْصِيَةٍ فَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ» . سَلَّامُ بْنُ سُلَيْمَانَ هَالِكٌ.

L17692 And from the chain of ʿAbd al-Razzāq: from Maʿmar, and from Ibn Jurayj. Maʿmar said: From Yaḥyā ibn Abī Kathīr from a man of Banū Ḥanīfah. Ibn Jurayj said: It was narrated to me from Yaḥyā ibn Abī Kathīr from Abū Salamah. Then their chains converge at the Prophet (peace and blessings of Allah be upon him and his family): "There is no vow in anger nor in disobedience to Allah, and its expiation is the expiation of an oath." One is mursal and munqaṭiʿ, and the other is mursal and from someone unidentified.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ، وَابْنِ جُرَيْجٍ قَالَ مَعْمَرٌ: عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ رَجُلٍ مِنْ بَنِي حَنِيفَةَ، وَقَالَ ابْنُ جُرَيْجٍ: حَدَّثْت عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ أَبِي سَلَمَةَ ثُمَّ اتَّفَقَا عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «لَا نَذْرَ فِي غَضَبٍ وَلَا فِي مَعْصِيَةِ اللَّهِ

وَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ» . أَحَدُهُمَا مُرْسَلٌ وَمُنْقَطِعٌ، وَالْآخَرُ مُرْسَلٌ وَعَمَّنْ لَا يُدْرَى مَنْ هُوَ.

L17693 It has been reported to us from Ibn Mas‘ūd and Ibn ‘Abbās: “No fulfillment is due for a vow involving disobedience, and its expiation is the expiation of an oath.” None of that [ruling] is valid, because the narration from Ibn Mas‘ūd comes through his son Abū ‘Ubaydah, who did not hear anything from him. As for the narration from Ibn ‘Abbās, it comes through Ibrāhīm ibn Abī Yaḥyā, who is known for lying.

وَرُوِّينَا عَنْ ابْنِ مَسْعُودٍ، وَابْنِ عَبَّاسٍ: لَا وَفَاءَ لِنَذْرٍ فِي مَعْصِيَةٍ وَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ - وَلَا يَصِحُّ شَيْءٌ مِنْ ذَلِكَ؛ لِأَنَّهُ عَنْ ابْنِ مَسْعُودٍ مِنْ طَرِيقِ ابْنِهِ أَبِي عُبَيْدَةَ وَلَمْ يَسْمَعْ مِنْهُ شَيْئًا - وَعَنْ ابْنِ عَبَّاسٍ مِنْ طَرِيقِ إبْرَاهِيمَ بْنِ أَبِي يَحْيَى، وَهُوَ مَذْكُورٌ بِالْكَذِبِ.

L17694 It has also been narrated to us through the chain of Abū Sufyān from Jābir: “A vow made to disobey [Allah] is invalid, and its atonement is equivalent to that of breaking an oath.” However, Abū Sufyān is rejected [as a narrator].

وَرُوِّينَا أَيْضًا مِنْ طَرِيقِ أَبِي سُفْيَانَ عَنْ جَابِرٍ: لَا نَذْرَ فِي مَعْصِيَةٍ وَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ، وَأَبُو سُفْيَانَ سَاقِطٌ.

L17695–17697 Abu Muhammad said: Then, despite the invalidity of all this, Abu Hanifa and Al-Shafi‘i oppose him. As for Abu Hanifa, he does not consider anything obligatory for one who equates a vow to an oath except fulfilling it - even though the vow is one of disobedience. Rather, he holds that the expiation for a vow of disobedience corresponds to the expiation of an oath in two instances only: the first is when one says: “I am a disbeliever if I do such and such,” and the second is when one says: “I owe a duty to Allah if he is killed today.” So-and-so intended to take an oath, but he did not deem it obligatory upon one who vows to commit adultery, kill, disbelieve, commit sodomy (liwaṭ), or drink intoxicants (khamr) to offer any expiation for the oath whatsoever, thereby opposing all that we have mentioned in favor of an unrecognized predecessor.

قَالَ أَبُو مُحَمَّد: ثُمَّ كُلُّ هَذَا عَلَى فَسَادِهِ فَإِنَّ أَبَا حَنِيفَةَ، وَالشَّافِعِيَّ: مُخَالِفَانِ لَهُ -: أَمَّا أَبُو حَنِيفَةَ فَلَا يَرَى فِيمَنْ أَخْرَجَ النَّذْرَ مَخْرَجَ الْيَمِينِ إلَّا الْوَفَاءَ بِهِ وَهُوَ نَذْرُ مَعْصِيَةٍ وَإِنَّمَا يَرَى كَفَّارَةَ نَذْرِ الْمَعْصِيَةِ كَفَّارَةَ يَمِينٍ فِي مَوْضِعَيْنِ فَقَطْ -: أَحَدُهُمَا - إذَا قَالَ: أَنَا كَافِرٌ إنْ فَعَلْت كَذَا وَكَذَا، وَإِذَا قَالَ: لِلَّهِ عَلَيَّ إنْ قُتِلَ الْيَوْمَ فُلَانٌ، وَأَرَادَ الْيَمِينَ، وَلَمْ يَرَ عَلَى مَنْ نَذَرَ أَنْ يَزْنِيَ، أَوْ أَنْ يَقْتُلَ، أَوْ أَنْ يَكْفُرَ، أَوْ أَنْ يَلُوطَ، أَوْ أَنْ يَشْرَبَ الْخَمْرَ كَفَّارَةَ يَمِينٍ أَصْلًا، فَخَالَفَ كُلَّ مَا ذَكَرْنَا إلَى غَيْرِ سَلَفٍ يُعْرَفُ.

L17698 As for al-Shāfi‘ī, he did not consider the expiation for oaths applicable to any vows involving sin except for one who vowed obedience while treating it as equivalent to an oath. Both positions contradict all that we have mentioned, thereby invalidating any foundational basis for their stance. Our opinion aligns with that of a group from the Salaf. As transmitted through ‘Abd al-Razzāq from al-Mu‘tamir ibn Sulaymān al-Taymī, from his father, from Bakr ibn ‘Abd Allāh al-Muzanī: Abū Rāfi‘ narrated to me, saying: My mistress Laylā bint al-‘Ajmā’ declared to me: “Every slave I own is free, all my wealth is

وَأَمَّا الشَّافِعِيُّ فَلَمْ يَرَ فِي شَيْءٍ مِنْ النُّذُورِ فِي الْمَعْصِيَةِ كَفَّارَةَ يَمِينٍ إلَّا فِيمَنْ نَذَرَ طَاعَةً أَخْرَجَهُ مَخْرَجَ الْيَمِينِ؛ فَكِلَاهُمَا مُخَالِفٌ لِكُلِّ مَا ذَكَرْنَا، فَبَطَلَ أَنْ يَكُونَ لَهُمْ مُتَعَلَّقٌ بِشَيْءٍ أَصْلًا - وَقَوْلُنَا هُوَ قَوْلُ طَائِفَةٍ مِنْ السَّلَفِ -: كَمَا رُوِّينَا مِنْ عَبْدِ الرَّزَّاقِ عَنْ الْمُعْتَمِرِ بْنِ سُلَيْمَانَ التَّيْمِيِّ عَنْ أَبِيهِ عَنْ بَكْرِ بْنِ عَبْدِ اللَّهِ الْمُزَنِيِّ أَخْبَرَنِي أَبُو رَافِعٍ قَالَ: قَالَتْ

لِي مَوْلَاتِي لَيْلَى بِنْتِ الْعَجْمَاءِ: كُلُّ مَمْلُوكٍ لَهَا حُرٌّ، وَكُلُّ مَالٍ لَهَا هَدْيٌ، وَهِيَ يَهُودِيَّةٌ، أَوْ نَصْرَانِيَّةٌ إِنْ لَمْ تُطَلِّقِ امْرَأَتَك، فَأَتَيْت زَيْنَبَ بِنْتَ أُمِّ سَلَمَةَ أُمَّ الْمُؤْمِنِينَ فَجَاءَتْ مَعِي إِلَيْهَا، فَقَالَتْ: يَا زَيْنَبُ جَعَلَنِي اللَّهُ فِدَاءَك إِنَّهَا قَالَتْ: كُلُّ مَمْلُوكٍ حُرٌّ وَهِيَ يَهُودِيَّةٌ؟ فَقَالَتْ لَهَا زَيْنَبُ: يَهُودِيَّةٌ وَنَصْرَانِيَّةٌ خَلِّ بَيْنَ الرَّجُلِ وَبَيْنَ امْرَأَتِهِ: فَكَأَنَّهَا لَمْ تَقْبَلْ فَأَتَيْت حَفْصَةَ أُمَّ الْمُؤْمِنِينَ فَأَرْسَلَتْ مَعِي إِلَيْهَا فَقَالَتْ: يَا أُمَّ الْمُؤْمِنِينَ جَعَلَنِي اللَّهُ فِدَاءَك إِنَّهَا قَالَتْ: كُلُّ مَمْلُوكٍ حُرٌّ، وَكُلُّ مَالٍ لَهَا هَدْيٌ وَهِيَ يَهُودِيَّةٌ أَوْ نَصْرَانِيَّةٌ؛ فَقَالَتْ أُمُّ الْمُؤْمِنِينَ: يَهُودِيَّةٌ وَنَصْرَانِيَّةٌ خَلِّ بَيْنَ الرَّجُلِ وَبَيْنَ امْرَأَتِهِ.

a sacrificial offering, and I shall be a Jewess or Christian if you do not divorce your wife." I then approached Zaynab bint Umm Salamah, the Mother of the Believers, who accompanied me to her. I said: "O Zaynab, may Allāh ransom me for you, she vowed: 'Every slave is free, and she becomes a Jewess?'" Zaynab responded: "A Jewess or Christian? Let the man remain with his wife." As if she did not accept this, I went to Ḥafṣah, the Mother of the Believers, who sent me back to her with her directive. I said: "O Mother of the Believers, may I be sacrificed for you, she vowed: 'Every slave is free, all her wealth is a sacrificial offering, and she becomes a Jewess or Christian.'" The Mother of the Believers replied: "A Jewess or Christian? Let the man remain with his wife."

وَمِنْ طَرِيقِ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ فِيمَنْ قَالَ لِغَرِيمِهِ: إِنْ فَارَقْتُك فَمَا لِي عَلَيْك فِي الْمَسَاكِينِ صَدَقَةٌ، فَفَارَقَهُ، إِنَّ هَذَا لَا شَيْءَ يَلْزَمُهُ فِيهِ.

L17699 From the narration of Aisha, the Mother of the Believers, regarding one who said to his creditor: "If I release you [from the debt], then what I am owed by you shall be charity (sadaqah) for the poor." When he released him, [the ruling is that] this creditor bears no obligation in this matter.

وَصَحَّ هَذَا أَيْضًا عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ، وَحَمَّادِ بْنِ أَبِي سُلَيْمَانَ مِنْ طَرِيقِ شُعْبَةَ عَنْهُمَا وَهُوَ قَوْلُ الشَّعْبِيِّ وَالْحَارِثِ الْعُكْلِيِّ، وَسَعِيدِ بْنِ الْمُسَيِّبِ، وَالْقَاسِمِ بْنِ مُحَمَّدٍ وَأَبِي سُلَيْمَانَ، وَأَصْحَابِنَا.

L17700 This has also been authentically reported from Al-Ḥakam ibn ʿUtaybah and Ḥammād ibn Abī Sulaymān through the narration of Shuʿbah from both of them, and it is the opinion of Ash-Shaʿbī, Al-Ḥārith al-ʿUklī, Saʿīd ibn Al-Musayyib, Al-Qāsim ibn Muḥammad, Abī Sulaymān, and our companions.

فَإِنْ قَالُوا: قَدْ أَفْتَى ابْنُ عُمَرَ فِي ذَلِكَ بِكَفَّارَةِ يَمِينٍ؟ قُلْنَا: نَعَمْ، وَقَدْ اخْتَلَفَ الصَّحَابَةُ - رَضِيَ اللَّهُ عَنْهُمْ - فِي ذَلِكَ عَلَى مَا نَذْكُرُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى، فَمَا الَّذِي جَعَلَ قَوْلَ بَعْضِهِمْ أَوْلَى مِنْ قَوْلِ بَعْضٍ بِلَا بُرْهَانٍ؟ وَصَحَّ عَنْ عَائِشَةَ، وَأُمِّ سَلَمَةَ أُمَّيْ الْمُؤْمِنِينَ.

L17701 If they say: "Did Ibn Umar issue a legal ruling with the expiation of an oath?" We say: Yes, and the Companions (may Allah be pleased with them) differed on this matter, as we will mention after this if Allah the Exalted wills. So what makes the opinion of some preferable to others without proof? It is authentically reported from Aisha and Umm Salama, the two Mothers of the Believers.

وَعَنْ ابْنِ عُمَرَ أَنَّهُ جَعَلَ قَوْلَ لَيْلَى بِنْتِ الْعَجْمَاءِ: كُلُّ مَمْلُوكٍ لَهَا حُرٌّ، وَكُلُّ مَالٍ لَهَا هَدْيٌ، وَهِيَ يَهُودِيَّةٌ أَوْ نَصْرَانِيَّةٌ إِنْ لَمْ تُطَلِّقِ امْرَأَتَك كَفَّارَةَ يَمِينٍ وَاحِدَةً.

L17702 Ibn 'Umar deemed that Layla bint al-'Ajmā"s declaration—"Every slave she owns is free, and all her wealth is a sacrificial offering"—while she was Jewish or Christian, would serve as the atonement for a single oath if you do not divorce your wife.

L17703–17704 From Aisha, the Mother of the Believers, that she spoke regarding someone who swears an oath, saying, “My wealth is [dedicated to] charitable contributions in the cause of Allah,” or who says, “All my wealth is for the door of the Kaaba”—this constitutes the expiation for an oath.

وَعَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ أَنَّهَا قَالَتْ فِيمَنْ قَالَ فِي يَمِينٍ: مَالِي ضَرَائِبُ فِي سَبِيلِ اللَّهِ، أَوْ قَالَ: مَالِي كُلُّهُ فِي رِتَاجِ الْكَعْبَةِ كَفَّارَةُ يَمِينٍ.

L17705 On the authority of Umm Salamah and Aisha, the two Mothers of the Believers, regarding one who said: “It is incumbent upon me to walk to the House of Allah” - if that is not done, it requires the expiation for an oath.

وَعَنْ أُمِّ سَلَمَةَ، وَعَائِشَةَ أُمَّيِ الْمُؤْمِنِينَ فِيمَنْ قَالَ عَلَيَّ الْمَشْيُ إِلَى بَيْتِ اللَّهِ إِنْ لَمْ يَكُنْ كَذَا كَفَّارَةُ يَمِينٍ.

L17706 From the path of Muḥammad ibn ʿAbd Allāh al-Anṣārī via Ashʿath al-Ḥumrānī via Bakr ibn ʿAbd Allāh al-Muzannī via Abū Rāfiʿ via them both.

وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ الْأَنْصَارِيِّ عَنْ أَشْعَثَ الْحُمْرَانِيِّ عَنْ بَكْرِ بْنِ عَبْدِ اللَّهِ الْمُزَنِيِّ عَنْ أَبِي رَافِعٍ عَنْهُمَا.

L17707 It has been reported to us from Ḥammād ibn ʿAbd Allāh that the expiation for a vow is the expiation for an oath.

وَرُوِّينَا عَنْ حَمَّادِ بْنِ عَبْدِ اللَّهِ: النَّذْرُ كَفَّارَتُهُ كَفَّارَةُ يَمِينٍ.

L17708 And from Ibn Abbas, the like of this – and from Umar ibn al-Khattab, akin to it.

وَعَنْ ابْنِ عَبَّاسٍ مِثْلَ هَذَا - وَعَنْ عُمَرَ بْنِ الْخَطَّابِ نَحْوَهُ.

L17709 From Ikrimah and Al-Ḥasan regarding one who says, “All my wealth is for the door of the Kaaba as expiation for an oath”—and it is authentically reported from Ṭāwūs and ʿAṭāʾ. As for Ṭāwūs, he said: “One who swears by manumitting slaves, [says] ’My wealth is a sacrificial animal,’ and ’Everything I own is in the cause of Allah,’ and similar declarations—this type is expiation for an oath.”

وَعَنْ عِكْرِمَةَ، وَالْحَسَنِ، فِيمَنْ قَالَ: مَالِي كُلُّهُ فِي رِتَاجِ الْكَعْبَةِ كَفَّارَةُ يَمِينٍ - وَصَحَّ عَنْ طَاوُسٍ، وَعَطَاءٍ، أَمَّا طَاوُسٌ فَقَالَ: الْحَالِفُ بِالْعَتَاقِ، وَمَالِي هَدْيٌ، وَكُلُّ شَيْءٍ لِي فِي سَبِيلِ اللَّهِ، وَهَذَا النَّحْوُ كَفَّارَةُ يَمِينٍ.

L17710 As for Ata, he said regarding one who says, “I am obligated to a thousand badanah (sacrificial camels),” or says, “I must perform the Hajj pilgrimage a thousand times,” or says, “My wealth is for the poor”: all such statements constitute an oath.

وَأَمَّا عَطَاءٌ فَقَالَ فِيمَنْ قَالَ عَلَيَّ أَلْفُ بَدَنَةٍ، أَوْ قَالَ عَلَيَّ أَلْفُ حَجَّةٍ، أَوْ قَالَ: مَالِي فِي الْمَسَاكِينِ: كُلُّ ذَلِكَ يَمِينٌ.

L17711 And this is the view of Qatāda, Sulaymān ibn Yasār, and Sālim ibn ʿAbd Allāh ibn ʿUmar.

وَهُوَ قَوْلُ قَتَادَةَ وَسُلَيْمَانَ بْنِ يَسَارٍ، وَسَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ.

L17712 Abū Muḥammad said: All of this contradicts the opinion of Abū Ḥanīfah, Mālik, and al-Shāfiʿī, for al-Shāfiʿī excluded specifically appointed manumission from this ruling. What we mentioned from those we cited among the Companions and Followers represents the opinion of ʿUbayd Allāh ibn al-

قَالَ أَبُو مُحَمَّدٍ: كُلُّ هَذَا خِلَافٌ لِقَوْلِ أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ؛ لِأَنَّ الشَّافِعِيَّ أَخْرَجَ مِنْ ذَلِكَ الْعِتْقَ الْمُعَيَّنَ - وَالَّذِي ذَكَرْنَا عَمَّنْ ذَكَرْنَا مِنْ الصَّحَابَةِ، وَالتَّابِعِينَ هُوَ

Ḥasan, Sharīk, Abū Thawr, Aḥmad ibn Ḥanbal, Isḥāq ibn Rāhawayh, and Abū ʿUbayd. Al-Ṭaḥāwī upholds this opinion, citing it as the view of Zufar ibn al-Hudhayl and one of the two opinions of Muḥammad ibn al-Ḥasan.

قَوْلُ عُبَيْدِ اللَّهِ بْنِ الْحَسَنِ، وَشَرِيكٍ، وَأَبِي ثَوْرٍ، وَأَحْمَدَ بْنِ حَنْبَلٍ، وَإِسْحَاقَ بْنِ رَاهْوَيْهِ وَأَبِي عُبَيْدٍ - وَبِهِ يَقُولُ الطَّحَاوِيُّ، وَذَكَرَ أَنَّهُ قَوْلُ زُفَرَ بْنِ الْهُذَيْلِ - وَأَحَدُ قَوْلَيْ مُحَمَّدِ بْنِ الْحَسَنِ.

L17713 We have been narrated through a sound chain from Ibn al-Qāsim, Mālik's companion, that he gave his son a legal opinion regarding walking to Mecca as oath expiation, saying to him: "If you do it again, I will issue you a ruling according to Mālik's view" - and this is exceedingly astonishing? - Ḥumām ibn Aḥmad narrated to me, saying: ʿAbd Allāh ibn Muḥammad al-Bājī narrated to us; ʿUmar ibn Abī Tammām narrated to us; Muḥammad ibn ʿAbd Allāh ibn ʿAbd al-Ḥakam said: ʿAbd al-Ṣamad ibn ʿAbd al-Raḥmān ibn al-Qāsim narrated this to me from his father.

وَقَدْ رُوِّينَا مِنْ طَرِيقٍ ثَابِتَةٍ عَنِ ابْنِ الْقَاسِمِ صَاحِبِ مَالِكٍ أَنَّهُ أَفْتَى ابْنَهُ فِي الْمَشْيِ إِلَى مَكَّةَ بِكَفَّارَةِ يَمِينٍ، وَقَالَ لَهُ: إِنْ عُدْت أَفْتَيْتُك بِقَوْلِ مَالِكٍ - وَهَذَا عَجَبٌ جِدًّا؟ -: حَدَّثَنِي بِذَلِكَ حُمَامُ بْنُ أَحْمَدَ قَالَ ثنا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ الْبَاجِيُّ نا عُمَرُ بْنُ أَبِي تَمَّامٍ نا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ عَبْدِ الْحَكَمِ قَالَ: حَدَّثَنِي بِذَلِكَ عَبْدُ الصَّمَدِ بْنُ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ عَنْ أَبِيهِ.

L17714–17715 It has been reported to us another opinion from Ibn Umar: He was asked about vows and replied, "The best of oaths. If you do not find [the means to fulfill it], then the next [category], he says: freeing [a slave], then clothing [the needy], then feeding [them]." Except that this is transmitted through the chain of Abu Ma'shar - who is weak.

وَرُوِّينَا عَنِ ابْنِ عُمَرَ قَوْلًا آخَرَ وَهُوَ أَنَّ ابْنَ عُمَرَ سُئِلَ عَنِ النَّذْرِ؟ فَقَالَ: أَفْضَلُ الْأَيْمَانِ، فَإِنْ لَمْ تَجِدْ، فَالَّتِي تَلِيهَا يَقُولُ: الْعِتْقُ، ثُمَّ الْكِسْوَةُ، ثُمَّ الْإِطْعَامُ، إِلَّا أَنَّهَا مِنْ طَرِيقِ أَبِي مَعْشَرٍ - وَهُوَ ضَعِيفٌ.

L17716 It has also been narrated to us a similar distinction by Al-Shāfiʿī—contrary to his own position—also from Ibn ʿAbbās and Ibn ʿUmar via the narration of Ismāʿīl ibn Umayyah from ʿUthmān ibn Abī Ḥāḍir, who said: A woman swore, "My wealth is for the sake of Allah, and my slave-girl is free if she does not do such-and-such." Ibn ʿAbbās and Ibn ʿUmar said: As for the slave-girl, she is to be emancipated. As for her statement, "My wealth is for the sake of Allah," the zakāh due on her wealth must be given as charity.

وَرُوِّينَا مِثْلَ تَفْرِيقِ الشَّافِعِيِّ أَيْضًا بِخِلَافِ قَوْلِهِ أَيْضًا عَنِ ابْنِ عَبَّاسٍ وَابْنِ عُمَرَ مِنْ طَرِيقِ إِسْمَاعِيلَ بْنِ أُمَيَّةَ عَنْ عُثْمَانَ بْنِ أَبِي حَاضِرٍ قَالَ: حَلَفَتْ امْرَأَةٌ: مَالِي فِي سَبِيلِ اللَّهِ، وَجَارِيَتِي حُرَّةٌ إِنْ لَمْ تَفْعَلْ كَذَا؟ فَقَالَ ابْنُ عَبَّاسٍ، وَابْنُ عُمَرَ: أَمَّا الْجَارِيَةُ فَتُعْتَقُ، وَأَمَّا قَوْلُهَا: مَالِي فِي سَبِيلِ اللَّهِ، فَيُتَصَدَّقُ بِزَكَاةِ مَالِهَا.

L17717 And a statement similar to that of Abū Ḥanīfah, attributed to Ibn ʿUmar, has been transmitted to us through an unauthentic chain.

وَرُوِّينَا مِثْلَ قَوْلِ أَبِي حَنِيفَةَ عَنِ ابْنِ عُمَرَ مِنْ طَرِيقٍ لَا تَصِحُّ.

L17718 They have also contradicted him in this matter—as we have been narrated through the chain of Saʿīd ibn Manṣūr: Abū Muʿāwiyah reported to us: Jamīl ibn Zayd reported from Ibn ʿUmar, who said: "Whoever swears an oath of iṣr has no expiation for it. The iṣr is swearing by divorce, manumission, a vow,

وَقَدْ خَالَفُوهُ أَيْضًا فِيهَا -: كَمَا رُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا أَبُو مُعَاوِيَةَ نا جَمِيلُ بْنُ زَيْدٍ عَنِ ابْنِ عُمَرَ قَالَ: مَنْ حَلَفَ عَلَى يَمِينِ إِصْرٍ فَلَا كَفَّارَةَ لَهُ وَالْإِصْرُ أَنْ يَحْلِفَ

بِطَلَاقٍ، أَوْ عَتَاقٍ، أَوْ نَذْرٍ، أَوْ مَشْيٍ، وَمَنْ حَلَفَ عَلَى يَمِينٍ غَيْرِ ذَلِكَ فَلْيَأْتِ الَّذِي هُوَ خَيْرٌ فَهُوَ كَفَّارَتُهُ. جَمِيلُ بْنُ زَيْدٍ - سَاقِطٌ.

or a vowed journey. Whoever swears an oath other than this, let him fulfill the better course—that shall be his expiation." Jamīl ibn Zayd is rejected.

وَلَوْ صَحَّ لَكَانُوا قَدْ خَالَفُوهُ فِي هَذَا الْخَبَرِ نَفْسِهِ؛ لِأَنَّهُ لَمْ يُجْعَلْ فِيمَنْ أَتَى خَيْرًا مِمَّا حَلَفَ أَنْ يَفْعَلَهُ كَفَّارَةٌ، إلَّا فِعْلُهُ ذَلِكَ فَقَطْ.

L17719 If it were valid, they would have contradicted him in this very report, because no expiation is prescribed for one who performs a good act other than what he swore to do—except the performance of that very action itself.

فَإِنْ قَالُوا: قَدْ أَمَرَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي هَذَا بِالْكَفَّارَةِ؟ قُلْنَا: نَعَمْ وَقَدْ نَهَى النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْ الْحَلِفِ بِغَيْرِ اللَّهِ تَعَالَى وَنَهَى عَنْ الْوَفَاءِ بِنَذْرِ الْمَعْصِيَةِ، فَإِنْ كَانَ قَوْلُهُ يَمِينًا فَهُوَ مَعْصِيَةٌ، وَإِنْ كَانَ نَذْرًا فَهُوَ مَعْصِيَةٌ، إذْ لَمْ يَقْصِدْ بِهِ قَصْدَ الْقُرْبَةِ إلَى اللَّهِ تَعَالَى، فَلَا وَفَاءَ فِيهِ، وَلَا كَفَّارَةَ - فَحَصَلَ قَوْلُ هَؤُلَاءِ الْقَوْمِ خَارِجًا عَنْ أَقْوَالِ جَمِيعِ السَّلَفِ.

L17720 If they say: Did the Prophet (peace be upon him) command expiation in this matter? We reply: Yes, and the Prophet (peace be upon him) prohibited swearing by anything other than Allah the Exalted and forbade fulfilling vows of disobedience. If his statement is an oath, it is an act of disobedience, and if it is a vow, it is an act of disobedience, since he did not intend by it drawing closer to Allah the Exalted. Thus, it should not be fulfilled, nor is there any expiation. Therefore, the opinion of these people contradicts the statements of all the Salaf.

[نَذَرَ أَنْ يَتَصَدَّقَ بِجَمِيعِ مَالِهِ فِي الْمَسَاكِينِ]

He vowed to give all his wealth as charity to the poor.

وَمِمَّا ذَكَرْنَا مَسَائِلُ فِيهَا خِلَافٌ قَدِيمٌ، وَهِيَ -: مَنْ نَذَرَ الصَّدَقَةَ بِجَمِيعِ مَالِهِ، وَمَنْ نَذَرَ أَنْ يَنْحَرَ نَفْسَهُ، وَمَنْ نَذَرَ الْمَشْيَ إلَى مَسْجِدِ الْمَدِينَةِ، أَوْ مَسْجِدِ إيلِيَاءَ، أَوْ الرُّكُوبَ، أَوْ النُّهُوضَ إلَى مَكَّةَ، أَوْ إلَى مَوْضِعٍ سَمَّاهُ مِنْ الْحَرَمِ، وَمَنْ نَذَرَ عِتْقَ عَبْدِهِ إنْ بَاعَهُ، أَوْ عِتْقَ عَبْدِ فُلَانٍ إنْ مَلَكَهُ.

L17721 L17722 Among the matters we have mentioned are issues entailing longstanding disagreement—namely: one who vows to give all his wealth in charity; one who vows to sacrifice himself; one who vows to walk to the Mosque of Medina or Al-Aqsa Mosque; one who vows to ride or set out to Mecca; one who vows to go to a specific location he names within the Sacred Precinct; one who vows to free his slave if he sells him; and one who vows to free so-and-so's slave if the vow-maker comes to own him.

فَأَمَّا الصَّدَقَةُ بِجَمِيعِ الْمَالِ فَقَدْ ذَكَرْنَا مَنْ قَالَ: لَا شَيْءَ فِي ذَلِكَ مِنْ الصَّحَابَةِ وَالتَّابِعِينَ إذَا خَرَجَ مَخْرَجَ الْيَمِينِ - وَهُوَ قَوْلُنَا.

L17723–17724 As for giving all wealth as ṣadaqah, we have mentioned those among the Companions and Followers who said: "There is nothing in that" when it takes the form of an oath—and this is our position.

L17725 A group said: Whoever vows to give all their wealth in charity to the poor must give all of it. This is authenticated through the narration of ʻAbd al-Razzāq from Maʻmar from Sālim ibn ʻAbd Allāh ibn ʻUmar from his father:

A man asked Ibn ʿUmar, “Have I dedicated my wealth to the path of Allah?” He replied, “Then it is in the path of Allah.”

وَقَالَتْ طَائِفَةٌ: مَنْ نَذَرَ أَنْ يَتَصَدَّقَ بِجَمِيعِ مَالِهِ فِي الْمَسَاكِينِ فَعَلَيْهِ أَنْ يَتَصَدَّقَ بِهِ كُلِّهِ، صَحَّ ذَلِكَ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِيهِ أَنَّ رَجُلًا سَأَلَهُ فَقَالَ جَعَلْت مَالِي فِي سَبِيلِ اللَّهِ؟ فَقَالَ ابْنُ عُمَرَ: فَهُوَ فِي سَبِيلِ اللَّهِ.

L17726 It was narrated to us from Sālim and al-Qāsim ibn Muḥammad that they said regarding this matter: “He should give it as charity to some of his daughters.”

وَرُوِّينَا عَنْ سَالِمٍ، وَالْقَاسِمِ بْنِ مُحَمَّدٍ، أَنَّهُمَا قَالَا فِي هَذِهِ الْمَسْأَلَةِ: يَتَصَدَّقُ بِهِ عَلَى بَعْضِ بَنَاتِهِ.

L17727 It has been authentically reported from al-Shāfiʿī and al-Nakhāʿī that they obligated the individual to fulfill what he had imposed upon himself, this being the opinion of ʿUthmān al-Battī, al-Shāfiʿī, al-Ṭaḥāwī, and Abū Sulaymān. These scholars said: If he phrased it in the manner of an oath, its expiation is the expiation for an oath - except Abū Sulaymān, who said: “There is nothing required in that.”

وَصَحَّ عَنْ الشَّافِعِيِّ، وَالنَّخَعِيِّ، أَنَّهُمَا كَانَا يُلْزِمَانِهِ مَا جَعَلَ عَلَى نَفْسِهِ - وَهُوَ قَوْلُ عُثْمَانَ الْبَتِّيِّ، وَالشَّافِعِيِّ، وَالطَّحَاوِيِّ، وَأَبِي سُلَيْمَانَ، قَالَ هَؤُلَاءِ: فَإِنْ أَخْرَجَهُ مَخْرَجَ الْيَمِينِ فَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ إلَّا أَبَا سُلَيْمَانَ فَقَالَ: لَا شَيْءَ فِي ذَلِكَ.

L17728 A group said: He should give all of it in charity except for a month’s basic provisions. Then, if he acquires anything, he should give in charity what he had retained for himself—and this is the opinion of Zufar ibn al-Hudhayl. He opined regarding it that if he treats it in the manner of an oath, it becomes an atonement for an oath.

وَقَالَتْ طَائِفَةٌ: يَتَصَدَّقُ بِجَمِيعِهِ حَاشَا قُوتِ شَهْرٍ فَإِذَا أَفَادَ شَيْئًا تَصَدَّقَ بِمَا كَانَ أَبْقَى لِنَفْسِهِ - وَهُوَ قَوْلُ زُفَرَ بْنِ الْهُذَيْلِ، وَرَأَى فِيهِ إذَا أَخْرَجَهُ مَخْرَجَ الْيَمِينِ كَفَّارَةَ يَمِينٍ.

L17729 A school of scholars held: He should give a third of his wealth in charity, and it suffices for him. That has been narrated to us from Ibn Lahīʿah, from Yazīd ibn Ḥabīb, from Ibn Shihāb, from Saʿīd ibn al-Musayyib. A similar report has been authenticated from al-Zuhrī. This is the opinion of al-Layth ibn Saʿd.

وَقَالَتْ طَائِفَةٌ: يَتَصَدَّقُ بِثُلُثِ مَالِهِ وَيَجْزِيهِ -: رُوِّينَا ذَلِكَ عَنْ ابْنِ لَهِيعَةَ عَنْ يَزِيدَ بْنِ حَبِيبٍ عَنْ ابْنِ شِهَابٍ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ - وَصَحَّ نَحْوُهُ عَنْ الزُّهْرِيِّ - وَهُوَ قَوْلُ اللَّيْثِ بْنِ سَعْدٍ.

L17730 A group said: “In this case, there is expiation for an oath.” This has also been narrated to us from ʿIkrimah, al-Hasan, and ʿAṭāʾ.

وَقَالَتْ طَائِفَةٌ: فِيهِ كَفَّارَةُ يَمِينٍ -: رُوِّينَا ذَلِكَ أَيْضًا عَنْ عِكْرِمَةَ، وَالْحَسَنِ، وَعَطَاءٍ.

L17731 It has been narrated to us previously from Aisha, the Mother of the Believers, Umar, Jabir, Ibn Abbas, and Ibn Umar—and this is the opinion of Al-Awzai.

وَرُوِّينَا ذَلِكَ قَبْلُ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ، وَعُمَرَ، وَجَابِرٍ، وَابْنِ عَبَّاسٍ وَابْنِ عُمَرَ - وَهُوَ قَوْلُ الْأَوْزَاعِيِّ.

L17732 A group said—as reported to us through the chain of ʿAbd al-Razzāq from Maʿmar from Qatādah from Jābir ibn Zayd—that he was asked about some-

one who designated his wealth as a sacrificial offering in the cause of Allah, the Almighty and Majestic. He replied: "Allah the Exalted does not desire for anyone's wealth to be taken unjustly. If it is abundant, let them offer a fifth of it; if average, a seventh; and if small, a tenth."

وَقَالَتْ طَائِفَةٌ - كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ قَتَادَةَ عَنْ جَابِرِ بْنِ زَيْدٍ أَنَّهُ سُئِلَ عَمَّنْ جَعَلَ مَالَهُ هَدْيًا فِي سَبِيلِ اللَّهِ عَزَّ وَجَلَّ؟ فَقَالَ: إِنَّ اللَّهَ تَعَالَى لَمْ يُرِدْ أَنْ يَغْتَصِبَ أَحَدًا مَالَهُ، فَإِنْ كَانَ كَثِيرًا فَلْيُهْدِ خُمُسَهُ وَإِنْ كَانَ وَسَطًا فَسُبُعَهُ، وَإِنْ كَانَ قَلِيلًا فَعُشْرَهُ.

L17733 Qatadah said: The much is two thousand, the middle is one thousand, and the little is five hundred.

قَالَ قَتَادَةُ: الْكَثِيرُ أَلْفَانِ، وَالْوَسَطُ أَلْفٌ، وَالْقَلِيلُ خَمْسُمِائَةٍ.

L17734–17735 And a group held the opinion—though we have not received this through the aforementioned chain reaching Qatādah—that he [Qatādah] said: "One should give a fifth of it as charity."

وَقَالَتْ طَائِفَةٌ - مَا رُوِّينَا بِالسَّنَدِ الْمَذْكُورِ إِلَى قَتَادَةَ، قَالَ: يَتَصَدَّقُ بِخُمُسِهِ.

L17736 A group said: One should give as charity one-fortieth - as we previously transmitted that from Ibn Abbas and Ibn Umar, and it is the opinion of Rabi'ah. The group equated between one who swore to give all his wealth as charity and one who swore to give a portion he named from it. We have transmitted that solely from them in the oath pertaining to this matter.

وَقَالَتْ طَائِفَةٌ: يَتَصَدَّقُ بِرُبْعِ الْعُشْرِ - كَمَا رُوِّينَا ذَلِكَ آنِفًا عَنِ ابْنِ عَبَّاسٍ وَابْنِ عُمَرَ وَهُوَ قَوْلُ رَبِيعَةَ، وَسَوَّى بَيْنَ مَنْ حَلَفَ بِصَدَقَةِ جَمِيعِ مَالِهِ أَوْ بِصَدَقَةِ جُزْءٍ مِنْهُ سَمَّاهُ وَإِنَّمَا رُوِّينَا ذَلِكَ عَنْهُمْ فِي الْيَمِينِ بِذَلِكَ.

L17737 We have received a narration from ʿAbd al-ʿAzīz ibn al-Mājishūn that he considered this statement of Rabīʿah sound.

وَرُوِّينَا عَنْ عَبْدِ الْعَزِيزِ بْنِ الْمَاجِشُونِ أَنَّهُ اسْتَحْسَنَ قَوْلَ رَبِيعَةَ هَذَا.

L17738 A group maintained—as reported through narrations from Ibn Juraij and ʿUmar ibn Dharr, both transmitting from ʿAṭāʾ regarding one who states, "My camels are a vow or sacrificial offering"—that one camel from them suffices him.

وَقَالَتْ طَائِفَةٌ - كَمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ جُرَيْجٍ، وَعُمَرَ بْنِ ذَرٍّ، كِلَاهُمَا عَنْ عَطَاءٍ فِيمَنْ قَالَ: إِبِلِي نَذْرٌ، أَوْ هَدْيٌ، أَنَّهُ يُجْزِيه بَعِيرٌ مِنْهَا.

L17739 Ibn Jurayj reported on his authority: Perhaps it would suffice him if his camels are numerous.

قَالَ ابْنُ جُرَيْجٍ عَنْهُ: لَعَلَّهُ يُجْزِيه إِنْ كَانَتْ إِبِلُهُ كَثِيرَةً.

L17740 And Ibn Dharr said, reporting from him: He offers a valuable mature she-camel and retains the remainder of his camels.

وَقَالَ ابْنُ ذَرٍّ عَنْهُ: يُهْدِي جَزُورًا ثَمِينًا، وَيُمْسِكُ بَقِيَّةَ إِبِلِهِ.

L17741 As for the later ones, they hold opinions other than all of this—

وَأَمَّا الْمُتَأَخِّرُونَ فَلَهُمْ أَقْوَالٌ غَيْرُ هَذَا كُلِّهِ -:

L17742 Abu Hanifah said: Whoever vows to donate all his wealth as a vow or by way of an oath is obligated to give in charity from his wealth only every type in which Zakat is obligatory—such as livestock, gold, and silver—whether he

قَالَ أَبُو حَنِيفَةَ: مَنْ نَذَرَ أَنْ يَتَصَدَّقَ بِجَمِيعِ مَالِهِ نَذْرًا، أَوْ عَلَى سَبِيلِ الْيَمِينِ، فَإِنَّهُ يَلْزَمُهُ أَنْ يَتَصَدَّقَ مِنْ مَالِهِ بِكُلِّ نَوْعٍ تَجِبُ فِيهِ الزَّكَاةُ فَقَطْ، كَالْمَوَاشِي، وَالذَّهَبِ وَالْفِضَّةِ،

possesses for that type the nisab threshold required for Zakat on its like, or less than the nisab. Nothing is incumbent upon him regarding the rest of his wealth.

سَوَاءٌ كَانَ مَعَهُ مِنْ ذَلِكَ نِصَابٌ تَجِبُ فِي مِثْلِهِ الزَّكَاةُ، أَوْ كَانَ أَقَلَّ مِنْ النِّصَابِ - وَلَا شَيْءَ عَلَيْهِ فِي سَائِرِ أَمْوَالِهِ.

L17743 Abū Muḥammad said: We do not know their position regarding grains, cultivated crops, fruits, and honey—for indeed, zakat applies to all these in his view, and to every merchandise intended for trade. This represents the view of Abū Yūsuf and Muḥammad ibn al-Ḥasan. This opinion is utterly baseless, unknown to anyone before Abū Ḥanīfah, lacking any foundation in the Quran, the Sunnah, weak narrations, statements of earlier scholars, or analogical reasoning. Some of them attempted to justify it by claiming: "Wealth is that which requires zakat, based on Allah's words: 'Take from their wealth a charity' [Quran 9:103]."[4]

قَالَ أَبُو مُحَمَّدٍ: وَلَا نَدْرِي مَا قَوْلُهُمْ فِي الْحُبُوبِ وَمَا يُزْرَعُ، وَالثِّمَارُ، وَالْعَسَلُ؟ فَإِنَّ الزَّكَاةَ فِي كُلِّ هَذَا عِنْدَهُ نَعَمْ، وَفِي كُلِّ عَرَضٍ إذَا كَانَ لِلتِّجَارَةِ وَهُوَ قَوْلُ أَبِي يُوسُفَ، وَمُحَمَّدِ بْنِ الْحَسَنِ - وَهَذَا قَوْلٌ فِي غَايَةِ الْفَسَادِ وَلَا يُعْرَفُ عَنْ أَحَدٍ قَبْلَ أَبِي حَنِيفَةَ وَلَا مُتَعَلَّقَ لَهُ بِقُرْآنٍ وَلَا بِسُنَّةٍ، وَلَا رِوَايَةٍ سَقِيمَةٍ، وَلَا قَوْلِ سَلَفٍ، وَلَا قِيَاسٍ، وَمَوَّهَ بَعْضُهُمْ بِأَنْ قَالَ: الْمَالُ هُوَ الَّذِي فِيهِ الزَّكَاةُ لِقَوْلِ اللَّهِ تَعَالَى {خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً} [التوبة: ١٠٣] .

L17744 Abu Muhammad said: The charity taken is only part of what a person owns. There has never been disagreement among any Arab, linguist, or jurist that walled gardens and houses are termed "property" and "properties" — and that whoever swears he has no property while he has donkeys, houses, and estates is considered an oath-breaker according to them and others besides them. Abu Talhah said to the Messenger of Allah (peace be upon him), "The dearest of my properties to me is Bayruha." The Messenger of Allah (peace be upon him) said to Ka'b ibn Malik, "Will you retain some of your property?" He replied, "I retain my share in Khaybar."

قَالَ أَبُو مُحَمَّدٍ: الصَّدَقَةُ الْمَأْخُوذَةُ إنَّمَا هِيَ مِنْ جُمْلَةِ مَا يَمْلِكُ الْمَرْءُ، وَمَا اخْتَلَفَ قَطُّ عَرَبِيٌّ، وَلَا لُغَوِيٌّ، وَلَا فَقِيهٌ، أَنَّ الْحَوَائِطَ، وَالدُّورَ تُسَمَّى: مَالًا، وَأَمْوَالًا - وَأَنَّ مَنْ حَلَفَ أَنَّهُ لَا مَالَ لَهُ وَلَهُ حَمِيرٌ، وَدُورٌ، وَضِيَاعٌ، فَإِنَّهُ حَانِثٌ عِنْدَهُمْ، وَعِنْدَ غَيْرِهِمْ -: وَقَالَ أَبُو طَلْحَةَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَحَبُّ أَمْوَالِي إلَيَّ بَيْرُحَاءُ «وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لِكَعْبِ بْنِ مَالِكٍ أَمْسِكْ عَلَيْكَ بَعْضَ مَالِكَ؟ فَقَالَ: إنِّي أُمْسِكُ سَهْمِي الَّذِي بِخَيْبَرَ» .

L17745–17746 According to their corrupt opinion, it necessarily follows that no charity is valid whatsoever unless given from wealth liable to zakat or in the amount of zakat only.

وَيَلْزَمُ عَلَى قَوْلِهِمْ الْفَاسِدِ أَنْ لَا تُجْزِئَ صَدَقَةٌ أَصْلًا إلَّا بِمَالٍ فِيهِ زَكَاةٌ أَوْ بِمِقْدَارِ الزَّكَاةِ فَقَطْ.

L17747 Malik said: It is the same whether one vowed this or phrased it as an oath. If someone declares, "All my wealth is charity for the poor," one-third of it suffices. But if he specifies: "All my houses are charity for the poor, all my farmlands are charity for the

وَقَالَ مَالِكٌ: سَوَاءٌ نَذَرَ ذَلِكَ أَوْ أَخْرَجَهُ مَخْرَجَ الْيَمِينِ إنْ قَالَ: مَالِي كُلُّهُ صَدَقَةٌ عَلَى الْمَسَاكِينِ أَجْزَأَهُ ثُلُثُهُ، فَإِنْ قَالَ: دُورِي كُلُّهَا صَدَقَةٌ عَلَى الْمَسَاكِينِ وَضِيَاعِي كُلُّهَا صَدَقَةٌ عَلَى الْمَسَاكِينِ، وَثِيَابِي كُلُّهَا صَدَقَةٌ عَلَى الْمَسَاكِينِ، وَرَقِيقِي كُلُّهُمْ صَدَقَةٌ عَلَى

[4] **Qur'an references (L17743):** Qur'an 9:103 (At-Tawbah).

poor, all my slaves are charity for the poor," naming each type one by one until encompassing everything he owns from beginning to end, it becomes incumbent upon him to give as charity all of that. One-third no longer suffices. However, he is commanded to fulfill it but not compelled.

الْمَسَاكِينِ، فَلَمْ يَزَلْ هَكَذَا حَتَّى سَمَّى نَوْعًا نَوْعًا حَتَّى أَتَى عَلَى كُلِّ مَا يَمْلِكُ -: لَزِمَهُ أَنْ يَتَصَدَّقَ بِكُلِّ ذَلِكَ أَوَّلُهُ عَنْ آخِرِهِ، لَا يُجْزِيه مِنْهُ الثُّلُثُ إلَّا أَنَّهُ يُؤْمَرُ وَلَا يُجْبَرُ.

L17748 If he were to designate a specific individual instead of the poor, he must give all of it in charity to that person and would be legally compelled to do so.

فَلَوْ قَالَ مَكَانَ الْمَسَاكِينِ عَلَى إنْسَانٍ بِعَيْنِهِ -: لَزِمَهُ أَنْ يَتَصَدَّقَ عَلَيْهِ بِكُلِّ ذَلِكَ وَيُجْبَرَ عَلَى ذَلِكَ.

L17749 They said: If someone vows or swears to give all their wealth in charity except one dinar, they are obligated to give all but that dinar in charity. This is a profoundly invalid view. For there is no Quran to support it, nor Sunnah, nor even a weak ḥadīth, nor any opinion we know of from anyone before him, nor analogy, nor any opinion with discernible justification. Rather, it contradicts all of that.

وَقَالُوا: فَلَوْ نَذَرَ، أَوْ حَلَفَ أَنْ يَتَصَدَّقَ بِمَالِهِ كُلِّهِ، إلَّا دِينَارًا أَنَّهُ تَلْزَمُهُ الصَّدَقَةُ بِجَمِيعِهِ إلَّا دِينَارًا -: وَهَذَا قَوْلٌ فِي غَايَةِ الْفَسَادِ، لِأَنَّهُ لَا قُرْآنَ يُعَضِّدُهُ، وَلَا سُنَّةَ، وَلَا رِوَايَةَ ضَعِيفَةً، وَلَا قَوْلَ نَعْلَمُهُ عَنْ أَحَدٍ قَبْلَهُ وَلَا قِيَاسٌ، وَلَا رَأْيٌ لَهُ وَجْهٌ؛ بَلْ هُوَ مُخَالِفٌ لِكُلِّ ذَلِكَ.

L17750 The question is posed regarding one who vowed to donate all his wealth except half a dinar or a dirham, until it is reduced to a fils and a mustard seed. Ibn Wahb said: If his wealth is substantial, he should donate one-third of it; if modest, one-fortieth of it; and if a negligible amount, then the expiation for an oath. This is also an unfounded opinion.

وَنَسْأَلُهُمْ عَمَّنْ نَذَرَ أَنْ يَتَصَدَّقَ بِمَالِهِ كُلِّهِ إلَّا نِصْفَ دِينَارٍ، أَوْ دِرْهَمًا حَتَّى نَبْلُغَهُمْ إلَى الْفَلْسِ، وَحَبَّةِ الْخَرْدَلَةِ؟ وَقَالَ ابْنُ وَهْبٍ: إنْ كَانَ مَالُهُ كَثِيرًا تَصَدَّقَ بِثُلُثِهِ، وَإِنْ كَانَ يَسِيرًا فَرُبْعُ عُشْرِهِ، وَإِنْ كَانَ عَلَقَةً قَلِيلَةً، فَكَفَّارَةُ يَمِينٍ - وَهَذَا أَيْضًا قَوْلٌ لَا وَجْهَ لَهُ.

L17751 Abu Muhammad said: None of these statements have a basis requiring mention except the opinion that one should give all of it in charity; the opinion that one should give a third of it in charity; and the opinion that it is only the expiation of an oath.

قَالَ أَبُو مُحَمَّدٍ لَيْسَ لِشَيْءٍ مِنْ هَذِهِ الْأَقْوَالِ مُتَعَلَّقٌ يَحْتَاجُ إلَى ذِكْرِهِ إلَّا قَوْلَ مَنْ قَالَ مَنْ قَالَ: يَتَصَدَّقُ بِجَمِيعِهِ، وَقَوْلَ مَنْ قَالَ: يَتَصَدَّقُ بِثُلُثِهِ، وَقَوْلَ مَنْ قَالَ: كَفَّارَةُ يَمِينٍ فَقَطْ.

L17752 As for those who said "expiation of an oath," they invoked the authenticated narration from the Prophet, peace and blessings of Allah be upon him, in his statement: "The expiation for a vow is the expiation for an oath."

فَأَمَّا مَنْ قَالَ: كَفَّارَةُ يَمِينٍ، فَإِنَّهُمْ احْتَجُّوا بِالْخَبَرِ الثَّابِتِ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مِنْ قَوْلِهِ «كَفَّارَةُ النَّذْرِ كَفَّارَةُ يَمِينٍ» .

L17753–17755 Ali said: "This is a narration that provides no valid evidence for them, because the Prophet—peace and blessings of Allah be upon him—said: 'Whoever vows to obey Allah must obey Him, and whoever vows to disobey Him must not disobey Him.' Thus, a vow to donate all one's wealth in charity

قَالَ عَلِيٌّ: وَهَذَا خَبَرٌ لَا حُجَّةَ لَهُمْ فِيهِ لِأَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «مَنْ نَذَرَ أَنْ يُطِيعَ اللَّهَ فَلْيُطِعْهُ، وَمَنْ نَذَرَ أَنْ يَعْصِيَهُ فَلَا يَعْصِهِ» ؛ فَلَا يَخْلُو النَّذْرُ بِصَدَقَةِ الْمَالِ

must necessarily be either an act of obedience to Allah Almighty—making its fulfillment obligatory—or an act of disobedience, rendering it non-binding at all unless there comes authentic textual evidence." In this lies a ruling to be adhered to, thus invalidating their reliance on the Prophet's statement—peace be upon him—"The expiation for a vow is the same as the expiation for an oath." This report also has an evident aspect, which we shall mention hereafter, God, the Exalted, willing.[5]

كُلِّهِ مِنْ أَنْ يَكُونَ طَاعَةً لِلَّهِ تَعَالَى فَيَلْزَمُ الْوَفَاءُ بِهِ، أَوْ يَكُونَ مَعْصِيَةً فَلَا يَلْزَمُهُ أَصْلًا إِلَّا أَنْ يَأْتِيَ نَصٌّ صَحِيحٌ فِي ذَلِكَ بِحُكْمٍ مَا فَيُوقَفُ عِنْدَهُ، فَبَطَلَ تَعَلُّقُهُمْ بِقَوْلِهِ - عَلَيْهِ السَّلَامُ -: «كَفَّارَةُ النَّذْرِ كَفَّارَةُ يَمِينٍ» - وَلِهَذَا الْخَبَرِ وَجْهٌ ظَاهِرٌ نَذْكُرُهُ بَعْدَ هَذَا إِنْ شَاءَ اللَّهُ تَعَالَى.

L17756 As for the one who said he should give all of it in charity, then indeed they said: "It is a vow of obedience, so he is obligated to fulfill it."

وَأَمَّا مَنْ قَالَ: يَتَصَدَّقُ بِجَمِيعِهِ فَإِنَّهُمْ قَالُوا: هُوَ نَذْرُ طَاعَةٍ فَعَلَيْهِ الْوَفَاءُ بِهِ.

L17757 Abū Muḥammad said: Is it not as they claimed? Rather, is it not a vow of obedience—as we will clarify, if Allah the Exalted wills? As for those who said one-third suffices, they cited a report we transmitted via the chain of Abū Dāwūd—from Muḥammad ibn Yaḥyā, from Al-Ḥasan ibn Ar-Rabīʿ, from Ibn Idrīs, who said: Ibn Isḥāq narrated to me, from Az-Zuhrī, from ʿAbdur-Raḥmān ibn ʿAbdillāh ibn Mālik, from his grandfather regarding his story when he stayed back from Tabūk. He said: I said, "O Messenger of Allah, part of my repentance to Allah is to give all my wealth as charity to Allah and His Messenger—may Allah bless him and his family and grant him peace." He replied: "No." I asked: "Half of it?" He said: "No." I asked: "A third?" He said: "Yes." I said: "Then I shall retain my share from Khaybar."

قَالَ أَبُو مُحَمَّدٍ: وَلَيْسَ كَمَا قَالُوا، بَلْ لَيْسَ هُوَ نَذْرَ طَاعَةٍ عَلَى مَا نُبَيِّنُ إِنْ شَاءَ اللَّهُ تَعَالَى؟ وَأَمَّا مَنْ قَالَ: يُجْزِيه الثُّلُثُ، فَإِنَّهُمْ احْتَجُّوا بِخَبَرٍ: رُوِّينَاهُ مِنْ طَرِيقِ أَبِي دَاوُد نا مُحَمَّدُ بْنُ يَحْيَى نا الْحَسَنُ بْنُ الرَّبِيعِ نا ابْنُ إِدْرِيسَ قَالَ: قَالَ ابْنُ إِسْحَاقَ: حَدَّثَنِي الزُّهْرِيُّ عَنْ «عَبْدِ الرَّحْمَنِ بْنِ عَبْدِ اللَّهِ بْنِ مَالِكٍ عَنْ جَدِّهِ فِي قِصَّتِهِ إِذْ تَخَلَّفَ عَنْ تَبُوكَ قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ إِنَّ مِنْ تَوْبَتِي إِلَى اللَّهِ أَنْ أُخْرِجَ مِنْ مَالِي كُلِّهِ إِلَى اللَّهِ وَإِلَى رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - صَدَقَةً قَالَ: لَا، قُلْتُ: فَنِصْفَهُ، قَالَ: لَا، قُلْتُ: فَثُلُثَهُ؟ قَالَ: نَعَمْ، قُلْتُ: فَإِنِّي أُمْسِكُ سَهْمِي مِنْ خَيْبَرَ» .

L17758 And with a narration that was narrated by us through the chain of Ibn Shihab: That Husayn ibn al-Sa'ib ibn Abi Lubabah informed him that Abu Lubabah said: "O Messenger of Allah, part of my repentance to Allah—the Exalted and Glorified—is that I abandon the home of my people, dwell with you, and divest myself of part of my wealth as charity for Allah and His Messenger?" He said: "A third suffices on your behalf."

وَبِخَبَرٍ: رُوِّينَاهُ مِنْ طَرِيقِ ابْنِ شِهَابٍ: أَنَّ حُسَيْنَ بْنَ السَّائِبِ بْنِ أَبِي لُبَابَةَ أَخْبَرَهُ «أَنَّ أَبَا لُبَابَةَ قَالَ: يَا رَسُولَ اللَّهِ إِنَّ مِنْ تَوْبَتِي إِلَى اللَّهِ - عَزَّ وَجَلَّ - أَنْ أَهْجُرَ دَارَ قَوْمِي، وَأُسَاكِنَكَ، وَأَنْخَلِعَ مِنْ مَالِي صَدَقَةً لِلَّهِ وَلِرَسُولِهِ؟ قَالَ: يُجْزِي عَنْكَ الثُّلُثُ» .

L17759 And through the chain of Ibn Shihāb: Some of the sons of al-Sā'ib ibn Abī Lubābah informed me from Abu Lubābah with a narration similar to it.

وَمِنْ طَرِيقِ ابْنِ شِهَابٍ -: أَخْبَرَنِي بَعْضُ بَنِي السَّائِبِ بْنِ أَبِي لُبَابَةَ عَنْ أَبِي لُبَابَةَ بِمِثْلِهِ.

[5] **Hadith references (L17753):** Sahih al-Bukhari 6696; Sahih al-Bukhari 6700; Mishkat al-Masabih 3427.

L17760 And through the chain of al-Zuhrī, Ibn al-Musayyib informed me and related the hadith, which states: "Abū Lubābah said: 'O Messenger of Allah, shall I divest myself of my wealth as charity to Allah and His Messenger?' He replied: 'One-third suffices on your behalf.'"

وَمِنْ طَرِيقِ الزُّهْرِيِّ أَخْبَرَنِي ابْنُ الْمُسَيِّبِ فَذَكَرَ الْحَدِيثَ، وَفِيهِ «أَنَّ أَبَا لُبَابَةَ قَالَ: يَا رَسُولَ اللَّهِ، وَأَنْ أَنْخَلِعَ مِنْ مَالِي صَدَقَةً إِلَى اللَّهِ وَرَسُولِهِ؟ قَالَ: يُجْزِي عَنْكَ الثُّلُثُ» .

L17761 Abu Muhammad said: This is all the evidence they have cited, and none of it constitutes a valid proof for them, because all are mursal reports, and the first report has an interrupted chain as Ibn Idris mentions that he heard it from Ibn Ishaq.

قَالَ أَبُو مُحَمَّدٍ: هَذَا كُلُّ مَا احْتَجُّوا بِهِ، وَكُلُّهُ لَا حُجَّةَ لَهُمْ فِيهِ؛ لِأَنَّهَا كُلَّهَا مَرَاسِيلُ، وَالْأَوَّلُ مُنْقَطِعٌ؛ لِأَنَّ ابْنَ إِدْرِيسَ يَذْكُرُ أَنَّهُ سَمِعَهُ مِنْ ابْنِ إِسْحَاقَ.

L17762 As for the Mālikīs' obfuscation by citing this report as evidence, it constitutes severe disgrace upon them, for they wholly contradict it through those invalid divisions and their doctrine that fulfilling a vow to donate half one's wealth as alms is obligatory – whereas this report contains opposition to that stance and equates vows to donate all of one's wealth with those to donate half. Thus, this opinion is invalidated and has no basis.

وَأَمَّا تَمْوِيهُ الْمَالِكِيِّينَ بِالِاحْتِجَاجِ بِهَذَا الْخَبَرِ فَعَارٌ عَظِيمٌ عَلَيْهِمْ؛ لِأَنَّهُمْ مُخَالِفُونَ لَهُ كُلِّهِ بِتِلْكَ التَّقَاسِيمِ الْفَاسِدَةِ، وَبِأَنَّهُمْ يَرَوْنَ عَلَيْهِ الْوَفَاءَ بِصَدَقَةِ نِصْفِ مَالِهِ إِذَا نَذَرَهُ - وَفِي هَذَا الْخَبَرِ خِلَافُ ذَلِكَ، وَالتَّسْوِيَةُ بَيْنَ النَّذْرِ بِصَدَقَةِ جَمِيعِهِ، وَصَدَقَةِ نِصْفِهِ - فَبَطَلَ أَنْ يَكُونَ لِهَذَا الْقَوْلِ مُتَعَلَّقٌ.

L17763–17764 Ali said: "When these opinions are invalidated except for the view of those who say: 'He should give all of it as sadaqah, for it is a vowed act of obedience'—here we will discuss with them, God willing, and say—: Allah the Exalted stated: 'Give the relative his rightful due, and the needy and the traveler, and do not squander wastefully'" [Al-Isra: 26].[6]

قَالَ عَلِيٌّ: فَإِذَا بَطَلَتْ هَذِهِ الْأَقْوَالُ إِلَّا قَوْلَ مَنْ قَالَ: يَتَصَدَّقُ بِجَمِيعِهِ، لِأَنَّهُ طَاعَةٌ مَنْذُورَةٌ - فَهَهُنَا نَتَكَلَّمُ مَعَهُمْ إِنْ شَاءَ اللَّهُ تَعَالَى، فَنَقُولُ -: قَالَ اللَّهُ تَعَالَى {وَآتِ ذَا الْقُرْبَى حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ وَلا تُبَذِّرْ تَبْذِيرًا} [الإسراء: ٢٦] .

L17765 And He, the Exalted, said: "Do not keep your hand chained to your neck nor stretch it out excessively, lest you sit blameworthy and regretful." (Al-Isrāʾ 17:29)[7]

وَقَالَ تَعَالَى: {وَلا تَجْعَلْ يَدَكَ مَغْلُولَةً إِلَى عُنُقِكَ وَلا تَبْسُطْهَا كُلَّ الْبَسْطِ فَتَقْعُدَ مَلُومًا مَحْسُورًا} [الإسراء: ٢٩] .

L17766 And He, the Exalted, said: {Give its due [rights] on the day of harvest, and do not be excessive. Indeed, He does not love those who exceed limits} [Al-Anʿām 6:141]. By this, Allah, the Exalted, reproached and showed no approval for one who donates all their wealth in charity to the point of extravagance.[8]

وَقَالَ تَعَالَى: {وَآتُوا حَقَّهُ يَوْمَ حَصَادِهِ وَلا تُسْرِفُوا إِنَّهُ لا يُحِبُّ الْمُسْرِفِينَ} [الأنعام: ١٤١] فَلَامَ اللَّهُ تَعَالَى وَلَمْ يُحِبَّ مَنْ تَصَدَّقَ بِكُلِّ مَا يَمْلِكُ.

L17767 And through the chain of Al-Bukhari: Ahmad ibn Salih narrated to us, Ibn

وَمِنْ طَرِيقِ الْبُخَارِيِّ نا أَحْمَدُ بْنُ صَالِحٍ نا ابْنُ وَهْبٍ أَخْبَرَنِي يُونُسُ بْنُ يَزِيدَ عَنِ ابْنِ شِهَابٍ أَخْبَرَنِي عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ اللَّهِ بْنِ كَعْبِ بْنِ مَالِكٍ قَالَ: سَمِعْتُ «كَعْبَ بْنَ

[6] **Qur'an references (L17764):** Qur'an 17:26 (Al-Isra).
[7] **Qur'an references (L17765):** Qur'an 17:29 (Al-Isra).
[8] **Qur'an references (L17766):** Qur'an 6:141 (Al-An'am).

Wahb narrated to us, Yunus ibn Yazid informed me from Ibn Shihab, who informed me: Abd al-Rahman ibn Abdullah ibn Ka'b ibn Malik said: I heard Ka'b ibn Malik—and he mentioned the account of his staying behind from Tabuk—and that he said to the Messenger of Allah: "Indeed, part of my repentance is that I strip myself of my wealth as charity to Allah and His Messenger." The Messenger of Allah—peace and blessings be upon him—said: "Retain some of your wealth for yourself, for that is better for you."

مَالِك - فَذَكَرَ حَدِيثَ تَخَلُّفِهِ عَنْ تَبُوكَ - وَأَنَّهُ قَالَ لِرَسُولِ اللَّهِ: إِنَّ مِنْ تَوْبَتِي أَنْ أَنْخَلِعَ مِنْ مَالِي صَدَقَةً إِلَى اللَّهِ وَرَسُولِهِ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَمْسِكْ عَلَيْكَ بَعْضَ مَالِكَ فَهُوَ خَيْرٌ لَكَ» .

L17768 And from the chain of Muslim from Aḥmad ibn ʿAmr ibn ʿAbd Allāh ibn ʿAmr ibn al-Sarḥ, from Ibn Wahb with his isnad (the same as it), with this addition: "So I said: 'If I retain my share that is in Khaybar.'"

وَمِنْ طَرِيقِ مُسْلِمٍ عَنْ أَحْمَدَ بْنِ عَمْرِو بْنِ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ السَّرْحِ عَنْ ابْنِ وَهْبٍ بِإِسْنَادِهِ مِثْلَهُ، وَزَادَ فِيهِ فَقُلْتُ: إِنْ أُمْسِكْ سَهْمِي الَّذِي بِخَيْبَرَ.

L17769 From the narration of Abū Hurayrah, the Messenger of Allah—peace and blessings be upon him—said: "The best charity is that which leaves you in sufficiency, or is given from sufficiency. Start by giving to those under your care."

وَمِنْ طَرِيقِ أَبِي هُرَيْرَةَ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «أَنَّ خَيْرَ الصَّدَقَةِ مَا تَرَكَ غِنًى، أَوْ تَصَدَّقَ عَنْ غِنًى، وَابْدَأْ بِمَنْ تَعُولُ» .

L17770 From the narration of Abū Hurayrah, from the Prophet (peace be upon him): "Begin by giving charity to yourself. If anything remains, give it to your family. If anything remains beyond your family, give it to your relative. If anything remains beyond your relative, then proceed likewise and likewise."[9]

وَمِنْ طَرِيقِ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «ابْدَأْ بِنَفْسِكَ فَتَصَدَّقْ عَلَيْهَا فَإِنْ فَضَلَ شَيْءٌ فَلأَهْلِكَ، فَإِنْ فَضَلَ عَنْ أَهْلِكَ شَيْءٌ فَلِذِي قَرَابَتِكَ، فَإِنْ فَضَلَ عَنْ ذِي قَرَابَتِكَ شَيْءٌ، فَهَكَذَا وَهَكَذَا» .

L17771–17773 The hadiths here are exceedingly numerous. From the chain of Hammad ibn Salamah, from Muhammad ibn Ishaq, from Asim ibn Umar ibn Qatadah ibn al-Nuʿman al-Ẓafarī, from Mahmud ibn Labid, from Jabir ibn Abdullah al-Ansari, who said: "We were in the presence of the Messenger of Allah—peace and blessings be upon him—when a man came to him with an egg-shaped object made of gold and said: 'O Messenger of Allah, I found this from... Take this piece of metal as charity, for I possess nothing else. The Prophet (peace be upon him) repeatedly turned away from him as the man kept repeating this statement, until he (peace be upon him) finally took it and hurled it at him, saying: "Had it struck him, it would have pained him or maimed him." Then he (peace be upon him) said: "One of you comes with

وَالْأَحَادِيثُ هَهُنَا كَثِيرَةٌ جِدًّا. وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ عَنْ عَاصِمِ بْنِ عُمَرَ بْنِ قَتَادَةَ بْنِ النُّعْمَانِ الظَّفَرِيِّ عَنْ مَحْمُودِ بْنِ لَبِيدٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ الْأَنْصَارِيِّ قَالَ: «كُنَّا عِنْدَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - إِذْ جَاءَهُ رَجُلٌ بِمِثْلِ بَيْضَةٍ مِنْ ذَهَبٍ فَقَالَ: يَا رَسُولَ اللَّهِ أَصَبْتُ هَذِهِ مِنْ مَعْدِنٍ فَخُذْهَا فَهِيَ صَدَقَةٌ، مَا أَمْلِكُ غَيْرَهَا؟ فَأَعْرَضَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَنْهُ مِرَارًا - وَهُوَ يُرَدِّدُ كَلَامَهُ هَذَا - ثُمَّ أَخَذَهَا - عَلَيْهِ السَّلَامُ - فَحَذَفَهُ بِهَا، فَلَوْ أَنَّهَا أَصَابَتْهُ لَأَوْجَعَتْهُ أَوْ لَعَقَرَتْهُ وَقَالَ

[9] **Hadith references (L17770):** Sahih Muslim 997a; Mishkat al-Masabih 3392.

what he owns and declares, 'This is charity,' then sits and solicits alms from people. The best charity is that given from surplus wealth."

- عَلَيْهِ السَّلَامُ -: يَأْتِي أَحَدُكُمْ بِمَا يَمْلِكُ فَيَقُولُ: هَذِهِ صَدَقَةٌ ثُمَّ يَقْعُدُ فَيَتَكَفَّفُ النَّاسَ خَيْرُ الصَّدَقَةِ مَا كَانَ عَنْ ظَهْرِ غِنًى» .

L17774 And from the transmission of Abdullah ibn Idris from Muhammad ibn Ishaq through his isnad in a similar wording. At the end of it: that he (peace be upon him) said: "Take your wealth from us; we have no need of it."

وَمِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ إِدْرِيسَ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ بِإِسْنَادِهِ نَحْوُهُ، وَفِي آخِرِهِ: أَنَّهُ - عَلَيْهِ السَّلَامُ - قَالَ: «خُذْ عَنَّا مَالَكَ، لَا حَاجَةَ لَنَا بِهِ» .

L17775 From the path of Sufyan ibn 'Uyaynah ibn 'Ajlan, from 'Iyad ibn 'Abd Allah ibn Sa'd, that he heard Abu Sa'id al-Khudri say: "A man entered the mosque, so the Messenger of Allah—peace be upon him and his family—commanded the people to cast off garments, and they cast them off. He ordered that two of those garments be given to him. Then he—peace be upon him and his family—urged charity, so the man cast off one of the two garments. The Messenger of Allah—peace be upon him and his family—called out to him and said, 'Take your garment.'"

وَمِنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ بْنِ عَجْلَانَ عَنْ عِيَاضِ بْنِ عَبْدِ اللَّهِ بْنِ سَعْدٍ أَنَّهُ سَمِعَ أَبَا سَعِيدٍ الْخُدْرِيَّ يَقُولُ: «دَخَلَ رَجُلٌ الْمَسْجِدَ فَأَمَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - النَّاسَ أَنْ يَطْرَحُوا ثِيَابًا فَطَرَحُوا فَأَمَرَ لَهُ مِنْهَا بِثَوْبَيْنِ، ثُمَّ حَثَّ - عَلَيْهِ السَّلَامُ - عَلَى الصَّدَقَةِ فَطَرَحَ الرَّجُلُ أَحَدَ الثَّوْبَيْنِ فَصَاحَ بِهِ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَقَالَ خُذْ ثَوْبَكَ» .

L17776 And from the narration of Hakim ibn Hizam, from the Prophet—peace and blessings be upon him and his family—who said: "The best charity is that which is given from one's surplus."

وَمِنْ طَرِيقِ حَكِيمِ بْنِ حِزَامٍ، عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «أَفْضَلُ الصَّدَقَةِ مَا كَانَ عَنْ ظَهْرِ غِنًى» .

L17777 These are recurrent, mutually supporting narrations decisively invalidating charity given from what exceeds sufficiency. Since giving charity from what maintains sufficiency is better and superior to giving from what does not maintain sufficiency, it necessarily becomes evident to every person that his charity from such surplus yields him no reward—rather reduces his reward—and thus is not accepted. When certainty exists that giving wealth reduces reward or entails no reward, it is impermissible to give it in such cases, for this constitutes corruption of wealth, squandering, and prohibited extravagance. How then does his rejection—peace be upon him—of such charity not constitute sufficient clarification? Should they invoke God's statement: "They prefer others over themselves even when experiencing destitution themselves" [Al-Ḥashr: 9]...[10]

فَهَذِهِ آثَارٌ مُتَوَاتِرَةٌ مُتَظَاهِرَةٌ بِإِبْطَالِ الصَّدَقَةِ بِمَا زَادَ عَلَى مَا يُبْقِي غِنًى، وَإِذَا كَانَ الصَّدَقَةُ بِمَا أَبْقَى غِنًى خَيْرًا وَأَفْضَلَ مِنْ الصَّدَقَةِ بِمَا لَا يُبْقِي غِنًى؛ فَبِالضَّرُورَةِ يَدْرِي كُلُّ أَحَدٍ أَنَّ صَدَقَتَهُ بِتِلْكَ الزِّيَادَةِ لَا أَجْرَ لَهُ فِيهَا، بَلْ حَطَّتْ مِنْ أَجْرِهِ فَهِيَ غَيْرُ مَقْبُولَةٍ، وَمَا تَيَقَّنَ أَنَّهُ يَحُطُّ مِنْ الْأَجْرِ، أَوْ لَا أَجْرَ فِيهِ مِنْ إعْطَاءِ الْمَالِ فَلَا يَحِلُّ إعْطَاؤُهُ فِيهِ؛ لِأَنَّهُ إفْسَادٌ لِلْمَالِ وَإِضَاعَةٌ لَهُ وَسَرَفٌ حَرَامٌ، فَكَيْفَ وَرَدُّهُ - عَلَيْهِ السَّلَامُ - الصَّدَقَةَ بِذَلِكَ بَيَانٌ كَافٍ؟ فَإِنْ ذَكَرُوا قَوْلَ اللَّهِ تَعَالَى {وَيُؤْثِرُونَ عَلَى أَنْفُسِهِمْ وَلَوْ كَانَ بِهِمْ خَصَاصَةٌ} [الحشر: ٩] .

وَقَوْلُهُ - عَلَيْهِ السَّلَامُ - إذْ سُئِلَ «أَيُّ الصَّدَقَةِ أَفْضَلُ؟ فَقَالَ: جَهْدُ الْمُقِلِّ» .

[10] **Qur'an references (L17777):** Qur'an 59:9 (Al-Hashr).

L17778 His statement (peace be upon him) when asked, “Which charity is best?” was: “The contribution of one who has little.”

وَقَوْلُهُ - عَلَيْهِ السَّلَامُ - «سَبَقَ دِرْهَمٌ مِائَةَ أَلْفٍ كَانَ لِرَجُلٍ دِرْهَمَانِ تَصَدَّقَ بِأَجْوَدِهِمَا» .

L17779 And his saying, peace be upon him: “A single dirham surpassed a hundred thousand, for there was a man who had two dirhams and gave as charity the superior one of the two.”

L17780 “As for those who can find nothing but their capacity, so they mock them—Allah derided them” [At-Tawbah: 79].[11]

وَبِقَوْلِهِ تَعَالَى {وَالَّذِينَ لا يَجِدُونَ إِلا جُهْدَهُمْ فَيَسْخَرُونَ مِنْهُمْ سَخِرَ اللَّهُ مِنْهُمْ} [التوبة: ٧٩] .

L17781–17782 And with my narration from Abū Masʿūd: “The Messenger of Allāh—may Allāh bless him, his family, and grant him peace—would command us to give charity. So one of us would set out, exert himself, and return with a *mudd*, while Abū ʿAqīl’s charity consisted of a *saʿ* of dates.” All of this is authentic and constitutes evidence for us, not for them.

وَبِحَدِيثِي أَبِي مَسْعُودٍ «كَانَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - يَأْمُرُنَا بِالصَّدَقَةِ، فَيَنْطَلِقُ أَحَدُنَا فَيَتَحَامَلُ فَيَجِيءُ بِالْمُدِّ، وَصَدَقَةِ أَبِي عَقِيلٍ بِصَاعِ تَمْرٍ» فَهَذَا كُلُّهُ صَحِيحٌ وَحُجَّةٌ لَنَا لَا لَهُمْ.

L17783 As for Allah’s statement, the Exalted, {and they give preference over themselves, even though they are in need} [Al-Hashr: 9], it does not mean they left no sustenance for themselves; rather, it means they were in scarcity, yet they preferentially gave from some of their provisions.[12]

وَأَمَّا قَوْلُ اللَّهِ تَعَالَى {وَيُؤْثِرُونَ عَلَى أَنْفُسِهِمْ وَلَوْ كَانَ بِهِمْ خَصَاصَةٌ} [الحشر: ٩] فَلَيْسَ فِيهِ أَنَّهُمْ لَمْ يُبْقُوا لِأَنْفُسِهِمْ مَعَاشًا، إنَّمَا فِيهِ أَنَّهُمْ كَانُوا مُقِلِّينَ، وَيُؤْثِرُونَ مِنْ بَعْضِ قُوتِهِمْ.

L17784 As for the statement of the Exalted: “And those who can afford nothing except their capacity” [Surah At-Tawbah (9:79)], this is also similar.[13]

وَأَمَّا قَوْله تَعَالَى: {وَالَّذِينَ لا يَجِدُونَ إِلا جُهْدَهُمْ} [التوبة: ٧٩] فَمِثْلُ هَذَا أَيْضًا.

L17785 As for their statement, “the utmost effort of the one with limited means,” this phrase, found in the hadith narrated by Abū Hurayrah, is connected to the Prophet’s saying (peace be upon him): “Begin with those you support.” This clarifies that it refers to one’s utmost effort after ensuring the sufficiency of those under your care.

وَأَمَّا قَوْلُهُمْ “ جَهْدُ الْمُقِلِّ ” فَفِي حَدِيثِ أَبِي هُرَيْرَةَ هَذِهِ اللَّفْظَةُ الْمَوْصُولَةُ بِقَوْلِهِ - عَلَيْهِ السَّلَامُ -: «وَابْدَأْ بِمَنْ تَعُولُ» فَبَيَّنَ هَذَا الْقَوْلُ أَنَّهُ جَهْدُهُ بَعْدَ كَفَافِ مَنْ تَعُولُ.

L17786 Similarly, the two narrations of Abu Mas’ud also state that a man had two dirhams and gave the more valuable of them in charity—and this case is likewise. It is possible he owned an estate or had sufficient income to sustain

وَكَذَلِكَ حَدِيثَا أَبِي مَسْعُودٍ أَيْضًا، وَإِنَّمَا كَانَ لِرَجُلٍ دِرْهَمَانِ فَتَصَدَّقَ بِأَجْوَدِهِمَا، فَكَذَلِكَ أَيْضًا، وَقَدْ يَكُونُ لَهُ ضَيْعَةٌ أَوْ لَهُ غَلَّةٌ تَقُومُ بِهِ فَتَصَدَّقَ بِأَحَدِ دِرْهَمَيْنِ كَانَا لَهُ وَلَمْ يَقُلْ - عَلَيْهِ السَّلَامُ -: إنَّهُ لَمْ يَكُنْ لَهُ غَيْرُهُمَا؟ فَإِنْ ذَكَرُوا صَدَقَةَ أَبِي بَكْرٍ بِمَا يَمْلِكُهُ؟ قُلْنَا: هَذَا لَا

[11] **Qur’an references (L17780):** Qur’an 9:79 (At-Tawbah).
[12] **Qur’an references (L17783):** Qur’an 59:9 (Al-Hashr).
[13] **Qur’an references (L17784):** Qur’an 9:79 (At-Tawbah).

himself, then gave one of his two dirhams in charity. Yet the Prophet (peace be upon him) did not say he possessed nothing else besides them? If they cite Abu Bakr's charity with all he owned, we respond: This is unsound, as it is transmitted through Hisham ibn Sa'd, a weak narrator, from Zaid ibn Aslam, from his father, who said: I heard 'Umar state, "The Messenger of Allah (peace be upon him and his family) commanded us to give charity. I happened to have wealth available, so I said, 'Today I will outdo Abu Bakr, if I ever can!' I brought half my wealth." The Messenger of Allah (peace be upon him and his family) asked, "What have you left for your family?" I replied, "The same [as what I gave]." Then Abu Bakr came with everything he possessed. The Messenger of Allah (peace be upon him and his family) asked him, "What have you left for your family?" He answered, "I left Allah and His Messenger for them."

يَصِحُّ؛ لِأَنَّهُ مِنْ طَرِيقِ هِشَامِ بْنِ سَعْدٍ، وَهُوَ ضَعِيفٌ عَنْ زَيْدِ بْنِ أَسْلَمَ عَنْ أَبِيهِ قَالَ: سَمِعْتُ «عُمَرَ يَقُولُ: أَمَرَنَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِالصَّدَقَةِ، فَوَافَقَ ذَلِكَ مَالًا عِنْدِي فَقُلْتُ: الْيَوْمَ أَسْبِقُ أَبَا بَكْرٍ إِنْ سَبَقْتُهُ يَوْمًا قَالَ: فَجِئْتُ بِنِصْفِ مَالِي؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: مَا أَبْقَيْتَ لِأَهْلِكَ؟ قُلْتُ: مِثْلَهُ، وَأَتَى أَبُو بَكْرٍ بِكُلِّ مَا عِنْدَهُ؟ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: مَا أَبْقَيْتَ لِأَهْلِكَ؟ قَالَ: أَبْقَيْتُ لَهُمْ اللَّهَ وَرَسُولَهُ» .

L17787 Abu Muhammad said: Furthermore, even if it were valid, they would have no proof in it; for without doubt Abu Bakr had a well-known residence in Medina and a residence in Mecca. Moreover, for someone of Abu Bakr's stature, the Prophet—peace be upon him and his family—would never have neglected him, and thus he was in no need.

قَالَ أَبُو مُحَمَّد: ثُمَّ لَوْ صَحَّ لَمْ يَكُنْ لَهُمْ فِيهِ حُجَّةٌ؛ لِأَنَّهُ بِلَا شَكٍّ كَانَتْ لَهُ دَارٌ بِالْمَدِينَةِ مَعْرُوفَةٌ وَدَارٌ بِمَكَّةَ - وَأَيْضًا: فَإِنَّ مِثْلَ أَبِي بَكْرٍ لَمْ يَكُنْ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - لِيُضَيِّعَهُ فَكَانَ فِي غِنًى.

L17788 It is validated by what we have stated that whoever vows to give charity with all their wealth—whether phrased in general terms or specified types as an act of seeking closeness to Allah the Exalted—is not obligated to give in charity except what he retains for sufficiency for himself and his family, as the Messenger of Allah—peace and blessings be upon him and his family—commanded Kaʿb ibn Mālik and others.

فَصَحَّ بِمَا ذَكَرْنَا أَنَّ مَنْ نَذَرَ أَنْ يَتَصَدَّقَ بِجَمِيعِ مَالِهِ مُجْمَلًا، أَوْ مُنَوَّعًا عَلَى سَبِيلِ الْقُرْبَةِ إلَى اللَّهِ تَعَالَى، لَمْ يَلْزَمْهُ أَنْ يَتَصَدَّقَ مِنْهُ إلَّا بِمَا أَبْقَى لِنَفْسِهِ، وَلِأَهْلِهِ غِنًى، كَمَا أَمَرَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - كَعْبَ بْنَ مَالِكٍ وَغَيْرَهُ.

L17789–17790 If they mention the ḥadīth of Saʿd concerning the will, we say: It is incumbent upon you, for the ruling of wills differs from the ruling of charity enacted during one's lifetime by agreement between us and you. Furthermore, the Prophet—peace be upon him—forbade him from donating half of it as charity, while you do not say this. No one may bequeath more than a third, even if he leaves a million dinars or more—the excess beyond that is rejected. Yet you do not hold that charity exceeding a third of his wealth during his lifetime should be rejected. Success comes from Allah, the Most High.

فَإِنْ ذَكَرُوا حَدِيثَ سَعْدٍ فِي الْوَصِيَّةِ؟ قُلْنَا: هُوَ عَلَيْكُمْ، لِأَنَّ أَمْرَ الْوَصِيَّةِ غَيْرُ أَمْرِ الصَّدَقَةِ الْمُنَفَّذَةِ فِي الْحَيَاةِ بِاتِّفَاقٍ مِنَّا وَمِنْكُمْ - وَأَيْضًا فَقَدْ مَنَعَهُ - عَلَيْهِ السَّلَامُ - مِنْ الصَّدَقَةِ بِنِصْفِهِ، وَأَنْتُمْ لَا تَقُولُونَ هَذَا، وَلَيْسَ لِأَحَدٍ أَنْ يُوصِيَ بِأَكْثَرَ مِنْ الثُّلُثِ؛ وَلَوْ تَرَكَ أَلْفَ أَلْفِ دِينَارٍ أَوْ أَكْثَرَ - وَيُرَدُّ مَا زَادَ عَلَى ذَلِكَ، وَأَنْتُمْ لَا تَقُولُونَ: بِرَدِّ مَا نَفَذَ مِنْ الصَّدَقَةِ بِأَكْثَرَ مِنْ ثُلُثِهِ فِي حَيَاتِهِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

He vowed to ritually slaughter himself or his son.

[نَذَرَ نَحْرَ نَفْسِهِ أَوْ ابْنِهِ]

L17792 As for one who vows to slaughter himself or his son: It has been narrated to us through the chain of ʿAbd al-Razzāq via Ibn Jurayj—Yaḥyā ibn Saʿīd al-Anṣārī informed me, saying: I heard al-Qāsim ibn Muḥammad ibn Abī Bakr say: Ibn ʿAbbās was asked about someone who vowed to slaughter his son. He replied: "He must not slaughter his son, and he must atone for his oath." It was said to Ibn ʿAbbās: "How can atonement apply to an act performed in obedience to Satan?" Ibn ʿAbbās responded: "'Those who declare *ẓihār*' [al-Mujādilah: 2], then He ordained within it from the atonement what you have seen."[14]

وَأَمَّا مَنْ نَذَرَ نَحْرَ نَفْسِهِ أَوْ ابْنِهِ -: فَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ: أَخْبَرَنِي يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ قَالَ: سَمِعْت الْقَاسِمَ بْنَ مُحَمَّدِ بْنِ أَبِي بَكْرٍ يَقُولُ: سُئِلَ ابْنُ عَبَّاسٍ عَمَّنْ نَذَرَ أَنْ يَنْحَرَ ابْنَهُ؟ فَقَالَ: لَا يَنْحَرْ ابْنَهُ، وَلْيُكَفِّرْ عَنْ يَمِينِهِ، فَقِيلَ لِابْنِ عَبَّاسٍ: كَيْفَ تَكُونُ فِي طَاعَةِ الشَّيْطَانِ كَفَّارَةٌ؟ فَقَالَ ابْنُ عَبَّاسٍ {الَّذِينَ يُظَاهِرُونَ} [المجادلة: ٢] ثُمَّ جَعَلَ فِيهِ مِنْ الْكَفَّارَةِ مَا رَأَيْت.

L17793 Abu Muhammad said: There is no valid proof for Ibn Abbas regarding this verse.

قَالَ أَبُو مُحَمَّدٍ: لَا حُجَّةَ لِابْنِ عَبَّاسٍ فِي هَذِهِ الْآيَةِ.

L17794 The first of that is: He did not impose the expiation in ẓihār—despite likening obedience to Satan to obedience in ẓihār—and this suffices. Then, were this argument to be extended consistently, the expiation for an oath would become obligatory for every sin—a position neither he nor any other scholar upholds.

أَوَّلُ ذَلِكَ -: أَنَّهُ لَمْ يَجْعَلْ هُوَ فِي طَاعَةِ الشَّيْطَانِ الَّتِي شَبَّهَا بِطَاعَتِهِ فِي الظِّهَارِ، الْكَفَّارَةَ الَّتِي فِي الظِّهَارِ وَيَكْفِي هَذَا - ثُمَّ لَوْ طَرَدَ هَذَا الْقَوْلُ لَوَجَبَتْ فِي كُلِّ مَعْصِيَةٍ كَفَّارَةُ يَمِينٍ - وَهَذَا لَا يَقُولُهُ هُوَ وَلَا غَيْرُهُ.

L17795 It has been authentically reported from him regarding one who says to his wife, "You are forbidden to me," that she does not become forbidden by that, and he did not prescribe an expiation for it—and this is the most correct of his rulings. It has also been narrated to us from him a different view through the chain of Ibn Jurayj from ʿAta, who said: A man came to Ibn ʿAbbas and said, "I vowed to slaughter myself." Ibn ʿAbbas replied, {"There has certainly been for you in the Messenger of Allah an excellent example"} [Al-Ahzab: 21] {"And We ransomed him with a great sacrifice"} [As-Saffat: 107], and instructed him to offer a ram. ʿAta said: "The ram is to be slaughtered in Mecca." Ibn Jurayj said: I asked ʿAta, "What if someone vowed to slaughter his horse or mule?" He replied, "A camel or a cow?" I said to him, "Ibn ʿAbbas instructed him to offer a ram for himself, yet you prescribe a camel for the animal?" But ʿAta insisted on that.[15]

وَقَدْ صَحَّ عَنْهُ فِيمَنْ قَالَ لِامْرَأَتِهِ: أَنْت عَلَيَّ حَرَامٌ، أَنَّهَا لَا تَحْرُمُ بِذَلِكَ، وَلَمْ يَجْعَلْ فِيهِ كَفَّارَةً - وَهَذَا أَصَحُّ أَقْوَالِهِ -: وَقَدْ رُوِّينَا عَنْهُ غَيْرَ هَذَا مِنْ طَرِيقِ ابْنِ جُرَيْجٍ عَنْ عَطَاءٍ، قَالَ: جَاءَ رَجُلٌ إلَى ابْنِ عَبَّاسٍ فَقَالَ لَهُ: نَذَرْت لَأَنْحَرَنَّ نَفْسِي؟ فَقَالَ ابْنُ عَبَّاسٍ {لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللَّهِ أُسْوَةٌ حَسَنَةٌ} [الأحزاب: ٢١] {وَفَدَيْنَاهُ بِذِبْحٍ عَظِيمٍ} [الصافات: ١٠٧] فَأَمَرَهُ بِكَبْشٍ، قَالَ عَطَاءٌ: يُذْبَحُ الْكَبْشُ بِمَكَّةَ، قَالَ ابْنُ جُرَيْجٍ: فَقُلْت لِعَطَاءٍ: نَذَرَ لَيَنْحَرَنَّ فَرَسَهُ أَوْ بَغْلَتَهُ؟ فَقَالَ: جَزُورٌ أَوْ بَقَرَةٌ؟ فَقُلْت لَهُ: أَمَرَهُ ابْنُ عَبَّاسٍ بِكَبْشٍ فِي نَفْسِهِ، وَتَقُولُ فِي الدَّابَّةِ جَزُورٌ؟ فَأَبَى عَطَاءٌ إلَّا ذَلِكَ.

[14] **Qur'an references (L17792):** Qur'an 58:2 (Al-Mujadila).

[15] **Qur'an references (L17795):** Qur'an 33:21 (Al-Ahzab); Qur'an 37:107 (As-Saffat).

قَالَ أَبُو مُحَمَّد: وَلَيْسَ فِي هَذِهِ الْآيَةِ أَيْضًا حُجَّةٌ لِابْنِ عَبَّاسٍ، لِأَنَّ إبْرَاهِيمَ - عَلَيْهِ السَّلَامُ - لَمْ يَنْذُرْ ذَبْحَ وَلَدِهِ، لَكِنْ أَمَرَهُ اللَّهُ تَعَالَى بِذَبْحِهِ فَكَانَ فَرْضًا عَلَيْهِ أَنْ يَذْبَحَهُ، وَكَانَ نَذْرُ النَّاذِرِ نَحْرُ وَلَدِهِ أَوْ نَفْسِهِ مَعْصِيَةً مِنْ كِبَارِ الْمَعَاصِي، وَلَا يَجُوزُ أَنْ تُشَبَّهَ الْكَبَائِرُ بِالطَّاعَاتِ.

L17796 Abu Muhammad said: There is also no proof in this verse for Ibn Abbas, because Ibrahim, peace be upon him, did not vow the slaughter of his child, but Allah the Exalted commanded him to slaughter his son, making it obligatory for him to do so. The vow of one who vows the slaughter of his child or himself constitutes a sin among the major sins, and it is not permissible to liken major sins to righteous deeds.

وَأَيْضًا - فَإِنَّنَا لَا نَدْرِي مَا كَانَ ذَلِكَ الذَّبْحُ الَّذِي فُدِيَ بِهِ إسْمَاعِيلُ - عَلَيْهِ السَّلَامُ -، فَبَطَلَ هَذَا التَّشْبِيهُ - وَرُوِّينَا عَنْهُ قَوْلًا ثَالِثًا أَيْضًا -: كَمَا رُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ ابْنِ طَاوُسٍ عَنْ أَبِيهِ عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ فِي رَجُلٍ نَذَرَ أَنْ يَنْحَرَ نَفْسَهُ، قَالَ: لِيُهْدِ مِائَةَ نَاقَةٍ. وَمِنْ طَرِيقِ شُعْبَةَ عَنْ عَمْرِو بْنِ مُرَّةَ قَالَ: سَمِعْت سَالِمَ بْنَ أَبِي الْجَعْدِ قَالَ: جَاءَ رَجُلٌ إلَى ابْنِ عَبَّاسٍ فَقَالَ لَهُ: إنِّي كُنْت أَسِيرًا فِي أَرْضِ الْعَدُوِّ فَنَذَرْت إنْ نَجَّانِي اللَّهُ أَنْ أَفْعَلَ كَذَا، وَأَنْ أَنْحَرَ نَفْسِي، وَإِنِّي قَدْ فَعَلْت ذَلِكَ؟ قَالَ وَفِي عُنُقِهِ قِدٌّ فَأَقْبَلَ ابْنُ عَبَّاسٍ عَلَى امْرَأَةٍ سَأَلَتْهُ وَغَفَلَ عَنْ الرَّجُلِ، فَانْطَلَقَ لِيَنْحَرَ نَفْسَهُ، فَسَأَلَ ابْنَ عَبَّاسٍ عَنْهُ؟ فَقِيلَ لَهُ: ذَهَبَ لِيَنْحَرَ نَفْسَهُ، فَقَالَ عَلَيَّ بِالرَّجُلِ؟ فَجَاءَ، فَقَالَ: لَمَّا أَعْرَضْت عَنِّي انْطَلَقْت أَنْحَرُ نَفْسِي؟ فَقَالَ لَهُ ابْنُ عَبَّاسٍ: لَوْ فَعَلْت مَا زِلْت فِي نَارِ جَهَنَّمَ، انْظُرْ دِيَتَك فَاجْعَلْهَا فِي بُدْنٍ فَأَهْدِهَا فِي كُلِّ عَامٍ شَيْئًا، وَلَوْلَا أَنَّك شَدَدْت عَلَى نَفْسِك لَرَجَوْت أَنْ يُجْزِيك كَبْشٌ - وَهَذِهِ آثَارٌ فِي غَايَةِ الصِّحَّةِ.

L17797–17798 Moreover, we do not know the nature of the sacrifice through which Ishmael - peace be upon him - was redeemed, rendering this analogy invalid. We have also received a third ruling attributed to him: As transmitted through Abd al-Razzaq from Ma'mar via Ibn Tawus and his father, Ibn Abbas ruled regarding a man who vowed to slaughter himself: "Let him sacrifice one hundred camels." Another report through Shu'bah from Amr ibn Murrah states: I heard Salim ibn Abi al-Ja'd recount: A man came to Ibn Abbas and said, "I was a captive in enemy lands and vowed, 'If Allah delivers me, I will perform such acts and slaughter myself.' Now I have fulfilled this." He bore a noose mark on his neck. Ibn Abbas turned to address a questioning woman, neglecting the man, who then departed to slaughter himself. When inquired about him, Ibn Abbas was told, "He went to slaughter himself." He commanded, "Bring him to me!" Upon the man's return, he said, "When you disregarded me, I resolved to kill myself." Ibn Abbas responded, "Had you done so, you would have remained eternally in Hell's fire. Calculate your blood money and allocate it to sacrificial camels by offering a portion annually. Were it not for your stringent self-imposed obligation, I would have deemed a ram sufficient for you." These are reports of the highest authenticity.

وَمِنْ طَرِيقِ قَتَادَةَ عَنْ ابْنِ عَبَّاسٍ: أَنَّهُ أَفْتَى رَجُلًا نَذَرَ أَنْ يَنْحَرَ نَفْسَهُ، فَقَالَ لَهُ: أَتَجِدُ مِائَةَ بَدَنَةٍ؟ قَالَ: نَعَمْ، قَالَ: فَانْحَرْهَا، فَلَمَّا وَلَّى الرَّجُلُ قَالَ ابْنُ عَبَّاسٍ: أَمَا لَوْ أَمَرْته بِكَبْشٍ لَأَجْزَأَ عَنْهُ.

L17799 From the chain of Qatadah via Ibn Abbas: He issued a verdict to a man who vowed to sacrifice himself (misunderstanding the vow's meaning). He asked him: "Can you obtain a hundred badanah (sacrificial camels)?" The man replied: "Yes." He said: "Then sacrifice them [to fulfill your vow]." As the man turned to leave, Ibn Abbas remarked: "Had I instructed him to offer a ram, it would have sufficed."

L17800 From the chain of Ibn Jurayj, Amr ibn Dinar reported to me that Ikrimah

وَمِنْ طَرِيقِ ابْنِ جُرَيْجٍ أَخْبَرَنِي عَمْرُو بْنُ دِينَارٍ: أَنَّ عِكْرِمَةَ أَخْبَرَهُ أَنَّ رَجُلًا أَتَى إلَى ابْنِ عَبَّاسٍ فَقَالَ لَهُ: لَقَدْ أَذْنَبْت ذَنْبًا لَئِنْ أَمَرْتنِي لَأَنْحَرَنَّ السَّاعَةَ نَفْسِي وَاَللَّهِ لَا أُخْبِرُكَهُ فَقَالَ لَهُ ابْنُ عَبَّاسٍ: بَلَى، لَعَلِّي أَنْ أُخْبِرَك بِكَفَّارَةٍ، قَالَ فَأَبَى، فَأَمَرَهُ بِمِائَةِ نَاقَةٍ - وَهَذَا أَيْضًا إسْنَادٌ صَحِيحٌ.

informed him: A man came to Ibn Abbas and said, "I have committed a sin so grave that if you command me, I will slaughter myself this very moment, and by Allah, I will not disclose it to you." Ibn Abbas responded, "Indeed, perhaps I can inform you of an expiation." The man refused. Ibn Abbas then commanded him to sacrifice one hundred she-camels—and this chain of transmission is also authentic.

L17801 وَرُوِّينَا مِنْ طَرِيقٍ سَاقِطَةٍ فِيهَا ابْنُ حَبِيبٍ الْأَنْدَلُسِيُّ: أَنَّ عَلِيًّا، وَابْنَ عَبَّاسٍ، وَابْنَ عُمَرَ أَفْتَوْا فِيمَنْ نَذَرَ أَنْ يُهْدِيَ ابْنَهُ؟ أَنْ يُهْدِيَ مِائَةً مِنْ الْإِبِلِ قَالَ ابْنُ حَبِيبٍ: وَحَدَّثَنِي ابْنُ الْمُغِيرَةِ عَنْ الثَّوْرِيِّ عَنْ إسْمَاعِيلَ بْنِ أُمَيَّةَ عَنْ عُثْمَانَ بْنِ حَاضِرٍ أَنَّهُمْ ثَلَاثَتُهُمْ سُئِلُوا عَنْ ذَلِكَ بَعْدَ ذَلِكَ؟ فَقَالُوا: يَنْحَرُ بَدَنَةً، فَإِنْ لَمْ يَجِدْ فَكَبْشًا.

L17801 It has been narrated to us through a weak chain involving Ibn Ḥabīb al-Andalusī that ʿAlī, Ibn ʿAbbās, and Ibn ʿUmar issued a legal opinion regarding one who vowed to offer his son [as a sacrifice], ruling that he must instead offer one hundred camels. Ibn Ḥabīb said: Ibn al-Mughīrah narrated to me from al-Thawrī, from Ismāʿīl ibn Umayyah, from ʿUthmān ibn Ḥāḍir, that the three of them were asked about the same matter afterward. They replied: "He should slaughter a badanah; if he cannot afford it, then a ram."

قَالَ أَبُو مُحَمَّد: فَهَذِهِ أَقْوَالٌ عَنْ ابْنِ عَبَّاسٍ صِحَاحٌ لَيْسَ بَعْضُهَا أَوْلَى مِنْ بَعْضٍ وَلَا حُجَّةَ فِي أَحَدٍ غَيْرِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَابْنِ عَبَّاسٍ وَغَيْرُهُ لَمْ يُعْصَمْ مِنْ الْخَطَأِ، وَمَنْ قَلَّدَهُمْ فَقَدْ خَالَفَ أَمْرَ اللَّهِ تَعَالَى فِي أَنْ لَا نَتَّبِعَ مَا أُنْزِلَ إلَيْنَا، وَلِكُلِّ وَاحِدٍ مِنْ الصَّحَابَةِ - رَضِيَ اللَّهُ عَنْهُمْ - فَضَائِلُ وَمُشَاهَدُ تَعْفُو عَنْ كُلِّ تَقْصِيرٍ وَلَيْسَ ذَلِكَ لِغَيْرِهِمْ.

L17802–17804 Abu Muhammad said: These are sound statements from Ibn Abbas, none of which holds greater authority than the others. There is no binding proof in anyone except the Messenger of Allah (peace and blessings be upon him and his family), for Ibn Abbas and others were not infallible... Regarding the error—whoever imitates them has indeed disobeyed Allah's command to follow what was revealed to us—yet every Companion (may Allah be pleased with them) possesses virtues and witnessed merits that overlook any shortcoming, and this is not for others.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ أَيُّوبَ السِّخْتِيَانِيِّ قَالَ: سَأَلَ رَجُلٌ سَعِيدَ بْنَ الْمُسَيِّبِ عَنْ رَجُلٍ نَذَرَ نَذْرًا لَا يَنْبَغِي لَهُ ذِكْرُ، لِأَنَّهُ مَعْصِيَةٌ؟ فَأَمَرَهُ أَنْ يُوَفِّيَهُ - ثُمَّ سَأَلَ عِكْرِمَةَ؟ فَنَهَاهُ عَنْ الْوَفَاءِ بِهِ، وَأَمَرَهُ بِكَفَّارَةِ يَمِينٍ فَرَجَعَ إلَى سَعِيدِ بْنِ الْمُسَيِّبِ فَأَخْبَرَهُ؟ فَقَالَ سَعِيدٌ: لَيَنْتَهِيَنَّ عِكْرِمَةُ أَوْ لَيُوجِعَنَّ الْأُمَرَاءُ ظَهْرَهُ، فَرَجَعَ إلَى عِكْرِمَةَ فَأَخْبَرَهُ؟ فَقَالَ لَهُ عِكْرِمَةُ: إذْ بَلَّغْتنِي فَبَلِّغْهُ، أَمَّا هُوَ فَقَدْ ضَرَبَتْ الْأُمَرَاءُ ظَهْرَهُ، وَأَوْقَفُوهُ فِي تُبَّانِ شَعْرٍ،

L17805 From the narration of Abd al-Razzaq through Ma'mar from Ayyub al-Sakhtiyani, who said: A man asked Sa'id ibn al-Musayyib about someone who articulated a vow he ought not to have made, because it constituted disobedience to Allah. Sa'id instructed him to fulfill it. The man then asked Ikrimah, who prohibited him from fulfilling it and ordered him to perform expiation for an oath. When the man returned to Sa'id ibn al-Musayyib and informed him, Sa'id declared: "Ikrimah must desist, or the rulers will surely inflict pain on his back!" The man went back to Ikrimah and relayed this. Ikrimah responded: "Since you have delivered his message to me, convey

to him: As for him, the rulers have already beaten his back and forced him to stand wearing a hair undergarment. Ask him whether your vow is an act of obedience to Allah or disobedience. If he says 'disobedience,' then he has commanded you to commit disobedience. If he claims it is 'obedience,' he has lied against Allah by asserting that disobedience to Him constitutes obedience!"

وَسَلْهُ عَنْ نَذْرِك أَطَاعَةٌ لِلَّهِ هُوَ أَمْ مَعْصِيَةٌ؟ فَإِنْ قَالَ: مَعْصِيَةٌ لِلَّهِ، فَقَدْ أَمَرَك بِالْمَعْصِيَةِ؟ وَإِنْ قَالَ هُوَ طَاعَةٌ لِلَّهِ، فَقَدْ كَذَبَ عَلَى اللَّهِ، إذْ زَعَمَ أَنَّ مَعْصِيَةَ اللَّهِ طَاعَةٌ لَهُ؟ قَالَ أَبُو مُحَمَّد: وَرُوِّينَا مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ يَحْيَى بْنِ الْعَلَاءِ عَنْ رِشْدِينَ بْنِ كُرَيْبٍ مَوْلَى ابْنِ عَبَّاسٍ «أَنَّ رَجُلًا قَالَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: إنِّي نَذَرْتُ أَنْ أَنْحَرَ نَفْسِي؟ فَأَمَرَهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِأَنْ يُهْدِيَ مِائَةَ نَاقَةٍ، وَأَنْ يَجْعَلَهَا فِي ثَلَاثِ سِنِينَ، قَالَ: فَإِنَّكَ لَا تَجِدُ مَنْ يَأْخُذُهُ مِنْكَ بَعْدَ أَنْ سَأَلَهُ: أَلَكَ مَالٌ؟ فَقَالَ: نَعَمْ» .

Abu Muhammad said: We have also received a narration through Abd al-Razzaq from Yahya ibn al-Ala' from Rishdin ibn Kurayb, the freedman of Ibn Abbas: "A man said to the Messenger of Allah—peace and blessings be upon him and his family—: 'I vowed to sacrifice myself.' The Prophet—peace and blessings be upon him and his family—commanded him to sacrifice one hundred camels as an offering and to distribute it within three years. The Prophet added: 'You will not find anyone to take it,' after inquiring: 'Do you possess wealth?' The man replied: 'Yes.'"

L17806 The Hanafis and Malikis opposed what was reported from the Companions regarding this matter. Thus, they neither adhered to what might be presumed of following the Companions, nor followed the text obligatory upon them, nor relied on the mursal—a hadith with an incomplete chain. Yet they assert that the mursal and the musnad—a hadith with a complete chain—are equivalent. As for Abu Hanifah, he said: "Whoever vows to slaughter his child, himself, his slave, his parent, a stranger, or to offer himself as a sacrificial gift, or to offer his child or his parent as a gift—there is no obligation upon him in any of that except specifically regarding his child, in which case he must offer a sheep as a hady." This constitutes muddling unparalleled in juristic discourse. Muhammad ibn al-Hasan agreed with him on all of this except that he stated: "He must also offer a sheep for his slave."

وَقَدْ خَالَفَ الْحَنَفِيُّونَ، وَالْمَالِكِيُّونَ مَا رُوِيَ عَنْ الصَّحَابَةِ فِي هَذَا، فَلَا مَا يُوهَمُونَ مِنْ اتِّبَاعِ الصَّحَابَةِ الْتَزَمُوا، وَلَا النَّصَّ الْمُفْتَرَضَ عَلَيْهِمْ اتَّبَعُوا، وَلَا بِالْمُرْسَلِ أَخَذُوا، وَهُمْ يَقُولُونَ: إنَّ الْمُرْسَلَ وَالْمُسْنَدَ سَوَاءٌ -: وَأَمَّا أَبُو حَنِيفَةَ فَقَالَ: مَنْ نَذَرَ نَحْرَ وَلَدِهِ، أَوْ نَحْرَ نَفْسِهِ، أَوْ نَحْرَ غُلَامِهِ، أَوْ نَحْرَ وَالِدِهِ، أَوْ نَحْرَ أَجْنَبِيٍّ، أَوْ إهْدَاءَهُ، أَوْ إهْدَاءَ وَلَدِهِ، أَوْ إهْدَاءَ وَالِدِهِ - فَلَا شَيْءَ عَلَيْهِ فِي كُلِّ ذَلِكَ، إلَّا فِي وَلَدِهِ خَاصَّةً، فَيَلْزَمُهُ فِيهِ هَدْيُ شَاةٍ - وَهَذَا مِنْ التَّخْلِيطِ الَّذِي لَا نَظِيرَ لَهُ - وَوَافَقَهُ عَلَى كُلِّ ذَلِكَ مُحَمَّدُ بْنُ الْحَسَنِ، إلَّا أَنَّهُ قَالَ: وَعَلَيْهِ فِي عَبْدِهِ أَيْضًا شَاةٌ.

L17807 The opinion of Mālik is conflicting: at one time he said, "Whoever swears, saying, 'I will slaughter my son if I do such a thing,' and thereby violates it, must perform the expiation for an oath." At another time he said, "If he intended it as a sacrificial offering, he must offer it; but if he did not intend a sacrificial offering, he incurs no obligation—neither a sacrificial offering nor an expiation."

وَاضْطَرَبَ قَوْلُ مَالِك، فَمَرَّةً قَالَ: مَنْ حَلَفَ فَقَالَ: أَنَا أَنْحَرُ ابْنِي إنْ فَعَلْت كَذَا، فَحَنِثَ، فَعَلَيْهِ كَفَّارَةُ يَمِينٍ -: وَمَرَّةً قَالَ: إنْ كَانَ نَوَى بِذَلِكَ الْهَدْيَ فَعَلَيْهِ هَدْيٌ، وَإِنْ كَانَ لَمْ يَنْوِ هَدْيًا فَلَا شَيْءَ عَلَيْهِ، لَا هَدْيٌ وَلَا كَفَّارَةٌ.

L17808 And on another occasion, he said: If one vows to perform that at the Station

of Abraham, a sacrificial animal is required of him. But if he does not stipulate "at the Station of Abraham," then the expiation of an oath is required.

وَمَرَّةً قَالَ: إِنْ نَذَرَ ذَلِكَ عِنْدَ مَقَامِ إِبْرَاهِيمَ، فَعَلَيْهِ هَدْيٌ، وَإِنْ لَمْ يَقُلْ عِنْدَ مَقَامِ إِبْرَاهِيمَ، فَكَفَّارَةُ يَمِينٍ.

L17809–17810 Ibn al-Qasim, his companion, said: If someone vows, "If I do such and such, I will sacrifice my father or mother," the ruling in this case is like the ruling mentioned concerning the son as well.

وَقَالَ ابْنُ الْقَاسِمِ صَاحِبُهُ: إِنْ نَذَرَ أَنْ يَنْحَرَ أَبَاهُ، أَوْ أُمَّهُ، إِنْ فَعَلْت كَذَا وَكَذَا، فَالْحُكْمُ فِي ذَلِكَ كَالْحُكْمِ الْمَذْكُورِ فِي الِابْنِ أَيْضًا.

L17811 Similarly, if one vows such an act in Mina or between Ṣafā and Marwah, it is as if he vowed it at the Station of Ibrāhīm. These opinions are utterly invalid and contrary to the Salaf.

وَكَذَلِكَ إِنْ نَذَرَ ذَلِكَ بِمِنًى، أَوْ بَيْنَ الصَّفَا وَالْمَرْوَةِ، فَكَمَا لَوْ نَذَرَهُ عِنْدَ مَقَامِ إِبْرَاهِيمَ - وَهَذِهِ أَقْوَالٌ فِي غَايَةِ الْفَسَادِ وَخِلَافٌ لِلسَّلَفِ.

L17812 Al-Layth ibn Sa'd said: Whoever declares, "I will slaughter my son near the Sacred House," must perform Hajj himself, perform Hajj with his son, and offer a sacrificial animal (hady).

وَقَالَ اللَّيْثُ بْنُ سَعْدٍ: مَنْ قَالَ: أَنَا أَنْحَرُ ابْنِي عِنْدَ الْبَيْتِ، فَعَلَيْهِ أَنْ يَحُجَّ، وَيَحُجَّ بِابْنِهِ وَيُهْدِيَ هَدْيًا.

L17813 Al-Ḥasan ibn Ḥayy said: "Whoever says, 'I will slaughter a sacrificial animal for so-and-so at the Kaaba,' must perform Ḥajj or ʿUmrah on his behalf and offer the *Hady*, unless he [the vow-maker] intends that, in which case only what he intended becomes obligatory upon him." These are statements without any proof, so there is no reason to concern oneself with them.

وَقَالَ الْحَسَنُ بْنُ حَيٍّ: مَنْ قَالَ: أَنَا أَنْحَرُ فُلَانًا عِنْدَ الْكَعْبَةِ، فَإِنَّهُ يُحِجُّهُ، أَوْ يُعْمِرُهُ، وَيُهْدِي، إِلَّا أَنْ يَنْوِيَ أَحَدٌ ذَلِكَ فَيَلْزَمُهُ مَا نَوَى فَقَطْ -: وَهَذِهِ أَقْوَالٌ لَا بُرْهَانَ عَلَيْهَا، فَلَا وَجْهَ لِلِاشْتِغَالِ بِهَا.

L17814 Abu Yusuf, Al-Shafi'i, and Abu Sulayman said: There is nothing incumbent upon him in all of that except seeking forgiveness only.

وَقَالَ أَبُو يُوسُفَ، وَالشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ: لَا شَيْءَ عَلَيْهِ فِي كُلِّ ذَلِكَ إِلَّا الِاسْتِغْفَارَ فَقَطْ.

L17815 Abu Muhammad said: This is the truth due to the words of Allah, the Exalted: "And do not kill yourselves" [Surah An-Nisā' 4:29].[16]

قَالَ أَبُو مُحَمَّدٍ: وَهَذَا هُوَ الْحَقُّ لِقَوْلِ اللَّهِ تَعَالَى: {وَلا تَقْتُلُوا أَنْفُسَكُمْ} [النساء: ٢٩] .

L17816 And He, the Exalted, said: "Do not kill the soul that Allah has forbidden except by right." [Al-An'ām 6:151][17]

وَقَالَ تَعَالَى: {وَلا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلا بِالْحَقِّ} [الأنعام: ١٥١] .

L17817 The Messenger of Allah—may Allah's blessings and peace be upon him and his family—said: "Whoever vows to disobey Allah, he should not disobey

وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «مَنْ نَذَرَ أَنْ يَعْصِيَ اللَّهَ فَلَا يَعْصِهِ» وَلَمْ يَأْمُرْهُ فِي ذَلِكَ بِكَفَّارَةٍ، وَلَا هَدْيٍ {وَمَا يَنْطِقُ عَنِ الْهَوَى} [النجم: ٣] {إِنْ هُوَ إِلا وَحْيٌ يُوحَى} [النجم: ٤] .

[16] **Qur'an references (L17815):** Qur'an 4:29 (An-Nisa).
[17] **Qur'an references (L17816):** Qur'an 6:151 (Al-An'am); Qur'an 17:33 (Al-Isra).

Him," and he did not command such a person to offer any expiation or sacrificial offering. "He does not speak from [his own] inclination" [53:3] "It is nothing but a revelation sent down" [53:4].[18]

L17818 "And never is your Lord forgetful" (Maryam 64).[19]

L17819–17821 It has been narrated to us through the chain of Ibn Jurayj, who said: I heard Sulaymān ibn Mūsā narrating to 'Aṭā' that a man came to Ibn 'Umar and said: "I vowed to sacrifice myself." Ibn 'Umar replied: "Fulfill what you have vowed." The man said: "Shall I kill myself?" He responded: "Then you would enter the Fire." The man said: "You have confused me!" He retorted: "Did you not confuse yourself?" Abū Muḥammad said: This was the legal ruling Ibn 'Umar would issue. It is authentically reported that a man came to him and said: "I vowed to fast on the Day of Sacrifice." Ibn 'Umar said: "Allah the Exalted commanded the fulfillment of vows, and the Messenger of Allah—may Allah's blessings and peace be upon him and his family—forbade..." It was narrated regarding fasting on the Day of Sacrifice that a woman approached him and said, "I vowed to walk with my head uncovered." He replied, "Fulfill your vow, but cover your head."

L17822 We mentioned before from Ibn Abbas: the invalidity of a vow involving sin altogether, and this is what we say.

L17823 **He vowed to slaughter by cutting the throat his horse or his female mule.**

L17824 Abu Muhammad said: As for one who vows to slaughter his horse or mule, let him slaughter them for Allah, and likewise what is eaten, for it is a vow of obedience, and with Allah, the Most High, is success.

L17825 **He vowed to walk to the Mosque of Medina or the Mosque of Bayt al-Maqdis.**

L17826 Abu Muhammad said: As for one who vows to walk to the Mosque of Med-

[18] **Qur'an references (L17817):** Qur'an 53:3 (An-Najm); Qur'an 53:4 (An-Najm).
[19] **Qur'an references (L17818):** Qur'an 19:64 (Maryam).

{وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

رُوِّينَا مِنْ طَرِيقِ ابْنِ جُرَيْجٍ قَالَ: سَمِعْت سُلَيْمَانَ بْنَ مُوسَى يُحَدِّثُ عَطَاءً أَنَّ رَجُلًا أَتَى إلَى ابْنِ عُمَرَ فَقَالَ لَهُ: نَذَرْت لَأَنْحَرَنَّ نَفْسِي؟ فَقَالَ لَهُ ابْنُ عُمَرَ: أَوْفِ مَا نَذَرْت، فَقَالَ لَهُ الرَّجُلُ: أَفَأَقْتُلُ نَفْسِي؟ قَالَ لَهُ إذْنَ تَدْخُلُ النَّارَ، قَالَ لَهُ: أَلْبَسْت عَلَيَّ قَالَ: أَنْتَ أَلْبَسْت عَلَى نَفْسِك؟ قَالَ أَبُو مُحَمَّد: وَبِهَذَا كَانَ يُفْتِي ابْنُ عُمَرَ، صَحَّ أَنَّ آتِيًا أَتَاهُ فَقَالَ: نَذَرْت صَوْمَ يَوْمِ النَّحْرِ؟ فَقَالَ لَهُ ابْنُ عُمَرَ: أَمَرَ اللَّهُ تَعَالَى بِوَفَاءِ النَّذْرِ، وَنَهَى رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ صَوْمِ يَوْمِ النَّحْرِ. وَأَنَّ امْرَأَةً سَأَلَتْهُ؟ فَقَالَتْ: نَذَرْت أَنْ أَمْشِيَ حَاسِرَةً؟ فَقَالَ: أَوْفِي بِنَذْرِك، وَاخْتَمِرِي.

وَقَدْ ذَكَرْنَا قَبْلُ عَنْ ابْنِ عَبَّاسٍ: سُقُوطَ نَذْرِ الْمَعْصِيَةِ جُمْلَةً وَبِهَذَا نَقُولُ.

[نَذَرَ نَحْرَ فَرَسِهِ أَوْ بَغْلَتِهِ]

قَالَ أَبُو مُحَمَّد: وَأَمَّا مَنْ نَذَرَ نَحْرَ فَرَسِهِ أَوْ بَغْلَتِهِ، فَلْيَنْحَرْهُمَا لِلَّهِ، وَكَذَلِكَ مَا يُؤْكَلُ؛ لِأَنَّهُ نَذْرُ طَاعَةٍ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[نَذَرَ الْمَشْيَ إلَى مَسْجِدِ الْمَدِينَةِ أَوْ مَسْجِدِ بَيْتِ الْمَقْدِسِ]

قَالَ أَبُو مُحَمَّد: وَأَمَّا مَنْ نَذَرَ الْمَشْيَ إلَى مَسْجِدِ الْمَدِينَةِ، أَوْ مَسْجِدِ بَيْتِ الْمَقْدِسِ، أَوْ إلَى مَكَان سَمَّاهُ مِنْ الْحَرَمِ، أَوْ إلَى مَسْجِدٍ مِنْ سَائِرِ الْمَسَاجِدِ، فَإِنَّهُ إنْ نَذَرَ مَشْيًا، أَوْ

ina, the Mosque of Bayt al-Maqdis, a named location within the Sanctuary, or any of the other mosques – if he vows to walk, ride, or set out to Mecca or to a specific location within the Sanctuary, it becomes binding upon him, for this constitutes a vow of obedience. The entire Sanctuary is considered a mosque, as we previously clarified in *The Book of Hajj*, which obviates the need to repeat it.

L17827 Similarly, if he vows to walk, depart, or ride to the city, he is obligated to fulfill it.

L17828 Similarly, regarding a site from the sites of the prophets—peace be upon them—if one vows to walk, ride, perform iʿtikāf, or undertake a journey to Jerusalem, it becomes binding upon him.

L17829 If someone vows to perform a prayer therein, they are given the choice between two options:

L17830 One of them—and it is the superior option—is that he should go to Mecca, pray there, and it suffices him.

L17831 The second is that he sets out to Bayt al-Maqdis (Al-Aqsa Mosque in Jerusalem). If he vows walking and setting out, or riding to any mosque in the world other than this mosque, nothing at all is required of him.

L17832 The proof of that is that the Prophet—peace and blessings be upon him and his family—forbade undertaking journeys except to three mosques only: the Sacred Mosque, the Mosque of Medina, and Al-Aqsa Mosque.

L17833 It has been narrated to us through the route of al-Bazzār: Muḥammad ibn Maʿmar narrated to us from Rawḥ - who is Ibn ʿUbādah - from Muḥammad ibn Abī Ḥafṣah from al-Zuhrī from Abū Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf from Abū Hurayrah, who said: The Messenger of Allah—peace and blessings be upon him and his family—said: "To undertake a journey [for worship] is only to three mosques: the Sacred Mosque, the Mosque of Medina, and the Mosque of Iliyā." Thus, intending to travel to any mosque other than these has become an act of disobedience, and it is impermissible to fulfill disobedience.

رُكُوبًا، أَوْ نُهُوضًا إِلَى مَكَّةَ، أَوْ إِلَى مَوْضِعٍ مِنْ الْحَرَمِ لَزِمَهُ؛ لِأَنَّهُ نَذْرُ طَاعَةٍ، وَالْحَرَمُ كُلُّهُ مَسْجِدٌ عَلَى مَا ذَكَرْنَا فِي " كِتَابِ الْحَجِّ " فَأَغْنَى عَنْ إعَادَتِهِ.

وَكَذَلِكَ إنْ نَذَرَ مَشْيًا، أَوْ نُهُوضًا، أَوْ رُكُوبًا إلَى الْمَدِينَةِ، لَزِمَهُ ذَلِكَ.

وَكَذَلِكَ إلَى أَثَرٍ مِنْ آثَارِ الْأَنْبِيَاءِ - عَلَيْهِمْ السَّلَامُ -، فَإِنْ نَذَرَ مَشْيًا، أَوْ رُكُوبًا، أَوْ اعْتِكَافًا، أَوْ نُهُوضًا إلَى بَيْتِ الْمَقْدِسِ لَزِمَهُ.

فَإِنْ نَذَرَ صَلَاةً فِيهِ كَانَ مُخَيَّرًا بَيْنَ أَمْرَيْنِ -:

أَحَدُهُمَا - وَهُوَ الْأَفْضَلُ أَنْ يَنْهَضَ إلَى مَكَّةَ فَيُصَلِّي فِيهَا وَيُجْزِيه.

وَالثَّانِي - أَنْ يَنْهَضَ إلَى بَيْتِ الْمَقْدِسِ، فَإِنْ نَذَرَ مَشْيًا، وَنُهُوضًا، أَوْ رُكُوبًا إلَى مَسْجِدٍ مِنْ مَسَاجِدِ الْأَرْضِ غَيْرِ هَذِهِ، لَمْ يَلْزَمْهُ شَيْءٌ أَصْلًا.

بُرْهَانُ ذَلِكَ -: «أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - نَهَى عَنْ شَدِّ الرِّحَالِ إلَّا إلَى ثَلَاثَةِ مَسَاجِدَ فَقَطْ، الْمَسْجِدِ الْحَرَامِ، وَمَسْجِدِ الْمَدِينَةِ، وَالْمَسْجِدِ الْأَقْصَى» .

رُوِّينَا مِنْ طَرِيقِ الْبَزَّارِ نا مُحَمَّدُ بْنُ مَعْمَرٍ نا رَوْحٌ هُوَ ابْنُ عُبَادَةَ - نا مُحَمَّدُ بْنُ أَبِي حَفْصَةَ عَنْ الزُّهْرِيِّ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «إنَّمَا الرِّحْلَةُ إلَى ثَلَاثَةِ مَسَاجِدَ: مَسْجِدِ الْحَرَامِ، وَمَسْجِدِ الْمَدِينَةِ، وَمَسْجِدِ إيلْيَاءَ» فَصَارَ الْقَصْدُ إلَى مَا سِوَاهَا مَعْصِيَةً، وَالْمَعْصِيَةُ لَا يَجُوزُ الْوَفَاءُ بِهَا.

L17834 It is impermissible to obligate someone to perform a prayer he did not vow in a mosque other than the one he specified.

وَلَا يَجُوزُ أَنْ يَلْزَمَ مَا لَمْ يَنْذُرْهُ مِنْ صَلَاةٍ فِي غَيْرِ الْمَسْجِدِ الَّذِي سَمَّى.

L17835–17836 There is no distinction between rising, going, walking, or riding; except that walking is an act of obedience, and riding is likewise an act of obedience, because it involves additional spending in righteousness.

وَلَا فَرْقَ بَيْنَ النُّهُوضِ، وَالذَّهَابِ، وَالْمَشْيِ، وَالرُّكُوبِ، إِلَّا أَنَّ الْمَشْيَ طَاعَةٌ، وَالرُّكُوبَ أَيْضًا طَاعَةٌ، لِأَنَّ فِيهِ نَفَقَةً زَائِدَةً فِي بِرٍّ.

L17837 As for one who vows to pray in Al-Aqsa Mosque, also known as Bayt al-Maqdis, or in other than it such as Makkah or the Mosque of Medina, if he vowed a voluntary prayer there, he is not obligated to fulfill any of it.

وَأَمَّا مَنْ نَذَرَ الصَّلَاةَ فِي بَيْتِ الْمَقْدِسِ أَوْ فِي غَيْرِهَا مَكَّةَ، أَوْ مَسْجِدِ الْمَدِينَةِ، فَإِنْ كَانَ نَذَرَ صَلَاةَ تَطَوُّعٍ هُنَالِكَ لَمْ يَلْزَمْهُ شَيْءٌ مِنْ ذَلِكَ.

L17838 If one vows to perform an obligatory prayer in one of these mosques, it becomes binding upon him, for his presence in these mosques constitutes obedience to Allah—the Mighty and Majestic—which he must fulfill. However, we hold that such a vow does not become binding if he pledges to perform a voluntary prayer therein, based on the established narration from the Messenger of Allah (peace and blessings be upon him and his family), who reported from his Lord, the Mighty and Majestic, on the Night Journey when He prescribed the five prayers: "They are five, yet they are fifty; My decree is not altered." Thus, we believed in His exalted statement, {My decree is not altered} [Qaf 50:29], which confirms that no obligatory prayer apart from the five can exist—neither fewer than five nor more than five—as an obligation specified forever upon a specific individual.[20]

فَإِنْ نَذَرَ أَنْ يُصَلِّيَ صَلَاةَ فَرْضٍ فِي أَحَدِ هَذِهِ الْمَسَاجِدِ لَزِمَهُ، لِأَنَّ كَوْنَهُ فِي هَذِهِ الْمَسَاجِدِ طَاعَةٌ لِلَّهِ عَزَّ وَجَلَّ يَلْزَمُهُ الْوَفَاءُ بِهَا. وَإِنَّمَا قُلْنَا: لَا يَلْزَمُهُ ذَلِكَ فِي نَذْرِهِ صَلَاةَ تَطَوُّعٍ فِيهَا لِلْأَثَرِ الثَّابِتِ «عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ رَبِّهِ - عَزَّ وَجَلَّ - أَنَّهُ قَالَ لَيْلَةَ الْإِسْرَاءِ إِذْ فَرَضَ - عَزَّ وَجَلَّ - الْخَمْسَ الصَّلَوَاتِ: هُنَّ خَمْسٌ، وَهُنَّ خَمْسُونَ مَا يُبَدَّلُ الْقَوْلُ لَدَيَّ» فَآمَنَّا بِقَوْلِهِ تَعَالَى: {مَا يُبَدَّلُ الْقَوْلُ لَدَيَّ} [ق: ٢٩] أَنْ تَكُونَ صَلَاةٌ مُفْتَرَضَةٌ، غَيْرَ الْخَمْسِ لَا أَقَلَّ مِنْ خَمْسٍ، وَلَا أَكْثَرَ مِنْ خَمْسٍ، مُعَيَّنَةً عَلَى إِنْسَانٍ بِعَيْنِهِ أَبَدًا.

L17839 And that is not the case outside prayer, as no textual evidence in any acts of worship prescribes anything similar to this. By this reasoning, we have nullified the obligation of Witr as a fard despite the existence of the command, and nullified the obligation of the two rak'ahs as a fard upon one entering the mosque before sitting.

وَلَيْسَ ذَلِكَ فِي غَيْرِ الصَّلَاةِ إِذْ لَمْ يَأْتِ نَصٌّ فِي شَيْءٍ مِنَ الْأَعْمَالِ بِمِثْلِ هَذَا - وَبِهَذَا أَسْقَطْنَا وُجُوبَ الْوَتْرِ فَرْضًا مَعَ وُرُودِ الْأَمْرِ، وَوُجُوبَ الرَّكْعَتَيْنِ فَرْضًا عَلَى الدَّاخِلِ الْمَسْجِدَ قَبْلَ أَنْ يَجْلِسَ.

L17840 If it is said: "Have you stated regarding one who vowed to pray in Bayt al-Maqdis (Jerusalem) what you have stated?" We reply: Yes, it is recommended for him to pray it in Makkah, based on what we have narrated via the chain of Abu Dawud: Musa ibn Isma'il narrated to us; Hammad ibn Salamah narrated

فَإِنْ قِيلَ: قَدْ قُلْتُمْ فِيمَنْ نَذَرَ صَلَاةً فِي بَيْتِ الْمَقْدِسِ مَا قُلْتُمْ؟ قُلْنَا: نَعَمْ، يُسْتَحَبُّ لَهُ أَنْ يُصَلِّيَهَا بِمَكَّةَ، لِمَا رُوِّينَا مِنْ طَرِيقِ أَبِي دَاوُد نا مُوسَى بْنُ إِسْمَاعِيلَ نا حَمَّادُ بْنُ سَلَمَةَ نا حَبِيبٌ الْمُعَلِّمُ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ «أَنَّ رَجُلًا قَامَ يَوْمَ الْفَتْحِ

[20] **Qur'an references (L17838):** Qur'an 50:29 (Qaf).

to us; Habib the Teacher narrated from ʻAta' ibn Abi Rabah, from Jabir ibn ʻAbdullah: "A man stood on the day of the Conquest and said: 'O Messenger of Allah, I vowed to Allah that if He granted you victory over Makkah, I would pray two rakʻahs in Bayt al-Maqdis?' The Messenger of Allah—peace be upon him—said: 'Pray here.' The man repeated his question, and he replied: 'Pray here.' When he repeated it again, he said: 'Do as you wish, then.'"

فَقَالَ: يَا رَسُولَ اللَّهِ إِنِّي نَذَرْتُ لِلَّهِ إِنْ فَتَحَ اللَّهُ عَلَيْكَ مَكَّةَ، أَنْ أُصَلِّيَ فِي بَيْتِ الْمَقْدِسِ رَكْعَتَيْنِ؟ فَقَالَ لَهُ رَسُولُ اللَّهِ - عَلَيْهِ السَّلَامُ -: صَلِّ هَهُنَا، فَأَعَادَهَا عَلَيْهِ، فَقَالَ: صَلِّ هَهُنَا، ثُمَّ أَعَادَهَا، فَقَالَ: شَأْنَكَ إِذًا» .

L17841 From the chain of Muḥammad ibn ʿAbd al-Malik ibn Ayman; ʿAlī ibn ʿAbd al-ʿAzīz; Abū ʿUbayd al-Qāsim ibn Sallām; Muḥammad ibn Kathīr from Ḥammād ibn Salamah from Ḥabīb al-Muʿallim from ʿAṭāʾ from Jābir ibn ʿAbd Allāh, who narrated: A man said on the Day of the Conquest of Mecca: "O Messenger of Allah, I vowed that if Allah grants you victory, I would pray in Bayt al-Maqdis." He replied: "Pray here." The man repeated this two or three times. Then the Messenger of Allah (ṣallā Allāhu ʿalayhi wa-ālihi wa-sallam) said: "Then it is your concern."

وَمِنْ طَرِيقِ مُحَمَّدِ بْنِ عَبْدِ الْمَلِكِ بْنِ أَيْمَنَ نا عَلِيُّ بْنُ عَبْدِ الْعَزِيزِ نا أَبُو عُبَيْدٍ الْقَاسِمُ بْنُ سَلَّامٍ نا مُحَمَّدُ بْنُ كَثِيرٍ عَنْ حَمَّادِ بْنِ سَلَمَةَ عَنْ حَبِيبٍ الْمُعَلِّمِ عَنْ عَطَاءٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: «قَالَ رَجُلٌ يَوْمَ الْفَتْحِ: يَا رَسُولَ اللَّهِ إِنِّي نَذَرْتُ إِنْ فَتَحَ اللَّهُ عَلَيْكَ أَنْ أُصَلِّيَ فِي بَيْتِ الْمَقْدِسِ؟ قَالَ: صَلِّ هَهُنَا، فَأَعَادَ الرَّجُلُ مَرَّتَيْنِ، أَوْ ثَلَاثًا، فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: فَشَأْنَكَ إِذًا» .

L17842–17843 Abu Muhammad said: Nothing similar to this has been mentioned regarding one who vows to observe iʿtikāf in the Mosque of Iliya [Jerusalem]. Rather, it is only cited concerning someone who vows to pray there specifically: {And your Lord is not forgetful} [Maryam 19:64].[21]

قَالَ أَبُو مُحَمَّدٍ: وَلَمْ يَأْتِ مِثْلُ هَذَا فِيمَنْ نَذَرَ اعْتِكَافًا فِي مَسْجِدِ إِيلْيَاءَ، وَإِنَّمَا جَاءَ فِيمَنْ نَذَرَ صَلَاةً فِيهِ فَقَطْ: {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

L17844 If he is unable, he must ride, as Allah, the Exalted, says: {Allah does not burden any soul beyond its capacity} [Al-Baqarah: 286], and there is no blame on him.[22]

فَإِنْ عَجَزَ رَكِبَ لِقَوْلِ اللَّهِ تَعَالَى: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] وَلَا شَيْءَ عَلَيْهِ.

L17845 Ali said: When a man informed the Prophet (peace be upon him and his family) that he had vowed to pray in Bayt al-Maqdis (Jerusalem), the Messenger of God said to him, "Pray here"—referring to Mecca. This clarified that he was not obliged by his vow to pray in Bayt al-Maqdis.

قَالَ عَلِيٌّ: لَمَّا أَخْبَرَ الرَّجُلُ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِأَنَّهُ نَذَرَ الصَّلَاةَ فِي بَيْتِ الْمَقْدِسِ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - صَلِّ هَهُنَا - يَعْنِي بِمَكَّةَ - تَبَيَّنَ بِذَلِكَ أَنَّهُ لَيْسَ عَلَيْهِ وُجُوبُ نَذْرِهِ أَنْ يُصَلِّيَ فِي بَيْتِ الْمَقْدِسِ.

L17846 It was established that it is a recommended permissible act; it appeared outwardly to be binding for him to pray in Mecca. When he referred back to

وَصَحَّ أَنَّهُ نَدْبٌ مُبَاحٌ وَكَانَ فِي ظَاهِرِ الْأَمْرِ لَازِمًا لَهُ أَنْ يُصَلِّيَ بِمَكَّةَ، «فَلَمَّا رَاجَعَ بِذَلِكَ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - فَقَالَ - عَلَيْهِ السَّلَامُ -: فَشَأْنَكَ إِذًا» تَبَيَّنَ وَصَحَّ أَنَّ

[21] **Qur'an references (L17843):** Qur'an 19:64 (Maryam).
[22] **Qur'an references (L17844):** Qur'an 2:286 (Al-Baqarah).

the Prophet—peace and blessings of Allah be upon him and his family—about that, he—upon him be peace—said: “Then it is your choice.” Thus, it became evident and was confirmed that his command—upon him be peace—for him to pray in Mecca was a recommendation, also not an obligation. This cannot be otherwise, and the narration does not admit any interpretation beyond this. Consequently, all of that became purely a recommendation.

أَمْرَهُ - عَلَيْهِ السَّلَامُ - لَهُ بِأَنْ يُصَلِّيَ بِمَكَّةَ نَدْبٌ لَا فَرْضٌ أَيْضًا، هَذَا مَا لَا يُمْكِنُ سِوَاهُ، وَلَا يَحْتَمِلُ الْخَبَرُ غَيْرَهُ - فَصَارَ كُلُّ ذَلِكَ نَدْبًا فَقَطْ.

L17847 If it is said: “Do you consider the funeral prayer to be a mandatory obligation?” We say: Yes, as a collective obligation, not incumbent upon any specific individual.

فَإِنْ قِيلَ: فَإِنَّكُمْ تُوجِبُونَ صَلَاةَ الْجِنَازَةِ فَرْضًا؟ قُلْنَا: نَعَمْ، عَلَى الْكِفَايَةِ لَا مُتَعَيِّنًا عَلَى أَحَدٍ بِعَيْنِهِ.

L17848 We ask those who oppose this about one who vows to pray two rak‘ahs in the third hour of every day: if that binds him, would it constitute a sixth prayer? And he altered the divine word which the Most High has declared cannot be altered in His presence.

وَنَسْأَلُ مَنْ خَالَفَ هَذَا عَمَّنْ نَذَرَ رَكْعَتَيْنِ فِي السَّاعَةِ الثَّالِثَةِ مِنْ كُلِّ يَوْمٍ، فَإِنْ أَلْزَمَهُ ذَلِكَ كَانَتْ صَلَاةً سَادِسَةً؟ وَبَدَّلَ الْقَوْلَ الَّذِي أَخْبَرَ تَعَالَى أَنَّهُ لَا يُبَدَّلُ لَدَيْهِ.

L17849 If he is not bound by that, we ask him: What is the distinction? There is no possible basis for any distinction whatsoever—and success comes from Allah, the Most High.

فَإِنْ لَمْ يَلْزَمْهُ ذَلِكَ سَأَلْنَاهُ: مَا الْفَرْقُ؟ وَلَا سَبِيلَ إِلَى فَرْقٍ أَبَدًا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17850 If someone vows to set out exclusively to Mecca, Medina, or Bayt al-Maqdis (Jerusalem) solely to pray there, they are absolutely obligated to fulfill this vow, as it is an act of obedience to Allah Almighty. Then, they must perform the obligatory prayers whose time occurs during their stay there, and it is recommended for them to offer the voluntary prayers in that place that are recommended for anyone present there.

فَلَوْ نَذَرَ النُّهُوضَ إلَى مَكَّةَ أَوْ الْمَدِينَةِ أَوْ بَيْتِ الْمَقْدِسِ لِيُصَلِّيَ فِيهَا لَزِمَهُ النُّهُوضُ إلَيْهَا وَلَا بُدَّ فَقَطْ؛ لِأَنَّهُ طَاعَةٌ لِلَّهِ عَزَّ وَجَلَّ ثُمَّ يَلْزَمُهُ مِنْ صَلَاةِ الْفَرْضِ هُنَالِكَ مَا أَدْرَكَهُ وَقْتُهُ، وَيُسْتَحَبُّ لَهُ فِيهَا مِنْ التَّطَوُّعِ مَا يُسْتَحَبُّ لِمَنْ هُوَ هُنَالِكَ.

L17851 It was narrated to us through the chain of Muhammad ibn al-Muthannā → ʿAbd al-Raḥmān ibn Mahdī → Sufyān al-Thawrī → ʿAbd al-Karīm al-Jazarī → Saʿīd ibn al-Musayyib: A man intended to visit Bayt al-Maqdis, so ʿUmar ibn al-Khaṭṭāb said to him, “Go and prepare yourself.” He prepared himself, then returned to ʿUmar. ʿUmar said to him, “Make this [journey] an ʿUmrah.”

وَرُوِّينَا مِنْ طَرِيقِ مُحَمَّدِ بْنِ الْمُثَنَّى نا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ نا سُفْيَانُ الثَّوْرِيُّ عَنْ عَبْدِ الْكَرِيمِ الْجَزَرِيِّ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ: أَنَّ رَجُلًا أَرَادَ أَنْ يَأْتِيَ بَيْتَ الْمَقْدِسِ فَقَالَ لَهُ عُمَرُ بْنُ الْخَطَّابِ: اذْهَبْ فَتَجَهَّزْ؟ فَتَجَهَّزَ، ثُمَّ أَتَاهُ فَقَالَ لَهُ عُمَرُ: اجْعَلْهَا عُمْرَةً.

L17852 A similar narration has been reported from Umm Salamah, the Mother of the Believers, concerning a woman who vowed to pray in Bayt al-Maqdis. She commanded her to pray in the Mosque of the Prophet (peace be upon him and his family).

وَقَدْ رُوِيَ نَحْوُ هَذَا عَنْ أُمِّ سَلَمَةَ أُمِّ الْمُؤْمِنِينَ فِي امْرَأَةٍ نَذَرَتْ أَنْ تُصَلِّيَ فِي بَيْتِ الْمَقْدِسِ فَأَمَرَتْهَا بِأَنْ تُصَلِّيَ فِي مَسْجِدِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -.

L17853–17854 It is authentically reported from Sa‘id ibn al-Musayyib that he said: Whoever vows to perform i‘tikaf in the Mosque of Ilya then performs i‘tikaf in the Mosque of the Prophet—peace and blessings be upon him and his family—in Medina, it suffices for him. Whoever vows to perform i‘tikaf in the Mosque of Medina then performs i‘tikaf in the Sacred Mosque, it suffices for him. Whoever vows to perform i‘tikaf on mountain peaks—it is not proper for him to do that; rather, let him perform i‘tikaf in a congregational mosque.

وَصَحَّ عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ أَنَّهُ قَالَ: مَنْ نَذَرَ أَنْ يَعْتَكِفَ فِي مَسْجِدِ إِيلْيَاءَ فَاعْتَكَفَ بِمَسْجِدِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِالْمَدِينَةِ أَجْزَأَ عَنْهُ. وَمَنْ نَذَرَ أَنْ يَعْتَكِفَ فِي مَسْجِدِ الْمَدِينَةِ فَاعْتَكَفَ فِي الْمَسْجِدِ الْحَرَامِ أَجْزَأَ عَنْهُ. وَمَنْ نَذَرَ أَنْ يَعْتَكِفَ عَلَى رُءُوسِ الْجِبَالِ فَإِنَّهُ لَا يَنْبَغِي لَهُ ذَلِكَ وَلْيَعْتَكِفْ فِي مَسْجِدِ جَمَاعَةٍ -:

L17855 It has been narrated to us through the chain of Abd al-Razzaq from Ma’mar from Abd al-Karim al-Jazari from Ibn al-Musayyib.

رُوِّينَاهُ مِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنْ عَبْدِ الْكَرِيمِ الْجَزَرِيِّ عَنْ ابْنِ الْمُسَيِّبِ.

L17856 And from the narration of ʿAbd al-Razzāq from Ibn Jurayj: I said to ʿAṭāʾ: A man vowed to walk to Jerusalem from Basra. He said: You have only been commanded concerning this House, and likewise regarding its vicinity. I said: What if he stipulated a condition in a matter but I find a better option? He said: Do what is better, provided you have not designated something for a specific person. But if he said: For the poor or in the path of Allah, and you see a better alternative, then do what is better. Then ʿAṭāʾ retracted this opinion and said: Let him do what he said and carry out his instruction.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنِ ابْنِ جُرَيْجٍ قُلْت لِعَطَاءٍ: رَجُلٌ نَذَرَ أَنْ يَمْشِيَ إلَى بَيْتِ الْمَقْدِسِ مِنْ الْبَصْرَةِ قَالَ: إنَّمَا أُمِرْتُمْ بِهَذَا الْبَيْتِ، وَكَذَلِكَ فِي الْجِوَارِ قُلْت: فَأَوْصَى فِي أَمْرٍ فَرَأَيْت خَيْرًا مِنْهُ؟ قَالَ: افْعَلْ الَّذِي هُوَ خَيْرٌ مَا لَمْ تُسَمِّ لِإِنْسَانٍ شَيْئًا، وَلَكِنْ إنْ قَالَ: لِلْمَسَاكِينِ، أَوْ فِي سَبِيلِ اللَّهِ، فَرَأَيْت خَيْرًا مِنْ ذَلِكَ فَافْعَلْ الَّذِي هُوَ خَيْرٌ - ثُمَّ رَجَعَ عَطَاءٌ عَنْ هَذَا وَقَالَ: لِيَفْعَلْ الَّذِي قَالَ وَلْيُنَفِّذْ أَمْرَهُ.

L17857 Ibn Jurayj said: The first statement is more preferable to me. Ibn Jurayj reported from Ibn Tāwus from his father that if someone said to him: “I vowed to walk to Bayt al-Maqdis” or “to visit Bayt al-Maqdis?” Tāwus would say to him: “You must go to Mecca, Mecca.”

قَالَ ابْنُ جُرَيْجٍ: وَقَوْلُهُ الْأَوَّلُ أَحَبُّ إلَيَّ، وَقَالَ ابْنُ جُرَيْجٍ عَنْ ابْنِ طَاوُسٍ عَنْ أَبِيهِ: أَنَّهُ كَانَ مَنْ قَالَ لَهُ: نَذَرْت مَشْيًا إلَى بَيْتِ الْمَقْدِسِ، أَوْ زِيَارَةَ بَيْتِ الْمَقْدِسِ؟ قَالَ لَهُ طَاوُسٍ: عَلَيْك بِمَكَّةَ مَكَّةَ.

L17858 Abu Hanifah and his companions said: Whoever vows to walk to the Mosque of the Prophet—peace be upon him—in Medina, or to Bayt al-Maqdis, or to come to Bayt al-Maqdis, or to come to the Mosque of Medina, nothing is incumbent upon him whatsoever.

وَقَالَ أَبُو حَنِيفَةَ وَأَصْحَابُهُ: مَنْ نَذَرَ الْمَشْيَ إلَى مَسْجِدِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِالْمَدِينَةِ أَوْ إلَى بَيْتِ الْمَقْدِسِ، أَوْ إتْيَانَ بَيْتِ الْمَقْدِسِ، أَوْ إتْيَانَ مَسْجِدِ الْمَدِينَةِ لَمْ يَلْزَمْهُ شَيْءٌ أَصْلًا.

L17859 Similarly, whoever vows to pray in the Sacred Mosque in Mecca, or in the Mosque of the Prophet—may God’s blessings and peace be upon him and his family—in Medina, or in Al-Aqsa Mosque in Jerusalem, is not obligated to fulfill such a vow. Instead, he is obligated to pray in his residence within

وَكَذَلِكَ مَنْ نَذَرَ صَلَاةً فِي الْمَسْجِدِ الْحَرَامِ بِمَكَّةَ، أَوْ فِي مَسْجِدِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِالْمَدِينَةِ أَوْ بَيْتِ الْمَقْدِسِ فَإِنَّهُ لَا يَلْزَمُهُ شَيْءٌ مِنْ ذَلِكَ، لَكِنْ يَلْزَمُهُ أَنْ

whichever town or country he resides. However, it has been reported from Abū Yūsuf: if one vows to pray in a specific place and prays in a superior place, it fulfills his obligation; but if he prays in a place lesser than it, it does not fulfill his obligation.

يُصَلِّيَ فِي مَسْكَنِهِ مِنْ الْبِلَادِ حَيْثُ كَانَ إلَّا أَنَّهُ قَدْ رُوِيَ عَنْ أَبِي يُوسُفَ: أَنَّهُ إنْ نَذَرَ صَلَاةً فِي مَوْضِعٍ فَصَلَّى فِي أَفْضَلَ مِنْهُ أَجْزَأَهُ، وَإِنْ صَلَّى فِي دُونِهِ لَمْ يُجْزِهِ.

L17860–17862 Malik said: If one vows, “By Allah, upon me is to walk to Medina,” or says, “to Bayt al-Maqdis,” this is not binding unless he intends to perform prayer there. In that case, he must travel by mount to that place and perform the prayer there. If he says, “Upon me is walking to the mosque of Medina,” or says, “to the mosque of Bayt al-Maqdis,” then he must go to that place by mount and perform the prayer there. He said: If one vows to walk to Arafat or to Muzdalifah, he has not... It becomes incumbent upon him. If one vows to walk to Makkah, it has become binding upon them.

وَقَالَ مَالِكٌ: إذَا قَالَ: لِلَّهِ عَلَيَّ أَنْ أَمْشِيَ إلَى الْمَدِينَةِ، أَوْ قَالَ إلَى بَيْتِ الْمَقْدِسِ لَمْ يَلْزَمْهُ ذَلِكَ، إلَّا أَنْ يَنْوِيَ صَلَاةً هُنَالِكَ فَعَلَيْهِ أَنْ يَذْهَبَ رَاكِبًا، وَالصَّلَاةُ هُنَالِكَ؛ فَإِنْ قَالَ عَلَيَّ الْمَشْيُ إلَى مَسْجِدِ الْمَدِينَةِ، أَوْ قَالَ: إلَى مَسْجِدِ بَيْتِ الْمَقْدِسِ، فَعَلَيْهِ الذَّهَابُ إلَى مَا هُنَالِكَ رَاكِبًا وَالصَّلَاةُ هُنَالِكَ؟ قَالَ: فَإِنْ نَذَرَ الْمَشْيَ إلَى عَرَفَةَ، أَوْ إلَى مُزْدَلِفَةَ لَمْ يَلْزَمْهُ، فَإِنْ نَذَرَ الْمَشْيَ إلَى مَكَّةَ لَزِمَهُ.

L17863 Al-Layth said: Whoever vows to walk to one of the mosques must walk to that mosque. Al-Shafi‘i said: Whoever vows to pray in Mecca, it does not suffice unless they pray there. If one vows to pray in Medina or Bayt al-Maqdis, it suffices to pray in Mecca or in the mosque they specified, not elsewhere. If one vows to pray in a mosque other than these three, they are not bound to it, but they should pray where they are. If one vows to walk to the mosque of Medina or Bayt al-Maqdis, it suffices for them to ride to either of them.

وَقَالَ اللَّيْثُ: مَنْ نَذَرَ أَنْ يَمْشِيَ إلَى مَسْجِدٍ مِنْ الْمَسَاجِدِ مَشَى إلَى ذَلِكَ الْمَسْجِدِ - وَقَالَ الشَّافِعِيُّ: مَنْ نَذَرَ أَنْ يُصَلِّيَ بِمَكَّةَ لَمْ يُجْزِهِ إلَّا فِيهَا، فَإِنْ نَذَرَ أَنْ يُصَلِّيَ بِالْمَدِينَةِ، أَوْ بَيْتِ الْمَقْدِسِ أَجْزَأَهُ أَنْ يُصَلِّيَ بِمَكَّةَ، أَوْ فِي الْمَسْجِدِ الَّذِي ذَكَرَ لَا فِيمَا سِوَاهُ، فَإِنْ نَذَرَ صَلَاةً فِي غَيْرِ هَذِهِ الثَّلَاثَةِ الْمَسَاجِدِ لَمْ يَلْزَمْهُ، لَكِنْ يُصَلِّي حَيْثُ هُوَ، فَإِنْ نَذَرَ الْمَشْيَ إلَى مَسْجِدِ الْمَدِينَةِ، أَوْ بَيْتِ الْمَقْدِسِ أَجْزَأَهُ الرُّكُوبُ إلَيْهِمَا.

L17864 Abu Muhammad said: As for the statement of Abu Hanifah, it lies at the height of corruption and opposes the transmitted Sunnah concerning one who vows obedience. This includes the principle that one prayer in the Mosque of Medina is superior to a thousand prayers elsewhere, and that one prayer in the Sacred Mosque is superior to one hundred thousand prayers in other mosques except the Mosque of Medina - applying universally, without excluding supererogatory or obligatory prayers. This is immense obedience, while the Messenger of Allah - may Allah bless him and his family and grant him peace - said: “Whoever vows to obey Allah must obey Him.” Yet they said: “He should not obey Him.”

قَالَ أَبُو مُحَمَّد: أَمَّا قَوْلُ أَبِي حَنِيفَةَ فَفِي غَايَةِ الْفَسَادِ، وَخِلَافُ السُّنَّةِ الْوَارِدَةِ فِيمَنْ نَذَرَ طَاعَةً، وَفِي أَنَّ صَلَاةً فِي مَسْجِدِ الْمَدِينَةِ أَفْضَلُ مِنْ أَلْفِ صَلَاةٍ فِيمَا سِوَاهُ، وَإِنَّ صَلَاةً فِي الْمَسْجِدِ الْحَرَامِ أَفْضَلُ مِنْ مِائَةِ أَلْفِ صَلَاةٍ فِيمَا سِوَاهُ مِنْ الْمَسَاجِدِ إلَّا مَسْجِدَ الْمَدِينَةِ عُمُومًا لَا يَخُصُّ مِنْهُ نَافِلَةً مِنْ فَرْضٍ، وَهَذِهِ طَاعَةٌ عَظِيمَةٌ، وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «مَنْ نَذَرَ أَنْ يُطِيعَ اللَّهَ فَلْيُطِعْهُ» فَقَالُوا: لَا يُطِعْهُ.

L17865 As for the statement of Abū Yūsuf, it is also invalid because according to his

view, if someone vows to fast a day and then engages in jihad, this would suffice him from the fasting since he has performed a deed better than what he vowed. Similarly, if someone vows to give a dirham in charity but instead donates a garment, this would suffice him. This is incorrect, for he did not fulfill his vow.

L17866 As for Mālik's opinion, it is a manifest error as well, for he exempted those who vowed to walk to Medina from the obligation to walk yet obligated it upon those who vowed to walk to Mecca—and this is utterly astonishing, particularly alongside his claim that Medina is superior to Mecca. Furthermore, his specification concerning those who vowed to walk to certain sacred sites like Muzdalifah or Arafah, so he did not obligate that, yet obligated it for vows to Mecca, the Kaaba, and the Haram—all of this is arbitrary without any proof.

L17867 Similarly, Al-Shafi'i's opinion is also nullified by the same arguments that nullify Abu Yusuf's opinion.

L17868 **He vowed to manumit the slave of Fulān if he himself comes to own him.**

L17869 As for one who vows to free the slave of so-and-so if he owns him, or obligates himself to free his own slave if he sells him: if he structured this as an oath, it is invalid and not binding for the reasons we previously mentioned. If he formulated it as a vow, nothing becomes obligatory upon him either. This is because if he says, "My slave is free if I sell him," or says, "This garment of mine is sadaqah if I sell it," and then sells it, his ownership ceases upon selling it. When his ownership ceases, it is invalid for his act of freeing to apply to a slave he no longer owns, as it is now owned by another. The same applies to his sadaqah.

L17870–17871 And whoever says, "If I purchase so-and-so's slave, he is free," or "If I purchase so-and-so's house, it is charity," then he bought all of that, he was not bound to emancipate the slave nor donate as charity—due to what we have narrated via Imam Muslim's chain: Ali ibn Hujr al-Sa'di reported to us, Ismail ibn Ibrahim (Ibn Ulayyah) reported to us, Ayyub (al-Sakhtiyani) re-

وَأَمَّا قَوْلُ أَبِي يُوسُفَ فَفَاسِدٌ أَيْضًا؛ لِأَنَّهُ يَجِبُ عَلَى قَوْلِهِ مَنْ نَذَرَ صَوْمَ يَوْمٍ فَجَاهَدَ فَإِنَّهُ يُجْزِيه مِنْ الصَّوْمِ؛ لِأَنَّهُ قَدْ فَعَلَ خَيْرًا مِمَّا نَذَرَ، وَإِنَّ مَنْ نَذَرَ أَنْ يَتَصَدَّقَ بِدِرْهَمٍ فَتَصَدَّقَ بِثَوْبٍ، أَنَّهُ يُجْزِيه - وَهَذَا خَطَأٌ؛ لِأَنَّهُ لَمْ يَفِ بِنَذْرِهِ.

وَأَمَّا قَوْلُ مَالِكٍ فَخَطَأٌ لَائِحٌ أَيْضًا؛ لِأَنَّهُ أَسْقَطَ وُجُوبَ الْمَشْيِ عَنْ مَنْ نَذَرَهُ إلَى الْمَدِينَةِ وَأَوْجَبَهُ عَلَى مَنْ نَذَرَهُ إلَى مَكَّةَ - وَهَذَا عَجَبٌ جِدًّا، لَا سِيَّمَا مَعَ قَوْلِهِ: إنَّ الْمَدِينَةَ أَفْضَلُ مِنْ مَكَّةَ ثُمَّ تَخْصِيصُهُ فِيمَنْ نَذَرَ الْمَشْيَ إلَى بَعْضِ الْمَشَاعِرِ، كَمُزْدَلِفَةَ، أَوْ عَرَفَةَ، فَلَمْ يُوجِبْ ذَلِكَ، وَأَوْجَبَهُ إلَى مَكَّةَ، وَإِلَى الْكَعْبَةِ، وَإِلَى الْحَرَمِ؛ وَهَذَا كُلُّهُ تَحَكُّمٌ بِلَا بُرْهَانٍ.

وَكَذَلِكَ قَوْلُ الشَّافِعِيِّ أَيْضًا فَإِنَّهُ يُنْتَقَضُ بِمَا يُنْتَقَضُ بِهِ قَوْلُ أَبِي يُوسُفَ.

[نَذَرَ عِتْقَ عَبْدِ فُلَانٍ إنْ مَلَكَهُ]

وَأَمَّا مَنْ نَذَرَ عِتْقَ عَبْدِ فُلَانٍ إنْ مَلَكَهُ، أَوْ أَوْجَبَ عَلَى نَفْسِهِ عِتْقَ عَبْدِهِ إنْ بَاعَهُ، فَإِنَّ مَنْ أَخْرَجَ ذَلِكَ مَخْرَجَ الْيَمِينِ فَهُوَ بَاطِلٌ لَا يَلْزَمُ لِمَا ذَكَرْنَا قَبْلُ، فَإِنْ أَخْرَجَ ذَلِكَ مَخْرَجَ النَّذْرِ لَمْ يَلْزَمْهُ أَيْضًا شَيْءٌ؛ لِأَنَّهُ إذَا قَالَ: عَبْدِي حُرٌّ إنْ بِعْته، أَوْ قَالَ: ثَوْبِي هَذَا صَدَقَةٌ إنْ بِعْته فَبَاعَهُ فَقَدْ سَقَطَ مُلْكُهُ عَنْهُ، وَإِذَا سَقَطَ مُلْكُهُ عَنْهُ، فَمِنْ الْبَاطِلِ أَنْ يَنْفُذَ عِتْقُهُ فِي عَبْدٍ لَا يَمْلِكُهُ هُوَ وَإِنَّمَا يَمْلِكُهُ غَيْرُهُ، وَصَدَقَتُهُ كَذَلِكَ.

وَمَنْ قَالَ: إنْ ابْتَعْت عَبْدَ فُلَانٍ فَهُوَ حُرٌّ، أَوْ إنْ ابْتَعْت دَارَ فُلَانٍ فَهِيَ صَدَقَةٌ، ثُمَّ ابْتَاعَ كُلَّ ذَلِكَ لَمْ يَلْزَمْهُ عِتْقٌ وَلَا صَدَقَةٌ -: لِمَا رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نا عَلِيُّ بْنُ حُجْرٍ السَّعْدِيُّ نا إسْمَاعِيلُ بْنُ إبْرَاهِيمَ هُوَ ابْنُ عُلَيَّةَ - نا أَيُّوبُ هُوَ السِّخْتِيَانِيُّ - عَنْ أَبِي قِلَابَةَ

ported from Abu Qilabah, from Abu al-Muhallab, from Imran ibn al-Husayn that the Prophet—peace and blessings of Allah be upon him and his family—said: "There is no fulfillment of a vow made in disobedience to Allah, nor to what one does not own."

عَنْ أَبِي الْمُهَلَّبِ عَنْ عِمْرَانَ بْنِ الْحُصَيْنِ أَنَّ النَّبِيَّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: «لَا وَفَاءَ لِنَذْرٍ فِي مَعْصِيَةِ اللَّهِ، وَلَا فِيمَا لَا يَمْلِكُ الْعَبْدُ» .

L17872 From the path of Abū Dāwūd al-Sijistānī: Dāwūd ibn Rashīd narrated to us, Shuʿayb ibn Isḥāq narrated to us from al-Awzāʿī: Yaḥyā ibn Abī Kathīr narrated to me, from Abū Qilābah, from Thābit ibn al-Ḍaḥḥāk—he was among the Companions of the Tree—that a man during the era of the Messenger of Allah—peace and blessings be upon him and his family—vowed to slaughter camels at Buwanah. He came to the Messenger of Allah—peace and blessings be upon him and his family—and said, "Have I vowed to slaughter camels at Buwanah?" The Prophet—peace and blessings be upon him and his family—asked him, "Was there an idol from the idols of the pre-Islamic era worshipped there?" They replied, "No." He asked, "Was there a festival of theirs observed there?" They replied, "No." The Messenger of Allah—peace and blessings be upon him and his family—then said, "Fulfill your vow, for there is no fulfillment for a vow in disobedience to Allah or for what the son of Adam does not own." In this report lies textual proof of what we have stated: that a person is not bound to fulfill a vow concerning what they do not own, and it establishes the obligation to fulfill a vow to slaughter camels outside Makkah—which is our position. All praise is due to Allah.[23]

وَمِنْ طَرِيقِ أَبِي دَاوُد السِّجِسْتَانِيِّ نا دَاوُد بْنُ رَشِيدٍ نا شُعَيْبُ بْنُ إِسْحَاق عَنْ الْأَوْزَاعِيِّ حَدَّثَنِي يَحْيَى بْنِ أَبِي كَثِيرٍ حَدَّثَنِي أَبُو قِلَابَةَ نا ثَابِتُ بْنُ الضَّحَّاكِ - هُوَ مِنْ أَصْحَابِ الشَّجَرَةِ - «أَنَّ رَجُلًا عَلَى عَهْدِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - نَذَرَ أَنْ يَنْحَرَ إبِلًا بِبُوَانَةَ فَأَتَى رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - فَقَالَ: إنِّي نَذَرْت أَنْ أَنْحَرَ إبِلًا بِبُوَانَةَ؟ فَقَالَ لَهُ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - هَلْ كَانَ فِيهَا وَثَنٌ مِنْ أَوْثَانِ الْجَاهِلِيَّةِ يُعْبَدُ؟ قَالُوا: لَا، قَالَ: هَلْ كَانَ فِيهَا عِيدٌ مِنْ أَعْيَادِهِمْ؟ قَالُوا: لَا فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: أَوْفِ بِنَذْرِكَ فَإِنَّهُ لَا وَفَاءَ لِنَذْرٍ فِي مَعْصِيَةِ اللَّهِ وَلَا فِيمَا لَا يَمْلِكُ ابْنُ آدَمَ» فَفِي هَذَا الْخَبَرِ نَصُّ مَا قُلْنَا: مِنْ أَنَّهُ لَا يَلْزَمُ الْمَرْءَ وَفَاءُ نَذْرِهِ فِيمَا لَا يَمْلِكُهُ، وَفِيهِ إيجَابُ الْوَفَاءِ بِنَذْرِ نَحْرِ الْإِبِلِ فِي غَيْرِ مَكَّةَ - وَهُوَ قَوْلُنَا - وَلِلَّهِ الْحَمْدُ.

L17873 People have differed in their opinions regarding this matter. They disputed the case of a man who said, "If you sell my slave, he is free," and another who said, "If I buy him from you, he is free," then the first sold him to the second? As for Abū Ḥanīfa and ʿAbd al-ʿAzīz ibn al-Mājishūn, they said: Emancipation is incumbent upon the buyer, not the seller.

وَقَالَ النَّاسُ فِي هَذَا: أَقْوَالًا: فَاخْتَلَفُوا فِي رَجُلٍ قَالَ: إنْ بِعْت عَبْدِي هَذَا فَهُوَ حُرٌّ وَقَالَ آخَرُ: إنْ اشْتَرَيْته مِنْك فَهُوَ حُرٌّ، ثُمَّ بَاعَهُ مِنْهُ؟ فَإِنَّ أَبَا حَنِيفَةَ، وَعَبْدَ الْعَزِيزِ بْنَ الْمَاجِشُونِ قَالَا: يُعْتَقُ عَلَى الْمُشْتَرِي، لَا عَلَى الْبَائِعِ.

L17874 Malik and al-Shafi'i said: The slave is to be freed at the expense of the seller, not the buyer.

وَقَالَ مَالِكٌ، وَالشَّافِعِيُّ: يُعْتَقُ عَلَى الْبَائِعِ لَا عَلَى الْمُشْتَرِي.

L17875 Abu Sulayman said: Emancipation is not imposed on either of them—and this is the correct position due to our earlier reasoning—while the aforementioned scholars have each nullified their own foundational principles.

وَقَالَ أَبُو سُلَيْمَانَ: لَا يُعْتَقُ عَلَى وَاحِدٍ مِنْهُمَا - وَهُوَ الْحَقُّ لِمَا ذَكَرْنَا - وَالْمَذْكُورُونَ قَبْلُ قَدْ نَقَضَتْ كُلُّ طَائِفَةٍ أَصْلَهَا، لِأَنَّهُمْ عَلَى اخْتِلَافِهِمْ مُتَّفِقُونَ عَلَى أَنَّ مَنْ قَالَ: إنْ بِعْت

[23] **Hadith references (L17872):** Sunan Abi Dawud 3313; Mishkat al-Masabih 3437.

For despite their disagreements, they concur that if one declares, "If I sell my slave, he is free," and then sells him, emancipation becomes incumbent upon him. They likewise agree that if one states, "If I buy so-and-so's slave, he is free," and then purchases him, the slave is emancipated. Why then did each of the two groups, when both sale and purchase occur together, prioritize one of the two conditional declarants over the other? It would have been more appropriate for them to impose emancipation jointly upon both parties. This constitutes a single nullification.

عَبْدِي فَهُوَ حرٌّ، فَبَاعَهُ: أَنَّهُ يُعْتَقُ عَلَيْهِ، وَعَلَى أَنَّهُ إِنْ قَالَ: إِنْ اشْتَرَيْت عَبْدَ فُلَانٍ فَهُوَ حرٌّ فَاشْتَرَاهُ، فَإِنَّهُ حرٌّ - فَمِنْ أَيْنَ غَلَّبَتْ كُلُّ طَائِفَةٍ مِنْهُمَا فِي اجْتِمَاعِهِمَا فِي بَيْعِهِ وَابْتِيَاعِهِ أَحَدَ النَّاذِرَيْنِ عَلَى الْآخَرِ؟ فَكَانَ الْأَوْلَى بِهِمْ أَنْ يُعْتِقُوهُ عَلَيْهِمَا جَمِيعًا، فَهَذَا نَقْضٌ وَاحِدٌ.

L17876–17878 As for Mālik's statement that "manumission is incumbent upon the seller"—this is a clear error, as it inherently presupposes the sale was validly concluded. Or he did not sell it, nor is there any basis for a third category.

وَأَمَّا قَوْلُ مَالِكٍ: يُعْتَقُ عَلَى الْبَائِعِ - فَخَطَأٌ ظَاهِرٌ، لِأَنَّهُ لَا يَخْلُو مِنْ أَنْ يَكُونَ بَاعَهُ، أَوْ لَمْ يَبِعْهُ، وَلَا سَبِيلَ إِلَى قِسْمٍ ثَالِثٍ.

L17879 If he sold him, then indeed someone else has owned him. By what ruling is a Muslim's completed transaction nullified? And by what ruling does Zaid manumit ʿAmr's slave? This is truly astonishing. If he did not sell him, he is not obligated to manumit him, for he only vowed to manumit him if he sold him—and he did not sell him. This very conclusion applies to al-Shāfiʿī equally, equally, thus the invalidity of their opinions has become evident—and all praise is due to Allah.

فَإِنْ كَانَ بَاعَهُ فَقَدْ مَلَكَهُ غَيْرُهُ فَبِأَيِّ حُكْمٍ تُفْسَخُ صَفْقَةُ مُسْلِمٍ قَدْ تَمَّتْ؟ وَبِأَيِّ حُكْمٍ يُعْتِقُ زَيْدٌ عَبْدَ عَمْرٍو؟ إِنَّ هَذَا لَعَجَبٌ وَإِنْ كَانَ لَمْ يَبِعْهُ - فَمَا يَلْزَمُهُ عِتْقُهُ، لِأَنَّهُ إِنَّمَا نَذَرَ عِتْقَهُ إِنْ بَاعَهُ - وَهُوَ لَمْ يَبِعْهُ - وَهَذَا نَفْسُهُ لَازِمٌ لِلشَّافِعِيِّ سَوَاءً سَوَاءً فَظَهَرَ فَسَادُ أَقْوَالِهِمْ - وَلِلَّهِ الْحَمْدُ.

L17880 Ibn Abi Layla said: If someone declares, "Should my enslaved boy enter Zayd's house, he is free," then sells him, and the boy later enters Zayd's house after the stipulated period, the sale is rescinded, and the seller is obligated to manumit him.

وَقَالَ ابْنُ أَبِي لَيْلَى: مَنْ قَالَ: إِنْ دَخَلَ غُلَامِي دَارَ زَيْدٍ فَهُوَ حرٌّ - ثُمَّ بَاعَهُ - ثُمَّ دَخَلَ الْغُلَامُ دَارَ زَيْدٍ بَعْدَ مُدَّةٍ، فَإِنَّهُ يُفْسَخُ الْبَيْعُ فِيهِ، وَيُعْتَقُ عَلَى بَائِعِهِ.

L17881 By my life, the opinion of Mālik and al-Shāfiʿī is not far from Ibn Abī Laylā's view, for they all ruled that emancipation is incumbent upon the seller after the slave departed his ownership, invalidated both the buyer's transaction and the legitimacy of his ownership. If only I knew what Ibn Abī Laylā would say if the buyer emancipated him before the slave entered Zayd's house. Would his emancipation be revoked, then would the seller emancipate him? Or if she were a slave woman whom the buyer fathered a child with, then she entered the house?

وَلَعَمْرِي مَا قَوْلُ مَالِكٍ، وَالشَّافِعِيِّ بِبَعِيدٍ مِنْ قَوْلِ ابْنِ أَبِي لَيْلَى؛ لِأَنَّهُمْ كُلَّهُمْ قَدْ اعْتَقُوهُ عَلَيْهِ بَعْدَ خُرُوجِهِ عَنْ مِلْكِهِ، وَأَبْطَلُوا صَفْقَةَ الْمُشْتَرِي وَصِحَّةَ مِلْكِهِ - وَلَيْتَ شِعْرِي مَاذَا يَقُولُ ابْنُ أَبِي لَيْلَى إِنْ أَعْتَقَهُ الْمُشْتَرِي قَبْلَ أَنْ يَدْخُلَ الْغُلَامُ دَارَ زَيْدٍ؟ أَيُفْسَخُ عِتْقُهُ ثُمَّ يُعْتِقُهُ عَلَى بَائِعِهِ؟ أَوْ كَانَتْ أَمَةً فَأَوْلَدَهَا الْمُشْتَرِي، ثُمَّ دَخَلَتْ الدَّارَ؟

L17882 **A legal issue: He said, "To Allah, the Exalted, upon me is**

[مَسْأَلَةٌ قَالَ لِلَّهِ تَعَالَى عَلَيَّ عِتْقُ رَقَبَةٍ]

the freeing of a *raqaba*."

L17883 1116 - Issue: This differs from the case of one who states, "I owe Allah the Exalted the manumission of a slave," or says, "a sacrificial camel," or declares, "one hundred dirhams," or "a portion of wheat," without specifying it. All such instances constitute a binding vow, for he did not vow any of these regarding an item he does not own. What he vowed is not a designated entity that is referenced or described; rather, he vowed manumission as an obligation upon himself, or alms as an obligation upon himself.

L17884 The proof of this is the statement of Allah, the Most High: {And among them is he who made a covenant with Allah: "If He gives us from His bounty, we will surely spend in charity"} [At-Tawbah: 75]. Then He, the Mighty and Majestic, reproached them when they did not fulfill that after He had granted them from His bounty. This ruling applies to obligations assumed in their entirety. The prohibition of the Prophet – peace and blessings be upon him and his family – against vowing what one does not own pertains to vowing a specific thing that one does not possess.[24]

L17885–17887 The binding category includes one who vows to free the first slave they acquire or the first child borne by their bondwoman—though this is subject to scrutiny. Via the chain transmitted by Muslim: Abu Bakr ibn Abi Shaybah narrated to us, Abdullah ibn Numayr narrated to us from Hisham ibn Urwah, from his father: "Hakim ibn Hizam emancipated one hundred slaves and provided one hundred camels for charity during the pre-Islamic period, then emancipated one hundred slaves and provided one hundred camels for charity after the advent of Islam. Hakim said: 'I asked, "O Messenger of Allah, things I used to do..."" I did them in the Age of Ignorance. The Messenger of Allah—peace and blessings of Allah be upon him and his family—said to him: "Have you embraced Islam based on the good you previously sent forth?" Hakim said: I replied, "By Allah! I have not abandoned anything I did in the Age of Ignorance except that I have performed its like in Islam." This was Hakim's vow to free one hundred slaves. The Prophet—peace and blessings of Allah be upon him and his family—knew of this yet did not reject

١١١٦ - مَسْأَلَةٌ: وَهَذَا بِخِلَافِ مَنْ قَالَ: لِلَّهِ تَعَالَى عَلَيَّ عِتْقُ رَقَبَةٍ، أَوْ قَالَ: بَدَنَةً، أَوْ قَالَ: مِائَةَ دِرْهَمٍ، أَوْ شَيْءٍ مِنْ الْبُرِّ، هَكَذَا لَمْ يُعَيِّنْهُ -: فَإِنَّ هَذَا كُلَّهُ نَذْرٌ لَازِمٌ؛ لِأَنَّهُ لَمْ يَنْذُرْ شَيْئًا مِنْ ذَلِكَ فِي شَيْءٍ لَا يَمْلِكُهُ؛ لِأَنَّ الَّذِي نَذَرَ لَيْسَ مُعَيَّنًا فَيَكُونُ مُشَارًا إلَيْهِ مُخْبَرًا عَنْهُ، فَإِنَّمَا نَذَرَ عِتْقًا فِي ذِمَّتِهِ، أَوْ صَدَقَةً فِي ذِمَّتِهِ.

بُرْهَانُ هَذَا -: قَوْلُ اللَّهِ تَعَالَى: {وَمِنْهُمْ مَنْ عَاهَدَ اللَّهَ لَئِنْ آتَانَا مِنْ فَضْلِهِ لَنَصَّدَّقَنَّ} [التوبة: ٧٥] ثُمَّ لَامَهُمْ عَزَّ وَجَلَّ إذْ لَمْ يَفُوا بِذَلِكَ إذْ آتَاهُمْ مِنْ فَضْلِهِ -: فَخَرَجَ هَذَا عَلَى مَا الْتَزَمَ فِي الذِّمَّةِ جُمْلَةً، وَخَرَجَ نَهْيُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - عَنْ النَّذْرِ فِيمَا لَا يَمْلِكُ عَلَى مَا نَذَرَ فِي مُعَيَّنٍ لَا يَمْلِكُهُ.

وَيَدْخُلُ فِي الْقِسْمِ اللَّازِمِ مَنْ نَذَرَ عِتْقَ أَوَّلِ عَبْدٍ يَمْلِكُهُ، أَوْ أَوَّلِ وَلَدٍ تَلِدُهُ أَمَتُهُ، وَفِي هَذَا نَظَرٌ؟ وَمِنْ طَرِيقِ مُسْلِمٍ نا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نا عَبْدُ اللَّهِ بْنُ نُمَيْرٍ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ «أَنَّ حَكِيمَ بْنَ حِزَامٍ أَعْتَقَ فِي الْجَاهِلِيَّةِ مِائَةَ رَقَبَةٍ وَحَمَلَ عَلَى مِائَةِ بَعِيرٍ ثُمَّ أَعْتَقَ فِي الْإِسْلَامِ مِائَةَ رَقَبَةٍ، وَحَمَلَ عَلَى مِائَةِ بَعِيرٍ قَالَ حَكِيمٌ: فَقُلْتُ: يَا رَسُولَ اللَّهِ أَشْيَاءُ كُنْتُ أَفْعَلُهَا فِي الْجَاهِلِيَّةِ فَقَالَ لَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - أَسْلَمْتَ عَلَى مَا أَسْلَفْتَ لَكَ مِنْ الْخَيْرِ؟ قَالَ حَكِيمٌ: قُلْتُ: فَوَاَللَّهِ لَا أَدَعُ شَيْئًا صَنَعْتُهُ فِي الْجَاهِلِيَّةِ إلَّا فَعَلْتُ فِي الْإِسْلَامِ مِثْلَهُ» فَهَذَا نَذْرٌ مِنْ حَكِيمٍ فِي عِتْقِ مِائَةِ رَقَبَةٍ، وَعَلِمَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِذَلِكَ فَلَمْ يُنْكِرْهُ كَمَا أَنْكَرَ نَذْرَ الْأَنْصَارِيَّةِ نَحْرَ النَّاقَةِ

[24] **Qur'an references (L17884):** Qur'an 9:75 (At-Tawbah).

it, unlike how he rejected the Ansari woman's vow to slaughter the camel she did not own. Thus, it is confirmed that the prohibition applies only to vows involving specific, unowned objects, while what is permissible is the non-specific vow—even if the vowed object was not within one's ownership at the time—because it constitutes a responsibility upon him.

الَّتِي لَمْ تَمْلِكْهَا - فَصَحَّ أَنَّ ذَلِكَ النَّهْيَ إنَّمَا هُوَ فِي الْمُعَيَّنِ، وَأَنَّ الْجَائِزَ هُوَ غَيْرُ الْمُعَيَّنِ، وَإِنْ لَمْ يَكُنْ فِي مِلْكِهِ حِينَئِذٍ؛ لِأَنَّهُ فِي ذِمَّتِهِ.

L17888 As for one who says, "A vow is incumbent upon me," without specifying anything, the expiation is that of an oath, and it is obligatory; nothing else suffices him. This is based on what has been narrated to us through the chain of Ibn Wahb, who reported from ʻAmr ibn al-Ḥārith from Kaʻb ibn ʻAlqamah from ʻAbd al-Raḥmān ibn Shimasah from Abu al-Khayr from ʻUqbah ibn ʻĀmir from the Messenger of Allah—peace and blessings of Allah be upon him and his family—who said: "The expiation of a vow is the expiation of an oath."

وَأَمَّا مَنْ قَالَ عَلَيَّ نَذْرٌ وَلَمْ يُسَمِّ شَيْئًا فَكَفَّارَةُ يَمِينٍ وَلَا بُدَّ، لَا يُجْزِيهِ غَيْرُ ذَلِكَ -: لِمَا رُوِّينَا مِنْ طَرِيقِ ابْنِ وَهْبٍ أَخْبَرَنِي عَمْرُو بْنُ الْحَارِثِ عَنْ كَعْبِ بْنِ عَلْقَمَةَ عَنْ عَبْدِ الرَّحْمَنِ بْنِ شِمَاسَةَ عَنْ أَبِي الْخَيْرِ عَنْ عُقْبَةَ بْنِ عَامِرٍ عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - قَالَ: «كَفَّارَةُ النَّذْرِ كَفَّارَةُ يَمِينٍ» .

L17889 Abu Muhammad said: We have mentioned the statement of the Prophet—peace and blessings be upon him and his family—"Whoever vows to obey Allah must fulfill it, and whoever vows to disobey Him must not do so," and his statement—peace and blessings be upon him and his family—"There is no fulfillment for a vow involving disobedience to Allah."[25]

قَالَ أَبُو مُحَمَّدٍ: قَدْ ذَكَرْنَا قَوْلَ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «مَنْ نَذَرَ أَنْ يُطِيعَ اللَّهَ فَلْيُطِعْهُ وَمَنْ نَذَرَ أَنْ يَعْصِيَهُ فَلَا يَعْصِهِ» وَقَوْلُهُ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «لَا وَفَاءَ لِنَذْرٍ فِي مَعْصِيَةِ اللَّهِ» .

L17890 Allah's command concerning one who vows to fast and not seek shade, not sit, and not speak is that he must fast and disregard the rest. He prohibits swearing oaths by other than Allah, the Exalted, and we have not found any vow in existence that deviates from these categories.

وَأَمْرُهُ مَنْ نَذَرَ أَنْ يَصُومَ وَلَا يَسْتَظِلَّ وَلَا يَقْعُدَ وَلَا يَتَكَلَّمَ: بِأَنْ يَصُومَ وَيَطْرَحَ مَا سِوَى ذَلِكَ - وَنَهْيُهُ عَنْ الْيَمِينِ بِغَيْرِ اللَّهِ تَعَالَى وَلَمْ نَجِدْ نَذْرًا فِي الْعَالَمِ يَخْرُجُ عَنْ هَذِهِ الْوُجُوهِ.

L17891 He (peace be upon him) clarified the ruling for each case. Thus, whoever applies the expiation for an oath to any of those cases has erred, for he added to it what no textual evidence established regarding that case. Therefore, this report must be interpreted in a manner that does not divert the rulings of those texts from their original determinations. We find that if interpreted according to its apparent meaning, its ruling holds valid—pertaining to one who merely makes a vow as stated in the report's text—and it is impermissible

وَقَدْ بَيَّنَ - عَلَيْهِ السَّلَامُ - لِكُلِّ وَجْهٍ حُكْمَهُ، فَكَانَ مَنْ اسْتَعْمَلَ فِي أَحَدِ تِلْكَ الْوُجُوهِ كَفَّارَةَ يَمِينٍ فَقَدْ أَخْطَأَ؛ لِأَنَّهُ زَادَ فِي ذَلِكَ مَا لَمْ يَأْتِ بِهِ نَصٌّ فِي ذَلِكَ الْوَجْهِ، فَوَجَبَ حَمْلُ هَذَا الْخَبَرِ عَلَى مَا لَا يُحَالُ بِهِ حُكْمُ تِلْكَ النُّصُوصِ عَنْ أَحْكَامِهَا -: فَوَجَدْنَاهُ إذَا حُمِلَ عَلَى ظَاهِرِهِ صَحَّ حُكْمُهُ، وَهُوَ مَنْ نَذَرَ نَذْرًا فَقَطْ كَمَا فِي نَصِّ الْخَبَرِ وَلَمْ يَجُزْ أَنْ يُلْزَمَ شَيْئًا مِنْ أَعْمَالِ الْبِرِّ لَمْ يَلْتَزِمْهَا وَلَا جَاءَ بِالْتِزَامِهِ إيَّاهَا نَصٌّ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[25] **Hadith references (L17889):** Sahih al-Bukhari 6696; Sahih al-Bukhari 6700; Mishkat al-Masabih 3427.

to obligate him to acts of righteousness he neither pledged nor were there textual mandates for them. Success is from Allah, the Most High.

L17892 It is the same whether one says, “A vow is binding upon me,” or says, “If I am freed from what I am in, then a vow is binding upon me,” whether he is ultimately relieved or not—in all such cases, the expiation for an oath is obligatory. And success comes from Allah, the Exalted.

L17893–17895 It was narrated to us through the chain of Saʿīd ibn Manṣūr: Abū ʿAwānah informed us from Manṣūr ibn al-Muʿtamir from Saʿīd ibn Jubayr from Ibn ʿAbbās regarding a man who declares, “Such-and-such is forbidden for me,” or “A vow is binding upon me.” Ibn ʿAbbās said: “Free a slave or fast.” Two consecutive months, or feed sixty poor people.

L17896 Saʿīd said: Sufyān—he is Ibn ʿUyaynah—narrated to us from ʿAṭāʾ ibn al-Sāʾib from Saʿīd ibn Jubayr from Ibn ʿAbbās, who said: A vow is the most binding oath, and in it is the most stringent expiation: freeing a slave. Both [rulings] are authentically reported from Ibn ʿAbbās, and we know of no dissent to them from the Companions.

L17897 Among those who said, “There is an oath in it, as per our position,” is al-Shaʿbī. We narrated it through Sufyān ibn ʿUyaynah, from Ismāʿīl ibn Abī Khālid, [who reported] from al-Shaʿbī. No authoritative proof exists for anyone besides the Messenger of Allah (peace be upon him and his family).

L17898 **A juristic question: He said regarding the binding vow—except if Allah wills.**

L17899 1117 - Issue: If someone, regarding the binding vow we previously mentioned, says: “except if Allah wills,” “if Allah wills,” “except that Allah wills,” mentions “intention” (al-irādah) instead of “will” (al-mashiyyah), “unless Allah alters my resolve,” “unless it becomes clear to me,” or similar exceptions attached syntactically to their utterance, this constitutes a valid exception. He is not bound by what he vowed, based on Allah’s saying: {And never say of anything, “I will do this tomorrow, except, ‘If Allah wills’”} [Al-Kahf: 23-24]. This is because if he conditions his vow on any of the aforementioned

وَسَوَاءٌ قَالَ عَلَيَّ نَذْرٌ، أَوْ قَالَ: إِنْ تَخَلَّصْت مِمَّا أَنَا فِيهِ فَعَلَيَّ نَذْرٌ، وَسَوَاءٌ تَخَلَّصَ أَوْ لَمْ يَتَخَلَّصْ: عَلَيْهِ كُلُّ ذَلِكَ كَفَّارَةُ يَمِينٍ وَلَا بُدَّ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَرُوِّينَا مِنْ طَرِيقِ سَعِيدِ بْنِ مَنْصُورٍ نا أَبُو عَوَانَةَ عَنْ مَنْصُورِ بْنِ الْمُعْتَمِرِ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ فِي الرَّجُلِ يَقُولُ: عَلَيَّ حَرَامٌ، عَلَيَّ نَذْرٌ؟ قَالَ: اعْتِقْ رَقَبَةً، أَوْ صُمْ شَهْرَيْنِ مُتَتَابِعَيْنِ، أَوْ أَطْعِمْ سِتِّينَ مِسْكِينًا.

قَالَ سَعِيدٌ: ونا سُفْيَانُ هُوَ ابْنُ عُيَيْنَةَ - عَنْ عَطَاءِ بْنِ السَّائِبِ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ قَالَ: النَّذْرُ أَغْلَظُ الْيَمِينِ، وَفِيهَا أَغْلَظُ الْكَفَّارَةِ: عِتْقُ رَقَبَةٍ - وَكِلَاهُمَا صَحِيحٌ عَنْ ابْنِ عَبَّاسٍ، وَلَا نَعْلَمُ لَهُ مُخَالِفًا مِنْ الصَّحَابَةِ.

وَمِمَّنْ قَالَ: فِيهِ يَمِينٌ كَقَوْلِنَا: الشَّعْبِيُّ، رُوِّينَاهُ عَنْ طَرِيقِ سُفْيَانَ بْنِ عُيَيْنَةَ: عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ عَنْ الشَّعْبِيِّ، وَلَا حُجَّةَ فِي أَحَدٍ دُونَ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -.

[مَسْأَلَةٌ قَالَ فِي النَّذْرِ اللَّازِمِ إلَّا أَنْ يَشَاءَ اللَّهُ]

١١١٧ - مَسْأَلَةٌ: وَمَنْ قَالَ فِي النَّذْرِ اللَّازِمِ الَّذِي قَدَّمْنَا: إلَّا أَنْ يَشَاءَ اللَّهُ، أَوْ إنْ شَاءَ اللَّهُ، أَوْ إلَّا أَنْ يَشَاءَ اللَّهُ، أَوْ ذَكَرَ الْإِرَادَةَ مَكَانَ الْمَشِيئَةِ، أَوْ إلَّا إنْ بَدَّلَ اللَّهُ مَا فِي نَفْسِي، أَوْ إلَّا أَنْ يَبْدُوَ لِي أَوْ نَحْوِ هَذَا مِنْ الِاسْتِثْنَاءِ وَوَصَلَهُ بِكَلَامِهِ، فَهُوَ اسْتِثْنَاءٌ صَحِيحٌ، وَلَا يَلْزَمُهُ مَا نَذَرَ، لِقَوْلِ اللَّهِ تَعَالَى {وَلا تَقُولَنَّ لِشَيْءٍ إِنِّي فَاعِلٌ ذَلِكَ غَدًا}

exceptions, he has not committed to it. For if Allah had willed its fulfillment, He would have enacted it without exception.[26]

L17900 And we know that if it has not come to be, then indeed Allah, the Most High, did not will its coming into being.

L17901 He is not bound to it unless Allah the Exalted wills its occurrence. Therefore, if Allah the Exalted does not will its occurrence, he is not bound to it. Likewise, if it becomes apparent to him—and success comes only from Allah the Exalted.

L17902 **Issue: The vows of men, women, slaves, and free individuals are equal.**

L17903 Issue 1118: The vows of a man, a virgin woman with a father or without a father, a woman with a husband or without a husband, a slave, and a free person are all equal in every matter we have mentioned. This is because Allah's command to fulfill vows and His Messenger's injunction - may Allah's peace and blessings be upon him - apply universally without exception. *"And your Lord is never forgetful"* [Maryam 19:64].[27]

L17904 Among the invalid impossibilities is that Allah, the Exalted, would intend to specify any of what we have mentioned without clarifying it to us. This is a matter we are secure in (and all praise is due to Allah), except in the case of fasting alone: a woman may not fast beyond that which Allah, the Exalted, has obligated upon her except with her husband's permission, as we detailed in "The Book of Fasting." And with Allah, the Exalted, lies all success.

L17905–17906 **Issue: A vow to do what one is incapable of fulfilling.**

L17907 Issue: Whoever vows to do what he is perpetually incapable of fulfilling, it

[26] **Qur'an references (L17899):** Qur'an 18:23 (Al-Kahf); Qur'an 18:24 (Al-Kahf).
[27] **Qur'an references (L17903):** Qur'an 19:64 (Maryam).

[الكهف: ٢٣] {إِلا أَنْ يَشَاءَ اللَّهُ} [الكهف: ٢٤] وَلِأَنَّهُ إِذَا عَلَّقَ نَذْرَهُ بِكُلِّ مَا ذَكَرْنَا فَلَمْ يَلْتَزِمْهُ؛ لِأَنَّ اللَّهَ تَعَالَى لَوْ شَاءَ تَمَامَهُ لَأَنْفَذَهُ دُونَ اسْتِثْنَاءٍ.

وَقَدْ عَلِمْنَا أَنَّهُ إِذَا لَمْ يَكُنْ فَإِنَّ اللَّهَ تَعَالَى لَمْ يُرِدْ كَوْنَهُ.

وَهُوَ لَمْ يَلْتَزِمْهُ إِلَّا إِنْ أَرَادَ اللَّهُ تَعَالَى كَوْنَهُ، فَإِذْ لَمْ يُرِدْ اللَّهُ تَعَالَى كَوْنَهُ فَلَمْ يَلْتَزِمْهُ، وَكَذَلِكَ إِنْ بَدَا لَهُ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ

[مَسْأَلَةٌ نَذْرُ الرَّجُلِ وَالْمَرْأَةِ وَالْعَبْدِ وَالْحُرِّ سَوَاءٌ]

١١١٨ - مَسْأَلَةٌ: وَنَذْرُ الرَّجُلِ، وَالْمَرْأَةِ الْبِكْرِ ذَاتِ الْأَبِ، وَغَيْرِ ذَاتِ الْأَبِ، وَذَاتِ الزَّوْجِ، وَغَيْرِ ذَاتِ الزَّوْجِ، وَالْعَبْدِ، وَالْحُرِّ، سَوَاءٌ فِي كُلِّ مَا ذَكَرْنَا؛ لِأَنَّ أَمْرَ اللَّهِ تَعَالَى بِالْوَفَاءِ بِالنَّذْرِ وَأَمْرَ رَسُولِهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بِذَلِكَ عُمُومٌ لَمْ يُخَصَّ مِنْ ذَلِكَ أَحَدٌ مِنْ أَحَدٍ {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: ٦٤] .

وَمِنْ الْبَاطِلِ الْمُمْتَنِعِ أَنْ يَكُونَ اللَّهُ تَعَالَى يُرِيدُ تَخْصِيصَ بَعْضِ مَا ذَكَرْنَا فَلَا يُبَيِّنُهُ لَنَا، هَذَا أَمْرٌ قَدْ أَمِنَّاهُ - وَلِلَّهِ الْحَمْدُ - إلَّا الصِّيَامَ وَحْدَهُ فَلَيْسَ لِلْمَرْأَةِ أَنْ تَصُومَ غَيْرَ الَّذِي فَرَضَهُ اللَّهُ تَعَالَى عَلَيْهَا إلَّا بِإِذْنِ زَوْجِهَا عَلَى مَا ذَكَرْنَا فِي " كِتَابِ الصِّيَامِ " وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ نَذَرَ مَا لَا يُطِيقُ]

مَسْأَلَةٌ: وَمَنْ نَذَرَ مَا لَا يُطِيقُ أَبَدًا لَمْ يَلْزَمْهُ، لِقَوْلِ اللَّهِ تَعَالَى: {لا يُكَلِّفُ اللَّهُ نَفْسًا إِلا وُسْعَهَا} [البقرة: ٢٨٦] .

does not become binding on him, due to the statement of Allah, the Exalted: *"Allah does not burden a soul beyond its capacity"* (Qur'an 2:286).[28]

وَكَذَلِكَ مَنْ نَذَرَ نَذْرًا فِي وَقْتٍ مَحْدُودٍ فَجَاءَ ذَلِكَ الْوَقْتُ - وَهُوَ لَا يُطِيقُهُ - فَإِنَّهُ غَيْرُ لَازِمٍ لَهُ، لَا حِينَئِذٍ، وَلَا بَعْدَ ذَلِكَ.

L17908 Similarly, if someone makes a vow within a specified period, and once that period arrives he is unable to fulfill it, then it is not binding upon him: neither at that time nor thereafter.

[مَسْأَلَةٌ نَذَرَ فِي حَالَةِ كُفْرِهِ طَاعَةً لِلَّهِ عَزَّ وَجَلَّ ثُمَّ أَسْلَمَ]

Issue: If a person, while in disbelief, vows to obey Allah, the Almighty, the Majestic, and later embraces Islam...

١١٢٠ - مَسْأَلَةٌ: وَمَنْ نَذَرَ فِي حَالَةِ كُفْرِهِ طَاعَةً لِلَّهِ عَزَّ وَجَلَّ ثُمَّ أَسْلَمَ لَزِمَهُ الْوَفَاءُ بِهِ لِقَوْلِ اللَّهِ تَعَالَى: {فَلا اقْتَحَمَ الْعَقَبَةَ} [البلد: ١١] {وَمَا أَدْرَاكَ مَا الْعَقَبَةُ} [البلد: ١٢] {فَكُّ رَقَبَةٍ} [البلد: ١٣] {أَوْ إِطْعَامٌ فِي يَوْمٍ ذِي مَسْغَبَةٍ} [البلد: ١٤] {يَتِيمًا ذَا مَقْرَبَةٍ} [البلد: ١٥] {أَوْ مِسْكِينًا ذَا مَتْرَبَةٍ} [البلد: ١٦] {ثُمَّ كَانَ مِنَ الَّذِينَ آمَنُوا} [البلد: ١٧] فَحَضَّ اللَّهُ تَعَالَى عَلَى فِعْلِ الْخَيْرِ، وَأَوْجَبَهُ لِفَاعِلِهِ، ثُمَّ عَلَى الْإِيمَانِ، وَعَلَى فِعْلِ الْخَيْرِ فِيهِ أَيْضًا، لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: «مَنْ نَذَرَ أَنْ يُطِيعَ اللَّهَ فَلْيُطِعْهُ» .

L17910 1120 - Issue: If someone, during their state of disbelief, vows to perform an act of obedience to Allah the Almighty (عَزَّ وَجَلَّ) and then embraces Islam, fulfilling the vow becomes obligatory upon them. This is based on Allah the Exalted's (تَعَالَى) words: "But he has not attempted the steep ascent" (Surah Al-Balad 90:11); "And what will make you comprehend what the steep ascent is?" (90:12); "It is freeing a slave" (90:13); "Or feeding during a day of famine" (90:14); "An orphan of close kin" (90:15); "Or a destitute lying in dust" (90:16); "Then he becomes one of those who believe" (90:17). Thus, Allah the Exalted urges the performance of good deeds and makes them obligatory for the doer, then urges faith, and likewise urges performing good deeds within the framework of faith. This is supported by the saying of Allah's Messenger—peace and blessings be upon him and his family—: "Whoever vows to obey Allah must fulfill it."[29]

وَهُوَ - عَلَيْهِ السَّلَامُ - مَبْعُوثٌ إِلَى الْجِنِّ وَالْإِنْسِ، وَطَاعَتُهُ فَرْضٌ عَلَى كُلِّ مُؤْمِنٍ وَكَافِرٍ، مَنْ قَالَ غَيْرَ هَذَا فَلَيْسَ مُسْلِمًا -: وَهَذِهِ جُمْلَةٌ لَمْ يَخْتَلِفْ فِيهَا أَحَدٌ مِمَّنْ يَدَّعِي الْإِسْلَامَ - ثُمَّ نَقَضُوا فِي التَّفْصِيلِ -: رُوِّينَا مِنْ طَرِيقِ مُسْلِمٍ نا حَسَنٌ الْحُلْوَانِيُّ نا يَعْقُوبُ هُوَ ابْنُ إِبْرَاهِيمَ بْنِ سَعْدِ بْنِ إِبْرَاهِيمَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ - نا أَبِي عَنْ صَالِحِ بْنِ كَيْسَانَ عَنِ ابْنِ شِهَابٍ أَنَا عُرْوَةُ بْنُ الزُّبَيْرِ «أَنَّ حَكِيمَ بْنَ حِزَامٍ أَخْبَرَهُ أَنَّهُ قَالَ لِرَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: أَيْ رَسُولَ اللَّهِ أَرَأَيْتَ أُمُورًا كُنْتُ أَتَحَنَّثُ بِهَا فِي الْجَاهِلِيَّةِ

L17911 He (peace be upon him) is sent to jinn and humankind, and obedience to him is obligatory upon every believer and disbeliever. Whoever says otherwise is not a Muslim. This is a matter in which none who claim Islam have disagreed—then they contradicted it in the details. We have been narrated via Muslim's chain: Ḥasan al-Ḥalwānī narrated to us, Yaʿqūb—the son of Ibrāhīm ibn Saʿd ibn Ibrāhīm ibn ʿAbd al-Raḥmān ibn ʿAwf—narrated to us, from his father, from Ṣāliḥ ibn Kayṣān, from Ibn Shihāb, that ʿUrwah ibn al-

[28] **Qur'an references (L17907):** Qur'an 2:286 (Al-Baqarah).

[29] **Qur'an references (L17910):** Qur'an 90:11 (Al-Balad); Qur'an 90:12 (Al-Balad); Qur'an 90:13 (Al-Balad); Qur'an 90:14 (Al-Balad); Qur'an 90:15 (Al-Balad); Qur'an 90:16 (Al-Balad); Qur'an 90:17 (Al-Balad).

Zubayr said: "Ḥakīm ibn Ḥizām informed him that he said to the Messenger of Allah (peace be upon him and his family): 'O Messenger of Allah, what do you say about deeds I used to practice religiously in the Age of Ignorance—charity, freeing slaves, or maintaining kinship ties—is there any reward for them?' The Messenger of Allah (peace be upon him and his family) replied: 'You have embraced Islam with the good you previously performed.'"

مِنْ صَدَقَةٍ، أَوْ عَتَاقَةٍ، أَوْ صِلَةِ رَحِمٍ، أَفِيهَا أَجْرٌ؟ فَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ -: أَسْلَمْتَ عَلَى مَا أَسْلَفْتَ مِنْ خَيْرٍ» .

L17912 Yusuf ibn ʻAbd Allah ibn ʻAbd al-Barr al-Namari narrated to us from Saʻid ibn Nasr from Qasim ibn Aṣbagh from Ibn Waddah from Abu Bakr ibn Abi Shaybah from Hafs ibn Ghiyath from ʻUbayd Allah ibn ʻUmar from Nafiʻ from Ibn ʻUmar from ʻUmar, who said: "I made a vow during the Age of Ignorance, and after I embraced Islam, I asked the Messenger of Allah (peace and blessings be upon him) about it, and he commanded me to fulfill my vow."

نا يُوسُفُ بْنُ عَبْدِ اللَّهِ بْنِ عَبْدِ الْبَرِّ النَّمَرِيُّ نا سَعِيدُ بْنُ نَصْرٍ نا قَاسِمُ بْنُ أَصْبَغَ نا ابْنُ وَضَّاحٍ نا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نا حَفْصُ بْنُ غِيَاثٍ عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ «عَنْ عُمَرَ قَالَ: نَذَرْتُ نَذْرًا فِي الْجَاهِلِيَّةِ فَسَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - بَعْدَ مَا أَسْلَمْتُ فَأَمَرَنِي أَنْ أُوَفِّيَ بِنَذْرِي» .

L17913–17915 Narrated by Humam from Abū Muḥammad al-Bājī from ʿAbdullāh ibn Yūnus al-Murādī from Baqiyy ibn Makhlad from Abū Bakr ibn Abī Shaybah from Hafs ibn Ghiyath from ʿUbaydullāh ibn ʿUmar from Nāfiʿ from Ibn ʿUmar from ʿUmar. He said, "I made a vow during the Age of Ignorance, then I accepted Islam. I asked the Messenger of Allah (may Allah bless him and his family and grant him peace), so he commanded me to fulfill my vow."

نا حُمَامٌ نا أَبُو مُحَمَّدٍ الْبَاجِيَّ نا عَبْدُ اللَّهِ بْنُ يُونُسَ الْمُرَادِيُّ نا بَقِيُّ بْنُ مَخْلَدٍ نا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ نا حَفْصٌ هُوَ ابْنُ غِيَاثٍ - عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ عَنْ «عُمَرَ قَالَ: نَذَرْتُ نَذْرًا فِي الْجَاهِلِيَّةِ ثُمَّ أَسْلَمْتُ فَسَأَلْتُ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - فَأَمَرَنِي أَنْ أُوَفِّيَ بِنَذْرِي» .

L17916 Therefore, this ruling leaves no room for anyone to deviate from it.

فَهَذَا حُكْمٌ لَا يَسَعُ أَحَدًا الْخُرُوجُ عَنْهُ.

L17917 Malik said: It is not incumbent upon him, and his followers cited evidence for this by the words of Allah the Exalted: "If you associate [others with Allah], your deeds will surely be nullified" (39:65) and His words: "We will take account of whatever deeds they did, rendering them as scattered dust" (25:23).[30]

وَقَالَ مَالِكٌ: لَا يَلْزَمُهُ - وَاحْتَجَّ لَهُ مُقَلِّدُوهُ بِقَوْلِ اللَّهِ تَعَالَى {لَئِنْ أَشْرَكْتَ لَيَحْبَطَنَّ عَمَلُكَ} [الزمر: ٦٥] وقَوْله تَعَالَى {وَقَدِمْنَا إِلَى مَا عَمِلُوا مِنْ عَمَلٍ فَجَعَلْنَاهُ هَبَاءً مَنْثُورًا} [الفرقان: ٢٣] .

L17918 Abu Muhammad said: There is no argument for them in this, for all of these verses were revealed specifically regarding those who die as disbelievers, as explicitly stated in each of the two verses. The Exalted said: "And whoever

قَالَ أَبُو مُحَمَّدٍ: لَا حُجَّةَ لَهُمْ فِي هَذَا، لِأَنَّ هَذَا كُلَّهُ إنَّمَا نَزَلَ فِيمَنْ مَاتَ كَافِرًا بِنَصِّ كُلِّ آيَةٍ مِنْهُمَا قَالَ تَعَالَى: {وَمَنْ يَرْتَدِدْ مِنْكُمْ عَنْ دِينِهِ فَيَمُتْ وَهُوَ كَافِرٌ فَأُولَئِكَ حَبِطَتْ أَعْمَالُهُمْ} [البقرة: ٢١٧] .

[30] **Qur'an references (L17917):** Qur'an 39:65 (Az-Zumar); Qur'an 25:23 (Al-Furqan).

among you turns back from his religion and dies while he is a disbeliever - for those, their deeds have become invalidated" [Al-Baqarah: 217].[31]

ثُمَّ هُمْ أَوَّلُ مَنْ يَنْقُضُ هَذِهِ الْحُجَّةَ فَيُجِيزُونَ: بَيْعَهُمْ، وَابْتِيَاعَهُمْ، وَنِكَاحَهُمْ، وَهِبَاتِهِمْ، وَصَدَقَاتِهِمْ، وَعِتْقَهُمْ - وَبِاللَّهِ تَعَالَى التَّوْفِيقُ.

L17919 Then they are the first to invalidate this argument by permitting their selling, purchasing, marriages, gifts, charitable acts, and manumission—and success is by Allah, the Almighty.

وَمِنْ طَرِيقِ مُسْلِمٍ نا قُتَيْبَةُ بْنُ سَعِيدٍ نا لَيْثُ بْنُ سَعْدٍ عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبُرِيِّ أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ: «بَعَثَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - خَيْلًا قِبَلَ نَجْدٍ فَجَاءَتْ بِرَجُلٍ مِنْ بَنِي حَنِيفَةَ يُقَالُ لَهُ: ثُمَامَةُ بْنُ أَثَالٍ سَيِّدُ أَهْلِ الْيَمَامَةِ فَرَبَطُوهُ بِسَارِيَةٍ مِنْ سَوَارِي الْمَسْجِدِ وَذَكَرَ الْحَدِيثَ. وَفِيهِ أَنَّ ثُمَامَةَ أَسْلَمَ بَعْدَ أَنْ أَطْلَقَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَقَالَ: يَا مُحَمَّدُ، وَاَللَّهِ مَا كَانَ عَلَى الْأَرْضِ مِنْ دِينٍ أَبْغَضَ إلَيَّ مِنْ دِينِكَ، فَأَصْبَحَ دِينُكَ أَحَبَّ الدِّينِ كُلِّهِ إلَيَّ وَاَللَّهِ مَا كَانَ مِنْ بَلَدٍ أَبْغَضَ إلَيَّ مِنْ بَلَدِكَ فَأَصْبَحَ بَلَدُكَ أَحَبَّ الْبِلَادِ كُلِّهَا إلَيَّ وَإِنَّ خَيْلَكَ أَخَذَتْنِي، وَأَنَا أُرِيدُ الْعُمْرَةَ فَمَاذَا تَرَى؟ فَبَشَّرَهُ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ - وَأَمَرَهُ أَنْ يَعْتَمِرَ» .

L17920 And through the chain of Muslim, Qutaybah ibn Sa'id narrated to us: Laith ibn Sa'd narrated to us from Sa'id ibn Abi Sa'id al-Maqburi that he heard Abu Hurairah say: "The Messenger of Allah (peace and blessings of Allah be upon him and his family) dispatched a cavalry toward Najd. It came back with a man from Banu Hanifah named Thumamah ibn Athāl, the chief of the people of Yamamah. They bound him to one of the mosque's pillars," and he mentioned the hadith. In it, Thumamah embraced Islam after the Prophet (peace and blessings of Allah be upon him and his family) released him. He said: "O Muhammad, by Allah! No religion on earth was more hateful to me than your religion, yet now your religion has become the most beloved of all religions to me. By Allah! No land was more detestable to me than your land, yet now your land has become the most beloved of all lands to me. Indeed, your cavalry seized me while I intended to perform Umrah. What do you advise?" The Messenger of Allah (peace and blessings of Allah be upon him and his family) gave him glad tidings and commanded him to perform Umrah.

فَهَذَا كَافِرٌ خَرَجَ يُرِيدُ الْعُمْرَةَ فَأَسْلَمَ فَأَمَرَهُ - عَلَيْهِ السَّلَامُ - بِإِتْمَامِ نِيَّتِهِ.

L17921 So a disbeliever set out intending to perform Umrah. Then he embraced Islam, and the Prophet (peace be upon him) instructed him to complete the Umrah he had intended.

وَرُوِّينَا عَنْ طَاوُسٍ مَنْ نَذَرَ فِي كُفْرِهِ، ثُمَّ أَسْلَمَ فَلْيُوَفِّ بِنَذْرِهِ - وَعَنْ الْحَسَنِ، وَقَتَادَةَ نَحْوُهُ - وَبِهَذَا يَقُولُ الشَّافِعِيُّ، وَأَبُو سُلَيْمَانَ، وَأَصْحَابُهُمَا.

L17922 It was reported to us from Ṭāwus that whoever vowed during his disbelief then embraced Islam must fulfill his vow. A similar report was narrated from al-Ḥasan and Qatādah. This is the position of al-Shāfiʿī, Abū Sulaymān, and their companions.

[مَسْأَلَةٌ نَذَرَ صَوْمَ يَوْمٍ يَقْدُمُ فِيهِ فُلَانٌ]

A case where he vowed to fast a day when so-and-so arrives.

L17923

[31] **Qur'an references (L17918):** Qur'an 2:217 (Al-Baqarah).

1121 – Issue: Whoever vows to Allah to fast a day [when] a certain person arrives, or a day [when] he is acquitted or sets out, and it occurs. In that case, whether night or day, nothing becomes obligatory for him on that day; for if it is night, what he vowed [to do] does not exist during it, and if it is day, the time for entering into the fast has already passed—unless he states: "I owe to Allah to fast the day I begin [it]," or specifies it as perpetual or for a specified period, in which case fasting that day becomes obligatory in the renewed [period]. And with Allah, the Exalted, is success.

١١٢١ - مَسْأَلَةٌ: وَمَنْ نَذَرَ لِلَّهِ صَوْمَ يَوْمٍ يَقْدُمُ فِيهِ فُلَانٌ، أَوْ يَوْمٍ يَبْرَأُ أَوْ يَنْطَلِقُ فَكَانَ ذَلِكَ لَيْلًا أَوْ نَهَارًا لَمْ يَلْزَمْهُ فِي ذَلِكَ الْيَوْمِ شَيْءٌ؛ لِأَنَّهُ إنْ كَانَ لَيْلًا فَلَمْ يَكُنْ مَا نَذَرَ فِيهِ، وَإِنْ كَانَ نَهَارًا فَقَدْ مَضَى وَقْتُ الدُّخُولِ فِي الصَّوْمِ إلَّا أَنْ يَقُولَ: لِلَّهِ عَلَيَّ صَوْمُ الْيَوْمِ الَّذِي أَنْطَلِقُ فِيهِ، أَوْ أَنْ يَكُونَ كَذَا فِي الْأَبَدِ، أَوْ مُدَّةً يُسَمِّيهَا، فَيَلْزَمُهُ صِيَامُ ذَلِكَ الْيَوْمِ فِي الْمُسْتَأْنَفِ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

Case: If someone vows to fast without specifying a number [of days], what is the obligation?

[مَسْأَلَةٌ نَذَرَ صِيَامًا وَلَمْ يُسَمِّ عَدَدًا مَا]

Issue 1122: If someone vows to fast, pray, or give charity without specifying a quantity, they must fast one day with no additional obligation. For charity, they must give what their soul willingly accepts from what qualifies as charity—even if it means dividing a date into halves or giving less than what benefits the recipient. For prayer, they must perform two rakʿahs. This is because the minimum amount that falls under each designated term constitutes the definitive obligation, with no requirement to exceed it, as neither Islamic law nor linguistic convention imposes such increase. And success comes from Allah, the Most High.

١١٢٢ - مَسْأَلَةٌ: وَمَنْ نَذَرَ صِيَامًا، أَوْ صَلَاةً، أَوْ صَدَقَةً، وَلَمْ يُسَمِّ عَدَدًا مَا: لَزِمَهُ فِي الصِّيَامِ صَوْمُ يَوْمٍ وَلَا مَزِيدٍ، وَفِي الصَّدَقَةِ مَا طَابَتْ بِهِ نَفْسُهُ مِمَّا يُسَمَّى صَدَقَةً، وَلَوْ شَقَّ تَمْرَةً، أَوْ أَقَلَّ مِمَّا يَنْتَفِعُ بِهِ الْمُتَصَدَّقُ عَلَيْهِ، وَلَزِمَهُ فِي الصَّلَاةِ رَكْعَتَانِ؛ لِأَنَّ كُلَّ مَا ذَكَرْنَا أَقَلُّ مِمَّا يَقَعُ عَلَيْهِ الِاسْمُ الْمَذْكُورُ، فَهُوَ اللَّازِمُ بِيَقِينٍ وَلَا يَلْزَمُهُ زِيَادَةٌ؛ لِأَنَّهُ لَمْ يُوجِبْهَا شَرْعٌ، وَلَا لُغَةٌ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

Issue: He said, "By Allah, there is upon me sadaqah like this, as a whole."

[مَسْأَلَةٌ قَالَ لِلَّهِ عَلَيَّ صَدَقَةٌ هَكَذَا جُمْلَةً]

1123 - Issue: If someone says, "I owe Allah charity, fasting, or prayer," as a general statement, he is obligated to perform whichever of these he willed, and it suffices him. This is because he vowed an act of obedience, so he must fulfill it.

١١٢٣ - مَسْأَلَةٌ: وَمَنْ قَالَ: لِلَّهِ عَلَيَّ صَدَقَةٌ، أَوْ صِيَامٌ، أَوْ صَلَاةٌ، هَكَذَا جُمْلَةً: لَزِمَهُ أَنْ يَفْعَلَ أَيَّ ذَلِكَ شَاءَ، وَيُجْزِيهِ؛ لِأَنَّهُ نَذَرَ طَاعَةً، فَعَلَيْهِ أَنْ يُطِيعَ.

Similarly, if one says: "Upon me is an act of righteousness for Allah's sake," it is sufficient for him to perform a *tasbīḥ* (glorification), a *takbīr* (proclamation of 'Allāhu Akbar'), an act of charity, fasting, prayer, or other such acts of righteousness.

وَكَذَلِكَ لَوْ قَالَ: لِلَّهِ عَلَيَّ عَمَلُ بِرٍّ: فَيُجْزِيهِ تَسْبِيحَةٌ، أَوْ تَكْبِيرَةٌ، أَوْ صَدَقَةٌ، أَوْ صَوْمٌ، أَوْ صَلَاةٌ، أَوْ غَيْرُ ذَلِكَ مِنْ أَعْمَالِ الْبِرِّ.

It is the same whether one says, "Upon me is this vow," or "Upon me is Allah's covenant," or states, "By Allah, such-and-such is binding"—all are the

same. Neither verbal declaration without intention nor intention without verbal declaration suffices in this matter, according to the statement of the Messenger of Allah—peace and blessings be upon him: "Actions are judged by intentions, and every person will have what they intended."

وَسَوَاءٌ قَالَ عَلَيَّ ذَلِكَ نَذْرًا، أَوْ عَلَيَّ عَهْدُ اللَّهِ، أَوْ قَالَ: عَلَى اللَّهِ كَذَا وَكَذَا، كُلُّ ذَلِكَ سَوَاءٌ - وَلَا يُجْزِي فِي ذَلِكَ لَفْظٌ دُونَ نِيَّةٍ، وَلَا نِيَّةٌ دُونَ لَفْظٍ لِقَوْلِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «الْأَعْمَالُ بِالنِّيَّاتِ وَلِكُلِّ امْرِئٍ مَا نَوَى» .

L17933 He—peace be upon him—did not isolate intention without action, nor action without intention. And with Allah, the Exalted, is divine enablement.

فَلَمْ يُفْرِدْ - عَلَيْهِ السَّلَامُ - نِيَّةً دُونَ عَمَلٍ وَلَا عَمَلًا دُونَ نِيَّةٍ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ

L17934 **An issue: He died with a vow upon him.**

[مَسْأَلَةٌ مَاتَ وَعَلَيْهِ نَذْرٌ]

L17935 1124. Issue: If a person dies while under an unfulfilled vow, it becomes obligatory to fulfill it on their behalf from their estate before all debts owed to people. If anything remains thereafter, it is for the people's debts, in accordance with Allah's statement: "...after [fulfilling] any bequest he may have made or debt" [An-Nisā' 4:11]. Thus, He, the Exalted, generalized the ruling and did not specify exceptions.[32]

١١٢٤ - مَسْأَلَةٌ: وَمَنْ مَاتَ وَعَلَيْهِ نَذْرٌ فَفَرْضٌ أَنْ يُؤَدَّى عَنْهُ مِنْ رَأْسِ مَالِهِ قَبْلَ دُيُونِ النَّاسِ كُلِّهَا، فَإِنْ فَضَلَ شَيْءٌ كَانَ لِدُيُونِ النَّاسِ لِقَوْلِ اللَّهِ تَعَالَى: {مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ} [النساء: ١١] فَعَمَّ تَعَالَى وَلَمْ يَخُصَّ.

L17936 The Messenger of Allah (peace be upon him) said, as we have mentioned in 'the book of Ṣiyām' and 'the book of Ḥajj', "Allah's debt has a greater right to be fulfilled."

وَقَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا قَدْ ذَكَرْنَاهُ فِي " كِتَابِ الصِّيَامِ " " وَكِتَابِ الْحَجِّ " «دَيْنُ اللَّهِ أَحَقُّ أَنْ يُقْضَى» .

L17937–17938 From the path of al-Bukhārī: Abū al-Yamān—al-Ḥakam ibn Nāfiʿ—informed us. Shuʿayb—Ibn Abī Ḥamzah—from al-Zuhrī: ʿUbayd Allāh ibn ʿAbd Allāh ibn ʿUtbah informed me that ʿAbd Allāh ibn ʿAbbās informed him that Saʿd ibn ʿUbādah al-Anṣārī sought a legal verdict from the Messenger of Allāh (peace and blessings be upon him) regarding a vow incumbent upon his mother who died before fulfilling it. The Prophet (peace be upon him) issued a legal verdict that he should fulfill it on her behalf. Thus it became a Sunnah after him.

وَمِنْ طَرِيقِ الْبُخَارِيِّ نا أَبُو الْيَمَانِ هُوَ الْحَكَمُ بْنُ نَافِعٍ - أَنَا شُعَيْبٌ هُوَ ابْنُ أَبِي حَمْزَةَ - عَنْ الزُّهْرِيِّ أَخْبَرَنِي عُبَيْدُ اللَّهِ بْنُ عَبْدِ اللَّهِ بْنِ عُتْبَةَ أَنَّ عَبْدَ اللَّهِ بْنَ عَبَّاسٍ أَخْبَرَهُ «أَنَّ سَعْدَ بْنَ عُبَادَةَ الْأَنْصَارِيَّ اسْتَفْتَى رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فِي نَذْرٍ كَانَ عَلَى أُمِّهِ فَتُوُفِّيَتْ قَبْلَ أَنْ تَقْضِيَهُ فَأَفْتَاهُ - عَلَيْهِ السَّلَامُ - أَنْ يَقْضِيَهُ عَنْهَا» فَكَانَتْ سُنَّةً بَعْدَهُ.

L17939 Abu Muhammad said: Whoever turns away from the legal rulings of the Messenger of Allah—may Allah bless him and grant him peace—and hastens

[32] **Qur'an references (L17935):** Qur'an 4:11 (An-Nisa); Qur'an 4:12 (An-Nisa).

to accept the legal rulings of Abu Hanifah, Malik, and Al-Shafiʿi is forsaken and deprived of divine success. We seek refuge in Allah from misguidance.

قَالَ أَبُو مُحَمَّد: إنَّ مِنْ رَغِبَ عَنْ فُتْيَا رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَسَارَعَ إلَى قَبُولِ فُتْيَا أَبِي حَنِيفَةَ، وَمَالِكٍ، وَالشَّافِعِيِّ: لَمَخْذُولٌ مَحْرُومٌ مِنْ التَّوْفِيقِ - وَنَعُوذُ بِاَللَّهِ مِنْ الضَّلَالِ.

L17940 And the astonishment lies in their argument that for three fingers cut off, thirty of the camels are assigned to a woman, while for four fingers cut off, twenty of the camels are assigned to her, based on Saʿīd ibn al-Musayyab's statement, "That is the Sunnah"—yet they do not consider the opinion of Ibn ʿAbbās here, or ʿUbayd Allāh ibn ʿAbd Allāh, or al-Zuhrī—thereby making the Sunnah a proof for a remote [opinion] from the correct opinion.

وَالْعَجَبُ مِنْ احْتِجَاجِهِمْ فِي أَنَّ فِي ثَلَاثَةِ أَصَابِعَ تُقْطَعُ لِلْمَرْأَةِ ثَلَاثِينَ مِنْ الْإِبِلِ، وَفِي أَرْبَعِ أَصَابِعَ تُقْطَعُ لَهَا عِشْرِينَ مِنْ الْإِبِلِ، لِقَوْلِ سَعِيدِ بْنِ الْمُسَيِّبِ تِلْكَ السُّنَّةُ - ثُمَّ لَا يَرَى قَوْلَ ابْنِ عَبَّاسٍ هَهُنَا، أَوْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ، أَوْ الزُّهْرِيِّ - فَكَانَتْ سُنَّةً حُجَّةً لِبَعِيدٍ مِنْ الْقَوْلِ بِالْحَقِّ.

L17941 We were narrated via the chain of Ibn Abi Shaybah: Abu al-Ahwas reported to us from Ibrahim ibn Muhajir, from Amir ibn Mus'ab, that Aisha, the Mother of the Believers, observed Itikaf [in seclusion] following the death of her brother.

رُوِّينَا مِنْ طَرِيقِ ابْنِ أَبِي شَيْبَةَ نا أَبُو الْأَحْوَصِ عَنْ إبْرَاهِيمَ بْنِ مُهَاجِرٍ عَنْ عَامِرِ بْنِ مُصْعَبٍ أَنَّ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ اعْتَكَفَتْ عَنْ أَخِيهَا بَعْدَمَا مَاتَ.

L17942 And from the narration of Ḥammād ibn Salamah, from ʿUbayd Allāh ibn ʿAbd Allāh ibn ʿUtbah, that his mother had vowed to perform *i'tikaf* but died without fulfilling it. Ibn ʿAbbās said to him: "Fulfill the *i'tikaf* on behalf of your mother."

وَمِنْ طَرِيقِ حَمَّادِ بْنِ سَلَمَةَ عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ أَنَّ أُمَّهُ نَذَرَتْ اعْتِكَافًا فَمَاتَتْ وَلَمْ تَعْتَكِفْ فَقَالَ لَهُ ابْنُ عَبَّاسٍ: اعْتَكِفْ عَنْ أُمِّك.

L17943 And from the chain of Waki', from Sufyān al-Thawrī, from Abū Ḥuṣayn, from Saʿīd ibn Jubayr, from Ibn ʿAbbās: If one dies while owing a vow, his guardian shall fulfill it on his behalf. This is the position of Ṭāwus and others.

وَمِنْ طَرِيقِ وَكِيعٍ عَنْ سُفْيَانَ الثَّوْرِيِّ عَنْ أَبِي حُصَيْنٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابْنِ عَبَّاسٍ إذَا مَاتَ وَعَلَيْهِ نَذْرٌ قَضَاهُ عَنْهُ وَلِيُّهُ، وَهُوَ قَوْلُ طَاوُسٍ، وَغَيْرِهِ.

L17944 Narrated by Abd al-Razzaq, from Ibn Jurayj, who said: I asked Ata about someone who vowed to undertake a devotional stay near the Kaaba or to walk in pilgrimage, then died without fulfilling it. He said: His legal guardian must fulfill it on his behalf. I asked: What if another of his relatives fulfills it? He said: Yes, but the legal guardians are preferable in our view.

وَمِنْ طَرِيقِ عَبْدِ الرَّزَّاقِ عَنْ ابْنِ جُرَيْجٍ قَالَ: سَأَلْت عَطَاءً عَمَّنْ نَذَرَ جِوَارًا أَوْ مَشْيًا فَمَاتَ وَلَمْ يُنَفِّذْ؟ قَالَ: يُنَفِّذُهُ عَنْهُ وَلِيُّهُ، قُلْتُ: فَغَيْرُهُ مِنْ ذَوِي قَرَابَتِهِ؟ قَالَ: نَعَمْ، وَأَحَبُّ إلَيْنَا الْأَوْلِيَاءُ.

L17945 Abū Muḥammad said: If he vowed a prayer, his guardian should pray it on his behalf; or fasting, likewise; or Ḥajj, likewise; or ʿUmrah, likewise; or mosque retreat (iʿtikāf), likewise; or remembrance (dhikr), likewise; and

every righteous act, likewise—if the guardian refuses, someone must be hired using funds from his own capital to fulfill the debt to Allah the Exalted on his behalf. This is the opinion of Abū Sulaymān and our companions—and success is from Allah the Exalted.

قَالَ أَبُو مُحَمَّدٍ: فَإِنْ كَانَ نَذَرَ صَلَاةً صَلَّاهَا عَنْهُ وَلِيُّهُ، أَوْ صَوْمًا كَذَلِكَ، أَوْ حَجًّا كَذَلِكَ، أَوْ عُمْرَةً كَذَلِكَ، أَوْ اعْتِكَافًا كَذَلِكَ، أَوْ ذِكْرًا كَذَلِكَ، وَكُلَّ بِرٍّ كَذَلِكَ - فَإِنْ أَبَى الْوَلِيُّ اُسْتُؤْجِرَ مِنْ رَأْسِ مَالِهِ مَنْ يُؤَدِّي دَيْنَ اللَّهِ تَعَالَى قِبَلَهُ - وَهُوَ قَوْلُ أَبِي سُلَيْمَانَ وَأَصْحَابِنَا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

[مَسْأَلَةٌ تَعَمَّدَ النُّذُورَ لِيُلْزِمَهَا مَنْ بَعْدَهُ]

L17946–17947

A legal issue regarding one who intentionally makes vows to impose them as binding obligations on those who succeed him.

مَسْأَلَةٌ: قَالَ عَلِيٌّ: وَمَنْ تَعَمَّدَ النُّذُورَ لِيُلْزِمَهَا مَنْ بَعْدَهُ، فَهِيَ غَيْرُ لَازِمَةٍ، لَا لَهُ وَلَا لِمَنْ بَعْدَهُ؛ لِأَنَّ النَّذْرَ اللَّازِمَ الْوَفَاءِ بِهِ هُوَ نَذْرُ الطَّاعَةِ كَمَا قَدَّمْنَا، وَهُوَ الْآنَ نَذْرُ مَعْصِيَةٍ لَا نَذْرُ طَاعَةٍ؛ لِأَنَّهُ لَمْ يَقْصِدْ بِهِ وَجْهَ اللَّهِ تَعَالَى، وَإِنَّمَا قَصَدَ إدْخَالَ الْمَشَقَّةِ عَلَى مُسْلِمٍ، فَهُوَ نَذْرُ مَعْصِيَةٍ - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

L17948

Issue: Ali said: Whoever deliberately makes vows to bind those who come after him, they are not binding: neither upon himself nor those who come after him—because the binding vow the fulfillment of which is required is the vow of obedience as we previously established. This now constitutes a sinful vow, not one of obedience, for he did not intend by it the sake of Allah the Exalted. Rather, he sought to impose hardship upon a Muslim. Therefore, it becomes a sinful vow—and with Allah, the Exalted, lies all success.

[الْوَعْدُ]

L17949

The promise

[مَسْأَلَةٌ وَعَدَ آخَرَ بِأَنْ يُعْطِيَهُ مَالًا]

L17950

An issue: one promised another that he would give him wealth.

الْوَعْدُ ١١٢٦ - مَسْأَلَةٌ: وَمَنْ وَعَدَ آخَرَ بِأَنْ يُعْطِيَهُ مَالًا مُعَيَّنًا أَوْ غَيْرَ مُعَيَّنٍ، أَوْ بِأَنْ يُعَيِّنَهُ فِي عَمَلٍ مَا - حَلَفَ لَهُ عَلَى ذَلِكَ أَوْ لَمْ يَحْلِفْ - لَمْ يَلْزَمْهُ الْوَفَاءُ بِهِ، وَيُكْرَهُ لَهُ ذَلِكَ، وَكَانَ الْأَفْضَلُ لَوْ وَفَّى بِهِ.

L17951

Promise 1126 - Issue: If someone pledges to another to give them specified or unspecified wealth, or to assign them to a certain job—whether he swore an oath regarding that or not—fulfilling it is not obligatory upon him, though it is discouraged for him. It is most preferable for him to fulfill it.

وَسَوَاءٌ أَدْخَلَهُ بِذَلِكَ فِي نَفَقَةٍ أَوْ لَمْ يُدْخِلْهُ كَمَنْ قَالَ: تَزَوَّجْ فُلَانَةَ وَأَنَا أُعِينُك فِي صَدَاقِهَا بِكَذَا وَكَذَا، أَوْ نَحْوِ هَذَا - وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَالشَّافِعِيِّ، وَأَبِي سُلَيْمَانَ.

L17952

It makes no difference whether this subjects him to an expense or not, like one who says: "Marry such-and-such a woman, and I will assist you with her dowry by such-and-such [amount]," or similar wording—this being the position of Abū Ḥanīfa, al-Shāfiʿī, and Abū Sulaymān.

وَقَالَ مَالِكٌ: لَا يَلْزَمُهُ شَيْءٌ مِنْ ذَلِكَ إلَّا أَنْ يُدْخِلَ

L17953

Mālik said: He is not obligated by any of that unless he introduces through

that promise of his a burden, thereby making it binding and subjecting him to a judicial ruling.

وَقَالَ مَالِكٌ: لَا يَلْزَمُهُ شَيْءٌ مِنْ ذَلِكَ إِلَّا أَنْ يُدْخِلَهُ بِوَعْدِهِ ذَلِكَ فِي كُلْفَةٍ، فَيَلْزَمُهُ وَيُقْضَى عَلَيْهِ.

L17954 Ibn Shubrumah said: Every promise is entirely binding. The judge rules on it against the promisor, and the promisor is compelled to comply.

وَقَالَ ابْنُ شُبْرُمَةَ الْوَعْدُ كُلُّهُ لَازِمٌ، وَيُقْضَى بِهِ عَلَى الْوَاعِدِ وَيُجْبَرُ.

L17955 As for Mālik's division, there is no valid justification for it, nor any proof to support it—neither from the Quran, nor Sunnah, nor the statement of a Companion, nor analogy.

فَأَمَّا تَقْسِيمُ مَالِكٍ: فَلَا وَجْهَ لَهُ وَلَا بُرْهَانَ يُعَضِّدُهُ، لَا مِنْ قُرْآنٍ، وَلَا سُنَّةٍ، وَلَا قَوْلِ صَاحِبٍ، وَلَا قِيَاسٍ.

L17956 If they say, "He has indeed caused harm by imposing upon him a task and expense due to His promise?" We say: Suppose it is as you claim—from where is it obligatory upon one who harmed another, oppressed him, and deceived him to pay monetary compensation? We have not known this in the religion of Allah the Exalted except only where the textual proof has stated it: *"And whoever transgresses the bounds set by Allah has indeed wronged himself"* (65:1).[33]

فَإِنْ قَالُوا قَدْ أَضَرَّ بِهِ إِذْ كَلَّفَهُ مِنْ أَجْلِ وَعْدِهِ عَمَلًا وَنَفَقَةً؟ قُلْنَا: فَهَبْكُمْ أَنَّهُ كَمَا تَقُولُونَ مِنْ أَيْنَ وَجَبَ عَلَى مَنْ أَضَرَّ بِآخَرَ، وَظَلَمَهُ وَغَرَّهُ أَنْ يَغْرَمَ لَهُ مَالًا؟ مَا عَلِمْنَا هَذَا فِي دِينِ اللَّهِ تَعَالَى إِلَّا حَيْثُ جَاءَ بِهِ النَّصُّ فَقَطْ {وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ} [الطلاق: ١] .

L17957 As for those who follow the opinion of Ibn Shubrumah, they argued using the words of Allah, the Exalted: "Great is the hatred in the sight of Allah that you say what you do not do" [al-Ṣaff: 3].[34]

وَأَمَّا مَنْ ذَهَبَ إِلَى قَوْلِ ابْنِ شُبْرُمَةَ فَإِنَّهُمْ احْتَجُّوا بِقَوْلِ اللَّهِ تَعَالَى {كَبُرَ مَقْتًا عِنْدَ اللَّهِ أَنْ تَقُولُوا مَا لا تَفْعَلُونَ} [الصف: ٣] .

L17958 The authentic narration transmitted through Abdullah ibn Amr from the Messenger of Allah—peace and blessings be upon him—states: "Four traits: whoever possesses them is a pure hypocrite, and whoever has one of these traits exhibits a characteristic of hypocrisy until he abandons that trait. When he speaks, he lies; when he pledges, he betrays; when he promises, he breaks it; and when he disputes, he transgresses."

وَالْخَبَرُ الصَّحِيحُ مِنْ طَرِيقِ عَبْدِ اللَّهِ بْنِ عَمْرٍو عَنْ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «أَرْبَعٌ مَنْ كُنَّ فِيهِ كَانَ مُنَافِقًا خَالِصًا وَمَنْ كَانَتْ فِيهِ خَصْلَةٌ مِنْهُنَّ كَانَتْ فِيهِ خَصْلَةٌ مِنْ النِّفَاقِ حَتَّى يَدَعَهَا: إذَا حَدَّثَ كَذَبَ، وَإِذَا عَاهَدَ غَدَرَ، وَإِذَا وَعَدَ أَخْلَفَ، وَإِذَا خَاصَمَ فَجَرَ» .

L17959–17960 The other: That which is established through the chain of Abū Hurayrah from the Prophet—peace be upon him—: "Among the signs of hypocrisy are three—even if he prays, fasts, and claims to be Muslim—when he speaks, he lies; when he promises, he breaks; and when entrusted, he betrays."

وَالْآخَرُ: الثَّابِتُ مِنْ طَرِيقِ أَبِي هُرَيْرَةَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «مِنْ عَلَامَةِ النِّفَاقِ ثَلَاثَةٌ - وَإِنْ صَلَّى، وَصَامَ، وَزَعَمَ أَنَّهُ مُسْلِمٌ: - إذَا حَدَّثَ كَذَبَ، وَإِذَا وَعَدَ أَخْلَفَ، وَإِذَا اُؤْتُمِنَ خَانَ» .

[33] **Qur'an references (L17956):** Qur'an 65:1 (At-Talaq).
[34] **Qur'an references (L17957):** Qur'an 61:3 (As-Saf).

فَهَذَانِ أَثَرَانِ فِي غَايَةِ الصِّحَّةِ، وَآثَارٌ أُخَرُ لَا تَصِحُّ -: أَحَدُهَا: مِنْ طَرِيقِ اللَّيْثِ عَنِ ابْنِ عَجْلَانَ أَنَّ رَجُلًا مِنْ مَوَالِي عَبْدِ اللَّهِ بْنِ عَامِرِ بْنِ رَبِيعَةَ الْعَدَوِيِّ حَدَّثَهُ «عَنْ عَبْدِ اللَّهِ بْنِ عَامِرٍ قَالَتْ لِي أُمِّي هَاهْ تَعَالَ أُعْطِكَ؟ فَقَالَ لَهَا رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - مَا أَرَدْتِ أَنْ تُعْطِيهِ؟ فَقَالَتْ: أُعْطِيهِ تَمْرًا، فَقَالَ - عَلَيْهِ السَّلَامُ -: أَمَا أَنَّكِ لَوْ لَمْ تُعْطِيهِ شَيْئًا، كُتِبَتْ عَلَيْكِ كِذْبَةٌ» هَذَا لَا شَيْءَ، لِأَنَّهُ عَمَّنْ لَمْ يُسَمَّ.

L17961 These are two narrations of the utmost authenticity, and other unreliable narrations—one of them being through the chain of Al-Layth from Ibn ʻAjlan: a man from the clients of ʻAbdullah ibn ʻAmir ibn Rabiʻah al-ʻAdawi narrated to him from ʻAbdullah ibn ʻAmir, who said: My mother said to me, “Hey, come here! Should I give you something?” The Messenger of Allah (peace be upon him) said to her, “What did you intend to give him?” She replied, “A date.” He (peace be upon him) said, “Verily, if you had not given him anything, a lie would have been recorded against you.” This is unreliable because it is from an unnamed individual.

وَآخَرُ: مِنْ طَرِيقِ ابْنِ وَهْبٍ أَيْضًا عَنْ هِشَامِ بْنِ سَعْدٍ عَنْ زَيْدِ بْنِ أَسْلَمَ «أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: وَأَيُّ الْمُؤْمِنِ حَقٌّ وَاجِبٌ» .

L17962 Another narration via Ibn Wahb’s chain from Hishām ibn Saʻd, from Zayd ibn Aslam: “The Messenger of Allah (peace be upon him) said: ’And which right of a believer is obligatory?’”

هِشَامُ بْنُ سَعْدٍ ضَعِيفٌ وَهُوَ مُرْسَلٌ.

L17963 Hisham ibn Saʻd is weak, and his narrations are *mursal* (hadiths with incomplete chains of transmission).

وَمِنْ طَرِيقِ ابْنِ وَهْبٍ عَنْ إِسْمَاعِيلَ بْنِ عَيَّاشٍ عَنْ أَبِي إِسْحَاقَ أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «وَلَا تَعِدْ أَخَاكَ وَعْدًا فَتُخْلِفَهُ، فَإِنَّ ذَلِكَ يُورِثُ بَيْنَكَ وَبَيْنَهُ عَدَاوَةً» .

L17964 And from the chain of Ibn Wahb, from Ismāʻīl ibn ʿAyyāsh, from Abū Isḥāq, that the Messenger of Allah—peace be upon him—said: “Do not make a promise to your brother and then break it, for indeed that causes enmity between you and him.”

وَهَذَا مُرْسَلٌ، وَإِسْمَاعِيلُ بْنُ عَيَّاشٍ ضَعِيفٌ.

L17965 This is *mursal*, and Ismāʻīl ibn ʿAyyāsh is *ḍaʻīf*.

وَمِنْ طَرِيقِ ابْنِ وَهْبٍ أَخْبَرَنِي اللَّيْثُ بْنُ سَعْدٍ عَنْ عُقَيْلِ بْنِ خَالِدٍ عَنِ ابْنِ شِهَابٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: «مَنْ قَالَ لِصَبِيٍّ: تَعَالَ هَاهْ لَكَ، ثُمَّ لَمْ يُعْطِهِ شَيْئًا فَهِيَ كِذْبَةٌ» .

L17966 And through the chain of Ibn Wahb, Al-Layth ibn Saʻd reported to me from ʻUqayl ibn Khalid from Ibn Shihab from Abu Hurayrah from the Prophet—peace and blessings be upon him—who said: “Whoever says to a boy, ’Come here, here for you,’ then does not give him anything, that is a lie.”

ابْنُ شِهَابٍ كَانَ إِذْ مَاتَ أَبُو هُرَيْرَةَ ابْنَ أَقَلَّ مِنْ تِسْعِ سِنِينَ لَمْ يُسْمَعْ مِنْهُ كَلِمَةٌ.

L17967 Ibn Shihab was when Abu Hurairah died—his son being less than nine years old—and no word was ever heard from him.

وَأَبُو حَنِيفَةَ، وَمَالِكٌ: يَرَوْنَ الْمُرْسَلَ كَالْمُسْنَدِ، وَيَحْتَجُّونَ بِمَا ذَكَرْنَا - فَيَلْزَمُهُمْ أَنْ يَقْضُوا بِإِنْجَازِ الْوَعْدِ عَلَى الْوَاعِدِ وَلَا بُدَّ، وَإِلَّا فَهُمْ مُتَنَاقِضُونَ، فَلَوْ صَحَّتْ هَذِهِ الْآثَارُ لَقُلْنَا بِهَا.

L17968 Abu Hanifa and Malik consider the *mursal* as the *musnad* and cite as evidence what we have mentioned. This necessarily compels them to hold that the promisor must fulfill the promise without fail; otherwise, they would

be contradicting themselves. Had these reports been authentic, we would have upheld them.

L17969 As for the two hadiths with which we commenced, they are authentic; however, they contain no authoritative evidence against our position, for they are not to be taken according to their apparent meaning. Whoever pledges to do what is impermissible, or agrees to commit an act of disobedience, it is not permissible for him to fulfill any such obligation—like one who promises to commit fornication, supply intoxicants, or engage in similar acts.

L17970–17972 Thus, it is valid that not everyone who makes a promise and then breaks it, or makes a pledge and then betrays it, is blameworthy, reproachable, nor... Disobedient; rather, he may be obedient by fulfilling an obligation. Therefore, in such a case, fulfilling the promise and the covenant does not become an obligation from their fulfillment, except upon one who promised a duty incumbent upon him, such as fairness in a debt or the discharge of a right alone.

L17973 Moreover, if someone makes a promise, swears an oath, and specifies an exception, he is indeed absolved from the violation incurred by breaking the oath by explicit textual evidence and indisputable consensus. Once absolved, he is not obligated to fulfill what he swore to do, and there is no difference between a promise made under oath and one not made under oath.

L17974 Moreover, Allah the Exalted says: **"And never say of anything, 'I will surely do this tomorrow' - except 'if Allah wills'**" [Al-Kahf 18:23-24]. Thus, the prohibition against making a promise without exception is firmly established. Therefore, it is obligatory that whoever makes a promise without making an exception has indeed disobeyed Allah the Exalted in that promise.[35]

L17975 It is not permissible to compel anyone to commit a sin. If one stipulates by saying, "If Allah the Exalted wills," or "except if Allah the Exalted wills," or similar phrases that condition the matter upon the will of Allah the Almighty, the Majestic, then failing to fulfill the promise does not constitute a breach of it. This is because the promise was made conditional upon Allah's will,

[35] **Qur'an references (L17974):** Qur'an 18:23 (Al-Kahf); Qur'an 18:24 (Al-Kahf).

وَأَمَّا الْحَدِيثَانِ اللَّذَانِ صَدَّرْنَا بِهِمَا فَصَحِيحَانِ إِلَّا أَنَّهُ لَا حُجَّةَ فِيهِمَا عَلَيْنَا، لِأَنَّهُمَا لَيْسَا عَلَى ظَاهِرِهِمَا، لِأَنَّ مَنْ وَعَدَ بِمَا لَا يَحِلُّ، أَوْ عَاهَدَ عَلَى مَعْصِيَةٍ، فَلَا يَحِلُّ لَهُ الْوَفَاءُ بِشَيْءٍ مِنْ ذَلِكَ، كَمَنْ وَعَدَ بِزِنًى، أَوْ بِخَمْرٍ، أَوْ بِمَا يُشْبِهُ ذَلِكَ.

فَصَحَّ أَنْ لَيْسَ كُلُّ مَنْ وَعَدَ فَأَخْلَفَ، أَوْ عَاهَدَ فَغَدَرَ: مَذْمُومًا، وَلَا مَلُومًا، وَلَا عَاصِيًا، بَلْ قَدْ يَكُونُ مُطِيعًا مُؤَدِّيَ فَرْضٍ، فَإِذْ ذَلِكَ كَذَلِكَ فَلَا يَكُونُ فَرْضًا مِنْ إِنْجَازِ الْوَعْدِ وَالْعَهْدِ، إِلَّا عَلَى مَنْ وَعَدَ بِوَاجِبٍ عَلَيْهِ، كَإِنْصَافٍ مِنْ دَيْنٍ، أَوْ أَدَاءِ حَقٍّ فَقَطْ.

وَأَيْضًا: فَإِنَّ مَنْ وَعَدَ وَحَلَفَ وَاسْتَثْنَى فَقَدْ سَقَطَ عَنْهُ الْحِنْثُ بِالنَّصِّ وَالْإِجْمَاعِ الْمُتَيَقَّنِ، فَإِذَا سَقَطَ عَنْهُ الْحِنْثُ لَمْ يَلْزَمْهُ فِعْلُ مَا حَلَفَ عَلَيْهِ، وَلَا فَرْقَ بَيْنَ وَعْدٍ أَقْسَمَ عَلَيْهِ وَبَيْنَ وَعْدٍ لَمْ يُقْسِمْ عَلَيْهِ.

وَأَيْضًا: فَإِنَّ اللَّهَ تَعَالَى يَقُولُ: {وَلا تَقُولَنَّ لِشَيْءٍ إِنِّي فَاعِلٌ ذَلِكَ غَدًا} [الكهف: ٢٣] {إِلا أَنْ يَشَاءَ اللَّهُ} [الكهف: ٢٤] فَصَحَّ تَحْرِيمُ الْوَعْدِ بِغَيْرِ اسْتِثْنَاءٍ، فَوَجَبَ أَنَّ مَنْ وَعَدَ وَلَمْ يَسْتَثْنِ فَقَدْ عَصَى اللَّهَ تَعَالَى فِي وَعْدِهِ ذَلِكَ.

وَلَا يَجُوزُ أَنْ يُجْبَرَ أَحَدٌ عَلَى مَعْصِيَةٍ، فَإِنْ اسْتَثْنَى فَقَالَ: إِنْ شَاءَ اللَّهُ تَعَالَى، أَوْ إِلَّا أَنْ يَشَاءَ اللَّهُ تَعَالَى، أَوْ نَحْوُهُ مِمَّا يُعَلِّقُهُ بِإِرَادَةِ اللَّهِ عَزَّ وَجَلَّ، فَلَا يَكُونُ مُخْلِفًا لِوَعْدِهِ إِنْ لَمْ يَفْعَلْ، لِأَنَّهُ إِنَّمَا وَعَدَهُ أَنْ يَفْعَلَ إِنْ شَاءَ اللَّهُ تَعَالَى - وَقَدْ عَلِمْنَا أَنَّ اللَّهَ تَعَالَى لَوْ شَاءَهُ لَأَنْفَذَهُ فَإِنْ لَمْ يُنْفِذْهُ، فَلَمْ يَشَأْ اللَّهُ تَعَالَى كَوْنَهُ.

and we know that if Allah the Exalted had willed it, He would have brought it about. If it does not occur, then Allah the Exalted did not will its existence.

L17976 "And the statement of Allah, the Exalted: 'It is most hateful to Allah that you say what you do not do' (61:3) is also among the obligations incumbent upon them, like the one whom Allah, the Exalted, described when He says: 'Among them is he who pledged to Allah: "If He grants us from His bounty, we will surely give charity and be among the righteous"' (9:75). 'But when He granted them from His bounty, they became stingy and turned away while averting' (9:76). 'So He requited them with hypocrisy in their hearts until the Day they meet Him, because they failed Allah regarding what they had promised Him' (9:77)."[36]

L17977 Thus, what we have said is correct, because zakah is obligatory, and striving to be among the righteous is obligatory. Therefore, the promise and covenant thereof are two obligations—fulfilling them has been divinely mandated—and with Allah, the Exalted, lies all divine enablement.

L17978 Moreover, this is a vow from the one who made a covenant with Allah the Exalted concerning that, and the vow is an obligation. And in Allah the Exalted we place our trust.

وَقَوْلُ اللَّهِ تَعَالَى {كَبُرَ مَقْتًا عِنْدَ اللَّهِ أَنْ تَقُولُوا مَا لا تَفْعَلُونَ} [الصف: ٣] عَلَى هَذَا أَيْضًا مِمَّا يَلْزَمُهُمْ، كَالَّذِي وَصَفَ اللَّهُ تَعَالَى عَنْهُ إِذْ يَقُولُ: {وَمِنْهُمْ مَنْ عَاهَدَ اللَّهَ لَئِنْ آتَانَا مِنْ فَضْلِهِ لَنَصَّدَّقَنَّ وَلَنَكُونَنَّ مِنَ الصَّالِحِينَ} [التوبة: ٧٥] {فَلَمَّا آتَاهُمْ مِنْ فَضْلِهِ بَخِلُوا بِهِ وَتَوَلَّوْا وَهُمْ مُعْرِضُونَ} [التوبة: ٧٦] {فَأَعْقَبَهُمْ نِفَاقًا فِي قُلُوبِهِمْ إِلَى يَوْمِ يَلْقَوْنَهُ بِمَا أَخْلَفُوا اللَّهَ مَا وَعَدُوهُ} [التوبة: ٧٧] .

فَصَحَّ مَا قُلْنَا، لِأَنَّ الصَّدَقَةَ وَاجِبَةٌ، وَالْكَوْنَ مِنْ الصَّالِحِينَ وَاجِبٌ، فَالْوَعْدُ وَالْعَهْدُ بِذَلِكَ فَرْضَانِ: فُرِضَ إنْجَازُهُمَا - وَبِاَللَّهِ تَعَالَى التَّوْفِيقُ.

وَأَيْضًا: فَإِنَّ هَذَا نَذْرٌ مِنْ هَذَا الَّذِي عَاهَدَ اللَّهَ تَعَالَى عَلَى ذَلِكَ، وَالنَّذْرُ فَرْضٌ - وَبِاَللَّهِ تَعَالَى نَتَأَيَّدُ.

[36] **Qur'an references (L17976):** Qur'an 61:3 (As-Saf); Qur'an 9:75 (At-Tawbah); Qur'an 9:76 (At-Tawbah); Qur'an 9:77 (At-Tawbah).